



Written by [Joe Wolverton, II, J.D.](#) on July 23, 2012

## Drone Use Increases Worldwide; Trade Rep Says Only the Guilty Need Fear

"If you're concerned about it, maybe there's a reason we should be flying over you, right?" That's the [callous response](#) of one drone trade group representative when asked his opinion of those who worry about the increasing use of the unmanned aerial vehicles and the corresponding decrease in privacy and civil liberties. The man who spoke those words is Douglas McDonald, the director of special operations for [Unmanned Applications Institute International](#) and president of a North Dakota chapter of an unmanned vehicle trade group. Another North Dakotan has a different take on the use of drones in the Flickertail State.



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 (if not the first) American citizens arrested by local law enforcement with the use of a federally-owned drone 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 returned with a warrant, a SWAT team, and 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 officer 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



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Brossart's farm. "The whole thing is full of constitutional violations," he said. 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 only deployed 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 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.

A judge is expected to rule within days on whether the charges against Brossart should be dismissed as a result of the failure of law enforcement to secure a search warrant specifically requesting use of the drone, in violation of Brossart's Fourth Amendment rights.

Is there a legal distinction to be made between the level of search conducted by the human eye (whether on foot or from 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.

President Obama's penchant for death by remote control is well known, but lately it seems this fever has become a worldwide pandemic. Consider the following headlines from around the globe:

From the [International Herald Tribune](#): "At least six people have been killed after a drone strike targeted a house in North Waziristan, Express News reported on Monday evening. According to the report, the drone fired eight missiles at a compound in Shawal Tehsil, believed to be housing militants."

From [Wired](#): "Since at least February, the Syrian government has been using Iranian-built drones to track and target Free Syrian Army rebels in their strongholds, including Homs and Hamah. Now some fresh commercial satellite imagery provides new details about the unmanned aerial vehicles' possible tactics and capabilities."

From the [Wall Street Journal](#): "The Pentagon plans to provide small drones to Kenya, part of a new package of military assistance for key African partners to combat al Qaeda and al Shabaab militants in



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Somalia.”

From [the \(Halifax\) Herald News](#): “They may be better known for riding horses, but the Mounties are trading the clack of hoofs for the whirl of rotors with their newest investigative tool. The RCMP [Royal Canadian Mounted Police] is eyeing creation of a national fleet of small, drone-like helicopters fitted with cameras to help probe crimes, reconstruct traffic accidents and assist with search and rescue.”

For those concerned about the potential for a sky filled with nearly invisible drones using invisible lasers to monitor and record the movements and molecular make up of every American, consider these [comforting words from the Grand Forks, North Dakota, sheriff Robert Rost](#): “We are not out there to abuse people’s rights, but at the same time we’re out there to protect public safety. The public perception is that Big Brother is going to be snooping on them and that is not the case at all. It will not be misused.”

Consider in contrast the following admonition of Thomas Jefferson: “Free government is founded in jealousy, not confidence. It is jealousy and not confidence which prescribes limited constitutions, to bind those we are obliged to trust with power.... In questions of power, then, let no more be heard of confidence in men, but bind him down from mischief by the chains of the Constitution.”



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