

# CLIENT NEWS BRIEF

## California Supreme Court Holds Disclosure Is the Rule, Not the Exception, in Public Record Requests

Automated license plate reader (ALPR) scan data is not subject to the “records of investigation” exemption under the California Public Records Act (CPRA), the California Supreme Court has ruled. The Court, however, did not foreclose the ability to withhold such information if it would invade an individual’s privacy.

In *American Civil Liberties Union of Southern California v. Superior Court of Los Angeles County* (Aug. 31, 2017, No S227106) \_\_\_ Cal.5th \_\_\_, the Court considered whether a request for ALPR data was exempt from disclosure.

### Background

The Los Angeles Police Department (LAPD) and the Los Angeles Sheriff’s Department (LASD) both utilize ALPR technology to locate vehicles linked to crimes under investigation. High-speed computer-controlled cameras that are mounted onto fixed structures or patrol cars automatically capture images of license plates for each vehicle that passes through the optical range. Each number captured is then checked against a list of license plate numbers that are associated with crimes or criminal investigations—the “hot” list. If a match occurs, the system alerts either officers or a central dispatch unit.

The American Civil Liberties Union (ACLU) sought to investigate the legal and policy implications of the government’s use of ALPR data. The ACLU submitted a CPRA request to the LAPD and LASD seeking all ALPR data collected over a one-week period, consisting of at minimum the license plate number, date, time and location information of each license plate recorded. The ACLU did not seek disclosure of any license plate numbers that matched the hot list. Both the LAPD and LASD declined to produce the requested scan data, citing the CPRA’s exemption for law enforcement records of investigation.

Both the trial court and the Court of Appeal concluded that the requested data was exempt from disclosure under the records of investigation exemption. But in a unanimous decision, the California Supreme Court reversed the appellate court’s decision, noting that its obligation to interpret the CPRA in a manner that favors disclosure required that all exemptions be construed narrowly. The Court reasoned that in order to qualify as an “investigation,” an inquiry by law enforcement must be targeted at suspected violations of the law and not collected as part of “bulk data collection.” Here, the ALPR scans were not each “conducted as part of a targeted inquiry” into a specific crime, and therefore could not be considered records of investigation.

The Court recognized the public interest in not disclosing the data. As the Court explained, such disclosure threatened individuals’ privacy, since “data showing where a person was at a certain time could reveal where that person lives, works, or frequently visits.” However, the Court also recognized that disclosure of the ALPR data could be used to determine if the information was being properly obtained and used. Accordingly, the Court returned the case to the trial court with instructions to consider whether the balance of public interests would be altered if the ALPR data could be redacted or anonymized

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by “replacing the actual license plate numbers with fictional numbers.” The Court cautioned that in analyzing the catchall exemption of the CPRA, a court “cannot allow ‘vague safety concerns’ to foreclose the public’s right of access.”

## Takeaways

This opinion serves as an important reminder that courts are likely to err on the side of disclosure under the CPRA and will likely continue to restrict the general use of disclosure exemptions.

For more information on this case or the California Public Records Act in general, contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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