

April 19, 2022

MEMORANDUM

To: Economic Development, Technology and City Light Committee
From: Lise Kaye, Analyst
Subject: Surveillance Impact Report Process and Related Legislation

This memo describes legislative history of the City’s Intelligence and Surveillance Ordinances and the process by which the Executive produces a Surveillance Impact Report (SIR).

Powers and Functions of Seattle Police Department’s Criminal Information Section¹

The Seattle City Council (Council) adopted [Ordinance 108333](#), often referred to as Seattle’s “Intelligence Ordinance,” in 1979 and amended it in 1982 via adoption of [Ordinance 110572](#). Section 27 of Ordinance 108333 defines Seattle Police Department’s Criminal Intelligence powers and functions, including the following authority to:

- collect, evaluate, organize, and analyze data and specific investigative information about organized criminal activity (subsequently defined by Ordinance 100572 as “a continuing enterprise engaged in solely for the purpose of obtaining monetary gain... through racketeering, vice, narcotics, gambling, fencing, or similar criminal activity”);
- collect, evaluate, and classify information about incidents of unlawful activity, confirming the degree of accuracy of the information whenever possible;
- study, detect and explain any meaningful patterns of unlawful activities;
- furnish and exchange relevant criminal intelligence information with criminal justice agencies; and
- develop methods for evaluating the effectiveness of the Criminal Intelligence Section in accomplishing its law enforcement purposes and safeguarding the constitutional rights and privacy of all individuals.

Ordinance 110572 also established policies governing the collection, recording, retention and sharing of information by SPD personnel ([SMC 14.12.020](#)), including the following directives:

- All collected information shall reasonably appear relevant to the performance of an authorized police function;
- Only information deemed relevant to present and future law enforcement activities or required by law shall be retained;
- Authorized disclosure of information, including when needed by criminal justice functions, for scientific or law enforcement research under assurance of confidentiality, and when pertinent to agencies with regulatory responsibilities.

¹ [SMC 14.12.290](#)

Acquisition and Use of Surveillance Technologies²

[Ordinance 125376](#), passed by Council on July 31, 2017, requires City of Seattle departments intending to acquire surveillance technology to obtain advance Council approval, by ordinance, of the acquisition and of a SIR.³ Departments must also submit an SIR for surveillance technology in use when Ordinance 125376 was adopted (referred to in the ordinance as “retroactive technologies”), but failure to approve an ordinance for a retroactive technology does not require a department to discontinue its use. Councilmembers may choose to amend an ordinance to request additional information or to request that the Executive develop new and/or revised operational policies, which, if implemented, could restrict or modify the application of certain technologies. As of April 1, 2021, the Council has accepted SIRs for 16 of the 28 technologies on the current Master List and extended the initial March 3, 2020 deadline to complete the retroactive SIRs to September 1, 2022.⁴

Either the Chief Technology Officer or the Council may determine whether a specific technology is “surveillance technology” and thus subject to the requirements of SMC 14.18. Each SIR must describe protocols for a “use and data management policy” as follows:

- How and when the surveillance technology will be deployed or used and by whom.
- How surveillance data will be securely stored.
- How surveillance data will be retained and deleted.
- How surveillance data will be accessed.
- Whether a department intends to share access to the technology or data with any other entity.
- How the department will ensure that personnel who operate the technology and/or access its data can ensure compliance with the use and data management policy.
- Any community engagement events and plans.
- How the potential impact of the surveillance on civil rights and liberties and potential disparate impacts on communities of color and other marginalized communities have been taken into account, and a mitigation plan.
- The fiscal impact of the surveillance technology.

² [SMC 14.18](#)

³ As codified in SMC 14.18.030, Ordinance 125376 identified a number of exemptions and exceptions to the required Council approval, including information voluntarily provided, body-worn cameras and cameras installed in or on a police vehicle, cameras that record traffic violations, security cameras and technology that monitors City employees at work.

⁴ As provided for in [Ordinance 125679](#), Council has granted five six-month extension requests: first to accommodate extended deliberation of the first two SIRs; and then four more primarily due to COVID-related delays and/or to provide additional time for public engagement.

Community Surveillance Working Group

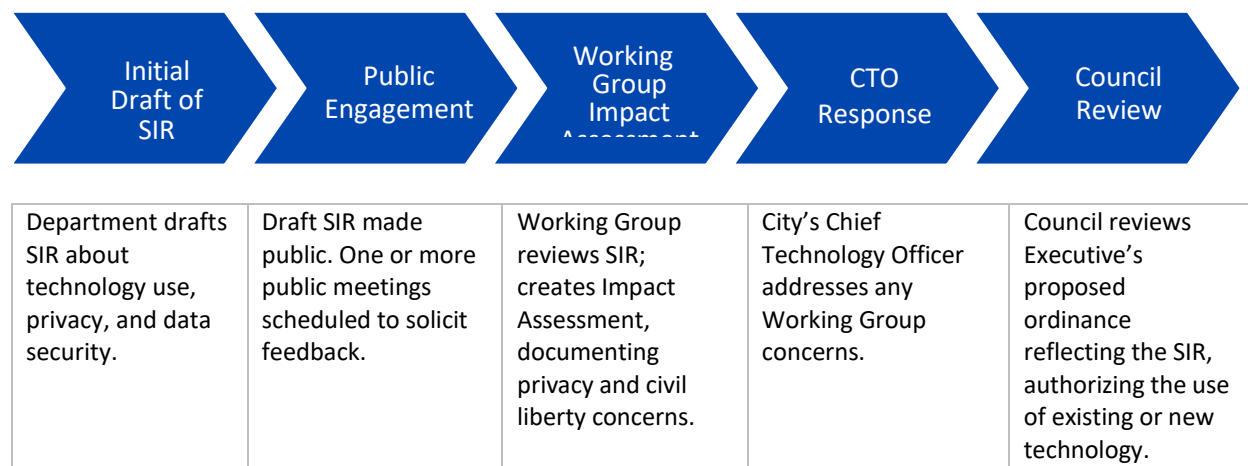
On October 5, 2018, Council passed [Ordinance 125679](#), amending SMC 14.18, creating a “community surveillance working group” charged with creating a Privacy and Civil Liberties Impact Assessment for each SIR. At least five of the seven members of the Working Group must represent groups that have historically been subject to disproportionate surveillance, including Seattle’s diverse communities of color, immigrant communities, religious minorities, and groups concerned with privacy and protest.⁵ Each Privacy and Civil Liberties Impact Assessment must describe the potential impact of the surveillance technology on civil rights and liberties and potential disparate impacts on communities of color and other marginalized communities and will be included in the SIR. Prior to submittal of a SIR to Council, the Chief Technology Officer may provide a written statement that addresses privacy rights, civil liberty or other concerns in the Working Group’s impact assessment.

Executive Overviews

In May 2019, members of the Governance, Equity, and Technology Committee requested that the Seattle Information Technology Department staff prepare a summary section for each of the two lengthy SIR documents under review at that time. The Committee then accepted the resultant “Condensed Surveillance Impact Reports (CSIRs) together with the complete SIRs. The Executive has continued this practice with subsequent SIRs but has renamed the documents “Executive Overviews.” The Operational Policy Statements in the Executive Overview represent the only allowable uses of the subject technology.

SIR Process

The following chart illustrates the SIR process from inception to Council Review:



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⁵ The Mayor appoints four members, and the Council appoints three members.