

STATEMENT OF JOHN A. VOLPE, SECRETARY OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE SENATE JUDICIARY COMMITTEE REGARDING THE OPERATIONS OF THE NATIONAL DRIVER REGISTER, THURSDAY, MARCH 11, 1971.

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to appear before you today to discuss the operation of the National Driver Register. Before I begin my discussion, Mr. Chairman, I would like to state publicly that I personally, and we at the Department of Transportation, recognize and appreciate your long and continuing efforts to protect and maintain, in your words, the "Constitutional legacy of personal privacy and individual rights". Your persistence in insuring that the essential interests of society are preserved without infringement of our basic and constitutional rights deserve the respect of all Americans, irrespective of party affiliation or philosophical persuasions.

No doubt many of the disclosures of the past several months and, more recently, of these hearings, have increased everyone's awareness and concerns over the use of data banks. There can be no question that the more efficient we become at gathering information of all kinds, the more insistent we must be against invasions of individual privacy. I assure you that the Department of Transportation will continue to be sensitive to this issue, and that at no time will we knowingly allow data collection or dissemination which violates the constitutional safeguards upon which our personal liberties are guaranteed.

In order to present the best possible understanding of the National Driver Register, I will discuss with you today the legislative origins of the Register, the mechanics of its operation, the advantages derived from its use,

and a proposal for its future use. At the outset, however, I would like to emphasize two important points with respect to the National Driver Register that differentiate it from many federally operated data banks.

First, the Federal Government is not the source or the originator of the data contained in the Register. The information stored in the Register is not the work product of government agents in the field, nor is it the result of surveillance of unsuspecting individuals. The Register is simply a depository for State-collected and State-furnished information which is part of a State's public record. In most States, this record is available to anyone who requests it.

Secondly, the Federal Government makes no use of this data, except in a very limited area provided for by law, which I will discuss later.

A National Driver Register was first suggested in a 1959 report by the Secretary of Commerce to the House Public Works Committee on the federal role in highway safety. In that report, it was pointed out that one million driver licenses issued by the States had been revoked.

Originally, the idea of a Register had been suggested by State officials, who pointed out that individuals with a revoked license in one State were acquiring a new one in another.

The legislation establishing the Register was enacted in 1960, and provided for a listing of all individuals who had their licenses revoked for driving while intoxicated or because of a conviction of a traffic violation involving loss of life. In 1961, the legislation was amended to change the

term "revoked" to "terminated or temporarily withdrawn" to make the act mirror State practices. It was again amended in 1966 to allow for the recording of denials and withdrawals, not just denials and withdrawals for driving while intoxicated or being convicted of a traffic offense resulting in a fatality. Under the legislation a Federal agency only has access to the information in regard to the issuance of a U.S. Government motor vehicle operator's permit. A more comprehensive history of the Register legislation appears as Appendix A to my statement.

The Register is a data retrieval system maintained by the National Highway Traffic Safety Administration. It is, in essence, a set of magnetic tapes which contain a record of individuals whose licenses have been denied, terminated or withdrawn, except for withdrawals of less than six months for non-moving violations. It currently contains the records of approximately 2.2 million persons. Each State, on a form specified by the National Highway Traffic Safety Administration, submits records of such denials and withdrawals which are transferred to the tape. The actual matching of the names in the Register with the names of license applicants is run on a 360/65 model computer. However, the applicability of the information provided by the Register to a particular license applicant is left to the State.

I have attached as Appendix B to my statement samples of the forms for data recording and retrieval used by the Register. In essence, they require the name and physical features of the individual, his license number and/or social security number, and the reason for, and duration of, the revocation. Approximately half of the States supply social security numbers to the Register.

A number of safeguards are in effect to insure the security of the information submitted by the States. Only specified State sources may submit a revocation notice, and printouts from the Register may only be sent to specifically designated State and Federal officials. The Register staff periodically checks with the States to verify the number of records submitted by that State to the Register. The Register also provides special pre-addressed, franked envelopes and special containers to the States to be used for all submissions. Special format punch cards and magnetic tape are also supplied to the State.

Further, Register personnel are carefully instructed as to their responsibilities, and all have received special clearances. The Register offices have special locks, and Register personnel, rather than normal cleaning crews, clean their offices. Obsolete records are destroyed by burning in the presence of Register personnel and computer tapes are erased before being sent to the States for additional information.

As indicated above, printouts from the Register are available only to designated State and Federal officials, and only in connection with an application for a motor vehicle license or permit. I must point out, Mr. Chairman, that to my knowledge there have been two exceptions to this requirement. In preparing for this testimony, I learned that in 1965 the FAA requested and received a correlation between individuals holding FAA pilot's licenses and entries in the Register. In 1968, a study was made by the National Institute of Mental Health, in cooperation with the State of Maryland and the National Highway Safety Bureau, to determine the correlation between individuals whose licenses were suspended for drunken driving in Maryland and individuals who sought help in Maryland for alcoholism. We must admit, Mr. Chairman, that both these instances involved a misapplication

of the law and should not have taken place. Since those instances occurred, Register personnel have been strongly instructed to grant information from the Register only to designated State and Federal officials. And, I have been assured that there have been no cases since 1968 in which these instructions have been disregarded.

The Register receives a daily average of 3,000 reports of license denials and withdrawals. States, to varying degrees, query the Register when they receive an application for a driver's license. The Register receives daily 65,000 inquiries, and sends approximately 650 reports of probable driver record identifications to the States. There are two runs made to match data, 90 days apart. This is to eliminate the problem of someone applying for a new license in a State before his revocation from another State has been entered in the Register. After the second run, the request for information is destroyed.

There are, in actuality, two files maintained. There is an active file to which the authorized designated State and Federal officials have access. This file is purged quarterly by directive of the NHTSA of all records over five years old except in the case of violations requiring mandatory revocations under the Uniform Motor Vehicle Code. The records in this latter instance are erased after seven years. There is also an inactive file, consisting of data deleted from the active file, which is retained for one year thereafter to answer possible State questions concerning the removal of the file. After this additional one year, this record is also destroyed. There are no circumstances under which this data can be reentered into the Register.

The accuracy of the information in the Register is essentially a State responsibility, since the data is prepared and submitted by the State from its own records. We have cautioned the States to advise us immediately of any errors or alterations in their submissions. There is no practical way in which the National Highway Traffic Safety Administration can independently review or evaluate for accuracy the substance of the records submitted by the States.

I might add that a good part of the information and safeguards I am discussing today are also contained in a brochure explaining the National Driver Register which has been distributed to the States and is revised periodically. A copy is attached as Appendix C. Further, the Director and Assistant Director of the Register have visited every State at least once to brief them on the operation of the Register and to emphasize the need for accuracy in the records forwarded to the Register.

As I have said, the Federal Government is not the source of any information contained in the Register. We merely maintain a summary file of State records related to driver license denials, withdrawals and revocations. There is no information in the Register which cannot be obtained by direct inquiry to nearly all States.

The law does not provide that an individual be notified when his name has been entered in the Register. Obviously, however, an individual is notified and aware of the revocation of his State driver's license or the denial of his application for a license under normal State procedures. Further, the only use by a State or Federal agency of the information in the Register is in connection with license applications. In these instances, the individual

is made aware of the basis of the action taken with respect to his application. We believe he can at that point correct any errors in the information obtained from the Register.

There is another matter that I wish to bring to the Committee's attention. With few exceptions, the States maintain their driver records as public records and any individual or corporation may, upon the payment of a fee, obtain an abstract of driver records. If a State determines that the information which it has received from the Register is in fact the record of its applicant, this information becomes part of the applicant's State driving record. The fact that this information becomes part of a public record makes it available in most instances to those requesting it from the States. The principle users of these State records are employers of drivers and insurance companies.

Let me speak now of the way maintaining the Driver Register directly helps to lessen the death on our highways. I need not remind this Committee that the annual deaths on this nation's highways exceed the total number of Americans killed during the entire history of the war in Vietnam. Because of the danger of allowing some individuals access to our highways the States have established a suspension or withdrawal system for those convicted of serious motor vehicle offenses. There would be little good in this system if an individual, after having his license revoked in one State, could immediately go to another State and obtain a new license. It was to combat this problem that the National Driver Register was established.

Through the Register, a State can query other States to guard against issuing what can only be called a license to kill. To give you an example

of the effectiveness of the Register, let me tell you of two letters we received. In April 1970, we were advised by John Gates, the Commissioner of Motor Vehicles for West Virginia, that over the past two years his Department has cancelled the licenses of approximately 1,000 individuals for making false application. He estimated that 80 percent of these were discovered through the Driver Register. In November 1970, Claude Prier of the Alabama Department of Public Safety estimated that 90 percent of Alabama's license cancellations resulted from information obtained from the Register. It is clear that without the Register, substantial numbers of dangerous drivers convicted by our courts would be on our roads today.

From our experience with the Driver Register, we have determined that it would be desirable to expand its use somewhat. We have under consideration legislation which will accomplish the following: expansion of the purposes for which States may apply for information from the Register.

First, it will allow an employer to determine if an applicant for employment as a driver has a history of license revocations. Effective January 1, 1971, such a determination is required of employers by regulation of the Bureau of Motor Carrier Safety. Under existing practices, it is necessary for the employer to contact each State in which an applicant for employment is licensed in order to make that determination.

Secondly, the amendment we will propose will allow a judge, prior to imposing sentence on an individual convicted of a motor vehicle offense, to query the Register. This will allow for more effective sentencing of first, second, or multi-offenders.

Let me tell you of some of the cases which led us to recommend these amendments. We have others which we are prepared to submit for the record if the Committee desires.

In one instance, a tractor-trailer collided with two other trailers and burst into flames. There were two fatalities and \$30,000 in property damage. The driver of the tractor-trailer had a record of three license suspensions and three traffic violations. In another case, a tractor-trailer collided with the rear of a car. Three persons were injured and there was \$7,500 in property damage. The driver of the tractor-trailer had the following record: 8 prior accidents, 14 traffic violations, and 3 license suspensions. In another accident, which resulted in one death and several injuries, the driver of the tractor-trailer had a record of 10 traffic violations and 4 license suspensions.

But the Register, even with the proposed amendments, is not all-encompassing. For example, consider this case from our files. A driver of a tractor semi-trailer who was involved in an accident had previously also been involved in 17 traffic violations, of which 12 had been for speeding, and 8 accidents. Nevertheless, his license had never been suspended and he was not listed in the Register. I believe this demonstrates that we only record what is clearly necessary and supportable. It also indicates, I'm sorry to say, the leniency of some States in this area.

Even faced with the real danger evident from these cases, we intend to institute new safeguards to protect individuals listed in the Register. Among the safeguards we are considering for our proposed legislation is that the information in the Register be eliminated from the files when it is eliminated from the State files, but in no instance more than seven years from the date of entry, thus ensuring that there never exists information in the National Driver Register which cannot be confirmed by an existing

State record, thereby insuring the accuracy of the system. Also, we are considering that States be required to furnish, at no cost to the individuals involved, copies of any information furnished to an employer. This safeguard will allow an individual ample opportunity to rebut or qualify any damaging information. In addition, we are considering limiting State and Federal use of Register information to the statutorily described purposes.

To summarize, then, we believe that the National Driver Register in no way constitutes an invasion of an individual's privacy. The Federal Government does not collect personal data, merely official and publicly available State records. Finally, and most importantly, the National Driver Register doesn't destroy lives, it saves them.

This concludes my prepared statement, Mr. Chairman, and although I must leave shortly for another commitment, Dr. Hartman and Mr. Eames will be happy to answer any questions which you might have.