Webinar Question / Answer

**1.** Confirm:  Officers are NOT able to view recording of body cam prior to writing report involving death of suspect?

Response:

Under Illinois law HB 3443

The recording officer or his or supervisor may not redact, label, duplicate or otherwise alter the recording officer's camera recordings. Except as otherwise provided in this policy, the recording officer and his or her supervisor may access and review recordings prior to completing incident reports or other documentation, provided that the supervisor discloses that fact in the report or documentation.

A law enforcement officer shall not have access to or review his or her body-worn camera recordings or the body-worn camera recordings of another officer prior to completing incident reports or other documentation when the officer:

1. Has been involved in or is a witness to an officer-involved shooting, use of deadly force incident, or use of force incidents resulting in great bodily harm;
2. Is ordered to write a report in response to or during the investigation of a misconduct complaint against the officer.
3. If the officer subject to Section VII. B. of this policy prepares a report, any report shall be prepared without viewing body-worn camera recordings, and subject to supervisor's approval, officers may file amendatory reports after viewing body-worn camera recordings. Supplemental reports under this provision shall also contain documentation regarding access to the video footage.

**2.** In reference to the choke hold, I thought I heard Jack say that it is only a chokehold if intent to prevent air intake.  However, in the updated printout I have, that part is struck through and only reads ""chokehold" means applying any direct pressure to the throat, windpipe, or airway of another.", with strikethrough of the rest.

Response:

Under HB  3653 (2021) a Chokehold is now defined:

**Chokehold:**  Means applying any direct pressure to the throat, windpipe, or airway of another. "Chokehold" does not include any holding involving contact with the neck that is not intended to reduce the intake of air such as a headlock where the only pressure applied is to the head.

**3a.** Arrestee access to cell phones. To keep the arrestee from accessing the phone to attempt to destroy evidence can the officer have the arrestee give the officer the code and then the officer search the contacts for the arrestee to provide them the number? It is easy to hinder investigations if the bad guy knows what he is doing with the technology.

**3b.** What if the phone is evidence?

Response:

Illinois law states: Persons who are in police custody have the right to communicate free of charge with an attorney of their choice and members of their family as soon as possible upon being taken into police custody, but no later than three (3) hours after arrival at the first place of custody.  In this Section "custody" means: the restriction of a person's freedom of movement by a law enforcement officer's exercise of his or her lawful authority.

Persons in police custody must be given:

access to use a telephone via a land line or cellular phone to make three (3) phone calls, and

the ability to retrieve phone numbers contained in his or her contact list on his or her cellular phone prior to the phone being placed into inventory.

This mandate was established under HB 3443, we agree it is vague.   Clearly the destruction of evidence is a valid concern in a case where there is probable cause to believe the phone contains evidence of a crime and a warrant is going to be sought to search the phone. We advise that you contact your District Attorney for guidance and direction with respect to preventing destruction of evidence by the detainee in custody.

**4.** Are Tasers still less than lethal force?

Response:

**“Deadly Force"** means any use of force that creates a substantial risk of causing death or great bodily harm, including, but not limited to, the discharge of a firearm.

“**Non-Deadly Force”:** All uses of force other than those that is likely to cause great bodily harm or death.

Because the use of an electronic control device does not create the risk of causing death or great bodily harm, the Taser is a less lethal force option.

**5.** Who receives the report for mental health calls?

Response:

Monthly reporting. All law enforcement agencies shall submit to the **Department of State Police** on a monthly basis the following: Beginning on July 1, 2021, a report on where a law enforcement officer was dispatched to deal with a person experiencing a mental health crisis or incident. The report shall include the number of incidents, the level of law enforcement response and the outcome of each incident. For purposes of this policy a "mental health crisis" is when a person's behavior puts them at risk of hurting themselves or others or prevents them from being able to care for themselves.