

Amendment #1

to

CB #119805 – LEG Crowd Control Weapons (CCWs) prohibition ORD

Sponsor: CM Herbold

Amends recitals, Identifies exceptions to CCWs, Requests accountability agency recommendations, requests notification of the DOJ, Court and Monitor and make various technical adjustments

Underline indicates new language
~~Strikethrough~~ indicates deleted language

1. Amend recitals as follows:

WHEREAS, testimony from protestors and other protest witnesses, along with ~~video~~ evidence complaints filed with the Office of Police Accountability has shown suggests that some ~~the~~ SPD officers were instigating and escalating violent confrontations with these protests; and

2. Add recital as follows:

WHEREAS, the Office of the Inspector General in a June 12, 2020 Report, Attachment 1 to this ordinance, notes “In its preliminary research, OIG did not find credible external sources advocating a blanket ban,” and that “This summary is a preliminary report, as OIG is continuing to gather and synthesize information about use of crowd management tools by SPD. Analysis of the sufficiency and appropriateness of SPD policy and training related to crowd management will be a forthcoming product”; and

3. Amend Section 1 as follows:

Section 1. A new Section 3.28.146 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.28 as follows:

3.28.146 Prohibition of the use of crowd control weapons

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A. Unless exempted or excepted, no City department shall own, purchase, rent, store, or use crowd control weapons.

B. Law enforcement agencies operating under mutual aid agreements are prohibited from using crowd control weapons while rendering aid to the Seattle Police Department. ~~or acting in an official capacity within Seattle.~~ Seattle Police Department mutual aid agreements for crowd control must prohibit other law enforcement agencies from using crowd control weapons for the purpose of crowd dispersal.

C. As used in this Section 3.28.146, “crowd control weapons” means kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and ~~has the potential~~ is designed to cause pain or discomfort.

~~D. Oleoresin capsicum (OC) spray is not a crowd control weapon for purposes of owning, purchasing, renting, or storing under subsection 3.28.146.A. Use of OC spray is prohibited under subsection 3.28.146.A if:~~

~~1. It is used in a demonstration, rally, or other First Amendment-protected event;~~

~~or~~

~~2. 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.~~

D. Kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort, is not a crowd control weapon for the purpose of owning, purchasing, renting, or

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storing under subsection 3.28.146.A if the device is used for a purpose other than crowd dispersal.

E. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of crowd control weapons for crowd dispersal against that person that occur after this ordinance takes effect.

F. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of this Section 3.28.146 shall be \$10,000, added to attorney fees and court fees. This does not preclude any other legal recovery or process available to a person under federal and state law.

4. Add a new Section 2 as follows and renumber sections as needed:

Section 2. Consistent with the advisory roles established in the Accountability Ordinance (Ord. 125315), subsection 3.29.030.B, the Office of the Inspector General for Public Safety, the Office of Police Accountability, and the Community Police Commission are each requested to make a formal recommendation to the City Council on whether the Seattle Police Department should be reauthorized to use less-lethal weapons for crowd dispersal purposes. The recommendation shall include: 1) suggested policy revisions to the Seattle Police Department manual for use of less-lethal weapons for the purpose of crowd dispersal; and 2) identification of a crowd dispersal authorization process that requires Executive approval and reflects best practices in policing to minimize harm to protesters. The recommendation shall be provided no later than August 15, 2020.

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5. Add a new Section 3 as follows and renumber sections as needed:

Section 3. In accordance with United States of America v. City of Seattle, 12 Civ. 1282 (JLR), during the pendency of the consent decree Council requests that notice of this action be submitted by the City Attorney to the Department of Justice, the Court, and the Monitor.

6. Add a new Section 4 as follows and renumber sections as needed:

Section 4. Council will engage with the Labor Relations Director and staff as they work with the City's labor partners in the implementation of this prohibition.

7. Add Attachment 1: Less Lethal Weapons in Protests, Office of the Inspector General for Public Safety, June 12, 2020

Effect: The memo makes the following changes to CB 119805:

1. Amend WHEREAS statement on SPD escalation of crowd violence.
2. Add WHEREAS statement reflecting findings from June 12, 2020 OIG Report: Less Lethal Weapons in Protests.
3. Make the following changes to Section 1:
 - a. Exempt from the prohibition of CCWs any device that meets the definition of a CCW but is not used for crowd dispersal purposes.
 - b. Makes technical and legal changes.
4. Requests that the Seattle police accountability agencies provide by August 15, 2020 a recommendation on use of CCWs for crowd dispersal.
5. Requests that notice of this prohibition be given to the Department of Justice, the Court, and the Monitor in accordance with the Consent Decree. (United States of America v. City of Seattle, 12 Civ. 1282 (JLR)).
6. Expresses Council's intent to support Labor Relations in the implementation of this prohibition.
7. Adds Attachment 1: Less Lethal Weapons in Protests, Office of the Inspector General for Public Safety, June 12, 2020.