

Court did not resolve FAA regulatory authority issue, only the issue of subpoena authority.



FAA did not pursue enforcement, so the question remains.

Navigable Airspace

1000ft and above (Circolo/FAA)

500ft and above (FAA)

400ft (Riley and model aircraft limit)

?

83ft (Causby)

35ft



Law enforcement use of UAS not yet clearly addressed by the courts



Primary legal issue is privacy

**A case of privacy
invasion can be
made depending
on the
circumstances**



UAVs have potential to be significantly more invasive than traditional surveillance technologies such as manned aircraft or low powered cameras



Drones can enter places not contemplated by light aircraft or manned helicopters.

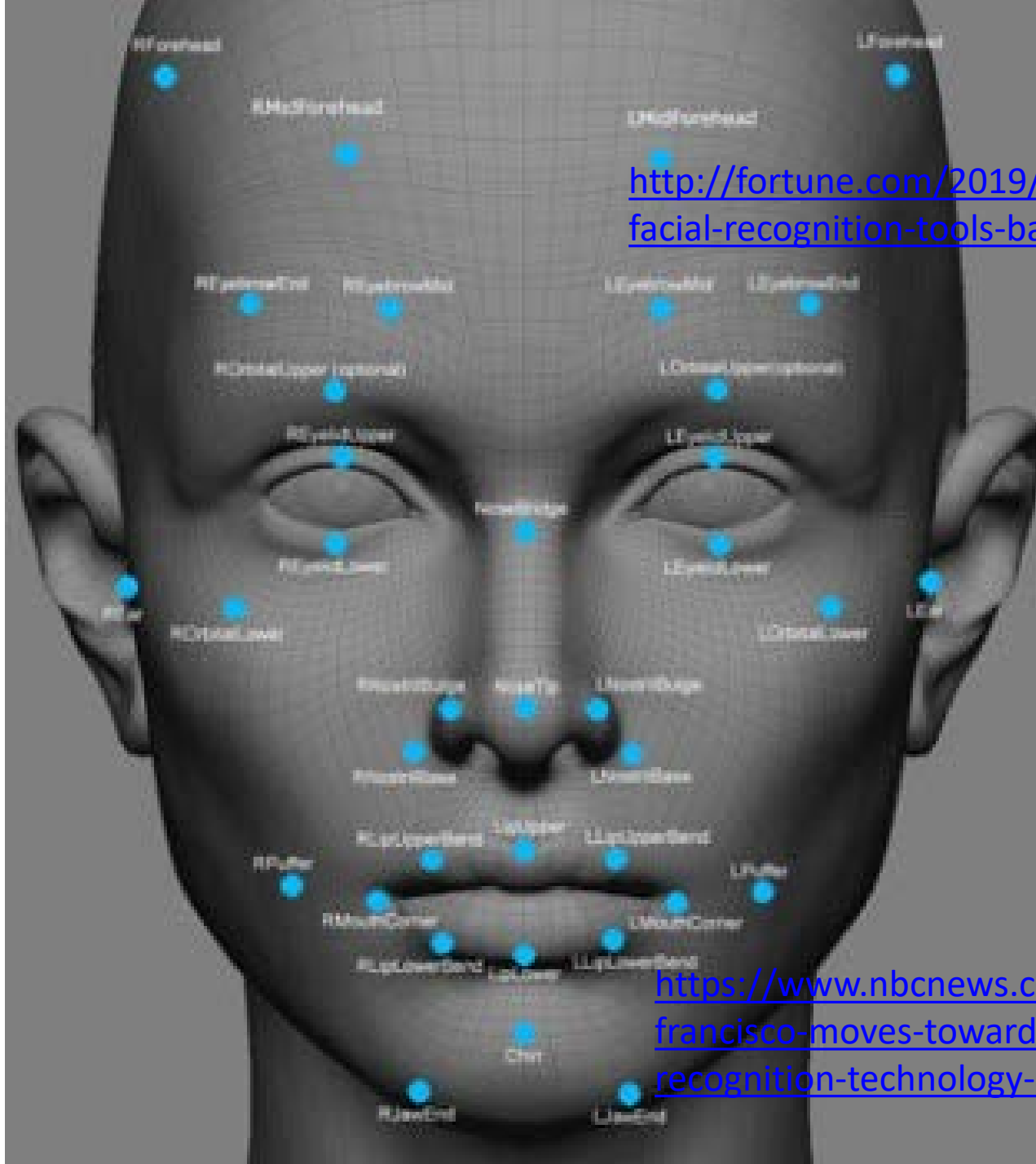


https://www.youtube.com/watch?time_continue=116&v=DDbyl_Q5-oE



FAA regulates drone operations, but does not oversee how UAS is used to gather information on people or property

<http://fortune.com/2019/05/14/san-francisco-facial-recognition-tools-ban/>



<https://www.nbcnews.com/tech/security/san-francisco-moves-toward-ban-use-facial-recognition-technology-n1005726>

Target Leverages Big Data to Predict Customer Pregnancies



✓ *cotton balls*

✓ *vitamins*

✓ *lotion*



Civil Liability

Bodily Injury

Property Damage

Other liability losses

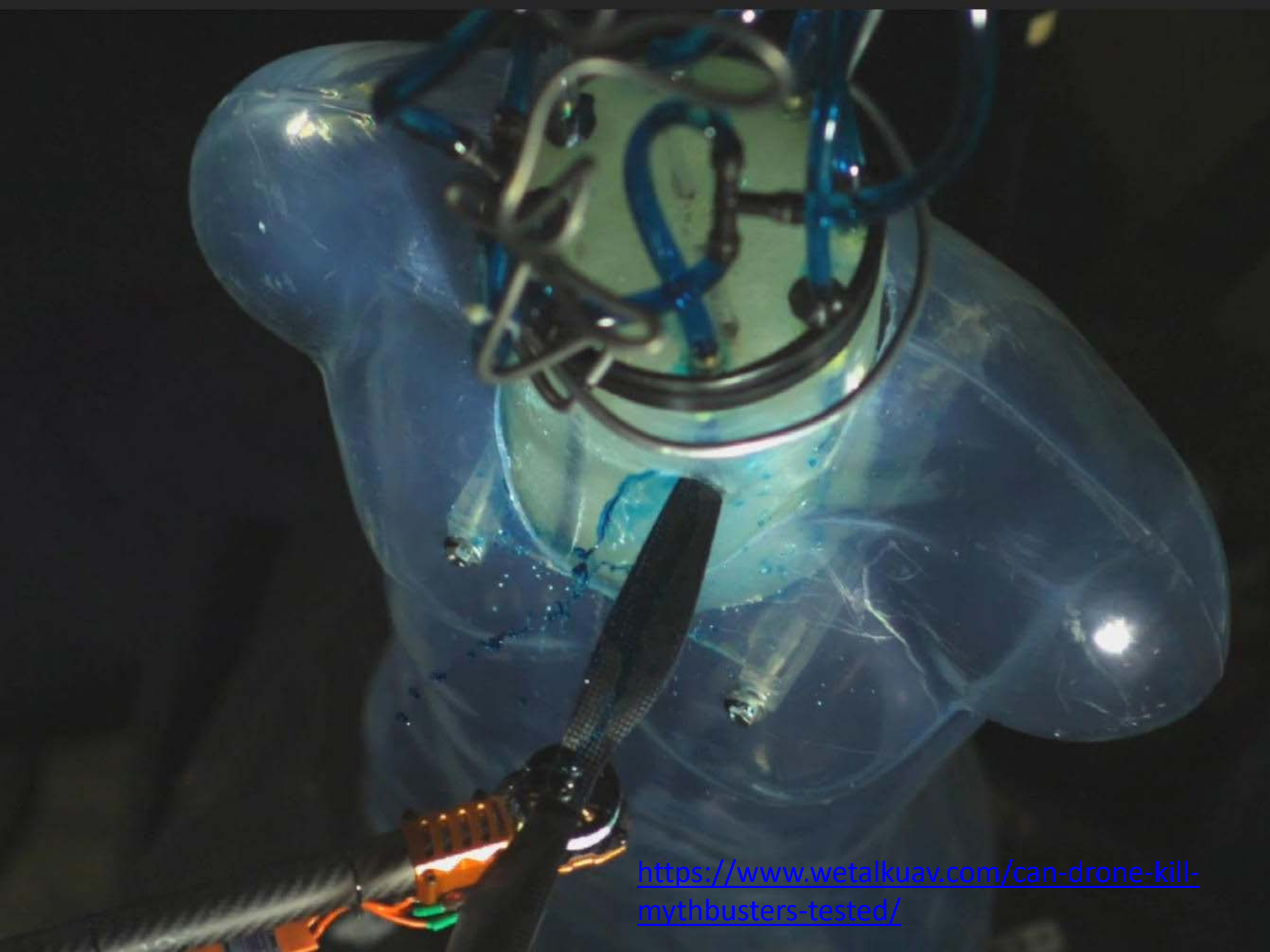


Higher mishap rate than traditional manned aircraft





<https://www.youtube.com/watch?v=MgeRchTHxVk>



<https://www.wetalkuav.com/can-drone-kill-mythbusters-tested/>

Wedding Crasher



Ellis v. Billcliff

Ellis v. Searles Castle



<https://www.youtube.com/watch?v=t1Qof5TA3LA>

PANISH SHEA &



NEW TONIGHT

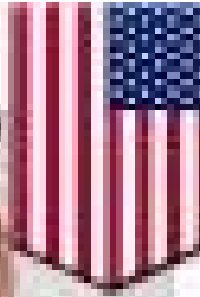
WOMAN INJURED BY DRONE ON LAS VEGAS STRIP

TV.com



<https://www.youtube.com/watch?v=3yF6dLNmpB4>





<https://www.youtube.com/watch?v=9DuV000bRvk>

Illinois Law



620 ILCS 5/42.1 Regulation of Unmanned Aircraft Systems

(b) To the extent that State-level oversight does not conflict with federal laws, rules, or regulations, the regulation of an unmanned aircraft system is an **exclusive power and function of the State**.

No unit of local government including home rule unit, may enact ordinance or resolution to regulate unmanned aircraft systems.

Unless municipality with **more than 1,000,000 inhabitants**.

Freedom from Drone Surveillance Act

725 ILCS 167



Police may not gather information

Exceptions

National Terrorism Advisory System



725 ILCS 167/15 (1)

To counter a high risk of terrorist attack by specific individual or organization if Homeland Security determines credible intelligence of risk.

Exceptions

An aerial photograph of a police dog patrolling a large, open field. The dog is in the center, moving from left to right. Several police officers are visible around the field, some standing and some walking. The field is a mix of green and brown, suggesting it might be a training area or a park. The lighting is bright, creating long shadows.

725 ILCS 167/15 (3)

**Reasonable
suspicion**

**Swift action
is needed
to prevent
imminent
harm to
life.**

**Forestall imminent
escape of a suspect or
destruction of
evidence**

Limited to 48 hours

Exceptions

An aerial photograph of a group of people on a grassy field. The people are scattered across the frame, with some standing and some sitting. The grass is a mix of green and brown, suggesting a dry or late summer season. The lighting is bright, creating distinct shadows on the ground.

725 ILCS 167/15 (3)

**Reasonable
suspicion -
continued**

**Chief must report in writing
to local State's Attorney**

Within 24 hours

Exceptions

Locate missing person

FOX 5

5:59 58°

725 ILCS 167/15 (4)

Exceptions

An aerial photograph of a crime scene. A black drone is flying in the upper left. In the center, a white sedan is partially obscured by tall, dry grass. Several investigators in high-visibility vests are scattered across the scene, some near a paved road on the right. The background shows a grassy field and a building.

Crime scene and traffic crash photography

Geographically confined area

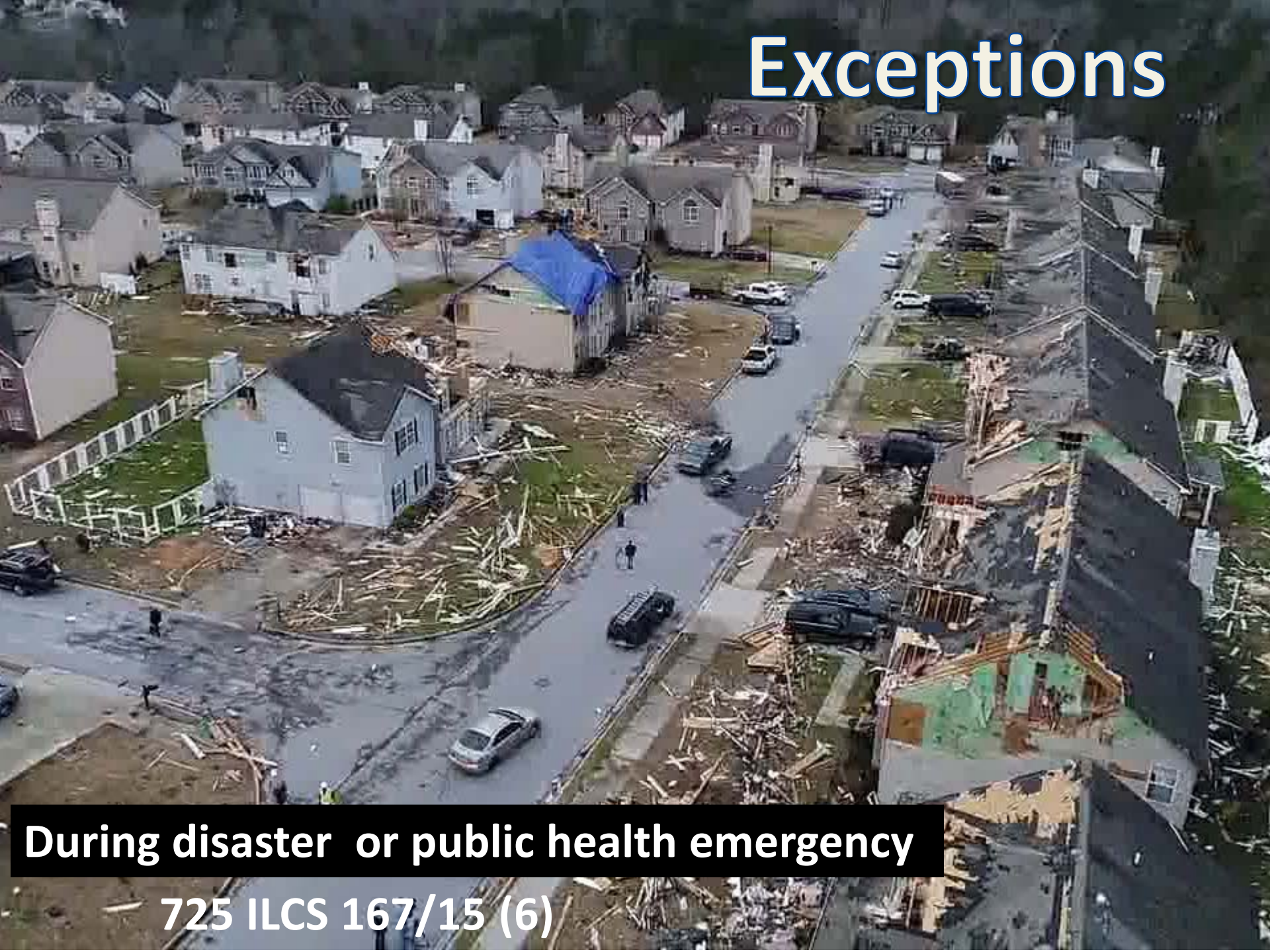
Time limited

**Need search warrant or
consent if on private
property**

**Must make reasonable attempt to avoid
photographing other areas**

725 ILCS 167/15 (5)

Exceptions



During disaster or public health emergency

725 ILCS 167/15 (6)

725 ILCS 167/20 Information Retention

All info shall be destroyed within 30 days unless:

Reasonable suspicion evidence of criminal activity,

or

Relevant to an ongoing investigation
or pending criminal trial

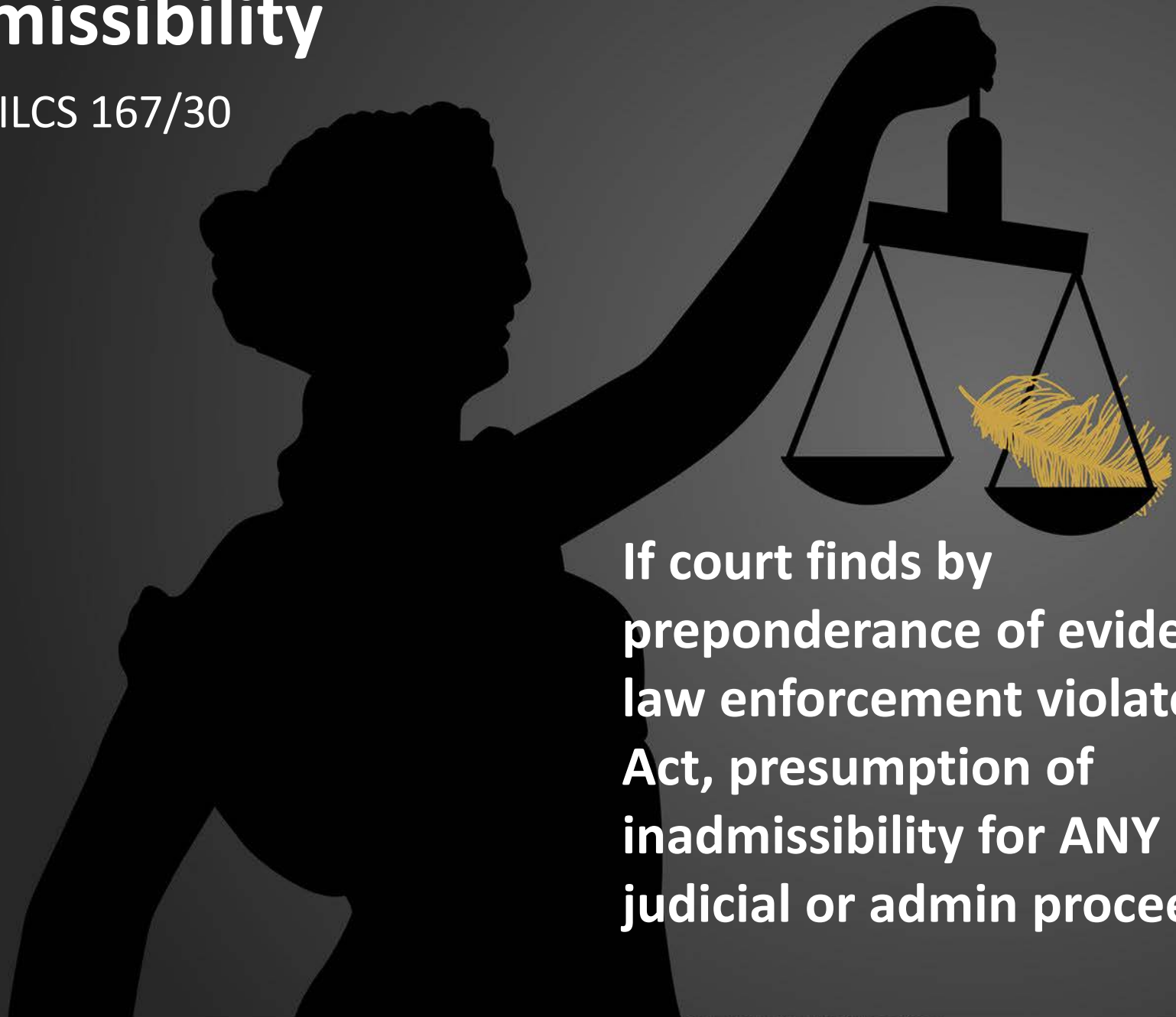
Information Disclosure

CONFIDENTIAL

No disclosure unless by supervisor to another government agency

Admissibility

725 ILCS 167/30



**If court finds by
preponderance of evidence
law enforcement violated
Act, presumption of
inadmissibility for ANY
judicial or admin proceeding**

REPORTING REQUIREMENT
725 ILCS 167/35

ICJIA

REPORTING REQUIREMENT

725 ILCS 167/35

Law enforcement agencies owning a drone must report yearly the number of drones by April 1.

Illinois Criminal Justice Information Authority makes available to public every July 1st year.

Law Enforcement Use of Private Drone

725 ILCS 167/40



No info from private drone unless exception applies.

If voluntarily submitted by private party, police must still obey the sections on retention and disclosure.

Proposed additional exception

Monitor safety and security at a large scale event

Limited to evaluating crowd size, density, movement



also staffing
levels

& ID possible
criminal
activity

Know the law

Follow your policy

Don't be accused of peeping



720 ILCS 5/33-3 Official Misconduct

(a) A **public officer** or employee or special government agent commits misconduct when, in his **official capacity** or capacity as a special government agent, he or she commits any of the following acts:

- (1) **Intentionally or recklessly fails to perform any mandatory duty as required by law**; or
- (2) **Knowingly performs an act** which he knows he is forbidden by law to perform; or
- (3) With intent to **obtain a personal advantage for himself or another**, he performs an act in **excess of his lawful authority**; or
- (4) **Solicits or knowingly accepts** for the performance of any act a **fee or reward** which he knows is not authorized by law...

(c) A public officer or employee or special government agent convicted of violating any provision of this Section forfeits his or her office or employment or position as a special government agent. In addition, he or she commits a **Class 3 felony**.

Don't find yourself in the defendant's seat!

Questions?

