



SEATTLE CITY COUNCIL

Public Safety and Human Services Committee

Agenda

Tuesday, July 13, 2021

9:30 AM

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or
Seattle Channel online.

Lisa Herbold, Chair
M. Lorena González, Vice-Chair
Andrew J. Lewis, Member
Tammy J. Morales, Member
Kshama Sawant, Member
Alex Pedersen, Alternate

Chair Info: 206-684-8801; Lisa.Herbold@seattle.gov

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<http://seattle.gov/cityclerk/accommodations>.



SEATTLE CITY COUNCIL
Public Safety and Human Services Committee
Agenda
July 13, 2021 - 9:30 AM

Meeting Location:

Remote Meeting. Call 253-215-8782; Meeting ID: 586 416 9164; or Seattle Channel online.

Committee Website:

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

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.

In-person attendance is currently prohibited per Washington State Governor's Proclamation 20-28.15, until the COVID-19 State of Emergency is terminated or Proclamation 20-28 is rescinded by the Governor or State legislature. Meeting participation is limited to access by telephone conference line and online by the Seattle Channel.

Register online to speak during the Public Comment period at the 9:30 a.m Public Safety and Human Services Committee meeting at <http://www.seattle.gov/council/committees/public-comment>.

Online registration to speak at the Public Safety and Human Services Committee meeting will begin two hours before the 9:30 a.m. 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.

Submit written comments to Councilmember Herbold at Lisa.Herbold@seattle.gov

Sign-up to provide Public Comment at the meeting at <http://www.seattle.gov/council/committees/public-comment>

Watch live streaming video of the meeting at <http://www.seattle.gov/council/watch-council-live>

Listen to the meeting by calling the Council Chamber Listen Line at 253-215-8782 Meeting ID: 586 416 9164

One Tap Mobile No. US: +12532158782,,5864169164#

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. 2021 Mid-Year Accountability Report

Supporting Documents: [Presentation v2](#)

Briefing and Discussion (30 minutes)

Presenters: Shayleen Morris, Community Police Commission; Amy Tsai, Office of the Inspector General; Lauren Caputo, Office of Police Accountability; Mark Baird, Rebecca Boatright, Angela Socci, Seattle Police Department

2. PayUp Policy Proposal

Supporting Documents: [Presentation](#)

Briefing and Discussion (45 minutes)

Presenters: Michael Wolfe, Drive Forward; James Thomas, Driver; Karina Bull, Council Central Staff

3. [CB 120105](#) **AN ORDINANCE relating to the Seattle Police Department; banning the ownership, purchase, rent, storage, or use of less lethal weapons; and amending Section 3.28.146 of the Seattle Municipal Code.**

Supporting

Documents:

[Summary and Fiscal Note](#)

[Central Staff Memo](#)

[Presentation](#)

[Amendment 1 \(right of action\)](#)

[Amendment 2 \(right of action\)](#)

[Amendment 3 \(pepperball launchers\)](#)

Briefing, Discussion, and Possible Vote (30 minutes)

Presenter: Lise Kaye, Council Central Staff

E. Adjournment



Legislation Text

File #: Inf 1838, **Version:** 1

2021 Mid-Year Accountability Report

2021 Mid-Year Accountability Report

July 13, 2021

Public Safety & Human Services Committee

Accountability Partners

CPC

Community
Voice

OIG

Systemic
Review

OPA

Individual
Investigations

SPD

Public Safety

Mid-Year in Review

- Results of 2021 Legislative session
- Accountability work in progress for each agency



State Legislative Session 2021

Successful Policing Legislation

- **HB 1001 – Law Enforcement Professional Development Grant**
- **HB 1054 – Law Enforcement Tactics**
- **HB 1088 – Impeachment Disclosures**
- **HB 1089 – Compliance Audit Requirements**
- **HB 1267 – Independent Investigations of Police Misconduct**
- **HB 1310 – Use of Force/ De-escalation**
- **SB 5051 – State Oversight and Accountability**
- **SB 5066 – Duty to Intervene**
- **SB 5055 – State Arbitrators**
- **SB 5259 – Law Enforcement Data**
- **SB 5263 – Felony Bar Removal**
- **SB 5353 – Facilitating Community Engagement with Law Enforcement**

CPC actively engaged in Olympia on 75% of these bills

CPC

CPC Publications

- Letter to Community on Police Accountability Recommendations Tracker (PART) Development and Collaboration
- Letter to Seattle Police Monitor on 2021 Plan and Draft Assessment Methodology
- Letter to Labor Relations Policy Committee (LRPC) on Collective Bargaining
- Letter to SPD on Proposed Changes to Use of Force and Crowd Management Policies

Challenges & Opportunities



COVID-19 Restrictions



New commissioners and staff
to rebuild relationships

CPC's Police Accountability Recommendation Tracker (PART)

WHERE IS THE TRACKER?

- CPC website → Our Work → Recommendations Tracker
- Published in April

WHAT ARE THE NEXT STEPS?

- Work with accountability partners to ensure accuracy of information and internal reporting processes

Recommendation	Recipient ...	Date of...	Recommendation on	SPD Policy Nu...	Description
	Other	10/7/2020	State Legislative Agenda	Not an SPD Policy	• Amend RCW 41.56.100 to create "effects-only" bargaining for accountability provisions so that only provisions affecting employees, e.g. be bargained. In the alternative, specify accountability provisions through decisional bargaining (e.g., appellate process, disciplinary timelines, disciplinary files).
	Other	10/7/2020	State Legislative Agenda	Not an SPD Policy	• Expand the state's criteria on disqualifying misconduct to include misdemeanors involving "moral turpitude" that breach the public trust. • Require periodic local auditing of agencies' notice of police officer

CPC Workgroups

- **Police Practices**
- **Behavioral Health**
- **Community Engagement**
- **Complainant Appeals Process**

Community Engagement & Events



- Town Hall: Policies on Use of Force and Crowd Management
- Community Conversations: Collective Bargaining Agreement

Collaboration with Seattle Police Monitor

- **Inclusion of the Vision, Methods, Analysis, and Planning (VMAP) Debrief**
- **Standing Monitor Team check-ins**
- **Semi-Annual Report**

CPC Priorities & Accomplishments

Community Engagement

- Youth engagement, virtual community engagement during pandemic
- New Community Engagement Director – Felicia Cross

Collaboration

- Police contract negotiations, recommendation tracking database, engagement with Seattle Police Monitor

CPC Internal Business

- Appointment of new Executive Director, seven new commissioners and onboarding protocols
- Strategic Planning launch – Connected Realities LLC
- CPC Newsletter – community and commission
- Podcast in production
- Monthly Newsletter

OIG

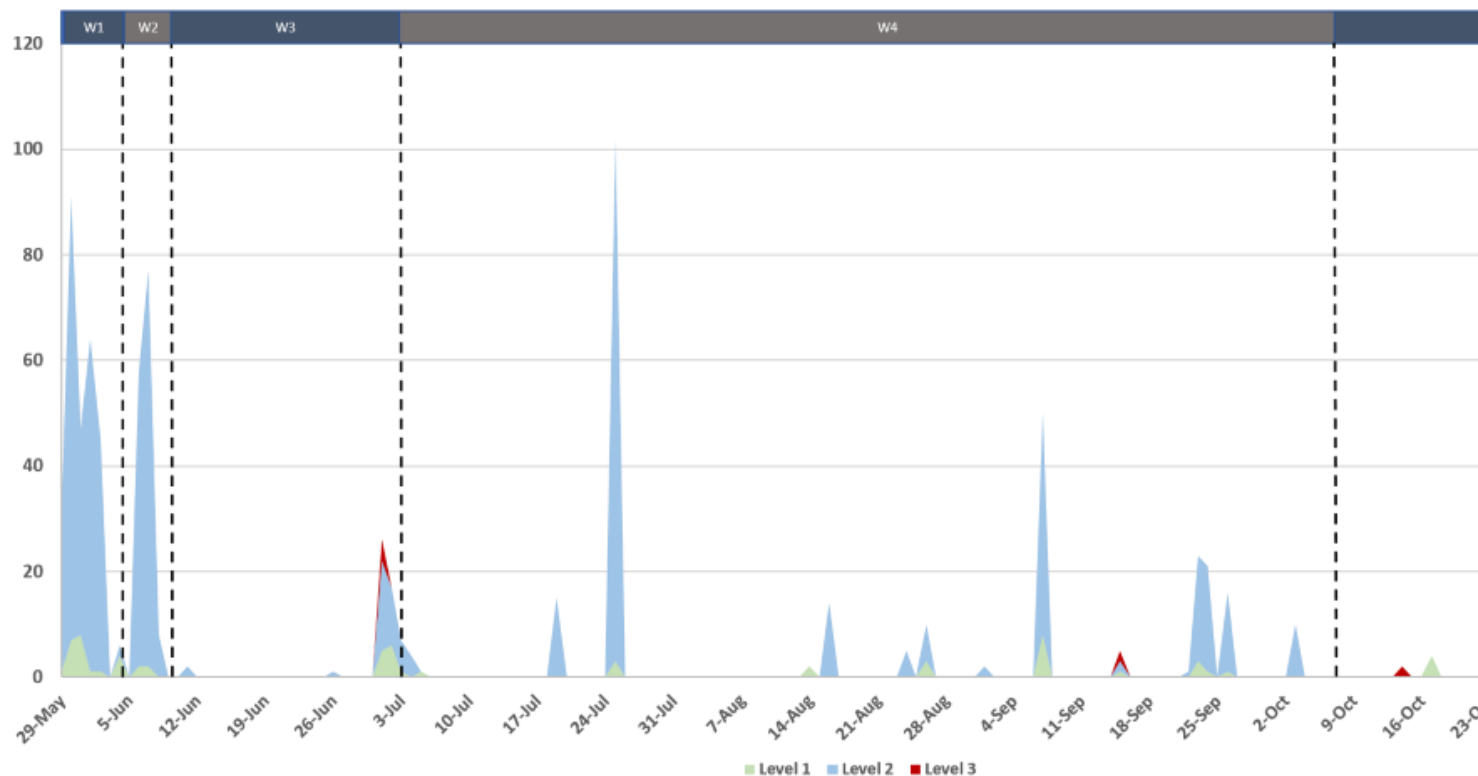
OIG Protest Response Oversight

- From mid-2020 and continuing into the first half of 2021, OIG has focused on projects that impact First Amendment rights and community trust around use of force.
- Sentinel Event Review
 - Examining root causes to look for preventative system improvements
 - Community-centered systemic examination of mass protest sentinel events
 - Review by community, SPD, and additional experts
 - Informing SPD protest response



Sentinel Event Review by the Numbers

5 Waves: Number of Uses of Force, May 30 - Nov 5 2020



OIG distilled data from many sources:

- Over **100 misconduct complaint cases** (arising from over 19,000 complaints to the Office of Police Accountability)
- Over **500 uses of force**
- More than **200 hours of body worn video**
- **Thousands of posts** on social media and other public comments
- Over **70 hours of panel meetings** to date

A report that covers the first critical days of the protest will be released summer 2021 and filed with the court.

Evolving Police Response

- Police response to persons in crisis
- Vehicle pursuit policies
- Alternative responses for certain types of minor traffic offenses

OIG Audits & Assessments in 2021

- Ongoing
 - SPD Mask-Wearing Review
 - Mutual Aid Audit
 - Effectiveness of Discipline Audit
 - Secure Firearms Storage Audit
- Recurring
 - Chapter 14.18 Surveillance
 - Chapter 14.12 Compliance and Follow-Up

OPA Review

- Regular review of OPA classifications
- Certification of OPA investigations (142 as of mid-June)
- Other OPA oversight areas:
 - Unsubstantiated misconduct review
 - Bias reviews
 - Mediations
 - Rapid adjudication
- Quarterly reporting
- Annual report

Policy Work

- Next wave Sentinel Event Review analysis and OIG assessment
- Consent Decree Monitoring Plan participation in oversight methodology, use of force and crowd management policy review, and data analysis
- Annual review of complaints, claims, and lawsuits
- Study of OPA civilian/sworn staffing model
- OIG recommendations on City 2022 state legislative agenda



Internally-focused efforts to improve and be more responsive

- Building a community advisory group to advise OIG
- Data decolonization effort for OIG analytics
- Quality control review of OIG casework

OPA

OPA Policy Recs

- A Management Action Recommendation (MAR) is a tool to correct a gap or ambiguity in SPD policy or training identified through an OPA investigation
- SPD is not required to implement MARs but does try to find solutions
 - This often takes 4 months-1 year
- OPA & SPD meet quarterly to discuss the status of active recommendations

OPA Policy Recs

- So far this year, OPA has issued MARs on 14 unique topics
- 12 MARs resulted from protest cases, e.g.:
 - Blast balls
 - Long range acoustic device
 - Force reporting
 - Providing medical aid
- 2 MARs fully implemented
 - Enforcement towards media
 - Complex incident command
- 12 MARs still active

OPA Policy Recs

- In 2020, OPA issued MARs on 14 unique topics
- 5 MARs fully implemented
 - Mental health transport
 - Court dispositions
 - Body-worn video recording
 - Employee wellness
 - Handling money evidence
- 1 MAR partially implemented
 - Special Commission permits
- 2 MARs declined action
 - Leadership expectations
 - Sound Transit response
- 6 MARs still active



Any Questions?



Legislation Text

File #: Inf 1837, **Version:** 1

PayUp Policy Proposal



SEATTLE CITY COUNCIL
CENTRAL STAFF

Pay-Up Policy Proposal Labor Standards for App-based Workers

KARINA BULL, ANALYST
PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE
JULY 13, 2021

Introduction

Suite of labor standards protections for app-based workers

1. Minimum compensation
2. Transparency
3. Flexibility
4. Deactivation
5. Background checks
6. Access to restrooms
7. Protections against discrimination and right to reasonable accommodations
8. App-based Workers Advisory Board

Stakeholder Meetings

Date	Meeting Topic
Week of 7/12	Background Checks
Committee 7/13	Unintroduced Draft Bill(s)
Week of 7/19	Restroom Access
Week of 7/26	Anti-discrimination & Reasonable Accommodations
Committee 7/27	Unintroduced Draft Bill(s)
Week of 8/2	Enforcement
Week of 8/9	Standards Board
Committee 8/9	Unintroduced Draft or Introduced Draft Bill(s)
Week of 8/30	Other Issues
Week of 9/6	Other Issues
Week of 9/13	HOLD for Unresolved/Follow-up
Committee 9/14	Final Amendments
Full Council 12/13	Final Vote

App-based Workers

1. Covered

- Workers providing on-demand or pre-scheduled, physical services through a network company's worker platform.

2. Not covered

- Workers with significant bargaining power and influence over their pay and conditions of work.
- Licensed professional services (by rule), creative work, wholly digital services, sales or rental of goods or real estate, and TNC services.
- Online orders resulting in payment of \$1,000 or more.

Network Companies

1. Covered

- Online-enabled applications or platforms that facilitate the provision of services by app-based workers
- 250 or more app-based workers worldwide, regardless of where those workers perform work.

2. Not covered

- Platforms offering scheduling software, transmitting payment, or operating as digital advertising/messaging boards *that do not facilitate services, intermediate relationships, or govern the terms or oversight of work performance.*

Stakeholder Feedback

1. Coverage of project-based services (e.g., overnight pet sitting)

- How would the legislation cover situations where the worker sets flat rate prices rather than hourly prices for project-based services (e.g., overnight pet sitting)?
- What payment would be required for overnight services? Could FLSA rules offer guidance on these types of situations?

2. Exemption for online orders resulting in payment of \$1,000+

- Is there a full understanding of the types of work covered by this exemption? Is this exemption necessary?

Minimum Compensation



Policy Goal

- *Set single pay standard for all business models.*
- *Ensure payment of minimum wage plus expenses with a per-minute and per-mile floor for engaged time and engaged miles to complete each offer.*

Minimum Compensation – Pay standard

1. Minimum compensation per engaged minute

- Minimum wage equivalent x assoc. cost factor x assoc. time factor = “per minute amount” for engaged time to ensure minimum wage for all work time.

plus

2. Minimum compensation per engaged mile

- Standard mileage rate x assoc. mileage factor = “per mile amount” per engaged mile to account for all work miles including associated miles.

Minimum Compensation – 2021 example

1. Minimum compensation per engaged minute

- $\$0.28 \times 1.25 \times 1.13 = \0.40 per minute of engaged time.

plus

2. Minimum compensation per engaged mile

- $\$0.56$ per mile IRS rate $\times 1.25 = \$0.70$ per engaged mile.

Associated Cost Factor

- **Associated Cost Factor** for baseline expenses paid by app-based workers treated as independent contractors (vs. baseline expenses paid by companies).

Item	Amount	Notes
Pay roll tax	7.65%	Additional “employer share” of payroll taxes
State Paid Family Medical Leave	0.25%	Expense of contractor opt-in to PFML
Unemployment compensation	1.06%	Average cost to cover an employee in state unemployment insurance
Workers Compensation	2.84%	Average cost of state workers comp coverage
Miscellaneous expenses	1.2%	Cell phone, data plans, other equipment
Total associated cost factor	113%	

Associated Time Factor

- **Associated Time Factor** for additional working time to successfully perform work.

Item	Amount per engaged hour	Notes
Rest breaks	2.5 minutes	10 minutes of rest time per 4 hours of work
Time to review offers	5 minutes	Minimal estimate of time to review offers
Time to availability	5 minutes	Minimal estimate of time from completion of offer to availability for next offer
Time for administrative tasks	2.5 minutes	Minimal estimate of time managing account, recordkeeping, engaging customer support
Total associated time factor	125%	

Associated Mileage Factor

- **Associated Mileage Factor** for miles driven while a worker is not engaged on a specific offer, but when those miles are required to successfully perform work.

Amount	Notes
For every 10 engaged miles:	
• 1.25 miles	Miles to travel to locations where offers are available or return to starting location when dispatched from hub
• 1.25 miles	Miles to travel to locations for rest breaks, meal breaks, restroom access, and administrative needs.
Total associated mileage factor 125%	

Minimum Compensation – Per offer

3. Minimum compensation per offer

- For each offer, company would provide a minimum per offer amount of at least \$5.

Stakeholder Feedback (1/3)

1. Basis for minimum compensation

- Pay standard “per job” or “per pay period”
- Per period (e.g., weekly standard) could be more difficult for workers to determine if they are getting paid the right amount. Workers would have to determine (1) how many hours they worked in Seattle, (2) amount paid for Seattle work, and (3) amount paid per hour.
- Per job would be more transparent – especially if some jobs are not entirely in Seattle. Companies could be incentivized to use algorithms to distribute jobs that pay less than the standard toward the end of the week, after drivers may already have met the minimum compensation threshold. If set on a weekly basis it becomes a ceiling instead of a floor.
- Independent business owners do not necessarily track their wages per job. There is a philosophical difference between the pay standards that might not get addressed in a per job pay standard.

Stakeholder Feedback (2/3)

2. Distinction for project-based services

- Questions on how this proposal would work for project-based services where workers set their own rates and where there are no engaged miles.
- This proposal is not a one-size fits all pay standard.

3. Associated time and cost factors

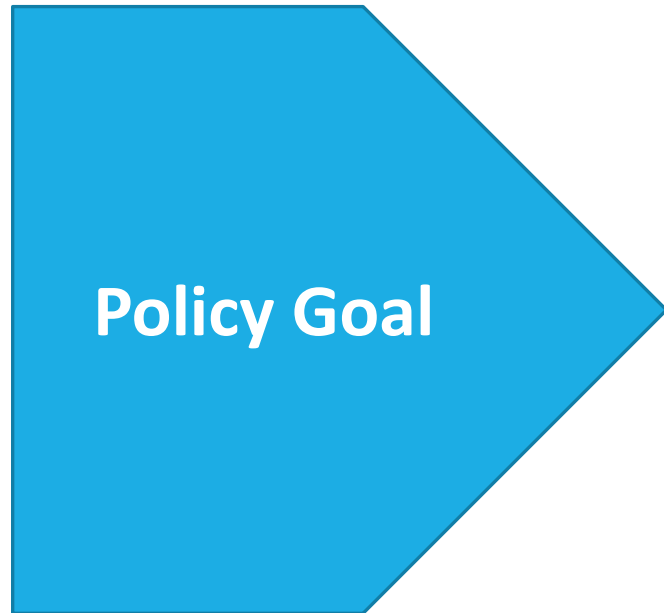
- Compensation rates are minimal estimates. Fare Share study notes more non-engaged time that's not compensated in this proposal. If workers complete 2 or 3 jobs per engaged hour, 2.5 minutes does not seem like enough time to review those offers
- Companies limit the review to roughly 30 seconds. Trying to merge in non-on demand services makes it more difficult to account for this number which is why Drive Forward proposes a shorter time.
- Support for state-level portable benefit programs to cover items in the associated cost factor.

Stakeholder Feedback (3/3)

3. Standard mileage rate

- \$0.56 IRS standard or \$0.32 Drive Forward survey standard
- IRS is the gold standard. The City of Seattle uses IRS rate for contractors. California Prop 22 uses less than IRS rate.
- Drivers can accurately track their costs. In the Drive Forward Survey, drivers reported that they did not buy vehicles to do app-based work. Depreciation isn't a major factor for app-based workers and may only bring up the standard mileage rate 5 to 7 cents.
- Depreciation is not an easy issue to survey. IRS estimates 26 cents a mile for fleet wide depreciation.
- IRS rate includes vehicles like panel trucks and does not reflect vehicles used by app-based workers.
- Seattle Public Schools reimburses at the IRS rate regardless of vehicle.
- IRS rate seems high. Drive Forward proposal of \$0.32 also seems high for drivers in Seattle.

Transparency



- *Ensure workers have information to make informed choices about which offers to accept, and to verify compliance with pay standard and other rights.*
- *Provide clarity to end customers and third-party businesses on the nature of charges, including which amounts are paid to workers and which are retained by the company.*

Transparency (1/2)

1. Offer information

- Information available for at least three minutes
- Best estimate of engaged time and mileage to complete online order
- Guaranteed minimum amount of payment
- Locations of work (e.g., geographic and business locations)
- Physical requirements of work (e.g., flights of stairs, weight of materials)
- Contents of unsealed products, when exposure or handling of such products may pose health risks or violate personal beliefs

Transparency (2/2)

2. Electronic receipts within 24 hours for each completed and/or cancelled offer*
3. Weekly information on completed and/or cancelled offers
4. Annual and quarterly tax information
5. 14-day notice before significant change to payment calculation
6. Public disclosure of aggregate data on worker earnings and work performed

**Electronic receipts would be required for workers, customers, and third-party businesses*

Stakeholder Feedback (1/2)

1. Offer information

- Offer information could help worker make an informed decision on which jobs are profitable.
- Not all jobs are practical for individuals with a disability (e.g., delivering shellfish if worker has shellfish allergies).
- Network companies might not know about physical requirements of job (e.g., flights of stairs for delivery site). Should companies be responsible for providing this type of information?
- How can companies facilitate open communications between customers and workers about physical requirements?

Stakeholder Feedback (2/2)

2. Electronic receipts & public disclosure

- Concerns about sharing sensitive business information (e.g., cost charged to customer).
- Concerns about customer privacy (e.g., cost of goods).
- Companies could provide total amount charged and redact cost of goods.
- Workers need to information to know information to help them determine if they are being paid the right amount.
- Third-party receipts could support consumer protections because there would be public information about company fees.

Flexibility



Policy Goal

Protect workers' flexibility, including the right to freely choose jobs and hours, while maintaining companies' ability to provide services to end customers and third-party businesses.

Flexibility

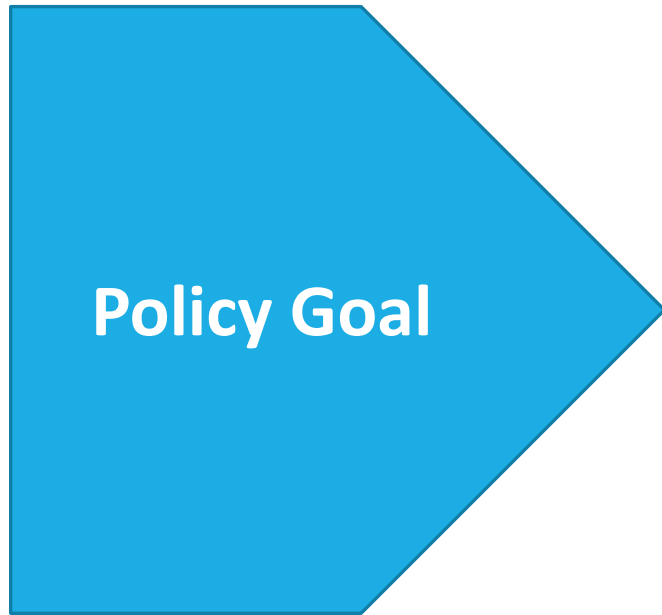
1. No requirements to be logged into platform on specific dates and times.
2. No limitations on amount of time to be logged onto platform except for health and safety restrictions.
3. No adverse action based on work availability.
4. Right to accept or reject any individual offer, any types of offers, and any number or proportion of offers.
5. Right to cancel offer with cause.
6. No restriction on working for other companies, including self-employment.
7. Limits on monitoring in the interest of the company.

Stakeholder Feedback

1. Right to accept or reject any individual offer

- Workers value flexibility on types of work and when they can work.
- Right to reject offers based on personal belief or geographic location could result in discriminatory impact.
- Equity is the responsibility of the company.
- Companies could incentivize workers to accept offers.
- Would companies shift cost of incentivizing workers to customers?
- Companies could separate the driver pay from customer charges.
- Companies could do more algorithmically.

Deactivation



- *Protect a worker's right to access jobs by prohibiting unwarranted deactivation.*
- *Establish rights to advance notice, timeline for worker challenges and company responses, and reinstatement if company does not provide satisfactory justification for a deactivation.*

Deactivations

1. Legislation would establish list of unwarranted reasons for deactivation.
2. Companies would publicly post an exhaustive list of their warranted reasons for deactivation.

Advance Notice

1. Company would provide 14-day advance notice of impending deactivation, including reason(s) for deactivation.
2. Company could immediately deactivate a worker for egregious misconduct.
3. Company would provide company records relevant to the deactivation within 7 days of a worker's request.

Timeline for Challenge & Response

1. Worker could challenge deactivation within 90 days of deactivation date or date that the worker last attempted to use platform (whichever date is later).
2. Within 14 days of the challenge, company would provide “satisfactory justification” for the deactivation.
 - Evidentiary substantiation of the allegations against the worker.
 - Responses to the worker’s questions or claims challenging the deactivation.
3. Company could provide statement of reasonable cause to extend timeline.

Reinstatement

1. Worker would have a right to reinstatement with backpay:
 - a. If the company does not comply with advance notice procedures.
 - b. If the company does not provide satisfactory justification for deactivation within 30 days of the challenge.

Enforcement of Unwarranted Deactivation

1. OLS would enforce:
 - Required procedures and timelines.
 - Company's provision of satisfactory justification for deactivation.
2. OLS would not adjudicate substance of worker claims.

Stakeholder Feedback (1/2)

1. Differing perspectives on the problem of unwarranted deactivations

- Most workers have been deactivated for a warranted reason.
- Hundreds of workers have shared stories of wrongful deactivation; companies often give vague answers.
- Customers may complain about a driver to get a credit on their account.
- Workers can be deactivated for years which can be devastating for a worker's livelihood, including those who invested in equipment (e.g., purchased a car).
- Deactivations can feel like a threat to the workers without specific justifications.

Stakeholder Feedback (2/2)

1. Safety is a shared concern

- What guidance does OLS need for rules on the types of egregious misconduct that could warrant immediate deactivation?
- Are there different types of safety concerns depending on the industry?

2. Support for a process

- Need to incentivize companies to refrain from frivolously deactivating workers.
- Need explanation of “satisfactory justification” of reasons for deactivation.
- Common understanding of “reasonable standard” could show satisfactory justification.

Future Stakeholder Meetings

1. Background checks
2. Access to restrooms
3. Protections against discrimination and right to reasonable accommodations
4. App-based Workers Advisory Board
5. Enforcement

Questions?



Legislation Text

File #: CB 120105, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the Seattle Police Department; banning the ownership, purchase, rent, storage, or use of less lethal weapons; and amending Section 3.28.146 of the Seattle Municipal Code.

WHEREAS, in 2020, tens of thousands of community members joined mass demonstrations in Seattle in support of black lives and against police violence; and

WHEREAS, the Seattle Police Department (SPD) responded to these protests against police violence with devices designed to cause severe discomfort and/or pain, including tear gas, pepper spray and explosive devices such as blast balls and stun grenades; and

WHEREAS, Seattle's Office of Professional Accountability reported on June 3, 2020 that it had received 15,000 complaints of police misconduct related to SPD's response to these protests; and

WHEREAS, studies into the impacts of policing at protests have determined that escalating force by police at protests leads to increasing violence; and

WHEREAS, on June 15, 2020, the City Council adopted Ordinance 126102 banning the ownership, purchase, rent, storage, or use of crowd control weapons, defined as kinetic impact projectiles, chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort; and

WHEREAS, on July 24, 2020, the Honorable Judge James L. Robart of the U.S. District Court for the Western District of Washington imposed a temporary restraining order against enactment of Ordinance 126102,

expressing concern that “by removing all forms of less lethal crowd control weapons from virtually all police encounters, the Directive and the CCW Ordinance will not increase public safety,” and asked the Office of Police Accountability, the Community Police Commission, and the Office of the Inspector General to review its possible impact on court-mandated police reforms. Judge Robart also expressed concern in the temporary restraining order that the CCW Ordinance did not “provide time for police training in alternative mechanisms to de-escalate and resolve dangerous situations if the crowd control implements with which the officers have been trained are abruptly removed”; and

WHEREAS, on August 10, 2021, the Honorable Judge Richard Jones of the U.S. District Court for the Western District of Washington issued a preliminary injunction extending a ban on SPD’s use of less lethal chemical and projectile weapons against peaceful protesters; and

WHEREAS, on September 11, 2020, as requested in Ordinance 126102 and consistent with the advisory roles established in the Accountability Ordinance (Ordinance 125315), subsection 3.29.030.B, the Office of Police Accountability, the Community Police Commission, and the Office of the Inspector General reported their findings with respect to the impact of banning less lethal weapons to the Council’s Public Safety and Human Services Committee. The findings showed consensus among the three reports to allow specific non-crowd control uses of pepper spray, 40-millimeter launchers and noise flash diversionary devices, and to ban patrol officers’ use of tear gas; and

WHEREAS, on October 1, 2020, the Honorable Judge James L. Robart converted the Court’s temporary restraining order regarding Ordinance 126102 into a preliminary injunction in order to facilitate review under the process set forth in paragraphs 177 to 181 of the Consent Decree (“Policy Review Process”); and

WHEREAS, on December 7, 2020, the Honorable Judge Richard Jones found the Seattle Police Department in contempt of court for the indiscriminate use of blast balls and noted that “Of the less lethal weapons, the

Court is most concerned about SPD’s use of blast balls”; and

WHEREAS, the City Council recognizes the role of the Chief of Police to prescribe rules and regulations for the government and control of the police department; and

WHEREAS, at the time of passing this ordinance, pursuant to a federal consent decree, the United States Department of Justice, the Honorable James L. Robart of the U.S. District Court for the Western District of Washington, and the court-appointed Seattle Police Monitor exercise oversight of SPD’s policies related to the use of force; and

WHEREAS, on February 26, 2021, the U.S. District Court for the Western District of Washington issued an order in *United States v. City of Seattle*, Civil Case Number 12-1282, approving SPD’s revised use of force and crowd management policies, which included authorization of the deployment of officers trained in the use of use of 40-millimeter launchers in crowd management events, upon approval of the Chief of Police, and authorization of the use of a pepperball launcher “only when such force is objectively reasonable, necessary, and proportional to protect against a specific imminent threat of harm to officers or identifiable others or to respond to specific acts of violence or destruction of property”; and

WHEREAS, on May 18, 2021, Governor Inslee signed ESHB 1054, establishing requirements for tactics and equipment used by peace officers, which include 1) restricting law enforcement agencies from using tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation; 2) requiring that, prior to using tear gas the law enforcement officer or employee must exhaust alternatives to the use of tear gas, obtain authorization to use tear gas from a supervising officer, announce to the subject or subjects the intent to use tear gas, and allow sufficient time and space for compliance with the officer's or employee's directives; and 3) directing that, in the case of a riot outside of a correctional, jail, or detention facility, the law enforcement officer or employee may use tear gas only after receiving authorization from the highest elected official of the

jurisdiction in which the tear gas is to be used; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.146 of the Seattle Municipal Code, enacted by Ordinance 126102, is amended as follows:

3.28.146 Prohibition of the use of ~~((crowd control))~~ less lethal weapons

A. Unless exempted or excepted, no City department shall own, purchase, rent, store or use ~~((crowd control))~~ less lethal weapons.

B. Law enforcement agencies operating under mutual aid agreements are prohibited from using ~~((crowd control))~~ less lethal weapons in a manner inconsistent with this Section 3.28.146 while rendering aid to the Seattle Police Department. Seattle Police Department mutual aid agreements for crowd control must prohibit other law enforcement agencies from using ~~((crowd control))~~ less lethal weapons ~~((for the purpose of crowd dispersal))~~ in a manner inconsistent with this Section 3.28.146.

C. As used in this Section 3.28.146~~((;))~~ :

“For the purpose of crowd control” means with the intent to move or disperse a crowd.

“~~((crowd control))~~ Less lethal weapons” means kinetic impact ~~((projectiles))~~ launchers used to deploy chemical irritants; ~~((;))~~ chemical irritants, including but not limited to pepper spray and tear gas; ~~((;))~~ acoustic weapons~~((;))~~ ; directed energy weapons~~((;))~~ ; water cannons~~((;))~~ ; disorientation devices, including but not limited to blast balls and noise flash diversionary devices; ultrasonic cannons~~((;))~~ ; or any other device that is primarily designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort.

“Violent public disturbance” means any gathering where 12 or more persons who are present together use or threaten to use unlawful violence towards another person or group of people and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his

personal safety.

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

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

~~2. When used to subdue an individual in the process of committing a criminal act or presenting an imminent danger to others, it lands on anyone other than that individual.))~~

Noise flash diversionary devices are not banned as less lethal weapons for purposes of subsection 3.28.146.A if used by Special Weapons and Tactics (SWAT) officers outside the setting of a demonstration or rally in circumstances in which the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.

E. Forty-millimeter launchers used to deploy chemical irritants are not banned as less lethal weapons for purposes of subsection 3.28.146.A if:

1. Used by SWAT officers outside the setting of a demonstration or rally in circumstances in which the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders; or

2. Used by SWAT officers in a demonstration or rally for purposes other than crowd control in circumstances in which the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.

F. Oleoresin capsicum (OC) spray is not banned as a less lethal weapon for purposes of subsection 3.28.146.A if:

1. It is being used outside the setting of a demonstration or rally and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders; or

2. It is being used at a demonstration or rally, but not for the purpose of crowd control, and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders; or

3. It is being used at a demonstration or rally for the purpose of crowd control, during a violent

public disturbance, and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.

G. Tear gas is not banned as a less lethal weapon for purposes of subsection 3.28.146.A if:

1. It is being used by SWAT officers outside the setting of a demonstration or rally, the use is reasonably necessary to prevent threat of imminent loss of life or serious bodily injury, and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders; or

2. It is being used in a violent public disturbance, under direction of or by officers who have received training for its use within the previous 12 months, with a detailed tactical plan developed prior to deployment, the use is reasonably necessary to prevent threat of imminent loss of life or serious bodily injury, and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.

~~((E))~~H. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of ((crowd control)) less lethal weapons ((for crowd dispersal)) that occur in a gathering that is not a violent public disturbance after this ordinance takes effect. A person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this Section 3.28.146.

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

Section 2. In accordance with United States of America v. City of Seattle, 12 Civ. 1282 (JLR), during the pendency of the consent decree Council requests that notice of this action be submitted by the City Attorney to the Department of Justice and the Monitor.

Section 3. Council will engage with the Labor Relations Director and staff as they work with the City's

labor partners in the implementation of this ordinance.

Section 4. Within 60 days after this ordinance takes effect, the Seattle Police Department shall draft revisions to the Seattle Police Manual to bring it into compliance with this ordinance and publish the proposed revisions on its website.

Section 5. Section 1 of this ordinance shall take effect and be in force 30 days after the Court in United States v. City of Seattle, Western District of Washington Civil Case Number 12-cv-1282, has approved the revised policies required by Section 4 of this ordinance.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2021, and signed by me in open session in authentication of its passage this _____ day of _____, 2021.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

Monica Martinez Simmons, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Legislative	Lise Kaye 206-256-6264	

** 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 the Seattle Police Department; banning the ownership, purchase, rent, storage, or use of less lethal weapons; and amending Section 3.28.146 of the Seattle Municipal Code.

Summary and background of the Legislation: This legislation would restrict City use of several less lethal weapons, including tear gas, pepper spray, and noise flash diversionary devices, and it would prohibit the use of blast balls, acoustic weapons, directed energy weapons, water cannons and ultrasonic cannons. It also provides up to 90 days for the Seattle Police Department to revise its policies with respect to the use of less lethal weapons and train officers on implementation of the new policies. If passed, the bill would supersede the total ban on less lethal weapons imposed by Ordinance 126102, which was passed by Council on June 15, 2020 and is currently subject to a preliminary injunction by the US District Court.

2. CAPITAL IMPROVEMENT PROGRAM

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

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes No

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?
No

Is there financial cost or other impacts of *not* implementing the legislation?
Without this legislation, the City’s use of less lethal weapons will not be subject to the proposed restrictions on several less lethal weapons, including tear gas and pepper spray, or to the prohibition on the use of blast balls, acoustic weapons, directed energy weapons, water cannons and ultrasonic cannons.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?
No

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?

A more limited framework for the City's use of less lethal weapons, as proposed in this legislation, should benefit vulnerable and historically disadvantaged communities who have been disproportionately impacted by police use of force.

f. Climate Change Implications

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

No

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.

No

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).

N/A

June 21, 2021

MEMORANDUM

To: Members of the Public Safety and Human Services Committee
From: Lise Kaye, Analyst
Subject: Proposed Council Bill on Less Lethal Weapons

On June 22, 2021, the Public Safety and Human Services Committee (Committee) will discuss [Council Bill \(CB\) 120105](#), which would restrict the use of some less lethal weapons.¹ This memorandum provides brief background information and describes key elements of the proposed Council Bill. Attachment 1 to this memo provides a table summarizing how CB 120105 would regulate the City's use of Less Lethal Weapons.

The Committee voted on February 9, 2021 to send a draft bill to the Court-appointed Monitor (Monitor) and the Department of Justice (DOJ) for review. CB 120105 responds to comments received during that review.² CB 120105 would replace the total ban on less lethal weapons imposed by [Ordinance 126102](#), which was passed by Council on June 15, 2020 and is currently subject to a preliminary injunction by the United States District Court.³ Should Council pass CB 120105, the Monitor and DOJ will review any resultant Seattle Police Department (SPD) policy changes, consistent with Consent Decree requirements.⁴

Background

On September 11, 2020, the Committee heard recommendations from the three accountability agencies⁵ with respect to the SPD's policies on crowd management and use of less lethal weapons. On December 17, 2020, the Committee reviewed a "base bill" structured around the four recommendations agreed to by all three of the accountability agencies.⁶ At its January 12, 2021 meeting, the Committee discussed potential additional policies, and the Committee approved a series of amendments to a draft bill at its January 25, 2021 and February 9, 2021 meetings.

Also on February 9, 2021, the Committee approved a motion to submit the draft bill as amended to the Monitor and DOJ. Feedback on the draft bill included concern that some of the

¹ The CB 120105 is part of the Introduction and Referral Calendar that will be voted on at the June 21, 2021 Council meeting.

² SPD has been under federal oversight since 2012 after a Department of Justice investigation found that SPD had a pattern of using excessive force and also had policies and practices that could result in bias against minorities.

³ Background on the Court's findings with respect to Ordinance 126102 may be found in the [January 25, 2021 staff memo](#) to this Committee.

⁴ The Consent Decree requires the Monitor and the Department of Justice to review SPD's revised policies relating to the use of force. The Monitor and DOJ reviewed the draft bill, and a revised bill would be provided to them for information only.

⁵ Community Police Commission, Office of Inspector General, and Office of Police Accountability

⁶ The four recommendations were: to allow specific, non-crowd control uses for Pepper Spray, 40-millimeter Launchers and Noise Flash Diversionary Devices, and to ban Patrol use of Tear Gas. However, the base bill was written to ban all uses of tear gas, with the understanding that the PSHS Committee intended to have further deliberation on whether to provide any exceptions.

bill's restrictions could prevent SPD from responding in a targeted fashion to small groups of individuals committing unlawful acts during a demonstration and from using tear gas in a hostage situation or to gain access to a barricaded individual. Additional feedback noted that SPD would need sufficient time to revise its policies to align with the bill and to train its personnel to the new policies and that the bill could be constructed more clearly.

Council Bill 120105

The following section summarizes key provisions in CB 120105. These descriptions also note areas where CB 120105 would revise the draft bill sent to the Monitor and DOJ:

- Owning, Purchasing, Renting, Storing, Using (Section 1A) and Mutual Aid Agreements (Section 1B) – Prohibit City departments from owning, purchasing, renting, storing or using less lethal weapons, unless exempted or excepted in this bill; and prohibit other law enforcement agencies operating under mutual aid agreements from using less lethal weapons in a manner inconsistent with the provisions of [SMC 3.28.146](#). Those agreements must include that prohibition. Note: this section adds the clause that other law enforcement agencies must not use the less lethal weapons “in a manner inconsistent with SMC 3.28.146.”
- Definitions (Section 1C) – Defines “for the purpose of crowd control,” “less lethal weapons” and “violent public disturbance.” Note: Definition of the “purpose of crowd control” added clarity to subsequent restrictions on the deployment of some less lethal weapons.
- Noise Flash Diversionary Devices (Section 1D) – Prohibits use of Noise Flash Diversionary Devices (NFDDs) for any purpose at a demonstration or rally. Allows use of NFDDs in settings outside of a demonstration or rally but only in circumstances in which the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders. Note: this section clarifies language from the draft bill that could have been interpreted to allow use of NFDDs in a demonstration or rally for purposes other than crowd control.
- 40-Millimeter Launchers (Section 1E) – Allows use of 40-millimeter launchers used to deploy chemical irritants (including pepper spray) to Special Weapons and Tactics (SWAT) officers either (a) outside the setting of a demonstration or rally or (b) in a demonstration or rally for purposes other than crowd control. In either circumstance, the risk of serious bodily injury from violent actions must outweigh the risk of harm to bystanders. Note: this Section adds a risk consideration that was not included in the draft bill.
- Pepper Spray (Section 1F) – Allows the following uses of pepper spray only when the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders: 1. outside a demonstration or rally; 2. during a demonstration or rally for purposes other than crowd control; and 3. for crowd control during a violent public disturbance at a demonstration or rally. Note: this Section adds authority to use pepper spray to target individuals or small groups during a demonstration or rally and clarifies that it may be used outside a demonstration or rally, both uses of which require consideration of risk.

- Tear Gas (Section 1G)– Allows the following uses of tear gas by SWAT officers at or outside a demonstration or rally only if all four conditions are met: (1) during a violent public disturbance, (2) at direction of and by recently trained officers, (3) with a detailed tactical plan, and (4) use is reasonably necessary to prevent threat of imminent loss of life or serious injury and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders. Note: this Section adds authority to use tear gas outside a demonstration or rally and conditions any use of tear gas both upon reasonable necessity to prevent threat of imminent loss of life or serious injury and upon the risk of serious bodily injury form violent action outweighing the risk of harm to bystanders.
- Private Right of Action (Section 1H) – Provides a right of action against the City for injuries caused by the use of less lethal weapons in a gathering that is not a violent public disturbance. It excludes from this right a person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force. This section is identical to language in the draft bill.
- Notice (Sections 2 and 3) – Direct that notice of this action to be submitted to the DOJ and the Monitor and commit Council to engaging with the Labor Relations Director and staff in implementation of the bill. These Sections are unchanged from the draft bill.
- SPD Policy Revisions (Section 4) – Requires SPD to draft revisions to the Seattle Police Manual to bring it into compliance with the bill within 60 days after the bill takes effect and to publish the revisions on its website. This Section is new.
- Effective Date (Section 5) – Provides for the ordinance to take effect 30 days after the Court has approved the revised policies required by Section 4 of the bill. This revised Section links the effective date to the Court’s approval of the revised SPD policies instead of its review of the bill, consistent with requirements of the Consent Decree.

Attachment 1 to this memo provides a table summarizing how CB 120105 would regulate the City’s use of Less Lethal Weapons.

Attachments:

1. CB 120105 Regulation of Less Lethal Weapons

cc: Dan Eder, Central Staff Interim Director
Aly Pennucci, Policy and Budget Manager

Attachment 1: CB 120105 Regulation of Less Lethal Weapons

Less Lethal Weapon	Used outside a demonstration or rally	Used at demonstration or rally for purposes other than crowd control, such as to target specific individuals or small groups	Used for crowd control at a demonstration or rally (i.e., to move or disperse an entire crowd)
Blast balls and other disorientation devices, acoustic weapons, directed energy weapons, water cannons, ultrasonic canons (Section 1A)	Banned	Banned	Banned
Noise flash diversionary devices (Section 1D)	Use must be by SWAT ONLY and the risk of serious bodily injury from violent actions must outweigh risk of harm to bystanders	Banned	Banned
Launcher w/ chemical irritant, e.g., “pepperball” (Section 1E)	Use must be by SWAT ONLY and the risk of serious bodily injury from violent actions must outweigh risk of harm to bystanders	Use must be by SWAT ONLY and the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.	Banned
OC (pepper) spray (Section 1F)	Risk of serious bodily injury from violent actions must outweigh risk of harm to bystanders	Risk of serious bodily injury from violent actions must outweigh risk of harm to bystanders	Risk of serious bodily injury from violent actions must outweigh risk of harm to bystanders, and there must be a violent public disturbance
Tear gas (Section 1G)	Use must be by SWAT ONLY and only if two conditions are met: (1) the use must be reasonably necessary to prevent threat of imminent loss of life or serious bodily injury, and (2) the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.	Can be used at a demonstration or rally only if five conditions are met: (1) during a violent public disturbance, (2) at direction of and by recently trained officers, (3) with a detailed tactical plan, (4) use is reasonably necessary to prevent threat of imminent loss of life or serious bodily injury, and (5) the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.	Can be used at a demonstration or rally only if five conditions are met: (1) during a violent public disturbance, (2) at direction of and by recently trained officers, (3) with a detailed tactical plan, (4) use is reasonably necessary to prevent threat of imminent loss of life or serious bodily injury, and (5) the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.



SEATTLE CITY COUNCIL
CENTRAL STAFF

Less Lethal Weapons Discussion

LISE KAYE COUNCIL CENTRAL STAFF

PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE | JUNE 22, 2021

Council Bill (CB) 120105 – Less Lethal Weapons

- Bans some less lethal weapons (LLWs), restricts others
- Responds to Department of Justice (DOJ)/Monitor comments
- Conditions any use of LLW on whether risk of serious bodily injury from violent actions outweighs risk of harm to bystanders
- Defines “for the purpose of crowd control” as with the intent to move or disperse a crowd

Banned Less Lethal Weapons

- Acoustic weapons
- Directed energy weapons
- Disorientation devices, including blast balls
- Ultrasonic cannons
- Water cannons

** No change from draft bill*

Restricted Less Lethal Weapons (LLWs)

- Noise flash diversionary devices
- 40-MM launchers used to deploy chemical irritants
- Pepper spray
- Tear gas

Restricted LLWs – Noise Flash Diversionary Devices

1. Banned from use in demonstrations or rallies*
2. Allowed outside demonstrations or rallies but only when
 - Used by SWAT officers, and
 - Risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.

* *Clarifies ambiguous language in draft bill*

Restricted LLWs – 40mm Launchers (chemical irritants)

Allowed outside a demonstration or rally or in a demonstration or rally for purposes other than crowd control but only when*

- Used by SWAT officers, and
- Risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders*

** Adds risk consideration not included in draft bill and clarifies ambiguous language in draft bill*

Restricted LLWs – Pepper Spray

Allowed in the following situations but only when risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders:

- Outside a demonstration or rally; or
- During a demonstration or rally but for purposes other than crowd control;* or
- For crowd control during a violent public disturbance at a demonstration or rally.

* *Adds authority not included in draft bill*

Restricted LLWs – Tear Gas (1 of 2)

Allowed outside a demonstration or rally by SWAT officers* only if two conditions are met:

1. Use is reasonably necessary to prevent threat of imminent loss of life or serious injury; and
2. Risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders*

** Adds authority to use outside a demonstration/rally and adds additional risk consideration*

Restricted LLWs – Tear Gas (2 of 2)

Allowed at a demonstration/rally only if five conditions are met:

1. During a violent public disturbance
2. At direction of and by recently trained officers
3. With a detailed tactical plan
4. Use is reasonably necessary to prevent threat of imminent loss of life or serious injury
5. Risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders*

** Adds additional risk consideration*

Other Provisions – Mutual Aid

Imposes conditions on mutual aid partners for use of less lethal weapons:

- Prohibits law enforcement agencies operating under MAAs with SPD from using less lethal weapons in a manner inconsistent with the provisions of SMC 3.28.146;* and
- Requires SPD's MAAs for crowd control to prohibit other law enforcement agencies from using less lethal weapons in a manner inconsistent with the provisions of SMC 3.28.146*

* *Adds qualifier against using in a manner inconsistent with Seattle Municipal Code*

Other Provisions – Right of Action

Provides a right of action:

- Against the City for injuries caused by the use of less lethal weapons in a gathering that is not a violent public disturbance
- Excludes a person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force.

* *No change from draft bill*

Other Provisions – Notice and Implementation

- Directs that notice of this action be submitted to the Department of Justice and the Monitor
- Commits Council to engaging with Labor Relations Director and staff in implementation of the bill

** No change from draft bill*

Other Provisions – Seattle Police Manual Revisions*

Directs SPD to:

- Draft revisions to the Seattle Police Manual to bring it into compliance with the bill within 60 days after the bill takes effect; and
- Publish the revisions on its website

* *New Section, not in draft bill.*

Other Provisions – Effective Date

- Section 1 of the Ordinance (LLW restrictions) takes effect 30 days after the Court has approved the revised policies required by Section 4 of the bill.*

* *Links effective date to Court approval of SPD's revised policies, consistent with Consent Decree.*

CB 120105 PROPOSED AMENDMENT 1

Amendment Name: Right of action availability

Sponsor: Councilmember Sawant

Effects Statement: This amendment would make the right of private action available to anyone impacted by the Police violating provisions of this Council Bill.

Proposed Amendment:

Modify subsection 3.28.146.H as follows:

((E)) H. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of ((crowd control)) less lethal weapons in violation of this Section 3.28.146 ((for crowd dispersal)) ~~that occur in a gathering that is not a violent public disturbance~~ after this ordinance takes effect. ~~A person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this Section 3.28.146.~~

CB 120105 PROPOSED AMENDMENT 2

Amendment Name: Right of action during a violent public disturbance

Sponsor: Councilmember Herbold

Effects Statement: This amendment would make the right of private action available to persons impacted by the Police violating provisions of this Council Bill at any time, including during a violent public disturbance.

Proposed Amendment:

Modify Section 1H as follows:

((E))H. A person shall have a right of action against the City for physical or emotional injuries proximately caused by the use of ~~((crowd control))~~ less lethal weapons in violation of this Section 3.28.146~~((for crowd dispersal)) that occur in a gathering that is not a violent public disturbance~~ after this ordinance takes effect. A person who, in the judgment of a reasonable person, commits a criminal offense at or immediately prior to the use of less lethal force may not recover under this Section 3.28.146.

CB 120105 PROPOSED AMENDMENT 3

Amendment Name: Pepperball launchers

Sponsor: Councilmember Herbold

Effects Statement: This amendment clarifies that the restrictions in Section 1E apply to the deployment of pepperballs regardless of the caliber of the launcher (40mm or otherwise).

Proposed Amendment:

Modify Section 1E as follows:

E. Forty-millimeter launchers used to deploy chemical irritants and launchers used to deploy pepperballs are not banned as less lethal weapons for purposes of subsection 3.28.146.A if:

1. Used by SWAT officers outside the setting of a demonstration or rally in circumstances in which the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders; or
2. Used by SWAT officers in a demonstration or rally for purposes other than crowd control in circumstances in which the risk of serious bodily injury from violent actions outweighs the risk of harm to bystanders.