



SILVERMAN|THOMPSON|SLUTKIN|WHITE
ATTORNEYS AT LAW

26th Floor
201 North Charles Street
Baltimore, Maryland 21201

Anne T. McKenna, Group Chair
www.silvermckenna.com
Main Phone: 410-385-2225
Direct Dial: 443-909-7496
Fax: 410-547-2432
amckenna@silvermckenna.com

SILVERMCKENNA

The Internet and Privacy Law Group of STSW

LEGAL MEMORANDUM

Overview of UAS/UAV-Related State Legislation

TO: The Police Foundation and the U.S. Department of Justice – COPS Office
FROM: Anne T. McKenna, Esquire
DATE: May 22, 2014; final edits July 31, 2014
RE: *Community Policing and UAS Guidelines to Enhance Community Trust*
2013-CK-WX-K002
State Legislation Related to UAVs

OVERVIEW

This legal memorandum has been drafted pursuant to the principal legal consultant contract entered into between the Police Foundation and Anne T. McKenna to provide legal analysis and memoranda to be used by the Police Foundation, its Project Advisory Group, and the U.S. Department of Justice – COPS Office in the project entitled, *Community Policing and UAS Guidelines to Enhance Community Trust* (the “COPS Contract”). Pursuant to the COPS Contract Task 1 (detailed description of work appended to the COPS Contract) Line Item (4) and as discussed with the Police Foundation’s Grants Manager, Maria Valdovinos, this legal memorandum consists of the attached reference chart of the currently enacted state laws pertaining to or proscribing the use of UAS.

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
Alabama	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Alaska	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Arizona	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Arkansas	No Currently Enacted Legislation, but Legislation Proposed or Pending						
California	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Colorado	No Currently Enacted or Proposed/Pending Legislation						

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
Connecticut	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Delaware	No Currently Enacted or Proposed/Pending Legislation						
District of Columbia	No Currently Enacted or Proposed/Pending Legislation						
Florida	<p>SB 92 (Freedom from Unwanted Surveillance Act)</p> <p>Statutory Cite: Searches and Seizure Using a Drone, FL ST § 934.50</p>	Police ONLY	YES	YES	<ul style="list-style-type: none"> • Generally prohibits law enforcement to use “drones” to “gather evidence or other information” • EXCEPTIONS: <ul style="list-style-type: none"> ○ To counter a high risk of a terrorist attack if the U.S. Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk ○ Warrant ○ Reasonable suspicion that swift action is needed to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to achieve purposes including, but not limited to, searching for a missing person • DEFINITIONS: <ul style="list-style-type: none"> ○ Drone = a powered aerial vehicle that does not carry a human operator, uses 	<p>YES</p> <p>“An aggrieved person may initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation”</p>	<ul style="list-style-type: none"> • ADMISSIBILITY: Evidence obtained or collected in violation of the law is not admissible as evidence in a criminal prosecution in any court of law in the state. <p>No regulation of retention or disclosure</p>

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
					<p>aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or nonlethal payload</p> <ul style="list-style-type: none"> o Law enforcement agency = a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance law 		
Georgia	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Hawaii	SB 1121	N/A	N/A	N/A	<ul style="list-style-type: none"> • Appropriates \$100,000 for fiscal year 2013-2014 for a Program Coordinator and technical support staff member for the proposed international flight training center and associated degree programs at the University of Hawaii at Hilo and Hawaii Community College. 	N/A	N/A
	Other Legislation is Proposed or Pending						
Idaho	SB 1134 Statutory Cite: Restrictions on use of	Police AND Private Persons	YES	YES	<ul style="list-style-type: none"> • Prohibits the use of UAS to “intentionally conduct surveillance of, gather evidence or collect information about, or photographically or electronically record specifically targeted 	YES Recovery of the greater of \$1,000 or	No regulation of retention, disclosure, or admissibility

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
	unmanned aircraft systems, ID ST § 21-213				<p>persons or specifically targeted private property”</p> <ul style="list-style-type: none"> • EXCEPTIONS: <ul style="list-style-type: none"> ○ Warrant ○ Emergency response for safety ○ Search and rescue investigations ○ Controlled substance investigations • Also prohibits the use of UAS to “photograph or otherwise record an individual, without such individual’s written consent, for the purpose of publishing or otherwise publicly disseminated such photograph or recording • DEFINITIONS: <ul style="list-style-type: none"> ○ Unmanned aircraft system (UAS) = an unmanned aircraft vehicle, drone, remotely piloted vehicle, remotely piloted aircraft or remotely operated aircraft that is a powered aerial vehicle that does not carry a human operator, can fly autonomously or remotely and can be expendable or recoverable; specifically DOES NOT include model flying airplanes or rockets and unmanned aircraft systems used in mapping or resource management • Creates civil cause of action for violation 	actual and general damages, plus reasonable attorney’s fees and costs	
	Other Legislation is Proposed or Pending						

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Illinois	<p>SB 1587 (Freedom from Drone Surveillance Act)</p> <p>Statutory Cite: IL ST CH 725 § 167/1, <i>et seq.</i></p>	Police ONLY	YES	YES	<ul style="list-style-type: none"> • Generally prohibits use of a “drone” to “gather information” • EXCEPTIONS: <ul style="list-style-type: none"> ○ To counter a high risk of a terrorist attack if the U.S. Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk ○ Warrant (based on probable cause) limited to 45 days ○ Reasonable suspicion that swift action is needed to prevent imminent harm to life, or to forestall the imminent escape of a suspect or the destruction of evidence (use limited to 48 hours, and within 24 hours of initiation of use, chief executive officer of the law enforcement agency must report the use to the local State’s Attorney in writing) ○ Attempts to locate a missing person, not in relation to a criminal investigation ○ Crime scene and traffic crash scene photography in “a geographically confined and time-limited manner” and if on private property requires either a search warrant or lawful consent to search • DEFINITIONS: <ul style="list-style-type: none"> ○ Drone = any aerial vehicle that does not carry a human operator ○ Information = any evidence, images, sounds, data, or other information gathered by a drone ○ Law enforcement agency = any agency of this State or a political subdivision of this State which is vested by law with the duty to maintain public order and to enforce criminal laws 	NO	<ul style="list-style-type: none"> • RETENTION: Info gathered by a drone must be destroyed by the agency within 30 days EXCEPT a supervisor at the agency may retain particular information if there is reasonable suspicion that the information contains evidence of criminal activity or the information is relevant to an ongoing investigation or pending criminal trial • DISCLOSURE: Disclosure of info gathered by a drone may not be disclosed EXCEPT a supervisor of the agency may disclose particular information to another government agency if there is reasonable suspicion that the information contains evidence of criminal activity or the information is relevant to an ongoing investigation or pending criminal trial • ADMISSIBILITY: If a court finds by a preponderance of the evidence that police used a drone to gather information in violation of the law, the information shall be presumed to be inadmissible in any judicial or administrative proceeding. The State may overcome this presumption by proving the applicability of a judicially recognized exception to the exclusionary rule.

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
	HB 1652 Other Legislation is Proposed or Pending	Police AND Private Persons	N/A	N/A	<ul style="list-style-type: none"> • Criminalizes the intentional or knowing use of a drone to interfere with hunters or fisherman • DEFINITIONS: <ul style="list-style-type: none"> ○ Drone = any aerial vehicle that does not carry a human operator • Creates a civil cause of action for violation 	YES Permits injunctive relief and award of all resulting costs and damages to a person adversely affected by a violation of the law, including an award of punitive damages	No regulation of retention, disclosure, or admissibility
Indiana	HB 1009 <u>Statutory Cite:</u> IC § 35-33-5-9(a); IN ST § 35-33-5-9(a); IC § 35-31.5-2-342.3	Police ONLY	YES	YES	<ul style="list-style-type: none"> • Generally requires a search warrant in order to use a UAV • EXCEPTIONS: <ul style="list-style-type: none"> ○ Exigent circumstances necessitating a warrantless search ○ Substantial likelihood of a terrorist attack ○ Search and rescue or recovery operation ○ Responding to or mitigating results of a natural disaster, or any other disaster ○ Performing a geographical, environmental, or other survey for a non-criminal justice purpose ○ Consent of affected property owner(s) • DEFINITIONS: <ul style="list-style-type: none"> ○ UAV = an aircraft that does not carry a human operator and is capable of flight under remote control or autonomous programming ○ Use of a UAV = the use of a UAV by police 	NO	<ul style="list-style-type: none"> • ADMISSIBILITY: Communications or images obtained via UAV, and evidence derived therefrom, in violation of the law are not admissible as evidence in administrative or judicial proceedings No regulation of retention or disclosure

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
					to obtain evidence relevant to the enforcement of statutes, rules, or regulations, including the interception of wire, electronic, or oral communications and the capture, collection, monitoring, or viewing of images <ul style="list-style-type: none"> o "Tracking device" is defined to include a UAV 		
	Other Legislation is Proposed or Pending						
Iowa	<u>HF 2289</u> Statutory Cite: Use of unmanned aerial vehicle--prohibition--traffic law enforcement, IA ST § 321.492B	Police ONLY	N/A	N/A	<ul style="list-style-type: none"> • Prohibits the use of a UAV for traffic law enforcement 	N	<ul style="list-style-type: none"> • ADMISSIBILITY: Information obtained by UAV is not admissible as evidence in a criminal or civil proceeding UNLESS the information is obtained pursuant to the authority of a search warrant or is otherwise obtained in a manner consistent with state and federal law No regulation of retention or disclosure
	Other Legislation is Proposed or Pending						
Kansas	No Currently Enacted Legislation, but Legislation Proposed or Pending						

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
Kentucky	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Louisiana	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Maine	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Maryland	HB 0100/CH 0423	N/A	N/A	N/A	<ul style="list-style-type: none"> Appropriates \$500,000 to supplement the appropriation for fiscal year 2013 to provide funds to complete the proposal to operate an Unmanned Aerial Systems test site in the State 	N/A	N/A
	Other Legislation is Proposed or Pending						
Massachusetts	No Currently Enacted Legislation, but Legislation Proposed or Pending						

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
Michigan	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Minnesota	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Mississippi	No Currently Enacted or Proposed/Pending Legislation						
Missouri	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Montana	SB 196 Statutory Cite: MT ST § 46-5-109	Police AND Private Persons	N/A	N/A	<ul style="list-style-type: none"> • Generally prohibits using information obtained <i>via</i> UAV as evidence in any prosecution or proceeding within the State, subject to certain exceptions • EXCEPTIONS: <ul style="list-style-type: none"> ○ Warrant ○ In accordance with judicially recognized exceptions to the warrant requirement • Also prohibits use of information obtained <i>via</i> UAV in an affidavit of probable cause to obtain a search warrant UNLESS the information was obtained pursuant to a search warrant, in accordance with a judicially 	N/A	<ul style="list-style-type: none"> • ADMISSIBILITY: Information from a UAV is not admissible as evidence in any prosecution or proceeding within the State UNLESS the information was obtained pursuant to the authority of a search warrant or in accordance with a judicially recognized exception to the warrant requirement

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
					<p>recognized exception to the warrant requirement, or through the monitoring of public lands or international borders</p> <ul style="list-style-type: none"> • DEFINITIONS: <ul style="list-style-type: none"> ○ UAV = an aircraft that is operated without direct human intervention from on or within the aircraft and does not include satellites 		
	Other Legislation is Proposed or Pending						
Nebraska	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Nevada	AB 507	N/A	N/A	N/A	<ul style="list-style-type: none"> • Appropriates \$4,000,000 from the State General Fund to the Interim Finance Committee for allocation to the Governor’s Office of Economic Development for the UAV program, but the money can only be allocated by the Interim Finance Committee if and when Nevada is selected as a FAA test site and submission by the Governor’s Office of Economic Development of a plan for utilization of the funding including an analysis of the program’s estimated impact and effectiveness 	N/A	N/A
	Other Legislation is Proposed or Pending						

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New Hampshire	No Currently Enacted Legislation, but Legislation Proposed or Pending						
New Jersey	No Currently Enacted Legislation, but Legislation Proposed or Pending						
New Mexico	No Currently Enacted Legislation, but Legislation Proposed or Pending						
New York	No Currently Enacted Legislation, but Legislation Proposed or Pending						
North Carolina	SB 402 (Appropriations Act of 2013) at § 7.16(e)	Police ONLY	N/A	N/A	<ul style="list-style-type: none"> • Until July 1, 2015, prohibits procuring or operating a UAS and/or disclosure of personal information about any person acquired <i>via</i> UAS UNLESS the State CIO approves an exception specifically allowing disclosure, use, and/or purchase • DEFINITIONS: <ul style="list-style-type: none"> ○ Unmanned aircraft = an aircraft that is operated without the possibility of human intervention from within or on the aircraft ○ UAS = an unmanned aircraft and associated elements, including 	N/A	N/A

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					communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system		
	Other Legislation is Proposed or Pending						
North Dakota	SB 2018	N/A	N/A	N/A	<ul style="list-style-type: none"> Appropriates \$1,000,000 from the State general fund for costs related to pursuing designation as a FAA UAS test site. If selected by the FAA as a national test site, appropriates an additional \$4,000,000 from the State strategic investment and improvements fund to operate the site. 	N/A	N/A
	Other Legislation is Proposed or Pending						
Ohio	HB 497	N/A	N/A	N/A	<ul style="list-style-type: none"> Appropriates \$4,000,000 to fund the National Unmanned Aerial System Training Center and \$350,000 to fund the UAS Verification/Validation Testing Center, both at Sinclair Community College 	N/A	N/A
	Other Legislation is Proposed or Pending						
Oklahoma	No Currently Enacted Legislation, but Legislation Proposed or Pending						

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Oregon	HB 2710 Statutory Cite: O.R.S. § 837.300(1).	Police AND Public Bodies ¹	YES	YES	<ul style="list-style-type: none"> • Generally prohibits police from operating a drone, acquiring information through the operation of a drone, and/or disclosing information acquired through the operation of a drone • EXCEPTIONS: <ul style="list-style-type: none"> ○ Warrant, limited to 30 days ○ Existence of probable cause to believe that a person has committed, is committing, or is about to commit a crime AND exigent circumstances exist making it unreasonable to obtain a warrant ○ To acquire information about an individual or the individual’s property IF the individual has given written consent to the use of a drone for those purposes ○ For search and rescue activities, as defined in ORS 404.200 ○ To assist an individual in an emergency IF police believe there is an imminent threat to the life or safety of the individual and documents the factual basis for that belief (within 48 hours after the emergency operation begins, police official must file a sworn statement with the circuit court describing the nature of the emergency and the need for use of a drone) ○ During a state of emergency as declared by the Governor under ORS chapter 401 	YES Prevailing plaintiff may recover treble damages for any injury to the person or property due to trespass by a drone, may be awarded injunctive relief, and may recover attorney’s fees IF the amount pleaded is \$10,000 or less	<ul style="list-style-type: none"> • ADMISSIBILITY: <u>Generally</u>, any image or other information acquired <i>via</i> drone by police in violation of this law, and any evidence derived from that image or information, is not admissible in, and may not be disclosed in, a judicial, administrative, arbitration, or other adjudicatory proceeding AND may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed. <u>Specifically</u>, any image or other information acquired <i>via</i> drone by police <u>during training</u> as permitted by this law, and any evidence derived from that image or information, is not admissible in, and may not be disclosed in, a judicial, administrative, arbitration, or other adjudicatory proceeding AND may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed. • ADMISSIBILITY: Until January 1, 2016, any image or other information acquired by a public body <i>via</i> a drone that has not been approved by the FAA, and any evidence derived from that image or information, is not

¹ “Public body” is defined as “state government bodies, local government bodies, and special government bodies” and includes every state officer, agency, department, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation or any board, department, commission, council or agency thereof.

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					<p>AS LONG AS the drone is used only for the purposes of preserving public safety, protecting property or conducting surveillance for the assessment and evaluation of environmental or weather-related damage, erosion, or contamination AND the drone is operated only in the geographical area specified in a proclamation pursuant to ORS 401.165(5)</p> <ul style="list-style-type: none"> ○ To reconstruct a specific crime scene, or similar physical assessment, related to a specific criminal investigation, but only for 5 days ○ Training purposes <ul style="list-style-type: none"> ● DEFINITIONS: <ul style="list-style-type: none"> ○ Drone = an unmanned flying machine, not including a model aircraft ● Requires public bodies to register drones with the Oregon Department of Aviation, subject to a civil penalty of up to \$10,000 ● Prohibits use of weaponized drones by public bodies ● Creates a civil cause of action for a person who owns or lawfully occupies real property in the state against a person or public body that operates a drone that is flown at a height of less than 400 feet over the property IF the operator of the drone has done so on at least one previous occasion and the person gave notice that he/she didn't want the drone flown over the property at a height of less than 400 feet 		<p>admissible in, and may not be disclosed in, a judicial, administrative, arbitration, or other adjudicatory proceeding AND may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.</p> <p>No regulation of retention or disclosure</p>

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					<ul style="list-style-type: none"> • EXCEPTIONS: <ul style="list-style-type: none"> ○ The drone is lawfully in the flight path for landing at an airport, airfield, or runway, AND ○ The drone is in the process of taking off or landing 		
	Other Legislation is Proposed or Pending						
Pennsylvania	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Puerto Rico	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Rhode Island	No Currently Enacted Legislation, but Legislation Proposed or Pending						
South Carolina	No Currently Enacted Legislation, but Legislation Proposed or Pending						
South Dakota	No Currently Enacted or Proposed/Pending Legislation						

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Tennessee	SB 796 (Freedom from Unwanted Surveillance Act) Statutory Cite: T. C. A. § 39-13-609.	Police ONLY	YES	YES	<ul style="list-style-type: none"> • Generally prohibits use of a drone “to gather evidence or other information” • EXCEPTIONS: <ul style="list-style-type: none"> ○ To counter a high risk of a terrorist attack IF the U.S. secretary of homeland security determines that credible intelligence indicates that there is such a risk ○ Warrant ○ Reasonable suspicion that swift action is needed to prevent imminent danger to life • DEFINITIONS: <ul style="list-style-type: none"> ○ Drone = a powered aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or nonlethal payload ○ Law enforcement agency = a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws 	YES	<ul style="list-style-type: none"> • ADMISSIBILITY: Evidence obtained or collected in violation of this law is not admissible as evidence in a criminal prosecution in any court of law in the state No regulation of retention or disclosure
	HB 1952 and SB 1777	Police AND Private Persons	N/A	N/A	<ul style="list-style-type: none"> • Prohibits anyone from using a drone to conduct video surveillance of private citizens who are lawfully hunting or fishing 	NO	No regulation of retention, disclosure, or admissibility

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
	Other Legislation is Proposed or Pending						
Texas	HB 912 (Texas Privacy Act) Statutory Cite: V.T.C.A., Government Code § 423.001, <i>et seq.</i> , Use of Unmanned Aircraft.	Police AND Private Persons	YES	YES	<ul style="list-style-type: none"> • It is lawful to capture an image using an unmanned aircraft in the following 19 enumerated circumstances: <ul style="list-style-type: none"> ○ For purposes of professional or scholarly research and development by a person acting on behalf of an institution of higher education ○ In airspace designated as a test site or range authorized by the FAA for the purpose of integrated UAS into the national airspace ○ As part of an operation, exercise, or mission of any branch of the U.S. military ○ By a satellite for the purposes of mapping ○ By or for an electric or natural gas utility in certain enumerated circumstances ○ With the consent of the individual who owns or lawfully occupies the real property captured in the image ○ Warrant ○ By police (or a person under contract or otherwise acting under the direction of or on behalf of police)... <ul style="list-style-type: none"> ▪ In immediate pursuit of a person officers have reasonable suspicion or probable cause to suspect has committed an offense, not including misdemeanors or offenses punishable by fine only 	YES Permits injunctive relief, recovery of a civil penalty of \$5,000 for all images captured in a single violation or \$10,000 for disclosure, display, distribution, or other use of any images captured in a single violation, or recovery of actual damages if the person who violated the law discloses, displays, or distributes the image(s) with malice (as defined in § 41.001 of the Civil Practice and Remedies Code), and awards court costs and reasonable attorney’s fees to the prevailing party	<ul style="list-style-type: none"> • ADMISSIBILITY: An image captured in violation of the law, or an image captured by an unmanned aircraft that was incidental to the lawful capturing of an image (1) may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding; (2) is not subject to disclosure, inspection, or copying under Chapter 552; and (3) is not subject to discovery, subpoena, or other means of legal compulsion for its release, BUT may be disclosed and used as evidence to prove violation of this law and is subject to discovery, subpoena, or other means of legal compulsion for that purpose • REPORTING: Creates reporting requirements for police No regulation of retention or disclosure

STATE OR TERRITORY (Municipality, if applicable)	LEGISLATION, ENACTED OR PENDING	LEGISLATION APPLICABILITY (Police and/or Private Persons)	WARRANT REQUIRED (YES/NO)	EMERGENCY WARRANT EXCEPTION (YES/NO)	KEY LEGISLATIVE PROVISIONS	CIVIL CAUSE OF ACTION FOR VIOLATION (YES/NO)	REGULATION OF COLLECTED DATA
					<ul style="list-style-type: none"> ▪ To document a crime scene where an offense, not including misdemeanors or offenses punishable by fine only, has been committed ▪ To investigate the scene of a human fatality, a motor vehicle accident causing death or serious bodily injury to a person, or any motor vehicle accident on a state highway or federal interstate or highway ▪ In searching for a missing person ▪ To conduct a high-risk tactical operation that poses a threat to human life ▪ Of private property that is generally open to the public where the property owner consents to police public safety responsibilities ○ By police (or a person under contract or otherwise acting under the direction of or on behalf of police)... <ul style="list-style-type: none"> ▪ To survey the scene of a catastrophe or other damage to determine whether a state of emergency should be declared ▪ To preserve public safety, protect property, or survey damage or contamination during a lawfully declared state of emergency ▪ Conducting routine air quality sampling and monitoring, as proved by state or local law 		

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					<ul style="list-style-type: none"> ○ At the scene of a spill, or a suspected spill, of hazardous materials ○ For purposes of fire suppression ○ To rescue a person whose life or well-being is in imminent danger ○ By a Texas-licensed real estate broker in connection with marketing, sale, or financing of real property as long as no individual is identifiable in the image ○ Of real property or a person on real property that is within 25 miles of the U.S. border ○ From a height no more than 8 feet above ground level in a public place, AS LONG AS the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception ○ Of public real property or a person on that property ○ By the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in the state ○ In connection with oil pipeline safety and rig protection ○ In connection with port authority surveillance and security ● DEFINITIONS: <ul style="list-style-type: none"> ○ Image = any capturing of sound waves, 		

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					<p>thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in the state or an individual located on that property</p> <ul style="list-style-type: none"> • Creates 2 criminal offenses related to the use of unmanned aircraft • Creates a civil cause of action for an owner or tenant of privately owned real property located in the state against a person who, in violation of the law, captured an image of the property or the owner or tenant while on the property. The statute of limitations for such a cause of action is 2 years from the date the image was captured or initially disclosed, displayed, distributed, or otherwise used. 		
	HCR 217	Police ONLY	N/A	N/A	<ul style="list-style-type: none"> • Corrects the reporting requirements from HB 912 	N/A	No regulation of retention, disclosure, or admissibility
Utah	<p>SB 167 (Government Use of Unmanned Aerial Vehicles Act)</p> <p>Statutory Cite: UT ST § 63G-18-101 <i>et seq</i>,</p>	Police AND Private Persons	YES	YES	<ul style="list-style-type: none"> • Generally prohibits police from obtaining, receiving, or using data acquired through a UAV • EXCEPTIONS: <ul style="list-style-type: none"> ○ Warrant ○ In accordance with judicially recognized exceptions to warrant requirements ○ From a person who is a nongovernment actor (as defined below) • DEFINITIONS: <ul style="list-style-type: none"> ○ UAV = an aircraft that is capable of sustaining flight and operates with no possible direct human intervention from 	NO	<ul style="list-style-type: none"> • DISCLOSURE: A nongovernment actor may only disclose data acquired through a UAV to police if the data appears to pertain to the commission of a crime or the nongovernment actor believes, in good faith, that the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual and disclosing the data would assist in remedying the emergency. • RETENTION: Police may not use, copy,

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					<p>on or within the aircraft and DOES NOT include an unmanned aircraft that is flown within visual line of sight of the individual operating the aircraft and strictly for hobby or recreational purposes</p> <ul style="list-style-type: none"> ○ Nongovernment actor = a person that is not an agency, department, division, or other entity within state government; a person employed by or acting in an official capacity on behalf of the state; a political subdivision of the state; or a person employed by or acting in an official capacity on behalf of a political subdivision of the state ○ Target = a person upon whom, or a structure or area upon which, a person has intentionally collected or attempted to collect information through the operation of a UAV or plans to collect or attempt to collect information through the operation of a UAV 		<p>or disclose data collected by a UAV on a person, structure, or area that is not a target AND shall ensure that such data is destroyed as soon as reasonably possible after police collects or receives the data. BUT police is not required to comply if (a) deleting the data would also require deletion of data that relates to the target of the operation and is requisite for the success of the operation, (b) police receive the data through a court order that requires a person to release the data to the police or prohibits destruction of the data, or from a person who is a nongovernment actor, (c) the data was collected inadvertently and it appears to pertain to the commission of a crime, (d) police reasonably determine that the data pertains to an emergency situation and using or disclosing the data would assist in remedying the emergency, or (e) the data was collected through the operation of a UAV over public lands outside of municipal boundaries.</p> <ul style="list-style-type: none"> ● REPORTING: Creates reporting requirements for police <p>No regulation of admissibility</p>

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Vermont	No Currently Enacted Legislation, but Legislation Proposed or Pending						
Virginia	HB 2012 and SB 1331	Police ONLY	N/A	N/A	<ul style="list-style-type: none"> • Places a moratorium on the use of UAS until July 1, 2015 • EXCEPTIONS: <ul style="list-style-type: none"> ○ Amber Alert pursuant to VA Code § 52.34.3 ○ Senior Alert pursuant to VA Code § 52.34.6 ○ Blue Alert pursuant to VA Code § 52.34.9 ○ For search and rescue operations ○ Use by Virginia National Guard in certain circumstances 	N/A	N/A
	Other Legislation is Proposed or Pending						
Washington	No Currently Enacted Legislation, but Legislation Proposed or Pending						
West Virginia	No Currently Enacted Legislation, but Legislation Proposed or Pending						

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Wisconsin	AB 203 and SB 196 Statutory Cite: WI ST 175.55, Use of drones restricted	Police AND Private Persons	YES	YES	<ul style="list-style-type: none"> • Generally prohibits police from using a drone to gather evidence or other information in a criminal investigation without first obtaining a search warrant • EXCEPTIONS: <ul style="list-style-type: none"> ○ Warrant ○ In an active search and rescue operation ○ To locate an escaped prisoner ○ Reasonable suspicion that use of a drone is necessary to prevent imminent danger to an individual or to prevent imminent destruction of evidence • DEFINITIONS: <ul style="list-style-type: none"> ○ Drone = a powered, aerial vehicle that carries or is equipped with a recording device (as defined in § 943.49(1)(c), that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely; can be expendable or recoverable • Makes it a Class H felony to sell, transport, manufacture, possess, or operate a weaponized drone • Makes it a Class A misdemeanor to use a drone to photograph, record, or otherwise observe another individual in a place where such individual has a reasonable expectation of privacy EXCEPT for police authorized to use a drone pursuant to the law 	NO	<ul style="list-style-type: none"> • ADMISSIBILITY: Evidence or information collected in violation of the law is not admissible in evidence in any criminal proceeding No regulation of retention or disclosure

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Wyoming	No Currently Enacted Legislation, but Legislation Proposed or Pending						