

April 29, 2021

MEMORANDUM

To: Transportation and Utilities Committee
From: Lise Kaye, Analyst
Subject: Council Bill 120054 - Authorizing approval of uses and accepting the surveillance impact report for the Seattle Police Department's use of Situational Awareness Cameras

On Wednesday, May 5, 2021 the Transportation and Utilities Committee will discuss [Council Bill \(CB\) 120054](#). The bill is intended to meet the requirements of [Seattle Municipal Code Chapter 14.18](#), Acquisition and Use of Surveillance Technologies.¹ (Attachment 1 to this memo summarizes these requirements and process by which the Executive develops the required Surveillance Impact Reports.) CB 120054 would approve the Seattle Police Department's (SPD's) continued use of existing Situational Awareness Cameras and accept the Surveillance Impact Report (SIR) and an Executive Overview for this technology. The Executive Overview summarizes the operational policy statements which represent SPD's allowable uses of the Situational Awareness Cameras.

This memo describes the Situational Awareness Cameras and summarizes potential civil liberties impacts, potential disparate impacts on historically targeted communities and vulnerable populations, and the public engagement process, as reported in the SIR. It also summarizes key concerns and recommendations from the Community Surveillance Working Group's Impact Assessment and the Chief Technology Officer's response ("CTO's Response) to the Impact Assessment. Finally, the memo identifies several policy issues for Council consideration.

Situational Awareness Cameras

SPD's SWAT (special weapons and tactics) team uses Situational Awareness Cameras to covertly assess potentially dangerous situations from a safe location. SPD uses four types of Situational Awareness Cameras to monitor an identified subject or watch an area of concern while positioned from a safe distance away:

- Robot Mounted Cameras: remote controlled, 360-degree optical cameras with a range of approximately 200 meters;
- Pole Cameras: mounted to poles or extenders, may be extended to approximately 20-feet. Send images to user's handheld remote monitor;
- Placeable Cameras: small, portable cameras that send images to the user's handheld remote monitor; and
- Throwable Cameras: rugged cameras that send images to the user's handheld remote monitor.

¹ (Ord. [125679](#), § 1, 2018; Ord. [125376](#), § 2, 2017.)

None of the images transmitted by these cameras are stored or recorded by the camera equipment or the handheld monitor. SWAT officers decide to use these cameras on a case-by-case basis. However, if SPD plans to use the camera inside a protected area, such as in a person's home or property, SPD will obtain a signed search warrant from a judge, absent exigent circumstances.²

Civil Liberties and Potential Disparate Impacts on Historically Marginalized Communities

Departments submitting a SIR are required to complete an adapted version of the Racial Equity Toolkit (RET) to highlight and mitigate impacts on racial equity from the use of the technology. The RET for the SPD's use of Situational Awareness Cameras identifies a civil liberties risk that innocent members of the community could fall under surveillance by covert use of the cameras. SPD mitigates this risk by obtaining a warrant for the cameras' use in non-public areas and the risk is further mitigated by the fact that cameras are used during events in which the SWAT Unit has responded to a call for police service.

The SIR also identifies data sharing, storage and retention as having the potential to contribute to structural racism, thereby creating a disparate impact on historically targeted communities.³ SPD mitigates this risk through policies regarding the dissemination of data in connection with criminal prosecutions, the [Washington Public Records Act](#), and other authorized researchers. In addition, [SPD Policy 5.140](#) forbids bias-based policing and outlines processes for reporting and documenting any suspected bias-based behavior, as well as accountability measures. The RET does not identify metrics to be used as part of the CTO's annual equity assessments.⁴

Public Engagement

The Executive accepted public comments on this technology from October 7 – November 7, 2020 and conducted one public meeting for this and the other two "Group 3" SIRs on October 28, 2020. The SIR includes all comments pertaining to this technology received from members of the public (Appendix C), and letters from organizations or commissions (Appendix D). The SIR includes comments submitted in four online responses and one letter. They express concern about SPD's use of the technology in a transparent and fair way, the lack of technical and procedural safeguards around the use of the technology, the need to record all video and sound feeds for police accountability, and potentially poor resolution of images. One response identified value in the technology from enhanced viewing capabilities. One response also detailed concerns about the duration and structure of the public engagement process for the Group 3 Technologies.

² While not defined in SPD's Operations Manual, Cornell Law School's [Legal Information Institute](#) states that "Exigent circumstances are exceptions to the general requirement of a warrant under the Fourth Amendment searches and seizures," and provides the following definition: "circumstances that would cause a reasonable person to believe that entry (or other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts."

³ Historical community or department practices could produce data that would portray certain communities as higher in crime than in other neighborhoods or elevate the involvement in potential criminal events by certain demographic groups. An approach to storage, retention, and integration of these data that was not cognizant of these possibilities might allow for the continuation of these perceptions, with potential disparate enforcement responses.

⁴ [SMC 14.18.050B](#) requires that the CTO produce and submit to the City Council a Surveillance Technology Community Equity Impact Assessment and Policy Guidance Report that addresses whether Chapter 14.18 of the SMC is effectively meeting the goals of the Race and Social Justice Initiative.

Privacy and Civil Liberties Impact Assessment

The Impact Assessment prepared by the Community Surveillance Working Group (“Working Group”) identified three major issues, including the need for additional policy language to define valid “purposes of use,” unclear capabilities of the Situational Awareness Cameras, and unclear technical and procedural safeguards to prevent improper viewing, collection, and storage of images.

Key Concerns and the CTO’s Response. Table 1 summarizes the CTO’s Response to each of the Working Group’s major issues. The Response finds that “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 important operational technology.”

Table 1. CTO Response to Privacy and Civil Liberties Impact Assessment of SPD’s use of Situational Awareness Cameras

Working Group Key Concern	CTO Response
1. Inadequate policies defining purpose of use	Use of situational cameras and restrictions on recording are governed by the policy and procedure outlined in the SIR and the process established by SMC 14.18 , as well as SMC 14.12 , the Intelligence Ordinance, which is incorporated into SPD Policy 6.060 .
2. Camera capabilities beyond specified purpose of use	No images or data are collected, stored, or retained by any situational awareness camera used by SPD. Note: the CTO’s Response to the Working Group’s Impact Assessment of Video Recording Systems states that “features such as facial recognition are not in use by any system in SPD.”
3. Safeguards to prevent improper viewing, collection, and storage of images	No images or data are collected, stored, or retained by any situational awareness camera used by SPD. Use of situational cameras and restrictions on recording is also governed by SMC 14.12 , the Intelligence Ordinance, which is incorporated into SPD Policy 6.060 .

Recommendations. The Impact Assessment recommends that Council at via ordinance “clear and enforceable rules that ensure, the following:

- 1. SPD must abide by a specific and restricted purpose of use:** The ordinance should define a specific purpose of use for Situational Awareness Cameras used by SPD, and any use must be restricted to that specific purpose.
- 2. SPD must not use any Situational Awareness Cameras that have capabilities beyond what is strictly necessary to fulfill the purpose of use defined by the ordinance.** The ordinance should prohibit SPD from using cameras that have facial recognition or recording capabilities.
- 3. SPD must adopt technical and procedural safeguards to prevent misuse of the Situational Awareness Cameras.** The ordinance should require SPD adopt safeguards that prevent use of the cameras or the footage streamed from the cameras for purposes beyond what is defined in the ordinance.”

Table 2 describes how the SIR as drafted would address these three recommendations. Areas not fully addressed are included in the “Policy Considerations” section on page five.

Table 2. Working Group Recommendations Addressed in the SIR

Working Group Recommendation	Whether/How Addressed in SIR
<p>1. Define the specific purpose of use for Situational Awareness Cameras, and restrict use to that specific purpose</p>	<p>Executive Overview. Operational Policies represent the only allowable uses of the equipment and data collected by this technology. However, the SIR does not identify any policies that specify the appropriate application of these cameras, other than to reference in 5.0 that all members of SWAT are trained in their use and appropriate application. <i>See Policy Consideration #2.</i></p>
<p>2. Prohibit use of situational cameras that have capabilities beyond what is strictly necessary to fulfill the purpose of use as defined by the ordinance. Prohibit SPD from using cameras that have facial recognition or recording capabilities.</p>	<p>SIR restricts certain uses of cameras but does not restrict acquisition of cameras to certain specifications. <i>See Policy Consideration #3.</i></p>
<p>3. Adopt technical and procedural safeguards to prevent misuse of the Situational Awareness Cameras. Prevent use of cameras or use of footage streamed from the cameras for purposes beyond what is defined in the ordinance.</p>	<p>1.1. SPD does not record, store, or retain any of the images captured by these camera technologies. Note: subsequent references (2.3 and ff) throughout the SIR state that “No images or data are collected, stored, or retained by any situational awareness camera used by SPD,” but this does not specifically preclude downloading or streaming images to a different device. <i>See Policy Consideration #4.</i></p> <p>3.2 and ff. SPD must obtain a signed warrant prior to using these cameras in protected areas. Use of situational cameras and restrictions on recording is also governed by SMC 14.12, the Intelligence Ordinance, which is incorporated into SPD Policy 6.060.</p>

Policy Considerations

Central Staff has identified the following potential policy considerations. All but the first one, which addresses missing equity assessment metrics, pertain to the Working Group's key concerns and recommendations:

1. Annual equity assessment metrics. SFD has not yet finalized metrics to be used in evaluating the Situational Awareness Cameras 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. Council may wish to request a report on the proposed equity assessment metrics by a date certain.
 - B. Council may wish to defer approval of this SIR, pending completion of these metrics.
 - C. Take no action.
2. Use and appropriate application. The SIR does not define the appropriate application of Situational Awareness Cameras, other than that all members of SWAT are trained in their use and appropriate application.

Options:

- A. Council may wish to request a report on parameters governing SPD's use of Situational Awareness Cameras by a date certain.
 - B. Council may wish to defer approval of this SIR, pending completion of SPD policies governing SPD's use of Situational Awareness Cameras
 - C. Take no action.
3. Acquisition of cameras with prohibited capabilities. SPD does not have policies that limit acquisition of situational cameras to those that do not have facial recognition or recording capabilities.

Options:

- A. Council may wish to request SPD to report back by a date certain on the availability of cameras with more limited functionality.
 - B. Take no action.
4. Technical and procedural safeguards. The SIR does not specifically prohibit downloading or streaming images to a different device.

Options:

- A. Council may wish to ask SPD to report back by a date certain on the feasibility of enhanced technical and procedural safeguards that would further prevent downloading and/or sharing of digital imagery or audio.
- B. Take no action.

Committee Action

Options for Council action are as follows:

1. Pass CB 120054 as transmitted;
2. Request Central Staff to prepare amendments to the Council Bill and/or to the SIR to address additional concerns or issues; or
3. Take no action.

Attachment:

1. Background Summary and Surveillance Impact Report Process

cc: Dan Eder, Interim Director
Aly Pennucci, Budget and Policy Manager

Attachment 1 - Background Summary and Surveillance Impact Report Process

Recent Legislative History

[Ordinance 125376](#), passed by Council on July 31, 2017, required City of Seattle departments intending to acquire surveillance technology to obtain advance Council approval, by ordinance, of the 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 (referred to in the ordinance as “retroactive technologies”). The Executive originally included 28 “retroactive technologies,” on its [November 30, 2017 Master List](#) but revised that list to 26 in [December 2019](#). The Council has approved two SIRs and twice extended the initial March 3, 2020 deadline for completion of SIRs for all 26 technologies: first by six months to accommodate extended deliberation of the first two SIRs; and then by a second six months due to COVID-related delays. 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, including specific rules of use
- 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

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.² At least five of the seven members of the Working Group

¹ 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.

² Ordinance 125679 also established a March 31, 2020 deadline for submitting SIRs on technologies already in use (referred to as “retroactive technologies”) when Ordinance 125376 was passed, with provision to request a six-month extension.

Attachment 1 - Background Summary and Surveillance Impact Report Process

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.³ 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.

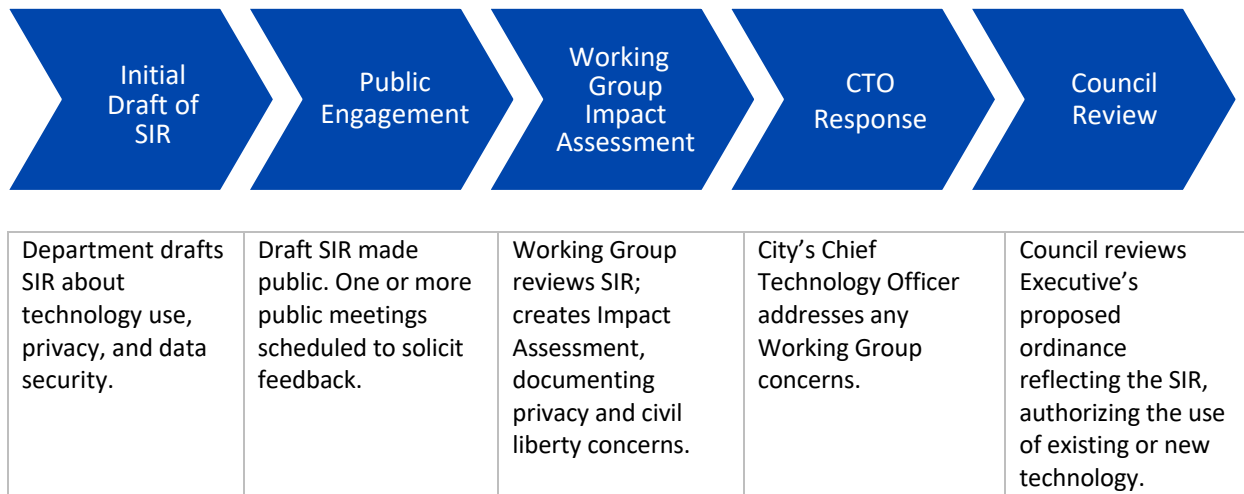
Executive Overviews

In May 2019, members of the Governance, Equity, and Technology Committee requested that IT 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

Chart 1 is a visual of the SIR process from inception to Council Review:

Chart 1. Surveillance Impact Report (SIR) Process



³ The Mayor appoints four members and Council appoints three members.