



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: LeRonne L. Armstrong
Chief of Police

SUBJECT: OPD Automated License Plate
Reader Policy and Use

DATE: June 29, 2022

City Administrator Approval

Date: Jun 30, 2022

RECOMMENDATION

Staff Recommends That The 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); Or

A Resolution That Within 30 Days Of The Date Of Passage Of This Resolution, The Chief Of Police Shall Certify In Writing To The City Council And The Privacy Advisory Commission (PAC) That The Oakland Police Department (OPD) Has Terminated Its Use Of Automatic License Plate Reader (ALPR).

EXECUTIVE SUMMARY

Attached to this report are two resolutions offering opposing policy options for the City Council. Staff recommends that City Council approve the first resolution, to approve OPD's Use Policy for ALPR so that OPD can continue to use this important law enforcement technology. The second resolution, supported by the Privacy Advisory Commission "PAC", requires a complete moratorium on ALPR use by OPD for two years. This report explains how ALPR functions, why and how OPD uses ALPR, and the reasons why the PAC has now voted twice to recommend a two-year moratorium on OPD's use of ALPR technology.

OPD currently faces a "Catch-22" situation: OPD cannot produce audits and annual reports that meet the expectations of the Surveillance Technology Ordinance because its current ALPR database and software are outdated and only partially functional. OPD can update the system for approximately \$16,000 – but pursuant to the surveillance ordinance, OPD cannot update the system unless the City Council first approves OPD's ALPR Use Policy. The PAC has cited OPD's failure to produce audits and annual reports as a significant reason for the PAC's refusal to support OPD's Use Policy and its continued use of ALPR. Additionally, the PAC expressed concern that the use of ALPR is not effective and that the reporting OPD has provided does not prove its effectiveness. OPD wants to comply with all facets of the City's Surveillance Ordinance (Oakland Municipal Code (OMC) 9.64) and continue to bring annual reports to the PAC for ongoing independent oversight of this useful technology, but it cannot do so unless it upgrades its ALPR technology.

Automated license plate reader (ALPR) technology is a system for capturing government-issued motor vehicle license plates as they travel on streets and highways. The technology generally includes the following components:

- Specialized cameras that photograph and scan license plate images
- Computer technology that translates and digitizes the license plate images into their alpha-numeric characters
- Database systems that can compare the license plate images and characters to other databases (e.g., State of California Department of Justice / CADOJ felony-related license plate lists); and
- Database systems that store the license plate files for later search.

OPD has utilized the technology for approximately eight years for two main purposes:

1. The immediate (real time) comparison of the license plate characters against specific databases (e.g. stolen vehicle list); and
2. The storage of the license plate images in a database that is accessible by law enforcement (LEA) agencies for investigative purposes.

OPD presented versions of a draft ALPR Use Policy and Impact Report in January and February 2019, then explained to the PAC that additional time was needed to consult with the Office of the City Attorney (OCA) to formalize the data retention policy – the length of time ALPR data is held directly relates to the usefulness of the data for investigations but also directly relates to the potential negative impact to public privacy. The report explains that OPD has followed a two-year data retention schedule in accordance with State guidelines, even though the original Policy 430 states a six-month policy; the PAC expressed frustration that the original Use Policy that was presented to the PAC in 2017 contained a 6-month data retention period but subsequently, the department was retaining data for two years under the guidance of the Office of the City Attorney. The report outlines the history of the legal analysis from OCA and OPD's changes to the expressed data retention schedule; the Impact Report (see **Attachment A**) provides language from OCA explaining why a data retention schedule of no less than one-year would best align with State law.

This report explains that OPD has not historically tracked ALPR usage (prior to OMC 9.64). The system does catalog each license plate image scan, and that information is provided in the 2019 and 2020 annual reports that were presented to the Public Safety Committee on May 11, 2021; updated reports presented to the PAC in October and November 2021 are provided here (see **Attachments C and D**). The report explains the limitations of OPD's outdated ALPR system, and that adoption of OPD's ALPR Use Policy adoption (**Attachment B**), will allow OPD to purchase a new ALPR database system (BOSS4 by Neology). A BOSS4 system will allow OPD to fully conduct annual reviews with random audits of actual personnel queries (personnel must log a reason for using the system). The system tracks all logins, reasons for use, and query results.

The report also explains how OPD has developed better digital tools to track both internal use of ALPR for criminal investigations, and for when outside agencies request OPD ALPR data. PAC Commissioners expressed frustration that OPD did not provide annual reports at first according to the older but still official Policy 430 which states that OPD shall provide annual reports. OPD since provided the 2019 and 2020 annual reports to the PAC during several 2021 meetings. The PAC in particular raised concern about OPD sharing data with the Federal Bureau of Investigations (FBI); the report explains why OPD believes that data sharing with the FBI has

been permissible as there exists a City Council-approved agreement between OPD and the FBI for violent crime investigation collaboration.

The PAC has also questioned the value of ALPR data storage given the millions of scans of license plates to only scores of cases where the system aided in violent crime investigations; the report explains that OPD values this technology for these cases due to very limited staff resources and also believes that better data tracking will show that the system is useful in even greater levels of cases.

OPD and the PAC continued to discuss OPD's Use Policy and Impact report after the City Council on May 18, 2021, voted to neither adopt OPD's ALPR Use Policy nor vote for the PAC's original two-year complete moratorium. OPD and the PAC have now spent another half year where OPD has attempted to improve its Use Policy and Impact Report, lower its data retention schedule and improve the 2019 and 2020 Annual Reports. However, the PAC has again voted to recommend a two-year moratorium against ALPR use, citing the original failures to produce annual reports and audits, and for the reasons of data sharing, and questions about the system's value against their expressed concerns that the system's data aggregation harms public privacy.

OPD staff believe that all strategies for policy amendments and documentation have now been explored, and therefore recommends that the City Council adopt the resolution to approve its ALPR Use Policy (DGO I-12) as well as the accompanying Impact Report.

BACKGROUND / LEGISLATIVE HISTORY

How Automated License Plate Reader (ALPR) Technology Works

OPD's Departmental General Order (DGO) I-12: Automated License Plate Readers (ALPR) (**Attachment B**) explains that there are two components to the ALPR system:

OPD uses Automated License Plate Reader (ALPR) technology to capture and store digital license plate data and images. There are two components to the ALPR system:

- 1. Automated License Plate Readers: Device components include cameras which can be attached to vehicles or fixed objects and a vehicle-based computer that processes the photographs and compares the data against California Department of Justice (CA DOJ) hotlists. Data is transmitted for comparison (the hotlists are downloaded to the vehicle at the start of the patrol shift and then compared from that list). Authorized personnel can also manually enter license plates to internal OPD generated hotlists only accessible to personnel authorized to access the OPD ALPR system.*
- 2. ALPR Database: A central repository stores data collected and transmitted by the Automated License Plate Readers.*

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. 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 (OCR) algorithm that can extract license plate characters from the image.

Figure 1 below is an image an OPD patrol vehicle equipped with two ALPR cameras: an infrared (IR) camera and a color-image camera in a single housing. There are two camera units per vehicle equipped with ALPR technology. The cameras use IR as well as OCR to read the plates so that the OPD ALPR database can be queried for alpha-numeric characters.

Figure 1: OPD ALPR Patrol Vehicle Camera System



The ALPR Impact Report (**Attachment A**) explains that:

The April 1, 2021 report as well as OPD's ALPR Use Policy (Departmental General Order (DGO) I-12 – **see Attachment B**) also explains that:

- ALPR cameras (on average) record hundreds of license plates each hour.
- The database that stores the plate photographs allow for the alpha-numeric search.
- The in-vehicle system compares the alpha-numeric characters against State of California Department of Justice (CADOJ) hotlist databases (specifically the felony wants, stolen plates, and stolen vehicles CADOJ databases). The system then stores the characters along with the date, time, and location of the license plate in a database.
- There is no upload of data or transfer of OPD ALPR data to other systems – OPD's ALPR draft policy 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."
- OPD is one of the only Forensic Logic Coplink¹ 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.

¹ <https://forensiclogic.com/>

The original report titled, “OPD Automated License Plate Reader Privacy Policy and Options” dated April 1, 2021 (see **Attachment E**) presented to the Oakland Public Safety Committee on May 11, 2021 (and City Council on May 18, 2021), explains that OPD uses ALPR in two main ways:

1. The immediate (real time) comparison of the license plate characters against specific databases (see paragraph above);
2. Storage of the license plate images - 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.

Immediate (Real-Time) Notifications

ALPR directly supports the City’s priority of holistic community safety, as it helps OPD personnel to leverage limited staff capacity and resources. The technology can alert officers to vehicles that are stolen or connected to a serious felony crime. Officers can then use the information to notify OPD personnel and/or stop the vehicle as justified by the information. Officers in ALPR-equipped vehicles can also be notified of abandoned stolen vehicles. **Appendix A** to the Impact Report provides many cases where the in-vehicle ALPR System alerted officers to vehicles on a CA DOJ hot list during the 2020 year. The Appendix A to the Impact Report (attached to the April 1, 2021 ALPR Report (**Attachment E**)) lists 99 cases of these real-time notifications that occurred in 2020. OPD conducted additional research after the May 18 Council vote and listed an additional 109 cases from 2018 (for the Impact Report (**Attachment A**)) presented to the PAC in October and November 2021 meetings. These additional 109 cases such as crime type and location, list case information as well as the age of the data in one of the CADOJ hotlists. In most of these additional cases, the vehicle was discovered parked and unoccupied. The estimated property value of these 109 vehicles is \$487,123).

Beyond real-time notifications, the April 1, 2021 report also explains that ALPR usage is part of OPD’s commitment to data-driven policing. ALPR data allows officers to be more targeted in how they search and stop particular vehicles. ALPR gives OPD a way to stop vehicles with proven connection to crime. A license plate is better than just knowing to look for a particular make or model vehicle. Therefore, the use of ALPR supports OPD’s efforts at reducing random vehicle stops. This approach helps OPD limit the impact of police stops across Oakland communities – this approach aligns with the City’s goal of promoting greater racial equity.

License Plate Storage

Information collected by analysts and investigators can determine where a plate has been in the past, which can help to confirm whether a vehicle has been at the scene of a crime. Additionally, accurate photos of vehicles from the ALPR system make searching for vehicles much easier – 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 a felony crime investigation.

Figure 2 below is a screenshot of a query of the outdated ALPR database – the license plate used belongs to an OPD patrol vehicle. The date and time stamp are in the top left. The person running the query is in top right (redacted); with an updated system, this type of information

could be audited. The query also shows the ALPR device that captured the plate. There is a timestamp that shows when the plate was captured. The latitude and longitude (geographic location) are also redacted here.

Figure 2: OPD ALPR License Plate Database Query

Site	Device	LPN	Timestamp	Location	Lat.	Lon.	Patch	Overview
BOSS3 12/3/2021 6:23:16 PM								
OPD								
Unit 1825								
		1426181	10/24/2021 10:03:05 PM VEH-1825-LPR		37 [REDACTED]	-122 [REDACTED]		
From Hotlist =								
Total Reads for Unit 1825 = 1								
Unit 1831								
		1426181	11/10/2021 11:01:31 PM VEH-1831-LPR		37 [REDACTED]	-122 [REDACTED]		
From Hotlist =								
		1426181	10/29/2021 11:53:21 PM VEH-1831-LPR		37 [REDACTED]	-122 [REDACTED]		
From Hotlist =								
		1426181	10/29/2021 6:50:14 AM VEH-1831-LPR		37 [REDACTED]	-122 [REDACTED]		
From Hotlist =								
		1426181	10/29/2021 6:10:45 AM VEH-1831-LPR		37 [REDACTED]	-122 [REDACTED]		

OPD has not historically quantified ALPR usage for vehicle stops, nor for later criminal investigations in a way that easily allows for impact analysis. However, OPD is developing more automated processes for tracking ALPR usage in connection with investigations, to better document the technology’s effectiveness. OPD and the City’s IT Department are currently engaged in a multi-year new CAD/RMS implementation which will greatly improve this type of data tracking. More immediately, a new BOSS 4 system will also allow for better use tracking – multiple versions of OPD’s ALPR Impact Report (most recent Impact Report is **Attachment A**) have explained that OPD needs an updated ALPR data system to better track ALPR usage.

The April 1, 2021 report (**Attachment E**) explained that ALPR license plate locational data was instrumental in the ultimate arrest and arraignment of at least two homicide suspects, and with the conviction of at least one of them; the Impact Report (**Attachment A**) also cites ALPR’s use in several human trafficking investigations. An Appendix B to the original Surveillance Impact Report (updated in the latest Impact Report highlights 15 specific felony cases from the year 2020 where ALPR played a pivotal role in supporting investigations. A highlight from the Impact Report is detailed below as **Figure 2** (Age ALPR Data at Time of Query), where the age of the data was substantiated. The pie-chart below shows that the age of data at time of query varied

from “1-30 days” to “7-12 months.” Most of the cases (nine) involved data that was 1-3 months old; four cases involved data that was 4-6 months old. Table 1 below details the types of crimes involved in these documented investigation queries.

Figure 1: Age of ALPR Data at time of Query

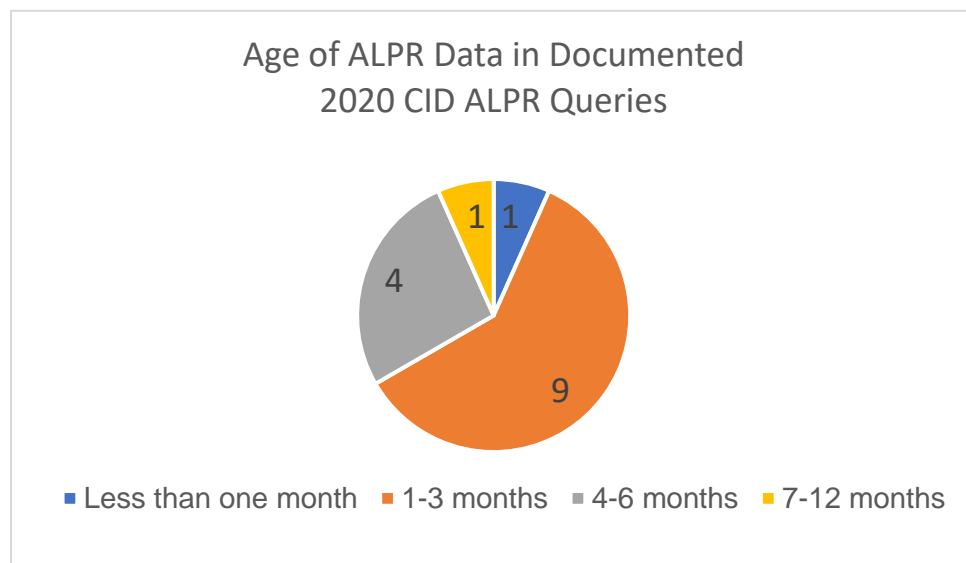


Table 1: Crime Types of Documented 2020 ALPR Investigation Queries

Crime Type	Number of Documented Crimes
Armed Assault	3
Physical Assault	1
Burglary	1
Armed Robbery	6
Carjacking	2
Stolen Vehicle with firearms recovery	1
Vehicle Assault on Officer with a vehicle	1

OPD has updated this Appendix to the Impact Report (pages 39-41) with 12 additional cases (on pages 39-41). The age of the ALPR data in these cases ranges from one day to three months. More importantly, however is that several of these cases showcase how ALPR data provide leads to violent crime investigations. Four of the cases involve homicides. For example, in the case of a drive-by shooting and homicide on 35th Avenue near Suter Street, LPR data, combined with phone data allowed OPD investigators to connect a suspect to the event; this case has now been charged by the District Attorney.

OPD’s History of Compliance with the Oakland Privacy Advisory Commission (PAC)

OPD and PAC Commissioners have been collaborating on numerous technology policies for over four years. OPD has presented documents almost every month to the PAC in compliance

with Surveillance Technology Ordinance (OMC 9.64) rules relating to different surveillance technologies. This compliance covers the development of Surveillance Use Policies and related Surveillance Impact Reports for numerous types of technology, as well as, required annual reports. OPD has also worked diligently to bring annual reports regarding OPD involvement in federal agreements (a separate Ordinance requires that OPD bring annual reports to the PAC and City Council for every federal partnership). The following bullet points outline the history of OPD's presentation of ALPR documents to the PAC:

- January 2019 - Presentation of draft ALPR Policy
- February 2019 - Presentation of draft ALPR Policy
- April 2019 - Presentation of draft ALPR Policy
- January 2021 - Presentation of revised ALPR Privacy Policy and 2019/2020 Annual Reports.
- February 2021 - Presentation of revised ALPR Privacy Policy; PAC vote to recommend to the City Council that OPD be prohibited from using ALPR technology for two years;
- OPD then presented the ALPR Privacy Policy and 2019/2020 Annual Reports to the Public Safety Committee on May 11, and City Council on May 18 (attached to the Council Report – **Attachment E**). The City Council was presented with two options – OPD's recommendation to approve the privacy policy as well as the PAC recommendation. The full City Council voted to send the Policy back to the PAC for further review and that OPD provide all missing information.
- August 2021 - Presentation of revised ALPR Privacy Policy and 2019/2020 Annual Reports.
- October 2021- Presentation of revised ALPR Privacy Policy and 2019/2020 Annual Reports; PAC commissioners suggest having an ad-hoc meeting but then confirm that there are not enough commissioners who are prepared to hold an ad-hoc meeting.
- November 2021- Presentation of revised ALPR Privacy Policy and 2019/2020 Annual Reports – at this meeting the PAC again votes to recommend a two-year moratorium OPD use of ALPR technology; see **Attachment F** for the full PAC minutes and motion).

Throughout the two plus years of presenting numerous versions of a Surveillance Use Policy and Surveillance Impact Report, OPD has endeavored to comply with all aspects of OMC 9.64. One challenge that OPD has faced during these years is that an ALPR Policy was developed in 2017 ([Policy 430](#)) – prior to the development of OMC 9.64 and presented to the PAC, receiving widespread support due to the relatively short 6-month data retention policy. As OPD was focused on developing a new policy compliant with OMC 9.64, personnel omitted to audit the use of the technology and provide annual reports, as required by Policy 430. Also, OPD was retaining data for two years, not the 6 months stated in the policy. OPD personnel did however produce 2019 and 2020 annual reports that provided audits of data usage (see “**Data Quantification Challenges and Solutions**” below for details on why OPD cannot fully comply with the OMC 9.64 audit rules with the partially dysfunctional system currently in use). Different versions of these reports have been presented to the PAC numerous times, as explained in the timeline above. OPD personnel have also explained to the PAC that reports for 2017 and 2018 cannot be produced by OPD as the data has been deleted – per the OPD data retention schedule.

ANALYSIS AND POLICY ALTERNATIVES

Following the November 2021 PAC meeting, staff again presents to the City Council two options in regard to OPD's use of ALPR technology:

- OPD's recommendation to approve the ALPR Use Policy and Impact Report (which will allow OPD to also upgrade the system to ensure audit compliance and improve reporting compliance). OPD needs the software upgrades to address the concerns raised by the PAC and cannot address these concerns unless there is a Council-adopted policy so that OPD can move forward on the upgrades; or
- The PAC's recommendation, that OPD cease its use of ALPR entirely for two years. The Office of the City Attorney has advised that the PAC's motion can be supported in the following manner so as to align with Section 218 "Non-Interference in Administrative Affairs" clause of the City Charter: that within 30 days of the date below, the Chief of Police shall certify in writing to the City Council and the PAC that ALPR use has been terminated.

The following sections explain the details and technicalities that have led to these options.

Data retention

Data retention periods lay at the foundation of privacy policies. Longer data periods provide more possibilities for investigations (and crime solving) – but also allow for the possibility of greater pattern recognition. Privacy advocates have expressed concern that OPD can use longer ALPR data retention periods to track people's patterns. OPD is not aware of any departmental cases of ALPR data misuse. Although OPD has made changes to its official and recommended data retention policies, PAC has continued to express strong concern about longer retention policies at numerous meetings. In addition, the PAC has also articulated strong concern that OPD has changed its data retention periods.

The original Policy 430 still lists a six-month data retention period. However, in practice OPD has maintained a two-year data retention period – to correspond with State of California Law. OPD asked the Office of the City Attorney (OCA) starting in 2019 for legal counsel as to an appropriate data retention period in the context of developing a new ALPR Use Policy DGO I-12, compliant with all parts of OMC 9.64, as OPD was vetting this new draft policy with the PAC first in 2019 and then later throughout 2021. OPD offered to lower the proposed data retention from one year to six months out of respect for the privacy concerns raised by PAC Commissioners – despite legal counsel recommendations for a longer retention period. The PAC ultimately voted to still recommend a two-year complete moratorium against OPD use of ALPR; the latest revised Surveillance Impact Report (see **Attachment A**) provides detailed language from the OCA, which in summary states:

- A two-year default retention period for ALPR applies pursuant to state law governing public record retention, generally (Cal. Gov. Code sec. 34090);
- Some Bay Area law enforcement agencies (e.g. Berkeley, Piedmont) store ALPR data only for one-year, and a one-year retention period may be supported by Cal. Gov. Code sec. 34090.6, though that statute applies to routine video, and telephone and radio recordings, and does not expressly apply to ALPR technology;

- The City of Alameda retains ALPR data for six months (the Department does not know what legal authority Alameda relies on to support a retention period of less than one year);
- Any ALPR data destruction prior to the one-year minimum period mandated by statute is not supported by state law.

Based on this analysis, staff believe that a one-year ALPR data retention period is the minimum period permissible pursuant to a reasonable though untested interpretation of existing state law.

Data Quantification Challenges and Solutions

The “License Plate Storage” Section above as well as the April 1, 2021 report highlight OPD’s challenges documented whenever ALPR is used as part of an investigation. OPD has since made concrete improvements to better document ALPR use – as well as explain to the PAC how OPD can much more effectively audit ALPR use with an updated ALPR system. OPD has hired additional staff to ensure that oversight and management protocols are implemented for technology programs such as ALPR. Staff has now developed a new internet cloud-based form whereby investigators are to log ALPR use so that OPD can document its use in annual reports. There is also a new form to be used for whenever an outside agency requests particular ALPR data (see **Figure 3** below). This form will auto-generate an email to the Deputy Director of Bureau of Services for data sharing approval. This process streamlines the permission and approval process and allows for better record keeping. OPD can then document this data in future annual reports for the PAC and City Council, should the City Council approve OPD’s ALPR Use Policy (**Attachment A**). OPD will initiate these procedures if the City Council adopts the resolution to approve the ALPR Use Policy which will authorize OPD to continue to use the ALPR technology.

Figure 3: OPD ALPR External Agency Request Form

Questions Responses ?

Oakland Police Department ALPR Request Form - External Agencies

This form is to be used when an entity outside the Oakland Police Department organization wishes to request access to our ALPR data as outlined in DGO-XX.

1. Name of the Organization Requesting Information

Enter your answer

2. Contact Information of the Requestor (Please include name, email, address, phone number, and serial number, if applicable). *

Enter your answer

3. Is this request tied to an active investigation? *

Yes

No

4. Please enter the license plate number, including the state of issuance. *

Enter your answer

5. Please enter the vehicle description (make, model, color, year). *

Enter your answer

OPD ALPR Use Policy adoption (**Attachment B**), will allow OPD to purchase a new ALPR database system (BOSS4 by Neology). A BOSS4 system will allow OPD to fully conduct annual reviews with random audits of actual personnel queries (personnel must log a reason for using the system). The system tracks all logins, reasons for use, and query results. The current system is dysfunctional in this regard, and therefore OPD cannot comply with the audit requirements of OMC 9.64.

OPD has acknowledged that BOSS4 also allows for more robust vehicle recognition:

- The ability to search by vehicle color (e.g., Red, Black, Blue)
- The ability to search by vehicle make (e.g., Chevrolet, Ford, Mazda)
- The ability to search by vehicle type (e.g., Sedan, Truck, Van)

The ability to search by vehicle specifics (e.g., Roof Racks, Logos, Spare Tires) is also currently available in BOSS4. OPD acknowledges that these features are useful for investigations but may implicate additional privacy concerns. Therefore, OPD has already asked the vendor to disable this feature in OPD's ALPR system. If the vendor is unable to disable this feature, then OPD will only upgrade to the base BOSS4 version to improve audit capabilities. Table 2 below outlines the functionality of OPD's current BOSS3 system vs a new BOSS4 system.

Table 2: Current vs Updated ALPR Software System Functionality

Function	BOSS3 (Current)	BOSS4 (through an Update)
Retention Scheduling	Yes	Yes
Retains data in a secured storage location	Yes	Yes
Prohibits access from unauthorized users (Access is controlled by username / Password)	Yes	Yes
Maintains Records of the following: Date / Time records accessed, Data elements used to Query system, Username, Purpose for access, Justifications	Yes	Yes
Retention Settings by specific criteria (Hits, reads with notes, Reads with dispositions, etc.)	No	Yes
User disposition of Hot List Hits from Vehicle (Arrest, Recovered Stolen Vehicle, Apprehended Fugitive, etc)	No	Yes
User Notes in Investigative Software (Provided Lead in Investigation, directly led to arrest, Located missing person, etc.)	No	Yes
Automated Auditing of User activities	No	Yes
Automated auditing report generation	No	Yes
Alert notifications to investigators	No	Yes

Function	BOSS3 (Current)	BOSS4 (through an Update)
Heat Maps identifying system scanning activity	No	Yes

The Impact Report also details that a new BOSS4 system will cost OPD approximately \$16,000 annually for the software license. OPD can immediately improve its audit and data use tracking protocols with an upgrade at this expense. The impact report also details that new vehicle camera hardware would cost approximately \$363,000 for 35 vehicles. However, the \$363,000 expense is not an urgent expense as the hardware is not required for better data tracking.

ALPR Annual Reports and Data Sharing

The above section explains that OMC 9.64 requires annual reports for each surveillance technology recommended by the PAC and approved by the City Council. ALPR Policy 430 predates OMC 9.64 but has its own language requiring annual reports and audits – the section above explains how OPD began working on annual reports in 2019. PAC Commissioners pointed out several areas where the original reports lacked sufficient detail, including:

- What external agencies requested ALPR data?
- Better analysis regarding community complaints or concerns
- More information about ALPR technology audits and/or why audits are not occurring
- More information about Public Records Requests (PRR) related to ALPR; PAC Commissioners have separately addressed the lack of progress on many outstanding PRRs.

OPD worked to iterate and improve the 2019 and 2020 annual reports during the course of review with the PAC between June and November 2021. Later annual reports added more detail – which specific agencies requested OPD ALPR data (e.g. Fremont and San Francisco PD). The later reports better capture community complaints and concerns, such as those expressed by members of the public during PAC meetings. Also, the reports explain that OPD has allowed the Federal Bureau of Investigation (FBI) access to OPD ALPR data as part of the City Council-approved Safe Streets FBI Taskforce (FBI personnel assist OPD on violent crime investigations through this ongoing taskforce). PAC Commissioners have raised the issue that the Taskforce Memorandum of Understanding does not explicitly give permission to share ALPR data with the FBI. OPD personnel have operated under the understanding the taskforce allows for general law enforcement data sharing which may include ALPR data.

OPD's Records Division have dedicated additional resources to processing outstanding ALPR-related PRRs during 2021. The latest versions of the 2019 and 2020 annual reports (***Attachments C and D***) reflect recently closed PRRs.

ALPR Statistics and Cost-Benefit Analysis

A recurring argument made by PAC Commissioners is that the documented use of ALPR is inconsequential compared to the millions of license plate scans generated and stored in the

system. Brian Hofer, the PAC Chair wrote in his Motion and Findings (attached to the April 1, 2021 report – **Attachment E**), that “A few unverifiable anecdotal reports compared against millions of plate scans is inadequate.” Firstly, staff believes that this statement ignores the many cases (100 cases documented in 2020 (see Appendix in Impact Report **Attachment A**) where ALPR alerted officers in real-time to license plates on CADOJ hotlists. Secondly, staff believe that this type of statistical analysis is misleading. OPD maintains proper security protocols of its ALPR data as documented in the Impact Report and illustrated to the PAC on many occasions. The database is password protected, personnel do need to log a reason for use, and OPD does document requests for ALPR data from outside agencies. Thirdly, as explained in the April 1, 2021 report, “in the years 2019 and 2020 the amount of times ALPR was queried equals to 0.09 percent of the total number of scans (less than a tenth of one percent of total scans) indicating that this system is not being used as a dragnet to target law abiding citizens. This system is being used to target a very small segment of the population engaged in criminal activity.” Also, there is no evidence that OPD ALPR scan data has been shared inappropriately or inadvertently. Additionally, there is very little cost to store this license plate data.

Staff furthermore believe that if a few million scans per year can lead to even a few successful investigations of homicides, carjacking, and robberies each year – then this victim and justice-supporting tool provides value that meets or exceeds the privacy impact (given the security protocols that have always been in place). The impact and trauma to the community caused by violent crime cannot be measured. ALPR, however, is a tool that supports investigations by developing leads. This work helps OPD bring criminal perpetrators to justice in support of crime victims.

City Council Options

Attached to this report are the two City Council Resolutions very similar to the two options provided to the City Council at the May 18, 2021 meeting. OPD appreciated the direction of the City Council to choose a third option to adopt neither resolution and instead ask that OPD and PAC Commissioners continue to find a path forward. During this interim period, OPD has tried to respond to PAC concerns and questions and improve the Use Policy, Impact Report, and annual reports. OPD also lowered its data retention period to six months – but still recommends a one-year (365 days) data retention period as outlined in the draft ALPR Use Policy DGO I-12 ALPR (**Attachment B**). OPD staff also asked the PAC to hold an ad-hoc meeting for deeper collaboration, but PAC Commissioners could not agree to arrange such a meeting.

OPD believes that all strategies for amendments to the ALPR Use Policy and related documentation have now been explored. Staff believe that the PAC’s recommendation is not in the best interest of the City, as it would deprive the Oakland community of a useful technology at a time where OPD needs every piece of technology that assists in constitutionally-just policing and crime investigations. OPD and the City of Oakland face personnel shortages and increasing rates of crime on top of already unacceptably high rates of crime. OPD has acknowledged its missteps in following all components of Policy ALPR 430 in the middle of developing the new Policy DGO I-12. OPD strives to be a learning organization and is committed to a greater compliance with ALPR oversight, as well as for oversight with all of the many technology and general policing policies. This report also explains how Use Policy adoption will allow OPD to improve the ALPR data systems for a modest expense – and vastly improve its auditing, data tracing, and general ALPR use overnight. Staff therefore recommends

that the City Council adopt the resolution to approve its ALPR Use Policy (DGO I-12) as well as the accompanying Impact Report.

FISCAL IMPACT

There is no fiscal impact associated with this report. This report does explain that, should the City Council adopt the resolution to approve OPD's ALPR Use Policy and Impact Report, then OPD would plan to purchase a new BOSS4 ALPR software system at a cost approximately \$16,000 annually for the software license. The impact report also details that new vehicle camera hardware would cost approximately \$363,000 for 35 vehicles. These funds, however, are not required at this time to update the system to improve auditing capabilities.

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. Staff then presented the ALPR Privacy Policy and 2019/2020 Annual Reports to the Public Safety Committee on May 11, and City Council on May 18, 2021. Following the City Council vote to send the Policy back to the PAC for further review, OPD presented updated versions of these documents at the August, October, and November 2021 PAC meetings.

COORDINATION

This report was reviewed by the Office of the City Attorney and the Budget Bureau.

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 communities 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 will use this data to respond to crimes such as vehicle theft and will also use the ALPR data to investigate violent crimes and provide investigative support to these same communities.

ACTION REQUESTED OF THE CITY COUNCIL

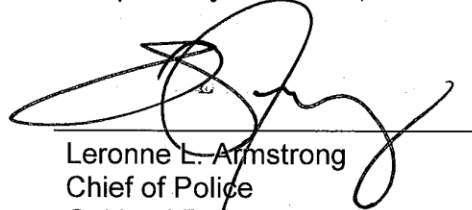
Staff Recommends That The City Council Adopt:

A Resolution Approving The Oakland Police Department (OPD) Automated License Plate Reader (ALPR) Surveillance Use Policy (SUP) And Surveillance Impact Report (SIR); Or

A Resolution That Within 30 Days Of The Date Of Passage Of This Resolution, The Chief Of Police Shall Certify In Writing To The City Council And The Privacy Advisory Commission (PAC) That The Oakland Police Department (OPD) Has Terminated Its Use Of Automatic License Plate Reader (ALPR).

For questions on this report, please contact Carlo Beckman, Police Services II, at cbeckman@oaklandca.gov .

Respectfully submitted,



Leronne L. Armstrong
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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:** OPD Automated License Plate Reader Privacy Policy and Options” dated April 1, 2021
- **F:** PAC November 4, 2021 Meeting Minutes