

SEPTEMBER 2018

Volume 28 Issue 3

# COMMAND

The Official Publication of the Illinois Association of Chiefs of Police



**MARION'S CHIEF TONDINI BECOMES  
NAWLEE PRESIDENT**

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**32,776 CITATIONS AND WARNINGS  
FOR SPEEDING, DISTRACTED DRIVING**

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**SUPREME COURT ISSUES DECISION ON  
CELL SITE LOCATION INFORMATION**

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**LEGISLATIVE UPDATE FOR 2018**

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# COMMAND

The Official Publication of the Illinois Association of Chiefs of Police  
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Welcome to the ILACP's September 2018 COMMAND magazine.

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**On the Cover:** Chief Dawn Tondini (left) of the Marion, Illinois, Police Department, was sworn in this summer as national president of the National Association of Women Law Enforcement Executives (NAWLEE). She poses with actress Anne-Marie Johnson, who served as master of ceremonies at the NAWLEE conference in Los Angeles. An article about Tondini's presidency is on pages 6-7.



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We promote the professional and personal development of our members through innovative services, training, and camaraderie.

We make a positive impact on the quality of life in the communities we serve through proactive leadership in:

Vision and Innovative Change  
Legislation  
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Community Partnerships



## FROM THE PRESIDENT CHIEF BRIAN FENGEL – BARTONVILLE PD

### STILL PUSHING THE 10 SHARED PRINCIPLES AND LEGISLATIVE ADVOCACY



**In reviewing the past six months, I am pleased that ILACP continues to be a strong and exclusive leader.**

Our 10 Shared Principles Program continues to grow with 86 departments having adopted them as of this writing. It takes leaders in these departments to make this work. Many of these leaders are our members. I want to encourage more departments to formally adopt the 10 Shared Principles, as we have found that this is an enormous benefit to both the department and the community. My own department, Bartonville, has done so. The placement of 10 Shared Principles in areas of high crime and discord will in time help us to smooth out this long on-going issue with race relations. While we are making

progress, we know we cannot resolve all of the issues or satisfy all of the people. However, when we talk about Community Policing, this is a huge tool to be used. As of now we need to continue to work in our own communities to develop the program and help others incorporate it into their communities.

We need to continue corresponding and directly communicating with our legislators to make sure we are being heard and that our voice is the most influential. Over the summer, I joined ILACP Vice President Dan Ryan in meeting with the Illinois State Police lobbyist and the executive director of the Illinois Sheriffs' Association, for whom lobbying is a primary activity, and discussed how we can be stronger in working together to provide better knowledge and understanding of the legislation. On legislation where we are all in agreement,

we will serve law enforcement better by working more closely together. The relationship in this regard has always been good, and we're looking for ways to make it even better.

I want to express my personal appreciation to Chiefs Marc Maton, Terry Lemming and Bob Porter for the countless number of hours they devoted to legislative advocacy during the spring session. And to those who worked closely with them on specific important issues. A detailed report of our legislative work is elsewhere in this magazine, and I want to repeat what others have said: Until you get involved in our legislative work or serve on our Board of Officers, you probably have no idea how much time and effort goes into the discussion of bills and the development of public policy that benefits all of us. This will continue to be a major focus of our association during my presidency, and I'm sure, in the years to come.

As an association, we continue to be fiscally responsible, thanks primarily to the Executive Director, the ILACP staff, and our Board of Officers. We need to continue to be financially responsible and viable in the future, as ILACP accountability is one of the main selling points to our members and prospective members. We received a great report from our auditors this year, and we're not raising membership dues in 2019, as we continue to enjoy diverse sources of revenue.

I also want to thank all the committees and commend you on your interest, ideas and progress.

I am available to listen to your ideas and suggestions and provide any help I can. Our main goal is to keep us moving forward as a top respected law enforcement organization. ■

## WELCOME NEW 2018 ILACP MEMBERS

*(Added since publication of Command June 2018 Vol 28, Issue 2)*



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Chief of Police  
Chief of Police  
Chief of Police  
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Captain  
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Chief of Police  
Deputy Chief  
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Sergeant  
Sergeant  
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Campton Hills Police Dept.  
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**Billy Kewell** | Regional Security Director, Uber

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## SUMMER SCENES; WE KEEP MOVING

By Ed Wojcicki

Executive Director, Illinois Association of Chiefs of Police



**EVERYBODY KNOWS I LIKE pictures**, and so for this month's column, I decided to share a few pictures of our association's work and from my own experiences over the summer. I often remind people that our two biggest tasks at the association revolve around (1) professional development and (2) legislative activity. That's been true for decades and it's still true today. These pictures are evidence of that.

For the past two years, our PR Committee has been posting pictures regularly on our Facebook page, and in recent months, we have published more pictures on our website. Go to [www.ilchiefs.org](http://www.ilchiefs.org), then click on the "NEWSROOM" menu item and go down to Photos. ■

*Ed Wojcicki*



OK, so this is a travel photo, but I went to the Reagan Presidential Library in California in June, and there on the wall were two pictures of Tim McCarthy with President Reagan. McCarthy has been Orland Park's police chief since 1994, but thirteen years before that, he was a Secret Service Agent and was shot the same day that Reagan was shot.



Mt. Prospect Chief John Koziol (left) receives congratulations from ILACP Vice President Steven Stelter after being recognized for achieving ILEAP accreditation.



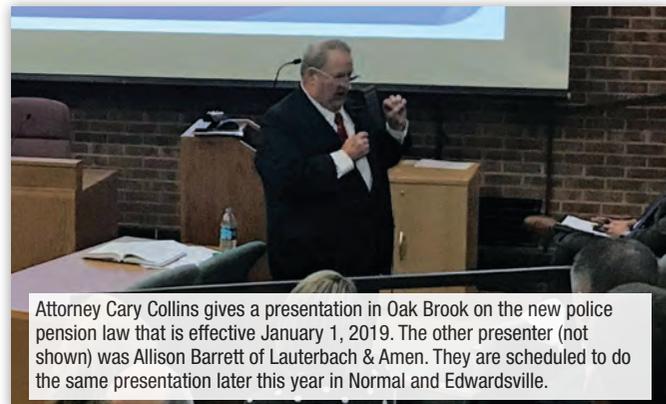
Chief Craig Stone, center, the new police chief at the University of Illinois at Urbana-Champaign, accepts a plaque acknowledging reaccreditation of his department for Tier II in the Illinois Law Enforcement Accreditation Program (ILEAP). From left are UI Associate Chancellor Mike DeLorenzo, Ed Wojcicki, Chief Stone, Lt. Joan Fiesta and Lt. Joe McCullough.



Until this year, this space was a parking adjacent to the Illinois Chiefs' building in Springfield. The Illinois Realtors spent more than \$2 million to construct this Bicentennial Plaza, which spruces up the neighborhood.



The Midwest Expo in Tinley Park was a big success again in August, with more than 1,200 people there. In this photo, the Board of Officers recites the Pledge of Allegiance at the Executive Board meeting.



Attorney Cary Collins gives a presentation in Oak Brook on the new police pension law that is effective January 1, 2019. The other presenter (not shown) was Allison Barrett of Lauterbach & Amen. They are scheduled to do the same presentation later this year in Normal and Edwardsville.



## From East Peoria to Marion to national scene: Chief Dawn Tondini sworn in as NAWLEE president

By Sherrie Phipps

Dawn Tondini began her career with the Marion Police Department nearly 25 years ago. It all began when Dawn was a child— she'd dream of serving as an honorable police officer.

"My dad was a police officer and it's really the only thing I've ever wanted to do," said Dawn. "I was always fascinated. As a kid, I would read his PTI (Police Training Institute) books and in there were things about DUIs and dead bodies and stuff."

Dawn's father was a detective with East Peoria. He later joined the Illinois State Police as a crime scene supervisor— which also sparked Dawn's interest in becoming a member herself.

In the early 1990s, Dawn devoted her time as a volunteer auxiliary officer. She engaged in the thrill of going out on ride-a-longs with the other officers. At the time, the city had been experiencing a major gender gap between women and men within the department—which ultimately put her dreams on hold.

"The guys had told me the mayor would never hire a female officer," she recalls.

In February 1993, Dawn was asked to join the team as a part-time, and eventually full-time, dispatcher. Later that year, in August, Marion Police Chief Ronald Swafford approached Dawn by surprise.

"He came to me and said, 'Hey do you still want to go to the road?'" Dawn said. "I said yeah, and he told me, 'You start Monday... The mayor knows and he says he likes you'."

Dawn was the first female to serve in the Marion Police Department. Throughout the years she has worked her way through the ranks, leading to her current position as chief. Prior to chief, Dawn has served as a patrol officer, detective, patrol sergeant and lieutenant.

In recent years, she's made it her duty to drastically change the department's use of technology.

"Our department was so far behind technologically," Dawn explained. "I put computers in all the squad cars. I even replaced all the cameras



and radios as well. We had an old archaic system that didn't work most of the time."

Prior to becoming chief, Dawn had been working as the only woman in the field. Although she'd been making many strides within the department, she often felt like something was missing.

"When I joined in 1995 there weren't a lot of women executives at the time," Dawn explained. "When I made sergeant, I was outnumbered. I started to look for things because I knew there had to be something for female police officers. So that's how I found NAWLEE— by just a Google search."

NAWLEE, the National Association of Women in Law Enforcement Executives, serves to further the interests of women who are or aspire to be executives in law enforcement. After serving as a vice president, she was sworn in as the organization's national president in August at NAWLEE's annual conference in Los Angeles. She is serving for one year.

"I think it's important not only for us to continue to support, encourage and train women law enforcement executives that are in place now, but to also encourage these younger females coming up through the departments— to let them know that they can get here, too," the new president said.

According to a 2016 survey that looked at the gender distribution of full-time U.S. law enforcement employees, 88% were men versus 12% women. As for Illinois specifically, Dawn believes this to be a cause and effect from low recruitment and lower interest from women in general. Illinois has only about ten women serving as chiefs of local police departments.

"A lot of times it's having that right partner," she said. "Luckily, my husband was encouraging, but I had already started in law enforcement before I met him and I told him, 'I'm not giving it up'."

Dawn revealed that early in her career, she and her husband battled a difficult work schedule where many nights her parents shared the responsibility of caring for her children.



“My husband owned a record service, so there were nights I had to take the kids to my mom and dad’s,” she explained. “There’d be nights when he was working 24 hours and I was working 24 hours, but luckily I had that support system there to help me because a lot of times, women are torn between what’s more important: a career or a family?”

Not only has her supportive family system been a contributing factor to her success, she also noted NAWLEE has a wonderful guide of support and mentorship. She believes the association gives women a good basis of support and is a wonderful avenue for networking.

To put things into perspective, she recalled reading an article in the NAWLEE Newsletter, written by Chief Kristen Ziman of Aurora, Illinois, who had previously served as the national NAWLEE president.

“She had written a story about trying to arrest some guy,” Dawn laughed. “He was huge and she’s small, you know. But I remember him running away from her and she was chasing him. She jumped on his back and she’s riding. After a little while, she tells the guy, we can do this one or two ways, I’m not going to fight you... So, we can both save face if you just stop running. And he did!”

Dawn expressed relief in knowing that other women are out on the job encountering similar daily experiences. The beauty in making that connection through the female-based organization was knowing that

she and other women are together and not alone. Said Tondini: “As women officers, we realize we’re not going to be able to take down a 300-pound guy and handcuff them, so we do things a different way—we’re talkers. Communication is our biggest asset—and I thought it was great to read her article.”

Dawn disclosed a few things she’d like to accomplish as the next NAWLEE president. One is to increase the recruitment numbers for women interested in law enforcement, and she’d also like to incorporate training specific to women in the field. Believing men and women handle situations differently, she thinks it’s best to have workshops designed specifically for women to enhance the visibility of their work.

Dawn is also encouraging her executive male counterparts to help in the process of recruiting more women.

“I’d hope they realize we are outnumbered. If they have funds in their training budget, I’d encourage them to help support their female colleagues in getting involved whether it be in NAWLEE or the Women’s Executive Institute.” ■

**Sherrie Phipps holds the Communications and Member Relations position as a full-time staff member with the Illinois Association of Chiefs of Police.**

## JOIN THE ILLINOIS CHIEFS FOR 2019

**Watch for your renewal notices or go to this link to sign up**

<http://www.ilchiefs.org/JOIN THE CHIEFS>



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# New Supreme Court Cell Phone Decision Requires Warrant: New Fourth Amendment Protection for Individual Privacy in Data Compilations

By Donald R. Zoufal

The decision in *Carpenter v United States*,<sup>1</sup> released on June 22, 2018, significantly expands Fourth Amendment privacy protections and limits government investigative practices. In a 5 to 4 decision the Court held the Fourth Amendment was violated when the FBI secured a suspect's cell location information from a cell phone provider pursuant to a court order issued under the provisions of the Stored Communications Act of 1986.<sup>2</sup> The Court concluded that, given the reasonable expectation of privacy in the location data revealed by the cell phone records, a search warrant was required. The decision not only represents adoption of new rules in assessing an individual's privacy interests in data, it also serves to impose new requirements in the assessment of privacy interests in information held by third parties. This decision has important implications for government surveillance activities and the ability of government agents to access information held by third parties.

## Facts of the Case

The *Carpenter* case reviewed the actions of the FBI in investigating a series of robberies of Radio Shacks and phone stores in Michigan and Ohio. After arresting some suspects in the robberies, one of the suspects in custody identified the defendant Timothy Carpenter as a participant. Under the provisions of the Stored Communications Act,<sup>3</sup> the FBI sought and received an order from a federal magistrate judge requiring Carpenter's cell phone provider to turn over records, which included cell site location information (CSLI) for the several-month period over which the robberies occurred. The CSLI allowed FBI agents to plot the general location of Carpenter's cell phone showing it to be near the location of the robberies at the dates and times they occurred.

Carpenter moved to suppress the use of the CSLI evidence at trial, claiming that the collection of this information was a search in violation of his Fourth Amendment rights. The District Court denied the motion. Carpenter was subsequently convicted of charges relating to the robberies and sentenced to 100 years. On appeal, the Sixth Circuit Court of Appeals affirmed the decision of the District Court.

In reversing the lower court decision, the U.S. Supreme Court found that the actions of the FBI in compelling production of the CSLI constituted a search requiring a warrant, notwithstanding the fact

that that records obtained were neither Carpenter's property nor in his possession or control. This decision effects both jurisprudence on the nature of privacy expectations themselves and on the "third party exception" that allows government access to records about individuals when those records are in the possession of third parties, without the need to obtain to a warrant.

## Privacy Interest in Compiled Location Data

Writing for the majority, Chief Justice Roberts begins with observations on the prevalence of cell phones in the U.S. and the way in which they operate--continuously sending out radio signals looking for available cell sites so that voice communication and data transfers can occur. The record of these transmissions creates the CSLI, which allow for the plotting of the general location of a cell phone at specific times.<sup>4</sup>

The Chief Justice further noted that CSLI is maintained and used by phone carriers for a wide range of commercial purposes, including billing and the assessment of roaming charges related to a specific account. Aggregated data about cell usage is also sold by carriers to commercial purchasers who want to understand consumer activity in certain areas. With respect to Mr. Carpenter's cell phone, the Court noted that 152 days of data was requested from the defendant's carrier, plus 127 days of data and from a second carrier, and seven days of data providing two days of information on the defendant's cell phone as it was acquiring roaming charges in Ohio. This resulted in 12,898 location data points, "an average of 101 data points per day."<sup>5</sup>

In its legal analysis, the majority began by noting that one of the principal functions of the Fourth Amendment is to "safeguard the privacy and security of individuals from arbitrary invasion by government."<sup>6</sup> The Court then discussed the evolution of Fourth Amendment jurisprudence from a purely property-based concept where trespass was required before a Fourth Amendment violation could be established to a focus on the expectations of persons rather than property-related principles. The expanded focus of the Fourth Amendment protects an individual's expectations of privacy that "society is prepared to accept as reasonable."<sup>7</sup> Citing its 2012 decision in *Jones v United States*,<sup>8</sup> the Court observed that claims of trespass as well as a claim of a reasonable expectation of privacy



Continued from page 9

can provide a basis for Fourth Amendment challenge to government action.<sup>9</sup>

The Court went on to make a general observation regarding the effect of technology on the privacy rights originally secured by the Fourth Amendment. Referring to prior decisions in *Kyllo v United States*<sup>10</sup> (use of thermal imaging technology on a residence is a search requiring a warrant) and *Riley v California*<sup>11</sup> (storage capacity of cell phones generally prohibits search of such devices incident to arrest absent a warrant), the Court observed that protection of privacy had to be a focus in the face of technology innovations. The central aim of the Framers was “to place obstacles in the way of a too-permeating police surveillance.”<sup>12</sup>

Against this general backdrop of Fourth Amendment analysis, the Court went on to examine the implications of government access to CSLI without a warrant. While previous case law had affirmed the ability of law enforcement to conduct surveillance of an individual’s movements using sensory enhancing technology like beepers,<sup>13</sup> advancements in technology, like global position systems (GPS), raised serious questions of easily conducted extensive pervasive surveillance.<sup>14</sup>

Looking to the two concurring opinions of five Justices in *Jones*,<sup>15</sup> the Court acknowledged the fact that technology developments in the fields of surveillance and tracking raise significant and legitimate privacy concerns. The amount of location data that can be acquired and processed by government using modern technology raises the specter of persistent mass surveillance, inconsistent with Fourth Amendment protections. The Court went on to conclude that, like the GPS data that raised concerns in *Jones*, the CSLI data raised similar possibilities of tracking the whole of a person’s movements such that the Court concluded it gives rise to reasonable expectations of privacy. Thus, accessing that data constituted a search cognizable under the Fourth Amendment.

### **Third Party Exception to the Warrant Rule**

The conclusion that the government had conducted a search of property where the defendant had a reasonable expectation of privacy did not, however, end the analysis. Unlike the circumstances in *Jones*, where the government obtained information through a GPS device that government agents had planted on the defendant’s

vehicle, the CSLI data in this case was not obtained directly from the defendant. Instead, the information was collected from the business records of a third party—the cell phone service provider. The CSLI was not Carpenter’s property; it was a business record owned by the phone company.

In two prior cases, the Court concluded that third party business records were exempt from Fourth Amendment warrant requirements. In *United States v. Miller*,<sup>16</sup> the Court found that government acquisition of financial records like bank statements and cancelled checks did not require a warrant. Similarly, the Court in *Smith v. Maryland*<sup>17</sup> found that the government could obtain phone company records registering the incoming and outgoing calls without resort to a warrant. The logic behind those decisions was twofold. First, the voluntary sharing of that information with a third party undercut the notion of an individual’s privacy interest in the information. Second, an individual’s action in surrendering the information to a third party constituted an acceptance of the risk that, despite agreed limitations on the use of such information placed in the hands of the third party, that information might still be turned over to the government.



The Court rejected the government’s argument that the third party doctrine was controlling and that the CSLI—which was a business record of the phone company and not the property of the defendant—was subject to production in accordance with the compulsory process of a court order under the provisions of the Stored Communications Act. The Court, citing largely its prior opinion in *Riley*,<sup>18</sup> noted the significant societal shift that cell phone communications had made over recent years. It observed that for many persons their cell phone was almost an appendage of their person—never more than a few feet away. The Court further noted the detailed and encyclopedic nature of CSLI record keeping from information automatically and constantly transmitted from cell phones. The result of this information was the ability to detail movement of individuals over periods of months and even years. In a departure from the general focus of Supreme Court decisions based solely on the facts of a specific case, the majority even observed that the detail of CSLI records were continuing to advance since the inception of the case—almost reaching the quality of GPS location that concerned the majority of the justices in *Jones*.<sup>19</sup>



### Holding

Because the government accessed CSLI records in which the defendant enjoyed a reasonable expectation of a privacy, a search cognizable under the Fourth Amendment occurred. Absent an applicable exception, such a search requires a warrant based on probable cause. Moreover, because CSLI records are “qualitatively” different from the bank records in *Miller*<sup>20</sup> or the phone records in *Smith*,<sup>21</sup> the Court declined to extend the third-party exception to the warrant requirement to the facts of this case. The decision of the Sixth Circuit was reversed, and the case was remanded for further proceedings.

### Future Issues

In the wake of the decision in *Carpenter*, there are almost as many questions for law enforcement as there are answers. While the majority characterizes its decision as a “narrow one,” the four lengthy dissents that the majority opinion generated suggest otherwise. They raise significant questions going forward regarding both how the reasonable interest in privacy is determined and the contours of the third-party exception to the warrant requirement.

### Understanding What is Protected Privacy

With respect to the issue of reasonable expectation of privacy and government surveillance activities, the *Carpenter* decision provides some clear guidance regarding use of tools like CSLI and GPS monitoring. With respect to CSLI, the use of compilations of data longer than six days likely requires a warrant. With respect to GPS data, the outside limit is 28 days, so long as the GPS data is collected through methods other than a trespass. If there is a trespass to secure the GPS data (i.e. agents physically plant the device on a vehicle), a warrant is required. As a practical matter, law enforcement would do well to seek a warrant before accessing compilations of CSLI and GPS data unless such action is precluded by exigent circumstances.<sup>22</sup>

Regarding other surveillance technologies, the *Carpenter* case raises questions yet to be resolved. While the majority opinion indicates that its holding does not affect the use of video surveillance, what if that surveillance is enhanced by analytic tools like facial recognition or license plate recognition? Does the growing proliferation of video surveillance, combined with the ability of law enforcement to use computers and algorithms to store, sort, and sift through that data, raise privacy concerns? These developments certainly can



allow for enhanced tracking of an individual’s whereabouts. This ability to track an individual’s movements over a lengthy period is exactly the type of government activity that concerned a majority of justices in both the *Carpenter* and *Jones* cases.

Left unanswered by the *Carpenter* case is the question of how large and extensive the digital compilations must be to give rise to a reasonable expectation of privacy. What about analysis of digital data from an amalgam of different sensors? Each sensor may not provide privacy protected information, but together they paint a picture. Growing sensor data from the Internet of Things (IoT) raise the specter of digital footprints that can be followed by law enforcement. While *Carpenter* articulates the concept that, at some level, the compilation of non-privacy protected location data can become privacy-protected, the line at which this transformation occurs is unclear.

### Understanding the New Third-Party Warrant Exception

In addition to requiring some review of what is privacy-protected, the *Carpenter* decision will also require a review of law enforcement processes in collecting information from third parties. Under the *Smith* and *Miller* decisions the rules were clear. Individuals did not have a Fourth Amendment privacy interest in the information maintained in third-party business records. Those records could be obtained through compulsory process like subpoenas or court orders, which are based on a standard below the “probable cause” required for a warrant.

The *Carpenter* decision suggests that courts will now be required to engage in a two-step process to determine whether the third-party warrant exception applies. The first step is to determine whether the record is the type of third-party business record that has previously been exempted from the warrant requirement. The second step requires a balancing of the privacy interest an individual asserts in those third-party records. Unfortunately, there is no clear definition provided by the Court with respect to the balancing process required in this second step. It will need to be shaped by subsequent lower court decisions.

A close reading of *Carpenter* does suggest some of the factors a court might examine in determining whether an individual’s privacy interest can outweigh the application of the third-party warrant exception. Those factors would seem to include:



Continued from page 11

- The importance of the activity generating the data. The Court noted the importance of cell phones in modern society.
- The duration of data collection. The Court noted the ability to collect data for months and years.
- The automatic nature of collection. The Court noted that the data was generated by the ordinary and continuous function of the cell phone without independent action by the owner beyond powering it up (the absence of independent action seemed to undercut the concepts of notice and consent). The pervasiveness of data collection. The Court observed both the pervasiveness of cell phones in society and the pervasiveness of the data collected by the constant operation of the devices as they search for cell sites.
- The sensitivity of other activity evidenced by data collection. The Court noted that the records did not just show voluntary usage activity but showed the location of the cell phone even when it was merely carried, not used.

This list is not exhaustive, and there may be additional factors which other courts may identify and employ.

The net result of *Carpenter* is new uncertainty in the use of compulsory process tools (subpoenas and court orders) in the conduct of law enforcement investigations. While the majority suggests the use of

such process to access traditional financial and some phone records remains untouched by the decision, the accessing of other records remains open to questions. This decision will also likely provide support to third-party service providers like internet and data storage companies that traditionally show resistance to compliance with compulsory process. Certainly, law enforcement would do well to rely on warrants whenever possible in obtaining information from third parties.

### Conclusions

The bottom line for law enforcement is that surveillance and investigative tools need to be reexamined in light of the Court's conclusions about privacy interests. With respect to surveillance tools like license plate and facial recognition, widespread usage to track individuals may now implicate Fourth Amendment protections. With respect to use of compiled location data, investigations of pattern data in long-term investigations like narcotics or crime patterns robberies, securing warrants would be advisable. Reliance on existing compulsory process tools may now prove to be misplaced. However, where a limited amount of data is being sought and time is of the essence, in cases like a kidnapping or where police are searching for an offender at large, compulsory process may still suffice. The problem law enforcement confronts is knowing where the dividing line is located. Thus, seeking a warrant is always the safer course. ■

**Donald R. Zoufal is the longtime legal advisor to the Illinois Association of Chiefs of Police.**

1 \_\_\_ U.S. \_\_\_, 2018 U.S. LEXIS 3844.

2 18 U.S.C.S. § 2703(d).

3 *Id.*

4 The accuracy of tracking is a function of the density of cell sites in a given area. The greater the density of cell sites, the more precise the location plotting. In urban areas the cell site locations are generally denser than what is found in rural areas, so location plotting based on CSLI is more precise in urban areas. With the advent of small-cell technology the number of cell sites will proliferate exponentially greatly enhancing both cell coverage and the ability to more precisely track location using CSLI.

5 \_\_\_ U.S. \_\_\_, 2018 U.S. LEXIS 3844.

6 \_\_\_ U.S. \_\_\_, 2018 U.S. LEXIS 3844, citing *Camara v. Municipal Court of City and County of San Francisco* 387 U.S. 523, 528 (1967).

7 \_\_\_ U.S. \_\_\_, 2018 U.S. LEXIS 3844, citing *Katz v. United States*, 389 U.S. 347, 351 (1967).

8 565 U.S. 400 (2012).

9 In *Jones*, the Court reviewed actions of the FBI which had implanted a GPS tracking device on the defendant's

vehicle and tracked its movements for a period of 28 days. The FBI actions were undertaken without a warrant. The majority opinion, joined by four justices, concluded that the actions of the FBI in trespassing to the vehicle to plant the GPS device constituted a violation of the Fourth Amendment. Four other justices in a concurring opinion authored by Justice Alito, concluded that it was not the trespass but rather the government's actions of tracking the vehicle for 28 days that constituted a violation of the Fourth Amendment because the defendant has a reasonable expectation of privacy in his location over a prolonged period of time. Those Justices suggested that because GPS technology had so significantly changed the ability of government to surveil individuals allowing for the easy collection of location data over lengthy periods of time, the use of GPS tracking without a warrant violated privacy protections of the Fourth Amendment. In a separate concurring opinion, Justice Sotomayor indicated she found the arguments of both the majority and the concurring justices to be persuasive that both a trespass and expectation of privacy could serve as a basis in that

case for a claim of a Fourth Amendment violation. However, because she found the trespass basis narrower, she joined in the majority opinion. Thus, while there were in fact five justices (a majority) that felt the aggregation of location data over the 28 days constituted a violation of the Fourth Amendment, that was not the controlling precedent of the case.

10 533 U.S. 27 (2001).

11 573 U.S. \_\_\_, 2014 U.S. LEXIS 4497 (2014).

12 \_\_\_ U.S. \_\_\_, 2018 U.S. LEXIS 3844, citing *United States v. De Ri*, 332 U.S. 581, 595 (1948).

13 *United States v. Knotts*, 460 U.S. 276 (1983).

14 *Jones*, *supra*, n. vii.

15 *Id.*

16 425 U.S. 435 (1976).

17 442 U.S. 735 (1979).

18 *Supra*, n. ix.

19 *Supra*, n. vii.

20 *Supra*, n. xiv.

21 *Supra*, n. xv.

22 *Supra* n. ix.



# ILEAP Rates Could Increase in 2019

ILEAP rates could increase and become an annual fee rather than an every-four-year fee for agencies in the Illinois Law Enforcement Accreditation Program (ILEAP), beginning in 2019.

The Board of Officers recommended the change in fees last month to the Executive Board, which will be asked to give the new fees final consideration at its December meeting.

There have been no increases in fees since the ILEAP program was launched about a decade ago. "There has been a lot of new interest in ILEAP in the past 18 months or so, and our costs associated with running this program are increasing," said Ed Wojcicki, ILACP executive director. "Plus, we've done an analysis, and our new rates are still far below what an agency would pay for national CALEA accreditation."

He suggested that agencies seeking or having ILEAP accreditation check with their municipalities' insurance carrier, the Illinois Municipal League, or a group like the Intergovernmental Risk Management Agency (IRMA) to see if one of those might cover some of the ILEAP fees or enjoy a reduction in insurance by being an accredited police agency.

Currently, an agency pays \$500 once every four years for Tier 1 Accreditation and reaccreditation. An agency pays \$1,000 for Tier 2 Accreditation every four years, which requires the agency to meet more than twice as many standards as those in Tier 1.

Under the proposed fee increase, all agencies that apply for accreditation and pay their initial fee by December 31, 2018, would be grandfathered into the old fee structure. Similarly, agencies who



The Macomb Police Department enjoyed recognition in August for achieving Tier 2 in the Illinois Law Enforcement Accreditation Program (ILEAP). Macomb initially was accredited in 2012 and has since been reaccredited to the higher standards of Tier 2. From left are Macomb Chief Curt Barker; Lieutenant Jeff Hamer, Accreditation Manager; and ILACP Vice President at-Large Chief Dan Ryan, who made the presentation.

now enjoy accreditation would not begin paying a new fee or have any fee increase until the year of reaccreditation, starting in 2019. The fee they paid is good for four years.

## New proposed fee structure

Under the new proposal, departments first applying for ILEAP accreditation or applying for reaccreditation after January 1, 2019, would be assessed an annual fee of \$400 for Tier 1 accreditation (a total of \$1,600 every four years) or \$800 annually for Tier 2 accreditation (a total of \$3,200 every four years).

The first annual payment would be due at the time of application, and that would satisfy the current year's fee. The date of payment of the application fee is considered the first year of the annual cycle. Then the annual fee would be due any time during the calendar year, but the department would be invoiced in January each year.

"The association considers ILEAP one of its premier programs, and to keep as up to date as we need to be, we will have to invest more money

in it," Wojcicki said. He worked on the new fee proposal with Chief Pat Rollins of Sugar Grove, who chairs the ILACP Professional Recognition Committee. They made a formal proposal to the Board of Officers at the August meeting in Tinley Park.

Anyone with questions about ILEAP fees should contact Wojcicki at [ed@ilchiefs.org](mailto:ed@ilchiefs.org).

Anyone with questions about the process of ILEAP accreditation should contact the ILEAP Coordinator, Lt. Jeff Hamer, at [jhamer@macombpolice.com](mailto:jhamer@macombpolice.com). ■



## OAK BROOK: ADVANTAGES OF ACCREDITATION AT NATIONAL AND LOCAL LEVELS – CALEA AND ILEAP

By Commander Benjamin Kadolph



The **Oak Brook Police Department** has recently been awarded with their first accreditation recognition under the Illinois Law Enforcement Accreditation Program (ILEAP). Although this is the first ILEAP accreditation, the Oak Brook Police Department has a twenty-plus year history of accreditation with the national Commission on Accreditation for Law Enforcement Agencies (CALEA). With the increase in public scrutiny concerning policing and the practices that agencies use, accreditation has never been more important than it is now. Our department has been fortunate to have support from the Oak Brook community during our many years of accreditation.

Dual accreditation with ILEAP and CALEA is only possible with collective work of our entire department. Having been accredited for over twenty years, we have accreditation engrained into our department. As the Accreditation Manager, I am never concerned with whom the assessors may ride along with or interview during an on-site. This is because our practices are aligned with the best practices accepted by both ILEAP and CALEA.

So why become dually accredited? In the Oak Brook Police Department's case, we saw an opportunity to measure our department's policies and practices with the standards of the ILEAP agencies right here in Illinois. The over three hundred standards of our CALEA Advanced Accreditation were similarly aligned with ILEAP's standards. There were a few standards that required our department to look at our policy or practices and work on tweaking for compliance with ILEAP. This process alone develops departments and makes departments like ours, and law enforcement, better. So we took the challenge and jumped right in to become ILEAP Tier 2 accredited – the highest level of ILEAP accreditation.

Both ILEAP and CALEA give agencies an opportunity to have outside assessors examine their policies and practices. Both processes allow

for the public to provide input to the outside assessors. The process also allows agencies to show off what they do well to the assessors. It is amazing the different and innovative ways that departments have found to accomplish goals and attack problems within their communities. Accreditation allows a way for innovative practices to be seen and reported. Agencies may learn from the excellent work of fellow agencies.

A major difference between CALEA and ILEAP is certainly cost of the programs. Agencies in Illinois have an outstanding opportunity to seek an accreditation through ILEAP, due to the lower cost in comparison to CALEA. Both accreditations are four-year cycles. However, CALEA requires an annual compliance check in which they look over a portion of your standards to ensure compliance. They do this using the web-based software of PowerDMS. The use of PowerDMS in organizing accreditation files for review saves countless hours of preparation work versus the old standard paper file management of accreditation cycles. PowerDMS is also available in the ILEAP process, and I understand it is growing in popularity, but it is optional for agencies that prefer a paper process.

I have had a long history and understanding of the CALEA process, and learning the ILEAP process wasn't as much of a struggle as I believed it might have been. During my time working on ILEAP, I have had the opportunity to work with other accreditation managers. These dedicated professionals work tirelessly for their agencies and have been extremely helpful to our department over the years. During this time, I have also seen an increase in ILEAP agencies and agencies looking into obtaining this accreditation. The future of ILEAP is strong and growing. ■

**Commander Ben Kadolph is the accreditation manager for the Oak Brook Police Department.**



# 32,776

## Citations given for Distracted Driving Day and Speed Awareness Week

ILACP and its Traffic Safety Committee coordinated two successful safety initiatives this year: Illinois Speed Awareness Day and Illinois Distracted Driving Awareness Week. The Illinois Distracted Driving Awareness campaign was conducted April 23-27 to heighten awareness and combat the problem of distracted driving in Illinois.

Combined, these two activities resulted in 32,776 citations and warnings by participating agencies.

**The Distracted Driving Awareness Week** was conducted in partnership with AAA, the Illinois Association of Chiefs of Police, the Illinois Department of Transportation and the Illinois High School and College Driver Education Association. It was launched at a press conference in the State Capitol in Springfield.

Notable campaign results include:

### In high schools

- More than 32,000 high school students received education on distracted driving that week
- 300 school announcements, 440 distracted driving banners/resources placed in communities; 125 radio ads made by high school students
- 33,000 driver's ed class time spent talking about distracted driving (\*over course of semester)
- 5700 parent/student pledges signed against distracted driving
- 12,500 emails sent to parents about dangers of distracted driving

### By Law Enforcement/Safe Organizations on the roads/In communities

- 219 presentations given in the community about distracted driving
- 23,600 flyers distributed in communities about distracted driving
- 15,658 citations written for distracted driving offenses (e.g. texting, using a hand-held phone, watching videos)
- 9,483 warnings written for distracted driving offenses (e.g. texting, using a hand-held phone, watching videos)
- The total of the last two, the citations and warnings, is 25,141

This year the campaign also tracked other arrests made by law enforcement as a result of a distracted driving enforcement stop.

### These were the results:

- 118 DUI arrests
- 89 felony arrests
- 141 fugitive arrests
- 506 arrests for suspended/revoked licenses
- 150 drug arrests
- 139 other arrests

According to the National Highway Traffic Safety Administration (NHTSA), every day 10 people are killed in distracted driving crashes. In 2016, distracted driving claimed the lives of 3,450 citizens. Distracted driving occurs when a driver takes his or her hand(s) off the wheel, their eyes off the road, or their mind off the task of driving. In a hypothetical situation,

if one takes his or her eyes off the road for up to 5 seconds when moving at 55 mph, it is the equivalent of traveling the length of a football field with your eyes closed.

According to Fatality Analysis Reporting System (FARS) data, there were an estimated 47 Illinois deaths related to distracted driving in 2016. These 47 fatalities could have been prevented.

"The excellent work of our police agencies throughout the state resulted not only in a 40 percent year-over-year increase in the number of distracted driving citations, but also in getting some dangerous criminals off the roadways," said Chief Brian Fengel, President of the Illinois Association of Chiefs of Police. "The partnership between law enforcement, IDOT, AAA and IHCDEA enabled a multi-faceted campaign that should serve as a model throughout the country."

**As for Illinois Speed Awareness Day**, on July 25, this was the third campaign for ILACP. The overriding goal of Illinois Speed Awareness Day is to educate motorists about the dangers associated with speeding and to conduct, coordinated enhanced enforcement campaigns throughout the state. In Illinois during 2016, speed was the reason for 34.2% of all fatal crashes. That's 369 deaths for the year, or one life every 23.7 hours.

In total, 5,371 speeding citations and warnings given, along with 2,264 other citations and warnings as part of the campaign, for a total of 7,635 citations and warnings. Also, 11 press conferences were held around the state, and officers dedicated nearly 7,000-man-hours to the enforcement week of the campaign.

On July 25, after securing a proclamation by the Governor, members of the ILACP Traffic Safety Committee partnered with *Faces4.org* and continued to build partnerships with the Illinois Department of Transportation, Illinois State Police, Illinois Sheriffs' Association, Illinois Tollway Authority, hundreds of local law enforcement agencies, school districts, and numerous other public and private sector agencies.

The ILACP is committed to making Illinois safer and stronger. It's important to realize that, because of these coordinated programs, efforts positively demonstrate how effectively law enforcement in Illinois work together and with partners in the private sector on the issues of public safety. ■

For more information/ data please visit <http://www.iddaw.org/> or <http://illinoispeedawarenessday.org/>



Then-ILACP 1st Vice President speaks for the association at the press conference in the State Capitol to kick off Illinois Distracted Driving Awareness Week.



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- ★ Save on insurance costs
- ★ Send the message that you care about professional standards
- ★ Give your officers and elected officials additional pride
- ★ Full support from ILACP's ILEAP team

### List of Illinois Accredited Agencies as of June 2018

- |                             |                                |
|-----------------------------|--------------------------------|
| Algonquin PD                | Mt. Prospect PD                |
| Bannockburn PD              | Northeastern Illinois Univ. PD |
| Benedictine Univ. PD        | Oak Brook PD                   |
| Bensenville PD              | Oak Forest PD                  |
| Braidwood PD                | Orland Park PD                 |
| Carbondale PD               | Park Ridge PD                  |
| Champaign PD                | Rock Island PD                 |
| Channahon PD                | Roselle PD                     |
| Itasca PD                   | Round Lake Beach PD            |
| Kankakee PD                 | Skokie PD                      |
| Lake County Sheriff's Dept. | Southern Illinois Univ.        |
| Lake in the Hills PD        | Carbondale PD                  |
| Lemont PD                   | Sycamore PD - Urbana PD        |
| Macomb PD                   | Univ. of Illinois              |
| Morton Grove PD             | West Chicago PD                |

ILEAP Coordinator: Lt. Jeff Hamer  
jhamer@macombpolice.com 309.833.4505



## KRISTIANSEN BECOMES 4TH ILLINOIS LEADER TO RECEIVE INTERNATIONAL HIGHWAY SAFETY AWARD



Scott Kristiansen (left) is the director of the Illinois Traffic Safety Challenge, and poses here with his two co-directors in 2016: Jason Stubler of the Naperville PD and Brian Cooper of the Carol Stream PD.

The International Association of Chiefs of Police (IACP) has selected Scott Kristiansen, director of the Illinois Traffic Safety Challenge, as the 2018 J. Stannard Baker Individual Achievement in Highway Safety winner.

Scott has served as the director of the Illinois Traffic Safety Challenge since 2013 and a co-director since 2009. He already has been honored in Illinois for his great leadership. In this role Kristiansen and his team organize a statewide competition for law enforcement agencies. The program coordinated by the Illinois Association of Chiefs of Police (ILACP) Traffic Committee and supported by a NHTSA grant administered through the Illinois Department of Transportation, Bureau of Safety Programs and Engineering (BSPE), as well as much-appreciated funding from private entities.

“Scott is among the most enthusiastic leaders I’ve ever been around,” said Ed Wojcicki, ILACP executive director. “He thinks about traffic safety all the time and works tirelessly on this program and his role as the manager of law enforcement liaisons. It takes a champion to make a program like the Traffic Safety Challenge work, and Scott is a champion.”

The Challenge is much more than a peer competition. It is a template for law enforcement agencies to identify traffic issues, plan strategies, reduce social harm and improve the quality of life in their communities. The Challenge helps agencies demonstrate successes to their government officials, community leaders and citizens. The Illinois Traffic Safety Challenge provides law enforcement agencies with an opportunity to contribute to the state’s Strategic Highway Safety Plan and have a significant impact on the reduction of crashes, deaths and associated injuries across the state.

Kristiansen will receive his award at the October IACP Annual Conference in Orlando, Florida.

Illinois has had three other winners of this International Highway Safety Leadership award: Chief **Steven Casstevens** of Buffalo Grove; **Paul Rizzo**, retired deputy chief of Schaumburg and co-director of the Illinois Traffic Safety Challenge for 13 years; and Retired Officer **Sean McGrath** of the Crystal Lake Police Department.

The prestigious IACP J. Stannard Baker Leadership in Highway Safety Award annually recognizes individual law enforcement officers and others who have made outstanding lifetime contributions to highway safety. Each year, the award is presented by the International Association of Chiefs of Police (IACP) in collaboration with the National Highway Traffic Safety Administration (NHTSA) and the Northwestern University’s Center for Public Safety.

This award honors the late J. Stannard Baker, who made significant contributions to highway safety. Baker served as Director of Research and Development at the Northwestern University Traffic Institute (now the Center for Public Safety) for over thirty years. During that time he focused on the causes of traffic crashes and on the techniques of collision investigation and reconstruction. He was known throughout the world as the “father of accident investigation.” Baker’s groundbreaking textbook, *Traffic Accident Investigation Manual*, is the worldwide standard. ■



In 2011, three Illinois leaders helped with a bike raffle at the IACP conference in Chicago – and in unrelated news, all three have now won the IACP J. Stannard Baker Award for Individual Achievement in Highway Safety. From left are Paul Rizzo, Steven Casstevens, and Scott Kristiansen.



# Legislative Update

**Committee worked hard to tone down bad bills; governor signs some bills that we supported**

By Sherrie Phipps and Ed Wojcicki



Governor Bruce Rauner signed SB 3023 on Wednesday, August 22, creating the Community-Law Enforcement Partnership for Deflection and Substance Use Disorder Treatment Act. This substance abuse deflection program had ILACP's strong support. Shown at the bill signing in Springfield (from left) are: Steven Howell, Jr., Dixon police chief; Laura Brookes, director of policy at Treatment Alternatives for Safe Communities; Chief Brian Fengel of Bartonville, ILACP president; Governor Rauner; Mundelein Chief Eric Guenther; Chief Dan Ryan of Leland Grove, ILACP vice president-at large; former Dixon Chief Danny Langloss; and Detective Jeff Ragan, Dixon Police Department.

The ILACP Legislative Committee looked at more than 500 law enforcement-related bills this spring, and we ended up following dozens of them closely. The Legislative Committee and Board of Officers set priorities in January, adjusted them before our Lobby Day in April and then made additional adjustments in May, based on hot topics as the session came to an end May 31. Following is a summary of how the bills and issues fared that were of greatest significance to us. The status of legislation is as of August 30, 2018, and there may have been some additional action on the bills since then.

This first list below includes the bills and issues that were indicated as our highest priorities this year:

## JUVENILE EXPUNGEMENT

Last year, in 2017, the Youth Opportunity and Fairness Act passed by narrow margins in the House and the Senate in the final hectic days of the spring session. The legislation requires police departments to expunge juvenile records in new ways, some of which are detrimental to law enforcement and society. The law has created a serious burden for departments' records divisions. The ILACP has been negotiating with proponents of the Juvenile Expungement Act to clarify, modify, and clean up some of the new rules on juvenile expungement. The negotiations continued into September.

We are seeking to run a new bill during veto session that will include the negotiated language that would be good for us.

## RAISE JUVENILE AGE TO 21- HB 4581

This piece of legislation would consider a "delinquent minor" as a minor who prior to his or her 21st birthday has committed a misdemeanor offense and has violated or attempted to violate, regardless of where the act occurred. This would put younger juveniles into the same prison system with 18 to 21-year-olds. We oppose this legislation because data that exists suggests the criminal activity among juveniles is likely to increase. Most gang members are within the impacted age group and this would subject many offenders to far more lenient penalties. Juvenile incarceration is an expensive proposition, outstripping the costs of adult prison by a factor of two or three.

The measure is currently stalled in the House Rules Committee, but will remain a high priority on our legislative list. It could potentially be called and run during veto session when lawmakers return.

## DRONE USE-LARGE EVENT- SB 2562

The Freedom from Drone Surveillance Act allows law enforcement agencies to use a drone to prepare for or monitor safety and security at a large-scale event, if drone usage is limited to legitimate public safety purposes.

We've agreed to support this legislation, which, as amended, requires a crowd size of at least 1,500 for drone surveillance to be used. The latest amendment has additional restrictions for use of the drone when operating under this exemption. We supported the minimum crowd size



ILACP President Brian Fengel (right) was among those present Monday, July 30, 2018, in Chicago when Governor Rauner signed HB 5513, which creates a new Illinois Lottery scratch-off game from which proceeds will fund police memorials, support for the families of officers killed or severely injured in the line of duty, and protective vest replacements for officers. Also at the bill signing in Chicago was Rockford Lt. Daniel Watton, who is ILACP's representative on the Illinois Police Officers Memorial Committee.

of 100 in the initial legislation, but we accepted the compromise. The bill passed in the Senate on May 2, then an amended version passed the House by a 74-35 vote one day before the session ended. So it's back in a Senate committee and could be called during veto session.

#### **CREATES THE PUBLIC DUTY RULE- HB 4499**

This measure provides that a local governmental entity and its employees owe no duty of care to individual members of the public to provide governmental services. On January 22, 2016, the Illinois Supreme Court abolished the public duty rule. The public duty rule is an important doctrine that is grounded in the principle that the duty of a local governmental entity to preserve the well-being of the community is owed to the public at large rather than to specific members of the community. We support this legislation, which probably is not advancing this year.

#### **CANNABIS LEGALIZATION PUBLIC QUESTION/ REFERENDUM- SB 2275**

The Marijuana Legalization Referendum Act requires the State Board of Elections to submit a statewide advisory public question to voters at the November 6, 2018, general election asking whether individuals support the legalization of possession and use of adult use marijuana. The bill passed in the Senate but was held up in a House Committee; so it did not get on the ballot. We opposed this referendum, and we continue to oppose any attempts to legalize recreational use marijuana.

#### **LEGALIZATION OF RECREATIONAL MARIJUANA- HB 2353, SB 316**

The legislature has conducted several "subject matter" hearings on this issue. The lead proponents are Rep. Kelly Cassidy and Sen. Heather Steans. ILACP President James R. Kruger testified at one of the hearings against the legislation and the concept. We agree with Governor Rauner that Illinois should wait longer to understand the effects of legalized

recreational marijuana in other states. Please watch and listen for bill numbers HB 2353 House Committee; SB 316 as they may come up in the legislative veto session.

#### **ELIMINATE SOME FUNDING FOR SCHOOL RESOURCE OFFICERS - HB 4208**

This bill originally incentivized school districts to forego law enforcement in their schools. Through negotiations, the sections linking funding for social workers to elimination of SROs has been stripped. Initially, we were opposed to this legislation. We negotiated to try to ensure this bill had no real impact on current SRO programs or SRO funding. We believe we addressed all the components that would have impacted or affect our members significantly, and so we went neutral before both the House and Senate passed the bill. The governor issued an amendatory veto on August 26; so the bill remains in play this veto session.

#### **COURT FEE REFORM BILL- HB 4594**

The Criminal and Traffic Assessment Act provides that when any defendant is convicted, pleads guilty, or placed on court supervision for a violation of a law or local ordinance, the court shall order one schedule of assessments in the case for the defendant to pay in addition to any fine, restitution, or forfeiture ordered by the court. A minimum fine is \$25.

Very late into session, the Training Board introduced a new amendment to the bill. We supported that amendment, but it did not gain traction. The unknown issue is whether the Training Board and Mobile Training Units would end up with less revenue. There is honest disagreement about this. Despite the Training Board's opposition, the bill passed in both houses, with the bill's sponsor and circuit clerks promising to monitor Training Board and MTU revenue closely going forward, and to make adjustments if revenue decreases. The governor signed the bill on August 20, 2018.

#### **RETIRED OFFICER TAN CARD EXEMPTION- SB 2642**

This legislation provides that an individual who is a former peace officer but continues to perform services in an armed capacity that is a licensed activity under the act is required to have a permanent employee registration card but is not required to obtain a firearm control card if the individual is in compliance with the Federal Law Enforcement Officers Safety Act of 2004. The ILACP Public-Private Liaison Committee pushed for this legislation to allow retired officers to move into private security more quickly. The bill passed overwhelmingly and the governor signed it on August 3.

#### **SAFE PASSAGE- SB 3023**

This measure allows a law enforcement agency to establish a program to facilitate contact between a person and a licensed substance abuse treatment provider for assessment and coordination of treatment. We have supported efforts in Dixon, Lake County and other places where local law enforcement helps victims of opioids get into treatment rather than the criminal justice system. The legislation passed both house and was signed by the governor on August 22. Attending the bill-signing ceremony in Springfield were Mundelein Chief Eric Guenther, Dixon Chief Steven Howell, Jr., former Dixon Chief Danny Langloss, ILACP President Brian Fengel, ILACP Vice President at-Large Dan Ryan, and Executive Director Ed Wojcicki.



Continued from page 19



State Rep. Juliana Stratton (D-Chicago) attended ILACP's legislative reception in April and visited with then ILACP VP Brian Fengel; ILACP Executive Director Ed Wojcicki; and ILETSB Director Brent Fischer.

#### **REPEAL DATA COLLECTION/PEDESTRIAN DATA STOP ACT- SB 3415**

The measure deletes language providing that the Section concerning the traffic and pedestrian stop statistical study will be repealed on July 1, 2019. The language reads that the Department of Transportation shall report specified findings and recommendations to the Governor and the General Assembly on March 1, 2022 (rather than March 1, 2004).

Traffic and pedestrian stop statistical study provides that the Department of Transportation shall report its findings and recommendations electronically to the Governor and the General Assembly. Right now, the bill is stalled in a Senate Committee. We oppose this legislation because Other than IDOT's annual reports of statistics, no significant analyses have been made of the data being collected since 2004. The current extension requires us to collect data until July 1, 2019. We would like to see the program expire at that time.

#### **SRO STANDARDS- SB 2925**

The Illinois Law Enforcement Training Standards Board shall develop or approve a curriculum for a certified training program for school resource officers which shall consist of at least 40 hours of training. Our original opposition was based on the fact that the bill ignored training that SROs already receive. We were able to adjust the training requirements to make them more in line with what is already occurring. That shifted our position to neutral. The bill passed both Houses. Signed by governor on August 19, 2018 and became Public Act 100-0984.

#### **CRIMINAL BACKGROUNDS IN ADMISSIONS- HB 3142**

The bill says public colleges and universities may not inquire about or consider an applicant's criminal history information at any time during the admission decision-making process. We oppose this legislation and sent an 11th-hour notice to our members to ask them to tell their senators this is not a good bill. The bill passed in the House and is on third reading in the Senate. The legislation may be called during the legislative veto session; so be prepared to contact your senator again.

#### **LETHAL ORDER OF PROTECTION ACT (old name)**

#### **FIREARMS RESTRAINING ORDER ACT ("red flag" law, new name)- HB 2354**

Creates the Firearms Restraining Order Act. The bill provides that a petitioner may request an emergency firearms restraining order by filing an affidavit or verified pleading alleging that the respondent poses an immediate and present danger of causing personal injury to himself, herself or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm.

Initially we opposed to the legislation. We asked to be held harmless in situations in which law enforcement acted in good faith in carrying out this law. The legislation passed both Houses and was signed by the governor on July 16, 2018 and became Public Act 100-0607.

#### **LATERAL TRANSFERS FOR UNIVERSITY POLICE- HB 3185**

This measure makes changes to the language concerning veteran preferences and active military service. It also moves language concerning employees promoted in the promotional line and seniority. And lastly, makes changes concerning hearings on demotion, removal or discharge. The legislation passed both houses and was signed by the governor on July 20.

#### **Immigration bills:**

#### **VOICES ACT- SB 34**

#### **SAFE ZONES ACT- SB35**

SB34 would create the VOICES Act and require law enforcement agencies to respond to federal U and T visa certification forms within either 90 or 21 business days. This legislation would require the Illinois State Police to establish at least two additional attorney positions as well one support staff. We were neutral on the bill, which passed both chambers but was vetoed by the governor on August 24, 2018.



Lt. Gov. Evelyn Sanguinetti (center) met with Illinois police and fire chiefs on our Lobby Day in Springfield in Springfield.



Then-President James R. Kruger, Jr., presents Sen. Elgie Sims (D-Chicago) with the Public Official of the Year Award at our legislative reception in April.

SB35 measure provides that the Attorney General in consultation with appropriate stakeholders, shall publish model policies, limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law ensuring that the following facilities remain safe and accessible to all residents of this State, regardless of immigration status.

Both bills passed with barely enough votes for passage in both the House and the Senate, but the governor vetoed both bills on August 24, 2018.

Below is a list of additional legislative items we found to be of importance to the Association and its members.

#### **EXPAND MEDICAL MARIJUANA TO HELP THOSE TAKING OPIOIDS - SB 336**

This legislation passed both houses. We strongly opposed this bill because it appeared to be mostly another measure that aims to bring us toward cannabis legalization. We will continue our efforts to educate the public on the harms of marijuana. The governor signed this bill into law on August 28, 2018.

#### **INDUSTRIAL HEMP ACT- SB 2298**

This measure creates the Industrial Hemp Act. It provides that a person desiring to grow, cultivate, or process industrial hemp or industrial hemp products must be licensed by the Department of Agriculture. We were almost alone in opposing this act, which had the support of the Illinois Farm Bureau and environmental groups. We were remaining opposed

for 2 reasons: We thought THC level was too high. We wanted hemp to be regulated by ISP like medical cannabis. The bill passed both houses by wide margins and was signed by the governor on August 26, 2018.

#### **PET RESCUE BILL FOR DOGS AND CATS LOCKED IN CARS - HB 4191**

Provides that the person removing a dog or cat from a locked vehicle must remain with the dog or cat in a safe location until law enforcement, an emergency responder, or an animal control officer arrives and surrenders the dog or cat to the arriving law enforcement, emergency responder, or animal control officer who will seek veterinary care if deemed necessary. We initially opposed the bill because it too loosely allowed citizens to break into cars without any accountability, but changes were made to satisfy law enforcement. The bill passed in the House and was amended in the Senate, and remains in a Senate committee.

#### **INTERNAL REVIEW OF OFFICER-INVOLVED SHOOTINGS- SB 2378**

Provides that each law enforcement agency shall adopt a written policy for the internal review of officer-involved shootings. Provides that the written policy must include that: each law enforcement officer shall immediately report any officer-involved shooting to the appropriate supervising officer; and each law enforcement agency shall conduct a thorough review of the circumstances of the officer-involved shooting. This legislation codifies what most departments already do. Most have an internal review process already in place. This bill does not define what an internal review, is so that leaves it up to the department/ agency. We considered this to be a good, reasonable bill because it does not dictate policy about how an internal review should be conducted. Then-ILACP President James R. Kruger, Jr., met with the sponsor about this bill. The measure passed both Houses and was signed by governor on August 19, 2018 creating Public Act 100-0970.

#### **COMMISSION ON POLICE PROFESSIONALISM/ STATE POLICE- SB 3263**

The Department of State Police (rather than the Law Enforcement Training Standards Board) shall provide administrative support to the Commission on Police Professionalism. The bill extends the sunset date on this provision from December 31, 2018, to July 1, 2019. We thought the Commission on Police Professionalism, established by the Police Improvement Act in 2015, was a good idea. We have official representation on it, and we will strive to get all major law enforcement legislation run through this commission in the foreseeable future. The legislation passed both Houses and was signed by governor on August 10, 2018 creating Public Act 100-0808.



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# Illinois Association of Chiefs of Police



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The ILACP Assessment Center (AC) Process incorporates group and individual exercises aimed at diagnosing the candidate's managerial, functional, and professional skills and competencies. Outcomes of the AC Process include a quantitative profile of skills and competency levels, as well as the identification of training needs. Assessors are experienced law enforcement professionals. The AC Process requires three (3) assessors, and a fourth member can be used as the role player if the client is unable to provide one. We recommend use of four (4) exercises; we are able to administer the process to a maximum of five (5) candidates per day.

For a breakdown of costs or other additional information about this helpful service available through the Illinois Association of Chiefs of Police, please contact Executive Director Ed Wojcicki at 217-523-3765.

#### **Illinois Association of Chiefs of Police**

426 S. 5th St, Springfield, IL 62701 – 217/523-3765; FAX 217/523-8352

E-MAIL [ilacp@ilchiefs.org](mailto:ilacp@ilchiefs.org); WEBSITE <http://www.ilchiefs.org>



## Illinois Association of Chiefs of Police partner with CourtSmart; online training on new legal issues can reach every officer every month

Discounts through the end of 2018 are available to departments that sign up for online CourtSmart training through the Illinois Chiefs

ILACP has a new partnership with **CourtSmart**, an association consisting primarily of attorneys committed to helping officers understand the legal rules on the street and in court. CourtSmart's motto is that officers don't have to know the law as well as attorneys; **officers have to know it better** -- as officers must act and react at a moment's notice. Attorneys, meanwhile, can research the law for months, or even years, and later second-guess officers with judges and juries.

This new partnership puts ILACP's endorsement on CourtSmart's training and encourages police departments throughout the state to consider what CourtSmart offers. The agreement was reached earlier this year by the ILACP Board of Officers and Dale Anderson, an attorney who works with CourtSmart and has provided training in Illinois for many years.

The other three CourtSmart attorneys besides Anderson are Anthony A. Polse, Steven J. Scheller, and retired Chief Jim Volpe.

Anderson said that Illinois police and sheriffs' departments that sign up with CourtSmart through ILACP will receive a discount until the end of 2018. The regular price per officer is \$60 per year, but the price for departments with chiefs, command staff, or training officers who are ILACP members is just \$50 per year – a 17 percent discount through the end of 2018.

### What CourtSmart Can Do For A Police Department

CourtSmart provides four comprehensive standardized approaches to ongoing learning and to professionalization:

1. **Legal source books** that are updated every year and available both in hard copy and e-book, which officers can use for educational and research purposes;
2. **Monthly recent case updates** that help officers keep up with the changes in the law, particularly constitutional law;
3. **Quizzes on the monthly updates** and possibly satisfying the state mandates, with the results of the quizzes available to supervisors selected by the department. If your officers answer seven out of ten questions correctly, they may be eligible to be certified for the legislative mandates, if your local Mobile Training Unit approves. ILACP is working on these relationships with the MTUs. "I must be transparent in saying that most MTUs have not yet certified this training to satisfy the mandates," ILACP Executive Director Ed Wojcicki said. "But we will be reaching out to the MTUs, and we will be encouraging our members to contact their MTU directors to ask that this training be certified. We will keep members posted about where the certification is available."

### At this point, MTU #3 does cooperate on CourtSmart training.

4. **Questions answered** by e-mail for officers as CourtSmart's time allows.

It is common knowledge how expensive civil cases have become. Almost everyone has heard about the recent case where the judge and jury in Illinois initially awarded a \$15.5 million verdict against officers who obtained an unconstitutional confession against a suspect. How many know which rule was applied in that case? That rule has probably resulted in more murderers walking free than all other evidence suppression issues combined. It has also resulted in millions of dollars in damages in numerous civil cases against Illinois officers.

These are the kinds of "legal rules" addressed by CourtSmart.

In the context of the rules created by **case law**, do you have a plan for how your officers:

- handle medical or mental illness calls that go wrong?
- react when traffic stops begin to go wrong?
- know when your officers can use intermediate force (taser, baton or pepper spray)?
- understand how to write reports and testify effectively to avoid liability?

Those and literally hundreds of situations are covered by CourtSmart, and it's good for officers to get the new information every month.

### How this is being rolled out to ILACP members:

In August, ILACP collaborated with CourtSmart to conduct seminars in Rockford, Springfield, and New Lenox. These were primarily for chiefs and command staff – to enhance their own knowledge and to see how CourtSmart training can be utilized in their department. "We are starting with Vince Lombardi fundamentals – blocking and tackling," said Anderson. "By that I mean the constitutional rules – particularly those rules created by the United States Supreme Court decisions – that every officer must know to avoid liability."

ILACP is also reaching out to the Mobile Training Units to get appropriate credit for the CourtSmart online training and eventually to satisfy the state mandates on various required training topics.

### How to Sign Up

The cost for CourtSmart will increase in 2019, but departments will get Illinois Chiefs' discounts through the end of 2018. If you would like more information about beginning CourtSmart through the Association, contact Dale Anderson at [daa2000@aol.com](mailto:daa2000@aol.com) or call him at 815-861-0320. The website for CourtSmart is [www.leotraining.com](http://www.leotraining.com).



Dale Anderson, an attorney with CourtSmart, offered training for the Illinois Chiefs about Section 1983 issues in Rockford, Springfield, and New Lenox.

"I have had the opportunity to take advantage of CourtSmart training and Dale Anderson for two different law enforcement agencies. Mr. Anderson is one of the most knowledgeable Constitutional minds I have encountered in my career. His information and presentations are very well received by all of the members of both agencies I have been associated. There is no doubt in my mind that CourtSmart and Mr. Anderson's training presentations have improved the manner in which police services are delivered and helps reduce potential liability."

**Chief Patrick Finlon,  
Cary Police Department**

"I can't overemphasize my belief that the CourtSmart program is an invaluable product. The aspect that it can satisfy mandated training requirements is value added. The mandated requirements do not provide the ongoing training that today's officers need and CourtSmart provides. We are a Chief's organization and we are marketing this to Chiefs to make their lives easier. If I sound a little rah rah on this, I am. I was a Dale Anderson / CourtSmart fan long before mandated training ever came out. From my perspective as a former Deputy Chief, the value and importance of the information provided by Dale reduces liability and improves officer confidence and productivity."

**Ret. DC Ray Cordell, Chairman, ILACP Education and Programs Committee**

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