AGENDA REPORT

TO:	Edward D. Reiskin City Administrator	**FROM:**	LeRonne L. Armstrong Chief of Police
SUBJECT:	OPD Automated License Plate Reader Privacy Policy and Options	**DATE:**	April 1, 2021

City Administrator Approval _(signature)_   Date: Apr 29, 2021

RECOMMENDATION

Staff Recommends That City Council Adopt A Resolution Approving The Oakland Police Department (OPD) Automated License Plate Reader (ALPR) Surveillance Use Policy (SUP) And Surveillance Impact Report (SIR).

Based On The Input from the Oakland Privacy Advisory Commission, Staff Has Also Prepared The Following Alternate Resolution:

Adopt A Resolution That Within 30 Days Of The Date Below, The Chief Of Police Shall Certify In Writing To The City Council And The Privacy Advisory Commission (PAC) That ALPR Use Has Been Terminated.

EXECUTIVE SUMMARY

OPD uses Automated license plate reader (ALPR) technology in two main ways: 1) for immediate notifications of a vehicle license plate on a list (generally the California Department of Justice (CA DOJ) stolen vehicle list); or 2) or to aid in investigations where a vehicle is connected to a crime. Appendix A to the ALPR Impact Report (**Attachment A,** showcases over 100 cases where the vehicle ALPR System alerted officers to vehicles on a CA DOJ hot list during the 2020 year). Appendix B to the Impact Report documents many cases where OPD was able to search for specific license plates associated with violent crimes such as homicide, assault and robbery. In this use, ALPR supports data-driven policing, allowing OPD to focus on specific vehicles connected to violent crime and minimize overall stops that impacts Oakland communities.

Oakland Municipal Code (OMC) 9.64 (the Surveillance Technology Ordinance) requires that all surveillance technologies already utilized by city departments be presented to the PAC for review and then City Council for adoption[1]. OPD originally brought a Use Policy before the PAC in 2017, but with the adoption of 9.64 was required to bring a new Use Policy forward and began working on a revised policy in 2018. However, other PAC priorities and the disruption caused by the COVID19 Pandemic slowed those efforts until early 2021.

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[1] OMC 9.64 also requires that new surveillance technologies be presented to the PAC with a draft Use Policy and Impact Report, and then adopted by the City Council, before OPD may purchase and utilize the new technology.

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At the March 2021 PAC Meeting, discussions with the PAC broke down because OPD did not produce data requested by the PAC in a timely manner indicating that OPD was out of compliance with the existing policy. Specifically, the PAC requested annual reports from prior years that had not been forwarded to the Public Safety Committee as required in the old (pre-surveillance technology ordinance) policy. OPD also had not provided thorough data supporting the efficacy of the technology nor conducted system audits. OPD was focused in the preceding period on developing a new Use Policy given updated rules with OMC 9.64 as well as with other Use Policies. Instead of continuing the item to gather more information, the PAC voted unanimously to recommend that the City Council prohibit OPD from using ALPR for two years.

OPD did prepare 2019 and 2020 annual reports (requiring many hours of manual processes to compile the data) (provided here as **Attachments C and D**). OPD was not able to provide these reports to the February 4, 2021 PAC and was still finalizing the reports in early March.

The resolution attached to this report provides two options for the City Council: 1) to adopt OPD's ALPR Use Policy and Impact Report; or 2) to adopt the PAC's motion that OPD's use of ALPR immediately terminate, that the Chief of Police shall certify in writing to the City Council and the PAC that such use has terminated within thirty (30) days. Staff recommends the first option to adopt the ALPR Use Policy. However, the Council also has a third option - to send the proposed policy back to the PAC for further consideration. If the Council chooses to adopt the Use Policy or send it back to the PAC for further review, there are two issues to address: 1) establishing and demonstrating that internal controls are in place to ensure OPD abides by the policy once adopted (OMC 9.64 does require annual reports to be presented to the PAC and City Council); and 2) addressing the technical challenges OPD faces due to an antiquated computer software system coupled with a need to update the Computer Aided Dispatch (CAD) System is necessary for full compliance. The ability to quickly demonstrate how often a technology is used and its success at solving crime is a foundational purpose of the PAC and the Surveillance Technology Ordinance; the ALPR system however was not designed to quantify whenever its use is connected to criminal investigations - the many examples illustrated in Appendix A and B of the Surveillance Impact Report (see **Attachment A**) involved weeks of technical and research efforts by OPD personnel. Furthermore, as OPD staff have explained on several occasions, the current OPD ALPR system is antiquated and would need to be updated to better comply with OMC 9.64 rules.

This report provides an analysis of the PAC Commissioners' written reasons for recommending a ban on the use of the technology. This report also provides many examples where this technology plays an instrumental role with finding stolen vehicles (often connected to other violent crimes) as well as to aide with investigations into homicides, robberies, assaults, and human trafficking cases.

Staff continue to believe that an ALPR Use Policy should be reviewed by the PAC given the updated appendices to the Impact Report (**Attachment A**) and annual reports (**Attachments C and D**). OPD and the PAC have collaborated successfully on many surveillance technologies to bring balanced privacy use policies to the City Council for review. OPD staff hope to continue along this same process with the PAC given the value of ALPR to the Oakland community.

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BACKGROUND / LEGISLATIVE HISTORY

How Automated License Plate Reader (ALPR) Technology Works

ALPR technology consists of cameras that can automatically scan license plates on vehicles that are in the public right of way and/or in view of the police vehicle[2]. The Oakland Police Department (OPD) uses only ALPR cameras mounted to patrol vehicles so that license plates can be photographed during routine police patrol operations. Each camera housing (two housings per vehicle) consists of a regular color photograph camera as well as an infrared camera (for better photography during darkness). ALPR captures an image (Parked or moving vehicle plates) and processes the image with an optical character recognition algorithm that can extract license plate characters from the image.

The ALPR system in a patrol vehicle is activated when the user logs into the software from their vehicle-based computer and starts the system. Once initiated, the system runs continuously and photographs vehicles until turned off manually (turning off the vehicle). ALPR cameras typically record hundreds of license plates each hour but exact recording rates depend on vehicle activity and how many vehicles are encountered. The system compares license plate characters against specific databases, and stores the characters along with the date, time, and location of the license plate in a database; OPD's ALPR system updates daily with different hotlists. Currently, the update is with California Department of Justice (CA DOJ) hotlists: felony wants, stolen plates, stolen vehicles; the system only downloads data – there is no upload of data or transfer of OPD ALPR data to other systems. Additionally, the draft DGO I-12 states that OPD shall not allow the ALPR system to be connected to the United States Homeland Security Investigations Agency and/or the Immigrations and Custom Enforcement databases. Furthermore, OPD is one of the only Forensic Logic Coplink[3] clients that does not allow its ALPR data to be comingled in with the data from thousands of outside law enforcement agencies – further mitigating the release of OPD data in ways that violate public privacy.

Authorized personnel within OPD can enter specific license plate numbers into the system so that active vehicle ALPR systems will alert the officer in the vehicle if there is a real-time match between the entered license plate and the photographed license plate. OPD personnel will contact OPD Communications Division (dispatch) anytime the ALPR system signals that a license plate on a database has been seen; OPD personnel always personally check with Communications before actually stopping a vehicle based on an ALPR license plate match (or "hit") – this requirement is part of OPD's draft Department General Order I-12 "Automated License Plate Reader Technology."

The platform software allows authorized personnel to query the system to see if a certain license plate (and associated vehicle) have been photographed. The system will show the geographic location and license plates that have been photographed, as well as time and date. Authorized personnel can see the actual photographs that match a particular license plate query – the OCR system may incorrectly match letter and numerical characters, so the actual photographs are vital for ensuring the accuracy of the license plate query.

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[2] Generally, camera-mounted vehicles are driving along the public right of way. However, there are times where police drive to private residences or locations where the system would still be operating.
[3] https://forensiclogic.com/

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How OPD Uses ALPR

OPD uses ALPR in two main ways:

1. The immediate (real time) comparison of the license plate characters against specific databases such as those provided by the California Department of Justice listing vehicles that are stolen or sought in connection with a crime or missing persons; and
2. Storage of the license plate characters – along with the date, time, and location of the license plate – in a database that is accessible by law enforcement (LEA) agencies for investigative purposes.

ALPR technology helps OPD personnel to leverage their public presence and to more effectively use their limited time for more critical activity. The technology can alert officers to vehicles that are stolen or connected to a serious felony crime (e.g. aggravated assault, homicide, robbery, sexual assault) immediately (by automatically connected to criminal databases).

Officers can then use the information to notify other OPD personnel and/or stop the vehicle as justified by the information. The automatic process can free officers from laborious data entry processes allowing more time for observing public activity and speaking with members of the public. ALPR also provides an important tool for criminal investigations. The information collected by analysts and investigators can locate where a plate has been in the past, which may help to confirm whether or not a vehicle has been at the scene of a crime.

Additionally, accurate photos of vehicle from the ALPR system make searching for vehicles much easier – the photo can depict how the vehicle differs from every other vehicle of the same make and model. The photos frequently show distinctive vehicle aspects (e.g., dents, scratches, stickers). ALPR also allows investigators to review photos which depict what the vehicle looks like, or more importantly, how the vehicle differs from every other vehicle of the same make and model. Investigators can also confirm that the vehicle matches the license plate and whether the license plate has been switched from a different vehicle. Such information may help personnel to find new leads in investigations.

Appendix A to the Impact Report (**Attachment A**) provides over 100 cases where the vehicle ALPR System alerted officers to vehicles on a CA DOJ hot list during the 2020 year. These examples are a few of the hundred cases listed:

- Example #25 20-016962   4/8/2020: Oakland police officers took a report of a carjacking on 3/30/20. Nine days later Oakland officers on patrol were alerted to the carjacked vehicle parked on the side of the road by their vehicle ALPR system. A suspect was observed in the vehicle. The suspect was arrested. The vehicle was recovered from the 1400 Blk of 16th Ave. Age of Data 9 days.
- Example #82: 20-037670   7/31/2020: While on patrol Officers were alerted by their ALPR system on a Stolen Vehicle traveling east bound 1400 block of 19th Ave. The ALPR system affixed on top of their Patrol vehicle alerted the Officers and the Officers confirmed that the vehicle was indeed stolen. One (1) individual was detained following a foot pursuit. A firearm was recovered. That individual was later arrested for stolen vehicle, possession of a stolen vehicle, Various firearm charges (Loaded firearm in

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public, concealed loaded firearm in vehicle), and a probation violation. Date of Theft 7/21/2020.

- Example #95 - 20-024499   5/19/20: While on patrol Officers were alerted by their ALPR system to an unoccupied stolen vehicle parked on the 2500 block 10th Ave. The ALPR system that is affixed above their patrol vehicle provided a picture of the vehicle and the license plate. One (1) of the license plates had been switched with another stolen license plate of another similar vehicle. Officers verified the vehicle was indeed stolen and unoccupied. Suspect still outstanding.

Most cases alerted OPD to stolen vehicles - the ALPR hits led to the recovery of scores of stolen vehicles. In some cases, the ALPR system alerted officers to vehicles connected to carjackings – an ALPR hit on April 8, 2020 led to the arrest of a carjacking suspect. In another case in August 2020, an ALPR photo connected to a robbery case led to the arrest of a suspect connected to a homicide investigation. In the case noted on July 31, 2020 in the Appendix A, officers were alerted to a stolen vehicle while traveling east bound on 19th Ave. One individual was detained following a foot pursuit. A firearm was recovered. That individual was later arrested for stolen vehicle, possession of a stolen vehicle, various firearm charges (included having a loaded firearm in public, and a concealed loaded firearm in a vehicle), and a probation violation.

Many law enforcement agencies across the United States use some form of ALPR – of these, Oakland suffers from some of the greatest levels of violent crime.
- There were 102 homicides in 2020 (increase of 36 percent from 2019); and
- 3,282 aggravated assaults (increase of 20 percent from 2019).
Oakland therefore arguably has a great need for technologies that help with violent crime investigations.

ALPR and Data-Driven Policing

OPD is a national leader is reducing racial disparities in discretionary traffic stops, enlisting noted academics from Stanford University, and consistently analyzing stop data. OPD continues to utilize approaches developed through ongoing partnership with Stanford University's Social Psychological Answers to Real-world Questions think-tank (SPARQ). OPD has continued to attain progress by pursuing SPARQ's recommendations in Strategies for Change – Research Initiatives and Recommendations to Improve Police-Community Relations in Oakland, Calif[4]. An analysis of 2017 non-traffic discretionary stops[5] shows that OPD continues to use data for "intel-led" stops while decreasing non-intel-based stops.

In terms of data-driven policing and ALPR, OPD may have evidence that for example, a "green four-door car" was seen in connection with a crime. OPD patrol officers may thus be obliged to look for any vehicle that matches these characteristics and possibly stop motorists in vehicles matching this description. However, with ALPR, OPD officers would know to look only for one specific vehicle with a matching license in cases where an actual license plate is connected to a crime. Appendix B to the Impact Report (**Attachment A**) documents many cases where OPD

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[4] http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak059292.pdf
[5] https://www.documentcloud.org/documents/4375652-12-Month-Observations-Sent-by-Kim-Bliss-2-2-18.html

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was able to search for specific license plates associated with violent crimes such as homicide, assault and robbery. The following are a few of the examples provided:

- (page 25) On November 22, 2020 an armed carjacking occurred. An armed suspect approached a vehicle and ordered the victim out of the vehicle at gunpoint. The suspect then fled with the vehicle. The investigator used the ALPR system to locate a photograph of the vehicle which was disseminated to officers. The vehicle was later located. (Data age 6 months)
- (page 26) On August 2, 2020 a strong-armed carjacking occurred. The victim was being followed by two vehicles which boxed him in preventing his escape. The suspects pulled the victim from the vehicle and proceeded to punch and kick him. The suspects then fled with the victim's vehicle. The Investigator ran a query of the victim vehicle license plate in the ALPR system which revealed a photo of vehicle. The photograph was disseminated to officers. (Data age 1 month)
- (page 27) On January 15, 2021 an armed robbery occurred. Two suspects approached two victims as they walked out of a sandwich shop and robbed them at gunpoint, physically ripping their purses out of their possession. The suspects fled in a vehicle and a partial license plate was obtained. Officers were able to conduct an ALPR system query which revealed a possible suspect vehicle with full license plate as well as matching damage as described by the victims. Officers disseminated the photograph of the vehicle along with the locations where the vehicle had been in the past. (Data age 1 year)
- (page 28) **RD# 20-043740** Human Trafficking Case – undercover OPD officers were working a sting operation when they were approached by a subject who attempted to kidnap them. The suspect was arrested and taken into custody, but his accomplice fled the scene. Body-worn camera (BWC) footage and officer observation captured the suspect vehicle. A Ramey warrant is now pending for the outstanding suspect. (Data age TBD)

In these different reports OPD acknowledges that racial disparities continue to exist, and that African Americans continue to be stopped at greater numbers than other racial groups – but that the data-driven approach has led to less African Americans – and people in overall – being stopped by the police. Data-driven policing in other words, allows OPD to focus on specific people connected to violent crime and minimize the footprint of overall stops that impacts Oakland communities.

Legal Framework of ALPR Use by Government Agencies

As the Brennan Center for Justice explains[6], U.S. law has not required a warrant or other heightened standard for police officers to take pictures of individual license plates and compare them against a law enforcement database. Its reasoning has been twofold. First, due to "the pervasive regulation of vehicles capable of traveling on the public highways," there is no expectation of privacy in the content of license plates. Second, longstanding precedent holds that drivers on public roads cannot expect their movements to be kept private from the police since they could be observed by any member of the public. In keeping with these doctrines, courts have regularly held that law enforcement officers may, at their discretion and without any

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[6] https://www.brennancenter.org/our-work/research-reports/automatic-license-plate-readers-legal-status-and-policy-recommendations

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suspicion of criminal activity, perform at least an initial check of a license plate against a law enforcement database.

In addition, the California State Supreme Court has affirmed that ALPR technology is lawful.[7] And for good reason; ALPR technology collects information that is already publicly available: the publicly available license plate numbers, locations and times vehicles are parked when scanned by ALPR cameras. This information, in and of itself, is simply not subject to the Fourth Amendment's warrant-or-exception requirements.

ANALYSIS AND POLICY ALTERNATIVES

Data Quantification Challenges

OPD has not historically quantified ALPR usage for vehicle stops, stolen vehicle recovery, or criminal investigation lead generation that would easily allow for impact analysis. The current ALPR system was not built to track these types of information and OPD does not have any automated processes in place to capture such information; the cases highlighted in the appendix to the 2019 (*Attachment C*) and 2020 annual report (*Attachment D*) were organized manually based on detailed work by several staff in CID and OPD's IT Unit. However, OPD and the City's Information Technology Department (ITD) are currently engaged in a multi-year project to upgrade the Computer aided Dispatch (CAD) / Records management System (RMS) which will greatly improve this type of data tracking; this plan has been shared with the PAC on several occasions.

The *Appendix B* to the Impact Report shows that ALPR was instrumental in the ultimate arrest and arraignment of at least two homicide suspects and with the conviction of at least one of them – these data are only examples from 2020 where CID and OPD IT Unit staff found through manual reviews – there are likely many more cases where the technology was helpful to a criminal investigation, and ideally with a new CAD/RMS system and better ALPR system in the future such detail will be available.

ALPR data use normally falls into two investigative technique groups. Most current photo and Historical data:
- Most current photo: Many vehicles are stolen and used in crimes every day in the city. The ALPR system collects license plates and photos of these vehicles. When a crime occurs, the system is queried to see if a current photo of the vehicle is available. Investigators will look for a picture that has been captured recently to be able to show officers in the field what the vehicle currently looks like. The data associated with this use is normally within a few months of the incident. This type of investigative technique is about getting the vehicle stopped as quickly as possible and the suspects arrested. If one were to only use this data as justification for retention, they would only be looking at one type of use and ignoring the other value of the system.
- Historical data: This second use case involves the in-depth investigation of a suspect or associated vehicle. These investigations identify several things to include vehicles

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[7] ACLU, et al. v. Superior Court (Real Party County of L.A. et al.), 3 Cal.5th 1032 (2017).

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associated with crime scene locations and where suspect vehicles have been located, in the past. This locational data allows investigators to develop leads to track suspects down and provide evidence for court. With this type of data use it is critical for investigators to have historical location data and not simply the most current photo of the vehicle. This type of data requires a lengthier retention period. Quantifying the data retention needed for this type of investigation has been very problematic without an automated system in place. We have attempted to manually go through police reports to correlate the date of the crime with the age of the photograph that was used in the investigation which is time consuming. We are starting to put rudimentary systems in place to track data going forward.

Over the past several years OPD has been attempting to keep the ALPR system current and operational

- In October of 2016 OPD noticed that the BOSS3 system mapping function was non-operational. There was an attempt to fix the issue. Staff was advised that the product had been sold to another company. OPD continued working with the new company to fix the issues.
- In August of 2017 the Justifications / Auditing feature was turned on which brought the department into compliance with SB 34 (new State law regulating ALPR usage[8]).
- In November of 2018 the vendor fixed the mapping issue by upgrading the software.
- In December of 2018 OPD found that the Justifications and Auditing features were not working. Staff contacted the vendor who attempted to fix the issue. The vendor continued to try to fix the issue until March of 2020 when they advised the department that the BOSS3 software was very outdated and they would not be fixing the issue. Staff received a quote for the BOSS4 software in March of 2020. In May of 2020 OPD met with City ITD staff to explore upgrading to the BOSS4 system in order to be able to fix the issue with the justifications reporting being broken – at the same time OPD staff were aware that a new ALPR purchase could not occur without first going through the PAC for review and recommendation to the City Council. During this PAC review process OPD again contacted the vendor, and with ITD support the team were able to review the database and pull the raw data out.
- OPD is now able to show that the system is still collecting data as required by SB34 However, this process has been extremely labor-intensive for OPD and ITD staff. Also, OPD cannot rely on the vendor to repeat this process. OPD can only develop better audit and oversight protocols with a modern ALPR system.

History of the OPD use of ALPR and Surveillance Use Policy Discussions with the PAC

OPD first brought its current ALPR Policy 430 in approximately early 2017, before the Surveillance Ordinance was adopted; the ordinance created Oakland Municipal Code (OMC) 9.64 which requires that all surveillance technologies already utilized by city departments (or before acquiring new technologies) come to the PAC for review and then City Council for adoption. OPD began working on bringing a revised policy to the PAC in 2018 to comply with the different requirements of OMC 9.64 and first brought a new policy draft to the January 3, 2019 PAC meeting. This meeting allowed for explanations of how the system worked. There

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[8] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34

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was a request that the Use Policy better explain how the system receives State of California DOJ hotlists (see "*How Automated License Plate Reader (ALPR) Technology Works*" above). PAC Chair Hofer mentioned at this meeting a concern that there is no reasonable suspicion threshold for OPD's use of ALPR.

Before the February 7, 2019 PAC meeting, OPD requested counsel from the Office of the City Attorney as to what data retention period is recommended based on Federal or State law for OPD's Use Policy. The current ALPR Policy (430) stipulates a six-month policy but this period was not yet fully reviewed by the Office of the City Attorney, and was formulated before the passage of OMC 9.64; OPD has actually maintained a 730 day retention schedule in light of ongoing efforts to finalize the legal review and develop an acceptable Use Policy with the PAC. During the February 7, 2019 meeting, OPD personnel and the PAC discussed mitigations against impacts to privacy (e.g., having the cameras positioned to avoid capturing other data.

During meeting discussions there was agreement that there has not been any national formal analysis on best standards for data retention, and that the systems may be successful but that there needs to be better data tracking. OPD personnel incorrectly stated at this time that OPD could complete ALPR audits as not all personnel were aware of the ALPR BOSS system problems.

Follow up meetings in 2019 covered issues such as ALPR audits, technology accuracy, and how wide or narrow would be the allowed uses where personnel would access the ALPR system. OPD personnel and PAC Commissioners also discussed data retention periods as OPD was collaborating with the office of the City Attorney on an appropriate retention period.

The subsequent March 7, 2019 meeting continued with similar topics (how does OPD track use, data security, how does OPD use hotlists). In particular, the PAC asked to see audit results.

During this meeting OPD personnel also invited PAC Commissioners to come to the PAB for a direct review of the ALPR system.

2021 PAC Review of OPD ALPR Use Policy

OPD did not bring the draft ALPR Use Policy back to the PAC until January 2021 for several reasons. The data retention period was still being finalized with the OCA. OPD was also developing other policies; Mobile ID, Live Stream Transmitter, ShotSpotter, and GPS Tag Tracker, and the Unpiloted Aerial System (drones) policies have all now been reviewed and recommended by the PAC and approved by the City Council.

OPD personnel assigned to support Privacy Policy development for PAC review were completely focused on developing the Forensic Logic CopLink Use Policy during between June and December 2020 in the middle of the Covid Pandemic. The same personnel were also collaborating with the PAC and Chief Privacy Officer on PAC-initiated changes to the Surveillance Ordinance and OMC 9.64. As this work was resolved in December 2020, there was only a few weeks to reinitiate development on the draft ALPR Use Policy – as OMC 9.64 requires that city departments such as OPD must bring a new policy for PAC review in the next month after the previous policy review is complete.

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During the January 7, 2021 PAC meeting, discussion topics included technology costs, software limitations, the use of hotlists, and legal analysis related to records requests. PAC commissioners expressed dissatisfaction with data provided and asked why was there not more information about number of arrests and recovered stolen vehicles. ("Data Quantification Challenges" Section above explains challenges OPD experienced related to these requests. There were also discussions related to legal analysis related to SB34 (see **Attachment D** for further detail).

OPD used the time between the January and February 2021 PAC meetings in part to develop and improve its 2019 and 2020 annual reports (**Attachments C and D**) as data was retried from emails that tracked requests from other agencies to access particular ALPR data - this information as described in detail below was prepared to be provided to the February 4, 2021 PAC meeting, but was not available in the middle of January 2021 when the PAC Chair was demanding to see the reports before scheduling an ad-hoc meeting; ultimately there was no ad-hoc meeting before the February 4, 2021 PAC meeting where the PAC voted to recommend a two-year ban on OPD use of ALPR.

During the February 4, 2021 PAC meeting, OPD stated that the 2019 and 2020 annual reports (**Attachments C and D**) had been completed and that OPD was prepared to share them that evening via share-screen. OPD personnel also explained that the Impact Report was updated with many more ALPR use cases; the PAC commissioners did not request to see these reports but instead explained their reasoning for voting to recommend a complete two-year ban on OPD ALPR use.

Brian Hofer, PAC Chair, provided a document (see **Attachment E)** for the first time at the February 4, 2021 PAC meeting; OPD staff who had previously brought ALPR Use Policies to the PAC could only see the document as Mr. Hofer shared his screen and then review the document after the meeting where the PAC voted to ban ALPR for two years; another PAC Commissioner also shared a separate list of reasons for voting to recommend a termination of the ALPR program. Each of these findings is detailed below with an OPD response in **Attachment F**.

Conclusion

As the PAC provided in part of their reasoning for not supporting OPD's ALPR Program (see **Oakland Police department (OPD) Response to Oakland Privacy Advisory Commission (PAC) Documents Supporting the PAC Justification for Voting to recommend Termination of OPDs Automated License Plate Reader (ALPR) Program Attachment F**), "ALPRs certainly can be useful tools for OPD, and it should be possible to work out policies and procedures that enable usefulness while protecting privacy. These documents do not." OPD agrees with the PAC's first statement; this report argues that OPD has developed Use Policies to control and safeguard the effective use of ALPR; OPD also believes that a OPD ALPR Use Policy can still be improved if the PAC chooses to help OPD develop a robust Use Policy. However, a vote to completely ban the technology – especially as OPD has since provided many more examples of its use and value as well as audit results - deprives both OPD as well as the City of a useful tool that helps to investigate violent crimes, identify stolen vehicles, and support public safety.

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FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC OUTREACH / INTEREST

Staff has presented drafts of the ALPR Use Policy to the PAC at public meetings including January 3, 2019; February 7, 2019; March 7, 2019; April 4, 2019; January 7, 2021; and February 4, 2021.

COORDINATION

The Office of the City Attorney consulted OPD in the production of this report and accompanying resolutions.

SUSTAINABLE OPPORTUNITIES

Economic: There is no economic impact associated with this report.

Environmental: There are no environmental impacts associated with this report.

Race and Social Equity: OPD does not uniformly deploy patrol vehicles across all residential and commercial neighborhoods. Officers are responding to calls for service and prioritizing violent crime – especially gun-related crimes. Therefore, OPD calls for service more often travel through communicates where violent crime more often occurs. Some of these patrol vehicles are equipped with ALPR cameras; it follows that OPD patrol vehicles equipped with ALPR cameras will photograph license plates connected to these same areas. OPD staff believe use this data to respond to crimes such as vehicle theft but to also use the ALPR data to investigate violent crimes and provide investigative support to these same communities.

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ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That City Council Adopt A Resolution Approving The Oakland Police Department (OPD) Automated License Plate Reader (ALPR) Surveillance Use Policy (SUP) And Surveillance Impact Report (SIR).

Based On The Input from the Oakland Privacy Advisory Commission, Staff Has Also Prepared The Following Alternate Resolution:

Adopt A Resolution That Within 30 Days Of The Date Below, The Chief Of Police Shall Certify In Writing To The City Council And The Privacy Advisory Commission (PAC) That ALPR Use Has Been Terminated.

For questions on this report, please contact Bruce Stoffmacher, Privacy and Legislation Manager, at bstoffmacher@oaklandca.gov.

Respectfully submitted,

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Attachments (**6**)
A: OPD ALPR Surveillance Impact Report
B: OPD Department General Order I-12 – ALPR
C: 2019 ALPR Annual Report
D: 2020 ALPR Annual Report
E: Brian Hofer PAC Chair Motion and Findings
F: Oakland Police department (OPD) Response to Oakland Privacy Advisory Commission (PAC) Documents Supporting the PAC Justification for Voting to recommend Termination of OPD"s Automated License Plate Reader (ALPR) Program