In the wake of the passage of the state law pertaining to so-called "red light traffic cameras," [*See* Acts 2008, Public Chapter 962, effective July 1, 2008, codified at Tenn. Code Ann. § 55-8-198 (Supp. 2009)], numerous local governments have passed ordinances enacting regulatory schemes regarding use of this modern police tool. Previously in this newsletter I explored some possible challenges to red light camera ordinances. This is the fourth part in a series of articles that briefly explores some other possible challenges, and an appropriate municipal response based on cited case law.

Private Investigator Licensing Requirement Defense

1. A defendant may raise a defense that goes something like this:

(a) The State of Tennessee has enacted a state law regulatory scheme, known as the "Private Investigators Licensing and Regulatory Act" ("PI Act"), codified at Tenn. Code Ann. §62-26-201 *et seq.* (2009), which governs the licensing and operations of private investigators and private investigations companies or entities; and

(b) The state law applies to private camera companies that have contracts with municipal entities and the private camera companies must have a state license in order to operate in Tennessee; and

(c) The private camera company does not have a state license; and

(d) Because the private camera company does not have a license, any evidence obtained by the private camera company should be "suppressed."

2. A city may respond to this defense in the following ways:

A. The "PI Act" Does Not Require Nor Authorizes Exclusion of Evidence Obtained by a Non-licensed PI Company

3. The PI Act contains a definition section with the following pertinent definitions:

(6) "Investigations company" means any person who engages in the business or accepts employment to obtain or furnish information with reference to:

(E) The securing of evidence to be used before any court ….

> (8) "Person" means any individual, firm, association, company, partnership, corporation, … or similar entity.

Tenn. Code Ann. § 62-26-202(6)(E) and (8) (2009).

4. Section 62-26-204 contains the operative provision of the regulatory scheme and provides in pertinent part as follows: "(a) Except as otherwise provided in this part, it is unlawful for any person to act as an investigations company or private investigator without first obtaining a license from the commission." (Tenn. Code Ann. § 62-26-204(a) (2009))[1] You may concede that none of the exceptions "otherwise provided" to the requirement for a license appear to be applicable to your camera company, (*see* Tenn. Code Ann. § 62-26-223 and § 62-26-231 (2009)), and therefore, that the PI Act would appear to apply to your camera company, and that your camera company is required to have a license in order to operate in Tennessee. Nevertheless, even assuming arguendo that your camera company does not have a PI license, it does not follow *ipso facto* that any evidence obtained by the city through use of the camera surveillance system is inadmissible at the trial of defendant in a civil proceeding in city court for violating a city ordinance.

5. The PI Act does not contain any provision whatsoever that prohibits the use of evidence in a court that was obtained by an unlicensed private "investigations company." Not only is there no express provision to the effect that any evidence gathered by such an unlicensed entity must be suppressed, but there is not even any provision from which such an effect might be implied. The statute simply makes it unlawful for private investigators and companies to operate without a license, and provides further that a violation of the PI Act by a private investigation person or company constitutes a Class A misdemeanor[2], and that no action taken by the Commission to enforce the PI Act and the rules or regulations promulgated there under shall preclude criminal prosecution of the private investigator or company under state criminal law

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[1] *See* Tenn. Code Ann. § 62-26-301 *et seq*. (2009), pertaining to creation of the Tennessee Private Investigation and Polygraph Commission to enforce the PI Act and authorizing it to promulgate rules and regulations thereunder.

[2] *See* Tenn. Code Ann. § 62-26-230 (2009).

pertaining to the unauthorized practice of a profession for which a state license is required.[3] The only remedy available to a defendant who has allegedly suffered harm or damages as a result of a violation of the state law pertaining to licensing of private investigators and investigation companies is to persuade the District Attorney to pursue criminal charges against the investigator or company, or to pursue administrative action through the Tennessee Private Investigation and Polygraph Commission,[4] or they may be able to file a lawsuit against the private investigator or investigation company for any alleged damages if they can show a legal injury other than the mere fact that they had to pay a fine in connection with their illegal activity.[5] See in Bell v. Redflex Traffic Systems, Inc., 2009 U.S. Dist. LEXIS 85263 (E.D. Tex. 2009). In Bell, the plaintiffs sued Redflex camera company in federal court for damages and a permanent injunction to prohibit Redflex from operating without a private investigator license, as required by a Texas state statute,[6] similar to the Tennessee law at issue herein, governing the licensing of private investigators and investigation companies. The Bell plaintiffs pursued a theory of negligence *per se* for their cause of action, asserting in essence that Redflex had a duty to comply with the provisions of the licensing statute, that Redflex breached its' duty by violating the state statute, and therefore was negligent *per se*, and that plaintiffs suffered damages by having to pay the fine associated with their violation of the red-light camera ordinance. The Bell court rejected the plaintiffs' claims, holding that the plaintiffs had failed to carry their burden to establish "standing" to sue, and therefore the court had no jurisdiction to adjudicate their claims. In so holding, the court focused on whether Redflex's actions violated any of the plaintiffs' legally cognizable rights. For the sake of argument, and without directly addressing the issue, the court assumed that Redflex had indeed violated the state statute by operating without a license, and thus illegally obtained evidence against the plaintiffs. But this assumption, according to the Bell court, did not end the inquiry and automatically entitle plaintiffs to pursue their claims. In this regard, the Bell court stated:

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[3] *See* Tenn. Code Ann. § 62-26-227 (2009).

[4] *See* Tenn. Code Ann. § 62-26-301 *et seq*. (2009); *see also* Rules of Tennessee Private Investigation and Polygraph Commission, Chapter 1175-1, Rule 1175-1.07.

[5] *But see* Bell v. Redflex Traffic Systems, Inc., 2009 U.S. Dist. LEXIS 85263 (E.D. Tex 2009).

[6] *See* Texas Occupation Code, § 1702.001 *et seq*. (2009) Although the Texas and Tennessee statutes are quite similar, even verbatim in most respects, there is one crucial difference as will be explained below; *see* Texas Occupation Code § 1702.104 (b) and the absence of any such corresponding language in the Tennessee statute.)

Plaintiffs complain that they were forced to pay the cost of their red light tickets and incur other incidental costs. *But Plaintiffs have no standing to complain that Redflex produced evidence against them.* Equally unavailing are Plaintiffs' concerns that they were forced to bear the consequences of their illegal action.

Redflex has not abridged any of Plaintiffs rights by the mere act of providing evidence against them, even if that evidence was illegally obtained. Defendant Redflex may have obtained the evidence illegally, but that does not end the Court's inquiry. The next step – which Plaintiffs overlook – is whether Defendant Redflex's action were in derogation of any of Plaintiffs' rights.

A criminal defendant has no general right to be free from illegally procured evidence. Rakas v. Illinois, 439 U.S. 128, 133-34, 99 S. Ct. 421, 58 L.Ed.2d 387 (1978). Only evidence secured in violation of the complaining defendant's rights have garnered protection from the courts. *Id.*; Wong Sun v. United States, 371 U.S. 471, 492, 83 S.Ct. 407, 9 L.Ed. 441 (1963). … Like the criminal defendant, Plaintiffs [in the instant case] must point to something more than the production of illegally procured evidence.

The "something more" that Plaintiffs point to is the costs they have incurred from running red lights. However, Plaintiffs do not have an interest in getting away with their illegal conduct. Plaintiffs are correct that their guilt does not open the door for Defendant to infringe on Plaintiffs' otherwise legally protected rights and interests. However, Plaintiffs do not have a legally protected right to engage in illegal conduct and be free from the consequences of that activity. For example, in the criminal context, even a guilty defendant has certain rights on which the government may not tread in its efforts to secure evidence against the defendant. Katz v. United States, 389 U.S. 347, 350, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967). Thus, a criminal defendant may successfully complain of government activity that infringes on the defendant's right, such as a warrantless search. Schmerber v. California, 384 U.S. 757, 770, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966). Yet, *the criminal defendant who complains only that the government's activity thwarted his illegal conduct or led to his conviction has no standing for relief – either through exclusion of the evidence* or in the form of a private cause of action. … To allow otherwise would completely turn our criminal justice system – a primary goal of which is to prevent criminal action – on its head. The same is true in the case at hand. Plaintiffs' allegation that they suffered consequences for violating the law is unavailing. This cannot form the foundation for Plaintiffs' right to bring this action.

Plaintiffs adamantly attempt to distract the Court with the fact that Defendant Redflex's cameras generated the evidence used against Plaintiffs. Plaintiffs repeatedly remind the court that (1) they paid the traffic fines; and (2) the fines resulted "solely and entirely" from Defendant Redflex's photographs. But the first element of standing is injury in fact, and that is where Plaintiffs' argument fails. Defendant's actions – illegal or otherwise – are of no consequence if Plaintiffs suffered no legal injury. … Here Plaintiffs have demonstrated no independent right that Defendant's actions have infringed. To be sure, Plaintiffs have suffered a monetary loss in the form of fines and

> other incidental costs. But the Court's standing analysis considers only injury to a legally protected interest. For the reasons discussed above, Plaintiffs' loss does not rise to that level.

Bell v. Redflex Traffic Systems, Inc., 2009 U.S. Dist. LEXIS 85263 (E.D. Tex. 2009) [emphasis added; footnotes ommitted].

6. As Bell makes clear, a defendant does not have a "general right to be free from illegally procured evidence," and he does not "have a legally protected right to engage in illegal conduct and be free from the consequences of that activity." *Id*. Thus, a defendant's complaint regarding a city's action in obtaining photographic and video evidence against him through use of a red-light surveillance camera system, despite the camera company's unlicensed status under the PI Act, does not entitle him to exclusion of said evidence at his civil trial in city court.

7. The holding in Bell is buttressed by another red light camera case from a different federal district court in Texas, where the plaintiffs received tickets, and sued a Redflex competitor, ACS. In that case, Verrando v. ACS State and Local Solutions, 2009 U.S. Dist. LEXIS 84034 (N.D. Tex. 2009), the court reached the same conclusion as the Bell court, finding plaintiffs had no standing to sue for negligence per se under the Texas Occupation Code pertaining to licensing of private investigation companies. In so holding, the Verrando court stated:

> [P]laintiffs contend that another injury [besides paying the fine] they have suffered is the use of evidence secured by an unlicensed company in the issuing of their civil fines. … They contend that the gathering of such information is a violation of their right to privacy. [citation omitted] However, "the courts do not concern themselves with the method by which a party to a civil suit secures evidence pertinent and material to the issues involved, and which he adduces in support of his contention, and hence evidence which is otherwise admissible may not be excluded because it has been illegally and wrongfully obtained." [citation omitted] "Evidence illegally obtained is admissible in civil cases under the common-law rule." [citation omitted].

Verrando v. ACS, 2009 U.S. Dist. LEXIS 84034 (N.D. Tex. 2009)

B. The "Exclusionary Rule" Does Not Apply and is Not an Authorized Remedy for Violations of State Licensing Laws

8. The "exclusionary rule"[7] is a judicially created remedy for certain violations of a defendant's fourth, fifth, and sixth amendment rights in criminal cases under the federal constitution.[8] Many of the individual rights established by these amendments that have application in criminal case matters and which are "fundamental to our concept of ordered liberty"[9] have been made applicable to and binding upon the states by incorporation of said rights into the "due process" clause of the fourteenth amendment to the federal constitution.[10] The exclusionary rule is premised on deterrence – its purpose is to prevent law enforcement actions that trample upon constitutional right guarantees by removing any incentive to violate those rights in the competitive enterprise of ferreting out crime. It is simply a prophylactic device intended generally to deter *constitutional* violations by law enforcement officers in criminal cases. If the police violate the fourth, fifth, or sixth amendment rights of a defendant in a criminal case, then the exclusionary rule requires that any evidence obtained as a result of that violation must be excluded at trial as inadmissible.

9. The "fruit of the poisonous tree" doctrine is also a judicially crafted rule,[11] but is not

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[7] The "exclusionary rule" was first announced by the United States Supreme Court in Weeks v. United States, 232 U.S. 383; 34 S.Ct. 341; 58 L.Ed. 652; 1914 U.S. LEXIS 1368 (1914) but was made applicable only to violations by federal law enforcement officials in federal criminal court cases of a defendant's fourth amendment rights. The exclusionary rule was made applicable to the states by way of the 14th Amendment in Mapp v. Ohio, 367 U.S. 643; 81 S.Ct. 1684; 6 L.Ed.2d 1081; 1961 U.S. LEXIS 812 (1961).

[8] *See* Weeks v. United States, 232 U.S. 383; 34 S.Ct. 341; 58 L.Ed. 652; 1914 U.S. LEXIS 1368 (1914); Mapp v. Ohio, 367 U.S. 643; 81 S.Ct. 1684; 6 L.Ed.2d 1081; 1961 U.S. LEXIS 812 (1961); Stone v. Powell, 428 U.S. 465; 96 S.Ct. 3037; 49 L.Ed.2d 1067; 1976 U.S. LEXIS 86 (1976).

[9] *See* Duncan v. Louisiana, 391 U.S. 145; 88 S.Ct. 1444; 20 L.Ed.2d 491; 1968 U.S. LEXIS 1631 (1968).

[10] *See eg*. Wolf v. Colorado, 338 U.S. 25; 69 S.Ct. 1359; 93 L.Ed. 1782; 1949 U.S. LEXIS 2079 (1949) (fourth amendment prohibition against unreasonable searches and seizures); Malloy v. Hogan, 378 U.S. 1; 84 S.Ct. 1489; 12 L.Ed.2d 653; 1964 U.S. LEXIS 993 (1964) (fifth amendment privilege against compulsory self-incrimination); Benton v. Maryland, 395 U.S. 784; 89 S.Ct. 2056; 23 L.Ed.2d 707; 1969 U.S. LEXIS 1167 (1969) (fifth amendment prohibition against double jeopardy); Duncan v. Louisiana, 391 U.S. 145; 88 S.Ct. 1444; 20 L.Ed.2d 491; 1968 U.S. LEXIS 1631 (1968) (sixth amendment right to trial by jury); Pointer v. Texas, 380 U.S. 400; 85 S.Ct. 1065; 13 L.Ed.2d 923; 1965 U.S. LEXIS 1481 (1965) (sixth amendment right to confront witnesses).

[11] The "fruit of the poisonous tree" doctrine was first announced by the United States Supreme Court in Silverthorne Lumber Co., Inc. v. United States, 251 U.S. 385; 40 S.Ct. 182; 64 L.Ed. 319; 1920 U.S. LEXIS 1685 (1920); and

an alternative basis to the "exclusionary rule" for suppression of evidence. Rather, the "fruit of the poisonous tree" doctrine is an extension of the exclusionary rule and provides that not only must evidence illegally obtained in violation of a defendant's fourth, fifth, or sixth amendment rights be excluded at the defendant's criminal case trial, but also any and all evidence that was obtained or derived from exploitation of the illegally obtained evidence must also be excluded, unless the subsequently obtained or derived evidence can be shown to fit within a few narrowly drawn exceptions to the rule. In other words, subsequent evidence that is discovered or procured through the use of knowledge gained from the prior evidence obtained in an illegal manner violative of a defendant's fourth, fifth, or sixth amendment rights is deemed to be "tainted fruit [the new or subsequently discovered evidence] of the poisonous tree [the original illegally obtained evidence]" and must be suppressed. However, the "tainted" evidence can still be ruled admissible if one of the judicially carved out exceptions to the "doctrine" is found to apply, such as the "independent source"[12] or "inevitable discovery"[13] exceptions for example, thus removing the "taint" from the later discovered or obtained evidence.

10. A defendant's argument that the "exclusionary rule" and / or its' "tainted fruit of the poisonous tree" extension contains the fatal flaw in that the "rule" and / or "doctrine" only has application in criminal cases and forfeiture cases[14] arising out of criminal cases, and even then only as a remedy for a violation of a defendant's fourth, fifth or sixth amendment rights by the police.[15] This drastic remedy is not available in ordinary civil cases not involving forfeiture.

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reaffirmed in Nardone et al. v. United States, 308 U.S. 338; 60 S.Ct. 266; 84 L.Ed. 307; 1939 U.S. LEXIS 1132 (1939). *See also* Wong Sun v. United States, 371 U.S. 471; 83 S.Ct. 407; 9 L.Ed.2d 441; 1963 U.S. LEXIS 2431 (1963)

[12] *See* Murray v. United States, 487 U.S. 533, 108 S.Ct.2529; 101 L.Ed.2d 472; 1988 U.S. LEXIS 2881 (1988).

[13] *See* Nix v. Williams, 467 U.S. 431; 104 S.Ct. 2501; 81 L.Ed.2d 377; 1984 U.S. LEXIS 101 (1984).

[14] *See* One 1958 Plymouth Sedan v. Pennsylvania, 380 U.S. 693; 85 S.Ct. 1246; 14 L.Ed.2d 170; 1965 U.S. LEXIS 1345 (1965), where the United States Supreme Court applied the exclusionary rule to a civil forfeiture case, finding it a *quasi-criminal* case but basing its' holding on a violation of the vehicle owner's fourth amendment rights by law enforcement agents.

[15] *See eg.* United States v. Calandra, 414 U.S. 338; 94 S.Ct. 613; 38 L.Ed.2d 561; 1974 U.S. LEXIS 145 (1974) (exclusionary rule does not apply to grand jury proceedings where questions of witness were based on unlawful search and seizure); Immigration and Naturalization Service v. Lopez-Mendoza, 468 U.S. 1032; 104 S.Ct. 3479; 82 L.Ed.2d 778; 1984 U.S. LEXIS 156 (1984) (exclusionary rule does not apply to civil deportation proceeding arising out of unlawful arrest); Pennsylvania Board of Probation and Parole v. Scott, 524 U.S. 357; 118 S.Ct.2014; 141 L.Ed.2d 344; 1998 U.S. LEXIS 4037 (1998) (exclusionary rule does not apply to bar evidence obtained in violation

Applying the exclusionary rule in civil cases where there has been no violation of a defendant's fourth, fifth, or sixth amendment rights would not serve the purpose for which the rule was established, which is to deter future unlawful police misconduct by prohibiting the use at a criminal trial against a defendant of any evidence obtained in violation of a defendant's fourth, fifth, or sixth amendment constitutional rights. In the ordinary red light camera case, the exclusionary rule simply does not apply to such a civil proceeding. Even considering the proceeding to be *qausi-criminal* in nature in the same manner as a forfeiture case, the exclusionary rule still does not apply because there is no showing, in the ordinary red light camera case, that the defendant has suffered a violation of his fourth, fifth, or sixth amendment rights. The failure of a camera company to comply with a mere state licensing statute simply does not rise to the weighty constitutional dimensions for which the exclusionary rule was created. In United States et al. v. Janis, 428 U.S. 433; 96 S.Ct. 3021; 49 L.Ed.2d 1046; 1976 U.S. LEXIS 162 (1976), the United States Supreme Court held that the exclusionary rule does not apply to non-forfeiture civil cases and may only be used as a remedy for violations of a criminal defendant's fourth, fifth or sixth amendment rights by law enforcement agents. The mere violation of a state licensing statute by an independent contractor third party with contractual relations with a city simply does not rise to the level required for implication and application of the exclusionary rule or the "fruit of the poisonous tree" doctrine.

11. The exclusionary rule is only applicable to state actors, such as law enforcement, not private citizens. *See Bishop v. State*, 582 S.W.2d 86, 91 (Tenn. Crim. App. 1979) ("The safeguard of the exclusionary rule in such matters does not apply to the activities of private citizens."); *Ennis v. State*, 549 S.W.2d 380, 382 (Tenn. Crim. App. 1976) ("The safeguards of the exclusionary rule do not extend to the activities of private citizens."). The camera companies are private companies, and not a state agent or actor. *See City of Knoxville v. Joshua David Kimsey*, No. E2008-00850-COA-R3-CD, 2009

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of parolee's fourth amendment rights at parole revocation hearing). *See also* Wolf v. Commissioner of Internal Revenue, 13 F.3d 189; 1993 U.S. App. LEXIS 33972 (6th Cir. 1993) (exclusionary rule not applicable in civil tax proceeding to bar evidence seized in an illegal search); Grimes v. Commissioner of Internal Revenue, 82 F.3d 286; 1996 U.S. App. LEXIS 8002 (9th Cir. 1996) (same); BJS No. 2, Inc. v. Troy Police Dept., 2003 U.S. Dist. LEXIS 27475 (S.D. Ohio 2003) (exclusionary rule not applicable to civil nuisance action); Garner v. Lambert, 558 F.Supp. 2d 794; 2008 U.S. Dist. LEXIS 41400 (N.D. Ohio 2008) (exclusionary rule not applicable to civil administrative proceeding for revocation of firearm dealer license).

Tenn. App. LEXIS 209, at *6 (Tenn. Ct. App. May 13, 2009), "[The camera company's] only duty is to gather the photos and data via the cameras, and this does not constitute any exercise of police powers." Because the failure of private camera company to obtain a license is an act solely of the private company, not the government, the exclusionary rule does not apply.

12. Furthermore, even if the camera company is considered a governmental agent or actor rather than a private citizen or entity because it collects data to provide to law enforcement, it is statutorily exempt from the licensing statute. The private investigator licensing statute specifically excludes a "governmental officer or employee performing official duties." Tenn. Code Ann. § 62-26-223(b)(1).

13. Finally, although not directly on point, the Court of Appeals has at least suggested that the failure to obtain a private investigator license, if required, would not mandate exclusion of evidence obtained by that private investigator. In *Doochin v. United States Fidelity & Guaranty Co.*, 854 S.W.2d 109, 114-15 (Tenn. Ct. App. 1993), the plaintiff called a rebuttal witness to testify as an expert about the progression of a fire, and the witness's testimony was challenged in part because he did not have a license as a private investigator pursuant to Tenn. Code Ann. § 62-26-204. In addressing the issue on appeal, the Court stated,

> The appellant cites no authority for the position that a person who comes within the definition of the Act but does not have a license is disqualified as a witness. We have our doubts about the application of the statute to the witness, but even if the statute applies to him, a license is only one factor affecting his expertise. Therefore, we find this issue to be without merit.

Id.

C. The "PI Act" License Requirement As It Pertains to Traffic Surveillance Camera

Companies Has Been Preempted by Subsequent State Law Permitting Local Governments to Use "Red-Light" Surveillance Cameras

14. The "PI Act" was passed by the state legislature and became effective in 1990. The "red light camera" ordinance was passed by the state legislature and became effective on July 1, 2008. Under rules of statutory construction, there is a presumption that the state legislature was aware of the provisions of the PI Act at the time it passed the red-light camera enabling statute. The red-light camera statute sets forth the requirements for state and for local governments to use red light cameras in Tennessee. These "hurdles" are the only requirements that must be satisfied before the red light cameras may be used. Since the red-light camera statute does not mention any requirement for a red light camera company to comply with the provisions of the PI Act, which the legislature could have easily done by making reference to that act, and since the red light camera statute was passed subsequent to the PI Act, then the provisions of the red light camera statute take precedence over the PI Act by normal rules of statutory construction. Therefore, there being no requirement in the surveillance camera enabling statute for a surveillance camera company to have obtained a PI license, then a camera company may operate cameras in conjunction with its' contract a city without having the PI license. This construction is lent weight by a close reading of Tenn. Code Ann. § 55-8-198 which indicates that red light enforcement cameras can be utilized by "[a]n employee of the applicable law enforcement office." City of Knoxville v. Brown, 284 S.W.3d 330, 336; 2008 Tenn. App. LEXIS 436 (Tenn. Ct. App. 2008).

15. In the alternative, the PI Act does not apply because it does not contain any express provisions making it clearly applicable to entities that only install and operate video surveillance cameras, the products of which are furnished to local law enforcement agencies. This construction of the law is required because the PI Act must be construed in a strict manner against the state unless the statute provides otherwise, which it does not. That this is the proper interpretation is revealed by a close reading of a similar statute from Texas. The Texas statute uses the same verbatim definitional language to describe the meaning of an "investigations company" as the Tennessee statute, with one crucial, important difference that specifically deals with the use of computer based data. This extra subsection of the Texas law states as follows:

> (b) For purposes of Subsection (a)(1), obtaining or furnishing information includes information obtained or furnished through the review and analysis of, and the investigation into the content of, *computer-based data* not available to the public.

Texas Occupations Code, § 1702.104 (b) [emphasis added].

Thus, by its' terms, the Texas statute makes it clear that it applies to companies that merely review or analyze computer based data, while the corresponding Tennessee PI Act contains no such provision. Therefore, it is reasonable to assume that the PI Act does not apply to companies that merely collect, review and analyze computer based data (which is what the video and photographic shots are, digital data), because the Tennessee legislature could have easily inserted such language into the statute to make it clear that such conduct or action would be covered by the licensing statute. Since no such language was included in the Tennessee statute, and because state statutes must be strictly construed against the state unless the statute provides otherwise, which the PI Act does not, then a reasonable interpretation of the PI Act is that it does not apply to surveillance camera companies. (*See* Memphis v. Bing, 94 Tenn. 644; 30 S.W. 745 (1895) (statutes which impose restrictions upon trade or common occupations must be strictly construed); Graham v. Thompson, 174 Tenn. 278; 125 S.W.2d 133 (1939) (statutory provisions in force in other jurisdictions are not determinative in the interpretation of Tennessee statutes, but have a bearing on public policy and the soundness of general rules relating to statutes in question); State v. Wallace, 168 Tenn. 591, 79 S.W.2d 1027 (1935) (statutes are to be construed with reference to existing law); State ex rel. Metro. Gov't v. Spicewood Creek Watershed Dist., 848 S.W.2d 60 (Tenn. 1993) (courts should avoid a construction which places one statute in conflict with another; potential conflicts between statutes should be resolved in favor of each statute, if possible, to provide a harmonious operation of the laws).