

# Work Session

<b>Agenda Item #</b>	7
<b>Meeting Date</b>	May 12, 2014
<b>Prepared By</b>	Alan Goldberg Chief of Police
<b>Approved By</b>	Brian Kenner City Manager

<b>Discussion Item</b>	Discussion of License Plate Reader (LPR) Policy
<b>Background</b>	<p>The work session has been scheduled to follow up on the discussion of May 5.</p> <p>In summary, the current Takoma Park Police General Orders governing LPR retention and sharing practices was last modified in 2011. Since this time, the Maryland Coordination and Analysis Center (MCAC), Montgomery County, Rockville, and other jurisdictions have formalized their data retention and sharing policies.</p> <p>The primary proposed change articulated in the draft general order recommended by staff governing LPRs is to allow the Takoma Park Police to share collected LPR data with the MCAC. The General Assembly passed legislation (SB 699) restricting release and use of LPR data to legitimate law enforcement purposes and creating an audit requirement similar to those in place for criminal history inquiries.</p> <p>MCAC has an established retention and sharing policy which was provided last week. The draft general order does not propose to change the time period LPR data is kept by Takoma Park Police, this would remain at 30 days and then be automatically deleted.</p> <p>At the work session on May 5, the Council indicated a desire to review SB 699 prior to making a decision on the new policy. That legislation is attached.</p>
<b>Policy</b>	<p><b>Livable Community</b> – Create and maintain a livable community that is vibrant, healthy, and safe, with convenient transportation for all of its residents.</p> <p><b>Engaged, Responsive, and Service-Oriented Government</b> – Ensure the delivery of high quality City services. The City Council and the City need to understand the community’s needs, be responsive to these needs, and measure progress in meeting those needs.</p> <p>(from the <i>City of Takoma Park Strategic Plan</i>)</p>
<b>Fiscal Impact</b>	N/A
<b>Attachments</b>	SB 699
<b>Recommendation</b>	Discuss whether changes should be made to the current policy.
<b>Special Consideration</b>	

# SENATE BILL 699

E4, P1

(4lr2874)

## ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senators Shank, Raskin, Hershey, Jacobs, Muse, Ramirez, Reilly, Simonaire, Stone, and ~~Young~~ Young, and Forehand**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Automatic ~~Motor Vehicle~~ Registration License Plate Readers and Captured**  
3 **Plate Data – Authorized Uses**

4 FOR the purpose of ~~prohibiting a person from using an automatic motor vehicle~~  
5 ~~registration plate reader system, subject to a certain exception for a law~~  
6 ~~enforcement agency for certain purposes; prohibiting a law enforcement agency~~  
7 ~~from sharing captured plate data for other than certain purposes, subject to a~~  
8 ~~certain exception; prohibiting a law enforcement agency from retaining~~  
9 ~~captured plate data for more than a certain period of time and requiring the law~~  
10 ~~enforcement agency to destroy the captured plate data after that time period,~~  
11 ~~subject to a certain exception for a certain purpose; requiring a law enforcement~~  
12 ~~agency that retains captured plate data for more than the time period allowed~~  
13 ~~under this Act to destroy the captured plate data at the conclusion of certain~~  
14 ~~activity or proceedings; altering the definition of “covert investigation” to~~

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



~~include the use of an automatic registration plate reader system for purposes of expanding the application of the prohibition against a law enforcement agency conducting a covert investigation of certain persons engaged in First Amendment activities; requiring a custodian of captured plate data collected by an automatic registration plate reader system to deny inspection of the captured plate data, subject to certain exceptions; prohibiting a law enforcement agency from using captured plate data unless the agency has a legitimate law enforcement purpose; establishing certain penalties for a certain violation; requiring the Department of State Police and certain law enforcement agencies to adopt certain procedures; establishing that information gathered by an automatic license plate reader system is not subject to disclosure under the Maryland Public Information Act; requiring the Department, in conjunction with the Maryland Coordination and Analysis Center and certain law enforcement agencies, to report certain information to certain committees on or before a certain date each year; requiring the Center, in cooperation with certain entities, to develop a certain model audit policy; establishing the policy of the State; defining certain terms; and generally relating to the authorized uses of automatic motor vehicle registration license plate reader systems and captured plate data.~~

BY adding to

Article – Public Safety

Section 3-509

Annotated Code of Maryland

(2011 Replacement Volume and 2013 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – Public Safety~~

~~Section 3-701(a)(1) and (c)~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Public Safety~~

~~Section 3-701(a)(3)~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – State Government~~

~~Section 10-616(a)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2013 Supplement)~~

BY adding to

~~Article – State Government~~

~~Section 10-616(w)~~

~~Annotated Code of Maryland~~  
~~(2009 Replacement Volume and 2013 Supplement)~~

BY repealing and reenacting, without amendments,

Article – General Provisions

Section 4-304

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_\_ (H.B. 270) of the Acts of the General Assembly of  
2014)

BY adding to

Article – General Provisions

Section 4-326

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_\_ (H.B. 270) of the Acts of the General Assembly of  
2014)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
MARYLAND, That the Laws of Maryland read as follows:

**Article – Public Safety**

**3-509.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
MEANINGS INDICATED.

(2) (I) “ACTIVE DATA” MEANS:

1. DATA UPLOADED TO INDIVIDUAL AUTOMATIC  
LICENSE PLATE READER SYSTEM UNITS BEFORE OPERATION; AND

2. DATA GATHERED DURING THE OPERATION OF AN  
AUTOMATIC LICENSE PLATE READER SYSTEM.

(II) “ACTIVE DATA” DOES NOT INCLUDE HISTORICAL DATA.

~~(2) (3)~~ “AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER  
SYSTEM” MEANS A SYSTEM OF ONE OR MORE MOBILE OR FIXED ~~AUTOMATED~~  
HIGH-SPEED CAMERAS USED IN COMBINATION WITH COMPUTER ALGORITHMS  
TO CONVERT IMAGES OF LICENSE PLATES INTO COMPUTER-READABLE DATA.

~~(3) (4)~~ (I) “CAPTURED PLATE DATA” MEANS THE GLOBAL  
POSITIONING SYSTEM COORDINATES, DATES AND TIMES, PHOTOGRAPHS,

1 LICENSE PLATE NUMBERS, AND ANY OTHER DATA COLLECTED BY OR DERIVED  
2 FROM AN AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM.

3 (II) "CAPTURED PLATE DATA" INCLUDES ACTIVE DATA AND  
4 HISTORICAL DATA.

5 (5) "CENTER" MEANS THE MARYLAND COORDINATION AND  
6 ANALYSIS CENTER.

7 (6) "HISTORICAL DATA" MEANS ANY DATA COLLECTED BY AN  
8 AUTOMATIC LICENSE PLATE READER SYSTEM AND STORED IN AN AUTOMATIC  
9 LICENSE PLATE READER DATABASE OPERATED BY THE MARYLAND  
10 COORDINATION AND ANALYSIS CENTER OR BY A LAW ENFORCEMENT AGENCY.

11 (7) "LAW ENFORCEMENT AGENCY" ~~MEANS AN AGENCY THAT IS~~  
12 ~~LISTED IN § 3-101(E)~~ HAS THE MEANING STATED IN § 3-201(D) OF THIS TITLE.

13 (8) "LEGITIMATE LAW ENFORCEMENT PURPOSE" MEANS THE  
14 INVESTIGATION, DETECTION, OR ANALYSIS OF A CRIME OR A VIOLATION OF THE  
15 MARYLAND VEHICLE LAWS OR THE OPERATION OF TERRORIST OR MISSING OR  
16 ENDANGERED PERSON SEARCHES OR ALERTS.

17 (B) (1) A LAW ENFORCEMENT AGENCY MAY NOT USE CAPTURED  
18 PLATE DATA UNLESS THE AGENCY HAS A LEGITIMATE LAW ENFORCEMENT  
19 PURPOSE.

20 (2) AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY WHO  
21 VIOLATES THIS SUBSECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1  
22 YEAR AND A FINE NOT EXCEEDING \$10,000 OR BOTH.

23 (C) (1) THE DEPARTMENT OF STATE POLICE AND ANY LAW  
24 ENFORCEMENT AGENCY USING AN AUTOMATIC LICENSE PLATE READER SYSTEM  
25 SHALL ADOPT PROCEDURES RELATING TO THE OPERATION AND USE OF THE  
26 SYSTEM.

27 (2) THE PROCEDURES SHALL INCLUDE:

28 (I) WHICH PERSONNEL IN THE CENTER OR A LAW  
29 ENFORCEMENT AGENCY ARE AUTHORIZED TO QUERY CAPTURED PLATE DATA  
30 GATHERED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM;

31 (II) AN AUDIT PROCESS TO ENSURE THAT INFORMATION  
32 OBTAINED THROUGH THE USE OF AN AUTOMATIC LICENSE PLATE READER  
33 SYSTEM IS USED ONLY FOR LEGITIMATE LAW ENFORCEMENT PURPOSES,

1 INCLUDING AUDITS OF REQUESTS MADE BY INDIVIDUAL LAW ENFORCEMENT  
2 AGENCIES OR AN INDIVIDUAL LAW ENFORCEMENT OFFICER; AND

3 (III) PROCEDURES AND SAFEGUARDS TO ENSURE THAT  
4 CENTER STAFF WITH ACCESS TO THE AUTOMATIC LICENSE PLATE READER  
5 DATABASE ARE ADEQUATELY SCREENED AND TRAINED.

6 (D) INFORMATION GATHERED BY AN AUTOMATIC LICENSE PLATE  
7 READER SYSTEM IS NOT SUBJECT TO DISCLOSURE UNDER THE MARYLAND  
8 PUBLIC INFORMATION ACT.

9 (E) ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2016, THE  
10 DEPARTMENT OF STATE POLICE, IN CONJUNCTION WITH THE CENTER AND LAW  
11 ENFORCEMENT AGENCIES THAT MAINTAIN AN AUTOMATIC LICENSE PLATE  
12 READER DATABASE, SHALL REPORT TO THE SENATE JUDICIAL PROCEEDINGS  
13 COMMITTEE, THE HOUSE JUDICIARY COMMITTEE, AND THE LEGISLATIVE  
14 POLICY COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE  
15 GOVERNMENT ARTICLE, ON THE FOLLOWING INFORMATION BASED ON DATA  
16 FROM THE PREVIOUS CALENDAR YEAR:

17 (1) THE TOTAL NUMBER OF AUTOMATIC LICENSE PLATE READER  
18 UNITS BEING OPERATED IN THE STATE BY LAW ENFORCEMENT AGENCIES AND  
19 THE NUMBER OF UNITS SUBMITTING DATA TO THE CENTER;

20 (2) THE NUMBER OF AUTOMATIC LICENSE PLATE READER  
21 READINGS MADE BY A LAW ENFORCEMENT AGENCY THAT MAINTAINS AN  
22 AUTOMATIC LICENSE PLATE READER DATABASE AND THE NUMBER OF  
23 READINGS SUBMITTED TO THE CENTER;

24 (3) THE NUMBER OF AUTOMATIC LICENSE PLATE READER  
25 READINGS BEING RETAINED ON THE AUTOMATIC LICENSE PLATE READER  
26 DATABASE;

27 (4) THE NUMBER OF REQUESTS MADE TO THE CENTER AND EACH  
28 LAW ENFORCEMENT AGENCY THAT MAINTAINS AN AUTOMATIC LICENSE PLATE  
29 READER DATABASE FOR AUTOMATIC LICENSE PLATE READER DATA, INCLUDING  
30 SPECIFIC NUMBERS FOR:

31 (I) THE NUMBER OF REQUESTS THAT RESULTED IN A  
32 RELEASE OF INFORMATION;

33 (II) THE NUMBER OF OUT-OF-STATE REQUESTS;

34 (III) THE NUMBER OF FEDERAL REQUESTS;

1 (IV) THE NUMBER OF OUT-OF-STATE REQUESTS THAT  
2 RESULTED IN A RELEASE OF INFORMATION; AND

3 (V) THE NUMBER OF FEDERAL REQUESTS THAT RESULTED  
4 IN A RELEASE OF INFORMATION;

5 (5) ANY DATA BREACHES OR UNAUTHORIZED USES OF THE  
6 AUTOMATIC LICENSE PLATE READER DATABASE; AND

7 (6) A LIST OF AUDITS THAT WERE COMPLETED BY THE CENTER  
8 OR A LAW ENFORCEMENT AGENCY.

9 ~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
10 ~~SUBSECTION, A PERSON MAY NOT USE AN AUTOMATIC REGISTRATION PLATE~~  
11 ~~READER SYSTEM.~~

12 ~~(2) A LAW ENFORCEMENT AGENCY MAY USE AN AUTOMATIC~~  
13 ~~REGISTRATION PLATE READER SYSTEM TO:~~

14 ~~(I) PROTECT PUBLIC SAFETY;~~

15 ~~(II) CONDUCT A CRIMINAL INVESTIGATION; OR~~

16 ~~(III) ENSURE COMPLIANCE WITH LOCAL, STATE, OR~~  
17 ~~FEDERAL LAW.~~

18 ~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
19 ~~SUBSECTION, A LAW ENFORCEMENT AGENCY MAY NOT USE OR SHARE~~  
20 ~~CAPTURED PLATE DATA FOR ANY PURPOSE OTHER THAN THOSE STATED IN~~  
21 ~~SUBSECTION (B)(2) OF THIS SECTION.~~

22 ~~(2) A LAW ENFORCEMENT AGENCY MAY SHARE WITH ANOTHER~~  
23 ~~LAW ENFORCEMENT AGENCY CAPTURED PLATE DATA THAT INDICATES~~  
24 ~~EVIDENCE OF AN OFFENSE.~~

25 ~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
26 ~~SUBSECTION, A LAW ENFORCEMENT AGENCY:~~

27 ~~(I) MAY NOT RETAIN CAPTURED PLATE DATA FOR MORE~~  
28 ~~THAN 30 DAYS; AND~~

29 ~~(II) SHALL DESTROY CAPTURED PLATE DATA AFTER 30~~  
30 ~~DAYS.~~

~~(2) (i) A LAW ENFORCEMENT AGENCY MAY RETAIN CAPTURED PLATE DATA FOR MORE THAN 30 DAYS AS PART OF AN ONGOING CRIMINAL INVESTIGATION.~~

~~(ii) A LAW ENFORCEMENT AGENCY THAT RETAINS CAPTURED PLATE DATA FOR MORE THAN 30 DAYS UNDER THIS PARAGRAPH SHALL DESTROY THE CAPTURED PLATE DATA AT THE CONCLUSION OF:~~

~~1. ANY CRIMINAL INVESTIGATION THAT INVOLVED THE CAPTURED PLATE DATA BUT DID NOT RESULT IN THE FILING OF CRIMINAL CHARGES; OR~~

~~2. ANY LEGAL ACTION UNDERTAKEN THAT INVOLVED THE CAPTURED PLATE DATA.~~

~~3-701.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(3) (i) "Covert investigation" means an infiltration of or attempt to infiltrate a group or organization in a manner that conceals the identity of the law enforcement agency or the identity of an officer or agent of the law enforcement agency.~~

~~(ii) "COVERT INVESTIGATION" INCLUDES THE USE OF AN AUTOMATIC REGISTRATION PLATE READER SYSTEM UNDER § 3-509 OF THIS TITLE.~~

~~(iii) "Covert investigation" does not include the use of plainclothes officers or employees for crowd control and public safety purposes at public events.~~

~~(e) (1) A law enforcement agency may not conduct a covert investigation of a person, a group, or an organization engaged in First Amendment activities unless the chief or the chief's designee makes a written finding in advance or as soon as is practicable afterwards that the covert investigation is justified because:~~

~~(i) it is based on a reasonable, articulable suspicion that the person, group, or organization is planning or engaged in criminal activity; and~~

~~(ii) a less intrusive method of investigation is not likely to yield satisfactory results.~~



~~(2) Membership or participation in a group or organization engaged in First Amendment activities does not alone establish reasonable, articulable suspicion of criminal activity.~~

**Article – ~~State Government~~ General Provisions**

~~10-616. 4-304.~~

~~(a)~~ Unless otherwise provided by law, a custodian shall deny inspection of a public record, as provided in this ~~section~~ part.

**4-326.**

~~(w)~~ **(A) (1) (H) IN THIS ~~SUBSECTION~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

~~(H)~~ **(2) “AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM” HAS THE MEANING STATED IN § 3-509 OF THE PUBLIC SAFETY ARTICLE.**

~~(HH)~~ **(3) “CAPTURED PLATE DATA” HAS THE MEANING STATED IN § 3-509 OF THE PUBLIC SAFETY ARTICLE.**

~~(2)~~ **(B) EXCEPT AS PROVIDED IN ~~PARAGRAPH (3)~~ SUBSECTIONS (C) AND (D) OF THIS ~~SUBSECTION~~ SECTION, A CUSTODIAN OF CAPTURED PLATE DATA COLLECTED BY AN AUTOMATIC ~~REGISTRATION~~ LICENSE PLATE READER SYSTEM SHALL DENY INSPECTION OF THE CAPTURED PLATE DATA.**

~~(3)~~ **(C) A CUSTODIAN MAY USE OR SHARE CAPTURED PLATE DATA IN THE COURSE OF THE CUSTODIAN’S DUTIES AS AUTHORIZED UNDER § 3-509 OF THE PUBLIC SAFETY ARTICLE.**

**(D) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO AN ELECTRONIC TOLL COLLECTION SYSTEM OR ASSOCIATED TRANSACTION SYSTEM OPERATED BY OR IN CONJUNCTION WITH THE MARYLAND TRANSPORTATION AUTHORITY.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2015, the Maryland Coordination and Analysis Center, in cooperation with the Maryland Chiefs of Police Association and the Maryland Sheriffs Association, shall develop a model audit policy for access to and use of automatic license plate reader data.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.