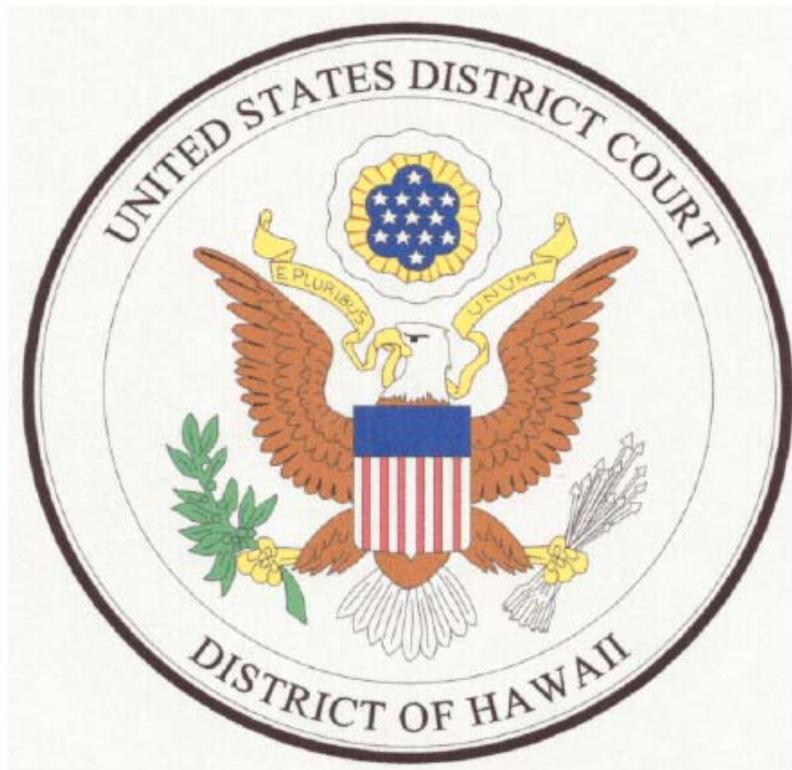


**UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
2016 ANNUAL CONFERENCE**

**“DRONES AND UNMANNED
AIRCRAFT SYSTEMS IN HAWAII”**

April 8, 2016



**U.S. DISTRICT COURT FOR DISTRICT OF HAWAII
2016 ANNUAL CONFERENCE
FRIDAY, APRIL 8, 2016**

“DRONES AND UNMANNED AIRCRAFT SYSTEMS IN HAWAII”

OUTLINE OF TOPICS WITH RELATED LINKS

SESSION I (DRONE 101)

A. VIDEO PRESENTATIONS

1. Jim Williams
https://www.youtube.com/embed/ocqB6_y71xE
<https://www.youtube.com/embed/ucpsLeM-7OQ>
<https://www.youtube.com/embed/lAOzOIV3wm0>
2. Gretchen West
<https://vimeo.com/159834477>
Password: WEST
3. Ted Ralston
Local UAS Topics

B. HISTORY AND BACKGROUND

1. The Basics – How Drones Work
<http://www.dronezon.com/learn-about-drones-quadcopters/what-is-drone-technology-or-how-does-drone-technology-work/>
2. Industry Overview, State of the Art and Direction of Technology
<http://droneii.com/top-20-drone-company-ranking-q3-2015>
<http://editionmobile.latimes.com/Olive/Tablet/LATimes/Shared/Article.aspx?href=LAT%2F2016%2F03%2F26&id=Ar02204>
<http://money.cnn.com/2014/11/25/news/drone-pilot-degree/>

SESSION II (Legal Issues)

A. CIVIL LAW AND BUSINESS TOPICS

1. Starting a Drone Business and Contracting with UAS Operators
<http://www.dentons.com/en/insights/guides-reports-and-whitepapers/2015/december/4/contracting-with-and-between-uas-operators>

AP News 4/4/16 Commercial drone flights over people
<http://www.bigstory.ap.org/article/2b37d266de4b485a8bb086981d0c2ecb/apnewsbreak-move-ok-commercial-drone-flights-over-people>

2. FAA Regulations and Registration

Path 1: Public Aircraft Operations (2/12/14)

http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_0-1_1A.pdf

This Advisory Circular from the FAA is for government or government-contracted operations within the U.S.

Path 2: Section 333 Exemptions

https://www.faa.gov/uas/legislative_programs/section_333/how_to_file_a_petition

The FAA has yet to issue guidelines under which commercial drones or UASs can operate, but that doesn't mean you can't legally conduct commercial drone flight operations. Exceptions are being granted for those companies or individuals that file a petition for exemption under the FAA's Section 333.

As of March 23, 2015, the FAA will automatically grant a "blanket" COA (Certificate of Authorization) for flights at or below 200 feet to any UAS operator with a Section 333 exemption, provided the aircraft weighs less than 55 pounds, operations are conducted during daytime Visual Flight Rules (VFR) conditions within visual-line-of-sight (VLOS) of the pilot, and certain distances away from airports or heliports. Details are available here:

<https://www.faa.gov/news/updates/?newsId=82245>

<http://www.ecfr.gov/cgi-bin/textidx?SID=36ce0c51390f31ff80788437c8f20703&mc=true&node=20151216y1.36>

Drone Operator Registry, FAA Interim Rule of 14 CFR Part 48

https://www.faa.gov/news/updates/media/20151213_IFR.pdf

Those who operate their drones for any reason other than hobby or recreation may not register their drones using the online web-based system, but must instead register their drones using the existing paper-based system of Part 47.

The penalties for a person operating a drone if they themselves are not registered are significant, and include civil penalties up to \$27,500, and, if warranted, criminal penalties of up to \$250,000 and three years of prison. Exactly how the FAA plans to enforce the registration requirements is unknown. The FAA has released a UAS Enforcement Q&A and guidance card for local law enforcement. Thus, presumably it is depending upon local police to pursue any enforcement.

USA Enforcement Q&A

https://www.faa.gov/uas/law_enforcement/media/UAS-Enforcement-FAQs.pdf

Guidance Card

http://www.faa.gov/uas/law_enforcement/media/leo_guidance_card.pdf

The Federal Aviation Administration's (FAA) new fact sheet on state and local regulation of unmanned aircraft systems (UAS) provides information for states and municipalities considering laws or regulations addressing UAS use. The document outlines FAA's safety reasons for federal oversight of aviation and airspace, and explains federal responsibility in this area.

FAA Fact Sheet

http://www.faa.gov/news/updates/?newsId=84369&omniRss=news_updatesAoc&cid=101_N_U

The fact sheet provides examples of state and local laws affecting UAS for which consultation with the FAA is recommended, such as restrictions on flight altitude or flight paths, regulation of the navigable airspace, and mandating UAS-specific equipment or training.

The fact sheet also gives examples of UAS laws likely to fall within state and local government authority, such as requirements for police to obtain a warrant prior to using UAS for surveillance; prohibitions on the use of UAS for voyeurism; exclusions on using UAS for hunting or fishing, or harassing individuals engaged in those activities; and prohibitions on attaching firearms or other weapons to a UAS.

The FAA Modernization and Reform Act of 2012 and special rule for model aircraft -Sec. 336 of Public Law 112-95

http://www.faa.gov/news/press_releases/news_story.cfm?newsId=16474

Small Drone Notice of Proposed Rulemaking

https://www.faa.gov/news/press_releases/news_story.cfm?newsId=18295

Notice to Airmen FDC 4/3621 Regarding Sporting Events

https://www.faa.gov/uas/regulations_policies/media/Sports_TFR-UAS_Handout.pdf

Air Traffic Plans and Publications

http://www.faa.gov/air_traffic/publications

Privacy and Public Safety Concerns and Use in Disaster Management

<https://www.youtube.com/watch?v=mQdBAJHXm7U&feature=youtu.be>

Drones in Hawaii

<http://www.hawaiidrones.com/>

National Park Service - Taser incident at Volcanoes National Park

<http://www.hawaiinewsnow.com/story/28914009/drone-operator-chased-tased-by-ranger-at-hawaii-volcanoes-national-park>

Drone Race in Hawaii

<http://www.staradvertiser.com/sports/drone-race-planned-in-hawaii-as-sport-takes-off>

B. CRIMINAL LAW TOPICS

1. Federal, State and Local Enforcement

FAA Law Enforcement Guidance for Suspected Unauthorized UAS Operations - State and local Law Enforcement Agencies (LEA) are often in the best position to deter, detect, immediately investigate, and, as appropriate, pursue enforcement actions to stop unauthorized UAS operations.

http://www.faa.gov/uas/regulations_policies/media/FAA_UAS-PO_LEA_Guidance.pdf

2. Criminal Penalties

Although there are Federal criminal statutes that may be implicated by some UAS operations (see e.g., 49 U.S.C. § 46307 - Violation of national defense airspace), most violations of the FAA's regulations may be addressed through administrative enforcement measures.

<http://codes.lp.findlaw.com/uscode/49/VII/A/IV/463/46307>

http://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0263/

Hawaii Revised Statutes - Uniform Aeronautics Act – Chapter 263

§ 263-1 Definition of terms. “Aircraft” includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air.

§ 263-9 Dangerous flying a misdemeanor; penalty. Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within the State, engages in trick or acrobatic flying, or in any acrobatic feat, or flies, except while in landing or taking off, at such a low level as to endanger the persons on the surface beneath, or drops any object except loose water or loose sand ballast, or paper handbills, shall be guilty of a misdemeanor and punishable by a fine of not more than \$1,000, or imprisonment for not more than one year, or both.

3. Using Drones to Conduct Searches and Privacy Concerns

Pending Bill in Hawaii Senate to Ban Police Use of Drones Without a Warrant

http://www.capitol.hawaii.gov/session2014/bills/SB2608_SD1_.htm

Texas Law focusing on capturing images by unmanned aircraft

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.423.htm>

UAS program Options:	Path 1: Public Aircraft Operations (PAO)	Path 2: Section 333 Exemption
Legal basis for operating <i>Un-Certified aircraft</i>	Benefit to public - law enforcement, natural resource management, fire prevention, disaster management, Etc (legacy means for civil govt to use of ex-mil aircraft)	Equivalent Safety - use of UAS safer than traditional use of manned aircraft; created by 2012 Congressional mandate
Available to	Public agencies only (Fed, State, County, City, Tribal Governments including Universities, PD, FD, Hazmat	Anyone: govt, private, commercial, educational
Starting point	Petition FAA for recognition of Using Entity as a ‘Subdivision Of Government’, allowing bypass of traditional Aircraft and Crew FAA Certification	Petition FAA for Exemption from Aircraft Certification and Operating rules for cases where UAS is safer than Manned aircraft
Requirements	Entity self-certify UAS and crew operate within line of sight, daytime Landowner and local permits Periodic reports to FAA No hazardous operation Privacy protection	Pilot certificate for operator Local permits as appropriate Periodic reports to FAA Periodic inspection and maintenance Line of sight, daytime, 55 lbs max, no hazardous ops Privacy protection
Airspace Access	Certificate of Authorization (COA) required Provides safety by isolation of UAS activity Date, time, geographic footprint, communications Standard COA (2 yr life, 60-day application period) Jurisdictional COA (wide range, for training and prep) Emergency COA (2 hr callup, single use, life in danger) Educational blanket COA (statewide, 400’, for FAA UAS Test site states) Public Safety COA (quick release, for disaster operations, expected 2016)	Certificate of Authorization (COA) required Provides safety by isolation of UAS activity Date, time, geographic footprint, communications Blanket COA for USA issued with 333, 200’ max Specialized COA can be petitioned

2016 District Conference Schedule

8:00am - 8:30am	Registration
8:30am - 12:30pm	District Conference
12:30pm	Lunch
2pm	Conclusion

***2016 Hawaii
District Conference***



***United States
District Court***

***2016 Hawaii
District Conference***



April 8, 2016

DRONES AND THE LAW

Drones, otherwise known as unmanned aerial vehicles (UAVs) quad copters or remote controlled planes, are no longer fads or mere playthings. These vehicles are now used by businesses, researchers, government agencies, retailers and the home hobbyist.

Panelist are Ted Ralston retired aerospace executive, now involved in developing a drone training program for FEMA's National Disaster Preparedness Training Center.

Gretchen West, senior advisor for innovation and technology at the Silicon Valley office of Hogan Lovells and was previously Executive Vice President for Unmanned Vehicle Systems International, the largest non-profit directed to advancing the unmanned aircraft systems and robotics community.

James Williams, formerly manager for the FAA's Unmanned Aircraft Systems (UAS) Integration Office, the inter-agency focal point for coordinating drone access to U.S. airspace. Mr. Williams is currently a principal at the Dentons' law firm and is a member of Dentons' Public Policy and Regulation practice and the Aviation and Aerospace sector.

Michael Purpura is a partner at Carlsmith Ball LLP and concentrates his practice on white collar criminal defense, internal investigations, complex civil litigation, and appellate litigation. Mr. Purpura previously served as Associate Counsel to the President, Senior Counsel to the Deputy Attorney General, and as an Assistant United States Attorney in the Southern District of New York and the District of Hawaii.

Conference Program

8:30am - 9:00 am:
Reports and Updates

Judge Leslie Kobayashi, U.S. District Court
Judge Richard Clifton,
9th Circuit Court of Appeals
Florence Nakakuni, Office of U.S. Attorney

9:00am - 10:30am:
Panel Discussion Drones 101
The Expanding Drone Marketplace

Break

10:45am - 12:30pm:
Panel Discussion Drones-
Regulatory and Legal Environment

Moderator -

Ted Pettit
Partner, Case Lombardi and Pettit

Panelists -

Ted Ralston
Gretchen West
James Williams
Michael Purpura

2016
Lawyer Representatives

Thomas Otake
Ted Pettit
Clare Connors
Colin Miwa
Blaine Rogers

