



March 13, 2019

**VIA UPS AND EMAIL**

Jared Rinetti  
Police Chief  
34009 Alvarado-Niles Road  
Union City, CA 94587  
jaredr@unioncity.org

**Re: Your Agency's Sharing of License Plate Reader Data with U.S. Immigration and Customs Enforcement & California Public Records Act Request**

Dear Chief Rinetti,

We write to raise significant concerns with your office's decision to share automated license plate reader ("ALPR") data with U.S. Immigration and Customs Enforcement ("ICE") and to demand that you immediately stop such sharing.

This letter summarizes newly-released public records showing that your agency shares information about the locations of local drivers with ICE, describes the threat that the unrestricted use of ALPR technology poses to the privacy and safety of all community members, and explains that state law prohibits the sharing of ALPR data with out-of-state and federal agencies.<sup>1</sup> The letter concludes by urging your agency to stop sharing ALPR information with ICE, to adopt a privacy and usage policy that protects residents' information, and to meet with us regarding the concerns in this letter.

**ALPR Surveillance of Your Residents' Locations Raises Serious Civil Liberties and Civil Rights Concerns.**

No community should acquire or deploy license plate readers without proper safeguards that protect all residents, given the invasiveness of the technology and the breadth of revealing information it can collect about individuals. ALPR systems collect and store location information

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<sup>1</sup> Vasudha Talla, *ICE Uses Vast Database with License Plate Information Supplied by Local Police to Target Immigrants*, ACLU of Northern California, Mar. 13, 2019, <https://www.aclunc.org/blog/ice-uses-vast-database-license-plate-information-supplied-local-police-target-immigrants>.

**American Civil Liberties Union of Northern California**

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about drivers whose cars pass through ALPR cameras' fields of view, which, after being matched to dates, times, and location, can be built into a database that reveals sensitive information about where individuals work, live, associate, and visit.<sup>2</sup> Further, ALPR systems are easily misused to harm minority communities. For example, police have used license plate readers to target Muslim Americans by spying on mosques,<sup>3</sup> and rogue officers have monitored the license plates of LGBT community members.<sup>4</sup> And blind reliance by San Francisco police on these readers led to the wrongful detention of a black woman at gunpoint, triggering a multi-year civil rights lawsuit.<sup>5</sup> As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.<sup>6</sup>

These concerns have taken on a new urgency because ICE now accesses license plate information held by Vigilant Solutions, LLC, and law enforcement agencies that share their ALPR data with the agency.<sup>7</sup> Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.<sup>8</sup> Through this arrangement, ICE can tap into Vigilant's nationwide database of license plate and associated location records to target immigrants going about their daily lives in your community.<sup>9</sup>

### **Records Demonstrate That Your Agency Shares Local Residents' Data with ICE.**

Records obtained by the ACLU of Northern California ("ACLU") from a Freedom of Information Act ("FOIA") request reveal that, as of March 2018, over Vigilant provided 9,200

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<sup>2</sup> *You Are Being Tracked: How License Plate Readers Are Being Used to Record Americans' Movements*, American Civil Liberties Union, July 2013, <https://www.aclu.org/files/assets/071613-aclu-alprreport-opt-v05.pdf>. "Automatic License Plate Readers," Electronic Frontier Foundation, <https://www.eff.org/sls/tech/automated-license-plate-readers>.

<sup>3</sup> 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>;

<sup>4</sup> Michael Powell, Sari Horwitz, Toni Locy, *Lt. Stowe's Sudden Fall From Grace*, Wash. Post, Nov. 30, 1997, <https://www.washingtonpost.com/archive/politics/1997/11/30/lt-stowes-sudden-fall-from-grace/a6ac37f2-57d2-47fb-b6da-0f8f6a45dde8>.

<sup>5</sup> Matt Cagle, *San Francisco – Paying the Price for Surveillance Without Safeguards*, ACLU of Northern California, May 22, 2014, <https://www.aclunc.org/blog/san-francisco-paying-price-surveillance-without-safeguards>.

<sup>6</sup> Alvaro M. Bedoya, *The Color of Surveillance*, Slate.com, Jan. 19, 2016, [http://www.slate.com/articles/technology/future\\_tense/2016/01/what\\_the\\_fbi\\_s\\_surveillance\\_of\\_martin\\_luther\\_king\\_says\\_about\\_modern\\_spying.html](http://www.slate.com/articles/technology/future_tense/2016/01/what_the_fbi_s_surveillance_of_martin_luther_king_says_about_modern_spying.html); Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

<sup>7</sup> Russell Brandom, *Exclusive: ICE is about to start tracking license plates across the US*, The Verge, Jan. 26, 2018, <https://www.theverge.com/2018/1/26/16932350/ice-immigration-customs-license-plate-recognition-contract-vigilant-solutions>.

<sup>8</sup> *Id.*

<sup>9</sup> Privacy Impact Assessment, *Acquisition and Use of License Plate Reader (LPR) Data from a Commercial Service*, DHS/ICE/PIA-039(a), Dec. 27, 2017, <https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice-lpr-january2018.pdf>.

ICE personnel with accounts to use their database. Some of these officers were members of the ICE division that engages in civil immigration enforcement. ICE's use of the Vigilant database is particularly concerning because, according to the ACLU records, ICE has access to local data collected by at least eighty agencies from over a dozen states as of November 2018: ranging from municipalities in the Bay Area, to the Central Valley, to Southern California, and to the Inland Empire.

Even more troubling is the disclosure of an ICE officer's email requests to a La Habra detective, asking the detective to run license plates through the Vigilant database since the La Habra detective possessed access to data that the ICE officer did not. The La Habra detective pasted the results of his queries into documents and emailed them to the ICE officer. These emails show that, regardless of a local law enforcement agency's decision to share or not share driver information with ICE, informal sharing of this information can and does occur.

The enclosed ICE sharing report dated November 2018 lists your agency as a partner that has chosen to share data about the locations of drivers with ICE. This information helps ICE target, locate, and deport immigrant community members as they drive to work, run errands, or bring their kids to school. By sharing ALPR data directly with ICE, your office violates the privacy and civil rights of immigrants and their families, and places them at serious risk.

### **Sharing of ALPR Data with ICE Violates State Law.**

Sharing ALPR data with ICE violates state law.

First, sharing of residents' data with ICE violates the California Civil Code, as amended by Senate Bill No. 34 ("S.B. 34"). Under the statute, "[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 ICE, as it is an entity other than a California state or local agency.<sup>10</sup> In addition, S.B. 34 requires agencies to adopt safeguards for ALPR information, including security, privacy, usage, and data retention policies.

Second, an agency must disclose that it has been sharing ALPR data with ICE, as required by the TRUTH Act. The TRUTH Act requires the governing body of any county or city in which "a local law enforcement agency has provided ICE access to an individual during the last year" to hold at least one community forum during the following year, that is open to the public, in an accessible location, and with at least 30 days' notice to provide information to the public about ICE's access to individuals. Cal. Gov't Code § 7283.1(d). The law enforcement

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<sup>10</sup> SB 34 in no way limits the public's right of access to ALPR data pursuant to the California Public Records Act (Government Code §§ 6250, et. seq.) and Article I § 3(b) of the California Constitution. Specifically, the California Supreme Court recently held that ALPR records are not subject to withholding from the public under Section 2654(f)'s exemption for investigatory records. *Am. Civil Liberties Union Found. of S. California v. Superior Court*, 3 Cal. 5<sup>th</sup> 1032 (Cal. 2017).

agency may provide the governing body with data on whether “ICE access was provided through a hold, transfer, or notification request *or through other means.*” *Id.* (emphasis added); § 7283(d) (access includes providing ICE with non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases . . . or otherwise).

Finally, the California Values Act (“S.B. 54”)<sup>11</sup> prohibits the sharing of personal information with agencies “for immigration enforcement purposes.” Cal. Govt. Code §§ 7282, 7282.5, 7284.6(a)(1)(D). Automated license plate reader data constitutes “personal information” within the meaning of S.B. 54 and the California Information Practices Act. *See* Cal. Civ. Code § 1798.3.

### **Sharing of ALPR Data Contradicts Your Municipality’s Commitments to Protect All Residents**

In response to the sustained cruelty wrought by the federal government’s immigration enforcement actions, your municipality led the State by declaring itself to be a “compassionate city” that would not cooperate with federal immigration authorities, precipitating municipalities across the state and ultimately the State of California to follow suit.<sup>12</sup> Through that decision, your municipality affirmed its commitment to welcome and protect all individuals, regardless of immigration status, and to reject cooperation with ICE to further civil immigration enforcement. Unfortunately, your office’s decision to share ALPR data with ICE undermines those commitments. Sharing your residents’ personal information with ICE allows ICE to target individuals based on immigration status and tears apart the fabric of the community.

### **Your Office Should Limit and Reconsider Its Use of Invasive Surveillance Technology.**

The risks to civil liberties and civil rights that ALPR technology creates are well-documented. While your office may take steps to stop formal sharing of ALPR data with ICE, the risk of informal sharing with ICE remains. Documents disclosed by ICE in response to Freedom of Information Act (“FOIA”) requests reveal that—though a law enforcement agency may not formally share its ALPR data with ICE—ICE has frequently asked individual personnel of those agencies to run license plates through the databases that those personnel have access to—thereby facilitating informal sharing of ALPR data between local law enforcement agencies and ICE.<sup>13</sup>

The best way to ensure that your residents are safe from unnecessary intrusion into their personal lives and both formal and informal sharing arrangements such as the one described above is to reject the use of ALPR technology altogether. Several cities in California, including

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<sup>11</sup> S.B. 54 (De Leon), *signed* Oct. 5, 2017, *codified at* Cal. Gov’t Code §§ 7282 *et seq.*

<sup>12</sup> Joseph Geha, *New Union City Entry Signs Display Compassionate City Status*, East Bay Times, June 29, 2018, <https://www.eastbaytimes.com/2018/06/29/new-union-city-entry-signs-display-compassionate-city-status/>.

<sup>13</sup> Vasudha Talla, *ICE Uses Vast Database with License Plate Information Supplied by Local Police to Target Immigrants*, ACLU of Northern California, Mar. 13, 2019, <https://www.aclunc.org/blog/ice-uses-vast-database-license-plate-information-supplied-local-police-target-immigrants>.

Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.<sup>14</sup> We urge your office to do the same.

Further, we urge you to support a process that requires transparency, oversight, and meaningful community engagement on the future deployment of surveillance technologies. Multiple cities in California and across the United States are currently considering an ordinance that requires public debate, the creation of a robust usage policy with restrictions on data use and sharing, and annual oversight of all surveillance technologies. The ACLU has published a model ordinance that cities can adapt for their local needs.<sup>15</sup> This ordinance would require agencies seek public approval of surveillance technologies in advance of their deployment, and requiring them to explain the purpose of the acquisitions, the policies that will govern their use, their costs, their risks to communities' privacy and civil rights, and the availability of alternatives to the technology. Armed with this information, your community can make smarter and more informed decisions about whether to sanction the use of such technologies—helping secure much-needed trust between the community and its government.

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In conclusion, we demand that your agency immediately stop sharing ALPR data with ICE. We also urge you to do that following:

- To meet with us to discuss your agency's cooperation with ICE and implementation of S.B. 54.
- To limit your office's use of license plate reader cameras and technology, and to reconsider use of this technology altogether.
- To adopt a usage and privacy policy governing your office's use of ALPR technology that is compliant with S.B. 34. Within that usage and privacy policy, your office should adopt additional protections to prevent your residents' data from being used for the purpose of enforcing immigration law.
- To support community efforts to pass an ordinance that allows transparency, accountability, and oversight of decisions to acquire or use surveillance technologies in the community.
- To hold and disclose at a TRUTH Act forum or other public meeting details of why your office chose to share license plate reader data with ICE, the length of time this occurred, how much data was shared and to whom, and whether informal exchanges of information between your office's personnel and ICE occurred.

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<sup>14</sup> Matt Cagle, *A California City Fights Off ICE's Digital Deportation Machine*, ACLU, Feb. 13, 2018, <https://www.aclu.org/blog/privacy-technology/location-tracking/california-city-fights-ices-digital-deportation-machine>; Tanvi Misra, *The Local Movement to Curb Big Brother*, CityLab, Mar. 1, 2018, <https://www.citylab.com/equity/2018/03/how-cities-are-fighting-secret-surveillance/553892/>.

<sup>15</sup> The ACLU's surveillance reform resources are available online: *Making Smart Decisions About Surveillance: A Guide for Community Transparency, Accountability & Oversight*, ACLU of Northern California, <https://www.aclunc.org/smartabouts-surveillance>; *Community Control Over Police Surveillance*, ACLU, <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>.

We also request the following records<sup>16</sup>, pursuant to the California Public Records Act (Government Code §§ 6250, et. seq.) and Article I § 3(b) of the California Constitution:

- Records confirming that your office has stopped any sharing of ALPR data with ICE.
- Records of any communications between your office and ICE relating to license plate reader data, Vigilant Solutions, and/or the LEARN database.

Thank you for your attention. We look forward to your prompt action and response.

Sincerely,

A handwritten signature in blue ink that reads "Vasudha Talla". The signature is written in a cursive, flowing style.

Vasudha Talla, ACLU of Northern California  
Matthew Cagle, ACLU of Northern California

Encl.

cc:

Mayor Carol Dutra-Vernaci, carold@unioncity.org  
Councilmember Emily Duncan, emilyd@unioncity.org  
Councilmember Jaime Patino, jaimep@unioncity.org  
Councilmember Pat D. Gacoscos, patg@unioncity.org  
Councilmember Gary Singh, garys@unioncity.org

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<sup>16</sup> The term “records” as used herein means “public records” as broadly defined by Cal. Gov. Code § 6252(e), and includes, but is not limited to, correspondence, documents, data, videotapes, audio tapes, DVDs, CDs, emails, faxes, telephone messages, logs, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training manuals, other manuals, or studies.

## Detections Shared

The ICE Agency is Sharing its Detection data with the following Agencies:

None

## Detections Received

The ICE Agency is receiving Detection data from the following Agencies:

Harris County Sheriffs Office	Athens-Clarke Police Department
Frisco Police Department	Hiram Police Department
Lees Summit Police Department	United States Forest Service CA
Flemington Police Department	Dallas Police Department
Bronxville Police Department	Fairfield Police Department CT
Fayette County Sheriffs Office	Douglas County Sheriffs Office
Lee County Sheriffs Office	College Park Police Department
Austin Police Department	Milton Police Department
Hopkinsville Police Department	Travis County SO
Rockwall County Sheriffs	Gwinnett County Police Department
Downers Grove Police Department	Tulare Police Department
Woodstock Police Department	Bartow County Sheriffs Office
Dickinson Police Department	San Luis Obispo Sheriffs Office
Lombard Police Department	Rankin County Sheriffs Office
Munster Police Department	Baldwin County Sheriffs Office
College Station Police Department	17th Judicial Circuit Drug Task Force
Southwest Major Case Unit (IL)	Monroe County Sheriffs Office
Mundelein Police Department	Liberty County Sheriffs Office (TX)
Hamilton County Sheriff (IN)	Burr Ridge Police Department
Orange County Sheriff (TX)	City of Vidor
West Baton Rouge	Stanislaus County Auto Theft Task Force
San Diego Sector Border Patrol	Jasper County Sheriffs Office MS
Manteca Police Department	Downey Police Department
Merced Police Department CA	Casa Grande Police Department
Hammond Police Department	Midlothian Police Department
Bell Police Department	Nacogdoches Police Department

Conroe Police Department	32nd Judicial District Attorney Office
Medford Police Department	Williamson County Sheriffs Office
Department of Transportation - Phoenix Arizona	Foley Police Department
Westport Police Department	Camden County Police Department
Putnam County Sheriff	100th Judicial District Attorney Traffic Enforcement
Pima County Sheriff	Hendersonville Police Department
Stanislaus County Sheriffs Department	Boone County Sheriff Office
Burleson Police Department	Reeve County Sherriffs Office
Ossining Police Department	Enfield Police Department
Wethersfield Police Department	Southern Connecticut State University
Stratford Police Department	Trumbull Police Department
Union Township Police	Gresham Police Department
Norwalk Police Department	Ventura Police Department
Union City Police Department (CA)	Bernards Township Police Department
Oxford Police Department	Sutter County Sheriff
Westover Hills Police Department	Upland Police Department (CA)
CBP - NTC	Drug Enforcement Agency (DEA)
Smithville Police Department	

### Hot-List Sharing

The ICE Agency is sharing Hot-List records with the following Agencies:

**Agency:**

None

**Hot-List(s):**

None

### Hot-List Received

The ICE Agency is receiving Shared Hot-List records from the following Agencies:

**Agency:**

None

**Hot-List(s):**

None