

# Public Entities Pool Of Ohio

*"The Right Choice For The Right Protection"*



# UPDATE

Above photo courtesy of the Village of Obetz.

A QUARTERLY NEWSLETTER

WINTER 2018/19

## PEP Board of Directors

### Wayne Barfels

Chairman  
Representing City of Moraine

### David Christy

Vice Chairman  
Representing Mill Creek Metropolitan Park District

### James Caplinger

Secretary  
Representing Village of Mechanicsburg

### Greg Dixon

Treasurer  
Representing City of Middletown

### Howard Poston

Representing Greene County Park District

### Sal Talarico

City of Oberlin

### Beth Bickford

Association of Ohio Health Commissioners

### Kent Scarrett

Ohio Municipal League

*If our mailing records need to be updated, please contact the PEP Administrator at (800) 367-4818.*

*Don't Forget!*

## Routing

(Name)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Property Coverages Updated!

The PEP Board of Directors, as a continued commitment to its members, is pleased to announce that the property coverage form – Governmental Property Agreement (GPA) – has been updated and expanded.

The new GPA is designed to respond to new and trending exposures that impact all PEP members. It also refreshes and clarifies coverage provisions to reflect changes and trends in the insurance/pooling industry.

The effective date of the new coverage document will be the PEP Member's anniversary occurring on or after January 1, 2019. Highlights include:

**Easier to Read** - the new layout and terminology of the coverage provisions make it easier to read and understand.

**Inclusion of Coverage** - Miscellaneous Property has been included in a broad Property Damage section.

**Coverage Amendment** - For clarification and ease of review, a Crime section has been created to include exposures that were treated in separate sections in the current GPA.

**Trending Coverages** - A specific Additional Property Damage Coverage has been added for smart parking meter systems and electric automobile charging stations to recognize their growing use.

**Collision Deductible Waiver** - Collision deductibles are now waived if the member driver is not at fault for an automobile accident.

**New Property Damage Coverage Extensions** - Automatic coverage, with varying limits of coverage, has been added for a wide variety of exposures: Fire Hydrants; Golf Course Sand Traps, Tees and Greens; Use of Green Materials in replacement after a loss; Guide Rails for traffic safety; Locks and Keys; New Generation Equipment; Underground Fiber Optic Cable; and Unscheduled Playground Equipment.

These are just a few of the highlights included in the newly enhanced property coverages available to all PEP Members. We encourage you to review the updated GPA in its entirety and to contact your PEP representative at (800) 367-4818 if you have any questions.

# Excited Delirium: Where Police Become First Responders

By Gregory A. Beck, Esq.  
Baker, Dublikar, Beck, Wiley &  
Mathews, Attorneys at Law

## I. Introduction

The situation across the country occurs too frequently: police are dispatched in response to a 911 call in which a person appears out of control. At times, the suspect has trespassed or committed some minor crime; but, most often, the suspect appears to be experiencing a mental breakdown, running randomly, sometimes naked, but most often unresponsive to friends and strangers. Over the last 30 years, physicians and psychologists have used the term *excited delirium* as the general description of a series of symptoms including confusion, extreme body heat, aggressiveness, and superhuman strength demonstrated through physical resistance to apprehension or control. There has been vast research conducted over the last decade designed to assist police, first responders and emergency room physicians on the best practice to treat these situations where individuals who appear to be otherwise healthy are completely out of control. Police departments must understand the medical concept of excited delirium, recognize the possible symptoms, coordinate with local EMS and emergency room departments, and respond to the 911 call as a form of medical emergency as opposed to criminal apprehension.



## II. The Problem Understanding Excited Delirium: A Medical Emergency

There has been extensive research over the last decade on excited delirium. Historically, the term “excited delirium” is relatively new, but the syndrome describing the constellation of symptoms was first documented in 1832, and progressed from the designations of “delirious mania” (1832), “Bell’s mania”

(1849), “acute maniacal delirium” (1867), “lethal catatonia” (1934) to “excited delirium” in 1985. (Deborah Marsh, Excited Delirium and Sudden Death: A Syndromal Disorder at the Extreme End of the Neuropsychiatric Continuum, *Journal Frontiers of Physiology*, October 2016). The Marsh

research relates the sudden cardiac death prevalent in excited delirium cases to chemical changes with dopamine release, which chemically alters the brain’s ability to slow the body and racing heart. Study after study seeks to understand the physiologic basis for an individual to suddenly collapse from cardiac arrest after struggling mightily for several minutes with police officers or others trying to assist.

A study done in 2011 by Asia Takeuchi, MD, Terence L. Ahern, BA, and Sean O. Henderson, MD, published in the *Western Journal of Emergency Medicine* (West J Emerg Med, 2001, 12(1) 77-83) aptly described the realities of this phenomenon:

*Approximately two thirds of EXD [excited delirium] victims die at the scene or during transport by paramedics or police. Victims who do not immediately come to police attention are often found dead in the bathroom surrounded by wet towels and/or clothing and empty ice trays, apparently succumbing during failed attempts to rapidly cool down. It appears that, in all cases, victims died of either respiratory arrest or fatal cardiac dysrhythmia. Diagnoses were supported by postmortem exams showing pulmonary and cerebral edema with nonlethal self-inflicted injuries.... The few who live long enough to be hospitalized often succumb to disseminated intravascular coagulation [excessive blood clotting], rhabdomyolysis [muscle breakdown releasing myoglobin into blood] and*

*renal [kidney] failure. These fatal cardiopulmonary changes are thought to be the result of increased catecholamine stress on the heart, myocardial hypertrophy [oversized heart through overload], microangiopathy [disease of the blood vessels] and fatal arrhythmias [abnormal heartbeat]. The proposed cause of these changes is debated.*

Since the victims sometimes die in police custody, the most widely publicized proposed causes of death in EXD are taser use and positional asphyxia.

As the above excerpt demonstrates, the causes of excited delirium and the related physiologic lethal consequences are not always clear. Many people suffering from this syndrome die without any police intervention. The research documents that, even without police intervention, an individual suffering from excited delirium may die or sustain permanent internal injuries based solely on the nature of the ailment, the onset of which is also not always clear. This also means that police efforts to restrain an uncontrolled individual through intermediate use of force techniques (taser or positional control) are normally not the underlying cause of adverse consequences, including death. These conclusions are important for purposes of liability claims arising from in-custody death encounters. Thus, even though police efforts to restrain or detain an individual experiencing excited delirium may not create liability, the policy or procedure responding to the crisis could be challenged in that the potential for police encounters with individuals in crisis is ever present, and a claim of deliberate indifference to these anticipated challenges can only be overcome through proper training and procedure attempting to solve the problem presented.

In many respects, these studies lead to the ultimate conclusion that dispatchers, police officers and EMS responding to an incident that appears to involve excited

*Cont'd on pg. 3*

delirium must consider the situation as a medical emergency and follow a coordinated protocol.

### III. Who is a First Responder?

Typically, under state law, a “first responder” is a certified emergency technician or other licensed medical professional (EMT-I or paramedic). Police officers are not legally deemed first responders but often are in situations where an assessment must be made. Even first responders are not trained to diagnose; a first responder may legally assess and then provide initial care designed to sustain the individual until medical services can be provided. Yet, in an emergency situation, police officers may be called upon to make an assessment of an individual’s condition in order to ensure the individual has the best chance of survival. Training is the key.

If the symptoms of excited delirium have matured to the point of extreme agitation and elevated body temperature, then the individual suffering from these symptoms may die or have permanent impairment regardless of any police intervention. Thus, the notion that police officers should wait and only try and calm the individual could lead to lethal outcomes, creating claims against the involved officers for not engaging and seeking immediate treatment for the suffering individual. Once the police engage with the individual, then additional agitation and aggressiveness can occur, causing a rapid acceleration of symptoms leading to cardiac arrest, even in young people.

### IV. The Threshold Practical Solution

As a practical matter, police have been trained in the last ten years on the signs of excited delirium, which include:

1. increased pain tolerance
2. rapid breathing
3. sweating
4. agitation
5. excessive sweating

6. police noncompliance (ongoing struggle despite futility)
7. lack of tiring
8. unusual (superhuman) strength
9. inappropriate clothing (e.g., nakedness).

When more than three of these symptoms are recognized, police must immediately seek EMS assistance, and stage the first responders close to the individual so that immediate medical care is available. Many fire departments are now trained in the use of Ketamine as a drug useful in

#### Best Practices Summary

1. Understand the concept of excited delirium and its major symptoms.
2. Coordinate with EMS agencies to have a unified approach to emergency responses.
3. Coordinate with local hospitals and medical directors regarding the best practice, including the use of Ketamine and other drugs that can quickly sedate the individual.
4. Recognize excited delirium is a medical emergency and the police response should be directed to immediate care and treatment, as opposed to apprehension and confinement.

immediate sedation of a difficult or resistant individual. Ketamine is injected, which means the individual must be under control before the Ketamine can be safely administered.

These realities indicate that proper training and procedure involving situations of an individual experiencing a mental/emotional crisis or drug overdose must include police and EMS coordinating together. Police

officers responding must make a quick assessment, but dispatchers receiving a 911 call must obtain enough information to determine if EMS should also be dispatched. In many police encounters, EMS is not dispatched until a taser is utilized or the individual begins to collapse. In such situations, the EMS response may be too late to alter the outcome of the medical emergency.

### V. Conclusion

Police officers are under enormous pressure. In situations involving excited delirium, the pressure is exacerbated by the conduct of the person in crisis. The only solution for police and fire agencies is to adopt policies and coordinated training that addresses these ever-present challenges. Police officers must understand the mechanics of sedation, and the need to treat an excited delirium situation as a medical emergency where every second matters. EMS agencies must also treat a call out for excited delirium in a similar fashion, and implement best practices for staging and assistance to police officers detaining or restraining an individual in crisis. If policies and training are designed with these goals, then the public is best served, and legal liability associated with police action will be minimized.

Given these dynamics, both police departments and fire departments must coordinate together and continue to study these evolving issues that continue to arise frequently in every area of the country.

*Gregory A. Beck is a partner and founding member of the North Canton, Ohio, law firm of Baker, Dublikar, Beck, Wiley & Mathews, formed in 1986. The firm of Baker Dublikar focuses on litigation through insurance defense, commercial litigation, and public sector defense. Greg has represented the Public Entities Pool of Ohio since 1996, and represents political subdivisions through the Risk Pools and through separate agreements throughout Ohio. Greg and Baker Dublikar have been involved in a series of Supreme Court cases regarding public sector issues, including Anderson v. City of Massillon, 134 Ohio St.3d 380, 2012-Ohio-5711 (reaffirming the definitions of reckless, wanton,*



*and willful); Baker v. Wayne County, 147 Ohio St. 3d 51, 2016-Ohio-1566 (re-establishing the definition of the road surface subject to repair and obstruction); and Pelletier v. City of Campbell, 2018-Ohio-2121 (defining obstructions as an exception to immunity). Greg is also preparing the merit brief on another case accepted in the Supreme Court, McConnell v. Coitsville Township, which will be argued early next year regarding whether training and/or negligent hiring, are independent causes of action against employees of a political subdivision and an exception to immunity. Greg has extensive experience in state and federal court defending political subdivisions on employment issues, including police action and use of force.*

## Member Profile: Village of Ottoville

Nestled in the farmland of northwest Ohio, the Village of Ottoville spans nine square miles and is home to approximately 900 residents. The village is located 20 miles northwest of Lima, Ohio, at the junction of U.S. 224 and Ohio Route 66. Its proximity to major roads offers the village a thriving industrial and commercial business community. The industrial park features beautifully landscaped modern buildings housing an assortment of companies.

Fiscal Officer Jeanne Wannemacher has served the village since 2001, and shared some strengths and highlights of her community. “We are a small town with an active commitment

“Our community gathers in the local park. On game days, the Lions Club hosts a concession stand. The park features soccer fields, volleyball and horseshoe pits, baseball and softball diamonds, and a basketball court. Children enjoy the playground equipment and numerous play structures. Group gatherings are hosted under three shelters. The best part of our small-town experience is walking down any street and feeling welcomed by a smile or friendly greeting.”

A PEP Member since 2002, the Village of Ottoville is well acquainted with the benefits of PEP Membership, including the PEP+ Grant. The Village participated in both years of



to service and volunteerism,” observed Wannemacher. “The Lions Club, Veterans of Foreign Wars (VFW), Chamber of Commerce, Oaks, Lady Otts, and our local telephone company donate their time hosting benefits to raise funds for scout troops, academic scholarships, and a variety of needs in our Village and neighboring areas. Additionally, our local Fire Department and county-run Emergency Medical Services (EMS) is staffed by local residents. When they’re not fighting fires, the Ottoville Volunteer Fire Department organizes an annual turtle race and the proceeds are used to purchase equipment for the department. The Fire Department also helps with village events and activities. For example, during Winterfest, the fire department provides food and brings Santa Claus on a fire truck to visit with the children.”

the PEP+ Grant Program. Funds were used to purchase safety strobe lights, a welding helmet, traffic cones and barrels. “Just knowing PEP has our back when we have a claim is a great relief,” stated Wannemacher. “A couple years ago, the PEP Loss Control Representative walked through all our buildings and properties with us. He offered some great suggestions to help make our employees safer on the job, and the recommended changes were budget friendly.”



If your public entity is not already enjoying the benefits of PEP Membership, we invite you to consider becoming a member. For more information or questions about PEP, please visit the PEP Website at [www.pepohio.org](http://www.pepohio.org) or contact a PEP Representative toll free at (800) 367-4818.

## PEP Receives Auditor of State Award

A recent financial audit of the Public Entities Pool of Ohio (PEP) by the Auditor of State's office has returned a clean audit report. PEP's excellent recordkeeping has earned it the *Auditor of State Award*.

The *Auditor of State Award* is presented to entities upon the completion of a financial audit. Entities that receive the award meet the following criteria of a clean audit report:

- PEP filed timely financial reports with the Auditor of State's office in accordance with Generally Accepted Accounting Principles (GAAP);
- The audit report does not contain any findings for recovery, material citations, material weaknesses, significant deficiencies, Single Audit findings or questioned costs; and,
- PEP's management letter contained no comments related to:
  - Ethics referrals
  - Questioned costs less than \$10,000
  - Lack of timely report submission
  - Reconciliation



- Failure to obtain a timely Single Audit
- Findings for recovery less than \$100 and
- Public meetings or public records.

Congratulations to PEP for this recent recognition and its ongoing demonstration of financial strength and stewardship!

## PEP Resource eLibrary

The Resource eLibrary is one example of PEP's risk management solutions offered to members. Providing training at members' convenience and free of charge, the Resource eLibrary makes available online training courses, streamed video courses, seminars, webinars, documents, and DVDs.

### New DVDs

The following DVD titles were recently added to the Resource eLibrary:

- Aquatic Risk Management: Keeping Your Head Above Water
- Backing and Parking: The Keys to Success

- De-escalation: Common Sense Tips for All Cops.

Human Resources training is utilized more than any other topic in the eLibrary, and can be found in every section of the eLibrary. In the Human Resources section of the eLibrary, members have access to a comprehensive Human Resources Database. Resources include: current state and federal employment laws, customizable policies, an employee handbook generator, a job description builder, and guides covering complex topics such as the Family and Medical Leave Act (FMLA), background checks, drug and alcohol policies, exempt vs. non-exempt employee definitions, interviewing, safety

orientations and terminations. Previously recorded human resources webinars are also stored here for viewing at members' convenience. The following are a few examples of the webinars available for viewing:

- FLSA & Federal Exemptions from Overtime Requirements
- HIPAA Privacy Rules and Compliance
- Telecommuting: Top 20 Ins & Outs of Working In & Outside the Workplace
- Understanding Cyber Security: What You Need to Know
- Wellness, Social Media & Compliance.

*Cont'd on pg. 6*

# PEP Welcomes New Members

## Perry Joint Economic Development District (JEDD)

“We were pleased to welcome Perry Joint Economic Development District to PEP in June,” said PEP Representative Megan Roschek. Located in northeast Ohio, on Lake Erie, about 35 miles east of Cleveland, the District was incorporated in August 2000 between Perry Township and Perry Village. In 2002, North Perry Village became a member of the District. Its purpose is to advance, encourage, and promote the industrial, economic, commercial, and civic development of the area.

## Gibsonburg Union Cemetery

Located in the Village of Gibsonville in Sandusky County, just 33 miles southeast of Toledo, the Gibsonburg Union Cemetery serves the surrounding community comprised of 2,500 residents. “The cemetery became a PEP Member in August for its coverage and service,” commented PEP Representative Craig Hibner.

## Village of Fulton

The Village of Fulton joined PEP in April of 2018. The village is located in Morrow County and has a population of 250.

## Village of Midland

The Village of Midland joined PEP in April of 2018. The village is located in Clinton County and has a population of 265.

## City of Salem

The City of Salem joined PEP in April of 2018. The city is located in Columbiana County and has a population of 12,197.

## Village of Laura

The Village of Laura joined PEP in May of 2018. The village is located in Miami County and has a population of 487.

## Village of Newcomerstown

The Village of Newcomerstown joined PEP in June of 2018. The village is located in Tuscarawas County and has a population of 4,008.

## Village of Dresden

The Village of Dresden joined PEP in June of 2018. The village is located in Muskingum County and has a population of 1,423.

## Village of Oakwood

The Village of Oakwood joined PEP in June of 2018. The village is located in Paulding County and has a population of 607.

## Village of West Lafayette

The Village of West Lafayette joined PEP in June of 2018. The village is located in Coshocton County and has a population of 2,313.

## Village of Laurelville

The Village of Laurelville joined PEP in July of 2018. The village is located in Hocking County and has a population of 533.

## Village of Clinton

The Village of Clinton joined PEP in July of 2018. The village is located in Summit County and has a population of 1,337.

*Cont'd from pg. 5*

## Public Entity University

Public Entity University (PEU) is a vendor-driven portal offering an additional 300 online training courses specifically tailored to public entities, some of which may count for continuing education credits for certain members. PEU is accessed through the Resource eLibrary and offers a number of in-depth online training courses. HR training modules including:

- Americans with Disabilities Act & ADA Amendments Act



- Family and Medical Leave Act
- Guide to Interviewing
- Information Security and Privacy Awareness
- Wage and Hour Laws for Supervisors.

## Video Streaming

Nearly 400 HR streamed videos are available for members to view from the convenience of their own desk. Topics include:

- Employee Orientation
- Job Safety Analysis
- OSHA Recordkeeping.

All PEP Members are invited to take advantage of this valuable and convenient service and visit the Resource eLibrary through the PEP Website at [www.pepohio.org](http://www.pepohio.org).

# 2018 PEP+ Grant Program - December 31 Deadline

The PEP+ Grant loss control and risk management initiative is designed to help members reduce or prevent liability claims and property losses by encouraging all PEP Members to apply for up to \$500 in grant money to fund, or partially fund, safety items that will aid them in their loss control or risk management efforts.



**City of Chillicothe** - (left to right) Thomas Welsh, PEP Representative; Luke Feeney, Mayor; and Eric Braulin, Local Agent, Neil Coleman Insurance Services. Located in Ross County, the City of Chillicothe has applied for and received the PEP+ Grant since the program started in 2017. Grant funds were used to purchase park safety signage and road signs.



**Village of Archbold** - Thomas Welsh (left), PEP Representative; and Donna Dettling, Administrator. Located in Fulton County, the Village of Archbold has applied for and received the PEP+ Grant since the program started in 2017. Grant funds were used to purchase LED amber beacon lights and an Automated Electronic Defibrillator (AED).

## Program Details

The PEP+ Grant Program is only available to PEP Members. All PEP Members are encouraged to participate and apply for a grant during the application period of January 1 through December 31, 2018. All members who previously participated are welcomed and

encouraged to participate again in 2018. Applications that are incomplete or are not submitted within the required time frame may be determined ineligible. Each applicant must be a PEP Member, both at the time of submission and issuance of the grant funds.

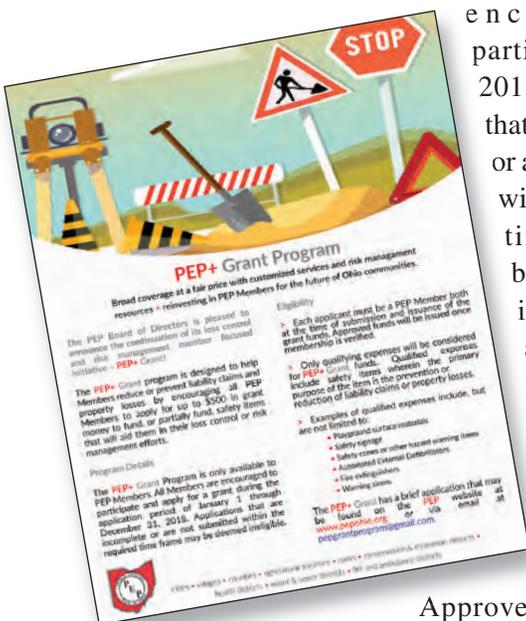
Approved funds will be issued once PEP membership is verified.

Only qualifying expenses will be considered for the PEP+ Grant funds. Qualifying expenses include safety items wherein the primary purpose of the item is the prevention or reduction of liability claims or property losses. Examples of qualified expenses include, but are not limited to:

- Automated External Defibrillators (AED)
- Fire extinguishers and Personal Protective Equipment (PPE)
- Gas monitors
- Playground surface materials
- Safety vests
- Surveillance and security systems
- Warning sirens.

The funds are available for purchases or expenses incurred during the application period.

The PEP+ Grant Program has a brief application that may be found on the PEP website at [www.pepohio.org](http://www.pepohio.org) or by emailing [pepgrantprogram@gmail.com](mailto:pepgrantprogram@gmail.com). All PEP Members are invited and encouraged to participate in this program.





PEP  
31555 W. Fourteen Mile Rd., Suite 110  
Farmington Hills, MI 48334

PRESORTED  
STANDARD  
U.S. POSTAGE  
PAID  
SOUTHFIELD, MI  
PERMIT #63

*If our mailing records need to be updated, please contact the PEP Administrator at (800) 367-4818.*

## Property Appraisals for PEP Members

The Public Entities Pool of Ohio (PEP) now offers Property Appraisals to its Members.

In order to ensure that Member buildings are properly valued, PEP has partnered with a property appraisal firm to conduct appraisals on qualified and scheduled buildings over a five-year period. The details of the program are as follows:

- All buildings scheduled at \$100,000 or more will be appraised.
- If a Member does not have a building scheduled at \$100,000, the building with the highest value will be appraised.
- Members will receive a copy of all appraisals.
- Members will receive an email advising them of their upcoming appraisal so that the appointment may be conveniently scheduled.
- Please note this service is being provided at no cost to Members.



For more information on the new property appraisal program, please contact your PEP Representative.

## PEP Upcoming Events

### Ohio Fair Managers Association (OFMA) Annual Conference

January 4-5, 2019

For more information:  
[www.ohiofairs.org](http://www.ohiofairs.org)



### Ohio Parks and Recreation Association (OPRA) Annual Conference

February 3-5, 2019

For more information:  
[www.opraonline.org](http://www.opraonline.org)

