

October 2023

## CA Governor Bans Use of the Term “Excited Delirium” *Assembly Bill 360*

### **Assembly Bill 360:**

On October 8, 2023, Governor Newsom signed Assembly Bill 360 (AB 360) which included provisions to prohibit coroners, medical examiners, physicians, or physician assistants from listing “Excited Delirium” on a person’s death certificate or in an autopsy report.

*More importantly, AB 360 also prohibits any peace officer from using the term “Excited Delirium” to describe an individual in an incident report or testimony.*

### **Background:**

The term Excited Delirium has been widely used in the law enforcement, medical, and psychiatric communities to describe a person’s combative, hyperaggressive behavior, and seemingly impervious to pain, as a result of using stimulants or hallucinogens.

The American College of Emergency Physicians (ACEP) published a report in 2009 that provided

details into the epidemiology, characteristics, and clinical perspectives surrounding Excited Delirium. Of notable importance, ACEP concluded, “sudden unexpected death is the hallmark of fatal Excited Delirium.”

However, after being cited as a legal defense in the 2020 deaths of both George Floyd in Minneapolis, Minnesota and Angelo Quinto in Antioch, California, several national medical associations have rejected Excited Delirium as an actual medical diagnosis or condition: including, the American Medical Association and the American Psychiatric Association.

The Physicians for Human Rights (PHR) published a report in March 2022 where it asserted that Excited Delirium was “a descriptive term of myriad symptoms and signs, not a medical diagnosis, and, as such, should not be cited as a cause of death.” Additionally, PHR called on Congress, State and Local Governments, and the Biden Administration to review the use of the term “Excited Delirium” and its use in association with first responders, pass legislation, and provide oversight for encounters with law enforcement and individuals described as having excited delirium.

California is the first state to-date to pass a law banning the use of the term.

### **What does AB 360 Entail?**

AB 360 generally prohibits use of the term “Excited Delirium” from being listed on a death certificate, autopsy report, or police incident report. This would also likely include department Use of Force reports as well.

Interestingly, AB 360 also amends the California Rules of Evidence so that any testimony that a person was suffering from, or experiencing, Excited Delirium is inadmissible in civil court.

### How Does AB 360 Impact You?

It doesn't – or at least – it *shouldn't*. Past practice in your department may have been to include that a suspect was experiencing Excited Delirium in an incident report to justify action taken during the encounter. However, it has always been *best practice* to articulate the suspect's behavior using descriptive facts observed at the time of the occurrence to justify one's actions.

As such, while AB 360 prohibits use of the term "Excited Delirium", it also makes clear that a peace officer "may describe the characteristics of an individual's conduct" so long as those characteristics or are not described using the generalized term of "Excited Delirium".

What this means is that when reporting on an encounter or use of force with a suspect experiencing Excited Delirium, you must avoid using the now banned blanket-statement; but, **you must still highlight the specific details of the suspect's behavior.**

For example, consider including the following language to describe a person experiencing Excited Delirium:

- Agitated, violent, combative, or erratic
- Refusal to follow orders, non-responsive to verbal commands, de-escalation futile
- Delusional, paranoid, fearful, psychosis

- Possibly under the influence, altered mental status
- Yelling, shouting, growling, belligerent toward others
- Throwing or destroying objects
- Disrobing or nude in public
- Walking or running in traffic
- Profusely sweating, clammy skin, rapid breathing
- Significant resistance to physical restraint
- Impervious to pain, unusual strength or stamina
- Continued to struggle despite restraint

Also include the details provided by the reporting party before contact with the suspect was made. For example:

- Did the call include reports of destructive or bizarre behavior?
- Were multiple calls for the same suspect?
- Was the suspect known to use stimulants or psychostimulants?
- Did the suspect have a psychiatric illness or history of psychotic outbursts?

### Take Away:

While AB 360 banned the use of the term "Excited Delirium" in police reports, autopsy reports, and testimony in civil trials, it does not affect your documentation of the behavior in the report, so **use descriptive language of what you observe at the scene and the detail the actions of someone you encounter experiencing a drug-induced psychotic episode.**

### Stay Safe and Informed!