



Legislative Affairs
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2019 – 2020 Legislative Memorandum

Subject: S.6435 (Ramos) / A.9931 (Kim) – Restrictions on Police Drones

Position: SUPPORT

Ongoing protests over the role of police in public life, and the excessive police response they have prompted, have rightly brought new attention to the technology and machinery used by local law enforcement. Among these new technologies increasingly embraced by local police departments are drones, or unmanned aerial vehicles (UAVs). Drones are small and quiet, can remain aloft for hours at a time, and can be equipped with anything from long-range cameras to facial recognition to fake cell phone signals to weaponry that can be deployed on the public from the skies. They are a mechanism for pervasive and invasive government surveillance.

Though many associate drones with military and national security activities, local police departments have increasingly purchased and piloted drones over local communities. According to the Center for the Study of the Drone at Bard College, at least 1,578 public safety agencies had acquired drones as of March 2020, including 47 in New York.¹ The NYPD routinely uses drones to quietly recon everything from social distancing² to civil unrest.³

Yet, despite their growing prevalence, police use of drones is unregulated by the state of New York. Due to the lack of comprehensive laws and any meaningful oversight, police aerial surveillance is also rife with misuse and abuse.⁴ Legislation

¹ Dan Gettinger, Center for the Study of the Drone at Bard College, *Public Safety Drones, 3rd Edition*, March 2020, <https://dronecenter.bard.edu/projects/public-safety-drones-project/public-safety-drones-3rd-edition/>.

² Ben Yakas, *Videos: The NYPD Is Monitoring Social Distancing On the Ground and From the Skies*, Gothamist (March 31, 2020), <https://gothamist.com/news/videos-nypd-monitoring-social-distancing-ground-skies>.

³ Edgar Sandoval, *Protest Flare in Brooklyn Over Floyd Death as de Blasio Appeals for Calm*, N.Y. Times (May 30, 2020), <https://www.nytimes.com/2020/05/30/nyregion/nyc-protests-george-floyd.html>.

⁴ See e.g. Jim Dwyer, *Police Video Caught a Couple's Intimate Moment on a Manhattan Rooftop*, THE NEW YORK TIMES, December 22, 2005, <https://www.nytimes.com/2005/12/22/nyregion/police-video-caught-a-couples-intimate-moment-on-a-manhattan.html> (last visited Jun 30, 2020).

is urgently needed to stop the indiscriminate use of drones. Drones have also been deployed to help police recent political protests. U.S. Customs and Border Protection used drones and other aerial surveillance tools to monitor protests over policing in 15 different cities in the last month, including a Predator drone – military hardware – to monitor protests in Minneapolis.⁵ The NYPD recently spent a half of a million dollars on a fleet of 14 drones to fly over New York City.⁶

S.6435 (Ramos) / A.9931 (Kim) would prohibit drone surveillance of events and activities protected by the First Amendment, require a search warrant for use of a drone in police investigations, prohibit drones from using facial recognition software, weapons or crowd control devices, set rules for the public accessibility, retention and deletion of drone-collected data, and subject private drone operating companies to the same rules as law enforcement. This bill recognizes the threat that the unregulated use of police drones poses to the right to protest, our right to privacy, and our right to be free from invasive and warrantless government surveillance.

Drones greatly expand the ability of local police to conduct surveillance and interfere with private association and communication, and must be strongly regulated. The threat of constant police surveillance by drones enabled with facial recognition sounds like a dystopian future from a horror movie. But without laws to prevent it, it can and will become our new normal. The NYCLU **strongly supports** the bill and urges the legislature to pass it without delay.

⁵ Zolan Kanno-Youngs, *U.S. Watched George Floyd Protests in 15 Cities Using Aerial Surveillance*, N.Y. Times (June 19, 2020), <https://www.nytimes.com/2020/06/19/us/politics/george-floyd-protests-surveillance.html?smid=tw-share>.

⁶ Rebecca C. Lewis, *How Would NYC Cut \$1 Billion For the NYPD?*, CITY & STATE, June 8, 2020, <https://www.cityandstateny.com/articles/policy/criminal-justice/how-would-nyc-cut-1-billion-nypd.html> (last visited June 30, 2020).