

From: Rahilly, Lyn M
Sent: Monday, July 09, 2012 1:07 PM
To: Bardorf, Tracey A; (b)(6), (b)(7)c
Subject: ICE ERO taps database of license plate snapshots to hunt fugitives - Nextgov.com

Importance: High

<http://www.nextgov.com/defense/2012/07/dhs-taps-database-license-plate-snapshots-hunt-fugitives/56675/?oref=river>

This article discusses an ERO Dallas sole source contract to use the National Vehicle Location Service (NVLS) Tier 2 program to identify and capture fugitive aliens. The ERO field office can enter a license plate number of a known fugitive alien and receive an alert when the database finds a matching location record. The NVLS Tier 2 is a commercial service originally set up by industry to repo cars, and then the company that owned it decided to start marketing it to law enforcement. The company uses license plate readers operated by commercial camera operators. Now law enforcement are also using license plate readers and contributing license plate images to the service.

I was unaware of this ERO effort until seeing the article today. It will be interesting to see if any of the advocacy groups or congress pick up on this and raise concerns.

FYI - HSI had come to me in early 2011 with a proposal to use NVLS Tier 2 as a pilot for investigative work, and ran it through my office. I provided comments and cautions at the time but HSI decided to go forward with it. Unclear if they are still using but I will follow up and see. I've pasted below the concerns I expressed to HSI back in 2011 about use of this commercial service. If ERO had asked, I would have given them the same feedback. OPLA had no legal concerns with the HSI proposal btw.

>Lack of Transparency: From what I can tell this data is collected privately and used by LE without the public's knowledge.

>Secondary and Incompatible Use of the Data: The data was initially collected for a purely commercial purpose and its use for law enforcement purposes in this manner is inconsistent with the reason it was initially collected. While it's not a novel thing for LE to access and use commercial data, typically it occurs with more transparency and protections than appear to exist here. For example, credit reporting data is governed by the FCRA and provides individuals certain rights to access / correct, allows LE use, and provides penalties for misuse. Data aggregators like Choicepoint have also been subjected to more scrutiny and regulation lately due to data integrity concerns.

>Data Retention: How long NLETS maintains the data and makes it available for query also has privacy implications.

>Data Integrity: I am not familiar with the license plate reader (LPR) technology used to collect this data and can't say whether it provides a sufficient degree of data integrity. E.g., are OCR tools used to read the plate and if so what is the error rate or quality control process.

>Accountability and Redress for the Public: Because the data is collected by the private sector for a commercial purpose, the data collection strategy is different than if the government were to collect this information for LE or other governmental purposes. The data may be collected in a way that if it were the government collecting it, legal or policy concerns could be raised and dealt with. But since it's private sector action, there is no accountability to the public as to

how the data is collected, how much is collected, how long it is retained, how it is used, or what rights affected individuals may have. Since NLETS is not a government agency, its actions to include this data are similarly shielded from public view and/or accountability to some degree.

All of the items identified above are potentially inconsistent with the DHS Fair Information Practice Principles, which are the foundational principles for privacy policy and implementation at the Department. The FIPPs are intended to be used as defining principles during the evaluation and consideration of agency operations. Link:
http://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2008-01.pdf

I certainly understand why LE would want to use this dataset as I can see how it could be extremely valuable in an investigation. But the public policy, privacy, and civil liberties issues associated with its use are not insignificant.

(b)(6), (b)(7)c

From: Rahilly, Lyn M
Sent: Monday, January 03, 2011 5:36 PM
To: (b)(6), (b)(7)c
Subject: FW: Request for review NVLS Tier II
Attachments: NVLS Tier II Memo.docx; NVLS_User_Agreement.docx

(b)(6), (b)(7)c - my initial reaction to this is that it is similar to the use of credit report information for LE purposes, except of course that credit report collection, usage and accuracy are all governed by consumer protection laws and I am not aware of any laws specific to the reading of license plates by private organizations seeking to identify vehicles eligible for repossession.

Are you aware of any such laws pertaining to DL information? Also, did you have a chance to review yet and if so what are your initial thoughts?

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202 (b)(6), (b)(7)c phone | 202.732.3060 fax | (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Friday, December 10, 2010 3:41 PM
To: (b)(6), (b)(7)c; Rahilly, Lyn M
Subject: Request for review NVLS Tier II

(b)(6), (b)(7)c & Lyn,

Our unit is seeking your review and advice/approval concerning our free evaluation of the National Vehicle Location Service (NVLS) Tier II program. NVLS partners with Vigilant Video and provides access to License Plate Reader (LPR) data from across the nation. This data is collected by the private sector/law enforcement and is fed into a national database that offers role based access to LE and the private sector. This data comes from parking lots, apartment complexes, repo companies and mobile LPR devices (civilian and LE operated) and can identify where/when a tag was detected. The attached memo provides background information and details associated with a free trial run for ICE. Also attached you will find the NVLS user agreement for LE and they are open to any edits needed to make this ICE friendly. Please feel free to contact me at any time with questions or concerns.

V/r,

(b)(6), (b)(7)c
Section Chief

Information Sharing Support
Homeland Security Investigations
Immigration and Customs Enforcement
Department of Homeland Security

Office: 202-

Cell: 540-

(b)(6), (b)(7)c

BB: 202-

(b)(6), (b)(7)c

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**U.S. Immigration
and Customs
Enforcement**

MEMORANDUM FOR: (b)(6), (b)(7)c
Assistant Director
Mission Support

THROUGH: (b)(6), (b)(7)c
Deputy Assistant Director
Law Enforcement Support and Information Management

FROM: (b)(6), (b)(7)c
Unit Chief
Information Sharing and Infrastructure Management

SUBJECT: Product Evaluation of the National Vehicle Location Service
Tier II Program

Purpose

This memorandum summarizes the purpose, functionality and reasons as to why U.S. Immigration and Custom Enforcement (ICE) would like to perform a free product evaluation of the National Vehicle Location Service (NVLS) Tier II program.

Background

On March 29, 2010 the Chief Information Technology Officer for the International Justice and Public Safety Network (Nlets) announced that the National Vehicle Service (NVS) is now supporting the Nlets RQ message key through the NVLS Tier I LPR database allowing Law Enforcement Agencies (LEAs) across the country to query the NVLS database.

The NVLS Tier I Program allows License Plate Recognition (LPR) data delivered as part of the NVLS web portal, and comes from a nationwide LPR data repository, to be accessed by LEAs across the country, at no cost, via Nlets.

The success of this service has resulted in a number of LEAs requesting that NVLS provide an enhancement of services to include unlimited national LPR queries, partial plate queries, satellite and street map locations and data intelligence reports among other things. In response to the enhancement request the NVLS Tier II Program is now available across the country however, for LEA's to access the program NVLS will need to begin to charge LEAs a fee for

this enhanced version of the popular program.

(b)(7)(E)

(b)(7)(E)

Discussion

The National Vehicle Service (NVS) has partnered with Vigilant Video (VV), a software/hardware company in California to provide much of the computing power of its NVLS Tier I and Tier II Programs. NVS incorporated in the state of Illinois has as its stated purpose assisting law enforcement, vehicle finance, insurance and rental car companies in protecting vehicle assets.

The NVS receives much of its database content from private License Plate Recovery fleet operators who are scanning license plates across the country in an effort to recover collateral on behalf of lending institutions. These institutions are also the commercial clients of NVS. Vigilant Video provides the fleet operators with the hardware and collects the LPR data and then provides the information, to both its commercial and law enforcement clients over the VV network. Law enforcement agencies are also welcome to share collected LPR data collected by their agency with the national data base.

(b)(7)(E)

(b)(7)(E)

In addition to the

aforementioned, the NVLS Tier II Program will provide law enforcement

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

These

enhanced services will assist law enforcement in the investigative process.

To begin the evaluation process, VV has sent this office its sample Law Enforcement Agency User Agreement and while any definitive agreement should be reviewed by DHS legal, VV is open to a letter agreement to begin the NVLS Tier II test program in the SAC offices of Seattle, Miami, Houston, Los Angeles, Washington D.C. and Phoenix.

Recommendation

It is recommended that Homeland Security Investigations, Division 6 draft and sign a letter of agreement with Vigilant Video, solely for the purpose of the evaluation of the National Vehicle Location Service Tier II Program in the SAC offices of Seattle, Miami, Houston, Los Angeles, Washington D.C. and the BCSC.

Approve _____ Disapprove _____

Modify _____ Needs more discussion _____

Attachment

Pages 7 through 10 redacted for the following reasons:

(b)(7)(E)

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, January 04, 2011 5:00 PM
To: Rahilly, Lyn M
Subject: RE: Request for review NVLS Tier II

Hi Lyn, I haven't been able to fully digest this yet. I'm not currently aware of any protection laws relating to license plate information. The plate itself is more or less available for public observation whereas the credit information is not so publicly available. But I understand your discussion regarding collection, use, and transparency. I'm hoping that things will calm down within the next few days and I can focus on this a bit more. There doesn't appear to be a looming deadline, so I'm hoping to buy a little more time.

(b)(6), (b)(7)c

Chief, Government Information Law Division
ICE Office of the Principal Legal Advisor
Department of Homeland Security
202 (b)(6), (b)(7)c (t) / 202 (b)(6), (b)(7)c (f)

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From: Rahilly, Lyn M
Sent: Monday, January 03, 2011 5:36 PM
To: (b)(6), (b)(7)c
Subject: FW: Request for review NVLS Tier II

(b)(6), (b)(7)c - my initial reaction to this is that it is similar to the use of credit report information for LE purposes, except of course that credit report collection, usage and accuracy are all governed by consumer protection laws and I am not aware of any laws specific to the reading of license plates by private organizations seeking to identify vehicles eligible for repossession.

Are you aware of any such laws pertaining to DL information? Also, did you have a chance to review yet and if so what are your initial thoughts?

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202 (b)(6), (b)(7)c phone | 202.732.3060 fax | (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Friday, December 10, 2010 3:41 PM
To: (b)(6), (b)(7)c; Rahilly, Lyn M
Subject: Request for review NVLS Tier II

(b)(6), (b)(7)c & Lyn,

Our unit is seeking your review and advice/approval concerning our free evaluation of the National Vehicle Location Service (NVLS) Tier II program. NVLS partners with Vigilant Video and provides access to License Plate Reader (LPR) data from across the nation. This data is collected by the private sector/law enforcement and is fed into a national database that offers role based access to LE and the private sector. This data comes from parking lots, apartment complexes, repo companies and mobile LPR devices (civilian and LE operated) and can identify where/when a tag was detected. The attached memo provides background information and details associated with a free trial run for ICE. Also attached you will find the NVLS user agreement for LE and they are open to any edits needed to make this ICE friendly. Please feel free to contact me at any time with questions or concerns.

V/r,

(b)(6), (b)(7)c
Section Chief
Information Sharing Support
Homeland Security Investigations
Immigration and Customs Enforcement
Department of Homeland Security
Office: 202-
Cell: 540- (b)(6), (b)(7)c
BB: 202-4- (b)(6), (b)(7)c

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(b)(6), (b)(7)c

From: Rahilly, Lyn M
Sent: Wednesday, January 05, 2011 10:14 AM
To: (b)(6), (b)(7)c
Subject: Re: Request for review NVLS Tier II

I should be in my office bw 1130 and 12. Thx!

(b)(6), (b)(7)c ICE Privacy Officer
(202) (b)(6), (b)(7) / (202) (b)(6), (b)(7) (c)

From: (b)(6), (b)(7)c
To: Rahilly, Lyn M
Sent: Wed Jan 05 10:04:56 2011
Subject: RE: Request for review NVLS Tier II

Are you free after 1130?

V/r,

(b)(6), (b)(7)c
Section Chief
Information Sharing Support
Homeland Security Investigations
Immigration and Customs Enforcement
Department of Homeland Security
Office: 2 (b)(6), (b)(7)c
Cell: 540 (b)(6), (b)(7)c
BB: 202- (b)(6), (b)(7)c

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From: Rahilly, Lyn M
Sent: Tuesday, January 04, 2011 5:18 PM
To: (b)(6), (b)(7)c
Subject: RE: Request for review NVLS Tier II

Hey I stopped by your cube before I got your email to talk to you about this but (b)(6), (b)(7)c said you were out. Pls stop by when you're back.

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202 (b)(6), (b)(7) phone | 202.732.3060 fax | (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Tuesday, January 04, 2011 4:56 PM
To: Rahilly, Lyn M
Cc: (b)(6), (b)(7)c
Subject: RE: Request for review NVLS Tier II

Lyn,

I appreciate you review of this request. The main difference between our access via Nlets and NVLS Tier II seems to be enhanced services. I am referring to the hot plate list and the notifications via email and text. Let me apologize in advance because what I am about to say is probably over simplified and heavily influenced by my local LE background. The only information supplied by NVLS Tier II is that which is in plain view, a tag was identified at a specific location, date and time. It seems to me this is nothing more than automated "tip" information and no different that LE acting on a citizen call reporting they have seen a suspect's tag/vehicle at a specific date, time and location. NVLS Tier II does not run the tag through DMV and it does not identify the driver. In order to use this service and enter a vehicle tag the investigating agent will have already established reasonable suspicion and possibly probable cause. I see this as being different than financial records, bank records and other protected information not viewable freely by the general public.

V/r,

(b)(6), (b)(7)c
Section Chief
Information Sharing Support
Homeland Security Investigations
Immigration and Customs Enforcement
Department of Homeland Security
Office: 20 (b)(6), (b)(7)c
Cell: 540 (b)(6), (b)(7)c
BB: 202- (b)(6), (b)(7)c

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From: Rahilly, Lyn M
Sent: Tuesday, January 04, 2011 4:31 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Request for review NVLS Tier II

(b)(6), (b)(7)c

I am waiting to hear back from (b)(6), (b)(7) on a question I had regarding legal issues, but I wanted to get back to you with an initial response. I understand this memo is only a proposal to extend access to license plate data we apparently already have with NLETS, however, the collection and use of this data for LE purposes is troubling for several reasons.

- **Lack of Transparency:** From what I can tell this data is collected privately and used by LE without the public's knowledge.
- **Secondary and Incompatible Use of the Data:** The data was initially collected for a purely commercial purpose and its use for law enforcement purposes in this manner is inconsistent with the reason it was initially collected. While it's not a novel thing for LE to access and use commercial data, typically it occurs with more transparency and protections than appear to exist here. For example, credit reporting data is governed by the FCRA and provides individuals certain rights to access / correct, allows LE use, and provides penalties for misuse. Data aggregators like Choicepoint have also been subjected to more scrutiny and regulation lately due to data integrity concerns.
- **Data Retention:** How long NLETS maintains the data and makes it available for query also has privacy implications.
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- **Accountability and Redress for the Public:** Because the data is collected by the private sector for a commercial purpose, the data collection strategy is different than if the government were to collect this information for LE or other governmental purposes. The data may be collected in a way that if it were the government collecting it, legal or policy concerns could be raised and dealt with. But since it's private sector action, there is no accountability to the public as to how the data is collected, how much is collected, how long it is retained, how it is used, or what rights affected individuals may have. Since NLETS is not a government agency, its actions to include this data are similarly shielded from public view and/or accountability to some degree.

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I certainly understand why LE would want to use this dataset as I can see how it could be extremely valuable in an investigation. But the public policy, privacy, and civil liberties issues associated with its use are not insignificant. At the moment, it is unclear to me if there are also legal concerns but hopefully we will hear back from OPLA soon.

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202.(b)(6), (b)(7) phone | 202.732.3060 fax | (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Friday, December 10, 2010 3:41 PM
To: (b)(6), (b)(7)c; Rahilly, Lyn M
Subject: Request for review NVLS Tier II

(b)(6), (b)(7) & Lyn,

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V/r,

(b)(6), (b)(7)c
Section Chief
Information Sharing Support
Homeland Security Investigations
Immigration and Customs Enforcement
Department of Homeland Security
Office: 20
Cell: 540- (b)(6), (b)(7)c
BB: 202-4

(b)(6), (b)(7)c

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)(C)
Sent: Tuesday, January 04, 2011 11:56 AM
To: Richards, Rebecca; Rahilly, Lyn M
Subject: RE: license plate readers

Happy to do so.

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security
Phone: (b)(6) DHS
Email: (b)(6) DHS

From: Richards, Rebecca [mailto:(b)(6) DHS]
Sent: Tuesday, January 04, 2011 11:53 AM
To: (b)(6) DHS; Rahilly, Lyn M
Subject: FW: license plate readers

(b)(6) DHS

Lyn and I both spent some time over the last few days look at the attached related to license plate readers and data. (b)(5) (b)(6) DHS Would love you to read these and see if you have more thoughts. It seems that the tools described are already incorporated into law enforcement activities.

Becky Richards
(b)(6) DHS

From: Rahilly, Lyn M [mailto:(b)(6), (b)(7)c]
Sent: Friday, December 10, 2010 4:57 PM
To: Richards, Rebecca
Subject: license plate readers

have you dealt with this type of data collection before at DHS? This is the first such inquiry i've rec'd at ICE so...

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202.(b)(6), (b)(7) phone | 202.732.3060 fax | (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Friday, December 10, 2010 3:41 PM
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V/r,

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Section Chief
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Homeland Security Investigations
Immigration and Customs Enforcement
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Cell: 540- (b)(6), (b)(7)c
BB: 202-4

(b)(6), (b)(7)c

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)(C)
Sent: Thursday, January 06, 2011 12:59 PM
To: Rahilly, Lyn M
Cc: Landesberg, Martha; Richards, Rebecca
Subject: RE: license plate readers

Thanks Lyn. I'm sure we share many of the same privacy concerns about protecting any source material; using the information for unintended purposes; collecting and then using more information than is needed; and many others.

Let me know if you'd like to have a call about this --- happy to do so.

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security
Phone: (b)(6) DHS
Email: (b)(6) DHS

From: Rahilly, Lyn M [mailto:(b)(6), (b)(7)c]
Sent: Thursday, January 06, 2011 12:55 PM
To: (b)(6) DHS; Richards, Rebecca
Cc: Landesberg, Martha
Subject: RE: license plate readers

Thanks (b)(6) DHS. Will pass along to our attorneys. I will also send you a bullet list of privacy concerns I passed along to our program office based on the FIPPs for you to consider.

Also, this is not moving forward quickly so you do have time to give it more consideration, especially since the Tier I program is already in use here and I would assume at other DHS components like USSS and possibly TSA, USCG, and CBP, which may be making use of NLETS or have a direct agreement with this company.

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202.(b)(6) (b)(7) phone | 202.732.3060 fax | (b)(6), (b)(7)E

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From: (b)(6) DHS
Sent: Thursday, January 06, 2011 12:49 PM
To: Rahilly, Lyn M; Richards, Rebecca
Cc: Landesberg, Martha
Subject: RE: license plate readers

(b)(5) DHS

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security
Phone: (b)(6) DHS
Email: (b)(6) DHS

From: Rahilly, Lyn M [mailto:(b)(6), (b)(7)c]
Sent: Wednesday, January 05, 2011 4:31 PM
To: Diener, Debra; Richards, Rebecca
Cc: Landesberg, Martha
Subject: RE: license plate readers

The agreement is pending with our attorneys but certainly if you have thoughts share them and I'll pass along. I didn't review the agreement yet.

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street SW, Mail Stop 5004, Washington, DC 20536 | 202.(b)(6), (b)(7) phone | 202.732.3060 fax | (b)(6), (b)(7)c

From: (b)(6) DHS
Sent: Wednesday, January 05, 2011 3:46 PM
To: Richards, Rebecca; Rahilly, Lyn M
Cc: Landesberg, Martha
Subject: RE: license plate readers

Becky and Lyn:

I've read these documents once to get a general idea of what's being done. I plan on re-reading to see what, if any, suggestions I can make. I do have some thoughts about the "Law Enforcement Agency User Agreement" but need to know if you want/need thoughts about that document. The Peter Fitzhugh memo says the Agreement "should be reviewed by DHS legal ..." so I don't know if you want to defer to DHS legal on the Agreement itself.

Just let me know.

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security
Phone (b)(6) DHS
Email: (b)(6) DHS

From: Richards, Rebecca [mailto:(b)(6) DHS]
Sent: Tuesday, January 04, 2011 11:53 AM
To: (b)(6) DHS; Rahilly, Lyn M
Subject: FW: license plate readers

(b)(6) DHS

Lyn and I both spent some time over the last few days look at the attached related to license plate readers and data. (b)(6) DHS
(b)(5) DHS Would love you to read these and see if you have more thoughts. It seems that the tools described are already incorporated into law enforcement activities.

Becky Richards

(b)(6) DHS

From: Rahilly, Lyn M [mailto:(b)(6), (b)(7)c]
Sent: Friday, December 10, 2010 4:57 PM
To: Richards, Rebecca
Subject: license plate readers

have you dealt with this type of data collection before at DHS? This is the first such inquiry i've rec'd at ICE so...

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

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From: (b)(6), (b)(7)c
Sent: Friday, December 10, 2010 3:41 PM
To: (b)(6), (b)(7)c; Rahilly, Lyn M
Subject: Request for review NVLS Tier II

(b)(6), (b)(7) & Lyn,

Our unit is seeking your review and advice/approval concerning our free evaluation of the National Vehicle Location Service (NVLS) Tier II program. NVLS partners with Vigilant Video and provides access to License Plate Reader (LPR) data from across the nation. This data is collected by the private sector/law enforcement and is fed into a national database that offers role based access to LE and the private sector. This data comes from parking lots, apartment complexes, repo companies and mobile LPR devices (civilian and LE operated) and can identify where/when a tag was detected. The attached memo provides background information and details associated with a free trial run for ICE. Also attached you will find the NVLS user agreement for LE and they are open to any edits needed to make this ICE friendly. Please feel free to contact me at any time with questions or concerns.

V/r,

(b)(6), (b)(7)c
Section Chief
Information Sharing Support
Homeland Security Investigations
Immigration and Customs Enforcement
Department of Homeland Security
Office: 202 (b)(6), (b)(7)c
Cell: 540 (b)(6), (b)(7)c
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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, January 07, 2011 3:03 PM
To: Rahilly, Lyn M
Subject: Re: license plate readers

Thanks, Lyn. I appreciate your looping me in. I've been out with a sick kid, so I'll try to catch up on this early next week.
Thanks, again.

(b)(6), (b)(7)c
ICE/OPLA/GILD

From: Rahilly, Lyn M
To: (b)(6), (b)(7)c
Sent: Fri Jan 07 13:11:41 2011
Subject: FW: license plate readers

Hi (b)(6), (b)(7)c

(b)(6), (b)(7)c told me you were working on this issue for (b)(6), (b)(7)c. I am sending you two emails re this project - this is the first. This email contains the comments from an attorney at DHS PRIV who had concerns about the agreement language for this project. I wanted to pass it along.

Second email will be the privacy concerns I expressed to HS! (b)(6), (b)(7)c in response to the memo.

Let me know if you'd like to discuss

Lyn Rahilly
Privacy Officer
U.S. Immigration and Customs Enforcement
Department of Homeland Security

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From: (b)(6) DHS
Sent: Thursday, January 06, 2011 12:49 PM
To: Rahilly, Lyn M; Richards, Rebecca
Cc: Landesberg, Martha
Subject: RE: license plate readers

(b)(5) DHS

(b)(5) DHS

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security

Phone

Email: (b)(6) DHS

From: Rahilly, Lyn M [mailto:(b)(6), (b)(7)c]

Sent: Wednesday, January 05, 2011 4:31 PM

To: (b)(6) DHS Richards, Rebecca

Cc: Landesberg, Martha

Subject: RE: license plate readers

The agreement is pending with our attorneys but certainly if you have thoughts share them and I'll pass along. I didn't review the agreement yet.

Lyn Rahilly

Privacy Officer

U.S. Immigration and Customs Enforcement

Department of Homeland Security

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From: (b)(6) DHS

Sent: Wednesday, January 05, 2011 3:46 PM

To: Richards, Rebecca; Rahilly, Lyn M

Cc: Landesberg, Martha

Subject: RE: license plate readers

Becky and Lyn:

I've read these documents once to get a general idea of what's being done. I plan on re-reading to see what, if any, suggestions I can make. I do have some thoughts about the "Law Enforcement Agency User Agreement" but need to know if you want/need thoughts about that document. The Peter Fitzhugh memo says the Agreement "should be reviewed by DHS legal ..." so I don't know if you want to defer to DHS legal on the Agreement itself.

Just let me know.

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security

Phone:

(b)(6) DHS

Email:

(b)(6), (b)(7)c

From: (b)(6) DHS
Sent: Thursday, January 06, 2011 2:23 PM
To: Rahilly, Lyn M
Subject: RE: License Plate Reader

Lyn:

I agree completely and you nailed it. I did a very truncated, short-hand version of some of these issues in my last e-mail to you. (b)(5) DHS

(b)(5) DHS

(b)(6) DHS

Senior Advisor and Director of Privacy Policy
Privacy Office, Department of Homeland Security
Phone: (b)(6) DHS
Email: (b)(6) DHS

From: Rahilly, Lyn M [mailto:(b)(6), (b)(7)c]
Sent: Thursday, January 06, 2011 1:02 PM
To: (b)(6) DHS
Subject: License Plate Reader

(b)(6) DHS - as promised my email to our program office is below:

From: Rahilly, Lyn M
Sent: Tuesday, January 04, 2011 4:31 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: Request for review NVLS Tier II

(b)(6), (b)(7)c

I am waiting to hear back from (b)(6), (b)(7)c on a question I had regarding legal issues, but I wanted to get back to you with an initial response. I understand this memo is only a proposal to extend access to license plate data we apparently already have with NLETS, however, the collection and use of this data for LE purposes is troubling for several reasons.

- Lack of Transparency: From what I can tell this data is collected privately and used by LE without the public's knowledge.
- Secondary and Incompatible Use of the Data: The data was initially collected for a purely commercial purpose and its use for law enforcement purposes in this manner is inconsistent with the reason it was initially collected. While it's not a novel thing for LE to access and use commercial data, typically it occurs with more transparency and protections than appear to exist here. For example, credit reporting data is governed by the FCRA and provides individuals certain rights to access / correct, allows LE use, and provides penalties for misuse. Data aggregators like Choicepoint have also been subjected to more scrutiny and regulation lately due to data integrity concerns.

- **Data Retention:** How long NLETS maintains the data and makes it available for query also has privacy implications.
- **Data Integrity:** I am not familiar with the license plate reader (LPR) technology used to collect this data and can't say whether it provides a sufficient degree of data integrity. E.g., are OCR tools used to read the plate and if so what is the error rate or quality control process.
- **Accountability and Redress for the Public:** Because the data is collected by the private sector for a commercial purpose, the data collection strategy is different than if the government were to collect this information for LE or other governmental purposes. The data may be collected in a way that if it were the government collecting it, legal or policy concerns could be raised and dealt with. But since it's private sector action, there is no accountability to the public as to how the data is collected, how much is collected, how long it is retained, how it is used, or what rights affected individuals may have. Since NLETS is not a government agency, its actions to include this data are similarly shielded from public view and/or accountability to some degree.

All of the items identified above are potentially inconsistent with the DHS Fair Information Practice Principles, which are the foundational principles for privacy policy and implementation at the Department. The FIPPs are intended to be used as defining principles during the evaluation and consideration of agency operations. Link: http://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2008-01.pdf

I certainly understand why LE would want to use this dataset as I can see how it could be extremely valuable in an investigation. But the public policy, privacy, and civil liberties issues associated with its use are not insignificant. At the moment, it is unclear to me if there are also legal concerns but hopefully we will hear back from OPLA soon.

Lyn Rahilly

Privacy Officer

U.S. Immigration and Customs Enforcement

Department of Homeland Security

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