

How ID scanning works to make some bars safer, and why some question it [Lancaster Watchdog]

By: Ann Rejrat

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On a rainy Friday night in October, patrons started trickling into Marion Court Room on East Marion Street in downtown Lancaster, ready to unwind for the weekend.

Before any of them could make their way to the bar to order a first round of drinks, they had to hand over their IDs to a bouncer standing by a machine that looks a lot like a cash register with a touchscreen tablet and a webcam attached: a Patronsan ID-scanning system.

A poster with an ominous warning hung from the front of the scanning station. In big, bold letters, it said, "OUT OF ONE, OUT OF ALL," followed by the logos of all the bars in town who use the scanning system, including Tellus 360, QSB, Yorgos and Shamrock Cafe.

The message informed patrons that if they cause problems in Marion Court Room, they could be banned not only from that drinking establishment, but from others in town as well, because the scanning system connects them all.

Patronsan, a subscription-based security system, takes photos of patrons, scrapes personal identifying details from their IDs and temporarily stores that information in case a patron causes a problem, which could be anything from harassment to assault of a staff member or patron.

If that happens, a bar owner can flag the patron in the system, banning them from the establishment, and potentially all bars in the system, for anywhere from a month to a lifetime.

Bar owners say the technology protects customers and staff from problem patrons. On its website, Patronscaan refers to its scanner system as “the bouncer that never forgets a face.”

But “never” is a long time, and some patrons and legal experts question the extent to which the company should be allowed to gather and keep customer information.

Moreover, as the scanners grow in popularity — Patronscaan’s network now stretches across 200 cities and 20 countries — some customers worry the unregulated power of bar owners to ban customers amounts to a vigilante justice system that could unfairly block customers.

Alynn Hanson, 41, of Lancaster city, was having drinks at Marion Court Room on that rainy Friday, and she had mixed feelings about the technology.

“I think it is good and bad,” she said. “In some ways it makes you feel safer, but in other ways you could make one mistake and get kicked out of everywhere.”

How Patronscaan works

Lancaster city has several Patronscaan clients, and at any given time, the number of establishments with Patronscaan in Pennsylvania ranges from 17 to 25, according to Patronscaan spokesman Marko Mlikotin. Patronscaan would not share the names of the bars or nightclubs or the exact number in the county.

Tellus360, on East King Street, and Marion Court Room use the Patronscaan system on busy nights to help managers track customers and identify fake IDs. Patronscaan registers pertinent details — name, date of birth, gender, Zip code — and creates a

profile of each patron. That information is not sold and is stored temporarily only for the purpose of potentially banning a customer, according to the company. The scanning system also has an outward-facing camera to take pictures of patrons as they enter to help staff identify them.

Businesses contracting with PatronsCan post a notice at the machine stating that the information the system gathers is used for security purposes and to verify ages. As long as a patron is not involved in an altercation, the notice says, their personal information will be permanently deleted within 90 days.

However, if someone is “determined to be violent or otherwise undesirable from a safety perspective,” then the patron’s personal information and photo can be kept and potentially shared with other establishments through PatronsCan.

Bar staff have full discretion to decide what constitutes “violent or otherwise undesirable” behavior. The PatronsCan system allows them to ban a patron for violence, assault, destruction of property, sexual assault, fraud and theft. The system requires the person flagging a patron to provide a description of what happened.

Bars can decide to set private bans that apply only to their bar or public bans that apply to any bar in the PatronsCan system. The system recommends prescribed time periods for bans, but it is ultimately up to the bar to decide the length of time, and a ban can last as little as 30 days or indefinitely. Getting tagged with a lifetime ban at one bar automatically results in a yearlong ban at other bars.

Bars in the system also have discretion over whether to honor another bar’s ban.

“There’s a gray area with everything,” said Eric Yeager, one of the owners of Marion Court.

At Marion Court, only the three owners have the ability to apply a ban, and they discuss proposed bans and the situations with their security teams and among themselves before deciding.

Yeager said they have placed private bans for just Marion Court when there has been evidence that a patron was harassing another patron who did not feel safe anymore at the bar. He also said they have placed public bans for fights.

Marion Court owners also have lifted bans on some people after kicking out a bunch of patrons involved in fights after patrons showed remorse and presented evidence that they were the defensive party. However, they have also lifted bans only to have to ban the same patrons again.

Ultimately, Yeager said, they are a business, and they want as many people in their bar as can safely be there.

“If someone calls us, they come in, they talk to us, of course we’re going to hear the story,” Yeager said. “There usually is a sign that somebody means well if somebody makes the effort to come in, and it’d be like, ‘I’m really sorry this is what happened.’”

Patronscan first recommends customers who want to appeal their bans try to sort out what happened with the people who have authority to modify or remove the flag — the local bar manager or head of security. If that does not work, patrons can petition to have the flag removed through Patronscan by using an online form. Once the company receives a completed form, results of its investigation will be disclosed within 10 days.

On whose authority?

Bar owners stand by Patronscan. People do not have the right to act however they want without consequences, Yeager said. The Patronscan system allows bars to hold problem patrons accountable.

Tellus360 owner Bill Speakman agrees.

“In a way, it helps for the security of the late-night establishments in the city to work together more, which is more effective,” Speakman said. “If there’s information about what’s happening at one bar a block away going into the system, then the other bars can see that we have a better picture of what’s happening in the city.”

It is not uncommon for customers who get kicked out of one bar for fighting to just walk to the next closest bar. The PatronsCan system allows bars to communicate quickly in those situations to stop potentially violent groups from entering.

“We just kind of throw a big safety net over the whole stretch here and just try to discourage behavior that’s going to cause people to feel unsafe,” Yeager said.

Yeager said the system also helps keep straight stories that get twisted between bars by word of mouth, because incidents are laid out in black and white by the system.

Bars and nightclubs have tracked troublemakers, informally, for a long time, said Nathalie Maréchal, co-director of the privacy and data project at the Center for Democracy and Technology, a Washington, D.C.-based nonprofit that advocates for digital rights and privacy. But PatronsCan pushes that practice into controversial territory.

“Where it gets really concerning is when this is no longer a kind of a bespoke process that’s done at the hyperlocal level of individual proprietors and their staff, but where it gets industrialized and implemented across vast networks of establishments that don’t have any relationship with one another, except that they use the same ID scanner vendor,” Maréchal said.

Maréchal said there could be legitimate reasons for someone to be put on the network’s list, but there also could be reasons as unjustifiable as not liking how someone looks.

Ultimately, the PatronsCan system is flagging behavior that could be considered criminal. Yet Joe Mullin, a policy analyst with the Electronic Frontier Foundation, a San Francisco-based nonprofit that supports the rights of technology users, pointed out that the system doesn't rely on a judge or a jury to make calls on appropriate discipline; it relies on bar staff.

People's opinions are arbitrary. What is viewed as misbehavior at one bar might be normal behavior at another.

"I don't like it," said Kelsey Tejada, 28, of Lancaster, a Marion Court patron. "I know if you get banned from one you get banned from others without even knowing you got banned until you try to get in somewhere."

Relying on people's opinions is a slippery slope, Mullin said, and could potentially lead to things like racial profiling.

In bars outside the PatronsCan network, if a bar owner doesn't like someone for any reason, the reach of that owner's opinion has a natural limit. With PatronsCan, the damage caused by a proprietor with malicious intent could spread across the network.

If patrons believe they were flagged based on discrimination of a protected class, such as race or gender, Milkotin said, they can start a formal investigation with PatronsCan by filling out a form. If a venue is found to be using PatronsCan for discriminatory purposes, it will have its services suspended.

Systemwide bans are meant to be reserved for violent situations, Milkotin said, and he doesn't see any areas for potential abuse within the system.

But humans, unlike machines, are flawed and biased. Yeager admitted he sees potential for the system to be abused. That is why at Marion Court, only the owners can apply a ban, and bans are put in place only after thoroughly discussing problem situations.

Rodney Brown, 43, who provides security at Marion Court, has had those conversations with his supervisors.

“We have to make the case to the owner, so that way it eliminates, ‘I have a problem with somebody that I don't like,’ ” Brown said.

Brown, a former head security guard at Marion Court, said he used to keep a list of bad actors on his phone and circulate it among the staff, but PatronsCan has streamlined communication.

Yeager also pointed out that at Marion Court, problems such as getting excessively drunk or getting into a verbal altercation likely would not require a ban. Instead, the bar reserves bans for infractions the owners deem serious, such as fighting, possessing illegal drugs or weapons, or any type of harassment.

Data security

The information obtained from ID scans is stored only for a period of time determined by the laws of the state and country where the system is in use, Mlikotin said. (Brett Hambright, a spokesman for the Pennsylvania Attorney General's office, said he is not aware of any state law governing how long a business can keep a customer's personal data.)

Only users with administrative access to the PatronsCan system can view a customer's personal data, but the bars themselves determine who gets that level of access.

Police, too, can get the information, as long as they go through the proper legal channels, and Mlikotin called the system “a great law enforcement tool.”

Even though lots of people can access the information, it remains protected, Mlikotin said, stored for a limited time on secure servers, not on the scanners themselves.

Those safeguards don't address some significant legal concerns. Gregory Szewczyk, an attorney for Atlanta-based Ballard Spahr

who has a background in privacy law, said the type of data Patrons can pull could lead to problems.

“We’re not talking about just name and email address,” Szewczyk said, “but an actual scan of a driver’s license, or some other kind of identification, so there’s obviously the potential for some kind of a data breach or data incident.”

Data privacy advocate Mullin agreed.

“The information on a person’s ID, like a driver’s license, includes private information, and people have a good reason to keep it private,” Mullin said. “When people show their ID to a doorman at the bar ... you’re giving the person temporary access to a piece of your private information for one purpose, which is to verify age.”

Mullin said he does not believe people who hand over their IDs are giving consent to or understanding that their information is being stored.

Patrons can request to look at the data Patrons can collect through its website, but they cannot request to have it removed.

Right now, Patrons is operating in the Wild West of data privacy laws, which are being constantly reshaped and refined.

“It’s very much a fluid legal situation right now,” Szewczyk said. “The analysis for today might be different than it is next March.”

Szewczyk also pointed out that different states have different privacy laws and different triggers. So laws could apply based on the state of residency of the person whose information is collected, not just the state where the information is collected.

Because the scanning technology is growing in popularity, and because it is still a very new frontier, some of the people raising associated legal and ethical questions have yet to bend the ears of lawmakers.

“I do think we need legislation to step in,” Maréchal said. “You know, we don’t have comprehensive federal privacy legislation in this country.”

Patronscan, which lists sales departments in North America, the United Kingdom and Australia, is only one of a handful of companies developing ID scanning technology. The company also advertises potential uses across multiple industries including vape shops, retail, property management, financial and automotive services.