

## 394 Unmanned Aircraft Systems

### 394.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines under which unmanned aircraft systems (UAS) may be used, and the storage, retrieval, and dissemination of images and data captured by such systems.

#### 394.1.1 DEFINITIONS

Definitions related to this policy include:

*Unmanned Aircraft System (UAS)* - An unmanned aircraft that can be controlled remotely. Commonly referred to as a drone.

*Pilot in Command (PIC)* - A person who holds a valid FAA Part 107 Commercial Pilot's License and is designated by the Morton Grove Police Department. During an authorized flight mission, the PIC is directly responsible for and is the final authority as to the operation of the UAS and the flight mission.

*Visual Observer (VO)* - A person who is designated by the PIC to assist the PIC and the person manipulating the flight controls of the UAS to see and avoid other air traffic or objects aloft or on the ground.

*UAS Program Coordinator (UPC)* - A sworn supervisor of the rank of Sergeant or higher who is appointed by the Chief of Police or his/her authorized designee that shall be responsible for the overall management of the UAS program.

*Assistant UAS Program Coordinator (AUPC)* - A sworn officer that is appointed to assist the UPC in the overall management of the UAS program.

*Preflight Briefing* - A mandatory process that is conducted by the PIC prior to a UAS flight mission which includes but is not limited to:

- (a) Review of the flight mission, flight mission area, flight mission objectives, safety issues and issues of concern;
- (b) Review of current and forecasted weather conditions;
- (c) Review of operating limitations and safety issues such as battery charge, GPS strength, and potential radio interference;
- (d) Review of crew coordination and communication procedures;
- (e) Review of emergency/contingency procedures including aircraft system failure, flight termination, divert and lost link procedures; and
- (f) Execution of all checklists.

*Preflight Inspection* - A mandatory process that is conducted by the PIC before every UAS flight utilizing the pre-flight checklist. The inspection is intended to ensure that the UAS is operational and ready for flight and that the control unit is functioning properly and has sufficient charge.

---

*Parade* - 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.

*Routed Event* - A parade, walk, or race that:

- (a) is hosted by the State of Illinois or a county, municipality, township, or park district;
- (b) is outdoors and open to the public; and
- (c) 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.

*Special Event* - A concert or food festival that:

- (a) is hosted by the State of Illinois or a county, municipality, township, or park district;
- (b) is outdoors and open to the public; and
- (c) has an estimated attendance of: 150 or more people in a unit of local government with a population that is less than 50,000; "Special event" does not include any political protest, march, demonstration, or other assembly protected by the First Amendment.

### **394.2 POLICY**

Unmanned aircraft systems 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.

### **394.3 PRIVACY**

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and 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 (e.g., residence, yard, enclosure). Operators and observers shall also 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.

### **394.4 UAS PROGRAM COORDINATOR**

The Chief of Police will appoint a program coordinator who will manage 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:

- (a) Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, if applicable.
-

- (b) 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.
- (c) Developing uniform protocol 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 authorization of the Chief of Police or the authorized designee, depending on the type of mission.
- (d) Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- (e) Implementing a system for public notification of UAS deployment.
- (f) Developing an operational protocol 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.
- (g) Developing a protocol for fully documenting all missions.
- (h) 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.
- (i) 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.
- (j) Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- (k) Facilitating law enforcement access to images and data captured by the UAS.
- (l) Recommending program enhancements, especially regarding safety and information security.
- (m) Ensuring that established protocols are followed by monitoring and providing periodic program reports to the Chief of Police.

#### **394.5 TRAINING PRIOR TO USE OF THE UAS**

- (a) Prior to authorization to operate a UAS, assigned personnel must complete mandatory training provided by the Department to obtain an understanding on how to use the UAS and the procedures outlined in this policy.
  - (b) Assigned officers will undergo monthly, minimum flight time requirements. Failure to comply with the minimum flight time requirement will suspend the assigned officer's flying privileges until the minimum hours have been met.
  - (c) Annually, assigned officers will undergo refresher 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 UAS equipment.

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

The UAS and related equipment shall be maintained in the state of operational readiness. Assigned officers shall use reasonable care to ensure the proper functioning of the UAS equipment. Malfunctions shall be brought to the attention of the program coordinator as soon as possible. Extra caution must be taken to ensure the equipment is not stored in extreme temperatures.

Prior to use, assigned officers shall:

- (a) Using an equipment checklist, inspect the UAS and related equipment to verify proper functioning and ensure the battery is fully charged in accordance to the manufacturer's recommendations.
- (b) Inspect the body of the UAS, and the charging and camera cables, to look for signs of visible damage. Ensure the propeller blades are in flight worthy condition.

#### **394.7 USE OF UAS**

The Department must obtain applicable authorizations, permits, or certificates as required by the FAA prior to deploying or operating the UAS, and ensure these documents are current. Only authorized operators who have completed the required training shall be permitted to operate the UAS.

The Morton Grove Police 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, engaging in search and rescue operations, or aiding 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 infrastructure inspection of a designated building or structure at the express request of a local government agency. Any law enforcement agency operating a drone under this paragraph shall make every reasonable attempt to photograph only the building or structure and to avoid other areas.
  - (h) To demonstrate the capabilities and functionality of a police drone for public relations purposes, provided that no information is collected or recorded by the drone during such demonstration.
  - (i) In response to Public Safety Answering Point (PSAP) dispatched calls for service, when the sole purpose for using a drone 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.
  - (j) If the Department is using a drone at a routed event or special event. The use of a drone under this paragraph requires that:
    - 1. Notice is posted at the event location for at least 24 hours before the event and clearly communicates that drones may be used at the upcoming event for the purpose of real-time monitoring of participant safety;
    - 2. Notice is posted, if practical, at major entry points to the event clearly informing the attendees that a drone may be used for the purpose of real-time monitoring of participant safety; and
    - 3. The drone 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; or
      - B. During the event to proactively support public safety personnel by monitoring the event footprint in real time: (a) 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; (b) to evaluate crowd size and density; (c) to identify activity that could present a public safety issue for the crowd as a whole, including crowd movement; (d) to assist in the response of public safety personnel to a real-time public safety incident at the event; and (e) to assess the traffic and pedestrian flow around the event in real time.
    - 4. Requests to deploy the UAS flight shall be made to the PIC who will confer with the UPC or a supervisor on scene as to the status of the proposed flight.
-

5. Whenever possible, if the UAS 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.
6. When appropriate, notification of the UAS deployment shall be made to the public and/or media outlets.
7. At the conclusion of each deployment, any recordings shall be securely downloaded and proper evidence procedures shall be followed.
8. All uses of the UAS will be documented via email to the UPC and Department Admin. Information shall include the reason for the flight; the date, time and location; the person who approved of the deployment; assigned staff; and a summary of the activities covered, actions taken, and outcome of the deployment. The UAS deployment will also be documented on a supplemental report to the main case report for the incident.

### **394.8 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 Department by a private third party.

### **394.9 PROHIBITED USE**

The UAS video surveillance equipment shall not be used:

- (a) To conduct random surveillance activities.
  - (b) 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.
  - (c) To harass, intimidate, or discriminate against any individual or group.
  - (d) To conduct personal business of any type.
  - (e) Use of facial recognition. A law enforcement agency operating a drone under this Act is prohibited from using, during a flight, onboard facial recognition software that works in conjunction with the drone. A law enforcement agency operating a drone under this Act is prohibited from using any information gathered by a drone with any facial recognition software, unless either
    1. The law enforcement agency is using a drone 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 or;
    2. 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.
  - (f) Use of weapons. A law enforcement agency operating a drone under this Act is prohibited from equipping or using on a drone any firearm, weaponized laser, kinetic impact projectile, chemical agent or irritant, or any other lethal or non-lethal weapon.
-

UAS 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 UAS in condition for safe operation.
2. Keep the UAS 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 are permitted.

The program coordinator may 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 UAS operation can be safely conducted under the terms of the certificate waiver.

Personnel shall notify the program coordinator 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 UAS.

#### **394.10 RETENTION AND DISCLOSURE OF UAS INFORMATION**

- (a) Department members should be aware that recordings may contain sensitive information and members are responsible for ensuring compliance to 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.
- (b) All recordings are considered investigative property of the Police Department. The utmost care and caution shall be taken to ensure the recordings are not mishandled or misused.
- (c) Employees shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner recordings without written authorization from a supervisor.
- (d) Any violations related to unauthorized edits, alterations, and dissemination of this data shall be cause for disciplinary action.
- (e) Pursuant to 725 ILCS 167/20(a), the Department shall destroy all information gathered by the UAS within the following timeframes:
  1. Destruction within thirty (30) days after being gathered pursuant to:
    - A. 725 ILCS 167/15(1) (terrorist attack);
    - B. 725 ILCS 167/15(2) (search warrant);

- C. 725 ILCS 167/15(3) (prevention of imminent harm to life, forestall imminent escape of a subject, or destruction of evidence);
  - D. 725 ILCS 167/15(4) (location of a missing person, search and rescue operation, or aiding a person who cannot otherwise be safely reached);
  - E. 725 ILCS 167/15(5) (crime scene and traffic crash scene photography);
  - F. 725 ILCS 167/15(6) (disaster or public health emergency); or
  - G. 725 ILCS 167/15(9) (call for service dispatched by a PSAP where the sole purpose is to locate victims, assist with victim health and safety needs, or to coordinate an emergency response).
2. Destruction within twenty-four (24) hours after being gathered pursuant to:
    - A. 725 ILCS 167/15(10) (routed event or special event).
  3. All information gathered pursuant to 725 ILCS 167/15(7) (infrastructure inspection) 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.
- (f) Notwithstanding 725 ILCS 167/20(a) and the timeframes listed in section (e) above, a Department supervisor may retain particular information if:
1. There is reasonable suspicion that the information contains evidence of criminal activity;
  2. The information is relevant to an ongoing investigation or pending criminal trial;
  3. The supervisor deems that the information will be used exclusively for training purposes, provided that any such information shall not contain any personally identifiable information; or
  4. The information consists of only flight path data, metadata, or telemetry information of the drone. (725 ILCS 167/20(b))
- (g) Information Disclosure:
1. Pursuant to 725 ILCS 167/25, the Department shall not disclose any information gathered by the drone, except a Department supervisor 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.
  2. Records of drone usage, including flight path data, metadata, or telemetry information of specific flights, if available, may be disclosed subject to the Freedom of Information Act (5 ILCS 140/) and rules adopted under that Act.
  3. The Department shall neither sell any information gathered by the drone nor disclose any information gathered by the drone to any person to whom disclosure is not authorized under 725 ILCS 167/25.
-

4. Nothing in the Illinois Drones as First Responders Act (PA103-0101) 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.
- (h) When the recording does not fall under the statutory exemptions listed in 725 ILCS 167/15, documentation pertaining to use of the UAS, such as location, date, time, and scope of the mission, is not subject to being destroyed within the timeframes listed in 725 ILCS 167/20.
- (i) The retention of recordings which are exempt from the statutory destruction requirement is at the discretion of the Chief of Police or his authorized designee or determined by the completion of the criminal investigation or criminal trial.

### **394.11 REPORTING REQUIREMENTS**

The Chief of Police or the authorized designee shall report the following:

- (a) Annually, by April 1, to the Illinois Criminal Justice Information Authority, the following information (725 ILCS 167/35):
  - a. The number of UAS's owned by the Morton Grove Police Department.
  - b. The number of times a UAS was used pursuant to each paragraph of 725 ILCS 167/15, 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.
  - c. A copy of the Department's latest policy concerning UAS's as of the most recent April 1.
- (b) Within 24 hrs of UAS initiation, notifying the appropriate State's Attorney's Office of any uses that would require such notification, as required by the Illinois Freedom from Drone Surveillance Act.

The Pilot in Command shall notify the FAA (via the FAA website), within 10 days, of an accident in the following situations:

- (a) Serious Injury to any person or loss of consciousness.
- (b) Damage to any property, other than the UAS, 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.

The Pilot in Command shall:

- (a) Immediately notify the program coordinator of any damage to the UAS, related equipment or to another person's property.
  - (b) Immediately notify the FAA, any adjacent airport, and the program coordinator of a "fly away".
-

- (c) Prior to the end of their shift, document the use of the UAS on departmental UAS forms, and complete a supplemental police report when drone photographs or video are retained as evidence or as directed by a supervisor.

### 394.12 POLICY REQUIREMENTS AND VIOLATIONS

- (a) The Illinois Drones as First Responders Act (PA103-0101) requires the Department to have a policy outlining drone use consistent with the Act. The policy shall include that, if the Department learns of violations of the Act, the Department shall immediately take actions to prevent future violations of the Act through any one or more of the following means: training, discipline, including progressive discipline for repeat violations, or other means that will prevent repeated violations of the Act by law enforcement. If the Department learns of willful and wanton violations of the Act, the Department shall immediately remove the pilot from its drone program and take action to prevent future willful and wanton violations of the Act. (725 ILCS 167/45(a))
- (b) The Illinois Attorney General shall have authority to conduct investigations into patterns and practices of violations of the Illinois Drones as First Responders Act. The Attorney General may:
- A. 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;
  - B. Examine under oath any law enforcement official or any other person alleged to have participated in or with knowledge of the alleged violation; or
  - C. Issue subpoenas, obtain records, conduct hearings, or take any other actions in aid of any investigation. (725 ILCS 167/45(b))
- (c) 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, the Attorney General may compel compliance through an action in the circuit court. (725 ILCS 167/45(b))
- (d) Following completion of an investigation, the Attorney General may, upon his or her own information or upon the complaint of any person, maintain an action for declaratory, injunctive, or any other equitable relief in the circuit court against any law enforcement agency, law enforcement official, or other person or entity who violates any provision of the Act. These remedies are in addition to, and not in substitution for, other available remedies, penalties, or disciplinary action. (725 ILCS 167/45(c))
- (e) Upon entry of an adverse judgment under the Act demonstrating a pattern or practice of violations of the Act, a law enforcement agency shall forfeit its ability to use drones under 725 ILCS 167/15 for not less than six (6) months for a first adverse judgment and up to one (1) year for a second adverse judgment demonstrating a pattern or practice of violating the Act. (725 ILCS 167/45(d))

### FORMS

- [Morton Grove Drone Flight Form](#)
  - [SAO Notification Form - Drone Use](#)
-