

June 13, 2020

MEMORANDUM

To: Seattle City Council
From: Amy Gore, Analyst
Subject: CB 119804 (Chokehold Prohibition)

On Monday, June 15, 2020, Council is scheduled to consider and vote on Council Bill (CB) 119804, which prohibits the use of chokeholds by Seattle Police Department (SPD) officers. This memo provides background and summarizes both council bills. The City Attorney's Office (CAO) has provided legal review of this legislation, which has been provided to Councilmembers in a separate memo.

Summary of Proposed Bill

Council Bill 119804 amends the Seattle Municipal Code (SMC) in three ways:

1. Prohibits SPD officers from using both forms of chokeholds (neck restraints and carotid restraints) without exception.
2. Establishes a right of private action with damages of \$100,000 for violations of this prohibition.
3. Specifies that the prohibition of chokeholds by SPD applies to all situations in which the use of force is deemed lawful by [SMC Section 12A.04.200](#).

Background

The term "chokehold" means one of two types of restraints which are used to control a person's movement or to render a person unconscious. The first type is a "neck restraint" in which an arm or other firm object is used to apply pressure against the windpipe to block the passage of air. The second type is a "carotid restraint" in which an arm or other firm object is used to apply pressure against the carotid artery, the jugular vein, or the sides of the neck to block the flow of blood.

Currently, the [Seattle Police Manual](#) classifies both of these techniques as a Type III Use of Force and prohibits chokeholds "except when deadly force is justified." As stated in the Manual¹:

Neck restraints and carotid restraints are strongly disfavored by the Department due to the create a high risk of injury or death when improperly applied. Any use of a neck or carotid restraint is a Type III use-of-force, will result in a FIT investigation, and will be subject to strict scrutiny by the Force Review Board.

Known inadvertent contact with a subject's neck during the application of a head control tactic, or other control technique which results in momentary contact with the neck of a subject without the risk or intention of restricting the flow of blood or oxygen is not a neck or carotid restraint, but must be screened with a supervisor. Any contact with the neck, causing or reasonably likely to cause injury or loss of consciousness will be screened with FIT.

¹ [Section 8.300 – POL- 9 Use of Force – Neck Holds and Carotid Restraints](#)

1. *Officers Are Prohibited From Using Neck and Carotid Restraints Except When Deadly Force is Justified*
2. *Officers Will Place the Subject in the Recovery Position and Summon Medical Aid Immediately Following the Application of Neck and Carotid Restraint, if-Feasible*
3. *Officers Shall Monitor All Subjects Who Have Been Subjected to Neck and Carotid Restraints While They Are in Police Custody*

As noted above, chokeholds are currently authorized when deadly force is justified.² Other uses of force that can be used during these situations include:

- Shooting a firearm at a person;
- Hard strike to a person's head, neck, or throat with an impact weapon;
- Striking a person's head into a hard, fixed object;
- Using stop-sticks on a moving motorcycle.

Analysis

It is possible that prohibiting the use of chokeholds will cause more reliance on these other methods of force in situations where use of deadly force is authorized. Central Staff (CS) asked SPD staff for feedback on the impact of the proposed prohibition; but SPD staff have not responded at the time of this report was being finalized.

The current chokehold policy is a result of input from the Community Police Commission (CPC) during the policy review conducted as part of the Consent Decree, the 2012 agreement between the City of Seattle and Department of Justice to ensure that police services are delivered to the people of Seattle in a manner that fully complies with the Constitution and laws of the United States, effectively ensures public and officer safety, and promotes public confidence in the SPD and its officers.³ According to the CPC⁴, they reviewed the chokehold policy but were informed by SPD that chokeholds were not being used routinely. The CPC worked to ensure that chokeholds were only used when deadly force was justified, to require the recovery position and that officers monitor subject; however, the CPC did not focus on a ban of chokeholds because of SPD's assertion that they were not used routinely.

Next Steps

As noted above, CB 119804 is scheduled for a vote at the City Council meeting on June 15.

cc: Kirstan Arestad, Executive Director
Dan Eder, Deputy Director

² According to the police Manual, deadly force is authorized when (1) a suspect is acting or threatening to cause death or serious physical injury to the officer or others; and (2) the suspect has the means or instrumentalities to do so; and (3) the suspect has the opportunity and ability to use the means or instrumentalities to cause death or serious physical injury.

³ For more on the Consent Decree, see <http://www.seattlemonitor.com/overview>

⁴ Bessie Marie Scott, Interim Executive Director of the CPC, provided the background for the current chokehold policy.