

*United States*

S. HRG. 104-727

**VERIFICATION OF APPLICANT IDENTITY FOR PURPOSES OF EMPLOYMENT AND PUBLIC ASSISTANCE**

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TRANSFER

**HEARING**

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

VERIFICATION OF APPLICANT IDENTITY FOR PURPOSES OF EMPLOYMENT AND PUBLIC ASSISTANCE, FOCUSING ON CERTAIN MEASURES TO REDUCE ILLEGAL IMMIGRATION

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# **VERIFICATION OF APPLICANT IDENTITY FOR PURPOSES OF EMPLOYMENT AND PUBLIC ASSISTANCE**

**WEDNESDAY, MAY 10, 1995**

**U.S. SENATE,  
SUBCOMMITTEE ON IMMIGRATION,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.***

The subcommittee met, pursuant to notice, at 9:32 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Alan K. Simpson, chairman of the subcommittee, presiding.

Present: Senators Simpson, Kyl, Kennedy, and Feinstein.

## **OPENING STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING**

Senator SIMPSON. Good morning. Let me explain a little logistics here. There will be a rollcall vote at, I think, 9:45. Senator Kennedy and I will be giving our opening remarks. I will stay here. Will you be coming back, Ted?

Senator KENNEDY. Yes.

Senator SIMPSON. We will relay our votes. They likely will not be the same, but we will relay them anyway. Then we will return to the hearing. It is good to have you here and welcome to my friend from Massachusetts. He and I have been involved in this together for 16 years. We have not always agreed, but our disagreements have been conducted with civility, at least at this forum. Now on the radio program, that is a different story. Enough of that. We are not putting in a plug. We get no money for that. Nothing. We give it all to charity.

I have enjoyed working with Ted in many ways. We have a very serious issue which is going to come to fruition this year. Our job is to see that it is done in a way which is not mean and that gets the job done in an atmosphere where almost anyone wanting to be elected President of the United States is using it. We need careful, careful, thoughtful legislation and I think we can get it from the committee. When it gets to the floor, it might be a different game.

I welcome you to this hearing and the vitally important issues of the verification of applicant identity for purposes of employment and public assistance. A big title. Boiled down it means: Are you the guy you say you are? In S. 269, the Immigrant Control and Financial Responsibility Act, we provide for a new verification system, following closely the recommendations of the Jordan Commission on Immigration Reform.

This system will enable an employer or welfare provider to verify an applicant's authority to work and eligibility to receive public assistance in the United States, probably through verifying the Social Security number. The name and Social Security number of an applicant would be entered into a system using the data bases of the Social Security Administration and the Immigration and Naturalization Service. However, that alone is not enough. A system must also be able to verify that the person presenting the name and Social Security number to the prospective employer or welfare provider is not an imposter.

In other words, the system must provide for verification of personal identity. The improved system must also address the problem of what are called breeder documents. Those are the documents commonly used to establish citizenship and identification. The most fundamental example, of course, the birth certificate. Unfortunately, these breeder documents are easy to counterfeit, or to obtain through fraudulent means. The experts who have come here today to testify before us will assist this subcommittee to better understand what procedures and documents are now available to verify personal identity and what are their weaknesses.

We also look forward to recommendations concerning what changes should be made to address these weaknesses. But in attempting to more reliably verify personal identity, we are not—hear this clearly—we are not attempting to create a national ID card. I have had enough of that accusation. We are not limiting any American's privacy or personal liberties. We are not talking of tatoos or Adolf Hitler. We are trying to address the very, very serious problems our Nation faces today as a result of the widespread availability and use of fraudulent identification.

Such problems range from all the problems relating to illegal immigration to the billions of dollars lost in check fraud, the misuse of SSI and public assistance—we had a hearing on that in the Finance Committee which was rather startling and various other financial crimes. And, as we have recently been reminded, the problems even include terrorism, where rental trucks are obtained with fake driver's licenses.

So I do sincerely look forward to your testimony, and to working with my colleague. And I look forward to hearing from Congressman Horn. But first, perhaps, a word from the ranking member of the subcommittee, Ted Kennedy.

**STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR  
FROM THE STATE OF MASSACHUSETTS**

Senator KENNEDY. Thank you very much, Mr. Chairman. I appreciate your kind remarks and they are reciprocated. This has been a small committee in the U.S. Senate, but it has dealt or tried to deal with an issue of enormous complexity and a great deal of emotion and passion. And until Senator Simpson was on this committee and chaired the committee, and we had an opportunity to work together both as chair and ranking members over a period of years, the issues of immigration were really placed on the back burner. And it has only been in the recent times that we have tried over the past years to review the existing legislation, legislation which we have been involved with, had passed, some of which we

might have had serious reservations or questions about, but it has been an ongoing and continuing effort, which I think is the only way that we are going to responsibly deal with the problems of the illegal immigration and also with the whole question about legal immigration with all of the complexities and problems.

The issues on verification of items for employment is a key aspect of all of this, and you have identified the kinds of challenges and concerns. We are interested in the other matters which will be raised on this. We want to know what the data base is, how effective is it? If you have minor kinds of variables, you are going to have enormous additional kinds of costs and searches with all kinds of additional complexities. Should that discourage us? Can we tighten up on the database? What are the problems of privacy? We have seen abuses on the issues of privacy in recent times and prosecution of those that have been involved in these. Even if we put in place a failsafe system, is there really any indication that those people that abuse the system at the present time are going to change their conduct? I mean if we go through all of this process, are we going to end up knowing that in certain trades, certain regions of the country, you have continued violations of existing law, and is it going to make very much of a difference on it? Does that make any difference at all? Should we still try and address it and come to grips with these issues?

We are always concerned about the problems of discrimination in immigration policy when too often in the past when there has been opportunities for discrimination. That has been the result as well. We ought to establish some baselines, so that we can really determine and detect the issues of discrimination should they take place and are taking place, and many of us are very concerned that they do and continue at this time, and that it is really a very significant problem.

I will ask that my full statement be included in the record, Mr. Chairman, but I do think these hearings are enormously important. I think every Member of the Senate is in your debt for the seriousness with which you address this issue. We have areas of important difference and we will in terms of this, I am sure as we come through this process, but there is a very important, I think, responsibility for all of us on this committee and in the Senate and in the Congress and in the country to find some common ground. This is an issue that can lend itself to the kind of exploitation and is an issue which will result in the kinds of, I think, growth of enormous distrust in local communities and even worse. So we have a very important responsibility in addressing the issues of discrimination.

I applaud the efforts that you have made on pleading to both sides of the aisle that we take the time to address these issues in the format that we now through the hearing process. I think all of us understand that the committee is going to move, that we are going to have a product coming through the Judiciary Committee and on the floor of the Congress, that we are going to address these issues in an orderly way. But I believe that the chances of doing this in a very responsible and thoughtful way have been enhanced immeasurably by the way in which you have and the seriousness

with which you have approached this issue this time and have in the past. I am looking forward to working with you.

[The prepared statement of Senator Kennedy follows.]

PREPARED STATEMENT OF SENATOR EDWARD M. KENNEDY

Today's hearing deals with the development of an effective means of determining who is and is not eligible to work in this country under our immigration laws. The prospect of jobs in the United States is the principal magnet drawing illegal aliens to this country, and we need to find ways, consistent with civil rights and civil liberties, to reduce the power of that magnet.

To address this issue effectively, we must devise a better, easier means of enabling employers to determine who is authorized to work in the United States. We must also take strong steps in these areas to stop illegal immigration, while continuing to welcome lawful immigrants who contribute so much to the nation.

The Immigration Service estimates that 40 to 50 percent of the illegal immigrants now in America originally arrived legally, but stayed on illegally after their visas expired. Perhaps border enforcement can be strengthened by "look-back" procedures which keep track of departures as well as arrivals and make it less likely that visa over-stayers will escape detection.

But we can also deal with the problem by adopting stronger safeguards in the workplace to prevent illegal aliens from finding jobs.

Stricter enforcement of labor standards can make it harder for employers to evade the labor laws by hiring and exploiting illegal aliens. We can also give employers an easier, more reliable, and non-discriminatory means of determining who is eligible to work.

To date, we have failed at these tasks. Only in the past two years, with leadership from the Clinton Administration, have we begun to give enforcement of labor standards and enforcement of the immigration laws the attention they deserve. And there is still much to be done.

The employer sanctions have failed to work effectively. They have caused widespread discrimination while having little impact on illegal immigration into the country. As I have said many times, we should fix the sanctions or get rid of them.

The major weakness of the sanctions is that the array of 29 documents authorized to prove eligibility for employment is too susceptible to fraud. The large number of such documents is also a source of confusion to employers.

To deal with this serious problem, the Jordan Commission has proposed that a system based on social security numbers should be tested for developing an employment registry. The comprehensive immigration enforcement package proposed by the Administration authorizes four pilot programs to help determine a new and better direction for employer sanctions.

In doing so, we must proceed with caution. We must be certain any new system is reliable and less susceptible to fraud. It must work well for employers, and simplify their task of verifying the eligibility of those they hire. It must be cost-effective. Above all, we must be sure that it does not cause increased discrimination, and that it protects the privacy and civil liberties of U.S. citizens and lawful immigrants.

To accomplish these goals, we must identify existing documents and databases which can be used to make employer sanctions more effective while protecting privacy and minimizing the prospect of employment discrimination.

I commend the Chairman for holding this hearing, and I look forward to the testimony of our witnesses on this important issue.

Senator SIMPSON. Thank you very much, Ted. I appreciate that very much.

We have our first witness, the Honorable Stephen Horn, the U.S. Representative from California, who has been involved in the subject of document fraud for quite a while. We will be very interested to hear your remarks, sir. Nice to have you here.

STATEMENT OF HON. STEPHEN HORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HORN. Thank you very much, Mr. Chairman, Senator Kennedy. In 1980, when I was vice chairman of the U.S. Commission on Civil Rights, I issued a separate opinion advocating a counterfeit proof Social Security card. And at that time I said if we do not



do something now, we will still be discussing the problems of illegal immigration a decade later. Well, it is a decade and a half later.

As you are perhaps aware, I am chairman of the new House Subcommittee on Government Management Information and Technology, part of the House Committee on Government Reform and Oversight which we all knew as Government Operations. We held a hearing in March regarding the integrity of Government documents. And today, from what we learned at that hearing, I would just like to share a few thoughts with you.

With identification card fraud and abuse rampant nationwide, not limited to green cards and other false documentation that is sought by illegals and America, the only industrialized country without a national identification system, it is certainly time we looked seriously at the functional equivalent of such a system. Daily we are bombarded with horror stories such as \$5 billion in fraudulent 1994 tax refund claims for nonexistent dependents. Credit card fraud approaching over \$1 billion a year. And a decade ago, the Senate's own Committee on Governmental Affairs estimated Federal entitlement cheating at \$15 to \$25 billion a year.

We had a Committee of House Government Operations in the last Congress look at Medicaid fraud in New York. I suspect that figure could be applied to that alone in terms of the extent of fraud that goes on. If anything, across most Federal programs and certainly when illegal aliens are involved, we have billions of dollars of fraud. So I commend your efforts in trying to do something about it.

When this subcommittee recommended the Immigration Reform and Control Act in 1986, we knew that bold measures had to be taken. The follow-on Immigration Act of 1990 mandated a special Commission on Immigration Reform. And then Chairman Barbara Jordan and her colleagues provided its first report last fall. And the House Subcommittee on Government Management focused its March hearing on the Jordan Commission's most debated recommendation—set up a nationwide employment verification registry. The reason for this recommendation is simple—people enter America illegally to get jobs, more than benefits. Where better to catch those who unfairly and illegally crossed our borders than at the work place?

The Commission's national computer registry made some sense. We do not have to build it, however, from scratch. It does not have to be based on Immigration and Social Security data bases. It might be. We already have, in State motor vehicle data bases, substantial information which could be linked together to serve the same purpose. Richard Valde will testify later, I understand, in more detail regarding the existing technology which is available to achieve the goal that many of us have long sought.

California has learned some good lessons in building its system, which could be shared with the Federal agencies and other States linking together the various data bases utilized by State departments of motor vehicles. The results could be an effective, quicker, less expensive alternative than the Jordan Commission's completely new registry.

To succeed, we need agreement on standards for the documents to be produced, the information to be contained on these docu-

ments. Also needed and will be proposed in legislation we will later submit are minimum ID data element standards; for example, how to express the date of birth and last name first and so forth, or last, information exchange protocols, privacy protection safeguards, and members of the Nation's law enforcement community have at least 25 years' experience in dealing with these issues on the interstate exchange of criminal history information. They should be invited to share their lessons learned before building and implementing the new standards.

Legislation we will probably propose in the next month will have standards for counterfeit proof, tamper-resistant cards for a positive physical link between documents and their bearers. And obviously, that means either a photo, fingerprint, some sort of identification, other than a mere name on the document. It also will establish a defined core group of identification documents, such as passports, green cards, work authorization documents at the Federal level. For States, driver's licenses, identification cards which are increasing among States. You do not have to drive in order to get an identification card. And certificates of birth, marriage, and death, where there is complete confusion and easy fraud can be committed there.

So those standards hopefully would apply in those areas. I think they would be welcomed by the States and the counties across the country because it benefits, not only the Federal Government in its attempt to control illegal immigration across all of our borders, both coasts, Canada, southern border, it also would help the States in the enforcement of various acts we have asked them to carry out.

So I commend you and your colleagues, Mr. Chairman, on dealing with this subject which is long overdue.

Senator SIMPSON. Thank you very much, Congressman Horn. You have, indeed, been involved in this subject of document fraud for quite a time now and you are talking about integrity of Government documents. Just one question. From all of your efforts to date and I certainly commend you, what conclusions have you come to concerning what actions most need to be taken to increase the integrity of the ID-related documents, such as driver's license, birth certificate, U.S. passport, resident-alien card?

Mr. HORN. I think the Social Security card to be made counterfeit proof, as you have with commercial credit cards, with watermarks, other types of identification in there that are very difficult for anyone to counterfeit, with a photo would go a long way to solving a lot of these problems. And the ability to cross check the number on Social Security, which is the very common number used in America by practically every institution. I was a president of a university. The student card identification, we used was the Social Security card. Practically every university in America uses it. Now I heard a lot of arguments in 1980, how gee, the Social Security Program never intended to have that as an identification card.

Well, they might never have intended it, but Americans have just decided to use it as a convenient descriptor of separating this individual from that. But when you are talking about fraudulent documents, that is something that, as you know, you can have 80 people on one card, and if nobody has cross-checking in Social Secu-

rity, IRS, and others, they are going to get away with it for a long time.

Senator SIMPSON. In your discussion of these issues, do you hear accolades of George Orwell and Nazi Germany and these other things that come up from down somewhere?

Mr. HORN. I have heard that. In 1980, when one of my other colleagues, Frankie Freeman on the Commission on Civil Rights, she had been initially to be appointed by President Kennedy, then after his tragic death, President Johnson appointed her. She got interested in what I was saying on illegal aliens, found a town in Florida where they hired illegals for policemen, and turned down fourth generation blacks that had lived in that community.

So another colleague of mine was worried that it smacked of Nazi Germany, in the 1930's, and we heard all of that. He checked with some of the major organizations in the Jewish community in New York and every single president at that time said Horn is right, you ought to back that. Something has to be done. Now this was 1980. You and I know things have gotten a lot worse between 1980 and 1995. And we do have to face up to this as a nation.

Senator SIMPSON. I have had some remarkable support from Democrats, and civil libertarians in these last years, since we did the 1986 act. And it is heartening to see the California delegation almost en masse, and the Senate and the House, being of such great assistance, because when I started this stuff in the early 1980's, you could not find them.

Mr. HORN. That is right.

Senator SIMPSON. So it is very helpful. You bring great credentials to this debate, a great sensitivity, and a great equanimity. You are going to be a great player and I appreciate it.

Ted, Senator Kennedy, we will leave here in 7 minutes or so and then there is a stack vote, so there will be a recess for 10 or 15 minutes.

Senator KENNEDY. Thank you. Let me ask you, how many of the States have the kind of detailed information that California has in terms of their automobile licenses?

Mr. HORN. I am not sure on that. Mr. Valde will probably be able to answer it. But it is increasing. Now some States do not require a fingerprint; a handful, do not require a photograph. I believe Michigan is one of them and that needs to be checked. But there is no question the trend is to move toward what California has. They just invested in it earlier.

Senator KENNEDY. You are satisfied looking at it that it deals with the birth certificate fraud and of the other fraud in terms of getting the basic documents that permit them to get the automobile license, as well?

Mr. HORN. With the birth certificate fraud which is substantial, we do need a national standard. And I think that would be welcomed. As you know, practically every county in some States can have their own birth certificate. Increasingly, the States have provided for a standard certificate, but we need to get that uniform throughout the country. Because right now, you can go look at birth certificates—

Senator KENNEDY. How are we going to do that?

Mr. HORN. I think we need to set a Federal standard on just the format and then—

Senator KENNEDY. I think the difficulty we have, even with motor voter and a mandate in the States, is to try and move ahead on that. Do you think the States will go ahead and do that?

Mr. HORN. Obviously, an interstate compact would be one way. It takes longer. But as you know, Senator, the States have gotten together on many things over the last half century through interstate compacts.

Senator KENNEDY. I think the chairman talked a little bit about this, about being able to deal with this ID card and the big brother arguments that come down the line that are already out there in terms of—we are beginning this whole process, I am sure in the House and the Senate. How are you dealing with those issues? I think that they, quite frankly, have been highlighted in recent times. I mean just to the general kind of concerns that we have all read about and the result of some of the recent interviews, newspaper articles of various groups and organizations. Are you concerned at all about that or how are we going to do it?

Mr. HORN. There is no question that there are Americans of different ideological wings that feel very strongly on the subject. It just seems to me as long as this is not misused, and I do not see how it can be, when you are asking for mere substantiation as Chairman Simpson said earlier, that the name on that card is the same as the face on that card and that the fingerprint, if you go to the fingerprint. I think it is just long overdue and when you think of the billions of dollars that have gone down the drain because of document fraud, I think the American public is ready to accept it.

Senator KENNEDY. Have you thought where you come out, whether it is a single ID card or trying to limit them to the three or four different documents? Do you have—

Mr. HORN. What I have generally proposed here is let us start with what already exists and see if that cannot solve a lot of the problems. If that does not work, as I have said back in 1980, I advocated a counterfeit proof Social Security card which would cover most Americans.

[The prepared statement of Mr. Horn follows:]

PREPARED STATEMENT OF U.S. REPRESENTATIVE STEPHEN HORN

Mr. Chairman, as you may be aware, the new House Subcommittee on Government Management, which I chair, had a hearing in March regarding the integrity of government documents. Today, from what we learned at that hearing, I would like to share some thoughts with you.

With identification card fraud and abuse rampant nationwide, and America the only industrialized country without a national identification system, it is time we looked seriously at the "functional equivalent" of such a system. Daily we are bombarded with horror stories like \$5 billion in fraudulent 1994 tax refund claims for non-existent dependents, and credit card fraud approaching a billion dollars a year. A decade ago, the Senate Committee on Government Affairs estimated Federal entitlement cheating at \$15 to \$25 billion a year. If anything, it is much higher today.

When this subcommittee recommended the Immigration Reform and Control Act in 1986, we knew that bold measures had to be taken. The follow-on Immigration Act of 1990 mandated a special Commission on Immigration Reform. Chairman Barbara Jordan and her colleagues provided their first report last September. The House Subcommittee on Government Management focused its March hearing on the Jordan Commission's most debated recommendation—setting up a nationwide em-

ployment verification registry. The reason for this recommendation is simple—people enter America illegally to get jobs, more than benefits. Where better to catch those who unfairly and illegally cross our borders than at the workplace?

The Commission's national computer registry makes sense. We do not have a build it from scratch. It does not have to be based on Immigration and Social Security databases. We already have, in state motor vehicle databases, substantial information which could be linked together to serve the same purpose. Richard Velde will testify later, in more detail, regarding the existing technology which is available to achieve the goal that many of us seek.

California has learned some good lessons in building its system, which could be shared with Federal agencies and other states in linking together the various databases utilized by state Departments of Motor Vehicles. The result could be an effective, quicker, and less expensive alternative than the Jordan Commission's completely new registry.

To succeed, we need agreement on standards for the documents to be produced and the information to be contained on these documents. Also needed are minimum identification data element standards (for example, how to express date of birth), information exchange protocols and privacy protection safeguards. Members of the nation's law enforcement community have 25 years' experience in dealing with these issues in the interstate exchange of criminal history information. They should be invited to share their "lessons learned" before building and implementing the new standards.

I would propose standards for counterfeit- and tamper-resistant cards and for a positive link between documents and their bearers. I would also recommend establishing a defined core group of identification documents, such as passports, "green cards," and work authorization documents at the Federal level, and for states, driver's licenses, identification cards, and certificates of birth, marriage and death, to which the above standards would apply.

I look forward to continued work with this subcommittee on the issue of positive personal identification. I'd be pleased to answer any questions.

"The Tarnished Golden Door," - Civil Rights Issues in Immigration  
A Report of the United States Commission on Civil Rights, September 1980.

Additional Statement by Vice Chairman Stephen Horn

## CIVIL RIGHTS IN IMMIGRATION

Nothing is more pitiful than a nation which stands helpless and immobilized when it should meet the needs of its own citizens and lawful residents. Yet that is exactly what is happening with respect to the lack of an effective national policy concerning the illegal aliens who are coming to this country to seek employment and a better life for themselves. Calling them by the euphemistic phrase "undocumented workers" does not make their entry any less illegal nor reduce their impact on employment opportunities for our own citizens. As Secretary of Labor Ray Marshall noted on December 2, 1979:

If only half, or 2 million, of them are in jobs that would otherwise be held by U.S. workers, eliminating this displacement would bring unemployment down to 3.7%, which is below the 4% full-employment target set by the Humphrey-Hawkins Act.<sup>1</sup>

It should be clear that the illegal alien problem is not simply a Hispanic problem and is not limited to the five Southwest States; it is a national problem.<sup>2</sup> If one examines the employment situation in the North-Central States, in New England, and along the eastern seaboard, one can readily find thousands of non-Hispanic illegal aliens widely employed in both the large industries and the small businesses of those areas. As the Vice President's Task Force on Youth Employment concluded: "Estimates on the percentage of

<sup>1</sup>Harry Bernstein, "Illegal Aliens Cost U.S. Jobs - Marshall," an interview with Secretary of Labor F. Ray Marshall, *Los Angeles Times*, Dec. 2, 1979. p. 1-1.

<sup>2</sup>Very simply, the estimate of illegal aliens is uncertain except that it is at least several million. Lawrence Fuchs, director of the Select Commission on Immigration and Refugee Policy, has claimed that there are no more than 6 million undocumented workers and that no more than 50 percent of them are Mexican. Prof. Vernon M. Briggs, Jr., of Cornell, has also estimated that "it is likely that Mexicans account for no more than half of the annual flow of illegal aliens into the country." Vernon M. Briggs, Jr., "The Impact of the Undocumented Worker on the Labor Market," in *The Problem of the Undocumented Worker* (Albuquerque, N.Mex.: Latin American Institute of the University of New Mex., u.d.), pp. 31-32, p. 33. In August 1978, the *Denver Post* reported a belief of the Mexican Ambassador to the United States, Hugo D. Margain, that without guest worker programs such as the so-called bracero program that there could be as many as 10 million illegal aliens in this country. ("Our Undocumented Aliens -- Part Four, A National Debate What To Do?" in *Empire Magazine*, the Sunday magazine of the *Denver Post*, Aug. 6, 1978.) Estimates of illegal aliens in the United States have ranged from 3 to 12 million. For 1975, Lesko Associates estimated 8.2 million illegal aliens, of whom 5.7 million were estimated to be Mexican. The U.S. National Commission for Manpower Policy concluded that the average illegal alien population in 1977 was probably within the range of 3 to 6 million persons.

undocumented workers in the U.S. labor force range from 2 percent to as high as 10 percent."<sup>2</sup>

There is no doubt that the illegal aliens who are employed in the garment firms of Los Angeles, in the restaurants of the District of Columbia, or in the automobile factories of Detroit are hard working. Often they seek not only a better life for themselves, but also for those they have left behind in their native lands -- families and relatives to whom they frequently send funds.<sup>3</sup> But as a matter of American national policy, citizens, and lawful residents should not be left unemployed because the governments from which these illegal aliens flee are not meeting the economic needs or facing the population problems of their own people.

This Nation should be particularly concerned with the distressing working conditions in the low skill, low-wage industries in which illegal aliens are employed and with the resultant denial of job experiences for our own citizens. It is a serious problem when entry level job experiences are denied to inner-city youth because these jobs are increasingly occupied by illegal aliens subject to the exploitation and fear created by unscrupulous employers and sometimes connived in by labor unions. Some have argued that Americans will not fill low-status, low-wage jobs and therefore illegal aliens are necessary if the work is to be done.<sup>4</sup> That is simply untrue. Such "we need them and they are happy here" arguments were last heard to justify plantation slavery before the Civil War.<sup>5</sup> The fact is that in each occupational category a majority of the positions are filled by American citizens. If workers are truly needed to perform specific seasonal tasks, then guest worker programs such as those utilized in various European countries might be instituted. Under such programs there could at least be a regularized procedure to assure the entry of needed workers to perform specific types of jobs (but not limited to a specific employer). Such a procedure would also ensure full payment and fringes, health clearance, and other accepted American practices too often neglected as some employers victimize the illegal alien as well

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<sup>2</sup>The White House, *A Summary Report of the Vice President's Task Force on Youth Employment* (1980), p. 19.

<sup>3</sup>In the case of Mexico, it is estimated that the return of American dollars by illegal aliens in the United States is the largest dollar earner for Mexico -- ahead of the dollars gained from American tourism. Wayne A. Cornelius, "Illegal Mexican Migration to the United States: A Summary of Recent Research Findings and Policy Implications," p. 14.

<sup>4</sup>The findings of the 1970 *National Longitudinal Survey (NLS) of Youth Labor Market Experience* refute this myth: "Substantial numbers of youth are willing to work at less than minimum wage. This extensive longitudinal study found that the youth unemployment rate (38.8% for black youth and 16.6% for white youth) was 37% higher than had been shown by the Current Population Survey monthly sample." *The New York Times*, Feb. 29, 1980, pp. A1-A14.

<sup>5</sup>Professor Briggs has commented that, "No U.S. worker can compete with an illegal alien when the competition depends upon who will work for the lowest pay and longest hours and accept the most arbitrary working conditions. Hence, it is self-serving for employers to hire illegal aliens and claim simultaneously that no citizen workers can be found to do the same work. In the local labor markets where illegal aliens are present, all low-income workers are hurt. Anyone seriously concerned with the working poor of the nation must include an end to illegal immigration as part of any national program of improved economic opportunities." (emphasis supplied) Vernon M. Briggs, Jr., "The Impact of the Undocumented Worker on the Labor Market," in *The Problem of the Undocumented Worker*, p. 34.

as the broader public interest. It is clear that the problem of illegal immigration is a political as well as a human and a legal issue. That neither the Congress nor the President has faced these issues is tragic.

The border patrol has a difficult and dangerous task. It is understaffed and its members are underpaid. As one careful student of the subject has observed "... the legal immigration system of the United States has been rendered a mockery. . ." There is big money and individual misery in the smuggling of illegal aliens across the American borders. Because our borders are largely unpatrolled and most illegal entrants can melt into our society, we are an attractive target, especially for those who come from Mexico where the government has failed to address the needs of its own people through either a sound economic or population policy. It is hoped that some of the billions of dollars now available within Mexico as a result of the development of its petroleum resources will go toward the development of labor-intensive food processing and textile industries in the northern states of that nation. Certainly the American Government has a stake in also providing appropriate assistance to encourage such a development. Increasingly unemployed American workers should not be the only form of foreign aid available to Mexico.

For those who seek to count illegal aliens to increase their political power, perhaps it would be wise to recall *Mathew v. Diaz*, 426 U.S. at 82, in which the Court noted that "Congress has no constitutional duty to provide *all* aliens with the welfare benefits provided to citizens. . ."

Residents from my own State of California certainly stand to profit from counting illegal aliens and thus gaining a few more seats in the House of Representatives. But should foreign citizens - many of whom are transient and subject to deportation - be the basis of our representative process? Is it fair to the legitimate political interests of citizens in the North and the East (where there are probably proportionally less illegal aliens than in the Southwest) *not* to have their votes counted effectively in the formulation of national policy through that representative process simply because some States happened to have an enhanced apportionment as a result of the substantial presence of illegal aliens?

On August 4, 1977, the Carter administration proposed a package of legislative proposals to reform our immigration laws. One of the key recommendations was the call for employer sanctions to make illegal the hiring of so-called undocumented workers. Various ethnic communities quite properly expressed concern that employers might be reluctant to hire those with a shade of skin other than white for fear that they were undocumented workers and illegal aliens. In brief, the administration left out the essential element which is key to a fair employer sanctions policy and that is what some have described as a "secure" or "counterfeit-proof" social security card. I agree with that

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<sup>1</sup>Ibid., p. 32.

<sup>2</sup>Gerda Bikales, program associate for Population/Immigration, National Parks & Conservation Association, has made an effective case for such a card in "The Case for a Secure Social Security Card" (September 1978), 18 pp., available from National Parks & Conservation Association, 1701 13th Street, N.W., Washington D.C., 20009. She notes that, "The Social Security card and the driver's license enjoy primary credibility as general purpose identification. . ." (p. 9). "Forty-four states now affix a photograph of the driver on the license adding to the security of the document. . ." (p. 10). Observing that 41 State jurisdictions now issue "impressive and official looking identification cards to non-drivers," Bikales adds that, "The dreaded I.D. has been brought in through the back door, by popular request" (p. 11). She observes that "it is almost inconceivable how anyone could be damaged by revealing (bona fide legal residency in the United States); on the contrary, is it universally acknowledged to be a highly advantageous quality, one that many millions all over the world are desperately trying to take on as their own." (p. 14). She favors "an upgraded Social Security card" as "the least drastic alternative" (p. 14) and recalls that in



criticism. If we are to deal with reality, and not find ourselves still discussing this matter a decade from now while millions of American citizens continue to be denied job opportunities, then the establishment of such a secure and counterfeit-proof social security card for any who wish to be employed must be a first order of business on the national legislative agenda.

With this exception, I have supported the recommendations for due process which we have made in the attached report - although at times I have felt that some of our proposals, if enacted, should be best described as "the Immigration Attorneys Relief Act of 1980."

/s/  
Stephen Hour

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July 1973, the Report *[Records, Computers, and the Rights of Citizens]* of the [HSW] Secretary's Advisory Committee on Automatic Personal Data Systems "provide further assurance that Social Security numbers were legislatively intended by the Congress "to be available for use in preventing aliens from working illegally and public assistance beneficiaries from receiving duplicate or excessive payments." *Ibid.*, p. 121.

Another strong advocate of "an identification system which would apply to all workers" is Secretary of Labor Ray Marshall. He believes that "a noncounterfeitable Social Security card could be issued to all workers changing jobs and to all newly hired persons, and that could be done for under \$200 million." Harry Bernstein, "Illegal aliens Cost U.S. Jobs - Marshall," an interview with Secretary of Labor F. Ray Marshall, *Los Angeles Times*, Dec. 2, 1979, p. 1-1. Considering that *The United States Budget in Brief - Fiscal Year 1981* indicates (p. 52) that "unemployment recipients are estimated to average 2.9 million per week in 1980 and 3.4 million per week in 1981" with outlays for unemployment compensation estimated to increase \$3.2 billion "from \$15.6 billion in 1980 to \$18.8 billion in 1981," a \$200 million investment to open up perhaps millions of jobs for citizens and permanent residents is a very cheap investment indeed.

Senator SIMPSON. Thank you very much.  
The committee will stand in recess.

[Recess.]

Senator SIMPSON. Thank you very much for your understanding. We had only one vote. There may be other votes during the course of the morning. As they occur, I will try to leave and Senator Kennedy will chair the subcommittee in my absence, or Senator Feinstein. It is a great pleasure to have her as a member of the Judiciary Committee and the subcommittee, with her vital and sincere interest in doing something—something that is appropriate. It is a great, great pleasure to have her here. If you have some remarks, this would be an appropriate time.

Senator FEINSTEIN. Not at this time. Thank you very much though.

Senator SIMPSON. Anyway, it is very good having you as part of this subcommittee. We could never get more than three on it. But now we have all sorts of people on it, which is heartening in every way.

We have panel II, the Honorable Mary A. Ryan, Assistant Secretary, Bureau of Consular Affairs of the Department of State in Washington DC; James Puleo, Executive Associate Commissioner for Programs, Immigration and Naturalization Service, Washington; Gilbert C. Fisher, Assistant Deputy Commissioner, Social Security Administration, Baltimore, MD; Robert Rasor, Special Agent in Charge of the Financial Crimes Section of the U.S. Secret Service, Washington; and Steven L. Pomerantz, Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation, Washington.

Each of you will testify for 5 minutes. I believe you have been informed that we have the 5-minute limit. If you will please go forward, the warning light will show when there is a minute left in your allotted time. Thank you so much. We will proceed in that order, beginning with Mary Ryan.

**STATEMENTS OF A PANEL CONSISTING OF MARY A. RYAN, ASSISTANT SECRETARY, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC; JAMES A. PULEO, EXECUTIVE ASSOCIATE COMMISSIONER FOR PROGRAMS, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, DC; GILBERT C. FISHER, ASSISTANT DEPUTY COMMISSIONER, SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD; ROBERT H. RASOR, SPECIAL AGENT IN CHARGE, FINANCIAL CRIMES DIVISION, U.S. SECRET SERVICE, WASHINGTON, DC; AND STEVEN L. POMERANTZ, ASSISTANT DIRECTOR, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC**

#### **STATEMENT OF MARY A. RYAN**

Ms. RYAN. Thank you, Mr. Chairman. I appreciate your inviting the Bureau of Consular Affairs of the State Department to provide testimony on the important issue of passport and visa security. I am accompanied today by Diane Dillard, who is the Deputy Assistant Secretary for Visa Services, and William Camp, the Managing

Director for Passport Services. I also have other experts with me, including Mr. Louis Lenares, who is the Fraud Program coordinator at the New York Passport Agency and an expert in fraudulent documents.

I have a longer version of this statement that I would ask be made part of the record. Let me begin my testimony by thanking you for your cooperation in providing the State Department with the authority to assess and retain a surcharge for visa applications at all posts that issue machine-readable visas. Our accomplishments with the MRV fee are explained in detail in my statement and I would be pleased to address our successes during the question and answer period.

I am pleased to explain to the committee how we process and adjudicate passports and visas. I will also explain some of the problems we encounter in this process, as well as some of the security features that we introduce into our documents, although I will limit my discussion in this public session to the most obvious ones.

Let me walk the committee through our passport adjudication system. Beginning with an individual who applies in person before one of the more than 4,500 clerks of court or Postal Service officials who service as passport acceptance agents. The acceptance agent reviews the application for completeness, administers the oath, and witnesses the applicant's signature. He or she ensures that the application package includes acceptable proof of citizenship and reviews and records the data or copies the document, such as a driver's license which establishes proof of identity for the applicant. The agent then forwards the document to the nearest passport agency, usually via the Mellon Bank.

At the passport agency, an adjudicator reviews the application with special attention to the proof of citizenship which is normally a birth certificate or a naturalization certificate. The adjudicator, based on an encyclopedic knowledge of documents and extensive background material, determines, for example, whether the birth certificate is bona fide and contains all the necessary information. This process is more complicated than it sounds, however. There are literally thousands of different, yet valid birth certificates, issued across the United States. The same jurisdiction often issues different birth certificates at different times. Document forgers know this, of course, so our adjudicators rely on other indicators, such as the feel of the document, its apparent age, the quality of the seal, et cetera, in making a determination about its validity.

Once citizenship is determined and various data bases are checked to ensure that there are no legal barriers to a passport issuance, the passport is issued. We go to extraordinary lengths to ensure the security of the U.S. passport. This process extends to the very design of the document, the inks and dyes used in printing it, its stitching, and myriad other security attributes.

For some time, we have been concerned that the passport's major vulnerability was that the photograph was glued onto the inside cover of the document and then covered with a laminate. Skilled document forgers can remove the authentic photo and replace it with impostors. Photodigitization is the answer to this problem. We will soon begin to use color laser technology to print the photo and all biographic data directly into a synthetic material or a substrate

which we will then laminate into the passport. We will begin to test this process later this summer at our passport agency in Philadelphia. We expect to install photodigitization and associated printing equipment during fiscal year 1996 at our passport agencies. All agencies should be producing the new version of this passport by late 1996 or early fiscal year 1997.

The visa process is another process which we try very hard to identify the true identity of the applicant. We base our determination on that, on the passport that is presented. We make sure that the passport is valid and exhibits no evidence of tampering.

We interview where required. We check data bases. We also, if no derogatory information is obtained and we have made the determination that the visa can be issued, then the visa is issued. We have machinery with technology at over 160 posts.

I will defer for more questions, if you have questions.

Senator SIMPSON. You could go another few seconds without stopping in mid-sentence.

Ms. RYAN. With the security features of the machine-readable visa, we have, like the passport we use laser printing technologies onto a Teslin substrate, numerous security features embedded in the inks and the dyes. We also have a machine-readable zone in the machine-readable visa which is in accordance with the International Civil Aviation Organization requirements.

[The prepared statement of Ms. Ryan follows:]

#### PREPARED STATEMENT OF MARY RYAN

Mr. Chairman and Members of the Committee: Thank you for inviting the Bureau of Consular Affairs at the Department of State to provide testimony on the important issue of passport and visa security. I am Mary Ryan, the Assistant Secretary for Consular Affairs, and I am accompanied by Diane Dillard, the Deputy Assistant Secretary for Visa Services, and William Camp, the Managing Director for Passport Services.

Let me begin my testimony by thanking you for your cooperation in providing the Department of State with the authority to assess and retain a surcharge for visa applications at all posts that issue machine-readable visas (MRVs). Since last May 16th, when we began collecting the \$20 per applicant fee, we have received over \$35 million in MRV fees. More importantly, and consistent with the clear intent of Congress, we have utilized those funds to finance major improvements to U.S. border security. Here are just a few of our accomplishments since then:

Today, we are on the verge of completing the single most important action we could have taken to enhance U.S. border security—providing every visa issuing post with the capability to undertake electronic name checks of all visa applicants. Already, posts which process more than 97 percent of our non-immigrant visas have an automated namecheck capability. By the end of September every visa issuing post will either be “on-line” with databases located here in Washington, or have a “Distributed Name Check (DNC)” capability which allows for the same checks to be undertaken at post.

In the last year, we have installed the MRV system at more than 90 posts. This is more than we installed in the previous 4½ years. Today, over 160 posts are using the state-of-the-art MRV system. This is a major accomplishment in terms of U.S. border security since counterfeiting or photosubstituting MRVs is a major challenge, even for sophisticated document forgers. Posts already issuing MRVs account for approximately 80 percent of the non-immigrant visas issued by the Department. By the end of FY-96 all of our embassies and consulates will be issuing machine-readable visas.

Our accomplishments are not limited only to visa security matters, however. We are also making major investments in enhanced passport security. Among our passport-related security initiatives are:

By early in FY-97 all passports issued domestically will have digitized photos, eliminating the labor-intensive task of die-cutting and gluing in photos. It will then be nearly impossible for anyone to substitute a different photo for the original. And,

this new system will eventually allow us to transmit quickly the electronically stored photographs to INS inspectors, law enforcement official of consular officers overseas if needed.

While the State Department will continue to assist travelers who have a legitimate need for more than one passport, some people who seek to acquire multiple passports do so in furtherance of criminal activity, including alien smuggling and narco-trafficking. Evolving computer and telecommunications technology will allow the passport agencies to check routinely both historical records as well as the work in progress at other passport agencies to determine if an applicant already has a U.S. passport, or is simultaneously applying for more than one such document.

Mr. Chairman, thank you again for helping to make these and other fundamental improvements possible to U.S. border security. As you requested, I am pleased to explain to the Committee how we process and adjudicate passports and visas. I will also explain some of the problems we encounter in this process, as well as some of the security features that we introduce into our documents. Obviously, Mr. Chairman, there are many such security features, but I will limit my discussion in this public session to the most obvious ones. If you desire a thorough briefing on all of our security features, we can do so at your convenience in an executive session or with Committee staff.

Let me, if you will, "walk" the Committee through our passport adjudication system for an individual who has never before had a passport and applies in person before one of the more than 4,500 clerks of court or postal service officials who serve as passport acceptance agents. The acceptance agent's role is limited, yet crucial. The acceptance agent reviews the application for completeness, administers the oath and witnesses the applicant's signature. He or she ensures that the application package includes an acceptable proof of citizenship and, most importantly at this stage in the process, reviews and records the data or copies a document—such as driver's license—which establishes proof of identity for the applicant. The acceptance agent then forwards the entire document package to the nearest Passport Agency, usually via Mellon Bank.

It is at the Passport Agency that the critical decisions are made concerning passport issuance. A passport adjudicator reviews the application, with special attention to the proof of citizenship (normally a birth certificate or naturalization certificate). Increasingly, however, we are adjudicating applications from foreign-born children claiming derivative citizenship through their parents' naturalization. In these circumstances, the adjudicator must scrutinize foreign birth and marriage certificates. The adjudicator, based on an encyclopedic knowledge of documents and extensive background material, determines, for example, whether the birth certificate—be it domestic or foreign issued—is bona fide and contains all necessary information. This process is more complicated than it sounds, however. There are literally thousands of different, yet valid, birth certificates issued across the United States. The same jurisdiction often issues different birth certificate records so, for example, a birth certificate issued here in Washington in 1995 may be different than one issued in 1986, and radically different from one issued in the 1950's. Document forgers know this, of course, so our adjudicators rely on other indicators—the "feel" of the document, its apparent age, the quality of the seal, etc.—in making a determination about its validity.

Once citizenship is determined, and various databases are checked to ensure that there are no legal barriers to passport issuance, the passport is produced. The U.S. passport is perhaps the world's most desired travel document. We go to extraordinary lengths, therefore, to ensure its security. This process extends to the very design of the document, the inks and dyes used in printing it, its stitching and myriad other security attributes.

Countering attempts to either counterfeit or fraudulently alter the U.S. passport is a never-ending effort. For some time, we have been concerned that the passport's major vulnerability was that the photograph was glued into the inside cover of the document and then covered with a laminate. Skilled document forgers can remove the authentic photo by cutting through from the outside cover of the book and then replacing the photo with an imposter's. Photodigitization is our answer to this problem. With photodigitization we will use color laser technology to print the photo and all biographic data directly into a synthetic material (a "substrate") which we will then laminate into the passport. I have on the easel a model of what the new passport data page will look like. Photodigitization should end photosubstitution as we know it. Furthermore, producing a color laser printed fraudulent copy of an entire data page and then entering that as a replacement under the security laminate will be far more difficult for document counterfeiters.

We will begin to test this photodigitization process later this summer at our Passport Agency in Philadelphia. We expect to install photodigitization and associated

printing equipment during FY-1996 at our passport agencies. All agencies should be producing the new version of the U.S. passport by late FY-1996 or early FY-1997. And, all costs associated with this fundamental enhancement to the security of the U.S. passport, will be paid for from the proceeds of the MRV fees.

Let me now turn in a similar fashion to the non-immigrant visa adjudication and processing function. The first critical decision in the visa process is to verify the true identity of the visa applicant. This is done through a variety of means, but the most important is to determine that the passport provided by the applicant is valid and exhibits no evidence of tampering. Visa applicants fall into two large streams—those for whom interviews are required and those for whom an in-person interview is waived. Decisions to require or waive interviews are made on a case-by-case basis, but as a general rule, far fewer face-to-face interviews are required in nations with low visa refusal rates and a low rate of overstay here in the U.S. As a result of the interview, some applicants are denied a visa. The next major step in the process of visa adjudication is the name check. If no derogatory information is obtained, the visa is then issued.

As you can imagine, a "hit" against our data bases triggers a variety of responses. First, of course, is that we need to verify that the visa applicant is the person to whom the "hit" applies. If so, we would then process the case to its conclusion, an outcome which could range from simply refusing the visa and making the appropriate entry in our automated namecheck systems, through notifying local police and security authorities of the presence of the traveler, to admitting the person to the U.S. if the grounds for the "hit" are waivable and a waiver is granted.

Today, the Machine Readable Visa is the outcome of this process at over 160 posts. Let me just describe briefly some of the security features of that document, a model of which is on the easel. Again, as with the passport, we use laser printing technologies into a Teslin® substrate. There are numerous security features embedded in the inks and dyes that we use. The MRV contains a machine readable zone in accordance with International Civil Aviation Organization standards which both facilitates travel as well as enhances our ability to query U.S. data bases when a traveler seeks to enter this country. This is particularly important since a U.S. visa is generally a long validity (up to ten years) document, and it is possible that a traveler may legitimately receive a U.S. visa at one point in time, but may engage in criminal or other activities rendering him or her excludable before that visa expires. By checking U.S. data bases when a traveler arrives at a port-of-entry, we are able to detect such potentially inadmissible travelers prior to their actual admission into the U.S. A second critical feature of the MRV is that it can only be physically issued after a consular officer verifies electronically that an automated namecheck has been performed.

Mr. Chairman, as requested by your staff, let me highlight just a few of the concerns we have regarding the security of the documents that we depend upon to reach decisions regarding passport or visa issuance. In the case of U.S. passports, the main vulnerability is the number of legitimate birth certificate forms. Literally, there are thousands of such forms. They do not contain common information or follow a common format. Let me describe one of the more bizarre circumstances:

One of the States will issue a local birth certificate to a foreign born child adopted by a family living in that state. Unlike other states, however, that issue such birth certificates to adopted, foreign-born children, this state shows the child as being born in that State. Clearly, such a situation can cause significant confusion when that child—who may not be a U.S. citizen—applies for a passport and uses that birth certificate as a means of establishing citizenship.

While we are aware of this situation and can try to deal with it, the reality is that passport and visa issuance functions—no matter how well administered by hardworking and dedicated passport and consular personnel—can be vulnerable to concerted efforts to overcome either the physical or procedural security systems we have established. For example, we have seen an increase in imposters, i.e., persons using another person's bona fide birth certificate with the aim of committing fraud. These can be difficult to spot. To help catch this fraud, our passport examiners are trained to look for certain fraud indicators, and to check when necessary with state DMV offices, registrars of vital statistics and other primary sources.

Countering fraud is a continuing battle, Mr. Chairman, and it requires substantial funding. We have made great strides in automated namechecks, MRV installations and improving the U.S. passport in the last year. But, there is still much more to do. That is why I urge this Committee's support for the Administration's efforts to make the MRV fee a longterm source of funding for consular activities, including border security related expenses.

Mr. Chairman, I invite you and your colleagues to visit either our Passport Agencies or the consular sections of our posts to see firsthand our document security procedures. That is the best way to understand both what we do and how we do it. That brings me to conclusion of my prepared remarks. My colleagues and I will be pleased to answer your questions.

Senator SIMPSON. That is very helpful. That is all new technology, is it not?

Ms. RYAN. Yes, sir.

Senator SIMPSON. We will come to questions later.

Mr. Puleo.

#### STATEMENT OF JAMES A. PULEO

Mr. PULEO. Thank you, Mr. Chairman, and members of the subcommittee. I appreciate the opportunity to appear before you today to discuss the administration's ongoing effort to combat illegal immigration through improved document and identity verification systems.

As long as jobs are easily available to unauthorized workers, illegal immigrants will continue to try to enter this country. To control illegal immigration, we need to ensure that the only people able to get jobs in this country are citizens, legal immigrants, and persons specifically authorized to work by the INS. To do this, we must improve our ability to verify the authenticity of the documents that people use to show they are entitled to receive a job.

At the President's direction, the Immigration and Naturalization Service is working to deter illegal immigration by reducing the magnet created when jobs can be illegally obtained with fraudulent documents. Toward this end, we have developed a comprehensive verification system based on technology, the development of new ideas, and innovative pilot projects.

Today, I want to talk about how the INS is assisting employers in Government agencies on verifying that applicants are presently in possession of valid identifications and are entitled to benefits they seek. In a sense, everything we do at INS relates to one or another document verification. At our ports-of-entry, our inspectors see a myriad of documents issued either by the United States or foreign governments. At our field offices, our investigators come across myriad of documents that are presented to them to prove the identity of the individual before them. And even at our INS offices, service employees check identity of citizens applying for benefits under the immigration laws.

The INS is beginning to get the resources we need to carry out our verification duties better than ever. The administration plans to invest an additional \$93 million in fiscal year 1996 for work site enforcement and verification efforts. The President's budget requests hundreds of new INS and Department of Labor personnel who will work to enforce employer sanctions and minimal labor standards, respectively. These new resources will be concentrated in the seven States most effected by illegal immigration.

Along with the initiatives I will describe today, the new resources will improve the effectiveness of our verification system and increase the ability of the employers to protect the work force. Many of our new verification initiatives involve greater use of technology. The INS has marshalled high tech weapons against document fraud through the INS Forensic Document Laboratory which pro-

vides forensic document analysis and support to all INS programs and to other law enforcement agencies.

Possessing the Nation's largest reference collection of counterfeit immigration documents, the FDL analyzes trends in counterfeiting, disseminates intelligence alerts to more than over 200 locations throughout the United States and overseas, and serves as the world-renowned clearinghouse of information relating to big-time fraudulent document peddlers. Along with the expanding of the FDL, we are also continuing to expand the Systematic Alien Verification for Entitlement program, the SAVE Program. Since 1986, this information sharing program has helped ensure that only entitled aliens receive federally subsidized benefits.

We are also striving to improve the verification of identity documents issued by foreign governments. INS agents receive extensive training in the analysis and detection of counterfeit, fraudulent documents. They also utilize existing computer data bases, as well as good old fashion interview techniques to discover impostors.

The administration's fiscal year 1996 proposal includes \$28.3 million for improving the verification system and pilot programs. In 1992, the INS initiated a telephone verification pilot [TVS]. This system provides employers with a simple, automated means of verifying work eligibility for noncitizens. By the end of 1996, the INS plans to expand TVS from 200 employers to approximately 1,000 in 1996.

Beyond the TVS expansion, we are in the process of designing our pilots to allow employers to verify employment eligibility by using the Social Security Administration records and INS records to simulate linkages of INS and SSA data bases and to analyze potential improvements and additions to the INS and SSA data bases to make them more accurate. No personal information collected under the project will be made available to any unauthorized source or any Government agency, except to enforce the Immigration and Nationality Act and criminal fraud statutes. These pilot projects do not imply support for the creation of a national identification card.

The administration takes a commonsense approach to regulatory reform. Take, for example, the employment authorization document which is issued to aliens authorized temporary employment in the United States for the validity period on the card and under the restrictions set forth on the card. In the second quarter of 1996, we expect to implement a new, tamper-proof employment authorization document to deter fraud and allow easier detection of counterfeit documents.

The initiatives we have outlined today are concerted efforts by the administration to stop document abuse. They will help employers comply with the law, assist Government officials in protecting Federal and State revenue and make immigration verification more efficient and secure.

Thank you for the opportunity to speak to you today. I am pleased to answer any questions you might have.

[The prepared statement of Mr. Puleo follows:]



## PREPARED STATEMENT OF JAMES A. PULEO

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss an important part of this Administration's ongoing effort to combat illegal immigration.

Everyone familiar with illegal immigration knows that as long as jobs are easily available to unauthorized workers, illegal immigrants will continue to try to cross the border.

If we want to control illegal immigration, we need to make sure that the only people able to get jobs in this country are citizens, legal immigrants and persons specifically authorized to work by the INS. The only way we can do that is by improving our ability to verify the authenticity of the documents that people use to show they are entitled to receive a job.

The Administration believes that unauthorized aliens who are unlawfully in the United States should not have access to jobs and unauthorized government benefits. The President has directed federal agencies to seek improvements in how employers and state governments verify employment authorization and immigration status to ensure that an illegal immigrant does not unlawfully receive a job. United States workers and taxpayers have a right to expect that jobs and government benefits should be reserved for citizens and those aliens who have been authorized to receive them. This can only be accomplished by strengthening this nation's ability to verify the authenticity of the documents that people use. The Immigration and Naturalization Service intends to do its part to deter illegal immigration by reducing the "magnet" created by a wide-open marketplace, where illegal job opportunities are often obtained with fraudulent documents.

## PRINCIPLES OF VERIFICATION

A comprehensive verification system is based on these commonsense principles: First, verification systems should draw on intelligent and effective technologies to streamline the process, ensure cost-effectiveness, and reduce paperwork burdens that are confusing and counterproductive.

Second, the Administration believes we need to test and evaluate new verification ideas. Rather than jousting over details that can not be resolved in the abstract, we believe the approach should be—in keeping with the Commission on Immigration Reform's recommendations—that we must start to build a variety of approaches, testing each, discarding what does not work and improving on those that do. We are proposing a set of pilot projects each to test several fundamental components of verification systems. For each, we are planning extensive evaluation efforts to ensure that we learn how to move effectively on to the next stage.

## DOCUMENT VERIFICATION

Today, I want to talk about document verification. First, I want to talk about what the INS is doing to assist employers to verify that applicants are presenting valid identification and are entitled to the job they seek. Next, I want to talk about the future, and describe for you a few of the programs and strategies which the INS believes will make our nation's verification system a model for the world.

The use by unauthorized aliens of fraudulently manufactured and improperly obtained documents has long been a national problem that we have been addressing. Illegal aliens can buy the documents they need to get a job for fifty or sixty dollars. These illegal aliens have come to depend on these fraudulent documents. There is reason to suspect that these documents may be used improperly to apply for public benefits.

Today, the INS is aggressively attacking the problem. The initiatives I will describe have improved the effectiveness of our verification systems and increased our ability to enforce immigration laws. We are pursuing fraudulent document manufacturers and distributors and utilizing the higher penalties provided by last year's Crime Bill as a deterrent. These initiatives will have a significant impact on the fraudulent document industry in particular, and illegal immigration in general.

In a sense, everything we do at the INS relates in one way or another to document verification.

In the case of aliens arriving at ports-of-entry, verification is generally accomplished through examination of the applicant's passport, Alien Registration Receipt Card, or machine-readable INSPASS documents. The Immigration and Nationality Act exempts United States citizens from inspection upon presentation of a passport or other suitable evidence of their status.

Border Patrol Agents, Special Agents and other immigration officers verify the documentation of aliens whom they encounter during field investigations.

Service employees check the identity of persons who apply at local INS district offices for various benefits under immigration laws.

The Administration plans to invest an additional \$93 million in FY 1996 specifically and solely for worksite enforcement and verification of immigration status efforts. The President's budget requests 365 new INS Investigations program personnel and an additional 202 new Department of Labor personnel who will work to enforce employer sanctions and minimal labor standards, respectively. In addition, new INS investigator and agent positions are being created to concentrate on compliance inspections and administrative sanctions in order to free Special Agents for more complex verifications investigations. These resources will be concentrated in seven states most affected by illegal migration.

#### TECHNOLOGY

Along with adding much needed resources, we are also developing new and better ways to combat document abuse. For too long we relied on nineteenth century technology to combat a twentieth century problem. Many of these innovations we are beginning to institute rely on the newest and best technology.

#### FORENSIC DOCUMENT LABORATORY

INS has marshaled extensive scientific and technological weapons against document fraud through the INS Forensic Document Laboratory (FDL). Recognized as one of the world's leaders in combatting immigration document fraud, the FDL provides a wide variety of forensic document analysis and support to all INS programs, as well as to other federal agencies. For example:

The FDL presently houses the nation's largest reference collection of known and counterfeit international travel documents, immigration documents and vital statistics documents. This collection permits forensic comparison and identification of very high quality counterfeit documents and provides materials for training purposes.

The FDL's Document Intelligence Section collects and analyzes information on current counterfeit travel documents and methods of alteration and disseminates this information in the form of high-quality color photographic document intelligent alerts to more than 200 locations throughout the United States and overseas. Law enforcement agencies throughout the world have come to rely on these alerts.

The FDL has led the way in the identification of large-scale counterfeiters and sellers of fraudulent documents. The FDL's forensic Document Link Identification System (DLIS) has become a clearinghouse of information relating to big-time fraudulent document peddlers. Through the efforts of DLIS, law enforcement agencies have been able to identify and prosecute large-scale document mills. Thanks to the DLIS, false document sellers who operate across state lines or national borders can no longer feel safe.

As expert witnesses in major counterfeiting cases, FDL technicians have been nothing short of spectacular. In cases where they have testified, the prosecution has obtained convictions 97 percent of the time.

Utilizing photophone technology, FDL is helping to resolve whether certain suspect travel documents are fraudulent almost immediately. FDL has also extended its hours of service to INS field offices.

Finally, FDL provides support and expertise to other federal, state and local agencies anytime immigration fraud is involved.

#### SAVE

Along with the projects I have already discussed, we continue to improve programs that have long been in existence. Since 1986, the Systematic Alien Verification for Entitlement (SAVE) program is an intergovernmental information-sharing initiative designed to aid eligibility workers in determining an alien's immigration status, and thereby ensure that only eligible aliens receive federally subsidized benefits. SAVE is provided by the INS as an information service for entitlement benefits issuing agencies and institutions. The INS does not make determinations on any alien's eligibility for a specific benefit.

#### FOREIGN DOCUMENTS

The nature of the INS's role puts it at a potential disadvantage when it first encounters an alien whose primary identity documentation—such as birth certificates, passports, driver's licenses, or social insurance cards—are issued by a foreign government. While some foreign governments have very reliable identification and doc-

umentation procedures, others have little effective control over either the issuance of official documents to impostors or criminals, or the use of counterfeit documents by such aliens. In cases of aliens who entered without inspection or are found to have entered with false documents, the INS must work with an oral declaration of identity that is unsupported by reliable documentation. In order to be prepared to face these challenges, INS agents receive extensive training in the detection of counterfeit documents and deterrence of impostors.

#### PILOT PROJECTS

The Administrator's FY 1996 proposal includes \$28.3 million for improving verification systems and pilot programs. In addition to these efforts, the INS is requesting FY 1996 resources to support pilots as an effective and nondiscriminatory means of verifying the employment eligibility of all new employees. The work that we are doing is consistent with the Commission on Immigration Reform's recommendation to test, on a pilot basis, various techniques for improving workplace verification.

In 1992, INS initiated its Telephone Verification System (TVS) pilot program. This system provides employers with a simple, automated means of verifying the work eligibility of self-declared non-citizens. Originally, the INS selected nine employers to participate in this voluntary program whereby they can access an automated INS database to confirm employment eligibility of newly hired non-citizens. TVS gives employers accurate information that allows them to comply with the law. In 1995 and 1996, INS will expand its Telephone Verification System (TVS) pilot program from 200 employers in 1995 to approximately 1,000 in 1996.

Beyond the TVS expansion, we are in the process of designing other pilots to allow employers to verify employment eligibility by using Social Security Administration (SSA) records and INS records; to simulate linkage of INS and SSA databases; and, to analyze potential improvements and additions to the INS and SSA databases to make them more accurate. No personal information collected under the project will be made available to any unauthorized sources or any government agencies, except to enforce the Immigration and Nationality Act and criminal fraud statutes. These pilot projects do not imply support for the creation of a national identification card.

#### REGULATORY REFORM

Finally, the Administration takes a common sense approach to regulatory reform. If we reduce the number of documents that can be used to verify immigration status, we can focus our efforts on verifying the authenticity of a smaller number of documents. That will increase our effectiveness in a cost-effective way and reduce the opportunity for abuse. That will also have the benefit of streamlining the verification process, reducing paperwork burdens and lower costs. Toward this end, we will soon publish an amended proposed regulation to reduce from 29 to 16 the documents that can be used to establish identity and/or employment authorization, and by the end of 1996, with a combination of technology, further regulatory reform and the President's legislation, we will reduce the number of documents to six. In so doing, we will increase compliance and reduce fraud.

#### EMPLOYMENT AUTHORIZATION DOCUMENT

The Employment Authorization Document (EAD) is issued to aliens authorized temporary employment in the United States for the validity period of the card and under any restrictions set forth in the card. In certain cases, aliens admitted solely for the purpose of temporary employment with a specific employer are issued an arrival and departure document (I-94) that also serves as evidence of employment authorization. In the second quarter of FY 1996, we also expect to implement a new, tamper-resistant Employment Authorization Document (EAD) to deter fraud and allow easier detection of counterfeit documents.

#### CONCLUSION

The INS is doing all it can to help employers and state government officials verify that applicants are entitled to jobs. As we have testified before, the Administration is utilizing the FY 1995 Appropriation for enhanced employer sanctions against those who violate the law and is seeking additional resources for FY 1996 to expand employment sanctions and minimum labor standard enforcement.

By attacking the incentive for illegal immigration, we will begin to make significant inroads into the illegal immigration problem. The initiatives we have outlined for you today represent the first concerted effort by an Administration to combat

the problem in a logical way—by stopping document abuse. These steps are important. They will help employers comply with the law, assist state officials in protecting state revenue and enable the federal government to make immigration verification simpler and more secure. Everyone will benefit from these changes.

Thank you for this opportunity to speak with you about what the INS is doing, and what the INS intends to do.

I will be pleased to answer any questions you might have.

Senator SIMPSON. Thank you, Mr. Puleo.

And now, Mr. Fisher.

#### STATEMENT OF GILBERT C. FISHER

Mr. FISHER. Thank you, Mr. Chairman, and members of the subcommittee. I am pleased to be here today to discuss the process that the Social Security Administration uses to establish identity for Social Security Program purposes. With me is Ms. Linda Austin, Chief of SSA's Enumeration and Evidence Branch.

As you have requested, I would like to briefly discuss the situations that require the Social Security Administration to establish a person's identity and the process we follow to ensure that the people conducting business with SSA are whom they say they are. I ask that my full written statement be included in the record.

Senator SIMPSON. Without objection.

Mr. FISHER. The primary reason for which SSA must establish an individual's identity is to issue a new or replacement Social Security card. The Social Security card is the only document that SSA issues. The law requires that an individual applying for a Social Security number provide evidence of age, citizenship or alien status, and identity. The Social Security number is the means by which we maintain separate records for millions of workers and beneficiaries.

Over time, the use of the Social Security number and Social Security card have greatly expanded. And we have taken steps to improve our procedures for issuing the numbers and cards. Generally to obtain an original Social Security card, an applicant must submit at least two forms of acceptable evidence, such as a birth certificate and driver's license. Aliens must submit appropriate INS documents to establish lawful status. Replacement card applicants must submit at a minimum, evidence of identity.

Apart from verifying the identities of card applicants, we also have in place procedures to verify the identity of any individual who chooses to handle business with SSA by telephone. Before disclosing any information, we must be certain of the identity of the caller and that the disclosure of the requested information is permitted, if the caller is someone other than the person who is the subject of the record. We are keenly aware that the potential to disclose the information, including acknowledgement that a person is a Social Security beneficiary, may exist at any time during a call that involves an individual's Social Security record.

We have also developed automated data exchange systems to verify Social Security numbers which are an important function in ensuring that accurate wage reporting occurs and, ultimately, accurate benefits are paid. Many of these requests are from Government agencies for the purpose of ensuring the accuracy of information collected for other Federal and State benefit programs. SSA

also verifies Social Security numbers for the private sector for purposes of employer wage reporting.

Mr. Chairman, you also asked about possible ways to improve the security of any identity verification system. Clearly the effectiveness of any verification system is heavily dependent, not only on the authenticity of the evidentiary documents which are submitted, but also on the evidence on which those documents are based. One obvious method of fraud to which a verification system may be susceptible is the use of a deceased person's records, including his or her birth certificate, to establish a false identity.

One way of minimizing this type of fraud is to coordinate birth and death records, so that a copy of a birth certificate for someone who had died is not issued. Since birth and death records are maintained by States, this would require a system whereby each State is provided with death information from all other States, so that their birth records could be appropriately annotated. The most efficient process for doing so would be through a centralized source of death information.

SSA currently maintains death records based on reports of deaths from various sources. The most common sources of death reports through SSA are family members, funeral directors, postal authorities, financial institutions, and various State vital statistics agencies. Although it would be possible for SSA, given the necessary resources to function as a central source of death information and to share that information with States so that they could annotate their birth records, it would be just as easy, in our opinion, for States to form a consortium for that purpose.

The effectiveness of such a system would depend, of course, on the full participation of all 50 States, each of which would have to agree to use the data provided and put in place safeguards which would control the reissuance of a deceased person's birth certificate.

Mr. Chairman, SSA's evidentiary policy represents a balancing of the need to verify allegations with the desire to minimize the burden placed on the person who must provide documentary evidence to support the allegations. Although we continually look for improved ways to identify and discourage fraudulent documents, we believe that our current policies strike an appropriate balance that maintains the integrity of our programs, while providing efficient public service.

Thank you.

[The prepared statement of Mr. Fisher follows:]

#### PREPARED STATEMENT OF GILBERT C. FISHER

Mr. Chairman and Members of the Subcommittee: I am pleased to be here to discuss the documentation that the Social Security Administration (SSA) uses to establish identity for Social Security program purposes. As the subcommittee has requested, I will discuss the situations that require that SSA establish a person's identity and the process we follow to ensure that people conducting business with us are whom they say they are.

#### ESTABLISHING IDENTITY

The primary reason for which SSA must establish an individual's identity is to issue a new or replacement Social Security card. The Social Security card is the only document that SSA issues. Although the card is not intended to be used for the purpose of establishing an individual's identity, the law requires that an individual ap-

plying for a Social Security Number (SSN) provide evidence of age, citizenship or alien status, and identity. The SSN is the means by which we maintain separate records for millions of workers and beneficiaries.

The procedures for issuing SSNs and Social Security cards have changed significantly since the beginning of the program. At the time the Social Security card was devised in the 1930's, its only purpose was to provide a record of the number that had been issued to the individual so that the employer could accurately report earnings for the individual. That is still the primary purpose for which SSA issues the card. It was never intended to serve as a personal identifier—that is, to establish that the person presenting it is actually the person whose name and SSN appear on the card. Although we have made it counterfeit-resistant, it does not contain information that can be compared to the presenter to establish identity.

Over time, the use of the SSN and Social Security card has greatly expanded, and the card is now used for purposes other than Social Security earning record maintenance and payment of benefits. Society's increasing use of computerized data has led to suggestions to use the SSN and the card as a personal identifier. The card itself, however, is still basically a paper record with a name and number on it although the current card has significant integrity features.

Prior to 1971, all SSNs were issued based solely on information alleged by an individual. Because of the expanding use of the card for other purposes, there was concern about the integrity of the card. Beginning in 1971, certain categories of applicants were required to provide documentary evidence of age, identity, and alien status. This made it more difficult to obtain a card on the basis of a false identity. However, the card was still simply a reminder of the number assigned to the individual named on the card.

Several years later, the integrity of the SSN process was further improved. Since May 15, 1978, all applicants have been required to provide documentary evidence of age, identity, and U.S. citizenship or alien status. Generally, to obtain an original Social Security card, an applicant must submit at least two forms of acceptable evidence, such as a birth certificate and driver's license. Aliens must submit appropriate Immigration and Naturalization Service (INS) documents to establish lawful status. Replacement card applicants must submit, at a minimum, evidence of identity.

SSA has begun verifying alien registration documents with INS electronically through INS' Systematic Alien Verification for Entitlement (SAVE) project. This system, now used in about 160 Social Security field offices, allows us to verify INS documents by keying in the alien registration number. This reduces the need for the field office to make judgments as to the validity of an individual's documents. In fiscal year 1994, SSA employees made over 363,000 inquiries through the SAVE system. In about 17 percent, or almost 60,000, of those cases, INS could not verify the authenticity of the document.

Applicants for original Social Security cards who are age 18 or over are required to have a personal interview. During the interview the applicant is asked for prior names and surnames and the reasons for never before needing an SSN. For those who allege having been born in the U.S., SSA obtains additional verification prior to the issuance of an original SSN because most people born in the U.S. have been assigned an SSN by the time they reach age 18. SSA verifies the existence of a birth certificate at the State Bureau of Vital Statistics for all U.S. born applicants for original cards who are at least 18, and initiates a search for a death certificate when there is reason to believe the applicant may be assuming a false identity. We also require these applicants to submit evidence to support explanations about why they never needed an SSN previously.

#### ENUMERATION AT BIRTH INITIATIVE

The Enumeration at Birth (EAB) program was established in 1989 as another means of improving the SSN process. It is a valuable tool in preventing fraudulent acquisition of an SSN. This program allows parents in the 49 participating States to indicate on the birth certificate information form whether they want an SSN issued to their newborn child. States provide SSA with birth record information about newborns whose parents want a Social Security card for their child, and SSA then assigns an SSN and issues a card. Approximately one-half of the original Social Security cards issued in fiscal year 1994 were processed through EAB.

This process greatly reduces the potential for someone to use another person's birth certificate to obtain a Social Security card. For example, individuals who present the birth certificate of a child enumerated under EAB would not be issued an SSN, since our records would indicate that an SSN had already been issued to the child named on the birth certificate. As EAB expands, there will be fewer chil-

dren without SSNs whose birth certificates could be used to obtain SSNs for another person.

Federal income tax law requires that persons claimed as dependents for Federal tax deduction purposes have an SSN. This has created a strong incentive for individuals to obtain an SSN for their children.

#### REPORTING POSTENTITLEMENT EVENTS

We must also verify an individual's identity when he or she contacts us in person or by telephone to report an event that may affect payment of benefits. For example, a person may need to discuss the status of a claim for benefits, report a change in circumstances that affects a benefit, or report an address change. Although authorized disclosures of information are usually in writing, we disclose information over the telephone if measures are taken to ensure that the requestor is authorized to obtain the information.

Since we encourage individuals to handle their business with us by telephone whenever practicable, we have worked especially hard to strengthen our procedures for verifying a caller's identity. Before disclosing any information, we must be certain of the identity of the caller and that disclosure of the requested information is permitted if the caller is someone other than the person who is the subject of the record. We are keenly aware that the potential to disclose information, including acknowledgement that a person is a Social Security beneficiary, may exist at any time during a call that involves an individual's Social Security record.

We interview callers to determine who they are, e.g. the individual of record, parent or a minor child, authorized representative, and to obtain identifying information, which is then checked against information in SSA's online databases. If the caller's identity cannot be verified, we advise the caller that we can send the requested information to the address in our records of the subject of the information or the subject's guardian or representative, or that the caller can submit the request in writing, whichever is appropriate.

#### SSA'S ROLE IN SSN AND BENEFIT VERIFICATION

It is important to keep in mind that the process of confirming a person's identity and the limitations of the Social Security card for that purpose are quite separate from the issue of SSN verification. By SSN verification, we mean the process by which SSA determines whether a name and SSN match SSA's records, that is, whether SSA issued a given SSN to a given person. This process cannot determine whether the person presenting the name and SSN is, in fact, the person to whom the SSN was issued.

SSA has always had the capability to verify SSNs, which is an important function in ensuring accurate wage reporting and, ultimately, accurate benefit payments. Employers may immediately verify SSNs for payroll purposes by calling our 800-number or local office. Relatively few employers call, however, because they tend not to question the name and SSN provided by an employee.

With the expansion of the SSN's use over the years, especially as a result of widespread dependence on computers, SSA began to experience more and more requests for SSN verification for purposes other than the Social Security program. Many of these requests were from government agencies for the purpose of ensuring the accuracy of information collected for other Federal and State benefit programs, and automated data exchange systems were developed to comply with these requests.

On the other hand, SSA does not verify SSNs for the private sector for purposes other than employer wage reporting. The law and our disclosure policy are designed to protect individual privacy—a fundamental and widespread concern—and the confidentiality of the SSN because of the potential for its use as a means of unauthorized access to personal records.

The system that was developed to verify SSNs and benefit eligibility for States is available to employers to verify SSNs. The Enumeration Verification System (EVS) verifies SSNs based on data such as name and date of birth.

Although EVS is used primarily by States, employers may also use EVS to verify SSNs for wage reporting. However, because EVS consists of a high-volume process, under which the requests are transmitted to SSA by mail on magnetic tape and the results returned to the requestors in about 4 weeks, this system does not allow for immediate SSN verification.

#### CROSS REFERENCING BIRTH AND DEATH RECORDS

The effectiveness of any verification system is heavily dependent not only on the authenticity of the evidentiary documents which are submitted, but also the evi-

dence on which the documents are based. One obvious method of fraud to which a verification system may be susceptible is the use of a deceased person's records, including his or her birth certificate, to establish a false identity.

One way of minimizing this type of fraud is to coordinate birth and death records so that a copy of a birth certificate is not issued for someone who has died. Since birth and death records are maintained by States, this would require a system whereby each State is provided with death information from all other States so that birth records could be appropriately annotated. The most efficient process for doing so would be through a centralized source of death information.

SSA currently maintains death records (referred to as the Death Master File (DMF)) based on reports of deaths from various sources. The file contains an individual's Social Security number, name, dates of birth and death, State or country of residence, and a code indicating the source of the death report. The most common sources of death reports to SSA are family members, funeral directors, postal authorities, financial institutions, and State vital statistics agencies.

Although it would be possible for SSA to function as a central source of death information, and to share that information with States so that they could annotate their birth records, it would be just as easy for States to form a consortium for that purpose. SSA would need additional resources to perform those tasks. The effectiveness of such a system would depend, of course, on the full participation of all 50 States, each of whom would have to agree to use the data provided and put in place safeguards which would control the reissuance of a dead person's birth certificate.

Although feasible, a number of issues would have to be addressed in order for SSA to function as a clearinghouse for death information: Funding for SSA's administrative expenses would have to come from a source other than the Social Security trust funds, since this function would not be program-related.

SSA's authority to provide death information obtained from a State source to other States is restricted by Federal law and the contracts with the States by which SSA obtains the information.

Although the DMF is for the most part accurate, many death reports on the DMF are not verified. SSA does not verify reports of nonbeneficiary deaths. Reports of beneficiary deaths received from family members, funeral directors, or postal authorities, which account for 95 percent of our death records, are not verified because they are considered to be both timely and accurate. General Accounting Office studies show that reports from family members and funeral homes have a less than 1 percent error rate and are usually received in SSA within 7 days of the death.

However, beneficiary death reports from SSA's matching operation, such as State vital statistics bureaus, the Health Care Financing Administration, and the Department of Veterans Affairs, are verified before we take an action which would adversely affect an individual. These reports are considered to be third party reports and are considered to be less accurate since there is a margin for error when data changes hands and is retransmitted. Matched sources account for approximately 5 percent of our death records.

Although cross-referencing birth and death records would deter individuals from using deceased persons' birth certificates, this solution is largely prospective and long-term. Cross-referencing birth and death records retrospectively would be virtually impossible, since most birth and death certificates issued before the mid-1980s do not carry the SSN. The DMF has a death record for only about 52 million of the approximately 100 million SSNs issued to persons who are now deceased. Thus, providing SSA's death records to States would not preclude someone from fraudulently obtaining a birth certificate for one of the nearly 50 million deceased persons whose death has not been reported to SSA.

#### CONCLUSION

SSA's evidentiary policy represents a balancing of the need to verify allegations with the desire to minimize the burden placed on the person who must provide documentary evidence to support the allegations. Although we continually look for ways to identify and discourage fraudulent documents, we believe that our current policies strike an appropriate balance that maintains the integrity of our programs, while providing efficient public service.

I will be happy to answer any questions you may have.

Senator SIMPSON. Thank you very much. Mr. Fisher, that was very helpful.

And now, Mr. Rasor.



**STATEMENT OF ROBERT H. RASOR**

Mr. RASOR. Thank you, Mr. Chairman. Thank you for the opportunity to address this committee on the subject of verification of applicant identity for the purposes of employment and public assistance. I am Robert H. Rasor, representing the U.S. Secret Service in my capacity as the Deputy Assistant Director for the Office of Investigations. I have with me today, Mr. Jim Grassman, who is special agent in charge of our Forensic Service Division. We have a full statement which we have submitted for the record. I would like to highlight a few comments out of that.

As a law enforcement Bureau of the Department of Treasury, the Secret Service has been charged as the lead agency in the detection, prevention, and suppression of counterfeit currency and Government obligations, as well as investigating a host of other financial and technological crimes. Additionally, the Secret Service became the lead investigative agency in false identification investigations, as a result of the passage of the False Identification Crime Control Act of 1982.

The investigative experience of the Secret Service over the years has shown most financial crimes rely on the ability of an individual to mask themselves as other people. This is accomplished through false identification. Fraudulent identification allows the criminal element to move freely through society, hidden from law enforcement and regulatory agencies, whose duty it is to protect the Nation's financial systems, borders, and entitlement programs.

The use of false identification has grown, in part, due to the ease with which all types of identification can be counterfeited through the use of computers and what we now refer to as desktop publishing. The systems currently in place to corroborate identity are antiquated. A system which relies solely on paper documents for identification without additional confirmation as to the identities are highly vulnerable to abuse.

Secret Service investigations of U.S. Government obligation fraud, in the form of food stamp trafficking and Treasury check forgery, has provided the opportunity to identify systemic weaknesses that allow fraud in the delivery of Government benefits. Our access device investigations have provided insight into the causes of fraud in commercial credit card, electronic funds transfer, and Government entitlement benefit pilot programs. Through these investigations, the Secret Service has detected many weaknesses that facilitate fraud. One weakness exists in all of these systems and that is application fraud.

Application fraud occurs when an individual applies for benefits in more than one name and produces false identification to prove their identity. This form of fraud allows the criminal to open access and obtain funds from multiple accounts, thereby causing the Government and financial institutions to suffer monetary losses. Few cost effective methods are available to detect after the fact applicant fraud. Therefore, this type of fraud is generally not identified and needed criminal investigations are not conducted. The lack of means to detect multiple application fraud has led us to conclude that only prevention of applicant fraud can deter this reoccurring problem.

Reliable and positive verification of an applicant's identity will substantially prevent applicant fraud. Technology has outstripped current systems of identification. Current systems which rely solely on paper or plastic documents for identification are no longer secure. Every type of such document is subject to compromise. Birth certificates, Social Security cards, and driver's licenses, which are considered breeder documents, are increasingly vulnerable to counterfeiting and fraudulent use.

Government entities are responsible for administering a variety of programs which are impacted by an applicant's ability to provide verifiable identification. These same entities must be enabled to reasonably confirm that identity. The same level of technology used as a conduit by individuals committing criminal acts, must also be available for use by Government agencies. Current systems relying on paper documents need to be upgraded to verifiable personal identification systems. Reliable applicant identity verification is available through the use of biometric identifiers.

The use of biometrics is the means by which an individual may be conclusively identified. There are two types of biometric identifiers—physiological and behavioral characteristics. Physiological biometrics include facial features, hand geometry, retinal and iris patterns, DNA, and fingerprints. Behavioral biometrics include voice characteristics and signature analysis. In considering a biometric application for verification of a person's identity, several factors need to be considered. The identifier needs to be easily measurable, capable of automation, and unique to each individual. The verification process needs to be rapid, cost effective, nonintrusive with a minimum of false positives or false rejections. For the purpose of applicant verification, fingerprint identification continues to offer the greatest advantage to systems currently available.

In its role of protecting the Nation's financial systems, the Secret Service supports initiatives which specifically incorporate measures designed to minimize fraud while still meeting program goals. These objectives need not be mutually exclusive. To the contrary, incorporation of technological and systemic safeguards result in better resource allocation in both arenas.

That concludes my remarks. I will be happy to answer any questions.

[The prepared statement of Mr. Rasor follows:]

#### PREPARED STATEMENT OF ROBERT H. RASOR

Mr. Chairman, thank you for the opportunity to address this committee on the subject of Verification of Applicant Identity for Purposes of Employment and Public Assistance. I am Robert H. Rasor, representing the Department of the Treasury and the United States Secret Service in my capacity as the Deputy Assistant Director for the Office of Investigations.

As a law enforcement Bureau of the Department of the Treasury, the Secret Service has been charged as the lead agency in the detection, prevention, and suppression of counterfeit currency and government obligations. Additionally, the Secret Service became the lead investigative agency in false identification investigations as the result of the passage of the False Identification Crime Control Act of 1982 (P.L. 97-398). In that law, Chapter 47 of Title 18 was amended by Section 1028, "Fraud and Related Activity in Connection with Identification Documents".

The investigative experience of the Secret Service over the years has shown most financial crimes rely on the ability of an individual to mask themselves as other people. This is accomplished through the use of false identification. Fraudulent identification allows the criminal element to move freely through society, hidden from

law enforcement and regulatory agencies, whose duty it is to protect the nation's financial systems, borders, and entitlement agencies.

The use of false identification has grown, in part, due to the ease with which all types of identification can be counterfeited through the use of computers and "desktop" publishing programs. The systems currently in place to corroborate identity are antiquated. A system which relies solely on paper documents for identification without additional confirmation as to identity is highly vulnerable to abuse.

Secret Service investigations of U.S. Government obligations fraud, in the form of food stamp trafficking and Treasury check forgery, has provided the opportunity to identify systemic weaknesses that allow fraud in the delivery of government benefits. Title 18 USC Section 1029, "Fraud and related activity in connection with access devices", defines an access device as "any card, plate, code, account number, or other means of account access that can be used to obtain money, goods, services, or any other thing of value". Our access device investigations have provided insight into the causes of fraud in commercial credit card, electronic funds transfer (EFT), and government electronic benefit transfer (EBT) pilot programs. Throughout these investigations, the Secret Service has detected many weaknesses that facilitate fraud, however, one weakness exists in all these systems: application fraud.

Application fraud occurs when an individual applies for benefits in more than one name and produces false identification to prove their identity. This form of fraud allows the criminal to open, access, and obtain funds from multiple accounts, thereby causing the government and financial institutions to suffer monetary losses. The Secret Service has observed in government obligations, financial institutions, and access device fraud investigations that applicant fraud is a systemic problem which consistently appears in all forms of commercial and government payment programs. Furthermore, the Secret Service has found that applicant fraud is not always addressed because the fraud must first be detected by program agencies, financial institutions, or credit card companies and then referred to law enforcement for investigation. Few cost effective methods are available to detect after the fact applicant fraud, therefore, this type of fraud is generally not identified and needed criminal investigations are not conducted. The lack of means to detect multiple application fraud has led us conclude that only prevention of applicant fraud can deter this recurring problem.

Reliable and positive verification of the applicant's identity will substantially prevent applicant fraud. Technology has outstripped current systems of identification. Current systems which rely solely on paper or plastic documents for identification are no longer secure. Every type of such document is subject to compromise. Birth certificates, social security cards, and driver's licenses, which are considered breeder documents are increasingly vulnerable to counterfeiting and fraudulent use. These same documents are the basis from which individuals may obtain other identification, entitlements, and employment. They may also be used in the facilitation of criminal activity.

Government entities are responsible for administering a variety of programs which are impacted by an applicant's ability to provide verifiable identification. Those same entities must be enabled to reasonably confirm that identity. The same level of technology used as a conduit by individuals committing criminal acts, must also be available for use by government agencies. Current systems relying on paper documents, need to be upgraded to verifiable personal identification systems. Reliable applicant identity verification is available through the use of biometric identifiers.

The use of biometrics is the means by which an individual may be conclusively identified. There are two types of biometric identifiers; physiological and behavioral characteristics. Physiological biometrics include facial features, hand geometry, retinal and iris patterns, DNA, and fingerprints. Behavioral biometrics include voice characteristics and signature analysis. In considering a biometric application for verification of a person's identity, several factors need to be considered. The identifier needs to be easily measurable, capable of automation, and unique to each individual. The verification process needs to be rapid, cost effective, non intrusive, with a minimum of false positives or false rejections. For the purposes of applicant verification, fingerprint identification continues to offer the greatest advantage of the systems currently available.

Currently, versions of the Automated Fingerprint Identification System (AFIS) technology are now being used with success. The Automated Fingerprint Image Reporting and Match (AFIRM) system is being used by the Los Angeles County Welfare Program to verify the identity of all applicants and defeat fraudulent application schemes. The AFIRM program was developed in response to the escalating multiple identity cases in Los Angeles County General Relief Program and was later

expanded to Aid for Families with Dependent Children (AFDC) within that county. The Department of Defense has used an AFIS based system called the Deployable Mass Population Identification and Tracking System (DMPITS) to process thousands of Cubans and Haitians at the Guantanamo Naval Base.

The known ability of criminals and illegal aliens to produce false identification to obtain goods and services from local, state, and federal governments; to defraud financial institutions, and to illegally cross borders, demands the problem of false identification be addressed using an aggressive strategy. The reliable and positive confirmation of a person's identity is clearly the most attainable means to prevent fraud.

In summary, false identification facilitates illegal immigration, applicant fraud, financial crime, and violent crime. The response by government must be deliberate, comprehensive, and coordinated. Reliable identity verification, available through the use of biometrics, continues as a viable tenant of the overall strategy.

In its role of protecting the nation's financial systems, the Secret Service supports initiatives which specifically incorporate measures designed to minimize fraud while still meeting program goals. These objectives need not be mutually exclusive. To the contrary, incorporation of technology and systemic safeguards result in better resource allocation in both arenas.

This concludes my prepared remarks. I will be happy to answer any questions that you, or members of your committee, may have.

Senator SIMPSON. Thank you very much.  
And now, Mr. Pomerantz, please.

#### STATEMENT OF STEVEN L. POMERANTZ

Mr. POMERANTZ. Good morning, Mr. Chairman, and members of the subcommittee. I am Steven Pomerantz, the Assistant Director of the FBI in charge of our Criminal Justice Information Services Division, and I appreciate the opportunity to speak to you this morning. I have provided a formal opening statement, and I am just going to highlight for a couple of minutes some of those issues I have raised and covered in that statement.

Largely, I would echo what Mr. Rasor has just said. I have been a special agent of the FBI since 1968 and in that time have served virtually every major area of the Bureau's responsibilities, both at headquarters and various field assignments. I have some substantial experience in organized crime investigations and for 2 years I was the chief of our counter terrorism section. Throughout my career, I have seen numerous instances where fraudulent documents were used to further criminal activities. Identities and backgrounds can be created in many ways. Sometimes through the simple use of a photocopying machine. More complex techniques include using duplicate Government-issued documents, such as a birth certificate to obtain an entirely new identity. In some areas a veritable cottage industry has sprung up in this country to supply and meet the demand for official-looking personal identification.

Government agencies at all levels, State, county, local and Federal, must cope with proliferation of false documents from counterfeit driver's licenses to bogus degrees backed by fake academic transcripts.

It can take on even more ominous tone when these documents are created with the explicit purpose of harming our national security or to avoid apprehension for a serious criminal offense. It is very difficult to try to quantify this problem, to get a firm grasp on the extent of this throughout the country.

I would offer one illustration, however. Daily the FBI receives over 38,000 fingerprints from law enforcement agencies at the time of arrest or from employing and licensing agencies at the time of

application. Of these 38,000 cards received daily, over 600 identifications are made solely on fingerprints. This means that at some point in either the booking or the application process, those individuals used a false identity to identify themselves. This demonstrates clearly that fingerprints are still one of, if not, the best indicator of an individual's true identity.

Thank you. If I can answer any questions, sir, I would be happy to do so.

[The prepared statement of Mr. Pomerantz follows:]

#### PREPARED STATEMENT OF STEVEN L. POMERANTZ

Good morning, Mr. Chairman and members of the Immigration Subcommittee. I am Steven Pomerantz the Assistant Director-in-Charge of the FBI's Criminal Justice Information Services Division, otherwise known as CJIS.

Throughout my 27-year career as a special agent of the Federal Bureau of Investigation, first as an investigator in field offices throughout the Nation and later in a host of supervisory positions at FBI headquarters, I have seen numerous instances where fraudulent documents were used in furtherance of criminal activity.

As you know, identities and backgrounds can be created in many ways—some as easy as the creative use of a photo-copy machine. More complex techniques would include using a duplicate Government-issue document such as a birth certificate to obtain a new identity. In some areas a veritable "cottage industry" has been created to supply the demand for "official" looking identification.

Government agencies at all levels must cope with the proliferation of false documentation—from counterfeit driver's licenses to "bogus degrees" backed by forged academic transcripts.

It can take on an even more ominous tone when identities are created with the explicit purpose of harming our national security; likewise, to avoid apprehension for a criminal offense.

For over 70 years, the FBI, first through the identification division and now through CJIS, has worked to provide our Nation's law enforcement community with an effective and reliable means of establishing positive identity by collecting, classifying and maintaining the world's largest collection of fingerprint records. These records are used every day to determine the true identities of individuals being processed in our criminal justice systems or applying for employment or licenses which require a fingerprint based criminal history check.

Beginning in 1924, the FBI was authorized by Congress to begin collecting criminal fingerprint and arrest record information for federal and state arrests. At that time, our operations began with 810,000 fingerprint cards. Currently, the FBI identification file contains records on over 71.1 million persons, of which approximately 32.3 million are individuals who have been arrested and/or convicted of a criminal offense in the United States. The majority of the remaining records pertain to individuals who have been fingerprinted in connection with government or military service.

The mission of the CJIS division is to provide the highest quality identification and related information services in the fight against crime. Typically, when an individual is arrested in the U.S., arrest fingerprint cards are completed to identify the person and to document the criminal offense charged at the time of arrest. These cards are the foundation and the basis for establishing State and national criminal history records. Positive fingerprint identification is critical to link subsequent arrests with the same individual, especially when that individual has assumed another name or has changed his or her identity in some way.

Each day, this division handles an enormous volume of work for the over 70,000 Federal, State, and local users. For example, in fiscal year 1995, CJIS received an average of 35,000 fingerprint cards a day. These fingerprints are submitted by authorized agencies following an arrest or in connection with an employment or licensing matter that requires a criminal history background check. Daily over 600 positive identifications are made solely based on a technical comparison of the fingerprints submitted against the FBI's criminal history identification files. This means that almost 500 individuals who were arrested attempted to conceal their true identity and perhaps their criminal past. Likewise, over 100 persons with criminal records tried to secure licenses or employment.

Without this technical fingerprint comparison capability, who knows how many convicted felons would go undetected? This technical fingerprint comparison capabil-

ity is designed to prevent convicted felons from obtaining positions of trust such as in child care or as members of the military.

For their mutual benefit, State and local arresting agencies throughout the country are encouraged to submit arrest fingerprint cards to the FBI for all felony and serious misdemeanor crimes. It should be noted that this is a voluntary effort on their part. I am pleased to state that historically the FBI has received the highest level of support and cooperation from the criminal justice community in this regard.

Recognizing that since the individual States already possessed the vast majority of this criminal history information, an effort began over a decade ago to move toward a decentralized system. We began working with State program officials to establish an interstate identification index (Triple I) program. The Triple I was developed through a series of operational phases to computerize the interstate exchange of criminal history records. This was done using only existing resources and budgets within the States and the FBI. The Triple I role is to maintain a fingerprint index for the record of each offender, a computerized name index for these records, and a "Pointer" to the State holding the details of the arrest and disposition. Also, the FBI maintains records of persons arrested for Federal offenses.

Authorized criminal justice agencies may make inquiries of the Triple I name index from computer terminals connected to the National Crime Information Center, otherwise known as the "NCIC". When a response is generated by the Triple I inquiry, the National Law Enforcement Telecommunications System, or "NLETS", is used by the affected State(s) to return the detailed records. Twenty-nine States currently have their computerized files interfaced with the Triple I so that their computers can provide records for interstate criminal justice purposes.

The following States are participants in the interstate identification index: Alaska, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and Wyoming.

These States represent about 75 percent of the population and more than 80 percent of the arrests in the country. It is my understanding that with the exception of Arizona, those States which are most affected by illegal immigration are Triple I participants. CJIS serves as the criminal history data base for the 21 States who have not yet interfaced their computers with the Triple I, and also we provide the records of Federal offenders. Thus, 100 percent of the records on persons with an automated FBI record are readily available for criminal justice use nationwide. As of March of this year, the records of 21.2 million offenders were indexed in Triple I.

From the beginning, the Triple I was primarily intended to be used by criminal justice agencies for criminal justice purposes. More recently, however, with the enactment of the Brady Handgun Violence Prevention Act, in November 1993, and other State legislation regulating firearms sales, the Triple I has taken on a new workload. Each week we record the number of transactions processed by the system and examine them according to the purpose for which they were made. During March of this year, the Triple I processed 2.6 million inquiry and record request transactions for local, State, and Federal user agencies. Nearly 392,000 of these were for firearms related checks; and 1.9 million were for miscellaneous criminal justice purposes such as bond hearings, risk assessment, and investigations.

System response times are rapid. In Virginia for instance, gun dealers place telephone calls to the State police and provide information on pending gun sales. Usually, they wait no longer than one and one-half minutes while the State police check their files, the NCIC wanted person file, and the Triple I for any disqualifying information. In fact, law enforcement agencies have reported to us that the information they receive from NCIC and the criminal records they obtain through the Triple I are among their most valuable investigative tools.

We have also begun our study on how the national instant criminal background check system which we call "NICS" will function. We are working on this with a task group of State and local criminal justice officials, and with Federal agency representatives. It appears that the Triple I will be the backbone of the NICS which is intended to provide a broad range of information on persons who are disqualified from possessing firearms. In addition to containing data on disqualifying criminal convictions, the NICS will contain other information, for example, on persons dishonorably discharged from the armed forces, persons who have been committed to mental institutions, as well as those who are under a court order restraining them from harassing, stalking, or threatening their spouse or other intimate partners. Under the Brady Act, the attorney general is to have the NICS operational by November 1998.

At this time, I want to make it clear that the Triple I functions I have been describing involve record inquiries and record requests that are based on a person's name, date of birth, sex, and race. These are the basic data elements that constitute most inquiries; however, these factors are vulnerable to error and subject to falsification. Therefore, the submission of fingerprints for searching criminal files remains the most thorough, reliable, and the most positive means of determining whether or not a record exists for an individual.

In this regard, the FBI's CJIS division has undertaken a several hundred million dollar project that we refer to as the "Integrated Automated Fingerprint Identification System", or IAFIS. When it is completed, which we anticipate to be in 1998, IAFIS will have the capability of receiving fingerprints in an electronic format from a law enforcement agency, processing the fingerprints against a data base of more than thirty million criminal history records, and providing either a record or a no record response back to the arresting agency, while the offender is still in custody—perhaps as quickly as two hours. We have contracted with three separate vendors to develop prototypes of the computer technology necessary for the fingerprint identification portion of this process, known as the Automated Fingerprint Identification System (AFIS). From these three, we will select a single vendor in November of this year to build and install the full-blown operational AFIS. Although much of the information concerning this effort is procurement sensitive and cannot be made public at this time, I would like to let you know that we are very excited and optimistic that this initiative is going to revolutionize the identification of criminals, and the speed and accuracy with which these people are identified on an interstate basis.

In closing, I would like to thank you for your interest in our efforts to provide complete and timely criminal history information. Your support in these endeavors is greatly appreciated. I will be happy to address any questions you may have at this time.

Senator SIMPSON. Thank you very much. Very interesting testimony. We will have 5-minute rounds of the members of the subcommittee. Let us welcome Senator Kyl, a very vital participant in the activities of the subcommittee, along with Senator Feinstein. It is a splendid group to work with, as I said. Perhaps you may wish to make a brief statement?

Senator KYL. No, Mr. Chairman. Why do we not just go right along with the questioning. That would be fine with me. Thank you.

Senator SIMPSON. A question of Ms. Ryan. When an applicant applies for a U.S. passport for the very first time, what documents must be submitted as proof of identity in these new times?

Ms. RYAN. They have to supply us with proof of their citizenship which would be either a birth certificate or a naturalization certificate and then proof of their identity. We use any number of documents for proof of identity. Generally, it is a driver's license, but it can be a school ID or a work ID, something with a picture on it.

Senator SIMPSON. How is the authenticity of each of those documents verified? In your written testimony, you state that your passport examiners are trained to look for certain fraud indicators, paper, age, and that they "check when necessary with the State Department of Motor Vehicle offices, registrars or Vital Statistics and other primary sources." What are those various primary sources and why not always check them?

Ms. RYAN. The adjudicator will check if he or she has any doubts about the authenticity of the documents, based on their experience. And they are trained and we have an ongoing program at each of the passport agencies around the country. And then at our posts abroad that issue passports, we have fraud officers who are trained to detect bad documents and if they have any question or any

doubt, they will be in touch with the motor vehicle departments of the various States, with the State registrars of births.

In a recent case in Philadelphia, where an adjudicator had some suspicion, they asked the Pennsylvania State authorities to check death records, and indeed they came up with a record of death of that person. The individual had assumed or was trying to assume the identity of someone who was deceased. That is one of the problems that the other panel members pointed out, that there is no reconciled birth and death records here and there is no standardized birth certificates in this country. There are some 10,000 valid birth certificates that can be used, so that means that the adjudicators and the fraud officers at our agencies have to familiarize themselves with all of those documents.

Senator SIMPSON. A question for Mr. Puleo. Would the INS object to sharing information on immigration status with State Department of Motor Vehicle persons? Would they need some statutory authorization?

Mr. PULEO. In fact, we currently have a program with the State of California, Bureau of Driver's License, using our status verification system, our SAVE system, where we provide them information.

Senator SIMPSON. I am talking about other States. I have seen the California operation. I see good representatives present. Frank Ricchiazzi is here as a witness today, from the California DMV.

Mr. PULEO. We could do the same with other States.

Senator SIMPSON. You could?

Mr. PULEO. Yes, I believe so, yes.

Senator SIMPSON. I think it would be a good idea, would it not? It would be a great idea.

Mr. PULEO. Yes.

Senator SIMPSON. I heard you say in your testimony that you were using in one area, "good old-fashioned techniques of the INS." I think that is one of the problems. Good old-fashioned techniques are not getting the job done in the INS. We are going to have an INS oversight hearing tomorrow. I am not now going to probe that with you, because the Commissioner will be here. We will have a good hearing and it will be done in a sensible way. But something is not working right.

Mr. PULEO. We do give our officers extensive training on visualizing the documents. We are also building into our systems some of the biometrics that you heard here in the panel this morning. As we start centralizing, for example, our employment authorization document, we are storing the photograph, fingerprint, and signature. That can be retrievable. So we do have that information stored that can be given to our officers as part of our new reentry permit process and refuge travel document that we initiated approximately a year ago. We are already incorporating that, storing the information on laser disk, the signature and fingerprint and photograph, and using the Teslin paper as Mary Ryan described, in our reentry permit. So we are taking the next technological step to get beyond simply good sense of training.

Senator SIMPSON. My time has expired on the first round. We will go now to Senator Feinstein. In this subcommittee, we go in the order the members come to the hearing. When Senator Ken-



nedy returns, we will go to him and then to Senator Kyl. Senator Feinstein, it is your round.

Senator FEINSTEIN. Thank you very much, Mr. Chairman. My first question is of Mrs. Ryan. Mrs. Ryan, could you tell us what proportion of all visas are nonimmigrant visas and how many are immigrant visas? And how many immigrant visas are subject to the same automated check?

Ms. RYAN. All the immigrant visas are subject to the automated data check. We have issued some 500,000 immigrant visas last year and adjudicated over 7 million nonimmigrant visas; about 5.5 million were issued; and about 1.5 million were refused. They are all subject to name checks before issuance or decisions made on whether issuance is possible.

Senator FEINSTEIN. Thank you. I wonder if either Mr. Razor or Mr. Pomerantz could comment on whether the current state of immigrant visa processing constitutes a weak link in antiterrorism efforts?

Mr. POMERANTZ. We favor a system that is not based on name checks. We take a position that any system that rests on a name check has all the fallibilities you have heard discussed here today of false identification. It is certainly better, the system that we have today, is certainly better than what has preceded it. But to the extent that name checks are not an indicator of positive identification, as some of the biometrics, as particularly fingerprints are, that is a weakness in the system, yes.

Senator FEINSTEIN. So in other words, it would be desirable if the entire Federal Government were to go to one system which had as much failsafe methodology of biometrics of which I guess the fingerprint would be the easiest? Is that a fair statement.

Mr. POMERANTZ. Yes, that is a fair statement, Senator.

Ms. RYAN. Senator. May I make a remark?

Senator FEINSTEIN. Yes.

Ms. RYAN. We are at the 14 busiest, highest volume immigrant visa posts around the world now fingerprinting all applicants and sending those fingerprints to the FBI to be checked. And the FBI is checking its data base. The hits that we have gotten are few and they are of people who have been formerly in the United States, some people who are objects of outstanding warrants. But we are experimenting that with the fingerprinting of immigrant visa applicants.

Senator FEINSTEIN. It is also my understanding that one-half of the illegal immigrant population in this country is really visa overstays and I am wondering if any member of the panel might address that problem and how to prevent it from happening in the future?

Ms. RYAN. Naturally I dispute the figure of 50 percent of the illegals being visa overstays. One of the problems that we have in the United States is that we do not have real departure controls, so that it is very hard to know who is here and who is not. We rely on airlines to collect the document that INS issues at the time of entry which is called an I-94. Some airlines are conscientious; some are not. Some aliens are conscientious about turning them in; some are not. Some turn them in to us overseas. So that we are

not really sure of how many illegals in the United States are visa overstayers.

Senator FEINSTEIN. Let me just stop you for a minute. In other words, you are saying that there is no departure check system that gives you any kind of accurate figure of how many overstays there actually are in this country?

Ms. RYAN. That is right, Senator.

Senator FEINSTEIN. Would it be fair to say that a number of potential terrorists can come into this country on a visa and then just simply overstay their visa, disappear and never be seen again?

Mr. POMERANTZ. Yes, that is certainly a possibility, Senator.

Senator FEINSTEIN. Then I would ask the next question. Would it not be desirable to immediately develop a system of departure checks and put a very high priority on that?

Ms. RYAN. Yes, but it is going to be very resource intensive. The Immigration Service is probably going to need more people and more money to be able to do that. The machine-readable visa technology that we have where the visa is read at the time of entry could also be used at the time of exit and then the information reconciled. But it is resource heavy. It is opposition.

Mr. PULEO. If I might address—

Senator FEINSTEIN. My time has expired, but Mr. Puleo, I think it is an important question.

Mr. PULEO. Our statistics branch is the one who developed the 300,000 of those who arrive in the United States. Of the 300,000 who stay, approximately 150,000 of those are visa overstays. We are talking of a population of 22 million who arrive annually, 150,000 stay. The statistics branch was able to compare arrive-departure records for about 21 million of those and it extrapolated a daily—using information on known countries that, in fact, do return the I-94's—and I am not a statistician. I am giving you the best response I can from memory. Most of those individuals come and overstay their visas to work. They are here to be employed. They stay here and work illegally in the United States.

What we are trying to do is minimize their ability to work, stronger documentation and stronger employment authorization, reducing the number of documents that the employer has to visualize as they complete the form. We also are looking at improving our departure collection process, working with the airlines to automate the I-94, as an example, so that we can transmit the information electronically before they arrive, and as they are departing. So we can narrow the gap between the 22 and 21 million that we know. So we are trying to improve that.

We do not need legislation to have outbound control. If the desire is to have outbound control, as some countries, for example, United Kingdom or Australia, but it would be extremely resource intensive to do such a thing.

Senator FEINSTEIN. Could I just clarify one point. Do I understand you that there is no plan to do anything about it?

Mr. PULEO. No. I said there is a plan. What they are attempting to do—

Senator FEINSTEIN. Could you just tell me quickly what that plan is so I can understand it.

Mr. PULEO. We are trying to automate the I-94 process. The document that we give to these 22 million people who require—they are mainly nonresidents who are coming to the United States. We are automating that system so that there is immediate transfer of the information between the airlines and the INS on arrival and departure. And at the same time, trying to minimize their ability to work here in the United States, because that is the reason those 150,000 people are overstaying their visas that come here.

Senator FEINSTEIN. Thank you, Mr. Chairman.

Senator SIMPSON. Thank you, Senator Feinstein. Senator Kyl, please.

Senator KYL. Thank you, Mr. Chairman. Mr. Puleo, does INS have a position regarding the Jordan Commission Report and a card or other kind of document that would provide proper identification, both for jobs and for collection of Government benefits?

Mr. PULEO. We agree with the Jordan Commission about testing the verification process with the Immigration Service and the Social Security Administration. We are in agreement with that. In fact, we are working quite closely with the Social Security Administration to, in fact, pilot test that recommendation.

Senator KYL. As you understand it, could you describe for us what the Administration position is then, the combination of Social Security and INS?

Mr. PULEO. What we are looking at is verifying the Social Security number with the Social Security Administration and if it shows that, in fact, the individual requires verification with the Immigration Service, checking with our data bases.

Senator KYL. Are you talking about a new system of identification or just additional checking?

Mr. PULEO. Not at all. It is not a new system. It is improving our current system, improving our current data bases, reducing the number of documents that the employer would have to verify, improving our document to include biometrics on it, more secure employment authorization document, moving toward a more secure so-called green card.

Senator KYL. Let me read a couple of things from testimony. First of all, Mr. Puleo, in your testimony you say, "The administration believes that unauthorized aliens who are unlawful in the United States should not have access to jobs and authorized Government benefits." I think we all agree with that.

And then in Mr. Raso's testimony and let me read this at length. Senator Feinstein got into it too, but I think it makes the point. "The known ability of criminals and illegal aliens to produce false identification to obtain goods and services from local, State, and Federal governments to defraud financial institutions and to illegally cross borders demands the problem of false identification be addressed using an aggressive strategy. The reliable and positive confirmation of the person's identity is clearly the most attainable means to prevent fraud."

Skipping a sentence: "And then the response by Government must be deliberate, comprehensive, and coordinated. Reliable identity verification available through the use of biometrics continues as a viable tenet of the overall strategy." And then later in the tes-

timony, "Fingerprint identification continues to offer the greatest advantage of the systems currently available."

Now having said all of those things, what I am interested in is in the most clear terms you can tell me, what the administration's position is in view of this testimony? Should we not have a single card with a fingerprint on it required either to obtain employment or receive a Government benefit?

Mr. PULEO. No. We do not believe there should be a single card. We believe that there are data bases available that we can, in fact, improve the verification process. We are improving and incorporating biometrics into the documents that we, in fact, issue to immigrants, to so-called green card, and to those nonimmigrants who we grant authority to work in the United States, the employment authorization document.

As I mentioned before, we are starting to store the photograph, fingerprint, and signature. Those are clear biometrics that will be available through data base checks to, in fact, verify that the individual before you is, in fact, the same person that we have granted authority to work either by viewing the photograph, by checking the signature, or by checking the fingerprint.

Senator KYL. Maybe I am missing something here. What you can do is verify the legality of somebody who is here legally, but there is not a concomitant ability to ascertain that someone who presents other means of identification is not here legally and entitled to receive benefits or be employed?

Mr. PULEO. It would be a combination of checking with the Social Security Administration on the validity of the Social Security number and if the person is, in fact, checking with INS. I think that combination would certainly give you a better verification system than we currently have.

Senator KYL. Perhaps so, but is Social Security going to fingerprint identity? So if the testimony is that the best way to do this is through biometrics and the best biometrics currently available is the fingerprint, you can verify the legitimate ones fairly easily, but they are not the ones we are most concerned about. They are the ones that obtain documents by other means. Is not the simplest and best approach to use a fingerprint technology? Really, I am talking to INS here for a specific reason.

Mr. PULEO. As I said, the INS is moving toward having—we do, in fact, have fingerprints now on both our documents. And we are starting to store all the biometric information on the employment authorization document.

Senator KYL. With due respect, I do not think you answered my question. I will let you think about it for another 15 minutes and then I will ask it again.

Mr. PULEO. Thank you.

Senator SIMPSON. That will give you an easy 15 minutes. Now Senator KENNEDY.

Senator KENNEDY. Thank you, Mr. Chairman. This is for Mr. Puleo or Mr. Fisher. Both the INS and the Social Security Administration are working on the data bases. What are you doing or what is the state of the data which might be used for employment and verification purposes and welfare determinations?

Mr. PULEO. We are attacking the problem in a myriad of ways. We are reducing the number of documents that are used to establish employment. We have a regulation coming out shortly. We are centralizing our employment authorization document, as I mentioned before, improving the quality of the document. But most importantly, improving the timeliness of the data which grants the employment to the individual so that can be downloaded into our data bases. We are moving toward a more tamper-resistant document. Hopefully, by the second quarter of fiscal year 1996, we will be introducing our new employment authorization document. We are looking at also improving the timeliness by which we capture the data on granting benefits in our claim system, so that the information can be downloaded to our verification system. And then we are just looking at reengineering all the data bases to ensure that the quality and the quantity of the data is, in fact, there.

Senator KENNEDY. What is the level of accuracy for computer check that should be required before implementing a national employment verification system?

Mr. PULEO. You always try to strive to get the highest accuracy of the data. I would say anything above 99 percent is desirable, but it would take us a while to get there. We certainly are not there now. What we are trying to do is minimize the secondary checks to improve that system by relying more on automated data bases. I mentioned the process with working with the Social Security Administration and INS to verify the validity of the individual before he were to work here in the United States. But we always have that secondary check as a fallback. We certainly do not want to have a system that will not allow anyone who is authorized to work here in the United States not to work here.

Senator KENNEDY. The test runs reportedly found 5 to 20 percent error rates in Social Security, depending on what is being asked. And INS had to resort to manual searches of its files in 28 percent of the cases in a recent telephone verification system pilot program because the computer data was insufficient or inaccurate.

Mr. FISHER. Senator Kennedy, the figures you quoted are not an error rate; they are actually a discrepancy rate where the name and the Social Security number did not match. We believe that the data base—

Senator KENNEDY. Does this mean you have to search manually and investigate it?

Mr. FISHER. Under the cooperative arrangement that we have with INS, these would be cases then that would be referred to INS for further checking. The SSA data base is highly reliable and it is something that is updated on a daily basis. The additional work that the Social Security Administration is doing at this point would permit an interchange of information between the SSA system and the INS system. It is not work on the SSA data base itself.

Senator KENNEDY. Do you have a goal? I mean is 1 percent or less a feasible goal?

Mr. FISHER. I am really not in a position to answer that. I defer to my colleague here.

Mr. PULEO. As I said, our goal is to try to strive toward 1 percent or less, but—

Senator KENNEDY. The Jordan Commission estimated it will cost the Social Security Administration \$350 million to get the data in shape. Is that about accurate?

Mr. FISHER. No, sir. The \$350 million figure relates more to software development and having access between systems. It does not refer to changes we would have to make in our data base. As I indicated, we believe our data base is highly reliable.

Senator KENNEDY. So how long will it take INS to get its data in shape and how much will it cost?

Mr. PULEO. We are currently assessing that right now, assessing our data bases, the time it would take to improve those and the cost initiatives to improve them. We have not completed that process.

Senator KENNEDY. When will that—I mean, I think that will be something that obviously would be important for us to have during the policy decisionmaking. Basically, what can you tell us in terms of time?

Mr. PULEO. It would be a guess. I would have to supply that for the record. But every time we come across an individual case, we update our data bases on a daily basis. But I will have to supply the time for the record.

Senator KENNEDY. My time has expired, Mr. Chairman.

Senator SIMPSON. Thank you, Ted. Just an item before the green light comes on. The staff at GAO believes that the INS overestimates visa overstayers—as a share of total immigration—by as much as 25 percentage points. They are preparing a report for the subcommittee. The minute I receive it, I shall forward it to all members of the subcommittee. That will be of considerable interest to us.

Mr. RASOR, I would be most interested in your views on the weaknesses in the major ID-related documents used in this country—State driver's license, birth certificate, U.S. passport, resident alien card. I mean the weaknesses in both the physical documents themselves and in the procedures followed in their issuance, including any verification or data base checking that is done or is not done. I mean we cannot just wander around in this area of data base checking and not let people know it means you are not picking anything up. So tell me, please.

Mr. RASOR. As you may know, the Secret Service is very big on a risk analysis process. And what we basically do is we take our criminal investigations and we match up a risk analysis process with that investigation. The ultimate result of that geared toward trying to stop the systemic problems that created the violation to begin with. And we do that in all types of investigations and all types of crimes.

When you come down to looking at a commonality of a weakness in a system, basically what we found is that it really matters not what type of crime it is that we investigate, a large portion of that, if not in the high 90's, depends upon having false identification to assist the individual in that crime. And when you come back to taking a look at that through our risk analysis process, what you find is there is no current method that is being utilized to tie the individual standing in front of the process with that actual card. What happens oftentimes is, as an example, a photograph only

shows that the person that is presenting the certificate or the item is that same person. It does not show, backward, that that certificate or that item was genuine in the first place.

And what oftentimes happens is once an identification is accepted into a system, then it is replicated numerous times by other individuals. The one thing that would stop an awful lot of criminal activity, an awful lot of support of violent crime in the United States, an awful lot of the lifestyle that is generated by the criminal element in the United States, is having a method by which you can tie to the individual that card at that time. Biometrics and fingerprints is probably the most reliable way that we currently know of to do that.

Senator SIMPSON. What would you think then of a requirement that no document would be accepted as proof of identity for an official purpose, unless it: First, was resistant to tampering and counterfeiting; second, contained a Social Security number verified with the Social Security Administration; third, contained personal identifier data, such as a fingerprint; and fourth, had been verified by the issuing agency?

Mr. RASOR. Some of the response to that is policy and nature. As an investigative agency, I think that we would support something along those lines. Let me make one quick comment about something that I mentioned in my testimony which is really critical to this issue. And that is, in today's environment, the desktop publishing process allows basically any document that is created and most of the tamper-proof systems that are put into that document to be replicated in a fashion that it would be passable.

I can only say that in relation to counterfeit currency which the Secret Service has investigated for many, many years, we have even come to the conclusion in that process that some changes have to be made because of the ability to produce something in a van that you used to have to have a very complex printing process to do. That no longer exists, so that creates a very, very sizable vulnerability in the system.

Senator SIMPSON. The yellow light still shines, so I am going to ask a quick question of Mr. Fisher. The Social Security Administration published a notice in the March 29 Federal Register of its intent to give the State driver's license motor vehicle administrators the opportunity to verify Social Security numbers. What is the status of that matter? As I understand it, you do not intend to allow on-line access. Therefore, verification would take days or weeks. I believe there are more than 30 States that issue licenses or ID cards over-the-counter, at the time of application. If these States cannot immediately verify the Social Security number, they would have to either cease the practice of issuing the over-the-counter license or be unable to verify the Social Security Administration. So why not allow on-line access here?

Mr. FISHER. Mr. Chairman, I do not believe that SSA has said that it would not allow on-line access. We are working on it. What is workable at this point is a process that, as you indicated, does take several weeks. We have really only had this notice in the Federal Register for a matter of months now, and we have a ways to go on this one. As I had indicated earlier, part of the problem is

establishing the access to our data base while preserving the integrity of the data base.

Senator SIMPSON. But you have not eliminated on-line access? I mean, you are not saying you will not do that?

Mr. FISHER. That is correct, sir.

Senator SIMPSON. Senator Feinstein.

Senator FEINSTEIN. I would like, if I might, to take up where the chairman left off and ask this question of each member of the panel. If the purpose of a card was to be able to indicate to an employer an individual's legal eligibility to work in this country, what characteristics in your view should that card have to make it correct, counterfeit proof, and verifiable? And could we start with Mrs. Ryan and just work our way down.

Ms. RYAN. I would say that I think we would have to have biometric information on it that would tie the individual to the card.

Senator FEINSTEIN. Could you be specific with the biometric?

Ms. RYAN. Fingerprint, hand measurement, eye, something along those lines, voice verification, some kind of system where you know that the person standing in front of you is really the reason to whom this card is issued.

Senator FEINSTEIN. Rather than a Social Security number?

Ms. RYAN. Correct.

Senator FEINSTEIN. Thank you. Mr. Fisher.

Mr. FISHER. For Social Security purposes, the current—

Senator FEINSTEIN. No; I gave you the purpose which was so that an employer would be able to tell that an individual is legally eligible to work or receive benefits in this country.

Mr. FISHER. There would have to be a way of linking the card or the number to the person appearing before the employer.

Senator FEINSTEIN. Any specific things and to prevent it?

Mr. FISHER. Fingerprints or biometric information. That is so far beyond where we are right now with the Social Security card though that we have concentrated on what we can do now, such as the effort with the Immigration and Naturalization Service.

Senator FEINSTEIN. Mr. Puleo.

Mr. PULEO. Our cards already contain biometrics. They contain photograph, fingerprints, and signature. I think for the employer the important part is—

Senator FEINSTEIN. I am sorry, what card are you speaking of?

Mr. PULEO. I am speaking of the alien registration receipt card, the so-called green card.

Senator FEINSTEIN. The green card or the rosita card, are those the two things you are speaking of?

Mr. PULEO. And the employment authorization document, those two documents that convey the authority to work in the United States that the INS issues. But the important thing for the employer is to verify that the individual that presents the card, the verification of that document, the verification of that individual. Those two in combination give you the best method.

Senator FEINSTEIN. So that the employer can find out quickly and easily?

Mr. PULEO. Absolutely. That is why we are trying to improve the date of delivery to our verification systems. So you have the docu-



ment before you that has the biometrics on it—photograph, fingerprints, and signature.

Senator FEINSTEIN. So you are saying the fingerprint does not necessarily help the employer because the employer has to have a way of knowing whether it is a true fingerprint or not? So has to verify it?

Mr. PULEO. Absolutely. You have to verify that the individual before you, in fact, is the same who is fingerprinted. So is that employer—are you a fingerprint expert? So giving the employer the ability to verify that the document presented by the individual is one and the same. Those two in combination—a good document and a good verification system, I think is the best way.

Senator FEINSTEIN. Mr. Rasor.

Mr. RASOR. I think that digital biometrics in a fingerprint fashion would probably go a long way to resolving the issue. I think you have to understand the process by which what would evolve from that process. And what it would be is very similar to the authentication process that you use when you go in to use your credit card in a store. There is a terminal that immediately checks—in that case it is not biometrics. It may be in the future, but currently it is not—a verification for the exchange to take place. So it is more than just having it recorded on a card; it is an ability to use that card with a central checking process that will tell you whether that is, in fact, valid or not.

Senator FEINSTEIN. Mr. Pomerantz.

Mr. POMERANTZ. Senator, I agree with everybody else's observations. Clearly biometrics with a substantial reservation that there must be the kind of system that you just heard alluded to, some way of actually verifying and checking that fingerprint against some sort of a data base. I am on the next panel and I am going to go into some detail of the description of the system that we are building that encompasses exactly those features.

Senator FEINSTEIN. Quickly, before the red light, could a digital voice print on a magnetic strip on a card be verified by phone, by an employer now? If not, soon?

Mr. PULEO. I would not know. I have no expertise in that area.

Senator FEINSTEIN. Can anyone answer that question?

Mr. PULEO. I am getting no's, and not in the time period.

Senator FEINSTEIN. Thank you. Thank you, Mr. Chairman.

Senator SIMPSON. Thank you very much. Senator Kyl.

Senator KYL. Thank you, Mr. Chairman. I think we are all on the same track here; that is, to try to figure out what we can do best, soonest. You have all pretty much agreed on what the best system would be if we could do it, and I gather, Mr. Puleo, that is pretty much the answer to the question I was asking before?

Mr. PULEO. Yes.

Senator KYL. So then the next question, and without getting too far into the next panel is, can fingerprints be digitized and what time frame and with what kind of cost would be involved in providing a national system for verification from a terminal that would be cost efficient to use?

Mr. POMERANTZ. The short answer to the first part of your question is absolutely. The technology exists today and is in operation in many, many States commonly known as an AFIS system [auto-

mated fingerprint identification system]. It is commonly in use in—

Senator KYL. That is a digitized system?

Mr. POMERANTZ. Yes, sir; it will accept fingerprints in an automated format, digitized, store them in a data base which is then accessible for rapid search of that data base against further submissions of fingerprints, whether they are 10-print fingerprint cards or even latent fingerprints at the scene of a crime. We are building a system like that currently today in the FBI at a cost of about \$500 million to be completed around 1998 to be used by the criminal justice system. Principally, but certainly not exclusively, for the interchange of criminal history records that we maintain at the FBI. But certainly it could be used for other purposes, as well. We are, for example, in very close consultation with the INS as we build this system to see what needs that they have that we can incorporate into this system as we build it. But that is what we are undertaking right now. And that technology again is in use in many States. The difference in what we are doing is because our system is so much larger, it is a national system. It is much bigger than anything that is out there now, so it is a technological challenge, but by no means insurmountable. We are willing to wait toward its accomplishment.

Senator KYL. Can you compare the cost and the number of people or the number of prints that would be put into that system? Can you just give us an order of magnitude?

Mr. POMERANTZ. Yes, sir; I sure can. Our criminal files, which is what we are in the process of automating today, currently has a little over 32 million individuals in that system. By 1998, it is simple arithmetic, that file grows at the rate of about 5,000 a day of additional individuals who are added to that system. So you can do the arithmetic and calculate that.

Senator KYL. How is the information verified from the distant location? Is it by a telephone call or is there some kind of specialized equipment?

Mr. POMERANTZ. Yes, sir; there is specialized equipment over our telecommunication's lines where fingerprints will be submitted electronically and searched against the data base and an answer quickly transmitted to the requesting agency. Again, over our dedicated telecommunication's lines.

Senator KYL. Is there something special about those lines which makes them more expensive or say too expensive to be installed by the average employer?

Mr. POMERANTZ. I could not directly answer that, because I do not know the direct cost, but these lines are available not to employers. And I think that is an important issue. They are for the purpose of law enforcement. Now we do some employment checks over those lines, but they are done under State statutes, various State statutes for certain specific types of employment and the responses do not go directly from us to the employer. They go to the local or State law enforcement agency that made the request for further transmittal to the employer.

Senator KYL. There is something special about that telephonic equipment though? It is not just a regular telephone; is that correct?

Mr. POMERANTZ. That is correct, sir.

Senator KYL. There is a cost to that that would be useful for us, I think, to understand, if you could help us to get that information?

Mr. POMERANTZ. I certainly will follow up on that, Senator.

Senator KYL. Thank you, Mr. Chairman.

Senator SIMPSON. Thank you, Senator Kyl. Senator Kennedy.

Senator KENNEDY. Let me just move back a step. If we have this biometric information of a thumb print or the picture and the tamper-proof kind of card, whatever that might be, it seems to me unless you have a system that is going to be pretty airtight at the birth certificate level, where are you? I mean if you are able to get a birth certificate and Social Security takes someone to look at you, but if you are able to get that drafted or that is fraudulent, then you start down this whole road and they get the thumb print and they get the picture, but if it is fraudulent at that very beginning, it seems to me that you have to ask yourself how far down the road we really are in terms of doing what we are attempting to do in terms of trying to get the employers to know whether that person is legitimate or not legitimate.

Does it not come back, I mean at least a key element in all of this, probably has to come back to that birth certificate, does it not, to make sure that you are going to have at least some kind of form or shape or standard or verification on that document, or all the other steps that are taken from that are going to be much more complicated and less reliable, are they not?

Mr. FISHER. Yes, sir, I would agree.

Senator KENNEDY. What is your own estimate as the amount of time that that is going to take us to do?

Mr. FISHER. Beginning in 1989, the Social Security Administration began a project where we issued Social Security cards at birth, and currently over half of the original Social Security cards that are being issued annually are being issued as part of that process. We currently have all but one State participating in this program. So this in the long range would partly address the issue of the birth certificates.

Senator KENNEDY. But long range, what are you talking about? I mean people want to talk about dealing with something in the next year, 2 years, 5 years, 7 years. But what are you talking about?

Mr. FISHER. When we are talking long range, we are talking a generation or more.

Senator KENNEDY. Do you have ways of working the system in ways that could accelerate that to try and deal with those kinds of issues? What are we going to have to do on that?

Mr. FISHER. So far as Social Security is concerned, most of the citizens who receive original cards now, receive those cards under this new enumeration at birth process as infants for tax purposes, as is required, or in their teens for employment purposes.

Senator KENNEDY. We still have a long way to go.

Mr. FISHER. Correct.

Senator KENNEDY. Let me ask this and I would like to submit some questions too. If we are able to move ahead with all of this and able to get that card or cards, whatever way we are going to do it, what is your own professional judgment as to the amount of

abuse we are going to really be able to effectuate? I mean are those sweat shops that are taking place in many of the cities, probably even Boston, New York, Chicago, L.A., other places, are they going to continue to go on? It seems that the areas of abuse are in various regions, various industries that are really built up. By and large those people try and play this thing pretty fair and square on it.

What is your hard line professional judgment if we get this whole thing and knowing, as our friends from the FBI and Secret Service have, the nature of those elements that are exploiting individuals today, how much effect will we really be able to have on those criminal elements in the society? Is there any way of indicating that to us or making a judgment of that?

Mr. RASOR. It is an interesting question. I think that, again going back to what we know, Senator, in relation to the risk analysis process, what we see currently is that most people that become involved in this process do it in multiple times. It is kind of an unique twist that even if you could not tweak the system to make it fool proof, you would basically forever lock the bad guy into one identity. That would make it in reality not cost effective for them to be in that process. If they registered as a particular individual, committed a fraud, they could not then go back out and come into this system as another individual. So as in any system, there are weak spots and soft spots that probably over the years would have to be modified and mollified. But it would make a significant dent in compartmentalizing the fraud into a one-time event from our perspective.

Senator KENNEDY. Mr. Puleo, will the sweatshops conform with this?

Mr. PULEO. I think that is why the Administration's systematic approach to it is best. What we are trying to do is reduce the number of documents that the employer would have to look at, improving the documents, improving the verification system, and requesting additional research both through Immigration and Labor to identify the violations of employment. So actually specifically in those areas, the seven major States and within the industries in those seven areas. So you have improved law enforcement and better verification. I think the combination will be quite telling and that is the approach that the Administration is taking.

Senator KENNEDY. Thank you, Mr. Chairman.

Senator SIMPSON. I think, in view of the fact we have a couple of votes coming up soon and a final vote on product liability, we will keep shifting back and forth.

I think it is very important that you hear what Senator Kennedy is saying because that is a historical concept and view of his about the sweat shops. And I agree totally with that. But we want something that is going to affect them all. I am talking about the heavy hitters and the smugglers and the people who use and abuse illegal, undocumented persons. Ours is a vast scope, and we are ready to debate around this country on this issue.

I think the panel of experts and the Government programs on personal identification, seem to be in some agreement; and that is, in order to create a more secure system, which we need so desperately, because of the gimmickry, we must include some sort of

biometric information on the document. And all seem to agree that the technology exists to do that today. And the judgment there is that fingerprints might be the most feasible personal identification data to use.

It is very important that we hear what you have shared with us and give anyone 1 more minute to inquiry, if they wish. Then we will move on to the second panel.

Yes, Senator FEINSTEIN.

Senator FEINSTEIN. Thank you very much, Mr. Chairman. Let me ask this question. If at a certain point, let us say it were the Social Security card and for those who needed to show their legal status to work in this country, they were required to get one of these cards and an employer could verify that that card and that individual matched, how long would it take to achieve a system like this? In other words, it would be prospective and it would effect the sweat shop, because it would be a new document that everybody would have to obtain and show and the employers would be required to verify it.

Mr. FISHER. To be effective, I believe, that it could not just be prospective. I think we would have to reissue a card.

Senator FEINSTEIN. Correct. That is what I meant to say. Every one would have to go out and get a new one, even if it were renewable periodically, they would have to obtain a new document.

Mr. FISHER. That is correct. For the Social Security card, there are security features, integrity features in the card itself, but you cannot link it to a person presenting the card. And for the Social Security Administration to change its card and possibly reissue to all cardholders, we are talking about 270 million current cards that are in use. It is not just the cost of the card itself, but rather the process to reissue the cards that would be very expensive. We estimate that it would cost between \$3 and \$6 billion to reissue the cards, and that is over a period of several years.

Senator FEINSTEIN. Could I ask that same question of the green card or the rosita card?

Mr. PULEO. We are already in the process of eliminating the old green card which we had 17 versions of it. Its authority expires next March 20. We have an expiration date already on the new green card that we issue a 10-year life cycle on it. Ironically, the majority of the people replaced their cards; 45 percent replaced their cards within the first 3 years. So we have a natural evolution, unlike the Social Security card.

With regard to the employment authorization document, the majority of those are issued for a 1-year time period, except for a few of the Government officials here in the United States which get it for about 3 years. So there is a natural replacement cycle in there. We are not in the same boat, if I might say that, as the Social Security.

Senator FEINSTEIN. So in other words, you could say everyone would have to have the employment authorization document and then put the biometrics. I guess it is on the document?

Mr. PULEO. Right.

Senator FEINSTEIN. And that it would be the employer's responsibility to verify it. Could that be done within a prudent length of time?

Mr. PULEO. I think we are moving toward that already. As I said, we are centralizing the issuance of the EAD very shortly. The current employment authorization document which already has biometrics. We are starting to store that data electronically. Digitize the fingerprint as was mentioned before and we are moving toward that. But we can do it only as a pilot. To do it nationwide, we would need legislative change. But we are moving toward that.

Senator SIMPSON. I would just share with my colleague from California, that Ted and I have heard from the Social Security Administration for 16 years now, and all I can tell you, and it is no reflection at all on Ms. Ryan, is that the cost estimate goes up all the time. That is all. We cannot do that. It was first \$2 billion; then it was \$3 billion, and then 4 and then 6.

We are not talking about producing 270 million cards. You might require a new card only when a person starts a new job. There are all sorts of ways to do this. And it does not have anything to do with ringing up a bill of 6 billion bucks. But what is happening in our country is indeed ringing up a pretty big bill.

So maybe we can get to some good sense on that. I have many more questions I would like to submit to you before the markup for your response. Perhaps other members of the subcommittee do too.

I thank you very much. It has been very, very helpful for us.

Excuse me, Ms. Ryan, when I referred to you a minute ago, I meant Mr. Fisher. I wanted to get that very clear. Your remarks and what you are doing at the State are very helpful to us. This is a very unique thing that you are doing here. I even have my little blue and white card that you stick into the machine. That comes from the INS. I would not want to give anyone credit where it was not due. Anyway, thank you very much.

Now the next panel, Steven Pomerantz, the Assistant Director of the Criminal Justice Information Services Division, who was here with us on the previous panel, Federal Bureau of Investigation; and Jack Scheidegger, chief of the Bureau of Criminal Identification, the California Department of Justice, Sacramento, CA, representing SEARCH, the National Consortium for Justice Information and Statistics.

Mr. Pomerantz, please. Once again, out of chute number four. Here you go.

**STATEMENTS OF A PANEL CONSISTING OF STEVEN L. POMERANTZ, ASSISTANT DIRECTOR, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC; AND JACK SCHEIDEGGER, CHIEF, BUREAU OF CRIMINAL IDENTIFICATION, CALIFORNIA DEPARTMENT OF JUSTICE, SACRAMENTO, CA, REPRESENTING SEARCH, THE NATIONAL CONSORTIUM FOR JUSTICE INFORMATION AND STATISTICS**

**STATEMENT OF STEVEN L. POMERANTZ**

Mr. POMERANTZ. Thank you, sir. Again, Mr. Chairman and members of this subcommittee, I have provided a more expansive statement and I think I will just try to spend 2 minutes trying to set out some of the highlights of what I think are the important portions of that statement.

For over 70 years, the FBI, first through the Identification Division and now through the Criminal Justice Information Services Division, has worked to provide our Nation's law enforcement community with an effective and reliable means of establishing positive identification by collecting, classifying, and maintaining the world's largest collection of fingerprint records. These records are used every day to determine the true identities of individuals being processed in our criminal justice systems or applying for employment or licenses which require a fingerprint-based criminal history check.

Currently, the FBI's fingerprint identification files contain records on over 71 million persons of whom approximately 32 million are individuals who have been arrested or convicted of a criminal offense within the United States. Our criminal history records grow by approximately 5,000 a day from the 38,000 or more fingerprint cards we receive daily. As I noted earlier, of those 38,000 daily submissions, over 600 identifications are made solely on fingerprints with about three-quarters of those identifications representing criminal fingerprint submissions and the remaining being civil or applicant cards.

Even though the FBI through the interstate identification index, more commonly known as Triple I, provides a vital on-line name check access to criminal history information, encompassing automated records in over 21 million offenders, the submission of fingerprints for searching criminal history files remains the most thorough, reliable, and the most positive means of determining whether or not a criminal record exists for an individual. Triple I is a valuable tool for our Nation's criminal justice agencies. But it is not and should not be a substitute for fingerprint-based background checks.

Recognizing the importance of fingerprint-based identification systems, the FBI has undertaken a several hundred million dollar project to integrate and fully automate our fingerprint searching capabilities. The integrated automated fingerprint identification system, IAFIS, will have the capability of receiving fingerprints in an electronic format process, processing them against the database of over 30 million criminal history records, and providing a response within as little as 2 hours. We plan to select one of three prototypes now under consideration and expect to complete this project in 1998.

I would like you to know that we are very excited and optimistic that the IAFIS initiative will revolutionize, not only the identification of criminals, but do so with a speed and accuracy unmatched in the criminal justice community.

I will be happy to answer any questions you may have.

Senator SIMPSON. Thank you very much.

Now, Mr. Scheidegger. You have a gentleman with you. Would you care to introduce him to the panel?

#### **STATEMENT OF JACK SCHEIDEGGER**

Mr. SCHEIDEGGER. Good morning. I am Jack Scheidegger. I am the chief of the California Department of Justice, Bureau of Criminal Identification Information. I am here on behalf of SEARCH, and with me is Mr. Gary Cooper, the executive director of that or-

ganization. We have submitted written testimony. What I would like to do for a few minutes is just highlight that testimony.

First, I would like to commend you, Mr. Chairman, and the members of the subcommittee for your fine work in this area and for making this critical contribution towards improving the Nation's identification capabilities.

Our testimony stresses five points. First, for any identification documentation system to be effective, it must be based on some form of biometrically supported positive identification.

Second, historians undoubtedly will characterize this period as bringing revolutionary changes to information technology and telecommunications, including the automation of positive identification.

Third, fingerprinting, and particularly the automated fingerprint identification, has worked very effectively in the criminal justice field.

Fourth, automated fingerprinting technology can be and now is being applied effectively for identification purposes outside of the criminal justice field.

And finally, privacy and civil liberties challenges arise from the use of positive identification technologies. But these challenges are not inseparable and they must not frustrate or block the implementation of an effective identification process. In fact, positive identification alleviates misidentifications which infringe on one's rights.

I want to emphasize that fingerprinting technology has progressed so dramatically over the last decade that this technology can now be applied in a user-friendly way, in a cost-effective way, and in a time-saving way that lends itself to point of sale and gate-keeper applications, and other uses outside of the criminal justice field.

The introduction of automated fingerprint identification has replaced manual searching and has vastly enhanced the speed, accuracy, and utility of the fingerprint of an identification methodology. Innovations are expanding. For example, in my State, we are procuring a system capable of accommodating a 16 million person data base with matching capabilities in a matter of minutes. A complementary and equally important technology advance life-scan eliminates the necessity of manually rolling the fingers onto ink pads and then onto multiple fingerprint cards. This technology permits an individual's uninked fingers to be placed onto a glass element much like the glass surface of a photocopier.

The life-scan technologies allows the transmission of the data to an AFIS system in a matter of minutes. In my State, we currently have 200 such units purchased and by the end of this calendar year, we will begin the electronic transfer of digitized life-scan images. They can be used in three scenarios.

Under one, an individual can present an edification card that carries a digitized fingerprint. This biometric card can be inserted into a life-scan machine while the individual's fingerprint is photographed by the machine. Thus, an instant validation of the identification can be made.

In another scenario, the life-scan machine's local memory can include a data base of digitized prints. The life-scan image could be



compared by a technician with the digitize prints in the life-scan memory to determine identity.

A third scenario permits the comparison of a life-scan print with digitized prints on file at a regionalized or centralized data base. There are public and policy issues, in particular the privacy and civil liberties issues surrounding the use of biometrically based identification. For example, the system could be used to link existing data bases, thereby helping create comprehensive automated dossiers. It could be used to misuse identification for unpopular groups and thus, it could be a national identification system that may conflict with America's tradition of individualism and freedom. While issues are important and need to be addressed, they must not bar the introduction of this effective tool.

Today, the American public is well accustomed to the use of fingerprinting to protect it. Privacy safeguards can and should be employed. First, biometrically based identification should be used only for statutorily numerated purposes. Second, the effective penalties in oversight, including a requirement for an annual audit of biometrically based identification systems should be implemented. And third, the electronic protection from unauthorized access must be incorporated into the architecture of the system.

But at the same time the benefits of positive identification must be stressed. In my State, when name and demographic searches are conducted, a 5 percent error rate occurs, due to the similarities. In these cases, the individual can be subjected to denial of their rights due to a lack of positive identification. Information systems not based on positive ID result in wasted effort by law enforcement and regulatory agencies.

Mr. Chairman, given the extent and degree of the threat posed by the Nation's present inadequate identification system, this form and these issues are critical. Fortunately, progress is being made and safeguards can be built into the systems of the future. Thank you very much for your time.

[The prepared statement of Mr. Scheidegger follows:]

#### PREPARED STATEMENT OF JACK SCHEIDEGGER

##### INTRODUCTION

Mr. Chairman, I am Jack Scheidegger, the Chief of the Bureau of Criminal Identification for the California Department of Justice. I appear here today as a member of the SEARCH Board of Directors and on behalf of SEARCH. The National Consortium for Justice Information and Statistics. We applaud the subcommittee's interest in the reliability and integrity of identification documents and your commitment to improvement of the identification documentation process. Identification is a vital issue for criminal justice, and over its 25 year history SEARCH has devoted substantial attention to identification issues, both from a technical and policy standpoint.

Our testimony makes five points.

Positive identification must play a critical role in any effective identification process.

Advances in technology including, in particular, computers and telecommunications, facilitate the use of positive identification.

Fingerprinting, and particularly, automated fingerprint identification systems, have worked effectively as an identification methodology in the criminal justice field.

Fingerprinting and automated fingerprinting technology can be and are being applied effectively in the non-criminal justice field.

Public policy issues including, in particular, privacy and civil liberties issues, arise from the use of positive identification technologies, but these issues are not insuperable.

Before addressing these points, let me just say a word about SEARCH. SEARCH is governed by a membership group comprised of one governor's appointee from each state. SEARCH appointees are a principal voice for the state criminal justice information community on matters concerning criminal justice information systems, criminal justice identification, criminal history records and related technology, policy and statistical issues.

As such, SEARCH has a long-standing and deep interest in the issues raised by identification technologies. In 1989, for example, SEARCH submitted a report to the Department of Justice identifying and analyzing the legal and policy issues arising from the use of biometrics and positive identification technologies in a national firearms purchaser identification system. Also in 1989, SEARCH submitted a report to the Department of Justice on identification document fraud dealing specifically with the public policy issues raised by the use of biometric identification and national identification systems. In January of 1990, SEARCH testified before the Subcommittee on Crime of the House Judiciary Committee with respect to the Attorney General's report regarding a system "for the immediate and accurate identification of felons who attempt to purchase firearms" and in that testimony dealt extensively with identification issues. In 1991 SEARCH submitted a report to the Department of Justice, reviewing legal and policy issues arising from forensic DNA analysis. Over the years, SEARCH has published numerous research reports addressing the use of biometrics, identification information and the criminal justice system.

#### IDENTIFICATION METHODOLOGIES AND TECHNOLOGIES

In any organized society, the reliable identification of individuals must be a priority. Nevertheless, the United States remains one of the few developed nations that does not routinely require the use of a reliable means of personal identification in connection with official, and often, unofficial, transactions. Instead, Americans carry or possess a variety of cards and documents that are used for identification, even though most of these documents are neither intended for nor well suited for that purpose. The most important document, of course, is the state issued drivers license, but birth certificates, social security cards, passports and a variety of privately issued cards and documents are also relied upon for identification. With rare exceptions, none of these documents is supported by biometric or positive identification, and all of them are easy targets for fraudulent issuance and for counterfeiting and forging. The consequences are predictable:

Without a reliable means of personal identification, federal and state social welfare programs, including social security and Medicaid, are easy prey for fraud because officials cannot readily distinguish between individuals who are entitled to receive benefits and those who are not and officials cannot always determine whether an individual is receiving benefits under other identities.

Without a reliable means of personal identification, a vast array of federal, state and local licensing programs do not always operate effectively because legitimate holders of licenses cannot readily be distinguished from holders of fraudulent licenses.

Without a reliable means of personal identification, the private sector is easy prey to schemes to fraudulently obtain credit, purchase goods or obtain other valuable statuses or benefits.

Without a reliable means of personal identification, offenders can use false and fraudulent identification to facilitate the marketing of stolen goods and to create aliases and new identities in order to avoid apprehension and association with their prior criminal records.

Without a reliable means of personal identification, national security threats, including terrorist threats, are exacerbated.

Without a reliable means of personal identification, the nation's immigration policies are frustrated, both with respect to the entry of illegal aliens and with respect to their fraudulent acquisition of government benefits and services as well as public and private employment.

We can and must do better. Today, technologies are readily and widely available to permit immediate, reliable and convenient identification.

It has long been recognized that there are only three types of methods that can be used in identifying human beings.

An individual can be identified by some object in his possession such as identification cards, badges and keys.

An individual can be identified by something he knows such as a password or a personal identification number (PIN).

An individual can be identified by some physiological or behavioral characteristic that is unique and stable, such as the ridge details found on the tips of every individual's fingers (fingerprints) or the characteristics of an individual's DNA typing; or through retinal scanning; voice spectrography; hand geometry; signature dynamics; and even more exotic, biometrics such as lip prints, otoscopy, dentition and "sweat prints".

In the criminal justice system and to a significant extent, outside the criminal justice system, the biometric characteristic most widely and successfully used has been the fingerprint. According to some research, China is credited with the first organized use of fingerprints as a mark of identification in about 200 B.C. Other research accounts credit the ancient Egyptians with the first use of fingerprints as a means of identification. It is widely agreed by researchers, however, that at least by the 11th century, the Chinese were regularly using fingerprints as a means of identification in certain business and legal matters. In the late 17th century, European researchers published several studies indicating that the elevated ridges, loops and spirals on the tips of the fingers were unique to each individual and could therefore be used as a basis for positive identification.

The emergence of organized police forces in the 19th century spurred the development of identification techniques. Late in the 19th century, Sir Edward Richard Henry, an assistant commissioner in the London police department, developed the Henry classification system as the first workable system for using fingerprints for criminal identification. This system became a universal basis for fingerprint identification. Early in the century, several police departments adopted the Henry fingerprint classification system.

In 1908 the Justice department formed the Identification Bureau (the forerunner of the FBI) and this agency began to collect and use fingerprint identification. In 1924, Congress directed the FBI to create an identification division to acquire, maintain and use fingerprint information for criminal identification and certain other purposes.

After 1924, the arrest and booking process throughout the nation came to include the taking of fingerprints (at least for arrests for felonies and serious misdemeanors). Fingerprints were taken manually, rolling each finger and thumb to create an inked impression. The resulting "ten print cards" were maintained by the arresting agency and, as state identification bureaus and repositories developed, another set was sent to that agency and a third set was sent to the FBI's identification division. By 1992, 41 states and the District of Columbia reported that 100 percent of their criminal history files were fingerprint-supported. In 1992 alone, over 6.2 million of these manual, ten-print cards were submitted to state central repositories.

Until the introduction of automated fingerprint identification systems in the 1980s, fingerprints had to be manually classified according to their distinctive ridge patterns and searched against similarly classified fingerprint files to positively identify an arrested individual and thereby determine whether the individual had a prior criminal record under a different name. This manual process suffered from several critical drawbacks.

The inked fingerprinting process is time consuming and trained and experienced personnel are required in order to obtain good quality prints on a consistent basis.

The preparation, mailing and processing of fingerprint cards is also time consuming and routinely results in delays of several weeks between booking and receipt of a criminal history response.

The manual classification of fingerprints, and the related searching and matching is extraordinarily labor intensive and error-prone and requires trained and experienced technicians.

By the 1980s, automated fingerprint identification system (AFIS) technology permitted the digitizing of the identifying characteristics in the ridge patterns in sufficient detail to enable automated searching algorithms to distinguish a single fingerprint from thousands or even millions of similarly digitized prints on file and stored in the computer's memory. The introduction of computerized, digitized fingerprint image processing has eliminated the necessity of a manual search for fingerprints and vastly increased the speed, accuracy and utility of the fingerprint as an identification methodology. This technology provides the criminal justice system with numerous, essential benefits.

Where a name search of an individual produces a match with a criminal history record on file at a criminal justice agency, the automated fingerprint process can match the search subject's digitized fingerprint record with the digitized fingerprint on file to make a "positive" and confirming identification and match.

Where a name search fails to identify criminal history records on file with the criminal justice agency, an automated fingerprint or "technical" search can be conducted efficiently and cost effectively, thus making it possible to identify arrestees and other individuals using aliases.

Fingerprints developed from the crime scenes (latent prints) can be digitized and searched against the digitized fingerprint records on file at local, state and national levels to identify individuals who have been at the crime scene.

At the state level, over 40 central repositories and identification bureaus now have AFIS systems or are well along in the process of procuring these systems. Many local law enforcement agencies in larger cities also have AFIS systems and there are several regional systems that are shared by groups of states or cities. At the federal level, the FBI is implementing a new fingerprint-image based identification system as part of the Bureau's "Integrated, Automated Fingerprint Identification System" (IAFIS). When completed, the system will be the most advanced and comprehensive in the world.

IAFIS will include another revolutionary and complementary technology that has emerged in the last few years and that promises to become an integral part of every AFIS system. "Live-scan" fingerprinting eliminates the necessity of rolling the subject's fingers onto inked pads, and then onto multiple fingerprint cards. Instead, the subject's uninked fingers are placed onto a glass element and scanned or photographed. The live-scan reader creates a digitized map of the print. The digitized record can be stored in the live-scan's own local memory and, theoretically, can be transmitted directly to AFIS systems at state repositories and at the FBI, or both.

Live-scan devices can be used in several ways to positively identify individuals. In one scenario, an individual can present an identification card that carries a digitized thumbprint or fingerprint. This biometric card can be inserted into a live-scan machine while the individual's thumbprint or fingerprint is photographed by the machine. The machine's software can compare the digitized print record on the card with the digitized image of the "live" finger or thumb, thereby permitting an operator to verify that the person presenting the identification card or document is in fact the person who is identified on the card and thus entitled to use the card.

In another scenario, the live scan machine's local memory can include a database of digitized prints. A live-scan image often accompanied by a PIN or password, but not necessarily an identification document, can be compared with the digitized prints in the live-scan memory to determine if there is a match. Still a third scenario permits the comparison of a live-scan digitized print with digitized prints on file at a regional or centralized database. The first two of these configurations are especially useful in gatekeeper situations, where a limited population needs to be screened for eligibility for entry into a secured area.

#### FINGERPRINT IDENTIFICATION OUTSIDE OF THE CRIMINAL JUSTICE SYSTEM

As this brief history and review of fingerprinting and automated fingerprint identification systems indicates, the criminal justice identification process today is largely a fingerprint-based and supported process. Increasingly, it is also a digitized and automated process. Outside of the criminal justice system, however, the identification process has not made nearly as much progress.

As noted, most identification outside the criminal justice process relies upon a variety of government issued, non-biometric identification documents. Specifically, birth certificates, drivers licenses, social security cards, passports and various other kinds of government issued identification documents, including, for example, military identification cards, are used by governmental non-criminal justice agencies and the private sector to attempt to determine and authenticate the individuals' identities. The drivers license undoubtedly is the primary identification document.

Most of these forms of identification documentation suffer from two fatal flaws. First, it remains relatively easy for an individual to fraudulently obtain the issuance of one or more of these identification documents. For example, even today many state drivers licenses are issued on the basis of little more than the applicant's own representation of his identity. Second, most of this identification documentation is relatively easy to alter or counterfeit. To some extent, however, this is changing. California now requires thumbprint support for its drivers license. The new commercial drivers license is fingerprint-supported and the Alien Documentation and Telecommunications Card (ADIT Card) includes a biometric, machine-readable thumbprint.

Congress had made a vital contribution to these changes. Over the last decade Congress has acted several times to criminalize and otherwise prohibit the use of false documentation. The False Identification Crime Control Act of 1982; the Social Security Act amendments of 1983; the Comprehensive Crime Control Act of 1984;

various motor vehicle identification systems legislation, including the National Driver Register Act of 1982; the Commercial Motor Vehicle Safety Act of 1986; the Immigration Reform and Control Act of 1986; and the Anti-Drug Abuse and Crime Prevention Act of 1988, for example, all include provisions aimed at improving the integrity of the nation's identification documentation. In this regard, one of the founders of SEARCH and an advisor to this subcommittee, Pete Velde, has been a dedicated tireless and effective leader for improvement in identification documentation.

This year the President's Commission on Immigration Reform has proposed the establishment of a national database of individuals who are eligible from an immigration standpoint for employment, against which employers could check applicants. In this Congress the House has passed legislation that would require employers to check newly hired personnel against a federally maintained and automated database of parents who have defaulted on their child support obligations.

All of these identification reform efforts, to be successful, must be supported by a biometric identifier. Given the state of present technology and existing identification databases, this biometric identification methodology should be fingerprints.

Historically, of course, there has been some reluctance to use, and particularly, reluctance to compel, fingerprinting outside of the criminal justice process. Increasingly, however, fingerprints are a commonplace and non-stigmatizing, process—especially given new live-scan technology which eliminates the rolling of inked impressions and involves nothing different from the photographing of a finger or thumb.

The courts have upheld federal, state and municipal statutes and ordinances that require fingerprinting for various non-criminal justice purposes, including employment and licensing, provided that the state can show that the fingerprinting statute meets a "rational basis" test. In order to meet a rational basis test, the purpose of the statute compelling the fingerprinting needs to bear a relationship to a legitimate governmental purpose. In the employment context, numerous federal, state and local statutes and ordinances require fingerprinting of employees and prospective employees.

By way of example, federal law requires prospective employees of federally chartered financial institutions and firms in the securities and commodities industries to submit to fingerprinting so that the individuals can be identified positively and criminal history background checks can be conducted. Federal employees seeking positions with national security responsibilities or requiring security clearances are required to submit to fingerprinting. So, too, are members of the military services and many employees of defense contractors. At the state level, literally hundreds of statutes require applicants for employment in dozens of industries to be subject to fingerprinting, including the selling of alcoholic beverages; the private security industry; the insurance industry; the horse and dog racing industries; child care; explosive manufacturing; and health and rehabilitative services industries, to name just a sampling.

The list of licensing categories that require fingerprinting is even longer and broader. For example, many states require fingerprinting in order to obtain a license to carry handguns or concealed weapons; to become a private detective; to operate a motor vehicle; to be a boxer or a wrestler; to be a jockey; to be licensed as a veterinarian, a physician, an attorney, a real estate agent, or an insurance agent; to be licensed as a gem dealer; or to be licensed as a gun dealer.

Simply stated, fingerprinting is becoming a common experience perceived as involving neither stigma nor inconvenience. Research and public survey information suggest that less than five percent of the American public object to fingerprinting. For instance a survey conducted in Indiana, Florida and New York asked whether survey subjects would object to having their thumbprints taken by an inkless, live-scan method in connection with a credit card purchase. Of the 300 individuals questioned, 99 percent said that they would have "no objection". As another example, California now requires the taking of a thumb print to support issuance of a drivers license. Less than fifteen percent of California drivers license applicants have expressed concern or objection to this requirement.

In 1989, SEARCH submitted to the Department of Justice a report entitled, "Identification Document Fraud". This report and its recommendations were based, in part, on discussions among state and federal officials including officials from the Office of Motor Carrier Safety at the Department of Transportation; the Immigration and Naturalization Service; the Justice Department; the Office of Information and Regulatory Affairs at OMB; the Office of Fraud Prevention Programs at the United States Department of State; the Social Security Administration; and criminal history central repositories in California, Florida, Illinois, New York and Texas. The report included the following four recommendations:

That a drivers license or state identification card be the principal identification document; that it be fingerprint-supported; that it have common identifiers;

and that it be supported by the ability to make interstate identification checks of decentralized state databases.

To the extent practicable, all identification be biometric-supported.

That all identification documents be made as tamper-resistant as possible.

That these recommendations be implemented with due regard for privacy and with the understanding that identification information be used for identification purposes only.

#### PUBLIC POLICY ISSUES

Although fingerprinting is becoming increasingly commonplace, the SEARCH report rightly indicates that there are legitimate and significant public policy concerns that arise from the use of fingerprinting as part of a national identification documentation strategy. This will be true whether that strategy takes the form of the emergence of a national identification document supported by a biometric identifier or takes the form of a national identification database (again supported by a biometric identifier).

Any type of fingerprint-supported national identification document (including a biometrically-supported and tamper-proof drivers license) or national identification database would be subject to pressures to use the document and the database to link existing databases and files held in the public and private sectors, thereby creating the risk of constructing a comprehensive, automated file or dossier about every American. Furthermore, a national identification capability could become an instrument for tracking and monitoring the private lives of Americans. In the Immigration Act debates in the 1980s, former Congressman Parn Mitchell stressed that a national identification system would exacerbate the risks that the government would use the system for surveillance of Americans and to create a detailed dossier about every citizen.

In addition, a national identification process creates the potential for misuse and abuse. John Shattuck, author and former director of the Washington office of the ACLU, for example, envisions a national identification system being misused to, "identify nuclear freeze demonstrators or members of supposed communist organizations". Others imagine such a system being misused as an internal passport to monitor or even restrict domestic travel. Still others cite the potential for intimidation if the government threatened to confiscate a national identification document or disallow the use of one's number. Still further, in a heterogeneous society like ours, many worry that a national identification system can be used to discriminate on the basis of racial, cultural, ethnic or religious differences. Still another problem involves the potential for error. What would happen, for example, if a person's number or file were inadvertently erased from the system? What would happen if incorrect identification information were linked to a biometric?

Finally, and perhaps most importantly, many members of the public worry about the "dehumanizing" effect of a national number, card or database. This argument taps and ephemeral, but no doubt real, feeling that a national identification system is incompatible with America's tradition of fierce individualism and freedom. As former Congressman Mitchell said, "the possibility of a national identification system . . . is totally inimical to the spirit and character of America".

The response to these legitimate concerns is not to avoid improving identification creating a biometrically-based capability to positively identify individuals. Identification is an inherently benign process. Indeed, a reliable identification process provides not just societal benefits, as we have discussed, but individual protection as well. Positive identification eliminates the very serious problems that frequently arise from misidentification as well as improper and unauthorized use of a person's identification documentation.

It is the application of identification processes that can threaten privacy and other civil liberties. Therefore, the answer lies in the establishment of and compliance with effective protections against abuse or misuse. In that regard some work has already been done. The Immigration Act of 1986, for example, flatly prohibits the development of a national identification card in connection with the Immigration Act's employment verification initiatives. The 1989 SEARCH conference recommended that any initiatives to improve identification documentation be accompanied by initiatives that provide due regard for privacy.

Privacy safeguards could include a prohibition on the use of the identification documentation or an identification system except for expressly enumerated and appropriate purposes. Furthermore, consideration should be given to a decentralized model for any identification system. Federal identification documents could be supported by a biometrically-based, federal database and state identification documents could be supported by biometrically-based state databases. Effective penalties and

oversight, including a requirement for an annual privacy audit of the identification system, should also be included.

#### CONCLUSION

Mr. Chairman, given the extent and the degree of the threat posed by inadequate identification documentation, it is critical that progress in improving the reliability of the nation's identification process—including, in particular, the development of a fingerprint-based identification system—not be held hostage to legitimate concerns about privacy. Congress has made significant progress in recent years in attacking the identification problem while expressing a commitment to the protection of privacy and civil liberties. Further progress can and should be made.

Senator SIMPSON. Thank you.

Mr. Pomerantz, time was limited last time, but I wanted to ask you, because you do appear on both of these panels, about your investigative experience with the fraudulent use of documents by criminals. Could you inform the subcommittee of some of the scenarios involving fraudulent use of documents which you saw in your various positions within the Bureau?

Mr. POMERANTZ. Certainly, Mr. Chairman. I think it is not an overstatement for me to say that I saw the use of fraudulent documents with varying degrees of sophistication and for varying purposes throughout every type of investigation I have ever been associated with, whether it was organized crime involved in alien smuggling, drug traffickers, white collar crime. I would not want to leave out the white collar criminals who really, maybe more than any other kind of criminal, because of their efforts involve documents and papers and such, rely almost exclusively—could not operate without the ability to produce fraudulent documents.

So I would say that I have seen, and again in counterterrorism. Certainly also we have seen that use of fraudulent documents. I just think it spans. It is a fundamental building block of crime to be able to conceal your identity, to alter your identity, to create new identities, to create all sorts of documents and papers that can pass scrutiny.

Senator SIMPSON. Remember the movie, "The Man Who Never Was," with Clifton Webb or someone. Do you remember that?

Mr. POMERANTZ. Yes, sir, I do.

Senator SIMPSON. You will want to see it, Ted. I will get you a copy.

An administrative detail here. I want to go vote after my questions. There is one vote and then there will be two voice votes and then final passage, so we might have some time. Ted will conduct the meeting or Senator Feinstein, as the case may be. I shall return as soon as I can.

California is in the midst of doing some remarkable things with regard to identification. We tried to copy that years ago and lost it in the last hours of a conference committee report and approval.

It is odd to me that we could have been 4 years studying the commercial driver's license activity and what they were doing in California. We lost that time because of a very emotional argument where I had a good bipartisan group of people. Senator Kennedy remembers what we were trying to do. That is gone, but so is the person that shot it up.

California is in the midst of improving and culling its Department of Motor Vehicle data bases by checking with the INS, and I also understand that the California Department of Motor Vehicles

will shortly be able to confirm Social Security numbers with Social Security. Could the State's automated fingerprint identification system be used in this effort? And what about vital records or other State data bases?

Mr. SCHEIDEGGER. Senator, at this point, there is no plan to combine the DMV identification capabilities with ours simply because of size. As I mentioned in my testimony, we are expanding from a data base of about 8 million to about 16 million which I believe will be the biggest data base in the world. The DMV size would just be beyond our capability. However, information does exist now between California law enforcement agencies through our law enforcement telecommunication system. They have a direct link to DMV data bases and the information is shared for criminal justice purposes.

Senator SIMPSON. Two kinds of checks are routinely performed by criminal history repositories in that area, and that is the name and fingerprint. Tell the subcommittee the strengths and weaknesses of each in a brief way, please.

Mr. SCHEIDEGGER. Yes, sir, the strength of the name search is cheaper. It is quicker and cheaper than the fingerprint search. We always confirm our name search, tentative identifications with a fingerprint verification. The strength of the fingerprint identification is its positive.

Senator SIMPSON. I am going to go vote now. We have 7½ minutes officially and 5 on the other end of that. So whenever you wish to flee, you do so. I will be back as soon as I can. If you all wish to go, fine.

Senator KENNEDY. I thought if I could, Mr. Chairman, just question briefly. You mentioned, Mr. Scheidegger, let me ask you with a 5-percent variance—I do not know what word you describe that 5-percent lag or inaccuracy or whatever the term, what happens in those cases? I mean if you have situations of employment, I mean I can see an individual that may be denied a job, maybe wrongfully, if the employer says, well maybe I will take the person on while I do an investigation. Does that person get in trouble? Do they permit them maybe to take the training program and not put them on? How do you deal, in the State, with that kind of a situation, both in terms of people who are wrongfully labeled?

Mr. SCHEIDEGGER. Senator, fortunately in our situation, a verification based on positive ID, fingerprints, is made before the determination for employment is given. So there is no—

Senator KENNEDY. The person that it comes out and it shows that they are wrong and this hits one of the 5 percent, and the person is really OK and the person gets denied a job.

Mr. SCHEIDEGGER. That would not happen, sir, because we verify the identification through fingerprints, and that is exactly the point. If you do not have the biometric or fingerprint verification, you subject the individual to the wrongful hit, based on a name search.

Senator KENNEDY. You mean when you have the biometric material, then you are what percent?

Mr. SCHEIDEGGER. We do the name search first, Senator, in all cases. I am saying that in 5 percent of the cases where we have a name search hit, based on the subsequent fingerprint verifica-



tion, we find it was the wrong person. So there is 5 percent of the cases where we have the same name, a similar date of birth, other similar information, and we get a tentative hit. And then through fingerprint verification, we find in fact, it was not the case.

Senator KENNEDY. So you clear it up immediately?

Mr. SCHEIDEGGER. Yes, sir.

Senator KENNEDY. Let me ask you on the issues of privacy. What law and regulations governing the privacy of the search and data base, and do you believe that Privacy Act standards to be sufficient?

Mr. SCHEIDEGGER. I can only speak for my State, sir, and criminal justice agencies have very nearly defined access to the criminal history information and other noncriminal justice agencies, such as employment purposes, are defined by the Labor Code and I believe we do have a very closely protected access.

Mr. COOPER. Could I comment on that, expand on that?

Mr. SCHEIDEGGER. Yes.

Mr. COOPER. Every State has a different body of statutory law that limits dissemination of criminal history records and therefore that is what impacts on the privacy issue. Some States are open records and a State like California has a body of statutory and case law that limits dissemination of that information. In some States, you can have these checks done only on name searches and in some States, they require positive identification like California.

Really the standardizing force across the country where the regulation is issued by LEAA back in the mid-1970's, actually based on an amendment you made to the Crime Control Act, and that is the basis for the State statutory laws that address the release of the criminal history information and therefore protect privacy rights.

Senator KENNEDY. How do you deal with the fact that you get a variety of sources? How do you ensure the uniformity of reporting?

Mr. SCHEIDEGGER. We prescribe the format very carefully in terms of the data, the content, and also we are the only ones who will release the information, as had been discussed by an earlier panel. We do not release it to the public or to individuals. We release it to regulatory agencies only.

Senator KENNEDY. I am notified that I will have to recess the hearing now.

[Recess.]

Senator SIMPSON. Back to work. Senator Kennedy did not try to take over the subcommittee while I was gone, did he? Good. Sometimes in his absence, when he was chairman, I would try to do that, but it never worked.

I think that we have had two rounds of questions.

I am going to have to go back. They said there were two voice votes. I am going to just do it and come back. We will go to about 1 o'clock, so that you will all know what is up. I do not know how many will be coming back. I think Senator Kennedy may not be coming back. I regret that. Senator Feinstein and perhaps Senator Kyl will be back. I will be back in about 5 to 7 minutes.

[Recess.]

Senator SIMPSON. I had left word that you could have gone ahead. Next time that occurs, feel free to go forward. I have never

had those problems that some on my side of the aisle have. You could have proceeded, and I am sorry I did not get that information so you could have. Are there any questions you want to ask now?

Senator FEINSTEIN. I would like to just put on the record what we were discussing if I may, Mr. Chairman. The thought occurred, and I had the opportunity to discuss it briefly with the chairman in the hallway, that if you have a work authorization card that has a fingerprint on it and that fingerprint is coded by its points of identification so that an employer would call a number, in this case it would be INS, because INS would be issuing the work authority document, and read the name and then the identification number of the print, would it be possible to send back an accurate yes, this individual is legally entitled to work? That would be my question of each member of the panel.

Mr. POMERANTZ. My answer again as the Senator has indicated to you earlier, with the reservation that I am not an expert in the classification of fingerprints, but my answer is most probably yes. There is a classification system that currently exists for classifying fingerprints known as the Henry system. My only reservation in answering it absolutely yes is that I am not certain if a Henry system classification is 100-percent unique. I think it probably is not 100-percent unique. It may be 99 percent or 98 percent. And I will get that answer for you. I am quite certain it is not absolutely unique. There could be two people that when they classified their fingerprints come out with the same overall Henry classification, but it is certainly within the realm of possibility to do as you suggest.

Senator FEINSTEIN. Any other comments? Mr. Scheidegger?

Mr. SCHEIDEGGER. Senator, your proposal would get you to a position where it would be practically very difficult for anyone to fool the system, because while the numeric classification that Mr. Pomerantz talked about is not 100 percent, only an individual verification of the two fingerprint images is 100 percent. The probability of someone having a similarity in the classification that close would be very remote. So it is not 100 percent, but it would be very practical.

Senator FEINSTEIN. What data would you have to provide over the phone in addition to the classification number of the print?

Mr. POMERANTZ. Date of birth and physical description would be other elements that you could then for verification.

Senator FEINSTEIN. Name, date of birth, and physical description.

Mr. POMERANTZ. Rudimentary physical description—eye colors.

Senator FEINSTEIN. Right. So that if you had that and the classification, you could make an accurate identity?

Mr. POMERANTZ. I would opine yes. Again, not being a real technical expert, but my opinion would be that.

Senator FEINSTEIN. Then the next step would be to see that the card itself is secure and what would have to be on the card—the nature of the paper, the thread or whatever—what would you say to have a counterfeit-proof document?

Mr. POMERANTZ. Senator, I am afraid I have no technical expertise in that area, but I could try to get that for you.

Senator FEINSTEIN. Mr. Scheidegger, do you?

Mr. SCHEIDEGGER. I am sorry, Senator, I cannot speak to that either.

Senator FEINSTEIN. I need to follow up and ask that question of the passport people in INS. Thank you, Mr. Chairman, that was very helpful because I know now that we have a doable system that we could put forward. Of course, everybody would have to apply for the card, but then an employer would just be able to call in that number, rudimentary physical description and name. Yes or no. Get back the answer and that is it.

Senator SIMPSON. Certainly things to consider. I have just one final question of Mr. Pomerantz. The FBI now has the major responsibility for implementing the Brady Act requirements of background checks and the FBI's Triple I. The Interstate Identification Index contains millions of the records used by the States to perform Brady bill criminal history checks. Under the Gun Control Act of 1968, illegal aliens may not buy guns. Is the INS able to share its data base with Triple I, and if so, how does this happen?

Mr. POMERANTZ. The answer is yes, the information is shared. I will have to get that for the record, Senator, to advise you of the mechanics of how that is done. But yes that is done.

Senator SIMPSON. So the Brady bill checks are instituted by private—

Mr. POMERANTZ. I am sorry, sir, may I interrupt?

Senator SIMPSON. Yes.

Mr. POMERANTZ. Maybe I misunderstood your question. Are you asking how the information of convicted felons gets into the Triple I?

Senator SIMPSON. Is the INS able to share its data base with Triple I? Under the 1968 act, illegal aliens may not buy guns. I am just saying, do you have a coordination? Does this happen?

Mr. POMERANTZ. Yes, but I will have to get the details for you.

Senator SIMPSON. The Brady bill checks are instituted by private, nonenforcement personnel, namely, gun dealers. Have there been instances of compromises or misuse of criminal files in the course of those checks?

Mr. POMERANTZ. No sir; not that I am aware of, Mr. Chairman. Although I would point out that under the interim system that we have now, the checks are done by law enforcement. They are all done now through law enforcement officials. Ultimately, under the permanent system that is due in 1998, that will change, but as of right now, those checks are all being done by law enforcement.

Senator SIMPSON. Now I want to ask you a question I asked Mr. Scheidegger. Two kinds of checks are routinely performed by criminal history repositories: name and fingerprint. In your mind, what are the strengths and weaknesses of each?

Mr. POMERANTZ. I think he did an outstanding job in a very succinct fashion. I could not improve on that. The advantages of a name check are—ease, time, can be done very quickly, and they are cheap. They have a major shortcoming of being much more fallible than a fingerprint check. We have noticed, because of the ease that they can be done and the cheapness of them, that many people would prefer to substitute a name check for a fingerprint-based check. But we strongly, strongly discourage that. They are much more fallible than a fingerprint-based check.

Senator SIMPSON. I think I am going to go forward, unless Senator Feinstein has something further. We will go to the final panel now.

Senator FEINSTEIN. Thank you very much.

Senator SIMPSON. Thank you very much, all of you. We thank you.

Now our final panel, Richard E. Jackson, Jr., commissioner of motor vehicles, State of New York in Albany; W. Marshall Rickert, administrator, motor vehicle administration, State of Maryland, from Glen Burnie, MD; then Frank Ricchiazzi, assistant director, department of motor vehicles, State of California, Sacramento, CA. It is nice to have you here. If you will just proceed in that order, as on the witness list, with Mr. Jackson first, please.

**STATEMENTS OF A PANEL CONSISTING OF RICHARD E. JACKSON, JR., COMMISSIONER OF MOTOR VEHICLES, STATE OF NEW YORK, ALBANY, NY; W. MARSHALL RICKERT, ADMINISTRATOR, MOTOR VEHICLE ADMINISTRATION, STATE OF MARYLAND, GLEN BURNIE, MD, REPRESENTING THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS; AND FRANK RICCHIAZZI, ASSISTANT DIRECTOR, DEPARTMENT OF MOTOR VEHICLES, STATE OF CALIFORNIA, SACRAMENTO, CA**

**STATEMENT OF RICHARD E. JACKSON, JR.**

Mr. JACKSON. Thank you, Chairman Simpson and Senator Feinstein. I have submitted a written report, a more detailed and complete report of some of the comments I am going to make today and I would like that report to be part of the record.

Senator SIMPSON. Without objection, so ordered.

Mr. JACKSON. New York State requires our clients to present proof of identity for all license, learner permit, nondriver identification documents, title, and registration transactions. We require separate documentation to be presented for proof of identity and proof of date of birth. At least one of the documents presented must include the applicant's signature. Supervisory approval is required when documents do not meet our guidelines.

On all original, reciprocity and other transactions requiring proofs of identification, the documents are checked for indicia of authenticity by issuing office staff. The New York State Department of Motor Vehicles has established a fraud detection unit which delivers training to our issuing office staff on the detection of fraudulent or altered proofs of identity. We have found it useful to maintain an investigative presence in many of our New York City and Long Island offices.

As we have all heard earlier today, there are numerous weaknesses in the documents which we accept for identity of age and verification. For example, we recognize that copies of birth certificates can be obtained rather easily. Most originals have limited security features and they are issued by all levels of government, making verification of the certificate difficult and time consuming. In addition, U.S. military ID's and passports and visas are easily altered and extremely difficult to verify.

While we are extremely active on the manual detection side, we have not ignored automated internal control opportunities. Since 1992, we have been making one initial digitized photograph/signature capture at the time individuals are first accepted as proving their identity to the DMV. This only serves customer convenience, but prevents substitution by an impostor since we will use the same photo and signature we originally captured.

There are some things I believe that can be done to make the system of issuing motor vehicle identification documents more reliable. Some of those are: First, front-line employees in motor vehicle offices are the key to preventing impostors from entering the system. The training of employees in fraud detection techniques must be comprehensive, thorough, and continuous.

Second, in the area of identification document verifiability, it is very important that we work toward obtaining automated, rapid online electronic access to provide on-the-spot verification of documents presented. It would be most helpful to our efforts against fraud to link States electronically with other large-scale identification systems, such as the SSA, Immigration and Naturalization Service, the Bureaus of Vital Statistics, and other State and Federal agencies for instant verification of information being presented by our applicants.

I believe you will hear later that the motor vehicle community is working toward putting together a system which will check other motor vehicle agency records in cases where an identification has been accepted and established by another State. This will eventually help us deter and prevent the creation of multiple records in various jurisdictions. Until now, New York State DMV issued license to persons with expired visas.

Third, today we make few copies or images of documents which are presented by individuals to prove to us that they are who they say they are. Ideally, we could create an electronic digitized image capture system for documents, so they would be available for post-audit review. We need to pay particular attention to the details of the data we collect and enter on the documents and records we provide.

Fourth, connectivity and interoperability are key to how identification fraud can be deterred in the future. All State motor vehicle agencies can now access each other's records over AAMVAnet which is an information system used for AAMVA. We need to invest in this system to provide electronic interchange of motor vehicle information about individual identification as we move toward the goal of one person, one license, one control record throughout the United States and North America. Compacts must be formed and funds made available to use current and future technology.

In closing, I would like to say that our present system is not infallible. I have tried to identify for you improvements which can be made, but a commitment of resources is necessary if we are to reach the goal of greater reliability. And I thank you.

[The prepared statement of Mr. Jackson follows:]

PREPARED STATEMENT OF RICHARD E. JACKSON, JR.

The driver license and non-driver identification documents issued by motor vehicle agencies are the most commonly accepted forms of personal identification in the United States today. Because these documents are exchanged so freely, they are

usually accepted as sufficient evidence to prove to someone unknown to you that you are who you say you are.

There is a strong impact on the economy and society when driver licenses are used as "breeder documents" in the perpetration of identification frauds which affect areas as diverse as national security, criminal activities, government entitlement programs, illegal employment, tax refunds, check and credit card fraud, highway safety and access to underage drinking. In recognition of these facts, New York State Department of Motor Vehicles (DMV) takes various measures to control fraudulent identity practices.

The New York State DMV issues the following documents which may be used as evidence of identity: photo licenses, photo learner permits, photo non-driver IDs and DMV employee IDs. We are in the process of expanding use of our system to issue employee IDs to other state agencies. These IDs contain digitized picture and signature; security laminate; client ID number; unique document number; date of birth/height/eye color/sex as personal identifiers and, where appropriate, an "under 21" age indicator.

We require our clients to present proof of identity for all license, learner permit, non-driver identification documents, title and registration transactions. In late 1991 we changed our identification requirements. We now require separate documentation to be presented for proof of identity and proof of date of birth. We have established a list of specific documents that a client may present as proof of identity with a "point" value assigned to each document listed, and we require that a client present enough documents to total at least six "points" of proof. Acceptable documents issued by other agencies include, for example, passports, citizenship or naturalization papers, temporary resident cards, photo driver licenses from other jurisdictions, U.S. military photo ID cards, credit cards and photo welfare/Medicaid cards. At least one of the documents presented must include the applicant's signature. Supervisory approval is required for any documents submitted that are either not on our list or do not total six points.

We expect eventually to extend these requirements to our registration and title clients.

On all original, reciprocity and other transactions requiring proofs of identification, the documents are checked for indicia of authenticity by issuing office staff. The New York State Department of Motor Vehicles has established a Fraud Detection Unit which delivers training to our issuing office staff on the detection of fraudulent or altered proofs of identity. This unit has developed a manual which provides details on most forms of identification and the security features for each. It also contains copies of fraudulent documents with descriptions of how to spot them. Depending on the type of identity evidence involved, when fraud is suspected, our frauds investigators verify the authenticity of identification through document analysis, reference manuals, telephone, teletype or computer communication with originating agencies.

We have found it useful to maintain an investigative presence in many of the New York City and Long Island Metropolitan offices to help detect and deter fraud. Since our Fraud Unit investigators have peace officer status, they are able to arrest individuals, confiscate illegal documents and, more importantly, follow up on investigations which lead to the outside sources of the fraudulent identification proofs to prevent further criminal activities. Supervisors, fraud identification and vulnerability assessment teams available in the field and central office can work together to detect patterns of fraud. They deal closely with other government agencies such as local police; U.S. Customs; district attorney's office; State Police; Immigration; Alcohol, Tobacco and Fire Arms; U.S. and state Attorney Generals' offices; Drug Enforcement officials and the FBI.

Having our own experts available in these metropolitan offices acts as a visible reminder to those who would attempt to defraud us, supports the clerical staff in document examination and provides added security against criminals who may be detected attempting to falsify their identity or to compromise our employees. We have also provided education courses for local police agencies to "train the trainers" in how to spot fraudulent documents. This has led to further investigations when local police and sheriffs uncover paper felonies.

There are numerous weaknesses in the documents which we accept for identity or age verification. For example, we recognize that copies of birth certificates can be easily obtained; most originals have limited security features and they are issued by all levels of government, i.e., village, town, city, county and state, making verification of the certificate difficult and time consuming. In addition, U.S. military IDs and passports and visas are easily altered and extremely difficult to verify.

While we are extremely active on the manual detection side, we have not ignored automated internal control opportunities. One of the most significant recent ad-

vances has been in the area of digitized photographic image/signature capture. Since 1992 we have been capturing and storing digitized images for individual licensees and, more recently, learner permit holders. This has allowed us to take one initial photograph/signature capture at the time individuals are first accepted as proving their identity to DMV. When a person goes from a permit to a license, from one license status to another or needs a duplicate of a lost license or renewal, we can produce a refreshed document from our stored image file. This not only serves customers convenience, but prevents substitution by an impostor since we reuse the same photo and signature we originally captured. It also facilitates file look-ups for comparisons of any new to previously stored file image when a customer returns to our field office for periodic updates.

#### EVALUATIONS AND RECOMMENDATIONS

There are some things I believe can be done to make the system of issuing motor vehicle identification documents more reliable. In general, these items fall into four categories: human factors, documents reviewed, internal controls and use of technology.

##### *Human Factors*

Front-line employees in motor vehicle offices are the key to preventing impostors from entering the system. Once a person's identity is accepted, a document issued and an automated record created, it is extremely difficult to determine that it was obtained through fraudulent means. The training of employees in fraud detection techniques must be comprehensive, thorough and continuous. This can be accomplished through the use of well prepared instruction manuals containing genuine and fraudulent document examples and material that teaches what to look for in fraud and what to do when it is spotted. Interviewing techniques must be explained to help staff know how to best query applicants. The job must be made a priority and important assignment, showing how it fits into the larger picture of file integrity so the job is made interesting and provides motivation to the employee.

Were there no fiscal concerns, separate, less crowded office space should ideally be provided for identification screening, especially in large, crowded metropolitan offices. Sufficient time to process applicants should be allowed to use reference materials and check on document authenticity if questionable, in a way which does not unduly inconvenience the vast number of our customers who represent the lawful majority.

##### *Documents Reviewed*

In the area of identification document verifiability, it's very important that we work toward obtaining automated, rapid on-line electronic access to provide on-the-spot verification of documents presented. Verification of documents with the actual originator is virtually non-existent today. Some federal agencies will give only limited verification information and do not now allow on-line electric access. Few state and federal agencies offer dedicated units for purposes of verifying document authenticity. It would be most helpful to your efforts against fraud to link states electronically with other large-scale identification systems such as the Social Security Administration, the Immigration and Naturalization Service, the Bureau of Vital Statistics for birth/death records and other state and federal agencies for instant verification of information being presented by our applicants.

Ideally, special equipment to review the security features of certain documents presented, such as black lights and magnification devices, would be made available to employees.

The motor vehicle community is working toward putting together a system which will check other motor vehicles agency records, in cases where an identification has been accepted and established by another state. This will eventually help us deter and prevent the creation of multiple records in various jurisdictions. It is being driven by initiatives such as the creation of the American Association of Motor Vehicle Administrators Network (AAMVAnet) in response to the NHTSA's National Driver Register and FHWA's Commercial Driver License Information System.

##### *Internal Controls*

Today, we make few copies or images of documents which are presented by individuals to prove to us they are who they say they are. Ideally, we could create an electronic digitized image capture system for documents, so they would be available for post-audit review. We could do this for all documents presented by applicants or choose documents on a statistically random basis or on a profile basis.

We need to pay particular attention to the details of the data we collect and enter on the documents and records we provide. The collection of an individual's name,

for example, should start with the full birth name including the middle name. Any variation or change in the individual's name should be entered and linked back to the original and any previously used name (for example, when a name is changed through marriage). We need to provide increased education to other agencies, the business and enforcement community, in methods to spot phony documents that "look like" ones that we issue as well as enlisting their aid to help bring fraudulent document use to our attention.

#### *Technology*

Connectivity and inter-operability are key to how identification fraud can be deterred in the future. Inter-jurisdictional telecommunications is now available based on the infrastructure built during the enactment of the Federal Commercial Motor Vehicle Safety Act of 1986. All state motor vehicle agencies can now access each other's records over AAMVANet. We need to invest in this system to provide electronic interchange of motor vehicle information about individual identification as we move toward a goal of "one person-one license-one control record" throughout the United States and North America. Compacts must be formed and funds made available to use current and future technology.

In closing, I would say that our present system is not infallible. I've tried to identify for you improvements which can be made, but a commitment of resources is necessary if we are to reach the goal of greater reliability.

Senator SIMPSON. Thank you very much, Mr. Jackson.  
Now, Mr. Rickert.

#### STATEMENT OF W. MARSHALL RICKERT

Mr. RICKERT. Thank you, Mr. Chairman. I am Marshall Rickert, motor vehicle administrator for the State of Maryland, and I speak today as chairman of the board of the American Association of Motor Vehicle Administrators. You will hear a common thread in all of our testimony from the motor vehicle community about the driver licensing system. And I will try to summarize for the benefit of brevity.

The American Association of Motor Vehicle Administrators is a voluntary, nonprofit, educational organization. AAMVA represents State and Provincial officials in the United States and Canada who are responsible for the administration and enforcement of laws pertaining to motor vehicle and driver licensing activities. The association's programs encourage uniformity and reciprocity among the States and provinces and liaison with other levels of government and the private sector. Our program development and research activities provide guidelines for more effective and consistent public service.

There has been much talk in recent months regarding development of a national identification card. I would submit to you that such a system is already in place. The driver license is a universally accepted identification document and is the most commonly requested document for these purposes in the United States.

Two years ago, our association in its driver licensing and control committee created a uniform identification working group consisting of State driver licensing officials to review all aspects of the ID issue and to develop uniform practices which all jurisdictions are encouraged to adopt. And there were three events which brought about the formation of this effort. One was the desire to combat the growing incident of fraud. The second was the opportunity to use new emerging technologies to our benefit. And the third is a growing demand for information and for identification documents.

The working group has developed a model identification program which requires a person to submit specific documents before a li-



cense or ID card is issued or before that person can change his or her name. A minimum of two documents must be presented by new applicants to verify identity; one primary and one secondary. The primary document must contain the person's full name and date of birth and must be verifiable; and that is a key point. In other words, the licensing agency must be able to contact the organization which issued the document in order to verify its authenticity.

Another key element of the program is the development of a unique identifier which will allow a person to be tracked throughout North America. Whether it is a biometric identifier, a Social Security number, a digital image, or some combination, a unique identifier will allow licensing officials to verify an individual's identity at the time of application and to better locate individuals once licensed.

AAMVA is recommending as a start that the Social Security number serve as the unique identifier and that ultimately we would go to a biometric medium. And it is very important as we use the Social Security number that we have access on-line to the Social Security Administration to verify the name that accompanies the Social Security number that is presented.

Another activity that we are underway with is the integration of technology in a coordinated manner throughout the States. Great strides have been made in the last 10 years in the way of technological and system integration and much more must be done. A point I would like to make here, right now 26 States in the United States and Canadian Provinces are developing digitized systems. We have developed these in concert, so that we can exchange images; we can exchange signatures. In essence, as more and more States come online, there will be simultaneous loading of data bases and an integration of the data bases.

So the fundamental identification data base is being built right now through the driver license and ID card systems of the United States and Canada. Implementation of the model ID program will strengthen the State's ability to detect and reject fraudulent identification documents.

There are several things that we need your assistance on and I would like to quickly summarize those. First, we are developing, as I said, a model identification program. We are recommending Federal legislation to ensure that all States follow uniform identification procedures and also that all States require submission of the Social Security number.

Second, we are asking for electronic on-line access to State and Federal agencies who issue identification documents to permit us to verify the information presented, particularly Social Security and INS documents. We must collectively do research in the area of biometrics. Many witnesses have testified to the effectiveness and potential of that system. And we must, and I must stress this, develop a standard for birth certificates and other documents, so that there is uniformity and there are tamper-proof features added to the identification documents.

In essence, the association and its collective membership has been working on common standards and procedures so that we ensure that there are no weak links in our identification network across the motor vehicle agencies. We have been integrating tech-

nology and databases. We are asking for your help to strengthen the system through verification of Social Security and INS data.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Rickert follows:]

PREPARED STATEMENT OF MARSHALL RICKERT

Good morning, I am Marshall Rickert, Motor Vehicle Administrator for the State of Maryland and Chairman of the Board for the American Association of Motor Vehicle Administrators. I am pleased to present testimony on behalf of AAMVA on the important issue of identification.

The American Association of Motor Vehicle Administrators is a voluntary, non-profit, educational organization. AAMVA represents state and provincial officials in the United States and Canada who are responsible for the administration and enforcement of laws pertaining to motor vehicle and driver licensing activities. The Association's programs encourage uniformity and reciprocity among the states and provinces and liaison with other levels of government and the private sector. AAMVA's program development and research activities provide guidelines for more effective public service.

The recent bombing in Oklahoma City emphasized the need for accurate identification systems. At every turn in the investigation, law enforcement authorities and the news media focused on license plates, vehicle identification numbers and drivers licenses to identify individuals involved.

There has been much talk in recent months regarding development of a national identification card. I would submit that such a system is already in place. The drivers license is universally accepted to verify a person's identity and is the most commonly requested identifying document.

Two years ago, AAMVA's Driver Licensing and Control Committee created a Uniform Identification Working Group, composed of state driver licensing officials, to review all aspects of the ID issue and to develop uniform practices which all jurisdictions are encouraged to adopt. Three events brought about the formation of this group. One was a growing incidence of fraud. The second was evolving technology and the third was an increased demand for information.

The Working Group has developed a model identification program which requires a person to submit specific documents before a license/ID card is issued or before the person can change his/her name. A minimum of two documents must be presented by new applicants to verify his/her identity; one primary and one secondary. The primary document must contain the person's full name and date of birth and must be verifiable. In other words, the licensing agency must be able to contact the organization which issued the document in order to verify its authenticity.

Another key element of the program is the development of a unique identifier which will allow a person to be tracked throughout North America. Whether a biometric identifier, social security number digital image, a unique identifier will allow licensing officials to verify an individual's identity at the time of application and to better locate individuals once licensed. AAMVA is recommending the social security number serve as the unique identifier and that the number be verified through the Social Security Administration prior to issuance.

Another activity currently being pursued by the drivers licensing community is the integration of technology in a coordinated manner throughout the states. Great strides have been made in the last ten years but much more must be done to build an integrated system that takes full advantage of today's technology.

Implementation of the model ID program will strengthen a state's ability to detect and reject fraudulent identification documents which will enhance the reliability of the driver's license/ID card. I must note, however, that the model program being developed by AAMVA is strictly a voluntary program. Nothing compels a state to implement any or all of the model. Nothing compels a state or federal agency to give the MVAs access to their records. Nothing requires a person to provide his/her social security number at the time of application.

There are several efforts you can take to assist the driver licensing agencies in reducing fraudulent drivers license/ID card application/issuance. AAMVA's model identification program will establish uniform guidelines for document issuance. Federal legislation is required to ensure all states follow uniform guidelines and to require submission of the social security number at the time of application.

Electronic on-line access to state/federal agencies who issue identification documents is needed to allow verification of information presented at the time of application. Federal support through legislation and funding of an all driver pointer system

will result in a significant reduction of fraudulent drivers license/ID card applicants and will ensure multiple documents are not issued to the same person.

Research must be initiated in the area of biometrics. Jurisdictions need this important tool to verify that an applicant is actually who s/he claims to be. Driver licensing agencies must be able to capture a biometric identifier and retrieve it in a manner fast enough to support their business needs.

Development of guidelines/standards for documents such as birth certificates will eventually assist the states in determining if documents presented are authentic. Development of a national birth/death records system would be extremely helpful in detecting fraudulent applicants.

AAMVA is making efforts to combat the problem of fraudulent drivers licenses and identification cards, but we cannot do it alone. The model ID program provides the framework for a uniform identification system. Should a greater need arise for development, it should be through framework already established.

We need your help in the form of federal legislation and funding to continue and to enhance our efforts. I am confident that we are ready to meet these challenges because of the efforts we have already undertaken within the AAMVA community. While we have much left to do, the basic foundation of our driver licensing system is solid and I know that with your help, we will successfully accommodate the demands placed upon us.

Attached to my written testimony is additional information regarding AAMVA's efforts, problems we face each day and recommendations to enhance the drivers license/ID card systems.

Thank you for this opportunity to present our views.

#### ADDENDUM

The American Association of Motor Vehicle Administrators is a voluntary, non-profit, educational organization. AAMVA represents state and provincial officials in the United States and Canada who are responsible for the administration and enforcement of laws pertaining to motor vehicle and driver licensing activities. The Association's programs encourage uniformity and reciprocity among the states and provinces, and liaison with other levels of government and the private sector. AAMVA's program development and research activities provide guidelines for more effective public service.

The recent bombing in Oklahoma City emphasized the need for accurate identification systems. At every turn in the investigation, law enforcement authorities and the news media focused on license plates, vehicle identification numbers and drivers licenses to identify individuals involved.

There has been much talk in recent months regarding development of a national identification card. The Oklahoma disaster supports such a concept and I would submit that such a system is already in place. The drivers license is universally accepted to verify a person's identity and is the most commonly requested identifying document. Virtually every person in the world, from the department store clerk to the law enforcement officer to the person issuing a hunting license or selling a firearm, considers the drivers license as a authentic and legal document. A check approval, job offer or traffic ticket is made based on the fact that the person believes the license holder to be the individual identified on the face of the license.

The use of fraudulent documents results in enormous economic losses in the United States and Canada through bank, entitlement of jobs or services, welfare and retail fraud—even drug smuggling and money laundering. However, the use of fraudulently obtained identification is also directly related to losses in human life on our highways. Obtaining a drivers license through the use of fraudulent documents allows an individual to continue to drive in many instances when s/he should not be on the road, thus circumventing the system. Persons who fraudulently apply for or who possess a fictitious drivers license or ID card often use the document to illegally purchase alcohol or firearms, make illegal welfare application, drive while suspended or revoked or pursue a variety of other unlawful acts.

Undocumented immigrants obtain employment, welfare benefits and other public service benefits to which they are not entitled, often using state-issued driver license or ID cards to established their identity. The accumulated cost of benefits paid to undocumented immigrants impacts states; ability to provide services to legal residents. Economically, the use of fraudulently obtained drivers licenses or identification cards is estimated to cost society tens of billions of dollars each year.

Efforts to solve the problem of fraudulent documentation are not new. The National Highway Traffic Safety Administration, American Association of Motor Vehicle Administrators, private industry and a number of jurisdictions have worked independently on training curriculum to stop the flow of false documents. In the

1970's, the US Federal Advisory Committee on False Identification documented the problem for the United States Department of Justice. The 1976 report concluded that false birth certificates and licenses were the two major types of identification used by criminals.

It is the responsibility of the licensing agency to ensure that a drivers license or identification card is issued to an applicant who first submits documentation which adequately verifies his/her identity. The agency should follow strict guidelines in reviewing identification documents to ensure authenticity.

Two years ago, AAMVA's Driver Licensing and Control Committee created a uniform identification working group, composed of state driver licensing officials, to review all aspects of the ID issue and to develop uniform practices which all jurisdictions are encouraged to adopt. The first task of the working group was to conduct a survey of current state ID practices. Results of the survey were evaluated and the group determined ID procedures in the jurisdictions varied greatly which solidified their belief that a model ID program is needed. The program contains minimum standards for document issuance, record keeping, document verification and information transfer. The program will make significant inroads in the reduction of fraudulent driver license and ID card application.

The draft model program has been shared with the jurisdictions and based on comments received, revisions were made. The program will once again be discussed at AAMVA's four regional conferences in June and July 1995. Based on feedback received at these meetings, necessary revisions will be made and the final program draft should be adopted by the AAMVA community at the annual membership meeting in August. Once approved, the working group will begin developing training materials and procedures to assist members in implementing the model program.

The model program requires a person making application for a drivers license/ID or wishing to change his/her name to submit specific documents before the license/ID is issued. A minimum of two documents must be presented by new applicants to verify his/her identity; one primary and one secondary. The primary document must contain the applicant's full name and date of birth and must be verifiable. In other words, the drivers licensing agency must be able to contact the organization which issued the document to verify its authenticity. Primary documents include a photo drivers license, state issued ID card, military ID, original or certified birth certificate, valid passport and INS issued documents to name a few. Acceptable secondary documents include marriage certificates, medical records, social security card and other similar documents.

A key element of the program is the development of a unique identifier which will allow a person to be tracked throughout North America. Whether a biometric identifier, social security number, or digital image, a unique identifier will allow licensing officials to verify an individual's identity at the time of application and to better locate individuals once licensed. AAMVA is recommending that the social security number serve as the unique identifier and that the number be verified through the Social Security Administration prior to issuance.

The Social Security Administration published a notice in the March 29, 1995, Federal Register, of their intent to allow the motor vehicle administrator's (MVAs) access to their computer system (SSAs) for the purpose of verifying the identity of drivers license/ID card applicants. The SSA is now in the process of determining if access will, in fact, be allowed and in what format the verification will occur. Their intent is to respond to a request for verification within 24-48 hours. We have met with the SSA in an attempt to persuade them to give interactive access to help the MVAs determine, prior to issuance, if the information presented is correct. The Social Security Administration has advised us that they will not be able to give interactive access for quite some time. In order for this service to benefit the states, on-line access to the SSA's system is required. There are currently 38 states who issue an over-the-counter license/ID card. Applicants in these jurisdictions walk out of the office with a state issued drivers license/ID card. If the state cannot immediately complete a check to determine that the name and social security number match, having electronic access will not be useful. If the stated discovers 24-48 hours later that the information does not match, it will be virtually impossible to retrieve the incorrect/fraudulent document.

The Association is also taking steps to obtain electronic access to the Immigration and Naturalization Services computer system for the purposes of verifying documentation presented by "foreign" applicants. INS has been mandated by Congress to share information on illegal/criminal aliens contained in its computer files with criminal justice agencies for enforcement of criminal laws. Such access should be extended to MVAs.

Jurisdictions can take steps to ensure an applicant presents specific documentation in an attempt to verify his/her identity. However, the greater problem is in de-

termining if the documents presented are authentic and if in fact they belong to the person making application.

A birth certificate is accepted by almost all driver licensing agencies to establish a person's identity. Virtually thousands of organizations issue birth certificates; no two of which look alike. The formats vary as does the information contained on the document. Each state maintains their own records for birth/deaths which occurred in their state. The various state's systems are not compatible so there is no national "master" file.

We have all heard stories about the minor or the suspended driver who visits a cemetery in the hopes of finding a headstone containing birth information they can use to fraudulently obtain a birth certificate which can in turn be used in the application for a drivers license. In this type of situation, the document being presented to the MVA is authentic, i.e., it was issued by the Bureau of Vital Statistics or similar agency, but the application is fraudulent because the "breeder" document does not belong to the person making application.

If the MVA's had an electronic link to vital statistics agencies, they could make a more informed determination as to whether or not the person is who s/he claims to be. The MVA would at a minimum be able to ensure that a person listed on the birth certificate is still living.

Another extremely important issue being pursued by the AAMVA community is the development of an all driver pointer system. Since 1986, with the passage of the Commercial Motor Vehicle Safety Act and the subsequent adoption of the CDL requirements by the states, commercial drivers license applicants have been required to submit their social security number when making application for a license. The SSN is used in communications with the Commercial Drivers License Information System (CDLIS). CDLIS is a "pointer" file for commercial drivers and has proven extremely successful in preventing licenses from being issued to applicants whose driving privileges are suspended/revoked or who holds a CDL from another jurisdiction.

One of the weaknesses of CDLIS is that it does not include all drivers. The drivers license community recognized the need to develop a system to address the much larger non-commercial driving population, and through the Association developed a Drivers License Reciprocity (DLR) program as an extension of CDLIS. DLR allows jurisdictions to electronically transfer information regarding automobile, motorcycle and light-weight truck operators in the same manner that CDLIS supports commercial drivers.

The Problem Driver Pointer System (PDPS) was mandated by Congress in 1982 as part of the National Driver Register Act. PDPS makes it more difficult for problem drivers to evade suspension and revocation by obtaining licenses from other states. When PDPS is fully implemented, states will create a pointer record for drivers whose licenses have been suspended or revoked and for drivers convicted of serious violations. When a state inquires about a particular driver's record, if a problem exists in another state(s), PDPS will "point" to the state(s) that has taken action against the driver. The inquiring state will be able to request additional information from those states electronically through AAMVAnet.

The MVAs have expressed a desire in developing an all driver file; similar to CDLIS, but on a much larger scale. The all driver file would contain "pointer" records for both commercial and non-commercial drivers and could eventually result in the elimination of CDLIS and PDPS as only one system would be required. DLR is the first step in the development of the all driver file. In this system, a unique identifier will be required and the SSN appears to be the ideal solution. As with the model ID program, DLR is voluntary and nothing requires the states to participate.

Another activity currently being pursued by the drivers license community is the integration of technology in a coordinated manner throughout the states. The Association is developing standards for the transmission of digitized images and use of bar codes and magnetic stripes. The AAMVA community continues to pursue technological solutions for the problems involved in identification. Great strides have been made in the last ten years but much more must be done to build an integrated system that takes full advantage of today's technology.

Implementation of the model ID program will strengthen a state's ability to detect and reject fraudulent documents which will enhance the reliability of the driver's license/ID card. I must note, however, that the model program being developed by AAMVA is strictly a voluntary program. Nothing compels a state to implement any or all of the model. Nothing compels a state or federal agency to give the MVAs access to their records. Nothing requires a person to provide his/her social security number at the time of application. To ensure state compliance with many of these issues, federal requirements/sanctions must be effected.

There are several efforts you can undertake to assist the driver licensing agencies in reducing fraudulent drivers license/ID card application/issuance. AAMVA's model identification program will establish uniform guidelines for document issuance. Federal legislation is required to ensure all states follow uniform guidelines and to require submission of the social security number at the time of application. Included in the legislation should be sanctions for submission of fraudulent/altered documents and for misrepresentation. Many states have penalties for fraudulent application, but because the offense is minor the courts often cannot be persuaded to actually press charges. Sanctions should be severe enough to discourage fraud, but realistic to ensure imposition by the courts or other regulatory authorities. States must be given the ability to confiscate fraudulent ID documents to prevent further attempts at fraudulent application.

Electronic on-line access to state/federal agencies who issue identification documents is needed to allow verification of information presented at the time of application. Counterfeit birth certificates, INS documents and social security cards may enable an individual to fraudulently apply for a drivers license/ID which may be used for a number of criminal activities. We encourage the Social Security Administration, Immigration and Naturalization Services, Bureaus of Vital Statistics and state motor vehicle agencies to exchange information in cases in which matching information is not found. By working together, the agencies may determine who the fraudulent applicant actually is and take appropriate legal action. Our joint efforts can make a difference in the tens of billions of dollars incurred by society each year through the use of fraudulent documents.

Mandating an all driver pointer system will result in a significant reduction of fraudulent drivers license/ID card applications and will ensure multiple documents are not issued to the same person.

Research must be initiated in the biometric identifier area. Jurisdictions need this important tool to be able to verify that an applicant is actually who s/he claims to be. Drivers licensing agencies must be able to capture the biometric identifier and retrieve it in a manner fast enough to support their business needs. A biometric identifier will assist state drivers licensing agencies, social services agencies and law enforcement in locating persons. Research is needed today to determine what technology is available and whether or not it will adequately meet the needs of the states. Funding must be appropriated now to conduct this much needed research.

Development of federal guidelines/standards for documents such as birth certificates will eventually assist the states in determining if documents presented are authentic. Development of a national birth/death records system would be extremely helpful in detecting fraudulent applicants.

AAMVA is making efforts to combat the problem of fraudulent drivers license and identification cards, but we cannot do it alone. We need your help in the form of federal legislation and funding. I am confident that we are ready to meet these challenges because of the efforts we have already undertaken within the AAMVA community. While we have much left to do, the basic foundation of our driver licensing system is solid and I know that with your help, we will successfully accommodate the demands placed upon us.

Senator SIMPSON. Thank you very much.

Now Frank Ricchiazzi. I am sorry that they misspelled your name there. Two Z's, you told me that once.

#### STATEMENT OF FRANK RICCHIAZZI

Mr. RICCHIAZZI. I guess the person who did it was not a full-blooded Sicilian, Senator.

Senator SIMPSON. That is right. It was not a full-blooded Sicilian. Nice to see you again. Please proceed.

Mr. RICCHIAZZI. Thank you. Mr. Chairman, and California Senator Feinstein, my name is Frank Ricchiazzi. I am assistant director in California for the Department of Motor Vehicles, and I am pleased to testify before this committee.

It was my pleasure and honor to provide Senator Simpson with a recent tour of a DMV office in southern California. And during that visit, we were able to show the Senator the diversity and large numbers of individuals who need our services, the process that verifies personal identity, and the first steps in the creation of a

digitized driver license or ID card. This included photographing, signature, and thumb printing.

As the Senator saw, California is in the forefront regarding personal identification, as we are trying to lead in policies and technologies that improve our ability to provide secure, authentic and durable identification.

We have 24 million driver licenses and ID cardholders and we issue about 1.3 million of the licenses and ID cards per year, and this includes ID cards to children, as well as to senior citizens who no longer drive. In 1979, our legislature stated that as a matter of legislative policy, the license and ID card are the official identification documents of the State of California. The driver's license has become the de facto, personal identification document in this Nation.

During the last 6 years, California has been improving the integrity of identification licensing. In 1989, we were the State to first implement the federally required commercial driver license. In 1990, we introduced the use of digitized technology. We went from a paper license system to a credit card style license, an ID card, using digital imaging technology. The new license and ID card contain a magnetic stripe with a card demographic information encoded on it for ease of access. It also has a holographic, security feature to help identify valid cards and to increase the difficulty of producing fraudulent cards.

In 1992, we joined many other States who also collect Social Security numbers. Because verification of the number is vital, we have sought permission from the Social Security Administration to verify SSN's against their data base. In 1993, Governor Wilson supported and signed in the law the requirement that original driver license and ID card applicants provide proof of legal presence. We are not the first State to do so.

Senator Simpson, your home State has been doing this for a long time, for a number of years, so I guess it is official that Wyoming and California are doing something in common.

Since the law was enacted, we have seen a slight drop in our work load. We believe that it has been a deterrent. Approximately 30 percent of the 1.3 million documents presented annually are INS documents. During the first year, we denied over 1,000 licenses and ID cards because the documents submitted were fraudulent.

We verify the INS documents submitted through an electronic verification system. The system is working well. Approximately 75 percent of the INS documents are verified electronically. However, 100,000 a year are being sent to INS for manual verification.

The entire legal presence verification process, just that alone, costs the State of California approximately \$1.4 million just during the first year.

These efforts to strengthen the integrity of the ID documents issued by the DMV have a far-reaching impact, as many of the panels have said before, dealing with national efforts to do the same. The identity document facilitates access to jobs, entitlement, credit, all of which have a costly consequence if access is obtained fraudulently.

National efforts by AAMVA and the States have produced standards for digitizing and encoding the licenses and standards for information exchange. That exchange should continue to be limited to the purpose of authenticating identification and driving privilege data elements in order to protect the constitutional right to privacy.

States cannot achieve the improvement in identification integrity on their own, but together with all 50 States and with national support, we are likely to achieve greater uniformity more quickly. Uniform practices for establishing identity are being developed. The source documents that have integrity and that are verifiable are key. With that, California believes that States can issue secure personal identification, if customers present one document from a list of acceptable verifiable documents.

National standards for source or breeder documents are also needed. We see birth certificates with untold variations, making it very difficult to identify those that are fraudulent. We can identify the bad attempts at fraud, but I am certain we miss the skilled attempts.

Electronic verification of various data elements is also an important element. An electronic network to verify the U.S. birth documents issued by the 50 States is needed. Because we verify INS documents in California, we deter attempts to seek fraudulent issuance of our license and ID's. But the weak spot is the birth document.

Social Security numbers may be useful. The current system of a batch process has a 48-hour turnaround. It is better than not verifying the number at all, but we do need an online verification system.

To try to cut this short, I want to emphasize again that manually, we are sending over to the INS 25 percent of our documents which is very costly and cumbersome. INS needs legal authority to confiscate driver licenses when they are deporting illegal aliens. We know that individuals return to California very soon after they are deported. If our documents can be confiscated by agents, they will be more difficult for deportees to re-assimilate in our State or migrate to other States and resume employment or entitlements.

We also agree the ability to tie the documents back to unique physiological identifier, commonly referred to as a biometric technology, would be very helpful. All of these suggestions and the establishment of a national identifier must be accomplished again without denigrating the privacy of the individual.

In closing, I would wish to express California's sincere desire to share with you and others throughout the country our experiences which include both some of our successes, as well as our errors, as we have worked toward an identity process using today's technology. Thank you.

[The prepared statement of Mr. Ricchiazzi follows:]

PREPARED STATEMENT OF FRANK RICCHIAZZI

Good morning. My name is Frank Ricchiazzi, Assistant Director, California Department of Motor Vehicles. I am pleased to testify before this committee this morning on the issue of applicant identity.

It was our pleasure and honor to provide Senator Simpson with a brief tour of a DMV office in southern California on Friday, April 28, 1995. During that visit we



were able to show him the diversity of our clientele, the large numbers of individuals who need our services, the process that verifies the identity of the applicant, and the first steps in the creation of digitized driver license or identification cards. This includes photography and thumb printing the person.

As Senator Simpson saw that day, California is in the forefront regarding identification integrity. We are leading the nation in addressing policies and technologies that impact our ability to provide secure, authentic, and durable identification.

California has 24 million licensed drivers and ID card holders. We issue over 5000 original licenses and ID cards per day throughout the state, a total of 1.3 million per year. We issue ID cards to children, and to senior citizens who no longer drive. 73% of our population has either a driver license or ID card.

The DMV is the state agency charged with establishing identity of its residents. We have issued driver licenses since 1916. We began issuing identification cards in 1969, when the legislature first began to recognize that there was a need for a personal identification document. In 1979 our legislature stated that as a matter of legislative policy the license and ID card are the basic identification documents of the State of California. After all, I bet that each one of us here today uses our driver license more often to prove who we are than to prove we are licensed to drive. The DL has become the defacto personal identification document in this nation.

During the last 6 years, California has been in the forefront of improving the integrity of identification and licensing. In 1989, California was the first state to implement the federally required Commercial Driver License. This was the first overt move to achieve the objective of the one-driver-one-license concept. We began collecting the social security number to use as the unique personal identifier for commercial drivers. We also began participating in the CDLIS system which is a national pointer system.

In 1990, we were the first state to introduce the use of digitized technology with the driver license. We went from a paper license system, to a credit card style license and ID card using digital imaging technology for the photograph, signature, and fingerprint. The new license and ID card contain a magnetic stripe with the card demographic information encoded on it for ease of access. They also have a holographic security feature to help identify valid cards, and to increase the difficulty of producing fraudulent cards.

We now have 89% of our licenses and card holders converted to this system. We have just begun to issue our renewal licenses and cards by retrieving the digitized photo and signature on file. In 1996, the temporary license in the field office will have the photo on it, similar to New York's temporary license. Our duplicate licenses and ID cards will be produced using the digitized photo on file, thwarting impersonators seeking a license with their photo and someone else's identity. We will be able to transmit the photo to the office when needed to confirm the identity of a customer. This will thwart efforts to impersonate someone who already has a record. We will also take the photo at the start of the application process rather than at the end, so that we can ensure that the same individual presenting themselves at the start is the same one who takes the tests, and completes the application process.

In 1992 California joined many other states who also collect social security numbers of all applicants. Because verification of the number of vital, we have received permission from the Social Security Administration to verify the numbers we collect against their database. The regulations are about to take effect to allow California and all other states to verify SSNs within 48-72 hours.

In early 1994, California began verifying legal status when an applicant applies for an original driver license or ID card. We are not the first state verify the legal status. Senator Simpson's home state has been doing this for many years. So now Wyoming and California truly have something in common! Since the law was enacted, we have seen a slight drop in our workload that we attribute to the deterrent effect of the law. Approximately 30% of the 1.3 million documents presented annually are INS documents. During the first year, we denied over 1000 licenses and ID cards because the document submitted was fraudulent. We term the license to the expiration of the INS document.

Thanks to good support from the regional INS representatives, we are able to verify the INS document submitted through the electronic verification system ASVI (alien status verification system). This verification currently takes place at our headquarters in Sacramento, prior to mailing the card or license. We do not release the license unless we receive positive verification from ASVI. This system is working very well. It provides instantaneous verification. We will do this verification directly from our field offices later this year. Approximately 75% of the INS documents are verified electronically. The rest are sent to INS for manual verification.

The entire legal presence verification process costs California approximately \$1.4 million per year. Approximately \$90,000 is the cost for electronic verification.

When we started verifying an applicant's legal presence, we also revised the list of documents we accept to establish identity. We eliminated foreign birth certificates because they are not proof of legal presence. We also no longer accept documents such as school records or baptismal certificates. We eliminated these documents because they are not verifiable. We trained our field personnel to recognize fraudulent documents, and the various security features used. This training mirrored the Fraudulent Identification Prevention Program initiated by the AAMVA in the early 1990's. Since that training took place, we have seen an increase in the detection of fraudulent documents. While we cannot track the volume, we are refusing to accept fraudulent appearing documents before the application processing even begins.

These efforts to strengthen the integrity of the identification documents issued by the DMV have far reaching impact, as will any national effort to do the same. The identity document facilitates access to jobs, entitlements, and credit, all of which have costly consequences if access is obtained fraudulently.

National efforts by AAMVA and the states have produced standards for digitizing and encoding the licenses, and standards for information exchange. We already have communication systems in place on a national and international basis for the exchange of driver data. That exchange should continue to be limited to the purpose of authenticating identification and driving privilege data elements in order to protect the constitutional right to privacy.

I would now like to focus my comments on what additional changes are needed to truly achieve a secure, quality identification system within the US. These comments are based on our experience with personal identification, experience that we believe relevant to the issue of national identification.

We believe that states cannot achieve the most significant improvements in personal identification on their own. A state as large as California has an ability to perhaps roar the loudest, and achieve some gains, but together the 50 states, with the national support, are more likely to achieve greater uniformity more quickly.

Consistency in identification requirements and verification make sense. They will be accomplished, however, by jurisdictions with differing systems and practices. Many states produce licenses in the office and release them immediately to the applicant. These systems are virtually instantaneous, and have benefits to the customers. Other states such as California release licenses by mail from a centralized point after processing. This type of system improves a state's ability to verify data elements, perform checks against other databases which may not be on-line, total system security, and provide verification of the mailing address.

Uniform practices for establishing identity are being developed for all states. California has been working with other states and the AAMVA to develop these uniform guidelines. A list of acceptable documents for application or name change will ensure consistency between states, and improve the integrity of the documents nationwide. These guidelines, however, must be established with caution. The source documents must have integrity, yet the requirements need to recognize the practical pressures of large volume states such as California, and the need to minimize customer inconvenience. We think states can issue secure personal identification if customers present one document from a list of acceptable—and verifiable—documents.

National standards for source or "breeder" documents are also needed. The hundreds of jurisdictions which issue breeder documents do so without consistency. We see birth certificates with untold variations making it very difficult to identify those that are fraudulent ones. We can identify the bad attempts at fraud, but I'm certain we miss the skilled attempts.

On-line verification of data elements is critical. It's essential for states with over-the-counter issuance, as well as for states such as California which produce and mail licenses and ID cards from a central point. On-line issuance supports the states' need to provide timely issuance of licenses. All states, regardless of size, have a need to provide individuals with timely service, and delays in verification are costly to individuals and states.

An electronic network to verify the U.S. birth documents issued by the 50 states is also needed. Because we verify INS documents in California, we deter some attempts to seek fraudulent licenses and ID cards, but others have discovered the remaining weak spot, the birth document. It is not verifiable today because of the lack of connectivity to the other states. We also need to tighten access to duplicate certificates, by having tight controls on the reissuance of certified birth documents.

Social security numbers, now collected by many states, may be useful as the national identifier, but only if they are verified by the Social Security Administration. The current system of a batch process, with a 48 hour turnaround, is better than not verifying the number at all, but it will not prevent the original license from

being issued, only its reissuance. An on-line verification system is necessary in order to prevent the license from being issued under false pretenses.

California's on-line access to the INS system has proven very successful, and minimizes the inconvenience to our legally present customers.

However, to improve the use of INS documents as identity documents INS must reduce the types of documents issued by INS. We currently accept over 20 INS documents. That's in addition to the U.S. birth certificate, and other documents we accept. In order for us to recognize valid documents, and have good identifying information, it would be beneficial to the states, employers and any agency relying on INS documents, to review the fewest types of documents possible. Then, the identifying information could be standardized, be accompanied by a photo, and have greater security features.

Expanding the ASVI system to increase the percentage of documents verifiable electronically from 75% to closer to 100% is another important improvement. There are certain status's and types of documents that cannot be verified electronically, requiring a manual verification process for INS and DMV. This is a costly and cumbersome system resulting in very long delays in the issuance of the license and ID card.

We support the development of the all driver pointer system. A system which mirrors the current Commercial Drivers License Information System (CDLIS) will prevent licenses from being issued to applicants whose driving privileges are suspended or revoked in another state. It facilitates the one-license-one driver concept which is impossible to achieve without the exchange of information, and transfer of records to the new home state.

An additional benefit would be to provide INS with the legal authority to confiscate the driver license or ID card, when they are deporting an illegal alien. Agents currently can confiscate documents only when they know the document is obtained through fraudulent means. If a license was issued in California before March 1994 it may have been obtained legally by an illegal alien. We know that individuals return to California very soon after they are deported. If our documents can be confiscated by agents it will be more difficult for deportees to reestablish in our state, or migrate to other states, and resume employment or entitlements. If agents have this authority, it will help us all.

All the databases and communication systems in the world will not prevent the clever and resourceful individual from assuming multiple identities with quality fraudulent documents. What is needed is the ability to tie the documents back to a unique physiological identifier commonly referred to as biometric technology (retinal scan, fingerprint, hand print, voiceprint, etc.) A federally funded multi-state demonstration project completed in 1990 tested the concept of using a biometric identifier for commercial drivers. The findings were not conclusive. But much has occurred in the intervening years whereby it may be time again to validate the use of biometrics in the licensing environment. California is in a unique position in that we have thumbprint information collected in a digitized form for the approximately 600,000 California commercial licensees. A demonstration project at this time could be a very progressive step toward solving the problem of linking identification documents to correct individuals. Further research and development is needed to provide what may be the single most effective means of preventing fraudulent personal identification documents from being issued.

All of these suggestions and the establishment of a national identifier must be accomplished without denigrating the privacy of the individual. Protections must remain in place and perhaps be strengthened as databases are linked to provide greater governmental access to individual records and information. We must not lose sight of the fact that the vast majority of individuals are law abiding, and not seeking to defraud anyone. We need to find a way to reduce the drain on public resources, increase public protection, and still retain the privacy protections. All of this must also be accomplished without increasing unfunded federal mandates, and by balancing the need for better systems with practicality.

In closing, I appreciate the opportunity to present this testimony today.

#### OVERVIEW PERSONAL IDENTIFICATION

##### *Document review training*

Department of Motor Vehicles field office employees receive training regarding acceptable birth verification/legal presence documents. The training consists of:

- Overview of acceptable birth verification/legal presence documents: U.S. document review; Immigration and Naturalization Service (INS) document review.
- Fraudulent/suspicious document detection techniques: fraud detection videos.
- Security features of documents.

### Samples of valid and fraudulent document.

#### Fraud document processing procedures.

Each d office has the fraud training package, which includes a Fraud Detection Review pamphlet for U.S. Birth Certificates and INS documents for each employee work station. Detailed information regarding acceptable birth verification/legal presence documents, document review guidelines, fraud detection, and document security features are maintained in each office and a telephone help line is available to provide assistance regarding questionable or unusual documents or situations.

#### *Fraud screening procedures*

The following general procedures are used when reviewing birth verification/legal presence documents:

(1) Type of document—The key to document review is to know the document and what type of information and security features should be on that specific document. Knowing the document will also provide clues to certain types of fraud prevalent with specific types of documents.

(2) Document information—All information should be completed and logical. The name of the issuing agency should be easy to locate and dates should be in sequential order.

(3) Document print—Type should be consistent, clear and easy to read. It should also be uniform in color and position. Spellings should be correct. Signatures and seals should be clean, smooth and professional in appearance.

(4) Background patterns—Designs should be clear and distinct, drawn with fine lines, without breaks. There should be no fading or bleeding areas.

(5) Laminated cards—Lamination should be professional; no bubbles, excess thickness over photo, wrinkles, rough edges, shredding or peeling. The photograph and card are usually one piece. Separately affixed photos will have a security design within the lamination that covers part of the photo.

(6) Security features—Security features within a document include security paper, latent images, microlines, filigree borders, intaglio printing, watermarks, polychromatic designs and prismatic designs. Specific security features, such as coded numbers or special hidden design flaws, are specific to specific documents.

#### *Fraud document referral process*

If a document submitted to verify identity/legal presence is not one of the identified acceptable documents or does not meet the document review guidelines, it is refused. The customer is asked to bring in another document that is acceptable. If a customer insists that the document be accepted, the document is referred to a department investigator for review. Verification with the issuing agency determines if the document is accepted or rejected.

#### *Acceptable/unacceptable documents*

Only documents which are issued in a secured manner, are verifiable, and contain security features to resist alteration and counterfeiting are acceptable.

Effective March 1, 1994, the following documents, previously acceptable, are now unacceptable for birth verification/legal presence: foreign birth certificates; out-of-state driver license or identification card; driver education or training certificates; U.S. or foreign baptismal records; U.S. census record; and foreign driver license.

#### *California birth certificates*

In California, any person can request any birth record on file if they have enough information to identify the record (name, birth date and birth place). Requests can be made by completing a request form and paying a \$13 fee. Requests can be made by mail, fax or in person depending on county requirements. Birth records on file can be viewed at the county level. Birth certificates can also be requested from the California Kiosk by completing a request form and paying the fee by credit card. The incidence of persons requesting birth certificates in another person's name for fraudulent purposes has decreased as birth records are matched with deceased records. The birth record is marked deceased. Alterations are virtually non-existent because of a special security paper used to issue birth certificates, making any alterations easily visible. The features of the special security paper makes counterfeiting difficult.

Since California began verifying INS issued documents, there has been an increase in the submission of counterfeit domestic birth certificates.

Electronic verification of birth certificates is currently unavailable. Most state vital statistics offices are computerized, but only for storage and retrieval of records. Many county vital statistics offices are manual. Electronic verification of birth certificates is necessary not only for motor vehicle departments, but any entity who has

a responsibility to ensure positive identification of clients and records. A national electronic verification system should be a primary goal.

DOCUMENTS REQUIRED TO ESTABLISH PERSONAL IDENTIFICATION. Any one is acceptable.

Document	Comments	Document Code
Certified copy of a U.S. Birth Certificate	Issued by a city, county or state Vital Statistics office.	A
U.S. Certificate of Birth Abroad or a Report of Birth Abroad	DS-1350, FS-545 FS-240	B
Proof of Indian Blood Degree	Issued by U.S. Bureau of Indian Affairs, Department of Interior	C
Certified Birth Certificate or Passport issued from a U.S. Territory	<ul style="list-style-type: none"> <li>• Puerto Rico, on or after 1-13-41</li> <li>• Guam, on or after 4-10-1899</li> <li>• U.S. Virgin Islands, on or after 1-17-37</li> <li>• Northern Mariana Islands, after 11-4-86</li> <li>• American Samoa</li> <li>• Swain's Island</li> <li>• District of Columbia</li> <li>• Federated States of Micronesia</li> <li>• Republic of Marshall Islands</li> </ul>	D
U.S. Passport	Expired or unexpired are acceptable	E
U.S. Military Identification	A-447, AF-447, DD-2, DD-214, DD-1173, DD-1934, MC-447, N-447	F
Certificate of Naturalization	N-550, N-570, N-578 INS	G
Certificate of Citizenship	N-560, N-561, N-645 INS	H
Northern Mariana Card	I-551 INS	I
American Indian Card	I-551 INS	J
U.S. Identification Card	I-179, I-197 INS	K
Resident Alien Card	I-151, I-551, AR-3, AR-3A, AR-103 INS*	L
Temporary Identification Card	I-688 INS*	M
Canadian Passport	Expired or unexpired are acceptable.	O

\* In some cases documents may be termed to expire within 4 years.

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Document	Comments	Docum. Code
Certified copy of Canadian Birth Certificate		P
Non-Resident Alien Canadian Border Crossing Card		Q
Record of Arrival and Departure (I-94) in a valid Foreign Passport	1-185, I-586	S
*Processed for I-551* stamp in a valid Foreign Passport.		
Permanent Resident Re-entry Permit	1-327	
Refugee Travel Document	1-571	
Certificate of Identity with a valid I-94	Issued in Hong Kong INS*	
Original Superior Court Order or Certified Copy of Court Order	Superior Court Order: "Affidavit of Birth," should have the customer's name and address, including the customer's birth date, and a judge's signature.	T
Certification from California Department of Corrections (CDC) or certification from California Youth Authority (CYA)	On CDC or CYA letterhead, must indicate the type of document, to verify ED/LP, and be on the acceptable list of documents.	U
Employment Authorization Card	I-485A, I-688B, I-766 INS*	V
Record of Arrival and Departure (I-94) Stamped "Parole", "Parole or Pardon", or "Asylee."	An applicant who presents an I-94 stamped "Parole" or "Parole" will be issued a one-year limited term driver license regardless of the expiration or departure date.	W
Notice of Action (I-797 Approved Petition)	Comments apply to I-797— *Must read applicant has been approved for an extension of stay or a change in status that grants temporary or permanent residency, or is a permanent resident whose original, duplicate, or renewal Alien Registration Receipt Card is forthcoming.	
Immigration Judge's Order granting Asylum.	*All I-797 forms with or without an alpha after the I-797 are acceptable. E., I-797A, I-797B etc.) as long as the letter is approved as indicated above. INS*	
Mexican Border Crossing Card	I-586 with a valid I-94 or I-586 with a valid I-94 INS*	X

\*Indicates documents may be termed to expire within 4 years.

(Rev. 1/95)

Senator SIMPSON. Thank you very much.

I know, Mr. Jackson, you have a busy schedule, so let me go to you with the first question. In your testimony, you state that New York requires an applicant to submit proof of identity in the form of documents from an improved list. Each document is then assigned a point value and enough documents from the list must be submitted to total six points apparently.

Mr. JACKSON. That is correct.

Senator SIMPSON. Could you give us examples of how many points the various kinds of documents are assigned, as far as U.S. passport and naturalization certificate, resident/alien card, driver's license from another State, and so forth? I have been told that New York will accept an expired visa as one of the documents submitted to prove identity. Is that really true? Because the most important fact on an expired visa is that the guy is here illegally. So tell us about that.

Mr. JACKSON. Mr. Chairman, let me start with the point system, if I may. If you have a New York State photo license and you want to update it and you show that license, it is worth six points. So with that one document, you have all the points needed to get a new document. But in the case of a visa and the other INS papers or citizenship or naturalization papers, those are all worth three points a piece. So we need other documents to reach the six-point threshold.

You could use a U.S. military photo ID which is worth three points; a resident alien card which is worth three points; employment and authorization card, three points; a major credit card is worth two points.

Getting to the second question about accepting an expired visa. What the philosophy had been is that what you are trying to do is to verify identification and not look at the document itself as being an active document or the status of that document. The philosophy was just identification that that person is who he or she says they are and to then issue their license. But actually and reflection, using that as a way or a means of giving a New York State license need to be reconsidered.

Senator SIMPSON. That was very diplomatically said there. What does the legislature think of that, because that is absurd. When did that go into your laws up there?

Mr. JACKSON. I have been the commissioner of the DMV in the State of New York only since January 3 of this year, so I do not know what the legislature feels about that policy nor what was the rationale promulgating such a procedure.

Senator SIMPSON. But I would think that you, as administrator, would make a recommendation to the legislature that that ought to be changed, would you not?

Mr. JACKSON. Most certainly, Senator.

Senator SIMPSON. I am sure you will. A new broom up there. How about a voter registration card, do you use those?

Mr. JACKSON. Voter registration cards is not one of the documents that we have listed here.

Senator SIMPSON. The light was all messed up and I know I had a short session, but you may proceed.



Senator FEINSTEIN. Thank you very much. My basic feeling is that one of the most counterfeited documents is a driver's license. Mr. Ricchiazzi, if you were to go to Alvarado Street, you could buy a driver's license for \$30 or \$40. That if you then came to me and submitted it as a work authorization document, I could not tell you whether it was fraudulent or true. And I think this is one of the problems using a driver's license as any kind of proof of real identity. I mean I could have bought three of them in one morning for \$30 to \$60 each.

Mr. RICCHIAZZI. You are paying too high, Senator.

Senator FEINSTEIN. That is one of the things that troubles me as using a driver's license as any kind of valid identification. Could you gentlemen comment on that?

Mr. RICKERT. Senator, I would like to comment briefly on that. It is true in Maryland as well. You can go to certain areas of the State and buy fraudulent driver's licenses, and in fact, we changed our appearance and the new fake driver's licenses were out within a week or two. There are two important points in our system to fight against that.

The first is that the license itself has many tamper-proof features which makes it very difficult to alter a license and also makes it fairly easy by looking at counterfeit license to see whether or not it contains the same security features. So that is some protection.

Senator FEINSTEIN. Yes, but I am an employer and you are coming to me for a job. And I run a small business and I ask you to submit proof of your eligibility to work. And you submit a driver's license. How can I tell?

Mr. RICKERT. The more important feature that we are building into our systems and is necessary, as many have testified, is to verify that driver's license. It is electronically readable in many States and most States that do not have electronically readable licenses are moving toward that.

Senator FEINSTEIN. But how would I verify it?

Mr. RICKERT. They are actually connected to our data bases and they can verify it.

Senator FEINSTEIN. Who is connected?

Mr. RICKERT. The car rental companies or almost all, as an example.

Senator FEINSTEIN. No. I am going to employ somebody.

Mr. RICKERT. I understand that.

Senator FEINSTEIN. And I have a garment shop or I have a stationery store or I have a service station, how do I verify it?

Mr. RICKERT. The technology exists that you could connect to a data base to verify it. Now it is not widespread yet. It is in its infancy, but the technology is there. Eventually and with today's technology, you could actually look at the photo—

Senator FEINSTEIN. But everyone will not have the technology. The housewife who hires will not have the technology. The farmer who hires will not have the technology.

Mr. RICKERT. I agree with that.

Senator FEINSTEIN. So what good does it do?

Mr. RICKERT. I do not know how you would build a system that virtually every employer would have access to immediately. The important thing to me is that the data base is being developed. The

technology is there to access the data base and it is a matter of bringing up the application.

Mr. JACKSON. I think one of the methods you might use, Senator, to prevent such a fraudulent use of a driver's license, would be to go to your district office—any employer, no matter how large or how small—and access our computer capability which you could do. Just to look at the reverse side of the coin, there is some information, some numbers and some statistics I was given which I have not verified, so I am using these as just sort of what guidelines that between the United States and the Provincial areas of Canada, there are approximately 200 million driver's licenses out there and from most of the experts I have spoke with, they said approximately 3 percent, certainly well under 10 percent of those are fraudulent. And the grand scheme of things, we are saying about 6 million documents are fraudulent documents.

So we have to be very careful, I would suspect, in how we enforce getting those fraudulent documents away from those people or trying to prevent the use of those. When we look at 97 percent of the people with driver's licenses are legitimate people, legitimate drivers.

Mr. RICCHIAZZI. I think too, by 1998, we will have all of the driver license and IDs in California with the new mag stripe, the new card rather than a paper. If you really look at the fraudulently made licenses and you are an employer, I think you could take your own card out and looking at the applicant for an employment, there is a significant difference in that card—the hologram, the printing. Another thing that is occurring and of course it is not going to be with just a one person employee or employer, some of the stores—

Senator SIMPSON. Excuse me, Frank.

Thank you, Mr. Jackson.

Mr. JACKSON. Thank you very much.

Senator SIMPSON. Your general counsel will leap into your seat, is that correct?

Mr. RICCHIAZZI. In the larger element, if you take as an example, a lot of the food markets right now are using the mag stripe that we have on the back of our driver's license, because it would be too costly for somebody to start manufacturing the mag stripe correctly. So they go through the swiper, the reader and that pretty much gives them the information that they would need. If it does not show anything, then you have got a bad card. But to be 100 percent, it is a matter of also visual as well.

Senator FEINSTEIN. Thank you.

Senator SIMPSON. Diane, I must say my guided tour with Frank Ricchiazzi was very impressive. He took me through the digital photographing, the system right there on the ground, taking applicants all the way through, and the diversity indeed, and of course the impatience of people waiting because it is taking longer. But the interesting thing was, and I will ask you again: Since you began trying to weed out illegals and gave notice of what documents were going to be required when you applied, what was that statistic you gave?

Mr. RICCHIAZZI. You cannot really come up with a real figure that says, OK, this is exactly what happened. But during that pe-

riod of time when we had said two things—we were going to be checking INS documents, residency, SSN numbers—roughly speaking, we were in the neighborhood of about a 100,000 decline.

Senator FEINSTEIN. A 100,000 what? Drop?

Mr. RICCHIAZZI. Drop in applications, ID cards. Now again, there are things such as seasonal adjustments that occur. The weather is a factor. So I do not want to say, it was 100,000, but that is the figure, what we showed.

Senator SIMPSON. In your testimony, you stated that duplicate California licenses and ID cards would be produced using—and I have seen this—the digitized photo on file and that that will thwart impersonators. What did you do previously and why was that so much more prone to fraud than the current system? And what would you recommend for other States—accepting that you have the biggest problems?

Mr. RICCHIAZZI. Before, of course, the legislation passed by the Governor which was what in 1993, we needed some kind of proof of legal presence. Before that it was wide open season which also brings up another point; and that is, what about before 1993? How many people are there in California walking around with an ID card or a California driver's license who really is not a citizen?

Senator FEINSTEIN. A lot.

Senator SIMPSON. Let me ask Mr. Rickert a question. When the applicant applies for a driver's license, what documents are required in most States as proof of identity and what changes would you recommend?

Mr. RICKERT. I think most States are very similar to New York State which was presented a hierarchy of documents with some assigned greater weight than others, depending on the security of them, the content of information, and what not. Generally, we have the same procedure as New York. We do not quantify with points, but we have primary and secondary. Primaries included such items as birth certificates, passport information, certain immigration documents for nonnative born applicants. Secondary include documents that would prove a signature, prove an address or that kind of thing.

As far as improvements, the biggest two that I can suggest. One is greater security and standardization in the breeder documents. We commented on that. The birth certificate is an example. The second is the opportunity to verify the validity of the identification documents from Social Security and INS. Those two recommendations alone, I think, which are in our written testimony, would take us all a long way toward fighting identification fraud.

Senator SIMPSON. What advantages do you see in the digitized photo?

Mr. RICKERT. The biggest advantage from my perspective, once the data is in the system, I can retrieve the photo and signature. So when a customer appears for a renewal or for a duplicate driver's license which is the biggest fraud point, the photograph and signature of record for that individual is on a computer screen right in front of me. The other advantage that I see potentially, as all of the States develop the same format, is that you can send this information electronically. So that if a person moves from Maryland to another State seeking identification documents, then Mary-

land can send the digitized data electronically, not only the name and address and that kind of information, but the photo and signature as well.

Senator SIMPSON. That is exactly what you are doing and I have seen that with the signature and the digitized photo. And now you are about to award a contract in California for the next generation license. Could you tell us briefly what that is?

Mr. RICCHIAZZI. Yes, when we first had the first contract for our license, we were paying something in the neighborhood of around 73 to 74 cents per license. We have just gone through our procurement and we have just accepted the one bid that will be in at approximately 49 cents a card. So we are seeing about a 50-percent drop in cost. When you are talking about 23 million and a cost break of about 24 cents per, that is a real significant drop.

Senator SIMPSON. Senator Feinstein.

Senator FEINSTEIN. Mr. Chairman, I would certainly commend these improvements. I have no doubt that for the purposes of getting a driver's license they can probably do what they are saying. But I think for the purposes of verifying the legal right to work in this country, the driver's license is a very poor document. Every State has a different one. I tried to find my driver's license and could not, but I was going to compare it with the California license that you just pulled out, and I am sure they are different, just from the ones—I have a valid driver's license.

However, employer group after employer group in California has said to me, make it simple for us. Give us one document that we can identify an employee by. We are not talking about a national ID card; we are talking about one document that establishes someone's legal eligibility to work in the country. I just think that the driver's license should not figure into this, but I thank you very much.

Senator SIMPSON. Thank you. I really appreciate your wonderful work since you have come to this subcommittee. Interestingly enough, an employer today who asks for a document other than what the law requires is subject to penalty.

Senator FEINSTEIN. Correct.

Senator SIMPSON. And that is absurd. We are going to have to do something about that in the course of what we are doing here. I agree with you, if there is any document that always looks worse, at least as a photo, it is the driver's license. But more importantly, now some are renewed by mail. So you have a driver's license with a picture that can be 8, 10 years old, and simply renew every 3 or 4 years, almost automatically. That shows the limited validity of that document.

We have a lot to do. I just want to ask a final question. A new verification system must perform two functions. Let me ask you if you agree with this statement that a system must perform two functions. First, it must verify the work authorization, that the name presented corresponds to someone authorized to work, verifying that someone with that name is assigned a regular Social Security number.

Second, it must verify identity, that the person claiming the name and the number is not an impostor. The use of a biometric identifier, such as a fingerprint is needed if this function is to be

performed reliably. But what do you think of that? Is that a correct statement?

Mr. RICKERT. Senator, I will hazard a first answer to that. I believe that it is very important in the context of driver license or a State-issued ID card that that be the identification document. I am not sure that I agree with your first statement that that driver's license or ID card also be the work authorization. If we can nail down the identification of the individual through the use of the driver licensing system, I think we have accomplished our purpose and then the work authorization is—once a person is established, the privilege comes from authorizing agencies.

Senator SIMPSON. Would you give your name for the record?

Mr. FLORENCE. I am William Florence. I am the deputy commissioner of the Department of Motor Vehicles and I am also its counsel.

Senator SIMPSON. Nice to have you here.

Mr. FLORENCE. One of the things that I wanted to volunteer concerning your interests here was that the driver license verification; that is, the fact of digitizing, the fact of adding information to the face of the license in a way that it is extraordinarily difficult and nonproductive to try to fraudulently reproduce, allows for there to be a far broader use of that license than simply identifying a driver for the purposes of driving.

We think about it in terms of credit fraud that you had earlier mentioned. We think of it also in other contexts where you need to verify the person representing who he is, not just in the work applicant situation that is perhaps focused in California with the illegals. We have a much broader and much diverse group of immigrant populations from all over the world than the Greater New York context. We have people who actually get assistance, personal service bureaus they call themselves, to bring them to the Department of Motor Vehicles for the purposes of getting that license. That license they again use as a breeder instrument for the purposes that you have already identified.

So we are very much interested in some sort of a relationship with the Immigration and Naturalization for the purposes of having some kind of a network or net that will allow us to reject and do something with papers which are inappropriately presented.

Mr. RICCHIAZZI. Senator, I am going to go back to a basic. We talked about SSN and we talked about INS. We are talking about Department of Motor Vehicles. Our first responsibility is the safety of drivers on the highway. That is why we are where we are. We are not there, as far as identifying for other purposes. I just throw this out, because I do not have an answer. Each of the different organizations that have spoken, be they FBI, CIA, DMV, Justice Department, et cetera, has a specific function. And there is a large gray area here in which we all have a data base for one purpose or another.

And the question is, how do we take those data bases and coordinate to do what we really want to do as far as ID? As far as the DMV, people have to come in. They have to take the photo, et cetera. How it can be used for a national? It is up to how it is coordinated with other data bases.

Senator SIMPSON. That is very interesting because that is your mission. Your mission is to assure that those on the highway are qualified. It is not to do work for others. But I think what is going to have to happen is that data bases are going to have to increase and they are going to have to be shared. We cannot have jurisdictions who say "we do not give information to the INS; we are an enclave for the disjointed" or whatever it may be. That has happened in the past. Jurisdictions have said, "we would not produce information for the INS, because those in our midst are fleeing terrible conditions or refugees are seeking sanctuary." I think those days are gone forever. Sanctuary is a magnificent thing, if it is not abused. Accepting refugees is a good thing if it is not abused.

But you are right. That is a very important distinction. What Mr. Rickert said is really what I am proposing: that the driver's license or a similar state document would be used to provide identity and the Social Security number, and INS data base would be checked for work and welfare authorization.

There is much to do here. I was just saying to Ted before he left that if a hearing like this had been held 15 years ago, they would have torn the building down. Yet here we are today, just a bunch of us, kind of sitting around and, with no media, no fireworks. That is fine with me. I get tired of them on this issue.

How fascinating that we are talking about personal identifiers and fingerprints yet 15 years ago this would have been a tumultuous, tumultuous exercise. Something is up. People are tired of seeing their programs, that they pay for, get gimmicked. And they live down the street from the guy who is gimmicking the system. They do not like it. It irritates them. So we have this situation now.

When the President stood before the Congress 2 years ago and held up a card and said "this is going to be the national health ID card and you will carry this and you will receive care," I did not see a single editorial about that, saying that this was the first step on a slippery slope—you know, the old usual hurrah that goes with that. We have work to do and we have the people to do it on this subcommittee and on the committee.

Did you have something you wanted to add?

Mr. FLORENCE. The only thing I was going to add to what you say is that you have tapped into a source of what turned out to be the most sophisticated and the most complete data bases among the States when you invited the various departments of motor vehicles. From our observation, the people who man them, the equipment itself, the architecture that is used in running them, are by far the most sophisticated, the greatest competency, the greatest levels of capacity. And we are all involved there. So I think you have touched—if you want to get a jump start, there is a place to do some of that.

Senator SIMPSON. I believe after spending a couple or 3 hours with Frank, I believe that.

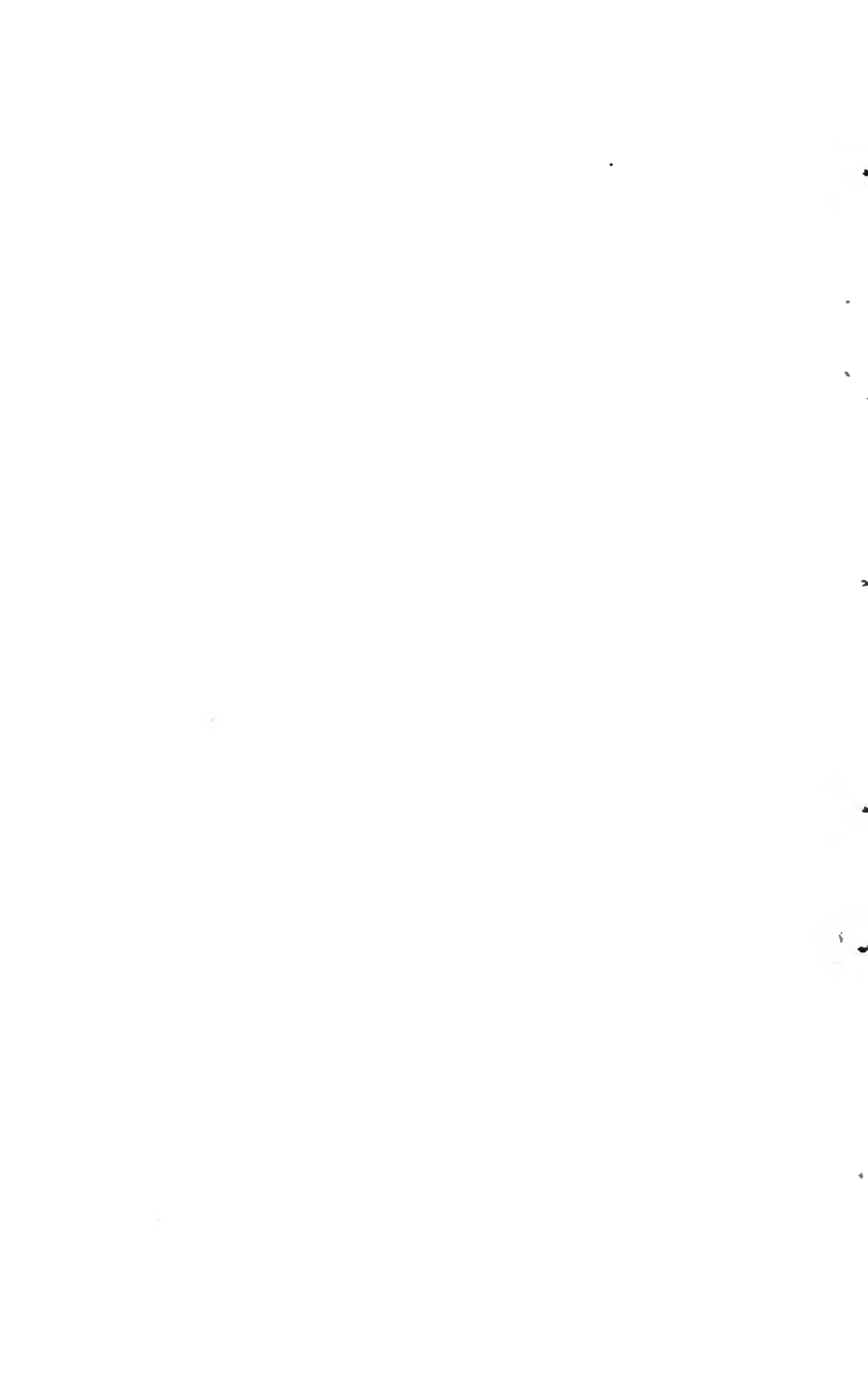
Mr. RICKERT. Mr. Chairman, in that vein, for any members of the committee or staff, I would extend an invitation to Maryland to look at our system as you investigate its potential. We have offices just outside the Beltway and also in August in Baltimore, we will be bringing together private providers of technology to dem-

onstrate the newest security features, if any of your committee or staff wishes to attend.

Senator SIMPSON. Thank you. I think we will take that opportunity. Personally, I want to get involved in seeing where we can go with birth and death certificates and this cross referencing. This is absurd. There are real holes there that I think the States do not want to see continue. Certainly if we do something, we cannot do it in the form of an unfunded mandate any more. But I think that is one that really needs some standardization—birth, death, and cross indexing. Judging from what I am hearing here that would clean up a lot of problems.

I thank the staff, minority and majority staff, and all involved in what I thought was an excellent hearing. Ted was reflecting on that too at the last vote. So thank you very much. I appreciate it very, very much.

[Whereupon, at 1:15 p.m., the subcommittee adjourned, subject to the call of the Chair.]





## APPENDIX

### ADDITIONAL SUBMISSIONS FOR THE RECORD

#### PREPARED STATEMENT OF THE MEXICAN LEGAL DEFENSE AND EDUCATIONAL FUND, SUBMITTED BY GEORGIANA VERDUGO AND CHRISTA MANZI SCHACPT

Tensions in the past few years over U.S. immigration policy, and passage of Proposition 187 in California, are prompting immediate Congressional action this session. The Mexican American Legal Defense and Educational Fund has always been concerned about the interplay between U.S. immigration policy and civil rights, especially as these policies impact upon Latinos. In the rush to address immigration on the national front, immigration policy and civil rights policy may conflict. We respectfully offer the following testimony to highlight some concerns with S. 269, the Immigration Control and Financial Responsibility Act of 1995 in the hopes that these considerations may inform the outcome of legislative action.

#### IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1995 SYSTEM TO VERIFY ELIGIBILITY TO WORK

Section 111 requires implementing a national verification system for employment and benefits within eight years. Eight years is an extraordinarily fast time frame to implement a national system that will have grave ramifications on an individual's civil rights.

#### VERIFICATION WILL INCREASE EMPLOYMENT DISCRIMINATION

A complex verification scheme will perpetuate the discriminatory aspects of employer sanctions, and legitimize discrimination based on national origin. Employer sanctions have resulted in widespread discrimination. The General Accounting Office [GAO] concluded that the implementation of IRCA's employer sanctions provisions had directly resulted in a "widespread pattern" of national origin discrimination against authorized workers.<sup>1</sup> Verification will increase employment discrimination. The GAO report found that nearly 900,000 employers, confused by the complexity of the law and fearing sanctions, had adopted discriminatory hiring policies and practices victimizing Hispanics, Asians, and other Americans who happened to look or sound "foreign."<sup>2</sup> This confusion could never be eradicated particularly because new employers establish businesses every day. It is therefore unlikely that the necessary resources required to educate employers will be provided or maintained.

#### THE VERIFICATION COMPONENT IS UNNECESSARY

The verification component is said to be crucial to fulfill implementation of employer sanctions. This only authorizes further experimentation in an unproven area. There is little evidence to support the assumption that sanctions have reduced undocumented immigration. Studies by the Urban Institute have found that at best sanctions have had only marginal effects on undocumented immigration.<sup>3</sup> Given the minimal impact of sanctions on undocumented migration, and the known discrimi-

<sup>1</sup> United States General Accounting Office, "Immigration Reform: Employer Sanctions and the Question of Discrimination, GAO/GGD-90-62 at 3 (1990).

<sup>2</sup> United States General Accounting Office, "Immigration Reform: Employer Sanctions and the Question of Discrimination, GAO/GGD-90-62 at 38 (1990).

<sup>3</sup> "The Paper Curtain: Employer Sanctions' Implementation, Impact, and Reform," (Michael Fix ed., Rand Corp. & Urban Inst. 1991); "Undocumented Migration to the United States, IRCA and the Experience of the 1980's," (Frank D. Bean, Barry Edmonston, and Jeffrey S. Passel eds., Rand Corp. & Urban Inst. 1990).

natory impact on those who look or sound different, the verification system as envisioned by S. 269 is misguided and dangerous.

#### VERIFICATION SYSTEM REQUIREMENTS ARE INSUFFICIENT

Section 111(b) requires the listed elements before implementing the program. However, the section does not include language providing any criteria for adequately defining these elements. This lack of accountable standards aggravates discrimination that will inevitably occur. The section omits any requirement for testing any of these goals. Therefore, this section is so vague as to be meaningless.

#### THERE ARE NO PRIVACY SAFEGUARDS

The privacy standard, "in accordance with industry standards," is inappropriate because of the different entities involved. Various Federal, State, and local agencies, as well as private business, will have access to the verification system databases. Privacy must be protected beyond that provided in Section 111(b)(4): "in accordance with industry standards." Particularly with the likelihood of use, abuse or mistakes of government information, a clearly defined standard is required to protect the privacy of all.

Unlike other information collected, there are many liabilities that flow from misuse of this information. This includes the right to an education, and may include the right to contract as well as the ability to work, covered in this section. Therefore, this standard is well below the threshold needed to protect the vital rights at stake in this section.

#### LOW ACCURACY RATES COMBINED WITH HIGH COSTS CREATE A CUMBERSOME AND INEFFICIENT SYSTEM

Requiring implementation of a verification system within eight years for agencies which have admitted high error and high backlog rates in their databases would memorialize bad policy. While inaccuracy rates may ultimately diminish as an argument when the system is "cleaned up," there will always be errors given the human factor of data entry mistakes or misplaced files. The very livelihood of people should not be jeopardized because of this great risk of error. Also, the amount of money required to clean up the system has not been specifically guaranteed or provided. Costs to clean up the system will arguably be high, and perhaps ill conceived in a political climate calling for less government spending.

Verification procedures heighten the anti-Latino atmosphere that is already underway since passage of Proposition 187.<sup>4</sup> The absence of testing requirements or standards to eliminate discrimination will chill decisions to hire those who appear or sound foreign.

#### DEMONSTRATION PROJECTS

Section 112 would grant authority to the Administration to conduct pilot projects. Given the Administration's budget plans, the Telephone Verification System will be expanded and will be one of these authorized pilots.

#### SYSTEMS LIKE TVS ARE FUNDAMENTALLY FLAWED

Because of the undue focus placed upon those who may appear or sound foreign-born, the verification component is fundamentally flawed. Such a focus will inevitably cause discrimination at the threshold of employee application. Like employer sanctions, when foreign-looking or sounding people are required to produce documents, discrimination is inevitable. Proponents of a verification system fail to recognize that there is an inherent conflict between verification practices required by the law and anti-discrimination principles.

#### NO IMPLEMENTATION OR OPERATIONAL STANDARDS ARE PROVIDED

Section 112 provides no standards to ensure that the verification system does not conflict with anti-discrimination principles. The section does not provide a mechanism for detecting compliance with anti-discrimination principles. At the pilot stage, there is no testing requirement, no standard of success, and no sanctions against employers for wrongful conduct. Therefore, the pilots are unrealistic and an inappropriate means to guide a nationwide system.

In addition, the Telephone Verification System pilot wrongly uses non-citizens as "guinea pigs" in an attempt to deal with the complex and complicated issue of immi-

<sup>4</sup> Robert D. Hershey, Jr., "Bias Hits Hispanic Workers," N.Y. Times, April 27, 1995 at D1, D3.

gration. This system will be imposed on all noncitizens to get at 1% of the population. Arguably, the program will not affect the 1% of the population who work in the underground economy, as the operators of the system will likely flout this law. However, those who are work-eligible, citizen and noncitizen alike will be hampered or barred from employment.

#### DATA BASE FOR VERIFYING EMPLOYMENT

Section 113 accepts the rate of error implicit in the secondary verification process. This acceptance lays the groundwork for implementation of a flawed and faulty system.

While there is a notice provision under Section 113(d)(2), this section assumes that employers will not automatically fire the individual if the secondary verification indicates that more information is needed. This section should make clear that this type of action is prohibited conduct. In addition, sanctions for wrongful conduct should be clearly articulated in this section.

The section does not provide an individual recourse when the secondary verification falsely asserts that an eligible worker is ineligible to work. The eligible worker is thereby wrongly precluded from work.

Section 113(e) does not require updating the current backlog of information. Under this section, only prospective information must be provided for within 10 business days. The section ignores the current backlog of data that must be entered or corrected. In 1992, the GAO concluded that an estimated 12% of aliens were not notified for hearings because of inaccuracies in the INS data base.<sup>5</sup> The GAO report stated, "[m]ost of the inaccuracies we identified related to not updating alien addresses or the names or addresses of their representatives in the Central Address File."

This test also concluded that 9% of the records had inaccurately recorded names or addresses. The TVS system is based upon an unacceptably high error level.

For these reasons, we urge the Subcommittee to reconsider the verification component of S. 269.

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#### PREPARED STATEMENT OF THE NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS AND AMERICAN FARM BUREAU FEDERATION, SUBMITTED BY BOB L. VICE

My name is Bob Vice. I am President of the California Farm Bureau Federation (CAFB). I am submitting my comments today on behalf of the National Council of Agricultural Employers and the American Farm Bureau Federation on whose Boards of Directors I serve.

The National Council of Agricultural Employers (NCAE) is a Washington, D.C. based national association representing growers and agricultural organizations on agricultural labor and employment issues. NCAE's membership includes agricultural employers in fifty states who hire about 75 percent of the national agricultural workforce. Its members include farm cooperatives, growers, packers, processors and agricultural associations. NCAE's representation of agricultural employers gives it the background and experience to provide meaningful comments and insight into issues concerning employers and the problems they face in complying with the verification of eligibility for employment.

NCAE is filing this statement jointly with the American Farm Bureau Federation (AFBF). The American Farm Bureau Federation is the nation's largest general farm organization. Farm Bureaus in all 50 states and Puerto Rico represent some 4.4 million member families nationwide. Farm Bureau's farm and ranch members are engaged in the production of virtually every agricultural commodity grown commercially in the United States.

NCAE and AFBF respectfully request that the Subcommittee examine the difficult position employers encounter when they attempt to verify the employment eligibility of a worker as required by the Immigration Reform and Control Act (IRCA), (8 U.S.C. § 1324a(b)) while at the same time avoiding discrimination on the basis of national origin, citizenship status and document abuse under IRCA and Title VII of the Civil Rights Act of 1964, as amended.

The 1987 Census of Agriculture reported 818,347 farms hiring labor, and a gross payroll of \$10.9 billion. In addition, the census of reported that 272,000 farms used 347 contract labor and paid a total of \$1.8 billion in contract labor expenses. The U.S. Department of Labor summarized that as of May, 1993 there were 13,711 licensed farm labor contractors that reported employment of 488,223. While there is

<sup>5</sup>United States General Accounting Office, "Immigration Control: The Central Address File Needs to be More Accurate," GAO/GGD-92-20 (1992).

no equivalent data on employment by farmers, the 1982 Census of Agriculture, which reported roughly the same number of farms hiring labor as were reported in 1987, reported 4.856 million "hires" during the year. This statistic reflects the large amount of seasonal employment and multiple job holding which occurs in agriculture.

Compliance with the employer sanctions, employment eligibility verification and anti-discrimination provisions of IRCA poses a significant challenge to all employers, especially agricultural employers, many of whom are small family-run businesses. Numerous parts of the agricultural industry rely heavily upon migrant and seasonal workers, many of whom are from a variety of ethnic backgrounds and may be alien residents. As the above figures indicate, the large seasonal turnover of the workforce means that agricultural employers engage in the hiring and related Form I-9 completion process on a more regular basis than those in most other industries. The challenges of the employment verification process in an agricultural work environment are complicated by the fact that many job applicants do not speak, read or write the English language.

#### AGRICULTURAL INDUSTRY EDUCATION EFFORTS

NCAE would like to preface its testimony by stating that the agricultural industry has worked diligently to educate its employers regarding their obligations to properly verify the work eligibility of workers and avoid discriminating against work authorized aliens and persons because of their natural origin during the verification process. Shortly after IRCA's enactment, recognizing that the nature of the workforce in agriculture made them likely subjects of enforcement efforts by INS and DOL, agricultural organizations, began extensive training of their members regarding IRCA compliance, often in conjunction with INS and OSC representatives.

In the past several years, the Justice Department's Office of the Special Counsel for Immigration Related Unfair Employment Practices (OSC) has provided NCAE with grants to conduct a nationwide educational campaign. NCAE has used these grants to educate agricultural employers and farm labor contractors about the immigration-related unfair employment practices provisions of IRCA and its subsequent amendments. Both of these groups of employers employ large numbers of aliens for seasonal and some year round employment. NCAE's experience in this nationwide educational outreach indicates that there is a tremendous lack of knowledge regarding the anti-discrimination provisions of IRCA, especially its later enacted document abuse provisions.

It is no surprise that agricultural employers and farm labor contractors are heavily dependent on domestic and alien migrant and seasonal workers. OSC's anti-discrimination educational programs and essential for agricultural employers and contractors because they operate in a labor environment with a large number of hires in which the chances for violation of both the employer sanctions and the anti-discrimination provisions of IRCA are very high.

#### THE I-9 VERIFICATION PROCESS IS FRAUGHT WITH UNCERTAINTY

Notwithstanding the industry's educational efforts, surveys of agricultural employers indicate that employment eligibility verification (the Form I-9 process) is still confusing and time-consuming. One of the major complaints about the Form I-9 process is that the number of acceptable documents for work authorization purposes is too large and that the acceptability of many documents is unclear.

This becomes especially difficult for agricultural employers during peak hiring periods when large numbers of workers are hired in the field. Completion of the Form I-9 for large numbers of field workers can be an arduous process, especially where there are language difficulties. Moreover, employers knowledgeable about the document abuse provisions of IRCA (8 U.S.C. § 1324b(a)(6)) are hesitant to refuse to accept uncommon documents about which they are uncertain as to their acceptability for work authorization purposes. Under IRCA's document abuse provisions, employers are charged with a per se violation of the Act if they request more or different documents than are required or refuse to accept tendered documents that appear on their face to be genuine.

NCAE would welcome efforts by Congress to reduce the number of documents acceptable for employment eligibility verification purposes. It is anticipated that this would decrease the amount of time required to process new hires and hopefully reduce the likelihood that conscientious employers would inadvertently violate IRCA's document abuse provisions while trying to ascertain the legitimacy of uncommon or questionable documents.

## EMPLOYER SANCTIONS

One of the greatest areas of concern for agricultural employers is the almost irreconcilable conflict between the employer sanctions and anti-discrimination provisions of IRCA. Section 274A of IRCA prohibits the knowing hiring or retaining of persons unauthorized to work in the United States. Under IRCA, it is unlawful for an employer to knowingly hire an undocumented alien, to continue a person's employment after discovering the person is or has become unauthorized, knowingly obtain unauthorized workers through a contractor or subcontractor, or fail to verify the identify and employment authorization of all new hires and rehires.

As part of the I-9 verification process, employers must fill out the I-9 form for every worker hired after 1986, examine the worker's documents and verify that the worker is eligible to work in the United States. In addition, the I-9 form must be retained for at least 3 years. Failure to properly comply with IRCA can subject an employer to penalties and fines. Fines for employer sanctions range from up to \$2,000 for the first violation, up to \$5,000 for the second violation and up to \$10,000 for the third and subsequent violations. In addition, if an employer engages in a pattern and practice violation, they can be fined up to \$3,000 and spend 6 months in jail. Lastly, employers who commit I-9 paperwork violations can be fined \$100 to \$1,000 per violation.

Because of the nature of its work population, agricultural employers are well aware that their industry is under scrutiny by INS. They are also aware that the Clinton Administration has requested nearly a billion dollars for border control and to intensify and expand interior enforcement of IRCA's employer sanctions provisions, with a focus on agriculture and other "immigration-affected" industries. Enhanced enforcement of employer sanctions necessarily will drive employers to rigorously scrutinize documents during the verification process. However, additional efforts to screen job applicants for employment authorization will leave employers subject to charges of discrimination under IRCA.

## ANTI-DISCRIMINATION PROVISIONS OF IRCA

IRCA's employer sanctions provisions (Section 274A) send a strong, simple message: scrutinize employment documents carefully or face significant fines. IRCA's anti-discrimination provisions (Section 274B) send an equally strong and simple message: scrutinize employment documents too carefully or ask for them without using the precise choice of words required by the document abuse provisions and face significant fines. These provisions send a contradictory message to employers. Under Section 274B, it is unlawful for an employer to discriminate against an individual in hiring, recruiting or referring or discharging an individual on the basis of a person's citizenship status or national origin. An employer can be in violation of the document abuse provisions by requesting more or different documents than are required by law or by refusing to honor documents that, on their face, appear to be genuine.<sup>1</sup> For example, if an employer specifies which documents are acceptable, OSC will consider such specification as document abuse subject to fines.

The document abuse provisions of IRCA (§274B(A)(6)) enacted in 1990 significantly aggravate the tension between the sanctions and anti-discrimination provisions of IRCA. It is unfortunate that the document abuse provisions were adopted as part of the conference report on the Immigration Act of 1990 (IMMACT 90) without having undergone the traditional route of enactment. Had there been debate in both Houses of Congress, it is possible that some of the practical problems resulting from the provisions could have been avoided.

While GAO studies have indicated that over-documentation of applicants was a problem, the broad application of the document abuse prohibitions have exacerbated compliance problems under IRCA by allowing for findings of liability without a knowledge standard. Thus, if an employer, in an effort to comply with what it perceives to be the intent of the employer sanctions provisions, makes a mistake in specifying a type of document or writing down two employment authorization documents in section 2 of Form I-9, it faces liability.

At the same time the document abuse provisions were added, IMMACT 90 also created section 274 which provides enhanced civil penalties for document fraud. While the intent and need for such provisions is understandable, they sent a message to employers in direct contradiction to the new document abuse provisions—scrutinize documents more closely or face additional penalties.

<sup>1</sup> §274B(a)(6) prohibits employers from asking for more or different documents than are required under §274A(b) of the Act and from refusing to accept documents that on their face reasonably appear to be genuine.

## CONFLICTS IN IRCA EMPLOYER SANCTIONS AND ANTI-DISCRIMINATION PROVISIONS

Conflicts between the underlying purposes of IRCA are a cause of great concern for agricultural employers. Agricultural employers recognized after enactment of IRCA that because of the diverse ethnic composition of its workforce, it would be a likely target for enforcement of the provisions of §274A. As noted above, the industry and NCAE undertook extensive educational efforts to inform employers and its members of their employment eligibility verification obligations. Agricultural employers often worked closely with INS and OSC officials to set up their hiring procedures in a manner that complied with the new law.

Initially, neither the industry nor INS considered document abuse as a type of discrimination under IRCA. After enactment of IRCA, there were few legal standards and little public education regarding the anti-discrimination provisions of the law. And even the INS was unclear as to what constituted discrimination under IRCA. There are examples of procedures created by employers with the oversight and approval of INS that were later determined to constitute document abuse by the Office of Special Counsel, INS' sister agency within the Justice Department.

In one notable example, representatives of INS advised a large agricultural entity to request INS issued documents from all applicants and to forward the "A" numbers to it for review. The organization complied. While OSC could not prove that any persons with proper documentation were denied a job as a result of the entity's requirement that applicants provide an INS-issued card if they had one, the entity was nonetheless charged with discrimination by OSC. The agricultural entity in question was assessed thousands of dollars in damages based on document abuse allegations, even though the procedures were adopted based on INS advice which resulted in no demonstrable harm to workers.

Employers can be charged with discrimination even when workers voluntarily present INS documents. For example, workers generally fill section one of Form I-9. If the worker is an alien, they must check the box signifying whether they are a lawful permanent resident or an alien authorized to work. The applicant will often take out his/her INS-issued card in order to write down the required alien number. When the employer undertakes his responsibility in section 2 and requests to examine a document from list A, or list B and C, the alien will commonly present the same INS card he used to fill out section one only moments before. This process happens on a regular basis without any request by employers for INS documentation. Yet, if an OSC audit of employer records shows that a substantial number of alien employees provided an INS-issued document as a List A document, OSC will assume the employer is requiring that INS documents be provided.

## FRUSTRATION UNDERMINES IRCA'S LEGITIMACY

There are numerous similar examples. The conflict between IRCA's employer sanctions and anti-discrimination provisions are a source of tremendous frustration for well-intended employers who believe they are complying with the intent of the law. A typical problem faced by the agricultural employer occurs when a large number of applicants show up during peak seasonal hiring periods. Employers face a challenge at the time of hire in communicating with the large number of applicants regarding their Form I-9 obligations in a manner that does not specify documents. Many workers ask the employer what type of documents the employer wants and cannot read the description of documents on the back of the Form I-9. Many applicants do not speak English and some do not read or write.

Under the document abuse provisions of §274B, employers face the totally confounding situation of having to read the entire list of documents on the back of Form I-9 to each worker in order to avoid specifying documents. When an employer has dozens of workers lined up for production and harvest jobs, such a procedure is impracticable and time-consuming. No one is more frustrated than the workers.

Yet, if the employer makes reference to a "mica" or some other short-hand expression for employment documents that almost all workers understand to mean a variety of acceptable documents, they face document abuse charges. When employers ask OSC for practical advice on how to avoid these problems, they seldom get a clear and practical answer because there is not one.

Other typical problems arise when INS provides employers with information that documents tendered by workers have "bad numbers." Once such information is provided, INS takes the position that the employer has constructive knowledge that they are violating §274A. Yet, if the employer fires the worker based on the alleged constructive knowledge and INS' information about the "bad number" proves to be incorrect, OSC will charge the employer with discrimination. OSC often advises employers not to rely on INS representations about the validity of documents because of inaccuracies in INS' database. Yet, if employers do try to obtain further verifica-

tion of the employee's or applicant's employment eligibility, they face document abuse charges.

#### FEAR OF SANCTIONS AND ANTI-DISCRIMINATION PENALTIES INHIBITS PARTICIPATION IN PILOT PROJECTS

Because of the unclear and occasionally conflicting positions of OSC And INS related to constructive knowledge and what constitutes document abuse, agricultural employers have been hesitant to participate in the pilot document verification program sponsored by INS. While many agricultural employers would welcome the opportunity to obtain speedy determinations as to whether proffered employment eligibility documents are valid, they have been hesitant to participate in the program because of: (1) warnings about the inaccuracies in INS' data base; (2) court decisions preventing INS from disclosing certain information related to job applicants; (3) the inability to obtain written communications from INS confirming that persons are unauthorized to work rather than the ambiguous statement that the document number offered does not appear to be valid; and (4) delays in the process which render the exercise less meaningful because of the short period of employment that many seasonal agricultural workers experience.

Other agricultural employers have experienced situations where applicants have provided documents with different names or some other discrepancy. When the employer defers a hiring decision until after the applicant attempts to clarify the discrepancy between documents, they are sued for discrimination. OSC then investigates and finds no discrimination. Yet, while conducting the investigation and auditing I-9 Forms, they may find a minor technical flaw in filling out Form I-9. For example, OSC may find that a hiring clerk recorded a List A INS document in Section 2 of the form, while writing the social security number down in Section 1 where requested, as well as under List B. The minor error of recording the social security number twice, once in Section 1 and again under List B of Section 2, becomes the basis of an over-documentation charge carrying up to a \$1,000 fine. OSC also may find out after interviewing field supervisors that they tell workers in a field hire situation as described above to have their "micas" or other documents ready.

As a result of such an OSC investigation, OSC may find that no discrimination occurred when the employer pointed out the discrepancy in documents, but nevertheless seeks to assess the employer thousands of dollars in fines for document abuse. The fines are based on the large number of seasonal hires whose I-9 forms had the double listing of a social security card or assumption that all production workers asked for a "mica" or similar type of card were discrimination victims. Given the essentially strict liability standard for document abuse, it is easier and cheaper for employers to settle such cases than fight them, even though they were acting consistently with IRCA's intent.

The uncertainties felt by employers often are manifest by INS and OSC representatives during public presentations about IRCA. Often, the spokespersons from these two agencies within the Department of Justice do not agree on IRCA's requirements or cannot provide clear answers to common practical problems. The conflicting advice and policy positions provided by INS and OSC in such situations further undercut respect for IRCA. NCAE's members often feel that they are put into a "damned if they do and damned if they don't" position where often exorbitant fines are demanded for technical violations that have resulted in no harm.

The above examples are not intended to disparage IRCA, INS or OSC. Given the inherent contradiction in the law, it is nearly impossible for INS and OSC to give "bright line" advice. The typical problems described above are illustrative of the practical problems encountered daily by agricultural employers trying to comply with a complex and inherently contradictory law. For the small family farmers who characterize NCAE's membership, who do not have a personnel staff or in-house experts for workplace compliance, it is almost impossible to comply with the contradictory provisions of IRCA. Yet, employers are expected to exercise the wisdom of Solomon in complying with a complicated law, often with workers with limited understanding of English under hiring situations that are fluid.

#### RECOMMENDED OBJECTIVES OF REFORM

NCAE recommends that the following objectives should be incorporated into any reform of IRCA:

##### *Streamlined and simplified employment eligibility verification*

The number of acceptable documents for use in completion of the I-9 Form should be reduced in order to avoid confusion and uncertainty on the part of employers as to what is acceptable for employment verification;

If an acceptable and effective means of determining whether employment documents are legitimate through a computer-data base or system is implemented, employers must be afforded a good faith legal defense to discrimination charges if they rely upon such a system or the advice of INS or other government agencies regarding the employment eligibility of job applicants or employees. INS should be required to provide employers with a written or other recorded record whenever it informs employers that their employees are not work authorized. Employers should not be subject to sanctions under Section 274A on the basis of "constructive knowledge" if INS orally advises them that documentation is questionable. Employers currently take adverse action against applicants or employees based on oral INS advice at their own risk, facing discrimination charges if INS is wrong.

*A temporary and seasonal agricultural worker program is an essential part of illegal immigration reform*

NCAE's support for the counterfeit-proof employment eligibility verification system is contingent upon enactment of a viable temporary seasonal agricultural worker program. American agriculture is concerned that a substantial portion of its workforce provides work eligibility documents that meet current legal requirements because they appear to be facially legitimate. However, it is widely believed that such documents would not meet the standards of a tamper-proof card system tied into a computer or telephonic verification system. As a result, it is critical that the Subcommittee include a nonimmigrant temporary and seasonal agricultural worker program as part of illegal immigration reform. Such a program is a necessary and logical part of illegal immigration reform control because it ensures a viable means of obtaining legally authorized workers should a significant portion of the agriculture workforce be excluded by a system that ensures the integrity of employment documents.

A nonimmigrant temporary agricultural worker program is an essential part of the Subcommittee's efforts to control illegal immigration because no current viable program exists to meet agriculture's needs. The SAW program has sunsetted and, in spite of attempted reforms of the H-2A program in 1986, the H-2A program does not work. Its traditional users who sought modest reform in 1986, have concluded that it is less workable than before the 1986 amendments. It is now characterized by regulatory "hamstringing" and litigation that makes it unreliable and too costly to use.

While NCAE supports Congress' commitment to controlling the nation's borders and to establish employment document integrity, it also believes that a temporary alien program can be adopted that would control admissions of workers, protect the domestic and temporary worker and their wages and working conditions, ensure that temporary workers return to their countries of origin in a timely manner and support itself through adequate users' fees.

*Revised document abuse provisions*

NCAE agrees that the employers should not be able to arbitrarily exclude persons from a job by rejecting them if they have acceptable documentation. However, this well-intended purpose has been lost in the implementation of the document abuse provisions. The document abuse provisions of Section 274B(a)(6) must be narrowed in scope and revised to eliminate their current, almost strict liability standard. Employers should not be found liable simply for the choice of words they use in responding to questions about acceptable documents, even if workers are not denied jobs or fired.

We thank you for the opportunity to present our views and look forward to working with you to meet the objectives of illegal immigration reform legislation.

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PREPARED STATEMENT OF RICHARD W. VELDE

Existing federal, state and local identification systems have been subjected to massive fraudulent manipulation over the years. This has resulted in tens of billions of losses in various federal and state entitlement and benefit programs, as well as condoning and facilitating the presence of millions of "out of status" individuals. Many of these individuals have been a major drain on our institutions of government and taxpayers.

Although great strides have been made in the development and automation of criminal identification and information systems in the past twenty five years, much more must be done to build an integrated system that can fully take advantage of new technology. Comprehensive federal legislation is needed to allow the interstate exchange of criminal history information, but safeguards with appropriate criminal and civil sanctions must be put in place to insure the integrity of the various data



bases and to protect the privacy of individuals who are the subjects of these data bases.

The same situation exists with respect to existing federal law for the exchange of personal identifier information between federal, state and local authorities. It must be revised and modernized and a new comprehensive, consistent federal law enacted to enable fully the exchange of identifier information. Current law is a hodgepodge of often conflicting and technologically obsolete provisions which do not protect the privacy of affected individuals and which fall short of the standards set in the Federal False Identification Act of 1982 and Section 609(L) of the Crime Control Act of 1984.

These laws federalized ID document fraud and misuse and set minimum standards for them. The standards were quite simple:

Documents as defined in the 1982 act were to be counterfeit and tamper resistant and should relate positively to the identity of a particular individual. Further, the Attorney General was to submit comprehensive legislation to Congress within three years for the interstate exchange of identifier information.

That legislation was never forthcoming.

Legislation is needed to deal with endemic problems of massive fraud involving employer sanctions under the Immigration Reform Act of 1986, The Brady Handgun Violence Prevention Act of 1993, the National Child Protection Act of 1993, and The National Voter Registration Act of 1994, to cite just a few of applicable federal laws which require verification of identity.

All these federal laws plus thousands of state laws and local ordinances have common characteristics:

Convicted Felons, underage individuals and illegal aliens cannot buy guns. Many convicted felons and illegal aliens cannot work in child care. Most—not all—convicted felons cannot vote. Non-citizens may not vote, nor can underage persons. Out-of-status persons may not live, work nor vote in the United States.

Similar prohibitions apply to various federal entitlement and benefit programs such as food stamps, education, medical and welfare. Similar prohibitions apply in the thousands of state and local programs.

Yet all suffer from a common failing. All lack the ability to identify positively those who are lawfully entitled to benefit from the laws; All lack the ability to identify positively those who are to be denied the benefits of the laws.

This failure is costing us tens of billions annually; it robs us of job opportunities; it affects our elections; it results in increased violent crime and drug trafficking; it places heavy burdens on health care, education and housing. It contributes to passport and border crossing fraud, compromise of military identification systems and it is a massive drain on the social security system, as well as massive fraud on the IRS.

Our private financial and credit card industries also suffer major losses from identification fraud. A recent news account cited industry sources to the effect that current losses were near \$1 billion annually—a dramatic increase in recent months. All too often, industry has relied on easily counterfeited or altered documents to extend credit or to provide goods and services.

Can we continue to afford this crazy quilt of conflicting and ineffective identification legislation: Just examine the congressional debate last year on health care fraud and look at the calls for a national health card. Just examine the debate on the House floor on welfare reform or the recent debate on food stamps and the \$2-3 billion annual losses in that one program alone. Just look at the hearing records of the House Ways and Means Committee and the Senate Finance Committee over the years on fraud on the IRS. We all pay for that—but why?

The technology and the legal precedents are at hand—if only we look at the problem of identification documents in a systematic fashion and develop comprehensive legislation to regulate the interstate exchange of identification information. Legislation is also needed to provide uniform national standards for identification documents.

Congress has provided for uniform national standards and positive identification for commercial drivers and private pilots and aircraft owners. Why not for all drivers and others who need state identification cards?

With due respect for the Jordan Commission, there is no need for a separate national immigration data base of persons lawfully entitled to live and work in the United States to be accessed by employers under the 1986 Immigration Act.

The Commission has made a thorough investigation of the problems of document fraud and deserves high praise for its attention to this Achilles heel of the employer sanctions provisions of the 1986 Immigration Reform legislation.

However, Section 101 of the 1986 Immigration Act already focuses on the problem of document fraud and authorizes INS to work with state DMVs to improve the

driver's license. It is laudable that INS now has a pilot program in this area with the California Department of Motor Vehicles. It is laughable that it has taken this long for the first pilot.

Information on in- and out-of-status aliens can be shared with state Motor Vehicle Departments prior to issuance or renewal of drivers licenses—on line and in real time. The Immigration Service has at least four mandates from Congress in 1986, 1988, 1990 and 1994 to share its data on illegal and criminal illegal aliens with state criminal justice agencies for enforcement of federal and state criminal laws. Why not make the same information available to DMVs?

These persons should not be allowed to drive as well. They should not be able to buy or make phony IDs and other documents to rip us off and rob and steal and traffic in illicit drugs.

Then employers could begin to rely on drivers licenses as a means of positive identification for job applicants. These would be little if any need for the other 28 documents authorized by the INS for applicants to present to the employer. This amazing array makes it virtually impossible for the responsible employer to comprehend and sort out and make an informed judgement that the person applying is the person indicated on the supporting documentation. Why not concentrate on the drivers license?

#### EXCHANGE OF CRIMINAL HISTORY INFORMATION

In 1969 my former agency, LEAA, sponsored a demonstration effort in which a group of six state criminal identification groups came together to form a consortium called Project Search. It was charged with the task of developing a standard format for the criminal history record, or rap sheet, and then demonstrating the interstate exchange of background information. At the same time, task forces were formed to examine the questions of protection of privacy of individuals who were the subjects of the records and to insure the security of the computer systems.

Today, some 25 years later, the consortium has become a non-profit organization that includes all 50 states and federal representatives. Model state laws were formulated and are now in place in all the states, although they are far from uniform. Most repositories are automated, although millions of files are still to be converted.

In 1973 Congress authorized LEAA to issue regulations to govern the interstate exchange of the records. This was to be an interim provision to be replaced by more comprehensive legislation. In 1976, as Administrator, I issued the regulations. They are still in effect today and seem to be working reasonably well. But they are only as good as the underlying law, and do not contain a statement of national policy and priorities that should govern the exchange of rap sheet information.

In 1979, the FBI was authorized to begin a pilot project for "Triple I", the Interstate Identification Network, as part of its National Crime Information Center, for the on-line exchange of rap sheet information utilizing a "pointer" or summary system first developed in 1970 by Search Group.

#### BRADY GUN PURCHASER BACKGROUND CHECKS

In 1988, this authority was made permanent by the McCollum-Dole amendment on that year's crime bill, which authorized the FBI and its Triple I to establish a national instant system for checking bona fides of prospective gun buyers. This provision was incorporated into the 1993 Brady Act and the states were given five years to set up the instant system. Meanwhile a national five day waiting period was instituted in those states what were not in compliance.

Today, 26 states have their own instant systems or longer waiting periods or state licensing laws. Another nine states must come into compliance before the five day waiting period is sunsetted.

The Brady Act places an affirmative mandate on chief law enforcement officers of local jurisdictions to perform background checks. In five states, led by Virginia, the state police perform the checks for dealers who are "on line" in dial up networks.

Under the 1968 Gun Control Act, eight categories of persons are prohibited from buying firearms, including convicted felons, illegal aliens and persons under 21 for a handgun and 18 for a longgun.

Unfortunately, the Brady check is a "name" check only, except for gun dealers, who must submit fingerprint cards. The name check is only as good as the driver's license or "commercial" identification presented by the would be gun buyer. Without a physical or biometric verification of identity, as is contemplated in Section 609 L of the Crime Control Act of 1984, the Brady check is only as good as the paper that is presented to the dealer. The dealer should be able to determine if the drivers license is valid—that is not counterfeit, altered or expired and that the person standing there is the person to whom the license is issued.

As a general rule, state and federal (FBI) criminal history repositories do not charge for law enforcement requests for rap sheet information. However, for non-law enforcement inquiries such as employment checks various charges are made which range from a few to as much as \$30. Non-law enforcement uses criminal information systems now exceed law enforcement checks. Brady checks fall somewhere in between.

"Progun" organizations generally favor the instant check and want to see it upgraded to be more reliable and accurate. "Antigun" groups want the waiting period retained, but also support upgrade of the instant system. Congress has appropriated \$100 million for implementing Brady, on top of \$27 million of earmarked "Byrne" formula grants made available pursuant to the 1988 instant check legislation.

As of May 1 the first of these grants are now being distributed at long last. The Brady money is being used for a general program of record conversion, not just those (conviction or disposition) records that are directly relevant for compliance with the Gun Control Act requirements.

The INS should make its data bases available for Brady Act checks. Brady checks can be used by employers to determine employment eligibility just as gun dealers use the "network" through local chiefs of police (CLEOs).

The Social Security Administration should make SSN data available for these purposes as well. My understanding is that as of May 8, the Social Security Administration will now verify SSNs at the request of DMVs.

A supercomputer network with five thousand terminals on line to DMVs or criminal justice agencies or employment agencies could easily handle the workload of a national employment check system. Larger employers could be online with direct computer to computer interface. Smaller employers could use dial up access or go through others for a small access fee. It would have a capacity with today's state of the art of supercomputer technology of handling all terminals at the same time and processing inquiries at a rate of sixty billion calculations (MFLOPS) per second.

Similar networks are already in place in the U.S. Government. This would be incredible overkill, but easily affordable and could be supported by "user fees." Or it could be linked through Internet, as is now being demonstrated by a pilot project involving the entire State of Iowa, and several cities.

The network could be decentralized or "distributed" with identifier data bases maintained at the state or local DMV installations and exchanged through NCIC, NLETS, or NDR (the National Drivers Registry of bad drivers maintained by NHSTA for background checks on commercial drivers). This network is funded at about \$2 million per year (excluding state costs).

#### MOTOR VOTER AND CHILD PROTECTION LEGISLATION

Last year Congress enacted national motor voter legislation which mandated the states to amend voting laws to federal elections so that persons who have valid drivers licenses would automatically be entitled to vote. This legislation was enacted over vigorous protests that it would lead to widespread vote fraud.

Unless Congress repeals or drastically amends this legislation, at the very least states should be required to bring drivers license requirements into conformity with commercial drivers license standards. As with Brady checks, BEFORE a license is issued or renewed after the effective date of the federal legislation, background checks should be made to determine voting eligibility.

Who can't vote? Most convicted felons, non citizens and underage children. Who can't buy guns? The same groups. Again, the DMVs should be able to access relevant federal and state data bases to determine voter eligibility. This eligibility information should be annotated on the drivers licenses, in much the same way that the social security card now states whether the bearer is entitled to work.

The National Child Protection Act of 1993 requires criminal history background checks for those working the child care professions. This includes millions of workers such as teachers, day care workers and volunteers for organizations serving young people. As is the case with motor voters, who cannot work in child care? Most convicted felons, and of course, illegal aliens cannot work anywhere, including child care. Employers should have access—it need not be more than indirect—to relevant data bases for these checks.

#### FRAUD ON THE IRS

More than 100 million tax returns will be filed this year, with about 10 million filed electronically. This is down from 13.5 million filed last year. According to the March 6, issue of Government Computer News, the IRS intends to run electronic matching programs on SSNs on all returns. Special fraud checks are being performed on the electronic returns, especially those applying for early refunds. 3 mil-

lion such returns have been held up with the prime target being the earned income tax credit (EITC).

IRS estimates that the fraud this year in this area alone might approach \$5 billion. It is highly likely that many thousands of illegals have filed fraudulent claims involving the EITC, in which non-existing dependents, or those residing in foreign countries have been utilized in attempting to qualify for the EITC.

The IRS is also for the first time checking on all SSNs cited in returns and running some checks on EINs as well. The problem here is compounded, however, by the fact that these are "name checks" and not positive or biometric checks based on objective identifier information, as was discussed above in relation to the Beady checks.

Again, state of the art technology must be brought to bear to upgrade electronic checks of identifier information so that a physical or biometric verification of identity can be made by IRS.

The state art in imaging and compression technology will make these physical checks possible in the very near future. For example, preliminary discussions have been held with respect to compressing and loading an entire state's DMV data base onto a single CD ROM disc. Then at point of contact or interaction, a live comparison can be made of the information contained in the drivers license against the CD data file and against the "eyeball" comparison of the person standing at the counter. Search Group and the FBI have also developed fingerprint coding techniques that can serve similar verification functions by comparing fingerprint images.

Signature verification techniques can be employed such as measuring the pressure and time required to sign one's name. This can be compared against a live signature "read."

These are just three of the techniques that might be employed to upgrade name or number checks of a person's identity. I am quite confident that others will be developed in the coming months which will also make verification possible. Great strides have been made in DNA sequencing technology. In the near future, sequencing will be in real time. This will make possible the generation of a unique identifying number—15 or 50 or a 1,000 number long on each individual. It will not be intrusive. All that will be needed is a sample of hair or skin flake or spit to perform the identification. There will be no need for identification documents we know them today. And yet identification will be positive and ultimately reliable.

This subcommittee has recently received testimony on enforcement activities on the Mexican border. The technology which I have described above is highly relevant for document checks for identity verification at check points. The "faces in the crowd" technology should be utilized to scan incoming vehicles and their occupants to determine their bona fides. AFIS technology is not appropriate nor efficient in monitoring sixteen lanes of vehicular traffic, as is the case at the San Isidro checkpoint nor the I-5 checkpoint at San Clemente.

Further, and most importantly, INS benefit applications are still overwhelmingly mail order transactions. They are only as valid as the paper submitted by way of documentation to support them—which is to say the door is open for massive fraud. My information is that up to 80% of the benefits under the SAW and Raw programs were based on fraudulent documentation.

The INS requires fingerprint cards to be submitted by an applicant for many benefits—more than one million per year. They are then forwarded to the FBI for background checks. But whose fingerprints are submitted? The INS assumes that the fingerprints submitted are those of the applicant—but are they? There is no linkage of positive verification of identity to the person applying for the benefit.

#### ELEMENTS OF A NATIONAL SYSTEM

This subcommittee has just received testimony from the AAMVA which restates the obvious: the state drivers license or ID card is already the defacto national ID card. It is legally acceptable to establish or verify identity for all sorts of federal, state and local, public and private purposes. Twenty six states are digitizing their identifier data bases, which more to follow in the coming months. The drivers license uses the SSN as the identifying in at least two thirds of the states. Thirteen states verify SSNs with the SSA prior to issuance or renewal. Now there is a national policy for all states to participate with the Social Security Administration.

Why not all states under a federal mandate? Congress has already done so for commercial drivers in 1986. This requirement for truck drivers is a condition precedent for receipt of highway trust funds by the states. Congress should also impose uniform national standards for all drivers licenses and require background checks with SSA and INS.

There should also be national uniform national standards for birth certificates— as this subcommittee has already received testimony on behalf of state vital record organizations.

In 1976 a Justice Department survey on false documentation found that there were more than 4,000 public and private institutions issuing more than 7,000 different birth certificates. It is absolutely incredible, but that is still the case today.

At least thirteen states are still "open record" states where anyone can obtain anyone else's birth certificate for any purpose. The birth certificates should be biometrically loaded at time of issuance. Many now contain the baby's footprints; however, most do not. With the advances in DNA sequencing technology referred to above it is or soon will be technically feasible and cost effective to annotate birth certificates with DNA identification information. A number of states including Virginia either have or have authorized DNA data bases for felons. Why not add DNA identification information to the birth certificate at time of birth?

The birth certificate should also be annotated with the SSN either at birth or later. An SSN is required by the IRS for all taxpayer dependent claims after age two. The birth certificate should also be updated with fingerprints and photographs digitally loaded—at least by the time that person applies for a state drivers license or passport.

This recommendation is consistent with testimony you have already received from the state vital record directors who have called for uniform national standards.

Otherwise our entire crazyquilt maze of identification systems are not worth the paper on which they are printed—whether it be counterfeit resistant paper or not. Faulty breeder documents such as the current birth certificate only build a house of false ID cards. And we all pay the price. We are the only major nation in the world that allows this ludicrous folly to continue.

Congress and the Executive must provide leadership and courage to solve this mess we are in. Our country now faces the worst of both worlds. Modern electronic and computer technology is being used by the unscrupulous to compromise our identification systems—to copy and counterfeit and duplicate.

Yet we are not using the technology now at hand to upgrade our data bases and identify documents nor protect the privacy of our citizens. The undocumented and misdocumented still rip us off and mock our institutions and otherwise beat the system. When will we make up and join other advanced societies and stop this criminality? I submit, Mr. Chairman, we are long overdue.

I deeply appreciate the opportunity to testify before the subcommittee. Attached is a draft of an amendment to your bill, S. 267, which incorporated the recommendations I have made.

#### THIRD DRAFT MAY 10, 1995

Section 111(b) of S. 269 is amended by adding at the end thereof:

"(a) The Attorney General, together with the Secretary of Health and Human Services, the Secretary of State and the Secretary of Transportation, shall develop and implement a system for the positive identification of persons lawfully entitled to enter, live and work in or depart from the United States.

"(b) Identification documents developed and issued for the purposes of subsection (a) shall meet the following minimum requirements:

- (1) They shall be counterfeit and tamper resistant;
- (2) They shall relate positively to the identity of a particular individual;
- (3) They shall contain identifier data elements which are compatible and consistent as possible, and which can be exchanged and compared by identification document agencies to establish or verify identity and benefit eligibility; and
- (4) shall be compatible and consistent with international standards for travel and private credit card documents."

"(c) The Attorney General, after consultation with Governors of the several states, may designate state-issued identity documents for use in the system, if any such document complies with the requirements of subsection (b).

"(d) A primary identification document used to establish initial identity for the purposes of subsection (a) shall be authenticated by conforming it to the requirements of subsection (b) at the time it is utilized to establish or verify identity for the issuance of an identification document issued for the purposes of subsection (a)."

"(e) The Attorney General shall issue regulations protecting the privacy of individuals who are subjects of the identification data bases contained in this section and shall insure the security and integrity of the data bases consistent with the provisions of Section \_\_\_\_\_ of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, with respect to the interstate exchange of criminal history records."

"(f) Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue a notice of proposed rulemaking to establish standards for a positive identification system consistent with the requirements of subsection (b). The Attorney General shall issue a final rule adopting the standards after a comment period of 90 days and not later than 180 days after the date of enactment of this Act.

