



VIA EMAIL

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May 9, 2024

Re: Sacramento Police Department's Violations of State Law for Sharing License Plate Reader Data

Dear Chief Lester and Ms. Wood:

We write in regard to your jurisdiction's automated license plate reader ("ALPR") information disclosure practices. The Sacramento Police Department ("Sacramento PD") recently informed the *San Francisco Chronicle* that it shares ALPR information with out-of-state law enforcement agencies.¹ Sharing ALPR information with out-of-state agencies violates California law. Civ. Code § 1798.90.55(b).

We are particularly concerned that anti-abortion states may seek to exploit this information to track, locate, and prosecute abortion seekers and providers. Regardless of Sacramento PD's intent, sharing ALPR information with out-of-state agencies poses a risk to people and violates state law. We therefore urge that you immediately investigate any sharing relationship with these agencies, prohibit Sacramento PD from sharing in this fashion again, and reconsider the use of ALPR technology.

Pursuant to the California Public Records Act, we also request that you provide a current copy of the Sacramento PD's ALPR "Data Sharing Report" from each ALPR vendor used by the Department. Additional information about this request is included in Section IV below.

¹ Bob Egelko, *California Police Are Still Sharing License Plate Data With Anti-abortion States*, S.F. CHRON, Mar. 25, 2024, <https://www.sfchronicle.com/politics/article/police-data-sharing-19257348.php>.

I. ALPR Surveillance of Sacramento Drivers' Locations Violates Their Civil Liberties and Civil Rights and Could be Used to Prosecute Out-of-State Abortion Seekers.

ALPR technology is a powerful surveillance system that can be used to invade the privacy of individuals and violate the rights of entire communities. ALPR systems collect and store location information about drivers whose cars pass through ALPR cameras' fields of view, which, along with the date and time of capture, can be built into a database that reveals sensitive details about where individuals work, live, associate, worship, seek medical care, and travel.² Much of this information has traditionally been unavailable to law enforcement without a search warrant. Further, ALPR systems are easily misused to harm marginalized communities.³ As with other surveillance technologies, police often deploy license plate readers in poor and historically overpoliced areas, regardless of crime rates.⁴

Additionally, and particularly since the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*,⁵ which overturned *Roe v. Wade*,⁶ ALPR technology and the information it collects is vulnerable to exploitation against people seeking, providing, and

² See, e.g., *Automatic License Plate Readers*, ELECTRONIC FRONTIER FOUND., March 29, 2023, <https://www.eff.org/sls/tech/automated-license-plate-readers>; *You Are Being Tracked: How License Plate Readers Are Being Used to Record Americans' Movements*, AM. CIV. LIBERTIES UNION, July 2013, <https://www.aclu.org/other/you-are-being-tracked-how-license-plate-readers-are-being-used-record-americans-movements>.

³ See, e.g., Angel Diaz & Rachel Levinson-Waldman, *Automatic License Plate Readers: Legal Status and Policy Recommendations for Law Enforcement Use*, BRENNAN CTR. FOR JUST., Sept. 10, 2020, <https://www.brennancenter.org/our-work/research-reports/automatic-license-plate-readers-legal-status-and-policy-recommendations>; Christine Hauser, *Aurora Police Chief Apologizes After Officers Handcuff Children on the Ground*, N.Y. TIMES, Aug. 5, 2020, <https://www.nytimes.com/2020/08/05/us/aurora-police-black-family.html> (ALPR falsely flagged a Black family's SUV as stolen, leading to a stop during which entire family, including four children, was forced to lie on the ground during the stop); Vasudha Talla, *Records Reveal ICE Agents Run Thousands of License Plate Queries a Month in Massive Location Database*, ACLU OF NORTHERN CAL., June 2019, <https://www.aclunc.org/blog/records-reveal-ice-agents-run-thousands-license-plate-queries-month-massive-location-database>; Matt Cagle, *San Francisco – Paying the Price for Surveillance Without Safeguards*, ACLU OF NORTHERN CAL., May 22, 2014, <https://www.aclunc.org/blog/san-francisco-paying-price-surveillance-without-safeguards>; Adam Goldman and Matt Apuzzo, *With Cameras, Informants, NYPD Eyed Mosques*, ASSOCIATED PRESS, Feb. 23, 2012, <https://www.ap.org/ap-in-the-news/2012/with-cameras-informants-nypd-eyed-mosques>.

⁴ Dave Maass and Jeremy Gillula, *What You Can Learn from Oakland's Raw ALPR Data*, ELECTRONIC FRONTIER FOUND., Jan. 21, 2015, <https://www.eff.org/deeplinks/2015/01/what-we-learned-oakland-raw-alpr-data>; Barton Gellman and Sam Adler-Bell, *The Disparate Impact of Surveillance*, THE CENTURY FOUND., Dec. 21, 2017, <https://production-tcf.imgix.net/app/uploads/2017/12/03151009/the-disparate-impact-of-surveillance.pdf>; see also, e.g., Kaveh Waddell, *How License-Plate Readers Have Helped Police and Lenders Target the Poor*, THE ATLANTIC, Apr. 22, 2016 <https://www.theatlantic.com/technology/archive/2016/04/how-license-plate-readers-have-helped-police-and-lenders-target-the-poor/479436/> (summarizing data indicating that Oakland Police Department deployed ALPRs “disproportionately often in low-income areas and in neighborhoods with high concentrations of African-American and Latino residents”).

⁵ 142 S. Ct. 2228 (2022).

⁶ 410 U.S. 113 (1972).

facilitating access to abortion.⁷ Law enforcement officers in anti-abortion jurisdictions who receive the locations of drivers collected by California-based ALPRs may use that information to monitor abortion clinics and the vehicles seen around them and closely track the movements of abortion seekers and providers.⁸ This threatens even those obtaining or providing abortions in California, since several anti-abortion states plan to criminalize and prosecute those who seek or assist in out-of-state abortions.⁹

II. Sacramento Police Department Shares Local Drivers' Data with Out-of-State Agencies.

In a March 25 *San Francisco Chronicle* article, Sacramento PD publicly confirmed that it shares ALPR information out-of-state “with departments within the Western states.”¹⁰ This may include states where abortion is banned or highly restricted, such as Idaho and Arizona.¹¹

Sacramento PD has continued to share this information in deliberate defiance of a November 2023 legal bulletin issued by California Attorney General Rob Bonta to California state and local law enforcement agencies.¹² The bulletin reemphasized that sharing ALPR information out of state violates California law.¹³

⁷ Johana Bhuiyan, *How expanding web of license plate readers could be ‘weaponized’ against abortion*, THE GUARDIAN, Oct. 6, 2022, <https://www.theguardian.com/world/2022/oct/06/how-expanding-web-of-license-plate-readers-could-be-weaponized-against-abortion>.

⁸ Dave Maass, *Automated License Plate Readers Threaten Abortion Access. Here’s How Policymakers Can Mitigate the Risk*, ELECTRONIC FRONTIER FOUND., Sept. 28, 2022, <https://www.eff.org/deeplinks/2022/09/automated-license-plate-readers-threaten-abortion-access-heres-how-policymakers>.

⁹ See, e.g., Caroline Kitchener and Devlin Barrett, *Antiabortion lawmakers want to block patients from crossing state lines*, WASHINGTON POST, June 30, 2022, <https://www.washingtonpost.com/politics/2022/06/29/abortion-state-lines/>; Josh Moon, *Alabama AG: state may prosecute those who assist in out-of-state abortions*, ALABAMA POLITICAL REPORTER, Sept. 15, 2022, <https://www.alreporter.com/2022/09/15/alabama-ag-state-may-prosecute-those-who-assist-in-out-of-state-abortions/>.

¹⁰ Egelko, *supra* note 1.

¹¹ See Mark Sherman, *The Supreme Court is Allowing Idaho to Enforce its Strict Abortion Ban, Even in Medical Emergencies*, AP, Jan. 5, 2024, <https://apnews.com/article/supreme-court-abortion-medical-emergencies-idaho-8ca89d7de0c1fa9256dcd27d1847e144>; *Arizona Abortion Laws*, ARIZONA ATTORNEY GENERAL, <https://www.azag.gov/issues/reproductive-rights/laws> (last visited May 1, 2024).

¹² Sacramento PD told the *Chronicle* that it “was not persuaded to change its policy” in response to the Attorney General’s legal guidance. Egelko, *supra* note 1.

¹³ OAG Information Bulletin, *California Automated License Plate Reader Data Guidance*, No. 2023-DLE-06 (Nov. 1, 2023) <https://oag.ca.gov/news/press-releases/attorney-general-bonta-advises-california-law-enforcement-legal-uses-and>.

III. Sharing ALPR Information with Out-of-State Agencies Violates State Law and Undermines California’s Protections for Reproductive Health Privacy.

Any sharing of ALPR information with out-of-state agencies violates state law and the only way to prevent these violations, and the harm caused by exposing sensitive driver information to out-of-state agencies, is to cease such sharing. Under the California Civil Code, as amended by Senate Bill No. 34, “[a] public agency shall not sell, share, or transfer ALPR information, except to another public agency, and only as otherwise permitted by law.” Civ. Code § 1798.90.55(b). A “public agency” is defined as “the state, any city, county, or city and county, or any agency or political subdivision *of the state*.” See Civ. Code § 1798.90.5(f) (emphasis added). The Civil Code, therefore, prohibits an agency from sharing or transferring ALPR information with or to out-of-state agencies. As noted above, this restriction was reemphasized by California Attorney General Rob Bonta in a November 2023 legal bulletin.¹⁴

In addition, sharing ALPR information with law enforcement in states that criminalize abortion undermines California’s extensive efforts to protect reproductive health privacy. Since 2022 when the Supreme Court decided *Dobbs*, the Legislature has passed more than a dozen laws to protect reproductive freedom, including laws that prohibit law enforcement from cooperating with out-of-state entities regarding abortions that are lawful in California.¹⁵

Sharing ALPR information with agencies in abortion-restrictive states raises concerns in light of the recently enacted Assembly Bill No. 1242, which prohibits state and local public agencies from “cooperat[ing] with or provid[ing] information” to out-of-state agencies “regarding an abortion that is lawful under the laws of this state and that is performed in this state.” Penal Code § 13778.2.

The sharing of ALPR information is harmful because it exposes the sensitive location data of drivers to misuse in states without California’s privacy protections. The only way to prevent these harms and address these violations of the law is to terminate the out-of-state sharing.

Additionally, sharing ALPR information with out-of-state agencies undermines the California Constitution’s long-standing protections for reproductive rights¹⁶ and the values guiding state law, as set out in the legislative findings and declarations of the Reproductive Privacy Act:

¹⁴ *Id.*

¹⁵ See Joe Garofoli, *Newsom signs California abortion protections into law following GOP push for a nationwide ban*, SAN FRANCISCO CHRONICAL, Sept. 27, 2022, <https://www.sfchronicle.com/bayarea/article/Newsom-signs-California-abortion-protections-into-17470927.php>; *New Protections for People Who Need Abortion Care and Birth Control*, OFFICE OF GOVERNOR GAVIN NEWSOM, Sept. 27, 2022, <https://www.gov.ca.gov/2022/09/27/new-protections-for-people-who-need-abortion-care-and-birth-control/>.

¹⁶ See *People v. Belous* (1969) 71 Cal. 2d 954. The California Constitution was recently amended to expressly enumerate these long-standing protections. See Cal. Const. Art. 1, § 1.1 (“The state shall not deny or interfere with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion[.]”) (*added Nov. 8, 2022, by Prop. 1. Res. Ch. 97, 2022. Effective Dec. 21, 2022*).

“The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that . . . [e]very woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion . . . [and t]he state shall not deny or interfere with a woman’s fundamental right to choose to bear a child or to choose to obtain an abortion[.]”

Health & Safety Code § 123462. These declared rights are undermined by Sacramento PD sending ALPR information to out-of-state law enforcement agencies that may use it to investigate and punish people who seek abortion.

IV. We Request that Sacramento Police Department Provide Records to Confirm It Has Ceased Illegally Sharing ALPR Information.

We urge Sacramento PD to investigate—and end—the sharing documented in this letter. Pursuant to the California Public Records Act, we ask that your agency provide the following records to confirm it has ceased sharing ALPR information with out-of-state and federal agencies, as required by California law:

1. The names of agencies and organizations with which Sacramento PD shares ALPR data;
2. The names of agencies and organizations from which Sacramento PD receives ALPR data;
3. The names of agencies and organizations with which Sacramento PD shares “hot list” information;
4. The names of agencies and organizations from which Sacramento PD receives “hot list” information.

The information requested is readily available for extraction through the ALPR software you use. For example, with Vigilant Solutions/Motorola Solutions, this data can be exported easily using the “Data Sharing Report” function. With Flock Safety, this information is available through the transparency portal function. Other software, such as BOSS, has similar functionality.

The risks to civil liberties and civil rights that ALPR technology creates are well-documented. Even if Sacramento PD takes steps to prevent the formal sharing of data with out-of-state agencies, the risk of informal sharing with these same agencies will remain. Thus, the best way to ensure that Sacramento’s residents and visitors are safe from unnecessary intrusion into their personal lives is to reject the use of ALPR technology altogether.

We look forward to your prompt action and response by May 30, 2024. If you have any questions, please do not hesitate to reach out to Jennifer Pinsof at ALPR@eff.org.

Sincerely,

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ACLU Foundation of Northern California