

Unmanned Aerial System (UAS) Operations

611.1 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.

611.1.1 DEFINITIONS

Definitions related to this policy include:

Certificate of Authorization (COA): Given by the Federal Aviation Administration (FAA) granting permission to fly the UAS within specific boundaries and perimeters.

Observer: A member of the Hayward Police Department or Hayward Fire Department who is trained and authorized to maintain visual observation of the UAS while in flight.

Operator: A member of the Hayward Police Department or Hayward Fire Department who is trained, certified, and authorized to control a UAS during flight.

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.

611.2 POLICY

Unmanned aerial systems may be utilized to enhance the Hayward Police 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. UAS usage shall comply with the City's Statement of Values on Surveillance Technology. UAS will be available for cross-departmental use and requests will be evaluated on a case by case basis in accordance with the provisions set forth in this policy.

611.3 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 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.

611.4 PROGRAM COORDINATOR

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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:

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- (a) Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- (b) Ensuring that all authorized operators and required observers have completed all required FAA and Hayward Police 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 written 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, particularly regarding safety and information security.
- (m) Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.

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611.5 ROLES AND RESPONSIBILITIES

The roles and responsibilities for UAS Program members are as follows:

Program Coordinator—a Hayward Police Sergeant who manages the UAS Program and ensures the program operates in accordance with all Federal, State, and local laws, and within department policy and guidelines. In addition, the Program Coordinator will:

- Maintain all training flight and maintenance records for each operator and observer, as well as individual airframes.
- Ensure operators and observers stay current with their training and certifications.
- Maintain contact with the FAA and familiarity with the pertinent FAA regulations.
- Evaluate airframes based on mission needs.
- Remain up to date with current UAS case law, best practices, and industry standards.
- Develop and maintain the UAS Operations Manual.

Operator—the Operator's role is to safely operate the UAS in accordance with all applicable law and policy.

- The operator may reject a flight based on personnel safety, violation of FAA regulations, or requests outside of the scope of the authorized uses outlined in this policy.
- The operator shall be responsive to requests and input from the observer in order to accomplish the safe and effective deployment of the UAS.
- Operators are responsible for mission documentation and updating the flight book.

Observer—the Observer's role is to assist in the safe and effective operation of the UAS. The observer shall:

- Assist the Operator in avoiding obstacles.
- Operate any attachments to the UAS.
- Remain alert for safety issues surrounding the Operator and Observer.
- Handle radio communications.

611.6 USE OF UAS

The UAS will only be used in situations where reasonable suspicion exists, pursuant to a warrant, or during situations where exigent circumstances exist or where public safety needs outweigh privacy expectations. This policy may not encompass every situation officers will encounter in the field and deviations may be necessary and justified. Any deviations from this policy will be reviewed on a case-by-case basis.

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The Chief of Police, Deputy Chief, Captain, or Watch Commander may authorize the deployment of the UAS under the following circumstances:

- (a) Public safety and life preservation missions including, barricaded suspects, hostage situations, active shooters, apprehension of armed and dangerous fleeing suspects, and high-risk search warrants;
- (b) Mass casualty events;
- (c) Lost or missing persons;
- (d) Search and rescue events;
- (e) Disaster response and recovery;
- (f) Suspected explosive devices;
- (g) Fire suppression or investigation;
- (h) Hazardous material releases;
- (i) Post-incident crime scene preservation and documentation;
- (j) Pursuant to a search warrant;
- (k) Mass gatherings or special events where security concerns exist or criminal activity is occurring;
- (l) When there is probable cause to believe that the UAS will record images of a place, thing, condition, or event, and that those images show a felony has been committed, or shows that a particular person has committed a felony.
- (m) Anti-UAS operations when a person is operating a UAS in a manner which impedes emergency personnel who, in the course of their duties, are coping with an emergency (refer to Penal Code § 402(a)1);
- (n) Training missions;
- (o) In support of the Hayward Fire Department when the underlying mission meets the uses outlined in this policy; and
- (p) Mutual Aid support when the underlying mission meets the uses outlined in this policy.
- (q) A UAS specifically designated to the Drone as First Responder (DFR) program can be deployed to any call for service received by Hayward Police Department's Dispatch requiring a staff member be dispatched, including using the UAS in lieu of dispatching a staff member.

611.6.1 CALLOUT PROCEDURE

- (a) The Watch Commander shall make a request via dispatch for qualified UAS team members to respond and deploy the UAS.
 - (a) Dispatch will call the UAS Program Coordinator, or a designee, who will coordinate the callout details with team members.

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- (b) If the UAS Program Coordinator is unavailable, or if specified by the Watch Commander, Dispatch will request assistance from an allied agency or the Hayward Fire Department via ACRECC.
- (b) The UAS team members will handle all UAS operations, notifications and all necessary pre-flight guidelines as specified in the UAS Operations Manual.

611.7 EVIDENCE COLLECTION AND RETENTION

- (a) Following a UAS operation by the Hayward Fire Department or the Hayward Police Department, a Hayward PD case agent or officer shall meet with the UAS operator to collect the UAS video(s). The video(s) recorded by the Fire Department and/or the Police Department will be uploaded into the approved digital evidence management system. The collection and uploading of the video(s) will be documented in a report by a Hayward PD case agent or officer.
- (b) Data collected by the UAS shall be retained as provided in the established Police Department records retention schedule or retained as evidence of a crime.
- (c) Unauthorized use, duplication, and/or distribution of UAS videos are prohibited. Personnel shall not make copies of any UAS videos for their personal use and are prohibited from using a recording device such as a personal camera or any secondary video camera to capture UAS videos. All recorded media, images and audio are the property of the Hayward Police Department and shall not be copied, released or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police.
- (d) Departmental request for a UAS video, including requests from the District Attorney's Office or City Attorney's Office, shall be forwarded as a written request via e-mail, to the Property Unit, with sufficient information to locate the UAS video.
- (e) Non-Departmental Requests for a UAS video shall be accepted and processed in accordance with Federal, State, and local laws, and departmental policy (discovery, media inquiries, subpoenas, California Public Records Act requests, etc.).
 - 1. When practical, Department personnel will be advised prior to any release of UAS video under the California Public Records Act.
- (f) Request for Deletion or Accidental Recording
 - 1. In the event of an accidental activation and recording of the UAS camera system, the recording employee may request that the UAS video is deleted by submitting an e-mail request to the Special Investigations Bureau Lieutenant with sufficient information to locate the UAS video. The Special Investigations Bureau Lieutenant shall review the video, approve or deny the deletion request, and forward to the System Administrator for action if applicable.
 - 2. Videos made during authorized department training will be viewed and/or retained for training purposes and then may be retained or deleted with the authorization of the Special Investigations Bureau Lieutenant. Retained files will be stored in approved training files or the digital management system.
- (g) Copying Procedure

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1. A copy of the UAS video can be requested in accordance with the provisions of this policy.
 2. Property Officers will be responsible for handling evidence requests for DVD copies and online sharing of videos produced by the UAS camera system for court and other approved requests by the Chief of Police or a designee.
- (h) A UAS video may be utilized as a training tool for individuals, specific units, and the department as a whole. A recommendation to utilize a UAS video for such purpose may come from any source outlined below:
1. A person recommending utilization of a UAS video for training purposes shall submit the recommendation through the chain of command to the Watch Commander.
 2. The Watch Commander approving the utilization of a UAS video for training will send an email to Property requesting a copy of the video is placed in the UAS Training file on Sharepoint. This file will hold all training videos. Videos may not be moved to other files, copied, or sent beyond this file.
 3. If an involved officer or employee objects to the showing of a UAS video, the objection will be submitted to their supervisor to determine if the employee's objections outweigh the training value. The Special Investigations Bureau Lieutenant or Division Commander shall review the recommendation and determine how best to utilize the UAS video file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the video versus other means (e.g., departmental policy, Training Bulletin, Officer Safety Bulletin, briefing or other training).

611.8 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- (a) To conduct random surveillance activities, including the manual override of DFR UAS cameras while a UAS is in flight before arriving in the area of a call for service.
- (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) The UAS shall not be weaponized.
- (f) The UAS shall not have facial recognition technology.
- (g) To conduct routine monitoring of a mass gathering, protest, or demonstration where security concerns do not exist or where criminal activity is not occurring.

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611.9 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule. Consistent with data collected by other departmental audio or video recorders (e.g., body worn cameras), recordings shall be retained in a data management system where they are accessible for review and use strict to the guidelines pursuant to this policy. Access to recordings is automatically logged and can be audited.

Recordings that contain evidentiary value shall be retained in the same manner as any other evidence gathered during a criminal investigation. Recordings that contain administrative or evidentiary value shall be retained for up to 5 years or until administrative or criminal proceedings are finalized.

For all non-criminal recordings, the retention of recording media will be 90 days provided it remains unassociated to any criminal or administrative investigations.

611.10 REVISIONS

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