WA lawmakers deadlocked as drugs ravage Snohomish County, rest of state

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1 of 14 | After a report of an encampment on private property near these railway tracks, Marysville police officer Mike Buell concludes a search of the area. (Ken Lambert / The Seattle Times)

By Daniel Beekman

Seattle Times staff reporter

SNOHOMISH COUNTY — You can arrest a person for using drugs. You can lock them up in an attempt to protect them or others.

But you can't handcuff their addiction. You can't jail their trauma.

Police, outreach workers and lawmakers are grappling with that reality in Snohomish County and across Washington as they seek the right combination of compassion and accountability to combat the drugs, like fentanyl, that are contributing to death and destruction on a monstrous scale.

They're wrestling with the crisis on the streets of Marysville, where leaders have empowered police to clamp down on drug use in public spaces.

In muddy Lynnwood homeless encampments, where outreach workers are distributing socks, snacks, hygiene supplies, wound-care kits, overdose-reversal medication, syringes and glass drug pipes to connect with people with substance use disorders.

In Seattle, where the city is experimenting with a program that gives people gift cards for abstaining from drugs and accepting services.

And in the Legislature, where House members last Sunday voted down a deal on the final day of their 2023 session that would have maintained a criminal penalty for illicit drug possession, rejecting a bill initially sponsored by Sen. June Robinson, D-Everett. Unless they reconvene in a special session called by Gov. Jay Inslee and pass something, the state's current law will expire July 1, leaving each city to handle drug possession in its own way.

It's unclear what will happen next, including in communities where services are scarce. A special team in the Marysville Police Department sometimes drives clients to other counties to get help. Jail conditions and capacity can present problems, too.

Rochelle Long, a licensed mental health counselor, discusses her job, which requires her to wear a protective vest and be accompanied by a police officer while doing outreach. (Ken Lambert / The Seattle Times)

"It's very complicated. I would not want to be a politician, especially right now," partly because each drug user has unique strengths and needs, said Rochelle Long, the police team's mental health counselor.

There were at least 266 drug overdose deaths in Snohomish County last year, according to the medical examiner, up from 166 in 2018, aligning with a statewide increase. Last year, 68% involved fentanyl, versus 27% in 2018.

“Handing a couple bucks to somebody on heroin and meth before, they could get a cup of coffee,” but because fentanyl is so much cheaper and more potent, now a couple bucks could be an overdose,” said Jessica Thornton, an outreach worker with the Syringe Services Program at Sound Pathways, an Everett-based nonprofit.

Drug possession was a felony (punishable by up to five years in prison) until 2021, when the state Supreme Court struck down the law, ruling it was unconstitutional because it included people who didn’t realize they were carrying an illegal substance.

King County prosecutors had already stopped pursuing most cases over the possession of very small amounts of drugs, while still going after drug dealers. But the court decision suddenly decriminalized drug possession statewide and ignited a debate about whether to replace the old law or adopt a wholly noncriminal approach. Instead, the Legislature passed a stopgap law in 2021 that classified intentional possession as a misdemeanor (up to 90 days in jail) and required police to refer people to services twice before jail.

That aggravated some police and city leaders, who blamed the new rules for what they described as an increase in drug use, crime and disorder. At the same time, reform-minded advocates urged lawmakers to concentrate on health interventions rather than persist with an ineffective, costly “War on Drugs” waged disproportionately against poor people and people of color.

The debate continued to blaze in the Legislature this session. And now, people battling the crisis on the ground are facing more uncertainty.

Marysville licensed mental health counselor Rochelle Long, left, and Marysville police officer Mike Buell investigate a report of an encampment on private property in Marysville. (Ken Lambert / The Seattle Times)

Marysville police

The raindrops were hammering down like cold, wet nails in Marysville as Long and Mike Buell, a police officer, parked their SUV next to Grocery Outlet, stepped over the railroad behind the store and ducked into a wooded area, checking out a report about a potential encampment there.

Together, Long and Buell are the special team with the Marysville police that works on treatment, housing and other services for people with drug, alcohol, homelessness and mental health challenges. Sometimes, “We’re the carrot,” Buell said, “and then patrol comes back afterward to be the stick.”

Marysville, an Interstate 5 community of about 70,000, is committed to the carrot-and-stick strategy, so much so that the City Council passed a local ordinance in December that made public drug use (as opposed to drug possession) a misdemeanor, allowing police to make arrests without having to go through the referral process.

Other cities, like Federal Way, Kent, Kennewick and Bellingham, have passed similar laws; such jurisdictions can do so, as long as their laws don’t conflict directly with state statutes.

The state's refer-twice requirement for drug possession "forced us to deal with it three times" in some instances, Marysville police Chief Erik Scairpon said. "That was unacceptable to the community."

Marysville officers target areas like Fourth Street next to I-5, where people sometimes camp and panhandle, Buell said. They also make arrests for possession of drug paraphernalia, which is a misdemeanor in the city.

"We had one just recently" at the Marysville Opera House, "where somebody was smoking fentanyl on the front steps" and wouldn't move, Scairpon said.

Not even Scairpon believes arrests alone will solve the crisis, he said. That's why Marysville's jail provides medication for withdrawal symptoms and why Long and Buell work with people before and after jail, the chief said.

Long wrote her dissertation 20 years ago on how social workers could help police contend with the trauma that so many offenders carry. Buell joined the team to "break that revolving door" between jail and the streets.

"I would rather see them succeed than constantly put handcuffs on," he said.

Marysville police officer Mike Buell, right, accompanies Rochelle Long, center, a licensed mental health counselor while assisting a man, left, with intake at the Snohomish County Diversion Center in Everett. Although Buell and Long often bring drug users to the center, this man uses alcohol. (Ken Lambert / The Seattle Times)

Long and Buell get referrals from patrol officers when an incident doesn't require an arrest, and they can answer 911 calls themselves. They visit encampments and roam the streets. They also meet clients in jail to draw up recovery and housing plans. And they drive clients between shelters, detoxification sites and treatment centers. Because services are in short supply, they take people as far away as Pierce and Whatcom counties. Snohomish County's main non-hospital detox site that takes Medicaid, Evergreen Recovery Centers, has just 16 beds.

Their team is an exception in a police department with dozens of officers, many of whom "are just there to make arrests," Buell acknowledged. In response to frequent "slumper calls" about drug users passed out in cars, officers sometimes offer assistance and sometimes seize the vehicles.

Buell and Long see the same dilemmas that lawmakers have been discussing. Most drug users are unlikely to get clean "until they're ready," Buell said. Two of his children have dealt with addiction, he said. Legal debt and criminal records can dog people as they build new lives, Long added.

Yet Scairpon insists jail can sometimes help, by interrupting a person's harmful use and facilitating "their first sober thought" in months. It can shepherd them into recovery by giving them the choice between treatment and prosecution or conviction, he said, mentioning the growing use of fentanyl mixed with the veterinary tranquilizer xylazine as a new hazard.

As of last week, Marysville police had used the city's new ordinance against public drug use to make 27 arrests in 2023, Scairpon said. He couldn't say how many cases have led people to services, with most still active in court.

Outreach workers Joe Dugan, left, and Jessica Thornton, right, both in the background, prepare supplies as a line forms at the Sound Pathways outreach van in Everett. (Ken Lambert / The Seattle Times)

Harm reduction

Thornton, the Syringe Services Program outreach worker, believes there must be a better way. A homeless meth and heroin user for part of her 20s, she credits her recovery to the dignity the program showed her when she was a participant and to her sister and brother-in-law, who gave her a safe and loving space to sort things out when she was still using drugs.

It can feel like “being on the streets removes your humanity. Using drugs removes your humanity, not only through the stigma but through the drug use,” she said, riding in a white van stocked with syringes, pipes, case-management paperwork, medical supplies, crackers and cookies.

That’s why harm reduction, which focuses on mitigating risks rather than punishing behavior, “is super important,” added Thornton, clean since 2016. “It makes you feel like you’re human, like you matter, like you’re touchable.”

Until recently, the heart of the Syringe Services Program was a once-weekly needle exchange at the program’s building in Everett. Drug users could swap contaminated needles for sterile ones, and access other aid on the side.

1 of 2 | Glass tubes used to inhale drugs are carried in a Sound Pathways van and are distributed by an outreach team in Lynnwood. (Ken Lambert / The Seattle Times)

But fentanyl smoking has emerged as a dominant mode since the start of the COVID pandemic, reducing the importance of syringes. Whereas the program once distributed more than 2 million needles annually, it's now handing out under 1 million, Sound Pathways executive director Shannon Smith said, explaining why outreach has become more important.

Four days a week, Thornton and co-worker Joe Dugan crisscross the county to meet clients at homes, on street corners and in parking lots. Some stops are prearranged via phone or text, and some interactions are impromptu.

Though handing out pipes is technically a civil infraction at the state level, subject to a $250 fine (syringe exchanges have been legal for years), Sound Pathways believes the practice is an effective way to create relationships with users who wouldn't engage with services otherwise.

The Sound Pathways outreach team of Joe Dugan, left, and Jessica Thornton, right, bring supplies to a couple living in a tent near an overpass in Lynnwood. (Ken Lambert / The Seattle Times)

Like Long and Buell, Thornton and Dugan sometimes drive clients to detox centers. Like Long and Buell, they know where to look for encampments. But the Sound Pathways outreach workers avoid Marysville, because the program and its clients have had trouble with police there in the past, Smith said.

Instead, they head to places like Lynnwood, where they waded through puddles near a highway overpass and hailed people inside a tent. Matthew, who declined to share his

last name because of safety concerns and stigmas associated with drugs and homelessness, uses meth and fentanyl and has been in and out of jail, he said.

“Jail never helps,” he said. “When you’re in jail you can be like, ‘Oh my gosh, I’m going to stay clean this time,’ and have the greatest intentions. … Then you get out of jail and you don’t have resources, you don’t have a place to be, you don’t have any of the things that you would want in order to stay off drugs.”

The risk of overdose can be higher when a person has just taken a break from drugs, like while in jail.

Matthew, 32, left and Sheila, 24, receive supplies from a Sound Pathways outreach team in Lynnwood. (Ken Lambert / The Seattle Times)

In one instance, Matthew was offered opioid medication in jail, “but there was no plan afterward,” he said. “OK, there’s this place you can go to continue the [medication], but they’re not open until Monday and you’re getting out Friday night at midnight and you’re going to be sick. So, obviously you’re going to use [street drugs] again. You’re not going to go two or three days. You’re set up for failure.”

Though Thornton has been working with Matthew and his tentmate for a while, trying to figure out their government benefits and get them housing, staying in contact is hard because they keep getting swept by police, she said.

Police have blamed the current crisis on the drug-possession referral requirements established in 2021, but COVID scrambled society and fentanyl surged during the same period, Thornton noted.

It’s not that Thornton thinks police should never get involved in a dangerous situation, absent other options. An officer who arrested her when she was experiencing meth-induced psychosis, pacing Highway 99 with blistered feet, may have saved her life, she said. But what lawmakers should be doing, she said, is building up interventions that don’t involve jail and recovery services that support someone for months or years rather than days or weeks.

There should be more housing, more treatment opportunities and publicly sanctioned sites where people can consume drugs safely, she said. When drugs are criminalized, “People are going to recede to other areas where society is not going to see them,” Thornton said. “There are going to be people who die alone.”

Sound Pathways outreach worker Joe Dugan, right, gives a man named Soda, who is living under an overpass, a hug after Dugan and another outreach worker dropped off supplies in Lynnwood. (Ken Lambert / The Seattle Times)

Legislative impasse

Before the court decision called State v. Blake, advocates and lawmakers were working on a plan to bolster Washington’s non-police options, then decriminalize drug possession as a second step, said Lisa Daugaard, co-executive director of the nonprofit Purpose Dignity Action.

Because of the court's ruling and the Legislature's response, "that timeline got flipped," Daugaard said. Drug possession was downgraded immediately, forcing the state and service providers to play catch up, she said.

There are now "recovery navigator programs" across Washington, modeled on the Law Enforcement Assisted Diversion (LEAD) program that Daugaard helped start in Seattle, which allows police to direct people to case managers rather than jail. But the rollout has been uneven and the programs must grow, Daugaard said. For example, Snohomish County's LEAD program is on call from 7 a.m. to 9 p.m. every day, but not overnight.

The Sound Pathways outreach team of Joe Dugan, left, and Jessica Thornton, right, bring supplies to a couple living in a tent near an overpass in Lynnwood. (Ken Lambert / The Seattle Times)

"There are multiple agencies out there, but no agency has all the answers," said Dugan, from Sound Pathways. "People get lost in the cracks."

Heading into the Legislature's 2023 session, some conservatives had called for lawmakers to restore drug possession's felony classification. Sen. Mike Padden, R-Spokane Valley, sponsored a bill to do that, arguing the threat of prison would provide "the proper leverage" to compel people into treatment.

Meanwhile, advocates on the opposite end of the philosophical spectrum urged lawmakers to eliminate any penalties. Last September, a panel of drug-recovery experts set up by the Legislature in 2021 recommended that Washington decriminalize drug possession while expanding services.

The new two-year, $69 billion budget passed by lawmakers this month allocates $229 million for health and court spending related to the Blake decision and substance use, staff said. King County voters approved a property tax levy this past week that will raise $1.2 billion to serve people with urgent mental health or substance abuse issues at new crisis care centers.

“No one should be criminalized for poor choices that they’re making for their own health,” particularly considering the mental harms and physical dangers of incarceration, said Alison Holcomb, director of political strategies at the American Civil Liberties Union of Washington.

Police can use crimes other than drug possession, like theft, assault and public nuisance laws, to maintain order, Holcomb said. Ricky’s Law allows the civil detention of drug users in at-risk situations, she added.

“There are multiple agencies out there, but no agency has all the answers,” said Joe Dugan, an outreach worker with Sound Pathways. “People get lost in the cracks.” (Ken Lambert / The Seattle Times)

“The idea that we can arrest people and threaten them into getting better is one that feeds off of our emotional responses to the distress of seeing people … who are incapacitated,” Holcomb said. “Until we develop trust” and provide them with wraparound services “we’ll continue to fail.”

The conversation gets even more complicated with someone like Linda Grant, CEO of Evergreen Recovery Centers. More detox and treatment beds could help, but there aren’t enough nurses to hire, Grant said.

Neither Padden's get-tough bid, nor a decriminalization bill sponsored by Sen. Manka Dhingra, D-Redmond, gained traction, so the debate coalesced around Robinson's middle-road proposal, Senate Bill 5536. Robinson, who represents Everett and Marysville, said her goal was to balance criminal penalties for drugs with "off ramps" to treatment and services.

Last Sunday's version of SB 5536 would have classified drug possession and public drug use as gross misdemeanors (up to 364 days in jail) and barred cities from criminalizing drug paraphernalia. It would have encouraged but not required police and prosecutors to divert people from jail and trial, allowed people to vacate convictions via treatment and services and appropriated an additional $43 million for programs like 23-hour drug crisis relief centers, mobile treatment units, recovery residences and housing vouchers.

Republicans in the House called the bill too lenient and some Democrats called it too harsh, so it was defeated, 43-55.

Marysville's Scairpon said he hopes lawmakers will try again, because a patchwork of city laws could cause "even greater chaos."

Robinson also wants to hammer out an agreement.

"There are very few people who think locking someone up for simple possession is the right policy," and yet, despite some strides, "We just don't have a robust and well thought-out, workable alternative," Robinson said.

That's a damning truth behind the legislative impasse, she said, with no consensus solution in sight.

Staff reporter Claire Withycombe and news researcher Miyoko Wolf contributed to this report.

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Daniel Beekman: *206-464-2164 or dbeekman@seattletimes.com; on Twitter: @dbeekman. Seattle Times staff reporter Daniel Beekman covers politics and communities.*