

September 15, 2018

MEMORANDUM

To: Governance, Equity and Technology Committee
From: Greg Doss, Council Central Staff
Subject: Amendment 1 to Council Bill (CB) 119218

On September 18th, the Governance, Equity and Technology (GET) Committee will consider an amendment to and may make a recommendation on Council Bill (CB) 119218, which would amend the Surveillance Ordinance.¹ CB 119218 would extend the date for submission of initial Surveillance Impact Reports (SIRs) by the City's Chief Technology Officer.

This memorandum: (1) summarizes the legislative history of CB 119218 and (2) describes an amendment to the bill proposed by Council President Harrell that would, among other things, modify reporting dates in the Surveillance Ordinance and establish a Community Surveillance Working Group.

Legislative History:

The City Council on August 2, 2017 passed a comprehensive Surveillance Ordinance (Ordinance 125376), which requires City departments to obtain Council ordinance approval before acquiring new technologies that can be used for surveillance purposes. The Surveillance Ordinance also establishes a process by which City departments can seek Council ordinance approval of similar technologies that are already in use (Identified Retroactive Technologies).

The Governance, Equity and Technology Committee (GET) on March 20, 2018 held a hearing on CB 119218, which would update Surveillance Ordinance deadlines and make minor changes to the processes for Council review of new and Identified Retroactive Technologies.

Councilmember O'Brien introduced at the hearing Amendment D1, which would add to CB 119218 a Community Surveillance Advisory Board (CSAB) to review and comment on any technology that comes before the Council. The CSAB would primarily consist of members from communities and groups that are historically subject to disproportionate surveillance, including Seattle's diverse communities of color, immigrant communities, religious minorities, and groups concerned with privacy and protest.

Amendment 1 would make modifications that are similar to the kinds of changes in the introduced version of CB 119218 (e.g. deadlines and process). Additionally, the amendment

¹ [Seattle Municipal Code Chapter 14.18](#).

establishes a Community Surveillance Working Group (Working Group) that performs all of the functions originally envisioned for the CSAB.

Proposed Amendment 1:

Community Surveillance Working Group: The amendment would establish the Working Group to advise the City Council and Executive on matters of surveillance technology from a community perspective. The functions of the Working Group are described below:

1. The Working Group would provide to the Mayor a privacy and civil liberties Impact Assessment for each Surveillance Impact Report (SIR), which is a report that documents and identifies how surveillance technologies will be used and how data will be securely stored, retained, accessed and audited by departments.
2. The Impact Assessment would be included with any SIR submitted to the City Council for ordinance approval. The Working Group would be afforded no less than six weeks to prepare the Impact Assessment. If the Working Group does not prepare the Assessment before transmittal of the SIR, the Working Group must ask the Council for a two-week extension.
3. The Working Group would be appointed by the Mayor and City Council and consist of seven members, including four appointed by the Mayor and three appointed by the City Council. At least five of the members would represent equity-focused organizations serving or protecting the rights of communities that are historically subject to disproportionate surveillance as well as groups that are concerned with privacy and protest.
4. The Working Group would be appointed by the Mayor and City Council by December 1, 2018 and would be reevaluated eighteen (18) months after its first meeting to review its effectiveness in composition and process. The Working Group would be staffed by the Executive with input from Council's Central Staff.
5. The Working Group would provide recommendations to the City's Chief Technology Officer (CTO) for inclusion in the annual Equity Impact Assessment (EIA). It would also help to ensure that members of vulnerable communities have the opportunity to provide input and feedback on surveillance technologies through the SIR approval process.

Changes to Deadlines and the Review Process: The Surveillance Ordinance includes several key deadlines for departments to submit to the Council SIRs. The Council must approve the SIRs by ordinance before a technology is authorized for purchase or permanent use.

The Surveillance Ordinance also established an oversight process that requires regular reporting from the City's CTO as well as the Office of the Inspector General (OIG). The amendment would make several key changes to these provisions. Following are the most significant changes:

- Requires City departments to begin submitting to the Council all SIRs for existing technologies by January 31, 2019. The technologies may be grouped together to allow the Council to review similar technologies.
- Requires submission to the City Council of all Identified Retroactive Technologies by October 1, 2020.
- Requires that by September 15, 2019 the City's CTO submit the first annual EIA. The EIA addresses the following:
 - a. Whether the Surveillance Ordinance is effectively meeting the goals of the City's Race and Social Justice Initiative, including whether any communities and groups in the City are disproportionately impacted by the use of surveillance technologies;
 - b. What adjustments to laws and policies should be made to remedy any disproportionate impacts; and
 - c. Any new approaches and considerations the Council should bring to future reviews of requests for approval of surveillance technologies.
 - d. The first annual EIA shall cover the SIRs that have been submitted to Council by September 15, 2019.
- Requires the OIG to begin producing Surveillance Usage Reviews in 2020 that cover Seattle Police Department activities through 2018 and 2019. The City Auditor will at the same time begin producing usage reports for other departments. The Surveillance Usage Reviews address the following:
 - a. How surveillance technology has been used;
 - b. How often surveillance technology or its data are being shared with other entities;
 - c. How well data management protocols are safeguarding individual information;
 - d. How deployment of surveillance technologies impacted or could impact civil liberties or have disproportionate effects on disadvantaged populations;
 - e. Any complaints or concerns received by or known by departments; and
 - f. Total annual costs for use of surveillance technology, including personnel and other ongoing costs.

Table 1: Section-by-Section Highlights of Working Group Amendment

| Amendment 1 (Working Group) | |
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| Page 3, Section 2, Sub B3 | The CTO Technology Determination List sent to the Auditor, Council & OIG. Also sent to the Working Group and posted on the City’s website. |
| Page 5, Section 2, Sub G | The CTO may provide comments on the Working Group Impact Statements before a SIR is transmitted to the City Council. |
| Page 5, Section 3, Sub A | The first annual Equity Impact Statement must be filed by September 15, 2019. |
| Page 6, Section 4, Sub A1 | The Working Group shall consist of seven members appointed by the Mayor and Council, including four members by the Mayor and three members by the Council. |
| Page 6, Section 4, Sub A1 | The Mayor and Council have until December 1, 2018 to appoint all seven members. |
| Page 6, Section 4, Sub A1 | The Working Group shall be reevaluated 18 months after its first meeting to review its effectiveness in composition and process. |
| Page 7, Section 4, Sub A3 | Five of seven members must represent equity-focused organizations serving or protecting the rights of communities that are historically subject to disproportionate surveillance as well as groups that are concerned with privacy and protest. |
| Page 7, Section 4, Sub C | Staffed by the Mayor’s Office with Central Staff input. |
| Page 8, Section 4, Sub B1 | CTO shall share fully vetted SIRs with the Working Group no fewer than six weeks prior to submitting the SIR to the City Council. The CTO shall also share with the Working Group a copy of the SIR that shall also be posted during the period of public engagement. |

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| Page 8, Section 4, Sub B1 | The Working Group shall provide its impact assessment in writing to the Executive for inclusion in the SIR within six weeks of receiving the final proposed SIR. If the Working Group does not provide the impact assessment before such time, the Working Group must ask for a two-week extension of time to Council in writing. |
| Page 9, Section 5 | The SIRs on all retroactive technologies identified on the Master Technology List must be submitted to the City Council by <u>October 1, 2020</u> . |
| Page 9, Section 5 | Departments must begin submitting to the City Council SIRs no later than <u>January 31, 2019</u> . |
| Page 10, Section 6 | The first annual <u>Surveillance Usage Review</u> is filed in 2020. The OIG files a report for SPD and the City Auditor files a report for all other departments. |

Please direct questions to Greg Doss at (206) 256-6225 or greg.doss@seattle.gov

Attachments:

1. Amendment 1