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ben
leingang

HOUSE TRANSPORTATION COMMITTEE

JANUARY 16, 2025

TESTIMONY OF BEN LEINGANG

OFFICE OF ATTORNEY GENERAL

HOUSE BILL 1050

Chairman Ruby and Members of the House Transportation Committee:

My name is Ben Leingang, and I am a Chief Agent with the North Dakota Bureau of Criminal Investigation (NDBCI). I am here today to advocate for the passage of a bill for an Act to amend and reenact section 24-02-45 of the North Dakota Century Code. This would allow the North Dakota Department of Transportation (NDDOT) Director to enter into cooperative agreements with city, county, state, federal and tribal law enforcement agencies regarding the use of Automated License Plate Readers (ALPRs). This legislation is crucial for enhancing public safety, strengthening homeland security and improving the efficiency of law enforcement operations in our state while protecting citizens' privacy. What's been handed out to you is an amended version I will now explain to you.

Introduction

Starting in 2022, the NDBCI initiated discussions with the North Dakota Department of Transportation (NDDOT), seeking permission to utilize their infrastructure, for Automatic License Plate Reader (ALPR) systems. Initially, the NDDOT supported the project and began to enter into an agreement with NDBCI. However, after their legal department reviewed our agreement, they declined to grant approval in March of 2024. The NDDOT concluded that they lacked the authority to permit another state agency to place equipment on street poles. The NDDOT has similarly rejected requests from other local, state, and federal law enforcement agencies, including the Bismarck Police Department, Fargo Police Department, and the US Border Patrol. In fact, on two separate occasions, the NDDOT has seized the US Border Patrol's mobile ALPR trailers that were situated on NDDOT property to monitor for illegal border crossings. Attorneys and BCI agents in the Attorney General's Office worked diligently with NDDOT over the course of months to draft a bill that would satisfy NDDOT's concerns, with the

understanding that NDDOT would then enter into the necessary agreements with law enforcement to protect North Dakotans. This bill is a result of those efforts and would provide NDDOT certainty regarding their authority to facilitate critical law enforcement and border security needs.

What is an Automatic License Plate Reader (ALPR) and why are they important for Law Enforcement and Public Safety?

Automated License Plate Readers (ALPRs) are high-speed, computer-controlled camera systems that capture license plate numbers and related information. These systems are typically mounted on street poles, streetlights, highway overpasses, mobile trailers, or police patrol cars. The data recorded by an ALPR system is the same data that would be seen by a pedestrian standing in the location of one of the cameras. Even so, the limited access to the information in the system protects individuals' privacy, as discussed further in my testimony.

ALPR technology has been utilized for decades by law enforcement agencies across the United States, Canada, and worldwide to generate leads and solve cases. In North Dakota, numerous agencies, including the Fargo and Bismarck Police Departments, employ ALPR systems. Agencies that utilize ALPR continuously report that the technology is a critical tool that helps advance their efforts to fulfill law enforcement's ultimate mission of keeping their communities safe.

Key Benefits of LPRs

1. **Increased Efficiency:** ALPRs can scan hundreds of license plates per minute, far exceeding the capabilities of manual checks. This allows officers to quickly identify stolen vehicles, vehicles involved in crimes, vehicles associated with missing persons (e.g., amber alerts or silver alerts), or those belonging to wanted individuals.
2. **Real-Time Alerts:** When a scanned plate matches a plate on a hot list (e.g., stolen vehicles, vehicles associated with criminal activity), officers receive immediate alerts, enabling rapid response.

3. **Improved Data Collection:** ALPRs collect valuable data that can be used in investigations, such as tracking the movements of a suspect's vehicle or identifying potential witnesses to a crime.
4. **Crime Deterrence:** The presence of ALPR systems can deter criminals who know that their vehicles can be tracked, thus reducing certain types of crimes such as vehicle theft and fraud.
5. **Resource Optimization:** By automating the process of checking license plates, ALPRs allow officers to focus on other important tasks, enhancing overall productivity and effectiveness.

Real-World Success Stories

- **Case Study 1:** In fall 2024, investigators used the ALPR system to track a narcotics trafficker's vehicle. The results revealed its journey through the western U.S. to California. Most detections came from fixed highway LPR cameras. Investigators monitored the target's movements in the source city and obtained the target's phone GPS data. This enabled them to intercept the vehicle on its return journey, resulting in two arrests and the seizure of 29 pounds of methamphetamine destined for Bismarck.
- **Case Study 2:** In fall 2023, the NDHP Interdiction Team stopped a vehicle suspected of transporting illegal drugs. ALPR data confirmed the suspect was linked to traffickers moving thousands of fentanyl pills from Chicago to various North Dakota cities.
- **Case Study 3:** In 2024, investigators in the Metro Area Narcotics Task Force, which operates in the greater Bismarck-Mandan area, learned that a drug trafficker was traveling to another state to acquire illegal drugs. Using GPS data, they identified license plates passing through a specific intersection via an ALPR camera. One plate, linked to the suspect through rental records, allowed investigators to track its travels across multiple states, providing invaluable information on the suspect and their drug trafficking organization.

As demonstrated, ALPR technology has proven to be a powerful tool to combat criminal activity, generate actionable investigative leads, and help close cases faster.

ACCESS OF INFORMATION

Law enforcement agencies typically implement policies for the use of ALPRs to ensure the technology is used responsibly and effectively. These policies often include:

1. **Purpose and Scope**: Defining the specific purposes for which ALPR can be used, such as locating stolen vehicles, identifying vehicles associated with wanted individuals, locating missing persons, or supporting ongoing investigations.
2. **Data Management**: Guidelines on how ALPR data is collected, stored, accessed, and shared. This includes retention periods, data security measures, and protocols for data sharing with other agencies.
3. **Usage Restrictions**: ALPR usage is limited to legitimate law enforcement purposes, prohibiting unauthorized surveillance or data collection. Only authorized law enforcement personnel with a criminal predicate and a case number can access the ALPR system.
4. **Privacy Protections**: Measures to protect individuals' privacy, such as prohibitions on – and technical barriers to – the access to and use of ALPR data for non-law enforcement purposes and ensuring data is not retained longer than necessary.
5. **Training and Accountability**: Requirements for training law enforcement personnel on the proper use of ALPR systems and establishing accountability for misuse.

These policies help balance the benefits of ALPR technology in crime prevention and investigation with the need to protect individual privacy and civil liberties.

Fiscal Impact

There are no fiscal implications associated with this bill, and therefore, no fiscal note has been applied. The law enforcement agencies in North Dakota that utilize ALPR systems have acquired these systems using their own funds.

Exemption

NDBCI is proposing an amendment to exempt ALPR data from open records requests. While most law enforcement agencies classify ALPR data as criminal investigative information, NDAG attorneys believe audit information within the ALPR system may still be accessible as an open record without this specific exemption. Therefore, NDBCI seeks an amendment to exempt all ALPR data and associated information.

Conclusion

Allowing the NDDOT Director to enter into agreements with law enforcement regarding the use of ALPRs will greatly enhance our ability to protect and serve the citizens of North Dakota. This legislation is a step forward in leveraging technology to improve public safety and support our law enforcement agencies.

Thank you for your time and consideration. I urge you to support this important legislation.

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
HOUSE BILL NO. 1050**

Introduced by

Transportation Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact section 24-02-45 of the North Dakota Century Code,
2 relating to cooperative agreements between the director and law enforcement agencies
3 regarding automated license plate readers.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 24-02-45 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **24-02-45. Cooperative agreements with ~~counties or cities~~.**

8 The director may enter an agreement with a state agency, county, or city for the cooperative
9 or joint administration of an activity that will enhance the efficiency and effectiveness of the state
10 highway system. At the request of a state, county, or city law enforcement agency or a federal
11 agency with responsibilities related to control of the national border, the director shall enter into
12 an agreement with the requesting law enforcement agency, or with the state agency or political
13 subdivision of which the law enforcement agency is a part, for the placement of license plate
14 readers on department-owned or department-operated equipment or infrastructure for law
15 enforcement or border control purposes. The terms of the agreement supersede sections
16 24-02-36 and 24-02-37 or any other state law governing the use of state, county, or city highway
17 funds.

18
19 **SECTION 2. AMENDMENT.** Section 44-04-18.7 of the North Dakota Century Code is amended
20 and reenacted as follows:

21 1. Active criminal intelligence information and active criminal information are not subject to
22 section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. A criminal
23 justice agency shall maintain a list of all files containing active criminal intelligence and
24 investigative information which have been in existence for more than one year. With respect to

1 each file, the list must contain the file's number or other identifying characteristic and the date the
2 file was established. The list required under this subsection is subject to section 44-04-18.
3 Personal information of any person contained in an active or nonactive file is an exempt record
4 as defined in subsection 5 of section 44-04-17.1.

5 2. "Criminal intelligence and investigative information" does not include:

- 6 a. Arrestee description, including name, date of birth, address, race, sex, physical
7 description, and occupation of arrestee.
- 8 b. Facts concerning the arrest, including the cause of arrest and the name of the
9 arresting officer.
- 10 c. Conviction information, including the name of any person convicted of a criminal
11 offense. Disposition of all warrants, including orders signed by a judge of any court
12 commanding a law enforcement officer to arrest a particular person.
- 13 d. A chronological list of incidents, including initial offense report information showing
14 the offense, date, time, general location, officer, and a brief summary of what occurred.
- 15 e. A crime summary, including a departmental summary of crimes reported and public
16 calls for service by classification, nature, and number.
- 17 f. Radio log, including a chronological listing of the calls dispatched.
- 18 g. General registers, including jail booking information.
- 19 h. Arrestee photograph, if release will not adversely affect a criminal investigation.

20 3. "Criminal intelligence information" means information with respect to an identifiable person
21 or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or
22 monitor possible criminal activity. Criminal intelligence information must be considered "active" as
23 long as it is related to intelligence gathering conducted with a reasonable good-faith belief it will
24 lead to detection of ongoing or reasonably anticipated criminal activities. Criminal intelligence
25 information also includes training materials and information obtained by a criminal justice agency
26 regarding prospective criminal activities which impact officer safety until the information is
27 publicly disclosed.

28 4. "Criminal investigative information" means information with respect to an identifiable person
29 or group of persons compiled by a criminal justice agency in the course of conducting a criminal
30 investigation of a specific act or omission, including information derived from laboratory tests,
31 reports of investigators or informants, or any type of surveillance. Criminal investigative
32 information must be considered "active" as long as it is related to an ongoing investigation that is
33 continuing with a reasonable good-faith anticipation of securing an arrest or prosecution in the
34 foreseeable future.

1 5. "Criminal justice agency" means any law enforcement agency or prosecutor. The term also
2 includes any other unit of government charged by law with criminal law enforcement duties or
3 having custody of criminal intelligence or investigative information for the purpose of assisting
4 law enforcement agencies in the conduct of active criminal investigations or prosecutions.

5 6. "Personal information" means a person's medical records or medical information obtained
6 from the medical records; motor vehicle operator's identification number; social security number;
7 any credit, debit, or electronic fund transfer card number; month and date of birth; height; weight;
8 home street address; home telephone number or personal cell phone number; and any financial
9 account numbers.

10 7. A computerized index created by a criminal justice agency of names included in criminal
11 files, whether active or inactive, is an exempt record.

12 8. Crime scene images of a victim of a homicide or sex crime or any image of a minor victim
13 of any crime is an exempt record as defined in subsection 5 of section 44-04-17.1.

14 9. An image taken with a body camera or similar device and which is taken in a private place
15 is an exempt record.

16 10. An image taken by a coroner, a medical examiner, or coroner or medical examiner
17 personnel, using a digital camera or similar device is an exempt record.

18 11. Unless otherwise provided by law, descriptions of crime scene images that include a
19 minor or a minor victim or parts of a record containing such descriptions are exempt.

20 12. Images and data that are obtained through the use of an automated license plate
21 reader system are exempt records.