

September 11, 2019

## MEMORANDUM

**To:** Governance, Equity, and Technology Committee Members  
**From:** Greg Doss and Lise Kaye, Council Central Staff  
**Subject:** Council Bill 119519 (Seattle Department of Transportation Surveillance Technologies)

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On Tuesday, September 17, 2019, the Governance, Equity and Technology (GET) Committee will discuss and may vote on Council Bill (CB) 119519.<sup>1</sup>

The proposed bill is intended to meet the requirements of the 2017 Surveillance Ordinance ([Ordinance 125376](#)). If adopted, the bill would approve the Seattle Department of Transportation's (SDOT's) use of Closed-Circuit Television (CCTV) traffic cameras and Automated License Plate Readers (LPRs), as well as accept the Surveillance Impact Reports (SIRs) for these technologies (discussed in more detail below). Amendment 1 (also discussed below), would accept two Condensed Surveillance Impact Reports (CSIRs) which summarize the extensive SIRs.

### Summary:

At the direction of the GET Committee Chair, Council Central Staff have worked with city staff (Seattle IT, SDOT and the Mayor's Office) to incorporate additional privacy protections requested by the co-chairs of the Community Surveillance Working Group (Working Group) into the CSIR documents. City staff concur with many of the co-chair requests, which are represented in redlined versions of the CSIR drafts (Attachments 1 and 2). However, the co-chairs and city were unable to reach agreement on the following issues:

- 1. Authority** – Whether the CSIR policies can or should supersede the policies of the SIR and internal department policies such as the Seattle Police Department manual.
- 2. Terms of Service Agreements** – Whether the City can or should require online users of live public camera feeds adhere to policies (“Terms of Service”) identified in the CSIR and SIR.
- 3. Privacy Training for Departments Using SDOT Technologies** – Whether City policy can or should require any departmental users of SDOT technologies (both CCTV and LPR) to undergo privacy training specific to these technologies.
- 4. Privacy Training for Washington State Department of Transportation (WSDOT)** – Whether City policy can or should require any WSDOT users of LPR data to undergo privacy training specific to this technology.

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<sup>1</sup> The GET Committee also held a discussion on CB 119519 on May 21, 2019. The Central Staff report can be found [here](#).

## **Background:**

### CB 119519

The GET Committee first heard CB 119519 on May 21, 2019. In that hearing, Committee members asked Seattle IT staff to create a summary section for each of the two 100-page SIR documents. Committee Members also asked that the summary sections include clear, enforceable policies for the use of the technologies. In response, Seattle IT staff created draft CSIR documents and provided the drafts to Central Staff and the Working Group.

The Working Group co-chairs have expressed concerns that the draft CSIR documents do not effectively address all of the privacy issues that were identified in the Working Group's Privacy and Civil Liberties Impact Assessments. The co-chairs created and advocated for the use of an "Enforceable Policies" summary section in place of the draft CSIR. The proposed Enforceable Policies summary use a more concise format but also include more restrictive language regarding the use of the technology than the language in the draft CSIR prepared by SDOT.

At the direction of the Chair, Central Staff worked with all parties to marry the draft CSIR summary and draft Enforceable Policies summaries into one document.<sup>2</sup> The redlined CSIR documents (Attachments 1 and 2) are the result of that effort. As noted above, the group was unable to reach agreement on the four issues noted in the summary section.

### Surveillance Ordinance (Ord. 125376)

The 2017 Surveillance Ordinance requires City of Seattle departments to (1) obtain Council ordinance approval before purchasing new surveillance technology<sup>3</sup> or (2) authorize the continued use of a surveillance technology that has already been deployed. As a first step (Chart 1) departments must create and submit for public review an SIR that identifies City policies and procedures that govern the use of a surveillance technology, including personnel who may access the technology and the data that will be captured by the technology.

In 2018, the Surveillance Ordinance was amended to require additional review of a SIR by a "working group" made up of seven individuals that represent groups that have historically been subject to disproportionate surveillance, including Seattle's diverse communities of color, immigrant communities, religious minorities, and groups concerned with privacy and protest (see [Ordinance 125679 for more detail](#)). The Working Group is responsible for reviewing SIRs and creating a Privacy and Civil Liberties Impact Assessment that identifies additional protections that could be implemented before the Council acts on a proposed technology.

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<sup>2</sup> On August 8, 2019, Committee Chair Harrell, Councilmember O'Brien, City staff, and the Working Group co-chairs agreed that the draft CSIR would serve as the base document for which language and/or direction from the Enforceable Policies document would be integrated.

<sup>3</sup> See Ordinance 125376. "Surveillance Technology" is defined in SMC 14.18.010 as any electronic device, software program, or hosted software solution that is designed or primarily intended to be used for surveillance purposes. Section 14.18.020 of Ord # 125376 requires the Executive to determine whether a technology is a "Surveillance Technology."

Chart 1. Surveillance Impact Report (SIR) Process



Department drafts SIR about technology use, privacy, and data security.	Draft SIR made public. One or more public meetings scheduled to solicit feedback.	Working Group reviews SIR; creates Impact Assessment, documenting privacy and civil liberty concerns.	City's CTO addresses any working group concerns.	Council reviews Executive's proposed ordinance reflecting the SIR, authorizing the use of existing or new technology.
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The amended ordinance allows Seattle IT's CTO to provide a written statement that addresses privacy rights, civil liberty, and/or other concerns raised in the Privacy and Civil Liberties Impact Assessment. In a final step, the Executive transmits to the Council a proposed ordinance that approves the use of an existing or new technology consistent with the policies identified in the SIR, which is an attachment that is incorporated by reference in the proposed ordinance.

Working Group Concerns on SDOT CCTV Traffic Cameras

The Working Group's Privacy and Civil Liberties Impact Assessment concluded that the SDOT policies do not set forth clear use, collection, and retention rules; do not ensure all operators of the technologies are trained in SDOT policies; and do not include technical controls to track user actions in a manner that can be audited. Specific recommendations are found in the Working Group Impact Assessment in Attachments 5 and 6. As noted above, the majority of these concerns are addressed in the redlined version of the CSIRs (Attachments 1 and 2).

Working Group concerns on SDOT LPRs

The Working Group's Privacy and Civil Liberties Impact Assessment indicates that SDOT should have a clear policy that reflects the department's policy against retention of LPR (License Plate Readers) data. It also states that SDOT should have an agreement with the Washington State Department of Transportation (WSDOT) to ensure consistency with privacy policies. A number of specific recommendations can be found in the working group Impact Assessment in Attachments 5 and 6. As noted above, the majority of these concerns are addressed in the redlined version of the CSIRs (Attachments 1 and 2).

Amendment 1

Amendment 1 (Attachment 7) would accept and attach to the ordinance clean versions (Attachments 3 and 4) of the redlined versions of the CSIR documents (Attachments 1 and 2) and attach an updated SIR that reflects the changes in the redlined CSIR.

**Conclusion:**

Based on Central Staff review, the Executive followed the process mandated by the 2017 Surveillance Ordinance (and depicted in Chart 1, above). The Working Group's concerns and questions have been partially addressed in the redlined version of the CSIR documents (Attachments 1 and 2).

With regard to the outstanding issues identified on page 1 of this staff report, the Council could take any of the following actions:

1. Adopt Ordinance as transmitted;
2. Adopt Amendment 1 to accept and attach the CSIR(s) and revised SIR(s) and then pass CB 119519, as amended;
3. Consider additional written or verbal amendments to address some or all of the outstanding issues identified in the summary section, then pass CB 119519, as amended<sup>4</sup>;
4. Provide direction for continued work on the CSIR documents to address additional concerns or issues.

**Attachments:**

1. Redlined CSIR for LPR
2. Redlined CSIR for CCTV
3. Clean CSIR for LPR
4. Clean CSIR for CCTV
5. Working Group Impact Assessments of LPR
6. Working Group Impact Assessments of CCTV
7. Amendment 1

cc: Kirstan Arestad, Central Staff Director  
Dan Eder, Deputy Director

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<sup>4</sup> This amendment would not attach the revised CSIR(s) and revised SIR(s), but the revised versions would be prepared in advance of full Council action.