

Automated License Plate Readers (ALPRs)

462.1 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. This policy is intended to assist the Menlo Park Police Department with:

- increasing public safety; minimizing the threat and risk of injury to individuals; promoting governmental legitimacy and accountability; minimizing the 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; and increasing trust by maximizing transparency.

462.2 POLICY

The policy of the Menlo Park 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 Menlo Park Police Department does not permit the sharing of ALPR data gathered by the City, vendors or subcontractors, as defined below, for:

- (a) any purpose that violates this policy or any applicable laws and regulations;
- (b) 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);
- (c) any purpose that would assist another state to carry out enforcement actions that violate state or local laws.

For purposes of this policy, city contractors, vendors and subcontractors ("Contracted Entities") refers to any individual or entity that has a contract with the City related to ALPR technology. Prior to the Menlo Park Police Department sharing or giving access to ALPR data and technology to Contracted Entities, the City is required to enter into a written contract. Other law enforcement and governmental agencies are not considered Contracted Entities. The Menlo Park Police Department will only share and give access to ALPR data and technology to Contracted Entities, law enforcement and governmental agencies, subject to the terms of this policy.

462.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates while recognizing the established privacy rights of the public. It is used by the Menlo Park 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,

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homeland security, electronic surveillance, suspect interdiction and stolen property recovery. Such data is not open to public view, as it may contain confidential information.

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

462.3.1 ALPR ADMINISTRATOR

The Special Operations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Menlo Park's Municipal Code § 2.56 - Public Safety Information and 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 in compliance with Menlo Park's Municipal Code § 2.56.
- (d) Ensuring that accountability and transparency objectives are completed through the reporting of quarterly data to the public as assigned and maintaining the department's Transparency Portal to reflect ongoing ALPR system use.
- (e) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52 and in compliance with Menlo Park's Municipal Code § 2.56.
- (f) The title and name of the current designee in overseeing the ALPR operation.
- (g) Working with the Custodian of Records on the retention and destruction of ALPR data and in compliance with Menlo Park's Municipal Code § 2.56.030.
- (h) Ensuring this policy and related procedures are conspicuously posted on the department's website.

462.4 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; Municipal Code § 2.56).

- (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

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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 unless the purpose of such actions is allowed under this policy and only after completing department-approved training.
- (e) Log in/ log out procedure. To ensure proper operation, facilitation, oversight and auditing of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data.
- (f) Unless exigent circumstances exist, 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 ALPR system matches the license plate of the observed vehicle. 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.
- (g) Hot Lists- designation of hot lists, which are lists of vehicles determined to be criminally involved or associated with a missing person, to be utilized by the ALPR system shall be made by the ALPR Administrator or her/his designee. Occasionally, there may be errors in the LPR's 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, Menlo Park Police Department members shall undertake the following steps:
 - 1. Verification of status on a Hot List. An officer must receive confirmation from a 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 with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issuance, and vehicle descriptors, before proceeding. Officers alerted to the fact that an observed motor vehicle's license plate is entered as a "Hot plate" or "hit" (a "hit" means the ALPR system has been alerted to the involved license plate) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a reasonable basis exists before a Department member would have a lawful reason 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 the Communications Dispatcher.
 - 4. General 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.

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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. Department issued Hot Lists shall be approved by the ALPR Administrator (or her/his 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 or missing persons.

All Hot Plates and suspect information entered into the ALPR system will contain the following information at a minimum: Department member's name, related case number and a short synopsis describing the nature of the originating call for service. The member may add any additional information they deem to be relevant.

462.4.1 PERMITTED/PROHIBITED USES

The ALPR system, and all data collected, is the property of the Menlo Park Police Department. Department personnel shall only access and use the ALPR system for official and legitimate law enforcement or public safety purposes consistent with this policy. Any official legitimate law enforcement or public safety purposes referenced in this policy shall be limited to purposes that comply with this policy and any applicable laws, including California Civil Code 1798.90.5 et seq (as amended). The following uses of the ALPR system are specifically prohibited:

- (a) **Invasion of Privacy:** Except when done pursuant to a court order, such as a search warrant, it is prohibited to utilize the ALPR system 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 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 prohibited to use the ALPR system to harass and/or intimidate any individual or group.
- (c) **Use based on a protected characteristic:** It is prohibited to use the ALPR system or associated files or Hot Lists solely based on a person's or group's race, gender, gender identity, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, age, or other classification protected by law.
- (d) **Personal Use:** It is prohibited to use the ALPR system or associated files or Hot Lists for any personal purpose.
- (e) **First Amendment Rights:** It is prohibited to use the ALPR system or associated files or Hot Lists for the purpose or known effect of infringing upon First Amendment rights. Nothing in this policy is intended to create an independent right of action in any person.

Any member who engages in prohibited uses of the ALPR system, regarding the collection, receipt, access, use, dissemination, retention, or associated files or Hot Lists, may be subjected to: criminal prosecution; civil liability; and/or administrative sanctions and disciplinary action.

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462.5 DATA COLLECTION AND RETENTION

The Special 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. Data will be securely transmitted to the Flock Database, and/or to Northern California Regional Intelligence Center (NCRIC) as part of a multi-jurisdictional public safety program (Municipal Code § 2.56.030.)

Data transmitted from the police department shall be kept no more than thirty (30) days, and then destroyed (Municipal Code § 2.56.030.) 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.

Information gathered or collected and records retained by Contracted Entities, 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 and/or her/his designee.

Any purging of data required under this policy must ensure that the data is completely purged and sanitized so that the data is not accessible or retrievable in any form including but not limited to being forensically recoverable.

462.6 ACCOUNTABILITY AND SAFEGUARDS

All data will be closely safeguarded and protected by both procedural and technological means. The Menlo Park 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; Municipal Code § 2.56.030):

- (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) Every ALPR browsing inquiry must be documented by either the associated Menlo Park Police Department case number or incident number, and the reason for the inquiry.
- (d) ALPR system audits should be conducted on a regular basis by the Special Operations Commander and violations of this policy shall be documented and steps should be taken to prevent such violations in the future.
- (e) ALPR system audits shall be reflected in departmental quarterly reporting to the public.
- (f) Annual ALPR audits will be conducted by an outside law enforcement agency as an added measure of transparency and to ensure policy compliance by members of the

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Menlo Park Police Department. If a violation of this policy is identified, it shall be documented and steps should be taken to prevent such violations in the future.

For security or data breaches, Menlo Park Police Department maintains a detailed policy for security and preservation of records. See the Records Release and Maintenance Policy.

462.7 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 (Municipal Code § 2.56.030):

- (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 Special Operations Commander 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).

462.8 TRAINING

The Training Manager 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).

462.9 AUDITING AND REPORTING

The police department will provide an informational Quarterly Report to the City Council summarizing ALPR activity by the department over the previous three months (Municipal Code § 2.56.050).

Menlo Park Police Department will establish and maintain a Transparency Portal for data collected through the Flock system, and provide access to the Transparency Portal through the department website.

ALPR system audits will be randomly conducted by the California Department of Justice and in conjunction with yearly CLETS audits.

462.10 CONTRACTED ENTITIES

All Contracted Entities are expected to comply with the relevant sections of this policy. Contracted Entities are also required to keep written documentation of who accesses the ALPR data and who the data is released to. Contracted Entities are prohibited from:

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1. Sharing the ALPR data received from the City with any individual, entity or agency without express written permission from the Menlo Park Police Department.
2. Accessing, downloading, or decrypting the ALPR data received from the City without express written permission from the Menlo Park Police Department.
3. Storing the data in any form or length of time that violates this policy.
4. Allowing their employees, other than those with authorized authority, to access the ALPR data.
5. Using the data in a manner that is not consistent with this policy or approved by the Menlo Park Police Department.

462.11 ALPR LOCATIONS

ALPR cameras approved by Council shall be located in areas of the City where there is a demonstrated need for the cameras to be placed. Placement of the cameras shall not be solely based on targeting any particular residential neighborhood or street, and it shall never be based on any protected characteristics or classifications.