

CANTON POLICE DEPARTMENT

Title: USE OF FORCE AND POLICE RESPONSE TO AGGRESSION/RESISTANCE

GENERAL ORDER: 9.1

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I. PURPOSE

To establish Department guidelines on using both lethal and less than lethal force.

To provide for the proper investigation and documentation of incidents involving the use of force.

II. POLICY

The Canton Police Department recognizes the value of human life and is committed to respecting human rights and the dignity of every individual and the Constitutional right to be free from excessive force, whether deadly or not, by a law enforcement officer. The use of force, especially force likely to result in serious bodily injury or death is a serious action. When deciding whether to use force, officers shall act within the boundaries of the United States and Connecticut Constitutions and laws, ethics, good judgment, this use of force policy, and all other relevant department policies, practices, and training.

Officers should ensure that they do not engage in unreasonable actions that precipitate the use of force as a result of tactical, strategic, and procedural errors that place themselves or others in jeopardy. The value of all human life should be appropriately weighed in the decision process. Above all, the safety of the public and the officer must be the overriding concern whenever the use of force is considered.

With these values in mind, officers shall use only that force that appears reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another, as per Connecticut General Statute 53a-22 to include subsequent changes and revisions. The use of force under certain circumstances is permitted by law (Connecticut General Statutes) and a police officer is authorized to exercise force in those circumstances. Therefore, the department will support the lawful use of reasonable and appropriate force by officers in the performance of duty.

The unnecessary use of force is contrary to law and places the department in a position of civil liability and places the officer in a position of civil and criminal liability. Therefore the unnecessary use of force is prohibited.

Connecticut General Statutes 29-35(a), 53-205, 53-206, and 53a-18 through 53a-22 provide the legal authority for sworn personnel and Animal Control Officers to carry and use department-issued lethal and less lethal weapons. All agency personnel authorized to carry lethal and/or less lethal weapons shall be issued a copy of, and receive instruction on this policy prior to being authorized to carry weapons. The receipt of the policy and training shall be documented in the officer's training file.

III. DEFINITIONS

Active Resistance: Any physical act or failure to act undertaken by a subject, against an officer, that could reasonably interfere with or defeat a lawful attempt by the officer to gain control of the subject.

Authorized Weapon: A weapon with which the officer has received agency sponsored training and has qualified through a proficiency examination in proper and safe usage. In addition, the weapon must be issued by the agency and comply with agency specifications.

Chokehold: A method of holding someone by putting your arm around or against the person's neck with enough pressure to reduce or prevent either air or blood from passing through the neck of such person. The restriction of one or both may lead to unconsciousness or even death if the hold is maintained.

Deadly Physical Force: Physical force which can be reasonably expected to cause death or serious physical injury. (CGS 53a-3(5)).

De-escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

De-escalation also means the decrease in severity of force used in an incident in direct response to a decrease in the level of resistance.

Exigent circumstances: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

Immediate: Occurring or accomplished without delay; instant.

Imminent: Likely to occur at any moment; impending.

Non-Deadly Force: Any use of force other than that which is considered deadly force.

Objectively reasonable: The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar circumstances.

Physical Force: Any physical force or instrumental contact with a person; any intentional attempt at a physical strike or instrumental contact, or any significant physical contact that occurs during efforts to control or overcome the resistance of another or that restricts the movement of a person. Officers shall allow individuals time to submit to arrest before physical force is used whenever possible.

The term includes the discharge of a firearm, pointing a firearm at a human being, use of chemical spray, pointing a conducted energy weapon (CEW) laser dot at or projected onto a person and/or spark display used to gain compliance; using hands; taking a subject to the ground; or the deployment of a canine. The term does not include escorting or handcuffing a person with no resistance.

Probable Cause: Where facts and circumstances known to the officer, or those circumstances on which the officer has reasonably reliable information, are sufficient to lead a reasonable person to believe that the person to be arrested has committed, or is committing a crime.

Reasonable Belief: A reasonable belief that a person has committed an offense means a reasonable

belief in facts or circumstances which if true, would in law, constitute an offense. (CGS 53a-22)

Reasonable Force: The level of force that is objectively reasonable and necessary to accomplish a lawful purpose.

Officers are permitted to use force to affect an arrest only to the extent that it is 'objectively reasonable' under the circumstances (Graham v Connor). The reasonableness of an officer's use of force under the Fourth Amendment requires careful attention to the totality of the facts and circumstances known by the officer prior to using force, including:

- The severity of the crime at issue and
- Whether the suspect poses an immediate threat to the safety of the officer(s) or others and
- Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Serious Bodily Injury: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a major body organ.

Serious Physical Injury: Physical injury which creates a substantial risk of death, or which causes serious disfigurement of health or loss or impairment of the function of any bodily organ. (CGS 53a- 3(4)).

Substantial Risk: A realistic danger or probability of an event occurring. Not just a mere possibility of something happening, but a practical certainty it will happen.

IV. GENERAL PROVISIONS

A. The use of physical force must be discontinued when resistance ceases or when the incident is under control. An officer is never justified in using physical force to punish a suspect or retaliate for physical or verbal abuse.

B Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.

C. The use of chokeholds is prohibited unless deadly physical force is justified.

D. It is important for officers to bear in mind that there are many reasons a suspect may be resisting arrest or may be unresponsive to commands by officers. The person in question may not be capable of understanding the gravity of the situation. The person's reasoning ability may be dramatically affected by a number of factors, including but not limited to:

- A medical condition
- Mental impairment/Emotional Crisis (in need of protective custody arrangements)
- Developmental disability
- Physical limitation
- Language
- Drug interaction
- Suicide attempts

E. Therefore, it is possible that a person's mental state may prevent a proper understanding of an officer's commands or actions. In such circumstances, the person's lack of compliance may not be a deliberate attempt to resist the officer. An officer's awareness of these possibilities, when time

and circumstances reasonably permit, should then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

F. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

G. An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so. In addition, if an officer observes inappropriate, unnecessary, unreasonable or excessive use of force by another officer, they shall report it immediately to their supervisor or the chief of police.

H. Officers who are off-duty and become involved in any use of force situation must report the circumstances to an on-duty supervisor or the chief of police as soon as the situation is stabilized.

I. All uses of force shall be documented and investigated pursuant to agency policies.

V. DE-ESCALATION

A. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with the officer's training whenever possible and appropriate before resorting to force and to the need for force.

B. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

VI. USE OF FORCE CONTINUUM

A. The determinant regarding the acceptable level of force (Lethal/less lethal/non-lethal) that may be used in any given set of circumstances is that level that the police officer reasonably believes is necessary to accomplish his/her lawful purpose. The various levels of force, or control techniques/tactics, are referred to as "The Use of Force Continuum". These levels may be set forth as follows:

- officer's presence in uniform
- verbal and non-verbal communications and commands
- passive control
 - * pain compliance holds
 - * pressure point control tactics
 - * escort techniques
 - * light subject control
 - * above could be with or without an ASP Expandable Baton
- oleoresin capsicum (pepper spray)--electronic control device (Taser)
- decentralization

- * heavy techniques of subject control
- * defensive tactics
- * above could be with or without an ASP Expandable Baton
- impact implements (ASP Expandable Baton)
- lethal force

B. Police officers are entitled to enter the continuum at that level they reasonably believe is necessary to control the situation and accomplish their lawful purpose. Police officers are required to de-escalate within the continuum when they reasonably believe control may be maintained and their lawful purpose accomplished by such lesser degree of force. However, police officers are never required to place themselves, or third persons, in a situation that exposes them to an unreasonable risk of danger or injury.

C. Policing requires that at times an officer must exercise control of a violent, assaultive or resisting individual to make an arrest or protect the officer, other officers, or members of the general public from the risk of imminent harm. Officers may escalate or de-escalate the use of force as the situation progresses or circumstances change. Officers should recognize that their conduct immediately connected to the use of force may be a factor which can influence the level of force necessary in a given situation.

D. When reasonable under the totality of circumstances, officers should use advisements, warning, verbal persuasion and other tactics and recognize that an officer may withdraw to a position that is tactically more secure or allows an officer greater distance in order to consider or deploy a greater variety of force options. When a subject is under control, either through the application of physical restraint or the subject's compliance, the degree of force should be de-escalated accordingly.

E. Unnecessarily or prematurely drawing or exhibiting a firearm limits and officer's alternative in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. An officer's decision to draw or exhibit a firearm should be based upon the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer should, as soon as practicable, secure or holster the firearm.

VII. REASONABLE NON-DEADLY FORCE

A. An officer is justified in using reasonable non-deadly force on another person when and to the extent that the officer reasonably believes it necessary to:

- Affect an arrest or prevent an escape from custody of a person whom he reasonably believes to have committed an offense, unless the officer knows that the arrest or custody is unauthorized. (CGS 53a-22)
- Defend himself, herself, or a third person from the use or imminent use of physical force while affecting or attempting to affect an arrest or while preventing or attempting to prevent an escape. (CGS 53a-22)
- To thwart the acts of another the officer reasonably believes is about to commit suicide or to inflict serious physical injury upon him or herself. (CGS 53a-22)
- To take a person into protective custody when authorized by law
- To assist a licensed physician or psychologist in providing necessary medical treatment.

VIII. DEADLY PHYSICAL FORCE

A. The use of deadly physical force by sworn officers is permitted under the following circumstances:

1. To defend the officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force. (see definition of deadly physical force above and at (CGS

53a-3(5)).

2. To effect an arrest or prevent the escape from custody of a person whom the officer reasonably believes has committed or attempted to commit a felony which involved the infliction or threatened infliction of serious physical injury;
 - a) **AND** where feasible, the officer has given warning of his/her intent to use deadly physical force
 - b) **AND** the officer reasonably believes that the person still poses an immediate threat to the officer or a third party through the use of deadly physical force to the officer or a third person.
3. Officers are not authorized to use deadly force or discharge their firearms to solely protect property.
4. Officers shall, when feasible, attempt to exhaust reasonable alternatives before resorting to the use of deadly force.

IX. DISCHARGING FIREARMS TOWARD AND FROM MOVING VEHICLES

A. Firearms shall not be discharged at a moving vehicle unless:

1. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle.
2. The vehicle is being operated in a manner deliberately intended to strike an officer or another person, and all other means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

B. Officers shall exercise good judgment and not move into or remain in the path of a moving vehicle. Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, shall not be justification for discharging a firearm at the vehicle or any occupant. An officer in the path of a vehicle shall attempt to move to a position of safety, if possible, rather than discharging a firearm at the vehicle or any of the occupants.

C. It is understood that the policy in regards to discharging a firearm at a moving vehicle may not cover every situation. Any deviations shall be rigorously examined on a case by case basis. Officers should consider that shooting at a moving vehicle may present an unacceptable risk to innocent bystanders. Should the driver be wounded or killed by shots fired, the vehicle will most certainly proceed out of control and could become a serious threat to officers and others in the area.

D. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.

X. WARNING SHOTS

The use of warning shots is prohibited. No shots will be fired into buildings or through doors, windows or other openings unless the situation becomes one of self-defense or defense of other lives.

XI. WRITTEN REPORTS

A. An officer shall submit a complete written report whenever that officer:

- Takes an action that results in, or is alleged to have resulted in, injury (or complaint of injury) or death of another person.
- Applies force through the use of lethal or less lethal weapons.
- Strike with a baton, flashlight or any weapon or instrument.
- For the purposes of this section, application of force shall include the pointing of a firearm at any person but shall not include the mere removal of a firearm from a holster or the removal of a patrol rifle from a vehicle. It shall also include the pointing of a Taser at a person or conducting a spark test in an attempt to gain compliance with officer commands.
- Uses force by means of pain compliance measures, come-along holds, pressure point application, physically struggling or grappling with a subject or decentralization techniques.
- The mere handcuffing a person without physical control techniques is not considered a use of force for the purpose of this section. In addition, necessary physical touching or guiding of an individual intended to effect compliance with a lawful command, which is applied in such a manner as to be reasonable and which is not intended to cause physical injury is not considered a use of force for the purpose of this section.

B. Any personnel utilizing any level of force shall complete the mandatory State of Connecticut-Police Officer Standards and Training Council-Use of Force Report' Form. The officer will detail the circumstances of the incident leading to said action and any medical treatment afforded after the incident. A noninvolved supervisor shall review the report(s) to ensure its completeness. The review will include an assessment whether the use of force was appropriate and consistent with state statues and agency directives.

C. That supervisor will forward the report to the Captain for his review. The Captain will review, assess and forward the report to the Chief of Police. After it is reviewed at each level, the Chief will maintain a copy in a file to be used for a yearly review and analysis of all use of force incidents during the previous calendar year.

D. Photographs will be taken of any injuries or alleged injuries to persons who have been the subject of force used against them. Photographs should also be taken of any police involved in the use of force to document any injuries or lack thereof or damage to uniform or equipment.

E. Consistent with constitutional safeguards, statements will be taken from the suspect and witnesses.

F. During January of each year, the Chief of Police shall conduct an analysis of all use of force incidents that occurred during the previous calendar year. This analysis shall include:

- the officer(s) who used the force.
 - the type of force used (weapon, weaponless, etc.)
 - extent of injury to officer or suspect, if any
 - the general circumstance of the use of force incident
 - the time of day the use of force incident occurred
1. In addition, the analysis shall include a review of agency use of force activities, policies and practices including training, complaints, community concerns and any other information pertinent to the agency's use of force activities.
 2. This analysis shall be used as a basis to determine if any patterns, trends or concerns exist

that may suggest training needs, equipment upgrades, and/or policy modifications.

XII. RENDERING MEDICAL AID

A. Officers shall assure that appropriate medical attention is afforded to all persons who have been affected by the use of lethal or less than lethal weapons. In addition, any person who has been injured as a result of the application of physical force shall be afforded prompt medical treatment. If the person refuses the attention, note the refusal in the written report.

B. Officers shall provide and/or summon medical assistance as necessary and appropriate for a given situation. Medical assistance shall be summoned for any person taken into custody who has been injured as a result of the application of physical force. Refer to section 12.7 regarding medical treatment after deployment of a TASER. If treatment is refused, include the name of the medical personnel who accepted the refusal in the written report.

XIII. CIVIL RIGHTS DEMONSTRATIONS

Members of the Canton Police Department are strictly prohibited from the use of excessive physical force against any individuals engaged in non-violent civil rights demonstrations. Peaceful demonstrations will be closely monitored and, in the event that arrests are necessary, they will be carried out in a calm and quiet manner using only such force sufficient to secure the arrestee. There will be no use of pain compliance holds on non-violent persons involved in a demonstration. Individual rights shall be respected as guaranteed in the Constitution of the United States and the Constitution of the State of Connecticut.

XIV. USE OF FIREARMS AND ANIMALS

A. Officers are authorized to use their issued or department firearms to shoot an animal under the following conditions:

- to prevent death or physical injury to the officer or another person caused by the animal
- when the animal is so badly injured that humanity requires its relief from further suffering (except for dogs pursuant to CGS 22-332).

XV. ISSUANCE OF DIRECTIVE

Every sworn member of the department shall be provided with a copy of this policy, and will be instructed on the policy and procedures contained herein, prior to being issued and authorized to carry any lethal or less lethal weapon, and at each annual retraining session thereafter.

XVI. POLICE INVOLVED SHOOTINGS: DUTIES and RESPONSIBILITIES

A. Officer's Responsibilities

1. If a member of the department discharges a weapon while on or off duty, whether in or outside the town of Canton, (other than while participating in firearms training on an authorized range), he/she shall:

- immediately notify a supervisor and provide sufficient information to protect evidence, identify others involved and establish a crime scene perimeter where necessary.
- render first aid to any injured party, if it can be done safely and without further jeopardy to the

officer.

- submit a written report, if able, immediately or not more than forty-eight (48) hours after the discharge.
- do not discuss the incident with others without the express consent of the Chief of Police except for on-scene law enforcement personnel, the officer's attorney/union representative, EAP counselors and immediate family.

B. Supervisor or OIC duties:

- report to the scene as soon as possible and assure it is secured
- ensure that medical attention is provided.
- ask only minimal, preliminary questions about the incident.
- assume the responsibility of notifying the Hartford State's Attorney's Office pursuant to 51- 277a of the Connecticut General Statutes.
- assume the responsibility of notifying the Chief of Police and or Captain.
- ensure that the officer(s) involved in the shooting is removed from the scene as soon as possible.
- ensure another officer remains with the involved officer, but should be advised not to discuss details of the incident.
- ensure that the involved officer's firearm, ammunition sources, and other potential evidentiary items are secured as evidence.
- prepare a detailed written as soon as practicable.

C. Duties of other officers (non-shooting) at the incident scene

To the extent possible, officers at the scene of a shooting that causes death or injury shall:

- render first aid to the victim(s).
- secure and preserve the crime scene.
- ensure that someone is with the officer at all times.
- complete comprehensive reports as described below.
- refer inquiries from the media to a designated department spokesperson.

D. Additional Investigative Responsibilities

If the discharge occurred while on-duty or while off-duty but within the Town of Canton, the Chief of Police, or in his absence, the captain or ranking patrol supervisor on duty, shall notify the Judicial District of Hartford State's Attorney so they may conduct an investigation pursuant to CGS 51-277a. The State's Attorney may request assistance from the Connecticut State Police Major Crime Squad, or other investigative body to assist in the investigation of the shooting incident. The Hartford State's Attorney's office may coordinate their investigation with the Connecticut State Police.

E. Reports

1. Reports shall be completed and evidence submitted by all officer(s) involved in the shooting incident within 48 hours unless injury renders the officer unable to prepare such reports. This shall include, but is not limited to:

- officers who discharged their weapon
- officers present at the scene
- any officer with information pertinent to the investigation

F. Reassignment

1. Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury shall be removed from a line-duty assignment pending an administrative review. This reassignment shall be for a period of time as determined by the Chief of Police, depending upon the nature and circumstances of the incident and the ensuing investigation. During this period of reassignment, the Chief of Police shall direct the involved officer(s) to participate in post-incident debriefing or counseling. Return of the officer to regular duties is determined by the Chief of Police. Such decision will take into account input from others, including but not limited to the CAO, town attorney, State's Attorney's Office, and medical providers.

2. Command and Supervisory staff will be notified of the reason for the reassignment and re-instatement as soon as practicable.

3. The Chief or designees will brief other department members concerning the incident so that rumors are controlled or minimized.

G. Psychological support

Affected employees may refer themselves or be referred to the Employee Assistance Program. While waiting to be interviewed, by the Connecticut State Police, or the State's Attorney's Office, an officer may have another officer of their choice, not involved in the shooting, present. Contact a department designated specialist for counseling and evaluation (E.A.P.) as soon as practical after the incident.

H. Family Support

The Chief of Police shall assign another member of the department to make contact with the officer(s) as soon as practicable to see if the officer or his immediate family is in need of assistance. At the direction of the Chief of Police, this officer shall insure that the officer(s) involved in the shooting seeks psychological review within a three- (3) week period from the date of the shooting.

This officer shall maintain liaison with the Chief of Police and the officer(s) involved concerning the need and coordination of any psychological counseling that may be necessary.

XVII. LEGAL DISCLAIMER

This directive is for department use only and should not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to any legal claims. Violations of this directive will only form the basis for departmental administrative sanctions.