Written Testimony

Of

Stephen J. Ingley

Executive Director

Airborne Law Enforcement Association

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State of Alaska

Good morning Representative Hughes and members of the Legislative Task Force on Unmanned Aircraft Systems. My name is Stephen Ingley and I am the executive director of the Airborne Law Enforcement Association (ALEA). ALEA is a 501(c)(3) non-profit educational membership organization, founded in 1968 to support, promote and advance the safe and effective utilization of aircraft by governmental agencies in support of public safety missions through training, networking, advocacy and educational programs. Our vision is the safe and successful completion of each airborne public safety operation. And our values are Safety, Education & Training, Networking, Public Service, Professionalism, and Ethics and Integrity. Our members operate traditional aircraft (airplanes and helicopters), alternative aircraft (light sport aircraft, gyro-copters and powered parachutes) and unmanned aircraft systems (UAS).

UAS technology has been successfully fielded by the US military in combating terrorism. As the war has drawn down, UAS manufacturers have developed more devices that are small, portable and reliable. More importantly, the manufacturers started to develop devices that were relatively inexpensive, making it conceivable that those agencies that could not afford traditional aviation assets, could afford small UAS (sUAS) technology.

Realizing the potential of this technology, in 2005, the ALEA became active in researching the feasibility of incorporating sUAS into the “toolbox” of public safety agencies. This included participating in the Federal Aviation Administration’s (FAA) Proposed Rulemaking Committee for UAS, participating in the Department of Justice’s, National Institute of Justice research projects for UAS, conducting UAS training for ALEA members, and working with various organizations and federal and state legislatures on UAS issues. In addition to this, the ALEA has taken the lead in public safety aviation by embracing this new technology, as we see the capabilities of UAS in enhancing the safety of our citizens and public safety employees.

It is a very common occurrence to see military operated UAS on national and local news programs. These devices are large, armed with weapons and operated in theater. Many times, articles have been written regarding the use of UAS technology by American public safety agencies, along with a photos of military grade Predators and Global Hawks. The depiction of military UAS devices within an article concerning public safety’s use only heightens the fear of the public and fosters distrust. More importantly, it paints a picture that your local police or sheriff’s department is going to operate Predator type UAS devices, capable of long-term, sustainable surveillance and rocket-launched weapons. This stylized hype couldn’t be further from the truth.

While the military has been successful in its use of UAS technology to combat terrorism, American public safety is in its infancy in using these devices to combat crime, save lives and enhance the efficiency of agencies. Today, there are four local agencies that have FAA approval to operate UAS devices in their respective jurisdictions. They are the Grand Forks County (North Dakota) Sheriff’s Office, Mesa County (Colorado) Sheriff’s Office, Arlington (Texas) Police Department and the Miami-Dade Police Department. Mesa County was the first agency to initiate utilizing UAS technology within their day-to-day operations. Being a very rural county in Colorado, this was a relatively easy process for them, as they had little impact on the national airspace and interfering with the safe operation of other aircraft. Although rural, Mesa County has pioneered the use of these devices for all agencies. What Mesa County has discovered is that these devices are not just a law enforcement tool, but also a tool for public safety generally, as well as government operations. For example, the Mesa County UAS program routinely assists its various fire agencies in responding to building fires. Their UAS devices are launched to provide fire incident commanders timely information regarding the fire that they are combating. In addition, the devices are routinely used for Search and Rescue (SAR) missions. sUAS are able to clear large areas of land (wooded and cleared) much faster than utilizing ground personnel. This permits the Mesa County rescuers to manage a SAR operation much more efficiently and enhances the chance of finding any victims much sooner by deploying search personnel smarter. Mesa County also utilized its sUAS to survey its county owned landfill for an annual land use survey. In the past, the county hired a company to conduct this survey using traditional aircraft and it cost taxpayers thousands of dollars. By using the county owned sUAS, the work was conducted for only hundreds of dollars, saving the county precious funds to allocate elsewhere.

In the province of Saskatchewan, the Royal Canadian Mounted Police, utilizing a sUAS, was recently credited with the first public safety SAR mission that directly resulted in saving someone’s life.

I would like to highlight an event that occurred in Baltimore County (Maryland) recently. On May 28, 2013, a large container vehicle and a CSX freight train collided at a vehicle crossing. This incident occurred in an area that is near the city of Baltimore and in an area of mixed commercial and residential use. In addition, the incident occurred less than one half mile from Interstate 95, a major north and south thoroughfare. The incident included the explosion of a railroad car carrying hazardous materials and serious damage to commercial, government and personal property miles away. Immediately after the incident occurred, the Baltimore County Police Department launched one of their turbine engine helicopters to provide command and control support for the Baltimore County Fire Department incident commander (clearly not a law enforcement mission). The aircraft provided an “eye-in-the-sky” for the incident commander and continuously downlinked the images to the incident command post, Emergency Operations Center and within the county’s intranet for police and fire commanders. Although the county used its traditional aviation resources to complete this mission, the mission could have been conducted by a sUAS at a fraction of the cost. The turbine engine aircraft costs approximately $400.00 per hour to operate, and they were on-scene for several hours with multiple aircraft. A sUAS would have only cost the agency approximately $25.00 per hour to operate and would have provided the same aerial images to the fire and police commanders.

Of course, Mesa County and the other agencies use their sUAS for law enforcement missions as well. These missions include, but are not limited to:

* Traffic crash scene photography
* Crime scene photography (with and without the need for a search warrant)
* Command and control of major incidents
* Tactical Operations (Barricaded subjects, armed subjects, school incidents)

As much as the ALEA embraces the inclusion of new technology into the airborne public safety industry, we also embrace the rights of our citizens. The ALEA supports the professional operation of aircraft in public safety missions and expects its members to do so within the framework of the laws of this country. In fact, we routinely say that we are a “Profession within a Profession.” We are both professional public safety officers and professional aviators. As such, we work tirelessly to educate our members on search and seizure laws pertaining to privacy and the use of aircraft, UAS included.

To reiterate our opening remarks submitted to the Privacy Project 2013, we “support and promote the IACP Aviation Committee’s Recommended Guidelines for the use of Unmanned Aircraft and the Association for Unmanned Vehicle Systems International’s (AUVSI) Unmanned Aircraft System Operations Industry ‘Code of Conduct.’ We do not concur with privacy advocates who claim that public safety agencies’ utilization of unmanned aerial systems (UAS) poses a greater threat to ‘privacy rights’ than manned aviation. Similarly, we do not concur that said uses pose a greater threat to privacy ‘rights’ than other technologies currently utilized by public safety agencies, both in manned aircraft and on the ground. Furthermore, we do not accept that any legislation is necessary as there are long-standing court rulings upholding our Fourth Amendment protections; but we are particularly opposed to legislation that focus their attention on one technology based on fears of what could occur tomorrow, however unlikely. Aside from recent laws enacted that place outright bans on UAS use, such as that in Charlottesville, VA, many current ‘anti-drone’ bills appear to be more of an attempt to increase protections under the Fourth Amendment without actually altering the U.S. Constitution. The presumption in most of these pieces of legislation is that a reasonable expectation of privacy now exists in places where there has been no such expectation. As such, a warrant must be obtained before UAS can be utilized by public safety.”

The ALEA believes that the Fourth Amendment of the Constitution of the United States of America is alive and well; and the protections contained therein against unreasonable searches and seizures have been supported through years of judicial opinions. We also believe in the Constitutional process of lawfully obtaining a search warrant when there are specific, articulable grounds to believe that the use of an aircraft, UAS included, will intrude upon a reasonable expectation of privacy. However, in situations where time is of the essence and **NO** reasonable expectation of privacy exists, we would be opposed to restrictions that would limit the effectiveness of UAS.

We would encourage you to focus attention on the more basic issue at hand -- the storage, use, retention, and destruction of sensitive data; not the technology that gathers the data. Similar to law enforcement’s use of Automated License Plate Readers (LPRs) and government and non-government surveillance camera’s, the data captured and the use of this data is of concern to civil liberty advocates and others. As such, ALEA believes that law enforcement agencies must have solid policies that address, at a minimum, the following:

* How captured data is stored.
* Who has access to the data.
* How long the data is stored.
* How the data is purged.
* Audit controls to hold law enforcement employees accountable for the proper use of captured and stored data.
* Transparency in the inspection of stored data that is not evidence of a crime.

As stated above, these are the same privacy issues that we face concerning LPRs and surveillance cameras. However, unlike these two public safety tools, UAS is being treated differently, resulting in the creation of a separate and higher set of operating standards. If there is to be legislation, it needs to focus on public safety agencies utilization of sound policies that address the bullet points above, as opposed to developing different sets of legislated standards for each device that may be used to gather data.

In closing, ALEA, along with other organizations, have worked diligently with the FAA to develop procedures to operate UAS technology within the National Airspace. This includes the newly released FAA and Department of Justice Memorandum of Understanding that clearly explains the procedures to obtain a Certificate of Authorization to operate a UAS by a public safety agency. The ALEA continues to be committed to embracing this technology, working with others to see its safe integration into the National Airspace, and to developing training for public safety professionals who operate UAS. Our subsidiary, the Public Safety Aviation Accreditation Commission, is also committed to developing standards for the operation of UAS by public safety agencies.

On behalf of the Airborne Law Enforcement Association and its membership, thank you for the opportunity to participate in these deliberations.