



Staff Report

Date: April 26, 2016

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Guy Swanger, Chief of Police

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Subject: **Public Presentation of the Police Department's Policy for Data Usage and Storage from Automated License Plate Readers (ALPR), Procedure 96**

Report in Brief

The Concord Police Department has adopted Procedure 96, which covers the use of ALPR technology within the City of Concord. A copy of Procedure is attached to this report and posted and available for public viewing on the police department website: <http://www.cityofconcord.org/pdf/police/alpr.pdf> (The City currently has five ALPR devices. Procedure 96 applies to their use and the use of the data collected through the devices.

Recommended Action

Allow the public an opportunity to comment on Police Department Procedure 96, as required by State law.

Background

In October 2015, California Senate Bill 34 passed through the state legislature, was approved by Governor Brown and was recently codified at Civil Code Section 1798.90.5 et. seq.

The aim of Senate Bill 34 is transparency of local Police Department's policies and procedures around the use of ALPR technology and the data they collect. Agencies using ALPR technology must have easily-viewed documentation stating how their

systems and collected data are used and shared. A publically viewable (e.g. posted on agency website) ALPR policy covers:

- Who has access to the system
- For what purposes the information is utilized
- Sharing rules around dissemination of data
- Audit and quality control procedures to verify accuracy of information and proper utilization
- Lifespan of data retention

Analysis

Concord currently has five ALPR units in operation; each is attached to a law enforcement vehicle. The ALPR units collect license plate information from vehicles in public view. The license plate information collected includes the license plate number, date and time of the read and the latitude and longitude of the read. A GPS antenna on the ALPR equipped vehicles is used to read the latitude and longitude coordinates in the ALPR system.

ALPR technology is used to:

01. Locate stolen, wanted, and subject of investigation vehicles;
02. Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
03. Locate witnesses and victims of violent crime;
04. Locate missing children and elderly individuals, including responding to Amber and Silver Alerts;
05. Support local, state, federal, and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
06. Protect participants at special events; and
07. Protect critical infrastructure sites.

Procedure 96 was written to comply with Civil Code Section 1798.90.5 et. seq. and documents the City's current practices governing the use of ALPR's.

Only personnel trained in the use of the ALPR system shall be allowed access to the ALPR data.

ALPR data may be disseminated to any governmental entity with an authorized law enforcement or public safety purpose for access to such data. ALPR data may also be disseminated to owners and operators of critical infrastructure in circumstances where

such infrastructure is reasonable believed to be the target of a terrorist's attack or other criminal activity.

Access to the ALPR system is logged for auditing purposes. Audits of the system will be conducted no less frequently than every 12 months. Reasonable measures will be made to ensure the accuracy of the ALPR data. Any errors that are discovered will be marked, corrected or deleted accordingly.

ALPR data will be retained no longer than 6 months. Once the retention period has expired, the record will be purged entirely from the ALPR system unless a reasonable suspicion has been established that the vehicle identified by the ALPR read is connected to criminal activities.

Financial Impact

None.

Public Contact

The City Council Agenda was posted.

Attachments

1. Copy of Concord Police Department Procedure 96

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DEPARTMENT REGULATIONS
CONCORD POLICE DEPARTMENT

PROCEDURE: 96
EFFECTIVE DATE: 01/2016
REVISION DATE: 01/2016
REVIEW DATE: 01/2017
I.D. NUMBER: 307

Chief of Police

AUTOMATED LICENSE PLATE READER (ALPR) POLICY

A. AUTOMATED LICENSE PLATE READER (ALPR) TECHNOLOGIES

To support authorized law enforcement and public safety purposes of local, state and federal agencies, the Concord Police Department utilizes Automated License Plate Reader (ALPR) technology, and supporting software, to gather and analyze ALPR data to enable the rapid identification and location of vehicles of legitimate interest to law enforcement. ALPR units are attached to law enforcement vehicles or deployed at fixed locations, where they collect license plate information from vehicles on public roadways and public property. In one common use of ALPR technology, license plate encounters are compared against law enforcement “hotlists” – lists of vehicles associated with active investigations; for example, related to Amber Alerts or other missing children, stolen vehicles, or stolen license plates. The information is also retained for a fixed retention period, though it is only re-accessible by law enforcement given a legitimate law enforcement purpose as listed below.

B. PURPOSE

This Concord Police Department Automated License Plate Reader Policy (ALPR Policy) defines a minimum set of binding guidelines to govern the use of Automated License Plate Reader Data (ALPR Data), in order to enable the collection and use of such data in a manner consistent with respect for individuals’ privacy and civil liberties.

C. AUTHORIZED PURPOSES, COLLECTION, AND USE OF ALPR DATA

1. To support the mission of the Concord Police Department, Law enforcement personnel with a need and right to know will utilize ALPR technology to:
 01. Locate stolen, wanted, and subject of investigation vehicles;
 02. Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
 03. Locate witnesses and victims of violent crime;
 04. Locate missing children and elderly individuals, including responding to Amber and Silver Alerts;
 05. Support local, state, federal, and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
 06. Protect participants at special events; and
 07. Protect critical infrastructure sites.

D. **RESTRICTIONS ON COLLECTION OF ALPR DATA AND USE OF ALPR SYSTEMS**

1. Concord Police Department ALPR units may be used to collect data that is within public view, but may not be used for the sole purpose of monitoring individual activities protected by the First Amendment to the United States Constitution.
2. ALPR operators may not contact occupants of stolen, wanted, or subject-of-investigation vehicles unless the ALPR operators are sworn law enforcement officers. ALPR operators must rely on their parent agency rules and regulations regarding equipment, protection, self-identification, and use of force when stopping vehicles or making contact.
3. ALPR operators must recognize that the data collected from the ALPR device, and the content of referenced hotlists, consists of data that may or may not be accurate, despite ongoing efforts to maximize the currency and accuracy of such data. To the greatest extent possible, vehicle and subject information will be verified from separate Law enforcement information sources to confirm the vehicle or subject's identity and justification for contact. Users of ALPR Data must, to the fullest extent possible, visually confirm the plate characters generated by the ALPR readers correspond with the digital image of the license plate in question.
4. All users of Concord Police Department ALPR equipment or accessing Concord Police Department ALPR Data are required to acknowledge that they have read and understood Concord Police Department General Order 81 prior to use of the ALPR System.
5. In no case shall the Concord police Department ALPR system be used for any purpose other than legitimate law enforcement or public safety purpose.

E. **TRAINING**

1. Only persons trained in the use of the Concord Police Department ALPR system, including its privacy and civil liberties protections, shall be allowed access to Concord Police Department ALPR Data. Training shall consist of:
 01. Legal authorities, developments, and issues involving the use of ALPR Data and technology
 02. Current Concord Police Department Policy regarding appropriate use of Concord Police Department ALPR systems;
 03. Evolution of ALPR and related technologies, including new capabilities and associated risks;
 04. Technical, physical, administrative, and procedural measures to protect the security of ALPR Data against unauthorized access or use; and
 05. Practical exercises in the use of the Concord Police Department ALPR system
2. Training shall be updated as technological, legal, and other changes that affect the use of the Concord Police Department ALPR system occur. In no case shall a person utilize the Concord Police Department ALPR system if he/she has not completed training in more than a year.

F. **AUDIT**

1. Access to, and use of, ALPR Data is logged for audit purposes. Audit reports will be structured in a format that is understandable and useful and will contain, at a minimum:

01. The name of the law enforcement user;
 02. The name of the agency employing the user;
 03. The date and time of access;
 04. The specific data accessed;
 05. The supplied authorized law enforcement or public safety justification for access; and
 06. A case number associated with the investigative effort generating the ALPR data query.
2. Audit reports will be provided periodically and on request to supervisory personnel at the Concord Police Department and partner agencies.
 3. In addition, no less frequently than every 12 months, the Concord Police Department will audit a sampling of ALPR system utilization from the prior 12 month period to verify proper use in accordance with the above authorized uses. Any discovered intentional misconduct will lead to further investigation, termination of system access, and notification of the user's parent agency for appropriate recourse. In addition, the auditing data will be used to identify systemic issues, inadvertent misuse, and requirements for policy changes, training enhancements, or additional oversight mechanisms.
 4. These ALPR audits shall be conducted by a senior Concord Police Department official other than the person assigned to manage the Concord Police Department ALPR function. Audit results shall then be reported to the Chief of Police.

G. DATA QUALITY AND ACCURACY

1. The Concord Police Department will take reasonable measures to ensure the accuracy of ALPR Data collected by the Concord Police Department ALPR units and partner agency ALPR systems. Errors discovered in ALPR Data collected by the Concord Police Department ALPR units are marked, corrected, or deleted in accordance with the type and severity of the error in question. Errors discovered in ALPR Data collected from partner agencies' ALPR systems are communicated back to the controlling agency to be addressed as deemed appropriate by that agency or in accordance with the agency's own ALPR data policies. As the downstream custodian of "hotlists", the Concord Police Department will provide the most recent version of these lists available and ensure the lists are refreshed from state or federal sources on a daily basis.
2. The Concord Police Department acknowledges that, in rare instances, ALPR units may inadvertently capture information contrary to the collection guidelines set forth in this policy. Such records will be purged upon identification. Any discovered notable increase in frequency of these incidents from specific ALPR units or agencies will be followed up with for equipment repairs, cameras realignment, or personnel training as necessary.

H. PHYSICAL AND ELECTRONIC SECURITY OF ALPR DATA

1. Data collected by ALPR systems is stored in a secured law enforcement facility with multiple layers of physical security and 24/7 security protections. Physical access is limited to law enforcement staff in good standing that have completed background investigations.

2. The Concord Police Department will utilize strong multi-factor authentication, encrypted communications, firewalls, and other reasonable physical, technological, administrative, procedural, and personnel security measures to mitigate the risks of unauthorized access to the system.

I. **RETENTION OF ALPR DATA**

1. ALPR Data collected by Concord Police Department ALPR units or shared from partner agencies' ALPR units shall not be retained longer than 6 months, or the length of time required by the partner agency who is custodian of the record – whichever is shorter. Once the retention period has expired, the record will be purged entirely from all active and backup systems unless a reasonable suspicion has been established that the vehicle identified by the ALPR read is connected to criminal activities.
2. ALPR records matching an entry in a current law enforcement hotlist will trigger an immediate notification to the officer operating the ALPR unit, the active dispatch officer at the agency owning the ALPR unit, the Concord Police Department, and the custodial agency of the hotlist. Such notifications are also subject to a maximum retention of 6 months.
3. ALPR Data obtained with license plate information not appearing on hotlists, and with no immediate reasonable connection to criminal activity, will be retained in secure systems as to only be made accessible to authorized personnel for a maximum period of 6 months, and then purged entirely from all systems. If during the specific retention period there is information which supports a legitimate law enforcement purpose (see above section enumerating AUTHORIZED PURPOSES, COLLECTIONS, AND USE OF ALPR DATE) as to a license plate or partial license plate which was recorded and is retained in these systems, then limited access will be permitted for predicate-based query for potential matches against the parameters specific to the legitimate law enforcement purpose. Such events shall be recorded in an access log showing date, time, name of person seeking access, agency of employment, reason for access, and tracking identifiers such as an agency case number.
4. ALPR records of vehicles having identified and linked to criminal investigation will be entered into the relevant Concord Police Department database(s) and retained for a period of no more than five years. If during the five-year period Concord Police Department personnel become aware that the vehicle license plate information is no longer associated with a criminal investigation, it will be purged from the Concord Police Department's databases.

J. **CUSTODIAN OF RECORDS AND RECORDS REQUESTS**

Each agency sharing data retains control and ownership as the official custodian of its records, and must independently verify all external information obtained via the Concord Police Department Information Systems. To the extent permitted by law, requests for information under the California Public Records Act or similar applicable laws will be directed back to the owner of the requested data.

K. **SYSTEM MANAGEMENT AND ACCOUNTABILITY**

The Concord Police Department shall assign a Police Department Manager who will have responsibility, and be accountable, for managing the ALPR Data collected and ensuring that the privacy and civil liberties protection and other provisions of this ALPR Policy are carried out. This individual shall also be responsible for managing a process for maintaining the most current and accurate hotlists available from Concord Police Department law enforcement sources. This individual shall also have the responsibility for the security of the hotlist information and any ALPR Data which is maintained by the Concord Police Department. It remains, however, the personal responsibility of all officers with access to ALPR Data to take reasonable measures to protect the privacy and civil liberties of individuals, as well as the security and confidentiality of ALPR Data.

L. **COMMERCIALLY CREATED ALPR DATA**

Except as explicitly authorized below with regard to critical infrastructure, the Concord Police Department will not share Concord Police Department or partner agency ALPR Data with commercial or other private entities or individuals.

M. **DISSEMINATION**

1. The Concord Police Department may disseminate ALPR data to any governmental entity with an authorized law enforcement or public safety purpose for access to such data. The Concord Police Department assumes no responsibility or liability for the acts or omissions of other agencies in making use of the ALPR data properly disseminated. Though the Concord Police Department will make every reasonable effort to ensure the quality of shared ALPR Data and hotlists, it cannot make absolute guarantees of the accuracy of information provided.
2. ALPR Information may be disseminated to owners and operators of critical infrastructure in circumstances where such infrastructure is reasonably believed to be the target of surveillance for the purpose of a terrorist attack or other criminal activity. In these situations, the Concord Police Department also will make notification to appropriate local, state, and federal law enforcement agencies. Information collected by the ALPR system shall not be disseminated to private parties, other than critical infrastructure owners or operators, as limited above, unless authorized, in writing, by the Chief of Police or his designee. ALPR information shall not be disseminated for personal gain or for any other non-law enforcement purposes.

N. **POLICY REVISIONS**

Concord Police Department ALPR Policies will be reviewed, and updated as necessary, no less frequently than every 12 months, or more frequently based on changes in data sources, technology, data use and/or sharing agreements, and other relevant considerations.

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