



Northern
California

Santa Clara Valley
Chapter

March 15, 2022

Councilmember Raul Peralez, Chair
Councilmember Sergio Jimenez, Vice Chair
Councilmember Matt Mahan
Councilmember Chappie Jones
Councilmember Sylvia Arenas

200 E. Santa Clara Street,
San José CA 95113

Re: Agenda item (d)4 of Public Safety, Finance and Strategic Support Committee (PSFSS) meeting on March 17, 2022

Dear Members of the PSFSS Committee,

We are an organization in San José that is dedicated to protecting civil rights and civil liberties, including the right to be free from intrusive, discriminatory, and dangerous government surveillance. We write to raise concerns over the City's proposed deployment of Automated License Plate Readers ("ALPR") and to provide public comments on agenda item (d)4 of the PSFSS Committee meeting on March 17, 2022. We express strong opposition to the proposed deployment of ALPR systems in San José. ALPR systems will make our community less, not more, safe because they violate privacy, facilitate dangerous police stops, and risk exposing our immigrant community members to harm.

ALPR surveillance cameras automatically record the images of license plates, the vehicle's precise location, and at times even the photographs of the individuals inside of vehicles. ALPR cameras are often placed throughout a community, including on light poles, overpasses, and patrol cars. Government agencies can – and have – used the location information collected by ALPR to deport immigrants and track people exercising their First Amendment rights.

ALPR cameras record and store time and location specific images of thousands of drivers per day, regardless of whether those drivers have violated any law. For drivers who regularly drive past ALPR surveilled areas, the cameras can capture multiple snapshots of their location and vehicles a day. With this sensitive location information, government agents can closely map and track a person's movements, habits, and associations over time, including where they live, work, worship, shop, receive medical care, or where their child attends school. ALPR cameras are often placed in working class neighborhoods and communities of color, disproportionately impacting their lives.

All people should feel safe to worship, to attend a protest, and go about their personal lives safely without unwarranted surveillance. But in communities with ALPR, there is often no way for a driver to avoid having their location captured by such a system, short of choosing not to drive. Police have also used ALPR to target religious minorities and others exercising First Amendment rights. In 2015, the New York Police Department (“NYPD”) recorded and collected pictures of Muslim worshippers’ license plate numbers as they arrived at Mosques to pray and exercise their First Amendment rights.¹

Local law enforcement agencies frequently share ALPR location information with federal immigration agencies and exposes the lives and futures of immigrants to needless harm. Public records show that Immigration and Customs Enforcement (“ICE”) and Customs and Border Patrol (“CBP”) exploit ALPR-collected location information to target, locate, detain, and deport immigrants as they drive to work, run errands, or drop their children off at school. At least one California law enforcement agency has been sued for sharing the locations of drivers with out-of-state and federal agencies, a practice which is illegal under California law.² Any community considering an ALPR system must take seriously the possibility that the sensitive location of drivers will end up in the hands of a rogue government agency such as ICE.

ALPR systems facilitate police stops of drivers and police violence against motorists. In San Francisco, blind reliance by police on a flagged ALPR scan led to the wrongful detention of a Black woman at gunpoint, triggering a multi-year civil rights lawsuit.³ More recently, police in Walnut Creek detained the director of a non-profit at gunpoint after another unnoticed license plate reader system error.⁴ And in Colorado, police officers forced four Black children to lie face down on the hot pavement after misidentifying their car as a “stolen” vehicle based on an incorrect reading of an ALPR system.⁵ Whether due to computer or police error, the use of ALPR systems to stop drivers poses a threat to the health and safety of all motorists.

Finally, ALPR systems have not been meaningfully demonstrated to prevent crime or meaningfully improve public safety. To the contrary, studies indicate that ALPRs do not have a deterrent effect on crime, with a recent analysis of ALPR cameras in Alameda County finding that auto thefts actually increased following installation of a system in 2020, ending a period of steady decline.⁶ And while ALPR vendors and police agencies often tout the effectiveness of

¹ Adam Goldman & Matt Apuzzo, *With cameras, informants, NYPD eyed mosques*, ASSOCIATED PRESS (Feb. 23, 2021) <https://www.ap.org/ap-in-the-news/2012/with-cameras-informants-nypd-eyed-mosques>.

² Case page, *Lagleva v. Doyle*, ACLU of Northern California website, <https://www.aclunc.org/our-work/legaldocket/lagleva-v-doyle-license-plate-surveillance>.

³ Kade Crockford, *San Francisco Woman Pulled Out of Car at Gunpoint Because of License Plate Reader Error*, ACLU, May 13, 2014, <https://www.aclu.org/blog/privacy-technology/location-tracking/san-francisco-woman-pulled-out-car-gunpoint-because>; Matt Cagle, *San Francisco – Paying the Price of Surveillance Without Safeguards*, ACLU of Northern California, May 22, 2014, <https://www.aclunc.org/blog/san-francisco-paying-price-surveillance-without-safeguards>.

⁴ Zach Norris, *Opinion: At gunpoint, police handcuffed me after license-plate reader error*, The Mercury News, June 23, 2021, <https://www.mercurynews.com/2021/06/23/opinion-at-gunpoint-police-handcuffed-me-because-of-alicense-reader-error/>.

⁵ Matt Novak, *Cops terrorize Black family but blame license plate reader for misidentifying ‘stolen’ vehicle*, GIZMODO (Aug. 4, 2020) <https://gizmodo.com/cops-terrorize-black-family-but-blame-license-plate-rea-1844602731>.

⁶ Cynthia Lum, Julie Hibdon, Breanne Cave, Christopher S. Koper, & Linda Merola, *License plate reader (LPR) police patrols in crime hot spots: an experimental evaluation in two adjacent jurisdictions*, JOURNAL OF EXPERIMENTAL CRIMINOLOGY, <https://link.springer.com/article/10.1007/s11292-011-9133-9> (2011); Lauren Do (@laurendo), Twitter (Dec. 21, 2021, 2:05 PM), <https://twitter.com/laurendo/status/1473414317605150722?s=11>.

ALPR in reducing crime, public safety experts point out that any reduction in crime cannot be attributed to ALPR themselves.⁷

For all the reasons and concerns stated above, we strongly oppose the proposed deployment of new ALPR systems in San José. Recognizing that the City Council already approved the ALPR project at the Monterey-Curtner intersection on September 21, 2021 and approved the allocation of \$250,000 for another ALPR project on November 30, 2021, we strongly urge the PSFSS and City Council to mitigate the impact on civil liberties and privacy by adopting strong, comprehensive, and thorough Data Use Policies (“DUP”). In addition to addressing the aforementioned concerns, the DUP should also (1) limit the number and types of non-City partners who are authorized to access the ALPR data, with special attention to agencies like ICE or their intermediaries; (2) ensure that all provisions of SB 34 (2015), “Automated license plate recognition systems: use of data,” are faithfully implemented; and, (3) the City should use appropriate legal instruments to ensure that the vendors of ALPR hardware, software systems, and storage are held to the same or greater standards with respect to data access, data usage, data sharing, and privacy concerns.

Moving forward, we urge the City to engage community members in a discussion about non-surveillance alternatives to ALPR that have been demonstrated to actually improve the health and safety of communities like our own. The Digital Privacy Advisory Task Force was consulted only after the Monterey-Curtner APLR project was approved by City Council. Similarly, city staff was asked to work out privacy concerns after approval. This process operates under the assumption that surveillance technologies will always outweigh the cost to civil liberties and that privacy can be protected and harms mitigated. This is simply not true. As outlined, these technologies pose significant risks and deserve the time and attention of thorough consideration and community involvement. Pursuant to the backlogged list of 2021 priority setting, we encourage the relevant Committee and City Council to pursue adoption of a Surveillance Technology Ordinance to codify best practices for meaningful community engagement and to ensure transparency, accountability, and oversight for all proposals to acquire or use surveillance technology.

Thank you very much for your kind attention.

Sincerely,

Victor Sin
Santa Clara Valley Chapter of ACLU of Northern California

⁷ Louise Matsakis, *Flock Safety Says Its License Plate Readers Reduce Crime. It's Not That Simple*, WIRED (Oct. 24, 2019), <https://www.wired.com/story/flock-safety-license-plate-readers-crime/>.