ELECTRONIC FRONTIER FOUNDATION
Protecting Rights and Promoting Freedom on the Electronic Frontier

February 20, 2016

VIA EMAIL

Representative John Pezold
504-E Coverdell
Legislative Office Bldg.
Atlanta, GA 30334
john.pezold@house.ga.gov

Re: Opposition to H.B. 93

Dear Representative Pezold,

We are writing on behalf of the Electronic Frontier Foundation (EFF), a non-profit legal and advocacy organization that defends free speech, privacy, and transparency in the digital world.

While EFF was impressed with your stated commitment to protecting privacy by restricting law enforcement use of automated license plate recognition (ALPR) technology,[1] we must oppose House Bill 93.

The proposed bill's stated purpose is to "prohibit law enforcement from retaining license plate data obtained from automated license plate recognition systems beyond a certain period," as well as to mandate certain auditing and training requirements. Given the well-recognized privacy issues raised by location data—data that can reveal sensitive information about a person's life—we support limited retention periods for license plate records. While we would prefer to see ALPR data retention periods as short as possible, the 90 day limit goes a long way to protecting the private activity patterns of law-abiding residents. We also agree with the bill's requirements that law enforcement agencies maintain policies outlining appropriate ALPR use and its requirement of periodic audits of agencies that utilize ALPR.

However, the bill contains several elements that could have negative unintended consequences.

"Law Enforcement Purpose" Definition Is Too Vague

First, the bill's definition of "law enforcement purpose" is too vague to place meaningful limits on law enforcement's retention of data. As the bill is currently written, a "law enforcement purpose" is defined as "the investigation of an offense

[1] "State representative works to better protect citizen's privacy," WLBR (Dec. 10, 2015). http://wrbl.com/2015/12/10/state-representative-works-to-better-protect-citizens-privacy/
[2] Jennifer Lynch, "Los Angeles Cops Argue All Cars in LA Are Under Investigation," EFF (March 19,

815 Eddy Street • San Francisco, CA 94109 USA
voice +1 415 436 9333   *fax* +1 415 436 9993   *web* www.eff.org   *email* information@eff.org

or activity attributed to a case number assigned by a law enforcement agency." However, in California, we have seen agencies claim that *all* license plate data they collect is linked to the "investigation" of specific offenses or activities.[2]

Bill Criminalizes Security Research

Section (D)(1) of the bill would criminalize security research on license plate systems that could protect citizens by exposing vulnerabilities in the systems. These vulnerabilities, if not discovered and fixed, could open up the systems to hackers and others with malicious intent.

Last year, EFF documented major security vulnerabilities in ALPR systems managed by law enforcement and public safety agencies in California, Louisiana, and Florida.[3] Because the devices were misconfigured, anyone with a browser could access the control panels and, in some cases, even view the live video feeds and plate collection. The raw license plate data was being transmitted unencrypted. Several other researchers, including a team at the University of Arizona, were also able to obtain LPR data. Journalists in Massachusetts found similar vulnerabilities in ALPR systems used in Boston.

After we documented the vulnerabilities we worked with the individual agencies to ensure their systems were secure. Each of them thanked EFF for helping them protect their systems and the privacy of their residents.

Under this bill, if the insecure ALPR systems had been in Georgia, our team, as well as professional security experts who conducted similar research, would have faced criminal penalties, including a fine of up to $5,000 and up to two years in prison.

Lack of Data Transparency

Finally, the bill exempts all license plate data from public disclosure under Georgia's Open Records Act. While we understand the concern that the privacy of drivers could be at risk if the raw data is released publicly, this language is too restrictive and would prevent agencies from releasing de-identified data and potentially even statistical overviews of the ALPR programs. It could also impede the ability of the Georgia Crime Information Center to release the results of its audits.

EFF has sought ALPR data in California so that we may better understand and explain to the public, both how ALPR systems work and whether these systems are

[2] Jennifer Lynch, "Los Angeles Cops Argue All Cars in LA Are Under Investigation," EFF (March 19, 2014) https://www.eff.org/deeplinks/2014/03/los-angeles-cops-argue-all-cars-la-are-under-investigation.

[3] Dave Maass and Cooper Quintin, "License Plate Readers Exposed! How Public Safety Agencies Responded to Major Vulnerabilities in Vehicle Surveillance Tech," EFF (Oct. 28, 2015). https://www.eff.org/deeplinks/2015/10/license-plate-readers-exposed-how-public-safety-agencies-responded-massive

being deployed appropriately within communities. We have sought a week's worth of license plate data from the Los Angeles Police Department and the Los Angeles County Sheriff's Department, both of which withheld the data, claiming they are investigative records.[4] The case is now before the California Supreme Court.

The city of Oakland did provide us with a week's worth of raw ALPR data. We did not release the data in full, but by analyzing the data set we were able to determine how many times the average plate was captured, which neighborhoods were disproportionately targeted by ALPR, and when the devices recorded false positives. All of this information is important to help citizens, taxpayers, policymakers, and law enforcement officials determine the efficacy of and balance of interests in ALPR programs.

For these reasons, we must oppose this legislation.

We have tried multiple times to contact your office via email and phone calls without receiving a response. We would very much appreciate discussing these issues with you directly with the aim of finding a compromise that serves the public interest. I can be reached at dm@eff.org or by phone at 415-436-9333 x151.

Sincerely,

Dave Maass
Investigative Researcher
EFF

Jennifer Lynch
Senior Staff Attorney
EFF

CC: Rep. Matt Ramsey, Rep. Stephen Allison, Rep. Alex Atwood, Rep. Alan Powell, Rep. Michael Caldwell, Speaker David Ralston

---

[4] Jennifer Lynch, "EFF and ACLU Win Review of Automated License Plate Reader Case," EFF (July 29, 2015) https://www.eff.org/deeplinks/2015/07/eff-and-aclu-win-review-automated-license-plate-reader-case.