

February 6, 2023

MEMORANDUM

To: Economic Development, Technology and City Light Committee
From: Lise Kaye, Analyst
Subject: Council Bill 120500 - Authorizing approval of uses and accepting the surveillance impact report for the Seattle Police Department's use of Crash Data Retrieval Tools

On February 8, 2023, the Economic Development, Technology and City Light Committee will discuss [Council Bill \(CB\) 120500](#). This CB would approve the Seattle Police Department's (SPD's) continued use of Crash Data Retrieval Tools and accept the Surveillance Impact Report (SIR) and an Executive Overview for these technologies.

The bill is intended to meet the requirements of [Seattle Municipal Code Chapter 14.18](#), Acquisition and Use of Surveillance Technologies, which requires City of Seattle departments intending to acquire surveillance technology to obtain advance Council approval of that acquisition and of a surveillance impact report (SIR).¹ Departments must also submit a SIR for surveillance technology in use when [Ordinance 125376](#) was adopted in 2017 (referred to in the ordinance as "retroactive technologies"), but failure to approve an ordinance for a retroactive technology does not require SPD to discontinue its use. Councilmembers may choose to amend the ordinance to request additional information or to request that SPD develop new and/or revised operational policies, which, if implemented, could restrict or modify the application of certain technologies.

This memorandum describes SPD's use of Crash Data Retrieval Tools, summarizes recommendations from the Community Surveillance Working Group, describes whether and how each recommendation is addressed in the SIR and/or by current law, and summarizes responses by the Chief Technology Officer (CTO) and/or SPD. Finally, the memorandum identifies one policy issue for Council consideration.

Crash Data Retrieval Tools

SPD uses the Crash Data Retrieval Tools discussed in this SIR to help collect evidence related to the investigation and recreation of certain types of traffic collisions.² These Tools consist of hardware and software that collects information stored in vehicle Event Data Recorders (EDRs), which have been installed in most vehicles in the United States since 2013. The hardware modules are vehicle make and model dependent and physically connect either to a vehicle's on-board diagnostics port or directly to the module containing the EDR. The computer workstations

¹ The Executive Overview summarizes SPD's allowable uses of the Crash Data Retrieval Tools. See also the [memorandum](#) summarizing process for developing a Surveillance Impact Report (SIR), consistent with [Ordinances 125376](#) and [125679](#) and [Ordinance 108333](#), Seattle's "Intelligence Ordinance," adopted in 1979 and amended in 1982 via adoption of [Ordinance 100572](#).

² SPD uses the Crash Data Retrieval Tools to investigate collisions involving specific circumstances such as the death of any person, life-threatening injuries, hit and run collisions, collisions involving substantial bodily injury where it appears a driver was negligent or under the influence of alcohol and or other drugs, vehicular homicide, felony eluding, felony Driving Under the Influence (DUI), and other vehicular crimes.

in the Traffic Collision Investigation Squad detective unit use vendor software to translate the raw EDR data into a PDF format. SPD's policies allow use of these Tools only after obtaining appropriate consent and/or legal search warrant authority. The SIR does not disclose the specific Tools used by SPD because car manufacturers continually advance vehicle technology and SPD wishes to have this SIR ensure the Department's ability to extract data from newer vehicles. SPD reports that the department mitigates potential civil liberties risks, including the risk of unlawful surveillance, and the risks of racial or ethnicity-based bias from the use of these systems and associated data sharing, storage and retention through its warrant parameters, evidence procedures, and anti-bias policies. The Racial Equity Toolkit does not provide a response to comments received during public outreach, nor does it identify metrics to be used as part of the CTO's required annual equity assessments.

Surveillance Working Group Recommendations and CTO Response

The Community Surveillance Working Group's Impact Assessment for Crash Data Retrieval Tools makes six recommendations to Council. The CTO's response finds that the "policy, training and technology limitations enacted by SPD provide adequate mitigation for the potential privacy and civil liberties concerns raised by the Working Group about the use of this operational technology." The CTO's response does not specifically address the Working Group's recommendations, but it identifies relevant citations from the SIR for each of the "key concerns" raised by the Working Group.

Table 1 summarizes which recommendations have been addressed in the SIR and/or are a matter of state law, and which would require a revised SPD policy and/or procedure. Attachment 1 provides additional detail on whether the SIR as drafted or current law addresses the Working Group's recommendations as well as relevant responses from the CTO and/or SPD.

Table 1. Surveillance Working Group (SWG) Recommendations Addressed in SIR and/or State Law

| Addressed in SIR or State Law | SWG Recommendation(s) – Abbreviated |
|---|---|
| Would require revised SPD policy and/or procedure and updated SIR | #2. Limit Crash Data Retrieval warrants to Event Data Recorder data #4. Make equipment identification publicly available, including deployment data, number of people with access to the Tools #6. Maintain audit log |
| See citations in Attachment A | #1. Define incident types and allowed uses #3. Provide strong access controls #5. Record and disclose data sharing #6. Produce annual audit report ³ |

³ Recommendation #6 is partially addressed in the SIR.

Policy Consideration

Central Staff has identified the following potential policy consideration and options.

1. Annual equity assessment metrics.

SPD has not yet finalized metrics to be used in evaluating use of Crash Data Retrieval Tools as part of the CTO's annual equity assessments. These assessments are intended to play a key role in determining whether the City's surveillance legislation is meeting the goals of the Race and Social Justice Initiative.

Options:

- A. Request a report on the proposed metrics by a date certain.
- B. Take no action.

Attachment:

1. Surveillance Working Group Working Group Recommendations: SIR Citations, Current Law, and CTO and SPD Responses

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

**Attachment 1: Surveillance Working Group Working Group Recommendations:
SIR Citations, Current Law, and CTO and SPD Responses**

| Working Group Recommendation | Whether/How Addressed by SIR, CTO or SPD and/or Current Law |
|--|--|
| 1. Define the incident types for which SPD may use Crash Data Retrieval Tools, how they are used and any usage limits. | SIR §1, 2 and 3 provide this information. |
| 2. Require that warrants sought for Crash Data Retrieval use apply only to EDR data and no other data from the vehicle. | <p>CTO Response: The processes and scope associated with obtaining a court-issued warrant is outside of the scope of the Surveillance review process. Compliance with existing legal frameworks and regulations relies with SPD.</p> <p><i>Per SPD, the warrant process requires the detective to cite the area or item to be searched and the nature of the search (physical, electronic, etc.). Limiting the data retrieved in the search is up to the judge, who will determine whether the detective has probable cause for other data. It is up to SPD to request what they need for their investigation, and it is then up to the judiciary to decide whether to limit that search.</i></p> |
| 3. Establish strong access controls for Crash Data Retrieval data. | <p>SIR §4.7 Only sworn investigators in the Traffic Collision Investigation Squad use the Crash Data Retrieval Tools.</p> <p>SIR §4.10 The Crash Data Retrieval software is locally installed on select SPD workstations in the TCIS unit within the SPD network firewall, which are accessible only with Multi-Factor Authentication.</p> |
| <p>4. Make the following information publicly available:</p> <ul style="list-style-type: none"> the names of the manufacturers, vendors, model names, and model numbers of Crash Data Retrieval tools; the frequency with which Crash Data Retrieval Tools are used; the average and median length of time Crash Data Retrieval Tools are deployed; how many people have access to the Crash Data Retrieval Tools. | <p>This information is not provided in the SIR.</p> <p>CTO Response: The policies outlined in the SIR and SPD manual apply to any and all Crash Data Retrieval Tools, regardless of make and model.</p> <p><i>Per SPD, the download tools needed for vehicles updates very rapidly, as car manufacturers are continuously advancing the tech in their vehicles. If we were to limit the approval to only existing devices, we would soon lose the ability to extract data from newer vehicles, as the tech outruns our devices. Rather, we are asking that the capability be approved.</i></p> |
| 5. Record and disclose to whom and under what circumstances Crash Data Retrieval data is shared with third parties. | SIR §6 provides this information. |

| Working Group Recommendation | Whether/How Addressed by SIR, CTO or SPD and/or Current Law |
|--|---|
| <p>6. Maintain a detailed direct audit log of user actions with Crash Data Retrieval Tools and produce an annual audit report about its use of Crash Data Retrieval Tools.</p> | <p>CTO Response: Technology audits, including deployment of [Crash Data Retrieval] Tools, may be conducted by the Office of the Inspector General, the federal monitor, and/or by the Audit, Policy, and Research section within SPD at each entity's discretion.</p> <p>Audits may also be conducted on the use of [Crash Data Retrieval]Tools by the Office of the Inspector General, as designated in the Surveillance Ordinance.</p> <p><i>Per SPD, no current technological log exists, but SPD can keep a list, as the technology is only used with a warrant.</i></p> |