



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

March 18, 2025

Jeffery J. Turnage, Esq.
Attorney, City of Columbus
Post Office Box 1366
Columbus, Mississippi 39703-1366

Re: Proposed ALPR-based Program

Dear Mr. Turnage:

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

Background

According to your request, Columbus (“City”) has been approached by a private company (“company”) to install Automated License Plate Recognition (“ALPR”) cameras on city roadways. The cameras would photograph the license plates of every vehicle that passes by and check the license plates of those vehicles against the state’s insurance database to determine whether the owner of the vehicle has car insurance. If an officer confirms that the vehicle’s owner does not have insurance, the company would mail the vehicle’s owner a traffic ticket stating that the vehicle owner will be prosecuted for driving without insurance unless he or she agrees to enroll in a diversion program and pay a \$315 fee that is split between the company and the municipality.

Questions Presented

1. In the provided scenario, can an officer establish probable cause that the owner of the photographed vehicle was also driving the vehicle in the absence of being able to independently verify who was driving the vehicle?
2. May municipalities contract with the company to install ALPRs in the absence of explicit statutory authority allowing municipalities to install ALPRs and issue no-insurance tickets from them?
3. Has the Mississippi Attorney General approved the subject deviations from the State’s Uniform Traffic Ticket?

4. Is the proposed program —where a private company and/or law enforcement officer unilaterally dismisses tickets outside of a court and without the judge’s consent— consistent with Mississippi statute providing when a traffic ticket may be dismissed?
5. Is the proposed diversion program consistent with Mississippi Code Annotated Section 63-9-11(3)(a)?
6. If the answer to question five is no, may the City lawfully contract with the company to operate a municipal court diversion program for driving without insurance?

Brief Response

1. The Mississippi Supreme Court has opined that a probable cause determination is dependent upon the applicable case-specific facts. *Benjamin v. Hooper Elec. Supply Co.*, 568 So. 2d 1182, 1190 (Miss. 1990). Pursuant to Section 7-5-25, this office may only issue opinions on questions of state law.
2. Section 21-17-5(1), known as the Home Rule statute, “grants municipalities the right to adopt ordinances with regard to their ‘municipal affairs’ . . . if said ordinances are not inconsistent with state legislation and/or the Mississippi Constitution.” *Jones v. City of Canton*, 278 So. 3d 1129, 1133 (Miss. 2019) (quoting *Maynard v. City of Tupelo*, 691 So. 2d 385, 387 (Miss. 1997)).
3. Section 7-5-25 authorizes this office to issue official opinions answering only questions of state law; therefore, we are unable to respond to your question.
4. While retaining the position stated in MS AG Op., *Miller* at *1 (Mar. 3, 1993) (“[A] misdemeanor affidavit, including a traffic ticket, can only be dismissed in accordance with Section 99–15–51 of the Mississippi Code”), ultimately, whether a particular program is consistent with a state statute is a factual determination to be made by the City or a court of law.
5. Section 63-9-11 “provides first-time violators of Chapter 3, 5, or 7 of Title 63 the option to complete a traffic safety violator course.” MS AG Op., *Purdie* at *4 (Aug. 30, 2024). But “Sections 63-15-4(4), relating to the failure to have proof of insurance, and 63-16-13(1), relating to the failure to maintain insurance, while not prohibiting such a diversion program, also do not specifically contemplate a diversion program.” *Id.* Whether a particular program is consistent with a state statute is a factual determination to be made by the City or a court of law.
6. Whether the City may lawfully contract with the company to operate a municipal court diversion program for driving without insurance would be dependent upon the applicable case-specific facts. As provided in MS AG Op., *Purdie* at *5, whether a diversion program ultimately meets all statutory requirements is a question of fact upon which this office may not opine.

Applicable Law and Discussion

You ask several questions regarding a proposed ALPR-based motor vehicle insurance verification program. Your first question is whether an officer can establish probable cause that the owner of a vehicle was also driving the vehicle in the absence of being able to independently verify who was driving the vehicle. You caveat this question by stating that ALPRs cannot determine a vehicle's driver. The Mississippi Supreme Court has opined that a probable cause determination is dependent upon the applicable case-specific facts. *Benjamin*, 568 So. 2d at 1190. There, the Court explained, "[i]n order to find probable cause there must be a concurrence of (1) an honest belief in the guilt of the person accused and (2) reasonable grounds for such belief." *Id.* When the facts are undisputed, the court determines probable cause, but when the facts are disputed, it is a jury question. *Id.* Either way, a probable cause determination requires the application of case-specific facts. Pursuant to Section 7-5-25, this office may only opine upon questions of Mississippi law; we are unable to opine upon mixed questions of fact and law.

You next ask if municipalities may contract with the company to install ALPRs in the absence of explicit statutory authority allowing municipalities to install ALPRs and issue 'no insurance' tickets from them. In MS AG Op., *Purdie* at *1, this office opined that municipalities are "not explicitly prohibited by Mississippi law from initiating and utilizing an ALPR-based motor vehicle insurance enforcement program. However, certain factual and legal determinations, which are outside the scope of this opinion, must be considered in regard to the proposed program." Section 21-17-5(1), known as the Home Rule statute, "grants municipalities the right to adopt ordinances with regard to their 'municipal affairs' . . . if said ordinances are not inconsistent with state legislation and/or the Mississippi Constitution." *Jones*, 278 So. 3d at 1133 (quoting *Maynard*, 691 So. 2d at 387). Subject to the specific exceptions set forth in Section 21-17-5(2), none of which are applicable here, "the powers granted to governing authorities of municipalities in this section are complete without the existence of or reference to any specific authority granted in any other statute or law of the State of Mississippi." Miss. Code Ann. § 21-17-5(1).

Third, you state that the proposed sample diversion ticket differs from the State's Uniform Traffic Ticket, and you ask if the Mississippi Attorney General has approved the subject deviations from the State's Uniform Traffic Ticket.¹ This question is outside the scope of an opinion. As noted above, Section 7-5-25 grants this office the authority to issue official opinions on questions of Mississippi law only.

Fourth, you ask if the proposed program—where a private company and/or law enforcement officer unilaterally dismisses tickets outside of a court and without the judge's consent—is consistent with Mississippi's statute providing when a traffic ticket may be dismissed. You highlight that this office has previously opined that a misdemeanor affidavit, including a traffic ticket, can only be dismissed in accordance with Section 99-15-51, which provides:

In prosecutions for petty misdemeanors, if the party injured appear before the court where the same shall be pending and acknowledge to have received satisfaction, on

¹ In MS AG Op., *Howell* at *2 (Nov. 8, 2024), we stated that "any traffic ticket, citation, or affidavit issued . . . must contain the information required by [Section 63-9-21(3)(b)-(d)] of the Uniform Traffic Ticket Law."

motion of the prosecuting attorney the court, if it shall adjudge that the ends of justice will be conserved thereby, may discharge the defendant and dismiss the proceedings and may require the payment of court costs.

See MS AG Op., *Miller* at *1 (“[A] misdemeanor affidavit, including a traffic ticket, can only be dismissed in accordance with Section 99–15–51 of the Mississippi Code.”). We retain the position stated in *Miller*. This said, whether a particular program is consistent with a state statute is a factual determination to be made by the City or a court of law. *See* Miss. Code Ann. § 7-5-25.

Next, you ask if the proposed diversion program is consistent with Section 63-9-11(3)(a), which provides individuals —under certain circumstances— the option of attending traffic safety school so that no record of a violation appears on their driving record. As discussed in *Purdie*, Section 63-9-11 “provides first-time violators of Chapter 3, 5, or 7 of Title 63 the option to complete a traffic safety violator course.” MS AG Op., *Purdie* at *4. But “Sections 63-15-4(4), relating to the failure to have proof of insurance, and 63-16-13(1), relating to the failure to maintain insurance, while not prohibiting such a diversion program, do not specifically contemplate a diversion program.” *Id.* We also note that Section 21-23-7 gives municipal judges the ability to “establish and operate a probation program, dispute resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice.” But again, whether a particular program is consistent with a state statute is a factual determination to be made by the City or a court of law. *See* Miss. Code Ann. § 7-5-25.

In follow up, you ask if the City may lawfully contract with the company to operate a municipal court diversion program for driving without insurance. Such question would be dependent upon the applicable case-specific facts. As provided in MS AG Op., *Purdie* at *5, whether a diversion program ultimately meets all statutory requirements is a question of fact upon which this office may not opine.

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
Special Assistant Attorney General