

Advocates cite Boston in making domestic drone case

By: Juana Summers – April 23, 2013

Drone advocates eager to combat the secrecy and controversy that have clung to unmanned aircraft say they could have come in very handy during last week's Boston crisis. And some members of Congress say they agree.

Sen. Al Franken, a Minnesota Democrat, made the case on Tuesday that while drones weren't used in the apprehension of 19-year-old bombing suspect Dzhokar Tsarnaev, they might have been helpful.

"We had a situation in Boston where we had a guy holed up in a backyard and a boat, and he, for all accounts, had explosives on him. They did send a robot ... to go in and take the tarp off over the boat, but isn't it possible that we could see a situation in which we might want to take that person out in a different way?" Franken said at a Senate Judiciary subcommittee hearing.

But retired Marine Gen. James Cartwright, the former vice chairman of the Joint Chiefs of Staff, cautioned that might not be the right way to approach the problem.

"Inside the United States, there are so many other means by which we can approach this situation safely and ensure that if the last act was for the individual to stand up and put their hands in the air that we would not revoke that individual's right to give up," Cartwright said, underscoring the lethal power of drones. "So, to me, to stand off and shoot in the case of a drone is normally not something I could envision."

The potential future use of drones inside the U.S. has become a recurring theme in Washington as federal officials decide how and where they might fly and civil libertarians warn about the danger of overreach if more federal, state and local agencies begin using them.

Even before Tuesday's hearing to address the constitutionality and counterterrorism implications of targeted killing operations, lawmakers were already connecting the dots between the Boston crisis and the government's use of drones.

Kentucky Sen. Rand Paul, who last month staged a nearly 13-hour filibuster over the government's use of lethal drone strikes, said he would have supported the use of drone strikes as law enforcement authorities looked to apprehend the Boston Marathon bombing suspects.

"I've never argued against any technology being used when you have an imminent threat, an active crime going on. If someone comes out of a liquor store with a weapon and \$50

in cash, I don't care if a drone kills him or a policeman kills him," Paul told the Fox Business Channel on Monday.

Using drone technology for those purposes, Paul argued, would be different than the practices he opposed during his filibuster of John Brennan's nomination to lead the Central Intelligence Agency. Paul argued that there would be significant encroachment on the civil liberties and constitutional rights of the administration's potential use of unmanned drone strikes on American citizens on United States soil.

"We shouldn't be willy-nilly looking into everyone's backyard and what they're doing. But if there's a killer on the loose in a neighborhood, I'm not against drones being used to search them out, heat seeking devices being used," he said. "I'm all for law enforcement. I'm just not for surveillance when there's not probable cause that a crime's being committed."

There's a "very large gap between politics and policy" when it comes to the parallel drone programs run by the Pentagon and CIA, said Steve Vladeck, who testified before Congress earlier this year on the government's targeted killing program. "The reality is there's plenty of support consensus authority for some uses of military force on the home front in cases where it's truly necessary. Rand Paul's filibuster notwithstanding, I don't think that's ever been in doubt. What is in doubt is the line between such a permissible use of force, and what the government cannot do."

Sen. Lindsey Graham of South Carolina threw his support behind the use of drones in Boston on Friday, telling a Washington Post columnist that it "sure would be nice to have a drone up there" as law enforcement officials pursued Tsarnaev.

Whether drones — and what types — could have been used as an intense manhunt shut down the Boston area Friday remains an open question.

"I think you're already starting to see a movement of surveillance drones being used by police forces... along the border by customs and border patrol. That's already here and I think that's going to increase," Mark Mazzetti, a New York Times reporter and author, said in a C-SPAN interview. "I think the real fever in people's minds, the specter's been raised of the domestic use of armed drones. Will there be armed drones used in manhunts for the recent bombings in Boston? Could you have seen a drone instead of police forces trying to hunt these people down. I wouldn't rule it out for the future."

But Benjamin Friedman, a Cato Institute defense fellow, argued that "there's not much indication in Boston that there was some deficiencies in our laws or the technologies available to police."

"In the aftermath of an attack like this it's a particularly bad time to have an intelligent public conversation about counterterrorism methods and people tend to be a little bit overly excited. It's often better to have these discussions with greater hindsight," he said.

"Not every terrorist attack should lead to the conclusion that there's some big great public policy reform that's needed. In some cases, the existing laws and capabilities are sufficient. I think that's the case here."

It's not just military drones that could have played a role in Boston, argued Gretchen West of the Association for Unmanned Vehicle Systems International. The types of domestic systems currently used by some law enforcement officials to help find missing people or survey fire damage could have been helpful too, she said.

"Being able to use a UAS for situational awareness would have been useful. There were stories on the news about how the helicopters that were up in the air had to keep landing to refuel. Obviously the endurance of a small unmanned aircraft is very limited, but they could more easily fit in between buildings and go into some more hard-to-reach places as long as they're within sight of the operator," West told POLITICO.

"What happened in Boston just shows that these systems could have been used very easily to provide additional situational awareness for the first responders that were responding to those attacks."