



April 22, 2010

Mayor Sam Adams
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman
1221 SW Fourth Avenue
Portland, Oregon 97204

**Re. City of Portland's Compliance with Oregon Photo Radar Law
ACLU Testimony on ORS 810.438(2)(a) & (b)**

Dear Mayor Adams & Commissioners Fish, Fritz, Leonard and Saltzman:

I wanted to follow up with the concerns ACLU raised at the April 7, 2010 hearing on authorization of the two contracts with Affiliated Computer Services (ACS) for joint photo radar and red light camera operations in Portland.

Specifically, as we discussed, Oregon law gives local jurisdictions the authority to use photo radar in: 1) residential areas 2) school zones or 3) in other areas ***if the governing body of the city makes a finding that speeding has had a negative impact on traffic safety in those areas.*** ORS 810.438 (2)(a) and (b).

Oregon law also allows the Oregon Department of Transportation to operate photo radar within a ***highway*** work zone that is located on a state highway. At its own cost, the ODOT may ask jurisdictions authorized to use photo radar unit in a state highway work zone. ORS 810.439 (Sec. 4 (1) & (2) Highway work zone).¹

Section 1 (2) of the City's recently approved Photo Radar Ordinance directs "the Police bureau to deploy the photo radar vans in school zones, highway work zones, residential streets, and SAFE zones." It further states: "Strategic And Focused Enforcement (SAFE) zones are those locations having a high number of speeding violations and speed related crashes. There are approximately 18 SAFE zone locations within the city."

We raised two legal issues about the current use of photo radar in Oregon.

¹ Section 4 is a temporary law immediately proceeding ORS 810.439 and is part of the Oregon law until it expires on December 31, 2014 (2007 Chapter 634).

Use of Photo Radar Letter

April 22, 2010

Page 2

During the Council hearing, in response to our testimony expressing concern about the scope of photo radar beyond school and residential zones, there was testimony that one of the Bureaus, possibly Bureau of Transportation had determined the 18 SAFE zones but it did not appear that at any time Council made specific findings. We believe that Council cannot delegate to a bureau to make findings that speeding has a negative impact on traffic safety. Instead, Council must make specific findings prior to the use of photo radar in any area outside of residential and school zones, including these approximately 18 designated SAFE zones.

Second, during the hearing, there was some testimony that the photo radar vans are used in "work zones." Under ORS 810.439 the use of the vans is limited to *highway* work zones and is only allowed when authorized by ODOT. We ask that there be clarification about the scope of this use and that Council review all records of requests by ODOT for use of the Portland photo radar vans in any highway work zone to ensure compliance with the law.

We very much appreciate the consideration given to us by Council when these issues were raised on April 7 and we look forward to the follow up that was requested by Council during that hearing. We would like to know the next steps to ensure that the City of Portland is complying with Oregon's law regarding the use of photo radars.

Please do not hesitate to contact me.

Very truly yours,

Andrea Meyer
Legislative Director/Counsel

cc: Linda Meng, City Attorney