



Testimony for the Senate Judicial Proceedings Committee
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**SB 699 – Automatic Motor Vehicle Registration Plate Readers and Captured
Plate Data – Authorized Uses**

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SUPPORT

Police departments and other law enforcement agencies around the country and around the state are rapidly expanding their use of Automatic License Plate Readers (ALPRs) that track the location of drivers. The ACLU of Maryland supports SB 699 as a means by which to balance legitimate law enforcement uses of ALPRs with Marylanders' privacy rights.

Automatic License Plate Readers

Automatic License Plate Readers are cameras mounted on stationary objects (telephone poles, bridges, etc) and patrol cars. The cameras snap a photograph of every license plate that enters their fields of view – up to thousands of cars per minute. The devices convert each license plate number into machine-readable text and check them against agency-selected databases or manually entered license plate numbers, providing an instant alert to a patrol officer whenever a match or a “hit” appears. When the ALPR system captures an image of a car, it also tags each file with the time, date and GPS location of the photograph.

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In 2012-2013 the ACLU of Maryland conducted a MPIA request, asking Maryland agencies how they use the readers.¹ As of that time, Maryland had 371 license plate scanners, many of which were funded with federal or state grants. By 2014, Maryland had 411 scanners.²

Of the millions of plates scanned, a tiny fraction are flagged as “hits.” In January through May of 2012, the Maryland Coordination and Analysis Center (MCAC) recorded 29 million plate reads, but only 0.2 percent of those license plates, or about 1 in 500, were hits. That is, only 0.2% were associated with any crime, wrongdoing, minor registration problem, or even suspicion of a problem. Of the 0.2% that were hits, 97% were for a suspended or revoked registration or a violation of Maryland's Vehicle Emissions Inspection Program. In other words, for every million plates read and stored in Maryland, only 47 (0.005%) were potentially associated with more serious crimes – a stolen vehicle or license plate, a wanted person, a violent gang, a sex offender or Maryland's warrant flagging problem. Furthermore, even these 47 alerts may not have helped the police catch criminals or prevent crimes: while people on the violent gang, terrorist or sex offender lists are under general suspicion, they are not necessarily wanted for any present wrongdoing.

Despite the fact that 99.8% of the plates scanned were of Marylanders not suspected of violating any law, law enforcement agencies are storing – for long periods of time – their whereabouts. For example, as of November 19, 2012, Prince George's County had over nine million plate reads stored. Baltimore County similarly stored over nine million records over the course of a year. Wicomico County reported having 532,749 scans stored from only three ALPR units. Approximately 80% of all law enforcement jurisdictions share their information with MCAC. In 2012, MCAC stored over 85 million license plate scan records.

¹ What we found can be viewed at http://www.aclu-md.org/press_room/75 and <https://www.aclu.org/maps/automatic-license-plate-reader-documents-interactive-map>

² Patrick Farrell, *Maryland license plate recognition networks prompt privacy concerns*, CUMBERLAND TIMES (FEB. 15, 2014), <http://www.times-news.com/local/x1783674098/Maryland-license-plate-recognition-networks-prompt-privacy-concerns>.

The documents show that the policies on how long police keep this data vary widely. Some departments delete records within days or weeks, some keep them for years, while others retain them indefinitely. Most departments in Maryland store data for one year. Anne Arundel and Wicomico counties store their LPR data indefinitely. Takoma Park and Greenbelt delete records after 30 days, while the City of Frederick deletes its data after 90 days. The jurisdictions that transfer their data to MCAC have varying policies on how long they keep the data – some delete one day upon transfer (e.g. Baltimore City, Hagerstown), some keep for 30 days after transfer (e.g. Carroll County Sheriff, Howard County Police Department).

License plate readers are used not only by police but also by private companies, which themselves make their data available to police with little or no oversight or privacy protections. One of these private databases, run by a company called Vigilant Solutions, holds over 800 million license plate location records and is used by over 2,200 law enforcement agencies, including the Baltimore County Police.

Privacy Concerns

ALPR technology collects vast quantities of information about all drivers – whether or not the data indicates any infraction or offense. When this information is stored over time, it becomes a trove of personal data showing where people drive and when they are at particular places. There is a basic tenet of our society that we are not tracked and monitored and our whereabouts kept in a government database just in case, at some point, we do something wrong.

In addition, our study found that not only are license plate scanners widely deployed, but that few police departments place any substantial restriction on how they can be used. The approach in the Montgomery County Police Department is typical: a police policy document says that license plate reader data can be used for any “official law enforcement purposes.” While most Maryland police departments do prohibit police officers from using license plate readers for personal uses such as tracking friends, these are the only restrictions. Both Baltimore County and the City of Frederick are unusual in placing some limits on the use of LPRs in connection with expressive activities.

While police departments and government agencies argue that the data they collect will be used only for proper purposes, even the International Association of Chiefs of Police has recognized that pervasive surveillance can have negative chilling effects regardless of its purpose. “The risk is that individuals will become more cautious in the exercise of their protected rights of expression, protest, association, and political participation because they consider themselves under constant surveillance.”³

The IAC further recognized

Recording driving habits could implicate First Amendment concerns. Specifically, LPR systems have the ability to record vehicles’ attendance at locations or events that, although lawful and public, may be considered private. For example, mobile LPR units could read and collect the license plate numbers of vehicles parked at addiction counseling meetings, doctors’ offices, health clinics, or even staging areas for political protests.”

The potential for abuse is vast – and real. The Virginia State Police used ALPRs to collect

³ International Association of Chiefs of Police, *Privacy Impact Assessment Report for the Utilization of License Plate Readers* [2009], http://www.theiacp.org/Portals/0/pdfs/LPR_Privacy_Impact_Assessment.pdf

information about the political activities of law-abiding individuals. The State Police recorded the license plates of vehicles attending President Obama's 2009 inauguration, as well as campaign rallies for Obama and vice presidential candidate Sarah Palin.⁴ In Minnesota, the driver and vehicle data of individuals was improperly accessed. Employees at 21 agencies looked up the driver data of a sheriff; a news anchor's data was illegally searched 1,380 times.⁵ And we in Maryland are not immune from abuse, as we recall the MSP spying scandal and the resulting legislation this body passed to protect Marylanders who were exercising their First Amendment rights.

To date, five other states have laws regarding ALPRs: Arkansas, Maine, New Hampshire, Utah and Vermont.

SB 699

SB 699 will create a balance between Marylanders' privacy and law enforcement's legitimate use of ALPRs. It creates parameters on data retention, sharing, and usage policies. With respect to the sponsor's amendments, we respectfully suggest several amendments:

1. "Legitimate law enforcement purpose" is too broad and does not impose any real restrictions on the use of data.
2. Data retention time: the sponsor has suggested that MCAC be allowed to retain the data for a year. We submit this is too long and opens the door for abuse. We recommend a retention time of 30 days.
3. In the event the committee agrees with a longer retention period, we recommend that the General Assembly place a limit on the number of ALPRs that can be deployed in Maryland. A primary goal of this legislation is to ensure that we do not become a surveillance state. With the proliferation of ALPRs in this state, we are rapidly becoming one. Placing a cap on the number of ALPRs that can be deployed in the state—either by limiting it per jurisdiction, by a percentage of the population or total number across the state—can help stave off constant surveillance.

For the foregoing reason, the ACLU of Maryland supports SB 699.

⁴ <https://www.aclu.org/blog/technology-and-liberty-national-security/virginia-state-police-used-license-plate-readers>

⁵ <http://www.startribune.com/local/224004771.html>;
<http://www.startribune.com/politics/statelocal/188143861.html>