

Ban Chokeholds and Strangleholds



Introduction

Campaign Zero's 8 Can't Wait initiative recommends that police departments restrict officers from using chokeholds or strangleholds on individuals, as use of these techniques may lead to "unnecessary death or serious injury."⁸¹

Neck restraints generally fall into two categories: vascular and respiratory.⁸² Vascular neck restraints affect blood flow and are colloquially referred to as "strangleholds," while respiratory neck restraints affect air intake and are referred to as "chokeholds."⁸³ According to APD, chokeholds and strangleholds are not part of APD training curriculum and are not approved tactics for restraining or arresting an individual.⁸⁴

In a memo to the Mayor of Austin and City Council on July 8, 2020, APD's Chief of Police stated that, as of June 11, 2020, APD's General Orders were updated to "explicitly ban the use of such techniques."⁸⁵ The revisions that APD's Chief of Police was referring to went into effect on July 3, 2020.⁸⁶ Furthermore, APD's policy does not explicitly ban these techniques.⁸⁷ Rather, using equivocal language, it limits the use of chokeholds and strangleholds to situations in which deadly force would be authorized.⁸⁸

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Policy review findings

Terms are not defined

There are terms and maneuvers referenced in the current policy that are not defined. The purpose of the General Orders is to make officers aware of their responsibilities, and to make the public aware of APD officers' responsibilities. As a result, it is important to define key terms that are not commonly known or that have specific meaning within this context.

Here, there are six terms left undefined: vascular neck restraint, carotid neck restraint, stranglehold, chokehold, pressure, and reasonably likely.⁸⁹ While officers and the public may be familiar with these terms, their technical meanings may not be commonly understood, and each term has a specific meaning in this context.

To improve clarity, the term "reasonably likely" should be removed, and the remaining five terms should be defined. In addition, the General Orders should explicitly list and define "respiratory neck restraints" to clearly demonstrate that the policy applies to both the respiratory and vascular categories of neck restraints.

The policy's scope is too narrow

Another issue with APD's current policy is that it is too narrow in scope. On the topic of respiratory restraints, APD's policy only restricts actions that "apply direct or indirect pressure to an individual's throat, windpipe or airway in a manner that is reasonably likely to prevent, reduce, or hinder the intake of air..."⁹⁰ This wording excludes a wide range of conduct, including those actions that, even if not actually executed in a manner that is "reasonably likely" to impact air intake, are intended to do so.

In addition, including language like "reasonably likely" invites an inquiry into the technicalities of how a maneuver was performed and the amount of pressure used. Based on Council's goals and the policy of the City of Austin as outlined in Resolution 95, these kinds of inquiries do not matter. The purpose of Resolution 95 is to unequivocally ban APD's use of chokeholds as a policing tactic, and it broadly defines them to include not only all maneuvers that involve choking or cutting off blood flow, but also all maneuvers that involve holding the neck in general.⁹¹ In light of Resolution 95, the fact that the determination of whether APD's chokehold policy was violated is solely based on whether the maneuver was performed in a manner making it reasonably likely that air intake or blood flow would be affected contradicts both the intent and letter of the Resolution.⁹²

APD has said that it does not train officers on the use of neck restraints.⁹³ As a result, it is possible that subject officers being investigated for using a neck restraint will not have received relevant training. It is similarly possible that the Internal Affairs investigators reviewing the incident will not have received training on the use of neck restraints. It does not make sense to maintain a policy standard that invites an inquiry into the technicalities of how a neck restraint was performed when APD does not train on these maneuvers.

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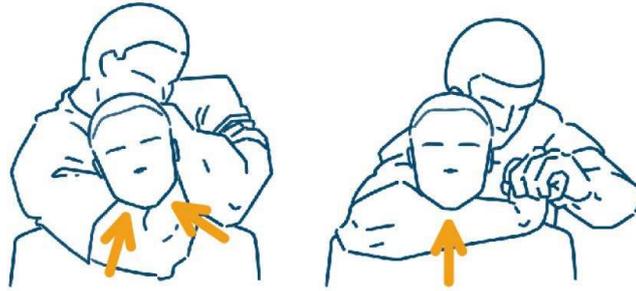


Image 1: Visual Depiction of Carotid Neck Restraint (left) and Chokehold (right).⁹⁴

The question of whether pressure was applied in a manner “reasonably likely” to impair air intake or blood flow also requires some threshold determination about how much pressure is needed before such a risk is realistic. As it applies to respiratory restraints, “[t]here is no way to determine the amount of pressure needed not to cause airway injury. The potential for injury exists whenever pressure is applied.”⁹⁵ Furthermore, even if there were a threshold amount of pressure, an investigator would not be able to determine the level of pressure used in a given incident. As a result, it would be best for policy language to involve a simpler inquiry with clearer, more objective standards.

The current policy language also fails to consider whether the effects of a vascular or respiratory neck restraint can be achieved without the application of “pressure.” While APD policy does not define “pressure,” the common meaning of the word relates to the use of physical force by one thing against another.⁹⁶ While vascular and respiratory functions can certainly be impacted by the use of physical force, the policy should also account for other scenarios where force may not be used but where these types of functions are also impaired (e.g. blocking someone’s nose or mouth).

Directives are inconsistent

APD’s current policy only addresses intent in the subsection related to vascular neck restraints.⁹⁷ The subsection on respiratory neck restraints does not address the subject of intent.⁹⁸ It is unclear why intent would only be a factor for one type of neck restraint and not the other. Intent should be considered for both respiratory and vascular neck restraints.

Chokeholds and strangleholds are not categorically banned

While APD has stated otherwise, APD’s current policy does not explicitly ban the use of neck restraints.⁹⁹ Rather, the policy prohibits the use of vascular neck restraints, carotid neck restraints, and strangleholds except where deadly force would be authorized.¹⁰⁰ In other words, APD policy allows for the use of these maneuvers in some situations. APD’s position that neck restraints are an acceptable tactic in certain circumstances is further demonstrated by the language of General Order 200.3(d), which allows officers to improvise when they “...reasonably believe that it would be impracticable or ineffective to use a standard tool, weapon, or method provided by the APD.”¹⁰¹

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The use of neck restraints as a policing tactic is inherently dangerous to both officers and the individuals being restrained.¹⁰² Importantly, using chokeholds and strangleholds requires officers to engage in close-quarter hand-to-hand combat, which can put officers in danger.

During a chokehold, pressure applied with the forearm causes the individual's airway to collapse and, as a result, can cause fractures to important structures like the laryngeal cartilage or hyoid bone.¹⁰³

Moreover, “[a]s with a drowning swimmer, the procedure sometimes precipitates resistance as the person fights for air.”¹⁰⁴

During a stranglehold, pressure applied to the individual's neck can cause them to lose consciousness and go limp within seconds.¹⁰⁵ Serious medical consequences can occur both at the onset and period following loss of consciousness.¹⁰⁶ Indeed, even in controlled training situations, police officers have developed stroke symptoms after being restrained with a stranglehold.¹⁰⁷ Unlike in roleplay scenarios that are used during training, when officers use a chokehold or stranglehold in real life, the environment is not controlled. As Image 1 demonstrates, there is very little difference in how one's arms are positioned in a stranglehold (carotid neck restraint) versus a chokehold. As a result, “[w]hen there is a restraint happening, what could start as a carotid take-down could end up with a bar-arm chokehold, or vice versa, because it's a dynamic process where the suspect is trying to escape the restraint and the police officer is supplying the restraint, and there are other factors, which could play a role in the suspect's actions.”¹⁰⁸ In other words, “[t]he dynamic fact that the person is struggling could result in pressure being applied in different parts of the neck even if it's not intended to by the officer.”¹⁰⁹

The dangers of using these maneuvers are increased when officers do not receive frequent training on how to perform them properly.¹¹⁰ In order to align with Resolution 95 and the City's policy that chokeholds and strangleholds be strictly prohibited as a policing tactic, APD policy should be revised to categorically ban their use in all situations.¹¹¹

Current APD policies relevant to chokeholds and strangleholds

The following APD General Orders chapters are relevant to neck restraints:

- 200.1.2 Definitions; and
- 200.3 Response to Resistance.¹¹²

To view the full excerpts of these chapters, please turn to Appendix E.

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Recommended policy changes

Replace the current policy language with the following:

200.1.2 DEFINITIONS

Vascular Neck Restraint – A neck restraint that restricts, or may restrict, blood flow in the person being restrained by compressing the carotid arteries (blood vessels on the sides of the neck that deliver blood to the brain and head). This maneuver may also be referred to as a sleeper hold, carotid restraint, or stranglehold.

Respiratory Neck Restraint – A neck restraint that restricts, or may restrict, air supply to the person being restrained when pressure is applied to the front portion of the neck and throat. A respiratory neck restraint may also be referred to as a chokehold, bar arm hold, guillotine choke, or bar hold. This maneuver may also be performed with an inanimate object such as a baton or stick. When performed with a baton or stick, the maneuver may be referred to as a mechanical hold.

Pressure – The physical application of force against a thing by something else in contact with it.

Replace the current chokehold and stranglehold policy in General Order 200.3(c) Response to Resistance with the following:

(c) Negative Impact to Air Intake or Blood Flow—Performing any action that could, or is intended to, prevent, reduce, hinder or otherwise negatively impact an individual's blood flow to the brain or intake of air is considered a use of deadly force and is categorically prohibited.

1. Examples of specific actions that are prohibited include, but are not limited to, the following:

- (a) Applying direct or indirect pressure by any means to an individual's chest, back, torso, head, face, neck, throat, windpipe or airway;
- (b) Performing a Vascular Neck Restraint, carotid neck restraint, or any other variation thereof;
- (c) Performing a Respiratory Neck Restraint, chokehold, or any variation thereof;
- (d) Kneeling, standing, sitting, or placing any body part on any area referenced in 200.3(c)(1)(a) (e.g. kneeling on a person's back while they are in the prone position);
- (e) Using an inanimate object to apply pressure to any area referenced in 200.3(c)(1)(a); and
- (f) Causing an individual's nose or mouth to be blocked regardless of whether pressure was used. The Department shall ensure that any device utilized by officers in the course of their duties meets established safety requirements and does not restrict breathing (e.g. ensuring that spit hoods are made of porous, breathable materials).

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2. This section is not applicable to situations in which an employee is applying pressure to a wounded area to provide first aid or lifesaving measures.

3. Notwithstanding any other section of the General Orders and regardless of a subsequent determination that use of such techniques was objectively reasonable under the circumstances, it is a violation of Department policy to use any form of neck restraint or to otherwise engage in any action that could, or is intended to, impede an individual's normal breathing or blood flow by applying pressure to the individual's throat, neck, head, back, chest or torso, or by blocking the individual's nose or mouth.

Remove General Order 200.3(d) Response to Resistance, which currently includes the following language:

Improvising Permitted - Circumstances may arise in which officers reasonably believe that it would be impracticable or ineffective to use a standard tool, weapon, or method provided by the Department. Officers may find it more effective or practicable to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must still be objectively reasonable and used only to the extent which reasonably appears necessary to accomplish a legitimate law enforcement purpose.