



Legislation Details (With Text)

File #: CB 119804 **Version:** 2 **Name:** CB 119804
Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk

On agenda: 6/15/2020

Final Action: 6/26/2020 **Ord. No.** Ord 126096

Title: AN ORDINANCE relating to the Seattle Police Department; prohibiting the use of chokeholds by officers; amending Section 12A.04.200 of, and adding a new Section 3.28.145 to, the Seattle Municipal Code.

Sponsors: Kshama Sawant

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Memo, 3. Proposed Amendment 1, 4. Proposed Amendment 2, 5. Signed Ordinance 126096, 6. Affidavit of Publication

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|---------------------------------|--------|
| 6/26/2020 | 2 | City Clerk | attested by City Clerk | |
| 6/26/2020 | 2 | Mayor | returned | |
| 6/26/2020 | 2 | Mayor | Signed | |
| 6/19/2020 | 2 | City Clerk | submitted for Mayor's signature | |
| 6/15/2020 | 1 | City Council | passed as amended | Pass |
| 6/8/2020 | 1 | City Council | referred | |

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the Seattle Police Department; prohibiting the use of chokeholds by officers; amending Section 12A.04.200 of, and adding a new Section 3.28.145 to, the Seattle Municipal Code.
WHEREAS, on July 17, 2014, officers of the New York Police Department killed Eric Garner with a chokehold during an arrest; and

WHEREAS, on March 3, 2020, officers of the Tacoma Police Department killed Manuel Ellis by oxygen deprivation while using physical restraints; and

WHEREAS, on May 25, 2020, officers of the Minneapolis Police Department brutally killed George Floyd, kneeling on his neck while he was handcuffed and in their custody; and

WHEREAS, video and audio recordings of these police killings document Eric Garner, Manuel Ellis, and

George Floyd saying “I can’t breathe” just before their death; and

WHEREAS, in Seattle and in cities across the country, people joined a protest movement against this and other police violence, particularly protesting the police violence disproportionately targeting African American people; and

WHEREAS, in Seattle, tens of thousands of community members have joined mass demonstrations for black lives and against police violence on May 30, 2020 and on subsequent days; and

WHEREAS, the Associated Press reported on June 5, 2020 that “Negotiators for the city of Minneapolis have agreed with the state to ban the use of chokeholds by police” in response to the killing of George Floyd; and

WHEREAS, according to the Seattle Police Manual, a chokehold is considered force that causes or is reasonably expected to cause, great bodily harm, substantial bodily harm, loss of consciousness, or death; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 3.28.145 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.28 as follows:

3.28.145 Prohibition of the use of chokeholds

A. Officers of the Seattle Police Department are prohibited from using chokeholds in the discharge of their duties, including neck restraints or carotid restraints.

B. As used in this Section 3.28.145, “carotid restraint” means any technique applied in an effort to control or disable a subject by applying pressure to the carotid artery, jugular vein, or sides of the neck with the purpose, intent, or effect of controlling a subject’s movement or rendering a subject unconscious by constricting the flow of blood to and from the brain.

C. As used in this Section 3.28.145, “neck restraint” means any technique involving the use of an arm or other firm object to attempt to control or disable a subject by applying pressure against the windpipe, or the

frontal area of the neck with the purpose, intent, or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe.

D. A person shall have a right of action against the City for injuries proximately caused by violations of subsection 3.28.145.A that occur after the effective date of this ordinance.

E. Absent evidence establishing a greater amount of damages, the damages payable to an individual for injuries proximately caused in violation of subsection 3.28.145.A shall be \$100,000, added to attorney fees and court fees.

Section 2. Section 12A.04.200 of the Seattle Municipal Code, last amended by Ordinance 122789, is amended as follows:

12A.04.200 Use of force-When lawful((:))

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases, unless prohibited by Section 3.28.145:

A. Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting him/her and acting under his/her direction;

B. Whenever necessarily used by a person arresting one who has committed a felony and delivering him/her to a public officer competent to receive him/her into custody;

C. Whenever used by a party about to be injured, or by another lawfully aiding him/her in preventing or attempting to prevent an offense against his person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his/her possession, in which case the force is not more than is necessary;

D. Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property in the control of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

E. Whenever used by a carrier of passengers or his/her authorized agent or servant, or other person

assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to his/her personal safety;

F. Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to himself/herself or another, or in enforcing necessary restraint for the protection of his/her person, or his/her restoration to health, during such period only as is necessary to obtain legal authority for the restraint or custody of his/her person.

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

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

Section 5. 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 _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)