

**Josh Dehaas**

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Scott Fraser  
Chief of Police,  
705 Division St.  
Kingston, ON, K7K 4C2

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Sent via e-mail from [jdehaas@theccf.ca](mailto:jdehaas@theccf.ca) to [chief@kingstonpolice.ca](mailto:chief@kingstonpolice.ca)

**RE: Unconstitutional use of drones for *Highway Traffic Act* enforcement**

Dear Chief Fraser,

I am writing to request that the Kingston Police immediately cease using unmanned aerial vehicles (drones) to observe and/or record what drivers are doing inside their private vehicles as a means of enforcing the *Highway Traffic Act*. This practice is contrary to section 8 of the *Charter of Rights and Freedoms*, which protects the right of everyone to be secure against unreasonable searches and seizures.

Canadians have a reasonable expectation of privacy in the activities they are undertaking inside their automobiles, including that which is displayed on their device screens, which may include deeply personal information such as photos, text messages, and map directions. They do not expect to be surreptitiously filmed at close range by a drone hovering outside their window.

As Justice Richard Wagner for a majority of the Supreme Court of Canada explained in *R v Jarvis*, 2019 SCC 10, people do not lose their reasonable expectations of privacy just because they are out in public. For example, the expectation of privacy is violated by using “a drone to take high-resolution photographs of unsuspecting sunbathers at a public swimming pool.”

Section 8 is designed to protect us from a surveillance state. Unwarranted visual recordings are particularly destructive to our sense of security. As Justice Gérard La Forest wrote in *R v Duarte*, [1990] 1 SCR 30 “...if the state were free, at its sole discretion, to make permanent electronic recordings of our private communications, there would be no meaningful residuum to our right to live our lives free from surveillance.” Justice Wagner reiterated this concern over visual recordings in *Jarvis*.

It is unclear what legal authority Kingston Police believes it was acting under when it conducted these searches, but any law that interferes with privacy must do so using the least intrusive means. There are obviously less intrusive means to enforce the law against distracted driving than spying with drones.

If Kingston Police does not cease this unconstitutional use of drones, the Canadian Constitution Foundation intends to litigate.

Thank you for your attention to this matter,

Josh Dehaas  
Counsel, the CCF

CC: Kingston Police Services Board via email to [kpsb@kingstonpolice.ca](mailto:kpsb@kingstonpolice.ca)