

**From:** [Portland Copwatch](#)  
**To:** [Wheeler, Mayor](#); [Commissioner Ryan Office](#); [Commissioner Rubio](#); [Commissioner Mapps](#); [Commissioner Gonzalez Office](#)  
**Cc:** [Council Clerk – Testimony](#)  
**Subject:** Written testimony follow up on item 241/267 Police Drones  
**Date:** Friday, March 31, 2023 12:57:44 PM

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Mayor Wheeler and Commissioners Gonzalez, Mapps, Rubio, and Ryan

On March 22, Portland Copwatch testified about item 241, coming back to you this week as item 267.

We've included a written version of our testimony below, but based on the follow up conversations and the multimedia presentation the police gave that day, we wanted to be sure there was no misunderstanding about our concerns.

1) Yes, we warned that the introduction of drones could one day lead to the weaponizing of drones. But the follow up questions seemed to indicate that Council members thought we believed the drones being bought will be armed. We do not. We warned about the creeping militarization and that starting this program could lead to such things.

San Francisco recently had vigorous debate about buying weaponized robots.

<https://www.forbes.com/sites/davidhambling/2022/12/13/armed-robots-on-pause-with-san-francisco-policebut-another-force-just-took-delivery/>

In 2016, Dallas police used a robot to literally blow up a suspect.

<https://www.pbs.org/newshour/science/robot-delivered-lethal-explosive-in-dallas-police-standoff-was-a-first-experts-say>

So our concerns are not based on ignorance or wild speculation.

2) The person in charge of this program and who gave the presentation to Council is Sgt. James DeFrain, one of three officers who shot 32 times and killed Keaton Otis in May 2010. DeFrain fired 11 of those bullets. He assured Council that his unit will not be using the drones for other activities such as surveillance of protests because their group is so small and Council can trust him. That's not a way to set up institutional guardrails.

3) There was no real discussion of why Smart City PDX gave this program a "medium risk" rating for possibly violating people's privacy rights, either.

4) One of the selling points for the drones is that they will save money and get roads open more quickly after a serious car crash. Fair enough, but is that our #1 priority, especially if a person is injured or killed in a crash?

5) The ordinance mentions the Bureau's Standard Operating Procedure that will address drone deployment. That SOP should be made public prior to the Council hearing on Wednesday.

For those of you who were not present, here is a direct link to the testimony on March 22.

<https://www.youtube.com/watch?v=le8ICB9nE3s&t=9280s>

Marc Poris and Dan Handelman  
portland copwatch

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Testimony from March 22 meeting

We are deeply concerned about the proposal to spend \$80,000 on police surveillance drones. Just last month, the City passed a resolution requiring that scrutiny be given to surveillance technologies to ensure they will not disparately impact certain populations and that they will not intrude on people's privacy.

Maybe it's "our bad" for not realizing that policy put the review solely into the hands of "Smart City PDX" instead of requiring a public conversation. But the Council should know better than to introduce new technologies such as gunshot detection and surveillance drones without first hashing out whether they should be adopted at all, and if so, what policies should be in place to limit their use.

Today's ordinance implies that this is a "buy first, figure out the problems later" situation.

Oregon state law 837.340 does provide for drone use to reconstruct crime scenes, 837.320 allows their use for gathering criminal intelligence with the issuance of a warrant, and 837.335 limits their use for emergencies where there is an "imminent threat to the life or safety of an individual." ORS 837.365 prohibits the use of armed drones, with some scary exceptions, none of which apply to law enforcement.

It is telling that PPB bought a drone in either 2019 or 2020 but they say they have never used it. Perhaps that is a good sign, since it's most likely the Bureau wants these spy planes to conduct surveillance on protests and crack down on communities of color, progressive activists and other challengers of the status quo.

As allies of PCW in Los Angeles wrote in a 2015 research paper:

These machines are a dangerous step forward in the further militarization of law enforcement. Historical evidence of "Mission Creep," whereby the use of policing tactics and technologies expand beyond their original functions and goals, puts LAPD's claim to want to use these drones only during special circumstances in serious doubt. The LAPD can't be trusted. The evidence shows that these new weapons pose a serious cost in public

resources, public safety and the mental and physical health of targeted communities.

Portland Copwatch is a project of Peace and Justice Works. Since 2012 when the United States began using surveillance and armed drones to conduct warfare overseas in the name of the "war on terror," Peace and Justice Works has expressed its opposition to the government employing these robotic aircraft for spying and killing.

We don't want to see PPB obtain drones saying "trust us, this is only for accident investigations and hostage situations" only to find ourselves down the line with robot-involved shootings of people who may or may not be in mental health crisis.

A human who violates the law could potentially be held accountable through the courts or administrative investigations.

A robot can kill with impunity.

**From:** [Jude Stone](#)  
**To:** [Council Clerk – Testimony](#)  
**Subject:** ACLU OR Testimony Re: Agenda Item 267/241  
**Date:** Tuesday, April 4, 2023 7:10:04 PM  
**Attachments:** [image003.png](#)  
[ACLU OR sUAS Testimony \(4.4.23\).pdf](#)

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Hello,

I hope this email finds you well. I'm writing to submit written testimony on behalf of the ACLU of Oregon regarding Agenda Item 241's second reading tomorrow, which is listed as Item 267 on tomorrow's agenda. Please see attached. Thank you!

Best,

**Jude al-Ghazal Stone**  
Pronouns: he, him, his

Associate  
American Civil Liberties Union of Oregon  
P.O. Box 40585 Portland, OR 97240  
(480) 381 - 5386 | [jghazalstone@aclu-or.org](mailto:jghazalstone@aclu-or.org)  
[aclu-or.org](http://aclu-or.org)  



**I have a new email address: [jghazalstone@aclu-or.org](mailto:jghazalstone@aclu-or.org). Please be sure to send all emails to my new address to ensure I receive them.** Thank you!

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April 4, 2023

City of Portland  
1221 SW 4th Ave.  
Portland, OR 97204

**RE: Authorizing the competitive solicitation and purchase of unmanned aircraft systems for use by Portland Police Bureau**

Mayor Wheeler and Commissioners Gonzalez, Mapps, Rubio, and Ryan:

I appreciate the opportunity to provide written testimony on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). With more than 28,000 members statewide, we are a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights.

We celebrated Portland's civil rights victory when you unanimously passed Resolution 37608 as a City Council this February.<sup>1</sup> Created to increase government transparency and accountability regarding surveillance technologies, the resolution serves as a foundation upon which to rebuild community trust. Regrettably, mere months after passing the resolution, we're seeing the Council proceed with the Portland Police Bureau's (PPB) small unmanned aircraft systems (sUAS) proposal without the transparency processes that Resolution 37608 stipulates.

Police drones, which can be used to covertly and pervasively surveil individuals and communities, have civil rights implications for everybody. That is why it's vital that the deployment of any surveillance technology be monitored by appropriate oversight and accountability bodies. Resolution 37608 addresses this need, establishing that "the Bureau of Planning and Sustainability Smart City PDX and the Office of Equity and Human Rights will design, in public and equitable processes, an *[sic]* accountability and oversight strategies and procedures for the use and acquisition of surveillance technologies." We believe this resolution is a critical step in the right direction to cultivate the City's value of transparency in government.

Accordingly, we're concerned about the Council proceeding with new proposals regarding surveillance technologies before Smart City PDX and the Office of Equity and Human Rights have published their official accountability procedures. While the PPB's City Council presentation on their sUAS proposal lists a series of prohibited uses for drones, there is a troubling lack of outside oversight to enforce the restrictions. When Commissioner Ryan asked Sgt. Jim DeFrain about the consequences of using sUAS for unauthorized activity, DeFrain

<sup>1</sup> <https://www.portland.gov/council/documents/resolution/adopted/37608>



shared that sUAS activity will be subject to internal review, citing his direct involvement in all circumstances under which drones would be deployed and inviting people with concerns to contact him.<sup>2</sup> While internal review is standard practice for PPB's regular activities, the Council has already determined through Resolution 37608 that technology with surveillance implications should also be subject to outside oversight. Currently, the PPB's proposed list of acceptable and prohibited sUAS activity imposes strict parameters, but it is important for the City to comport with its own Resolution and institute an external accountability mechanism to supplement PPB's internal processes before approving any new surveillance technologies.

Law enforcement sUAS have the potential for severe misuse. Even though state law prohibits our government and police agencies from arming drones with weapons or using the devices to monitor peaceful protestors or deploy facial recognition, the nature of the technology makes abuse nonetheless an always-present risk. Numerous cases of law enforcement using drones in unapproved ways have surfaced only when unrelated circumstances brought their indiscretions to light, making the reliance on internal regulation troubling at best.<sup>3</sup> Smart City PDX's Privacy Impact Assessment acknowledged the level of inherent risk, labeling the PPB's sUAS proposal "medium" risk.

**Given surveillance drones' implications for civilian privacy and civil rights, we urge you to defer the approval of the PPB's sUAS proposal until Smart City PDX and the Office of Equity and Human Rights have established the official oversight and accountability procedures that they and Portlanders deem necessary, as per Resolution 37608.** The PPB's plan to post their sUAS activity online does not reasonably guard against misuse because they have total discretion over the content they publish. The Joint Terrorism Task Force's annual reports exemplify a similar style of law enforcement self-reporting, and many community members have expressed concerns to the Council over the years about the reports' lack of detail.<sup>4</sup> The internal nature of the review heavily contributes to the community's concern; there is no outside agency monitoring how much information law enforcement can redact.

We understand the myriad benefits that sUAS can offer, but given the potential risks of surveillance technologies, it is important that the City proceeds thoughtfully. To ensure that Portlanders feel confident they can trust their government, we must partner PPB's technological advancement with appropriate levels of accountability and oversight. Accordingly, the ACLU of

<sup>2</sup> <https://www.youtube.com/watch?v=le8ICB9nE3s>; 02:53:40

<sup>3</sup> <https://www.nytimes.com/2005/12/22/nyregion/police-video-caught-a-couples-intimate-moment-on-a-manhattan.html>

<sup>4</sup> JTTF's 2023 Annual Report:

<https://uridefense.com/v3/> <https://www.portland.gov/sites/default/files/council-documents/2023/2023-ppb-report-to-city-council-011723.pdf> ;!!Phyt6w!bnwTX6i5voj4cQzpHYtilyL1ds\_cmQv8H5b1fdL11D9nSJoAX7Ohkh-7fBHzMwF1Eo5HOr9h7glZqbQatTFdGbJrQ\$; Written public testimony regarding the JTTF's 2023 Annual Report: <https://efiles.portlandoregon.gov/record/15844596>



Oregon urges you to postpone your approval of the PPB's sUAS proposal until Smart City PDX and the Office of Equity and Human Rights have established explicit oversight procedures that law enforcement can operate within.

Respectfully submitted,

**Jude al-Ghazal Stone**

He/Him/His

ACLU of Oregon

**City Council Meeting - Wednesday, March 22, 2023 2:00 p.m.**

| <b>Agenda No.</b> | <b>First Name</b> | <b>Last Name</b> |
|-------------------|-------------------|------------------|
| 241-01            | Marc              | Poris            |