



Legislative Testimony
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**Written Testimony Supporting, with Amendment,
Senate Bill 870, An Act Concerning the
Use of Drones by Law Enforcement**

Senator Bradley, Representative Verrengia, and distinguished members of the Public Safety and Security Committee:

My name is David McGuire, and I am executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of Senate Bill 870, An Act Concerning the Use of Drones by Law Enforcement and ask that the committee amend the current language and expand the bill to include provisions regarding all surveillance technology used by law enforcement.

As an organization that fights to protect the privacy rights of all people, the ACLU-CT supports the intent of Senate Bill 870, which would regulate the use of drones by law enforcement. However, we urge the committee to amend the current language to strengthen its privacy protections and add additional provisions regulating the use of other types of surveillance technology. The recent proliferation and advancement of surveillance technology used by public safety agencies across the nation and in our own state highlights the need for Connecticut to regulate police use of all types of surveillance technology.

The unchecked use of surveillance technology can make our state less safe, violate people's privacy, chill protesters' rights, and disproportionately hurt people of color, immigrants, and low-income people. Connecticut residents deserve meaningful democratic control over law enforcement surveillance, particularly at a time when the rights of people of color, immigrants, LGBTQ people, political activists, religious minorities, and others have been violated by government surveillance nationwide. Legislative safeguards must be put in place to ensure that law enforcement agencies can benefit from the use of this technology while using it constitutionally.

Police departments in Connecticut are increasingly acquiring and using drones. In fact, at least 18 Connecticut public safety agencies, including police departments in South Windsor, Stamford, and Westport, and fire departments in Danbury, Orange, and West Haven, have drones. This means that Connecticut had more agencies with drones than 29 other states as of May 2018.

As more departments acquire this technology, the legislature must establish statewide regulation of surveillance technology, including drones. When governments fail to keep police surveillance technology in check and keep the public informed, everyday people suffer the consequences, and people's faith in our democracy is undermined. Connecticut municipal law enforcement agencies have recently contracted with at least two surveillance technology companies that have come under national fire. Geofeedia, which the Hartford Police Department recently used for social media monitoring software, has faced national scrutiny for enabling the Boston Police Department to use social media surveillance to target people for surveillance based on their peaceful political and religious affiliations. Vigilant Solutions, which contracts with several Connecticut police agencies to store license plate reader data, has faced national attention for signing a contract to provide full access to its database to federal Immigration and Customs Enforcement (ICE). Historically and presently, surveillance efforts and police resources have disproportionately targeted certain communities based on factors such as race, religion, ethnicity, income, and political activities and perspectives. These practices, along with available data, suggest surveillance technologies are and will continue to be used disproportionately against persons of color and other historically targeted groups.

The ACLU-CT believes Senate Bill 870 is the perfect vehicle to protect the rights of all people in Connecticut to take control over police surveillance. We support the general prohibition of drone use by law enforcement found in Senate Bill 870, and we believe the exceptions for law enforcement use of drones enumerated in subsection (b)(1) are fair and reasonable. Police should only be allowed to use drones when they have a warrant, there are exigent circumstances that necessitate the use, they have permission from the subject of the surveillance, or drones will not be used to surveil members of the public. Allowing police to use drones in these instances would balance emerging technology with protections for people's fundamental rights and compliance with the Constitution. We suggest the committee

amend the bill to also include a provision prohibiting law enforcement – with the exception of authorized explosive detection, detonation, or disposal equipment – from weaponizing drones. This would be in line with a recommendation from the nonpartisan Program Review and Investigation committee’s 2014 statewide study, which determined that the police should not be allowed to weaponize drones.

Additionally, we strongly urge the committee to remove subsection (b)(2), which provides that the prohibitions on drone use by police do not apply to drone use on property that the government owns or leases or to people who are on that property. This provision would mean that police could use drones in any way they see fit, with no limitations, to surveil members of the public rallying at the state capitol in Hartford, gathering on a sidewalk in front of the legislative office building, or hosting an event at a public park. This exemption, in effect, would negate the very privacy protections this bill was designed to establish.

If the state allows police to gather information about the public through drone use, it must also place reasonable limitations on their review and retention of that data. Though the current bill language would require a review of information collected by drone use pursuant to the exigent circumstances, training activities, or reconstruction of a crime or accident scene exceptions within 90 days, we respectfully ask the committee to amend this time frame to 30 days. Police should not retain information collected via drone use longer than is absolutely necessary.

Reporting on police use of drones is incredibly important to create transparency and accountability. While we appreciate this bill’s reporting requirement, we urge the committee to require additional information. In addition to the current requirements, the committee should require information about the zip code where a drone was operated, whether a property owner gave advance written consent to the drone operation, the number of times an arrest was made during or after the operation of a drone, and whether the public was given notice for each incident in which a law enforcement department operated a drone.

Enacting a statewide law regulating police use of drones is an important step in ensuring the privacy of people in Connecticut, but we believe this committee has an opportunity to expand the bill to regulate police use of all surveillance technology. Right now, police agencies in Connecticut use many surveillance technologies, including facial recognition software, live

stream video feeds, acoustic sensors, video synopsis software, and social media monitoring technology. They are spending millions of dollars to acquire and use it. People only learn about that technology when police decide to advertise it or honor a Freedom of Information request, not through democratic processes.

However, there are components that, if added to this bill, could protect people's privacy and create transparency and accountability around police use of surveillance technology. These amendments would protect people's rights, allow the public and policymakers the opportunity to debate and take democratic control over police surveillance, and ensure transparency by enabling the public and policymakers to easily access data about police surveillance technology use. We strongly urge the committee to add these provisions, which we believe are necessary to neutralize the very real privacy concerns raised by police surveillance in Connecticut. Inclusion of the following provisions is necessary to ensure that all police surveillance technology, including drones, is used in compliance with the Constitution, public expectations, and with proper public oversight:

- **Public input and approval for state police surveillance technology:** Require a public forum and approval from the Department of Emergency Services and Public Protection (DESPP) commissioner before the state police fund, acquire, or use surveillance technologies.
- **Approval for municipal police surveillance technology:** Require approval from a municipal legislative body, such as a city council, before any municipal law enforcement entity funds, acquires, or uses surveillance technologies.
- **Public input about municipal police surveillance technology:** Prohibit a municipal legislative body from granting approval for surveillance technologies until the public is given a full and fair opportunity to voice its opinions before the body.
- **Reports on financial costs, risks to civil rights and liberties, and safeguards:** Require state and municipal police to publicly report the financial costs of using surveillance technology, acknowledge the potential risks the surveillance technology poses to civil rights and civil liberties, and propose legally enforceable safeguards to prevent such adverse impacts.
- **Annual reporting and approval:** Institute annual public data reporting by requiring state and municipal law enforcement agencies to publicly submit an annual surveillance

report about the use of technology and obtain approval from the DESPP commissioner or a municipal legislative body to continue using the technology.

- **Annual community engagement meetings:** Require an agency that annually reports on its surveillance technology use to hold at least one community engagement meeting where the general public can discuss and ask questions about the report and use of the technology.

With these additions, the bill would create meaningful democratic control over what surveillance technology state police and municipal police departments acquire and how they use it. We all want to live in democratic communities, and we value government accountability. When police acquire and use surveillance technology in secret, without public approval or debate, it undermines democracy, transparency, and accountability for everyone.

We would welcome to opportunity to work with the committee to appropriately amend the bill. We strongly urge this committee to make the aforementioned changes to Senate Bill 870 and support the amended bill.