

INTRADEPARTMENTAL CORRESPONDENCE

December 8, 2020
14.5

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: THE USE OF PHOTO COMPARISON TECHNOLOGY WITHIN LOS ANGELES COUNTY'S DIGITAL MUGSHOT SYSTEM – ESTABLISHED

RECOMMENDED ACTION

That the Board of Police Commissioners REVIEW and APPROVE the established policy pertaining to The Use of Photo Comparison Technology Within Los Angeles County's Digital Mugshot System.

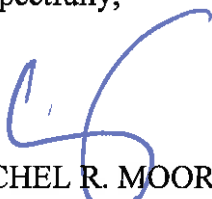
DISCUSSION

The attached Special Order establishes Department policy regarding the use of Photo Comparison Technology (PCT). The policy clarifies the proper use of PCT applications or software for Department personnel in order to ensure that authorized PCT users are appropriately utilizing this technology during their investigations without violating the privacy, civil rights, or civil liberties of individuals.

The established policy adds Section 3/568.56, *The Use of Photo Comparison Technology Within Los Angeles County's Digital Mugshot System*, to the Department Manual.

Should you have any questions regarding this matter, please contact Director Lizabeth Rhodes, Office of Constitutional Policing and Policy, at (213) 486-8730.

Respectfully,



MICHEL R. MOORE
Chief of Police

Attachments

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO.

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON

**SUBJECT: THE USE OF PHOTO COMPARISON TECHNOLOGY WITHIN
LOS ANGELES COUNTY'S DIGITAL MUGSHOT SYSTEM -
ESTABLISHED**

PURPOSE: The purpose of this Order is to establish Department Manual Section 3/568.56, *The Use of Photo Comparison Technology within Los Angeles County's Digital Mugshot System*. The Department recognizes that law enforcement's use of technology is quantitatively different from the use of similar and more expansive technology used in the private sector. This policy outlines the legitimate use of Photo Comparison Technology by trained Department investigators for the good of the community while prohibiting or limiting forms of its use in accordance with California Law, privacy concerns and community trust.

PROCEDURE: Department Manual Section 3/568.56, *The Use of Photo Comparison Technology within Los Angeles County's Digital Mugshot System*, has been established and is attached with the content in italics. Additionally, attached is the *Detective Activity Summary*, which is to be used in lieu of using the Detective Case Tracking System when accessing the Digital Mugshot System.

AMENDMENTS: This Order adds Section 3/568.56 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachments

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568.56 THE USE OF PHOTO COMPARISON TECHNOLOGY WITHIN LOS ANGELES COUNTY'S DIGITAL MUGSHOT SYSTEM

The Department strives to ensure that individual privacy protections are balanced with other important rights, such as the right to security and to protect property. The Department recognizes that when technology is properly and lawfully employed, time spent in solving crimes may be reduced, thereby increasing public safety. Technology may also reduce suggestibility in police lineups by enhancing the similarity between photographs and decreasing the likelihood of misidentification of suspects. For these reasons the Department is establishing the following policy, including significant oversight and limitations, to balance those competing needs. This policy outlines the legitimate use of Photo Comparison Technology (PCT) by trained Department investigators for the good of the community while prohibiting or limiting its use in accordance with California Law, privacy concerns, and community trust.

Authorized Uses of Photo Comparison Technology are limited to:

- *A criminal investigation;*
- *Mitigate an imminent threat to life; and,*
- *Assisting in the identification of a person who is incapable or is otherwise unable to identify one's self, as such where the person is incapacitated, deceased, or at-risk.*

Note: *The use of PCT is NOT allowed for any non-criminal or purely administrative investigations.*

Photo Comparison Technology shall be used only in the above-referenced scenarios and shall be used for investigative leads only. All PCT searches require Department investigators to compare the search results and shall not accept a computer-generated list of comparisons without further human and investigative analyses. Further investigations may include, but is not limited to, witness interviews, witness line-ups, fingerprints, and victim identification. Any comparison search result, by itself, is not considered positive identification and does not establish probable cause without further investigation.

Authorized System for Photo Comparison Technology Use:

The Department policy allows for analysis of permitted images in accordance with the Facial Recognition Technology Module of the Digital Mugshot System (DMS) of the Los Angeles County Regional Identification System (LACRIS) only. The DMS is a database of digital mugshots from Los Angeles County that are supported by a fingerprint comparison conducted by the California Department of Justice.

One module within the DMS compares a submitted photograph to the booking photographs within the DMS through facial recognition technology. This allows for a comparison between the submitted photograph from permitted sources (see below) and booking photographs from Los Angeles County. The DMS does not store submitted photographs in the searchable database.

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Note: An inquiry submitted to DMS produces a series of photographs that Departmental investigators shall compare to the submitted photograph. The system does not produce one "match" but rather provides possible options from which an investigator may pursue leads.

All photos and images in DMS are part of the LACRIS, are the property of the contributing agency, and contain Criminal Offender Record Information (CORI). Section 11075 of the California Penal Code defines CORI as: "records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release."

All Department investigators are reminded to comply with all applicable laws and policies regarding confidential information, including Department Manual Section 3/405, Confidential Nature of Department Records, Reports, and Information.

Moreover, Department investigators conducting comparison searches shall incorporate proper justification for each search including Division of Records (DR), Records Management System (RMS) Event "E", incident or booking numbers.

Prohibited Systems for Photo Comparison Technology Use:

The DMS is the only authorized system to be used by Department employees to conduct investigations based on photographic comparison. The use of any other systems or third-party commercial facial recognition systems, services, technology or algorithms is prohibited.

Finally, all Departmental investigators are prohibited from conducting searches for outside agencies and shall instead refer those agencies or members of those agencies to LACRIS.

Training Requirements Prior to Using the DMS of LACRIS:

Department investigators shall be trained and receive a certificate of completion from LACRIS prior to having access to use the system. This training includes a special section on the use of the DMS for PCT.

Request for Access to DMS Training:

All Department investigators requesting to attend DMS training or any other LACRIS training shall submit their request to their Training Coordinator, who shall maintain a list of those requesting training. All training for DMS and LACRIS access shall be limited to Department employees who are assigned to investigative assignments. The employee's Commanding Officer (CO) shall submit an Intradepartmental Correspondence, Form 15.02.00, to the CO, Records and Identification Division (R&I), when requesting DMS training and access for employees within their command. The 15.02.00 shall include the employee's name, serial number, rank,

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assignment, and the rationale for the employee to receive training and access to DMS. The CO and R&I shall ensure that only Department employees who are specifically listed on a 15.02.00 by their respective CO and approved by the CO, R&I are scheduled for and receive access to DMS and LACRIS programs.

Permitted Sources of Submissions to DMS to Assist in Investigative Leads:

Trained Department investigators may use photographs or videos obtained from a third-party, or other lawfully gathered images in conjunction with the DMS. Department investigators may submit enhanced images to improve analysis in accordance with DMS training. Any enhancements made to the original image shall be copied and saved as a separate image. Moreover, the investigator shall document any enhancements made and shall disclose such enhancements in any proceeding or in any request for judicial process (such as a search or arrest warrant).

***Note:** Enhancing an image means changing the contrast to make the existing image clearer. Adding or replacing a feature, such as adding an eye that is otherwise obscured in a submitted photograph or replacing an opened mouth with a closed one, is prohibited.*

Prohibited Sources of Submissions to DMS to Assist in Investigative Leads:

The following are prohibited sources and images, or photographs obtained from such devices shall not be used in connection with DMS:

- *Body Worn Video (BWV);*
- *Digital In-Car Video (DICV);*
- *Any camera or recording device that is attached to the employee's body or clothing or that is carried by an employee, including cell phones; or*
- *Sketch artist drawings.*

Oversight and Departmental Responsibilities:

Duty to Record Use and Results of DMS Searches: *All Department personnel authorized to use DMS shall record their use of DMS for criminal investigations as an Investigator's case note (e.g., in the Detective Case Tracking System or an Investigator's Action Log entry in NicheRMS). An alternative system may be designated by Information Technology Bureau for this purpose.*

The system shall record:

1. *The name and serial number of the Department investigator accessing DMS;*
2. *The purpose of DMS was a photographic line up, or other criminal investigative lead;*
3. *The submitted photograph was believed to be: (a) a victim; (b) a witness; or (c) a suspect/ person of interest.*
4. *The results: (a) the photographic line up could be completed; (b) the system was unable to help in a photographic line up; (c) no fruitful comparison was generated; (d) assisted*

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in witness identification; (e) assisted in victim identification; (f) assisted in subject identification; or/and (g) the results of any comparisons led to additional investigation.

In the absence of DCTS or an Investigator's Action Log entry, Department investigators are to use a paper form in the Detective Activity Summary that shall be distributed through regular channels to address the above questions. All paper copies of Detective Activity Summaries shall be forwarded to Detective Bureau on a quarterly basis.

Any investigator's failure to record DMS usage may result in their DMS access being denied.

Responsibility of the CO of Records and Identification: *At the end of each month the CO, R&I shall generate a report indicating the names of all users as well as the number of DMS uses that each individual employed during that month.*

Additionally, the CO, R&I shall ensure that there is a quarterly review of authorized Department investigators with access to the DMS of LACRIS to ensure only those with approved access are using the system in compliance with CORI requirements. Any non-compliance with CORI requirements shall result in the CO, R&I, informing both the user and the user's CO of the non-compliance and corrective action, including DMS access being denied, shall be taken.

Responsibilities of Bureau COs: *Commanding Officers shall be responsible for compliance with all other aspects of this policy including ensuring that only those assigned to investigative assignments receive training and access to DMS programs.*

Responsibility of Detective Bureau CO: *The CO, Detective Bureau shall conduct a semi-annual inspection of DMS use to ensure compliance with the standards articulated in this policy including the recording of and DMS usage and results.*

Responsibilities of the CO Audit Division: *The CO, Audit Division, shall review this directive and determine whether an audit, inspection, or review shall be conducted in accordance with Department Manual Section 0/080.30.*

Detective Activity Summary

(to be used in lieu of using the Detective Case Tracking System (DCTS)
for Digital Mugshot System (DMS) of Los Angeles County Regional Identification System (LACRIS))

1. The name of the person accessing DMS _____
2. Serial number of the Department accessing DMS _____
3. The purpose of DMS was (check one):
 - A photographic line up
 - A criminal investigation;
4. The submitted photograph was believed to be (check as many as apply):
 - A victim
 - A witness
 - A suspect/ person of interest.
5. The results of the DMS usage were (check all that apply):
 - The photographic line up could be completed
 - The system was unable to help in a photographic line up
 - No fruitful comparison was generated
 - Assisted in witness identification
 - Assisted in victim identification
 - Assisted in subject identification
 - The results of any comparisons led to additional investigation.
6. The DR number of the case or case identification is _____
7. The date of the search was _____