



Memorandum

ITEM: 3.5

TO: CITY COUNCIL

FROM: Mayor Sam Liccardo

SUBJECT: SEE BELOW

DATE: September 19, 2022

Approved:

Date: 09/19/22

SUBJECT: DIGITAL PRIVACY PROGRAM UPDATE AND PUBLIC CAMERA USE

RECOMMENDATION

Direct the City Manager to:

1. Include as part of the Automated License Plate Reader (ALPR) Usage Protocol a policy for mitigating the potential privacy impact of ALPRs at or around highly sensitive locations such as Planned Parenthood clinics.
2. Reconsider the propriety of site-specific signage given that it is likely to:
 - create a false impression that signage will always indicate where license plate surveillance is deployed, yet SJPD has deployed mobile ALPRs in police cars citywide for 16 years;
 - incentivize undermining and destructive behavior, based on ample city experience, e.g., surveillance cameras being shot out in City parks, perpetrators covering their plates when burglarizing malls, etc;
 - compare unfavorably to broader, more accurate approaches to notification, such as posting signage on “city limits” signage at San Jose’s borders, or in residents’ mailers.
 - impose significant public cost with minimal benefit;
3. Provide as part of the “Evaluation and Follow Up”:
 - a. San José-specific analysis should be provided to Council and Public regarding the efficacy of ALPRs, gunshot detection, or similar technology investments, in preventing harm, solving crimes, or yielding some other

public benefit. Policy and purchasing decisions should be informed by this data.

- b. Return to Council with a work plan for assessment of privacy risks of different technologies deployed (or planned) by the City, to focus the digital privacy program's work on those areas of highest importance to the community, and not merely to a small number of stakeholders.

BACKGROUND

When a promising tool allows us to improve safety in our communities, we owe them that investment. For that reason, we should support the conscientious deployment and study of Automated License Plate Readers (ALPRs) and other similar technologies that demonstrably improve public safety.

ALPRs are cameras that capture license plates of vehicles on public roads for law enforcement purposes. The City of San José has used this technology since 2006, and developed a usage protocol in 2017, pursuant to SB 34. SJPD deployed these devices on patrol vehicles to check passing vehicles. In response to the recent rise in hit and runs, smash and grabs, and gun violence in specific communities, the City of San José has expanded ALPR usage.

On September 21, 2021 the first stationary installment of an ALPR was approved for the intersection of Monterey and Curtner, an intersection which saw three unsolved hit and runs that year. Two months later, Council approved \$250,000 for ALPR's to respond to "smash and grab" thefts. The San José Police Department has stated that up to 150 in total will be placed on stationary poles around the city.

Another novel technology that has been deployed are gunshot detection systems. Gunshot detection systems utilize strategically placed microphones across a landscape to detect gunshots so that law enforcement and medical services are not solely reliant on 911 calls. In April of 2022, the City conducted a gunshot detection pilot in West San José, the results of which have not yet been shared. The Council and the public should see and understand the outcome of this pilot.

We commend the Digital Privacy team for their diligence in facilitating extensive public outreach and scaling the privacy review process citywide. In particular, the August 24th, 2022 webinar held for the public was particularly effective in creating a forum for honest and transparent dialogue between the community and city staff.

While the City endeavors to only utilize ALPRs for authorized uses found in the data use protocol, other agencies have utilized the technology for other purposes. U.S. Immigration and Customs Enforcement (ICE) have used ALPR data generated at the local government level to locate and find undocumented persons most recently.¹ Local law did not stop other jurisdictions in California from sharing their data with ICE.

¹ <https://www.aclu.org/news/immigrants-rights/documents-reveal-ice-using-driver-location-data>

Thankfully, our data use protocol specifically lists immigration efforts as a prohibited use for ALPRs – but more consideration may be needed for additional sensitive use cases. Additionally, the continuing impact from the *Dobbs* Supreme Court case continues to change the landscape of reproductive rights. San José stands as a beacon for women’s rights and has no plans for restricting access to critical services. To protect resident’s privacy and that of out of state visitors, ALPRs should not be operated in a manner that can confirm or correlate a visit to locations like abortion clinics, the Mexican consulate, or centers that provide gender-affirming care. The City should consider a strategy for ensuring the privacy of visitors to these high-sensitivity locations.