

**Legislative Department  
Seattle City Council  
Memorandum**

**To:** Councilmembers  
**From:** Christa Valles, Council Central Staff  
**Subject:** C.B. 117707  
**Date:** February 1, 2013

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On February 6, 2013, the Public Safety, Civil Rights, and Technology Committee is scheduled to discuss and possibly vote on C.B.117707. If passed, this legislation would regulate the Seattle Police Department's (SPD) use of unmanned aircraft systems<sup>1</sup>. This memo provides a brief overview of key aspects of C.B. 117707.

**Background**

In recent years, the unmanned aircraft industry has successfully lobbied Congress to expand the domestic use of unmanned aircraft. The prospect of unmanned aircraft use in the United States has provoked wide-spread privacy concerns among the public and across a spectrum of political interests<sup>2</sup>. While unmanned aircraft are potentially useful tools in a variety of contexts, the public is concerned with how this technology will be regulated and how the public's reasonable expectation of privacy will be protected. Certain members of Congress have introduced legislation to address privacy concerns, but no legislation has been voted on to date<sup>3</sup>. The 2012 Federal Aviation Administration (FAA) Reauthorization Act anticipates the eventual use of unmanned aircraft for a broad range of commercial purposes. The FAA, however, needs to address several safety and technical issues before it can authorize wide-spread use<sup>4</sup>. Currently, the FAA can authorize *public* agencies to use unmanned aircraft by issuing a Certificate of Authorization (COA) on a case-by-case basis.

In 2010, SPD purchased two unmanned aircraft for \$82,500 using Department of Homeland Security grant funds. SPD's current COA allows them to use unmanned aircraft for training purposes only. At some point, presumably, SPD will seek to obtain FAA authorization to deploy its unmanned aircraft for broader law enforcement and public safety purposes. Given the FAA is primarily concerned with safety, its COA guidelines do not address privacy concerns; thus, C.B. 117707 regulates SPD's use of unmanned aircraft to ensure adequate privacy protections are in place.

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<sup>1</sup> Unmanned aircraft systems are also referred to as drones or unmanned aerial vehicles. This memo, and the proposed legislation, adopts the name used by the Federal Aviation Administration, the federal agency responsible for authorizing unmanned aircraft for domestic purposes.

<sup>2</sup> The Congressional Research Service has written at least two reports addressing this topic, the CRS' report titled *Drones in Domestic Surveillance Operations: 4<sup>th</sup> Amendment Implications and Legislative Responses*, September 6, 2012 is especially pertinent.

<sup>3</sup> See H.R. 5925, S. 3287; HR 6199; HR5961, 112<sup>th</sup> Congress. These bills would require warrants in most cases.

<sup>4</sup> The General Accounting Office states: "The FAA's long-term goal is to permit, to the greatest extent possible, routine UAS operations in the national airspace system while ensuring safety." *Use in the National Airspace System and the Role of the Department of Homeland Security*, GAO, July 2012.

## **Summary of proposed unmanned aircraft regulations**

C.B. 117707 is intended to regulate SPD's use of unmanned aircraft to protect the public's privacy and civil liberties. The legislation specifies how and when SPD can deploy unmanned aircraft. It also requires a compliance audit and specifies reporting guidelines. More specifically, CB 117707 does the following:

- Adds a new chapter to the Seattle Municipal Code under Title 14, Human Rights.
- Establishes a pilot program prohibiting SPD from: 1) operating any unmanned aircraft other than the two currently in its possession; and 2) acquiring any additional unmanned aircraft without Council authorization via Ordinance.
- Restricts unmanned aircraft use in the following way:
  - Can only be used for data collection on a specified target, cannot be equipped with weapons or be used for general surveillance.
  - States that SPD should avoid inadvertent data collection but inadvertent data collection is not a violation if it occurs while unmanned aircraft operated in good faith. Moreover, inadvertent data collection evidencing significant risk or personal injury can be used if consistent with current law.
  - Allows biometric matching technology to confirm the identity of the target.
  - Prohibits night operations and flying over open-air assemblies.
  - Prohibits operations over populated areas or heavily trafficked roads unless specifically authorized by the FAA. (SPD's current COA prohibits this).
- Requires SPD to obtain a warrant prior to deployment in all cases except for:
  - Exigent circumstances, i.e. when time is of the essence to reduce risk of serious harm. Some examples include search and rescue, hostage situations, and bomb threats.
  - Documenting traffic accidents
  - Training

In cases where a warrant is not required, SPD must obtain written authorization at or above the rank of lieutenant prior to deployment.

- Requires transparent and specific data retention and record keeping policies:
  - Data shall be deleted within 30 days unless shows evidence of criminal activity or civil liability, or the data is collected for training purposes.
  - SPD shall maintain a log recording each use of unmanned aircraft.
  - Prior to deploying unmanned aircraft, SPD shall develop written policies that identify the retention schedule beyond 30 days, record keeping and tracking, access procedures, and responsibilities for compliance (per recommendation of City's Audit Department).
- Requires an annual report to the City Council documenting SPD's unmanned aircraft use.
- Requests the Audit Department to conduct a compliance audit.
- Includes liability language recommended by the Law Department.