

- VEST FIRST RESPONDER -

HELP FOR HEROES

NEW YORK

Self-Defense Law Reference Guide

*Duty to Retreat | Castle Doctrine (Dwelling Only) | Self-Defense | First Responder Protections | Eric Garner
Anti-Chokehold Act*

CERTIFIED TRAINER SUPPLEMENTAL DOCUMENT

Intended exclusively for VEST Certified Trainers. Not a substitute for legal counsel.

IMPORTANT: NEW YORK HAS A STRICT DUTY TO RETREAT IN PUBLIC

New York is NOT a Stand Your Ground state. New York Penal Law S. 35.15(2) imposes a duty to retreat before using deadly force in any public location when the actor knows they can do so with complete personal safety. New York's Castle Doctrine applies ONLY inside the dwelling - not in vehicles, workplaces, or other locations. New York also has the Eric Garner Anti-Chokehold Act (Penal Law S. 121.14), which created a standalone felony offense - Aggravated Strangulation - for police officers who use a chokehold causing injury or death. VEST trainers must clearly address these significant restrictions for New York curriculum.

STATUTE	SUBJECT MATTER
NY Penal Law S. 35.15(1)	Physical Force in Defense of Person - Core Standard
NY Penal Law S. 35.15(2)	Deadly Force - Duty to Retreat; Castle Doctrine Exception
NY Penal Law S. 35.20	Use of Physical Force in Defense of Premises
NY Penal Law S. 120.05(3)	Assault 2nd Degree - Enhanced for EMS, Firefighter, Peace Officer
NY Penal Law S. 120.08	Assault on Peace Officer, Firefighter, or EMS Professional - Class C Violent Felony
NY Penal Law S. 121.14	Aggravated Strangulation - Eric Garner Anti-Chokehold Act (2020)
NY Penal Law S. 195.15	Obstructing Firefighting Operations - Class D Felony
NY Penal Law S. 195.16	Obstructing Emergency Medical Services - Class A Misdemeanor

PART I: THE NEW YORK SELF-DEFENSE FRAMEWORK

NY Penal Law S. 35.15(1) - Physical Force in Defense of Person

"A person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person..." - NY Penal Law S. 35.15(1)

New York's standard uses 'reasonably believes' - an objective standard evaluated from the actor's perspective at the moment of the incident. The force used must be proportionate to the threat. Deadly force (force intended or likely to cause death or serious physical injury) is governed by the more restrictive provisions of S. 35.15(2), including the duty to retreat.

NY Penal Law S. 35.15(2) - Deadly Force and Duty to Retreat

"A person may not use deadly physical force upon another person under circumstances specified in subdivision one unless: (a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is: (i) in his or her dwelling and not the initial aggressor..." - NY Penal Law S. 35.15(2)(a)

This is the critical provision. Before using deadly force in New York, a person who knows they can retreat with complete personal safety to themselves and others must do so. The 'complete personal safety' standard - identical to Nebraska, Connecticut, Delaware, and Maine - means that if retreat would expose you to any risk, the duty does not arise.

KEY DISTINCTIONS IN NEW YORK'S FRAMEWORK:

- **NON-DEADLY FORCE:** No duty to retreat before using non-deadly physical force anywhere.
- **DEADLY FORCE in PUBLIC:** Duty to retreat if the actor KNOWS safe retreat is available with complete personal safety.
- **DEADLY FORCE in DWELLING:** No duty to retreat - Castle Doctrine applies, provided the actor was not the initial aggressor.
- **STANDARD:** 'Complete personal safety, to oneself and others' - one of the most demanding formulations in any state in this series.

CRITICAL NUANCE - 'TO ONESELF AND OTHERS':

New York's retreat standard requires that retreat be possible 'with complete personal safety, to oneself AND OTHERS.' This means that if retreating would put a third person at risk - a partner, a patient, a bystander - the duty to retreat may not apply even if you personally could retreat safely. For first responders defending a partner or a vulnerable patient, this nuance is legally significant. VEST Level III partner defense training is directly relevant to this provision.

NY Penal Law S. 35.20 - Defense of Premises

NY Penal Law S. 35.20 governs defense of premises. Non-deadly force may be used to prevent or stop criminal trespass. Deadly force against a trespasser is authorized only when the actor reasonably believes such force is necessary to prevent the commission of arson, murder, robbery, or burglary inside the dwelling. The Castle Doctrine through S. 35.15(2)(a)(i) applies inside the dwelling against an unlawful intruder when the actor was not the initial aggressor.

PART II: DUTY TO RETREAT - NEW YORK'S POSITION

CRITICAL: NEW YORK IMPOSES A DUTY TO RETREAT IN PUBLIC

New York's duty-to-retreat requirement applies to deadly force in any public location, including any EMS or fire scene outside the actor's own dwelling. This is one of the most operationally significant legal constraints for first responders in any state in this series.

- **PUBLIC SPACES:** Retreat required before using deadly force if actor KNOWS retreat is possible with complete personal safety to self and others.

- DWELLING: No duty to retreat inside the actor's own dwelling against an unlawful intruder who is not the initial aggressor.
- VEHICLE: No specific exception - duty-to-retreat framework applies.
- WORKPLACE: No specific exception - duty-to-retreat framework applies.
- 'Knows' standard: Prosecution must prove the actor KNEW safe retreat was available. If the actor genuinely did not know, the duty does not arise.
- Non-deadly force: No retreat required.

PRACTICAL IMPACT FOR NEW YORK FIRST RESPONDERS:

New York EMS providers and firefighters at public scenes must document why deadly force was necessary without the option of safe retreat. The 'complete personal safety to self and others' formulation means that any risk to a partner, patient, or bystander eliminates the retreat obligation. Sudden attacks that leave no time for retreat also satisfy the standard. VEST Level I situational awareness training - documenting every factor that made safe retreat impossible - is legally foundational in New York.

PART III: FIRST RESPONDER ASSAULT - ENHANCED CRIMINAL PROTECTIONS

NY Penal Law S. 120.08 - Assault on Peace Officer, Firefighter, or EMS Professional

New York Penal Law S. 120.08 creates a standalone offense - 'Assault on a peace officer, police officer, firefighter or emergency medical services professional' - that is classified as a Class C Violent Felony. A Class C Violent Felony carries a mandatory minimum of 3.5 years and up to 15 years imprisonment. The statute specifically names 'emergency medical service paramedic or emergency medical service technician' as a protected class, alongside firefighters acting as paramedics or EMTs.

CLASS C VIOLENT FELONY DESIGNATION:

- Mandatory minimum: 3.5 years imprisonment - cannot be suspended or waived.
- Maximum: 15 years imprisonment.
- Violent felony designation: impacts sentencing, probation eligibility, and post-release supervision.
- Covers EMS paramedics and EMTs by explicit name in the statute.
- Covers firefighters, including those acting as paramedics or EMTs in the course of their duties.

NY Penal Law S. 120.05(3) - Assault 2nd Degree (EMS and Firefighter Enhancement)

Assault in the Second Degree - a Class D Violent Felony (up to 7 years) - includes a specific provision covering intentional assault on a peace officer, firefighter, or EMS professional with intent to prevent them from performing their duties. This captures assaults specifically designed to obstruct first responders from their mission, with a mandatory minimum of 2 years.

NY Penal Law S. 195.15 and 195.16 - Obstructing First Responders

New York creates specific obstructing offenses for first responders: S. 195.15 (Obstructing Firefighting Operations) is a Class D Felony (up to 7 years). S. 195.16 (Obstructing Emergency Medical Services) is a Class A Misdemeanor (up to 1 year). These provisions criminalize interference with first-responder operations even without physical contact - a meaningful protection for scene management.

NEW YORK'S MANDATORY MINIMUM IS AMONG THE STRONGEST IN THIS SERIES:

NY Penal Law S. 120.08's mandatory 3.5-year minimum for assault on an EMS provider or firefighter is one of the highest mandatory minimums for this offense in any state covered in this series. Combined with the violent felony designation (which impacts parole and post-release supervision), New York creates one of the most serious criminal consequences for attacking first responders.

PART IV: POLICE USE OF FORCE - ERIC GARNER ANTI-CHOKEHOLD ACT (2020)**NY Penal Law S. 121.14 - Aggravated Strangulation (Eric Garner Anti-Chokehold Act)**

New York enacted the Eric Garner Anti-Chokehold Act in 2020, signed by Governor Cuomo, creating a new standalone offense: Aggravated Strangulation. The Act was named after Eric Garner, who died in 2014 after a New York City police officer applied a chokehold, with the words 'I can't breathe' becoming a rallying call for police reform.

"A police officer or peace officer commits the crime of aggravated strangulation when, acting in his or her capacity as a police officer or peace officer, he or she applies pressure to the throat or windpipe of another person, or blocks the mouth or nostrils of another person, in a manner that restricts the flow of air or blood, thereby causing stupor, loss of consciousness, or death, or serious physical injury to another person." - NY Penal Law S. 121.14

KEY PROVISIONS OF THE ERIC GARNER ACT:

- Applies to police officers and peace officers ONLY - acting in their capacity as officers.
- Covers: pressure to throat or windpipe AND blocking mouth or nostrils.
- Causing stupor, loss of consciousness, or death: Class C Felony - up to 15 years.
- Causing serious physical injury: Class C Felony.
- This is a STANDALONE CRIMINAL OFFENSE - a direct criminal charge, not just a policy violation.
- NO exception for life-safety emergencies in the statute - unlike Missouri, Louisiana, and Nebraska.

NEW YORK COMPARED TO OTHER STATES IN THIS SERIES:

- New York: Standalone felony offense (Class C, up to 15 years) - among the strongest criminal penalties for unauthorized chokehold use.
- Delaware: Class D/C Felony (up to 15 years with injury) - comparable criminal enforcement.
- Colorado: Complete administrative ban with POST decertification and civil liability.
- Louisiana: RS 40:2553 - prohibited with great bodily harm/deadly force exception.
- Kansas, Montana, New Mexico: No statewide statutory ban.

FIRST RESPONDERS VS. LAW ENFORCEMENT:

NY Penal Law S. 121.14 applies ONLY to police officers and peace officers acting in their capacity as officers. EMS and fire personnel are governed by the civilian NY Penal Law S. 35.15 framework. A New York paramedic defending their life against a violent attack is evaluated under the civilian duty-to-retreat/Castle Doctrine framework - not the police chokehold law. There is no statutory restriction on civilian New York first responders using any defensive physical technique in genuine life-safety self-defense.

PART V: APPLYING VEST PRINCIPLES UNDER NEW YORK LAW

1. Situational Awareness Is Your Legal Foundation - Non-Deadly Force Is Your Primary Tool

Because New York's duty to retreat applies only to DEADLY force, non-deadly defensive responses have no retreat requirement. VEST Level I and II physical defensive technique training provides New York first responders with legally unrestricted defensive options in public spaces. Every non-deadly intervention documented before deadly force was required strengthens your legal position.

2. 'To Oneself and Others' - Your Partner's Safety Matters

New York's retreat standard requires that retreat be possible 'with complete personal safety, to oneself AND others.' If retreating would put your partner, patient, or any other person at risk, the duty to retreat may not apply. VEST Level III partner defense training is directly relevant - the presence of a vulnerable partner or patient who cannot safely retreat affects the duty-to-retreat analysis for all responding providers.

3. The Eric Garner Act Requires Explicit Joint Training Attention

When VEST delivers joint agency training with New York law enforcement, the Eric Garner Anti-Chokehold Act must be explicitly addressed. NY Penal Law S. 121.14 creates a standalone Class C Felony for chokehold use by police officers - one of the harshest criminal consequences for this conduct in any state. Civilian first responders are evaluated under S. 35.15 in personal self-defense.

4. The Mandatory Minimum for EMS/Fire Assault Is Significant

NY Penal Law S. 120.08's mandatory 3.5-year minimum for assault on an EMS provider or firefighter is a powerful deterrent. VEST trainers should communicate this legal reality clearly: any attack on an on-duty New York EMS or fire provider carries a mandatory minimum prison sentence with no possibility of suspension.

5. Document Every Factor That Eliminated Safe Retreat

New York's 'knows' standard for the duty to retreat means that if the actor genuinely did not know that safe retreat was available, the duty does not arise. Every factor that blocked or eliminated safe retreat is a legal asset: scene geometry, speed of attack, partner location, patient care obligations, blocked exits. Document all of these immediately and specifically.

LEGAL DISCLAIMER

This document is produced by VEST First Responder LLC for educational and trainer development purposes only. It does not constitute legal advice. New York Penal Law Articles 35 and 120; NY Penal Law S. 121.14 (Eric Garner Anti-Chokehold Act, 2020) are subject to legislative amendment, and individual incidents are always fact-specific. VEST Certified Trainers and their agencies should consult with a licensed attorney, their medical director, and agency legal counsel before developing or delivering formal use-of-force or defensive tactics policies.

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