

AMENDMENT NO. 1
TO
ORDINANCE NO. BL2020-582

Mr. President –

I hereby move to amend Ordinance No. BL2020-582 as follows:

I. By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080, by deleting subsection G.1.a and replacing it with the following:

(a) i. The authorized purposes for using the LPR system and collecting LPR information, which shall be limited to the following:

(1) investigating and prosecuting criminal offenses including, but not limited to, reckless driving, including but not limited to, persons engaged in illegal drag racing activity at speeds in excess of 70 miles per hour;

(2) investigating and prosecuting violent crime, including but not limited to homicide and assault;

(3) identification and recovery of stolen vehicles and stolen license plates;

(4) detecting and parking civil traffic or parking offenses;

(5) operating a smart parking or curb management program; and

(6) assisting in missing persons cases including Amber and Silver Alerts.

ii. The use of an LPR system and collection of LPR information is not authorized and shall not be used for any purpose other than those listed in this section. This prohibition includes, but is not limited to:

(1) the use of LPR for the following: the general surveillance of any individual;

(2) the identification of a vehicle for the purposes of repossession of the vehicle;

(3) the determination of whether a vehicle's license plate is expired;

(4) the determination of whether a motorist has a valid driver's license; or

(5) the determination of whether a motorist is insured.

iii. An LPR system authorized under this section shall not be capable of facial recognition.

iv. Law Enforcement Agencies must have reasonable suspicion that a criminal offense, or a civil traffic or parking offenses, has occurred before examining collected license plate reader data that was collected more than one hour prior to the examination. Further, Law Enforcement Officers shall not examine license plate reader data that was collected more than one hour prior to the examination in order to generate reasonable suspicion. In an effort to deter the use of the LPR system by Metropolitan Nashville Police Department (MNPd) for purposes other than law enforcement, a two-step scanning process shall be developed and implemented by MNPd so that the first scan justifies the cause for a search and the second scan justifies the action of a search. The scanning process should be tailored so that the first scan through a database would yield the license plate number and verification of the number on a hot list. If that information is verified, a second scan would be allowed to recover the registered owner's name, address, and criminal record if applicable.

ii v. Whenever a license plate reader alerts on a plate, law enforcement, before taking any action, must confirm visually that a plate matches the number and state identified in the alert, confirm that the alert is still active by calling dispatch ~~and~~, whether the alert pertains to the registrant of the car and not the car itself, and that the license plate is on the list for one of the authorized purposes listed in this section. Once confirmed, a query shall be initiated in the National Crime Information Center (NCIC) database by authorized individuals.

II. By adding the following provisions under subsection G. as appropriately designated subsections and renumbering the remaining subsections accordingly:

An LPR technology deployment policy shall be developed and implemented by the MNPD to help prevent misuse of LPR technology to track and unfairly target vulnerable communities. Placement of fixed LPR technology in the public right-of-way shall be limited to major and collector streets as defined in the Nashville Next Major and Collector Street Plan, and the location of cameras shall be distributed equitably across the north, south, east, and west quadrants of the county.

A data verification policy shall be developed and implemented by MNPD to help prevent erroneous and potentially dangerous stops based upon incorrect or outdated information. The policy shall require independent verification of the information yielded from a hot list and real-time updating of hot list data, as well as a comparison of the accuracy of the hot list data with the accuracy of optical character recognition (OCR) output from LPR images. Hot lists shall be transferred daily and be capable of updating by an operator/officer in the field. The LPR system, both for fixed and mobile LPR units, shall function in such a manner so as to notify an officer when a license plate on the hot list is observed in real time. Historical LPR data shall be searched to determine the date and time a license plate number contained on a hot list passed a certain camera. For purposes of this subsection G., "hot list" means the list of license plate numbers law enforcement agencies have identified as being relevant for the investigation and/or prosecution of a criminal offense.

By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080, by deleting subsection G.3.b and replacing it with the following:

(b) Access shall only be approved for designated personnel whose roles require them to use the LPR system, and LPR system access shall be further limited to those tasks within the employee's job responsibilities. Access shall be limited to no more than ten employees per department. In addition, access to review the Metropolitan Nashville Police Department audit log shall be provided to two members of the Council, as selected by the Council, and to one member of the Community Oversight Board, as selected by the Community Oversight Board.

III. By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080.G.3, by adding the following new subsection f as follows:

(f) To ensure compliance with the provisions of this section or to investigate complaints of misuse of an LPR or LPRs, the district attorney general, or a designee, or the public defender, or a designee, may examine and audit any LPR, any file used to store LPR data, and any records pertaining to the use of LPRs. If the district attorney general or the public defender believes that an LPR or LPRs have been used in violation of this section, either or both may send a letter to the Metro Council requesting suspension of the use of an LPR or LPRs for the purposes of investigation, to prevent ongoing violations, or to deter future violations. The Metro Council may grant such a request by resolution. Nothing in this section shall be construed as limiting the authority of the district attorney general to prosecute any crime involving LPR. This includes, but is not limited to, tampering with evidence, which is a class C felony punishable under Tennessee law with a term of imprisonment of three to fifteen years and a fine not to exceed \$10,000.

IV. By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080.G.4, by deleting the subsection in its entirety and replacing it with the following:

4. LPR data, including but not limited to license plate number, vehicle description, location and date/time stamp shall not be retained for more than ~~30~~ 10 days unless it is evidence in a criminal offense or civil traffic or parking offense, subject to a properly issued warrant, subpoena, public records request or court order, or where the department has been instructed to preserve such data by the Metropolitan Department of Law in relation to pending litigation or anticipated litigation.

(a) Any data unrelated to an ongoing investigation, or current or possible litigation shall be automatically deleted after ~~30~~ 10 days.

(b) Users who wish to preserve LPR data for longer than ~~30~~ 10 days shall make a written request to their supervisor including the investigation number and purpose for preservation and, upon approval, such LPR data will be preserved along with a note in the record stating the reason for preservation and related investigation number.

(c) LPR data retained by the Metropolitan Government shall not include any personally identifiable information.

(d) To the extent permitted by state law, the Metropolitan Government shall not sell LPR data for any purpose and shall not share any LPR data, except as provided in subsection G.6.

V. By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080.G.6, by deleting subsection d and replacing it with the following:

(d) The department shall not share any data with any agency that uses that data in a manner broader than allowed by this policy. Data may only be shared for the purposes outlined in subsection G.1(a).

VI. By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080 by adding the following new subsection G.7.C:

C. In addition to the reporting requirement in Subsection G.7.B, during the pilot program, the MNPDP shall report to the Metropolitan Council the information required by this subsection G.7.C every two months. If a resolution is approved to fully implement the MNPDP's use of LPR technology, the MNPDP shall report such information to the Metropolitan Council every three months. Each report submitted by the MNPDP shall contain the following information, compiled since the end date of its most recent report:

- a. The number of LPRs in use.
- b. The number of matches made by the LPR.
- c. The number of matches that identified vehicles and individuals sought by law enforcement and that resulted in stops of vehicles or individuals.
- d. The number of matches that resulted in searches of vehicles and individuals, releases, arrests, or other outcomes.
- e. Other information requested by the Metropolitan Council by resolution.

VII. By amending Section 1, proposed Metropolitan Code of Laws Section 13.08.080 by adding the following new subsections G.11:

11. Any device or service necessary to effectuate the provisions of this subsection G shall be procured pursuant to the provisions of Title 4 of the Metropolitan Code of Laws, the Procurement Code.

VIII. By modifying Section 2 as follows:

Section 2. That Section 13.08.030~~080~~ of the Metropolitan Code is hereby amended by adding the following new subsection I.:

I. In addition to the provisions of subsection G. of this section, license plate scanner technology shall be allowed if all of the follow requirements are met:

- (a) The license plate scanner is used solely and exclusively in conjunction with a vehicle emissions sensor as part of an emissions inspection program authorized under local, state or federal law;
- (b) ~~The data from the license plate scanner and vehicle emissions sensor is used solely and exclusively for purposes of determining compliance with vehicle emissions standards and aggregating data in a manner which does not allow the identification of a person or persons;~~ The data from the license plate scanner and vehicle emissions sensor is used solely and exclusively for purposes of determining compliance with vehicle emissions standards-
- (c) A determination by the vehicle emissions sensor that a vehicle identified by the license plate scanner is not in compliance with applicable emissions standards shall not lead to any penalty or punitive action against the registered vehicle owner;
- (d) No fewer than two such license plate scanners shall be in operation within Davidson County at any given time; and

~~(e) Data that can be used to pair a specific vehicle's license plate number, VIN, or other unique identifier with a specific geographic location shall not be retained for more than one week~~ Data that can be used to pair a specific vehicle's license plate number, VIN, or other unique identifier with a specific geographic location shall not be recorded.

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ADOPTED: April 20, 2021