

Small Unmanned Aerial Systems (sUAS) Operations

601.1 PURPOSE AND SCOPE

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

601.1.1 DEFINITIONS

Definitions related to this policy include:

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.

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.

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

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.

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:

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.

Special Event – A concert or food festival that:

1. is hosted by the State of Illinois or a county, municipality, township, or park district;

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2. is outdoors and open to the public; and
3. has an estimated attendance of:
 - (a) 150 or more people in a unit of local government with a population that is less than 50,000;
 - (b) 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;
 - (c) 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; or
 - (d) 500 or more people in a unit of local government with a population that is 500,000 or more.

A Special Event does not include any political protest, march, demonstration, or other assembly protected by the First Amendment.

Authority - The Illinois Criminal Justice Information Authority

601.2 POLICY

Small unmanned aerial 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 sUAS will be in strict accordance with constitutional and privacy rights, Federal Aviation Administration (FAA) regulations, and the Illinois Freedom from Drone Surveillance Act (725 ILCS 167/1, et seq.).

601.3 SUAS UNIT ORGANIZATION

The Elmhurst Police Department sUAS Unit will be organized as follows:

601.3.1 SUPERVISOR IN CHARGE

The Chief of Police, or his/her designee, will appoint a Supervisor in Charge of the sUAS unit. The Supervisor in Charge shall be responsible for complete oversight of the sUAS unit. Listed below are the following additional responsibilities of the Supervisor in Charge:

- (a) Ensure that all policies and proper procedures are being followed by the Program Coordinator and all licensed pilots assigned to the sUAS Unit.
- (b) Ensuring that all authorized operators and required observers have completed the required Federal Aviation Administration (FAA) 14 CFR 107 training and department approved training in the operation, applicable laws, policies and procedures regarding use of the sUAS.
- (c) Maintain an active list of pilots who have completed the required training and possess a valid FAA Remote Pilot Certificate or Temporary Airman Certificate with Small Unmanned Aircraft System rating.
- (d) Developing uniform protocol for submission and evaluation of requests to deploy a sUAS, including urgent requests made during ongoing or emerging incidents.

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- (e) 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 ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- (f) Implementing a system for public notification of sUAS deployment.
- (g) Facilitating law enforcement access to images and data captured by the sUAS.
- (h) Reviewing and documenting all reports received from the Program Coordinator.
- (i) Ensuring that established protocols are followed by monitoring and providing periodic program reports to the Chief of Police.

601.3.2 PROGRAM COORDINATOR

The Chief of Police, or his/her designee will appoint a Program Coordinator who will be responsible for the management of the sUAS Unit. 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 Authorization (COA), and/or 14 CFR 107 application process, ensuring that all certifications are current.
- (b) Obtaining any and all necessary FAA waivers (operations over human beings, etc.).
- (c) Developing protocol for conducting criminal investigations involving a sUAS, including documentation of time spent monitoring a subject.
- (d) Developing an operational protocol governing the deployment and operation of a sUAS including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities.
- (e) Developing a protocol for fully documenting all missions.
- (f) Developing a sUAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a sUAS, up to and including its overhaul or life limits.
- (g) Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules and the Illinois Freedom from Drone Surveillance Act.
- (h) Recommending program enhancements, especially regarding safety and information security.

601.3.3 REMOTE PILOT IN COMMAND

The Remote Pilot in Command is the assigned licensed pilot present on scene. Remote pilots shall be chosen by the Chief of Police, his/her designee, and/or the Supervisor in Charge of the sUAS unit. Listed below are the following responsibilities of the Remote Pilot in Command:

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(a) The decision whether safe conditions exist to deploy the sUAS lies solely with the designated Remote Pilot in Command who shall take the following conditions into consideration prior to conducting a mission:

- Airspace conditions
- Weather conditions
- Mental / physical condition of the Remote Pilot in Command
- Necessary flight crew number and condition of crew
- Condition of sUAS and associated equipment
- The Remote Pilot in Command's understanding of their abilities and capabilities of the sUAS

(b) Prior to the operation and use of any sUAS, the Remote Pilot in Command shall conduct an inspection of the sUAS and its associated equipment for any conditions which would adversely affect the safe operation of the sUAS.

(c) If at any time during a flight mission the Remote Pilot in Command experiences any problematic condition with the sUAS, its associated equipment, or other outside factors, the Remote Pilot in Command will safely land the sUAS to assess and remedy the problem prior to continued use.

(d) If at any time during a flight mission, the Remote Pilot in Command believes that the situation or conditions dictate that the mission is no longer safe or feasible, the Remote Pilot in Command shall safely land the sUAS and cease all sUAS operations.

(e) Upon the completion of all flight missions, the sUAS Flight Documentation Form, as well as all necessary associated paperwork, shall be completed and submitted to the Program Coordinator or Supervisor assigned to the sUAS Unit.

(f) Notify the appropriate States Attorney's Office when a sUAS deployment occurs, as required by state law.

601.4 TRAINING

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 UAS and the procedures outlined in this policy

All department personnel with sUAS responsibilities shall also be trained in the local and federal laws and regulations, as well as policies and procedures governing the deployment and use of the small unmanned aircraft system(s).

Assigned officers will undergo regular training on the equipment to ensure continued effective use, proficient 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 will be provided at periodic intervals for personnel displaying a substandard performance in the use of sUAS equipment.

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601.5 MAINTENANCE

All authorized Department sUAS and related equipment shall be maintained in a state of operational readiness, or shall be considered out of service until repaired or replaced.

Modifications outside the manufacturer's specifications shall not be made to any Department-owned sUAS.

No additional equipment shall be fitted to a sUAS without the approval from the Program Coordinator.

Assigned officer shall use reasonable care to ensure the proper functioning of the sUAS equipment. Malfunctions shall be brought to the attention of the Program Coordinator.

601.6 USE OF SUAS

Only authorized pilots who have completed the required training shall be permitted to operate the sUAS.

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.

sUAS operations may be conducted during daylight or nighttime hours, in accordance with FAA rules. The sUAS should not be flown over people without a waiver or as authorized by FAA rules.

The sUAS, or images and data produced by its use, shall not be used for personal business of any type. Any use of the sUAS that is not specifically related to the operation or mission of this department shall require the express authorization of the Chief of Police or his designee.

The Elmhurst Police Department may not use the sUAS 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 sUAS under this paragraph is limited to a period of 48 hours. Within 24 hours of sUAS initiation under this paragraph, the Chief of Police must ensure a report of its use, in writing, is submitted to the appropriate State's Attorney (See 601.3.3(f)).

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- (d) If a law enforcement agency is not undertaking a criminal investigation but is attempting to locate a missing person, engaging in search and rescue operations, or aiding a person who cannot otherwise be safely reached.
- (e) To obtain crime scene and traffic crash scene photography in a geographically confined and time limited manner. Use of the sUAS under this paragraph on private property requires either a search warrant or lawful consent to search. As it relates to lands, highways, roadways or areas belonging to the state, a search warrant or consent to search is not required. Reasonable attempts shall be made to only photograph the crime scene or traffic crash scene and to avoid other areas.
- (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. There is no requirement for an official declaration of disaster or public health emergency prior to use.
- (g) To conduct an infrastructure inspection of a designated building or structure at the express request of a local government agency. Department members 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. The Department's Public Safety Answering Point (PSAP) is DuComm.
- (j) If the Department is using a drone at a routed event or special event. The use of a drone under this section requires that:
 - 1. Notice is posted at the event location for at least twenty-four (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.
- (k) Under Section 10 (b) above, the Department may use the drone:
 - 1. 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

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2. 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.

601.6.1 PRIVATE UAS OWNERS

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

601.7 RESTRICTIONS

1. The sUAS shall not be used:
 - (a) To harass, intimidate, or discriminate against any individual or group.
 - (b) To conduct personal business of any type.
 - (c) Purposefully disturb or pursue wildlife.
 - (d) With onboard facial recognition software that works in conjunction with the drone
 - (e) To obtain data with any facial recognition software, unless
 - i. 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
 - ii. 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
 - iii. With any equipped firearm, weaponized laser, kinetic impact projectile, chemical agent or irritant, or any other lethal or non-lethal weapon
2. 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:
 - (a) Conduct a pre-flight check to ensure the sUAS is in condition for safe operation.

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- (b) Keep the sUAS in visual line of sight.
 - (c) Fly at or below 400 feet above ground level.
 - (d) Fly at or below 100 mph.
 - (e) Yield right of way to manned aircraft.
 - (f) Must not fly from a moving vehicle, except in rural areas.
 - (g) During an emergency situation, deviations from policy are permitted.
3. The sUAS shall not be weaponized.
 4. The Program Coordinator or their designee 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.
 5. Personnel shall notify the Program Coordinator or their designee when he/she knows or has reason to know that he/she has a physical or mental condition that would interfere with the safe operation of the sUAS.

601.8 SECURITY OF RECORDINGS

Personnel should be aware that recordings may contain sensitive information and are responsible for ensuring compliance to the rules and regulations 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 Elmhurst Police 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 Program Coordinator or Supervisor in Charge of the program.
- (c) Any violations related to unauthorized edits, alterations, and dissemination of this data shall be cause for disciplinary action.

601.9 RETENTION AND DISCLOSURE OF SUAS INFORMATION

1. If a law enforcement agency uses a drone under section 601.6 (725 ILCS 167/15), the agency within 30 days shall destroy all information gathered by the drone within the following timeframes:
 - (a) All information gathered pursuant to section 601.6.1-6 or 9 shall be destroyed within 30 days after being gathered.

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- (b) All information gathered pursuant to section 601.6.10 shall be destroyed within 24 hours after being gathered.
 - (c) All information gathered pursuant to section 601.6.7 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.
2. Notwithstanding subsection (a), except that a supervisor at a law enforcement that agency may retain particular information if:
- (a) there is reasonable suspicion that the information contains evidence of criminal activity; or
 - (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; or
 - (d) the information consists of only flight path data, metadata, or telemetry information of the drone
3. If a law enforcement agency uses a drone under Section 601.6, the agency shall not disclose any information gathered by the drone, except that a supervisor of that agency may disclose particular information to another governmental government agency, if
- (a) there is reasonable suspicion that the information contains evidence of criminal activity, or
 - (b) the information is relevant to an ongoing investigation or pending criminal trial.
4. 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 and rules adopted under that Act.
5. A law enforcement agency that uses a drone under 601.6 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 this Section.
6. Nothing in this policy 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.

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601.10 REPORTING

ACCIDENT REPORTING

1. 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:
 - (a) Serious injury to any person or loss of consciousness.
 - (b) 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.
2. 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:
 - (a) Name and contact information for operators and witnesses.
 - (b) Type of operation.
 - (c) Type of device and registration number/certificate.
 - (d) Event location and incident details.
 - (e) Evidence collection such as photos, video, and device confiscation, if necessary.

601.10.1 REPORTING REQUIREMENTS

1. Every remote pilot in command shall be responsible for completing the following documentation when required by this departmental policy or state law:
 - (a) States Attorney's Office Notification Form
 - (b) sUAS Flight Documentation Form
2. Copies of the above forms shall be submitted to the Supervisor in Charge and Program Coordinator.
3. The completion of the above steps shall be noted by the remote pilot in command's report.
4. If a law enforcement agency owns one or more drones, it shall report in writing annually by April 1 to the Authority the number of drones that it owns, the number of times a drone was used pursuant to each paragraph of section 601.6, 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. The report shall contain a copy of the agency's latest policy concerning drones as of the most recent April 1.
5. On July 1 of each year, the Authority shall publish on its publicly available website a concise report that lists every law enforcement agency that owns a drone, and for

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each of those agencies, the number of drones that it owns, the number of times a drone was used pursuant to each paragraph of section 601.6, including the date of use, time of use, reason for use, location, whether video was recorded, whether the video is designated for retention for training purposes. The report shall contain a copy of the agency's latest policy concerning drones as of the most recent April 1.

6. Each law enforcement agency that uses a drone shall implement and make publicly available on its website the law enforcement agency's policy governing the operation, use, administration, and oversight of its drone program

601.11 VIOLATIONS OF STATE STATUTE AND POLICY

1. If the Department learns of violations of State Statute or this policy, the Department shall immediately take actions to prevent future violations 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 State Statute or this policy by personnel. If the Department learns of willful and wanton violations of the Drone Act, the Department shall immediately remove the pilot from its drone program and take action to prevent future willful and wanton violations of the Drone Act.
2. The Attorney General shall have authority to conduct investigations into patterns and practices of violations of this 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. 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, the Attorney General may compel compliance through an action in the circuit court.
3. 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 Drone Act. These remedies are in addition to, and not in substitution for, other available remedies, penalties, or disciplinary action.
4. Upon entry of an adverse judgment under the Drone Act demonstrating a pattern or practice of violations of the Act, a law enforcement agency shall forfeit its ability to use drones for not less than 6 months for a first adverse judgment and up to one year for a second adverse judgment demonstrating a pattern or practice of violating the Drone Act.

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601.12 PROVIDING SUAS ASSISTANCE

The Elmhurst Police Department sUAS Unit is authorized to assist other law enforcement agencies with sUAS deployment, provided all of the aforementioned criteria is met. The determination as to whether or not a member or members of the sUAS Unit will be dispatched to assist will be made by the on-duty shift supervisor. The on-duty supervisor shall make their determination based on the availability of Unit personnel and the severity of the incident for which assistance is requested. In the event that a member of the Unit is available at the time of the request, that member is to be consulted regarding the current weather conditions and the status of the sUAS equipment and will provide a recommendation as to whether or not a deployment is feasible.

The Elmhurst Police Department will retain footage of recorded flights that are requested by another law enforcement agency and will follow the aforementioned retention schedule for those recordings. Copies of the recordings may be released to the agency requesting assistance, with those copies becoming the property of the receiving agency.