

# East Haven Police Department



Type of Directive: <b>Policies &amp; Procedures</b>	<b>No. 412.5</b>
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Issuing Authority: <b>Honorable Board of Police Commissioners</b>	Review Date: <b>Annually</b>
References/Attachments:  <b>Policies &amp; Procedures #:</b> 213, 413 <b>Connecticut General Statutes §</b> 53a-23, 53a-25, 53a-26, 53a-27, 54-1f, 54-2a, 7-276	Rescinds: <b>412.4</b>  Amends: <b>N/A</b>

## I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department (EHPD) regarding making arrests and to ensure that the constitutional and statutory rights of those being arrested are properly observed at all times.

## II. POLICY

- A. It is the policy of the East Haven Police Department that officers shall make arrests only when they have probable cause to do so.
- B. Personnel shall not rely on information known to be materially false or incorrect.
- C. Race or ethnic characteristics shall not be the sole basis for making an arrest under any circumstances. Officers may use such information only if those characteristics are simply a part of the larger description of a person who has committed an offense.
- D. An officer will not make an arrest with the purpose to show authority or to vent personal feelings. The attitude of the offender shall not be a factor in making an arrest. Verbal abuse of the officer by a subject is not a justification for an arrest. Personnel shall not use an arrest to resolve a problem when other options are available. See Policies and Procedures # 413 - Breach of Peace.

- E. Officers shall provide all persons under arrest and in police custody all constitutional and statutory rights to which they are entitled at the time of their arrest and while in custody thereafter.
- F. Absent exceptional circumstances which shall be documented, officers shall complete all arrest reports prior to the end of their tour of duty for that day.

### **III. DEFINITIONS**

- A. Arrest: Arrest is the power and authority of a police officer to apprehend and deprive persons of their liberty, as provided by law, in order that such persons may be brought before the court to answer to criminal charges.
- B. Arrest warrant: A warrant that authorizes a law enforcement officer to arrest a person.
- C. Exigent circumstances: An unusual and time-sensitive circumstance that justifies conduct that might not be permissible or lawful in other circumstances.
- D. Probable cause: The required level of knowledge to make a lawful arrest. This has been defined by courts as “reasonably trustworthy knowledge, based on articulable facts and circumstances, that would lead a reasonable person to believe that a crime has been, is being, or is about to be committed, and that the person to be arrested has committed, is committing, or is about to commit that crime.” Probable cause is determined by the totality of the circumstances and may be established by the collective knowledge of all law enforcement personnel involved.
- E. Reasonable suspicion: Refers to an officer’s belief, based on specific and articulable facts, and the rational inferences drawn from those facts, that an individual has committed, is committing, or is about to commit a criminal offense. Reasonable suspicion may be based on direct observations or a combination of factors, including, but not limited to, the individual’s prior criminal record, furtive conduct or flight from the police, the giving of evasive or conflicting responses to police questioning, admissions or confessions, the nature of the area, and reliable hearsay.

### **IV. GENERAL GUIDELINES AND CONSIDERATIONS**

- A. Police officers of the Town of East Haven derive the legal authority to effect arrests from C.G.S. 54-1f which authorizes officers to make an arrest without a warrant and 54-2a authorizing warrant arrests.
- B. Sworn officers of the East Haven Department of Police Service are further empowered under section 7-276 of the Connecticut General Statutes which states in part: “...The members of such police department shall have all such authority with respect to the service of criminal process and the enforcement of the criminal laws as is vested by the general statutes in police officers and constables. See also Policies and Procedures # 213 - Legal and Legitimate Authority of Sworn Personnel.

C. The authority to deprive a person of his/her liberty is one of the most important powers the law confers upon a police officer. Consistent with the values and Code of Conduct of the East Haven Police Department, personnel must treat all persons, including arrestees, with respect. Given the nature of police work, however, many arrests must be made without a warrant. Police officers must have a clear understanding of their powers, responsibilities and duties of arrest under the law.

## **V. PROCEDURES FOR MAKING ARRESTS**

A. Officers may make arrests for the following categories of offenses.

1. Felony: an offense for which a person may be sentenced to a term of imprisonment in excess of one year. (CGS § 53a-25)
2. Misdemeanor: an offense for which a person may be sentenced to a term of imprisonment of not more than one year. (CGS § 53a-26)
3. Violation: an offense for which the only sentence authorized is a fine. (CGS § 53a-27)

B. Felony Warrant Arrests

1. The officer need not have the warrant in his/her possession at the time of arrest; however, upon request the officer should advise the defendant of the charges contained within the warrant as soon as practicable.
2. To execute a felony arrest warrant, police officers may enter the dwelling of the person named in the warrant.
  - a. An officer may enter a suspect's home to serve an arrest warrant without obtaining a search warrant, provided there is a reason to believe that the suspect is there.
  - b. To serve an arrest warrant on private property, police officers must first knock and announce their authority and purpose, and wait a reasonable period to be admitted.
  - c. Once a reasonable time has passed and the officers have not been voluntarily admitted, and the officers have reasonable cause to believe that the wanted person is on the premises, officers may use whatever force is reasonably necessary to gain entrance.
    - 1) The least amount of force that will accomplish an entrance should always be used.
    - 2) Officers should always seek the approval of a supervisory officer prior to resorting to forcible entry into a dwelling.
  - d. Police officers must knock, announce their identity, and state their purpose unless the circumstances justify dispensing with one or all these requirements. If the police officers reasonably believe that announcing their presence and purpose will endanger themselves or others, or will result in the escape of the suspect or the destruction of evidence, they may dispense with the announcement of authority and purpose.

3. Police officers may serve an arrest warrant at the dwelling of a party not named in the warrant. If the police seek to arrest a person in someone else's dwelling they may do so with the following limitations.
  - a. If lawful consent to enter is granted by the occupant of the dwelling.
  - b. If exigent circumstances are present which excuse the failure to obtain a search warrant.
  - c. If consent is not obtained, and if exigent circumstances do not exist, police officers must obtain a search warrant before entering a third party's residence to execute an arrest warrant for a defendant who is inside.
- C. Probable cause for arrest exists if, at the time of arrest, the facts within the knowledge of the arresting officer (or within the collective knowledge of the police) are reasonably trustworthy and are sufficient to warrant a person of reasonable caution and prudence to believe that the person being arrested has committed or is committing the crime for which the arrest is being made.
  1. Making a warrantless arrest in a dwelling.
    - a. The police officer should first determine whether law allows a warrantless entry and arrest. When officers seek to make an entry into and arrest in a dwelling the following standards apply.
      - 1) If the arrest pursuit was set in motion in public, the officer may make a hot pursuit warrantless entry into a private dwelling if the suspect runs into the dwelling.
      - 2) If a police officer seeks to arrest a person in that person's dwelling, they may do so.
        - a) If lawful consent to enter is granted.
        - b) If consent is not granted but exigent circumstances are present which excuse the failure to obtain an arrest warrant.
        - c) Absent lawful consent to enter or exigent circumstances, police officers must obtain an arrest warrant.
    2. Upon establishing probable cause for an arrest, officers shall document any exculpatory evidence he/she discovers, extending beyond the initial investigation into any post-conviction investigation(s).
  - D. Misdemeanor Summons Arrests
    1. For any warrantless arrest, officers will screen and issue a misdemeanor summons to anyone he or she has probable cause to arrest for any misdemeanor violation.
    2. For the process and screening of eligibility to issue a misdemeanor summons in lieu of a custodial arrest, see Policy and Procedures # 424 – Misdemeanor Summons Arrests.

**E. Wrongful Arrests/Release Without Charges**

1. In the event that an arrest is made, but further investigation or additional information reveals that sufficient probable cause for the charges no longer exists, the officer's supervisor shall be notified immediately.
2. The supervisor shall review the circumstances. If he/she determines probable cause for an arrest no longer exists, the supervisor shall:
  - a. Immediately release the arrested person.
  - b. Inform the person that he/she does not have to appear in court.
  - c. Ensure that the officer does not submit a UAR or subject the person to any additional booking processes.
3. The arresting officer shall prepare a detailed report of the arrest and his/her supervisor shall conduct a Department Review of the incident.
4. A copy of these reports shall be forwarded through the chain of command to the officer's Division Head.
5. The Division Head or his/her designee shall conduct a review of the incident to determine if any corrective actions are necessary.

**F. The amount of force shall be restricted to that which is reasonable, necessary, and proper for the safe custody of the arrestee, or for overcoming any resistance that may be offered. An arrestee has no right to resist arrest, lawful or unlawful, by a police officer in accordance with Connecticut General Statute § 53a-23. (See Policies and Procedures on Use of Force.)**

**G. Medical Attention/Treatment**

1. In all instances where it is apparent that a subject is injured during an arrest, an officer on scene shall do the following as soon as practical.
  - a. Ask the subject if he/she was injured and if medical treatment is needed.
  - b. If it is determined medical treatment is immediately needed, request via the EHPSCC for qualified medical personnel to respond to the scene to provide medical attention/treatment to the subject.
    - 1) If possible, officers should make an effort to assist the subject to whom force was used against until qualified medical personnel arrive on scene.

**H. Search Incidental to Arrest**

1. At the time of arrest, officer shall conduct a search incidental to arrest.
  - a. This search must be limited in scope to the area within the immediate control of the suspect and must be conducted contemporaneously with the arrest. Immediate control means that area from which the suspect might gain control of a weapon or destructible evidence.

2. Legally closed areas may be searched when readily accessible to arrestees.
3. The search must be limited to a search for weapons the subject could use to harm the officer or others and evidence of the crime for which the arrest is made, including weapons.
4. If there is no physical evidence associated with the crime, the search incidental to arrest must be limited to weapons on the person only.
5. For locked containers or closed areas that cannot be properly searched incident to an arrest, but which have potential evidentiary value, officers should secure the items and seek a search warrant.

I. Conversation with the Arrestee

1. At the time of arrest prior to advising the arrestee of their Miranda Warnings, officers should avoid unnecessary conversation and any orders or statements to the persons arrested should be clear and brief.
2. Persons arrested shall be given the Miranda Warnings prior to interrogation.
  - a. The warnings should be read from a card or other permanent record to ensure that none of the conditions contained within the warning are omitted.
  - b. The card itself can later be introduced as evidence.
  - c. Officers have tangible proof that they have not relied solely on memory.
  - d. The suspect can also be permitted to read the card.
  - e. Each officer giving the warning shall ask and verify that the person arrested has heard and understood the warnings so given.
  - f. No questioning of arrested persons shall take place until these warnings have been given, and the suspect has confirmed that he or she has heard and understood them. However, if suspects freely choose to divulge information without questioning there is no violation of rights simply because they were not given these warnings. There is no requirement that an officer prevent suspects from continuing to talk and, any such statements shall be noted and incorporated as part of the officer's official report. However, if an officer wishes to gain further information through questioning, the warnings shall be given, and the suspect shall expressly waive his/her Miranda rights, before any questioning takes place.

J. The arrestee shall be searched incidental to the arrest, properly handcuffed when appropriate and then promptly and safely transported to the police station in accordance with departmental procedures.

K. Upon arrival at the police station, the arrestee shall be booked and processed in accordance with departmental procedures.

L. After departmental booking procedures are completed, the persons arrested (if not released/held on bond) shall be brought to court at the next available court date.

M. Arresting officers shall be responsible for completing an incident report documenting the circumstances of the arrest and all related arrest reports and forms associated with the arrest, in accordance with established department policies and procedures, before the end of their shifts.

N. Handling of Juveniles

1. The arresting officer has an array of options. They include the following.
  - a. Give a verbal warning and release the individual.
  - b. Refer the juvenile to a diversionary program such as a juvenile review board.
  - c. Conference with the juvenile, the parent(s), teachers and/or similar authority figures.
  - d. Make a non-custodial arrest using a juvenile summons and complaint and a promise to appear in court.
  - e. Make a custodial arrest and release using a juvenile summons.
  - f. Make a custodial arrest based on an arrest warrant.
  - g. Make a custodial arrest and subsequent transfer to juvenile detention.
2. Non-custodial Arrest.
  - a. The procedures for a non-custodial arrest using a juvenile summons are complaint and promise to appear are as follows.
    - 1) Notify the juvenile and his/her parent or legal guardian of the arrest.
    - 2) Serve the juvenile summons on the child and his/her parent, guardian, or other person having control of the child and request that the parent, guardian, or other person execute the “written promise to appear” provision of the juvenile summons.
      - a) This entails their promising to appear in court at the time and place the summons specifies.
    - 3) If the parent, guardian, or other person refuses to sign the summons, the officer still releases the juvenile, but shall make a notation on the summons that the parent, guardian, or other person refused to sign.
  3. Custodial Arrest.

- a. Juveniles who are brought to the police department must be separated from adult offenders at all times. If there are no adult offenders in the booking area, then the juvenile may be booked there.
- b. The juvenile must be removed and relocated before any adult offender is brought into the booking room.
- c. A juvenile of any age who is charged with a crime and taken into custody shall be photographed and fingerprinted. When submitting juvenile fingerprints to the Automated Fingerprint Identification System, officers must use the juvenile designation.
- d. Officers must label all identification material “juvenile” and keep it separate from adult identification material.
- e. Only juveniles alleged to have committed a criminal act may be held in a secure area. Secure areas within the police department include cells and lockable rooms (regardless if they are locked). Juveniles must be monitored at all times while being detained and may be held in a secure area for a maximum of six hours.
- f. Whenever any person under the age of 18 is held in a secure area for any length of time, it must be logged in the juvenile detention logbook. Juvenile holding logs are located in a separate juvenile detention logbook. The holding log must be completed for each detained juvenile. The log forms will remain in the logbook for annual audits.
- g. After arresting a juvenile, an officer must notify the juvenile's parent or legal guardian regarding the following.
  - 1) The whereabouts of the child.
  - 2) The nature of the charges.
  - 3) The police department's planned course of action.

4. Interviews.
  - a. Juveniles have all the same Constitutional rights as adult suspects and must be advised of their Miranda rights. This applies to in-custody arrests or interrogations conducted out of the police department (e.g., the child's home, a hospital room).
  - b. When an officer re-interviews a juvenile, the officer must advise the juvenile of his/her rights again.
  - c. The juvenile's parent or guardian must be present during the interview and must also be advised of their Miranda rights with respect to the juvenile.

O. There are situations in which an officer may make "extraterritorial" arrests, that is, arrests outside the limits of East Haven.

1. If there is a mutual aid agreement in effect between the officer's city or town and the city or town to which the officer has been assigned under the mutual aid agreement, the officer may exercise the same authority in such city or town as he/she exercises in his/her city or town.
2. Except where exigent circumstances require immediate intervention by the officer (e.g. high risk to public health and safety), it is recommended that officers contact the police department having jurisdiction for assistance.
  - a. When a police officer makes a warrantless arrest outside his jurisdiction, and not in fresh and continuous pursuit of a suspect, he or she is acting as a peace officer under Connecticut law and an arrest is Constitutional.
3. An officer may "in fresh pursuit," pursue and arrest a suspect whom the officer has probable cause to believe has committed an offense in Connecticut and fled to another state.
4. Officers may make felony arrests anywhere in the State of Connecticut with or without a warrant.
5. Officers may make misdemeanor arrests anywhere in the State of Connecticut with an arrest warrant or warrantless arrests "in fresh pursuit" or following the commission of a crime that occurred in East Haven that is still actively under investigation on speedy information.

## **VI. PROCEDURE FOR REVIEW OF ARRESTS**

- A. Officers shall notify a supervisor immediately after effectuating any of the following.
  1. A felony arrest.
  2. An arrest where the officer used force as defined in Policies and Procedures # 404 - Use of Force.
  3. A supervisor shall respond immediately to the scene, or document the circumstances preventing his/her presence, of any arrest involving the following offenses.
    - a. Interfering with an officer.
    - b. Any arrest for violation of either breach of the peace in the second degree or disorderly conduct in which the conduct is one of the following.
      - 1) A reaction to police presence or officer conduct.
      - 2) Targeted towards a police officer.
  4. Any custodial arrest for a vehicle infraction.

- B. The supervisor shall respond immediately, absent exceptional circumstances, to the scene of the arrest.
  - 1. The supervisor shall document in the case file the exceptional circumstances preventing his/her presence at the scene.
  - 2. The responding supervisor shall approve or disapprove the officer's decision to arrest, based on probable cause and East Haven Police Department policy.
  - 3. The supervisor shall take appropriate actions to address violations or deficiencies in the officer's decision to arrest. Possible actions shall include the following.
    - a. Releasing the subject.
    - b. Recommending non-disciplinary corrective action for the involved officer.
    - c. Referring the incident for administrative or criminal investigation.
- C. When an arrestee or detainee arrives at the police station, the officer in charge shall do the following.
  - 1. Visually inspect each arrestee or detainee for physical injury.
  - 2. Interview each arrestee or detainee for complaints of pain.
  - 3. Ensure the arrestee or detainee receives medical attention promptly from an appropriate medical provider as necessary.
  - 4. Complete the Department's Detainee Questionnaire Form and document in writing the results of these inspections and interviews.
- D. Supervisory Review of Arrest Reports
  - 1. Supervisors shall review arrest, incident, and supplemental reports of officers under their command for probable cause and for deficiencies; such review shall be completed within 12 hours, absent exceptional circumstances. Supervisors shall review arrest, incident, and supplemental reports for the following deficiencies:
    - a. "Canned" or conclusory language.
    - b. Inconsistent information.
    - c. Lack of articulation of the legal basis for the arrest.
    - d. Lack of exculpatory information.
    - e. Any other indicators that the information in the reports is inauthentic or incorrect.
  - 2. As part of their reviews, supervisors shall document those arrests with deficiencies in the Department Review System, including the following criteria:
    - a. Lack of Probable cause.

- b. Violations of Department Policy.
  - c. Indications for the need to review Department Policy, values, strategies, or tactics of the officer(s).
- 3. Upon completing the supervisory review, supervisors shall electronically sign the arrest, incident, and/or supplemental report(s). By electronically signing the arrest incident, and/or supplemental report(s), the supervisor is confirming the arrest, incident, and/or supplemental report(s) contain articulated probable cause, did not contain deficiencies, and conformed to Department policy.
- 4. If while reviewing an arrest report, a supervisor determines no probable cause exists for an arrest, the supervisor shall:
  - a. Contact the Division Head to advise him/her of the incident.
  - b. Contact the State's Attorney's Office.
  - c. Forward all reports involved in the arrest along with the supervisor's Department Review to the Division Head for review.
- 5. The Division Head shall review, in writing, all supervisor reports of arrests that lack sufficient probable cause; are in violation of Department Policy; or indicate a need for corrective action.
  - a. The Division Head's review shall be completed within seven (7) days of receiving such report.
  - b. The Division Head shall evaluate the corrective action and recommendations in the supervisor's report and ensure that all appropriate action is taken. Steps include the following:
    - 1) Corrective action.
    - 2) Referral for administrative and/or criminal investigation.

E. Supervisors shall forward a copy of reviews documenting deficiencies or violations to the Professional Standards Officer for evaluation by the Early Intervention System (EIS).

F. For each of his/her direct reports supervisors shall track violations and deficiencies to identify officers needing repeated corrective action.

G. The supervisors shall include in the officers' performance evaluations a record of violations and deficiencies and recommended corrective action.

H. The quality of supervisory reviews shall be factors in the performance evaluations of the supervisors by their superiors.

- I. The Department shall take corrective or disciplinary action against supervisors who fail to conduct adequate reviews.