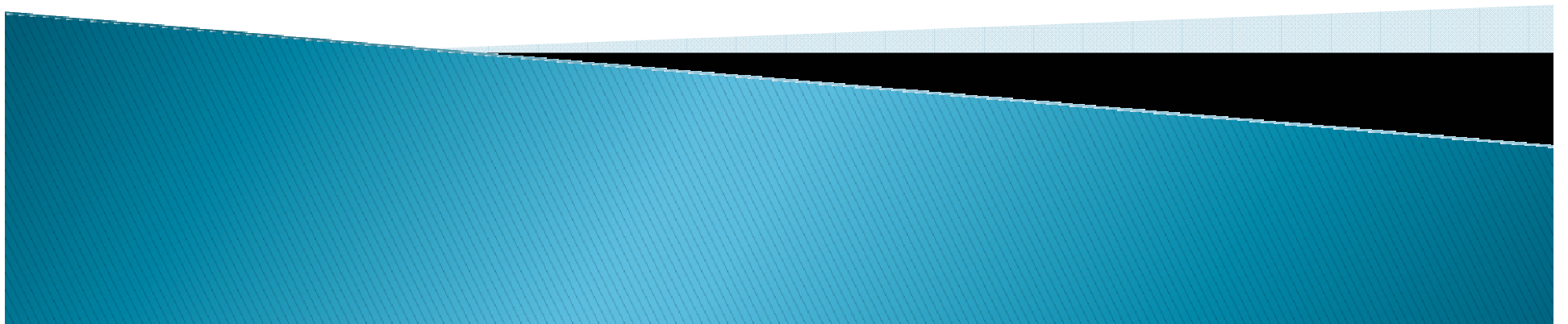
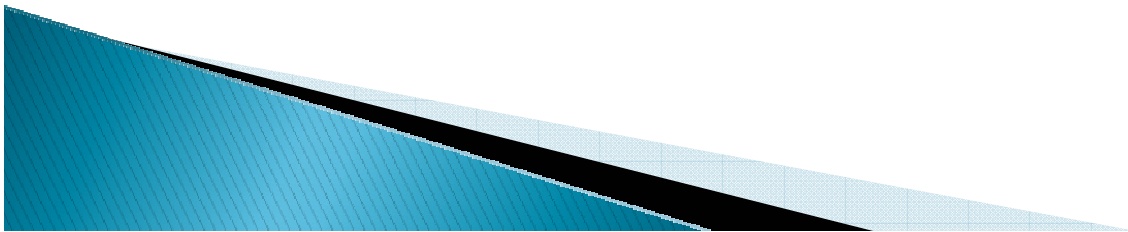


Criminalization of Homelessness



What is “unlawful conduct”?

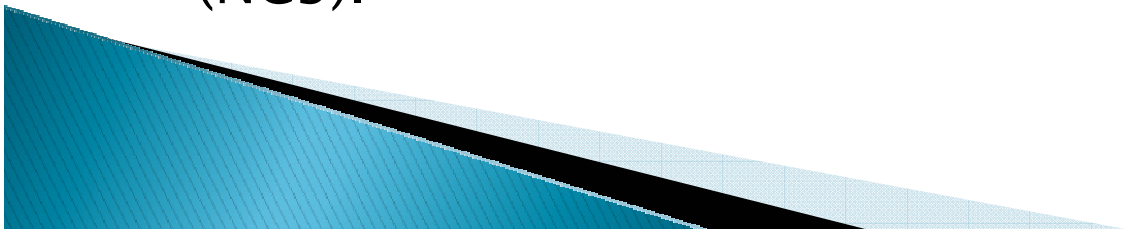






Seattle Municipal Code 15.48.040

- ▶ Prohibition. A person shall not sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between 7 a.m. and 9 p.m. in the following zones:
 - ▶ 1. The Downtown Zone, defined as the area bounded by the Puget Sound waterfront on the west, South Jackson Street on the south, Interstate 5 on the East, and Denny Way and Broad Street on the North;
 - ▶ 2. Neighborhood Commercial Zones, defined as areas zoned as Pioneer Square Mixed (PSM), International District Mixed (IDM), Commercial 1 (C1), Commercial 2 (C2), Neighborhood Commercial 1 (NC1), Neighborhood Commercial 2 (NC2), and Neighborhood Commercial 3 (NC3).



BY ADAM LEWIS 05:37PM 02/05/2014

700,000 FANS IGNORE COLD, HAIL SEAHAWKS CHAMPS

Some Seahawks fans camped on the sidewalk overnight for Wednesday's victory parade, then spent a freezing day celebrating Seattle's first major sports title since 1979.

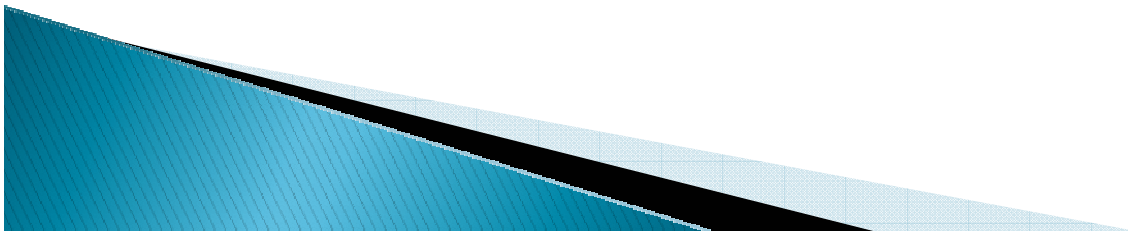






Seattle Municipal Code 18.12.250

- ▶ It is unlawful to camp in any park except at places set aside and posted for such purposes by the Superintendent.



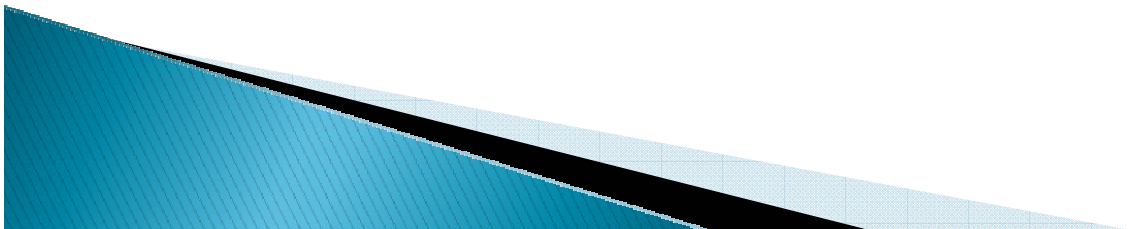
Seattle Municipal Code 18.12.278

- ▶ A. The Superintendent may, by delivering an exclusion notice in person to the offender, exclude from a City park zone or zones, anyone who within a City park:
 - ▶ 1. Violates any provision within this chapter; or
 - ▶ 2. Violates any park rule as defined in Section 18.12.030; or
 - ▶ 3. Violates any provision of the Seattle Municipal Code or Revised Code of Washington.
- ▶ The offender need not be charged, tried, or convicted of any crime or infraction in order for an exclusion notice to be issued or effective. The exclusion may be based upon observation by the Superintendent or upon the sort of civilian reports that would ordinarily be relied upon by police officers in the determination of probable cause.

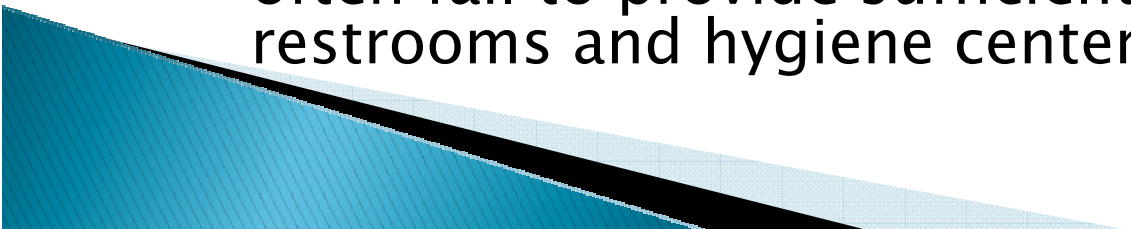


Seattle Municipal Code 18.12.279

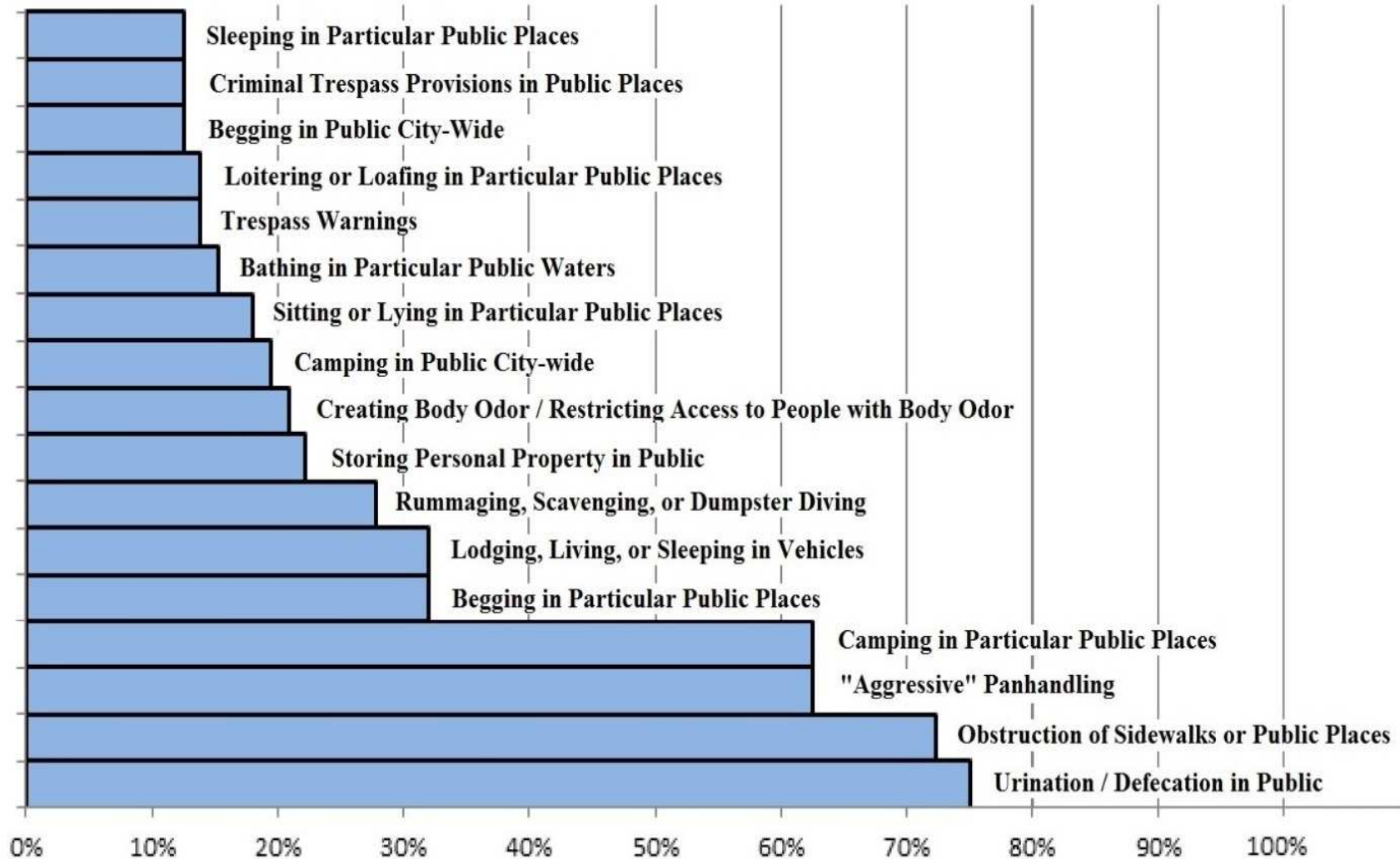
- ▶ A. Any person who knowingly:
 - ▶ 1. Enters or remains in a park from which he or she has been excluded during the period covered by an exclusion notice pursuant to SMC Section 18.12.278; or
 - ▶ 2. Enters, remains in, or is otherwise present within the premises of a park during hours which the park is not open to the public, unless the person is present within the park to participate in an activity either conducted by the Department or conducted pursuant to the terms of a permit issued by the Department; shall be guilty of trespass in parks, a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04 of the Seattle Municipal Code
 - ▶ ...
- ▶ C. Any person convicted of this crime may be punished by a fine in any sum not to exceed Five Thousand Dollars (\$5,000) or by imprisonment in the City Jail for a term not to exceed three hundred sixty-four (364) days, or by both such fine and imprisonment.



Washington State Ordinances

- ▶ **Outlawing life-sustaining activities:**
 - Obstruction of sidewalks / public places (72% of surveyed municipalities)
 - Camping in particular public places (63%)
 - ▶ **Disproportionately targeting the homeless:**
 - “Aggressive” panhandling ordinances (63%)
 - ▶ **Disparately impacting the homeless:**
 - Although the majority of cities in Washington (75%) criminalize urination and defecation in public, cities often fail to provide sufficient access to 24-hour restrooms and hygiene centers.
- 

Percentage of Municipalities Criminalizing a Specific Behavior



What is “aggressive” panhandling?

SMC 12A.12.015 – Pedestrian Interference.

A. The following definitions apply in this section:

1. “Aggressively beg” means to beg with the **intent to intimidate** another person into giving money or goods.

2. “Intimidate” means to engage in conduct which would make a **reasonable person fearful** or feel compelled.

.....

SMC 12A.06.040 – Harassment.

A. A person is guilty of harassment if:

1. With the **intent to annoy or alarm** another person he/she repeatedly uses fighting words or obscene language, thereby creating a substantial risk of assault; or

2. Without lawful authority, the person knowingly threatens:

.....

d. Maliciously to do any other act which is **intended** to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

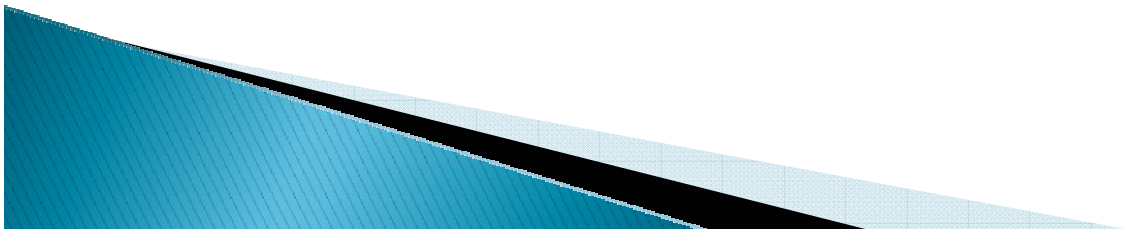
e. The person by words or conduct places the person threatened in **reasonable fear** that the threat will be carried out.

.....

SMC 12A.10.100 – Urinating in public.

A. A person is guilty of urinating in public if he or she intentionally urinates or defecates in a public place, other than a washroom or toilet room, under circumstances where such act could be observed by any member of the public.

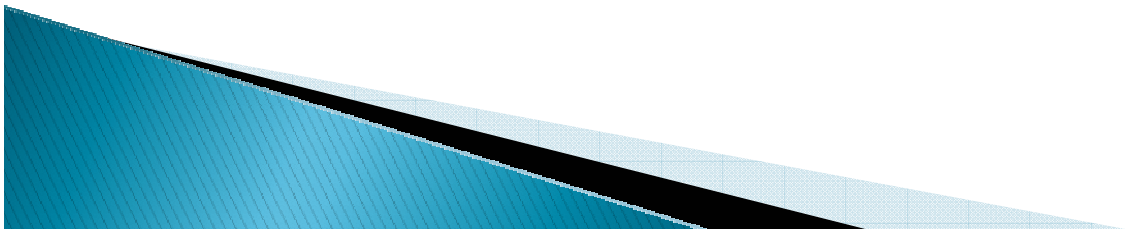
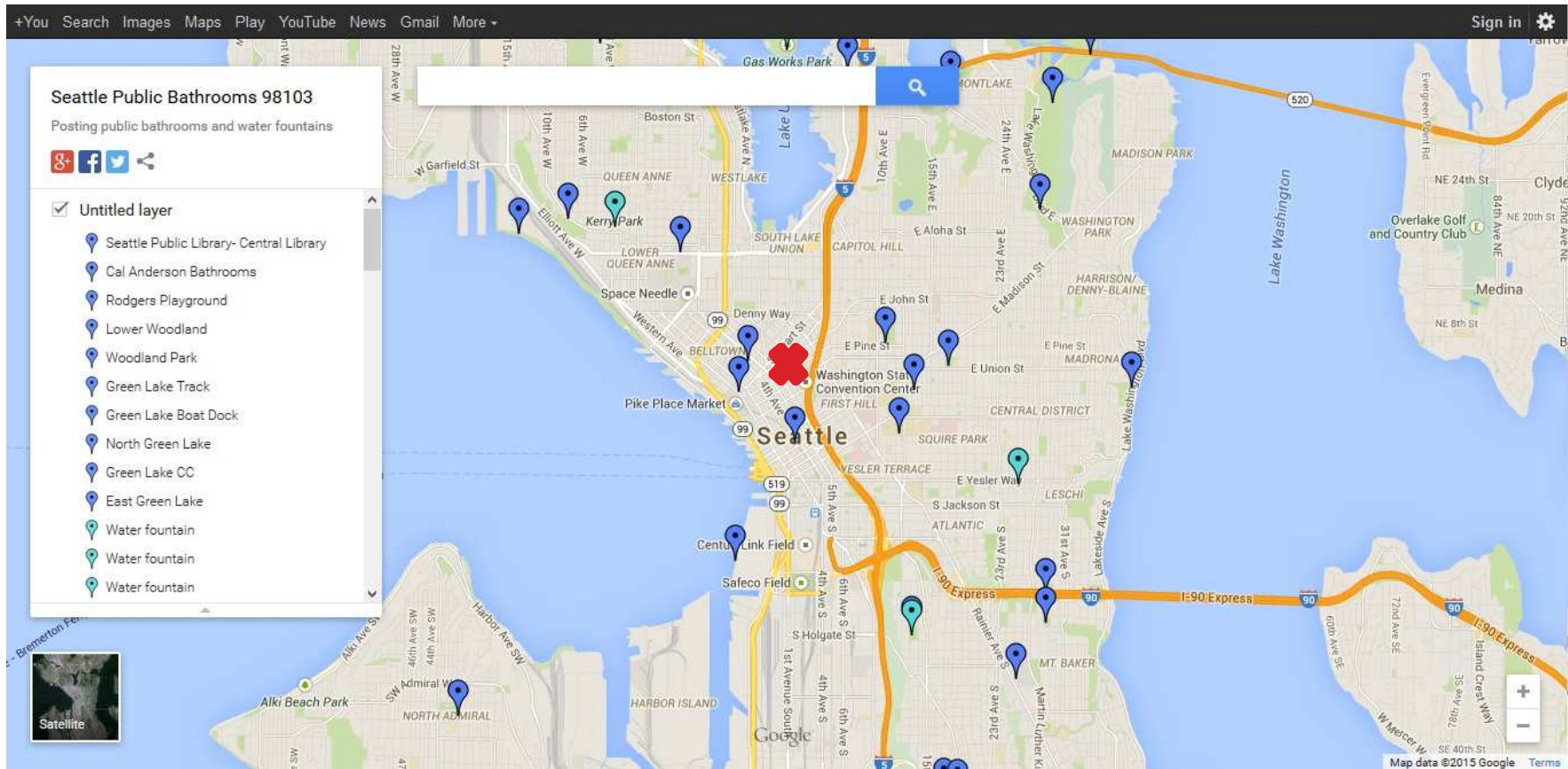
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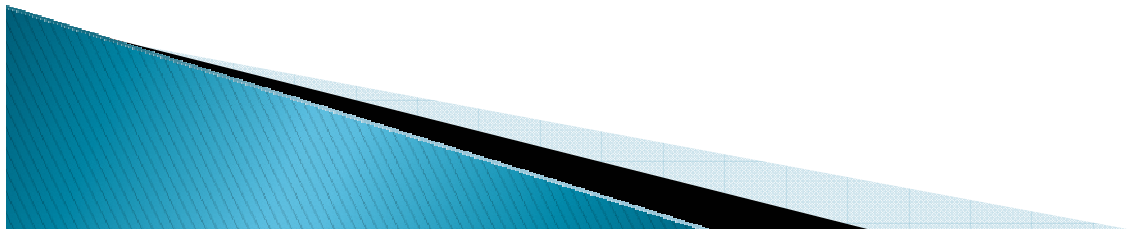
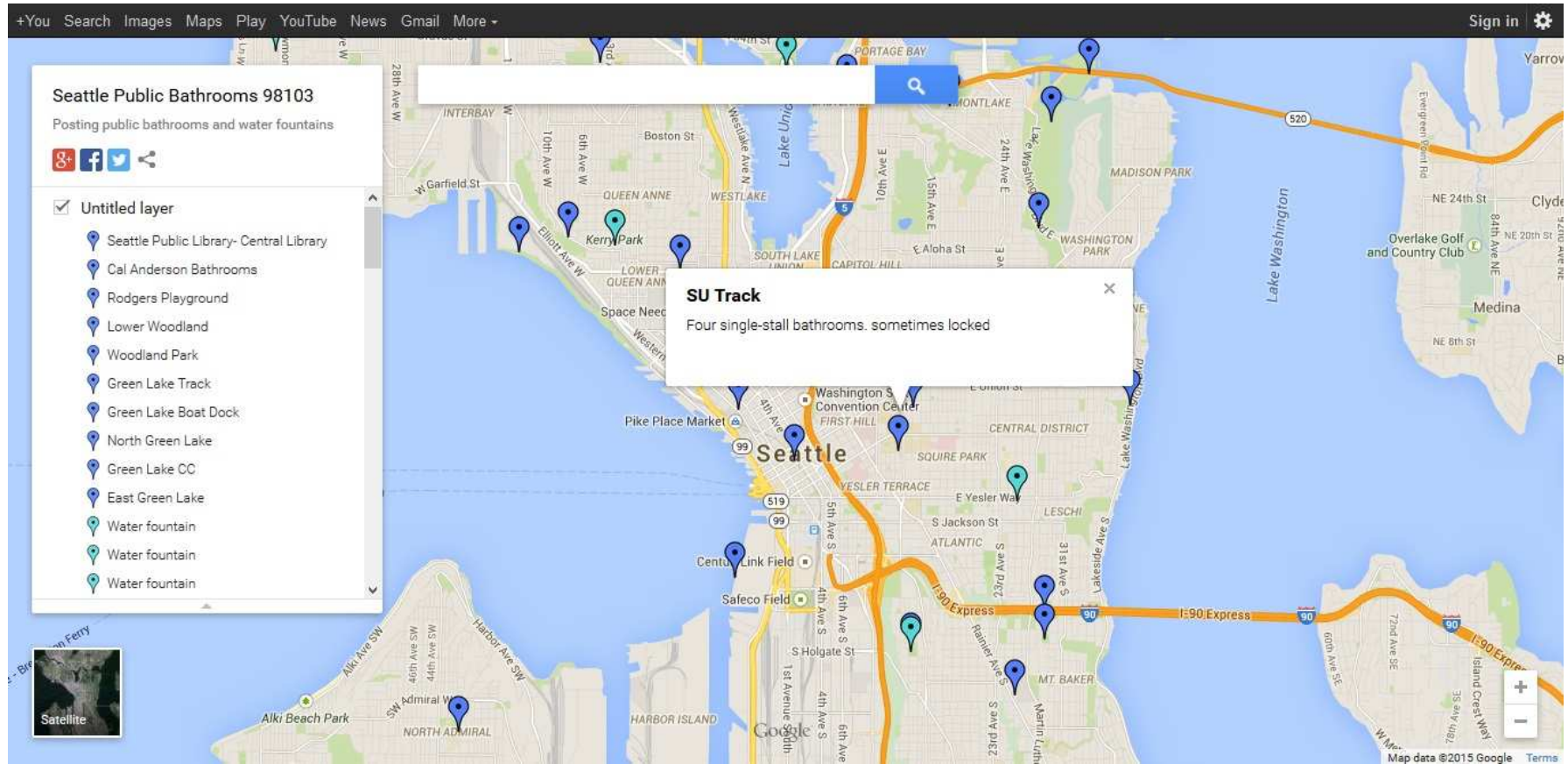
So where are the 24-hour public restrooms in Seattle?



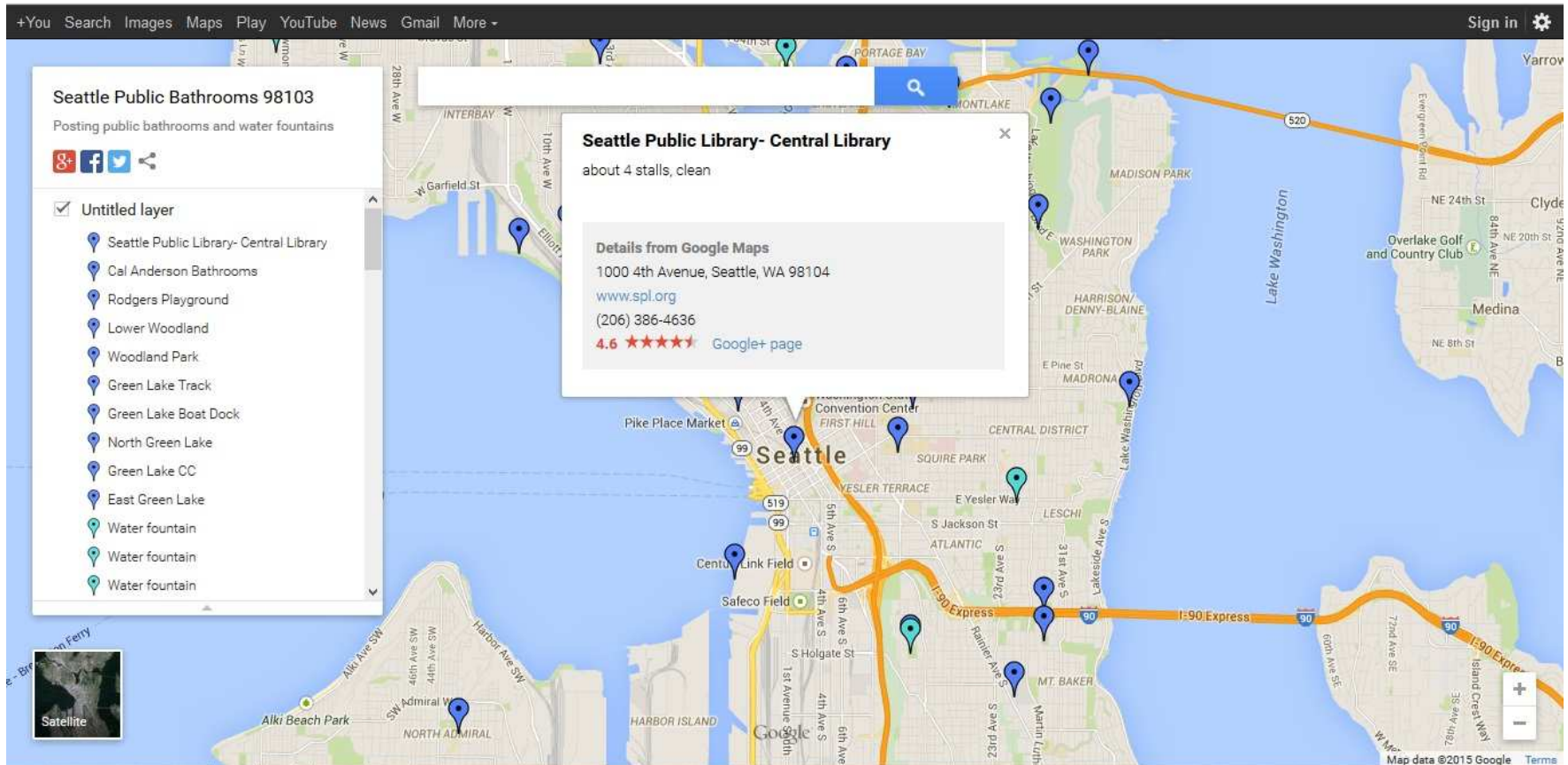
Search for “Seattle public restrooms”



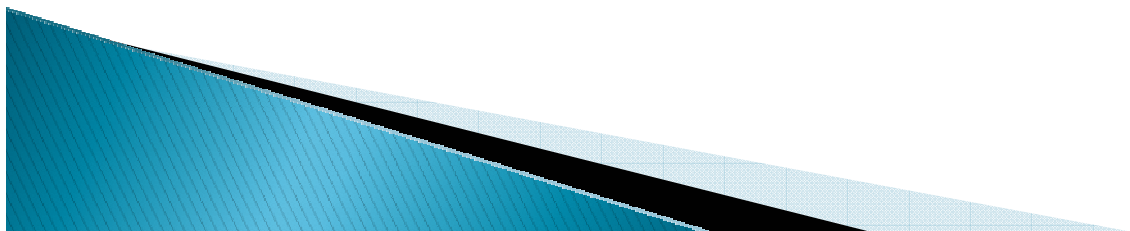
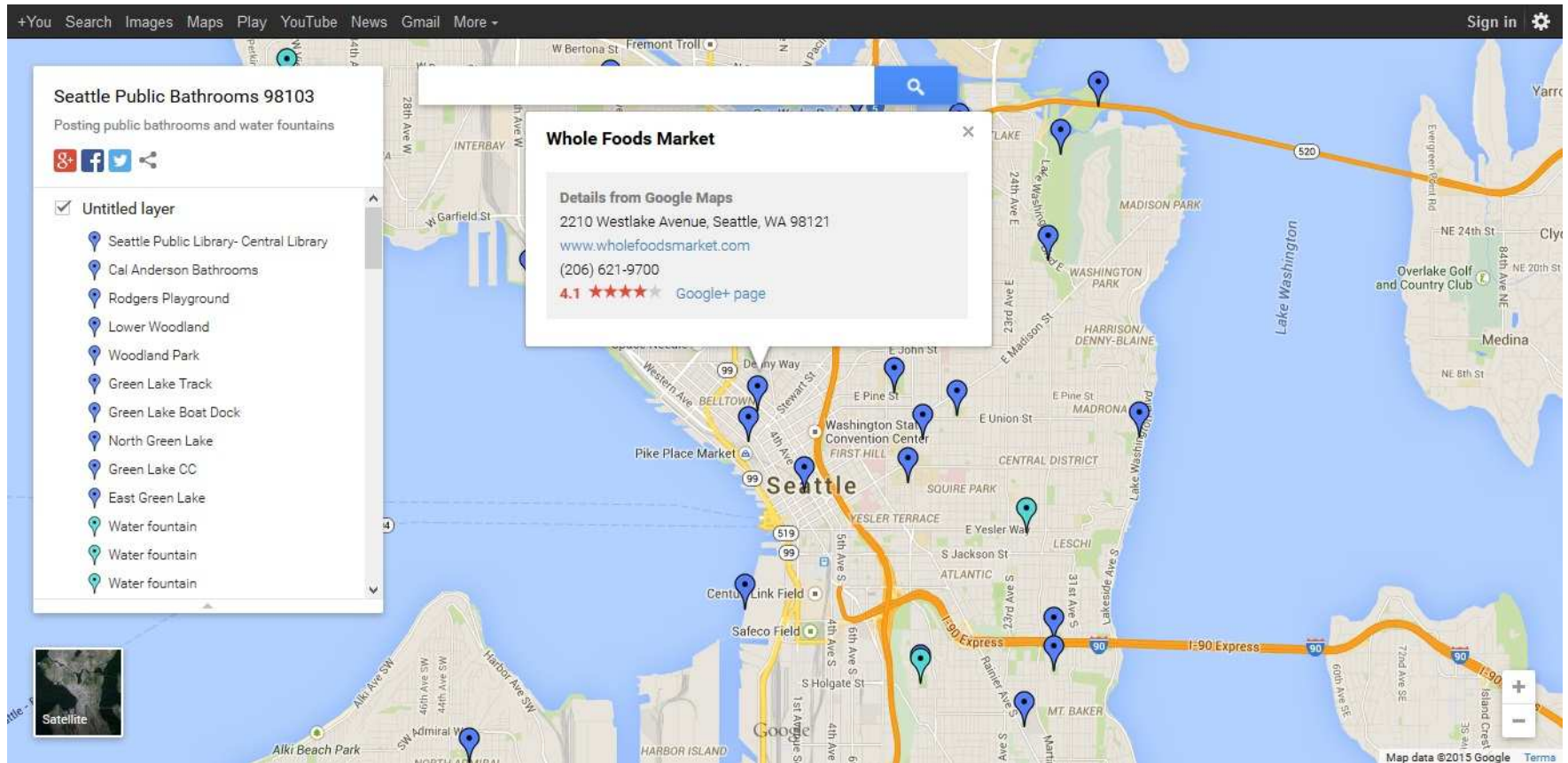
Search for “Seattle public restrooms”



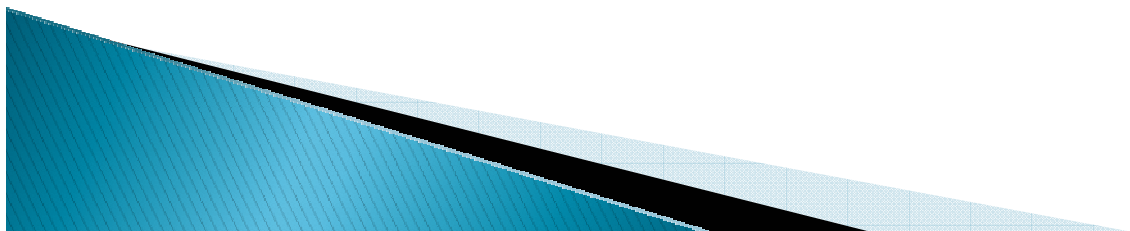
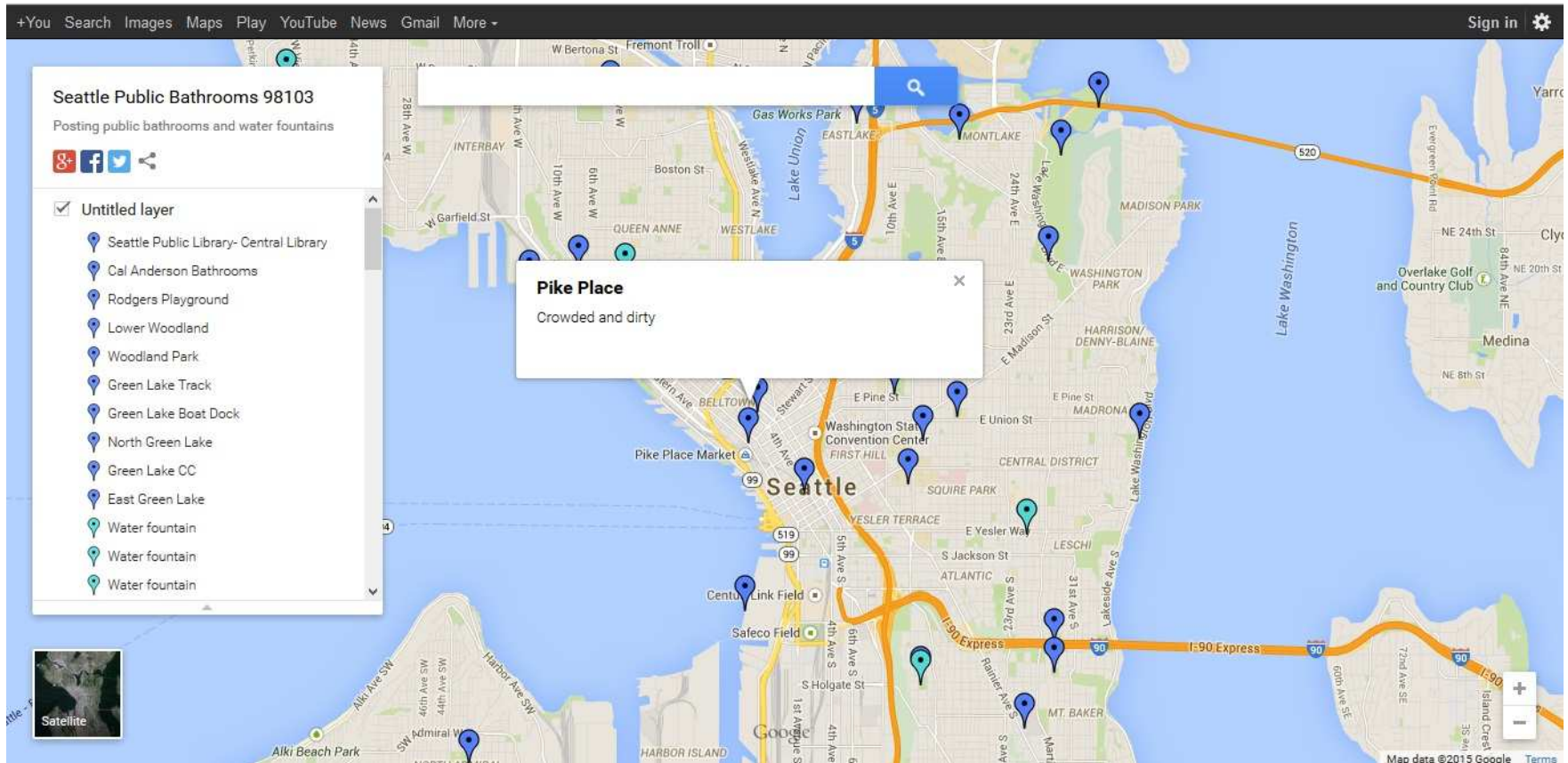
Search for “Seattle public restrooms”



Search for “Seattle public restrooms”

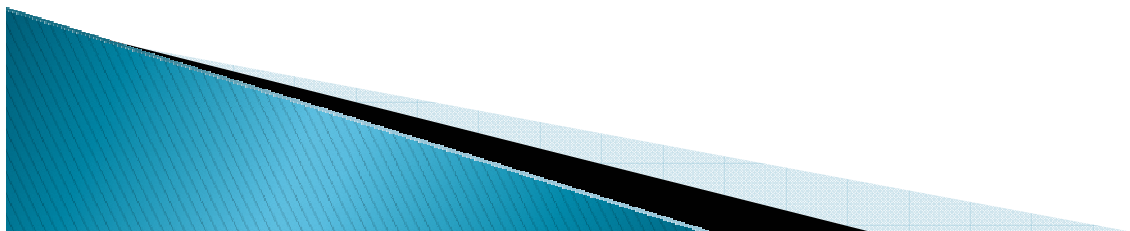
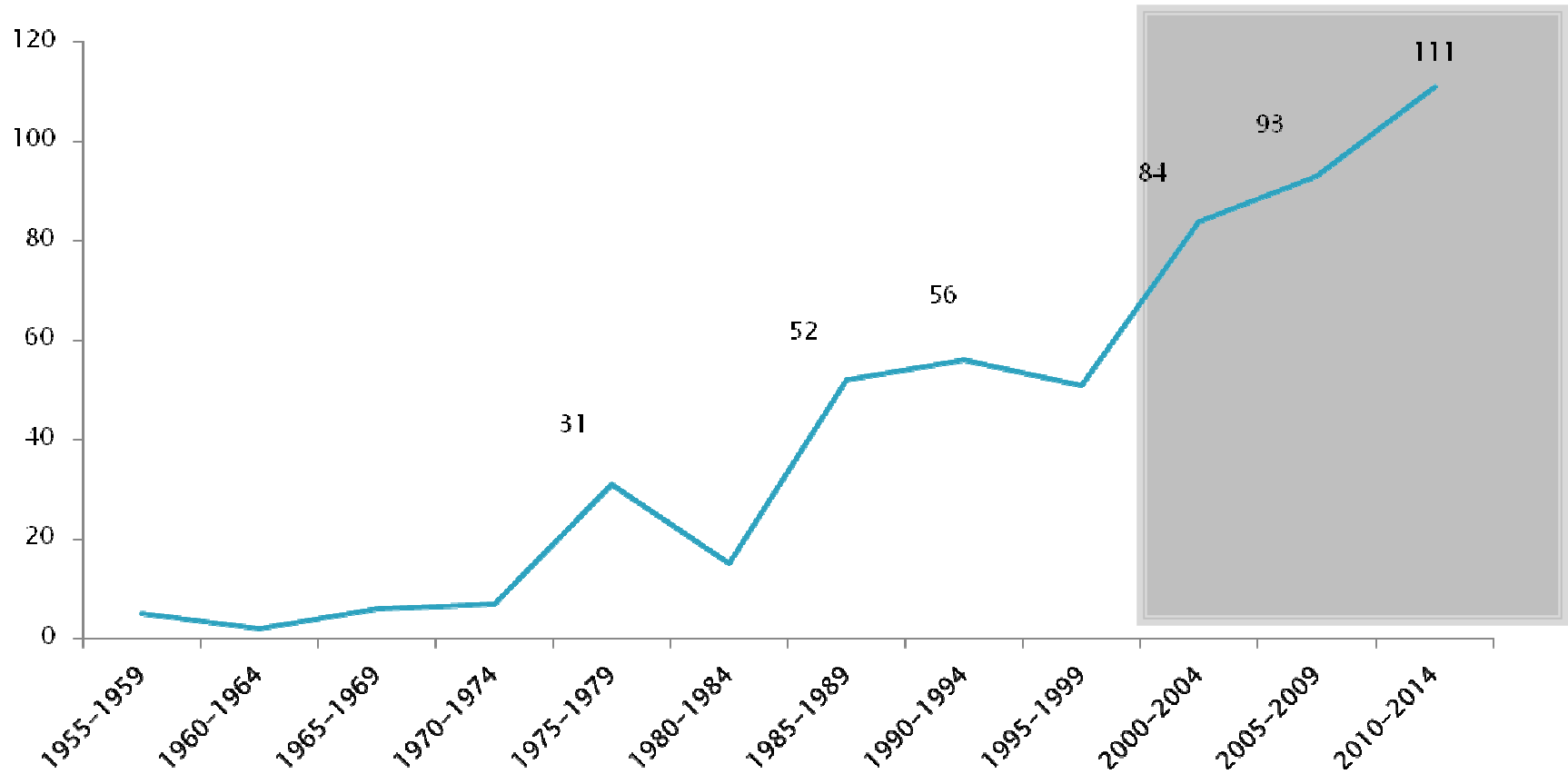


Search for “Seattle public restrooms”



Criminalization is on the Rise

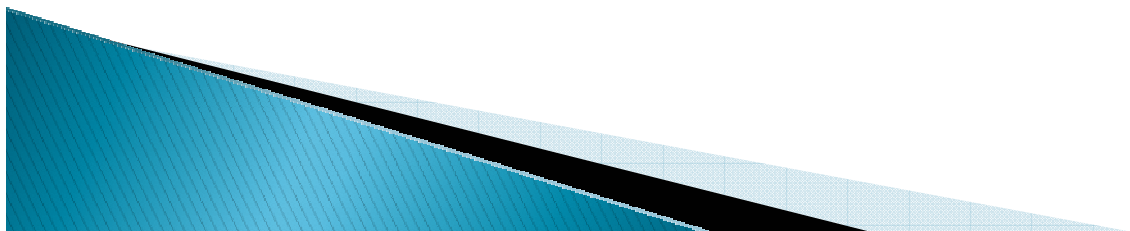
New Methods of Targeting Homelessness per Five Years



Overlapping Ordinances

Bellingham Municipal Code 10.24.010 Disorderly Conduct	Bellingham Municipal Code 10.24.040 Pedestrian Interference
<p>A person is guilty of disorderly conduct if he: C. Intentionally obstructs pedestrian or vehicular traffic without lawful authority; or</p>	<p>A. A person is guilty of pedestrian interference if, in a public place, he or she intentionally: 1. Obstructs pedestrian traffic; or</p>

If the two ordinances have different punishments, then **discriminatory enforcement** may occur. Discriminatory enforcement will lead to **constitutional concerns** of due process and equal protection.

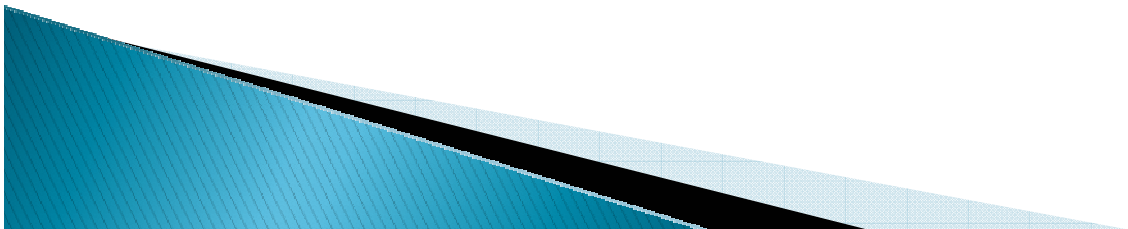


After surveying only 7 cities ...

The following cities contain overlapping ordinances with different penalties, making them susceptible to arbitrary and discriminatory law enforcement:

Pasco
Burien
Vancouver
Spokane

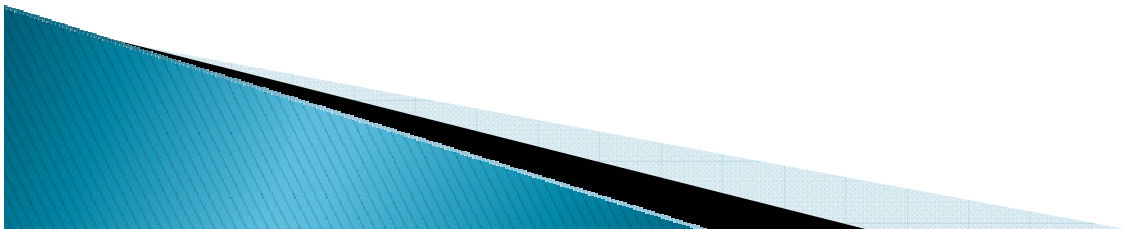
57%



Enforcement Data

Total Citations Issued:

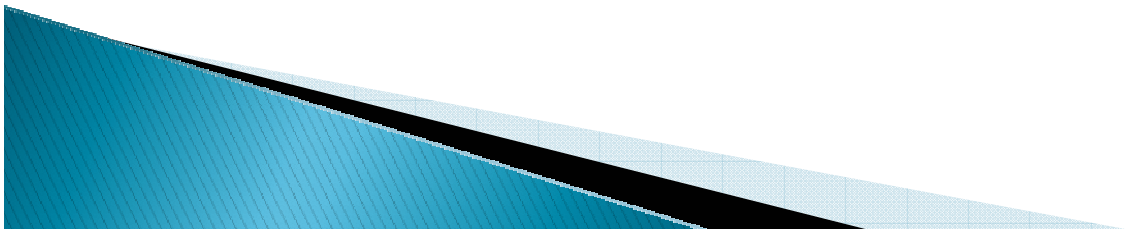
- Seattle: 5,814
- Bellingham: 1,682
- Spokane: 1,014
- Vancouver: 434
- Burien: 215
- Auburn: 203
- Pasco: 93



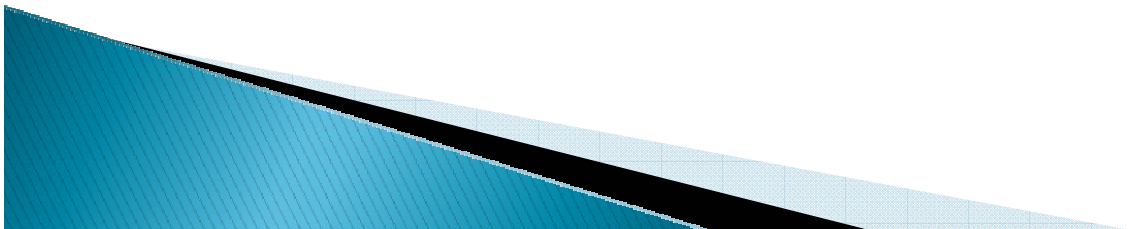
Civil vs. Criminal

SMC 12A.02.085 – Failure to respond to notice of civil infraction.

A person who, after receiving a notice of civil infraction . . . knowingly fails to exercise one of the options [to respond] within fifteen (15) days of the date of the notice is **guilty of a misdemeanor regardless of the disposition of the notice**. A notice of civil infraction may be complied with by an appearance by counsel.

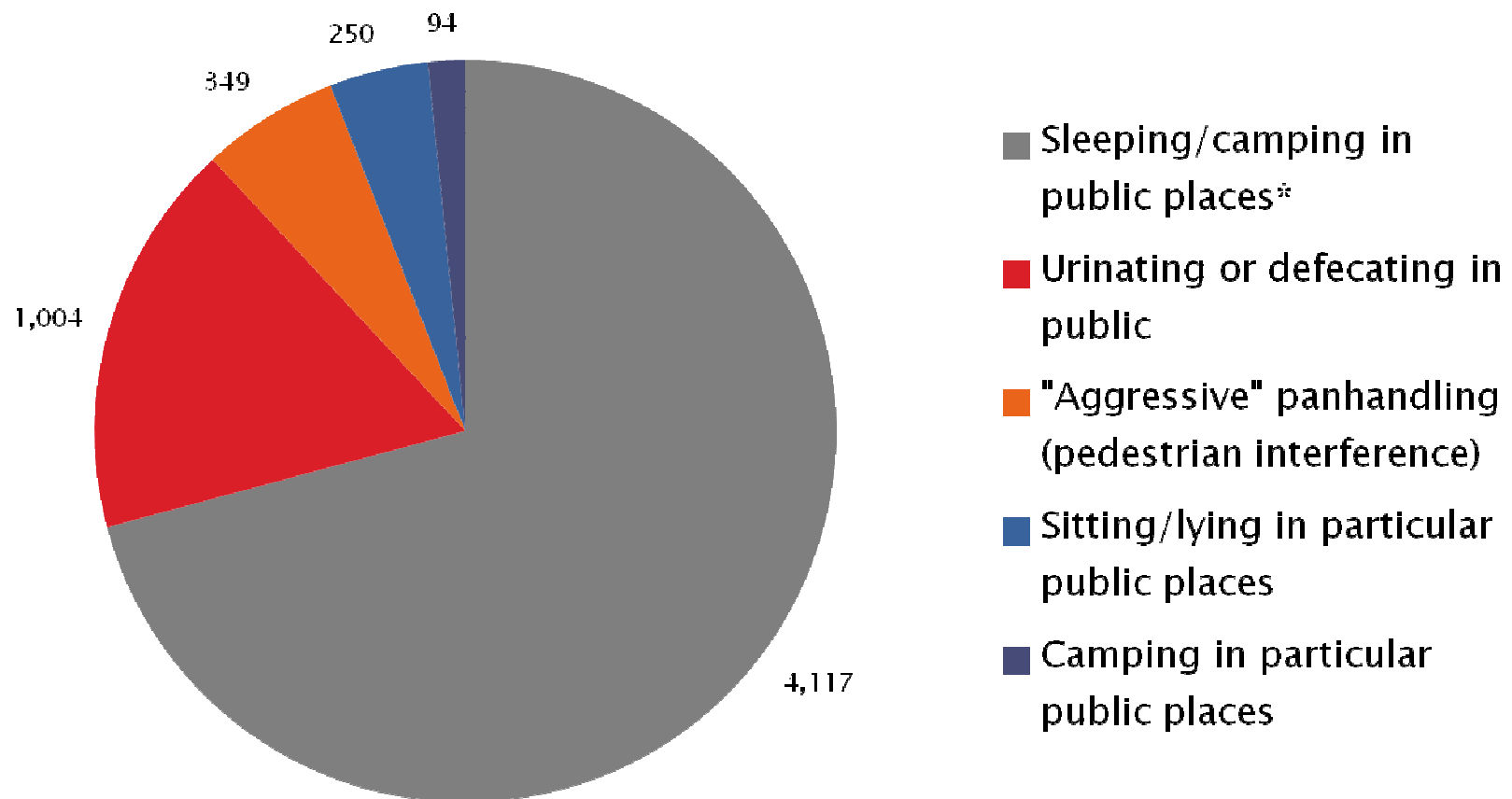


Seattle Enforcement Data



Seattle Enforcement Data

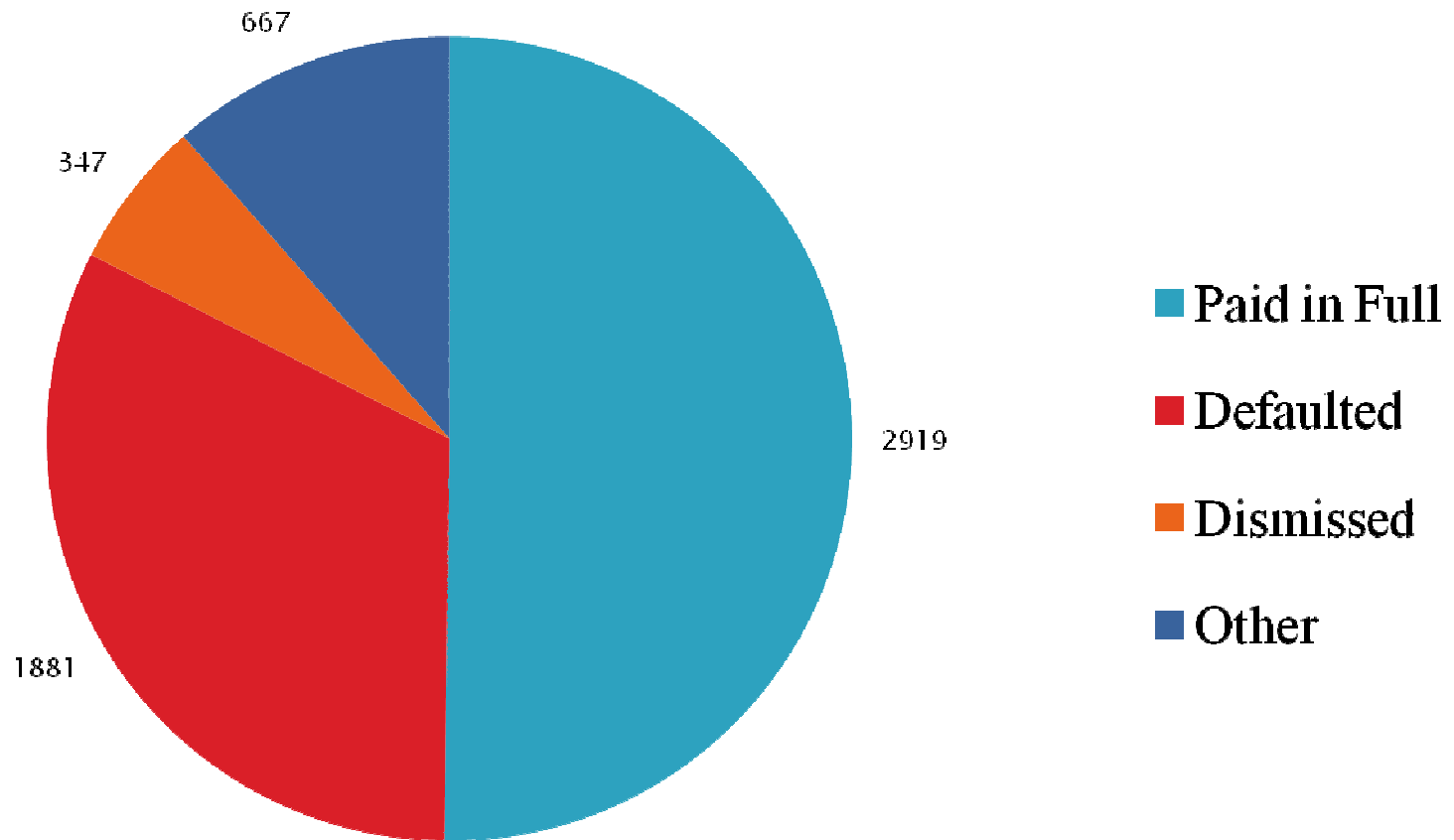
Total Citations



*SMC 11.72.430 – “Trailer/Camper Detached”

Seattle Enforcement Data

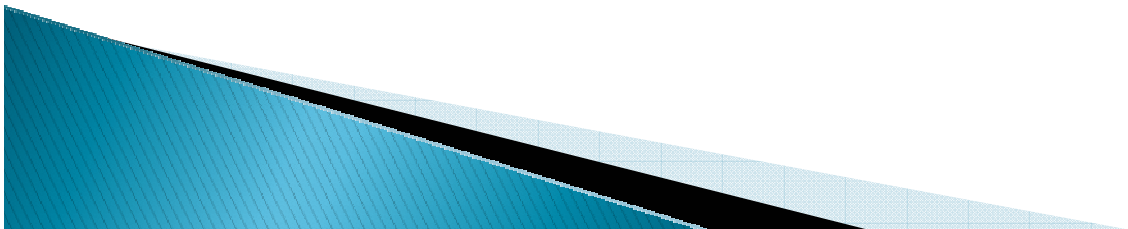
Seattle Citation Disposition



Seattle Enforcement Data

Total Custody Times for Pedestrian Interference:

1-2 days	3-7 days	8-14 days	15-30 days	31-60 days	61-90 days	91-365 days
9	6	9	12	4	45	38

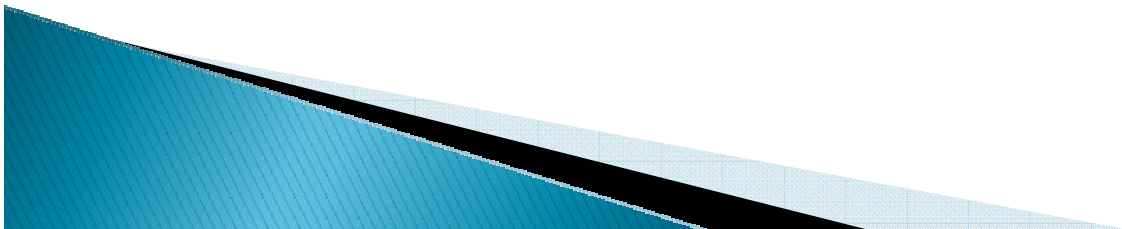


Seattle Enforcement Data

Custody Over Time:

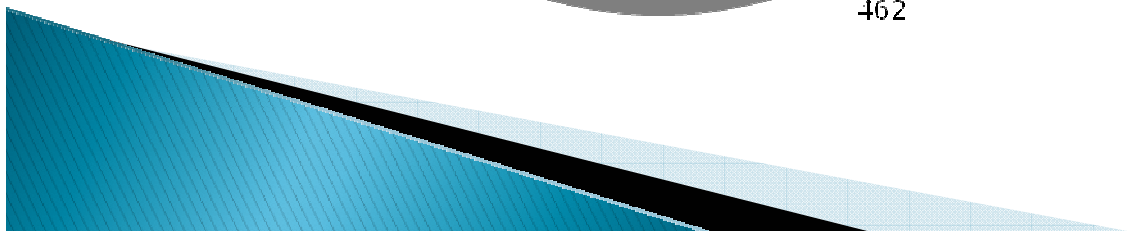
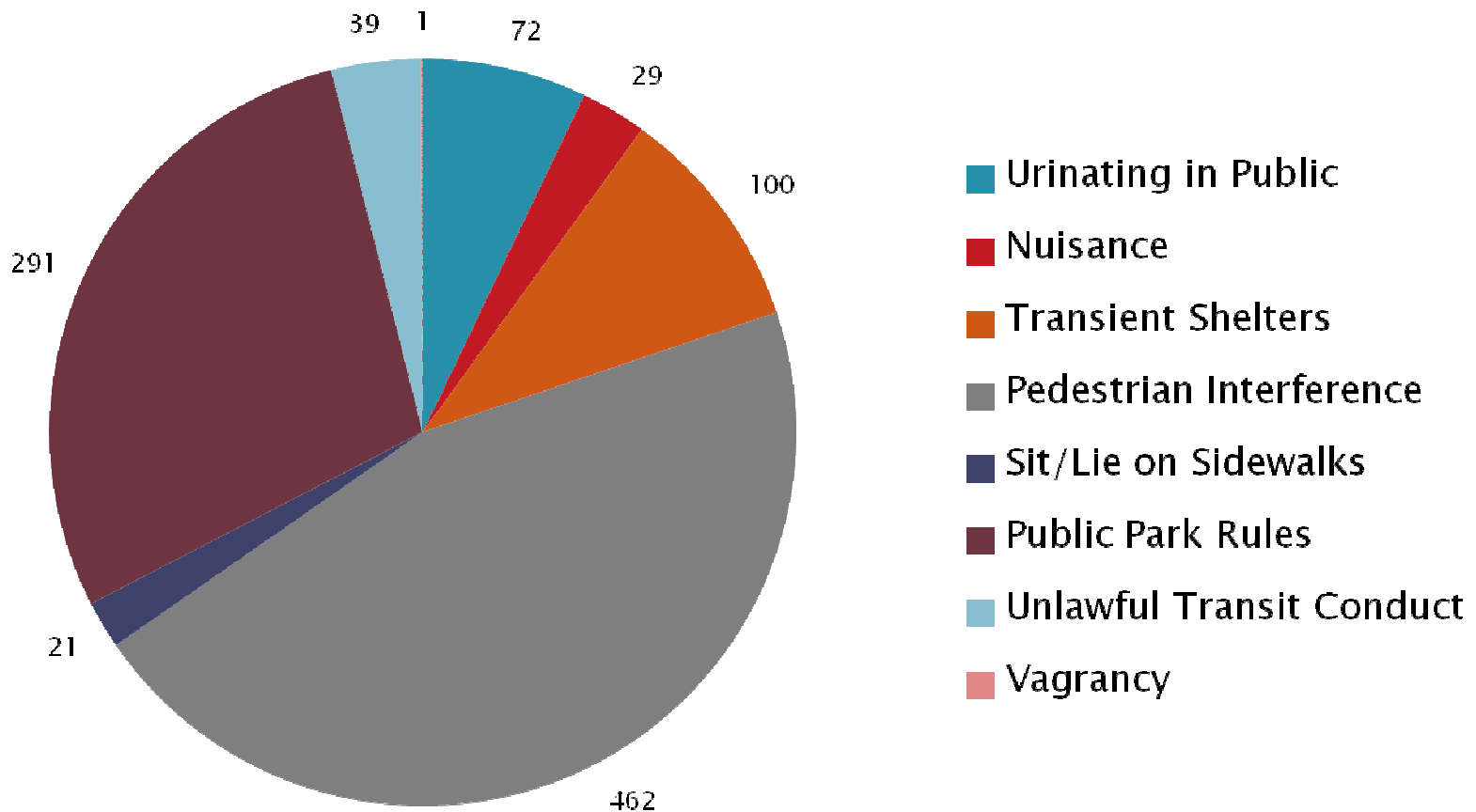
	2009	2010	2011	2012	2013
1-2 days in custody	6	1	1	1	0
3-7 days in custody	3	0	0	3	0
8-14 days in custody	2	4	3	0	0
15-30 days in custody	4	2	0	2	4
31-90 days in custody	6	10	9	8	15
91-365 days in custody	5	9	5	3	12

Spokane Enforcement Data



Spokane Enforcement Data

Total Citations

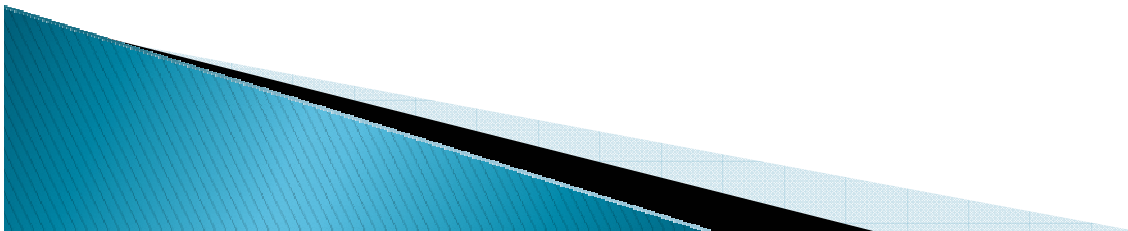
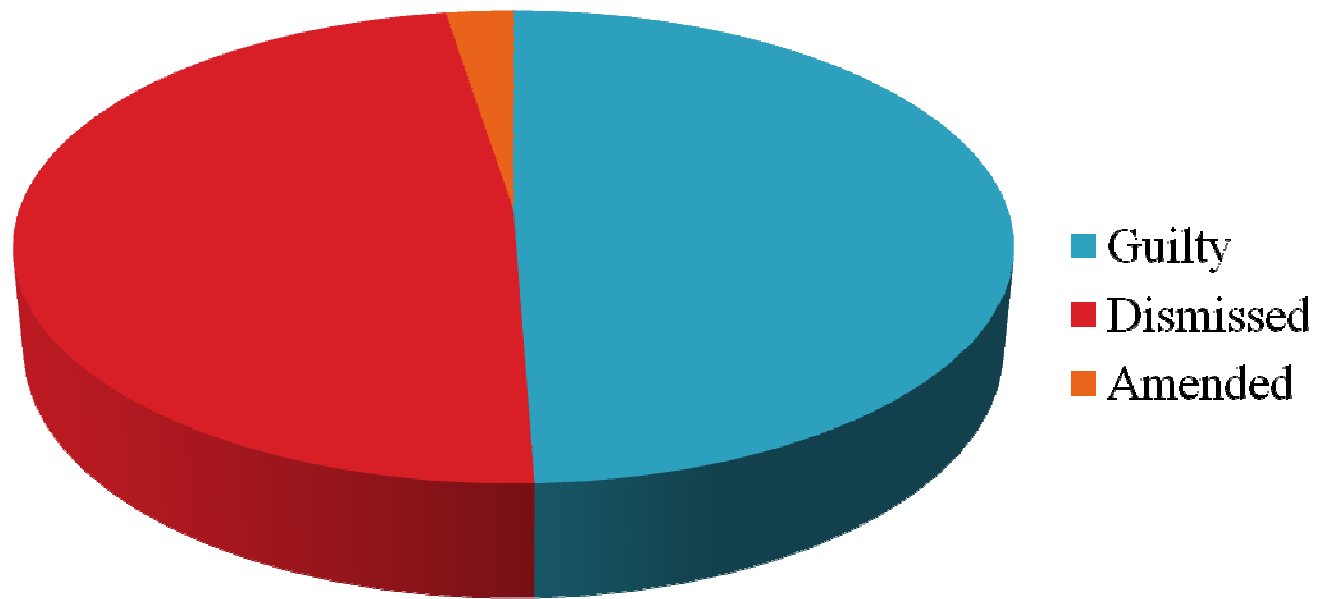


Spokane Enforcement Data

CITATIONS	2009	2010	2011	2012	2013
10.06.015 - Urinating in Public	0	0	1	29	42
10.08.030 - Nuisance	14	13	2	0	0
10.08B.040 - Occupy/Build Transient Shelter	1	4	8	23	64
10.10.025 - Pedestrian Interference	89	83	41	56	193
10.10.026 - Sit/Lie on Sidewalk in Retail Zone	3	1	5	2	10
10.10.040 - Public Park Rules	88	42	75	25	61
10.10.100 - Unlawful Transit Conduct	7	6	10	4	12
10.19.020 - Vagrancy	0	0	0	0	1

Spokane Enforcement Data

Spokane Citation Disposition



Spokane's Overlapping Ordinances

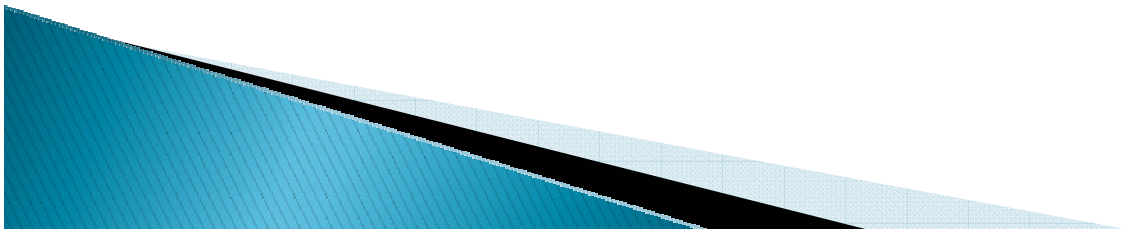
Overlapping ordinances: two or more ordinances that criminalize the same behavior without qualifying conditions or circumstances.



Law #1
Camping in Parks
Civil Infraction – \$250 Fine



Law #2
Camping in Parks
Misdemeanor – \$1,000 Fine
and 90 days in jail



Spokane's Overlapping Ordinances

SMC 10.10.040 – Public Park Rules

.....
G. No person may **camp in any park** except at places set aside for such purposes by the park board and designated by signs, or by special permission of the department.

SMC 10.08B.040 – Unlawful Construction or Occupation of Transient Shelters

A. It shall be unlawful for any person to **construct or occupy a transient shelter** in the following areas, except as otherwise provided by ordinance or as permitted pursuant to SMC 10.08B.070:

1. Any street; or
2. **Any park**; or
3. Any publicly owned or maintained parking lot

SMC 10.08B.030: “Transient shelters” include, but are not limited to, **tents, huts or temporary shelters of any kind.**



Spokane's Overlapping Ordinances

SMC 10.10.040 – Public Park Rules

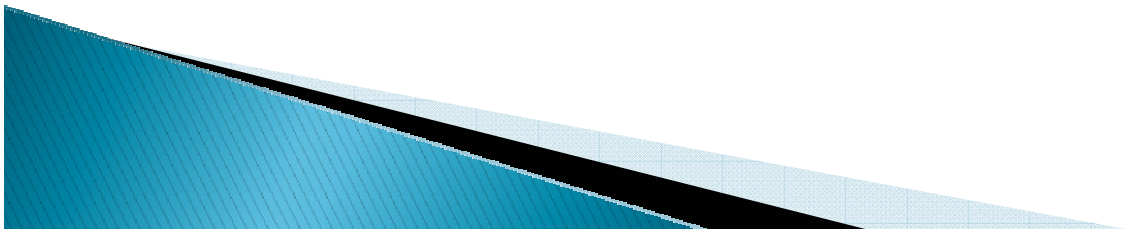
SMC 10.08B.040 – Unlawful Construction or Occupation of Transient Shelters

PENALTY: Civil Infraction – Up to \$250

PENALTY: Misdemeanor – Up to \$1,000 fine and/or 90 days in jail

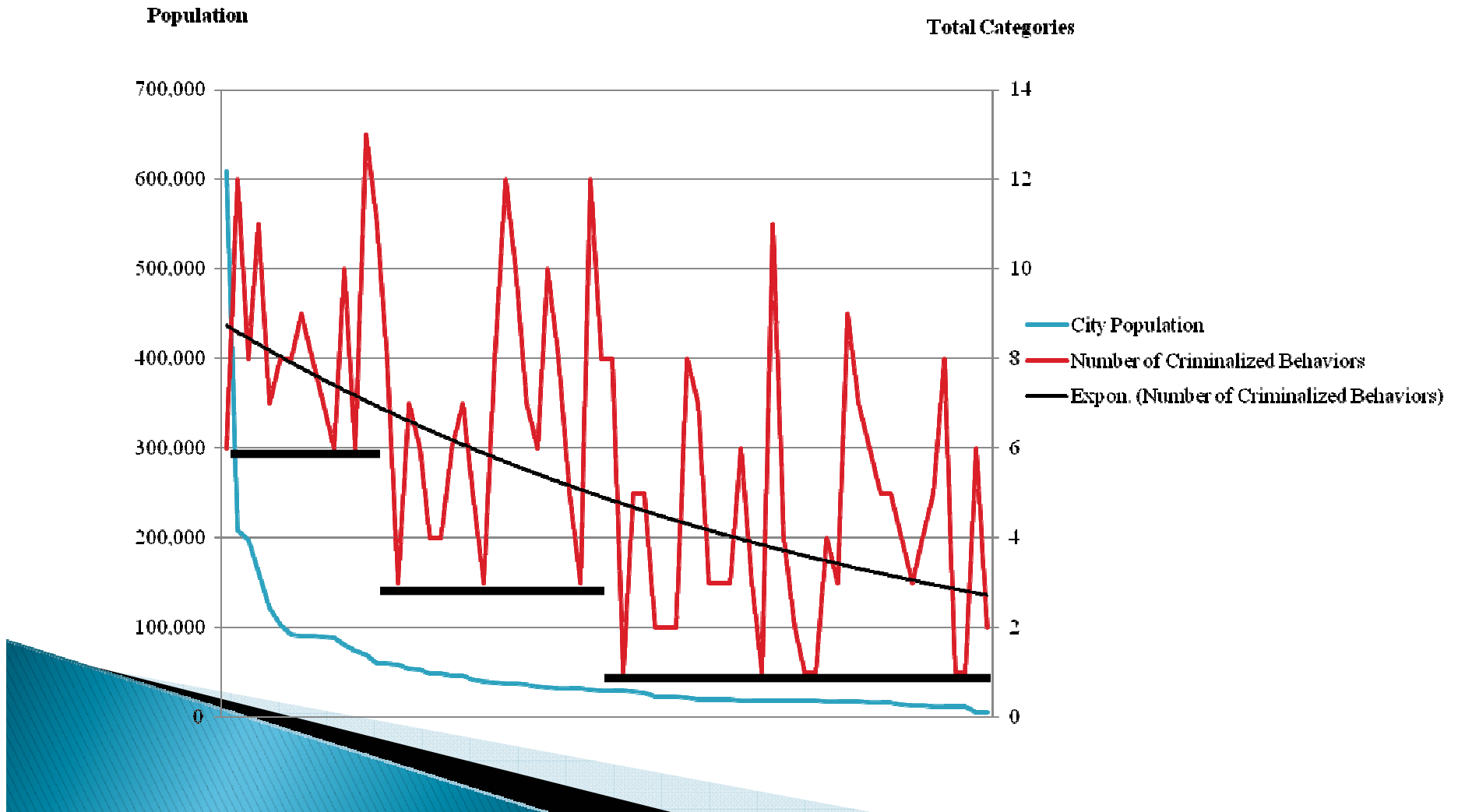
TOTAL CITATIONS: 291 (75%)

TOTAL CITATIONS: 94 (25%)



The Growth of Criminalization

Population growth leads cities to target homelessness in a greater variety of ways.

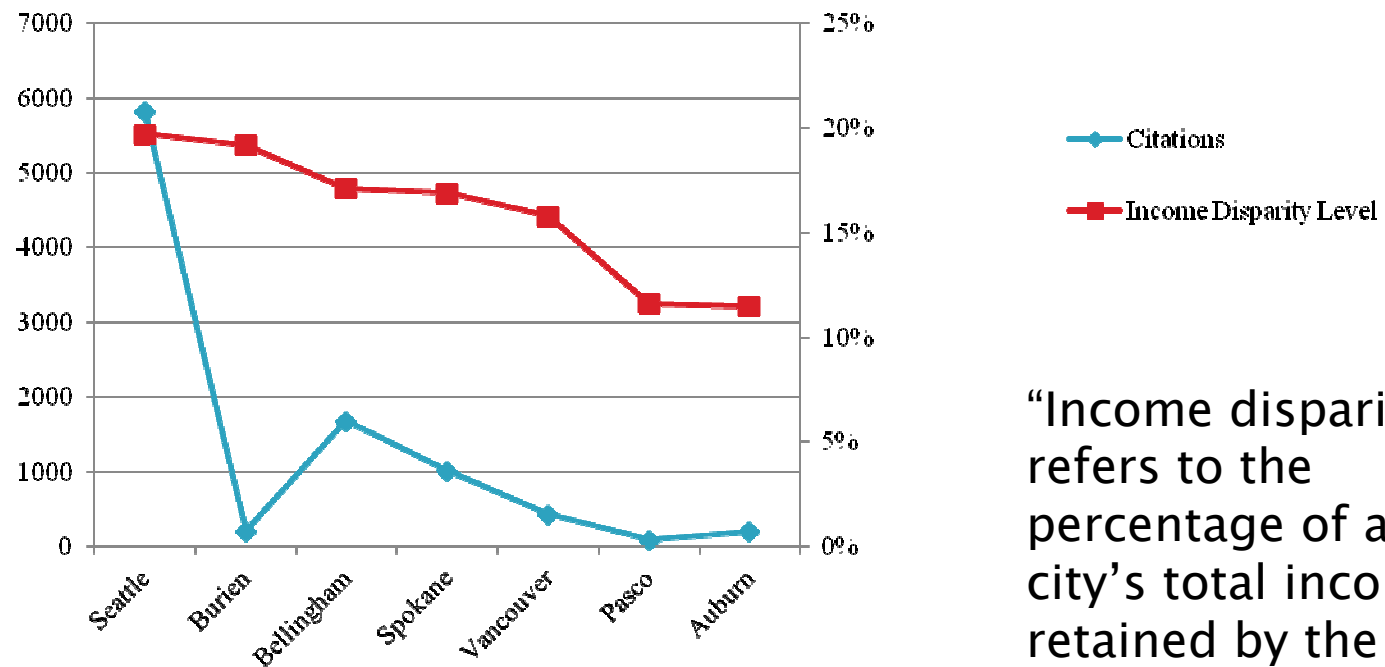


The Growth of Criminalization

Income disparity leads to greater enforcement.

Total Citations Issued

Income Disparity Rates



“Income disparity” refers to the percentage of a city’s total income retained by the wealthiest 5% of its citizens.

“... the courts should not make rulings touching on the scope of the class of the poor for equal protection or due process purposes without a penetrating eye for the facts of poverty in our nation and an acute review of what the case law requires in the world as it is.”

– The Honorable Thomas Bjorgen, Washington State Court of Appeals

