

Claims Department Report

Drone: Bird, Plane, Predator or Liability?

If you invade someone's privacy with a drone, your insurance might not cover it...

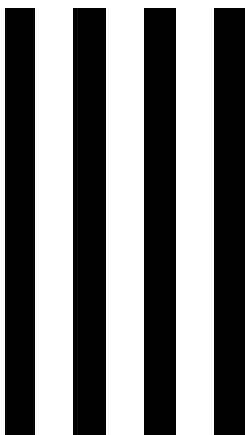
Homeowner Policies

Coverage E under a typical homeowner's policy provides comprehensive personal liability coverage.

This type of coverage protects the insured against claims arising out of accidents that cause injuries or damage to others on property the insured owns or rents. A homeowner's policy also follows the insured wherever he or she goes in the coverage territory, unless the accident involves an automobile, boat or aircraft (that is, an auto, boat or aircraft exclusion may apply). Coverage E applies only to accidents, though. The insuring language requires an accident that caused the injury or damage. In addition, Coverage E usually has an intentional-or-expected injury exclusion. A standard homeowner's policy does not cover personal injury claims that may include invasion of privacy.

If a homeowner uses a drone to spy on her neighbor and the neighbor sues, there may not be coverage under the homeowner's policy for a few reasons. First, there is no such thing as negligent intrusion upon seclusion so the insuring clause language may not be met. Second, an intentional-or-expected injury exclusion may apply, assuming the insuring language is even met. Third, an aircraft exclusion may also apply, depending upon how the policy defines "aircraft."*

Commercial General Liability Policies



All kinds of businesses purchase commercial general liability policies. The guiding principle behind general liability insurance is that it does not cover intended or expected injuries. Along those lines, the insuring language under Coverage A requires an accident that causes injury or damage.

A small-business owner who spies on an individual could cause him or her "bodily injury." Some commercial general liability policies under Coverage A define "bodily injury" to

include mental anguish, mental injury, shock and fright. Although the definition of "bodily injury" may be met, an invasion-of-privacy tort requires intent. Thus, the insuring language that requires an accident will not be met. Coverage A typically also has an expected-or-intentional injury exclusion that will be triggered. Coverage A under a commercial general liability policy would therefore probably not respond to an invasion-of-privacy claim because of its intentional nature.

Coverage B under a commercial general liability policy covers "personal and advertising injury," so the drone operator facing an invasion-of-privacy claim should look under that coverage part for potential coverage. Coverage B's insuring clause typically provides that the insurer "will pay those sums that the insured becomes legally obligated to pay as damages because of 'personal and advertising injury' to which this insurance applies." The typical policy defines "personal and advertising injury" as "injury, including consequential 'bodily injury,' arising out of ... Oral or written publication, in any manner, of material that violates a person's right of privacy." Thus, if a lawsuit alleges a violation of the right of privacy, a commercial general liability policy's Coverage B may be implicated.

While drones are relatively new, invasion-of-privacy claims are not. Drones simply provide a new vehicle for voyeurs and other ill-intentioned actors to invade a person's privacy.✱

