



LAW ENFORCEMENT USE OF TECHNOLOGY: AUTOMATIC LICENSE PLATE RECOGNITION (ALPR)

*Colin L. Drabert, Deputy Director
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Background

- ▶ Legislation was introduced during the 2023 and 2024 Sessions to regulate law enforcement use of ALPR, but none of this legislation was enacted.
- ▶ One of these bills was referred to the Crime Commission in 2024 (HB 775; Del. Herring).



Background

- ▶ Law enforcement across the country is using ALPR.
 - Use increased significantly over the past two decades.

- ▶ Law enforcement across Virginia is using ALPR.
 - DCJS is in the process of determining which agencies are using ALPR (HB 1496, 2024 Session).



Background

- ▶ Virginia does not have statewide laws or policies governing law enforcement use of ALPR.
 - Agencies may adopt their own policies on ALPR use.

- ▶ At least 18 states regulate law enforcement use of ALPR at a statewide level.



Background

- ▶ ALPR is also being used by homeowners associations, businesses, and other government agencies for various purposes, such as:
 - Home and business security monitoring;
 - Business operations;
 - Insurance investigations;
 - Vehicle repossessions;
 - Toll collection; and,
 - Weigh station operations.



What is ALPR?

- ▶ ALPR is a system of one or more high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.
- ▶ ALPR cameras can be:
 - Fixed: mounted in a stationary location.
 - Mobile: mounted in a patrol vehicle.
 - Portable: movable for use in multiple locations.



Flock Safety Falcon

<https://www.flocksafety.com/devices/falcon>



Axon Fleet 3

<https://www.axon.com/products/axon-fleet-3>



What does ALPR capture?

- ▶ Cameras capture a photograph or video clip of a vehicle and its license plate, along with the location, date, and time of the image.
- ▶ Imaging capabilities will vary by vendor.
- ▶ The captured image does not contain personally identifying information.
 - A separate system must be accessed to identify the registered owner(s) of the vehicle.



Plate VA 31621M
Date 6/30/2024, 10:33:28 AM
Location TN - Demo -
Hubbs - Eagle
Bend Rd @ Dew St
- Clinton WB
Seen First Day Seen
Body Pickup
Make Chevrolet
Color Black
Identifiers undetected

Demo image provided by Flock Safety.

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How is ALPR searched?

- ▶ ALPR images can be searched by:
 - License plate number (full or partial);
 - Issuing state and license plate number;
 - Vehicle information (make, model, color, or other characteristics); or,
 - License plate numbers or vehicles that appear in the same location at the same time.

- ▶ Search capabilities vary by vendor.

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Law Enforcement Use

- ▶ Law enforcement uses ALPR for two main purposes:
 - Alerts: real-time notifications.
 - Investigations: searches of historical data.



What are ALPR Alerts?

- ▶ Alerts notify law enforcement to known license plates and vehicles of interest.
- ▶ Alerts are based on information contained in a “hot list,” which includes:
 - Stolen vehicles and license plates;
 - Vehicles associated with individuals known to be or potentially involved in criminal activity; and,
 - Vehicles associated with missing or endangered individuals.



What are Hot Lists?

- ▶ Hot lists are generated based on information from different sources, such as:
 - National Crime Information Center (NCIC/FBI);
 - States; or,
 - Local law enforcement.

- ▶ An alert is a tool meant to assist law enforcement.
 - When law enforcement receives an alert, the officer should verify that the alert matches the license plate and vehicle information contained in the hot list.



What are Hot Lists?

- ▶ Hot lists based on the NCIC (FBI) include:
 - Vehicle or License Plate
 - Threat Screening Center
 - Wanted Person
 - Supervised Release
 - Protection Order
 - National Sex Offender Registry
 - Protective Interest
 - Immigration Violator
 - Missing Person
 - Violent Person
 - Gang
 - Extreme Risk Protection Order

- ▶ State and local law enforcement can customize hot lists to exclude NCIC categories and/or to include additional categories.



Investigations

- ▶ Law enforcement can search ALPR data to develop leads in criminal and community safety matters.
 - Historical and real-time data can be analyzed to identify or locate vehicles of interest.
 - Data can also assist in identifying vehicles used in patterns of criminal behavior, such as organized retail theft or burglaries.



Investigations

- ▶ ALPR data can be shared, which allows law enforcement to search a network of cameras.
 - Law enforcement agencies can share ALPR data with each other.
 - Private entities and other government agencies can share ALPR data with law enforcement.
- ▶ Law enforcement must check separate databases (e.g., DMV, VCIN, or NCIC) to identify the registered owner(s) of a vehicle.



Effectiveness of ALPR

- ▶ Most of the information on ALPR successes, errors, and misuses is anecdotal.
- ▶ Few rigorous studies have been conducted on the effectiveness of ALPR.
 - These studies have shown that ALPR is particularly effective in assisting law enforcement with locating stolen vehicles and investigating other offenses.
- ▶ National studies are being conducted to evaluate the overall effectiveness of ALPR.



Benefits of ALPR

- ▶ Helps to locate stolen vehicles and vehicles linked to missing, endangered, or wanted persons.
- ▶ Develops leads and corroborates evidence.
- ▶ Increases the speed and efficiency of investigations.
- ▶ May result in fewer interactions with the public while conducting investigations.
- ▶ Produces evidence for use in court.



Concerns with ALPR

- ▶ ALPR collects and retains data on a vast number of vehicles, regardless of whether the driver or any occupants are engaged in criminal activity.
- ▶ Data can be used to track a vehicle in real time, or analyzed to identify individual movements and patterns of behavior.



Concerns with ALPR

- ▶ Instances of erroneous license plate reads and misuse of ALPR systems have occurred.
- ▶ Placement of ALPR cameras can lead to disparate impacts on minority communities.
- ▶ Privacy and data protection issues, such as:
 - What data is collected;
 - How long data is retained; and,
 - Whether data is sold or shared.



Concerns with ALPR

- ▶ Three specific issues were raised with ALPR during the 2024 General Assembly Session:
 - Search warrants;
 - Data retention; and,
 - Placement of ALPR devices on Virginia state highway right-of-ways.



Search Warrants

- ▶ A search warrant is generally required if a search involves a physical intrusion or an invasion of a reasonable expectation of privacy.

- ▶ No appellate court decisions in Virginia address whether a search warrant is required to conduct a search of ALPR data.



Search Warrants

- ▶ Circuit courts in Virginia have split on motions to suppress warrantless searches of ALPR data.
 - 4 courts have denied motions; and,
 - 1 court has granted a motion.
- ▶ The federal district court in Richmond also denied a similar motion to suppress.
- ▶ The five courts that denied the motions to suppress found that the searches did not violate the defendant's reasonable expectation of privacy.



Search Warrants

- ▶ 2 of the 18 states that regulate ALPR require law enforcement to obtain a search warrant to access data in specific circumstances:
 - Minnesota requires a search warrant if ALPR is being used to monitor or track an individual who is the subject of an active criminal investigation.
 - Utah requires a search warrant or court order to obtain ALPR data from a non-governmental entity.



Data Retention

- ▶ Virginia law does not limit the length of time that law enforcement can retain ALPR data.
- ▶ At least 17 states place restrictions on the time period that law enforcement can retain ALPR data.
 - ALPR data can be retained longer if it is part of an active investigation or prosecution.
- ▶ ALPR data retention periods in other states range from minutes to years.

State	ALPR Data Retention Period
New Hampshire	3 minutes
Utah	14 days
Maine	21 days
Georgia	30 days
California	60 days
Minnesota	60 days
Montana	90 days
North Carolina	90 days
Tennessee	90 days
Arkansas	150 days
Nebraska	180 days
Michigan	1 year
Vermont	1 year 6 months
Colorado	3 years
Florida	3 years
New Jersey	3 years
Alabama	5 years

Table prepared by Crime Commission staff based on legal analysis.



State Highway Right-of-Ways

- ▶ An Attorney General Opinion from October 2022 states that the Virginia Code does not explicitly authorize the Commonwealth Transportation Board to amend its regulations to allow for permits to install ALPR devices on state highway right-of-ways.
- ▶ VDOT has identified several ALPR devices installed on state highway right-of-ways and is working to have them removed from the right-of-way.



State Highway Right-of-Ways

- ▶ The lack of a permitting process is important because Virginia has the third largest state-maintained highway system in the nation (59,556 miles).
- ▶ ALPR devices can be placed on city or county maintained roadways or private property without a permit from VDOT.



Summary

- ▶ Large amounts of ALPR data can easily be collected and analyzed due to technological advancements.
- ▶ There are numerous benefits and concerns surrounding law enforcement use of ALPR.
- ▶ Virginia does not have statewide laws or policies regulating the use of ALPR by law enforcement.
- ▶ At least 18 other states regulate law enforcement use of ALPR at a statewide level.



Conclusion

- ▶ Virginia could enact legislation to regulate law enforcement use of ALPR.
- ▶ Virginia could enact legislation to allow permits for ALPR devices to be installed on state highway right-of-ways.



DISCUSSION