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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; PAUL JOSEPH, in his
official capacity as Chief of Police of the City of
San Jose Police Department; and MATT
MAHAN, in his official capacity as Mayor of the
City of San Jose,

Defendants.

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Case #25CV480254

Case No.: 25CV480254

**PLAINTIFFS' SUPPLEMENTAL
BRIEF**

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

INTRODUCTION

At the hearing on Defendants’ demurrer, the Court ordered supplemental briefing on three questions. (See Minute Order issued Aug. 6, 2026.) Plaintiffs file this brief to answer these questions.

ARGUMENT

I. *People v. Cartwright* Is Distinguishable and Does Not Dictate the Outcome Here.

This Court is not bound by *People v. Cartwright* (2024) 99 Cal.App.5th 98 and that opinion’s findings about reasonable expectation of privacy in ruling on Defendants’ demurrer.

Cartwright is highly distinguishable on its facts. *Cartwright* concerned a criminal investigation into two armed robberies of businesses in San Diego, one of which resulted in a homicide. Police investigating the robberies accessed city-operated “City IQ” streetlight cameras, which contained footage of the robber’s car near the scene of the crime. (99 Cal.App.5th at pp. 100–101.) The court noted several relevant limitations in this footage:

- The footage was stored locally on each City IQ camera’s hard drive, for only 5 days, with no ability for police to search across a network of cameras. (*Id.* at p. 101.)
- The images captured were similar “in scope to the views obtained from the private security camera behind” one of the businesses. “They effectively capture[d] the same scene from a different angle.” (*Id.* at p. 103.)
- The cameras did not collect searchable location information about specific vehicles or individuals. To identify a vehicle or individual, officers needed to pick a specific camera at a fixed location, manually sift through footage, and visually compare the images captured to reference images or other identifying information. (*Id.* at p. 101).
- As a result, the footage could not and “d[id] not reveal the transit patterns of people throughout the county” or “create ‘a retrospective database of everyone’s movements across the city.’” (*Id.* at p. 104–105, citation omitted.)

By contrast, Plaintiffs’ claims here rest on features of San Jose’s ALPR System that were not present in the City IQ cameras in *Cartwright* and which result in far more pervasive surveillance. The ALPR cameras are networked to each other. (Plaintiffs’ Complaint (“Compl.”) ¶

16.) The ALPR System functions only by feeding all data, including precise location information, into a single, massive central database of drivers’ retrospective movements. (*Id.* ¶ 26.) The ALPR System stores, from San Jose’s cameras alone, well over 361 million vehicle scans in a year. (*Ibid.*) And this central database extends far beyond city limits. SJPd automatically and continuously pools ALPR information with outside agencies in different jurisdictions, effectively creating a single, multijurisdictional ALPR database. (*Id.* ¶¶ 34, 42.) And, core to Plaintiffs’ claims, SJPd can conduct automated searches and effortlessly track specific drivers across cameras and locations with the click of a button. (*Id.* ¶ 21).

These factual differences place Plaintiffs’ claims outside of the narrow holding in *Cartwright*. The *Cartwright* court repeatedly emphasized that the City IQ cameras were nearly identical to “warrantless capabilities the police had even before the technology” existed. (99 Cal.App.5th at p. 105 [quoting *Leaders of a Beautiful Struggle v. Baltimore Police Dept.* (4th Cir. 2021) 2 F.4th 330, 340 (en banc)].) The City IQ program “st[ood] alone,” and the cameras “by their very nature and limitations” captured *only* “information voluntarily conveyed to anyone in a public space who care[d] to look.” (99 Cal.App.5th at p. 105.) Hence, although *Cartwright* concluded the defendant could not claim a reasonable expectation of privacy in the information captured by these cameras, the court expressly “distinguish[ed]” them as technology that merely augments law enforcement’s traditional ability to observe individuals in public. (*Ibid.*)

As Plaintiffs explain in their opposition to the demurrer and in further detail below, Defendants’ ALPR System “gives police access to a category of information otherwise unknowable” without this technology. (*Carpenter v. United States* (2018) 585 U.S. 296, 312; Plaintiffs’ Opp’n to Demurrer at pp. 6–13.) This is the dividing line between surveillance protected by the California Constitution on the one hand, and the limited observation “any police officer could have done without a warrant” at issue in *Cartwright* on the other. (99 Cal.App.5th at p. 105.)

II. Government Surveillance Need Not Capture the Literal “Whole” of an Individual’s Movements in Public In Order to Infringe on a Reasonable Expectation of Privacy.

The U.S. Supreme Court’s decision in *Carpenter* conclusively established that individuals enjoy a reasonable expectation of privacy in their movements, including in public, and surveillance

1 that captures or reveals these movements can be so intrusive as to constitute a search. (585 U.S. at
2 p. 310 [reaffirmed by *Chatrue v. United States* (2026) 146 S.Ct. 2193].)

3 Although *Carpenter* speaks of “the whole” of an individual’s movements, the Supreme
4 Court did not adopt a rule that a surveillance technology itself must capture the literal whole of
5 these movements in order to violate a reasonable expectation of privacy. The facts of *Carpenter*
6 itself belie such a standard, since police obtained discrete points of cell site location data (“CSLI”),
7 which they then had to piece together to place the defendant in the rough vicinity of the crimes they
8 were investigating. (585 U.S. at pp. 301, 312 [CSLI was accurate to a range of 1/8 of a mile to 4
9 miles].) Crucially, therefore, the *Carpenter* Court distinguished between the *information* in which
10 individuals maintain an expectation of privacy—the whole of their movements—and the *means* by
11 which the government may violate that expectation of privacy—technology that captures less than
12 the whole of these movements.

13 The Court’s recent decision in *Chatrue* further underscores that technology that reveals less
14 than the literal whole of individuals’ movements may nevertheless violate their reasonable
15 expectation of privacy. *Chatrue* involved location data that covered two hours of the defendant’s
16 movements, with similar gaps as in *Carpenter*. (146 S.Ct. at p. 2210.) Nevertheless, the Court wrote
17 that “we have never understood Fourth Amendment protections as kicking in only once an intrusion
18 ‘goes too far’. . . . Where the Fourth Amendment applies, it applies—regardless of the quality or
19 quantity of information the government obtains.” (*Ibid.*, citations omitted.) *Chatrue* therefore rejects
20 drawing the constitutional line at whether a surveillance technology captures a part or the whole of
21 an individual’s movements. Instead, courts must assess whether a technology that can reveal a
22 person’s movements over time gives police access to a category of information that was “otherwise
23 unknowable,” using “guideposts” from *Carpenter*,¹ (*Chatrue*, 146 S.Ct. at p. 2205,) as well as cases
24 like *Riley v. California* (2014) 573 U.S. 373 and *Kyllo v. United States* (2001) 533 U.S. 27. (585
25 U.S. at pp. 305, 312; see also *Leaders of a Beautiful Struggle*, 2 F.4th at pp. 340–341 [surveillance
26

27 ¹ Plaintiffs’ Opposition to the Demurrer walks through the *Carpenter* “guideposts” in detail and
28 demonstrates why they establish that the ALPR System invades a reasonable expectation of
privacy. (Plaintiffs’ Opp’n to Demurrer at pp. 10–17.)

1 technology in *Carpenter* and *Jones* “crossed the line from merely augmenting to impermissibly
2 enhancing” capabilities of ordinary human perception].)

3 This conclusion holds when a technology tracks individuals’ movements solely in public.
4 Five concurring justices in *United States v. Jones* (2012) made clear that at least longer-term,
5 technologically aided surveillance of a car’s movements solely on public roads can violate a
6 reasonable expectation of privacy. (565 U.S. 400, 430) [Alito, J., concurring]; *id.* at p. 415
7 [Sotomayor, J., concurring]. The majority in *Chatrie* reaffirmed this: “In [*Jones*] five Justices had
8 agreed that [GPS] tracking [of a car] counts as a Fourth Amendment search . . . even though the
9 movements occurred in public.” (146 S.Ct. at p. 2206; see also *Leaders of a Beautiful Struggle*, 2
10 F.4th at p. 337, 345–346 [holding that aerial surveillance of solely public places was a search].) As
11 briefed, the City’s ALPR System has the potential to reveal a person’s movement over time and
12 gives the SJPD access to an otherwise unknowable category of information.² (Plaintiffs’ Opp’n to
13 Demurrer at pp. 10–17.)

14 **III. Searches of the City’s ALPR Database of Drivers’ Public Movements Violate the** 15 **California Constitution.**

16 To answer the Court’s third question, Plaintiffs respectfully seek to clarify the nature of
17 their allegations. The Court asked:

18 Assuming the ALPR database contains only public information to which drivers have
19 no reasonable expectation of privacy, does a warrantless search of that database violate
any privacy right protected by the California Constitution?

20 (Minute Order issued Aug. 6, 2026.)

21 Plaintiffs do not dispute that drivers on public roads may be observed by anyone “who cares
22 to look” and that individuals cannot claim an expectation of privacy against such one-off

23
24
25 ² *United States v. Knotts* is not to the contrary: it concerned “rudimentary technology” that did not
26 allow “remote monitoring,” and only concerned a beeper inside one vehicle already under
27 suspicion. (*Chatrie*, 146 S.Ct. at pp. 2210–2211 [citing *United States v. Knotts* (1983) 460 U.S.
28 276, 283, 284].) Although the *Chatrie* court also distinguished *Knotts* as involving tracking
“confined to public roads,” this dicta cannot be read to mean that *all* surveillance on public roads
is constitutionally unobjectionable. Tracing what it called the “*Knotts-to-Jones* progression,” the
Court noted that *Knotts* “did not stand in [the] way” of relying on *Jones*, which involved
surveillance purely in public places, to find a search in *Carpenter*. (146 S.Ct. at 2211.)

1 observation using ordinary human perception. (*Cartwright*, 99 Cal.App.5th at p. 105.) If Plaintiffs
2 were challenging searches of a law enforcement database that merely housed such one-off human
3 observations, it might present a different constitutional question. (Cf. *Eagle v. Morgan* (8th Cir.
4 1996) 88 F.3d 620, 628 [“no legitimate expectation of privacy in the contents of [defendant’s]
5 criminal history file” when searched by police].)

6 But this is not the gravamen of Plaintiffs’ complaint. Plaintiffs have not alleged an
7 expectation of privacy in each one-off location datapoint; rather, they allege that individuals have
8 an expectation of privacy “in the whole of their movements,” and that Defendants violate that
9 expectation by “conduct[ing] warrantless retrospective searches” of their database of recorded
10 “historical ALPR data.” (Compl. ¶¶ 67–69.) “Prior to the digital age, law enforcement might have
11 pursued a suspect for a brief stretch, but doing so ‘for any extended period of time was difficult and
12 costly and therefore rarely undertaken’ . . . For that reason, ‘society’s expectation has been that law
13 enforcement agents and others would not—and indeed, in the main, simply could not—secretly
14 monitor and catalogue every single movement of an individual’s car for a very long period.’”
15 (*Carpenter*, 585 U.S. at p. 310 [quoting *Jones* 565 U.S. at p. 429–430 (Alito, J., concurring)]). In
16 sum, *Jones*, *Carpenter* and *Chatrie* all teach that the information contained in Defendants’ ALPR
17 System is not “public information” any more than the data at issue in those cases was, even though
18 police could have publicly observed the defendants in those cases for short periods.

19 CONCLUSION

20 For these reasons, Plaintiffs respectfully ask this Court to deny Defendants’ demurrer.

21
22 DATED: August 28, 2026

Respectfully Submitted,

23 **ELECTRONIC FRONTIER FOUNDATION**

24 /s/ Andrew Crocker

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I am employed in San Francisco, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is American Civil Liberties Union Foundation of Northern California, 39 Drumm Street, San Francisco, CA 94111. My electronic service address is aalas@aclunc.org. On August 28, 2026, I served a copy of the within document(s):

by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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

/s/ Angelina Alas
ANGELINA ALAS