



Constitutional Guidance on UAS

As with numerous other technologies, the use of UAS is evolving much quicker than the law. While the legal issues surrounding UAS use are rapidly evolving as the courts consider them, significant guidance can be found in existing constitutional law and law addressing other technologies.

Because the application of sUAS technology for public safety use is emerging, the legal and regulatory environment is continually changing. *Always be sure to consult the most current federal, state, and local laws applicable to sUAS. Law enforcement agencies are strongly advised to consult with their own City Attorney or District Attorney on legal and constitutional issues surrounding the use of sUAS before launching their program.*

Constitutional Guidance

The following constitutional case law is a source of significant guidance to police agencies interested in establishing a sUAS program in their agencies:

Listening device & Katz v. United States (1967)

The court ruled that attaching a listening device to a public telephone booth violates the Fourth Amendment.

GPS & United States v. Knotts (1983)

The court ruled that attaching a tracking beeper did not constitute a search, but turning it on did.

Photographs & California v. Ciraolo (1986)

The court ruled there was not a Fourth Amendment violation when officers took pictures of a private residence at 1000 feet, however, this ruling needs to be weighed in accordance with the RXP test.

Searches & NY v. Class (1986)

Because the exterior of an automobile is for all intents and purposes in the public eye, it may be visually examined by police without a warrant.

Video surveillance & United States v. Cuevas-Sanchez (1987)

Video surveillance of private property from a pole camera, when obtained without a warrant, constitutes a search in violation of the Fourth Amendment.

Photographs & Florida v. Riley (1989)

Court ruled that photographs of a private residence taken at 400 feet did not constitute a search, however this ruling needs to be weighed in accordance with the RXP test.

Thermal imaging & Kyllo v. United States (2001)

Warrantless use of a thermal imaging device on a private residence constitutes a search that violates a person's right to privacy.

GPS & United States v. Jones (2012)

The court ruled that attaching a GPS device to a car without a warrant constitutes an unlawful search and also trespass into a constitutionally protected area.

Data interception & Joffe v. Google (2013)

The use of sUAS to intercept and collect WiFi data without a warrant is considered wiretapping.

The Fourth Amendment and the Right to Privacy

The **Fourth Amendment** prohibits unreasonable search and seizure. As such, people must have a reasonable expectation of privacy (RXP) in certain spaces such as in their homes and in public spaces configured to provide privacy.

The RXP Test

When interpreting the Fourth Amendment right to privacy, courts consider whether citizens have a **reasonable expectation of privacy** (RXP) in the situation. People on city streets do not have a reasonable expectation of privacy, but they do in their homes. When considering the use of UAS in open spaces, the RXP test asks you to consider whether people have a reasonable expectation of privacy in the space.

Contact for more information:

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