

# Agenda Summary Report (ASR)

## Franklin County Board of Commissioners

<b>DATE SUBMITTED:</b> 1/18/2022	<b>PREPARED BY:</b> Shirley Jones
<b>Meeting Date Requested:</b> 1/25/2022	<b>PRESENTED BY:</b> Keith Johnson
<b>ITEM:</b> (Select One) <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> Brought Before the Board Time needed: 10 minutes	
<b>SUBJECT:</b> Police Reform Legislative Letter	
<b>FISCAL IMPACT:</b> \$0	
<b>BACKGROUND:</b> Law enforcement, fire and emergency medical services, as well as a number of our citizens have safety concerns. Clarification is needed of amendments to the police reform legislation that passed during the 2021 Legislative Session. This letter explains these bills and the handling of incidences which were negatively impacted due to this legislation. To maintain a good quality of life for our citizens a proper balance must be struck between the goals of public safety and police reform.	
<b>RECOMMENDATION:</b> Approval of the letter and for the Chair to sign electronically representing the Board.	
<b>COORDINATION:</b> Tri-Cities Mayor, City Managers, Benton County Administrator Keith Johnson, Administrator	
<b>ATTACHMENTS:</b> (Documents you are submitting to the Board) ASR/Resolution/Agreement	
<b>HANDLING / ROUTING:</b> (Once document is fully executed it will be imported into Document Manager. Please list <u>name(s)</u> of parties that will need a pdf) Administration Office	

*I certify the above information is accurate and complete.*



Keith Johnson, Administrator



January 2022

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RE: Police Reform Clarifications

Dear Rep. Goodman and Rep. Johnson,

This letter is written on behalf of the Tri-Cities Region. We thank you in advance for your attention to this very important issue. Maintaining a good quality of life for our community is a top priority, however, we cannot have quality of life without public safety. We have heard from law enforcement, fire and emergency medical services, as well as a number of our citizens about their safety concerns. We appreciate your commitment to consider clarifying amendments to the police reform legislation that passed during the 2021 Legislative Session. Please review the following items for legislative action.

First, while HB 1310 required law enforcement to utilize less than lethal alternatives, SB 1054 implemented a restriction on military equipment utilizing a definition ("firearms and ammunition of .50 caliber or greater") which resulted in a prohibition of certain less lethal rounds. Based upon our discussions with local law enforcement, we recommend an amendment to RCW 10.116.040(3)(a), which defines the terms "firearms and ammunition of .50 caliber or greater" and "machine guns," as well as replacing the term "military equipment" with "prohibited equipment".

Second, HB 1310 limited the use of physical force to when there is probable cause to make an arrest, to effect an arrest, to prevent escape or to protect against an imminent threat of bodily injury to the officer, others, or the person force is being used against. The legislation did not address whether this standard changed the use of force in other scenarios such as behavioral health interventions under RCW 71.05.153(2)(a)(i),(ii) or RCW 71.05.150, taking a minor into

protective custody, or executing or enforcing a court order. We recommend an amendment authorizing the use of force under the above noted circumstances. Further, we recommend an amendment which restores the ability of law enforcement to detain an individual based upon reasonable suspicion that a violent offense or assault has occurred. There have been a number of incidents locally where clarity regarding use of force would have allowed police intervention sooner thus minimizing or eliminating a risk of assault and property damage.

Third, SB 1054 prohibits vehicular pursuits, unless probable cause exists for a violent offense or sex offense, or escape, or reasonable suspicion of DUI and the pursuit is necessary for identifying or apprehending the person and the suspect poses an imminent threat to safety, which outweighs the safety risks of the pursuit. We recommend amending RCW 10.116.060 to allow pursuits when there is reasonable suspicion the driver has committed an offense where the public safety risks of failing to apprehend them are greater than the safety risks of the pursuit.

The following are details of three separate incidents, while just a snapshot of what is occurring in our region, highlight the need for clarification:

On July 31<sup>st</sup>, 2021 Kennewick Police Officers received several welfare check and disturbance type calls on a 16 year old Kennewick resident. The 16 year old was described as acting strangely by walking into random people's yards, in the street and in front of vehicles, including buses. Officers were able to identify the individual and make contact with his parents. They advised that he has become mentally unstable over the prior weeks. Crisis Response was contacted and advised the 16 year old could come and speak with them, if he was willing. Calls continued to come into dispatch, as the male traveled over several blocks committing crimes along the way. The crimes included stealing a bicycle from an open garage, assaulting a female at a gas station while she was pumping gas, stealing a large bottle of vodka at a liquor store, breaking a bottle of alcohol on the ground, pushing staff who tried to stop him as he left the store, and damaging vehicles. At this point, an Officer arrived and obtained a visual of the suspect. As this was all going on, other officers were calling and contacting victims to get the details of the above listed incidents, to develop probable cause, and confirm they wanted to pursue charging. Officers now had the probable cause to detain the individual. Officers made contact with the individual and he would not stop with verbal commands. The Patrol Sergeant on scene grabbed the suspects arm from behind to stop him. The male responded by attempting to hit the Patrol Sergeant in the head with the glass bottle of vodka. The Sergeant ducked the blow as he pushed the male, which prevented injury. The suspect tried to run away, and a Taser application was successful in stopping him. He was placed into custody a short time later and was medically cleared at a local hospital prior to being booked into a Juvenile Detention Center for Assault 4/sexual motivation, Malicious Mischief X2, Disorderly Conduct, Theft, Resisting Arrest, Robbery, & Assault 3.

Current police reform legislation played a significant role in how this incident was handled.

- Prior to HB 1310, Police along with a co-responder Mental Health Professional, would have evaluated the suspect to determine if an involuntary mental health detention (ITA) was appropriate. The suspect had been contacted multiple times in the days leading up to this incident regarding his mental state.
- Prior to HB 1310, the suspect would have been physically detained on reasonable suspicion for the first reported crime. Officers would have then obtained probable cause through further investigation.

- To comply with HB 1310, officers did not detain the suspect until probable cause was established. This required officers to interview different victims while the suspect continued to commit a series of crimes, which included assault with sexual motivation, robbery, destruction of property and assault of a police officer.
- In an effort to fully comply with HB 1310, eight (8) of the twelve (12) on duty Kennewick Police Officers responded to this call for service. Officers worked to establish probable cause and monitor the suspect's movements while utilizing the de-escalation technique of time and distance.

On October 25<sup>th</sup>, 2021 Richland Police Officers responded for a report of a suspicious vehicle inside the compound of Watts Mini Storage. The owner had been contacted by a female who claimed she had been accidentally locked inside the compound. The owner did not believe her and requested police assistance. When officers arrived, we contacted the suspect in her vehicle inside the compound and found that the license plates on her vehicle had been reported stolen. It was later discovered that the vehicle itself was stolen as well. Officers attempted to speak with the suspect, but she refused to follow commands from officers to exit her vehicle and began driving around the compound. The business owner had the suspect's phone number, so officers established phone contact with her and spent over an hour attempting to deescalate the situation and convince the suspect to surrender peacefully. Unfortunately, the suspect refused to cooperate. During phone conversations, the suspect told officers that she knew about the new police reform laws and she would have us fired if we attempted to pursue her. We later learned that the suspect had no intention of surrendering to the police because she knew that she had several warrants for her arrest.

The suspect continued to drive around the storage compound and eventually stop sticks were used to flatten the suspect vehicle's tires. The suspect then began driving erratically and rammed the perimeter fence in several places causing well over \$10,000 in damage. Due to the suspect's dangerous behavior, the decision was made to have officers back out of the compound and open the front gate, providing a route for her to exit. The suspect drove out of the compound and then rammed an unoccupied RPD patrol vehicle several times, struck several mailboxes, and then drove out into an open field. The suspect vehicle became stuck, but the driver still refused to surrender. Officers pinned the suspect vehicle with patrol cars, manually breached a passenger window, and then deployed less-lethal Pepper Ball munitions into the vehicle to convince the suspect to surrender, which was successful, and the suspect was taken into custody. The suspect has been charged with two counts of Malicious Mischief 1<sup>st</sup> degree, Possession of a Stolen Vehicle, Attempting to Elude, and Trespass 1<sup>st</sup> degree.

Current police reform legislation played a significant role in how this incident was handled:

- In an effort to fully comply with ESSHB 1310, significant police resources (BCSO and KPD had officers assisting as well) and time were spent attempting to verbally deescalate the situation and use a minimal amount of force even though the suspect displayed no intention of cooperating. Had we swiftly and decisively intervened, the property damage may have been avoided and the situation could have been resolved much faster.
- The suspect obviously had knowledge of current police reform legislation and she was emboldened in her criminal behavior by that knowledge. None of the above listed crimes are pursuable under ESHB 1054.
- Officers had to move up and manually breach the suspect vehicle's window to introduce PepperBall munitions. This placed Officers at higher risk of injury due to having to be in

close proximity to the suspect and suspect vehicle. Prior to current police reform legislation, a 37mm less lethal impact munition could have been used to break the vehicle window from a safe distance. 37mm less lethal systems are currently considered “Military equipment” under ESHB 1054 and are therefore prohibited.

On September 24, 2021, Pasco Officers responded to Long Fellow Elementary School, where a school bus driver had just been stabbed. The bus driver was leaving Long Fellow Elementary School with a bus full of young children. An individual entered the bus and stabbed the bus driver many times in front of the children. When the first officer arrived on the scene, school staff pointed out the suspect. The officer on the scene had reasonable suspicion that the suspect identified by staff may have committed a crime. Before HB1310, an officer in the same circumstance would have physically detained (handcuffed) that individual whether they were cooperative or not, per US Supreme Court Case Law Terry vs. Ohio. In the case described above, the officer was forced to verbally detain the individual and wait for other officers to arrive on the scene and establish probable cause before using physical force to detain the suspect. Had the suspect walked or driven away, officers would not have been able to stop him. The bus driver died of his wounds. Valuable time and life-saving resources were deferred to dealing with the suspect instead of providing emergency medical aid to the bus driver.

Current police reform legislation played a significant role in how this incident was handled.

- To comply with HB 1310, Officers did not physically restrain the suspect in this case because there was no probable cause to make an arrest.
- Resources that would have been dispatched to administer life-saving measures for the bus driver were diverted to maintain overwatch of the suspect until probable cause was established.
- Before HB 1310, the suspect would have been immediately handcuffed by the initial officer allowing other responding units to make the scene and provide medical aid to victims.

To maintain a good quality of life for our citizens a proper balance must be struck between the goals of public safety and police reform; as leaders we need to care about the laws we implement and the effects those laws have on the people we represent. As outlined in the examples provided, which again are just a snapshot, last session’s police reform legislation has had unintended consequences and has created an imbalanced approach to public safety . This next legislative session is an important opportunity to strike that balance by evaluating the effects of the 2021 police reform legislation and adopting the amendments recommended above.

Respectfully,

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Bill McKay, Mayor  
City of Kennewick

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Randy Taylor, Mayor  
City of Prosser

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Michael Alvarez, Mayor  
City of Richland

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Brent Gerry, Mayor  
City of West Richland

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Blanche Barajas, Mayor  
City of Pasco

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Shon Small, Chairman  
Benton County Board of Commissioners

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Clint Didier, Chairman  
Franklin County Board of Commissioners

CC:

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