



April 23, 2012

**American Civil
Liberties Union
of New Jersey**

P.O. Box 32159
Newark, NJ 07102

973-642-2086
973-642-6523 (fax)

info@aclu-nj.org
www.aclu-nj.org

Raymond P. Martinez, Chief Administrator
New Jersey Motor Vehicles Commission
P.O. Box 160
Trenton, NJ 08666

Dear Mr. Martinez:

I am writing to express concern about the implementation of TRU ID to bring New Jersey into compliance with the federal Real ID Act. We believe that Real ID implementation is against New Jerseyans' interests and, if implementation is going to move forward, specific protections and exceptions are needed in order to protect citizens' rights. We would like to meet with you to discuss this matter as soon as possible.

As you know, the Real ID Act of 2005 establishes new federal standards for state-issued driver's licenses and ID cards to be accepted by the federal government for "official purposes" including boarding commercial airline flights and entering federal buildings. It seeks to establish a national ID card, separating people and denying benefits of citizenship based on an individual's ability or inability to provide documents.

Groups from across the political spectrum have opposed it, including many here in New Jersey. Supporters of fiscal conservatism and federalism decried it as an unfunded mandate that trampled on states' rights under the Tenth Amendment. Civil rights and civil liberties groups expressed concern that the Act lacked sufficient privacy protections and might increase racial and ethnic discrimination. Defenders of religious freedom described its negative impact on the Amish and other religious denominations. Consumer groups feared it would result in an expansive and cumbersome new bureaucracy.

Since it passed, so many states have objected to Real ID that compliance is now statutorily barred in 15 states, and has been rejected in at least 25 states total, postponing full implementation indefinitely. Further, because the Department of Homeland Security has no effective tools for inducing state compliance, and has acknowledged that it cannot possibly paralyze the air transportation system or deny tens of millions of Americans the right to fly, the outcome is endless postponement. Given this reality, if the state believes improvements to drivers' licenses are necessary they should be justified on their own merits, not by reference to a federal statute that has been frequently rejected.

New Jersey itself initially rejected Real ID – recognizing cost, privacy and practicality concerns – and took a strong line against the collection of data by commercial entities from state issued identifications (*see Harrington letter to Katmandu, November 22, 2006*). Considering the confidential nature of the data contained in the cards, and the risk of commercial intrusion or ID theft, what protections has MVC promulgated to ensure the integrity of the data? Does the state plan to go forward with making electronic copies of all source documents like birth certificates? Such a database would be a honey pot for identity thieves.

Costs are also an issue. As an unfunded mandate, Real ID poses substantial costs to the New Jersey economy in multiple ways – typical costs include technology upgrades, employee training and information technology specialists to help with implementation. Volunteering to pay these costs seems especially gratuitous in light of New Jersey’s fairly recent upgrade to the six-point identification system, which went into effect less than a decade ago. Although we have a pending OPRA request to you (your records custodian is currently working on it for us), to our knowledge, the state has not disclosed the costs of those upgrades, any contractors tapped to carry them out, or plans for funding their implementation. Whatever the final costs, New Jersey residents will undoubtedly pay.

TRU ID will also present impossible hurdles for many in society. It’s not hard to imagine scenarios that would warrant exceptions from the Real ID requirements. Consider homeless or undocumented people who need to enter the federal courthouse or travel by plane. What about people qualified to drive but who can’t meet the burdensome requirements for documents that TRU ID mandates – will New Jersey deny those citizens a license to drive? What happens to citizens born in countries that don’t maintain accurate birth records? In addition, due to malfeasance by an employee of the Hudson County Vital Records Department who created false records, people born in Jersey City and Secaucus before 2004 will have to go to Trenton and pay \$25 to receive a new birth certificate; this likely affects hundreds of thousands of citizens.

Real ID also makes no provision for securing personal information for individuals in potential danger. The “Address Confidentiality Program,” N.J.S.A. 47:4-1 et seq., allows victims of domestic violence to use an alternate address for all state and local governmental purposes, including driver’s licenses and registration, professional licensing, banking and insurance records, welfare, etc. New Jersey laws also enable victims of domestic violence to vote without revealing their addresses, N.J.S.A. 19:31-3.2. Victims of sexual assault and stalking may use an alternate address on their driver’s license and registration. N.J.S.A. 39:3-4. How will New Jersey continue these protections when bound to Real ID?

In light of the many concerns Real ID and TRU ID raise, we ask that you delay implementation of the TRU ID identification until a stakeholder review can take place to consider these concerns

and the possibility that members of the public could choose whether they prefer to get a TRU ID or an ID under the existing 6-pt system. There are many New Jersey constituencies and organizations concerned about TRU ID, and their concerns should not go unheard.

A stakeholder review is especially important as it appears that TRU ID is being implemented without any opportunity for input from citizens or elected officials or the adoption of enabling legislation. When the 6-pt ID system was established, at least the public had an opportunity to comment on the regulations that were promulgated. In contrast, we have not seen any TRU ID-related regulations on which to comment.

Thank you for your consideration. We will reach out promptly to set an appointment to meet.

Sincerely,

A handwritten signature in black ink that reads "Deborah Jacobs". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

DEBORAH JACOBS
Executive Director