DAYTON POLICE ACADEMY

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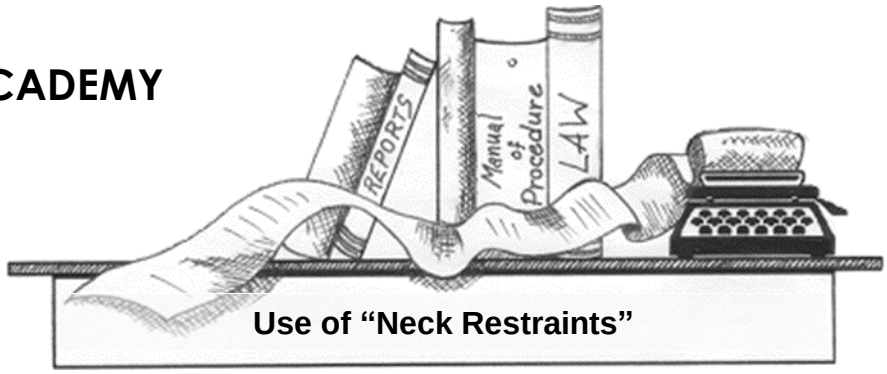


TRAINING BULLETIN
2020 – 3
June 8, 2020

Use of "Neck Restraints"

In light of the death of George Floyd and its discussion in current events, the following is a discussion regarding neck restraints and choke holds. "Neck restraint" is a term broadly discussed in the media. The intent is to review training and educate personnel on the terms involved.

Use of the Neck Restraint by Minneapolis Police Department

The policies and definitions in place by the Minneapolis Police Department at the time of George Floyd's arrest were significantly different from the Dayton Police Department and the State of Ohio.

The Minneapolis Police Department policies defined their use of "choke holds" and "neck restraints." Minneapolis police defined a "choke hold" as "applying direct pressure on a person's trachea or airway (front of neck), blocking or obstructing the airway." This was defined as a deadly force option.

Minneapolis policy defined a "neck restraint" as compressing one or both sides of a person's neck with an arm or leg, without applying direct pressure to the trachea or airway (front of the neck). A "neck restraint" was defined as a non-deadly force. This is not consistent with OPOTA or Dayton Police training.

Minneapolis police policy allowed the use of a neck restraint to control a person or with the intention of rendering the person unconscious by applying adequate pressure. The "unconscious neck restraint" was authorized in specific circumstances, including on a "subject who is exhibiting active aggression" or "on a subject who is exhibiting active resistance in order to gain control of the subject; and if lesser attempts at control have been or would likely be ineffective."

A news report found that since 2015, officers in the Minneapolis Police Department had reported using neck restraints 237 times and rendered people unconscious 44 times. A Minneapolis city official reported to the media that Officer Derek Chauvin's tactic of kneeling on a suspect's neck is not permitted by the Minneapolis police department.

Regardless of Minneapolis policy, kneeling on a subject's neck or placing a knee on the neck of a person is not authorized by the Dayton Police Department.

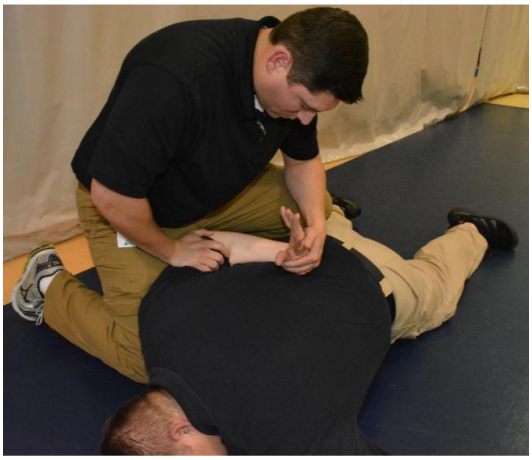
OPOTA teaching on restraining and handcuffing a prone subject

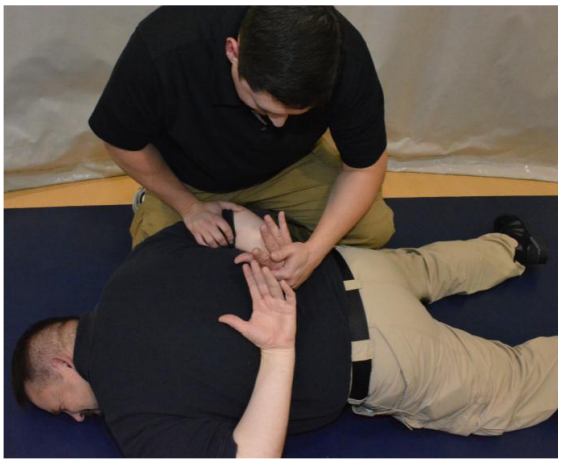
According to training from OPOTA, "the prone position provides the safest approach for subjects that are non-compliant, threatening, suspected of carrying a weapon, or there are any other officer/subject factors present that would make it reasonable." Officers may have ordered the subject into a prone position or ended up this way during a fight.

Once you have the subject on the ground, OPOTA and DPD teach the following:

- *Once you move in to assume control of the subject, it must be done decisively and in a way that provides stability and protection.*
    - *If you lose control or the subject attacks, revert back to ground defense techniques, other tools or techniques, or disengage*

The officer's position should be at the side of the subject to be handcuffed. A knee may be placed on the subjects back, but the officer's weight should remain centered over their feet. This will keep the officer balanced, in better control, and able to disengage if needed.





OPOTA's training specifically addresses that the officer's position will not seriously impair the subject's ability to breathe:

- *If control is maintained* [for an extended time], *you want to be in a position that will not seriously impair the subject's ability to breathe*
    - *Take into account the possibility of positional asphyxiation*
    - *Contributing factors of positional asphyxia*
        - *Lack of oxygen from exertion combined with*
        - *Flexion on the head and neck compromising the airway or*
        - *Compression on the body, especially around the upper torso (i.e., diaphragm and lung area)*

OPOTA Teaching on Choke holds

OPOTA subject control training does discuss the use of neck restraints and choke holds. OPOTA considers the term "choke hold" less accurate because a choke hold refers to limiting someone's ability to breath by manipulation of the trachea.

In basic academy subject control classes, recruits are taught about neck restraints primarily as a means of teaching recruits the danger of these attacks and to teach the how to escape from them. Student Performance Objectives (SPOs) cover escapes from choke and strangle escapes, body lock and clinch escapes, and head lock escapes, among other subjects. Application of any type of neck restraint is not an SPO.

OPOTA uses the following technical descriptions for neck restraints:

> **Vascular Neck Restraints (VNR):** A vascular neck restraint is a technique that applies lateral compression to the vascular structure of the subject's neck resulting in partial or complete occlusion of the carotid arteries as well as occlusion of the jugular veins. A properly applied VNR will not compress or harm the structures located in the anterior portion of the throat. It is not likely to cause harm to the cervical vertebrae; the subject's ability to breathe is not adversely affected during VNR compression. The subject is likely to experience varying degrees of pain or discomfort due to the compression and stimulation of various nerves that are affected (e.g., Hypoglossal nerve, Brachial Plexus Origin, Suprascapula nerve)
>
> **Respiratory Neck Restraints**: The respiratory neck restraint is facilitated by applying direct mechanical pressure or compression over the structures in the anterior portion of the throat. Although this technique also can result in compression of the carotid arteries (leading ultimately to unconsciousness), the pressure created on the front of the throat also causes asphyxiation by compressing the trachea and restricting or inhibiting the subject's ability to breathe

Neck Restraints as Deadly Force

OPOTA teaching states that use of a vascular or respiratory neck restraint can cause irreversible damage or death. Therefore it has to be considered in the same category as other deadly force options. The U.S. Supreme Court has never definitively defined deadly force but it is often described in lower courts as force that creates a substantial risk of death or serious bodily injury (*Smith v. City of Hemet*, 2005)

OPOTA quotes the following:

> *"Deadly force may be used when necessary to prevent death or serious injury. There is no limitation on its form or nature. Deadly force is strictly limited in the circumstances in which it may be used, but totally unlimited in the form it may take. This means that if deadly force is necessary under the circumstances, then it is legal and justified to use any means at hand and it is legal and justified to cause the death of the person creating the necessity."* Patrick & Hall (2010)

As such, the same legal standards apply to any police use of force: *Graham v. Conner* and *Tennessee v. Garner*. *Graham v. Conner* established the "objective reasonableness" standard for police uses of force.

The U.S. Supreme Court determined in *Tennessee v. Garner* (1985) that the Fourth Amendment permits law enforcement officers to use deadly force to achieve seizures in two general contexts:

1. To protect themselves or others from immediate threats of serious physical injury; and/or

2. To prevent escape of a fleeing "dangerous" person, where the officer has probable cause to believe that the person poses a threat of serious physical harm to the officer or to others.

Medical care

The same general guidelines apply to any incident:

1. Assess situation and subject's physical behaviors, and scan area for other potential threats. Handcuff subject as soon as applicable.
2. When safe to do so, all individuals will be placed in the recovery position (rolled onto their side) until they can be removed from the ground. An individual's breathing could be compromised just by leaving them face down.
3. Provide immediate aid and life saving measures if needed. Call for medical assistance immediately if needed.
4. If the subject is breathing on his own: Place subject in a position to allow him to breathe comfortably and continue to monitor the subject closely
5. Search the subject when safe to do so.

If any person, whether a crime victim, officer, or suspect/subject is subject to a choking event or neck restraint, they should be monitored closely and medically examined if applicable. Note that swelling and underlying neck injuries may worsen after the event, causing the person's ability to breathe to also worsen.

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Smith v. City of Hemet, 394 F.3d 689 (9th Cir.2005).

Tennessee v. Garner, 471 U.S. 1, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985).