

To: Honorable Mayor and Members of the City Council

From: Jennifer Ott, City Manager

Date: May 29, 2024

Supplemental Memo regarding: 6-A Recommendation to Accept the Annual Military Equipment Report for the Alameda Police Department and Continue to Allow the Department to Use and Maintain the Equipment Previously Adopted; and Introduction of Ordinance Adopting a Military Equipment Use Policy for Uncrewed Aerial Systems (UAS) (Drones) for the Alameda Police Department; and Recommendation to Authorize the City Manager to Purchase Two Drones from Axon Enterprise, Inc. in an Amount Not-to-Exceed \$143,804.02 over a Term of Five Years, once the Ordinance Authorizing a Policy Governing the Use of Drones Becomes Effective.

### SUPPLEMENTAL INFORMATION

This memo is being provided to supplement the staff report already published for the June 4, 2024, City Council meeting. Exhibit 5 of the staff report includes a draft UAS Policy. As presented in the attached revised Exhibit, staff proposes to update Exhibit 5 to add the following language on page 1 of the draft UAS Policy:

*“...Additionally, if APD solicits UAS assistance from other agencies, the privacy, use of UAS, and prohibited use portions of this policy shall apply.”*

This update clarifies that Alameda Police Department’s use of UAS technology from other agencies in support of an operation in Alameda will also be subject to the City’s own UAS Policy. In the interest of operational efficacy and community expectations, APD shall only use UAS technology or the features of UAS technology borrowed from other agencies in a manner consistent with its own UAS Policy.

Respectfully submitted,

Nishant Joshi  
Chief of Police  
Alameda Police Department

Exhibit:

1. Exhibit 5 - Revised Uncrewed Aerial System Policy

## **Uncrewed Aerial System (UAS) Operations**

### **XXX PURPOSE AND SCOPE**

The Alameda Police Department believes in protecting and serving its diverse community through fair, equitable, and constitutional policing. APD believes in the usage of technology to aid in this mission by investing in Uncrewed Aerial Systems (UAS also known as “drones”). While such technology will never replace police officers, UAS technology will assist in mitigating use of force, bring resolution to critical incidents, enhance public safety, and mitigate overall risk. APD is committed to safeguarding and respecting the privacy of the community.

The purpose of this policy is to establish guidelines and protocol for the deployment and use of the Uncrewed Aerial System (UAS), including the retention and/or destruction of media obtained using the UAS in accordance with applicable Federal law, State law, and City of Alameda regulations. **Additionally, if APD solicits UAS assistance from other agencies, the privacy, use of UAS, and prohibited use portions of this policy shall apply.**

### **XXX DEFINITIONS**

Certificate of Authorization (COA): Given by the Federal Aviation Administration (FAA) granting permission to fly the UAS within specific boundaries and perimeters.

Observer: A member of the Alameda Police Department will maintain visual observation of the UAS while in flight.

Operator: A member of the Alameda Police Department who is trained, certified, and authorized to control a UAS during flight.

Uncrewed Aircraft System (UAS): Consists of a small, uncrewed aircraft weighing less than 55 lbs., the command system, a secure control link, and other safety and support systems for the operation of the UAS.

### **XXX POLICY**

Uncrewed aerial systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective.

UAS technology has been used to save lives and protect property and can detect possible dangers that cannot otherwise be seen. UAS technology can support first responders in hazardous incidents that would benefit from an aerial perspective. In addition to hazardous situations, UAS technology can assist in the locating/apprehending wanted subjects, rescuing missing persons, and search/rescue operations. Furthermore, UAS technology can be used to accomplish tasks 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.

### **XXX PRIVACY**

The use of the UAS potentially involves privacy considerations. Personnel will consider the protection of individual civil rights and the reasonable expectation of privacy as a key component of any decision made to deploy the UAS. Operators will take reasonable precautions to avoid inadvertently recording or transmitting images that infringe upon an individual's reasonable right to privacy.

### **XXX USE OF UAS**

UAS technology will be used in accordance with FAA regulations.

The operator shall announce the deployment of a UAS via the radio. A supervisor and/or commander shall approve or deny the deployment.

Only authorized operators who have completed the required training shall be permitted to deploy a UAS in the following circumstances.

- (a) Public safety and life preservation missions, including, barricaded suspects, hostage situations, active shooters, apprehension of armed and dangerous fleeing suspects, and high-risk search warrants.
- (b) All felony crimes.
- (c) Violent misdemeanors.
- (d) Operational planning (search/arrest warrant service).
- (e) Unpermitted car shows and/or sideshow activity.
- (f) Riots
- (g) Mass casualty events.
- (h) Lost or missing persons.
- (i) Rescue events.
- (j) Disaster response and recovery.
- (k) Suspected explosive devices.
- (l) Fire suppression or investigation.
- (m) Hazardous material releases.
- (n) Post-incident crime scene preservation and documentation.
- (o) Pursuant to a search warrant.
- (p) Special events where there is intelligence that there is risk to public safety.
- (q) When there is probable cause to believe that the UAS will record images of a place, thing, condition, or event and that those images tend to show a felony has been committed or tends to show that a particular person has committed a felony.

- (r) Anti-UAV operations when a person is operating a UAV in a manner that impedes emergency personnel who, in the course of their duties, are coping with an emergency (refer to Penal Code § 402(a)1).
- (s) Training missions.
- (t) In support of the Alameda Fire Department when the underlying mission meets the uses outlined in this policy.
- (u) Mutual Aid support when the underlying mission meets the uses outlined in this policy.
- (v) Exigent circumstances, only with supervisory and/or command approval. A risk management memo shall be completed by the commander and forwarded through the chain of command to include the circumstances (outside of the above list) that led to the authorization and use of the UAS technology.

### **XXX CALLOUT PROCEDURE**

The Watch Commander shall make a request via dispatch for qualified UAS team members to respond and deploy the UAS.

Dispatch will call the UAS Team Supervisor, who will coordinate the callout details with team members.

If the UAS Team Supervisor is unavailable, or if specified by the Watch Commander, Dispatch will request assistance from surrounding agencies that utilize UAS programs.

The UAS team members will handle all UAS operations, notifications, and all necessary pre-flight guidelines as specified in the UAS Operations Guidelines.

### **XXX PROHIBITED USE**

The UAS video surveillance equipment shall not be weaponized or equipped with facial recognition technology nor shall it be used:

- (a) For any activity not defined in "Use of UAS".
- (b) To conduct random surveillance activities.
- (c) 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 in a manner inconsistent with any applicable City policy, including this policy, law, or regulation.
- (d) To harass, intimidate, or discriminate against any individual or group.
- (e) To conduct personal business of any type.

## XXX EVIDENCE COLLECTION AND RETENTION

### Evidence collection, video recording, and digital photographs

All data related to evidence will be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence. These procedures include strict adherence to chain of custody requirements.

- (a) To avoid missing critical evidence during UAS operations, all UAS video will be recorded during flight. The pilot will manually activate the record feature on the UAS before take-off and will stop recording after landing. Flights being flown for the purpose of evidence collection utilizing specialized software to capture the evidence are not required to also video record during those flights.
- (b) During flight, there are times when pilots have the need to take digital photographs with the UAS. The UAS platform does not allow video and digital photographs to be taken at the same time. In these situations, pilots are authorized to stop recording for the need to take digital photographs. If officer/suspect contact is anticipated during flight, pilots should prioritize capturing the contact with UAS video, not digital photographs.

### Retention of UAS digital media

- (c) UAS video(s) recorded by or for APD will be uploaded into the approved digital evidence management system (DEMS). After uploading the video(s) into the DEMS, the DMSD will be returned to service after reformatting the media. If uploading the video(s) to the DEMS is unavailable, the DMSD will be booked into APD Property as evidence. The collection and uploading of the video(s) will be documented in a report by an Alameda PD case agent or officer.
- (d) The collection and uploading of the video(s) will be documented in a report by an Alameda PD case agent or officer.
- (e) All non-evidentiary video data will be retained for no more than 30 days.
- (f) All evidentiary video data collected by the UAS shall be retained as follows:
  - 1. Homicide [and Felony Sex Crimes](#)- Permanent
  - 2. Inspectional Services- [SixNine](#) years
  - 3. [Felony-All other](#) - Three years
  - 4. [All Use of Force](#)- Three years

~~5. Liability to the City- Three years~~

~~6. Misdemeanor (including traffic-related misd.)- One year~~

~~7. 5150 W&I- One year~~

~~8. 901a/Fatal Collisions- Three years~~

- (g) Unauthorized use, duplication, and/or distribution of UAS videos are prohibited. Personnel shall not make copies of any UAS videos for their personal use and are prohibited from using a recording device such as a personal camera or any secondary video camera to capture UAS videos. All recorded media, images, and audio are the property of the Alameda Police Department and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police.
- (h) Supervisors may only review recorded UAS video files when they have a legitimate business purpose. In addition, Alameda Police personnel shall only review any recorded UAS video files when they have a right to know or need to know may review any recorded UAS video files, including under the following circumstances:
1. For the purpose of completing a criminal investigation and preparing official reports.
  2. To prepare for courtroom testimony or courtroom presentation.
  3. Following a critical incident: with supervisor approval, refer to Officer-Involved Shooting/Great Bodily Injury Incidents policy.
  4. For potential training purposes.
- (i) Departmental requests for a UAS video that is not for training, as well as non-Departmental requests from other law enforcement agencies, the District Attorney's Office, and/or the City Attorney's Office, shall be forwarded as a written request via e-mail to the Program Coordinator (or designee), with sufficient information to locate the UAS video.
- (j) Non-Departmental Requests for a UAS video shall be accepted and processed in accordance with Federal, State, and local laws, and departmental policy (discovery, media inquiries, subpoenas, Public Records Act requests, etc.).
- (k) When practical, Department personnel will be advised prior to any release of UAS video under the California Public Records Act (CPRA).

(l) Request for Deletion or Accidental Recording

1. In the event of an accidental activation and recording of the UAS camera system, the recording employee may request that the UAS video be deleted by submitting an e-mail request to the Patrol Division Commander with sufficient information to locate the UAS video. The Patrol Division Commander shall review the video, approve or deny the deletion request, and forward it to the System Administrator for action if applicable.
2. Videos made during authorized department training will be viewed and/or retained for training purposes and then may be retained or deleted with the authorization of a lieutenant. Retained files will be stored in approved training files or the digital management system.

(m) Copying Procedures

1. A copy of the UAS video can be requested in accordance with the provisions of this policy.
2. Property Technicians/Officers will be responsible for handling evidence request for DVD copies and online sharing of videos produced by the UAS camera system for court and other approved requests by the Chief of Police or their designee.
4. A UAS video may be utilized as a training tool for individuals, specific units, and the department as a whole. A recommendation to utilize a UAS video for such purpose may come from any source outlined below:
  - A person recommending the utilization of a UAS video for training purposes shall submit the recommendation through the chain of command to the Watch Commander for written approval by a commander.
  - The commander approving the utilization of a UAS video for training will complete a lineup training documentation form to specifically cite which video was used for training. No videos shall be downloaded for this training.

## **XXX ROLES AND RESPONSIBILITIES**

The roles and responsibilities of UAS Program members are as follows:

- (a) Program Coordinator—an Alameda Police Lieutenant who manages the UAS Program and ensures the program operates in accordance with all Federal,

State, and local laws and within department policy and guidelines. In addition, the Program Coordinator will:

1. Develop and maintain the UAS Operational Guidelines Manual
2. Ensure a militarized equipment deployment report was completed.
3. Ensure a Significant Information report was completed.
4. Ensure use is documented in the annual militarized equipment report per AB481.

(b) Program Supervisor- an Alameda Police Sergeant who oversees the officers assigned to the program and supervises operations, deployments, and training days. In addition, the Program Supervisor will:

1. Maintain all training flight and maintenance records for each operator and observer, as well as airframes.
2. Ensure operators and observers stay current with their training and certifications.
3. Maintain contact with the FAA and familiarity with the pertinent FAA regulations.
4. Evaluate airframes based on mission needs.
5. Remain up to date with current UAS case law, best practices, and industry standards.

(c) Operator—the operator's role is to safely operate the UAS in accordance with all applicable laws and policies.

1. The operator may reject a flight based on personnel safety or violation of FAA regulations.
2. The operator shall be responsive to requests and input from the observer in order to accomplish the safe and effective deployment of the UAS.
3. Operators are responsible for mission documentation and updating the flight book.



- (d) Observer—the Observer’s role, if needed, is to assist in the safe and effective operation of the UAS. The observer shall:
1. Assist the operator in avoiding obstacles.
  2. Operate any attachments to the UAS.
  3. Remain alert for safety issues surrounding the operator and observer.
  4. Handle radio communications.