



## STAFF REPORT

### City Council

Meeting Date:

5/7/2024

Staff Report Number:

24-080-CC

Study Session:

**Provide direction on a proposal to install Flock fixed Automated License Plate Readers citywide**

### Recommendation

Staff seeks to address questions and concerns from City Council and the public on the use of fixed license plate reader technology and its public safety purpose. Staff seeks direction from the City Council on public safety deployment of fixed Automated License Plate Readers (ALPRs) citywide, utilizing Flock technology. Staff is providing notes for review on a future revision of department policy and an ordinance to amend the Municipal Code and seeks direction to return to City Council with deployment of Flock ALPR as a fiscal year 2024-25 budget item, and a Municipal Code revision in coordination with the city attorney's office for approval.

### Policy Issues

ALPR technology receives guidelines and governance from state and local law, and from agency policy.

California Civil Code (1798.90.5 *et seq.* – Attachment A) requires that any public agency provide an opportunity for public comment at a regularly scheduled public meeting before implementation of an ALPR program. The Menlo Park Police Department (MPPD) has been operating ALPRs via readers mounted on police patrol cars since 2014, and has brought requests before City Council on several occasions. Although this program is long implemented and the statutory Civil Code requirement has technically been met, this department has reoriented the City Council and the public to the technology numerous times, each time providing an educational overview and opportunity for public comment, most recently in September 2023 (Attachment B). This study session will provide a brief recap of this overview, and provide opportunity for public comment.

The City of Menlo Park also has a Municipal Code (Chapter 2.56) that speaks to our process of collecting, utilizing, and retaining public safety data such as data collected by this type of equipment. This Municipal Code Chapter was established in conjunction with our original ALPR deployment in 2014. Before deployment of any proposed fixed ALPRs, a summary of potential revisions to the Municipal Code to ensure it applies properly to both mobile (mounted to vehicles) and fixed (Flock) ALPRs, and the data collected by both systems is presented below. The current Municipal Code is listed below as Attachment C.

MPPD has a comprehensive Lexipol policy governing ALPRs (Policy 462), which provides strict guidelines for administration, operation, data collection and retention, accountability and training, as well as auditing and reporting (as in our quarterly report). Before deployment of any proposed fixed ALPRs, a summary of potential revisions to the Lexipol Policy to ensure any factors around the new technology are properly addressed is also presented below. The current MPPD Lexipol Policy is listed below as Attachment D.

## Background

On Sept. 26, 2023, City Council held a study session on Flock ALPRs. Staff presented City Council with:

- An overview of ALPR Technology and its history deployed with MPPD on three patrol vehicles dating back 10 years
- An overview of the City's Municipal Code governing data from ALPR technology, also dating back to 2013, and the rigor of this City's retention policy by Ordinance (six months compared to typical one year)
- An explanation of the capabilities and use of Flock equipment and operating systems, and an explanation of how data moves through Flock, but is completely owned, controlled, and retained by the City and the MPPD
- An explanation of the retention of the data, law, security and controls in place – both currently and the future of this should fixed ALPRs be deployed
- An illustration of means of police access to the data, and the policy, security and controls in place, with a view of the future should fixed ALPRs be deployed. Sharing agreements between police agencies were also discussed.
- A discussion on the reasons for seeking Flock as the vendor, based on the capabilities and the robust deployment of Flock technology throughout San Mateo County and other nearby jurisdictions
- An overview of the transparency webpages set up by many agencies using Flock technology and MPPD's commitment to follow a similar path
- A summary of 10 very recent and hyper-local examples of the application of this data used to stop and solve crime, locate people at risk, and enhance the safety of the public through the prevention of future crimes and disorder
- A description of the initial and revolving costs for implementation of this technology

In addition to the above, the MPPD also proposed deployment of gunshot detection technology, and its relative pricing as a companion to fixed ALPR deployment. Gunshot detection technology has been removed from this current presentation and proposal, to be potentially explored at a later time.

The following points and questions were discussed following this presentation:

### Public comments

- Civil liberties:
  - Retention of data
  - Actual volume of personal information recorded
  - False positives and errors
  - Outside audits
- Data breaches and security of access control
- The vendor as a private corporation and its accountability to public trust
- Enforcement of out of state laws through sharing of data (i.e., abortion and other medical procedures, etc.)
- Accountability of officers to use data within policy/law
- Dangers of artificial intelligence
- Presence of more information in data than shown (lack of transparency)
- Implications of this vendor and technology applications in the future
- Value of this resource compared to additional training of police personnel

### City Council comments

- Better understanding of metrics and tracking
- Value of retaining data other than hotlist information for any period of time
- Size of camera deployment versus cost
  - Potential for pricing increases
  - Is the expense worth the benefit?
  - Is the size of the deployment necessary?
- Crime data (versus anecdotes) and the relationship to ALPR Implementation
- Guardrails through good policy and Municipal Ordinance
- Ubiquitous deployment of ALPR tech and “the bandwagon”
- Privacy and its relationship to the value of deploying ALPRs

Overall, the City Council requested comparative information, specifically the relationship of crime data to the implementation of fixed ALPR in other jurisdictions, more information about the security and accountability of these systems, and specifics on policy and city ordinance changes needed to include commitments on agency sharing, transparency of use and accountability to the community.

In February 2024, this topic was brought back up by members of the community, on the heels of a number of residential burglaries that were occurring in the Sharon Heights area of Menlo Park. The community members commented over the course of more than one City Council meeting, and in discussion during a community meeting on recent crimes. Their main concerns were about the fact that fixed ALPRs are a safety tool that is being used ubiquitously throughout San Mateo County and the Peninsula, including some nearby Santa Clara County jurisdictions, but not in Menlo Park. The commenters urged the City Council to embrace fixed ALPR technology, especially since surrounding jurisdictions are acquiring this tool.

The return of this item was discussed at the City Council Meeting March 12. There were similar comments from community members in support of fixed ALPR, and one dissenting commenter who believes that the technology represents “mass, warrantless state surveillance,” mentioned “false positives” and errors, and believes the technology is not worth the investment. City Council largely agreed that a continuation of the discussion on fixed ALPRs was needed. City Council voted 4-1 to re-agendize the discussion of fixed ALPRs at a future City Council meeting.

During the discussion before the vote, the following were highlights that City Council desired from this current re-agendized discussion:

- A revised look at costs for implementations, to include scaling options and a comparison to alternatives.
- An exploration of the relationship of crime numbers to implementation of fixed ALPRs in other jurisdictions, and an explanation of how this technology is effective in relation to public safety.
- Discussion on the retention, access, and security control of this technology.
- A review of revisions needed to MPPD policy and the City’s ordinance governing the collection and use of ALPR data.

### **Analysis**

With direction from City Council, the MPPD will be requesting the deployment of 25-35 fixed ALPR cameras. The cameras are fairly evenly distributed throughout our City jurisdiction, with particular attention to access points into and out of Menlo Park, and with consideration to the Flock networks in place or planned for our adjacent jurisdictions.

The following are several factors that are in consideration:

### Cost

The installation of 35 fixed ALPRs will require an initial expense of \$133,250 and ongoing cost of \$112,500 annually. The initial agreement composed by Flock includes the expenses for the first two years, totaling \$245,750.

As an alternative model, we could deploy 25 cameras across the jurisdiction, and utilize refreshed Closed-Circuit Video (CCTV) camera technology to provide limited (non-ALPR) capabilities across some high-travel intersections, likely through grant funding. While we will seek to deploy the grant-funded CCTV locations regardless, to give both MPPD and public works a way to review traffic behaviors and investigate crime, the placement of ALPR technology in these intersections in the above full-deployment model is our recommended position.

This alternative deployment would require an initial expense of \$100,250 and ongoing cost of \$82,500 annually. Flock fixed ALPR expenses for the first two years in this model total would be \$182,750. The grant-funded cameras would become an annual expense around 2027, at about \$20,000 to 30,000 per year.

### Sole source acquisition of Flock technology

We are seeking a sole-source procurement for Flock fixed ALPR for the simple reason that it is already in use for monitoring and investigation by MPPD personnel with regard to other agency data, and is the predominant service used throughout the Bay Area (Attachment F). This creates a robust information-sharing network between cities that greatly improves investigative capability. Menlo Park already utilizes other cities' data for our investigations. MPPD wishes to continue being a "team player" with our allied police agencies throughout the Bay Area and collaborate to address crime trends Bay Area-wide.

### Comparisons to the investment in Fixed ALPR technology

While our best staff recommendation is that there is not a parallel investment into technology that would produce the benefits of fixed ALPRs, the following are alternative expenses that can provide some perspective:

- Police officers – Fully loaded cost \$200,000-250,000 each
  - Police officers are necessary but expensive. The police department is still operating with an authorized police officer staffing of 47 sworn, which is seven full time equivalent (FTE) officer positions less than we were authorized before 2020. While expansion of this number will still ultimately be necessary providing our development plans continue to add population, this department has not asked to add sworn personnel in the past fiscal year, nor do we plan to request it in this upcoming budget.
  - Technology additions like ALPRs (with ALPRs being an outstanding example) reduce officer investigative time, and allow us to address and solve crime more efficiently.
- Photo enforcement – red light violations and speed – Cost \$60,000-\$150,000 per intersection
  - This element was previously implemented in Menlo Park (red light enforcement) and has come up several times since the program was disbanded. The possibility of automated speed enforcement is still developing and in pilot test in some CA cities.
  - The cost of this technology is often neutral or negative, dependent on citation revenue. However, three factors make this technology difficult to implement. First, the process of identifying the traffic violator is far more invasive of privacy than ALPRs. Second, the expert process of investigating violations and producing viable citations that stand up in court is highly complicated. Third, these

systems are zero-tolerance and eliminate officer discretion. They impede cities from providing ambassadors in police officers who can make positive identification of violators and educate the public on stops.

- Closed-Circuit Video – Similar “per camera” costs to fixed ALPRs with wider coverage area
  - There are tremendous advantages to Closed Circuit Television or CCTV. Cameras will record more video image information than an ALPR camera, and can cover a wider area.
  - While extensive resources are needed for “real-time” monitoring, recordings and “as-needed” monitoring can be valuable, especially if the camera has the ability to move and zoom (“TPZ” or tilt-pan-zoom). Without ALPR, there will be less data resulting in immediate intelligence, but benefits from recordings can help transportation engineering as well as investigative needs.
  - MPPD is part of an active State Grant that will allow us to identify several locations to implement CCTV supplemental to the fixed ALPR deployment. MPPD recommends against CCTV as a “substitute,” as these technologies each bring forward a different type of information.
- Other “non-surveillance” technologies to aid investigation
  - We are already implementing technologies in our existing budget, to include open source information aggregation databases, drug identification devices, which save expensive lab testing, and mobile technology for in-car information and reporting, for example. We are also receiving a portion of a countywide grant to implement software that will help officers investigate more efficiently with information aggregated from surrounding police departments. We will not be paying for this technology ourselves for a few years. With that in mind, this software relies heavily on collecting investigative data, including ALPR data to identify suspects of crime more efficiently. It is very difficult to find technology and software solutions in the policing world that do not utilize this type of information.
- “Better training of officers instead”
  - While our officers receive excellent training already and provide outstanding service, the best state of the art training for police officers today involves the use of intelligence gathering technology as the foundation of solid investigation.

#### Security and privacy of data collected

##### *“Never to be sold or shared to private entities” –*

Data collected by Flock cameras in our jurisdiction is owned by our agency and will never be sold or shared by Flock to any private entities. The information collected by flock cameras, which is more detailed than our mobile ALPRs as it includes color and make of the vehicle in addition to license plate, is available on Flock’s server for 30 days and provides much better investigative information. After 30 days, it is automatically deleted from Flock’s secure server. The data that we typically collect – license plate, date, time and location – will pass through and be retained in the standard database that we currently use through the Northern California Regional Information Center (NCRIC) for the remainder of the six-month period according to our current ordinance and policy.

Any of this data that becomes evidence in an investigation may be held and retained as evidence for longer, according to statutes of limitations for the related crime and court cases.

##### *Privacy and security –*

This descriptive information about the vehicles is the only data that is collected.

- This is not facial recognition or predictive policing software.
- No Personal Identifying Information (known as PII) is collected or contained in the Flock Database
- The system is not connected to Department of Motor Vehicles (DMV) registration information or



insurance databases like Carfax.

Flock does sell their products to private parties, who collect their own data. This is generally for security purposes related to those private entities, but often they do allow for privately collected data to be shared to local law enforcement and added to the law enforcement database. To be clear – this is a one-way proposition. The police department will accept verified data from private security sources, but will absolutely not share our collected information with any private entities.

Our access controls for investigation add to the security of the data. Every notification coming from the system is related to a legitimate entry by a law enforcement agency, and every inquiry to the system requires (by policy) a certification by the inquiring officer, which is tracked and completely auditable.

#### *Encrypted to exceptional standards –*

All data taken into the system through Flock technology is end-to-end encrypted, as is any data requested and accessed by personnel inquiring to the system for investigative purposes, and any alerts that may come through the system to our personnel.

- The system uses 256 Bit encryption, which is exceptionally secure. Even while “at rest” while being secured in the server, this data is fully encrypted.
- While this makes any data collected by the system incredibly secure and safe, the City and the MPPD have distinct policy and law with regard to any potential breaches, in compliance with federal, state and local standards. This is addressed in both US Government Code and CA Civil Code as well as MPPD Policy.
- It is important to keep in mind that in the case of Flock ALPR data owned by MPPD, the only data items involved would be license plate, date, time, location, and vehicle make and color. While secured at top industry standards, this is far less intimate data than this already secured and held in other existing databases across the City organization.

#### Equitable deployment, objective data

The logistical placement of the ALPR camera system were made in a collaborative effort between Flock Staff and MPPD in-house experts on vehicular escape routes, city boundaries, other already deployed ALPRs, and traffic patterns, an extensive understanding of the hardware and technology capabilities, and city infrastructure. The cameras are deployed to cover major traffic arterials, high frequency travel areas, and routes into and out of Menlo Park relative to crime and traffic patterns.

Because this data that is being collected is so objective, and because it is being collected constantly by machines that do not discriminate and collect every plate they can read, this system is incredibly neutral and unbiased. We plan to deploy these cameras equitably across our jurisdiction, so that we are collecting data from all parts of our City, which only adds to that fairness and objectivity.

#### Transparency portal and availability of public information

As part of our agreement with Flock, the company will help MPPD set up and maintain a Transparency Portal webpage, similar to those established by many police agencies. The Transparency Portal will include a description of the technology as well as data showing vehicles detected, hotlist hits, and investigative searches by officers over the most recent 30 days. This data will also be available as part of our quarterly reporting to City Council. Examples of other cities’ Transparency Portals are hyperlinked (Attachment E).

#### Law and policy changes

As acquisition of new ALPR technology with differing practices and characteristics, the implementation of Flock ALPR in Menlo Park would require modification of existing law (Municipal Code) and Policy (Menlo Park Police Policy 462). The following is a summary of the proposed changes to existing Ordinance and

Policy to adjust to new operating conditions as well as to address public and City concerns regarding fixed ALPR.

Please note that this is a first look, and only proposed changes. While we have a great appreciation of them in speculation of adding technology, we will not implement any changes until directed to implement the technology and complete these changes, and the finalization of any changes will require additional work with the City Attorney before bringing a revised Ordinance forward for City Council approval.

*Menlo Park Municipal Code Chapter 2.56 et seq.*

- Addition of the term “Flock Database” to supplement referral already made to the Northern CA Regional Intelligence Center (NCRIC) in sections referring to the transfer of data, retention and access to information.
- Referral of access to agencies engaged for “sharing” through the Flock Database – this will require written acknowledgement from both agencies and an agreement that the data is used “for legitimate law enforcement purposes and by authorized/trained personnel and only in compliance with all policies, procedures and reporting requirements of MPPD and its written agreement with Flock Safety.”
- We propose adding a section under “Prohibited Use” (2.56.040) committing that Menlo Park does not permit the sharing of ALPR data gathered by the City, vendors or subcontractors, as defined below, for
  1. Any purpose that violates this policy or any applicable laws and regulations
  2. The 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 Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP)
  3. Any purpose that would assist another state to carry out enforcement actions that violate California laws
- We will fold our current commitment of Quarterly Reporting into the ordinance, and add the reporting of Flock Data to our Quarterly Report

*Menlo Park Police Department Policy 462 – ALPRs*

- The “Purpose and Scope” section (462.1) of the policy will be updated to reflect priorities of, among others:
  - Minimizing threat and risk of injury to individuals
  - Promoting governmental legitimacy and accountability
  - Minimizing potential risks to individual privacy, civil rights and civil liberties
  - Protecting the integrity of the criminal investigatory, criminal intelligence, and justice system processes and information
  - Increasing trust by maximizing transparency
- There is a “Policy” section (462.2) that lays out the general mission in regard to ALPR. In this section, we will add language consistent with the Municipal Code changes in regard to compliance with certain specific laws, and our commitment not to assist through information sharing in actions that go against California law:
  1. Any purpose that violates this policy or any applicable laws and regulations
  2. The 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 Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP)
  3. Any purpose that would assist another state to carry out enforcement actions that violate California laws
- The “Operations” section (462.4) of the policy will be amended substantially, since the previous iteration

of MPPD ALPR technology was far less interactive:

- Emphasizing requirements of acknowledgement of the policy and required training
- Access control instructions (use of individual accounts, and log in / out) receives more detail and requirements
- Explicit requirements to verify any system “alerts” absent exigent circumstances involving immediate safety needs – “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 or unless exigent circumstances exist.”
- A highly expanded and very detailed section instructing officers on requirements involving “hot lists” - both identifying requirements for constant refreshing of the lists to minimize “false positives,” and laying out strict guidelines for any agency entries to the “hot list.” This includes highly accountable documentation for entries, and distinct documentation for “hot list” stops.
- A distinct “Permitted/Prohibited Uses” section (462.4.1) will be added, specifically calling out certain prohibitions:
  - Invasion of privacy (limiting use only to vehicle license plates viewable from a public area)
  - Harassment or intimidation
  - Any use solely based on a protected characteristic
  - Any personal (non-police business) use
  - Infringement upon First Amendment rights
  - This section of the policy specifically reminds members that transgression of such prohibitions opens them up to potential criminal and civil liability, as well as discipline by this department.
- The “Data Collection and Retention” section (462.5) will match the Policy up with the to-be-revised Municipal Code.
  - It would also include a section committing that “Information gathered or collected, and records retained by Contracted Entities (i.e., Flock, for use of their database) will not be sold, accessed, or used for any reason other than legitimate law enforcement or public safety purposes. In accordance with this policy, data collected by ALPR cameras will not be accessed by Contracted Entities without prior authorization by the Chief of Police or his/her designee.”
  - Additionally, this section of the policy demands that purged data is completely “sanitized” and not retrievable.
- The “Accountability and Safeguards” section (462.6) contains detailed requirements for use of the data and access and will modify documentation and audit requirements to fit the new practices related to the Flock Database.
  - This section will notify members that there is a distinct section of the policy in compliance with federal, state and local requirements that details security of data, requests and maintenance of this information (MPPD Policy 808 – Records Maintenance and Release).
- The “Releasing ALPR Data” section (462.7) will lay out legal requirements for data requests per law, and the “Training” section (462.8) specifically requires that officers receive training before use of these systems. These are relatively unchanged.
- The “Auditing and Reporting” section (462.9) will be modified to distinctly describe our Quarterly Reporting requirement for ALPR-related information, and the establishment of a Transparency Portal accessible through the MPPD website.
- Sections will be added – “Contracted Entities” (462.10) to describe our relationship and expectations with Flock Safety, and “ALPR Locations” (462.11) to reinforce our mission to deploy fixed ALPRs equitably across our jurisdiction.



### Effectiveness of ALPR technology

Anecdotal examples of the success of ALPRs for catching criminal actors entering cities, solving investigations, and tying suspects to other crimes is abundant. Simple outreach to California agencies yielded hundreds of recent examples of criminal actors taken off the street, crimes solved, and public welfare issues handled safely. MPPD and surrounding agencies have dozens of these examples, hyper-local and recent, to be included in these anecdotes.

Specifically, the City Council has asked for more explicit examples of crime data impact from agencies that have experienced a numerical drop in crime. While anecdotes are difficult to quantify because they involve broadly disparate crime and incident-types and do not fit into a distinct category like “property crimes” or “crimes against persons,” we inquired for similarly situated agencies to look for data that could be shown post-implementation to compare to pre-implementation. Two nearby and similarly situated cities with such data are Foster City and South San Francisco.

Foster City is of similar population and agency size, sits at the end of a bridge across the bay, has proximity to major freeways and large retail centers, a mix of residential and commercial properties and is an excellent comparison to Menlo Park. Foster City implemented ALPR technology in 2021. Following implementation, Foster City saw property crime drop over 28% in the first year, and another percentage point in year 2. They also saw a 13% drop in overall crime in the first year post-implementation, and a 12% further drop in overall crime in year 2.

South San Francisco implemented ALPRs in 2022 and reported a 12% reduction in vehicle burglaries, a 12% reduction in stolen vehicles, a 43% reduction in commercial burglaries, and a 62% reduction in catalytic converter thefts.

By comparison, property crime in Menlo Park went down 7% from 2021-2022, but was relatively steady from 2022 to 2023. Overall crime has seen a slight increase from 2022 to 2023 (7%).

### **Impact on City Resources**

The impact to budget will be \$133,250 in the first year, with an ongoing budgeted expense of \$112,500. For a reference point, this annual cost is approximately equal to half the fiscal impact of one sworn employee of the MPPD.

Table 1: Flock project costs	
Item	Cost
Flock Falcon ALPR cameras (35 at about \$3000 ea.)	\$105,000
Flock advanced search operating system	(Annual) \$7,500
<b>Total ongoing – cameras, software and secure data storage</b>	<b>\$112,500</b>
Professional services implementation fees (first year only)	\$20,750
<b>Total first year</b>	<b>\$133,250</b>
<b>Total second year</b>	<b>\$112,500</b>
<b>2 year total</b>	<b>\$245,750</b>

Costs are accurate, but approximate, based on the proposed agreement with Flock.

### Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§15378.

### Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

### Attachments

- A. Hyperlink – California Civil Code 1798.90.5 *et seq.*:  
[leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=CIV&division=3.&title=1.81.23.&part=4.&chapter=&article](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=1.81.23.&part=4.&chapter=&article)
- B. Hyperlink – Sept. 26, 2023 Staff Report #23-215-CC:  
[menlopark.gov/files/sharedassets/public/v/3/agendas-and-minutes/city-council/2023-meetings/agendas/20230926-city-council-special-and-regular-agenda-packet-w-pres.pdf#page=45](https://menlopark.gov/files/sharedassets/public/v/3/agendas-and-minutes/city-council/2023-meetings/agendas/20230926-city-council-special-and-regular-agenda-packet-w-pres.pdf#page=45)
- C. Hyperlink – Menlo Park Municipal Code Chapter 2.56:  
[codepublishing.com/CA/MenloPark/#!/MenloPark02/MenloPark0256.html#2.56](https://codepublishing.com/CA/MenloPark/#!/MenloPark02/MenloPark0256.html#2.56)
- D. Hyperlink – MPPD Policy Manual – ALPR (Policy 462, page 439):  
[menlopark.gov/Government/Departments/Police/Transparency/Department-policies/Department-policy-manual](https://menlopark.gov/Government/Departments/Police/Transparency/Department-policies/Department-policy-manual)
- E. Hyperlinks – Examples of Flock Transparency Portal:
  - 1. San Mateo PD: <https://transparency.flocksafety.com/san-mateo-ca-pd>
  - 2. Piedmont PD: <https://transparency.flocksafety.com/piedmont-ca-pd>
  - 3. San Jose PD: <https://transparency.flocksafety.com/san-jose-ca-pd>

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