



Operation of License Plate Readers
For
Law Enforcement Agencies
In
New York State

Suggested Guidelines

Table of Contents

<u>Section</u>	<u>Page</u>
Introduction.....	3
Advisory Group Members.....	4
Part I . License Plate Reader Technology.....	6
A. Definitions	
B. Hardware	
C. Software	
Part II. Suggested License Plate Reader Protocol.....	10
A. Patrol	
- Administration	
- Operations	
B. Investigations	
C. Mutual Aid Operations	
- Emergency Based Operations	
- AMBER Alert	
- Coordinated Scheduled Operations	
Part III. Legal Considerations.....	17
A. DCJS Advisory	
B. <i>Rosario</i> and License Plate Reader Information	

INTRODUCTION

In 2005, 172,996 tickets were issued in New York for unlicensed operation, revoked registration or insurance related crimes. Approximately 10% of unlicensed or revoked driver's were brought to justice and either fined or incarcerated for these crimes. Some of these individuals believe driving without a valid license or insurance is a victimless crime. If they simply follow the rules of the road, they will not be held accountable for their crimes and can continue with life as usual. These drivers only encounter law enforcement when observed violating a traffic law or are involved in a traffic accident. The lives of unsuspecting, law abiding drivers and their passengers are continually at risk when these criminals get behind the wheel.

In order to combat these crimes with the latest technology in New York State, a multi-agency strategy has been developed for the deployment and use of license plate readers. The New York State Division of Criminal Justice Services (DCJS), Division of State Police (NYSP) and Department of Motor Vehicles (DMV) embarked on an ambitious plan to acquire and distribute more than 200 license plate readers to various law enforcement agencies across the State by the end of 2006.

A license plate reader can recognize over 1,000 license plates an hour on vehicles as they pass either a portable or stationary unit at vehicle speeds up to 70 miles per hour. The information downloaded into the plate reader from the New York State Police Information Network (NYSPIN) allows a law enforcement officer performing a special detail or routine patrol to detect a motor vehicle driven by an unlicensed and/or revoked operator or any other motor vehicle insurance violation. This occurs even if the driver of the vehicle has not committed a traffic offense or been involved in a traffic accident. Based on a NYSPIN hit, a police officer can intervene before this driver is involved in a traffic accident or commits another violation that could result in serious injury of an innocent victim.

Not only will license plate readers be utilized for traffic enforcement, they will also be an essential tool when an AMBER Alert is issued. Plate information related to the AMBER Alert is sent statewide and entered into the license plate readers. Instantaneously, the officer will be alerted if the plate has been detected by the license plate reader which provides date, time and location. If not detected, the license plate reader provides that extra set of eyes when observing traffic during the AMBER Alert.

Initially, the 17 counties identified as Operation IMPACT jurisdictions (Albany, Broome, Chautauqua, Dutchess, Erie, Monroe, Nassau, Niagara, Oneida, Onondaga, Orange, Rensselaer, Rockland, Schenectady, Suffolk, Ulster, and Westchester) and the New York State Police received license plate readers. The second phase of this project involves the deployment of license plate readers to Sheriff Departments in non-IMPACT counties and the New York City Police Department (NYPD). Additional license plate readers are being provided to county probation departments that will use this technology to effectively monitor their probation population. The third phase involves deploying license plate readers in jurisdictions that would most effectively use this technology including the DMV.

DCJS will monitor the usage of the plate readers by working with the agencies that receive the plate readers. DCJS envisions a monthly or quarterly reporting protocol developed by DCJS staff that the law enforcement agency completes and submits to DCJS. The success of this project will be measured by the increased detection of unlicensed and/or revoked registrations or licenses and other motor vehicle related crimes that impact the safety of New York's citizens on the State roadways.

The suggested guidelines presented in this document for the use of license plate readers were developed from input of representatives of law enforcement agencies from across New York State who have been utilizing this technology. They are:

PO Pat Fox	Albany City Police Department
ADA William Zelenka	Bronx County District Attorney
Ins. Michael Gaspar	Buffalo City Police Department
Cpt. Michael Arcar	Buffalo City Police Department
Cpt. Terry Hurson	New York City Police Department
Lyle Hartog	NYS Division of Criminal Justice Services
Eileen Langer-Smith	NYS Division of Criminal Justice Services
Michele Mulloy	NYS Division of Criminal Justice Services
Ken Buniak	NYS Division of Criminal Justice Services
Lisa Coppolo	NYS Division of Criminal Justice Services
Dir. Charles Bardong	NYS Insurance Frauds Bureau
Nick DiMuro	NYS Insurance Frauds Bureau
Sup. Inv. Larry Wyman	NYS Department of Motor Vehicles
Lt. Leonard Casper	NYS Division of State Police
Sgt. Randy Morehouse	NYS Division of State Police
Trp. Eric Amengual	NYS Division of State Police
Sr. Inv. Peter Kontos	NYS Division of State Police
Sr. Inv. Mark Yanitelli	NYS Division of State Police
Cpt. Bob Johansson	Rochester City Police Department
Cpt. Reid Tait	Rochester City Police Department
PO Lonnie Dotson	Syracuse City Police Department
PO Ray Klotz	Suffolk County Police Department
Capt. John Riegert	Troy City Police Department
ADA Steve Vandervelden	Westchester County District Attorney

Part I

LICENSE PLATE READER TECHNOLOGY

Introduction to License Plate Reader Technology –

The concept of using cameras as a method to record a vehicle passing a specific location and then identifying the owner/operator has been in development since the 1970's. Early technology could capture a picture of the license plate and vehicle with the date and time. Upon retrieving the plate information after searching hours of captured images it could then be manually searched against a database. This technology was time consuming, expensive and limited by lighting and weather conditions.¹

License plate reader technology developed along with the use of video tape and camcorders. The analog video tape had to be converted from analog images to digital images and stored on a computer hard disk. The resulting digital images were further processed to locate and extract the license plate and time stamp information through specialized software that utilized character recognition techniques. This technology while better than earlier methods still had many draw backs including high costs that limited its general use by state and local governments.²

The latest license plate reader technology has incorporated digital photography which eliminates the conversion steps and reduces the amount of computer file storage needed to support an effective system. Digital photography also decreased the size of the camera hardware required and utilizes infra-red lighting to address lighting and weather conditions. This has also reduced the overall costs for an effective system thus making the technology obtainable at the local, county and state levels of government.

A. Definitions

License Plate Reading (LPR) Technology uses specialized digital cameras and computers to quickly capture large numbers of photographs of license plates, convert them to text and compare them quickly to a large list of plates of interest. LPR systems can identify a target plate within seconds of contact with it, allowing law enforcement to identify target vehicles that might otherwise be overlooked. The technology is available in mobile systems mounted on police cars and fixed camera systems that can be mounted on poles or on the roadside.

A range of camera systems are available, most capable of reading license plates day and night and in a variety of weather conditions. The systems operate fast enough to capture all of the license plates they come in contact with so that the number of license plates that can be read is limited only by the number of vehicles passing the cameras. LPR systems typically include infrared strobe and camera systems that can take high speed, high contrast images that allow the

¹ Transportation Research Board, 2002. "Effects of Ambient Light, Camcorders, and Automated License Plate Reader Settings on Plate Transcription Rates".

² Transportation Research Board, 2002. "Reduction of Video License Plate Data".

plate to be read at closing speeds of 150 miles per hour.

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 applications; 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.

B. Hardware

Most LPR systems include a set of cameras, most infrared illuminated. Some include "progressive" cameras that capture images at a variety of computer controlled lighting conditions by actively managing infrared strobes integrated into the cameras. These cameras are typically mounted outside of the vehicle as auto glass can interfere with their operation. The cameras are mounted either permanently on the rooftop, magnetically in a transportable configuration, integrated into the light bar on a marked vehicle, or within a covert housing.

Some implementations of LPR use a dedicated computer for the high-intensity camera and image management; others use the in-car PC. In either case, the cameras connect to a computer and a display that can be the same mobile data terminal or in-car PC that the operator is using for computer aided dispatch or other functions. LPR systems typically only require the operator to have one computer display in the vehicle. The processor in an LPR system can include a specialized computer that manages the cameras and allows the system to run at very high speeds regardless of the speed or power of the existing in-car PC/Laptop.

C. Software

LPR software typically has 3 components – the character translation component, the hot list management component and the user interface. Other additional software components manage GPS information, plate read, alarm history, and reporting features. The component of primary interest is the user interface, which must manage the activity and allow the user to quickly identify an alarm and the target vehicle. In most cases, most of the screen space on the user interface is reserved for the target vehicle/plate photo as that is the primary means for alarm vehicle identification. The interface also allows the user to enter additional target plates, check on the information in the hot list and deal with visual and audible alarm queues.

Part II

SUGGESTED LICENSE PLATE READER PROTOCOLS FOR PATROL AND INVESTIGATIONS

A. Patrol

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 (Agency Defined).

1. Administration:

A **Supervisor** is to administer and oversee the LPR program whose responsibilities include the following:

- Maintain an adequate number of trainers;
- Select and train approved members to operate the LPR system (All training must be documented);
- Arrange for additional training when and as deemed necessary; and
- Maintain records identifying approved LPR details and their results and ensure appropriate documentation of significant incidents and arrests that are related to LPR usage.

LPR Operator Selection:

Consider the following qualifications when approving members for LPR training:

- Members driving record;
- Past demonstration of good judgment regarding vehicle pursuits; and
- Excellent VTL and Penal Law enforcement activity.

Training:

Officers are **prohibited** from using the LPR system until they have been properly trained in its use, and have been instructed as to operational protocols.

2. Patrol Operations

Officers **MUST** notify and obtain approval from a supervisor to use the LPR during routine patrol. This information must be documented on the LPR System Use Log. A supervisor **MUST** be notified of all appropriate matters (i.e. pursuits, significant

arrests, etc.). Activity must be reported monthly on the DCJS LPR Survey Form.

Daily LPR User Log- A “daily user” log will be maintained in the LPR vehicle or station where it is being used. Activity reports shall be consolidated and forwarded to (Agency Defined Supervisor) monthly. The (Agency Defined Supervisor) 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, it 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.

LPR Data Query Log- Requests to review stored data shall be recorded and maintained in the same manner as criminal history logs. LPR data is stored for a short time frame on the LPR hard drive (up to thirty days). Access shall be limited to designated personnel in each Department, who have been provided account access to conduct authorized LPR stored data queries. The Officer conducting the query must make the log entry. The log shall be retained for a minimum of current year plus one year. If the log has an arrest or hit associated with it, it 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.

Special Details – (Agency Head or designated title) **MUST** approve LPR use during non-traditional VTL details (i.e. in high crime areas during Operation Impact details, or during directed criminal investigations).

- Careful consideration must be given to appropriate staffing. It is recommended details focused in high crime areas be comprised of no less than four Officers / Investigators and one supervisor, usually a non-commissioned officer.
- LPR equipment may be used to further criminal investigations by providing access to stored records and/or by assigning LPR equipment in a designated manner and area.
- Participation by outside agencies is not prohibited.
- Use of the LPR system in a roving capacity on details should require a driver and a system operator in the LPR equipped vehicle. The LPR operator is responsible for confirming any hot list hits via NYSPIN, and to identify target vehicles for the support vehicles. Support vehicles may be one or two person units as directed by the detail supervisor.
- Concealed use LPR vehicles, focused on high crime reduction initiatives, will not be used to initiate the traffic stop absent exigent circumstances.
- Stationary mode usage requires only one member to operate the system, verify hits and identify target vehicles for the support cars.
- **Note:** Commissioned Officers may issue further restrictions, taking into account knowledge of the area to be patrolled and the particular assignment.

Vehicles- LPR equipped vehicles should be used as often as possible. When not in use, every effort is to be made to ensure that the LPR vehicle is garaged.

- A copy of the Car System User Guide shall be maintained in a folder in each LPR equipped vehicle.

LPR Maintenance- The LPR camera lenses shall be cleaned with a glass cleaner sprayed on a soft cloth at the beginning and end of each use.

- Any damage shall be reported immediately through channels to the Commissioned Officer in charge. Technical questions concerning the LPR shall be directed to (Agency Defined).
- Officers shall **NOT** directly contact the vendor(s). All vendor contact will occur through (Agency Defined).

Hit Verification:

- 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.
- **Verified Hits** on an unoccupied vehicle – maintain visual observation while supervisory contact is initiated to determine if immediate recovery action will be taken or whether surveillance will be continued.

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 shall be conducted to update and transfer the required wanted files to the vehicle computer.

*******For Non TraCS equipped vehicles follow the Agency Instructions.**

User Added Hit Files (Plates):

- 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. A Commissioned Officer must approve any additional data entry (i.e. entering local police department gang information, patrol awareness for Project Impact assignments, etc.).

B. Investigations

The License Plate Reader has been used for many purposes by investigative units throughout New York State. Initially, it was used to address the stolen vehicle issue and was quickly determined that limiting the use of the LPR to locating stolen vehicles was not an effective use of the personnel assigned to these details. Throughout the State, few stolen cars are recovered parked on the street with their original license plates attached. If a valid license plate is attached to a stolen car, the LPR will not know the car is stolen.

Numerous details conducted have yielded the following effective strategies when using the LPR for investigative purposes. The LPR is used by specialized units with uniform patrol support in an effort to saturate a specific geographical area. The chance of identifying a crime in progress is directly related to the amount of vehicles stopped for violating the law. This requires that all vehicles whose registration plate returns any "hit" from the hot list be stopped. The greatest number of vehicles which return a hit by the LPR are in the suspended and revoked registration category.

These vehicles should be impounded and therefore require an inventory search to safeguard the contents of the vehicle. This application works well, especially when specialized personnel from narcotics, auto theft, fraudulent documents, gun and gang units are present to examine any issues that arise. Be advised, addressing all suspended and revoked registrations can quickly exhaust the resources of a detail. Consideration must be given to having the appropriate number of personnel available and, subsequently scaling back which "hits" will be addressed or ending the detail when the support vehicles are no longer available. The combining of forces within an agency as well as with state, county and local police has been very effective when conducting these saturation details.

The LPR can be used to locate vehicles of interest for a specific investigation. An example would be locating one or more recently stolen vehicles in close proximity to each other or located near a suspected chop shop. The stolen vehicle(s) can then be surveilled and/or have a GPS placed on them, which will afford investigators the ability to follow them to their ultimate destination.

Specific vehicle files can be loaded into the LPR that may relate to a situation of concern to a certain geographical area. Some examples would be gang members or associates, prior sex offenders, burglary, robbery, auto theft, larceny and criminal mischief targets. The data collected may enable investigators to take immediate action or provide solid leads should a crime occur in the vicinity of the captured plate.

C. Mutual Aid Situations

1. Emergency Based Operations

During the course of normal law enforcement duties, incidents may occur that require immediate assistance from other local, county or state law enforcement agencies. The License Plate Reader can be a valuable tool in these situations, such as an AMBER Alert, bank robbery or other violent crime, and can help bring the incident to a safe and successful conclusion.

The DCJS, as part of the letter of agreement to receive a plate reader, requires the deployment of available license plate readers in the event an AMBER or DCJS Missing Child/College Student Alert is announced. A coordinated plan is presented below so that local, county and state law enforcement agencies can maximize the coverage area to search for any vehicle involved in the abduction.

2. NYS AMBER and NYS DCJS Missing Child/College Student Alert Activations

Communications - Upon receiving notification (via fax, NYSPIN, email or other notification system) that a NYS AMBER Alert or NYS DCJS Missing Child/College Student Alert activation has occurred, communications staff must immediately review details and notify supervision.

Unless directed to take alternate action, communications staff must immediately broadcast Alert details to all available patrols and must specifically advise patrols using LPR equipment to manually place involved vehicle plate number(s) into respective vehicle LPR databases.

Upon receipt of updated information, communications staff should immediately provide this information to supervision and patrols. If an involved vehicle plate number changes, patrols using LPR equipment should be directed to update database entries. All actions taken by communications staff should be documented in accordance with agency policies and procedures.

Upon notification of an Alert - All patrols using LPR equipment must manually place involved vehicle plate number(s) into the vehicle database. Officers should proceed to patrol areas which are likely to increase the chance of encountering the vehicle. Upon receipt of updated information (i.e., involved vehicle plate number changes), patrols must immediately update database entries.

Look back - Officers must promptly search the vehicle LPR databases to determine if a record of past encounters exists. If so, information should immediately be provided to supervision for investigative action. Also, supervision should review the agency records database, if one exists, to determine if patrols had previously encountered the target plate. Logs should be updated according to the previously cited general procedures.

Recovery - If the vehicle is encountered, the actions taken should ensure the safe recovery of the missing child. Officer experience and judgment, as well as agency specific policies and procedures (i.e., critical incident management), will dictate the best course of action to take. All actions should be documented in accordance with agency policies and procedures.

Additionally, registration plates can be added to the LPR database during a detail. These plates are then brought to the attention of law enforcement after the existing data has been downloaded into the LPR. Examples would be vehicles reported stolen after 5:00AM that date, AMBER or DCJS Missing Child/College Student Alert or any other vehicle involved in an incident or crime that is being sought by law enforcement. LPR units can be deployed to collect all registration plates in an area surrounding a major

crime scene or incident. LPR units can also be placed at “pinch points” or major routes of escape/travel immediately after such an event.

3. Coordinated Scheduled Operations

When other violent crimes occur (bank robberies, murder, kidnapping) local agencies should contact adjacent law enforcement agencies with LPRs and determine the proper level of assistance needed. They should work together to determine a perimeter and deploy the license plate readers accordingly.

The development of a mutual aid plan follows an outline that, at a minimum, addresses the following issues:

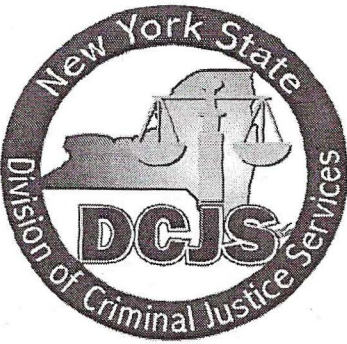
1. Definitions and Concepts
2. Levels of Mutual Aid
3. Mutual Aid Procedures
4. Practical Issues
5. Law Enforcement Agency Roles and Responsibilities

DCJS encourages local, county and state law enforcement agencies to utilize the LPRs in targeted traffic enforcement details such as Stop DWI checkpoints or seat belt enforcement details. License plate readers can be a valuable tool in other interagency coordinated efforts to monitor traffic safety on roadways that traverse several law enforcement jurisdictions to improve the safety on New York’s roadways. As with any roadblock or targeted operation, the departments involved should consult with the proper legal authority for their jurisdiction and discuss the proper manner in which to conduct the roadblock, taking into consideration established legal precedent and the legal rights of the person(s) involved.

In conclusion, DCJS will facilitate meetings to assist local agencies in developing a Plan of Operation in mutual aid situations that focuses on interagency cooperation and information sharing to ensure that the license plate readers are deployed in the most effective manner. DCJS will also conduct debriefings with affected agencies to fine tune the mutual aid response process and cooperatively identify the strengths and weaknesses in the overall deployment plan.

Part III

LEGAL CONSIDERATIONS



MEMORANDUM

TO: Local Law Enforcement Agencies
FROM: Gina L. Bianchi
Deputy Commissioner and Counsel
DATE: October 26, 2006
SUBJECT: License Plate Readers

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, Hester 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 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.

The foregoing information concerning the use of license plate readers is advisory only and is meant to provide guidance and highlight points to consider in developing a policy to govern the use of license plate readers. It is recommended that each law enforcement agency consult with its own legal advisor prior to adopting a policy regarding the use of license plate readers.

ROSARIO AND THE LPR

Submitted by William Zelenka, Bronx County ADA

The License Plate Reader (LPR) constitutes one of the latest computer based investigatory tools to be used by officers in the field. The system requires an ongoing download of target license plates emanating from the Department of Motor Vehicles and the State Police. The hardware required is either attached to a vehicle or mounted as a stand alone. The scanner reads all license plates which are within view and compares them with the wanted database. The computer also stores the location of every read via GPS. When the computer matches a plate with the database, it notifies the operator (a police officer in most case) of the reason for the match, and shows a color photo of the image capture. A record of every plate read and its result is kept. The officer confirms the hit and a car stop occurs. If an arrest is made and the officer testifies at a hearing or trial, is the information contained in the computer Rosario?

Rosario material is part of the discovery process found in sections 240.44 and 240.45 of the Criminal Procedure Law (CPL). It is "Any written or recorded statement...made by such witness...which relates to the subject matter of the witness's testimony." The statement must be in the possession or control of the People.¹ It must relate to the subject matter of the witness's direct testimony.² But the People are not required to create Rosario material³. If the material is deemed to be Rosario, the People are obligated to turn it over if it is under their control.

There is no question that the information stored in the computer is under the control of the operator. The remaining issue is whether the hit (data) the operator relies on to proceed to the confirmation step is a statement. Although the data is a written instrument under the Penal Law⁴, it should be argued that is **not** a statement by the operator/officer. Statements are either recorded or written notations of the witness. In the case of LPRs, the data generated has no connection to any statement made by the operator/officer. However, any notes made during the confirmation process by the operator/officer to verify the information would be Rosario because they would constitute notes which the operator/officer would be expected to testify about.

LPRs have the ability to store any information which the operator/officer requests. It is recommended that scans which lead to arrests be stored in the computer until such time that a court in your jurisdiction definitely rules that the scan alone is not Rosario.

¹ People v. Rosario, 9 N.Y.2d 286 (1961)

² People v. Roebuck, 279 A.D.2d 350 (1st Dept. 2001)

³ People v. Steinberg, 170 A.D.2d 50 (1st Dept. 1991)

⁴ Penal Law §170.00