

Drones and Domestic Spying

A civil liberties briefing



Drones are unmanned aerial vehicles controlled by a human operator. They are used by both the government and private sector for a variety of purposes: from scientific research to agriculture to military operations. Domestic drone use is regulated by the Federal Aviation Administration (FAA). Thus far, the FAA has proceeded cautiously, permitting only a small number of domestic law enforcement agencies to operate drones. However, there is increasing pressure from industry, law enforcement, and some in Congress to permit more domestic drones and expand their use.¹

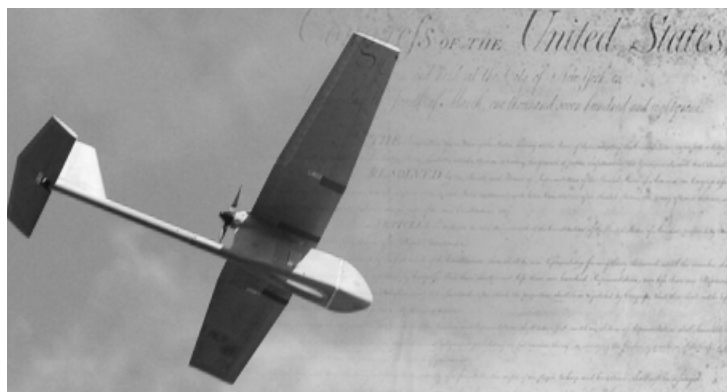
Privacy Risks

Drone use creates many privacy concerns, including:

- **Increased surveillance.** The high cost of manned aircraft has always imposed a limit on the government's aerial surveillance capacity. The low cost and flexibility of drones erode that limit.
- **More invasive technology.** Increasing technology, such as high powered night vision cameras and see-through imaging, provide more and better detail and exacerbate privacy issues.
- **Threats to free speech.** Surveillance curtails individual liberty and freedom by placing Americans under constant scrutiny. Innocent people may fear punishment if they exercise their First Amendment rights on issues where they do not agree with the government.
- **Misuse of data.** Local and federal law enforcement agencies routinely store all kinds of data on Ohioans. Without limits on data retention and sharing, we risk the creation of databases that facilitate the pervasive, permanent monitoring of innocent Ohioans.

Need for Guidelines

The **Heritage Foundation**,² the **International Association of Chiefs of Police**,³ the national **Republican Party**,⁴ and the **ACLU** all agree that guidelines on domestic drone use will help protect against unreasonable government intrusion.



National Trends

Currently, there is a surge of activity in state legislatures all over the nation aimed at regulating domestic drone use. To date, approximately 95-percent of these bills include a requirement that law enforcement officials get a warrant before using drones in their investigations.⁵

Ohio Legislation

Currently, there are two bills pending in the General Assembly that would provide guidelines for drone use by governmental agencies:

1. **H.B. 207⁶**: Permits law enforcement to operate drones for evidence and information collection **after a search warrant is obtained**; in an emergency; or when necessary to thwart a terrorist attack.
2. **S.B. 189⁷**: Permits state employees to operate drones **after a search warrant is obtained** or in an emergency; codifies limits on data retention; **bans weapons** on drones; and establishes a **reporting requirement** for drone operations.
3. **H.B. 364⁸**: Permits state employees to operate drones **after a search warrant is obtained** or in an emergency; codifies limits on data retention; **bans weapons** on drones; and establishes a **reporting requirement**.

The ACLU of Ohio supports both of these bills, which work proactively to balance civil liberties and public safety.

1. American Civil Liberties Union. (2011). *Protecting privacy from aerial surveillance: Recommendations for government use of drone aircraft*. Retrieved from: <https://www.aclu.org/files/assets/protectingprivacyfromaerialsurveillance.pdf>

2. The Heritage Foundation. (2012). *Drones in U.S. airspace: Principles for governance*. Retrieved from <http://report.heritage.org/bg2732>

3. International Association of Chiefs of Police Aviation Committee. (2012). *Recommended guidelines for the use of unmanned aircraft*. Retrieved from http://www.theiacp.org/portals/0/pdfs/IACP_UAGuidelines.pdf

4. 2012 Republican Platform. (2012). *We believe in America*. Retrieved from http://www.gop.com/2012-republican-platform_We/#item11

5. Allie Bohm, *Status of Domestic Drone Legislation in the States*, Feb 28, 2013, <http://www.aclu.org/blog/technology-and-liberty/status-domestic-drone-legislation-states>

6. H.B. 207 (introduced on June 12, 2013), http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_207

7. S.B. 189 (introduced on September 12, 2013), http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_189

8. H.B. 364 (introduced on November 26, 2013), http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_364