



Memorandum

TO: ALL SWORN PERSONNEL

FROM: Edgardo Garcia
Chief of Police

**SUBJECT: DUTY MANUAL ADDITION:
L 4207 – USE OF AUTOMATED
LICENSE PLATE READER
(ALPR) TECHNOLOGY**

DATE: November 4th, 2016

Memo # 2016-044

BACKGROUND

On, January 1st, 2016, Senate Bill 34 went into effect. SB 34 created California Civil Code (CCC) section 1798.90.51. CCC 1798.90.51 and related sections require law enforcement agencies that operate Automated License Plate Reader (ALPR) technology to maintain reasonable security procedures and practices to protect information gathered through the use of ALPR technology from unauthorized access, destruction, use, modification, or disclosure. CCC section 1798.90.51 also requires agencies to implement a usage and privacy policy to 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.

An ALPR is defined as any device that uses optical character recognition on images to read vehicle license plates to enable the rapid identification and location of vehicles of legitimate interest to law enforcement. ALPR units may be attached to police vehicles or deployed at fixed locations, where they collect license plate information from vehicles on public roadways and public property. The collected information is then stored for a fixed retention period and may only be accessed by law enforcement personnel for legitimate law enforcement purposes.

ANALYSIS

Additions to the San Jose Police Duty Manual are reflected below in italics and underlined.

L 4207 **USE OF AUTOMATED LICENSE PLATE READER (ALPR)**
TECHNOLOGY:
Added 11-04-16

San Jose Police Department ALPR Usage and Privacy Policy

PURPOSE:

The purpose of this privacy policy is to ensure that all capture, use, retention, and dissemination of information obtained through the San Jose Police Department's use of Automated License Plate Recognition (ALPR) technology complies with all applicable federal, state, and local laws.

ALPR technology is a valuable tool for law enforcement and when used appropriately serves to enhance public safety. As with any law enforcement capability, the technology must be used in a manner that is consistent with the United States Constitution, including the Fourth Amendment, and other applicable statutory authorities.

AUTHORIZED USES:

ALPR technology shall not be used for any purpose other than legitimate law enforcement or public safety purposes. Department members with a need and right to know the information provided by an ALPR may utilize ALPR technology to:

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

Department members 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 for a contact. To the fullest extent possible, Department members shall visually confirm that the plate characters generated by the ALPR technology correspond with the digital image of the license in question.

RESTRICTED USES:

Automated License Plate Reader technology may only be used to collect data that is within public view. ALPR technology may not be used for the

sole purpose of monitoring individual activities protected by the First Amendment to the United States Constitution.

TRAINING:

Only Department personnel trained in the use of ALPR technology, including its privacy and civil liberties protections, shall be allowed access to ALPR data. Training shall consist of:

1. Legal authorities, developments, and issues involving the use of ALPR data and technology;
2. Current Department policy regarding appropriate use of ALPR technology;
3. The evolution of ALPR technology including any new capabilities and associated risks ;
4. Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use;
5. Practical exercises in the use of ALPR technology.

RETENTION OF DATA:

ALPR data shall be retained for 12 months, or the length of time required by the Department for official purposes – whichever is shorter. Once the retention period has expired, the record shall be purged entirely from all active and backup systems unless a reasonable suspicion has been established that the vehicle identified by the ALPR is connected to criminal activity.

If during the specified retention period there is information which supports a legitimate law enforcement purpose as to a license plate or partial license plate which was recorded and is retained in the system, then limited access will be permitted for predicate-based querying for potential matches against parameters specific to the legitimate law enforcement purpose. Such instances shall be recorded in an access log showing the date, time, name and badge of person seeking access, and case number.

STORAGE AND SECURITY:

Data collected by ALPR technology shall be stored in a secured police facility. Physical access shall be limited to law enforcement staff with a legitimate need and right to access the information. The Department will utilize reasonable physical, technological, administrative procedural and personnel security measures to prevent unauthorized access to ALPR data. Sworn personnel or authorized civilian personnel (such as a crime

analyst) shall have general user access to the SJPD ALPR database, as appropriate, to query information.

Sworn personnel or authorized civilian personnel of the Bureau of Field Operations – Administrative Unit shall have administrative user access to the SJPD ALPR database, as appropriate, to control:

1. The information to which a particular group or class of users can have access based on the group or class;
2. The information a class of users can access, and/or data being utilized in specific investigations;
3. Sharing capabilities with other law enforcement agencies;
4. Any administrative or functional access required to maintain, control, administer, audit, or otherwise manage the data or equipment.

The Systems Development Unit may provide ALPR technical support for the BFO Administrative Unit. The BFO Administrative Unit shall ensure compliance with this policy. The custodian of ALPR data for purposes of this policy shall be the Deputy Chief of BFO or his/her designee.

ACCOUNTABILITY:

All Department members authorized to use or access ALPR technology or data shall be accountable for knowledge of this policy. Department members shall report errors and suspected or confirmed violations of Department policies relating to protected information to their supervisor or manager.

All access to the system shall be logged, and the Department will maintain an audit trail of requested and accessed information, including the purpose of the query. Periodic, random audits shall be conducted by a unit other than BFO Admin at the direction of the BFO Deputy Chief to ensure and evaluate compliance with system requirements and with the provisions of this policy and applicable law. Audit trails shall be maintained by the Department for a minimum of two (2) years.

If a Department member accesses or provides access to ALPR information, the Department member shall do the following:

1. Maintain a record of the access that includes the following information

- a. Date/Time the Information was accessed
 - b. The license plate number or other data elements used to query the ALPR system
 - c. The name and department of the person who accessed the information
 - d. The purpose for accessing the information
2. ALPR information may only be used for authorized purposes as specified in this policy in accordance with California civil Code Section 1798.90.51(b).

SHARING AND DISCLOSURE:

The San Jose Police Department does not share ALPR data with any contracted, commercial, or private entity. The provision of data hosting or towing services shall not be considered the sale, sharing, or transferring of ALPR information (see CA Civil Code 1798.90.55.(b)).

Information gathered or collected and records retained by the Department will not be:

1. Sold, published, exchanged, or disclosed for commercial purposes;
2. Disclosed or published without authorization;
3. Disseminated to persons not authorized to access or use the information.

The Department shall not confirm the existence or nonexistence of information to any person or agency that would not be eligible to receive the information unless otherwise required by law.

The Department may share ALPR data with other law enforcement agencies upon the execution of an inter-agency agreement by which each agency agrees that all ALPR data will be gathered, accessed, utilized, and disclosed in accordance with applicable law, and further agrees:

1. ALPR data shall be available only to authorized users for legitimate law enforcement purposes;
2. Reasonable efforts will be made to ensure the accuracy of its data;
3. Shared “hotlist” data will not be stored for more than 24 hours without refresh;

4. Internal audits will be conducted periodically to ensure information is up to date and user queries are made for legitimate law enforcement purposes only;
5. Audit trails documenting who accessed the information and why shall be maintained by each agency as defined by their policy.

ORDER

In accordance with California Civil Code Section 1798.90.55, the above ALPR policy will not take effect until the Department has provided an opportunity for public comment at a regularly scheduled public meeting (at the direction of the City Council). This memorandum supersedes Department memorandum 2016-043.



EDGARDO GARCIA
Chief of Police

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