



Office of  
**MANATEE COUNTY  
ATTORNEY**

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**MEMORANDUM**

DATE: May 29, 2014  
TO: Board of County Commissioners  
THRU: Mitchell O. Palmer, County Attorney *MOP 5/29/14*  
FROM: Maureen S. Sikora, Assistant County Attorney *ms*  
RE: **Red Light Cameras**  
**CAO File No. 7001-014**

At the regular meeting held April 22, 2014, the Board of County Commissioners asked the County Attorney's Office to prepare a memorandum regarding the use of cameras for enforcement of red light traffic violations.

**QUESTION:**

What authority does the Board of County Commissioners have relating to the utilization of cameras for red light traffic violations?

**BRIEF ANSWER:**

The use of cameras to enforce red light traffic violations must comply with the provisions of Chapter 316, Florida Statutes. Pursuant to Section 316.0083, Florida Statutes, the Board of County Commissioners may authorize traffic infraction enforcement officers to issue notices of violation and traffic citations and must designate local hearing officers to conduct hearings on notices of violation issued for violations of Section 316.074(1) and Section 316.075(1)(c)1., Florida Statutes. The Board of County Commissioners does not have any power to instruct the Sheriff's Office as to proper enforcement of the traffic laws. However, in researching these issues (which included interviews with MCSO Sergeant Mike Kenyan), the County Attorney's Office is comfortable that the statutes are being properly and fairly enforced.

**DISCUSSION:**

Section 316.0083, Florida Statutes, establishes procedural requirements for the use of cameras to enforce violations of Section 316.074(1) and Section 316.075(1)(c)1., Florida Statutes. These two sections contain substantive regulations which govern the conduct of drivers with respect to traffic control devices and traffic signals.

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Section 316.074(1), Florida Statutes, states: "The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter." Section 316.075(1)(c)1., Florida Statutes, reads as follows:

(c) Steady red indication.–

1. Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown; however:

a. The driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience to a steady red signal may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and county authorities may prohibit any such right turn against a steady red signal at any intersection, which prohibition shall be effective when a sign giving notice thereof is erected in a location visible to traffic approaching the intersection.

b. The driver of a vehicle on a one-way street that intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red signal, but may then make a left turn into the one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that municipal and county authorities may prohibit any such left turn as described, which prohibition shall be effective when a sign giving notice thereof is attached to the traffic control signal device at the intersection.

The latter statute allows a driver to turn right (or left if appropriate) on a red light, but only after the vehicle has stopped at the intersection. The requirement to stop at a red light before making a turn applies no matter how careful the vehicle is being operated.

Section 318.0083(1)(a), Florida Statutes, as amended in 2013, provides in relevant part:

For purposes of administering this section, the department, a county, or a municipality may authorize a traffic infraction enforcement officer under s. 316.640 to issue a traffic citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1. A notice of violation and a traffic citation may not be issued for failure to stop at a red light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible. A notice of violation and a traffic citation may not be issued under this section if the driver of the vehicle came to a complete stop after crossing the stop line and before turning right if permissible at a red light, but failed to stop before crossing over the stop line or other point at which a stop is required.

The determination concerning what constitutes a careful and prudent manner for turning right at a red light must be made by a traffic infraction enforcement officer (not the Board of County Commissioners) upon review of the video before issuing a notice of violation or a traffic citation. Attached is a copy of a document

from the Manatee County Sheriff's Office dated April 27, 2014, entitled "Right-on-Red Turns at Intersections Equipped with Cameras".

Any person who receives a notice of violation may request a hearing before a local hearing officer designated by Manatee County Resolution No. R-13-156. Section 316.0083(5), Florida Statutes, as amended in 2013, specifies the procedures for hearings before local hearing officers. According to Section 316.0083(5)(f), Florida Statutes, an aggrieved party may appeal a final administrative order issued by a local hearing officer to the circuit court consistent with the process set forth in Section 162.11, Florida Statutes. The Board of County Commissioners has no involvement in either the hearings on notices of violation or the appeals of final administrative orders.

Enforcement of right turn violations at red lights is detailed in Attachment "A" Scope of Services to the Amended and Restated Agreement for Automated Red Light Enforcement System and Services between Manatee County, Florida, and Xerox State & Local Solutions, Inc., as amended by Amendment One to the Agreement. Revised Section E of the Scope of Services includes the following language pertinent to the Board's discussion:

The Contractor shall, for purposes of this Section, treat as a potential violation any right turn movement against a red signal when there is continuous movement around the turn and a speed approaching the turn equal to or exceeding twelve miles per hour (12 mph).<sup>1</sup> Pursuant to Section 316.0083, Florida Statutes, however, a Notice of Violation or Uniform Traffic Citation shall be issued only if a certified traffic enforcement officer finds that the driver is not making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible, and only in accordance with the requirements of Section 316.0083(1)(a), Florida Statutes.

\* \* \*

In the event a County employee or certified traffic enforcement officer . . . (ii) declines to issue a Notice of Violation or Uniform Traffic Citation meeting the criteria set forth above for right turn movements (provided that no event described in Article 15 of the Agreement has occurred that would prevent the issuance of such Notice or Citation), for each such failure Contractor shall receive a credit of \$75 towards Net Program Revenues for purposes of Section 4.G. of the Agreement.

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<sup>1</sup> Red light enforcement systems currently detect and record a continuous movement around a right turn only when the vehicle's speed approaching the turn equals or exceeds twelve miles per hour (12mph).

Based on the contractual provisions cited above, failure to enforce right turn violations at red lights would likely result in increased revenues (credits) owed by Manatee County to the Contractor. The Board of County Commissioners approved the Amended and Restated Agreement on September 11, 2012, and Amendment One to said Agreement on October 22, 2013.

If we can provide any additional information or answer any questions, do not hesitate to contact this office.

Attachment

Board of County Commissioners

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cc: Ed Hunzeker, County Administrator

John A. Barnott, Director, Building and Development Services Department

C.J. Dupré, Building Official, Building and Development Services Department

Brad Steube, Sheriff

Sergeant Mike Kenyan, Manatee County Sheriff's Office

Michele Hall, General Counsel, Manatee County Sheriff's Office

## MANATEE COUNTY SHERIFF'S OFFICE

### Right-on-Red Turns at Intersections Equipped with Cameras

Because the Legislature did not define “careful and prudent manner” as that term is used in F.S. 316.0083(1), deputies serving as traffic infraction enforcement officers are required to use discretion in determining whether a motorist executed a right-on-red turn in a careful and prudent manner. The vendor of the traffic infraction detectors (cameras) utilized by Manatee County previously informed the Manatee County Sheriff's Office (“MCSO”) that its cameras are activated only when a motor vehicle is traveling at or above 12 miles per hour. Upon considering the safety hazards associated with making a right-on-red turn while traveling at speeds at or above 12 miles per hour, MCSO traffic infraction enforcement officers concluded that drivers who make a right-on-red turn at speeds at or above 12 miles per hour are not acting in a careful and prudent manner. Accordingly, where a motorist makes a right-on-red turn that is captured by a traffic infraction detector camera, a violation of Florida Statute 316.0083(1) has occurred such that issuance of a Notice of Violation and Uniform Traffic Citation is proper.

In addition, F.S. 316.0083 expressly incorporates F.S. 316.074(1) and F.S. 316.075(1)(c). Neither of these statutes authorizes a driver facing a red light to proceed through the intersection without first coming to a complete stop. To the contrary, F.S. 316.075(1)(c) states, in relevant part, “Vehicular traffic facing a steady red signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown.” This language is consistent with the discretionary determination made by MCSO traffic infraction enforcement officers that a person making a right turn on red after approaching an intersection at or above 12 miles per hour without stopping is not acting in a “careful and prudent manner”.