Leading the Way for Ohio Townships

Ohio Township Association Risk Management Authority

UPDATE

Police Reform Including a Chokehold Ban

By Jeffrey C. Turner, Esq., Surdyk, Dowd & Turner Co., L.P.A.

On June 16, 2020, President Trump issued an "Executive Order on Safe Policing for Safe Communities."[i] Although the chokehold ban has become the most publicized aspect of the Order, there are a number of other issues addressed that should be reviewed by every political subdivision operating a police department. While recognizing that "law enforcement officers provide the essential protection that all Americans require to raise their families and lead productive lives," the Order also notes that certain practices and policies must be assessed and improved.[ii]

The Order recognizes that independent credentialing bodies can help to improve policies and procedures, and, at the same time, increase citizen confidence in law enforcement practices. While credentialing is certainly nothing new in the law enforcement setting, the Order directs the Attorney General to "allocate Department of Justice discretionary grant funding only to those State and local law enforcement agencies that have sought or are in the process of seeking appropriate credentials from a reputable

[i] Although not legislation, a President does not need the approval of Congress to issue an Executive Order, and Congress cannot overturn the Order. It essentially acts as a directive from the President with respect to operations of the federal government.

[ii] Executive Order, Sec. 1 & Sec. 2.

OTARMA Board of Directors

Marsha Funk
Chair
Brownhelm Township, Lorain County

Philip Cox
Vice-Chair
Monroe Township, Miami County

Tim Lynch
Secretary
Liberty Township, Seneca County

Joyce Fetzer
Board Member
Perry Township, Stark County

Heidi M. Fought
Board Member
Ohio Township Association

Ed Huff, Jr.
Board Member
Brown Township, Darke County

Nick Schwab
Board Member
Reily Township, Butler County

The OTARMA Program is exclusively endorsed by the OTA

Every effort has been made to ensure the accuracy of the information in this newsletter. Professional counsel should be sought before any action is taken or decision is made based on this material.

www.OTARMA.org

Photo courtesy of Canaan Township, Madison County.

independent credentialing body certified by the Attorney General."[iii] From a practical standpoint, the topics that must be addressed by credentialing bodies in order to become certified lead to what every police department should examine in its use of force policy. This also includes what has become known as the chokehold ban.

Although not always "clearly established," at a minimum, an agency's use of force policy must conform with all applicable federal, state, and local laws. A credentialing agency must also confirm that the use of force policy prohibits the use of chokeholds. For purposes of the Executive Order, a chokehold is defined as "a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation."[iv] The chokehold prohibition is not applicable "where the use of deadly force is allowed by law."[v]

The Order also addresses the sharing of information regarding instances of the use of excessive force. The Attorney General is directed to create a database to coordinate the sharing of information. The database will include a mechanism to track terminations of law enforcement officers, criminal convictions of law enforcement officers, and "civil judgments against law enforcement officers for improper use of force."[vi]

Ignoring the discussion of whether funding will become available or allocated for the matters addressed in the Executive Order, what practical takeaways are there for local law enforcement agencies?[vii] If possible, police departments should seek certification from a reputable

credentialing agency. However, given the reality that certification is not always cost effective, there are other feasible steps that can be taken. From an immediate action standpoint, those steps should involve policies, procedures, and training.

A thorough review of the police department's written policies should be undertaken right away. Although an annual policy review should be the minimum standard, given recent events and the issues covered by the President's Executive Order, every law enforcement agency should immediately review their use of force policy and their duty to intervene policy to ensure compliance with all applicable laws. It is imperative to remember that these aren't just written guidelines for officers to follow, but they help form the basis of training, as well as how a police department operates. More importantly, they assist in our efforts to protect law enforcement officers and the citizens they encounter on a daily basis.

Jeffrey C. Turner

Jeffrey C. Turner is a shareholder in the law firm of Surdyk, Dowd & Turner Co., L.P.A., with offices in Dayton and West Chester. He is admitted to all state courts of Ohio, the U.S. District Court for the Northern and Southern Districts of Ohio, the U.S. District Court for the Eastern and Western Districts of Michigan, the Sixth Circuit Court of Appeals, and the U.S. Supreme Court. He received his B.S. degree from Xavier University and his J.D. degree, cum laude, from the University of Dayton School of Law. Turner is a member of the Dayton and Ohio State Bar Associations, the Ohio Association of Civil Trial Attorneys and the Defense Research Institute. Since 1976, Surdyk, Dowd & Turner has provided legal services throughout Ohio to individuals, businesses, and government agencies, including insurance companies, manufacturers, providers of professional services, joint self-insurance pools, and other attorneys. Turner and his firm regularly provide representation to members of the Public Entities Pool of Ohio and the Ohio Township Association Risk Management Authority.

iii Executive Order, Sec. 2.
iv Executive Order, Sec. 2(c)(ii).
v Executive Order, Sec. 2(c)(ii).
vi Executive Order, Sec. 3.
vii In addition to Legislation and Grant Programs, and other funding issues, the Executive Order also addresses the role of law enforcement officers when encountering those who are homeless and those who suffer from mental illness and substance abuse. Executive Order, Sec. 4 & Sec. 5.

Miami Township, in Montgomery County, is the seventh-largest township in Ohio, offering both the convenience of an urban center and the tranquility and beauty of a rural setting.

Miami Township provides reliable services to its residents through police, fire, community and economic development, public works, finance, and compliance. In addition, the Miami Township Public Works Department maintains over 130 acres of land dedicated to the recreational needs of residents.

The township offers visitors and residents shopping, dining, entertainment, or simply relaxing in one of several parks. Families can literally have a meal, shop at their favorite store, jump on trampolines, bowl, then take a leisurely walk, all in one day! As a bonus, several large cities with professional sports venues and national entertainment attractions are a short drive away.

Finance Director Clay McCord proudly describes the township as "one of the area's best-kept secrets." As Finance Director, Mr. McCord administers the township's investment portfolio and oversees the department. He states, "We work diligently to ensure transparency in our financial activities with our residents and businesses. We strive every day to be fiscally responsible and be good stewards of taxpayers' money." He adds, "I enjoy the variety of tasks. New challenges and opportunities seem to arise almost daily, I like taking it on with the help of my hard-working staff."

Communication Coordinator Jill Drury shares Mr. McCord's pride in Miami Township. In her position, Ms. Drury is responsible for working with local media outlets, newsletters, website content, and social media posts. She states, "I enjoy getting out in the community and promoting the township. Most of our residents and businesses are engaged in working together to make the township a great place to live. I like telling their stories and sharing all that the township offers." Ms. Drury continues, "I am proud that we

strive every day to include our residents and businesses in the conversation. We genuinely want to know what the community sees as top priorities to move the township forward."

Miami Township has been a loyal OTARMA Member for over 20 years. When asked why the township maintains its membership in OTARMA, Mr. McCord explains, "OTARMA is tailor-made to meet the needs of townships. It knows our unique attributes and builds its services around our needs." In addition, he states, "We always receive great customer service from OTARMA. They are receptive to our needs and always respond quickly to our inquiries. We are appreciative of the MORE grants we receive. With the help of those funds, we can satisfy specific equipment needs, usually within our public works or police departments, that we might not otherwise be able to purchase. The grant was a welcome contribution during the COVID-19 pandemic. We were able to purchase PPE supplies for our staff."

To another township that might be considering OTARMA Membership, he advises, "OTARMA is a useful resource that is tailor-made to handle our unique claims. They keep excellent records of our property, so when we need to file an incident report, they are already ahead of the game. They are willing to help, whatever the issue. Their services are invaluable to Ohio townships."

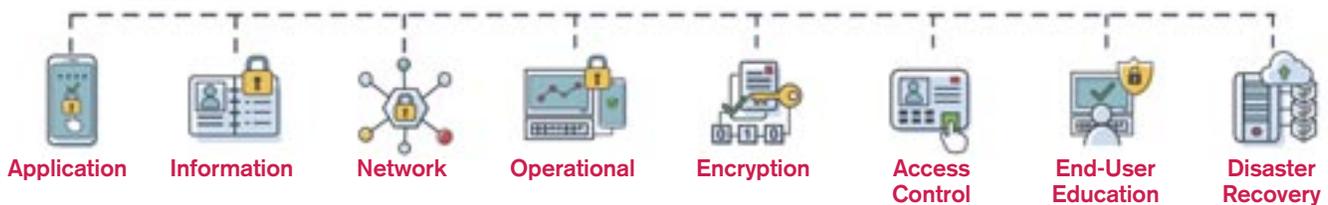For more information about Miami Township, please visit its website at https://www.miamitownship.com/.

If your Ohio township is interested in learning more about OTARMA, we invite you to visit www.OTARMA.org or call (800) 748-0554 and ask to speak with an OTARMA Representative.

WORKING FROM HOME - CYBER SECURITY RECOMMENDATIONS

Strengthening your digital defenses and securing information in this age of virtual connectivity are critical to avoiding fraud, attacks, hacking, and theft. If staff members are working from home, then consider the following cyber security recommendations:

Application   **Information**   **Network**   **Operational**   **Encryption**   **Access Control**   **End-User Education**   **Disaster Recovery**

- Ensure Virtual Private Networks (VPN) and other remote access systems are fully updated with the latest operating systems, patches, and security configurations. Unpatched network infrastructure equipment, servers, and end-user equipment continue to be attractive targets for malicious attacks.

- If a VPN is not implemented, require all users, especially those working remotely, to use very strong passwords. A minimum length of 16 characters containing numbers, symbols, upper/lower-case letters, and spaces is recommended. Attackers can steal a weak password using dictionary attacks and automated tools.

- Avoid using Remote Desktop Protocol (RDP), if possible. This protocol connects a user to another computer remotely over a network connection. This leaves RDP client ports open to the internet and vulnerable to attackers that scan blocks of IP addresses for open RDP ports.

- Enhance system monitoring to receive early detection and alerts on abnormal activity. Ramp up remote access log review and attack detection.

- Implement multi-factor authentication protection methods to reduce the potential for malicious activity.

- Ensure all machines and wireless devices have properly configured network firewalls as well as anti-malware and intrusion prevention software installed. Most operating systems include a built-in firewall feature to enable for added protection.

- Test the remote access solutions capacity and increase capacity, if needed.

- Ensure disaster recovery, continuity of operations plans or business continuity plans are up to date. Review incident response plans to consider workforce changes in distributed or remote environments.

- Ensure backups are being completed adequately and test restoring data from the backups. There should be one backup disconnected from the network in case of a ransomware attack.

- Ensure there is a communication system, besides using a computer, to reach remote workers. Document any changes in personnel contact information.

- Increase awareness of information technology support mechanisms and support phone numbers for employees who work remotely.

- Implement a security awareness training program.

- Be aware of an increase in phishing attacks that use a combination of email and fake websites to trick users into revealing sensitive information.

- Use extreme caution. Avoid clicking on links in unsolicited emails and be extremely wary of email attachments.

- Never reveal personal information or financial information in emails and do not respond to email solicitations requesting this information.
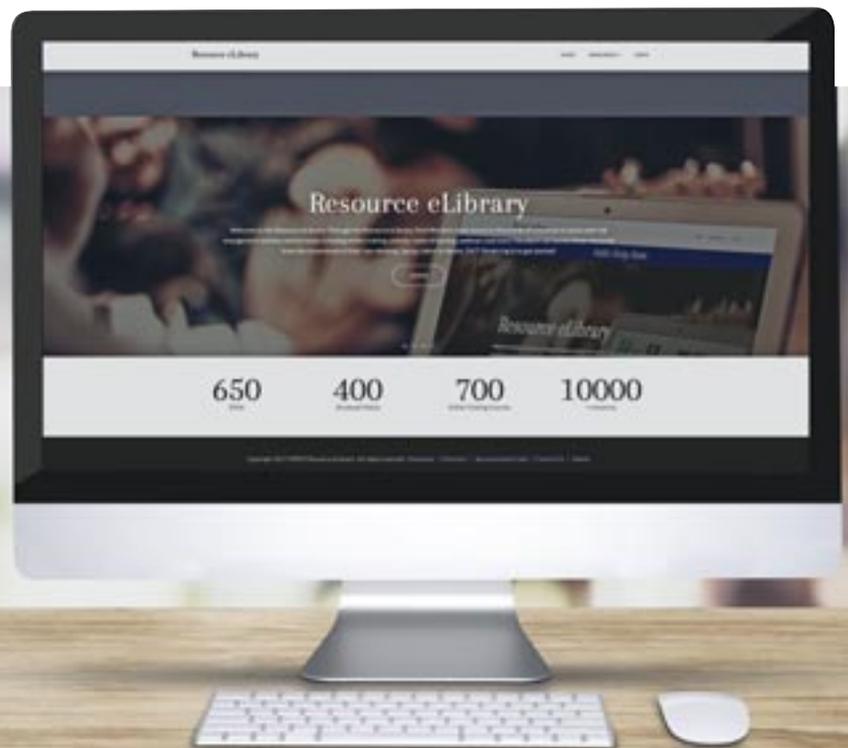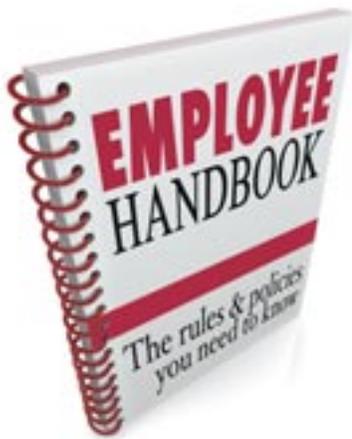
The Resource eLibrary can help members create free customized employee policies and handbooks.

Many OTARMA Members know all too well that employment issues can be an immense drain on a township's resources. Potential lawsuits and workplace disruptions can affect morale and productivity. Therefore, it is important to have appropriate policies, procedures, and training in place to prevent employment issues. To address this, many townships spend thousands of dollars looking to outside vendors to provide sample policies and handbooks that may not address specific needs. Otherwise, townships may have outdated employment policies and handbooks making them vulnerable to liability issues.

Although solving or preventing these issues while reigning in costs may seem daunting, OTARMA has tools in place to assist in the creation of customized and current employment policies and complete handbooks through the free Resource eLibrary.

To get started, visit the OTARMA Website at www.OTARMA.org. Along the right side, click on the Resource eLibrary icon and sign in. In the Human Resources section, you will find the Handbook Builder to begin the self-directed and easy-to-use builder to create an updated and comprehensive employee handbook or individual policy. Policies are state specific and include subjects such as anti-harassment, overtime, drug-free workplace, and employee benefits. Once complete, you will be able to review and edit your township's handbook or policy as often as necessary. Finally, it is strongly recommended that legal counsel review and approve the finalized handbook or policy.

OTARMA Members often write to tell us how they are using their MORE Grant funds, and we wanted to share some of their words with you.
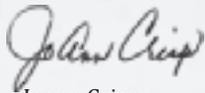
Sutton Township
Board of Trustees
405 Main Street, Racine, OH 45771 • (740) 949-1550

Once again, the members of the Sutton Township Board of Trustees would like to thank you for the MORE Grant in the amount of $500. We purchased two chainsaws and have certainly put them to work cutting fallen trees out of the roadway caused by excessive rains. Of course, this has enhanced the safety for the residents and workers of Sutton Township, and we want to thank you again for the opportunity to apply for this grant.

In addition, the $500 received from the OTARMA Cares Program is very much appreciated. OTARMA certainly provides great services for its members and we are very appreciative of all they have done and continue to do.

Sincerely,

Joann Crisp
Fiscal Officer
Sutton Township, Meigs County

YELLOW CREEK TOWNSHIP
BOARD OF TRUSTEES
42793 Oak Ridge Road
P.O. BOX 584
Wellsville, OH 43968
330-532-2745

Kenny Biacco, Chairman of the Board
Mark Allison, Trustee
Noah Allison, Trustee   Debbie Lyle, Fiscal Officer

September 16, 2020

Greetngs W endy,

The Board of Yellow Creek Township Trustees, along with the fiscal officer, would like to THANK YOU, OTARMA, and the MORE Grant Program for the opportunity to apply again for the **SAFETY EQUIPMENT GRANT**.

Since Yellow Creek Township has been associated with the MORE Grant Program, we have collected $4000 towards the purchase of safety equipment.

In the past, all the items we received from the grant have paid off. Thank God our township has had zero accidents.

We applaud OTARMA for giving back to the community.

Respectully ,
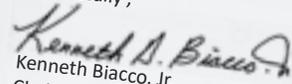
Kenneth Biacco, Jr.
Chairman - Trustee of Yellow Creek Township
Columbiana County Ohio

Rushcreek Township
Board of Trustees
213 Marietta St., Bremen, OH 43107 • (740) 569-7181

To Whom It May Concern:

The Rushcreek Township Board of Trustees would like to express our sincere appreciation for the Grant Funding we received from your organization.

Grant Funding is a vital part in obtaining new and updated equipment along with educational materials to better serve our community.

Sincerely,

Board of Trustees
Rushcreek Township, Fairfield County

Reminder…

If you haven't already applied for the MORE and Police & Fire Policy Grants, please do so before the end of the year.

If you have applied and haven't yet received your check, please contact Wendy French at (888) 748-7966, ext. 3136.

WINTER SAFETY RESOURCES

Winter is a beautiful time of year, but it comes with winter-related hazards. Whether you are preparing your winter training program or thinking about creative ways to improve safety, the Resource eLibrary has a number of resources to help your township this winter.

Access to the eLibrary and use of the resources are free to OTARMA Members. Check out the resources available in the Resource eLibrary and help reduce potential risks this winter. Some of the popular winter titles include:

- Prepping for Winter Recreation Activities (Best Practices and Checklists)
- Winter Safety (Online Training)
- Pause for Performance: Winter Driving (Online Training)
- Safe Winter Driving (Online Training)
- Cold Stress (Video Streaming)
- Winter Driving (Video Streaming)

- Working in Extreme Temperatures (Public Entity University)

Please visit www.OTARMA.org and, at the top, under Member Services, click on the Resource eLibrary icon and get started.

Resource eLibrary

SCHEDULING NONPERMANENTLY FIXED EQUIPMENT: AUTOMOBILE COVERAGE QUESTION

An OTARMA Member is driving with a plow that is not permanently attached to the township vehicle and is in an automobile accident. Is the plow covered? What if the laptop in the police car or the cot in the ambulance are damaged in an automobile accident? Are they covered? When looking at the definition of an automobile, coverage includes any ***permanently attached*** machinery or apparatus. This means nonfixed items are not covered under Auto Physical Damage. With vehicles, nonpermanently fixed equipment, such as plows, laptops, cots, spreaders,

first aid kits, and portable defibrillators, should be scheduled property under Additional Property. Items permanently attached to a vehicle, such as light bars, radios, and sirens, can be included in the vehicle value.

Call your agent with questions especially regarding scheduling the items being purchased with CARES Act funds.

If your contact information needs to be updated, please contact the OTARMA Service Center at (800) 748-0554, ext. 3136. Newsletters are available for viewing and printing at www.OTARMA.org.

OTARMA WELCOMES NEW MEMBERS

Franklin Township, Coshocton County

Located within the Appalachian region of the state, Franklin Township is one of the 22 townships in Coshocton County. Franklin Township was organized in 1814, and today, there are approximately 1,200 residents.

Franklin Township selected OTARMA for the program's strength, stability, and more than three decades of experience providing coverage and risk management services to Ohio townships.

Virginia Township, Coshocton County

Virginia Township, population approximately 600, is located in the southern part of Coshocton County. In late 1805, the first permanent settler in the township was a native of Pennsylvania. The township's first school was formed in 1818, and the township was organized in 1828.

Virginia Township became an OTARMA Member for improved coverage and the commitment of the OTARMA Program to its membership.

If your township is not yet an OTARMA Member, we invite you to consider joining. Please call (800) 748-0554 and ask to speak with an OTARMA Representative or visit www.OTARMA.org. We welcome the opportunity to meet with you, learn more about your township, and discuss how OTARMA can best serve you.