



SEATTLE CITY COUNCIL

Public Safety Committee

Agenda

Tuesday, July 28, 2026

9:30 AM

Council Chamber, City Hall

600 4th Avenue

Seattle, WA 98104

Robert Kettle, Chair

Rob Saka, Vice-Chair

Debora Juarez, Member

Eddie Lin, Member

Maritza Rivera, Member

Chair Info: 206-684-8807; Robert.Kettle@seattle.gov

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July 28, 2026 - 9:30 AM

Meeting Location:

Council Chamber, City Hall , 600 4th Avenue , Seattle, WA 98104

Committee Website:

<https://seattle.gov/council/public-safety>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Please register in advance in order to be recognized by the Chair. Details on how to register for Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <https://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin one hour before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting.

In-Person Public Comment - Register to speak on the public comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting.

Please submit written comments no later than four business hours prior to the start of the meeting to ensure that they are distributed to Councilmembers prior to the meeting. Comments may be submitted at Council@seattle.gov or at Seattle City Hall, Attn: Council Public Comment, 600 4th Ave., Floor 2, Seattle, WA 98104. Business hours are considered 8 a.m. - 5 p.m. Comments received after that time will be distributed after the meeting to Councilmembers and included as part of the public record.

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

Members of the public may address items on the agenda and matters within the purview of the committee. Please register in advance to be recognized by the Chair.

D. Items of Business

1. [CB 121248](#) **An ordinance relating to controlled substances; updating City policy for the enforcement of the crimes of knowing possession and use of controlled substances; amending Section 3.28.141 of the Seattle Municipal Code; and repealing Section 4 of Ordinance 126896.**

Supporting
Documents:

[Summary and Fiscal Note](#)

[Central Staff Memo](#)

[Amendment 1](#)

[Amendment 2](#)

[Amendment 3](#)

Briefing, Discussion, and Possible Vote (60 minutes)

Presenter: Greg Doss, Central Staff; Marc Garth Green, Captain, and Sarah Smith, Chief of Operations, Seattle Police Department; Sam Wolff, Policy Director, Purpose. Dignity. Action.

E. Adjournment



Legislation Text

File #: CB 121248, **Version:** 1

Screen Reader Users: Make sure settings include reading strikethrough and underline font attributes.

The City of Seattle

Ordinance

Council Bill

An ordinance relating to controlled substances; updating City policy for the enforcement of the

crimes of knowing possession and use of controlled substances; amending Section 3.28.141 of the Seattle Municipal Code; and repealing Section 4 of Ordinance 126896.

Recitals:

In May 2023, the Washington State Legislature passed 2E2SSB 5536 (enacted as Chapter 1, Laws of 2023), which reclassified the knowing possession of a controlled substance, and the knowing use of a controlled substance in a public place, as gross misdemeanors.

2E2SSB 5536 encouraged law enforcement officers to offer any individual arrested for simple possession and/or use access to assessment, treatment, or other services, such as arrest and jail alternatives and law enforcement assisted diversion programs, in lieu of booking the individual in jail and referring the case for prosecution.

In August 2023, the City Council adopted Ordinance 126896, which incorporated into the Seattle Municipal Code the state's reclassification of public use and possession crimes, and specified that diversion, treatment, and other alternatives to booking are the preferred approach when enforcing those crimes.

Between 2024 and 2025, the Seattle Police Department (SPD) increased arrests for drug use and

possession crimes by 47 percent, and decreased its use of law enforcement assisted diversion by 30 percent.

In the same period, SPD increased by 56 percent its use of Charge-By-Officer (CBO) to the City Attorney's Office (CAO) for personal possession and use arrests, which can bypasses jail booking, transfer to the CAO the decision to divert and may not offer arrested individuals immediate, in-field access to assessment, treatment or other services.

In a Council Public Safety Committee meeting on April 28, 2026, SPD Chief Shon Barnes and leaders from Purpose, Action, Dignity (PDA) indicated that a lack of capacity in the City's Law Enforcement Assisted Diversion (LEAD) program, and an associated gap in SPD training, may have contributed to the reduction in the use of LEAD diversion between 2024 and 2025.

The Council recognizes the evidence base for law enforcement assisted diversion programs and long-term case coordination and management services, and the inherent health risks of attempting to diagnose and determine treatment without adequate information or support for individuals post treatment.

Drug markets and public drug use have had severe negative impacts on neighborhoods and communities, including but not limited to Pioneer Square, Downtown, Little Saigon, the Central District, the University District, Aurora Ave., Ballard, Belltown West Seattle, and North Beacon Hill.

The Council aims to ensure that enforcement of public possession and use laws aligns with evidence based practices, including immediate interventions that connect offenders with the services and resources needed to move them out of chronically disordered areas. Therefore,

Be it ordained by The City of Seattle as follows:

Section 1. Section 3.28.141 of the Seattle Municipal Code, enacted by Ordinance 126896, is amended as follows:

3.28.141 Policies governing ((arrests)) enforcement for knowing possession of a controlled substance and use of

a controlled substance in a public place

A. The provisions of this Section 3.28.141 apply to enforcement of RCW 69.50.4013(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 2.

B. Policy. Consistent with any public health and safety-related Mayor-issued executive orders, the Seattle Police Department (SPD) will adopt policies governing ~~((arrests for))~~ enforcement related to the crimes described in subsection 3.28.141.A. ~~((These new policies will seek to minimize use of force and incorporate de-escalation and crisis intervention that reflect existing SPD policies in those areas. SPD will train its officers on these new policies.~~

~~C. Body-worn videos. When officers interact with individuals allegedly committing the crimes described in subsection 3.28.141.A, officers shall comply with SPD policies and procedures for body-worn video cameras and/or other equipment intended to record officer interactions with the public.~~

~~D))~~ C. Probable cause for arrest. An officer must have probable cause for arrest.

~~((E.))~~ D. Arrest. Nothing in this Section 3.28.141 or in any other provisions of this legislation shall mandate an arrest to occur.

~~((F.))~~ E. Diversion. ~~((Diversion, treatment, and other alternatives to booking are))~~ Field-based, pre-booking diversion through a direct, in-person transfer of an individual ("warm handoff") to recovery service providers who utilize the City's law enforcement diversion framework, is the preferred approach when enforcing the crimes adopted under this Section 3.28.141 as described in subsection 3.28.141.A.

1. SPD policies adopted under this Section 3.28.141 will contain guidance on field-based, pre-booking diversion processes and state that in-field diversion and referral to services is the preferred response to crimes described in subsection 3.28.141.A.

~~((2. SPD policies will state that diversion and referral to services is the preferred response to the crimes described in subsection 3.28.141.A.~~

~~3.))~~ 2. A lack of diversion ~~((opportunities))~~ capacity shall not be a reason for arrest, jail booking, or referral for prosecution.

~~((4.))~~ 3. SPD shall collect data and report to the City Council Public Safety and Human Services Committee or its successor that identifies the racial composition of those:

a. Referred for recovery services on a voluntary basis without an arrest;

b. Arrested, released, and referred for prosecution;

c. Arrested and diverted to ~~((community-based))~~ recovery services prior to jail booking or referral for prosecution; and

~~((b-))~~ d. Booked and referred for prosecution.

~~((G-))~~ E. Threat of harm to others. When considering making an arrest, releasing, or diverting an individual, pursuant to subsection ~~((3.28.141.F))~~ 3.28.141.E, officers may determine whether the individual, through their actions and conduct, presents a threat of harm to others. This determination will occur after probable cause has been established. This determination is based on the totality of the circumstances and the officer's training and experience. SPD policy will identify factors to guide officers when assessing the threat of harm presented by the individual. The threat of harm assessment governs officer decisionmaking and is not an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((H-))~~ G. Threat of harm to self

1. If an officer determines there is probable cause to arrest and the officer's assessment indicates that the individual does not pose a threat of harm to others, the individual only poses a threat of harm to self.

2. An officer may attempt to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest. An officer may arrest at the officer's discretion to avoid additional harm to self. Reasonableness is determined from the perspective of a reasonable officer facing similar circumstances.

3. An officer will not arrest when the individual only poses a threat of harm to self absent articulable facts and circumstances warranting such action.

4. The threat of harm assessment will govern officer decisionmaking and will not be an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((I-))~~ H. Officer safety. Nothing in this Section 3.28.141 is intended to compromise the safety or well-being of police officers.

~~((J-))~~ I. An officer's failure to comply with this Section 3.28.141 shall not render an arrest unlawful if the arrest is otherwise supported by probable cause.

~~((K-))~~ J. Reporting requirements

1. If an officer determines, based on the totality of circumstances, that an arrest is authorized by this Section 3.28.141, an arrest report shall be completed by the officer that includes, at a minimum, the facts establishing

probable cause, an assessment of the threat presented by the individual, and whether, and in what manner, arrest or diversion was considered or utilized.

2. The Office of Inspector General for Public Safety (OIG) (and/or an independent, academically based research organization engaged by OIG) and SPD shall work with the City Attorney's Office, Seattle Municipal Court, the Seattle Fire Department, and any other relevant departments to obtain the data described in subsections ~~((3.28.141.L.1))~~ 3.28.141.K.1 through ~~((3.28.141.L.12))~~ 3.28.141.K.12 by January 1, 2025 and annually on January 1 until 2030.

3. To the extent practicable, SPD officers shall collect and record in the department's record management system (RMS) data each contact with an individual in pursuit of enforcement of the crimes described in subsection 3.28.141.A and the number of attempts to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E. If SPD is unable to collect the data described in this subsection ~~((3.28.141.K.3))~~ 3.28.141.J.3, SPD and OIG shall endeavor to collect such data from service providers.

4. Any diversion strategies in which SPD participates must be structured to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained, and such data are readily accessible to City departments, including SPD, OIG, the City Auditor, and the Mayor's Office.

~~((L.))~~ K. Annual reporting and recommendations. OIG and/or an independent, academically based research organization engaged by OIG shall review implementation of this Section 3.28.141 to determine the impact of subsections ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G, including but not limited to the ability of SPD officers to effectively address incidents described in subsection 3.28.141.A and, based upon that review, provide recommendations to improve this Section 3.28.141 and related policy. OIG shall also provide recommendations regarding data collection and operationalization of such data collection to improve the City's ability to assess the effectiveness of this legislation. A preliminary report shall be provided to the Council by June 30, 2025. The following data, or an explanation of why the data is unavailable, and written recommendations shall be provided by the OIG to the Council by December 31, 2025, and at least annually by December 31 until 2030:

1. The number of drug overdoses in Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);

2. ~~((The number of shootings in which drugs were present or an individual was under the influence of drugs within Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023)))~~
The number of incidents marked as involving controlled substances as defined by the Seattle Municipal Code and

Revised Code of Washington and in which a firearm was also found;

3. The number of 911 calls about use of controlled substances in a public place on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);
4. The number of documented contacts between police officers, including community service officers, and individuals encountered during enforcement of the crimes described in subsection 3.28.141.A;
5. The number of attempts by police officers, including community service officers, to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E;
6. The number of arrests for the crimes described in subsection 3.28.141.A;
7. The number of individuals transported for booking at jail and of that number: the name of the jail, the number of individuals who are booked into jail, the number of individuals the jail did not accept due to medical declines or for other reasons, the number of individuals transported to a medical facility, including Harborview Medical Center, the number of individuals who are released from a medical facility and then transported to jail, and the number of individuals released without booking into jail or being transported to a medical facility;
8. The number of possession and public use ~~((cases referred))~~ referrals made to the City Attorney's Office for prosecution;
9. The number of ~~((referred cases dismissed before or during trial, including pre-filing diversion cases))~~ cases that the City Attorney's Office diverts pre-file to LEAD in which possession of a controlled substance or public use of a controlled substance is the sole charge;
10. The number of cases that the City Attorney's Office declines to file, and the reasons for the decline, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;
11. The number of cases that the City Attorney's Office diverts post-file to Law Enforcement Assisted Diversion in which possession of a controlled substance or public use of a controlled substance is the sole charge;
12. The number of cases that the City Attorney's Office dismisses, and the reasons for the dismissal, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

~~((10. The reasons for dismissal of referred cases;~~

~~41.))~~ 13. The results of any interviews of SPD personnel with experience in the field implementing this Section 3.28.141 and their suggestions, if any, for improving the law or related policies, including the feasibility of implementing subsection ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G; and

~~((12.))~~ 14. Any other information deemed by OIG as helpful for the purposes of the review required by this subsection ~~((3.28.141.L))~~ 3.28.141.K or providing written recommendations.

~~((M.))~~ L. Based on officer availability, location, and deployment limitations, SPD shall seek to prioritize use of officers who have received at least 40 hours of crisis intervention team (CIT) training when enforcing the crimes described in subsection 3.28.141.A.

Section 2. Section 4 of Ordinance 126896 is repealed:

~~((Section 4. Given that there are numerous unscaled community-based care teams in Seattle and that an effective response to complex behavioral health needs requires coordination and division of labor, this legislation establishes a behavioral health alternatives committee. This committee shall advise the Mayor, City Council, the Seattle Police Department (SPD), and other public safety-related departments on an ongoing basis regarding any need for change in operationalized police protocols, legislation, or other policies. Committee approval shall not be required prior to implementation of SPD policies.~~

~~A. Reporting. The behavioral health alternatives committee created in this section shall produce bi-annually a report that identifies for individuals who are referred to diversion through SPD social contact, demographic and other information as recommended by the state's substance abuse and recovery services plan. Data used to produce the report shall be made available to the City for subsequent analysis to include persons who were arrested, booked, or prosecuted for the crimes described in subsection 3.28.141.A of the Seattle Municipal Code.))~~

This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council and signed in open session in authentication of its passage on .

President of the City Council
on .

Katie B. Wilson, Mayor

Attested on .

Scheereen Dedman, City Clerk

Seal

Summary and Fiscal Note

1. Legislation Summary

Department: Legislative / City Council

Title: An ordinance relating to controlled substances; updating City policy for the enforcement of the crimes of knowing possession and use of controlled substances, amending Section 3.28.141 of the Seattle Municipal Code; and repealing Section 4 of Ordinance 126896.

Background: In May 2023, the Washington State Legislature passed 2E2SSB 5536, which reclassified the knowing possession or use of a controlled substance, as gross misdemeanors. The bill encouraged law enforcement officers to offer any individual arrested for simple possession and/or use access to assessment, treatment, or other arrest and jail alternatives, including law enforcement assisted diversion programs, in lieu of booking the individual in jail and referring the case for prosecution.

In August 2023, the City of Seattle passed Ordinance 126896, which incorporated into the Seattle Municipal Code (SMC) the state's reclassification of public use and possession crimes, and specified that diversion, treatment, and other alternatives to booking are the preferred approach when enforcing those crimes.

In April 2026, Central Staff, SPD and Purpose, Dignity Action (PDA) staff presented data at the Council's Public Safety Committee that showed that between 2024 and 2025, SPD increased arrests for drug use or possession crimes by 47 percent, and decreased its use of law enforcement assisted diversion by 30 percent. In the same period, SPD increased by 56 percent its use of Charge-By-Officer (CBO) referrals to the City Attorney's Office (CAO) for personal possession or use arrests. The use of CBO referrals can bypass jail bookings while transferring the decision to divert from the law enforcement officer to the CAO, and does not always offer arrested individuals immediate, in-field access to assessment, treatment or other services.

Bill Summary: CB 000000 would amend the City's Drug Ordinance (ORD) 126896 to establish the City's preferred approach to enforcement of drug use or possession crimes to be in-field, pre-booking diversion. The bill would require diversion to occur through a direct, in-person transfer of an individual to recovery service providers, who use the City's law enforcement assisted diversion framework. The bill would require SPD to adopt policies that reflect the City's preferred approach to enforcement. Finally, the bill would require that any diversion strategies in which SPD participates must be structured to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained, and be readily accessible to City departments, including SPD, the Office of the Inspector General for Public Safety, the City Auditor and the Mayor's Office. The bill also includes technical changes to some existing data collection requirements in Ord. 126896.

Summary Attachments: None

2. Capital Improvement Program (CIP)

Does this legislation create, fund, or amend a CIP Project?

☐ Yes

☒ No

3. Summary of Financial Implications

Does this legislation have financial impacts to the City?

☐ Yes

☒ No

3a. Appropriations

This legislation adds, changes, or deletes appropriations.

It does not.

3b. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

It does not.

3c. Positions

This legislation adds, changes, or deletes positions.

It does not.

3d. Other Financial Impacts

a. Does this legislation create any other financial impacts for The City of Seattle, such as direct or indirect costs, one-time or ongoing, that aren't mentioned above? If yes, please explain these impacts.

While there are no direct, immediate costs for this legislation (e.g., appropriations or positions authorized in the bill), it is possible that the bill's requirement for field-based diversion could increase the overall number of diversions made by SPD officers.

Additional diversions would likely create staffing and administrative costs for the City's contracted service provider for law enforcement assisted diversion services, and such costs may require additional funding via the City's contract for such services. These costs cannot be determined until it is known that SPD is increasing its use of diversion services. Any costs for increased service would need to be addressed as part of the City's 2027 Proposed Budget review process.

b. If the legislation has costs that can be covered within the current budget, explain how. Does the department have extra resources in its budget to handle these costs? Or does the department need to shift resources away from other work to handle these costs?

N/A

c. What financial costs or other impacts might happen if this legislation is not implemented?

To the extent that SPD officers continue to use non-diversion alternatives to booking such as CBOs, the City Attorney's Office may be required to focus additional staff resources on its pre-trial diversion program.

It is also possible that fewer in-field diversions may result in additional arrests and/or use of the City's criminal legal system. Other alternatives to booking (arrest and release) are not evidence-based strategies that reduce reoffending such as the LEAD program.

d. How might this legislation affect other City departments besides the one that proposed it?

4. Other Impacts

a. Does this legislation require a public hearing?

☐ Yes

☒ No

b. Does this legislation require a notice to be published in The Daily Journal of Commerce and/or The Seattle Times?

☐ Yes

☒ No

c. Does this legislation affect a piece of property?

☐ Yes

☒ No

d. Race and Social Justice Initiative impacts:

1. How does this legislation affect vulnerable or historically disadvantaged communities? How did you come to this conclusion? Please consider both impacts within City government (like employees and internal programs) and in the broader community.

Consent Decree compliance audits have found that SPD officers disproportionately stop and search Black and Native American persons more than any other demographic group, even though their White counterparts were more likely to be found with a weapon.

The more drug possession and use cases that are prosecuted, the more likely it is that communities of color will experience disproportionate impacts. In addition, the Vera Institute of Justice has found “substantial evidence shows that incarceration is associated with an increased risk of overdose death due to a loss of tolerance to opioids, limited access to harm reduction and treatment services, and disruptions in health care and social support during and after periods of incarceration.”

It is Black and Indigenous communities, as well as other communities of color who suffer disproportionately from the harms of the criminal legal system and lack of access to health care, and Black and Latino individuals who are disproportionately represented

in jails and prisons, leaving these populations subject to the harms of criminalized drug use and possession.

If SPD officers increase the use of in-field diversion to connect as many people as possible to treatment and support programs that are fully funded, staffed and scaled to capacity appropriate to this population, and does so in a way that decreases involvement with the criminal legal system, the City could address knowing drug possession and public use in a way that produces fewer negative racial equity outcomes. Tracking the appropriate data will be important to understanding racial disparities that remain or are created through these systems.

2. Please attach any Racial Equity Toolkits or other racial equity analyses used to develop or assess this legislation.

A Racial Equity Toolkit was not completed for this legislation.

3. What is the Language Access Plan for communicating with the public about this legislation?

e. Climate change impacts:

1. Emissions: Will this legislation significantly increase or decrease carbon emissions? Attach any studies or materials that inform your answer.

Not applicable.

2. Resiliency: Will this legislation make Seattle more or less able to adapt to climate change? If it reduces resiliency, explain what can be done to lessen the impact.

Not applicable.

f. If this legislation creates a new program or expands an existing one, what are the long-term, measurable goals? How will this legislation help achieve those goals? What methods will be used to track progress?

See 3d above.

g. Does this legislation create a non-utility CIP that involves shared funding with a non-City partner or organization?

It does not.

July 10, 2026

MEMORANDUM

To: Public Safety Committee
From: Greg Doss, Analyst
Subject: CB 121248 - Update to Seattle Drug Ordinance 126896

Introduction and Overview

On July 14, 2026, the Public Safety Committee will discuss [Council Bill \(CB\) 121248](#), which would establish field-based diversion as the City's preferred approach when enforcing the crimes of public use or possession of controlled substances. CB 121248 also makes some technical changes to the existing data collection requirements of the City's Drug Ordinance ([Ordinance 126896](#)).

This memorandum provides background on the City's enforcement of public use and possession of controlled substances, describes the provisions of CB 121248, and discusses the potential implication of the bill.

Background

In May 2023, the Washington State Legislature passed 2E2SSB 5536, which reclassified the knowing possession of a controlled substance, and the knowing use of a controlled substance in a public place, as gross misdemeanors. The bill encouraged law enforcement officers to offer any individual arrested for simple possession and/or use access to assessment, treatment, or other services, such as arrest and jail alternatives and law enforcement assisted diversion programs, in lieu of booking the individual in jail and referring the case for prosecution. In August 2023, the City of Seattle passed Ordinance 126896, which incorporated into the Seattle Municipal Code (SMC) the state's reclassification of public use and possession crimes, and specified that diversion, treatment, and other alternatives to booking are the preferred approach when enforcing those crimes.

In April 2026, Council Central Staff provided to the Public Safety Committee an overview of ORD 126896 and presented [2024 and 2025 arrest and diversion data](#) to show trends in how the Seattle Police Department (SPD) is enforcing public use and possession laws. Staff from Purpose, Dignity Action (PDA), the City's contractor for [Law Enforcement Assisted Diversion \(LEAD\)](#) services, [presented data](#) highlighting the success of the LEAD program in reducing jail bookings and recidivism among drug users.

The Central Staff presentation showed that between 2024 and 2025, SPD increased arrests for drug use or possession crimes by 47 percent and decreased its use of law enforcement assisted diversion by 30 percent. In the same period, SPD increased by 56 percent its use of [Charge-By-Officer \(CBO\)](#) referrals to the City Attorney's Office (CAO). CBO referrals for personal possession or use arrests can bypass jail bookings, transfer to CAO the decision to divert and do not always offer arrested individuals immediate, in-field access to assessment, treatment or other services.

SPD Chief Shon Barnes and leaders from PDA have indicated that a lack of capacity in PDA's LEAD program may have contributed to the reduction in the use of LEAD diversions between 2024 and 2025.

CB 121248

CB 121248 would amend the City's Drug Ordinance (ORD 126896) to establish as the City's preferred approach to enforcement of drug use or possession crimes, in-field, pre-booking diversion through a direct, in-person transfer or "warm handoff" of an individual to recovery service providers who use the City's law enforcement assisted diversion framework. The bill would require SPD to adopt policies that reflect the City's preferred approach to enforcement.

The bill would eliminate a Behavioral Health Advisory Committee that was created in ORD 126896 to advise the Mayor, City Council, the Seattle Police Department (SPD), and other public safety-related departments on an ongoing basis regarding any need for change in operationalized police protocols, legislation, or other policies. This Committee was never established. The Chair is working with stakeholders to determine whether a new committee should be established to provide oversight of citywide drug policies and enforcement operations.

Finally, the bill would require that any diversion strategies in which SPD participates must be structured to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained, and such data are readily accessible to City departments, including SPD, the Office of the Inspector General for Public Safety, the City Auditor and the Mayor's Office. Technical changes are made to some existing data collection requirements in ORD 126896.

Analysis

Seattle has extensive history of managing crime and chronic disorder in discrete geographic areas or "hot spots" within several of its neighborhoods. Many of these areas consistently demonstrate abnormally high levels of violent crime, community-generated calls for service, and associated visible disorder.¹ Residents and visitors to these areas experience reduced safety, frequent exposure to overdoses, and diminished public-space usability. Businesses in these corridors face high levels of disorder, deterring customers and reducing foot traffic.²

Since its inception in 2011, Seattle's use of the LEAD program has helped SPD to address chronic open drug use and possession crimes at neighborhood hot spots.³ The LEAD framework provides pre-and-post arrest diversion alternatives and a comprehensive mix of services to people accused of repeat, low-level drug-related crimes. Research shows that LEAD has reduced recidivism for all crimes by 58%, reduced felony charges by 39%, resulted in 41 fewer days in jail per person annually, and lowered the odds of entering prison by

¹ Ortiz Salazar, A.; Dotson, E.; Atherley, L. A Targeted Crime Reduction Implementation: An Analysis of Immediate Effects and Long-Term Sustainability. Soc. Sci. 2026, 15, 32. <https://doi.org/10.3390/socsci15010032>

² Status Report on Implementation of Office of City Auditor Recommendations as of December 2023, Seattle Office of the City Auditor, May 23, 2024

³ Law Enforcement Assisted Diversion (LEAD) is a widely replicated community-based, pre-booking diversion model. In Seattle, the program is administered by Purpose, Dignity, Action (PDA).

88 percent.⁴

The evidence base for LEAD is predicated on the use of an officer-led, “warm handoff” as the predominant mode of client referral to recovery service providers. As noted above, a CBO can bypass a warm handoff, transfer to CAO the decision to divert and does not always offer arrested individuals immediate, in-field access to assessment, treatment or other services. Without a warm handoff, LEAD field staff find it difficult to locate individuals and convince them to accept recovery services. Consequently, LEAD referrals made by the CAO may be less effective than referrals made by SPD at the point of arrest. In the 2024-2025 period, LEAD intake at point-of-arrest averaged 74 percent as compared with other intakes (e.g., Social Contact referrals), which averaged 27 percent.⁵ It is possible that the City may make its diversion processes more effective by requiring in-field diversion.

Race and Social Justice Implications

Consent Decree compliance audits have found that SPD officers disproportionately stop and search Black and Native American persons more than any other demographic group, even though their White counterparts were more likely to be found with a weapon.

The more drug possession and use cases that are prosecuted, the more likely it is that communities of color will experience disproportionate impacts. In addition, the Vera Institute of Justice has found “substantial evidence shows that incarceration is associated with an increased risk of overdose death due to a loss of tolerance to opioids, limited access to harm reduction and treatment services, and disruptions in health care and social support during and after periods of incarceration.”

It is Black and Indigenous communities, as well as other communities of color who suffer disproportionately from the harms of the criminal legal system and lack of access to health care, and Black and Latino individuals who are disproportionately represented in jails and prisons, leaving these populations subject to the harms of criminalized drug use and possession.

If SPD officers increase the use of in-field diversion to connect as many people as possible to treatment and support programs that are fully funded, staffed and scaled to capacity appropriate to this population, and does so in a way that decreases involvement with the criminal legal system, the City could enforce drug possession and public use in a way that produces fewer negative racial equity outcomes. Tracking the appropriate data will be important to understanding racial disparities that remain or are created through these systems.

Fiscal and Operational Impacts

While there are no direct, immediate costs for this legislation (e.g., appropriations or positions authorized in the bill), the bill’s requirement for field-based diversion could increase the overall number of diversions made by SPD officers. Additional diversions would likely create staffing and administrative costs for the City’s contracted service provider for law enforcement assisted diversion services, and such costs may require additional funding via the City’s contract for such services. These costs cannot be determined until it is known that SPD is increasing its use of

⁴ See [LEAD presentations](#) made before the Council’s Public Safety Committee on April 28, 2026.

⁵ A Social Contact referral is made outside of, or potentially after, an arrest. These referrals are still vetted with SPD.

diversion services. Any costs for increased service would need to be addressed as part of the City's 2027 Proposed Budget development and Council review process.

To the extent that SPD officers continue to use alternatives to booking such as CBOs, the City Attorney's Office may be required to focus additional staff resources on its pre-trial diversion program, which also uses LEAD services. Other alternatives to booking (arrest and release) are not evidence-based strategies that reduce reoffending, and it is possible that fewer in-field diversions may result in additional arrests and/or use of the City's criminal legal system, which could have other fiscal impacts.

Next Steps

Following the July 14, 2026, hearing in the Public Safety Committee, CB 12148 may be scheduled for a possible committee vote on July 28, 2026.

cc: Lish Whitson, Director
Calvin Chow, Deputy Director

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Amendment 1 Version 1 to CB 121248 - City Drug Ordinance Update

Sponsor: Councilmember Kettle

Technical and clarifying changes

Effect: This amendment would make the following technical and clarifying changes:

1. Specify that a “field-based diversion” can include a direct in-person handoff that occurs at a police precinct.

2. Clarify that officers must include in an arrest report an assessment of the threat presented by an individual, only if the officer chose to complete the discretionary threat of harm assessment outlined in subsection 3.28.141.F.

3. Clarify that the data and evaluative requirements in subsection 3.28.141.J.4. apply to recovery service providers.

4. Specify the City’s preference that field-based diversion is made by recovery service providers who utilize the City’s law enforcement diversion framework, which shall include but not be limited to the key elements of a law enforcement assisted diversion program as defined for state grant making requirements in RCW 71.24.589(4):

- (a) Long-term case management for individuals with substance use disorders;
- (b) Facilitation and coordination with community resources focusing on overdose prevention;
- (c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;
- (d) Facilitation and coordination with community resources providing physical and behavioral health services;
- (e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;
- (f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;
- (g) 24 hours per day and seven days per week response to law enforcement for arrest diversions; and
- (h) Prosecutorial support for diversion services.

- Amend Section 1 of CB 121248 as follows:

Section 1. Section 3.28.141 of the Seattle Municipal Code, enacted by Ordinance 126896, is amended as follows:

3.28.141 Policies governing ~~((arrests))~~ enforcement for knowing possession of a controlled substance and use of a controlled substance in a public place

A. The provisions of this Section 3.28.141 apply to enforcement of RCW 69.50.4013(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 2.

B. Policy. Consistent with any public health and safety-related Mayor-issued executive orders, the Seattle Police Department (SPD) will adopt policies governing ~~((arrests for))~~ enforcement related to the crimes described in subsection 3.28.141.A. ~~((These new policies will seek to minimize use of force and incorporate de-escalation and crisis intervention that reflect existing SPD policies in those areas. SPD will train its officers on these new policies.~~

~~C. Body-worn videos. When officers interact with individuals allegedly committing the crimes described in subsection 3.28.141.A, officers shall comply with SPD policies and procedures for body-worn video cameras and/or other equipment intended to record officer interactions with the public.~~

~~D))~~ C. Probable cause for arrest. An officer must have probable cause for arrest.

~~((E.))~~ D. Arrest. Nothing in this Section 3.28.141 or in any other provisions of this legislation shall mandate an arrest to occur.

~~((F.))~~ E. Diversion. ~~((Diversion, treatment, and other alternatives to booking are))~~ Field-based, pre-booking diversion through a direct, in-person transfer of an individual ("warm handoff") to recovery service providers who utilize the City's law enforcement diversion framework, which shall include but not be limited to the key elements identified in RCW 71.24.589(4), is the preferred approach when enforcing the crimes adopted

under this Section 3.28.141 as described in subsection 3.28.141.A. For the purposes of this subsection 3.28.141.E, a field-based, pre-booking diversion includes a direct in-person handoff that occurs at a police precinct.

1. SPD policies adopted under this Section 3.28.141 will contain guidance on field-based, pre-booking diversion processes and state that in-field diversion and referral to services is the preferred response to crimes described in subsection 3.28.141.A.

~~((2. SPD policies will state that diversion and referral to services is the preferred response to the crimes described in subsection 3.28.141.A.~~

~~3.))~~ 2. A lack of diversion ((opportunities)) capacity shall not be a reason for arrest, jail booking, or referral for prosecution.

~~((4.))~~ 3. SPD shall collect data and report to the City Council Public Safety and Human Services Committee or its successor that identifies the racial composition of those:

a. Referred for recovery services on a voluntary basis without an arrest;

b. Arrested, released, and referred for prosecution;

c. Arrested and diverted to ((community-based)) recovery services prior to jail booking or referral for prosecution; and

~~((b.))~~ d. Booked and referred for prosecution.

~~((G.))~~ E. Threat of harm to others. When considering making an arrest, releasing, or diverting an individual, pursuant to subsection 3.28.141E., officers may determine whether the individual, through their actions and conduct, presents a threat of harm to

others. This determination will occur after probable cause has been established. This determination is based on the totality of the circumstances and the officer's training and experience. SPD policy will identify factors to guide officers when assessing the threat of harm presented by the individual. The threat of harm assessment governs officer decisionmaking and is not an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((H.))~~ G. Threat of harm to self

1. If an officer determines there is probable cause to arrest and the officer's assessment indicates that the individual does not pose a threat of harm to others, the individual only poses a threat of harm to self.

2. An officer may attempt to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest. An officer may arrest at the officer's discretion to avoid additional harm to self. Reasonableness is determined from the perspective of a reasonable officer facing similar circumstances.

3. An officer will not arrest when the individual only poses a threat of harm to self absent articulable facts and circumstances warranting such action.

4. The threat of harm assessment will govern officer decisionmaking and will not be an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((I.))~~ H. Officer safety. Nothing in this Section 3.28.141 is intended to compromise the safety or well-being of police officers.

~~((J-))~~ L. An officer's failure to comply with this Section 3.28.141 shall not render an arrest unlawful if the arrest is otherwise supported by probable cause.

~~((K-))~~ J. Reporting requirements

1. If an officer determines, based on the totality of circumstances, that an arrest is authorized by this Section 3.28.141, an arrest report shall be completed by the officer that includes, at a minimum, the facts establishing probable cause, and, if an assessment was completed under subsection 3.28.141.F, an assessment of the threat presented by the individual, and whether, and in what manner, arrest or diversion was considered or utilized.

2. The Office of Inspector General for Public Safety (OIG) (and/or an independent, academically based research organization engaged by OIG) and SPD shall work with the City Attorney's Office, Seattle Municipal Court, the Seattle Fire Department, and any other relevant departments to obtain the data described in subsections ~~((3.28.141.L.1))~~ 3.28.141.K.1 through ~~((3.28.141.L.12))~~ 3.28.141.K.12 by January 1, 2025 and annually on January 1 until 2030.

3. To the extent practicable, SPD officers shall collect and record in the department's record management system (RMS) data each contact with an individual in pursuit of enforcement of the crimes described in subsection 3.28.141.A and the number of attempts to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E. If SPD is unable to collect the data described in this subsection ~~((3.28.141.K.3))~~ 3.28.141.J.3, SPD and OIG shall endeavor to collect such data from service providers.

4. ~~((Any diversion strategies in which SPD participates must be structured~~

~~to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained,))~~ The City shall require that recovery service organizations, who provide law enforcement diversion services, collect and maintain data on referrals, participation, outcomes, and client demographics, and such data are readily accessible to City departments, including SPD, OIG, the City Auditor, and the Mayor's Office.

((L.)) K. Annual reporting and recommendations. OIG and/or an independent, academically based research organization engaged by OIG shall review implementation of this Section 3.28.141 to determine the impact of subsections ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G, including but not limited to the ability of SPD officers to effectively address incidents described in subsection 3.28.141.A and, based upon that review, provide recommendations to improve this Section 3.28.141 and related policy. OIG shall also provide recommendations regarding data collection and operationalization of such data collection to improve the City's ability to assess the effectiveness of this legislation. A preliminary report shall be provided to the Council by June 30, 2025. The following data, or an explanation of why the data is unavailable, and written recommendations shall be provided by the OIG to the Council by December 31, 2025, and at least annually by December 31 until 2030:

1. The number of drug overdoses in Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);
2. ~~((The number of shootings in which drugs were present or an individual was under the influence of drugs within Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023)))~~ The number of incidents

marked as involving controlled substances as defined by the Seattle Municipal Code and Revised Code of Washington and in which a firearm was also found;

3. The number of 911 calls about use of controlled substances in a public place on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);

4. The number of documented contacts between police officers, including community service officers, and individuals encountered during enforcement of the crimes described in subsection 3.28.141.A;

5. The number of attempts by police officers, including community service officers, to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E;

6. The number of arrests for the crimes described in subsection 3.28.141.A;

7. The number of individuals transported for booking at jail and of that number: the name of the jail, the number of individuals who are booked into jail, the number of individuals the jail did not accept due to medical declines or for other reasons, the number of individuals transported to a medical facility, including Harborview Medical Center, the number of individuals who are released from a medical facility and then transported to jail, and the number of individuals released without booking into jail or being transported to a medical facility;

8. The number of possession and public use ~~((cases-referred))~~ referrals made to the City Attorney's Office for prosecution;

9. The number of ~~((referred cases dismissed before or during trial, including pre-filing diversion cases))~~ cases that the City Attorney's Office diverts pre-file to LEAD in which possession of a controlled substance or public use of a controlled substance is the sole charge;

10. The number of cases that the City Attorney's Office declines to file ~~((and the reasons for the decline,))~~ for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

11. The number of cases that the City Attorney's Office diverts post-file to Law Enforcement Assisted Diversion in which possession of a controlled substance or public use of a controlled substance is the sole charge;

12. The number of cases that the City Attorney's Office dismisses, and the reasons for the dismissal, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

~~((10. The reasons for dismissal of referred cases;~~

~~11.))~~ 13. The results of any interviews of SPD personnel with experience in the field implementing this Section 3.28.141 and their suggestions, if any, for improving the law or related policies, including the feasibility of implementing subsection ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G; and

~~((12.))~~ 14. Any other information deemed by OIG as helpful for the purposes of the review required by this subsection ~~((3.28.141.L))~~ 3.28.141.K or providing written recommendations.

~~((M.))~~ L. Based on officer availability, location, and deployment limitations, SPD shall seek to prioritize use of officers who have received at least 40 hours of crisis

DOSS
Public Safety Committee
July 28, 2026
D1

intervention team (CIT) training when enforcing the crimes described in subsection

3.28.141.A.

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Amendment 2 Version 1 to CB 121248 - City Drug Ordinance Update

Sponsor: Councilmember Rivera

Data on LEAD field-based responses

Effect:

This amendment would require SPD officers and diversion service providers to report instances when an officer requested a field-based diversion, and the number of times that a diversion service provider responded timely to the request.

- Amend Section 1 of CB 121248 as follows:

Section 1. Section 3.28.141 of the Seattle Municipal Code, enacted by Ordinance 126896, is amended as follows:

3.28.141 Policies governing ((arrests)) enforcement for knowing possession of a controlled substance and use of a controlled substance in a public place

A. The provisions of this Section 3.28.141 apply to enforcement of RCW 69.50.4013(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 2.

B. Policy. Consistent with any public health and safety-related Mayor-issued executive orders, the Seattle Police Department (SPD) will adopt policies governing ((arrests for)) enforcement related to the crimes described in subsection 3.28.141.A. ((These new policies will seek to minimize use of force and incorporate de-escalation and crisis intervention that reflect existing SPD policies in those areas. SPD will train its officers on these new policies.

~~C. Body-worn videos. When officers interact with individuals allegedly committing the crimes described in subsection 3.28.141.A, officers shall comply with SPD policies and procedures for body-worn video cameras and/or other equipment intended to record officer interactions with the public.~~

~~D))~~ C. Probable cause for arrest. An officer must have probable cause for arrest.

~~((E-))~~ D. Arrest. Nothing in this Section 3.28.141 or in any other provisions of this legislation shall mandate an arrest to occur.

~~((F-))~~ E. Diversion. ~~((Diversion, treatment, and other alternatives to booking are))~~
Field-based, pre-booking diversion through a direct, in-person transfer of an individual ("warm handoff") to recovery service providers who utilize the City's law enforcement diversion framework, is the preferred approach when enforcing the crimes adopted under this Section 3.28.141 as described in subsection 3.28.141.A.

1. SPD policies adopted under this Section 3.28.141 will contain guidance on field-based, pre-booking diversion processes and state that in-field diversion and referral to services is the preferred response to crimes described in subsection 3.28.141.A.

~~((2. SPD policies will state that diversion and referral to services is the preferred response to the crimes described in subsection 3.28.141.A.~~

3.)) 2. A lack of diversion ~~((opportunities))~~ capacity shall not be a reason for arrest, jail booking, or referral for prosecution.

~~((4-))~~ 3. SPD shall collect data and report to the City Council Public Safety and Human Services Committee or its successor that identifies the racial composition of those:

a. Referred for recovery services on a voluntary basis without an arrest;

b. Arrested, released, and referred for prosecution;

c. Arrested and diverted to ((community-based)) recovery services prior to jail booking or referral for prosecution; and

((b-)) d. Booked and referred for prosecution.

((G-)) E. Threat of harm to others. When considering making an arrest, releasing, or diverting an individual, pursuant to subsection ((3.28.141.F)) 3.28.141.E, officers may determine whether the individual, through their actions and conduct, presents a threat of harm to others. This determination will occur after probable cause has been established. This determination is based on the totality of the circumstances and the officer's training and experience. SPD policy will identify factors to guide officers when assessing the threat of harm presented by the individual. The threat of harm assessment governs officer decisionmaking and is not an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

((H-)) G. Threat of harm to self

1. If an officer determines there is probable cause to arrest and the officer's assessment indicates that the individual does not pose a threat of harm to others, the individual only poses a threat of harm to self.

2. An officer may attempt to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest. An officer may arrest at the officer's discretion

to avoid additional harm to self. Reasonableness is determined from the perspective of a reasonable officer facing similar circumstances.

3. An officer will not arrest when the individual only poses a threat of harm to self absent articulable facts and circumstances warranting such action.

4. The threat of harm assessment will govern officer decisionmaking and will not be an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((I-))~~ H. Officer safety. Nothing in this Section 3.28.141 is intended to compromise the safety or well-being of police officers.

~~((J-))~~ I. An officer's failure to comply with this Section 3.28.141 shall not render an arrest unlawful if the arrest is otherwise supported by probable cause.

~~((K-))~~ J. Reporting requirements

1. If an officer determines, based on the totality of circumstances, that an arrest is authorized by this Section 3.28.141, an arrest report shall be completed by the officer that includes, at a minimum, the facts establishing probable cause, an assessment of the threat presented by the individual, and whether, and in what manner, arrest or diversion was considered or utilized. Officers shall include in the arrest report any attempt to contact diversion service providers for a field-based diversion and indicate whether such providers were available timely for the in-person transfer of an individual.

2. The Office of Inspector General for Public Safety (OIG) (and/or an independent, academically based research organization engaged by OIG) and SPD shall work with the City Attorney's Office, Seattle Municipal Court, the Seattle Fire

Department, and any other relevant departments to obtain the data described in subsections ~~((3.28.141.L.1))~~ 3.28.141.K.1 through ~~((3.28.141.L.12))~~ 3.28.141.K.12 by January 1, 2025 and annually on January 1 until 2030.

3. To the extent practicable, SPD officers shall collect and record in the department's record management system (RMS) data each contact with an individual in pursuit of enforcement of the crimes described in subsection 3.28.141.A and the number of attempts to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E. If SPD is unable to collect the data described in this subsection ~~((3.28.141.K.3))~~ 3.28.141.J.3, SPD and OIG shall endeavor to collect such data from service providers.

~~4. ((Any diversion strategies in which SPD participates must be structured to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained.))~~ The City shall require that recovery service organizations, who provide law enforcement diversion services, collect and maintain data on officer requests for diversion providers to facilitate a field-based diversion, the number of times that a diversion service provider responded timely to the request, referrals, participation, outcomes, and client demographics, and such data are readily accessible to City departments, including SPD, OIG, the City Auditor, and the Mayor's Office.

~~((L.))~~ K. Annual reporting and recommendations. OIG and/or an independent, academically based research organization engaged by OIG shall review implementation of this Section 3.28.141 to determine the impact of subsections ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G, including but not limited to the ability of SPD

officers to effectively address incidents described in subsection 3.28.141.A and, based upon that review, provide recommendations to improve this Section 3.28.141 and related policy. OIG shall also provide recommendations regarding data collection and operationalization of such data collection to improve the City's ability to assess the effectiveness of this legislation. A preliminary report shall be provided to the Council by June 30, 2025. The following data, or an explanation of why the data is unavailable, and written recommendations shall be provided by the OIG to the Council by December 31, 2025, and at least annually by December 31 until 2030:

1. The number of drug overdoses in Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);
2. ~~((The number of shootings in which drugs were present or an individual was under the influence of drugs within Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023)))~~ The number of incidents marked as involving controlled substances as defined by the Seattle Municipal Code and Revised Code of Washington and in which a firearm was also found;
3. The number of 911 calls about use of controlled substances in a public place on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);
4. The number of documented contacts between police officers, including community service officers, and individuals encountered during enforcement of the crimes described in subsection 3.28.141.A;

5. The number of attempts by police officers, including community service officers, to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E;

6. The number of arrests for the crimes described in subsection 3.28.141.A;

7. The number of individuals transported for booking at jail and of that number: the name of the jail, the number of individuals who are booked into jail, the number of individuals the jail did not accept due to medical declines or for other reasons, the number of individuals transported to a medical facility, including Harborview Medical Center, the number of individuals who are released from a medical facility and then transported to jail, and the number of individuals released without booking into jail or being transported to a medical facility;

8. The number of possession and public use ~~((cases referred))~~ referrals made to the City Attorney's Office for prosecution;

9. The number of ~~((referred cases dismissed before or during trial, including pre-filing diversion cases))~~ cases that the City Attorney's Office diverts pre-file to LEAD in which possession of a controlled substance or public use of a controlled substance is the sole charge;

10. The number of cases that the City Attorney's Office declines to file~~((, and the reasons for the decline,))~~ for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

11. The number of cases that the City Attorney's Office diverts post-file to Law Enforcement Assisted Diversion in which possession of a controlled substance or public use of a controlled substance is the sole charge;

12. The number of cases that the City Attorney's Office dismisses, and the reasons for the dismissal, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

~~((10. The reasons for dismissal of referred cases;~~

~~11.))~~ 13. The results of any interviews of SPD personnel with experience in the field implementing this Section 3.28.141 and their suggestions, if any, for improving the law or related policies, including the feasibility of implementing subsection ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G; and

~~((12.))~~ 14. Any other information deemed by OIG as helpful for the purposes of the review required by this subsection ~~((3.28.141.L))~~ 3.28.141.K or providing written recommendations.

~~((M.))~~ L. Based on officer availability, location, and deployment limitations, SPD shall seek to prioritize use of officers who have received at least 40 hours of crisis intervention team (CIT) training when enforcing the crimes described in subsection 3.28.141.A.

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Amendment 3 Version 1 to CB 121248 - City Drug Ordinance Update

Sponsor: Councilmember Rivera

Recognize officer's use of Ricky's Law

Effect:

This amendment would recognize an officer's ability to take into custody individuals in severe crises due to substance use or mental health disorders. As authorized under RCW 71.05.153(2), officers may transport an individual to a secure withdraw and stabilization facility for emergency stabilization and/ or evaluation by a Designated Crisis Responder (DCR).

Background: Ricky's Law is part of Washington State's Involuntary Treatment Act (ITA) and was enacted to expand access to treatment for people experiencing severe substance use or mental health crises who cannot make safe decisions for themselves.

Under Ricky's Law, police officers may take a person into custody for emergency transport and a temporary hold when the person appears to present an imminent danger due to substance use. However, the legal determination that the person meets criteria for involuntary behavioral health detention must be made by a Designated Crisis Responder (DCR).

RCW 71.05.153(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a crisis stabilization unit, 23-hour crisis relief center, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital when he or she has reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

- Amend Section 1 of CB 121248 as follows:

Section 1. Section 3.28.141 of the Seattle Municipal Code, enacted by Ordinance 126896, is amended as follows:

3.28.141 Policies governing ((arrests)) enforcement for knowing possession of a controlled substance and use of a controlled substance in a public place

A. The provisions of this Section 3.28.141 apply to enforcement of RCW 69.50.4013(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 2.

B. Policy. Consistent with any public health and safety-related Mayor-issued executive orders, the Seattle Police Department (SPD) will adopt policies governing ~~((arrests for))~~ enforcement related to the crimes described in subsection 3.28.141.A. ~~((These new policies will seek to minimize use of force and incorporate de-escalation and crisis intervention that reflect existing SPD policies in those areas. SPD will train its officers on these new policies.~~

~~C. Body-worn videos. When officers interact with individuals allegedly committing the crimes described in subsection 3.28.141.A, officers shall comply with SPD policies and procedures for body-worn video cameras and/or other equipment intended to record officer interactions with the public.~~

~~D))~~ C. Probable cause for arrest. An officer must have probable cause for arrest.

~~((E.))~~ D. Arrest. Nothing in this Section 3.28.141 or in any other provisions of this legislation shall mandate an arrest to occur.

~~((F.))~~ E. Diversion. ~~((Diversion, treatment, and other alternatives to booking are))~~ Field-based, pre-booking diversion through a direct, in-person transfer of an individual ("warm handoff") to recovery service providers who utilize the City's law enforcement diversion framework, is the preferred approach when enforcing the crimes adopted under this Section 3.28.141 as described in subsection 3.28.141.A.

1. SPD policies adopted under this Section 3.28.141 will contain guidance on field-based, pre-booking diversion processes and state that in-field diversion and referral to services is the preferred response to crimes described in subsection 3.28.141.A.

~~((2. SPD policies will state that diversion and referral to services is the preferred response to the crimes described in subsection 3.28.141.A.~~

3.)) 2. A lack of diversion ((opportunities)) capacity shall not be a reason for arrest, jail booking, or referral for prosecution.

((4.)) 3. SPD shall collect data and report to the City Council Public Safety and Human Services Committee or its successor that identifies the racial composition of those:

a. Referred for recovery services on a voluntary basis without an arrest;

b. Arrested, released, and referred for prosecution;

c. Arrested and diverted to ((community-based)) recovery services prior to jail booking or referral for prosecution; and

((b-)) d. Booked and referred for prosecution.

((G-)) E. Threat of harm to others. When considering making an arrest, releasing, or diverting an individual, pursuant to subsection ((3.28.141.F)) 3.28.141.E, officers may determine whether the individual, through their actions and conduct, presents a threat of harm to others. This determination will occur after probable cause has been established. This determination is based on the totality of the circumstances and the officer's training and experience. SPD policy will identify factors to guide officers when assessing the threat of harm presented by the individual. The threat of harm assessment governs officer decisionmaking and is not an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((H-))~~ G. Threat of harm to self

1. If an officer determines there is probable cause to arrest and the officer's assessment indicates that the individual does not pose a threat of harm to others, the individual only poses a threat of harm to self.

2. An officer may attempt to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest. An officer may arrest, or take into custody, at the officer's discretion to avoid additional harm to self, including, when appropriate, for the purpose of emergency stabilization and evaluation as authorized under RCW 71.05.153(2). Reasonableness is determined from the perspective of a reasonable officer facing similar circumstances.

3. An officer will not arrest when the individual only poses a threat of harm to self absent articulable facts and circumstances warranting such action.

4. The threat of harm assessment will govern officer decisionmaking and will not be an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((I-))~~ H. Officer safety. Nothing in this Section 3.28.141 is intended to compromise the safety or well-being of police officers.

~~((J-))~~ I. An officer's failure to comply with this Section 3.28.141 shall not render an arrest unlawful if the arrest is otherwise supported by probable cause.

~~((K-))~~ J. Reporting requirements

1. If an officer determines, based on the totality of circumstances, that an arrest is authorized by this Section 3.28.141, an arrest report shall be completed by the officer that includes, at a minimum, the facts establishing probable cause, an

assessment of the threat presented by the individual, and whether, and in what manner, arrest or diversion was considered or utilized.

2. The Office of Inspector General for Public Safety (OIG) (and/or an independent, academically based research organization engaged by OIG) and SPD shall work with the City Attorney's Office, Seattle Municipal Court, the Seattle Fire Department, and any other relevant departments to obtain the data described in subsections ((3.28.141.L.1)) 3.28.141.K.1 through ((3.28.141.L.12)) 3.28.141.K.12 by January 1, 2025 and annually on January 1 until 2030.

3. To the extent practicable, SPD officers shall collect and record in the department's record management system (RMS) data each contact with an individual in pursuit of enforcement of the crimes described in subsection 3.28.141.A and the number of attempts to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ((3.28.141.F)) 3.28.141.E. If SPD is unable to collect the data described in this subsection ((3.28.141.K.3)) 3.28.141.J.3, SPD and OIG shall endeavor to collect such data from service providers.

4. Any diversion strategies in which SPD participates must be structured to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained, and such data are readily accessible to City departments, including SPD, OIG, the City Auditor, and the Mayor's Office.

((L.)) K. Annual reporting and recommendations. OIG and/or an independent, academically based research organization engaged by OIG shall review implementation of this Section 3.28.141 to determine the impact of subsections ((3.28.141.G)) 3.28.141.F and ((3.28.141.H)) 3.28.141.G, including but not limited to the ability of SPD

officers to effectively address incidents described in subsection 3.28.141.A and, based upon that review, provide recommendations to improve this Section 3.28.141 and related policy. OIG shall also provide recommendations regarding data collection and operationalization of such data collection to improve the City's ability to assess the effectiveness of this legislation. A preliminary report shall be provided to the Council by June 30, 2025. The following data, or an explanation of why the data is unavailable, and written recommendations shall be provided by the OIG to the Council by December 31, 2025, and at least annually by December 31 until 2030:

1. The number of drug overdoses in Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);
2. ~~((The number of shootings in which drugs were present or an individual was under the influence of drugs within Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023)))~~ The number of incidents marked as involving controlled substances as defined by the Seattle Municipal Code and Revised Code of Washington and in which a firearm was also found;
3. The number of 911 calls about use of controlled substances in a public place on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);
4. The number of documented contacts between police officers, including community service officers, and individuals encountered during enforcement of the crimes described in subsection 3.28.141.A;

5. The number of attempts by police officers, including community service officers, to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E;

6. The number of arrests for the crimes described in subsection 3.28.141.A;

7. The number of individuals transported for booking at jail and of that number: the name of the jail, the number of individuals who are booked into jail, the number of individuals the jail did not accept due to medical declines or for other reasons, the number of individuals transported to a medical facility, including Harborview Medical Center, the number of individuals who are released from a medical facility and then transported to jail, and the number of individuals released without booking into jail or being transported to a medical facility;

8. The number of possession and public use ~~((cases referred))~~ referrals made to the City Attorney's Office for prosecution;

9. The number of ~~((referred cases dismissed before or during trial, including pre-filing diversion cases))~~ cases that the City Attorney's Office diverts pre-file to LEAD in which possession of a controlled substance or public use of a controlled substance is the sole charge;

10. The number of cases that the City Attorney's Office declines to file~~((= and the reasons for the decline,))~~ for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

11. The number of cases that the City Attorney's Office diverts post-file to Law Enforcement Assisted Diversion in which possession of a controlled substance or public use of a controlled substance is the sole charge;

12. The number of cases that the City Attorney's Office dismisses, and the reasons for the dismissal, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

~~((10. The reasons for dismissal of referred cases;~~

~~11.))~~ 13. The results of any interviews of SPD personnel with experience in the field implementing this Section 3.28.141 and their suggestions, if any, for improving the law or related policies, including the feasibility of implementing subsection ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G; and

~~((12.))~~ 14. Any other information deemed by OIG as helpful for the purposes of the review required by this subsection ~~((3.28.141.L))~~ 3.28.141.K or providing written recommendations.

~~((M.))~~ L. Based on officer availability, location, and deployment limitations, SPD shall seek to prioritize use of officers who have received at least 40 hours of crisis intervention team (CIT) training when enforcing the crimes described in subsection 3.28.141.A.