

From: [Trish Spencer](#)
To: [Lara Weisiger](#)
Subject: Fw: Drone Questions/Comments
Date: Tuesday, May 21, 2024 2:06:45 PM
Attachments: [image001.png](#)

From: Trish Spencer
Sent: Tuesday, May 21, 2024 2:03 PM
To: Jennifer Ott
Cc: Nishant Joshi; Yibin Shen; Doug McManaway
Subject: Re: Drone Questions/Comments

Hi Jen, et al.,

Thank you for this additional information.

I especially like some parts of EBRPD's policy that I think could strengthen Alameda's proposed policy. I have included below for consideration and/or response.

1. **"605.4 PRIVACY** A UAS potentially involves privacy considerations. When the UAV is being flown, Operators will take steps to ensure the camera is focused on the areas necessary to the mission and to minimize the inadvertent collection of data about uninvolved persons or places. Absent a warrant or exigent circumstances, UAS 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, or stopping the digital recording or photo capture capabilities while flying in these particular areas.

2. **605.6 Use of UAS. Only Part 107 licensed Operators will be permitted to deploy** a UAS during a non-training event. The Pilot in Charge will ensure that a Flight Risk Assessment and a Preflight Checklist (as these terms are defined by the FAA) are both completed prior to UAS utilization. The Flight Risk Assessment and the Preflight Checklist will be retained for all utilizations not related to training. The Pilot in Charge shall notify dispatch of the UAS utilization and dispatch shall document the utilization in the supplement portion of the associated CAD event. Preflight notifications to local air traffic control facilities may be

required as directed by FAA regulations. Authorized use of a Department UAS may include:

Here, substitute APD's authorized uses.

A UAS shall not be flown over crowds or Beyond Visual Line of Sight (BVLOS) without FAA approval. Approval that permits use over crowds and BVLOS must be obtained before such use is begun. This approval may be covered under the Department granted COA or FAA Part 107 Waivers with the exemption granted in writing. Any exemption granted does not expire and is continual once received and does not need to be sought unless the COA or Certificate of Waiver is up for renewal or modification. 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.

605.7 PROHIBITED USE The East Bay Regional Park District Police and Fire Division UAS shall not be used:

- To conduct random surveillance activities.
- To target a person or group 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.
- In a reckless or negligent manner.
- By an Operator under the influence of alcohol, or any narcotic or prescription medication that alters or effects the operator's ability to safely operate the UAS or causes impairment as outlined by the FAA.

The UAS shall not be weaponized."

Thank you.

Trish

Trish Herrera Spencer
Councilmember

From: Jennifer Ott

Sent: Tuesday, May 21, 2024 1:04:02 PM

To: Trish Spencer

Cc: Nishant Joshi; Yibin Shen; Doug McManaway

Subject: FW: Drone Questions/Comments

Hello Trish:

Per your questions yesterday, please find below responses to your questions:

1. Could Exhibit 6 cross-reference more clearly the drone policy in Exhibit 5 under "Purpose"? **Yes, we will update.**
2. What is AUSD's policy related to drones?
<https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030670&revid=6yfEnGZDLGoQ6bpGFwglwg==&st=drone&mt=Exact>
3. What is EBRPD's policy related to drones? **See attached.**
4. Do we always have to record and save video from drone usage? **The Chief's operational intent is to record as soon as the drone is launched. If footage does not value, it will be purged.**

Thanks,
Jen

Jennifer Ott
City Manager
City of Alameda
jott@alamedaca.gov
c: (510) 867-8237



From: [Trish Spencer](#)
To: [Lara Weisiger](#)
Subject: Fw: Drone Questions/Comments
Date: Tuesday, May 21, 2024 2:06:19 PM
Attachments: [EBRPD-Police-Policy-Manual.pdf](#)
[image001.png](#)

From: Jennifer Ott
Sent: Tuesday, May 21, 2024 1:04 PM
To: Trish Spencer
Cc: Nishant Joshi; Yibin Shen; Doug McManaway
Subject: FW: Drone Questions/Comments

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Thanks,
Jen

Jennifer Ott
City Manager
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Unmanned Aerial System (UAS) Operations

605.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the East Bay Regional Park District Public Safety Department's (Department) use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS (collectively, UAS Program).

605.2 POLICY

Unmanned aerial systems may be utilized to enhance the Department's mission of protecting lives, property, and the environment (including without limitation search-and-rescue missions and fire prevention and suppression) when other means and resources are not available or are deemed less effective. Any use of a UAS will be in strict compliance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations, and other applicable state and local laws.

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

Operator – Commonly referred to as the pilot and is the one in control of the aircraft. All Operators must possess a valid FAA Part 107 Certification prior to being permitted to operate any Division UAV, or be under the direct supervision of a licensed FAA Part 107 Certified Pilot.

Observer – A Department employee who is designated by the Pilot in Charge to assist the Pilot in Charge and the Operator of the UAV to see and avoid other air traffic or objects aloft or on the ground. If an Observer is designated, the Pilot in Charge, the Operator and the Observer must maintain effective communication with each other at all times. The Pilot in Charge must ensure that the Observer is able to see the unmanned aircraft in the manner specified in FAA Part 107.

Pilot in Charge – A FAA Part 107 certified pilot must be designated as the Pilot in Charge before or during the flight of the UAV. The Pilot in Charge is directly responsible for, and is the final authority as to, the operation of the UAS. The Pilot in Charge must ensure that the UAV will pose no undue hazard to other people, other aircraft, or other property in the event of a loss of control of the UAV for any reason. The Pilot in Charge must ensure that the UAS operation complies with this Policy and with all applicable federal and state laws, including without limitation FAA Part 107, and must have the ability to direct the UAV to ensure such compliance.

Program Coordinator – Appointed by the Chief of Police and is in charge of the operation and supervision of the UAS program.

Certificate of Authorization (COA) – Issued by the FAA which grants permission to fly UAVs within specific boundaries and perimeters.

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Unmanned Aerial System (UAS) Operations

605.4 PRIVACY

A UAS potentially involves privacy considerations. When the UAV is being flown, Operators will take steps to ensure the camera is focused on the areas necessary to the mission and to minimize the inadvertent collection of data about uninvolved persons or places. Absent a warrant or exigent circumstances, UAS 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, or stopping the digital recording or photo capture capabilities while flying in these particular areas.

605.5 PROGRAM COORDINATOR

The Chief of Police will appoint a Program Coordinator who will be responsible for the management of the UAS program. The Program Coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices 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.
- Coordinating the process for obtaining any necessary FAA Certificate of Waiver.
- Ensuring that all authorized Operators and Observers have completed all required FAA and department 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 may require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including, but not limited to, safety oversight, use of Observers, establishment of lost link procedures and secure communication with air traffic control facilities.
- Developing a protocol for documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAV, up to and including its overhaul or life limits.

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Unmanned Aerial System (UAS) Operations

- Developing protocols to ensure that all data collected and/or created by a UAS is stored and secured in a manner (e.g., lockbox) that is only accessible by authorized Division employees
- Developing protocols to ensure that all data collected and/or created by a UAS and 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 Park District records retention schedules.
- Coordinating with other law enforcement agencies that request access to images and data captured by the UAS and providing such images and data in compliance with Park District policy and state and federal laws.
- Recommending program enhancements, particularly regarding safety, privacy, and information security.
- Ensuring that established protocols are followed by monitoring and providing regular, periodic reports on the program to the Chief of Police.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

605.6 USE OF UAS

Only Part 107 licensed Operators will be permitted to deploy a UAS during a non-training event. The Pilot in Charge will ensure that a Flight Risk Assessment and a Preflight Checklist (*as these terms are defined by the FAA*) are both completed prior to UAS utilization. The Flight Risk Assessment and the Preflight Checklist will be retained for all utilizations not related to training. The Pilot in Charge shall notify dispatch of the UAS utilization and dispatch shall document the utilization in the supplement portion of the associated CAD event. Preflight notifications to local air traffic control facilities may be required as directed by FAA regulations.

Authorized use of a Department UAS may include:

- Post-incident crime scene preservation and documentation.
- HAZMAT response;
- Locating individuals actively fleeing or hiding in an attempt to avoid apprehension by law enforcement;
- Search and rescue;
- Barricaded suspects and other high-risk tactical operations;
- Locating individuals who are missing or a danger to themselves or others;
- Disaster response (Flood, earthquakes, etc.);

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Unmanned Aerial System (UAS) Operations

- (h) Training missions;
- (i) Fire prevention and Fire response;
- (j) Pursuant to a search warrant;
- (k) Any situation where the use of a UAS would enhance public safety and/or officer safety and would be deemed lawful and reasonable.

A UAS shall not be flown over crowds or Beyond Visual Line of Sight (BVLOS) without FAA approval. Approval that permits use over crowds and BVLOS must be obtained before such use is begun. This approval may be covered under the Department granted COA or FAA Part 107 Waivers with the exemption granted in writing. Any exemption granted does not expire and is continual once received and does not need to be sought unless the COA or Certificate of Waiver is up for renewal or modification.

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.

605.7 PROHIBITED USE

The East Bay Regional Park District Police and Fire Division UAS shall not be used:

- To conduct random surveillance activities.
- To target a person or group 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.
- In a reckless or negligent manner.
- By an Operator under the influence of alcohol, or any narcotic or prescription medication that alters or effects the operator's ability to safely operate the UAS or causes impairment as outlined by the FAA.

The UAS shall not be weaponized.

605.8 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

Images or video obtained by the UAS Operator (if necessary, for evidentiary purposes) shall be submitted to evidence in accordance with East Bay Regional Park District Police and Fire policies and procedures.

East Bay Regional Park District Police Department

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Unmanned Aerial System (UAS) Operations

605.9 STORAGE OF UAS

The UAS is the property of the East Bay Regional Park District Public Safety Division. The UAS is not to be removed from the Division except by on-duty Operators during their work shift or during approved Division Training. At the end of each shift, the UAS shall be stored and secured at its designated deployment point or at Public Safety Headquarters.

The only temporary exceptions to this storage requirement, both of which must be approved in advance by the Program Coordinator, are:

1. for continued active training as needed or
2. in preparation for an authorized preplanned event.

When a UAS is not stored at its designated location as temporarily permitted by the Program Coordinator, the Operator being entrusted with the UAS shall ensure the UAS is properly secured and protected from damage and theft at all times.

605.10 APPLICABLE STANDARDS AND DATES

CALEA / POST Standards: NONE

Effective: March 18, 2024

From: [Trish Spencer](#)
To: [City Clerk](#)
Subject: Fwd: 7-B Uncrewed Aerial Systems (UAS) (Drones)
Date: Monday, May 20, 2024 12:19:12 PM

From: Nishant Joshi <njoshi@alamedaca.gov>
Sent: Friday, May 17, 2024 3:19:49 PM
To: Trish Spencer <tspencer@alamedaca.gov>
Cc: Jennifer Ott <jott@alamedaca.gov>; Yibin Shen <yshen@alamedaca.gov>
Subject: RE: 7-B Uncrewed Aerial Systems (UAS) (Drones)

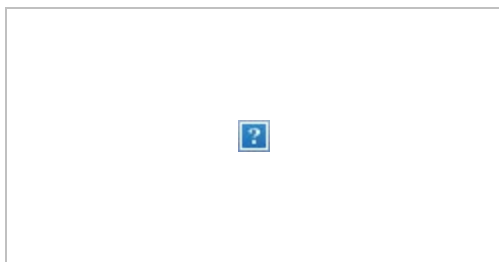
Good afternoon, City Council Member Herrera-Spencer,

Please see below responses in bold/red with yellow highlights. I am still working on trying to figure out costs of collision scene recreation. This is a bit difficult. I have Margaret and other commanders working on this as well.

Q. Why purchase from Axon Enterprise?

- Taser armed drones.
- "Then, in July, the company acquired Sky-Hero, a company based in Belgium that manufactures drones and unmanned ground vehicles. Sky-Hero has already developed so-called “distraction” technology for some of its drones and rovers that produces the same sound pressure levels as a semiautomatic rifle...."

<https://themarkup.org/2023/09/08/axons-ethics-board-resigned-over-taser-armed-drones-then-the-company-bought-a-military-drone-maker>



[Axon's Ethics Board Resigned Over Taser-Armed Drones. Then the Company Bought a Military Drone Maker – The Markup](https://themarkup.org/2023/09/08/axons-ethics-board-resigned-over-taser-armed-drones-then-the-company-bought-a-military-drone-maker)

themarkup.org

The CEO's vision for Taser-equipped drones includes a fictitious scenario in which the technology averts a shooting at a daycare center

A – Axon Enterprise aligns with our current repository for evidence (Evidence.com). Furthermore, much of our existing technology is through Axon. Therefore the benefits of compatibility are significant.

Q. Will the drones that APD is requesting to purchase have ability to add tasers?

A – Our policy specifically prohibits weaponizing drones. Furthermore, it is illegal to do so. Doing so would violate Section 363 of the 2018 FAA Reauthorization Act which has been in effect since 2018.

Q. Will drones include facial recognition?

A – No.

Q. What other UAS/drone companies were considered?

A – There are several other vendors out there. However, as mentioned above, the compatibility with Axon is significant.

Q. What is cost estimate for years 2 - 5?

A – Year 1 is \$124,562.74. Years 2 – 5 is \$4,810.32 per year.

Q. When did APD start using drones? How much was annual cost for last three years? What is anticipated annual cost if continue borrowing and not purchase?

A – To my knowledge, APD has been using drones for several years, at least going back to 2018. As to past annual costs, we have not tracked these expenses. As of January 1, 2024, APD entered into an agreement with the Alameda County Sheriff's Office (ACSO) for services outside of traffic collision scene re-creation. For incidents outside of traffic collision scene re-creation, ACSO charges a minimum of \$600 per operator for four hours of service and for an observer as well. Therefore, the estimated cost for any deployment is at least \$1,200 for up to four hours of service. After four hours, the charge is an additional \$300 per hour. Again, that's only for incidents that are outside of traffic collision scene re-creation. It is \$140 per hour for traffic collision scene re-creation. I have been very careful in requesting drone use since January due to ASCO's limited resources and the potential financial impact to the City. Therefore, we have not incurred any expenses so far this year. It is difficult to say how much the anticipated annual cost would be.

The challenge with this arrangement is that APD is totally dependent on ACSO's availability. ACSO is short-staffed by several hundred deputies. So, there could be a significant delay on when they arrive. Their delay ends up keeping APD officers tied on a scene until ACSO arrives. The most efficient approach is for APD to have its own program.

2. Will deployment and use records for UAS/drones be posted for public access?

- *Staff Response: APD will create a Significant Police Incident Report after all UAS deployments. These reports will be posted to the City's website immediately and without unnecessary delay.*

Q. Will they be separated from other Significant Police Incident Reports? Will there be a summary page so can easily see times used in a year, locations e.g. by beat, type of use, e.g., sideshows, search & rescue, locate alleged criminals, etc.?

A – The reporting will be the same as if APD were to deploy the armored vehicle. That report contains date, time, type of incident, location, case number, and a brief summary (sideshow, search/rescue, wanted subject, high risk warrant, etc.). Additionally, APD will create an annual report. The annual report will contain a separate summary of each individual drone deployment.

- Will staff be marking the UAS/drones with APD identifiers and placing signage throughout the City to advise UAS technology may be used?

- *Staff Response: Barring any issues with voiding equipment warranty, APD supports marking the UAS with APD identifiers. At this time, City staff do not intend to place signage throughout the City regarding the use of drones.*

Q. Why is staff opposing my request to post signage of use of drones in high sideshow areas (e.g., Alameda Point, Bay Farm, etc.)? For clarification, my request is not "throughout the City." Other Police Departments post signage for drones/surveillance cameras. See attached pics. Does APD oppose notifying public via signage of

technological tools that they're using? For example, Alameda uses license plate readers at fixed locations but signs not posted. Other cities post signs. See attached pics.

A – Staff is not opposed to signage related to sideshow activity if directed by the Council to add it. Since sideshows move, we don't think it will act as an effective deterrent and there could be some risk that by posting signs related to potential recordings participants cover their license plates and this makes it harder to collect evidence. Related to license plate readers, I strongly recommend against posting "Alameda uses license plate readers." I fear that this type of signage will not have the desired deterring effect on criminals who are intent on committing a crime. I worry they will use this information to remove their license plates prior to entering into Alameda and ultimately create a greater challenge for APD.

I hope this provides clarity and am available for additional questions if needed.

Nishant Joshi

Chief of Police
Alameda Police Department
510-337-8300

From: Nishant Joshi <njoshi@alamedaca.gov>
Sent: Thursday, May 16, 2024 6:10 PM
To: Trish Spencer <tspencer@alamedaca.gov>
Cc: Jennifer Ott <jott@alamedaca.gov>; Yibin Shen <yshen@alamedaca.gov>
Subject: Re: 7-B Uncrewed Aerial Systems (UAS) (Drones)

Good evening Council Member Herrera-Spencer,

Thank you for these questions. I am home now but should have replies tomorrow.

Thank you,

Nishant Joshi
Chief of Police
Alameda Police Department
510-337-8300

On May 16, 2024, at 4:34 PM, Trish Spencer <tspencer@alamedaca.gov> wrote:

Hi City Manager Jennifer Ott and Police Chief Nishant Joshi,

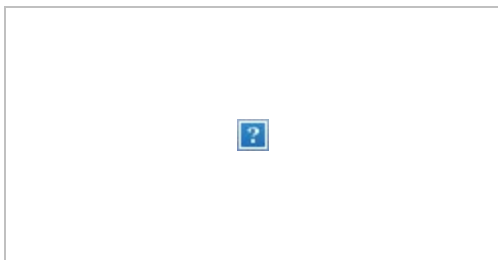
Thank you for the Staff report and responses to questions raised at the last Council meeting on this issue. Below are my follow-up questions to this staff report.

1. "The purchase of two UAS/drones from Axon Enterprise, Inc. in the amount of \$143,804.02 includes all acquisition, training, and licensing costs, over five years (Exhibit 7). The first year's amount of \$124,562.74 will be funded from the existing approved APD budget for Fiscal Year 2024-25, and subsequent years will be funded subject to future budget authorization."

Q. Why purchase from Axon Enterprise?

- Taser armed drones.
- "Then, in July, the company acquired Sky-Hero, a company based in Belgium that manufactures drones and unmanned ground vehicles. Sky-Hero has already developed so-called "distraction" technology for some of its drones and rovers that produces the same sound pressure levels as a semiautomatic rifle...."

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themarkup.org

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Thank you for your consideration.

Sincerely,

Trish Herrera Spencer

Councilmember

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