



Item No. 17 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER

FROM: STEVE MCCULLEY, CHIEF OF POLICE

DATE: JANUARY 15, 2020

SUBJECT: RECEIVE PRESENTATION BY REPRESENTATIVES FROM FLOCK AND NCRIC AND APPROVE LEXIPOL POLICY 469- AUTOMATED LICENSE PLATE READERS (ALPRs).

RECOMMENDATION

Staff recommends that the City Council receive a presentation by representatives from Flock and the Northern California Regional Intelligence Center (NCRIC); and review and approve the updated version of Lexipol Policy 469- Automated License Plate Readers.

BACKGROUND/ANALYSIS

At the March 6, 2019 Study Session, staff provided the City Council with an overview of ALPR and security camera technology. The presentation was designed to educate the Council about how the use of fixed ALPR and security cameras could assist the Atherton Police Department in deterring/solving crime. The Town currently uses mobile ALPR technology on patrol vehicles. Lexipol Policy 469 (ALPR) current governs the Town's use of ALPR technology.

At the conclusion of that Study Session, the City Council asked staff to conduct a more in-depth look at the pros and cons of ALPR/security cameras with the ultimate goal of making a recommendation as to whether the Town should invest in fixed ALPR/security camera technology.

Following that review, at the November 20, 2019 City Council meeting, the City Council approved the testing of two fixed Flock ALPR units. Staff also presented Lexipol Policy 469 (ALPR) for Council input. After Council comment on Policy 469, staff made the following two revisions:

Those updates are as follows:

Addition: 469.4- ALPR HITS

This section provides procedural guidance after a positive hit from the hotlist database.

Revision: 469.6(c) ACCOUNTABILITY

This section gives direction for an annual system audit. Prior to this revision, the policy recommended that an audit be conducted “on a regular basis.” Staff changed the verbiage to the following: “ALPR system audits shall be conducted on an annual basis by an independent outside auditor.

The State of California Civil Code 1798.90.5 governs and provides guidance/requirements for the development of an ALPR policy for the implementation and deployment of an ALPR system (Attachment 1).

POLICY FOCUS

The Police Department’s updated Lexipol ALPR Policy (Attachment 1) meets the requirements of both the California Civil Code 1798.90.5 and the California Government Code 34090.6.

FISCAL IMPACT

None

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- ___ Audit/Finance Committee (meets every other month)
- ___ Bicycle/Pedestrian Committee (meets as needed)
- ___ Civic Center Advisory Committee (meets as needed)
- ___ Environmental Programs Committee (meets every other month)
- ___ Park and Recreation Committee (meets each month)
- ___ Planning Commission (meets each month)
- ___ Rail Committee (meets every other month)
- ___ Transportation Committee (meets every other month)
- ___ Tree Committee (meets each month)

ATTACHMENTS

Attachment 1- ALPR Policy

Automated License Plate Readers (ALPRs)

469.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

469.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Atherton Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Commander. The Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

469.2.1 ALPR ADMINISTRATOR

The Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

469.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

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- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

469.4 ALPR HITS

- (a) When an alarm is received alerting operators of a positive Hit from the Hotlist database, a digital image of the license plate will be displayed on the mobile data computer screen.
- (b) Absent exigent circumstances, or other information to establish probable cause for a detention, ALPR operators shall compare the digital image of the license plate to the Hotlist information to verify the Hit for both the state in which the license plate was issued, and the characters on the license plate. ALPR systems will alert based on the alpha numeric characters displayed for license plates issued, and false positives are possible based on license plates with the same numbers from other states. ALPR systems may also misread letters and numbers of similar shapes. This is the primary reason that, absent exigent circumstances, all positive Hits must be confirmed prior to taking law enforcement action.
- (c) Absent exigent circumstances, or other information to establish probable cause for a detention, ALPR operators shall confirm the ALPR information by radio or mobile data computer to immediately confirm the Hit prior to taking enforcement or any other type of action.

469.5 DATA COLLECTION AND RETENTION

The Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention

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schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

469.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Atherton Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits shall be conducted on an annual basis by an independent outside auditor.

469.7 POLICY

The policy of the Atherton Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

469.8 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Commander or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

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Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

469.9 TRAINING

The Training Manager should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).