



SEATTLE CITY COUNCIL

Public Safety and Human Services Committee

Agenda - Revised

Tuesday, September 14, 2021

9:30 AM

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

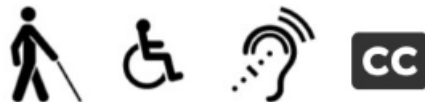
Lisa Herbold, Chair
M. Lorena González, Vice-Chair
Andrew J. Lewis, Member
Tammy J. Morales, Member
Kshama Sawant, Member
Alex Pedersen, Alternate

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

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



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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State Governor's Proclamation 20-28.15, until the COVID-19 State of Emergency is terminated or Proclamation 20-28 is rescinded by the Governor or State legislature.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. Pay-up Policy Proposal - Draft Legislation

Supporting
Documents: [Draft Legislation
Presentation](#)

Briefing and Discussion (30 minutes)

Presenter: Karina Bull, Council Central Staff

**2. Pre-Filing Diversion Racial Equity Toolkit Report for Adults 25
years Old and Older**

Supporting
Documents: [Pre-Filing Diversion Racial Equity Toolkit Report
Community Report](#)

Briefing and Discussion (20 minutes)

Presenters: City Attorney Pete Holmes and Jenna Robert, City
Attorney's Office; Daicia Mestas, CHOOSE 180

3. [CB 120142](#) **AN ORDINANCE** relating to the Seattle Police Department; prohibiting training, exchanges, and partnerships with certain governments; and adding a new Section 3.28.141 to the Seattle Municipal Code.

Supporting
Documents:

[Summary and Fiscal Note](#)
[Central Staff Memo](#)

Briefing, Discussion, and Possible Vote (20 minutes)

Presenters: Ann Gorman and Greg Doss, Council Central Staff

E. Adjournment



Legislation Text

File #: CB 120142, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the Seattle Police Department; prohibiting training, exchanges, and partnerships with certain governments; and adding a new Section 3.28.141 to the Seattle Municipal Code.

WHEREAS, as the City Council has affirmed in Resolutions 31858 and 31928, Seattle is a Human Rights City

that endorses the rights set out in the Universal Declaration of Human Rights, and it is committed to protecting and promoting the human rights and dignity of Native peoples and all residents and visitors to Seattle, including civil, political, social, economic, and cultural rights; and

WHEREAS, through the passage of Resolution 31928, the City has affirmed Seattle as a welcoming city,

condemning all forms of oppression throughout the world, and stating that the Office of

Intergovernmental Relations will continue to alert the Seattle City Council about international issues impacting Seattle and inform Councilmembers when City Council action could contribute meaningfully to a positive outcome; and

WHEREAS, it is the Seattle City Council's intent to ensure protection of the human rights as set forth in the Universal Declaration of Human Rights to all persons as they relate to biased policing activities and to require the policies, training, and data that safeguards against such activities in Seattle; and

WHEREAS, after a Department of Justice (DOJ) investigation found in 2011 that the Seattle Police

Department (SPD) engaged in an unconstitutional pattern of excessive force and bias, Seattle entered into a Consent Decree with the DOJ that requires the City to ensure that its policing services comply with the Constitution; and

WHEREAS, in Seattle and nationally, the increasing use of militarized units such as SWAT Teams, by the police has been demonstrated to disproportionately harm Black, Indigenous, and other People of Color; and

WHEREAS, even after nearly a decade of Seattle being subject to the Consent Decree, communities of color still experience disproportionate police use of force, as exemplified by the Seattle Police Department's 2019 Annual Use of Force Report, which found that of male individuals subjected to use of force by Seattle police in 2019, 30 percent of those individuals were Black, while Black people constitute only seven percent of Seattle's population; and

WHEREAS, in response to SPD's well-documented complaints of excessive force, including chemical weapons against thousands of protestors during the Black Lives Matter uprisings in response to the murder of George Floyd in the late Spring and Summer of 2020, the Seattle City Council took steps toward defunding SPD during the summer emergency budget vote and the 2021 city budget; and

WHEREAS, federal law, including 22 U.S.C. 2304, prohibits any United States law enforcement agency from providing security assistance to any country the government of which engages in a "consistent pattern of gross violations of internationally recognized human rights," including "torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person;" and

WHEREAS, the United Nations Declaration on Human Rights, together with the International Covenant on Civil and Political Rights and its two Optional Protocols (including the complaints procedure and on the death penalty) and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, form the International Bill of Human Rights; and

WHEREAS, United Nations bodies periodically monitor states for compliance with these international human rights covenants that are part of the International Bill of Human Rights; and

WHEREAS, the Fourth Geneva Convention addresses humanitarian protections for civilians in a war zone, in armed conflicts where war has not been declared, and in an occupation of another country's territory; and

WHEREAS, the International Court of Justice, established in 1945 as the principal judicial organ of the United Nations, is responsible for settling, in accordance with international law, legal disputes submitted to it by states and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies; and

WHEREAS, The City of Seattle wishes to promote an encompassing vision for public safety that moves towards the abandonment of militarization and instead embraces other markers of wellness, such as respecting and protecting civil and human rights, and providing its people with access to resources including affordable housing, health services, and public transportation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 3.28.141 is added to the Seattle Municipal Code as follows:

3.28.141 Training with certain countries prohibited

The Seattle Police Department shall not participate in any training programs, exchanges, or partnerships with the military forces of any country, or the police forces, intelligence agencies, security services, or other armed forces of any country, or engage in travel to any foreign country:

A. That is not party to the International Covenant on Civil & Political Rights and the International Covenant on Economic Social & Cultural Rights; or

B. That has been found in the last ten years by an international court or United Nations body to have been in violation of either of these covenants; or

C. That has been documented by an international court or United Nations body to have committed violations of the Fourth Geneva Convention that have not been fully remedied to the satisfaction of the court or body that documented those violations.

Section 2. 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:
LEG	Greg Doss	206-755-6385

** 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; prohibiting training, exchanges, and partnerships with certain governments; and adding a new Section 3.28.141 to the Seattle Municipal Code.

Summary and background of the Legislation: The legislation would prohibit Seattle Police Department (SPD) staff and officers from participating in any training programs, exchanges, or partnerships with the military forces of any country, or the police forces, intelligence agencies, security services, or other armed forces of any country, or engage in travel to any foreign country:

- That is not party to the International Covenant on Civil & Political Rights and the International Covenant on Economic Social & Cultural Rights; or
- That has been found in the last ten years by an international court or United Nations body to have been in violation of either of these covenants; or
- That has been documented by an international court or United Nations body to have committed violations of the Fourth Geneva Convention that have not been fully remedied to the satisfaction of the court or body that documented those violations.

2. CAPITAL IMPROVEMENT PROGRAM

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

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes X 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. SPD Command Staff have indicated that SPD officers will not participate in any international trainings in 2021.

Is there financial cost or other impacts of *not* implementing the legislation?

No.

4. OTHER IMPLICATIONS

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

No

b. Is a public hearing required for this legislation?

Yes

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?

It is well accepted that police surveillance techniques, such as those that might be taught in a training provided by a foreign military, have a disproportionate impact on communities of color. Higher arrest and incarceration rates for these communities cause harm and are not reflective of disproportionate participation in criminal activities, but rather of law enforcement's focus on urban areas, lower income communities and people of color.

Arrests and incarceration result in devastating financial consequences, including loss of long-term employment viability. Disproportionate enforcement perpetuates a cycle of poverty among Seattle's low-income communities and communities of color.

f. Climate Change Implications

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

No/ NA

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).**

List attachments/exhibits below:

N/A

September 14, 2021

MEMORANDUM

To: Public Safety & Human Services Committee
From: Ann Gorman & Greg Doss, Analysts
Subject: Council Bill 120142 – Prohibiting SPD training with certain foreign governments

On September 14, 2021, the Public Safety & Human Services Committee will discuss [Council Bill \(CB\) 120142](#), which would restrict the Seattle Police Department (SPD) from participating in training with police, military, and/or intelligence bodies in foreign countries. This memo provides an overview and an analysis of the legislation as well as some potential policy considerations for Councilmembers.

Prohibiting Training with Certain Countries:

CB 120142 would prevent SPD from participate in any training programs, exchanges, or partnerships with the military forces of any country, or the police forces, intelligence agencies, security services, or other armed forces of any country, or engage in travel to any foreign country:

- A. That is not party to the International Covenant on Civil & Political Rights (ICCPR) and the International Covenant on Economic Social & Cultural Rights (IESCR); or
- B. That has been found in the last ten years by an international court or United Nations body to have been in violation of either of these covenants; or
- C. That has been documented by an international court or United Nations body to have committed violations of the Fourth Geneva Convention that have not been fully remedied to the satisfaction of the court or body that documented those violations.

Analysis:

Staff from the City's Office of Intergovernmental Relations (OIR) and the University of Washington's Center for Human Rights have indicated that the United Nations Human Rights Committee website maintains up-to-date information on nations that are party to the ICCPR and IESCR. However, OIR and UW staff have also indicated that there is no central clearinghouse for data on treaty violators and that it would be difficult for SPD staff to determine whether a country meets the criteria established under CB 120142.

Although narrative findings of both the Human Rights Committee and the Committee for Economic, Social and Cultural Rights (which monitors and administers the ICESCR) are available via the United Nations Jurisprudence Database, the database is not queryable. It would be burdensome for SPD staff first to develop such a list based on their reading of ten years of individual findings and then to keep the list up to date. In addition, some UN findings require a violator country to report back to the treaty's administering committee within a specified

period, describing the actions it took to remedy the finding. CB 120142 is silent on whether the ten-year exclusion as a training partner would still apply when a violation was timely remedied, but in any case, such reports are not available via the Jurisprudence Database so SPD staff would not have access to that information.

Various judicial bodies may adjudicate the Fourth Geneva Convention; but, as with the ICCPR and IESCR, there is no list or database of violators of the Fourth Geneva Convention, nor a central information source for violators who had remedied to the satisfaction of the court or body that documented those violations. The lack of any central information clearinghouse means that SPD staff would need to conduct its own research process prior to entering each new training partnership and to validate the objectivity of information sources.

In the decades since the ICCPR and the IESCR were adopted in 1966, the UN has established eight other bodies that monitor implementation of its core international human rights treaties. These bodies focus in such areas as racial discrimination; the prevention of torture; and the rights of women, children, migrant workers, and people with disabilities. Passing legislation that emphasizes compliance with only the ICCPR and IESCR does not recognize the aspects and subjects of human rights that are not explicitly addressed in those two treaties.

SPD staff have indicated that they have concerns about the language that would prohibit training programs, exchanges, or partnerships with police forces in countries that met the exclusion criteria of CB 120142. SPD staff have indicated that a broad interpretation of this language might mean that SPD would be barred from such activities as conducting collaborative research, learning or teaching best practices, discussing issues of policing and justice that have cross-national import, and providing security and support to an international delegation of City leaders in partnership with a foreign country's uniformed forces.

Potential Policy Considerations:

1. It could be difficult for SPD staff to determine the countries that had violated the ICCPR and IESCR treaties or the Fourth Geneva Convention, or to determine if a country had remedied any such violations.
2. The ICCPR and IESCR are not the only measures of whether a country's core values reflect those of the United Nations Human Rights Committee.
3. The bill's language would prohibit training programs, exchanges, or partnerships with police forces in countries that met the exclusion criteria of CB 120142. The bill does not define these terms, so it is unclear what specific activities or practices would be proscribed.

Background:

It is only the Human Rights Committee and the Committee for Economic, Social and Cultural Rights that have the authority to adjudicate the ICCPR and the IESCR. Other international courts, such as the International Court of Justice, may find violations of international law or issue non-binding advisory opinions that reference human rights violations. This work is separate from administration of these two treaties specifically.

The United Nations Human Rights Committee monitors and administers the ICCPR. This covenant applies to all entities and agents of the governments that are party to it, including all state and local governments and all private contractors who carry out government functions.¹ A substantiated complaint to the ICCPR at any of these levels would result in a country-level judicial finding by the Human Rights Committee even though the violation may be an extreme outlier in terms of general national practice.

Countries that have signed the ICCPR do not all have robust human rights protections. Several of them have made interpretive declarations – similar to United States presidential signing statements – that effectively undercut the covenant. As an example, Bahrain interprets the ICCPR articles addressing sexual discrimination, freedom of religion, and family rights within the context of Islamic Sharia law.² The United States' 1992 signing of the ICCPR was contingent on five Reservations, five Understandings, and four Declarations, each of which establishes a limitation on its commitment to compliance³.

Amendment A – Sponsor: Committee Chair Herbold

Amendment A simplifies the proposed standards that would be used to exclude foreign police agencies as training partners with SPD. In doing so, it establishes more easily verified criteria that are both based in the foregrounding of human rights and are easy for City staff to apply. Because there is no centralized public resource that contains data about violations of the two covenants to which training partners must be party, enforcing the legislation would be difficult absent this amendment.

This amendment also bars all training with foreign militaries, regardless of a country's human rights record.

The ICC operates separately and independently from the two bodies that administer the ICCPR and the IESCR and it has a different purview. It does, however, focus on identifying and holding accountable those who have committed the type of human rights violations which would also rise to the level of ICCPR and IESCR violations. Due to the ICC's high standard of cause for raising an investigation from the preliminary to the non-preliminary level, this change aligns

¹ [FAQ: The Covenant on Civil & Political Rights \(ICCPR\) | American Civil Liberties Union \(aclu.org\)](https://www.aclu.org/faq/the-covenant-on-civil-political-rights-iccpr)

² https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en

³ <https://ijrcenter.org/2017/05/31/canada-violated-iccpr-in-denying-salvadorian-asylum-on-gang-related-claim/>

with the legislation's intent and goal. The ICC maintains a current list of all countries and territories in which its investigations are ongoing as well as a record of its past findings.

Next Steps:

If the Committee votes to recommend passage of CB 120142, then the Council could vote on the bill at its September 27, 2021, meeting.

Attachments:

1. United Nations Treaty Signatories and Ratifiers
2. Amendment A (CM Herbold)
3. Amendment B (CM Sawant)

cc: Esther Handy, Director
Dan Eder, Deputy Director
Aly Pennucci, Policy and Budget Manager

Attachment 1: United Nations Treaty Signatories and Ratifiers

United Nations Treaty Signatories and Ratifiers

As of September 2019, 173 countries are signatories to the ICCPR. An additional six countries have ratified but not signed this covenant, which means that they are not fully bound to uphold the protections it names. Those countries are China, Comoros, Cuba, Nauru, Palau, and Saint Lucia. Fifteen other states have neither ratified nor signed the covenant (Bhutan, Brunei, Kiribati, Malaysia, Micronesia, Myanmar, Oman, Saint Kitts and Nevis, Saudi Arabia, Singapore, the Solomon Islands, South Sudan, Tonga, Tuvalu, and the United Arab Emirates).

As of July 2020, 171 countries are signatories to the IESCR. Comoros, Cuba, Palau, and the United States have ratified but not signed this covenant. Andorra, Botswana, Bhutan, Brunei, Kiribati, Malaysia, and the Federated States of Micronesia have neither ratified nor signed it.

The Fourth Geneva Convention, which 196 countries have ratified, addresses protections for civilians in a war zone or an area in which armed conflict is taking place. The International Criminal Court (ICC) or an ad hoc UN tribunal can adjudicate potential violations. Many countries also have the statutory jurisdiction to prosecute war crimes, including violations of this Convention, at the federal level and/or in military courts. The ICC has over 20 potential cases in some stage of review, which include situations in the “State of Palestine” (for alleged crimes committed since 2014) and in Afghanistan (for alleged crimes committed since May 2003; this investigation may lead to a finding against United States actors), among many others. Some of these situations have been under review for over 10 years due to the strict investigative requirements of the ICC statute. The United States and Israel, among other countries, have informed the UN Secretary General that they do not recognize the ICC’s statute as currently written thus do not have legal obligations before the Court.

- 1) [FAQ: The Covenant on Civil & Political Rights \(ICCPR\) | American Civil Liberties Union \(aclu.org\)](#)
- 2) https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en
- 3) <https://ijrcenter.org/2017/05/31/canada-violated-iccpr-in-denying-salvadorian-asylum-on-gang-related-claim/>
- 4) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23750&LangID=E>
- 5) <https://www.housingrightswatch.org/content/recent-decision-un-cescr-committee-deems-spain-violation-right-adequate-housing-third-time>

Amendment A

to

CB 120142

Sponsor: Councilmember Herbold

Change standards for exclusion as a training partner to improve enforceability

Amend Section 1 of the bill, to add the following language as shown:

Section 1. A new Section 3.28.141 is added to the Seattle Municipal Code as follows:

3.28.141 Training with certain countries prohibited

The Seattle Police Department (SPD) shall not participate in any training programs, exchanges, or partnerships with the military forces of any country, ~~((or the police forces,)) intelligence agencies, security services, or other armed forces of any country~~, or engage in travel to any foreign country or territory for the purpose of training with a foreign military. SPD shall not participate in any training programs, exchanges, or partnerships with the police forces of any country or engage in travel to any foreign country or territory:

A. That is not party to the International Covenant on Civil & Political Rights and the International Covenant on Economic Social & Cultural Rights; or

B. ~~((That has been found in the last ten years by an international court or United Nations body to have been in violation of either of these covenants))~~ That within the country or territory's boundaries exists: a situation under non-preliminary investigation by the International Criminal Court; or an actor against which that Court has found a violation in the last ten years.

~~((; or~~

~~C. That has been documented by an international court or United Nations body to have committed violations of the Fourth Geneva Convention that have not been fully remedied to the satisfaction of the court or body that documented those violations.))~~

Effect: The proposed amendment simplifies the proposed standards that would be used to exclude foreign police agencies as training partners with SPD. In doing so, it establishes more easily verified criterion that are both based in the foregrounding of human rights and are easy for City staff to apply. Because there is no centralized public resource that contains data about violations of the two covenants to which training partners must be party, enforcing the legislation would be difficult absent this amendment.

This amendment also bans all training with all foreign militaries, regardless of a country's human rights record.

Background: The ICC operates separately and independently from the two bodies that administer the ICCPR and the IESCR and it has a different purview. It does, however, focus on identifying and holding accountable those who have committed the type of human rights violations which would also rise to the level of ICCPR and IESCR violations. Due to the ICC's high standard of cause for raising an investigation from the preliminary to the non-preliminary level, this change aligns with the legislation's intent and goal. The ICC maintains a current list of all countries and territories in which its investigations are ongoing as well as a record of its past findings.

Legal review pending.

Amendment B to CB 120142 SPD TRAINING LEGISLATION

Sponsor: Councilmember Sawant

Modify Geneva Conventions exclusions criteria to include Task Force Findings

Amend 3.28.141, subsection C, as follows:

C. That has been documented by an international court, ~~((or))~~ United Nations body, or a fact-finding mission by an intergovernmental or international human rights organization to have committed violations of the Fourth Geneva Convention that have not been fully remedied to the satisfaction of the court or body that documented those violations (where applicable).

* * *

Effect: Adds fact finding missions to the exclusion criteria specified for the fourth Geneva Convention. This amendment may result in more nations meeting the criteria of a country that has violated the Fourth Geneva Convention and would not be allowed to train with SPD.