

San Leandro
Community Police Review Board

Automated License Plate Reader Policy Review

Ad Hoc Committee
Findings and Recommendations

October 18, 2023

Agenda

- Overview and Findings
- Conclusions
- Outstanding Issues
- Recommendations

Caveat

The CPRB review at this time is focused on the SLPD policy that governs ALPR use – no matter how many cameras are in use – and not on the evaluation of the actual effectiveness of the cameras for criminal investigations or general crime deterrence.

The CPRB is not prepared to take a position at this time on whether to approve an increase in the number of ALPR cameras. We are aware that the City Council has requested for their deliberations additional data and analysis on the efficacy and costs of the cameras in addition to our policy review to make that determination.

Overview and Findings

- What ALPR cameras do. “Hotlists” and “hits” alerts. (*From NCRIC - Northern CA Regional Intelligence Center - FAQ on CA ALPR's*):
- “Automated License Plate Recognition (ALPR) systems function to automatically capture an image of a vehicle and the vehicle’s license plate, transform the plate image into alphanumeric characters using optical character recognition, compare the plate number acquired to one or more databases (also known as “hot lists”) of vehicles of interest to law enforcement, and then alert law enforcement officers when a vehicle of interest has been observed (also known as “hits”).
- The stored license plate data also provides law enforcement investigators with a pointer system that may help them identify vehicles associated with suspects, witnesses, or victims, and to develop exculpatory information that assists them with focusing their investigative resources. The data also allows law enforcement to connect serial criminal activities that may have occurred in disconnected law enforcement jurisdictions.”

ALPR capabilities

- Cameras capture still photos only; do not include audio or video or use facial recognition.
- AI converts digital images to show time, date, geo-location, alphanumeric license plate numbers, plus car features including make, model, color, and with the most current cameras, unique vehicle features such as bumper stickers and dents.
- The fixed Flock cameras are designed to capture 1.5 lanes of traffic in one direction (so multiple cameras are often deployed at major intersections to take photos of cars from different directions); mobile ALPR cameras mounted on patrol vehicles can capture a broader field surrounding the cars; neither type camera rotate and pan an area as far as we know.
- The ALPR database of images does not include personal identification information (e.g., name, age/DOB, race, Social Security number, address).

Mobile and Fixed Cameras

- There is a difference between fixed and mobile ALPR cameras. SLPD uses both; these involve two different data systems provided by two different vendors (Flock and 3M/Neology, respectively). The current policy does not distinguish between how each type of camera are to be used and managed. Data from both are shared with the Northern CA Regional Intelligence Center (NCRIC).

Investigative value vs. Civil liberties

The key issue is weighing and finding a balance between the value/impact of cameras in crime prevention (deterrent effect, if any) and as an investigative aid in solving reported crimes (e.g., recovery of stolen vehicles, missing persons, and apprehension of suspects with outstanding warrants for serious felony offenses)...

VS

Civil liberties and privacy concerns and the related harm and liability for stops/detentions that can result from inaccurate ALPR license plate reads and/or other outdated/incorrect information in the “hotlists”.

Errors and need for safeguards

- *From the federal Bureau of Justice Assistance (DOJ) “License Plate Reader Policy Development Template” (Feb., 2017):*
- “Even with the proven efficacy of this technology, justice entities should be alert to risk of erroneous or deficient LPR data...Justice entities should therefore put in place appropriate policies and procedures to guard against possible errors and other potential problems. Strong control and oversight are critical considerations in policy development, especially as the civil liberties implications of possible unforeseen derivative uses may be significant. Such efforts will not only enhance mission effectiveness but also safeguard privacy, civil rights, and civil liberties of individuals.
(emphasis added)

State laws that regulate

Three key state laws govern ALPR use –

- CA civil code 1798.90.53 (regarding standards for managing the data)
- SB 34 (prohibiting sharing data with out-of-state agencies per possible use to prosecute out-of-state residents who may come to CA for abortions/reproductive health services), and
- CA Values Act (SB 54 that prohibits use for immigration enforcement)
- These define lawful purposes for use of ALPR data (and prohibited uses) - including requirements for safeguarding the data (e.g., access, sharing, “hotlist” entries, security, retention, verification for stops, training and audits).
- The State Auditor, Electronic Frontier Foundation (EFF), ACLU and other sources found many CA law enforcement agencies in non-compliance with these laws re data sharing, access, and unauthorized uses. This is why a robust audit process for use of ALPR technology is so important.

Retention of data

- All SL ALPR data is shared and consolidated with other CA law enforcement agencies through the NCRIC. The data retention schedule for NCRIC differs from SLPD's stated schedule as presented to the City Council on 9/18/23 (12 months vs. 15 days*), and while the NCRIC policy is to honor the lower retention period of its partner agencies, it is not clear that the most recent MOU between SLPD and NCRIC addresses that. (Contracts with Flock and Neology need to be reviewed regarding retention schedules as well.)

* NOTE: The 15 days retention schedule is included in the pending draft titled "Community Safety Camera Program" policy that is posted on the SLPD Transparency Portal, BUT the current Lexipol policy 418 does NOT include that and instead only refers to the NCRIC 12 months schedule.

It appears the "Community Safety Camera Program" document on the Transparency Portal has been mistakenly posted and perhaps is confused with Lexipol policy 418 titled "Automatic License Plate Readers (ALPRs)". Among other things that draft document refers to video surveillance cameras which do not appear to be authorized for use at this time and for which no policy currently exists in the SLPD Policy Manual.

Sample of retention schedules

3 minutes	- New Hampshire
14 days.	- Berkeley
15 days	- San Leandro
21 days	- Maine
30 days	- Flock default, Palo Alto
60 days	- Alameda, CA Highway Patrol
90 days	- Oakland, Richmond
1 year	- Hayward, San Francisco, Fremont, San Jose, Sacramento (essentially defer to the NCRIC default period)

Factors to consider

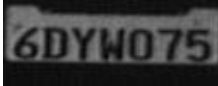
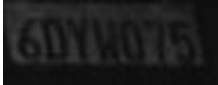
- Generally speaking, the effectiveness of ALPR queries/alerts for recovering stolen vehicles/license plates are most successful for shorter retention periods of time, while utility for investigations for more serious and complex crimes can benefit from longer retention periods.
- Civil liberty advocates tend to take the position that retention periods should be as short as possible, for longer retention periods raise greater privacy concerns that the movements of law-abiding persons can be more readily tracked and improperly used.

“Taken in the aggregate, ALPR data can paint an intimate portrait of a driver’s life and even chill First Amendment protected activity. ALPR technology can be used to target drivers who visit sensitive places such as health centers, immigration clinics, gun shops, union halls, protests, or centers of religious worship.” *(From the Electronic Frontier Foundation website)*

- Additionally, mobile cameras potentially pose a greater risk to privacy (e.g., as police vehicles patrol neighborhoods throughout the city and not just at fixed sites).

Sample images from mobile ALPR Camera

Provided by resident Michael Katz-Lacabe. *Note the second photo showing persons exiting the car*

Events					
License Plate	Timestamp	Patch	Overview	Information	Login Name
6DYW075	7/3/2008 5:23:26 PM				Laptop
6DYW075	11/14/2009 4:07:56 PM				laptop
6DYW075	12/1/2009 10:37:51 PM				laptop
6DYW075	12/21/2009 9:56:04 PM				laptop
6DYW075	4/10/2010 8:22:37 AM				laptop

Deterrence vs Investigative Tool

- Acting Chief Torres stated to the City Council on 9/18/23 that the primary value of ALPR is as an investigative tool in response to reported crimes, not as a crime deterrent.
- The Council presentation included reference to 5 “success stories” (2 robberies, 2 car-jackings and 1 homicide) where ALPR data was cited as a positive factor in those investigations. It was not clear whether the data used came from the fixed Flock and/or mobile cameras
- There is no generally accepted study on the extent, if any, to which ALPR cameras reduce crime.

Note: A 40 years long-term study of surveillance camera use in Europe cited by a Council Member found a 13% reduction in the crime rate when surveillance cameras were in use there - but those were generally video cameras, not static ALPR cameras, and were monitored pro-actively; that same study found little to no effect when the data was used passively or retroactively (which is more analogous to how data from our ALPR systems are used for investigative purposes).

Errors and Need to Verify Alerts

- The error rate cited for ALPR “hits” varies from 5% (Flock claims) to 35% (a Vallejo study), while most seem to place the range between 10-20%. That is due to both limitations of the license reader technology and erroneous or outdated information in the “hotlists” (which are supposed to be updated daily).
- ALPR error prompted a major lawsuit in SF (the Denise Green case) where the federal district court ruled that the City was liable when an ALPR alert was relied upon to initiate the stop and detention without taking steps to independently verify the information (e.g., by checking the license plate information against the CA state CLETS database).
- This is why independent verification is so important to complement the ALPR alert system.

Green v City and County of San Francisco

- Federal 9th Circuit ruling (2014)

“An unconfirmed hit on the ALPR does not, alone, form the reasonable suspicion necessary to support an investigatory detention”

From the NCRIC “California ALPR FAQ’s”

“To the greatest extent possible, law enforcement agencies request that vehicle and subject information be verified from separate law enforcement sources to confirm the vehicle and subject’s identity and justification for law enforcement contact. Law enforcement users of ALPR data must, **to the fullest extent possible**, visually confirm that the plate characters generated by the ALPR readers correspond with the digital image of the license plate in question.”

Other City Council question/concerns

- How responses to ALPR alerts are prioritized;
- The radius around crime scenes where mobile ALPR's may gather license plate data;
- Whether bystander pedestrians and bicyclists captured in ALPR photo images can be blurred to mask identity;
- Data on impacts of cameras on crime;
- What can be done to increase the deterrent effect of the ALPR cameras, and
- Cost-effectiveness of camera costs vs. other SLPD/public safety resource needs.

Conclusions

- The current Lexipol policy 418 used by SLPD is deficient in several ways; see recommendations that follow.
- There are a number of outstanding issues for which the CPRB needs more information before we can make any additional comments or recommendations.

Outstanding Issues/Information Needs

- Criteria for prioritizing ALPR alerts on “hits”
- Guidelines for use of mobile ALPR’s, including canvassing
- Status of vendor contracts and MOU’s re data retention and purging
- Masking bystanders from ALPR images stored for evidence
- Integration of ALPR data with private camera data or with other commercial security systems used for critical infrastructure.
- Methodology for annual IPA audit
- Efficacy of first 41 Flock camera installations

Recommended Revisions to Lexipol Policy #418

- The Lexipol policy 418 needs to be amended to include:
- Definitions
- Specific uses prohibited by law;
- Provisions to assure mou's with vendors and NCRIC aligned with current SLPD policy - esp. re data retention schedules and data sharing
- Strengthen the standard and clarify the steps required for verification of ALPR alerts before stops/detentions.
- Provide criteria for entry of data into ALPR "hotlists" by SLPD personnel
- Designation of the IPA for annual audit, with a description of the scope of such an audit
- Identify required elements of training
- *Provide criteria to prioritize responses to ALPR alerts TBD*
- *Clarify authorized use of mobile cameras on patrol vehicles, especially with regard to canvassing areas in the vicinity of a crime scene TBD*
- *Add criteria re location of fixed cameras based on crime data and periodic evaluation TBD*

Recommendation # 1: Amend 418.2 “Policy” re Standards for ALPR contractors

(Source: BJA/DOJ ALPR Policy Template)

ADD to end of section 418.2 “Policy”. There is no standard currently in the policy – especially to assure that contractors are required to comply with SLPD policy (e.g., data retention schedule) and State law (e.g., ban against sharing data collected in San Leandro with law enforcement agencies outside of CA).

“The City of San Leandro will contract only with commercial ALPR database companies that provide an assurance that their methods for collecting, receiving, accessing, disseminating, retaining, and purging ALPR information comply with applicable local, state, and federal laws, statutes, regulations, and policies.”

ADD after the last line re cooperation and cooperation with the NCRIC. The MOU between SLPD and NCRIC dated 2012 does not include the current SLPD data retention schedule.

“The Department shall make NCRIC aware of SLPD’s data retention limit of 15 days and request NCRIC’s compliance with that policy in handling all ALPR data collected in San Leandro.”

Recommendation #2: Add Definitions

(Source: Alameda Police Department Policy 463)

NEW SECTION: “DEFINITIONS” which are generally included in policies for clarification but absent in ours.

- “(a) **Fixed or Mobile Automated License Plate Reader (ALPR):** A fixed device that uses cameras and computer technology to compare digital images to lists of available information of law enforcement 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 Bureau of Services Captain or the Chief's designee serves as the ALPR Administrator for the Department.
- (d) **Hotlist:** A list of license plates associated with vehicles of interest to law enforcement compiled from one or more databases including, but not limited to, NCIC, CLETS, CA DMV, Local BOLOs.
- (e) **Vehicles of Interest:** Including, but not limited to, vehicles that 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 a fixed or mobile 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.
- (h) **Public Agency:** A public agency (also referred to as "law enforcement agency" in this policy) means the state, any city, county, or city and county, or any agency or political subdivision of the state or a city, county, or city and county, including, but not limited to, a law enforcement agency.”

Recommendation #3: Add Prohibited Uses

(Source: Alameda Police Department Policy 463)

NEW SECTION: “PROHIBITED USES” to make explicit SLPD’s commitment to protecting privacy and civil liberties and to affirm specific CA laws that restrict use.

“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 expressly prohibited:

- (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 not exposed to public view.
- (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) Use Based on a Protected Class/Characteristics. It is a violation of this policy to use the ALPR system solely based on a person's or group's perceived race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
- (d) Immigration Enforcement/Investigations: It is a violation of this policy to use the ALPR system for immigration enforcement and/or investigations (per CA Values Act, SB 54, 2017)
- (e) Out-of-state requests: It is a violation of this policy to share ALPR data with any law enforcement agency outside of California (per CA SB 34, 2015)
- (f) Personal Use: It is a violation of this policy to use the ALPR system for any personal purpose.
- (g) First Amendment Rights. It is a violation of this policy to use the A LPR system for the purpose or known effect of infringing upon First Amendment rights and/or any Constitutional rights.
- (h) Anyone who engages in an impermissible use of the ALPR system may be subject to: Criminal prosecution, Civil liability, and/or Administrative sanctions, up to and including termination.”

Recommendation #4: Amend 418.4 “Operations” re ALPR access, searches, and entries

(Sources: BJA/DOJ policy template and Alameda PD Policy 463)

- “Access and searches of the database require supervisory approval prior to the search. Additionally, the search documentation shall include the name of the person accessing the database, the name of the supervisor approving access, the associated case number/details, and intended purpose of the access by assigned code.
- Proactive manual entry to ALPR hot lists in the field is permitted for: Dispatched reports of crimes—“Be On the Lookouts” (BOLOs) or AMBER, SILVER or other law enforcement alerts in which a license plate number is part of the broadcast; or When directed or authorized for a legitimate law enforcement purpose.
- Department members will clear all stops that were generated from an ALPR alert with a disposition code that clearly documents the stop outcome.
- Hot Lists will be automatically downloaded into the ALPR system a minimum of once a day, with the most current data overwriting the old data.”

Recommendation #5: Retention and purge of ALPR

Data *(Source Alameda PD policy 463)*

Substitute 3rd paragraph of policy @ section 418.5 “ALPR Data, Collection and Retention” which fails to include SLPD’s stated retention period of 15 days and mistakenly only refers to NCRIC’s default 1 year retention period. Substitute paragraph also adds stronger language about the sharing of data.

“ALPR data stored or retained by the San Leandro Police Department or any vendor may be retained for up to 15 days. Thereafter, ALPR data shall be purged from all places where it is stored (Mobile Data Terminals, laptops, etc.) unless it has become, or is reasonable to believe will become evidence in a criminal, civil, and/or administrative 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 into evidence. Additionally, no ALPR data will be warehoused or co-mingled with any private company data. Information gathered or collected will not be shared, sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes, and only in compliance with this policy or in response to a lawful action to produce the data.”

- **Recommendation # 6: AMEND 418.4 Operations (f):**
Verification before action taken based on ALPR Alert

(Source NCRIC policy)

SUBSTITUTE paragraph (f) of policy @ section 418.4 “Operations” which uses weaker standard of “if practicable”, fails to include the requirement for visual verifications, and lacks other details of NCRIC policy.

- “Whenever a license plate reader alerts on license plate information, prior to taking any law enforcement action, officers will be required, to the fullest extent possible, to visually verify that the actual vehicle license plate information matches the license plate information used and alerted upon by the LPR system, including both alphanumeric characters of the license plate and the state of issuance; verify the current status of the plate as active through CLETS, CA DMV, NCIC, etc.; and confirm whether the alert pertains to the registrant of the car or the car itself. Receipt of an ALPR alert for a stolen or felony vehicle may not rise to the level of reasonable suspicion and is not sufficient probable cause to arrest without confirmation that the alert is still valid and active. If the alert is for another type of transaction, the officer will read the description of the alert and follow the appropriate action or reporting method. If an ALPR alert cannot be verified both visually and for validity, then law enforcement should not act on the alert and it should be rejected.
- If the officer witnesses a violation of law or other action that establishes reasonable suspicion for a stop, the officer may conduct a stop based on that reasonable suspicion. This provision shall not prevent a law enforcement officer from taking immediate action when a verifiable emergency situation exists for officer safety.
- On each resulting alert, the officer is required to enter a disposition indicating the action taken or not taken on the alert.”

Recommendation # 7: ADD Annual Audit and Reporting Requirements

(Source Alameda PD Policy 463)

ADD NEW Paragraph (e) to policy @ section 418.6 “Accountability”. SLPD has stated the intention to have the City’s IPA independently conduct an annual audit, but had not yet revised the policy accordingly nor described the intended scope of the audit.

“The San Leandro Independent Police Auditor is designated to conduct an independent audit of ALPR use on an annual basis. The annual audit report will include, at a minimum:

1) A summary of the audit memorandum including any corrective action taken, not to include any confidential disciplinary information prohibited by law from disclosure.

2) The number of fixed [and mobile] ALPR cameras.

3) The number of scanned license plates.

4) The number of hotlist hits or alerts.

5) The number of search queries and the justification for such queries.

6) The number of investigative leads generated by use of ALPR data.

7) The number of witnesses located by use of ALPR data.

8) The number of stolen vehicles recovered by use of ALPR data.

9) The number of suspects apprehended by use of ALPR data.

10 A list of Authorized Agencies that accessed or received ALPR data.

11) The approved and unapproved ALPR data requests from third parties.

12) Total costs for maintenance, upgrades, licensing, and training.”

Recommendation #8: Amend Training section to include the minimum training standards (Source NCRIC Policy)

AMEND the policy @ 418.8 “Training” to include the specifics of the NCRIC training standards that are otherwise only generally referred to.

“Training should include the following:

- Purposes of the ALPR policy.
- Substance and intent of the provisions of this ALPR policy and any revisions thereto relating to collection, receipt, access, use, dissemination, retention, and purging of the SLPD ALPR information and the privacy, civil rights, and civil liberties protections on the use of the technology and the information collected or received.
- Appropriate procedures relating to license plate image quality and mitigating the risks associated with a possible misread by the LPR system.
- ALPR verification process for law enforcement alerts.
- Originating and participating agency responsibilities and obligations under applicable federal, state, or local law and policy.
- How to implement the ALPR policy in the day-to-day work of the user, whether a paper or systems user.
- Mechanisms for reporting violations of SLPD ALPR policy provisions.
- The nature and possible penalties for ALPR policy violations, including possible transfer, dismissal, criminal liability, and immunity, if any.”

Recommendation #9: Miscellaneous edits

Edits to address the fact that SLPD now uses both mobile and fixed ALPR cameras and to address mobile ALPR canvassing around crime scenes.

- 418.2 “Policy”: 418.4 (c) “Operations”: “While a [**insert: ‘mobile’**] ALPR may be used to canvass license plates around any crime scene, [**insert: ‘within a reasonable radius that minimizes intrusion on privacy’**], particular consideration should be given...”
- 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 [**insert: ‘and fixed ALPR cameras’**] to...”