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*Department of the
Secretary of State*



**Report from the Automated License Plate Recognition
System Working Group**

**Given to the Joint Standing Committee on
Transportation**

January 15, 2011



STATE OF MAINE
OFFICE OF THE
SECRETARY OF STATE

MATTHEW DUNLAP
SECRETARY OF STATE

4 January 2011

The Honorable Ronald F. Collins, Senate Chair
Joint Standing Committee on Transportation
3 State House Station
Augusta, ME 04333

The Honorable Richard M. Cebra, House Chair
Joint Standing Committee on Transportation
2 State House Station
Augusta, ME 04333

Dear Senator Collins and Representative Cebra,

Attached please find the final report of the Automated License Plate Recognition System Working Group. Pursuant to Chapter 605 of the Public Laws 2010, the Secretary of State was charged with assembling the group and holding a series of public meetings over the use, limitations, and governance of the deployment of plate recognition technology.

I would like to thank all who participated, and in particular would like to thank the South Portland Police Department, without whose cooperation and hospitality in hosting the working group's meetings our work would have been much more difficult.

Please do not hesitate to contact our offices if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Dunlap", written over a white background.

Matthew Dunlap
Secretary of State

Report of the Automated License Plate Recognition System Working Group

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Introduction:

Emerging technologies offer great promise for enhancing the ability of law enforcement officers to optimize their performance in executing their sworn duties. New technologies also offer new challenges to the public trust, however, which bear scrutiny and review to ensure that the use of new tools has public support.

The Automated License Plate Recognition Working Group was assembled pursuant to Chapter 605. PL 2010 (LD 1561), "*An Act to Regulate the Use of Automated License Plate Recognition Systems.*" LD 1561 was introduced by State Senator Dennis Damon, D-Hancock, amid concerns that plate recognition technologies, such as the South Portland Police Department implemented following a grant award, allow law enforcement officers far too much access to information about law-abiding citizens and their movements, and thus represents an untenable invasion of privacy. The original bill called for a proscription of such technologies. The bill was amended and passed into law outlining conditions of use and information retention schedules; and also the establishment, by the Secretary of State, of the Working Group whose product is this report.

The Working Group was fortunate in that the South Portland Police Department immediately recognized the force and weight of Senator Damon's concerns, and the echoing of those concerns by privacy advocates, by aggressively working on sophisticated policies of use of the plate recognition readers. Further, SPPD has been open and generous in making demonstrations of the equipment readily available so that members could better understand its uses and limitations.

The policies adopted by South Portland, coupled with draft policies from the International Association of Chiefs of Police and the Maine Chiefs of Police, provide a strong baseline for a statewide policy that should be considered for adoption by any agency.

The Working Group recommends that the Legislature adopt the following provisions:

- Amend MRSA Title 25, Section 2803-B to require a policy governing use of Automated License Plate Readers be adopted by a law enforcement agency seeking to employ the technology;
- The Board of Trustees of the Maine Criminal Justice Academy should adopt standards for a model policy based on the IACP model policy, and;

- License plate information collected by an agency incidental to a project should not be subjected to Freedom of Information Act requests, and should be purged immediately upon completion of the project.

These recommendations are more fully discussed in the report. The Chair wishes to thank all of the participants for their energy and insights, and particularly the South Portland Police Department, without whose experience and input this work would have been made much more difficult.

Chapter 605 and the working Group membership are included in Appendix A.

Automated License Plate Recognition Systems (ALPR's)

ALPR systems are fixed or mobile devices which use optical character recognition technology, and computer algorithms to convert license plate images into computer data. The plate data then can be searched against various law enforcement databases. Typically, an ALPR system is mounted on a police cruiser. The system scans license plates entering the system's field of view, and compares the image data to a previously defined database loaded into a computer in the cruiser. Upon a "hit", the officer is notified. The officer then must follow established procedure to verify the plate status, and to take any appropriate action.

Typically, the local database or "hot list" is a concatenation of several law enforcement motor vehicle-related databases including stolen vehicles, suspended registrations, tax and toll violators, vehicles registered to missing or wanted persons, or vehicles registered to other persons of interest. Specific registrations also may be entered into the hot list, for example for "AMBER" alerts.

Hot lists must be updated frequently to be of value.

ALPR's are able to store information about plates that have been read, including the plate number, date, time and location of the data capture. This data can be uploaded from the cruiser's computer to a central site and stored indefinitely. Potentially, the data may be combined with other public and private data sources, analyzed, or shared with other entities. In addition, as with any sensitive database, data security is a concern. This ability to retain, share and combine large amounts of data, and the potential ability to track a vehicle's movement over time raises privacy concerns.

ALPR Working Group:

The ALPR Working Group included representatives from the Department of Public Safety, the Maine Chiefs of Police, the Maine Sheriffs Association, the South Portland Police Department, and the Department of Attorney General, the Maine Civil Liberties Union, the Maine Turnpike Authority, Maine Department of Transportation, the Maine Legislature, ALPR vendors, municipalities, the general public, and the Department of Secretary of State. The Working

Group met three times at the South Portland Public Safety Building. The Working Group's meeting minutes and related documents have been posted to the Secretary of State's website at:

<http://www.maine.gov/sos/alpr.htm>

The Working Group reviewed ALPR-related issues, including several states' existing ALPR policies. The Working Group specifically reviewed the International Association of Chiefs of Police's (IACP) model ALPR policy, and the South Portland Police Department's policy. The Working Group noted that there are issues with respect to data collection, retention, access and usage. The Working Group agreed that state statutes and polices must be flexible and agile enough to address current and future issues, while protecting personal privacy.

The Working Group agreed to limit its discussions to issues primarily related to traffic enforcement and direct public safety. Issues and concerns relative to the use of ALPR technology for targeted criminal surveillance are beyond the Working Group's charge. The legislature should address these issues separately.

The Working Group noted that proposed state and municipal laws and policies go through a rigorous review process, often including a fiscal review. Still, it can be difficult for the public to track proposed policy changes.

The Working Group noted that the IACP's model policy on ALPR usage is comprehensive, adequately addresses privacy and confidentiality of data, and could serve as a model state policy. The IACP model policy is contained in Appendix B. The South Portland Police Department's policy is available at the website above. Draft legislation requiring the MCJA to create a model policy is contained in Appendix C.

The Working Group acknowledged that ALPR technology is an important law enforcement tool, enabling law enforcement personnel to be much more efficient and effective, resulting in increased highway safety. The Working Group also acknowledged that personal privacy and data confidentiality must be protected. The Working Group found that, in general, Maine has strong laws and policies in place to protect the public from the misuse of law enforcement-related data and intelligence.

The Working Group noted that Maine law enforcement agencies are required to develop and follow policies relative to most law enforcement actions. These policies must conform to the Maine Criminal Justice Academy's model policies, and must be submitted annually to the Board of Trustees for review. Failure of a law enforcement agency to submit their policies for review can result in prosecution. If an officer violates an agency policy, that officer can be disciplined including losing certification as a law enforcement officer.

The Working Group discussed the twenty-one day retention period for ALPR data currently in Maine law. While most law enforcement agencies likely would prefer a longer retention period, some members expressed concern about retaining the data at all. The Working Group noted that the current twenty-one day limit is a compromise, and agreed not to recommend any change at this time to the maximum retention period.

The Working Group noted that some non-law enforcement agencies use ALPR-type technology including the Maine Turnpike Authority, and the Maine Department of Transportation. The MTA uses cameras at toll booths to capture images only of toll violators. A person processes these photos individually. The MDOT uses imaging to analyze traffic patterns, including in particular, turning movements. MDOT uses only the last three digits of the plate, and never needs to determine the vehicle registrant.

Working Group Findings and Recommendations:

The Automated License Plate Recognition Working Group makes the following findings and recommendations:

- Maine's privacy and confidentiality laws with respect to law enforcement data and intelligence are sufficient to protect citizens' rights. Law enforcement agencies must protect and hold confidential intelligence information including ALPR data.
- LD1561 clarified the use of ALPR data, and limited its retention and dissemination.
- Law enforcement agencies planning to use ALPR technology should be required to adopt a usage policy based on a model policy approved by the Maine Criminal Justice Academy. 25 MRSA 2803-B should be amended to require any law enforcement agency using ALPR technology to submit its policy annually to the Board of Trustees of the Criminal Justice Academy for review for compliance with the model policy.
- Any state agency intending to use technology similar to ALPR's should develop a data collection, retention and disposal policy. ALPR-type data used for planning purposes should not be subject to Freedom of Information Act disclosure.
- The Commissioner of Public Safety should make periodic reports, as requested, to the relevant joint committees of the legislature relative to ALPR usage in the state.
- Public input should be actively sought for any ALPR policy changes at both the state and municipal level.

Appendix A

29-A MRSA, §2117-A, Chapter 605, PL 2010 Use Of Automated License Plate Recognition Systems

1. Definitions. As used in this section, unless the context otherwise indicates, "automated license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data. "Automated license plate recognition system" does not include a photo-monitoring system, as defined in Title 23, section 1980, subsection 2-A, paragraph B, subparagraph (4), when used by the Maine Turnpike Authority or a law enforcement agency for toll enforcement purposes.

2. Prohibition. Except as otherwise provided in subsection 3, a person may not use an automated license plate recognition system.

3. Exception. Subsection 2 does not apply to:

A. The Department of Transportation for the purposes of protecting public safety and transportation infrastructure;

B. The Department of Public Safety, Bureau of State Police for the purposes of commercial motor vehicle screening and inspection; and

C. Any state, county or municipal law enforcement agency when providing public safety, conducting criminal investigations and ensuring compliance with local, state and federal laws. For purposes of this paragraph, an automated license plate recognition system may use only information entered by a law enforcement officer as defined by Title 17-A, section 2, subsection 17 and based on specific and articulable facts of a concern for safety, wrongdoing or a criminal investigation or pursuant to a civil order or records from the National Crime Information Center database or an official published law enforcement bulletin.

An authorized user under this subsection of an automated license plate recognition system may use an automated license plate recognition system only for the official and legitimate purposes of the user's employer.

4. Confidentiality. Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 are confidential under Title 1, chapter 13 and are available for use only by a law enforcement agency in carrying out its functions or by an agency collecting information under subsection 3 for its intended purpose and any related civil or criminal proceeding.

A law enforcement agency may publish and release as public information summary reports using aggregate data that do not reveal the activities of an individual or firm and may share commercial motor vehicle screening data with the Federal Motor Carrier Safety Administration for regulatory compliance purposes.

5. Data retention. Data collected or retained through the use of an automated license plate recognition system in accordance with subsection 3 that are not considered intelligence and investigative information as defined by Title 16, section 611, subsection 8, or data collected for the purposes of commercial motor vehicle screening, may not be stored for more than 21 days.

6. Penalty. Violation of this section is a Class E crime.

Automated License Plate Recognition Working Group Membership

Matt	Dunlap	Secretary of State
Edward	Googins	South Portland Police Department and President of Maine Chiefs of Police Association
Frank	Clark	South Portland Police Department
Everett	Flannery	Maine Sheriff's Association and Chief Deputy of the Kennebec County Sheriff's Office
Catherine	Curtis	Deputy Secretary of State, Bureau of Motor Vehicles
Dennis	Damon	Senator, Maine Legislature
Brian	MacMaster	Dir. Investigations, Dept. of Attorney General
Anne	Jordan	Commissioner, Department of Public Safety
Stephen	Landry	Assistant Traffic Engineer, Department of Transportation
Shenna	Bellows	Executive Dir., Maine Civil Liberties Union
Alysia	Melnick	Public Policy Counsel, Maine Civil Liberties Union
Dan	Riley	Bernstein Shur for Federal Signal Corporation
Richard	Somerville	Maine Turnpike Authority
Richard	Trahey	Service Centers Coalition
Kathleen	McGee	Citizen
David	Guilmette	Bureau of Motor Vehicles
Garry	Hinkley	Bureau of Motor Vehicles
Nikki	Bachelder	Bureau of Motor Vehicles

Appendix B

LICENSE PLATE READERS

Model Policy

<i>Effective Date</i> August 2010		<i>Number</i>	
<i>Subject</i> License Plate Readers			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>	<i>Reevaluation Date</i> August 2011	<i>No. Pages</i> 3	

I. PURPOSE

The purpose of this policy is to provide officers with guidelines on the proper use of license plate recognition (LPR) systems, also commonly known as license plate reader systems.

II. POLICY

The availability and use of LPR systems have provided many opportunities for the enhancement of productivity, effectiveness, and officer safety. It is the policy of this agency that all members abide by the guidelines set forth herein when using LPR systems.

III. ACRONYMS AND DEFINITIONS

FOUO: For Official Use Only

LPR: License Plate Recognition/License Plate Reader

OCR: Optical Character Recognition

Read: Digital images of license plates and vehicles and associated metadata (e.g., date, time, and geographic coordinates associated with the vehicle image capture) that are captured by the LPR system.

Alert: A visual and/or auditory notice that is triggered when the LPR system receives a potential "hit" on a license plate.

Hit: A read matched to a plate that has previously been registered on an agency's "hot list" of vehicle plates related to stolen vehicles, wanted vehicles, or other factors supporting investigation, or which has been manually registered by a user for further investigation.

Hot list: License plate numbers of stolen cars, vehicles owned by persons of interest, and vehicles associated with AMBER Alerts that are regularly added to "hot lists" circulated among law enforcement agen-

cies. Hot list information can come from a variety of sources, including stolen vehicle information from the National Insurance Crime Bureau and the National Crime Information Center (NCIC), as well as national AMBER Alerts and Department of Homeland Security watch lists. Departments of motor vehicles can provide lists of expired registration tags, and law enforcement agencies can interface their own, locally compiled hot lists to the LPR system. These lists serve an officer safety function as well as an investigatory purpose. In addition to agency supported hot lists, users may also manually add license plate numbers to hot lists in order to be alerted if and when a vehicle license plate of interest is "read" by the LPR system.

Fixed LPR system: LPR cameras that are permanently affixed to a structure, such as a pole, a traffic barrier, or a bridge.

Mobile LPR system: LPR cameras that are affixed, either permanently (hardwired) or temporarily (e.g., magnet-mounted), to a law enforcement vehicle for mobile deployment.

Portable LPR system: LPR cameras that are transportable and can be moved and deployed in a variety of venues as needed, such as a traffic barrel or speed radar sign.

IV. PROCEDURES

A. General

1. The use of LPR systems is restricted to public safety-related missions of this agency.
2. LPR systems and associated equipment and databases are authorized for official public safety purposes. Misuse of this equipment and associated databases, or data, may be subject to sanctions and/or disciplinary actions.
3. LPR systems and LPR data and associated

media are the property of this agency and intended for use in conducting official business with limited exceptions noted elsewhere in this policy.

B. Administration

1. The agency shall designate an employee(s) with administrative oversight for LPR system deployment and operations who is (are) responsible for the following:
 - a. Establishing protocols for access, collection, storage, and retention of LPR data and associated media files
 - b. Establishing protocols to preserve and document LPR reads and "alerts" or "hits" that are acted on in the field or associated with investigations or prosecutions
 - c. Establishing protocols to establish and ensure the security and integrity of data captured, stored, and/or retained by the LPR system
 - d. Ensuring the proper selection of the personnel approved to operate the LPR system and maintaining an adequate number of trainees;
 - e. Maintaining records identifying approved LPR deployments and documenting their results, including appropriate documentation of significant incidents and arrests that are related to LPR usage
 - f. Authorizing any requests for LPR systems use or data access according to the policies and guidelines of this agency
2. Designated, trained personnel shall check equipment on a regular basis to ensure functionality and camera alignment. Any equipment that falls outside expected functionality shall be removed from service until deficiencies have been corrected.
3. LPR systems repairs, hardware or software, shall be made by agency authorized sources.

C. License Plate Reader System Usage

1. LPR operation and access to LPR collected data shall be for official agency purposes only.
2. Only officers who have been properly trained in the use and operational protocols of the LPR systems shall be permitted to use it.
3. At the start of each shift users must ensure that the LPR system has been updated with the most current hot lists available.
4. LPR Alerts/Hits: Prior to initiation of the stop:
 - a. Visually verify that the vehicle plate number matches the plate number run by the LPR system, including both alphanumeric characters of the license plate and the state of issuance.
 - b. Verify the current status of the plate through dispatch or MDT query when cir-

cumstances allow.

5. In each case in which an alert or a hit is triggered, the user should record the disposition of the alert and the hit into the LPR system
6. Hot lists may be updated manually if the user enters a specific plate into the LPR system and wants to be alerted when that plate is located. Whenever a plate is manually entered into the LPR system, the officer should document the reason.
7. Special Details: LPR use during nontraditional deployments (e.g., special operations or during a criminal investigation) must be approved by the administrator.
8. Searches of historical data within the LPR system should be done in accordance with established departmental policies and procedures.

D. LPR Data Sharing and Dissemination

LPR data should be considered FOUO and can be shared for legitimate law enforcement purposes:

1. When LPR data are disseminated outside the agency, it should be documented in a secondary dissemination log.
2. Information sharing among agencies should be dictated in accordance with MOUs (memoranda of understanding) or established departmental policies.

E. Retention

Please refer to the *License Plate Reader Concepts and Issues Paper* for a discussion on retention.

Acknowledgment

This *Model Policy* was developed by the International Association of Chiefs of Police (IACP) Law Enforcement Information Management (LEIM) Section, in cooperation with the IACP National Law Enforcement Policy Center. Additional support was provided by the LPR Model Policy Working Group, to whom we are deeply appreciative for sharing their agency policies and expertise.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Appendix C

An Act Relating to Automatic License Plate Recognition Policies

Section 1. 25 MRSA § 2803-B as amended by C. 652, PL 2009, is further amended as follows:

1. Law enforcement policies. All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

- A. Use of physical force, including the use of electronic weapons and less-than-lethal munitions;
- B. Barricaded persons and hostage situations;
- C. Persons exhibiting deviant behavior;
- D. Domestic violence, which must include, at a minimum, the following:
 - (1) A process to ensure that a victim receives notification of the defendant's release from jail;
 - (2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made; and
 - (3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours notice to each party prior to the retrieval;
- E. Hate or bias crimes;
- F. Police pursuits;
- G. Citizen complaints of police misconduct;
- H. Criminal conduct engaged in by law enforcement officers;
- I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations;
- J. Public notification regarding persons in the community required to register under Title 34-A, chapter 15;
- K. Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases; and
- L. Mental illness and the process for involuntary commitment.
- M. Automated License Plate Recognition Systems, if an agency elects to use such a system.

For purposes of this section, "Automated License Plate Recognition System" means a device that uses a camera or optical character reader and computer technology to capture digital images of license plates and to compare images to a database of plates of interest."

The chief administrative officer of each agency shall certify to the board that attempts were made to obtain public comment during the formulation of policies.

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34□A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; policies for the expanded use of physical force, including the use of electronic weapons and less-than-lethal munitions under subsection 1, paragraph A, must be established no later than January 1, 2010; ~~and~~ policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010; and policies for the use of automated license plate recognition systems under subsection 1, paragraph M must be established no later than July 1, 2012.

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; certification to the board for adoption of an expanded use of physical force policy under subsection 1, paragraph A must be made to the board no later than June 1, 2010; and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; certification for orientation and training with respect to policies regarding the recording and

preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; certification for orientation and training with respect to policies regarding expanded use of physical force under subsection 1, paragraph A must be made to the board no later than January 1, 2011; ~~and~~ certification for orientation and training with respect to policies regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011; and certification for orientation and training with respect to policies regarding automated license plate recognition systems under subsection 1, paragraph M, prior to implementing such a system.

4. Penalty.

5. Annual standards review. The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety.

6. Freedom of access. The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually beginning on January 1, 2004 that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief administrative officer has designated a person who is trained to respond to a request received by the agency pursuant to Title 1, chapter 13.

7. Certification by record custodian. Notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the board, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

Summary

This legislation is based on the recommendations of the Automated License Plate Recognition Working Group authorized by Chapter 605, PL 2010. The bill would require any law enforcement agency using ALPR's to develop a usage policy based on standards approved by the Maine Criminal Justice Academy. The MCJA must establish minimum standards for the use of ALPR's.