

MEMORANDUM OF LAW

Section 1983 Liability for Law Enforcement Use of Flock Safety and Other ALPR Systems

Prepared by DeFlockILM for licensed North Carolina counsel · July 2026

Not legal advice, and not a substitute for Shepardizing. This is an educational survey for licensed attorneys. It does not create an attorney-client relationship and is not a substitute for independent research. The law here is unsettled and moving fast; Chatrie v. United States is three weeks old as of this writing and has not yet been applied to an ALPR system by any court. Confirm every authority before relying on it. Several propositions below are matters of first impression.

THE BOTTOM LINE, FIRST

A plaintiff will not win money from an individual officer for running a Flock search. Not today, and probably not for years. Qualified immunity forecloses it, and the reason is circular in a way that is worth stating plainly: we have identified no appellate decision holding that an ALPR database search violates the Fourth Amendment, so no officer can be on notice that it does, so every damages claim fails on the second prong — which means no court ever reaches the first prong, which means the law never becomes clearly established.

That is not a gap in the case law. It is a loop, and *Pearson v. Callahan*, 555 U.S. 223, 236-37 (2009), built it deliberately.

On the plate-reader theory the viable claim is different in every respect: it is equitable, not legal; it runs against the municipality, not the officer; it targets collection, not querying; and it is a Fourth Amendment claim, not a First Amendment one. Parts I through VIII explain why each of those four choices is forced rather than tactical.

But the plate readers are the hardest of the three cases in this record, and a memorandum that stops there gives bad advice. The same Flock contract buys 8 Condor live-video PTZ cameras, and the Wilmington Police operate a drone fleet. Rank the theories by what each requires a court to do:

Drones. Requires nothing. N.C. Gen. Stat. § 15A-300.1(b)(1)(a) prohibits warrantless drone surveillance of a dwelling and its curtilage, and § 15A-300.1(e) supplies an express private cause of action against a State agency, with fee-shifting, injunctive relief, and \$5,000 per disseminated image. No § 1983, so no qualified immunity. Where the facts fit, this is the whole case.

PTZ. Requires a court to apply *Kyllo*, not to extend *Carpenter*. Article 3D does not reach live video at all, which strips the government of its authorization defense — though § 132-1.4A separately makes the video itself non-public and routes it through a court petition. It is also the only theory with a live damages claim, because a human aimed the camera.

Plate readers. Requires a court to extend *Carpenter* against *Schmidt*, *Scholl*, and *Martin*, with a standing rule that pushes the plaintiff onto the losing half of the claim. This is the theory the movement talks about most and the one that litigates worst.

So the order of operations is the reverse of the order of attention. Plead the statute where a drone touched a home. Plead the PTZ where the camera pointed at one. Plead the plate-reader aggregation claim for the injunction and for the appellate record — and tell the client plainly that it is the long one. Part IX develops all three; it should probably be read first.

I. THE STRUCTURAL TRAP: STANDING RUNS OPPOSITE THE MERITS

This is the single most important thing in ALPR litigation and it is missing from most secondary treatments of the subject.

Courts analyzing ALPR programs bifurcate them. Stage one is collection and retention — the camera photographs the car and stores the image. Stage two is the query — an officer types a plate and retrieves the history.

The government's position is that stage one is not a search and stage two might be. On the facts of the decided cases, the plaintiff has standing for stage one and not stage two. That is a pattern in the current record, not a rule of law — standing is fact-specific, and a plaintiff who can show he was in fact queried, or faces a substantial risk of being queried, is not bound by it. The point is that proving it requires the audit logs discussed in Part II.

Schmidt v. City of Norfolk, No. 2:24-cv-00621-MSD-RJK (E.D. Va. Jan. 27, 2026), slip op. 20, states it exactly:

“Plaintiffs have standing to challenge Defendants' operation of the 176 camera ALPR system to the extent that such system is repeatedly photographing Plaintiffs' vehicles and storing the seized images in a searchable database. In contrast, Plaintiffs lack standing (as they largely concede) to challenge the query stage of Defendants' ALPR system.”

The reason is *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983): a plaintiff cannot enjoin a practice he cannot show he will be subjected to. *Norfolk* never queried either plaintiff, and neither could show a query was imminent. *Scholl v. Illinois State Police*, 776 F. Supp. 3d 701, 719-20 (N.D. Ill. 2025), is *Lyons*

in pure form — no “substantial risk” that police would soon retrieve the plaintiffs' plate data.

So the plaintiff is caught. He has standing for the stage courts say is not a search, and no standing for the stage courts say is one. Scholl names the trap: plaintiffs “can challenge only the collection of data — a practice neither Carpenter nor Leaders of a Beautiful Struggle addressed.”

Practical consequence. If your theory is that the *query* is the search — the strongest theory on the merits — you need a client who was actually queried. That means audit logs, and in North Carolina that means a statutory fight before you reach a courthouse.

The North Carolina audit-log problem

Do not assume the logs are simply available. N.C. Gen. Stat. § 20-183.32(e) makes captured plate data confidential and not a public record, disclosable only to a criminal justice officer for a law enforcement purpose on a written request. Section 20-183.33 makes unauthorized obtaining, access, preservation, or disclosure a Class 1 misdemeanor. An agency will cite both, and a memorandum that waves past this is not being useful.

The counter-argument, and it is a good one: Article 3D never defines “captured plate data.” The term runs throughout § 20-183.32 and is defined nowhere in § 20-183.30. What the statute plainly contemplates is the plate image and its capture data — the photograph, the plate, the place, the time. An audit log is a different animal. It is a record of *agency conduct*: who ran a search, when, under what stated reason, against which networks. That is not a record of a vehicle. It is a record of a government employee performing an official act.

Plead the request field by field and make the agency justify each one separately, because § 132-6(a) requires production of all reasonably segregable non-exempt portions:

the plate queried; the date and time; the officer or user who ran it; the requesting agency; the stated reason code; the case or incident number; the number of networks reached; whether the query returned the plaintiff's vehicle; and whether the result was shared externally.

The plate field is the agency's best ground. The searching officer's name is close to indefensible — N.C. Gen. Stat. § 160A-168(b)(1) makes a municipal employee's name expressly public, and an officer performing an official act is not a license plate. The searching agency's name is neither plate data nor a personnel record. The reason code is the agency's own dropdown menu.

This is not hypothetical. New Hanover County produced a 2,980,082-row audit with every organization and officer name redacted. Carolina Beach produced six audits and an event log with every identifying field redacted and

no statutory citation anywhere in the production. Neither has articulated which exemption reaches which field — which is the first thing to litigate, because § 132-6(a) puts that burden on the custodian, not the requester.

So the sequence is: records request, deficiency letter demanding a field-by-field statutory basis, § 132-9 if necessary, and only then a § 1983 complaint with a client who can prove he was queried. The records fight is not preparation for the litigation. It is the litigation.

One open door. Schmidt expressly declined to decide whether the stage-two standing gap defeats the stage-one claim. That question is live in the Fourth Circuit now.

II. CHATRIE CREATES TENSION WITH SCHMIDT, AND HOW MUCH IS CONTESTABLE

Every reported ALPR decision rejecting a Fourth Amendment challenge rests on a quantum theory: these cameras do not capture enough. Schmidt, slip op. 35-36:

“Plaintiffs are unable to demonstrate that Defendants' ALPR system is capable of tracking the whole of a person's movements.... their arrangement does not 'blanket' the City as the cell towers did in Carpenter and the planes did in Beautiful Struggle. Rather, the cameras are fixed in 75 clusters across the many miles of Norfolk roadways such that they are incapable of cataloging the whole of vehicles' movements.”

Five months later, the Supreme Court undercut the most rigid version of that method. Chatrie v. United States, No. 25-112, 609 U.S. ____ (June 29, 2026) (Kagan, J.), slip op. 20-21. Chatrie held that police conducted a Fourth Amendment search when they acquired the defendant's location data, even though a third party held it and even for a two-hour window — vacating the Fourth Circuit at 136 F. 4th 100. Kagan, J., wrote for five; Gorsuch, J., concurred in the judgment; Alito, Thomas, and Barrett, JJ., dissented. So the judgment is 6-3 and the reasoning commands five. The passages that matter here:

“[W]e have never understood Fourth Amendment protections as kicking in only once an intrusion 'goes too far.' ... Where the Fourth Amendment applies, it applies — regardless of 'the quality or quantity of information' the government obtains. Kyllo, 533 U.S., at 37.”

“That approach makes all the more sense when, as with Location History, officials can select the time-limited set of materials they want from an all-encompassing database.”

Read the second passage against a Flock search log. That is a description of the thing.

State the limit precisely, because this is the most attackable paragraph in this memorandum. Chatrie does not overrule Schmidt, Martin, Scholl, or any ALPR authority, and it does not disturb Carpenter's framework. Schmidt did not rest *only* on a quantity threshold; it also relied on the collection/query bifurcation, the fixed-cluster geometry, the public-roadway setting, and the blanket-versus-chokepoint distinction. Its actual formulation was that the calculus shifts when surveillance crosses into cataloging “the whole, or nearly the whole, of a person's movements” — note the “nearly.” What Chatrie supplies is a Supreme Court statement that Fourth Amendment protection does not switch on only once an intrusion has gone far enough, which is in real tension with a test asking how much of a person's movements a system captures. That is a strong argument on appeal. It is not a holding, and briefing it as one will draw a correction from the bench.

And there is a second, quieter consequence. *United States v. Martin*, 753 F. Supp. 3d 454 (E.D. Va. 2024), rejected the mosaic theory in reliance on the Fourth Circuit's Chatrie panel, 107 F.4th 319. That panel was superseded by an equally divided en banc court and has now been *vacated* by the Supreme Court. Martin's foundation is weakened, though not removed — it gave multiple independent reasons. Any brief citing Martin should say so.

Do not overclaim this. Chatrie is not an ALPR case; it involved a warrant and cell-phone data; the Court remanded on probable cause and particularity and expressly reserved the good-faith question. It contains zero references to license plates, plate readers, or ALPR — we checked the full opinion, including every concurrence and dissent. Chatrie supplies reasoning, not authority. But the reasoning goes to the exact proposition on which Schmidt was decided, and Schmidt is on appeal.

Watch Scholl. On July 6, 2026 — one week after Chatrie — the United States filed an amicus brief supporting the Illinois State Police in the Seventh Circuit, No. 25-1847. That is, so far as we can determine, the only post-Chatrie ALPR filing in the country. It will tell you how the government intends to distinguish it.

III. QUALIFIED IMMUNITY FORECLOSES DAMAGES ON THE SEARCH THEORY — BUT NOT ON EVERY THEORY

Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982), shields officials “insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011), tightened it: “existing precedent must have placed the statutory or constitutional question beyond debate.”

An ALPR query is not beyond debate. It is barely debated. Every appellate decision we have identified that reaches the merits has found no search, and the only trial court to require a warrant — *Commonwealth v. Bell*, 113 Va. Cir. 316 (Norfolk Cir. Ct. 2024) — was never appealed and has been repudiated by the Virginia Court of Appeals.

Two traps in the standard treatments

A departmental policy violation does not defeat qualified immunity.

This appears in nearly every secondary source on ALPR liability and it is wrong. *Davis v. Scherer*, 468 U.S. 183, 194 (1984): “Officials sued for constitutional violations do not lose their qualified immunity merely because their conduct violates some statutory or administrative provision.” The rule violated in *Davis* was the agency's own order. Accord *Virginia v. Moore*, 553 U.S. 164, 172, 176, 178 (2008) (“it is not the province of the Fourth Amendment to enforce state law”; Fourth Amendment meaning does not change “with local law enforcement practices — even practices set by rule”).

So when an officer runs 41 searches coded “Traffic Infraction” against a policy that forbids it, that is a public-records story, an internal-discipline story, and a statutory story under N.C. Gen. Stat. § 20-183.31(b). It is **not** a route around qualified immunity.

“No court has ever denied QI in an ALPR case” is not quite true. *Green v. City & County of San Francisco*, 751 F.3d 1039 (9th Cir. 2014), reversed summary judgment for the officers and held the sergeant was not entitled to qualified immunity — expressly “at this stage,” on triable issues, not as a final merits ruling — where an ALPR misread a plate by one digit and officers conducted a high-risk felony stop on an innocent driver: “an unconfirmed hit on the ALPR does not, alone, form the reasonable suspicion necessary to support an investigatory detention.”

And Chinarian is the second, which this memorandum earlier cited only for its statement of the standard. That was an error worth correcting. *Chinarian v. City of Los Angeles*, 113 F.4th 888 (9th Cir. 2024), is not a QI-standard case. It is an **ALPR case in which qualified immunity was denied**. The Ninth Circuit reversed partial summary judgment for the officers and held it “clearly established in *Washington v. Lambert*, 98 F.3d 1181 (9th Cir. 1996), and *Green* ... that officers can be held liable for conducting a high-risk vehicle stop based on nothing more than a reasonable suspicion that the vehicle was stolen,” so “the officers were not entitled to qualified immunity on plaintiffs' Fourth Amendment claims.” *Chinarian* expressly held *Green* “addresses facts like the ones at issue.”

So state the thesis precisely, because the loop is narrower than it first appears. Both *Green* and *Chinarian* are ALPR-*error* cases, not ALPR-*search* cases. The injury was the seizure, not the surveillance. We have identified no reported decision holding an officer personally liable, or denying immunity,

for operating or querying an ALPR database. But the wrongful-stop lane is not merely “real” — in the Ninth Circuit it is *clearly established*, by an appellate holding, as of 2024. The Pearson loop described above afflicts the *search* theory. It does not afflict the stop theory, and a memorandum that says qualified immunity forecloses ALPR damages full stop is wrong.

Two caveats a Fourth Circuit practitioner must not skip. Clearly established law is circuit-specific. *Washington v. Lambert*, Green, and Chinarian are Ninth Circuit; we have identified no Fourth Circuit analog, so the notice argument here is materially weaker than it would be in California. And Chinarian drew a partial dissent on harmlessness. Cite it for what it holds, not for more.

Qualified immunity is also not the certainty this memorandum has been implying. There need not be “a case directly on point,” Chinarian, 113 F.4th at 899, or even one with “fundamentally similar” facts, *Hope v. Pelzer*, 536 U.S. 730, 741 (2002) — the question is notice that the *specific conduct* was unlawful. *Rivas-Villegas v. Cortesluna*, 595 U.S. 1, 6 (2021). So the analysis changes, potentially decisively, on facts like these: an officer who queries a political opponent, a journalist, or an ex-spouse; who runs plates at a house of worship or a clinic; who fabricates the reason code; or who acts against an express written prohibition with knowledge. Those are not the mine-run case, and none of them requires extending the Fourth Amendment an inch. They require an audit log. This is the second reason Part II's records fight is the litigation.

IV. MONELL DOES NOT RESCUE THE DAMAGES CLAIM, AND THE REASON MATTERS

Municipalities have no qualified immunity. *Owen v. City of Independence*, 445 U.S. 622 (1980), holds that a municipality “may not assert the good faith of its officers or agents as a defense to liability under § 1983.” So the “clearly established” prong is not an element of a Monell claim, and this is why the standard advice is to sue the city.

That advice is right, but not for the reason usually given. Monell still requires an underlying constitutional violation. *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986): “If a person has suffered no constitutional injury at the hands of the individual police officer, the fact that the departmental regulations might have authorized the use of constitutionally excessive force is quite beside the point.”

So the sequence is: no violation, no Monell claim (*Heller*). Violation but officer immune, Monell claim survives (*Owen*). Everything therefore turns on the merits question that qualified immunity is preventing courts from reaching — which is the second reason to plead equitable relief, where immunity never enters.

Heller should be stated no more broadly than its facts: it followed a jury verdict of no constitutional harm, and the circuits do not read it to bar municipal liability where the officer is dismissed on a non-merits ground.

The easy element and the hard one

Monell v. Department of Social Services, 436 U.S. 658, 694 (1978), requires that “execution of a government's policy or custom” inflict the injury. An ALPR program is a procurement contract approved by a council or a board and operated under a written policy. Policy is the easiest element a Monell plaintiff will ever plead.

Failure-to-train is the hard one, and it is harder than most drafts admit. City of Canton v. Harris, 489 U.S. 378, 388 (1989), permits liability “only where the failure to train amounts to deliberate indifference.” Connick v. Thompson, 563 U.S. 51, 62 (2011): “A pattern of similar constitutional violations by untrained employees is ‘ordinarily necessary’ to demonstrate deliberate indifference for purposes of failure to train.” Connick rejected four Brady reversals in ten years as insufficient. Single-incident liability is hypothesized at 563 U.S. at 63-64, confined to a “narrow range of circumstances,” and the Court has never actually applied it. Do not build a case on it.

Bd. of County Comm'rs v. Brown, 520 U.S. 397, 404-05 (1997), adds “moving force” causation and “rigorous standards of culpability and causation.”

V. THE FIRST AMENDMENT CLAIM IS A TRAP

Nearly every treatment of ALPR liability proposes a First Amendment count: the cameras sit near churches, union halls, and political offices, and tracking chills association. It is intuitive, it is sympathetic, and it loses.

Laird v. Tatum, 408 U.S. 1, 13-14 (1972):

“Allegations of a subjective ‘chill’ are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm.”

And at 11, the sentence that was written for this fact pattern: the chill cannot arise “merely from the individual's knowledge that a governmental agency was engaged in certain activities.” In the cases that survive, “the challenged exercise of governmental power was regulatory, proscriptive, or compulsory in nature.” A camera on a pole is observational. That distinction decides most of these cases.

Clapper v. Amnesty International USA, 568 U.S. 398, 401, 409, 416 (2013), closes the exits: injury must be “certainly impending”; plaintiffs “cannot manufacture standing merely by inflicting harm on themselves based on their

fears of hypothetical future harm.” So the “I changed my driving route” theory fails too — that is *Clapper* at 416 precisely.

NAACP v. Alabama, 357 U.S. 449 (1958), does not help. It is a compelled-disclosure case, and what carried it was an “uncontroverted showing” of “economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility.” 357 U.S. at 462-63. Passive observation of a public street is not compelled disclosure.

We have identified no ALPR-based First Amendment claim that has survived a motion to dismiss. The surveillance claims that do survive share one feature: the injury is something other than the chill. *Hassan v. City of New York*, 804 F.3d 277, 292 (3d Cir. 2015) — “Plaintiffs here, by contrast, allege that the discriminatory manner by which the Program is administered itself causes them direct, ongoing, and immediate harm” (surveillance targeted by religion; note the City also waived part of the argument). *Presbyterian Church v. United States*, 870 F.2d 518, 522 (9th Cir. 1989) — “not a mere subjective chill... a concrete, demonstrable decrease in attendance.... *Laird* has no application here.” *Handschu v. Special Services Division*, 349 F. Supp. 766, 770 (S.D.N.Y. 1972) — what did the work was provocation and inducement, not observation.

The rule: a surveillance First Amendment claim survives *Laird* only where the injury is not the chill itself — discriminatory classification, conduct exceeding passive observation, organizational injury with documented attrition, or a concrete downstream penalty. If your ALPR facts include selective targeting by race, religion, or political affiliation, you have a *Hassan* claim and should plead it. If they do not, the First Amendment count invites a motion you will lose and teaches the court to see the whole complaint as speculative.

This is a Fourth Amendment case.

VI. THE CLAIM MOST CONSISTENT WITH CURRENT PRECEDENT: EQUITABLE RELIEF AGAINST THE MUNICIPALITY

Section 1983 authorizes “an action at law, suit in equity, or other proper proceeding for redress.” Qualified immunity does not reach the equitable side. *Wood v. Strickland*, 420 U.S. 308, 314-15 n.6 (1975): “immunity from damages does not ordinarily bar equitable relief as well.”

Why Lyons does not kill the collection claim

Lyons is the standard objection, and it does not apply here. *Lyons* failed because the future chokehold was speculative — he had to be stopped again by an officer who would choke him again. A camera photographing your client's car two or three times a day is neither past nor speculative. It is present, ongoing, and typically conceded by the defendant.

That is the carve-out in the sentence Lyons quoted from *O'Shea v. Littleton*, 414 U.S. 488, 495-96 (1974), at 461 U.S. at 102: past exposure does not show a present controversy “if unaccompanied by any continuing, present adverse effects.” Keep the trailing clause. It is the whole argument.

Schmidt proves the point: the plaintiffs had standing on collection and lost on the merits, not on Lyons.

The shape of the case

Declaratory and injunctive relief against the municipality. Fourth Amendment. Targeting collection and retention. Chief or Sheriff in official capacity only — Norfolk's individual-capacity claim against Chief Talbot was dismissed early, and naming a line officer individually invites a qualified-immunity motion that will succeed and will cost you the narrative.

Add a nominal-damages count. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 435-37 (2021), holds that risk of future harm will not support damages but may support injunctive relief — and a nominal count hedges mootness if the city cancels the contract mid-litigation, which on current trends is a live possibility.

What not to plead

Do not plead the injury as “my data sits in their database.” *TransUnion*, 594 U.S. at 434: there is “no historical or common-law analog where the mere existence of inaccurate information, absent dissemination, amounts to concrete injury,” and the “retention of information lawfully obtained, without further disclosure, traditionally has not provided the basis for a lawsuit in American courts.” The Court's image is a defamatory letter stored in a desk drawer. Plead ongoing capture, not storage.

VII. THE FOURTH CIRCUIT BINDS NORTH CAROLINA, AND IT HAS ONE CASE

Leaders of a Beautiful Struggle v. Baltimore Police Department, 2 F.4th 330 (4th Cir. 2021) (en banc), 8-7, Gregory, C.J. It was a § 1983 action. The holding:

“because the AIR program enables police to deduce from the whole of individuals' movements, we hold that accessing its data is a search, and its warrantless operation violates the Fourth Amendment.”

It is the only binding decision in this circuit holding that surveillance of a whole city crosses a constitutional line, and it is the best authority a North Carolina driver has.

Four corrections to the way it is usually cited

The plaintiffs never obtained an injunction. The posture was an appeal from the denial of a preliminary injunction; the disposition was “REVERSED AND REMANDED” on likelihood of success. The case settled on remand and was terminated February 17, 2022. Secondary sources — including a Harvard Law Review note — saying the court “awarded a preliminary injunction” are wrong.

There is no sentence reading “a program that captures the movements of an entire city.” The actual line is: “The AIR program records the movements of a city.” We have seen the invented version in circulation. Do not quote it.

It is not First Amendment authority. The en banc majority reached only the Fourth Amendment.

The “AIR was continuous, ALPRs have gaps” distinction is refuted by Schmidt itself. Judge Davis notes AIR “did not operate at night... leaving multi-hour ‘gaps’ in coverage” — and it was still a search. The real axes are two: access versus collection (Scholl, 776 F. Supp. 3d at 719-20: the government's accessing data in Carpenter and LBS “is analogous to Illinois's querying of the LEARN database, not to its collection of ALPR photos”), and blanket versus chokepoint (Schmidt: the cameras do not “blanket” the city “as... the planes did in Beautiful Struggle”). Argue those, not temporal continuity.

VIII. THE NORTH CAROLINA ALTERNATIVE

Read this section as a preservation argument, not a winning claim. Under current North Carolina precedent an Article I, § 20 theory is a long shot. It is worth pleading because it is unforeclosed, because it must be raised to be preserved, and because we have found no reported decision in which a North Carolina appellate court was asked the question — not because it is likely to succeed today.

Where a federal claim is losing on precedent that exists, a state claim losing on no precedent at all is at least worth stating. Article I, § 20 of the North Carolina Constitution is textually distinct from the Fourth Amendment:

“General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.”

The words “unreasonable searches” and “probable cause” appear nowhere in it. It is a general-warrants clause, carried from § XI of the 1776 Declaration of Rights, and the drafters changed “ought not to be granted” to “shall not be granted.” The Supreme Court of North Carolina has said its language “differs markedly from the language of the Fourth Amendment.” *State v. McClendon*,

350 N.C. 630, 635, 517 S.E.2d 128, 132 (1999) (quoting *State v. Arrington*, 311 N.C. 633, 643, 319 S.E.2d 254 (1984)).

Read the clause against the deployment. A network that scans every passing car searches without evidence of any act committed; it captures people not named; their offense is not particularly described, because there is no offense. That is not an analogy. That is the clause, word by word.

And the honest part

This theory is worse off than the federal one in one respect: it has no supporting precedent whatsoever. *State v. Garner*, 331 N.C. 491, 506, 417 S.E.2d 502, 510 (1992): “there is nothing to indicate anywhere in the text of Article I, Section 20 any enlargement or expansion of rights beyond those afforded in the Fourth Amendment.” And on October 17, 2025, *State v. Rogers*, 920 S.E.2d 775 (N.C. 2025), overruled *State v. Carter*, 322 N.C. 709, 370 S.E.2d 553 (1988) — the only case that had ever read § 20 more protectively — calling *Carter* a “confused opinion” whose reasoning was “dubious,” and adopting a good-faith exception. 5-2. There is now no surviving North Carolina decision construing § 20 more broadly than the Fourth Amendment.

The answer to *Garner* is inside *Garner*. The full sentence, with the parenthetical that most quotations drop: the language “relating entirely to ‘general warrants,’ of the past (while still relevant to protect against any recurrence of the historic abuses specified), should not be viewed as a vehicle for any inventive expansion of our law.” *Garner* reserved § 20’s force against a recurrence of the historic abuse. The historic abuse is authority to search without evidence of the act committed, sweeping up persons not named. Asking whether a suspicionless dragnet is that thing is not an inventive expansion. It is the only job *Garner* left the clause — and we have found no reported decision in which a North Carolina court was asked to do it.

Accord *State v. Perry*, 243 N.C. App. 156, 776 S.E.2d 528 (2015) (treating § 20 as analogous to the Fourth Amendment in the cell-site context). In fairness to the other side of our own argument: *Rogers* assumed without deciding that § 20 contains any exclusionary rule at all, so its reach beyond suppression is not settled either.

The vehicle, and the trap in it

Suppression is a poor bet after *Rogers*. The posture is a civil action for declaratory and injunctive relief. Sovereign immunity does not bar a colorable direct claim under the State Constitution. *Corum v. University of North Carolina*, 330 N.C. 761, 782, 413 S.E.2d 276, 289 (1992); *Kinsley v. Ace Speedway Racing, Ltd.*, 904 S.E.2d 720 (N.C. 2024).

The gate is adequacy, and this is where the claim is most likely to die. *Washington v. Cline*, 385 N.C. 824, 830, 898 S.E.2d 667 (2024) (Dietz, J.),

holds that a litigant holding remedies that are “meaningful, even if not necessarily complete or the relief they want” cannot bring a direct claim. The majority put the limit bluntly: Corum “is not a state law equivalent of 42 U.S.C. § 1983,” and “does not guarantee a cause of action for money damages in every constitutional case where money damages otherwise are unavailable.” It is reserved for “extraordinary” circumstances where the law provides no other “established claims and remedies.”

Confront Wilcox before you plead. Cline's own string cite contains the case that is closest to ours: *Wilcox v. City of Asheville*, 222 N.C. App. 285, 300, 730 S.E.2d 226 (2012) — a Corum claim was *unavailable* because the plaintiff could sue the police officers in their individual capacities. Accord *Taylor v. Wake County*, 258 N.C. App. 178, 189-90, 811 S.E.2d 648 (2018) (tort claims adequate despite “limited” damages); *Copper v. Denlinger*, 363 N.C. 784, 788-89, 688 S.E.2d 426 (2010) (administrative appeal adequate). Where the operator is identifiable, an ALPR plaintiff can name the officer individually, and under Wilcox that availability may itself be the adequate remedy — so a complaint that does not answer Wilcox on its face may not reach discovery. But do not concede Wilcox's premise. In Wilcox the officers were known. In a network case the plaintiff frequently cannot identify who queried, operated, viewed, exported, or shared the data without the very audit records that § 20-183.32(e) and § 132-1.4A are invoked to withhold. A remedy that requires naming a defendant the plaintiff is statutorily prevented from identifying is, in Craig's words, not adequate “by any realistic measure” — and that is a better answer than the systemic-injury argument usually offered in its place.

The answer, and its honest weight. *Craig v. New Hanover County Board of Education*, 363 N.C. 334, 339-40, 678 S.E.2d 351 (2009), holds that a remedy is adequate only if the plaintiff has “at least the opportunity to enter the courthouse doors and present his claim,” that a claim barred by immunity is not “adequate by any realistic measure,” and that a substitute mechanism must offer at minimum the “possibility of relief under the circumstances.” The argument is that qualified immunity does not merely reduce the individual-capacity remedy, it forecloses it categorically and in advance — for the structural reason set out in Part III, no appellate holding means no notice means no case ever reaches the merits. A remedy that cannot succeed in any case is not a remedy that is merely incomplete. *Note the posture problem honestly: the Cline passages most useful to that argument are Justice Earls's dissent, joined by Justice Riggs. Cite Craig directly; do not cite Cline for them.*

What is settled, and useful. Exhaustion of administrative remedies is not jurisdictional — the availability of administrative relief goes instead to the adequate-remedy element. *Askew v. City of Kinston*, 902 S.E.2d 722 (N.C. 2024); accord *Singleton v. N.C. Department of Health & Human Services*, 906 S.E.2d 806 (N.C. 2024). That matters here: the government will argue a records request or an internal-affairs complaint is the plaintiff's remedy. After

Askew that argument does not go to jurisdiction, and it must be litigated on adequacy under Craig.

Two constraints the pleader must respect. First, statutes carry a strong presumption of constitutionality, and a facial challenge to Article 3D would have to show under *United States v. Salerno*, 481 U.S. 739, 745 (1987), that “no set of circumstances exists under which the Act would be valid.” That is not winnable. Plead as-applied, against a particular deployment. Second, Article 3D authorizes ALPRs; it does not authorize the Condor. An as-applied challenge to live discretionary video does not have to overcome any presumption of constitutionality, because there is no statute to presume valid. See Part IX.

Which means the state claim has a narrow real niche. *Corum* itself is the model. It permitted the § 1983 claims and the direct constitutional claim to proceed together, and refused to make the plaintiff elect at summary judgment. What the direct claim did there was fill the exact gap § 1983 leaves: under *Will v. Michigan Department of State Police*, 491 U.S. 58 (1989), an official sued in his official capacity is not a “person” for damages, so *Corum* supplied the official-capacity damages remedy § 1983 could not. That gap is real here too. But for the *injunction* — the relief this memorandum recommends — § 1983 already works against an official in his official capacity, and qualified immunity is no defense to it. *Corum*, 330 N.C. at 782 (citing *Brandon v. Holt*, 469 U.S. 464 (1985)). So on the equitable claim the state constitutional count adds little and invites a Wilcox dismissal. Plead it for the damages gap and for preservation. Do not build the case on it.

Two North Carolina practice notes that will cost you the case

Do not sue a “County Sheriff’s Office” or “Department.” It lacks capacity to be sued. *Parker v. Bladen County*, 583 F. Supp. 2d 736 (E.D.N.C. 2008). Sue the sheriff in his official capacity.

The county is not liable for the sheriff. *McMillian v. Monroe County*, 520 U.S. 781 (1997), asks whom the official represents on the particular issue. In North Carolina the sheriff is a separate local legal entity — elected, not employed by the board. *Knight v. Vernon*, 214 F.3d 544 (4th Cir. 2000) (personnel); *Little v. Smith*, 114 F. Supp. 2d 437, 446 (W.D.N.C. 2000) (law enforcement policy: “it is Sheriff Sellers, not Anson County, who has the final decision making authority over law enforcement policies of his office”). Note the tension: *Harter v. Vernon*, 101 F.3d 334 (4th Cir. 1996), holds NC sheriffs are not arms of the State either. Do not cite *Dotson v. Chester*, 937 F.2d 920 (4th Cir. 1991), for county non-liability — it is a Maryland case and the county was held liable.

The consequence for a place like New Hanover County: the Flock contract is held by the Sheriff’s Office, so the Monell defendant is the Sheriff in his official capacity, not the Board of Commissioners. But the Board

appropriates the money — which is a political lever, not a legal one, and is why Macon County's board defunded its program on July 14 rather than litigating it.

IX. THE OTHER CAMERAS: PTZ, DRONES, AND REAL-TIME CRIME CENTERS

This memorandum has so far analyzed plate readers, and that is a defect. The New Hanover contract buys 28 devices for \$219,000 over 24 months: 17 Falcon plate readers, 3 Falcon LR, and **8 Condor live-video PTZ cameras**. One sits at Haven Place, off Castle Hayne Road, overlooking a new residential neighborhood. DeFlockILM's companion state-constitutional memorandum reaches the correct conclusion: PTZ discretion and sensitive-site monitoring are the strongest, most concrete facts in the record. A § 1983 analysis that discusses only plates recommends the theory facing the most adverse authority while ignoring the one facing almost none.

Article 3D does not apply to PTZ video, and that fact does most of the work

Start with the definition, because everything follows from it. N.C. Gen. Stat. § 20-183.30(1) defines an “automatic license plate reader system” as “a system of one or more mobile or fixed *automated high speed cameras used in combination with computer algorithms to convert images of license plates into computer readable data.*” A Condor is a human-aimed live-video camera with pan, tilt, and zoom. It does not convert plates into computer-readable data. It is not an ALPR system, and Article 3D does not reach it.

Trace the consequences honestly, because they run in both directions:

Against the government. The government's best answer on plates is that the General Assembly authorized ALPRs and regulated them — retention caps, a purpose limit, a policy mandate, criminal penalties. For PTZ that answer does not exist. There is no 90-day cap (§ 20-183.32(a)), no closed “law enforcement purpose” list (§ 20-183.30(5)), no traffic-enforcement bar, and no written-policy requirement (§ 20-183.31(a)). The only retention limit on the Condor video is contractual — 30 days, in a document the county negotiated and can renegotiate. Live discretionary video of a residential street is the least regulated surveillance the county operates, and it is the most intrusive.

For the records fight, and this is the practical headline. Section 20-183.32(e) makes *captured plate data* confidential and not a public record, and PTZ video is not captured plate data. But do not stop there, as an earlier draft of this memorandum did. **A second statute reaches the video.** N.C. Gen. Stat. § 132-1.4A(a)(6) defines a “recording” to include a visual or audio recording captured by “any other video or audio recording device operated by or on behalf of a law enforcement agency ... when

carrying out law enforcement responsibilities,” and § 132-1.4A(b) provides that recordings are not public records. A Condor is such a device. PTZ video is not obtainable by an ordinary Chapter 132 request. The route is § 132-1.4A(g): release “only pursuant to court order,” on petition by *any person* to the superior court where the recording was made, weighing eight standards — the first being whether release “is necessary to advance a compelling public interest,” the third being whether the requester seeks “evidence to determine legal issues in a current or potential court proceeding.” That is a filing, not a records request. Budget for it.

What survives is the same distinction the ALPR audit fight turns on, and here the text is better. Section 132-1.4A(a)(6) reaches a recording *captured by* a device. PTZ movement logs, preset positions, operator identifiers, pan-tilt-zoom events, and platform access logs are not visual or audio recordings — they are records of agency conduct generated by the control system, not footage captured by the camera. Neither § 20-183.32(e) nor § 132-1.4A reaches them on its text. They remain public records under §§ 132-1 and 132-6, subject to ordinary exemptions, principally § 132-1.4. Ask for the logs by name and separately from the video; the two are governed by different statutes and the agency will otherwise answer both with the one that helps it.

Against the plaintiff. No Article 3D means no § 20-183.33 misdemeanor and no statutory violation to plead. The “41 searches coded Traffic Infraction” story has no PTZ analog. Whatever a PTZ claim is, it is constitutional or it is nothing.

The Fourth Amendment merits: traditional search doctrine, not aggregation

The adverse authority is squarely on point and must be met first. *United States v. Vankesteren*, 553 F.3d 286, 291 (4th Cir. 2009), is the Fourth Circuit's video-surveillance case: because there is no reasonable expectation of privacy in privately owned “open fields,” agents “were free, as on public land, to use video surveillance to capture what any passerby would have been able to observe.” Add *Carpenter*, 585 U.S. at 316 (security cameras not called into question) and *Beautiful Struggle*, 2 F.4th at 345 (people understand they may be filmed on city streets). A Condor watching a public roadway is lawful, and saying otherwise wastes the court's patience.

But read Vankesteren's rationale, not its result. It rests on two limits the opinion states itself: *open fields*, which is the doctrinal opposite of curtilage, and *passerby equivalence* — the agents could capture “what any passerby would have been able to observe.” A pole-mounted camera that zooms into a fenced back yard is doing neither. It is not in an open field and it is not seeing what a passerby sees. *Vankesteren* does not decide that case; it supplies the two questions that decide it.

Where the line actually is, stated against our interest. California v. Ciraolo, 476 U.S. 207 (1986), and Florida v. Riley, 488 U.S. 445 (1989), hold that naked-eye observation of curtilage from a lawful vantage is not a search. Those cases are the hardest obstacle to a PTZ claim and they are not distinguishable by adjectives. The plaintiff's ground is Kyllo v. United States, 533 U.S. 27 (2001): sense-enhancing technology not in general public use, used to obtain details about a protected area that could not otherwise be obtained without intrusion, is a search. The contested question is whether a 30x zoom on a pole is Ciraolo's naked eye or Kyllo's device. No court has answered it for a Condor.

The persistent-pole-camera split is real and the Fourth Circuit has not resolved it. Compare United States v. Tuggle, 4 F.4th 505 (7th Cir. 2021) (eighteen months of pole-camera surveillance of a home's exterior: no search), and United States v. Houston, 813 F.3d 282 (6th Cir. 2016) (ten weeks: no search), with United States v. Moore-Bush, 36 F.4th 320 (1st Cir. 2022) (en banc court evenly divided). *We have not read these against the reporters and they are cited from secondary knowledge; confirm each before use.*

Why PTZ is nonetheless the better § 1983 vehicle

Four reasons, and the fourth is the one that matters:

1. It is discretionary human conduct. Somebody aimed it. Section 1983 needs an individual act by an individual officer, and automated plate capture supplies none — which is half of why the ALPR damages claim keeps dying. A PTZ has an operator, a timestamp, and a reason.
2. Curtilage is an established protected area. Aggregation is a theory a court must adopt. The PTZ claim asks a court to apply Kyllo, not to extend Carpenter.
3. The officer has no statutory safe harbor. On plates he says Article 3D authorized him. On PTZ there is nothing to point to.
4. It is the one theory where qualified immunity may not hold. The Pearson loop in Part III depends on there being no appellate holding to supply notice. Kyllo and Jardines are appellate holdings. The closer the camera comes to the curtilage of a home, the harder it is to say a reasonable officer lacked notice — and the plaintiff never has to win the aggregation argument to get there.

What it requires. Proof of where the camera pointed and when — movement logs, presets, operator IDs, zoom events, and the video. Which is the records fight again, on records the confidentiality statute does not cover. This is the highest-value unexecuted request in the project.

Drones: the claim that does not need § 1983 at all

North Carolina already gives the plaintiff more than the Constitution does. N.C. Gen. Stat. § 15A-300.1(b)(1) prohibits any person, entity, or *State agency* from using an unmanned aircraft system to conduct surveillance of “a person or a dwelling occupied by a person and that dwelling's curtilage without the person's consent,” or of private real property without the owner's consent. The law-enforcement exceptions in § 15A-300.1(c) are narrow and enumerated: a terrorism determination by a named Secretary; plain view from a place the officer may lawfully be; *a search warrant*; exigency on reasonable suspicion; and public gatherings.

And then subsection (e) does the thing no other North Carolina surveillance statute does. “Any person who is the subject of unwarranted surveillance ... shall have a civil cause of action against the person, entity, or State agency that conducts the surveillance.” The remedy includes actual damages; or, for a published or disseminated image, an election of **\$5,000 per photograph or video**; plus “reasonable costs and attorneys' fees and injunctive or other relief as determined by the court.” Subsection (f) adds an exclusionary rule with a good-faith exception.

Read that against everything above. No Carpenter extension. No mosaic. No standing bifurcation. No clearly-established-law problem, because qualified immunity is a § 1983 defense and this is not a § 1983 claim. No Corum adequacy gate — the statute *is* the adequate remedy, which forecloses a Corum count and does not matter, because the statute pays better than Corum would. Where a drone has surveilled a dwelling or its curtilage without consent and outside § 15A-300.1(c), plead the statute first and the Constitution second, if at all. Wilmington Police operate a growing drone fleet; the program's records have been requested and not yet produced.

The asymmetry is the argument, and it writes the legislative ask. Fly a camera over a back yard: a private right of action, statutory damages, and fee-shifting. Bolt the same camera to a pole across the street and point it at the same back yard: a Class 1 misdemeanor no one has ever charged, and no civil remedy at all. Same camera, same curtilage, same officer, same image. That gap is an artifact of drafting — the 2014 legislature was thinking about aircraft — not a legislative judgment that pole-mounted surveillance of a home is acceptable. **It is also the answer to the Corum adequacy problem in Part VIII:** the General Assembly plainly knows how to create a private civil remedy for surveillance of curtilage, because it did so in § 15A-300.1(e). For ALPR and PTZ it created a criminal penalty and nothing else. Under Craig, a remedy that gives the plaintiff no way through the courthouse doors is not adequate, and the drone statute is the cleanest available proof that the omission was a choice.

Real-time crime centers: the state-action question, flagged not answered

A caution before anything else. We have not confirmed which real-time crime center platform, if any, any New Hanover agency operates. Do not plead a vendor you have not verified. What follows is the shape of the problem, not an allegation.

An RTCC integrates agency cameras, plate readers, PTZ feeds, and — the part that matters — *registered private cameras into one interface*. For agency-owned equipment, state action is trivial. For a private camera whose owner registered it and granted live access, it is not: the question is whether the owner became a state actor under the joint-action test of *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), or the entwinement analysis of *Brentwood Academy v. Tennessee Secondary School Athletic Ass'n*, 531 U.S. 288 (2001). An owner who grants a police platform standing live access is a materially closer case than one who hands over footage on request. We have identified no decision resolving it.

The sharper point is not the private owner. It is Monell. Part IV explains why failure-to-train claims die under *Canton* and *Connick*. An RTCC procurement is not a training failure. The decision to buy the platform and integrate the feeds is a single act by a final policymaker, which is *Pembaur v. City of Cincinnati*, 475 U.S. 469 (1986) — one deliberate choice by the official responsible for final policy is municipal policy, no pattern required. If any surveillance count survives, procurement is the cleanest Monell theory in the case, and it is the one this memorandum previously overlooked.

And the records point, again. RTCC contracts, integration records, camera-registration rosters, and platform access logs are not captured plate data. Section 20-183.32(e) does not reach them either.

X. THE BEST CASE AGAINST US

A memorandum that only argues one side is not useful to the person who has to file. Opposing counsel will not lead with qualified immunity. They will lead with the merits, and their argument is older, simpler, and better supported than ours. Every authority in this Part is quoted as it appears in *Schmidt*, *Scholl*, *Martin*, or *Beautiful Struggle* — the cases we rely on are the cases that supply the other side's best material.

1. The baseline is against us, and it is older than forty years. *Katz v. United States*, 389 U.S. 347, 351 (1967): what a person “knowingly exposes to the public” is not protected, and a plate displayed on a public road is the paradigm of public exposure. *United States v. Knotts*, 460 U.S. 276, 281 (1983): “[a] person travelling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another.” *Schmidt* quotes exactly that sentence as “the baseline privacy standard governing public spaces.”

2. A license plate is the worst possible object to build a privacy claim around. *New York v. Class*, 475 U.S. 106, 114 (1986): it is “unreasonable to have an expectation of privacy in an object required by law to be located in a place ordinarily in plain view from the exterior of the automobile.” A plate is required by law to be displayed, in plain view, on the exterior. *Accord Cardwell v. Lewis*, 417 U.S. 583, 590 (1974) (plurality). Scholl and Martin both cite this line.

3. Carpenter carved us out by name. *Carpenter*, 585 U.S. at 316: “Our decision today is a narrow one. ... We do not . . . call into question conventional surveillance techniques and tools, such as security cameras.” A pole-mounted camera photographing a public roadway is the paradigm case of the thing *Carpenter* said it was not disturbing. This is the single hardest sentence in the corpus for our theory, and it is in the case we need most.

4. Our own best Fourth Circuit authority says it too. *Beautiful Struggle*, 2 F.4th at 345: “People understand that they may be filmed by security cameras on city streets.” The en banc majority that gave us the mosaic holding also wrote the concession. Expect it in the response brief, cited to our case.

5. Three courts have now looked at ALPRs specifically and found no search. *Schmidt*, *Scholl*, and *Martin*. Not one is distinguishable on a ground we control. *Schmidt* is the closest factual analog in the country — a fixed-cluster municipal Flock network challenged civilly — and the plaintiffs lost on the merits.

6. The cart-before-horse objection, which is fair. A careful reader will say this memorandum assumes ALPR collection is constitutionally suspect and then hunts for a procedural vehicle to litigate the assumption. That is a fair description of what advocacy looks like from the outside, and it is worth answering plainly rather than resenting. The answer is that the assumption is doing less work than it appears: the argument does not require a court to hold that *any* camera on a public road is a search. It requires a holding that a *network* of them, retained, pooled, and queryable nationally, is a different thing than a camera. That is the *Carpenter* move, and *Carpenter* made it about a technology whose individual data points were also individually unprotected.

7. “If this theory is right, why has nobody won?” A judge is entitled to ask this, and the honest answer has three parts. First, the theory is young: *Carpenter* is 2018, *Beautiful Struggle* 2021, *Schmidt* January 2026, *Chatrie* three weeks ago. Second, most ALPR law has been made by criminal defendants moving to suppress — litigants with bad facts, no records, and every incentive for a court to rule narrowly against them. The civil challenges that exist are few, recent, and were filed before *Chatrie*. Third — and this is the part not to skip — a consistent absence of wins is itself evidence the theory is wrong. It may simply be that courts have considered this and

disagree. Anyone who files should be able to say why this case is different, and “the precedent is young” is not by itself an answer.

Answering points 1 through 4, because a district judge will start there

The intuition to beat is not a case. It is a sentence a judge will think before reading any of them: if an officer may lawfully stand at an intersection and write down every plate that passes, why may a camera not do the same thing? Answer that directly or lose.

First: Knotts is not an answer. Knotts is the question. The defense quotes Knotts at 281. Read Knotts at 284, where the Court expressly reserved “dragnet type law enforcement practices” for a case that presented them. That reservation is not our invention. Schmidt — the best case against us — opens its analysis by framing *the dispositive constitutional question* as whether the alleged “dragnet type law enforcement practices,” Knotts, 460 U.S. at 284, “have become so intrusive that they violate individuals’ reasonable expectation of privacy in the whole of their physical movements,” Carpenter, 585 U.S. at 310. Both sides agree on the question. They disagree about the answer. A brief that lets Knotts stand as a holding against us has conceded a case that reserved our issue by name.

Second: the officer-at-the-intersection is a false equivalence, and the difference is doctrinal, not rhetorical. An officer observes the present, once, at a cost. A network reconstructs the past, for everyone, at no cost. That is not a difference of degree in what is seen; it is a difference in kind in what is possible. Carpenter, 585 U.S. at 312, gave the difference a name — “tireless and absolute surveillance” — and Chatrue applied it three weeks ago to hold that a system permitting police to reconstruct “retrospectively, and with no real effort, people’s comings and goings in any area” is not the equivalent of the observation it superficially resembles. Officers cannot be deployed retroactively. A database is a time machine, and no quantity of patrolmen is.

Third: this is precisely why pooling and retention change the analysis, and the memorandum should not assume the reader sees it. One camera photographing one plate is Class: an object required by law to be in plain view. Nothing follows from it. The constitutional object is not the photograph. It is the *index* — every capture, retained, keyed to a plate, and queryable in one motion across thousands of jurisdictions. Retention converts observation into a record. Pooling converts a local record into a national one. Query converts a national record into an answer about a particular person’s life. Each step is individually unremarkable and the composite is the thing Knotts reserved. That is the Carpenter move exactly: CSLI was assembled from business records no one owned and no one could suppress, and the Court held the aggregate was different from its parts.

Fourth: Jones is the bridge, and both concurrences do work. Justice Sotomayor's concurrence — quoted in Schmidt itself — explains why the aggregate is the injury: such monitoring “generates a precise, comprehensive record of a person's public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations,” including “trips to the psychiatrist, the plastic surgeon, the abortion clinic, the AIDS treatment center, the strip club, the criminal defense attorney, the by-the-hour motel, the union meeting, the mosque, synagogue or church, the gay bar and on and on.” Every one of those trips is on a public road. That is the point. The public-view doctrine does not answer the objection; it *is* the objection, and Jones is five Justices saying so.

Fifth, and concede it: this is where Schmidt hurts most. Schmidt looked at the same argument and held 176 fixed cameras cannot catalog “the whole, or nearly the whole,” of anyone's movements. That is a real holding on close facts. It is also one district judge, on appeal, in a case decided before Chatrue — which is exactly what it should be called, and no more. Do not let Schmidt become the center of gravity of a brief. It is the best-developed opinion in the field and it is still one district court.

What follows from all of it. The realistic value of an ALPR suit today is not a win at the district court. It is a developed record, a clean vehicle, and a circuit court asked the question squarely for the first time after Chatrue. Advise the client in those terms. A client told he will probably lose at the trial level, and who wants to go anyway because the record matters, is a client who can make that decision. A client told he has a strong case is being misled.

A question this memorandum does not answer: Flock is a private company

Flock owns the cameras, the network, and the index. The government buys access. That structure raises questions we flag rather than resolve, because they are unlitigated and because the answers may matter more than anything above.

If a plaintiff sues only the municipality, the entity holding the data is not before the court, and an injunction against the town may not reach a national index the town does not control. If a plaintiff sues Flock, he must establish state action — the joint-action or entwinement theories are the obvious candidates, and a vendor that sets retention defaults, builds the sharing topology, and supplies the reason-code menu that officers pick from is at least a colorable joint participant in the search. Procurement itself may be the municipal policy for Monell purposes: the decision to join the network is a single act of a final policymaker, which is Pembaur's territory, not Canton's. And if the query that reaches a North Carolina camera originates in Texas, neither the officer, the agency, nor the forum is the one the client lives in.

We take no position on these. We note that a suit naming only a town, seeking to enjoin only that town's cameras, may win and still leave the client's plate in a national index. Anyone filing should decide that question deliberately rather than by omission.

XI. THE LANDSCAPE, ACCURATELY STATED

Federal civil challenges: *Schmidt v. City of Norfolk* (SJ for the city; on appeal, 4th Cir. No. 26-1227; Institute for Justice, not the ACLU, though the ACLU is amicus). *Scholl v. Illinois State Police*, 776 F. Supp. 3d 701 (N.D. Ill. 2025) (motion to dismiss granted, preliminary injunction denied; on appeal, 7th Cir. No. 25-1847). *Tan v. City of San Jose*, No. 5:26-cv-03181 (N.D. Cal. filed Apr. 15, 2026) (IJ's second ALPR case; 474 Flock cameras; putative class; active). *Schemel v. City of Marco Island* (M.D. Fla., dismissed Oct. 17, 2025; on appeal, 11th Cir. No. 25-13913). *In re Flock Group Inc. ALPR Litigation*, No. 3:26-cv-02375 (N.D. Cal.) (consolidated; California ALPR Privacy Act).

Criminal suppression, all denied: *United States v. Martin*, 753 F. Supp. 3d 454 (E.D. Va. 2024) (Richmond Division; 188 cameras; foundation now vacated). *Commonwealth v. Church*, Rec. No. 0737-25-1 (Va. Ct. App. Oct. 14, 2025) — unpublished and non-precedential under Va. Code § 17.1-413(A), notwithstanding how it has been characterized. *Robinson v. Commonwealth*, Rec. No. 1912-24-1 (Va. Ct. App. Apr. 7, 2026) — published, precedential, and more important than *Church*. *United States v. Sturdivant*, 786 F. Supp. 3d 1098 (N.D. Ohio 2025) — contains the best plaintiff language in the corpus: ALPRs are “a qualitative leap forward, placing the evidence generated from such technology at risk in the absence of a warrant.” *Commonwealth v. Bell*, 113 Va. Cir. 316 (Norfolk Cir. Ct. 2024) — the lone outlier requiring a warrant; never appealed; repudiated.

State: *Commonwealth v. McCarthy*, 484 Mass. 493, 142 N.E.3d 1090 (2020) — adopted an aggregation principle in reasoning, then ruled against the defendant on four cameras at two bridges. *S.C. Public Interest Foundation v. SLED*, No. 2023-CP-40-01850 — motion to dismiss denied December 27, 2023; the only ALPR challenge to survive dismissal anywhere, and it did so on state-law grounds.

We have identified no reported decision granting preliminary or permanent injunctive relief against an ALPR program. Contract cancellations in Flagstaff, El Cerrito, Cleveland, Macon County and elsewhere are city council and county commission votes. They are not court orders, and citing them as though they were will cost you credibility with the only reader who matters.

CONCLUSION

The honest assessment is that a § 1983 damages action against an officer for an ALPR search will fail, and will fail on immunity without a court ever saying

whether the search was lawful. That is not a reason to abandon the claim. It is a reason to bring the right one.

The right one is an equitable action against the municipality or the sheriff in official capacity, pleading a Fourth Amendment injury from ongoing, suspicionless collection, supported by a record built through public-records requests before filing, and framed — for the first time — on the ground Chatrue opened three weeks ago: that the Fourth Amendment does not wait until an intrusion goes too far.

Whether that argument prevails is unknown. What is knowable is that Schmidt rested in part on a quantum threshold that Chatrue has since called into question, that Schmidt is now before the Fourth Circuit, and that the Fourth Circuit is the court that binds North Carolina.

How to check us. Every authority above is cited so you can read it yourself, including the ones that cut against the position. Several propositions are flagged in the text as unsettled or first-impression. If we have a holding wrong, we want to know: write to Mark@DeFlockILM.org and we will correct it and say what changed. Schmidt and Chatrue are cited to slip opinions; reporter pagination is not yet available for either.

Disclosure. DeFlockILM is a group of Wilmington citizens who want our government to respect the U.S. and North Carolina Constitutions and stop mass surveillance. This memorandum is public legal information, not legal advice, and no court has adopted the argument we advance here.