



2020 Surveillance Impact Report

# Forward Looking Infrared Real-Time Video (FLIR) (KCSO Helicopters)

Seattle Police Department

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# Surveillance Impact Report (“SIR”) overview

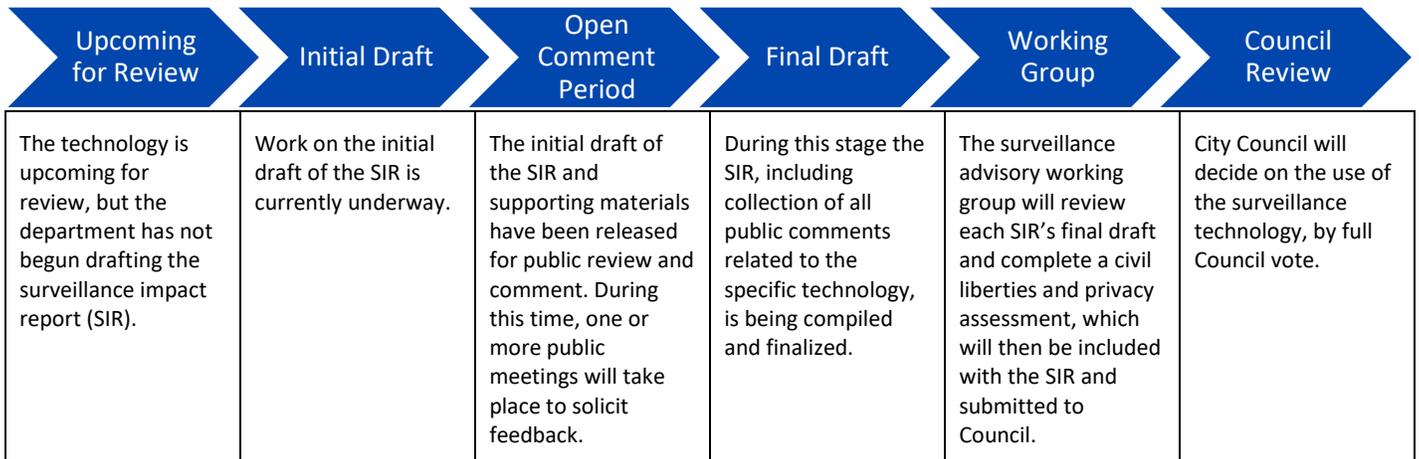
## About the Surveillance Ordinance

The Seattle City Council passed ordinance [125376](#), also referred to as the “Surveillance Ordinance”, on September 1, 2017. This ordinance has implications for the acquisition of new technologies by the City, and technologies that are already in use that may fall under the new, broader definition of surveillance.

SMC 14.18.020.B.1 charges the City’s executive with developing a process to identify surveillance technologies subject to the ordinance. Seattle IT, on behalf of the executive, developed and implemented a process through which a privacy and surveillance review is completed prior to the acquisition of new technologies. This requirement, and the criteria used in the review process, are documented in Seattle IT Policy PR-02, the “Surveillance Policy”.

## Surveillance Ordinance Review Process

The following is a high-level outline of the complete SIR review process.



# Privacy Impact Assessment

## Purpose

A Privacy Impact Assessment (“PIA”) is a method for collecting and documenting detailed information collected in order to conduct an in-depth privacy review of a program or project. A PIA asks questions about the collection, use, sharing, security and access controls for data that is gathered using a technology or program. It also requests information about policies, training and documentation that govern use of the technology. The PIA responses are used to determine privacy risks associated with a project and mitigations that may reduce some or all of those risks. In the interests of transparency about data collection and management, the City of Seattle has committed to publishing all PIAs on an outward facing website for public access.

## When is a Privacy Impact Assessment Required?

A PIA may be required in two circumstances.

- 1) When a project, technology, or other review has been flagged as having a high privacy risk.
- 2) When a technology is required to complete the surveillance impact report process. This is one deliverable that comprises the report.

## 1.0 Abstract

### 1.1 Please provide a brief description (one paragraph) of the purpose and proposed use of the project/technology.

The King County Sheriff’s Office (KCSO) Air Support Unit is the only full-time rotary-wing law enforcement aviation unit in Washington State. Three separate helicopters, one Bell 206B3 helicopter, one UH-1H “Huey,” and one Bell 407, operate as Guardian One and Guardian Two. The Air Support Unit operates throughout King County and is available to assist the Seattle Police Department at no charge through the Puget Sound Regional Aviation Project, a consortium made up of members from sheriff’s offices in King, Snohomish, Pierce and Kitsap counties as well as Seattle Police and Fire departments, Pierce County Fire Districts, Washington State Patrol, the Department of Emergency Management in Pierce County, the Washington State Department of Ecology, Coast Guard, Navy, and the National Park Service. Guardian One offers air support for patrol and specialized police missions. Guardian Two offers support predominately for search and rescue. These helicopters are equipped with color and forward looking infrared (FLIR) cameras and 30 million-candle power spotlights that enable the location of suspects or disaster victims in darkness or environmental cover.

The Air Support Unit (KCSO) monitors several SPD communication frequencies and if available to assist, advises SPD communications that Guardian One is available to support. In life safety or other serious crime incidents where air support would be beneficial SPD sergeants and or higher ranked personnel may request the assistance of the Air Support Unit. Guardian Two is available as a call-out resource in the event of a significant incident.

## 1.2 Explain the reason the project/technology is being created or updated and why the PIA is required.

The aerial vantage point created by the use of helicopters helps trained law enforcement personnel provide enhanced vision to locate and track the movement of crime suspects and disaster victims. The forward looking infrared (FLIR) camera technology housed within the Guardian One and Guardian Two helicopters provides a further enhanced picture of incident scenes by layering heat signatures of individuals and objects on top of the aerial video. The FLIR technology allows for subjects to be detected even when obscured by clouds, haze, or darkness.

Aerial video and infrared technology are tools that may be perceived as invasive to an individual's privacy, as they may be recorded without their knowledge or consent. SPD policy mitigates against the potential for inappropriate use. [SPD Policy 6.060 - Collection of Information for Law Enforcement Purposes](#) defines the way information will be gathered by SPD and states, "information will be gathered and recorded in a manner that does not unreasonably infringe upon: individual rights, liberties, and freedoms guaranteed by the Constitution of the United States and the State of Washington, including freedom of speech, press, association, and assembly; liberty of conscience; the exercise of religion..."

## 2.0 Project / Technology Overview

Provide an overview of the project or technology. The overview gives the context and background necessary to understand the purpose, mission and justification for the project / technology proposed

### 2.1 Describe the benefits of the project/technology.

The Guardian One and Guardian Two helicopters provide critical assistance to SPD units on the ground during incidents. The benefits include rapid response to crime or disaster scenes and give law enforcement personnel an enhanced bird's eye view of the situation. "At normal patrol speeds and altitudes, a helicopter can keep an object in view on the ground ten times longer than a ground officer moving at normal street patrol speeds."<sup>1</sup> While conventional night vision technology does augment the user's ability to locate subjects by enhancing visible light, FLIR systems are more effective because they provide images using the heat emitted by subjects and objects.

### 2.2 Provide any data or research demonstrating anticipated benefits.

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<sup>1</sup> <https://kingcounty.gov/depts/sheriff/about-us/enforcement/specialized/helicopter.aspx>

[https://www.fema.gov/media-library-data/1464299940004-16fc65457742f7d9a9fd62ae52ec9985/NorthWestRegionalAviation\\_FINAL\\_508.pdf](https://www.fema.gov/media-library-data/1464299940004-16fc65457742f7d9a9fd62ae52ec9985/NorthWestRegionalAviation_FINAL_508.pdf)

Provides information about Northwest Regional Avion consortium, the challenges faced in the geographical area, and the response to the 2014 SR530 mudslide near Oso, WA. This document also describes the ways in which the Seattle Urban Area Security Initiative, which includes Guardian One and Two operations, provide search and rescue operations, assists with criminal manhunts, and enhances port security, and is an important asset in the response to a variety of threats and hazards.

Alpert, G. and MacDonald, J. (1997). Helicopters and Their Use in Police Pursuit: A Final Report to the National Institute of Justice, Department of Justice.

<https://www.ncjrs.gov/pdffiles1/Digitization/171376NCJRS.pdf>

An analysis of the use of helicopters in police pursuit operations used data from observations and empirical analyses of the aviation units in the Baltimore and Metro-Dade (Fla.) Police Departments and a survey of citizen attitudes; the study concluded that helicopters provide a useful and important service to police and to the pursuit function. The best advantage a helicopter can provide to police is the information aerial vantage points can deliver. Additionally, the speed and relatively unobstructed mobility of helicopter support is a major benefit in pursuit of a fleeing suspect or during a search and rescue operation.

### **2.3 Describe the technology involved.**

The King County Sheriff's Air Support Unit is the only full-time rotary-wing law enforcement aviation unit in Washington State. Three separate helicopters, one Bell 206B3 helicopter, one UH-1H "Huey," and one Bell 407, operate as Guardian One and Guardian Two. The capabilities of these aircraft include: forward looking infrared cameras (FLIR), 30-million candlepower "Night Sun" searchlights, Pro Net and LoJack radio tracking receivers, still and video cameras, and communications equipment for communicating with local, state, and federal law and firefighting agencies on their frequencies.

Below are examples from the FLIR camera system mounted on Guardian One:

Example 1: This image shows 2 vehicles and 2 people crouching between 2 residential structures. The exact location has been redacted.



Example 2: A closer view of a residential structure illustrating Guardian One FLIR camera system capabilities.



#### 2.4 Describe how the project or use of technology relates to the department's mission.

The mission of the Seattle Police Department is to prevent crime, enforce the law, and support quality public safety by delivering respectful, professional, and dependable police services. King County Sheriff's Air Support Unit supports this mission by providing air support for patrol, specialized police missions, and search and rescue operations when aerial operations would benefit the SPD resources on the ground.

#### 2.5 Who will be involved with the deployment and use of the project / technology?

King County Sheriff's Air Support Unit is operated by the King County Sheriff's Office and is available to assist the Seattle Police Department at no charge through the Puget Sound Regional Aviation Project and the Seattle Urban Area Security Initiative (UASI). Per [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#), when Guardian One is operational, the unit monitors SPD radio and advises SPD Communications when they are available to assist during active calls for service.

SPD officers may also request air support assistance directly to Guardian One or through SPD Communications. Per [SPD Policy 16.060](#), "If Guardian One is off-duty, but their assistance is required for a police operation, a[n SPD] sergeant will screen the request and coordinate with Communications."

### 3.0 Use Governance

Provide an outline of any rules that will govern the use of the project / technology. Please note: non-City entities contracting with the City are bound by restrictions specified in the surveillance ordinance and

privacy principles and must provide written procedures for how the entity will comply with any restrictions identified.

**3.1 Describe the processes that are required prior to each use, or access to/ of the project / technology, such as a notification, or check-in, check-out of equipment.**

Per [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#), when Guardian One is operational, the unit monitors SPD radio and advises SPD Communications when they are available to assist during active calls for service.

SPD officers may also request air support assistance directly to Guardian One or through SPD Communications. "If Guardian One is off-duty, but their assistance is required for a police operation, a sergeant will screen the request and coordinate with Communications." If they respond to an SPD call, Guardian One and Guardian Two are documented as responding resources in the CAD event by SPD Communications.

**3.2 List the legal standards or conditions, if any, that must be met before the project / technology is used.**

While no legal standards must be met prior to use of the technology, there are conditions and policy governing standard operating procedure for SPD.

The King County Sheriff's Office Air Support Unit monitors SPD radio frequencies and offers assistance to SPD based on availability and appropriateness of response. [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#) states that patrol officers may request support from the Air Support Unit during an incident where it is determined air support would be beneficial, such as when there is a safety concern. When the Air Support Unit is off duty the request must be screened by sergeant or higher ranked personnel.

During 2018, Guardian One responded 45 times to SPD events. Guardian Two did not responded to any SPD calls during 2018.

**3.3 Describe the policies and training required of all personnel operating the project / technology, and who has access to ensure compliance with use and management policies.**

The helicopter and FLIR technology are not directly operated by SPD personnel.

SPD Supervisors and commanding officers are responsible for ensuring compliance with all applicable policies.

All SPD employees must adhere to laws, City policy, and Department Policy ([SPD Policy 5.001](#)), and any employees suspected of being in violation of laws or policy or other misconduct are subject to discipline, as outlined in [SPD Policy 5.002](#).

## 4.0 Data Collection and Use

Provide information about the policies and practices around the collection and use of the data collected.

### 4.1 Provide details about what information is being collected from sources other than an individual, including other IT systems, systems of record, commercial data aggregators, publicly available data and/or other City departments.

No additional information is collected or transmitted by SPD related to this technology.

### 4.2 What measures are in place to minimize inadvertent or improper collection of data?

The KCSO Helicopters and onboard FLIR technology respond only to SPD emergency events in which air support is beneficial. SPD only receives and accesses information from the KCSO helicopters that is relevant to the incidents to which Guardian One or Guardian Two have responded. The video is requested as evidence from King County and stored using existing video evidence storage policies including [SPD Policy 7.090 – Photographic Evidence](#).

### 4.3 How and when will the project / technology be deployed or used? By whom? Who will determine when the project / technology is deployed and used?

Per [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#), when Guardian One is operational, the unit monitors SPD radio and advises SPD Communications when they are available to assist during active calls for service. SPD officers may also request air support assistance directly to Guardian One or through SPD Communications. The SPD policy states, "If Guardian One is off-duty, but their assistance is required for a police operation, a sergeant will screen the request and coordinate with Communications." If they respond to an SPD call, Guardian One and Guardian Two are documented as responding resources in the CAD event by SPD Communications.

The most common type of event in which Guardian One participated with SPD in 2018 was Robbery (8 events), followed by Automotive- including theft and recovery (7 events), Assault (6 events), and Burglary (6 events). Other event types include Domestic Violence, Kidnapping/Abduction, Prowler, Traffic Violations, Warrant Services, Weapons, Person-including missing, found, and runaway, Suspicious Person/Object, and Theft<sup>2</sup>.

### 4.4 How often will the technology be in operation?

The Air Support Unit operates six days per week and averages 1200 hours of flight time annually. In 2018, Guardian One responded to 45 SPD events. Guardian Two did not dispatch to any SPD calls for service.

### 4.5 What is the permanence of the installation? Is it installed permanently, or temporarily?

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<sup>2</sup> Call type is based on the Case Final Type led in SPD's CAD system for the 45 events in which Guardian One responded.

Established in 2001, the King County Sheriff's Air Unit has been a model for regionalized aviation support for law enforcement and emergency services.

**4.6 Is a physical object collecting data or images visible to the public? What are the markings to indicate that it is in use? What signage is used to determine department ownership and contact information?**

The King County Sheriff's Air Unit helicopters are marked and easily identifiable as law enforcement aircraft to the untrained eye. The FLIR camera system is permanently affixed to the helicopter, however it is not identifiable to the public. The Guardian helicopters and FLIR cameras do not belong to SPD, but rather are county resources available to assist when available.

**4.7 How will data that is collected be accessed and by whom?**

The only information relayed to SPD during the Unit operation is radio transmission from the Air Support Unit. Though the KCSO helicopters have a real-time microwave video downlink capable of transmitting video of ongoing events to units on the ground, SPD does not utilize this function. Recordings made by Guardian helicopters associated with SPD calls for service are regularly requested as video evidence from the King County Sheriff's Office, including FLIR video is needed for evidentiary or investigative purposes. These recordings are provided by the KCSO on high quality evidence-grade DVD. [SPD Policy 7.010](#) governs the submission of evidence and requires that all collected evidence be documented in a GO Report. Per [SPD Policy 7.090 – Photographic Evidence](#), all video evidence not produced by SPD employees is submitted to the SPD Evidence Unit. The SPD Evidence Unit stores the video in the Digital Evidence Management System (DEMS). The King County Sheriff's Office Air Support Unit does record audio and video of their operations and occasionally does release these recordings to the public, including video posted on their [YouTube channel](#).

**4.8 If operated or used by another entity on behalf of the City, provide details about access, and applicable protocols.**

The Guardian One and Guardian Two helicopters and onboard FLIR cameras are operated by the King County Sheriff's Air Unit. When Guardian One is operational, the unit monitors SPD radio and advises SPD Communications when they are available to assist during active calls for service. SPD officers may also request air support assistance directly to Guardian One or through SPD Communications.

**4.9 What are acceptable reasons for access to the equipment and/or data collected?**

The use of helicopter air support and onboard FLIR cameras are an indispensable resource for law enforcement and search and rescue operations. Per [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#) Per [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#), "Guardian One offers air support for patrol and specialized missions. Per [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#), "Guardian One offers air support for patrol and specialized missions. Guardian Two offers air support for special operations such as search and rescue (SAR) and tactical missions." SPD requests air support to assist with locating missing children and vulnerable adults as well as to support patrol operations such as locating a suspects in dark or obscured terrain. When necessary and pertinent to a specific investigation, SPD investigators may request video from KCSO's Air Unit. This is only done when the video will be entered as case evidence in the investigation of a crime or missing person.

#### **4.10 What safeguards are in place, for protecting data from unauthorized access (encryption, access control mechanisms, etc.) And to provide an audit trail (viewer logging, modification logging, etc.)?**

SPD are consumers of the information provided by the KCSO Air Unit and do not maintain the systems used to access this information.

## **5.0 Data storage, retention and deletion**

### **5.1 How will data be securely stored?**

Recordings made by Guardian helicopters associated with SPD calls for service are requested as video evidence from the King County Sheriff's Office, including FLIR video is needed for evidentiary or investigative purposes related to the investigation of a crime or missing person. These recordings are provided by the KCSO on high quality evidence-grade DVD. [SPD Policy 7.010](#) governs the submission of evidence and requires that all collected evidence be documented in a GO Report. Per [SPD Policy 7.090 – Photographic Evidence](#), all video evidence not produced by SPD employees is submitted to the SPD Evidence Unit. The SPD Evidence Unit stores the video in the Digital Evidence Management System (DEMS).

SPD policy contains multiple provisions to avoid improperly collecting data. [SPD Policy 7.010](#) governs the submission of evidence and requires that all collected evidence be documented in a GO Report. Per [SPD Policy 7.090 – Photographic Evidence](#), all video evidence not produced by SPD employees is submitted to the SPD Evidence Unit. The SPD Evidence Unit stores the video in the CJIS certified Digital Evidence Management System (DEMS).

### **5.2 How will the owner allow for departmental and other entities, to audit for compliance with legal deletion requirements?**

SPD's Audit, Policy and Research Section (APRS) can conduct an audit of any system, including DEMS, at any time. In addition, the Office of Inspector General and the federal monitor can access all data and audit for compliance at any time.

### 5.3 What measures will be used to destroy improperly collected data?

SPD policy contains multiple provisions to avoid improperly collecting data. [SPD Policy 7.010](#) governs the submission of evidence and requires that all collected evidence be documented in a GO Report. [SPD Policy 7.090](#) specifically governs the collection and submission of photographic evidence. Evidence is submitted to the Evidence Unit and associated with a specific GO Number and investigation.

Additionally, [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.

All SPD employees must adhere to laws, City policy, and Department Policy ([SPD Policy 5.001](#)), and any employees suspected of being in violation of laws or policy or other misconduct are subject to discipline, as outlined in [SPD Policy 5.002](#).

Per the CJIS Security Policy:

“5.8.3 Digital Media Sanitization and Disposal The agency shall sanitize, that is, overwrite at least three times or degauss digital media prior to disposal or release for reuse by unauthorized individuals. Inoperable digital media shall be destroyed (cut up, shredded, etc.). The agency shall maintain written documentation of the steps taken to sanitize or destroy electronic media. Agencies shall ensure the sanitization or destruction is witnessed or carried out by authorized personnel.

5.8.4 Disposal of Physical Media Physical media shall be securely disposed of when no longer required, using formal procedures. Formal procedures for the secure disposal or destruction of physical media shall minimize the risk of sensitive information compromise by unauthorized individuals. Physical media shall be destroyed by shredding or incineration. Agencies shall ensure the disposal or destruction is witnessed or carried out by authorized personnel.”

### 5.4 Which specific departmental unit or individual is responsible for ensuring compliance with data retention requirements?

Unit supervisors are responsible for ensuring compliance with data retention requirements within SPD. Audit, Policy & Research Section personnel can also conduct audits of all data collection software and systems. Additionally, any appropriate auditor, including the Office of Inspector General and the federal monitor can audit for compliance at any time.

## 6.0 Data Sharing and Accuracy

### 6.1 Which entity or entities inside and external to the City will be data sharing partners?

No person, outside of SPD has direct access to the video information provided to SPD by the King County Air Unit once it has been received by SPD.

Video may be shared with outside entities in connection with criminal prosecutions:

- Seattle City Attorney's Office
- King County Prosecuting Attorney's Office
- King County Department of Public Defense
- Private Defense Attorneys
- Seattle Municipal Court
- King County Superior Court
- Similar entities where prosecution is in Federal or other State jurisdictions

Video may be made available to requesters pursuant to the Washington Public Records Act, [Chapter 42.56 RCW](#) ("PRA"). SPD will apply applicable exemptions to the data before disclosing to a requester. Individuals have the right to inspect criminal history record information maintained by the department ([RCW 10.97.030](#), [SPD Policy 12.050](#)). Individuals can access their own information by submitting a public disclosure request.

## 6.2 Why is data sharing necessary?

Sharing of video information may be necessary for prosecution or to comply with requests pursuant to public records requests.

## 6.3 Are there any restrictions on non-City data use?

Yes  No

### 6.3.1 if you answered yes, provide a copy of the department's procedures and policies for ensuring compliance with these restrictions.

Law enforcement agencies receiving criminal history information are subject to the requirements of 28 CFR Part 20, regulating criminal justice information systems. In addition, Washington State law enforcement agencies are subject to the provisions of [WAC 446-20-260](#) (auditing and dissemination of criminal history record information systems), and [RCW Chapter 10.97](#) (Washington State Criminal Records Privacy Act).

Once disclosed in response to PRA request, there are no restrictions on non-City data use; however, applicable exemptions will be applied prior to disclosure to any requestor who is not authorized to receive exempt content.

**6.4 how does the project/technology review and approve information sharing agreements, memorandums of understanding, new uses of the information, new access to the system by organizations within City of Seattle and outside agencies?**

Research agreements must meet the standards reflected in [SPD Policy 12.055](#). Law enforcement agencies receiving criminal history information are subject to the requirements of [28 CFR Part 20](#) whose purpose it is “to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to ensure the accuracy, completeness, currency, integrity, and security of such information and to protect individual privacy”. In addition, Washington State law enforcement agencies are subject to the provisions of [WAC 446-20-260](#), and [RCW Chapter 10.97](#).

**6.5 Explain how the project/technology checks the accuracy of the information collected. If accuracy is not checked, please explain why.**

The video recorded by Guardian One and Guardian Two, including the video recorded by the FLIR camera system, is real-time video recorded during the helicopter’s response to a law enforcement or search and rescue event.

**6.6 describe any procedures that allow individuals to access their information and correct inaccurate or erroneous information.**

Individuals may request records pursuant to the PRA, and individuals have the right to inspect criminal history record information maintained by the department ([RCW 10.97.030](#), [SPD Policy 12.050](#)). Individuals can access their own information by submitting a public disclosure request.

## **7.0 Legal obligations, risks and compliance**

**7.1 What specific legal authorities and/or agreements permit and define the collection of information by the project/technology?**

[RCW 9.73.090](#) allows sound and video images to be recorded by cameras mounted in law enforcement vehicles.

**7.2 Describe what privacy training is provided to users either generally or specifically relevant to the project/technology.**

[SPD Policy 12.050](#) mandates that all employees receive Security Awareness Training (Level 2), and all employees also receive City Privacy Training. All SPD employees must adhere to laws, City policy, and Department Policy ([SPD Policy 5.001](#)), many of which contain specific privacy requirements. Any employees suspected of being in violation of laws or policy or other misconduct are subject to discipline, as outlined in [SPD Policy 5.002](#).

**7.3 Given the specific data elements collected, describe the privacy risks identified and for each risk, explain how it was mitigated. Specific risks may be inherent in the sources or methods of collection, or the quality or quantity of information included.**

The nature of the Department’s mission will inevitably lead it to collect and maintain information many may believe to be private and potentially embarrassing. Inherent in video obtained from an aerial platform such as Guardian One and Guardian Two with FLIR camera systems is the risk that private information may be obtained about members of the public. Minimizing privacy risks revolve around disclosure of personally identifiable information by such activities as redacting released video and information and by keeping detailed records of all information released. Images and video obtained by SPD from the KCSO’s Air Unit are considered evidence and the same precautions used to protect other case evidence applies.

[SMC 14.12](#) and [SPD Policy 6.060](#) direct all SPD personnel that “any documentation of information concerning a person’s sexual preferences or practices, or their political or religious activities must be for a relevant reason and serve a legitimate law enforcement purpose.” Additionally, officers must take care “when photographing demonstrations or other lawful political activities. If demonstrators are not acting unlawfully, police can’t photograph them.”

Further, [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.

**7.4 Is there any aspect of the project/technology that might cause concern by giving the appearance to the public of privacy intrusion or misuse of personal information?**

Inherent in video obtained from an aerial platform such as Guardian One and Guardian Two with FLIR camera systems is the risk that private information may be obtained about members of the public. The FLIR camera system can pose additional concern to the public about potential for privacy intrusion based on the misconception that the camera can record people and objects inside homes and other structures. As seen in the provided screen captures of FLIR recordings above, heat from homes and other structures can be seen in the image but the FLIR camera on the Guardian helicopters can not see through obstructions like walls and roofs.

## **8.0 Monitoring and enforcement**

**8.1 Describe how the project/technology maintains a record of any disclosures outside of the department.**

Per [SPD Policy 12.080](#), the Crime Records Unit is responsible to receive and record all requests “for General Offense Reports from other City departments and from other law enforcement agencies, as well as from insurance companies.” Any subpoenas and requests for public disclosure are logged by SPD’s Legal Unit. Any action taken, and data released subsequently in response to subpoenas is then tracked through a log maintained by the Legal Unit. Public disclosure requests are tracked through the City’s GovQA Public Records Response System, and responses to Public Disclosure Requests, including responsive records provided to a requestor, are retained by SPD for two years after the request is completed

**8.2 What auditing measures are in place to safeguard the information, and policies that pertain to them, as well as who has access to the audit data? Explain whether the project/technology conducts self-audits, third party audits or reviews.**

SPD’s Audit, Policy and Research Section is authorized to conduct audits of all investigative data collection software and systems, including DEMS. In addition, the Office of Inspector General and the federal monitor can conduct audits of the software, and its use, at any time. Audit data is available to the public via Public Records Request.

## Financial Information

### Purpose

This section provides a description of the fiscal impact of the surveillance technology, as required by the surveillance ordinance.

### 1.0 Fiscal Impact

Provide a description of the fiscal impact of the project/technology by answering the questions below.

**1.1 Current or potential sources of funding: initial acquisition costs.**

Current  potential

Date of initial acquisition	Date of go live	Direct initial acquisition cost	Professional services for acquisition	Other acquisition costs	Initial acquisition funding source
NA					

Notes:

The Air Support Unit operates throughout King County and is available to assist the Seattle Police Department at no charge through the Puget Sound Regional Aviation Project, a consortium made up of members from sheriff’s offices in King, Snohomish, Pierce and Kitsap counties as well as Seattle Police and Fire departments, Pierce County Fire Districts, Washington State Patrol, the Pierce County Department of Emergency Management, state Department of Ecology, Coast Guard, Navy, and the National Park Service.

**1.2 Current or potential sources of funding: on-going operating costs, including maintenance, licensing, personnel, legal/compliance use auditing, data retention and security costs.**

Current  potential

Annual maintenance and licensing	Legal/compliance, audit, data retention and other security costs	Department overhead	IT overhead	Annual funding source

Notes:

N/A

**1.3 Cost savings potential through use of the technology**

Helicopter air support units can potentially cost \$200,000 per year, per the Snohomish County Sheriff’s Office Air Support Unit Budget. SPD’s agreement allowing cost-free support from the King County Sheriff’s Office Air Support Unit negates the need for SPD to host its own air unit.

**1.4 Current or potential sources of funding including subsidies or free products offered by vendors or governmental entities**

SPD’s participation in the Puget Sound Regional Aviation Project consortium allows cost-free support from the King County Sheriff’s Office Air Support Unit.

**Expertise and References**

**Purpose**

The following information is provided to ensure that Council has a group of experts to reference while reviewing the completed surveillance impact report (“SIR”). Any individuals or agencies referenced must be made aware ahead of publication that their information has been included. All materials must be available for Council to access or review, without requiring additional purchase or contract.

**1.0 Other Government References**

**1.1 Please list any other government bodies that have implemented this technology and can speak to the implementation of this technology.**

Agency, municipality, etc.	Primary contact	Description of current use
Auburn, WA Police Dept		
Bellevue, WA Police Dept		
Kent, WA Police Dept		

## 2.0 Academics, Consultants, and Other Experts

**2.1 Please list any experts in the technology under consideration, or in the technical completion of the service or function the technology is responsible for.**

Agency, municipality, etc.	Primary contact	Description of current use

## 3.0 White Papers or Other Documents

**3.1 Please list any authoritative publication, report or guide that is relevant to the use of this technology or this type of technology.**

Title	Publication	Link
"Today's Thermal Imaging Systems: Background and Applications for Civilian Law Enforcement and Military Force Protection."	<i>Proceedings IEEE 31st Annual 1997 International Carnahan Conference on Security Technology (1997)</i>	<a href="https://ieeexplore-ieee-org.offcampus.lib.washington.edu/document/626270">https://ieeexplore-ieee-org.offcampus.lib.washington.edu/document/626270</a>

# Racial Equity Toolkit (“RET”) and Engagement for Public Comment Worksheet

## Purpose

Departments submitting a SIR are required to complete an adapted version of the Racial Equity Toolkit (“RET”) in order to:

- Provide a framework for the mindful completion of the SIR in a way that is sensitive to the historic exclusion of vulnerable and historically underrepresented communities. Particularly, to inform the public engagement efforts departments will complete as part of the surveillance impact report.
- Highlight and mitigate any impacts on racial equity from the adoption and the use of the technology.
- Highlight and mitigate any disparate impacts on individuals or vulnerable communities.
- Fulfill the public engagement requirements of the surveillance impact report.

## Adaption of the RET for Surveillance Impact Reports

The RET was adapted for the specific use by the Seattle Information Technology Departments’ (“Seattle IT”) privacy team, the Office of Civil Rights (“OCR”), and change team members from Seattle IT, Seattle City Light, Seattle Fire Department, Seattle Police Department, and Seattle Department of Transportation.

## Racial Equity Toolkit Overview

**The vision of the Seattle Race and Social Justice Initiative is to eliminate racial inequity in the community.** To do this requires ending individual racism, institutional racism and structural racism. The racial equity toolkit lays out a process and a set of questions to guide the development, implementation and evaluation of policies, initiatives, programs, and budget issues to address the impacts on racial equity.

### 1.0 Set Outcomes

**1.1. Seattle City Council has defined the following inclusion criteria in the surveillance ordinance, and they serve as important touchstones for the risks departments are being asked to resolve and/or mitigate. Which of the following inclusion criteria apply to this technology?**

- The technology disparately impacts disadvantaged groups.
- There is a high likelihood that personally identifiable information will be shared with non-City entities that will use the data for a purpose other than providing the City with a contractually agreed-upon service.
- The technology collects data that is personally identifiable even if obscured, de-identified, or anonymized after collection.

☒ The technology raises reasonable concerns about impacts to civil liberty, freedom of speech or association, racial equity, or social justice.

### 1.2 What are the potential impacts on civil liberties through the implementation of this technology? How is the department mitigating these risks?

Inherent in video obtained from an aerial platform such as Guardian One and Guardian Two with FLIR camera systems is the risk that private information may be obtained about 3rd parties. While the FLIR camera system can detect and record heat sources inside some structures, it is not able to peer inside homes or other buildings. Though the high definition color cameras mounted on the KCSO helicopters is able to discern individual characteristics, the FLIR camera system video does not capture even the most generic of identifiable individual characteristics such as race, age, or gender. The below image is an example of how individuals are seen by the FLIR system and the color cameras.

This FLIR image shows 5 officers and one police K9 approaching a suspect who is crouched down under a tree. The light color of the officers does not show skin tone but rather the amount of heat they are giving off.



### 1.3 What are the risks for racial or ethnicity-based bias through each use or deployment of this technology? How is the department mitigating these risks?

The mission of the Seattle Police Department is to prevent crime, enforce the law, and support quality public safety by delivering respectful, professional and dependable police services. A potential civil liberties concern is that the SPD would over-surveil vulnerable or historically targeted communities, deploying Guardian One to diverse neighborhoods more often than to other areas of the City. [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. Determining events in which aerial support would be beneficial is based on the particular event situation and the availability of the King County Air Support Unit.

#### 1.4 Where in the City is the technology used or deployed?

all Seattle neighborhoods

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/> Ballard    | <input type="checkbox"/> Southeast                     |
| <input type="checkbox"/> North      | <input type="checkbox"/> Delridge                      |
| <input type="checkbox"/> Northeast  | <input type="checkbox"/> Greater Duwamish              |
| <input type="checkbox"/> Central    | <input type="checkbox"/> East district                 |
| <input type="checkbox"/> Lake union | <input type="checkbox"/> King county (outside Seattle) |
| <input type="checkbox"/> Southwest  | <input type="checkbox"/> Outside King County.          |

If possible, please include any maps or visualizations of historical deployments / use.

N/A

##### 1.4.1 What are the racial demographics of those living in this area or impacted by these issues?

City of Seattle demographics: White - 69.5%; Black or African American - 7.9%; Amer. Indian & Alaska Native - 0.8%; Asian - 13.8%; Native Hawaiian & Pacific Islander - 0.4%; Other race - 2.4%; Two or more races - 5.1%; Hispanic or Latino ethnicity (of any race): 6.6%; Persons of color: 33.7%.

King County demographics: White – 70.1%; Black or African American – 6.7%; American Indian & Alaskan Native – 1.1%; Asian, Native Hawaiian, Pacific Islander – 17.2%; Hispanic or Latino (of any race) – 9.4%

##### 1.4.2 How are decisions made where the technology is used or deployed? How does the Department work to ensure diverse neighborhoods are not specifically targeted?

Determining events in which aerial support would be beneficial is based on the particular event situation and the availability of the King County Air Support Unit. [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#) defines SPD's policy on the use of this technology.

**1.5 How do decisions around data sharing have the potential for disparate impact on historically targeted communities? What is the department doing to mitigate those risks?**

The Aspen Institute on Community Change defines structural racism as "...public policies, institutional practices, cultural representations and other norms [which] work in various, often reinforcing ways to perpetuate racial group inequity." Data sharing has the potential to be a contributing factor to structural racism and thus creating a disparate impact on historically targeted communities. In an effort to mitigate this possibility, SPD has established policies regarding the dissemination of data in connection with criminal prosecutions, Washington Public Records Act ([Chapter 42.56 RCW](#)), and other authorized researchers.

Further, [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.

Information collected by Guardian One and Guardian Two cameras, including the FLIR camera system, is shared only with outside entities in connection with criminal prosecutions or in compliance with public records requests pursuant to the Washington Public Records Act, [Chapter 42.56 RCW](#) ("PRA"). SPD will apply applicable exemptions to the data before disclosing to a requester.

**1.6 How do decisions around data storage and retention have the potential for disparate impact on historically targeted communities? What is the department doing to mitigate those risks?**

Like decisions around data sharing, data storage and retention have similar potential for disparate impact on historically targeted communities. [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.

**1.7 What are potential unintended consequences (both negative and positive potential impact)? What proactive steps can you can / have you taken to ensure these consequences do not occur.**

The most important unintended possible consequence related to the continued utilization of the King County Sheriff's Office Air Support Unit helicopters and FLIR camera system by SPD is the out of policy misuse of the technology to improperly surveil the public. SPD policies, including [SPD Policy 16.060 - King County Sheriff's Office Air Support Unit](#) outlines the way in which SPD may utilize air support for patrol and specialized missions. [SPD Policy 6.060 - Collection of Information for Law Enforcement Purposes](#) also defines the way information will be gathered by SPD and states, "information will be gathered and recorded in a manner that does not unreasonably infringe upon: individual rights, liberties, and freedoms guaranteed

by the Constitution of the United States and the State of Washington, including freedom of speech, press, association, and assembly; liberty of conscience; the exercise of religion...”

## 2.0 Public Outreach

### 2.1 Scheduled public meeting(s).

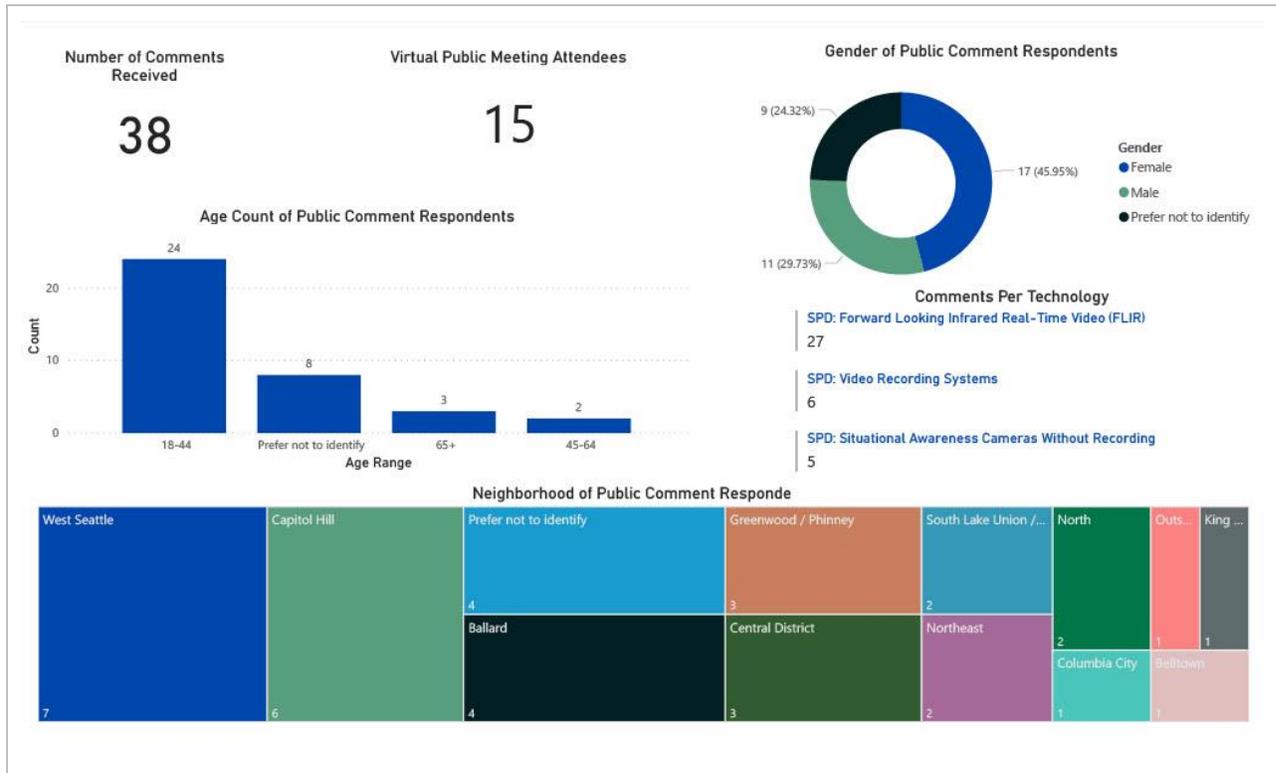
Meeting notes, sign-in sheets, all comments received, and questions from the public will be included in Appendix A-C. Comment analysis will be summarized in section 3.0 Public Comment Analysis.

#### Meeting 1

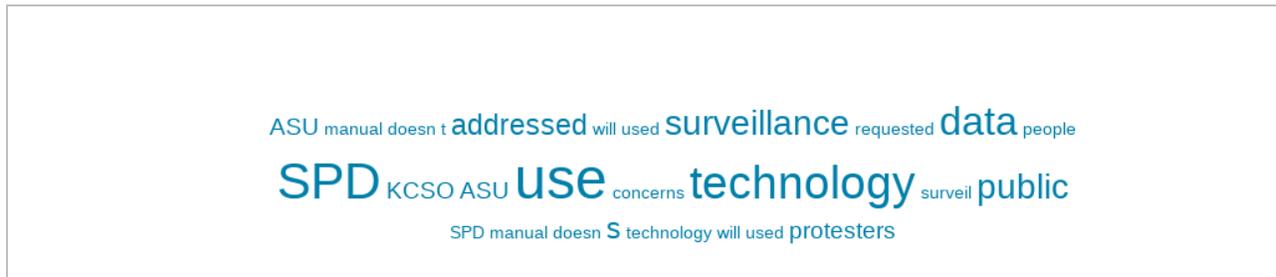
<b>Location</b>	Webex Online Event
<b>Date</b>	October 28 <sup>th</sup> , 2020
<b>Time</b>	12 pm – 1 pm

### 3.0 Public Comment Analysis

#### 3.1 Demographics of the public who submitted comments.



#### 3.2 What concerns, if any, do you have about the use of this technology?



#### 3.3 What value, if any, do you see in the use of this technology?



#### 3.4 What do you want City leadership to consider about the use of this technology?

use technology SPD manual doesn't S equipment Will surveillance  
technology want SPD City leadership consider use  
ASU data KCSO ASU public City leadership city manual doesn't police

### 3.5 Do you have any other comments?

Provide Subject Matter Expert meeting use technology days technologies use public t  
technologies public engagement  
public engagement meetings Hold  
Group comment period closes time City public comment  
provide answers questions least week public comment period SPD

## 4.0 Response to Public Comments

### 4.1 How will you address the concerns that have been identified by the public?

What program, policy and partnership strategies will you implement? What strategies address immediate impacts? Long-term impacts? What strategies address root causes of inequity listed above? How will you partner with stakeholders for long-term positive change?

## 5.0 Equity Annual Reporting

**5.1 What metrics for this technology be reported to the CTO for the annual equity assessments? Departments will be responsible for sharing their own evaluations with department leadership, change team leads, and community leaders identified in the public outreach plan.**

Respond here.

# Privacy and Civil Liberties Assessment

## Purpose

This section shall be completed after public engagement has concluded and the department has completed the racial equity toolkit section above. The privacy and civil liberties assessment is completed by the community surveillance working group (“working group”), per the surveillance ordinance which states that the working group shall:

“Provide to the executive and the City Council a privacy and civil liberties impact assessment for each SIR that must be included with any departmental request for surveillance technology acquisition or in-use approval. The impact assessment shall include a description of the potential impact of the surveillance technology on civil rights and liberties and potential disparate impacts on communities of color and other marginalized communities. The CTO shall share with the working group a copy of the SIR that shall also be posted during the period of public engagement. At the conclusion of the public engagement period, the CTO shall share the final proposed SIR with the working group at least six weeks prior to submittal of the SIR to Council for approval. The working group shall provide its impact assessment in writing to the executive and the City Council 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 City Council in writing. If the working group fails to submit an impact statement within eight weeks of receiving the SIR, the department and City Council may proceed with ordinance approval without the impact statement.”

## Working Group Privacy and Civil Liberties Assessment

Respond here.

## Appendix A: Glossary

**Accountable:** (taken from the racial equity toolkit.) Responsive to the needs and concerns of those most impacted by the issues you are working on, particularly to communities of color and those historically underrepresented in the civic process.

**Community outcomes:** (taken from the racial equity toolkit.) The specific result you are seeking to achieve that advances racial equity.

**Contracting equity:** (taken from the racial equity toolkit.) Efforts to achieve equitable racial outcomes in the way the City spends resources, including goods and services, consultants and contracting.

**DON:** “department of neighborhoods.”

**Immigrant and refugee access to services:** (taken from the racial equity toolkit.) Government services and resources are easily available and understandable to all Seattle residents, including non-native English speakers. Full and active participation of immigrant and refugee communities exists in Seattle’s civic, economic and cultural life.

**Inclusive outreach and public engagement:** (taken from the racial equity toolkit.) Processes inclusive of people of diverse races, cultures, gender identities, sexual orientations and socio-economic status. Access to information, resources and civic processes so community members can effectively engage in the design and delivery of public services.

**Individual racism:** (taken from the racial equity toolkit.) Pre-judgment, bias, stereotypes about an individual or group based on race. The impacts of racism on individuals including white people internalizing privilege, and people of color internalizing oppression.

**Institutional racism:** (taken from the racial equity toolkit.) Organizational programs, policies or procedures that work to the benefit of white people and to the detriment of people of color, usually unintentionally or inadvertently.

**OCR:** “Office of Civil Rights.”

**Opportunity areas:** (taken from the racial equity toolkit.) One of seven issue areas the City of Seattle is working on in partnership with the community to eliminate racial disparities and create racial equity. They include: education, health, community development, criminal justice, jobs, housing, and the environment.

**Racial equity:** (taken from the racial equity toolkit.) When social, economic and political opportunities are not predicted based upon a person’s race.

**Racial inequity:** (taken from the racial equity toolkit.)  
When a person’s race can predict their social, economic, and political opportunities and outcomes.

**RET:** “racial equity toolkit”

**Seattle neighborhoods:** (taken from the racial equity toolkit neighborhood.) Boundaries defined for the purpose of understanding geographic areas in Seattle.

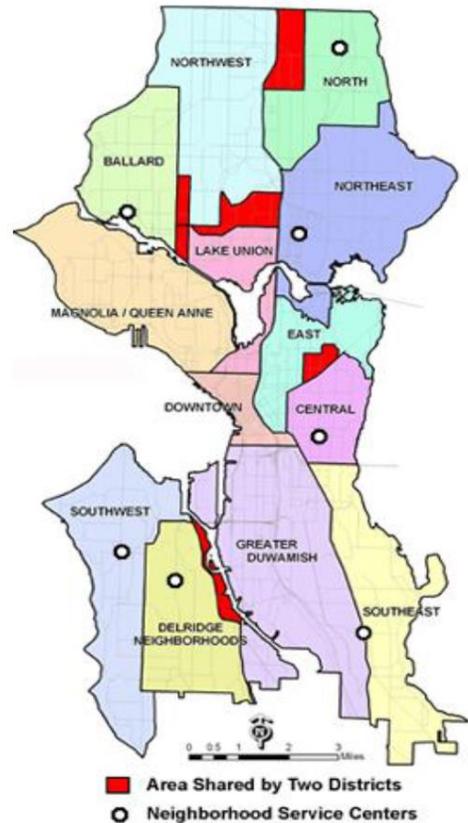
**Stakeholders:** (taken from the racial equity toolkit.)  
Those impacted by proposed policy, program, or budget issue who have potential concerns or issue expertise. Examples might include: specific racial/ethnic groups, other institutions like Seattle housing authority, schools, community-based organizations, change teams, City employees, unions, etc.

**Structural racism:** (taken from the racial equity toolkit.)  
The interplay of policies, practices and programs of multiple institutions which leads to adverse outcomes and conditions for communities of color compared to white communities that occurs within the context of racialized historical and cultural conditions.

**Surveillance Ordinance:** Seattle City Council passed ordinance, also referred to as the “surveillance ordinance.”

**SIR:** “surveillance impact report”, a document which captures the fulfillment of the Council-defined surveillance technology review process, as required by ordinance [125376](#).

**Workforce equity:** (taken from the racial equity toolkit.) Ensure the City's workforce diversity reflects the diversity of Seattle.



## Appendix B: Meeting Notice(s)



# City Surveillance Technology Event

October 28<sup>th</sup>, 2020

12:00 p.m. – 1:00 p.m.

[Webex Online Event](#)

**Join us for a public meeting to comment on a few  
of the City's surveillance technologies:**

#### **Seattle Police Department**

- Forward Looking Infrared Real-time Video (FLIR)
- Situational Awareness Cameras Without Recording
- Video Recording Systems

### [WebEx Online Event](#)

Dial-in Info:

+1-408-418-9388

Access code: 146 533 4053

### **Can't join us online?**

Visit <http://www.seattle.gov/surveillance> to leave an online comment or send your comment to **Surveillance and Privacy Program, Seattle IT, PO Box 94709, Seattle, WA 98124.**

The Open Comment period is from **October 7<sup>th</sup> – November 7<sup>th</sup>, 2020.**

**Please let us know at [Surveillance@seattle.gov](mailto:Surveillance@seattle.gov) if you need any accommodations. For more information, visit [Seattle.gov/privacy](http://Seattle.gov/privacy).**

Information provided to the City of Seattle is considered a public record and may be subject to public disclosure. For more information see the Public Records Act, RCW Chapter 42.56 or visit [Seattle.gov/privacy](http://Seattle.gov/privacy). All comments submitted will be included in the Surveillance Impact Report.

## **Appendix C: All Comments Received from Members of the Public**

**ID:** 12168954138

**Submitted Through:** Online Comment

**Date:** 11/13/2020 11:44:26 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

The possible drift in usage in ambiguous situations, and how it might get triangulated with other technology like video recording. Apparent lack of clarity on data storage practices.

**What value, if any, do you see in the use of this technology?**

Finding people who are lost

**What do you want City leadership to consider about the use of this technology?**

Data governance. Setting clear, specific, easy to understand guidelines about use and storage of this information, and how that will get shared between SPD and KC Sheriff.

**Do you have any other comments?**

Please make sure that at public discussions where personnel are there to answer questions, that there's a subject matter expert present who can answer most general technical questions. That is more important than having an SPD officer present.

**ID:** 12167775924

**Submitted Through:** Online Comment

**Date:** 11/13/2020 11:05:58 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

That this will be used to target Black people and protesters. It's expensive and that money is better used to feed, house, and clothe people in our city.

**What value, if any, do you see in the use of this technology?**

None at all.

**What do you want City leadership to consider about the use of this technology?**

Reject it.

**Do you have any other comments?**

Black Lives Matter.

**ID:** 12167464903

**Submitted Through:** Online Comment

**Date:** 11/13/2020 9:19:25 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Test

**What value, if any, do you see in the use of this technology?**

Test

**What do you want City leadership to consider about the use of this technology?**

Test

**Do you have any other comments?**

Test

**ID:** 12165148732

**Submitted Through:** Online Comment

**Date:** 11/12/2020 4:01:40 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

I do not feel like SPD needs this technology nor do I think they will use it in a transparent way. There are considerable privacy concerns with the use of this technology.

**What value, if any, do you see in the use of this technology?**

I do not see any value in SPD having this technology.

**What do you want City leadership to consider about the use of this technology?**

I do not want this technology used in our city.

**Do you have any other comments?**

**ID:** 12164993335

**Submitted Through:** Online Comment

**Date:** 11/12/2020 3:03:42 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

test

**What value, if any, do you see in the use of this technology?**

test

**What do you want City leadership to consider about the use of this technology?**

test

**Do you have any other comments?**

test

ID: 12164789404

**Submitted Through:** Online Comment

**Date:** 11/12/2020 1:56:19 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

As of Nov. 12th, numerous questions from the public have not been answered by SPD and thus greatly hinder the ability for informed public comment. These questions include: (1) What are the registration/tail numbers for each helicopter? (2) In 2019 or 2020 did KCSO ASU have any additional helicopters? (3) Does only the Huey form Guardian Two and the other two Bell's form Guardian One? (4) How long does KCSO retain still images and recordings when assisting SPD? (5) Is SPD's Digital Evidence Management System (DEMS) a on-premise or Software-as-a-Service deployment? (6) Has SPD ever requested KCSO ASU services or obtained data from KCSO's helicopters and/or FLIR technology to surveil protesters? (7) What are the neighborhoods over which KCSO's helicopters have been deployed? (8) What other data gets combined by SPD with the ASU data (such as cellphone geolocations, social media monitoring/intel, other surveillance technologies on the City's Master List, etc.)? Additionally, SPD dodging some of these questions by directing the public to submit PRA requests (which have a 6-12 month turnaround time) and IT not stepping in point out that answers must be provided to the public before the public comment period closes, shows how little interest both SPD and IT truly have in an honest dialog with the public about surveillance technologies. Also, there are multiple gaps in the SPD manual that should be addressed either by modifications to SPD's manual and/or via ordinance. These gaps include: (1) SPD manual doesn't define a specific & restricted purpose of use of ASU (so largely the whim of an SPD officer and ASU availability). (2) SPD manual doesn't address ASU being used to surveil protesters and/or targeting historically over-policed communities/neighborhoods. (3) SPD manual doesn't address the privacy of unrelated members of the public, unsuspected of a crime, that may be surveilled with this technology or be in the recordings. (4) Lack of public oversight and accountability regarding SPD leveraging KCSO ASU. Not only should all of the above be addressed by also it's recommended that the City produce a publicly available annual report detailing use of KCSO ASU (how SPD used collected data, amount of data, data retention lengths & in what form, where it's stored, & neighborhoods deployed over). It should not take a PRA request for the public to have insight into SPD's use of surveillance tech/data.

**What value, if any, do you see in the use of this technology?**

Because this technology lacks any guardrails on its use and SPD/IT are withholding information from the public, one can only safely assume predominantly negative circumstances under

which this technology has been used (otherwise SPD should desire to make public how great and upstanding their work has been); therefore the cons outweigh the pros and this technology does not provide any noticeable value to the public.

### **What do you want City leadership to consider about the use of this technology?**

City leadership should be made aware of the information SPD/IT has withheld from the public. This information missing from the public includes: (1) What are the registration/tail numbers for each helicopter? (2) In 2019 or 2020 did KCSO ASU have any additional helicopters? (3) Does only the Huey form Guardian Two and the other two Bell's form Guardian One? (4) How long does KCSO retain still images and recordings when assisting SPD? (5) Is SPD's Digital Evidence Management System (DEMS) a on-premise or Software-as-aService deployment? (6) Has SPD ever requested KCSO ASU services or obtained data from KCSO's helicopters and/or FLIR technology to surveil protesters? (7) What are the neighborhoods over which KCSO's helicopters have been deployed? (8) What other data gets combined by SPD with the ASU data (such as cellphone geolocations, social media monitoring/intel, other surveillance technologies on the City's Master List, etc.)? City leadership should also be informed that SPD dodged some of these questions by directing the public to submit PRA requests (which have a 6-12 month turnaround time) and IT didn't step in to point out that answers must be provided to the public before the public comment period closes. City leadership should be encouraged to mandate (via SPD manual changes and/or ordinance) to address multiple gaps and add appropriate guardrails to the use of this technology. The current gaps include: (1) SPD manual doesn't define a specific & restricted purpose of use of ASU (so largely the whim of an SPD officer and ASU availability). (2) SPD manual doesn't address ASU being used to surveil protesters and/or targeting historically over-policed communities/neighborhoods. (3) SPD manual doesn't address the privacy of unrelated members of the public, unsuspected of a crime, that may be surveilled with this technology or be in the recordings. (4) Lack of public oversight and accountability regarding SPD leveraging KCSO ASU. City leadership should also be advised to mandate the City produce a publicly available annual report detailing use of KCSO ASU (how SPD used collected data, amount of data, data retention lengths & in what form, where it's stored, & neighborhoods deployed over). It should not take a PRA request for the public to have insight into SPD's use of surveillance tech/data. Without all of these guardrails being added, the technology should be permitted to be used. The risk to the public of over-surveillance is too great.

### **Do you have any other comments?**

There are many areas of improvement by IT/Privacy-dept. regarding their public engagement process on surveillance technologies. Some of the more recent issues include: (1) Public comment via SurveyMonkey was configured by IT such that a single user (browser session) could only submit public comment on 1 technology. The only way to submit public comment on all the technologies would be use a different browser or clear you browser's cookies/session data, which many less technical people wouldn't know to do. This actively impedes public

comment. It is ensuring there is the least public comment possible. (2) The Privacy dept. calendar event for the Group 3 public engagement meeting didn't include the access code for phone-only users to dial-in (one had to know of and go to the TechTalk blog to get the access code). (3) Directions at public engagement meeting for providing verbal public comment were to raise hand in webex which clearly is not possible for phone-only users. (4) Public engagement truncated. CTO told City Council it would be 45 days. Instead IT used 30 days with a 1 week extension agreed to be added (so 37 days). (5) The Group 3 public engagement meeting recording (as of Nov. 12th) has not been posted publicly, so people unable to attend don't have access to the discussion/Q&A before the public comment period closes. (6) SPD has not provided answers before the public comment period closes. (7) SPD further dodged valid questions from the public by requiring PRA requests, which have zero hope of being addressed within the public comment period. (8) IT has repeatedly requested & attained (and in 1 case, just self-granted) time extensions for the Surveillance Ordinance process. When the public needs time for SPD to provide answers so as to provide informed public comment, now suddenly IT is on a tight time schedule and can't extend the public comment period. Additionally, IT/Privacy-dept. has repeatedly lamented the lack of public engagement, but have also taken no additional steps to rectify this for Group 3; and did not heed prior feedback from the CSWG regarding the engagement process. There are numerous steps IT/Privacy-dept. should take to improve public engagement. The recommendations to the CTO & CPO for Group 4 include: (1) Breaking the group into smaller groups. Group 4 on deck with 13 technologies: 2 re-visits of SFD tech, 3 types of undercover technologies, & 8 other technologies. (2) Allocating more time for open public comment: minimum of 2 weeks per each in scope tech (so Group 3 would be 42 days, and Group 4 would be 154 - 182 days). (3) Hold more public engagement meetings per Group - specifically the number of public engagement meetings should at a minimum match the number of technologies being considered for public comment (otherwise the meeting will run out of time before all the questions from the public can even be asked, which did happen with Group 3). (4) Require at the public engagement meetings both a Subject Matter Expert on the use of the technology AND a Subject Matter Expert on the technical management of the technology. There should be no excuse for most of the public's questions being unanswered by the City at these meetings. (5) Hold public engagement meetings that are accessible to marginalized communities most likely to have this technology used against them (such as, holding meetings at various times of day & weekends, having translators, etc). (6) Post online the recordings of all online public engagement meetings at least 1 week before the public comment period closes. (7) Require departments to provide answers to the public's questions at least 1 week before the public comment period closes. (8) Post public announcements for focus groups held by the City (9) Public engagement meetings and focus groups should have at least 1 outside civil liberties representative to present. (10) Publish to the Privacy website in a more timely manner the CSWG meeting announcements and minutes. (11) Work with more City departments (not just Dept. of Neighborhoods) to foster engagement. (12) Work with more City boards and committees to foster engagement. (13) Provide at least 2 week lead time between announcing a public engagement meeting and the timing of that

meeting occurring. (14) Provide early versions of drafts SIRs to the CSWG (as they requested more than once).

**ID:** 12161313635

**Submitted Through:** Online Comment

**Date:** 11/13/2020 11:03:49 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

1

**What value, if any, do you see in the use of this technology?**

2

**What do you want City leadership to consider about the use of this technology?**

3

**Do you have any other comments?**

4

**ID:** 12128589537

**Submitted Through:** Online Comment

**Date:** 11/1/2020 6:58:29 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

It is military weapons platform equipment and technology. They don't share with HLS Fusion? If not today, there is tomorrow.

**What value, if any, do you see in the use of this technology?**

Only for the further advancement of "Big Brother and to continue supporting paramilitariesing SPD and KCSD.

**What do you want City leadership to consider about the use of this technology?**

It is used for advanced and long range targeting.

**Do you have any other comments?**

Read the Voyuer RCW. Naked eye.

**ID:** 12125455624

**Submitted Through:** Online Comment

**Date:** 10/30/2020 12:34:17 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

In section 4.2 of the full report, "The video is requested as evidence from King County and stored using existing video evidence storage policies including SPD Policy 7.090." The scope of the data collected is broader than that associated with a request fo

**What value, if any, do you see in the use of this technology?**

**What do you want City leadership to consider about the use of this technology?**

City leadership should consider under what conditions this technology is in use and whether a warrant is needed to approve this. The City leadership should consider whether or not this constitutes "evidence." City leadership should consider all of the

**Do you have any other comments?**

**ID:** 12118975621

**Submitted Through:** Online Comment

**Date:** 10/28/2020 5:09:38 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

This is a creepy tool to put in the hands of people who have already proven they can't be trusted with the tools they use. This shouldn't be a surveillance state. Our police shouldn't be able to monitor us from the air with technology that can see us when

**What value, if any, do you see in the use of this technology?**

None that isn't outweighed by putting dangerous surveillance tech in the hands of SPD.

**What do you want City leadership to consider about the use of this technology?**

Not using it.

**Do you have any other comments?**

Seattle City Council isn't the Communist Party of China. Don't act like it.

**ID:** 12118928781

**Submitted Through:** Online Comment

**Date:** 10/28/2020 4:50:49 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

I have no concerns regarding its use.

**What value, if any, do you see in the use of this technology?**

**What do you want City leadership to consider about the use of this technology?**

**Do you have any other comments?**

**ID:** 12117873188

**Submitted Through:** Online Comment

**Date:** 10/28/2020 10:58:58 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

I am concerned innocent bystanders privacy is violated with use of this surveillance.

**What value, if any, do you see in the use of this technology?**

None. This is major privacy violation.

**What do you want City leadership to consider about the use of this technology?**

Refuse.

**Do you have any other comments?**

The links to comment on proposed surveillance methods are difficult to find and if I didn't know any better, I'd say they're "hidden" purposefully.

**ID:** 12111684041

**Submitted Through:** Online Comment

**Date:** 10/26/2020 6:20:22 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

I am concerned that a) this technology is or will be used against protesters exercising their first amendment rights to freedom of speech and assembly, that it will have a chilling effect on those rights, and create safety issues for protesters if informa

**What value, if any, do you see in the use of this technology?**

**What do you want City leadership to consider about the use of this technology?**

**Do you have any other comments?**

**ID:** 12111484053

**Submitted Through:** Online Comment

**Date:** 10/26/2020 4:52:50 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Every time I turn around, I see another article about how technology is deepening inequities. Increased surveillance is not the answer to our social ills--it will only deepen them.

**What value, if any, do you see in the use of this technology?**

None. We do not need more surveillance. There is enough already!

**What do you want City leadership to consider about the use of this technology?**

The social costs are potentially very deep, and far outweigh any savings in terms of police time or private property.

**Do you have any other comments?**

ID: 12103746854

**Submitted Through:** Online Comment

**Date:** 10/23/2020 9:02:47 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

None

**What value, if any, do you see in the use of this technology?**

Assist in locating/tracking for a variety of reasons more efficiently in most any environment or condition

**What do you want City leadership to consider about the use of this technology?**

There should be oversight, rules and regulations regarding the use of this tool and subsequent data with accountability

**Do you have any other comments?**

Not at this time

**ID:** 12102858883

**Submitted Through:** Online Comment

**Date:** 10/23/2020 4:31:30 AM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Thermal Imaging will be abused to surveil, track, direct, and disrupt legal protest movements.

**What value, if any, do you see in the use of this technology?**

Thermal Imaging enables easier searching of victims in Search and Rescue.

**What do you want City leadership to consider about the use of this technology?**

Limit usage to casualty events or search and rescue. That's where it's totally positive.

**Do you have any other comments?**

**ID:** 12102022133

**Submitted Through:** Online Comment

**Date:** 10/22/2020 8:19:02 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

This technology will not be used to keep anyone safe. Rather it will be used to surveil members of the public, specifically protestors, in order to arrest, attack, and harm them. SPD has already used tools at their disposable to brutalize protestors and B

**What value, if any, do you see in the use of this technology?**

There is no value to this technology.

**What do you want City leadership to consider about the use of this technology?**

There is no reason that residents of Seattle should be surveilled in this manner. This will only cause more harm. Do not authorize the use of this technology.

**Do you have any other comments?**

Do not authorize the use of this technology. If you do, more members of the public will be attested, injured, or killed by the police.

**ID:** 12101809731

**Submitted Through:** Online Comment

**Date:** 10/22/2020 6:10:30 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

I don't think we can trust SPD to use this responsibly. They've proven that they will track down, harass, and persecute those who disagree with their tactics. It's a department full of white supremacists. We don't need to put this kind of technology into

**What value, if any, do you see in the use of this technology?**

While I want to think it would be helpful, I see none at this point, given that the SPD will use the technology. It really renders even considering value useless. Its value is negative to Seattle Citizens.

**What do you want City leadership to consider about the use of this technology?**

If there is any technology that the SPD can use to track people down, they will use it for hunting down black, brown, indigenous, and transgender people, as well as any other minority and marginalized groups that they can. There are obvious cases, on came

**Do you have any other comments?**

DEFUND THE SPD

**ID:** 12101790683

**Submitted Through:** Online Comment

**Date:** 10/22/2020 5:59:10 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

This comment applies to all listed technologies. SPD is a deeply untrustworthy agency that has not proven their use of technology responsible. This technology will be used to repress citizens by an organization that has repeatedly proven their disdain for

**What value, if any, do you see in the use of this technology?**

None. This will purely be used to harm citizens and further the reach of out of control agency.

**What do you want City leadership to consider about the use of this technology?**

I want city leadership to know that this technology will only further erode the trust of the people in their city. SPD will use this technology irresponsibly as they have with SDOTs traffic cameras.

**Do you have any other comments?**

**ID:** 12101680822

**Submitted Through:** Online Comment

**Date:** 10/22/2020 5:06:33 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Please apply my comments to all surveillance tech listed here. SPD needs to be dismantled to all but officers needed for violent crime and to purge it of a culture of white supremacy. Their poor handling/escalation of force with recent protests means they

**What value, if any, do you see in the use of this technology?**

None. This equipment has no place in our community, especially with a police force as untrustworthy with equipment and citizen's safety as ours.

**What do you want City leadership to consider about the use of this technology?**

It will only be abused. Until SPD is torn down and non-violent crime services moved elsewhere we cannot continue to arm them with ever more advanced equipment.

**Do you have any other comments?**

I don't consider myself an activist but can't ignore the heinous and brazen behavior of SPD in recent months and don't want to see investment made in technology they'll surely use to further abuse citizens.

**ID:** 12101591052

**Submitted Through:** Online Comment

**Date:** 10/22/2020 4:28:31 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Are flashlights not good enough for SPD? I don't see a use case for the police to use FLIR where a regular light would not serve the same purpose. Seattle is not a war zone.

**What value, if any, do you see in the use of this technology?**

It's a great way to waste our money.

**What do you want City leadership to consider about the use of this technology?**

I don't want to live in a city where the police can surveil you and identify you anywhere at any time. I should be able to attend a protest or political meeting and not worry about extrajudicial police harassment. SPD has recently and repeatedly shown its

**Do you have any other comments?**

All of these are an incredible waste of money, especially when the rest of the city is looking at austerity.

**ID:** 12101428379

**Submitted Through:** Online Comment

**Date:** 10/22/2020 3:18:06 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Law enforcement has demonstrated a lack of regard for the fourth amendment and I do not think that expanding their power to record residents without a warrant is wise in any form.

**What value, if any, do you see in the use of this technology?**

None

**What do you want City leadership to consider about the use of this technology?**

Don't use it

**Do you have any other comments?**

**ID:** 12101367556

**Submitted Through:** Online Comment

**Date:** 10/22/2020 2:54:00 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

None.

**What value, if any, do you see in the use of this technology?**

This will save officers lives and the lives of the public

**What do you want City leadership to consider about the use of this technology?**

Aloe the use of this technology. It will save lives.

**Do you have any other comments?**

Aloe the use of this technology. It will save lives.

**ID:** 12101215876

**Submitted Through:** Online Comment

**Date:** 10/22/2020 1:55:56 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Isn't this technology going to be used for the further suppression of protests against police brutality?

**What value, if any, do you see in the use of this technology?**

The SPD budget is already bloated and over funded

**What do you want City leadership to consider about the use of this technology?**

The money that would be used on these surveillance technologies should be going to housing and social services. Our city is in a homelessness crisis.

**Do you have any other comments?**

I'm disgusted to see the SPD doing the opposite of what the protest movement has demanded of them. We dont need more gadgets to increase policing we need more social services- what studies have proven ACTUALLY decrease crime and mortality

ID: 12101204854

**Submitted Through:** Online Comment

**Date:** 10/22/2020 1:51:35 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Why does the Seattle Police Department feel the need to use military surveillance equipment on its domestic population?

**What value, if any, do you see in the use of this technology?**

None, disgusting

**What do you want City leadership to consider about the use of this technology?**

I would like City leadership to consider why they feel it is appropriate to arm our police force to the teeth like its own small paramilitary group

**Do you have any other comments?**

Abolish the Seattle Police Department, remove Jenny Durkan from office

**ID:** 12101046061

**Submitted Through:** Online Comment

**Date:** 10/22/2020 12:58:06 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

No matter what you say in response to public comment, we know you're just using this to help oppress citizens and protesters. Come on.

**What value, if any, do you see in the use of this technology?**

None

**What do you want City leadership to consider about the use of this technology?**

Abandon it.

**Do you have any other comments?**

You are the villains you grew up hoping to never be.

**ID:** 12101028005

**Submitted Through:** Online Comment

**Date:** 10/22/2020 12:52:28 PM

**Which surveillance technology that is currently open for public comment, do you wish to comment on?**

SPD: Forward Looking Infrared Real-Time Video (FLIR)

**What concerns, if any, do you have about the use of this technology?**

Citizens under the 4th amendment have a right to privacy. You're surveiling citizens with a presumption that they are guilty and don't deserve that right. It's not okay.

**What value, if any, do you see in the use of this technology?**

None. Literally none.

**What do you want City leadership to consider about the use of this technology?**

I want them to not implement it and not allow our police to use any type of technology that infringes on our inalienable rights as Americans.

**Do you have any other comments?**

Defund SPD should also include their technologies used for spying on citizens.

DRAFT

## Appendix D: Letters from Organizations or Commissions

November 6, 2020

Seattle Information Technology  
700 5<sup>th</sup> Ave, Suite 2700  
Seattle, WA 98104

RE: ACLU of Washington Comments on Group 3 Surveillance Technologies

On behalf of the ACLU of Washington, I write to offer our comments on the surveillance technologies included in Group 3 of the Seattle Surveillance Ordinance implementation process.

The three Seattle Police Department (SPD) technologies in Group 3 are covered in the following order:

1. Forward Looking Infrared – King County Sheriff's Office Helicopters
2. Video Recording Systems
3. Situational Awareness Cameras Without Recording

These comments should be considered preliminary, given that the Surveillance Impact Reports (SIR) for each technology leave a number of important questions unanswered. Specific unanswered questions for each technology are noted in the comments relating to that technology. Answers to these questions should be included in the updated SIRs provided to the Community Surveillance Working Group and to the City Council prior to their review of the technologies.

### **Forward Looking Infrared - KCSO Helicopters**

#### *Background*

Forward Looking Infrared (FLIR) is a powerful thermal imaging surveillance technology that raises a number of privacy and civil liberties concerns because of its ability to enable dragnet surveillance of individuals in public as well as in private spaces.

FLIR cameras sense infrared radiation to create images assembled for real-time video output. This technology detects small differences in heat, or emitted thermal energy, and displays them as shades of gray or with different colors. Because all objects emit different amounts of thermal energy, FLIR cameras are able to detect temperature differences and translate them into images.<sup>1</sup>

Advanced thermal imaging systems like FLIR allow governments to increase their surveillance capabilities. Like any device used for surveillance, government agents may use it inappropriately to gather information on people based on their race, religion, or political views. While thermal imaging devices cannot "see" through

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<sup>1</sup> ACLU of Washington, *Thermal Imaging Surveillance*, THEYAREWATCHING.ORG, <https://theyarewatching.org/technology/thermal-imaging-surveillance> (last visited Nov. 5, 2020).



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Tana Lin  
Board President

Michele Storms  
Executive Director

walls, pointing a thermal camera at a building can still reveal sensitive information about what is happening inside. Drug detectives often use these devices to identify possible marijuana growers by looking for heat consistent with grow lights.<sup>2</sup> Furthermore, privacy and civil liberties concerns with FLIR are magnified when FLIR is used in conjunction with other powerful surveillance tools such as facial recognition and drones.

The Seattle Police Department (SPD) uses three King County Sheriff's Office helicopters that are equipped with FLIR technology as well as 30-million candlepower "Night Sun" searchlights, Pro Net and LoJack radio tracking receivers, still and video cameras, and communications equipment for communicating with local, state, and federal law and firefighting agencies on their frequencies. SPD can use FLIR technology and these helicopters to monitor human beings (whose body temperatures are fairly consistent) through clouds, haze, and darkness.

There are serious concerns with SPD's use of KCSO's helicopters as described in the SIR. The policies attached in the SIR do not include purpose limitations, adequate privacy and security protections, or restrictions on use. The SIR also does not specify how long KCSO retains still images and recordings attained when assisting SPD, or whether SPD's Digital Evidence Management System (DEMS) is an on-premise or a Software-as-a-Service (SaaS) deployment.

At the public engagement meeting held on October 28, 2020,<sup>3</sup> SPD officers were asked if SPD had ever used KCSO helicopters or FLIR technology for the purpose of surveilling protesters and if SPD had any policies prohibiting use of these technologies for protester surveillance. The officers were also asked over which neighborhoods the helicopters had been deployed, given that the SIR states that in 2018, Guardian One was deployed 45 times to SPD events. For both questions, SPD officers declined to answer and told the public to submit public records requests. However, because SPD's Public Records Act request portal states that the minimum response timeline is in excess of 6-12 months, members of the public would not be able to receive answers to these questions in time to submit public comments on these technologies.

Given the lack of adequate policies in the SIR and the number of unanswered questions that remain, we have concerns that SPD's use of KCSO's helicopters and FLIR technology may infringe upon people's civil rights and civil liberties. KCSO's FLIR-equipped helicopters may be used to disproportionately surveil historically targeted communities, individuals exercising their constitutionally protected right to protest, or people just going about their lives.

#### *Specific Concerns*

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<sup>2</sup> In the 2001 case *Kyllo v. United States*, the U.S. Supreme Court ruled that federal agents violated the Fourth Amendment when they used a thermal imaging device to detect marijuana plants growing inside a home.

<sup>3</sup> Seattle Police Department, *Surveillance Technology Public Comment Meeting*, CITY OF SEATTLE (Oct. 28, 2020), <https://www.seattle.gov/Documents/Departments/Tech/Privacy/Group%203%20Presentation.pdf>.

- **There are inadequate policies defining purpose of use.** The policies cited in the SIR do not impose meaningful restrictions on the purpose for which SPD may request that KCSO helicopters and FLIR technology be used. Policy 16.060 – King County Sheriff’s Office Air Support Unit<sup>4</sup> simply states that “Guardian One offers air support for patrol and specialized missions” and that “Guardian Two offers air support for special operations such as search and rescue (SAR) and tactical missions.” This policy only describes the process by which SPD may request support from KCSO’s air support unit but does not state the specific purposes for which SPD may or may not request support. Section 4.9 of the SIR<sup>5</sup> states that SPD may request video from KCSO’s Air Unit “[w]hen necessary and pertinent to a specific investigation” but does not specify the types of investigations for which SPD may request data from KCSO or how it is determined if such data is necessary and pertinent. Policy 6.060 – Collection of Information for Law Enforcement Purposes<sup>6</sup> states that “Information will be gathered and recorded in a manner that does not unreasonably infringe upon: individual rights, liberties, and freedoms guaranteed by the Constitution of the United States and the State of Washington” and Policy 5.140 – Bias-Free Policing states that “officers will not engage in bias-based policing.”<sup>7</sup> However, SPD’s answers at the October 28 public engagement meeting do not make clear whether and how SPD prohibits use of KCSO helicopters to engage in surveillance of protesters or biased policing. Section 1.4.2 of the Racial Equity Toolkit (RET) section of the SIR specifically asks: “How are decisions made where the technology is used or deployed? How does the Department work to ensure diverse neighborhoods are not specifically targeted?”<sup>8</sup> The response from SPD directs attention to SPD Policy 16.060, which does not provide adequate purpose limitations.
- **There are inadequate policies restricting data collection.** The policies cited in the SIR do not place any restrictions on the amount or types of data SPD may request from KCSO. At the October 28 public engagement meeting, SPD officers did not answer whether or how SPD places time or geographic limitations on the data it may request from KCSO.

<sup>4</sup> Seattle Police Department, *Seattle Police Department Manual: 16.060 - King County Sheriff’s Office Air Support Unit*, CITY OF SEATTLE (Mar. 1, 2016), <http://www.seattle.gov/police-manual/title-16---patrol-operations/16060---king-county-sheriffs-office-air-support-unit>.

<sup>5</sup> Seattle Police Department, *2020 Surveillance Impact Report: Forward Looking Infrared Real-Time Video (FLIR) (KCSO Helicopters)*, CITY OF SEATTLE, at 12, [http://www.seattle.gov/Documents/Departments/Tech/Privacy/FLIR%20-%20KCSO%20Helicopters%20Public\\_Engagement%20SIR.pdf](http://www.seattle.gov/Documents/Departments/Tech/Privacy/FLIR%20-%20KCSO%20Helicopters%20Public_Engagement%20SIR.pdf) (last visited Nov. 5, 2020).

<sup>6</sup> Seattle Police Department, *Seattle Police Department Manual: 6.060 - Collection of Information for Law Enforcement Purposes*, CITY OF SEATTLE (May 19, 2004), <http://www.seattle.gov/police-manual/title-6---arrests-search-and-seizure/6060---collection-of-information-for-law-enforcement-purposes>.

<sup>7</sup> Seattle Police Department, *Seattle Police Department Manual: 5.140 - Bias-Free Policing*, CITY OF SEATTLE (Aug. 1, 2019), <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>.

<sup>8</sup> *2020 Impact Report: Infrared Video*, *supra* note 5, at 23.

- **It is unclear if and how SPD protects the privacy of individuals unrelated to an investigation.** The SIR does not include any policies regarding how it redacts or deletes information. At the October 28 public engagement meeting, SPD officers did not provide an answer to the question of whether and how it redacts or deletes information collected that may compromise the privacy of individuals unrelated to an investigation.
- **It is unclear how data collected are stored and protected.** SPD stated at the October 28 public engagement meeting that it is unaware of how long KCSO retains still images and recordings obtained when assisting SPD. While SPD officers stated that SPD stores video requested from KCSO in its Digital Evidence Management System (DEMS)—not Evidence.com, this is not made clear within the SIR. Additionally, SPD officers did not answer whether SPD’s DEMS is on on-premise or Software-as-a-Service (SaaS) deployment.
- **The SIR does not provide the dates and neighborhoods over which KCSO helicopters and FLIR technology have been deployed.** Though the SIR states that there have been 45 deployments of Guardian One to support SPD in 2018, the SIR does not include an analysis of the locations of those deployments.<sup>9</sup> Additionally, during the October 28 public engagement meeting, SPD declined to state the neighborhoods over which the helicopters had been deployed. It is important that SPD include this information in the Racial Equity Toolkit section of the final SIR in order to address the following questions in Section 1.4.2: “How are decisions made where the technology is used or deployed? How does the Department work to ensure diverse neighborhoods are not specifically targeted?”<sup>10</sup>

#### *Outstanding Questions*

- What are the registration and/or tail numbers for each helicopter?
- In 2019 and 2020, did the KCSO Air Support Unit have any additional helicopters aside from the three listed in the SIR?
- How long does KCSO retain still images and recordings attained when assisting SPD?
- Is SPD’s Digital Evidence Management System (DEMS) an on-premise deployment or is it Software-as-a-Service?
- Has SPD ever requested KCSO ASU services or obtained data from KCSO’s helicopters and/or FLIR technology to surveil protesters?
- What are the neighborhoods over which KCSO’s helicopters have been deployed?

#### *Recommendations for Regulation*

At this stage, pending answers to the questions above, we can make only preliminary recommendations for the regulation of SPD’s use of KCSO’s helicopters and FLIR technology. We recommend that the Council adopt, via ordinance, at a minimum, clear and enforceable rules that ensure the following:

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<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Id.* at 23.

- **SPD must abide by a specific and restricted purpose of use:** The ordinance should define a specific purpose of use for KCSO's helicopters and FLIR technology, and any SPD use of KCSO's helicopters and FLIR technology and data collected with these technologies must be restricted to that specific purpose.
- **SPD must adopt processes to ensure it is not targeting diverse neighborhoods.** The ordinance should prohibit SPD from using KCSO's helicopters and FLIR technology to disproportionately surveil communities of color and other historically over-policed communities.
- **SPD must protect the privacy of individuals unrelated to a specific search or investigation.** The ordinance should require SPD to redact or delete information collected that may compromise the privacy of individuals not related to a specific search or investigation, restricted by the purpose of use.
- **SPD must produce a publicly available annual report detailing its use of KCSO helicopters and FLIR technology.** The ordinance should require that SPD produce an annual report including details on how SPD used the data collected, the amount of data collected, for how long data were retained and in what form, where the data are stored, and the neighborhoods over which KCSO helicopters and/or FLIR technology were deployed.

### Video Recording Systems

#### *Background*

SPD uses two cameras systems to record and/or monitor members of the public within SPD interview rooms, Blood Alcohol Collection (BAC) rooms, and precinct holding cells: Genetec Video Management System and Milestone Systems XProtect Video Management Software and Products.

Genetec Video Management System is a permanently installed system primarily used to record in-person interactions and interviews with crime victims, witnesses, and suspects in seven designated interview rooms located at the SPD headquarters in the Seattle Justice Center. This system is used to create a video record of interviews for the purposes of use in criminal justice proceedings. Milestone Systems XProtect Video Management Software and Products is a permanently installed system in SPD's Blood Alcohol Collection (BAC) rooms and precinct holding cells. They record continuously all activity in those locations.<sup>11</sup>

SPD's use of these video recording systems can pose threats to people's privacy and civil liberties if used without adequate safeguards. The SIR does not provide adequate purpose limitations regarding SPD's use of these technologies, does not include full details of the capabilities of these systems, and does not adequately specify technical and procedural safeguards to prevent improper viewing,

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<sup>11</sup> Seattle Police Department, *2020 Surveillance Impact Report: Video Recording Systems (Interview, Blood-Alcohol Collection Room, and Precinct Holding Cell Audio)*, CITY OF SEATTLE, at 4, [https://www.seattle.gov/Documents/Departments/Tech/Privacy/Video%20Recording%20Systems%20Public\\_Engagement%20SIR.pdf](https://www.seattle.gov/Documents/Departments/Tech/Privacy/Video%20Recording%20Systems%20Public_Engagement%20SIR.pdf) (last visited Nov. 5, 2020).

collection, or storage of the images or video footage.

#### *Specific Concerns*

- **There are inadequate policies defining purpose of use.** Section 4.9 of the SIR asks, “What are acceptable reasons for access to the equipment and/or data collected?”<sup>12</sup> The response does not specifically detail how and for what purpose the equipment and/or data collected from the equipment may be used.
- **The capabilities of the Genetec and Milestone systems are unclear.** SPD does not provide links or attachments providing specific details about either of the systems they use. Both Genetec<sup>13</sup> and Milestone<sup>14</sup> advertise facial recognition systems that may be integrated with its video management systems.
- **It is unclear how data are collected, stored, and protected.** The SIR does not make clear whether SPD stores the data they receive in the Digital Evidence Management System or Evidence.com, a cloud-based digital evidence platform owned by Axon. The SIR simply references SPD policy 7.110 – Recorded Statements, which states that data may be uploaded to the Digital Evidence Management System (DEMS) or Evidence.com.<sup>15</sup> Additionally, the SIR does not include information about the security practices SPD follows to protect the privacy of members of the public who are recorded by the Genetec and Milestone video management systems. Finally, the SIR does not specify who has permission to modify the pan, tilt, and/or zoom of the cameras.

#### *Outstanding Questions*

- Does SPD use a Genetec or Milestone partner add-on that enables facial recognition or other biometric data collection/identification?
- How are firmware/software updates applied to the Genetec systems?
- What security practices does SPD follow?
- Where does the SPD Evidence Section store the Genetec-generated recordings and Milestone recordings they receive?
- For both the Genetec and Milestone systems, who has permission to modify the pan, tilt, and/or zoom of the cameras?

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<sup>12</sup> *Id.* at 12.

<sup>13</sup> *Security Center Omnicast IP video surveillance*, GENETEC, <https://resources.genetec.com/video-modules-and-add-ons/omnicast-ip-video-surveillance> (last visited Nov. 5, 2020).

<sup>14</sup> *Dahua Face Recognition Plugin for Milestone VMS*, MILESTONE, <https://www.milestone.com/marketplace/zhejiang-dahua-technology-co.-ltd/dahua-face-recognition-plugin-for-milestone-vms/> (last visited Nov. 5, 2020); *Id-Guard Face Recognition Plugin*, MILESTONE, <https://www.milestone.com/marketplace/llc-recfaces/id-guard-face-recognition-plugin/> (Nov. 5, 2020).

<sup>15</sup> Seattle Police Department, *Seattle Police Department Manual: 7.110 - Recorded Statements*, CITY OF SEATTLE (Oct. 1, 2020), <https://www.seattle.gov/police-manual/title-7---evidence-and-property/7110---recorded-statements>.

### *Recommendations for Regulation*

At this stage, pending answers to the questions above, we can make only preliminary recommendations for the regulation of SPD's use of video recording systems. We recommend that the Council adopt, via ordinance, at a minimum, clear and enforceable rules that ensure the following:

- **SPD must abide by a specific and restricted purpose of use:** The ordinance should define a specific purpose of use for any video recording systems used by SPD, and any use must be restricted to that specific purpose.
- **SPD must not use any video recording systems that have capabilities beyond what is strictly necessary to fulfill the purpose of use (e.g., recording custodial interrogations).** The ordinance should prohibit incorporating additional services such as facial recognition systems with the video recording systems.

### **Situational Awareness Cameras Without Recording**

#### *Background*

SPD uses four types of portable cameras to observe both public and private areas during tactical operations. The four types of cameras and their vendors are:

- Robot-mounted cameras – RoboteX
- Pole-mounted cameras – Tactical Electronics & Smith and Wesson
- Placeable cameras – Remington & Tactical Electronics
- Throwable cameras – Remington & Tactical Electronics<sup>16</sup>

SPD's use of these situational awareness cameras can pose threats to people's privacy and civil liberties if used without adequate safeguards. The SIR does not provide adequate purpose limitations regarding SPD's use of these technologies, does not include full details of the capabilities of the cameras, and does not adequately specify technical and procedural safeguards to prevent improper viewing, collection, or storage of the images or video footage.

#### *Specific Concerns*

- **There are inadequate policies defining purpose of use.** Section 4.9 of the SIR asks, "What are acceptable reasons for access to the equipment and/or data collected?" The response states: "The decision to use situational awareness cameras is made on a case-by-case basis. These devices allow officers to monitor a subject or watch situation from a position of safety and distance. Absent exigent circumstances, a signed warrant is obtained prior to the use of this technology in any protected area."<sup>17</sup> This response does not

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<sup>16</sup> Seattle Police Department, *2020 Surveillance Impact Report: Situational Awareness Cameras Without Recording*, CITY OF SEATTLE, at 5, [https://www.seattle.gov/Documents/Departments/Tech/Privacy/Situational%20Awareness%20Cameras%20Public\\_Engagement%20SIR.pdf](https://www.seattle.gov/Documents/Departments/Tech/Privacy/Situational%20Awareness%20Cameras%20Public_Engagement%20SIR.pdf) (last visited Nov. 5, 2020).

<sup>17</sup> *Id.* at 8.

provide a clear and limited purpose for which this technology may or may not be used. While SPD's response states that a warrant is obtained prior to use of the cameras in protected areas, such as inside a home, it does not state the specific purposes for which SPD may or may not use the cameras without a warrant.

- **The capabilities of the situational awareness cameras are unclear.** The SIR does not provide manuals or the complete model names and/or numbers of each of the camera technologies. During the October 28 public engagement meeting, SPD stated that their situational awareness cameras do not support recording. However, the vendor websites advertise situational awareness cameras that do support recording. For example, the Tactical Electronics Core Monitor,<sup>18</sup> Pole Camera,<sup>19</sup> and Under Door Camera<sup>20</sup> can either take photos, record video, and/or record audio.
- **It is unclear what technical and procedural safeguards are in place to prevent the improper viewing, collection, and storage of images.** During the October 28 public engagement meeting, SPD stated that there is no way that images, video, or audio footage could be collected and stored. In order to verify that information, SPD must provide detailed information about the technologies it uses as stated above. Additionally, even if the cameras themselves cannot record footage, it is unclear if there are policies and procedures in place to prevent live-streamed situational camera footage from being recorded via a different device.

#### *Outstanding Questions*

- What are the complete model names/numbers for each of the equipment in scope for the Situational Awareness Cameras?
- What technical safeguards are in place to prevent the storage/retention of images?
- 7.3 of Situational Awareness Cameras SIR states "[the SWAT Unit] have mitigated the risk of improper viewing of the protected areas." How specifically have they mitigated the risk?
- What (if any) sections of the SPD Manual specifically cover the use of these technologies by SWAT?

#### *Recommendations for Regulation*

At this stage, pending answers to the questions above, we can only make preliminary recommendations for the regulation of SPD's use of situational awareness cameras. We recommend that the Council adopt, via ordinance, at a minimum, clear and enforceable rules that ensure the following:

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<sup>18</sup> *Core Monitor*, TACTICAL ELEC., <https://www.tacticalelectronics.com/product/core-monitor/> (last visited Nov. 5, 2020).

<sup>19</sup> *Core Pole Camera*, TACTICAL ELEC., <https://www.tacticalelectronics.com/product/core-pole-camera/> (last visited Nov. 5, 2020).

<sup>20</sup> *Core Under Door Camera*, TACTICAL ELEC., <https://www.tacticalelectronics.com/product/core-under-door-camera/> (last visited Nov. 5, 2020).

- **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.
- **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.
- **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.

Thank you for your consideration of our comments and for facilitating this public review process.

Sincerely,

Jennifer Lee  
Technology and Liberty Project Manager

## Appendix E: CTO Notification of Surveillance Technology

Thank you for your department's efforts to comply with the new Surveillance Ordinance, including a review of your existing technologies to determine which may be subject to the Ordinance. I recognize this was a significant investment of time by your staff; their efforts are helping to build Council and public trust in how the City collects and uses data.

As required by the Ordinance (SMC 14.18.020.D), this is formal notice that the technologies listed below will require review and approval by City Council to remain in use. This list was determined through a process outlined in the Ordinance and was submitted at the end of last year for review to the Mayor's Office and City Council.

The first technology on the list below must be submitted for review by March 31, 2018, with one additional technology submitted for review at the end of each month after that. The City's Privacy Team has been tasked with assisting you and your staff with the completion of this process and has already begun working with your designated department team members to provide direction about the Surveillance Impact Report completion process.

Please let me know if you have any questions.

Thank you,

Michael Mattmiller

Chief Technology Officer

Technology	Description	Proposed Review Order
<b>Automated License Plate Recognition (ALPR)</b>	ALPRs are computer-controlled, high-speed camera systems mounted on parking enforcement or police vehicles that automatically capture an image of license plates that come into view and converts the image of the license plate into alphanumeric data that can be used to locate vehicles reported stolen or otherwise sought for public safety purposes and to enforce parking restrictions.	1
<b>Booking Photo Comparison Software (BPCS)</b>	BCPS is used in situations where a picture of a suspected criminal, such as a burglar or convenience store robber, is taken by a camera. The still screenshot is entered into BPCS, which runs an algorithm to compare it to King County Jail booking photos to identify the person in the picture to further investigate his or her involvement in the crime. Use of BPCS is governed by <a href="#">SPD Manual §12.045</a> .	2
<b>Forward Looking Infrared Real-time video (FLIR)</b>	Two King County Sheriff’s Office helicopters with Forward Looking Infrared (FLIR) send a real-time microwave video downlink of ongoing events to commanders and other decision-makers on the ground, facilitating specialized radio tracking equipment to locate bank robbery suspects and provides a platform for aerial photography and digital video of large outdoor locations (e.g., crime scenes and disaster damage, etc.).	3

Technology	Description	Proposed Review Order
<b>Undercover/ Technologies</b>	<p>The following groups of technologies are used to conduct sensitive investigations and should be reviewed together.</p> <ul style="list-style-type: none"> <li>• <b>Audio recording devices:</b> A hidden microphone to audio record individuals without their knowledge. The microphone is either not visible to the subject being recorded or is disguised as another object. Used with search warrant or signed Authorization to Intercept (<a href="#">RCW 9A.73.200</a>).</li> <li>• <b>Camera systems:</b> A hidden camera used to record people without their knowledge. The camera is either not visible to the subject being filmed or is disguised as another object. Used with consent, a search warrant (when the area captured by the camera is not in plain view of the public), or with specific and articulable facts that a person has or is about to be engaged in a criminal activity and the camera captures only areas in plain view of the public.</li> <li>• <b>Tracking devices:</b> A hidden tracking device carried by a moving vehicle or person that uses the Global Positioning System to determine and track the precise location. U.S. Supreme Court v. Jones mandated that these must have consent or a search warrant to be used.</li> </ul>	<p>4</p>
<b>Computer-Aided Dispatch (CAD)</b>	<p>CAD is used to initiate public safety calls for service, dispatch, and to maintain the status of responding resources in the field. It is used by 911 dispatchers as well as by officers using mobile data terminals (MDTs) in the field.</p>	<p>5</p>

Technology	Description	Proposed Review Order
<b>CopLogic</b>	System allowing individuals to submit police reports on-line for certain low-level crimes in non-emergency situations where there are no known suspects or information about the crime that can be followed up on. Use is opt-in, but individuals may enter personally-identifying information about third-parties without providing notice to those individuals.	6
<b>Hostage Negotiation Throw Phone</b>	A set of recording and tracking technologies contained in a phone that is used in hostage negotiation situations to facilitate communications.	7
<b>Remotely Operated Vehicles (ROVs)</b>	These are SPD non-recording ROVs/robots used by Arson/Bomb Unit to safely approach suspected explosives, by Harbor Unit to detect drowning victims, vehicles, or other submerged items, and by SWAT in tactical situations to assess dangerous situations from a safe, remote location.	8
<b>911 Logging Recorder</b>	System providing networked access to the logged telephony and radio voice recordings of the 911 center.	9
<b>Computer, cellphone and mobile device extraction tools</b>	Forensics tool used with consent of phone/device owner or pursuant to a warrant to acquire, decode, and analyze data from smartphones, tablets, portable GPS device, desktop and laptop computers.	10
<b>Video Recording Systems</b>	These systems are to record events that take place in a Blood Alcohol Concentration (BAC) Room, holding cells, interview, lineup, and polygraph rooms recording systems.	11
<b>Washington State Patrol (WSP) Aircraft</b>	Provides statewide aerial enforcement, rapid response, airborne assessments of incidents, and transportation services in support of the Patrol's public safety mission. WSP Aviation currently manages seven aircraft equipped with FLIR cameras. SPD requests support as needed from WSP aircraft.	12

Technology	Description	Proposed Review Order
<b>Washington State Patrol (WSP) Drones</b>	WSP has begun using drones for surveying traffic collision sites to expedite incident investigation and facilitate a return to normal traffic flow. SPD may then request assistance documenting crash sites from WSP.	13
<b>Callyo</b>	This software may be installed on an officer's cell phone to allow them to record the audio from phone communications between law enforcement and suspects. Callyo may be used with consent or search warrant.	14
<b>I2 iBase</b>	The I2 iBase crime analysis tool allows for configuring, capturing, controlling, analyzing and displaying complex information and relationships in link and entity data. iBase is both a database application, as well as a modeling and analysis tool. It uses data pulled from SPD's existing systems for modeling and analysis.	15
<b>Parking Enforcement Systems</b>	Several applications are linked together to comprise the enforcement system and used with ALPR for issuing parking citations. This is in support of enforcing the Scofflaw Ordinance <a href="#">SMC 11.35</a> .	16
<b>Situational Awareness Cameras Without Recording</b>	Non-recording cameras that allow officers to observe around corners or other areas during tactical operations where officers need to see the situation before entering a building, floor or room. These may be rolled, tossed, lowered or throw into an area, attached to a hand-held pole and extended around a corner or into an area. Smaller cameras may be rolled under a doorway. The cameras contain wireless transmitters that convey images to officers.	17
<b>Crash Data Retrieval</b>	Tool that allows a Collision Reconstructionist investigating vehicle crashes the opportunity to image data stored in the vehicle's airbag control module. This is done for a vehicle that has been in a crash and is used with consent or search warrant.	18

Technology	Description	Proposed Review Order
<b>Maltego</b>	An interactive data mining tool that renders graphs for link analysis. The tool is used in online investigations for finding relationships between pieces of information from various sources located on the internet.	19

Please let me know if you have any questions.

Thank you,

Michael

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