



**OFFICE OF AIR AND MARINE
WASHINGTON, DC**

OAM PROCEDURE NO. 2013-15

DATE: September 9, 2013

Unmanned Aircraft System Operations and Privacy

1. **PURPOSE.** The purpose of this directive is to establish uniform policies, procedures, and guidelines for conducting U.S. Customs and Border Protection (CBP) Unmanned Aircraft Systems (UAS) surveillance operations while ensuring compliance with privacy law and policy.
2. **POLICY.** It is Office of Air and Marine (OAM) policy that in accordance with U.S. law and consistent with this UAS surveillance operations directive, OAM agents and personnel may use CBP UAS to provide integrated and coordinated border interdiction and law enforcement support to homeland security missions; provide assistance, consistent with the prerogatives of the Department of Homeland Security (DHS) and CBP, to other federal, state, and local agencies in other law enforcement and emergency humanitarian efforts; provide airspace security for National Special Security Events; and combat smuggling and other cross-border violations.
 - 2.1 **General Privacy Considerations.**
 - 2.1.1 The video, still images, and radar images captured from a CBP UAS generally do not clearly identify individuals on the ground or elsewhere; however, these images may be associated with a particular individual, such as when an individual has been apprehended or is under custody.
 - 2.1.2 All biographical information obtained from apprehended individuals and any video or radar images of their movement collected from a CBP UAS that may reasonably be regarded as evidence in any kind of court or administrative proceeding must be retained in the appropriate law enforcement case management system, pursuant to the OAM Evidence Handling procedures and in compliance with the Privacy Act.
 - 2.1.3 Video, still images, and/or radar images collected from a CBP UAS as part of a natural disaster government response and/or emergency situation, which generally are not associated with any particular person, may be provided via real time feed to the Federal Emergency Management Agency and/or the corresponding state emergency operating center.

2.1.4 OAM personnel may use video, still images, and/or radar images collected from a CBP UAS to apprehend individuals and as evidence that may help prove a violation of law. Subject to applicable law, information collected from a CBP UAS may be shared with other federal, state, local, tribal, or foreign law enforcement agencies to assist them with the enforcement of the laws that they administer, and subject to compliance with confidentiality and other requirements (for example, those specified in 6 U.S.C. § 485 and 19 U.S.C. § 1628).

2.2 Data Minimization and Retention.

2.2.1 OAM personnel may use a CBP UAS to collect video, still images, and/or radar images only in support of an authorized mission and/or investigation.

2.2.2 OAM personnel may use a CBP UAS to collect, among other types of information, Personally Identifiable Information (PII) that is relevant and necessary in the course of an authorized mission and/or investigation.

2.2.3 Any retention of PII by OAM personnel must be performed in accordance with the requirements of any applicable Privacy Act System of Records Notice where the PII data is maintained.

2.2.4 In all cases, OAM personnel will minimize the long-term retention of any video, still images, and/or radar images collected from a CBP UAS. Storage media containing imagery collected from a CBP UAS that is not related to any particular case, operationally relevant, nor relate to a potential violation of law, will continue to be overwritten every 30 days or otherwise, in accordance with the OAM ground control station data storage system management procedures.

2.3 Data Use.

2.3.1 OAM personnel must use PII data only for the purposes for which such information was collected. OAM personnel may collect video, still images, and/or radar images, from a CBP UAS pursuant to their law enforcement authority, as part of their border security mission, or when flying a mission in support of another agency, provided that such other agency has the legal authority to request the use of a CBP UAS.

2.3.2 While the video resolution, radar mapping images collected from a CBP UAS are not sufficiently precise to permit actual identification of a person, such images or information could be associated with a particular individual when combined with the circumstances surrounding the activity revealed in the image or any other additional information obtained from such person.

2.3.3 Any sharing of information or data collected from a CBP UAS with other federal, state, local, tribal, or foreign law enforcement agencies to facilitate or assist them with the enforcement of the laws that they administer, must strictly comply with confidentiality and other requirements (for example, those specified in 6 U.S.C. § 485 and 19 U.S.C. § 1628), with OAM's Evidence Handling procedures, and the Privacy Act.

2.4 Data Quality and Integrity.

2.4.1 OAM personnel operating any CBP UAS are required to complete annual Privacy Awareness, Ethics, and CBP Code of Conduct training. Additionally, OAM UAS operators must successfully complete training on the proper operation of CBP UAS recording equipment, to guarantee and preserve the quality and integrity of any information that is collected from a CBP UAS, and which is intended to be used as evidence that may help prove a violation of law.

2.4.2 The Privacy Awareness training to be completed by OAM personnel operating any CBP UAS includes techniques to copy recorded evidence and a complete understanding of the OAM Evidence Handling policy. As with any information associated with a particular case file, once the images or videos are cross-referenced with, and included within records relating to, an ongoing investigation or case, they become covered by the system of records for that particular case file system and subject to the Privacy Act requirements of that system.

2.5 Data Security.

2.5.1 OAM personnel must protect video, still, and/or radar images captured from a CBP UAS, through appropriate security safeguards against risks to include loss, unauthorized access or use, destruction, modification, or unintended or inappropriate disclosure.

2.5.2 Live video and flight information sent from a CBP UAS is passed along an encrypted feed from the CBP UAS through the satellite relay to the ground control station. Any video or data that is transmitted, in real time via BigPipe to a closed system with restricted access is subject to access controls and an approval process requiring clearance by CBP system administrators to ensure that only authorized users with a need to know have access to the video feeds.

2.5.3 Real time video feeds transmitted from a CBP UAS are recorded by OAM personnel on a Digital Video Recorder (DVR). Any recorded images saved as evidence that may help prove a violation of law or for

surveillance purposes must be handled in accordance with OAM Evidence Handling procedures, and in compliance with the Privacy Act. Any recorded images by OAM personnel that are intended to be used as evidence in a court or administrative proceeding must be kept in a locked container, segregated from other property and/or equipment.

2.5.4 Any video or images collected from a CBP UAS during an investigative operation containing sensitive surveillance or reconnaissance related data must be controlled and archived by Office of Intelligence and Investigative Liaison (OIIL) and may not be disclosed outside CBP without the express approval of the OIIL Collections Division Director.

2.5.5 Any information collected from a CBP UAS that is stored on the DVR that does not appear to constitute evidence that may help prove a violation of law or does not appear to be related to an ongoing investigation will be overwritten approximately every 30 days.

2.6 Operational Guidelines.

2.6.1 OAM personnel shall only conduct CBP UAS operations in support of authorized DHS/CBP border and homeland security missions, for training purposes, or when flying a mission in support of another federal, state or local agency, provided that such other agency has the legal authority to request the use of a CBP UAS.

2.6.2 The OAM Assistant Commissioner shall be made aware of any requests for CBP UAS support made by any federal, state, or local agencies for non-routine operations.

2.6.3 OAM personnel shall comply with all applicable Federal Aviation Administration (FAA) rules and regulations while operating a CBP UAS.

2.6.4 OAM personnel are authorized to launch a CBP UAS in one of two ways:

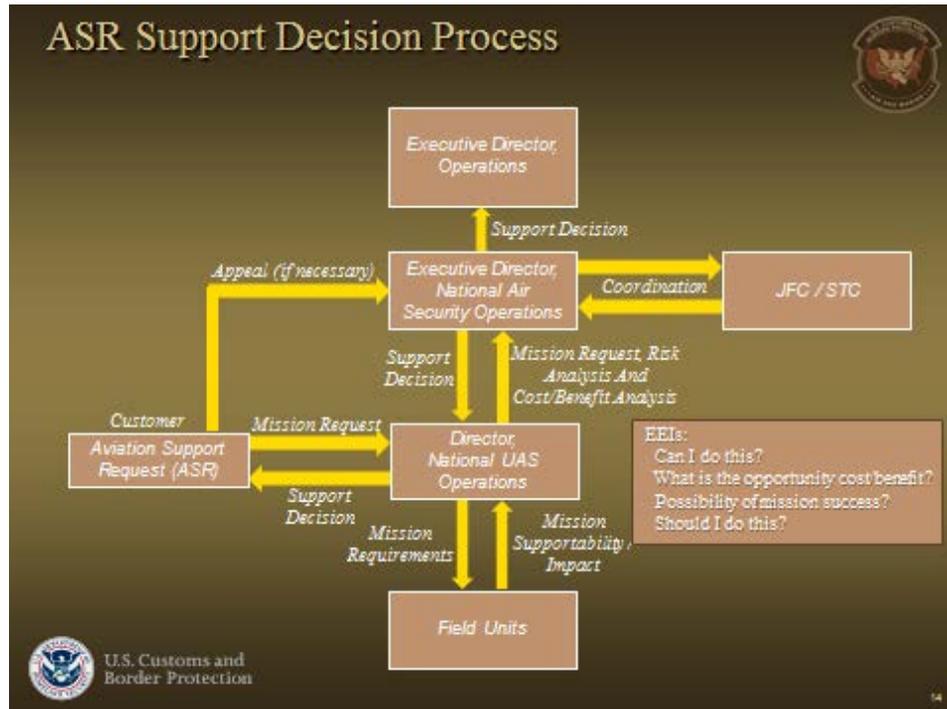
a. Dynamically (during UAS flight in response to rapidly changing or officer safety event), or

b. Prior to launch, as a:

1. Joint Agency Request (e.g., Joint Field Command - Arizona, National Response Coordination Center, Joint Interagency Task Force - South, etc.), or

2. OIIL intelligence collection request based upon Homeland Security Standing Information Needs and CBP Priority Intelligence Requirements.

2.6.5 All requests for CBP UAS support must be coordinated through the Command Duty Officer. Prior to mission launch, requests for CBP UAS support must be coordinated in accordance with the current OAM Aviation Support Request Policy, through the Director, National UAS Operations, and as depicted below:



2.6.6 The deployment of a CBP UAS must be conducted on a priority basis; however, this commitment will not preclude the use of other CBP aviation resources in support of additional authorized DHS/CBP mission and/or investigation. The following mission sets are listed in order of priority:

- Tier 1: National DHS/CBP Missions
- Tier 2: CBP Missions
- Tier 3: Other Federal/State/Local Missions (Resources Permitting)

2.6.7 Specific missions listed in order of priority include:

1. DHS/CBP law enforcement officer needs assistance;
2. Any other persons need assistance in life-threatening situations;
3. Reported crimes in progress;
4. Investigative or other air support missions;
5. Routine mission support;
6. Maintenance test flights.

2.6.8 CBP UAS are not configured or authorized to carry munitions.

3. BACKGROUND. OAM protects the American people and the nation's critical infrastructure through the coordinated use of integrated air and marine assets to detect, interdict and prevent acts of terrorism and the unlawful movement of people, illegal drugs and other contraband toward or across the borders of the United States. To achieve its border surveillance and law enforcement missions, OAM employs several types of aircraft, including manned helicopters, fixed-wing aircraft, and UAS.

3.1 This policy supersedes any prior OAM policy to the extent that the prior policy is inconsistent with the content of this directive.

4. AUTHORITIES/REFERENCES.

4.1 Homeland Security Act, 6 U.S.C. § 111, et seq.

4.2 Department of Homeland Security Appropriations Act, 2013, Pub. L. No. 113-6, and successor appropriations thereto.

4.3 8 U.S.C. § 1357; 19 U.S.C. §§ 1581, 1590, 1644, 1644a, 1703.

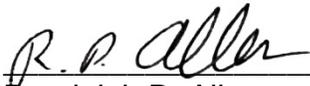
5. RESPONSIBILITIES.

5.1 OAM supervisors will conduct CBP UAS operations in accordance with the OAM Aviation Operations Handbook and in compliance with applicable FAA regulations. OAM supervisors will also be responsible for documenting any investigative activity and incident reporting that occurs during the course of an aviation enforcement operation utilizing CBP databases.

5.2 The Air and Marine Operations Center (AMOC) will provide direct coordination between OAM agents and CBP assets to ensure proper investigative and operational deconfliction. In addition to the radar separation/advisory services provided by the primary Air Traffic Control facility for the region in which a CBP UAS is operating, AMOC will provide radar over-watch of all CBP UAS flights as a redundant safety precaution. AMOC will provide documentation utilizing the AMOC watch log to record any CBP aviation enforcement activity.

5.3 OAM agents should always seek local advice from the CBP Office of Chief Counsel (Associate/Assistant Chief Counsel) prior to sharing any video, still images, and/or radar images or data collected from a CBP UAS with other federal, state, local, tribal, or foreign law enforcement agencies, and with respect to ongoing investigations or pending court cases, this consultation should also include the applicable U.S. Attorney's Office, through Associate/Assistant Chief Counsel, where appropriate.

6. NO PRIVATE RIGHT CREATED. This is an internal procedure of OAM and this procedure does not create or confer any rights, privileges, or benefits for any person or entity.
7. DISCLOSURE. This document contains law enforcement sensitive information that may be exempt from disclosure to the public pursuant to federal law. No part of this document shall be disclosed to the public without express authority from OAM.



Randolph D. Alles
Assistant Commissioner
Office of Air and Marine