2d Civil No. B259392
LASC Case No. BS143004

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF SOUTHERN CALIFORNIA and ELECTRONIC FRONTIER FOUNDATION,
Petitioners,

v.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES,
Respondent,

COUNTY OF LOS ANGELES, and the LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, and the CITY OF LOS ANGELES, and the LOS ANGELES POLICE DEPARTMENT,
Real Parties in Interest.

Appeal from the Los Angeles County Superior Court
Honorable James C. Chalfant, Judge Presiding

OPPOSITION TO PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE TO ENFORCE CALIFORNIA PUBLIC RECORDS ACT PURSUANT TO GOVERNMENT CODE § 6259 (c)

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TO BE FILED IN THE COURT OF APPEAL

APP-008

COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION THREE	Court of Appeal Case Number: B259392
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APPELLANT/PETITIONER: American Civil Liberties Union Foundation, et al RESPONDENT/REAL PARTY IN INTEREST: County of Los Angeles, et al	

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[ ] Continued on attachment 2.

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Date: November 25, 2014

HEATHER L. AUBRY, Deputy City Atty.
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INTRODUCTION

The Los Angeles Police Department (LAPD) has used Automated License Plate Recognition (ALPR) technology for ten years. The technology automates the once exclusively manual or radio-enabled process of checking a license plate to determine whether a vehicle is stolen or otherwise wanted in connection with a crime. Specialized cameras are affixed to patrol cars or stationary objects, to scan license plate numbers, and also capture the date, time and precise location and source of the scan. Petitioners are seeking disclosure of all scans conducted during a one-week period in the County of Los Angeles under the California Public Records Act (CPRA).

The City maintains that this data captured by the ALPR system constitutes a record of investigation by a local police agency and is therefore exempt from public disclosure pursuant to California Government Code section 6254, subdivision (f)[1], as that exemption has been interpreted

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[1] All further statutory references are to the California Government Code, unless otherwise noted.

by the California Supreme Court in *Haynie v. Superior Court* (2001) 26 Cal.4th 1061 ("*Haynie*"), and *Williams v. Superior Court* (1993) 5 Cal.4th 337 ("*Williams*").

The City maintains that this data is further exempt from disclosure under the "catch-all" exemption of section 6255. Under the balancing test of section 6255, the public interest served by not disclosing ALPR data clearly outweighs the public interest served by disclosure of these sensitive law enforcement records. The release of ALPR data would not only jeopardize criminal investigations but would compromise the safety and privacy of the public. A criminal could make a CPRA request for ALPR data associated with his license plate to determine if the police have incriminating information regarding his whereabouts on a particular date; employers could request ALPR data to gather information about their employees; a stalker could attempt to determine the driving habits of someone she is trying to locate. These are but a few of the ways ALPR data, if deemed nonexempt, could be utilized for non-law enforcement purposes to the detriment of the public.

The Superior Court correctly held, based on substantial evidence and controlling legal authority, that ALPR data is exempt from disclosure under both section 6254(f) and section 6255. For these reasons, as more fully explained below, the Petition lacks merit and should be denied.

PROCEDURAL HISTORY

The City agrees with the Procedural History set forth in Paragraphs 18 through 29 of the Petition but adds the following additional facts regarding the proceedings below.

On October 3, 2014, the Superior Court entered judgment in favor of the County of Los Angeles on the denial of Petitioner's Writ of Mandate.

On October 14, 2014, the Superior Court entered judgment in favor of the City of Los Angeles on the denial of Petitioner's Writ of Mandate.

STANDARD OF REVIEW

An order of the trial court under the CPRA, "either directing disclosure by a public official or supporting the decision of the public official refusing disclosure...shall be immediately reviewable by petition to the appellate court for issuance of an extraordinary writ." §6259(c). "The standard for review of the order is 'an independent review of the trial court's ruling; factual findings made by the trial court will be upheld if based on substantial evidence.' [Citation.]'(See also *Lorig v. Medical Board* (2000) 78 Cal. App. 4th 462, 467 [92 Cal. Rptr. 2d 862] [interpretation of CPRA and application of statute to undisputed facts is question of law subject to de novo review].)" (*City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008, 1016 ("*City of San Jose*").)

POINTS AND AUTHORITIES

I.

THE SUPERIOR COURT CORRECTLY HELD THAT ALPR DATA WAS EXEMPT FROM DISCLOSURE UNDER GOVERNMENT CODE SECTION 6254, SUBDIVISION (f).

The right of access to public records, while fundamental and necessary, is not absolute. (Gov. Code §6250; see *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, 1282.) "[J]udicial decisions interpreting the Act seek to balance the public right to access to information, the government's need, or lack of need, to preserve confidentiality, and the individual's right to privacy. [Citations.]" (*American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 447.)

"[T]he Act includes two exceptions to the general policy of disclosure of public records: (1) materials expressly exempt from disclosure pursuant to section 6254; and (2) the 'catchall exception' of section 6255, which allows a government agency to withhold records if it can demonstrate that, on the facts of a particular case, the public interest served by withholding the records clearly outweighs the public interest served by disclosure. [Citation.]" (*City of San Jose*, 74 Cal.App.4th at 1017. (Emphasis added.)) The express exemptions "permit government agencies to refuse to disclose certain public records." (*Copley Press, Inc. v. Superior Court, supra*, 39 Cal.4th at 1282.)

Government Code section 6254, subdivision (f), expressly states:

> ...[N]othing in this chapter shall be construed to require disclosure of records that are any of the following:...(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. . .

"[S]ubdivision (f)...articulates a broad exemption from disclosure for law enforcement investigatory records..." (*Williams*, *supra* 5 Cal.4th at 349.) Except for required public disclosure of specified categories of information derived from investigatory records under subdivisions (f)(1) and (f)(2), the exemption shields investigatory records and the information contained therein from disclosure.[2]

The exemption set forth in subdivision (f) encompasses records of routine investigations undertaken to determine if a violation of law has, or

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[2] The parties are in agreement that the derivative information "required to be disclosed...about arrests and arrestees (§6254(f)(1)) and complaints and requests for assistance (§6254(f)(2))" are not at issue. Ex. 1, p. 9.

may have occurred. The Court soundly rejected an interpretation that would exclude such records from the statutory exemption's scope:

> The Court of Appeal, in ordering disclosure, reasoned that the citizen report of several men with guns entering a vehicle did not 'necessarily' describe a crime and that the stop itself was a 'routine police inquiry' based on mere suspicion of criminal conduct. These factors are of no significance under the statute. In exempting '[r]ecords of complaints to, or investigations conducted by' law enforcement agencies, section 6254(f) does not distinguish between investigations to determine if a crime has been or is about to be committed and those that are undertaken once criminal conduct is apparent.
>
> (*Haynie*, *supra* 26 Cal.4th at 1070. (Emphasis added.))

While inquiries for the purpose of general "crime prevention" are not covered, investigations related to the detection of crime and discovering information about the commission and agency of violations of law are encompassed by section 6254(f):

> Often, officers make inquiries of citizens for purposes related to crime prevention and public safety that are unrelated to either civil or criminal investigations. The records of investigation exempted under section 6254(f) encompass only those investigations undertaken for the purpose of determining whether a violation of law may occur or has occurred. If a violation or potential violation is detected, the exemption also extends to records of investigations conducted for the purpose of uncovering information surrounding the commission of the violation and its agency.
>
> (*Haynie*, *supra*, 26 Cal. 4th at 1071. (Emphasis added.))

A. The untargeted nature and quantity of license plate scans does not change the investigative nature of ALPR data.

Petitioners argue that the data is not a record of investigation because license plate scans are untargeted—they occur "automatically and indiscriminately on each and every driver in Los Angeles who passes within range of their cameras...whether or not those drivers are suspected of wrongdoing." (Petition, p. 29.) While it is correct that the ALPR scans are not specifically targeted at persons suspected of criminal activity, the scans do further law enforcement investigations.

LAPD's subject matter expert, Sergeant Dan Gomez, explained ALPR systems "use character recognition software, coupled with hardware, to interpret" license plates, capture their images, and check the data against "known license plate lists" to "determine whether a vehicle may be stolen or otherwise associated with a crime." (Ex. 9, pp. 409-410.) This determination is made "almost instantly." (Ex. 9, p. 410, ¶6.) Captured data, which also includes "date, time, longitude and latitude, and information identifying the source of the number capture," is stored to a storage device. (Ex. 9, p. 409, ¶2.) Stored ALPR data, which is a record of all data captured at the time of the initial plate scan (also referred to as a "read"), can later be queried by LAPD and LASD "for the specific purpose of furthering an investigation." (Ex. 9, p. 410, ¶7.) ALPR is an "extremely valuable investigative tool. It has been instrumental in detecting and

solving numerous crimes and for critical infrastructure protection." (Ex. 9, p. 410, ¶5.)

According to Sergeant John Gaw of the Los Angeles County Sheriff's Department (LASD): "The infrared image is automatically compared against an 'informational data file' commonly referred to as a 'hot list.'" (Ex. 11, p. 427, ¶3.) .) "The investigatory records that are generated by ALPR units are referred to as plate scan data." (Ex. 11, p. 427, ¶5.) "The Department uses ALPR technology to investigate specific crimes that involve motor vehicles, including but not limited to stolen motor vehicles, Amber alerts that identify a specific motor vehicle, warrants that relate to the owner of a specific motor vehicle, and license plates of interest that relate to a specific investigation being conducted by Department investigatory personnel." (Ex. 11, p. 427, ¶4.)

An LASD Field Operations Directive also summarizes how the ALPR system works, including the automatic comparison of the captured license plate image from each "passing vehicle" against an "informational data file," contained in the server, which may result in a "hit." (Ex. 3, p. 157.) The "informational data file" is remotely "updated throughout the day with different data sources being 'refreshed' at different intervals." (Ex. 3, p.158.) When a mobile ALPR unit registers "an alert that a vehicle is stolen, wanted or has a warrant associated with it," the deputy must confirm

the alert either by manually running the plate or over the radio, unless circumstances make it unsafe to do so. (Ex. 3, p. 158.)

This evidence, which was uncontroverted by Petitioners, demonstrates that the ALPR data at issue are records of investigations. Officers in ALPR-equipped vehicles are investigating, through the ALPR system, the crimes and suspects associated with the license plates lists housed in the server. Whether or not a "hit" occurs, the ALPR data constitutes records of those investigations. The same is true with respect to the fixed ALPR locations. Each read captured by both fixed and mobile cameras is a record of the investigation to locate specific vehicles associated with criminal activity. Each read is to determine whether that vehicle may be associated with a crime or, put another way, to discover information regarding the "commission and...agency" of a crime. According to Petitioners, since license plate scans are not "precipitated by any specific criminal investigation," they are not a record of investigation entitled to exemption.

Petitioners are resurrecting an interpretation of section 6254, subdivision (f) that has been repeatedly rejected by our Supreme Court. The attempt to graft a "specific and concrete" standard onto the exemption for records of investigation was expressly rejected by the California Supreme

Court in *Williams*, *supra,* 5 Cal.4th at 354 and again in *Haynie*, *supra*, 26 Cal.4th at 1069.

In *Williams*, the Court refused to adopt a proposed test that would exempt records under subdivision (f) only if they "directly pertain to specific, concrete and definite investigations of possible violations of the criminal law" or would impair investigations if disclosed. (*Williams*, *supra,* 5 Cal.4th at 354.) The Court reaffirmed this rejection of such a standard for investigatory records in *Haynie*, clarifying that the "concrete and definite" prospect of enforcement standard, initially articulated in *Uribe v. Howie* (1971) 19 Cal.App. 3d 194, only applies to subdivision (f)'s exemption for "investigatory...files" – not to its exemption for "records of...investigations," which are "exempt on their face, regardless of whether or not they are included in an investigatory file. (*Haynie*, *supra*, 26 Cal.4th at 1069.)

There is no authority for the proposition that records of investigation, to qualify as such, must relate to individuals who were specifically targeted by law enforcement. Neither *Haynie* nor any of the other cases cited by Petitioners stand for this proposition. In fact, *Haynie*, which Petitioners acknowledge is "the main case to address the investigative records exemption" (Petition, p.30), clearly supports the applicability of section 6254(f) to the subject records. Its holding that section 6254(f) encompasses "investigations undertaken for the purpose of

determining whether a violation of law may occur or has occurred" and "[i]f a violation or potential violation is detected, the exemption also extends to records of investigations conducted for the purpose of uncovering information surrounding the commission of the violation and its agency" in no way excludes investigations facilitated through ALPR technology. (*Haynie, supra,* 26 Cal.4th at 1071.)

The sheer quantity of information that is recorded does not make it any less a record of investigation. If a license plate check is an investigation, it is no less so simply because it is effectuated through ALPR on a far greater scale than previously possible. As explained by Sgt. Gomez: "Without the aid of [A]LPR, an officer must observe a license plate and either manually enter the number into a mobile data computer inside the patrol car or use the radio system to communicate to the LAPD dispatch to determine whether the vehicle may be stolen or otherwise associated with a crime. With [A]LPR, this determination is made almost instantly for all vehicles in the immediate vicinity of the patrol car." (Ex. 9, p.410, ¶6.) Petitioners fail to point to any authority for the proposition that the quantity of records is in any way determinative of their investigative character under section 6254(f).

Petitioners deny the investigative nature of ALPR not only by constantly referring to the quantity of Real Parties' license plate scans, but

also by characterizing the process as mere data collection: "They do not conduct investigations; they collect data." (Petition, p.31.) Actually, LAPD and LASD, through ALPR, do conduct investigations. Law enforcement uses ALPR to determine whether a vehicle is associated with a crime. The fact that ALPR data is stored for a period of time for possible future investigatory use does not somehow the transform the initial investigatory scan to a non-investigatory act.

By the same token, just because the officer, prior to the scanning process, has not made a particularized "determination that the plate may be linked to criminal activity" (Petition, p.32), this does not make ALPR records non-investigatory. LAPD and LASD are trying to find vehicles and suspects wanted in connection with possible criminal activity as reflected in the "hot lists" that the license plates are compared against. Of course their officers and deputies do not know beforehand which specific license plates have a possible connection to criminal activity which might justify an enforcement stop. If they did, there would be no need to scan the plates. As the Court stated in *Haynie*: "Limiting the section 6254(f) exemption only to records of investigations where the likelihood of enforcement has ripened into something concrete and definite would expose to the public the very sensitive investigative stages of determining whether a crime has been committed or who has committed it." (*Haynie*, *supra*, 26 Cal. 4th at 1070.) (Emphasis added.)

Moreover, Petitioners have cited to no case that has held a license plate check of any type by law enforcement must be preceded by individualized suspicion. In fact, case law is directly to the contrary. (See *United States v. Diaz-Castenada*, 494 F.3d 1146 (9th Cir. 2007).) (License plate check conducted by police officer with no articulable suspicion of wrongdoing upheld. Such a check does not violate the Fourth Amendment or reasonable expectations of privacy.))

B. A plain reading of "investigation" further substantiates that ALPR data is exempt from disclosure under section 6254(f).

The very definitions of "investigate"—which includes "make a check to find out something"[3]--and "investigation"—"the action of investigating something or someone; formal or systematic examination or research"[4]--support the conclusion that ALPR data is covered by the exemption. The data constitute records of investigations that occur when

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[3] Oxford University Press, 2014 (www.oxforddictionaries.com)

[4] Oxford University Press, 2014 (www.oxforddictionaries.com)

the ALPR system automatically checks each scanned license plate against various "hot lists" to find out if the vehicle may be wanted in relation to specific crimes.

Even if matching results of these investigative checks, i.e. "hits," are not sought by Petitioners (see Petition, p. 33, fn. 28), the fact remains that all of the data captured by the ALPR system are records that those investigations took place. Petitioners' attempt to analogize ALPR data to a phone book ("...a phone book is not a record of investigation merely because police use it to match a phone number with a particular individual") fails--amongst other reasons--because, unlike a phone book which may contain information that's useful in a particular investigation but has no inherent investigatory purpose or character, an ALPR database consists entirely of records documenting past investigations which may be useful in future investigations as well.

Petitioners clearly recognize that ALPR has this dual investigative function. They acknowledge that the system "immediately runs" license plate data against "hot lists" and will "alert the officer to a vehicle that has previously been identified as being connected with a crime" (Petition, p.32) and also stores the data so "police can search [it] in future investigations." (Petition, p. 33.) And yet, Petitioners deny the investigative nature of data generated by ALPR license plate scans. But the fact that the immediate investigative function is automated does not alter the nature of the data as

records of those investigations. The trial court properly found that "hot list comparisons" are records of investigation:

> *Haynie* referred to records of investigation exempt under section 6254(f) as "only those investigations undertaken for the purpose of determining whether a violation of law may occur or has occurred." 26 Cal.4th at 1071. The hot list comparisons and targeted mobile car patrol inquiries are just such records of investigation. Law enforcement is conducting those investigations looking for stolen cars and other evidence of crime.
> (Ex.1, p.13.)

Controlling legal authority, substantial evidence and common sense support the trial court's ruling that the subject data is exempt under section 6254(f). It should be upheld.

C. Petitioners' arguments regarding claimed errors by the trial court are meritless.

Notwithstanding California Supreme Court precedent and substantial evidence supporting non-disclosure, Petitioners claim the trial court erred in holding the subject ALPR data is exempt under section 6254(f). Petitioners' argument essentially amounts to the following contentions: (1) The trial court's "misunderstanding" of ALPR technology led it to conclude that ALPR data is collected in a "targeted" and "non-random" fashion and, based partly on this conclusion, improperly held that the data is exempt under section 6254(f); (2) ALPR plate scans are not investigative because they are untargeted and not based on individualized suspicion of criminal activity; therefore, ALPR data cannot be exempt from disclosure under

section 6254(f). Neither of these arguments can withstand scrutiny and they should be rejected.

1) The trial court did not misunderstand ALPR technology and did not restrict its holding to "targeted" data collection.

Petitioners' first argument fails for several reasons. First, the trial court did not "misunderstand[...]...how ALPR technology operates..." (Petition, p. 25.) The decision clearly reflects that the court did, in fact, understand the character recognition and data-capturing technology involved. For instance, the Order includes an accurate summary of the description of the technology contained in Sgt. Gaw's declaration (Ex.1, p 5). Also, to the extent that Petitioners are claiming that Respondent did not understand that ALPR-equipped vehicles automatically capture and check the license plates of all vehicles in the vicinity of the mobile unit, this is also belied by the Order. It references, for instance, Sgt. Gomez's declaration that the determination of whether the vehicle may be stolen or otherwise associated with a crime "is made almost instantly for all vehicles in the immediate vicinity of the patrol car." (Ex. 1, p. 6.) The Order also contains the court's own characterization of how the mobile ALPR system works: "ALPR cameras automatically record all plates within view without the driver's knowledge..." (Ex. 1, p. 10.)

Secondly, Petitioners' assertion that the court "held that ALPR data collection is 'non-random' because the officer in the squad car decides

'what vehicle plates will be photographed'" (Petition, p. 25) is simply not true. The citation for this supposed holding, on page 25 of the Petition ("Ex. 1 at 16, 12"), does not support it: Page 16 of the Order (Ex. 1) contains no such conclusion. Page 12 has the following sentence: "The driving officer makes the decision where he will go and what vehicle plates will be photographed." However, the context of this sentence clearly reveals that it is part of the trial court's summary of County counsel's response to a question raised by the court at the hearing. ("The court raised this issue of ALPR as an investigatory tool at the hearing. In response, Respondents compared ALPR data to a police officer's surveillance video..." etc.) The subject sentence is a few lines later in the same paragraph, which is comprised entirely of the court's summary of counsel's response. It should be noted, on this point, that neither counsel for the City nor the County claimed at the hearing that officers decide "what vehicle plates will be photographed"—at least not specifically--so the summary is slightly inaccurate in this respect. Counsel for the County did state that officers "make decisions about where they are going to patrol, where they are going to investigate," but not about what vehicle plates will be photographed. In any event, there is no evidence to support such a contention and, again, the trial court did not so hold.

Rather, it is apparent from both the Order and the hearing transcript that the trial court considered ALPR data "generated by mobile cameras" to be "targeted" only in the sense that it is "the collection of plate information gathered in specific areas and locations as conducted by the mobile officer as directed by his or her superiors." (Ex. 1, p.13.) Again, there is no indication that the court viewed the data as targeted in the sense that officers in ALPR-equipped patrol cars choose which specific vehicle license plates to scan. In fact, as explained above, the record is to the contrary.

The trial court did make a distinction between ALPR data derived from "a targeted pattern of inquiry through mobile car patrols" (in the sense described above) and ALPR data from "a random inquiry through mobile car patrols" (i.e., "randomly driv[ing] in a station area to capture plate images") which was not advocated by either Petitioners or Real Parties. (Ex. 1, p. 14.) More importantly, however, the court ultimately concluded that all four categories of ALPR data that the court identified--from hot list comparisons, "targeted" mobile patrols, fixed cameras, and "random" mobile patrols--must be considered records of investigation under both *Haynie* and *Williams*. Moreover, the "hot list comparison" category actually includes all ALPR data because, as explained above, all license plate scans are automatically compared to "hot lists" in the ALPR server.

Based on the foregoing, the Superior Court correctly ruled that ALPR data is exempt from disclosure as law enforcement records of investigation under Government Code section 6254(f).

II.

WHILE THERE IS NO NEED TO CONDUCT A BALANCING TEST UNDER SECTION 6255 WHEN RECORDS ARE EXEMPT UNDER SECTION 6254, THE SUBJECT RECORDS SATISFY THIS TEST AS WELL.

If ALPR data is exempt from disclosure under section 6254, subdivision (f), which the City contends it is for the reasons set forth above, there is no need to justify nondisclosure under section 6255. Nonetheless, the "catch-all" exemption of section 6255 applies as well because the public interest in nondisclosure clearly outweighs the public interest, if any, in disclosure.

Under section 6255, the CPRA's "catchall provision," an agency is not required to disclose public records if it can demonstrate that "on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Gov. Code, § 6255, subd. (a).)

This weighing process is governed by a three-part test:

"To find answers under section 6255, we employ a three-part test: (1) We determine if there is a public interest served by nondisclosure of the

records; (2) If so, we determine if a public interest is served by disclosure of the records; and (3) If both are found, we determine whether (1) clearly outweighs (2). If it does not, the records are disclosed. In applying this test, we keep in mind the public policy favoring disclosure of records dealing with the public's business, the policy of construing exemptions narrowly, and the fact that the burden is on the party resisting disclosure to prove an exemption applies." (*Los Angeles Unified School Dist. v. Superior Court* (2014) 228 Cal.App.4th 222, 243 ("*Los Angeles Unified School Dist.*").)

Here, the public interest in nondisclosure of ALPR data clearly outweighs the public interest in disclosure.

A. The public interest in non-disclosure weighs in favor of exempting these records.

The Legislature has essentially already determined the public interest in nondisclosure of investigatory records by virtue of section 6254(f). Other than certain information from such records which must be disclosed to specified interested persons under the main part of (f) or as expressly provided in (f)(1) (regarding arrests) and (f)(2) (regarding complaints and requests for assistance), law enforcement agencies may maintain their confidentiality:

> These provisions for mandatory disclosure from law enforcement investigatory files represent the Legislature's judgment, set out in exceptionally careful detail, about what items of information should be disclosed and to whom. Unless that judgment runs afoul of the Constitution it is not our province to declare that the statutorily required disclosures are inadequate or that the statutory exemption

> from disclosure is too broad. Nor is it our province to say that the approach the Legislature chose is inferior to that which Congress chose, or to substitute one approach for the other. Requests for broader disclosure must be directed to the Legislature.
>
> *Williams*, *supra*, 5 Cal. 4th 337 at 361. (Emphasis added.)

The *Williams* Court rejected real party newspaper's invitation to adapt a test for investigatory records that would effectively narrow the scope of the exemption in a manner similar to the approach advanced by Petitioners here:

> The Daily Press, in its brief to this court, suggested a test that might be used in place of the FOIA criteria to limit the scope of the subdivision (f) exemption. Under the proposed test, documents would be exempt from disclosure only if "(1) they directly pertain to specific, concrete and definite investigations of possible violations of the criminal law; or (2) their disclosure would impair the ability of law enforcement agencies to conduct criminal investigations by disclosing confidential informants, threatening the safety of police agents, victims, or witnesses, or revealing investigative techniques." The adoption of such a test, which includes the substance of three of the FOIA criteria (see 5 U.S.C. § 552(b)(7)(D), (E) & (F)), is subject to the same objection as the proposal to incorporate the FOIA criteria wholesale: the Legislature has carefully limited the exemption for law enforcement investigatory records by requiring the disclosure of specific information from such records. It is not our task to rewrite the statute.
>
> *(Id.* at 354. (Emphasis added.))

This Court should adopt the same approach here. Because ALPR records are investigatory—in both the sense that the scanned data is a record of the immediate "hot list comparison" investigation and that the retained data is routinely used in active investigations—only the statutorily

defined disclosures under section 6254(f) are required. Those required disclosures, as noted above, are not applicable here.

The express exemption of section 6254(f) properly informs the analysis under section 6255 as well because the public interest in nondisclosure is so closely tied to ensuring the confidentiality of law enforcement investigatory records. "When examining a case under catchall section 6255, courts may take guidance from interests protected by the specific exemptions contained in section 6254, since its provisions 'will provide appropriate indicia as to the nature of the public interest in nondisclosure and will thus aid the courts in determining the disclosability of a document under section 6255.' [Citation omitted.]" (*Los Angeles Unified School District, supra*, 228 Cal.App.4th 222 at 254. (Emphasis added.))

Taking guidance from section 6254(f), there is a compelling public interest in nondisclosure of law enforcement records of investigation, including the ALPR data at issue here.

B. The trial court properly recognized this public interest in nondisclosure and Petitioners can show no error in this ruling.

The trial court expressly held that there is a public interest in maintaining the confidentiality of criminal investigations. (Ex. 1, p.14.) Substantial evidence supports nondisclosure to protect the confidentiality and integrity of investigations involving ALPR data.

As stated in the declaration of Daniel Gomez: "If LAPD were required to turn over raw LPR data, the value of LPR as an investigative tool would be severely compromised. For instance, a criminal or potential criminal would be able to request all LPR data associated with the license plate of his or her vehicle, thereby learning whether LAPD has evidence regarding his or her whereabouts on a particular date and time or near a particular location. This could also result in the potential destruction of evidence. In addition, the requesting individual could use the data to try and identify patterns of a particular vehicle." (Ex. 9, p. 410, ¶7,) at 410. Sergeant Gomez also stated that ALPR has been "instrumental in detecting and solving numerous crimes and for critical infrastructure protection" and provided specific examples of how ALPR data was used by LAPD investigators in armed robbery and homicide cases. (Ex. 9, p.410, ¶5.) In his declaration, John Gaw of LASD also explained the importance of ALPR in criminal investigations and provided an example of how the data led to the identification and arrest of three murder suspects. (Ex. 11, p. 427, ¶ 5.)

This evidence, provided by both LAPD's subject matter expert on ALPR, the Assistant Officer in Charge of the Department's Tactical Technology Section who has presented in his expert capacity to various groups and organizations (Ex. 9, p. 409, ¶1), and LASD's expert on ALPR, is compelling and uncontroverted. While it may not be "clear what harm

would really arise from a criminal learning whether or not police have ALPR data about his vehicle" (Petition, p. 43) to Petitioners, it is certainly clear to Real Parties in Interest. The repeated attempts to discredit Sergeant Gomez's expertise (see, e.g., Petition, p. 43, fn. 37) are unseemly and transparent attempts to minimize the evidence he provided and detract from the fact that, as noted by the trial court, Petitioners presented absolutely no evidence to the contrary.

As the trial court properly found, the public release of ALPR data could also be used by potential criminals to monitor the patrol patterns of Real Parties'—and other affected law enforcement agencies'—ALPR-equipped vehicles. Petitioners claim the court erred in so ruling because, they assert, there is "no evidence whatsoever" that there's a risk of patrol patterns being exposed. (Petition, p. 41.) This is not true. Sergeant Gomez testified that ALPR data typically includes "information identifying the source of the number capture," i.e., the specific ALPR camera (whether mobile or fixed) that captured each license plate. (Ex. 9, p. 409, ¶2.) Assuming it is a mobile unit, the movements of that "source," which can be determined by the location of each scan, are the movements of the patrol car. Sergeant Gomez also pointed out that someone making a CPRA request could, if ALPR data must be disclosed, "use the data to try and identify patterns of a particular vehicle." (Ex. 9, p. 410, ¶7.) A "particular vehicle" could obviously be either a private citizen's or a law enforcement

vehicle, assuming the latter is equipped with ALPR. In fact, as pointed out by counsel for the County at the hearing, the revelation of ALPR data would allow someone to "plot the GPS points everyone a read was taken along the entire route [and] generate a map of the precise patrol pattern employed by that unit during the day without question. They know everywhere the officer had been." (Ex. 2, p. 60:2-6.)

Petitioners then assert that even if patrol patterns are revealed through the public release of ALPR data, there is no reason to think this information would be helpful to potential or actual criminals. As a matter of common sense, it is obvious that the disclosure of precise information about exactly where, when, how frequently and how many law enforcement vehicles patrolled a given area in a particular time frame could be very useful to individuals who have committed, or are contemplating, a crime. The claim that this same information is somehow already easily available because "criminals ...need only watch for police cars" (Petition, p. 42) is unrealistic to put it mildly. Again, as a matter of common sense, such an exercise would be both time consuming and inefficient. No one—not even a motivated individual with criminal intent—can reasonably be expected to observe a location for 24 hours a day and, in any event, even a vigilant observer could not observe the comings and goings of every patrol car in an

area or division. Besides, a public records request for far more detailed and aggregated information would be much more convenient.

Petitioners' vague suggestion that "redaction" could address any risk to law enforcement posed by the disclosure of patrol patterns is also problematic. Because Petitioners did not raise the possibility of redaction to protect the confidentiality of patrol patterns in their briefing below, the City did not present evidence on this issue. However, as with Petitioners' more specific proposal to redact and "anonymize" license plates contained in ALPR data, all of the remaining data would still be exempt as investigatory and, moreover, segregation of approximately 1.2 million fields of data would be unduly burdensome in the extreme. (See *American Civil Liberties Union Foundation, supra,* 32 Cal. 3d 440.) This issue of segregation of ALPR data is addressed further below in connection with license plates.

Petitioners' remaining arguments that further attempt to minimize or deny the risks to criminal investigations posed by the disclosure of ALPR data are similarly unpersuasive.

The point that "ALPRs are only one way that a vehicle's location [at a crime scene] may be recorded" because it may be captured on surveillance video or seen by witnesses is unimpressive. (Petition, p. 44.) Regardless of the possibility of other modes of detection of a wanted vehicle apart from ALPR, maintaining the integrity of the investigatory data captured by ALPR is paramount.

Petitioners' claim that if a person who committed a crime made a CPRA request to determine if the police have ALPR data relevant to that crime, this would somehow incriminate the person or could be easily dealt with, is also fundamentally flawed. First, this assumes the perpetrator's request would obviously be seeking information related to his or her crime. It is quite easy to fashion a request for ALPR data that would include pertinent information but not alert the police that the pertinent information is what the perpetrator is interested in. Secondly, CPRA requests, which are routinely handled by law enforcement agencies, are not routed through detectives. Separate units within the agencies typically handle them, which is certainly the case with LAPD. Even if the handling detective were able to detect the true purpose of such a request, this assumes he or she would ever be aware of it. Moreover, it is well established that "[t]he motive of the particular requester in seeking public records is irrelevant (§ 6257.5), and the CPRA does not differentiate among those who seek access to them. (*County of Santa Clara, supra,* 170 Cal.App.4th at p. 1324.)" (*Los Angeles Unified School Dist., supra,* 228 Cal.App.4th 222 at 242.)

Thirdly, Petitioners' observation, in a footnote, that the agency could simply withhold requested ALPR data specifically related to, for instance, a homicide as "investigatory" under section 6254(f) underscores a fundamental issue Petitioners conspicuously failed to address. In addition to

the fact that personnel handling CPRA requests would not realistically know what specific ALPR data might be connected to an ongoing investigation, the very nature and regular use of ALPR data in ongoing criminal investigations means segregating and withholding data on this basis is virtually impossible. As Sgt. Gomez explained: "Segregating data associated with active criminal investigations is not feasible...Even if not associated with a crime one day, [ALPR] data can easily become associated with a crime the next day. Criminal investigations are fluid, not static." (Ex. 9, p. 411, ¶8.)[5]

The trial court appropriately noted this evidence and cited it as an additional reason for ruling that ALPR data is properly exempt from disclosure under section 6255. (Ex. 1, p.18.) Given the fluid nature of criminal investigations and the continuing use of the ALPR database by law

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[5] Once an ALPR scan is associated with a specific ongoing criminal investigation having a "concrete and definite" prospect of enforcement," it is exempt not only as a record of investigation, but also as a record contained in an investigatory file under section 6254(f). See *Haynie*, *supra*, 26 Cal.4th at 1069-1070.

enforcement personnel, disclosure of any of this data—which cannot be retrieved once released—clearly poses a serious risk to such investigations.

The public interest in maintaining the integrity of criminal investigations by ensuring the confidentiality of investigatory records is undeniable. It is a public safety interest. It would be undermined by the release of ALPR data and Petitioners have failed to show otherwise.

C. There is a public interest in protecting the privacy and safety of drivers to whom ALPR data relates and this interest is furthered by nondisclosure.

If forced to disclose ALPR data, not only would law enforcement investigations be compromised, so would the privacy and safety of members of the public. The trial court agreed that the release of records detailing the precise locations of vehicles bearing the captured license plate numbers on specific dates at specific times has substantial privacy implications for the drivers and/or owners of those vehicles. Members of the public would be justifiably concerned about the disclosure of this information—which was acquired and maintained strictly for investigatory purposes--given that it can be used to draw inferences about an individual's driving patterns and whereabouts. By requesting all ALPR data associated with a particular vehicle, a CPRA requester could try to identify driving patterns of a particular individual in order to locate that person and perhaps do him or her harm. The trial court, relying on the declaration of Daniel

Gomez, rightly found an interest in non-disclosure on these grounds. The court also noted that the release of ALPR data to Petitioners would require disclosure of such data to any other member of the public, whose motives could not be questioned. (Ex. 1, pp.14-15.) (See *County of Santa Clara v. Superior Court* (2009) 170 Cal.App.4th 1301, 1321-1322 ("*County of Santa Clara*").

Petitioners have conceded that "data about location information is sensitive and private and that releasing raw ALPR data poses a threat to privacy of the millions of Angelenos whose location information would be publicly revealed." (Petition, p.45.) Thus, Petitioners apparently agree that there is public interest in nondisclosure of ALPR data on this basis.

Petitioners attempt to address this acknowledged public interest in nondisclosure by proposing "anonymization—using a computer algorithm to remove the actual license plate number for each scan and substitute a random, unique identifier." (Petition. p.45.)

Before addressing practical and legal problems with this proposal, it should be pointed out that Petitioners raised it for the first time in their Reply brief below (Ex. 12. p. 507), thereby depriving Real Parties of the opportunity to address it in their opposition briefs or by presenting evidence with those oppositions.

As for the substance of this proposal: Because all ALPR data is investigatory and therefore exempt from disclosure for the many reasons

stated above, the City is opposed to releasing any of it—even making the huge and unwarranted assumption that it could do so in this fashion, i.e. by redacting and "anonymizing" the license plate numbers from approximately 1.2 million ALPR reads.

"If only part of a record is exempt, the agency is required to produce the remainder, if segregable. (§ 6253, subd. (a).)" (*County of Santa Clara, supra*, 170 Cal. App. 4th 1301, 1321.) License plate numbers are not the only exempt part of ALPR data. Under section 6254(f), the data is exempt in its entirety because none of the required categories of disclosures ((f)(1) and (f)(2)) information) are applicable. Therefore, no segregation and partial disclosure is required.

Moreover, even if only part of ALPR data were exempt, it is well established that the "burden of segregating exempt from nonexempt materials, however, remains one of the considerations which the court can take into account in determining whether the public interest favors disclosure under section 6255." (*American Civil Liberties Union Foundation, supra,* 32 Cal.3d at 453, fn. 13.) Here, the burden would be extreme.

At the hearing, Sgt. Gomez testified that, based on a random one week period and manual redaction of approximately 1.2 million reads, he calculated that it would take about one year, assuming a forty-hour work

week, to complete the redaction process. (Ex. 2, p. 49.) He stated there is "nothing inherent in the system" that would perform this redaction process, which is why he based his calculations on a manual process. This time estimate was based strictly on redaction, not including assignment of a "unique identifier" in place of each license plate, and did not include a cost estimate. However, given the extraordinary amount of time involved, the cost would likewise be substantial, whether accomplished solely by LAPD personnel or with the assistance of "an outside party." *Id* .As noted by the trial court, "There is no evidence that Petitioners' suggestion is both workable and inexpensive." Ex. 1, p. 17.

In *American Civil Liberties Union Foundation v. Deukmejian*, the Supreme Court held: "It is clear that the burden of segregating exempt from nonexempt information on the 100 [Law Enforcement Intelligence Unit index] cards would be substantial" and denied disclosure of those cards. 32 Cal.3d at 453. It is obvious, in this case, that the burden of segregating information from 1.2 million ALPR reads and inserting new information would be even more substantial.

Finally, the trial court observed that while this proposal "would address the individual privacy concerns…it would not address the impact on law enforcement investigation. A criminal could still use ALPR data to follow law enforcement patrol patterns and still could locate a particular randomized plate at a particular location on specific days and times." (Ex.

1, p.17.) In addition, while not specifically noted by the court, a person could determine his or her own randomized plate number simply by strategically utilizing a fixed ALPR site in a manner to ensure that a read on a particular date at a particular time captured by that particular ALPR camera could only be his or hers.

For all of the foregoing reasons, the public interest in nondisclosure of ALPR data based on privacy and safety concerns is substantial. The City should not be required to segregate and "anonymize" the data because all of it is exempt and doing so would be both unduly burdensome and inadequate to protect the integrity of criminal investigations.

1) The public interest in disclosure of ALPR data is minimal at best.

In determining whether a public interest in disclosure of public records exists, the fact that the records relate to the "public business" is not sufficient. "The existence and weight of the public interest in disclosure are conclusions derived from the nature of the information requested." (*Coronado Police Officers Assn. v. Carroll* (2003) 106 Cal.App.4th 1001, 1012–1013.) While, as a threshold matter, the records sought must pertain to the conduct of the people's business, " '[t]he *weight* of that interest is proportionate to the gravity of the governmental tasks sought to be illuminated and the directness with which the disclosure will serve to illuminate.' " (*Connell v. Superior Court* (1997) 56 Cal.App.4th 601, 616.)

Again, federal courts are in agreement. (*Hopkins v. U.S. Dept. of Housing & Urban Development* (2d Cir. 1991) 929 F.2d 81, 88 ["disclosure of information affecting privacy interests is permissible only if the information reveals something *directly* about the character of a government agency or official"].)" (*Los Angeles Unified School Dist, supra*, 228 Cal. App. 4th at 242. (Emphasis in original.))

Here, Petitioners assert, "ALPRs pose a serious threat to privacy and free speech and hold the potential for abuse." Therefore, the public needs to "understand how the police actually use the technology." (Petition, p. 36.) They also claim, and the trial court agreed, that ALPR data would show whether "police agencies are spreading ALPRs throughout their jurisdictions or targeting a few communities," i.e., "particular communities of color," political protesters, mosques, doctors' offices or gay bars. (Ex. 1, p.16 and Ex. 12, p.506. Also, Petitioners say they want to "understand the overall privacy threat posed by ALPRs and what the range of intrusion is (whether some vehicles are scanned hundreds of times and others not at all.)" (Petition, p. 27.)

While concerns about privacy violations and potentially discriminatory enforcement practices are certainly not trivial, the release of ALPR data would not directly illuminate whether such practices are happening.

Regarding privacy, it is settled law that license plate checks by law enforcement officers do not violate a reasonable expectation of privacy.

> We agree that people do not have a subjective expectation of privacy in their license plates, and that even if they did, this expectation would not be one that society is prepared to recognize as reasonable. [Citation omitted.] First, license plates are located on a vehicle's exterior, in plain view of all passersby, and are specifically intended to convey information about a vehicle to law enforcement authorities, among others. No one can reasonably think that his expectation of privacy has been violated when a police officer sees what is readily visible and uses the license plate number to verify the status of the car and its registered owner. See *Ellison*, 462 F.3d at 561-62. Second, a license plate check is not intrusive. Unless the officer conducting the check discovers something that warrants stopping the vehicle, the driver does not even know that the check has taken place. See *Walraven*, 892 F.2d at 974. Third, the Supreme Court has ruled that people have no reasonable expectation of privacy in their vehicle identification number (VIN), which is located inside the vehicle but is typically visible from the outside. [Citation omitted.] If it was not a Fourth Amendment search when the police officers in Class opened a car's door and moved papers obscuring the VIN, it surely also was not a search when Helzer ran a computerized check of Diaz's license plate.
>
> (*United States v. Diaz-Castaneda*, 494 F.3d 1146, 1151 (9th Cir. 2007))(Emphasis added.)

If a license plate check is not intrusive, then whether it occurs "hundreds of times or not at all" is irrelevant. Furthermore, the specific type of license plate check involved in *Diaz-Casteneda* pulled up the name of the registered owner and status of the vehicle, which is more personal information than involved in an ALPR scan which simply determines whether the license plate may be associated with a crime.

Moreover, ALPR data would not directly show if the LAPD is targeting political protesters, Muslims, the gay community or other groups through ALPR technology. The parties are in agreement that each individual scan is random, not targeted. (See Section 1 above.) Therefore, the contention that disclosure of ALPR data is necessary to show any "targeting" behavior by Real Parties should be rejected because it would necessarily involve speculative conclusions about why certain license plates may have been scanned (other than mere proximity to the ALPR-equipped patrol car). To assume such targeting based on, for instance, the number of times a license plate might show up in a week would be nothing but conjecture. Certain license plates may well appear far more often than others in LAPD's ALPR database for a variety of reasons. Some people have jobs that require them to drive the streets of Los Angeles for hours each day. Some people live in close proximity to police stations where there might be a higher concentration of ALPR-equipped patrol cars. Some people park their vehicles in locations that are more frequently traveled by patrol cars. Some people reside in areas which more patrol cars are assigned to due to a spike in crime. And some people just happen to pass ALPR-equipped patrol cars more than others. Would the relatively high number of ALPR scans of these vehicles' plates prove that law enforcement is "targeting" their owners or surveilling them? Of course not. In fact, other

explanations--just a few are mentioned above—are far more reasonable and in keeping with common sense.

The trial judge, in concluding the balancing of interests favored nondisclosure, aptly noted that Petitioners provided "no expert evidence on how well ALPR data can be used to illuminate [Real Parties'] performance of that task [investigation of stolen cars and criminal suspect location through ALPR technology] or what is likely to be shown. They have only shown that ALPR data can be used to attempt to ascertain whether a person has been targeted for surveillance, without demonstrating how successful that attempt would be." (Ex. 1, p.17.) To that, the City would add, in terms of individualized surveillance, that there is no evidence ALPR technology is used for that particular investigatory purpose. In fact, given the obvious appearance of a black and white patrol car (as emphasized by Petitioners in another context, (see Petition, p. 42)), it is not a good candidate for (presumably undercover) surveillance. If, in fact, ALPR data were to reflect constant, continuous scans of a particular license plate suggesting a following pattern by the patrol car, it could indicate pursuit of a criminal suspect or simply that the officer just happened to be behind the vehicle for a period of time.

The bottom line is that it would be a huge hypothetical leap to conclude law enforcement "abuse" of ALPR technology based on the

incomplete information contained in ALPR data "For the public interest to carry weight under the California Public Records Act, Gov. Code, § 6250 et seq., it must be more than hypothetical or minimal." (*Los Angeles Unified School Dist., supra*, 228 Cal. App. 4th 222, 242.)

Petitioners also attempt to bolster their argument that there is a public interest in disclosure by equating ALPR technology with GPS tracking technology, the latter of which obviously has far greater privacy implications because it literally tracks the exact movements of the vehicle the GPS device is affixed to. (See *U.S. v. Jones* (2012) 132 S. Ct. 945.)[6] Nonetheless, the City certainly agrees that the location information contained in ALPR data does implicate the privacy interests of those drivers—that is one of the reasons why there is a far greater public interest in not disclosing ALPR data than in disclosing it.

Finally, Petitioners argue that the value of public disclosure of ALPR data is not speculative by citing examples of other cities where

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[6] Petitioners' frequent description of ALPR technology as "tracking" is likely strategic but it is inaccurate. As noted above, there is absolutely no evidence that ALPR-equipped patrol cars are used to follow motorists.

ALPR data was released, leading to "public discussion" about use of the technology. (Petition, pp. 37-38.) The problem for Petitioners, and what they do not mention, is that the "misuse" of ALPR in two of those cities—Minneapolis and Boston—was in large part the public release of ALPR data.

In Minneapolis, after the Star Tribune obtained ALPR data and published a map showing the 41 locations where the mayor's car had been scanned the prior year, a state task force recommended to the Legislature that the data should be classified as "private," meaning only the subject could request it from the police. "Now that we see someone's patterns in a graphic on a map in a newspaper, you realize that person really does have a right to be secure from people who might be trying to stalk them or follow them or interfere with them," said Bob Sykora, chief information officer for the Minnesota Board of Public Defense, who recommended the reclassification." Eric Roper, "City cameras track anyone, even Minneapolis Mayor Rybak." (Full online citation in Petition, p. 21, fn 16.)

In Boston, as the article cited by Petitioners reports, "the police inadvertently released to the Globe the license plate numbers of more than 68,000 vehicles that had tripped alarms on automated license plate readers over a six-month period." Shawn Musgrave, "Boston Police halt license scanning program." (Full online citation in Petition, p.22, fn. 22.) "The

accidental release triggered immediate doubts about whether the police could reliably protect the sensitive data" and resulted in the suspension of the ALPR program. (*Id.*)

The final article cited in support of Petitioners' argument about the value of public disclosure of ALPR data reports that ACLU Connecticut determined through a state public records act request that numerous towns in the state had, between them, millions of plate scans over a four year period. Ken Dixon, "Plate-Scan Database Divides Conn. Police, ACLU." (Full online citation in Petition, p. 38, fn. 33.) It is not at all clear that ACLU-CT obtained the actual raw ALPR data in order to make this determination. In any event, Petitioners are well aware of the approximate number of ALPR scans per week by Real Parties (see, e.g., Petition, p. 18), so disclosure of raw ALPR data is clearly not necessary to shed light on this issue.

While disclosure of ALPR data in Minneapolis and Boston may have been "integral to informed debate" from Petitioners' perspective in that it underscored the invasion of privacy occasioned by such release (and resulted in the suspension of ALPR use by the Boston Police Department), it is not necessary from the perspective of the general public interest. It is not necessary for Petitioners to review the actual ALPR data to understand ALPR technology and how it is used. As their briefing demonstrates, Petitioners already have a clear understanding of the technology and the

dual investigative uses it serves for law enforcement. (See Petition, pp.19, 32-33.) Petitioners are free to share this information with the public and advocate for whatever local or state policy changes they may feel are appropriate—retention-related or otherwise—based on their knowledge and informed opinion of ALPR technology. They do not need the actual raw data to do so and, for the numerous reasons stated herein, the release of this data would jeopardize both law enforcement investigations and the public.

III.

THE PUBLIC INTEREST IN NONDISCLOSURE CLEARLY OUTWEIGHS ANY PUBLIC INTEREST IN DISCLOSURE.

If there is any interest at all in the public release of ALPR data, which is questionable for the reasons set forth above, it is clearly outweighed by the compelling public interests in nondisclosure, set forth in Section II.A. The marginal value of knowing how many times a license plate was scanned, or the highly questionable value of trying to extrapolate from a patrol car's location why it may have been here or there, is far outweighed by the privacy intrusion and risk to criminal investigations that would be caused by making ALPR data public.

CONCLUSION

Based on the foregoing, Real Party CITY OF LOS ANGELES submits that it has carried of burden of demonstrating that the subject data is exempt from disclosure under Government Code sections 6254(f) and 6255, as ruled by Respondent SUPERIOR COURT. Therefore, the CITY OF LOS ANGELES respectfully requests this Court deny the instant Petition and all relief sought therein.

DATED: November 26, 2013

Respectfully submitted,

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CERTIFICATE OF NUMBER OF WORDS IN BRIEF

I certify that pursuant to California Rules of Court, Rule 8.204(c), the attached brief is proportionately spaced, has a typeface of 13 points in Times New Roman font, and contains, 9,280 words based upon the Word count from Microsoft Word 2013.

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PROOF OF SERVICE BY VARIOUS METHODS

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 200 N. Main Street, City Hall East Room 800, Los Angeles, CA 90012.

On November 26, 2014, I served the foregoing document described as:

OPPOSITION TO PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE TO ENFORCE CALIFORNIA PUBLIC RECORDS ACT PURSUANT TO GOVERNMENT CODE § 6259 (c)

on all interested parties by transmitting a copy addressed as follows:

SEE ATTACHED SERVICE LIST

[X] BY MAIL – I am readily familiar with the practice of the Los Angeles City Attorney's Office for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is placed for collection and mailing. On the date referenced above, I placed a true copy of the above documents(s) in a sealed envelope and placed it for collection in the proper place in our office at Los Angeles, California.

[ ] BY FACSIMILE TRANSMISSION: On November 22, 2013, from facsimile machine telephone number (213) 978-8787, I transmitted a copy of the above document by facsimile transmission to the person and facsimile machine telephone number indicated above. A transmission report, properly issued by the transmitting facsimile machine, reported that the transmission was complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: November 26, 2014

PATRICIA GUERRA

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