

## UPCOMING TRAININGS & CONFERENCES

- **NDAAs Prosecuting DUI Cases Online Course On Demand Training**  
<https://ndaa.org/training/prosecuting-dui-cases/>
- **NDAAs The Digital Trial: A Hands-On Lab**  
 Charleston, SC / February 17–20, 2020
- **NDAAs Securing and Protecting Your Case: Evidence for Prosecutors**  
 New Orleans, LA / March 16–19, 2020
- **NDAAs Improving Your Trial Strategies: Hands On Trial Advocacy Training**  
 Columbia, SC / April 20–24, 2020
- **NDAAs Career Prosecutor Course**  
 Boise, ID / May 18–22, 2020

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The National Traffic Law Center is a division of the National District Attorneys Association. This document was prepared under Cooperative Agreement Number DTNH22-13-H-00434 from the U. S. Department of Transportation National Highway Traffic Safety Administration. Points of view or opinions in this document are those of the authors and do not necessarily represent the official positions or policies of the Department of Transportation or the National District Attorneys Association.



# Smart Justice: Improving Traffic Safety and Supporting Victims by Providing Driver's Licenses to Undocumented Immigrants

By Katherine Fernandez Rundle<sup>1</sup> and Stephen K. Talpins<sup>2</sup>

There is no question that states have a compelling interest in promoting traffic safety; over 35,000 people are killed in traffic crashes each year.<sup>3</sup> In an effort to ensure that only minimally qualified people drive on its roadways, every state has enacted licensure laws requiring that drivers meet age requirements, have sufficient visual acuity, and pass one or more driving tests. Most states, including Florida, prohibit undocumented immigrants from obtaining driver's licenses. These prohibitions are more about immigration policy than traffic safety. They apply to all undocumented immigrants, even if they would otherwise be qualified to drive. We believe that the states can improve traffic safety and better serve victims by repealing these laws, as discussed more fully below.

According to the Department of Homeland Security, an estimated 12 million undocumented immigrants lived in the United States in 2015.<sup>4</sup> Thirteen (13) states and the District of Columbia

currently allow an undocumented immigrant to obtain a driver's license; the other 37 do not.<sup>5</sup> This is problematic because most people rely on transportation to engage in activities of daily living and public transportation, while valuable, has significant limitations. In fact, "86 percent of Americans use a car or motorcycle to get to work. Without a driver's license, they are at risk of losing their job and their income. Many places of employment even require a valid

*Thirteen (13) states and the District of Columbia currently allow an undocumented immigrant to obtain a driver's license; the other 37 do not.<sup>5</sup> This is problematic because most people rely on transportation to engage in activities of daily living and public transportation, while valuable, has significant limitations.*

driver's license before hiring."<sup>6</sup> Not surprisingly, most unlicensed individuals who are capable of driving do so regardless of their unlicensed status.<sup>7</sup> Laws prohibiting undocumented immigrants from obtaining driver's licenses are ineffective, unnecessary, and counterproductive. Research suggests that allowing qualified undocumented immigrants to obtain driver's licenses may lead to fewer hit-and-runs, decreased insurance premiums, more trust between immigrants and police, and increased revenue for the Department of Highway Safety and Motor Vehicles (HSMV).<sup>8</sup>

A 2016 study examined the short-term impact of a 2015 California law that allowed undocumented immigrants to obtain driver's licenses. It noted that 600,000 individuals obtained licenses during the law's first year of operation. However, the law did not appear to significantly increase the number of undocumented immigrants who were registering new vehicles. Thus, it appears the law "primarily allowed existing unlicensed drivers to legalize their driving." The study reported that the law also appeared to benefit the general public by reducing the number of hit and runs:

Hit and run behavior results in serious injuries and fatalities because of delayed medical reporting, and therefore, the [new] policy has been a benefit for public safety. Moreover, reducing hit and run accidents also has had significant positive economic effects by correcting distortions in the auto insurance market. Our calculations point to a decrease in market inefficiencies by roughly \$17 million per year: because at-fault drivers involved in accidents are less likely to flee, costs

equaling that amount can be charged to the responsible party and do not have to be absorbed by hit and run victims and their own insurance providers. Given our findings that [the new law] did not increase accidents on average but reduced the number of hit and run accidents, a greater share of accident-related costs is likely to be borne by the at-fault driver's insurance. Assuming an efficient insurance market, this transfer of accident-related costs to the at-fault driver's insurance could lead to a decrease in average insurance premiums.<sup>9</sup>

In sum, they concluded that “providing driver's licenses to unauthorized immigrants led to improved traffic safety.”<sup>10</sup>

Similarly, a Connecticut law allowing undocumented immigrants to obtain driver's licenses appears to be associated with a significant drop in hit-and-run accidents and raised several million dollars in revenue.<sup>11</sup> In a separate national study, researchers found that providing undocumented immigrants with an opportunity to obtain a driver's license and become insured, would save other drivers approximately \$17.22 in insurance costs.<sup>12</sup>

In sum, the evidence strongly suggests that providing undocumented immigrants with an opportunity to obtain driver's licenses is a win-win proposition that enriches the immigrants' lives and promotes public safety, as well as crash victim compensation. That is Smart Justice.

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<sup>3</sup> See e.g. *2018 Fatal Motor Vehicle Crashes: Overview*, Traffic Safety Facts Research Note (October 2019).

<sup>4</sup> See Baker, B., *Estimates of the Illegal Alien Population Residing in the United States: January 2015* (United States Department of Homeland Security, Office of Immigration Statistics December 2018), available at [https://www.dhs.gov/sites/default/files/publications/18\\_1214\\_PLCY\\_pops-est-report.pdf](https://www.dhs.gov/sites/default/files/publications/18_1214_PLCY_pops-est-report.pdf).

<sup>5</sup> California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maryland, Nevada, New Mexico, New York, Utah, Vermont, and Washington.

<sup>6</sup> See Craven, J. and Nuzzo, S., *Changing Course: Driver's License Suspension in Florida* at 1 (James Madison Institute and Reason Foundation).

<sup>7</sup> See The National Cooperative Highway Research Program, Report 500, Volume 2 (National Cooperative Highway Research Program 2003) at III-1 (noting that as much as 75% of people with suspended or revoked licenses continue to drive); Lueders, H., Hainmueller, J., and Lawrence, D., *Providing driver's licenses to unauthorized immigrants in California improves traffic safety*, Proceedings of the National Academy of the Sciences (2016), available at <https://www.pnas.org/content/pnas/early/2017/03/28/1618991114.full.pdf> (suggesting that a significant number of undocumented and unlicensed immigrants drive).

<sup>8</sup> See e.g. Lueders, H., et al, *supra*.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See Burrell, C., *Licensed Undocumented Immigrants May Lead to Saver Roads*, Connecticut Finds, New England Center for Investigative Reporting (April 17, 2019), available at <https://www.necir.org/2019/04/17/licenses-for-undocumented-immigrants-seem-to-show-benefits-in-connecticut/>.

<sup>12</sup> See Caceres, M. and Jameson, K., *The Effects on Insurance Costs of Restricting Undocumented Immigrants' Access to Driver Licenses*, 81 Southern Economic Journal 907 (2015).

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NTLC is proud to announce the recent election of attorneys Jeanine Howard and Romana Lavalas to the executive board for the National Black Prosecutors Association (NBPA) — DC Chapter. For the rest of 2020, Ms. Howard will serve as Vice President and Ms. Lavalas will serve as Secretary. Congratulations to both.

Founded in 1983, NBPA is the only professional membership organization dedicated to the advancement of Blacks as prosecutors. The Association’s membership is comprised of both chief and line prosecutors nationwide as well as law students, former prosecutors, and law enforcement personnel. NBPA holds an annual conference and a job fair for prospective prosecutors. This year’s conference and job fair will take place August 16–22, 2020, in Chicago, Illinois, NBPA’s birthplace. To learn more about NBPA, visit its website at <http://blackprosecutors.org/>.

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## MASTERING MASKING COURSE ANNOUNCED

The National Traffic Law Center (NTLC) is pleased to announce the registration is now open for its course entitled *Mastering Masking: Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses*, being held in Reno, Nevada on February 11, 2020. This course, dubbed “Mastering Masking,” is an in-depth look at the prohibition against masking CDL offenses and the ethical implications of doing so. Federal and most state law prohibit the “masking” of convictions. Misconceptions continue to persist surrounding this statute’s mandate requiring the reporting of CDL/CMV violations and convictions and impacts a prosecutor’s discretion to negotiate these cases. Attendees will appreciate how the enforcement of this and other regulations combine to reduce injury and death by keeping unsafe commercial driver’s license (CDL) holders off the roads and assuring that each driver has one driver’s license and one complete driver’s record.

Please visit the NDAA website for further information and registration. Please note that although the course will be held on February 11, 2020, travel days are February 10, 2020, and February 12, 2020.



National District Attorneys Association  
National Traffic Law Center

# Mastering Masking

Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses



Photo courtesy of <https://www.emstlawgroup.com/blog/semi-tractor-trailer-vehicle-crash-highway-166/>

**FEBRUARY 11, 2020**

(travel days: February 10  
and 12, 2020)

NATIONAL JUDICIAL  
COLLEGE  
University of Nevada, Reno

TO REGISTER, PLEASE  
[CLICK HERE](#)

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Space is limited. Attendees must register. Participants who live or work more than 50 miles away from the training site are eligible for travel reimbursement pursuant to GSA guidelines. Attendees will be staying at the Whitney Peak Hotel in Reno, Nevada.

The National Traffic Law Center is pleased to offer this course designed to provide prosecutors and other traffic safety professionals with the materials and techniques necessary to train other prosecutors and traffic safety professionals in their respective jurisdictions on the fundamentals of \*Masking.

## Participants will be able to:

- Understand the Federal definition of "Masking," "Conviction" and "Disqualification" pursuant to the Federal Motor Carrier Safety Regulations
- Learn about the ethical consequences of Masking
- Explore various techniques and skills to educate other professionals on Masking

\*49 CFR §384.226: "The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL driver's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the driver's record, whether the driver was convicted for an offense committed in the State where the driver is licensed in another State."