

<p style="text-align: center;">East Haven Police Department</p> 	Type of Directive: Policies & Procedures		No. 404.5
	Subject/Title: Use of Force		Issue Date: September 29, 2020
	Issuing Authority: Honorable Board of Police Commissioners		Effective Date: October 1, 2020
	References/Attachments: Connecticut General Statutes: § 53a-8, 53a-165 to 53a-167 Policies & Procedures #: 302, 405, 406, 407, 408 Appendix A – Critical Decision-Making Matrix		Review Date: Annually
		Rescinds: 404.4	Amends: N/A

I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department (EHPD) regarding the use of force and the protocols that must be followed whenever an officer exerts any degree of force in the performance of his/her duties.
1. This directive details the guidelines the officer is to follow when exerting any degree of force in the performance of his/her duties. The nature of officers' work requires them to make fine judgments, often in dangerous and confusing circumstances, usually by relying on their internalized values, knowledge, and skills rather than on direct oversight.
 2. The use of force has a profound impact on the persons who are subject to it, the officers who deploy such force, and on the families and members of the community. How members of the Department use force affects how the community views the police and impacts the legitimacy of the Department in the eyes of the community.

II. POLICY

- A. It is the policy of the East Haven Police Department to value and protect human life as our highest priority. The public authorizes the police to use that force which is objectively reasonable for the protection of human life. As such, it is the policy of the Department that officers shall use only the minimum amount of force necessary to bring a person or incident under control, in pursuit of this mission.

- B. The Department shall maintain use of force policies and procedures, training, and review mechanisms that ensure the use of force by officers is in accordance with the rights, privileges, and immunities secured or protected by the United States Constitution and laws of the United States, and that any unreasonable uses of force are identified and responded to appropriately.
- C. The use of force policies and procedures shall ensure officers use non-force techniques, when possible, to facilitate compliance with police orders; use physical force only when strictly necessary; use physical force in a manner that avoids unnecessary injury to officers and civilians; and de-escalate the physical use of force at the earliest possible moment.
- D. Officers shall evaluate all situations and the need to use force using the Critical Decision-Making Matrix as outlined in Appendix A of this directive.
- E. Force shall never be used as punishment, regardless of the alleged offense.
- F. Officers who use more force than objectively reasonable to gain control of a subject or to prevent harm to another person shall be subject to severe discipline and/or discharge from the Department.
- G. Any officer, while acting in a law enforcement capacity, witnesses another officer use what the witnessing officer objectively knows to be unreasonable, excessive or illegal use of force, shall intervene and attempt to stop such other officer from using such force.
 - 1. Any such officer who fails to intervene in such an incident may be prosecuted and punished for the same acts in accordance with the provisions of Connecticut General Statutes Section § 53a-8 as the officer who used unreasonable, excessive, or illegal force.
 - a. The provision of this section does not apply to any witnessing officer who is operating in an undercover capacity at the time he/she witnesses another officer use unreasonable, excessive or illegal force.
- H. Any officer who witnesses another officer use what the witnessing officer objectively knows to be unreasonable, excessive or illegal use of force or is otherwise aware of such use of force by another officer shall report, as soon as is practicable, such use of force to the on-duty supervisor.
 - 1. The reporting of such force shall be done in accordance with Policies and Procedures 407 – Use of Force Review and Investigations, and the on-duty supervisor shall notify the Captain of the Patrol Division.
 - 2. Any officer required to report such an incident who fails to do so may be prosecuted and punished in accordance with the provisions of Connecticut General Statutes Sections § 53a-165 to § 53a-167.
- I. The Department shall not take any retaliatory action or discriminate against an officer who intervenes in an incident or reports an incident because the officer made such report

and/or intervened; the reporting officer shall be protected by Connecticut General Statutes.

1. The Department prohibits retaliation and/or discrimination against any member who intervenes against excessive use of force, reports misconduct, or cooperates in an internal investigation.

III. DEFINITIONS

- A. The directives governing use of force use certain major terms or phrases to describe and/or define various aspects of less lethal force and lethal force. For purposes of clarifying these terms, a glossary of major terms has been established as follows.
 1. Act Aggressively: The subject displays the intent to harm the officer, himself/herself or another person and prevent an officer from placing the subject in custody and taking control. The aggression may manifest itself through a subject taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions which present an imminent threat of physical harm to the officer or another.
 2. Active Resistance: Refers to the subject's physical actions to defeat an officer's attempt at control and to avoid being taken into custody. Verbal statements alone do not constitute active resistance. Examples include: fighting and breaking the officer's grip.
 3. Chief of Police Finding: The Chief of Police or his/her designee report on the findings issued to the officer(s) under investigation and included in the file on the incident maintained by the Internal Affairs Officer (IAO).
 4. Critical Firearms Discharge: A discharge of a firearm by an officer, including accidental discharges, discharges at animals, and discharges at persons where no one is struck, with the exception of range and training discharges.
 5. De-Escalation: The use of verbal and physical cues, such as words and gestures, by a responding officer to reduce the potential for a subject to resist police authority.
 6. De Minimis Force: Physical interaction that does not cause pain or injury and is meant to separate, guide, and/or control a subject including compliant handcuffing.
 7. Firearm: A pistol, revolver, shotgun, carbine or machine gun, as well as any instrument capable of discharging a bullet or shot.
 8. Force Review File: A compilation by the supervisor of the Use of Force Reports, Supervisory Force Review Report and documented evidence for each use of force incident. The Force Review File is reviewed by a Division head and submitted to the Chief of Police and IAO.
 9. Hard-hand Control: Force involving the use of controlled knee strikes, elbow strikes, punches, kicks or other striking techniques; hard takedowns and strikes to pressure point areas to control a subject. Such force is impact oriented and presents a moderate chance of physical injury to the subject.

10. IAO Use of Force Report: The report submitted to the Chief of Police reporting the IAO's investigation and review of an incident. It shall include the Force Review File
11. Less Lethal Force: A force application not intended or expected to cause death or serious injury and which is commonly understood to have less potential for causing death or serious injury than conventional, more lethal police tactics. Nonetheless, use of less-lethal force can result in death or serious injury.
12. Less Lethal Weapon: Any apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or serious injury than a conventional lethal weapon (i.e., firearm). Nonetheless, use of a less lethal weapon may result in death or serious injury.
13. Lethal Force: Refers to any use of force likely to cause death or serious physical injury, including, the use of a firearm, neck restraint (i.e. choke hold, arm bar hold, carotid artery hold, lateral vascular neck restraint, and neck restraint or hold with a knee or other object), or strike to the head, neck or throat with a hard object, including a fist.
14. Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the US Constitution. The US Supreme Court established this standard in its ruling in *Graham v. Connor* (1989).
 - a. The Court held, "...that all claims that law enforcement officers have used excessive force – lethal or not – in the course of an arrest, investigatory stop, or other seizure of a free citizen should be analyzed under the Fourth Amendment and its objective reasonableness standard...The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation."
 - b. The force must be reasonable under the circumstances known to the officer at the time the force was used.
15. Officer Involved Shooting Incident: A line-of-duty incident where a shooting causes death or serious bodily injury to an officer or other person.
16. Passive Resistance: Refers to circumstances in which the subject is not complying with an officer's commands and is uncooperative, but is taking only minimal physical action to prevent an officer from placing the subject in custody and taking control. Examples include: standing stationary and not moving upon lawful direction, falling limply and refusing to use their own power to move (becoming "dead weight"),

holding onto a fixed object, or locking arms to another during a protest or demonstration.

17. Physical Injury: Refers to any impairment of physical condition or pain.
18. Probable Cause: Probable cause for arrest exists if, at the time of arrest, the facts within the knowledge of the arresting officer (or within the collective knowledge of the police) are reasonably trustworthy and are sufficient to cause a reasonable person to believe that the person being arrested has committed or is committing the crime for which the arrest is being made.
19. Resisting Arrest/ Interfering with Police: Refers to the act of a person who knowingly prevents or attempts to prevent a police officer, acting under the color of his/her official authority, from effectuating an arrest. To resist arrest includes such things as using or threatening to use physical force or violence against a law enforcement officer, or the use of any other means to create a substantial risk of physical injury to a police officer.
20. Serious Physical Injury: Refers to physical injury that creates substantial risk of death, or causes serious disfigurement or serious impairment of health, or loss or impairment of the function of any bodily organ.
21. Soft-Hand Control: Force involving the use of pressure point techniques, grabs, holds, soft takedowns, and joint locks/manipulation to control a subject. Such force is not impact oriented and presents a minimal chance of physical injury to the subject.
22. Supervisory Force Review Report: The immediate supervisor's report on an incident involving use of force.
23. Use of Force Report: To be completed by all officers who used force.
24. Use of Force Witness Report: To be completed by all officers who witnessed the use of force by other officers.

IV. PROCEDURES

- A. Members of this Department are expected to use only that degree of force that is objectively reasonable in making a lawful arrest, placing a person into protective custody, effectively bringing an incident under control, or preventing harm to or death(s) of others or themselves.
 1. Control is reached when a person either complies with an officer's directions, or the suspect is restrained or apprehended and no longer presents a threat to the officer or others. Since officers will encounter a wide range of behaviors, they must be prepared to utilize a range of force options to maintain and/or reestablish control by overcoming resistance to the officers' lawful authority while minimizing injuries, bearing in mind that the use of force must be reasonably necessary under the circumstances.

2. When feasible, officers shall utilize de-escalation/calming techniques and/or verbal warnings prior to using force.
 3. Officers using, observing, or discovering a use of force that rises above “De Minimis” force shall notify their supervisor(s) of such reportable force as soon as possible and document such force in a Use of Force Report and/or Witness Use of Force Report in accordance with Policies and Procedures # 407 – Use of Force Review and Investigations.
- B. The lawful and proper use of force is limited to only that which is necessary to control and terminate resistance and/or to prevent any further physical attack against the officer or any other person. This includes lethal and/or less lethal force, with lethal or less lethal weapons.
1. As outlined in Policies and Procedures # 302 – Weapons and Weapons Storage, the Department issues lethal and less lethal weapons to its officers to provide them the optimum ability to protect others and themselves. The use of any of the weapons authorized and issued to sworn members of the Department could result in serious harm or death. Personnel are to be especially aware of this when deploying Department authorized and issued less lethal weapons.
 2. The intentional use of a chokehold or other method of restraint applied to the neck area of a person that impedes the ability of such person to breathe or restricts blood circulation to the brain is prohibited unless the officer reasonably believes such use to be necessary to defend himself/herself or a third person from the use or imminent use of deadly physical force.
 - a. Prohibited methods of restraint to the neck area include, but is not limited to the following.
 - 1) Arm bar hold.
 - 2) Carotid artery hold.
 - 3) Lateral vascular neck restraint.
 - 4) Neck restraint or hold with a knee or other object.
 - b. Training on the specific use of a chokehold and the lateral vascular neck restraint shall be provided upon hire to officers and biennially thereafter by a certified instructor.
- C. Officers are prohibited from using force that is unreasonable, excessive or otherwise in violation of the Department’s Use of Force Policies and Procedures and/or a violation of Federal and/or State laws.
1. An officer who directly observes a use of force that is unreasonable, excessive or otherwise in violation of the Department’s Use of Force Policies and Procedures, and/or in violation of Federal and/or State laws shall contact and notify a supervisor as soon as possible of such force.

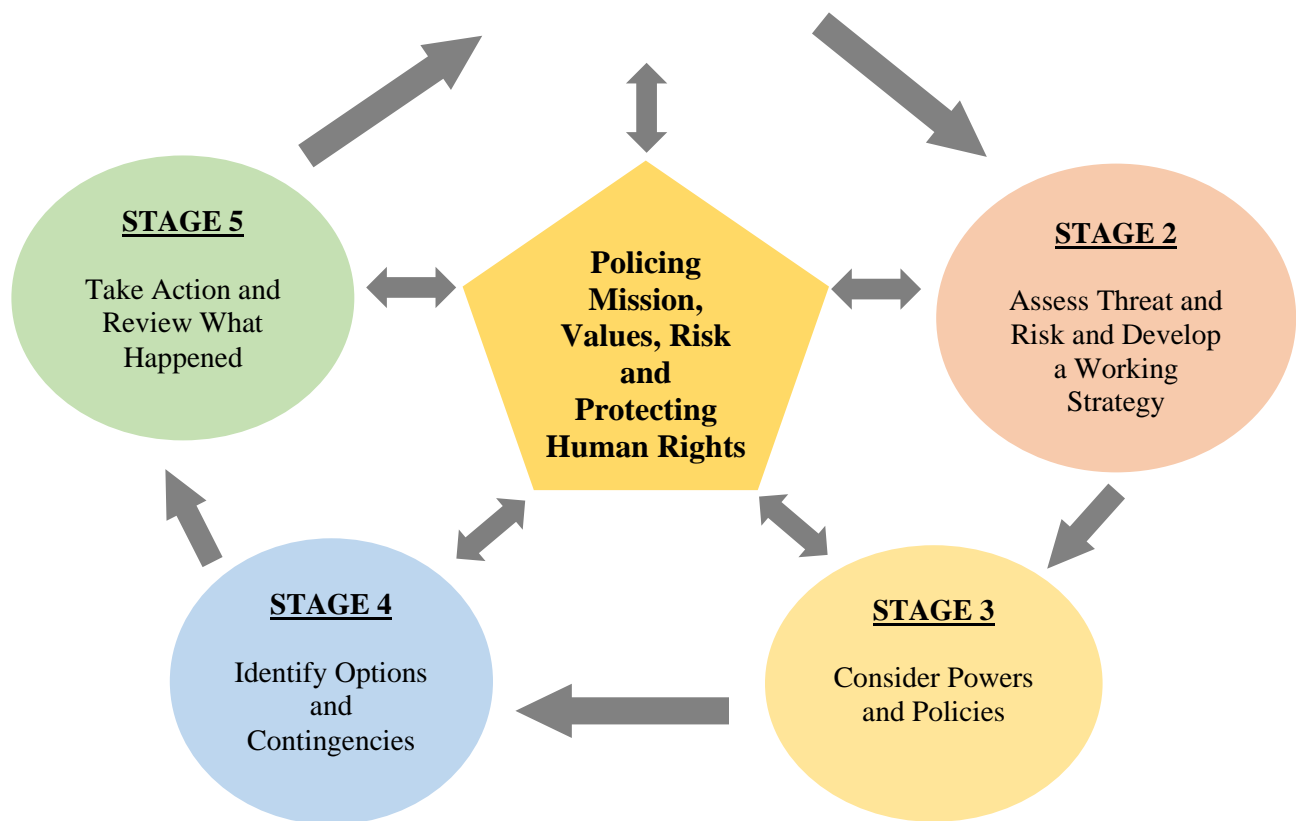
2. Officers shall act to intervene and stop any unreasonable, excessive or illegal use of force by another officer.
 3. An officer who has knowledge of excessive, unreasonable, or illegal use of force against a person shall notify the on-duty supervisor and submit an incident report and/or Witness Use of Force Report to the on-duty supervisor by the end of his/her tour of duty.
 4. The Department prohibits retaliation and/or discrimination against any officer who intervenes against excessive use of force, reports misconduct, or cooperates in an internal investigation.
- D. Members of this Department are expected to justify any use of force in any criminal, civil or administrative proceedings that arise. Members who cannot or will not comply with this directive will subject themselves to disciplinary action, as well as the possibility of criminal and civil liability.
- E. It is incumbent upon all personnel involved in a post-shooting incident situation to be cognizant of the implications whenever a member of this Department uses lethal force that results in the death or serious physical injury of another. Personnel who are engaged in the supervision and/or the investigation of a post-shooting incident are expected to take immediate action after incidents where shooting causes death or serious physical injury to an officer or another person to safeguard the continued good mental health of all involved personnel.
- F. Officers shall be issued and be trained in the Department's Use of Force Policies and Procedures prior to being authorized to carry any lethal or less lethal weapons.
- G. The following policies and procedures further detail the use of force.
1. Policies and Procedures # 405 – Use of Lethal Force.
 2. Policies and Procedures # 406 – Use of Less Lethal Force.
 3. Policies and Procedures # 407 – Use of Force Review and Investigations.
 4. Policies and Procedures # 408 – Post-Incident Procedures for Use of Lethal Force.

APPENDIX A – CRITICAL DECISION-MAKING MATRIX



STAGE 1

Gather
Information and
Intelligence



STAGE DETAILS

STAGE 1: Identify Situation and Gather Information (and Intelligence if appropriate)

Ask yourself:

- What is happening? (or What has happened?)
- What do I know so far?

STAGE 2: Assess Threats and Risks of the Situations

Ask yourself:

- Do I need to take action immediately?
- What do I know so far?
- Do I need to seek more information?
- What could go wrong?
- How probable is the risk of harm?
- How serious would it be?
- Is this a situation for the police alone to deal with?
- Am I trained to deal with this?

Determine a working strategy to mitigate threats and risks and maximize opportunities and benefits.

STAGE 3: Consider Powers, Policies and Other Obligations

Ask yourself:

- What legal powers do I have or need to make this decision?
- Is there a formal force policy to follow in this instance or can I use my discretion?
- What other obligations might be applicable (e.g. multi-agency protocols)?

STAGE 5: Take Action (and Review What Happened)

RESPOND:

- Select and implement the option that appears to have the greatest likelihood of success against the harm.
- Ensure those who need to know the decision (including the public) understand what you have decided and why.

RECORD:

- If appropriate, record the selected response and the reasoning behind it.

STAGE 4: Identify Options and Consider Possible Contingencies