



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.¹ 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

¹ 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.² 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,³ and rogue officers have monitored the license plates of LGBT community members.⁴ 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.⁵ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁶

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.⁷ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁸ 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.⁹

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

² *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>.

³ 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 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>.

⁵ 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>.

⁶ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁷ 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>.

⁸ *Id.*

⁹ 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.¹⁰ 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

¹⁰ 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. 5th 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”)¹¹ 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.¹² 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.¹³

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

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

¹² 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/>.

¹³ 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.¹⁴ 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.¹⁵ 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.

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.

¹⁴ 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/>.

¹⁵ 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 records¹⁶, 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

¹⁶ 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



March 13, 2019

Via UPS and Email

Chief of Police Wes Hensley
Tulare Police Department
260 "M" Street
Tulare, CA 93274
whensley@tulare.ca.gov

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

Dear Chief Hensley,

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.¹ 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.

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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

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ALPR data with the agency.⁷ Vigilant’s database comprises data collected by its public sector and private customers operating the company’s license plate readers.⁸ 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.⁹

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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.

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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 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).

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

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Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹³ 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.¹⁴ 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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- 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 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.
- To limit your office's use of license plate reader cameras and technology, and to reconsider use of this technology altogether.

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We also request the following records¹⁵, 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.

Please send copies of the requested records to the attention of Vasudha Talla at the ACLU of Northern California at 39 Drumm Street, San Francisco, CA 94111. We request that you waive any fees that would be normally applicable to a Public Records Act request. If you have the records in electronic form you can simply email them to vtalla@aclunc.org without incurring any copying costs. *See* Gov't. Code § 6253.9. However, should you be unable to do so, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. *See* Gov't. Code § 6253(b). If you have any questions regarding this request, please feel free to contact Vasudha Talla at (415) 621-2493 ext. 308.

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

Sincerely,

Vasudha Talla, ACLU of Northern California
Maricela Sanchez, ACLU of Northern California
Angel Garcia, Coalition Advocating for Pesticide Safety (CAPS)
Donna Serna and Daniel Peñaloza, Coalition for Humane Immigrant Rights (CHIRLA)
Roberto I. de la Rosa, O.L.A. Raza
Reyna Castellanos, Faith in the Valley

Encl.

cc:

Mayor Jose Sigala, jsigala@tulare.ca.gov
Vice Mayor Dennis A. Mederos, dmederos@tulare.ca.gov
City Council Member Terry A. Sayre, tsayre@tulare.ca.gov
City Council Member Carlton Jones, cjones@tulare.ca.gov
City Council Member Greg Nunley, gnumley@tulare.ca.gov

¹⁵ 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



March 13, 2019

Via UPS & Email

Chief of Police Christopher Goodwin
Merced Police Department
611 West 22nd Street
Merced, CA 95340
goodwinc@cityofmerced.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 Goodwin,

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.¹ 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.

¹ 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>.

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 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.² 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,³ and rogue officers have monitored the license plates of LGBT community members.⁴ 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.⁵ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁶

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.⁷ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁸ Through this arrangement,

² *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>.

³ 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 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>.

⁵ 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>.

⁶ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁷ 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>.

⁸ *Id.*

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.⁹

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 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.¹⁰ In addition, S.B. 34 requires agencies to adopt safeguards for ALPR information, including security, privacy, usage, and data retention policies.

⁹ 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>.

¹⁰ 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

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 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”)¹¹ 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.

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.¹²

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 Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹³ We urge your office to do the same.

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. 5th 1032 (Cal. 2017).

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

¹² 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>.

¹³ 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/>.

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.¹⁴ 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.

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.

We also request the following records¹⁵, pursuant to the California Public Records Act (Government Code §§ 6250, et. seq.) and Article I § 3(b) of the California Constitution:

¹⁴ 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/smartaboutsurance>; *Community Control Over Police Surveillance*, ACLU, <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>.

¹⁵ 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.

- 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,

Vasudha Talla, Staff Attorney, ACLU of Northern California
Raquel Ortega, Organizer, ACLU of Northern California
Pastor Trena Turner, Executive Director, Faith in the Valley

Encl.

cc:

Mayor Mike Murphy, MurphyM@Cityofmerced.org

City Council Member Anthony Levi Martinez, martineza@cityofmerced.org

City Council Member Fernando Echevarria, echevarriaf@cityofmerced.org

City Council Member Jill McLeod, mcleodj@cityofmerced.org

City Council Member Kevin Blake, blakek@cityofmerced.org

City Council Member Matthew Serrato, serrattom@cityofmerced.org

City Council Member Delray Shelton, sheltond@cityofmerced.org

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



March 13, 2019

VIA USPS AND EMAIL

Carlos Islas, Chief of Police
Bell Police Department
6326 Pine Ave
Bell, CA 90201
cislas@cityofbell.org

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

Dear Chief Islas,

We write to raise significant concerns with Bell Police Department'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 Department 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.¹ The letter concludes by urging Bell P.D. 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.

I. 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

¹ 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>.

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.² 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,³ and rogue officers have monitored the license plates of LGBT community members.⁴ 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.⁵ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁶

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.⁷ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁸ 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.⁹

II. Records Demonstrate That Bell Police Department 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

² *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>.

³ 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 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>.

⁵ 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>.

⁶ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁷ 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>.

⁸ *Id.*

⁹ 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.

III. 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.¹⁰ 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

¹⁰ 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. 5th 1032 (Cal. 2017).

public about ICE’s access to individuals. Cal. Gov’t Code § 7283.1(d). The law enforcement 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”)¹¹ 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.

IV. Bell Police Department 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.¹²

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 Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹³ 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

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

¹² 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>.

¹³ 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/>.

ordinance that cities can adapt for their local needs.¹⁴ 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.

In conclusion, we demand that Bell Police Department 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.

We also request the following records¹⁵, 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.

¹⁴ 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>.

¹⁵ 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'MT', followed by a long horizontal line extending to the right.

Mohammad Tajsar
Staff Attorney
ACLU of Southern California

Encl.

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



March 13, 2019

VIA USPS AND EMAIL

Dean R. Milligan, Chief of Police
Downey City Police Department
10911 Brookshire Ave
Downey, CA 90241
dmilligan@downeyca.org

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

Dear Chief Milligan,

We write to raise significant concerns with Downey Police Department'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 Downey P.D. 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.¹ 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.

I. 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

¹ 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>.

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.² 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,³ and rogue officers have monitored the license plates of LGBT community members.⁴ 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.⁵ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁶

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.⁷ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁸ 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.⁹

II. Records Demonstrate That Downey Police Department 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

² *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>.

³ 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 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>.

⁵ 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>.

⁶ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁷ 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>.

⁸ *Id.*

⁹ 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.

III. 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.¹⁰ 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

¹⁰ 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. 5th 1032 (Cal. 2017).

public about ICE’s access to individuals. Cal. Gov’t Code § 7283.1(d). The law enforcement 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”)¹¹ 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.

IV. Downey Police Department 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.¹²

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 Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹³ 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

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ordinance that cities can adapt for their local needs.¹⁴ 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.

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

- To meet with us to discuss Downey Police Department'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.

We also request the following records¹⁵, 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.

¹⁴ 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/smartaboutsurveillance>; *Community Control Over Police Surveillance*, ACLU, <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>.

¹⁵ 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.

- 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 black ink, appearing to read 'MT', followed by a long horizontal line extending to the right.

Mohammad Tajsar
Staff Attorney
ACLU of Southern California

Encl.

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
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Hamilton County Sheriff (IN)	Burr Ridge Police Department
Orange County Sheriff (TX)	City of Vidor
West Baton Rouge	Stanislaus County Auto Theft Task Force
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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



March 13, 2019

VIA USPS AND EMAIL

Sheriff Ian Parkinson
San Luis Obispo County Sheriff Department
1585 Kansas Avenue
San Luis Obispo, CA 93405
iparkinson@co.slo.ca.us

Re: San Luis Obispo County Sheriff's Department Sharing of License Plate Reader Data with U.S. Immigration and Customs Enforcement & California Public Records Act Request

Dear Sheriff Parkinson,

We write to raise significant concerns with the San Luis Obispo County Sheriff's Department'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.¹ 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.

I. 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

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information it can collect about individuals. ALPR systems collect and store location information 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.² 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,³ and rogue officers have monitored the license plates of LGBT community members.⁴ 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.⁵ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁶

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.⁷ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁸ 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.⁹

² *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>.

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⁴ 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>.

⁵ 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>.

⁶ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁷ 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>.

⁸ *Id.*

⁹ 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>.

II. Records Demonstrate That Your Department 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 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 at least 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.

III. 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.¹⁰ In addition, S.B. 34 requires agencies to adopt safeguards for ALPR information, including security, privacy, usage, and data retention policies.

¹⁰ 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. 5th 1032 (Cal. 2017).

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 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”)¹¹ 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.

IV. Your Department 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.¹²

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 Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹³ We urge your office to do the same.

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

¹² 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>.

¹³ 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/>.

In conclusion, we demand that your Departemnt 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 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.

We also request the following records¹⁴, 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,



Mohammad Tajsar
Staff Attorney
ACLU of Southern California

Encl.

¹⁴ 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



March 13, 2019

VIA USPS AND EMAIL

Ken Corney, Chief of Police
Ventura Police Department
1425 Dowell Dr
Ventura, CA 93003
policechief@venturapd.org

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

Dear Chief Corney,

We write to raise significant concerns with Ventura Police Department'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 Department 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.¹ 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.

I. 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

¹ 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>.

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.² 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,³ and rogue officers have monitored the license plates of LGBT community members.⁴ 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.⁵ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁶

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.⁷ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁸ 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.⁹

II. Records Demonstrate That Ventura Police Department 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

² *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>.

³ 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 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>.

⁵ 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>.

⁶ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁷ 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>.

⁸ *Id.*

⁹ 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 at least 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.

III. Sharing of ALPR Data with ICE Violates State Law.

Sharing ALPR data 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.¹⁰ 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

¹⁰ 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. 5th 1032 (Cal. 2017).

public about ICE’s access to individuals. Cal. Gov’t Code § 7283.1(d). The law enforcement 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”)¹¹ 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.

IV. Ventura Police Department 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 Department 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.¹²

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 Alameda and Culver City, have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹³ 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

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

¹² 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>.

¹³ 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/>.

ordinance that cities can adapt for their local needs.¹⁴ 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.

In conclusion, we demand that Ventura Police Department 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.

We also request the following records¹⁵, 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.

¹⁴ 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>.

¹⁵ 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Tajsar', with a long horizontal line extending to the right.

Mohammad Tajsar
Staff Attorney
ACLU of Southern California

Encl.

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



ROGER BALDWIN FOUNDATION
OF ACLU, INC.

Illinois

ROGER BALDWIN FOUNDATION OF
ACLU, INC.
150 N. MICHIGAN AVENUE
SUITE 600
CHICAGO, ILLINOIS 60601-7570
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FAX (312) 201-9760
WWW.ACLU-IL.ORG

March 13, 2019

VIA EMAIL

Shannon Gillette
Police Chief
825 Burlington Ave.
Downers Grove, IL 60515
sgillette@downers.us

Village of Downers Grove
Attn: Freedom of Information Officer
801 Burlington Ave
Downers Grove, IL 60515
foia@downers.us

Re: Your Agency's Sharing of License Plate Reader Data with U.S. Immigration and Customs Enforcement & Illinois Freedom of Information Act Request

Dear Police Chief Gillette and FOIA Officer,

We write to raise significant concerns about your office sharing automated license plate reader ("ALPR") data with U.S. Immigration and Customs Enforcement ("ICE"). We demand that you immediately refuse access to your ALPR data to ICE, and confirm in writing that you have done so.

This letter summarizes newly-released public records suggesting 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 how the sharing of ALPR data harms vital relationships with various communities throughout Illinois. The letter concludes by urging your agency to limit or cease the use of ALPR technology, to stop sharing your residents' data with ICE and to support efforts to minimize the use of surveillance technologies in the community.

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 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.¹ 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,² and rogue officers have monitored the license plates of LGBT community members.³ 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.⁴ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁵

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.⁶ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁷ 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.⁸

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

¹ *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>.

² 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>;

³ 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>.

⁴ 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>.

⁵ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁶ 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>.

⁷ *Id.*

⁸ 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>.

Records obtained by the ACLU of Northern California (“ACLU”) from a Freedom of Information Act (“FOIA”) request reveal that, as of March 2018, Vigilant provided 9,200 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 ACLU records, ICE has access to local data collected by at least eighty agencies from over a dozen states as of November 2018.

Your office utilizes the ALPR technology offered by Vigilant to collect and analyze information about the locations of local drivers. The ICE sharing report dated November 2018 lists the Downers Grove Police Department 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. Any sharing of ALPR data directly with ICE would violate the privacy and civil rights of immigrants and their families, placing these communities at serious risk.

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.⁹

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 Northern and Southern California have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹⁰ 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 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.¹¹ The ACLU has published a model ordinance

⁹ 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>.

¹⁰ 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/>.

¹¹ ACLU Community Control Over Police Surveillance, <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>.

that cities can adapt for their local needs.¹² 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.

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

- 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 includes additional protections to prevent your residents' data from being used for the purpose of enforcing immigration law.
- To support efforts to increase transparency, accountability, and oversight of decisions to acquire or use surveillance technologies in the community.

We also request the following records¹³, pursuant to the Illinois Freedom of Information Act (5 ILCS 140):

1. Records confirming that your office has stopped any sharing of ALPR data with ICE.
2. Records of any communications between your office and ICE relating to license plate reader data, Vigilant Solutions, and/or the LEARN database.
3. All records regarding your policies, practices, and procedures relating to ALPR technology, including but not limited to:
 - a. Your agency's policies, practices and procedures for using ALPR technology;

¹² 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>.

¹³ The term "records" as used herein means "public records" as broadly defined by the Illinois State Records Act (5 ILCS 160/2), and includes, but is not limited to, all books, papers, born-digital electronic material, digitized electronic material, electronic material with a combination of digitized and born-digital material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by any agency in the State in pursuance of State law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein.

- b. Your agency's policies, practices and procedures for storing, accessing and sharing data obtained through ALPR technology.
4. Documents sufficient to show your compliance with 5 ILCS 805/20 of the Trust Act. ("By January 1, 2018, every law enforcement agency shall provide guidance to its law enforcement officials on compliance with Section 15 of this Act.").

As you know, the Illinois FOIA requires that you make available for inspection and copying all public records, except certain exempt records, within five working days of receipt of a written request.

If you determine that portions of the requested records are exempt from the Act, we expect that you will delete such exempted material and send copies of the remaining non-exempt material within five working days. Also, if all or any part of this request is denied, please provide in writing the specific exemption(s) under the Act on which you rely to withhold the records.

We are prepared to pay reasonable copying costs for reproducing the requested materials, but request that you waive any such fees under the provision of FOIA that authorizes you to waive copying fees when release of requested information is "in the public interest." In compliance with section 6(b) of the amended FOIA, I represent to you that the documents are sought to determine information concerning the legal rights of the general public and this request is not for the purpose of personal or commercial benefit. Accordingly, a waiver of fees is in the public interest as defined by section 6(b).

If you deny the request for waiver, please notify me before compiling records for which the copying charge will exceed \$50.00 so that we can discuss narrowing the request to cover only the information I seek.

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

Sincerely,



Immigrants' Rights Attorney
ACLU of Illinois
(312)201-9740, ext. 342

cc: Martin Tully, Mayor (mtully@downers.us)
Bob Barnett, Village Commissioner (rtbarnett@downers.us)
Greg Hosé, Village Commissioner (ghose@downers.us)
William Waldack, Village Commissioner (wwaldack@downers.us)
Bill White, Village Commissioner (wmwhite@downers.us)
Marge Earl, Village Commissioner (mearl@downers.us)
Nicole Walus, Village Commissioner (nwalus@downers.us)



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March 13, 2019

VIA EMAIL

Eric Guenther
Police Chief
221 N Lake St.
Mundelein, IL 60060
eguenther@mundelein.org

Re: Your Agency's Sharing of License Plate Reader Data with U.S. Immigration and Customs Enforcement & Illinois Freedom of Information Act Request

Dear Police Chief Guenther,

We write to raise significant concerns about your office sharing automated license plate reader ("ALPR") data with U.S. Immigration and Customs Enforcement ("ICE"). We demand that you immediately refuse access to your ALPR data to ICE, and confirm in writing that you have done so.

This letter summarizes newly-released public records suggesting 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 how the sharing of ALPR data harms vital relationships with various communities throughout Illinois. The letter concludes by urging your agency to limit or cease the use of ALPR technology, to stop sharing your residents' data with ICE and to support efforts to minimize the use of surveillance technologies in the community.

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 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.¹ 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,² and rogue officers have monitored the license plates of LGBT community members.³ 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.⁴ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁵

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.⁶ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁷ 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.⁸

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, Vigilant provided 9,200 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

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² 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>;

³ 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>.

⁴ 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>.

⁵ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁶ 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>.

⁷ *Id.*

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particularly concerning because, according to ACLU records, ICE has access to local data collected by at least eighty agencies from over a dozen states as of November 2018.

Your office utilizes the ALPR technology offered by Vigilant to collect and analyze information about the locations of local drivers. The ICE sharing report dated November 2018 lists the Mundelein Police Department 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. Any sharing of ALPR data directly with ICE would violate the privacy and civil rights of immigrants and their families, placing these communities at serious risk.

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.⁹

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 Northern and Southern California have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹⁰ 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 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.¹¹ The ACLU has published a model ordinance that cities can adapt for their local needs.¹² This ordinance would require agencies seek public

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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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As you know, the Illinois FOIA requires that you make available for inspection and copying all public records, except certain exempt records, within five working days of receipt of a written request.

If you determine that portions of the requested records are exempt from the Act, we expect that you will delete such exempted material and send copies of the remaining non-exempt material within five working days. Also, if all or any part of this request is denied, please provide in writing the specific exemption(s) under the Act on which you rely to withhold the records.

We are prepared to pay reasonable copying costs for reproducing the requested materials, but request that you waive any such fees under the provision of FOIA that authorizes you to waive copying fees when release of requested information is "in the public interest." In compliance with section 6(b) of the amended FOIA, I represent to you that the documents are sought to determine information concerning the legal rights of the general public and this request is not for the purpose of personal or commercial benefit. Accordingly, a waiver of fees is in the public interest as defined by section 6(b).

If you deny the request for waiver, please notify me before compiling records for which the copying charge will exceed \$50.00 so that we can discuss narrowing the request to cover only the information I seek.

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

Sincerely,



Aarón Siebert-Llera
Immigrants' Rights Attorney
ACLU of Illinois
(312)201-9740, ext. 342

cc: Steve Lentz, Mayor (slentz@mundelein.org)
Dawn Abernathy, Village Trustee (dabernathy@mundelein.org)
Scott Black, Village Trustee (sblack@mundelein.org)
Robin Meier, Village Trustee (rmeier@mundelein.org)
Bill Rekus, Village Trustee (brekus@mundelein.org)
Kerston Russell, Village Trustee (krussell@mundelein.org)
Ray Semple, Village Trustee (rsemple@mundelein.org)



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March 13, 2019

VIA EMAIL & FAX

John Madden (*via email*)
Police Chief
7700 County Line Rd.
Burr Ridge, IL 60527
jmadden@burr-ridge.gov

Burr Ridge Police Department (*via fax*)
Attn: FOIA Officer
7700 County Line Rd.
Burr Ridge, IL 60527
Fax: 630-654-4441

Re: Your Agency's Sharing of License Plate Reader Data with U.S. Immigration and Customs Enforcement & Illinois Freedom of Information Act Request

Dear Police Chief Madden and FOIA Officer,

We write to raise significant concerns about your office sharing automated license plate reader ("ALPR") data with U.S. Immigration and Customs Enforcement ("ICE"). We demand that you immediately refuse access to your ALPR data to ICE, and confirm in writing that you have done so.

This letter summarizes newly-released public records suggesting 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 how the sharing of ALPR data harms vital relationships with various communities throughout Illinois. The letter concludes by urging your agency to limit or cease the use of ALPR technology, to stop sharing your residents' data with ICE and to support efforts to minimize the use of surveillance technologies in the community.

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 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.¹ 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,² and rogue officers have monitored the license plates of LGBT community members.³ 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.⁴ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁵

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.⁶ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁷ 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.⁸

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

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² 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>;

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⁵ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

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

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 - a. Your agency's policies, practices and procedures for using ALPR technology;

¹² 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>.

¹³ The term "records" as used herein means "public records" as broadly defined by the Illinois State Records Act (5 ILCS 160/2), and includes, but is not limited to, all books, papers, born-digital electronic material, digitized electronic material, electronic material with a combination of digitized and born-digital material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by any agency in the State in pursuance of State law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein.

- b. Your agency's policies, practices and procedures for storing, accessing and sharing data obtained through ALPR technology.
4. Documents sufficient to show your compliance with 5 ILCS 805/20 of the Trust Act. ("By January 1, 2018, every law enforcement agency shall provide guidance to its law enforcement officials on compliance with Section 15 of this Act.").

As you know, the Illinois FOIA requires that you make available for inspection and copying all public records, except certain exempt records, within five working days of receipt of a written request.

If you determine that portions of the requested records are exempt from the Act, we expect that you will delete such exempted material and send copies of the remaining non-exempt material within five working days. Also, if all or any part of this request is denied, please provide in writing the specific exemption(s) under the Act on which you rely to withhold the records.

We are prepared to pay reasonable copying costs for reproducing the requested materials, but request that you waive any such fees under the provision of FOIA that authorizes you to waive copying fees when release of requested information is "in the public interest." In compliance with section 6(b) of the amended FOIA, I represent to you that the documents are sought to determine information concerning the legal rights of the general public and this request is not for the purpose of personal or commercial benefit. Accordingly, a waiver of fees is in the public interest as defined by section 6(b).

If you deny the request for waiver, please notify me before compiling records for which the copying charge will exceed \$50.00 so that we can discuss narrowing the request to cover only the information I seek.

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

Sincerely,



Aarón Siebert-Llera
Immigrants' Rights Attorney
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(312)201-9740, ext. 342

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March 13, 2019

VIA EMAIL

Roy Newton
Police Chief
255 E. Wilson Ave.
Lombard, IL 60148
newtonr@villageoflombard.org

Janet Downer
Freedom of Information Officer
Village of Lombard
255 E. Wilson Ave.
Lombard, IL 60148
downerj@villageoflombard.org

Re: Your Agency's Sharing of License Plate Reader Data with U.S. Immigration and Customs Enforcement & Illinois Freedom of Information Act Request

Dear Police Chief Newton and Officer Downer,

We write to raise significant concerns about your office sharing automated license plate reader ("ALPR") data with U.S. Immigration and Customs Enforcement ("ICE"). We demand that you immediately refuse access to your ALPR data to ICE, and confirm in writing that you have done so.

This letter summarizes newly-released public records suggesting 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 how the sharing of ALPR data harms vital relationships with various communities throughout Illinois. The letter concludes by urging your agency to limit or cease the use of ALPR technology, to stop sharing your residents' data with ICE and to support efforts to minimize the use of surveillance technologies in the community.

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 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.¹ 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,² and rogue officers have monitored the license plates of LGBT community members.³ 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.⁴ As with other surveillance technologies, police deploy license plate readers disproportionately in poor areas, regardless of crime rates.⁵

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.⁶ Vigilant's database comprises data collected by its public sector and private customers operating the company's license plate readers.⁷ 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.⁸

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

¹ *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>.

² 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>;

³ 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>.

⁴ 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>.

⁵ 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; Alex Campbell & Kendall Taggart, *The Ticket Machine*, BuzzFeed News, Jan. 26, 2016, <https://www.buzzfeed.com/alexcampbell/the-ticket-machine>.

⁶ 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>.

⁷ *Id.*

⁸ 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>.

Records obtained by the ACLU of Northern California (“ACLU”) from a Freedom of Information Act (“FOIA”) request reveal that, as of March 2018, Vigilant provided 9,200 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 ACLU records, ICE has access to local data collected by at least eighty agencies from over a dozen states as of November 2018.

Your office utilizes the ALPR technology offered by Vigilant to collect and analyze information about the locations of local drivers. The ICE sharing report dated November 2018 lists the Lombard Police Department 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. Any sharing of ALPR data directly with ICE would violate the privacy and civil rights of immigrants and their families, placing these communities at serious risk.

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.⁹

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 Northern and Southern California have declined contracts with Vigilant because of the risk that widespread sharing of ALPR data poses to their residents.¹⁰ 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 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

⁹ 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>.

¹⁰ 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/>.

annual oversight of all surveillance technologies.¹¹ The ACLU has published a model ordinance that cities can adapt for their local needs.¹² 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.

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

- 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 includes additional protections to prevent your residents' data from being used for the purpose of enforcing immigration law.
- To support efforts to increase transparency, accountability, and oversight of decisions to acquire or use surveillance technologies in the community.

We also request the following records¹³, pursuant to the Illinois Freedom of Information Act (5 ILCS 140):

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

¹¹ ACLU Community Control Over Police Surveillance, <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>.

¹² 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/smartaboutsurreillance>; *Community Control Over Police Surveillance*, ACLU, <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>.

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3. All records regarding your policies, practices, and procedures relating to ALPR technology, including but not limited to:
 - a. Your agency's policies, practices and procedures for using ALPR technology;
 - b. Your agency's policies, practices and procedures for storing, accessing and sharing data obtained through ALPR technology.
4. Documents sufficient to show your compliance with 5 ILCS 805/20 of the Trust Act. ("By January 1, 2018, every law enforcement agency shall provide guidance to its law enforcement officials on compliance with Section 15 of this Act.").
5. All records regarding your policies, practices, and procedures relating to any involvement with the ICE task force, including but not limited to:
 - a. Your agency's policies, practices and procedures for employing an officer with the Lombard Police Department who serves on the ICE task force¹⁴;
 - b. Your agency's policies, practices and procedures for assisting the ICE task force in immigration enforcement actions in Lombard.¹⁵
6. All records regarding your policies, practices, and procedures relating to the Community Service Officer Program.

As you know, the Illinois FOIA requires that you make available for inspection and copying all public records, except certain exempt records, within five working days of receipt of a written request.

If you determine that portions of the requested records are exempt from the Act, we expect that you will delete such exempted material and send copies of the remaining non-exempt material within five working days. Also, if all or any part of this request is denied, please provide in writing the specific exemption(s) under the Act on which you rely to withhold the records.

We are prepared to pay reasonable copying costs for reproducing the requested materials, but request that you waive any such fees under the provision of FOIA that authorizes you to waive copying fees when release of requested information is "in the public interest." In compliance with section 6(b) of the amended FOIA, I represent to you that the documents are sought to determine information concerning the legal rights of the general public and this request is not for the purpose of personal or commercial benefit. Accordingly, a waiver of fees is in the public interest as defined by section 6(b).

If you deny the request for waiver, please notify me before compiling records for which the copying charge will exceed \$50.00 so that we can discuss narrowing the request to cover only the information I seek.

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

¹⁴ <https://www.villageoflombard.org/DocumentCenter/View/15838/2016-Budget---Complete?bidId=>

¹⁵ <https://www.villageoflombard.org/DocumentCenter/View/12362/2012-Annual-Report?bidId=>

Sincerely,

A handwritten signature in black ink, appearing to read 'Aarón Siebert-Llera', with a stylized flourish at the end.

Aarón Siebert-Llera
Immigrants' Rights Attorney
ACLU of Illinois
(312)201-9740, ext. 342

cc: Keith Giagnorio, Village President (giagnoriok@villageoflombard.org)
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