


<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i> California Automated License Plate Reader Data Guidance</p>	<p><i>No.</i> 2023-DLE-06</p>	<p><i>Contact for information:</i> John D. Marsh, Chief Division of Law Enforcement (916) 210-6300</p>
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TO: ALL CALIFORNIA STATE AND LOCAL LAW ENFORCEMENT AGENCIES

This Information Bulletin provides guidance to California state and local law enforcement agencies (collectively California LEAs) regarding the governance of Automated License Plate Recognition (ALPR) information to ensure that the storage, collection, sharing, and use of this information is consistent with California law.

According to a recent survey and report issued by the California State Auditor¹, the majority of California LEAs collect and use images captured by ALPR cameras. While ALPR information may be a helpful tool for investigative purposes, California law governs the collection, storage, sharing, and use of this data. In particular, Senate Bill 34 (Statutes of 2015, Chapter 532) (SB 34) imposes requirements on ALPR system operators and end-users regarding ALPR data collected through an ALPR system, including with whom this information may be shared.

This Information Bulletin should serve as a reminder and a resource for California LEAs to ensure that their collection, storage, sharing, and use of ALPR information complies with California law.

State Law Governing Use of Automated License Plate Reader Data (SB 34)

Senate Bill 34 (Statutes of 2015, Chapter 532) (SB 34) became effective on January 1, 2016. That law, codified at California Civil Code section 1798.90.5 *et seq.*, establishes requirements—including privacy safeguards—for California LEAs who collect, store, use, or share ALPR data. Additional requirements apply to agencies that operate an ALPR system. Key definitions from SB 34 are set forth below:

- “ALPR information” is “information or data collected through the use of an ALPR system [excluding a transportation agency].” (Civ. Code, § 1798.90.5, subd. (b).)
- “ALPR system” means “a searchable computerized database resulting from the operation of one or more mobile or fixed cameras combined with computer algorithms to read and convert images of registration plates and the characters they contain into computer-readable data.” (Civ. Code, § 1798.90.5, subd. (d).)
- “ALPR operator” is “a person that operates an ALPR system, but does not include a transportation

¹ The full report is available at <https://www.auditor.ca.gov/reports/2019-118/index.html>

agency when subject to Section 31490 of the Streets and Highways Code.].) (Civ. Code, § 1798.90.5, subd. (c))

- An “ALPR end-user” is “a person that accesses or uses an ALPR system,” with exclusions not relevant to LEAs. (Civ. Code, § 1798.90.5, subd. (a).)
- A “person” is “any natural person, public agency, partnership, firm, association, corporation, limited liability company, or other legal entity.” (Civ. Code, § 1798.90.5, subd. (e).)
- A “public agency” is “the state, any city, county, or city and county, or any agency or political subdivision of the state or a city, county, or city and county, including, but not limited to, a law enforcement agency.” (Civ. Code, § 1798.90.5, subd. (f).)

GUIDANCE REGARDING SB 34

As a reminder, SB 34 imposes the following affirmative obligations on “public agencies,” which includes all California LEAs:

- A public agency “shall not sell, share, or transfer ALPR information, except to another public agency, and only as otherwise permitted by law.” “[T]he provision of data hosting or towing services shall not be considered the sale, sharing, or transferring of ALPR information.” (Civ. Code, § 1798.90.55, subd. (b).)
- A public agency that operates or intends to operate an ALPR system must provide the opportunity for public comment at a regularly scheduled meeting of the agency before implementing the ALPR program. (Civ. Code, § 1798.90.55, subd. (a).)
- ALPR operators and end-users must develop a usage and privacy policy, which must be conspicuously posted on their website, and must contain provisions designed to “protect ALPR information from unauthorized access, destruction, use, modification, or disclosure.” (Civ. Code, §§ 1798.90.53, subs. (a)-(b); 1798.90.51, subd. (a)-(b).)

Agencies should carefully examine their policies and procedures to determine whether they are an ALPR operator and/or end-user, as defined above, and whether they have complied with the obligations of operators and end-users as set forth in SB 34.

Prohibition on the Sale, Sharing, or Transfer of ALPR Information

Regardless of whether an LEA is an ALPR operator or ALPR end-user, SB 34 prohibits any public agency from selling, sharing, or transferring ALPR information “except to another public agency, and only as otherwise permitted by law.” (Civ. Code, § 1798.90.55, subd. (b).) Data hosting or towing services are not considered the sale, sharing, or transferring of ALPR information. (*Ibid.*)

Importantly, the definition of “public agency” is limited to state or local agencies, including law enforcement agencies, and does not include out-of-state or federal law enforcement agencies. (See Civ.

Code, § 1798.90.5, subd. (f).) Accordingly, SB 34 does not permit California LEAs to share ALPR information with private entities or out-of-state or federal agencies, including out-of-state and federal law enforcement agencies. This prohibition applies to ALPR database(s) that LEAs access through private or public vendors who maintain ALPR information collected from multiple databases and/or public agencies.

California LEAs are encouraged to review their data user agreements to ensure that they comply with SB 34 and do not allow access to agencies other than state and local agencies, or permitted private entities for purposes of data hosting or towing services.

In responding to a Public Records Act request or compulsory process in litigation seeking the production of ALPR information, California LEAs should consider all applicable privileges and exemptions depending on the nature of the request, bearing in mind the command in Civil Code section 1798.90.55, subdivision (b), that an ALPR end-user or operator “shall not sell, share, or transfer ALPR information, except to another public agency, and only as otherwise permitted by law.”

Guidance for California LEA ALPR Operators

California LEAs that **operate** an ALPR system are encouraged to ensure they are in compliance with the following SB 34 requirements:

- Maintain reasonable security procedures and practices to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure. (Civ. Code, § 1798.90.51, subd. (a).)
- Implement a usage and privacy policy, which must be available to the public in writing and posted conspicuously on the LEA’s internet website.
 - SB 34 contains numerous requirements regarding the content of this policy. (See Civ. Code, § 1798.90.51, subd. (b).) Please see the attached template policy that the California Department of Justice has drafted to assist California LEAs that are operators and/or end-users in complying with SB 34.
- Do the following, if the ALPR operator accesses or provides access to ALPR information (for example, to other LEAs by permitting access to its ALPR database):
 - Maintain a record of that access, including:
 - The date and time the information is accessed;
 - The license plate number or other data elements used to query the ALPR system;
 - The user name of the person who accesses the information and, if applicable, the organization or entity with whom the person is affiliated; and

- The purpose for accessing the information. (Civ. Code, § 1798.90.52, subd. (a).)
- Require that ALPR information only be used for the authorized purposes described in its ALPR privacy policy. (Civ. Code, § 1798.90.52, subd. (b).)
- Comply with the requirement to “provide an opportunity for public comment at a regularly scheduled public meeting of the governing body of the public agency before implementing the program.” (Civ. Code, § 1798.90.55, subd. (a).)
 - This means that agencies that have not yet implemented an ALPR program but are contemplating doing so must provide an opportunity for public comment regarding the proposed program at a regularly scheduled meeting of the agency’s governing body before implementing the program.
 - Although the law does not address ALPR programs that were implemented before January 1, 2016 (when SB 34 was enacted), in keeping with the purpose of SB 34, agencies whose programs predate SB 34, LEAs should consider providing an opportunity for public comment on its ALPR program at a regularly scheduled public meeting of the agency’s governing body.
 - Agencies that implemented an ALPR program after January 1, 2016, without providing an opportunity for public comment, should likewise consider providing such an opportunity at a regularly scheduled meeting of the agency’s governing body.

Guidance for California LEA ALPR End-Users

LEAs that **access or use** an ALPR system (which, as defined above, includes a searchable computerized database with information obtained from ALPR cameras) should ensure they are in compliance with the following SB 34 requirements:

- Maintain reasonable security procedures and practices to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure. (Civ. Code, § 1798.90.53, subd. (a).)
- Implement a usage and privacy policy, which shall be available to the public in writing and posted conspicuously on the agency’s website. (Civ. Code, § 1798.90.53, subd. (b)(1).)
 - SB 34 contains numerous requirements regarding the content of this policy. (See Civ. Code, § 1798.90.53, subd. (b)(2).) Please see the attached template policy that the California Department of Justice has drafted to assist California LEAs that are operators and/or end-users in complying with SB 34.

As a reminder, SB 34 requires California LEAs that operate as either ALPR operators and/or end-users to conspicuously display their ALPR policies on their agency’s website, if they have a website. Inclusion of such a policy in a manual, without noting on the main web page of their agency the existence of and/or link to such a policy, may not satisfy SB 34’s requirement that such policies be “posted conspicuously on that Internet Web site.” (Civ. Code, §§ 1798.90.51, subs. (b)(1), 1798,90.53, subd. (b)(1).)

Accessing the FBI's National Crime Information Center (NCIC) and CA DOJ License Plate Data

In addition to the requirements in this bulletin related to ALPR data, LEAs may access NCIC and California Department of Justice license plate data files, to be used for law enforcement purposes only, subject to the authorization process and restrictions summarized in Bulletin #23-01-CJIS [Updated California Value's Act's Database Guidance].

Additional Reference Materials

Going forward, as your agency utilizes ALPR technology and related file downloads, you are encouraged to regularly review your policies and usage to help ensure all applicable requirements are being adhered to. As additional reference materials, the following resources are included for your consideration as well:

- **California State Auditor's Report, 2019-118**
"ALPRS: To Better Protect Individuals' Privacy, Law Enforcement Must Increase Its Safeguards for the Data it Collects"
<https://www.auditor.ca.gov/reports/2019-118/index.html>
- **DOJ Information Bulletin, 18-10-CJIS**
"California Values Act's Database Guidance"
https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/18-10-cjis.pdf
- **DOJ Information Bulletin, 23-01-CJIS**
"Updated California Value's Act's Database Guidance"
<https://oag.ca.gov/info-bulletins>

For questions about this Information Bulletin, please contact Division of Law Enforcement Chief John Marsh at (916) 210-6300.