

Testimony of Peter Sachs, Esq.
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Members of the Committee, I thank you for the opportunity to speak today. Raised Bill 5217, while well intentioned, contains significant flaws that in my opinion would render it unenforceable due to impossibility, statutory conflicts and constitutional restraints. I would recommend the subject of the proposed Bill be transferred to a “Task Force” comprised of individuals and entities having the requisite interest, knowledge and expertise in fields the proposed Bill would affect.

Law Enforcement Related Portions:

Although the Bill attempts to fill the gap¹ in our State law with respect to warrant requirements for searches conducted *by drones*, it attempts to do so in an unworkable manner.

- First, by its language, law enforcement would be limited to operating drones “only for a legitimate law enforcement purpose.” Law enforcement could not perform any drone training flights, test flights or demo flights.
- Second, restriction on collecting information unrelated to the subject of the warrant is violative of the “plain view” doctrine, and its requirement that any such data be destroyed within 48 hours would put law enforcement in the position of committing the crime of destruction of public documents.²
- Third, the Bill would render it impossible for law enforcement to act upon a validly issued search warrant, since it is impossible to *not* collect imagery of other persons or properties when viewing a specific person or property from above. Therefore, anything collected pursuant to a validly issued warrant would be inadmissible as evidence and would have to be destroyed
- Fourth, the Bill also prevents law enforcement from “receiving” information collected by private citizens who happen upon illegal activity with his or her drone, and wish to report it to law enforcement. Thus the police would be in the unusual position to have to ignore a citizen’s report of criminal activity.

Non-Law Enforcement Related Provisions:

The remaining portion of the Bill, which directs the Commissioner of Transportation to promulgate regulations concerning drone use by *private persons*, raises the question as to whether he would have any such authority to do so. Moreover, criminalizing that which is already illegal under existing state law is simply unnecessary.

- First, a state may not regulate aviation operations (except with respect to aviation operations *by public agencies* within the state) because aviation regulation falls under the exclusive jurisdiction of the federal government.
- Second, there already exist adequate state statutes that cover both “*stalking*” and “*voyeurism*.” Those statutes already prohibit doing so with a drone, in the same manner as it already includes doing so with an automobile, a boat or a bicycle. It is unnecessary to create a new statute when an existing statute already prohibits the activity.
- Third, any attempt to infringe upon every person’s Constitutional right to photograph or videotape from a *public place*, anything that is in “*plain view*” flies in the face of both the U.S. Constitution and the Connecticut Constitution.³

¹ See: Kyllo v. U.S., 533 U.S. 27 (2001), the holding of which would permit law enforcement to conduct drone searches *without* a warrant because drones, unlike the thermal imaging devices in that case, *are* “in general public use.”

² CGS Sec. 1-240. Penalties. (a) “Any person who willfully, knowingly and with intent to do so, destroys, mutilates or otherwise disposes of any public record . . . shall be guilty of a class A misdemeanor . . .”

³ U.S. Constitution, First Amendment and Connecticut Constitution, Article First, Sec. 5.