

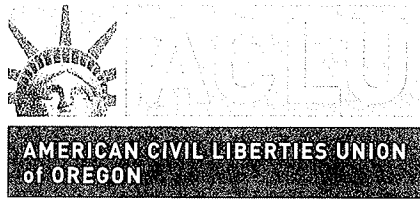
ACS STATE AND LOCAL SOLUTIONS PHOTO RADAR AND RED LIGHT CAMERA CONTRACTSIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

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**Testimony of Andrea Meyer
Legislative Director/Counsel**

**Before
Portland City Council
Agenda Items 484 & 485
Photo Radar and Red Light Cameras**

April 7, 2010

The American Civil Liberties Union of Oregon believes there are important questions that need to be answered prior to the City Council renewing two 5 year contracts for nearly \$8 million dollars with Affiliated Computer Services (ACS) for joint photo radar and red light camera operations in Portland.

Due Process & Privacy Issues

Problems have arisen across the country regarding the incentive provided to private vendors when contract payments are based on a cut of each ticket, which is the same model used here. In other jurisdictions, changes in calibration of the system, even minor changes, have affected the number of drivers who will receive a ticket. What steps is Portland taking to ensure that there is meaningful and ongoing system oversight of both the photo radar and red light camera operations?

As part of any contract with a third-party vendor authorizing access to government records, the City should be aware of the risks of "mission creep" and explicitly prohibit the use of any data collected from photo radar or red light camera violations for any other use. For instance, it has been reported that ACS has a contract with about 24 states to track down delinquent child support payments and with the US Department of Education to find students who have failed to pay their loans on time. There should be explicit restrictions in any contract with the City preventing the use of any information and data collected by ACS in operating Portland's photo radar and red light program from migrating to any other business or commercial use by ACS or anyone else.

Compliance with Oregon Law

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 Department of Transportation to operate photo radar within a highway work zone that is located on a state highway. At its own cost, the Oregon DOT 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 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.”

Two very important questions arise about compliance with these provisions of Oregon law. First, while ORS 810.438 authorizes the use of photo radar vans in school and residential zones, the use of the vans in highway work zones is only allowed when authorized by ODOT. We would assume that the Portland Police Bureau or the Portland Bureau of Transportation has a record of the requests by ODOT for use of the Portland photo radar vans in any work zone.

Second, if the requirement that a governing body of the city make a finding that speeding has a negative impact on traffic safety in other areas means that the City Council must make those findings (rather than delegating to a bureau) then the “approximately 18” SAFE zones would need to have each been authorized by City Council. ORS 810.438 (2)(b). We have been unable to ascertain whether or not these 18 zones have been authorized by Council with specific findings. If not, such use of photo radar van in those areas may be impermissible under state law.

Evidence of Success

Section 1(3) of the Photo Radar Ordinance states that “The City of Portland’s photo radar program has been very successful in reducing speeds within the city boundaries and it has been shown that with the increasing exposure to the photo radar vans, the percent of vehicles exceeding the posted speed limit has steadily decreased.” Section 1(1) of the Red Light Camera Ordinance states that it has reduced crashes from red light running.

Recently, studies elsewhere raised questions about the success of photo radar and red light cameras. Studies are increasingly finding that the anticipated reduction in accidents in jurisdictions operating photo radar or red light cameras has not occurred. The Ordinance for Photo Radar does not mention accidents but just a decrease in speed. The use of these systems is expensive as is evidenced by two 5 year contracts for up to \$8 million. What independent studies have been done here to document what effects these programs have?

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).

CONCLUSION

We hope that before Council proceeds it will make sure there is ongoing and meaningful oversight of the operations sufficient to prevent any misuse or abuse that has arisen elsewhere. One way to help avoid those problems is to delink the payment to ACS from the number of tickets issued. Also, any contract should include explicit prohibitions on any use of the data collected or accessed by ACS for any other purposes than issuing tickets. The scope of operation of photo radar vans should be reviewed to ensure compliance with state law, specifically to the uses for the SAFE zones and highway work zones or any other areas outside of residential and school. Finally, Council should insist on independent evaluation of these programs.