

COMPREHENSIVE LEGISLATION ON AUTOMATIC LICENSE PLATE READERS

OVERVIEW

THE PROBLEM

Technology has afforded today's policing agencies an unprecedented ability to track individuals' locations and movements at scale. In the United States, one of the most widely adopted of those tracking technologies is the automated license plate reader, or "ALPR."

ALPRs work by detecting and storing the license plate number and other information of passing vehicles. Some ALPRs are stationary and installed at fixed locations, while other ALPRs are mobile – for example, mounted to police cruisers. Police can search and access the information that ALPRs detect and use it for investigative purposes.

ALPRs are a powerful tool and, as such, can present serious civil liberties concerns. In addition to being used to solve crimes, they are often used in problematic ways to investigate petty offenses, apprehend undocumented immigrants, generate fines and fees revenue, and track individuals over long periods of time. These practices are often inequitable and give police an intimate window into a person's private life, while seriously diminishing trust in law enforcement and presenting little or no increase in public safety.

In many states, law enforcement agencies do not seek legislative authorization to use ALPR technology. Without such authorization, law enforcement agencies may be using a powerful and invasive technology without explicit public approval. Democratic regulation of ALPRs is further limited because few law enforcement agencies publicly disclose meaningful information about their ALPR use, such as which offenses they use ALPRs to investigate, how much historical data they collect, or what analytical tools they employ. Because of this, policymakers and the public often lack even basic information about how policing agencies use ALPRs and have limited ability to reign in problematic uses.

THE SOLUTION

The Policing Project at NYU School of Law has drafted model state legislation regulating police use of ALPRs. Among other things, this model legislation requires local policing agencies to obtain express legislative authorization to use ALPRs. It provides clear rules designed to mitigate the negative impacts of ALPR use, while still allowing police to use the tool when it makes sense for public safety. And it includes a range of transparency mechanisms to ensure that communities and lawmakers can hold law enforcement agencies accountable.

WHAT THE STATUTE DOES

Requires legislative authorization for police use of ALPRs

The model statute requires all law enforcement agencies to obtain express legislative authorization prior to using ALPRs or ALPR data. Local policing agencies can seek such legislative authorization from their local legislative body after an opportunity for public comment. State law enforcement agencies are authorized to use ALPRs, within certain parameters, by the statute itself.

Protects privacy while accommodating reasonable law enforcement access to ALPR data

The model statute sets context-based rules for accessing ALPR data based on how police seek to use the data. For example, police can use ALPRs to identify vehicles of interest at a crime scene but are limited to accessing information about only those vehicles that are (a) in proximity to the scene or (b) for which there is reasonable suspicion that the ALPR captured data regarding a vehicle of interest. In contrast, when police seek to use ALPR data to track the movements of a vehicle over time – a scenario raising more significant privacy concerns – the statute requires police to obtain a warrant in most circumstances.

Limits the purposes for which police can use ALPRs

The statute specifies the purposes for which agencies may use ALPRs, ensuring police only use ALPRs when their benefits outweigh their costs. Under the statute, agencies generally are limited to using ALPRs to investigate serious crimes, such as felonies, violent crimes, and terrorism. The statute prohibits agencies from using ALPRs for the purpose of identifying individuals engaged in lawful activities such as protests or religious services.

Ensures transparency regarding ALPR use

The statute requires agencies to create and publish an ALPR use policy. It also requires agencies to release quarterly public logs that include a range of information about ALPR use, including where ALPRs are deployed and what offenses they are used to investigate. Moreover, the statute requires the state attorney general to publish annual reports with aggregated data on ALPR use by law enforcement.

The Policing Project at NYU School of Law partners with communities, lawmakers, and law enforcement to enhance safety, accountability, and transparency in policing. Our team of attorneys, advocates, and community organizers is ready to help you draft and pass legislation that protects public safety and addresses community concerns about aggressive policing.

Contact us: legislation@policingproject.org