

11-29-2013

The Sky is the Limit: Regulating the Next Generation of Privacy Invasion

Laura Patty

Golden Gate University School of Law, lawreview@ggu.edu

Follow this and additional works at: http://digitalcommons.law.ggu.edu/ggu_law_review_blog



Part of the [Civil Law Commons](#), and the [Evidence Commons](#)

Recommended Citation

Patty, Laura, "The Sky is the Limit: Regulating the Next Generation of Privacy Invasion" (2013). *GGU Law Review Blog*. Paper 19.
http://digitalcommons.law.ggu.edu/ggu_law_review_blog/19

This Blog Post is brought to you for free and open access by the Student Scholarship at GGU Law Digital Commons. It has been accepted for inclusion in GGU Law Review Blog by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.



The Sky is the Limit: Regulating the Next Generation of Privacy Invasion

NOVEMBER 29, 2013 BY LAURA PATTY 1 COMMENT

Last year in Texas, a man sent a drone up into the sky and inadvertently exposed an environmental nightmare. Images taken from a digital camera mounted on his remotely controlled drone, also referred to as an Unmanned Aircraft System (UAS), captured what appeared to be a creek running red with blood. As it turned out, Columbia Packing Company, a small meatpacking plant in a suburb of Dallas, had been pumping [pig's blood](#) into nearby Cedar Creek through a pipe originating in the back of its slaughterhouse. The pipe was not connected to the slaughterhouse's waste water system. Even more alarming, the creek flows directly into the Trinity River, an increasingly popular destination for kayaking and recreation.

Unbeknownst to this drone enthusiast, his little joy ride would result in an indictment on water pollution charges for two of the plant's leaders, with potential fines of up to \$1.5 million. And how did Texas respond? Not by tightening regulation of the meatpacking industry or increasing penalties for this type of heinous conduct. Instead, the Lone Star State passed a law [restricting private citizens' use of drones](#).

As of September 1, 2013, using a drone to capture unauthorized images of persons or private property in Texas is now punishable by a fine of up to \$500. The law also allows for the imposition of up to \$10,000 in [civil penalties](#) against those who improperly photograph and distribute the captured images of another's person or property. Although the law is perhaps the strictest in the country in terms of protecting privacy rights from this new-age technological intrusion by ordinary citizens, it affords gracious exceptions for law enforcement's use of drones. It seems the law's main goal is to make explicit that the average Joe shouldn't use drones to snoop on his neighbors.

Two thoughts come to mind. 1) Don't mess with the meatpacking lobby in Texas. 2) Texas got it right. More states should limit the reach of surveillance that private citizens are capable of due to technological advances. As an extremely new issue for legislators, only [nine states](#) currently have laws restricting the use of drones. The first state to pass drone legislation, Virginia, only did so on April 3, 2013. [Among the states](#) that have passed or proposed legislation restricting drone use, there is a wide variance in the substantive law.

Some of these states, like Texas and Idaho, address the use of drones by ordinary civilians, but most states' laws focus on the implications of law enforcement use of drones. [Idaho](#) arguably has the most restrictive legislation regarding the use of drones by law enforcement, but stops a little short of Texas in restricting drone use by private citizens. Because the Idaho law carves out an exemption for civilians flying drones for purely sport or recreational use, it is second to Texas, which has no such exception. But it is still a front-runner among other states in protecting privacy from intrusion by private citizens.

The farther we go down the technological rabbit hole, the more our interactions with the world and the people around us change. Drone technology is only one of many recent innovations that have left people with the uneasy feeling of being watched. We are constantly photographed and recorded by people who use their mobile devices to catalogue the details of their day. Google Glass, the latest in "wearable technology," allows users to [record videos of everything](#) in their view. Further, there now exists the capability for inanimate objects to watch you while you're watching them. By tracking the movements of viewers' [eyes](#), advertisers will be able to make ads more effective based on what has drawn the viewers' attention. This flood of new capabilities borne of technological advances comes at a price, leaving many with the uncomfortable feeling of being under constant surveillance.

While the ship may have sailed regarding cell phones, Google Glass, and eye tracking, we must

Search

Recent Posts

- A CC-Pain: Abuse of C.C.P. § 170.6
Peremptory Challenges
- Employee Rights: If Nobody Knows,
Who Cares?
- Space Rock Mining: A Land Rush Without Title
- Remove Time Limits on Reunification; Choose
Guardianship over Adoption
- It's Still Perilous to Catch a Lyft in
San Francisco

Archives

- March 2014
- February 2014
- January 2014
- November 2013
- October 2013
- April 2013
- March 2013
- February 2013
- January 2013
- October 2012

Categories

- GGU Law Review
- Ninth Circuit

Authors

draw the line at allowing private citizens to remotely record one another using drones. More states should follow Texas's lead by restricting the ability to capture images of one's person or property without consent. As technological advances inevitably persist and technology capable of surveillance becomes more accessible, it will become increasingly important to consider the impact that civilian use of this technology will have on privacy.

Share this:

Email Twitter Facebook LinkedIn Google

Reblog Like

Be the first to like this.

Related

It's Still Perilous to Catch a Lyft in San Francisco In "GGU Law Review"

Trust in Beer In "GGU Law Review"

Injunction Junction: Microsoft v Motorola, Case No. 12-35352 (9th Cir. Sept. 28, 2012) In "Ninth Circuit"

GGU Law Review

Columbia Packing Company, drone, privacy, Unmanned Aircraft System

About Laura Patty

J.D. Candidate, 2014, Golden Gate University School of Law View all posts by Laura Patty ->

Introduction to Upcoming Ninth Circuit Survey, by Judge Clifton

Thank You and Goodbye: Stripping Citizenship From Generations of Haitian Dominicans

Trackbacks/Pingbacks

- 1. The Sky is the Limit: Regulating the Next Generation of Privacy Invasion | Privacy - December 10, 2013

[...] Whoever said politicians are a bunch of hypocrites? In Texas, one of the strictest drone laws in the nation has been enacted, preventing citizens from using drones to spy on each other. However, large exceptions are made for law enforcement purposes. The author of the article views restrictions on civilian drones without corresponding restrictions on law enforcement as a positive thing. Although I disagree with that message, I cannot argue with the conclusion that more legislation on drone is needed. [...]

Leave a Reply

Enter your comment here...

- Andy Brunner-Brown
cassieheuckroth
erikfaussner
Mark Wilson
Executive Online Editor
Joanne Badua
jefftye
Kristina Maalouf
Laura Patty
Mark Heisey
Richard Miyasaki
Stephen Butts
Lee Howery

Like us on Facebook

GGU LAW Golden Gate University Law Review Like You like this.

Follow us on Twitter

Tweets Follow GGU Law Review @GGULawReview 24 Mar A CC-Pain: Abuse of C.C.P. § 170.6 Peremptory Challenges wp.me/p2rEUu-6V via @GGULawReview