



# OAKLAND CITY COUNCIL

## RESOLUTION NO. \_\_\_\_\_ C.M.S.

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### **RESOLUTION APPROVING THE OAKLAND POLICE DEPARTMENT (OPD) AUTOMATED LICENSE PLATE READER (ALPR) SURVEILLANCE USE POLICY (SUP) AND SURVEILLANCE IMPACT REPORT (SIR)**

**WHEREAS**, ALPR technology consists of cameras that can automatically scan license plates on vehicles that are publicly visible; ALPR reads these license plates with a lens and charge-coupled device (CCD) that sense and records the image and connects the image to an optical character recognition (OCR) system that can connect the image to that actual license plate characters; 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. The system, once initiated, runs continuously and photographs vehicles until turned off manually; 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; and

**WHEREAS**, OPD's ALPR system updates daily with three California Department of Justice (CA DOJ) hotlists: felony wants, stolen plates, stolen vehicles, and there is no OPD ALPR connection to any federal databases; and

**WHEREAS**, OPD uses ALPR for: 1) the immediate (real time) comparison of the license plate characters against CA DOJ databases; and 2) the 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; and

**WHEREAS**, ALPR technology helps OPD personnel to leverage their public presence and to more effectively use their limited time for more critical crime response activity; and

**WHEREAS**, Oakland's Surveillance Ordinance No.13489 C.M.S., adopted by the City Council on May 15, 2018 adds Chapter 9.64 to the Oakland Municipal Code (OMC), and covers policy areas related to surveillance technology; and

**WHEREAS**, OMC 9.64.030.1.C requires City Council approval for new and existing surveillance technology; additionally, OMC Section 9.64.020.1 requires that, "Prior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, city staff shall submit a Surveillance Impact report and Surveillance Use Policy to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting. The surveillance impact report and surveillance use policy must address the specific subject matter specified for such reports as defined under 9.64.010"; and

**WHEREAS**, OPD staff presented a draft Department General Order (DGO) I-12: Automated License Plate Reader Technology as its Surveillance Use Policy (SUP) as well as a draft Surveillance Impact Report (SIR) at the following PAC meeting dates: January 3, 2019; February 7, 2019; March 7,

2019; April 4, 2019; January 7, 2021; and February 4, 2021; and

**WHEREAS**, *Appendix A* to OPD's current SUP provides over 100 examples of CA DOJ hotlist hits notifications to officers; and *Appendix B* provides over 30 cases where ALPR provided OPD with evidence to investigate violent crime including assault, human trafficking, robbery, and homicide; and

**WHEREAS**, OPD has provided a 2019 and 2020 ALPR Annual Report that provides data on the number of license plate scans, matches and requests for ALPR data by outside agencies; and

**WHEREAS**, OPD personnel have explained to PAC Commissioners during PAC meetings that the OPD ALPR system is outdated and that a newer system must be acquired to provide data regarding how and for what reasons personnel query the system; and

**WHEREAS**, the SIR (*Attachment A* to the accompanying report) covers the following areas as required by the Surveillance Ordinance:

- Information describing the system and how it works;
- Purpose of the technology;
- Locations where, and Situations in which the technology may be used;
- Privacy Impact of the technology;
- Mitigations to prevent privacy impacts;
- Data Types and Sources;
- Data Security;
- Costs;
- Third Party Dependence;
- Alternatives Considered; and
- Track Record of Other Entities; and

**WHEREAS**, DGO I-12: Automated License Plate Reader (*Attachment B* to the accompanying report) covers relevant areas required by OMC 9.64.030, including the following areas:

- Technology Description;
- Authorized Use;
- Use Restrictions;
- Data Access, Data Collection and Retention, and Security;
- Monitoring and Reporting; and
- System Training; and

**WHEREAS**, OPD is prohibited from acquiring any new ALPR technology, based on the requirements of OMC 9.64, until a SUP and SIR are reviewed by the PAC and approved by the City Council; and

**WHEREAS**, at the February 4, 2021 PAC meeting the PAC Chair introduced a document with 18 findings "based on OPD's proposal, and my own [PAC Chair Brian Hofer] independent research on this matter (see Attachment C); and

**WHEREAS**, the motion introduced by PAC Chair Hofer is as follows: "Based on the above findings, my motion and recommendation to the City Council is that due to a) the years-long refusal of OPD to comply with its own policy, b) the years-long refusal of OPD to comply with state law pertaining to use of such technology, c) the years-long refusal of OPD to honor public record requests into such use, d) the lack of demonstrated efficacy from use of such technology, and e) the negative impact to our privacy interests and civil liberties from the collection of highly revealing location and association data without a necessary criminal predicate justifying such collection, that OPD's use of

automated license plate readers 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, and that for a period of two years OPD may not seek City Council approval for ALPR use. The above findings #1-18 are to be incorporated into the PAC's recommendation to the Council;" now therefore be it

**RESOLVED:** that based upon the accompanying staff reports, the Council finds that OPD's ALPR use is an important tool for OPD; and be it

**FURTHER RESOLVED:** that City Council does hereby approve the OPD DGO I-12: Automated License Plate Reader as OPD's Surveillance Use Policy (*Attachment A*) to the report accompanying this resolution); and be it

**FURTHER RESOLVED:** that pursuant to OMC 9.64.020.2, City Council understands and has considered the PAC's recommendation to disfavor City Council authorization of the acquisition and use of ALPR technology; and be it

**FURTHER RESOLVED:** That pursuant to OMC Section 9.64.020.2, for the reasons referenced above and in the agenda report and SIR (*Attachment B* to the report accompanying this resolution), the City Council finds that the benefits to the community of the surveillance technology outweigh the costs (cost benefit determination); that the proposal will safeguard civil liberties and civil rights, and that, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective; and so authorizes the City Administrator or designee's acquisition and use of ALPR in accordance with OPD DGO I-12: Automated License Plate Reader; and be it

**FURTHER RESOLVED:** That in accordance with Article IV, Section 401(6) of the City Charter, the City Attorney's Office shall review and approve all contracts authorized by this resolution as to form and legality before execution, and a copy of each fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, TAYLOR, THAO, REID, AND PRESIDENT FORTUNATO-BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the City of  
Oakland, California