

# Unmanned Aerial System

## 616.1 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. This policy is intended to provide Washington County Sheriff's Office personnel who are assigned responsibilities associated with the deployment and use of an UAS instruction on when and how this technology and the data it provides may be used for law enforcement and public safety purposes in accordance with law.

It is the policy of the Washington County Sheriff's Office that duly trained and authorized agency personnel may deploy UAS when such use is appropriate in the performance of their official duties, and where deployment and use, and the collection and use of any audio/video recordings or other data originating from or generated by the UAS, comply with the policy provisions provided herein and applicable law.

This policy is intended to ensure that UAS activities are performed in a manner consistent with the Constitution and applicable state and federal laws. This shall be done by ensuring adequate procedures are in place to receive, investigate, and address, as appropriate, privacy, civil rights, and civil liberties complaints. Complaints will be handled in compliance with Minnesota Statutes Chapter 13 and the Washington County policy with regards to any such complaints.

The purpose of the UAS program in Washington County is to enhance public safety service. This may include the use of an UAS and the collection of UAS data in situations such as in the search for missing persons and victims of natural disasters, inspecting crash sites and chemical spills, mapping and understanding boundaries and impacts of wildland fires and flooding, during events where public safety is at risk and assessing scenes at a safe distance when conditions are too dangerous or rugged for officers on foot. Other acceptable uses may include UAS training flights and other authorized law enforcement activities. The technological components utilized on the UAS will be dependent upon the purpose and conditions for which the UAS is being utilized.

### 616.1.1 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 without the possibility of direct human intervention from within or on the aircraft (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 (Minn. Stat. § 626.19).

## 616.2 POLICY

A UAS may be utilized to enhance the Office's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in

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strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

### **616.3 PRIVACY**

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

### **616.4 PROGRAM COORDINATOR**

The Sheriff 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:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for office operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and office-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocols for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Sheriff or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocols for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing operational protocols governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.

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- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Sheriff.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.
- Developing protocols for reviewing and approving requests for use of the Office UAS by government entities (Minn. Stat. § 626.19).
- Preparing and submitting the required annual report to the Commissioner of Public Safety (Minn. Stat. § 626.19).
- Posting the Office policies and procedures regarding the use of UAV on the office website, as applicable (Minn. Stat. § 626.19).
- Reviewing the program and UAS use for compliance with Minn. Stat. § 626.19.

### **616.5 USE OF UAS**

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

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

Members shall not use a UAS without a search warrant, except (Minn. Stat. § 626.19):

- (a) During or in the aftermath of an emergency situation or disaster that involves the risk of death or bodily harm to a person.
- (b) Over a public event where there is a heightened risk to the safety of participants or bystanders.
- (c) To counter the risk of a terrorist attack by a specific individual or organization if the agency determines that credible intelligence indicates a risk.

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- (d) To prevent the loss of life or property in natural or man-made disasters and to facilitate operation planning, rescue, and recovery operations.
- (e) To conduct a threat assessment in anticipation of a specific event.
- (f) To collect information from a public area if there is reasonable suspicion of criminal activity.
- (g) To collect information for crash reconstruction purposes after a serious or deadly collision occurring on a public road.
- (h) Over a public area for deputy training or public relations purposes.
- (i) For purposes unrelated to law enforcement at the request of a government entity, provided the request is in writing and specifies the reason for the request and a proposed period of use.

### **616.6 PROHIBITED USE**

The UAS video surveillance equipment shall not be used:

- By anyone who has not completed the required training.
- To conduct random surveillance activities.
- To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, national origin, religion, disability, gender, gender identity, or sexual orientation
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.
- To violate the First Amendment or any other constitutional protections.

The UAS shall not be weaponized (Minn. Stat. § 626.19).

The procedures utilized for UAS use comply with existing agency policies and regulations. This includes audits and assessments.

### **616.7 SECURING AND STORING DATA**

Data collected from the UAS has controlled access. The data is retrieved by authorized personnel who has been trained in operation of the UAS and data practices. The data from the UAS is then evaluated. If the data collected is determined to be duplicative, not of evidentiary use, and/or the quality of the data is determined to be unusable, the data is deleted upon initial review. Any and all data that is maintained is subject to the privacy protections imposed by Minn. Stat. Chpt. 13, the Government data Practices Act.

#### *Washington County Evidence Room*

If the data is determined to be evidence for a legal situation, the data is copied to a disc and delivered to the Washington County Evidence Technician for storage within the evidence

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room. The original data is deleted and no secondary copy is retained unless required by law or other policies.

Sensitive information obtained by a UAS that will be utilized for court cases are stored in a secure evidence room located within the Washington County Law Enforcement Center. Access to the room is limited to four people – Washington County Evidence Technician, two approved Washington County Sheriff's Office Sergeants and a Commander. Should other personnel need access to the evidence room, such as in an emergency situation, approval from a Washington County Sheriff's Sergeant, Commander, Chief Deputy, or Sheriff must be obtained prior to access. Their presence is then documented and retained. Video cameras within the evidence room further document the access to the evidence room and data within.

Once UAS data is utilized in a court case, there is a 90 day appeal period in which the data continues to be stored. After that 90 day period, the Washington County Sergeant responsible for the case determines if the information is destroyed or continues to be stored in the evidence room.

### *Washington County IT Storage*

Should the data from the UAS be determined to not be of value to a court case, but is instead collected for another authorized purpose, it will be initially evaluated for PII content. Should PII content be determined to not be included, the information collected from the UAS will be stored on a Washington County server that meets BCA requirements for securing sensitive data.

UAS collected information that is not maintained in a system of records covered by the MN Data Practice Act shall not be disseminated outside of the agency unless dissemination is required by law, or fulfills an authorized purpose and complies with agency requirements.

### **616.8 RETENTION OF UAS DATA**

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

Information collected using UAS that may contain personally identifiable information (PII) shall be deleted within 7 days unless retention of the information is determined to be evidence.

UAS collected information that is not maintained in a system of records covered by the MN Data Practice Act shall not be disseminated outside of the agency unless dissemination is required by law, or fulfills an authorized purpose and complies with agency requirements.

### **616.9 TRANSMISSION OF UAS DATA**

*External – Non-policing agencies or other policing agencies without a vested interest*

Data requests shall follow the county's data practices process.

*External – Other policing agencies*

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Data requests received from other policing agencies who may have a vested interest in the UAS data obtained will follow the county's data practices process unless Washington County Sheriff's Office Policy 335 – Outside Agency Assistance is deemed applicable.

#### *Internal – County Departments*

There are instances when UAS data would be requested for other authorized purposes, such as during natural emergencies (flooding, tornadoes, etc.). This data may be requested by other departments such as county public works when determining water levels with regards to parks, public roadway access, etc. If the information is found to not contain PII, the data shall be shared through the county's email system or through an encrypted jump drive or cd.

#### **616.10 POLICY REVIEW AND UPDATE**

Prior to deployment of new UAS technology and at least every three years, this policy shall be reviewed to ensure that the purpose is being met and that privacy, civil rights, and civil liberties are protected. This policy shall be updated as necessary.

#### **616.11 PUBLIC INFORMATION, TRANSPARENCY, AND OUTREACH**

Notice to the public regarding where the Washington County Sheriff's Office UAS are authorized to operate in the NAS (while not revealing information that could reasonably be expected to compromise law enforcement or national security) is available upon request pursuant to Minnesota Chapter 13.

Information regarding the Washington County Sheriff's Office UAS program as well as changes that would significantly affect privacy, civil rights, or civil liberties (while not revealing information that could reasonably be expected to compromise law enforcement or national security) is available upon request pursuant to Minnesota Chapter 13.

On an annual basis, a general summary of the agency's UAS operations during the previous fiscal year will be made available upon request. This will include a brief description of types or categories of missions flown, and the number of times the agency provided assistance to other agencies, or to State, local, tribal, or territorial governments. This information is available upon request pursuant to Minnesota Chapter 13.

Other avenues by which information about the county's UAS program could include public demonstrations at public events and the county's official social media platforms.