

Drone Briefs

NEWS AND LEGAL UPDATES FOR MUNICIPAL UAV PROGRAMS – December 2021

Drone Insurance: Are you really covered?

“The best laid schemes o’ mice an’ men gang aft agley.” From “To a Mouse,” by Robert Burns

For those whose old Scottish is a bit rusty, this translates to “the best laid plans of mice and men can go awry.” The wee mousie in Robert Burns’ poem took great pains to build a perfect nest only to find it destroyed in seconds by the poet’s plough. Similarly, you may take great pains to plan a safe drone flight, only to find things going awry more swiftly than you ever imagined.

Case in point: A drone operated by Canadian police recently collided with a small 4-seat airplane at 500’ on final approach to a runway at a towered airport. The drone obviously should not have been where it was – above the 400’ altitude limit, within controlled airspace without permission, and too close to a manned aircraft. Fortunately, the flight instructor and student pilot were able to land safely. However, the aircraft suffered major damage including a large dent in the cowling and a propeller strike. Repairs will be costly (including an engine tear-down due to the prop strike), but more significantly, had the drone hit just a few feet higher, the result could have been fatal.

Clearly, public safety pilots are not immune to mistakes. And for some crashes, no discernable mistake can be found. There is no shortage of accounts of drones simply falling out of the sky for reasons no one can determine despite careful investigation. Should you find yourself in the midst of what your insurance policy might refer to as an “unexpected landing event,” this is NOT the time to be wondering what that policy actually covers. Or doesn’t. And it is most definitely NOT the time to

be wondering if your drone program has coverage at all. So here are some things to consider now, while your drone sits safely intact in its case.

Except for municipalities that self-insure, there are essentially two routes¹ for obtaining coverage of a municipal (or volunteer fire) drone program:

- 1) Work with your existing commercial general liability (“CGL”) carrier to eliminate or redraft the extremely broad standard aviation exclusion; or
- 2) Obtain a policy from an aviation insurer. Aviation insurance policies work like auto insurance for drones. The cost is per-drone, and each drone must be specifically listed in order to be covered.

Both types of policies include liability coverage and optional coverage for damage to the drone (similar to collision on a car). Coverage under a CGL policy may be less expensive, as the cost is typically one flat rate rather than per-drone. Additionally, the drone may be treated as any other piece of equipment covered by the policy, with no additional cost for physical damage coverage beyond the existing policy deductible. However, because CGL carriers are typically not in the aviation business, they may be more risk-averse than an aviation insurer and coverage may have significant exclusions and conditions.

For instance, collisions with manned aircraft may be excluded. As manned aircraft – particularly helicopters – often fly at low altitudes, this exclusion should not be taken lightly. Coverage may also be

¹ On-demand insurance is a third option but it is not practical for emergency services.

conditioned upon full compliance with all applicable laws. Analogizing to car insurance, this would be like a policy under which coverage could be denied for a collision you caused, on the basis that you were driving 40 mph in a 30 mph zone when it occurred. For nearly any drone crash, it's fairly simple to find a lack of compliance with some applicable aviation law; and insurance companies will be most motivated to do so for potentially high-cost claims. Therefore, a "compliance with laws" limitation can result in a complete lack of coverage in precisely those circumstances where coverage is most important. In contrast, aviation insurance – like automobile insurance – typically excludes coverage only for criminal acts.

While your department may choose to assume greater risk in exchange for a lesser cost, this should be an informed decision – made with a full understanding of 1) what the policy limitations mean in terms of real life scenarios; and 2) the type and degree of risk your department is assuming.

Training is now permitted under a COA.

Departments that operate as public aircraft operations under a Certificate of Authorization ("COA") are limited to flying missions that qualify as "governmental functions." The FAA has long held that training by non-federal agencies is not a "governmental function." Therefore, there was no legal way to train for missions that could be flown only under a COA and not under Part 107, such as night flights prior to the recent regulatory changes. Under a new interpretation issued on November 12, 2021 by the FAA's Office of Chief Counsel, training flights may now be conducted under limited circumstances: The flights must be flown by a department's own crew in their own aircraft and be related to a subsequent flight that would be considered a governmental function.

CT Municipal UAV Task Force News

Chris Proudlove, Senior Vice President of Global Aerospace, Inc. was the guest speaker at the November meeting. He provided valuable information on aviation insurance and answered member questions. Links to the

recorded portion of all speaker meetings can be found on the group's website: <https://ctmuts.weebly.com/ct-muts-speakers.html>. **Next meeting:** January 6, 2022 1:00 p.m. Bobby Ouyang, CEO of SkyeBrowse, will talk (via Zoom) about the company's 3d mapping platform designed specifically for public safety applications.

Resources

Below is a list of public safety UAV educational resources we have found particularly helpful. It is by no means exclusive:

DRONERESPONDERS – www.droneresponders.org
(news, podcasts, videos, research, monthly webinars with the FAA, form documents)

Airborne Public Safety Association - www.publicsafetyaviation.org
(newsletters, form documents, reports, videos)

Public Safety Flight – www.psflight.org
(flight safety guidance, research, podcasts with the FAA)

FAA – <https://www.faa.gov/uas/>
(general UAS information)

piXL Drone Show - www.pixldroneshow.com
(video interviews)

Skyfire Consulting - skyfireconsulting.com
(educational videos, newsletter)

Other useful links

Drone Zone - www.droneregistration.com
(register your drone, file for waivers)

FAA UAS Facility Maps – www.faa.maps.arcgis.com
(controlled airspace limits)

FAASTeam – www.faasafety.gov
(register for recurrent training)

For more information or to join the mailing list, please contact:

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Jennifer is an instrument-rated private pilot with over 25 years of experience. She holds a part 107 remote pilot certificate, is an FAA Safety Team (FAASTeam) Drone Pro and a civilian representative to the TSA CT Rapid Incident Response Team.