

Unmanned Aerial System

378.1 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.

378.1.1 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.

378.2 POLICY

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

378.3 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 take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is an expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

378.4 PROGRAM COORDINATOR

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

- Coordinate with the FAA to apply for a Certificate of Waiver or Authorization (COA) to function as a public aircraft operator that can self-certify its drone pilots and drones and ensure that the COA is current, and/or as appropriate, coordinate with the FAA to operate pursuant to the small unmanned aircraft rules (sUAS) under Code of Federal Regulations, 14 CFR 107.1 et seq., coordinating compliance with Remote Pilot Certifications as appropriate for department operations, and apply for waivers pursuant to 14 CFR 107.200 et seq., to permit UAS operations under circumstances that are otherwise restricted such as near airports, at night, over public locations, over vehicle thoroughways, and other waivers as appropriate.

Newport Beach Police Department

Newport Beach PD Policy Manual

Unmanned Aerial System

- Coordinate with the FAA to apply for a First Responder Tactical Beyond Visual Line of Sight (TBVLOS) waiver of Code of Federal Regulations, 14 CFR 91.113, to permit operation of UAS beyond visual line of sight.
- Ensure 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.
- Coordinate 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).
- Develop protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Develop 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.
- Fully document all missions.
- Develop a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or service life.
- 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.
- Ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitate law enforcement access to images and data captured by the UAS.
- Recommend program enhancements, particularly regarding safety and information security.
- Maintain familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.
- Conduct random audits of UAS recordings on a quarterly basis.

378.5 USE OF UAS

UAS may be used for targeted premises searches only when justified by the consent of the owners or occupants, pursuant to a search warrant, or when exigent circumstances are present (based on the totality of the circumstances, there is an imminent and immediate threat to public safety, harm to individuals, or destruction of material evidence).

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

Newport Beach Police Department

Newport Beach PD Policy Manual

Unmanned Aerial System

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.

UAS operations should only be conducted consistent with FAA regulations.

UAS requested by an outside agency as part of a mutual aid request shall be operated by trained/certified NBPD personnel only and in compliance with NBPD policy

378.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.
- The UAS shall not be weaponized.

378.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention

schedule. UAS cameras shall not record images or other data unless it is determined by an officer that recording is necessary because the record may become part of a criminal investigation file, evidence, or for other department purposes.