



Current Best Practices and Precedents

Existing UAV Guidelines/Best Practices



GAO: UAVs create a new privacy paradigm

- One of the leading privacy theories is the right to control information about oneself.
- This paradigm works in some mediums...However, with drones and aerial surveillance ... this theory of privacy breaks down

2nd Restatement of Torts

- **Publicity given to private facts:**
 - One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that (a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public.
 - This gets into collection AND sharing.
- **Intrusion Upon Seclusion**
 - One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.

Recent Court Actions – 3rd Circuit

- “[N]o person of ordinary sensibilities would be shamed, humiliated, or have suffered mentally as a result of a vehicle entering in his or her ungated driveway and photographing him or her from there. [The house, pool, and driveway could] be seen by any person who entered onto their driveway, including a visitor or a delivery man.”
 - *Boring v. Google, Inc.*, No. 09-2350, 362 Fed. Appx. 273 (3d Cir. 2013).

EPIC, ACLU, and CDT letter to FAA

- “Companies are developing ‘paparazzi drones’ in order to follow and photograph celebrities. Private detectives are starting to use drones to track their targets...Criminals and others may use drones for purposes of stalking and harassment.”
 - Concerns are “harassment,” “stalking” which are already illegal
 - Private detectives are a regulated industry.
- “[I]ncreases the First Amendment risks for would be political dissidents”
 - Could limit the ability of dissidents to use UAVs to expose bad activity

Academy of Model Aeronautics AMA Advanced Flight Systems Committee



Strict Prohibition without prior consent

- The use of imaging technology on radio control model aircraft with the capability of obtaining high-resolution photographs and/or video, or **using any types of sensors, for the collection, retention, or dissemination of aerial surveillance data/information on individuals, homes, businesses or property, is strictly prohibited by the AMA** unless expressed written permission is obtained from the individuals, property owners or managers.
- But this is designed for FPV model aircrafts – “FIRST PERSON VIEW (FPV) refers to the operation of a radio controlled (RC) model aircraft using an onboard camera’s cockpit view to orient and control the aircraft”

May work for AMA Members but not UAVs

- This is what AMA Members use... not exactly the same thing that DGI uses.



AUVSI[®]



Unmanned Aircraft System Operations: Industry Code of Conduct

- “We will respect the privacy of individuals.”

What do these best practices and precedents generally have in common?

- Respect for expectation of privacy
- Violations require intent to cause harm:
 - Whether making public images with intent to embarrass
- Best practices can address issues of:
 - Privacy when expected
 - Transparency and Accountability, and
 - Data security.

So that's where we are
today where do we go
tomorrow?

Proposed Stakeholder Privacy best practices for the operation of Unmanned Aerial Vehicles

- **Section 1: Applicability**

- Both commercial and non-commercial

- **Section 2: Definitions**

- **Section 3: Requirements of UAV Operations**

- Don't knowingly and intentionally use a UAV to record:
 - Without the knowledge or consent of the person being recorded
 - Where there is a has a reasonable expectation of privacy AND
 - Except to the extent that the person is reasonably unidentifiable

Proposed Stakeholder Privacy best practices for the operation of Unmanned Aerial Vehicles

- **Section 4: Transparency Requirements**

- A commercial operator should have an online privacy policy and POC
- A non-commercial operator should clearly and consciously label their UAV with info

- **Section 5: Data Security Mandate**

- Should take reasonable steps to store information securely

- **Section 6: Protecting First Amendment and Safety**

- These best practices should not impede: use of UAVs for purposes of news or public information services.
- These best practices should not impede: use of UAVs for purposes of safety and rescue responses
- These best practices should not take precedent over the safe operation of a UAV