



Government Attacks on Private Drones

Congress should not give the Departments of Justice, Homeland Security, State, NASA, the CIA, private contractors, private facilities, and state and local law enforcement sweeping new authorities to destroy, commandeer, or intercept privately-owned drones.

The Counter-Unmanned Aircraft Systems National Action Plan proposed by the administration would authorize permanent or long lasting, sweeping surveillance powers to many different entities, while also eliminating necessary protections. Congress should reject this proposal.

Broad Anti-Drone Proposals Give Agencies Dangerous Leeway

The proposed bill authorizes a variety of actions whenever the agencies deem it necessary to “mitigate” a “credible threat” to a “covered facility or asset.” The proposed bill fails to define these terms, leaving it entirely to the discretion of the agencies, without even requiring a warrant after the fact. As such, the government could exert its power in cases where there may not be a real-life or imminent threat, but where the government has an interest in secrecy.

For example, the proposed bill would allow states to request federal support at “mass gatherings,” which could include protests. If DHS, DOJ, or local police deem drone footage of police clashing with protesters a threat, they could destroy it before the public views it.

Lack of Constitutional Checks and Limits

The Fourth Amendment and numerous statutes protect the privacy of electronic communications. This includes messages between a drone and its operator, the images gathered by the drone, or communications among multiple operators.

The proposed bill would exempt these agencies from following procedures that ordinarily govern electronic surveillance and hacking, such as the Wiretap Act, Electronic Communications Privacy Act, and the Computer Fraud and Abuse Act.

Lack of Transparency and Public Oversight

The proposed bill fails to include oversight and accountability measures to prevent agencies from abusing or misusing their authority. And it includes strange new limits on state, local, and tribal public disclosure laws that would make it harder for the public to know how agencies are exercising their authority.

Increased transparency around what physical areas should be protected and where private users should be expected to look for that information would be a practical step forward.

The Counter-UAS National Action Plan is an extreme reaction to the threat private drones pose to public safety—a problem that could be drastically curtailed through an improvement in communication between responsible agencies and with the public.

Want more information? Please contact Director of Federal Affairs India McKinney at india@eff.org.