

November 20, 2023

Via e-mail only:

Attorney General Rob Bonta,  
State of California

Chief John D. Marsh,  
Division of Law Enforcement

Re: Response to Information Bulletin No. 2023-DLE-06 Regarding  
California Automated License Plate Reader Data Guidance

Gentlemen:

I am writing to you as the General Counsel of the California State Sheriffs' Association, California Police Chiefs Association, and California Peace Officers' Association ("The Associations"). The Associations, whose members make up a vast array of law enforcement officers throughout the State of California, represent policy making officials, management, and rank and file officers.

The Associations are writing in response to Information Bulletin 2023-DLE-06 re: California Automated License Plate Reader (ALPR) Data Guidance. Specifically, while we believe the Information Bulletin provides some valuable guidance to State and Local Law Enforcement Agencies in a number of respects, we respectfully request that you re-visit your position that SB 34 precludes sharing ALPR data with out-of-state governmental entities for legitimate law enforcement purposes.

#### Background of the ALPR Systems

California's statutory provisions authorizing the collection of ALPR data was first enacted as part of SB 34 and became effective on January 1, 2016. Since that time, the use of ALPR technology has proven to be a valuable and effective resource and a meaningful dimension of public safety in the communities we serve. The technology assists in the rescue of abducted children in the case of Amber Alert activations as well as locating vulnerable elderly or developmentally impaired missing persons. License plate readers are also a significant component in making successful apprehensions. The platform provides direction identifying vehicles on our roadways that were stolen from the owners, taken from people during violent carjackings, or are associated with wanted suspects present in the communities that we serve.

License plate readers also provide important information that can contribute to identifying dangerous offenders who may be impacting victims across many jurisdictions. One example is



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organized or gang affiliated burglary suspects repetitively entering homes in our neighborhoods or businesses. The ability to identify and disrupt crime trends of this type minimizes the number of people who must endure such a frightening experience. It can also be effective in assisting investigations regarding emerging violent hate groups who are active across state lines. An important use of license plate readers is to assist with investigation of human traffickers who often operate across state lines.

The balanced use of technology helps improve the overall accuracy of the policing process. Timely and valid information can guide enforcement specifically toward offenders who are inflicting the greatest harm. This accuracy reduces the likelihood of detentions of persons who have no involvement with a particular crime problem. This is especially valuable in communities disproportionately impacted by serious crime and can help reduce the overall extent of police presence felt by residents. In addition, use of this important tool is supported by sound written policy.

A separate and contemporary demonstration of the benefits of public safety information technology pertains to the importance it has in the present recruitment atmosphere. California policing faces very serious issues appointing sufficient qualified candidates needed to sustain the continuity of public safety. Reasonable use of technology is one means of helping diminish the dangerous consequences of staffing loss and the impacts to the health of our communities.

In sum, the societal benefits that ALPR technology can achieve in detecting criminal activity and reuniting families simply cannot be overstated and is a compelling factor moving forward.

#### Statutory Analysis

Since SB 34 became effective on January 1, 2016, no reported appellate cases have been issued which would prohibit the disclosure of ALPR data to out-of-state governmental entities for legitimate law enforcement purposes. Indeed, there is nothing in the Legislative History which would support the position that the Legislature, in any way, had contemplated ending out-of-state sharing of data or was responding to the potential use of this information regarding out-of-state attempts to limit access to abortion services which were fully legal at that time.

One interpretation of Civil Code 1798.90.5(f), the provision upon which your office relies, is that it was intended to describe the broad scope of applicability of the legislation among California public entities. The section was not designed to block law enforcement from sharing ALPR data outside California where the information could be used to intercede with criminal offenders moving from state to state.

By its own terms, there is nothing in Section 1798.50(f) which provides that the receiving entity must be located within California. Rather, this section only refers to “*the state*, any city, county, or city and county, or any political subdivision of *the state*....” (Emphasis added.) This statute,



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while admittedly somewhat ambiguous, does not specifically refer to the State of *California* or “*this state*”, and thus does not prohibit the sharing of information with any state. Contrary to your position, we believe this section was meant to represent a non-exclusive list referring to all governmental agencies. This is entirely consistent with the regular sharing of data across state lines for legitimate law enforcement purposes such as drug interdiction activities and human trafficking. To that end, had the legislation referred to “a State” rather than “the State,” there would be no debate about whether sharing was prohibited. We see no basis to read such a limitation into the legislation based on the word “the” rather than “a”.

Moreover, even if such a condition could be read into the definition’s first clause, it is noticeably absent from the secondary clause, which specifically excludes such potentially limiting language, stating “*or a city, county, or city and county, including but not limited to, a law enforcement agency.*” (Emphasis added.) Thus, the express terms of this secondary clause does not contain the same language contained in the first clause upon which you rely to interpret this statute as prohibiting sharing of ALPR data with out-of-state law enforcement agencies. Additionally, as noted above, there is nothing in the Legislative Digest accompanying this provision to suggest that such a limitation was contemplated by the Legislature.

Finally, it should also be noted that the California Legislature did consider a proposed bill which would have prohibited the out-of-state sharing of ALPR information and rejected it. Specifically, AB 2192 sought to prohibit the selling, sharing, or transferring of ALPR information to any state which had enacted laws which would interfere with the right to seek abortion services. However, this proposed legislation was *not* adopted. The Legislature’s refusal to adopt a position consistent with the position you are advancing is troubling.

The real world reality is that the State of California is not an isolated island which exists independently of all other neighboring jurisdictions. Coordination and cooperation between law enforcement agencies – whether they be in-state or out-of-state – is not only necessary and proper, but also absolutely imperative to effective policing.

### Conclusions

To be clear, we believe your Information Bulletin correctly discussed multiple aspects of the law in this area: there are no provisions regarding the sharing of ALPR data with federal agencies; ALPR data should *not* be shared with private companies; and appropriate objections should be lodged regarding attempts to obtain ALPR data from CPRA requests. However, we are convinced that there is nothing in this legislation which prohibits the sharing of such data with out-of-state law enforcement agencies for legitimate law enforcement purposes.

Moreover, neither the Associations nor their members have any desire to wade into the murky waters of out-of-state abortion services or enforcement activities associated therewith. Specific legislation prohibits the transfer of information concerning abortion services outside of California.



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We concede that those restrictions apply to license plate reader information. We believe these are issues which are better left to resolution by use of MOUs addressing the prohibited uses of any ALPR data shared with law enforcement agencies outside California or other technological solutions associated with ALPR informational platforms.

Based upon this information and statutory analysis provided, we would respectfully request that your office re-evaluate the guidance provided in the Information Bulletin to the extent it suggests that ALPR data cannot be shared with out-of-state law enforcement agencies for legitimate law enforcement purposes. We believe that the proper sharing of such information under these conditions is consistent with the language of the statute, the legislative intent, and sound public policy designed to assist in the apprehension and prosecution of child abductors, narcotics traffickers, human traffickers, extremist hate groups, and other cross-state criminal enterprises. We welcome any opportunity to open a dialogue on these issues.

Sincerely,

*James R. Touchstone*

James R. Touchstone, General Counsel

California State Sheriffs' Association, California  
Police Chiefs Association, and California Peace  
Officers' Association

cc: California State Sheriffs' Association  
California Police Chiefs Association  
California Peace Officers' Association