

Geneva Police Department GENERAL ORDERS		DMV PHOTO ACCESS AND ACCEPTABLE USES	
<input checked="" type="checkbox"/> new: <input type="checkbox"/> rescinds: Policy & Procedure <input type="checkbox"/> amends:		cross-reference G.O. 900, 18 U.S.C. & 2721 et seq (public law 103-322), NYS technology law article II(208) internet security and privacy act Accreditation/Recognition standards: C.A.L.E.A.: NYS L.E.A.P.:	
effective date: 3.21.16		issue/amend date: 3.21.16 / 11.13.19	

I. PURPOSE	<p>The purpose of this General Order is to establish and describe policies and procedures pertaining to the use of the DMV photo access via the E-justice portal. This order ensures policies and procedures that are in accordance with the Drivers Privacy Protection Act of 1994 (DPPA) 18 USC 2721 et seq. Information Security Breach and Notification Act (ISBNA), General Business Law 899-11 and state technology law 208 and all other applicable laws and regulations relating to the access of motor vehicle records. The permissible access to DMV Photo records will greatly improve the Geneva Police department's ability to identify wanted persons, locate missing persons, and detect persons impersonating others during traffic stops.</p>
II. DEFINITIONS	<p>A. <u>E-Justice Integrated Portal</u> - These files contain law enforcement information including references to stolen vehicles, stolen articles, wanted/missing persons and descriptive information regarding parolees and Registered Sex Offenders. This portal also contains NYS Department of Motor Vehicle records.</p> <p>B. <u>DMV Photo System</u> - This system hereafter referred to as DMV PHOTO grants authorized user's ability to expeditiously obtain the DMV photo image of a subject of interest relevant to conditions as set forth in this order. The DMV PHOTO image may be obtained relevant to an active or potential criminal investigation, a fugitive wanted pursuant to a sworn arrest warrant, a witness to a crime or criminal activity whose whereabouts are unknown, a missing person due to a crime or suspected criminal activity, a driver not in possession of his/hers driver's license or a driver's license that is suspected to be fraudulent. In order to access this system, users must be logged into an E-Justice account. The DMV PHOTO can be accessed by clicking on the resources tab, then reference library, then DMV Photo System.</p> <p>C. <u>Requestor</u> - An individual law enforcement officer with access rights to E-Justice and the DMV PHOTO. Requestors are responsible for ensuring that every single request is linked to an investigation and that information is accurate.</p>
III. POLICY	<p>A. It is the policy of the Geneva Police Department to conform to all applicable laws governing the use of the DMV Photo Access. This order contains the acceptable uses of said access. This order contains in what circumstance the DMV PHOTO can be used for, and the documentation that needs to take place. Also contained are examples of instances for which the DMV PHOTO cannot be used for.</p> <p>B. Due to the personal/private nature of the information available through DMV PHOTO, this agency is responsible for establishing intra-agency protocols that optimally safeguard all information submitted to and received from DMV PHOTO.</p> <p>C. The Requestor must provide the following information via E-Justice in order to obtain a photo image;</p> <ol style="list-style-type: none"> 1. A case reference number obtained through the dispatch system on PD Manager. 2. The full name and client ID number of a person whose image is being retrieved. 3. The reason Code and the contents, if any, of the optional comments field.

<p>III. POLICY (CONT.)</p>	<p>D. By completing the E-Justice NY DMV Photo request screen, the Requestor certifies that the subject of interest has a driver’s license, learner’s permit or non-driver identification card issued by DMV, that the subject of interest is linked to an investigation as previously defined and acknowledges that access to a DMV Photo image for an impermissible purpose may subject the Requestor to administrative discipline and/or criminal prosecution.</p> <p>E. By signing the DMV Photo user agreement, the agency executive officer or Chief of Police agrees that the Geneva Police Department will abide by the terms and conditions governing the use of DMV Photo and that it will comply fully with the terms of the DPPA, the ISBNA, and all other applicable laws and regulations respecting access to and use of motor vehicle records and that it will continue to take all necessary action to insure compliance with said laws and regulations. The Geneva Police Department’s Chief of Police understands that the <u>unauthorized</u> acquisition of a DMV photo image may require notification of the unauthorized acquisition be given to the subject of interest pursuant to the ISBNA. The Geneva Police Department also agrees to execute a new DMV Photo user agreement when significant changes/upgrades are made to the DMV Photo system and/or are required by DCJS or DMV.</p>
<p>IV. PROCEDURE</p>	<p>A. <u>Permissible uses of the DMV Photo System:</u></p> <ol style="list-style-type: none"> 1. Photo images obtained from the DMV Photo System can be used for investigative purposes only, including but not limited to the following: <ol style="list-style-type: none"> a. Use in a law enforcement photo array when the subject of interest is a suspect in an active investigation. Defined as: An active investigation of a crime or suspected criminal activity, occurring within the Geneva Police Department’s jurisdiction. b. Use in a wanted poster when the subject of the request is wanted pursuant to a sworn arrest warrant. Defined as: The subject of interest is wanted pursuant to a sworn arrest warrant. c. Use in witness investigation. Defined as: The subject of interest is a witness to a crime or suspected criminal activity occurring within the Geneva Police Department’s jurisdiction and the subject’s whereabouts are unknown. d. Use in a missing persons investigation. Defined as: The subject of interest is missing due to a crime or suspected criminal activity occurring within the Geneva Police Department’s jurisdiction e. Use in a vehicle and traffic stop. Defined as: The subject of interest is a driver not in possession of his/her driver’s license, or a driver whose license appears fraudulent. f. Use in a press release when the subject of the request is wanted pursuant to a sworn arrest warrant or is a missing person. <p>The above listed acceptable uses of the DMV photo must also be entered as a “reason code” when requesting said information through E-Justice DMV Photo suite.</p>

**IV. PROCEDURE
(CONT.)**

B. Impermissible Uses of DMV Photo images:

1. Photo images obtained from DMV Photo **SHALL NOT** be saved in a database or stored in a manner for secondary or subsequent use unrelated to the original active investigation.
2. Photo images obtained from DMV Photo **SHALL NOT** be used as fillers in a photo or video array.
3. Photo images obtained from DMV Photo **SHALL NOT** be used in more than one investigation. If an individual has been the subject of a previous request to DMV Photo by the Geneva Police Department, a new request must be submitted and properly documented prior to making a subsequent request for the image.
4. As stated above, DMV Photo images are for investigative purposes only. It is not permissible to use DMV Photo for any other purpose including: Personal use, sale, publication or disclosure for commercial purposes, release to the public, unless the release occurs as a part of an official law enforcement investigation and the subject of interest is wanted pursuant to a sworn arrest warrant or is a missing person.
5. It is not permissible for a requestor to request a DMV Photo image on behalf of another law enforcement agency, including out of state agencies. All requests for a DMV Photo by an out of state agency **must** be denied and the out of state agency **must** be directed to contact the New York State Intelligence Center (NYSIC) at (518) 786-2100 or via email at CIU@nysic.ny.gov.

Accessing and or releasing a DMV Photo image for an impermissible purposes may subject the requestor and/or the individual responsible for its unauthorized release to administrative discipline and/or criminal prosecution.

C. Additional Requirements:

1. In addition to the requirements set forth by the DMV and all applicable laws, rules and regulations, the Geneva Police Department guidelines will follow the permissible uses of the DMV Photo System. The procedure for the departmental guidelines will be as follows.
 - a. If the criteria has been met as set forth in the permissible uses of the DMV Photo guideline an officer/dispatcher will generate the following:
 - i. A call for service will be generated in PD Manager by the dispatcher/officer with the signal DMV Photo request. This call for service will have a specific case number for the particular request. If the request is related to an active investigation a new call for service will still be generated with the DMV Photo request signal and a reference will be made on the call for service referencing the CR number of the active investigation.
 - ii. The call for service (CR number) will contain the full name, address, DOB and client ID number of the person whose image is being received. This information should be listed in the associated persons section.
 - iii. In the call for service the reason code will be listed, example: Warrant investigation, vehicle and traffic stop where driver does not have a license in their possession, missing person etc.

**IV. PROCEDURE
(CONT.)**

- iv. The DMV Photo obtained will be used for the specific investigation in which it was accessed for and for no other purpose. If the same subject's photo is needed in a different investigation a new call for service will be generated with the DMV Photo request signal. The DMV Photo call for service will have a reference to the CR number of the original investigations call for service.

- v. The Geneva Police Department will also maintain files in the records department which will contain a printout of all the calls for service in which the DMV Photo was utilized to maintain compliance with any audits conducted by DCJS. The files will be separated by year and will be reviewed quarterly by the E-Justice Terminal Access Coordinator (TAC) to ensure compliance, with this order and all laws, rules and regulations. These records will be kept for a period of at least 5 years. (Example; the 2014 DMV Photo yearly compellation of calls for service will be kept until at least the year 2020, starting from the beginning of the calendar year.) A DMV Photo audit log is also be available on the E-Justice portal to assist the TAC with internally auditing the use of the DMV Photo suite. This audit log will also be checked by the TAC of the Geneva Police Department on a regular basis to ensure compliance. This information can be obtained by going to the "agency administration" suite on E-Justice, then audit log, then DMV Photo audit log.

- vi. DCJS will also conduct remote audits of the DMV Photo system to identify potential misuse of the system. Regular onsite audits of the DMV Photo usage will be performed every three years by DCJS in conjunction with their routine audits of E-Justice use. Site audits, which may or may not be announced, will require the Geneva Police Department to make available to DCJS auditors all available records corresponding to every request submitted to DMV photo during the previous 5 years.

Approved By

MICHAEL J. PASSALACQUA
CHIEF OF POLICE