

BIOMETRICS FOR LAW ENFORCEMENT AND SECURITY POLICY



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EX-25 As of 12/17/21

I. BACKGROUND

Biometrics is the use of technology to identify an individual through analysis of that person's physical and behavioral characteristics. Examples of physical characteristics include the unique features of an individual's face or their fingerprint, while examples of behavioral characteristics includes an individual's voice, signature, or how they walk.

The Port of Seattle Police Department provides the primary law enforcement service to Seattle-Tacoma International Airport (SEA) and the Port's seaport properties. The Department currently consists of over 110 commissioned police officers and 40 non-commissioned personnel. The Port police are the primary first responders for all reported crimes and incidents within its jurisdiction, and also provide mutual aid to other local jurisdictions when called upon.

In addition, the Port has both Aviation and Maritime Security divisions that coordinate with Police on security issues at Port facilities, have responsibilities related to access control for secure areas of Port facilities, and serve as liaisons to federal law enforcement and security personnel operating at Port facilities. Finally, some private sector operators – such as airlines, cruise lines and warehousing companies – conduct private security functions at Port facilities.

Nationally, law enforcement and security personnel have been exploring uses of biometrics to increase the effectiveness and accuracy of their work – from identifying criminal suspects to identifying victims of human trafficking. However, in March 2020, the Washington State Legislature passed legislation significantly restricting and regulating the use of facial recognition biometrics for public-sector law enforcement and security functions.

There is significant concern from stakeholders throughout the country that facial recognition technology and other public-facing biometrics are less effective at recognizing people of color, transgender individuals, and people wearing masks. Specifically, a December 2019 National Institute of Standards and Technology report found that false positives are up to 100 times more likely for Asian and Black faces, with American Indians having the highest rates of being falsely identified. This bias has, at times, led to serious implications.

To that end, Commission Motion 2020-15 – directing a comprehensive assessment of Port policing – extended the Port's moratorium on using public-facing biometric technology by Port Police originally instituted in Motion 2019-13. In order to ensure that this moratorium is applied in a comprehensive way at Port facilities – including by private sector operators, to the maximum extent permissible by state and federal law – the Commission passed Order 2021-XX, which directs the Executive Director to implement an executive policy banning the use of public-facing biometrics for law enforcement and security functions at Port facilities or by Port employees.

II. POLICY STATEMENT

The following policies will be implemented by the Port of Seattle as directed by the Port of Seattle Commission to ban the use of public-facing biometric technology for law enforcement and security functions at Port facilities and by Port employees:

Policy 1 – Definitions:

- The Port will define “using public-facing biometric technology for law enforcement and security functions” as any real time or near-real time use of biometric technology to identify individuals to produce legal effects – including but not limited to: identifying an individual in order to arrest them, accuse them of a crime, or to charge them with a violation of Port policy.
- This definition applies to:
 - The direct use of biometric technology at Port facilities, such utilizing real time or near-real time biometrics technology to identify individuals; and
 - Port law enforcement and security personnel utilizing real time or near-real time biometrics technology as part of a mutual aid assignment in another local jurisdiction.

Policy 2 – Prohibitions:

- Port employees are prohibited from purchasing, using, or assisting in the use of biometric technology for the purpose of real time or near-real time law enforcement or security functions unless it is required by state or federal law or a court order.
- To the greatest extent permissible by state and federal law, the Port prohibits the use of public-facing biometric technology by any tenant or other non-Port entity operating at Port facilities for the purpose of law enforcement or security functions, unless required by state or federal law or a court order.
- Port employees are prohibited from creating a biometric database for law enforcement or security functions, or contributing biometric data to an external law enforcement or security biometric database, unless required by state or federal law or a court order.

Policy 3 - Exceptions:

- This ban does not apply to uses of biometric technology for law enforcement or security functions that are explicitly required by state or federal law or a court order.
- This ban does not apply to traditional collections of biometrics that are used in law enforcement and security, such as the use of fingerprinting or DNA to identify suspects.
- This ban does not apply to using evidence relating to the investigation of a specific crime that may have been generated from a facial recognition or other biometric technology, so long as such evidence was not generated by or at the request of the Port.
- This ban does not apply to activities related to complying with the National Child Search Assistance Act.

III. PROCEDURES FOR NOTICE

- The Port will inform employees about this policy by posting it online at: <http://compass.portseattle.org/corp/legal/Pages/PoliciesandProcedures.aspx#exec>
- The Port will train relevant Port employees and other associated corporate staff on this policy.
- The Port will communicate this policy directly to private sector tenants and federal agencies operating at Port facilities through existing communication channels.
- The Port will communicate this policy to all relevant external stakeholders, elected officials and impacted community organizations through existing communication channels.

The Executive Director will work with Port staff to develop any necessary rules and regulations as necessary to implement the policies set forth herein.

IV. VIOLATIONS

In accordance with the Port of Seattle’s Standards of Performance and Conduct, Corrective Action and Discipline policy (HR-18), employees who violate this policy may be subject to disciplinary action, up to and including termination.

All employees have a responsibility for ensuring that this policy is followed. Concerns and potential violations should be reported to the Workplace Responsibility Officer, or anyone identified in the “Reporting Concerns Violations” policy.

The Port of Seattle strictly prohibits retaliation against any employee for making a good faith report of any potential or suspected violation of this policy or for cooperating in any investigation of such violation.

For further information contact [Eric Schinfeld](#).