



Homeland  
Security

September 14, 2012

INFORMATION

MEMORANDUM FOR THE SECRETARY

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SUBJECT: Working Group to Safeguard Privacy, Civil Rights, and Civil Liberties in the Department's Use and Support of Unmanned Aerial Systems (UAS)

Purpose

The Office for Civil Rights and Civil Liberties (CRCL) and the Privacy Office (PRIV) would like to assist DHS to provide leadership to the homeland security enterprise by clarifying the privacy, civil rights, and civil liberties (P/CRCL) legal and policy issues surrounding government use of UASs. To accomplish this goal, we plan to establish a Department-wide working group, led by CRCL, PRIV and Customs and Border Protection (CBP). As the use of UASs by federal, state, and local entities expands, DHS will have an increasingly public-facing role; establishing a group on this issue would signal that DHS recognizes the importance of protecting privacy, civil rights, and civil liberties in the use of UASs. The working group will serve to support all DHS mission areas and, in particular, PRIV and CRCL's mandate to ensure that privacy, civil rights, and civil liberties are not diminished by efforts, activities, and programs aimed at securing the homeland.

Background

This issue has attracted significant attention from Congress and the media, including technology-focused media. Earlier this year Congress required the Federal Aviation Administration (FAA) to speed up the process by which it authorizes government agencies to operate UASs, relax requirements for state and local agency use of UASs, and mandated regulations for testing and

licensing of private and commercial UASs. These actions have led to expressions of concern by the public and stakeholders regarding the P/CRCL implications of UAS use.

A working group chaired by CRCL, PRIV, and CBP presents a unique opportunity to clarify any misunderstandings that exist regarding DHS's UAS program and to mitigate and address any outstanding P/CRCL concerns with DHS programs. We think that the working group will serve a similar purpose with respect to the UAS Joint Program Office. It will demonstrate that DHS intends to take a proactive leadership role in ensuring that privacy, civil rights, and civil liberties are safeguarded by the lawful use of UASs by DHS components and grant recipients.

### Discussion

CRCL and PRIV are aware of three current uses of UASs to support DHS's mission:

1. CBP operates approximately 10 Predator B UASs at and along the border.
2. USCG participates in the CBP UAS program through the Unmanned Aerial System (UAS) Joint Program Office, providing training, operators and monitoring video feeds. USCG is currently evaluating the acquisition and utility of shipboard launch/recovered UASs for persistent maritime surveillance.
3. S&T oversees the Air-based Technologies Program (a partnership with state & local partners to develop and promote appropriate use of UASs by law enforcement and first responders).

We do not believe that DHS has any other active UAS programs, but realize that there may be additional proposals for the use of UASs by the Department over time. Therefore, we think that a working group should examine all active and planned DHS uses of UASs, as well as DHS support to state and local partners in their use of UASs.

The overarching goal of the working group is to determine what policies and procedures are needed to ensure that protections for privacy, civil rights, and civil liberties are designed into DHS and DHS-funded UAS programs while fully supporting the appropriate use of UASs to achieve homeland security enterprise mission objectives. Working group participants will include representatives from CRCL, PRIV, OGC, each component that either uses or plans to use UASs, and other relevant parties from within DHS. CBP, the Coast Guard, S&T, IGA, MGMT, PLCY, OPA, OLA, and OGC have all concurred with this plan. The working group will have four objectives:

1. Establish a forum for DHS headquarters and components to discuss P/CRCL issues related to the Department's use and support of UASs;
2. Ensure that P/CRCL guidance and policies are reflected within the different CONOPS for UAS uses by the Department;
3. Identify potential privacy, civil rights, and civil liberties concerns with respect to the various current or planned uses of UASs by the Department; and
4. Promote DHS best practices for safeguarding privacy, civil rights, and civil liberties in the use of UASs by DHS partners and grant recipients.

cc:

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