

An Analysis of Automated License Plate Reader Legislation

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Outline

- ALPR overview
- Privacy and Fourth Amendment concerns
- Evaluation framework and criteria
- Analysis
- Conclusion

ALPR overview

- Devices that capture computer readable images of license plates (Greenberg, 2015)
- Can be mounted in stationary or mobile situations (Electronic Frontier Foundation, n.d.)
- Capable of capturing 1,800 plates per minute at speeds up to 160mph (Roberts and Casanova, 2012)
- More than 2.5 BILLION plates were scanned by 200 LEA in 2016-17 (Maass and Lipton, n.d.)

ALPR overview

- Devices run by private and public entities
 - Law enforcement (local, county, state, tribal)
 - Federal agencies (ICE)
 - Shopping centers
 - Housing subdivisions
 - Tow truck companies
 - Private individuals

(Aegerter, 2013; Capelouto, 2018; Schmelzer, 2019; Thompson, 2018)

ALPR overview

- Data collected can include:
 - Plate #
 - GPS and date/time stamp
 - Bumper sticker details
 - Driver images
- 99.5% of scanned plates were not under suspicion at time of scan (Maass and Lipton, n.d.)
- American Civil Liberties Union estimates less than 0.2% of scans are related to criminal activity or registration issues (Electronic Frontier Foundation, n.d.)

ALPR overview

- 2012 Police Executive Research Forum survey results
 - 71% of respondents used ALPR
 - 85% of respondents planned to either start using or expand current usage
- LEA can share ALPR data via “hot list” and can purchase private database access (Dyer and Stroud, 2015)
- LEA ALPR data retention varies widely – from one month or less, to indefinitely (Lum et al., 2018)

Privacy and Fourth Amendment concerns

“As I look ahead over the next 10 to 20 years, that balance of Fourth Amendment liberty and privacy versus security and law enforcement is an enormous issue”

Supreme Court Justice Brett Kavanaugh (Bravin, 2019)

Privacy and Fourth Amendment concerns

- NYPD targeted mosques using ALPR (Goldman and Apuzzo, 2012)
- ICE contracted with ALPR vendor to access its nationwide ALPR database (Brandom, 2018)
- Va. judge found LEA ALPR data collection violated state privacy law, ordered it stopped (Jackman, 2019)
- Va Supreme Court upheld lower court ruling (Stanley 2019)

Privacy and Fourth Amendment concerns

- Richmond, CA city council voted to discontinue ALPR usage over data sharing concerns (Ruggiero, 2019)
- Federal “Fusion” Center improperly shared ALPR data in violation of CA state law (Maass, 2019)
- Police departments encourage public to register private ALPR devices (Lane, 2019; City of Marietta, 2019)
- ALPR vendor ALPR database compromised (Claburn, 2019)

Privacy and Fourth Amendment concerns

- Multiple police departments encourage officers to “grid” patrol to mass collect ALPR data (Grauer, 2019)
- ALPR vendor offering free access to ALPR data for its customers (Rekor Systems, 2019)

Evaluation framework and criteria

- Existing laws for all 50 U.S. states were searched for laws regarding ALPRs
- Bills not yet signed into law were excluded
- Laws were examined for
 - Restrictions on government use
 - Restrictions on private or individual use
 - Required training for government use
 - Data retention
 - Data exemption from open records laws

Analysis

- 16 states have some type of law regarding some aspect of ALPR
 - 2007 - 1 (NH)
 - 2009 – 1 (MA)
 - 2011 – 1 (CA)
 - 2013 – 2 (AR, UT)
 - 2014 – 3 (FL, MD, TN)
 - 2015 – 2 (MN, NC)
 - 2016 – 1 (OK)
 - 2017 – 1 (MT)
 - 2018 – 3 (GA, NE, VT)
 - 2019 – 1 (MS)

Analysis

- 10 states have law that restricts either government or private use of ALPR devices
 - 6 states regulate government use only (CA, MN, MT, NE, NH, UT)
 - 2 states regulate private use only (ME, VT)
 - 2 states regulate both government and private use (AR, OK)
- 5 states require training before government employee can use ALPR or access data (MN, MT, NH, NC, VT)

Analysis

- 12 states regulate data retention (AR, CA, GA, ME, MN, MT, NE, NH, NC, TN, UT, VT)
 - Each state carves out exception for active law enforcement investigation or intelligence operation
 - Smallest is New Hampshire at 3 minutes
 - Largest is Georgia at 30 months
 - Average length of data retention is 206 days
 - Oklahoma doesn't specify retention period, but does require deletion after use is completed

Analysis

- 12 states exempt ALPR data from open records request (CA, FL, GA, ME, MD, MN, MT, NE, NC, TN, UT, VT)
- Random: OK only allows ALPR usage for automobile insurance verification

Conclusion

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