

Dissenting Opinion on Proposed ALPR Technology

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With respect to my colleagues in the Surveillance Technology Working Group, I want to offer a dissenting opinion on the proposed installation of ALPRs by the SPD. While I am mostly pleased with the recommended stipulations that we have drafted to address concerns about civil liberties and equity that ALPRs raise in this context, I must still vote against their adoption. I feel that we have not fully resolved the problems that this technology poses when removed from more appropriate, narrow use cases such as toll management and speed enforcement to become a network potentially capable of tracking individual movements throughout the city.

First, there is the currently unresolved legal question of whether a broad network of ALPRs violates protections guaranteed by the Fourth Amendment. In particular, the Massachusetts Supreme Judicial Court determined in *Commonwealth v. McCarthy (2020)* that ALPR surveillance by a broad network over time could potentially infringe upon constitutionally guaranteed rights to privacy, although the surveillance in that particular case was too limited to be of concern.¹ The proposed installation of ALPR readers in Syracuse is similarly limited, but it is likely that the successful location and apprehension of suspects will encourage the expansion of the ALPR network, potentially without the same level of scrutiny that these initial ALPR cameras have received.

A citizen does not have to be pushed to the limit of their constitutional rights, however, to be uncomfortable with the level of surveillance that these cameras permit and the concerns about equity and justice that they raise. An important way to mitigate this concern is by severely limiting the amount of time that data is retained by default, with the option to significantly extend the retention of a targeted set of data to investigate specific crimes. Strict limitations on data retention can prevent the accumulation of enough data to track the movements of the general populace. Of note here is that the need for such limitations does not necessarily suggest a current interest by the SPD in tracking individuals. As Johannes Himmelreich observed in one of our recent meetings, a significant threat posed by the accumulation of this information is the potential for hackers, both domestic and international, to use the data to monitor the activities of specific persons. A retention limit of 7 to 10 days would go far in protecting us from potential misuse, but without a guarantee of such limits I am not comfortable voting to adopt the ALPR technology.

In addition, I do not believe that a decision on this technology can be made without knowing which vendor will be selected to provide the ALPR system. As one example, Flock Safety – a major supplier of this technology to many cities across the country – has received unflattering scrutiny for their willingness to permit data sharing across jurisdictions, as well as their business of supplying readers to private parties such as HOAs that do not operate under the same restrictions as police departments.^{2 3} Even if this is a very different use case than the one proposed by the City of Syracuse, the broader reputation of the vendor that will be providing the product will affect public perception of both the

1 Ángel Díaz and Rachel Levinson-Waldman, “Automatic License Plate Readers: Legal Status and Policy Recommendations for Law Enforcement Use,” Brennan Center for Justice, September 10, 2020, <https://www.brennancenter.org/our-work/research-reports/automatic-license-plate-readers-legal-status-and-policy-recommendations>.

2 Drew Harwell, “License plate scanners were supposed to bring peace of mind. Instead they tore the neighborhood apart,” *The Washington Post*, October 22, 2021, <https://www.washingtonpost.com/technology/2021/10/22/crime-suburbs-license-plate-readers/>.

3 Jay Stanley, “Fast-Growing Company Flock is Building a New AI-Driven Mass-Surveillance System,” American Civil Liberties Union, March 3, 2022, https://www.aclu.org/wp-content/uploads/legal-documents/flock_1.pdf.

technology and the motivations of the City and the SPD.

Finally, public opinion on the technology gathered during the open comment period was considerably negative. Out of 254 responses during the public comment period in March, 104 were overall negative while only 87 were positive. There was also a very critical editorial piece published by Syracuse.com on the ALPR proposal.⁴ I do believe that the committee has successfully addressed many of these concerns in their recommendations, and that some (maybe even a great deal) of the negativity is the result of a lack of clarity in the information provided about the ALPR proposal during the comment period. This does not change the fact, however, that one of the reasons that the Surveillance Technology Working Group was created was to increase public trust and transparency regarding the process of adopting technologies with components that could potentially be used for surveillance. I do not feel comfortable moving forward with this technology when public distrust of it is so high unless we adequately inform the public that their concerns have been heard, given proper consideration, and adequately addressed.

⁴ Advance Media NY Editorial Board, "Syracuse must weigh privacy, civil liberties harms of license plate readers (Editorial Board Opinion)," Syracuse.com, Advance Local Media LLC, March 23, 2023, <https://www.syracuse.com/opinion/2023/03/syracuse-must-weigh-privacy-civil-liberties-harms-of-license-plate-readers-editorial-board-opinion.html>.