

PROTECTIVE SERVICES COMMITTEE MEETING
Held via Audio Webinar Pursuant to Temporary Emergency Orders

Members: Chairman Jonke & Legislators Nacerino & Sullivan

Wednesday

April 15, 2020

The meeting was called to order at 6:00PM by Chairman Jonke who requested that Legislator Nacerino lead in the Pledge of Allegiance. Upon roll call Legislators Nacerino & Sullivan and Chairman Jonke were present.

Item #3 - Approval/ Protective Services Committee Meeting Minutes/ March 10, 2020

Chairman Jonke stated the minutes were accepted as submitted.

Item #4 - Discussion/ Automated License Plate Readers Policy (ALPR)/ Legislator Sullivan

Chairman Jonke stated this is a matter that has been discussed many times, and the reason for that is because there are liability issues to the County when it comes to the uses, collection of data and the maintenance of data of the ALPRs. He stated the Committee did request at the March 10, 2020 Protective Services Committee Meeting that three (3) specific items be addressed in their ALPR Policy. He stated the Sheriff's Department responded positively and took the request seriously. He stated Legislator Sullivan had additional matters he wanted addressed by the Sheriff's Department. He stated a memo was sent to Sheriff Langley on April 6, 2020. He stated he will have Legislator Sullivan speak to his pending questions and concerns with the ALPR Policy. He stated for the record, Sheriff Langley, Undersheriff Cheverko and Captain Babcock are on this audio webinar.

Legislator Sullivan stated some of the high-level issues have been addressed in the ALPR Policy. He stated there are still some big concerns over the use of the ALPR. He stated that he would like to review the questions that were not responded to by the Sheriff's Department.

- 1) Legislator Sullivan questioned: Will the Sheriff's Department be the only party who will store the ALPR data?

Sheriff Langley stated that he believes that Captain Babcock did provide a written response to the April 6, 2020 memo.

Captain Babcock stated that is correct. He apologized if he did not follow the proper protocol. He stated he emailed his response to the Protective Services Committee members directly, Chairman Jonke, Legislators Nacerino and Sullivan. He apologized, he should have copied the Clerk and Deputy Clerk of the Legislature on that email.

Legislator Sullivan stated he did not see the response in his email.

Legislator Nacerino confirmed that she received the referenced email.

Legislator Jonke stated he did not see it and has been experiencing some difficulty with his County email.

Legislator Sullivan stated he would like to go through the questions tonight and move forward with this matter.

Captain Babcock offered a paraphrase of his written response. He stated he will resend his written response to the Clerk of the Legislature tomorrow, April 16, 2020. He stated currently the Sheriff's Department is the sole retainer of the ALPR data and that is within the County Network. He stated under the previous administration there were two (2) other agreements. He stated one (1) was with the Fairfield County Chiefs' of Police Association and the original supplier of the ALPR equipment, ESLAG North America and Vigilant. He discontinued the two (2) agreements. He stated he did not believe that they adequately answered many of Legislator Sullivan's questions. He stated he will review current agreements with the said groups and review the agreements with the County's Law Department. He stated he did discuss doing that with Deputy County Attorney Pasquale, who was in agreement with that. He stated that he did want to mention that ELSAG is located in Brewster, and the Sheriff's Department has had a partnership with them for over 10 years and they have been an awesome partner. He stated they took care of technical issues at no charge. He stated the Carmel and Kent Police Department's mobile readers data is stored with the Sheriff's data.

Legislator Sullivan confirmed that Captain Babcock was not satisfied with the existing agreement and found this as an opportunity to take a fresh look.

Captain Babcock stated that is correct.

2. Legislator Sullivan questioned: Will there be designated employees in the Sheriff's Department who will be permitted to view the ALPR Data?

Captain Babcock stated currently there are approximately ten (10). He explained that includes all the Criminal Investigators and 1- 2 Deputies will have access to the ALPR Data. He stated there are others who have an administrative role, as he does and Investigator Hyla who will have access to the ALPR Data. He stated Carmel and Kent also will have access to the data in an Administrative Role. He stated he could provide a demonstration to Legislator Sullivan of how the information is displayed.

3. Legislator Sullivan questioned: What is the penalty if the ALPR Policy is violated by one of the people who have access to the data? He asked if there is anything stated in the policy that would warrant an immediate termination?

Captain Babcock stated that was a change to the ALPR Policy. He stated any violation is at the sole discretion of the Sheriff as to what the penalty will be. He stated in the Collective Bargaining Agreement, Article 17, the Sheriff can discipline any employee in the department for a violation of any policy or procedure. He stated the employee would have a right to a hearing to dispute the charges. He stated that is all in the Collective Bargaining Agreement. He stated he did discuss this with Deputy County Attorney Pasquale. He elaborated on said discussion. He stated the State level Legislation that is currently being considered is looking to make a violation of ALPR Data a misdemeanor. He stated if that gets enacted then it would be a State Law and the Sheriff's Department would have to adhere to that.

Legislator Sullivan stated he would like the County Law Department to take a closer look at that in the future. He stated he would like to move on to the fact at the March Protective Meeting, as the ALPR was discussed something caught his attention. He stated it sounds like the ALPR, as the Sheriff stated can read not only a license plate, but also a bumper sticker, or even see the people in the car. He stated that was a complete surprise to most of the Legislators. He stated his concern is to protect people's privacy. He stated that he understands they are good law enforcement tools. He would like clarification, if we are talking about license plate readers or cameras that collect a lot more data, facial recognition as well as other concerns.

Captain Babcock stated that was included in the email that he sent and it was marked confidential. He stated some of the police procedures used in solving crimes is not for public record or knowledge. He stated in general terms when the video is captured the ALPR Software will look at the video and determine something that looks like a license plate. He stated there are two (2) images captured, one is the license plate and the other is a momentary snapshot of when the ALPR captured the license plate image. He stated the angle could be from the front of the car, rear or side of the car. He stated so yes there could be additional images captured, a marker on the car, a dent, bumper sticker. He stated a license plate is required to utilize the ALPR data.

Legislator Sullivan stated so you search a license plate number, then a closer look can be taken to see other information, for example the person or people in the car. He requested clarification on the word video, that has been used.

Captain Babcock stated the stationary ALPR's have video but only captures a photo of something if there is a license plate. He stated it is not a live video feed.

Legislator Sullivan questioned if there needs to a current/open investigation for someone to access the ALPR Data. He continued by providing an scenario, which posed the question of can a person and their license plate be given and said, I want to track and flag the license plate every time it goes past the camera.

Captain Babcock stated that has a simple answer, it must be for law enforcement purposes only.

Chairman Jonke questioned if all of these questions were addressed in the email, referenced at the start of this discussion.

Captain Babcock stated a good portion of them were, he thought there may be a few points that would require further detail.

Chairman Jonke made a recommendation to have all of the Legislators get a copy of said email and review it. He stated one of the most constructive meetings he has had on this topic was when he was invited to the Sheriff's Office. He stated a presentation was given speaking to the effectiveness of the use of ALPRs. He suggested an invitation be given to Legislator Sullivan to meet a few of the Investigators and give him the same presentation. He stated he found it very compelling. He stated he believes it may be a constructive way to move forward.

Legislator Sullivan stated we understand how they work, he wants an understanding of the policy around the data. He stated since we have not seen the response from Captain Babcock, and the fact that Captain Babcock does not know the questions he is going to ask tonight, there is no way for him to say his email answered my questions. He understands this is a tough way to hold meetings. He stated next month when we get back to normal, Captain Babcock and the Sheriff can come back to the Protective Services meeting and address all these issues in a normal setting. He stated it is difficult to conduct a good meeting under these circumstances, he is willing to say the discussion will continue next month, that is fine with him. He stated he does want the discussion continued, because these are important topics.

Chairman Jonke stated he agrees they are important and appreciates everyone's patience, given the situation we are dealing with.

Legislator Nacerino thanked Captain Babcock for his comprehensive memorandum. She stated she understands Legislator Sullivan's concerns about disciplinary action. She questioned should there be a violation to the policy would the Legislature be apprised if disciplinary action is taken by the Sheriff's Department.

Sheriff Langley stated if disciplinary action is taken, the Legislature can be advised it has been taken. He stated he would not be able to disclose what specific action was taken unless the employee signed a release authorizing the release of the disciplinary action taken.

Chairman Jonke questioned where and how the data is protected why that information would be non-disclosable.

Sheriff Langley stated he does not have the specifics in front him, but this was discussed with the Legislature at a previous time regarding personnel records.

Legislator Nacerino stated it was discussed prior, but this is a different scenario. She stated we must all be cognizant of the process that must unfold, as stated by Captain

Babcock. She stated she does not believe the additional information picked up by an ALPR, may not always be a negative, it may be an asset to an investigation. She requested a comment on that.

Captain Babcock stated if a usable picture is captured that the facial recognition technology was available, he would hope a Criminal Investigator would use every resource available. He stated the information would have been collected as a result of a law enforcement investigation.

Legislator Sullivan requested Legislative Counsel Firriolo provide his legal opinion of whether the disciplinary action can be released to the Legislature by the Sheriff's Department.

Legislative Counsel Firriolo stated previously Sheriff Langley cited NYS Civil Rights Law Section 50-a as in shielding personnel records. He stated he did review said law and found it does not apply to Government Officials, the District Attorney, the County Attorney or any agency of Government which would require the records in furtherance of their official functions. He stated the disciplinary action taken by the Sheriff's Department is not shielded from the Legislature.

Sheriff Langley stated there is a recent case decision handed down. He stated according to the NYS Sheriff's Association, Legislators would not be privy to that information. He stated there was a case brought against Westchester County for the dissemination of certain information. He stated Counselor Quinn handled the case.

Legislative Counsel Firriolo stated he would need a citation to reference. He stated that he did a case load review when this came up in November of 2019. He stated if there is a new development, he would be interested in reviewing that.

Legislator Albano stated the ALPRs are tremendous law enforcement tools. He stated it is important to address the questions, but he believes the sooner they are in place the better. He stated he believes the advantages far outweigh any issues that may develop. He stated he is aware of cases in which the ALPR were used, it is a tremendous tool. He stated he has said it before, he is in support of the use of the ALPRs.

Legislator Montgomery requested clarification that the questions Legislator Sullivan has referenced are the ones in our backup, that he states have not been answered by Captain Babcock.

Chairman Jonke stated it was reported by Captain Babcock this evening that he did answer those questions via an email sent on Friday, April 10, 2020.

Legislator Montgomery stated she does not understand why Chairman Jonke did not call Captain Babcock today, asking why there had been no response to his memo and was he planning to answer them. She stated there are three (3) items on this agenda,

and now this matter is being held up again. She stated if she were on this committee and there were outstanding questions she would have followed up. She questioned if this continuation is going to hold up Cold Spring's ability to get and use the ALPRs.

Chairman Jonke clarified the funding from the District Attorney's Asset Forfeiture budget line for the Cold Spring Police Department (PD) to purchase ALPRs was approved at the April Full Meeting. He stated there is currently an ALPR Policy in place. He clarified there is nothing restricting the Cold Spring PD from using the ALPR when they are ready.

Legislator Montgomery questioned when the ALPR Policy was approved that Cold Spring agreed to use.

Chairman Jonke stated the Sheriff's Department has an ALPR Policy in place.

Legislator Montgomery questioned if this Committee is in agreement that the existing ALPR Policy is sufficient for Cold Spring to move forward with the use of their ALPRs when they are ready.

Chairman Jonke stated this whole exercise is about refining the existing ALPR Policy. He stated the goal is to amend the existing ALPR Policy to reduce the liability on the County, protect privacy and utilize ALPRs in an effective way.

Legislator Nacerino stated she supports Cold Spring PD's use of the ALPRs. She repeated that the Legislature is reviewing the ALPR Policy to tweak it. She stated Cold Spring PD has agreed to adhere to the County's ALPR Policy.

Legislator Sullivan stated there is a resolution that specifies exactly what is being discussed. He requested that the Legislative Counsel or Clerk pull said resolution and read it out loud. He stated that he recalls Cold Spring was specifically mentioned.

Legislator Montgomery stated the Legislature never approved an ALPR Policy at the April Full Meeting.

Chairman Jonke requested that Sheriff Langley clarify if his department has an ALPR Policy.

Sheriff Langley stated there is a policy that was submitted to the Legislature, and as stated we are working to tweak it.

Legislator Montgomery requested clarification if Cold Spring PD purchases their ALPRs today they can begin to use them.

Legislator Sullivan stated that is not correct. He requested Clerk Schonfeld get a copy of said resolution from the office files.

Chairman Jonke stated Clerk Schonfeld did already pull a copy of said resolution and has submitted a copy to him.

Legislator Sayegh stated Cold Spring Officer Burke stated at the March Protective Meeting, once the funding is approved it will take them several months to order and install the ALPRs, allowing ample time for the amendments to be made to the ALPR Policy.

Chairman Jonke read and excerpt of Resolution #70 approved at the April 7, 2020 Full Meeting. It stated that the Cold Spring Police Department will adhere to the Putnam County's ALPR Policy.

Sheriff Langley stated last week thanks to the ALPR technology, there were two (2) stolen vehicles recovered and arrests were made.

Chairman Jonke stated the Legislature did receive correspondence from Sheriff Langley speaking to the recovery of the vehicles thanks to the ALPR data. He stated that he believes that is a strong example of why the ALPRs need to go into effect as soon as possible. He stated the policy will be fine tuned. He stated he is in support of the use of the ALPR technology.

Captain Babcock stated Legislator Sayegh asked a question last month about a spreadsheet. He stated he owes her an apology, he did not recall about the spread sheet. He stated she was absolutely correct there was a spread sheet that was referenced in the audit procedure that is used when an audit is done.

Legislator Montgomery questioned what else needs to be added to this policy.

Chairman Jonke stated Legislator Sullivan has some questions he would like to have addressed.

Legislator Montgomery stated she does not want anything to further delay her District's Police Department, Cold Spring, from getting valuable and necessary tools.

Legislator Nacerino stated she is supportive to move forward. She stated it is her opinion this Legislature has exhausted many questions and they have been addressed. She stated she does not want to belabor this and be a detriment to the Cold Spring PD. She stated she trusts the integrity of the Cold Spring PD and Sheriff's Department. She stated the outstanding questions Legislator Sullivan, or any other Legislator has can be resolved verbally or in writing but should not impact the policy in of itself.

Legislator Sayegh stated she does not believe there is any doubt that the ALPRs are important law enforcement tools. She stated that her concern is protecting the information of all of the innocent people whose information will be captured. She continued to cite a report by the American Civil Liberties Union (ACLU) that spoke of the legalities that exist in the usage of ALPRs.

Sheriff Langley stated this is a law enforcement tool, there needs to be an event that takes place to put the wheels in motion to review the data. He stated it is a tool that can assist in bringing justice to crimes committed.

Legislator Gouldman stated the ALPRs are currently being used throughout the County and in Westchester and Dutchess Counties as well. He stated Sheriff Langley just spoke to solving a crime committed through the use of the ALPR. He stated if it is determined that the Sheriff's Department ALPR Policy needs "tweaking", then it will get done. He stated in the meantime there is an ALPR Policy in place.

Legislator Sullivan stated this discussion has gotten way off the rails. He stated no one has ever questioned the integrity of the Sheriff's Department. He stated he is talking about having an ALPR Policy for the County, as there is a County IT Policy and Personnel Policy. He stated he wants to make sure the County is protected from liability. He stated at the State level there are bills in place in the Assembly and Senate to address the same concern that are being considered here. He repeated, it has nothing to do with the integrity, judgement or need to use the ALPRs.

Legislator Sayegh stated she agrees with Legislator Sullivan. She stated the stored data from the ALPRs need to have adequate protection in place. She stated there is no question that this is a great law enforcement tool.

Legislator Addonizio stated it is unfortunate that not all of the Legislators received the email sent by Captain Babcock. She agrees the ALPRs are an invaluable tool for law enforcement. She stated the technology increases the effectiveness of public safety and public safety is the Legislature's top priority.

Item#5 - Discussion/ Overtime Lines/ Sheriff's Department

Chairman Jonke stated there is an Overtime Policy Resolution (#34 of 2020). He stated because there was quite a bit of overtime last year that exceeded the budgeted amount, we are asking for an update from the Sheriff's Department, as we have just completed the first quarter of 2020. He stated personally he would like to know if the Sheriff's Department has exceeded 25% of the budgeted overtime at the conclusion of the first quarter.

Sheriff Langley stated that he will go line by line if that is what Chairman Jonke would like.

Chairman Jonke stated that is not necessary, he would like to know, per his memorandum of April 9, 2020, has more than 25% of the overtime funds for the first quarter of 2020 been expended.

Sheriff Langley stated in the Youth and Community Services it shows more than 25% expended. He explained, approximately \$14,000 was billed out services, which will be

reimbursed to the Sheriff's Department and it will bring the expenditure of the overtime below 25%.

Chairman Jonke stated last year there was quite an ordeal discussing overtime, it would be irresponsible of him to not request an update. He stated this is an exercise in trying to stay on top of things. He stated if there is anything the Legislature can do, as a governing body, he asked that the Sheriff let us know what we can do. He stated if you are over 25% please rectify what needs to be rectified or please explain in the future. He stated as the year progresses, he will request that the Sheriff's Department come back quarterly to give an update on the overtime.

Sheriff Langley stated he believes after the second quarter he will have a better idea. He stated the overall patrol, which includes ERTX and Reconstruction teams, is at 28.8% as of April 14, 2020. He stated also there are employees cashing out on their compensation time and that comes from the overtime budget line. He stated to date there is \$6,554.52 of compensation time that has been taken from the overtime budget line.

Chairman Jonke questioned what the School Resource Officers (SRO) are doing, now that the schools are closed. He questioned if they are on the road patrol alleviating overtime.

Legislator Nacerino stated that will be discussed in the tonight's Personnel Meeting, it will immediately follow this meeting.

Chairman Jonke stated the item on the Personnel Agenda is a request on the upgrade to the Sergeant position. He stated he is specifically asking about overtime and how we are alleviating overtime, this is not overlapping.

Legislator Sullivan stated he would like to hear the answer to the question that was raised by Chairman Jonke. He stated there are nine (9) SROs who are not working in the schools. He stated you would think that would help alleviate the road patrol overtime.

Sheriff Langley stated they are being utilized to cover the open slots that have been created by Deputies who have retired, transferred out to other agencies, and those who are out on 207C. He stated they are being utilized wisely to eliminate the need for overtime.

Chairman Jonke requested confirmation, that the SROs will eliminate the need for overtime.

Sheriff Langley stated on next month's schedule there is one (1) empty deputy slot and three (3) empty sergeant slots. He stated the SROs have been instrumental in filling the holes.

Chairman Jonke stated he appreciated the answer and thanked the Sheriff for utilizing SROs in a way that is offsetting overtime. He stated that will be helpful to the taxpayers. He stated given the current circumstances we are all living in, there is no way to know what the County will be facing financially.

Legislator Sullivan requested the Sheriff explain in more detail the scheduling and his reference to the openings.

Sheriff Langley stated when Deputies are on vacation, their shifts would be covered by other Deputies. He stated currently he is utilizing the SROs to fill those vacancies. He stated it is all about reducing costs and the overtime expenditures.

Legislator Gouldman questioned if the Coronavirus is having an impact on the number of Officers who are out sick.

Undersheriff Cheverko stated to date there have been 13 Deputies who have missed days of work due to secondary exposure, whether on or off duty. He stated the longest time a Deputy has been out was 18 days. He stated they are not allowed back until they have been tested.

Legislator Gouldman stated as a result of the impact of the Coronavirus it could cause an increase in the overtime.

Undersheriff Cheverko stated that absolutely could be the case.

Legislator Sullivan questioned clarification from the Undersheriff. He questioned if the 13 Deputies were COVID-19 positive.

Undersheriff Cheverko stated no. He clarified only two (2) out of the 13 tested positive.

Legislator Montgomery stated her appreciation to the Sheriff, for the detailed information he has provide this evening. She stated she referenced the overtime policy at last night's Health Committee Meeting and neither Commissioner Nesheiwat or his Senior Staff member, who was on the call, knew that it existed. She stated however here the Legislature is tonight going into so much detail with the Sheriff's Department. She stated for clarification, she is in support of this, but would like to see it across the board in every department. She stated we are not questioning the overtime for the essential work being done in the Health Department during this overtime crisis. She stated she would like to know, as do her constituents, what is the scheduling of the Health Department like to meet the demands of these challenging times. She stated there is construction going on at Tilly Foster Farm and the Putnam Golf Course. She stated she does believe construction is supposed to be done, per the Governor's Executive Order. She questioned if overtime is involved. She stated this is astounding once again to hear. She stated the actions of this Committee appear to be targeting the Sheriff's Department. She stated again this is good information to get from all of the Departments of the County. She stated she trusts the Sheriff and his Captains. She

thanks everyone working in the Sheriff's Department who are working to protect this community in this terrible time. She thanked Sheriff Langley again for providing a tremendous level of detail.

Chairman Jonke stated he takes issue with Legislator Montgomery's comments. He stated this Committee is not targeting the Sheriff's Department. He stated the Sheriff's Department came in hundreds of thousands over budget last year. He stated he is not aware of what overtime policy Legislator Montgomery is referring to. He clarified there is a reporting policy, resolution #34 of 2020, but it does not cut back on overtime, nor does it dictate the use the overtime line. He stated that he also trusts our Sheriff. He stated he has good dialogue with members of the Sheriff's Administration multiple times a week. He stated he believes the Legislature is working very well with the Sheriff's Department.

Legislator Sullivan stated that he echoes the statement made by Chairman Jonke. He stated to infer that we are targeting the Sheriff's Department, he finds that extremely insulting. He stated we trust the Sheriff's Department entirely. He stated it is the Legislature's fiduciary responsibility to the taxpayer to do our job to make sure the taxpayers' money is being spent wisely. He stated historically the Sheriff's Department spends the largest amount of money on overtime. He stated the amount of money the Health Department has spent on overtime is minuscule compared to the amount the Sheriff's Department has spent. He stated we are living through a pandemic, unprecedented times. He stated that he is not sure of the level of detail that Legislator Montgomery is referring to. He stated he heard explanations, but he did not hear any level of detail.

Legislator Nacerino stated that she strongly disagrees with the comments made by Legislator Montgomery, and she takes offense as well. She stated that she believes the Sheriff and the Captain, know better and realize that is not the case at all. She stated any County Department is given what is needed to serve the County residents in times of need as demonstrated with the recent activity of the County Health Department in their dealing with the COVID-19. She stated the Sheriff's Department overtime is a recording measure to keep the lines of communication open.

Legislator Albano echoes his colleagues' statements, this is business with a focus on details. He stated this applies to all of the County's Departments. He stated he would like the conversation to stick to the agenda items and avoid the false accusations. He stated he does not believe it is good business to be going off on these tangents when conducting these meetings via the audio webinar.

Legislator Addonizio stated she also takes issue to Legislator Montgomery's comments. She stated she totally trusts the Putnam County Sheriff's Department. She stated she will take this moment to express her sincere appreciation and thanks for all that they do. She stated her father is a retired NYC Police Officer. She stated that she knows firsthand the commitment officers have in protecting our communities.

Chairman Jonke repeated the fact that he has open and effective conversation with members of the Sheriff's Department. He stated he believes there is a lot of mischaracterization out there today, and he takes offense to that.

Legislator Sayegh stated she agrees, we have the utmost respect for the Sheriff's Department and the men and women who work there. She stated they are working through this crisis out there on the road and still interacting with people. She stated she is also offended by Legislator Montgomery's comments. She stated she does not like the characterization of pitting one department against another. She stated as Legislators it is our responsibility to make sure all of the Departments have the tools that they need.

Legislator Montgomery stated that Chairman Jonke said that he is in communication with them every day.

Chairman Jonke clarified that he did not say every day.

Legislator Montgomery stated it would have been great if in that communication included reference to the memorandum sent that was still pending their response.

Chairman Jonke thanked her for her constructive criticism.

Item #6 - Other Business – None

Item #7 - Adjournment

There being no further business at 7:25PM Chairman Jonke made a motion to adjourn; Seconded by Legislator Sullivan. All in favor.

Respectfully submitted by Deputy Clerk of the Legislature Diane Trabulsy.