



**OPPOSITION FOR SB 305** – Requiring each law enforcement agency that utilizes automated license plate recognition systems to adopt and maintain a detailed, written policy relating to the use and operation of such systems and prescribing restrictions and requirements relating to the collection, storage and sharing of captured license plate data.

**Testimony of Kendall Seal, Director of Advocacy, American Civil Liberties Union of Kansas**

**Senate Transportation Committee – March 25, 2021 - 8:30 a.m.**

Chairman Petersen and Members of this Committee,

Thank you for the opportunity to present testimony today. My name is Kendall Seal, and I am the Director of Advocacy at the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the constitutional liberties of all Kansans. We oppose SB 305.

Many law enforcement agencies such as the Topeka PD<sup>1</sup> and Wichita PD are already using automatic license plate readers. This bill specifically states and provides clarity that that use of this technology is permitted and imposes some parameters on their use, how and where data is stored, and the retention of data. However, these parameters, audits and safeguards proposed in SB 305 are inadequate to protect against Constitutional and civil liberties violations, racial profiling, and biased-based policing.

The implementation of automatic license plate readers (ALPR) poses serious privacy and other civil liberties threats. More and more cameras, longer retention periods, and widespread sharing allow law enforcement agents to assemble the individual puzzle pieces of where we have been over time into a single, high-resolution image of our lives.

The knowledge that one is subject to constant monitoring can chill the exercise of our cherished rights to free speech and association. Databases of license plate reader information create opportunities for institutional abuse, such as using them to identify protest attendees merely because these individuals have exercised their First Amendment-protected right to free speech.

License plate reader systems can also facilitate discriminatory targeting. An agent who manually enters plates into a license plate reader system based on discriminatory rationales could check far more plates than he could without the technology. Also, discrimination can exist in deciding where to place the cameras. Whole communities may be targeted based on their religious, ethnic, or associational makeup.

Finally, this bill is void of any meaningful oversight, accountability, or transparency mechanisms. Systemic and institutional racism within law enforcement will go unchecked and the public will not be able to make an informed decision about the effectiveness of surveillance policies because this bill exempts ALPR data to be released under the Kansas Open Records Act (KORA). Kansas should be working to make more police data available under KORA, not the other way around.

License plate readers may be used by law enforcement agencies only to investigate hits and in other circumstances in which law enforcement agents reasonably believe that the plate data are relevant to an ongoing criminal investigation. The police must have reasonable suspicion that a crime has occurred before examining collected license plate reader data; they must not examine license plate reader data in order to generate reasonable suspicion. Law enforcement agencies must not store data about innocent people for any lengthy

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<sup>1</sup> The Topeka PD had 2,405,339 license plate detections in 2018 and 7,377 “hits” for a hit rate of approximately 0.3%. See open records request at <https://www.muckrock.com/foi/topeka-14871/vigilant-data-sharing-information-2018-assignment-submission-topeka-police-department-65883/#file-763895>.

period. Unless plate data has been flagged, retention periods should be measured in days or weeks, not months, and certainly not years. This bill does not sufficiently capture these recommendations.

The ACLU of Kansas urges this Committee to reject SB 305. Thank you. I am happy to stand for questions at the appropriate time.

**Additional Information and Resources for this Committee:**

1. YOU ARE BEING TRACKED, How License Plate Readers Are Being Used To Record Americans' Movements, available at <https://www.aclu.org/issues/privacy-technology/location-tracking/you-are-being-tracked?redirect=alpr>
2. Virginia Supreme Court Sees Through Police Claim That License Plate Data Isn't 'Personal,' (April 26, 2018), available at <https://www.aclu.org/blog/privacy-technology/location-tracking/virginia-supreme-court-sees-through-police-claim-license>