S T A T E O F T E NN E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0488

January 4, 2001

Opinion No. 01-004

Use of Video Cameras to Enforce Traffic Ordinances

QUESTION

Does the City of Germantown have the authority to use video technology to enforce its traffic ordinances?

OPINION

Yes. Pursuant to its inherent "police power," the City of Germantown has the authority to enact ordinances allowing the use of video technology to enforce its traffic ordinances.

ANALYSIS

You have inquired whether the City of Germantown presently has the authority to utilize video technology to enforce traffic ordinances requiring motorists to obey traffic control signals and stop at railroad crossings.[1] The City of Germantown is a municipality which has enacted ordinance §20-182, requiring motorists to obey traffic control signals, and ordinance §20-143, imposing a duty on motorists to stop at railroad crossings upon the approach of a train. The legislature has given the City of Germantown broad power to enact ordinances as necessary to provide for the public health and general welfare. *See*, Germantown City Charter (Acts of 1985, Chapter 87, Section 2.02 (20)). State and local governments possess an inherent power, i.e., police power, to enact reasonable legislation for health, safety, welfare, morals, or convenience of the public. *State v. Booher*, 978 S.W.2d 953, 956 (Tenn. Crim. App. 1997) The "police power" of the state is founded in the constitution, being based upon the duty of the state to protect its citizens and provide for the safety and good order of society. *Id.* Nonetheless, "such regulations

[1]The use of video cameras to enforce traffic laws has generally been viewed as a permissible exercise of state and local government police power which is not violative of federal or state constitutional provisions. *See Stop! Photographic Enforcement of Red Lights* (Steven Naumchik), 30 McGeorge L. Rev.833; *Scowl Because You're on Candid Camera: Privacy and Video Surveillance* (Quentin Burrows), 31 Valparaiso L. Rev. 1079; *Facial Recognition Technology, Video Surveillance, and Privacy* (Christopher Milligan), 9 S. Cal. Interdisciplinary L.J. 295; *Video Surveillance on Public Streets: The Constitutionality of Invisible Citizen Searches* (Jennifer Granholm), 64 U. Det. L. Rev. 687; *Photo Radar: Friend or Foe?* (Lisa Morris), 61 UMKC L. Rev. 805.

may not be unreasonable, may not violate federal or state constitutional provisions. . . , and, in the case of ordinances, may not conflict with state statutes." *Id*.

Presently, there is no state statute which would conflict with the use of video technology to enforce the aforementioned traffic ordinances. Accordingly, it is the Opinion of this Office that, pursuant to the "police power" inherent in state and local government, the City of Germantown has the authority to enact ordinances authorizing the use of video technology to enforce its traffic ordinances.

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