

IF DOMESTIC DRONES ARE ALL CIVIL, THEN WHY ARE THEY IN THE DEFENSE AUTHORIZATION, TOO?

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Figure 2: Planned DoD 2015 UAS Locations

the government's treatment of *Hedges v. Obama* seems to have created over at Lawfare. But first I want to note something odd about this Ben Wittes post, calling Conor Friedersdorf's endorsement of Charles Krauthammer's opposition (!) to domestic drones, "silly." After excerpting what they said, Ben writes,

All of which provokes one question: Do either of these men have the slightest idea what they're talking about?

[snip]

More fundamentally, the issue before the FAA right now is not the flying of "instruments of war" over the United States. It is, as Congress put it (see Section 332), the development "of a comprehensive plan to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system." The key word in there is "civil." We're not talking here about standing armies or using the military

domestically. We're not even talking about weapons at all. We're talking about crop dusters. We're talking about traffic-monitoring UAVs. We're talking about journalism. We're talking, in the longer run, about unmanned civilian cargo transport and, I suspect, air travel. And yes, we're talking about law enforcement.

Now, like ACLU's Catherine Crump, I'm not opposed to some domestic uses of drones, like disaster response and climate change response.

But I'm struck by the focus of Wittes' so-called rebuttal. He seems to be focusing on the requirement—with a 270 day deadline—to set up a **plan** for civil drones in the national airspace.

(1) COMPREHENSIVE PLAN.—**Not later than 270 days** after the date of enactment of this Act, the Secretary of Transportation, in consultation with representatives of the aviation industry, Federal agencies that employ unmanned aircraft systems technology in the national airspace system, and the unmanned aircraft systems industry, **shall develop a comprehensive plan** to safely accelerate the integration of civil unmanned aircraft systems into the national airspace system. [my emphasis]

He seems to be ignoring the other part of the section that requires FAA—with a 180 day deadline—to set up a **program** involving 6 test sites.

(1) ESTABLISHMENT.—**Not later than 180 days** after the date of enactment of this Act, the Administrator shall establish a program to integrate unmanned aircraft systems into the national airspace system at 6 test ranges. [my emphasis]

Which is curious, because this requirement

specifically involves DOD and includes “public” drones, as well as civil ones.

(C) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;

(D) address **both civil and public** unmanned aircraft systems; [my emphasis]

So the first thing that’s happening is the roll-out of these test sites including “public” (DOD, NASA, and DHS) drones, not the plan for the roll-out of “civil” drones.

Not only that, but this requirement appears not just in the FAA reauthorization, but also—as Section 1097—in the Defense Authorization.

SEC. 1097. UNMANNED AERIAL SYSTEMS AND NATIONAL AIRSPACE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a program to integrate unmanned aircraft systems into the national airspace system at six test ranges.

[snip]

(3) coordinate with and leverage the resources of the Department of Defense and the National Aeronautics and Space Administration;

(4) address both civil and public unmanned aircraft systems;

Furthermore, the most public discussion of one of these test sites involves Reapers flown by the Air National Guard, though they would only be armed over Fort Drum.

The Air National Guard’s 174th Fighter Wing is a step closer to gaining federal

permission to fly unmanned Reaper drones out of its base at Hancock Field, according to U.S. Sen. Charles Schumer.

The National Defense Authorization Act signed into law last week by President Barack Obama allows for the establishment of six national test sites where drones could fly through civil air space.

The Air National Guard's 174th Fighter Wing is a step closer to gaining federal permission to fly unmanned Reaper drones out of its base at Hancock Field, according to U.S. Sen. Charles Schumer.

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[snip]

Hancock Field, which will eventually host a full squadron of Reaper drones, has the largest potential training space in the Northeast. Most of the drones assigned to the 174th Fighter Wing are now remotely operated in Afghanistan and Iraq by pilots at the Mittydale base.

[snip]

The drones would be armed with live ordnance only when used at firing ranges at Fort Drum near Watertown.

Is Wittes really suggesting that these Reapers are "crop dusters" or "journalists"?

More direct still is this 2010 DOD report (from which the map above derives) describing the urgency behind the operation of "public" drones in US airspace.

Unmanned aircraft of the Department of

Defense (DoD), Department of Homeland Security (DHS), and National Aeronautics and Space Administration (NASA) have a need for safe and routine access to U.S. airspace in order to execute a wide range of missions including surveillance and tracking operations, training, test and evaluation, and scientific data collection. UAS are already a significant part of DoD, DHS, and NASA operations and will eventually require U.S. National Airspace System (NAS) access similar to manned aircraft.

Training, surveillance and tracking ... that's "crop dusters" too?

In addition to "real world training" in US airspace, the report anticipates drones will conduct missions for NORTHCOM.

The DoD needs to be able to respond rapidly to operational tasking, typically from a COCOM such as the United States Northern Command (NORTHCOM). Many of these tasked missions relate to homeland defense, homeland security, and defense support to civilian authorities. This includes border and port surveillance, maritime operations, counter-drug operations, and disaster or special event support.

I guess Wittes thinks these all amount to more crop dusting, too?

And that's all before you get to DHS' use of drones to "accomplish persistent border and maritime surveillance to detect, interdict and prevent acts of terrorism and the unlawful movement of people, illegal drugs and other contraband toward or across the borders of the United States." That is, similar to functions the drones are doing on Afghanistan's border (or Turkey's). More crop dusting.

I could go on with more and more evidence that

domestic drones are—in very significant part—about DOD’s drones or DHS drones operating in a counterterrorism or counternarcotics mission.

Which is all a very long-winded way of saying it isn’t the drones that are crop-dusting. It’s Wittes himself.