



## Legislative Testimony

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### **Written Testimony Supporting House Bill 7260, An Act Concerning the Use and Regulation of Drones**

Senator Doyle, Senator Kissel, Representative Tong, and distinguished members of the Judiciary Committee:

My name is David McGuire, and I am the executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of House Bill 7260, which would create necessary drone privacy and safety regulations in our state. Right now, drones are the wild west of technology: Connecticut has zero laws in place to regulate government drones. More than twenty states have passed laws to regulate drones. Connecticut is falling behind, and it is time for our state to catch up.

In each of the past two years, substantially similar versions of this bill have passed General Assembly chambers and committees with nearly unanimous, bipartisan support, but time constraints prevented these proposals from becoming law. Since last session, however, the need for this bill has substantially increased.

In the past year, at least three Connecticut police departments have begun using drones, including one with high-powered infrared technology—all without any state oversight. Meanwhile, more than 5,700 drones are now registered with the FAA in Connecticut. Connecticut should set uniform rules before privacy violations or abuse occur, as current state law is not keeping up with this increasingly ubiquitous and advanced technology. Indeed, in recent news reports, some Connecticut police chiefs have noted that they would like to purchase drones for search and rescue operations, but are awaiting action from the legislature in order to have the guidance they need to do so.

This bill allows police or other government actors to use drones for surveillance of a person or private property when a judge has issued a warrant based on probable cause, the person or property owner has provided written consent, or emergency circumstances, such as a search and rescue operation, exist. In addition, it allows police or other government actors to use drones in search and rescue efforts, accident scene recreation, and other legitimate practices. Appropriately, this bill also prohibits police or other government actors from equipping drones with tear gas, other harmful agents, or lethal or non-lethal weapons, while still allowing police or other government actors to equip drones with explosive disposal, detection, and detonation equipment. In addition, this bill creates clear, critical retention rules for police drone surveillance information and requires police or other government agencies to review drone surveillance information within 90 days. House Bill 7260 also creates transparency regarding police and government drone use by requiring police agencies to submit annual reports that include: the number of times the agency operated drones, whether the drone was operated pursuant to a warrant, and the number of times the data collected provided reasonable evidence that a crime

was being committed. This bill requires police agencies to publish these reports on their websites or on municipal websites.

Police drones can have a role in public safety, but they also have the potential to violate people's privacy. Connecticut must establish safeguards to ensure that drone technology cannot be used by government agencies to gain covert, unwarranted access to private places. We therefore strongly support this bill's requirement that police obtain a warrant based on probable cause before flying a surveillance drone, except in emergencies such as the search for a missing person, or when they have received the written consent of the individual or property owner being surveilled. The Fourth Amendment mandates that the government may not invade and search places where we have a reasonable expectation of privacy, unless the search is conducted pursuant to a search warrant issued by a neutral magistrate with the place and time of search specified in the warrant. We therefore support House Bill 7260's provision requiring police to use drones in accordance with the Fourth Amendment.

As the examples of the Clinton teen's flamethrower and gun-equipped drones shows, drones can also be outfitted with an increasing number of lethal and non-lethal weapons. The ACLU of Connecticut supports this bill's ban to prevent government actors equipping drones with tear gas, other harmful agents, or lethal or non-lethal weapons, while still allowing police or other government actors to equip drones with explosive disposal, detection, and detonation equipment. This is in keeping with the Public Review and Investigations Committee's Drone Use Regulation report, which recommended that "law enforcement use of drones to remotely operate weapons shall be prohibited." At a time of unprecedented tension between communities and law enforcement, this bill's language to prevent government drone weaponization can help to restore public trust in law enforcement.

A drone is any remote-controlled or pre-programmed unmanned aircraft. In its most ubiquitous form, a drone is essentially a small, flying camera—inexpensive, highly maneuverable, and capable of unprecedented invasions of personal privacy. Drones can carry a variety of high-powered surveillance equipment, including facial recognition technology, high-resolution video cameras, microphones, night vision cameras, infrared or heat-sensing devices, facial recognition technology, and radar and license plate readers.

Unlike manned airplanes and helicopters, which are expensive to purchase, operate, and maintain, drones are affordable. They require no licensed pilots, hangars, or runways, and they have the ability to explore hidden spaces, peer in windows, or even, potentially, enter homes. Drones are nothing like the aerial surveillance we're used to—not an airplane flying thousands of feet above a neighborhood, or a noisy helicopter a few hundred feet overhead. Drones can hover outside a window and record what happens inside your house. They can take high-resolution video of your family in your yard and record your conversations. Drones turn aerial surveillance into ground-level spying, and they can take police into places where the Constitution expressly forbids them to set foot without permission or a warrant, unless there is an emergency. Of course, drones have many laudable and important uses. For example, emergency personnel may be able to use drones in missing person searches. This bill would allow these, and more, legitimate uses of drone technology, including those by law enforcement and emergency personnel.

It is incumbent upon the Connecticut General Assembly to ensure that we reap the benefits of this burgeoning technology without violating the Fourth Amendment and jeopardizing our core privacy rights. The Connecticut Police Chiefs Association will likely assert that drones are the same as airplanes and helicopters and will claim the right to operate drones for individual

surveillance without a warrant, based on U.S. Supreme Court rulings in the 1980s that permitted manned surveillance from airplanes and a helicopter without a warrant. But the Supreme Court has signaled that the rapid evolution of technology has changed the playing field. While the Court has not yet specifically addressed drones, it recently issued a meaningful ruling on another form of advanced surveillance technology. In *United States v. Jones*, the Court found that police conducted an unlawful search and seizure in violation of the Fourth Amendment when they deployed a GPS device to track a suspect's vehicle without a warrant. In that case, five justices agreed (in two concurrences) that it was the prolonged nature of tracking a car via GPS that infringed on a person's reasonable expectation of privacy, suggesting that at least prolonged location tracking through other technologies might also constitute a search for Fourth Amendment purposes. Significantly, Justice Alito, in a concurrence joined by three other justices, wrote: "in circumstances involving dramatic technological change, the best solution to privacy concerns may be legislative."

Passing this bill into law comports with the Fourth Amendment and ensures that people in Connecticut can enjoy the benefits of drone technology without becoming subjected to a surveillance society. Please support House Bill 7260.