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Privacy, Public Safety, and Civil Liberties

Perspectives on Police Surveillance Technology

Jazmyn Taitingfong, Attorney

Daniel Williams, Policy Advocate

Key Principles

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- New Mexicans deserve to trust that technology deployed by police will keep them safe, not needlessly infringe on their privacy.

- As technology advances and is adopted more widely by law enforcement agencies, our laws need to keep up to ensure that the safety and privacy of New Mexicans is protected.

- When our privacy is infringed upon, so is our ability to exercise our other rights - from participating in protests, attending religious services, seeking healthcare, and beyond.

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What are ALPRs?

Automatic License Plated Readers (ALPRs) are cameras mounted on patrol cars or on objects along roads – such as telephone poles or the underside of bridges – that snap a photograph of every license plate that enters their fields of view. When the ALPR system captures an image of a license plate, it also tags each file with the time, date, and GPS location of the photograph and stores that information in a database.

Automatic License Plate Readers

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The ACLU-NM does not categorically oppose the use of ALPRs.

ALPRs can have legitimate and beneficial uses for public safety, but when left unregulated pose a significant danger to the privacy of every New Mexican who drives.

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ALPRs pose a risk to privacy.

In our society, it is a core principle that the government does not invade people's privacy and collect information about citizens' innocent activities just in case they later are suspected of doing something wrong.

Automatic License Plate Readers

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ALPRs gather a huge amount of data on innocent people.

Analysis by the Auditor of the State of California found that of the **320 million** images accumulated by the LAPD, only **400,000** identified a car listed on a hotlist.

In other words, **nearly 99.9%** of the images stored by LAPD are for vehicles that were not on a hotlist when the data was captured.

Automatic License Plate Readers

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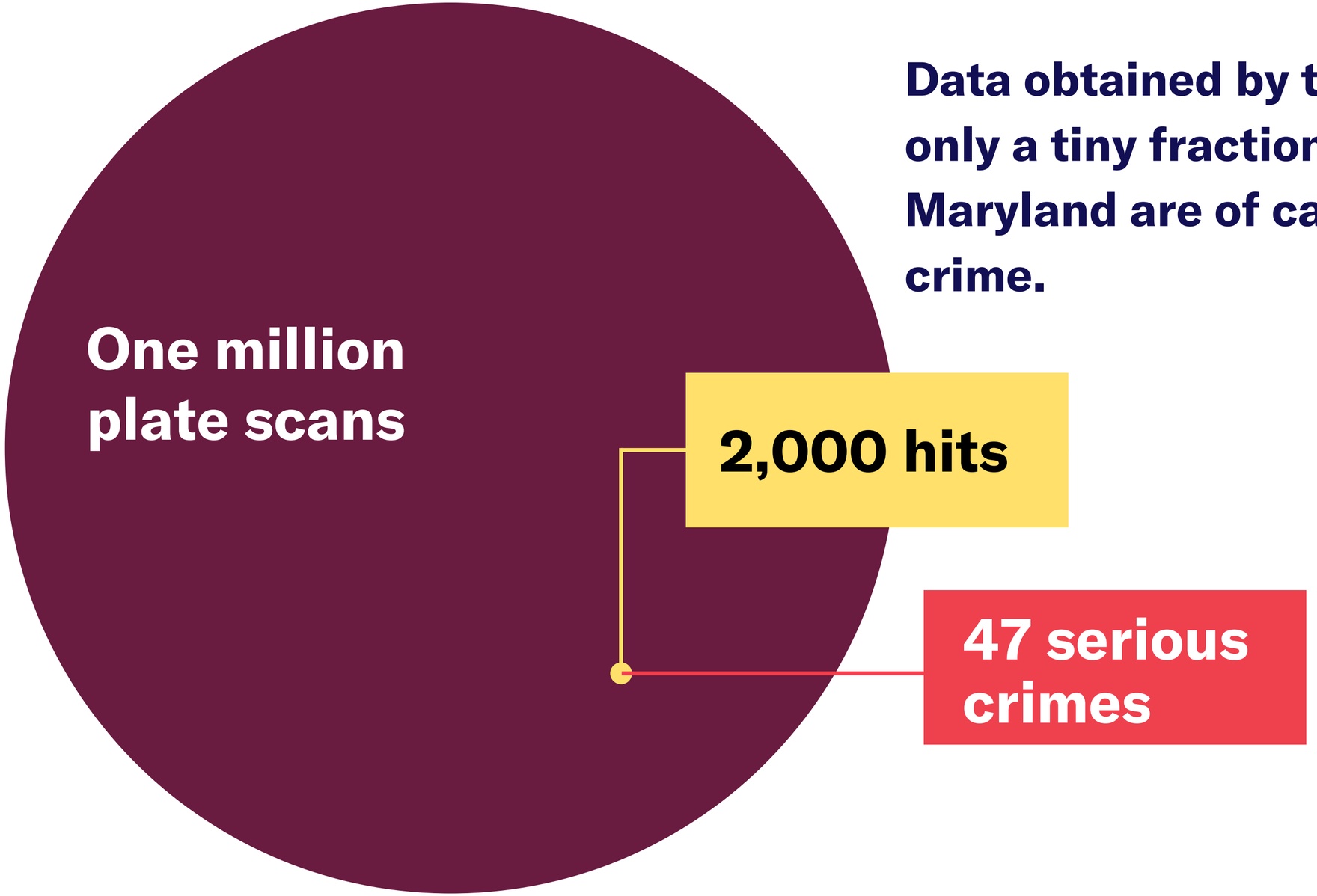

Data obtained by the ACLU show that only a tiny fraction of ALPR scans in Maryland are of cars associated with a crime.

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ALPR data is ripe for misuse.

For years after 9/11, NYPD used ALPRs to track Muslims who attended mosque, even those who weren't suspected of any terrorist activity.

An investigation into the use of ALPRs in Oakland, California, found that ALPR deployments didn't correlate very well with where crimes were reported, but that people in predominantly white neighborhoods were significantly less likely to have their license plate data captured than people in predominantly Black or Latino neighborhoods.

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ALPR data is ripe for misuse.

An AP investigation found over 600 instances over a three year period nationwide of officers being disciplined for misusing law enforcement databases, but notes that “the number of violations was surely far higher since records provided were spotty at best, and many cases go unnoticed.”

In 2022, a police officer in Kansas was arrested after it was revealed that he used the data from the Wichita Police Department’s ALPR system to stalk his estranged wife.

Automatic License Plate Readers

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ALPR data retention policies vary widely.

Las Cruces PD - 30 days

Bernalillo County SO - 180 days

Albuquerque PD - 365 days

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Reccomendations

- ALPR data should be retained for as brief a period as possible, measured in days, not months or years.
- Law enforcement agencies should adopt policies that prevent ALPR data from being shared or sold inappropriately.
- Agencies should be required to publicly report on their ALPR usage.
- Deployment of ALPRs that intentionally targets communities based on race, religion, or any other category protected under the NMHRA should be prohibited.

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FRT shows racial and gender bias.

National Institute for Standards & Technology testing in 2019 found facial recognition technology (FRT) algorithms were up to **100 times more likely to misidentify** Asian and African American people than white men, and that women and younger individuals were also subject to disparately high misidentification rates.

In jurisdictions that are required to track demographic information related to FRT searches, data shows disproportionate use on people of color. In Detroit, for example, all FRT searches in 2020 were conducted on images of Black people.

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FRT Falsely Matched 28 Members of Congress With Mugshots

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FRT leads to wrongful arrests.

At least seven people nationwide are known to have been arrested for crimes they did not commit, due to police reliance on FRT. **Six of them are Black.**

Even a short time in jail can have devastating effects, including loss of employment, separation from family and inability to care for children, negative notations on credit reports that are never updated to indicate the arrest was wrongful, and others.

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FRT surveillance of video poses a critical threat to civil liberties.

Deployment of FRT for video tracking and surveillance would pose a catastrophic threat to privacy, free speech, and freedom of movement, by putting in the hands of government the ability to identify and track anyone or everyone as they go about their daily lives. Use of FRT on live or recorded video threatens to allow police to efficiently track one or many individuals across multiple video feeds, or to pull up every instance of one or more persons appearing in video recordings over time.

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Government use of FRT should be banned.

The twin dangers of highly consequential misidentifications and pervasive surveillance mean that government agencies should not be deploying face recognition technology at all. FRT is dangerous both when it fails and when it functions.

New Mexico should join the over 20 jurisdictions that have enacted legislation halting all or most governmental or law enforcement use of FRT.

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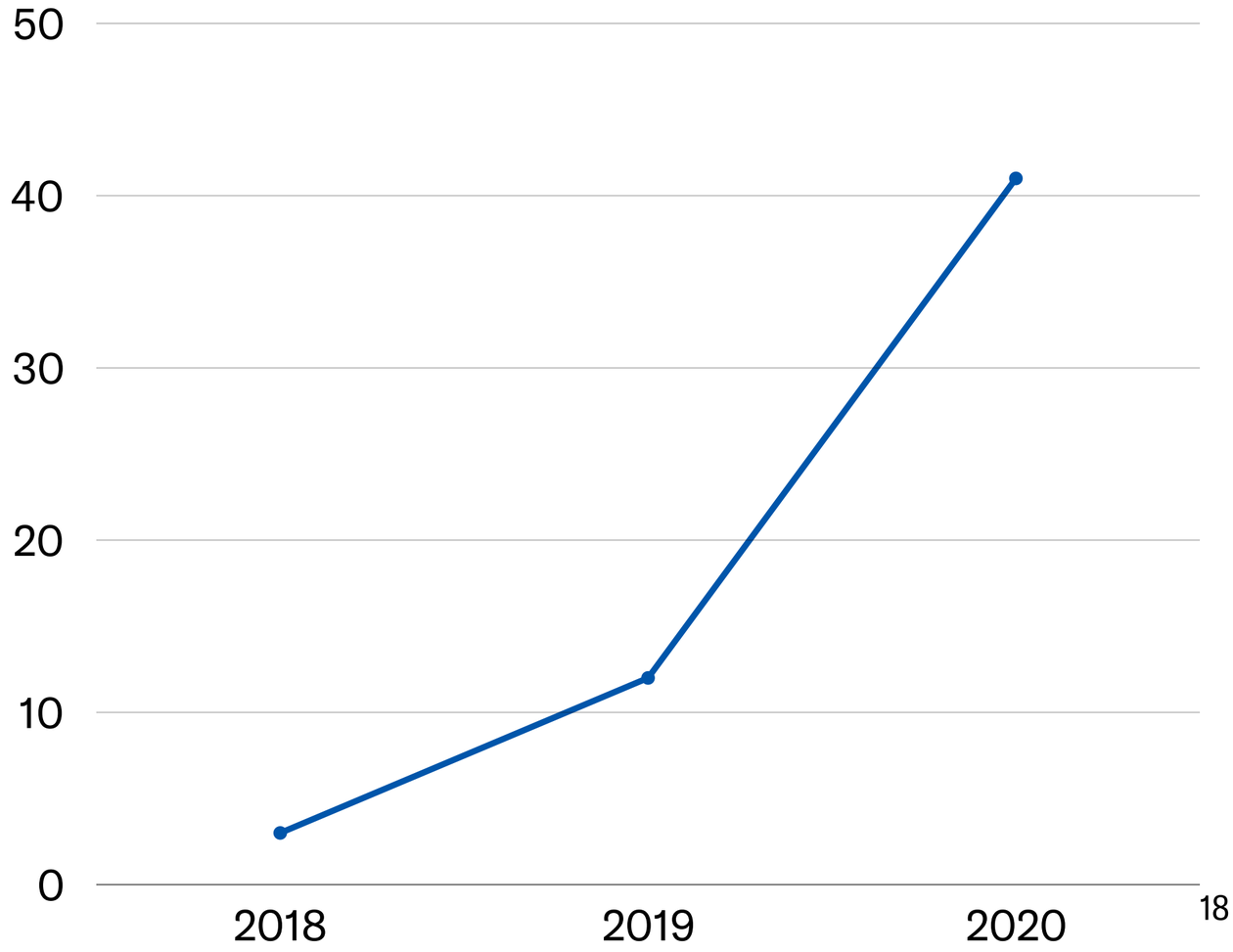
What are reverse warrants?

Reverse warrants come in two primary forms - geofence or location warrants and keyword warrants. Reverse location warrants require a tech company to disclose all users who were in a given location during a specified time frame. Reverse keyword warrants produce data on everyone who used a search engine to search for given keywords.

Reverse Warrants

Use of reverse warrants is growing.

Data from Google shows that the number of reverse location warrants they received grew by leaps and bounds from 2018-2020 - thirteenfold in New Mexico. These numbers represent only one type of reverse warrants sent to only one company.



Reverse warrants are a modern version of a general warrant.

America’s opposition to general warrants dates back to the colonial era, when the British King used “writs of assistance” to conduct unrestricted searches within areas of questionable loyalty to him. But since its adoption 232 years ago, the 4th Amendment has prohibited government searches without a warrant based on probable cause and particularity as to the suspect – a standard reverse demands do not meet.

Reverse Warrants

Reverse warrants place innocent people under suspicion.

Dragnet warrants place innumberable people under suspicion simply because they were at the wrong place - or typed the wrong phrase - at the wrong time.
Geofence warrants were used to identify individuals who participated in Black Lives Matter protests in 2020 and were used to identify January 6 protesters--without distinguishing between those who protested lawfully and those who engaged in illegal behavior.

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Reverse warrants are an ineffective investigatory tool.

Reverse warrants increase the size of the haystack but do not necessarily make it any easier to find the needle.
Around the country, innocent people have faced criminal investigations and even arrests due to their data being produced in a reverse warrant.
This can have significant consequences in a person's life--and means the police are no closer to finding the person really responsible.

Reverse warrants should be banned.

Banning reverse warrants would be an important step to ensure that police tactics keep us safe, without needlessly infringing on the privacy of New Mexicans.

Questions?