

Unmanned Aerial System

606.1 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.

sUAS policies and procedures will be available on the Sheriff's Office website and will remain available, in the most current format for the duration of any sUAS program implemented by the Sheriff.

606.1.1 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) or drone), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

Remote Pilot in Charge (RPIC) - Shall mean the pilot actually flying the UAS, or charged with flying the UAS.

Chief Pilot - The UAS Program Coordinator, to be named by the Sheriff.

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

606.3 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.

UAS-recorded data will not be collected, disseminated or retained solely for the purpose of monitoring activities protected by the U.S. Constitution, such as the First Amendment's protections of religion, speech, press, or assembly.

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 law.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

UAS-collected information that is not maintained in a system of records covered by the Privacy 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.

606.4 CHIEF PILOT

The Sheriff will appoint a UAS Program Coordinator or Chief Pilot who will be responsible for the management of the UAS program. The Chief Pilot will ensure that oversight procedures for the agencies' UAS use, including audits or assessments, comply with existing agency policies and regulations; and enforce policies and procedures, or confirm that policies and procedures are in place, which provide meaningful oversight of individuals who have access to sensitive information (including any PII) collected using UAS: 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.
- 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 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 the authorization of the Sheriff or the authorized designee, depending on the type of mission. Such designees shall include Sheriff's Office Sergeants, the Schoharie County Fire Coordinator, Schoharie County Deputy Fire Coordinators, and the UAS Program Coordinator.
- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- 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.
- 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.
- 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.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

- 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.
- Conducting an annual collaboration on and review of UAS policy and procedure involving pilots and the Training Coordinator.
- Compiling an annual report of of UAS missions for release to the public
 - It shall be the responsibility of the Sheriff to publish an annual report to be posted on the department webpage and any other means available to the public.
- Oversight and audit procedure of UAS missions conducted. Such procedure shall include:
 - Ensure that oversight procedures for agencies' UAS use, including audits or assessments, comply with existing agency policies and regulations; and ensure policies and procedures, in place, are followed to provide meaningful oversight of individuals who have access to sensitive information including any PII collected using UAS.
 - At least bi-monthly evaluations by the Sheriff or his designee (non-pilot)
 - Spot check of UAS video data
 - Check other provided mission data to ensure compliance with policy, procedure and FAA regulations

606.5 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 during daylight hours and a UAS should not be flown over populated areas without FAA approval. UAS operations should only be conducted during night time hours with FAA approval.

606.5.1 PUBLIC NOTIFICATION

Dependent on nature of the flight, notification to the public at large or within a particular area should be made prior to, during or soon after a UAS mission as practicable. Such notification may be made using Sheriff's Office social media, via reverse 911 through the 911 Dispatch Center or in person to residents or persons within a geographical area where a UAS is operated.

606.6 AUTHORIZED MISSIONS

UAS missions may be conducted:

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

- Where there are specific and articulable grounds to believe that the drone will collect evidence relating to a specific instance of criminal wrongdoing or if the drone will intrude upon reasonable expectations of privacy, where the Sheriff's Office has obtained a warrant based on probable cause, or where the Sheriff's Office has obtained the consent of an appropriate party, considering residency, ownership and privacy interests.
- Where there is a geographically confined, time-limited emergency situation in which particular individuals lives are at risk, including but not limited to a fire, hostage crisis, or person lost in the wilderness.
- For reasonable non-law enforcement purposes where privacy will not be substantially affected such as geological inspections, environmental surveys, infrastructure inspections, and where the data will not be used for secondary law enforcement purposes.
- For training purposes.
- sUAS will monitor and assess critical infrastructure and provide emergency incident situational awareness.

APPROVALS

Certain UAS missions may be initiated with approval of the Chief Pilot and mere notification to the Shift Supervisor or if not available to the Undersheriff. In the event that the UAS team will be comprised of one or more members currently working, the approval of the Shift Supervisor is also necessary in the following instances.

Such missions shall include:

- Requests made through the 911 Dispatch Center by the Schoharie County Fire Coordinator or a Deputy Fire Coordinator for incidents occurring inside Schoharie County.
- Requests made through the 911 Dispatch Center by the Schoharie County Search and Rescue Team for incidents occurring inside Schoharie County.

UAS Training missions shall require the approval of both the Chief Pilot and a member with the rank of Sergeant or above.

All other UAS missions shall require the approval of a member with the rank of Sergeant or above.

All UAS missions involving an investigation into suspected criminal activity or UAS missions conducted out of county shall require at least a two person team, one RPIC and one spotter or observer with the understanding that said responsibilities may reverse as an incident becomes prolonged. For this reason every effort should be made to have two pilots comprise the team. However, with approval of the Shift Supervisor or Chief Pilot a non-pilot member can perform as the observer as practicable.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

UAS missions that appear non-criminal in nature should be conducted by at least a two person team but may be flown by a single pilot with the approval of the Shift Supervisor or Chief Pilot.

Any RPIC may refuse to fly for any reason and shall not be countermanded by a supervisor or commanding officer. Reasons for refusing flight may include but are not limited to weather conditions, safety concerns, manpower limitations or FAA regulations and possible violations.

It is a goal of the Sheriff's Office to provide UAS Mutual Aid to outside agencies when requested and practicable. The Sheriff shall establish policies or procedures to authorize the use of UAS assistance in support of Federal, State, local tribal or territorial government operations. Certain Mutual Aid Agreements or Memorandums of Agreement or other protocols may become established which may eliminate the need for approval of certain individual requests. Any mutual aid request from an outside agency will be deferred to a Shift Supervisor who will confirm the approval of the Sheriff or his designee before authorizing any such mission or deferred directly to the Undersheriff if a shift supervisor is not present or available. Once approved Mutual Aid missions will be conducted in accordance with Federal and State law.

606.7 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure manner with access restricted to authorized persons. A recording needed as evidence shall be copied into a suitable medium and logged into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented. The type of video or photographic surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. Recordings or photographic evidence related to a criminal investigation shall be retained at least until the disposition of any criminal case and/or as long as the possibility of civil litigation relative to the matter exists. Video or photographic data not related to a criminal matter shall be maintained for a minimum of 180 days.

Information collected using sUAS that may contain PII shall not be retained for more than 180 days unless retention of the information is determined to be necessary to an authorized mission of the retaining agency, is maintained in a system of records covered by the Privacy Act or is required to be retained for a longer period by any other applicable law or regulation.

606.7.1 EVIDENTIARY INTEGRITY

All downloaded and retained media relative to a criminal investigation shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence. Electronic trails, including encryption, digital masking, of innocent or uninvolved persons to preserve anonymity, authenticity certificates, and date and time stamping shall be used as appropriate to preserve individual rights and ensure authenticity and maintenance of a secure evidentiary chain of command.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

606.8 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- 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.

606.9 COMPLAINTS

The Schoharie County Sheriff's Office takes seriously all complaints regarding the service provided by the Office and the conduct of its members.

The Office will accept and address all complaints of misconduct in accordance with this policy, policy 1010 (Personnel Complaints) and applicable federal, state and local laws; and municipal and county rules, and the requirements of any collective bargaining agreements.

It is also the policy of this Office to ensure that the community can report misconduct without concern of reprisal or retaliation.

Personnel Complaint Forms may be obtained on line at the Agency's web page or in person at the Sheriff's Office.

606.9.1 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate office policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Office.

The following applies to the source of complaints:

Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

Any member becoming aware of alleged misconduct shall immediately notify a supervisor.

Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

Tort claims and lawsuits may generate a personnel complaint.

All complaints will be courteously accepted by any office member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained if necessary.

Supervisors shall ensure that all formal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

Allegations of misconduct will be administratively investigated as follows.

606.9.2 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Sheriff or the authorized designee may direct that another supervisor investigate the complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.

The original complaint form will be directed to the Shift Supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.

In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Supervisor or the Sheriff, who will initiate appropriate action.

Responding to all complaints in a courteous and professional manner.

Resolving those personnel complaints that can be resolved immediately.

Follow-up contact with the complainant should be made within 24 hours of the Office receiving the complaint.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Undersheriff.

Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Undersheriff and Sheriff are notified via the chain of command as soon as practicable.

Promptly contacting the Personnel Department and the Undersheriff for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

Forwarding unresolved personnel complaints to the Undersheriff, who will determine whether to contact the complainant or assign the complaint to investigations.

606.9.3 INVESTIGATING A COMPLAINT

Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.

When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

Ensuring that the procedural rights of the accused member are followed.

Ensuring interviews of the complainant are generally conducted during reasonable hours.

Whether conducted by a supervisor or a member of the Administration, the following applies to employees covered by Civil Service Law (Civil Service Law § 75).

Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.

Unless waived by the employee, interviews of an accused employee shall be at the Schoharie County Sheriff's Office or other reasonable and appropriate place.

No more than two interviewers should ask questions of an accused employee.

Prior to any interview, an employee should be informed of the nature of the investigation.

All interviews should be for a reasonable period and the employee's personal needs should be accommodated.

No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a Garrity advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating foreseeable conflicts between the two related investigations.

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.

All employees subjected to interviews that could result in discipline have the right to have a certified or recognized union representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

The employee shall be informed in advance and in writing of the right of representation.

If the employee is unable to find representation within a reasonable time, the interview will proceed.

All employees shall provide complete and truthful responses to questions posed during interviews.

No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

Upon receipt of any completed personnel investigation, the Undersheriff shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Undersheriff may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Sheriff, the Undersheriff may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Sheriff, the Undersheriff shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

606.9.4 SHERIFF RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Sheriff shall review the recommendation and all accompanying materials. The Sheriff may modify any recommendation and/or may return the file to the Supervisor for further investigation or action.

Once the Sheriff is satisfied that no further investigation or action is required by staff, the Sheriff shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Sheriff shall provide the employee with a written notice that includes the reasons for the proposed disciplinary act and a copy of the charges (Civil Service Law § 75).

Schoharie County Sheriff's Office

Policy Manual

Unmanned Aerial System

The employee shall be given an opportunity to respond in writing to the Sheriff within eight days of receiving the notice. Upon a showing of good cause by the employee, the Sheriff may grant a reasonable extension of time for the employee to respond.

Once the employee has completed his/her response, or if the employee has elected to waive any such response, the Sheriff shall consider all information received in regard to the recommended discipline. The Sheriff shall designate a hearing officer, in writing, when there is a recommendation for disciplinary action or termination of an employee. Upon completion of the hearing, the Sheriff shall review the record of the hearing and recommendations of the hearing officer and shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Sheriff has issued a written decision, the discipline shall become effective.

606.9.5 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Sheriff or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

606.10 SECTION TITLE