

<b>East Haven Police Department</b>  	<b>Type of Directive:</b> <b>Policies &amp; Procedures</b>		<b>No. 408.5</b>
	<b>Subject/Title:</b> <b>Post-Incident Procedures for Use of Lethal Force</b>	<b>Issue Date:</b> <b>June 30, 2020</b>	
		<b>Effective Date:</b> <b>July 15, 2020</b>	
	<b>Issuing Authority:</b> <b>Honorable Board of Police Commissioners</b>	<b>Review Date:</b> <b>Annually</b>	
<b>References/Attachments:</b>  <b>Policies and Procedures #: 302, 303, 404, 405, 406, 407</b>		<b>Rescinds:</b> <b>408.4</b>	<b>Amends:</b> <b>N/A</b>

## 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 managing of officers involved in lethal force shootings.

## II. POLICY

- A. It is the policy of the East Haven Police Department that supervisors and peer officers shall be familiar with and guided by the following procedures in managing members of the Department involved in lethal force incidents.

## 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's report on his/her 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. neck 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. Stress Disorder: An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress. The person must have experienced, witnessed, or was confronted with an event or events that involved actual

or threatened death or serious injury, or a threat to the physical integrity of one's self or others. The person's response to the event(s) will have involved intense fear, helplessness, or horror.

1. Acute Stress Disorder: A category of stress disorder lasting for a minimum of two (2) days and a maximum of four (4) weeks occurring within four weeks of the event(s).
2. Post-Traumatic Stress Disorder: A category of stress disorder in which the symptoms last more than one month. This can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress. NOTE: These are guidelines intended to help officers understand what is expected of them and are not intended as medical definitions or standards for disability determinations.

W. Supervisory Force Review Report: The immediate supervisor's report on an incident involving use of force.

X. Use of Force Report: To be completed by all officers who used force.

Y. 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. Law enforcement duties can often expose police officers and support personnel to mentally painful and highly stressful situations that cannot be resolved through normal stress coping mechanisms. Unless adequately treated, these situations can cause disabling emotional and physical problems. It has been found that officer-involved shootings resulting in death or serious bodily injury to a citizen or a fellow officer may precipitate such stress disorders. It is the responsibility of this law enforcement agency to provide personnel with information on stress disorders and to guide and assist in their deterrence.
- B. Not all officers involved in a shooting incident or other similar lethal force confrontation experience an overwhelming reaction. However, some of those who suffer from the more serious reactions, and particularly those who do not receive proper assistance for their problem, leave law enforcement in the aftermath, and many suffer from long-term consequences. The individual impact of specific circumstances on law enforcement officers cannot be reduced to a simple formula and should not be overly simplified. The potential traumatizing effects of specific circumstances depend greatly upon the dynamics of the situation and the experiences and mind-set of the officers involved.
- C. Each officer experiences the emotional aftermath of a shooting in a personal manner that depends on many factors. These include: the officer's perceived vulnerability during the incident; the amount of control he/she had over the situation; the individual's ability to react effectively; his/her expectations concerning shooting situations and how closely those expectations correlated with what happened during the incident; how close or far away physically the officer was from the suspect; how bloody the shooting was; the reputation of the suspect, for example, whether he/she was a murderer or a scared teenager; the perceived "fairness" of the situation, for example, shooting a person who used the officer to commit suicide is perceived as unfair and may produce anger or other reactions in the

officer; legal and administrative consequences of the officer's actions; the amount of stress in the officer's life and his/her level of emotional adjustment; personal coping skills; and the amount of peer and family support.

- D. The traumatic experience starts when a situation puts the life of an officer or another person in danger, and the officer makes the decision to use lethal force. Often, physical, psychological and emotional phenomena may occur during the brief moments of peak stress, many of which may be confusing to the officer. Common reactions are:
1. Sensory: It is quite common to experience perceptual distortions of various types. It is important that supervisors at the scene and investigators assigned to the shooting know that these sensory distortions are normal and common.
  2. Physical and emotional: The shock disruption phase starts when the shooting ends. An officer may experience a few minutes of shock symptoms such as tremors, shaking, crying, nausea, or hyperventilation among others. These are symptoms of the de-escalation of stress that sometimes occurs when a high-impact situation is over, and are not signs of weakness. It is important to remember that the officer may be very sensitive to others' reactions, particularly in regard to whether the Department will stand behind him/her.
- E. A supervisor should be immediately assigned to any officer-involved shooting and assume control of the situation. The first order of response in such situations is to identify any injured persons and to ensure that medical attention is secured. When order has been established and the involved officer is no longer required at the scene, he/she should be taken to a quiet and secure location away from the sights and sounds of the event area. In many cases, spectators as well as friends and relatives of suspects or victims may congregate at the scene, many of whom may focus attention on the officer involved. For these and related reasons, it is best that the officer be given some physical space as soon as practicable so he/she may regain some composure and attempt to relax.
- F. Immediately following an officer-involved shooting one can anticipate a substantial amount of media attention. Media personnel can be expected to attempt to make contact with involved officers. Under no circumstances should these officers make comments to the press concerning the incident. All information concerning the incident should flow from the supervisory officer in circumstances deemed appropriate after consultation with the Department's public information officer, another assigned spokesperson, or the Chief of Police. At this stage, basic information concerning the incident should be provided to the press as soon as possible if it will not inhibit or undermine the Department's investigative process. Timely release of such information will serve to discourage the press from speculation or uninformed or misdirected commentary that could be harmful to the officers and the Department.
- G. Officers involved in the incident who have been removed from the immediate scene may be accompanied by an Employee Assistance Program (EAP) representative or personal friend based on a supervisor's appraisal of the officer's needs.

- H. Most officers also have a desire to contact their families at such times. This is an important courtesy that is sometimes overlooked and one that can be facilitated by the supportive officer. If the officer is not injured, he/she should contact his/her family by telephone to let them know what happened before they hear rumors, news reports, or get the news from some other source. If the officer is injured, a member of the Department who knows the family should contact them and take them to the hospital. In these instances, it is also important to ensure that the family members have someone else with them for support, such as close friends or relatives. Supervisors and all other officers having contact with the officer involved in a shooting incident, whether at the scene or at a later point in time, should attempt to be reassuring and supportive without being unrealistic. At all times they should act in a manner that reflects an understanding of the potential stress the officer may be experiencing. Even at this early stage, the officer's fears of the short or long-term consequences of his/her actions— such as potential civil or even criminal charges or a protracted internal investigation— may fuel the officer's fears and anxieties.
- I. Investigation of police shootings is required in keeping with the Department values of accountability and integrity. However, investigations of police-involved shootings can be one of the more stress-provoking activities following such an incident. Officers may be relieved from duty and their firearm taken from them.
- J. After the incident, officers provide information limited to identifying evidence and the scope of the scene. He/she will not be questioned immediately after the incident and usually will be allowed to go home within a short period of time. Officers should provide a detailed statement within seventy-two (72) hours. If there are follow up questions, a supplement can be provided. In rare cases an interview is conducted. On occasion officers will participate in walkthroughs/recreations.
- K. Officers involved in these situations are acutely aware of how they are perceived, and the manner in which such investigations are conducted can heighten or diminish feelings of alienation and isolation. Complete and professional investigations of police-involved shootings can be conducted while also showing consideration for an officer's emotional well-being.
- L. If the officer's firearm must be taken for evidentiary purposes, it should be replaced with another, or the officer should be advised when he/she can expect it to be returned or replaced. Unless the officer is being relieved of duty on charges, there is little justification for confiscating the officer's duty weapon without replacing it. Having an officer return to duty status without a handgun can create the impression that the officer has been branded or come to think the Department does not "trust" him/her with a handgun.
- M. The adrenaline effect will wear off and the officer typically will experience an emotional and physical letdown. This impact phase usually occurs within three days of the incident although some officers experience a delayed reaction ranging from six months to a year or more after the incident. During this phase, the officer confronts feelings of vulnerability and mortality. Generally, the more vulnerable the officer feels during the incident, the greater the emotional impact of the situation. Feelings of vulnerability often stem from a perceived lack of control over the incident.

- N. The next phase, which in most cases starts soon after the emotional impact hits, is the acceptance or coping phase. At this stage an officer starts understanding, working through, and coming to grips with the emotional impact of the situation. The emotional intensity tends to wax and wane over time, often peaking after about two weeks, and then starts to decrease. There is often much introspection during this time, and the officer generally mentally recreates the incident, repeatedly wondering if he/she made the correct decision, took the correct action, or if there was anything else that could have been done. If the officer allows himself/herself to work through the emotional impact, and does not try to suppress or deny it, he/she will normally come to accept the incident without inordinate guilt or anguish.
- O. The acceptance/resolution phase is usually achieved within two (2) to ten (10) weeks, but may take longer depending on the incident, the legal/administrative aftermath, the amount of peer and family support, and the officer's coping skills. Once achieved, the officer understands and accepts what happened and what had to be done. There may still be occasional nightmares, flashbacks, and anxiety, particularly those triggered by situational reminders while on the job. However, the officer who is returning to a healthy and balanced emotional state comes to understand these and other underlying emotions and is capable of dealing constructively with them. With proper support and coping skills, the officer may even become stronger.
- P. If an officer who has been in a shooting develops a pattern of work problems, such as repetitive excessive use of force that he/she did not exhibit before the incident, it may be a sign of trauma. It is important to be able to recognize these problems and be prepared to refer the officer to an appropriate source for assistance in addition to any discipline that may be administered.
- Q. Difficult questions must be asked and answers found. However, the stress of the administrative, investigative, and legal processes following the incident can unnecessarily compound the stress of a shooting. It is not unusual for the officer to perceive that he/she is being treated like a suspect and is being abandoned by the Department.

## **V. PROCEDURES**

- A. Handling of Officers at the Scene of a Shooting or Other Lethal Force Incident
  1. A supervisor shall be dispatched to the scene of the incident, and shall assume primary responsibility in caring for involved personnel. For purposes of this policy, a supervisor will include any ranking officer.
  2. The supervisor shall make appropriate arrangements for all necessary medical treatment.
  3. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer should be taken to a quiet area away from the scene of the incident. A peer stress counselor or other supportive friend or officer should remain with the officer, but should be cautioned not to discuss details of the incident.

- a. All statements are discoverable and are not protected privileged communications.
4. The supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible, and be taken to a quiet, secure setting.
5. When possible, the supervisor shall briefly meet with the involved officer.
6. No stimulants or depressants should be given to the officer unless administered by medical personnel.
7. Only minimal, preliminary questions should be asked about the incident. The officer should be advised that a more detailed debriefing will be conducted at a later time. This policy shall not hamper an officer's obligation to provide a public safety statement regarding a work-related incident or activity.
  - a. All officer statements in incident reports, arrest reports, use of force reports and similar documents, and statements made in interviews such as those conducted in conjunction with routine use of force review and investigation process, are part of each officer's routine professional duties and are not compelled statements.
  - b. Where an officer believes that providing a verbal or written statement will be self-incriminating, the officer shall affirmatively state this and shall not be compelled to provide a statement without prior consultation with an attorney who will then discuss this with the criminal investigative agency and the Chief of Police.
8. Any standard investigations that will occur concerning the incident should be discussed with the officer.
9. The officer should be advised that he/she may seek union representation and/or legal counsel.
10. The officers should be advised that they are not allowed to discuss the incident with anyone except a personal or agency attorney, medical professional providing them care or treatment for this incident, union representative, or investigator, until the conclusion of the preliminary investigation.
11. Involved officers, when possible, should notify their families about the incident as soon as possible. When an officer is unable to do so, an agency official shall personally notify the employee's family, and when applicable, arrange for their transportation to the hospital.
12. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
13. In a lethal force situation involving a weapon, the supervisor shall take custody of all involved officers' duty weapons to be logged in as evidence or turned over to the assigned investigating agency.

- a. Take custody of the officer's weapon in a discreet manner.
- b. Replace it with another weapon as soon as practical.

## B. Administrative Procedures

1. The supervisor tasked with taking over as incident commander of a post-shooting or other lethal force incident is responsible for making sure that the Chief of Police is immediately notified in accordance with departmental procedures. Said officer is also responsible for making the appropriate notifications to the State's Attorney's Office. With respect to the interactions with the affected officer(s) and/or other members of the Department, the following set of procedures should be observed.
  - a. Debriefings of all members involved shall be held as soon as feasible after the incident. The Department shall ensure that there is a designated supervisor on call or on-duty at all times so that someone is available shortly after an incident.
  - b. Any officer, acting in an official capacity, whose actions and/or use of force results in a death or serious physical injury shall be placed on paid administrative leave pending an administrative review/investigation. (This is not a suspension and does not imply any wrongdoing. It is for the officer's benefit.)
  - c. By statute, the States Attorney's Office will oversee the primary investigation.
    - 1) Officers' weapons, ammunition, gun belts and clothing will be taken.
    - 2) Members of the Department retain all of their constitutional protections during the investigation.
    - 3) The Department investigation follows and relies on the investigation and State's Attorney report, which may take some time to complete.
  - d. Upon being taken off of administrative leave, the involved officer may be assigned to administrative duties pending evaluation and shall remain available for any necessary administrative review/investigation.
  - e. All officers acting in an official capacity whose actions and/or use of force results in a death or serious physical injury are highly recommended to contact a Department designated specialist for counseling and evaluation as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists after an incident that involved a death or serious physical injury. After the counseling sessions, the specialist shall advise the agency:
    - 1) Whether it would be in the officers' best interest to remain on duty or to be placed on administrative leave and for how long.
    - 2) When the officers were relieved of their duty weapons after an incident, at what point they should be returned.
    - 3) The suggested course of counseling for the officers, if needed.

- f. The Department strongly encourages the families of the involved officers to take advantage of available counseling services.
  - g. Any Department investigation of the incident shall be conducted as soon and as quickly as practical.
  - h. The Department should brief other employees concerning the incident so that rumors are kept to a minimum. Department members are encouraged to show the involved officers their concern.
  - i. Personnel acting in an official capacity whose actions and/or use of force results in a death or serious physical injury should be advised that they are not permitted to speak with the media about the incident. Personnel shall refer inquiries from the media to a designated agency spokesperson, unless otherwise authorized to release a statement pertaining to the incident.
  - j. In order to protect against crank or abusive calls, members of the Department should be advised to have phone calls answered by another person for several days if their names are released to the public.
  - k. Officers directly involved in the shooting incident shall be required to re-qualify with their Department firearms.
2. Following an Incident – Supervisor’s Role
- a. Often the impact of a lethal force incident does not immediately present itself in terms of a change in an officer’s behavior. It may be days, weeks, or months before there is any evidence that the stress of such a traumatic incident could alter an officer’s behavior or performance. It is for this reason that it is vitally important that supervisors be cognizant of any symptomatic behaviors or change in work performance, which may suggest that an officer is feeling the delayed effects of such an incident.
  - b. As post-traumatic stress disorders may not arise immediately, or the officers may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit members for symptoms of the disorder.
  - c. Some symptoms of post-traumatic stress disorders include:
    - 1) A feeling of being numb.
    - 2) Feeling out of touch with what is going on around them.
    - 3) A feeling that this is happening to someone else.
    - 4) Withdrawing and avoiding anything to do with the traumatic situation or police work.
    - 5) Avoiding other people, including one’s family.

- 6) Intrusive and recurring thoughts of the event and feeling that it may be happening again.
  - 7) Irritability.
  - 8) Sleep problems.
  - 9) Difficulty in concentrating.
  - 10) Hyper-vigilance.
- d. A supervisor observing these symptoms should immediately confer with the Chief of Police or his/her designee.
  - e. A supervisor observing any deviations in behavior or performance should confer with the officer. It is imperative that an officer who may be suffering the after effects of a traumatic incident not be treated any differently than would be the case of any other similar supervisory counseling session.
    - 1) If the officer reveals that he/she is experiencing problems stemming from an incident, the supervisor should be supportive and encourage the officer to seek professional assistance either from his/her own physician or through the town's EAP.
    - 2) The supervisor should also encourage personnel who may be feeling the after effects of the incident, to take advantage of speaking with one of the Department's Peer Stress Counselors, EAP, or interfaith Chaplains.
    - 3) If the supervisor is made aware that personnel may be suffering from the after effects of a lethal force incident, that supervisor has an obligation to bring such matters to the attention of the Chief of Police (not necessarily through the appropriate chain of command, depending upon the circumstances).
  - f. Supervisors are responsible for making available to their unit members information about the agency's EAP group and mental health services.
3. Officers will be returned to full duties at the discretion of the Chief of Police after the officers are cleared to return by a qualified psychiatrist or psychologist.
    - a. Prior to return to full duty, officers may be assigned administrative work assignments.

#### C. Family Notification

1. If a member of the Department is killed or seriously injured while on duty, it becomes the responsibility of the Department to notify the officer's next of kin. The Chief of Police or his/her designee shall make such notification in person.
  - a. At least one other member of the Department shall accompany the Chief of Police or his/her designee to make the notification.

- b. If feasible, a Department chaplain or other clergy member may accompany the Chief of Police or his/her designee.
2. If a member of the Department is seriously injured while on duty and is receiving treatment at a local hospital, the Department will make arrangements for the personnel's spouse or next of kin to be brought safely to the hospital.
3. Another member of the Department should be assigned to stay with the family and assist them in any way possible.

D. Family Support

1. The Chief of Police or his/her designee will:
  - a. Assist the family with funeral arrangements and coordinate the Department's involvement according to the wishes of the family.
  - b. Inform the family of financial assistance available from the Town, State and Federal Government.
  - c. Ensure EAP or other similar counseling service is available to the family.
  - d. Maintain contact with family to insure financial and emotional needs are being met.