

July 1, 2019

Daniel K. Elwell
Acting Administrator
Federal Aviation Administration
U.S. Department of Transportation
800 Independence Ave., S.W.
Washington, D.C. 20591

Dear Acting Administrator Elwell,

We write to you regarding the membership of the Drone Advisory Committee (DAC) and ongoing concerns about drones and privacy.¹ The absence of experts on privacy and security on the DAC has placed our nation at risk. We urge you to recommend further appointments to address this concern.

The objective of the Drone Advisory Committee is to “provide independent advice and recommendations to the Federal Aviation Administration (FAA) and to respond to specific taskings received directly from the FAA.”² Regarding membership, the DAC Charter states that the “FAA will submit recommendations for membership to the Secretary of Transportation, who will appoint members to the DAC.”³ The Charter further states that the DAC will have no more than 35 members.⁴

At present, there appear to be 35 members on the DAC though the most recent public listing also describes two positions as “vacant.”⁵ And although the DAC Charter suggests that members must represent an “affiliation with a specific aviation-related organization,”⁶ there are currently members representing AT&T, Intel, and local police and fire organizations.

The DAC acknowledged that privacy is a top public concern and initially even planned to form a “Privacy Subcommittee,”⁷ but nothing came of it. The recent DJI controversy makes it clear that this was a mistake. The FAA has ignored well-documented privacy concerns and left US

¹ *New Members Appointed to the Drone Advisory Committee*, Federal Aviation Administration, May 20, 2019, https://www.faa.gov/news/press_releases/news_story.cfm?newsId=23634.

² Charter of the Drone Advisory Committee, ¶ 3.

³ *Id.* at ¶ 12.

⁴ *Id.* at ¶ 12(a).

⁵ DAC Membership (June 6, 2019).

⁶ *Supra* note 2, at ¶ 12(b).

⁷ *Drone Advisory Committee Survey*, EPIC (obtained via FOIA), <https://epic.org/privacy/litigation/faca/epic-v-drone-advisory-committee/Drone-Advisory-Committee-survey-sept-2016.pdf>; *Drone Advisory Committee (DAC)—Task Group 1 Recommended Tasking on Roles and Responsibilities*, EPIC (obtained via FOIA), <https://www.epic.org/privacy/litigation/faca/epic-v-drone-advisory-committee/EPIC-v-Drone-Advisory-Commission-DAC-Survey-Sept-2016.pdf>.

businesses, agencies, and consumers at risk.⁸ In 2017, the United States Army banned the use of DJI and other drones in response to concerns about “how DJI is using the data collected” and reports that the Chinese government and companies had access to the collected data.⁹ Since then, researchers have discovered multiple ways to hack into the drone operators’ accounts on DJI’s mobile application and website, highlighting new channels for hackers to access personal information about a drone operator, video footage, and flight data.¹⁰ The United States Defense of Department subsequently banned the use of all off-the-shelf drones, including DJI drones.¹¹

EPIC has repeatedly urged the FAA to adopt comprehensive rules for drones and specifically to ensure that drones broadcast in real-time location and identifying information.¹² As we wrote recently to the agency “Because drones present substantial privacy and safety risks, EPIC recommends that the FAA require any drone operating in the national airspace system to broadcast location when aloft (latitude, longitude, and altitude), course, speed over ground, as well as owner identifying information and contact information.”¹³

As you must be aware, the European Union recently adopted many of these recommendations. The new EU rules for drones require the real-time broadcasting of certain data, including the drone operator registration number, the geographical position of the drone, the drone route course, and the position of the drone operator.¹⁴

The failure of the FAA to adopt similar rules in the United States is a reflection of the fact that the FAA has kept those with expertise in privacy and security off of the Drone Advisory

⁸ *EPIC v. DAC: Records Show FAA Drone Committee Ignored Privacy Risks*, EPIC.org, May 31, 2019, <https://epic.org/2019/05/epic-v-dac-records-show-faa-dr.html>.

⁹ Memorandum from the Off. of the Deputy Chief of Staff, Dep’t of the Army (Aug. 2, 2017), available at <https://www.suasnews.com/2017/08/us-army-calls-units-discontinue-use-dji-equipment>; see Bulletin, *SAC Intelligence Prog. L.A.*, U.S. Immigration & Customs Enf’t (Aug. 9, 2017), <https://info.publicintelligence.net/ICE-DJI-China.pdf> (suggesting that the U.S. Army’s memorandum arose from concerns about DJI’s use of collected data).

¹⁰ Conor Reynolds, *DJI Drone Hack Opens Up Flight and Video Records to Threat Actors*, Computer Bus. Rev., Nov. 18, 2018, <https://www.cbronline.com/news/dji-drone-hack-check-point> (explaining how to obtain a cookie identifier from a drone manufacturer’s online customer forum to access a drone operator’s account and noting that the drone operator “would receive no notification or signs that a threat actor has complete access to their account”).

¹¹ Memorandum from Patrick M. Shanahan, Deputy U.S. Sec’y of Def. (May 23, 2018), available at <https://www.suasnews.com/2018/06/us-dod-pulls-the-plug-on-cots-drones> (suspending the purchase of commercial off-the-shelf drones due to inadequate assessment of their “cybersecurity risks”); Haye Kestello, *Department of Defense Bans the Purchase of Commercial-Over-the-Shelf UAS, Including DJI Drones Effective Immediately*, DroneDJ, July 7, 2018, <https://dronedj.com/2018/06/07/department-of-defense-bans-the-purchase-of-commercial-over-the-shelf-uas-including-dji-drones/>.

¹² Comment of EPIC to the Federal Aviation Admin., *Operation of Small Unmanned Aircraft Systems Over People*, Apr. 15, 2019, <https://epic.org/apa/comments/EPIC-Comments-FAA-Drones-Over-Ppl-Apr-2019.pdf>; Comment of EPIC to the Federal Aviation Admin., *Safe and Secure Operations of Small Unmanned Aircraft Systems*, Apr. 15, 2018, <https://epic.org/apa/comments/EPIC-Comments-FAA-Drone-Security-Apr2019.pdf>.

¹³ Comments of EPIC et al. to the Federal Aviation Admin., *External Marking Requirement for Small Unmanned Aircraft*, Mar. 15, 2019, <https://epic.org/apa/comments/EPIC-Coalition-Comments-FAA-Drone-ID-Mar2019.pdf>.

¹⁴ Commission Regulation 2019/945, 2019 O.J. (L 152) 1.

Committee. The consequence is less well-informed US policy on drones and greater risks to American businesses and American consumers.

Composition of the Drone Advisory Committee remains a key concern.¹⁵ We urge to act now to ensure that the Drone Advisory Committee addresses growing public concerns about privacy and security.

EPIC looks forward to working with the FAA on this issue.

Sincerely,

/s/ Marc Rotenberg
Marc Rotenberg
EPIC President

/s/ Jeramie Scott
Jeramie Scott
EPIC Senior Counsel

/s/ Caitriona Fitzgerald
Caitriona Fitzgerald
EPIC Policy Director

Cc: The Honorable Roger Wicker, Chairman, Senate Committee on Commerce, Science, and Transportation
The Honorable Maria Cantwell, Ranking Member, Senate Committee on Commerce, Science, and Transportation
The Honorable Rick Larsen, Chairman, House Committee on Transportation & Infrastructure, Subcommittee on Aviation
The Honorable Garret Graves, Ranking Member, House Committee on Transportation & Infrastructure, Subcommittee on Aviation

Attachments

Charter of the Drone Advisory Committee (June 8, 2018)
Members of the Drone Advisory Committee (June 6, 2019)

¹⁵ Melina Druga, *Senators Urge FAA to Include Rural Airport Representatives on Committee, Transportation Today*, June 25, 2019, <https://transportationtodaynews.com/news/14355-senators-urge-faa-to-include-rural-airport-representatives-on-committee/>.



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

**ORDER
1110.157**

Effective Date:
06/15/18

SUBJ: Charter of the Drone Advisory Committee

- 1.** Enter overview of the Order here. This will help provide a uniform look for all FAA directives. **Committee's Official Designation.** The Committee's official designation is the Drone Advisory Committee (DAC).
- 2. Authority.** The Committee is established under the authority of the U.S. Department of Transportation (DOT), in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, Pub. L. 92-463, 5 U.S.C. App. The Secretary of Transportation has determined that the establishment of the Committee is in the public interest.
- 3. Objectives and Scope of Activities.** The objective of the DAC is to provide independent advice and recommendations to the Federal Aviation Administration (FAA) and to respond to specific taskings received directly from the FAA. The advice, recommendations, and taskings relate to improving the efficiency and safety of integrating Unmanned Aircraft Systems (UAS) into the National Airspace System. In response to FAA requests, the DAC may provide the FAA with information that may be used for tactical and strategic planning purposes.
- 4. Description of Duties.** The DAC will act solely in an advisory capacity and will not exercise program management responsibilities. Decisions directly affecting implementation of transportation policy will remain with the FAA Administrator and the Secretary of Transportation. The DAC will:
 - a.** Undertake only tasks assigned by the FAA.
 - b.** Deliberate on and approve recommendations for assigned tasks in meetings that are open to the public.
 - c.** Respond to ad-hoc informational requests from the FAA and or provide input to the FAA on the overall DAC structure (including the structure of subcommittees and or task groups).
- 5. Agency or Official to Whom the Committee Reports.** The DAC reports to the Secretary of the Department of Transportation (DOT) through the FAA Administrator.
- 6. Support.** The FAA will provide support as consistent with the act, including funding for the Committee. For the period of this charter, the FAA plans to utilize contractual support to provide for logistics and administrative support.

7. Estimated Annual Operating Costs and Staff Years. The FAA's annual operating costs to support the DAC for the period and scope specified by the charter is approximately \$704,000, which includes 1.0 full-time equivalent salary and benefits at \$204,000, plus \$500,000 in contractor costs.

8. Designated Federal Officer. The FAA Administrator, on behalf of the Secretary of Transportation will appoint a full-time Federal employee to serve as the DAC Designated Federal Officer (DFO). The DAC DFO will ensure that administrative support is provided for all activities. The Designated Federal Officer will:

- a. Ensure compliance with FACA and any other applicable laws and regulations.
- b. Call and attend all the committee and subcommittee meetings.
- c. Formulate and approve, in consultation with the Chair, all committee and subcommittee agendas.
- d. Notify all Committee members of the time, place, and agenda for any meeting.
- e. Maintain membership records.
- f. Ensure efficient operations, including maintaining itemized contractor invoices.
- g. Maintain all DAC records and files.
- h. Adjourn any meeting when doing so would be in the public interest.
- i. Chair meetings when directed to do so by the FAA Administrator.

9. Estimated Number and Frequency of Meetings. Committees will meet as follows:

- a. It is estimated that the DAC will meet three times a year to carry out its responsibilities.
- b. Meetings of the DAC will be announced in the *Federal Register* at least 15 days before each meeting, unless exceptional circumstances require shorter notice. Such circumstances will be explained in the notice. DAC meetings will be open to the public, except as provided by section 10(d) of the FACA and applicable regulations. The DAC will publish an annual report summarizing activities held in closed or partially closed meetings, consistent with the policies of the Freedom of Information Act.
- c. Anyone interested may attend committee meetings and appear before the DAC within reasonable limits of space and time. Additionally, anyone interested may file written statements with the committee.

10. Duration. Subject to renewal every 2 years.

11. Termination. The charter will terminate 2 years after its effective date, unless renewed in accordance with FACA and other applicable regulations. If the DAC is terminated, the FAA will give as much advance notice as possible of such action to all participants.

12. Membership and Designation. The FAA will submit recommendations for membership to the Secretary of Transportation, who will appoint members to the DAC. All DAC members serve at the pleasure of the Secretary of Transportation.

a. The DAC will have no more than 35 members.

b. Members will serve without charge, and without government compensation. The employing organization bears all costs related to its participation. Members must represent a particular interest of employment, education, experience, or affiliation with a specific aviation-related organization.

13. Subcommittees. The DAC DFO has the authority to create and dissolve subcommittees as needed. Subcommittees must not work independently of the DAC. They must provide recommendations and advice to the DAC, not the FAA, for deliberation, discussion, and approval.

14. Recordkeeping.

a. The records of the committee and subcommittee will be handled in accordance with the General Records Schedule 6.2, or other approved agency records disposition schedules.

b. Meeting minutes must be kept in accordance with GSA standards as published in 41 CFR Part 102-3 Subpart D - § 102-3.165.

c. These records will be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552. The records, reports, transcripts, minutes, and other documents that are made available to or provided for or by the DAC are available for public inspection at www.faa.gov/regulations_policies.

15. Filing Date. This charter is effective June 15, 2018, the date on which it was filed with Congress. This Committee will remain in existence for 2 years after this date unless sooner terminated or renewed.



Daniel K. Elwell
Acting Administrator



Drone Advisory Committee

DAC Membership – As of 6/6/2019

Stakeholder Group	Members
Designated Federal Officer	Dan Elwell , Acting Administrator, Federal Aviation Administration
Chair	Michael Chasen , Chief Executive Officer, PrecisionHawk USA, Inc.
Airports and Airport Communities	Deborah Flint , Chief Executive Director, Los Angeles World Airports Marily Mora , President and Chief Executive Officer, Reno-Tahoe Airport Authority
Labor (controllers, pilots)	Trish Gilbert , Executive Vice President, National Air Traffic Controllers Association Joseph DePete , President, Air Line Pilots Association (ALPA)
Local Government	David Greene , Bureau of Aeronautics Director, Wisconsin Department of Transportation Wade Troxell , Mayor of Fort Collins, Colorado, and the National League of Cities Bob Brock , Director of Aviation and UAS, Kansas Department of Transportation Mark Colborn , Senior Corporal, Dallas Police Department Michael Leo , Captain, New York City Fire Department Steve Ucci , Senior Deputy Majority Leader, Rhode Island State Assembly
Navigation, Communication, Surveillance, and Air Traffic Management Capability Providers	George Kirov , Vice President and General Manager, Commercial UAS Solutions, Harris Corporation Christopher Penrose , Senior Vice President of Emerging Devices, President of Internet of Things, AT&T Mariah Scott , President, Skyward (a Verizon company)
Research, Development, and Academia	Robie Samanta Roy , Vice President of Technology, Lockheed Martin Corporation
Traditional Manned Aviation Operators	Mark Baker , President and Chief Executive Officer, Aircraft Owners and Pilots Association Houston Mills , Vice President, Flight Operations and Safety, United Parcel Service (UPS) Matthew Zuccaro , President and Chief Executive Officer, Helicopter Association International Lorne Cass , Vice President, Operations / Industry Affairs, American Airlines (AA) Vacant
UAS Hardware Component Manufacturers	Phil Straub , Executive Vice President and Managing Director, Aviation Division, Garmin, Ltd. Vacant
UAS Manufacturers	James Burgess , Chief Executive Officer, Wing (an Alphabet company) Michael Chasen , Chief Executive Officer, PrecisionHawk USA Inc. Gur Kimchi , Co-Founder and Vice President, Amazon Prime Air Brendan Schulman , Vice President of Policy and Legal Affairs, DJI Technology Michael Sinnett , Vice President Product Development and Strategy, Boeing Commercial Airplanes
UAS Operators	Greg Agvent , Senior Director of National News Technology, CNN Todd Graetz , Director, Technology Services, UAS Program, BNSF Railway
UAS Software Application Manufacturers	Jaz Banga , Co-Founder and Chief Executive Officer, Airspace Systems, Inc. Chris Anderson , Chief Executive Officer, 3DR Peter Cleveland , Vice President of Law and Policy Group, Intel Corporation
Other	Rich Hanson , President, Academy of Model Aeronautics Brian Wynne , President and Chief Executive Officer, Association for Unmanned Vehicle Systems International



Drone Advisory Committee

Stakeholder Group	Members
	<p>Thomas Karol, General Counsel, National Association of Mutual Insurance Companies David Silver, Vice President for Civil Aviation, Aerospace Industries Association</p>