

Liberty Brief

Wyoming Liberty Group

Downing the Drones?

Limiting Law Enforcement Use of Unmanned Aerial Surveillance in Wyoming

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Introduction

Drones, technically known as Unmanned Aerial Vehicles (UAVs) or Unmanned Aerial Systems (UAS), are quickly becoming a regular part of American life. In simplest terms, a drone is an aircraft piloted remotely or capable of automatic operation.¹ First deployed by the United States military in Afghanistan for intelligence gathering in the year 2000 and used by Customs and Border Protection domestically for border surveillance since 2004, drones are quickly becoming smaller, more efficient, cheaper, and ubiquitous.² Soon, private corporations may use drones to provide wireless internet³ and to quickly deliver products ordered online.⁴ Drones could also serve as a valuable tool for both federal and state government agencies, but the federal government and most states—including Wyoming—have not yet implemented a legal framework to protect from invasions of privacy by law enforcement, or the constant surveillance of everyday citizens who are not even suspected of criminal activity.⁵

One of the most idyllic conceptions of liberty traces to the Old Testament: “Each of them will sit under his vine and under his fig tree, with no one to make them afraid”⁶ George Washington frequently referenced this passage in letters, writing to friends from Mount Vernon “under the shadow of [his] own Vine & my own Fig tree, free from the bustle of a camp & the busy scenes of public life”⁷ Washington wished this same freedom for every American.⁸ About two centuries later, George Orwell warned of an entirely contrary future, where government—with the help of advanced technology—would be a constant presence and monitor every citizen.⁹ Orwell called this government “Big Brother,” and the nickname is often associated with invasive government surveillance.

Although security cameras, satellites and manned aircraft have long served as surveillance tools, the quickly-decreasing cost of drones, along with easier deployment and use promises to make them a far greater threat to every American seeking solace and security under his own vine and fig tree.

Given the implications of drones on privacy, due process and liberty generally, Wyoming must undertake a serious review of drone regulation and implement guidelines that specifically direct law enforcement use of unmanned aerial surveillance. This brief discusses recent developments in drone use, offering a short summary of current law and law enforcement use in the United States. It then discusses protections offered under the Fourth Amendment to the U.S. Constitution against certain types of drone surveillance, and the heightened protections that some states have ratified into law. Finally, this brief discusses changes that Wyoming should make to its state law to protect against unwarranted aerial surveillance of Wyomingites by law enforcement.¹⁰

I. Drone Use in the United States

Modern drones were developed for military and intelligence use by large companies such as General Atomics.¹¹ The MQ-1 Predator is one of the most commonly used (and thus recognized) drone models, and one of these drones costs about \$4 million.¹² The use of drones for targeted killing of suspected terrorists and enemy combatants abroad remains a hotly contested practice. This is a concern even domestically. In March 2013, Senator Rand Paul of Kentucky filibustered on the U.S. Senate floor for 13 hours, demanding

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President Obama's administration clarify its use of weaponized drones against American citizens.¹³ In the American West, the drone controversy has spawned numerous negative reactions, with one Colorado town recently voting down an ordinance to issue drone "hunting" licenses.¹⁴ One candidate for federal office in Montana recently played off the drone hunting theme in a campaign advertisement.¹⁵ This section briefly summarizes current domestic drone use in the United States, showing that although the regulatory framework for civilian use of drones is still far from completion, numerous law enforcement agencies are already engaging in unmanned aerial surveillance.

a. The Federal Aviation Administration

In February, 2012 the United States Congress passed the FAA Modernization and Reform Act of 2012.¹⁶ The law requires the Federal Aviation Administration to form a comprehensive plan to "safely accelerate the integration of civil unmanned aircraft systems into the national airspace system."¹⁷ The law requires the FAA implement a 5-year roadmap to complete the plan.¹⁸ The agency is expected to miss the law's deadlines because it "is significantly behind schedule in drawing up rules and standards to ensure that drones are airworthy, that pilots are trained properly and that their aircraft won't interfere with other air traffic[.]"¹⁹ Only recently, the FAA approved the first testing site for drones in North Dakota.²⁰ This test site will be utilized by the North Dakota Department of Commerce to test the Draganflyer X4ES, a small drone that can be equipped with a camera and other accessories.²¹

Although the FAA has approved test sites, media scrutiny—particularly a recent investigation by the *Washington Post*—has revealed that abroad "[m]ilitary drones have slammed into homes, farms, runways, highways, waterways and, in one case, an Air Force C-130 Hercules transport plane in midair."²² Domestically, the FAA maintains jurisdiction over airspace at varying levels (depending on various factors, such as proximity to an airport), but below those heights civilians may use some drones just as they use traditional model airplanes—indeed, in some cases there is very little difference between the two.²³ However, "[i]n 15 cases over the past two years, drones have flown dangerously close to passenger planes near airports, including two incidents on the same day in May in New York and Los Angeles A separate aviation safety database managed by NASA has recorded 50 other reports of close calls or improper flight operations involving drones over the past decade."²⁴ These incidents abroad and at home indicate that the FAA's delays may

just be beginning.

The FAA Modernization and Reform Act focuses largely on the use of civilian drones. While the FAA implements its policy, federal, state and local law enforcement agencies have used drones domestically for some time. Although the FAA claims authority over both civilian and law enforcement use of the nation's airspace, and maintains "strict conditions" for law enforcement to utilize drones,²⁵ information regarding drone use has confirmed the need for legal guidelines for drone use by police.

b. Law Enforcement Use of Drones

Customs and Border Protection (CBP) monopolizes drone use by federal law enforcement. CBP maintains a fleet of eight Predator drones, and is seeking to add more to its fleet.²⁶ These drones are largely used to patrol the nation's borders, particularly the border with Mexico. Since 2006, the agency has lost two Predator B drones in crashes, estimating the cost of the most recent loss at \$12 million.²⁷ The second crash earlier this year caused CBP to temporarily down its entire fleet.²⁸

"Customs and Border Protection (CBP) monopolizes drone use by federal law enforcement. CBP maintains a fleet of eight Predator drones, and is seeking to add more to its fleet."

A recent report by the Inspector General's Office of the United States Department of Justice reveals that the Federal Bureau of Investigation (FBI) "has been deploying UAS to support their operations since 2006" while the Bureau of Alcohol Tobacco and Firearms "began researching and testing UAS in 2011 and . . . is ready to deploy them if necessary"²⁹ The FBI has been "less than forthcoming" with records about its drone program.³⁰

Neither the Drug Enforcement Agency nor the United States Marshals Service have deployed drones and do not intend to do so at the present time.³¹ Department of Justice law enforcement grants for drones amount to about \$1.2 million, but the 2013 report makes clear that federal grants allotted to state and local police agencies for drone programs were difficult to identify, and the report "cannot rule out the possibility that additional awardees may have been provided DOJ funds to acquire or deploy [drones]."³²

Although CBP utilizes drones frequently, it does not simply use them for customs and border operations. Information acquired through Freedom of Information Act by the Electronic Frontier Foundation reveals that Customs and Border Patrol loaned its Predator drones to state and local law enforcement agencies 700 times between 2010 and 2012.³³ This amounted to an eight-fold increase within the same time period.³⁴ It does not

appear that Wyoming police agencies have used CBP's drones, but the released information withheld the names of county sheriffs' offices.³⁵

The DOJ report and the slow release of data from various other agencies show that law enforcement is already using drones in various parts of the United States, some agencies with increasing regularity. Thus it is not mere conjecture that law enforcement agencies may soon utilize drones in Wyoming. Before this occurs, Wyoming should implement a policy that regulates drone use by law enforcement.

II. Current Protections Against Drone Surveillance

As drone technology advances and threatens the privacy of Wyomingites and all Americans, the law can serve as an important restraint on government abuse. However, before discussing the best policy approach for Wyoming it is necessary to review current constitutional protections for privacy from government as well as laws recently enacted in other states that address police use of drones. Given current constitutional protections under the Fourth Amendment and the Wyoming Constitution, Wyoming should join other states in enacting restrictions on law enforcement drone use.

a. Fourth Amendment Protections Against Unreasonable Drone Searches

The Fourth Amendment to the U.S. Constitution is one of the most important restraints upon law enforcement in the United States:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.³⁶

A "search warrant" is "[a] judge's written order authorizing a law-enforcement officer to conduct a search

of a specified place and to seize evidence."³⁷ When courts hear Fourth Amendment challenges to searches conducted without a warrant, one key factor judges consider is whether an individual has a "reasonable expectation of privacy" to determine whether law enforcement needed a warrant to search a particular location.³⁸ Although the wording of the Fourth Amendment strongly protects a person's pockets and clothing, house, private papers and effects (such as a bag or car) from warrantless searches, the standards of privacy nevertheless evolve over time. For example, although many still consider their yards (particularly back yards) to be extensions of their houses and reasonably expect privacy, the Supreme Court ruled decades ago that one cannot reasonably expect privacy in his yard from police flyovers because civilian airplanes fly over houses all the time.³⁹ However, in 2001 the Supreme Court ruled that police use of thermal imaging to detect heat signatures from a person's home without a warrant (in particular to locate heat signatures from lights used in an indoor marijuana patch) violated the reasonable expectation of privacy, in part because "the technology in question is not in general public use."⁴⁰ As the dissent in that case noted, "it seems likely that the threat to privacy will grow, rather than recede, as the use of intrusive equipment becomes more readily available."⁴¹

Fourth Amendment protections are immediately concerning when applied to drones, because drones may be considered the equivalent of manned airplanes. Police have made this claim before state legislatures.⁴² Police may use them similarly to a plane or helicopter, but at much less expense.⁴³ The use of visual surveillance by a drone without a warrant during a standoff in 2011 was recently challenged in federal district court, but the argument was rejected, and the suspect was convicted in the case earlier this year.⁴⁴ However, it is important to understand that many of the features of drones outside of visual viewing

and recording may only be utilized domestically by law enforcement after they have obtained a warrant. **Table 1** lists some of these functions in detail. Although courts have not yet addressed many of these drone functions, courts have addressed these functions in isolation. It is very unlikely that a court

Table 1. Drone functions and Fourth Amendment warrant requirements.

Drone Function:	Law Enforcement Legal Requirement:
Audio recording	Warrant likely required ⁴⁶
Accessing wireless network	Warrant likely required ⁴⁷
Searching exterior private property	No warrant required ⁴⁸
Searching interior private property	Warrant required ⁴⁹
Surveillance of specific individuals	Warrant likely required ⁵⁰
General surveillance of public property	No warrant required ⁵¹
Executing individuals	Likely illegal ⁵²

would not require a warrant for functions such as audio recording by a police drone when audio recorded by other means usually requires a warrant.⁴⁵

Although current Fourth Amendment case law may provide little protection for visual drone reconnaissance over private land, it may nevertheless reign in specific uses of drones. In the 2012 case *United States v. Jones*, the U.S. Supreme Court ruled that law enforcement must obtain a warrant before attaching a Global-Positioning-System (GPS) device to an automobile.⁵³ Although the Court's majority distinguished tracking via satellite from "mere visual observation" and maintained that a person "has no reasonable expectation of privacy in his movements from one place to another," the ruling steps back from the idea that technology in general public use lessens one's expectation of privacy, since GPS is ubiquitous.⁵⁴ The *Jones* ruling may provide ground for distinguishing visual surveillance by individual police officers (whether from a car or even from a plane) and from a drone—or for distinguishing random surveillance that may be provided by a drone from specific surveillance—but this is far from a predictable outcome.

The Fourth Amendment provides protections from various forms of baseless snooping by law enforcement, and will almost certainly protect from certain tools being used on drones without a warrant. However, general visual observation of public and private lands—and, thus, the people using these lands—is entirely unrestricted. Instead of hoping that the Fourth Amendment will be interpreted to protect from drone surveillance, states should take affirmative steps to update their laws unequivocally.

b. Heightened Privacy Protections Under State Law Against Drone Searches

Some state courts interpret respective provisions of their state constitutions as more protective against unreasonable searches and seizures than the Fourth Amendment.⁵⁵ Recently, the Court of Appeals of New Mexico ruled that under its state constitution "police flying over a residence strictly in order to discover evidence of a crime, without a warrant, 'does not comport with the distinctive New Mexico protection against unreasonable searches and seizures.'"⁵⁶ The Wyoming Constitution's protection against unreasonable searches and seizures—Article 1, Section 4—is almost identical to the wording of the Fourth Amendment.⁵⁷ In 2004 the Wyoming Supreme Court stated in a ruling that "this Court is certainly open to an argument that Article 1, Section 4, of the Wyoming Constitution provides greater protections against unreasonable searches and seizures than the Fourth Amendment," but has not yet addressed the issue.⁵⁸ Thus, it is certainly possible at the Wyoming Supreme Court could rule that the Wyoming Constitution is as restrictive of warrantless aerial surveillance in Wyoming as New Mexico's constitution is in New Mexico.

"Although current Fourth Amendment case law may provide little protection for visual drone reconnaissance over private land, it may nevertheless reign in specific uses of drones."

However, it is unnecessary to wait for a case to arise, as states may make laws more protective of liberty than both their respective state constitutions and the federal constitution. More importantly, waiting is a risky proposition, as the Wyoming Supreme Court could only consider such a case *after* Wyoming law enforcement begins to use drones for warrantless searches, arrests an individual based on such a search, and that individual appeals his case to the Court.⁵⁹



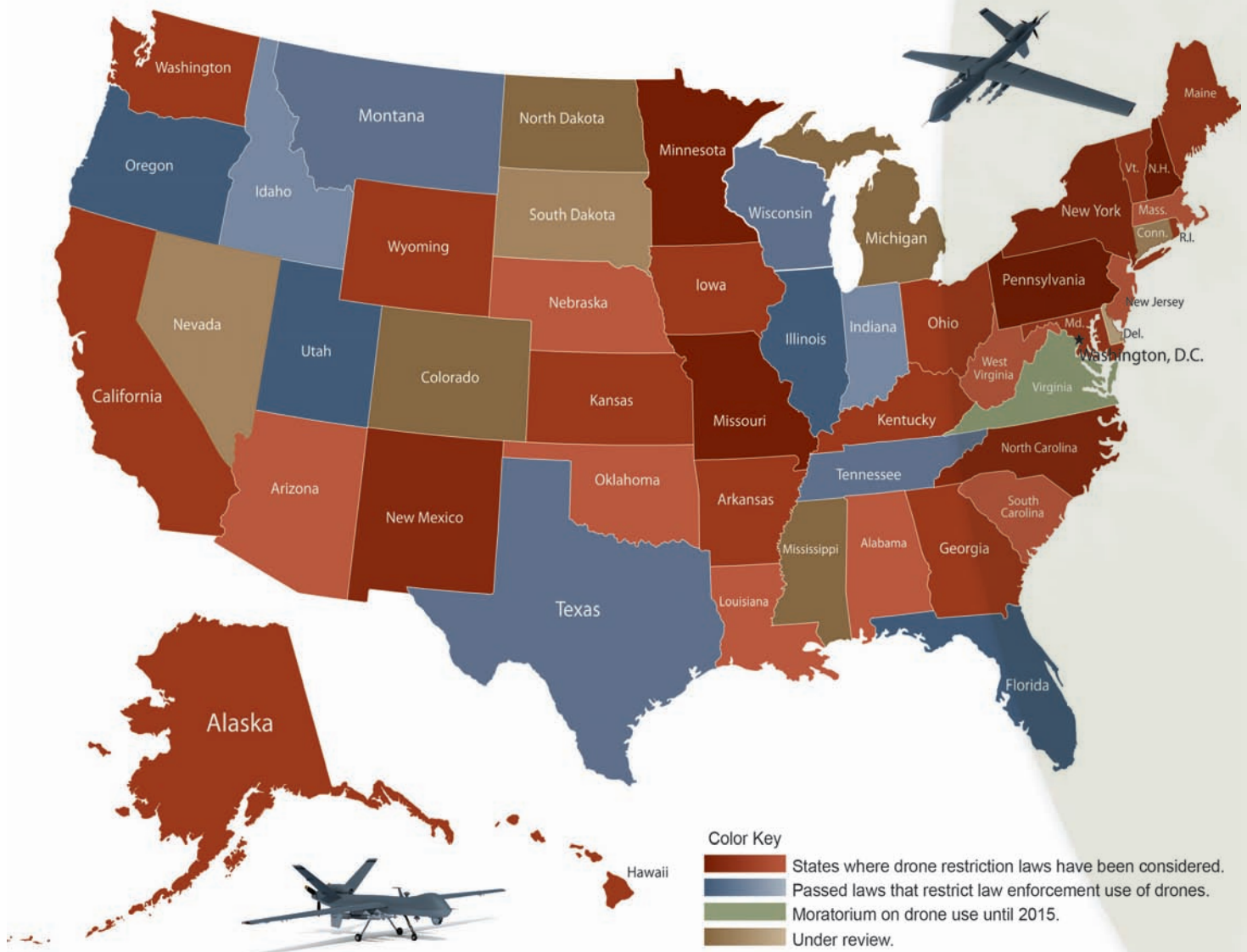
As shown in **Figure 1**, most state legislatures have at least considered laws that would require a warrant for law enforcement searches using drones.

Both proposed and ratified laws provide important guidance for what Wyoming should and should not include in its own drone law.

Ten states have enacted laws that generally require a warrant for drone surveillance by law enforcement. These states are Florida,⁶⁰ Idaho,⁶¹ Illinois,⁶² Indiana,⁶³ Montana,⁶⁴ Oregon,⁶⁵ Tennessee,⁶⁶ Texas,⁶⁷ Utah,⁶⁸ and Wisconsin.⁶⁹ However, these



Figure 1. Drone Restriction Laws in the United States



laws are far from uniform. **Table 2** and **Table 3** summarize the pertinent similarities and differences between these states' drone laws.

These laws are each less than three years old, with some ratified shortly before publication of this brief, and none have been considered in court. This may mean police are diligently abiding by drone restrictions in their respective states, but it is more likely that use remains rare by state police agencies.⁷¹ Soon enough, these laws will likely be tested in courts in each of their respective states.

The wordings of state drone laws differ, and some are likely more protective than others. Although all of these states require that law enforcement acquire a warrant before searching with drones (absent meeting one of the defined exceptions), only Illinois and Oregon place time limits on how long such a warrant may remain valid.⁷² Wisconsin's law requires a warrant, but it may not actually enhance privacy because the requirement only applies to searching "a place or location where an individual has a reasonable expectation of privacy[.]"⁷³ As discussed in the previous subsection, it is likely that this standard will provide no more protection from drones than from airplanes under the Fourth Amendment, as the Court has held one does not have a reasonable expectation of privacy in public or in their own yard from aerial viewing.⁷⁴ What is particularly lacking in the majority of the laws is a data retention policy and remedies for those whose privacy is violated.

In Wyoming, a bill that would have restricted drone use by law enforcement was introduced in the 2013 and 2014 legislative sessions.⁷⁵ In 2013, the bill died in committee without a vote.⁷⁶ In 2014, the bill emerged from House Judiciary but was not heard on the House floor before deadline.⁷⁷ At the time of this writing, the Joint Judiciary Committee of the Wyoming Legislature was considering a committee bill, the Drone Protection Act.⁷⁸ Traditionally, committee bills have a better chance of becoming law than bills introduced by a single legislator or a few sponsors, since they already have the support of the committee that is most likely to consider the bill during legislative session. Whether the Drone Protection Act is carried as a committee bill or a bill is introduced by other means, it should be carefully crafted to allow for reasonable

Table 2. Comparison of drone laws enacted in the United States – Warrant Features

	Florida	Idaho	Illinois	Indiana	Montana	Oregon	Tennessee	Texas	Utah	Wisconsin
Law Enforcement Use:										
Warrant required	X	X	X	X	X	X	X	X	X	X
Exceptions to Warrant:										
Combatting terrorism	X		X	X			X			
Exigent circumstances*	X	X	X	X	X	X	X	X	X	X
Mapping ("noncriminal justice purposes")		X		X		X		X	X	
Search & rescue operations		X	X	X		X	X	X		X
Consent by property owner		X		X		X		X		
Surveying public crime scene or accident scene			X			X		X		
Training drone pilots						X				

* "Exigent circumstances" is a well-defined legal principle: "a situation in which a police officer must take immediate action to effectively make an arrest, search, or seizure for which probable cause exists, and thus may do so without first obtaining a warrant."⁷⁰

Table 3. Comparison of drone laws enacted in the United States – Other Features

	Florida	Idaho	Illinois	Indiana	Montana	Oregon	Tennessee	Texas	Utah	Wisconsin
Remedies:										
Civil action by aggrieved	X	X					X	X		
Data Retention:										
Destroy data ASAP									X	
24-Hour Destruction							X			
30-Day Destruction			X							
Reporting Reqs:										
Public disclosure of agency drone ownership			X					X	X	
Other Use:										
No one may record / publish anyone w/o consent		X		X				X		X
Property owners may use on own property		X								
No weaponization										X

use of unmanned aerial surveillance by law enforcement while preventing undue invasions of privacy.

III. Regulating Law Enforcement Drone Use in Wyoming

Since Wyoming law enforcement agencies are not yet utilizing drones, regulation may seem premature. However, recent events show how quickly Wyoming police agencies will adopt technology when it becomes available. As American involvement in conflicts throughout the Middle East decreases, the federal government has made surplus Mine-Resistant Ambush Protected vehicles (MRAPs) available to state and local law enforcement agencies.⁷⁹ The Natrona County Sheriff's Office, the Cheyenne Police Department, and a "three-county tactical team in the Big Horn Basin" have already acquired MRAPs.⁸⁰ These acquisitions were made with little to no prior public input. Given this approach, it is especially important that guidelines are in place before Wyoming law enforcement is able to acquire and utilize drones. This section examines important features that may be included in state law to ensure police use is narrow and respectful of privacy and property.

a. Implement a Warrant Requirement and Limited Exceptions

First and foremost, Wyoming police should not have the option of using drones as a supplement or replacement for traditional patrols and policing. State law should adopt a broad definition of "search" and require law enforcement to obtain a warrant before using drones for criminal investigations. State law cannot significantly restrict the use of drones by federal law enforcement,⁸¹ but it can place warrant requirements on state agencies even when they cooperate with federal agencies such as CBP's drone sharing.⁸² Making a warrant a preliminary requirement for police drone use would also prevent utilizing drones on a constant basis. Currently, Predator drones can fly up to forty hours before refueling.⁸³ Although drones like the Predator are currently cost-prohibitive, technological advances will soon provide for cheaper drones with similar or even longer endurance.⁸⁴

There are several situations in which law enforcement should be able to use drones without first obtaining a warrant. As illustrated in **Table 2**, every current state law recognizes some of these situations. Each law recognizes exigent circumstances,

or "a situation in which a police officer must take immediate action to effectively make an arrest, search, or seizure for which probable cause exists, and thus may do so without first obtaining a warrant."⁸⁵ For example, if police witness a drug deal and the suspect placing a parcel containing the drugs in the trunk of a car, they may stop the car, search the trunk and retrieve the parcel without obtaining a warrant. This "exigency" is based on the fact that the officers have probable cause to search and the car is likely to disappear (along with the drugs) before the police can obtain a warrant.⁸⁶ In the case of utilizing a drone, exigent circumstances would likely include searching for a recently escaped suspect or fugitive, responding to a hostage situation or other crime-in-progress. Given the well-established precedents for exigent circumstances, courts are often very careful when considering such cases. The law can also go further

than precedent: at the time of this writing, the draft committee bill before the Joint Judiciary Committee would not allow the use of a drone to respond to exigent circumstances for more than eight hours before police acquire a warrant.⁸⁷

Search and rescue, surveying crime and accident scenes, and training pilots are also reasonable exceptions or alternatives to the warrant requirement. Importantly, law is not infinite once passed, and as drones become available it will be far more preferable for law enforcement to propose new uses for aerial surveillance to the Legislature than for Legislature to add restrictions following the implementation of police drone programs. Furthermore, strict data retention policies would prevent non-criminal investigation purposes such as training from becoming *de facto* surveillance.

b. Enact Strict Data Retention Policies

Law enforcement should not be able to constantly monitor citizens,⁸⁸ nor search their property without probable cause. Similarly, the police should not have the power to stockpile extraneous data gathered by drones when they are used pursuant to a warrant or for another permitted and wholly legitimate purpose such as search and rescue. Unlike purchasing and utilizing drones themselves, storing vast amounts of electronic data is already feasible for any law enforcement agency.⁸⁹ To prevent this, Wyoming law should require the destruction of extraneous data gathered by drones. Only three states with drone laws included a data retention restriction,⁹⁰ the most reasonable being Illinois:

"Since Wyoming law enforcement agencies are not yet utilizing drones, regulation may seem premature. However, recent events show how quickly Wyoming police agencies will adopt technology when it becomes available."

If a law enforcement agency uses a drone . . . the agency within 30 days shall destroy all information gathered by the drone, except that a supervisor at that agency may retain particular information if (1) there is reasonable suspicion that the information contains evidence of criminal activity, or (2) the information is relevant to an ongoing investigation or pending criminal trial.

This provision may allow law enforcement to collect an overabundance of data when utilizing drones, but it requires quick assessment of whether or not the information is relevant to opening a new investigation or serving in an ongoing investigation, and timely destruction of information that does not fit either category.

A more direct approach may dissuade overzealous data collection by simply disallowing it as evidence when it is not specifically related to a permitted use. The proposed Wyoming Drone Protection Act states that “[n]o image or other information acquired or derived through the use of a drone by a governmental entity shall be admissible in any judicial or administrative proceeding unless the image was collected in compliance” with the law.⁹¹ This may suffer in application—for example, “training purposes” is an allowed use of drones under the proposed law, and police may simply engage in a lot of “training”—but could be easily combined with a time requirement similar to the Illinois statute. Whatever the method, data retention is an important aspect of any form of electronic surveillance that was overlooked by most states when they enacted their drone laws, and Wyoming should not make the same mistake.

c. Public Disclosure of Drone Use

Three states have implemented public disclosure provisions in their drone laws. In Illinois, all law enforcement agencies must report drone ownership to the Illinois Criminal Justice Information Authority, which is then required to annually publish on its website “a concise report that lists every law enforcement agency that owns a drone, and for each of those agencies, the number of drones that it owns” on July 1 of every year.⁹² The ICJIA’s first report shows three law enforcement agencies in Illinois have purchased drones, with two of them classified as “operative.”⁹³ Texas enacted a far more comprehensive reporting requirement, but it will not become effective until January, 2015.⁹⁴ Reports there will require disclosure of the number of times a drone is used, what it is used for, and the total costs

of any drone program.⁹⁵ Utah, in a law just signed in April, implemented reporting provisions similar to Texas.⁹⁶

The Drone Protection Act, in a draft before the Wyoming Joint Judiciary Committee at the time of this writing, requires a “government entity” (not merely law enforcement) to report drone use, reasons for drone use, costs, and the type of data collected to the attorney general on a yearly basis.⁹⁷ In turn, the attorney general must then “report the information received . . . to the joint judiciary interim committee.”⁹⁸ The draft bill does not contain a public disclosure requirement, though these reports would be available from the Legislative Service Office.

Public disclosure may ultimately appear comforting in law but fail in practice. For example, the author continues to address the police practice of civil asset forfeiture in Wyoming,⁹⁹ which

is authorized by a law that has long required the attorney general to file a report on certain aspects of the practice with the Wyoming Joint Appropriations Committee.¹⁰⁰ These reports were not made between 1998 and 2014.¹⁰¹ Thus, although a law may provide for oversight, in a state like Wyoming, with a part-time citizen legislature, it cannot be achieved without diligent lawmakers and citizens. Furthermore, it is likely that records relating to drone use would already be available to the media and public alike under the Wyoming Public Records Act.¹⁰² Whether or not Wyoming law provides specific disclosures regarding drone use by law enforcement, residents must be mindful and, if necessary, outspoken about how police use the technology. Law cannot create this diligence.¹⁰³

d. Consider Anti-Weaponization Provisions

Wyoming law should also prohibit the weaponization of any drone used by law enforcement. Like abusive drone surveillance, this may be dismissed as a farfetched notion. However, there is ample evidence to bolster this concern. Acquisition of MRAPs by Wyoming police agencies indicates they will probably acquire drones when they become more available,¹⁰⁴ and also evinces that state police agencies would weaponize drones if they could. Nationwide, especially with special weapons and tactics (SWAT) operations, state and local police agencies have become far more militarized.¹⁰⁵ Furthermore, Customs and Border Protection—the only agency that currently utilizes drones on a nearly daily basis—has already “considered equipping its Predators with ‘non-lethal weapons designed to immobilize’ targets of interest.”¹⁰⁶ Weaponization is not merely possible on large,

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expensive drones: a prototype of a much smaller drone outfitted with a taser was demonstrated at the 2014 South by Southwest conference in Austin, Texas.¹⁰⁷ So far, Wisconsin is the only state to enact an anti-weaponization provision in its law.¹⁰⁸

If weaponization is not entirely prohibited, at the very least the law should require prior authorization of a weapons system by the Wyoming Legislature. As this technology develops, law enforcement (or even drone manufacturers) may demonstrate it before the legislature to establish the necessity and safety of any drone weapon.¹⁰⁹ Weapons use must be strictly limited, if allowed at all, in this case to extremely dangerous emergencies such as hostage situations. Regardless, the law should never allow domestic drones to be permanently outfitted with any type of weapons system and, again, law should prohibit drones from serving as general patrol vehicles. Given the public reaction to drone surveillance by police, however, drone weaponization is likely to remain wholly unacceptable.

e. Provide Remedies for Abuse

A drone law should provide for civil remedies, that is, allow citizens to file suit against a police agency, municipality or the state when the law is broken. However, this would be an exception to sovereign immunity. The doctrine of sovereign immunity is rooted deeply in the western tradition, and “was and is part and parcel of the common law long prior to the adoption of our federal constitution.”¹¹⁰ The doctrine broadly holds that when a government officer or agency acts in an official capacity, the state cannot be sued for events that result from that action unless the government consents to it. The Wyoming Constitution shows the breadth of sovereign immunity:

All courts shall be open and every person for an injury done to person, reputation or property shall have justice administered without sale, denial or delay. Suits may be brought against the state in such manner and in such courts *as the legislature may by law direct*.¹¹¹

In short, “no suit can be maintained against the State until the legislature makes provision for such filing[.]”¹¹² Wyoming law defines specific boundaries on this governmental immunity (for both state and local government) in the Wyoming Governmental Claims Act (WGCA).¹¹³

The WGCA likely provides some remedy for invasive use of

drones, specifically: “A governmental entity is liable for damages resulting from tortious conduct of peace officers while acting within the scope of their duties.”¹¹⁴ This could provide for remedies for damages due to negligent handling of a drone (such as crashing into property) or for damages resulting from trespass. However, four states have provided for much more specific civil remedies for those harmed in violation of these states’ respective drone laws. In Florida, “[a]n aggrieved party may initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation of this act.”¹¹⁵ Tennessee law contains a substantially similar provision.¹¹⁶ Idaho law has a provision that provides for “damages in the amount of the greater of one thousand dollars (\$1,000) or actual and general damages, plus reasonable attorney’s fees and other litigation costs reasonably incurred.”¹¹⁷ Texas law covers both police and private use of drones, and its remedies section mostly addresses invasions of privacy by citizens rather than the state, but may nevertheless provide \$5,000 in damages for unauthorized photography of persons and property with drones, and \$10,000 if such images are disclosed, displayed or distributed.¹¹⁸

Wyoming law should adopt a civil remedies provision within its drone regulation. The proposed Drone Protection Act does not currently contain such a provision.¹¹⁹ Idaho law provides a sensible and specific remedy by allowing a minimum recovery of \$1,000 plus attorney’s fees and costs. This ensures that a citizen cannot unjustly enrich himself by suing the state, yet makes it worth a citizen’s and an attorney’s time to pursue such cases and thereby allows the citizenry to serve as not merely watchdogs over police drone use, but watchdogs with teeth. This may provide the strongest incentive for law enforcement to

avoid abusing unmanned aerial surveillance.

f. Recognize Legitimate Use

Domestic drone use has caused a great deal of alarm, with concern arising almost as much over private use as police use. Following the 2013 Frontier Days rodeo in Cheyenne, residents expressed concern about a drone used by Frontier Days officials to photograph crowds at night shows.¹²⁰ Following the 2014 Frontier Days, a citizen reported the rodeo to the FAA for allegedly violating its regulations with a drone.¹²¹ In May, 2014, a man was apparently assaulted on a beach in Madison, Connecticut, for flying a drone that the suspect alleged—without

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any evidence—was being used for inappropriate photography.¹²² Although law enforcement drone use is by all official records relatively limited, it is feared across the political spectrum by both urban and rural residents. The Seattle Police recently ended their drone program before it was fully implemented due to public outcry, and allegedly transferred their two Draganflyer drones to the Los Angeles Police Department.¹²³ During the standoff between numerous supporters of Nevada rancher Cliven Bundy and the Bureau of Land Management in April, 2014, members of the Oath Keepers organization alleged that they were warned of a drone strike authorized by Attorney General Eric Holder.¹²⁴ This strike never materialized.

The public reaction to domestic drone use is understandable, from fearing the presence of Big Brother to recognizing the brutality of military drone strikes abroad. Nevertheless, drones have many legitimate uses, even by law enforcement. In Wyoming, in particular, private use of drones to monitor herds of cattle or minerals operations, to patrol property or—soon enough—to deliver goods will all prove beneficial. Government use can include mapping, fighting forest fires, and search and rescue operations. With proper safeguards, law enforcement can utilize drone technology against criminal activity without unduly infringing on privacy rights. However, given the public reaction to drones, it is likely that recognition of legitimate police use will only follow the enactment of safeguards against illegitimate police use.

Conclusion

The policy proposals in this paper are not exclusive or absolute. Citizenry and the Wyoming Legislature must not only implement a regulatory framework for unmanned aerial surveillance by law enforcement, but continue to monitor drone technology and ensure all government use is proper. Warrant requirements and data retention policies are the most pressing regulations for law enforcement drone use. The Drone Protection Act is an excellent bill as proposed, but the Legislature should also consider an anti-weaponization provision and allowing civil actions against agencies that abuse drones.

Drones are already a part of American life, and in time their presence may be accepted. So long as the law ensures government cannot abuse this technology, drones will serve as a benefit to society and not a hazard. ■

Endnotes

¹ *Drone*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/drone> (“3: an unmanned aircraft or ship guided by remote control or onboard computers”).

² “UAV spending will more than double over the next decade from current worldwide UAV expenditures of \$5.2 billion annually to \$11.6 billion, totaling [sic] just over \$89 billion in the next ten years.” *Teal Group Predicts Worldwide UAV Market Will Total \$89 Billion in its 2013 UAV Market Profile and Forecast*, TEAL GRP. CORP., Jun. 17, 2013, <http://tealgroup.com/index.php/about-teal-group-corporation/press-releases/94-2013-uav-press-release>. See also INTERIM REPORT ON THE DEPARTMENT OF JUSTICE’S USE AND SUPPORT OF UNMANNED AIRCRAFT SYSTEMS 3, U.S. DEP’T OF J., Report 13-37, Sept. 2013, available at <http://www.justice.gov/oig/reports/2013/a1337.pdf> (“One local law enforcement agency has estimated the cost of using a UAS at just \$25 per hour compared to \$650 per hour for a manned aircraft.”)

³ Sarah Perez, *Facebook Looking Into Buying Drone Maker Titan Aerospace*, TECHCRUNCH, Mar. 3, 2014, <http://techcrunch.com/2014/03/03/facebook-in-talks-to-acquire-drone-maker-titan-aerospace/> (“Facebook is interested in using these high-flying drones to blanket parts of the world without Internet access, beginning with Africa.”); Darrell Etherington, *Google Acquires Titan Aerospace, The Drone Company Pursued by Facebook*, TECHCRUNCH, Apr. 14, 2014, <http://techcrunch.com/2014/04/14/google-acquires-titan-aerospace-the-drone-company-pursued-by-facebook/> (“Google will be using Titan Aerospace’s expertise and tech to contribute to Project Loon, the balloon-based remote Internet delivery project it’s currently working on along these lines.”).

⁴ See *Amazon Prime Air*, AMAZON, <http://www.amazon.com/b?node=8037720011> (last visited Aug. 25, 2014).

⁵ In the 2014 Wyoming Budget Session, House Bill 105 was introduced with a vote of 50-6 and emerged from House Judiciary Committee with a vote of 5-2, but the bill was not heard on the House floor before deadline. See *Wyo. House Bill 105 (2014) Digest*, <http://legisweb.state.wy.us/2014/Digest/HB0105.htm>.

⁶ *Micah 4:4* (New American Standard).

⁷ Letter from George Washington to Marquis de Lafayette, Feb. 1, 1784, reprinted in *GEORGE WASHINGTON: WRITINGS* 553-55 (Library of America 1987).

⁸ See Letter from George Washington to Marquis de Lafayette, June 19, 1788, reprinted in *GEORGE WASHINGTON: WRITINGS* 682-85. This letter includes the following:

When the people shall find themselves secure under an energetic government, when foreign nations shall be disposed to give us equal advantages in commerce from dread of retaliation, when the burdens of war shall be in a manner done away by the sale of western lands, when the seeds of happiness which are sown here shall begin to expand themselves, and when every one (under his own vine and fig-tree) shall begin to taste the fruits of freedom, then all these blessings (for all these blessings will come) will be referred to the fostering influence of the new government.

⁹ See generally *GEORGE ORWELL, NINETEEN EIGHTY-FOUR* (1949).

¹⁰ This brief will not discuss the myriad issues surrounding regulation of private drone use. See, e.g., Jol A. Silversmith, *You Can’t Regulate This: State Regulation of the Private Use of Unmanned Aircraft*, *AIR & SPACE LAWYER*, Vol. 26, No. 3 (2013), available at http://www.zsrlaw.com/images/stories/ASL_V26N3_WINTER13_Silversmith.pdf. See also *Tourist crashes drone into Yellowstone hot spring*, *BILLINGS GAZETTE*, Aug. 6, 2014, available at http://billingsgazette.com/news/state-and-regional/montana/tourist-crashes-drone-into-yellowstone-hot-spring/article_a1023e8a-92ac-5b0e-8086-c56a2510ad76.html.

¹¹ See generally *Predator UAS*, *GEN. ATOMICS AERONAUTICAL*, <http://www.ndtv.com/article/world/ndtv-exclusive-how-hamas-assembles-and-fires-rockets-571033> (Last visited Aug. 25, 2014).

- ¹² See United States Air Force FY 2011 Budget Estimates – Aircraft Procurement Vol. I, Feb. 2010, available at <http://www.saffm.hq.af.mil/shared/media/document/AFD-100128-072.pdf>.
- ¹³ Paul ends Senate filibuster of CIA nominee over drone concerns after nearly 13 hours, FOX NEWS, Mar. 7, 2013, <http://www.foxnews.com/politics/2013/03/07/sen-paul-holds-floor-for-hours-in-filibuster-cia-nominee-over-drone-concerns/>.
- ¹⁴ Colorado town rejects proposed drone hunting licenses, FOX NEWS, Apr. 2, 2014, <http://www.foxnews.com/politics/2014/04/02/colorado-town-rejects-proposed-drone-hunting-licenses/>.
- ¹⁵ Rifle Shot, YOUTUBE, Apr. 14, 2014, <https://www.youtube.com/watch?v=dOoXJI4vBns>.
- ¹⁶ Pub. L. No. 112-95 (2012).
- ¹⁷ *Id.* at § 332(a)(1).
- ¹⁸ *Id.* at § 332(a)(5).
- ¹⁹ Craig Whitlock, FAA will miss deadline to integrate drones in U.S. skies, report says, WASH. POST, June 30, 2014, http://www.washingtonpost.com/world/national-security/faa-will-miss-deadline-to-integrate-drones-in-us-skies-report-says/2014/06/30/fd58e8e2-007f-11e4-b8ff-89afd3fad6bd_story.html.
- ²⁰ Press Release – FAA Announces First UAS Test Site Operational, FED. AVIATION ADMIN., Apr. 21, 2014, http://www.faa.gov/news/press_releases/news_story.cfm?newsId=16154.
- ²¹ *Id.*; see Draganflyer X4-ES Features, DRAGANFLY INNOVATIONS, <http://www.draganfly.com/uav-helicopter/draganflyer-x4es/features/index.php> (last visited Aug. 25, 2014).
- ²² Craig Whitlock, When Drones Fall From the Sky, WASH. POST, June 20, 2014, <http://www.washingtonpost.com/sf/investigative/2014/06/20/when-drones-fall-from-the-sky/>.
- ²³ Matt Pearce, FAA restricts drone and model aircraft within 5 miles of airports, L.A. TIMES, June 23, 2014, <http://www.latimes.com/nation/nationnow/la-na-nn-faa-drone-model-airplane-rules-20140623-story.html>.
- ²⁴ Whitlock, *supra* note 22.
- ²⁵ JAY STANLEY & CATHERIN CRUMP, PROTECTING PRIVACY FROM AERIAL SURVEILLANCE 9-10, AM. CIV. LIBERTIES UNION, Dec. 2011, available at <http://www.aclu.org/files/assets/protectingprivacyfromaerialsurveillance.pdf>.
- ²⁶ Keith Wagstaff, Eyes in the Sky: Are Pricey Border Patrol Drones Worth the Money?, NBC NEWS, Jul. 13, 2014, <http://www.borderpatroledu.org/border-patrol/uav-pilot/>.
- ²⁷ Jack Nicas, U.S. Border Protection Agency Grounds Drone Fleet, WALL STREET J., Jan. 28, 2014, available at <http://online.wsj.com/news/articles/SB10001424052702303277704579348813644339986>.
- ²⁸ *Id.*
- ²⁹ See INTERIM REPORT, *supra* note 2, at 5.
- ³⁰ Jennifer Lynch, Why Won't the FBI Tell the Public About its Drone Program?, Elec. Frontier Found., June 20, 2013, <https://www.eff.org/deeplinks/2013/06/why-wont-fbi-tell-public-about-its-drone-program>.
- ³¹ *Id.* at 6.
- ³² *Id.* at 11–12.
- ³³ Jennifer Lynch, Customs & Border Protection Loaned Predator Drones to Other Agencies 700 Times in Three Years According to “Newly Discovered” Records, ELEC. FRONTIER FOUND., Jan. 14, 2014, <https://www.eff.org/deeplinks/2014/01/newly-discovered-drone-records-show-customs-border-protection-flew-its-predator>.
- ³⁴ Jennifer Lynch, Customs & Border Protection Logged Eight-Fold Increase in Drone Surveillance for Other Agencies, ELEC. FRONTIER FOUND., Jul. 3, 2013, <https://www.eff.org/deeplinks/2013/07/customs-border-protection-significantly-increases-drone-surveillance-other>.
- ³⁵ Customs & Border Protection Drone Flight List, ELEC. FRONTIER FOUND., <https://www.eff.org/document/customs-border-protection-drone-flight-list>.
- ³⁶ U.S. CONST. amend. IV.
- ³⁷ BLACK'S LAW DICTIONARY (9th ed.) at 1470.
- ³⁸ United States v. Jones, 132 S.Ct. 945, 950 (2012) (citing Katz v. United States, 389 U.S. 347, 360 (1967)).
- ³⁹ California v. Ciraolo, 476 U.S. 207, 213 (1986).
- ⁴⁰ Kyllo v. United States, 533 U.S. 27, 34 (2001).
- ⁴¹ *Id.* at 47 (Stevens, J., dissenting).
- ⁴² Hearing of Washington Senate Law & Justice Cmte. on SB 5782, Feb. 20, 2013, http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2013021208 (Testimony from law enforcement insisting privacy interests are best handled by the courts.)
- ⁴³ “One local law enforcement agency has estimated the cost of using a UAS at just \$25 per hour compared to \$650 per hour for a manned aircraft.” INTERIM REPORT, *supra* note 2, at 3.
- ⁴⁴ Jason Koebler, North Dakota Man Sentenced to Jail in Controversial Drone-Arrest Case, U.S. NEWS & WORLD REPORT, Jan. 15, 2014, available at <http://www.usnews.com/news/articles/2014/01/15/north-dakota-man-sentenced-to-jail-in-controversial-drone-arrest-case>.
- ⁴⁵ See Katz v. United States, 389 U.S. 347 (1967).
- ⁴⁶ *Id.*
- ⁴⁷ See United States v. Ahrndt, 475 Fed.Appx. 656 (9th Cir. 2012).
- ⁴⁸ California v. Ciraolo, 476 U.S. 207 (1986); Florida v. Riley, 488 U.S. 445 (1989).
- ⁴⁹ Kyllo v. United States, 533 U.S. 27, 34 (2001).
- ⁵⁰ United States v. Jones, 132 S.Ct. 948 (2012).
- ⁵¹ See Ciraolo, 476 U.S. at 213–14.
- ⁵² See U.S. CONST. amend. V (“No person shall . . . be deprived of life, liberty, or property, without due process of law”); amend. VIII (“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”)
- ⁵³ 132 S.Ct. at 954.
- ⁵⁴ *Id.* at 953–54.
- ⁵⁵ See generally ROBERT F. WILLIAMS, THE LAW OF AMERICAN STATE CONSTITUTIONS 113–33 (2009). The author has argued previously that expanded protections under state constitutions should apply to federal agencies pursuant to the Ninth and Tenth Amendments. See Stephen R. Klein, *The Federal and State Implications of Wyoming's Health Care Freedom Amendment*, LIBERTY BR., No. 3, May 2011, at 2–4, available at <http://wyliberty.org/wp-content/uploads/2011/05/LB003-HCFA.pdf>.
- ⁵⁶ State v. Davis, 321 P.3d 955, 960 (Ct. App. N.M., Jan. 14, 2014), *cert. granted*, State v. Davis, 324 P.3d 376 (N.M. Mar. 14, 2014); see N.M. CONST. art. 2, § 10 (“The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the persons or things to be seized, nor without a written showing of probable cause, supported by oath or affirmation.”).
- ⁵⁷ See WYO. CONST. art. 1, § 4.
- ⁵⁸ Morgan v. State, 95 P.3d 802, 808 (Wyo. 2004).
- ⁵⁹ See generally Lujan v. Defenders of Wildlife, 504 U.S. 555, 560–61 (1992) (discussing the doctrine of standing).
- ⁶⁰ FLA. STAT. ANN. § 934.50 (2014).
- ⁶¹ IDAHO CODE § 21-213 (2014).
- ⁶² 725 ILL. COMP. STAT. 167 (2014).
- ⁶³ Ind. House Enrolled Act 1009 (2014), available at <http://iga.in.gov/static-documents/5/3/4/4/5344c8fc/EB1009.06.ENRH.pdf>. This act was signed by Governor Mike Pence on March 26, 2014. See House Bill 1009, <http://iga.in.gov/legislative/2014/bills/house/1009/> (last visited April 24, 2014).
- ⁶⁴ MONT. CODE ANN. § 46-5-109 (2014).
- ⁶⁵ OR. REV. STAT. § 837.310 (2014).
- ⁶⁶ TENN. CODE ANN. § 39-13-609 (2014).



- ⁶⁷ TEX. CODE ANN. §§ 423.001–423.008 (2014).
- ⁶⁸ Utah Senate Bill 167 (2014), available at <http://le.utah.gov/~2014/bills/sbillenr/SB0167.pdf>. This bill was signed into law by Governor Gary Herbert on April 1, 2014. See S.B. 167 Second Substitute, <http://le.utah.gov/~2014/htmldoc/sbillhtm/SB0167S02.htm> (last visited Aug. 25, 2014).
- ⁶⁹ Wisc. Senate Bill 196 (2013), available at <http://docs.legis.wisconsin.gov/2013/related/enrolled/sb196.pdf>. This bill was signed into law by Governor Scott Walker on April 8, 2014.
- ⁷⁰ BLACK'S LAW DICTIONARY (9th ed.) at 277.
- ⁷¹ See *supra* § I.
- ⁷² 725 ILL. COMP. STAT. 167/15 (2) (2014) (“If a law enforcement agency first obtains a search warrant based on probable cause . . . [t]he warrant must be limited to a period of 45 days, renewable by the judge upon a showing of good cause for subsequent periods of 45 days.”); OR. REV'D STAT. § 837.320(2) (2014) (“A warrant authorizing the use of a drone must specify the period for which operation of the drone is authorized. In no event may a warrant provide for the operation of a drone for a period of more than 30 days. Upon motion and good cause shown, a court may renew a warrant after the expiration of the 30-day period.”).
- ⁷³ WISC. STAT. § 175.55(2) (2014).
- ⁷⁴ See *supra* § 2(a).
- ⁷⁵ Wyo. House Bill 242 (2013), available at <http://legisweb.state.wy.us/2013/Introduced/HB0242.pdf>; Wyo. House Bill 105 (2014), available at <http://legisweb.state.wy.us/2014/Introduced/HB0105.pdf>.
- ⁷⁶ Wyo. House Bill 242 (2013) Digest, <http://legisweb.state.wy.us/2013/Digest/HB0242.htm>.
- ⁷⁷ Wyo. House Bill 105 (2014) Digest, <http://legisweb.state.wy.us/2014/Digest/HB0105.htm>.
- ⁷⁸ Drone Protection Act, 15LSO-0037, available at <http://wyliberty.org/wp-content/uploads/2014/08/Drone-Protection-Act-2014.pdf>.
- ⁷⁹ James Chilton, *Cheyenne police get armored vehicle*, WYO. TRIB. EAGLE, June 19, 2014, available at http://www.wyomingnews.com/articles/2014/06/19/news/01top_06-19-14.txt#.
- ⁸⁰ Jeremy Fugleberg, *Wyoming cops pick up their fourth military surplus armored MRAP vehicle*, CASPER STAR TRIB., June 21, 2014, available at http://trib.com/news/state-and-regional/wyoming-cops-pick-up-their-fourth-military-surplus-armored-mrap/article_bd597095-355f-5628-a1a0-93fc8cc738d6.html.
- ⁸¹ See U.S. CONST. art. VI.
- ⁸² See generally *Printz v. United States*, 521 U.S. 898 (1997).
- ⁸³ See *supra* note 11.
- ⁸⁴ See *supra* note 3.
- ⁸⁵ See *supra* note 70.
- ⁸⁶ See generally *California v. Acevedo*, 500 U.S. 565 (1991).
- ⁸⁷ Drone Protection Act, *supra* note 78, at 4.
- ⁸⁸ See *supra* notes 6–9 and accompanying text.
- ⁸⁹ At the time of this writing, one could purchase a portable terabyte hard drive for as little as \$70. One terabyte is capable of storing between eight to 26 days of high quality video surveillance footage, depending on frame rate. VIDEO SURVEILLANCE STORAGE: HOW MUCH IS ENOUGH?, SEAGATE TECHNOLOGY, Feb. 2012, available at <http://www.seagate.com/files/staticfiles/docs/pdf/whitepaper/video-surv-storage-tp571-3-1202-us.pdf>.
- ⁹⁰ See Table 3.
- ⁹¹ Drone Protection Act, *supra* note 78, at 5.
- ⁹² 725 ILL. COMP. STAT. 167, § 35 (2014).
- ⁹³ Drone Report 2014, ILL. CRIM. J. INFORMATION AUTH., http://www.icjia.state.il.us/drone/pdf/Drone_Report_2014.pdf.
- ⁹⁴ See TEX. CODE ANN. § 423.008 (2014).
- ⁹⁵ *Id.*
- ⁹⁶ See Utah Senate Bill 167 (2014), *supra* note 68.
- ⁹⁷ Drone Protection Act, *supra* note 78, at 5–6.
- ⁹⁸ *Id.* at 6.
- ⁹⁹ See generally Stephen Klein, *Reforming Civil Asset Forfeiture in Wyoming*, LIBERTY BR., No. 16, Dec. 2013, available at <http://wyliberty.org/wp-content/uploads/2013/12/LB016-Civil-Forfeiture.pdf>.
- ¹⁰⁰ WYO. STAT. § 35-7-1049(m) (2014).
- ¹⁰¹ Stephen Klein, *Who Has Civil Forfeiture Authority in Wyoming?*, WYO. LIBERTY GRP., May 28, 2014, <http://wyliberty.org/feature/who-has-civil-forfeiture-authority-in-wyoming/>.
- ¹⁰² WYO. STAT. §§ 16-4-201–205 (2014).
- ¹⁰³ *But see infra* § III(e).
- ¹⁰⁴ See *supra* notes 79–80 and accompanying text.
- ¹⁰⁵ See generally RADLEY BALKO, *RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA'S POLICE FORCES* (2013).
- ¹⁰⁶ Jennifer Lynch, *Customs & Border Protection Considered Weaponizing Drones*, ELEC. FRONTIER FOUND., Jul. 2, 2013, <https://www.eff.org/deeplinks/2013/07/customs-border-protection-considered-weaponizing-drones>.
- ¹⁰⁷ See *SXSW 2014: Stun Gun Drone Zaps Intern*, YOUTUBE, Mar. 7, 2014, <https://www.youtube.com/watch?v=M1KdNCMWbU4>.
- ¹⁰⁸ See Table 3, *supra* Part II.
- ¹⁰⁹ See, e.g., Trevor Brown, *Silencer bill dies due to poacher worries*, WYO. TRIB. EAGLE, Jan. 12, 2013, available at http://wyomingnews.com/articles/2013/01/12/news/01top_01-12-13.txt (“[L]egislators were recently given a demonstration [of firearms suppressors] . . .”).
- ¹¹⁰ *Worthington v. State*, 598 P.2d 796, 801 (Wyo. 1979).
- ¹¹¹ WYO. CONST. art. 1, § 8 (emphasis added).
- ¹¹² *Worthington*, 598 P.2d at 801.
- ¹¹³ WYO. STAT. §§ 1-39-101–121 (2014).
- ¹¹⁴ WYO. STAT. § 1-39-112 (2014).
- ¹¹⁵ FLA. STAT. ANN. § 934.50(5) (2014).
- ¹¹⁶ TENN. CODE ANN. § 39-13-609(e) (2014).
- ¹¹⁷ IDAHO CODE § 21-213(3) (2014).
- ¹¹⁸ TEX. CODE ANN. § 423.006 (2014).
- ¹¹⁹ See Drone Protection Act, *supra* note 78.
- ¹²⁰ Kelsey Bray, *Drones Overhead?*, WYO. TRIB. EAGLE, Sept. 8, 2013, available at http://www.wyomingnews.com/articles/2013/09/08/news/19local_09-08-13.txt.
- ¹²¹ James Chilton, *SHARK: CFD drone is illegal*, WYO. TRIB. EAGLE, Aug. 11, 2014, available at http://www.wyomingnews.com/articles/2014/08/11/news/20local_08-11-14.txt.
- ¹²² See *Assault at Hommonasset State Park in Madison, CT*, YOUTUBE, June 6, 2014, <https://www.youtube.com/watch?v=YIGRRRcuvQw>.
- ¹²³ Shawn Musgrave, *A 'Gift' for the LAPD: Two Surveillance Drones Kicked Out of Seattle*, MOTHERBOARD, June 4, 2014, <http://motherboard.vice.com/read/lapd-seattle-surveillance-drones>.
- ¹²⁴ See *Oath Keepers Bundy Ranch Debrief*, YOUTUBE, Apr. 30, 2014, <https://www.youtube.com/watch?v=4HkSAewoESg>. After no drone attack transpired, the Oath Keepers concluded the threat was “an effective psy-op.” *Id.*