



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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January 7, 2014

Polly Gurnett
Records Access Officer
NYS Thruway Authority
200 Southern Boulevard
Albany, New York 12201-0189

**Re: Freedom of Information Law Request
E-ZPass Readers**

Dear Ms. Gurnett:

The New York Civil Liberties Union (“NYCLU”) is filing this request for records pursuant to the New York Freedom of Information Law, Article Six of the Public Officers Law, to learn more about the installation and use of electronic readers that detect drivers’ E-ZPass tags at locations throughout New York, as recently described in news reports.¹ We originally filed this request with the New York State Department of Transportation, and we were directed to resubmit it to you.

Drivers enroll in E-ZPass and carry the tags in their cars so that they can prepay their tolls and eliminate the need to stop at a toll plaza.² Secretly scanning the tags where there are no tolls raises significant privacy concerns and questions about what information the government is collecting and why.

The NYCLU is particularly concerned that these electronic readers appear to be placed all over some parts of Manhattan—at every intersection in some neighborhoods. Recently, NYCLU staff drove around New York City with the privacy activist quoted in the news reports who had created a device that makes a sound each time it detects signals on the frequency that E-ZPass uses to request information from the tags. We found that the device made sounds throughout Midtown and lower Manhattan. In an area around 34th street and Seventh Avenue, the device emitted sound continuously for several blocks. The device also alerted us to a signal in the street in front of the entrance to the NYCLU office building.

¹See, e.g., Joel Waldman, *E-ZPass Scanners Track Cars Far Away From Toll Plazas*, MyFoxNY, Sept. 19, 2013, <http://www.myfoxny.com/story/23481151/e-zpass-scanners-track-cars-far-away-from-toll-plazas>; Jaime Lutz, *Big Brother Has It ‘E-Z’: City Now Tracking Cars Through Local Streets Thanks to E-ZPass*, Brooklyn News, May 8, 2013, http://www.brooklynpaper.com/stories/36/19/all_ezpassbigbrother_2013_05_10_bk.html.

²E-ZPass Info, <https://www.e-zpassny.com/en/about/about.shtml>.

Explanation from government entities regarding the use of these E-ZPass readers away from toll plazas has so far been limited. But New Yorkers deserve to know exactly why the government has decided to install such readers, where the readers are placed, and if and how the information is stored or shared. This information is crucial given that a person's location and movement records can reveal highly sensitive and private information, such as a person's religious and political affiliations, medical or mental health care needs, and much more.

The NYCLU therefore requests the following records from the New York State Thruway Authority ("NYSTA") regarding any electronic readers that have the capability of detecting E-ZPass tags ("E-ZPass Readers"):

1. Documents describing all criteria for installing E-ZPass Readers.
2. Documents describing all the purposes of installing E-ZPass Readers.
3. Documents showing the locations of E-ZPass Readers installed or otherwise in use in New York, including, if available, information distinguishing readers that are used to collect tolls from readers used for other purposes.
4. Documents, including but not limited to privacy policies and marketing materials, that describe the types of data that can be collected by E-ZPass Readers, when it will be collected, and how it will be used.
5. Documents describing any databases or other systems into which information and/or data gathered from E-ZPass Readers are deposited.
6. Policies and training materials describing the storage, retention, destruction, and use of information generated by or collected from E-ZPass Readers.
7. Policies and training materials describing when and how NYSTA shares information and/or data gathered from E-ZPass Readers with other entities, including but not limited to the New York City Police Department, the Federal Bureau of Investigation, and the Drug Enforcement Administration.
8. All documents, redacted as necessary and permitted under law, describing or containing law enforcement requests to NYSTA for information gathered from E-ZPass Readers in New York since January 1, 2012, including the NYSTA's response to the requests.
9. All reports, memoranda, or other similar document aggregating or analyzing information generated by or collected from E-ZPass Readers in New York since January 1, 2012.
10. All contracts, agreements, and other similar documents between the NYSTA and third-party entities regarding the acquisition, installation, or operation of E-ZPass Readers.

If possible, please provide the requested records in electronic format. If requested records are maintained in a computer database, please contact us before retrieving the records so that we can ensure that the retrieved records are in a usable and readable format.

Upon locating the requested documents, please contact us before photocopying and advise us of the actual costs of duplication so that we may decide whether it is necessary to narrow our request.

We would appreciate a response as soon as possible and look forward to hearing from you shortly. Please furnish the requested records to:

Nate Vogel
New York Civil Liberties Union
125 Broad St., 19th Floor
New York, NY 10004
nvogel@nyclu.org

If any portion of this request is denied for any reason, please inform us of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Please do not hesitate to contact me at 212-607-3386 if you have any questions about this request. Thank you for your prompt attention.

Respectfully,



Nate Vogel
Legislative Counsel



Mariko Hirose
Staff Attorney