



SEATTLE CITY COUNCIL
CENTRAL STAFF

Less Lethal Weapons Discussion

LISE KAYE COUNCIL CENTRAL STAFF

PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE | JANUARY 26, 2021

Agenda

- I. Opening Remarks – Chair Herbold**
- II. Base Bill**
- III. Revised Base Bill**

II. Draft Base Bill – Consensus Items

- I. Allow specific, non-crowd control uses for:
 - a. OC Spray (Pepper Spray)
 - b. 40 mm Launcher
 - c. Noise Flash Diversionary Devices
- II. Ban Patrol use of Tear Gas*

III. Revised Base Bill

A. Ban the following less lethal weapons:

- 1) 40-millimeter launchers used to deploy chemical irritants for crowd control in any demonstration or rally;
- 2) noise flash diversionary devices for crowd control during any demonstration or rally;
- 3) tear gas and chemical irritants other than pepper spray; and
- 4) acoustic weapons; directed energy weapons; water cannons; disorientation devices including blast balls (but not noise flash diversionary devices); ultrasonic cannons; and any other device primarily designed to be used on multiple individuals for crowd control and to cause pain or discomfort.

III. Revised Base Bill

B. Impose specific conditions on use of pepper spray:

- 1) Pepper spray may not be used for crowd control in a non-violent demonstration or rally;
- 2) Only Special Weapons and Tactics (SWAT) officers may deploy pepper spray products using a 40-millimeter launcher and only for purposes other than crowd control in a demonstration or rally; and
- 3) Pepper spray may only be deployed only in circumstances in which the risk of serious injury from violent actions outweighs the risk of harm to bystanders.

III. Revised Base Bill

C. Impose specific conditions on the deployment of noise flash diversionary devices:

- 1) Only SWAT officers may deploy noise flash diversionary devices and;
- 2) SWAT may use them only for purposes other than crowd control in a demonstration or rally.

III. Revised Base Bill

D. Impose conditions on mutual aid partners as to use of less lethal weapons:

- 1) Prohibit law enforcement agencies operating under mutual aid agreements with SPD from using less lethal weapons; and
- 2) Require SPD's mutual aid agreements for crowd control to prohibit other law enforcement agencies from using less lethal weapons for crowd dispersal

III. Revised Base Bill

E. Modify the Right of Action clause

Excludes a person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force.

F. Effective Date

30 days after the Court's review and approval and approval by the Mayor

Provisions in Ord. 126102, Base Bill and Revised Base Bill

Less Lethal Weapon	Ordinance 126102	Base Bill – Accountability Agency Consensus Items	Revised Base Bill
OC (Pepper) Spray	<ul style="list-style-type: none"> • May not be used in a demonstration, rally, or other First Amendment-protected event • May not be used if, when used to subdue an individual in the process of committing a criminal act or presenting an imminent danger to others, it lands on anyone other than that individual. 	<ul style="list-style-type: none"> • Allow for Patrol and SWAT but may not be used for crowd dispersal purposes 	<ul style="list-style-type: none"> • May not be used for crowd control in a non-violent demonstration or rally • Only SWAT may deploy OC products using 40 MM launcher and only for purposes other than crowd control in any demonstration or rally • May only be deployed where the risk of serious injury from violent actions outweighs the risk of harm to bystanders
40 mm launcher	<ul style="list-style-type: none"> • Not specifically addressed, but could not be used to deploy banned chemical irritants or to deploy pepper spray during a demonstration, rally, or other First Amendment- protected event 	<ul style="list-style-type: none"> • Allow for Patrol and SWAT but may not be used for crowd dispersal purposes 	<ul style="list-style-type: none"> • Banned from deploying chemical irritants in any demonstration or rally

Provisions in Ord. 126102, Base Bill and Revised Base Bill

Less Lethal Weapon	Ordinance 126102	Base Bill – Accountability Agency Consensus Items	Revised Base Bill
Noise flash diversionary device	<ul style="list-style-type: none"> Banned (disorientation device) 	<ul style="list-style-type: none"> Allow for SWAT but may not be used for crowd dispersal purposes (SFD policy only allows for SWAT to use NFDDs) 	<ul style="list-style-type: none"> Banned for crowd control during any demonstration or rally Only SWAT may deploy NFDDs and only for purposes other than crowd control in any demonstration or rally
Tear Gas	<ul style="list-style-type: none"> Banned (chemical irritant) 	<ul style="list-style-type: none"> Ban Patrol Use (base bill would ban all uses, in absence of consensus of SWAT or crowd control uses) 	<ul style="list-style-type: none"> Banned for any use

III. Revised Base Bill: Oversight Agencies' Positions on Banning Less Lethal Weapons and Draft Bill Provisions

Use Category	Ban CS Gas (Tear Gas)			Ban OC Spray (Pepper Spray)			Ban Blast Balls			Ban 40mm Launcher			Ban Noise Flash Diversionary Devices (NFDD)		
	CPC	OPA	OIG	CPC	OPA	OIG	CPC	OPA	OIG	CPC	OPA	OIG	CPC	OPA	OIG
Patrol	Yes	Yes	Yes	No	No	No	Yes	No	No, but see note at end of presentation	No	No	No	No	N/A*	N/A*
Tactical/ SWAT	Yes	No	No, but See report; limited to life safety or SWAT non-crowd situations like barricaded people.	No	No	No	Yes	No	No	No	No	No	No	No	No
Crowd Dispersal	Yes	Yes	No, but see report; limited to life safety.	Yes	No	No	Yes	No	No	Yes	No	No, but see note at end of presentation	Yes	No	No
Draft Bill	Full ban			Banned from use for crowd control in a non-violent demonstration or rally ; otherwise may be used only if risk of serious injury from violent actions outweighs the risk of harm to bystanders			Full ban			Banned from use to project chemical irritants during any demonstration or rally; only SWAT may use to deploy pepper spray but only for purposes other than crowd control in a demonstration or rally			Banned from use for crowd control during any demonstration or rally; otherwise only SWAT may deploy for purposes other than crowd control in a demonstration or rally		

* Policy allows NFDD to be used only by SWAT

IV. Potential Amendments
