

SURVEILLANCE TOOLKIT: SAMPLE COALITION LETTER OPPOSING THE ACQUISITION OF AUTOMATED LICENSE PLATE READERS

Date
Mayor
Councilmember
Councilmember
Councilmember
Councilmember
Your City Council
Street address City,
CA ZIP

Re: Community Opposition to the Proposed Acquisition of Automated License Plate Readers

Dear Members of the [X City Council/ X Board of Supervisors],

We are [describe yourself or your group, such as “a community coalition of groups and individuals dedicated to protecting civil rights and civil liberties, including the right to be free from intrusive, discriminatory, and dangerous government surveillance”]. We write to raise concerns over the City’s proposed acquisition of Automated License Plate Readers (“ALPR”). We strongly oppose the proposed acquisition of ALPR systems in the [City/County Name and Department]. ALPR systems will make our community less, not more, safe because they violate privacy, facilitate dangerous police stops, and risk exposing our immigrant community members to harm.

1. ALPR systems are a threat to privacy and raise serious civil rights issues.

ALPR surveillance cameras automatically record a vehicle’s precise location, when it was seen, and an image of the vehicle, at times even capturing the individuals inside. ALPR cameras can capture this information about thousands of drivers per day, regardless of whether those drivers have violated any law. When placed around communities, ALPR effectively polices the movements of people as they visit friends, come or go to work, and conduct their private lives. For drivers who regularly drive past ALPR-surveilled areas, the cameras can capture multiple snapshots of their locations and vehicles a day.

With this sensitive location information, an ALPR operator can track the movements, habits, and associations of drivers over time, including where people live, work, worship, receive medical care, or attend school. But once a community installs ALPR, there is often no way for a driver to avoid having their location captured by such a system, short of choosing not to drive. And once collected by ALPR, sensitive information about people’s locations and movements can be exploited by outside powers, including law enforcement. All people should feel safe to worship, to attend a protest, and go about their personal lives safely without unwarranted surveillance.

ALPR systems pose a distinct threat to marginalized communities.¹ As with other surveillance technologies, police often deploy license plate readers in poor and historically overpoliced areas, regardless of crime rates.² When placed in fixed locations, ALPRs essentially create checkpoints

¹ See, e.g., Angel Diaz & Rachel Levinson-Waldman, *Automatic License Plate Readers: Legal Status and Policy Recommendations for Law Enforcement Use*, BRENNAN CRT. FOR JUST. (Sep. 10, 2020) <https://www.brennancenter.org/our-work/research-reports/automatic-license-plate-readers-legal-status-and-policy-recommendations>; Matt Cagle, *San Francisco – Paying the Price for Surveillance Without Safeguards*, ACLU OF NORTHERN CAL. (May 22, 2014) <https://www.aclunc.org/blog/san-francisco-paying-price-surveillance-without-safeguards>.

² Dave Maass and Jeremy Gillula, *What You Can Learn from Oakland’s Raw ALPR Data*, ELECTRONIC

throughout a city that log and monitor where residents go and when, threatening their freedom of movement and potentially reinforcing historical patterns of neighborhood segregation.³ Such surveillance can amplify racial and economic disparities in our policing and incarceration systems, and also has serious psychological consequences.⁴

2. Out-of-state and federal agencies can exploit ALPR location information to target and locate people.

Government agencies can – and have – used the location information collected by ALPRs – to target and deport immigrants and track people exercising their First Amendment rights.⁵ Law enforcement agencies, including the federal government, may obtain or demand access to ALPR networks, exposing the lives and futures of immigrants to needless harm. Indeed, we know that Immigration and Customs Enforcement (“ICE”) and Customs and Border Patrol (“CBP”) have exploited locally-collected ALPR location information to target, locate, detain, and deport immigrants as they drive to work, run errands, or drop their children off at school. At least one California law enforcement agency has been sued for sharing the locations of drivers with out-of-state and federal agencies, a practice which is illegal under California law.⁶

We should also consider that the risk to people seeking reproductive or gender-affirming care in our community if ALPR-collected location information is shared with or demanded by a prosecutor in a state with anti-abortion or anti-LGBTQ laws. In anti-abortion jurisdictions, driver location information collected by California-based ALPRs may be exploited by investigators or prosecutors to closely monitor abortion clinics, the vehicles seen around them, and the movements of abortion seekers and providers.⁷ We should avoid building a system that could be

FRONTIER FOUND. (Jan. 21, 2015) <https://www.eff.org/deeplinks/2015/01/what-we-learned-oakland-raw-alpr-data>; Barton Gellman and Sam Adler-Bell, *The Disparate Impact of Surveillance*, THE CENTURY FOUND. (Dec. 21, 2017) <https://tcf.org/content/report/disparate-impact-surveillance/>; see also, e.g., Kaveh Waddell, *How License-Plate Readers Have Helped Police and Lenders Target the Poor*, THE ATLANTIC (Apr. 22, 2016) <https://www.theatlantic.com/technology/archive/2016/04/how-license-plate-readers-have-helped-police-and-lenders-target-the-poor/479436/> (summarizing data indicating that Oakland Police Department deployed ALPRs “disproportionately often in low-income areas and in neighborhoods with high concentrations of African-American and Latino residents”).

³ Laura Schenker, David Sylvan, Jean-Louis Arcand, and Ravi Bhavnani, *Segregation and ‘Out-of-Placeness’: The Direct Effect of Neighborhood Racial Composition on Police Stops*, POLITICAL RESEARCH QUARTERLY (Apr. 2023), <https://doi.org/10.1177/10659129231171516>.

⁴ Chris Chambers, NSA and GCHQ: *The Flawed Psychology of Government Mass Surveillance*, THE GUARDIAN (Aug. 26, 2013) <https://www.theguardian.com/science/head-quarters/2013/aug/26/nsa-gchq-psychology-government-mass-surveillance>

⁵ Vasudha Talla, *Documents Reveal ICE Using Driver Location Data From Local Police for Deportations*, ACLU OF NORTHERN CAL. (Mar. 13, 2019), <https://www.aclu.org/blog/immigrants-rights/ice-and-border-patrol-abuses/documents-reveal-ice-using-driver-location-data>.

⁶ Case page, *Lagleva v. Doyle*, ACLU of Northern California website, <https://www.aclunc.org/our-work/legal-docket/lagleva-v-doyle-license-plate-surveillance>. The California Attorney General (“AG”) recently published an informational bulletin confirming that it is illegal for California law enforcement agencies to share ALPR information with law enforcement agencies outside of the state and attorneys at ACLU affiliates in California and the Electronic Frontier Foundation wrote the AG a letter explaining that some agencies still violate this law, putting California reproductive rights at risk. See *California Automated License Plate Reader Data Guidance*, CALIFORNIA DEPARTMENT OF JUSTICE (Oct. 27, 2023) <https://oag.ca.gov/system/files/media/2023-DLE-06.pdf>; ACLU and EFF Letter to California AG Bonta (Jan. 31, 2024) https://www.aclunc.org/sites/default/files/2024-01-31_letter_to_ag_bonta_re_sb_34_final.pdf; see also Nick Hidalgo and Matt Cagle, *Californians Fought Hard for Driver Privacy Protections. Why Are the Police Refusing to Follow Them?* ACLU OF NORTHERN CAL. (Feb. 12, 2024) <https://www.aclunc.org/blog/californians-fought-hard-driver-privacy-protections-why-are-police-refusing-follow-them> (explaining the ACLU of Northern California’s advocacy regarding ALPRs).

⁷ Dave Maass, *Automated License Plate Readers Threaten Abortion Access. Here’s How Policymakers Can Mitigate the Risk*, ELECTRONIC FRONTIER FOUND. (Sep. 28, 2022) <https://www.eff.org/deeplinks/2022/09/automated-license-plate-readers-threaten-abortion-access-heres-howpolicymakers>.

used to investigate or target someone who visits or travels through our community while seeking refuge and care in California.

Any community considering an ALPR system must take seriously that the possibility that the sensitive location information of drivers will end up in the hands of a government agency that does not share our local values and desire to protect the rights of marginalized people.

3. ALPR systems do not meaningfully improve public safety, but they have triggered unjustified stops of law-abiding people.

ALPR systems have repeatedly triggered dangerous and unjustified stops of drivers by in Northern California and elsewhere. In San Francisco, police blind reliance on an ALPR scan led to the wrongful detention of a Black woman at gunpoint, triggering a multi-year civil rights lawsuit.⁸ Two brothers returning from Thanksgiving with family were pulled from their rental car on I-80 after ALPR wrongly flagged it as stolen.⁹ More recently, police in Walnut Creek wrongly detained the director of a non-profit at gunpoint after another license plate reader system error.¹⁰ And in Colorado, police officers forced four Black children to lie face down on the hot pavement after misidentifying their car as a “stolen” vehicle based on an incorrect reading of an ALPR system.¹¹ Whether due to computer or police error, the use of ALPR systems to stop drivers poses a threat to the health and safety of all motorists.

ALPR systems have not been meaningfully demonstrated to prevent crime or meaningfully improve public safety.¹² To the contrary, studies indicate that ALPRs do not have a deterrent effect on crime, with a recent analysis of ALPR cameras in Alameda County finding that auto thefts actually increased following installation of a system in 2020, ending a period of steady decline.¹³ And while ALPR vendors and police agencies often tout the effectiveness of ALPR in reducing crime, public safety experts point out that any reduction in crime cannot be attributed to ALPR

⁸ Kade Crockford, *San Francisco Woman Pulled Out of Car at Gunpoint Because of License Plate Reader Error*, ACLU, May 13, 2014, <https://www.aclu.org/blog/privacy-technology/location-tracking/san-francisco-woman-pulled-out-car-gunpoint-because>; Matt Cagle, *San Francisco – Paying the Price of Surveillance Without Safeguards*, ACLU OF NORTHERN CAL. (May 22, 2014), <https://www.aclunc.org/blog/san-francisco-paying-price-surveillance-without-safeguards>.

⁹ Charlie Warzel, Opinion | When License-Plate Surveillance Goes Horribly Wrong, THE NEW YORK TIMES, (Apr. 23, 2019) <https://www.nytimes.com/2019/04/23/opinion/when-license-plate-surveillance-goes-horribly-wrong.html>.

¹⁰ Zach Norris, Opinion: At gunpoint, police handcuffed me after license-plate reader error, THE MERCURY NEWS (June 23, 2021) <https://www.mercurynews.com/2021/06/23/opinion-at-gunpoint-police-handcuffed-me-because-of-a-license-reader-error/>.

¹¹ Matt Novak, *Cops terrorize Black family but blame license plate reader for misidentifying ‘stolen’ vehicle*, GIZMODO (Aug. 4, 2020) <https://gizmodo.com/cops-terrorize-black-family-but-blame-license-plate-reader-1844602731>.

¹² See, e.g., David Maass and Beryl Lipton, *Data Driven: Explore How Cops Are Collecting and Sharing Our Travel Patterns Using Automated License Plate Readers*, ELECTRONIC FRONTIER FOUND. (Nov. 15, 2018) <https://www EFF.org/pages/automated-license-plate-reader-dataset> (finding that between 2016 and 2017, the Los Angeles County Sheriff’s Department scanned 234.36 million license plates with a 0.22 percent hit rate, the San Bernardino County Sheriff’s Department scanned 162.69 million license plates with a 0.06 percent hit rate, and the Sacramento Police Department scanned 116.23 million license plates with a 0.1 percent hit rate).

¹³ Lauren Do (@laurendo), Twitter (Dec. 21, 2021, 2:05 PM), <https://twitter.com/laurendo/status/1473414317605150722?s=11>; Alameda County Publicly Accessible Data Sets (Feb. 2022) https://www.bscc.ca.gov/wp-content/uploads/Alameda-County-Demographic-Reference-Data_Feb2022.pdf (finding motor vehicle theft increased from 10,267 in 2019 to 14,456 in 2020); see also Cynthia Lum, Julie Hibdon, Breanne Cave, Christopher S. Koper, & Linda Merola, *License plate reader (LPR) police patrols in crime hot spots: an experimental evaluation in two adjacent jurisdictions*, JOURNAL OF EXPERIMENTAL CRIMINOLOGY (2011) <https://link.springer.com/article/10.1007/s11292-011-9133-9> (“Our findings indicate that, when small numbers of LPR patrols are used in crime hot spots in the way we have tested them here, they do not seem to generate either a general or offense-specific deterrent effect.”).

themselves.¹⁴ Inaccurate reads are also surprisingly common as well: one randomized control trial in Vallejo, California, found that 37 percent of all ALPR “hits” from fixed readers (the same type contemplated by Berkeley’s proposal) and 35 percent from mobile ALPRs were misreads — an astonishingly high error rate.¹⁵

We urge the [**City Council/Board of Supervisors**] to reject this ALPR proposal. We also encourage the [**City Council/Board of Supervisors**] to adopt an ordinance prohibiting the future acquisition of ALPR by city departments including the police. Moving forward, we urge the [**City/County**] to engage community members in a discussion about non-surveillance alternatives to ALPR that have been demonstrated to actually improve the health and safety of communities like our own.

Sincerely,

¹⁴ Louise Matsakis, *Flock Safety Says Its License Plate Readers Reduce Crime. It’s Not That Simple*, WIRED (Oct. 24, 2019), <https://www.wired.com/story/flock-safety-license-plate-readers-crime/>.

¹⁵ Jason Potts, *Research in Brief: Assessing the Effectiveness of Automatic License Plate Readers*, THE POLICE CHIEF (March 2018) <https://theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>.