

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

Civil Action No. ____

RECEIVED

NOV - 9 2023

SUPERIOR COURT - CIVIL
JOHN E. POWERS, III
ACTING CLERK MAGISTRATE

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.,

Plaintiff,

v.

MASSACHUSETTS STATE POLICE,

Defendant.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiff American Civil Liberties Union of Massachusetts, Inc. (“ACLU”) seeks public records from Defendant Massachusetts State Police (“MSP” or “Defendant”) pertaining to the Commonwealth’s use of Automatic License Plate Reader (“ALPR”) technology and associated databases. Exhibit 1.

2. ALPR technology uses stationary, police vehicle-mounted, or handheld cameras to continuously and indiscriminately scan the license plates of every vehicle driving by the cameras’ lens. ALPR cameras are combined with optical character recognition software that automatically translates images of license plates into machine readable text. They create a record that includes a picture of the vehicle’s license plate, the time, date, and location of the capture, and text of the vehicle’s license plate number.

3. These records are retained in a database. Based on the Commonwealth’s practices, hundreds of millions of these records may be retained at any given time. For example, on June 7, 2023, the Commonwealth’s repository of statewide ALPR data, or the “ALPR database,” contained over 290 million records. Exhibit 1 at Exhibit B, 4.

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INTRODUCTION

1. Plaintiff American Civil Liberties Union of Massachusetts, Inc. (“ACLU”) seeks public records from Defendant Massachusetts State Police (“MSP” or “Defendant”) pertaining to the Commonwealth’s use of Automatic License Plate Reader (“ALPR”) technology and associated databases. Exhibit 1.

2. ALPR technology uses stationary, police vehicle-mounted, or handheld cameras to continuously and indiscriminately scan the license plates of every vehicle driving by the cameras’ lens. ALPR cameras are combined with optical character recognition software that automatically translates images of license plates into machine readable text. They create a record that includes a picture of the vehicle’s license plate, the time, date, and location of the capture, and text of the vehicle’s license plate number.

3. These records are retained in a database. Based on the Commonwealth’s practices, hundreds of millions of these records may be retained at any given time. For example, on June 7, 2023, the Commonwealth’s repository of statewide ALPR data, or the “ALPR database,” contained over 290 million records. Exhibit 1 at Exhibit B, 4.

4. ALPRs enable the government to continually track and record the movements of any and all vehicles that pass each camera's lens. They allow the government to receive real-time alerts about any such vehicle's movements and to easily review a vehicle's historical movements in the past twelve months.

5. Unlike 16 states,¹ the Commonwealth lacks any statute expressly regulating law enforcement's use of ALPRs. No statute in Massachusetts currently requires police to obtain a warrant or court order before accessing license plate reader data.² The scant information available implies widespread use of ALPR technology without any meaningful oversight since its first use in Massachusetts in 2008.³

6. This is particularly troublesome given that ALPR technology has proven to be unreliable. In December 2020, MSP temporarily halted the use of ALPRs due to flaws in the way date and time data was recorded.⁴ The Massachusetts Executive Office of Public Safety and Security ("EOPSS") released a memorandum documenting this failure (a true and correct copy of which is attached hereto as Exhibit 2), noting that *five and a half years* of ALPR data "should

¹ *Automated License Plate Readers: State Statutes*, NATIONAL CONFERENCE OF STATE LEGISLATURES (Feb. 3, 2022), <https://www.ncsl.org/research/telecommunications-and-information-technology/state-statutes-regulating-the-use-of-automated-license-plate-readers-alpr-or-alpr-data.aspx> (last visited Dec. 13, 2022).

² Ángel Díaz and Rachel Levinson-Waldman, *Automatic License Plate Readers: Legal Status and Policy Recommendations for Law Enforcement Use*, BRENNAN CENTER FOR JUSTICE (Sept. 10, 2020), <https://www.brennancenter.org/our-work/research-reports/automatic-license-plate-readers-legal-status-and-policy-recommendations> (last visited Dec. 13, 2022).

³ Shawn Musgrave, *Big brother or better police work? New technology automatically runs license plates ... of everyone*, Boston.com (April 9, 2013), <https://www.boston.com/news/local-news/2013/04/09/big-brother-or-better-police-work-new-technology-automatically-runs-license-plates-of-everyone> (last visited Dec. 13, 2022).

⁴ Matt Rocheleau, *After finding glitch, Massachusetts suspends use of controversial camera system that lets police track cars*, BOSTON GLOBE (Dec. 23, 2020, 6:51 PM), <https://www.bostonglobe.com/2020/12/23/metro/after-finding-glitch-massachusetts-suspends-use-controversial-camera-system-that-lets-police-track-cars> (last visited Dec. 13, 2022).

not be relied upon in the absence of information supporting the accuracy of that date and time.” Exhibit 2 at 1. Even before this problem began, police themselves had reported that ALPRs “provided false information” among other “problems with the technology.”⁵

7. Given the breadth of the Commonwealth’s use of ALPRs, the lack of oversight for this practice, and its well-documented technological failures, the public has an interest in information regarding this invasive technology.

8. Indeed, the Supreme Judicial Court has recognized that the Commonwealth’s use of ALPR technology could implicate constitutional protections against unreasonable searches and seizures. *Commonwealth v. McCarthy*, 484 Mass 493, 507-08 (2020).

9. Specifically, *McCarthy* noted that “[w]ith enough cameras in enough locations, the historic location data from an ALPR system in Massachusetts would invade a reasonable expectation of privacy and would constitute a search for constitutional purposes,” emphasizing that “[t]he one-year retention period indicated in the EOPSS retention policy certainly is long enough to warrant constitutional protection.” 484 Mass. at 506.

10. The public needs access to records regarding the Commonwealth’s use of ALPRs to ensure that courts throughout the Commonwealth have the information necessary to accurately assess whether a criminal defendant’s constitutional protections have been violated.

11. To achieve this needed transparency, ACLUM sent a public records request to MSP on August 16, 2023, concerning the ALPR database and rules governing the state’s use of the technology. Exhibit 1.

⁵ Neal Simpson, *Controversial license plate readers see little use in southeastern Mass.*, THE PATRIOT LEDGER (Nov. 2, 2014, 9:04 AM), <https://www.patriotledger.com/story/news/crime/2014/11/02/controversial-license-plate-readers-see/36031664007> (last visited Dec. 13, 2022).

12. To date, ACLUM has not received a response from MSP to this request.

13. Because MSP has not complied with its obligations under G.L. c. 66, § 10 to timely respond to ACLUM's public records request, ACLUM now files this action to obtain the sought records and to seek declaratory relief as to MSP's obligations under the PRL.

JURISDICTION AND VENUE

14. Jurisdiction and venue are proper in this Court pursuant to G.L. c. 66, § 10A(c), G.L. c. 212, § 4, G.L. c. 214, § 1, and G.L. c. 231A, § 1.

PARTIES

15. Plaintiff ACLUM is a nonprofit membership organization with a principal place of business in Boston dedicated to the protection of civil rights and civil liberties. To advance the interests of open government, ACLUM works to shed light on law enforcement practices to preserve and extend constitutional rights.

16. Defendant Massachusetts State Police is an agency of the Commonwealth of Massachusetts and a custodian of the records ACLUM seeks. Its principal place of business, its headquarters, is in Framingham, Middlesex County, Massachusetts.

FACTUAL BACKGROUND

17. The public has an interest in access to public records about the Commonwealth's use of ALPR technology, *see McCarthy*, 484 Mass. at 508, but there is currently little publicly available information about the use of the technology or what safeguards, if any, are in place.

18. The scant information that is available demonstrates that the Commonwealth currently uses its ALPR system to create and store hundreds of millions of records identifying the time, date, and location of vehicles moving throughout the Commonwealth, all with little-to-no external oversight or review.

19. The ability of law enforcement officers to find any resident in real-time or to monitor their movements without a warrant, over a period spanning an entire year—potentially including (among countless other applications) to track protesters exercising their free speech rights—implicates federal and state constitutional protections against unreasonable searches and seizures and freedom of speech. *See McCarthy*, 484 Mass. at 506-07.

20. The need for the public to have detailed information regarding police use of ALPR has become all the more important given the Supreme Court's recent *Dobbs v. Jackson Women's Health* decision. Since *Dobbs*, numerous states throughout the country have banned or severely limited abortion care for their residents. ALPR systems now pose an even greater privacy threat, as law enforcement and private individuals in states hostile to abortion care may seek access to location data demonstrating that motorists traveled to the Commonwealth for reproductive care in order to use that evidence for civil and criminal penalties.⁶ While Massachusetts has already taken steps to generally guard against information requests related to legally protected healthcare in the Commonwealth, greater public access to information about the ALPR system—including how the information is stored and who has access to it—is necessary to inform Massachusetts lawmakers about whether any additional legislative steps are necessary.⁷

⁶ Thor Benson, *The Danger of License Plate Readers in Post-Roe America*, WIRED (Jul. 7, 2022 7:00 AM), <https://www.wired.com/story/license-plate-reader-alpr-surveillance-abortion/> (last visited Dec. 13, 2022).

⁷ Dave Maass, *Automated License Plate Readers Threaten Abortion Access. Here's How Policymakers Can Mitigate the Risk*, ELECTRONIC FRONTIER FOUNDATION (Sept. 28, 2022), <https://www EFF.org/deeplinks/2022/09/automated-license-plate-readers-threaten-abortion-access-heres-how-policymakers> (last visited Dec. 13, 2022).

21. In the interest of learning about the state’s use of this pervasive technology, ACLUM has sent multiple records requests to state agencies, and filed enforcing litigation, as set forth below. Those efforts have ultimately resulted in this litigation against MSP.

A. ACLUM’s Prior Records Requests and Litigation against EOPSS and CJIS

22. In May of 2020, ACLUM sent a public records request to EOPSS, which *McCarthy* identified as the entity who maintains the ALPR database. Exhibit 3. On that same date, ACLUM also sent a public records request to the Massachusetts Department of Criminal Justice Information Services (“CJIS”) (together with EOPSS, “the Agencies”) regarding ALPR data. Exhibit 4. Both of these requests sought, *inter alia*, policies and practices enacted as a result of the *McCarthy* ruling as well as records from the ALPR database.

23. ACLUM sent additional public records requests to the Agencies in October 2020, seeking, *inter alia*, audit logs recording access to the ALPR database. Exhibit 5.

24. In December 2022, ACLUM filed a lawsuit in Suffolk Superior Court alleging that the Agencies failed to comply with the requirements of the Public Records Law, G.L. c. 66, as regards to these requests. The lawsuit sought injunctive and declaratory relief. *ACLUM v. EOPSS, et al.*, Civil Action No. 2284CV02815.

25. On February 10, 2023, the Agencies filed their answer in *ACLUM v. EOPSS*. In that filing the Agencies asserted, for the first time, that MSP was the custodian of the ALPR database.

26. On February 21, 2023, ACLUM sent a public records request to MSP regarding the ALPR database (“February Request”). Exhibit. 1 at Exhibit A. To date, MSP has not answered this request.

27. On June 5, 2023, in response to Interrogatories in *ACLUM v. EOPSS*, the Agencies stated that MSP is the sole custodian of relevant ALPR records. Exhibit 6 at 6; Exhibit

7 at 4. CJIS further stated that the ALPR database is “not part of the CJIS network” and that CJIS “does not provide user departments with access to ALPR equipment or system data.” Exhibit 6 at 4.

28. On June 8, 2023, MSP sent ACLUM a letter intended to “supplement and complete” the Agencies’ discovery responses. Exhibit 1 at Exhibit B. Therein, MSP confirmed that it is the custodian of the ALPR database and provided a document, specifically a printout showing the number of total reads and hits captured in the ALPR database as of June 7, 2023. *Id.* It also improperly cited several exemptions purportedly precluding the disclosure of records ACLUM had requested from EOPSS and CJIS, specifically the audit logs.

29. On June 13, 2023, EOPSS provided ACLUM with additional documents related to the state’s protocols around the use of ALPR technology that appear to originate from MSP.

30. On October 3, 2023, ACLUM and the Agencies filed a joint stipulation of dismissal of *ACLUM v. EOPSS* in express reliance on the representations that MSP was the sole custodian of the requested records. On October 4, 2023, the case was dismissed based on the voluntary agreement. *See* Exhibit 8.

B. ACLUM’S August 16, 2023 Public Records Request to MSP

31. On August 16, 2023, ACLUM sent a public records request to MSP (the “August Request”). A true and correct copy of the August Request is attached hereto as Exhibit 1. This request superseded the February Request and was submitted in light of the MSP correspondence with ACLUM on June 8. *Id.*

32. The August Request sought a copy of the ALPR database with appropriate redactions for privacy as well as records defining the categories of information collected, audit and user logs, policies and procedures governing the use of the database in light of *McCarthy*, and policies regarding transmission of information in criminal cases. *Id.*

33. To date, MSP has not responded to ACLUM's public records requests.

CLAIMS FOR RELIEF

COUNT I: Violations of the Public Records Law – G.L. c. 66, §§ 10, 19

34. ACLUM incorporates by reference and re-alleges all of the allegations in the preceding paragraphs.

35. The Public Records Law ("PRL") strongly favors disclosure by creating a presumption that all government records are public records.

36. Under the Public Records Law, MSP was required to respond to ACLUM's requests within ten business days, to conduct an adequate search for responsive documents, and to demonstrate application of any exemptions. G.L. c. 66, § 10(a)-(b).

37. ACLUM's requests reasonably describe the public records sought.

38. MSP has possession, custody, or control of the public records requested by ACLUM.

39. MSP has wrongfully withheld records responsive to ACLUM's August Request in contravention of the Public Records Law, including by failing to conduct an adequate search, improperly withholding records, and failing to either produce responsive records or to provide a written response within the 10 business days allotted by law.

40. ACLUM is entitled to injunctive relief requiring MSP to promptly produce the requested records. G.L. c. 66, § 10A(c)-(d).

41. ACLUM is entitled to injunctive relief prohibiting MSP from charging any fee for the production of the records sought. G.L. c. 66, §§ 10(e), 10A(c)-(d).

42. ACLUM is entitled to an award of reasonable attorney fees and costs. G.L. c. 66, § 10A(d)(2).

COUNT II: Declaratory Judgment – G.L. c. 231A

43. ACLUM incorporates by reference and re-alleges all of the allegations in the preceding paragraphs.

44. There is an actual controversy between ACLUM and MSP regarding the production of requested records.

45. Pursuant to G.L. c. 231A and the PRL, ACLUM is entitled to a declaration that the records responsive to its August Request are public records within the meaning of G.L. c. 66, § 10, that their release is required by law, that Defendant has no right to withhold such records, and that Defendant has violated the PRL by its failure to timely produce responsive records to ACLUM's requests.

PRAYER FOR RELIEF

WHEREFORE, ACLUM requests that this Court:

1. Issue a declaratory judgment that the records ACLUM has requested are public records within the meaning of G.L. c. 66, § 10, and that their release is required by law;
2. Enter a permanent injunction pursuant to G.L. c. 66, § 10A(d)(iii) requiring MSP to disclose the requested records to ACLUM;
3. Enjoin MSP from charging ACLUM search, review, or duplication fees for processing the requests;
4. Award ACLUM its costs and attorneys' fees in bringing this action; and
5. Grant such other relief as the Court deems just and proper.

American Civil Liberties Union of
Massachusetts, Inc.

By its attorneys,

Dated: November 9, 2023

/s/ Michael A. Albert

Michael A. Albert (BBO No. 558566)

Anant K. Saraswat (BBO No. 676048)

Marie A. McKiernan (BBO No. 689818)

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EXHIBIT 1



August 16, 2023

Via Public Records Portal

Massachusetts State Police ("MSP")
c/o Primary Records Access Officer
470 Worcester Road
Framingham, MA 01702

Re: Public Records Request – Use of Automatic License Plate Readers

Dear MSP Records Access Officer:

This is a public records request pursuant to G.L. c. 66, § 10 made on behalf of the American Civil Liberties Union of Massachusetts, Inc. ("ACLU"). This request concerns the state's use of automatic license plate readers ("ALPRs") and any associated databases. This request supersedes the request for public records made by ACLU on February 21, 2023, to which MSP to date has not responded, and which is enclosed as Exhibit A. In addition, this request follows the supplemental discovery response filed on behalf of MSP on June 8, 2023, in *ACLU v. EOPSS et al*, C.A. No. 2284CV02815 (Suffolk Sup. Ct. filed Dec. 13, 2022).¹ See Exhibit B.

ALPR technology uses stationary, police vehicle-mounted, or handheld cameras to continuously and indiscriminately scan the license plates of every vehicle driving by the cameras' lens. ALPR cameras are combined with optical character recognition software that automatically translates images of license plates into machine readable text. They create a record that includes a picture of the vehicle's license plate, the time, date, and location of the capture, and text of the vehicle's license plate number. On June 8, MSP asserted that it maintains a database that houses these ALPR records, referred to in the supplemental discovery response and herein as the "ALPR System" or "ALPR Database." MSP asserted that as of June 7, 2023, the database contained a total of 290,455,817 "reads" but that the number of records within the database fluctuates daily due to a routine purge of records older than 12 months. See Exhibit C.

ACLU sent multiple public records requests to various state entities between 2020 and 2023 that seek certain records related to the state's use of ALPR technology. The Executive Office of Public Safety and Security (EOPSS) and the Department of Criminal Justice Information Services (DCJIS) failures to adequately respond to those requests resulted in the *ACLU v. EOPSS* litigation. During the course of that litigation, and for the first time, it was asserted that MSP is the custodian of the ALPR Database.

¹ MSP is not a party to this litigation but provided a response in its role as custodian of the ALPR database at issue in the litigation.

ACLUM thus hereby requests² the below records created on or after January 1, 2017:

- (1) A copy of the records within the ALPR System or Database, with appropriate redactions to protect personal privacy. This request seeks without limitation an export, download, printout, or copy of the database to include the following information:
 - a. Total number of “hits” as of the date of production;
 - b. Total number of “reads” as of the date of production, including associated metadata for each “read,” with appropriate redactions to protect personal privacy;
 - c. Total number of cameras which feed into (or populate) the ALPR System or Database;
 - d. Locations of cameras which feed into (or populate) the ALPR System or Database;
 - e. Total number of “hits” per camera which feeds into (or populates) the ALPR System or Database.
- (2) To the extent this information is not included in the response to request no. 1, records sufficient to show the total number of cameras which feed into (or populate) the ALPR System or Database.
- (3) To the extent this information is not included in the response to request no. 1, records sufficient to show the locations of cameras which feed into (or populate) the ALPR System or Database.
- (4) Record(s) defining the terms “hits” and “reads” as relates to information stored within the ALPR Database. *See* Exhibit C.
- (5) Records showing how many times, by whom, and for what reasons the ALPR System or Database was queried. As used herein, “queried” is defined as use of the system to find information about a license plate number.
- (6) Records, including communications, pertaining to the Commonwealth’s implementation of the ruling in *Commonwealth v. McCarthy*, including any legal memoranda, guidance, policy statements, procedures, meeting notes, or emails, that show how policies and practices were impacted or affected by the ruling.
- (7) All audit logs documenting access and use of the ALPR database. This request includes information showing the date and time, event, user, and completion status. *See* Exhibit B at p. 2. This request expressly exempts the license plate number or other identifying information regarding the plate queried.
- (8) Protocols, procedures, or guidelines related to transmission of information about ALPR use to defendants in criminal cases and/or district attorney offices.
- (9) Records pertaining to any alleged or confirmed misuse or abuse of ALPR data, including but not limited to emails, memoranda, disciplinary records, audits, and complaints.
- (10) All agreements or contracts related to sharing and/or accessing of ALPR data, including but not limited to memoranda of agreement and emails.

² In making this request, ACLUM is not waiving its right to challenge in litigation any claim by the Agencies that they are not the custodians of the public records at issue.

- (11) A list of all authorized users of the ALPR system, including their names and the names of their employers.
- (12) Records pertaining to companies that provide ALPR software, hardware, and data tools used or accessed by the MSP, including but not limited to contracts, agreements, descriptions of products, emails, brochures, marketing materials, training documents, and bids.

I ask that you waive any fees and copying costs, pursuant to 950 C.M.R. 32.07. ACLUM is a not-for-profit, non-partisan organization dedicated to the principles of liberty and equality.

We expressly exclude from the requested records any individually identifiable information of non-government personnel defined narrowly. However, if you withhold or redact some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and release any portions of the records for which you do not claim an exemption. We ask that you provide the records in electronic, machine readable format to the maximum extent possible. As you know, a custodian of public records shall comply with a request within ten days of receipt as required by G.L. c. 66, § 10(a), (b).

Thank you for your assistance. Please do not hesitate to contact me if I can clarify any part of this request.

Sincerely,

/s/ Kade Crockford

Kade Crockford
Director, Technology for Liberty Program
617.482.3170 x346
kcrockford@aclum.org

EXHIBIT A



Jessica J. Lewis
Staff Attorney
(617) 482-3170 ext. 334
jlewis@aclum.org

February 21, 2023

Via Public Records Portal

Massachusetts State Police ("MSP")
c/o Primary Records Access Officer
470 Worcester Road
Framingham, MA 01702

Re: Public Records Request – Use of Automatic License Plate Readers

Dear MSP Records Access Officer:

This is a public records request pursuant to G.L. c. 66, § 10 made on behalf of the American Civil Liberties Union of Massachusetts, Inc. ("ACLUM"). This request concerns the state's use of automatic license plate readers ("ALPRs") and any associated databases.

ALPR technology uses stationary, police vehicle-mounted, or handheld cameras to continuously and indiscriminately scan the license plates of every vehicle driving by the cameras' lens. ALPR cameras are combined with optical character recognition software that automatically translates images of license plates into machine readable text. They create a record that includes a picture of the vehicle's license plate, the time, date, and location of the capture, and text of the vehicle's license plate number. ACLUM understands that MSP may maintain a database, in shared custody with the Executive Office of Public Safety and Security (EOPSS), that houses these ALPR records. We understand that as of February 10, 2023, the database contains over 235 million records.

As you are aware, in April 2020, the Massachusetts Supreme Judicial Court issued its decision in *Commonwealth v. McCarthy*, 484 Mass 493 (2020), a case involving the constitutionality of the use of ALPR cameras to track the movements of a defendant. In *McCarthy*, the Court stated that historic location data from an ALPR system could invade a person's reasonable expectation of privacy and constitute a search for constitutional purposes. The Court invited information regarding how many ALPR cameras currently exist, where they are located, and other information.

Accordingly, ACLUM sent two public records requests to EOPSS and the Department of Criminal Justice Information Services (CJIS) (collectively, "the Agencies") in 2020 and 2021 seeking records related to the state's use of ALPR technology. The state's alleged failure to adequately respond to those requests is now the subject of litigation in *ACLUM v. EOPSS*, No. 2284CV02815 (Suffolk Sup. Ct. filed Dec. 13, 2022). During that litigation, and for the first time, the Agencies have stated that MSP may be the custodian of the public records at issue.

ACLUM thus hereby requests¹ the below records created on or after January 1, 2017:

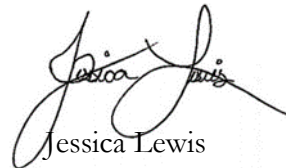
- (1) Records showing the total number of ALPR records submitted to the statewide repository since its creation, if possible broken down by submitting agency.
- (2) Records pertaining to the Commonwealth's implementation of the ruling in *Commonwealth v. McCarthy*, including any legal memoranda, guidances, or policy statements that show how policies and practices were impacted or affected by the ruling.
- (3) All transaction logs recording a user's access of the ALPR database.

I ask that you waive any fees and copying costs, pursuant to 950 C.M.R. 32.07. ACLUM is a not-for-profit, non-partisan organization dedicated to the principles of liberty and equality.

We expressly exclude from the requested records any individually identifiable information of non-MSP personnel. However, if you withhold or redact some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and release any portions of the records for which you do not claim an exemption. We ask that you provide the records in electronic, machine readable format to the maximum extent possible. As you know, a custodian of public records shall comply with a request within ten days of receipt.

Thank you for your assistance. Please do not hesitate to contact me if I can clarify any part of this request.

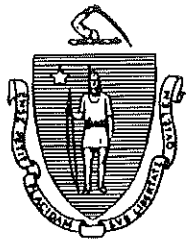
Sincerely,



Jessica Lewis

¹ In making this request, ACLUM is not waiving its right to challenge in litigation any claim by the Agencies that they are not the custodians of the public records at issue.

EXHIBIT B



MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

TERRENCE M. REIDY
ASSISTANT ATTORNEY GENERAL

The Commonwealth of Massachusetts

Department of State Police

Office of the Chief Legal Counsel

470 Worcester Road

Framingham, Massachusetts 01702



JOHN E. MAWN JR.
COLONEL/SUPERINTENDENT

JOHN D. PINKHAM
DEPUTY SUPERINTENDENT

June 8, 2023

Via email

Anant K. Saraswat
Wolf Greenfield
600 Atlantic Avenue, 23rd Floor
Boston, MA 02210

Re: *ACLUM v. DJCIS and EOPSS*, Civil Action No. 2284CV02815

Dear Attorney Saraswat,

Counsel for the Executive Office of Public Safety and Security (EOPSS) and the Department of Criminal Justice Information Services (DCJIS) (collectively, the “Agencies”) have forwarded to me ACLUM’s public records requests of May 4, 2020 (“First Requests”), and October 16, 2020 (“Second Requests”). The database at issue in your requests, commonly referred to as Automatic License Plate Recognition (“ALPR”) System, is maintained and managed by the Massachusetts State Police (“MSP”). The MSP has contracted with the vendor, Neology, which utilizes the software, Boss4, to create the ALPR System.

I understand ACLUM has brought suit challenging the Agencies’ responses to three specific requests in your public records requests. *ACLUM v. DJCIS and EOPSS*, Civil Action No. 2284CV02815. I write to supplement and complete the Agencies’ responses to two of those requests: Request No. 5 of the First Requests and Request No. 3 of the Second Requests.

Request No. 5 of the First Requests

This request seeks “[r]ecords showing the total number of ALPR records submitted to the statewide repository since its creation, if possible broken down by submitting agency.” By letter dated July 17, 2020, the Agencies responded that “records submitted to the statewide repository since its creation” are exempt from public disclosure under G.L. c. 4, § 7 clause 26(n) (records that could jeopardize public safety or cyber security); clause 26(f) (investigatory records); and clause (b) (records concerning internal personnel rules and practices), as well as related principles recognized under federal law. They further informed you that the records requested are purged after a twelve (12) month period on a daily basis. This information is correct and, as a result, the ALPR Database does not maintain records “submitted to the statewide repository since its creation.” Therefore, there

are no records showing the total number of such records, and the response to Request No. 5 is complete.

Nevertheless, ACLUM contests the response, asserting that the Agencies' response to Request No. 6 of the First Requests is incomplete. In Request No. 6, ACLUM sought "[r]ecords showing the total number of ALPR records currently held in the statewide repository" (emphasis added). In their letter of July 17, 2020, the Agencies responded that the "the total number of reads in the statewide repository is 133828412." ACLUM responded to that letter on October 16, 2020, by requesting "records showing this fact."

MSP is hereby producing a record showing the total number of reads in the ALPR database as of June 7, 2023. (Obviously, because purging occurs on a daily basis, the total number of reads in the system necessarily fluctuates from day to day.) The production of this record completes the public records production in response to Request No. 6 (and, accordingly, resolves any remaining dispute regarding Request No. 5).

Request No. 3 of the Second Requests

This request sought "[a]ny and all 'Transaction Log' maintained by either DCJIS or EOPSS that records 'all transactions made by CJIS user agencies.' This includes, but is not limited to, any logs referred to in Section 6.0 of the 'Massachusetts Department of Criminal Justice Information Services Global Justice and Public Safety User Agreement.'" By letter dated March 14, 2022, the Agencies stated that they do not maintain records responsive to this request. That response was technically correct, because the ALPR Database is operated, maintained, and managed by the MSP. Further, the Agreement referenced in the Request applies by its terms only to "any database or system operated, maintained, or managed by the DCJIS," which does not include the ALPR database.

Nevertheless, in an effort to respond to the substance of this Request, MSP is providing this supplemental response. As an initial matter, Request No. 3's reference to "[t]ransaction log[s]" is unclear because it does not clearly identify what type of log it is seeking. Databases may maintain different types of logs. The ALPR Database maintains a log called an "audit log," which contains information identifying date and time, event, user, and completion status. The audit log is the log generated automatically on an ongoing basis, as distinct from the type of report that a database administrator may generate on demand on an ad hoc basis by affirmatively querying the database.

The audit log is exempt from public disclosure pursuant to G.L. c. 4, § 7 clause 26(n) as it contains records that could jeopardize public safety or cyber security. The disclosure of database activity and user information specifically relates to the "blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure located within the commonwealth, the disclosure of which ... is likely to jeopardize public safety or cyber security."

The audit log is also exempt from public disclosure under the investigatory exemption. G.L. c. 4, § 7 clause 26(f) contemplates that the success of law enforcement is predicated on the strength and reliability of its own techniques. Revealing the activity in the ALPR database by date, time and user would undermine law enforcement investigations and jeopardize law enforcement efforts where license plate information is of significant import.

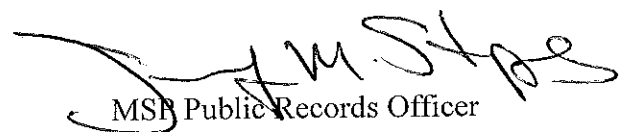
The audit log is further exempt under G.L. c. 4, § 7 clause 26(b) because it concerns internal personnel rules and practices. See also 5 U.S.C. § 552(b)(2). The information requested contains internal matters the disclosure of which would risk the circumvention of statutes and/or regulations. Federal Exemption 2 encompasses protection of sensitive internal agency information where public dissemination of same would render the information operationally useless and create an end-run on ongoing law enforcement efforts. To this end, Exemption 2 is designed to prevent FOIA disclosure that would “benefit those attempting to violate the law and avoid detection.” *Crooker v. ATF*, 670 F.2d 1051, 1054 (D.C. Cir. 1981) (en banc). As such, disclosure of this information would essentially frustrate the ‘anti-circumvention’ protections afforded under both state and federal law, which contemplate above all else the public safety interests at stake.

Accordingly, the audit log is not a public record and is not being produced. This response completes the production in response to Request No. 3 of the Second Requests.

Response to your letter of April 1, 2022

I have also reviewed your letter of April 1, 2022 describing a telephone call with the Agencies’ counsel on March 29, 2022 in which the parties attempted to reach resolution of ACLUM’s public records requests. In particular, the letter describes your understanding of what the Agencies’ counsel conveyed to you about technical limitations in the database that might hamper access to the underlying information stored in the database. However, as you recognized at the time, the Agencies’ counsel was not personally familiar with the technical operation of the ALPR database, and the description of the conversation in your April 1 letter does not reflect an accurate picture of how information is stored or accessed in the ALPR database. The database is in fact capable of accessing and producing the records sought in both Request No. 6 of the First Requests and Request No. 3 of the Second Requests, as I describe above. Because the response to those requests is now complete, however, the issues discussed in that conversation concerning the technical capabilities of the database are now moot.

Sincerely,



MSR Public Records Officer

Enclosure

Dashboard



MA State Police
MSP

470 Worcester Road Framingham, MA
01702

Wednesday, June 7, 2023
15:31:45

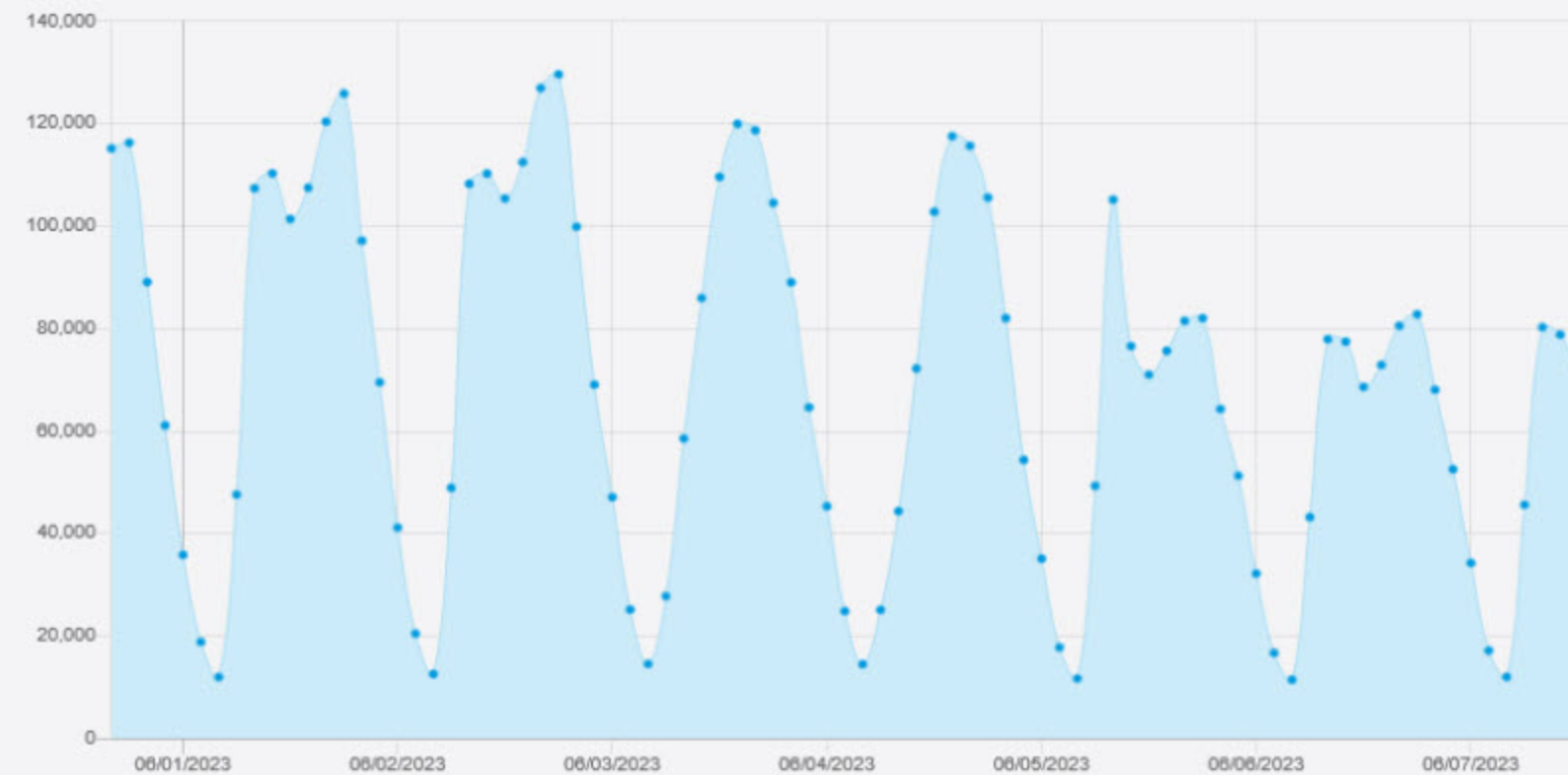
TOTAL READS



290,455,817

Total System Reads

LAST WEEK TOTAL READS



msptestuser

IP:

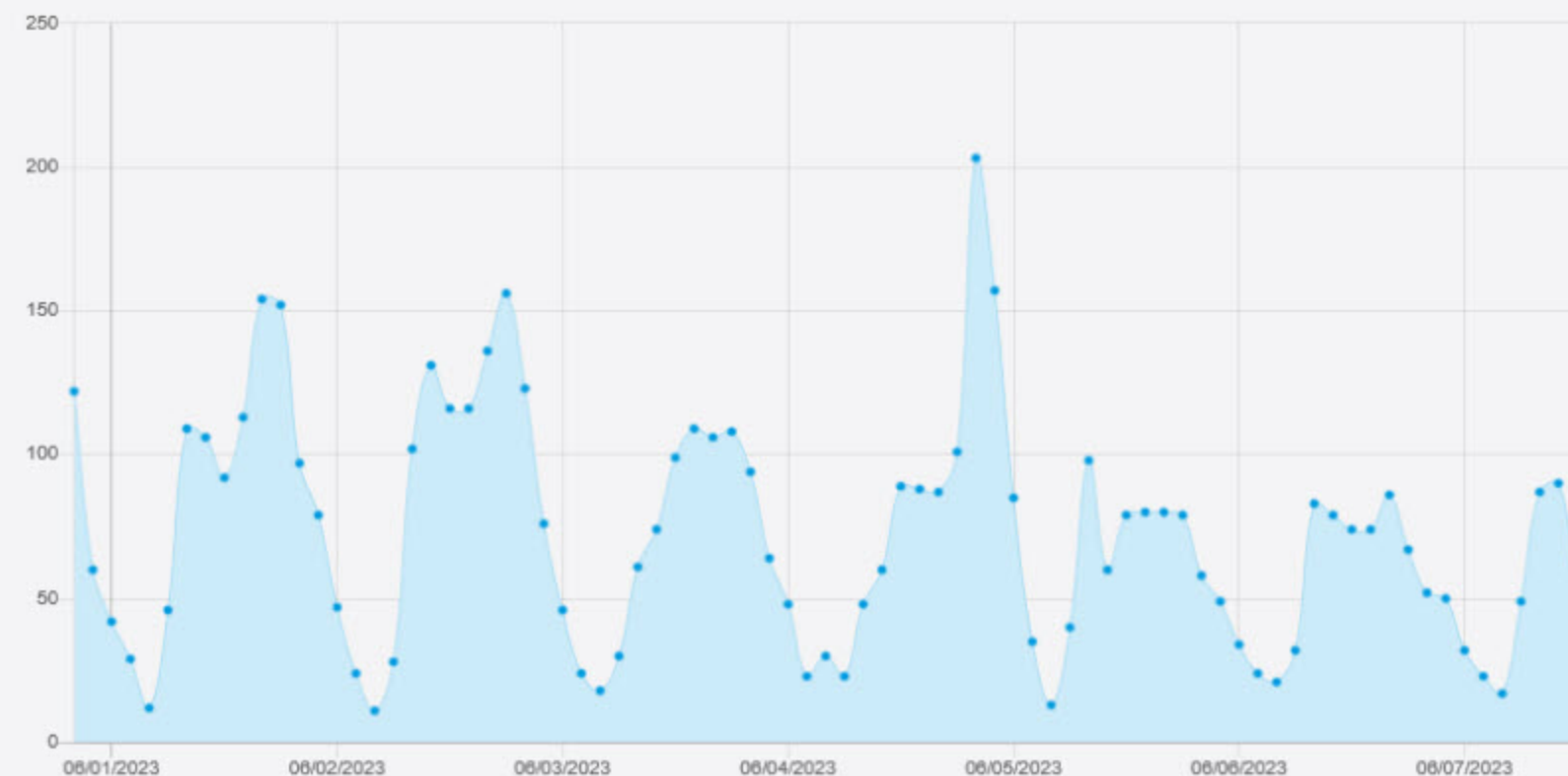
TOTAL HITS



904,462

Total System Hits

LAST WEEK TOTAL HITS



DOWNLOAD
alerts desktop app



[for windows only](#)

EXHIBIT 2

MEMORANDUM

From: Executive Office of Public Safety and Security

To: Criminal Justice Agencies and Criminal Defense Counsel in the Commonwealth of Massachusetts

Date: December 23, 2020

Re: Notice of ALPR Date/Time Reliability Issue

To Whom It May Concern:

This memorandum is intended to inform all criminal justice agencies and criminal defense counsel in the Commonwealth of Massachusetts of an issue regarding the reliability of date and time stamps from Automatic License Plate Reader (“ALPR”) cameras used by the Massachusetts State Police (“MSP”) and sourced from vendor Neology, Inc. (“Neology”). This memorandum applies to MSP ALPR cameras that are currently in a fixed position or can be moved to a fixed position. It does not apply to cruiser-mounted ALPR cameras.

The Executive Office of Public Safety and Security (“EOPSS”) and MSP hereby notify all criminal justice agencies and criminal defense counsel that, for the reasons provided below and until further notice, a date and time recorded by a Neology ALPR camera in a fixed position between May 2015 to November 12, 2020, should not be relied upon in the absence of information supporting the accuracy of that date and time, such as upload date and time information recorded by the host server or other corroborative evidence.

The ALPR system is composed of a network of high-speed cameras located throughout the Commonwealth. The cameras in the network use computer algorithms capable of converting the images of license plates into electronically readable data. The ALPR records the date, time, and location that a car passes, and the camera takes a photograph of the license plate. The information and photograph are quickly uploaded to host servers at the Public Safety Data Center in Chelsea, and the host servers record the date and time of that upload. Those servers support a searchable database of the license plate data that is maintained by the Executive Office of Public Safety and Security. The information in the database is available to law enforcement agencies conducting criminal investigations.

In November 2020, while reviewing ALPR data, MSP discovered instances where the dates and times recorded by ALPR cameras did not align with the dates and times those photographs were uploaded to the cameras’ host servers. MSP, working with Neology, has determined that these particular time gaps occurred when an ALPR camera that lost power reconnected with its power source and began taking pictures prior to connecting with its host server. During the time period after the ALPR was powered on, but before it connected with the host server, the ALPR could not update its date and time settings to the correct time. Once the ALPR connected with its server, its date and time settings were synchronized with the host server.

As a result, in any case where the ALPR lost power, the ALPR could have inaccurately recorded the date or time on which the picture was taken if that picture was taken prior to the ALPR establishing a connection with the host server. The issue is limited to the date and time recorded by the ALPR camera and not to the license plate data itself. The date and time of upload recorded by the host server is accurate and unaffected by this issue. Therefore, a comparison between the date and time recorded by the ALPR on the image and that recorded by the host server can indicate whether the ALPR-recorded information is accurate. For example, that accuracy might be shown where the time recorded by the ALPR camera is close in time to that recorded by the host server. Such comparison data is generally available from November 20, 2019, through the present, as a Department of Criminal Justice Information Services (“DCJIS”) policy required MSP to retain that data for one year.

Shortly after learning of this issue on November 12, 2020, MSP suspended the use of fixed-position ALPR cameras and preserved all existing ALPR data. MSP will continue to preserve all ALPR data and fixed-position ALPR cameras will not be utilized until further notice. EOPSS and MSP will continue to work with Neology to address this issue and will provide updates.

To request server upload date and time data, please contact ALPRVerify@Mass.gov

EXHIBIT 3



May 4, 2020

Sent via email

Records Access Officer
Executive Office of Public Safety and Security
One Ashburton Place, Suite 2133
Boston, MA 02108
copss.rao@state.ma.us

Re: Public Records Request related to the Use of Automatic License Plate Readers

Dear Records Access Officer,

This is a request under the Massachusetts Public Records Law, G.L. c. 66, § 10, made on behalf of the American Civil Liberties Union of Massachusetts (“ACLUM”).

ACLUM seeks records pertaining to the Executive Office of Public Safety and Security (“EOPSS”) use of automatic license plate readers (“ALPRs”) and associated databases.

ALPRs use optical character recognition to automatically translate images of license plates into machine readable text, creating a file of each car that passes by the cameras. Each license plate reader file contains a picture of the car, the time, date, and location of the surveillance capture, and the car’s license plate number. These data are retained in local, state, regional, and federal databases, and shared among police and federal agencies as well as private corporations.

In April 2020, the Supreme Judicial Court of Massachusetts issued its decision in the case *Commonwealth v. McCarthy*.¹ This case involved the constitutionality of the use of ALPRs to track the movements of a defendant to and from Cape Cod.

In *McCarthy*, the only LPR evidence before the Supreme Judicial Court concerned data from two Cape Cod bridges. The Court denied the defendant’s motion to suppress those data, and held that this snapshot-style surveillance wasn’t sufficiently sensitive or detailed enough to trigger constitutional protection.

However, the Court made it clear that had there been more evidence about the extensive and constant use of ALPR surveillance in Massachusetts, the result might have been different.

In words of the Court: “With enough cameras in enough locations, the historic location data from an ALPR system in Massachusetts would invade a reasonable expectation of privacy and would constitute a search for constitutional purposes. The one-year retention period indicated in the

¹ *Commonwealth v. McCarthy*, SJC-12750, April 16, 2020, available at http://2f8dep2znrkt2udzwp1pbyxd-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/SJC-12750_07_Opinion.pdf

[government's] retention policy certainly is long enough to warrant constitutional protection.” *Commonwealth v. McCarthy*, SJC-12750, April 16, 2020.

Analyzing ALPR data in light of rulings related to cell phone location data, the Court held that “like [cell phone location] data, ALPRs allow the police to reconstruct people’s past movements without knowing in advance who police are looking for, thus granting police access to ‘a category of information otherwise [and previously] unknowable.’” *Id.*

Hence, “like both [cell phone] and GPS data, ALPRs circumvent traditional constraints on police surveillance power by being cheap (relative to human surveillance) and surreptitious.” *Id.*

Explaining this issue, the Court stated that “the constitutional question is not merely an exercise in counting cameras; the analysis should focus, ultimately, on the extent to which a substantial picture of the defendant’s public movements are revealed by the surveillance.” *Id.*

Key to this test, the Court continued, is “where the ALPRs are placed.” *Id.* For example, “ALPRs near constitutionally sensitive locations -- the home, a place of worship, etc. -- reveal more of an individual’s life and associations than does an ALPR trained on an interstate highway.” *Id.*

In the same vein, “[a] network of ALPRs that surveils every residential side street paints a much more nuanced and invasive picture of a driver’s life and public movements than one limited to major highways that open into innumerable possible destinations.” *Id.*

Ultimately, the concern lies with the many “inferences from ALPR data that implicate expressive and associative rights.” *Id.*

ACLUM shares these concerns. We believe that the ubiquitous use of ALPRs threatens not only privacy rights but also other constitutional rights, like First Amendment rights.

Consequently, we are interested in learning how and where the Commonwealth is collecting, sharing, and accessing records and data produced by ALPRs.

In particular, we are interested in information pertaining not only to the database maintained by EOPSS which contains license plate records contributed by agencies throughout the state (“statewide repository”)² but also to the location of those cameras.

² “Departments that procured ALPR systems through a grant from EOPSS have agreed, as a condition of acceptance of grant funds, to electronically submit their captured ALPR data to the state central repository.” See <https://data.aclum.org/wp-content/uploads/2018/06/LPR-Policies.pdf>

Therefore ACLUM requests the following records created on or after January 1, 2017, unless a date is otherwise specified in the request:

1. Records showing the location of ALPR cameras units operating in the state, if possible broken down by controlling agency;
2. Records showing the total number of ALPR units operating in the state, if possible broken down by controlling agency;
3. Records showing the total number of ALPR units submitting data to any database controlled or managed by the Commonwealth of Massachusetts (“the statewide repository”);
4. Records listing all of the agencies that submit captured ALPR data to the statewide repository;
5. Records showing the total number of ALPR records submitted to the statewide repository since its creation, if possible broken down by submitting agency;
6. Records showing the total number of ALPR records currently held in the statewide repository;
7. Records showing the total number of searches performed on the statewide repository, including if possible reasons for the searches and the identities of the agencies performing the searches;
8. Records showing a list of agencies, inside and outside of Massachusetts, that have access to search the statewide repository;
9. Records containing the names of private companies that have direct or indirect access to data in the statewide repository;
10. Records showing the total number of out-of-state or federal requests for information from the statewide repository, including information about how many and/or which of these requests resulted in the disclosure of the information sought;
11. Policies, memoranda of understanding, and/or contracts pertaining to the statewide repository or access to its data;
12. Records containing the names, agencies, and titles of all authorized personnel who have the technical capacity to access or search the statewide repository;
13. Records describing the legal standard required to perform a search of the statewide repository;
14. Records pertaining to the Commonwealth’s implementation of the ruling in *Commonwealth v. McCarthy*, including any legal memoranda, guidances, or policy statements that show how policies and practices were impacted or affected by the ruling; and
15. Records describing the number and type of crimes solved using data obtained from the statewide repository, including any information about the role license plate data played in the investigation (please only provide this information for cases that resulted in criminal convictions).

Because this request involves a matter of public concern and is made on behalf of a nonprofit organization, we ask that you waive any fees. ACLUM is a nonprofit §501(c)(3) organization dedicated to the protection of civil rights and liberties for all persons in the Commonwealth of Massachusetts. As the state’s affiliate of the American Civil Liberties Union, the ACLU of Massachusetts is part of a nationwide network of advocates dedicated to defending and expanding the civil liberties of all.

If you decide not to waive fees, we request that you permit us to examine, at our election, the responsive documents before deciding which portions to copy. We would prefer the documents in electronic format.

If you believe that some portion of the documents requested are exempt from disclosure or require redaction, please release any reasonably segregable portions that are not exempt. In addition, please note the applicable statutory exemption and explain why it applies to the redacted portions. As you know, a custodian of public records shall comply with a request within ten business days after receipt.

If you have questions about this request, please contact me at (617) 482-3170 x402 or efalcon@aclum.org.

Thank you for your assistance. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emiliano Falcon-Morano', with a stylized flourish at the end.

Emiliano Falcon-Morano
Policy Counsel
Technology for Liberty Program
ACLU of Massachusetts

EXHIBIT 4



May 4, 2020

Sent via email

Records Access Officer
Department of Criminal Justice Information Services
dcjis.rao@state.ma.us

Re: Public Records Request related to the Use of Automatic License Plate Readers

Dear Records Access Officer,

This is a request under the Massachusetts Public Records Law, G.L. c. 66, § 10, made on behalf of the American Civil Liberties Union of Massachusetts ("ACLUM").

ACLUM seeks records pertaining to the Department of Criminal Justice Information Services ("DCJIS") use of automatic license plate readers ("ALPRs") and associated databases.

ALPRs use optical character recognition to automatically translate images of license plates into machine readable text, creating a file of each car that passes by the cameras. Each license plate reader file contains a picture of the car, the time, date, and location of the surveillance capture, and the car's license plate number. These data are retained in local, state, regional, and federal databases, and shared among police and federal agencies as well as private corporations.

In April 2020, the Supreme Judicial Court of Massachusetts issued its decision in the case *Commonwealth v. McCarthy*.¹ This case involved the constitutionality of the use of ALPRs to track the movements of a defendant to and from Cape Cod.

In *McCarthy*, the only LPR evidence before the Supreme Judicial Court concerned data from two Cape Cod bridges. The Court denied the defendant's motion to suppress those data, and held that this snapshot-style surveillance wasn't sufficiently sensitive or detailed enough to trigger constitutional protection.

However, the Court made it clear that had there been more evidence about the extensive and constant use of ALPR surveillance in Massachusetts, the result might have been different.

In words of the Court: "With enough cameras in enough locations, the historic location data from an ALPR system in Massachusetts would invade a reasonable expectation of privacy and would constitute a search for constitutional purposes. The one-year retention period indicated in the [government's] retention policy certainly is long enough to warrant constitutional protection." *Commonwealth v. McCarthy*, SJC-12750, April 16, 2020.

¹ *Commonwealth v. McCarthy*, SJC-12750, April 16, 2020, available at http://2f8dep2znrkt2udzwp1pbyxd-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/SJC-12750_07_Opinion.pdf

Analyzing ALPR data in light of rulings related to cell phone location data, the Court held that “like [cell phone location] data, ALPRs allow the police to reconstruct people’s past movements without knowing in advance who police are looking for, thus granting police access to ‘a category of information otherwise [and previously] unknowable.’” *Id.*

Hence, “like both [cell phone] and GPS data, ALPRs circumvent traditional constraints on police surveillance power by being cheap (relative to human surveillance) and surreptitious.” *Id.*

Explaining this issue, the Court stated that “the constitutional question is not merely an exercise in counting cameras; the analysis should focus, ultimately, on the extent to which a substantial picture of the defendant’s public movements are revealed by the surveillance.” *Id.*

Key to this test, the Court continued, is “where the ALPRs are placed.” *Id.* For example, “ALPRs near constitutionally sensitive locations -- the home, a place of worship, etc. -- reveal more of an individual’s life and associations than does an ALPR trained on an interstate highway.” *Id.*

In the same vein, “[a] network of ALPRs that surveils every residential side street paints a much more nuanced and invasive picture of a driver’s life and public movements than one limited to major highways that open into innumerable possible destinations.” *Id.*

Ultimately, the concern lies with the many “inferences from ALPR data that implicate expressive and associative rights.” *Id.*

ACLUM shares these concerns. We believe that the ubiquitous use of ALPRs threatens not only privacy rights but also other constitutional rights, like First Amendment rights.

Consequently, we are interested in learning how and where the Commonwealth is collecting, sharing, and accessing records and data produced by ALPRs.

In particular, we are interested in information pertaining not only to the database maintained by DCJIS which contains license plate records contributed by agencies throughout the state (“statewide repository”)² but also to the location of those cameras.

² “Departments that procured ALPR systems through a grant from EOPSS have agreed, as a condition of acceptance of grant funds, to electronically submit their captured ALPR data to the state central repository.” See <https://data.aclum.org/wp-content/uploads/2018/06/LPR-Policies.pdf>

Therefore ACLUM requests the following records created on or after January 1, 2017, unless a date is otherwise specified in the request:

1. Records showing the location of ALPR cameras units operating in the state, if possible broken down by controlling agency;
2. Records showing the total number of ALPR units operating in the state, if possible broken down by controlling agency;
3. Records showing the total number of ALPR units submitting data to any database controlled or managed by the Commonwealth of Massachusetts (“the statewide repository”);
4. Records listing all of the agencies that submit captured ALPR data to the statewide repository;
5. Records showing the total number of ALPR records submitted to the statewide repository since its creation, if possible broken down by submitting agency;
6. Records showing the total number of ALPR records currently held in the statewide repository;
7. Records showing the total number of searches performed on the statewide repository, including if possible reasons for the searches and the identities of the agencies performing the searches;
8. Records showing a list of agencies, inside and outside of Massachusetts, that have access to search the statewide repository;
9. Records containing the names of private companies that have direct or indirect access to data in the statewide repository;
10. Records showing the total number of out-of-state or federal requests for information from the statewide repository, including information about how many and/or which of these requests resulted in the disclosure of the information sought;
11. Policies, memoranda of understanding, and/or contracts pertaining to the statewide repository or access to its data;
12. Records containing the names, agencies, and titles of all authorized personnel who have the technical capacity to access or search the statewide repository;
13. Records describing the legal standard required to perform a search of the statewide repository;
14. Records pertaining to the Commonwealth’s implementation of the ruling in *Commonwealth v. McCarthy*, including any legal memoranda, guidances, or policy statements that show how policies and practices were impacted or affected by the ruling; and
15. Records describing the number and type of crimes solved using data obtained from the statewide repository, including any information about the role license plate data played in the investigation (please only provide this information for cases that resulted in criminal convictions).

Because this request involves a matter of public concern and is made on behalf of a nonprofit organization, we ask that you waive any fees. ACLUM is a nonprofit §501(c)(3) organization dedicated to the protection of civil rights and liberties for all persons in the Commonwealth of Massachusetts. As the state’s affiliate of the American Civil Liberties Union, the ACLU of Massachusetts is part of a nationwide network of advocates dedicated to defending and expanding the civil liberties of all.

If you decide not to waive fees, we request that you permit us to examine, at our election, the responsive documents before deciding which portions to copy. We would prefer the documents in electronic format.

If you believe that some portion of the documents requested are exempt from disclosure or require redaction, please release any reasonably segregable portions that are not exempt. In addition, please note the applicable statutory exemption and explain why it applies to the redacted portions. As you know, a custodian of public records shall comply with a request within ten business days after receipt.

If you have questions about this request, please contact me at (617) 482-3170 x402 or efalcon@aclum.org.

Thank you for your assistance. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Emiliano Falcon-Morano", with a stylized flourish at the end.

Emiliano Falcon-Morano
Policy Counsel
Technology for Liberty Program
ACLU of Massachusetts

EXHIBIT 5



Kade Crockford
Director, Technology for
Liberty Program
(617) 482-3170 ext. 346

Emiliano Falcon-Morano
Policy Counsel, Technology
for Liberty Program
(617) 482-3170 ext. 402

October 16, 2020

Via Email

Ms. Arielle Mullaney,
Assistant General Counsel
Executive Office of Public Safety and Security
arielle.mullaney@state.ma.us

Ms. Agapi Koulouris
General Counsel
Department of Criminal Justice Information Services
agapi.koulouris@state.ma.us

**Re: Public Records Request Related to the Use of Automatic
License Plate Readers (ALPRs)**

Dear Ms. Mullaney and Ms. Koulouris:

This is a public records request made pursuant to G.L. c. 66, § 10 on behalf of the American Civil Liberties Union of Massachusetts, Inc. ("ACLUM"). ACLUM seeks records related to the use of automatic license plate readers (ALPRs) and associated databases in Massachusetts as captured in records held by either the Executive Office of Public Safety and Security ("EOPSS") or the Department of Criminal Justice Information Services ("DCJIS") (collectively the "Agencies").

This public records request is the second request submitted by ACLUM seeking records related to ALPR. ACLUM submitted a request on May 4, 2020, to which the Agencies provided a response on July 17. ACLUM now submits this request to seek specific records identified or alluded to in the Agencies' July 17 response. The July 17 response is attached hereto as Exhibit A.

ACLUM hereby requests the following records created on or after January 1, 2017, unless a date is otherwise specified in the request:

1. Records pertaining to the URLs "associated with each [ALPR] device" identified in Response 1 of Exhibit A that show how the Agencies keep that URL information and how the Agencies track which URL information is associated with the municipality hosting the equipment. This request includes information contained in an electronic database;

2. Records reflecting, relating to, governing, or revealing which municipalities use ALPR technology and/or the total number and each type of any ALPR equipment operative in each municipality at any time since January 1, 2017;
3. Any and all “Transaction Log” maintained by either DCJIS or EOPSS that records “all transactions made by CJIS user agencies.” This includes, but is not limited to, any logs referred to in Section 6.0 of the “Massachusetts Department of Criminal Justice Information Services Global Justice and Public Safety User Agreement;”
4. Records revealing, governing, or related to access to the statewide repository¹ by the Federal Bureau of Investigation (FBI) and/or its employees;
5. Records revealing or defining “criminal justice purposes” as used in Response 13 of Exhibit A;
6. Records pertaining to or revealing how the Agencies implement regulations set forth in 803 CMR 7.00 as attached hereto as Exhibit B. Those regulations state that every person that has access to the DCJIS system has to be authorized. The term used is “CJIS Authorized User.” Please send us records such as logs that show who is authorized to access the system, when did they access the system, and on whose behalf? If such records do not exist, please provide any records that show how the Agencies keep track of who accesses the system, for what reason, and when; and
7. Records revealing which municipalities have adopted, or enacted policies similar to, the “MODEL POLICY FOR LAW ENFORCEMENT AGENCIES - AUTOMATIC LICENSE PLATE RECOGNITION (ALPR) SYSTEMS.”

When responding to this request, “Agencies” should be interpreted to mean any records maintained by DCJIS, EOPSS, or both; that a responsive record is not maintained by both Agencies collectively does not make the records non-responsive to this request. If you withhold or redact some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions apply and release any portions of the records for which you do not claim an exemption. We ask that you provide the records in electronic format to the maximum extent possible. As you know, a custodian of public records shall comply with a request within ten days of receipt.

¹ The statewide repository is the database that stores ALPR data captured, and submitted, by local and state law enforcement agencies. This database allows data to be readily accessible by local, state, and federal law enforcement.

We ask that you waive any fees and copying costs, pursuant to 950 C.M.R. 32.07. ACLUM is a not-for-profit, non-partisan organization dedicated to the principles of liberty and equality.

Thank you for your anticipated prompt attention to this request. Please do not hesitate to contact us if I can clarify any part of this request.

Best regards,

A handwritten signature in black ink, appearing to be 'Kade Crockford', with a stylized, cursive script.

Kade Crockford
Director,
Technology for Liberty Program

A handwritten signature in black ink, appearing to be 'Emiliano Falcon-Morano', with a stylized, cursive script.

Emiliano Falcon-Morano
Policy Counsel,
Technology for Liberty Program

EXHIBIT A



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
One Ashburton Place, Room 2133
Boston, Massachusetts 02108

Tel: (617) 727-7775

TTY Tel: (617) 727-6618

Fax: (617) 727-4764

www.mass.gov/eops

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

THOMAS A. TURCO, III
Secretary

July 17, 2020

VIA EMAIL ONLY

Emiliano Falcon
ACLU of Massachusetts
efalcon@aclum.org

Re: Public Records Request

Dear Mr. Falcon,

The Executive Office of Public Safety and Security (EOPSS) and the Department of Criminal Justice Information Services (DCJIS) (hereinafter referred to as the Agencies) are in receipt of your public records request seeking license plate reader data. The responses are set forth below each request.

1. Records showing the location of ALPR cameras units operating in the state, if possible broken down by controlling agency;

RESPONSE: The Agencies do not possess records responsive to this request. ALPR equipment is purchased by individual police departments.

The departments maintain their own inventory of both active and inactive ALPR cameras, both fixed and mobile. The locations of the cameras can change over time depending on various public safety needs. The ALPR system has access to the url associated with each device. The Agencies, however, would like to emphasize in this response that disclosure of the location of the ALPR cameras could compromise ongoing investigations and create additional public safety risks. In support of this statement, the Agencies note that individuals seeking to evade detection by law enforcement may cause damage to the infrastructure of said equipment or avoid those locations.

2. Records showing the total number of ALPR units operating in the state, if possible broken down by controlling agency;

RESPONSE: The Agencies reassert their response in Request 1.

3. Records showing the total number of ALPR units submitting data to any database controlled or managed by the Commonwealth of Massachusetts (“the statewide repository”);

RESPONSE: The Agencies reassert their response in Request 1.

4. Records listing all of the agencies that submit captured ALPR data to the statewide repository;

RESPONSE: The Agencies request further clarification as to the request for “captured ALPR data.”

5. Records showing the total number of ALPR records submitted to the statewide repository since its creation, if possible broken down by submitting agency;

RESPONSE: The Agencies assert that the information requested concerning the “records submitted to the statewide repository since its creation” is exempt from public disclosure pursuant to G.L. c. 4, § 7 clause 26(n) as it may contain records that could jeopardize public safety or cyber security. The disclosure of the location of said devices specifically relates to the “...blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure located within the commonwealth, the disclosure of which...” may jeopardize the cyber security of said system.

The Agencies also assert that such information is exempt from public disclosure under the investigatory exemption. G.L. c. 4, § 7 clause 26(f) contemplates that the success of law enforcement is predicated on the strength and reliability of its own techniques. Revealing the full scale of ALPR equipment being utilized would undermine the technique as a tool in law enforcement investigations where license plate information is of significant import.

The Agencies further assert that the information requested concerns internal personnel rules and practices which are exempt from public disclosure pursuant to G.L. c. 4, § 7 clause 26(b). See also 5 U.S.C. §552(b)(2). The Agencies collectively state that the information requested contains internal matters of a substantial nature the disclosure of which would risk the circumvention of statute and/or agency regulation. The Federal Exemption 2 encompasses protection of sensitive internal agency information where public dissemination of same would render the information operationally useless and create and end-run on ongoing law enforcement efforts. To this end, Exemption 2 is designed to prevent FOIA disclosure that would “benefit those attempting to violate the law and avoid detection.” *Crooker v. ATF*, 650 F.2d 1051, 1054 (D.C. Cir. 1981) (en banc). As such, the Agencies maintain disclosure of this information would essentially frustrate the ‘anti-circumvention’ protections, afforded under both state and Federal law, which contemplate above all else the public safety interests at stake.

Further, the information requested is exempt from public disclosure ALPR data is purged after a twelve (12) month period on a daily basis.

6. Records showing the total number of ALPR records currently held in the statewide repository;

RESPONSE: As of the date of this request, the total number of reads in the statewide repository is 133828412.

7. Records showing the total number of searches performed on the statewide repository, including if possible reasons for the searches and the identities of the agencies performing the searches;

RESPONSE: The ALPR database does not perform in the manner described in your request. Individual departments seeking information about license plate numbers enter those numbers into the database and may then be notified by the system. Although there is an ability to query a particular data set, that is not the regular use of this database and is not maintained in such a way. Therefore, the total number of searches performed by the ALPR databases, are not records regularly maintained by EOPSS or DCJIS. EOPSS and DCJIS direct your request to the individual departments for total number of queries to the extent they are able to obtain such information from their vendors.

8. Records showing a list of agencies, inside and outside of Massachusetts, that have access to search the statewide repository;

RESPONSE: Please see enclosed responsive excel spreadsheet.

9. Records containing the names of private companies that have direct or indirect access to data in the statewide repository;

RESPONSE: The Agencies maintain no responsive records to your request as no private company, other than the vendors that are contractors of criminal justice agencies that use ALPR equipment, has access to the system.

10. Records showing the total number of out-of-state or federal requests for information from the statewide repository, including information about how many and/or which of these requests resulted in the disclosure of the information sought;

RESPONSE: Any inquiries submitted by out of state or federal agencies would be submitted by those agencies through the FBI NCIC system and not directly to the Massachusetts ALPR. As such, the Agencies maintain no responsive records to your request.

11. Policies, memoranda of understanding, and/or contracts pertaining to the statewide repository or access to its data;

RESPONSE: Please see enclosed responsive records.

12. Records containing the names, agencies, and titles of all authorized personnel who have the technical capacity to access or search the statewide repository;

RESPONSE: Individual departments designate personnel authorized to access the system. At DCJIS, only information technology staff with authorized need to access the data would have the ability to view information with the database.

13. Records describing the legal standard required to perform a search of the statewide repository;

RESPONSE: As with all other public safety databases, the use is regulated by the CJIS user agreement and any search of the ALPR database must be for official criminal justice purposes as stated in the DCJIS regulations 803 CMR 7.00.

14. Records pertaining to the Commonwealth's implementation of the ruling in *Commonwealth v. McCarthy*, including any legal memoranda, guidances, or policy statements that show how policies and practices were impacted or affected by the ruling; and

RESPONSE: The Agencies do not possess any responsive records to this request.

15. Records describing the number and type of crimes solved using data obtained from the statewide repository, including any information about the role license plate data played in

the investigation (please only provide this information for cases that resulted in criminal convictions).

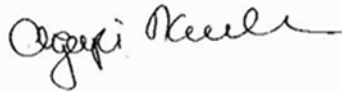
RESPONSE: The Agencies do not catalog arrests or prosecutions according to the myriad forms of evidence that are gathered and utilized in conjunction with one another during corresponding investigations. Therefore, our audit capabilities do not allow us to delineate which investigations utilizing license plate documentation – or a fingerprint match, DNA sample, or suspect's admissions, for example – resulted in conviction.

If you object to EOPSS's response, you may, pursuant to G.L. c. 66, § 10(b) and 950 CMR 32.08(2), appeal its determination to the Public Records Division of the Office of the Secretary of the Commonwealth.

Sincerely,



Arielle Mullaney
Assistant General Counsel



Agapi Koulouris
General Counsel
Department of Criminal Justice Information Services

EXHIBIT 6

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT
CIVIL ACTION NO. 2284CV02815

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.

Plaintiff,

v.

EXECUTIVE OFFICE OF PUBLIC SAFETY
AND SECURITY, and DEPARTMENT OF
CRIMINAL JUSTICE INFORMATION
SERVICES,

Defendants.

DCJIS'S RESPONSE TO PLAINTIFFS' FIRST INTERROGATORIES

Defendant Department of Criminal Justice Information Services ("DCJIS") hereby responds to Plaintiffs' First Interrogatories as follows.

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY 1

Identify the requests for proposals for the system powering the ALPR database, any responses you received or are aware of, and any final contract(s) for services, including the identities of any involved vendors or designers and the dates for all contracts of services.

Objection:

DCJIS objects to this interrogatory on the ground that it is overly broad, unduly burdensome, not relevant to the subject matter involved in the pending action, and not reasonably

calculated to lead to the discovery of admissible evidence. The information requested bears no relationship to the subject matter of this action, which arises from the response by DCJIS and Defendant Executive Office of Public Safety and Security (“EOPSS”) to three specific public records requests propounded by Plaintiff ACLUM. The information requested in this Interrogatory is not responsive to those public records requests, and is not relevant to the Defendants’ response to those requests.

Response:

Subject to and without waiver of the foregoing objections, DCJIS responds that the ALPR database is maintained by the Massachusetts State Police, not DCJIS. DCJIS did not conduct the procurement for the ALPR database system, and does not have the information requested in Interrogatory No. 1.

INTERROGATORY 2

Fully describe the contributions made by the selected vendor(s) or designer(s) and the Commonwealth in developing and implementing the ALPR database, including identification of (1) who wrote, designed or provided the code that enables the ALPR database; (2) who provided any accompanying software to the ALPR database and versions thereof; (3) the name of the ALPR database product(s); and (4) any specifications or customizations requested by the Commonwealth in designing the ALPR database.

Objections:

DCJIS objects to this interrogatory on the ground that it is overly broad, unduly burdensome, not relevant to the subject matter involved in the pending action, and not reasonably calculated to lead to the discovery of admissible evidence. The information requested bears no relationship to the subject matter of this action, which arises from the response by DCJIS and Defendant Executive Office of Public Safety and Security (“EOPSS”) to three specific public records requests propounded by Plaintiff ACLUM. The information requested in this

Interrogatory is not responsive to those public records requests, and is not relevant to the Defendants' response to those requests. DCJIS further objects to this Interrogatory on the ground that the word "contributions" is vague and unclear and not reasonably susceptible of a response. DCJIS further objects to this Interrogatory on the ground that it seeks information that is confidential, disclosure of which would potentially jeopardize law enforcement efforts and the Commonwealth's cybersecurity.

Response:

Subject to and without waiver of the foregoing objections, DCJIS responds that the ALPR database is maintained by the Massachusetts State Police, not DCJIS. DCJIS does not have the information requested in Interrogatory No. 2.

INTERROGATORY 3

Fully describe the structure of the ALPR database, including whether it has both front and back ends, whether it interfaces with or feeds data into any other database systems and if so which systems, the structure of any user interfaces, input and output mechanisms, navigation tools, information fields used within, and export capabilities (who can export data from the database(s) or repositories and how).

Objection:

DCJIS restates and incorporates by reference its Objections to Interrogatory No. 2.

Response:

Subject to and without waiver of the foregoing objections, DCJIS responds that the ALPR database is maintained by the Massachusetts State Police, not DCJIS. DCJIS does not have the information requested in Interrogatory No. 3.

INTERROGATORY 4

Fully describe the systems for monitoring users' access of or to the ALPR database, including logging capabilities (*i.e.*, how user interactions with the database are logged) and auditing capabilities (*i.e.*, who can audit and how can one audit the database(s)), and the methods that the system uses to create reports showing aggregate data of who accessed the system, what they did, and when.

Objection:

DCJIS restates and incorporates by reference its Objections to Interrogatory No. 2.

Response:

Subject to and without waiver of the foregoing objections, DCJIS responds that the ALPR database is maintained by the Massachusetts State Police, not DCJIS. DCJIS does not have the information requested in Interrogatory No. 4.

Further responding, DCJIS states that its role is to serve as the Criminal Justice Information Services Systems Agency ("CSA") in the Commonwealth on behalf of the FBI. In this role, DCJIS serves as the conduit to access and monitor the Criminal Justice Information Services ("CJIS") network agencies and users. As DCJIS is the conduit for access to the CJIS system, DCJIS records log-in attempts for users that are directly accessing the CJIS network.

The ALPR database is not part of the CJIS network. DCJIS does not provide user departments with access to ALPR equipment or system data. As such, DCJIS is not responsible for, and cannot, record log-in attempts to ALPR systems. The relationship between the CJIS network and ALPR systems is that ALPR systems can be configured to *receive* certain information from CJIS pertaining to plates that have been reported in the National Crime Information Center ("NCIC") system as stolen or warranted. To the extent that ALPR systems access or contain Criminal Justice Information ("CJI"), these systems are subject to the FBI's CJIS Security Policy. The FBI's CJIS Security Policy (Section 5.4, "Auditing and

Accountability”), requires agencies that access CJIS data to maintain event logs that, for example, record unsuccessful log-in attempts. The CJIS Security Policy does not require that *DCJIS* maintain this information for the ALPR systems, because DCJIS does not operate or maintain those systems. Rather the FBI CJIS Security Policy requires that users that operate a system that contains CJIS record event information. Thus, each such user agency must maintain such information consistent with the FBI CJIS Security Policy.

INTERROGATORY 5

State the basis for DCJIS’s assertion that it “is a custodian of certain of the records that ACLUM sought in its public records requests.” *See ACLUM v. Executive Office of Public Safety and Security, et al.*, Civ. Action No. 22-2815 E, Dkt. No. 7, ¶ 17.

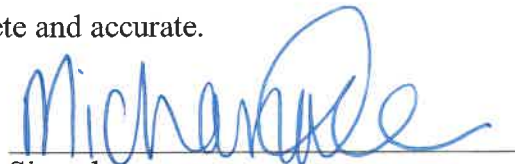
Response:

DCJIS made the statement quoted above in its Answer to an allegation in Paragraph 17 of Plaintiff’s Complaint alleging that DCJIS is “a custodian of the records ACLUM seeks.” The basis for DCJIS’s statement is that, while DCJIS is the custodian of certain records requested by the Plaintiff in its public records requests, it is not the custodian of any of the records requested in the three public records requests in dispute in this case: Request No. 5 and No. 14 of the Plaintiff’s first public records requests (dated May 4, 2020) and Request No. 3 of the Plaintiff’s second public records requests (dated October 16, 2020). Records concerning the APLR database are in the custody of the Massachusetts State Police.

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VERIFICATION

Signed under the penalties of perjury, based on information known to the undersigned, or information made available to the undersigned, which to the best of his/her understanding is true, this ____ day of June, 2023. By answering and signing these interrogatories, the undersigned attests only that the responsive information is true to the best of his/her knowledge. He/She does not have personal knowledge of all the information described herein. He/She has relied on information obtained by other employees or by reviewing documentation in providing these responses, which he/she believes are complete and accurate.


Signed:

AS TO OBJECTIONS:

DEPARTMENT OF CRIMINAL JUSTICE
INFORMATION SERVICES

By its attorney,

ANDREA JOY CAMPBELL Attorney General of
the Commonwealth of Massachusetts,

s/ Julie E. Green

Julie E. Green, BBO# 645725
Assistant Attorney General
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Julie.Green@mass.gov

Dated: June 5, 2023

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2023 a true copy of the foregoing document was served by email on the following:

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Jessie J. Rossman (BBO No. 670685)
Jessica Lewis (BBO No. 704229)
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jlewis@aclum.org

Counsel for Plaintiff

s/ Julie E. Green
Julie E. Green

EXHIBIT 7

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT
CIVIL ACTION NO. 2284CV02815

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.

Plaintiff,

v.

EXECUTIVE OFFICE OF PUBLIC SAFETY
AND SECURITY, and DEPARTMENT OF
CRIMINAL JUSTICE INFORMATION
SERVICES,

Defendants.

EOPSS’S RESPONSE TO PLAINTIFFS’ FIRST INTERROGATORIES

Defendant Executive Office of Public Safety and Security (“EOPSS”) hereby responds to Plaintiffs’ First Interrogatories as follows.

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY 1

Identify the requests for proposals for the system powering the ALPR database, any responses you received or are aware of, and any final contract(s) for services, including the identities of any involved vendors or designers and the dates for all contracts of services.

Objection:

EOPSS objects to this interrogatory on the ground that it is overly broad, unduly burdensome, not relevant to the subject matter involved in the pending action, and not reasonably

calculated to lead to the discovery of admissible evidence. The information requested bears no relationship to the subject matter of this action, which arises from the response by EOPSS and Defendant Department of Criminal Justice Information Services (“DCJIS”) to three specific public records requests propounded by Plaintiff ACLUM. The information requested in this Interrogatory is not responsive to those public records requests, and is not relevant to the Defendants’ response to those requests.

Response:

Subject to and without waiver of the foregoing objections, EOPSS responds that the ALPR database is maintained by the Massachusetts State Police, not EOPSS. EOPSS did not conduct the procurement for the ALPR database system, and does not have the information requested in Interrogatory No. 1.

INTERROGATORY 2

Fully describe the contributions made by the selected vendor(s) or designer(s) and the Commonwealth in developing and implementing the ALPR database, including identification of (1) who wrote, designed or provided the code that enables the ALPR database; (2) who provided any accompanying software to the ALPR database and versions thereof; (3) the name of the ALPR database product(s); and (4) any specifications or customizations requested by the Commonwealth in designing the ALPR database.

Objections:

EOPSS objects to this interrogatory on the ground that it is overly broad, unduly burdensome, not relevant to the subject matter involved in the pending action, and not reasonably calculated to lead to the discovery of admissible evidence. The information requested bears no relationship to the subject matter of this action, which arises from the response by DCJIS and EOPSS to three specific public records requests propounded by Plaintiff ACLUM. The information requested in this Interrogatory is not responsive to those public records requests, and

is not relevant to the Defendants' response to those requests. EOPSS further objects to this Interrogatory on the ground that the word "contributions" is vague and unclear and not reasonably susceptible of a response. EOPSS further objects to this Interrogatory on the ground that it seeks information that is confidential, disclosure of which would potentially jeopardize law enforcement efforts and the Commonwealth's cybersecurity.

Response:

Subject to and without waiver of the foregoing objections, EOPSS responds that the ALPR database is maintained by the Massachusetts State Police, not EOPSS. EOPSS does not have the information requested in Interrogatory No. 2.

INTERROGATORY 3

Fully describe the structure of the ALPR database, including whether it has both front and back ends, whether it interfaces with or feeds data into any other database systems and if so which systems, the structure of any user interfaces, input and output mechanisms, navigation tools, information fields used within, and export capabilities (who can export data from the database(s) or repositories and how).

Objection:

EOPSS restates and incorporates by reference its Objections to Interrogatory No. 2.

Response:

Subject to and without waiver of the foregoing objections, EOPSS responds that the ALPR database is maintained by the Massachusetts State Police, not EOPSS. EOPSS does not have the information requested in Interrogatory No. 3.

INTERROGATORY 4

Fully describe the systems for monitoring users' access of or to the ALPR database,

including logging capabilities (*i.e.*, how user interactions with the database are logged) and auditing capabilities (*i.e.*, who can audit and how can one audit the database(s)), and the methods that the system uses to create reports showing aggregate data of who accessed the system, what they did, and when.

Objection:

EOPSS restates and incorporates by reference its Objections to Interrogatory No. 2.

Response:

Subject to and without waiver of the foregoing objections, EOPSS responds that the ALPR database is maintained by the Massachusetts State Police, not EOPSS. EOPSS does not have the information requested in Interrogatory No. 4.

INTERROGATORY 5

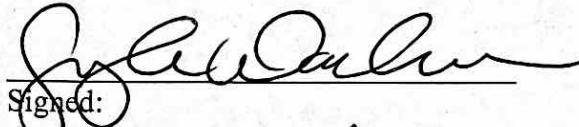
State the basis for EOPSS's denial that it is "a custodian of the records ACLUM seeks." See *ACLUM v. Executive Office of Public Safety and Security, et al.*, Civ. Action No. 22-2815 E, Dkt. No. 7, ¶ 16.

Response:

In its Answer to the Complaint, EOPSS denied the allegations of Paragraph 16 of the Complaint that it is "a custodian of the records ACLUM seeks." The basis for EOPSS's statement is that, while EOPSS is producing records requested in Request No. 14 of the Plaintiff's first public records requests (dated May 4, 2020), it is not the custodian of records requested in Request No. 5 of the Plaintiff's first public records requests (dated May 4, 2020) and Request No. 3 of the Plaintiff's second public records requests (dated October 16, 2020). Records concerning the APLR database are in the custody of the Massachusetts State Police.

VERIFICATION

Signed under the penalties of perjury, based on information known to the undersigned, or information made available to the undersigned, which to the best of his/her understanding is true, this 5 day of June, 2023. By answering and signing these interrogatories, the undersigned attests only that the responsive information is true to the best of his/her knowledge. He/She does not have personal knowledge of all the information described herein. He/She has relied on information obtained by other employees or by reviewing documentation in providing these responses, which he/she believes are complete and accurate.


Signed: Suleyman D. Walker
General Counsel

AS TO OBJECTIONS:

EXECUTIVE OFFICE OF PUBLIC SAFETY
AND SECURITY

By its attorney,

ANDREA JOY CAMPBELL Attorney General of
the Commonwealth of Massachusetts,

s/ Julie E. Green
Julie E. Green, BBO# 645725
Assistant Attorney General
Office of the Attorney General
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(617) 727-5785 (Facsimile)
Julie.Green@mass.gov

Dated: June 5, 2023

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2023 a true copy of the foregoing document was served by email on the following:

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jlewis@aclum.org

Counsel for Plaintiff

s/ Julie E. Green
Julie E. Green

EXHIBIT 7

2284CV02815 American Civil Liberties Union of Massachusetts Inc vs. Executive Office of Public Safety and Security et al

- Case Type:
- Actions Involving the State/Municipality
- Case Status:
- Open
- File Date
- 12/13/2022
- DCM Track:
- A - Average
- Initiating Action:
- Administrative Action involving the Commonwealth, Municipality, MBTA, etc.
- Status Date:
- 10/04/2023
- Case Judge:
-
- Next Event:
-

[All Information](#)
[Party](#)
[Tickler](#)
[Docket](#)
[Disposition](#)

Party Information

American Civil Liberties Union of Massachusetts Inc
- Plaintiff

[Alias](#)

Party Attorney

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[More Party Information](#)

Executive Office of Public Safety and Security
- Defendant

Alias**Party Attorney**

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Department of Criminal Justice Information Services
- Defendant

Alias**Party Attorney**

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[More Party Information](#)

Daniel M. Huttie (PHV Atty for Plaintiff)
- Other interested party

Alias**Party Attorney**[More Party Information](#)**Ticklers**

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Service	12/13/2022	03/13/2023	90	
Answer	12/13/2022	04/12/2023	120	
Rule 12/19/20 Served By	12/13/2022	04/12/2023	120	10/04/2023
Rule 12/19/20 Filed By	12/13/2022	05/12/2023	150	10/04/2023
Rule 12/19/20 Heard By	12/13/2022	06/12/2023	181	10/04/2023
Rule 15 Served By	12/13/2022	02/06/2024	420	10/04/2023
Rule 15 Filed By	12/13/2022	03/07/2024	450	10/04/2023
Rule 15 Heard By	12/13/2022	03/07/2024	450	10/04/2023
Discovery	12/13/2022	12/02/2024	720	10/04/2023
Rule 56 Served By	12/13/2022	01/01/2025	750	10/04/2023
Rule 56 Filed By	12/13/2022	01/31/2025	780	10/04/2023
Final Pre-Trial Conference	12/13/2022	06/02/2025	902	10/04/2023
Judgment	12/13/2022	12/12/2025	1095	10/04/2023

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
12/13/2022	Attorney appearance On this date Michael A Albert, Esq. added for Plaintiff American Civil Liberties Union of Massachusetts Inc		
12/13/2022	Attorney appearance On this date Anant Kumar Saraswat, Esq. added for Plaintiff American Civil Liberties Union of Massachusetts Inc		
12/13/2022	Case assigned to: DCM Track A - Average was added on 12/13/2022		
12/13/2022	Original civil complaint filed.	1	
12/13/2022	Civil action cover sheet filed.	2	
12/13/2022	Plaintiff American Civil Liberties Union of Massachusetts Inc's Motion to Appoint Special Process Server ALLOWED. (dated 12/13/2022) Notice in hand.	3	 
12/13/2022	Plaintiff American Civil Liberties Union of Massachusetts Inc's Motion to Admit Daniel M. Huttie Pro Hac Vice	4	
12/14/2022	Endorsement on Motion to admit Daniel m. huttie pro hac vice (#4.0): ALLOWED allowed (12/14/2022) notice sent (12/202/2022)		 
12/20/2022	Service Returned for Defendant Executive Office of Public Safety and Security: Service made in hand;	5	
12/20/2022	Service Returned for Defendant Department of Criminal Justice Information Services: Service made in hand;	6	
12/27/2022	Attorney appearance electronically filed On this date Jessica Lewis, Esq. added for Plaintiff American Civil Liberties Union of Massachusetts Inc		 
12/27/2022	Attorney appearance electronically filed On this date Jessie J Rossman, Esq. added for Plaintiff American Civil Liberties Union of Massachusetts Inc		 
02/10/2023	Answer to original complaint Received from Defendant Executive Office of Public Safety and Security and Defendant Department of Criminal Justice Information Services.	7	
02/10/2023	Attorney appearance On this date Julie Elisabeth Green, Esq. added for Defendant Executive Office of Public Safety and Security		
02/10/2023	Attorney appearance On this date Julie Elisabeth Green, Esq. added for Defendant Department of Criminal Justice Information Services		
03/30/2023	Attorney appearance electronically filed.		
03/30/2023	Plaintiff American Civil Liberties Union of Massachusetts Inc's Notice of Withdrawal of Pro Hac Vice counsel		 
03/31/2023	Party status: Other interested party DAniel M. Huttie (PHV Atty for Plaintiff): Withdrawn;		
10/03/2023	Party(s) file Stipulation of Dismissal pursuant to the provisions of Mass.R.Civ.P. Rule 41(a)(1)(ii), hereby stipulate that said action be dismissed as to all counts and claims with prejudice and without interest or costs, waiving all rights of appeal. Applies To: American Civil Liberties Union of Massachusetts Inc (Plaintiff); Executive Office of Public Safety and Security (Defendant); Department of Criminal Justice Information Services (Defendant)	8	 

Case Disposition

<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Disposed by Agreement / Settled	10/04/2023	

Disposition	Date	Case Judge
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For Land Court only: Name search is currently unavailable. Case type and case number searches are available. For a Land Court name search, contact the Land Court Recorder's Office at 617-788-7470. We apologize for the inconvenience. ✖