

Unmanned Aircraft System Model Policy

December 2022



**Municipal Police
Training Council**

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

www.criminaljustice.ny.gov



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Model Policy

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Unmanned Aircraft System Model Policy

The Unmanned Aircraft System Model Policy is intended to allow for the individual needs of each of the police departments in New York State regardless of size or resource limitations. Law Enforcement are encouraged to customize these protocols to meet their regional needs, while being mindful of the intent of the policy. As with all model policies adopted by the Municipal Police Training Council (MPTC), this policy is non-binding upon agencies within New York State and is meant to serve as a guide to be used in developing a department's individual policy.

The Municipal Police Training Council (MPTC) approved the model policy in the December 2022 meeting.

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New York State Police

New York State Sheriff's Association

New York State University Police

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

I. PURPOSE

Law enforcement's use of an unmanned aircraft system has many benefits. This important tool can provide lifesaving measures, is effective in the reduction of the law enforcement footprint and can be used under many circumstances that provide additional public safety.

This policy is intended to provide personnel who are assigned responsibilities associated with the deployment and use of UASs with guidelines for the proper usage of these vehicles; the maintenance, storage, retrieval and dissemination of any digital multimedia evidence (DME) captured by UASs; and to minimize risk to law enforcement personnel, the public and property during the operation of UASs while protecting the right to privacy of citizens.

This policy is intended to allow for the individual needs of each of the police agencies in New York State regardless of size or resource limitations. Law enforcement agencies are encouraged to customize these protocols to meet their agency's needs, while being mindful of the intent of the policy.

II. POLICY

It is anticipated that this policy will provide agencies and officers with guidelines on the deployment of UASs when such use is appropriate in the performance of their official duties or when providing assistance to another agency, and where deployment and use, and the collection and use of any DME or other data originating from or generated by UASs conforms with the policy provisions provided herein, applicable state and federal laws and the Certificate of Authorization (COA) and/or the Remote Pilot Certificate issued by the Federal Aviation Administration (FAA).¹

In addition to posting the agency's UAS policy on the agency's website, engagement with the community shall occur in a way that will assist in the transparency of the UAS program and to reach as many community members as possible. The agency Public Information Officer will ensure questions and concerns from the public are adequately addressed, including the posting of UAS program frequently asked questions to the agency's website.

III. DEFINITIONS

- A. **107 Rules:** the FAA's "Part 107" rules provide a general framework for government agencies to operate unmanned aerial systems. Under the 107 rules, the FAA has a process to certify UAS pilots. Depending on the nature of the UAS mission, agencies with certified 107 pilots can choose to operate under 107 rules or a Certificate of Authorization (COA), once obtained and depending on the mission and the airspace can offer more flexibility in some cases.

¹ To find out more about obtaining a COA or the Rules of 107 contact the FAA/UAS Integration Office at 9-AJR-36-UAS@faa.gov or visit www.faa.gov/uas/public_operations to obtain a COA.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

- B. **Authorized Supervisory Personnel** – An agency administrator who has full access to and user rights within the DME storage system. They can authorize UAS operations, assign and track equipment, control passwords, oversee needed repairs, delete non-evidentiary recordings, conduct audits and quality control reviews.
- C. **Authorized Agency UAS Pilots** – Personnel assigned by authorized supervisory personnel or non-agency personnel contracted on behalf of the agency to operate UASs or any portion of the Unmanned Aircraft System (UAS) who has also completed an agency-approved training program and meets all conditions of either the COA issued by the FAA² and /or possesses and maintains a valid FAA Part 107 Remote pilot certificate.
- D. **Beyond Visual Line of Sight (BVLOS)** – A broad spread of existing and potential UAS operations whose only common factor is the Uncrewed Aircraft (UA) being out of the direct visual line of sight of the remote pilot.
- E. **Certificate of Authorization (COA)** – As best practice, prior to usage of a UAS all government agencies, including law enforcement, flying a UAS for commercial purposes under part 107, should register the specific UAS and all intended uses with the FAA and obtain a Certificate of Authorization (COA) authorizing them to use a UAS within a certain area of space, to be determined by the FAA in consultation with the applying agency. In an emergency, as described below, an Emergency COA will be issued.^{3, 4}
- F. **Defined Incident Perimeter** – A location with a defined perimeter to be determined based on the scope of the operation and a defined operational ceiling at or below 400 feet Above the Ground (AGL).
- G. **Digital Multimedia Evidence (DME)** – Digital recording of images, sounds, and associated data captured by a UAV or UAS.
- H. **Low Altitude Authorization and Notification Capability (LAANC)** – The FAA developed LAANC to provide a UAS operators an automated, streamlined, and efficient solution to receive airspace authorizations from Air Traffic. LAANC uses a data exchange framework with UAS Service Suppliers (USSs) to provide quick access to controlled airspace for UAS operators.
- I. **National Airspace System (NAS)** – The NAS is a network of both controlled and uncontrolled airspace, both domestic and oceanic. It also includes air navigation facilities, equipment, and services; airports and landing areas; aeronautical charts, information and services; rules and regulations; procedures and technical information; and manpower and material.

² Each jurisdiction will have unique needs, resources and capabilities as well as differing intended uses of their UAS. Each jurisdiction should work with the FAA when acquiring a COA to determine specific registration and/or certification requirements.

³ Visit www.faa.gov/news/press_releases/news_story.cfm?newsid=17014 for more information on obtaining an Emergency COA.

⁴ Emergency COAs are customarily issued within 24 hours of application. Jurisdictions are encouraged to think comprehensively as possible when applying for a COA to minimize a need for an Emergency COA. SGIs (not emergency COAs as can also be issued for Part 107 ops) are typically issued in less than an hour.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

- J. **Remote Pilot in Command (RPIC/PIC)** – The RPIC will function as the team leader of the UAS crew and the operator of the UAS. The RPIC will be ultimately responsible for the operation and solely responsible for the input of commands/piloting of the UAS during flight. The RPIC will be responsible for UAS assembly, UAS flight preparation, UAS flight, UAS post flight procedures, and UAS disassembly and storage.
- K. **Significant Government Interest (SGI)** – The FAA issues SGIs on emergency basis when:
1. A situation exists in which there is distress or urgency and there is an extreme possibility of a loss of life;
 2. The mission is time sensitive;
 3. The requesting agency has determined that manned flight operations cannot be conducted efficiently;
 4. The proposed UAS is operating under a current, approved COA for a different purpose or location.
- L. **Unmanned Aircraft (UA) or Unmanned Aerial Vehicle (UAV)** - an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.
- M. **Unmanned Aircraft System (UAS)** - an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system.
- N. **Visual Line of Sight** – When a Person operating an Unmanned Aircraft has an unobstructed view of the Unmanned Aircraft. The operator must use their own natural vision (which includes vision corrected by standard eyeglasses or contact lenses) to observe the Unmanned Aircraft⁵.
- O. **Visual Observer (VO) (herein referred to as observer)** – A person who maintains visual observation of the UAS while it is in flight and alerts the RPIC of any conditions (obstructions, terrain, structures, air traffic, weather, etc.) which may affect the safety of the flight. The VO will be responsible for all aviation related communications required by the FAA. To accomplish this effectively, the VO will be in close proximity to the RPIC to ensure instant relaying of information.

⁵ People other than the operator may not be used in lieu of the operator for maintaining visual line of sight to the Unmanned Aircraft, except as otherwise permitted by federal law. The use of vision-enhancing devices, such as binoculars, night vision goggles, powered vision magnifying devices, and goggles or other devices designed to provide a "first-person view" from the Unmanned Aircraft do not constitute visual line of sight of the Person operating the Unmanned Aircraft.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

The VO will also assist the mission controller/safety officer in completing their functions.

IV. Procedures

All deployments of UASs should incorporate procedures to assure authorized usage, safe operation, secure storage and documentation of usage of UASs.

A. Permissible Use of an Unmanned Aircraft System

1. All deployments of UASs should be authorized by supervisory personnel and conform to a Certificate of Authorization (COA) or Part 107 rules, and the policy and procedures defined herein.
2. All deployments shall be conducted by authorized agency personnel.
3. UASs may be used for, but are not limited to, the following purposes:
 - a) Situational Awareness - To assist decision makers in understanding the nature, scale or scope of an incident and for planning/coordinating an effective response.
 - b) Search and Rescue - To assist missing person investigations, AMBER Alerts, Missing Child Alerts, Missing College Student Alerts and Vulnerable Adult Alerts and other search and rescue missions.
 - c) Tactical Deployment - To support the tactical deployment of officers and equipment in emergency situations.
 - d) Community Safety – To ensure crowd safety for special events, document accident scenes, assessment of storm damage and other major incident scene.
 - e) Agency Assistance - To assist another agency which does not possess a UAS but wants to use a UAS pursuant to the categories contained within this section.
 - f) Public relations missions/demonstrations – To educate community stakeholders on when the UAS is deployed, its capabilities and to communicate the agency's commitment to respect individual privacy rights while using the technology to keep the public safe
4. In the event that neither 107 rules nor the agency COA authorize the mission, the agency shall seek to operate under a SGI (Significant Governmental Interest).

B. Prohibited Use of an Unmanned Aircraft Systems

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

1. Authorized agency personnel shall only deploy UASs for a public safety purpose as set forth above in Section IV.A 3.
 2. Authorized agency personnel shall not deploy UASs in an unsafe manner or in violation of FAA rules governing use of UASs by governmental agencies.
 3. Weapons shall not be affixed to UASs.
 4. Authorized agency personnel cannot operate several UASs with different operators unless they de-conflict their operations. With a waiver one operator can control several drones.
- C. Privacy: The use of the UAS/UA potentially involves privacy considerations.
1. Absent a warrant or exigent circumstances, operators and observers shall adhere to Federal Aviation Administration (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).
 2. Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.
 3. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.
- D. Equipment maintenance and storage
1. Authorized supervisory personnel shall coordinate maintenance, repairs and updates of UASs as well as coordinate with IT regarding system related issues.
 2. Authorized agency personnel shall inspect and test UASs prior to each deployment to verify maintenance, proper functionality, general airworthiness, mission specific airworthiness and proper radio frequency.
 3. Authorized agency personnel shall store UASs in a secure manner as well as maintain and operate UASs with proper care and in the event of an equipment malfunction, report it to authorized supervisory personnel as soon as possible, cease deployment immediately and document in a written report.
- E. Procedures for Operation
1. Authorized agency personnel shall inspect crew fitness, lighting, line-of sight, altitude, and weather conditions prior to each deployment to verify suitability for flight.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

2. Inspections of crew fitness, lighting, line-of-sight, altitude, and weather conditions shall conform to the following:
 - a) Lighting: Authorized agency personnel shall only deploy UASs in accordance with a COA, Emergency COA or 107 rules which will outline the necessary requirements and UAS capabilities needed for safe operation as well as specifically denote whether day and/or night flight is permitted.
 - b) Line-of-sight: Authorized agency personnel shall review the intended flight pattern of UASs for hazards prior to each deployment. Authorized agency personnel shall only deploy UASs within line of sight of operator in an attempt to detect and avoid hazards such as aircrafts, trees and property.⁶ Unless operating under an FAA issued Tactical Beyond Visual Line of Sight (TBVLOS) COA authorizing flights beyond line of sight.
 - c) Altitude: All UAS flights shall be conducted at less than 400 feet above Ground Level or up to 400' above a structure/obstructions uppermost limit, unless otherwise noted in the COA or approved by FAA in an Emergency COA/107.⁷
 - d) Weather
 - (1) Temperature: Authorized agency personnel shall only deploy UASs per the UAS manufacturer recommendations. Authorized agency personnel shall adjust UAS battery and flight length as necessary according to temperature.
 - (2) Wind: Authorized agency personnel shall measure wind velocity prior to each deployment and shall only deploy UASs when the wind velocity is within the parameters set forth by the operational guidelines of the UAS being deployed. Authorized personnel should be cognizant that they have the battery power for the UAS to return to home in heavy winds.
 - (3) Rain, Snow, Fog: Prior to deployment of a UAS, authorized agency personnel shall ascertain whether rain, snow or fog may decrease visibility or operator safety.

⁶ Per 14 CFR Part 91 of the Federal Aviation Administration Rules and Regulations, the role of the observer is to observe the activity of the unmanned aircraft and surrounding airspace, either through line of-sight on the ground or in the air by means of a chase aircraft. In general, this means the pilot or observer must be, in most cases, within 1 mile laterally and 3,000 feet vertically of the unmanned aircraft.

<https://www.gpo.gov/fdsys/pkg/FR-2007-02-13/pdf/E7-2402.pdf>

⁷ Not applicable when operating under the TBVLOS COA.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

- (4) Agency personnel may deploy UASs if weather conditions do not prevent personnel from adhering to line-of-sight and minimum weather requirements.
 - (5) Authorized agency personnel shall constantly monitor current weather conditions by utilizing an FAA approved weather source such as 800WXBRIEF.
 - e) Night Flight: UAS pilots operating under Part 107 may fly at night, over people and moving vehicles without a waiver if the aircraft meets the requirements as defined in the rules. Airspace authorizations are still required for night operations in controlled airspace.
3. Mission Walk Through: When applicable, authorized agency personnel shall conduct a preflight briefing at which they shall review mission, goals, methods and procedures; UAS battery charge and Global Positioning System (GPS) strength; personnel communication procedures; emergency/contingency procedures, including but not limited to, UAS malfunction/failure, flight termination, flight diversion and lost link procedures; contents of COA; radio frequency to be used; take-off and landing site, defined incident perimeter and flight perimeter.
4. Moving Vehicle: UAS pilots will not operate, without a waiver, from a moving vehicle unless the operation is over a sparsely populated area or authorization from the FAA has been granted through a waiver.
5. Air Traffic Control Notification: Depending on the circumstances, authorized supervisory personnel shall inform local Air Traffic Control, if required, of an impending flight or obtain a waiver of notice from local Air Traffic Control at the issuance of the COA, or obtain a LAANC via an application from a mobile device.⁸
6. Accident notification: an accident must be reported to the FAA within 10 days for Part 107 operators or 24 hours for COA operators.

F. Records

1. All UAS flights shall be documented on a form or database designed for that purpose and shall include, but are not limited to, the following:
 - a) The reason for the flight, as set forth above in Section IV.A 3.
 - b) Date, time, duration and location of the flight.
 - c) Name of Supervisor approving flight.

⁸ Per 14 CFR Part 91 of the Federal Aviation Administration Rules and Regulations. <https://www.gpo.gov/fdsys/pkg/FR-2007-02-13/pdf/E7-2402.pdf>

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

- d) List of staff assigned to flight.
- e) Summary of actions taken, activities, and outcomes from deployment.
- f) Brief description of captured DME and storage location.^{9 10}
- g) Storage
- h) Authorized personnel shall handle, and store captured DME in accordance with existing agency procedure for storing digital files and applicable statutes regarding, but not limited to, evidence discovery and disclosure pursuant to the Freedom of Information Law (FOIL).

2. Retention of DME

- a) Retained DME should be stored in accordance with the minimum standards required by the New York State Archives.¹¹ If records are related to a criminal investigation, they shall be retained for a minimum of 6 months. If a determination is made that DME has evidentiary value in an on-going investigation, court proceedings or appeals process, the data shall be retained through the pendency of the case and until directed to do otherwise by the Office of the District Attorney. The established retention schedule can be extended beyond the 6-month minimum as necessary.
- b) Non-Evidentiary DME, not relevant to a criminal investigation, emergency management or mapping shall be retained for a minimum of 6 months. The established retention schedule can be extended beyond the 6-month minimum as necessary.
- c) All video, audio and data (otherwise referred to as Digital Media Evidence (DME) captured by the UAS, irrespective of the content, are at all times the property of the authorized agency. Members may not copy, publish, share, or disseminate any audio, video, image or data to anyone except as authorized. Furthermore, members may not edit, delete, or alter any video or audio captured by the UAS.
- d) Authorized agency personnel shall securely download all captured DME at the completion of each mission using a unique label.

⁹ Agencies should determine when public disclosure is required pursuant to agency's record release policy and applicable statutes regarding, but not limited to, evidence discovery and disclosure pursuant to the Freedom of Information Law (FOIL).

¹⁰ If flown as Part-107 or under an agencies COA.

¹¹ New York State Archives local government retention and disposition schedule (CO-2, MU-1 and MI-1) require law enforcement data captured from a mobile recording device be retained for a minimum of six months regardless of whether or not the data is evidentiary or non-evidentiary.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

- e) DME and copies thereof may be destroyed in accordance with the agency's retention procedures and with approval from authorized supervisory personnel. Authorized supervisory personnel shall regularly review DME scheduled for destruction.

3. Review of DME

- a) DME can be reviewed for purposes of conducting a criminal investigation; preparing for courtroom testimony or courtroom presentation; providing testimony pursuant to an administrative inquiry; assisting officers in professional development or training¹²; or to inform strategy related to the administration of the UAS.
- b) Agency review and access of captured DME must be specifically approved by authorized supervisory personnel and documented.
- c) Outside Agency Review
 - (1) When a third party is authorized by the agency to capture DME pursuant to a current COA or Emergency COA, as an agent of the agency, the agent shall not be permitted to independently access, edit, alter, erase, duplicate, share or otherwise distribute a copy of captured DME without the express written consent of the Chief Executive of this agency or authorized supervisory personnel.
 - (2) The local Office of the District Attorney shall be notified of DME as set forth above in Section IV.E.2. (a) and shall be permitted to review a copy of captured DME as it pertains to their investigations.

G. Third Party Contact

- 1. All retained DME, unless exempted, shall be open for public inspection. Any and all public disclosure of DME must be consistent with the agency's record release policy and applicable statutes regarding, but not limited to, evidence discovery and disclosure pursuant to the Freedom of Information Law (FOIL).
- 2. The agency's legal advisor shall review any requests for such data, and where there exists a related criminal investigation or prosecution, the agency's legal advisor shall conduct the review in consultation with the local Office of the District Attorney pursuant to the manner prescribed in Section IV. F. 3.

¹² New York State Archives local government retention and disposition schedule (CO-2, MU-1 and MI-1) require law enforcement data captured from a mobile recording device be retained for a minimum of six months regardless of whether or not the data is evidentiary or non-evidentiary.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

- a) Personnel shall document the requesting party and rationale for determining to release or not to release a copy of captured DME on a form or database designed for that purpose.
- b) A copy of captured DME disclosed to the public or media may be edited to preserve the privacy of individuals that are captured in the DME when they have a reasonable expectation of privacy as defined above in Section IV. A. 3. f. or for their safety.
- c) Personnel shall document any changes or edits made to a copy of captured DME and the rationale for doing so on a written form or database designed for that purpose. Changes or edits to a copy of captured DME may be done to preserve the privacy of third-party individuals.¹³

H. Unmanned Aircraft System Audit Protocol

1. Authorized supervisory personnel shall regularly audit UAS flight documentation and DME access records and produce a periodic audit report detailing the results of said audit and any changes or corrections made to the flight time counter, captured DME and DME access records.
2. Authorized supervisory personnel shall regularly audit the policy and procedures contained herein and make recommendations for any necessary amendments thereto.
3. The Chief Executive of this agency or authorized supervisory personnel are encouraged to consider the regular issuance of a public report detailing their agency's usage of UASs, when practicable, consistent with the agency's record release policy and applicable statutes regarding, but not limited to, evidence discovery and disclosure pursuant to the Freedom of Information Law (FOIL).

Training of Authorized Agency Personnel

1. Authorized agency personnel assigned to operate UASs should complete an agency-approved training program and meet all conditions of the COA and/or Part 107 rules issued by the FAA.
2. Authorized agency personnel assigned to operate UASs should also receive additional training at regular intervals to ensure continued effective use, operation, calibration and performance of UASs and to incorporate changes, updates, revisions and advances in policies and procedures in the deployment and use of UASs.

¹³ The original DME data should be stored and maintained in an unaltered state to maintain its integrity and metadata. Any alterations, erasures, redactions or sharing of DME data should be done using a copy of the original DME file.

Unmanned Aircraft System (UAS) – Model Policy

Municipal Police Training Council

3. All personnel with responsibilities related to the Unmanned Aircraft System (UAS) shall be trained in applicable local and federal laws, regulations, and the agency's policies and procedures which govern the deployment of UASs.
4. All UAS pilots should log a minimum of 30 flight time minutes per month to maintain proficiency with operating the UAS.