

Introduced by: Mr. Carter, Mr. Hollins,
Ms. Durham
Date of Introduction: June 23, 2020

SUBSTITUTE NO. 1 TO ORDINANCE NO. 20-075

**AMENDING *NEW CASTLE COUNTY CODE CH. 20* (“LAW ENFORCEMENT”)
TO BAN THE USE OF KNEE HOLDS, CHOKEHOLDS,
AND SIMILAR PROCEDURES AS A
METHOD OF RESTRAINT OR USE OF FORCE PROCEDURE**

WHEREAS, the New Castle County Police Department (the “Department”) has implemented a broad range of efforts that systematically promote high standards of policing and serve to improve community-police relations including, among other things, de-escalation training of officers, a ban on shooting at moving vehicles, use of body cameras, the comprehensive reporting and tracking of use of force by officers, community policing, and other actions; and

WHEREAS, the Department must continually update its policing policies and directives to safeguard our officers and all citizens, while also strengthening public trust and confidence; and

WHEREAS, due to the risk of asphyxia and related harm, up to death, as a result of chokeholds, including trachea and carotid artery holds, these procedures have been banned or highly limited by police agencies across the nation for decades; and

WHEREAS, despite the documented studies and common knowledge of the harm that can result from knee holds, chokeholds, including trachea and carotid artery holds, these procedures continue to be used by certain agencies and officers, nationally; and

WHEREAS, expressly outlawing these procedures is obligatory, even though it is but one component of what is needed to fully address a larger issue, to further the discussion for meaningful change in police and community relations; and

WHEREAS, in light of the potential dangers, County Council is compelled to outlaw use of chokeholds, including trachea and carotid artery holds, except for under very limited circumstances identified below; and

WHEREAS, County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 20 (“Law Enforcement”) is hereby amended by adding the material that is underscored as set forth below.

ARTICLE 1. – NEW CASTLE COUNTY POLICE OFFICERS

Sec. 20.01.001. Intent of County Council.

New Castle County Council finds and declares that the use of control techniques generally known as knee holds and chokeholds (which include “trachea holds” and “carotid artery holds,” as defined in Section 20.01.002) by police officers of the New Castle County Police Department constitute the use of force, and that such use of force presents an unnecessary danger to the public, except for use of chokeholds under the very narrow circumstances when an officer believes based on an objectively reasonable standard that there is an imminent threat of serious physical injury or death to self or another.

Sec. 20.01.002. - Definitions.

A. For purposes of this Article:

1. A “trachea hold,” means any weapon-less technique or any technique using the officer’s arm, a police baton, or other firm object that attempts to control or disable a person by applying force or pressure against the trachea, windpipe, or the frontal area of the neck with the purpose or intent of controlling a person’s movement or rendering a person unconscious by blocking the passage of air through the windpipe.
2. A “carotid artery hold,” “sleeper hold,” or “v hold” (collectively, “carotid artery hold”) means any weapon-less technique which is applied in an effort to control or disable a person by applying pressure or force to the carotid artery or the jugular vein or the sides of the neck with the intent or purpose of controlling a person’s movement or rendering a person unconscious by constricting the flow of blood to and from the brain.

Sec. 20.01.003. – Chokeholds, limited; knee holds, prohibited.

- A. The use of a trachea hold or carotid artery hold (collectively, chokeholds) by a police officer of the Department is prohibited, except when the officer believes based on an objectively reasonable standard that there is an imminent threat of serious physical injury or death to self or another. Knee holds, where the knee is used by an officer of the Department to apply pressure to the neck of an individual, are prohibited.
- B. Training for all police officers of the Department regarding knee holds and chokeholds shall commence by March 1, 2021, and shall continue thereafter on not less than an annual basis. Training for this deadly force technique shall include a discussion of: safe alternatives to chokeholds and the consequences of chokeholds and knee holds; recognizing unconsciousness (so that chokes are applied no longer than necessary); anatomy of the neck; medical issues that may lead to higher risks; necessary precautions; proper application of chokeholds; and training on reviving an individual who has fallen unconscious and other curricula content based on emerging research and knowledge about policing best practices.

- C. Every police officer of the Department who under color of authority violates the standards prescribed in this Article or violates any Directive, regulation, or order that relates to this Article shall, if sustained, be subject to discipline related to a violation of standards set forth in the Department's policy and procedure manual (Directives), regulations, or order(s) of the Department, up to and including termination, in addition to any and all remedies available under applicable state and federal law.
- D. To the extent the Department's policy and procedure manual (Directives), regulations, and any order(s) of the Department are inconsistent with this Article, the Directives, regulations, and order(s) of the Department shall be promptly amended in a manner consistent with this Article.

Section 2. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C.* § 1156.

Adopted by County Council
of New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
of New Castle County

SYNOPSIS: The Ordinance, if passed, would prohibit a police officer of the New Castle County Police Department from using chokeholds, including trachea and carotid artery holds, except when an officer believes based on an objectively reasonable standard that there is an imminent threat of serious physical injury or death to self or another. Knee holds, where the knee is used by an officer to apply pressure to the neck of an individual, are prohibited.

Substitute No. 1 to Ordinance No. 20-075 has amended the original Ordinance to: clarify that trachea holds and carotid artery holds (collectively, "chokeholds") are prohibited, except when an officer believes based on an objectively reasonable standard that there is an imminent threat of serious physical injury or death to self or another. The original Ordinance was further amended to identify additional subject matter for training related to chokeholds and knee holds. In addition, for purposes of clarity a new Section 20.01.003.D. was created.

FISCAL IMPACT: There is no discernible fiscal impact.