



# SEATTLE CITY COUNCIL

## Public Safety and Human Services Committee

### Agenda

Tuesday, May 23, 2023

9:30 AM

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

Lisa Herbold, Chair  
Andrew J. Lewis, Vice-Chair  
Teresa Mosqueda, Member  
Sara Nelson, Member  
Alex Pedersen, Member

Chair Info: 206-684-8801; [Lisa.Herbold@seattle.gov](mailto:Lisa.Herbold@seattle.gov)

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**SEATTLE CITY COUNCIL**  
**Public Safety and Human Services Committee**  
**Agenda**  
**May 23, 2023 - 9:30 AM**

**Meeting Location:**

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

**Committee Website:**

<http://www.seattle.gov/council/committees/public-safety-and-human-services>

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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. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

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. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Herbold at [Lisa.Herbold@seattle.gov](mailto:Lisa.Herbold@seattle.gov)

*Please Note: Times listed are estimated*

**A. Call To Order**

**B. Approval of the Agenda**

**C. Public Comment**

(20 minutes)

**D. Items of Business**

1. [Appt 02504](#) **Appointment of Adrien G. Leavitt as member, Community Police Commission, for a term to December 31, 2023.**

Attachments: [Appointment Packet](#)

**Briefing, Discussion and Possible Vote** (5 minutes)

**Presenter:** Joel Merkel, Co-Chair, Community Police Commission

2. **Overdose Trends and Community Based Overdose Prevention Program**

Supporting Documents:

[Presentation](#)

[Human Services Department response to Council Statement of Legislative Intent](#)

[Opiate Settlement Proceeds: Path to Award](#)

**Briefing and Discussion** (30 minutes)

**Presenters:** Brad Finegood, Public Health - Seattle and King County; Amber Tejada, Hepatitis Education Project (HEP); Michelle Conley, Evergreen Treatment Center REACH; Laura Wirkman, People's Harm Reduction Alliance (PHRA); Ann Gorman, Council Central Staff

**3. Issue Identification for Proposed Council Bill 120580 regarding App-Based Workers Deactivations Rights**

Supporting Documents:

[Proposed Council Bill 1120580](#)

[Summary and Fiscal Note](#)

[Presentation](#)

[Central Staff Memo](#)

**Briefing and Discussion** (40 minutes)

**Presenters:** Jasmine Marwaha and Karina Bull, Council Central Staff

**4. Seattle Police Department Quarterly Staffing, Performance Metrics and Finances Report**

Supporting Documents:

[Presentation](#)

**Briefing and Discussion** (45 minutes)

**Presenters:** Angela Socci, Seattle Police Department; Greg Doss, Council Central Staff

**E. Adjournment**



Legislation Text

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**File #:** Appt 02504, **Version:** 1

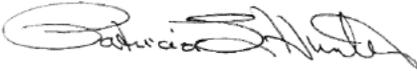
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Appointment of Adrien G. Leavitt as member, Community Police Commission, for a term to December 31, 2023.

The Appointment Packet is provided as an attachment.



# City of Seattle Boards & Commissions Notice of Appointment

<b>Appointee Name:</b> <i>Adrien G. Leavitt</i>		
<b>Board/Commission Name:</b> <i>Community Police Commission</i>		<b>Position Title:</b> <i>Member</i>
<input checked="" type="checkbox"/> <b>Appointment</b> OR <input type="checkbox"/> <b>Reappointment</b>		<b>Council Confirmation required?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Appointing Authority:</b> <input type="checkbox"/> Council <input type="checkbox"/> Mayor <input checked="" type="checkbox"/> Other: <i>Community Police Commission</i>	<b>Date Appointed:</b> <i>3/22/2023</i>	<b>Term of Position: *</b> <i>1/1/2021</i> <b>to</b> <i>12/31/2023</i> <input checked="" type="checkbox"/> <i>Serving remaining term of a vacant position</i>
<b>Residential Neighborhood:</b> <i>Madrona</i>	<b>Zip Code:</b> <i>98122</i>	<b>Contact Phone No.:</b> [REDACTED]
<b>Background:</b> <i>Adrien Leavitt is an attorney at the King County Department of Public Defense. He graduated magna cum laude from Seattle University School of Law. Through his experience representing over a thousand individuals charged with all levels of crime—including adults and juveniles—he has gained a nuanced insight into the role of policing in marginalized communities. He was the first attorney to represent a family under King County’s updated inquest process. Outside of this work, he has devoted his time and expertise to issues impacting the transgender community, providing free legal services through a long-standing community legal clinic for trans and gender non-conforming people.</i>		
<b>Authorizing Signature (original signature):</b> 	<b>Appointing Signatory:</b> <i>Joel C. Merkel</i> <i>Community Police Commission Co-Chair</i>	
<b>Authorizing Signature (original signature):</b> 	<b>Appointing Signatory:</b> <i>Reverend Patricia Hunter</i> <i>Community Police Commission Co-Chair</i>	

\*Term begin and end date is fixed and tied to the position and not appointment date.

## Adrien G. Leavitt (he/him)

### EDUCATION

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#### Bar Admission

Member of Washington State Bar Association, WSBA Bar #44451

#### Seattle University School of Law

2011

*Juris Doctor, magna cum laude*

- Dean's List, 2010-2011
- CALI Award for highest grade in class: Race, Racism, and the Law (Spring 2011), Federal Indian Law (Spring 2011), Family & The State (Fall 2010)
- Finalist for Mark Reutlinger Scholarship for Excellence in Legal Writing Award: *Youth Prison Abolition* (Spring 2011), *Queering Jury Nullification* (Spring 2011), *More Harm Than Good* (Spring 2011)
- Student organizations: Outlaws, Street Youth Advocates of Washington

#### Smith College

2004

*Bachelor of Arts in Mathematics.*

- Dean's List, 2002-2003, 2003-2004

### CURRENT PROFESSIONAL EXPERIENCE

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#### King County Department of Public Defense

2010 – present

Northwest Defenders Division (formerly Northwest Defenders Association), Staff Attorney

2012 – present

- Represents adults charged with felony offenses, and juveniles charged in adult court with serious felony offenses
- Qualified to handle all classes of felony cases (A, B, & C), including homicide cases and cases involving allegations of sexual misconduct
- Specialized expertise representing young adults charged with serious felony charges, including representing juvenile clients charged in adult court, juveniles pending “decline” hearings, as well as 18 and 19 year old clients charged in adult court
- Represented family throughout the first inquest proceeding under King County's newly revised inquest process
- Litigated appellate cases before the Court of Appeals and Washington State Supreme Court
- Completed over thirty jury trials, winning over ten not guilty verdicts and over five dismissals during trial
- Argued over 100 motion hearings, resulting in over 20 dismissals

Directors Office, Interim Assistant Criminal Practice and Policy Director

2018 – 2019

- Appointed by Director of the Department of Public Defense to serve in policy position, focused on identifying and implementing internal and external policy positions of DPD related to criminal practice
- Authored model briefing for attorneys for new legal issues and to assist in their practice, including widely used briefing to address delays in competency restoration and briefing to support release arguments
- Engaged with stakeholders in criminal legal system in King County Superior Court, District Court, and Seattle Municipal Court to address systemic issues affecting our clients

Associated Counsel for the Accused (now Associated Counsel for the Accused Division, King County Department of Public Defense)

April 2010 – April 2012

- Represented youth during civil and criminal proceedings, and adults subjected to dependency actions

## **University of Washington School of Law**

Associate Instructor

2022 - present

- Instructor of seminar-level law course, Transgender Rights & the Law, for 2L and 3L law students
- Drafted original syllabus for first course at University of Washington School of Law focused on legal issues impacting transgender people

## **PAST PROFESSIONAL EXPERIENCE**

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### **Ronald A. Peterson Law Clinic, Seattle University School of Law**

*Immigration Law Clinical Intern*

Spring 2011

- Secured Legal Permanent Resident status for client a Ukrainian immigrant in deportation proceedings while detained at the Northwest Immigration Detention Center

### **QLaw's LGBT Legal Clinic**

*Summer Intern, QLaw Foundation*

2009

## **PUBLICATIONS**

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### **Queering Jury Nullification: Jury Nullification as a Tool to Fight Against the Criminalization of Queer and Transgender People**

*Seattle Journal For Social Justice, 2012*

10 Seattle J. Soc. Just 709, 2012.

## **AWARDS & LEADERSHIP**

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**Washington Leadership Institute**, University of Washington School of Law / Washington Bar Association 2019

**National LGBT Bar Association**, 40 Best LGBTQ+ Lawyers Under 40 award 2018

**South Seattle Emerald**, Transgender Awareness Week Community Leader 2018

## **LEGAL PROJECTS & SERVICE**

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### **Ingersoll / QLaw Legal Clinic**

*Organizer & Attorney Volunteer*

2016 –present

- Oversee, organize, and run monthly legal clinic at Ingersoll Gender Center, offering free civil legal services to transgender and gender non-confirming people

### **Black & Pink National**

*Board Member*

2021 - 2022

- Black & Pink National is a prison abolitionist organization dedicated to abolishing the criminal punishment system and liberating LGBTQIA2S+ people and people living with HIV/AIDS who are affected by that system through advocacy, support, and organizing.

### **QLaw Foundation**

*Board Member*

2016 – 2021

- The QLaw Foundation of Washington promotes the dignity and respect of LGBTQ+ Washingtonians within the legal system through advocacy, education, and legal assistance.

## Community Advocacy

- Coalition advocating to improve the King County Department of Adult and Juvenile Detention's treatment of transgender people, 2020 - 2022
- Coalition for Trans Prisoners, 2019 - 2020
- Trans Health Law Pro Bono Project, 2017 - 2019
- Informed Consent For Access to Trans Health (ICATH), 2011 - 2013

## Selected speaking engagements

- *Sexual Deviancy Evaluations CLE*, King County Department of Public Defense, 2022
- *Public Defense 201: All About Inquests CLE*, King County Department of Public Defense, 2021
- *Discoverability of Attorney and Expert Communications CLE*, King County Department of Public Defense, 2020
- *Submitting Comprehensive and Case Specific Trial Briefs CLE*, King County Department of Public Defense, 2019
- *Effectively Working with Young Adults to Improve Communication, Comprehension and Case Outcomes*, King County Department of Public Defense, 2019
- *Litigating Competency Post-Hand CLE*, King County Department of Public Defense, 2019
- *Release Arguments CLE*, King County Department of Public Defense, 2019
- *Transgender 101 CLE*, Ingersoll Gender Center, 2018
- *The Overcriminalization of the LGBTQ+ Communities: A Public Defense Perspective*, National LGBT Bar Association Annual Conference, 2018

## INTERESTS

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- Photography, visual art, reading, amateur bird watching

# Community Police Commission

21 Members: Pursuant to 125315, all members subject to City Council confirmation, 3

- 7 City Council-appointed
- 7 Mayor-appointed
- 7 Other Appointing Authority-appointed (specify):

**Roster:**

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
	F		1.	Member	Lars Erickson	1/1/23	12/31/25	1	Mayor
			2.	Member	Patricia L. Hunter	1/1/21	12/31/23	1	City Council
			3.	Public Defense	Adrien Leavitt	1/1/21	12/31/23	1	CPC
2	F		4.	Member	Suzette Dickerson	1/1/21	12/31/23	2	Mayor
			5.	Member	Vacant	1/1/21	12/31/23		City Council
			6.	Civil Liberties	Lynne Wilson	1/1/21	12/31/23	1	CPC
	F		7.	Member	Raven Nicole Tyler	1/1/22	12/31/24	1	Mayor
			8.	Member	Mary Ruffin	1/1/22	12/31/24	1	City Council
4	M		9.	Member	Vacant	1/1/20	12/31/22		CPC
2	F		10.	Member	Harriett Walden	1/1/19	12/31/21	3	Mayor
			11.	Member	Joel Merkel	1/1/22	12/31/24	1	City Council
7	M		12.	Member	Amante (Monty) B. Vizcaya	1/1/22	12/31/24	1	CPC
9	F		13.	Member	Vacant	1/1/22	12/31/24		Mayor
			14.	Member	Le'Jayah Washington	1/1/22	12/31/24	2	City Council
2	M		15.	SPOG	Mark Mullens	1/1/23	12/31/25	3	CPC
			16.	Member	Vacant	1/1/20	12/31/22		Mayor
3	NB	3	17.	Member	Alina Santillan	1/1/23	12/31/25	2	City Council
			18.	SPMA	Anthony Gaedcke	1/1/23	12/31/25	1	CPC
			19.	Member	Jeremy Wood	1/1/22	12/31/23	1	Mayor
			20.	Member	Tascha R. Johnson	1/1/23	12/31/25	2	City Council
2	F		21.	Member	Erica Newman	1/1/23	12/31/25	2	CPC

**SELF-IDENTIFIED DIVERSITY CHART**

					(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Male	Female	Transgender	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non- Hispanic	Pacific Islander	Middle Eastern	Multiracial
<b>Mayor</b>		5				2		2					2
<b>Council</b>	1	1	1			2	1						1
<b>Other</b>	4	2			1	2			1	1	1		
<b>Total</b>	5	9	1		1	6	1	2	1	1	1		3

**Key:**

**\*D** List the corresponding *Diversity Chart* number (1 through 9)

**\*\*G** List *gender*, **M**= Male, **F**= Female, **T**= Transgender, **NB**= Non-Binary **O**= Other **U**= Unknown

**RD** Residential Council District number 1 through 7 or N/A

*Diversity information is self-identified and is voluntary.*



Legislation Text

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**File #:** Inf 2272, **Version:** 1

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Overdose Trends and Community Based Overdose Prevention Program

# Overdose Trends and Community Based Overdose Prevention Program

Seattle Public Safety and Human Services Committee  
May 23rd, 2023

**Brad Finegood**  
**Strategic Advisor**  
**Public Health –Seattle & King County**

**Amber Tejada**  
**Director of Programs**  
**Hepatitis Education Project (HEP)**

**Michelle Conley 1**  
**Director of Integrated Care**  
**Evergreen Treatment Services REACH**

**Laura Wirkman**  
**Executive Director**  
**People's Harm Reduction Alliance (PHRA)**

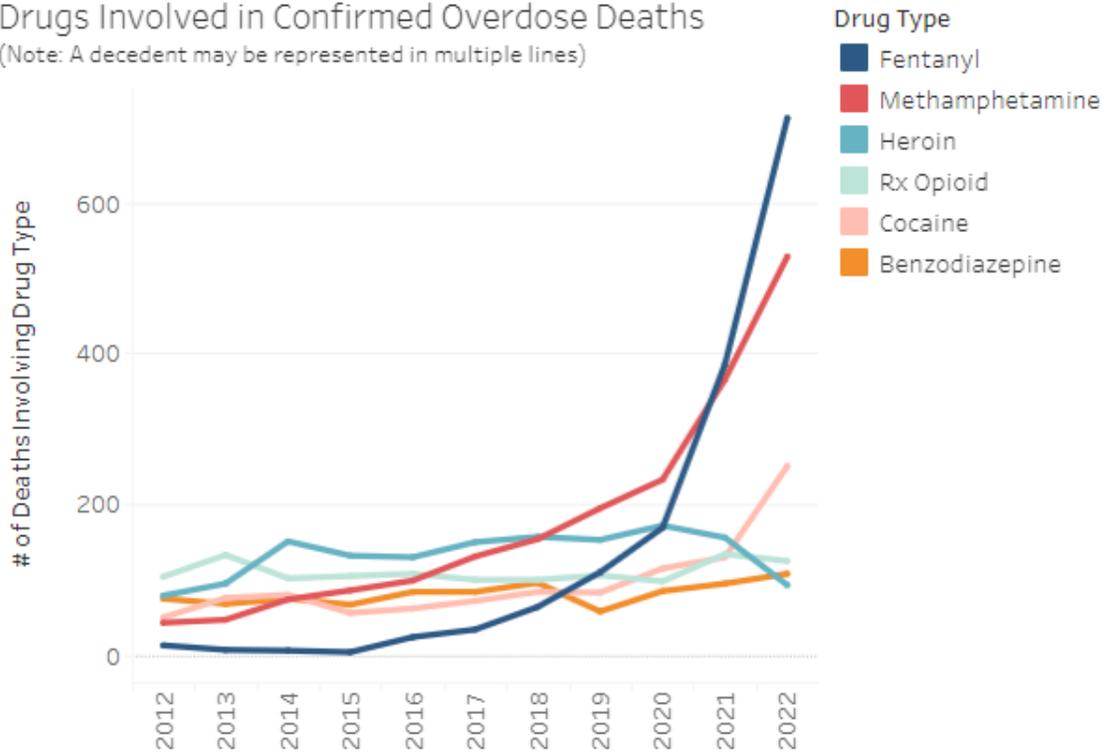
The landscape is changing..... fast

"All of a sudden you can synthesize hundreds of compounds and kind of mix them together and see what does the best in the market." Joseph Friedman, UCLA

# A look at the data

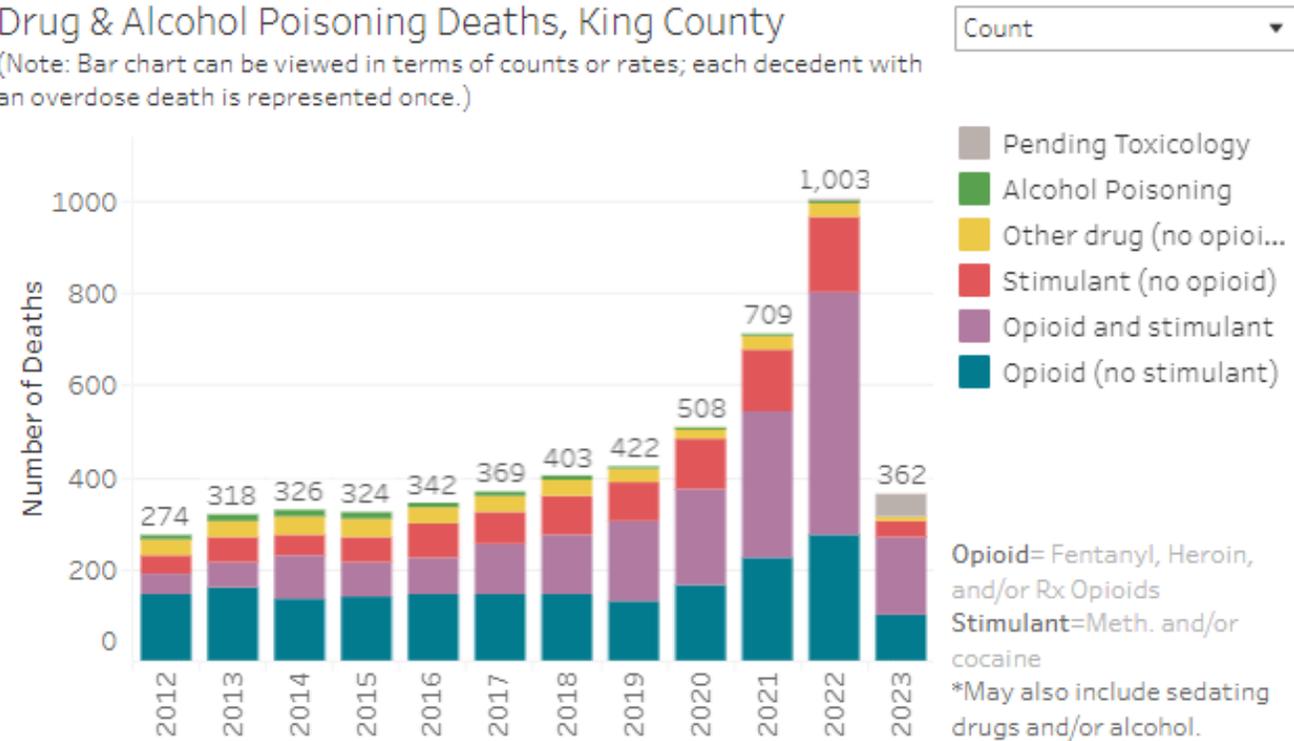
## Drugs Involved in Confirmed Overdose Deaths

(Note: A decedent may be represented in multiple lines)



## Drug & Alcohol Poisoning Deaths, King County

(Note: Bar chart can be viewed in terms of counts or rates; each decedent with an overdose death is represented once.)

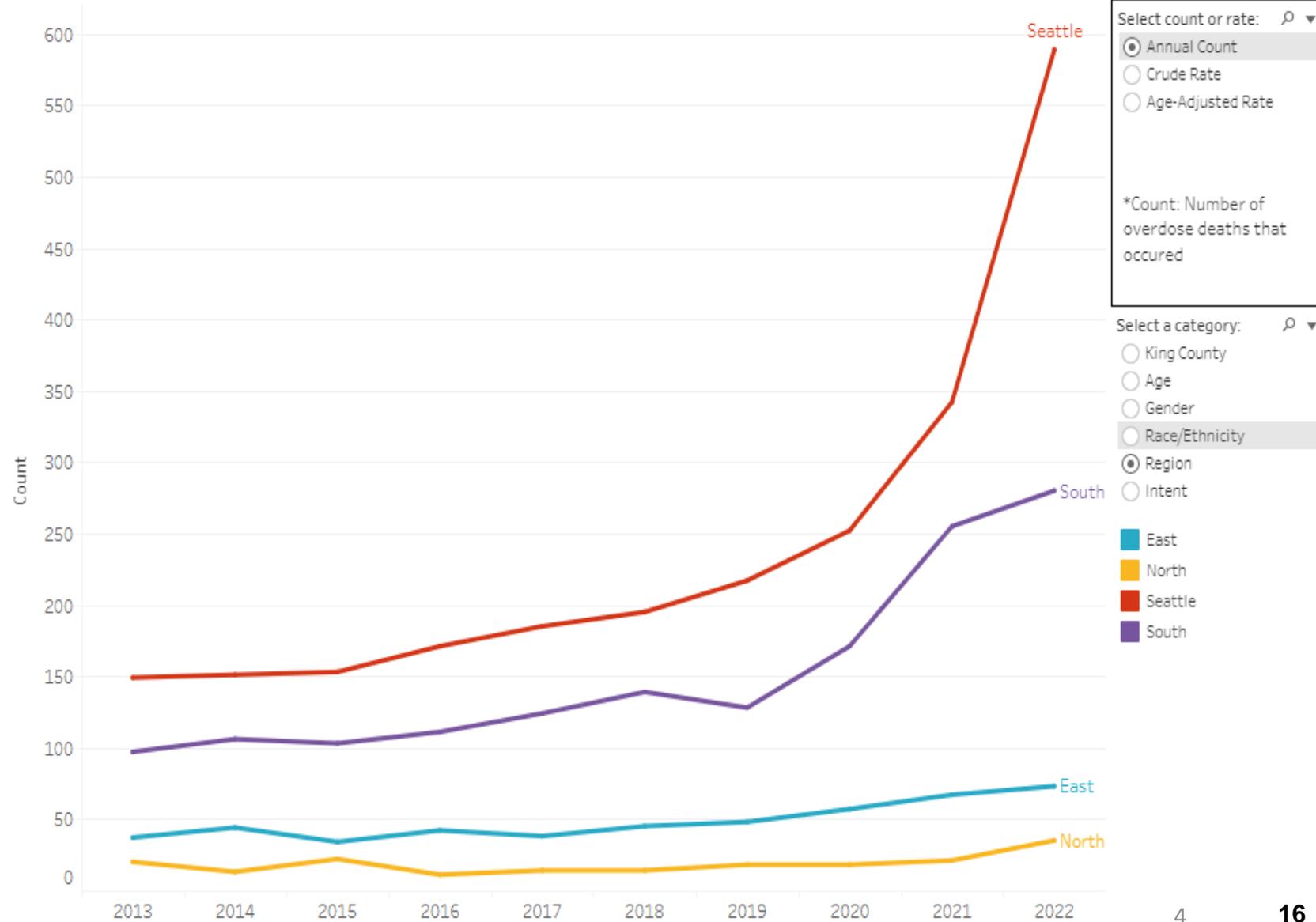


# Geographic Disparities

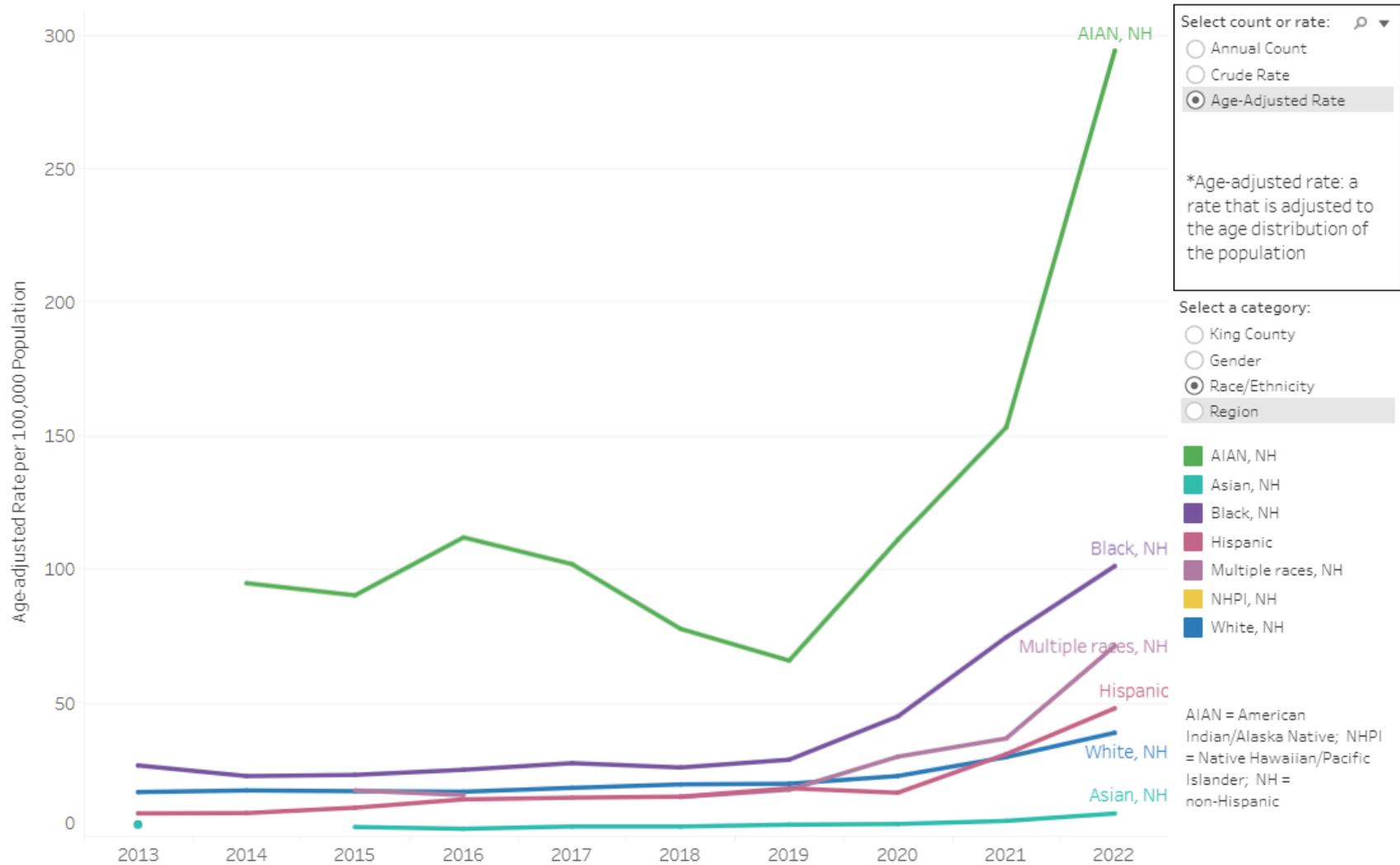
## Trends in overdose deaths that occurred in King County in 2013 - 2022

Data source: Medical Examiner's Office data

Note: Decedent characteristics for housing status are under year-end quality review. Updated data will be made available as soon as possible



# Racial / Ethnic Disparities in King Co.



# Community Based Overdose Prevention Program

**REACH** created a drug user health team to outreach people who use drugs living in camps and RVs, distribute harm reduction supplies, provide care and connection to other clinical services.

**Hepatitis Education Project (HEP)** hired an Overdose Prevention Coordinator, expanded their harm reduction supplies and services, and grew their mutual aid program to serve new communities and underserved populations.

**People's Harm Reduction Alliance** increased supplies and outreach in the community, provided doula services for pregnant people who use drugs, and took a leading role in our community drug checking initiatives.

# City Investments: Collective Impact

Distributed more than 20,000 harm-reduction kits.

Increased reach to marginalized communities through aid to smaller Community-Based Orgs.  
-Equity-focused.

Built a community drug checking community of practice and have trained technicians who can analyze substances.

Increased low-barrier access to buprenorphine and methadone for individuals with high barriers to care.

# Hepatitis Education Project



## Community Based Overdose Prevention

Drug  
Checking

*Dedicated FTE to  
drug checking  
services*

Overdose  
Prevention  
Coordinator

*Hired new staff to  
fulfill mutual aid  
orders, do naloxone  
training and  
distribution tracking,  
staff our syringe  
service program, and  
drug checking*

Medical  
Director

*Medical Director  
hired. Created wound  
care protocol and  
SOPs for participant  
care*

Post  
Consumption  
Supervision\*

*Conducted feasibility  
assessment for post  
consumption  
monitoring at HEP.  
Staff was ultimately  
not ready to  
undertake this level of  
service*

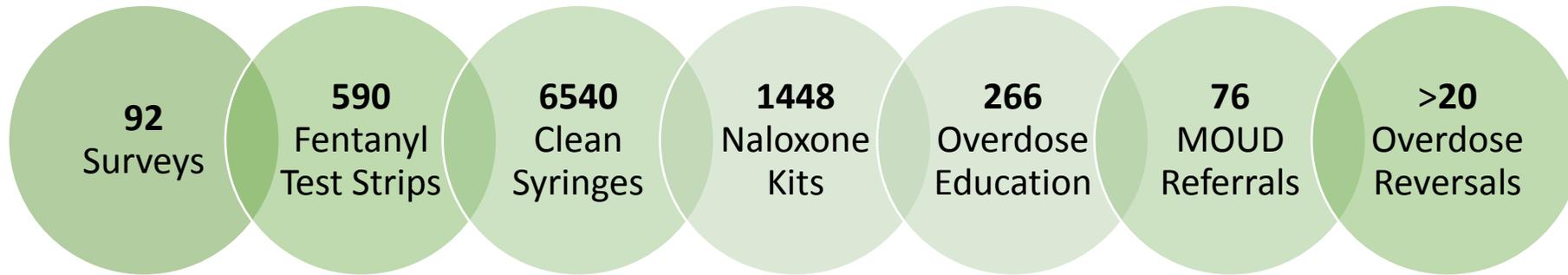
Community  
Partnerships

*Worked with and  
provided subaward to  
a local mutual aid  
group serving a  
diverse population of  
drug users*

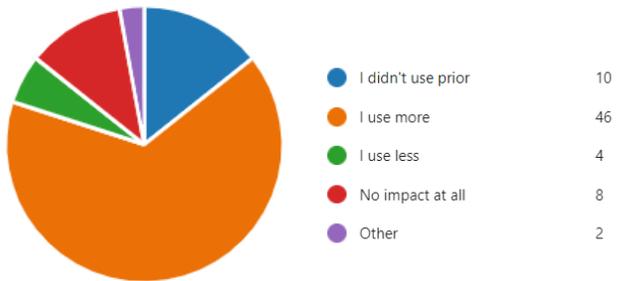
05/17/2023  
Hepatitis Education Project

# Drug User Health Team

## Three Person, Field-Based Team: DUH Coordinator & Two Medical Providers

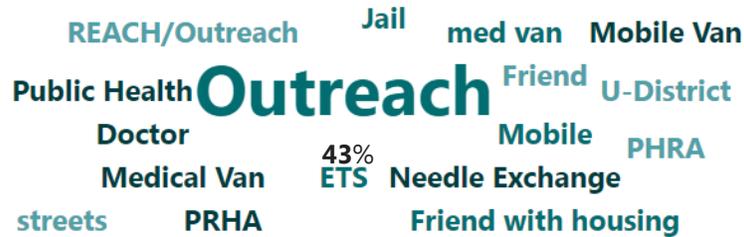


### ○ Impact of Housing Instability on Drug Use



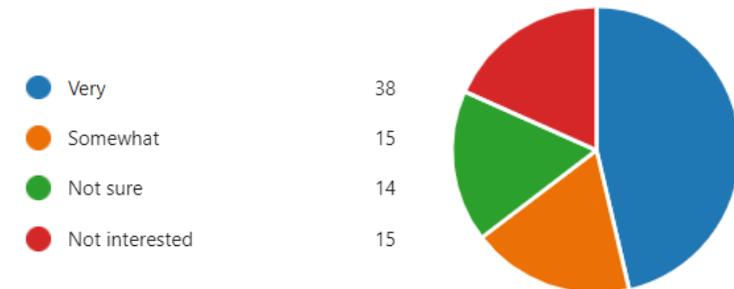
- **66%** reported increased use due to homelessness, **14%** reported no use prior to homelessness

### ○ Where do you get your naloxone?



- **882 total** overdoses observed, average of 10 witnessed per person per year

### ○ Interest in reducing/stopping your use?



- **65%** expressed desire to reduce use

# The People's Harm Reduction Alliance - Community Based Overdose Prevention



To: Councilmember Lisa Herbold, Chair, Public Safety & Human Services Committee  
 Councilmember Sara Nelson  
 From: Tanya Kim, Director, Human Services Department  
 Date: May 8, 2023  
 RE: Response to SLI HSD-605-A-001 – Regarding use of City Share of Opioid Settlement Dollars

This memo responds to Council Statement of Legislative Intent (SLI) [HSD-605-A-001](#) which requests that the Human Services Department (HSD) “collaborate on a plan to develop a Request for Qualifications (RFQ) process in HSD that would result in the award of funding to one or more facilities for addiction treatment, using a portion of Seattle’s anticipated \$14.1 million in proceeds from a settlement against opioid medication distributors.”

**Background**

In October of 2022, Washington State Attorney General Ferguson [announced](#) that the State would be receiving approximately \$518 million under a resolution with three companies found to have played roles in fueling the opioid epidemic. Of this total, approximately \$430 million will be directed toward combatting the opioid epidemic; half of the \$430 million will stay with the State, and the remaining half (approximately \$215 million) is being disbursed to local governments. The first year of disbursement was 2022, and the funds will be allocated over 18 years. All 125 eligible local governments, including King County and the City of Seattle, signed onto the resolution stemming from the State’s lawsuit.

Table 1 (below) estimates the total and annual distributions of settlement funds to the City, approximately 6.6% of local governments’ share. As the total funds fluctuate throughout the 18 years of disbursement, so do the City’s funds. Of note, for the first seven years of distribution, funds are removed from the total Local Government share for legal fees at 15%.

**Table 1.**

Funds Allotment <sup>1</sup>	Local Government Share	City of Seattle Share (Approximately 6.6%)	City of Seattle Net Distribution
<b>Total Over 18 Years</b>	<b>\$215,125,000</b>	<b>\$14,205,000</b>	<b>\$13,444,000<sup>2</sup></b>
<b>Annual Amount Years 1 - 7</b>	<b>\$9,190,000 - \$12,089,000</b>	<b>\$606,834 - \$798,240</b>	<b>\$515,820 - \$678,504<sup>2</sup></b>
<b>Annual Amount Years 8 - 18</b>	<b>\$14,218,000 - \$11,951,000</b>	<b>\$938,827 - \$789,178</b>	<b>\$938,827 - \$789,178</b>

King County will be receiving 13.9% of the total local government share, or a net of approximately \$28 million over the 18 years; and the other cities in the County, not including Seattle, will receive 5.8% of the Local Government share, or a net of approximately \$11.8 million over the 18 years.

<sup>1</sup> \$46 million additional funds were obtained from the State through taking Purdue to court instead of accepting the original settlement proposal – the State will be allocating these funds directly.

<sup>2</sup> Estimated amount minus 15% to Government Fee Fund Backstop for first 7 years of distribution.

Additionally, in April 2023, [Seattle City Attorney Davison signed an agreement](#) joining a nationwide settlement with companies that produced or sold opioids, which will provide approximately \$14 million to the City over the next 15 years. Depending on when the City begins receiving payments, these funds could potentially be combined with the settlement with opioid medication distributors as part of one spending plan.

### **Funding Implementation Guidance**

The [2021-2022 Washington State Opioid and Overdose Response Plan](#) is an update to the 2018 Washington State Opioid Response. This plan was developed through an ongoing process with stakeholders that includes federal agencies, state agencies, tribal governments, local public health, first responders, advocacy groups, and clinical providers and health care organizations to implement plan activities and serves to:

- Describe the history and evolution of the opioid epidemic;
- Inform the use of federal, state, and local resources in response to substance use disorders and overdose deaths;
- Coordinate activities and avoid duplicative efforts across agencies;
- Support linkages with stakeholders across state agencies, local governments, health care organizations, academic institutions, civic and philanthropic organizations, and members of the public in general; and
- Guide the state efforts to work with tribal governments.

The Plan identifies five overarching goals with specific strategies to address the opioid crisis, overdose deaths, and other emerging drug use trends.

- Goal 1 – Prevent opioid and other drug misuse
- Goal 2 – Identify and treat opioid misuse and stimulant use disorder
- Goal 3 – Ensure and improve the health and wellness of people who use opioids and other drugs
- Goal 4 – Use data and information to detect opioid misuse, monitor drug user health effects, analyze population health, and evaluate interventions
- Goal 5 – Support individuals in recovery

Additionally, in the [One Washington Memorandum of Understanding Between Washington Municipalities](#) that local governments were asked to sign to confirm their agreement with the State’s plan, the City of Seattle agreed to the following:

*“As a condition of receiving a direct payment, each Participating Local Government that receives a direct payment agrees to undertake the following actions:*

- 1. Developing a methodology for obtaining proposals for use of Opioid Funds*
- 2. Ensuring there is opportunity for community-based input on priorities for Opioid Fund programs and services*
- 3. Receiving and reviewing proposals for use of Opioid Funds for approved purposes*
- 4. Approving or denying proposals for use of Opioid Funds for Approved Purposes*

5. *Receiving funds from the Trustee for approved proposals and distributing the Opioid Funds to the recipient*
6. *Reporting to the OAC<sup>3</sup> and making publicly available all decisions on Opioid Fund allocation applications, distributions and expenditures.”*

### **Community Stakeholder Engagement Process**

As anticipated in the Washington State Opioid Response Plan, and in partnership with King County, the City has begun the process to gain input from the community regarding investment priorities. King County has hired Research with Expert Advisors on Drug Use (READU) at the University of Washington to partner with individuals with lived and living experience of substance use to gather stakeholder input on this process. READU has begun this work and is currently meeting with community stakeholders – this includes: advisory boards, tribes and Native service providers, advocacy organizations, treatment providers, medication for opioid use disorder providers, recovery organizations, student and youth organizations, and families impacted by substance use and overdose deaths.

The process is receiving input on the following areas:

- The Long and Short-Term Goals for Improving Services for People Who Use Opioids
- The Principles and Priorities for Funding Services for People Who Use Opioids
- The Who, What, When, Where, Why, and How Funds Should Be Distributed
- The Hopes, Dreams, and Outcomes of Funding

### **Funding Process Development**

The City has three options regarding the distribution of its funds:

1. We can pool all our funds with the County for procurement;
2. We can pool some of our funds with the County for procurement; or
3. We can choose to use our funds outside of the County’s procurement process.

In any scenario, we would still need to consider the input that was received from the community stakeholder engagement process on the principles for guiding spending as well as work in close coordination with the County and the Sound Cities jurisdictions.

If the City fully or partially pools funds with the County, we would work collaboratively to develop a draft Spending Plan. This draft Spending Plan will include the specifics of a procurement (e.g., Request for Qualifications or Request for Proposal) process(es) for the distribution of funds that will begin later this year.

If the City chooses to develop a Spending Plan independent from the County’s Spending Plan, this would not include County’s funding allocation.

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<sup>3</sup> Prior to any distribution of Opioid Funds within the Allocation Region, the Participating Local Governments must establish an Opioid Abatement Council (OAC) to oversee Opioid Fund allocation, distribution, expenditures, and dispute resolution. The OAC may be a preexisting regional body or may be a new body created for purposes of executing the obligations of this MOU.

## Timeline

The anticipated timeline leading up to a Spending Plan:

- May 2023 – READU will report to the County, City of Seattle and the Sound Cities on feedback received from the community stakeholder engagement process.
- Summer 2023 – The County and the City will develop a draft Spending Plan(s).
- Fall 2023 – Proposed Spending Plan finalized

## Funding of Treatment Services

Substance use disorder services fall into four broad categories:

1. Prevention and Education: Raising awareness and knowledge of adverse effects of substances and substance use and promoting screening practices in a variety of settings;
2. Contemplation and Engagement Services: Mobile and site-based harm reduction services such as; syringe exchange and naloxone distribution, and drug user health services such as; supervised use, post-use observation, counseling and medical services;
3. Treatment Services: Mobile and site-based care, including; detoxification, medications for opioid use disorder treatment, outpatient treatment, and residential treatment; and
4. Recovery Support Services: Residential and outpatient-based care that supports abstinence and/or non-drug use including peer support services.

Treatment services for substance use disorders, for the most part, are covered for those with health insurance due to the 2008 Federal Mental Health Parity and Addiction Equity Act. In 2016, these parity requirements were expanded to apply to all Medicaid recipients. As Washington State has expanded Medicaid under the Affordable Care Act (ACA), the gap in coverage for treatment services mainly applies to those who are uninsured. Uninsurance in King County has a [disparate impact on people of color](#).

To fill in current gaps in treatment services, the King County [Mental Illness and Drug Dependency \(MIDD\) Behavioral Health Sales Tax Fund](#) assists in providing financial support for treatment services for the uninsured. The MIDD sales tax collection is approved through 2025. In addition, the City of Seattle General Fund helps support methadone and buprenorphine access services. Based on numerous studies, medication for opioid use disorder (MOUD) treatment is the most efficacious option.<sup>4</sup>

In 2022, through HSD’s Public Health-Seattle King County contract, \$660,000 was allocated to:

- Provide assessments, counseling and facilitated referrals for individuals using the Public Health’s needle exchange program;
- Cover the cost of methadone and other medication assisted treatment for those who are not eligible for health insurance or, assisting with co-pays and deductibles for those who do have health insurance; and

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<sup>4</sup> [A comparison of adherence, outcomes, and costs among opioid use disorder Medicaid patients treated with buprenorphine and methadone: A view from the payer perspective - PubMed \(nih.gov\)](#)

- Support other services, such as transportation, mobile treatment, and social work services to facilitate access to, and retention in, medication for opioid use disorder care.

Funding facilities specifically providing addiction treatment, as defined in the SLI, through a procurement process, while possible, may be limited in its scope. This is due to the high rate of health insured people in Seattle (more than 94%); other funding sources for these services, such as the King County Mental Illness and Drug Dependency tax; and pending expansion of coverage at the State level through the [Health Care Authority coverage plan for the uninsured](#).

One of the identified current gaps in services is facilities that can provide assessment, triage, and stabilization for individuals who are experiencing an acute response to an opioid, including overdose. Our hospital emergency rooms are often neither necessary nor desired in these situations. The recent King County [Crisis Care Centers Levy Ballot Measure](#) was placed before the voters for this reason. Discussions and other funding continue to be sought to target post-overdose stabilization center(s) as options for our emergency responders to refer someone to in need of observation and where initiation of detoxification and/or medication-based treatment can begin.

Contingency Management (CM) treatment for opioid use disorder is another potential avenue for support. CM, a form of behavior modification, has been around for decades. It has been primarily used for other substance use disorders such as addiction to methamphetamines and alcohol. The Washington State Health Care Authority A awarded a grant to a team comprised of the City of Seattle, Plymouth Housing, Washington State University, and the University of Notre Dame a for a non-clinic-based CM pilot program involving individuals with substance use disorder(s) including opioids.

### **Summary**

The collaborative community stakeholder engagement process is currently underway, in partnership with King County, and it will inform the development of a spending plan later this year for the allocation of funds. While this funding provides an opportunity to address current gaps in services and/or treatment, the relatively small distribution of funds over a lengthy period will have a limited immediate impact.

# Opiate Settlement Proceeds: Path to Award

- Council asked Executive to develop an RFQ process that would award settlement funds for addiction treatment (SLI HSD-605-A-001).
- Executive has engaged Research with Expert Advisors on Drug Use (READU) at UW, seeking community input on addiction-treatment priorities
- City may fully or partly pool settlement proceeds with King County, consistent with results of READU-led process
- City and County will develop draft plan(s) during Summer 2023 and finalize in Fall 2023; process could be RFQ or RFP.



Legislation Text

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**File #:** Inf 2273, **Version:** 1

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Issue Identification for Proposed Council Bill 120580 regarding App-Based Workers Deactivations Rights

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to app-based worker labor standards; establishing labor standards on deactivation protections for app-based workers working in Seattle; amending Section 3.02.125 of the Seattle Municipal Code; and adding a new Chapter 8.40 to the Seattle Municipal Code.

..body

WHEREAS, the Washington Constitution provides in Article XI, Section 11 that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”;

NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. The City Council (“Council”) finds and declares that:

A. App-based work is a growing source of income for workers in Seattle and across the country.

B. In the exercise of The City of Seattle’s police powers, the City is granted authority to pass regulations designed to protect and promote public health, safety, and welfare.

C. This ordinance protects and promotes public health, safety, and welfare by establishing protections against unwarranted deactivations for app-based workers.

D. Many Seattle workers, including app-based workers, cannot fully participate in the community’s dynamic civic life or pursue its myriad educational, cultural, and recreational opportunities because they struggle to meet their households’ most basic needs, suffering job insecurity and economic instability.

1 E. Minimum labor standards benefit employers and hiring entities by improving worker  
2 performance, reducing worker turnover, and thereby improving productivity and the quality of  
3 the services provided by workers, including app-based workers.

4 F. Network companies typically manage large pools of app-based workers by relying on  
5 algorithmic management systems, which allow app-based workers to be “assigned, optimized,  
6 and evaluated through algorithms and tracked data.”<sup>1</sup>

7 G. While algorithmic management may bring certain benefits to network companies,  
8 these innovations also generate significant challenges for app-based workers, including  
9 information asymmetries and extreme power imbalances between workers and network  
10 companies.<sup>2</sup>

11 H. App-based workers often do not have the information they need to know about how  
12 they will be evaluated. Algorithms that dictate core aspects of app-based workers’ relationship  
13 with a network company can change unexpectedly, leading to arbitrary evaluations and  
14 unwarranted deactivations.<sup>3</sup>

15 I. App-based workers are subject to network company policies that unilaterally deactivate  
16 workers for a variety of reasons without consistent access to a fair process for such deactivations,  
17 nor do the workers have access to responsive network company personnel with the power to  
18 correct unwarranted deactivations by in-person meetings or telephone.

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<sup>1</sup> Lee, Min Kyung, Kusbit, Daniel; Metsky, Evan; and Dabbish, Laura. “Working with Machines: The Impact of Algorithmic and Data-Driven Management on Human Workers.” *Proceedings of the 33rd Annual ACM Conference on Human Factors in Computing Systems*, April 18, 2015, pp. 1603-1612, <https://doi.org/10.1145/2702123.2702548>.

<sup>2</sup> Mateescu, Alexandra, and Nguyen, Aiha. “Explainer: Algorithmic Management in the Workplace.” *Data & Society*, February 2019, [https://datasociety.net/wp-content/uploads/2019/02/DS\\_Algorithmic\\_Management\\_Explainer.pdf](https://datasociety.net/wp-content/uploads/2019/02/DS_Algorithmic_Management_Explainer.pdf).

<sup>3</sup> FTC Policy Statement on Enforcement Related to Gig Work, September 2022, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Matter%20No.%20P227600%20Gig%20Policy%20Statement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Matter%20No.%20P227600%20Gig%20Policy%20Statement.pdf).

1 J. App-based workers face potential deactivation for reasons including but not limited to:  
2 rejecting too many orders; being unavailable on certain days or times; cancelling offers with  
3 cause; being delayed in fulfilling orders; receiving low ratings from consumers; or algorithmic  
4 errors.

5 K. Network companies do not consistently apply clear performance expectations or  
6 policies for deactivations, and often deactivate app-based workers without explanation or  
7 warning.<sup>4</sup>

8 L. App-based workers report being deactivated for low customer ratings, despite the fact  
9 that extensive social science research finds that consumer-sourced rating systems are highly  
10 likely to be influenced by bias on the basis of factors such as race or ethnicity. App-based  
11 workers also report deactivation based on customer harassment and false reports from  
12 customers.<sup>5</sup>

13 M. Many network companies do not have processes to substantively reconsider a  
14 deactivation based on a case-by-case human review, and have little incentive to put those  
15 processes in place.<sup>6</sup>

16 N. A review of network company hiring policies shows that most network companies  
17 perform recurring background checks on app-based workers as a condition of continued service.

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<sup>4</sup> Figueroa, Maria, Gualpa, Ligia; Wolf, Andrew; Tsitouras, Glendy; and Hernández; Hildalyn Colón. *Essential but Unprotected: App-based Food Couriers in New York City*, 2021, pp. 31-32, available at: <https://search.issueab.org/resource/essential-but-unprotected-app-basedfood-couriers-in-new-york-city.html>.

<sup>5</sup> National Employment Law Project, *App-Based Workers Speak: Studies Reveal Anxiety, Frustration, and a Desire for Good Jobs*, October 2021, p. 12, and footnote 23 on p. 18, <https://s27147.pcdn.co/wp-content/uploads/App-Based-Workers-Speak-Oct-2021-1.pdf>. See also Figueroa et al., *Essential but Unprotected: App-based Food Couriers in New York City*, pp. 31-32.

<sup>6</sup> See, e.g., Soper, Spencer. “Fired by Bot at Amazon: ‘It’s You Against the Machine’.” *Bloomberg*, June 28, 2021. <https://www.bloomberg.com/news/features/2021-06-28/fired-by-bot-amazon-turns-to-machine-managers-and-workers-are-losing-out>. See also O’Brien, Sara Ashley. “Instacart shoppers demand answers over alleged wrongfully deactivated accounts.” *CNN Business*, April 30, 2021. <https://www.cnn.com/2021/04/30/tech/instacart-deactivations/index.html>.

1 Network companies do not provide clear guidance on background check criteria, methods for  
2 evaluating the relationship of criminal history record information to the performance of app-  
3 based service, procedures for correcting background check information, or procedures for  
4 appealing deactivations based on background check information.

5 O. Unclear and/or inconsistently applied background check policies exacerbate the  
6 difficulties app-based workers with criminal history records face when trying to secure or  
7 maintain work opportunities.

8 P. The high prevalence of background checks with errors, mismatched identities, and  
9 incomplete information, due to scant oversight of background check information provided to the  
10 private market, compounds these difficulties.<sup>7</sup>

11 Q. Studies estimate that 50 to 80 percent of FBI criminal records are inaccurate. A  
12 common problem is that law enforcement agencies fail to update arrest or charge records with  
13 information about the outcome of a case. About a third of felony arrests never lead to a  
14 conviction, another third lead to conviction of a different (usually lesser) offense, and other  
15 convictions are overturned on appeal, expunged, or sealed.<sup>8</sup>

16 R. The flexibility to determine hours of availability and which offers to accept, reject, or  
17 cancel with cause allows workers to make informed decisions on how and when to earn their  
18 income without fear of deactivation.

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<sup>7</sup> Lageson, Sarah Esther. “How Criminal Background Checks Lead to Discrimination Against Millions of Americans.” *The Washington Post*, July 10, 2020, <https://www.washingtonpost.com/opinions/2020/07/10/personal-data-industry-is-complicit-bad-policing-it-must-be-held-accountable>.

<sup>8</sup> Wells, Martin; Cornwell, Erin York; Barrington, Linda; Bigler, Esta; Enayati, Hassan; and Vilhuber, Lars. “Criminal Record Inaccuracies and the Impact of a Record Education Intervention on Employment-Related Outcomes.” *U.S. Department of Labor*, January 2, 2020, [https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/LRE\\_WellsFinalProjectReport\\_December2020.pdf](https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/LRE_WellsFinalProjectReport_December2020.pdf).

1           S. App-based workers who perform services in Seattle are not typically limited to work in  
2 the geographic boundaries of Seattle, and often accept offers to perform services in other  
3 jurisdictions.

4           T. Access to the records substantiating a network company’s decision to deactivate an  
5 app-based worker, and access to records of the services performed in Seattle by that app-based  
6 worker, are critical for an app-based worker to meaningfully challenge their deactivation and  
7 attempt to get reinstated as soon as possible.

8           U. Establishing a reasonable standard for the deactivations of app-based workers as well  
9 as the ability to challenge unwarranted deactivations will help ensure that thousands of app-  
10 based workers who provide vital services in Seattle will be able to enjoy a measure of job  
11 security.

12           V. App-based workers who have protection against unwarranted deactivation will be  
13 more likely to remain in their positions over time. Such experienced app-based workers will  
14 improve the safety and reliability of the app-based services provided to Seattle customers.

15           W. Minimum labor and compensation standards, including the right to challenge  
16 unwarranted deactivations, promote the general welfare, health, and prosperity of Seattle by  
17 ensuring that app-based workers have stable incomes and can better support and care for their  
18 families and fully participate in Seattle’s civic, cultural, and economic life.

19           X. The regulation of app-based workers better ensures that such workers can perform  
20 their services in a safe and reliable manner and thereby promotes the welfare of the people and is  
21 thus a fundamental governmental function.

1 Section 2. A new Chapter 8.40 is added to the Seattle Municipal Code as follows:

2 **Chapter 8.40 APP-BASED WORKER DEACTIVATION RIGHTS**

3 **8.40.010 Short title**

4 This Chapter 8.40 shall constitute the “App-Based Worker Deactivation Rights Ordinance” and  
5 may be cited as such.

6 **8.40.020 Definitions**

7 For purposes of this Chapter 8.40:

8 “Accept” means an initial communication from an app-based worker to a network  
9 company that the app-based worker intends to perform services in furtherance of an offer,  
10 including but not limited to indicating acceptance through the worker platform.

11 “Adverse action” means reducing compensation; garnishing tips or gratuities; temporarily  
12 or permanently denying or limiting access to work, incentives, or bonuses; offering less desirable  
13 work; terminating; deactivating; threatening; penalizing; retaliating; engaging in unfair  
14 immigration-related practices; filing a false report with a government agency; or discriminating  
15 against any person for any reason prohibited by Section 8.40.120. “Adverse action” for an app-  
16 based worker may involve any aspect of the app-based worker’s work, including compensation,  
17 work hours, volume, and frequency of offers made available, desirability and compensation rates  
18 of offers made available, responsibilities, or other material change in the terms and conditions of  
19 work or in the ability of an app-based worker to perform work. “Adverse action” also includes  
20 any action by the network company or a person acting on the network company’s behalf that  
21 would dissuade a reasonable person from exercising any right afforded by this Chapter 8.40.

22 “Agency” means the Office of Labor Standards and any division therein.

1           “Aggrieved party” means an app-based worker or other person who suffers tangible or  
2 intangible harm due to a network company’s or other person’s violation of this Chapter 8.40.

3           “App-based service” means any service in an offer facilitated or presented to an app-  
4 based worker by a network company or participation by an app-based worker in any training  
5 program required by a network company.

6           “App-based worker” means a person who has entered into an agreement with a network  
7 company governing the terms and conditions of use of the network company’s worker platform  
8 or a person affiliated with and accepting offers to perform services for compensation via a  
9 network company’s worker platform. For purposes of this Chapter 8.40, at any time, but not  
10 limited to, when an app-based worker is logged into the network company’s worker platform, the  
11 worker is considered an app-based worker.

12           “Application dispatch” means technology that allows customers to directly request  
13 dispatch of app-based workers for provision of services and/or allows app-based workers or  
14 network companies to accept offers to perform services for compensation and payments for  
15 services via the internet using interfaces, including but not limited to website, smartphone, and  
16 tablet applications.

17           “Background check” means a request or attempt to obtain, directly or through an agent,  
18 a person’s conviction record or criminal history record information from the Washington State  
19 Patrol or any other source that compiles and maintains such records or information.

20           “Cancellation with cause” has the same meaning as defined in Section 8.37.020.

21           “City” means The City of Seattle.

1           “Compensation” means the total amount of payment owed to an app-based worker by  
2 reason of performing work facilitated or presented by the network company, including but not  
3 limited to network company payments, bonuses, incentives, and tips earned from customers.

4           “Consumer report” has the same meaning as defined in RCW 19.182.010 as amended.

5           “Conviction record” and “criminal history record information” are meant to be  
6 consistent with chapter 10.97 RCW as amended, and mean information regarding a final  
7 criminal adjudication or other criminal disposition adverse to the subject, including a verdict of  
8 guilty, a finding of guilty, or a plea of guilty or nolo contendere. A criminal conviction record  
9 does not include any prior conviction that has been the subject of an expungement, vacation of  
10 conviction, sealing of the court file, pardon, annulment, certificate of rehabilitation, or other  
11 equivalent procedure based on a finding of the rehabilitation of the person convicted, or a prior  
12 conviction that has been the subject of a pardon, annulment, or other equivalent procedure  
13 based on a finding of innocence. It does include convictions for offenses for which the  
14 defendant received a deferred or suspended sentence, unless the adverse disposition has been  
15 vacated or expunged.

16           “Criminal history record information” is meant to be consistent with chapter 10.97 RCW  
17 as amended.

18           “Customer” means a paying customer and/or recipient of an online order.

19           “Deactivation” means the blocking of an app-based worker’s access to the worker  
20 platform, changing an app-based worker’s status from eligible to accept offers to perform  
21 services to ineligible, or other material restriction in access to the worker platform that is effected  
22 by a network company.

1 “Director” means the Director of the Office of Labor Standards or the Director’s  
2 designee.

3 “Discrimination,” “discriminate,” and/or “discriminatory act” have the same meaning as  
4 defined in Section 14.04.030.

5 “Driver record” means an abstract of a person’s driving record as described in RCW  
6 46.52.130 as amended.

7 “Egregious misconduct” means an action or behavior by an individual app-based worker  
8 that: (1) endangers the physical safety of the customer or a third person or (2) intentionally  
9 causes economic harm to the customer, a third person, or the network company. “Egregious  
10 misconduct” includes conduct that occurs outside of an app-based worker’s provision of app-  
11 based services if the network company can prove by clear and convincing evidence that the  
12 conduct directly relates to the app-based worker’s fitness to provide app-based services.

13 “Egregious misconduct” includes but is not limited to the following conduct in connection with  
14 an app-based worker’s provision of app-based services: assault, sexual assault, sexual  
15 harassment, communicating with a minor for immoral purposes, sexual conduct as defined in  
16 RCW 7.105.010 as amended, unlawful harassment as defined in RCW 7.105.010 as amended,  
17 unlawful imprisonment as defined in RCW 9A.40.040 as amended, solicitation of any sexual act,  
18 theft, fraud, robbery, burglary, prostitution, reckless driving, or driving under the influence of  
19 alcohol or drugs; and failing to maintain a valid state driver’s license. The Director may issue  
20 rules further defining what constitutes economic harm or egregious misconduct.

21 “Extraordinary circumstances” means circumstances beyond the network company’s  
22 control that will materially influence the determination of whether a deactivation was warranted.

1 Extraordinary circumstances may include, but are not limited to, a pending criminal  
2 investigation.

3 “Franchise” has the same meaning as defined in RCW 19.100.010 as amended.

4 “Front pay” means the compensation an app-based worker would earn or would have  
5 earned if reinstated to their former position.

6 “Hearing Examiner” means the official appointed by the City Council and designated as  
7 the Hearing Examiner under Chapter 3.02 or that person’s designee (e.g., Deputy Hearing  
8 Examiner or Hearing Examiner Pro Tem).

9 “Incentive” means a sum of money paid to an app-based worker in addition to the  
10 guaranteed minimum network company payment for an offer, upon completion of specific tasks  
11 presented by the network companies, including but not limited to completing performance of a  
12 certain number of offers, completing performance of a certain number of consecutive offers,  
13 completing performance of an offer subject to a price multiplier or variable pricing policy,  
14 making oneself available to accept offers in a particular geographic location during a specified  
15 period of time, or recruiting new app-based workers.

16 “Network company” means an organization, whether a corporation, partnership, sole  
17 proprietor, or other form, operating in Seattle, that uses an online-enabled application or  
18 platform, such as an application dispatch system, to connect customers with app-based workers,  
19 present offers to app-based workers through a worker platform, and/or facilitate the provision of  
20 services for compensation by app-based workers.

21 1. The term “network company” includes any such entity or person acting directly  
22 or indirectly in the interest of a network company in relation to the app-based worker.

1                   2. The term “network company” excludes:

2                                   a. An entity offering services that enable individuals to schedule  
3 appointments with and/or process payments to users, when the entity neither engages in  
4 additional intermediation of the relationships between parties to such transactions nor engages in  
5 any oversight of service provision;

6                                   b. An entity operating digital advertising and/or messaging platforms,  
7 when the entity neither engages in intermediation of the payments or relationships between  
8 parties to resulting transactions nor engages in any oversight of service provision;

9                                   c. An entity that meets the definition of “transportation network company”  
10 as defined by RCW 46.04.652 as amended; or

11                                  d. An entity that meets the definition of “for-hire vehicle company” or  
12 “taxicab association” as defined in Section 6.310.110.

13                   A company that meets the definition of network company in this Section 8.40.020 and  
14 does not fall within any of the exclusions contained in this Section 8.40.020 is subject to this  
15 Chapter 8.40. Network companies include marketplace network companies, as defined by  
16 Section 8.37.020.

17                   “Offer” means one or more online orders presented to an app-based worker as one  
18 opportunity to perform services for compensation that the app-based worker may accept or  
19 reject.

20                                  1. An opportunity to perform services for compensation includes but is not limited  
21 to an opportunity described via a worker platform as a shift, a period of time to be spent engaged  
22 in service provision, a continuous period of time in which the app-based worker must make  
23 themselves available to perform services, or any other continuous period of time when the worker

1 is not completely relieved of the duty to perform the service(s), and such a period of time shall  
2 be considered as one offer.

3           2. The term “offer” includes pre-scheduled offers and on-demand offers, as  
4 defined in Section 8.37.020.

5           “Online order” means an order for services that is placed through an online-enabled  
6 application or platform, such as an application dispatch system, and that is facilitated by a  
7 network company or presented by a network company for its own benefit. The Director may  
8 issue rules further defining the definition of “online order” and the types of transactions excluded  
9 from this definition. The term “online order” does not include the following transactions:

- 10           1. Sale or rental of products or real estate;
- 11           2. Payment in exchange for a service subject to professional licensure that has been listed  
12 by the Director pursuant to Section 8.37.020;
- 13           3. Payment in exchange for services wholly provided digitally;
- 14           4. Payment in exchange for creative services or works;
- 15           5. Transportation network company (TNC) dispatched trips. For purposes of this Section  
16 8.40.020, “TNC dispatched trips” means the provision of transportation by a driver for a  
17 passenger through the use of a transportation network company’s application dispatch system;  
18 and
- 19           6. Transportation provided by taxicabs or for-hire vehicles, as defined in Chapter 6.310.

20           “Operating in Seattle” means, with respect to a network company, facilitating or  
21 presenting offers to provide services for compensation using an online-enabled application or  
22 platform, such as an application dispatch system, to any app-based worker, where such services  
23 are performed in Seattle.

1           “Paying customer” means a person or entity placing an online order via a network  
2 company’s online-enabled application or platform.

3           “Perform services in Seattle” means activities, conducted by an app-based worker in  
4 furtherance of an offer, that occur in whole or in part within Seattle.

5                     1. The term “perform services in Seattle” includes any time spent on a  
6 commercial stop in Seattle that is related to the provision of delivery or other services associated  
7 with an offer.

8                     2. The term “perform services in Seattle” does not include stopping for refueling,  
9 stopping for a personal meal or errands, or time spent in Seattle solely for the purpose of  
10 travelling through Seattle from a point of origin outside Seattle to a destination outside Seattle  
11 with no commercial stops in Seattle.

12           “Rate of inflation” means 100 percent of the annual average growth rate of the bi-  
13 monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and  
14 Clerical Workers, termed CPI-W, for the 12-month period ending in August; provided that the  
15 percentage increase shall not be less than zero.

16           “Respondent” means the network company or any person who is alleged or found to have  
17 committed a violation of this Chapter 8.40.

18           “Successor” means any person to whom a network company quitting, selling out,  
19 exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary  
20 course of the network company’s business, a major part of the property, whether real or personal,  
21 tangible or intangible, of the network company’s business. For purposes of this definition,  
22 “person” means an individual, receiver, administrator, executor, assignee, trustee in bankruptcy,  
23 trust, estate, firm, corporation, business trust, partnership, limited liability partnership, company,

1 joint stock company, limited liability company, association, joint venture, or any other legal or  
2 commercial entity.

3 “Tips” means a verifiable sum to be presented by a customer as a gift or gratuity in  
4 recognition of some service performed for the customer by the app-based worker receiving the  
5 tip.

6 “Traffic infraction” means a violation of state law or administrative regulation, or local  
7 law, ordinance, regulation, or resolution, relating to traffic including parking, standing, stopping,  
8 and pedestrian offenses, which is not classified as a criminal offense, consistent with RCW  
9 46.63.020 as amended. A “traffic infraction” includes any offense committed in another  
10 jurisdiction that includes the elements of any offense designated as a traffic infraction consistent  
11 with RCW 46.63.020 as amended.

12 “Unwarranted deactivation” means a deactivation that does not comply with Section  
13 8.40.050.

14 “Worker platform” means the worker-facing application dispatch system software or any  
15 online-enabled application service, website, or system, used by an app-based worker, that  
16 enables the arrangement of services for compensation.

17 “Written” or “in writing” means a printed or printable communication in physical or  
18 electronic format including a communication that is transmitted through email, text message, or a  
19 computer system, or is otherwise sent or maintained electronically, including via the worker  
20 platform.

### 21 **8.40.030 App-based worker coverage**

22 A. For the purpose of this Chapter 8.40, except for Section 8.40.100, covered app-based  
23 workers are limited to those for whom, during the previous 180 days, at least ten percent of their

1 completed offers, or offers cancelled with cause, involved performing services in Seattle for a  
2 covered network company.

3 B. For the purpose of Section 8.40.100, an app-based worker is covered by Section  
4 8.40.100 if the app-based worker performs services in Seattle facilitated or presented by a  
5 network company covered by this Chapter 8.40.

6 C. An app-based worker who is a covered employee under Chapter 14.20 for a covered  
7 network company, or a covered employee under Chapter 14.20 for a customer of an online order,  
8 is not a covered app-based worker under this Chapter 8.40.

9 **8.40.040 Network company coverage**

10 A. For the purposes of this Chapter 8.40, covered network companies are limited to those  
11 that facilitate work performed by 250 or more app-based workers worldwide regardless of where  
12 those workers perform work, including but not limited to chains, integrated enterprises, or  
13 franchises associated with a franchise or network of franchises that facilitate work performed by  
14 250 or more app-based workers worldwide in aggregate.

15 B. To determine the number of app-based workers performing work for the current  
16 calendar year:

17 1. The calculation is based upon the average number per calendar week of app-  
18 based workers who worked for compensation during the preceding calendar year for any and all  
19 weeks during which at least one app-based worker worked for compensation.

20 2. For network companies that did not have any app-based workers during the  
21 preceding calendar year, the number of app-based workers counted for the current calendar year  
22 is calculated based upon the average number per calendar week of app-based workers who

1 worked for compensation during the first 90 calendar days of the current year in which the  
2 network company engaged in business.

3           3. If a network company quits, sells out, exchanges, or disposes the network  
4 company's business, or the network company's business is otherwise acquired by a successor,  
5 the number of app-based workers hired for the current calendar year for the successor network  
6 company is calculated based upon the average number per calendar week of app-based workers  
7 who worked for compensation during the first 90 calendar days of the current year in which the  
8 successor network company engaged in business.

9           4. All app-based workers who worked for compensation shall be counted,  
10 including but not limited to:

- 11           a. App-based workers who are not covered by this Chapter 8.40;
- 12           b. App-based workers who worked in Seattle; and
- 13           c. App-based workers who worked outside Seattle.

14           C. Separate entities that form an integrated enterprise shall be considered a single  
15 network company under this Chapter 8.40. Separate entities will be considered an integrated  
16 enterprise and a single network company under this Chapter 8.40 where a separate entity controls  
17 the operation of another entity. The factors to consider in making this assessment include but are  
18 not limited to:

- 19           1. Degree of interrelation between the operations of multiple entities;
- 20           2. Degree to which the entities share common management;
- 21           3. Centralized control of labor relations;
- 22           4. Degree of common ownership or financial control over the entities; and
- 23           5. Use of a common brand, trade, business, or operating name.

1 **8.40.050 Deactivation requirements**

2 A. A network company shall adopt the following measures prior to deactivating an app-  
3 based worker, except as provided in subsection 8.40.050.C:

4 1. Fair notice of deactivation policy. A network company must inform the app-  
5 based worker in writing of the network company's deactivation policy, defining what constitutes  
6 a violation that may result in deactivation. The network company's written deactivation policy  
7 must be specific enough for an app-based worker to understand what constitutes a violation and  
8 how to avoid violating the policy. The deactivation policy must be available to the app-based  
9 worker in English and any language that the network company knows or has reason to know is  
10 the primary language of the app-based worker. The deactivation policy must be accessible to the  
11 app-based worker at least three years after deactivation. The Director may issue rules governing  
12 the form and description of the deactivation policy, the manner of its distribution, and required  
13 languages for its translation.

14 2. Reasonable policy. The policy that may lead to a deactivation must be  
15 reasonably related to the network company's safe and efficient operations. Examples of policies  
16 that are not reasonably related to the network company's safe and efficient operations include,  
17 but are not limited to:

18 a. Any rule or policy that would result in a deactivation based on an app-  
19 based worker's availability to work or number of hours worked, consistent with subsection  
20 8.37.080.A.1;

21 b. Any policy that would result in a deactivation based on an app-based  
22 worker's acceptance or rejection of any individual offer, any types of offers, or any number or  
23 proportion of offers, consistent with subsection 8.37.080.A.2;

1 c. Any policy that would result in a deactivation based on an app-based  
2 worker's cancellation of an offer with cause, consistent with subsection 8.37.080.C;

3 d. Any policy that would result in a deactivation based on an app-based  
4 worker contacting the network company;

5 e. Any policy that would result in a deactivation based solely on a  
6 quantitative metric derived from aggregate customer ratings of an app-based worker's  
7 performance;

8 f. Any policy that would result in a deactivation based on statements by an  
9 app-based worker regarding compensation and/or working conditions made to customers, other  
10 app-based workers, network companies, the media, public officials, and/or the public;

11 g. Any policy that would result in a deactivation based on an app-based  
12 worker asserting their legal rights, whether in court or via procedures provided by any local,  
13 state, or federal agency; and

14 h. Any policy that would deactivate a worker based on the results of a  
15 background check, consumer report, driver record, or record of traffic infractions, except in cases  
16 of egregious misconduct or where required by other applicable law.

17 3. Investigation. A network company must conduct a fair and objective  
18 investigation prior to deactivating an app-based worker. The investigation must be sufficiently  
19 thorough to justify the deactivation and demonstrate an unbiased and neutral view of facts  
20 collected.

21 4. Confirmation of violation. The network company must demonstrate by a  
22 preponderance of the evidence that the alleged violation of the network company's policy or rule  
23 occurred.

1                   5. Consistent application. The network company must apply the rule or policy,  
2 and penalty for violations, in a consistent manner.

3                   6. Proportionate penalty. The penalty of deactivation must be reasonably related  
4 to the offense, and account for mitigating circumstances, such as the app-based worker’s past  
5 work history with the network company.

6                   B. Deactivation of an app-based worker will be considered unwarranted if the action is  
7 intended to or results in discrimination or a discriminatory act.

8                   C. Subject to the provisions of this Section 8.40.050 and rules issued by the Director, a  
9 network company may immediately deactivate an app-based worker if such action is required to  
10 comply with any applicable court order or local, state, or federal laws or regulations, or where an  
11 app-based worker has engaged in egregious misconduct.

12                   1. In the case of allegations of egregious misconduct, the network company may  
13 deactivate the app-based worker before completing an investigation. The investigation shall not  
14 take longer than ten days except in the case of extraordinary circumstances. If the investigation is  
15 delayed due to extraordinary circumstances, the network company must provide the app-based  
16 worker with written notice that the investigation is delayed, the reason(s) for the delay, and the  
17 date on which the completion of the investigation is anticipated.

18 **8.40.060 Right to challenge deactivation**

19                   A. A network company shall not subject an app-based worker to unwarranted  
20 deactivation.

21                   B. An app-based worker shall have a right to challenge the worker’s deactivation through  
22 an internal deactivation challenge procedure established by the network company.

1                   1. A network company shall create an internal deactivation challenge procedure  
2 that shall be available to the app-based worker immediately upon notice of their deactivation and  
3 up to 90 days after the app-based worker’s receipt of notice.

4                   2. The internal deactivation challenge procedure must be available to the app-  
5 based worker in writing, in a format that is readily accessible to the app-based worker, and in  
6 English and any language that the network company knows or has reason to know is the primary  
7 language of the app-based worker. The written policy describing the deactivation challenge  
8 procedure shall be available to the app-based worker at least three years after deactivation. The  
9 Director may issue rules governing the form and content of the policy describing the deactivation  
10 challenge procedure, the manner of its distribution, and required languages for its translation.

11                   3. A network company shall review and respond to an app-based worker’s  
12 challenge to deactivation within 14 days of receiving a challenge.

13                   4. A network company’s response to a worker’s challenge to deactivation must  
14 include a written statement certified by an individual at the network company with authority to  
15 reinstate the app-based worker. The written statement must include one of the following:

16                   a. Evidentiary substantiation of the deactivation and substantive responses  
17 to questions or claims made by the app-based worker in challenging the deactivation;

18                   b. Any extraordinary circumstances necessitating a delayed timeline for  
19 response, and an anticipated date for a response either substantiating the deactivation or  
20 reinstating the app-based worker; or

21                   c. A determination that the worker did not violate the network company’s  
22 deactivation policy and therefore must be reinstated on the platform.

1 C. In addition to pursuing an internal challenge to deactivation pursuant to subsection  
2 8.40.060.B, an app-based worker shall have a right to file a complaint with the Agency or bring a  
3 civil action for violations of the requirements of this Chapter 8.40 upon receiving the network  
4 company's initial response to the internal challenge, or 14 days after initiating a challenge,  
5 whichever comes earlier. An app-based worker may pursue all avenues of relief available  
6 thereafter within three years of the alleged violation, or as tolled pursuant to subsection  
7 8.40.150.C.

8 D. An app-based worker shall have a right to challenge their deactivation and pursue all  
9 avenues of relief available to them regardless of the geographic location of the incidents leading  
10 to the network company's decision to deactivate the app-based worker.

11 **8.40.070 Notice of deactivation**

12 A. Except as provided under subsection 8.40.070.C, a network company shall provide an  
13 app-based worker with notice of deactivation 14 days in advance of the deactivation, as well as  
14 upon the effective date of deactivation. The notice of deactivation shall include a written  
15 statement of the following:

- 16 1. The reasons for deactivation; including the network company's policy that was  
17 violated, pursuant to Section 8.40.050, and the specific incident or pattern of incidents that  
18 violated the deactivation policy;
- 19 2. The effective date of deactivation;
- 20 3. Any and all records relied upon to substantiate deactivation, pursuant to Section  
21 8.40.080;
- 22 4. The length of the deactivation;

1                   5. A description of the steps an app-based worker can take to remedy the  
2 deactivation;

3                   6. The app-based worker’s right to challenge such deactivation under this Chapter  
4 8.40;

5                   7. The network company’s process for challenging a deactivation, pursuant to  
6 subsection 8.40.060.B, including the available methods of contact for an app-based worker to  
7 initiate a challenge; and

8                   8. Any other items pursuant to Director’s Rules.

9                   B. The network company shall provide notice of deactivation in a form and manner  
10 designated by the Agency. The Agency may create and distribute a model notice of deactivation  
11 in English and other languages as provided by rules issued by the Director. However, network  
12 companies are responsible for providing app-based workers with the notice of deactivation  
13 required by this subsection 8.40.070, regardless of whether the Agency has created and  
14 distributed a model notice of deactivation.

15                   C. For deactivations involving egregious misconduct, pursuant to subsection 8.40.050.C,  
16 the network company shall provide an app-based worker with the notice of deactivation no later  
17 than the effective date of deactivation.

18 **8.40.080 Access to records substantiating deactivation**

19                   A. Upon notice of deactivation, a network company shall provide an app-based worker  
20 with the records relied upon by the network company to substantiate deactivation, unless  
21 contrary to local, state, or federal law. These records shall include but not be limited to the date,  
22 time, and location of all incidents supporting the deactivation decision, a copy of the evidence  
23 the network company considered in the deactivation decision, and a certified statement from an

1 individual at the network company with authority to reinstate the app-based worker, attesting that  
2 these are true and accurate records to the individual's knowledge.

3 B. If further records substantiating a deactivation come into the network company's  
4 possession after the app-based worker is deactivated, such records shall be provided to the app-  
5 based worker as soon as practicable and no later than 14 days from the date of the network  
6 company's receipt.

7 C. If an app-based worker challenges a deactivation pursuant to subsection 8.40.060.B,  
8 all records of that challenge and any responses must be provided to the worker within 14 days of  
9 each submittal or response.

10 D. If the records substantiating deactivation involve information related to a customer or  
11 a third party and the network company reasonably believes that information could compromise  
12 the customer or third party's safety, the network company may take measures to anonymize  
13 information related to that customer or third party. The Director may issue rules regarding the  
14 measures taken to anonymize information related to a customer or third party.

15 E. Network companies shall establish an accessible system for app-based workers to  
16 access their receipts and/or payment disclosures for each offer performed or cancelled, pursuant  
17 to subsection 8.37.070.B and Section 14.34.060. Network companies shall make this system  
18 available to the app-based worker via smartphone application or online web portal. This  
19 accessible system shall be available to an app-based worker at least three years after  
20 deactivation.

21 F. Network companies shall retain the records required by this Section 8.40.080 for a  
22 period of three years.

1           G. If a network company fails to disclose adequate records to the app-based worker as  
2 required under this Section 8.40.080, there shall be a presumption, rebuttable by clear and  
3 convincing evidence, that the network company violated this Chapter 8.40 for the relevant  
4 periods and for each app-based worker for whom records were not disclosed in a timely manner.  
5 This presumption is substantive and necessary to effectuate the other rights provided in this  
6 Chapter 8.40.

7 **8.40.090 Affirmative production of records**

8           A. A network company shall affirmatively transmit to the Agency such records as  
9 required by rules issued by the Director, on at least a quarterly basis or as documents are updated  
10 by the network company. The Director shall have the authority to require such aggregated or  
11 disaggregated records deemed necessary, appropriate, or convenient to administer, evaluate, and  
12 enforce the provisions of this Chapter 8.40. The Director may issue rules requiring that  
13 aggregated records be produced as a distribution at defined percentiles. The Director may issue  
14 data production rules of general applicability as well as rules specific to on-demand network  
15 companies, as defined in Section 8.37.020.

16           1. Records for production may include:

- 17                   a. Records regarding the number of deactivations initiated by a network  
18 company;
- 19                   b. Records regarding the reasons for deactivation most commonly referred  
20 to, such as the rule or policy violated by the app-based worker;
- 21                   c. The number of app-based workers challenging their deactivation and the  
22 forum in which they are pursuing a challenge;

1                           d. The number of app-based workers reinstated after deactivation, length  
2 of deactivation prior to reinstatement, and length of service prior to deactivation;

3                           e. The network company’s deactivation policy;

4                           f. The network company’s internal deactivation challenge procedure,  
5 pursuant to Section 8.40.060, including the available methods of contact for an app-based worker  
6 to initiate a challenge; and

7                           g. Any other records that the Director determines are material and  
8 necessary to effectuate the purposes of this Chapter 8.40.

9                           2. The Director shall issue rules governing the submission format, security, and  
10 privacy protocols relating to the submission of network company records, to the extent permitted  
11 by law.

12 **8.40.100 Notice of rights**

13                           A. Network companies shall affirmatively provide each app-based worker with a written  
14 notice of rights established by this Chapter 8.40. The Agency may create and distribute a model  
15 notice of rights in English and other languages. If the Agency creates a model notice of rights,  
16 network companies shall affirmatively provide such notice according to the schedule outlined in  
17 subsection 8.40.100.A.1. However, network companies are responsible for providing app-based  
18 workers with the notice of rights required by this Section 8.40.100, in a form and manner  
19 sufficient to inform app-based workers of their rights under this Chapter 8.40, regardless of  
20 whether the Agency has created and distributed a model notice of rights.

21                           1. Network companies shall affirmatively provide each app-based worker with the  
22 written notice of rights within one month of the effective date of this Chapter 8.40. For each app-  
23 based worker hired by the network company after this date, network companies shall provide the

1 notice of rights within 24 hours of the first completed offer that involved performing services in  
2 Seattle, facilitated or presented by the network company.

3           2. For each app-based worker, network companies shall provide the notice of  
4 rights no less than annually.

5           B. The notice of rights shall provide information on:

6           1. The right to challenge an unwarranted deactivation through a network  
7 company's internal deactivation challenge procedure and/or through other avenues pursuant to  
8 Section 8.40.060, subject to coverage eligibility under subsection 8.40.030.A;

9           2. The policy describing the deactivation challenge procedure pursuant to  
10 subsection 8.40.060.B;

11           3. The right to 14 days' notice of an impending deactivation, except in the case of  
12 egregious misconduct;

13           4. The right to access any and all records relied upon by the network company to  
14 substantiate deactivation;

15           5. The right to be protected from retaliation for exercising in good faith the rights  
16 protected by this Chapter 8.40; and

17           6. The right to file a complaint with the Agency consistent with Section 8.40.130  
18 or bring a civil action for violation of the requirements of this Chapter 8.40.

19           C. Network companies shall provide the notice of rights required by subsection  
20 8.40.100.B in an electronic format that is readily accessible to the app-based worker. The notice  
21 of rights shall be made available to the app-based worker via smartphone application, email, or  
22 online web portal, in English and any language that the network company knows or has reason to  
23 know is the primary language of the app-based worker. The Director may issue rules governing

1 the form and content of the notice of rights, the manner of its distribution, and required  
2 languages for its translation.

3 D. Network companies shall establish an accessible system for app-based workers to  
4 understand their eligibility to challenge a deactivation, pursuant to subsection 8.40.030.A.  
5 Network companies shall make this system available to the app-based worker via smartphone  
6 application or online web portal. This system shall be available to an app-based worker, at least  
7 three years after deactivation. The Director may issue rules defining reasonable criteria or  
8 requirements for this system to ensure that app-based workers have sufficient information to  
9 understand when they are covered by the entirety of Chapter 8.40, including but not limited to  
10 notice of coverage by this Chapter 8.40, the number of offers completed or cancellations in the  
11 previous 180 days, the number of completed offers or cancellations that involved performing  
12 services in Seattle in the previous 180 days, the overall percentage of completed offers that  
13 involved performing services in Seattle in the previous 180 days, and the app-based worker's  
14 receipts and/or payment disclosures for each offer performed or cancelled in the previous 180  
15 days, pursuant to subsection 8.37.070.B and Section 14.34.060.

16 **8.40.110 Network company records**

17 A. Network companies shall retain records that document compliance with this Chapter  
18 8.40 for each app-based worker, including, at a minimum, a compliance file for each  
19 deactivation. The Director may issue rules governing the format of the records needed to  
20 constitute compliance of this Section 8.40.110. The Director may also issue rules governing the  
21 form, format, and content of the compliance file for each deactivation. This compliance file may  
22 include:

- 1                   1. The deactivation notice provided to the app-based worker, pursuant to Section
- 2 8.40.070;
- 3                   2. Date of completion of investigation;
- 4                   3. Whether the deactivation involved egregious misconduct and, if so, the
- 5 egregious misconduct at issue;
- 6                   4. Whether the deactivation investigation includes extraordinary circumstances,
- 7 pursuant to subsection 8.40.050.B and, if so, the extraordinary circumstances at issue;
- 8                   5. Number of offers completed in the 180 days prior to deactivation notice;
- 9                   6. Number of completed offers that involved performing services in Seattle in the
- 10 180 days prior to deactivation notice;
- 11                   7. Date of deactivation challenge according to the network company's internal
- 12 deactivation challenge procedure;
- 13                   8. All responses to an app-based worker regarding a deactivation challenge,
- 14 pursuant to subsections 8.40.060.B and 8.40.080.C; and
- 15                   9. Any other records pursuant to Director's Rules.
- 16           B. Network companies shall retain the records required by subsection 8.40.110.A for a
- 17 period of three years.
- 18           C. If a network company fails to retain adequate records required under subsection
- 19 8.40.110.A, there shall be a presumption, rebuttable by clear and convincing evidence, that the
- 20 network company violated this Chapter 8.40 for the relevant periods and for each app-based
- 21 worker for whom records were not retained. This presumption is substantive and necessary to
- 22 effectuate the rights provided in this Chapter 8.40.

1 **8.40.120 Retaliation prohibited**

2 A. No network company or any other person acting on behalf of the network company  
3 shall interfere with, restrain, deny, or attempt to deny the exercise of any right protected under  
4 this Chapter 8.40.

5 B. No network company or any other person shall take any adverse action against any  
6 person because the person has exercised in good faith the rights protected under this Chapter  
7 8.40. Such rights include, but are not limited to, the right to make inquiries about the rights  
8 protected under this Chapter 8.40; the right to inform others about their rights under this Chapter  
9 8.40; the right to inform the person's network company, the person's legal counsel, a union or  
10 similar organization, or any other person about an alleged violation of this Chapter 8.40; the right  
11 to file an oral or written complaint with the Agency or bring a civil action for an alleged  
12 violation of this Chapter 8.40; the right to cooperate with the Agency in its investigations of this  
13 Chapter 8.40; the right to testify in a proceeding under or related to this Chapter 8.40; the right to  
14 refuse to participate in an activity that would result in a violation of city, state, or federal law;  
15 and the right to oppose any policy, practice, or act that is unlawful under this Chapter 8.40.

16 C. No network company or any other person shall communicate to a person exercising  
17 rights protected in this Section 8.40.120, directly or indirectly, the willingness to inform a  
18 government worker that the person is not lawfully in the United States, or to report, or to make  
19 an implied or express assertion of a willingness to report, suspected citizenship or immigration  
20 status of an app-based worker or family member of an app-based worker to a federal, state, or  
21 local agency because the app-based worker has exercised a right under this Chapter 8.40.

22 D. It shall be a rebuttable presumption of retaliation if a network company or any other  
23 person takes an adverse action against a person within 90 days of the person's exercise of rights

1 protected in this Section 8.40.120. The network company may rebut the presumption with clear  
2 and convincing evidence that the adverse action was taken for a permissible purpose.

3 E. Proof of retaliation under this Section 8.40.120 shall be sufficient upon a showing that  
4 a network company or any other person has taken an adverse action against a person and the  
5 person's exercise of rights protected in this Section 8.40.120 was a motivating factor in the  
6 adverse action, unless the network company can prove that the action would have been taken in  
7 the absence of such protected activity.

8 F. The protections afforded under this Section 8.40.120 shall apply to any person who  
9 mistakenly but in good faith alleges violations of this Chapter 8.40.

10 G. A complaint or other communication by any person triggers the protections of this  
11 Section 8.40.120 regardless of whether the complaint or communication is in writing or makes  
12 explicit reference to this Chapter 8.40.

13 **8.40.125 Rulemaking authority**

14 Except as provided in subsection 8.40.130.B, the Director is authorized to administer and  
15 enforce this Chapter 8.40. The Director is authorized to promulgate, revise, or rescind rules  
16 and regulations deemed necessary, appropriate, or convenient to administer, evaluate, and  
17 enforce the provisions of this Chapter 8.40 pursuant to Chapter 3.02, providing affected  
18 entities with due process of law and in conformity with the intent and purpose of this Chapter  
19 8.40. Any rules promulgated by the Director shall have the force and effect of law and may be  
20 relied on by network companies, app-based workers, and other parties to determine their rights  
21 and responsibilities under this Chapter 8.40.

1 **8.40.130 Enforcement power and duties**

2 A. Except as provided in subsection 8.40.130.B, on or after January 1, 2025, the Agency  
3 shall have the power to administer and enforce this Chapter 8.40 and shall have such powers and  
4 duties in the performance of these functions as are defined in this Chapter 8.40 and otherwise  
5 necessary and proper in the performance of the same and provided for by law.

6 B. The Agency shall not have the power to enforce subsections 8.40.050.A.3,  
7 8.40.050.A.4, 8.40.050.A.5, 8.40.050.A.6, or 8.40.050.B, or Section 8.40.120. This subsection  
8 8.40.130.B does not limit the ability of an app-based worker to seek other avenues of relief for  
9 violations of those subsections.

10 **8.40.140 Violation**

11 The failure of any respondent to comply with any requirement imposed on the respondent under  
12 this Chapter 8.40 is a violation.

13 **8.40.150 Investigation**

14 A. Except as provided in subsection 8.40.130.B, the Agency shall have the power to  
15 investigate any violations of this Chapter 8.40 by any respondent. The Agency may prioritize  
16 investigations of workforces that are vulnerable to violations of this Chapter 8.40. The Agency  
17 may initiate an investigation pursuant to Director's Rules, including but not limited to situations  
18 when the Director has reason to believe that a violation has occurred or will occur, or when  
19 circumstances show that violations are likely to occur within a class of network companies or  
20 businesses because either the workforce contains significant numbers of app-based workers who  
21 are vulnerable to violations of this Chapter 8.40, or the workforce is unlikely to volunteer  
22 information regarding such violations. An investigation may also be initiated through the receipt  
23 by the Agency of a report or complaint filed by an app-based worker, or any other person.

1           B. An app-based worker or other person may report to the Agency any suspected  
2 violation of this Chapter 8.40. The Agency shall encourage reporting pursuant to this Section  
3 8.40.150 by taking the following measures:

4                   1. The Agency shall keep confidential, to the maximum extent permitted by  
5 applicable laws, the name and other identifying information of the app-based worker or person  
6 reporting the violation. However, with the authorization of such person, the Agency may disclose  
7 the name of the app-based worker or other person and identifying information as necessary to  
8 enforce this Chapter 8.40 or for other appropriate purposes.

9                   2. The Agency may require the network company to post or otherwise notify other  
10 app-based workers working for the network company that the Agency is conducting an  
11 investigation. The network company shall provide the notice of investigation in a form, place,  
12 and manner designated by the Agency. The Agency shall create the notice of investigation in  
13 English and other languages.

14                   3. The Agency may certify the eligibility of eligible persons for “U” Visas under  
15 the provisions of 8 U.S.C. § 1184(p) and 8 U.S.C. § 1101(a)(15)(U). This certification is subject  
16 to applicable federal law and regulations, and Director’s Rules.

17           C. The Agency’s investigation shall commence within three years of the alleged  
18 violation. To the extent permitted by law, the applicable statute of limitations for civil actions is  
19 tolled during any investigation under this Chapter 8.40 and any administrative enforcement  
20 proceeding under this Chapter 8.40 based upon the same facts. For purposes of this Chapter 8.40:

21                   1. The Agency’s investigation begins on the earlier date of when the Agency  
22 receives a complaint from a person under this Chapter 8.40, or when the Agency provides notice  
23 to the respondent that an investigation has commenced under this Chapter 8.40.

1                   2. The Agency’s investigation ends when the Agency issues a final order  
2 concluding the matter and any appeals have been exhausted; the time to file any appeal has  
3 expired; or the Agency notifies the respondent in writing that the investigation has been  
4 otherwise resolved.

5           D. The Agency’s investigation shall be conducted in an objective and impartial manner.

6           E. The Director may apply by affidavit or declaration in the form allowed under RCW  
7 5.50.050 as amended to the Hearing Examiner for the issuance of subpoenas requiring a network  
8 company to produce the records required by Section 8.40.080 or 8.40.110, or for the attendance  
9 and testimony of witnesses, or for the production of documents required to be retained under  
10 Section 8.40.080 or 8.40.110, or any other document relevant to the issue of whether any app-  
11 based worker or group of app-based workers received the information or other benefits required  
12 by this Chapter 8.40, and/or to whether a network company has violated any provision of this  
13 Chapter 8.40. The Hearing Examiner shall conduct the review without hearing as soon as  
14 practicable and shall issue subpoenas upon a showing that there is reason to believe that: a  
15 violation has occurred; a complaint has been filed with the Agency; or circumstances show that  
16 violations are likely to occur within a class of businesses because the workforce contains  
17 significant numbers of app-based workers who are vulnerable to violations of this Chapter 8.40,  
18 the workforce is unlikely to volunteer information regarding such violations, or the Agency has  
19 gathered preliminary information indicating that a violation may have occurred.

20           F. A network company that fails to comply with the terms of any subpoena issued under  
21 subsection 8.40.150.E in an investigation by the Agency under this Chapter 8.40 before the  
22 issuance of a Director’s Order issued pursuant to subsection 8.40.160.C may not use such

1 records in any appeal to challenge the correctness of any determination by the Agency of  
2 liability, damages owed, or penalties assessed.

3 G. In addition to other remedies, the Director may refer any subpoena issued under  
4 subsection 8.40.150.E to the City Attorney to seek a court order to enforce any subpoena.

5 H. Where the Director has reason to believe that a violation has occurred, the Director  
6 may order any appropriate temporary or interim relief to mitigate the violation or maintain the  
7 status quo pending completion of a full investigation or hearing, including but not limited to a  
8 deposit of funds or bond sufficient to satisfy a good faith estimate of compensation, interest,  
9 damages, and penalties due. A respondent may appeal any such order in accordance with Section  
10 8.40.180.

#### 11 **8.40.160 Findings of fact and determination**

12 A. Except when there is an agreed-upon settlement, the Director shall issue a written  
13 determination with findings of fact resulting from the investigation and statement of whether a  
14 violation of this Chapter 8.40 has or has not occurred based on a preponderance of the evidence  
15 before the Director.

16 B. If the Director determines that there is no violation of this Chapter 8.40, the Director  
17 shall issue a “Determination of No Violation” with notice of an app-based worker’s or other  
18 person’s right to appeal the decision, pursuant to Director’s Rules.

19 C. If the Director determines that a violation of this Chapter 8.40 has occurred, the  
20 Director shall issue a “Director’s Order” that shall include a notice of violation identifying the  
21 violation or violations.

22 1. The Director’s Order shall state with specificity the amounts due under this  
23 Chapter 8.40 for each violation, including payment of unpaid compensation, liquidated damages,

1 civil penalties, penalties payable to aggrieved parties, fines, and interest pursuant to Section  
2 8.40.170.

3           2. The Director’s Order may specify that civil penalties and fines due to the  
4 Agency can be mitigated for respondent’s timely payment of remedy due to an aggrieved party  
5 pursuant to subsection 8.40.170.A.4.

6           3. The Director’s Order may specify that civil penalties and fines are due to the  
7 aggrieved party rather than due to the Agency.

8           4. The Director’s Order may direct the respondent to take such corrective action  
9 as is necessary to comply with the requirements of this Chapter 8.40, including but not limited to  
10 monitored compliance for a reasonable time period.

11           5. The Director’s Order shall include notice of the respondent’s right to appeal the  
12 decision pursuant to Section 8.40.180.

13 **8.40.167 Navigation program**

14           A. The Agency may establish a navigation program that provides intake, information,  
15 outreach, and/or education relating to the provisions and procedures of this Chapter 8.40. The  
16 range of information provided by the navigation program may include, but is not limited to:

17           1. General court information, such as:

18                   a. Information on court procedures for filing civil actions in a court of  
19 competent jurisdiction; and

20                   b. Information on obtaining translation and interpretation services;

21           2. General arbitration information, such as:

22                   a. Information on arbitration procedures for filing arbitration claims; and

23                   b. Information on obtaining translation and interpretation services;

1                   3. A list of organizations that can be used to identify attorneys;

2                   4. Organizations providing outreach and education, and/or legal assistance, to  
3 app-based workers;

4                   5. Information about classifying workers as employees or independent  
5 contractors; and

6                   6. As determined by the Director, additional information related to the provisions  
7 of this Chapter 8.40, other workplace protections, or other resources for resolving workplace  
8 issues.

9                   B. The navigation program shall not include legal advice from the Agency. However, if  
10 the Agency provides information to an app-based worker about a community organization  
11 through the navigation program, the community organization is not precluded from providing  
12 legal advice.

13 **8.40.170 Remedies**

14                   A. The payment of unpaid compensation, liquidated damages of up to twice the amount  
15 of unpaid compensation, civil penalties, penalties payable to aggrieved parties, fines, and interest  
16 provided under this Chapter 8.40 is cumulative and is not intended to be exclusive of any other  
17 available remedies, penalties, fines, and procedures.

18                   1. The amounts of all civil penalties, penalties payable to aggrieved parties, and  
19 fines contained in this Section 8.40.170 shall be increased annually to reflect the rate of inflation  
20 and calculated to the nearest cent on January 1 of each year thereafter. The Agency shall  
21 determine the amounts and file a schedule of such amounts with the City Clerk.

22                   2. If a violation is ongoing when the Agency receives a complaint or opens an  
23 investigation, the Director may order payment of unpaid compensation plus interest that accrues

1 after receipt of the complaint or after the investigation opens and before the date of the Director's  
2 Order.

3 3. Interest shall accrue from the date the unpaid compensation was first due at 12  
4 percent annum, or the maximum rate permitted under RCW 19.52.020 as amended.

5 4. If there is a remedy due to an aggrieved party, the Director may waive part or  
6 all civil penalties and fines due to the Agency based on timely payment of the full remedy due to  
7 the aggrieved party.

8 a. The Director may waive the total amount of civil penalties and fines due  
9 to the Agency if the Director determines that the respondent paid the full remedy due to the  
10 aggrieved party within ten days of service of the Director's Order.

11 b. The Director may waive half the amount of civil penalties and fines due  
12 to the Agency if the Director determines that the respondent paid the full remedy due to the  
13 aggrieved party within 15 days of service of the Director's Order.

14 c. The Director shall not waive any amount of civil penalties and fines due  
15 to the Agency if the Director determines that the respondent has not paid the full remedy due to  
16 the aggrieved party after 15 days of service of the Director's Order.

17 5. When determining the amount of liquidated damages, civil penalties, penalties  
18 payable to aggrieved parties, and fines due under this Section 8.40.170 for a settlement  
19 agreement or Director's Order, including but not limited to the mitigation of civil penalties and  
20 fines due to the Agency for timely payment of remedy due to an aggrieved party under  
21 subsection 8.40.170.A.4, the Director may consider:

22 a. The total amount of unpaid compensation, liquidated damages,  
23 penalties, fines, and interest due;

- 1 b. The nature and persistence of the violations;
- 2 c. The extent of the respondent's culpability;
- 3 d. The substantive or technical nature of the violations;
- 4 e. The size, revenue, and human resources capacity of the respondent;
- 5 f. The circumstances of each situation;
- 6 g. The amount of penalties in similar situations; and
- 7 h. Pursuant to rules that the Director may issue, other factors that are
- 8 material and necessary to effectuate the terms of this Chapter 8.40.

9 B. A respondent found to be in violation of this Chapter 8.40 shall be liable for full  
10 payment of unpaid compensation due plus interest in favor of the aggrieved party for the period  
11 of deactivation under the terms of this Chapter 8.40, and other equitable relief.

12 1. If the precise amount of unpaid compensation cannot be determined due to a  
13 respondent's failure to produce records or if a respondent produces records in a manner or form  
14 which makes timely determination of the amount of unpaid compensation impracticable, the  
15 Director may:

- 16 a. Determine unpaid compensation as a matter of just and reasonable  
17 inference, including the use of representative evidence such as testimony or other evidence from  
18 representative employees or other aggrieved parties establishing violations for a class of  
19 employees or aggrieved parties; or
- 20 b. Assess a daily amount for unpaid compensation plus interest in favor of  
21 the aggrieved party in a minimum amount of at least the equivalent of payment for eight hours of  
22 work at the "hourly minimum wage" rate for Schedule 1 employers under Chapter 14.19.

1                   2. For a first violation of this Chapter 8.40, the Director may assess liquidated  
2 damages in an additional amount of up to twice the unpaid compensation.

3                   3. For subsequent violations of this Chapter 8.40, the Director shall assess an  
4 amount of liquidated damages in an additional amount of twice the unpaid compensation.

5                   4. For purposes of establishing a first and subsequent violation for this Section  
6 8.40.170, the violation must have occurred within ten years of the settlement agreement or  
7 Director's Order.

8                   C. A respondent found to be in violation of this Chapter 8.40 for retaliation under Section  
9 8.40.120 shall be subject to any appropriate relief at law or equity including, but not limited to,  
10 reinstatement of the aggrieved party, front pay in lieu of reinstatement with full payment of  
11 unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter  
12 8.40, and liquidated damages in an additional amount of up to twice the unpaid compensation.  
13 The Director also shall order the imposition of a penalty payable to the aggrieved party of up to  
14 \$6,230.88.

15                   D. The Director is authorized to assess civil penalties for a violation of this Chapter 8.40  
16 and may specify that civil penalties are due to the aggrieved party rather than due to the Agency.

17                   1. For a first violation of this Chapter 8.40, the Director may assess a civil penalty  
18 of up to \$622.85 per aggrieved party.

19                   2. For a second violation of this Chapter 8.40, the Director shall assess a civil  
20 penalty of up to \$1,245.71 per aggrieved party, or an amount equal to ten percent of the total  
21 amount of unpaid compensation, whichever is greater.

1                   3. For a third or any subsequent violation of this Chapter 8.40, the Director shall  
2 assess a civil penalty of up to \$6,230.88 per aggrieved party, or an amount equal to ten percent of  
3 the total amount of unpaid compensation, whichever is greater.

4                   4. For purposes of this subsection 8.40.170.D, a violation is a second, third, or  
5 subsequent violation if the respondent has been a party to one, two, or more than two settlement  
6 agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than  
7 two Director’s Orders, respectively, have issued against the respondent in the ten years preceding  
8 the date of the violation; otherwise, it is a first violation.

9                   E. The Director is authorized to assess fines for a violation of this Chapter 8.40 and may  
10 specify that fines are due to the aggrieved party rather than due to the Agency. The Director is  
11 authorized to assess fines as follows:

<b>Violation</b>	<b>Fine</b>
Failure to comply with deactivation requirements under Section 8.40.050	\$622.85 per aggrieved party
Failure to provide app-based worker with an internal deactivation challenge procedure under Section 8.40.060	\$622.85 per aggrieved party
Failure to provide app-based worker with a notice of deactivation under Section 8.40.070	\$622.85 per aggrieved party
Failure to provide app-based worker with records relied upon by the network company to substantiate the deactivation under Section 8.40.080	\$622.85 per aggrieved party
Failure to provide certified statement attesting to records provided to substantiate deactivation under Section 8.40.080	\$622.85 per aggrieved party
Failure to provide written notice of rights under Section 8.40.100	\$622.85 per aggrieved party
Failure to retain network company records for three years under subsections 8.40.110.B	\$622.85 per missing record
Failure to provide notice of investigation to app-based workers under subsection 8.40.150.B.2	\$622.85 per aggrieved party
Failure to post or distribute public notice of failure to comply with final order under subsection 8.40.210.A.1	\$622.85 per aggrieved party

1 The maximum amount that may be imposed in fines in a one-year period for each type of  
2 violation listed above is \$6,230.88 per aggrieved party.

3 F. A respondent that willfully hinders, prevents, impedes, or interferes with the Director  
4 or Hearing Examiner in the performance of their duties under this Chapter 8.40 shall be subject  
5 to a civil penalty of not less than \$1,245.71 and not more than \$6,230.88.

6 G. In addition to the unpaid compensation, penalties, fines, liquidated damages, and  
7 interest, the Agency may assess against the respondent in favor of the City the reasonable costs  
8 incurred in enforcing this Chapter 8.40, including but not limited to reasonable investigation  
9 costs and attorneys' fees. The Director may issue rules on the amounts and contributing factors  
10 for assessing reasonable investigation costs and is strongly encouraged to assess such costs in  
11 favor of the City to support the Agency's implementation of this Chapter 8.40.

12 H. A respondent that is the subject of a settlement agreement stipulating that a violation  
13 shall count for debarment, or a final order for which all appeal rights have been exhausted, shall  
14 not be permitted to bid, or have a bid considered, on any City contract until such amounts due  
15 under the final order have been paid in full to the Director. If the respondent is the subject of a  
16 final order two times or more within a five-year period, the network company shall not be  
17 allowed to bid on any City contract for two years. This subsection 8.40.170.H shall be construed  
18 to provide grounds for debarment separate from, and in addition to, those contained in Chapter  
19 20.70 and shall not be governed by that chapter; provided, that nothing in this subsection  
20 8.40.170.H shall be construed to limit the application of Chapter 20.70. The Director shall notify  
21 the Director of Finance and Administrative Services of all respondents subject to debarment  
22 under this subsection 8.40.170.H.

1 **8.40.180 Appeal period and failure to respond**

2 A. An app-based worker or other person who claims an injury as a result of an alleged  
3 violation of this Chapter 8.40 may appeal the Determination of No Violation, pursuant to  
4 Director's Rules.

5 B. A respondent may appeal the Director's Order, including all remedies issued pursuant  
6 to Section 8.40.170, by requesting a contested hearing before the Hearing Examiner in writing  
7 within 15 days of service of the Director's Order. If a respondent fails to appeal the Director's  
8 Order within 15 days of service, the Director's Order shall be final. If the last day of the appeal  
9 period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run  
10 until 5 p.m. on the next business day.

11 **8.40.190 Appeal procedure and failure to appear**

12 A. Contested hearings shall be conducted pursuant to the procedures for hearing  
13 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for  
14 hearing contested cases. The hearing shall be conducted de novo and the Director shall have the  
15 burden of proving by a preponderance of the evidence that the violation or violations occurred.  
16 Upon establishing such proof, the remedies and penalties imposed by the Director shall be  
17 upheld unless it is shown that the Director abused discretion. Failure to appear for a contested  
18 hearing shall result in an order being entered finding that the respondent committed the violation  
19 stated in the Director's Order. For good cause shown and upon terms the Hearing Examiner  
20 deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

21 B. In all contested cases, the Hearing Examiner shall enter an order affirming, modifying,  
22 or reversing the Director's Order.

1 **8.40.200 Appeal from Hearing Examiner order**

2 A. The respondent may obtain judicial review of the decision of the Hearing Examiner by  
3 applying for a Writ of Review in the King County Superior Court within 30 days from the date  
4 of the decision in accordance with the procedure set forth in chapter 7.16 RCW as amended,  
5 other applicable law, and court rules.

6 B. The decision of the Hearing Examiner shall be final and conclusive unless review is  
7 sought in compliance with this Section 8.40.200.

8 **8.40.210 Failure to comply with final order**

9 A. If a respondent fails to comply within 30 days of service of any settlement agreement  
10 with the Agency, or with any final order issued by the Director or the Hearing Examiner for which  
11 all appeal rights have been exhausted, the Agency may pursue, but is not limited to, the following  
12 measures to secure compliance:

13 1. The Director may require the respondent to post or distribute public notice of  
14 the respondent's failure to comply in a form and manner determined by the Agency.

15 2. The Director may refer the matter to a collection agency. The cost to the City  
16 for the collection services will be assessed as costs, at the rate agreed to between the City and the  
17 collection agency, and added to the amounts due.

18 3. The Director may refer the matter to the City Attorney for the filing of a civil  
19 action in a court of competent jurisdiction to enforce such order or to collect amounts due. In the  
20 alternative, the Director may seek to enforce a settlement agreement, Director's Order, or a final  
21 order of the Hearing Examiner under Section 8.40.190.

22 4. The Director may request that the City's Department of Finance and  
23 Administrative Services deny, suspend, refuse to renew, or revoke any business license held or

1 requested by the network company or person until such time as the network company complies  
2 with the remedy as defined in the settlement agreement or final order. The City's Department of  
3 Finance and Administrative Services shall have the authority to deny, refuse to renew, or revoke  
4 any business license in accordance with this subsection 8.40.210.A.4.

5       B. No respondent that is the subject of a final order issued under this Chapter 8.40 shall  
6 quit business, sell out, exchange, convey, or otherwise dispose of the respondent's business or  
7 stock of goods without first notifying the Agency and without first notifying the respondent's  
8 successor of the amounts owed under the final order at least three business days before such  
9 transaction. At the time the respondent quits business, or sells out, exchanges, or otherwise  
10 disposes of the respondent's business or stock of goods, the full amount of the remedy, as  
11 defined in a final order issued by the Director or the Hearing Examiner, shall become  
12 immediately due and payable. If the amount due under the final order is not paid by respondent  
13 within ten days from the date of such sale, exchange, conveyance, or disposal, the successor shall  
14 become liable for the payment of the amount due; provided, that the successor has actual  
15 knowledge of the order and the amounts due or has prompt, reasonable, and effective means of  
16 accessing and verifying the fact and amount of the order and the amounts due. The successor  
17 shall withhold from the purchase price a sum sufficient to pay the amount of the full remedy.  
18 When the successor makes such payment, that payment shall be deemed a payment upon the  
19 purchase price in the amount paid, and if such payment is greater in amount than the purchase  
20 price the amount of the difference shall become a debt due such successor from the network  
21 company.

1 **8.40.220 Debt owed The City of Seattle**

2           A. All monetary amounts due under the Director’s Order shall be a debt owed to the City  
3 and may be collected in the same manner as any other debt in like amount, which remedy shall  
4 be in addition to all other existing remedies; provided, that amounts collected by the City for  
5 unpaid compensation, liquidated damages, penalties payable to aggrieved parties, or front pay  
6 shall be held in trust by the City for the aggrieved party and, once collected by the City, shall be  
7 paid by the City to the aggrieved party.

8           B. If a respondent fails to appeal a Director’s Order to the Hearing Examiner within the  
9 time period set forth in subsection 8.40.180.B, the Director’s Order shall be final, and the  
10 Director may petition the Seattle Municipal Court, or any court of competent jurisdiction, to  
11 enforce the Director’s Order by entering judgment in favor of the City finding that the  
12 respondent has failed to exhaust its administrative remedies and that all amounts and relief  
13 contained in the order are due. The Director’s Order shall constitute prima facie evidence that a  
14 violation occurred and shall be admissible without further evidentiary foundation. Any  
15 certifications or declarations authorized under RCW 5.50.050 as amended containing evidence  
16 that the respondent has failed to comply with the order or any parts thereof, and is therefore in  
17 default, or that the respondent has failed to appeal the Director’s Order to the Hearing Examiner  
18 within the time period set forth in subsection 8.40.180.B, and therefore has failed to exhaust the  
19 respondent’s administrative remedies, shall also be admissible without further evidentiary  
20 foundation.

21           C. If a respondent fails to obtain judicial review of an order of the Hearing Examiner  
22 within the time period set forth in subsection 8.40.200.A, the order of the Hearing Examiner  
23 shall be final, and the Director may petition the Seattle Municipal Court to enforce the Director’s

1 Order by entering judgment in favor of the City for all amounts and relief due under the order of  
2 the Hearing Examiner. The order of the Hearing Examiner shall constitute conclusive evidence  
3 that the violations contained therein occurred and shall be admissible without further evidentiary  
4 foundation. Any certifications or declarations authorized under RCW 5.50.050 as amended  
5 containing evidence that the respondent has failed to comply with the order or any parts thereof,  
6 and is therefore in default, or that the respondent has failed to avail itself of judicial review in  
7 accordance with subsection 8.40.200.A, shall also be admissible without further evidentiary  
8 foundation.

9 D. In considering matters brought under subsections 8.40.220.B and 8.40.220.C, the  
10 Seattle Municipal Court may include within its judgment all terms, conditions, and remedies  
11 contained in the Director's Order or the order of the Hearing Examiner, whichever is applicable,  
12 that are consistent with the provisions of this Chapter 8.40.

13 **8.40.230 Private right of action**

14 A. Any person or class of persons that suffers an injury as a result of a violation of this  
15 Chapter 8.40, or is the subject of prohibited retaliation under Section 8.40.120, may bring a civil  
16 action in a court of competent jurisdiction against the network company or other person violating  
17 this Chapter 8.40 and, upon prevailing, may be awarded reasonable attorney fees and costs and  
18 such legal or equitable relief as may be appropriate to remedy the violation including, without  
19 limitation: the payment of any unpaid compensation plus interest due to the person; liquidated  
20 damages in an additional amount of up to twice the unpaid compensation; a penalty payable to  
21 the aggrieved party of up to \$6,230.88 if the aggrieved party was subject to prohibited  
22 retaliation; and other civil penalties and fines payable to any aggrieved party, consistent with

1 Section 8.40.170. Interest shall accrue from the date the unpaid compensation was first due at 12  
2 percent per annum, or the maximum rate permitted under RCW 19.52.020 as amended.

3 B. For purposes of this Section 8.40.230, “person” includes any entity a member of which  
4 has suffered an injury or retaliation, or any other individual or entity acting on behalf of an  
5 aggrieved party that has suffered an injury or retaliation.

6 C. For purposes of determining membership within a class of persons entitled to bring an  
7 action under this Section 8.40.230, two or more app-based workers are similarly situated if they:

8 1. Performed services in Seattle for the same network company or network  
9 companies, whether concurrently or otherwise, at some point during the applicable statute of  
10 limitations period;

11 2. Allege one or more violations that raise similar questions as to liability; and

12 3. Seek similar forms of relief.

13 D. For purposes of subsection 8.40.230.C, app-based workers shall not be considered  
14 dissimilar solely because:

15 1. The app-based workers’ claims seek damages that differ in amount; or

16 2. The job titles of or other means of classifying the app-based workers differ in  
17 ways that are unrelated to their claims.

18 E. An order issued by a court may include a requirement for a network company to  
19 submit a compliance report to the court and/or to the Agency.

20 **8.40.233 Waiver**

21 Any waiver by an individual of any provisions of this Chapter 8.40 shall be deemed contrary to  
22 public policy and shall be void and unenforceable.

1 **8.40.235 Encouragement of more generous policies**

2 A. Nothing in this Chapter 8.40 shall be construed to discourage or prohibit a network  
3 company from the adoption or retention of minimum standards for deactivation policies for app-  
4 based workers that are more generous than the minimum standards required by this Chapter 8.40.

5 B. Nothing in this Chapter 8.40 shall be construed as diminishing the obligation of the  
6 network company to comply with any contract or other agreement providing more generous  
7 minimum standards for deactivation policies for app-based workers than required by this  
8 Chapter 8.40.

9 **8.40.240 Other legal requirements—Effect on other laws**

10 A. The provisions of this Chapter 8.40:

11 1. Supplement and do not diminish or replace any other basis of liability or  
12 requirement established by statute or common law;

13 2. Shall not be construed to preempt, limit, or otherwise affect the applicability of  
14 any other law, regulation, requirement, policy, or standard for minimum deactivation  
15 requirements, or other protections to app-based workers; and

16 3. Shall not be interpreted or applied so as to create any power or duty in conflict  
17 with federal or state law.

18 B. This Chapter 8.40 shall not be construed to preclude any person aggrieved from  
19 seeking judicial review of any final administrative decision or order made under this Chapter  
20 8.40 affecting such person. Nothing in this Section 8.40.240 shall be construed as restricting the  
21 right of an app-based worker or other person to pursue any other remedies at law or equity for  
22 violation of the app-based worker’s rights.

1 C. A network company’s failure to comply with the provisions of this Chapter 8.40 shall  
2 not render any contract between the network company and an app-based worker void or  
3 voidable.

4 D. No provision of this Chapter 8.40 shall be construed as providing a determination  
5 about the legal classification of any individual as an employee or independent contractor.

6 **8.40.250 Severability**

7 The provisions of this Chapter 8.40 are declared to be separate and severable. If any clause,  
8 sentence, paragraph, subdivision, section, subsection, or portion of this Chapter 8.40, or the  
9 application thereof to any network company, app-based worker, person, or circumstance, is held  
10 to be invalid, it shall not affect the validity of the remainder of this Chapter 8.40, or the validity  
11 of its application to other persons or circumstances.

12 Section 3. Section 3.02.125 of the Seattle Municipal Code, last amended by Ordinance  
13 126788, is amended as follows:

14 **3.02.125 Hearing Examiner filing fees**

15 A. The filing fee for a case before the City Hearing Examiner is \$85, with the following  
16 exceptions:

<b>Basis for Case</b>	<b>Fee in dollars</b>
* * *	
All-Gender Restroom Notice of Violation (Section 14.07.040)	No fee
<u>App-Based Worker Deactivation Rights Ordinance (Chapter 8.40)</u>	<u>No fee</u>
App-Based Worker Minimum Payment Ordinance (Chapter 8.37)	No fee
* * *	

17 \* \* \*

1           Section 4. If Seattle Municipal Code Chapter 8.40 is amended to authorize enforcement  
2 of additional provisions beyond what is provided in this ordinance, the City Council intends to  
3 provide an accompanying appropriation to enable the Office of Labor Standards to enforce and  
4 implement the additional provisions.

5           Section 5. Section 2 of this ordinance shall take effect on June 1, 2024.

DRAFT



## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
LEG	Jasmine Marwaha/635-8941	N/A

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to app-based worker labor standards; establishing labor standards on deactivation protections for app-based workers working in Seattle; amending Section 3.02.125 of the Seattle Municipal Code; and adding a new Chapter 8.40 to the Seattle Municipal Code.

**Summary and Background of the Legislation:** App-based workers perform offers facilitated or presented by network companies to provide a variety of valued services for the community (e.g., on-demand food delivery, pre-scheduled tasks). Network companies typically use algorithms to manage worker access to their platform, designed to maximize efficiency and customer satisfaction. There has been extensive documentation in social science literature and media reports about the negative impacts of algorithmic management on app-based workers, and what the Federal Trade Commission recently called “an invisible, inscrutable boss” that dictates core aspects of work.

Workers report being deactivated from the app-based platform, and thereby cut off from their income source, for reasons such as: rejecting too many orders, delays outside of their control, changing and unpredictable performance expectations, and many times for unknown reasons. Many workers report a lack of substantive response from companies when they try to challenge their deactivation. Workers further report that they are unable to meaningfully challenge their deactivation because the network company has control of the records and information related to the deactivation.

This ordinance would aim to create more stability and job security for app-based workers by requiring network companies to base deactivations on reasonable policies and provide app-based workers notice, records and human review of all deactivations. These requirements would be implemented by the Office of Labor Standards (OLS).

This ordinance would require network companies to give fair notice of their deactivation policy – the reasons that could get a worker deactivated. Those reasons must be reasonably related to the network company’s safe and efficient operations.

This ordinance would also require deactivations to be based on an investigation, that demonstrates by a preponderance of evidence that the app-based worker violated the company’s deactivation policy. The deactivation must also represent consistent application of the policy; it must be proportionate to the offense; and it cannot intend to or result in discrimination.

The ordinance would require all deactivated app-based workers to receive a notice of deactivation (NOD), which includes the records relied upon to substantiate the deactivation, and a description of the network company’s internal process for a worker to challenge the deactivation, among other requirements. This NOD must be provided to the worker 14 days in advance of a deactivation, unless the network company alleges that the worker has engaged in egregious misconduct.

If there is an allegation of egregious misconduct, the worker is entitled to receive the NOD on the date of deactivation, and the network company would have up to 10 days after the NOD is issued to complete its investigation. This timeline for investigation may be extended if there are extraordinary circumstances beyond the network company’s control delaying the investigation.

Under the proposed ordinance, workers would have a right to challenge their deactivation through an internal procedure, and can do so at any point up to 90 days after receiving the NOD. The network company would have 14 days to respond to the worker’s challenge, with a written statement certified by an individual at the network company with authority to reinstate the app-based worker. The worker would then be able to file a complaint with OLS or pursue their private right of action after that initial response, or after 14 days, whichever is earlier.

The network company would be required to provide app-based workers with the records relied upon to substantiate a deactivation. Those records must be certified from an individual at the network company that they are true and accurate records. If new evidence comes to the network company’s possession after the NOD, they must provide those records to the worker.

The ordinance also restricts the role of the Office of Labor Standards (OLS) to enforcing the facial policies and procedural requirements, and does not require OLS to review individual deactivations to determine whether they were substantiated. These procedural provisions are meant to address the information asymmetry and power imbalance that would otherwise exist if a worker were to challenge their deactivation in arbitration proceedings.

All network companies with 250 or more app-based workers would be covered under the ordinance. App-based worker coverage would be limited to workers who have had at least 10 percent of their offers in the past 180 days involve performing services in Seattle. After an app-based worker performs one offer in Seattle, they would have the right to receive a notice of rights from the company that includes a system for workers to understand their eligibility to challenge a deactivation under this ordinance, namely when they meet that 10 percent threshold in the previous 180 days.

## 2. CAPITAL IMPROVEMENT PROGRAM

**Does this legislation create, fund, or amend a CIP Project?**       Yes  No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

### 3. SUMMARY OF FINANCIAL IMPLICATIONS

**Does this legislation amend the Adopted Budget?**

Yes  No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

Yes. There would be financial implications for OLS (e.g., cost of rulemaking, outreach, and enforcement), and to a lesser extent for the City Attorney Office (e.g., cost of supporting OLS enforcement), and Hearing Examiner (e.g., cost of conducting hearings on appeals from respondents and aggrieved parties).

OLS estimates that it would require \$1,000,000 per year for ongoing implementation costs, including staffing, outreach and communication, community partnerships, and translations. In addition, OLS estimates it would need \$200,000 in one-time funds to support initial implementation. Central Staff will continue to gather and analyze information from OLS to better understand financial implications.

**Are there financial costs or other impacts of *not* implementing the legislation?**

No.

### 4. OTHER IMPLICATIONS

**a. Does this legislation affect any departments besides the originating department?**

Yes. OLS would implement and enforce this legislation. There would be an undetermined number of legal referrals to the City Attorney. The Hearing Examiner would conduct hearings on appeals from respondents and aggrieved parties.

**b. Is a public hearing required for this legislation?**

No.

**c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

No.

**d. Does this legislation affect a piece of property?**

No.

**e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

The Race and Social Justice Initiative works toward eliminating racial disparities and achieving racial equity in Seattle. Black, Indigenous, and other People of Color face unique barriers to economic insecurity and disproportionately work in low-wage jobs with insecure

working conditions. Black and Latinx workers are overrepresented among app-based workers, comprising almost 42 percent of app-based workers but less than 29 percent of the overall labor force.

To reach workers with limited English proficiency, network companies would provide a notice of rights in English and in the worker’s primary language. OLS may create and distribute model notices of rights in English and other languages.

**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

N/A

**2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

N/A

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?**

OLS posts information on outreach and enforcement efforts on their [on-line, interactive dashboard](#). The same metrics publicized for other labor standards could apply for this legislation (e.g., number of inquiries, number of investigations, amounts of remedies). OLS contracts with community and business organizations to conduct measurable outreach efforts on worker rights and hiring entity/employer responsibilities.

**Summary Attachments (if any):**



# **App-Based Worker Deactivation Rights Ordinance – Issue Identification**

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JASMINE MARWAHA AND KARINA BULL, ANALYSTS

PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE

MAY , 2023

# Presentation Outline

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- Brief Overview
- Policy Considerations
- Questions
- Next Steps

# Policy Summary

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The App-Based Workers Deactivations Rights Ordinance would require network companies to base deactivations on reasonable policies and provide app-based workers notice, records, and human review of all deactivations.

Notice	Records	Human Review
<ul style="list-style-type: none"><li>• Policies</li><li>• Deactivation</li></ul>	<ul style="list-style-type: none"><li>• Substantiating deactivation</li></ul>	<ul style="list-style-type: none"><li>• Records</li><li>• Investigation</li><li>• Challenge</li></ul>

# Requirements for Deactivation: Policies

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- **Fair notice of deactivation policy:** A network company must inform the app-based worker of the network company's policies for which a violation may result in deactivation.
- **Reasonable deactivation policy:** The policy that may lead to a deactivation must be reasonable and be reasonably related to the network company's safe and efficient operations.
  - Listed examples of unreasonable policies.

# Unreasonable Deactivation Policy

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A Network Company would **not** be able to deactivate an app-based worker based on:

Consistent  
with  
ABWMP

- Availability to work or number of hours worked
- Acceptance or rejection of any offer, any types of offers, or any number or proportion of offers
- Cancelling of an offer with cause
- Contacting the network company
- Quantitative metrics derived from aggregate customer ratings (*if sole basis*)
- Statements by a worker regarding compensation and/or working conditions
- Asserting legal rights, whether in court or via government processes/procedures
- A background check, consumer report, driver record, or record of traffic infractions, except in cases of egregious misconduct or where required by other applicable law

# Requirements Upon Deactivation

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- **Investigation:** A network company must conduct a fair and objective investigation prior to deactivating an app-based worker, except in the case of egregious misconduct.
- **Confirmation of violation:** The network company must demonstrate by a preponderance of the evidence that the alleged violation of the network company's policy or rule occurred.
- **Consistent application** of rule or policy and subsequent penalties
- **Proportionality:** Deactivation must be reasonably related to offense, consider mitigating circumstances.
- Cannot intend or result in discrimination or discriminatory act.

# Implications of Egregious Misconduct

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1. Don't need to complete investigation before deactivating a worker
  - Investigation must be completed within 10 days unless extraordinary circumstances beyond company's control
2. Can deactivate immediately without needing to provide 14 days' notice
3. Can deactivate based on the results of a background check that reveals egregious misconduct.
  - If the network company can prove by clear and convincing evidence that the conduct directly relates to the app-based worker's fitness to provide app-based services.

# Egregious Misconduct Definition

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- “Egregious misconduct” means an abhorrent or wrong action or behavior by an individual app-based worker that:
  1. Endangers the physical safety of the customer or a third person; or
  2. Intentionally causes economic harm to the customer, a third person, or the network company.
- Egregious misconduct includes conduct that occurs outside of an app-based worker’s provision of app-based services if the network company can prove by clear and convincing evidence that the conduct directly relates to the app-based worker’s fitness to provide app-based services.

# Egregious Misconduct Examples

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- Assault
- Sexual assault
- Sexual harassment
- Communicating with a minor for immoral purposes
- Sexual conduct as defined in state law
- Unlawful harassment as defined in state law
- Unlawful imprisonment as defined in state law
- Solicitation of any sexual act
- Theft
- Fraud
- Robbery
- Burglary
- Prostitution
- Reckless driving
- Driving under the influence of alcohol or drugs
- Failing to maintain a valid state driver's license

# Notice of Deactivation

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- App-based workers get 14-days' notice of their deactivation, except when egregious misconduct
- The notice of deactivation must include, at a minimum:
  - The reasons for deactivation
  - The effective date of deactivation
  - The [records](#) relied upon to substantiate deactivation
  - The length of the deactivation
  - The steps an app-based worker can take to remedy the deactivation
  - The app-based worker's right to challenge such deactivation
  - The network company's [process for challenging a deactivation](#), including contact information to initiate a challenge

# Right to Challenge Deactivations

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- An app-based worker shall have a right to challenge unwarranted deactivation through an internal deactivation challenge procedure
- A response to a challenge must be provided within 14 days, certified by an individual at the network company with authority to reinstate the app-based worker
- An app-based worker shall have a right to file a complaint with OLS or pursue their private right of action after receiving the network company's initial response, or 14 days after initiating a challenge, whichever comes earlier.

# Access to Records

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- Records relied upon by the network company to substantiate deactivation
- Certified statement from an individual with authority to reverse the deactivation, attesting that these are true and accurate records to the individual's knowledge
- If new evidence comes to the network company's possession, they must provide records to the app-based worker within 14 days
- Network companies must establish an accessible system for app-based workers to access their receipts and/or payment disclosures for each offer performed or cancelled

# Enforcement

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- Proposed effective date: June 1, 2024
- *Agency enforcement* date: January 1, 2025
- OLS will enforce:
  - Facial Policy Requirements
    - Fair notice of deactivation policy
    - Reasonable deactivation policy
  - Procedural Requirements
    - Notice of Deactivation
    - Right to Challenge Deactivation
    - Access to Records
- OLS will not enforce substantive review of investigations, such as whether an individual deactivation was substantiated by a preponderance of evidence.
- App-based worker may pursue private right of action outside of OLS enforcement

# Policy Considerations

# 1. Network Company Coverage

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All network companies with 250 or more app-based workers would be covered under this legislation. Exempting Marketplace Network Companies (MNCs) would align with coverage of minimum payment obligations and paid sick and safe time. However, stakeholders report that workers on MNC platforms face similar issues as app-based workers from other network companies and should not be left out of these protections.

## Options:

- a. Amend the legislation to exempt marketplace network companies from coverage; or
- b. No change.

## 2. App-Based Worker Coverage

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App-based worker coverage would be limited to workers who have had at least 10 percent of their offers in the past 180 days involve performing services in Seattle, with the exception of the notice of rights requirement. After an app-based worker performs one offer in Seattle, they would have the right to receive a notice of rights from the company that includes a system for workers to understand their eligibility to challenge a deactivation under this ordinance.

### Options:

- a. Create further limitations on coverage, such as by increasing the threshold percentage of offers needing to be performed in Seattle over the past 180 days;
- b. Broaden coverage to all app-based workers in Seattle who have performed app-based services in Seattle in the past 180 days; or
- c. No change.

# 3. Temporary Deactivations

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The legislation would allow a network company to temporarily deactivate a worker for safety or efficiency reasons with 14 days' notice, but would not allow such deactivations without notice. In practice, this means that a company would be prohibited from temporarily deactivating an app-based worker for reasons related to inclement weather, account security, etc.

## Options:

- a. Amend the legislation to allow for immediate temporary deactivations in certain circumstances, such as to protect worker safety; or
- b. No change.

## 4. Unreasonable Deactivation Policy – Background Checks

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The legislation would permit a network company to deactivate a worker if a background check or other screening shows that an app-based worker engaged in egregious misconduct, relating to the app-based worker's fitness to provide app-based services. Some companies have expressed concern that this provision would nevertheless inhibit their ability to remove workers from the app that endanger a customer or third party's safety.

### Options:

- a. Eliminate the prohibition on deactivating a worker based on the results of a background check or other screenings;
- b. Modify the prohibition to restrict network companies from deactivating app-based workers *solely* on the basis of a background check or other screenings; or
- c. No change.

# 5. Egregious Misconduct Definition

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The definition of “egregious misconduct” would not encompass conduct such as harassing comments, insults, or racial slurs. As such, network companies could not immediately deactivate workers accused of engaging in this type of conduct. The legislation would, however, allow for the worker to be deactivated with 14 days’ notice, and for other disciplinary action to be taken against the app-based worker.

## Options:

- a. Broaden the definition of egregious misconduct to include conduct that encompasses verbal aggression; or
- b. No change.

# 6. Access to Records: Privacy

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The legislation would allow for companies to anonymize information that they reasonably believe could compromise a customer or third party's safety, but does not clarify the types of measures a company may take to protect privacy and safety. Some stakeholders wish to remove the requirement to provide records substantiating a deactivation entirely, citing privacy concerns. Removing a worker's access to records would significantly impede a worker's ability to challenge an unwarranted deactivation.

## Options:

- a. Clarify the measures that companies may take to anonymize an individual's information;
- b. Remove the requirement to provide records to an app-based worker substantiating their deactivation; or
- c. No change.

# 7. Agency Enforcement

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In response to OLS's concerns about the fact-intensive nature of investigating individual deactivations, the legislation proposes a bifurcated enforcement model – where OLS would enforce the facial deactivation policy and procedural requirements of the proposed ordinance, and a worker could pursue other ordinance violations through private right of action. The concept could present significant outreach challenges for OLS and community partners, and is not necessary for OLS to determine its enforcement priorities. Nevertheless, OLS may benefit from more explicit direction from Council as to the expectations of its enforcement priorities.

## Options:

- a. Remove the limitations on OLS's enforcement authority, and allow OLS to determine enforcement priorities;
- b. Remove the limitations on OLS's enforcement authority, but require OLS to prioritize enforcement of procedural and facial policy requirements;
- c. Remove the limitations on OLS's enforcement authority, but clarify that OLS has the discretion to prioritize enforcement of procedural and facial policy requirements; or
- d. No change.

# 8. Implementation Considerations

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OLS reports that they do not have the resources to perform this work. Central Staff is not aware of any General Fund (GF) resources available to support this appropriation absent an offsetting reduction in GF appropriations.

## Options:

- a. Increase funding for OLS to perform these responsibilities through separate budget legislation or during the fall budget process for 2024;
- b. Delay action on this legislation until sufficient resources are identified for implementation; or
- c. No change (do not allocate additional funding and allow OLS to determine its work priorities).

# Next Steps

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- Introduction of Legislation
- Committee Meeting with Issue ID

# Questions?

May 19, 2023

## MEMORANDUM

**To:** Public Safety and Human Services Committee  
**From:** Jasmine Marwaha, Analyst  
**Subject:** Council Bill 120580 - App-Based Worker Deactivation Rights - Issue Identification

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On May 23, 2023, the Public Safety and Human Services Committee (Committee) will discuss Council Bill (CB) 120580, the proposed App-Based Worker Deactivation Rights Ordinance. The proposed ordinance would require network companies to provide certain protections against unwarranted deactivations from their platforms for app-based workers. These protections include establishing reasonable bases for deactivations, as well as providing notice, human review, and records substantiating deactivations to the app-based worker.

This memo provides a background and overview of the proposed legislation, identification of policy considerations for the Committee, and next steps.

### Background

App-based workers perform offers facilitated or presented by network companies to provide a variety of valued services for the community (e.g., on-demand food delivery, pre-scheduled tasks). A 2021 Pew Research Center study found that 16 percent of American adults earned money from app-based work, and the rates were higher for those who are Black, Indigenous, and people of color (BIPOC). More than half of American app-based workers report that the money they earn through app-based work is essential or important for meeting their basic needs.<sup>1</sup>

Network companies typically use algorithms to manage worker access to their platform, designed to maximize efficiency and customer satisfaction. There has been extensive documentation in social science literature and media reports about the negative impacts of algorithmic management on app-based workers, and what the Federal Trade Commission recently called “an invisible, inscrutable boss” that dictates core aspects of work.<sup>2</sup>

Workers report being deactivated from the app-based platform, and thereby cut off from their income source, for reasons such as: rejecting too many orders, delays outside of their control, and changing and unpredictable performance expectations. Often, the reasons are unknown. Many workers report a lack of substantive response from companies when they try to challenge their deactivation. Workers further report that they are unable to meaningfully challenge their

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<sup>1</sup> See Anderson et al., *The State of Gig Work in 2021*, at 31 (reporting that 58% of current or recent gig workers said that money earned via gig jobs has been “essential or important for meeting their basic needs”).

<sup>2</sup> FTC Policy Statement on Enforcement Related to Gig Work, September 2022, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Matter%20No.%20P227600%20Gig%20Policy%20Statement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Matter%20No.%20P227600%20Gig%20Policy%20Statement.pdf).

deactivation because the network company has control of the records and information related to the deactivation.

To address the issues raised by the network companies' practices, stakeholders have requested that the Council consider establishing protections against unwarranted deactivations for app-based workers. Last year, Council passed [CB 120294](#), establishing minimum payment standards, transparency requirements, and flexibility protections for these workers. More recently, Council passed [CB 120514](#), establishing permanent paid sick and safe time for app-based workers. Council Bill 120580 is a continuation of efforts intended to establish labor standards for app-based workers.

### **Council Bill 120580**

This proposed ordinance would aim to create more stability and job security for app-based workers by requiring network companies to base deactivations on reasonable policies and provide app-based workers with notice, records and human review of all deactivations.

#### Notice of reasonable deactivation policy

This legislation would require network companies to give workers fair notice of their deactivation policy and list the reasons that could get a worker deactivated. Those reasons must be reasonably related to the network company's safe and efficient operations. The legislation would prohibit a network company from deactivating a worker based on the following reasons:

- Availability to work or number of hours worked;
- Acceptance or rejection of any offer, any types of offers, or any number or proportion of offers;
- Cancelling an offer with cause;
- Contacting the network company;
- Quantitative metrics derived from aggregate customer ratings (if that is the sole basis);
- Statements by a worker regarding compensation and/or working conditions;
- Asserting legal rights, whether in court or via government processes or procedures; or
- The results of a background check, consumer report, driver record, or record of traffic infractions, except in cases of egregious misconduct or where required by other applicable law.

This legislation would also require deactivations to be based on an investigation, which demonstrates by a preponderance of evidence that the app-based worker violated the company's deactivation policy. The deactivation must also represent consistent application of the policy; be proportionate to the offense; and cannot intend to or result in discrimination.

### Notice of deactivation

The legislation would require all deactivated app-based workers to receive a notice of deactivation (NOD), which includes the records relied upon to substantiate the deactivation, and a description of the network company's internal process for a worker to challenge the deactivation, among other requirements. This NOD must be provided to the worker 14 days in advance of a deactivation, unless the network company alleges that the worker has engaged in egregious misconduct.

### Limited exceptions for egregious misconduct

Under this proposal, if there is an allegation of egregious misconduct, the worker is entitled to receive the NOD on the date of deactivation, and the network company would have up to 10 days after the NOD is issued to complete its investigation. This timeline for investigation may be extended if there are extraordinary circumstances beyond the network company's control delaying the investigation.

### Internal challenge procedure

Under the proposed ordinance, workers would have a right to challenge their deactivation through an internal procedure, and could do so at any point up to 90 days after receiving the NOD. The network company would have 14 days to respond to the worker's challenge, with a written statement certified by an individual at the network company with authority to reinstate the app-based worker. The worker would then be able to file a complaint with the Office of Labor Standards (OLS) or pursue their private right of action after that initial response, or after 14 days, whichever is earlier.

### Records

The network company would be required to provide app-based workers with the records relied upon to substantiate a deactivation. Those records must be certified from an individual at the network company that they are true and accurate records. If new evidence comes to the network company's possession after the NOD, they must provide those records to the worker.

### OLS enforcement

The ordinance would also restrict the role of OLS to enforcing the deactivation policy and procedural requirements, and would not require OLS to review individual deactivations to determine whether they were substantiated. These procedural provisions are meant to address the information asymmetry and power imbalance that would otherwise exist if a worker were to challenge their deactivation in arbitration proceedings.

## Issue Identification

### 1. Network Company Coverage

All network companies with 250 or more app-based workers would be covered under the proposed ordinance. This would include “marketplace network companies” (MNCs) that primarily facilitate pre-scheduled offers but exert less control over the worker or performance of services than other types of network companies (e.g., workers can interface with prospective customers to determine the scope of services before the customer places an online order, workers can set their own rates, the company does not monitor offers by mileage or time).

These MNCs are currently exempt from the App-Based Worker Minimum Payment Ordinance and the App-Based Worker Paid Sick and Safe Time Ordinance. Exempting MNCs from CB 120580 would align with coverage of these other labor standards. However, stakeholders report that workers on MNC platforms face similar issues as app-based workers from other network companies and should not be left out of these protections.

#### Options:

- a. Amend the legislation to exempt marketplace network companies from coverage; or
- b. No change.

### 2. App-Based Worker Coverage

App-based worker coverage would be limited to workers who have had at least 10 percent of their offers in the past 180 days involve performing services in Seattle, with the exception of the notice of rights requirement. After an app-based worker performs one offer in Seattle, they would have the right to receive a notice of rights from the company that includes a system for workers to understand their eligibility to challenge a deactivation under this ordinance, namely when they meet that 10 percent threshold in the previous 180 days.

This 10 percent threshold is modeled after the eligibility requirements to challenge deactivations that were in place for the Transportation Network Company (TNC) Deactivation Rights Ordinance, and is intended to make sure there is an ongoing nexus to Seattle that is not burdensome for workers to track. App-based workers who perform services in Seattle are not typically limited to work in the geographic boundaries of Seattle, and often accept offers to perform services in other jurisdictions.

Some stakeholders have asserted that the coverage threshold should be increased to include workers who have had at least 50 percent of their offers in the past 180 days involve performing services in Seattle to create a stronger nexus to Seattle-based work. Other stakeholders propose having all app-based workers in Seattle covered no matter what percentage of their work takes place in Seattle, as the coverage threshold may be confusing for workers.

Options:

- a. Create further limitations on coverage, such as by increasing the threshold percentage of offers needing to be performed in Seattle over the past 180 days;
- b. Broaden coverage to all app-based workers in Seattle who have performed app-based services in Seattle in the past 180 days; or
- c. No change.

3. Temporary Deactivations

“Deactivation” as defined in the legislation would encompass any blocking of an app-based worker’s access to the worker platform. Under this proposal, companies must give fair notice of the reasons that could get a worker deactivated, and those reasons must be reasonably related to the network company’s safe and efficient operations.

The legislation would allow a network company to temporarily deactivate a worker for safety or efficiency reasons with 14 days’ notice, but would not allow such deactivations without notice. In practice, this means that a company would be prohibited from temporarily deactivating an app-based worker for reasons related to inclement weather, account security, etc. The Committee may want to consider allowing for such temporary deactivations.

Options:

- a. Amend the legislation to allow for immediate temporary deactivations in certain circumstances, such as to protect worker safety; or
- b. No change.

4. Prohibited Reasons for Deactivation – Results of a Background Check

The proposed ordinance would prohibit a network company from deactivating a worker based on the results of a background check, consumer report, driver record, or record of traffic infractions, except in cases of egregious misconduct or where required by other applicable law.

This issue has significant racial equity implications, as the criminal legal system disproportionately impacts those who are BIPOC. Some studies estimate that over half of background checks conducted are inaccurate.<sup>3</sup> Law enforcement agencies commonly fail to update arrest or charge records with information about the outcome of a case. Workers have also reported being deactivated for minor traffic infractions cited years ago, and due to background checks that are based on mistaken identity.

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<sup>3</sup> Wells, Martin; Cornwell, Erin York; Barrington, Linda; Bigler, Esta; Enayati, Hassan; and Vilhuber, Lars. “Criminal Record Inaccuracies and the Impact of a Record Education Intervention on Employment-Related Outcomes.” U.S. Department of Labor, January 2, 2020, [https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/LRE\\_WellsFinalProjectReport\\_December2020.pdf](https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/LRE_WellsFinalProjectReport_December2020.pdf).

The proposed ordinance would permit a network company to deactivate a worker if a background check or other screening shows that an app-based worker engaged in egregious misconduct relating to the app-based worker's fitness to provide app-based services. Some companies have expressed concern that this provision would nevertheless inhibit their ability to remove workers from the app that endanger a customer or third party's safety.

Options:

- a. Eliminate the prohibition on deactivating a worker based on the results of a background check or other screenings;
- b. Modify the prohibition to restrict network companies from deactivating app-based workers *solely* on the basis of a background check or other screenings; or
- c. No change.

5. Egregious Misconduct

The definition of egregious misconduct has significant implications in the proposed ordinance. The proposed ordinance would define "egregious misconduct" as an action or behavior by an individual app-based worker that: (1) endangers the physical safety of the customer or a third party or (2) intentionally causes economic harm to the customer, a third person, or the network company. "Egregious misconduct" would include conduct that occurs outside of an app-based worker's provision of app-based services if the network company could prove by clear and convincing evidence that the conduct directly relates to the app-based worker's fitness to provide app-based services. The proposed ordinance also lists examples of egregious misconduct, including sexual assault, theft, fraud, and reckless driving.

This definition does not encompass conduct such as harassing comments, insults, or racial slurs. As such, network companies could not immediately deactivate workers accused of engaging in this type of conduct. The legislation would, however, allow for the worker to be deactivated with 14 days' notice, and for other disciplinary action to be taken against the worker.

Options:

- a. Broaden the definition of egregious misconduct to include conduct that encompasses verbal aggression; or
- b. No change.

6. Access to Records Substantiating Deactivation

The proposed ordinance would require that each deactivated app-based worker receive the records relied upon by the network company to substantiate a deactivation, with a certified statement from an individual at the company attesting to the veracity of the records. The proposed ordinance would allow certain privacy measures to anonymize information that companies reasonably believe could compromise a customer or third party's safety, and would allow for OLS to issue rules to clarify what measures can be taken.

The Committee may wish to further specify in the proposed ordinance that companies may take privacy measures beyond redacting names and addresses if there is further information that may identify an individual and compromise their safety. Some stakeholders wish to remove the requirement to provide records substantiating a deactivation entirely, citing potential privacy and safety concerns. Removing a worker's access to records would significantly impede their ability to challenge an unwarranted deactivation, as the network company would have control of all the records and information related to the deactivation.

Options:

- a. Clarify the measures that companies may take to anonymize an individual's information;
- b. Remove the requirement to provide records to an app-based worker substantiating their deactivation; or
- c. No change.

7. Enforcement

The proposed ordinance would limit the role of OLS to enforcing the facial deactivation policy and procedural requirements of the proposed ordinance. OLS would not have the authority to determine whether individual deactivations were substantiated by a preponderance of evidence. This approach is in response to OLS's concerns about the fact-intensive nature of enforcing individual deactivations. These concerns are based in part on the volume of intakes handled by the Driver's Union when implementing the TNC Deactivation Rights Ordinance.<sup>4</sup> An app-based worker would still be able to seek a private right of action for violations that OLS would not have authority to enforce.

This bifurcated enforcement model – where workers could access procedural enforcement through OLS and substantive enforcement through private right of action – is a novel concept that has the potential to confuse and disappoint many workers coming to OLS. As such, it could present significant outreach challenges for OLS and community partners. This provision is not necessary, as OLS already has the ability to prioritize enforcement actions and discretion to decide which intakes rise to full, fact-intensive investigations. Nevertheless, OLS may benefit from more explicit direction from Council as to the expectations of its enforcement priorities.

Enforcing only the procedural and facial policy requirements could still have significant benefits for workers. These provisions are meant to address the information asymmetry and power imbalance that would otherwise exist if a worker were to challenge their deactivation in arbitration proceedings. Additionally, a violation of any of these provisions

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<sup>4</sup> OLS has communicated to Central Staff that in 2022, the Driver's Union responded to approximately 3,300 worker inquiries related to the TNC Driver Deactivations Ordinance. For that same time period, OLS responded to 900 worker inquiries across 18 labor standards.

that are enforceable by OLS would still incur potential remedies to the worker, and thereby provide some redress.

Options:

- a. Remove the limitations on OLS’s enforcement authority, and allow OLS to determine enforcement priorities;
- b. Remove the limitations on OLS’s enforcement authority, but require OLS to prioritize enforcement of procedural and facial policy requirements;
- c. Remove the limitations on OLS’s enforcement authority, but clarify that OLS has the discretion to prioritize enforcement of procedural and facial policy requirements; or
- d. No change.

8. Implementation Considerations

OLS estimates that the proposed ordinance would require \$1,000,000 per year for ongoing implementation costs, including staffing, outreach and communication, community partnerships, and translations. This estimate assumes about 40,000 workers and 30 companies, with additional intake inquiries from workers covered by multiple ordinances. In addition, OLS estimates it would need \$200,000 in one-time funds to support initial implementation. This estimate is based on an effective date of January 1, 2025. However, the proposed ordinance would go into effect on June 1, 2024. Central Staff will continue to gather and analyze information from OLS to better understand financial implications, and the impact of a different effective date.

Table 1 itemizes the cost estimate provided by OLS, assuming an effective date of January 1, 2025.

*Table 1. OLS Estimated Implementation Costs*

<b>Item</b>	<b>On-going</b>	<b>One-time (2024)</b>
3 Investigators	\$ 406,380.00	
1 Paralegal	\$ 119,609.00	
1 Enforcement manager	\$ 163,407.00	
1 Engagement specialist	\$ 137,906.00	
Community partnerships	\$150,000.00	
Notice of rights design, translations	\$3,000.00	\$20,000.00
Communications	\$10,000.00	\$35,000.00
Navigation Guide, Translations	\$5,000.00	\$50,000.00
Outreach documents, events, webinars	\$5,000.00	\$60,000.00
Rulemaking		\$9,000.00
New employee set up		\$21,000.00
<b>Total</b>	<b>\$1,000,302.00</b>	<b>\$195,000.00</b>

OLS reports that they do not have the resources to perform this work. Central Staff is not aware of any General Fund (GF) resources available to support this appropriation absent an offsetting reduction in GF appropriations.

Options:

- a. Increase funding for OLS to perform these responsibilities through separate budget legislation during the fall budget process for 2024;
- b. Do not allocate additional funding and allow OLS to determine its work priorities;
- c. Delay action on this legislation until sufficient resources are identified for implementation; or
- d. No change.

**Next Steps**

The Committee will discuss proposed amendments to the legislation at the next Committee meeting on June 27th. Please contact me with amendment proposals by Wednesday, June 14th.

cc: Esther Handy, Director  
Aly Pennucci, Deputy Director  
Yolanda Ho, Supervising Analyst



Legislation Text

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**File #:** Inf 2274, **Version:** 1

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Seattle Police Department Quarterly Staffing, Performance Metrics and Finances Report



# Seattle Police Department (SPD) 2023 Q1 Sworn Staffing, Finances and Performance Metrics Report

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GREG DOSS, ANALYST

PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE

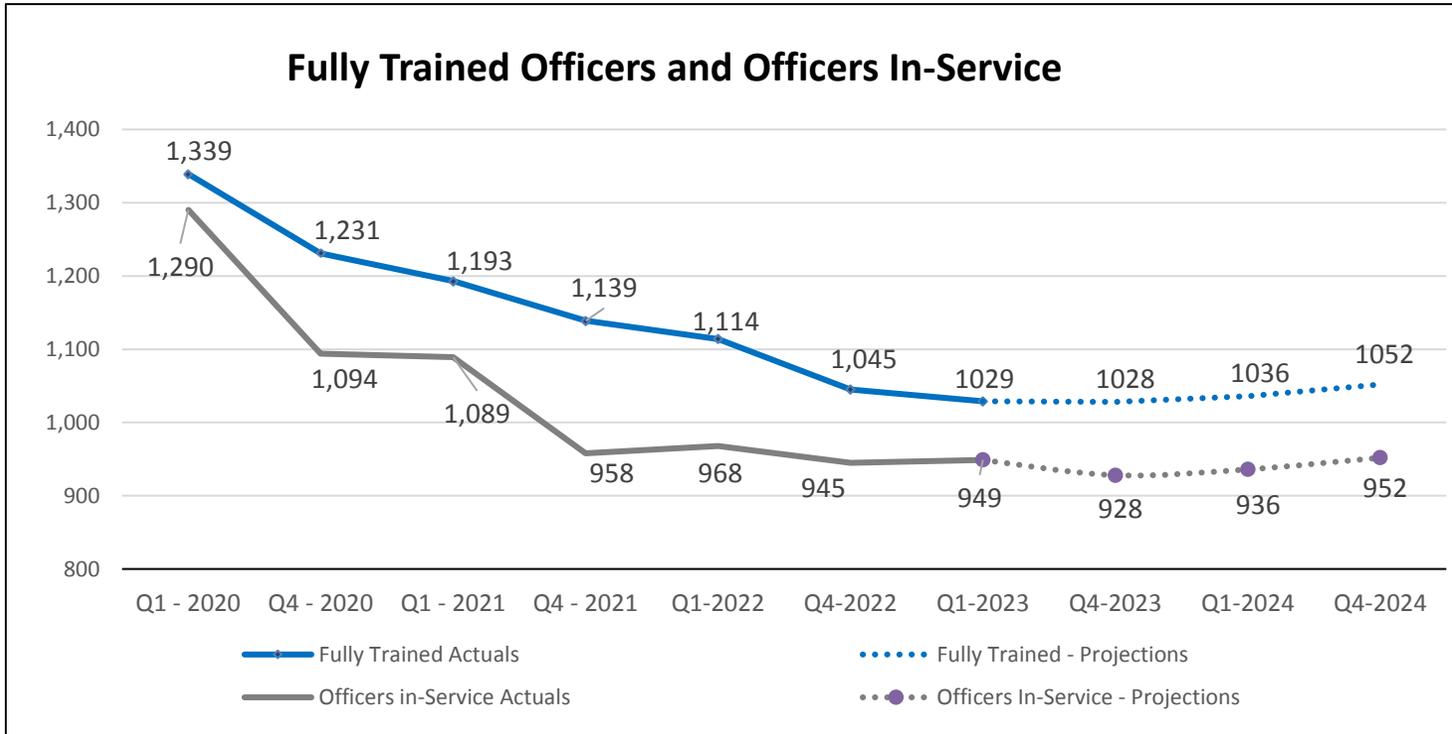
MAY 23, 2023

# 1. SPD Staffing

Slides 3- 6

# Sworn Staffing

SPD Staffing Plan – Actuals through Q1 and Projections through 2023



## 2023 Q1 SPD Actuals

### Jan-March Actuals:

- Hires Planned: 31  
Actual Hires Achieved 26
- Separations Planned: 27  
Separations Realized: 28

## 2023 Annual Projections

**SPD Original Hiring Projection: 120**

**SPD Original Separation Projection: 105**

**SPD Revised Hiring Projection: 115**

**SPD Revised Separation Projection: 106**

# Sworn Staffing

## Analysis of staffing and salary impacts

	2023 Adopted Budget	New Estimates for 2023	Difference
Average annual FTE	1,113	1,092	(21)
Fully Trained Officers at Year-End (YE) 2023	1,061	1,028	(33)
Officers-in-Service at YE 2023	961	928	(33)
New Hires Projected in 2023	120	115	(5)
Assumed Separations in 2023	105	106	1

- SPD's 2023 Staffing Plan assumes 120 hires and 105 separations: these are more conservative assumptions than the 2022 Staffing Plan. The staffing plan actuals are now much closer to the department's projections than at any time in the prior three years.
- The department's separation rate began to slow last fall, (Sept to December 2022). However, in the same time period, SPD had 10 fewer hires than it expected. These differences, combined with changes in 2023, will leave SPD with 21 unfilled, funded FTE in 2023.
- The 21 Average Annual FTE difference (Adopted vs New Estimate seen above) will create approximately \$3.0 million in salary savings throughout 2023. The \$3.0m in salary savings assumes that the department achieves its new / revised hiring plan (115 hires and 106 separations).

# SPD Precinct Staffing (1/2)

As of March 31, 2023

Job Category	PRECINCT												Total
	Citywide		East		North		South		Southwest		West		
	Sgt	Ofc	Sgt	Ofc	Sgt	Ofc	Sgt	Ofc	Sgt	Ofc	Sgt	Ofc	
<b>911</b>	5	22	9	69	19	122	11	75	10	54	18	113	527
<b>Beats</b>	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Seattle Center</b>	-	-	-	-	-	-	-	-	-	-	1	2	3
<b>Totals</b>	<b>5</b>	<b>22</b>	<b>9</b>	<b>69</b>	<b>19</b>	<b>122</b>	<b>11</b>	<b>75</b>	<b>10</b>	<b>54</b>	<b>19</b>	<b>115</b>	<b>530</b>

# SPD Precinct Staffing (2/2)

## Recent History of 911 Response and Patrol Officer Staffing

Date	Patrol (Officers and Sergeants)	911 Response	
		Officers	Sergeants
August 2020	677	495*	68*
September 2020	694	591	77
December 2020	605	511	77
June 2021	592	505	72
December 2021	541	463	71
June 2022	539	463	69
December 2022	514	446	68
March 2023	530	457	73

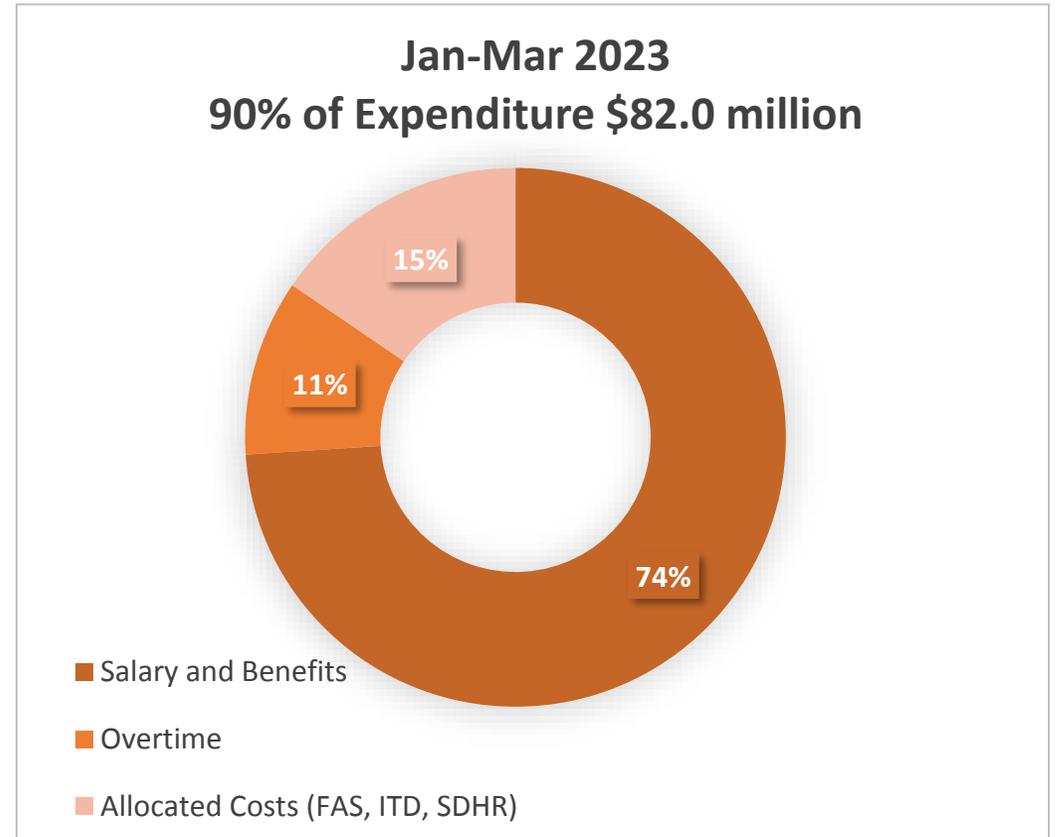
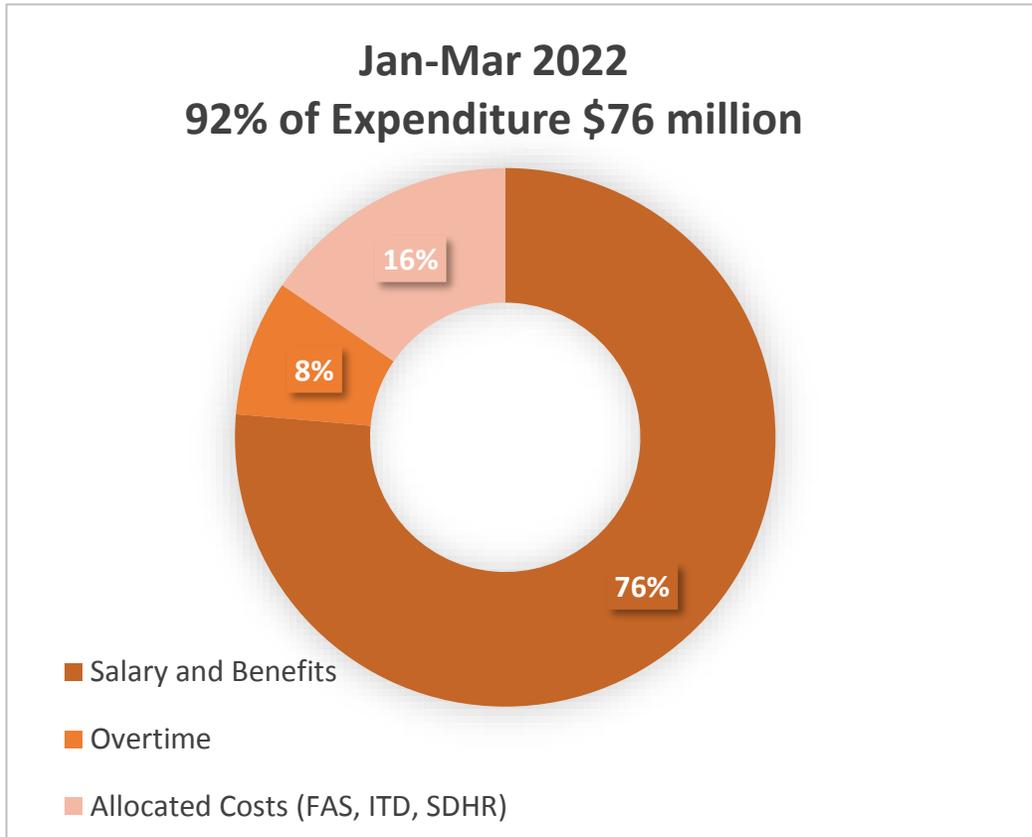
\*Chief Diaz moved 100 officers from Investigative and Specialty Units into 911 Response

# 2. SPD Account Monitoring

Slides 8 - 11

# SPD Financing Monitoring

Largest expenditures are staffing costs and city internal costs



# SPD Finance Monitoring

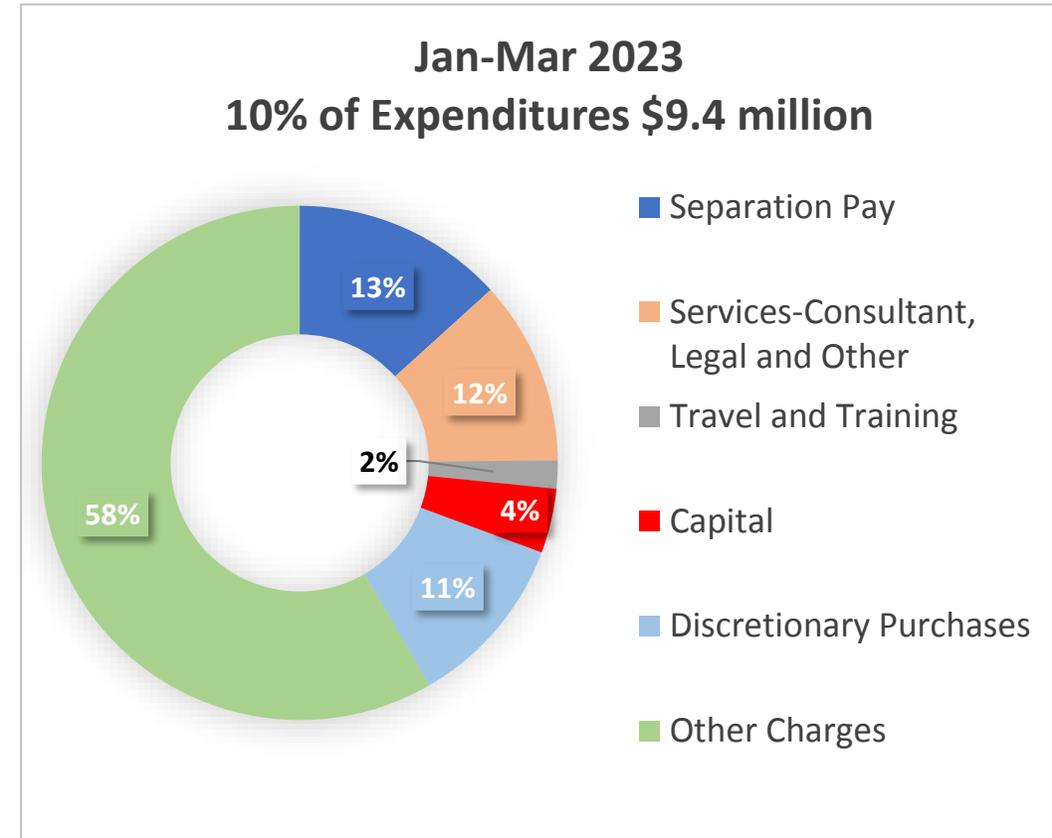
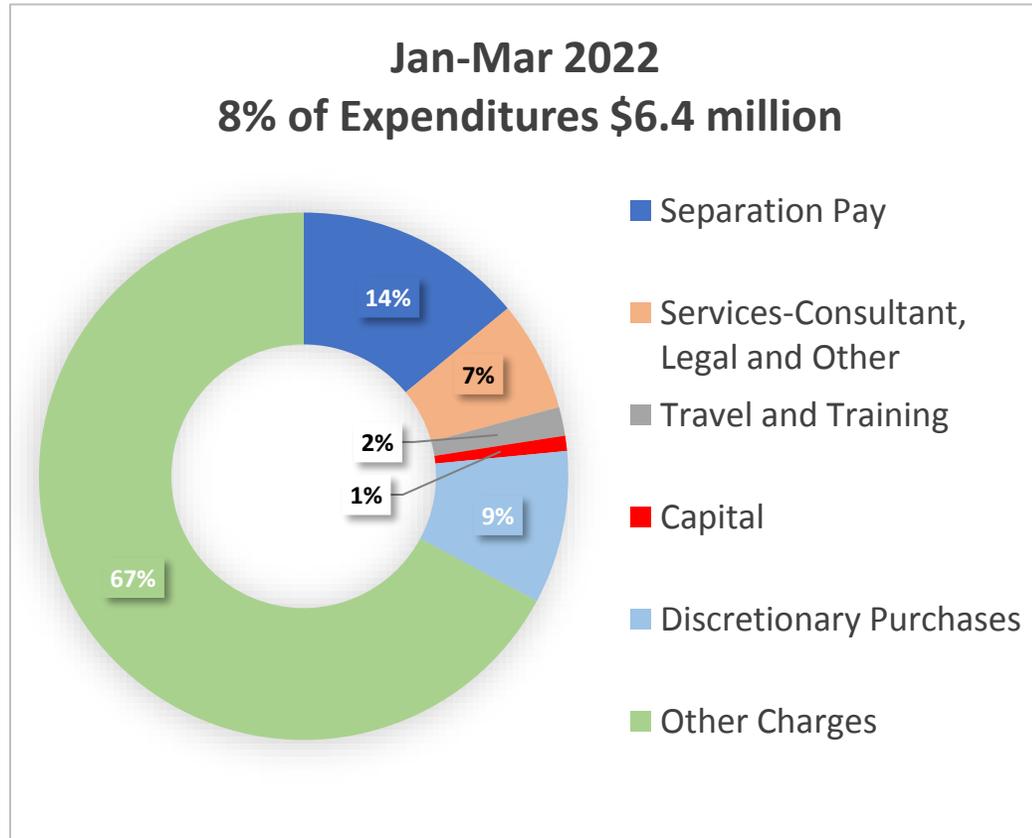
## Largest Expenditures Against Budget

Expense Category	Jan-Mar: 2022 Adopted Budget		Jan-Mar: 2023 Adopted Budget	
	Expenditures	% Spent of Budget	Expenditures	% Spent of Budget
Salary and Benefits	\$58,024,803	23%	\$60,699,177	24 %
Overtime	\$6,221,871	23%	\$8,672,853	28 %
Allocated Costs (FAS, ITD, SDHR)	\$11,732,603	25%	\$12,676,774	25 %
<b>Subtotal:</b>	<b>\$75,979,277</b>		<b>\$82,048,804</b>	

- Overtime spending is cyclical and should be lower at this point in the year:**  
 Last year, SPD spent \$33.7 million on overtime, approximately \$7.3 million more than its \$26.4 million budget. This additional overtime was needed to pay for patrol augmentation, emphasis patrols and special event coverage.
- The department's 2023 overtime budget was increased to \$31.3 million in anticipation of greater overtime need this year. It is unlikely that the \$31.3 million budget will be enough to cover SPD's overtime expenses.
- Current trends in overtime spending, combined with the seasonal nature of police work, lead central staff to believe that SPD is on track to exceed its 2023 overtime budget.

# SPD Finance Monitoring

## Other Expenditures in the budget



# SPD Finance Monitoring

## Other expenditures against budget

Expense Category	Jan-Mar: 2022 Adopted Budget		Jan-Mar: 2023 Adopted Budget	
	Expenditures	% Spent of Budget	Expenditures	% Spent of Budget
Separation Pay	\$896,837	31%	\$1,243,223	43%
Services-Consultant, Legal and Other	\$432,591	6%	\$1,086,163	12%
Travel and Training	\$112,644	12%	\$165,938	18%
Capital	\$59,580	N/A	\$381,451	67%
Discretionary Purchases	\$600,236	13%	\$1,027,096	20%
Other Charges	\$4,296,595	26%	\$5,475,612	26%
<b>Subtotal:</b>	<b>\$6,398,438</b>		<b>\$9,379,482</b>	

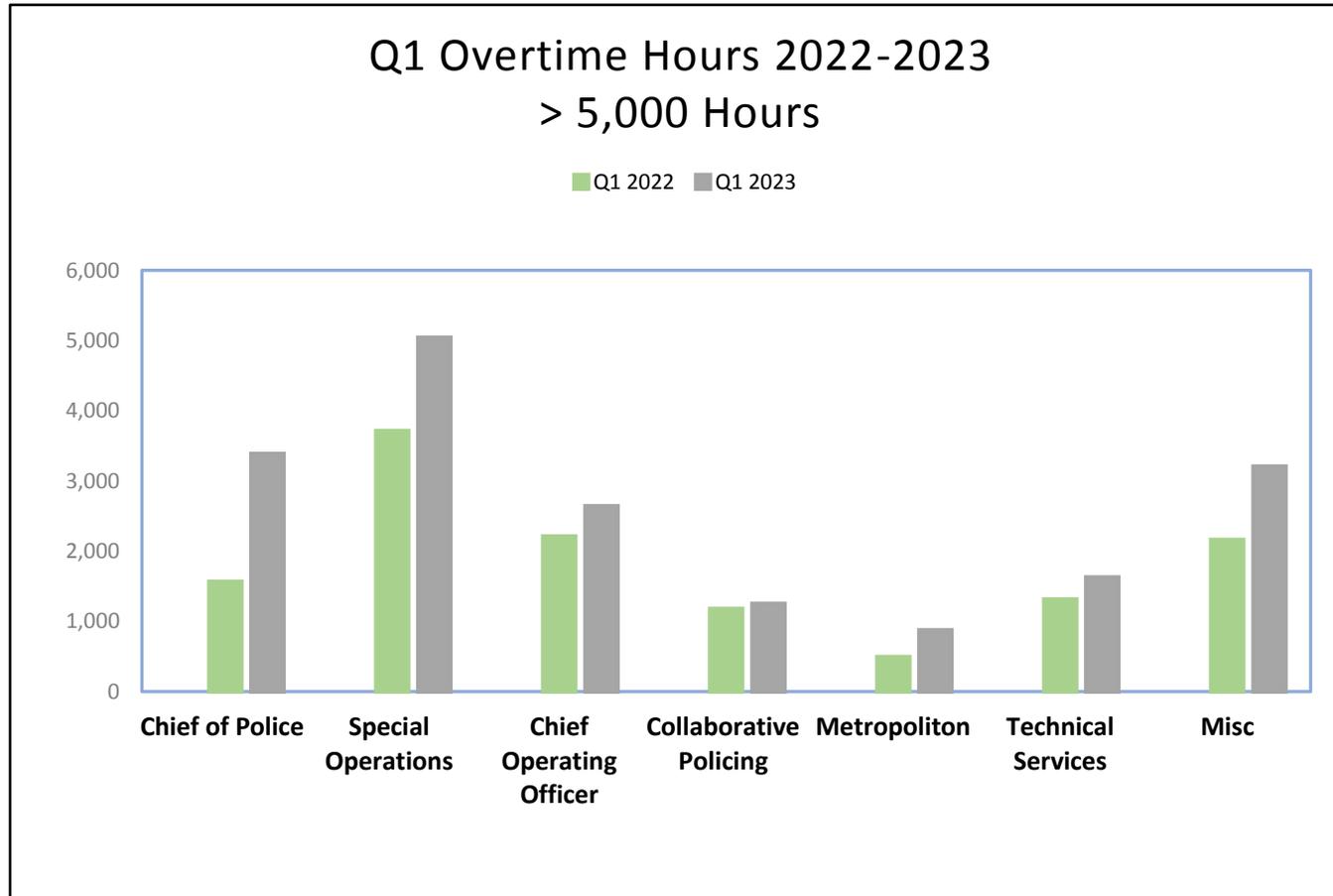
- **Encumbrances are pending in several accounts and are not in the numbers above:** \$4.5 million in Services-Consultants, \$2.1 million in Discretionary Purchases. These expenditures would bring the associated line items to over 60 percent expended. The largest budget line above “Other Charges” consists of non-discretionary building, operating and maintenance costs for vehicles and property that are not all maintained by FAS (Facilities and Administrative Services).

# 2. SPD Overtime Monitoring

Slides 13 - 14

# SPD Overtime Monitoring

## Overtime Hours by Category



- A new Metropolitan Bureau now houses the Traffic Division (Motorcycles) and PEOs, which used 681 and 181 hours of OT respectively.
- Special Operations OT is up due to a higher number of SWAT callouts, including for barricaded subjects.
- Chief of Police reorganized and now contains more sections, including the Before-the-Badge and Wellness Programs.

# SPD Overtime Monitoring

## Overtime Hours by Category



- SPD Human Resource staff indicate that every patrol shift is augmented with officers working on overtime. Precinct overtime is up 14% over 2022.
- 80% of Patrol Operations overtime is for precinct minimum staffing levels.
- Emphasis Patrol spending has nearly doubled since last year (8k hours to 16k hours).
- Events, and Sporting Events spending is up 58% since 2022. Criminal Investigations overtime is higher across most sections.
- Professional Standards (Training Section) is using overtime for adjunct trainers because staffing shortages have left the unit without sufficient resources for regular scheduled trainings.

# 3. Response Times and Call Triage

Slides 16 - 17

# Citywide Response Times and Z-Disposition Calls

**Table 1 – Citywide Response Times**

PRIORITY	Avg. RT (minutes)	Median RT (minutes)
1	10.4	7.3
2	55.1	23.5
3	107.2	55.2

**Table 2 – Z Disposition Calls**

DISP_DESC (Z code)	CALL VOLUME	%
Calls that receive Z response	370	0.5%
Did get a response	80,479	99.5%

- SPD’s Response time goal is a 7-minute median time, although the department notes that there is value in reporting both the average and the median.
- SPD also reports on the number of calls that receive a response within 7 minutes. For Jan-Mar 2023, that was 48% of all calls.
- SPD indicates that not every call necessitates contact between the police and caller/complainant. Some callers report issues and then go about their day. If noted in a call log, such circumstances are considered when calls are being cleared with a ‘Z’ code.

# Response Time by Precinct (Jan-Mar 2020-2023)

SEATTLE POLICE DATA-DRIVEN							
2020-2023 1 <sup>ST</sup> Unit Response Time <sup>1</sup> (Jan-Mar, 2020-2023)							
2023 Q1 First Unit Response Time (in minutes)							
Precinct	Year	Priority 1		Priority 2		Priority 3	
		Average	Median	Average	Median	Average	Median
EAST	2020	6.63	4.61	27.80	12.67	64.72	37.58
	2021	7.98	6.05	32.32	14.98	63.67	35.42
	2022	9.52	6.34	44.28	19.87	79.50	44.50
	2023	9.62	6.19	59.22	25.78	118.41	63.79
		-1.1%	2.4%	-33.7%	-29.7%	-48.9%	-43.3%
NORTH	2020	10.00	7.34	42.25	18.58	95.78	53.71
	2021	11.08	8.50	46.36	22.03	88.02	49.10
	2022	11.30	8.50	54.89	24.48	108.88	58.03
	2023	12.16	9.07	62.62	28.37	124.31	62.93
		-7.6%	-6.7%	-14.1%	-15.9%	-14.2%	-8.4%
SOUTH	2020	9.49	6.48	32.11	14.11	67.10	33.26
	2021	9.49	7.06	33.50	14.98	55.12	27.07
	2022	10.89	7.56	45.73	20.30	80.05	42.55
	2023	10.41	7.63	48.23	21.02	88.41	48.10
		4.4%	-0.9%	-5.5%	-3.5%	-10.4%	-13.0%
SW	2020	8.46	6.48	26.23	12.67	55.47	30.82
	2021	9.86	7.92	31.50	15.05	62.62	32.26
	2022	11.06	8.64	44.73	19.87	75.44	42.62
	2023	10.14	7.85	41.70	17.28	75.05	38.88
		8.3%	9.1%	6.8%	13.0%	0.5%	8.8%
WEST	2020	7.40	4.75	35.23	14.54	83.27	44.64
	2021	8.01	5.47	34.12	14.26	70.26	35.28
	2022	9.20	5.90	59.04	26.78	116.98	63.50
	2023	8.97	5.76	53.25	20.88	105.61	56.02
		2.5%	2.4%	9.8%	22.0%	9.7%	11.8%

## SPD Data-Driven Analysis:

- In comparing the first quarter of 2023 against the same period in 2022, the Southwest and West precincts saw decreases in their response times across all three call priority levels.
- There were minor decreases to priority 1 response times for the South and East precincts, however, these two precincts had increased response times for priority 2 and 3 calls.
- The North precinct saw increases across all priority levels and had the highest response times out of the five precincts.

### SPD Conclusion on the data:

1. Based on these mixed outcomes, it is difficult to identify an overarching trend in the department's progress toward its response time goals.
2. Given the relatively short timeframe covered in the first quarter analysis, a clearer picture may emerge with the addition of Q2 and Q3 data in later SLI responses.

# 5. Recruitment and Retention Initiative Spending

Slides 19-20

# 2022 Recruitment and Retention Spending

	2022 Budget <a href="#">Ordinance 126654</a> <a href="#">Aug 2022</a>	2022 Expenditures	Remaining Balance
Moving Expenses		\$ -	
Hiring Incentives 1st Payment		\$ 82,500	
Hiring Incentives 2nd Payment		\$ -	
Recruitment Technology/Process		\$ 167,820	
Marketing/Advertising		\$ 77,507	
Other		\$ -	
<b>SUBTOTAL</b>	<b>\$ 1,571,309</b>	<b>\$ 327,827</b>	<b>\$ 1,243,482</b>
New Positions at SDHR	\$ 228,691	\$ -	\$ 228,691
<b>TOTAL</b>	<b>\$ 1,800,000</b>	<b>\$ 327,827</b>	<b>\$ 1,472,173</b>

*Note: 2022 appropriations appropriated in Ordinance 126654 lapsed at year-end. Remaining balance was not carried forward because recruitment plan was fully funded in 2023-24.*

- Last fall, SPD’s new recruit hires began receiving \$7,500 hiring bonuses and lateral hires began receiving \$30,000.
- Between Sept 2022 and March 2023, SPD made a total of 49 hires. In the same period in prior years (Sept 2021-March 2022) SPD made a total of 42 hires.
- SPD began administering the survey to all new police hires in November 2022. Ordinance 126654 calls for SPD to collect one full year of data for the evaluation, and to submit the report to Council 15 months after beginning to offer the incentive.

# 2023 Recruitment and Retention Spending

	2023 Adopted Budget	2023 Expenditures thru 3/31/23	Remaining Balance
Moving Expenses <sup>1</sup>	\$ -	\$ -	\$ -
Hiring Incentives 1st Payment	\$ 911,250	\$ 142,500	\$ 768,750
Hiring Incentives 2nd Payment <i>(Budget included above)</i>	\$ -	\$ -	\$ -
Recruitment Technology/Process	\$ 434,800	\$ 5,456	\$ 429,344
Marketing/Advertising	\$ 1,500,000	\$ 9,746	\$ 1,490,254
Other <sup>2</sup>	\$ 400,000	\$ 30,880	\$ 369,120
<b>SUBTOTAL</b>	<b>\$ 3,246,050</b>	<b>\$ 188,582</b>	<b>\$ 3,057,468</b>
New Positions at SDHR	\$ 555,980	\$ 39,757	\$ 516,223
<b>TOTAL</b>	<b>\$ 3,802,030</b>	<b>\$ 228,339</b>	<b>\$ 3,573,691</b>

1- Budget for moving expenses not specified

2- Includes retention efforts related to leadership training and development led by SPD HR

- The Mayor’s staff has indicated that the delay in spending is due to the implementation of an updated marketing plan that takes advantage of new staff, existing capabilities, and initial advertising analytics to attract new recruits effectively and cost-efficiently. This updated marketing plan allows the City to test, iterate, and improve initial messaging and tactics over the first half of the year, and then be more confident that increased spending in the second half of the year will drive results. The SPD staffing crisis is a significant and urgent challenge, but the City is following best-practices to be a responsible steward of public dollars and make evidence-based marketing decisions. While this approach will take longer to ramp up, the Mayor’s Office believes it will ultimately lead to better results per marketing dollar compared to an initially proposed plan.

# 6. Summary

Slide 22

# Key Takeaways

1. Police staffing challenges are shifting - salary savings is now accruing from shortfalls in recruiting, relative to staffing plan projections, as opposed to the unanticipated officer separations that SPD has seen in the past three years. Separations are more accurately projected and are slowing since last summer.
2. Agency spending is at 25% through Q1. However, there are indicators that the department will overspend its overtime budget and will likely need sworn salary savings to balance overtime overspending.
3. The Executive has been slow to spend the funding that has been appropriated for Recruitment and Retention. The expenditure of these funds may better SPD's recruitment efforts in late 2023.

# Questions?