



**POLICE ACCOUNTABILITY BOARD
SPECIAL MEETING PACKET**

**Friday, June 16, 2023
10:00 A.M.**

Board Members:

JOHN MOORE III. (CHAIR)
KITTY CALAVITA

JULIE LEFTWICH

REGINA HARRIS (VICE-CHAIR)
LEAH WILSON

MEETING LOCATION

Multipurpose Room
1947 Center Street,
Berkeley, CA 94704

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Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

The policy below applies to in-person meetings of Berkeley Boards and Commissioners held in accordance with the Government Code (Brown Act) after the end of the State-declared emergency on February 28, 2023.

Issued By: City Manager's Office

Date: February 14, 2023

I. **Vaccination Status**

All attendees are encouraged to be fully up to date on their vaccinations, including any boosters for which they are eligible.

II. **Health Status Precautions**

For members of the public who are feeling sick, including but not limited to cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, it is recommended that they do not attend the meeting in-person as a public health precaution. In these cases, the public may submit comments in writing in lieu of attending in-person.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to wear a well-fitting mask (N95s, KN95s, KF94s are best), test for COVID-19 3-5 days from last exposure, and consider submitting comments in writing in lieu of attending in-person.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane, etc., for a cumulative total of 15 minutes or more over a 24-hour period within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign-in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of City Commissions are encouraged to take a rapid COVID-19 test on the day of the meeting.

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

III. **Face Coverings/Mask**

Face coverings or masks that cover both the nose and mouth are encouraged for all commissioners, staff, and attendees at an in-person City Commission meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking.

IV. **Physical Distancing**

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. Capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons that need to distance for personal health reasons.

Distancing will be implemented for the dais as space allows.

V. **Protocols for Teleconference Participation by Commissioners**

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for Commissioners participating remotely due to an approved ADA accommodation. For Commissioners participating remotely, the agenda must be posted at the remote location, the remote location must be accessible to the public, and the public must be able to participate and give public comment from the remote location.

- A Commissioner at a remote location will follow the same health and safety protocols as in-person meetings.
- A Commissioner at a remote location may impose reasonable capacity limits at their location.

VI. **Hand Washing/Sanitizing**

Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

VII. **Air Flow/Circulation/Sanitizing**

Air filtration devices are used at all meeting locations. Window ventilation may be used if weather conditions allow.



POLICE ACCOUNTABILITY BOARD
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10:00 A.M.

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Multipurpose Room
1947 Center Street,
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PUBLIC NOTICE

The PAB has resumed in-person meetings and encourages community members to attend in person. Community members attending in person should observe the “Health and Safety Protocols for In-person Meetings of Berkeley Boards and Commissions” as outlined by the City of Berkeley.

***The PAB acknowledges that physical attendance may not be feasible for all community members. To this end, the Office of the Director of Police Accountability (ODPA) has been exploring the option of allowing for remote participation at the PAB meetings. Please note that the ODPA and PAB are in the early stages of implementing this hybrid meeting format so there is a possibility for technical glitches and errors. Your patience and understanding are greatly appreciated. ***

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82136328053>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on “rename” to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **821 3632 8053**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

LAND ACKNOWLEDGEMENT

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

AGENDA

1. **CALL TO ORDER & ROLL CALL (2 MINUTES)**
2. **APPROVAL OF AGENDA (2 MINUTES)**
3. **PUBLIC COMMENT (15 MINUTES)**
(Public comment at special meetings is limited to the items on the agenda. Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers.)
4. **POLICY REVIEW OF BERKELEY POLICE DEPARTMENT'S PROPOSED POLICIES: POLICY 422 "FIXED AUTOMATED LICENSE PLATE READERS (ALPRs)" AND POLICY 1305 "SURVEILLANCE USE POLICY – FIXED ALPRs" (90 MINUTES)**
(The objective of this agenda item is to conduct a comprehensive policy review of the Berkeley Police Department's proposed policies regarding the use of ALPRs. The PAB may vote to recommend approval of the policies, object to the proposal, recommend modifications, or take no action.)
5. **PUBLIC COMMENT (10 MINUTES)**
(Public comment at special meetings is limited to the items on the agenda. Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers.)
6. **ADJOURNMENT (1 MINUTE)**

Communications Disclaimer

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions, or committees, are public records and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.



Communication Access Information (A.R. 1.12)

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1947 Center Street, 5th Floor, Berkeley, CA.

Contact the Director of Police Accountability (Board Secretary) at:

1947 Center Street, 5th Floor, Berkeley, CA 94704
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955
Website: www.cityofberkeley.info/dpa/ Email: dpa@cityofberkeley.info

November 30, 2021 Budget Referral
Re Automatic License Plate Readers
for Community Safety Improvements
as Submitted by Councilmember
Taplin, Vice Mayor Droste (Former),
And Councilmember Wengraf.



Action CALENDAR
DATE: November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Vice Mayor Droste (co-sponsor), Councilmember Wengraf (co-sponsor)

Subject: Budget referral: Automated license plate readers for community safety improvement

RECOMMENDATION

That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations:

- Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; **and refer to the FY 23-24 budget process cost of ALPRs.**
- Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.

POLICY COMMITTEE RECOMMENDATION

On November 1, 2021, the Public safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 &

2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

CURRENT SITUATION AND ITS EFFECTS

According to the Berkeley Police Department's 2019/2020 Crime Report, Berkeley has seen marked increases in aggravated assault, homicides, auto theft and larceny over the past two years.¹ While the overall crime rate remained relatively flat, specific categories of property crimes increased sharply—especially vehicle thefts, which increased by 66% in 2020. Homicides decreased to zero in 2021, but reports of gunfire and auto theft increased.

Currently, the police department's Parking Enforcement Bureau uses Automated License Plate Readers (ALPRs)² for time zone parking and scofflaw enforcement, replacing the practice of physically "chalking" car tires, but ALPR technology has not been implemented in the city for other law enforcement purposes. According to the City Manager's 2020 Surveillance Technology Report, there were an average of 12,059 successful license plate "reads" per day in the month of September, 2020. From October 2019 to October 2020, there were 44,068 "hits" detecting a positive violation, roughly 25% (14,945) of which resulted in enforcement by citation issuance.³

Pursuant to Berkeley Municipal Code Chapter 2.99 Section 2.99.070, the City Manager's office is required to report on surveillance technology on an annual basis.

BACKGROUND

According to a 2018 study⁴ by the Center for Policing Equity, Black people comprise only 8% of Berkeley's population, but a disproportionate 46% of people subject to police uses of force. In light of this evidence, and in the wake of the national outcry over the death of George Floyd, the City Council adopted a resolution⁵ on July 14, 2020 directing the City Manager in part to "identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments."

Some research has found that ALPRs contribute to marginal improvements in public safety outcomes with respect to vehicle thefts and traffic safety. The use of LPR technology has

¹ https://www.cityofberkeley.info/Clerk/City_Council/2020/10_Oct/Documents/2020-10-13_Presentations_Item_19_Pres_Police_pdf.aspx

²

³ https://www.cityofberkeley.info/Clerk/City_Council/2020/11_Nov/Documents/2020-11-10_Item_19_Resolution_Accepting_the_Surveillance.aspx

⁴ Buchanan, K.S., Pouget, E., Goff, P.A. (2018). *The Science of Justice: Berkeley Police Department. Center for Policing Equity*. Retrieved from <https://www.berkeleyside.org/wp-content/uploads/2018/05/Berkeley-Report-May-2018.pdf>

⁵ https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-14_Item_18d_Transform_Community_Safety_pdf.aspx

increased significantly in law enforcement agencies across the US in the past decade, but outcomes have been inconsistently tracked, which limits available research.⁶ One qualitative case study found that criminal investigators adapted LPR technology to a broader range of investigative work, such as rapid responses and corroborating suspect alibis.⁷

An analysis of a randomized control trial in the City of Vallejo found that ALPRs attached to police vehicles enabled a 140% increase in detection of stolen vehicles, while arrests were more efficient with stationary ALPRs in fixed locations.⁸ A study on LPR technology in Mesa, AZ found that LPRs resulted in an eightfold increase in the number of plates scanned, more positive scans, arrests and recovery of stolen vehicles, and a reduction in calls for drug offenses. However, the study did not find a statistically significant reduction in vehicle thefts in hot spots compared to manual checks, possibly because the presence of law enforcement officers performing manual checks had a more preventative effect.⁹ Another study of the Charlotte-Mecklenburg Police Department found that “LPR use may have contributed to modest improvements in case closures for auto theft and robbery”—the former in the long term, and the latter both short- and long term.¹⁰

According to recent analysis by the National Highway Traffic Safety Administration, one law enforcement agency found that drivers with suspended, revoked, or restricted licenses were 2.2 times more likely to be involved in serious or fatal crashes than other drivers, and that identifying these drivers with ALPRs “could affect traffic safety positively by targeting violator vehicles that are more prone to crash risk.”¹¹ A quasi-experimental survey of data from Buffalo, NY found a reduction in violent crime and traffic accidents associated with roadblocks using LPRs.¹²

RATIONALE FOR RECOMMENDATION

Reimagining public safety necessitates significant improvements in public safety outcomes, including practical solutions to traffic safety and property crime. California law currently

⁶ Lum, C., Koper, C.S., Willis, J., Happeny, S., Vovak, H. and Nichols, J. (2019). The rapid diffusion of license plate readers in US law enforcement agencies. *Policing: An International Journal*, (42)3, pp. 376-393. <https://doi.org/10.1108/PIJPSM-04-2018-0054>

⁷ James J. Willis, Christopher Koper & Cynthia Lum (2018). The Adaptation of License-plate Readers for Investigative Purposes: Police Technology and Innovation Re-invention, *Justice Quarterly*, 35:4, 614-638, DOI: 10.1080/07418825.2017.1329936

⁸ Potts, J. (2018). Research in brief: assessing the effectiveness of automatic license plate readers. *POLICE CHIEF*. Retrieved from <http://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

⁹ Taylor, B., Koper, C. S., & Woods, D. J. (2012). Combatting auto theft in Arizona: A randomized experiment with license plate recognition technology. *Criminal Justice Review*, 37, 24-50.

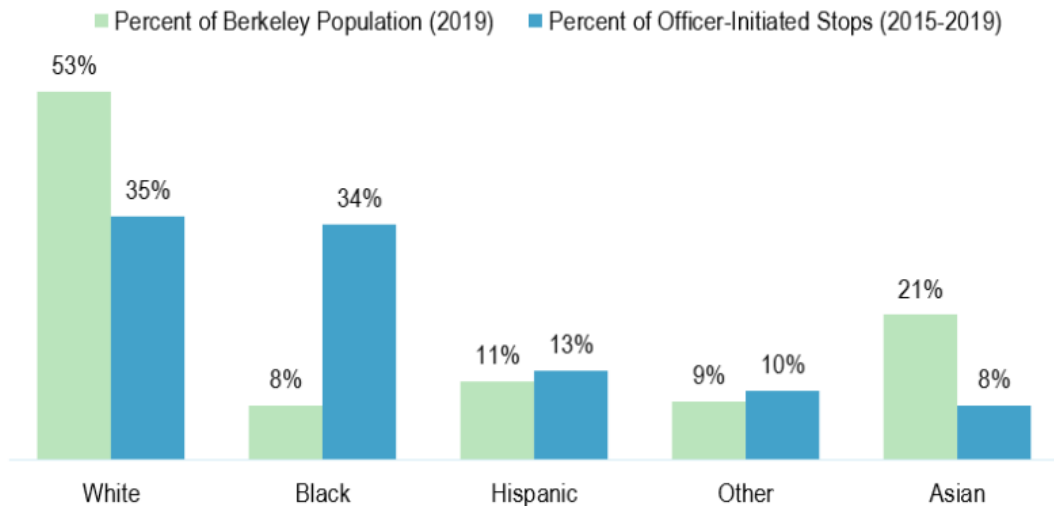
¹⁰ Koper, C. S., & Lum, C. (2019). The Impacts of Large-Scale License Plate Reader Deployment on Criminal Investigations. *Police Quarterly*, 22(3), 305–329. <https://doi.org/10.1177/1098611119828039>

¹¹ Zmud, J., Walden, T., Ettelman, B., Higgins, L. L., Graber, J., Gilbert, R., & Hodges, D. (2021). State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purposes. Retrieved from https://rosap.nhtl.bts.gov/view/dot/55586/dot_55586_DS1.pdf

¹² Wheeler, A.P., Phillips, S.W. (2018). A quasi-experimental evaluation using roadblocks and automatic license plate readers to reduce crime in Buffalo, NY. *Secur J* 31, 190–207. <https://doi.org/10.1057/s41284-017-0094-1>

preempts municipalities from transferring traffic enforcement to civilian duties or automated speed cameras.

While auto thefts in Berkeley increased by 64% from 2019 to 2020, and increased 54% year-over-year in the first half of 2021¹³, a 2021 City Auditor analysis¹⁴ of the Berkeley Police Department found that Officer-Initiated Stops disproportionately target Black and Latino drivers relative to their share of the city's population.



Note: For the purposes of this figure for Berkeley populations, the U.S. Census categories of American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander alone, and Two or More Races are summed for Other; White is White alone, not Hispanic or Latino.

Source: Auditor's analysis of Berkeley Police Department Computer Aided Dispatch data and 2019 US Census data

ALPRs therefore present an opportunity to reduce property crimes and improve traffic safety while also reducing civilian encounters with police officers conducting ad hoc traffic enforcement, which the 2021 audit found to have a significant racial bias against Black and Latino drivers. ALPRs could make enforcement more fair, impartial, and effective. In 2015, the Berkeley Police Department used ALPR technology on a mobile trailer to investigate five attempted kidnappings by Willard Middle School.¹⁵

However, ALPR data storage gives rise to several privacy concerns. In *Carpenter v. United States*, the U.S. Supreme Court ruled that accessing location data tracking an individual's

¹³ https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx

¹⁴ Berkeley City Auditor. (2021, Apr. 22). Data Analysis of the City of Berkeley's Police Response. Retrieved from https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf

¹⁵ Raguso, E. (2015, Oct. 30). Berkeley police use license plate reader in kidnapping attempt investigations. Berkeleyside. Retrieved from <https://www.berkeleyside.org/2015/10/30/berkeley-police-use-license-plate-reader-in-kidnapping-attempt-investigation>

movements from their cell phone constitutes a search under the Fourth Amendment and requires a search warrant.¹⁶ While ALPR scans are subject to reasonableness standards for searches under Fourth Amendment jurisprudence, state courts have found that ALPR alerts are sufficient to establish a reasonable suspicion, though there are situations that require further intervention to establish reasonableness or avoid error.¹⁷

In *Neal v. Fairfax County Police Department*, the Virginia Supreme Court ruled that GPS data and images associated with license plate numbers were private personal information (PPI), but license plate numbers themselves stored in ALPR databases were not.¹⁸ The California Supreme Court has also underscored such a distinction between “bulk data collection” of license plate numbers that did not “produce records of investigations” for particular crimes.¹⁹ By contrast, U.S. Supreme Court Justice Sotomayor argued in *United States v. Jones* that government agencies collecting “private aspects of identity” could be “susceptible to abuse.”²⁰ This calls into question the so-called third party doctrine of the Fourth Amendment—the longstanding precedent that individuals may be reasonably considered to waive their right to privacy and assume any information provided to third parties may eventually be accessed by the government—given the vast array of information government agencies can now access through surveillance technology. To carefully balance privacy and policing efficacy under this new paradigm, Newell (2013) recommends strictly limiting data retention for non-“hit” scans, and maintaining anonymized ALPR data subject to public disclosure laws.²¹

California Vehicle Code Section 2413(b) restricts the California Highway Patrol (CHP)’s retention LPR data for 60 days unless it is being used as evidence in a felony investigation. Subsection (c) restricts the distribution of this data strictly to law enforcement agencies or officers and “only for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.”

In 2015, Senate Bill 34 imposed additional security and privacy requirements on the use of ALPR data.²² Unfortunately, a State Auditor report in 2020 surveying four local law enforcement agencies in California found that ALPR policies were out of compliance with SB34, retained images for far longer than needed or allowed, and had no processes in place to safeguard local compliance. For example, the State Auditor “did not find evidence that the agencies had always

¹⁶ *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

¹⁷ Fash, L. (2018). Automated License Plate Readers: The Difficult Balance of Solving Crime and Protecting Individual Privacy. *Md. L. Rev. Endnotes*, 78, 63.

¹⁸ *Neal v. Fairfax County Police Dept.*, 812 S.E.2d 444, 295 Va. 334 (2018).

¹⁹ *Am. Civil Liberties Union Found. of S. Cal. v. Super. Ct. of L.A. Cty.*, 400 P.3d 432 (Cal. 2017).

²⁰ *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring);

²¹ Newell, B. C. (2013). Local law enforcement jumps on the big data bandwagon: Automated license plate recognition systems, information privacy, and access to government information. *Me. L. Rev.*, 66, 397.

²² https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34

determined whether an entity receiving shared images had a right and a need to access the images or even that the entity was a public agency.”²³

In 2018, a lawsuit by the American Civil Liberties Union of Northern California revealed that Immigration and Customs Enforcement (ICE) had purchased access to private databases containing ALPR data with 5 billion individual data points for civil immigration enforcement, and had obtained ALPR data from over 80 local law enforcement agencies.²⁴ However, in 2017, Senate Bill 54 greatly restricted the ability of California law enforcement agencies to share information with ICE.²⁵

Berkeley Parking Enforcement uses PCS Mobile ALPR units using Genentech ALPR technology regulated by BPD Administrative Order #001-2016, which limits storage of reads to 30 days and hits to 365 days. Images of reads are not stored on the server, and data may only be used for legitimate law enforcement purposes. Police Departments in the cities of Vallejo and Piedmont utilize the Flock Safety Operating System, which comes with a transparency portal listing permitted and prohibited uses, data storage, access provided to outside agencies, numbers of hits and scans, and other relevant metadata.^{26,27}

ALTERNATIVES CONSIDERED

1. Gun buyback programs have not demonstrated significant efficacy except in limited circumstances within more holistic community-based violence prevention programs.²⁸
2. With the stalling of Assembly Bill 550²⁹ in this year’s legislative session, automated speeding cameras are not currently permitted in the state of California.
3. On October 27, 2020, the City Council referred to the Community Engagement Process for Reimagining Public Safety the creation of a Group Violence Intervention Program (GVI), or “Operation Ceasefire,” that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence. Current staffing capacity in the City Manager’s office is insufficient to develop such a program before the process is complete.

²³ Howle, E.M. (2020). Automated License Plate Readers: To Better Protect Individuals’ Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects. *Auditor of the State of California*. Retrieved from <https://www.auditor.ca.gov/reports/2019-118/index.html>

²⁴ Talla, V. (2019). Documents Reveal ICE Using Driver Location Data From Local Police for Deportations. *ACLU Northern California*. Retrieved from <https://www.aclunc.org/blog/documents-reveal-ice-using-driver-location-data-local-police-deportations>

²⁵ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54

²⁶ <https://transparency.flocksafety.com/vallejo-ca-pd>

²⁷ <https://transparency.flocksafety.com/vallejo-ca-pd>

²⁸ Makarios, M. D., & Pratt, T. C. (2012). The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis. *Crime & Delinquency*, 58(2), 222–244. <https://doi.org/10.1177/0011128708321321>.

²⁹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB550

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

In 2017, an amendment to Contract No. 9977³⁰ from the City Manager's Office itemized a unit cost of \$78,363 for each ALPR system. Costs for this referral may be different because this contract was only for mobile ALPRs used for parking enforcement, not in fixed locations or mobile trailers.

CONTACT

Councilmember Terry Taplin, District 2, (510) 981-7120, ttaplin@cityofberkeley.info

ATTACHMENTS

1. City of Vallejo ALPR Policy,
2. City of Alameda,
3. City of Emeryville,
4. City of Hayward,
5. City of Oakland,
6. City of Piedmont,
7. City of Richmond,
8. City of San Leandro.

³⁰https://ci.berkeley.ca.us/Clerk/City_Council/2017/07_Jul/Documents/2017-07-11_Item_13_Contract_No_9977_Amendment.aspx

Policy

426

Automated License Plate Readers (ALPRs)

426.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage, and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

426.2 DEFINITIONS

- (a) **Automated License Plate Reader (ALPR):** A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) **ALPR Operator:** Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) **ALPR Administrator:** The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) **Hot List:** A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) **Vehicles of Interest:** Including, but not limited to vehicles which are reported as stolen; display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) **Detection:** Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
- (g) **Hit:** Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

426.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates along with the vehicle make, model, color and unique identifiers through the Vallejo Police Department's ALPR's system and the vendor's vehicle identification technology. The technology is used by the Vallejo Police Department to convert data associated with vehicle license plates and vehicle descriptions for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Department Information Technology Manager. The Department Information Technology Manager will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

426.3.1 ALPR ADMINISTRATOR

The Investigations Bureau Captain shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring that procedures are followed for system operators and to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation is maintained. Continually working with the Custodian of Records on the retention and destruction of ALPR data.
- (f) Ensuring this policy and related procedures are conspicuously posted on the department's website.

426.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation; reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm

that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDC or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)

- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

(1) **Verification of status on a Hot List.** An officer must receive confirmation, from a Vallejo Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

(2) **Visual verification of license plate number.** Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR

Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

(h) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Vallejo Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

- (1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- (2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- (3) Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
- (4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
- (5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

426.4 DATA COLLECTION AND RETENTION

The Investigations Bureau Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for no longer than one year, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

ALPR vendor, Flock Safety will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. Flock Safety will purge their data at the end of the 30 days of storage. However, this will not preclude VPD from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Vallejo retention schedule mentioned above or outlined elsewhere.

Restrictions on use of ALPR Data: Information gathered or collected, and records retained by Flock Safety cameras or any other VPD ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

426.5 ACCOUNTABILITY and SAFEGUARDS

All data will be closely safeguarded and protected by both procedural and technological means. The Vallejo Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All non-law enforcement requests for access to stored ALPR data shall be processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (e) Every ALPR Detection Browsing Inquiry must be documented by either the associated Vallejo Police case number or incident number, and/or a reason for the inquiry.

For security or data breaches, see the Records Release and Maintenance Policy.

426.6 POLICY

The policy of the Vallejo Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).

462.7 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Professional Standards Division (PSD) Lieutenant or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least once during each calendar year. The Department will audit a sampling of the ALPR system utilization from the prior 12-month period to verify proper use in accordance with the above-authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding six-month period and determine if each inquiry meets the requirements established in policy section 462.5(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by PSD.

426.8 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

- (a) The agency makes a written request for the ALPR data that includes:
 - (1) The name of the agency.
 - (2) The name of the person requesting.
 - (3) The intended purpose of obtaining the information.

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- (b) The request is reviewed by the Chief of Police or the authorized designee and approved before the request is fulfilled.
- (c) The Chief of Police or the authorized designee will consider the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq), before approving the release of ALPR data. The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).
- (d) The approved request is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

426.9 TRAINING

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Automated License Plate Readers (ALPRs)

462.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for officers utilizing the Automated License Plate Reader (ALPR) system. This policy will further establish guidelines for the deployment and actions permissible when using the system. The policy shall remain in effect until it is superseded, amended, or withdrawn.

(a) An ALPR system is a computer-based system that utilizes special cameras to capture license plate information. The ALPR system captures an infrared image of a license plate and converts it to a text file using Optical Character Recognition ("OCR") technology. The text is compared to various hot lists generated by local, state, and federal law enforcement agencies, including the National Crime Information Center ("NCIC"), and generates an alert when there is a hit. The ALPR system identifies license plates and will not identify the person operating the motor vehicle. The Department may, as a separate step and for legitimate law enforcement purposes per the Federal Driver's Privacy Protection Act, and as set forth in this Policy, undertake to identify the owner of a vehicle in the event the ALPR system generates an alert, such as by running the license plate number through the State of California Department of Motor Vehicle (DMV) database.

(b) It shall be the policy of this Agency that all Department members abide by the policy and its procedures set forth when using the ALPR system, thereby increasing the efficiency and effectiveness of its public safety efforts in a manner that safeguards the privacy concerns of law abiding citizens.

(c) The ALPR system shall be restricted to legitimate law enforcement uses for the purpose of furthering legitimate law enforcement goals and enhancing public safety. Such uses and goals include, but are not limited to, providing information to officers that will assist in on-going criminal investigations, crime prevention, crime detection, the apprehension of wanted persons, ensuring the safety of vulnerable individuals through the recovery of missing and endangered persons, and improving the quality of life in our community through the identification and removal of stolen or unregistered motor vehicles.

(d) The Department shall utilize hot lists which further the above specified goals of the ALPR system, where there is a legitimate and specific law enforcement reason for identifying a vehicle associated with an outstanding arrest warrant, vehicles related to missing persons investigations, vehicles associated with AMBER Alerts, stolen vehicles, vehicles that are reasonably believed to be involved in the commission of a crime, vehicles which are registered to or are reasonably believed to be operated by persons who do not have a valid operator's license or who are on the

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revoked or suspended list, vehicles with expired registrations, vehicles registered to persons who are subject to a restraining order issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements, vehicles registered to persons wanted by a law enforcement agency who are of interest in a specific investigation, or vehicles registered to persons who are on any watch list issued by a State or Federal agency responsible for homeland security when information has been received concerning a specific individual.

462.2 DEFINITIONS

ALPR – Automated License Plate Recognition System, or Automated License Plate Reader

ALPR System – The system in its entirety, including all ALPR cameras, software, and collected data

Alert – An audible and/or visual signal activated upon the read of a license plate by the ALPR system that has NOT BEEN VISUALLY VERIFIED by the officer against the photo in the ALPR system.

Tentative Hit – An alert by the ALPR system that HAS BEEN VISUALLY VERIFIED by the officer against the ALPR hotlist and photo but HAS NOT BEEN VALIDATED by the officer or dispatch as a live query transaction OR CONFIRMED AS VALID with the original entering agency.

Live Query Transaction – A hit by the ALPR system that HAS BEEN VALIDATED as active but HAS NOT BEEN CONFIRMED as valid by the entering agency.

Confirmation (Confirmed Hit) – A hit by the ALPR system that HAS BEEN CONFIRMED as valid and active by the original entering agency through secondary check.

Hotlist – Data files extracted from law enforcement databases which contain listings of stolen license plates, stolen vehicles, wanted persons, and other vehicles/persons actively being sought by a law enforcement agency such as Amber/Silver Alert vehicles/persons. These data extracts are generally facilitated numerous times per day in an effort to provide current data.

462.3 PROCEDURES

(a) Management

The Alameda Police Department, by and through the Chief of Police, is solely responsible for the day-to-day operation and management of the ALPR system and for all tasks ancillary to its operation and management. The Chief of Police shall assign Department personnel to operate and manage the ALPR system on a day-to-day basis.

The Chief of Police, through his or her designee, shall ensure that the ALPR system is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations by Department personnel.

(b) Operations

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1. Installation and Functioning. ALPR cameras may be mounted on a marked cruiser or unmarked vehicle. ALPR equipment will passively read the license plates of moving or parked motor vehicles using ALPR optical character recognition technology and compare them against various hot lists uploaded or created by the Alameda Police Department. Scanned data files collected by the system will, on an ongoing basis, be automatically uploaded from the ALPR camera to the Department's ALPR database.

2. Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the Chief or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. These sources may include:

- NCIC Stolen Vehicle files, as available;
- NCIC Stolen plates and Stolen Canadian plates, as available;
- NCIC Wanted persons, as available;
- NCIC Missing or Endangered person files, as available;
- NCIC Supervised Release (Federal Probationers), as available;
- NCIC Nationwide Domestic Violence Protection Orders, as available;
- NCIC Violent Gang and Terrorist Organization File, as available;
- NCIC Sexual Offender;
- DMV Records of Suspended/Revoked Registrations.

3. Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

4. Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data. A routine check to ensure the equipment is working properly should be done at the beginning of each shift by the user logging into the system.

5. Auditing and Oversight. To ensure proper oversight into the use of the system and adherence to this policy, all activities (plate detections, queries, reports, etc.) are automatically recorded by the system for auditing purposes. System audits shall be conducted by the Inspectional Services Section supervisor at least every six months during the first two years subsequent to implementation and no less than annually thereafter. The audit report shall include an explanation regarding any data retained longer than six months (e.g. data retained as evidence in a criminal case).

6. Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Alameda Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy.

The following uses of the ALPR system are specifically prohibited:

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- a. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, it is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- b. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- c. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

7. Required Steps Preliminary to Police Action. Hot lists utilized by the Department's ALPR system may be updated by agency sources more frequently than the Department may be uploading them, and the Department's ALPR system will not have access to real time data. Further, there may be errors in the ALPR's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, an officer shall undertake the following:

- a. Verification of current status on hot list. An officer must receive confirmation, from someone or some system within the Department that the license plate is still stolen, wanted, or otherwise of interest before proceeding.
- b. Visual verification of license plate number. Officers shall visually verify that the license plate on the vehicle of interest matches identically with the image of the license plate number captured (read) by the ALPR, including both the alphanumeric characters of the license plate and the state of issue, before proceeding with a traffic stop.

8. Use in Connection With Serious Crimes/Incidents. Use of the ALPR should be considered to conduct license plate canvasses in the immediate wake of any homicide, shooting, robbery, kidnapping, sexual assault or AMBER ALERT, or other major crime or incident.

(c) Database Access and Privacy Concerns

1. The ALPR system database and software resides in a data center featuring full redundancy and access controls. The data remains property of the Alameda Police Department, and is managed according to this Policy.
2. The ALPR system is governed by the Permitted/Impermissible Uses as outlined in this Policy.

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3. The ALPR data contains no Personally Identifiable Information (PII) that may be used to connect license plate detection to an individual. It is only with permissible purpose that an investigator may make this connection (using other systems) and this access is already governed by the Federal Driver's Privacy Protection Act (DPPA).
4. All investigative queries into collected ALPR data are logged by user and available for auditing and review by the Department as outlined in this Policy.

(d) Data Retention

All data and images gathered by an ALPR are for the official use of the Alameda Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this Department may be used and shared with prosecutors or others only as permitted by law. All ALPR data downloaded to the server will be stored for a period of six months, and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances, the applicable data should be downloaded from the server onto portable media and booked into evidence.

Automated License Plate Readers (ALPRs)

429.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

429.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Emeryville Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Professional Services and Standards Division Captain. The Professional Services and Standards Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

429.2.1 ALPR ADMINISTRATOR

[The Professional Services and Standards Captain shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §1798.90.51; Civil Code §1798.90.53:](#)

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the departments website.

429.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

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- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

429.4 DATA COLLECTION AND RETENTION

The Professional Services and Standards Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

429.5 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Emeryville Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

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- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

429.6 POLICY

The policy of the Emeryville Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

429.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 1. The name of the agency.
 2. The name of the person requesting.
 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Professional Services and Standards Division Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

429.8 TRAINING

The Professional Services Officer should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Automated License Plate Readers (ALPRs)

429.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Hayward Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

429.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.9

429.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Support Services Division Commander. The Support Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

429.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

Examples of authorized purposes include but are not limited to:

1. Locating stolen, wanted and subject of investigation vehicles;
2. Locating and apprehending individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
3. Locating witnesses and victims of violent crime;
4. Locating missing children and elderly individuals, including responding to Amber and Silver Alerts;
5. Supporting local, state, federal, and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
6. Protecting participants at special events; and
7. Protecting critical infrastructure sites.

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(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

(e) If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

429.4 ALPR AUTHORIZED USERS AND TRAINING

(a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(b) The following classifications are authorized to be trained in the use of the ALPR system:

1. Duly sworn peace officers
2. Professional staff whose duties require or call for the use of the system or data; examples: Community Service Officers (assigned to investigative positions) or Crime Analysts

(c) Training in the use of the system shall consist of:

1. Privacy and civil liberties protections;
2. Legal authorities, developments and issues involving the use of ALPR Data and technology;
3. Current HPD Policy regarding appropriate use of ALPR Systems;
4. Technical, physical, administrative and procedural measures to protect the security of ALPR Data against unauthorized access or use; and
5. Practical exercises in the use of the ALPR system.

429.5 ALPR DATA COLLECTION, RETENTION AND DISSEMINATION

Information collected by ALPR is categorized as one of two types.

(a) **DETECTIONS:** Detections are the records including images and data (date, time and location) gathered by ALPR field units.

(b) **HITS:** Are the notices from the system alerting the operator of a match between the license plate captured and a listing on one of the hot lists.

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Automated License Plate Readers (ALPRs)

(c) RETENTION OF DATA: All data and images gathered by an ALPR are for the official use of the Hayward Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

The Support Services supervisor is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

All ALPR HIT records are maintained indefinitely.

(d) DISSEMINATION: The Hayward Police Department may disseminate ALPR data to any government entity with an authorized law enforcement or public safety purpose for access to such data. The Hayward Police Department assumes no responsibility or liability for the acts or omissions of other agencies in making use of the ALPR data properly disseminated. Though the Hayward Police Department will make every reasonable effort to ensure the quality of shared ALPR Data and hotlists, it cannot make absolute guarantees of the accuracy of information provided.

429.6 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data:

(a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.

(b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.

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(c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

(e) ALPR system audits should be conducted on a regular basis.

429.7 REVISIONS

Enacted: March 31, 2015

Policy

430

Oakland Police Department

Policy Manual

Automated License Plate Readers (ALPRs)

430.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

430.2 POLICY

The policy of the Oakland Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

430.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Oakland Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Deputy Chief. The Deputy Chief will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

430.3.1 ALPR ADMINISTRATOR

The Bureau of Services Deputy Chief shall be the administrator of ALPR program, and shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §§ 1798.90.51 through 1798.90.53:

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title of the current designee overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.

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- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

430.4 ALPR USERS

Personnel authorized to use ALPR equipment or access information collected through the use of such equipment shall be specifically trained in such technology and authorized by the Chief of Police or designee. Such personnel shall be limited to designated sergeants, officers, police service technicians, and parking enforcement personnel unless otherwise authorized.

430.5 PURPOSES FOR ACCESSING AND USING ALPR INFORMATION

Use of an ALPR is restricted to the purposes outlined below. The title of the official custodian of the ALPR system, responsible for implementing this section, is the ALPR Coordinator. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) An ALPR shall only be used for official law enforcement business.
- (e) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

430.6 DATA COLLECTION AND RETENTION

The Bureau of Services Deputy Chief is responsible for ensuring systems and processes are in place for the proper collection, accuracy and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server shall be stored for six months. Thereafter, ALPR data shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data shall be downloaded from the server onto portable media and booked into evidence.

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430.7 SYSTEM MONITORING AND SECURITY

All data will be closely safeguarded and protected by both procedural and technological means. The Oakland Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by username, license number or other data elements used in the search, name, date, time and purpose (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits shall be conducted on a regular basis by the Bureau of Services. The purpose of these audits is to ensure the accuracy of ALPR Information and correct data errors.

For security or data breaches, see the Records Release and Maintenance Policy.

430.8 RELEASING OR SHARING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 1. The name of the agency.
 2. The name of the person requesting.
 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Deputy Chief or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

430.9 TRAINING

The Training Section shall ensure that members receive department-approved training for those authorized to use or access the ALPR system and shall maintain a record of all completed trainings. (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Training requirements for employees authorized in ALPR Users Section include completion of training by the ALPR Coordinator or appropriate subject matter experts as designated by the Oakland Police Department. Such training shall include:

- Applicable federal and state law
- Applicable policy

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- Memoranda of understanding
- Functionality of equipment
- Accessing data
- Safeguarding password information and data
- Sharing of data
- Reporting breaches
- Implementing post-breach procedures

Training updates are required annually.

Automated License Plate Readers (ALPRs)

438.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

438.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Piedmont Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Operations Commander. The Administration Operations Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

438.2.1 ALPR ADMINISTRATOR

The Administration Operations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

438.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

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Automated License Plate Readers (ALPRs)

- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

438.4 DATA COLLECTION AND RETENTION

The Administration Operations Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or there is a reason to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

438.5 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Piedmont Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

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Automated License Plate Readers (ALPRs)

- (c) The Support Services Division Commander will be responsible for directing and ensuring that ALPR system audits are conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

438.6 AUTHORIZED DESIGNEE FOR CERTAIN ALPR SERVICES

The Chief of Police may enter into an agreement with another law enforcement agency or authority, through contract or memorandum of understanding, to receive, provide, or share ALPR services that meet the minimum standards of this policy.

438.7 TRAINING

Only persons trained in the use of the ALPR system, including its privacy and civil liberties protections, shall be allowed access to the ALPR data. Training shall consist of:

- Legal authorities, developments, and issues involving the use of ALPR data and technology
- Current policy regarding appropriate use of ALPR systems
- Evolution of ALPR and related technologies, including new capabilities and associated risks
- Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use
- Practical exercises in the use of the current ALPR system

Training shall be updated as technological, legal, and other changes that affect the use of the ALPR system occur. In no case shall a person utilize the ALPR system if he/she has not completed training in more than a year.

438.8 POLICY

The policy of the Piedmont Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

438.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

Any requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Department personnel who receive requests for ALPR data will accept the request in accordance with our Records Maintenance and Release Policy and forward the request to the Support Services Division Commander.

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438.10 TRAINING

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).



Automated License Plate Readers (ALPRs)

462.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Richmond Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

462.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Administration Division Commander. The Administration Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

462.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (f) Absent exigent circumstances, the officer shall verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

462.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Richmond Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

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Automated License Plate Readers (ALPRs)

The Administration supervisor is responsible to ensure proper collection and retention of ALPR data.

All ALPR data downloaded to the server will be stored for ninety (90) days, and thereafter will be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

462.5 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Richmond Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Supervisor and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.

Automated License Plate Readers (ALPRs)

418.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

418.2 POLICY

The policy of the San Leandro Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

In accordance with a Memorandum of Understanding (MOU) between the San Leandro Police Department and the Northern California Regional Intelligence Center (NCRIC), the Department shall work in cooperation and coordination with NCRIC in providing a standardized approach and method of collecting and sharing ALPR systems' data.

418.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the San Leandro Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Captain, or his/her designee. The Bureau of Services Captain, or his/her designee, will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.

418.3.1 ALPR ADMINISTRATOR

The Bureau of Services Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

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- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

418.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

418.4.1 AUTHORIZED PURPOSES, COLLECTION, AND USE OF ALPR DATA

Sworn peace officers with a need and right to know may utilize ALPR technology for the following reasons, but are not limited to:

- (a) Locate stolen, wanted, and subject of investigation vehicles.
- (b) Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement.
- (c) Locate witnesses and victims of violent crime.
- (d) Locate missing children and elderly individuals, including responding to Amber and Silver Alerts.

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Automated License Plate Readers (ALPRs)

- (e) Support local, state, federal and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes.
- (f) Protect participants at local events.
- (g) Protect critical infrastructure sites.

418.5 ALPR DATA COLLECTION AND RETENTION

The City of San Leandro Information Technology division is responsible for ensuring the collection of ALPR data is transferred from department vehicles to the Northern California Regional Intelligence Center (NCRIC) server on an automatic basis, transferring immediately upon utilization of the system.

All data and images gathered by an ALPR are for the official use only, and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this NCRIC may be used and shared with prosecutors or others only as permitted by law.

All ALPR data downloaded to the NCRIC server shall be stored for one year (Government Code § 34090.6) and thereafter will be purged on the 366th day unless it has become, or it is reasonable to believe it will become evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the NCRIC server onto portable media and booked into evidence.

418.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means by NCRIC. The San Leandro Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted by the ALPR Administrator on a quarterly basis.
- (d) The ALPR Administrator shall report any errors to NCRIC for correction.

418.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:

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1. The name of the agency.
 2. The name of the person requesting.
 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

418.8 TRAINING

The Professional Standards and Training Unit should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53). This training shall be consistent with the training outlined in the NCRIC ALPR Policy.

418.9 NCRIC ALPR POLICY

[NCRIC ALPR Policy](#)

Draft of BPD Policy 422 “Fixed Automated License Plate Readers (ALPRs)”

Fixed Automated License Plate Readers (ALPRs)-

422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of Fixed ALPRs in this policy as well as the corresponding Surveillance Use-Fixed ALPRs policy-1305.

422.2 POLICY

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

422.3 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.

- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
- (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

422.4 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Berkeley Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect apprehension and stolen property recovery. Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

422.4.1 ALPR ADMINISTRATOR

The Investigations Division Captain, or his/her designee, shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, communication operators, records clerks, parking enforcement officers, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring procedures are followed for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records, or vendor on the retention and destruction of ALPR data.ensuring this policy and related procedures are conspicuously posted on the City's website.

422.5 OPERATIONS

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil

Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:
 - (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
 - (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license

plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.

(6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
 4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
 5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.
- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

422.6 DATA COLLECTION AND RETENTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into it's digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

422.7 ACCOUNTABILITY

All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

422.8 ALPR DATA DETECTION BROWSING AUDITS

It is the responsibility of the Sergeant of Audit and Inspections or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least biennial. The Department

will audit a sampling of the ALPR system utilization from the prior 24-month period to verify proper use in accordance with the above- authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding 24-month period and determine if each inquiry meets the requirements established in policy section 462.6(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by the Professional Standards Bureau Captain. This audit should be shared in the Surveillance Ordinance reporting.

422.9 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

422.10 TRAINING

The Personnel and Training Sergeant shall ensure that members receive department-approved training in order to be authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53

Draft of BPD Policy 1305 “Surveillance Use Policy – Fixed ALPRs”

Surveillance Use Policy-Fixed ALPRs

1305.1 PURPOSE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology. Department Personnel shall adhere to the requirements of the Surveillance Use-Fixed ALPRs in this policy as well as the corresponding Use Policy -422.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

1305.2 DEFINITIONS

- (a) Automated License Plate Reader (ALPR): A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) ALPR Operator: Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) ALPR Administrator: The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) Hot List: A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) Vehicles of Interest: Including, but not limited to vehicles which are reported as stolen, display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) Detection: Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.

- (g) Hit Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

1305.3 AUTHORIZED AND PROHIBITED USES

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDT or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)
- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

- (1) Verification of status on a Hot List. An officer must receive confirmation, from a Berkeley Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).
- (2) Visual verification of license plate number. Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.
- (3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).
- (4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.
- (5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR Administrator.
 - (6) Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

 - Entering Department member's name
 - Related case number.
 - Short synopsis describing the nature of the originating call
- (g) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible

from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
 3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
 4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
 5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.
- (h) Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies. Partial license plates reported during crimes may be entered into the ALPR system in an attempt to identify suspect vehicles.

No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so. If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.4 DATA COLLECTION

The Investigations Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures. The Department should if feasible find a solution to transfer evidentiary hit data into its digital evidence repository through secure integration.

All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

Restrictions on use of vendor Data: Information gathered or collected, and records retained by the vendor's cameras or any other Berkeley Police Department ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

1305.5 DATA ACCESS

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (c) If practical, an operator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

1305.6 DATA PROTECTION

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All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager (i.e. If transportation department requested volume of vehicular traffic associated with specific events, it could conceivably be provided with the count of vehicles, but not the specific license plates with appropriate permissions).
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

1305.7 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

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1305.8 DATA RETENTION

All ALPR data belongs to the Department. All ALPR data downloaded to the ALPR server should be stored for no longer than 30 days, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server and uploaded into BPD's digital evidence repository.

ALPR vendor, will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The ALPR vendor will purge their data at the end of the 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule mentioned above or outlined elsewhere. Relevant vehicle data are scans corresponding to the vehicle of interest on a hot list. The ALPR vendor and Department shall ensure that the necessary data is captured and stored to accurately report the relevant data required in the Annual Surveillance Technology report. Once the City Council approves the Annual Surveillance Technology report all said data may be purged so long as it doesn't violate the Retention guidelines.

1305.9 PUBLIC ACCESS

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Department shall to the extent feasible aim to offer a transparency portal wherein the number of scans, hits, and queries is available to the public in real-time, or as near as real-time as feasible. All data shall be reported in the Annual Surveillance Technology Report.

1305.10 THIRD PARTY DATA-SHARING

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). *See attached letter.*

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

(c) All signed letters shall be routed to the Audit and Inspection Sergeant for compliance and reporting.

ALPR data is subject to the provisions of the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

1305.11 TRAINING

Training for the operation of ALPR Technology shall be provided by BPD personnel. All BPD

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employees who utilize ALPR Technology shall be provided a copy of this Surveillance Use Policy.

1305.12 AUDITING AND OVERSIGHT

ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biannually. The data from the fixed ALPRs shall be reported annually in the Surveillance Technology Report.

1305.13 MAINTENANCE

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain or his or her designee. The Investigations Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data. Equipment maintenance shall be provided by the vendor.

Draft of BPD Policy 1305 Appendix A
“Berkeley Police Department
Surveillance Acquisition Report – Fixed
Automated License Plate Readers”

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

FIXED AUTOMATED LICENSE PLATE READERS (ALPR)

A. DESCRIPTION

Fixed Automated License Plate Readers (ALPRs) are cameras systems with software designed for license plate recognition. The camera systems are typically mounted on street poles, street lights, and highway overpasses.

ALPRs are designed to capture license plate numbers which come into view, along with the location, date and time. The data, which includes an image of the front or the back of the car displaying the license plate, is then uploaded to a central server operated by the vendor. The license plate data is cross referenced with systems such as Stolen Vehicle Systems (SVS), and other lists like Amber alerts to notice police of vehicles with hits.

This technology does not have facial recognition, and is not tied to any personal identifying information or used for traffic enforcement.

B. PURPOSE

Berkeley Police Department will utilize a network of fixed automated license plate readers. The ALPRs will be affixed to street poles, street lights, or other similar objects that are either owned by the City of Berkeley or wherein a right-of-way agreement has been established.

The use of ALPRs to alert police of a wanted or vehicle of interest entering into their respective jurisdiction has become increasingly more commonplace. This technology is being utilized on our local freeways, bridges, and in some instances in private parking lots.

Berkeley Police Department investigators have identified the following instances wherein the use of an effective deployment of ALPRs could have aided the Berkeley Police Department in its efforts to focus on the wanted vehicle prior to a crime occurring in the City of Berkeley, and potentially avoided an instance of victimization from happening.

RECENT CASES OF INTEREST

1.) BPD had an armed robbery in which the victim was pistol-whipped. The suspects fled in a vehicle. BPD officers located the vehicle and a pursuit ensued. The license plate on the vehicle was reported as a wanted vehicle for an armed robbery in San Ramon. Had this vehicle entered the City of Berkeley, and the vehicle passed an ALPR- BPD Officers could have been focused on finding this offender in an advance of this violent robbery.

2.) Victim was carjacked of his Toyota Rav-4. The suspect vehicle two days later was used in a murder that occurred in a nearby East Bay City. This same vehicle was used in a robbery in Oakland. The stolen property in the Oakland robbery was tracked back into Berkeley. Then this same vehicle was used to commit a robbery in Berkeley at Woolsey

1305 APPENDIX A

BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – FIXED AUTOMATED LICENSE PLATE READERS

and Telegraph. The vehicle was listed as a car-jacking vehicle from the initial crime, ALPRs could have alerted BPD prior to the property being discarded in Berkeley, as well as the final robbery listed in this synopsis.

3.) Home invasion robbery in Berkeley wherein the suspect came in a stolen vehicle, listed in SVS as a wanted vehicle. The suspect violently attacked the resident. The suspect was arrested shortly after in San Pablo due to an ALPR hit. Suspect was unknown but identified due to having the victims stolen property.

4.) An armed robbery occurred in Berkeley the suspects fled in a cold plated stolen vehicle, meaning the vehicle was listed as wanted in SVS. San Pablo PD stopped the suspect vehicle due to the want associated to the license plate. Suspect was arrested and was in possession of a firearm. Suspect was eventually also linked to a stranger sexual assault case.

5.) A robbery of Valero in Berkeley occurred. The suspect arrived in stolen vehicle. The suspect was subsequently arrested by San Mateo PD due to an ALPR hit.

6.) A Victim called BPD to report his carjacked/stolen vehicle (from Union City), was tracking in South Berkeley. The victim was originally carjacked via gun by a group of suspects in Union City a few days prior. Moreover, Officers responded to South Berkeley but were unable to locate the victim's vehicle. The victim later tracked his carjacked/stolen vehicle to 1370 University Ave. Officers responded to this location and located the victim's vehicle. Three juveniles and one adult fled from the vehicle but were captured by the Officers. A search of the vehicle yielded a concealed/loaded firearm.

CATALYTIC CONVERTER THEFTS WITH GUNFIRE

7.) A theft of a catalytic converter took place at 5th and Hearst. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. San Pablo PD located the vehicle using their ALPR system and arrested the driver who was in possession of a loaded handgun.

8.) A catalytic converter theft occurred at 145 Hillcrest Road. The suspect vehicle's license plate was captured on video surveillance. BPD put a felony stop on the vehicle. Pinole PD located the vehicle. During a search of the vehicle, BPD located an assault rifle (ghost gun) and arrested the suspect.

9.) A pickup truck, wanted in SVS due to it being reported as a stolen vehicle, entered Berkeley. The aforementioned was caught in the act of cutting a catalytic converter

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from a vehicle on the 1800 block of 4th Street. Witnesses and a Security guard confronted the suspects. The suspects fled, and then immediately returned to shoot at the witness and security guard.

PROPERTY CRIME

10.) An auto burglary occurred at 1316 San Pablo Avenue and the victim obtained a license plate. A felony entry was made on the license plate. Pittsburg PD located the suspect vehicle due to an ALPR hit. The vehicle failed to yield and crashed. The driver was arrested for the failure to yield and Pittsburg PD located a loaded handgun in her purse.

11.) A suspect drove into Berkeley in a stolen vehicle, listed in SVS. The suspect drove to the driveway of 1626 Berkeley Way and proceeded to steal that resident's vehicle.

12.) Two suspects drove a reported stolen auto to Berkeley Bowl West. The suspects then burglarized a victim's vehicle. The suspect then proceeded to Emeryville where they used the Victim's identity to commit identity theft.

13.) A series of auto burglaries were committed in the area of San Pablo and Gilman. The suspects were seen getting into a vehicle which was listed in SVS as a stolen vehicle. Two days later a nearby city reported the same vehicle was used in a murder in that city. ALPR system could have notified officers of that wanted vehicle and helped in the capture of the suspects, and potentially intervened before the subsequent murder.

HOMICIDE

14.) Another agency reported a vehicle used in a murder, with a known license plate was entered into SVS with a felony want (associated with a murder). On 08/02/22 the vehicle was located in Berkeley. The associated suspects were located after fleeing from officers.

15.) BPD officers responded to a report of a person casing a house. Upon their arrival the suspects fled in a white sedan. That sedan was determined to be a reported stolen auto. The sedan fled from officers after they activated their emergency lights and sirens. The same vehicle was reported to be involved in a road rage incident in an adjacent city wherein the suspects shot and killed the victim on the freeway.

SEX/DV CRIMES

16.) This is a DV case in which the suspect fought with his adult girlfriend causing visible injury and then chased his girlfriend's 12 year old daughter down the street and shot at

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her with a firearm. San Pablo PD had an ALPR hit from this Berkeley PD case. The suspect ran from San Pablo PD and a gun was recovered from him.

17.) This is a series of peeping and prowling incidents against female UC Berkeley students. The suspect was driving for a ride share service and was in and out of Berkeley for the several months. The suspect was homeless, and thereby conventional methods of locating the suspect weren't fruitful.

C. LOCATION

BPD proposes to install 52 fixed ALPRs in the City of Berkeley. While the cameras are permanent installations, if found ineffective in the installed location, the Department can elect to move the camera to another location at nominal cost. It's preferred to leave cameras installed in locations for periods of minimally a year. Locations will be determined using crime data, known locations of ingress or egress into the City of Berkeley, and commonly known direction of travel after criminal acts based on information provided from investigators. The Department will balance the need to deploy the camera systems equitably across the City of Berkeley with the need to deploy the cameras in an effective manner. BPD will solicit input from the vendor for an effective deployment.

D. IMPACT

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures utilized with ALPR Units will help to ensure unauthorized use of its data. The procedures will ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

E. MITIGATION

All saved data will be safeguarded and protected by both procedural and technological means which are implemented to safeguard the public from any impacts identified in subsection (D). See subsection (G) for further.

F. DATA TYPES AND SOURCES

Images of license plates and location metadata may be obtained through the use of ALPR cameras. The vendor's system may have searching capabilities due to technology from machine learning

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that allow officers to search by vehicle type, make, color, license plate state, bumper sticker (the presence of a bumper sticker, not the image or content), decals (again the presence of a decal, not the image or content) and roof racks. All data stored in the vendor's servers shall be securely protected with end-to-end encryption.

G. DATA SECURITY

BPD takes data security seriously. All saved data will be safeguarded and protected by both procedural and technological means. The Berkeley Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.
- (b) All ALPR data downloaded to any workstation or server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (c) Berkeley Police Department members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Aggregated ALPR data not related to specific criminal investigations shall not be released to any local, state or federal agency or entity without the consent of the Chief of Police or City Manager.
- (e) Measures will be taken to ensure the accuracy of ALPR information. Errors discovered in ALPR data collected by ALPR units shall be marked, corrected or deleted in accordance with the type and severity of the error in question.
- (f) ALPR system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.
- (g) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (h) Every ALPR Detection Browsing Inquiry must be documented by either the associated Berkeley Police case number or incident number, and/or a reason for the inquiry

For security or data breaches, see the Records Release and Maintenance Policy.

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H. FISCAL COST

Since the City of Berkeley has not acquired the specific cameras, the costs can only be estimated. BPD expects the individual camera costs to range from \$2500-\$5000 each, with the installation to vary. BPD believes that for the proposed 52 camera deployment the cost to purchase and install to not exceed an initial cost of \$250,000. The yearly subscription cost may fluctuate but is expected to range from \$125,000 to \$175,000 a year.

I. THIRD-PARTY DEPENDENCE AND ACCESS

ALPR vendor would store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. The vendor will purge their data at the end of 30 days of storage. However, this will not preclude Berkeley Police Department from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Berkeley retention schedule (i.e. if detectives establish a hit results in evidentiary value it should be incorporated into the digital evidence of that specific case, and thereby would be kept longer than the aforementioned 30 days).

Restrictions on use of fixed ALPR Data: Information gathered or collected, and records retained by the Vendor will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purpose unless allowed by policy (i.e. metadata will be permissible use for annual surveillance reporting).

An ALPR shall only be used for official law enforcement business.

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or to support criminal investigations. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

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(1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

(2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.

(3) Use Based on a Protected Characteristic. It is a violation of this policy to use the ALPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.

(4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

(5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and departmental policies.

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

(a) A supervisor at the requesting agency will sign an acknowledgement letter stating that the shared data will only be used for the purposes that are aligned with the Berkeley Police Department's policy. The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP).

(b) The signed letter is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

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J. ALTERNATIVES

An alternative is the deployment of additional police resources. The inherent problems with this alternative is that it is difficult to hire and train additional police officers and the cost would be significantly higher than adding technology. Furthermore, this technology furthers the Department's goal in protecting and safeguarding our community through precision based policing strategies.

K. EXPERIENCE OF OTHER ENTITIES

Currently, in Alameda County, the following cities have ALPR programs, The Alameda County Sheriff's Office, Alameda PD, Emeryville PD, Fremont PD, Hayward PD, Livermore PD, Newark PD, Oakland PD, Piedmont PD, Pleasanton PD, San Leandro PD, Union City PD, and the California Highway Patrol. The only agency in Alameda County to not utilize ALPRs is Albany PD.

Representatives from Newark indicated success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.

Representatives from indicated similar to the above, success with their program. No notable issues have arisen as a result of this program. Additionally, no unexpected expenditures have come from this program that were unforeseen.