

Special Session

Agenda Item #	1
Meeting Date	July 21, 2014
Prepared By	Alan Goldberg Chief of Police
Approved By	Brian Kenner City Manager

Discussion Item	Resolution for License Plate Reader (LPR) Policy
Background	<p>The Council has discussed the background and proposed LPR policy for the City of Takoma Park over a series of work sessions on March 31, 2014, May 5, 2014, and May 12, 2014. Most recently at the May 12, 2014 work session the Council heard from community members, representatives from the Maryland Coordination and Analysis Center (MCAC) as well as representatives from the Maryland Chapter of the ACLU.</p> <p>In summary, the current Takoma Park General Orders governing LPR retention and sharing practices was last modified in 2011. Since this time, the 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 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. 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. Also, the draft General Order includes a change to require a Council review at least annually on the LPR policy and a requirement that if MCAC changes its retention policy the Council will review to determine if City policy on LPRs needs to change.</p> <p>Attached is further clarification on MCAC policies by Colleen Richarts and a response by Senator Raskin to clarify his position.</p>
Policy	<p>Livable Community – Create and maintain a livable community that is vibrant, healthy, and safe, with convenient transportation for all of its residents.</p> <p>Engaged, Responsive, and Service-Oriented Government – 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>
Fiscal Impact	N/A
Attachments	Draft Resolution, Proposed Takoma Park LPR General Order, Colleen Richarts (MCAC) Responses, Senator Raskin Responses.
Recommendation	Adopt the resolution.
Special Consideration	

TAKOMA PARK POLICE DEPARTMENT - GENERAL ORDERS



	TITLE: Automatic License Plate Recognition Scanner	NUMBER: 717
	EFFECTIVE DATE:	REVIEW DATE:
	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amends <input type="checkbox"/> Rescinds	General Order 717, dated May 3, 2011
AUTHORITY: Alan Goldberg, Chief of Police	CALEA STANDARDS:	TOTAL PAGES: 4

01 Purpose: To establish policy and procedures for Departmental use of an Automatic License Plate Recognition Scanner.

02 Policy: It is the policy of the Department to utilize technology in the furtherance of law enforcement efforts to locate and apprehend criminal suspects. It is further the policy of the Department to ensure that the use of technology devices such as the Automatic License Plate Recognition Scanner should not, intentionally or otherwise, compromise legitimate privacy concerns of law abiding citizens.

03 Definitions:

A. ALPR Scanner - an Automatic License Plate Recognition Scanner is a device that uses cameras and computer technology to compare captured digital images of license plates to lists of known plates of interest to law enforcement.

B. Scan File - lists or data obtained by an ALPR Scanner of license plates viewed by the device, potentially including images of the plates and vehicles on which they are displayed, and information regarding the date, time and location it each was viewed by the ALPR Scanner.

C. Hot List - In the context of this Order, the term “hot list” refers to a database populated with information of specific concern to the investigative or enforcement interests of law enforcement. This may include, but is not limited to, data contained in the Terrorist Screening

Center (TSC) watch list, stolen and wanted vehicles and registration plates, wanted and missing persons, cautions, and registration plates associated with Amber Alerts or various other law enforcement watch lists.

D. Extract Download - “hot” lists of license plates associated with vehicles of interest from one or more of the databases.

E. Alarm - The terms “alarm” and “hit” are used interchangeably herein and refer to a positive indication, by visual or audible signal, of a potential match between data on the current hot list and data associated with the registration or license plate captured by the scanner. A hit indication is not conclusive and additional investigation is always warranted to verify the accuracy of any suspected match.

F. LPR System - The terms “License Plate Reader System” or “LPR system” refer to the process whereby cameras, computers, and computer software are used to capture registration plate images, interpret the characters depicted, and compare the data against a regularly updated listing of registration plates and associated information of interest to law enforcement.

G. LPR Generated Data - The term “LPR generated data” refers to all information, including location, date and time of a registration plate encounter, the optical character recognition (OCR) interpolated data and any LPR generated digital images of a registration plate or vehicle

that are generated entirely by and through the use of LPR systems equipment.

H. Legitimate Law Enforcement Purpose - The term "Legitimate Law Enforcement Purpose" means the investigation, detection, or analysis of a crime or violation of the Maryland Motor Vehicle Laws or the operation of terrorist or missing or endangered person searches or alerts.

04 Procedures:

A. General Provisions

1. This General Order establishes basic guidelines for the deployment of LPR system technology by the department and applies to its use by all personnel, regardless of assignment.

2. The Department's use of LPR technology is intended to augment current delivery of police services, through the enhanced ability to identify and locate persons and property associated with various crimes. The technology shall be utilized for detection purposes and not for the collection and retention of information unrelated to legitimate law enforcement objectives.

3. Vehicle mounted LPR systems may be deployed using any Department owned vehicle.

4. Operation of LPR equipped vehicles shall be in accordance with all other Department orders governing vehicle and associated equipment use.

5. Portable LPR systems shall be assembled and mounted to vehicles in accordance with the manufacturer's specifications and the vendor's instructions.

6. LPR systems shall be properly secured when not in use.

7. LPR systems shall only be operated by personnel who have successfully completed Department approved training on use of the equipment.

B. Deployment

1. Supervisors who have officers with LPR equipment installed on their assigned vehicles should identify same on the Department daily activity sheet.

2. LPR equipped vehicles may be used by authorized personnel during any approved duty assignment.

3. LPR systems may be deployed for a Legitimate Law Enforcement Purpose only.

4. Prior to use, officers deploying mobile LPR systems shall ensure that the component devices are properly affixed to the vehicle and confirm the system contains the most current hot list, according to methods detailed in LPR system training.

5. LPR systems and resources may be used in coordination with area-wide law enforcement activities or objectives, when operated by appropriately trained Department personnel.

6. LPR systems deployed in fixed locations will be monitored, operated and maintained in accordance with the manufacturer's specifications and in compliance with any applicable statute or Department policy.

C. Development of Hot Lists

1. The LPR system will obtain hot lists, and periodic updates thereto, from the Montgomery County Police Department.

2. Operators becoming aware of additional potential sources of vehicle lists will not use those sources to generate other hot lists without the expressed approval of the Chief of Police.

D. Response to LPR System Alerts

1. When a registration plate from the hot list is detected, an audible and visual alert will be given by the system. An LPR alarm is not sufficient probable cause to warrant an arrest without additional verification. The LPR operator should proceed to:

a. Take all reasonable measures to confirm whether the alert matches the actual registration plate in question;

b. As soon as practicable, confirm the alert by police radio with the Public Safety Communication Center (PSCC) or by real time NCIC query via mobile data computer.

c. Stop the vehicle in question or initiate surveillance until sufficient resources arrive to take enforcement action, in the case of a confirmed record match.

2. Any response to LPR system alerts will be in accordance with law and applicable Department directives, e.g., policies governing vehicle use, pursuits, mobile data computers, etc.

E. Data Handling, Transfer, and Storage

1. Data captured by LPR equipment is for law enforcement purposes only. Any other use is strictly prohibited.

2. The LPR system has the capability to store, or cause to store, data collected during registration plate detection and identification. LPR generated data is automatically transferred to the Maryland Coordination and Analysis Center (MCAC) and kept in accordance with the provisions of MCAC SOP 2011-01. The data is also retained on the individual LPR computer for a period of 30 days, after which it will be purged automatically.

3. Newly acquired information may be manually entered into LPR systems at any time. When a registration plate number is given in a lookout relating to a recent crime, wanted person, Amber Alert, or other similar matter the officer should:

a. Enter the registration plate data into the LPR hot list, following appropriate procedures.

b. Submit the reason for the entry in the “note” portion of the entry screen (e.g., stolen vehicle, missing person, abduction, Amber Alert, robbery suspect).

c. When prompted by the system, inquire whether the newly entered registration plate was previously read by the system and note GPS coordinates of any previous sightings.

F. Care and Maintenance

1. Personnel shall not attempt a modification of, or repair to, LPR systems or operating software. The LPR has no user serviceable components.

2. The designated LPR coordinator shall be notified of any LPR system component requiring maintenance or repair. All maintenance and repair will be coordinated with the appropriate vendor.

3. LPR camera lenses may be cleaned with glass cleaner or mild soap and water and a soft, nonabrasive cloth.

4. LPR cameras must be removed at the conclusion of the assigned unit’s tour of duty, prior to the vehicle entering an automatic car wash, or on any other occasion where there is increased risk of theft or damage.

5. When the LPR system is disconnected or removed from a vehicle, it shall be placed into its protective storage case and secured to prevent theft, loss, or damage.

6. The technology and deployment methods associated with LPR systems are evolving, which may affect the mobility and transferability of units from one location or vehicle to another. Personnel will exercise all reasonable means to safeguard in a manner consistent with vendor and manufacturer recommendations.

G. Reporting

1. When information obtained through the use of LPR generated data results in action being taken and an event report is written, the associated LPR use will be documented in the report’s narrative.

2. All operators utilizing an LPR system on a scanning mission will complete TPPD Form #700-020 and submit it to the Office of the Chief via the chain of command for use in evaluating the effectiveness of the program. Forms shall be submitted no later than the end of the operator’s current shift.

3. LPR alarms that indicate a “watch list hit” will include contact instructions in the return. At the first reasonably practical opportunity following receipt of such a return the operator will:

- a.** Make notification, or cause notification to be made, to the TSC contact designated in the return.
- b.** Notify the on duty supervisor of the nature of the return.
- c.** Document the contact in the “Types of Actions as a Result of the ALPR Use” section on TPPD Form #700-020.

H. Program Evaluation

- 1.** The Chief or his/her designee will present at least annually on the use, effectiveness, and any challenges with the employment of this LPR policy.
- 2.** If the MCAC retention or sharing policy changes, the Chief or his/her designee will discuss the changes with Council to evaluate if any City alterations in policy are necessary.

05 Limitations on Usage

A. Only officers or employees certified by a Command level officer will be permitted to access the Extract Downloads, develop hot lists, or operate the device. Any such operator will be required to possess authorization to access NCIC and MVA files via the METERS system. Security of the extract downloads will be consistent with other directives, rules, regulations, laws, and procedures applying to the use of information from those databases and will be the responsibility of the operator. Such certification will include training on this General Order as well as technical information on the operation of the unit.

B. Scanning missions will not last any longer than the shift duration of the operator. If a successive officer takes over use of the vehicle in which the LPR scanner is mounted, or otherwise takes over use of the device, he/she will initiate a

new scanning mission after development of a new hot list from the latest extract downloads.

C. It will be a violation of this policy and procedure to download any scan file, without the expressed authorization of the Chief of Police.

D. Operators are reminded that, since the information obtained in NCIC and MVA extract downloads is not real time data from those databases, action other than following the identified vehicle is not justified until an appropriate query of the source database has been accomplished, which then provides the justification for action as described elsewhere in departmental directives.

E. Operators should also be aware that in certain cases – such as a match to an MVA record for a suspended drivers license or an NCIC record for a wanted person – the driver or occupant of the vehicle may not in fact be the person for which the tag is associated. In these instances officers should obtain independent reasons for believing the operator is likely the suspended driver or wanted person before initiating a traffic stop.

Colleen Richarts (MCAC) Responses

Awesome! Thank you,

Tim

On Thu, Jun 12, 2014 at 12:46 PM, Colleen Richarts <Colleen.Richarts@mcac.maryland.gov> wrote:

Hi Tim,

Following the council meeting I updated our policy to show the requirements for a request to be processed on our website. The MCAC's internal policy "Standard Operating Procedures for Processing Requests for Information and Requests for Service Guidelines" details this requirement, but since this policy isn't detailed on the site I felt it best to add it here as well. Here is a snap shot of the policy from our website.

Thank you

Colleen

B. Data Collection, Retention, and Dissemination

1. The LPR data collected by the various agencies participating in the LPR program will be transmitted to the MCAC Operations Center via a fiber optic line or through an encrypted Virtual Private Network (VPN). The data will be maintained on the Operation Center server independent of any other law enforcement databases housed at the MCAC.
2. All LPR system data provided to the MCAC will be stored on the Operations Center server for a period not to exceed one year. After the one year period, the data will be purged unless it has become, or it is reasonable to believe that it will become, evidence, including evidence that tends to inculcate or exculpate a suspect, in a specific criminal or other law enforcement investigation or action. Should data be determined to have evidentiary value, the following paragraph applies:
 - a. In those circumstances when data is identified as having evidentiary value, the LPR Program Administrator, or designee, will review the facts of the specific case and determine if the data should be saved. If the LPR Program Administrator determines it is reasonable to believe the data has evidentiary value, the Program Administrator will authorize the transfer of the applicable data from the LPR Program server to a form of digital storage media (CD, DVD, etc.) or other portable storage devices.
 - b. Agencies requiring data to be retained by MCAC beyond the established retention period may make a formal request to the MCAC to extend retention. Each request must specify the need for extended retention, the circumstances surrounding the request, the requesting agency's case number, and a specific point of contact within the requesting agency. The MCAC reserves the right to grant or deny agency requests based on the information provided.
3. The following methods shall be used when disseminating LPR information:
 - a. The "need to know" and "right to know", as defined in the *MCAC Privacy Protection Policy* of a potential recipient must be verified and documented prior to dissemination of LPR information.
 - b. Requests for Service (RFS) for License Plate Reader data will be processed in accordance with the *MCAC Standard Operating Procedures for Processing Requests for Information and Requests for Service Guidelines*.
 -  c. A Law Enforcement Agency's request to query the LPR data shall be processed provided the agency has a legitimate law enforcement purpose. Mandatory requirements are in place in order to satisfactorily justify the request. These requirements include the purpose of the request, the agency's incident or report number (physical record number), the requestor's name, the requestor's agency and requestor's contact information.
 - d. The primary method of dissemination shall be via email, in an electronic format that employs a reasonable level of security to guard against alteration, or fax.
 - e. If access to secure email accounts is not practical, the information may be provided to the requestor via digital storage media or paper copy, as determined by MCAC staff.

From: timothymale@gmail.com [mailto:timothymale@gmail.com] **On Behalf Of** Tim Male, Ward 2
Sent: Thursday, June 12, 2014 12:03 PM
To: Colleen Richarts
Cc: Tim Male, Ward 2; Brian Kenner; Alan Goldberg
Subject: Re: Mutual Aid MCPD

Thanks, Colleen.

One follow up. Is there a place in your policies that the need for case/incident number is written down? I just couldn't find it in the manual/policy document that I found on your website online.

Thanks,

Tim

Yes, the MCAC does require justification in the form of a case number/incident number, etc from a law enforcement agency requesting the LPR data to be queried.

On Wed, Jun 11, 2014 at 2:34 PM, Colleen Richarts <Colleen.Richarts@mcac.maryland.gov> wrote:

Thank you Tim, it is not at all painful. I hope it helps and I am here if you need anything else.

Colleen

From: timothymale@gmail.com [mailto:timothymale@gmail.com] **On Behalf Of** Tim Male, Ward 2
Sent: Wednesday, June 11, 2014 1:53 PM
To: Colleen Richarts
Cc: Tim Male, Ward 2; Brian Kenner; Alan Goldberg
Subject: Re: Mutual Aid MCPD

Hi Colleen,

Thank you, this response is extremely helpful. I realize its painful to spell it out but this level of detail can be helpful to the community. I underlined two of your responses below that are especially helpful and will do my best in continuing to work on this issue. Thanks for your time!

Sincerely,

Tim

On Wed, Jun 11, 2014 at 11:34 AM, Colleen Richarts <Colleen.Richarts@mcac.maryland.gov> wrote:

Good morning

Although I am sure you have a pretty good idea what a criminal investigation is, let me take a moment to further define it . A criminal investigation would be the process a law enforcement officer undertakes to locate facts and to prove the guilt of a criminal, it could also be used to exculpate a person . A criminal investigation may include the preservation and collection of facts or evidence, by using various investigative tools. LPR being one of those tools.

Your questions (in red) :

1. "Your criteria for deciding whether it is a criminal investigation"

Response : Realistically it isn't the MCAC that decides if it is a criminal investigation, it is the law enforcement officer who tells us that it is a criminal investigation. The officer, based on his agencies standard operation procedures combined with his training, knowledge and experience will tell us that he/she has a criminal investigation. We, the MCAC have trust and faith that the officer that when he/she took his oath of honor, will adhere to the ethical standards set for a law enforcement officer. All law enforcement agencies utilize a unique physical numbering system in order to document, track, reference and/or audit calls for service or reports according to their departmental guidelines. By requiring a law enforcement officer's case number/report number/incident number we are able to establish a method to easily audit the information provided. Should the information provided be fictitious the officer would be held accountable within their department for their actions.

2. "What defines it as a specific case"

Response: A specific case would be that investigation which has documented/traceable case number/incident number, etc. related to an investigation.

3. Does MCAC require there to be a logged or numeric case file or other identifier provided by the law enforcement agency for MCAC to be able to respond?

Response: Yes, the MCAC does require justification in the form of a case number/incident number, etc from a law enforcement agency requesting the LPR data to be queried.

As I mentioned at your council meeting we (MCAC) have had these procedures in place since 2010 and in fact the MCAC's policy is more detailed than the law which goes into place October 1, 2014. The information we collect allows us the opportunity to easily conduct an audit or to provide a law enforcement agency details about an officer's requests to query LPR data, should there ever be an integrity issue with a particular officer. The new law also has established penalties for misuse. There has been a sincere commitment by the MCAC to protect the privacy of citizens while giving law enforcement the valuable information they need to conduct an investigation or for public safety. It really is about finding that balance and I believe the MCAC has done that.

In reference to the scenarios - The first scenario would be honored and queried in the LPR database. The second scenario would be denied, but could be honored should they provided the MCAC with the burglary report number.

I hope this answers your questions and please feel free to email me if something is unclear.

Have a good day

Colleen

From: timothymale@gmail.com [mailto:timothymale@gmail.com] **On Behalf Of** Tim Male, Ward 2
Sent: Wednesday, June 11, 2014 10:04 AM
To: Colleen Richarts
Cc: Brian Kenner; Alan Goldberg; Tim Male
Subject: Re: Mutual Aid MCPD

Hi Colleen,

My question concerns the process MCAC uses to decide whether an inquiry from a law enforcement agency is valid and will receive a response and possibly data from MCAC. We've gotten various information about the restrictions on the use of the system only for legitimate law enforcement purposes but nothing that defines those terms in ways that make it clear whether that is an objective or subjective determination on the part of the law enforcement agent who requests the information and the MCAC staff who choose whether to provide it. Part of my challenge in understanding this issue also comes from my lack of knowledge on procedures (universal or local) used to track criminal activities or complaints that a department receives and how well such information is managed.

I've put below two of the phrases that we've heard in Takoma Park.

"Inquiries are made for specific law enforcement purposes regarding specific cases."

"only law enforcement requests related to criminal investigation"

My more specific questions are whether you can tell me more about:

- Your criteria for deciding whether it is a criminal investigation
- What defines it as a specific case, and
- Does MCAC require there to be a logged or numeric case file or other identifier provided by the law enforcement agency for MCAC to be able to respond?

The reason that I (and the residents who keep asking) are interested in this information is to get a better sense of the protections in place now (or planned to be in place by October) on queries of the system and also the ability to audit or track those queries after the fact. For example, consider the following two hypotheticals:

"I write to request LPR data on MD tag 4AXPO6 associated with a burglary that occurred on 4/1/2014 at 11:22 pm, case number XXXX-YYYYY. Can you please provide data on this tag between 3/29/2014 and 4/2/2014?"

-OR-

"We had a burglary in town at the beginning of April. A witness' testimony ties MD tag 4AXPO6 to the location. Can you please provide data on this tag?"

Both hypothetical requests include information that criminal activity occurred but the first provides a lot more information that could be tracked and someday audited.

Thanks for any information you can provide. I remain supportive of this change in policy and am doing my best to help answer questions of people in town and strengthen the communities knowledge of and support for the work of MCAC.

Sincerely,

Tim

On Tue, Jun 10, 2014 at 7:13 PM, Colleen Richarts <Colleen.Richarts@mcac.maryland.gov> wrote:

Good evening

How can I help you?

Colleen

Sent from my Verizon Wireless 4G LTE DROID

Brian Kenner <briank@takomaparkmd.gov> wrote:

Tim - Below is Colleen's contact and is included for your question.

Sent from my iPhone

On Jun 10, 2014, at 12:50, "Alan Goldberg" <AlanG@takomaparkmd.gov> wrote:

> It is Colleen.Richarts@mcac.maryland.gov

>

> Chief Alan M. Goldberg

> Takoma Park Police Department

> 7500 Maple Ave

> Takoma Park, MD 20912

> Office: [301 891-7104](tel:3018917104)

> AlanG@takomaparkmd.gov

>

>

>

>>>> Brian Kenner <briank@takomaparkmd.gov> 6/10/2014 10:43 AM >>>

> Ok will mention when I see him. Also, do you have mcac contact person email, Tim wants to ask her a question.

>

> Sent from my iPad

>

>

>>

Senator Raskin Responses

----- Forwarded message -----

From: **Seth Grimes** <sethg@takomaparkmd.gov>

Date: Wed, May 28, 2014 at 3:32 PM

Subject: Fwd: RE: Questions regarding SB 699, MCAC, and city LPR data policy

To: "Council@takomaparkmd.gov City Council City Council" <City>

From Jamie --

--

Seth Grimes

Takoma Park City Council, Ward 1

[301-873-8225](tel:301-873-8225)

----- Forwarded message -----

From: "Jamin Raskin" <raskin@wcl.american.edu>

To: "Seth Grimes" <sethg@takomaparkmd.gov>, <Jamie.Raskin@senate.state.md.us>

Cc: <grimes@altaplana.com>, "Senator Jamie Raskin" <senatorjamieraskin@gmail.com>

Date: Wed, 28 May 2014 15:20:10 -0400

Subject: RE: Questions regarding SB 699, MCAC, and city LPR data policy

Hey Seth: good to hear from you.

1.

We added amendment language restricting use of the data to "legitimate law enforcement purposes," and defined those as the "investigation, detection or analysis of a crime or a violation of the motor vehicle laws or the operation of terrorist or missing or endangered person searches or alerts." We also added language imposing a strict reporting requirement that compels a report to both our Committee and the House Judicial Proceedings Committee on the number of license plate readings, the number and source of requests coming in to the Center, and information on any data breaches, unauthorized uses of the database, and audits performed.

I felt very satisfied with the inclusion of this language and the reporting requirement, which will permit us to stay on top of developments in the field and make necessary revisions in the future. Whether this will satisfactorily address what you describe as Takoma Park residents' more generalized "concerns" about the statewide database system, this I don't know and it would require very specific analysis of the particular concerns people have. Under the law we passed,

the database should not be accessed for anything other than criminal and motor vehicle investigations and terrorist or missing person searches and alerts, and this narrowed focus satisfied me.

Again, I know a lot of people--right, left, and center--feel that the government simply cannot be trusted with such information for reasons of incompetence or corruption. This is why I felt very strongly about the meticulous reporting and oversight dimensions of the 2014 legislation; I remember hearing reports that state troopers in Minnesota were using the license plate readers to track the movement of their girlfriends and wives, and that there was at least an allegation that the Governor's staff there was using the technology to keep track of where tv reporters and cameras were at different moments. Obviously we want to do everything in our power to prevent extracurricular and improper snooping and espionage on our people. We need constant legislative and public vigilance on the subject to prevent such abuses.

For those who believe that the government can never be trusted with such information--and I understand both the logic and sincerity of this position given so much malfeasance in the past with Watergate, COINTELPRO, Chris Christie etc.--then I am afraid that nothing can satisfy them short of rejecting the retention of LPR data or indeed license plate reading technology altogether. If the government cannot be trusted to follow the law with regard to the data, surely it cannot be trusted to use the underlying technology.

This is not a position that I share. I saw and heard enough testimony about how gangland-style murders, assaults and armed robberies were solved with the assistance of LPR technologies that I am convinced of their great law enforcement utility. I also believe that, given our experience with past abuses of government proprietary information, it is within our power and our will to ferret out and prevent abuses in the future. How long data should be kept--7 days, one month, one year, three years, forever--is a judgment call not susceptible to an easy solution. Arguably, the longer the government keeps it, the greater the risk of some kind of abuse; on the other hand, the sooner it is destroyed, the greater the risk that we will lose valuable and necessary evidence for a legitimate law enforcement investigation and prosecution. One year was the period we settled on for the statewide law, but Takoma Park is obviously free to arrive at a different conclusion for local practice. With the rash of carjackings and armed robberies experienced here, people will clearly want to balance the legitimate privacy and fairness concerns that have been raised with the legitimate law enforcement uses of the license plate readers to promote public safety.

It should be stated that nothing in this legislation permits the state police or any law enforcement entity to spy on our citizens for their nonviolent political activities, a danger that we addressed in strong legislation that Delegate Hixson and I introduced several years ago, the Freedom of Political Assembly and Expression Act, which we introduced after the scandal surfaced about state police investigators going undercover at meetings of anti-death penalty, pro-life, pro-choice and green groups.

2.

I think it is unlikely that we will legislate anew without a prior report from MCAC on how everything is working and the security of the LPR data or some other reason to believe that

things are not working properly. However, we will take the reports we receive--both formal and informal--seriously and work assiduously to address any gaps or leaks in the system. If there are glaringly apparent problems in the legislation we passed, by all means let me know, but the sponsors and, I believe, the ACLU all felt that we could live with the compromises we made.

3.

I don't know the answer to the question of whether MCAC policies sufficiently protect local data and people's interest in privacy until the new law goes into effect in October. I suspect that the ACLU would be the best source for an answer on that question.

Thanks for writing about this important and complex policy question. I confess that I have not been immersed in the details for many months now, so this may be too general for your purposes, but I am happy to brainstorm further with you and track down more specific information if you need it.

All best wishes, Jamie

-----Original Message-----

From: Seth Grimes [mailto:sethg@takomaparkmd.gov]

Sent: Wednesday, May 28, 2014 7:13 AM

To: Jamie.Raskin@senate.state.md.us; Jamin Raskin

Cc: grimes@altaplana.com

Subject: Questions regarding SB 699, MCAC, and city LPR data policy

Hello Jamie,

Would you please help me with some questions --

As you probably know, Takoma Park Police Chief Alan Goldberg has proposed changing the city's policy regarding sharing and retention of its license-plate reader (LPR) data. The chief proposed to provide the city's data to MCAC, which would retain it for a year (or longer for data deemed needed for an investigation) and make it available for query by law enforcement. You were one of the sponsors of 2014 SB 699, which created state data protections.

Al Carr and Ana Sol Gutierrez contacted the city, earlier this month, to ask us not to change our policy. Al wrote, SB 699/HB 289 was "a small step and was not meant to be the final word."

So my questions for you:

- Do you think SB 699's protections adequately address Takoma Park residents' concerns about sharing of the city's LPR data with MCAC?

(I'll describe concerns if you wish, but of course they include misuse of the data by Homeland Security and for law-enforcement purposes we don't view as acceptable such as spying on residents, which you're very familiar with, and ICE enforcement.)

- If not, what gaps do you see, and do you plan to introduce legislation in 2015 to close them?

- SB 699 takes effect October 1, 2014. Do MCAC policies, in effect until then, adequately protect localities' LPR data?

Thanks very much and regards,

Seth

--

Seth Grimes

Takoma Park City Council, Ward 1

[301-873-8225](tel:301-873-8225)

The Celebrate Takoma Festival is coming! Enjoy Local food, entertainment & merchandise. |
May 18th @ Takoma-Piney Branch Neighborhood Park. |

<http://takomaparkmd.gov/recreation/celebrate-takoma>