



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 18, 2023

H. Donald Brock, Jr., Esq.
Attorney, City of Greenwood
Post Office Box 941
Greenwood, Mississippi 38935-0941

Re: City Ordinance Requiring Security Camera Systems at Apartment
Complexes and Multi-Unit Family Developments

Dear Mr. Brock:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Under Mississippi law, and specifically pursuant to Mississippi Code Annotated Section 21-17-5, is the city of Greenwood (“City”) authorized to require the installation of security camera systems in large apartment complexes or multi-unit family developments to promote the public welfare, provide for the safety and comfort of the citizens of Greenwood, and to prevent or solve criminal activity within the City?
2. If the governing authorities of the City determine there is an active and earnest interest to protect the public, provide safety, and solve criminal activity, is the City empowered to curb and restrain criminal activity by enacting ordinances requiring the installation of security camera systems, to maintain and keep recordings for a period of days, and to establish penalties for violation of said ordinance for apartment complexes and residential multi-unit family developments?

Brief Response

1. It is the opinion of this office that the City-mandated security camera system about which you ask is not authorized under Mississippi law.
2. Mississippi law does not authorize the City to enact ordinances requiring the installation of security camera systems or to maintain and keep security camera recordings for a certain amount of time.

Applicable Law and Discussion

Official opinions of the Attorney General are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. While this office does not, by way of official opinion, interpret federal law, we find it necessary in this particular instance to examine certain federal law in order to resolve your questions. Any portion of this opinion referencing federal law is for informational purposes only.

Section 21-17-5, the “Home Rule” statute, provides, in pertinent part:

(1) The governing authorities of every municipality of this state shall have the care, management and control of the municipal affairs and its property and finances. In addition to those powers granted by specific provisions of general law, the governing authorities of municipalities shall have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi, and shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances.

Section 21-19-15(1) also provides: “The governing authorities of municipalities shall have the power to make all needful police regulations necessary for the preservation of good order and peace of the municipality and to prevent injury to, destruction of, or interference with public or private property.” While the statutes appear to give municipalities broad authority in crafting regulations and ordinances to manage municipal affairs and keep order, nothing in the plain language of the statutes expressly authorizes the City to require owners of private property to install security camera systems on their private property or to maintain recordings from those security camera systems and provide them to the City upon request. Instead, the municipal authority to adopt such resolutions and ordinances is limited by the requirement that such resolutions and ordinances be consistent “with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi. . . .” Miss. Code Ann. § 21-17-5(1).

Paramount to the issue of government-mandated security cameras on private property is the Fourth Amendment to the United States Constitution, which provides: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. CONST. amend. IV. The Mississippi Constitution’s corresponding section states: “The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search; and no warrant shall be issued without probable cause, supported by oath or affirmation, specially designating the place to be searched and the person or thing to be seized.” MISS. CONST. art. III, § 23. The Mississippi Supreme Court has stated that the purpose behind the Fourth Amendment “is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials.” *Crook v. City of Madison*, 168 So. 3d 930, 935 (Miss. 2015) (citation omitted). Installing security cameras on private property may raise serious

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constitutional issues. Physical intrusion on private property by the government for the purpose of obtaining information is without doubt a “search” within the meaning of the Fourth Amendment. . . .” *United States v. Jones*, 565 U.S. 400, 404-05 (2012) (holding that the Government’s placement of a GPS tracking device on an individual’s personal vehicle to track the vehicle’s movements constituted an unlawful search).

In addition to placing security camera systems on private property, the City also desires to monitor and retain the recorded footage obtained from the security camera systems. This also may raise serious constitutional issues regarding government’s access to and retention of personal information. *See City of Los Angeles v. Patel*, 576 U.S. 409, 419 (2015) (holding that a municipal code provision requiring hotel operators to provide police officers with specified information concerning guests upon demand violated the Fourth Amendment since it failed to provide hotel operators an opportunity for pre-compliance review).

The plain reading of the statute fails to authorize the City to mandate by ordinance that private property owners install and maintain security camera systems and make any recorded footage available to the City for a specified length of time. Again, any municipal resolution or ordinance must be consistent with the Mississippi Constitution and the laws of this state. Miss. Code Ann. § 21-17-5(1). “[A] municipal ordinance cannot authorize a search that the Mississippi Constitution prohibits.” *Okhuysen v. City of Starkville*, 333 So. 3d 573, 582 (Miss. Ct. App. 2022). “The validity of a search must be determined based on Section 23 of the Constitution and Mississippi Supreme Court decisions interpreting it, not by reference to municipal ordinances.” *Okhuysen*, 333 So. 3d at 582.

Therefore, it is the opinion of this office that the City-mandated security camera system about which you ask is not authorized under Mississippi law.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Gregory Alston

Gregory Alston
Special Assistant Attorney General