



Item No. 14 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

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

FRO STEVE McCULLEY, CHIEF OF POLICE

DATE: FEBRUARY 17, 2021

SUBJECT: AUTOMATED LICENSE PLATE READER AUDIT RESULTS

RECOMMENDATION

Staff recommends the Police Department continue with the Automated License Plate Reader (ALPR) audits annually to ensure compliance with existing ALPR policies.

BACKGROUND

At the November 2019 and September 2020 Council meetings, Council approved the leasing of the Flock ALPR units to be installed at approved specific locations throughout different areas in Town.

To date, the Town has installed 26 Flock cameras which includes four cameras funded by residents. There are six additional resident funded cameras in the process of being finalized and installed. This will bring the total Flock camera count to 32 (See Attachment 1, Flock Camera Installation locations).

The Flock ALPR cameras located throughout Town have proven to be a very valuable investigative tool and a proactive crime detection tool. Within the first few weeks of operation a burglary suspect vehicle was identified and linked to a major in-Town burglary. Several felony arrests have been made as the result of Flock license plate hits. The arrests include stolen cars and wanted, armed violent fugitives.

To ensure the integrity and proper use of the Flock ALPR system, Lexipol Policy Section 469, Automated License Plate Readers, requires an annual system audit conducted by an outside objective third party (See Attachment 2, Lexipol Policy 469).

ANALYSIS

The purpose of the audit is to measure the Police Department's compliance with Lexipol Policy Section 469, Automated License Plate Readers (ALPR) with specific emphasis on Section 469.6, Accountability (a) and (b), which requires that officers only access ALPR data for a legitimate law enforcement purpose.

The scope of the audit, which was performed by an outside objective third party police agency, included random ALPR inquiries made by Atherton Police Department Personnel for:

- A) The Department's one mobile ALPR unit, ranging from 1-1-2020 to 12-31-2020.
- B) The Department's Flock ALPR camera system, ranging from 1-1-2020 to 12-31-2020.

The methodology for the audit was to review approximately 10% of the total number of ALPR inquiries made by Police Department personnel and determined whether that access to the system was executed properly and was in compliance with Lexipol Policy 469.6, Accountability. This requires that all data was closely safeguarded and protected by both procedural and technological means. The Police Department observed the following Civil Code safeguards regarding the access to and use of stored data – Civil Code 1798.90.51; Civil Code 1798.90.53.

The audit results showed the Flock database was queried a total of forty (40) times, including test queries. It was found that Department members were 100% compliant with entering legitimate law enforcement or administrative reasons for the queries. It is also noted that the Flock software does not allow users to query the database without entering a reason for the search. The recorded reasons for the queries varied from "460" to incident numbers and case numbers. An audit of the Vigilant (Boss 4) database revealed no queries in this database for calendar year 2020.

It is noted that Department personnel were 100% compliant with the Atherton Police Policy Section 469 (See Attachment 3, Flock Camera Audit, dated January 26, 2021).

RECOMMENDATIONS

Staff recommends that the Police Department continue to conduct annual audits on the ALPR system to ensure transparency and legitimacy by all users.

POLICY FOCUS

The investment with the Flock ALPR cameras has ensured that the Town is equipped with technology that can help to identify vehicles associated with criminal activity, thus deterring and helping to proactively suppress criminal misconduct in Town. By using that information for legitimate reasons per Lexipol Policy 469, we can assure the residents of this community that the Department is using the tools appropriately and within the course and scope of the duties of those that serve Atherton.

FISCAL IMPACT

None. There is no cost to running an annual audit of the ALPR system since it will be conducted by a neighboring agency within San Mateo County. In order to protect the privacy access requirements of the data in the system throughout the audit, the auditing agency must comply with all access requirements. This is one of the reasons that the audit is conducted by an outside policing agency.

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

- Lexipol Policy 469
- Flock Camera Installation locations
- Flock Camera Audit

Resident Funded Cameras						
Resident name / Contact Information	Flock Form Sent	Flock Form Rec	Flock Form to CM	Desired Location of Flock Camera(s) /Installed Flock Camera	Survey Complete	Camera Installed
The Latham's Email - jillalatham@comcast.net, michael.latham@ymail.com #650-327-1470	x	x	x	E/B James, E/B Linden		
The Gaertner's Email - gaertner@gmail.com #650-291-2285	x	x	x	W/B Oak Grove @ Toyon E/B Oak Grove @ Edge		
Freund Group	x	x	x	#20 E/B Britton @Alejandra, #21 N/B Emilie @ Park, #22 W/B Alejandra @ Brittany Meadows	x	x
John Freund Email- john@skylineventures.com #917-705-1219	x	x	x	W/B Alejandra @ Martin Wunderlich Field	x	
The Merier's Email- lele@anthonymeier.com #650-329-1876	x	x	x	E/B Isabella @ Elena	x	
The Goodstein's Email - egoodstein524@gmail.com #650-464-7449	x	x	x	#25 W/B Winchester @ ECR, #26 E/B MacBain @ Emilie	x	x
Locations of Town Leased and Resident Funded Flock Cameras						
1. HP Park Entrance						
2. HP Park Exit						
3. N/B Middlefield @ Ravenswood						
4. E/B Watkins @ El Camino						
5. W/B Fair Oaks Ave @ Middlefield Road						
6. S/B Middlefield Road @ Jennings Ln						
7. N/B Alameda @ Walsh						
8. N/B Frederick @ Ringwood						
9. W/B Selby @ Oakwood						
10. W/B Alejandra @ ECR						
11. W/B Valparaiso @ ECR						
12. N/B Camino Por Los Arboles @ Valparaiso						

ATTACHMENT 1

13. E/B Atherton @ Alameda						
14. W/B Atherton @ ECR						
15. W/B Selby @ ECR						
16. E/B Selby @ Selby						
17. E/B Camino Al Lago @ Alameda						
18. W/B Isabella @ ECR						
19. Glenwood @ Laurel						
20. E/B Britton @ Alejandra				Resident Funded		
21. N/B Emilie @ Park				Resident Funded		
22. W/B Alejandra @ Brittany Meadows				Resident Funded		
23. W/B Marsh @ Middlefield						
24. E/B Stockbridge @ Alameda						
25. W/B Winchester @ ECR				Resident Funded		
26. E/B MacBain @ Emilie				Resident Funded		

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.

Automated License Plate Readers (ALPRs)

- (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 shall be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention

Automated License Plate Readers (ALPRs)

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 will be processed as provided in the Records Maintenance and Release Policy pursuant to 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).



**CITY OF EAST PALO ALTO
POLICE DEPARTMENT**
141 Demeter Street
East Palo Alto, CA 94303

ATTACHMENT 3

ALBERT PARDINI
CHIEF OF POLICE
(650) 853-3125 Phone
apardini@cityofepa.org

To: Chief Steven McCulley
From: Commander Jeff Liu #2106
Date: January 26, 2021
Subject: Atherton Police Department – 2020 ALPR Audit Results

Chief McCulley,

On January 26, 2021 I assisted your agency with an audit of your LPR database / usage for calendar year 2020. For the purposes of the audit, I worked with Commander Wade and Sergeant Kockler to access your LPR databases and review your agency's usage.

Audit Purpose: The purpose of the audit was to measure the Atherton Police Department's compliance with Lexipol Policy Section 469- Automated License Plate Readers (ALPR), with specific emphasis on section 469.6- Accountability (a) and (b), which requires that officers only access ALPR data for a legitimate law enforcement purpose.

Audit Scope: This audit included random ALPR inquiries made by Atherton PD personnel for:

- a) the Department's lone mobile ALPR unit, ranging from 01/01/2020 to 12/31/2020
- b) the Department's Flock camera system, ranging from 01/01/2020 to 12/31/2020

Audit Methodology: The methodology for this audit is as follows: to review approximately 10% of the total number of ALPR inquiries made by Atherton PD personnel and determine whether that access to the system was executed properly and was in compliance with Lexipol Policy 469.6- Accountability, which requires that *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):*

(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.

Audit Results:

Percentage of compliance (Flock)

- During calendar year 2020, the Flock database was queried a total of forty (40) times including test queries. I found that your department members were 100% compliant with entering legitimate law enforcement or administrative reasons for the queries. I also learned Flock software does not allow users to query the database without entering a reason for the search. The recorded reasons for the queries varied from "460" to incident numbers and case numbers.

Percentage of compliance (Vigilant)

- An audit of the Vigilant (Boss 4) database revealed no queries in this database for calendar year 2020.

Audit Action Items:

Although your personnel were 100% compliant with Atherton Police Policy Section 469, I recommend limiting the query reasons to incident numbers and case numbers for auditing purposes.



Commander Jeff Liu
East Palo Alto Police Department