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Joint Committee on Transportation
Sen. Thomas McGee & Rep. William Straus, Chairs

SUPPORT FOR H.3068 REGULATING LICENSE PLATE READERS

Dear Senator McGee, Representative Straus, and members of the committee:

Massachusetts needs standards, rules, and limits for the use of Automatic License Plate Readers (ALPR) – a burgeoning, but wholly unregulated, technology used to capture license plate data for vehicle-related legal enforcement. ALPRs are useful for identifying vehicles sought for specific violations, but they should not be used for wholesale harvesting and endless retention of data showing where Massachusetts residents' vehicles are located at particular times.

An Act to Regulate the Use of Automatic License Plate Reader Systems (H.3068), filed by Rep. Jonathan Hecht, will ensure that ALPR systems are used to improve law enforcement without jeopardizing the privacy of law-abiding motorists.

Some salient facts:

- ALPR systems are scanners, typically mounted on police cruisers, which “read” license plates and compare the data with information in government databases to identify vehicles associated with outstanding warrants, registration and parking violations.¹
- The machines record not only the license plate number, but also the GPS location of the vehicle, and time and date.
- A single unit mounted on a police cruiser can capture thousands of license plates per minute.²
- ALPR systems are already deployed in more than 50 Massachusetts municipalities – including all the big cities, many suburbs, and even small towns – as well as by the State Police.
- The Boston Globe reports that “36 police departments out of the 53 [Massachusetts departments known to use ALPR] have no written policies.”³

Amassing data on law-abiding people

ALPR technology collects vast quantities of information about *all* drivers – whether or not the data indicates any infraction or offense. The Boston Police Department alone obtains 1 million license plate scans annually. That number will go up and up as the BPD gets more ALPRs. 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. A report from the International Association of Chiefs of Police acknowledges that

¹ High Tech License Plate Readers Can Quickly Identify Stolen Cars, CBS Los Angeles, April 30, 2013.
<http://losangeles.cbslocal.com/2013/04/30/high-tech-license-plate-reader-can-quickly-identify-stolen-vehicles/>

² License-plate reading devices fuel privacy debate, Boston Globe, April 9, 2013.
<http://www.bostonglobe.com/metro/2013/04/08/big-brother-better-police-work-new-technology-automatically-runs-license-plates-everyone/1qoAoFfgp31UnXZT2CsFSK/story.html>

³ *Ibid.*

“recording driving habits” raises First Amendment concerns because cameras could record “vehicles parked at addiction-counseling meetings, doctors’ offices, health clinics, or even staging areas for political protests.”⁴ Unless we establish reasonable limits, ALPR systems will amass quantities of information about our movements that can be used to monitor people’s location information for inappropriate reasons, from personal to political surveillance.⁵

Reasonable contemporaneous uses of ALPR data

This bill distinguishes between two sets of captured plate data. Data that matches a list of vehicles of interest can and should be used for enforcement purposes. In general, data that does not register a match should be discarded.

However, if a crime occurs where an ALPR system was recently deployed, it is reasonable for law enforcement to check contemporaneous records of license plates in the area, to gather evidence or identify witnesses. For that reason, the bill states that law enforcement could obtain judicial approval to retain data for longer than two days by showing that captured plate data could be relevant to a criminal or missing persons investigation.

MA driver data does not belong in vast public and private databases

In Massachusetts, the Executive Office of Public Safety and Security is reportedly planning to store all license plate reader information from all over the state in one centralized location. According to the Boston Globe, “Massachusetts public safety officials are trying to create a central repository of license scans similar to a system in Maryland where all 262 scanner-equipped cruisers feed data to the state. In 2011, the Executive Office of Public Safety and Security handed out \$750,000 in federal grants for 43 police departments to buy scanners with the understanding that all scan results would be shared.”⁶ H.3068 would wisely direct that any statewide database not contain plate information that does not match a vehicle of interest.

In addition, the bill would prevent Massachusetts law enforcement from sending our personal travel histories to private companies. Alarming, police departments in other states are compiling driver location information on innocent Americans into databases owned and maintained by private corporations.⁷ One company, which both sells ALPR systems and harvests data from their operation, trumpets on its website that its National Vehicle Location Service aggregates between 35-50 million ALPR records every month.⁸ Retention and sharing limits are needed in Massachusetts to prevent local law enforcement from losing control over personally-identifiable location information about local drivers.

Existing limits on ALPR systems

Two states already have statutes regulating ALPR systems: Maine and New Hampshire. In Maine, plate data other than “intelligence and investigative” information must be purged after 21 days, and ALPR

⁴ International Association of Chiefs of Police, Privacy impact assessment report for the utilization of license plate readers, Sept. 2009. <http://www.theiacp.org/LinkClick.aspx?fileticket=N%2BE2wvY%2F1QU%3D&tabid=87>.

⁵ Why Privacy Is Essential for Free Speech to Thrive, Privacy International, Nov. 30, 2011. <https://www.privacyinternational.org/opinion-pieces/why-privacy-is-essential-for-free-speech-to-thrive>

⁶ How Are Innovations in Technology Transforming Policing?, Police Executive Research Forum, January 2012. http://policeforum.org/library/critical-issues-in-policing-series/Technology_web2.pdf.

⁷ Private company hoarding license-plate data on US drivers, California Watch, Center for Investigative Reporting, Jan. 12, 2012. <http://californiawatch.org/dailyreport/private-company-hoarding-license-plate-data-us-drivers-14379>.

⁸ <http://vigilantsolutions.com/products/nvls>

systems may not be used by private entities.⁹ New Hampshire has all but banned ALPR systems, allowing government agencies to use them only at public buildings and on a list of enumerated bridges.¹⁰

A substantial number of police departments set clear limits for how long they keep “non-hit” data. According to the International Association of Chiefs of Police, practices vary widely; from departments that store no data at all to others that keep data for some weeks or months.¹¹ In Massachusetts, Brookline and Somerville have both adopted 14-day retention limits for non-hit data.

Balanced regulation

We need a system that enables effective public safety practices and protects our personal privacy and liberties. The License Plate Privacy Act ensures police can use ALPR technology to great benefit and also protects the rights of all law-abiding Commonwealth residents. It would prohibit the creation of a forever-growing database tracking the license plates and locations of all residents, but would allow law enforcement to share license plate reads when they pertain to criminal investigations.

The government shouldn't be keeping detailed records of our every move without a good reason to believe we are involved in some kind of criminal activity. This is a fundamental tenet of American justice and law – and necessary for a free society. We need to have our statutes reflect our values in the context of this new technology. With the License Plate Privacy Act, Massachusetts would establish a model for other states.

We strongly urge you to give H.3068 a swift, favorable report, and we would welcome the opportunity to work with the Committee and share our research and materials as you consider this important proposal.

Sincerely,

Gavi Wolfe
Legislative Counsel

⁹ Maine Rev. Statutes Title 29-A Sec. 2117-A. *available at:* http://www.lawserver.com/law/state/maine/me-statutes/maine_revised_statutes_title_29-a_2117-a.

¹⁰ NH Rev. Statutes Ch. 236, Sec. 130, *available at:* <http://www.gencourt.state.nh.us/rsa/html/xx/236/236-130.htm>.

¹¹ International Assoc. of Chiefs of Police, Automated License Plate Recognition (ALPR) Use by Law Enforcement: Policy and Operational Guide, Aug. 2012. <http://www.calea.org/sites/default/files/LPR%20Guidance.pdf>.