# "Why Are We Receiving All These Public Records Requests?"

Tuesday, October 17, 2023

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ELECTRONIC
FRONTIER
FOUNDATION

EFF

Since 1990, the Electronic Frontier Foundation has worked to ensure that rights and freedoms are enhanced and protected as our use of technology grows.
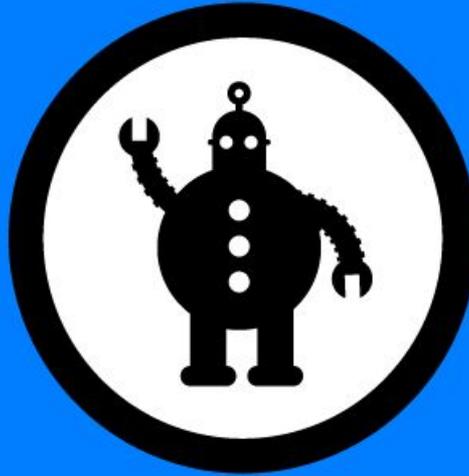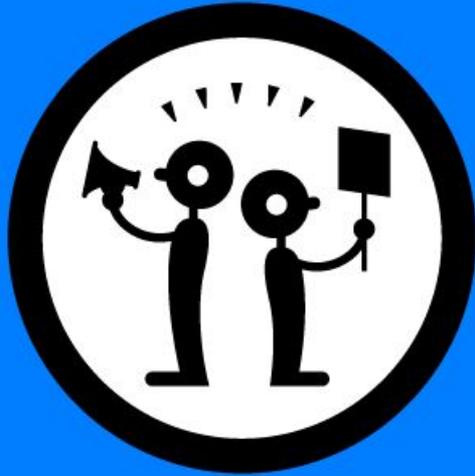
We champion user privacy, free expression, and innovation through impact litigation, policy analysis, grassroots activism, and technology development.

About Me

- 2000~ public records requests
- Journalist for 10+ years
- EFF since 2013, now Director of Investigations
- Focus on law enforcement and border security technology and government transparency
- Scholar in Residence at University of Nevada, Reno, Reynolds School of Journalism
  - Teaching Cybersecurity + Surveillance, FOIA, Data Journalism
- Recipient: San Diego SPJ Sunshine Award, SPJ NorCal James Madison Freedom of Information Award, FAC Free Speech and Open Government Award

Credit: Chelsea Saunders, The Nib

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My Intentions

1. I do not intend to tell you *how it is*, only how it looks from my perspective.
2. Inspire you to improve access to records, while also reducing the stress on your agency
3. Make your Tuesday worth it

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What Is Freedom of Information?

The democratic concept that because government belongs to the people, so should its records, information, and data.

It is based on the idea that government accountability requires government transparency.

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Why file public records requests?

Government officials are not required to give interviews or answer your questions. But they are required by law to respond to your public records requests.

Documents and data may tell a different story than the official messaging.

It's also really fun!

Bill T. Jones/Arnie Zane Dance Company. 1984

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But…. requesters are not monoliths

Police Complaints About PRRs

- Takes time away from "actual" policing
- Takes money away from "actual" policing
- Requesters are using the process to harass police
- Requesters don't actually want the records
- Requesters are "fishing"
- Requesters are demanding things we don't have.
- Requesters just want to embarrass the police.
- Requesters are rude
- Requesters are sending us the wrong requests.
- Requesters keep sending follow-ups, over and over and over, even after we've sent them records.
- Requesters misinterpret the records
- Requesters are conspiracy theorists
- Requests will purposefully/inadvertently help criminals?

How I **Wish** Police Would Think About PRRs

- Responding to PRRs is part of policing
- Receiving PRRs is a sign of a healthy, engaged democracy
- Responding to PRRs professionally, thoroughly and knowledgeably, is a sign of a healthy law enforcement agency
- Each public records requests is an opportunity to build or lose trust with a member of the public
- Requests may reveal problems you didn't previously think or know about
- It's worth providing context to a PRR
- PRRs are a net positive, despite the frustrating downsides.

Let's look as some of those complaints

- Requesters are "fishing"
  - Requesters don't know records you have, and so it is sometimes like a game of Battleship or Go Fish.
- Requesters are demanding things we don't have.
  - Requesters don't know records you don't have.
- Requesters are sending us the wrong requests.
  - It's not always clear to the public what agency has jurisdiction over a particular issue. Also, people make mistakes.
- Requesters keep sending follow-ups, over and over and over, even after we've sent them records.
  - This is a technological issue I will explain in a minute.

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Why Are There So Many Public Records Requests?
Societal Issues

- Increased public interest in policing
- Increased public awareness of transparency tools and laws
- Cultural shift to digital communication
  - e.g. People who want to get information online, not at community meetings
  - Expectation that information be available digitally on demand
- The erosion of trust in institutions (police, media) pushes people to obtain information themselves
- When people feel helpless or powerless (e.g. the police aren't taking me seriously), they will seek out other avenues, such as PRRs.

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Why Are There So Many Public Records Requests?
Gov't-related Issues

- Police are generating more records
  - e.g. People weren't requesting BWC footage before BWCs were a thing
  - e.g. "Data-driven policing" means more data that can be requested
- Policing has been changing dramatically, including adopting new and controversial techniques, technologies and enforcement models
  - This generates interest, curiosity, skepticism and a desire for evidence of efficacy
- New laws have mandated news types of record keeping (e.g. stop data, etc)
- Agencies have adopted tools to make filing requests easier (NextRequest, GovQA, etc)
- Some agencies turn simple questions into PRRs by default

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Why Are There So Many Public Records Requests?
Research/Advocacy/Media-related issues

- Public records campaigns/mass public records requests

- MuckRock News, iFOIA (RIP), etc

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MUCKROCK

What is MuckRock News?

- A non-profit news organization
- Advocacy for government transparency
- Develop of tools to enhance access to public records:
  - Public Records Request Filing Tool
  - DocumentCloud

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How MuckRock facilitates PRRs

Similar to NextRequest, GovQA and other services, but it works in the other direction

A requester uses MuckRock file requests, manage the communications, and store the records received through the system. This is through a combination of automation and manual effort.

Example:

https://www.muckrock.com/foi/minnesota-156/mn-drone-data-121062/

What Is a Mass Public Records Campaign

Filing the same request on an issue with a large number of agencies at one time.

Some motivations:

- Regional, statewide, nationwide survey on a particular issue
- Compare agencies to figure out what are common practices, what are outliers
- Each agency may provide a different set of records, (and interpret the exemptions differently)
  - Examples: This is how my colleagues discovered technology like Clearview AI and Fog Data Science
- Identify which agencies are being transparent, identify the ones that aren't
- Build datasets
- Can be a form of advocacy on a particular issue

☐	**Automated License Plate Readers (Lincoln Police Department)** Completed	Dave Maass	Lincoln Police Department	Lincoln, CA	11/03/2022	11/01/2022
☐	**Automated License Plate Readers (Simi Valley Police Department)** Completed	Dave Maass	Simi Valley Police Department	Simi Valley, CA	11/03/2022	11/01/2022
☐	**Automated License Plate Readers (Arcadia Police Department)** Completed	Dave Maass	Arcadia Police Department	Arcadia, CA	11/04/2022	11/01/2022
☐	**Automated License Plate Readers (Lake County Sheriff's Office)** Completed	Dave Maass	Lake County Sheriff	Lake County, CA	11/07/2022	11/02/2022
☐	**Automated License Plate Readers (Claremont Police Department)** Completed	Dave Maass	Claremont Police Department	Claremont, CA	11/07/2022	11/02/2022
☐	**Automated License Plate Readers (Emeryville Police Department)** Completed	Dave Maass	Emeryville Police Department	Emeryville, CA	11/08/2022	11/02/2022
☐	**Automated License Plate Readers (Beaumont Police Department)** Completed	Dave Maass	Beaumont Police Department	Beaumont, CA	11/08/2022	11/01/2022
☐	**Automated License Plate Readers (Chico Police Department)** Completed	Dave Maass	Chico Police Department	Chico, CA	11/08/2022	11/02/2022

Pitfalls of a Public Records Campaigns

- Difficult to follow-up with dozens/hundreds of entities
    - Unattended automated systems end up annoying agencies
- A small mistake can easily become a big mistake
- Many agencies just won't respond, and it's hard to enforce so many requests
- An immense amount of data to sift through and organize
- Fees can build up very quickly
- Requesters may have to triage out agencies that request fees or otherwise push back, somewhat rewarding agencies that avoid transparency
- Technical issues with systems like MuckRock

Other Groups Filing Mass Requests

Journalists and news organizations, both local and national
        California Reporting Project

Advocacy Groups:
        ACLU
        Lucy Parsons Labs
        Aaron Swartz Day Police Surveillance Project
        American Oversight
        Campaign Zero
        Brennan Center for Justice
        Upturn

Law Schools:
        Georgetown Law Center on Privacy and Technology

Various academics

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EFF Large-Scale Public Records Campaigns

- Drones w/MuckRock (2012)
- Biometric Technology w/MuckRock (2015)
- **License Plate Readers w/MuckRock (2016-ongoing)**
- Reducing Over-Classification Act Implementation (2016)
- Face Recognition and DMVs (2019-2020)
- Location Data Brokers (2020-ongoing)
- Police Manuals w/Stanford University Libraries (2021-ongoing)
- ShotSpotter (2021-2022)
- Technology in Prostitution Investigations w/ESPLERP (2022-2023)
- Fusus w/Thomson Reuters Foundation (2022-2023)
- Student Monitoring Software (2022-2023)
- Various issues with the University of Nevada, Reno Reynolds School of Journalism
  - Real-time crime centers, drone logs, ALPR usage, Clearview AI

Common Records Sought

- Purchase orders
- Agreements, MOUs
- Policies
- Manuals/training presentations
- Marketing information
- Communications with vendors (emails)
- Audits
- Usage Logs
- Datasets
- Misuse reports

Ⓠ Clearview.ai   **INVOICE**

Purchaser: Invoice date: June 8, 2023
Cedar Hill Police Department   Invoice number: 2B410AC5-1123
285 Uptown Blvd.   Purchase Order #:
Dallas, TX 75104

Description	Accounts	Price
Clearview AI Search Accounts Current 12 month period 06/08/2023 to 06/07/2024	3 Seats	$3,495.00 USD

Subtotal: $3,495.00
Tax rate: 0%
Tax: $0
Total: $3,495.00

Example of My Process

EFF and MuckRock Are Filing a Thousand Public Records Requests About ALPR Data Sharing

BY **DAVE MAASS** | FEBRUARY 16, 2018

EFF

Dear Vigilant Solutions Customer,

We know you are experiencing an onslaught of Freedom of Information Act (FOIA) and Public Records Act (PRA) requests from the Electronic Frontier Foundation (EFF) and MuckRock regarding your use of our license plate reader (LPR) technology. We write this letter to let you know, quite simply, we support you and are here for you.

The real impetus behind this campaign is so EFF and MuckRock can capitalize on the most well-known emotional trigger for fundraising: Fear. Their aim is to paint a false picture of sharing LPR data by leading their readers to believe it is reckless, unrestricted and used to track individuals. In short, they are attempting to scare individuals into hitting one of the countless "Contribute" and "Donate" buttons on their website.

The Public Interest

Freedom

Privacy

Justice

Security

Waste/Fraud/Abuse

Transparency

What do we want to know?

Basics:

- How much data is being collected?
- Who has access to it?
- How targeted/useful is it?

Other stuff:
- What are the policies?
- Has it been audited?
- How many cameras and where have they been placed?
- Any abuses of the technology?
- Relationship with vendor?

We also want to make these records available to the public.

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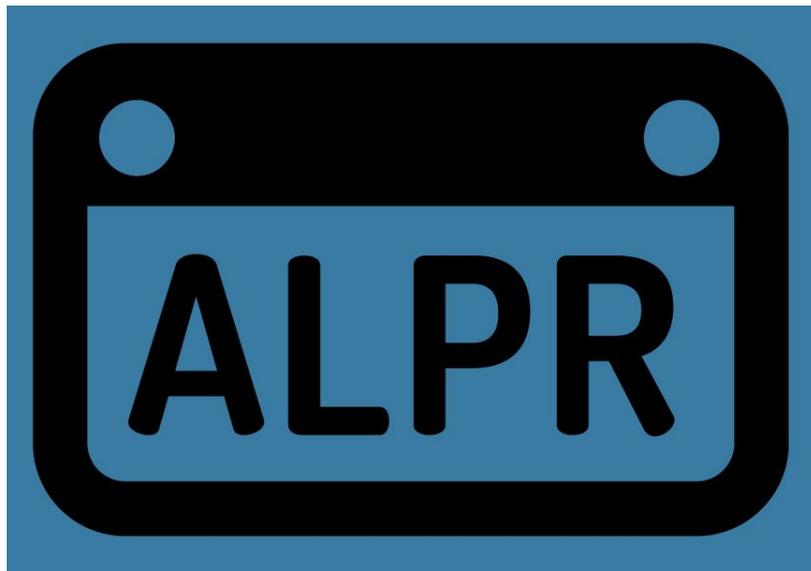
"Why not take our word for it?"

(d)   Non-Publication.   Agency shall not create, publish, distribute, or permit any written, electronically transmitted or other form of publicity material that makes reference to the Software Service or this Agreement without first submitting the material to Vigilant and receiving written consent from Vigilant thereto. This restriction is specifically intended to ensure consistency with other media messaging.

(e)   Non-Disparagement.   Agency agrees not to use proprietary materials or information in any manner that is disparaging. This prohibition is specifically intended to preclude Agency from cooperating or otherwise agreeing to allow photographs or screenshots to be taken by any member of the media without the express consent of Vigilant. Agency also agrees not to voluntarily provide ANY information, including interviews, related to Vigilant, its products or its services to any member of the media without the express written consent of Vigilant.

Mariposa County Sheriff's Office
December 2021

Data Sharing Report

What it tells the public:

- **Who can access local data?**
  - Just local cops? Or agencies across the country?
- **What external agencies are sharing data with the local police?**
  - Can the police track you even after you leave the city?
- **Who is sharing hot lists?**
  - Are police accepting watchlists from agencies with polar opposite positions on abortion, gender affirming care, cannabis, residency status?

Vigilant PlateSearch — **Agency** Data Sharing Report — **MOTOROLA SOLUTIONS**

Detections Shared

The Carlsbad Police Department Agency is Sharing its Detection data with the following Agencies:

Alameda County Narcotics Task Force	Alameda Police Department
American Canyon Police Department	Antioch Police Department CA
Arcadia Police Department	Auburn Police Department CA
Bakersfield Police Department	Bay Area Rapid Transit Police (CA)
Beaumont Police Department	Bell Gardens Police Department
Bell Police Department	Beverly Hills Police Department
Brea Police Department	Burbank Police Department (CA)
California Highway Patrol (CA)	Cathedral City Police Department
Ceres Police Department (CA)	Chino Police Department
Chula Vista Police Department	Citrus Heights Police Department
Clovis Police Department	Colton Police Department
Contra Costa County Sheriffs	Corona Police Department
Coronado Police Department (CA)	Costa Mesa Police Department
County of San Mateo Sheriffs Office	Cypress Police Department
Delta Regional Auto Theft Team (CA)	Downey Police Department
Dublin Police Department CA	El Cajon Police Department (CA)
El Dorado County Sheriff	El Segundo Police Department (CA)
Elk Grove Police Department	Escondido Police Department
Fairfield Police Department CA	Folsom Police Department
Fontana Police Department	Fountain Valley Police Department
Fresno County Sheriffs Office (CA)	Fresno Police Department

Detections Shared

The Sacramento County Sheriffs Office Agency is Sharing its Detection data with the following Agencies:

Abilene Police Department (TX)	Addison Police Department (TX)
Amador County Sheriffs Office (CA)	Anderson Police Department (CA)
Arcadia Police Department	Arizona Department of Public Safety
Arizona Game and Fish Department (AZ)	Auburn Police Department CA
Baton Rouge Police Department (LA)	Blue Ridge Police Department
Boulder City Police Department (NV)	Brantley Police Department (AL)
Brenham Police Department (TX)	Brentwood Police Department CA
Bureau of Indian Affairs	California Department Of Insurance (CA)
California Highway Patrol (CA)	Camden County Police Department
Cameron Parish Sheriffs Office (LA)	Canadian County Sheriffs Office (OK)
Carlsbad Police Department	Cartersville Police Department
CBP - NTC	Central Oregon Drug Enforcement (OR)
Ceres Police Department (CA)	Chattanooga Police Department (TN)

|	
Oklahoma State Bureau of Investigation (OK)	Osage Beach Police Department
Pearl River County Sheriffs Office	Pennsylvania State Police (PA)
Pflugerville Police Department (TX)	Philadelphia Police - Major Crimes Auto Squad (PA)
Pinal County Sheriffs Office (AZ)	Pitkin County Sheriff (CO)
Plymouth Township Police Department (MI)	Pooler Police Department
Port Hueneme Police Department (CA)	Putnam County Sheriffs Office (FL)
Reagan County Sheriffs Office (TX)	Redlands Police Department (CA)
Redmond Police Department (OR)	Reno Police Department
Rossville Police Department	Sabine Parish Sheriffs Office (LA)
Sacramento County Regional Parks (CA)	Sacramento Police Department
Sampson County Sheriff (NC)	San Bernardino County Sheriffs
San Joaquin County District Attorney (CA)	San Joaquin County Sheriffs Department (CA)
San Ramon Police Department	Seal Beach Police Department
Shelby County Sheriffs Office AL	Somerset County NJ
Somerset County Prosecutors Office	South Holland Police Department (IL)
Spartanburg County Sheriffs Office (SC)	St. Louis County Police

What It Does Not Reveal

It does not reveal which agencies actually searched information or anything about the searches.

It just shows the data relationship between agencies.

Hit Ratio Report

What it tells the public:

- How many license plates are scanned?
  - How proportionate is that to population, car ownership, vehicle miles traveled?
- How many of those plates were attached to the watch list
  - What percentage of real-time scans are related to an existing investigation?
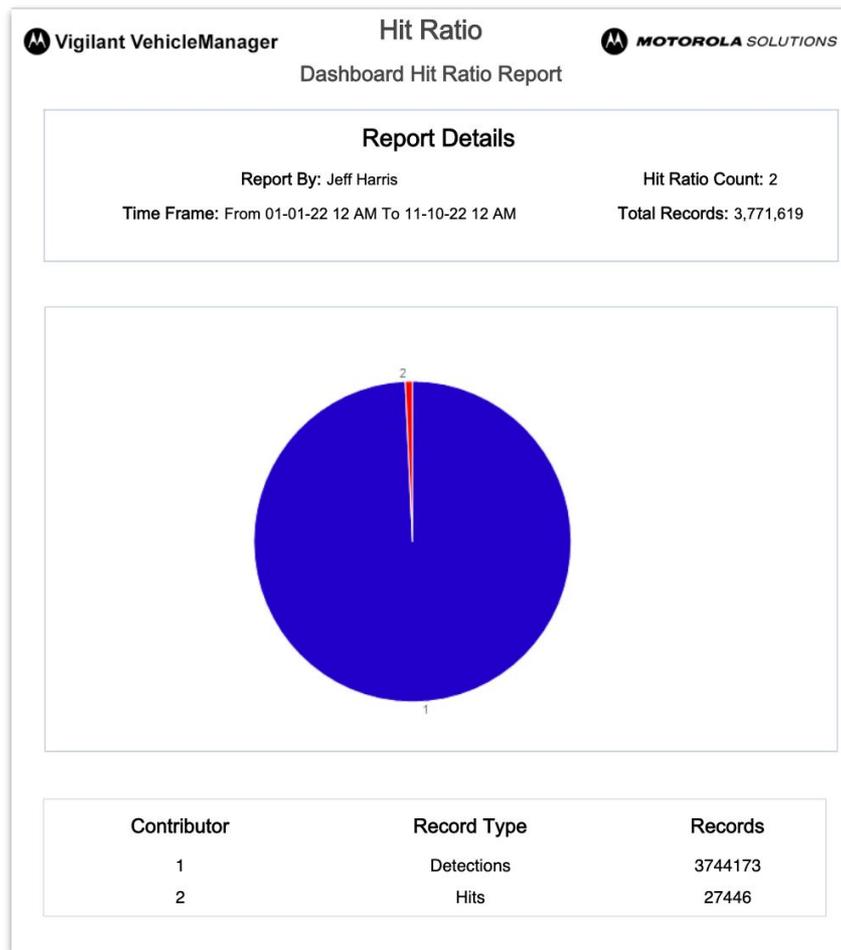
What It Does Not Reveal.

It does not reveal any information about an individual case. It does not reveal the location of any license plate scans.

Exceptions

● Some agencies have provided a breakdown of hits per watchlist
● Some agencies have provided camera-by-camera collection data
● In rare cases an agency has provided raw ALPR data to a requester

Agency/Records Link	2018-2019 License Plate Scans	Hit Ratio (Percentage on a Hot List)
San Bernardino County Sheriff's Office	439,272,149	0.05%
Carlsbad Police Department	161,862,285	0.02%
Sacramento Police Department	142,170,129	0.08%
Torrance Police Department	132,904,262	0.04%
Chino Police Department	83,164,449	0.05%

Agency/Records Link	Average Number of Vehicle Miles Traveled Per Scan (2018-2019)	Average Number of Scans Per 100 Vehicle Miles Traveled (2018-2019)
Tiburon Police Department (Link 2)	1.85 miles	54.11 scans
Sausalito Police Department (Link 2)	2.14 miles	46.65 scans
Laguna Beach Police Department	3.02 miles	33.12 scans
Beverly Hills Police Department	4.63 miles	21.60 scans

Writing the Request

Challenge: Some agencies interpret these reports as "creating a new record" which isn't usually equired under law. However, the feature in the software already exists and the underlying data is still a public record.

Solution: We ask for the data that would appear in the reports, and explain that these reports would satisfy the request, and are the easiest way to export the data. The agency can respond with raw data or the reports.

Challenge: Some agencies don't understand their ALPR system well enough to know what we're asking for.

Solution: We provide examples, a list of agencies that have already provided the data, and basic guidance on how to generate the reports or export the data

2022-2023 Outcomes (California Only)

247 Records Requests filed

177 Agencies Provided Some or All Requested Records

    22 provided partial records

32 Agencies did not respond to the request/never completed the request

23 No responsive documents

0 Agencies rejected

The rest are still in progress

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Outcomes and Impact

- Analyses and data
  - Covered by the press, informed academic research
  - Cited in briefs, city council agenda packets, and other official records
- State audit into ALPRs
- Multiple pieces of state legislation introduced
- Data sharing reduced, new guidance being drafted by police organizations
- Companies have introduced transparency features

Flock Safety Transparency Portal

https://transparency.flocksafety.com/piedmont-ca-pd

- Piedmont audit

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Things Your Agency Can Do Today

- Review other agencies' requests and responses on Muckrock
- File 5 open records requests with other agencies
- Write a blog post about what would be helpful to you/frequently requested records

Things You Can Do Over Time

- Demand tech vendors build transparency tools into their platforms
  - Easily search, export data and generate reports
- Publish your policy manuals
- For every policy, clearly state what records will be generated and what documents may be requested by public
- Publish a directory of forms and data systems
- Organize your stuff!
- Be helpful, patient, and kind

Things to Stop Doing

- Don't make every request a lawyer thing
- Don't sign NDAs!

atlasofsurveillance.org
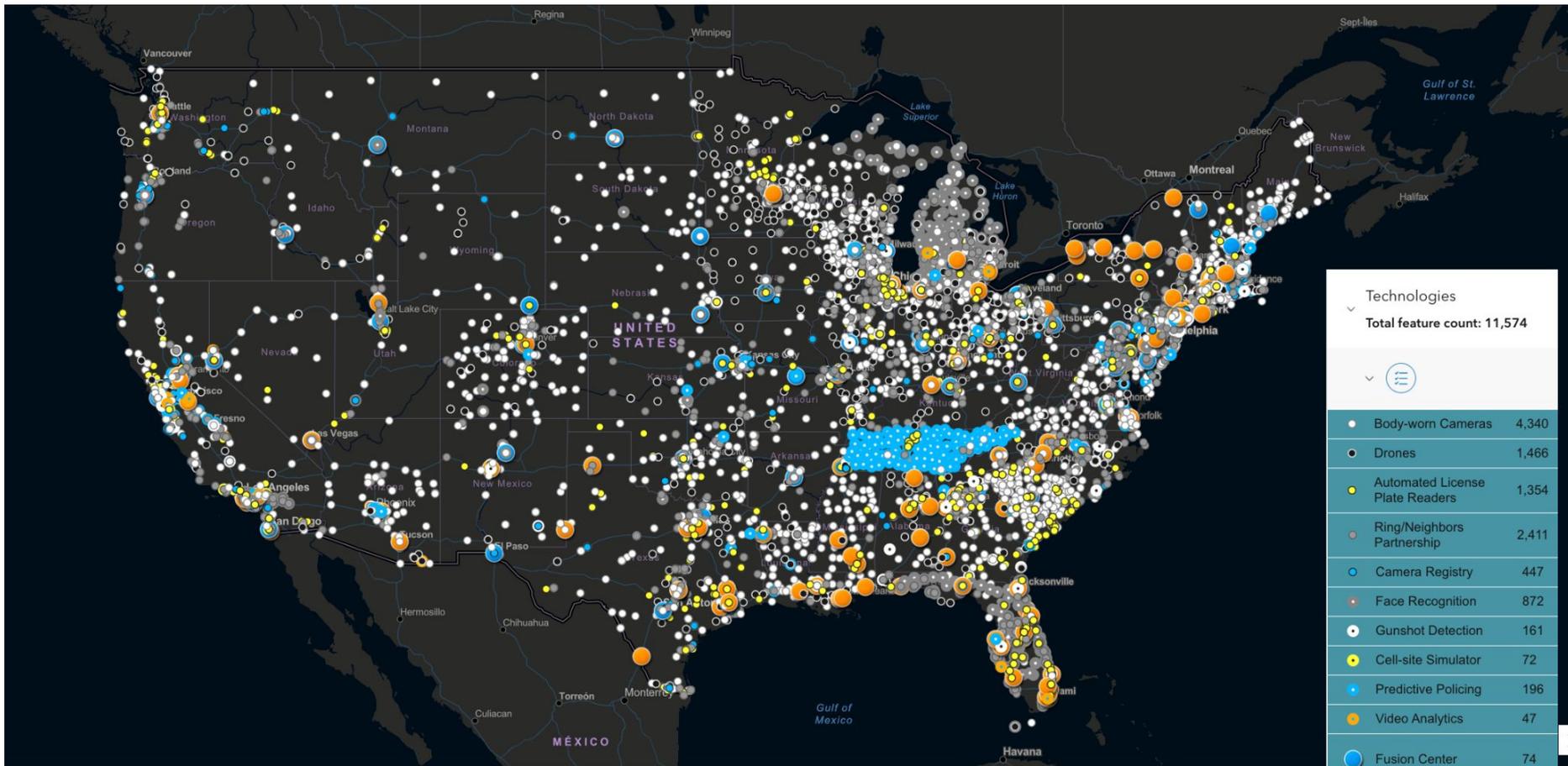
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Atlasofsurveillance.org

Project Goals:

Research: Create a searchable inventory of law enforcement surveillance technologies across the United States that can be used by journalists, policy makers, and members of the public.

Engagement: Collaborate with and inspire a huge number of people (students and volunteers) in crowdsourcing research.

N

Reynolds School of Journalism
University of Nevada, Reno

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Technologies

Total feature count: 11,574

Technology	Count
Body-worn Cameras	4,340
Drones	1,466
Automated License Plate Readers	1,354
Ring/Neighbors Partnership	2,411
Camera Registry	447
Face Recognition	872
Gunshot Detection	161
Cell-site Simulator	72
Predictive Policing	196
Video Analytics	47
Fusion Center	74

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ATLAS of SURVEILLANCE

Documenting Police Tech in Our Communities with Open Source Research

Enter a city, county, state, or agency in the U.S., or leave blank to search the whole country:

Reno, NV

UPDATE SEARCH

INCLUDE THE FOLLOWING TECHNOLOGIES

☑ Select/Deselect All

☑ Automated License Plate Readers ❓
☑ Body-worn Cameras ❓
☑ Camera Registry ❓
☑ Cell-site Simulator ❓
☑ Drones ❓
☑ Face Recognition ❓
☑ Fusion Center ❓
☑ Gunshot Detection ❓
☑ Predictive Policing ❓
☑ Real-Time Crime Center ❓
☑ Ring/Neighbors Partnership ❓
☑ Video Analytics ❓

Showing data for: Reno, NV

Download this dataset

Displaying **all 13** entries

Sort results by ⌄

AGENCY ▼	CITY ▼	COUNTY ▼	STATE ▼	TECHNOLOGY ▼	VENDOR ▼
Washoe County Sheriff's Office	Reno	Washoe County	NV	Body-worn Cameras	Axon

The Washoe County Sheriff's Office outfitted 150 officers with body-worn cameras in 2018.

Links:
News article (KTVN)
Government information (Washoe County Shreiff)
Social media (Washoe County Sheriff Facebook page)

more info

University of Nevada, Reno Police Department	Reno	Washoe County	NV	Body-worn Cameras	

The University of Nevada, Reno Police Department has been using body-worn cameras since at least 2017.

Links:
News article (Reno Gazette Journal)

more info

Washoe County Sheriff'S Office	Reno	Washoe County	NV	Ring/Neighbors Partnership	Ring

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https://atlasofsurveillance.org