



Written by [Joe Wolverton, II, J.D.](#) on February 25, 2013

FAA Releases Expanded Drone License List

On February 19, the Federal Aviation Administration (FAA) [issued a fact sheet reporting that it has granted 1,428 drone licenses](#) to entities in the United States. Of those, 327 are designated active.

There is no legal restriction on who can request a license to fly a drone and the FAA statement claims that typical purposes for the unmanned vehicles include “law enforcement, firefighting, border patrol, disaster relief, search and rescue, military training, and other government operational missions.”

The FAA is hurrying to get all the licenses processed in order to meet the September 2015 deadline set by Congress for releasing the drones over the United States.

While there is no consensus on the number of drones that soon will begin buzzing over cities and towns in the United States, estimates range from 10,000 to 30,000 of the powerful surveillance craft may begin their patrol in the domestic skies.

Of all the licenses approved by the FAA, the majority have been granted to local and state law enforcement.

For example, in Alabama, [correspondents on the scene reported seeing drones flying over the site](#) where a five-year-old boy was being held captive in a bunker by a 65-year-old man. According to [a report of the situation filed by the Los Angeles Times](#), “authorities refused to say who was operating the AeroVironment drone....”

Perhaps the most troubling use by law enforcement of a drone was the case of Rodney Brossart.

In 2011, [Brossart became one of the first American citizens](#) (if not the first) arrested by local law enforcement with the use of a drone owned by a federal agency. Police launched this loaner after Brossart held the police at bay for over 16 hours.

It is likely Brossart’s case that inspired Becker to put legislative brakes on the runaway zeal of law enforcement to get these all-seeing eyes airborne.

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 Grand Forks Air Force Base, home to one of the Department of Homeland Security’s squadron of Predator drones. No sooner did the call come in than the drone was airborne, and Brossart’s precise location was pinpointed with laser-





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guided accuracy. The machine-gun toting SWAT officers rushed in, tased, and then arrested Brossart on various charges, including terrorizing a sheriff.

At a legal hearing on the matter, Bruce Quick, the lawyer representing Brossart, alleged a violation of the Fourth Amendment's protection against unwarranted searches and seizures. Although the police possessed an apparently valid search warrant, Quick asserts that no such judicial go-ahead was sought for or obtained for the use of the Predator drone to track Brossart. Therein lies the constitutional rub.

On several occasions Congress has attempted to provide specific guidance to the judicial branch's understanding of the Fourth Amendment and the scope of its prohibitions. These updated rules would prevent citizens from being subject to surveillance without notice.

The latest effort by federal lawmakers to shore up the Fourth Amendment's protection of privacy is [a bipartisan bill \(H.R. 637\)](#) offered on February 13 and co-sponsored by Representatives [Ted Poe](#) (R-Texas), Trey Gowdy (R-S.C.), and Zoe Lofgren (D-Calif.). This bill would require the attorney general to publish online a list of all entities — public and private — that operate drones.

More importantly, the bill would establish a more rigorous legal framework for the use of drones by law enforcement, including the requirement that all drone surveillance be “pursuant to a warrant issued by a court of competent jurisdiction; and not later than 10 days after the execution of the warrant, the governmental entity that sought the warrant serves a copy of the warrant on each person on whom covered information was collected....”

“We need to protect against obtrusive search and surveillance by government and civilian use,” Poe said in a telephone interview with the *Los Angeles Times*.

Last year, a similar measure proposed by Senator Rand Paul (R-Ky.) was voted down.

In practice, these bills would help judges apply the principles of the Fourth Amendment to drone use in a very specific way. The standards presently used to judge the constitutionality of observation by helicopter or patrol car, for example, would be altered appropriately to fit the rapidly advancing drone technology. The improved legal framework would help law enforcement avoid legally suspect surveillance and would maintain the public's protection against unconstitutional searches and seizures.

Wary of the impending de facto denial of their constituents' Fourth Amendment rights, officials in towns and states across the country are proposing bills strengthening the constitutional restraints on government surveillance.

For example, on February 4 the city of Charlottesville, Virginia, [passed a measure](#) declaring the use of drones in the United States to be “a serious threat to the privacy and constitutional rights of the American people.

The resolution (passed by a vote of 3-2) endorsed the proposal for a two-year moratorium on drones in the state of Virginia. Furthermore, it would prohibit the use of “information obtained from the domestic use of drones from being introduced into a Federal or State court” located within Virginia, as well as outlawing the weaponization of drone fleets in the state.

As [reported by the Tenth Amendment Center](#), David Swanson took the lead in pushing for adoption of the resolution. “In the past, Charlottesville has passed resolutions that have inspired other localities and impacted federal and state policies. Let us hope this one is no exception,” Swanson told the Tenth Amendment Center.

Councilmember Dede Smith, who voted in favor of the bill, is quoted in [a US News story](#) saying she



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believes drones are “pretty clearly a threat to our constitutional right to privacy.”

“If we don’t get out ahead of it to establish some guidelines for how drones are used, they will be used in a very invasive way and we’ll be left to try and pick up the pieces,” she said in the report.

Amie Stepanovich, a lawyer with the Electronic Privacy Information Center (EPIC), told US News that the “Charlottesville resolution demonstrates that people care about protecting their civil liberties and Fourth Amendment rights and are willing to devote the time necessary to closely examine this issue.”

“Lawmakers should be looking at [drone privacy] issues now in order to ensure that there are safeguards in place to protect individual privacy from these invasive technologies,” she added.

The text of the measure was drafted by the Rutherford Institute, a civil-liberties advocacy group based in Charlottesville. Founded in 1982, the organization declares on its website that its purpose is “to provide legal services in the defense of religious and civil liberties and to educate the public on important issues affecting their constitutional freedoms.”

While Charlottesville becomes the first city to codify a curb on the use of drones, lawmakers in at least 11 other states are rushing to retrench the Fourth Amendment in advance of the approaching attack of the drones.



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