

PROPOSED AMENDMENT 1 TO COUNCIL BILL 119218

Amendment Name: Community Surveillance Working Group.

Sponsor: Council President Harrell

Effects Statement: With few exceptions, this amendment would replace CB 119218 in its entirety. The amendment would make the following changes to Ordinance 125376 and Chapter 14.18 of the Seattle Municipal Code:

- 1.** Creates the Community Surveillance Working Group (Working Group):
 - a. The Working Group shall review and comment on privacy, disproportionality, civil liberty or other concerns regarding any surveillance technology ordinance request that is submitted to the City Council.
 - b. By December 1, 2018, the Mayor must appoint to the group, four members and the Council must appoint three members. Members shall include five members from communities that are historically subject to disproportionate surveillance and groups concerned with privacy and protest.
- 2.** Changes from March 31, 2018 to January 31, 2019 the deadline for departments to begin submitting requests for ordinance approval of identified retroactive technologies on the Master List. The Executive may group together technologies for more efficient review by the Council. The Executive must transmit no fewer than 12 technologies in a 12-month period.
- 3.** Requires by October 1, 2020 submission to the City Council of all SIRs of identified retroactive technologies identified on the Master List.
- 4.** Changes date to beginning on September 15, 2019 for the first annual Equity Impact Assessment, which will cover only the SIRs that have been submitted to the Council.
- 5.** Changes to 2020 and the first annual Surveillance Usage Review and adjusts the reporting period.
- 6.** Delays by 30 days the deadline and changes the distribution method for the quarterly CTO Surveillance Technology Determination Report.

Proposed Amendments:

1. Strike everything after the third recital and replace with the following:

WHEREAS, other events have occurred since passage of Ordinance 125376 that call for clarifications to the surveillance ordinance; NOW, THEREFORE,

1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

2 Section 1. Section 14.18.010 of the Seattle Municipal Code, enacted by Ordinance
3 125376, is amended as follows:

4 **14.18.010 Definitions**

5 The following definitions apply to this Chapter 14.18:

6 * * *

7 “Surveillance technology” means any electronic device, software program, or hosted
8 software solution that is designed or primarily intended to be used for the purpose of
9 surveillance.

10 “Working Group” means the Community Surveillance Working Group established
11 pursuant to Section 14.18.080, which is responsible for advising the Executive and City Council
12 on matters concerning surveillance technology pursuant to this Chapter 14.18.

13 Section 2. Section 14.18.020 of the Seattle Municipal Code, enacted by Ordinance
14 125376, is amended as follows:

15 **14.18.020 Council approval for acquisition of surveillance technologies**

16 A. Unless exempted or excepted from the requirements of this Chapter 14.18
17 pursuant to Section 14.18.030, any City department intending to acquire surveillance technology
18 shall, prior to acquisition, obtain Council ordinance approval of the acquisition and a
19 surveillance impact report for the technology. A City department that directs a non-City entity to
20 acquire or operate surveillance technology on the City’s behalf is bound by the requirements of
21 this Chapter 14.18 to the same extent as if the department were acquiring the surveillance
22 technology.

1 B. 1. The Executive shall establish a process for determining whether
2 technology is surveillance technology as defined in this Chapter 14.18. The process shall take
3 into consideration the following factors, including but not limited to (1) potential impacts and
4 uses that may adversely affect disadvantaged groups or communities and (2) the likelihood that
5 individually identifiable information will be shared with non-City entities.

6 2. Each determination that is made pursuant to the process in subsection
7 14.18.020.B.1 shall be documented in writing. If the process determines that technology is not
8 surveillance technology subject to the requirements of this Chapter 14.18, a department may rely
9 on that determination unless the Council designates that the technology is surveillance
10 technology. Any such Council designation shall be filed with the City Clerk.

11 3. The CTO shall, by no later than 30 days following the last day of each
12 quarter, submit to Council, by filing with the City Clerk and providing an electronic copy to the
13 chair of the committee responsible for ~~((public safety))~~ technology matters, the co-chairs of the
14 Working Group, the City Auditor, the Inspector General for Public Safety, and the Director of
15 Central Staff, a surveillance technology determination list that includes all technology from that
16 quarter that was reviewed under the process established in subsection 14.18.020.B.1, along with
17 supporting information to explain the justification for the disposition of items on the list. The
18 CTO shall ~~((at the same time provide an electronic copy of the lists for the previous three~~
19 ~~quarters to the Chair of the committee responsible for public safety matters and the Director of~~
20 ~~Central Staff))~~ also post the list to the City’s website.

21 4. The Council may at any time designate that a technology is or is not
22 surveillance technology subject to the requirements of this Chapter 14.18.

1 5. If the Council changes the designation of a technology on a list required
2 by subsection 14.18.020.B.3, the Council action shall be filed with the City Clerk and the
3 Council shall direct the CTO to file an updated list with the City Clerk.

4 C. Prior to requesting Council approval pursuant to subsection 14.18.020.A, the
5 department must complete one or more community meetings with opportunity for public
6 comment and written response. The Council may direct the department to conduct additional
7 community engagement before approval, or after approval as a condition of approval. The
8 community meeting or meetings should be accessible, be noticed in multiple languages, be held
9 in communities impacted by the proposed acquisition, and collect information about potential
10 disparate impacts on disadvantaged groups.

11 D. If the CTO, in reviewing information technology resources under the process for
12 mitigating privacy risk under subsection 3.23.030.P, determines that technology for which a
13 department is requesting authorization for acquisition requires Council approval under this
14 Chapter 14.18, the CTO shall inform the City department in writing of its obligation to comply
15 with the provisions of this Chapter 14.18 and may provide technical assistance to the department
16 for such compliance purposes.

17 E. The CTO shall post the latest version of all proposed and all approved SIRs to the
18 City’s website with an indication of its current approval status and, if available, the planned
19 Council date for action.

20 F. Following Council approval of the acquisition and the terms of the SIR, the
21 department may acquire and use the approved surveillance technology only in accordance with
22 the procedures and protocols set forth in the SIR. Any material update to an SIR, such as to
23 change the purpose or manner in which a surveillance technology may be used, shall be by

1 ordinance; non-material updates may be made to the SIR by a department without Council action
2 so long as the change is clearly marked as such in the SIR. For surveillance technology
3 previously approved in accordance with this Chapter 14.18, any material change in surveillance
4 capabilities, such as through technology upgrades, requires an updated SIR. Routine patches,
5 firmware or software updates, and hardware lifecycle replacements that do not materially
6 upgrade surveillance capabilities do not require an updated SIR.

7 G. Prior to submittal of a SIR to Council, the CTO may provide a written statement
8 that addresses privacy rights, civil liberty or other concerns that are raised in the impact
9 assessment created by the Working Group pursuant to Section 14.18.080.

10 Section 3. Section 14.18.050 of the Seattle Municipal Code, enacted by Ordinance
11 125376, is amended as follows:

12 **14.18.050 Equity impact assessment**

13 A. Every year, (~~by no later than~~) beginning on September 15, 2019, the Chief
14 Technology Officer shall produce and submit to the City Council a Surveillance Technology
15 Community Equity Impact Assessment and Policy Guidance Report (“equity impact
16 assessment”), to be filed with the City Clerk with an electronic copy to the Council, the Chair of
17 the committee responsible for (~~public safety~~) technology matters, the co-chairs of the Working
18 Group, the City Auditor, the Inspector General for Public Safety, and the Director of Central
19 Staff, and posted to the City’s website. The equity impact assessment shall address, at a
20 minimum, the following:

21 1. Whether this Chapter 14.18 is effectively meeting the goals of the Race
22 and Social Justice Initiative, including whether any communities and groups in the City are
23 disproportionately impacted by the use of surveillance technologies;

1 2. What adjustments to laws and policies should be made to remedy any
2 disproportionate impacts so as to achieve a more equitable outcome in the future; and

3 3. Any new approaches and considerations the City Council should bring to
4 future reviews of requests for Council approval submitted pursuant to Section 14.18.030.

5 B. The CTO shall consult with the co-chairs of the Working Group in the writing of
6 the equity impact assessment, and shall include all Working Group feedback and
7 recommendations in the equity impact assessment; if the CTO disagrees with a recommendation,
8 the CTO shall provide an explanation of the disagreement in the report.

9 ~~(B)~~ C. The Inspector General for Public Safety may prepare an equity impact
10 assessment for a specific technology proposed to be acquired by SPD. The Council may direct
11 the CTO to prepare an equity impact assessment for a specific surveillance technology proposed
12 to be acquired by any other City department.

13 D. The first annual equity impact assessment shall cover only those
14 technologies that have associated surveillance impact reports that have been submitted to the
15 City Council.

16 Section 4. A new Section 14.18.080 is added to the Seattle Municipal Code as follows:

17 **14.18.080 Community Surveillance Working Group**

18 A. There is established the Community Surveillance Working Group (“Working
19 Group”) to advise the Council and Executive on matters of surveillance technology from a
20 community perspective.

21 1. The Working Group shall consist of seven members appointed by the
22 Mayor and Council, including four members by the Mayor and three members by the Council,

1 and shall be finalized by December 1, 2018. This group shall be reevaluated 18 months after its
2 first meeting to review its effectiveness in composition and process.

3 2. The Working Group shall elect co-chairs at its initial meeting. The
4 Working Group shall meet at least once per quarter. All meetings of the Working Group shall be
5 open to the public and all final documents and reports to the Council shall be posted by the CTO
6 to the City’s website.

7 3. At least five members of the Working Group shall represent equity-
8 focused organizations serving or protecting the rights of communities and groups historically
9 subject to disproportionate surveillance, including Seattle’s diverse communities of color,
10 immigrant communities, religious minorities, and groups concerned with privacy and protest.

11 4. The seven positions on the Working Group shall be numbered one through
12 seven. The initial terms of odd-numbered positions shall be two years and the initial terms of
13 even-numbered positions shall be three years. All subsequent terms shall be for three years.
14 Commission members may serve up to two consecutive terms. Any vacancy in an unexpired
15 term shall be filled in the same manner as the original appointment. A member whose term is
16 ending may continue on an interim basis as a member with voting rights until such time as a
17 successor for that position has been appointed.

18 5. The Working Group shall organize itself and adopt such rules and
19 administrative procedures for its own governance, consistent with City Charter and ordinances,
20 as are necessary for its functions and responsibilities.

21 B. The Working Group shall perform the following duties:

22 1. Provide to the Executive a privacy and civil liberties impact assessment
23 for each SIR that must be included with any departmental request to Council for surveillance

1 technology acquisition or in-use approval. The impact assessment shall include a description of
2 the potential impact of the surveillance technology on civil rights and liberties and potential
3 disparate impacts on communities of color and other marginalized communities. The CTO shall
4 share with the Working Group a copy of the SIR that shall also be posted during the period of
5 public engagement. At the conclusion of the public engagement period, the CTO shall share the
6 final proposed SIR with the Working Group at least six weeks prior to submittal of the SIR to
7 Council for approval. The Working Group shall provide its impact assessment in writing to the
8 Executive for inclusion in the SIR within six weeks of receiving the final proposed SIR. If the
9 Working Group does not provide the impact assessment before such time, the Working Group
10 must ask for a two week extension of time to Council in writing. If the Working Group fails to
11 submit an impact statement within eight weeks after receiving the SIR, the department and City
12 Council may proceed with ordinance approval without the impact statement.

13 2. The Working Group shall provide recommendations to the CTO for
14 inclusion in the CTO’s annual equity impact assessment in accordance with subsection
15 14.18.050.B.

16 3. The Working Group shall provide assistance as resources permit to the
17 Executive and Council in ensuring members of vulnerable communities have the opportunity to
18 provide input and feedback on Surveillance Technologies through the SIR approval process.

19 C. The Working Group shall be staffed by the Executive Department with Central
20 Staff input.

21 Section 5. Section 3 of Ordinance 125376, which ordinance is included as Attachment 1
22 to this ordinance, is amended as follows:

1 Section 3. Notwithstanding the provisions of Chapter 14.18 of the Seattle Municipal
2 Code, each City department may use surveillance technology that has not received prior Council
3 approval under Chapter 14.18 when the technology is, as of the effective date of this ordinance,
4 (1) in the department’s possession or (2) in the execution or closeout phase of acquisition or has
5 had a purchase order issued, pursuant to the Chief Technology Officer’s authority under
6 subsection 3.23.030.C of the Seattle Municipal Code; provided, that the department complies
7 with the procedures set forth in this section for Council approval. The SIRs on all identified
8 retroactive technologies on the Master Technology List must be submitted to Council by
9 October 1, 2020.

10 Each City department shall compile a list of all surveillance technology that it controls
11 and is utilizing as of the effective date of this ordinance that ~~((are))~~ is not covered by an
12 exemption or exception to the requirements of ~~((this))~~ Chapter 14.18 of the Seattle Municipal
13 Code, and submit it to the CTO, or submit an affirmative statement that there are no such
14 technologies. The list shall identify for each technology whether the technology has received
15 prior Council approval under Chapter 14.18, and if so, the ordinance number. The CTO shall
16 compile a master list that contains the information submitted by each department and ~~((a final~~
17 ~~list))~~ that identifies separately for each department the order and timeframe in which the
18 technology is recommended to be brought to the Council for ordinance approval. The master list
19 shall be filed within 90 days of the effective date of this ordinance with the City Clerk, with an
20 electronic copy to the Chair of the committee responsible for ~~((public safety))~~ technology, the
21 Director of Central Staff, the Chief Technology Officer, and the Inspector General for Public
22 Safety. The CTO may make corrections to the master list, which must be timely filed with the
23 City Clerk. Each City department shall submit requests for surveillance technology ordinance

1 approval for technologies on the master list consistent with Chapter 14.18 of the Seattle
2 Municipal Code ~~((at a rate of at least one per month, or more when feasible,))~~ in ~~((list))~~ the order
3 and timeframe contained in the master list, beginning no later than January 31, 2019, and at a
4 rate of at least 12 in a 12-month period. ~~((, beginning no later than the end of the first quarter of~~
5 ~~2018.))~~ The Council may revise or re-order the master list by resolution.

6 Section 6. Section 5 of Ordinance 125376 is amended as follows:

7 Section 5. The first annual equity impact assessment under subsection 14.18.050.A of the
8 Seattle Municipal Code shall be filed no later than September 15, 2019 and first annual
9 surveillance usage review under Section 14.18.060 of the Seattle Municipal Code should be filed
10 in 2020 and cover activities through the end of 2018 and 2019.

11

1 Section 7. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2018,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2018.

7 _____
8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2018.

10 _____
11 Jenny A. Durkan, Mayor

12 Filed by me this _____ day of _____, 2018.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)

16 Attachments:
17 Attachment 1 – Ordinance 125376