

2020 Council Resolution 28: Banning of Choke Holds

Council Action: **SUBSTITUTE RESOLUTION ADOPTED**

Board Action: **SUBSTITUTE RESOLUTION ADOPTED**

Status: **Completed**

SUBMITTED BY: Florida College of Emergency Physicians
 American Association of Women Emergency Physicians Section
 Young Physicians Section
 Diversity, Inclusion and Health Equity Section

Purpose:

Endorse a national ban on the use of choke holds, educate members and relevant stakeholders about the hazard of choke holds and the availability of non-lethal alternatives, and promote these alternatives when appropriate.

Fiscal Impact:

Budgeted committee and staff resources.

WHEREAS, Choke holds or neck holds that compress the upper airway (trachea, larynx or laryngopharynx) therefore interfering with breathing and leading to asphyxia can lead to death are dangerous and less safe than blood chokes (carotid restraints) [1],[2]; and

WHEREAS, Not all choke holds result in death, however, an analysis of 56 episodes of transient cerebral hypoxia on people who completely lost consciousness showed muscle jerks in 90% of patient generally consisting of multifocal arrhythmic jerks in both proximal and distal muscles, superposition of generalized myoclonus, righting movements (if the patient had slumped in one direction while falling asleep they woke up and immediately corrected), oral automatisms, head turns, visual and auditory hallucinations; [3] and

WHEREAS, Use of choke holds by law enforcement leading to inadvertent upper airway compression can have deadly outcomes especially when performed on a combative person and even when the initial intent is to apply a neck hold the danger exists that the officer's pressure will slip or move to the front of the neck, constricting the windpipe and thereby stemming the flow of oxygen to the lungs and the brain [4]; and

WHEREAS, In a 2013 Justice Department survey, police departments serving more than one million people, 43% allow a neck restraint of some kind including choke holds [5]; and

WHEREAS, Almost half of the people who lost consciousness were injured according to Minneapolis police data in which neck restraints were used at least 237 times since 2015 and of these, 16% lost consciousness[6]; and

WHEREAS, Recognizing the deadly consequences of the choke hold, most large police departments do not allow it including the New York Police Department, Metropolitan Police Department of Washington, DC, the Los Angeles Police Department. and the Chicago Police Department [7]; and

WHEREAS, A federal appeals court, the Ninth US Circuit Court of Appeals, banned the use of the maneuver when someone is not resisting arrest citing it violates the constitutional ban on unreasonable search and seizure [8]; therefore be it

RESOLVED, That the American College of Emergency Physicians endorse a national ban on the use of choke holds; and be it further

RESOLVED, That ACEP educate its members and relevant stakeholders about the hazard of choke holds and the availability of non-lethal alternatives and promote these alternatives when appropriate.

This resolution proposes that ACEP endorse a national ban on the use of choke holds, that ACEP educate its members and relevant stakeholders about the hazards of choke holds and the availability of non-lethal alternatives, and promote these alternatives when appropriate.

A choke hold is a form of restraint intended to control an individual who may be uncooperative or violent by compressing the upper airway to interfere with breathing or cause asphyxiation. A choke hold is distinguished from another type of neck restraint, a “stranglehold” (also referred to as a blood choke or carotid restraint), that is a form of strangulation restricting the flow of blood to the brain. Both are capable of inflicting significant injuries and death.

The use of choke holds and other uses of force by law enforcement has come under greater scrutiny in recent years, especially after high-profile incidents like the death of Eric Garner, who was killed in 2014 by a police officer who put him in a prohibited choke hold, and more recently, the killing of George Floyd, who was killed by police during an arrest after an officer knelt on his neck for eight minutes with no medical attention rendered. The nationwide protests that began in the wake of George Floyd’s death have brought more widespread attention to the issue of what constitutes appropriate use of force by law enforcement and renewed calls for training that prioritizes de-escalation tactics. Others, like some in law enforcement, maintain that through proper training, choke holds are an important method to control an individual to reduce the potential for greater injury or violence. ACEP issued statement on [Structural Racism and Public Health](#) on May 30, 2020 denouncing racism and all senseless acts of violence.

As the resolution notes, several law enforcement agencies already discourage or prohibit the use of choke holds, but some doubt the effectiveness of these policies. In the Eric Garner killing, the New York Police Department (NYPD) had already banned the use of choke holds. In New York City, the Civilian Complaint Review Board found that the use of choke holds [appeared to increase](#) though the restraint was prohibited. On June 12, 2020, New York Governor Andrew Cuomo signed into law the “Eric Garner Anti-Chokehold Act,” which allows for any police officer who injures or kills someone by using a choke hold (or similar use of force) to be charged with a class C felony that is punishable by up to 15 years in prison.

On June 16, 2020, President Donald Trump signed an executive order (EO), “[Executive Order on Safe Policing for Safe Communities](#),” which among other provisions, bans the use of most choke holds by making receipt of federal grants by law enforcement agencies contingent on banning the use of choke holds, “except in those situations where the use of deadly force is allowed by law.” The EO also encourages law enforcement agencies to improve training procedures to emphasize de-escalation tactics and to better interact with individuals with mental health needs, substance use disorders, or suffering from homelessness. However, some police reform advocates have suggested this EO does not go far enough to address the issue.

Congress has also recently attempted to address the issue of law enforcement reform, including policies surrounding the use of choke holds. A recent legislative proposal offered by the Democratic Majority in the House of Representatives proposed a complete nationwide ban on the use of choke holds, while a proposal put forward by the Senate Republican Majority would encourage police departments to ban choke holds but would not legally ban their use outright.

Strategic Plan Reference:

Goal 1 – Improve the Delivery System for Acute Care

Objective C – Promote the value of emergency medicine and emergency physicians as essential components of the health care system.

Goal 2 – Enhance Membership Value and Member Engagement

Objective G – Promote/facilitate diversity and inclusion and cultural sensitivity within emergency medicine.

Prior Council Action:

Resolution 34(18) Violence is a Health Issue adopted. Directed ACEP to recognize violence as a health issue addressable through medical and public health interventions, and to pursue policies, legislation, and funding for health and public-health-based approaches to reduce violence.

Resolution 14(15) Body-Worn Cameras for Police not adopted. Directed ACEP to create a policy statement endorsing laws requiring police officers to wear body-worn cameras.

Resolution 22(10) Police Pursuits not adopted. Directed ACEP to strongly encourage use of safer alternatives to police pursuits, support enactment of laws requiring law enforcement agencies to accept responsibility for their actions regarding police pursuits and support mandatory tracking of pursuit-related injury data by NHTSA.

Amended Resolution 21(08) Excited Delirium adopted. Directed ACEP to establish a multidisciplinary group to study “excited delirium” and make clinical recommendations.

Amended Resolution 22(98) Violence Prevention adopted. Directed the College to establish a national dialogue between interested parties on this issue and that ACEP encourage the National Institute of Mental Health and Centers for Disease Control and Prevention among others to make financial support available for research into this area.

Amended Resolution 11(93) Violence Free Society adopted. Directed the College to develop a policy on violence free society and to educate members about the preventable nature of violence and the important role physicians can play in violence prevention.

Prior Board Action:

April 2020, approved the revised policy statement “[Cultural Awareness and Emergency Care](#),” reaffirmed April 2014; originally approved April 2008 with the current title, replacing “Cultural Competence and Emergency Care” that was approved October 2001.

April 2019, revised and approved the policy statement “[Violence-Free Society](#),” reaffirmed June 2013; revised and approved January 2007; reaffirmed 2000; originally approved January 1996.

October 2009, approved the “[White Paper Report on the Excited Delirium Syndrome](#)” and authorized its distribution to the Council. A workgroup was appointed in August 2020 to update the paper.

Amended Resolution 34(18) Violence is a Health Issue adopted.

Amended Resolution 21(08) Excited Delirium adopted

Amended Resolution 22(98) Violence Prevention adopted.

Amended Resolution 11(93) Violence Free Society adopted.

Council Action:

Reference Committee C recommended that Substitute Resolution 49(20) be adopted in lieu of Resolution 28 and Resolution 49:

RESOLVED, That the American College of Emergency Physicians (ACEP) acknowledges the hazard associated with air-choke holds, strangulation and carotid restraint; and be it further

RESOLVED, That ACEP educate its members and relevant stakeholders on the hazards and the recognition and appropriate management of patients who present to the emergency department with injuries associated with air-choke holds, strangulation and carotid restraint maneuvers in various settings.

The Council adopted Substitute Resolution 49(20) on October 25, 2020.

Testimony:

There was significant testimony as to how to address these issues. Testimony was in support of public health and harm reduction. It was pointed out in multiple member's testimony that it does not matter who is causing the harm and in what manner. Testimony was against all strangulation and for educating membership on the harms that can occur with neck injuries. There was also considerable concern raised about Resolution 28(20) being overly prescriptive to law enforcement, and that it had the potential to degrade the relationship between law enforcement and ED staff. Significant overlap was noted between resolutions 28(20) and 49(20).

The authors of Resolutions 28(20) and 49(20) collaborated and submitted language to combine the two resolutions in order to address the concerns raised during the online Reference Committee. The amended language combining Resolutions 28(20) and 49(20) emphasized the seriousness of choke holds and the importance of providing educational resources to emergency physicians on the evaluation, treatment, and management of strangulation. After much deliberation, the Reference Committee agrees that the novel resolutions the common goals of the two resolutions while addressing the concerns raised by many councilors.

There was considerable testimony in support of the substitute resolution, including testimony from the authors of the original resolution. The majority of testimony was focused on public health. There was support to not dictate standards to law enforcement and the combined resolution focused on education and involvement of stakeholders. While there was still some concern that this language could be interpreted as being prescriptive to law enforcement, your Reference Committee feels that the resolution is firmly focused on public health and public health advocacy without being overly prescriptive to any Stakeholder.

Board Action:

The Board adopted Substitute Resolution 49(20) on October 29, 2020.

References:

[1] Ready DT, Eisele JW. *Death from law enforcement neck holds. Am J Forensic Med Pathol.* 1982 Sep;3(3):253-8.

[2] GM Vilke. Neck Holds. In *Sudden deaths in Custody.* Springer. 2006

[3] Lempert T, Bauer M, Schmidt D. Syncope: a videometric analysis of 56 episodes of transient cerebral hypoxia. *Ann Neurol* 1994;36:233-237

[4] Ready DT, Eisele JW. *Death from law enforcement neck holds. Am J Forensic Med Pathol.* 1982 Sep;3(3):253-8.

[5] Reaves, B. A. (2015). *Local police departments, 2013: Equipment and technology.* Washington, DC: Bureau of Justice Statistics (BJS), U.S. Department of Justice, Office of Justice Programs.

[6] <https://www.nbcnews.com/news/us-news/minneapolis-police-rendered-44-people-unconscious-neck-restraints-five-years-n1220416>

[7] <https://www.thestate.com/news/nation-world/national/article243230871>.

[8] <https://www.usnews.com/news/best-states/california/articles/2019-12-24/man-choked-unconscious-can-sue-police-court-rules>

Implementation Action:

The resolution was assigned to the Public Health & Injury Prevention Committee. The committee led a workgroup of members of from ACEPs Forensic Medicine Section, Tactical Emergency Medicine Section, the Pediatric Emergency Medicine Committee, and the EMS Committee. The workgroup developed a policy statement and an information paper. The Board of Directors approved the policy statement "[Strangulation and](#)

[Neck Compression](#)” and reviewed the information paper “Considerations for the Management of Strangulation in the Emergency Department” in October 2021. The information paper was submitted for publication consideration. It will be posted on the ACEP website as soon as it is available.

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