

## **PURPOSE**

The purpose of this policy is to establish guidelines under which a small, unmanned aircraft (sUAS or Drone) may be utilized and the procedures for storage, retrieval and dissemination of images and data captured by such systems.

## **POLICY**

It is the policy of the Palos Heights Police Department to utilize sUAS systems in strict compliance with relevant statutes, privacy rights, the Federal Aviation Administration, and 14 CFR 107 requirements in order to enhance the department's mission of serving the community and protecting lives and property. The department will ensure authorized personnel are trained on the use of small, unmanned aircraft systems, hereinafter referred to as sUAS, in accordance with all applicable laws and safety standards.

## **DEFINITIONS**

**Disaster:** As defined in 20 ILCS 3305, the Illinois Emergency Management Agency Act, means an occurrence of threat of widespread or severe damage, injury or loss of life or property resulting from any natural, technological, or human cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, cyber incidents, or acts of domestic terrorism.

**Drone Team Leader:** Sworn supervisor responsible for the day-to-day management and usage of the small, unmanned aircraft.

**Federal Aviation Administration (FAA):** A national authority with powers to regulate all aspects of civil aviation. These include the construction and operation of airports, the management of air traffic, the certification of personnel and aircraft, and the protection of US assets during the launch or re-entry of commercial space vehicles.

**Information:** As defined in 725 ILCS 167, any evidence, images, sounds, data, or other information gathered by the unmanned aircraft.

**Parade:** As defined in 725 ILCS 167/5, the Drones as First Responders Act, means a march, procession, or other similar activity consisting of persons, animals, vehicles, or things, or any combination thereof, upon a public street, sidewalk, alley, or other public place, which requires a street closing or otherwise requires stopping or rerouting vehicular traffic because the parade will not or cannot comply with normal and usual traffic regulations or controls. "Parade" does not include a political protest, march, demonstration, or other assembly protected by the First Amendment.

**Public Health Emergency:** As defined in 20 ILCS 3305/1, the Illinois Emergency Management Agency Act, means an occurrence or imminent threat of an illness or health condition that: (a) is believed to be caused by any of the following: bioterrorism, the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin, a natural disaster, a chemical attack or accidental release or a nuclear attack or accident and (b) poses a high probability of any of the following harms: a large number of deaths in the affected population, a large number of serious or long-term disabilities in the affected population or widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

**Public Safety Answering Point (PSAP):** As defined in 50 ILCS 750, the Emergency Telephone System Act, means the primary answering location of an emergency call that meets the appropriate standards of service and is responsible for receiving and processing those calls and events according to a specified operational policy.

**Remote Pilot in Command:** Person directly responsible for and is the final authority as to the operation of the small, unmanned aircraft.

**Routed Event:** Means a parade, walk, or race that (1) is hosted by the State of Illinois or a county, municipality, township, or park district; (2) is outdoors and open to the public; and (3) has an estimated attendance of more than 50 people. *“Routed Event” does not include any political protest, march, demonstration, or other assembly protected by the First Amendment.*

**Small Unmanned Aircraft System (sUAS):** A small, unmanned aircraft that does not carry a human operator, weighing less than 55 pounds on takeoff, and its associated elements, including communication links and the components that control the aircraft that are required for the safe and efficient operation of the aircraft.

**Special Event:** For the purpose of sUAS usage and 725 ILCS 167, means a concert or food festival hosted by the State or a county/municipality/township/park district. *A special event does not include any political protest, march, demonstration, or other assembly protected by the First Amendment.*

- a. Is hosted by the State of Illinois or a county, municipality, township, or park district.
- b. Is outdoors and open to the public.
- c. Has an estimated attendance of:
  1. 150 or more people in a unit of local government with a population that is less than 50,000.
  2. 250 or more people in a unit of local government with a population that is greater than or equal to 50,000 but less than 100,000.
  3. 350 or more people in a unit of local government with a population that is greater than or Equal to 100,000 but less than 500,000.
  4. 500 or more people in a unit of local government with a population that is 500,000 or more.

**Visual Observer:** The person designated by the Remote Pilot in Command to assist the Remote Pilot in Command and the person manipulating the flight controls of the aircraft to see and avoid other air traffic or objects aloft or on the ground.

## **PROCEDURES**

### **DRONE TEAM LEADER**

The Chief of Police will appoint a Drone Team Leader who is responsible for the management of the department’s small, unmanned aircraft program. The Drone Team Leader ensures that policies and procedures conform to current laws, regulations, and best practices. Responsibilities of the Drone Team Leader include, but are not limited to:

1. Coordinate the FAA Certification of Authorization (COA) and/or the 14 CFR 107 application process; ensure all certifications are current.
2. Ensure authorized remote pilots in command have completed the required Federal Aviation Administration (FAA) and 14 CFR 107 training and department approved training in the operation, applicable laws, policies, and procedures regarding use of the sUAS.

3. Ensure protocol for submission and evaluation of requests to deploy the sUAS, including urgent requests made during on-going or emerging incidents.
4. Maintain operational protocol governing the safe deployment and operation of a sUAS, along with documenting all missions.
5. Maintain inspection and maintenance logs to ensure continuing airworthiness of a sUAS, up to and including its overhaul or life limits.
6. Ensure 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.
7. Ensure retention and purge periods are maintained in accordance with established records retention schedules.
8. Recommend program enhancements, especially regarding safety and information security.
9. Conduct a documented annual year-end review of the program to determine the overall success of the program and to provide recommendations for improvements, if any. The report shall be forwarded to the commander responsible for oversight of the program.

#### **TRAINING PRIOR TO USE OF THE sUAS**

- A. Prior to authorization to operate a sUAS, assigned personnel must complete mandatory training provided by the department to obtain an understanding on how to use the sUAS and the procedures outlined in this policy.
- B. Assigned officers will undergo training on the equipment to ensure continued effective use, operation of the equipment and to incorporate changes, updates, or other revisions to the FAA and/or 14 CFR 107 requirements, statutes, or department policy. Additional training may be provided at periodic intervals for personnel displaying a substandard performance in the use of sUAS equipment.

#### **DEPARTMENT USE OF sUAS**

- A. The police department must obtain applicable authorizations, permits, or certificates as required by FAA prior to deploying or operating the sUAS, and ensure these documents are current.
- B. Pursuant to the Drone as First Responder Act, 725 ILCS 167/15, the sUAS may be used to gather information during the following situations:
  1. 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.
  2. If the law enforcement agency first obtains a search warrant based on probable cause issued under Section 108-3 of the Code of Criminal Procedure of 1963. 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.

3. If the law enforcement agency possesses 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 the sUAS under this paragraph is limited to a period of 48 hours. Within 24 hours of the initiation of the use of a sUAS under this paragraph, the chief executive officer of the law enforcement agency must report its use, in writing, to the local state's attorney.
4. If a law enforcement agency is not undertaking a criminal investigation but is attempting to locate a missing person, engaging in a search and rescue operation, or aiding a person who cannot otherwise be safely reached.
5. If a law enforcement agency is using a sUAS solely for crime scene and traffic crash scene photography. Crime scene and traffic crash photography must be conducted in a geographically confined and time-limited manner to document specific occurrences.
  - a. The use of a sUAS under this paragraph on private property requires either a search warrant based on probable cause under Section 108-3 of the Criminal Code of Procedure of 1963 or lawful consent to search.
  - b. The use of a sUAS under this paragraph on lands, highways, roadways, or areas belonging to this State or political subdivisions of this State does not require a search warrant or consent to search.
  - c. Any law enforcement agency operating a sUAS under this paragraph shall make every reasonable effort to only photograph the crime scene or traffic crash scene and avoid other areas.
6. If a law enforcement agency is using a sUAS during a disaster or public health emergency, as defined by 20 ILCS 3305/1. The use of a sUAS does not require an official declaration of a disaster or public health emergency prior to use. A law enforcement agency may use a sUAS under this paragraph to obtain information necessary for the determination of whether or not a disaster or public health emergency should be declared, to monitor weather or emergency conditions, to survey damage, or to otherwise coordinate response and recovery efforts. The use of a sUAS under this paragraph is permissible during the disaster or public health emergency and during subsequent response and recovery efforts.
7. To conduct an infrastructure inspection of a designated building or structure at the express request of a local government agency. Any law enforcement agency operating a sUAS under this paragraph shall make every reasonable attempt to photograph only the building or structure and avoid other areas.
8. To demonstrate the capabilities and functionality of a police sUAS for public relations purposes, provided that no information is collected or recorded by the drone during such demonstration.
9. In response to Public Safety Answering Point (PSAP) dispatched calls for service, when the sole purpose for using a sUAS is for one or more first responders to locate victims, to assist with immediate victim health or safety needs, or to coordinate the response of emergency vehicles and personnel to an emergency. As used in this paragraph, "Public Safety Answering Point" and "PSAP" have the meaning given to those terms in Section 2 of the Emergency Telephone System Act. Refer to the definitions section of this policy for more information.
10. The Special Event Coordinator shall consult with the Drone Team Leader to determine if a sUAS should be utilized during a special event, parade, or routed event to prepare for or observe

crowd size, density, and movement, assess public safety staffing, or oversee the general safety of the participants.

- a. If a law enforcement agency is using a sUAS at a routed event or special event, the use of a sUAS under this paragraph requires that:
  1. A notice is posted at the event location for at least 24 hours before the event and clearly communicates that a sUAS may be used at the upcoming event for the purpose of real-time monitoring of participant safety. The Special Event Coordinator is responsible for ensuring the posting of signs.
  2. A notice is posted, if practical, at major entry points to the event and clearly communicate to the participants that a drone may be used for the purpose of real-time monitoring of participant safety.
  3. The sUAS is flown in accordance with Federal Aviation Administration safety regulations. Under this paragraph, a law enforcement agency may use the drone:
    - a. In advance of an event, before event participants have begun to assemble, for the sole purpose of creating maps and determining appropriate access routes, staging areas, and traffic routes, provided that no personal identifying information is recorded and provided further that no recorded information is used in any criminal prosecution.
    - b. During the event to proactively support public safety personnel by monitoring the event footprint in real-time:
      1. To detect a breach of event space, including a breach by an unauthorized vehicle, an interruption of a parade route, or a breach of an event barricade or fencing.
      2. To evaluate crowd size and density.
      3. To identify activity that could present a public safety issue for the crowd, including crowd movement.
      4. To assist in the response of public safety personnel to a real-time public safety incident at the event.
      5. To assess the traffic and pedestrian flow around the event in real-time.
- C. Requests to deploy the sUAS flight shall be made to the Drone Team Leader or designee.
- D. Whenever possible, if the sUAS will be flying within close proximity to a hospital heliport, which could create a hazardous situation for a manned aircraft, notification shall be made to the respective hospital's security office.
- E. At the conclusion of each deployment, any recordings or images shall be securely downloaded and proper evidence procedures shall be followed.

- F. All uses of the sUAS will be documented on a spreadsheet maintained by the Drone Team Leader. Information shall include the reason for the flight; the date, time, and location; outcome of the deployment.

#### **ACCIDENT REPORTING**

- A. The FAA requires notification of certain sUAS accidents. Pursuant to 14 CFR 107 Drone Operation & Certification Regulations, within 10 days after the accident, the Remote Pilot in Command must report accidents to the FAA in the following situations:
1. Serious injury to any person or loss of consciousness.
  2. Damage to any property, other than the sUAS, unless one of the following conditions is satisfied (a) the cost of repair including materials and labor does not exceed \$500.00 or (b) the fair market value of the property does not exceed \$500.00 in the event of a total loss.
- B. The Remote Pilot in Command is required to initiate a police report for any accident involving the sUAS. The police report shall include the following information:
1. Name and contact information for operators and witnesses.
  2. Type of operation.
  3. Type of device and registration number/certificate.
  4. Event location and incident details.
  5. Evidence collection such as photos, video, and device confiscation, if necessary.
- C. When the accident meets the criteria listed under Section A, the Remote Pilot in Command shall provide notification to the FAA by using the FAA's DroneZone Portal at: <https://faadronezone.faa.gov/#/>

#### **RESTRICTIONS**

- A. The sUAS will not be used to:
1. Conduct random surveillance activities or requests for information.
  2. Target a person based solely on individual characteristics such as, but not limited to race, ethnicity, national origin, religion, disability, gender, or sexual orientation.
  3. Harass, intimidate, or discriminate against any individual or group.
  4. Conduct personal business of any type.
  5. Gather information during a political protest, march, demonstration, or other assembly protected by the First Amendment.
  6. Operate facial recognition software. A law enforcement agency operating a sUAS under the Drones as First Responders Act is prohibited from using, during a flight, onboard facial recognition software that works in conjunction with the sUAS. A law enforcement agency operating a sUAS under the Drones as First Responders Act is prohibited from using any information gathered by a sUAS with any facial recognition software, unless either:

- a. The law enforcement agency is using a sUAS to counter a high risk of a terrorist attack by a specific individual or organization and the United States Secretary of Homeland Security has determined that credible intelligence indicates that there is such a risk.
    - b. The law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent harm to life or to forestall the imminent escape of a suspect or the destruction of evidence.
  7. Transport weapons. A law enforcement agency operating a sUAS under the Drones as First Responders Act is prohibited from equipping or using a sUAS on any firearm, weaponized laser, kinetic impact projectile, chemical agent or irritant, or any other lethal or non-lethal weapon.
  8. Any situation outside what is specified in DEPARTMENT USE OF SUAS, Section B.
- B. sUAS deployments by the police department must also adhere to the operating procedures established by the FAA. These rules are outlined below, but are not limited to:
1. Conduct a pre-flight check to ensure the sUAS is in safe operation.
  2. Keep the sUAS in visual line of sight.
  3. Fly at or below 400 feet above ground level or structure.
  4. Fly at or below 100 mph.
  5. Yield right of way to manned aircraft.
  6. Must not fly from a moving vehicle, except in rural areas.
  7. During an emergency situation, deviations from policy is permitted.
- C. The Drone Team Leader shall request a certificate waiver from the FAA which authorizes deviation from specific regulations. The certificate waiver will be granted when the FAA determines that the sUAS operation can be safely conducted under the terms of the certificate waiver.
- D. Personnel shall notify the Drone Team Leader when he/she knows or has reason to know that he/she has a medical condition that would interfere with the safe operation of the sUAS.

#### **PRIVACY CONSIDERATIONS**

- A. Use of the sUAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and visual observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy. Operators and visual observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
- B. When there are specific and articulable grounds to believe that the sUAS will collect evidence of criminal wrongdoing and/or if the sUAS will be used in a manner that may intrude upon reasonable expectation of privacy, the department will obtain a search warrant prior to conducting the flight.

## **INSPECTION AND CARE OF THE EQUIPMENT**

- A. The sUAS and related equipment shall be maintained in a state of operational readiness. Assigned officers shall use reasonable care to ensure the proper functioning of the sUAS equipment. Malfunctions shall be brought to the attention of the Drone Team Leader as soon as possible. Extra caution must be taken to ensure the equipment is not stored in extreme temperatures.
- B. Prior to use, assigned officers shall:
  - 1. Inspect the sUAS and related equipment to verify proper functioning and ensure the battery is fully charged in accordance to the manufacturer's recommendations.
  - 2. Inspect the body of the sUAS, the charging and camera cables to look for signs of visible damage. Ensure the propeller blades are in flight worthy condition.

## **SECURITY OF RECORDINGS/INFORMATION DISCLOSURE**

Personnel should be aware that recordings may contain sensitive information and are responsible for ensuring compliance with the information in this policy. A breach in security, careless handling of the recording and/or intentional release of recordings to non-authorized individuals may jeopardize relationships with citizens, subject victims to an invasion of privacy, jeopardize prosecutions and endanger the safety of individuals.

- A. All recordings are considered investigative property of the department. The utmost care and caution shall be taken to ensure the recordings are not mishandled or misused.
- B. Employees shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner recordings without written authorization by the Drone Team Leader.
- C. Any violations related to unauthorized edits, alterations, and dissemination of this data shall be cause for disciplinary action.
- D. Pursuant to 725 ILCS 167/25, if a law enforcement agency uses a sUAS for the circumstances outlined in DEPARTMENT USE OF SUAS, Section B, the agency shall not disclose any information gathered by the sUAS, except that a supervisor of that agency may disclose particular information to another governmental agency if 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.
  - 1. Records of sUAS usage, including flight path data, metadata, or telemetry information of specific flights, if available, may be disclosed subject to the Freedom of Information Act and rules adopted under that act.
  - 2. A law enforcement agency uses a sUAS for the circumstances outlined in DEPARTMENT USE OF SUAS, Section B, shall neither sell any information gathered by the sUAS nor disclose any information gathered by the sUAS to any person to whom disclosure is not authorized under this section of the policy.
  - 3. Nothing prevents the disclosure of information through a court order or subpoena in connection with a criminal proceeding or if the disclosure is in regard to a completed traffic crash investigation.

## RECORDS RETENTION

- A. If a law enforcement agency uses a sUAS for the reasons specified in DEPARTMENT USE OF sUAS, Section B, of this policy, the agency shall destroy all information gathered by the sUAS within the following timeframes:
1. All information gathered pursuant to a terrorist attack, obtaining a search warrant, preventing harm to life and destruction of evidence, missing persons, search and rescue operation, aiding a person who cannot be safely reached, traffic crash and crime scene, disaster or public health emergency, or Public Safety Answering Point (PSAP) dispatched calls for service shall be destroyed within 30 days after being gathered.
  2. All information gathered pursuant to a routed event or special event shall be destroyed within 24 hours after being gathered.
  3. All information gathered pursuant to an infrastructure inspection of a designated building or structure shall be turned over to the requesting local government agency as soon as practicable, and all gathered information shall be destroyed immediately after the information has been turned over.
  4. Notwithstanding the above, a supervisor at a law enforcement agency may retain particular information if:
    - 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. A supervisor at the agency deems that the information will be used exclusively for training purposes, provided that any such information shall not contain any personally identifiable information.
    - d. The information consists of only flight path data, metadata, or telemetry information of the drone.

## REPORTING

- A. Pursuant to 725 ILCS 167/35, if a law enforcement owns one or more sUAS, it shall report in writing annually, by April 1, to the Illinois Criminal Justice Information Authority the:
1. Number of sUAS it owns.
  2. Number of times a sUAS was used pursuant to the categories of use specified in DEPARTMENT USE OF sUAS, Section B, of this policy, including the date of use, time of use, reason for use, location, whether video was recorded, and whether the video is designated for retention for training purposes.
  3. The report shall contain a copy of the agency's latest policy concerning sUAS as of the most recent April 1.
- B. Each law enforcement agency that uses a sUAS shall implement and make publicly available to its website the law enforcement agency's policy governing the operation, use, administration, and oversight of its sUAS Program.

- C. The Drone Team Leader is responsible for ensuring the department's transparency site includes the following information pertaining to the use of sUAS to include the date of use, time of use, reason for use and location of use.

#### **INFORMATION FROM PRIVATE DRONES**

- A. The department may utilize information from private drones only for the purpose of undertaking the tasks outlined in DEPARTMENT USE OF SUAS section of this policy.
- B. Private parties may voluntarily submit information acquired by the privately owned drone to the police department.
- C. The department shall not disclose any information gathered by the private drone. However, a supervisor may disclose information to another government agency when there is reasonable suspicion that the information contains evidence of criminal activity, or the information is relevant to an on-going investigation or pending criminal trial.

#### **POLICY VIOLATIONS**

- A. In the event the Drone Team Leader learns of any violations to this policy, the team leader shall notify the Deputy Chief of Operations, to determine the next steps to include immediate actions to prevent future violations through any of the below means:
  - 1. Training.
  - 2. Discipline including progressive discipline for repeat violations, or other means that will prevent repeated violations. Refer to Standard Operating Procedure 26.1 Disciplinary Procedures for information about the discipline process.
- B. When it is learned that willful and wanton violations of this policy occurred, the department will immediately remove the pilot from the sUAS Program and take actions to prevent future willful and wanton violations of this policy.
- C. The Attorney General shall have the authority to conduct investigations into patterns and practices of violations of this policy, to include 725 ILCS 167 and may:
  - 1. Require a law enforcement agency, law enforcement official, or any other person or entity to file a statement or report in writing under oath or otherwise, as to all information the Attorney General may consider necessary.
  - 2. Examine under oath any law enforcement official or any other person alleged to have participated in or with knowledge of the alleged violation.
  - 3. Issue subpoenas, obtain records, conduct hearings, or take any other actions in aid of any investigation.
- D. If a law enforcement agency, law enforcement official, or other person or entity fails to comply, in whole or in part, with a subpoena or other investigative request issued under C (3) listed above, the Attorney General may compel compliance through an action in the circuit court. Refer to 725 ILCS 167 for more information on an investigation completed by the Attorney General.
- E. Upon entry of an adverse judgment under 725 ILCS 167, demonstrating a pattern or practice of violations of the above-mentioned statute, a law enforcement agency shall forfeit its ability to use sUAS under

DEPARTMENT USE OF SUAS section of this policy for not less than six months for a first adverse judgement and up to one year for a second adverse judgment demonstrating a pattern of violating this policy.