

OKANOGAN COUNTY COMMISSIONERS'

RESOLUTION 83 - 2021

A resolution delegating executive authority in new section of Title 10 RCW, created by ESHB 1054, passed April 23, 2021, regarding use of tear gas.

WHEREAS, on April 23, 2021, the Washington State Legislature passed Engrossed Substitute House Bill 1054, an act relating to establishing requirements for tactics and equipment used by peace officers; amending RCW 10.31.040; adding a new chapter to Title 10 RCW; repealing RCW 43.101.226, and providing an expiration date; and

WHEREAS, Section 4 of ESHB 1054 establishes prerequisites for a law enforcement agency before it may use or authorize its peace officers or other employees to use tear gas in order to ensure its use is necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation; and

WHEREAS, said prerequisites include exhaustion of alternatives to the use of tear gas that are available and appropriate under the circumstances, and obtaining authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted; and

WHEREAS, ESHB 1054 also establishes protocols for use of tear gas such as, announcing to the subject or subjects the intent to use tear gas and allow sufficient time and space for the subject or subjects to comply with the officer's or employee's directives; and

WHEREAS, in the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used; and

WHEREAS, "highest elected official" means the chairman of the board of county commissioners in a non-charter county such as Okanogan County; and

WHEREAS, Okanogan County owns and operates a jail and a detention facility; and

WHEREAS, the Board of Commissioners, pursuant to RCW 36.32.120(7), has the authority to make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and

WHEREAS, the Board of Commissioners has the inherent authority to delegate its executive duties as it determines is in the best interests of the county; and

WHEREAS, the county has adopted a comprehensive emergency management plan consistent with RCW 38.52.070 which recognizes and authorizes substantial emergency management authority by the Sheriff; and

WHEREAS, in order to avoid unnecessary duplicity, confusion, or conflicts among laws, and in the interest of good governance, Okanogan County delegates the duties of the highest elected official in Okanogan County pursuant to ESHB 1054 to the Sheriff; and

WHEREAS, nothing herein is intended to be contrary to ESHB 1054; and

WHEREAS, the Board further deems it appropriate that this resolution be effective immediately upon signature.

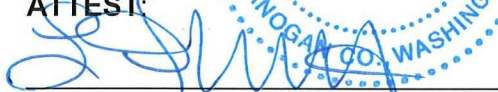
NOW THEREFORE BE IT RESOLVED the Board of Okanogan County Commissioners hereby resolves as follows:

1. The foregoing recitals are incorporated herein as findings and conclusions of the Board in addition to the findings and conclusions following; and
2. Okanogan County hereby delegates the duties of the highest elected official pursuant to ESHB 1054 to the Sheriff.
3. This resolution shall be effective immediately upon signing.
4. The adoption of this resolution is in the best interest of good governance.

DATED at Okanogan, Washington this 13th day of July, 2021.



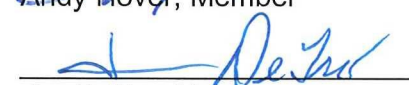
ATTEST:


Laleña Johns, CMC
Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**


Chris Branch, Chairman


Andy Hover, Member


Jim DeTro, Member