

Written Testimony of Jennifer Daskal¹

Before the United States Senate Committee on the Judiciary

Hearing on “Defending Against Drones: Setting Safeguards for Counter Unmanned Aircraft Systems Authorities”

May 20, 2025

Chairman Grassley, Ranking Member Durbin, and distinguished Members of the Committee, thank you for inviting me to testify at today’s hearing, *Defending Against Drones: Safeguards for Countering Unmanned Aircraft Systems Authorities*.

The safety and security of Americans from the potential misuse of drones² is a critically important issue—one that should be top of mind for every American.

Drone safety issues rose to prominence during the last two months of 2024, when there were numerous reports of suspicious drones flying over New Jersey.³ At the time, I was the Deputy Homeland Security Advisor. Federal Bureau of Investigation (FBI), Department of Homeland Security (DHS), the Federal Aviation Administration (FAA), and Department of Defense (DOD) officials surged resources to assess what was happening in the New Jersey skies. Agencies sent advanced detection technology and trained visual observers to support local officials in New Jersey.⁴ FBI set up a tip line.⁵ FAA imposed flight restrictions around power stations, critical infrastructure facilities, and other locations across New Jersey. For several weeks, I held almost-daily meetings with relevant Departments and Agencies to make sure we were doing what we could, within the scope of our limited authorities, to support New Jersey. But there were significant constraints—as a result of insufficient authorities and resources—in what the federal government could do.

FBI, DHS, FAA, and others reviewed the reports that came in. They did not find any evidence of malicious activity, foreign involvement, or criminal action. Instead, the reviews of reported drone sightings revealed that many were lawfully present aircraft and helicopters; others were

¹ I formerly served as the Deputy Homeland Security Advisor (2023-2024), National Security Council Principal Deputy Legal Advisor (2023) and Acting General Counsel and Principal Deputy General Counsel at the Department of Homeland Security (2021-2023). Currently, I am a Partner at Venable, LLC. I am offering this testimony solely in my personal capacity. I am not offering views on behalf of Venable or any of Venable’s clients. I have not received any compensation or any other benefit for providing this testimony.

² For the purposes of this testimony, I am using the words “drones” and unmanned aircraft” interchangeably to refer to aircraft that can be operated remotely, with or without human involvement.

³ Dave Collins, “Mystery drone sightings continue in New Jersey and across the US. Here’s what we know,” *Associated Press*, Dec. 20, 2024, <https://apnews.com/article/drones-new-jersey-what-to-know-e6f565f5d51d9d47ad140e7e7d131842>; Tom Winter and David Li, “FBI investigates mysterious drones filling night sky in New Jersey that have ‘unnerved’ residents,” *NBC News*, Dec. 3, 2024, <https://www.nbcnews.com/news/us-news/fbi-investigates-mysterious-drones-filling-night-sky-new-jersey-unnerv-rcna182637>.

⁴ “DHS, FBI, FAA & DoD Joint Statement on Ongoing Response to Reported Drone Sightings,” Dec. 17, 2024, <https://www.faa.gov/newsroom/dhs-fbi-faa-dod-joint-statement-ongoing-response-reported-drone-sightings>.

⁵ “FBI Newark Seeks Information on Drone Sightings,” Dec. 3, 2024, <https://www.fbi.gov/contact-us/field-offices/newark/news/fbi-newark-seeks-information-on-drone-sightings>.

lawfully present drones.⁶ In early January 2025, the Trump Administration reached a similar conclusion. In President Trump’s words, as conveyed via his press secretary: “The drones that were flying over New Jersey in large numbers were authorized . . . this was not the enemy.”⁷

But the fear at the time was palpable. And justified. Drones serve key public safety, recreational, and commercial functions. But they also can be weaponized by malicious actors, in ways that put Americans at risk. Even non-malicious uses of drones—including the careless flying of drones into protected airspace—poses significant risk to aviation safety. The current patchwork of authorities is insufficient in light of these risks.

In April 2022, the prior Administration, in recognition of the current vulnerabilities, submitted to Congress a legislative proposal that would have expanded the authorities and set of actors who could respond to the risk posed by the misuse of drones. Bipartisan legislation repeatedly offered by Senators Gary Peters (D-MI) and Ron Johnson (R-WI)—including most recently, the “Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2024,” offered as an amendment to the National Defense Authorization Act of 2025—would also expand and extend current authorities in critically-needed ways.⁸ To date, Congress has failed to act. It is time to do so now, before it is too late.

In the remainder of this testimony, I will do three things. I will address: (i) the current state of play with respect to the use of drones, the risk of misuse, and current counter-drone authorities; (ii) the gaps in these authorities, in light of the risks; and (iii) what is needed to responsibly protect Americans from the potential misuse of drones, in a manner that protects civil rights and civil liberties.

I. The Current State of Play

There are over one million drones registered with the FAA in the United States—a number that is predicted to grow to 2.7 million by 2027.⁹ The vast majority of these drones are used for commercial, recreational, and other lawful purposes, serving highly valuable functions which should be actively supported. But as drones proliferate, the risks increase as well. This section lays out: (i) the benefits of drones, as well as their risk of misuse; (ii) the key detection and mitigation tools needed to identify and counter threats that arise; and (iii) the current, and limited, scope of authorities to do so.

⁶ Andrea Shalal & Ryan Patrick Jones, “FBI, White House find no evidence of security threat in New Jersey drone sightings,” *Reuters*, Dec. 13, 2024, <https://www.reuters.com/world/us/no-evidence-new-jersey-drone-sightings-pose-security-threat-white-house-says-2024-12-12/>.

⁷ Stacey Dec, “Trump says NJ drones were ‘authorized after suggesting Biden kept public ‘in suspense,’” *ABC News*, Jan. 28, 2025, <https://abcnews.go.com/Politics/leavitt-reveals-nj-drones-authorized-faa-white-house/story?id=118187426>.

⁸ S. Amdt. 3233 to S.4638: Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2024, submitted Aug. 1, 2024, <https://www.congress.gov/amendment/118th-congress/senate-amendment/3233>.

⁹ FAA, “Drones by the Numbers,” updated April 1, 2025, <https://www.faa.gov/node/54496>; “Drone Operations,” *Government Accountability Office*, <https://www.gao.gov/drone-operations>.

The Benefits of Drones and The Risk of Misuse

Drones serve key functions. Drones are used to support firefighters, the delivery of life-saving aid, critical infrastructure management, agricultural production, military operations, along with multiple other commercial and recreational uses.¹⁰ As the technology supporting unmanned aircraft systems advances, drones will be able to do even more. It is critical that we support and help grow our domestic drone industry, which plays a key role in the current economy.

But they also carry risk. One needs to read only a few headlines about the fighting in Ukraine and across the Middle East to know that drones—many of which are off-the-shelf technologies that have been adapted for war—are at the forefront of military conflict.¹¹ Drones have been used in assassination attempts, including of the President of Venezuela and Prime Minister of Iraq.¹² Transnational criminal organizations use drones to smuggle deadly drugs across our southwest border.¹³ Drones can be used by foreign adversaries for espionage purposes, including to collect intelligence on targets of interest.¹⁴ Drones have also posed serious safety risks to airports, critical infrastructure, and large public gatherings like football games.¹⁵

In fact, just last week, on May 13, the Department of Justice arrested a 19-year-old, former member of the Michigan Army National Guard for planning to conduct a mass-shooting at a Michigan military base on behalf of the Islamic State of Iraq and al-Sham (ISIS). At the time of

¹⁰ Michelle Putz, “Drones help make fighting fires safer, cheaper, better throughout Rocky Mountain Region,” *U.S. Forest Service*, Nov. 5, 2024, <https://www.fs.usda.gov/inside-fs/delivering-mission/deliver/drones-help-make-fighting-fires-safer-cheaper-better>; “Using drones to deliver critical humanitarian aid,” *United Nations World Food Programme*, <https://drones.wfp.org/updates/using-drones-deliver-critical-humanitarian-aid>; Dr. Ibrahim Odeh et al., “The Sky’s the Limit: Leveraging Drone Technology in Infrastructure Projects,” *Global Infrastructure Hub*, Feb. 20, 2024, <https://www.gihub.org/articles/the-skys-the-limit-leveraging-drone-technology-in-infrastructure-projects>.

¹¹ Marc Santora et al., “A Thousand Snipers in the Sky: The New War in Ukraine,” *The New York Times*, March 3, 2025, <https://www.nytimes.com/interactive/2025/03/03/world/europe/ukraine-russia-war-drones-deaths.html> (citing the chairman of the defense and intelligence committee in Ukraine’s Parliament for the claim that drones account for some 70% of deaths and injuries in the Russian-Ukrainian war); Lolita Baldor, “Houthi rebels have shot down 7 US Reaper drones worth \$200 million in recent weeks,” *Associated Press*, April 24, 2025, <https://apnews.com/article/houthis-us-warships-red-sea-e6e97a7131c48640ccf74b1916628234>.

¹² Colin Clarke, “Approaching a ‘New Normal’: What the Drone Attack in Venezuela Portends,” *RAND*, Aug. 13, 2018, <https://www.rand.org/pubs/commentary/2018/08/approaching-a-new-normal-what-the-drone-attack-in-venezuela.html>; John Davison and Ahmed Rasheed, “Iraqi PM safe after drone attack on residence, military says,” *Reuters*, Nov. 7, 2021, <https://www.reuters.com/world/middle-east/drone-attack-targets-iraq-pm-who-escapes-unhurt-iraq-military-2021-11-07/>.

¹³ Drug Enforcement Administration, “2017 National Drug Threat Assessment,” Oct. 2017, https://www.dea.gov/sites/default/files/2018-07/DIR-040-17_2017-NDTA.pdf.

¹⁴ Jordan Pearson, “The Unusual Espionage Act Case Against a Drone Photographer,” *WIRED*, May 30, 2024, <https://www.wired.com/story/fengyun-shi-espionage-act-drone-photography/>.

¹⁵ Aaron Kessler & Michael Biesecker, “Drones pose increasing risk to airliners near major US airports,” *AP News*, April 21, 2025, <https://apnews.com/article/drones-risk-airports-planes-safety-collisions-d8bb7192173d90b46258c91152454cf3>; Stephon Dingle, “FBI warns drone pilots to stay away from M&T Bank Stadium ahead of Ravens vs. Steelers AFC Wild Card matchup,” *CBS News*, Jan. 10, 2025, <https://www.cbsnews.com/baltimore/news/ravens-vs-steelers-drone-pilots-afc-wild-card-game-fbi-m-t-bank-stadium/>.

the arrest, which was the day of the scheduled attack, the 19-year-old had already launched a drone in support of the attack plan.¹⁶

Even non-malicious uses of drones pose potential threats. Operator negligence or error can have deadly consequences, as exemplified by the crash between a drone and a lifesaving firefighting aircraft in Los Angeles early this year.¹⁷ According to one report, drones accounted for some two-thirds of near midair collisions with commercial passenger planes, each of which could have led to catastrophe.¹⁸ As the use of drones proliferates, it will become increasingly important to deconflict the airspace and protect against even inadvertent incursions into protected airspace and flight paths.

As the nature of warfare evolves, it is critical that the United States have the best—and safest—technology to fight in this new domain. But we need to also be prepared for the threats posed by both malicious and careless uses of drones, both in conflict areas and in the homeland. That requires, at a minimum, an extension and expansion of current counter-drone authorities to better equip the federal government, as well as trained state, local, territorial, and tribal authorities to detect, and, as appropriate, consistent with safeguard for safety, civil rights and civil liberties, respond to threats.

Detection and Mitigation Tools

Effectively responding to these threats—whether the result of error, negligence, or malice—requires both the ability to *detect*, and, when appropriate and needed, to *mitigate* the threat. A patchwork of federal and state laws, including those related to aircraft piracy, interception of electronic and wire communications, and computer fraud and abuse, makes it unlawful to engage in most detection measures—including any measure that involve recording or decoding signals between a drone and its operator—and in mitigation measures, without express statutory authorization to do so.

Detection systems rely on a variety of technologies, including radio frequency, electro-optic, infrared, and acoustic sensors. Certain passive technologies, such as those that identify electromagnetic pulses or light emitting from drones do not require affirmative authority under federal law, but any technology that records or decodes signal information between a drone and its operator likely runs afoul of the Pen Trap/Trace statute, absent a specific authorization.¹⁹

Mitigation measures include the capability to disrupt, disable, seize, and destroy an unmanned aircraft system to avoid harm—and require affirmative authority prior to use. Such measures

¹⁶ U.S. Department of Justice, Office of Public Affairs, “Michigan Man Arrested and Charged with Attempting to Attack Military Base on Behalf of ISIS.” May 14, 2025, <https://www.justice.gov/opa/pr/michigan-man-arrested-and-charged-attempting-attack-military-base-behalf-isis>.

¹⁷ U.S. Department of Justice, U.S. Attorney's Office, Central District of California, “Culver City Man Agrees to Plead Guilty to Recklessly Crashing Drone into Super Scooper Firefighting Aircraft During Palisades Fire,” Jan. 31, 2025, <https://www.justice.gov/usao-cdca/pr/culver-city-man-agrees-plead-guilty-recklessly-crashing-drone-super-scooper>.

¹⁸ See Kessler & Biesecker, *supra*, note 15.

¹⁹ See 18 U.S.C. § 3121 (prohibiting the use of a device or process that records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, absent the application of specified exceptions).

include non-kinetic activities, such as jamming a drone’s radio or GPS signals and taking over the control of a drone from its operator. They also include kinetic activities, which involve physically destroying or disabling a drone by taking it down, *i.e.*, with a projectile, laser, or net.

Kinetic actions pose their own set of risks—some potentially fatal—and should be used as a matter of last resort. In New Jersey, for example, multiple manned aircrafts were mistaken for unmanned drones; use of a projectile to take down those reported drones likely would have caused fatalities. Even when there is certainty as to the nature of the target (*i.e.*, that it is a drone) and intent (*i.e.*, that it is malicious), kinetic actions risk collateral damage to people and property in the vicinity, depending on where the downed drone and drone parts land.

Current Authorities to Engage in Counter-Unmanned Aircraft (C-UAS) Actions

Currently, only four federal agencies have the authority to engage in advanced detection and mitigation measures in response to threats posed by drones: DOD, Energy (DOE), DHS, and Justice (DOJ). These agencies have *limited* authorities to provide protection over “covered” facilities and assets, as described below:

- **DOD** has limited authority to engage in advanced detection and mitigation measures, in the event of a threat to a Secretary of Defense-designated covered facility or asset.²⁰ Covered facilities or assets must be identified on a “risk-based assessment,” and must relate to one of nine DOD-identified missions, including nuclear deterrence, missile defense, and protection of the President and Vice-President.²¹

A key subset of these authorities—*i.e.*, those related to the protection of the President and Vice-President, air defense of the United States, combat support agencies, special operations activities, and production and storage of high-yield explosive munitions—expires at the end of 2026, absent Presidential or Congressional action.²²

- **DOE** has limited authority to engage in advanced detection and mitigation measures to protect a Secretary of Energy-designated facility or asset that stores or uses special nuclear materials.²³
- **DHS and DOJ** also have limited authority to engage in advanced detection and mitigation measures to protect Secretary of Homeland Security and Attorney General covered facilities that are deemed “high risk and a potential target for unlawful unmanned aircraft activity” and meet specified criteria.²⁴
 - DHS authority extends to those designated assets and facilities that directly relate to the security or protection functions of Customs and Border Protection (such as disrupting the movement of illicit drugs across the southwest border), Secret

²⁰ See 10 U.S.C. § 130i.

²¹ *Id.* § 130i (j)(3).

²² *Id.* § 130i (i).

²³ See 50 U.S.C. § 2661.

²⁴ See 6 U.S.C. § 124n.

Service operations (such as the protection of the President); and protection of federal property.²⁵

- DOJ authority extends to personal protection operations by the FBI and U.S. Marshals Service; protection of correctional facilities; and protection of the courts.²⁶
- DHS and DOJ both also have authority to provide protection for a National Special Security Events (NSSE) and Special Event Assessment Rating (SEAR) event;²⁷ specified mass gatherings, based on a governor's request; an active Federal law enforcement investigation, security function, or emergency response; and certain U.S. Coast Guard Operations.²⁸

Although the FAA has statutory responsibility to provide for the safety and efficiency of the national airspace, it does not have general C-UAS authority—despite receiving over 100 reports of unmanned aircraft near airports each month.²⁹ That said, under the 2018 FAA Reauthorization Act, FAA was given limited authority to deploy advanced detection and mitigation systems at five airports for purposes of “evaluating and testing unmanned aircraft detection and mitigation systems;” in 2024, Congress extended that authority to cover “any other location that the [FAA] Administrator deems appropriate.”³⁰

Airports can nonetheless employ passive detection authorities that do not trigger the criminal prohibitions found in the Pen/Trap statute or other federal or state laws. That said, passive detection provides only limited assistance to airports, and there is also significant confusion about the scope of what is permitted. In some cases, airport operators have refrained from putting in place any detection measures as a result.³¹

II. The Key Gaps in Authority

The current authorities permit federal agencies to provide key protections to people and places, including to the President and Vice-President; the Macy's New Year's parade; the Super Bowl; World Series; Boston marathon; and presidential inaugurations, among many other events and

²⁵ *Id.* § 124n(k)(3)(C)(i).

²⁶ *Id.* § 124n(k)(3)(C)(ii).

²⁷ NSSE events are major federal government or public events, such as presidential inaugurations and the yearly State of the Union address; SEAR events are pre-planned special events, such as the Super Bowl, that do not generally rise to the level NSSEs, but are nonetheless determined by the Secretary of Homeland Security to justify federal support, based on submissions from federal, state, and local authorities and risk-based authorities

²⁸ *See* 6 U.S.C. § 124n(k)(3)(C)(iii).

²⁹ *See* FAA “Drone Sightings Near Airports,” Federal Aviation Administration, https://www.faa.gov/uas/resources/public_records/uas_sightings_report.

³⁰ *See* 49 U.S.C. § 44810(c); FAA Reauthorization Act of 2018, Pub. L. No. 115-254, § 383 (2018); FAA Reauthorization Act of 2018, Pub. L. No. 115-254, § 904 (2018).

³¹ *See* Government Accountability Office, “Aviation Safety: Federal Efforts to Address Unauthorized Drone Flights Near Airports,” at 13, March 2024, <https://www.gao.gov/assets/d24107195.pdf>.

locations.³² The Bureau of Prisons relies on the DOJ C-UAS authority to protect against drones bringing weapons and other contraband into its facility. DHS uses its authority to counter the flow of fentanyl into our country.

But there are key gaps in the authorities, most notably with respect to protection of airports; critical infrastructure; and mass gathering events, including large sporting events, that do not currently qualify for federal protection. While federal agencies are well-positioned to plan for a limited number of pre-identified situations, they are not well-equipped to either identify or respond quickly to emergent threats. The federal government also lacks the personnel and resources to protect every major sporting event, concert, or other event where there are large numbers of people gathered that are vulnerable to threats from the misuse of drones. The current short-term sunset clauses in the DOJ, DHS and DOD authorities exacerbate this challenge—making it difficult for federal agencies to engage in the kind of long-term budget planning and preparation needed to ensure sufficient investments in technology and personnel to support the C-UAS mission. Short-term sunset clauses also mean a continuous risk of a lapse in the current authorities, which would put Americans’ safety at risk.

The following delves into each of these gaps in authority in more detail.

- *Airports:* As described above, some airports engage in passive detection, while others are deterred from doing so based on the lack of legal clarity as to what is permissible. The federal government also lacks authority to engage in persistent C-UAS measures at airports. Yet, the threats to civil aviation posed by both careless and malicious drone operators persist.
- *Critical infrastructure:* Our electric grid, power plants, water and wastewater systems, and chemical sector are poorly protected by the current mix of authorities—and in many cases not protected at all. It is important that we protect our critical infrastructure from the combination of surveillance and disruptions that even simple, off-the-shelf drones could cause, via added cameras or payloads.
- *Public Gatherings:* Current law provides potential protections for certain high-profile mass gatherings, including National Special Security Events, and when requested by a Governor and subject to a risk-assessment and the availability of limited technologies and personnel to provide protections at such events. Meanwhile, just about every sporting event, outdoor concert, or political rally provides a setting that a malicious actor could exploit. Neither the current authorities nor the available resources are sufficient to provide needed protections in such settings.
- *Sunset clause:* The initial 2018 DOJ and DHS authorization to engage in C-UAS activities was set to expire on October 5, 2022. Since then, the DOJ and DHS C-UAS authorities have been the subject of eight different extensions—often for just a few months at a time. The current authorization expires in just a few months, on September

³² Brad Wiegmann and Robert Wheeler, “Statement Before the Committee on Homeland Security,” at 5, Dec. 10, 2024, <https://homeland.house.gov/wp-content/uploads/2024/12/2024-12-10-CTITMS-HRG-Testimony.pdf>. (describing UAS detection and protection operations conducted by the FBI between 2018 and 2024).

30, 2025. The potential lapse in authorities creates uncertainty, making it difficult to justify the kind of investments in technology and personnel needed to adequately address the potential threat posed by a combination of careless and malicious use of drones.

- *Cross-Agency Support*: Current law gives each of the agencies authorized to engage in C-UAS activities specific lanes in which to operate. FBI cannot support a DHS or DOD mission, and vice-versa—even if the FBI has technologies and personnel in place to provide the most immediate protection in the wake of an emerging or urgent threat.
- *Growing state and local needs*: Critically, even with a significant expansion of authorities and resources, federal agencies will not be positioned to address the growing demand for increased protection. State, local, territorial, and tribal (SLTT) authorities should, subject to safeguards, training, and oversight, be empowered to engage in advanced detection and certain mitigation measures. This would allow local authorities to, among other things, provide protections at currently unprotected sporting events and other large gatherings across the country, and respond to situations like that which emerged in New Jersey at the end of 2024. Properly vetted owners of airports and critical infrastructure should be authorized to put in place advanced detection measures as well.

III. Way Forward

In the short term, congressional action is urgently needed to make permanent the existing C-UAS authorities—or at least extend them for multiple years at a time, so as to protect against the uncertainty of a constantly-pending sunset Congressional action. Congressional action is also urgently needed to expand the existing authorities in order to better protect the American people from a known and evolving threat. It is essential that these authorities are subject to oversight and incorporate protections for civil rights and liberties, while also remaining nimble—so that needed detection and mitigation measures can be rapidly deployed in urgent situations, the available tools keep pace with current technological developments, and we remain a step ahead of our adversaries.

The bipartisan “Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2024,” offered last year by Senators Gary Peters and Ron Johnson, is a good starting point.³³

The proposed legislation would do the following key things:

- *Expand federal coverage over airports, critical infrastructure, and large public gatherings*: The legislation would give DOJ and DHS explicit authority to engage in C-UAS activities to protect airports and critical infrastructure. It would also give DOJ and DHS expanded authority to support SLTT law enforcement agencies, including with respect to protection of mass gatherings, critical infrastructure, government buildings, and disaster response that is subject to SLTT jurisdiction.

³³ S. Amdt.3233 to S.4638, *supra*, note 8.

- *Cross-agency support:* The legislation would give DHS and DOJ authority to support one-another, DOD, and DOE in conducting their authorized C-UAS mission—thus helping to ensure the fastest and most effective deployment of resources in response to an emergent threat.
- *Expanded detection-only authority:* The legislation would give approved SLTT law enforcement officials, airport owners and operators, and critical infrastructure owners and operators limited authority to use authorized equipment, subject to review and oversight by multiple federal agencies, to engage in *detection-only* activities, subject to specified privacy protections—enabling broader coverage over currently unprotected locations and early detection of risks.
- *SLTT Pilot Program:* The legislation would create a limited pilot program—capped at six agencies in the first year and no more than thirty over five years—for SLTT law enforcement agencies to mitigate a credible threat to a covered asset or facility, subject to direct oversight by DOJ and strict reporting requirements. This is a key step forward in enabling appropriately trained SLTT officials fill critical gaps left by the limited resources and capacity of federal authorities to respond to potential threats.

Core Protections: Safety Considerations and Key Civil Rights and Civil Liberties Concerns

The legislation includes key safety protections and protections for civil rights and civil liberties. Prior to authorizing a C-UAS mission, the Secretary of DHS and the Attorney General conduct a “risk-based assessment,” to include an assessment of potential safety concerns; potential for interference with wireless communications; and potential First and Fourth Amendment considerations. Personnel authorized to conduct C-UAS missions also must be trained and certified, including with respect to protecting privacy and civil liberties.

The legislation further includes core privacy protections, including the requirement that any communication from an unmanned aircraft is acquired *only to the extent necessary to support an authorized C-UAS activity* and maintained only for as long as necessary. The legislation explicitly requires that all detection and mitigation measures be conducted in accordance with the First and Fourth Amendment.

Some have, nonetheless, raised surveillance concerns to argue that these protections for civil rights and civil liberties are insufficient. But this claim appears based on a misunderstanding of what constitutes an authorized C-UAS activity. What is needed for detection purposes is broadly consistent with what is already required to be broadcast by the FAA’s Remote Identification of Unmanned Aircraft Rule³⁴—namely the identity (via a serial number and session ID), location and velocity of an unmanned aircraft, and the location of the control station; the location of the unmanned aircraft; and the aircraft’s velocity.³⁵ When operators fail to comply with these requirements, it is critical that appropriately trained authorities are able to identify the location of a potential hazardous drone, and if necessary, employ take-over technology to respond to a threat. If law enforcement separately sought communications content, such as emails, texts, or

³⁴ See 14 C.F.R. § 89 *et seq* (2021).

³⁵ *Id.* § 89.305.

recording of voice calls, from drone operators, they would, consistent with the Fourth Amendment, need separate authority to do so.

Sunset Provision

The proposed legislation includes a five-and-half year sunset, including for the core DHS and DOJ authorities. This is too short. To ensure effective planning, funding, training, and deployment of personnel, and to avoid a situation in which these critical authorities risk lapsing, the core authorities should be extended at least a decade, if not longer.

IV. Conclusion

To end where I started, drones play a vital role in our economy, have important recreational value, and serve key roles in supporting the delivery of public services, including disaster relief, support for firefighters, and accident rescues. But their rapid proliferation and ease of deployment also poses risks—including threats from nation-state adversaries, terrorists, and criminals, as well as from careless and irresponsible operators. It is essential that Congress put in place the authorities needed to identify and respond to such threats, consistent with protections for civil rights and civil liberties, and in a manner that ensures the C-UAS tools are themselves used safely and effectively. The bipartisan “Safeguarding the Homeland from the Threat Posed by Unmanned Aircraft Systems of 2024” includes the key elements to do so.

The 2024 reported sightings in New Jersey turned out to be a false alarm. Next time we might not be so lucky. The time for Congress to act is now.