

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 2384CV02560

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS, INC.,

Plaintiff,

v.

MASSACHUSETTS STATE POLICE,

Defendant.

**CONSOLIDATED STATEMENT OF FACTS AND RESPONSES
UNDER SUPERIOR COURT RULE 9A(b)(5)(iv)(C)**

I. The Parties

1. Plaintiff the American Civil Liberties Union of Massachusetts, Inc. (“ACLUM”) is a Massachusetts non-profit corporation with its principal place of business in Boston, Massachusetts. Compl., ¶ 15.

RESPONSE: Undisputed.

2. Defendant Massachusetts State Police (“MSP”) is an agency of the Commonwealth of Massachusetts with its principal place of business, its headquarters, in Framingham, Middlesex County, Massachusetts. Compl., ¶ 16; Ans., ¶ 16.

RESPONSE: Undisputed.

A. Automatic License Plate Reader Technology and Its Use in the Commonwealth

3. Automatic License Plate Reader (“ALPR”) technology has been used in Massachusetts since 2008. Compl., ¶ 5.

RESPONSE: Undisputed.

4. 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. Compl., ¶ 2; Ans., ¶ 2 (admitted).

RESPONSE: Undisputed.

5. MSP documents characterize the ALPR cameras MSP uses as overt, covert, or mounted to trailers or cruisers. Declaration of Marie McKiernan ("Decl."), ¶ 6, Ex. 5.

RESPONSE: Undisputed.

6. MSP documents demonstrate that the ALPR cameras used by MSP are located within the public. Decl., ¶ 6, Ex. 5.

RESPONSE: Undisputed.

7. MSP documents demonstrate that the ALPR cameras used by MSP are located outdoors. Decl., ¶ 7, Ex. 6.

RESPONSE: Undisputed.

8. ALPR cameras are combined with optical character recognition software that automatically translates images of license plates into machine readable text. Compl., ¶ 2; Ans., ¶ 2 (admitted). *See also* Decl., ¶ 8, Ex. 7.

RESPONSE: Undisputed.

9. ALPR technology records information about vehicles that pass each camera's lens. Compl., ¶ 4; Ans., ¶ 4 (relevant portions admitted).

RESPONSE: Undisputed.

10. ALPR technology creates 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. Compl., ¶ 2; Ans., ¶ 2 (admitted).

RESPONSE: Undisputed.

11. ALPR technology can allow review of the information recorded by the camera's lens. Compl., ¶ 4; Ans., ¶ 4 (relevant portions admitted).

RESPONSE: Undisputed.

12. ALPR technology can generate real-time alerts about vehicles passing a camera's lens. Comp. ¶ 4; Ans., ¶ 4.

RESPONSE: Undisputed.

13. MSP has the ability to pool the data collected from ALPR readers into regional or nationwide law enforcement databases. *See* Decl., ¶¶ 29-30, Exs. 22, 23.

RESPONSE: Undisputed that the MSP has the *ability* to pool data collected from ALPR readers into regional or nationwide law enforcement databases.

14. MSP has acknowledged its use of the ALPR system provided by Vigilant Solutions. Decl., ¶ 2, Ex. 1.

RESPONSE: Undisputed.

15. Vigilant's system has collected approximately 1.5 billion ALPR scans from law enforcement agencies across the country. Decl., ¶ 3, Ex. 2.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

16. Vigilant sells access to its database of over 5 billion license plate scans, including the 1.5 billion ALPR scans from law enforcement agencies. Decl., ¶ 3, Ex. 2.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

17. Vigilant's system allows MSP to automatically share their ALPR collection with outside law enforcement agencies that are part of the network. Decl., ¶ 3, Ex. 2.

RESPONSE: Undisputed as to the system's capability but disputed as to the automatic sharing of data with outside law enforcement agencies that are part of the network. See **Appx. at 346, Walczak Aff. ¶ 65**.

18. The Vigilant network includes 25 states. Decl., ¶ 4, Ex. 3.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

19. Some of the states in Vigilant's network have severe abortion access restrictions. Decl., ¶¶ 3-4, Exs. 3-4.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

20. The Commonwealth of Massachusetts lacks any statute expressly regulating law enforcement's use of ALPR technology. Compl., ¶ 5.

RESPONSE: Undisputed.

21. In December 2020, MSP temporarily halted the use of ALPR technology due to flaws in the way some of the ALPR data, specifically date and time, was recorded. Compl., ¶ 6; Ans., ¶ 6 (admitted in relevant part).

RESPONSE: Undisputed.

22. In December 2020, the Executive Office of Public Safety and Security (“EOPSS”) released a memorandum documenting this ALPR failure (“EOPSS Memorandum”). Compl., ¶ 6, Ex. 2; Ans., ¶ 6 (admitted in relevant part).

RESPONSE: Undisputed.

23. The EOPSS Memorandum noted that five years of ALPR data “should not be relied upon in the absence of information supporting the accuracy of that date and time.” Compl., ¶ 6, Ex. 2.

RESPONSE: Undisputed.

24. The Supreme Judicial Court recognized the Commonwealth’s use of ALPR technology and noted that it could implicate constitutional protections against unreasonable searches and seizures in *Commonwealth v. McCarthy*, 484 Mass. 493, 507-508 (2020) (“*McCarthy*”). Compl., ¶ 8.

RESPONSE: Undisputed.

25. The Supreme Judicial Court’s decision in *McCarthy* explicitly stated 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.” *McCarthy*, 484 Mass. at 506; Compl., ¶ 9.

RESPONSE: Undisputed.

26. The Supreme Judicial Court’s decision in *McCarthy* was highly publicized. (See, e.g., <https://www.mass.gov/news/mccarthy-press-release>) (last accessed October 24, 2025).

RESPONSE: Undisputed that the decision was publicized.

B. ACLUM Requests to Other State Agencies

27. In May 2020, ACLUM sent public records requests to the Executive Office of Public Safety and Security (“EOPSS”) and the Department of Criminal Justice Information Services (“DCJIS”) requesting ALPR policies and data. Compl., ¶ 22, Exs. 3-4; Ans., ¶ 22.

RESPONSE: Undisputed.

28. In October 2020, ALCUM sent additional requests to EOPSS and DCJIS requesting audit logs recording access to the ALPR database. Compl., ¶ 23, Ex. 5; Ans., ¶ 23.

RESPONSE: Undisputed.

29. In December 2022, ALCUM filed a lawsuit in Suffolk Superior Court seeking injunctive and declaratory relief regarding EOPSS and CJIS’s failures to comply with ACLUM’s May and October 2020 requests. *ACLUM v. EOPSS, et al.*, Civil Action No. 2284CV02815; Compl., ¶ 24; Ans., ¶ 24.

RESPONSE: Undisputed.

30. On February 10, 2023, EOPSS and CJIS filed their answer to the complaint in *ACLUM v EOPSS*. Compl., ¶ 25; Ans., ¶ 25.

RESPONSE: Undisputed.

31. In their answer, EOPSS and CJIS identified MSP as the custodian of the ALPR database. Compl., ¶ 25; Ans., ¶ 25.

RESPONSE: Undisputed.

32. On June 5, 2023, in response to interrogatories served upon them in *ACLUM v. EOPSS*, EOPSS and CJIS stated that MSP was the sole custodian of relevant ALPR records. Compl., ¶ 27, Ex. 6 at 4, 6, Ex. 7 at 4.

RESPONSE: Undisputed.

33. On June 8, 2023, MSP sent a letter to ACLUM confirming that it is the custodian of the ALPR database, providing a printout showing total reads and hits captured in the ALPR database as of June 7, 2023, and citing exemptions purporting to preclude disclosure of certain requested records including audit logs from the database. Compl., ¶ 28, Ex. 1 at Ex. B; Ans., ¶ RESPONSE: Undisputed.

34. On June 13, 2023, EOPSS provided additional documents to ACLUM related to the use of ALPR technology that seemingly originated from MSP. Compl., ¶ 29.

RESPONSE: Undisputed.

35. 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. Compl., ¶ 30; Ans., ¶ 30 (admitted in relevant part).

RESPONSE: Undisputed.

36. On October 4, 2023, the *ACLUM v. EOPSS* litigation was dismissed based on the voluntary agreement. Compl., ¶ 31, Ex. 8; Ans., ¶ 31.

RESPONSE: Undisputed.

C. ACLUM Requests to MSP

37. On February 21, 2023, after EOPSS and CJIS first identified MSP as a custodian of the ALPR database, ACLUM sent a public records request to MSP regarding the ALPR database (“ACLUM’s February 2023 Request”). Compl., ¶ 26, Ex. 1 at Ex. A.

RESPONSE: Undisputed.

38. On August 16, 2023, ACLUM served an additional public records request on MSP (“ACLUM’s August 2023 Request”), concerning the Commonwealth’s use of ALPR technology and associated databases. Decl., ¶ 31, Ex. 24; Compl., ¶¶ 1, 11, 31, Ex. 1; Ans., ¶¶ 11, 31.

RESPONSE: Undisputed.

39. ACLUM's August 16, 2023 Request to MSP requested 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. Compl., ¶¶ 1, 11, 31, Ex. 1.

RESPONSE: Undisputed.

40. ACLUM's August 2023 Request expressly exempted "the license plate number or other identifying information regarding the plate queried" from its request for ALPR Audit Logs. Compl., Ex. 1.

RESPONSE: Undisputed.

41. The ACLUM's August 2023 Request sought, among other documents, records including those showing the "[l]ocations of cameras which feed into (or populate) the ALPR System or Database" ("ALPR Camera Locations") and those showing how many times, by whom, and for what reasons the ALPR System or Database was queried ("ALPR Audit Logs"). Compl., ¶¶ 1, 31, Ex. 1; Ans., ¶¶ 1, 31 (admitted in relevant part).

RESPONSE: Undisputed.

42. On November 9, 2023, ACLUM filed a lawsuit in Suffolk Superior Court against MSP. Comp., ¶¶ 11-13; Ans., ¶¶ 11-13, 33.

RESPONSE: Undisputed.

43. At that time, MSP had not responded to ACLUM's August 2023 Request. Compl., ¶¶ 12, 33; Ans., ¶¶ 12, 33.

RESPONSE: Undisputed.

44. MSP has possession, custody, or control of the public records requested by ACLUM in ACLUM's August 2023 Request. Compl., ¶ 38; Ans., ¶ 38.

RESPONSE: Undisputed.

45. ACLUM's complaint against MSP seeks injunctive relief requiring the MSP to comply with the Public Records Law (G.L. c. 66, §§ 10, 19) ("PRL") by producing responsive records, declaratory judgment that the ALPR records sought are public records within the meaning of G.L. c. 66, § 10, and fees and costs due to MSP's improper withholding of records. Compl., ¶¶ 34-45.

RESPONSE: Undisputed.

46. MSP filed its Answer to the Complaint on December 26, 2023. Decl., ¶ 11.

RESPONSE: Undisputed.

D. MSP's Reliance on Exemptions To Withhold Records

47. On December 22, 2023, MSP responded to ACLUM's August 2023 Request. Decl., ¶ 9, Ex. 8.

RESPONSE: Undisputed.

48. In its December 22, 2023 letter, MSP explained that it was providing some of the requested information and data. *Id.* Specifically, MSP was producing emails and attachments from 2021-2023 that were responsive to ACLUM's August 2023 Request ("Produced Records").¹ *Id.* Some of the records contained redactions. *Id.*

RESPONSE: Undisputed.

¹ Due to technical difficulties experienced by ACLUM in accessing the Produced Records, MSP reproduced the documents on January 2, 2024. McKiernan Decl., ¶6.

49. MSP also provided data regarding the frequency of use of the system by providing the total hits, queries, and number of cameras along with its December 22, 2023 letter. Decl., ¶ 9, Ex. 8.

RESPONSE: Undisputed.

50. However, MSP claimed certain exemptions purporting to preclude the disclosure of certain documents (“Withheld Records”) and certain information within documents (“Improper Redactions”). *Id.*

RESPONSE: Undisputed.

51. Specifically, MSP asserted that G.L. c. 4, § 7, cl. 26 (f), the investigatory exemption (“Exemption (f)” or the terrorism exemption), and G.L. c. 4, § 7, cl. 26 (n), the security exemption (“Exemption (n)” or the investigative exemption), apply to preclude disclosure of information relating to:

- Request Nos. 1(d) and 3: Locations of cameras which feed into (or populate) the ALPR System or Database (“ALPR Camera Locations”)
- Request Nos. 5 and 7: Audit logs documenting access and use of the ALPR database, including information showing the date and time, event, user, and completion status, but excluding license plate number or other identifying information regarding the plate queried (“ALPR Audit Logs”).

Id.

RESPONSE: Undisputed.

52. In support of its citation of Exemption (n), MSP asserted that “[t]he Department has determined that the requested records relate to security and safety of persons and would reveal security measures and threat preparedness that a terrorist would find useful to maximize damage and, therefore, their release would likely jeopardize public safety.” *Id.*

RESPONSE: Undisputed.

53. In further support of its citation of Exemption (n), MSP asserted that “information regarding queries would reveal details relating to system access, capabilities, security measures, and potentially reveal the location of cameras and patterns of investigations” which “could be used by a terrorist to circumvent security measures by revealing sensitive details of the system and the ability to access data.” *Id.*

RESPONSE: Undisputed.

54. In support of its citation of Exemption (f) with respect to records concerning the ALPR Camera Locations, MSP asserted that “the disclosure of these records may reveal investigative techniques, sources and methods not subject to public release.” *Id.*

RESPONSE: Undisputed.

55. In further support of its citation of Exemption (f), MSP asserted that the ALPR Audit Logs “may reveal investigative techniques, sources and methods not subject to public release.” *Id.*

RESPONSE: Undisputed.

56. MSP also asserted that G.L. c. 4, § 7 clause 26(b), the internal personnel rules and practices exemption (“Exemption (b)” or the internal rules and practices exemption), and 5 U.S.C. § 552(b)(2), the parallel federal exemption (“Exemption 2”), apply to preclude disclosure of information relating to the ALPR Audit Logs. *Id.*

RESPONSE: Undisputed.

57. In support of its citation of Exemption (b), MSP asserted that the ALPR Audit Logs concern “internal personnel rules and practices” the disclosure of which “would risk the circumvention of statutes and/or regulations” and “would essentially frustrate the ‘anti-circumvention’ protections afforded under both state and federal law.” *Id.*

RESPONSE: Undisputed.

58. MSP has not asserted that the ALPR Audit Logs contain information useful in making employment decisions. Decl., ¶ 9, Ex. 8. On February 20 and February 21, 2024, MSP supplemented its production of responsive emails and attachments from the years 2017-2020 (part of the “Produced Records”), which also included some documents containing redactions made under the claimed exemptions noted above. Decl., ¶ 12.

RESPONSE: Undisputed.

59. ACLUM sent MSP a letter on March 22, 2024 noting issues with MSP’s document production, which specifically addressed MSP’s improper redaction of information within the Produced Records. Decl., ¶ 13, Ex. 9 (March 22, 2024 letter from ACLUM to MSP) (“Improper Redaction Letter”).

RESPONSE: Undisputed that ACLUM sent MSP a letter on March 22, 2024. The letter speaks for itself.

60. Specifically, the Improper Redaction Letter identified at least the following types of redactions as improper:

- Redactions made without citation to any specific exemption as improper under G.L. c. 66, § 10, which requires that MSP “provide the specific reasons for withholding” any requested records, “including the specific exemption or exemptions upon which the withholding is based.”
- Redactions under Exemption (f) and Exemption (n) as improper where the ALPR technology involved was “overt,” i.e., compiles publicly available information (e.g., vehicle or license plate information) from cameras in plain view of the public.
- Redactions appearing to relate to broad geographic regions where ALPR data has assisted in resolving criminal activity as improper for failure to explain why these redactions implicate the claimed Exemption (f) and Exemption (n).
- Inconsistencies in how MSP applied redactions, for example providing latitude and longitude information for vehicles in one document but redacting latitude and

longitudinal information for ALPR cameras, or providing timestamping data in certain instances but redacting such information elsewhere.

Decl., ¶ 13, Ex. 9 (Improper Redaction Letter).

RESPONSE: Undisputed that ACLUM sent MSP a letter on March 22, 2024. The letter speaks for itself.

61. ACLUM sent MSP another letter on March 22, 2024 identifying document production deficiencies. Decl., ¶ 14, Ex. 10 (March 22, 2024 letter from ACLUM to MSP) (“Document Deficiency Letter”).

RESPONSE: Undisputed.

62. In this letter, ACLUM explained why MSP’s claiming of Exemption (f), Exemption (n), and Exemption (b) to justify the withholding of the Withheld Records was improper with regards to each of the public records requests for which MSP claimed those exemptions. Decl., ¶ 14, Ex. 10 (Document Deficiency Letter).

RESPONSE: Undisputed.

63. Specifically, the Document Deficiency Letter explained that (1) the Withheld Records were not akin to the records exempt from disclosure under the terrorism exemption – Exemption (n); (2) any dangers cited by MSP justifying withholding the ALPR Camera Locations under the terrorism exemption were risks inherent in placing cameras in public, not in the disclosure of documents reflecting the same; (3) the Withheld Records, while related to investigatory techniques, were not sensitive nor would they prejudice law enforcement efforts if disclosed precluding assertion of the investigatory exemption – Exemption (f); and (4) the ALPR Audit Logs were not the types of records considered related to internal personnel or employment matters under the internal policies and procedures exemption – Exemption (b). Decl., ¶ 14, Ex. 10 (Document Deficiency Letter).

RESPONSE: Undisputed.

64. MSP sent a response letter and served an accompanying supplemental document production on May 22, 2024 that provided some of the missing information identified in ACLUM's March 22 letters. However, MSP continued to claim exemptions with regards to the ALPR Camera Locations and the ALPR Audit Logs—the Withheld Records. Decl., ¶ 15, Ex. 11 (May 22, 2024 Letter from MSP to ACLUM) (“MSP's May 2024 Supplemental Response”).

RESPONSE: Undisputed.

65. MSP asserted in its May 22, 2024 response letter that “ALPR cameras play a critical role in the Department's response to threats and criminal activities and are an important part of the Department's security infrastructure” the disclosure of which “would jeopardize public safety by enabling a terrorist or other individual with criminal or malicious intent to damage, destroy, or circumvent the ALPR system.” Decl., ¶ 15, Ex. 11.

RESPONSE: Undisputed.

66. MSP asserted in its May 22, 2024 response letter that “[g]iven the rapid advances in artificial intelligence and photographic analysis, images of cameras, including those which appear not to contain recognizable landmarks, can be analyzed and isolate a specific geographic area if not pinpoint an location [*sic*].” Decl., ¶ 15, Ex. 11.

RESPONSE: Undisputed.

67. MSP asserted in its May 22, 2024 response letter that the “release of data relating to the operations of the camera system, including the dates and times of camera activity, would reveal sensitive security information including but not limited to location of cameras, information known to law enforcement, and potentially enable a terrorist or criminal actor in evading or causing damage to ALPR infrastructure.” Decl., ¶ 15, Ex. 11.

RESPONSE: Undisputed.

68. MSP asserted in its May 22, 2024 response letter that “[r]evealing 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.” Decl., ¶ 15, Ex. 11.

RESPONSE: Undisputed.

69. MSP asserted in its log accompanying its May 22, 2024 response letter that revelation of camera locations “could assist bad actors/terrorist to locate, vandalize or disable cameras used by law enforcement to investigate crimes or to evade detection.” Decl., ¶ 15, Ex. 11.

RESPONSE: Undisputed.

70. MSP has never asserted that the requested documents do not exist as a basis for withholding certain requested documents. Decl., ¶ 16.

RESPONSE: Undisputed.

71. MSP has never asserted that they did not know how to produce the requested documents as a basis for withholding certain requested documents. Decl., ¶ 17.

RESPONSE: Undisputed. G.L. c. 4, §7, cl. 26 does not exempt records from public dissemination based upon the number of records responsive to a public record request.

72. MSP has never asserted that the production of the requested documents is an impossibility as a basis for withholding certain requested documents. Decl., ¶ 18.

RESPONSE: Undisputed. G.L. c. 4, §7, cl. 26 does not exempt records from public dissemination based upon the number of records responsive to a public record request.

73. ACLUM served discovery requests on MSP on April 10, 2025 concerning the departmental and non-departmental ALPR systems used by MSP. Decl., ¶ 19, Ex. 12.

RESPONSE: Undisputed.

74. MSP responded to those requests on May 28, 2025. Decl., ¶ 20, Ex. 13.

RESPONSE: Undisputed.

75. Multiple news outlets reported extensively on the Boston marathon bombing and often featured the various images captured by numerous surveillance cameras in and around Boston. McKiernan Decl., ¶¶ 21-22, Exs. 14-15. The FBI itself featured some of this very surveillance footage. *See, e.g.*, <https://www.fbi.gov/history/famous-cases/boston-marathon-bombing> (Last accessed October 24, 2025).

RESPONSE: Undisputed.

E. Other facts

76. Various analyses have found that terrorists typically want their actions to be publicized widely and proceed with their actions despite acknowledgement that they will likely be caught. Decl., ¶ 23, Ex. 16.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

77. ALPR technology providers provide marketing materials on the internet to the public regarding their capabilities, functionalities, and uses. Decl., ¶¶ 24-27, Exs. 17-20.

RESPONSE: Undisputed.

78. Companies such as Google have already used artificial intelligence and other photographic technologies that have inadvertently identified ALPR cameras in the public. Decl., ¶ 28, Ex. 21.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

79. Law enforcement agencies in locations where the right to abortion has been restricted could access ALPR data to use to prosecute those who come to Massachusetts to access reproductive healthcare unavailable in their state. Decl., ¶¶ 29-30, Exs. 22-23.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

80. On August 7, 2025, the Massachusetts Shield Act was enacted. Decl., ¶ 32, Ex. 25 at 1. This Act prohibits Massachusetts police from providing information or assistance to an out-of-state agency regarding investigations into the provision of reproductive or gender affirming healthcare services that would have been lawful if provided in Massachusetts. Decl., ¶ 32, Ex. 25 at 1-2.

RESPONSE: Undisputed.

81. In July 2025, ACLUM filed ALPR public records requests to approximately 90 police departments in Massachusetts. Decl., ¶33, Ex. 26 at 4. Various police departments produced audit logs in response to these requests. Decl., ¶33, Ex. 26 at 4-5.

RESPONSE: Undisputed.

82. These audit logs indicated that a Texas officer queried the national Flock ALPR database, which included records from Massachusetts departments, looking for a woman who had self-managed an abortion. Decl., ¶34, Ex. 27.

RESPONSE: Disputed. This assertion is based upon hearsay evidence and is incompetent Rule 56 evidence and therefore inadmissible evidence for purposes of Mass. R. Civ. P. 56.

83. The audit logs referenced in ¶¶ 81-82 above were produced despite guidance from a Massachusetts Chiefs of Police Association memo (“Memo”) that cautioned Exemption (f) might apply to the logs. The Memo acknowledged that Exemption (f) “is narrowly construed and requires a clear showing that disclosure would identify a confidential source, prejudice an ongoing investigation, or reveal investigative techniques not otherwise known to the public.” Decl., ¶ 35., Ex. 28 at 3.

RESPONSE: Undisputed.

**DEFENDANT’S ADDITIONAL STATEMENT OF UNDISPUTED FACTS AS TO
WHICH THERE IS NO GENUINE ISSUE**

Pursuant to Superior Ct. Rule 9A(b)(5)(i), the Defendant, the Massachusetts Department of State Police (“Department”) submits the following statement of facts as to which it contends there is no genuine issue to be tried in support of its Motion for Summary Judgment.

A1. Lt. Ryan Walczak currently holds the rank of lieutenant at the Massachusetts Department of State Police assigned to the Department of State Police’s Division of Homeland Security within the Technical Services Section. **Joint Appendix (“Appx”) at 389, Affidavit of Ryan Walczak ¶ 1 (“Walczak Aff.”)**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A2. Lt. Ryan Walczak has been employed by the Massachusetts State Police (“Department”) since October of 2011 and has over fourteen (14) years of professional experience as a Massachusetts State Trooper, Sergeant and Lieutenant. **Appx. at 389, Walczak Aff. ¶ 2.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A3. Lt. Walczak has been assigned as a Sergeant and Lieutenant to the Division of Homeland Security and Preparedness, since July of 2023. Prior to his time in the Technical Services Unit, he was assigned to positions in the Division of Field Services and Division of Investigative Services. **Appx. at 389, Walczak Aff. ¶ 2.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A4. While assigned to the Division of Investigative Services, Lt. Walczak was assigned to the State Police Gang Unit from 2018 until 2023. Lt. Walczak duties in his current assignment include, but are not limited to, the Department's ALPR Coordinator and Technical Service Executive Officer. **Appx. at 389, Walczak Aff. ¶ 3.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A5. Lt. Walczak's duties include, but are not limited to, oversight of investigative operations, technology systems and criminal intelligence resources used by the Department. **Appx. at 389, Walczak Aff. ¶ 4.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A6. Lt. Walczak is familiar with and knowledgeable of the Department's ALPR program, and knowledgeable of how such information is used by criminal and/or hostile actors. **Appx. at 389, Walczak Aff. ¶ 6.**

RESPONSE: Undisputed as to Lt. Walczak's familiarity and knowledge of the Department's ALPR program only for the purposes of this summary judgment motion.

Disputed as to Lt. Walczak's knowledge of "how such information is used by criminal and/ or hostile actors." Lt. Walczak's Affidavit provides no facts in the record to establish that any information about the ALPR program is used by criminal and/or hostile

actors. Furthermore, this assertion is based on previously undisclosed specialized or expert testimony.

A7. Exhibit 30 is a true and accurate copy of the Department of State Police's policy ADM-05. **Appx. at 390, Walczak Aff. ¶ 7; Appx. at 398-401, Exhibit 30.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion. This policy document was not produced in response to the ACLUM's August 2023 Requests or at any time during this litigation, but the face of the document purports to be ADM-05.

A8. Exhibit 31 is a true and accurate copy of the Department of State Police's policy TRF-11. **Appx. at 390, Walczak Aff. ¶ 8; Appx. at 402-410, Exhibit 31.**

RESPONSE: Undisputed. This exhibit is duplicative of Exhibit 7 at APPX-212 – 221.

STATE POLICE'S DIVISION OF HOMELAND SECURITY

A9. The mission of the Division of Homeland Security and Preparedness (DHS) is to lead the Department's criminal intelligence, counterterrorism, cybersecurity, emergency preparedness, and emergency response efforts, employing an intelligence-led policing approach to sustaining, enhancing and coordinating the Department's statewide capabilities to prepare for, protect against, investigate, respond to and recover from any criminal, terrorist, natural or manmade hazards or threats. **Appx. at 390, Walczak Aff. ¶ 9.**

RESPONSE: Undisputed only for the purposes of the summary judgment motion that Exhibit 30 states on its face that this is the mission of DHS.

A10. The use of ALPR technology supports the Department's homeland security mission through the investigation, prosecution, and prevention of terrorist incidents and the protection of critical infrastructure and locations that allow for travel and the free flow of

commerce from subjects who intend to damage or disrupt the systems. **Appx. at 390, Walczak Aff. ¶ 10.**

RESPONSE: Disputed as to the prevention of terrorist incidents and the protection of critical infrastructure and locations. Lt. Walczak's Affidavit provides no facts to support the assertion that ALPR technology "prevent[s] terrorists incidents" or "protect[s]" critical infrastructure. Furthermore, this assertion is contradicted by other facts. *See* SF ¶ 75, 76, 77. This assertion is also based on previously undisclosed specialized or expert testimony. Disputed as to Lt. Walczak's personal knowledge of the intent of drivers captured by ALPR cameras.

A11. DHS also gathers and shares intelligence information concerning criminal and terrorist activity. **Appx. at 390, Walczak Aff. ¶ 11.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A12. DHS oversees the Department's Air-Wing Unit and Marine Units as well as regional task forces that target large scale opioid traffickers. **Appx. at 390, Walczak Aff. ¶ 12.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A13. DHS is responsible for the oversight, maintenance, management and administration of the Department's Automatic License Plate Recognition System. **Appx. at 390, Walczak Aff. ¶ 13.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

AUTOMATED LICENSE PLATE READERS (“ALPR”)

A14. Lt. Walczak is familiar with the Department’s Automated License Plate Reader (“ALPR”) program, its deployment, its data systems, and its operational use in investigations. **Appx. at 390, Walczak Aff. ¶ 14.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A15. ALPR functions to automatically capture an image of a vehicle and the vehicle’s license plate, transform the plate image into alphanumeric characters using optical character recognition, compare the plate number acquired to one or more databases of vehicles of interest to law enforcement, and then alert law enforcement officers when a vehicle of interest has been observed. **Appx. at 391, Walczak Aff. ¶ 15.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A16. ALPR technology uses cameras to capture images of license plates and computer algorithms such as Optical Character Recognition (OCR) to convert the images to readable text data. ALPR systems can compare recognized license plates to hot lists such as the Criminal Justice Information System (CJIS) and National Crime Information Center (NCIC) Hot File databases. **Appx. at 391, Walczak Aff. ¶ 16.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A17. AMBER Alerts are emergency messages broadcast to the public to locate abducted children in imminent danger. **Appx. at 391, Walczak Aff. ¶ 17.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A18. Silver Alerts are emergency messages broadcast to the public to locate missing seniors who may suffer from cognitive impairments. **Appx. at 391, Walczak Aff. ¶ 18.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A19. The stored license plate data provides law enforcement investigators with searchable, historical, and real-time database of vehicle movements that can identify vehicles associated with suspects, witnesses, or victims, missing or endangered persons, AMBER & Silver alerts, kidnappings, wanted fugitives, or individuals of specific interest to law enforcement. **Appx. at 391, Walczak Aff. ¶ 19.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A20. A “hot list” contains the license plate numbers and letters of vehicles associated with active investigations, such as those related to Amber Alerts or other missing persons, stolen vehicles, or stolen license plates. **Appx. at 391, Walczak Aff. ¶ 20; Appx. at 352-360, Exhibit 31.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A21. An ALPR read is the data captured by ALPR cameras, consisting of an image of a vehicle's license plate. An ALPR hit is an automatic, real-time alert generated when a scanned license plate matches a record on a "hot list" or database, such as stolen vehicles, wanted suspects, missing persons, or suspended drivers. **Appx. at 301, Walczak Aff. ¶ 21; Appx. at 402-410, Exhibit 31.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A22. ALPR cameras often record the date, time, and specific location, as well as vehicle make, model, color, and sometimes, identifiable features like bumper stickers. **Appx. at 391, Walczak Aff. ¶ 22.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A23. The Department maintains approximately 80-100 Automated License Plate Readers (ALPR) throughout the Commonwealth. **Appx. at 391, Walczak Aff. ¶ 23.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A24. Law enforcement agencies use ALPR systems for the critical law enforcement purpose of rapidly identifying and locating vehicles of legitimate interest to law enforcement. **Appx. at 390, Walczak Aff. ¶ 14; Appx. at 402-310, Exhibit 31.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A25. In addition to routine criminal enforcement, the Department's ALPR system forms part of the Commonwealth's broader public safety and homeland security network. **Appx. at 392, Walczak Aff. ¶ 25.**

RESPONSE: Disputed to the extent the reference to "broader public safety and homeland security network" is interpreted as a reference to the "homeland security mission" referenced in ¶ A10 for the same reasons cited in the response to ¶ A10.

A26. ALPR data is used not only in local investigations but also in coordination with state and law enforcement partners including intelligence sharing related to terrorism threats, organized criminal enterprises, and threats to critical infrastructure. **Appx. at 392, Walczak Aff. ¶ 26.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A27. ALPR cameras support the Department's homeland security mission through the investigation, prosecution, and prevention of potential terrorist incidents and the protection of critical infrastructure and locations that allow for travel and the free flow of commerce from subjects who intend to damage or disrupt the systems. **Appx. at 392, Walczak Aff. ¶ 27.**

RESPONSE: Statement of fact A27 is substantively duplicative of statement A10, and is therefore disputed for the same reasons provided above in the response to A10.

A28. ALPR supports law enforcement responses to critical incidents and the protection of high-profile public events or locations which may be a potential target of a terrorist attack or mass-casualty incident. **Appx. at 392, Walczak Aff. ¶ 28.**

RESPONSE: Disputed as to the protection of high-profile public events or locations which may be a potential target of a terrorist attack of mass-casualty incident. Lt.

Walczak's Affidavit provides no facts to support the assertion that ALPR protects high-profile public events or locations. This assertion is also contradicted by other facts. *See* SF ¶ 75, 76, 77. This assertion is also based on previously undisclosed specialized or expert testimony.

A29. ALPR protects the safety of the motoring public and alerts law enforcement in real-time that a particular license plate (e.g., a stolen vehicle or a vehicle associated with a wanted individual) is in close proximity to an ALPR which can dramatically reduce the recovery time of stolen vehicles and the removal of unsafe vehicles and operators from the roadway. **Appx. at 392, Walczak Aff. ¶ 29.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A30. The data also allows law enforcement to connect criminal activities that may have occurred in other law enforcement jurisdictions. **Appx. at 392, Walczak Aff. ¶ 30.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A31. ALPR data assists investigators with focusing their investigative resources. **Appx. at 392, Walczak Aff. ¶31.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A32. ALPR assists in locating dangerous and wanted individuals. **Appx. at 392, Walczak Aff. ¶ 32.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A33. Under Department policy TRF-11, ALPR use is restricted to only authorized users. **Appx. at 392, Walczak Aff. ¶ 33; Appx. at 402-410, Exhibit 31.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion that policy TRF-11 indicates on its face that ALPR use is restricted to authorized users.

A34. Authorized users are limited and prohibited under Department policy TRF-11 from accessing or using the system:

- a. for personal reasons or in a way which would violate Massachusetts or United States law including any purpose that knowingly violates the Constitutions or laws of the United States or the Commonwealth of Massachusetts, including the protections of the Fourth Amendment; based solely on an individual's or organization's religious, political, or social views or activities; their participation in a particular noncriminal organization or lawful event; or their race, ethnicity, citizenship, place of origin, age, disability, gender, gender identity, sexual orientation, or other classification protected by law;
- b. for non-law enforcement or personal purposes;
- c. for the purpose of prohibiting, infringing upon, or deterring individual activities protected by the First Amendment, such as freely practicing one's religion, freedom of speech and peaceful assembly, freedom of the press, and the right to petition the government for the redress of grievances;
- d. for harassing, targeting, and/or intimidating any individual or group by means of camera placement or data use in a discriminatory manner;

- e. for the sole purpose of locating or removing persons due to their citizenship or immigration status; and
- f. for any other access, use, disclosure, or retention that would violate applicable law, regulation, or policy.

Appx. at 392-393, Walczak Aff. ¶ 34; Appx. at 402-410, Exhibit 31.

RESPONSE: Undisputed only for the purposes of this summary judgment motion that policy TRF-11 indicates the above prohibitions on use of the ALPR system on its face.

A35. The Department provides training to authorized users of the ALPR system regarding the policy and limitations of the use of the data per TRF-11. **Appx. at 393, Walczak Aff. ¶ 35; Appx. at 402-410, Exhibit 31.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion that policy TRF-11 indicates MSP provides training to authorized users of the ALPR system.

A36. Law enforcement agencies are trained that the release of surveillance-system deployment information can create a vulnerability that may be exploited for planning acts of terrorism or large-scale violent crime. **Appx. at 393, Walczak Aff. ¶ 36.**

RESPONSE: Disputed. This assertion is based on previously undisclosed specialized or expert testimony.

A37. The Department's ALPR system contributes to the protection of critical infrastructure, including highways, bridges, public gathering areas, and transportation nodes. Disclosure of operational details would weaken those protective measures. **Appx. at 393, Walczak Aff. ¶ 37.**

RESPONSE: Disputed that the ALPR system contributes to the protection of critical infrastructure, including highways, bridges, public gathering areas, and transportation

nodes, and disputed that . Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶ 75, 76, 77. This assertion is also based on previously undisclosed specialized or expert testimony.

Disputed that disclosure of the Withheld Records (ALPR Camera Locations and ALPR Audit Logs) would weaken any protective measures the ALPR system purportedly provides.

A38. Disclosing the locations of Department ALPRs would be detrimental to public safety and would assist a criminal or terrorist in an attempt to cause harm. **Appx. at 393, Walczak Aff. ¶ 38.**

RESPONSE: Disputed that disclosing the locations of the Department ALPRs in the public would be detrimental to the public safety and would assist a criminal or terrorist in an attempt to cause harm. Lt. Walczak's Affidavit provides no facts to support this assertion. Additionally, this assertion is contradicted by other facts. *See* SF ¶¶ 6-7; MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A39. Public disclosure of ALPR camera locations would enable a hostile actor to map surveillance coverage along major travel corridors, identify areas with limited monitoring, and plan movements designed to avoid detection. **Appx. at 393, Walczak Aff. ¶ 39.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is based on previously undisclosed specialized or expert testimony.

A40. Individuals involved in terrorism-related activity, organized crime, and transnational criminal networks often conduct surveillance of law enforcement capabilities in advance of planning attacks or major criminal acts. **Appx. at 393, Walczak Aff. ¶ 40.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A41. Knowledge of where ALPR cameras are located, how frequently they are used, and how the Department deploys them could assist such actors in transporting weapons, explosives, or other contraband while minimizing the likelihood of detection. **Appx. at 393, Walczak Aff. ¶ 41.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A42. A terrorist seeking to cause harm could preemptively vandalize or otherwise impair the operation of cameras along their proposed route. Similarly, a terrorist could alter their route of travel or escape detection by an ALPR or exploit blind spots. **Appx. at 393-394, Walczak Aff. ¶ 42.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A43. The Department has utilized ALPRs in the past to track and identify terrorist movements and to prevent terrorist activity, investigate major felonies, and responding

to ongoing criminal activity, as well as to locate missing persons subject to Amber and Silver Alerts. **Appx. at 394, Walczak Aff. ¶ 43.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A44. The disclosure of ALPR deployment information would create a reasonably foreseeable risk to public safety and could aid individuals seeking to evade detection while targeting critical infrastructure like highways, bridges, public gathering areas, and transportation nodes or public venues. **Appx. at 394, Walczak Aff. ¶ 44.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A45. ALPR has been used to locate and track the direction of a child who was the subject of an AMBER Alert. An individual with prior knowledge of the ALPRs location could alter their course of travel to avoid detection. **Appx. at 394, Walczak Aff. ¶ 45.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A46. Public disclosure of exact ALPR camera locations would allow individuals to determine where law enforcement surveillance exists and where it does not. **Appx. at 394, Walczak Aff. ¶ 46.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is contradicted by other facts. *See* SF ¶¶ 6-7 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

A47. Public disclosure of exact ALPR camera locations would enable criminals to alter travel routes to avoid detection. **Appx. at 394, Walczak Aff. ¶ 47.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A48. Public disclosure of exact ALPR camera locations would identify surveillance blind spots and transport stolen vehicles through unmonitored areas and plan criminal activity using knowledge of camera placement. **Appx. at 304, Walczak Aff. ¶ 47.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A49. Individuals engaged in organized crime, auto theft rings, narcotics distribution, and other offenses actively seek information about police surveillance locations. **Appx. at 394, Walczak Aff. ¶ 48.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony. Disputed as to Lt. Walczak's personal knowledge of what individuals in organized crime, auto theft rings, narcotics distribution and the like are thinking.

A50. Disclosure of this information would significantly reduce the effectiveness of the Department's ALPR system and impair future investigations. **Appx. at 394, Walczak Aff. ¶ 50.**

RESPONSE: Disputed. SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is based on previously undisclosed specialized or expert testimony.

A51. An individual with access to the audit log or hot lists could utilize knowledge of their own driving activity to determine the location of cameras. **Appx. at 394, Walczak Aff. ¶ 50.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”).

A52. Providing the locations of ALPR cameras, data captured by ALPR cameras, or details of the underlying network infrastructure, could leave Department members and residents of the Commonwealth vulnerable to criminal activity, terrorism, or violence and could frustrate Department efforts to investigate crimes and deter criminal activity. **Appx. at 394, Walczak Aff. ¶ 51.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

A53. Publicly 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. **Appx. at 394, Walczak Aff. ¶ 52.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40

(undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

A54. Release of ALPR information would allow criminals to infer how the Department deploys ALPR technology and how investigations are conducted. **Appx. at 395, Walczak Aff. ¶ 53.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

A55. Release of ALPR information could be used to test law enforcement response patterns, evade detection, or identify investigative techniques. **Appx. at 395, Walczak Aff. ¶ 54.**

RESPONSE: Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* Disputed. SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

ALPR AUDIT SHEETS

A56. ALPR Audit sheets contain information regarding when the ALPR system is used, how frequently searches occur, investigative priorities, system query practices, and operational patterns. **Appx. at 395, Walczak Aff. ¶ 54.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

Disputed as to whether the records as produced (in redacted format) would contain such

information because this assertion is contradicted by other facts. *See* SF ¶ 40 (undisputed).

A57. ALPR audit logs document the identifies of law enforcement officials who access the ALPR system, record the date and time the system was queried or accessed, the specific data used for the search, such as the full or partial license plate number, the reason(s) for the accessing the system, specific case number(s), incident report(s), or call-for-service number linked to the query. **Appx. at 395, Walczak Aff. ¶ 56.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

Disputed as to whether the records as produced (in redacted format) would contain such information because this assertion is contradicted by other facts. *See* SF ¶ 40 (undisputed).

A58. ALPR audit logs reveal where surveillance exists, how often it is used, and how officers deploy the system, and whether the data was merely viewed, or if it was entered, updated, shared, or disseminated. **Appx. at 395, Walczak Aff. ¶ 57.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

Disputed as to whether the records as produced (in redacted format) would contain such information because this assertion is contradicted by other facts. *See* SF ¶ 40 (undisputed).

A59. ALPR audit logs, if publicly disclosed, would enable a terrorist or criminal to determine whether their identity was known to law enforcement, if they were the subject of an investigation, if a vehicle or plate associated with them was known to law enforcement, dates and times the vehicle has been captured on an ALPR, the nature of the search query, the reason a plate was queried, and the investigating agency requesting it. Such information is of clear value

to a criminal or terrorist as it would enable to alter their plans and operations based on data known to law enforcement. **Appx. at 395, Walczak Aff. ¶ 58.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A60. The disclosure of ALPR audit sheets would allow individuals to infer investigative priorities, detect patterns in enforcement activity, and determine whether and when a particular plate has been queried. Release of this information could enable subjects of investigations to alter behavior to evade detection, test the system's responsiveness, identify periods of reduced monitoring, or otherwise circumvent law-enforcement efforts. **Appx. at 395, Walczak Aff. ¶ 59.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A61. Release of this information could enable subjects of investigations to alter behavior to evade detection, test the system's responsiveness, identify periods of reduced monitoring, or otherwise circumvent law-enforcement efforts. **Appx. at 395, Walczak Aff. ¶ 60.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A62. Disclosure would also reveal nonpublic information about the operational use and capabilities of the Department's surveillance infrastructure, which could increase the risk of targeted interference with ALPR equipment and compromise officer safety during active investigations. **Appx. at 396, Walczak Aff. ¶ 61.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A63. ALPR audit logs would be helpful to a bad actor in determining ALPR camera blind spots and better enable a terrorist or criminal to evade capture by looking at the audit sheets. Audit sheets could reveal information about on-going investigations and assist in the targeting of surveillance assets. **Appx. at 396, Walczak Aff. ¶ 62.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are "visible individually"). This assertion is also based on previously undisclosed specialized or expert testimony.

A64. Disclosure of ALPR audit logs and hit lists would assist a criminal or terrorist by revealing information known to law enforcement and by confirming whether their identity or that of their vehicle is known to law enforcement and allowing them to change vehicles which have been identified as involved in ongoing criminal activity or a threat to public safety. **Appx. at 396, Walczak Aff. ¶ 63.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40

(undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

A65. The public disclosure of ALPR camera locations and audit sheets could, and would, compromise law enforcement operations, create an unacceptable risk to public safety, and be used by a terrorist to maximize damage to critical infrastructure. **Appx. at 396, Walczak Aff. ¶ 64.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7, 40 (undisputed); MSP Mem. at 11 (conceding the cameras are “visible individually”). This assertion is also based on previously undisclosed specialized or expert testimony.

A66. The Department does not automatically share its ALPR data with outside agencies. The Department maintains memoranda of understanding (MOU) with several local departments within the Commonwealth regarding use and accessibility to ALPR data. Outside of these local departments, Vigilant (Motorola) does not have Department of State Police permission to share any data that is collected by the Department’s fleet of cameras. **Appx. at 396, Walczak Aff. ¶ 65.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A67. ALPR audit sheets are compiled out of the public view. **Appx. at 396, Walczak Aff. ¶ 66.**

RESPONSE: Disputed. Lt. Walczak’s Affidavit provides no facts to support this assertion. This assertion is also contradicted by other facts. *See* SF ¶¶ 6-7 (undisputed); SF ¶¶ A15, A16, A21, A22. This assertion is also based on previously undisclosed specialized or expert testimony.

A68. Surveillance video and pictures of criminal suspects is a vital tool for law enforcement and investigations. **Appx. at 396, Walczak Aff. ¶ 67.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A69. Surveillance cameras serve a vital security function and are a valuable investigatory tool which frequently assist in the identification of terrorists, criminal actors, and persons of interest. **Appx. at 396, Walczak Aff. ¶ 68.**

RESPONSE: Disputed that surveillance cameras serve a vital security function. Lt.

Walczak's Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A70. Terrorists and other criminal actors will seek to conceal their identities and activities prior to, during, and after an attack in order to avoid detection, maximize damage, and engage in further attacks. **Appx. at 396, Walczak Aff. ¶ 69.**

RESPONSE: Disputed. Lt. Walczak's Affidavit provides no facts to support this assertion. This assertion is also based on previously undisclosed specialized or expert testimony.

A71. In October 2023 ALPR assisted in the location of an individual who was the subject of a Silver Alert in Plymouth County. **Appx. at 396, Walczak Aff. ¶ 70.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A72. In December 2023 ALPR was successfully used to locate and capture a fugitive out of NH. **Appx. at 397, Walczak Aff. ¶ 71.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A73. In December 2023 ALPR was used to assist in the location of a missing suicidal person out of Norfolk County. **Appx. at 397, Walczak Aff. ¶ 72.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A74. In January 2024 ALPR was used to locate an elderly individual suffering from memory impairment. **Appx. at 397, Walczak Aff. ¶ 73.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A75. In 2024 ALPR was successfully used to locate an armed and potentially dangerous suspect who has previously hit and dragged a police officer during an attempted traffic stop. Upon arrest it was revealed the suspect possessed a firearm and ammunition and made numerous violent and concerning written statements. The suspect made statements that he was on his way to a government office to resolve an issue. **Appx. at 397, Walczak Aff. ¶ 74.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A76. In 2024 ALPR was successfully utilized in the capture of an armed robbery suspect. **Appx. at 397, Walczak Aff. ¶ 75.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A77. In 2024 ALPR was used to locate a missing child who was the subject of an AMBER Alert after the vehicle the child was inside was stolen. ALPR provided a direction of travel within 6 minutes of the place the vehicle was last observed. **Appx. at 397, Walczak Aff. ¶ 76.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

A78. AMBER Alerts are emergency messages broadcast to the public to locate abducted children in imminent danger while Silver Alerts are emergency messages broadcast to the public to locate missing seniors who may suffer from cognitive impairments. **Appx. at 397, Walczak Aff. ¶ 77.**

RESPONSE: Undisputed only for the purposes of this summary judgment motion.

Respectfully submitted,

Dated: April 10, 2026

American Civil Liberties Union of
Massachusetts, Inc.

Massachusetts Department of State Police

By its attorneys,

By its attorneys,

/s/ Michael A. Albert

Michael A. Albert (BBO No. 558566)
Anant K. Saraswat (BBO No. 676048)
Marie A. McKiernan (BBO No. 689818)
Kevin Y. Li (BBO No. 707413)
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
617.646.8000 Phone
617.646.8646 Fax
malbert@wolfgreenfield.com
asaraswat@wolfgreenfield.com
mmckiernan@wolfgreenfield.com
kli@wolfgreenfield.com

/s/ Sean W. Farrell

Sean W. Farrell, BBO# 561332
Joshua R. Reilly, BBO#
Office of the Chief Legal Counsel
Massachusetts Department of State Police
Framingham, MA 01702
(508) 820-2153
Sean.Farrell@pol.state.ma.us

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2026, a true copy of the above document was served was served by email upon counsel for Defendant Massachusetts State Police:

Joshua D. Reilly
Office of the Chief Legal Counsel
Massachusetts State Police
470 Worcester Road
Framingham, MA 01702
(508) 988-7426
joshua.d.reilly@pol.state.ma.us

Sean W. Farrell
Office of the Chief Legal Counsel
Massachusetts State Police
470 Worcester Road
Framingham, MA 01702
(508) 820-2153
Sean.Farrell@pol.state.ma.us

/s/ Marie A. McKiernan

Marie A. McKiernan