

East Haven Police Department 	Type of Directive:		No. 405.6
	Policies & Procedures		
	Subject/Title: Use of Lethal Force		Issue Date: September 29, 2020
			Effective Date: October 1, 2020
Issuing Authority: Honorable Board of Police Commissioners		Review Date: Annually	
		Rescinds: 405.5	
References/Attachments: Connecticut General Statutes: § 53a-8, 53a-165 to 53a-167 Policies & Procedures #: 302, 404, 406, 407, 408 Appendix A – Critical Decision-Making Matrix		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 lethal force.

1. The very narrow parameters under which lethal force is authorized; the circumstances in which an officer may legally use lethal force in the performance of his/her duties.

II. POLICY

A. It is the policy of the East Haven Police Department that officers may use lethal force in the performance of their duties only in those situations in which they must defend themselves or others from harm that could result in death or serious physical injury. When feasible, officers shall exhaust all other possible methods of force before resorting to the use of lethal force.

1. 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.

B. 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.
- C. 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.
- D. 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. 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.
- B. 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.
- C. Chief of Police Finding: The Chief of Police or his/her designee's 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).
- D. 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.
- E. 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.
- F. 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.

- G. Firearm: A pistol, revolver, shotgun, carbine or machine gun, as well as any instrument capable of discharging a bullet or shot.
- H. 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.
- I. 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.
- J. 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
- K. 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.
- L. 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.
- M. 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.
- N. 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).
 - 1. 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."

2. The force must be reasonable under the circumstances known to the officer at the time the force was used.
- O. Officer Involved Shooting Incident: A line-of-duty incident where a shooting causes death or serious bodily injury to an officer or other person.
 - P. 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.
 - Q. Physical Injury: Refers to any impairment of physical condition or pain.
 - R. 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.
 - S. 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.
 - T. 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.
 - U. 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.
 - V. Supervisory Force Review Report: The immediate supervisor's report on an incident involving use of force.
 - W. Use of Force Report: To be completed by all officers who used force.
 - X. Use of Force Witness Report: To be completed by all officers who witnessed the use of force by other officers.

IV. GENERAL GUIDELINES AND CONSIDERATIONS

- 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.

- B. 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 re-establish 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.
- C. The lawful and proper use of force, including lethal 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.
- D. 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 themselves and others. The use of any of the weapons authorized and issued to sworn members of the Department could result in serious physical injury or death.
- E. 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 policy will subject themselves to disciplinary action, as well as the possibility of criminal and civil liability.

V. PROCEDURES

- A. Justification for the Use of Lethal Force
 - 1. Because there exists an unlimited number of circumstances that could arise, no written policy can offer definitive answers to every situation in which the use of force might be appropriate. Rather, the goal of this policy is to set forth specific guidelines for the exercise of sound judgment and reasonable decision-making.
 - 2. Officers are only authorized to use lethal force to protect themselves or others from what is reasonably believed to be a threat of death or serious physical injury.
 - a. When feasible, officers shall utilize de-escalation/calming techniques and/or verbal warnings prior to using force.
 - b. When feasible prior to discharging a firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.
 - 3. 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 initially provided to officers and biennially thereafter by a certified instructor.
3. Officers may use lethal force to euthanize an animal that is attacking a person or represents a threat to public safety.
 - a. Officers may use lethal force as a humanitarian measure where an animal is seriously injured or gravely ill when the officer reasonably believes that lethal force can be used without harm to the officer or others.
 4. Officers shall not use lethal force to stop fleeing felons, except against those whose escape presents a clear and immediate danger to the public.

B. Use of Firearms

1. Removing a Firearm from its holster up to Pointing of a Firearm at Another Individual(s): The production of a firearm or the pointing of a firearm at another individual, even if coupled with a threat to cause death or serious physical injury does not constitute the use of lethal force so long as its purpose is limited to creating an apprehension, rather than actual harm. Any officer who points a firearm at another individual(s), shall be required to fully document the incident in a Use of Force Report, using the reporting guidelines and review process set forth in Policies and Procedures # 407 – Use of Force Review and Investigations.
 - a. The mere removal of a firearm from its holster does not constitute a use of force.
 - b. The mere display of a long gun at the low ready does not constitute a use of force.
 - c. If an officer unholsters/displays a firearm during an incident, interaction, or event that would require an incident report, the officer will document that a firearm was unholstered/displayed in that report.
2. Identifying oneself: Whenever feasible to do so, an officer will always identify himself/herself as a “police officer” when pointing a firearm at another person and state his/her intentions to shoot prior to discharging a firearm.
 - a. Exception: Officers engaged in a controlled tactical operation (i.e., Special Response Team conducting the execution of a search warrant) will not be subject to the reporting requirements for Removing a Firearm from its Holster up to Pointing of a Firearm at Another Individual(s). The official after-action report will make a blanket statement reporting that officers involved in the operation removed and pointed their weapons. Any outcomes resulting from the use of

weapons shall be reported as prescribed below under Use of Force Reporting and Review in policy number 407.

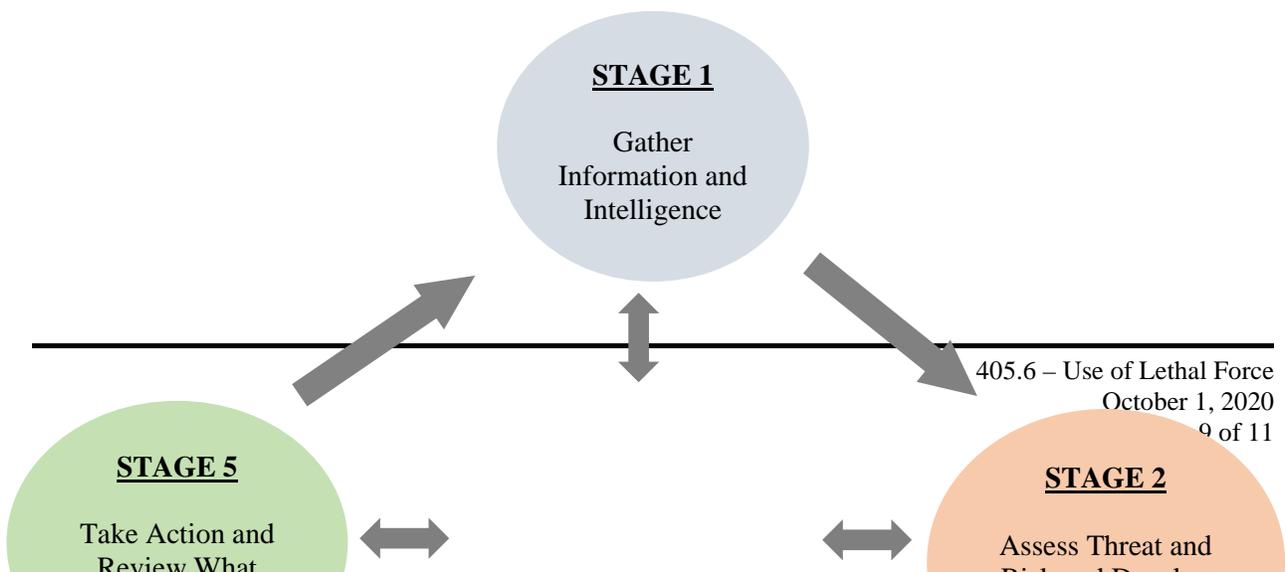
3. Use of Firearms in Performance of Duty: An officer is only authorized to use a weapon that he/she has been authorized to carry, and only to the extent that is required in the lawful execution of his or her duties as defined by Policies and Procedures # 302 – Weapons and Weapons Storage and by law.
4. Reporting to a Supervisor: Officers who use or observe force shall notify an on-duty supervisor immediately following any use of force or upon receipt of an allegation of unreasonable or unreported use of force by any officer.
 - a. Whenever an officer discharges a firearm, either accidentally or in the performance of police duty, whether on duty or off duty, the officer must notify an on-duty supervisor immediately. In such instances, the officer will be guided by the reporting requirements as established by this directive and Policies and Procedures # 407 – Use of Force Review and Investigations.
 - b. Circumstances where officers are excused from the reporting requirements are expressly limited to the following circumstances, and only where the discharged firearm does not inflict injury to a person or cause property damage:
 - 1) Use of Firearms for Training or Recreational Purposes: Officers who discharge firearms while engaged in sanctioned training or for recreational purposes with Department issued or personal firearms (recreational target shooting or hunting) are exempt from the requirements outlined within this section of the directive.
 - 2) Authorized Test Firing of Firearms: Officers who have been authorized to test fire a firearm, whether it is part of the firearms maintenance program of Department issued weapons, or as part of a court process to determine its operational capacity, will not be subject to the use of force reporting guidelines. However, there are other types of records or reports that are normally required whenever performing either one of these functions.
5. Euthanizing Animals: On occasion, an officer may be required to use his/her service weapon to euthanize dispatch an animal for humane purposes, or to protect persons, other animals, or property. The use of lethal force under these circumstances is warranted when the officer reasonably believes the animal to be rabid and when there is no other viable way of dealing with the animal (e.g., capture, transport to veterinarian, or disposal of the animal by other means). Before discharging a firearm for the purpose of euthanizing an animal, the officer must consider the following factors:
 - a. To euthanize an animal for humane purposes, the officer must first receive approval from his/ her supervisor. The officer does not need prior approval in situations he/she judges to be emergencies, e.g. to protect persons, other animals, or property.

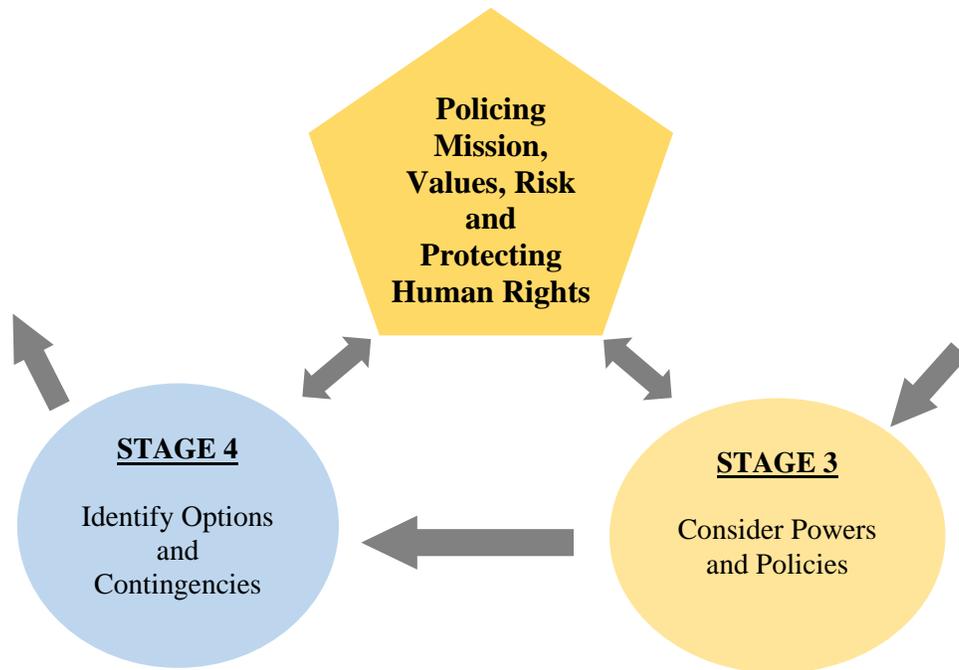
- b. The officer must exercise extreme caution so as not to pose any risk to surrounding persons or property.
 - c. If an officer uses a firearm to euthanize an injured or gravely ill animal, the officer shall complete an incident report detailing his/her actions and reasons why an animal had to be euthanized. In addition, a Deer Kill Report will be completed if the animal euthanized was a deer. No additional Use of Force Report is required under this circumstance. The incident report should address the reasons for using this method of destruction, as well as any issues or circumstances that may have arisen, and address how the animal was disposed of once it had been destroyed.
6. Discharging Warning Shots: Under no circumstances may an officer discharge his/her weapon for the purpose of providing a warning, or to threaten another.
7. Signaling Devices: Firearms shall not be used as a signaling device or for the purpose of summoning assistance.
8. Firing at or from Moving Vehicles: Officers shall not discharge his/her firearm at or from a moving vehicle, unless the use of lethal force is justified by something other than the threat of the moving vehicle.
- a. Officers shall not intentionally place themselves in the path of or reach inside a moving vehicle.
 - b. Officers where possible shall attempt to move out of the path of a moving vehicle before discharging their weapon.
- C. Medical Attention/Treatment
- 1. In all instances where an officer uses lethal force, an officer on scene shall, as soon as practical, request via the EHPSCC for qualified medical personnel to respond to the scene to provide medical attention/treatment to the subject to whom the force was used against.
 - a. If possible, officers should make an effort to assist the subject to whom force was used against until qualified medical personnel arrive on scene.
- D. 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.
5. 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.

APPENDIX A – CRITICAL DECISION-MAKING MATRIX





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 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 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

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.

Monitor and Review Decision

Ask yourself:

- What happened as a result of my decision?

STAGE 4: Identify Options and Consider Possible Contingencies

Ask yourself:

- What options are open to me?
- What am I trying to achieve?

Identify suitable responses, taking into consideration:

- The immediacy of any threat.
- Limits of information to hand.
- Amount of time available.
- Available resources and support.

Use PLANE to evaluate potential options, i.e., is each one:

PROPORTIONATE, LAWFUL, AUTHORIZED, NECESSARY, ETHICAL?

What contingencies should I consider (what will I do if certain things happen)?

Source: Police Executive Research Forum. (August 2015). Critical Issues in Policing Series. *Re-engineering Training on Police Use of Force*. Retrieved from <https://www.policeforum.org/assets/reengineeringtraining1.pdf>