DEPARTMENTAL GENERAL ORDER

I-25: UNMANNED AERIAL SYSTEM (UAS)

Effective Date:

Coordinator: Electronic Services Unit, Special Operations Division

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UNMANNED AERIAL SYSTEMS (UAS)

I. VALUE STATEMENT

The Oakland Police Department believes in protecting and serving its diverse community and city through fair, equitable and constitutional policing. OPD believes in the usage of technology to aid in this mission and in the investment of Unmanned Aerial Systems (UAS), or better known as "Drones". These fleets will never replace the police officers who have sworn to protect the community, but will assist in mitigating use of force, bring safe resolutions to critical incidents and help save lives. OPD is committed in safeguarding and respecting the privacy of the community and has brought measures and policies in place to ensure none are violated. Regardless of deployment, UAS will be utilized in accordance with OPD Core Values and our Mission.

II. DESCRIPTION OF THE TECHNOLOGY

A. UAS Components

An Unmanned Aerial System (UAS) is 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 components designed for gathering information through imaging, recording or any other means. Generally, a UAS consists of:

- A UAV, composed of:
  - Chassis with several propellers for flight
  - Control propellers and other flight stabilization technology (e.g. accelerometer, a gyroscope),
  - Radio frequency and antenna equipment to communicate

with a remote-control unit;

- A computer chip for technology control;
- A camera, with thermal imaging capabilities;
- A digital image/video storage system for recording onto a digital data memory card;
- A removable speaker
- A remote-control unit; and
- Battery charging equipment for the aircraft and remote control.

B. Purpose

UAS have been used to save lives and protect property and can detect possible dangers that cannot otherwise be seen. UAS can support first responders in hazardous incidents that would benefit from an aerial perspective. In addition to hazardous situations, UAS have applications in locating and apprehending subjects, missing persons, and search and rescue operations as well as task(s) that can best be accomplished from the air in an efficient and effective manner. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

UAV's may not always be ideal for deployment and alternatives should always be considered prior to deployment

C. How the System Works

1. The FAA Modernization and Reform Act of 2012 provides for the integration of civil unmanned aircraft systems into national airspace by September 1, 2015.
2. UAS are controlled from a remote-control unit. Drones can be controlled remotely, often from a smartphone or tablet. Wireless connectivity lets pilots view the drone and its surroundings from a birds-eye perspective. Users can also leverage apps to pre-program specific GPS coordinates and create an automated flight path for the drone. Another wirelessly enabled feature is the ability to track battery charge in real time, an important consideration since drones use smaller batteries to keep their weight low.
3. UAS have cameras so the UAS pilot can view the aerial perspective.
4. UAS use secure digital (SD) memory cards to record image and

video data; SD cards can be removed from UAS after flights to input into a computer for evidence.

III. GENERAL GUIDELINES

A. Authorized Use

1. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. UAS operations should be conducted in accordance with FAA approval.
2. Only authorized operators who have completed the required training shall be permitted to operate the UAS.
3. UAS may only be used for the following specified situations:
    a. Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
    b. Disaster management;
    c. Missing or lost persons;
    d. Hazardous material releases;
    e. Sideshow events where many vehicles and reckless driving is present;
    f. Rescue operations;
    g. Scene documentation for evidentiary or investigation value (e.g. crime, collision, or use of force scenes);
    h. Training;
    i. Hazardous situations which present a high risk to officer and/or public safety, to include:
        i. Barricaded suspects;
        ii. Hostage situations;
        iii. Armed suicidal persons;
        iv. Arrest of armed and/or dangerous persons (as defined in OPD DGO J-04 “Pursuit Driving” Appendix A, H “Violent Forcible Crime”);
        v. Operational pre-planning [prior planning for services of search and arrest warrants. This would provide up-to-date intelligence (e.g. terrain, building layout) so that personnel allocate appropriate resources and minimize last minute chance encounters and uses of force]; and

vi. Service of high-risk search and arrest warrants involving armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime"); and

vii. Exigent circumstances – A monitoring commander (Lieutenant or above) may authorize a Robot or Pole Camera deployment under exigent circumstances as defined in OPD DGO K-03 "Exigent Circumstances[1]." A report shall be completed and forwarded to the Chief of Police and the OPD UAS Coordinator for all deployments authorized under exigent circumstances, for a full review to determine policy compliance.

4. **Deployment Authorization**

a. Deployment of an OPD UAS shall only be for the authorized uses above and require the authorization of the incident commander, who shall be of the rank of Lieutenant of Police or above.

b. Incident commanders of a lower rank may authorize the use of a UAS during exigent circumstances. In these cases, authorization from a command-level officer shall be sought as soon as is reasonably practical.

ESU Operators are encouraged to advise a supervisor or incident commanders when they believe they are uncappable of operating a robot in a safe manner.

5. Deployment Logs

a. A commander authorizing deployment of a UAS shall send notification of the deployment via the military equipment deployment notification process

b. ESU shall record details from each UAS deployment onto a flight log which shall be submitted to ESU and kept on file for FAA records purposes.

c. Flight logs will provide all mission deployment details for each flight.

[1] Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, or the escape of a suspect

6. Privacy Considerations

a. Operators and observers shall adhere to FAA altitude regulations.

b. 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). When the UAS is being flown, operators will take steps to ensure the camera is focused on the areas necessary to the mission and to minimize the inadvertent collection of data about uninvolved persons or places. Operators and observers shall take reasonable precautions, such as turning imaging devices away, to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

B. Prohibited Use

1. UAS shall not be equipped with any weapon systems or analytics capable of identifying groups or individuals, including but not limited to facial recognition or gait analysis.
2. UAS and remote-control units shall not transmit any data except to each other. Data shall only be recorded onto removable SD cards.
3. UAS shall not be used for the following activities:
    a. For any activity not defined by "Authorized Use" Part 3 above.
    b. Conducting surveillance.;
    c. Targeting a person or group of people based on their characteristics, such as but not limited to race, ethnicity, national origin, religion, disability, gender, clothing, tattoos, sexual orientation and/or perceived affiliation when not connected to actual information about specific individuals related to criminal investigations.
    d. For the purpose of harassing, intimidating, or discriminating against any individual or group.
    e. To conduct personal business of any type.

C. Communications

Notifications will be made to the Communications Section for notifying patrol personnel, when UAS operations are authorized by a Commander.

IV. UAS DATA

A. Data Collection

The video recording only function of the UAS shall be activated whenever the UAS is deployed, and deactivated whenever the UAS deployment is completed. The UAS operator will rely on SD Cards for video recordings.

B. Data Retention

Video recording collected by OPD UAS shall be retained five days and deleted on the fifth day unless:

1. The recording is needed for a criminal investigation;
2. The recording is related to a City of Oakland Police department administrative investigations (Internal Affairs Investigation).

The program coordinator shall develop procedures to ensure that data are retained and purged in accordance with applicable record retention schedules.

C. Data Access

OPD's Electronic Services Unit (ESU) shall be responsible for the maintenance and storage of UAS equipment. Members approved to access UAS equipment under these guidelines are permitted to only access the data for administrative or criminal investigation purposes.

UAS image and video data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

1. The agency makes a written request for the OPD data that includes:
    a. The name of the requesting agency.
    b. The name of the individual making the request.
    c. The basis of their need for and right to the information.
        i. A right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law. A need to know is a compelling reason to request information such as direct involvement in an

investigation.

2. The request is reviewed by the Chief of Police, Assistant Chief of Police, or Deputy Chief/ Deputy Director or designee and approved before the request is fulfilled.
3. The approved request is retained on file, and incorporated into the annual report pursuant to Oakland Municipal Code Section 9.64.010 1.B.

D. Data storage, access, and security

The program coordinator shall develop procedures to ensure that all UAS SD card data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence. These procedures include 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.

E. Data Sharing

UAS systems deployed by OPD shall not share any data with any external organizations via integrated technology. The UAS only sends data to the flight controller via encrypted radio signals – there is no internet connection for external data sharing.

F. Public Access

UAS data which is collected and retained under subsection B of this section is considered a "law enforcement investigatory file" pursuant to Government Code § 6254, and shall be exempt from public disclosure. UAS data which is retained pursuant to subsection B shall be available via public records request pursuant to applicable law regarding Public Records Requests as soon as the criminal or administrative investigations has concluded and/or adjudicated.

G. Data Protection and Security

All UAS SD card data will be secured in a manner (e.g. lockbox) only accessible to ESU personnel. All evidence from UAS SD cards shall be submitted to the OPD Evidence Unit for safe storage.

V. UAS ADMINISTRATION

A. System Coordinator / Administrator

1. The ESU 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.
2. The ESU Unit Supervisor, or other designated OPD personnel shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that covers all use of the UAS technology during the previous year. The report shall include all report components compliant with Ordinance No. 13489 C.M.S. The annual report will include a breakdown of incident type for each year.
3. **FAA Certificate of Waiver or Authorization (COA)**

   COA (Certificate of Authorization) given by the FAA which grants permission to fly within specific boundaries and perimeters. The UAS Coordinator will maintain current COA's consistent with FAA regulations. The ESU Unit Supervisor, or other designated OPD personnel, shall coordinate the application process and ensure that the COA is current.
4. **Submission and evaluation of requests for UAS use**

   The ESU Unit Supervisor, or other designated OPD personnel, shall develop a uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.

B. Facilitating law enforcement requests

The ESU Unit Supervisor, or other designated OPD personnel, shall facilitate law enforcement access to images and data captured by UAS as allowable by department policy and/or City of Oakland ordinance.

C. Program improvements

The ESU Unit Supervisor, or other designated OPD personnel, shall recommend and accept program improvement suggestions, particularly those involving safety and information security.

D. Maintenance

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, and include this protocol in the UAS procedure manual. Maintenance and record-keeping should also include expenditures such as purchase of new equipment and mechanical repairs.

E. Cost Analysis

The ESU Unit Supervisor, or designated OPD personnel, shall develop a protocol for developing and documenting data for a cost-benefit analysis. This cost benefit analysis will include amount of UAS personal involved (operators and visual observers), UAS equipment utilized, suspect(s) located (e.g. gender, race and age) and the recovery of evidentiary items (e.g. firearms, clothing, vehicles, etc).

F. Training

The ESU Unit Supervisor, or other designated OPD personnel, shall 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.

G. Auditing and Oversight

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a protocol for documenting all UAS uses in accordance to this policy with specific regards to safeguarding the privacy rights of the community and include this in the UAS procedure manual and the annual UAS report. The UAS supervisor will develop an electronic record of time, location, equipment, purpose of deployment, and number of UAS personal involved. Whenever a deployment occurs the operator will send notification/submit (either electronically or hard copy) to the UAS Supervisor to include the topics listed above. This protocol will allow the UAS supervisor to have a running log of all deployments and assist in the annual report.

H. Reporting

The ESU Unit Supervisor, or other designated OPD personnel, shall monitor the adherence of personnel to the established procedures and shall provide an annual report on the program to the Chief of Police.

The ESU Unit Supervisor, or other designated OPD personnel, shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that contains a summary of authorized access and use

I. Inquiry and Complaint Process

(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.[1] Refer to DGO K-7 for additional information.

J. Training

The ESU Unit Supervisor, or other designated OPD personnel, shall develop an operational procedure manual 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.

By Order of

LeRonne L. Armstrong

Chief of Police Date Signed:

[1] DGO M-3 states, "IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander."