STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

July 6, 2016

Opinion No. 16-24

Reviewing Video Evidence from a Traffic Light Monitoring System

Question 1

Does Tenn. Code Ann. § 55-8-198(b)(1) permit employees of private traffic camera companies who are neither law enforcement officers nor residents of Tennessee to review video footage from unmanned traffic cameras and determine whether there is a traffic violation before the private employees submit the footage to law enforcement officers for their review and final determination of a violation?

Opinion 1

No. Under Tenn. Code Ann. § 55-8-198(b)(1), "[o]nly POST-certified or state-commissioned law enforcement officers" are authorized "to review video evidence from a traffic light signal monitoring system and make a determination as to whether a violation has occurred." Employees of private traffic camera companies are not POST-certified or state-commissioned law enforcement officers and therefore are not authorized to review video evidence and make violation determinations.

Question 2

Under what legal authority may these private employees review such video evidence and determine whether or not Tenn. Code Ann. § 55-8-110(a)(3) was violated, or whether any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of § 55-8-110(a)(3) was violated, before sending the video evidence to police for their review, determination and verification?

Opinion 2

Please see Opinion 1. We are not aware of any other Tennessee statute that authorizes employees of private companies to review the video footage for the purpose of determining whether there has been a traffic violation.

ANALYSIS

Tennessee Code Annotated § 55-8-198(b)(1) provides that "[o]nly POST-certified or state-commissioned law enforcement officers shall be authorized to review video evidence from a traffic

light signal monitoring system and make a determination as to whether a violation has occurred."[1] In assessing whether this statute permits employees of a private company to review traffic camera footage to make preliminary violation determinations, the key issues are (i) whether the phrase "[o]nly POST-certified or state-commissioned law enforcement officers" precludes any substantive review by private employees; and (ii) whether the phrase "review video evidence from a traffic light signal monitoring system and make a determination as to whether a violation has occurred" includes the review of traffic camera evidence for the purpose of making preliminary violation determinations that are subsequently reviewed by law enforcement officers.

In construing a statute, courts must carry out the legislative intent and purpose of the General Assembly without unduly restricting or expanding a statute's coverage beyond its intended scope. *Arden v. Kozawa*, 466 S.W.3d 758, 764 (Tenn. 2015); *Shore v. Maple Lane Farms, LLC*, 411 S.W.3d 405, 420 (Tenn. 2013); *Waldschmidt v. Reassure Am. Life Ins. Co.*, 271 S.W.3d 173, 176 (Tenn. 2008). The best indicator of the General Assembly's intent and purpose is the plain and ordinary meaning of the statutory language. *Shore*, 411 S.W.3d at 420. The court must presume that every word has "meaning and purpose." *Id.* Only when the statutory language is ambiguous may the court consider the broader statutory scheme, public policy, the history of the legislation, or other means of statutory interpretation that go beyond the plain language. *Id.*

Section 55-8-198(b)(1) is not ambiguous. It plainly grants authority to review traffic camera evidence to "only POST-certified or state-commissioned law enforcement officers." The word "only" means "and no one or nothing more besides; solely or exclusively." *New Oxford American Dictionary* 1226 (3rd ed. 2010). Thus, the plain language of § 55-8-198(b)(1) unambiguously precludes anyone other than POST-certified or state-commissioned law enforcement officers from reviewing traffic camera evidence and making violation determinations. It follows that employees of private traffic camera companies lack authority to perform that function because they are not POST-certified or state-commissioned law enforcement officers.

The function that POST-certified or state-commissioned law enforcement officers are exclusively authorized to perform is "to review video evidence from a traffic light signal monitoring system and make a determination as to whether a violation has occurred." Notably, the word "determination" is not modified by "final" or "ultimate." The statutory language thus contemplates one review process in which *the* determination is made; it does not, in other words, contemplate sequential reviews. Nor does it otherwise suggest that the role of POST-certified or state-commissioned law enforcement officers is merely to review preliminary violation determinations made by someone else. Rather, § 55-8-198(b)(1) is most naturally read as conferring on POST-certified or state-commissioned law enforcement officers exclusive authority to engage in the substantive review of traffic camera evidence and to make violation determinations based on that review.

[1] As originally enacted in 2008, § 55-8-198(b) provided that "[a]n employee of the applicable law enforcement office shall review video evidence from a traffic light signal monitoring system and make a determination as to whether a violation has occurred." Tenn. Code Ann. § 55-8-198(b) (2008). In 2011, the General Assembly amended that provision by replacing the phrase "[a]n employee of the applicable law enforcement office shall review" with the phrase "[o]nly POST-certified or state-commissioned law enforcement officers shall be authorized to review." *See* 2011 Tenn. Pub. Acts, ch. 425, § 5.

This Office has consistently interpreted § 55-8-198(b) as granting exclusive authority to law enforcement officers to engage in the substantive review of traffic camera evidence and determine whether a violation has occurred. Before the relevant language was amended to its current form in 2011, this Office opined that the provision "prohibit[ed] private vendors from making the determination, based upon photographic evidence, that a traffic violation has occurred," Tenn. Att'y Gen. Op. 08-179 (Nov. 26, 2008), and meant that "*[o]nly* law enforcement personnel are authorized to review the information gathered by unmanned traffic surveillance cameras to determine whether a traffic violation has occurred," Tenn. Att'y Gen. Op. 11-3 (Jan. 7, 2011) (emphasis in original). While those opinions did not expressly address whether a private vendor may make preliminary violation determinations, they support the conclusion that the plain language of § 55-8-198(b)(1) strictly limits the authority to review traffic camera footage to law enforcement officers. Our earlier statement that it might be permissible for a vendor to "provide information which the city's law enforcement department could then use to decide whether and whom to cite for these traffic violations," Tenn. Att'y Gen. Op. 06-150 (Oct. 2, 2006), is not to the contrary. That opinion was issued before § 55-8-198 was enacted and addressed only whether it was permissible for a city to delegate by contract certain authority to a private company.

In sum, the plain language of § 55-8-198(b)(1) is most naturally read to mean that only POST-certified or state-commissioned law enforcement officers—and no one else—have authority to review traffic camera evidence and determine, based on that review, whether a traffic violation has occurred.

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