

Drone/Unmanned Aerial System

436.1 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.

436.1.1 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)), and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means.

436.2 POLICY

A UAS may be utilized to enhance the office'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.

436.3 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.

436.4 PROGRAM COORDINATOR

The Patrol Division Commander or their designee will serve as the 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 office operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and office-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocols for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.

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- 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).
 - [FAA Emergency Request Form](#)
- Developing protocols for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- 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, and/or Low Altitude Authorization and Notification Capability (LAANC).
- 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.
- 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 office's current UAS policy is posted on the office's website (725 ILCS 167/35).

436.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

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.

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They may be used for the following purposes:

- (a) Situational awareness- To assist decision-makers in understanding the nature, scale or scope of an incident and for planning and coordinating an effective response.
- (b) Search and rescue- To assist in missing person investigations and other search and rescue missions.
- (c) Tactical deployment- To support the positioning of deputies and equipment in emergency situations, such as incidents involving hostages and barricades, and other temporary perimeter security situations.
- (d) Visual perspective- To provide an aerial perspective to assist deputies with directing crowd control, traffic, special circumstances, and temporary perimeter security.
- (e) Scene documentation- To document a crime scene, accident scene, or other major incident scene.
- (f) Agency assistance- To assist another government agency not possessing a UAS, with situational awareness, search and rescue, tactical deployment, visual perspective, or scene documentation.
- (g) Public demonstration- To educate the public regarding the law enforcement use of the UAS.
- (h) Training- To assist remote pilots and aircrews in maintaining proficiency in operation skills of UAS's.

The Office 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 Sheriff 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

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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.

436.5.1 PRIVATE UAS OWNERS

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 Office by a private third party (725 ILCS 167/40).

436.6 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.

Authorized McLean County Sheriff's Office personnel shall only deploy UAS's for a public safety purpose.

Authorized agency personnel shall not deploy a UAS in a careless or reckless manner or in violation of FAA rules governing use of the UAS by governmental agencies or any other applicable state or federal laws.

No authorized agency personnel shall operate more than one UAS at a time.

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

436.7 RETENTION OF UAS INFORMATION

The Program Coordinator shall ensure drone pilots destroy all information gathered by the UAS within the timeframe specified by law (725 ILCS 167/20).

If information is temporarily retained onto media storage hard drives, memory cards, etc. under the following situations, and that information is determined not to meet criteria for long term retention into evidence, said information shall be destroyed within the following:

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(a) 30 days after being gathered from a reported:

- Terrorist Attack
- Search Warrant
- Imminent Harm
- Missing Person
- Crime Scene
- Traffic Crash
- Disaster or Public Health Emergency
- Public Safety Answering Point (PSAP)

(b) 24 hours after being gathered from a:

- Special Event

Information gathered for an Infrastructure Inspection must be destroyed immediately after being turned over to the inspection's requesting agency.

Any information captured or recorded by UAS operations shall remain the sole property of the Department.

Only authorized information may be retained and shall be retained by way of uploading the exhibit to the department's online digital evidence vault (evidence.com) or other means of submission into physical evidence, depending on file size.

A supervisor may authorize the retention of information 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.

At minimum, any digital evidence gathered by a UAS meeting the above criteria, must at least be "flagged" in evidence.com if a more appropriate retention category is not applicable (e.g. Traffic Crash, Homicide, etc.).

436.7.1 UAS FLIGHT LOGS

All UAS flights shall be documented on a form or database designed for that purpose and shall include, but not be limited to:

- (a) The reason or purpose for the flight.
- (b) Date, time, duration and location of the flight.
- (c) Name of the supervisor approving the flight.

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- (d) List of staff members assigned to the flight.
- (e) The summary of actions taken, and the activities and outcomes from deployment.
- (f) A brief description of captured DME (Digitally Managed Evidence) and the storage location.

436.8 REPORTING

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

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

436.9 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):

- (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).

436.10 COMPLIANCE WITH THE FREEDOM FROM DRONE SURVEILLANCE ACT

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

436.11 TRAINING OF AUTHORIZED AGENCY PERSONNEL

- (a) Authorized agency personnel assigned to operate UAS's must complete an agency-approved training program and meet all conditions of the certifications as issued by the FAA. Authorized agency personnel assigned to operate a UAS shall also receive additional training at regular intervals to ensure continued effective use, operation, calibration, and performance of the UAS and to incorporate changes, updates, revisions, and advances in policies and procedures in the deployment and use of the UAS.

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- (b) All certified remote pilots must complete a required initial training as well as a minimum of eight (8) hours of annual training, which shall be documented.
- (c) All personnel shall be regularly trained in applicable local, state and federal laws, regulations, and the policies and procedures that govern the deployment of the UAS.