

9.34 UNMANNED AIRCRAFT SYSTEMS (UAS)

PURPOSE

This policy is intended to provide personnel who are assigned responsibilities associated with the deployment and use of Unmanned Aircraft Systems (UAS) with instructions on when and how this technology - and the information it provides - may be used for law enforcement and public safety purposes in accordance with law.

POLICY

The Everett Police Department UAS policy has been informed by best practices for UAS use across the United States. In doing so, this policy incorporates the recommendations of private advocacy groups and public and professional organizations who want to ensure that privacy and 4th amendment protections are an essential part of any public safety policy regarding the use of UAS. This policy is based upon recommendations from the American Civil Liberties Union (ACLU), the Department of Justice (DOJ) COPS Office and the International Association of Chiefs of Police (IACP) and includes references to the following:

1. Adherence and respect for civil rights;
2. Policy on limitations and purpose of use;
3. Documentation of operations;
4. Data minimization and retention;
5. Adherence to FAA regulations;
6. Policy management; and
7. Abuse prevention and accountability.

This policy shall be made available to the public via posting on the police department's public facing website. This Policy shall be reviewed at a minimum every three years to ensure that the department is following best practices for protection of constitutional rights in the use of public safety UAS.

Restrictions:

- UAS will not be used for random surveillance of the general population.
- Collection, use, dissemination, or retention of UAS-recorded data should not be based solely on individual characteristics (e.g., race, ethnicity, national origin, sexual orientation, gender identity, religion, age, or gender), which is a violation of the law.
- UAS will not be equipped with any lethal or less-lethal weaponry.
- Department personnel will never use UAS solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of other rights secured by the Constitution.
- UAS will not be used to search any place where a person has a reasonable expectation of privacy without a warrant or a lawful exception to the warrant requirement.

- UAS shall be deployed and used only to support official law enforcement and public safety missions.
- UAS shall not be operated in an unsafe manner or in violation of FAA rules.

It is the policy of The Everett Police Department 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, comport with the policy provisions provided herein and applicable law.

DEFINITIONS

Digital Multimedia Evidence (DME): Digital recording of images, to include video, sounds, and associated data.

Small Unmanned Aircraft Systems (sUAS): UAS systems that utilize Unmanned Aerial Vehicles weighing less than 55 pounds and are consistent with Federal Aviation Administration (FAA) regulations governing model aircraft.

UAS Flight Crewmember: A pilot, visual observer, payload operator or other person assigned duties for a UAS for the purpose of flight or training exercise.

Unmanned Aircraft Pilot/Remote Pilot: A person exercising control over a UA/UAV/UAS during flight.

DEPLOYMENT

All deployments of UAS must be specifically authorized by an officer the rank of Lieutenant or above. This agency has adopted the use of UAS to provide an aerial visual perspective in responding to emergency situations, exigent circumstances, crime and collision scene reconstruction and other administrative purposes. UAS may be deployed in the following situations:

- Crime Scene reconstruction
 - Traffic collisions
 - Major crimes scenes
- Search and Rescue
 - Marine Operations
 - Child Abduction Response
 - Elderly / juvenile missing persons
- Emergency management.
 - Use during natural or manmade emergencies
 - Urban search and rescue
 - Structure evaluation

-Operations

- K9 tracks
- SWAT response
- Felony crime in progress
- Domestic Violence crime where there is a danger to the victim
- De-escalation / Communications. The use of the UAS to reduce the risk to citizens or officers by providing a means to communicate with persons that may be a risk to themselves or others.

-Administrative purposes

- Training
- Recruitment or promotional efforts highlighting the department

Deployments beyond those identified above will be considered on a case by case basis and only authorized if approved by an officer the rank of Lieutenant or above.

Mutual aid requests for UAS assistance will be considered on a case by case basis. Requests for support in Federal, State, local, tribal, or territorial government operations must be approved by a command staff officer with the rank of a Captain or above. The type of operational assistance must be consistent with the protections of rights that are provided in this policy.

PROCEDURES FOR UAS USE

1. The Everett Police Department must obtain applicable authorizations, permits, or certificates required by the Federal Aviation Administration (FAA) prior to deploying or operating the UAS, and these authorizations, permits, and certificates shall be maintained and current.
2. The UAS will be operated only by personnel (pilots and crew members) who have been trained and certified in the operation of the system and are FAA Certified Remote Pilots.
3. The UAS-certified personnel shall inspect and test UAS equipment prior to each deployment to verify the proper functioning of all equipment and the airworthiness of the device.
4. The UAS equipment is the responsibility of the individual operator and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that an appropriate repair can be made, or a replacement unit can be procured. The Marine Unit chain of command will oversee the UAS program.
5. The UAS equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Everett Police Department.
6. All flights will be documented on a form or database designed for that purpose, and all flight time shall be accurately recorded. In addition, each deployment of the UAS shall include information regarding the reason for the flight; the time, date, and location of the flight;

the name of the supervisor approving the deployment and the staff assigned; and a summary of the activities covered, actions taken, and outcomes from the deployment.

7. Except for those instances where officer safety or investigation could be jeopardized—and where reasonably possible and practical, the department should consider notifying the public via social media.

8. Unless a lawful exception to the warrant requirement exists, such as exigent circumstances, the department will obtain a search warrant if there are specific and articulable grounds to believe that the UAS will collect evidence of criminal wrongdoing and the UAS will be used in a manner that intrudes upon a reasonable expectation of privacy.

DME RETENTION AND MANAGEMENT

1. All DME shall be handled in accordance with existing policy on data and record retention, where applicable.

2. All DME shall be securely downloaded upon the completion of each mission. The UAS-certified operators will record information for each file that shall include the date, time, location, and case reference numbers or other mission identifiers—and identify the UAS personnel involved in mission.

3. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner UAS DME without prior written authorization and approval of the Chief of Police or his designee.

4. All access to UAS DME must be specifically authorized by the Chief of Police or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

5. Files should be securely stored in accordance with agency policy and state records retention laws and retained no longer than necessary for purposes of training or for use in an investigation or prosecution.

RETENTION OF UAS CAMERA VIDEOS

General – Video collected pursuant to the use of UAS will be retained in accordance with department policy, local, state and federal law as well as the Washington State Records Retention Schedule.

1. Videos related to Office of Professional Standards investigations shall be transferred to a format compatible with Blue Team and made part of the file. The videos will be retained in accordance with the Washington State Records Retention Schedule.

2. Videos labelled as evidentiary shall be retained on the secure video server in compliance with state law and until all trial and appellate litigation has been completed.

3. Videos labelled as non-evidentiary shall be retained on the secure video server for 90 days and thereafter may be destroyed in accordance with the applicable records retention schedule unless there is a pending Public Records Act request.
4. Videos requested in a Public Records Act request shall be retained for 24 months after the request (including any litigation) is completed and then destroyed. The retention period applies even if the video is determined to be exempt from disclosure.
5. Accidental Activation - In the event of an accidental activation of the UAS camera where the resulting recording is of no perceived investigative or evidentiary value, the recording employee may request that the video in question be deleted forthwith by submitting a written request to the Deputy Chief of Services. The Deputy Chief shall approve or deny the request and forward the decision to the FIU for action.

6. Employees shall not tamper with, alter, or delete video.

Exception: This does not apply to personnel tasked with system maintenance who purge videos under established guidelines.

RELEASE OF UAS CAMERA VIDEOS

1. For Criminal Justice Purposes - UAS camera videos may be accessed for criminal discovery purposes directly by prosecutors, whose offices may have an account for the secure video server. Prosecutors will be able to locate the existence of a UAS camera video by its reference in the police report and/or CAD report and may search for videos related to pending cases by entering the law enforcement incident report number into the secure video server. Discovery of UAS camera videos released to the defense bar shall be made through the prosecutor.
2. To the Public/media - UAS camera videos will be made available to the public/media through public records requests pursuant to RCW Chapter 42.56. Public records requests for UAS camera videos may be directed to the City Clerk's Office or the Everett Police Department and will be processed by the Public Disclosure Unit. Prior to release, videos from UAS cameras will be reviewed and redacted. Redactions will be consistent with statutory exemptions under Washington law. The Chief of Police may release UAS camera video footage absent a public disclosure request if he/she determines that there is significant public interest to release said video, when the video provides information related to the apprehension/prosecution of offenders or when the video highlights positive work performed by the Everett Police Department.
3. The Public Disclosure Unit may provide third party notification to allow any person whose privacy may be impacted by the release of a UAS camera video time to file a petition for injunctive relief.

UAS SUPERVISION AND REPORTING

1. The Marine Unit chain of command shall manage all deployments and uses of UAS to ensure that officers equipped with UAS devices utilize them in accordance with policy and procedures defined herein.
2. The Lieutenant responsible for the UAS program will audit flight and training documentation monthly.
3. The Lieutenant responsible for the UAS program will provide a yearly report up the chain of command to the Chief of Police. The report shall document,
 - A general summary of UAS operations conducted by the Department during the previous year
 - A brief description of types or categories of missions flown.
 - The yearly report along with the UAS policy will be made available on the department's website for review by the public

COMPLAINTS ABOUT UAS OPERATIONS

Any complaint that is associated with the use of a UAS will be processed in accordance with the provisions of EPD Policy Manual Chapter 5: Internal Affairs.

TRAINING

1. Police personnel who are assigned UAS must complete an agency-approved training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation and proper calibration and performance of the equipment and to incorporate changes, updates, or other revisions in policy and equipment.
2. All agency personnel with UAS responsibilities, including command officers, shall also be trained in the local and federal laws and regulations, as well as policies and procedures governing the deployment and use of UAS.