RADIO TELEVISION DIGITAL NEWS ASSOCIATION

Report: FAA exaggerates drone 'close calls'

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- **By Henry H. Perritt, Jr.**

On 14 September the Academy of Model Aeronautics (AMA) released a detailed analysis of the FAA's database of near misses between manned aircraft and drones. Despite the headline on the FAA's August 12 press release, "Pilot Reports of Close Calls With Drones Soar in 2015," the actual data in the 764 reports behind the press release show that most of the sightings reported as near collisions were not "close calls;" they were mere sightings. In many cases the sightings were not of drones at all, but of other objects such as birds, escaping party and weather balloons, and, in a few cases, manned aircraft. In other cases, the reports were so vague that the AMA analysis could only characterize them—tongue in cheek—as reports of "UFOs." One pilot reported seeing something that "resembled a dog."

One United Airlines pilot reported an impact with a drone (accompanied by "sparks") shortly after takeoff from San Francisco. When the aircraft landed in Australia, mechanics found blood and feathers, according to a *Washington Post* story.

Several of the actual drones sighted were military and law-enforcement drones. Others were hobbyist operations apparently well within model aircraft guidelines or commercial flights conforming to section 333 exemption limitations. Some commercial drone sightings, however, appeared to involve operations without section 333 exemption authority.
Pilots involved in near misses with other aircraft usually take evasive action. According to the AMA analysis, only 1.3% of the records reported evasive action.

Six of the records involved sightings at altitudes of 19,000 to 51,000 feet. None of the multi-copter fleet now being sold is capable of flying anywhere near that high. Indeed neither can a Cessna 172 or a Robinson R22 helicopter.

The AMA recommended several concrete steps the FAA could take to collect and release more meaningful and less misleading data, considering the importance of an accurate understanding of traffic conflicts between among drones, helicopters, and airplanes:

- Segregate sightings of military or public-safety-agency drones;
- Exclude reports of drones flying within hobbyist guidelines or within the limitations of a section 333 exemption;
- Exclude reports of birds, balloons, model rockets, flying dogs, and other UFOs;
- Include uncertainty about the nature of the object sighted;
- Specify whether flights near stadiums and public events violated Temporary Flight Restrictions ("TFRs") issued by the FAA;
- Refer all credible reports to local law enforcement;
- Finalize the proposed microdrone rules as soon as possible;
- Continue the effort to educate drone purchasers who have no connection with the aviation community or the RC model aircraft community.

The AMA analysis is important to the news industry for two reasons. First, undue public alarm about the safety of drone flying in the national airspace system will delay adoption of reasonable regulations that permit news organizations to fly drones for newsgathering, and it will encourage legislators and regulators to impose restrictions that prevent some of the most interesting and productive uses of ENG drones.

Second, journalists can improve the accuracy of stories and news packages about encounters between manned aircraft and drones. Reporters and editors and producers can probe initially alarming report of errant drones and near misses, with the AMA analysis in mind, asking questions like these:

- How sure are you that it was a drone, as opposed to something else
- How close did it come?
- Was the altitude within the capability of most civilian drones?
- Were you forced to take evasive action?
- Could it have been a model aircraft flying legally? A commercial operator flying in accordance with authorization from the FAA?

Some of the reports, of course, indicate what appear to be reckless drone operations; yet, in almost 150 cases, the FAA did not report them to local law enforcement and took no action itself. While the Congress has prohibited the FAA from regulating model aircraft, it explicitly retains FAA authority to take action against model aircraft operators who endanger the national airspace system.

The AMA analysis notes the lack of enforcement action by the FAA and state and local authorities. While acknowledging that the FAA faces an enforcement challenge, "the agency isn't even attempting [enforcement]," the AMA says. If, as the FAA's press releases suggest, reckless drone flight is commonplace, the agency has an obligation to take enforcement action. Yet there have been virtually no formal enforcement actions since the *Pirker* case in 2013. Similarly, state and local law-enforcement has an important role to play in deterring reckless drone flight. Yet they also are passive. In one widely reported incident, a microdrone interfered with--and apparently chased--a news helicopter over Seattle. The

helicopter crew captured video of the incident and of the drone operator. The author sent emails to the Sheriff of King County, the public prosecutor of King County, and the Attorney General of the state of Washington urging them to act on the case, which was unusual, because there was such good evidence a reckless conduct. These public authorities responded by claiming the responsibility lay elsewhere and, so far as the author can determine, did nothing.

As the FAA finalizes its proposed rule for microdrones and shifts attention to crafting a regulatory regime for more expansive flight profiles of those small aircraft and larger drones, decisions should be based on facts. That the FAA so badly distorts the record of sightings is alarming in this regard. The general public likewise needs to appreciate the potential of small drones to create jobs and to provide a variety of benefits—including better aerial imagery of news—while also understanding true risks that need to be mitigated by intelligent regulation.

The FAA and the police need to do their jobs to enforce the regulations that are already on the books. Lack of enforcement already is ingraining unfortunate habits in commercial drone operators and casual drone purchasers alike, once they realize that whether they comply with the existing regulations doesn't make any difference.
Commercial operators having to wait three months for a boilerplate section 333 exemption, and to wait another month or so to add a new drone model similar to those already covered by an existing exemption are tempted to do what they need to do without FAA approval. Waiting for the cumbersome section 333 wheels to turn puts them at a competitive disadvantage. Kicking back an application to register a DJI Phantom until the applicant submits a signed certificate from the Chinese aircraft registry proving that the brand-new Phantom bought online from Amazon is not already registered in China does not breed respect for the regulatory process.

Hysteria fueled by misleading reports already is polluting the political process. In California, the state legislature recently passed a restrictive drone bill prohibiting flights within 350 feet over private property anywhere in the state, but the governor vetoed it as insufficiently thought out.

Similarly, the author is working with the cosponsoring alderman of a bill before the Chicago City Council that would restrict drone own use throughout the city The alderman have been open to changes that focus the proposal more narrowly on actual problems, and the author is collaborating with drone interests to make sure they are effectively represented in public hearings and otherwise in the legislative drafting process. The public uproar created by misrepresentations of near-miss data makes it more difficult to create a balanced record for reasonable city council action.

The AMA is the oldest and largest organization of radio controlled model aircraft hobbyist in the United States.

The full AMA report, "A Closer Look at the FAA's Drone Data," is available here.

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education. - See more at:
http://rtdna.org/article/report_faa_exaggerates_drone_close_calls#sthash.hOC3tD6x.dpuf