



INDIANA DEPARTMENT OF TRANSPORTATION

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TO: District Deputy Commissioners
District Highway Maintenance Directors
District Technical Services Directors
District Permit Managers

**PERMIT
OPERATIONS
MEMORANDUM 21-02**

FROM: Monica Hartke-Tarr
Statewide Permits Director

SUBJECT: LAW ENFORCEMENT EQUIPMENT ON STATE RIGHT-OF-WAY

INTRODUCTION

This application was designed specifically for governmental law enforcement agencies to install and operate law enforcement equipment (“LEE”) within state-owned or -controlled right-of-way (“state right-of-way”). LEE does not directly serve a transportation purpose; however, this non-highway use by governmental partners can accomplish public safety objectives that INDOT supports. Placement of LEE within right-of-way warrants careful consideration and evaluation by INDOT to determine if the placement is appropriate and in the public interest.

As of this writing, the primary LEE devices that are under consideration for permits are automated license plate readers (“ALPRs”), involving the use of specialized cameras and software that recognize a vehicle’s license plate, capture an image of the license plate, and interpret the characters on the license plate into data to be used for public safety purposes. Other LEE devices intended to promote public safety and security may also be considered.

This memorandum clarifies the Department’s position on guidelines on the specifics for applying for a Right-of-Way Occupancy Permit, along with the submittal for placement of LEE within state right-of-way. It establishes permitting requirements for all future use of state right-of-way for these purposes.

BACKGROUND

ALPRs, a type of LEE, are computer-controlled camera systems, typically mounted on poles, highway sign structures, mobile trailers, or law enforcement vehicles. Federal, state, and local law enforcement agencies are requesting to place ALPRs along state right-of-way. This policy guidance is designed specifically for law enforcement agencies, to assist them in their public safety efforts using LEE in intelligence and investigations. Justice entities are turning to new technology to help solve crimes, recover abducted children, detect trafficking rings, and support terrorism investigations.

In considering this request, INDOT also recognizes the importance of assuring that individual privacy, civil rights, and liberties are vigorously protected. Law enforcement agencies should put into place appropriate policies and procedures to guard against possible errors and other potential problems. INDOT's partnership is provided with an expectation that all LEE including ALPRs will be employed in ways that strengthen trust and public confidence through the effective and responsible use of the technology. INDOT is not responsible for collecting, maintaining, or storing any information obtained by law enforcement agencies through the use of LEE.

USE OF RIGHT-OF-WAY

Pursuant to Ind. Code Title 8, Article 23, Chapter 2, and 105 IAC Art. 7, INDOT's Permits Division is authorized to establish permit requirements and restrictions for all use and work performed in state right-of-way.

The rights and privileges granted in a LEE permit are not be construed to be any broader than those expressly set out in this policy, regardless of the language used in the permit. Any LEE installed within state right-of-way must be placed in accordance with existing federal and state laws, rules, and regulations, as well as INDOT standards and specifications.

PERMIT APPLICATION

The following steps outline how a law enforcement agency may apply for this type of permit using INDOT's [Electronic Permit System](#) (EPS):

- The applicant logs in to EPS.
 - The application must be made by a law enforcement agency.
 - If a new EPS account is needed, the applicant may register on the login screen.
- After logging in, the applicant can create a new permit, selecting Right-of-Way Permit Type "Above Ground Occupancy" and Subtype "Law Enforcement Equipment."
- The applicant would then complete the required information (location, applicant information, details, etc.)
 - EPS asks for a single location for the permit assigned by a dropped pin on the map of the "Location" section. If the permit will cover multiple installations, select a location for one of the installations.
 - Details of the location of all installations will be required in the supplemental documentation for the permit application.
 - Although a permit application may propose multiple installations, the installations must all be on the same route (roadway). Installations on a different route should go in a separate permit application.
 - The application fee will be waived for governmental entities. The applicant can check the box, "This company is eligible to have its fees waived."
 - If the installation will be made on freestanding breakaway poles without any connections (such as power), the permit bond requirement may be waived if the

- application includes a completed [Bond Waiver form](#). INDOT may require a bond as necessary, depending on the proposal.
- The applicant would then upload the following required supporting documentation:
 - **Conceptual layout detailing the location of each installation:** The applicant should submit plans (maps or drawings) to show exact locations of the equipment and installation methods. The plans should include the following information:
 - Type of camera or device, power source (not provided by INDOT), mounting details, location, height of any freestanding poles, and all other pertinent data;
 - Map(s) showing each installation and its placement relative to the roadway (and in the case of Interstate installations involving freestanding poles, the clear zone);
 - Latitude and longitude coordinates for the location of each installation;
 - For installations requiring any excavation or ground disturbance, depth, and method of excavation; and
 - If the equipment connects to electrical or utility service (electric or utility service will not be provided by INDOT), full details regarding that connection, its source(s), and the installation methods for the connection, which may require its own permit.
 - **Maintenance of traffic (MOT) documentation**, documenting how traffic will be safely accommodated while work and equipment occupies right-of-way during construction, installation, maintenance, and removal.
 - **Bond Waiver** (see item on bond requirements above)
 - If the proposed location of the LEE is in another jurisdiction, a letter of no objection from the governing authority of the other jurisdiction regarding the proposed location(s).

ADDITIONAL PERMITTING REQUIREMENTS

- **Statement of use and purpose:** The application must include a statement that certifies the specific use and purpose of the LEE including how it serves the public interest. LEE may be used for law enforcement purposes only. The use, sale, or transfer of data for any purpose other than law enforcement will not be allowed under a LEE permit.
- **Signed agreement:** Prior to approval of a LEE permit, the law enforcement agency must enter into an agreement with INDOT regarding installation, construction, and all necessary maintenance of the LEE. The agreement can cover multiple permits coming from the same agency. INDOT will provide an agreement, drafted by its legal department after submission of the application.
 - At minimum, the agreement must be signed by the applicant agency or its authorized representative before the permit may be approved.
 - If, after an agreement is executed, the permittee wishes to add additional installations at a later time, that will require a new agreement to amend the existing agreement.

- An INDOT LEE permit is also contingent upon all other necessary permits or compliance with federal, state, and local laws, rules, and regulations, including privacy protections for the use of LEE and resulting information.
- Installations on Interstate right-of-way require approval from the Federal Highway Administration (FHWA), which will be coordinated by INDOT as part of its review process.
- Interstate installations will also require approval by the INDOT Traffic Engineering Division (INDOT's Traffic Engineering Director) and will only be allowed near or at interchanges or overpasses.
- Traffic Engineering review for installations not involving Interstates will occur at the District level.
- Installation locations and layout must not interfere with current or future INDOT roadway projects, including future preservation or expansion plans.
- Prior to applying, the LEE permit applicant is responsible for contacting any other agencies with overlapping or adjacent jurisdiction at the proposed location(s) to ensure that LEE is installed no more than necessary and to avoid redundancy. For example, in cases of installations on Interstate right-of-way, local law enforcement agencies should contact the Indiana State Police. INDOT is not responsible to determine or coordinate issues of law enforcement jurisdiction.
- Installations requiring digging — including for new freestanding breakaway poles — requires review by environmental staff at the INDOT District to ensure compliance with all applicable environmental laws and regulations.
- **Installation of LEE on FHWA-compliant breakaway poles:**
 - LEE may be installed on a freestanding breakaway pole.
 - On Interstate right-of-way, no freestanding pole may be installed within 100% of the clear zone, and preferably should not be located within 200% of the clear zone.
 - For example, if the Interstate clear zone is 30 feet, an enhancement will not be allowed within 60 feet of the roadway (200% of 30 feet), except as allowed below.
 - A freestanding pole on Interstate right-of-way may be located between 100% and 200% of the clear zone only if:
 1. The pole has an eligibility letter from the Federal Highway Administration, documenting that it has passed NCHRP 350 or MASH testing at a test level appropriate for the speed of the roadway; and
 2. The mass of the device to be installed on the freestanding pole is equivalent to the mass used in the above crash-testing.
 - Freestanding poles must be placed as close to existing structures (such as directional signs) as possible to minimize sight distance impacts for motorists. LEE must not be placed in front of signs on right-of-way, and placement must not obscure those signs in any way.
 - Freestanding poles are requested to be located no closer than 15 feet of the edge of pavement where possible, to not interfere with INDOT mowing operations.

- After permit approval, approved locations of new freestanding poles should be marked by stake to identify the location for any pre-installation inspection.
- **Attachment to existing structures:**
 - In no event may any LEE be attached to existing bridge structures or light poles.
 - If LEE is proposed to be attached to existing signalized equipment, INDOT may require a pre-construction meeting as part of its review prior to approval.
- LEE systems must not interfere with or affect the operation of any traffic control device or signal system. To meet this objective, electrical services for the LEE system cannot be derived from any traffic signal or other INDOT facility, including but not limited to the traffic signal cabinet, associated electrical conduit, junction boxes, handholes, mast arm poles, or traffic signal post. All LEE systems must have an independent power source.
- Each LEE system must be marked to indicate the owner of the device.
- All maintenance of LEE is the responsibility of the permittee.
- **Safety and asset protection during installation, maintenance, or removal by the permittee or its designee:**
 - Traffic control, including signage, for warning and protection of traffic in instances where workers, equipment, or materials are in close proximity to the roadway, must be in accordance with the Indiana Manual on Uniform Traffic Control Devices (IMUTCD).
 - If the installation is on a divided highway or freeway, primary access and interruption must occur from and on a minor roadway rather than the mainline.
 - No vehicles, equipment, or materials may operate from, or be parked, stored, or stockpiled on the roadway, or in an area extending from the outer edge of the shoulder of the roadway on one side to the outer edge of the shoulder on the opposite side — including the median of any divided highway — unless a MOT plan has been approved and incorporated in the permit.
 - Costs for traffic control will be the responsibility of the permittee.
 - Driving between the mainline roadway and the ditch is prohibited, as is driving on the shoulders where damage will occur.
 - If the roadway or shoulders are damaged as a result of these operations, damage must be reported and repaired immediately or within a reasonable timeframe as determined by INDOT.
 - All repairs by the permittee must be made with suitable and approved materials; replacement must conform to existing grades. Any and all repairs or restoration work, including restoration of damage to soil, must be completed in accordance with INDOT standards and specifications.
 - If excavation or ground disturbance on state right-of-way is necessary as part of an installation (either for installation or maintenance): Prior to performing any excavation or ground disturbance, the permittee or its designee is required to call 811 to determine the location of any existing utilities. In addition, the permittee must contact the INDOT District Permits office during regular business hours at least five (5) business days prior to performing the digging, excavation, or ground disturbance.

- **Completion of installation work:**
 - The permittee must notify the INDOT District Permits office within twenty-four (24) hours of completion of the installation, to allow any inspection by INDOT staff as warranted.
 - Any deviation to the location or other installation details in the approved permit must be approved by INDOT in advance or revised plans must be submitted. INDOT may also require “as-built” versions of installation plans, redlined to show exactly where installations were placed.
- The permittee, and all contractors, agents, or designees of the permittee, must expressly accept all responsibility for all negative consequences for any failure of equipment or processes.
- Installations are subject to inspection by authorized personnel. INDOT reserves rights to require such changes, additions, adjustments, repairs, relocations, or removal at any time necessary to permit the relocation, reconstruction, widening, and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway, or in the interest of safe and expeditious movement of traffic on the highway. The cost of such will be the responsibility of the permittee.
- The equipment, its operation, and its maintenance must not interfere with:
 - INDOT facilities, or the operations or maintenance of those facilities, or
 - Previously-issued permits for use and occupancy of state right-of-way.
- LEE must not be dangerous to persons or property using or occupying the right-of-way or using facilities constructed under previously-granted permits of right-of-way use or occupancy.
- Clearances, types of construction, and other specifications must be in accordance with INDOT standards and specifications. Specifications not included in the above must be in accordance with accepted standard practice.
- Any change or modification made in installing LEE covered by a permit, or any change or addition made to the approved LEE at any time after installation (other than that required by normal maintenance), will require a new permit. Failure to obtain a new permit will void any permits previously issued for the LEE at issue and will entitle INDOT to remove it at the expense of the permittee.
- If the permit involves installation of LEE outside of the permittee’s jurisdiction, the permit may be revoked or altered at any time to accommodate a request by the other municipality or local governing authority over the location where the LEE is installed.
- The permit may be revoked at any time if INDOT, in its sole discretion, determines it is in the best interest of the public.
- The permit may also be revoked if the LEE is found to have a detrimental effect on the operations of existing traffic systems.
- If a permit is revoked, INDOT will notify the permittee in writing. The permittee will have thirty (30) calendar days from the receipt of such notification to remove the LEE from the state right-of-way and return the site to the condition as it existed prior to the installation. Should the permittee fail to remove its LEE within this period, INDOT will remove it and

restore the right-of-way to its original condition at the sole cost of the permittee.

TERM OF PERMIT; RENEWAL; MAINTENANCE

The term of this type of permit will run for three (3) years. Renewal of the permit beyond its term may be accomplished by a request made in EPS.

Each instance of maintenance performed within state right-of-way will require its own permit.

SUMMARY

Law enforcement agencies should plan ahead to obtain permission from INDOT and all other involved entities such as local governments to implement LEE in state right-of-way. INDOT stands ready to support the state's law enforcement agencies with a process that ensures roadway safety and protects the public.

https://www.in.gov/indot/files/District_Permits_Map.pdf