

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

LEE SCHMIDT, *et al.*,)
)
 Plaintiffs,)
)
 vs.) Civil Action No. 2:24cv621
)
 CITY OF NORFOLK, *et al.*,)
)
 Defendants.)
)
 _____)

**STATEMENT OF INTEREST
OF THE UNITED STATES OF AMERICA**

The United States of America respectfully submits this statement to advise the Court of its interest in this matter. *See* 28 U.S.C. § 517 (“[A]ny officer of the Department of Justice [] may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States”).¹

INTEREST OF THE UNITED STATES

The instant civil action questions whether the automated license plate reader (“ALPR”) technology employed in one of the largest urban centers in the Commonwealth, in and of itself – *i.e.*, regardless of how such technology is actually used in a given scenario and the circumstances

¹As courts have recognized, § 517 provides the United States with broad discretion to participate in litigation, especially when that participation seeks simply to impart its view on a particular legal issue. *See, e.g., Falkowski v. EEOC*, 783 F.2d 252, 253 (D.C. Cir. 1986) (noting the “the entirely discretionary nature of the power” provided to the United States under § 517 and “the breadth of that discretion”); *Columbia Ventures, LLC v. Dewberry & Davis, LLC*, 2008 WL 11420064, at *1 n.1 (D.S.C. Sept. 2, 2008) (identifying filing of United States’ statement of interest pursuant to § 517 with respect to pending motion to dismiss). Although there are no rules governing the timing of the exercise of the United States’ discretionary authority pursuant to § 517, the United States has filed its instant statement of interest such that the parties may address the statement during the remaining briefing process on their pending motions for summary judgment and thus not impact this Court’s efficient resolution of the civil action.

under which information collected by such technology is stored and retained – is consistent with Fourth Amendment strictures. Employing nearly 137,000 law enforcement officers nationwide, the vast majority of whom are responsible for protecting public safety, as well as the national security, through the investigation of criminal acts and prosecution of putative offenders, the United States has a substantial interest in the resolution of this question. *See Bureau of Justice Statistics* (“BJS”), *Federal Law Enforcement Office, 2020 – Statistical Tables* (revised Sept. 29, 2023), available at << <https://bjs.ojp.gov/document/fleo20st.pdf>>>. Understanding their oath that any investigative tool they employ must remain true to foundational constitutional principles, law enforcement officers across federal agencies regularly extol the benefits of ALPR technology in deterring criminal conduct and unlocking difficult investigations such that violent predators are taken off America’s streets and out of its communities.

The United States’ interest in this civil action, and the constitutional question that it identifies, is not premised upon a mere existential or impulsive desire to promote law enforcement tools. To the contrary, new technologies such as ALPR come at an important time for the United States and the Commonwealth, as well as law enforcement officers – including the state and local officers with whom the federal government often proudly partner – in confronting the threat of violent crime from criminal gangs, including those with connections to transnational organizations (e.g., cartels), that prey on our communities. The Commonwealth is not immune from these challenges, as the latest available statistics reveal, whether tied to gang activity or not. In 2023, there were 520 murders (or other non-negligent homicides) committed in the Commonwealth, along with 2,115 kidnappings and 15,320 motor vehicle thefts. *See Crime in Virginia*, at 8, available at << <https://vsp.virginia.gov/wp-content/uploads/2024/08/CRIME-IN-VIRGINIA-2023.pdf>>>. As Governor Youngkin has proclaimed, “Virginia law enforcement agencies are

currently combating over 650 identified criminal street gangs and criminal organizations with local, national, and international reach,” who “are responsible for an alarming percentage of violent crimes committed throughout Virginia.” VA. EXEC. ORD. NO. 41 (2024).

These technologies have real-world impacts on our communities, as a case study from this federal judicial district reveals.² In 2023, Ty’osha Mitchell was tortured and ultimately murdered by members of the Almighty Black P Stone Nation gang here in Virginia. Law enforcement officers found Ty’osha’s body in a remote area in York County near the Colonial National Historical Park; her body contained eight (8) gunshot wounds to the head, abdomen, back, buttocks, and legs. Those officers were ultimately able to identify the body as Ty’osha’s, which connected their discovery with a call that Ty’osha’s boyfriend made to law enforcement in the City of Richmond the prior evening to report that Ty’osha had been taken from their residence by force. When combined with other information, data collected via ALPR technology was critical to identifying the vehicle used in her kidnapping and murder. The result: convictions of five (5) gang members, and sentences totaling *144 years* of imprisonment, for their role in this horrifying violent crime. *See United States v. Jackson*, 4:24cr1 (E.D. Va.) (Hanes, J.).

Ty’osha’s murderers are off the Commonwealth’s streets because of ALPR technology. This is not the only case study that the United States could provide regarding the extensive benefits of ALPR technology, as examples abound in many different investigative contexts, from gang violence to border security to counterterrorism. Indeed, virtually each state in our union utilizes some form of ALPR technology. But it is the use of ALPR technology in this fashion – within the

²This is far from the only case study that the United States could present about the law enforcement successes derived from ALPR technology – but it will suffice for purposes of identifying the nature of the United States’ interest in this Court’s resolution of the significant constitutional question presented here.

confines of an investigation into conduct that is criminally proscribed or otherwise inimical to the national security – that the United States has an interest in maintaining. Because the United States seeks to ensure that municipalities like the City of Norfolk have the choice to employ ALPR to help protect its communities and to confirm that implementing such technology is consistent with constitutional strictures, the United States respectfully submits this statement of interest to assist this Court in adjudicating the constitutional question posed here.

BACKGROUND³

The City of Norfolk made the determination to enter into an agreement with a private corporation to install ALPR cameras, along with the ability to utilize the software technology associated with those cameras, in its communities. *Compl.* (Dkt. No. 1), ¶37.⁴ The City has placed 176 cameras in 75 strategic points throughout its nine million (9,000,000) miles of roadway, *Def. MSJ Mem.* (Dkt. No. 113), at 8-9 ¶¶19; 28, which can record various items about a vehicle that drives past them on the City’s public streets, including its license plate, make, model, color, damage or alterations, *Compl.* ¶41. None of these cameras can see inside a physical structure (such as a house or a garage or a business), or even into the curtilage of such places. None of these cameras can see inside a vehicle and record its driver’s appearance. None of these cameras can record individuals as they walk along the City’s streets – including those who have exited their vehicle to continue their journey on foot. And even plaintiffs here concede that with sufficient

³To be sure, the United States – as a non-party to this civil action – has not been privy to the evidentiary record that the parties have developed through discovery; as such, this statement is premised primarily upon the allegations contained with plaintiffs’ complaint as augmented by the excerpts from discovery revealed in the parties’ respective motions for summary judgment, which were filed within the past week.

⁴Nor is Norfolk alone is employing ALPR technology. As plaintiffs have identified in their summary judgment papers, “[o]ver 5,000 communities in 49 states” have installed ALPR cameras. *Pl. MSJ Mem.* (Dkt. No. 108), at 3 ¶1.

“resources,” a local law enforcement agency would be able to collect this information without a warrant; the problem, according to plaintiffs, is that ALPR technology just makes it “easier” on law enforcement by serving as a “force multiplier.” *Id.* ¶¶4; 27; *Pl. MSJ Mem.*, at 4 ¶5.

The photographs taken by the ALPR cameras (and the information associated with the same) are then downloaded to a central repository, where it can be accessed by law enforcement upon presentation of an investigatory need. *Compl.*, ¶19. In July 2025, the Virginia General Assembly passed, and Governor Youngkin signed into law, a statute that carefully restricts when and how government officials can access and utilize the information obtained through ALPR technology. *See* VA. CODE ANN. § 2.2-5517. That statute precludes government officials in the Commonwealth from accessing the ALPR technology to track a vehicle’s whereabouts whenever they might feel like doing so; far to the contrary, it allows law enforcement to “use a[n ALPR] system only” in the following circumstances:

- (i) as part of a criminal investigation into an alleged violation of the Code of Virginia or any ordinance of any county, city, or town where there is a reasonable suspicion that a crime was committed;
- (ii) as part of an active investigation related to a missing or endangered person, including whether to issue an alert for such person, or a person associated with human trafficking; or
- (iii) to receive notifications related to a missing or endangered person, a person with an outstanding warrant, a person associated with human trafficking, a stolen vehicle, or a stolen license plate.

Id. § 2.2-5517(D). Government officials are also prohibited from sharing ALPR system data for inclusion in another entity’s database, although ALPR system data may be shared with another law enforcement agency so long as one of the above-mentioned circumstances are present. *See id.* § 2.2-5517(F). The statute further requires that ALPR system data generally “be purged after 21 days of the date of its capture in such a manner that such data is destroyed and not recoverable by

either the vendor or the law-enforcement agency.” *Id.* § 2.2-5517(E). Nor are these prohibitions merely precatory in nature – “[a]ny person who willfully and intentionally queries, accesses, or uses a system for a purpose other than set forth” above “is guilty of a Class 1 misdemeanor.” *Id.* § 2.2-5517(N).

As the United States understands it, there is no allegation here that the City has ever accessed its ALPR technology in order to locate plaintiffs’ vehicles or track their routes. *Def. MSJ Mem.*, at 13 ¶¶42-43; *see also Pl. MSJ Mem.*, at 14-15 ¶¶26-29. Despite this reality, plaintiffs ask this Court to hold that the employment of ALPR technology runs afoul of the Fourth Amendment and to permanently enjoin its use in the City in the future. *Compl.*, pp.22-23.

STATEMENT

Even as a non-party to this civil action – or perhaps especially so – the United States has a unique perspective to offer in these proceedings. As noted above, the United States engages in law enforcement and prosecutorial efforts as part of its solemn obligation to protect the national security, including, *inter alia*, the physical safety of those in the country. *Cf. Suter v. United States*, 441 F.3d 306, 312 (4th Cir. 2006) (noting that Congress has “assigned” “important duties” to “federal law enforcement agencies”). But at the same time, the United States is also responsible for ensuring that constitutional protections, including those enshrined in the Fourth Amendment, are both observed and protected. As jurists have recognized, balancing these two principles – especially with respect to new technological tools – is both an essential and difficult task:

As we contemplate the future, Fourth Amendment interpretation leads to twin risks. One is the risk that privacy will succumb to the evermore invasive technological capabilities at the hands of an evermore intrusive state. The other risk, which is just as real, is that of privileging those who break the law over those who would enforce it. Either future portends stark consequences for society where individual dignity cannot in the end be divorced from an intuitive sense of personal safety.

United States v. Chatrue, 136 F.4th 100, 112 (4th Cir. 2025) (en banc) (Wilkinson, J., concurring); see also *Leaders of a Beautiful Struggle v. Baltimore Police Dep't*, 2 F.4th 330, 348 (4th Cir. 2021) (en banc) (“That is not to express our opposition to innovation in policing or the use of technology to advance public safety.”) (hereinafter “*Beautiful Struggle*”).

Applying this general rubric, the United States has litigated the constitutional question at the heart of this case on innumerable occasions in criminal actions (including in this Court) with a singular answer: the use of ALPR technology is constitutionally sound. See, e.g., *United States v. Yang*, 958 F.3d 851, 862 (9th Cir. 2020) (Bea, J., concurring); *United States v. Martin*, 753 F. Supp. 3d 454, 476 (E.D. Va. 2024); *United States v. Sturdivant*, -- F. Supp. 3d --, 2025 WL 1633754, at *8-11 (N.D. Ohio June 9, 2025); *United States v. Cooper*, 2025 WL 35035, at *6-7 (E.D. La. Jan. 6, 2025); *United States v. Jiles*, 2024 WL 891956, at *19 (D. Neb. Feb. 29, 2024).⁵ That is because whether viewed jurisprudentially or pragmatically, ALPR technology is fundamentally different than those technologies that the Supreme Court and the Fourth Circuit have held to be constitutionally problematic. From a pragmatic perspective, these differences render ALPR technology minimally-invasive both generally and relative to the public safety benefits that the technology offers. From a jurisprudential perspective, these differences are material to the constitutional analysis that this Court is obliged to apply under Supreme Court and Fourth Circuit authority, and place ALPR technology on the constitutionally-appropriate side of the spectrum.

These differences reveal themselves in two separate ways relevant to this litigation. *First*, whether the mere employment of ALPR technology – absent a particularized use of that

⁵And although the United States did not participate there, it does note Norfolk Circuit Judge Lannetti’s excellent discourse on this subject, which reached the same result – again, in a criminal action challenging a particular instance in which law enforcement accessed and utilized the City’s ALPR technology. See *Commonwealth v. Robinson*, 113 Va. Cir. 494 (2024).

technology – can serve as the vehicle by which one can present a constitutional challenge to that technology. And *second*, the merits of the constitutional question itself; *i.e.*, whether the mere taking of a photograph (or even a series of photographs) of the outside of a vehicle traveling on public thoroughfares runs afoul of the Fourth Amendment. Although unorthodox from a traditional briefing standpoint, the United States will address these questions in inverse order.

1. The Fourth Amendment to the United States Constitution provides in pertinent part that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable *searches* and seizures, shall not be violated.” U.S. CONST. amend. IV (emphasis added).⁶ The key to the current inquiry is the emphasized term above; *i.e.*, whether the general employment of ALPR technology in a municipality constitutes a search that would trigger Fourth Amendment protections. And to answer this question, current Supreme Court doctrine – represented by *Katz v. United States*, 389 U.S. 347 (1967) – requires this Court to employ an analytical framework consisting of two related inquiries – whether the “area” into which the government is purportedly meddling is one in which (a) the particular individual at issue “exhibit[s] an actual (subjective) expectation of privacy” and (b) “society is” objectively “prepared to recognize as ‘reasonable.’” *Id.* at 361 (Harlan, J., concurring). Because the United States does not have access to the full testimony of plaintiffs here, it will limit its commentary to the second (or objective) prong of this framework. And on this score, the United States respectfully submits, consistent with dozens of courts that have previously addressed this issue, the Court should hold that use use ALPR systems do not violate one’s reasonable expectation of privacy.

⁶Because the parties to this litigation have addressed this question in great depth, the United States’s instant statement will be somewhat truncated so as to present its viewpoints for this Court’s consideration with sufficient detail, but without unnecessarily repeating the parties’ briefing.

The Supreme Court has been crystal clear about societal expectations of privacy through the mere driving of a vehicle on public streets. Over fifty years ago, the Court differentiated vehicles from other places for purposes of Fourth Amendment doctrine, holding that “[o]ne has a lesser expectation of privacy in a motor vehicle” insofar as it “has little capacity for escaping public scrutiny” given that “[i]t travels public thoroughfares where both its occupants and its contents are in plain view.” *Cardwell v. Lewis*, 417 U.S. 583, 590 (1974) (plurality opinion). Then in *Knotts v. United States*, 460 U.S. 276 (1983), the Court held that there was no Fourth Amendment impediment to the surreptitious placement of a “beeper” that allowed law enforcement to track the progress of a vehicle over any inch of roadway on which it traveled:

A person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another. When Petschen traveled over the public streets he voluntarily conveyed to anyone who wanted to look the fact that he was traveling over particular roads in a particular direction, the fact of whatever stops he made, and the fact of his final destination when he exited from public roads onto private property.

Id. at 281-82. But that is all that ALPR technology does: it takes photographs of vehicles traveling “on public thoroughfares” and records information about those vehicles deriving from such photographs for *potential* future use (pursuant to Virginia statute, during only the subsequent twenty-one [21] days) in the event of a particularized law enforcement need. Put simply, “[n]othing in the Fourth Amendment prohibited the police from augmenting the sensory faculties bestowed upon them at birth with such enhancement as science and technology afforded them in this case.” *Id.* at 282. *Cf. Compl.*, ¶27 (lamenting that through ALPR technology, “[a]n investigation that would have required a team of officers to tail someone for days . . . takes an instant”).

Now consider the two decisions – *Carpenter v. United States*, 585 U.S. 296 (2018) and *Beautiful Struggle* – to which the parties understandably devote a large portion of their opening

summary judgment memoranda. In *Carpenter*, the Supreme Court confronted whether the Fourth Amendment precluded law enforcement from *accessing*, *see infra* pp.12-14, continuous cell-site location information about a cellular telephone user over a seven (7) day period. *See Carpenter*, 585 U.S. at 301-02. The Court said that *this* constituted a Fourth Amendment “search” because society has accepted as reasonable an expectation of privacy in the “whole of [an individual’s] physical movements” such that without a warrant, government officials could not obtain an “all-encompassing record” of a person’s specific whereabouts – including their ““familial, political, professional, religious, and sexual associations.”” *Id.* at 310-11.⁷ But the Court was quick to differentiate cellular telephones from vehicles for purposes of what it called a “narrow” holding, *see id.* at 316, noting that in modern society, cellular telephones are consistently carried by their owners and thus go *wherever* their owners go:

While individuals regularly leave their vehicles, they compulsively carry cell phones with them all the time. A cell phone faithfully follows its owner beyond public thoroughfares and *into* private residences, doctor’s offices, political headquarters, and other potentially revealing locales. Accordingly, when the Government tracks the location of a cell phone it achieves near perfect surveillance, as if it had attached an ankle monitor to the phone’s user.

Id. at 311-12 (emphasis added) (citations omitted).

In *Beautiful Struggle*, the *en banc* Fourth Circuit applied *Carpenter*’s teachings to Baltimore’s (now defunct) Aerial Investigation Research (“AIR”) program, which utilized drones during daytime hours to “track movements related to serious crimes” and “obtain[] an estimated

⁷*Carpenter*’s conception of a “reasonable expectation of privacy” in “the whole of [an individual’s] physical movements” was first identified in a series of concurring opinions in *United States v. Jones*, 565 U.S. 400 (2012), in which the Supreme Court held that the placement of a GPS tracker on a vehicle constituted a “search” because it was, in effect, a trespass on the vehicle owner’s property. *See id.* at 412-13. Those concurring opinions suggested a different potential rationale for extending Fourth Amendment coverage to the GPS tracker – *i.e.*, that “monitor[ing] and catalogu[ing] *every single movement*” of that car could violate a reasonable expectation of privacy. *See id.* at 427-31 (Alito, J., concurring) (emphasis added).

twelve hours of coverage of around 90% of the city each day.” 2 F.4th at 334. The majority held that AIR was “[m]ore like the CSLI in *Carpenter* . . . than the radio-beeper in *Knotts*” because it “‘track[ed] every movement’ of every person outside in Baltimore”; it created a “‘detailed, encyclopedic’ record of where everyone came and went within the city during daylight hours over the prior month-and-a-half.” *Id.* at 341. And because there were no practical limitations on the AIR program’s ability “to tail suspects” – given that the AIR surveillance was able to track *people themselves*, “AIR data [was] more like ‘attach[ing] an ankle monitor’ to every person in the city.” *Id.*

ALPR technology, in stark contrast from the CSLI data in *Carpenter* and the aerial surveillance program in *Beautiful Struggle*, comes nowhere close to allowing law enforcement personnel the ability to achieve “near perfect surveillance” of the totality of an individual’s movements. As noted above, none of the ALPR cameras can record individuals entering a physical structure (such as a house or a garage or a business) and none of these cameras can record individuals as they walk along the City’s streets – including those who have exited their vehicle to continue their journey on foot. *See Carpenter*, 585 U.S. at 311 (explaining that “individuals regularly leave their vehicles, [but] they compulsively carry cell phones”). And regardless of the number of cameras that a particular municipality might employ, ALPR technology cannot uncover every one of an individual’s movements – irrespective of where he or she is or what they are doing – as does CSLI or Baltimore’s erstwhile AIR program; instead, it simply “records a vehicle’s location only when it passes” an ALPR camera. *Scholl v. Illinois State Police*, 776 F. Supp. 3d 701, 719-20 (N.D. Ill. 2025); *see also Martin*, 753 F. Supp. 3d at 474 (explaining that ALPR technology “do[es] not track or monitor the whole of an individual’s movements akin to the aerial

monitoring in *Beautiful Struggle* or provide constant location information of individuals as in *Carpenter*”).⁸

In short, ALPR technology has not allowed federal law enforcement to “place an ankle monitor” on an individual in retrospect as a part of their investigatory work, recreate all of their movements, and uncover their most intimate and private associations. The Fourth Amendment does not require those same federal law enforcement officers to obtain a warrant before reviewing technological data that, as the Supreme Court explained over a half century ago, they could have obtained with their own two eyes.

2. The United States makes one final observation here, again premised on the differences in the technological capabilities between ALPR and the CSLI data and AIR program held constitutionally problematic in *Carpenter* and *Beautiful Struggle*. Each of the prior instances in which the United States has judicially addressed the Fourth Amendment’s application to ALPR technology has been in the context of a motion to suppress brought within the confines of a specific criminal action. The judicial context in which these issues have arisen is more than merely form – in each, the reviewing court was confronted not with a global challenge to the operation of a given ALPR system, but rather, to a targeted Fourth Amendment challenge premised on law

⁸These technological differences have a heightened importance – above and beyond ways in which one could possibly distinguish ALPR technology from CSLI data and the AIR program at issue in *Carpenter* and *Beautiful Struggle* – given the Supreme Court’s admonition that its holding in *Carpenter* was to be construed “narrow[ly].” *Carpenter*, 585 U.S. at 316; *see also United States v. Wellbeloved-Stone*, 777 Fed. Appx. 605, 607 (4th Cir. 2019) (emphasizing the “narrow” nature of *Carpenter*’s holding in rejecting challenge to law enforcement access to IP subscriber information); *United States v. Ogunwale*, 2025 WL 2463681, at *15-16 (E.D. Va. Aug. 26, 2025); *United States v. Goins*, 2025 WL 1285936, at *5 (W.D. Va. May 2, 2025) (same with respect to challenge to use of pole cameras).

enforcement's precise *access* to (and use of) ALPR technology to uncover a particular vehicle as a part of a particular investigation.⁹

Courts have been rightfully reticent to address Fourth Amendment questions based on general assumptions about what law enforcement might accomplish with particular types of technology. *See, e.g., Dow Chemical Co. v. United States*, 476 U.S. 227, 238 n.5 (1986) (“Fourth Amendment cases must be decided on the facts of each case, not by extravagant generalizations. ‘[W]e have never held that potential, as opposed to actual, invasions of privacy constitute searches for purposes of the Fourth Amendment.’” (quoting *United States v. Karo*, 468 U.S. 705, 712 (1984))). And that makes sense; by providing a precise record of what data law enforcement accessed from technological capabilities and to what use it put that data, courts can appropriately assess whether certain law enforcement activity is, in actuality, a constitutional “abuse.” *See Chatrue*, 136 F.4th at 112 (Wilkinson, J., concurring) (“There can be abuses, to be sure, but courts can review the temporal and spatial character of these warrants as we would any Fourth Amendment claim. To strike the warrant down here comes pretty close to invalidating it everywhere.”). This was certainly the case in *Carpenter* – there, the Court was able to review the constitutional propriety of law enforcement’s access of a particularized amount of CSLI data with respect to a particularized individual under particularized circumstances.¹⁰

⁹Of course, both *Carpenter* and *Beautiful Struggle* identify that law enforcement’s *access* to technologically-obtained data is what triggers a potential “search” for Fourth Amendment purposes, *see Carpenter*, 585 U.S. at 316; *Beautiful Struggle*, 2 F.4th at 344, and the parties here will be litigating the question of whether plaintiffs have standing to challenge the City’s employment of ALPR technology absent any access of the data that technology collected in order to obtain information about plaintiffs themselves. *See Scholl*, 776 F. Supp. 3d at 719 (addressing plaintiffs standing in civil action challenging employment of ALPR technology). The United States does not have an interest in opining on this question, at least in the current proceedings in this Court.

¹⁰*Beautiful Struggle* is no different. To be sure, that case did not come before the Fourth Circuit within the context of a suppression motion within a specific criminal action. But the

But here, plaintiffs ask this Court for an order “[p]ermanently enjoining” the City “from operating” its ALPR technology, full stop. Plaintiffs seek this extensive relief regardless of the reality that no law enforcement (or other) official has queried the system to locate their vehicles or, in the terms of the pertinent Fourth Amendment jurisprudence, track their every movement or uncover their most intimate associations. And to boot, although plaintiffs make much about the number of ALPR-related cameras that the City is currently operating, it does not appear that they offer any particular assessment of *how* many such cameras *would* satisfy their constitutional position. When constitutional challenges are premised upon an *actual* access and retrieval of ALPR data, courts are not required to guess about the capabilities of a technological system to uncover an individual’s movements.

The United States thus respectfully articulates its interest that this Court address the significant constitutional issue with respect to ALPR technology that plaintiffs raise in this civil action with a narrow focus as opposed to a broad brush. As Judge Payne cogently acknowledged in this very context, “[t]he Court is cautious to not hinder law enforcement’s use of modernizing surveillance capabilities in the public sphere lest the Court ‘embarrass the future.’” *Martin*, 753 F. Supp. 3d at 476.

constitutionally-problematic nature of Baltimore’s AIR program was apparent from the access that local law enforcement had already made to the data collected by the ubiquitous drones – given the nature of the program, access to the aerial data *itself* allowed law enforcement immediately to track the movements of individuals in impacted areas (which included the civil plaintiffs there). *See Beautiful Struggle*, 2 F.4th at 334 (explaining that “any single AIR image – captured once per second – includes around 32 square miles of Baltimore and can be magnified to a point where people and cars are individually visible”). ALPR technology is fundamentally different in that it requires a law enforcement user to *query* the system in order to retrieve any particular data; put differently, whereas the putatively intrusive nature of the AIR program at issue in *Beautiful Struggle* was ascertainable simply by accessing the aerial imagery in and of itself, the same is not true of ALPR technology.

Respectfully submitted,

LINDSEY HALLIGAN
UNITED STATES ATTORNEY

/s/

DENNIS C. BARGHAAN, JR.
Chief, Civil Division
Assistant United States Attorney
2100 Jamieson Avenue
Alexandria, Virginia 22314
Tel: (703) 299-3891
Fax: (703) 299-3983
Email: dennis.barghaan@usdoj.gov

ATTORNEYS FOR THE UNITED STATES

Date: September 27, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (“NEF”) to the following:

Robert Peller Frommer
Institute for Justice
901 North Glebe Road, Suite 900
Arlington, Virginia 22203
Email: rfrommer@ij.org

Karla Marissa Jamias Soloria
Assistant City Attorney
900 City Hall Building, 810 Union Street
Norfolk, Virginia 23510
Email: karla.soloria@norfolk.gov

Date: September 27, 2025

_____/s/_____
DENNIS C. BARGHAAN, JR.
Assistant U.S. Attorney
2100 Jamieson Avenue
Alexandria, Virginia 22314
Telephone: (703) 299-3891
Fax: (703) 299-3983
Email: dennis.barghaan@usdoj.gov

ATTORNEYS FOR THE UNITED STATES