

Virginia's Democratic governor moves to expand police surveillance powers

By Nick Barrickman
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In a recent attack on the population's basic right to privacy, Virginia's Democratic governor Terry McAuliffe sought last month to pass an amended version of the state Senate bill SB 965, titled "Government Data Collection and Dissemination Practices Act," which stands to significantly weaken protections against unwarranted police surveillance.

McAuliffe's amended version of the bill includes language which would extend the amount of time police can retain data collected by license plate readers, drones, body cameras and other methods of surveillance to up to 60 days, far more than the bill's original seven day limit.

The governor also removed language from the law which would make it apply to "any surveillance technology" utilized by the state, instead restricting its parameters to only cover "active criminal investigations," which allows for the possibility of surveillance information being obtained without a warrant. The governor's new proposals are set to be discussed this week in the state's General Assembly.

SB 965 seeks to introduce minor restrictions on the widespread police use of license plate readers to collect information on Virginia motorists, regardless of whether they were suspected of any wrong doing. In 2013, then-Virginia Attorney General Ken Cuccinelli had issued a legal opinion declaring the tactic to be illegal. Since then, the former-Attorney General's legal pronouncement has largely been ignored by state law enforcement officials, with police agencies continuing to retain information about motorists for months, even years, after acquiring it.

Predictably, representatives of law enforcement praised the governor's move, with Prince William Police Chief Stephan Hudson saying he was "grateful to Gov. McAuliffe for taking this step," although the

60 day directive "falls short of our hopes for six months." He continued, stating that "Across the D.C. region... Virginia is the only state... which limits LPR [License Plate Reader] retention to this short a period of time."

"The governor's amendment...represents a significant compromise by law enforcement. The governor believes 60 days is a more appropriate period of time and reached a compromise with the legislature that's reasonable," stated Brian Moran, McAuliffe's Secretary of Public Safety and Homeland Security. Moran told reporters that the administration had "been informed by numerous law enforcement agencies that license plate readers result in salient and compelling information," thereby convincing it that the language intended to restrict surveillance was "overbroad."

Civil liberties advocates denounced the governor's decision to alter the law, with Claire Gastañaga of the Virginia American Civil Liberties Union stating that the changes introduced by the governor amounted to a tacit veto of the bill. Chap Petersen, a Democratic sponsor of the bill, criticized the governor's move, stating that McAuliffe's proposals "take a bill that was designed to protect people's civil liberties and turn it into one that basically trashes them."

License Plate Readers, which are capable of photographing hundreds of license plates per minute, are used by over three quarters of the country's police forces, with a 2012 report issued by the Police Executive Research Forum stating that this would be due to expand to up to 85 percent in several years.

In 2013, the American Civil Liberties Union found that Virginia State Police had been using automatic license plate scanners to track the information of motorists who attended political events. Speaking to the *Washington Post* at the time, Gastañaga of the

ACLU stated that “[the police] can argue that going door-to-door searching houses without a warrant would help law enforcement solve crimes... as would listening in on all phone calls.”

The move to increase police surveillance power is just the latest in a number of reactionary policies the Virginia governor has sought to adopt. In recent months, McAuliffe has supported state court decisions which upheld the practice of mandatory solitary confinement for state death row prisoners, as well as shielding from public scrutiny private companies that manufacture the deadly chemicals used in the state’s death chambers.

The move to undermine the population’s protections against police spying is of a piece with the anti-democratic policies undertaken by the Democratic Party at the state level and nationally. McAuliffe, a long-time Democratic Party operative who served as chairman to both Bill and Hillary Clinton’s presidential campaigns in 1996 and 2008, has played a key role in this process. From 2001 until 2005 McAuliffe served as Chairman for the Democratic National Committee, before finally being elected governor of Virginia in 2013.

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