

Town of East Hampton
Town Council Regular Meeting
Tuesday, July 28, 2020
Virtual Meeting via Zoom

MINUTES

Present: Vice Chairman Dean Markham, Council Members Tim Feegel, Derek Johnson, Mark Philhower, and Kevin Reich and Town Manager David Cox.

Not Present: Chairman Pete Brown and Barbara Moore

Call to Order

Vice Chairman Markham called the meeting to order at 6:30 p.m.

Adoption of Agenda:

A motion was made by Mr. Reich, seconded by Mr. Johnson, to adopt the agenda as written. Voted (5-0)

Approval of Minutes

A motion was made by Mr. Johnson, seconded by Mr. Feegel, to approve the minutes of the Town Council Public Hearing of July 14, 2020 and the Regular Meeting of July 14, 2020 as written. Voted (5-0)

Public Remarks

None

Presentations

None

Bids & Contracts

Purchase of Wood Chipper

Public Works Director Matt Walsh provided an overview of the potential purchase and the poor condition of the current chipper.

A motion was made by Mr. Philhower, seconded by Mr. Reich, to approve the purchase of a Brush Bandit Wood Chipper, under State Bid Contract Number #19PSX0144 in the amount of \$53,435.40. Voted (5-0)

Resolution/ Ordinances/ Policies/ Proclamation

Police Department General Orders regarding Code of Conduct & Use of Force

Police Chief Dennis Woessner provided an overview of the General Orders for Use of Force and Code of Conduct. The Code of Conduct order is a new policy related to conduct that has been developed over recent months and is intended to provide a central, specific list of conduct expectations and anticipated penalties for violations. The Use of Force policy is an updated document in response to direction given by the Police Officer Standards and Training Council (POST) for mandatory updates. Chief Woessner answered questions from Council members. The documents will be placed on the August 11 agenda for possible approval.

Continued Business

Discussion of 94 Main Street

Council members are asked to continue the discussion of the future of the 94 Main Street property and provide guidance to staff. Council members will consider options and discuss at a future meeting.

New Business

Council members would like to have a presentation on the Blight Ordinance at the last meeting in September.

Town Manager Report

Mr. Cox provided an overview of the Town Manager Report, which will be included with the minutes filed in the Town Clerk's Office.

Appointments

None

Tax Refunds

A motion was made by Mr. Reich, seconded by Mr. Johnson, to approve tax refunds in the amount of \$554.11. Voted (5-0)

Public Remarks

None

Communications, Correspondence & Announcement

Town Council will hold an Executive Session on Thursday, July 30 related to strategy and negotiation regarding collective bargaining.

Adjournment

A motion was made by Mr. Reich, seconded by Mr. Johnson, to adjourn the meeting at 7:48pm. Voted (5-0)

Respectfully Submitted,


Cathy Sirois
Recording Clerk



EAST HAMPTON POLICE DEPARTMENT

GENERAL ORDER 4.3

DISCIPLINARY PROCEDURES

SUBJECT: Code of Conduct		
Issue Date: TBD	Effective Date: TBD	Distribution: All Personnel
Amends/Rescinds GO:		Review Date: / /
Per Order of:  Dennis Woessner, Chief of Police		
<i>This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting</i>		

The Town of East Hampton and its Police Department require that all employees be independent, impartial, unbiased and responsible to the community we serve. The public judges its government by the way public officials and public employees conduct themselves in the positions to which they are elected, appointed or hired. The public has a right to expect that public officials and employees will conduct themselves in a manner that will preserve and promote confidence and respect in the local government organization.

Confidence and respect are achieved and promoted when all public officials and employees treat all citizen with respect, courtesy, impartiality, fairness, equity and equality under the law; avoid actual, potential and perceived conflicts of interest; keep the public informed and encourage communication; continually seek to improve the quality and image of public service; and recognize that the function of local government is to serve the best interest of all people.

Therefore, this code of conduct for the Police Department is hereby promulgated for the guidance of all employees to promote confidence and respect and to ensure the efficient operation and management of the East Hampton Police Department. The code is published under the authority of the Chief of Police who is responsible for the

effectiveness, discipline and good order of the Department, the safe care and custody of all Department prisoners and property as well as the security and well-being of the Town. The code cannot and does not cover every delinquent act or omission for which an employee is or may be responsible. Such acts or omissions not specifically mentioned in the code will be charged under Paragraph 1, Section 1.00 if necessary.

Nothing in this order precludes the Chief of Police or supervisor from mandating that an employee receive training as a function of discipline. When an employee's work performance, productivity or effectiveness falls below that which is expected of similarly tasked employees and said employee has no previous history of discipline in this area, a supervisor may find that training and/or remedial training may motivate the employee to perform as directed. This career development path will be coordinated through the employee's immediate supervisor.

Nothing in this order precludes the Chief of Police or supervisor from mandating that the employee receive professional counseling as a function of discipline. When an employee's duty-related performance falls below that which is expected of similarly tasked employees and supervisory efforts have failed to show improvement, the use of employee counseling combined with progressive discipline may be deemed an appropriate and effective tool. The counseling may be provided by an Employee Assistance Program or that sought by the employee.

For purposes of administering the code, the following classifications of offense with the maximum possible penalty for each class will be used:

Class	Maximum Penalty
A*	Dismissal
B*	30 days unpaid suspension
C*	15 days unpaid suspension
D*	10 days unpaid suspension
E	5 days unpaid suspension
F	Written reprimand

* Demotion in grade is an alternative penalty when the Chief of Police or designee determines the violator has a past history or repetitious pattern of similar conduct.

Notwithstanding the foregoing and the penalties outlined below, the Town specifically reserves the right at its sole discretion to implement discipline at a higher level, up to and including dismissal, for egregious offenses, repeated offenses or multiple offenses beyond that which is described below.

SECTION I

GENERAL

§1.00 Any violation of the rules and regulations, violations of sections of the Employee Handbook, published orders, directives, memoranda, or any lawful order, or any act which tends to undermine the good order, efficiency and discipline of the Department, or which reflects discredit upon the Department or any member thereof, shall constitute conduct unbecoming an employee. Penalties for conduct unbecoming an employee are as follows:

1st Offense E 2nd Offense B

SECTION 2

CONDUCT UNBECOMING AN EMPLOYEE

New § 2.01 Use of bias based profiling, including but not limited to use of race, ethnicity, religion, gender, sexual orientation, economic status, age, cultural group, or some other identifiable trait of a group, as the sole reason for stopping, detaining, searching or arresting an individual.

1st Offense B 2nd Offense A

§2.02 Accepting a bribe or gratuity for permitting an illegal or potentially illegal act or for otherwise failing to perform the employee's duties or for implementing the employee's duties in an inappropriate manner.

1st Offense A

§2.03 Failure to report in writing to the Chief of Police an offer of a bribe or gratuity to act or fail to act as described in § 2.01 above.

1st Offense B 2nd Offense A

§2.04 Soliciting any favor or privilege or other thing of value as a condition for performing or failing to perform official duties or to perform those duties in an inappropriate manner.

1st Offense A

§2.05 Recommending any professional or commercial service for personal gain.

1st Offense B 2nd Offense A

§2.06 Abusing official position to obtain any special benefit or favor.

1st Offense E 2nd Offense C 3rd Offense A

§2.07 Failure of any employee to maintain themselves and their uniforms in a neat and clean condition.

1st Offense F 2nd Offense E 3rd Offense D

§2.08 Removing Department property without proper authorization without intent to permanently deprive the Department of said property.

1ST Offense F 2nd Offense E 3rd Offense A

§2.09 Removing Department property without proper authorization with intent to permanently deprive the Department of said property.

1st Offense A

§2.10 Unauthorized entry into any office, desk or locker of another.

1st Offense F 2nd Offense E 3rd Offense A

§2.11a Arrest and conviction of a crime (Class A misdemeanor or above and/or moral turpitude related crimes)

1st Offense A

§2.11b Arrest and conviction of all other crimes or offenses.

1st Offense F 2nd Offense A

§2.12 Knowingly and willfully making a false entry in any official Department document, report or record.

1st Offense B 2nd Offense A

§2.13 Negligent entry in any official Department document, report or record

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1st Offense F 2nd Offense E 3rd Offense A

§2.14 Using unnecessary, violent, abusive or profane language to citizens while on duty.

1st Offense F 2nd Offense D 3rd Offense A

§2.15 Using violent, abusive or profane language toward another employee.

1st Offense F 2nd Offense E 3rd Offense A

§2.16 Making public statements regarding confidential Department material.

1st Offense B 2nd Offense A

§2.17 Making public statements which are known to be false or to be in reckless disregard of known facts related to Department policy or Department business.

1st Offense D 2nd Offense C 3rd Offense A

§2.18 Failure to wear the prescribed uniform for assigned duties.

1st Offense F 2nd Offense E 3rd Offense D

§2.19 Members of the Department, except in the discharge of official duties or with permission of the Chief of Police, shall not knowingly associate with criminals, racketeers, gamblers or persons engaged in unlawful activities, nor shall they knowingly enter or socialize in places where frequent violations of law are suspected or known to occur.

1st Offense E 2nd Offense C 3rd Offense A

§ 2.20 Knowingly associating with or joining an organization and actively advancing the cause of an organization that has been labeled as a racist, hate or terrorist group by the Federal Bureau of Investigations.

1st Offense B 2nd Offense A

§2.21 Gambling which is illegal or in violation of department regulations.

1st Offense F 2nd Offense E 3rd Offense A

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§2.22 Outrageous, insolent, offensive or overt disrespect towards a supervisory officer.

1st Offense F 2nd Offense E 3rd Offense A

§2.23 The use of rude, insulting language or other offensive or demeaning language by a supervisory officer towards a subordinate.

1st Offense F 2nd Offense E 3rd Offense A

§2.24 Fighting or quarreling with one or more other employees or a supervisory officer.

1st Offense F 2nd Offense E 3rd Offense A

§2.25 Failing to supply the Department with a current telephone number and address.

1st Offense F 2nd Offense E 3rd Offense A

§2.26 Arbitrary or abusive use of police power or arbitrary or abusive action taken under the color of the police power in personal disputes or affairs.

1st Offense A

§2.27 Failure to respond to official Department telephone calls.

1st Offense F 2nd Offense E 3rd Offense A

SECTION 3

INTOXICATION OR OTHER IMPAIRMENT

For the purpose of this Paragraph, intoxication will include the involvement of alcoholic beverages and/or narcotics.

§3.01 On duty intoxicated

1st Offense B 2nd Offense A

§3.02 Off duty, consuming alcohol in uniform without a weapon

1st Offense E 2nd Offense C 3rd Offense A

§3.03 Off duty, consuming alcohol in uniform or not, but in the possession of a Department issued weapon or unable to respond to duty because of intoxication or when on standby basis or when previously assigned to duty.

1st Offense C 2nd Offense B 3rd Offense A

§3.04 Use of any narcotic substance or any controlled drug pursuant to a doctor's order without reporting same to a supervisory officer where such drug may impair an employee's judgment or ability to operate a motor vehicle or handle implements.

1st Offense E 2nd Offense C 3rd Offense A

§3.05 Failure of any employee to report any medical condition which might render the employee unfit for assigned duty.

1st Offense F 2nd Offense E 3rd Offense A

§3.06 Consumption of alcoholic beverages while on duty or during the eight (8) hours immediately prior to scheduled duty.

1st Offense C 2nd Offense B 3rd Offense A

SECTION 4

INSUBORDINATION

§4.01 Refusal to obey legitimate orders of a supervisor, whether oral, in writing, by hand signal or other method known to both parties involved.

1st Offense E 2nd Offense C 3rd Offense A

§4.02 Giving an order knowing such to be unlawful or beyond the scope of his/her authority by a supervisory officer.

1st Offense E 2nd Offense C 3rd Offense A

§4.03 A supervisory officer shall not reprimand any employee in a degrading or defamatory manner nor shall such reprimands be done in the view of other employees except where operational or exigent circumstances require immediate action.

1st Offense F 2nd Offense E 3rd Offense C

SECTION 5

NEGLECT OF DUTY

§5.01 Failure to properly supervise subordinates, to refer Disciplinary charges, or to take other appropriate disciplinary action.

1st Offense F 2nd Offense B + Reduction in rank 3rd Offense A

§5.02 Failure to take appropriate action when necessary and/or failure to complete a written report of same at the conclusion of the employee's daily tour of duty unless specifically waived by a supervisory officer.

1st Offense F 2nd Offense E 3rd Offense A

§5.03 Inattention to duty assignment or asleep on duty.

1st Offense F 2nd Offense E 3rd Offense A

§5.04 Unauthorized absence from duty assignment.

1st Offense F 2nd Offense E 3rd Offense A

§5.05 Intentional or willful failure to comply with any lawful orders, procedures, directives, regulations, oral or written.

1st Offense E 2nd Offense D 3rd Offense A

§5.06 Negligent failure to comply with any lawful orders, procedures, directives, oral or written.

1st Offense F 2nd Offense E 3rd Offense A

§5.07 Failure to report as a witness when duly notified within reasonable time limits or when subpoenaed.

1st Offense F 2nd Offense E 3rd Offense A

§5.08 Permitting an unauthorized person in patrol car.

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1st Offense F 2nd Offense E 3rd Offense A

§5.09 Unauthorized or intentional misuse of patrol car for personal use.

1st Offense F 2nd Offense E 3rd Offense A

§5.10 Failure to give name and badge number when properly requested.

1st Offense F 2nd Offense E 3rd Offense A

§5.11 Tardiness when reporting for duty, including roll call, court appearances and duty assignments.

1st Offense F 2nd Offense E 3rd Offense D

§5.12 Appear or give testimony as a character witness for any defendant in a criminal trial or inquiry in which the Department is involved without the approval of the Chief of Police or the Chief's designate.

1st Offense F 2nd Offense E 3rd Offense A

§5.13 Willfully damaging Police Department property and/or equipment.

1st Offense B 2nd Offense A

§5.14 Willful interference with Police Radio broadcasting and tampering with Police Radio equipment.

1st Offense B 2nd Offense A

§5.15 Knowingly failing to report the revocation or suspension of one's Motor Vehicle Operator's License.

1st Offense D 2nd Offense A

§5.16 Allowing a prisoner to escape.

1st Offense E 2nd Offense C

§5.17 Failure to thoroughly search for, collect and preserve and identify evidence of persons, property and locations in any arrest or investigation.

1st Offense F 2nd Offense E 3rd Offense A

§5.18 Loss of police vehicle due to failure to remove the keys when unattended.

1st Offense A

§5.19 Failure to properly care for assigned equipment and vehicles or any Police Department property; damaging or causing damage to same due to neglect or carelessness.

1st Offense E 2nd Offense D 3rd Offense A

§5.20 Failure to take appropriate action concerning illegal activity, including vice conditions and/or to make a written report of any such incident in which the employee is involved or has knowledge.

1st Offense B 2nd Offense A

§5.21 Failure to carry out assigned duties or to follow Department orders and procedures efficiently and expeditiously.

1st Offense F 2nd Offense E 3rd Offense A

§5.22 Performing assigned duties or other official work in a careless or negligent manner or in disregard of prescribed procedures or established practice.

1st Offense F 2nd Offense E 3rd Offense A

§5.23 Failure to observe Department procedures outlining safety practices or adhere to established practices relating to safety.

1st Offense F 2nd Offense E 3rd Offense A

5.24 Intentionally depriving a prisoner or suspect of basic rights and humane treatment.

1st Offense E 2nd Offense C 3rd Offense A

5.25 Failure to adhere to Town and Department rules on reporting illness within a "reasonable time" from the on-set of the illness and other medical role procedures.

1st Offense F 2nd Offense E 3rd offense C

5.26 Willful or intentional abuse of sick time and procedures and/or leave related to compensable injuries.

1st Offense C 2nd Offense B 3rd Offense A

SECTION 6

GUIDELINES RELATING TO USE OF FORCE
AND FIREARMS DISCHARGE

§6.01 Intentional and unnecessary or excessive use of force in effecting an arrest, handling prisoners, or in the performance and execution of other official duties.

1st Offense A

§6.02 Intentional, flagrant or wanton disregard of Department Firearms Policy and Guidelines.

1st Offense A

§6.03 Inadvertent deviation from Department Firearms Policy or Guidelines, technical in nature but under exigent circumstances.

1st Offense F 2nd Offense E 3rd Offense A

§6.04 Display of a firearm in an unnecessary and/or unreasonable manner.

1st Offense F 2nd Offense E 3rd Offense A

SECTION 7

AUTHORIZED EQUIPMENT

§7.01 Carrying equipment for which the employee has not demonstrated required proficiency.

1st Offense F 2nd Offense E 3rd Offense A

§7.02 Carrying or employing equipment not specifically authorized for use by the Department.

Section 4.3

CODE OF CONDUCT

1st Offense F

2nd Offense E

3rd Offense A



EAST HAMPTON POLICE DEPARTMENT

GENERAL ORDER 3.1

RULES OF CONDUCT

SUBJECT: USE OF FORCE		
Issue Date: TBD	Effective Date: TBD	Distribution: All Personnel
Amends/Rescinds GO: 3.1 dated 5/2/2014		Review Date:
Per Order of:		
Dennis Woessner, Chief of Police		
<i>This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting</i>		

I. PURPOSE

To establish East Hampton Police Department's ("Department") guidelines and limitations concerning the appropriate and acceptable use of deadly/lethal and non-deadly/less than lethal force. East Hampton Police Department's use of force is governed by Federal and Connecticut law, including, but not limited to, the United States Constitution.

II. POLICY

It is East Hampton Police Department policy to provide clear procedures to sworn members regarding the use of lethal force in the performance of their duties. The safety of innocent persons and officers is of paramount importance.

The use of less than lethal weapons is classified as a use of force and is governed by this policy. The officers of this agency are authorized to carry less than lethal weapons so that they may successfully defend themselves and others from combative, resisting and/or violent individuals. A less than lethal weapon is not necessarily a replacement or substitute for other authorized weapons, devices, and/or techniques and therefore should be used when, in the officer's opinion, it is the best choice of weapon in a use of force situation. A less than lethal weapon is another tool that can be used at the discretion of the officer when the decision is made that the use of force is necessary and reasonable under the circumstances. As with any use of force, the officer is accountable to this agency for the use of a less than lethal weapon.

Sworn officers of the East Hampton Police Department shall use only force reasonably necessary to defend a human life, effect an arrest, or control a person. The force used by an officer shall only be that which is necessary to overcome the resistance being offered by an offender, and to effect lawful objectives. The East Hampton Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is East Hampton Police Department's policy that police officers shall use only that force that is necessary to effectively bring an incident under control, while protecting the lives of an officer or third party. The use of force policy supports the widely accepted premise and practice of progressive application of force, which simply implies the appropriate selection of force options in response to the level of compliance from the individual to be controlled. The flow of the policy's continuum must be capable of escalation or engagement and de-escalation or disengagement during a confrontation. The principle incorporated into practice is one of "functional flexibility", which includes escalation, stabilization, and de-escalation in force applications. **The East Hampton Police Department's Use of Force Continuum is attached to this General Order.**

All sworn personnel must be issued copies of, and instructed in, the Department's Use of Force procedure before carrying any firearm or other police weapon.

III. LAW

This Department's use of force policy is based on certain state statutes, which are included in this policy for reference purposes. Employees must be aware of prohibitions and restrictions in this policy that place a higher standard on the use of force than are contained in state statute.

Connecticut General Statute § 53a-22:

"A peace officer need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest. He is justified in the use of any force which he **reasonably believes** to be necessary to defend himself or another from the use or imminent use of physical force while making the arrest. However, he is justified in using Deadly Physical Force only when he **reasonably believes** that such force is necessary to defend himself or a third person from the use or imminent use of deadly physical force, or effect an arrest or prevent the escape from custody of a person whom he reasonably believes has committed or attempted to commit a felony which involved the infliction or threatened infliction of serious physical injury or death and if, where feasible, he has given warning of his intent to use deadly physical force.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid."

IV. DEFINITIONS

Actively Resisting: When a subject makes physically evasive movements to interfere with an officer's attempt to control that subject; including bracing, tensing, pulling away, or pushing.

Authorized Weapons: officers are allowed to carry weapons that meet Department specifications and for which officers successfully complete proficiency and safety training.

Conducted Energy Device: An incapacitating, intermediate weapon used for subduing a person by administering an electric shock for the purpose of disrupting superficial muscle functions. This is an intermediate weapon and is classified as non-deadly. The weapon should only be used when an officer is met with a certain degree of resistance or aggression through either actions or words.

Critical Firearm Discharge: A discharge of a firearm by an East Hampton PD officer to the extent such discharges is authorized under this policy (cross reference to Firearms Policy.) Range and training discharges, and discharges at animals are not included under this section.

Deadly / Lethal Force: Any physical force that can reasonably be expected to cause death or serious physical injury. Officers must understand that deadly physical force is an extreme measure and should only be used in accordance with the law and as stated in this Policy.

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

Soft Hand Control: The use of physical strength and skill in defensive tactics to control arrestees who are reluctant to be taken into custody, and offer some degree of physical resistance. Such techniques are not impact oriented and include: pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.

Hard Hand Control: Impact oriented techniques that include: knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).

Defensive strikes are used by officers to protect themselves from attack and may include strikes to other areas of the body, including the abdomen or head. Techniques in this category include pressure point controls, stunning or striking actions delivered to a subject's body with the hand, fist, forearm, legs, or feet.

These techniques target the major muscle groups and are delivered to create muscle cramping, thereby inhibiting muscle action and allowing the officer to subdue the subject. In extreme cases of self-defense, the officer may need to strike more fragile areas of the body where the potential for injury is greater. The use of neck restraints, chokeholds, or other similar weaponless control techniques, however, are prohibited unless the use of deadly force is authorized.

Force: Any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of a firearm, use of chemical spray, chokeholds or hard hands, taking of a subject to the ground, or the deployment of a canine. The term does not include escorting or handcuffing a person with minimal or no resistance. Use of force is lawful if it is **objectively reasonable** under the circumstances, and the minimum amount of force that is necessary to effect an arrest, or protect the officer or other person, is used.

Great Bodily Harm: Serious bodily injury that creates a substantial risk of death, causes serious or permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

Imminent Threat: An officer's reasonable perception of impending danger, death, or serious injury from any action or outcome that may occur during an encounter. A subject may pose an imminent or impending danger even if he or she is not pointing a weapon at the officer but has, for example, a weapon within reach, is running for cover carrying a weapon, or running to a place where the officer has reason to believe a weapon is available.

Impact Weapons: Department approved tools that provide a method for gaining control of a subject when lethal force is not justified, but when empty-hand control techniques are not sufficient to effect control.

Non-Deadly / Less Lethal Force: Any force used by an officer that would not reasonably be expected to cause death.

Level of Control: The amount of force that an officer uses to gain control over a subject.

Level of Resistance: The amount of force used by a subject to resist compliance with the lawful order or action of an officer.

Non-Verbal and Verbal Non-Compliance: When a subject expresses his/her intentions not to comply with an officer's directive through verbal and non-verbal means. An officer may encounter statements ranging from pleading to physical threats. Such statements may also include physical gestures, stances, and subconscious mannerisms.

Objectively Reasonable Force: The degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. (See, *Graham v. Connor*, 490 US 388 (1989).) In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to, the seriousness of the crime or suspected offense; the level of threat or resistance presented by the subject; the risk or apparent attempt by the subject to escape; and whether the subject was posing an imminent threat to officers or others.

Oleoresin Capsicum (OC) Spray: A chemical compound that irritates the eyes to cause tears, pain, and even temporary blindness. It is an intermediate weapon that is classified as being non-deadly. It should only be used, however, when an officer is met with a certain degree of resistance or aggression through either actions or words.

Passive Resistance: When a subject does not cooperate with an officer's commands, but does not take action to prevent being taken into custody. For example, a protestor who lies down in front of a doorway and must be carried away upon arrest.

Serious Physical Injury: A bodily injury that creates a substantial risk of death, serious permanent disfigurement, or results in long-term loss or impairment of the function of any bodily member or organ.

Verbal Commands: The use of advice, persuasion, and/or warnings prior to resorting to actual physical force. In an arrest situation officers shall, when feasible, give the arrestee simple directions with which the arrestee is encouraged to comply. Verbal commands are the most desirable method of dealing with an arrest situation.

V. PROCEDURES

A. Use of Force - Authorization and Limitations

Members of the Department are authorized to use only the amount of force necessary to accomplish lawful objectives. Force may be used:

1. To effect an arrest or prevent the escape from custody of a person whom the officer reasonably believes has committed an offense.
2. To defend the officer or others from the use, or imminent use, of physical force.
3. To take persons into protective custody when authorized by law, such as persons who are a danger to themselves or others, persons incapacitated by alcohol, and/or runaway children.

4. To prevent someone from committing suicide or inflicting serious physical injury upon themselves.
5. To assist a licensed physician or psychologist in providing necessary medical treatment.
6. To control a situation, and to overcome passive or active resistance to a lawful order.
7. To neutralize an unlawful assault and defend themselves or others from harm.

The authorized use of physical force ends when resistance ceases and/or the officer has accomplished the purpose necessitating the use of force. Justification for the use of force is limited to the facts known or perceived by the officer at the time such force is used, including levels of resistance, suspect's behavioral cues, the number of officers and/or offenders present, and the availability of other options.

Force shall never be used to subject a person to torture and/or other cruel or inhumane or degrading treatment or punishment.

B. Verbal Warning

When tactically feasible, an officer will identify him/herself as a police officer and issue verbal commands and warnings prior to the use of force. When feasible, an officer will allow the subject an opportunity to comply with the officer's verbal commands. A verbal warning is not required in circumstances where the officer has to make a split-second decision, or if the officer reasonably believes that issuing the warning would place the safety of the officer or others in jeopardy.

C. Use of Deadly Force in Defense of Human Life

An officer is justified in using deadly physical force only when he or she reasonably believes such force is necessary to:

1. Defend the officer, or a third person, from the imminent threat of death or serious bodily injury.
2. Effect an arrest or prevent the escape from custody of a person whom they reasonably believe has committed, or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury; AND the officer

reasonably believes this person still poses a significant threat of death or serious physical injury to the officer or other persons.

See, Tennessee v. Garner, 471 U.S.1, 85 (1985.): The United States Supreme Court ruled that the use of deadly force to prevent the escape of a suspected felon violates the Fourth Amendment prohibition against

unreasonable seizure if used against an apparently unarmed, non-violent suspect (the case involved a burglary suspect). The Supreme Court further stated that deadly force may be used against an offender who has attempted or committed an offense involving the infliction or threatened infliction of great bodily harm. **Deadly force may not be used against an unarmed, non-violent, property crime offender.** The United States Supreme Court decision went on to state that when an officer is justified in the use of deadly force he will, **if feasible**, first give a verbal warning. (Example: "Police Officer, Halt").

3. To prevent a suspect's escape when there exists no reasonable alternative to apprehend the suspect. Where feasible, the officer should give warning of the intent to use deadly physical force.

D. Deadly Force Restrictions

1. Chokehold Prohibitions

A prohibition against the intentional use of a chokehold or other method of restraint applied to the neck area of another person, including but not limited to:

- A. Arm bar hold
- B. Carotid artery hold
- C. Lateral vascular neck restraint
- D. Neck restraint or hold with a knee or other object is prohibited

The use of a chokehold or neck restraint may only be used when the use of deadly physical force is authorized

2. Warning Shots Prohibited

Officers are prohibited from discharging their firearms as a means of warning or frightening a person.

3. Shooting at or from Moving Vehicles

Officers are prohibited from discharging their firearms at or from a moving vehicle, motorcycle, or bicycle (collectively, "moving vehicle") unless officers reasonably believe deadly force is necessary to defend the officer or a third person from the use, or imminent use, or deadly force. For purposes of this policy, officers will not discharge their firearms at moving vehicles except under extreme circumstances. Such discharges will be rigorously scrutinized. Officers shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them. When confronted with an oncoming, moving

vehicle, Officers must attempt to move out of its path and should generally avoid placing themselves in situations where the use of deadly force is more likely.

4. Risk to Innocent Bystanders

When officers are about to discharge their firearms they should be aware of their field of fire, including the backstop, so as to not unnecessarily create a substantial risk of harm to innocent persons. Officers are prohibited from discharging their firearms when, based on the totality of the circumstances, discharging a firearm would constitute a greater risk to innocent human life than the subject's actions. (i.e. discharging a firearm into a crowd, or shooting into a building or through a wall, where the subject is not clearly identified and it is unknown if there are other occupants present.)

5. Drawing and Brandishing Weapons

Officers are prohibited from drawing and pointing their firearms at or in the direction of a person absent an objectively reasonable determination that the situation may escalate to the point where deadly force would be authorized under this policy. When it is determined that the use of deadly force is not necessary, officers shall, as soon as practicable, secure or holster their firearms. It is the rule of this department that drawing a firearm and pointing it at a target is considered a use of force.

6. Use of Firearm to Destroy Animals

Officers may use deadly force against an animal that represents a threat to public safety, or as a humanitarian measure where the animal poses a danger to public safety or to the officers' safety, or where the animal is seriously injured after the officers have received authorization from the animal's owner (to the extent practicable) and the officers supervisor.

7. Use of Department Weapons for Training and Other Purposes

Officers may discharge their firearms for the purpose of practice, firearms training, when on the police range or other established shooting ranges, or when authorized by the Chief of Police to participate in law enforcement competition events.

8. Use of Firearms While Under the Influence of Alcohol and/or Drugs

Officers shall not carry or use any firearms or weapons while impaired by alcohol, drugs, or any other medical condition that might interfere with their judgment or proficiency.

9. Security, Storage, and Safe Handling of Firearms

Officers shall be trained in accordance with Department guidelines, and shall obey all safety rules when handling any firearm or any other weapon. No person other than EHPD Police Officers shall be permitted access to any department-owned firearm, with the exception of: police officers from other jurisdictions in the official performance of their duty; for repair or maintenance as approved by the department; or other circumstances with the express permission of the Chief of Police.

Officers will secure and store firearms, both on and off duty, in such a way as to ensure that no unauthorized person will have access to or gain control over the firearm. All Department firearms kept at home must be secured in a safe place inaccessible to family members, especially children.

Whenever an officer is in the Department and removes his/her handgun or other weapon, the item must not be left in the open and must be secured so that it is not readily accessible to civilians, suspects, victims, or witnesses.

E. Use of Non-Deadly Force

Officers shall only use weapons and control techniques that are issued and/or approved for use by the Department. The use of non-deadly force shall be limited to defensive and control purposes. Officers shall use only the reasonable amount of force necessary to overcome resistance or accomplish the police task. The use of non-deadly force shall conform to applicable Department Standards of Conduct, policies, procedures, and training. Officers shall not carry any less lethal weapons, or employ any non-deadly techniques, prior to successfully completing the relevant Department approved training for each weapon or technique.

1. Authorization to Use Non-deadly/ Less Lethal Force

Officers are authorized to use Department approved, less lethal force techniques and authorized weapons to:

- a. Prevent the escape from custody, or to effect a lawful arrest, of a person whom the officer reasonably believes has committed an offense; or
- b. Protect or defend the officer or others from what he/she reasonably believes to be active resistance while effecting or attempting to effect an arrest, or while preventing or attempting to prevent an escape.

NOTE: Nothing in this policy is intended to discourage officers from using a higher level of force whenever such force is necessary and objectively reasonable under the circumstances.

2. Non-Deadly Force Restrictions

The following tactics of non-deadly force may be permitted in circumstances only when deadly force is authorized by this policy:

- a. Any chokeholds or neck restraints, with or without a device, that restricts a person's airway;
- b. Any strike with an impact weapon or object to a person's head or neck; and/or
- c. Any use of flashlights, radios or any other items not issued or trained specifically as defensive weapons.

In limited circumstances when a confrontation escalates suddenly, however, an officer may use any means or device at hand such as a flashlight, radio and other issued equipment, to defend him/herself, as long as the level of defensive action is objectively reasonable given the existing circumstances.

3. Impact Weapons

Authorized impact weapons may be used only when an officer is confronted with occurring or imminent active aggression against him/herself or another person. (Refer to Policy 3.4 for specifics regarding the authorized use of an Impact Weapon.)

- a. The use of a baton or similar instrument to strike a blow to a subject's arms or legs will be considered use of non-deadly force. The use of any such items to intentionally strike a subjects head or neck is prohibited except where deadly force is authorized by this policy.

4. Oleoresin Capsicum (OC Spray)

Authorized OC spray is an alternative to physical control techniques and the use of other intermediate weapons. As with any other use of force, however, OC spray must not be used indiscriminately or without just cause. Officers must be able to articulate the reason(s) the subject was sprayed with OC spray.

OC spray shall be utilized as issued and authorized to prevent injury to the subject(s), officers and others. (Refer to Policy 3.3 for specifics regarding the authorized use of a Chemical Agent.)

5. Electronic Control Weapon

An Electronic Control Device (i.e., TASER®) is authorized for use when other less lethal options have been ineffective, or when it reasonably appears that such options will be ineffective in subduing the subject. Electronic Control Weapons

shall only be used in situations where the subject is actively resisting or attempting to avoid arrest by escape and poses an imminent threat to the safety of him/herself, another person, or the officer. (Refer to Policy 3.2 for specifics regarding the authorized use of an electronic control weapon.)

F. Officer's Obligation to Stop and Report Excessive Force

1. Any officer who directly observes a use of force incident that is unreasonable, excessive or otherwise in violation with the departments Use of Force General Order and/or a violation of state or federal statute (illegal), shall contact a supervisor as soon as practicable;
2. Officer's will act to intervene and stop the unreasonable, excessive, or illegal use of force by another police officer;
3. Officers who have knowledge of excessive force, unreasonable, or illegal use of force against a person shall notify a supervisor and submit a written incident report to a supervisor in a timely fashion; and
4. There is a prohibition against retaliation for any officer that intervenes against excessive use of force, reports misconduct, or cooperates in an internal investigation

G. Training and Qualifications

In addition to training required for firearms qualification (cross reference to the Firearms Policy, G.O. 3.7), officers shall receive Department authorized training designed to simulate actual situations and conditions and, as otherwise necessary, to enhance officers' discretion and judgment in using deadly and less lethal force in accordance with this policy. In addition, officers shall be trained on the use of force continuum.

1. All officers shall, at least annually, receive in-service training in the Department's Use of Force Policy and related case law updates.
2. All officers initially qualified in the use of firearms, impact weapons, OC spray, electronic control device and control techniques shall, at least once every year ~~every two years~~ re-qualify on such weapons or techniques under the instruction of a certified instructor. The initial and subsequent follow up training of the devices being carried (Taser, baton or OC) shall follow the recommendations of the manufacturer and at all times be in accordance with the standards set by the Police Officer Standards and Training Council.
3. Training and proficiency results for any authorized weapon will be documented in the training files.
4. All officers who fail to demonstrate the required proficiency with Department issued weapons shall receive remedial training. Remedial instruction for

Department issued firearms shall follow the Department's Firearms Policy.
(cross reference to Firearms Policy)

5. An officer failing to demonstrate proficiency with a weapon shall not return to duty with that weapon until such time as proficiency is demonstrated and documented.
6. Only officers demonstrating proficiency in the use of Department authorized weapons shall be approved to carry such weapons. (cross reference to Firearms Policy, G.O. 3.7, and any other relevant training policies)

H. Provide Medical Aid

Any time a person has visible injuries or complains of being injured as a result of force used against him/her by an officer, the officer must take appropriate actions to provide medical care for the injured person. This includes providing first aid, requesting emergency medical services, and/or arranging for other transportation to a hospital or emergency medical facility.

Officers shall be trained in proper treatment procedures for persons exposed to chemical sprays and the effects of other less-than-lethal force. If the person is offered and/or refuses treatment, this refusal shall be recorded in the police report, along with all relevant information. In addition, the officer will also notify the Shift Commander as

soon as practical. If warranted, the Shift Commander will arrange to have photographs taken of the person's injuries which will be attached to the police report.

I. Use of Force Reporting

The Department shall establish a use of force reporting system that allows for the effective review and analysis of all department use of force incidents. The reporting system shall be designed to help identify trends, improve training and officer safety, and provide timely and accurate information to the department. Employees shall complete a departmental **Use of Force Report Control Form** whenever they:

- Discharge a firearm for other than training or recreational purposes. This includes the use of a firearm to destroy a sick, injured, or vicious animal.
- Take an action that results in, or is alleged to have resulted in, injury to or the death of another person.
- Apply or show lethal-force, or apply less-than-lethal-force, including OC Spray, Electronic Control Weapon, and baton, etc. This requirement shall not apply when an officer simply draws or transports any weapon while on scene.
- Use a weaponless (compliance and control) technique or a restraining

device resulting in injury requiring medical attention

1. Employee's Responsibilities

- a. When an employee finds it necessary to use force to effect an arrest, or for any other law enforcement purpose, whether on duty or off-duty, that officer shall:
 - Notify a Supervisor of the particulars as soon as circumstances allow in those cases which require a *Use of Force Report Control Form*
 - Complete a *Use of Force Report Control Form*, which shall include all other employees involved in or witnessing the incident
- b. All Use of Force ~~forms and reports~~ *Control Reports* must be completed and forwarded to the Shift Sergeant, or designee, as soon as practical after the incident, but no later than 48 hours after the incident. However, when special circumstances exist, such as those incidents resulting in the death or serious injury of a person, the Chief of Police may grant an extension, on a case-by-case basis, and assign an alternate date and time for use of force reports to be completed and submitted.

2. Shift Sergeant's Responsibilities

- a. When a reportable use of force incident occurs, the Shift Sergeant, or designee, has the primary responsibility to make certain that all necessary ~~reports~~ *Suspect Resistance Reports* are properly completed, reviewed for accuracy, and submitted as required by officers under their command. The Supervisor will sign the report and forward it to the Chief of Police.
- b. If the use of force involves an employee who did not report to a Patrol Supervisor at that time, the employee's Unit Supervisor shall review and sign the Supervisory portion of the report. Supervisors involved in a use of force incident will forward the ~~reports~~ *Use of Force Control Form* to the next level of command not involved in the incident.
- c. When an on-duty or off-duty employee has been involved in a use of force incident, which has resulted in death or serious injury to any person, the Shift Commander will immediately report the incident to the Chief of Police, via the chain of command. This also includes those cases where any firearm is accidentally or purposefully discharged which results in injury or death to any person.

3. ~~Training~~ *Administrative* Sergeant

The ~~Training~~ *Administrative* Sergeant will review all use of force reports the ~~Use of Force Control Form~~ to determine:

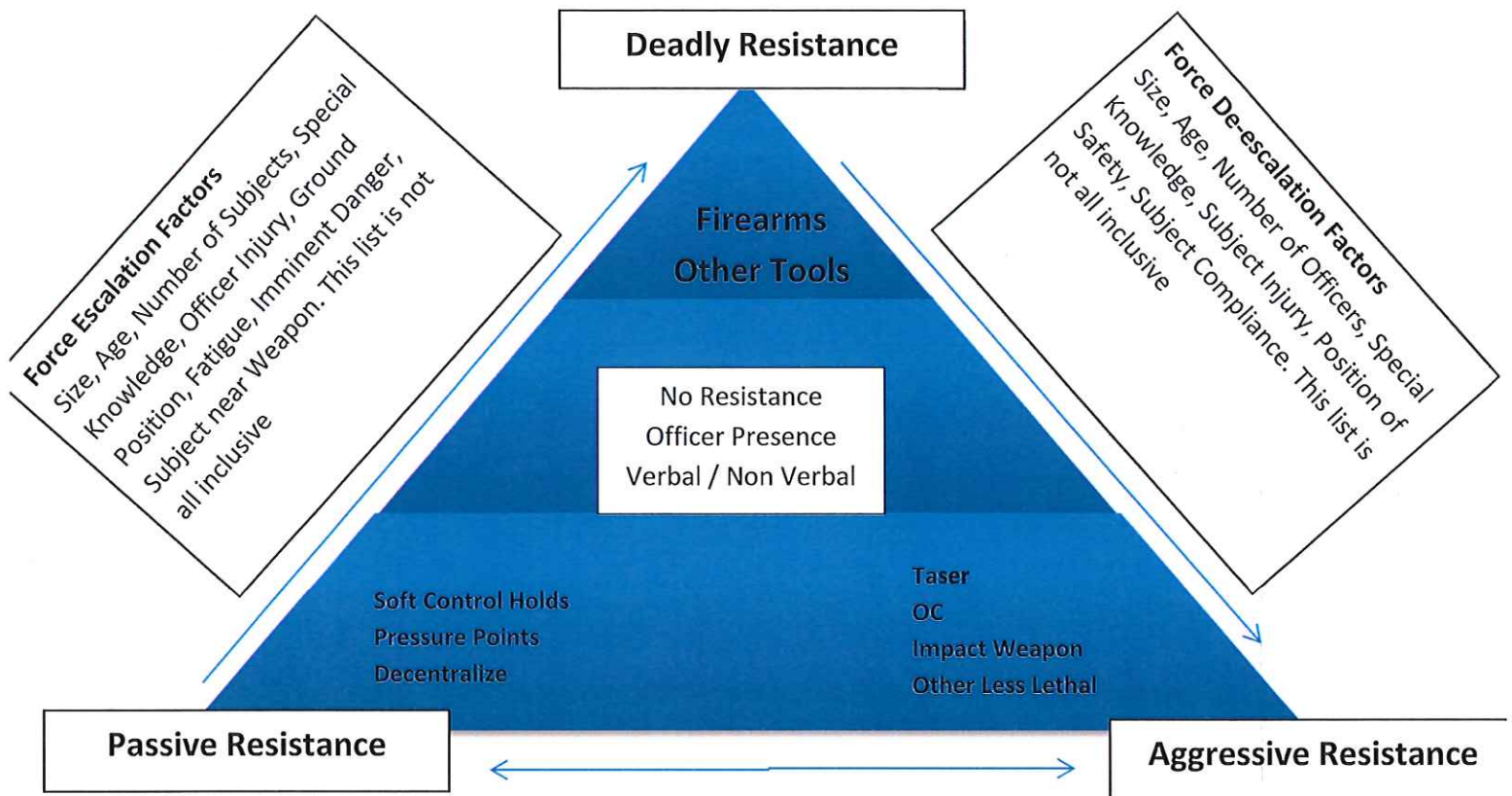
- a. Whether the action was consistent with policy and procedure
- b. Whether the action warrants further administrative review/investigation
- c. Recommendations on equipment upgrades, training, and/or policy issues, if applicable

The **Training Administrative** Sergeant may confer with Department instructors/trainers who specialize in the field of force used, as needed. The Chief of Police will be informed about any incident that may not be consistent with policy and procedure or indicates the action warrants further administrative review/investigation.

- J. For the purpose of this General Order the following lethal and less lethal devices are authorized to be carried by members of this department, while on-duty, unless otherwise specifically authorized by the Chief of Police:
- i. Glock .45 Caliber pistols (Model 21 or 30)
 - ii. Bushmaster or Colt AR style rifles .223 caliber
 - iii. Remington 12-gauge shotguns
 - iv. Taser X26P
 - v. ASP batons
 - vi. Guardian OC spray

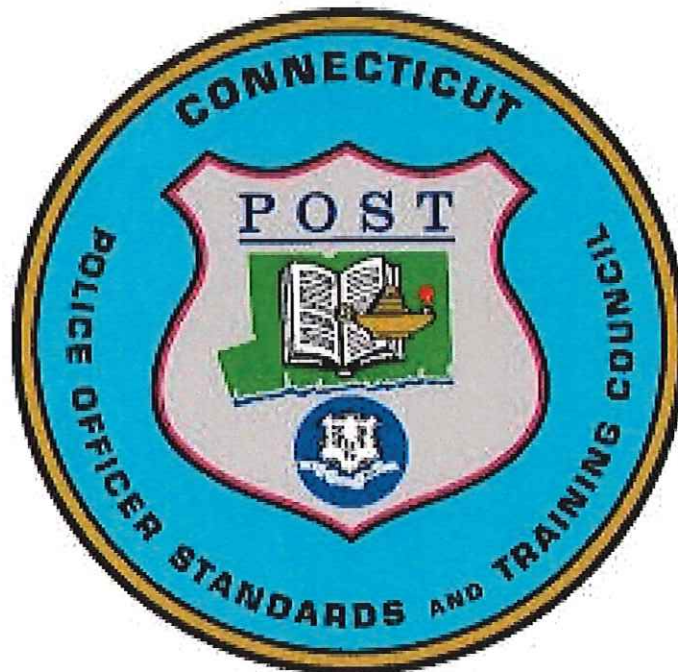
East Hampton Police Department

Use of Force Matrix



- * Officer's will make their force decisions based on their training and experience
- * Officer's will cease all use of force when they have achieved control of the subject
- * Officer's will attempt to de-escalate all use of force using various means to include verbal discourse, body position / making space
- * Officer's will move up and down the force matrix based on the behavior of the subject and their perception of incident control

Police Officer Standards and Training Council



Compliance to Law Enforcement Standards and Practices (CLESP) Program

(Minimum Standards)

June 12, 2020

1. *The agency has a policy concerning governing bias based policing and, at a minimum, includes the following provisions:*
 - a) *A prohibition against bias based policing in traffic contacts, field contacts and in asset seizure and forfeiture efforts; and*
 - b) *Training agency personnel in bias-based policing issues including legal aspects; and*
 - c) *Assuring all traffic stop data is collected and transmitted for analysis as required by law; and*
 - d) *Assuring that officers distribute the appropriate notice to the operator; and*
 - e) *Reporting complaints from motorists related to perceived profiling as required by law.*

Guidance: Refer to CGS 54-1m

2. *The agency has a policy concerning complaints that allege misconduct by law enforcement officers which meets or exceeds the minimum standards as required by the POST-C Model Policy and makes the policy available on the agency website and another municipal building.*

Guidance: Refer to POST General Notice 15-03 and the State Model Policy.

3. *The agency has a policy concerning pursuit of motor vehicles which meets or exceeds the minimum standards as required by the Uniform Statewide Pursuit Policy..*

Guidance: Refer to CGS 14-283a.

4. *The agency has a policy concerning procedures for handling missing persons which meets or exceeds the minimum standards as required by the POST-C Model Policy.*

Guidance: Refer to POST-C General Notices 11-01 & 12-06

5. *The agency has a policy concerning the response to family violence policy which meets or exceeds the minimum standards as required by C.G.S. 46b-38b.*

Guidance: Refer to POST-C General Notice 17-05 and POST-C General Notice 10-05

6. *The agency complies with all Police Officer Standards and Training Council (POST-C) requirements for selection and testing of police officers.*

7. *If the agency utilizes body worn recording systems, the agency has a policy which meets or exceeds the minimum standards as required by the POSTC Model Policy.*

Guidance: Refer to POST-C General Notice 15-05 and Model Policy.

8. *The agency has a policy concerning Eyewitness Identification Procedures which meets or exceeds the minimum standards as required by the POST-C Mandatory Policy.*

Guidance: Refer to POST-General Notice 12-08 and Model Policy

9. *The agency has a policy concerning Notifications in Death and Related Events in which meets or exceeds the minimum standards as required by the POST-C Mandatory Policy.*

Guidance: Refer to POST-C General Notice 08-01

10. *The agency has developed and implemented guidelines for the recruitment, retention and promotion of minority police officers as defined in section 7-291a of the general statutes. Such guidelines shall promote achieving the goal of racial, gender and ethnic diversity within the law enforcement unit.*

Guidance: Refer to CGS 7-291b

11. *The agency provides mandatory training regarding the handling of incidents involving individuals affected with a serious mental illness as part of the agency's review training program.*

Guidance: Although the state legislature did not define "Serious mental illness", generally accepted serious mental illness include, but are not limited to: Schizophrenia, Paranoia and other psychotic disorders, Bipolar disorders (hypo manic, manic, depressive and mixed; Major disorders, Attention-deficit/Hyperactivity disorders (ADD/ADHD), Autism Spectrum disorders, Alzheimer's Dementia disorders, etc..

Guidance: Refer to POST-C General Notice 15-01

12. *The agency has a policy concerning response to sexual assault complaints which meets or exceeds the minimum standards as required state statute.*

Guidance: The policy should include the statement that sexual assault victims' names shall not be released to the public or press. Refer to CGS 54-86e.

13. *The agency has a policy concerning the use of electronic defense weapons that meets or exceeds the minimum standards as required by the POST Model Policy.*

Guidance: Refer to POST-C General Notice 14-02 and Model Policy

14. *The agency complies with annual reporting requirements for Juveniles In Custody.*

Guidance: The Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP), assists states in efforts to prevent and control juvenile delinquency, provide proper and adequate treatment for troubled youth, and improve the juvenile justice system. To achieve these goals, the JJDP has established certain core protections (mandates) with which the states must demonstrate compliance in order to be eligible for federal funding under the JJDP Formula Grants Program. As part of this process, participating states are required to maintain a comprehensive statewide compliance monitoring system that inspects facilities, collects essential data and reports annually to the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) on the extent of compliance with the following three mandates: *Deinstitutionalization of Status Offenders (DSO)*. The JJDP provides for status offenders,

civil-type offenders, and non-offenders not to be detained or confined in secure detention or correctional facilities.

Separation of Juveniles from Adult Offenders in Secure Facilities (Separation)

The JJDPa provides for juvenile offenders, status offenders and non-offenders not to be detained or confined in any institution in which they have contact with adult inmates.

Removal of Juveniles from Adult Jails and Lockups (Jail Removal)

The JJDPa provides for all juveniles not to be detained or confined in any jail or lockup for adults.

The Office of Policy and Management is the state agency responsible for maintaining the compliance monitoring system in Connecticut. All facilities in the state (both public and private) that have the potential to hold juveniles pursuant to public authority fall within the purview of the monitoring universe. This includes local and state police lockups, juvenile detention and correctional facilities, court facilities, adult jails and prisons, mental health hospitals and institutions, and all other public and private juvenile placement and residential facilities. Annually, data is collected from all such facilities. A minimum of 10% of the facilities must be on-site inspected each year for verification and 100% of all the facilities must have an on-site inspection once every 3 years.

15. *The agency complies with the required mandatory training in Human Trafficking.*

Guidance: Refer to Public Act 17-32

16. *The agency has a policy concerning the use of force including deadly force that complies with current state and federal law. The use of force policy must explicitly address a law enforcement officer's duty to intervene and report unreasonable, excessive, and/or illegal use of force. The policy shall include the following provisions:*

- a) *A guideline, use of force response matrix or other continuum where an individual/suspect/offender's actions dictate responsive use of force levels;*
- b) *A requirement that officers deploy de-escalation/calming strategies and/or verbal warnings prior to the use of force when feasible;*
- c) *A prohibition against the intentional use of a chokehold or other method of restraint applied to the neck area of another person, including but not limited to, (1). Arm bar hold, (2). Carotid artery hold, (3). Lateral vascular neck restraint, (4). Neck restraint or hold with a knee or other object is prohibited. The use of a choke hold or neck restraint may only be used when the use of deadly physical force is authorized.*
- d) *A listing of the lethal and less lethal weapons authorized by the agency;*
- e) *A mandate that officers receive and are trained in the policy prior to*

- carrying any lethal or less lethal weapons;*
- f) Describes the initial training and in-service training requirements for all weapons;*
 - g) A requirement that an officer who directly observes a use of force that is unreasonable, excessive or otherwise in violation with the agency's use of force policy and/or a violation of state or federal statute (illegal), shall contact a supervisor as soon as practicable;*
 - h) A requirement that an officer will act to intervene and stop the unreasonable, excessive, or illegal use of force by another police officer;*
 - i) A requirement that officers who have knowledge of excessive, unreasonable, or illegal use of force against a person shall notify a supervisor and submit a written incident report to a supervisor in a timely fashion; and*
 - j) A prohibition against retaliation for any officer that intervenes against excessive use of force, reports misconduct, or cooperates in an internal investigation.*



August 5, 2020

To: The East Hampton Town Council,

The documentation for the tax refunds listed below is available in the Office of the Collector of Revenue for your review. There are eleven (11) refunds totaling \$1,533.97.

Respectfully Submitted,

Kristy L. Merrifield, CCMC
Collector of Revenue

156.36 ☒
162.27 ☒
47.92 ☒
741.34 ☒
80.47 ☒
157.42 ☒
21.21 ☒
75.39 ☒
13.59 ☒
19.99 ☒
38.01 ☒

011

1,533.97 ☒