



Legislation Text

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File #: CB 119805, Version: 2

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**CITY OF SEATTLE**

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

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

AN ORDINANCE relating to the Seattle Police Department; banning the ownership, purchase, rent, storage, or use of crowd control weapons; and adding a new Section 3.28.146 to the Seattle Municipal Code.

WHEREAS, The City of Seattle supports the right to freedom of speech and freedom of assembly as essential democratic rights; and

WHEREAS, on May 25, 2020 officers of the Minneapolis Police Department brutally killed George Floyd, while he was handcuffed and in their custody; 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 SPD has responded to these protests against police violence with crowd control weaponry including lachrymator agents commonly known as tear gas and 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 they had received 15,000 complaints of police misconduct related to the SPD's response to these protests; and

WHEREAS, testimony from protestors and other protest witnesses, along with complaints filed with the Office of Police Accountability suggests that some SPD officers were instigating and escalating violent confrontations

with these protests; and

WHEREAS, the use of tear gas in war is banned by the Chemical Weapons Convention of 1993, which set forth agreements signed by nearly every nation in the world, including the United States; and

WHEREAS, infectious disease experts warn that the use of tear gas and other lachrymator agents will increase the spread of COVID-19; and

WHEREAS, research shows that tear gas increases the risk of respiratory infection; and

WHEREAS, an open letter signed by over 1,000 healthcare professionals opposes, “any use of tear gas, smoke, or other respiratory irritants, which could increase risk for COVID-19 by making the respiratory tract more susceptible to infection, exacerbating existing inflammation and inducing coughing”; 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, during public comment at the Seattle City Council meeting on June 1, 2020, and the meeting of the Council’s Public Safety and Human Services Committee on June 3, 2020, members of the public attested to being prevented from joining George Floyd protests out of fear of violence at the hands of the Seattle Police Department; and

WHEREAS, a June 1, 2020 release from the Seattle Office of Professional Accountability notes that misconduct complaints stemming from the George Floyd protests include:

- i. Pepper spraying a young girl;
- ii. Punching a person on the ground who was being arrested;
- iii. Placing a knee on the neck area of two people who had been arrested;
- iv. Covering up badge numbers;
- v. Failing to record law enforcement activity on body-worn video;
- vi. Pepper spraying peaceful protesters;
- vii. The use of flashbangs, including causing a significant thumb injury;

- viii. Failing to secure rifles in the rear of a patrol vehicle;
- ix. Punching a person on the ground who was being arrested; and
- x. Officers breaking windows of a Target store; and

WHEREAS, a June 5, 2020 letter to Mayor Durkan and Chief Best from the Seattle Office of Police

Accountability, Seattle Community Police Commission, and Seattle Office of the Inspector General for Public Safety recommends the immediate cessation of CS gas, otherwise known as tear gas; and

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

NOW, THEREFORE,

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

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

**3.28.146 Prohibition of the use of crowd control weapons**

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

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

C. As used in this Section 3.28.146, “crowd control weapons” means kinetic impact projectiles,

chemical irritants, acoustic weapons, directed energy weapons, water cannons, disorientation devices, ultrasonic cannons, or any other device that is designed to be used on multiple individuals for crowd control and is designed to cause pain or discomfort.

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

1. It is used in a demonstration, rally, or other First Amendment-protected event; or
2. When used to subdue an individual in the process of committing a criminal act or presenting an imminent danger to others, it lands on anyone other than that individual.

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

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

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

August 15, 2020.

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.

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Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Monica Martinez Simmons, City Clerk

(Seal)

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