



Written by [Joe Wolverton, II, J.D.](#) on June 5, 2012

First American Arrested by Aid of Drone Argues 4th Amendment Violation

It's been about a year since a North Dakota  man was arrested after a local SWAT team tracked him down using a Predator drone it borrowed from the Department of Homeland Security.

Although the story has not been widely reported, Rodney Brossart became one of the first American citizens (if not the first) arrested by local law enforcement with the use of a federally owned drone aerial surveillance vehicle after holding the police at bay for over 16 hours.

[Brossart's run-in with law enforcement](#) began after six cows found their way onto his property (about 3,000 acres near Lakota, North Dakota) and he refused to turn them over to officers. In fact, according to several sources, Brossart and a few family members ran police off his farm at the point of a gun.

Naturally, police weren't pleased with Brossart's brand of hospitality, so they held returned with a warrant, with a SWAT team, and with a determination to apprehend Brossart and the cows.

A standoff ensued and the Grand Forks police SWAT team made a call to a local Air Force base where they knew a Predator drone was deployed by the DHS. About three years before the Brossart incident, the police department had signed an agreement with DHS for the use of the drone.

No sooner did the call come in than the drone was airborne and Brossart's precise location was pinpointed with laser-guided accuracy. The machine-gun toting SWAT officers rushed in, tased then arrested Brossart on various charges including terrorizing a sheriff, and the rest is history. Literally.

As the matter proceeds through the legal system, Bruce Quick, the lawyer representing Brossart, is decrying the "[guerilla-like police tactics](#)" used to track and capture his client, as well as the alleged violation of the Fourth Amendment's protection against unwarranted searches and seizures.

While the police admittedly possessed an apparently valid search warrant, Quick asserts that no such judicial go-ahead was sought or obtained for the use of the Predator to track the suspect. Therein lies the constitutional rub.

In [an interview with the press](#), Quick claims that the police exceeded their authority in several instances, especially when they decided to go around the Fourth Amendment and illegally search Brossart's farm.

"The whole thing is full of constitutional violations," he says.

Quick goes so far as to call the police's use of the taser "tortuous" and something only slightly below "water-boarding."

For its part, the legal team representing Grand Forks insists that such extraordinary measures were necessary in light of Brossart's armed resistance of arrest and his family's wielding of "high-powered rifles" in his defense.

Furthermore, the drone was deployed only as a last ditch effort to peacefully end the nearly daylong deadlock, the state avers.

"Unmanned surveillance aircraft were not in use prior to or at the time Rodney Brossart is alleged to



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have committed the crimes with which he is charged,” wrote state prosecutor Douglas Manbeck, [as quoted by U.S. News](#).

As for the SWAT team’s handling of the high-powered remote control surveillance aircraft, a spokesman for the unit told *U.S. News* that his men have “received training on the basic capabilities of the Predator” and that they follow very clear-cut guidelines for “when [they] can or cannot use a drone.”

Manbeck defends the deployment of the drone, writing that “The use of unmanned surveillance aircraft is a non-issue in this case because they were not used in any investigative manner to determine if a crime had been committed. There is, furthermore, no existing case law that bars their use in investigating crimes.”

Maybe, maybe not. This and other issues will be laid before the court when Brossart’s trial begins later this month.

Is there a legal distinction to be made between the level of search conducted by the human eye (whether the searcher is on foot or in a helicopter) and that of a drone’s powerful never-blinking optics? Such an inarguable increase in police perception is not an insignificant decrease in the privacy expectation enjoyed by landowners and protected for centuries by timeless principles of Anglo-American law.

Given this encroachment into the formerly sacrosanct territory of individual liberty, Americans are right to resist the government’s apparent plan to fill the skies of our Republic with remote-controlled agents of the President and police.

In point of fact, a warrant becomes unnecessary when the search is being conducted using a drone. The target of the hunt will likely be unaware that he is being tracked and thus government (at any level) can keep a close eye on those considered threats to national (or local) security without having to permit the eye of the court to look over their shoulder.

Quick seems to appreciate the danger posed by the proliferation of drones. “We’re starting to see drones used more and more, but were they intended to be used by civilian law enforcement?” he told an interviewer. “That smacks of big brother to me. I think we need to think long and hard before we proceed down this path.”

Not surprisingly, there are those who claim that a sheriff’s use of a Predator is no different from his use of a helicopter, and that those who warn of an impending surveillance state are alarmists who should be paid no mind.

However, as discussed above, there are irrefutable differences in technology between the two vehicles, not to mention the devices used by each to perform their assigned tasks.

Beyond these distinctions there is another more sinister drone quality that sets it apart from its more traditional airborne ancestor. Glenn Greenwald accurately assessed the threat in [a recent piece published by Salon](#):

For those dismissing concerns about drones by claiming (falsely) that they are the equivalent of police helicopters, won’t those same people dismiss concerns over weaponized drones by arguing: there’s no difference between allowing the police to Taser you or shoot you themselves and allowing them to do that by drone? This is always how creeping police state powers are entrenched: one step at a time.

Still doubt such devious intent on the part of law enforcement? Witness the story of the Houston Police



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Department's glee over their recent purchase of a drone. The [Houston Chronicle reports](#):

Chief Deputy Randy McDaniel of the sheriff's office said the \$300,000 ShadowHawk drone — purchased from Vanguard Defense Industries with federal homeland security grant funds — will take to the air in the coming months to provide another tool in the law enforcement arsenal.

"It's an exciting piece of equipment for us," he said. "We envision a lot of its uses primarily in the realm of public safety — looking at recovery of lost individuals and being able to utilize it for fire issues."

In the future, the drone could be equipped to carry nonlethal weapons such as Tasers or a bean-bag gun, McDaniel said.

Taser and bean-bag guns today, Hellfire missiles and machine guns tomorrow.

Still don't believe the warning? Read what one commentator wrote (with obvious pride) about a similar small drone — the Switchblade:

"...it is an ingenious, miniature unmanned aerial vehicle (UAV) that is also a weapon."

Do the research: Drones are cheaper than helicopters, they are more agile, they are more accurate, they are quieter, they are smaller — all of which makes them exponentially deadlier. Drones are indeed the quieter, quicker killer and they will be used to the best of those abilities.

Photo: A General Atomics MQ-1 Predator



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