

**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

21           **WHEREAS**, license plate readers previously helped the Austin Police  
22 Department locate stolen or wanted vehicles, vehicles connected to AMBER  
23 Alerts, Silver Alerts, missing person reports, abductions reports, and vehicles  
24 connected to other crimes; and

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

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

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

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

41           **WHEREAS**, the Austin Police Department's General Orders include rules  
42 on the Security and Release of Records and Information, General Conduct and  
43 Responsibilities, Racial or Biased Profiling, Responsibility to the Community, and  
44 other orders to ensure officers keep private or confidential information secure,

45 know and comply with laws, do not engage in racial or biased profiling, perform  
46 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. The license plate reader program's exclusive function will be to scan  
70 vehicle license plates and cross reference the license plate with  
71 information located on the license plate reader system's "hot list"  
72 containing information relating to certain vehicles. The information  
73 about these vehicles may be gathered from the Texas Department of  
74 Motor Vehicles, Texas Department of Public Safety, including the  
75 State Network and its Alert Programs, the state Criminal Justice  
76 Information System, Texas Department of Family and Protective  
77 Services, the Texas Center for the Missing, the National Crime  
78 Information Center, the National Center for Missing & Exploited  
79 Children, the FBI Kidnappings and Missing Persons list, or entered by  
80 the Austin Police Department. The Austin Police Department must  
81 document and preserve the reason for the entry, when the entry was  
82 made, the amount of time requested for the entry to remain in the  
83 system and why, and when the manual entry was destroyed. Unless  
84 otherwise required by state or federal law, the vehicles on the hot list  
85 must be limited to:

86 A. Vehicles that have been reported as stolen;

87 B. Vehicles registered to an individual for whom there is an  
88 outstanding felony or Class A misdemeanor warrant.

89 C. Vehicles associated with missing or endangered persons;

90 D. Vehicles where the vehicles or individuals associated with the  
91 license plate numbers are relevant and material to an active, ongoing  
92 criminal investigation of felonies or Class A misdemeanors.

92        2. Data used for the license plate reader program will be kept for a  
93        maximum of 30 days3 minutes and destroyed thereafter. License  
94        plate reader data may not be retained or transmitted unless that it  
95        matches with a vehicle on a hot list or is related to an active criminal  
96        or missing or endangered persons case or investigation, in which case  
97        it may be stored in a criminal case folder for that case or investigation  
98        for longer periods as needed and is destroyed at the conclusion of:  
99        A. An investigation that does not result in any criminal charges  
100        being filed;  
101        B. The final disposition of any criminal charges filed, including  
102        but not limited to dismissal, acquittal, or conviction; or  
103        C. A missing or endangered person investigation.  
104        4. Such data may also be preserved pursuant to a court order or a  
105        preservation request from a governmental entity or defendant in a  
106        pending criminal case until a court of competent jurisdiction  
107        determines the data are relevant and material to such case or otherwise  
108        orders the data preserved. If a court of competent jurisdiction  
109        determines there is no need to preserve the data, or if the criminal case  
110        is finally disposed without the court ruling on such preservation, the  
111        data will be destroyed as soon as practicably possible and by no later  
112        than the expiration of 7 days following the court's ruling or final  
113        disposition of the case. One year from the passage of this Resolution,  
114        the Austin Police Department will return to Council to provide an  
115        evaluation of the 30-day3-minute data retention policy and its  
116        effectiveness.

117 2.3. Data sharing with another government agency will only occur for  
118 investigating and/or prosecuting criminal activity for APD as  
119 permitted under Paragraph 1 above or locating missing or endangered  
120 persons. If a circumstance arises where the City is required by state or  
121 federal law to share the information at the request of a state or federal  
122 agency for another law enforcement purpose, then APD will not grant  
123 direct access to the database, but will only supply the requested  
124 information for a specific case or investigation that is under its  
125 custody and control and is responsive, relevant, and material to the  
126 request or only to the extent legally ~~possible~~ required. If the City  
127 receives a request for information that is broader than a specific case  
128 or investigation, then APD will report that request to the Office of  
129 Police Oversight, Mayor, and Council ~~prior to~~ and may not share the  
130 information requested, except to the extent legally required sharing  
131 any information. Before receiving any license plate reader data, a  
132 requesting agency must execute an agreement or memorandum of  
133 understanding to abide by the requirements of the Austin written  
134 administrative policy and procedure for license plate readers and the  
135 Austin Police Department General Orders in the use, handling, and  
136 preservation of the data, including but not limited to the limitations on  
137 the sharing of data, and agree that all data received will be promptly  
138 destroyed upon the conclusion of an active criminal or missing or  
139 endangered person case and that notice of such destruction shall be  
140 promptly provided to APD.

141 3.4. Annual training of all Austin Police Department personnel will be  
142 conducted on the policies and restrictions concerning license plate

143 reader camera use and data, including how to properly respond to  
144 requests for data from other law enforcement agencies. No APD  
145 personnel is permitted to participate in the license plate reader  
146 program or access, view, or use any license plate reader data until  
147 such training has been successfully completed, and continued  
148 participation and access is contingent on successful completion of  
149 such training each year.

150 4.5. The City Manager will post the Austin Police Department's usage and  
151 privacy policy regarding license plate readers on the City's website.

152 5.6. No person will be the subject of police action because of actual or  
153 perceived race, color, religion, creed, sex, gender, gender identity,  
154 sexual orientation, age, national origin, ethnicity, disability, veteran  
155 status, marital status, partnership status, political affiliation or beliefs,  
156 and, to the extent permitted by law, alienage or citizenship status,  
157 when license plate reader data is used.

158 6.7. Unless there is a criminal nexus, officers will not use, retain, or  
159 transmit license plate reader data for the purpose of investigating  
160 persons who are exercising their First Amendment rights, including  
161 freedom of speech, assembly, association, and exercise of religion,  
162 such as attending political rallies, organizational meetings, public  
163 demonstrations, and religious gatherings.

164 7.8. A license plate reader alert alone, does not create reasonable suspicion  
165 to justify a traffic stop or the detention of an individual. Before  
166 making a stop or detention, the officer must: 1. Make a visual  
167 confirmation that the license plate matches the information captured

168 by the license plate reader -and reported in the last alert; and 2.

169 Confirm the license plate ~~information matches information in the hot~~  
170 ~~list with the National Crime Information Center / Texas Crime~~  
171 ~~Information Center.~~

172 8.9. License plate readers and tThe license plate reader data collected by  
173 the Austin Police Department will not be used for the purpose of  
174 collecting traffic fines, Class C misdemeanor warrant roundups, or  
175 any other similar purpose of generating revenue or collecting money  
176 owed by the public. APD will not use license plate reader data for the  
177 purpose of conducting its own criminal investigations related to  
178 immigration status or access to reproductive health services.

179 9.10. The Austin Police Department will use best practice and data security  
180 including, but not limited to:

- 181 A. Role-based access to limit database access to specific officers,  
182 who are ordered to operate in compliance with policy or else be  
183 subject to disciplinary action;~~and~~
- 184 B. Designation of a Security Officer with responsibility for the  
185 following: receiving daily alerts on attempts to log in, limiting  
186 access to the license plate database for only permissible use,  
187 and/or regularly monitoring access to data stored under this  
188 provision; and
- 189 C. Other best practice provisions related to data security for data  
190 storage, including the most secure options available for  
191 maintaining data.



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

**BE IT FURTHER RESOLVED:**

The City Council directs the City Manager to ensure the Austin Police Department Chief takes appropriate steps to implement changes to the former policy and/or procedure and restore the Austin Police Department's license plate reader program by October 1, 2022 promptly upon the completion and adoption of the new policy and/or procedure, if funding is appropriated by Council for this purpose.

**BE IT FURTHER RESOLVED:**

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

A. The number of license plates scanned;

- 215 B. The names of the lists against which captured plate data were  
216 checked, and the number of confirmed matches and the number of  
217 matches that upon further investigation did not correlate to an alert;  
218 C. The number of matches that resulted in arrest, prosecution, or location  
219 of a missing or endangered person;  
220 D. The number of preservation requests received, broken down by  
221 number of requests by governmental entity versus by defendants;  
222 E. The number of data sharing requests received, granted, and denied;  
223 F. The number of data sharing requests resulting in arrest, prosecution,  
224 or the location of a missing or endangered person;  
225 G. The number of manually-entered license plate numbers under Section  
226 1(a), broken down by reason justifying the entry, and the number of  
227 confirmed matches and the number of matches that upon further  
228 investigation did not correlate to an alert; and  
229 —Any changes in Austin Police Department policy that affect privacy  
230 concerns. How, why, and by whom the devices were used;  
231 H.  
232 A. When and the number of times the devices were used;  
233 B. Number and locations of cameras used;  
234 C. Action(s) taken due to the device; and  
235 D. Demographic information on who the devices were used on.

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

238 **BE IT FURTHER RESOLVED:**

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

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

**ADOPTED:** \_\_\_\_\_, 2022 **ATTEST:** \_\_\_\_\_

Myrna Rios  
City Clerk