



**Testimony for the House Judiciary Committee
March 19, 2013**

HB 1233 – Criminal Procedure – Law Enforcement Agencies – Use of Drones

SUPPORT

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The ACLU of Maryland supports HB 1233, which would prohibit a Maryland law enforcement agency from using a drone to gather evidence without a warrant. It also contains exceptions for a high risk of terrorist attack or to respond to an emergency.

Unmanned aircraft carrying cameras raise the prospect of a significant new avenue for the surveillance of American life. Many Americans have heard of these aircraft, commonly called drones, because of their use overseas in places like Pakistan, Afghanistan and Yemen. But drones are coming to America. Mass deployment has so far been held up by the Federal Aviation Administration over safety concerns, but that agency is under strong industry and Congressional pressure to pave the way for domestic deployment. Meanwhile, the technology is quickly becoming cheaper and more powerful, interest in deploying drones among police departments is increasing, and our privacy laws are not strong enough to ensure that the new technology will be used responsibly and consistently with democratic values.

In short, all the pieces appear to be lining up for the eventual introduction of routine aerial surveillance in American life – a development that would profoundly change the character of public life in the United States. We need a system of rules to ensure that we can enjoy the benefits of this technology without bringing us a large step closer to a ‘surveillance society’ in which our every move is monitored, tracked, recorded and scrutinized by the authorities.

Such concerns are not farfetched: when applying for a drone permit, police in Ogden, Utah believed that floating a surveillance blimp above their city would “be a deterrent to crime when it is out and about....It will be used as a patrol car. It will be used to go and check things out and keep things safe.”¹ In Houston, police suggested that drones could possibly be used for writing traffic tickets.²

To date, several law enforcement agencies have acquired drones, including Houston, Texas; Miami-Dade County Police Department, Florida; Mesa County Sheriff’s Office, Colorado; Arlington, Texas; North Little Rock, Arkansas; Herrington, Kansas; Gadsden, Alabama; Polk County, Florida; Queen Anne’s

¹ <http://www.reuters.com/article/2011/01/16/us-crime-blimp-utah-idUSTRE70F1DJ20110116>

² <http://www.examiner.com/article/police-line-up-to-use-drones-on-patrol-after-houston-secret-test>

County Sheriff's Office, Maryland.³ The City of Seattle, Washington received federal funds for two drones, but eventually returned the drones after residents raised concerns over privacy rights.⁴

State legislatures are starting to take notice. To date, at least 30 states have introduced legislation regarding drones.⁵

We believe that drones can pose a serious threat to privacy. Because of their potential for pervasive use in ordinary law enforcement operations and capacity for revealing far more than the naked eye, drones implicate the Fourth Amendment. HB 1233 provides that prior to drone usage, a law enforcement agency must obtain a search warrant. We submit this is the proper standard.

We would also urge the committee to consider placing limitations on the image retention of drones, limiting the use of images captured incidental to those provided for in the search warrant, as well as provide for public notice of drone usage.

For the foregoing reasons, the ACLU of Maryland supports HB 1233 and urges a favorable report.

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³<http://www.click2houston.com/news/New-Police-Drone-Near-Houston-Could-Carry-Weapons/-/1735978/4717922/-/59xnnnez/-/index.html>; <http://www.thegatewaypundit.com/2013/03/arlington-officials-approved-camera-drones-in-city/>; <http://www.usnews.com/news/articles/2012/08/23/docs-law-enforcement-agencies-plan-to-use-domestic-drones-for-surveillance>; <https://maps.google.com/maps/ms?msa=0&msid=214769660919529725423.0004bde31d74fe6eb1ece&hl=en&ie=UTF8&t=m&ll=45.336702,-110.039062&spn=58.987964,112.5&z=3&source=embed>; <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/22/AR2011012204111.html?sid=ST2011012204147>

⁴ http://usnews.nbcnews.com/_news/2013/02/08/16903237-seattle-cancels-police-drone-program-after-outcry-over-privacy-issues?lite.

⁵ See <http://www.aclu.org/blog/technology-and-liberty-national-security/drone-legislation-whats-being-proposed-states>