

Washington State Policy Guidelines For Unmanned Aircraft Systems

The advent and widespread use of drones has raised many complex questions in Washington State, resulting in different legislative proposals to regulate the use of drones—unmanned aerial vehicles—by state agencies and programs.

This document is designed to guide policy makers and stakeholders as they develop policy proposals. It reflects input from the Executive Branch, Office of the CIO, DOT, and a broad group of agencies. The guidelines are not listed in any particular order or priority.

1. Definition of “Drones”—should apply to unmanned aerial vehicles controlled by a remote operator. Sample definition: “An unmanned aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.”

2. Law Enforcement and Respect for Civil Rights.

A. Fourth Amendment requirements must apply to the use of evidence derived from drone surveillance. This is grounded on probable cause and the need to obtain a warrant in advance of use for law enforcement purposes, if such evidence is to be introduced in a court of law.

B. Drones should not be used to monitor activities protected by the First Amendment or lawful exercise of other Constitutional rights.

C. Law enforcement personnel should balance use of drones against other means of gathering information in a particular investigative need, assessing whether such alternative means are less intrusive than the deployment of drones.

3. Purpose of Use—the purpose of use of a particular flight should be recorded and maintained by the applicable agency.

A. Drones should only be used in connection with properly authorized investigations and activities, unless they are authorized for on-going use by documented Agency policy.

B. Exceptions to stating a purpose of use in advance of actual use can be made for emergencies such as natural disasters, terrorism and “hot pursuit” of crimes.

C. Data collected by drones must be subject to existing state and federal laws and regulations regarding the privacy of personal information.

4. Data Minimization—the video images and other data derived from surveillance applications should be minimized in terms of review and retention, consistent with state records retention requirements. Only data pertaining to the original purpose of the drone flight should be retained. Agencies should set retention schedules consistent with the fulfillment of the original purpose of the drone flight.

5. Federal Law

- A. FAA regulations regarding registration of drones, safety and no-drone zones must be followed.
- B. The state acknowledges existing “open view” doctrines, as set forth by the Supreme Court and other legal authorities.

6. Policy Management

- A. Drone guidelines and agency implementation should be reviewed annually to keep up with technology and respond to citizen concerns. Such review should take place within any agency that operates drones.
- B. Drone guidelines should be published in print and online by each agency. OCIO will retain the guidelines in a central location.
- C. The state should conduct public education and outreach regarding drone policies and operations by state agencies.
- D. The state should not share drone data with the federal agencies without judicial authorization or review.
- E. The state should not share drone data with local governments or between state agencies, unless such sharing is specified within the original purpose of the deployment

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