

STATUS OF DRONE TESTS AND POLICIES

Legal Background

Mina Makarious
May 4, 2019

THE ISSUE

- Unmanned Aerial Systems (“UAS” “UAVs” or “drones”) present significant opportunities for airports:
 - Maintenance capabilities
 - Security uses
 - Opportunities to engage other aeronautical uses in developing the technology
- But they also present significant concerns:
 - Malicious behavior
 - Innocent behavior with similar results
 - Community issues (e.g., noise)
- Small UAS are not the only issue. Larger unmanned aircraft also raise concerns

AIRPORT OBLIGATIONS

- Grant Assurance 19: O&M (including safety)
- Grant Assurance 20: Clearing Hazards
- Grant Assurance 21: Compatible Land Use/Interaction with Local Government
- Grant Assurance 22: Nondiscrimination
- Grant Assurance 34: Compliance with FAA Policies

FAA RE: AIRPORT COUNTER UAS

- [October 26, 2016 Letter:](#)
 - FAA has only authorized a limited number of counter-UAS tests at airports through Cooperative Research and Development Agreements
 - Tests outside of these agreements may violate grant assurances
 - Certain UAS countermeasures may create RF interference
 - Countermeasures may violate federal, state and local laws, including those prohibiting the destruction of aircraft

FAA RE: AIRPORT COUNTER UAS

- [July 19, 2018 Update:](#)
 - “FAA does not endorse or advocate for the use of countermeasures in the airport environment given the likely resulting impact on the safety and efficiency of the NAS.”
 - Drone countermeasures may implicate Federal Criminal Law: e.g., Pen/Trap Statute, the Wiretap Act, the Aircraft Sabotage Act, the Computer Fraud and Abuse Act
 - FAA expects other measures, particularly remote ID to be more useful
 - LAANC and improved communication with UAS may also help

OTHER FAA GUIDANCE

- July 20, 2018: [Guidance to Local Government](#)
 - FAA reiterates primary role in UAS regulation
 - Leaves open potential local regulation of takeoff and landing sites
 - Builds on [2015 guidance](#) providing limited role for local government (e.g., warrant requirements, anti-voyeurism, hunting/fishing)
- August 14, 2018: [Guidance to Law Enforcement](#)
 - Training
 - **D**etect, **R**eport, **O**bserve, **N**otice, **E**xecute

MORE TO COME: 2018 REAUTHORIZATION ACT

- Sec. 362: Congressional recognition of risks to airports
- Sec. 365: DOT and DOD to coordinate on counter-UAS
- Sec. 366: FAA given one year to develop strategy to assist local government response to UAS and 180 days to provide a [website](#) with resources for law enforcement
- Sec. 372: FAA to establish pilot program for remote detection and identification
- Sec. 373: Comptroller General to study state/local role in UAS regulation
- Sec. 376: FAA to develop plan for implementation of UTM
- Sec. 383: FAA to test counter-UAS at airports; Approved Counter-UAS AIP eligible
- Sec. 384: Makes certain UAS flights near airports a criminal offense

OTHER FAA GUIDANCE: PENDING RULEMAKING

- External Marking Requirements for Small UAS
- Safe and Secure Operations of Small UAS
- Operation of Small UAS Over People

ACI's WORK

- [2018 ACI-World Policy Paper](#)
 - More communication with airports
 - More control over nearby flights by airports
 - Ability to track/monitor
 - Risk-based approach
 - Training
- [AUVSI/ACI Task Force](#)
 - Refine and develop best practices
 - Develop policy framework

WHAT TO DO NOW?

- Know how FAA regulates UAS now (Part 107)
- Keep up with FAA/federal developments
- Engage with responsible UAS operators
- Understand existing state law interactions
- Work with your state legislature/aeronautics agencies and local government entities