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THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BLACK LIVES MATTER SEATTLE-  
KING COUNTY, ABIE EKENEZAR,  
SHARON SAKAMOTO, MURACO  
KYASHNA-TOCHA, ALEXANDER  
WOLDEAB, NATHALIE GRAHAM,  
AND ALEXANDRA CHEN,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

No. 2:20-cv-00887-RAJ

**ORDER GRANTING  
STIPULATED CLARIFICATION  
OF PRELIMINARY INJUNCTION**

The Parties, Plaintiffs Black Lives Matter Seattle-King County, Abie Ekenezar, Sharon Sakamoto, Muraco Kyashna-Tocha, Alexander Woldeab, Nathalie Graham, and Alexandra Chen (“Plaintiffs”) and Defendant, City of Seattle (“the City”) hereby stipulate to and propose the following, subject to approval by the Court:

## FINDINGS

1  
2 1. On June 12, 2020, the Court granted Plaintiffs’ motion for a temporary restraining  
3 order enjoining the City from using chemical irritants and projectiles against peaceful protesters.

4 *See* ECF 34.

5 2. The temporary restraining order enjoined the City from “employing chemical  
6 irritants or projectiles of any kind against persons peacefully engaging in protests or  
7 demonstrations.” ECF 34 ¶ 1. It noted that individual officers could take “necessary, reasonable,  
8 proportional, and targeted action to protect against a specific imminent threat of physical harm to  
9 themselves or identifiable others or to respond to specific acts of violence or destruction of  
10 property” but that chemical irritants and projectiles could not be “deployed indiscriminately into  
11 a crowd” and, “to the extent reasonably possible, they should be targeted at the specific  
12 imminent threat” justifying their deployment. *Id.*

13 3. On June 17, 2020, the parties stipulated to a preliminary injunction with terms  
14 identical to the TRO extending the injunction through September 30, 2020. *See* ECF 42. The  
15 Court entered the agreed preliminary injunction.

16 4. On June 26, 2020, the Seattle City Council passed Ordinance 119805 banning the  
17 crowd control irritants at issue in this suit (“the CCW Ordinance”).

18 5. In the evening of Friday, July 24, 2020, the Honorable James Robart granted an  
19 emergency motion by the Department of Justice to temporarily enjoin implementation of  
20 Ordinance 119805 until it could be reviewed under the terms of the consent decree entered in  
21 *United States v. City of Seattle*, No. 12-cv-01282-JLR (W.D. Wash). In granting the DOJ’s  
22 motion for a TRO, Judge Robart identified that this Court’s order “is the current *status quo*” with  
23 respect to crowd control weapons “and remains in effect.” ECF 630, *United States v. City of*  
24 *Seattle*, No. 12-cv-01282-JLR (W.D. Wash).

25 6. The parties agree to **AMEND** the preliminary injunction (ECF 42) to include the  
26 following terms:

- 1 1. The City of Seattle, including the Seattle Police Department and any other officers,  
2 departments, agencies, or organizations under the Seattle Police Department’s control  
3 (collectively, “the City”), are enjoined from:
- 4 a. Using chemical irritants or projectiles of any kind to re-route a protest, unless such  
5 re-routing is necessary to prevent specific imminent threat of physical harm to  
6 themselves or identifiable others, or to respond to specific acts of violence or  
7 destruction of property;
- 8 b. Using chemical irritants or projectiles of any kind without, when feasible, first  
9 issuing a warning that is reasonably calculated to alert attendees in the area where  
10 the weapons are to be deployed and allowing them reasonable time, space, and  
11 opportunity under the circumstances to leave the area;
- 12 c. Targeting with chemical irritants or projectiles any individual displaying clear  
13 indicia as a Journalist or Legal Observer, as defined in sections 2 and 3, below,  
14 respectively, at such time(s) as the individual is acting lawfully and in a capacity  
15 such that the City knows or reasonably should know of their status. However,  
16 incidental exposure of these individuals which is related to allowable uses of these  
17 tools is not enjoined.

18 2. To facilitate the City’s identification of Journalists protected under this  
19 Order, the term “Journalist” shall be synonymous with “news media” defined as  
20 follows: (a) Any newspaper, magazine or other periodical, book publisher, news  
21 agency, wire service, radio or television station or network, cable or satellite station  
22 or network, or audio or audiovisual production company, or any entity that is in the  
23 regular business of news gathering and disseminating news or information to the  
24 public by any means, including, but not limited to, print, broadcast, photographic,  
25 mechanical, internet, or electronic distribution; (b) Any person who is or has been an  
26 employee, agent, or independent contractor of any entity listed in (a) above, who is or

1 has been engaged in bona fide news gathering for such entity, and who obtained or  
2 prepared the news or information that is sought while serving in that capacity; or (c)  
3 Any parent, subsidiary, or affiliate of the entities listed in (a) or (b). The following  
4 shall be considered indicia of being a Journalist: visual identification as a member of  
5 the press, such as by displaying a professional or authorized press pass or wearing a  
6 professional or authorized press badge or some distinctive clothing that identifies the  
7 wearer as a member of the press. The City shall not be liable for unintentional  
8 violations of this Order in the case of an individual who does not carry a press pass or  
9 wear a press badge or distinctive clothing that identifies the wearer as a member of  
10 the press.

- 11
- 12 3. To facilitate the City's identification of Legal Observers protected under this Order,  
13 the following shall be considered indicia of being a Legal Observer: wearing a green  
14 National Lawyers' Guild issued or authorized Legal Observer hat and/or vest (a green  
15 NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or  
16 authorized Legal Observer vest.
- 17 4. At such time(s) as they are acting lawfully and in a capacity such that the City knows  
18 or reasonably should know of their status, individuals with medical training who are  
19 actively providing medical assistance will be classified as "Medics" and will  
20 generally fall under the protections available under this Order to peaceful protesters.  
21 The following shall be considered identifying garb of Medics under this Order:  
22 wearing a blue or white vest or hat with the word "Medic" clearly displayed on the  
23 vest or hat or wearing medical scrubs (typically blue). The City shall not be liable for  
24 unintentional violations of this Order in the case of an individual who is not wearing  
25 the identifying garb of Medics or not acting in the capacity of a Medic as described in  
26 this Order.

- 1 5. The City shall not be liable for violating this Court's Preliminary Injunction (ECF 42)  
2 or the provisions of this Order if blast balls are used for reasons consistent with this  
3 Order or the Court's Preliminary Injunction but directed to an open space near the  
4 target individual(s) rather than at individuals.
- 5 6. The City shall ensure that a copy of this order is distributed via an ALL SPD e-mail  
6 to every Seattle Police Department officer within 24 hours of the issuance of this  
7 Order and certify to the Court that it has done so.
- 8 7. Declaring a protest to be an unlawful assembly or a riot does not exempt the City  
9 from its obligation to comply with this Order, where individual officers may take  
10 necessary, reasonable, proportional, and targeted action to protect against a specific  
11 imminent threat of physical harm to themselves or identifiable others or to respond to  
12 specific acts of violence or destruction of property. To the extent that chemical  
13 irritants or projectiles are used in accordance with this paragraph, they shall not be  
14 deployed indiscriminately into a crowd and to the extent reasonably possible, they  
15 should be targeted at the specific imminent threat of physical harm to themselves or  
16 identifiable others or to respond to specific acts of violence or destruction of property.
- 17 8. These provisions clarify the terms of this Court's Preliminary Injunction (ECF 42)  
18 and are hereby added to that Preliminary Injunction, the entirety of which remains  
19 fully in effect. To the extent that there is any apparent conflict between this Order and  
20 the Preliminary Injunction (ECF 42), the terms of this Order shall govern.
- 21 9. The parties further agree to stay all proceedings in this case, including case deadlines  
22 and all discovery, pending the review by the court in *United States v. City of Seattle*  
23 of the CCW Ordinance's validity and effect. The stay in this case will expire when  
24 Judge Robart issues an order with such ruling; within 24 hours of such order being  
25 issued the parties will jointly advise this Court of it. The parties further agree that the  
26 Preliminary Injunction, as amended by this Order, shall remain in effect for 90 days

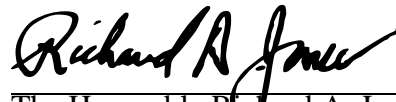
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after the stay in this case is lifted, unless otherwise vacated by the Court. Either party may move to amend or vacate the preliminary injunction after the stay is lifted.

10. The Stay does not affect Plaintiffs' ability to seek enforcement of the preliminary injunction, as amended by this Order.

11. Plaintiffs' Motion for Order to Show Cause is DISMISSED WITHOUT PREJUDICE, and the evidentiary hearing scheduled for August 26, 2020, is vacated.

IT IS SO ORDERED by the Court this 10th day of August, 2020.

  
The Honorable Richard A. Jones  
United States District Judge