

Congress of the United States

House of Representatives

Washington, DC 20515

September 16, 2003

The Honorable John Ashcroft
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft,

As you are well aware, it is of utmost importance for our nation to pass and enforce policies that will increase the security of our citizens and protect our homeland. In remembrance of the victims of the heinous attacks of September 11, 2001, we commend you for your resolve in the ongoing fight against terrorism. We write to you today concerning state identification issuance policies that may seriously undermine your diligent efforts to address the vulnerabilities that accompany a free and open society.

Laws passed in over 20 states that allow undocumented aliens to obtain driver's licenses are a blatant contradiction of federal criminal code and hinder the efforts of law enforcement officers throughout our country to protect and serve our communities. Such laws eliminate the obligation of motor vehicle agencies to verify the citizenship or legal residency of applicants for driver's licenses and identification cards. Issuing driver's licenses to illegal aliens makes it easier for unlawful aliens, who may be potentially harmful to the security of our nation, to remain in the United States. As history has demonstrated, armed with a "valid" driver's license, a dangerous individual is able to move through society with virtual impunity.

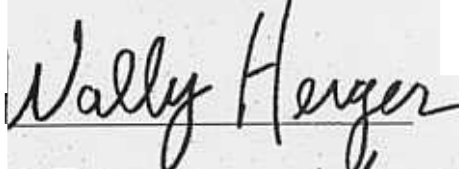
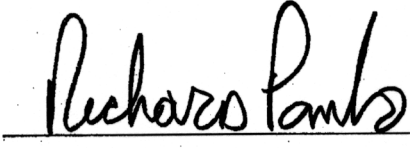
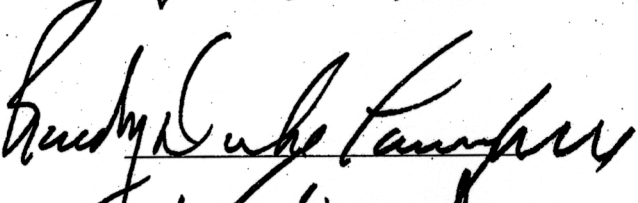
States that provide driver's licenses based on documents that do not verify either identity or citizenship contradict areas of law over which the federal government has exclusive jurisdiction. The PATRIOT Act and other federal laws relating to homeland security are weakened by this misguided state practice. In addition, the security of our airlines, which depends upon the presentation of reliable identification before boarding an airplane, is compromised.

Further, federal immigration laws are undermined when states offer persons of unknown immigration status legitimate identification documents. 8 U.S.C. § 1324(a)(1)(A)(iv) makes it a crime to "encourage" illegal aliens to enter or remain in the United States. In *U.S. v. Oloyede*, 982 F.2d 133 (4th Cir. 1992), Oluwole Oloyede was convicted of a scheme to defraud the United States Immigration and Naturalization Service by falsifying documents for citizenship applications. In this case, the U.S. Fourth Circuit Court of Appeals held that "encourage" relates to actions to convince an illegal alien to come to the country or to make it easier to stay in the country. The court found that the defendant's actions "permitted illegal aliens to be more confident that they could continue to reside with impunity in this country. . . by providing them with an opportunity to gain employment, support themselves, and avoid having to return to their native lands." The court concluded that, "while offering them a chance to stand equally with all other American citizens, defendants encouraged them to continue to reside here." Surely, if providing fake documents to illegal aliens qualifies as a criminal act under the statute, providing legitimate documents to them would qualify as well.

The problem is that without requiring a social security number and appropriate verification of an alien's status, counterfeit identification can easily be produced and used to obtain a valid driver's license. A new report by the U.S. General Accounting Office has evidenced the ease of creating false identification documents by using inexpensive and readily-available technology. The Secretary of the U.S. Department of Homeland Security, Tom Ridge, has even publicly stated that the foreign identification documents some state laws deem as valid forms of identification are completely unreliable.

In the interest of national security, we urge you to take immediate action to bring states into compliance with federal immigration law and prevent additional states from compromising the legitimacy of their widely-accepted identification documents. We look forward to hearing from you soon on this important matter.

Sincerely,

The Honorable John Ashcroft
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