



**ELECTRONIC RECORD MANAGEMENT
SYSTEMS:
IMPACT AND USE POLICY**

APRIL 11, 2021

SUMMARY OF CHANGES BETWEEN DRAFT & FINAL POLICY

Update	Description of Update
Removed statement that case management systems do not use artificial intelligence and machine learning.	Public comments highlighted a lack of industry-standard definitions for artificial intelligence and machine learning.
Expanded upon electronic record management systems capabilities.	Added language describing how electronic record management systems compliment other NYPD technologies.
Expanded upon electronic record management systems rules of use.	Added language clarifying electronic record management systems rules of use.
Expanded upon electronic record management systems safeguards and security measures.	Added language regarding information security. Added language to reflect the removal of access to electronic record management systems when job duties no longer require access.
Expanded upon electronic record management system data retention.	Added language to reflect the NYPD's obligations under federal, state and local record retention laws.
Expanded upon electronic record management system external entities section.	Added language to reflect the NYPD's obligations under the local privacy laws.
Grammar changes.	Minor syntax edits were made.

ABSTRACT

To provide personnel with timely access to crucial information, the New York City Police Department (NYPD) uses electronic record management systems to store, retrieve, archive, and view records that support investigative and public safety activities. Electronic record management systems are an automated, efficient and sustainable replacement to paper-based record management methods.

The NYPD produced this impact and use policy because some electronic record management systems collect, retain, process, and/or share audio, video, location, or similar information.

CAPABILITIES OF THE TECHNOLOGY

Electronic record management systems enable NYPD personnel to digitally search large, complex datasets containing a variety of electronic records. Records can be efficiently and repeatedly accessed in support of law enforcement operations. Electronic record management systems include internal systems containing data generated from NYPD daily operations, electronic record systems maintained by other government agencies, and electronic record management systems maintained by commercial sources.

Internal electronic record managements systems enable NYPD personnel to search for and view records such as: arrest and complaint report records, vehicle collision records, NYPD property invoice records, 911 and 311 call records, etc. Authorized NYPD personnel can access electronic record management systems maintained by outside government agencies to search for and view records such as: warrants, information regarding stolen property, orders of protection, etc. Authorized NYPD personnel can access electronic record management maintained by commercial sources to search for and view public records.

Electronic record management systems do not create any information, data, or recordings of any kind, and do not use any biometric measuring technologies. NYPD electronic record management systems do not use facial recognition technologies and cannot conduct facial recognition analysis. However, still images within the systems may be used as a probe image for facial recognition analysis.¹

RULES, PROCESSES & GUIDELINES RELATING TO USE OF THE TECHNOLOGY

NYPD electronic record management system policy seeks to balance the public safety benefits of this technology with individual privacy. Electronic record management systems must be used in a manner consistent with the requirements and protection of the Constitution of the United States, the New York State Constitution, and applicable statutory authorities.

All information contained in electronic record systems accessibly by NYPD personnel are subject to privacy, confidentiality, and dissemination restrictions according to NYPD policy and applicable federal, state, and local laws and rules. All members of the NYPD must only access electronic record management systems to which authorization has been granted and under circumstances required in the execution of lawful duty relating to official business of the NYPD.

¹ For additional information on facial recognition, please refer to the facial recognition impact and use policy.

NYPD electronic record management systems may only be used by NYPD personnel for legitimate law enforcement purposes.

The NYPD does not seek court authorization to use electronic record management systems. The systems are a digital tools containing lawfully obtained information by the NYPD.

In accordance with the Public Oversight of Surveillance Technology Act, an addendum to this impact and use policy will be prepared as necessary to describe any additional uses of electronic record management systems.

NYPD investigations involving political activity are conducted by the Intelligence Bureau, which is the sole entity in the NYPD that may conduct investigations involving political activity pursuant to the *Handschu* Consent Decree.

No person will be the subject of police action solely because of actual or perceived race, color, religion or creed, age, national origin, alienage, citizenship status, gender (including gender identity), sexual orientation, disability, marital status, partnership status, military status, or political affiliation or beliefs.

The misuse of electronic record management systems will subject employees to administrative and potentially criminal penalties.

SAFEGUARD & SECURITY MEASURES AGAINST UNAUTHORIZED ACCESS

Information obtained through NYPD use of electronic record management systems can be retained within a NYPD computer or case management system. NYPD personnel utilizing computer and case management systems are authenticated by username and password. Access to case management and computer systems is limited to personnel who have an articulable need to access the system in furtherance of lawful duty. Access rights within NYPD case management and computer systems are further limited based on lawful duty. Authorized users can only access data and perform tasks allocated to them by the system administrator according to their role.

NYPD personnel must abide by security terms and conditions associated with NYPD computer and case management systems, including those governing user passwords and logon procedures. Members of the NYPD must maintain confidentiality of information accessed, created, received, disclosed or otherwise maintained during the course of duty and may only disclose information to others, including other members of the NYPD, only as required in the execution of lawful duty. Electronic record management system access levels are adjusted or removed when the access is no longer necessary for NYPD personnel to fulfill their duties (e.g., when personnel are transferred to a command).

The NYPD has a multifaceted approach to secure data and user accessibility within NYPD systems. The NYPD maintains an enterprise architecture (EA) program, which includes an architecture review process to determine system and security requirements on a case by case basis. System security is one of many pillars incorporated into the EA process. Additionally, all NYPD computer systems are managed by a user permission hierarchy based on rank and role via Active Directory (AD) authentication. Passwords are never stored locally; user authentication is stored

within the AD. The AD is managed by a Lightweight Directory Access Protocol (LDAP) to restrict/allow port access. Accessing NYPD computer systems remotely requires dual factor authentication. All data within NYPD computer systems are encrypted both in transit and at rest via Secure Socket Layer (SSL)/Transport Layer Security (TLS) certifications which follow industry best practices.

NYPD personnel are responsible for preventing third parties unauthorized access to information. Failure to adhere to confidentiality policies may subject NYPD personnel to disciplinary and/or criminal action. NYPD personnel must confirm the identity and affiliation of individuals requesting information from the NYPD and determine that the release of information is lawful prior to disclosure.

Unauthorized access of any system will subject employees to administrative and potentially criminal penalties.

POLICIES & PROCEDURES RELATING TO RETENTION, ACCESS & USE OF THE DATA

NYPD personnel using electronic record management systems are authenticated by username and password. Access to electronic record management systems is limited to personnel who have an articulable need to access the system in furtherance of lawful duty.

Data contained within NYPD electronic record management systems may only be used for legitimate law enforcement purposes or other official business of the NYPD, including the furtherance of criminal investigations, civil litigations, and disciplinary proceedings. Relevant data is stored in an appropriate NYPD computer or case management system. NYPD personnel utilizing computer and case management systems are authenticated by username and password. Access to computer and case management is limited to personnel who have an articulable need to access the system in furtherance of lawful duty. Access rights within NYPD case management and computer systems are further limited based on lawful duty.

The Retention and Disposition Schedule for New York Local Government Records (the Schedule) establishes the minimum length of time local government agencies must retain their records before the records may be legally disposed. Published annually by the New York State Archives, the Schedule ensures compliance with State and Federal record retention requirements. The NYC Department of Records and Information Services (DORIS) publishes a supplemental records retention and disposition schedule (the Supplemental Schedule) in conjunction with the Law Department specifically for NYC agencies in order to satisfy business, legal, audit and legal requirements.

The retention period of a “case investigation record” depends on the classification of a case investigation record. The classification of case investigation records is based on the final disposition of the case, i.e., what the arrestee is convicted of or pleads to. Further, case investigations are not considered closed unless it results in prosecution and appeals are exhausted, it results in a settlement, it results in no arrest, or when restitution is no longer sought.

Case investigation records classified as a homicide, suicide, arson (first, second or third degree), missing person (until located), aggravated sexual assault (first degree), course of sexual conduct against a child (first degree), active warrant, or stolen or missing firearms (until recovered or destroyed), must be retained permanently. Case investigation records classified as a fourth degree arson or non-fatal (including vehicular accidents) must be retained for a minimum of ten (10) years after the case is closed. Case investigation records classified as any other felony must be retained for a minimum of twenty-five (25) years after the case is closed. Case investigation records classified as a misdemeanor must be retained for a minimum of five (5) years after the case is closed. Case investigation records classified as a violation or traffic infraction must be retained for a minimum of one (1) year after the case is closed. Case investigation records classified as an offense against a child as defined by the Child Victims Act, excluding aggravated sexual assault (first degree), course of sexual conduct against a child (first degree), must be retained until the child attains at least age fifty-five (55). Case investigation records connected to an investigation that reveals no offense has been committed by an adult must be kept for a minimum of five (5) years after the case is closed. Case investigation records connected to an investigation that reveals the individual involved was a juvenile and no arrest was made or no offense was committed must be kept for at least one (1) year after the juvenile attains age eighteen (18).

Personal information data files on criminals and suspects must be retained for at least five (5) years after the death of the criminal or suspect, or ninety (90) years after the criminal or suspect's date of birth as long as there has been no arrest in the last five (5) years, whichever is shorter. Personal information data files on associated persons, such as victims, relatives and witnesses must be retained as long as, or information as part of relevant case investigation record.

The misuse of any information contained with a NYPD case management system will subject employees to administrative and potentially criminal penalties.

POLICIES & PROCEDURES RELATING TO PUBLIC ACCESS OR USE OF THE DATA

Members of the public may request information obtained from NYPD use of electronic record management systems pursuant to the New York State Freedom of Information Law. The NYPD will review and evaluate such requests in accordance with applicable provisions of law and NYPD policy.

EXTERNAL ENTITIES

If NYPD use of electronic record management systems yields information relevant to a criminal case, the NYPD will share the information with the prosecutor with jurisdiction over the matter. Prosecutors will provide evidence to the defendant(s) in accordance with criminal discovery laws.

Other law enforcement agencies may request information contained in NYPD case management and computer systems in accordance with applicable laws, regulations, and New York City and NYPD policies. Additionally, the NYPD may provide information to partnering law enforcement and city agencies pursuant to on-going criminal investigations, civil litigation and disciplinary proceedings. Information is not shared in furtherance of immigration enforcement.

Following the laws of the State and City of New York, as well as NYPD policy, information may be provided to community leaders, civic organizations and the news media in order to further an investigation, create awareness of an unusual incident, or address a community-concern.

Pursuant to NYPD policy and local law, NYPD personnel may disclose identifying information externally only if:

1. Such disclosure has been authorized in writing by the individual to whom such information pertains to, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal guardian and has been approved in writing by the Agency Privacy Officer assigned to the Legal Bureau;
2. Such disclosure is required by law and has been approved in writing by the Agency Privacy Officer assigned to the Legal Bureau;
3. Such disclosure furthers the purpose or mission of the NYPD and has been approved in writing by the Agency Privacy Officer assigned to the Legal Bureau;
4. Such disclosure has been pre-approved as in the best interests of the City by the City Chief Privacy Officer;
5. Such disclosure has been designated as routine by the Agency Privacy Officer assigned to the Legal Bureau;
6. Such disclosure is in connection with an investigation of a crime that has been committed or credible information about an attempted or impending crime; or
7. Such disclosure is in connection with an open investigation by a City agency concerning the welfare of a minor or an individual who is otherwise not legally competent.

Government agencies at the local, state, and federal level, including law enforcement agencies other than the NYPD, have limited access to NYPD computer and case management systems. Such access is granted by the NYPD on a case by case basis subject to the terms of written agreements between the NYPD and the agency receiving access to a specified system. The terms of the written agreements also charge these external entities with maintaining the security and confidentiality of information obtained from the NYPD, limiting disclosure of that information without NYPD approval, and notifying the NYPD when the external entity receives a request for that information pursuant to a subpoena, judicial order, or other legal process. Access will not be given to other agencies for purposes of furthering immigration enforcement.

The NYPD purchases electronic record management systems and associated equipment or Software as a Service (SaaS)/software from approved vendors. The NYPD emphasizes the importance of and engages with vendors and contractors to maintain the confidentiality, availability, and integrity of NYPD technology systems.

Vendors and contractors may have access to NYPD electronic record management systems associated software or data in the performance of contractual duties to the NYPD. Such duties are typically technical or proprietary in nature (e.g., maintenance or failure mitigation). In providing vendors and contractors access to equipment and computer systems, the NYPD follows the principle of least privilege. Vendors and contractors are only allowed access on a "need to know basis" to fulfill contractual obligations and/or agreements.

Vendors and contractors providing equipment and services to the NYPD undergo vendor responsibility determination and integrity reviews. Vendors and contractors providing sensitive equipment and services to the NYPD also undergo background checks.

Vendors and contractors are legally obligated by contracts and/or agreements to maintain the confidentiality of NYPD data and information. Vendors and contractors are subject to criminal and civil penalties for unauthorized use or disclosure of NYPD data or information.

If information contained within NYPD electronic record management systems is disclosed in a manner violating the local Identifying Information Law, the NYPD Agency Privacy Officer, upon becoming aware, must report the disclosure to the NYC Chief Privacy Officer as soon as practicable. The NYPD must make reasonable efforts to notify individuals effected by the disclosure in writing when there is potential risk of harm to the individual, when the NYPD determines in consultation with the NYC Chief Privacy Officer and the Law Department that notification should occur, or when legally required to do so by law or regulation. In accordance with the Identifying Information Law, the NYC Chief Privacy Officer submits a quarterly report containing an anonymized compilation or summary of such disclosures by City agencies, including those reported by the NYPD, to the Speaker of the Council and makes the report publically available online.

TRAINING

NYPD personnel using electronic record management systems receive command level training on the proper operation of the technology and associated equipment. NYPD personnel must operate electronic record management systems in compliance with NYPD policies and training.

INTERNAL AUDIT & OVERSIGHT MECHANISMS

The use of electronic record management systems, including the reasons for use, must be discussed with a supervisor. Supervisors of personnel utilizing electronic record management systems are responsible for security and proper utilization of the technology and associated equipment. Supervisors are directed to inspect all areas containing NYPD computer systems at least once each tour and ensure that all systems are being used within NYPD guidelines.

All members of the NYPD are advised that NYPD computer and case management systems are intended for the purposes of conducting official business. The misuse of any system or equipment will subject employees to administrative and potentially criminal penalties. Allegations of misuse are internally investigated at the command level or by IAB.

Integrity Control Officers (ICOs) within each Command are responsible for maintaining the security and integrity of all recorded media in the possession of the NYPD. ICOs must ensure all authorized users of NYPD computer systems in their command understand and comply with computer security guidelines, frequently observe all areas with computer equipment, and ensure security guidelines are complied with, as well as investigating any circumstances or conditions which may indicate abuse of the computer systems.

Requests for focused audits of computer activity from IAB, Commanding Officers, ICOs, Investigations Units, and others, may be made to the Information Technology Bureau.

HEALTH & SAFETY REPORTING

There are no known health and safety issues with electronic records systems or the associated equipment.

DISPARATE IMPACTS OF THE IMPACT & USE POLICY

The safeguards and audit protocols built into this impact and use policy for electronic record management systems mitigate the risk of impartial and biased law enforcement. Electronic record management systems are used to search for, view, and, when appropriate, retain lawfully obtained information. NYPD electronic record management systems do not use any biometric measuring technologies.

The NYPD is committed to the impartial enforcement of the law and to the protection of constitutional rights. The NYPD prohibits the use of racial and bias-based profiling in law enforcement actions, which must be based on standards required by the Fourth and Fourteenth Amendments of the U.S. Constitution, Sections 11 and 12 of Article I of the New York State Constitution, Section 14-151 of the New York City Administrative Code, and other applicable laws.

Race, color, ethnicity, or national origin may not be used as a motivating factor for initiating police enforcement action. When an officer's decision to initiate enforcement action against a person is motivated even in part by a person's actual or perceived race, color, ethnicity, or national origin, that enforcement action violates NYPD policy unless the officer's decision is based on a specific and reliable suspect description that includes not just race, age, and gender, but other identifying characteristics or information.