



# Providing Identification to Unauthorized Immigrants

The State and Local Landscape of Identification for Unauthorized Immigrants

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By Silva Mathema November 2015

Center for American Progress



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# Introduction and summary

Most people do not realize the power of having an official photo identification card; it is something that is taken for granted until it is misplaced or lost. An official identification, or ID, card proves one's identity and thereby establishes trust between strangers, which helps facilitate communication and transactions. In the United States, individuals are required to show a valid form of ID to do a whole host of things, from renting an apartment, cashing a check, getting a marriage license, or picking up prescriptions to making large purchases such as cars or homes.

Yet many of the 11.3 million unauthorized immigrants in the United States do not have access to any form of identification—and often, not even to a foreign passport or birth certificate.<sup>1</sup> With no official way to identify who they are, many unauthorized immigrants and their families are forced to navigate an extremely difficult life in the United States. They may not be able to do simple everyday tasks such as collecting a package from a post office or borrowing a book from a public library. And they face an even greater hurdle when attempting critical activities such as enrolling their children in school, opening a bank account, or getting medical care. Since an estimated 4.5 million U.S.-born citizen children have at least one unauthorized parent, these children's access to the types of services that any U.S. citizen is entitled to is directly affected by their parents' lack of ID.<sup>2</sup> Reports have found, for example, that unauthorized parents hesitate to sign up for health benefits for their eligible children because they do not have a verifiable way to identify themselves and fear that such information may lead to their deportation.<sup>3</sup>

Ensuring that everyone has access to ID is not only beneficial for individuals but for entire communities as well. The ability of a person to identify themselves makes communities safer: For example, those with a valid form of ID have the ability to open bank accounts, which means that they may be less likely to keep large amounts of cash in their homes or to carry it around on their person, an act that could make them targets for robbers.<sup>4</sup> Providing universal access to driver's licenses would make it much more likely that every person behind the wheel of a vehicle has passed a driving test and has auto insurance—all of which would help

make roads safer for other drivers and pedestrians. Moreover, U.S.-citizen children would have greater access to health care and education services—and greater stability in their day-to-day lives overall—if their unauthorized parents could obtain widely accepted identification.<sup>5</sup> Increasing access to ID also would assist local service providers, such as law enforcement and health care providers, provide protection and basic health care services to those in need because the service providers would be able to verify easily the identities of those with whom they interact.

At the federal level, there is no avenue for unauthorized immigrants to secure a U.S. government-issued identification card. But the landscape looks very different at the state and local levels: The 2005 REAL ID Act, a law to standardize the issuance of driver's licenses and IDs in states, created a way for states and localities to issue forms of identification regardless of immigration status, with a caveat that such IDs cannot be used for federal purposes, such as boarding most commercial airplanes.<sup>6</sup> A handful of states, localities, and service providers have recognized the advantages of increasing access to identification cards and driver's licenses for unauthorized immigrants and now provide them.

This report focuses on three approaches that states, localities, and service providers have taken to ensure that unauthorized immigrants can obtain acceptable forms of identification, including driver's licenses, municipal identification cards, and consular identification cards.<sup>7</sup> These solutions are innovative ways to bridge the gap between federal policies and local realities, with each providing its own set of benefits. This report shows that these types of IDs would assist in interactions with local law enforcement and make individuals feel safe when contacting police or reaching out to other authorities for help, thereby increasing public safety in communities. Specifically, in states with laws that provide access to driver's licenses, all residents would be able to take the required road test to drive legally, making roads safer for everyone. Higher numbers of people applying for driver's licenses also would fill state coffers through additional license fee revenue. Furthermore, access to driver's licenses would increase economic participation because individuals would have enhanced mobility to get to their jobs. With valid IDs, they would be able to make larger purchases and rent apartments. Additionally, IDs such as driver's licenses also increase access to basic services for unauthorized immigrants and their families. With ID cards, for example, individuals would be able to get library cards and, in some cases, open financial accounts.

But disparities in policies across jurisdictions have resulted in a patchwork of policies with real limitations on what each of these forms of identification can offer unauthorized residents. For example, none of these IDs may be accepted for offi-

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cial purposes by federal agencies, and in 2016, it may become impossible to board an airplane without a federally accepted ID.<sup>8</sup> Not only that, there is much variation in state driver's license laws for unauthorized immigrant drivers, and with only 12 states, Puerto Rico, and the District of Columbia offering this option, it is tricky to drive across state lines.<sup>9</sup> It is unclear if states will give full faith and credit to the noncompliant driver's licenses issued by other states or if a driver with such a license may be charged with driving without a license. What's more, even the states that have driver's licenses for unauthorized immigrants are required by federal law to mark their driver's licenses and ID cards to communicate clearly that they cannot be accepted for federal purposes. There is fear among advocates that these marks may stigmatize the cardholders, since they may imply that the person lacks lawful immigration status.<sup>10</sup> Furthermore, not all city services, law enforcement departments, and business establishments accept alternative forms of identification—such as municipal and consular IDs—as a valid form of identification.

This report provides an overview of the three identification approaches for unauthorized residents, builds a case for how these programs offer practical solutions, and demonstrates ways to mitigate their limitations. The report also advances the following policy recommendations:

- States should issue driver's licenses to all eligible individuals, regardless of immigration status.
- States with REAL ID-noncompliant driver's licenses marked with a recognizable feature need to ensure through regulation that there is no discrimination based on the marks.
- Localities should pursue municipal ID card programs, while also raising awareness and acceptance of the cards.
- Countries that issue or plan to issue consular IDs should improve security and awareness to increase their acceptability.
- States and localities should establish policies to bar officials from inquiring about an individual's immigration status.
- Federal lawmakers should pass immigration reform that includes a pathway to citizenship.

# The need for valid identification for unauthorized immigrants

Unauthorized immigrants in the United States today are deeply rooted in the communities in which they reside, with more than half living in the country for more than a decade.<sup>11</sup> The overall number of unauthorized immigrants has held fairly steady at 11.3 million for the past five years, with 60 percent of this population concentrated in just six states—California, Florida, Illinois, New Jersey, New York, and Texas.<sup>12</sup> However, unauthorized immigrants are also dispersing across a wide range of destinations; Maryland, Pennsylvania, Virginia, Nebraska, and Idaho saw an increase in their unauthorized populations from 2009 to 2012.<sup>13</sup> Nationwide, unauthorized immigrants, who are integral to the U.S. economy, are about 5.1 percent of the total labor force and are a significant part of select industries such as farming, cleaning, and construction.<sup>14</sup> The Institute on Taxation and Economic Policy estimated that, in 2012, unauthorized immigrants contributed \$11.84 billion in state and local taxes.<sup>15</sup>

Despite their contribution to the economy and society, unauthorized immigrants and their families are among the most marginalized and vulnerable populations, living precariously in the United States. Without the ability to work legally, many are employed in low-paying jobs.<sup>16</sup> Their inability to get a driver's license in most states limits their mobility further, restricting their access to the jobs they can get or even to keep the jobs that they currently have.<sup>17</sup> The predicament of unauthorized immigrants is worsened by their lack of access to ID.

Moreover, a lack of identification can lead to disastrous immigration consequences. For instance, many law enforcement agencies—such as that of Cabarrus County, North Carolina—have a protocol to detain any individual who comes in contact with the police when an officer cannot verify his or her identity and criminal history without fingerprints—an action that may lead to deportation proceedings for an unauthorized immigrant even for a minor traffic offense.<sup>18</sup> Several studies show that these arrests for minor offenses marginalize the unauthorized immigrant community and their family members and lead them to avoid any interaction with law enforcement. As a consequence, they are hesitant to report crimes or workplace exploitation

or to come forward as witnesses to crimes.<sup>19</sup> This situation could be avoided if there were a uniform, valid way—for instance, through state driver’s licenses—for unauthorized people to identify themselves without fear of repercussion.

In addition to hindering interactions with law enforcement, many research studies have highlighted other problems associated with not having a valid photo ID—for example, needing a valid form of identification to cash a check and, in many cases, to access the banking system.<sup>20</sup>

## Federal laws that affect forms of identification for unauthorized immigrants

### The REAL ID Act of 2005

Prior to 2001, and in the absence of a national ID card issued by the federal government, public and private establishments widely accepted state-issued driver’s licenses and nondriver IDs for official and other purposes.<sup>21</sup> But after the 9/11 attacks raised questions about the security of state-issued driver’s licenses and identification cards, the National Commission on Terrorist Attacks Upon the United States, or the 9/11 Commission, recommended that the federal government create standards for issuing birth certificates and other forms of identification such as driver’s licenses.<sup>22</sup>

Following the commission’s recommendation, the REAL ID Act established minimum standards that state-issued driver’s licenses and IDs have to meet to be accepted for official purposes by federal agencies.<sup>23</sup> REAL ID-compliant identification cards, for example, will be required to board a commercial airplane starting as early as 2016.<sup>24</sup> These stricter identity requirements adversely affected a large set of vulnerable groups less likely to have access to all the documents needed for a REAL ID-compliant driver’s license or other sorts of IDs, such as senior citizens, homeless people, and domestic violence survivors, in addition to LGBT people, who may not have correct gender markers on their ID cards due to unclear state policies.<sup>25</sup>

However, the REAL ID Act also allows states and localities to issue driver’s licenses or IDs not compliant with it and, therefore, not valid for official federal use. The REAL ID Act also

requires states to mark their licenses with “Not for federal identification” or a similar statement to communicate clearly that the ID card cannot be used for federal purposes.<sup>26</sup> This distinction gives states and localities an opening to provide identification to their unauthorized residents.

### USA PATRIOT Act of 2001

In the wake of the 9/11 attacks, President George W. Bush signed the USA PATRIOT Act into law in 2001. Section 326 of the act sets out the rules for financial institutions on what forms of identification are acceptable to access financial services.<sup>27</sup> The joint final rule published by the U.S. Department of the Treasury and other financial regulatory agencies in 2003 allows financial institutions to set their own standards on what sources of identification they require, provided that there is a system in place to, among other things, obtain and record identification of customers; describe how the institution will verify the identity of customers and respond to situations where identity cannot be verified; and check if the person opening an account belongs to government-provided terrorist lists.<sup>28</sup>

Thus, the PATRIOT Act provides U.S. financial institutions the flexibility to decide what forms of ID they can accept even when the type of identification an individual uses is issued by a foreign government or a municipality. Banks, then, can decide when—and which—REAL ID-noncompliant IDs they will accept to grant access to their services.<sup>29</sup>

# State, local, and other solutions to unauthorized immigrants' identification issues

Jurisdictions and institutions have developed a variety of methods within existing federal law to solve the practical problem of unauthorized residents not having valid forms of identification. Three such approaches—passing universal driver's license laws, initiating municipal identification card programs, and granting consular identification cards—make up much of the landscape of identification for unauthorized immigrants. Let's consider each of these types of IDs and examine the principle benefits and limitations of each approach.

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## Driver's licenses

State policies for issuing driver's licenses to unauthorized immigrants have gone through a series of changes during the past 15 years, with more and more states embracing such laws in recent times. In the early 2000s, there was an increasing trend of limiting state-issued licenses for unauthorized immigrants: From 2003 to 2010, seven states that granted driving privileges to unauthorized immigrants cancelled them.<sup>30</sup> In fact, by 2012, only three states—Washington, New Mexico, and Utah—still issued driver's licenses or Driving Privilege Cards regardless of immigration status.<sup>31</sup>

After 2012, however, some states started to take a different path. Using the special provision in the REAL ID Act that allows states to issue forms of identification not compliant with the law's requirements, a few states passed laws that allow individuals with alternative documents to apply for driver's licenses or nondriver ID cards.<sup>32</sup> In 2012, Illinois enacted a driver's license law that allows individuals to present sources of identification other than a Social Security number—such as a valid foreign passport or a consular identification card—to obtain a temporary visitor driver's license.<sup>33</sup>

As of July 2015, 12 states—California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, New Mexico, Nevada, Utah, Vermont, and Washington—Puerto Rico, and the District of Columbia issued cards that give driving privileges to unauthorized immigrants. Seven of these states came on board in 2013.<sup>34</sup> Nearly 37 percent of the U.S. unauthorized population lives in a state where they are now able to drive legally.<sup>35</sup>

There is little uniformity, however, among the states that issue driver's licenses to unauthorized immigrants. Different states accept different types of documents as part of the application process, and the cards themselves do not look the same, do not go by the same name, and offer different privileges. Some states accept consular ID cards issued by a large number of foreign consulates, while others only accept consular cards from a select few consulates. In California, for instance, the proof of identity to get a new driver's license can be a California driver's license or ID issued after 2000; a Mexican federal electoral card; a Mexican passport; a Mexican consular card or a consular card from other nations; or a foreign passport.<sup>36</sup> In contrast, Maryland accepts consular cards issued only by Mexico, Guatemala, and Ecuador and requires applicants to present two years of state income tax returns to prove residency.<sup>37</sup> Some states, such as Utah, require those seeking a Driving Privilege Card to be fingerprinted, while other states do not.<sup>38</sup>

Fewer than half the states issue both driver's licenses and nondriver ID cards to unauthorized individuals, but others strictly issue cards only for drivers and do not issue ID cards to nondrivers.<sup>39</sup> The seven states that issue drive-only cards are California, Connecticut, Hawaii, Illinois, Nevada, New Mexico, and Utah.<sup>40</sup> Pursuant to the requirements of the REAL ID Act, noncompliant IDs must carry a "Not for federal identification" or similar mark.<sup>41</sup> California, recognizing the stigmatizing power of having such a recognizable mark on noncompliant driver's licenses, clarified in passing its law that any discrimination based on a driver's license violates the state's Unruh Civil Rights Act.<sup>42</sup> Currently, Washington and New Mexico are the only states that do not check for legal status to issue regular licenses—an issue that makes all licenses issued by these states automatically noncompliant with the REAL ID Act. As early as January 2016, these licenses may become invalid for federal purposes, making it difficult for holders to, among other things, board an airplane.<sup>43</sup>

The response from unauthorized immigrant communities in the states that provide a way to drive legally has been overwhelmingly positive. California, which started granting the licenses in January 2015, has already issued a total of 513,000 driver's licenses under A.B. 60.<sup>44</sup> It expects to issue almost 1.5 million driver's licenses in the

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first three years of operation.<sup>45</sup> With an unauthorized population of 3 million, 93 percent of whom are of driving age, California has the largest unauthorized population in the United States.<sup>46</sup> Illinois has issued nearly 144,770 temporary licenses since the implementation of its program in late 2013.<sup>47</sup> Thousands of individuals lined up to apply for driver's license in Nevada when its program started in January, and by July, the state had issued 30,000 Driver Authorization Cards.<sup>48</sup>

**TABLE 1**  
**Driver's licenses and nondriver identification cards available to unauthorized immigrants, by state**

State	Authorizing law	Year passed	Date launched	Number and type of driver's license cards issued	Number and type of nondriver identification cards issued
Washington	H.B. 1444	1993	July 1993	169,880 (Driver's license)	95,466 (Identicard)
New Mexico	H.B. 173	2003	2003	Unknown (Driver's license)	None
Utah	S.B. 227	2005	March 2005	259,391 (Driving privilege card)	None
Illinois	S.B. 957	2012	November 2013	144,770 (Temporary visitor driver's license, or TVDL)	None
Maryland	S.B. 715	2013	January 2014	16,713 (Driver's license)	7,067 (Identification card)
Nevada	S.B. 303	2013	January 2014	28,237 (Driver authorization card)	None
Vermont	S.B. 38	2013	January 2014	50,690 (Driver's privilege card)	Unknown (Nondriver identification card)
District of Columbia	B 275	2013	May 2014	5,213 (Limited purpose driver license)	3,765 (Limited purpose identification card)
Colorado	S.B. 13-251	2013	August 2014	12,654 (Driver's license)	2,092 (Identification card)
Puerto Rico	P C0900	2013	August 2014	Unknown (Provisional driver's license)	None
California	A.B. 60	2013	January 2015	513,000 (Driver's license)	None
Connecticut	H.B. 6495	2013	January 2015	8,446 (Drive only license)	None
Delaware	S.B. 59	2015	January 2016	Not applicable (Driving privilege card)	Not applicable
Hawaii	H.B. 1007	2015	January 2016	Not applicable (Limited purpose driver's license)	None

Note: The number of driver and nondriver cards issued includes individuals who do not have the required documents to get a card that is REAL ID compliant. Illinois does not distinguish between visa and non-visa licenses for TVDLs. Washington state data is from January 2009 to December 2013 and includes driver's licenses and ID cards issued without a social security number. Vermont's driver's privilege card data includes both driver cards and nondriver identification cards. Additionally, states also have data on learner's permits: Colorado issued 2,010; Nevada issued 2,046; Maryland issued 53,870; and Connecticut issued 9,664. "Unknown" means data was not provided; "none" means the state does not issue that card; and "not applicable" means the program has not launched.

Sources: National Conference of State Legislatures, "States Offering Driver's Licenses to Immigrants" (2015), available at [http://www.ncsl.org/documents/immig/DL\\_EnactedTable\\_July2015.pdf](http://www.ncsl.org/documents/immig/DL_EnactedTable_July2015.pdf); Data on number of driver's licenses, nondriver identification cards, and learner's permits were provided to the author by state and city government agencies and are available upon request to author; Catholic Legal Immigration Network, Inc., "State Laws Extending Driving Privileges to All Residents: Puerto Rico" (2014), available at [https://cliniclegal.org/sites/default/files/puerto\\_rico.pdf](https://cliniclegal.org/sites/default/files/puerto_rico.pdf).

Although the trend has been toward increasing unauthorized immigrants' access to driving privileges, the issue has faced opposition in several states. For example, although Colorado issued 14,644 driver's licenses and permits and more than 2,000 nondriver ID cards from August 2014 to June 2015, achieving these numbers was not easy for the state. At the end of 2014, the program came to a halt after Republicans in the state Senate blocked its funding.<sup>49</sup> It was only in June 2015, as a result of a compromise among lawmakers, that a few offices reopened and started to process licenses. Even in New Mexico, one of first states to issue driver's licenses to unauthorized immigrants, Gov. Susana Martinez (R) has been a vocal critic of the law.<sup>50</sup> Likewise, Oregon, which successfully passed a law in 2013 granting driver's licenses to unauthorized immigrants, suspended the measure when it failed to receive a majority of votes in the 2014 elections after anti-immigrant groups led an effort to put the issue on the ballot.<sup>51</sup> Nonetheless, more states—such as Florida, North Carolina, New Jersey, and Wisconsin—are debating whether to increase access to driver's licenses for individuals who cannot prove legal status.<sup>52</sup>

## DACA recipients and driver's license laws

On June 15, 2012, the Department of Homeland Security, or DHS, announced the creation of Deferred Action for Childhood Arrivals, or DACA, which offers temporary relief from deportation and the opportunity to apply for a two-year work permit to certain unauthorized youth who came to the United States as children.<sup>53</sup> As of June 2015, more than 681,000 applications had been approved.<sup>54</sup>

Receiving deferred action provides recipients with lawful presence in the United States, which allows them to access REAL ID-compliant licenses under federal law.<sup>55</sup> But since issuing driver's licenses is a state-level decision, it is up to the discretion of each state to issue licenses to DACA recipients. While currently all 50 states issue regular driver's licenses to DACA recipients without a "not for federal identification" or similar designation, several states initially refused to do so.<sup>56</sup> For example, Arizona and Nebraska passed policies that barred DACA recipients from obtaining driver's licenses.<sup>57</sup> In Arizona, this ban was lifted when the Arizona Dream Act

Coalition won a lawsuit against then-Gov. Jan Brewer (R).<sup>58</sup>

In May 2015, Nebraska became the last state in the union to join the rest of the states in issuing driver's licenses to DACA recipients.<sup>59</sup> Other states, such as North Carolina, went as far as to attempt to mark licenses with "Limited Term" and "No Legal Status" printed on them, along with a pink stripe. In 2013, the North Carolina Department of Transportation faced a strong backlash against that decision, and ultimately, it was not implemented.<sup>60</sup>

Driver's licenses have been popular with DACA recipients. One nationwide survey showed that around 90 percent of DACA recipients obtained a driver's license or a state ID card for the first time after receiving temporary protection from removal, and more than 40 percent purchased their first car.<sup>61</sup> Previously, the Center for American Progress demonstrated that Texas, for example, earned \$647 per car in motor vehicle sales taxes alone as a result of these new car purchases since the program launched in 2012.<sup>62</sup>

# Municipal and community identification cards

Many cities and municipalities also have taken steps to ensure that their residents have some form of identification regardless of their immigration status. A number of city officials and immigrant rights advocates cite public safety as one of the main reasons to issue municipal IDs to unauthorized immigrants, while emphasizing that having an ID card promotes human rights and allows residents dignity.<sup>63</sup> “For New Yorkers who couldn’t have an official ID, this card is the key to a fuller life,” stated Mayor Bill de Blasio (D) in a statement during the launch of IDNYC, the municipal ID card of New York.<sup>64</sup>

Although municipal ID cards are limited in use compared with driver’s licenses given that they do not provide driving privileges, they offer other distinct advantages to cardholders. Municipal ID cards increase accessibility to city services such as libraries and parks and increase access to selected financial institutions and health care services, as well as provide a valid form of identification that some local businesses and law enforcement accept.<sup>65</sup> Along with unauthorized immigrants, marginalized city residents such as the homeless population, formerly incarcerated people, transgender individuals, and senior citizens—who may not have required documents to get driver’s licenses and nondriver ID cards—also benefit from municipal ID cards, which can be obtained at a low cost.<sup>66</sup> IDNYC, for example, is free for the first year of the program, and other municipal cards cost as little as \$15 for adults, making these cards cheaper and more accessible than other cards such as driver’s licenses, which can cost more than \$100 in cities such as New York.<sup>67</sup>

In 2007, New Haven, Connecticut, became the first city to launch a municipal ID program. The program was in response to an incident where an unauthorized immigrant was killed after cashing his paycheck.<sup>68</sup> Other localities followed suit: Several cities in California—including San Francisco, Richmond, and Oakland—issue municipal IDs, while other places such as Newark, New Jersey, and Washtenaw County, Michigan, have recently started issuing municipal IDs to residents. Roselle, New Jersey, is the latest city to sign a bill to create municipal IDs

and will officially launch its card program during Thanksgiving week 2015.<sup>69</sup> New York City, which started to issue cards in January, has already issued more than 570,000 IDNYC cards, making it the largest municipal ID program in the nation.<sup>70</sup> Newark, New Jersey, which in August started to issue its Newark Municipal ID card, distributed 1,500 cards in its first month of operation.<sup>71</sup>

Besides municipalities, a few local nonprofit organizations also have come up with innovative ways to provide identification cards. In New Jersey and North Carolina, for example, such groups issue community ID cards to area residents.<sup>78</sup> In New Jersey, the Latin American Legal Defense and Education Fund, or LALDEF, has issued nearly 8,000 Mercer County Area Community ID Cards since 2009—a rate of about 100 cards per month.<sup>79</sup> According to LALDEF, 43 percent of the cards have been issued to Guatemalans, 10 percent to Mexicans, and 9 percent to Hondurans.<sup>80</sup> The Mercer County Area Community ID Card is accepted by police departments, municipalities, schools, and hospitals as a form of identification in major cities in the county.<sup>81</sup> Similarly, a nonprofit organization based in Greensboro, North Carolina—FaithAction International House—partnered in 2013 with a local police department to launch the FaithAction ID initiative. In a little more than two years, it has issued more than 3,000 identification cards across 50 cities in North Carolina and neighboring Virginia.<sup>82</sup>

Similar to the state-by-state differences in driver's licenses, there is no set standard for municipal and community IDs in terms of the documentation required for proof of identity and residency, nor do such cards offer specific across-the-board benefits. For example, New York City accepts a range of foreign ID documents—from foreign driver's licenses to consular identification cards—while Washington, D.C., has a more complicated document requirement. Washington, D.C., does not accept consular cards to issue its DC One Card but does accept D.C.-issued Limited Purpose Driver's Licenses and ID cards. This means that anyone who can get the Limited Purpose Driver's License or nondriver ID card—including people who have consular IDs—can also get the municipal ID

### **New Haven, Connecticut: 'A City to Model'**

The concept of issuing a municipal identification card accessible to all residents was first introduced in New Haven, Connecticut, a city that did not have a large immigrant presence but was seeing a notable growth in its immigrant population.<sup>72</sup> The grassroots effort started when two local organizations—Junta for Progressive Action and Unidad Latina en Acción—released a report titled “A City to Model,” which highlighted the safety concerns of New Haven's immigrant community.<sup>73</sup> One of the report's main recommendations was to protect the immigrant community by creating a municipal identification card that was accessible to every resident.

Former New Haven Mayor John DeStefano Jr.'s (D) initial push for an identification card in 2005 was greeted with harsh criticism after which the program was temporarily put on hold.<sup>74</sup> However, the issue of a municipal ID card was reignited after Manuel Santiago, an unauthorized immigrant living in New Haven, was murdered during a robbery after cashing his paycheck. With the support of then-Police Chief Francisco Ortiz, DeStefano crafted the program as an administrative initiative.<sup>75</sup> In May 2007, DeStefano came before the city's board of aldermen and testified that ID cards are “not an immigrant issue” but instead an “issue of social justice and human rights.”<sup>76</sup> The New Haven aldermen approved the Elm City Resident Card on June 4, 2007.<sup>77</sup>

card.<sup>83</sup> Meanwhile,<sup>84</sup> in Oakland, California, there is an option to use its municipal ID card as a prepaid debit card, which offers a safe and convenient place to store money and benefit from making direct deposits, making purchases without cash, and taking advantage of online shopping for a fee.<sup>85</sup> Cities also have formed partnerships with local banks and credit unions to allow individuals to use municipal IDs as a form of ID to open bank accounts.<sup>86</sup>

**TABLE 2**  
**Municipal and community identification cards for residents**

Issuing entity	Name of the card	Date ordinance passed	Date launched	Number of cards issued
City of New Haven, Connecticut	Elm City Resident Card	June 4, 2007	July 2007	13,000
City and County of San Francisco, California	SF City ID Card	November 20, 2007	January 2009	23,932
Latin American Legal Defense and Education Fund, Trenton, New Jersey	Mercer County Area Community ID Card	Not applicable	April 2009	8,000
Oakland, California	Oakland City ID Prepaid MasterCard	October 16, 2012	February 2013	Unknown
FaithAction International House, Greensboro, North Carolina	FaithAction ID	Not applicable	2013	3,000
Richmond, California	Richmond City ID Prepaid Mastercard	July 19, 2011	October 2014	422
New York City, New York	IDNYC	July 10, 2014	January 2015	570,000
Washtenaw County, Michigan	Washtenaw County Identification Card	November 19, 2014	June 2015	949
Newark, New Jersey	Newark Municipal ID Card	May 21, 2015	August 2015	1,493

Note: San Francisco, Richmond, and Latin American Legal Defense and Education Fund statistics on cards issued includes renewals. "Unknown" means no data was provided, and "not applicable" means no ordinance was passed.

Source: Data were provided to author by the cities, counties, and nonprofit organizations listed above and are available upon request to the author.

Many other city and community leaders across the country are working on initiatives to launch municipal ID card programs. For example, the mayor of Hartford, Connecticut, Pedro E. Segarra (D) recently proposed a municipal ID program with a goal of making city services more accessible to all city residents.<sup>87</sup> Similarly, the Detroit City Council is crafting a municipal ID program to make city services available to a variety of marginalized residents who lack identification cards.<sup>88</sup> Several other locales have been discussing the prospect of issuing municipal ID cards, including Chicago; El Paso, Texas; Phoenix; Philadelphia; South Bend, Indiana; Milwaukee County, Wisconsin; Pittsburgh; Perth Amboy, New Jersey; Iowa City, Iowa; Boston; and Tucson, Arizona.<sup>89</sup> In Charlotte, North Carolina, a city-appointed Immigrant Integration Task Force proposed a municipal ID card as one of the city's 27 strategies to harness the economic benefits of its growing immigrant population.<sup>90</sup>

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## Consular identification cards

Embassies and consulates of foreign governments often issue consular ID cards to citizens living abroad.<sup>91</sup> Consular IDs, under the terms of the 1963 Vienna Convention on Consular Relations—a multilateral treaty that guides consular practices among states—give some legal rights to the cardholders.<sup>92</sup> For instance, when a law enforcement officer arrests or detains a foreign national holding a consular ID, the officer must immediately inform the individual about his or her right to contact the consulate. By definition, consular IDs are issued to individuals regardless of legal status, as long as they can provide the documents required to prove citizenship to the issuing country represented by the consulate.

Consulates have been issuing consular ID cards for their citizens for many years; as a matter of fact, Mexico claims that it has been issuing them to Mexican nationals since 1871.<sup>93</sup> In the past decade, consular ID cards have become more acceptable in U.S. state and local agencies as well as business establishments.<sup>94</sup> This was not always the case: The popularity of consular IDs, along with their acceptance, picked up only after the 9/11 attacks raised concerns over identification in general and when it became increasingly important to have identification documents in the United States.<sup>95</sup> Following the attacks, a large number of Mexican nationals applied for consular IDs, called the *matrícula consular*.<sup>96</sup> In response to this heightened demand, the Mexican government conducted extensive outreach across the United States, improved the security features of the card, and promoted its acceptance among local government entities and financial institutions in the United States.<sup>97</sup>

In early 2001, Austin, Texas, became one of the first cities to accept consular IDs as a form of identification in direct response to increased robberies targeting the Latino community and a large population of unauthorized individuals who were too afraid to call the police for fear of deportation.<sup>98</sup> Nationally, individuals with consular IDs from several countries currently have access to a range of financial institutions and can present the IDs as a valid form of identification to state and local government agencies for official purposes such as applying for a driver's license.<sup>99</sup>

There are more than 4.4 million valid Mexican *matrícula consular* cards in the United States.<sup>100</sup> The Mexican consular card is a widely accepted form of consular identification: As of August 2013, more than 371 counties, 356 financial institutions, and 1,036 police departments accepted *matrícula consular* cards as a valid proof of ID.<sup>101</sup> Other countries—such as Argentina, Brazil, Colombia, El Salvador,

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Ecuador, Guatemala, Guinea, Mali, and Senegal—have followed Mexico’s consular ID program and started to issue their own IDs.<sup>102</sup> Even more countries—including the Dominican Republic, Honduras, Nigeria, Pakistan, and Peru—have explored this path.<sup>103</sup> The acceptance of the cards, however, especially by financial institutions, issued by countries other than Mexico and Guatemala varies widely in the United States.

Many U.S. states accept consular IDs as a form of identification to issue driver’s licenses, and a number of municipalities also accept them to issue municipal IDs.<sup>104</sup> Driver’s licenses issued with a consular ID as a form of identification are not REAL ID-compliant, and thus, federal agencies do not accept them for official purposes. As mentioned earlier, however, such driver cards can still be used to operate a vehicle and as a form of identification for other purposes.<sup>105</sup>

Different U.S. federal agencies also have differing stances about the acceptance of consular ID cards. While the Department of the Treasury does not explicitly prohibit consular IDs from being used as a valid form of identification to open a bank account, in 2003, an official from the FBI testified before the House of Representatives Subcommittee on Immigration, Border Security, and Claims that Mexico’s *matrícula consular* may be an unreliable form of identification because individuals can use false documents to get it.<sup>106</sup> In 2004, the Government Accountability Office, or GAO, raised similar concerns about the lack of consistent security features among the consular cards that certain countries issue.<sup>107</sup> In 2014, in response to these criticisms, the Mexican government rolled out a new *matrícula consular* that contains enhanced security features.<sup>108</sup> According to Mexican officials, the new consular ID card is secure and tamper-proof and is provided only after a centralized database is checked to avoid issuance of duplicate forms of ID.<sup>109</sup>

## The acceptance of consular IDs gets embroiled in the birthright citizenship controversy

Over the years, consular IDs have faced several legal hurdles. Recently, Texas adopted a policy of banning state registrars from accepting consular ID cards to issue birth certificates.<sup>110</sup> As a result, Texas officials have refused to issue birth certificates to a number of U.S.-born children of unauthorized parents.<sup>111</sup> Texas officials argue that foreign consulates do not verify the documents they receive when they issue consular IDs, which renders the IDs insecure.

In 2015, 19 parents of 23 children filed suit in the U.S. District Court in Austin claiming that the refusals to issue birth certificates are “unconstitutional and discriminatory.”<sup>112</sup> Refusing to accept the validity of the unauthorized parents’ ID cards has the effect of refusing to accept a far more important fact: that a child was born on U.S. soil and is therefore entitled to a birth certificate attesting to that fact. The end result for the child is that he or she lacks a document that is critical to establish his or her U.S. citizenship, and this can raise serious issues regarding access to documents, benefits, and rights to which all U.S. citizens are entitled. Even though U.S. District Judge Robert L. Pitman argued that denying birth certificates raises grave concerns, he declined to temporarily enjoin Texas from refusing to issue official birth certificates in such cases.<sup>113</sup> The court held that, “Plaintiffs have established, at a minimum, that deprivation of a birth certificate to the Plaintiff

children results in deprivations of the rights and benefits which inure to them as citizens, as well as deprivations of their right to free exercise of religion by way of baptism, and their right to travel.”<sup>114</sup> However, the court also held that plaintiffs presented insufficient facts to meet the burden of demonstrating at this early point in the case that they are substantially likely to prevail on the merits. In support of the families, Austin Police Chief Art Acevedo signed a declaration stating that matrícula consular cards are a valid form of ID in September 2015.<sup>115</sup> The government of Mexico also filed an amicus brief in support of the plaintiffs, arguing that Texas’ refusal to recognize official Mexican ID documents threatens friendly relations between the two countries and that Mexican passports and consular IDs are widely accepted and reliable forms of identification.<sup>116</sup>

In late October 2015, North Carolina also enacted a law, H.B. 318, prohibiting government agencies from accepting alternative forms of IDs, such as consular cards, for official government services, a move that caused an uproar among immigrants and advocates.<sup>117</sup> However, challenges to laws that ban the acceptance of alternative IDs have been successful in courts. In a 2011 Indiana case, for example, several advocacy and legal organizations won a lawsuit against Indiana’s restriction on the acceptance of consular IDs.<sup>118</sup>

# Benefits of ID cards for unauthorized immigrants and localities

Each form of identification discussed in this report provides unauthorized immigrants with a range of benefits, some common among the cards and others unique to one or the other. State-issued driver's licenses have their own set of benefits because they provide cardholders with a valid license to drive and are accepted statewide, unlike municipal and consular IDs. While municipal IDs neither provide a license to drive nor are likely to be accepted in other cities, the cards are designed to increase accessibility of city services to all residents, regardless of status. In comparison, foreign governments issue consular IDs so that their citizens living abroad have an official form of identification accepted by financial institutions and other entities across state and municipal boundaries.

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## ID cards assist in interactions with local law enforcement and increase public safety

In most cases, valid photo identification cards improve the cardholder's interaction with local law enforcement and vice versa, provided that police officers and sheriff's deputies accept them. There is a deep-rooted and very real fear in the immigrant community that if immigrants contact the police, they or their loved ones will be taken into custody—and if they are found to be unauthorized, they could be ultimately deported. There have been numerous accounts of a crime victim calling 911 for help only to be detained and deported; many times, this process begins when the victim lacks identification or has an invalid form of ID.<sup>119</sup>

Similarly, there is ample evidence that when an unauthorized immigrant is caught driving without a license—a minor traffic offense—that arrest may lead to deportation. In a 2012 interview, an officer in Charlotte, North Carolina, related an incident where an unauthorized immigrant was stopped for a traffic violation “with no proper documentation, he was arrested, [because he] doesn't have a North Carolina license; they ship him back to his country.”<sup>120</sup> Almost 60

percent of Latinos surveyed in 2011 reported that they knew someone who was arrested after being stopped by police for a driving violation.<sup>121</sup> Another 2011 survey of Mexican immigrants revealed that more than one-quarter of the police stops in North County, California—the second-most populous area in San Diego County—ultimately led to deportation.<sup>122</sup>

Another survey of unauthorized Latino immigrants published in 2013 revealed that 70 percent of the respondents were “less likely to contact police officers” if they were victims of a crime, and an equal percent were less likely to report crimes.<sup>123</sup> Unauthorized respondents to the survey stated that they were unwilling to seek help even when they needed it because they feared that the police would ask about their immigration status or the status of someone they love. Law enforcement officials too are aware of the mistrust that the immigrant community has in police; nearly 60 percent of law enforcement executives, in a national survey, responded that immigrants were less likely to contact law enforcement as victims or witnesses of a crime compared with the general population.<sup>124</sup> These statistics are troubling because when a community member is afraid to call the police, their fear threatens the public safety of the entire community.

Therefore, one of the principle purposes of the creation and acceptance of alternative forms of identification is to improve the interactions of unauthorized immigrants and other vulnerable residents with law enforcement. For example, the ordinances for the municipal ID card programs for San Francisco’s—both city and county—SF City ID Card and Oakland’s Oakland City ID Card each specify that making residents feel secure enough to contact police is an important goal of their programs.<sup>125</sup> In cities such as Cincinnati, the police department established a procedure to accept consular IDs as a valid form of identification and has banned law enforcement from arresting individuals solely because they may be unauthorized.<sup>126</sup> Moreover, some city law enforcement agencies now have the technical ability to read the security features of certain consular IDs to help verify their authenticity.<sup>127</sup> As mentioned earlier, 1,036 U.S. police departments accept matrícula consular cards as a form of identification. Similarly, many cities with municipal ID programs also require local law enforcement to accept municipal ID cards as a valid form of identification. For example, IDNYC was launched with strong support from the New York City Police Department.<sup>128</sup>

Providing unauthorized immigrants with valid identification does not only enhance trust in local law enforcement and increase the likelihood that such people will seek or offer assistance to police, but it also helps police officers do their

One of the principle purposes of the creation and acceptance of alternative forms of identification is to improve the interactions of unauthorized immigrants and other vulnerable residents with law enforcement.

jobs more effectively. First, valid ID allows officers to avoid spending limited time and resources trying to identify people they encounter. Second, it enables officers to more easily determine if an individual has outstanding warrants and helps them gauge a person's threat level.<sup>129</sup>

Some states have taken affirmative steps to encourage unauthorized immigrants to obtain valid identification documents that can be used in encounters with law enforcement officials. For instance, when Nevada enacted a law extending driving privileges to individuals who could not prove legal status, the state also barred officials from inquiring about immigration status during routine policing.<sup>130</sup> And in 2011, the attorney general of Vermont instituted a bias-free policing policy with similar guidelines to create a positive relationship between law enforcement and all residents.<sup>131</sup>

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## Universal access to driver's licenses increases road safety and raises revenue

Expanding access to driver's licenses makes roads safer for everyone.<sup>132</sup> Enabling individuals, regardless of their immigration status, to get driver's licenses, ensures that those who need to drive are able to take a driving test, go through the same screening as everyone else, and can drive legally.

Many unauthorized immigrants report that they are forced to drive without a license because they need to get easily from point A to point B—whether they are going, for example, to the hospital with a pressing health concern or to and from work.<sup>133</sup> A study from the Oregon Department of Transportation reported that 75 percent of Latinos interviewed, one-third of whom were unlicensed themselves, knew someone who drove without a license.<sup>134</sup> Not allowing individuals, who in most locations need to drive to live their lives, an opportunity to be properly tested and licensed raises safety concerns for everyone on the road. Providing universal access to driver's licenses is a common-sense solution that many states are already moving toward.

Universal access to driver's licenses also would mean increased access to auto insurance. A 2015 CAP survey revealed that after DACA provided certain unauthorized youth temporary relief from deportation and the opportunity to apply for a work permit, nearly 90 percent got their driver's license, and among those who bought a car, 96 percent purchased insurance.<sup>135</sup> Issuing driver's licenses

to all unauthorized immigrants potentially means reducing the share of uninsured drivers on the roads. In Utah, for example, 76 percent of residents holding Driving Privilege Cards also had auto insurance, according to a 2008 audit of the program.<sup>136</sup> Moreover, expanding the pool of insured people will increase insurance savings for other drivers as well.<sup>137</sup> A 2015 empirical study showed that insured drivers in states that deny driver's licenses to unauthorized immigrants pay \$17.22 more per year, on average, for auto insurance than drivers in states with more inclusive laws.<sup>138</sup> By authorizing a broader swath of the population—many of whom already drive without a license or insurance—to obtain driver's licenses and purchase auto insurance, states can decrease the average cost of insurance for all drivers.

Issuing driver's licenses and driving cards also increases state revenues through fees associated with the application and issuing process. A report from New Jersey estimates that depending on the licensing fee charged, the state could immediately collect anywhere between \$5.2 million and \$11.1 million in additional licensing fees.<sup>139</sup> Other states estimate that the increase in revenues would be significantly larger if taxes from car sales, automobile registration fees, and vehicle taxes were also included in the revenue mix.<sup>140</sup>

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## Access to driver's licenses and other forms of ID increases economic participation

A valid form of identification also makes daily transactions that require an ID much easier to facilitate.<sup>141</sup> Increased access to local businesses means that unauthorized immigrants will be better integrated into the local economy, spend more money, and create greater local demand. Indeed, cities promote their ID cards among local businesses and retail establishments and often partner with the business community to provide discounts to cardholders, which also furthers the goal of boosting local commerce.<sup>142</sup> There is also some evidence that a lack of acceptable identification makes it difficult for unauthorized individuals to make larger purchases such as houses and cars.<sup>143</sup>

Other than making purchases, identification cards—specifically, driver's licenses and drive-only cards—make it easier for individuals to get and keep jobs.<sup>144</sup> This benefit was highlighted in 2009, when Pennsylvania suspended more than 1,000 driver's licenses after the state could not verify the license holder's Social Security number.<sup>145</sup> Nearly 50 percent of unauthorized immigrants surveyed in 2015 in

Pennsylvania reported losing a job after their licenses were cancelled. Almost 90 percent said that they accepted a lower-paying job because they did not have a license to get to and from a better-paying job.<sup>146</sup> Curtailing the mobility of workers constrains them to make choices that will limit them in achieving their full potential.<sup>147</sup> If they are able to find jobs that better match their skills, that will in turn improve their economic situations and increase their participation in the local economy—ultimately helping all residents in a given community or state.<sup>148</sup>

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## ID cards make services more accessible for unauthorized immigrants and their families

Identification cards can increase access to basic city services and make community members feel welcome. Municipal ID cards, in particular, are designed to make city services accessible for all city residents. All municipal ID cards are issued to function as proof of identity and residency. Depending on their design, these cards also provide access to a range of services; they can be used as a library card; to open bank accounts; as a debit card; and, in some cases, at parking meters.<sup>149</sup> Municipal ID cards also give access to recreational facilities by allowing cardholders to open accounts at the parks and recreation departments, as is the case with the SF City ID Card, or at local cultural institutions, as in the case of New York City's IDNYC.<sup>150</sup> Moreover, IDNYC and other cards give a series of discounts for movie theaters, wellness centers, theme parks, and even Broadway shows.<sup>151</sup>

Providing access to ID cards for unauthorized immigrant parents increases access to basic services for their children, many of whom are U.S. citizens. There are cases where unauthorized parents could not enroll their children in school because they did not have a valid state-issued ID card.<sup>152</sup> Some municipal card programs also try to address this problem, as they specifically can be used for school enrollment, as is the case in Newark, New Jersey, and New York City.<sup>153</sup> Other municipal ID cards provide access to basic health care services, responding to many unauthorized immigrants' fear of going to the hospital. Besides giving access to many city-run health clinics and giving discounts on prescription medication, the SF City ID Card has an option to include a cardholder's medical conditions and allergies.<sup>154</sup>

Along with municipal IDs, many cities also accept consular IDs to access basic city services. Immigrants can use their consular IDs to get library cards, business licenses, and register children in school.<sup>155</sup> Individuals can also use their consular IDs along with the other required documents to receive municipal ID

cards in New Haven, Connecticut; New York; and other cities.<sup>156</sup> Many states also recognize consular IDs as a valid form of identification for the issuance of driver's licenses and nondriver ID cards. Utah, for example, specifies that it accepts *matrícula consular* as one of the documents to issue the state's DPC, while Connecticut accepts consular IDs as valid form of identification.<sup>157</sup>

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## ID cards increase access to financial institutions

As mentioned earlier, studies show that the majority of unauthorized immigrants do not have bank accounts and instead use nontraditional methods to cash checks.<sup>158</sup> Furthermore, the fact that these individuals are unbanked also means they will not have a secure means to save their hard-earned cash. As a result, unauthorized immigrants frequently keep large amounts of money in their homes or carry it on their person.<sup>159</sup> These sorts of practices put them and their communities at risk. Because they lack access to financial institutions, unauthorized immigrants have sometimes been labeled by the media and public as “walking ATMs” for the large sums of cash they carry on them—an act that makes them a target for criminals and creates a public safety concern.<sup>160</sup> They also end up using expensive cash-checking services that charge exorbitant fees simply to cash a check—anywhere from 2 percent to 5 percent—and then pay again to convert cash to money orders or other forms of payment, which can add up to hundreds or thousands of dollars in fees per year.<sup>161</sup>

With the goals of incorporating unbanked residents into the formal economy and protecting them from criminals, some cities have designed their municipal ID cards to be used as prepaid debit cards. For example, the municipal ID cards of Richmond and Oakland, California, have an optional prepaid debit card banking feature.<sup>162</sup> The debit card option allows individuals to use banking services such as direct deposit, online purchases, and cash reloading on the card. To increase security and acceptability, funds on the cards are insured by the Federal Deposit Insurance Corporation, or FDIC, and accepted anywhere that a MasterCard debit card can be used. However, the high transaction costs of these municipal ID debit cards may be a major hurdle for low-income cardholders to use them in such a way. The Richmond ID card charges as much as a \$3.99 monthly fee, a 50-cent inactivity fee, and \$1 on top of the general ATM withdrawal fee.<sup>163</sup> While these charges may not sound high, for a low-income individual, they add up fast and may be more expensive than other prepaid cards or bank accounts on the market.

Other municipal ID cards that do not have debit card features may, in theory, be used to open bank accounts in financial institutions that partner with them. For example, the SF City ID Card teamed up with several credit unions—including Northeast Credit Union, Patelco Credit Union, and Redwood Credit Union—to allow cardholders to open financial accounts.<sup>164</sup> Similarly, IDNYC partnered with more than a dozen banks and credit unions to allow individuals to open bank or credit accounts.<sup>165</sup>

Even unauthorized immigrants living in states and cities that do not issue driver's licenses, ID cards or municipal IDs may have access to financial institutions if they have consular IDs. In 2001, Wells Fargo became the first bank to accept consular IDs issued by the Mexican government for transactions; it now also accepts IDs from Argentina and Guatemala.<sup>166</sup> In addition, a number of other large banks and credit unions across the country accept consular cards, including Citibank, Bank of America, and U.S. Bancorp.<sup>167</sup>

Helping individuals access mainstream banking services saves them money and time; ensures that their earnings are safe; and opens the door to additional financial opportunities, such as affordable loans, in the future.

# Limitations of identification cards

While each type of identification discussed in this report helps solve a part of the challenge that unauthorized immigrants face because of a lack of federally recognized ID, each also has its own limitations.

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## Federal agencies accept none of the aforementioned ID cards

There is no way for millions of unauthorized immigrants to access government-issued identification accepted for federal purposes. Not one of the approaches mentioned in this report is accepted for official use by the federal government, which means that they cannot be used, for example, to board an airplane—not even for domestic flights.<sup>168</sup>

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## Differences in state driver's license laws for unauthorized immigrant drivers pose challenges

As with any state-level policy, there is a disparity among the states when it comes to unauthorized immigrant drivers. Colorado, Washington, and Vermont issue driver's licenses that allow unauthorized immigrants to drive legally, along with nondriver identification cards for those who do not drive.<sup>169</sup> In comparison, Connecticut, Utah, Hawaii, and Illinois issue driver's licenses for driving purposes only but do not issue nondriver ID cards for the purpose of identification.

For all of these cardholders—those holding driver's licenses, nondriver ID, and drive-only cards—crossing state lines is a tricky proposition, since doing so depends on each jurisdiction's acceptance of another state's card. If an unauthorized individual with a driver's license from Maryland, for example, crosses into Virginia, there is no guarantee that Virginia will accept his or her driver's license.

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## Marking IDs as noncompliant may stigmatize cardholders

The REAL ID requirement for states to mark driver's licenses and nondriver ID cards to indicate that they are not accepted for federal purposes raises concerns that these licenses and forms of ID may be interpreted as a "scarlet letter" that identifies the cardholder as an unauthorized immigrant, which could lead to discriminatory behavior, including unlawful stops and arrests. California took steps to address this concern by adding a provision in the law that discrimination resulting from the REAL ID requirement is against the state's Unruh Civil Rights Act.<sup>170</sup>

Consular ID cards may raise similar concerns, since someone carrying one may be presumed to be unauthorized—even though all citizens of that country technically can carry the card. Similarly, although any resident can get municipal IDs, cities are also concerned about branding and stigmatizing their unauthorized populations; they therefore include attractive benefits to encourage all residents to apply for them.<sup>171</sup>

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## Not all city services and businesses accept municipal and consular IDs

There is also evidence that municipal cards may not be accepted by some service providers and businesses in the communities in which they are issued. For example, a study of New Haven's Elm City Resident Card concluded that the card was not consistently accepted among all local businesses.<sup>172</sup> Furthermore, there is a wide discrepancy in the acceptance of municipal and consular IDs to open accounts in financial institutions. Even among the few cities that issue municipal ID cards, the cities partner with only some financial institutions to allow cardholders to open bank accounts.<sup>173</sup> This means that not all banks and credit unions in a city accept municipal IDs as a primary or even secondary form of ID. Similarly, while many major banks accept consular IDs as a valid form of identification, many other banks do not. Among financial institutions that do accept consular IDs, the *matrícula consular* issued by Mexico seems to be more widely accepted than others. Individuals holding other consular IDs will have difficulty accessing financial institutions, as acceptance differs from institution to institution.

Likewise, law enforcement's acceptance of consular IDs is also mixed, though the trend has been toward increased acceptance. Case in point: Los Angeles County has adopted a policy to accept consular IDs from Mexico, Argentina, and Korea and has set some standards to accept others.<sup>174</sup> A 2004 report from the

Government Accountability Office stated the acceptance of consular IDs among different federal departments varied.<sup>175</sup> For example, while the Department of the Treasury passed a regulation that allows consular IDs to be used as a form of identification to open bank accounts, the FBI and the Department of Homeland Security have expressed concerns over the security of consular IDs.<sup>176</sup> However, the Department of State warns that not accepting consular IDs from other countries could mean that other countries may retaliate by refusing to accept the U.S.-issued IDs of American citizens living abroad.<sup>177</sup>

# Recommendations

Identification is a practical problem faced by unauthorized immigrants, their loved ones, and the community members they interact with on a daily basis. As this report indicates, each of the policy options that states and localities pursue have their own set of benefits and drawbacks but nevertheless serve as good examples for other jurisdictions to follow.

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States should issue driver's licenses to all eligible individuals, regardless of immigration status

Currently, only 12 states, Puerto Rico, and the District of Columbia have some form of a driver's license law that allows unauthorized immigrants to drive legally. Besides the strong road safety arguments for increasing access to driver's licenses, these laws have the added benefit of increasing access to auto insurance, which in turn can lead to a decrease in overall insurance cost for all drivers.

While state-issued driver's licenses are the most structured and accepted form of identification that an unauthorized immigrant can possess, some states issue ID cards only for drivers. These drive-only cards are a positive step toward helping drivers who do not have proper documents, but the policy excludes other marginalized individuals who cannot drive and would benefit from a nondriver identification card. Given that REAL ID allows states to issue both driver's licenses and nondriver identification cards—as long as the nondriver cards have a distinctive mark to bar their use for official federal purposes—it makes sense for every state to issue driver's licenses to all residents, along with nondriver identification cards.

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States with REAL ID-noncompliant driver's licenses marked with a recognizable feature need to ensure through regulation that there is no discrimination based on the marks

Driver's licenses and nondriver identification cards that are noncompliant with REAL ID are required to have a recognizable mark on them that allows them to be easily distinguished from federally recognized cards. This is a problem: The mark could have the unintended consequence of generating presumptions about the cardholder's immigration status, making these individuals vulnerable to discrimination. When individuals present a marked identification card to a landlord, pharmacist, or bank teller, for example, they might be treated differently because others could assume that the cardholder lacks legal status.<sup>178</sup> As a result, unauthorized immigrants may be unwilling to get a marked ID because they do not want to be singled out. In an effort to alleviate that concern, California officials tried to place the REAL ID-compliant marks on the backs of their ID cards so that they did not immediately raise questions about the immigration status of the cardholder. DHS officials rejected California's design, stating that it was noncompliant with the REAL ID Act's requirements.<sup>179</sup> To discourage discrimination and encourage people to use the new driver's licenses, California passed legislation prohibiting discrimination based on the required mark on state ID cards. Other states that issue driver's licenses and nondriver identification cards or are planning to propose them should consider similar anti-discrimination provisions to protect cardholders.

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Localities should pursue municipal ID card programs, while also raising awareness and acceptance of the cards

Municipal ID cards are one of the innovative ways in which some cities have chosen to assist residents who cannot access a valid photo identification card.

Nonetheless, cities offering or considering the use of municipal ID cards need to ensure vigorous outreach to all communities to ensure that residents who most need the IDs can get them. For example, New York was able to successfully promote IDNYC among all residents and issued more than 570,000 cards in a little more than 10 months after the program's launch.<sup>180</sup> IDNYC has around 29 permanent and temporary enrollment centers across the city.<sup>181</sup> In addition, information about IDNYC is available in multiple languages. Other cities have seen far fewer applicants for their programs, and lack of strong outreach could be the problem. Outreach efforts to encourage residents to apply for municipal IDs

need to be coupled with outreach to local businesses and financial institutions. Municipal ID program administrators need to raise awareness and build relationships with more basic service providers, financial institutions, and local business establishments to increase card acceptance.<sup>182</sup>

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### Countries that issue or plan to issue consular IDs should improve security and awareness to increase their acceptability

Multiple foreign consulates issue or are planning to issue consular IDs to their citizens living abroad, but financial institutions do not accept all consular IDs to open a bank account, nor does law enforcement recognize them in all places.

Foreign consulates have been working toward increasing the security of their consular IDs. The Mexican consular identification card, or *matrícula consular*, is one of the oldest and, potentially, the most accepted consular IDs in the United States. In November 2014, Mexican consulates started to issue new consular ID cards with improved security features. For instance, the new card is linked to a central Mexican database that confirms identity and has hidden security features to prevent duplication and embedded identity data.<sup>183</sup> Increased security of the cards and clear ways to verify individuals' identities would make the consular IDs more acceptable to local governments and financial institutions.

More state and local governments, local law enforcement, and financial institutions should establish guidelines to accept consular IDs from Mexico and other countries.

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### States and localities should establish policies to bar officials from inquiring about an individual's immigration status

Many localities explicitly launched ID card programs and passed driver's license laws with the goal of improving the relationship between local law enforcement and unauthorized immigrants. There are some states, such as Nevada, where driver authorization laws specifically prohibit the release of any information regarding immigration status to any level of government for immigration enforcement purposes.<sup>184</sup> Some local police departments also prohibit their officers from asking about such status. Recently, the Salt Lake City, Utah, police chief announced that the department will not ask for individuals' immigration status—a move to enhance trust with and better protect all community members and decrease

crime.<sup>185</sup> At the state level, Utah passed a law in 2011 that would have authorized police to ask for “papers” from individuals if they had “reasonable suspicion” that they were involved in human trafficking; a federal district court struck down key provisions of this law in 2014.<sup>186</sup> In 2003, years before IDNYC was announced, then-New York Mayor Michael Bloomberg (I) signed an executive order that prohibited city workers from inquiring about immigration status and went on to specify that law enforcement was prohibited from asking about the immigration status of individuals seeking assistance or reporting a crime.<sup>187</sup> Having policies in place that prohibit inquiry about immigration status would make individuals feel more secure when contacting law enforcement, more likely to come forward as witnesses, more willing to ask for help when they are victims, and more likely to report workplace exploitation and violations.<sup>188</sup>

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Federal lawmakers should pass immigration reform that includes a pathway to citizenship

Only comprehensive immigration reform legislation, which includes legal status for a majority of unauthorized immigrants, will truly solve the national problem of identification. Congress has the sole power to take action to devise a humane strategy that responds to the needs of the 11.3 million undocumented individuals in the United States, puts them on a pathway to citizenship, and provides them with the chance to live with dignity in the states and cities that they contribute to on a daily basis.<sup>189</sup> Doing so would allow this population to access federal, REAL ID-compliant licenses accepted across the United States.

Administrative action on immigration also has the ability to solve—at least temporarily—identification issues for a significant portion of the unauthorized population. All 50 states and the District of Columbia now issue driver’s licenses to DACA recipients.<sup>190</sup> Another administrative action, announced in November 2014, expands DACA and provides Deferred Action for Parents of Americans and Lawful Permanent Residents, or DAPA.<sup>191</sup> Currently, however, the implementation of expanded DACA and DAPA is on hold due to a Texas-led lawsuit upheld by the 5th Circuit Court of Appeals in New Orleans in November 2015, meaning that nearly 4 million people remain without access to a REAL ID-compliant identification card.<sup>192</sup> If the U.S. Supreme Court agrees to hear this case, it will be up to the justices to decide the fate of millions of unauthorized immigrants eligible for deferred action and their families.<sup>193</sup>

Only comprehensive immigration reform legislation, which includes legal status for a majority of unauthorized immigrants, will truly solve the national problem of identification.

# Conclusion

In the past, the federal government generally set and enforced immigration law, but as federal immigration reform has stalled, states and localities have become more involved in how they interact with unauthorized immigrants. A lack of federal standards and the absence of clear guidance on how people should identify themselves has forced states to take positions, since issuing driver's licenses—one of the instruments that people use to identify themselves—falls under their purview. A number of cities have stepped up to the plate as well in issuing municipal IDs, as have some foreign consulates, which have expanded their consular ID programs.

The various states, localities, and institutions discussed in this report have taken positive steps to come up with practical and common-sense solutions to the problems that their residents and communities face. Issuing driver's licenses to anyone who needs to drive increases road and public safety for everyone on the road. When all community members can call law enforcement without fear of repercussions, it makes entire communities safer. At the local level, municipal IDs embrace all residents, unauthorized or otherwise, and makes them part of the larger community. Similarly, consular IDs give individuals an additional option for identification—and sometimes, the only option to open bank accounts or get birth certificates. Overall, these state and local efforts provide dignity to the people who carry them and safety and security to everyone else.

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## About the author

**Silva Mathema** is a Policy Analyst on the Immigration Policy team at the Center for American Progress. Her research focuses on the effects of U.S. immigration policies on the daily lives of immigrants. Previously, she worked as a research associate for the Poverty & Race Research Action Council, where she studied the intersections between race and ethnicity issues and policies regarding affordable housing and education.

Mathema earned her Ph.D. in public policy from the University of North Carolina at Charlotte, where she specialized in immigration policy. She holds a bachelor's degree in economics from Salem College. Mathema is originally from Kathmandu, Nepal.

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