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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

February 27, 2020

To: The Honorable William C. Smith, Jr.
Chair, Environment and Transportation Committee

From: The Office of the Attorney General

Re: Senate Bill 649 – Public Information Act – Motor Vehicle Administration – Warrant for
Personal Information and Reporting

The Office of the Attorney General is deeply concerned that U.S. Immigration and Customs Enforcement (ICE) seems to be using driver's license records to identify law abiding individuals who lack documentation of lawful status. In 2013, the General Assembly passed the Maryland Highway Safety Act authorizing the Motor Vehicle Administration (MVA) to issue driver's licenses to individuals who did not provide Social Security numbers or proof of lawful status, joining the now 15 states and the District of Columbia that license undocumented immigrants.¹ Within the Act's first year, MVA issued more than 38,000 driver's licenses and learner's permits to people who did not submit proof of U.S. citizenship.² Although not eligible for federal identification purposes, these limited use or "non-compliant" licenses are widely seen as an effective strategy for reducing the number of uninsured drivers and highway accidents, particularly hit and run collisions.³ They also reduce the law enforcement and corrections resources expended on investigating and detaining individuals solely for driving without a valid license. Not surprisingly, undocumented immigrants who obtain non-compliant licenses have for years expressed concerns that their personal information is accessible to federal and other government officials for purposes of civil immigration enforcement.

¹ Chapter 309 (2013); <https://www.ncsl.org/research/immigration/states-offering-driver-s-licenses-to-immigrants.aspx> for

² <http://www.baltimoresun.com/maryland/bs-md-immigrant-licenses-20140920-story.html> Recent reports suggest that this number is now exceeds more than 275,000.

<https://www.washingtonpost.com/technology/2020/02/26/ice-has-run-facial-recognition-searches-millions-maryland-drivers/>

³ See e.g., <https://www.pnas.org/content/114/16/4111>.



Although it is unclear how often Maryland MVA data has been accessed by ICE solely for civil immigration enforcement purposes, recent reports by the Baltimore Sun and Washington Post indicate that since 2018 ICE officials have logged into the State's driver's license database between 50 and 100 times employing facial recognition technology.⁴ Nationwide, the National Immigration Law Center has documented several trends regarding the use of Department of Motor Vehicle (DMV) data by federal immigration officials:⁵

- DMV databases are a longstanding, important source of information for ICE and other law enforcement agencies.
- The Department of Homeland Security uses DMV databases in multiple ways, including to locate people for immigration enforcement purposes and to obtain bulk information in order to identify individuals who could be deported.
- ICE has not been transparent about how it obtains DMV information.

As our Office has consistently advised, the federal government may not force State and local officials to carry out immigration law and there are considerable risks to doing so.⁶ We agree that driver's license data is a critical and appropriate resource for criminal law enforcement efforts. However, when ICE accesses the personal data of licensed drivers solely for civil immigration enforcement purposes, it discourages compliance with the licensing laws and undermines the State's transportation safety goals. We write to share the Office's concern about that practice and to generally support efforts to stop it.

cc: Members of the Judicial Proceedings Committee

⁴ <https://www.washingtonpost.com/technology/2020/02/26/ice-has-run-facial-recognition-searches-millions-maryland-drivers/> ; <http://www.baltimoresun.com/politics/bs-md-pol-ice-mva-bill-20200227-rsgqqajmwne4hollsz4svgpa6m-story.html>

⁵ <https://www.nilc.org/issues/drivers-licenses/ice-dmvs-share-information/>.

⁶ Local Enforcement of Federal Immigration Law: Legal Guidance for State and Local Law Enforcement Officials, updated December 2018, available online at: http://www.marylandattorneygeneral.gov/Reports/Immigration_Law_Guidance.pdf