

Letter Opposing Item 90 (ALPRs)

We, the undersigned organizations, strenuously oppose [Item 90](#) on the Austin City Council agenda for September 1 2022. Automated License Plate Readers (ALPRs), particularly as used by police departments and proposed by the posted resolution, enable mass surveillance and tracking that is overwhelmingly unwarranted, diminishes privacy, threatens increased criminalization of black, brown and poor people pulled into interactions with the criminal legal system, violates 4th amendment protections against illegal search and directly contradicts the recommendations of the City's Reimagine Public Safety Task Force, as well as undermines the reproductive health protections afforded by The Grace Act. We strongly urge you to vote NO on this item.

Privacy and Efficacy Concerns

In the summer of 2020, with the City Council called to focus on reducing racial inequity, particularly in policing, it cut APD's \$113,772 ALPR budget. ALPRs scan the license plates of every passing vehicle and create a database that includes all scanned plates along with the time and location of the scan. With numerous cameras feeding a unified database, including a growing network of private cameras that police can tap into, ALPRs can easily be used to track the movements of individuals over however long the data is stored. The posted resolution prescribes 30 days of data retention, enabling analysis that could reveal where people live, work, meet friends or lovers, receive healthcare, therapy or other sensitive services, and attend protests or participate in other protected activities. In short, it's a potential death knell to privacy that's dangerous for anyone that finds themselves the target of a police officer (or coordinated cyber-stalking campaign). As the [ACLU reports](#) ALPRs are "becoming a tool for mass routine location tracking and surveillance" as they generate millions of data points on the movement of people not suspected of violating any law.

Emerging state audits and studies of ALPRs show that an extremely small percentage of cars scanned are connected to any crime or wrongdoing. (See [Vermont audit](#), [California audit](#), [Illinois study](#), [California study](#)). More studies show that ALPRs have an inconsistent or unclear impact of clearance on crimes. A recent study found "little clear evidence for the crime prevention efficacy of using LPRs in general patrol, which is a common practice in the USA. Police and researchers should give more attention to testing the relative benefits of different LPR uses and modes of deployment."

Legal Issues

The Supreme Court in [Carpenter vs. United States](#) determined that police requests of cell-site location data over a period longer than seven days without a warrant constituted a breach of 4th Amendment protections against illegal search, noting that the technology created a "detailed chronicle of a person's physical presence compiled every day." While no court decision exists specifically applying this opinion to ALPRs, the [Electronic Frontier Foundation asserts](#) that the data collected by ALPRs enables very similar surveillance into a person's whereabouts and

associations. Worse yet, unlike cell-site data, the police themselves own all of the data from the ALPRs you allow them to buy, meaning that no warrant is needed to access it, no matter the timeframe over which the data was collected. Plus, much of the surveillance data collected will likely include information from *before* a vehicle was of interest to law enforcement, again enabling greater unwarranted surveillance than even cell-site data requests in question in *Carpenter*. Furthermore, many privately owned ALPRs, such as those purchased by neighborhoods, offer law enforcement access to their data, strengthening the unconstitutional search powers of police.

Texas doesn't have an ALPR statute to ensure privacy and security. At least 16 states have statutes regulating how ALPRs capture, use and retain license plate readers, with New Hampshire in particular placing strong oversight over how ALPRs may be used, including just a three minute window that data may be retained if a license plate isn't on an approved hot list. Texas does not have one, meaning that any meaningful restrictions placed on their use must come from the City, which hasn't given these the level of scrutiny nor provided enough opportunity for community learning and input to ensure those restrictions can be implemented and enforced.

Criminalization and Marginalization Threat

Another function of ALPRs is to alert officers if a scanned license plate appears on a "hot list" - a separate database of license plates - enabling the officer to immediately pursue the matching vehicle. While ALPR supporters note these databases include license plates listed as stolen, involved in active investigations and AMBER alerts, they can also further the criminalization of poverty via databases of warrants for failure to pay fines, fees and tickets.

Furthermore, we understand that similar databases that use historic interactions with police to determine how people are treated in the present, reinforce the systemic racism that drives so much of policing. The implications of which databases drive hot list alerts determine whether thousands and thousands of Austin residents can live and drive freely in our community, or whether driving presents such a risk of police interaction, criminalization, incarceration and undue hardship that they're marginalized further through the denial of the ability to drive and the limiting of their mobility.

Risks to Migrants & Others Targeted by Immigration and Customs Enforcement (ICE)

Similarly, ALPRs can also be used to increase criminalization of immigration by creating alerts based on plates that match databases associated with undocumented immigrants. Location data could be shared with ICE for civil immigration enforcement, leading to separating families through detention and deportation. Because of Texas law SB4, many types of police-ICE cooperation cannot be banned. APD has shared information with ICE through the ARIC Fusion Center with only an A#, which is not associated with any criminal case. In 2019, the ACLU reported that Vigilant Solutions, a major ALPR vendor, was allowing ICE unfettered access to their ALPR databases of billions of license plate location timestamp records, with no warrants and often in direct contravention of local privacy and sanctuary city laws and ordinances.

APD stores the location data of the vehicles and names associated with the license plates collected by ALPR's in a database, which can be queried by license plate number or name. The data is voluntarily shared with 817 other law enforcement agencies, including the [Austin Regional Intelligence Center \(ARIC\)](#) and the National Vehicle Location Service, a pool of data shared with hundreds of agencies and accessible to ICE. ICE regularly seeks location data for purely immigration enforcement purposes in order to discern their daily patterns in order to detain and deport immigrant community members without a warrant, through traffic stops.

Information sharing with the FBI and other federal agencies also threatens Black and Muslim community members who have been recently profiled and targeted as "terrorists" or "Black Identity Extremists." ALPR's could be easily used to monitor and target activists through placing readers at parking locations for protests. This additional location surveillance of vulnerable communities can have grave consequences of family separation through detention, incarceration and deportation as well as the [radiating financial and emotional impacts](#) on entire families and communities.

Risks to Women & Pregnant People Post-Roe

ALPRs may also be used by police and anti-abortion groups who seek to surveil, arrest, or prosecute pregnant people seeking abortion services across state lines. This possibility is increasing as states like Texas attempt to pass laws that will criminalize this conduct. Even if abortion cases are not prosecuted in Austin, this data would have already been collected and shared with dozens of other police departments in surrounding areas through the ARIC Fusion Center.

Further risks to women and people targeted by sexism is possible with ALPR data. A [white paper on ALPRs states](#), "[A 2016 Associated Press investigation found] officers stalking ex-girlfriends, looking up the addresses of crushes... ALPR databases could easily be put to similar use." Recent verifiable statistics on law enforcement and intimate partner violence remain obscured by policing's culture of secrecy, but older studies show astounding rates of intimate partner and domestic violence, as *self-reported* by law enforcement officers. Even at normal population-level rates of domestic violence, access to location surveillance data can facilitate data-driven stalking and other nefarious uses.

Finally, the only truly secure data is the data that isn't collected at all. Despite APD's best attempts to prevent this data from falling into the wrong hands, it is extremely likely that it is not a matter of if this data leaks, but when. Just a few years ago, the UK's entire national ALPR database, a complete record of the driving habits and locations visited of millions and millions of UK citizens, was leaked onto the internet. It is easy to imagine such a similar scenario occurring here, as audits have found that many ALPR cameras are connected to the Internet of Things with no security messages in places, with anyone who knows the IP address of the device able to access it online due to a failure to configure the device correctly. Recently, APD was part of a massive leak of internal files [known as the "Blue Leaks"](#) that confirmed APD monitoring of activists - showing both the sensitivity of this data and APD's willingness to use technology to unnecessarily surveil activists.

Accuracy Problems

On average, only 0.5% – that is, one half of one percent – of license plate scans were attached to any crime or alleged wrongdoing. This means that 99.5% of the license plates captured by ALPRs are actually not connected to a public safety interest at the time they are captured. [In Austin in 2019](#), just 0.1% of the more than 20 million license plate scans were attached to a hot list, and it should be noted that the [Brennan Center found](#) that that 0.1% could be rife with inaccuracies. They explain that inaccurate hot lists occur frequently when hot lists are not updated and an individual is pulled over when, for instance, the system incorrectly indicates that a license is suspended when it has actually been reinstated. Frequently, rental car companies will report cars as stolen, but will then fail to report that a car was found or recovered. This has resulted in incidents where innocent people were driving rental cars that had previously been flagged as stolen and found themselves being held at gunpoint by police officers who believed they were apprehending the driver of a stolen car. It isn't hard to imagine that such a scenario could easily escalate to an immense tragedy for all involved.

Inaccurate reads are surprisingly common as well: [one randomized control trial in Vallejo, California](#), found that 37 percent of all LPR “hits” from fixed readers (such as those attached to a street light) and 35 percent from mobile LPRs were misreads — an astonishingly high error rate. This means that the benefits of these systems don't outweigh the costs, which include mass unjustified surveillance and wrongful apprehension following a misread plate.

Moreover, ALPRs may not work well in bad weather or can be easily confused. A [2021 study](#) by the Texas A&M Transportation Institute found that weather can affect a camera's ability to read a license plate and that cameras connected to out-of-date local and state databases generated false-positive hits. Although this study was ambivalent about the use of ALPRs, they also flagged the local jurisdiction's ability to maintain this technology to be a significant factor that impacted reliability. As for errors, a dress made of license plates created errors in ALPRs.

Reimagine Public Safety Task Force

The [City's Reimagine Public Safety Task Force report](#) states “In Austin, community members who are organizing events or simply going about their daily lives are subject to ever-growing surveillance. Through video surveillance and real-time monitoring, we are all being watched... The city must immediately defund and decommission this surveillance infrastructure and ensure that data is deleted from shared law enforcement databases.” Re-establishing the ALPR program at APD would directly contradict the recommendation of the task force and further entrench an approach to public safety reliant upon surveillance and the threat of punishment and violence, rather than on ensuring people in our city have what they need to survive and thrive without resorting to many criminalized behaviors.

Lack of ALPR Policy Enforcement & Accountability

Unfortunately, even if a policy were put into place enabling use of a very limited set of hot lists, APD and the City Manager's continued flouting of police policies gives us little hope that such a policy would be followed, or that if it were breached there would be any accountability for it.

Despite a body cam policy requiring public release of video, the City has yet to release any footage from the 2020 protests. Despite a policy prohibiting officers in uniform from appearing in political events, multiple officers took photos with then-City Council candidate MacKenzie Kelly during a campaign rally, along with white supremacists making racist hand gestures, yet faced no discipline.

Furthermore, an audit conducted by California's Joint Legislative Audit Committee of four major California police departments, Fresno Police Department, Los Angeles Police Department, Marin County Sheriff's Office, and Sacramento County Sheriff's Office, found that none had audited searches of the ALPR image database by their staff and thus had no assurance that the searches were appropriate or constrained by ethical and legal mandates. Three of the four agencies had even shared their ALPR images widely with various 3rd parties, without any consideration or oversight over whether the entities receiving them had a right to and need for the images. The fact that a similar audit of the ALPR program at APD isn't being considered further points to the hasty nature of this effort.

Process Issues

While we oppose the use of these surveillance tools, perhaps the most troubling part of this resolution is the rushed process for reintroducing these vast surveillance powers. It's evident that tools this expansive shouldn't be used without the full knowledge and input of the community. The normal Council process for posting agenda items wouldn't suffice in terms of either the advanced notice the residents of this city require, or the feedback we should be allowed to provide about the potential implementation of these devices. Therefore, the initial rushed process whereby this item was added at the last minute via an agenda addendum failed to meet this standard, as does the process proposed now, whereby a community input process would only be conducted *after* the funding for the program is secured and the policies governing it were decided.

In conclusion, ALPRs are dangerous, error-prone surveillance tools that local and national civil rights and liberties groups oppose. They limit privacy when used as intended, and threaten many fundamental rights when abused. The Austin Police Department deserves zero trust that they'll use them in accordance with any policy decided upon by this or any other body, no audit of this program is being considered nor is there any systemic consequence for failure to comply with any developed policies, and no community education or input process is being conducted prior to ALPR funding and adoption, and so you should vote NO on Item 90. If you must proceed with exploration of this technology, it should be done over many months including extensive rounds of communication and feedback from communities across the city, with an emphasis on those that will be most impacted, to determine whether they could be used without harming the residents of this city and if so, how.

Austin Justice Coalition
Grassroots Leadership
Texas Fair Defense Project
EFF-Austin

Austin Democratic Socialists of America
District 5 for Black Lives
Undoing White Supremacy Austin (UWSA)