

Jay Stanley
American Civil Liberties Union

Domestic Drones: 10 Issues to be aware of

Jay Stanley
Senior Policy Analyst
Speech, Privacy and Technology Program
jstanley@aclu.org | @JayCStanley



Issues

1. Mass surveillance

Mass surveillance



Image: SHYCITYNikon via Flickr

Issues

1. Mass surveillance
- 2. Importance of democratic process**

Democracy



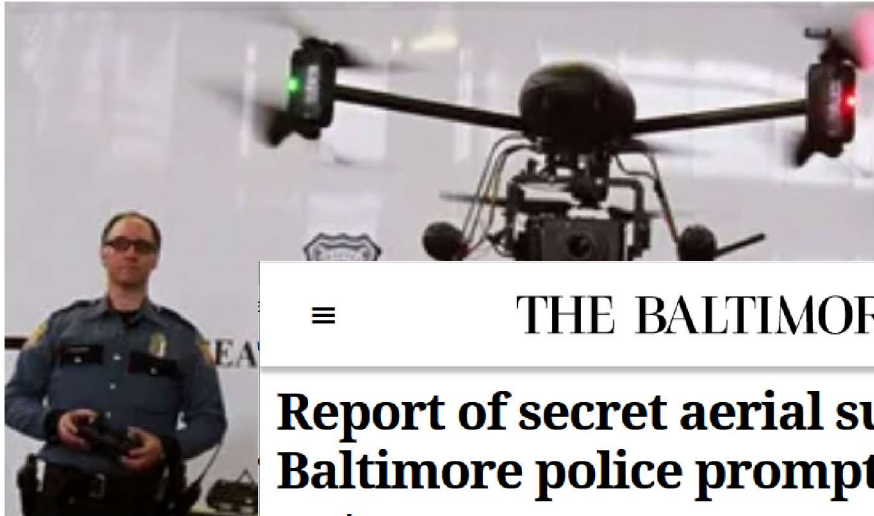
Image: Norman Rockwell via WikiArt



Local News

Seattle grounds police drone program

Originally published February 7, 2013 at 9:33 pm | Updated February 8, 2013 at 8:52 am



The Police Department had purchased two 3.5

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THE BALTIMORE SUN



Report of secret aerial surveillance by Baltimore police prompts questions, outrage



By **KEVIN RECTOR** and **LUKE BROADWATER**

PUBLISHED: August 24, 2016 at 10:22 p.m. | UPDATED: June 29, 2019 at 10:53 a.m.

even before it got off the ground.

In a brief statement Thursday, McGinn said he and police Chief John Diaz agreed that it was time to end the program so the Seattle Police Department

Issues

1. Mass surveillance
2. Importance of democratic process
3. **Chilling effects**



Trooper filming Selma march, 1965.

Photo by Alfred M. Loeb; used by permission.

Issues

1. Mass surveillance
2. Importance of democratic process
3. Chilling effects
4. **Don't assume no privacy in public**

Do we have any privacy rights when we're in public?



Image: JOH_2136 via Flickr

Used to be simple...



Image: Devlyn via Flickr

United States v. Jones (2012)



United States v. Jones (2012)

“GPS monitoring generates a precise, comprehensive record of a person’s public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations.”

Riley v. California (2014)



Image: houstonwiPhotos mp via Flickr

“Digital is different”

Roberts in *Riley*

The United States asserts that a search of all data stored on a cell phone is "materially indistinguishable" from searches of these sorts of physical items...That is like saying a ride on horseback is materially indistinguishable from a flight to the moon.

Carpenter v. United States (2018)

The New York Times

*How a Radio Shack Robbery Could
Spur a New Era in Digital Privacy*



Roberts in Carpenter:

- The Fourth Amendment's purpose is to “assure preservation of that degree of privacy against government that existed when the Fourth Amendment was adopted.” (quoting Scalia in *Kyllo v US*)
- “like GPS monitoring, cell phone tracking is **remarkably easy, cheap, and efficient compared to traditional investigative tools.**”

Leaders of a Beautiful Struggle
v. Baltimore Police Department.
(4th Cir. 2021)



Image: Bloomberg

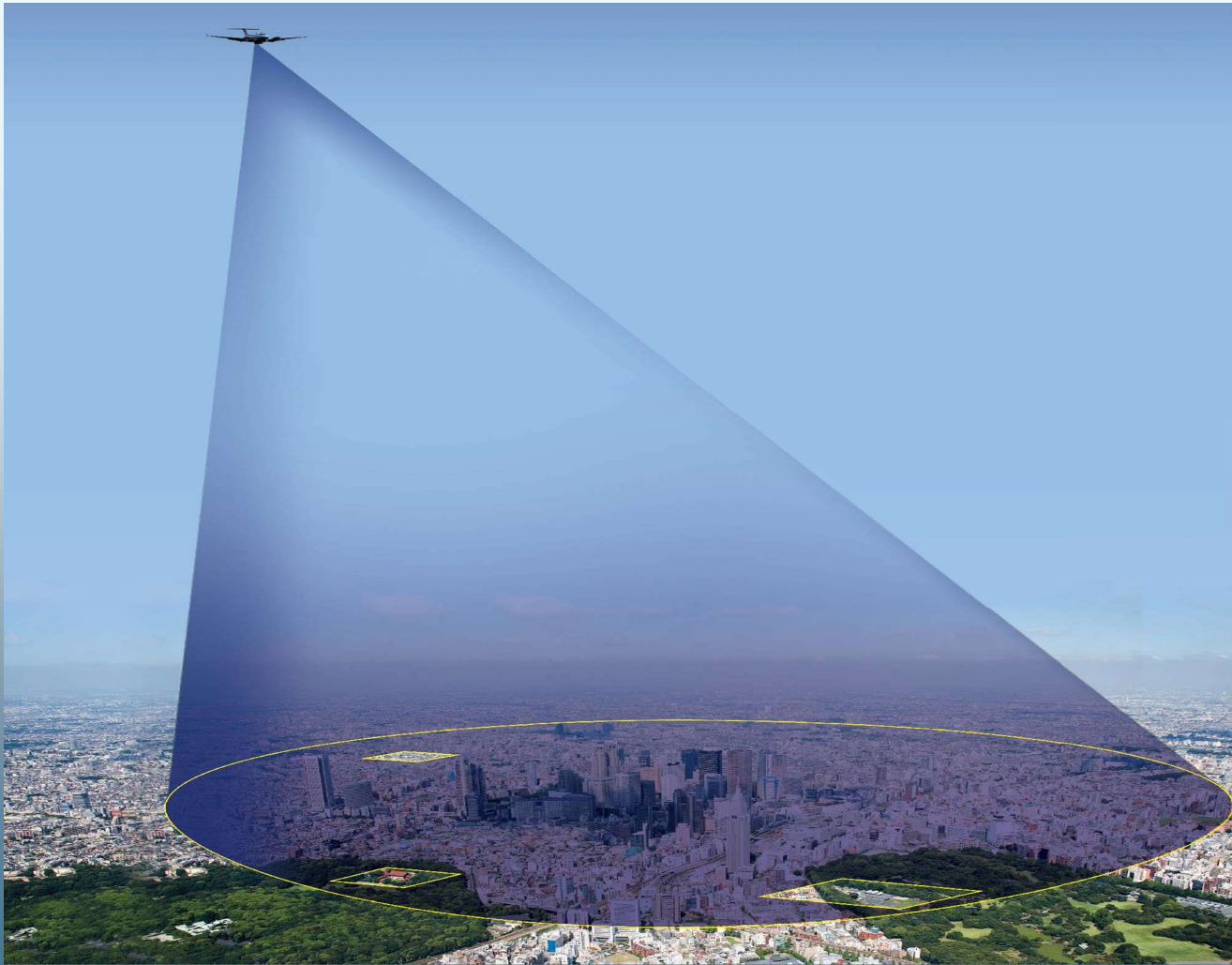


Image: Harris Corp

Leaders of a Beautiful Struggle
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“because the AIR program enables police to deduce from the whole of individuals’ movements, we hold that accessing its data is a search, and its warrantless operation violates the Fourth Amendment”

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- 5. Usage limits**

Limits on drone usage

- True Emergencies (inc. DFR programs)
- Grounds to believe will collect evidence of wrongdoing
- With a warrant
- Not routinely over gatherings

Letter to editor, Mountain Xpress, Asheville, NC

Aug 23, 2023

“When I was at the Rally for Reproductive Justice and Bodily Autonomy, there was one of their large drones flying overhead. When I was at the May Day Rally, there was one of their large drones flying overhead. When I was at a gathering of about 20 people discussing the force and neck-pinning used against Devon Whitmire? Drone overhead. When the city and county teachers associations gathered to demand higher pay? Drone overhead.”

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5. Usage limits
- 6. Recording limits**

Recording limits

- Monitoring \neq recording
- DFR operations to & from
- Over gatherings, only to record illegal activities

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4. Don't assume no privacy in public
5. Usage limits
6. Recording limits
7. **Transparency**

Transparency

- DFR: routes & reasons
- Capabilities & payloads
- Policies
- Performance
- Video

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5. Usage limits
6. Recording limits
7. Transparency
- 8. Auditing and effectiveness tracking**

Democracy



Image: Norman Rockwell via WikiArt

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- 9. Use and disclosure of video**

Use and disclosure of video

- No use of video to identify participants of gatherings except to investigate illegal activity (DC law)
- No AI analytics, sharing, or retention for other than a short period
- Exception: where video is evidence
- Exception: where video captures police use of force, or incident that is subject of a complaint against an officer.
- In those cases, video must be released to the public or complainant.
- What is released should not be up to discretion of law enforcement

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9. Use and disclosure of video
- 10. Crowding out other drone uses**

NEW YORK POST

NEWS EXCLUSIVE



2 drones in near-miss with NYPD chopper

By Larry Celona

Published July 7, 2014, 9:19 p.m. ET

The NYPD pilots “observed flying object[s] at 2,000 feet in vicinity of the George Washington Bridge, then circling heading toward the helicopter,” a police report said.

“The officers were forced to change their course to avoid a collision.”

One source called it a “very dangerous” scenario.

“Although [drones] may only weigh a few pounds, that’s all birds weigh, and look what they did to the Sully Airbus,” the source said, referring to 2009’s “Miracle on the Hudson,” in which a bird strike forced US

NYPD Helicopter Flew at a Drone and Never Feared Crashing, Recording Confirms

A police officer said he had no idea whether or not a crime was even committed.



Powered by [Trinity Audio](#)



By [Jason Koebler](#)

Clueless Cops Fly Helicopter At Drone, Arrest The Drone Pilots

By [Raphael Orlove](#) Published July 11, 2014 | Comments (289)



Two guys were arrested on Monday for flying a drone at an NYPD helicopter. It now sounds like it was the cops who flew their chopper at the drone.

Drone operators Mendoza and Remy Castro were arrested on felony reckless endangerment charges for flying "very close" to an NYPD chopper near the George Washington Bridge, as *Motherboard* reports. The chopper had

BROOKINGS

Election '24

COMMENTARY

How to regulate police use of drones

Faine Greenwood
September 24, 2020

What's more, police drones are a highly effective way for law enforcement to "mark" the aerial territory over news-worthy events. While plenty of journalists and activists use drones to collect their own aerial information, they're often reluctant to fly when there's a chance they could be accused of interfering with a drone or a helicopter operated by police.

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Thank you!

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