MEMORANDUM OF LAW

The North Carolina Constitution and Warrantless ALPR / PTZ Surveillance

A Balanced Survey of the Facts and the Law

Prepared by DeFlockILM for licensed North Carolina counsel · July 2026

Not legal advice. This memorandum is an educational survey prepared for licensed attorneys. It is not legal advice, does not create an attorney-client relationship, and is not a substitute for independent research and your professional judgment. The law in this area is unsettled and moving; confirm the current status of every authority and the standards in your jurisdiction before relying on anything here. Several of the strongest arguments below are novel and, in North Carolina, matters of first impression.

I. Purpose and scope

This memorandum surveys, on both sides, whether and how the collection, retention, and querying of automated license-plate-reader (ALPR) data and pan-tilt-zoom (PTZ) video by a local Flock Safety network may be challenged under the United States and North Carolina Constitutions. It is written to be useful to counsel on either side and states the government's strongest positions as fairly as the challengers'.

II. The factual record (New Hanover County)

New Hanover County operates a Flock network of fixed ALPR ("Falcon") cameras and PTZ live-video ("Condor") cameras. The county's contract identifies eight Solar Condor PTZ units alongside its fixed plate readers; public mapping identifies roughly 51 fixed ALPR cameras; and the county's own audit data reflect that the network was searched nearly three million times over approximately sixteen months. North Carolina regulates ALPR use in Article 3D of Chapter 20: G.S. 20-183.30 (definitions); 20-183.31 (written policy required, use limited to legitimate law-enforcement purposes, traffic-enforcement use barred); 20-183.32 (retention capped at ninety days; longer preservation only on a written, sworn request specifying camera, plate, timeframe, and specific and articulable facts); and 20-183.33 (unauthorized obtaining, access, preservation, or disclosure is a Class 1 misdemeanor). The statute cuts both ways: it shows the legislature can demand particularized, sworn facts, yet imposes no warrant or suspicion requirement at capture or routine query, while also reflecting democratic authorization with safeguards.

III. The federal Fourth Amendment framework

The starting rule favors the government. Under *Katz v. United States*, what a person knowingly exposes to the public is not protected, and a license plate displayed on a public road is the paradigm of public exposure; a single ALPR photograph of a plate is not a search.

The counter-trend is aggregation. In *Carpenter v. United States*, 585 U.S. 296 (2018), the Court held that assembling a comprehensive, retrospective record of a person's movements can be a search requiring a warrant even though each movement is "public," because the whole reveals intimate details. Most significantly, in *Chatrie v. United States*, 609 U.S. ___ (June 29, 2026) (6–3, Kagan, J.), the Court held that acquiring an individual's location data is a search *even when a third party holds it and even for a limited period*, because a person has a reasonable expectation of privacy in records of where they have been — a holding that narrows the "public exposure" and third-party rationales in the location context.

The adverse authority is real and recent. In *Schmidt v. City of Norfolk* (E.D. Va. Jan. 27, 2026), the district court granted summary judgment for the city, holding that discrete ALPR captures on a 21-day rolling basis do not "track" the whole of a person's movements; that ruling is on appeal to the Fourth Circuit (No. 26-1227), with amicus support from the ACLU, EFF, EPIC, and others. State courts have likewise resisted extending *Carpenter* to fixed plate readers. **Balanced takeaway:** single-plate capture is the government's strong ground; the challenger's federal case rises or falls on retained, networked, retrospectively searchable data, and on how far *Chatrie* is read to travel from phones to plates — an open question.

IV. The North Carolina Constitution

North Carolina's search provision is textually distinct. Article I, § 20 does not use the Fourth Amendment's "unreasonable searches" or "probable cause" language; it is a general-warrants clause, condemning authority to "search suspected places without evidence of the act committed" or to seize persons "not named, whose offense is not particularly described." It traces to the 1776 Declaration of Rights and the colonial writs of assistance.

The affirmative theory. The strongest state argument does not depend on proving a "search." It is that § 20 forbids the government from holding standing, generalized investigative authority over the public, and that a network which collects everyone first and identifies suspects later — inverting the constitutional sequence of evidence, suspicion, authorization, then search — is the functional equivalent of a general warrant. On this view, the querying of retained data, not the snapshot, is the constitutional event, and the statute's own preservation standard (§ 20-183.32) supplies the particularity the front end lacks.

The adverse North Carolina precedent, stated candidly. This theory is novel and faces serious obstacles. In *State v. Garner*, 331 N.C. 491, 417 S.E.2d 502 (1992), the Supreme Court found "nothing" in § 20 indicating broader protection than the Fourth Amendment and cautioned against "inventive expansion." *State v. Perry*, 243 N.C. App. 156, 776 S.E.2d 528 (2015), treated § 20 as analogous to the Fourth Amendment in the cell-site context. And *State v. Rogers*, 920 S.E.2d 775 (N.C. Oct. 17, 2025), overruled *State v. Carter*, 322 N.C. 709, 370 S.E.2d 553 (1988), called *Carter*'s

constitutional-exclusion reasoning "dubious," assumed without deciding that § 20 contains any exclusionary rule, and adopted a federal-equivalent good-faith exception — signaling a Court presently reluctant to expand § 20. In practice § 20 is applied to warrantless searches only through *Garner*'s coextensive reading, which supplies no additional protection; independent-force application of the general-warrant clause to purely warrantless conduct appears untested in North Carolina.

Additional state hooks. The associational harm of standing surveillance also implicates Article I, §§ 12 (assembly and petition) and 14 (speech), and, where enforcement is selective, § 19 (Law of the Land — substantive due process and equal protection). See *Kinsley v. Ace Speedway Racing, Ltd.*, 904 S.E.2d 720 (N.C. 2024) (selective-enforcement and right-to-earn-a-living claims colorable).

V. The procedural vehicle

Suppression is the weaker vehicle after *Rogers*, because officers can invoke good-faith reliance on Article 3D. The better posture is a civil declaratory-judgment and injunctive action. Immunity is not a bar: *Corum v. University of North Carolina*, 330 N.C. 761, 413 S.E.2d 276 (1992), holds that sovereign and governmental immunity yield to a colorable direct claim under the State Constitution, a point reaffirmed in *Kinsley*. The gate is *Corum*'s adequate-remedy requirement, and it is contested: *Washington v. Cline*, 898 S.E.2d 667 (N.C. 2024), holds that an adequate alternative remedy — which "need not be the plaintiff's preferred or complete" remedy — bars a direct claim, while *Askew v. City of Kinston*, No. 260PA22 (N.C. Oct. 18, 2024), holds that direct constitutional claimants need not exhaust administrative remedies. The challenger's answer is that a Class 1 misdemeanor and after-the-fact tort damages neither redress a systemic, prospective injury nor enjoin ongoing collection, so prospective relief is inadequately supplied by existing remedies.

Two further constraints. First, statutes carry a strong presumption of constitutionality; a facial challenge to Article 3D must show, under the Salerno standard, that "no set of circumstances exists under which the act would be valid," so an as-applied challenge to a particular deployment is the more realistic lead. Second, standing requires concrete, use-based injury — a plaintiff whose data was queried, retained beyond limits, shared, or used, or who was subject to PTZ observation of a home or sensitive site, is materially stronger than one whose plate was merely photographed. The PTZ cameras, which permit discretionary human targeting, tracking, and curtilage viewing, are best pleaded as a distinct count sounding in traditional search and common-law intrusion rather than plate-aggregation theory.

VI. Balanced assessment

Points favoring a challenge	Points favoring the government
§ 20's general-warrant text fits suspicionless, collect-first surveillance; distinct from the Fourth Amendment.	*Garner*, *Perry*, and *Rogers* read § 20 coextensively and warn against expansion; the theory is first-impression.
Chatrie (2026) protects location data even from third parties and for short windows.	*Schmidt* and sister-state courts decline to treat ALPR capture as a search; plates are public.
Retrospective querying builds a movement dossier; the statute itself models particularity.	The General Assembly authorized and regulated ALPRs, with retention caps and criminal penalties.
Civil/prospective relief avoids the *Rogers* good-faith bar; immunity does not bar a colorable claim.	*Corum* adequacy after *Washington v. Cline*; presumption of constitutionality; standing hurdles.
PTZ discretion and sensitive-site monitoring are the strongest, most concrete facts.	Without proof of query, use, retention, or curtilage capture, the claim reads as abstract.

We welcome your input. This memorandum is a working document. If you are a North Carolina attorney, we would value your comments, corrections, and suggestions — and we would like to know if you use any of it in your practice. Please write to DeFlockILM at **mark@DeFlockILM.org**.

VII. Table of authorities

Authority	Proposition
Katz v. United States, 389 U.S. 347 (1967)	No search in what is knowingly exposed to the public.
Carpenter v. United States, 585 U.S. 296 (2018)	Aggregated long-term location data can be a search; mosaic theory.
Chatrie v. United States, 609 U.S. ___ (June 29, 2026)	Location data protected even from a third party and for a short window (6–3).
Schmidt v. City of Norfolk (E.D. Va. 2026), appeal No. 26-1227 (4th Cir.)	ALPR captures not a search on these facts; on appeal.
N.C. Const. art. I, § 20	General-warrants clause; core of the state theory.
N.C. Const. art. I, §§ 12, 14, 19	Assembly/petition; speech; Law of the Land (due process/equal protection).
State v. Garner, 331 N.C. 491, 417 S.E.2d 502 (1992)	§ 20 coextensive with the Fourth Amendment; no "inventive expansion." Adverse.
State v. Perry, 243 N.C. App. 156, 776 S.E.2d 528 (2015)	§ 20 analogous to the Fourth Amendment (cell-site). Adverse.
State v. Rogers, 920 S.E.2d 775 (N.C. 2025)	Overrules *Carter*; good-faith exception under § 20; exclusion only. Adverse.
Corum v. Univ. of N.C., 330 N.C. 761, 413 S.E.2d 276 (1992)	Direct § 20 claim absent an adequate remedy; immunity no bar.

Washington v. Cline, 898 S.E.2d 667 (N.C. 2024)	Adequate remedy need not be preferred or complete. Adverse on *Corum*.
Askew v. City of Kinston, No. 260PA22 (N.C. 2024)	No administrative exhaustion for direct constitutional claims.
Kinsley v. Ace Speedway Racing, 904 S.E.2d 720 (N.C. 2024)	Immunity cannot bar a colorable *Corum* claim; colorable claims survive.
N.C.G.S. § 20-183.30 to .33 (Art. 3D)	ALPR definition; use/traffic limits; 90-day cap + sworn preservation; Class 1 misdemeanor.

© 2026 DeFlockILM. Educational use. Not legal advice. Confirm all authorities and jurisdictional standards before relying on this document. This is a survey of unsettled and developing law; several arguments are matters of first impression in North Carolina.