

March 7, 2023

## MEMORANDUM

**To:** Economic Development, Technology and City Light Committee  
**From:** Lise Kaye, Analyst  
**Subject:** Council Bill 120518– Authorizing approval of uses and accepting the 2023 updated surveillance impact report and 2023 executive overview for the Seattle Police Department’s use of Forward Looking Infrared Real-Time Video

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On March 8, 2023, the Economic Development, Technology and City Light Committee will discuss and potentially vote on Council Bill (CB) 120518. Acceptance of an updated Surveillance Impact Report (SIR) through passage of this CB would authorize the Seattle Police Department (SPD) to purchase and use a Forward Looking Infrared Real-Time (FLIR) Video microwave downlink that would relay live infrared images from King County Sheriff’s Office (KCSO) helicopters to SPD units on the ground. As a material change to an approved Surveillance Impact Report (SIR), SPD cannot purchase or use the downlink without Council approval.<sup>1</sup> Should Council wish to make additional substantive changes to the SIR, Council could decline to act on this bill and request that SPD submit a revised SIR making specific changes or draft new legislation governing the use of the technology and consider a revised SIR after passage of that legislation. The Executive has requested Council approval of the SIR by March 14 to meet an August 2023 grant deadline.

This memorandum describes Seattle Municipal Code (SMC) requirements and the Information Technology Department’s (ITD’s) policies pertaining to a material change to an SIR and summarizes SPD’s current and proposed use of FLIR Video and several technical amendments. Staff have not identified any policy issues with respect to this legislation.

### **Background: Material Updates to a SIR**

[SMC 14.18](#) requires Council approval by ordinance of a “material update” to a SIR. The SMC does not specifically define this term but states that a change in the purpose or way in which a surveillance technology may be used would require Council approval, while routine patches, updates, and replacements would not. ITD recently updated its operational policy ([POL-203](#)) for surveillance technology to further identify the types of changes, such as functionality and allowable uses, that will be reviewed when evaluating a potential material change to an SIR.<sup>2</sup> The updated policy requires City departments to report material changes to ITD and calls for ITD to consult the City Auditor and Office of Inspector General’s annual surveillance usage reviews to identify any unreported material changes. ITD recommends but does not require providing opportunities for public comment on the material changes, including encouraging comment from the Surveillance Working Group.

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<sup>1</sup> The Summary and Fiscal Note for this CB has been revised to clarify that 1) SPD may continue to use the technology as described in the initial SIR until the legislation is implemented; 2) a decision not to implement the legislation would mean that SPD would not be able to view FLIR infrared video in real time, but it would not have a financial impact.

<sup>2</sup> Per ITD POL203-Seattle IT Surveillance Policy, the following types of changes may be evaluated when identifying material changes: purpose, functionality, allowable uses, surveillance data, data retention, and civil rights and civil liberties impacts.

## **Proposed Material Change to FLIR SIR: Real-time Microwave Video Downlink Tool**

Council approved the original FLIR SIR and Executive Overview, via [Ordinance 126341](#), in May 2021. The Executive Overview stated that, while the KCSO helicopters are capable of transmitting video of ongoing events to units on the ground, SPD does not utilize that function. Instead, KCSO helicopter pilots narrate information from the FLIR Video to the SPD field units. As needed, SPD obtains copies of FLIR Video recordings from the KCSO for evidentiary or investigative purposes.

On December 14, 2020, Council approved [Ordinance 126256](#), which included acceptance of a \$144,000 federal Urban Areas Security Initiative (UASI) grant to fund the acquisition of a FLIR “Maple Link Downlink” tool. However, use of this video downlink from the KCSO helicopters would be a material change in how SPD’s uses FLIR Video and so SPD’s purchase requires Council approval of an updated SIR. If Council does not approve the purchase and use of the video downlink, SPD would continue to rely upon narrated descriptions of the FLIR video from the KCSO pilots.

SPD received an extension to the grant deadline (from February 2023 to August 2023) but, according to the Executive, the City’s purchasing processes require Council approval of the SIR by March 14 to meet the August 2023 grant deadline.

### **Amendments**

Councilmember Nelson has sponsored five non-material, technical amendments to CB 120518, two of which were requested by the Executive. Amendments One and Two would provide consistent language throughout the SIR and Executive Overview to the effect that, while SPD doesn’t retain recordings taken directly from the Downlink device, the Department does obtain from the KCSO and store as evidence recordings of the FLIR videos. Amendment Three would ask SPD to develop and add a “Record of Changes” form to the updated SIR. The Executive’s requested Amendments Four and Five would modify the SIR and the Executive Overview, respectively, to clarify how often the technology will be in operation, the format of shared data and references to SPD’s evidence management system.

cc: Esther Handy, Director  
Aly Pennucci, Deputy Director  
Brian Goodnight, Supervising Analyst