



Seattle Police Department Policy Manual



Interim Policy 15.155 – Narcotics Possession and Public Use

Effective Date: 10/20/2023

15.155-POL

1. Seattle Municipal Code (SMC) Adopted the RCWs Concerning Narcotics Possession and Public Use

SMC Section [12A.09.020 – Adoption of RCW Sections](#) have been amended as follows:

- [RCW 43.43.754](#)'s crime of refusal to provide DNA
- [RCW 69.50.101: Definitions. \(wa.gov\)](#) (except that cannabis is not included in the definition of 5 "controlled substance")
- [RCW 69.50.204 – Schedule I](#) (except that cannabis is not included)
- [RCW 69.50.206 – Schedule II](#)
- [RCW 69.50.208 – Schedule III](#)
- [RCW 69.50.210 – Schedule IV](#)
- [RCW 69.50.212 – Schedule V](#)
- [RCW 69.50.4013](#)(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st 21 Special Session), Section 2

2. Sworn Employee Considerations for Narcotics Possession and Public Use

Sworn employees will seek to minimize the use of force and incorporate de-escalation and crisis intervention in accordance with current SPD policies (see manual sections [Interim Policies Title-8 Use of Force](#) and [16.110 - Crisis Intervention](#).)

Sworn employees will also operate recording equipment in accordance with manual section [16.090 - In-Car and Body-Worn Video](#).

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Recognizing the urgency of providing medical aid and the importance of preserving human life, sworn employees will request medical aid, if needed, and render appropriate medical aid within their training as soon as reasonably possible in accordance with manual section [16.130 – Providing Medical Aid](#).

Sworn employees must have probable cause to believe that a subject knowingly possesses a controlled substance or is knowingly using a controlled substance in a public place to take enforcement action for possession of narcotics and public use of narcotics.

3. Establishing Probable Cause for Knowingly Possessing and Public Use

Sworn employees may consider factors when establishing probable cause for knowingly possessing or public use crimes including, but not limited to, the following:

- An observed sale or purchase of suspected narcotics;
- An admission by the individual;
- Open possession of suspected narcotics or paraphernalia with suspected narcotics residue;
- Suspected narcotics in plain view; or
- Open use of suspected narcotics.

When considering making an arrest for knowingly possessing narcotics or public use of narcotics, sworn employees will determine whether the subject, through their actions and conduct, presents a threat of harm to others or public harm. This determination is based on the totality of the circumstances and the sworn employee's training and experience.

4. Sworn Employee's Assessment for Threat of Harm to Others ("Public Harm")

When considering making an arrest for knowingly possessing narcotics or public use of narcotics, sworn employees will determine whether the subject, through their actions and conduct, presents a threat of harm to others/public harm.

- This determination will occur after probable cause has been established. The threat of harm/public harm assessment will govern officer decision making when determining to make an arrest for possession or public use and is not an element of these crimes.

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- This determination is based on the totality of the circumstances and the sworn employee's training and experience.

Sworn employees will identify factors when assessing the threat of harm/public harm presented by the subject. These factors may include but are not limited to the following:

- Threats of violence;
- The subject's demeanor appears to be escalating and the sworn employee can articulate pre-attack indicators;
- Other co-occurring crimes;
- The location of public use;
- The type of narcotic(s) used;
- Whether there are community members, commercial entities and businesses, or other organizational activities occurring in the near vicinity; or
- The apparent physical condition of the individual.

Given the high likelihood of the presence of other community members and the inherent impact on public safety and security, a threat of harm/public harm will be presumed if the public use or possession of controlled substances occurs in the following locations:

- Upon or within close proximity to the grounds of any school or park;
- In or within proximity to a bus stop, rail station, or other transportation structure.

5. Sworn Employee's Assessment for Threat of Harm to Self

When a sworn employee determines there is probable cause that public possession or public use of a controlled substance has occurred, as described under this policy, but the subject does not pose a threat of harm to others/public harm, the sworn employee will make a reasonable attempt to contact and coordinate efforts for community care resources.

If information is available to or can be obtained by the sworn employee about a subject's existing service relationship, the sworn employee will make reasonable efforts to report on the individual's current circumstances to the service provider/case manager.

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Sworn employees may call the LEAD on-call phone line at (206) 455-0386 for guidance and consultation on community care resources or other alternatives.

If a sworn employee determines there is probable cause to arrest, and the sworn employee's assessment indicates that the individual does not pose a threat of harm to others, the individual only poses a threat of harm to self.

- A sworn employee will not arrest in this situation, absent articulable facts and circumstances warranting such action.
- Facts and circumstances that could still warrant an arrest may include, but are not limited to, the following:
 - Possession of seven (7) or more grams of suspected narcotics, and/or
 - To securely transport directly to community-based care, and/or
 - To prevent the subject causing additional harm to self.

6. Diversion and Treatment Programs are the Standard Approach for Most Instances of Knowingly Possessing and Public Use of Controlled Substances

Diversion, treatment, and other alternatives to booking are the preferred approach when enforcing the crimes of simple possession of narcotics and the public use of narcotics.

When an arrest is warranted, sworn employees should prioritize diversion in lieu of booking.

- A lack of diversion opportunities will not be a reason for booking.

7. Let Everyone Advance with Dignity (LEAD) Program

The LEAD program will be available to provide pre-booking diversion for subjects arrested for misdemeanor narcotics crimes. Diversion through LEAD is available 24/7 through the LEAD on-call phone line at (206) 455-0386.

When a subject is arrested, and prior to booking, the arresting sworn employee, or their supervisor, will call the LEAD service provider at the on-call phone line.

The subject will then be released to the case management team (pursuant to agreed LEAD protocols to which SPD is a partner) for initial screening at a department precinct.

8. Crisis Diversion

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Recognizing that sworn employees may often encounter individuals with a diminished mental capacity or other health challenges, sworn employees may refer eligible subjects with mental illness and/or substance use disorders to the Crisis Solutions Center (CSC) or Crisis Diversion Facility (CDF) (see manual sections [16.110-POL-5 Responding to Subjects in Behavioral Crisis](#) and [16.110-PRO-4 Referring a Subject to CSC/CDF.](#))

9. Sworn Employees Must Document Narcotics Incidents

If a sworn employee determines, based on the totality of circumstances, that an arrest is appropriate, the sworn employee will complete an arrest report.

The report will indicate if the subject was booked into jail, diverted to community-based services prior to jail booking, or referred for prosecution.

At a minimum, the report will include the following:

- The facts underlying the probable cause, and
- An assessment of the threat presented by the subject engaged in possession and/or public use, and
- Whether, and in what manner, arrest or diversion was considered and/or utilized, and
- The response of the diversion resources to the sworn employee's request.

Sworn employees will document each contact with an individual in pursuit of enforcement of misdemeanor narcotics crimes and the number of attempts to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest in the department's record management system (see manual section [6.220 – Voluntary Contacts, Terry Stops, and Detentions](#)).

10. Sworn Employees Acting in a Manner Otherwise Consistent With SPD Policy, Will Not be Subject to Discipline for Decisions Regarding Arrests, Booking, or Diversion in Carrying Out This Policy

15.155-TSK-1 Misdemeanor Narcotics Arrest

When investigating misdemeanor narcotics crimes, the **sworn employee**:

1. **Determines** probable cause for a misdemeanor narcotics crime.
 - If no probable cause exists, the sworn employee **offers** the subject diversion resources, if they feel it is appropriate.
2. **Determines** if public harm exists.

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- If no public harm exists, **offers** diversion resources.
 - Absent public harm, a sworn employee **may still arrest** a suspect but must articulate the factors leading to arrest in their report.
 - If public harm exists, the sworn employee **may arrest** the subject.
3. **Prioritizes** diversion if appropriate, safe, and feasible.
- **Contacts** LEAD at the LEAD on-call phone (206) 455-0386.
 - If LEAD is contacted, **completes** the LEAD Referral Cover sheet, and **attaches** the form in Mark 43.
4. If the sworn employee deems appropriate, **screens** the diversion through a CDF per manual section [16.110-PRO-4 Referring a Subject to CSC/CDF.](#))
5. If appropriate, **turns** the subject over to a LEAD Project manager at a department precinct.
6. **Completes** a report.
- **Establishes** and **articulates** the probable cause for the arrest. Sworn employees must provide enough information so full the nature of the case is understood.
 - **Notes** in the narrative if the incident occurred in a restricted area (SODA/Drug Free Zone).
 - **Ensures** the correct arrest type is selected in Mark 43 and whether a Crisis Report is appropriate.
 - **Indicates** the results of the suspected narcotics field test in the report. **Documents** negative results as inconclusive.
 - If applicable, **articulates** the additional factors leading to arrest, absent the public harm.
7. **Completes** a property report.
- **Lists** all items of evidence, who found it, where it was found and what was done with it.
 - **Completes** a separate laboratory request for each subject that possessed the narcotics.

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- **Places** the item most important to be tested on the first line of the request. The laboratory will generally only test the first item.

8. **Field tests** suspected narcotics.

- Conducting field tests on unknown substances demands caution. Avoid handling unknown substances, especially those in powdered form. Many noxious materials are water-soluble and may be absorbed through the skin. Always perform narcotics field tests in well-ventilated areas. Avoid doing field tests in vehicles.

9. **Weighs** suspected narcotics.

- If the suspected narcotics amount weighed is over an ounce, and no other criteria indicating a felony narcotics crime exists, **emails** the Narcotics Unit, and **includes** the case number.

10. **Routes** the report for approval.