



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 21, 2024

The Honorable Mike J. Chaney
Commissioner of Insurance
State of Mississippi
501 North West Street, Suite 1001
Jackson, Mississippi 39201

Re: Usage of Automatic License Plate Readers for Auto Insurance Citations

Dear Commissioner Chaney:

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

Background

According to your request, you have been made aware that several municipalities have been approached by a private vendor (“Vendor”) with proposals to initiate an automatic license plate reader (“ALPR”) program to verify motor vehicle insurance coverage. As you have related, the Vendor would use the Department of Public Safety’s (“DPS”) Mississippi Vehicle Information Verification System (“MVIVS”), a database for verifying a motor vehicle’s compliance with Mississippi’s mandatory insurance laws, in conjunction with ALPRs to verify insurance coverage.

Questions Presented

1. May information recovered from DPS’s motor vehicle insurance database, MVIVS, be released to private entities?
2. Do municipalities have the legal authority to initiate and utilize ALPR cameras to verify motor vehicle insurance coverage?
3. Does a private entity have the legal authority to determine how a fee may be divided?

Brief Response

1. Information recovered from MVIVS may be released to private entities if such action is authorized by DPS in accordance with its rules as set forth in Mississippi Code Annotated Sections 63-16-3 and 63-16-7.
2. Although municipalities are not explicitly prohibited by Mississippi law from initiating and utilizing ALPR cameras to verify motor vehicle insurance coverage, certain factual and legal determinations, which are outside the scope of this opinion, must be considered in regard to the proposed uses of MVIVS under the applicable ALPR-based program.
3. Any fee-split agreement between a municipality, DPS, and a third-party Vendor is a contractual matter upon which this office may not opine. *See* Miss. Code Ann. § 7-5-25.

Applicable Law and Discussion

To begin, this opinion concerns matters of state law only and does not address U.S. Constitutional or federal law or any contractual considerations.

You first ask if information recovered from MVIVS may be released to private entities. The Public Safety Verification and Enforcement Act is set forth in Sections 63-16-1, *et seq.* In accordance with Section 63-16-3 therein, DPS established MVIVS, a database for verifying a motor vehicle's compliance with Mississippi's mandatory insurance laws. Section 63-16-3(3) sets forth various statutory requirements for MVIVS. Among these, Section 63-16-3(3)(c) provides that MVIVS must "[b]e accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, and other entities authorized by the department under the provisions of Section 63-16-7." (emphasis added).

Under Section 63-16-7, DPS is given broad authority over the administration and enforcement of MVIVS and is granted the power to enact rules for the same:

(1) The Department of Public Safety, hereinafter referred to in this section as "department," shall administer and enforce the provisions of this chapter, as applicable, and shall make rules necessary for the administration of the motor vehicle insurance verification system created under Section 63-16-3.

...

(3) The department may adopt additional rules to:

(a) Assist authorized users in interpreting responses received from the motor vehicle insurance verification system and determining the appropriate action to be taken as a result of a response; and

(b) Otherwise clarify system operations and business rules.

Given these provisions, it is the opinion of this office that information recovered from MVIVS may be released to private entities in the instance such action is authorized by DPS in accordance with its rules as set forth in Sections 63-16-3 and 63-16-7.

In regard to municipalities utilizing ALPR cameras, Section 17-25-19 provides:

(1)(a) Neither the board of supervisors of any county nor the governing authority of any municipality shall adopt, enact or enforce any ordinance authorizing the use of automated recording equipment or system *to enforce compliance with traffic signals, traffic speeds or other traffic laws, rules or regulations on any public street, road or highway within this state* or to impose or collect any civil or criminal fine, fee or penalty for any such violation.

...

(2) For the purposes of this section, the term “automated recording equipment or system” means a camera or optical device *installed to work in conjunction with a traffic control signal or radar speed detection equipment or both* and designed to record images that depict the license plate attached to the rear of a motor vehicle that is not operated in compliance with instructions of the traffic control signal or the posted speed limit.

(emphasis added). In sum, Section 17-25-19 prohibits the use of ALPRs that work in conjunction with traffic signals or radar equipment. This office addressed Section 17-25-19 in MS AG Op., *Sorrell* (Apr. 17, 2009), and opined that the statute did not completely prohibit the use of ALPR cameras but rather allowed municipalities to “continue to utilize cameras mounted on poles . . . for enforcement of criminal activity within the municipality as long as the cameras are not used in conjunction with a traffic control signal or radar speed detection equipment or both and designed to record images of a license plate.” (emphasis in original). Furthermore, Section 17-25-19 only addresses traffic laws, rules, and regulations.

The second part of your question asks if said ALPR cameras may be used to verify insurance coverage. As highlighted previously, Section 63-16-3(3)(c) states that MVIVS must “[b]e accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, and *other entities authorized by the department* under the provisions of Section 63-16-7.” (emphasis added). Additionally, Section 63-16-5 permits a law enforcement officer or authorized employee of a law enforcement agency to access MVIVS in relation to a traffic stop, with certain limitations. Specifically, Section 63-16-5 prohibits law enforcement officers from using MVIVS as the sole cause for a stop:

(1) A law enforcement officer or authorized employee of a law enforcement agency may, during the course of a traffic stop or accident investigation, access the verification system established under Section 63-16-3 to verify whether a motor vehicle is covered by a valid motor vehicle liability policy in at least the minimum amounts required under Section 63-15-3(j).

...

(3) *Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's motor vehicle is unsafe or not equipped as required by law, a law enforcement officer may not use the verification system to stop a driver for operating a motor vehicle in violation of this chapter.*

(emphasis added).

Further, Section 63-15-4(3) permits the use of MVIVS "at a roadblock where all passing motorists are checked as a method to enforce traffic laws." That section also states that "no driver shall be stopped or detained solely for the purpose of verifying that the motor vehicle is covered by liability insurance in the amounts required under Section 63-15-3(j) unless the stop is part of such roadblock." Miss. Code Ann. § 63-15-4(3).

Presumably, these provisions were enacted to prevent illegal searches. This said, whether the scenario you provide would constitute a "traffic stop" as contemplated by Section 63-16-5 or a "roadblock" as contemplated by Section 63-15-4 is a mixed question of fact and law upon which this office may not opine. *See* Miss. Code Ann. § 7-5-25. Nonetheless, if it is determined that such use does not constitute a "traffic stop" as provided in Section 63-16-5 and does not constitute an unlawful use of a "roadblock" as provided in Section 63-15-4, there are no other provisions within the Public Safety Verification and Enforcement Act that limit an entity authorized by DPS or a law enforcement officer's ability to access MVIVS. Rather, as noted above, DPS is provided broad statutory authority over the administration and enforcement of MVIVS.

Finally, you ask if a private entity has the legal authority to determine how a fee may be divided. Any fee-split negotiation and resulting agreement between these parties is a contractual matter upon which this office may not opine. *See* Miss. Code Ann. § 7-5-25.

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/ Maggie Kate Bobo*

Maggie Kate Bobo
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