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and PAUL JOSEPH

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

SERVICES, IMMIGRANT RIGHTS &
EDUCATION NETWORK; COUNCIL ON
AMERICAN-ISLAMIC RELATIONS,
CALIFORNIA,

Plaintiffs,

v.

CITY OF SAN JOSE, et al.,

Defendants.

Case No. 25CV480254

DEFENDANTS' REPLY TO PLAINTIFFS'
OPPOSITION TO DEMURRER TO PLAINTIFFS'
COMPLAINT

Date: August 6, 2026
Time: 9:00 AM
Dept. 10
Judge: Hon. Jeffrey El-Hajj

1 **I. Introduction**

2 Plaintiffs’ opposition confirms that the demurrer should be granted. There is no general
3 expectation of privacy in a vehicle’s location or appearance on a public street. Federal courts
4 around the country, including in the Ninth Circuit, have repeatedly and consistently rejected the
5 contrary argument, and virtually every court to consider the issue — including at the pleading stage
6 — has held that ALPRs do not infringe on any reasonable expectation of privacy. Plaintiffs identify
7 no federal or California decision to the contrary.

8 Plaintiffs appear to concede that photographs of vehicles on public roads taken by ALPRs
9 do not invade any expectation of privacy, limiting their challenge “only” to the warrantless
10 querying of the ALPR database, not the City’s “collection or storage of this data.” (Opp. at 6.) But
11 Plaintiffs’ querying theory rests almost entirely on a single Supreme Court decision, *Carpenter v.*
12 *United States*, which did not address the discrete photographs captured by fixed ALPR cameras on
13 public roads. Instead, *Carpenter* involved historical cell phone location data that continuously
14 follows its owner everywhere they carry their phone, including into the home and other private
15 spaces. When law enforcement reviewed historical cell site data, they were accessing information
16 about the individual’s location and movement in non-public areas.

17 By contrast, a fixed camera that photographs a car’s exterior on a public street captures
18 only what any passerby could see, and does not track movements in private spaces. That is why
19 nearly every court to consider the question — including the federal court in this District and the
20 only California court to address the issue — has refused to extend *Carpenter* to fixed cameras like
21 ALPRs. This Court should reach the same conclusion.

22 Plaintiffs’ claims are properly resolved at the demurrer stage. As the federal courts have
23 held, the analogy to *Carpenter* fails as a matter of law. Even accepting the Complaint’s allegations
24 as true, the City conducts no search and invades no protected privacy interest. And Plaintiffs’ claim
25 under Article I, Section 1 fails for the same reason. In the search-and-seizure context, Section 1 is
26 no broader than Section 13 and so rises and falls with it.

1 **II. SJPD’s ALPR System Does Not Violate Article I, Section 13.**

2 Drivers in San José have no reasonable expectation of privacy in the images of their
3 vehicles captured on public roads. And because photographing the exteriors of vehicles on public
4 roads is not a “search,” querying a database of those photographs is not a search either.

5 *A. Article I, Section 13 Is Not Broader Than the Fourth Amendment in the Search-and-Seizure*
6 *Context Presented Here.*

7 Plaintiffs assert that Article I, Section 13 is “more protective of privacy than the Fourth
8 Amendment.” (Opp. at 9.) But the touchstone of both provisions is reasonableness, and California
9 courts apply a test that mirrors the two-part test the Supreme Court adopted in *Katz v. United States*
10 (1967) 389 U.S. 347, 361 (Harlan, J., concurring). (*People v. Buza* (2018) 4 Cal.5th 658, 670 [“the
11 touchstone for all issues under both provisions [i.e., Article I, section 13 and the Fourth
12 Amendment] is reasonableness”], internal citations omitted; *People v. Perry* (2019) 36
13 Cal.App.5th 444, 466 [“Our courts therefore apply federal legal standards when analyzing the
14 reasonableness of a search or seizure under California constitutional law”]; *People v. Bradley*
15 (1969) 1 Cal.3d 80, 84.) Although the California Constitution is “a document of independent
16 force,” the California Supreme Court follows the Supreme Court’s construction of parallel text
17 absent “cogent reasons” to depart (*Buza*, 4 Cal. 5th at 684, 85) — and the decisions Plaintiffs
18 invoke supply none. Each concerned something the individual sought to keep private: sealed
19 garbage (*People v. Krivda* (1971) 5 Cal.3d 357), the curtilage of a home (*People v. Mayoff* (1986)
20 42 Cal.3d 1302), and confidential bank and telephone records (*Burrows v. Superior Court* (1974)
21 13 Cal.3d 238; *People v. Blair* (1979) 25 Cal.3d 640). A license plate is not private — California
22 law commands that it be “clearly visible” (Cal. Veh. Code § 5201) — and no California decision
23 extends Section 13 to photographs of a vehicle’s public movements. On the contrary, the Court of
24 Appeal has squarely rejected the contention that *Carpenter* extends to cameras that record public
25 movements. (*People v. Cartwright* (2024) 99 Cal.App.5th 98, 103–05.)
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27
28

1 That argument is without merit. Because there is no reasonable expectation of privacy in
2 the exterior of a vehicle or in movements on public roads, the query of a database containing that
3 legally compiled information is not a search. Every federal court to confront the question has so
4 held. (*See United States v. Sturdivant* (N.D. Ohio 2025) 786 F. Supp. 3d 1098, 1111 [“the query of
5 a database containing that information does not violate [defendant’s] rights,” and “no search
6 occurred”]; *United States v. Floyd* (M.D. Fla. 2025) 811 F. Supp. 3d 1345 [holding that queries
7 “were not searches”], internal citations omitted; *United States v. Toombs* (N.D. Ala. 2023) 671 F.
8 Supp. 3d 1329, 1340–41; *United States v. Cooper* (E.D. La. Jan. 6, 2025) 2025 WL 35035, at *6;
9 *accord USA v. Rubin* (N.D. Cal. 2021) 556 F.Supp.3d 1123, 1130.) That other agencies may also
10 query the database (Opp. at 8) changes nothing: a query that is not a search when SJPd runs it
11 does not become one when another agency does, and Plaintiffs identify no authority suggesting
12 otherwise. Because the challenged conduct is not a search, no warrant was required, and Plaintiffs’
13 claims fail as a matter of law.

14 D. *Carpenter Does Not Apply Here.*

15 Plaintiffs’ argument to the contrary depends entirely on their attempt to analogize ALPR
16 data to the cell site data in *Carpenter*. But as virtually every court to consider this issue—including
17 the federal court in this District—has held, the reasoning of *Carpenter* does not extend to ALPRs.
18 (*Rubin*, 556 F. Supp. 3d at 1130.) The *Carpenter* Court described its decision as “a narrow one,”
19 confined to the “unique nature of cell phone location information,” and emphasized that it did not
20 “call into question conventional surveillance techniques and tools, such as security cameras.”
21 (*Carpenter v. United States* (2018) 585 U.S. 296, 315–16.) Critical to the Court’s conclusion was
22 the cell phone’s nature as “almost a ‘feature of human anatomy’” that “faithfully follows its owner
23 beyond public thoroughfares and into private residences, doctor’s offices, political headquarters,
24 and other potentially revealing locales.” (*Ibid.* at 311 (quoting *Riley v. California* (2014) 573 U.S.
25 373, 385).) Because cell-site information tracks a person into these intimate, constitutionally-
26 protected spaces, the Court likened such surveillance to “attach[ing] an ankle monitor to the
27 phone’s user,” achieving “near perfect surveillance.” (*Carpenter*, 585 U.S. at 312.)

1 A fixed ALPR camera does none of that, so its data is “not remotely comparable to the
2 detailed, encyclopedic information at issue in *Carpenter*.” (*Rubin*, 556 F. Supp. 3d at 1130, internal
3 citations omitted.) *Carpenter* drew a line between public and private: government collection of
4 cell site data constituted a search because the data followed its owner “beyond public thoroughfares
5 and into private residences, doctor’s offices, political headquarters, and other potentially revealing
6 locales.” (585 U.S. at 311.) A fixed ALPR camera never crosses that line. It does not peer into
7 homes, nor does it follow a person into a building. ALPR data does not even show where a vehicle’s
8 journey began or ended. An ALPR camera merely photographs a car’s exterior during the moment
9 it passes a fixed point on a public road.

10 Plaintiffs’ answer is that the ALPR system is “pervasive in time” because the cameras run
11 around the clock, “pervasive in space” across hundreds of locations, and more precise than CSLI
12 because a capture places a car’s location at a specific camera. (Opp. at 13–14.) That answer
13 misinterprets what made CSLI a search. Precision and duration were never the touchstone;
14 application of the Fourth Amendment does not depend on “the ‘quality or quantity of information’
15 the government obtains.” (*Chatrie v. United States* (2026) 609 U.S. ---, 2026 WL 1855568 (quoting
16 *Kyllo v. United States* (2001) 533 U.S. 27, 37).) Rather, what matters is whether the subject of the
17 purported search has a reasonable privacy interest in the information in question. Regardless of
18 pervasiveness and precision, an ALPR camera that photographs only a car’s exterior at a fixed
19 public point fails to cross the line *Carpenter* drew: it does not follow anyone into a home, an office,
20 or any other private space. That a system captures publicly displayed information does not make
21 it a search.

22 Plaintiffs’ other efforts to invoke *Carpenter* fare no better. Plaintiffs note that *Carpenter*
23 mentioned ease of collection, but it was the ease of collecting information *about an individual’s*
24 *location in private spaces* that drove the Court’s holding. As one federal court explained in
25 rejecting a Fourth Amendment challenge to ALPRs, the invasiveness in *Carpenter* “was grounded
26 in the fact that it was near continuous, throughout the day and night,” emanating from a device
27 “essentially attached to the user’s hip” that “faithfully follows its owner beyond public

1 thoroughfares and into private residences, doctor’s offices, political headquarters, and other
2 potentially revealing locales.” (*Schmidt v. City of Norfolk* (E.D. Va. 2026) 819 F. Supp. 3d 492,
3 511 (quoting *Carpenter*, 585 U.S. at 311).) That is why cell-phone tracking “achieves near perfect
4 surveillance, as if it had attached an ankle monitor to the phone’s user,” (*Carpenter*, 585 U.S. at
5 312), while ALPRs do not. Nor is the ALPR system “indiscriminate,” (Opp. at 6), in *Carpenter*’s
6 sense: CSLI’s tracking capacity “runs against everyone,” *Carpenter*, 585 U.S. at 312, precisely
7 because carrying a cell phone is “indispensable to participation in modern society,” *ibid.* at 315,
8 whereas ALPR cameras record only the vehicles that pass fewer than 474 fixed points across an
9 180-square-mile city. (Compl. ¶ 24.)

10 Plaintiffs resist this conclusion by misreading *Carpenter*. Seizing on *Carpenter*’s
11 recognition that a person “does not surrender all Fourth Amendment protection by venturing into
12 the public sphere” (585 U.S. at 310), they contend the decision “expressly found privacy interests
13 in public movements.” (Opp. at 12.) But *Carpenter* reaffirmed the settled rule that “a person
14 travelling in an automobile on public thoroughfares has no reasonable expectation of privacy in
15 his movements from one place to another.” (585 U.S. at 306, internal citations omitted.) What
16 troubled the Court was not public movement but a technology that follows a person into private,
17 constitutionally protected spaces and generates a “detailed, encyclopedic, and effortlessly
18 compiled” chronicle of the whole of a person’s movements, amassing an “all-encompassing
19 record” of the holder’s whereabouts over an extended period. (*Ibid.* at 309, 311.)

20 For these reasons, federal courts have consistently refused to extend *Carpenter* to ALPR
21 data.¹ The Northern District of California so held in *Rubin*, finding “no reason to believe that the
22 [ALPR] database provided a detailed log of [the defendant’s] movements.” (556 F. Supp. 3d at

23
24 ¹ See also *United States v. Porter* (5th Cir. 2026) 170 F.4th 381 [affirming a district court’s denial
25 of defendant’s motions to suppress, holding that law enforcement’s use of a license plate reader
26 system did not constitute a Fourth Amendment search]; *United States v. Jackson* (D. Kan. May 29,
27 2025) 2025 WL 1530574, at *3, *7 [“Flock System at issue here lacks the wide and continuous
28 tracking of a defendant which the Supreme Court has stated is constitutionally suspect”; “the
tracking is not continuous[;] [t]he data is limited to only those locations where a Flock camera is
stationed, and it is possible to evade detection by driving in areas without Flock camera coverage”].

1 1129, and reaffirmed that holding in *United States v. Butler* (N.D. Cal., July 16, 2024) 2024 WL
2 3447505, at *2). And in a concurring opinion, Judge Bea warned that “[i]t would be folly to hold
3 that searches of ALPR databases require a warrant without identifying even one case where the
4 ‘whole of [one’s] physical movements’ was implicated in an ALPR database search.” (*United*
5 *States v. Yang* (9th Cir. 2020) 958 F.3d 851, 864 (quoting *Carpenter*, 585 U.S. at 310).)

6 The Supreme Court’s recent decision in *Chatrie* — applying *Carpenter* to Google Location
7 History — confirms this conclusion. The Court emphasized that “the movements that Location
8 History reveals are not limited to public streets” and reasoned that everything *Carpenter* relied on
9 in finding a Fourth Amendment search “applies as well or better” to Location History data,
10 invoking *Carpenter*’s observation that CSLI “faithfully follows [its owner] not only through
11 ‘public thoroughfares [but] into private residences, doctor’s offices, political headquarters, and
12 other potentially revealing locales.’” (*Chatrie*, 2026 WL 1855568 (quoting *Carpenter*, 585 U.S. at
13 311).) A fixed ALPR camera does none of that. Plaintiffs’ reliance on *Chatrie*’s statement that
14 “even two hours” of data can be revealing (Opp. at 17) only underscores the distinction: that data
15 logged a user’s position “every two minutes or so” (*Chatrie*, 2026 WL 1855568, at *1), wherever
16 the phone traveled, including into protected spaces. And *Chatrie* confirms that the search question
17 turns on the character of the technology, not the “‘quality or quantity of information’ the
18 government obtains.” (*Ibid.*, at *13 (quoting *Kyllo*, 533 U.S. at 37).) *Chatrie* thus forecloses any
19 suggestion that discovery into the scale of SJPD’s system might reveal a search; because fixed
20 cameras never leave the public thoroughfare, no volume of photographs can change the analysis.

21 *Leaders of a Beautiful Struggle* likewise does not help Plaintiffs. That out-of-circuit
22 decision involved an aerial program that “‘track[ed] every movement’ of every person outside in
23 Baltimore” and created a “‘detailed, encyclopedic’ record of where everyone came and went.”
24 (*Leaders of a Beautiful Struggle v. Baltimore Police Dep’t* (4th Cir. 2021) 2 F.4th 330, 341, 343.
25 (quoting *Carpenter*, 585 U.S. at 307, 309).) Fixed cameras that capture only scattered public points
26 cannot do that. For this reason, the federal courts have consistently rejected attempts to analogize
27 ALPRs to the aerial program at issue in *Leaders*. (See, e.g., *United States v. Martin* (E.D. Va. 2024)

1 753 F. Supp. 3d 454, 473 [concluding that ALPRs “captur[e] images of locations, not individuals,”
2 and “[i]n no sense” rise to the “all-encompassing surveillance” of CSLI or the aerial program].)
3 Unsurprisingly, then, courts have rejected materially identical ALPR challenges at the pleading
4 stage. (*See ibid.* at 721 [dismissing challenge to roughly 300 ALPR cameras]; *Schemel v. City of*
5 *Marco Island* (M.D. Fla. Oct. 17, 2025) 2025 WL 2958798.)

6 California law is in accord. In *Cartwright* — the only California decision applying
7 *Carpenter* to cameras in public locations — the Court of Appeal rejected the very argument
8 Plaintiffs press: that *Carpenter* and *Leaders of a Beautiful Struggle* establish a reasonable
9 expectation of privacy in public movements captured by fixed municipal cameras. (Opp. passim).
10 Fixed cameras, the *Cartwright* court held, do “not rise to the same unique nature of cell phone
11 location records”; they “only capture short term movements,” “are fixed in place,” and do not
12 create “a retrospective database of everyone’s movements across the city,” but “merely augment[]
13 . . . ordinary police capabilities.” (99 Cal. App. 5th at 103–05, internal citations omitted.)

14 Plaintiffs’ attempt to distinguish *Cartwright* fails. Plaintiffs say that *Cartwright* “concerned
15 a small number of conventional security cameras which could ‘only capture short-term
16 movements’ and could not ‘create a retrospective database of everyone’s movements across the
17 city.’” (Opp. at 12 (quoting *Cartwright*, 99 Cal. App. 5th at 104–05, internal quotations omitted).)
18 But nothing in *Cartwright* suggests that the holding depended on the number of security cameras
19 in the City — indeed, the number of cameras does not even appear in the opinion. And *Cartwright*’s
20 description of the limitations on security cameras applies equally to ALPRs. Like security cameras,
21 ALPRs capture only short-term movements — the moment a vehicle passes a camera. And ALPRs
22 do not create a retrospective database of everyone’s movements across the city — rather, they
23 record only the location of a vehicle when it passes a camera, with no information about where the
24 vehicle’s journey begins or ends.

25 **III. SJPD’s ALPR System Does Not Violate Article I, Section 1.**

26 Plaintiffs’ claim under Article I, Section 1 fails for related reasons. A claim under the
27 Privacy Initiative requires “(1) a legally protected privacy interest; (2) a reasonable expectation of
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1 privacy in the circumstances; and (3) conduct by the defendant constituting a serious invasion of
2 privacy.” (*Hill v. National Collegiate Athletic Ass’n* (1994) 7 Cal.4th 1, 39–40.) Whether a legally
3 protected privacy interest exists is “a question of law to be decided by the court” (*ibid.* at 40), and
4 it may be resolved on demurrer. Any suggestion that these questions cannot be resolved at the
5 pleading stage is mistaken: the existence of a legally protected privacy interest and a reasonable
6 expectation of privacy are threshold questions of law, and only the balancing of countervailing
7 interests presents a mixed question the Court need not reach, because Plaintiffs’ claim fails at the
8 first two elements.

9 First, there is no legally protected privacy interest in a photograph of a license plate or the
10 exterior of a vehicle on a public street. Plaintiffs invoke *White v. Davis* (1975) 13 Cal.3d 757, 761,
11 for the proposition that government “dossiers” threaten privacy. (Opp. at 18.) But *White* concerned
12 covert police infiltration of university classrooms to compile intelligence files on lawful political
13 and academic activity. (*Ibid.*) Photographs of vehicles in public view are not analogous; as
14 *Cartwright* confirms, fixed cameras record only “information voluntarily conveyed to anyone in a
15 public space who cares to look — something any police officer could have done without a
16 warrant.” (99 Cal.App.5th at 105.) Plaintiffs’ rejoinder that the cameras capture people, not just
17 vehicles (Opp. at 18–19), does not change the analysis: the *Martin* court analyzing the same Flock
18 system found these cameras “are not designed to capture pictures of humans” and that “[i]f that
19 occurs, however, the database does not allow searches based on biometric or other human-based
20 characteristics that would allow law enforcement to scan for individuals.” (*Martin*, 753 F. Supp.
21 3d at 458.) In any event, to the extent the cameras capture images of the vehicle’s occupants, they
22 reveal nothing more than what any passerby would have been able to observe. And that an officer
23 can take the separate step of linking a visible plate to a registered owner creates no protected
24 privacy interest in the plate itself, which the law requires to be displayed in public.

25 Second, Plaintiffs cannot establish a reasonable expectation of privacy under Article I,
26 Section 1 for the same reasons they cannot under Section 13. This is dispositive. The California
27 Supreme Court has squarely held that “[t]he privacy protected by the Privacy Initiative is no
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1 broader in the area of search and seizure than the privacy protected by the Fourth Amendment or
2 by article I, section 13 of the California Constitution.” (*Hill*, 7 Cal.4th at 30 n.9, internal quotations
3 omitted.) The Ninth Circuit has applied that same limitation. (*See Sanchez v. Cnty. of San Diego*
4 (9th Cir. 2006) 464 F.3d 916, 928–29; *Simon v. City and Cnty. of San Francisco* (9th Cir. 2025)
5 135 F.4th 784.) Because Plaintiffs have no reasonable expectation of privacy in a vehicle’s public
6 movements, their Section 1 claim rises and falls with their Section 13 claim, and fails.

7 Third, even if some cognizable privacy interest were implicated, Plaintiffs cannot plead a
8 “serious” invasion. Actionable invasions “must be sufficiently serious in their nature, scope, and
9 actual or potential impact to constitute an egregious breach of the social norms underlying the
10 privacy right,” because “[n]o community could function if every intrusion into the realm of private
11 action, no matter how slight or trivial, gave rise to a cause of action for invasion of privacy.” (*Hill*,
12 7 Cal.4th at 37.) Plaintiffs stress that cameras sit near “places of worship, immigration centers, and
13 clinics” and that Flock advertises a feature to flag “vehicles frequently seen together.” (Opp. at 7.)
14 But the information any camera captures remains the same — the exterior of a vehicle exposed to
15 public view — and *Hill* teaches that conduct is rarely an actionable invasion where the plaintiff
16 has “voluntarily entered into the public sphere,” for “[t]here can be no privacy in that which is
17 already public.” (*Hill*, 7 Cal.4th at 26, internal citations omitted). A camera’s proximity to a
18 sensitive location does not transform a public, exterior snapshot into an egregious breach of social
19 norms, and the system captures only scattered snapshots at fixed points that do not reveal anywhere
20 near “the whole of [a person’s] physical movements.” (*Carpenter*, 585 U.S. at 310.)
21

22 DATED: July 30, 2026

Respectfully Submitted,

SUSANA ALCALA WOOD, City Attorney

By: /s/ Julia Van Roo
JULIA VAN ROO
Sr. Deputy City Attorney
Attorneys for Defendants

PROOF OF SERVICE

CASE NAME: Services, Immigrant Rights & Education Network et al vs Paul Joseph et al

CASE NO.: 25CV480254

I, the undersigned declare as follows:

I am over 18 years of age and not a party to this action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred.

On July 30, 2026, I caused to be served the within:

DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO DEMURRER TO PLAINTIFFS' COMPLAINT

☒ by ELECTRONIC TRANSMISSION, with a copy of this declaration, to an electronic address listed below.

I further declare that the electronic transmission was sent on July 30, 2026, and that the City of San Jose, City Attorney's electronic address is CAO.Main@sanjoseca.gov.

The above-described transmission was reported as sent by a transmission report available for printing from the computer.

Addressed as follows:

Jennifer Pinsof Electronic Frontier Foundation 85 Eddy Street San Francisco, CA 94109 Phone: 415-436-9333 jpinfof@eff.org <i>Attorneys for Plaintiffs, Services, Immigrant Rights & Education Network; Council on American-Islamic Relations, California</i>	Nicholas Hidalgo ACLU Foundation of Northern California 39 Drumm Street San Francisco, CA 94111 Phone: 415-621-2493 nhidalgo@aclunc.org <i>Attorneys for Plaintiffs, Services, Immigrant Rights & Education Network; Council on American-Islamic Relations, California</i>
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 30, 2026, at San Jose, California.

/s/ Mary Sheridan
Mary Sheridan