

RESOLUTION NO.

WHEREAS, license plate readers gather objective and unbiased facts about vehicles; and

WHEREAS, license plate reader technology focuses solely on extracting empirical data, primarily the license plate numbers which Texas state law requires to be affixed to every vehicle; and

WHEREAS, license plate readers only record the vehicle make, model, and license plate number of a vehicle; and

WHEREAS, license plate readers are not a "live camera" and cannot be used for surveillance, traffic enforcement, or any other purpose; and

WHEREAS, these cameras do not capture images of vehicle drivers; and

WHEREAS, maintaining the privacy of the data collected through license plate readers is paramount; and

WHEREAS, the license plate readers historically used by the Austin Police Department are categorically objective and cannot collect information in ways that discriminate against any resident in the City; and

WHEREAS, the use of license plate readers assists police departments across the country by increasing their investigative efficacy while reducing unnecessary delays in pursuing leads; and

WHEREAS, camera data helps solve crimes when crimes occur; and

WHEREAS, license plate readers previously helped the Austin Police Department locate stolen or wanted vehicles, vehicles connected to AMBER

Alerts, Silver Alerts, missing person reports, abductions reports, and vehicles connected to other crimes; and

WHEREAS, the use of license plate readers bolsters the capability of local law enforcement to act and apprehend criminals swiftly, leading to the deterrence of crimes; and

WHEREAS, re-introducing license plate readers to the Austin Police Department will help reduce crime, will prevent residents and visitors to the City from being victimized, particularly from car and property thefts, and will lead to deterrence of crime; and

WHEREAS, license plate readers can notify Austin Police Department officers within seconds that a license plate has passed within the device's range, allowing Austin Police Department officers to take immediate action in furtherance of public safety; and

WHEREAS, the Texas Penal Code creates a criminal offense for an officer or other public servant who intentionally or knowingly misuses information from the license plate reader with the intent of obtaining a benefit, harming, defrauding, oppressing another person, or disclosing the information for a nongovernmental purpose that has not otherwise been made public; and

WHEREAS, the Austin Police Department's General Orders include rules on the Security and Release of Records and Information, General Conduct and Responsibilities, Racial or Biased Profiling, Responsibility to the Community, and other orders to ensure officers keep private or confidential information secure, know and comply with laws, do not engage in racial or biased profiling, perform their services in an impartial and equitable manner, and provide equal and fair

47 protection of all rights under local, state, and federal law for all members of the
48 community; and

49 **WHEREAS**, a violation of General Orders provides cause to discipline a
50 police officer under Section 143.052 of the Texas Local Government Code and
51 Rule 10 of the Rules of Procedure for the Firefighters', Police Officers' and
52 Emergency Medical Service Personnel's Civil Service Commission; **NOW,**
53 **THEREFORE,**

54 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

55 The City Council directs the City Manager to identify funding in the amount
56 of \$114,775.00 that can be used for the license reader program in the Fiscal Year
57 2021-2022 budget and return with any actions that are necessary for Council to
58 authorize this expenditure.

59 **BE IT FURTHER RESOLVED:**

60 Council directs the City Manager to include authorization for continuation of
61 the license reader program for Council consideration during the upcoming budget
62 adoption for Fiscal Year 2022-2023.

63 **BE IT FURTHER RESOLVED:**

64 The City Council directs the City Manager to re-evaluate the Austin Police
65 Department's former policy and/or procedure on license plate readers; work with
66 the Office of Police Oversight and coordinate a minimum of two community input
67 sessions related to the policy; and take appropriate steps to ensure the policy and/or
68 procedure includes, but is not limited to, the following safeguards.

- 69 1. Data used for the license plate reader program will be kept for a
70 maximum of 30 days and destroyed thereafter. License plate reader
71 data that is related to a criminal case or investigation may be stored in
72 a criminal case folder for that case or investigation for longer periods
73 as needed. One year from the passage of this Resolution, the Austin
74 Police Department will return to Council to provide an evaluation of
75 the 30-day data retention policy and its effectiveness.
- 76 2. Data sharing will only occur for investigating and/or prosecuting
77 criminal activity for APD. If unless a circumstance arises where the
78 City is required by state or federal law to share the information at the
79 request of a state or federal agency for another law enforcement
80 purpose, then APD will not grant direct access to the database, but
81 will supply the requested information for a specific case or
82 investigation to the extent legally possible. able by state and federal
83 law. If the City receives a request for information that is broader than
84 a specific case or investigation, then APD will report that request to
85 the Office of Police Oversight, Mayor, and Council prior to sharing
86 any information.
- 87 3. Annual training of all Austin Police Department personnel will be
88 conducted on the policies and restrictions concerning license plate
89 reader camera use and data, including how to properly respond to
90 requests for data from other law enforcement agencies.
- 91 4. ~~An annual audit and review on license plate reader data and program~~
92 ~~will be conducted by the Austin Police Department, and to the extent~~
93 ~~allowed by the law, information obtained by the audit and review will~~

94 ~~be shared with the Office of Police Oversight and the Public Safety~~
95 ~~Committee and the Public Safety Commission. Except for law~~
96 ~~enforcement sensitive information and information considered to be~~
97 ~~confidential by law, either constitutionally, statutorily, or by judicial~~
98 ~~decision, the audit and review will be posted on the City's website for~~
99 ~~the public to view. The audit shall include two reports from staff that~~
100 ~~will be provided to the City Council in April of 2023 and in October~~
101 ~~of 2023. This audit shall include:~~

102 A. ~~How, why, and by whom the devices were used;~~

103 B. ~~When and the number of times the devices were used;~~

104 C. ~~Number and locations of cameras used;~~

105 D. ~~Action taken due to the device; and~~

106 E. ~~Demographic information on who the devices were used on.~~

107 5.4. The City Manager will post the Austin Police Department's usage and
108 privacy policy regarding license plate readers on the City's website.

109 6.5. No person will be the subject of police action solely because of actual
110 or perceived race, color, religion, creed, sex, gender, gender identity,
111 sexual orientation, age, national origin, ethnicity, disability, veteran
112 status, marital status, partnership status, pregnancy status, political
113 affiliation or beliefs, and, to the extent permitted by law, alienage or
114 citizenship status, when license plate reader data is used.

115 6. Unless there is a criminal nexus, officers will not use license plate
116 reader data for the purpose of investigating persons who are

117 exercising their First Amendment rights, including freedom of speech,
118 assembly, and exercise of religion, such as attending ALPR operators
119 will attempt to avoid public gatherings such as political rallies, public
120 demonstrations, and religious gatherings, if the sole purpose is to
121 obtain plate reader intelligence. This does not preclude members from
122 responding to a call for service where there may be incidental plate
123 reads, or from searching for stolen vehicles and vehicles of interest
124 in these areas.

125 7. The license plate reader data collected by the Austin Police
126 Department will not be used for the purpose of investigations related
127 to immigration status or access to reproductive health services to the
128 extent legally possible.

129 8. A license plate reader alert alone, does not create reasonable suspicion
130 to justify a traffic stop or the detention of an individual. Before
131 making a stop or detention, the officer must: 1. Make a visual
132 confirmation that the license plate matches the information captured
133 by the license plate reader and reported in the last alert; and 2.
134 Confirm the license plate information with the National Crime
135 Information Center / Texas Crime Information Center.

136 7.9. The license plate reader data collected by the Austin Police
137 Department will not be used for the purpose of collecting traffic fines,
138 warrant roundups, or any other similar purpose of generating revenue
139 or collecting money owed by the public.

140 8. The license plate reader data collected by the Austin Police
141 Department will not be used for the purpose of investigations related

142 to immigration status or access to reproductive health services to the
143 extent legally possible.

144 9.10. The Austin Police Department will use best practice and data security
145 including, but not limited to:

- 146 A. Role-based access to limit database access to specific officers,
147 who are ordered to operate in compliance with policy or else be
148 subject to disciplinary action; and
- 149 B. Designation of a Chief Security Officer with responsibility for
150 the following: receiving daily alerts on attempts to log in,
151 limiting access to the license plate database for only permissible
152 use, and/or regularly monitoring access to data stored under this
153 provision; and
- 154 C. Other best practice provisions related to data security for data
155 storage, including the most secure options available for
156 maintaining data.

157 The City Manager is directed to consult with the City of Austin Chief
158 Security Officer in the development of these provisions.

159 **BE IT FURTHER RESOLVED:**

160 The City Council directs the City Manager to ensure the Austin Police
161 Department Chief takes appropriate steps to implement changes to the former
162 policy and/or procedure and restore the Austin Police Department's license plate
163 reader program by October 1, 2022, if funding is appropriated by Council for this
164 purpose.

165 **BE IT FURTHER RESOLVED:**

166 The City Council directs the City Auditor to review or hire an external party
167 to audit APD's ALPR audit process and review the license plate reader data and
168 program. This will be done with assistance from the Austin Police Department, and
169 to the extent allowed by law, information obtained by the audit and review will be
170 shared with the City Council's Public Safety Committee, the Office of Police
171 Oversight, and the Public Safety Commission. Except for law enforcement
172 sensitive information and information considered to be confidential by law, either
173 constitutionally, statutorily, or by judicial decision, the audit and review will be
174 posted on the City's website for the public to view. The audit shall be provided to
175 the City Council by end of the pilot program. This audit shall include, but not be
176 limited to:

- 177 A. How, why, and by whom the devices were used;
178 B. When and the number of times the devices were used;
179 C. Number and locations of cameras used;
180 D. Action(s) taken due to the device; and
181 E. Demographic information on who the devices were used on.

182 The location of the cameras shall not be posted on the City's website or
183 subject to public disclosure unless required by state or federal law.

184 **BE IT FURTHER RESOLVED:**

185 The program's pilot will automatically cease at the end of fiscal year 2023,
186 unless further extended by Council. Four months prior to the cease of the pilot

187 program, the City Manager will present recommendations on the continuation of
188 the program to Council during a work session, with action to be taken at the
189 following Council meeting.

190

191 **ADOPTED:** _____, 2022 **ATTEST:** _____

192

Myrna Rios
City Clerk

193

194