

Unmanned Aerial System

606.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval, and dissemination of images and data captured by the UAS.

606.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned aerial system (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), Drone, and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means.

606.2 POLICY

A UAS may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

606.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

606.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for department operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.

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- Developing uniform protocols for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocols for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing operational protocols governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, especially regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.
- Developing procedures for the use of facial recognition software to evaluate information gathered by a UAS, as permitted by 725 ILCS 167/17.
- Ensuring that the department's current UAS policy is posted on the department's website (725 ILCS 167/35).

606.5 USE OF UAS

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Only authorized operators who have completed the required training shall be permitted to operate the UAS. To maintain their authorization, operators shall perform at least 2 documented training flights of approximately 15 minutes per month.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

The Department may not use the UAS to gather information except (725 ILCS 167/15):

- a. To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates there is a risk.
- b. Pursuant to a search warrant based on probable cause. The warrant must be limited to a period of 45 days, renewable by a judge upon showing good cause for subsequent periods of 45 days.
- c. Upon reasonable suspicion that under particular circumstances, swift action is needed to prevent imminent harm to life, forestall the imminent escape of a suspect, or prevent the destruction of evidence. The use of a UAS under this paragraph is limited to a period of 48 hours. Within 24 hours of UAS initiation under this paragraph, the Chief of Police must report its use, in writing, to the State's Attorney.
- d. To locate a missing person, engage in search and rescue operations, or aid a person who cannot otherwise be safely reached while not also undertaking a criminal investigation.
- e. To obtain crime scene and traffic crash scene photography in a geographically confined and time-limited manner. The use of the UAS under this paragraph on private property requires either a search warrant or lawful consent to search.
- f. To obtain information necessary for the determination of whether a disaster or public health emergency should be declared, to manage a disaster by monitoring weather or emergency conditions, to survey damage, or to coordinate response and recovery efforts.
- g. To conduct an inspection of the infrastructure of a designated building or structure when requested by a local government agency.
- h. To locate victims, assist with victims' immediate health or safety needs, or coordinate the response of emergency vehicles and personnel, when dispatched to an emergency.
- i. In advance of or during a routed event or special event, as defined in 725 ILCS 167/5, for those uses allowed under 725 ILCS 167/15.
 1. The notice for UAS use in these instances should be posted at a time, place, and manner as required by 725 ILCS 167/15.

Other examples of Use of UAS are:

725 ILCS 167/15(10):

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An agency may use a drone at a routed event or special event, such as a parade or community festival. However, political protests, marches, demonstrations, or other assemblies protected by the First Amendment are not routed events or special events under the Act and do not fall under this exception. A law enforcement agency generally may not use drones at those assemblies. Law enforcement drone usage at a routed or special event is subject to several restrictions under the Act. Agencies may only use a drone pursuant to this exception if:

- The event is a parade, walk, or race (a routed event) or a concert or food festival (a special event) that: (1) is hosted by the State, a county, a municipality, a township, or a park district, (2) is outdoors and open to the public, and (3) meets the Act's specific attendance requirements. Routed events must have an estimated attendance of more than 50 people while special events must have an estimated attendance of 150 to 500 people, depending on the population of the unit of local government hosting the event.
- Notice of the drone usage must be posted at the event location including at major entry points for at least 24 hours before the event. The notice must clearly communicate that drones may be used at the upcoming event for the purpose of real-time monitoring of participant safety.
- Drones may be used prior to the event, before participants have begun to assemble, only to create maps and determine appropriate access routes, staging areas, and traffic routes. During drone usage before the event, no personal identifying information may be recorded, and no recorded information may be used in any criminal prosecution.
- Drones may be used during the event only to: (1) Detect a breach of event space, including a breach by an unauthorized vehicle, an interruption of the parade route, or a breach of an event barricade or fencing; (2) Evaluate crowd size and density; (3) Identify activity that could create a public safety issue for the crowd as a whole, such as crowd movement; (4) Assist in the response of personnel to a public safety incident; or (5) Assess traffic and pedestrian flow around the event.

The Act specifies that law enforcement cannot use drones under this exception to surveil events or assemblies protected by the First Amendment.¹⁶ This restriction applies regardless of location, size, particular cause, or permit status of the First Amendment protected event or assembly. Some examples of events or assemblies at which law enforcement may not use drones to gather information on individuals exercising their First Amendment rights include: • A permitted rally at a public forum, such as a city plaza • An unpermitted sidewalk protest targeting a government facility • A protest march along public streets (whether permitted or unpermitted) • An unpermitted demonstration by protestors at a routed or special event.¹⁷ Where an event includes both a drone use permitted under this exception as well as First Amendment protected activity, such as a political or protest group marching in an Independence Day parade, law enforcement may not use the drone to gather information on the First Amendment protected assembly (such as gathering information on protesters' identities) but may use the drone for the Act's specified purposes at the routed or special event (such as monitoring traffic flow around a parade). Law enforcement agencies are encouraged to be sensitive to the potential chilling effect that drone presence may have on First Amendment protected activity.

606.5.1 PRIVATE UAS OWNERS

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This policy and its restrictions apply to the department's directed use of a UAS owned by a private third party and information gathered by a UAS voluntarily submitted to the Department by a private third party (725 ILCS 167/40).

606.5.2 FACIAL RECOGNITION WITH UAS

Facial recognition software onboard a UAS shall not be used during a flight (725 ILCS 167/17). Use of facial recognition software to evaluate information gathered by a UAS is permissible only under those circumstances described in 725 ILCS 167/17.

606.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized (725 ILCS 167/18).

606.7 RETENTION OF UAS INFORMATION

The Records Center supervisor shall destroy all information gathered by the UAS within the timeframe specified by law (725 ILCS 167/20).

Information may be retained by a department supervisor when (725 ILCS 167/20):

- a. There is reasonable suspicion that the information contains evidence of criminal activity.
- b. The information is relevant to an ongoing investigation or pending criminal trial.
- c. The information will be used exclusively for training purposes and all personally identifiable information has been removed from it.
- d. The information contains only flight path data, metadata, or telemetry information of the UAS.

606.8 DISCLOSURE OF UAS INFORMATION

Information gathered during an inspection of the infrastructure of a designated building or structure shall be given, as soon as practicable, to the requesting local government agency before it is destroyed (725 ILCS 167/20).

The disclosure of information gathered by the UAS is prohibited except (725 ILCS 167/25):

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- a. To another government agency when there is reasonable suspicion that the information contains evidence of criminal activity or the information is relevant to an ongoing investigation or pending criminal trial.
- b. Pursuant to a court order or subpoena in connection with a criminal proceeding.
- c. In regard to a completed traffic crash investigation.

Available records of drone usage (e.g., flight path data, metadata, telemetry information of specific flights) may be disclosed subject to the Freedom of Information Act, 5 ILCS 140/1 et seq., and rules adopted under it (725 ILCS 167/25).

606.9 COMPLIANCE WITH THE FREEDOM FROM DRONE SURVEILLANCE ACT

If a determination is made that a member has violated the Act, the Department shall take prompt and appropriate action (e.g., training, discipline) (725 ILCS 167/45). If a determination is made that a UAS pilot has willfully violated the Act, the Department shall promptly remove the pilot from its UAS program and take other appropriate action (see the Personnel Complaints Policy) (725 ILCS 167/45).

606.10 REPORTING

The Coordinator shall report annually, by April 1, to the Illinois Criminal Justice Information Authority the number of UASs owned by the Department and any other required information to be reported under 725 ILCS 167/35.

The report shall contain a copy of the department's current UAS policy (725 ILCS 167/35).