



Written by [Joe Wolverton, II, J.D.](#) on August 30, 2012

Police Chief Group Suggests Guidelines for Use of Police Drones

In advance of law enforcement's deployment of their drones, a group representing police chiefs have issued recommended guidelines for the lawful use of the unmanned aerial vehicles.

The Aviation Committee of the International Association of Chiefs of Police (IACP) [published a three-page pamphlet](#) suggesting ways local police can successfully and safely include drones in their law enforcement efforts.



The document breaks down its directions into four broad categories: community engagement, system requirements, operational procedures, and image retention.

Among other points listed under the first heading, the IACP recommends:

"The [law enforcement] agency should assure the community that it values the protections provided citizens by the U.S. Constitution. Further, that the agency will operate the aircraft in full compliance with the mandates of the Constitution, federal, state and local law governing search and seizure."

We applaud the IACP's nod to the Constitution, in particular the [Fourth Amendment's prohibition of unreasonable searches and seizures](#). This seems a particularly timely instruction.

[As we have reported](#), last year [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 (DHS).

During the standoff Grand Forks police SWAT team a local Air Force base requesting permission to borrow a DHS Predator drone kept there. Three years before the Brossart arrest, the police department signed an agreement with DHS for the ad hoc 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 and arrested Brossart on various charges including terrorizing a sheriff.

At a subsequent hearing, Brossart's attorney Bruce Quick claimed the sheriff's use of the drone violated his client's Fourth Amendment rights.

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 said 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.

If police chiefs around the country follow the IACP's direction, perhaps such confrontations and constitutionally questionable maneuvers can be avoided.



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Further guidance for preventing conflicts with the Constitution is provided by the IACP. Later in the paper the group reminds police:

Where there are specific and articulable grounds to believe that the UA will collect evidence of criminal wrongdoing and if the UA will intrude upon reasonable expectations of privacy, the agency will secure a search warrant prior to conducting the flight.

Next the IACP says that police would go a long way toward avoiding legal challenges to their use of drones were they to also follow their suggestion to give citizens advance opportunity “to review and comment on agency procedures as they are being drafted.”

Regarding the design of the drones, the IACP recommends painting the vehicles with “a high visibility paint scheme.” This, the group insists will “allow persons on the ground to monitor the location of the aircraft.”

Of course, a brightly painted drone defeats its surveillance purpose and the IACP claims that such visibility could increase the danger faced by officers in the field. This threat could be avoided by conducting high risk activities “covertly and at night” the group says.

One of the greatest potentials for constitutional violations predicted by civil liberties watchdogs is the weaponization of law enforcement drones. This is addressed by the IACP in its recommendations.

“Equipping the aircraft with weapons of any type is strongly discouraged. Given the current state of the technology, the ability to effectively deploy weapons from a small UA is doubtful. Further, public acceptance of airborne use of force is likewise doubtful and could result in unnecessary community resistance to the program,” the booklet says.

This is not nearly the clear and bold rejection of weaponization that constitutionalists would prefer. If the IACP wanted to take a stronger constitutional position the guidelines would have encouraged agencies to commit to refusing to use drones to deploy weapons of any sort.

Journalist [Glenn Greenwald warned](#) of the sinister slip from surveilling to shooting.

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.

In another story, [the Houston Chronicle reported](#) that the Harris County sheriff purchased a \$300,000 ShadowHawk drone and was excited about its possibilities.

“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,” Chief Deputy Randy McDaniel is quoted as saying.

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

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

For those still doubting the likelihood of such a scenario read what one commentator wrote (with obvious pride) about the Switchblade drone popular with law enforcement:



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

The fact is that 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 there are likely many law enforcement agencies that will use these new tools to the best of those abilities.

Next, the IACP addresses another aspect of privacy concerns in the use of drones by police.

While patrolling the skies above a community the never-blinking high-powered optics that make the unmanned aerial vehicle such a powerful surveillance tool will unavoidably capture and record video of people unconnected with any crime. The storing of these images represents another potential deprivation of citizens’ constitutional rights.

As a precaution against this violation, the IACP recommends:

“Unless required as evidence of a crime, as part of an on-going investigation, for training, or required by law, images captured by a UA should not be retained by the agency. Unless exempt by law, retained images should be open for public inspection.”

This may be a step in the right direction, but preventing such encroachments on the privacy rights of individuals from happening in the first place would be a better and more constitutionally sound policy.

Finally, the IACP states that although there are potential privacy concerns in the use of drones by police, agencies should not let this dissuade them from enjoying the “irrefutable” benefits that drones uniquely provide.

“Privacy concerns are an issue that must be dealt with effectively if a law enforcement agency expects the public to support the use of UA by their police.”

The tone of this and other comments in the IACP’s “Recommended Guidelines for the use of Unmanned Aircraft” cast doubt on the group’s commitment to upholding the principles of individual freedom and civil liberty enshrined in our Constitution.

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