
DEPLOYING SMALL UNMANNED AIRCRAFT SYSTEMS

Policy 809-R03 (03/21/24)

Applies to all staff who request or deploy small unmanned aircraft systems as a law enforcement or public safety resource.

The use of small unmanned aircraft systems (sUAS) to record video or other data has emerged as a viable law enforcement tool during critical incidents, search and rescue operations, and drug interdictions. This technology also produces fast and accurate diagramming of crash scenes, which enables deputies to restore normal traffic flow more quickly. The low cost and flexibility of sUAS is a logical alternative to manned aircraft, which has been in use for years.

As with other investigative methods, the WCSO is mindful of our duty to respect each person's constitutional right to be free from unreasonable searches and seizures. Deployment of sUAS will balance all operations with the need to accomplish the mission while maintaining public privacy and freedom from intrusion, and in compliance with state and federal law and requirements for sUAS licensing and use.

The objectives for the WCSO sUAS program include (A 41.1.3):

- Situational Awareness or Emergency Management: To assist first responders in understanding the nature, scale, and scope of an incident, and to aid them in planning and coordinating an effective response.*
- Search and Rescue: To assist missing person investigations, AMBER Alerts, Project Lifesaver notifications, and other search and rescue missions. ORS 837.335.*
- Tactical Deployment: To support the tactical deployment of deputies and equipment in emergency situations, such as incidents involving hostages or barricades and large-scale tactical operations. ORS 837.340.*
- Visual Perspective: To assist law enforcement in providing direction for crowd control, traffic incident management, special circumstances, and temporary perimeter security. ORS 837.320*
- Scene Documentation: To document a crime scene, crash scene, or other major incident scene, such as disaster management, incident response, or large-scale forensic scene investigation. ORS 837.340.*

Definitions.

Flight crew member. A remote pilot in command, person manipulating controls, visual observer, or other person assigned duties for a small unmanned aircraft system (sUAS) for the purpose of flight or training exercise.

Remote pilot in command (PIC). A person exercising control over sUAS during flight. This position is directly responsible for and is the final authority as to the operation of the small unmanned aircraft system per 14 CFR §107.19.

Person manipulating controls. A person, other than the remote pilot in command, who is controlling the flight of the sUAS under the supervision of the remote pilot in command.

Small unmanned aircraft. Unmanned aircraft weighing more than .55 pounds and less than 55 pounds on takeoff, including everything that is on board or otherwise attached per 14 CFR §107.3.

Small unmanned aircraft system (sUAS). A small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system per 14 CFR §107.3.

Visual observer. A person who is designated by the remote pilot in command to assist the remote pilot in command or the person manipulating the flight controls of the small UAS to see and avoid other air traffic or objects aloft or on the ground per 14 CFR §107.3.

ROVT commander. The assigned patrol lieutenant will be the ROVT commander. The commander is responsible for all aspects of ROVT operations. As needed, the ROVT commander will also act as the incident commander.

ROVT team leader. The team commander will assign a sergeant as the ROVT team leader; this is a collateral duty. The team leader is responsible for the day-to-day administration and supervision of the team.

SCOPE AND PURPOSE

1. Small Unmanned Aircraft Systems May be Used to Enhance the WCSO Mission of Protecting Lives and Property.

All WCSO unmanned aircraft systems will be controlled and deployed by the Remotely Operated Vehicle Team (ROVT), a specialized assignment subject to WCSO policies 301 and 302 and the ROVT operations manual. (A 41.1.3)

2. Any Use of sUAS Will be in Accordance with Federal Aviation Administration (FAA) Regulations, and Privacy Rights Governed by the U.S. Constitution and State Law. (A 41.1.3)

3. A sUAS May be Authorized to Fly in Areas Where There is an Expectation of Privacy Pursuant to a Warrant, When There is Probable Cause that a Crime Occurred and Exigent Circumstances Exist Per ORS 837.320, or When the Governor Declares a State of Emergency Per ORS 401.165. (A 41.1.3)

See also: ORS 837.330, Written Consent.

4. Absent a Warrant or Probable Cause With Exigent Circumstances, Operators and Observers Will Adhere to FAA Altitude Regulations and Will Not Intentionally Record or Transmit Images Where a Person Would Have a Reasonable Expectation of Privacy (e.g., in a Residence, Yard, or Enclosure).

All flight crew members shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. (A 41.1.3)

5. The WCSO Recognizes That Video Captured by sUAS Typically Will Not Depict an Entire Scene or Incident in the Way it May Have Been Perceived or Experienced by Any Person Present.

Video evidence has at least the following limitations:

- Aerial video will capture perspectives and observations that people involved in an incident could not see; conversely, there may be a perspective people involved in the incident saw that was not captured by the camera.

- The focal point of the camera will rarely be the focal point of the people involved.
- Due to environmental factors, in some circumstances, the camera may record more than a human eye and yet on other occasions, the video may capture less.
- Video can be slowed down and viewed frame by frame, but this is never how the people involved would have perceived or experienced the situation.
- Video cannot capture the physiological or psychological phenomena that a person may experience during a high stress situation. The video will not experience “tunnel vision” or other physiological reactions.
- Video is normally compressed and/or interlaced by software algorithms designed to minimize digital storage space, and these algorithms may remove individual frames or segments of the video to compress the video, resulting in a video that may not show the entire event unless it is decompressed and de-interlaced.
- Compression and interlacing may result in a video that is not time-synced with an analog sound recording of events, and the resulting product may be misleading if not properly re-synced.
- Video is captured at a specific frame rate (e.g., 30 frames per second). Actions may occur during an event that are between frames being captured that will not be reflected in the video.

Aerial video should be considered additional evidence, but it is only one piece of evidence and not a substitute for a complete investigation of any incident.

REQUIRED LICENSES AND TRAINING

6. The ROVT Team Leader Will Ensure that the WCSO Maintains All Applicable Certificates of Authorization (COA), Permits, and Licenses for the sUAS.

The team leader will ensure all required agency and flight crew authorizations, permits, or certificates required by the Federal Aviation Administration (FAA) are maintained in electronic form in the shared network folder for patrol inspections. (A 41.1.3)

7. Only Fully Licensed and Trained Staff Who Have Completed Mandatory Initial Training are Authorized to Operate sUAS as Pilot in Command in the Course of their Duties.

Assigned sUAS operators and the ROVT team leader must complete an agency-approved training program to ensure legal and proper operations and policy requirements are met.

Update training is required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and maintenance, safety, and to incorporate changes, updates, or other revisions in policy and equipment.

Former ROVT operators who maintain their license may be approved by the ROVT Team Leader or an on-duty command officer to operate sUAS in support of an incident. (A 41.1.3)

See also: ORS 837.345, *Training*.

RESTRICTIONS ON USE

8. The WCSO Will Control and Regulate All Use of sUAS.

- The scope of any sUAS mission must comply with either a) the Federal Aviation Administration’s Certificate of Authorization (COA) issued to the WCSO, or b) the Small UAS Rule (14 CFR §107) for operations. Compliance will be determined by the Remote Pilot in Command of the mission with notice to the ROVT team leader prior to deployment. (A 41.1.3)

- The sUAS shall only be deployed to support official law enforcement and public safety missions. (A 41.1.3)
- The WCSO does not conduct random surveillance activities. (A 41.1.3)
- The sUAS shall not be operated in an unsafe manner or in violation of FAA rules. (A 41.1.3)
- The sUAS shall not be equipped with weapons (ORS 837.365). (A 41.1.3)
- Any image or other information that is acquired through the use of sUAS while training and any evidence derived from that image or information is not admissible in court or a similar proceeding and may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed (ORS 837.345).
- The sUAS shall not be used to collect, use, retain, or disseminate data in any manner that would violate the First Amendment or in any manner that would discriminate against persons based upon their ethnicity, race, gender, national origin, religion, sexual orientation, or gender identity in violation of law.

See also: ORS 837.360, *Restrictions*.

9. The sUAS Shall Not be Used to Conduct Personal Business or in Unofficial Activity Unrelated to Work.

The sUAS camera **shall not** be intentionally activated to record or photograph fellow staff members without their knowledge during routine non-enforcement related activities, during rest or break periods, or in any area where there is an expectation of privacy, unless an active investigation is underway. (A 41.1.3)

Requests for deletion of accidental recordings (e.g., in the event of a personal or accidental recording) must be submitted in writing and approved by the Sheriff in accordance with state record retention laws. All requests and final decisions shall be maintained by the ROVT commander.

ENFORCEMENT REQUESTS FOR sUAS DEPLOYMENT

10. Deputies May Request sUAS Assistance Via Any On-Duty Supervisor.

Requests of a future or non-immediate nature should be brought directly to the attention of the ROVT team leader to allow for formulation of incident action plans. The following information is required for activation (A 41.1.3):

- a. Venue or jurisdiction
- b. Description of the incident
- c. Location
- d. Whether there is a planned gathering place or route to be used by the crowd
- e. Level of media involvement
- f. Location of command post and point of contact with OIC on scene
- g. Mission requested
- h. Ensure compliance with applicable search and seizure laws

INTERAGENCY ASSISTANCE

11. The sUAS May Assist Any Oregon Public Safety Agency.

The ROVT commander may deploy the team to assist any public safety agency in Oregon. (A 41.1.3)
The requesting agency may consult with the team commander, team leader or an enforcement division commander directly or via dispatch. A formal request for interagency support can be made

during this consultation, which must be documented by e-mail or other writing. The ROVT commander must obtain approval by the Sheriff or Undersheriff prior to deploying outside Washington County.

12. Non-Public Bodies Shall be Advised to Contact Private Sector Providers for UAS Services.

sUAS REMOTE PILOTS IN COMMAND RESPONSIBILITIES

13. Remote Pilots in Command (PIC) Who are Authorized to Deploy sUAS (sUAS Pilots) Shall Properly Equip Themselves to Record Data in the Field Consistent with Federal Aviation Administration Requirements, the Law, WCSO Policy, and Training.

- The sUAS will be operated only by trained pilots and crew members who are certified in the operation of the system. A non-certified person may pilot the sUAS or act as a visual observer under the sole direction of the PIC pursuant to FAA rules (A 41.1.3); this will normally be extended to another ROVT member for training purposes.
- A person may not operate or act as a remote pilot in command or visual observer in the operation of more than one unmanned aircraft at the same time (FAA 107.35).
- The sUAS-certified personnel shall inspect and test sUAS equipment prior to each deployment according to manufacturer guidelines and test procedures to verify the proper functioning of all equipment and the airworthiness of the device. (A 41.1.3)
- The sUAS equipment is the responsibility of the Remote Pilot in Command. It will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the ROVT team leader as soon as possible so that an appropriate repair can be made or a replacement unit can be procured. (A 41.1.3)
- The pilot in charge or a designee will enter flight information into an After Action Report (AAR) form and save it to the team's shared network folder. For each deployment, the AAR shall document the reason for the flight; the time, date, and location of the flight; the staff assigned; and a summary of the activities covered, actions taken, and outcomes from the deployment.
- Where there are specific and articulable grounds to believe that the sUAS will collect evidence of criminal wrongdoing or if the sUAS will be used in a manner that may intrude upon reasonable expectations of privacy, the pilot will ensure compliance with ORS 837.340.

14. The Remote Pilot in Command Will Ensure Each sUAS Flight is Fully Documented or Recorded.

In order to safeguard the privacy of the public we serve, collection of data to include, but not limited to, digital photographs, digital video, infrared images, and sound recordings, shall be limited to the extent that such collection or use is consistent with and relevant to an authorized purpose.

RESPONSE TO sUAS ACCIDENT OR CRASH

15. Following a sUAS Accident Involving Personal Injury or Significant Property Damage, the Flight Crew Will Make Appropriate Notifications.

After tending to the injured, the flight crew will –

- Make chain-of-command notifications
- Request notification to the FAA, if required
- Request notification to the National Transportation Security Board (NTSB), if required
- Survey the damage to the aircraft or other property

Washington County is self-insured, including sUAS equipment.

DOWNLOADING AND PRESERVING DATA

16. The sUAS Equipment and All Data, Images, Video, and Metadata Captured, Recorded, or Otherwise Produced by the Equipment is the Sole Property of the WCSO.

- When ROVT is requested to assist an outside agency, a copy of the recordings of the flight, to include video and photographs, may be turned over to the requesting agency for submission into their evidence system.
- The original recordings shall be retained in the designated network folder for ROVT or placed into WCSO Evidence Unit. The member providing a copy of the recordings and other material to another agency should document exactly what was provided, the time and date it was provided, and the rank and name of the person to whom the materials were delivered.
- When requested by WCSO staff, the recordings of the flight, to include video and photographs, may be turned over to the requesting WCSO member for submission to the WCSO Property and Evidence Unit.

17. Staff Will Ensure All sUAS Data is Retained as Required by Law.

The sUAS-certified operators will document information for each file that shall include the date, time, location, and case reference numbers or other mission identifiers—and identify the sUAS personnel involved in mission.

18. The Flight Crew Will Process sUAS Data That is Evidence in a Criminal Investigation in Accordance With the WCSO Evidence Manual.

19. Files Must be Securely Stored in Accordance with Agency Policy and State Records Retention Laws.

Files should be retained no longer than necessary for purposes of training or for use in an investigation or prosecution. Files may be deleted from temporary storage mediums such as micro SD cards once the data has been stored properly in a longer-term system such as with the WCSO Property and Evidence Unit or the designated ROVT network folder.

20. The Flight Crew Will Preserve sUAS Data That May Relate to Potential Claims of Liability or other Civil Action.

Staff should preserve camera data as potential information or evidence that would be useful in investigating a civil claim of liability, even if it appears no future action will be filed, and even if a criminal investigation is not conducted. The ROVT Commander will assist staff with preserving this type of data for a minimum of three years unless released sooner by the Office of Washington County Counsel.

MAINTENANCE, USE AND RETENTION OF RECORDINGS

21. All sUAS Data Shall be Securely Stored and Maintained in Accordance with Oregon Public Records Law.

- Based on consultation with the Oregon State Archivist, non-evidentiary data shall be maintained for a minimum of 30 days.
- If the data is evidence in a criminal investigation, it must be maintained in the same manner as other criminal evidence. Evidence officers will ensure all data involving homicides is maintained permanently.
- Data related to calls for service that are medical in nature or that involve a person suffering

from a mental health crisis will be tagged as “confidential” and ineligible for release as a public record. However, a deputy or district attorney may be issued a copy of the recording for use in a court proceeding involving the individual or incident.

- In the event of a tort claim or civil suit against the County or a member of the Sheriff’s Office, a copy will be provided to the Office of County Counsel.
- Data will only be retained consistent with public records law or as evidence. The ROVT Team Leader will periodically confirm data deletion.
- Consistent with Presidential Memorandum promoting economic competitiveness while safeguarding privacy, civil rights, and civil liberties in domestic use of unmanned aircraft systems, retention of information collected using a sUAS that may contain Personally Identifiable Information (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. The ROVT Team Leader is responsible for properly maintaining these records.

22. Recordings May be Exempt from Disclosure Under Oregon Public Records Law.

Standard exemptions that may apply include those addressing personal privacy, criminal investigatory materials, etc. There are also rules for requests related to sUAS audio or video.

For additional information on exemptions, see also:

ORS 192.345(3), pending criminal investigations

ORS 192.345(38) domestic violence records

ACCESS TO RECORDINGS

23. As Available During an Incident, Data May be Shared with Staff to Maximize Situational Awareness.

Access will be controlled by the mission OIC if needed.

24. Once an Incident is Resolved, the Remote Pilot in Command Shall Have Access to View sUAS Data for Any Law Enforcement Related Purpose, Including Training, Except as Restricted by the District Attorney or the Sheriff.

Examples of legitimate law enforcement related purposes include reviewing information related to calls for service, critical incidents, for training, or to review an incident associated with a complaint. The pilot in charge is also allowed to share crime scene or traffic crash scene diagrams that are derived from sUAS data with assigned deputies.

25. Following an Incident, Access to Data Will be Consistent with WCSO Policy.

Deputies involved in an incident are allowed to view the video, on the day of the call, in order to avoid delay in the filing of initial reports. Any additional access must be facilitated by the ROVT Commander.

Separate policies address requirements for evidence, internal investigations, administrative reviews, search and rescue operations, traffic or criminal investigations, and use in defending tort claims or civil lawsuits against the County or an individual member.

26. Editing, Altering, Erasing, Accessing, Copying, or Releasing sUAS Files for Purposes Unrelated to Public Safety is Strictly Prohibited.

27. Supervisors Shall Have Access to View Recordings Through the ROVT Commander Only for Approved Purposes.

The ROVT Commander may grant access for the following approved purposes:

- A supervisor investigating a complaint may view sUAS video footage to determine if a supervisory inquiry or internal affairs investigation is appropriate.
- For crash or property damage reviews, to enable an assigned investigator to view footage with involved deputies.
- For critical incident reviews, to enable assigned investigators to view footage with involved deputies.
- For use of force reviews, to allow a trainer to view footage with involved deputies.
- For civil liability defense.

The Sheriff must approve any exceptions and will give notice to the WCPOA prior to granting an access exception.

28. The ROVT Commander Shall Have Access to View Recordings for Audit Purposes.**TEAM COMMANDER RESPONSIBILITIES****29. Patrol Command Will Appoint the ROVT Commander, Normally a Lieutenant, to Ensure Compliance With Policy and Legal Requirements, Including 14 CFR §107.**

Duties include ensuring timely inspections, accident reporting, managing agency and operator certifications, ensuring training requirements are met, and assessing operations each year.

ACCOUNTABILITY AND PERIODIC REPORTS**30. Complaints Related to Use of Unmanned Aircraft Systems Will Be Received and Processed Per Policy 551, Receiving and Screening Personnel Complaints.**

Information on complaint policies and procedures is also maintained on the WCSO website.

31. The ROVT Commander Will Provide an Annual Report to the Oregon Department of Aviation Per ORS 837.360.

The report will—

- Include a review of sUAS compliance with all state and federal regulations and a summary of the frequency and purpose for sUAS use as required by ORS 837.360.
- Indicate how the public can access the Sheriff's Office policies and procedures regarding the use of sUAS data.
- Be submitted by the ROVT Commander to the Oregon Department of Aviation with a copy provided to the WCSO accreditation manager for retention with other agency annual reports.

32. The ROVT Commander Will Ensure This Policy is Reviewed at Least Every 3 Years.

The policies related to the use of sUAS systems will be reviewed at least every three (3) years as they relate to the collection, use, retention, and dissemination of information collected by sUAS to ensure that privacy, civil rights, and civil liberties are protected.

REFERENCES

ORS 192.345, *Public records conditionally exempt from disclosure*
ORS 401.165, *Declaration of state of emergency; procedures*
ORS 404, *Search and Rescue*
ORS 837.320, *Authorized use upon issuance of warrant; exigent circumstances*
ORS 837.330, *Written consent*
ORS 837.335, *Search and rescue; use in emergencies*
ORS 837.340, *Investigations of crimes and accidents*
ORS 837.345, *Training*
ORS 837.360, *Restrictions; exception for educational institution; civil penalties; registration; fees; rules*
ORS 837.365, *Weaponized unmanned aircraft systems; penalties*
ORS 837.370, *UAS Operation over privately owned premises (law enforcement exclusion)*
ORS 837.995, *Crimes involving UAS*
WCSO Operations Manual – Remotely Operated Vehicle Team