

SAUGERTIES POLICE DEPARTMENT



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JOSEPH A. SINAGRA
Chief of Police

STEPHEN W. FILAK, SR.
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Administrative Aide

December 21, 2012

Mr. Daniel Berger
NYCLU, Lower Hudson Valley Chapter
297 Knollwood Road, Suite 217
White Plains, NY 10607

RE: FOIL Response: ALPRs

Dear Mr. Berger:

Reference is made to your FOIL request of November 28, 2012.

We are in receipt of your request, and in the process of attempting to obtain the information you have requested. Please be advised that, due to the fact that this request is fairly comprehensive, additional time will be required to complete your request in full.

Also, please be advised that we are attempting to comply with your request to every extent possible. To that end, we are providing a partial response to your request at this time, addressing the following points:

1. Records regarding the policies, practices, and procedures for procuring and using ALPR technology, and for storing, accessing, and sharing data obtained through ALPR technology. I enclose a copy of our Department policy regarding the use of ALPR technology.
2. We are currently unable to locate records relating to ALPR procurement. As you may be aware, the Saugerties Police Department is a combined agency, created by the consolidation of the Village and Town of Saugerties Police Departments on January 1, 2011. Procurement of ALPR technology pre-dates the consolidation (and this administration). This is not a denial of records; however, we cannot locate the records which you seek. If at any time these records are located in the future, we will certainly be willing to provide you with copies of whatever we can locate.
3. Records regarding the use of ALPR technology are explained in Department Policy #870.

4. Storage of data using ALPR technology:

- As explained in Policy #870, data is uploaded from the NYSPIN servers at least once daily, if not once per shift. Old data would be automatically discarded when the new hot lists are downloaded.

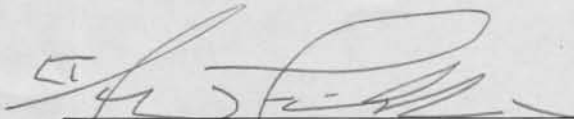
5. Justification for access to ALPR data is also covered in Policy #870; specifically, under section 870.4, Legal Considerations.

6. I am still attempting to locate records pertaining to items #6, 7, and 8 of your request.

Please be advised that I will be out of the office until January 2, 2013. I will resume processing of your request at that time, and if any additional items are located pursuant to your request, I will forward them to your office. I will probably require the month of January to fully research your request.

If the Saugerties Police Department can be of any further service to you, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'S. Filak', with a horizontal line drawn underneath it.

Stephen W. Filak, Sr.
Lieutenant of Police



SAUGERTIES POLICE DEPARTMENT
DEPARTMENT POLICY AND PROCEDURES

This policy is being issued on the date shown below and is subject to change.
This policy supersedes any and all previous policies issued regarding specific issues.

**POLICY
NUMBER**

870

BY ORDER OF: **Joseph A. Sinagra Chief of Police**
POLICY 1st ISSUED: 06/13/2007
POLICY REVISED: 07/01/2012

POLICY: ***LICENSE PLATE READER POLICY AND PROTOCOL***

PURPOSE: The following protocols are suggested for usage of the license plate reader and technology. The proactive entry of any data, except as stipulated in this directive, or the access to LPR records **MUST** be approved by a Supervisor, and the request **MUST** have a specific criminal investigative or patrol purpose. Deployment of LPR equipment is intended to provide access to stolen and wanted files, and for the furtherance of criminal investigations. Use is restricted to these purposes. No officer may use, or authorize the use of, the equipment or database records for any other reason. A request for LPR use or data access beyond the cited reason(s) herein must be made to the Saugerties Police Department Chief of Police.

PROCEDURES and PROTOCOLS:

870.1 INTRODUCTION

Mobile license plate reading systems are designed to allow officers to patrol at normal speeds while the system reads every license plate they come in contact with and alerts them if there is a match to a "hot list". Because of the speed of the reader systems, the volumes of plates being read and the fact that an alarm must occur within seconds to be useful, LPR systems use a large list of target plates stored locally in a "hot list" rather than relying on real-time communications with State or Federal data sources. The list is typically transferred daily and can be updated by the operator or by a central station if wireless communications are not available in the vehicle. The hot list can contain any set of plate data, from terrorist watch lists, to stolen vehicles, to parking scofflaws. When a target plate is located, the officer in the vehicle is notified with a message that is specific to the plate, that is, every plate in the database can have a unique, detailed alert message. Lists can be updated automatically or manually, meaning that the officer can enter a plate into the system and be alerted when the plate is located. The system can also alert the driver if the new addition was recently seen. Integrated GPS technology allows the operator to locate the last contact with the vehicle.

The use of LPR technology in law enforcement has included a variety of missions; homeland security, electronic surveillance, suspect interdiction, stolen property recovery, facility management and a number of other policing requirements. The identification of stolen vehicles, stolen license plates, and wanted and missing persons have been the primary focus of most early implementations.

LPR systems also record every license plate they come in contact with. Some systems record the location, date and time of each license plate read. This intelligence resource is available as a law enforcement tool, allowing the officer to identify the last known contact with a vehicle and also to report the list of vehicles located in a specific area at a given time range.

870.2 PROCEDURE

A. Use of the LPR



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Deployment of LPR equipment is intended to provide access to stolen and wanted files, Vehicle and Traffic Law Enforcement and for the furtherance of criminal investigations. Use is restricted to these purposes. No officer may use, or authorize the use of, the equipment or database records for any other reason.

The duty Sergeant, On Call Sergeant and/or Chief will assign LPR trained officers to the LPR patrol unit on every shift even if the officer is not normally assigned to that specific patrol vehicle. The LPR will be in the operating function and remain on during the entire shift.

B. Training

Training in the use of LPR will be conducted by a supervisor or by a designated officer. All officers will be trained in the use of and all operational protocols of the LPR prior to its application on patrol or investigations. When a member receives training, the trainer will ensure that the department training record report designated for the LPR System is completed. The originals will be maintained with the LPR Grant documents with a copy placed in the members employee files and training records.

C. System Data -DMV "Hot List" Data

1. Updating/Using LPR Wanted Files:

For vehicles equipped with Traffic and Criminal Software (TraCS), at the beginning of each detail or shift using the LPR, a 'start-shift' from the TraCS application in headquarters shall be conducted to update and transfer the required wanted files to the patrol unit. Once downloaded, the user will use the data files to conduct another "start-shift" in the patrol car to update the vehicle computer .

2. Hot List Data

NYSPIN provides an extract daily containing 2 files -the first file contains Stolen Vehicles, Stolen Plates, Wants and Warrants with Plate, Suspended or Revoked Registrations. The second file contains National Stolen Vehicles, Stolen Plates, Warrants with Plate, Canadian Entries, NCIC, (Federal Stolen Vehicle Is also available from the FBI). Local Data Sources can be integrated, allowing access to Scofflaws, Gang and other data. Any officer utilizing the LPR will ensure that the daily DMV hot lists have been downloaded to the system prior to use.

3. Manual Entry for local BOLO

Manual Entry is always available, allowing additions during shift as well as mission specific entries. Entries should be cleared once the bolo has expired or the information is no longer prudent to be kept on the local hot list. Members are reminded to adhere to section 142.2.

4. User Added Hit Files (Plates):



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After the initial upload to the LPR, if it becomes necessary to add specific information, the database can be "customized" by manually entering the information. This option is provided on the computer desktop screen under the "Operation" icon and should be utilized in cases where crimes are reported after the LPR has been deployed (e.g., Stolen Vehicles, Amber Alerts, radio item broadcasts, etc.) or when a manual plate check needs to be performed.

D. Hit Verification

1. The information received from License plates that are recognized as wanted hits is dated, typically up to 24 hours old. Officers must verify all "hits" through NYSPIN, and follow all NYSPIN policies and procedures. At this time the LPR does not interface with real time NCIC or NYSPIN data, the LPR is ONLY to be used as an investigative tool. Confirmation is essential prior to a stop.
2. Verified Hits on an unoccupied vehicle; If a hit is received for a wanted person, stolen vehicle, or similar criminal activity that warrants immediate assessment, maintain visual observation while supervisory contact is initiated to determine if immediate recovery action will be taken or whether surveillance will be continued.
3. Verified Hits on an unoccupied vehicle; a hit is received for a suspended registration, license or similar minor offense, the discretion of the officer operating the equipment will be used to determine further action.
4. All hits will be verified through NYSPIN prior to enforcement action.

E. Daily LPR User Log

A "daily user" log will be completed each shift for the use of the LPR. Activity reports shall be consolidated and forwarded to the designated Sergeant (Sgt. John Scheffel) assigned to oversee the program. The Sgt. Scheffel, designated to oversee the LPR program shall review the log(s) to ensure that inquiries are properly completed and logged. This log must be retained for a minimum of current year plus one year. If the log has an arrest or hit associated with it, a copy must be retained as part of the case folder. Retain the log until all arrests associated with the log page have reached a final disposition.

F. LPR Maintenance

1. The LPR camera lenses shall be cleaned with a glass cleaner sprayed on a soft cloth at the beginning and end of each use.
2. Any damage shall be reported immediately to a supervisor .
3. Technical questions concerning the LPR shall be directed to a supervisor. Officers shall NOT directly contact the vendor(s). All vendor contact will occur through Sergeant Scheffel or Officer Derek Fallon who is the system administrator.
4. The placement of the magnetically mounted cameras will be checked after each car wash.



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5. All LPR equipment will be removed from the exterior of the vehicle before each car wash.
6. Should the LPR malfunction, members shall notify a supervisor and/or the Chief and a notation made on the vehicle condition report.

870.3 ADMINISTRATION

A. Sergeant Scheffel and Officer Derek Fallon will have the following responsibilities:

1. Maintain an adequate number of trainers;
2. Arrange for additional training when and as deemed necessary;
3. Maintain records identifying LPR details and their results and ensure appropriate documentation of significant incidents and arrests that are related to LPR usage.
4. Notify the Chief of Police of all appropriate matters such as pursuits, significant arrests, terrorist matters, etc. through e-mails or phone slips.

B. The LPR will be assigned to a specific patrol unit unless that unit is taken out of service for an extended period of time. In this case a Sergeant or the Chief may re-assign the LPR to another patrol unit.

C. The duty Sergeant, On Call Sergeant and/or Chief will assign LPR trained officers to the LPR patrol unit on every shift even if the officer is not normally assigned to that specific patrol vehicle. The LPR will be in the operating function and remain on during the entire shift.

870.4 LEGAL CONSIDERATIONS

As per memorandum dated October 26, 2006 from Gina L. Bianchi, Deputy Commissioner and Counsel for DCJS:

There does not appear to be any legal impediment to the use of a license plate reader by law enforcement. It does not appear that such use would constitute a Fourth Amendment search. An observation made by a police officer without a physical intrusion into a constitutionally protected area does not implicate the Fourth Amendment or require a search warrant (see, *Rester v. United States*, 265 U.S. 57 [1924]). A police officer who is lawfully present in an area may look into the windows of a parked car (see, *United States v. Martin*, 806 F.2d 204[1986]). Given the foregoing, it seems clear that a police officer's observation of a license plate on a car located in an area viewable from a public street would not constitute a search. The use of a license plate reader to enhance the officer's observation would likely not cause the observation to become a search for purposes of the Fourth Amendment. For example, the use of artificial illumination to aid an officer's observations does not constitute a search (see, *United States v. Lee*, 274 U.S. 559 [1927]; *People v. Hughes*, 211 A.D.2d 576, 622 N.Y.S.2d 12 [1995]; *People v. Vasquez*, 229 A.D.2d 997, 645 N.Y.S.2d 672 [1996]). Similarly, the use of binoculars to magnify an object does not constitute a search (see, *United*



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States v. Lee, supra). A license plate reader merely accomplishes, more efficiently, the same task that a police officer may accomplish by reading a license plate and manually entering the number into a data-base. Therefore, it is reasonable to assume that a court would not hold that the use of a license plate reader would constitute a search. However, at this time there is no decisional case law from any court concerning the use of a license plate reader.