



ROGER BALDWIN FOUNDATION
OF ACLU, INC.

Illinois

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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

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>.

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

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>.

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*

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;
 - 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.").

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.

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,



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cc: Steve Lentz, Mayor (slentz@mundelein.org)
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