



## Agenda Report

21-1122

Agenda Date: 10/26/2021

### REPORT TO COUNCIL

#### SUBJECT

Informational Report Regarding an Amendment to the Santa Clara Police Department's Automated License Plate Reader (ALPR) Policy

#### COUNCIL PILLAR

Deliver and enhance high quality efficient services and infrastructure

#### BACKGROUND

Automated / automatic license plate readers (ALPRs) capture computer-readable images that allow law enforcement to compare plate numbers against plates of stolen cars or cars driven by individuals wanted on criminal charges. The devices are mounted on police cars, road signs or traffic lights and capture thousands of images of plates. The data collected can enhance law enforcement's ability to investigate and enforce the law.

On January 1, 2016, Senate Bill 34 went into effect. SB 34 created California Civil Code (CCC) Title 1.81.23 entitled "Collection of License Plate Information" (Section 1798.90.5, et seq.) that requires any public agency, including a law enforcement agency, that operates Automated License Plate Reader (ALPR) technology to maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure. SB 34 also requires the agency to implement a usage and privacy policy that meets certain requirements, including:

- The authorized purposes for using the ALPR system and collecting ALPR information;
- A description of the job title or other designation of the employees and independent contractors who are authorized to use or access the ALPR system, or to collect ALPR information. The policy shall identify the training requirements necessary for those authorized employees and independent contractors;
- A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws;
- The purposes of, process for, and restrictions on, the sale, sharing, or transfer of ALPR information to other persons;
- The title of the official custodian, or owner, of the ALPR system responsible for implementing this section;
- A description of the reasonable measures that will be used to ensure the accuracy of ALPR information and correct data errors;
- The length of time ALPR information will be retained, and the process the ALPR operator will utilize to determine if and when to use, destroy, modify or disclose retained ALPR information;
- Ensure that collection, use, maintenance, sharing and dissemination of information gathered

through the use of ALPR technology complies with all applicable law and is consistent with individual privacy and civil liberties; and

- Post the usage and privacy policy on the agency's website.

## **DISCUSSION**

Automatic license plate readers use a combination of cameras and computer software to indiscriminately scan the license plates of every car passing by. The readers, which can be mounted on stationary poles (e.g. road signs, traffic lights, etc.), handheld devices and mobile patrol vehicles, log the time and date of each scan, the vehicle's GPS coordinates and pictures of the car.

The devices send the data to ALPR software, which can compare each license plate against a designated "hot list." ALPR technology shall not be used for any purpose other than legitimate law enforcement or public safety purposes with a need and right to know the information provided by an ALPR to:

- Locate stolen or wanted vehicles and vehicles that are the subject of a legitimate law enforcement investigation;
- Locate and apprehend suspects that are lawfully sought by law enforcement;
- Locate witnesses and victims of violent crime;
- Locate at-risk missing persons (including responding to Amber and Silver Alerts);
- Support local, state and federal safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
- Protect participants at special events; and,
- Protect critical infrastructure sites.

These queries happen automatically, in real-time though officers can also query license plates manually via their mobile data computer in their patrol vehicle. When law enforcement receives a "hot hit," they shall attempt to verify data provided by ALPR technology using other law enforcement information sources in order to confirm the vehicle or subject's identity and justification before making contact. To the fullest extent possible, law enforcement personnel shall visually confirm that the plate characters generated by the ALPR technology correspond with the digital image of the license in question.

### **Santa Clara Police Department Policy 98.4**

Since implementation of SB 34, the Police Department has had its ALPR policy (Attachment 1 - SCPD Policy 98.4), last issued in April, 2016, on our website [www.scpd.org](http://www.scpd.org) <<http://www.scpd.org>> in the Policy Information and Training Summary tab on the home page.

The Police Department currently has four (4) patrol vehicles equipped with ALPR mounted on them. From August 1, 2020 through August 1, 2021, the devices read 114,837 license plates resulting in 126 "hot hits." The data is downloaded directly to the Northern California Regional Intelligence Center (NCRIC).

NCRIC is one of 79 State Governor designated and Department of Homeland Security recognized fusion centers in the United States, and serves as the regional intelligence fusion center for all major crimes for the Federal Northern District of California.

**Pending Expansion of ALPR Use by the Police Department**

On September 17, 2019, the City Council approved \$750,000 in Board of State and Community Corrections (BSCC) one-time grant funding (Attachment 2 - RTC 19-941) to allow law enforcement agencies to work collaboratively and develop a task force to share resources and develop a comprehensive plan that will include community education, equipment procurement, staff costs and other creative prevention strategies to end auto break-ins in our communities.

On October 5, 2020, the Police Department presented materials to the Chief's Advisory Committee regarding the potential for the implementation of a pilot community camera program. The Police Department entered into a two-year Agreement with Flock Group Incorporated for 12 solar powered, fixed cameras to be installed on existing light poles at major entrance and exit intersections of our city. These leased devices are capable of reading two lanes of traffic at once, operate over wireless network with cloud storage, and download data directly to the NCRIC. The cost for the two-year pilot program (tentatively scheduled for January 1, 2022 - December 31, 2024) is approximately \$63,000 which was funded from the BSCC grant; at this time, there is not an on-going funding source.

The presentation included a summary of existing laws negatively impacting law enforcement's crime prevention efforts, the Police Department's existing use of ALPR technology and its' corresponding policy, benefits of mobile cameras, example locations for fixed cameras and data use, storage and retention.

Committee members had a thoughtful discussion (e.g. mining the data, who the information can be shared with, profiling, facial recognition, concern regarding the ability for the Police Department to replace damaged cameras, etc.). Following the dialogue, Committee members fully supported the use of BSCC funding toward the implementation of a community camera program.

On December 16, 2020, the Police Department presented an Information Report to City Council regarding Automobile Burglaries, including Strategies for Prevention (Attachment 3 - RTC 20-1350). The City Council was supportive of the past and pending initiatives, including the potential for a community camera program.

The coronavirus pandemic and staffing issues have negatively impacted the Police Department's ability to make progress with this initiative.

**Lexipol Policy 428 and Standardized Operating Procedures**

In 2017, the Police Department entered into an Agreement with Lexipol LLC (Lexipol). Lexipol provides policy manuals, training bulletins and consulting services to law enforcement agencies, fire departments, and other public safety departments based on current legislation, case law and industry best practices. Lexipol retains copyright over all manuals they create, including those modified by local agencies based on specifics to their community. As of March 2020, Lexipol services 8,100 agencies throughout the U.S. Gradually, the Police Department is transitioning from its established policies to that of Lexipol.

One primary distinction between the Police Department's former policy manual and the new Lexipol manual is policy and practice are now two separate documents. In this instance, the standardized operating procedures are a separate document that articulates the steps for successfully implementing the policy.

Lexipol Policy 428 (Attachment 4) complies with SB 34 and establishes:

- ALPR Administration
- Operations
- Data Collection and Retention
- Accountability
- Releasing ALPR data
- Training

In doing so, it also sets forth defined parameters for the use of ALPRs in the collection and use of data in a manner consistent with respect for individual's privacy and civil liberties.

The standardized operating procedures (Attachment 5) serve as a tool for staff in training, process and accountability.

Of note, Policy 428 takes into consideration California Civil Code §§ 1798.29 and 1798.90.5, et seq., which established regulations on the privacy and usage of ALPR data and expands the meaning of "personal information" to include information or data collected through the use or operation of an ALPR system. It imposes privacy protection requirements on entities that use ALPR information, including:

- Prohibits public agencies from selling or sharing ALPR information, except to another public agency, as specified; and,
- Requires operators of ALPR systems to use that information only for authorized purposes.

### **Community Engagement on this Topic**

On September 27, 2021, the Police Department and Flock Group Incorporated (FLOCK) facilitated a virtual Town Hall meeting via Zoom. The meeting details were advertised on the City's website and information encouraging participation was distributed on GovDelivery, Facebook, Nextdoor, Nixle and Twitter to include:

- Highlight City of Santa Clara crime statistics
- Share current Automatic License Plate Reader (ALPR) policy
- Discuss current use of mobile ALPR's and community benefits
- Introduce Board of State and Community Correction grant funding to fund the use of FLOCK stationary ALPR's
- Discuss privacy issues
- Highlight pilot program and anticipated community benefits
- Questions and community feedback

17 individuals, including two Councilmembers (Jain and Watanabe), one media outlet, five City staff and one representative from FLOCK, participated in this virtual meeting.

A large portion of the discussion was spent clarifying the Police Department's existing use of ALPR technology in patrol vehicles, differentiating mobile versus stationary use of ALPR's and enhancements to this technology since its inception. In addition, staff and the FLOCK representative

fielded questions and concerns on the following topics:

- Q - Will this technology would be utilized to identify cars associated with undocumented individuals
- A - The Police Department will not conduct sweeps or other coordinated efforts, such as attempting to identify undocumented individuals by their mode of transportation, to detain suspected undocumented immigrants. It is neither the Police Department's mission or role. The Police Department will not detain, question or arrest a person for the sole purpose of discovering a person's citizenship or status under civil immigration laws.

The responsibility for enforcement of civil immigration laws rests with the U.S. Immigration and Customs Enforcement (ICE) and Removal Operations (ERO).

As a result, the Police Department will not utilize this technology to identify cars with undocumented individuals.

- Q - Will data collected be shared with immigration
- A - The data is downloaded directly to the Northern California Regional Intelligence Center (NCRIC).
- Q - Determining what data is saved to help solve a crime
- A - SB 34 requires agency's with ALPR to implement a usage and privacy policy that includes the length of time ALPR information will be retained, and the process the ALPR operator will utilize to determine if and when to use, destroy, modify or disclose retained ALPR information. The Department's retention policy varies according to the specific situation.
- Q - Will incentives to offered to FLOCK for crimes solved
- A - No.
- Q - Overall cost, pilot and on-going
- A - The FLOCK Agreement is a two-year pilot program for \$63,000 (Year 1, \$33,000; Year 2, \$30,000). was approved by City Council on 12/16/2020.
- Q - What data, if any, will be made available to the public
- A - None.
- Q - Measures which will be used to determine the success of the pilot program
- A - The use of ALPR cameras will increase the Police Department's investigative tools. Following implementation, the Police Department intends to track the number of times detectives utilize ALPR footage compared with success rates associated with identifying vehicle(s) connected with crime.
- Q - Connection, if any, between residential surveillance cameras
- A - There is no connection between the two types of surveillance cameras.
- Q - Use of ALPR cameras in and around Levi's Stadium

- A - The City of Santa Clara has multiple traffic cameras on the northside of town to help drivers make traffic decisions based on road conditions. These are not ALPR cameras.

Additionally, there are cameras in and around Levi's Stadium operated by stadium personnel.

Overall, the participants in the virtual meeting were supportive of the proposed changes to the ALPR policy and stationary camera use.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

### **FISCAL IMPACT**

The Amendment to the Santa Clara Police Department's Automated License Plate Reader Policy will have no financial impact.

On December 16, 2020, use of Board of State and Community Corrections (BSCC) grant funding was previously approved by City Council (Attachment #3, RTC 20-1350) in the following areas:

- Equipment
- Staff overtime
- Contractual services
- Community Education

BSCC is not an on-going funding source for the stationary community camera program.

### **COORDINATION**

This report was coordinated with the City Attorney's and City Manager's Offices.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

Note and file Information Report.

Reviewed by: Pat Nikolai, Chief of Police

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. SCPD Policy 98.4

2. RTC 19-941
3. RTC 20-1350
4. Lexipol Policy 428
5. ALPR SOP
6. Flock Group Incorporated Agreement