



July 2023

LAW ENFORCEMENT

DHS Should Strengthen Use of Force Data Collection and Analysis

Accessible Version

GAO Highlights

Highlights of [GAO-23-105927](#), a report to congressional addressees

Why GAO Did This Study

On May 25, 2022, Executive Order 14,074 required the heads of federal law enforcement agencies, including DHS, to ensure their agencies' use of force policies reflect principles of valuing and preserving human life and meet or exceed DOJ's use of force policy.

A provision in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2022, directed GAO to review issues related to DHS law enforcement officers' use of force. GAO was also asked to review DHS's related policies and practices. This report discusses DHS's use of force policies, training, data collection and analysis, and how DHS reviews incidents.

To address these topics, GAO selected four DHS agencies with a primary mission related to law enforcement and that employ the highest number of law enforcement officers: CBP, FPS, ICE, and Secret Service. GAO reviewed agency directives and guidance, as well as internal and published use of force incident reports from fiscal years 2021 and 2022. GAO also interviewed agency officials and officials from a nongeneralizable sample of organizations with knowledge of law enforcement use of force.

What GAO Recommends

GAO is making two recommendations to DHS to (1) provide guidance on how its component agencies submit data to DHS for the range of scenarios when force was used multiple times, and (2) develop and implement a plan with time frames for analyzing the use of force data its agencies submit. DHS agreed with GAO's recommendations.

View [GAO-23-105927](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or goodwin@gao.gov.

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DHS Should Strengthen Use of Force Data Collection and Analysis

What GAO Found

In February 2023, the Department of Homeland Security (DHS) amended its use of force policy to align with the Department of Justice's (DOJ) policy. For example, DHS's policy introduced restrictions on chokeholds and carotid restraints. DHS officials said U.S. Customs and Border Protection (CBP), Federal Protective Service (FPS), U.S. Immigration and Customs Enforcement (ICE), and the U.S. Secret Service (Secret Service) are required to update their use of force policies as needed to be consistent with DHS's policy.

DHS law enforcement officers generally receive basic use of force training at the Federal Law Enforcement Training Centers. Officers also receive recurring agency training that covers use of force, firearms, and less lethal devices. DHS agencies use electronic systems to track officers' training.

Force Continuum



Sources: GAO analysis of agency policies; GAO (illustrations). | GAO-23-105927

While DHS requires the four agencies GAO reviewed to submit data on uses of force, the data submitted to DHS undercount the frequency that officers used force against subjects. For example, agencies sometimes submitted data to DHS that counted multiple reportable uses of force as a single "incident." Providing guidance on how agencies should submit data to DHS for the range of scenarios when force was used multiple times would enhance DHS's ability to oversee use of force activities across its agencies.

DHS officials stated that analyzing the use of force data would help guide future policy decisions, but DHS has not developed a plan to analyze the data. Developing and implementing a plan, with time frames, for how it will analyze its use of force data will enable DHS management to more effectively assess use of force activities, conduct meaningful trend analysis, and take any appropriate steps to strengthen its oversight activities.

The four DHS agencies have review boards to analyze uses of force from the perspective of training, tactics, policy, and equipment; identify trends and lessons learned; and propose any necessary improvements to policies and procedures. Boards that were in operation in fiscal years 2021 and 2022 found that most use of force incidents they reviewed aligned with agency policy. Agencies have applied lessons learned from reviews in various ways, such as revising policy and training.

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Abbreviations

| | |
|-----|---|
| ATF | Bureau of Alcohol, Tobacco, Firearms and Explosives |
| BOP | Federal Bureau of Prisons |
| CBP | U.S. Customs and Border Protection |
| DEA | Drug Enforcement Administration |
| DHS | Department of Homeland Security |
| DOJ | Department of Justice |

| | |
|-------|--|
| FBI | Federal Bureau of Investigation |
| FLETC | Federal Law Enforcement Training Centers |
| FPS | Federal Protective Service |
| ICE | U.S. Immigration and Customs Enforcement |
| PIT | Precision immobilization technique |
| USMS | U.S. Marshals Service |

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July 24, 2023

Congressional Addressees

Following high-profile deaths during law enforcement encounters and the subsequent public demonstrations in the summer of 2020, as well as events at the southern border in September 2021,¹ the President signed an executive order on May 25, 2022, that addressed issues related to the use of force in federal law enforcement.² The executive order noted the importance of strengthening trust between law enforcement officers and the communities they serve, as well as ensuring the criminal justice system serves and protects all people equally. Toward those ends, the executive order required the heads of federal law enforcement agencies, including DHS, to ensure their agencies' use of force policies reflect principles of valuing and preserving human life and are equivalent to or exceed the Department of Justice's (DOJ) use of force policy issued on May 20, 2022.³ In general, under DOJ policy, law enforcement officers may use a reasonable amount of force to bring an incident under control, make an arrest, or protect themselves or others from harm. DHS officers

¹In July 2022, U.S. Customs and Border Protection (CBP) publicly released the findings of its Office of Professional Responsibility's investigation of the Border Patrol's Horse Patrol Unit activity at the Del Rio-Ciudad Acuna International Bridge in Del Rio, Texas, on September 19, 2021. The investigation found that the agency failed to appropriately exercise command and control over the Horse Patrol units, and that several individual agents used force or the threat of force to attempt to drive migrants back across the river. CBP's Office of Professional Responsibility presented the case to the United States Attorney's Office for the Western District of Texas, which declined to prosecute. Additionally, DHS Office for Civil Rights and Civil Liberties conducted a civil rights and civil liberties investigation regarding CBP's and DHS's responses to these events. The Office of Civil Rights and Civil Liberties' recommendations to CBP included ones on: (1) developing internal operating procedures for Border Patrol personnel on providing meaningful access of CBP's services for persons with limited English proficiency, (2) using horse patrol units in nonroutine situations, and (3) providing training on nondiscriminatory policies and racial bias and discriminatory treatment when securing crowds.

²Exec. Order No. 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, 87 Fed. Reg. 32,945 (May 25, 2022).

³Department of Justice, Office of the Attorney General, *Department of Justice Updated Policy on Use of Force* (Washington, D.C.: May 20, 2022).

may also use force that is objectively reasonable, but DHS requires its officers to minimize the risk of unintended injuries.⁴

A provision in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2022, directed GAO to review issues related to DHS law enforcement officers' use of force.⁵ GAO was also asked to review DHS's related policies and practices. This report addresses:

1. DHS's policies on use of force,
2. how DHS tracks its law enforcement officers' use of force training,
3. the extent to which DHS collects accurate data and conducts meaningful analysis of its law enforcement officers' uses of force, and
4. how DHS reviews use of force incidents, and the extent to which it has found that its officers' uses of force aligned with policy.

To address all four topics, we selected four component agencies within DHS that (1) have a primary mission specifically related to law enforcement, and (2) employ the highest number of law enforcement officers.⁶ We selected U.S. Customs and Border Protection (CBP), Federal Protective Service (FPS), U.S. Immigration and Customs Enforcement (ICE), and the U.S. Secret Service (Secret Service).⁷

To identify the DHS and agency policies related to law enforcement officers' use of force, including vehicular pursuits, we reviewed their documents, including directives, handbooks, and other guidance. We also interviewed department and agency officials (e.g., managers, supervisors,

⁴For the purposes of this report, DHS law enforcement officers include all DHS employees authorized to carry a firearm and make arrests (excluding contractors and employees within intelligence and military agencies).

⁵Joint Explanatory Statement, Div. F., tit. I., accompanying the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49. This joint explanatory statement also asked us to review vehicle pursuit policies and training on de-escalation and less-lethal responses.

⁶The four agencies with the highest number of law enforcement officers each employed over 900 law enforcement officers in fiscal year 2020.

⁷The Bureau of Justice Statistics' survey of federal law enforcement officers excluded officers in the U.S. Armed Forces, including the U.S. Coast Guard. It also excluded officers at Transportation Security Administration's Federal Air Marshals Service, due to security and classified information restrictions. As a result, we did not include these agencies in our review.

and team leaders) on policies related to law enforcement officers' use of force.

We also conducted interviews with officials from a nongeneralizable sample of relevant stakeholder groups with subject matter knowledge on challenges and opportunities to improve the use of force policies at DHS law enforcement agencies. We selected four stakeholder groups that (1) had direct interactions with the DHS agencies within our scope, (2) were groups with different missions to cover a broad range of perspectives, and (3) demonstrated subject matter knowledge concerning DHS law enforcement officers' use of force. These consisted of two labor unions (the National Treasury Employees Union and the National Border Patrol Council), one civil rights group (American Civil Liberties Union), and one migrant advocacy group (Southern Border Communities Coalition). Although the results from our interviews with selected stakeholder groups cannot be generalized to all stakeholder groups, they provided useful background information concerning the challenges and opportunities to improve the use of force policies at DHS law enforcement agencies.

To determine how DHS and its agencies track the initial and recurring use of force training that law enforcement officers receive, we reviewed department and agency documents that outline the required training for law enforcement officers. This included directives as well as course lesson plans and content.⁸ We also reviewed department and agency documents describing the processes and data systems they use to document officers' attendance and performance at required initial and recurring training courses.⁹ We interviewed department and agency officials responsible for setting directives, as well as those responsible for designing training content, overseeing its delivery, and reviewing law enforcement officers' training records.

To determine the extent to which DHS collects accurate data and conducts meaningful analysis of its law enforcement officers' uses of

⁸The quality of the training content and the extent to which the agency assesses the quality of its training content were not in the scope of our review.

⁹The extent to which law enforcement officers were up to date with their training requirements and weapons and devices recertifications were not in the scope of our review. However, the DHS Office of Inspector General has audited training records. For example, in 2021, it published a report auditing the records of the CBP, FPS, ICE, and Secret Service officers who were deployed to Portland, Oregon and found that 36 of 222 officers had not completed the required legal briefing on pertinent authorities, jurisdiction, and criminal statutory provisions enforceable on federal property.

force, we reviewed department and agency documents that lay out requirements for the information officers should report on their uses of force. We reviewed published and internal reports that the agencies produced on use of force data from fiscal years 2021 and 2022. We also analyzed available agency data on use of force by law enforcement officers, and agency use of force reports from fiscal years 2021 and 2022. To assess the reliability of those data, we reviewed relevant documentation, spoke with knowledgeable agency officials about the data, and conducted basic manual and logic testing. For example, as available, we compared agency use of force data to officer narratives in agency use of force reports. In the narratives, we counted one use of force each time the officer described using force in a way that met DHS's definition of a reportable use of force. As discussed later in this report, we found the data were not sufficiently reliable for the purposes of describing the number of times agency law enforcement officers used force.

We also interviewed agency officials on any plans (either existing or in development) to analyze agencies' use of force data to determine characteristics and trends over time. We evaluated the data the agency collected and the analysis plans against (1) departmental and agency policies on use of force reporting; (2) federal internal control standards that call for management to use quality information and establish monitoring activities to achieve the entity's objectives; and (3) leading practices for evaluation, which include developing an evaluation plan or agenda for assessing programs.¹⁰

To determine how DHS and its agencies review use of force incidents, and the extent to which it has determined that its officers' uses of force were in alignment with policy, we reviewed department and agency documents that outline the oversight bodies that review uses of force and the process by which they do so. For example, we reviewed directives and guidance. We reviewed agency documents and data that summarize the oversight bodies' determinations in these reviews during fiscal years 2021 and 2022, including the oversight bodies' findings regarding officers' use of force and any recommendations made to the agency or department regarding use of force policy and training.

¹⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014); GAO, *Foreign Assistance: Selected Agencies' Monitoring and Evaluation Policies Generally Address Leading Practices*, [GAO-16-861R](#) (Washington, D.C.: Sept. 27, 2016) and American Evaluation Association, *An Evaluation Roadmap for a More Effective Government* (September 2019).

To assess the reliability of those data, we spoke with knowledgeable agency officials about the completeness of the oversight data. Also, we conducted manual testing for missing data, obvious errors, and internal logic. We determined that the data were sufficiently reliable for our purposes of describing the oversight bodies' final determinations regarding the incidents reviewed, and any associated recommendations. We also reviewed any available information on the process by which the oversight bodies ensured that identified deficiencies were remediated. We also interviewed department and agency officials responsible for setting policy for these oversight bodies and agency officials who participate in the oversight bodies.

We conducted this performance audit from April 2022 to July 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

DHS Law Enforcement Functions

DHS is responsible for a wide variety of functions, including law enforcement activities that are critically important to maintaining national security, as seen in table 1. In fiscal year 2020, DHS employed more than 66,000 full-time law enforcement officers, which accounted for nearly half (48 percent) of all full-time federal law enforcement officers that year.¹¹

Table 1: Selected Department of Homeland Security (DHS) Agency Missions and Number of Full-Time Equivalent Officers in Fiscal Year 2020

| Agency | Mission | Officers |
|--|---|----------|
| U.S. Customs and Border Protection (CBP) | Protects the American people, safeguards U.S. borders, and enhances the nation's economic prosperity. Mission priorities are combatting terrorism and transnational crime, securing the border, and facilitating lawful trade and travel. | 46,993 |

¹¹Department of Justice, Bureau of Justice Statistics, Federal Law Enforcement Officers, 2020 – Statistical Tables, NCJ 304752 (Washington, D.C.: September 2022).

| Agency | Mission | Officers |
|--|--|----------|
| Federal Protective Service (FPS) | Prevents, protects, responds to, and recovers from acts of terrorism and other hazards threatening the federal government’s essential services, ensuring the continuity of the U.S. government. | 944 |
| U.S. Immigration and Customs Enforcement (ICE) | Protects America from the cross-border crime and illegal immigration that threaten national security and public safety. | 12,989 |
| U.S. Secret Service (Secret Service) | Ensures the safety and security of its protectees, key locations, and events of national significance; protects the integrity of the U.S. currency, and investigates crimes against the U.S. financial system committed by criminals around the world and in cyberspace. | 5,210 |

Sources: Department of Justice, Bureau of Justice Statistics, Federal Law Enforcement Officers, 2020 – Statistical Tables, NCJ 304752 (Washington, D.C.: September 2022) and agency websites. | GAO-23-105927

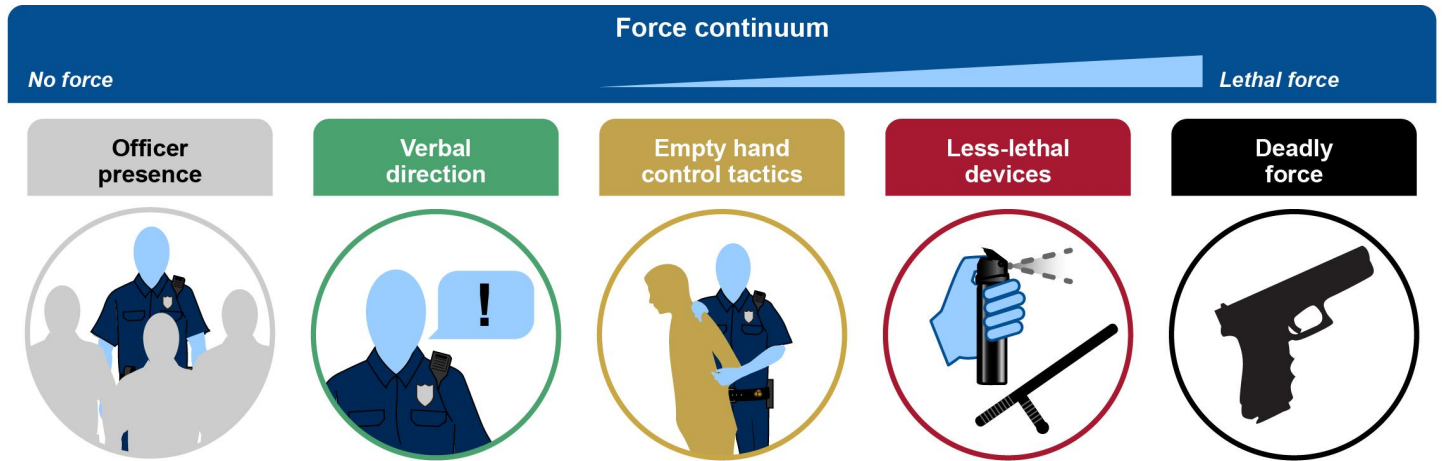
Federal Law Enforcement Use of Force

In carrying out their responsibilities, federal law enforcement officers may need to use objectively reasonable and necessary force to arrest a subject, address a potential threat, or ensure compliance with a lawful order. Federal agency policies on the use of force are derived from constitutional law, as interpreted by the federal courts.¹² The reasonableness of a use of force is based on the totality of the circumstances known by the officer at the time force is used, in the context of the rights of the subject, and the circumstances surrounding the event. If an officer uses more force than is reasonable under the circumstances, it is excessive and may violate an individual’s civil rights, which are protected under federal law.¹³ Federal law enforcement officers may—depending upon the facts and circumstances surrounding an event—need to rapidly escalate or de-escalate their use of force, which can include physical force with empty hands, less-lethal devices such as batons, and deadly force (see figure 1).

¹²See *Graham v. Connor*, 490 U.S. 386 (1989). In *Graham*, the court held that when assessing whether the totality of circumstances of the situation justified a particular use of force, the “totality of circumstances” refers to all factors surrounding that use of force. The court lists three factors, often referred to as the “*Graham* factors,” that may be considered in assessing reasonableness. First, the severity of the crime or offense at issue. Second, whether the subject poses an immediate threat to the safety of the law enforcement officer or others. Third, whether the subject is actively resisting arrest or attempting to evade arrest by flight.

¹³See 18 U.S.C. §§ 241 and 242; 34 U.S.C. § 12601.

Figure 1: Force Continuum

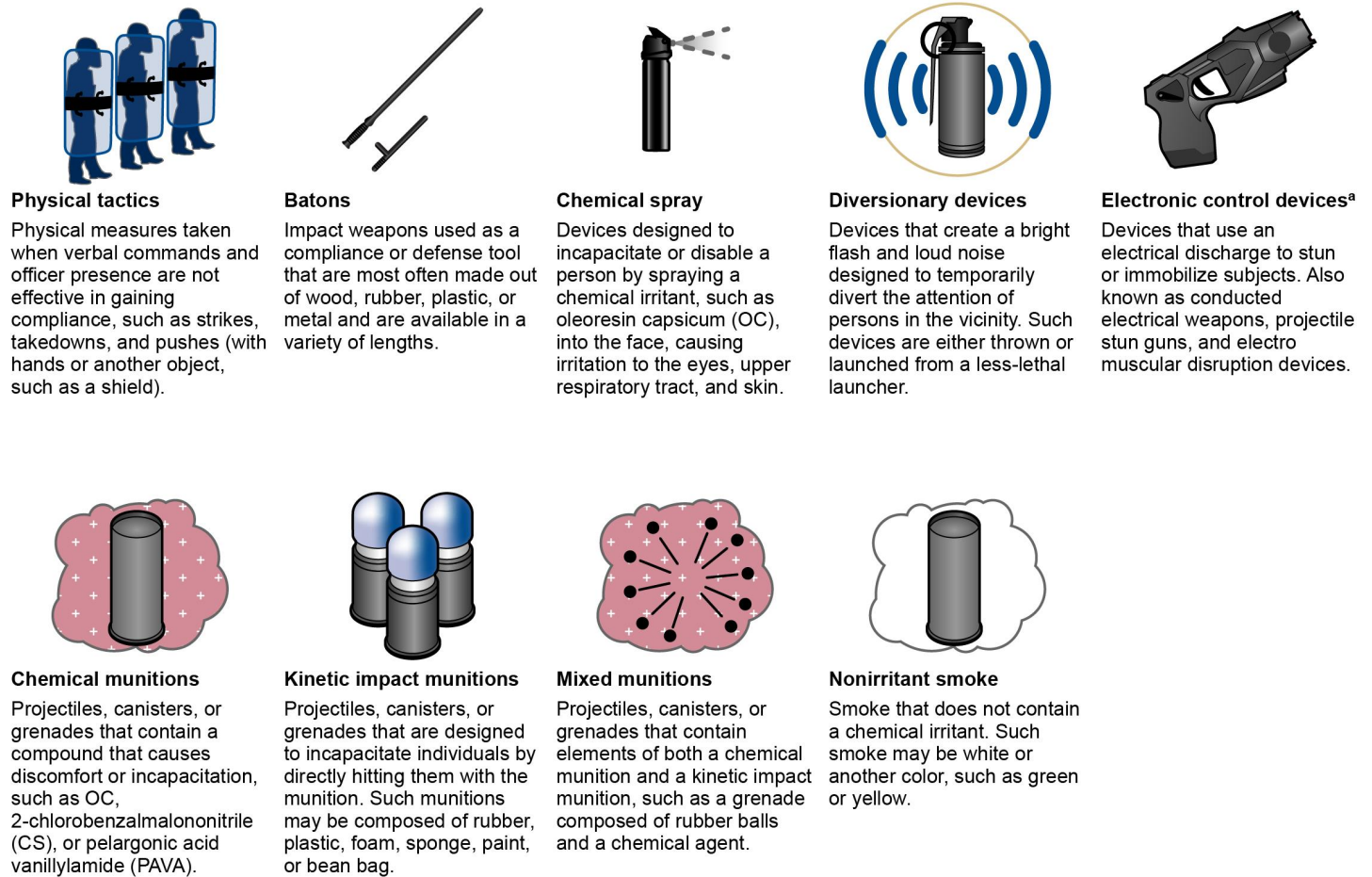


Sources: GAO analysis of agency policies; GAO (illustrations). | GAO-23-105927

Less-lethal force encompasses tactics and devices that are neither likely nor intended to cause death or serious bodily injury.¹⁴ Some types of less-lethal devices are hand thrown, such as a canister containing a chemical irritant gas (e.g., tear gas). Others are dispersed using a less-lethal launcher, such as a 40-mm launcher, or a compressed air launcher. Further, the use of a less-lethal device in a manner that could cause death or serious bodily injury (e.g., a baton strike to a region that could cause death, such as the head) is not precluded, if the use of deadly force would otherwise be objectively reasonable. Not all DHS officers are authorized to use every type of less-lethal device. Figure 2 shows examples of less-lethal tactics and devices that an officer may be authorized to use.

¹⁴Law enforcement agencies (including DHS and its agencies) use various terms to describe less-lethal force, including non-lethal force, intermediate force, and less-than-lethal force.

Figure 2: Types of Less-Lethal Force Tactics and Devices



Sources: GAO review of federal law enforcement agencies' documents, and interviews with stakeholders with subject matter knowledge; Art Explosion (police officer clipart); GAO (illustrations). | GAO-23-105927

Text for Figure 3: Types of Less-Lethal Force Tactics and Devices

| Type | Definition |
|---|--|
| Physical tactics | Physical measures taken when verbal commands and officer presence are not effective in gaining compliance, such as strikes, takedowns, and pushes (with hands or another object, such as a shield). |
| Batons | Impact weapons used as a compliance or defense tool that are most often made out of wood, rubber, plastic, or metal and are available in a variety of lengths. |
| Chemical spray | Devices designed to incapacitate or disable a person by spraying a chemical irritant, such as oleoresin capsicum (OC), into the face, causing irritation to the eyes, upper respiratory tract, and skin. |
| Diversionary devices | Devices that create a bright flash and loud noise designed to temporarily divert the attention of persons in the vicinity. Such devices are either thrown or launched from a less-lethal launcher. |
| Electronic control devices ^a | Devices that use an electrical discharge to stun or immobilize subjects. Also known as conducted electrical weapons, projectile stun guns, and electro muscular disruption devices |

Letter

| Type | Definition |
|--------------------------|--|
| Chemical munitions | Projectiles, canisters, or grenades that contain a compound that causes discomfort or incapacitation, such as OC, 2-chlorobenzalmalononitrile (CS), or pelargonic acid vanillylamide (PAVA). |
| Kinetic impact munitions | Projectiles, canisters, or grenades that are designed to incapacitate individuals by directly hitting them with the munition. Such munitions may be composed of rubber, plastic, foam, sponge, paint, or bean bag. |
| Mixed munitions | Projectiles, canisters, or grenades that contain elements of both a chemical munition and a kinetic impact munition, such as a grenade composed of rubber balls and a chemical agent. |
| Nonirritant smoke | Smoke that does not contain a chemical irritant. Such smoke may be white or another color, such as green or yellow. |

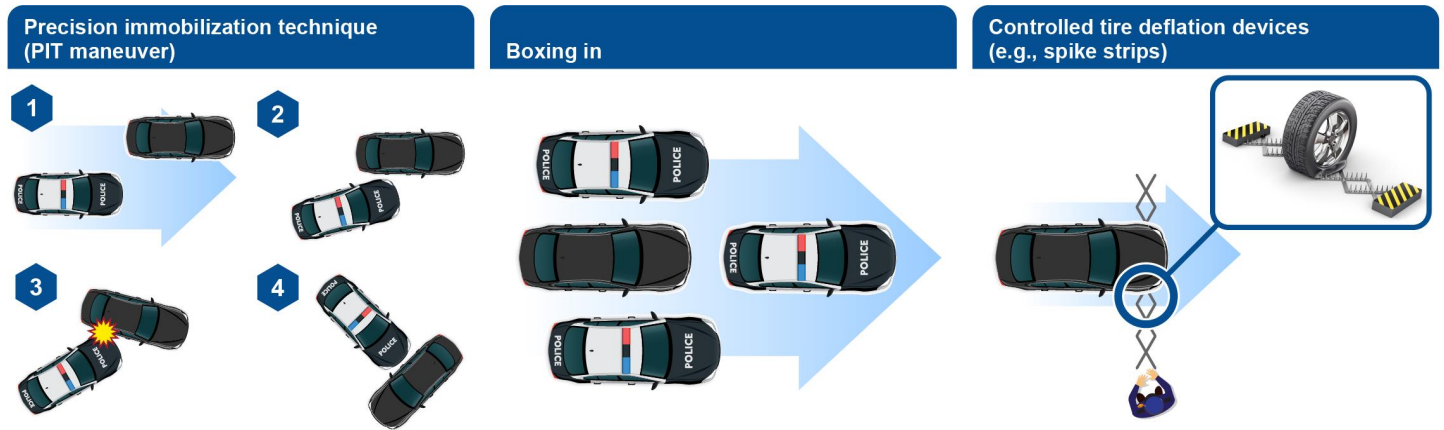
Sources: GAO review of federal law enforcement agencies' documents, and interviews with stakeholders with subject matter knowledge; Art Explosion (police officer clipart); GAO (illustrations). | GAO-23-105927

^aElectronic control devices are also known as conducted energy weapons.

DHS law enforcement officers are generally authorized to conduct vehicle pursuits, which may involve the use of force. Such pursuits may involve the use of techniques or specialized devices intended to immobilize fleeing subjects' vehicles.¹⁵ Offensive driving techniques include the precision immobilization technique, or PIT maneuver. The PIT maneuver consists of applying lateral pressure to the rear quarter panel of a moving subject vehicle resulting in a predictable spin-out action of the subject vehicle. Another pursuit technique is boxing in, which involves surrounding a subject's moving vehicle with moving emergency vehicles, which then slow to a stop alongside the subject's vehicle, causing the subject's vehicle to come to a stop. Specialized devices include vehicle immobilization devices, which are generally spike strips deployed to cause the controlled deflation of a vehicle's tire or otherwise cause a vehicle to stop. Figure 3 illustrates these tactics and devices.

¹⁵As described later in the report, not all officers are authorized to use all of the vehicle pursuit techniques described.

Figure 4: Vehicle Pursuit Tactics and Devices



Source: GAO representation of federal law enforcement agencies' documents; Taras Livyy/stock.adobe.com (car illustrations); mipan/stock.adobe.com (police illustration); caryblade/stock.adobe.com (tire illustration). | GAO-23-105927

Previous GAO Work

We have previously reported on the use of force by federal law enforcement officers. In December 2021, we issued a report on multiple agencies' use of less-than-lethal force during demonstrations in Washington, D.C., and Portland, Oregon, from May through September 2020.¹⁶ In the report, we found that federal agencies—including those within DHS and DOJ—have mission-specific use of force policies and training, but that DHS had not developed an oversight body to monitor use of force data, as required by its policy. We made five recommendations to DHS or its component agencies, including that the Secretary of Homeland Security oversee the quality, consistency, and completeness of use of force reporting across DHS and develop standards on the types of less-lethal force that should be reported and what information should be reported about each use of force.

As of February 2023, DHS had addressed our recommendation to develop standards for its agencies about what types of use of force should be reported but had not fully addressed the others. For example, it established a working group to oversee data collection, but that group had not yet developed monitoring mechanisms to ensure that reporting information is consistent and complete. We also recommended that ICE and Secret Service modify their policies to ensure officials document the

¹⁶GAO, *Law Enforcement: Federal Agencies Should Improve Reporting and Review of Less-Lethal Force*, [GAO-22-104470](#) (Washington, D.C.: Dec. 15, 2021).

determinations of whether officers' uses of force were within policy. As of February 2023, Secret Service had addressed GAO's recommendation by issuing a new policy to document determinations, but ICE had not yet done so. A list of related GAO products appears at the end of this report.

Executive Order on Use of Force

On May 25, 2022, the President signed Executive Order 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*.¹⁷ This executive order noted the importance of strengthening trust between law enforcement officers and the communities they serve, as well as ensuring the criminal justice system serves and protects all people equally. The executive order required the heads of federal law enforcement agencies, including DHS, to ensure their agencies' use of force policies are equivalent to or exceed DOJ's use of force policy issued on May 20, 2022.¹⁸ See table 2 for examples of requirements it includes to help meet those goals.

Table 2: Examples of Requirements in Executive Order 14,074

| Section title | Requirement ^a |
|--|--|
| Banning chokeholds and carotid restraints | The heads of federal law enforcement agencies are to ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the Department of Justice (DOJ) policy issued on September 13, 2021, that generally prohibit the use of chokeholds and carotid restraints except where the use of deadly force is authorized by law. |
| Providing federal law enforcement officers with clear guidance on use-of-force standards | The heads of federal law enforcement agencies are to ensure their respective agencies issue policies with requirements that reflect principles of valuing and preserving human life that are equivalent to, or exceed, the policy issued by DOJ on May 20, 2022, which establishes standards and obligations for the use of force. Agencies must then incorporate annual, evidence-informed training on use of force for officers. |

¹⁷Exec. Order No. 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, 87 Fed. Reg. 32,945 (May 25, 2022).

¹⁸DOJ has law enforcement agencies with an array of national security, law enforcement, and criminal justice system responsibilities. Its special agents investigate organized and violent crime, illegal drugs, gun and explosives violations; its deputy marshals protect the federal judiciary, apprehend fugitives, and transport persons in federal custody; and its correctional officers confine convicted federal offenders. For more information on DOJ's law enforcement agencies, see appendix I.

Letter

| Section title | Requirement^a |
|--|---|
| Ensuring appropriate use of body-worn cameras and advanced law enforcement technologies | The heads of federal law enforcement agencies are to ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on June 7, 2021. Specifically, for agencies that regularly conduct patrols or routinely engage with the public in response to emergency calls, the policies shall be designed to ensure that cameras are worn and activated in all appropriate circumstances, including during arrests and searches. The Attorney General is to conduct a study that assesses the advantages and disadvantages of officers reviewing their body worn camera footage prior to the completion of initial reports or interviews concerning an incident involving use of force. |
| Improving use of force data collection | The heads of Federal Law Enforcement Agencies are to submit data on discharges of firearms and uses of force that result in deaths and serious injury to the Federal Bureau of Investigation's (FBI) National Use of Force Data Collection on a monthly basis. |
| Providing anti-bias training and guidance | The Director of the Office of Personnel Management and the Attorney General are to develop an evidence-informed training module for law enforcement officers on implicit bias and avoiding improper profiling based on the actual or perceived race, ethnicity, national origin, and other factors. The heads of federal law enforcement agencies are, to the extent consistent with applicable law, to ensure their law enforcement officers complete such training annually. |
| Promoting comprehensive and collaborative responses to persons in behavioral or mental health crisis | The Attorney General and the Secretary of Health and Human Services, in coordination with heads of other federal agencies and after consultation with non-governmental stakeholders, are to assess and issue guidance to state, Tribal, local, and territorial officials on best practices for responding to calls and interacting with persons in behavioral or mental health crisis or persons who have disabilities. |
| Sharing federal best practices regarding use of force investigations | The heads of federal law enforcement agencies are to assess their investigations of use of force incidents to ensure they are timely and result in timely and consistent discipline. |
| Establishing a national law enforcement accountability database | The Attorney General is to establish the National Law Enforcement Accountability Database, a centralized repository of official records documenting instances of law enforcement officer misconduct as well as commendations and awards. The heads of federal agencies are to submit the information determined appropriate for inclusion by the Attorney General on a quarterly basis, and ensure the database is used, as appropriate and consistent with applicable law, in the hiring, job assignment, and promotion of law enforcement officers within federal law enforcement agencies. |

Source: GAO presentation of Executive Order 14,074 contents. | GAO-23-105927

^aEach provision in the executive order listed above has an associated time frame for implementation.

DHS Updated Its Department-Wide Use of Force Policy, and Its Agencies Provide Additional Guidance

DHS Amended its Department-Wide Policy on Use of Force in an Effort to Make Its Policy Equivalent to or Exceed DOJ Requirements

In February 2023, DHS amended its use of force policy to comply with Executive Order 14,074.¹⁹ The executive order required that federal law enforcement agencies issue policies with requirements that reflect principles of valuing and preserving human life, and that are equivalent to, or exceed, the requirements in DOJ's use of force policy.²⁰ For example, it required the heads of federal law enforcement agencies to issue policies that are equivalent to, or exceed, DOJ's September 2021 requirements regarding the use of unannounced—or “no-knock”—entries.²¹

To ensure DHS's standards are equivalent to or exceed DOJ's standards and complied with the executive order, DHS officials stated that they reviewed policies, training requirements, and data reporting across DHS's law enforcement agencies. DHS's Law Enforcement Coordination Council (Council), which the DHS secretary created in 2021 to assess and advise on a broad range of law enforcement matters, led this effort. In July 2022, the Council issued a memo with recommendations on potential

¹⁹Department of Homeland Security, Policy Statement 004-05 (Revision 01), *Update to the Department Policy on the Use of Force* (Washington, D.C.: Feb. 6, 2023).

²⁰Exec. Order No. 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, 87 Fed. Reg. 32,945 (May 25, 2022); Department of Justice, Office of the Attorney General, *Department of Justice Policy on Use of Force* (Washington, D.C.: May 20, 2022). The department-level policies at DHS and DOJ are publically available.

²¹Department of Justice, Office of the Deputy Attorney General, *Chokeholds & Carotid Restraints; Knock & Announce Requirement*, (Washington, D.C.: Sept. 13, 2021). A “no-knock” entry is when officers enter a dwelling without first announcing their presence. Federal agents are generally required to “knock and announce” their identity, authority and purpose, and demand to enter before entry is made to execute a warrant in a private dwelling.

amendments to the *DHS Department Policy on the Use of Force*. The department implemented these amendments in its policy.

For example, the 2018 policy did not specify the steps an officer was authorized to take when encountering a person whose actions are a threat only to themselves or property. Rather, it stated that a DHS law enforcement officer could use deadly force when the law enforcement officer had a reasonable belief that the subject of such force posed an imminent threat of death or serious bodily injury to the law enforcement officer or to another person.²² The Council recommended that, to make its policy equivalent to a DOJ standard, DHS should amend its policy to specifically prohibit officers from using deadly force against a person whose actions are only a threat to themselves or property. DHS incorporated this change into its amended policy.

DHS's amended policy also includes additional requirements for training on implicit bias and profiling for law enforcement officers. Although these training requirements are new, in 2013 DHS adopted DOJ's *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies*.²³ This guidance prohibits racial profiling, or the consideration of race or ethnicity, in law enforcement activities, in all but the most exceptional circumstances.²⁴ Additionally, DHS's consideration of a person's connection to a particular country, by birth or citizenship, is limited to situations laid out in the guidance. There are exceptions to these limits for antiterrorism, immigration, or customs activities in which nationality is expressly relevant to enforcing laws, or in individualized discretionary use

²²Department of Homeland Security, Policy Statement 044-05, *Department Policy on the Use of Force* (Washington, D.C.: Sept. 7, 2018).

²³Department of Homeland Security, *The Department of Homeland Security's Commitment to Nondiscriminatory Law Enforcement and Screening Activities* (Washington, D.C.: Apr. 26, 2013); Department of Justice, Civil Rights Division, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies* (June 2003).

²⁴The guidance states that federal law enforcement cannot rely upon generalized stereotypes in making routine or spontaneous law enforcement decisions. Use of race or ethnicity is permitted only when the officer is pursuing a specific lead concerning the identifying characteristics of persons involved in an *identified* criminal activity. To qualify as a legitimate investigative lead, (1) the information must be relevant to the locality or time frame of the criminal activity; (2) the information must be trustworthy; and (3) the information concerning identifying characteristics must be tied to a particular criminal incident, a particular criminal scheme, or a particular criminal organization. See Department of Justice, Civil Rights Division, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies* (June 2003).

of nationality as evidence in screening (e.g., airport security screening), investigation, or enforcement efforts. One of the four agencies in our review—CBP—reiterates this policy in its agency-level use of force guidance. CBP’s Use of Force Policy states that the DHS commitment to non-discriminatory law enforcement and screening activities is applicable to all situations in which officers exercise their use of force authority. See table 3 for a summary of the amendments DHS made to its use of force policy.²⁵

Table 3: Amendments to the Department of Homeland Security’s (DHS) Use of Force Policy (2023), and Comparison to DHS’s Superseded Policy (Issued in 2018)

| Amendments (2023) | Superseded policy (2018) and reason for amendment |
|--|--|
| Law enforcement officers may use force only when no reasonably effective, safe, and feasible alternative appears to exist. | <p>DHS law enforcement officers were permitted to use force to control subjects in the course of their official duties as authorized by law, and in defense of themselves and others, unless further restricted by DHS agency policy.</p> <p>DHS officials stated that DHS made this amendment to better align DHS’s policy with the Department of Justice’s (DOJ) policy.</p> |
| Chokeholds and carotid restraints are prohibited unless deadly force is authorized. Chokeholds and carotid restraints must not be used as a means to control non-compliant subjects or persons resisting arrest. | <p>The policy did not address this prior to 2023.</p> <p>DHS’s Law Enforcement Coordination Council (Council) recommended this update to align DHS’s policy with DOJ’s policy and Executive Order 14,074.</p> |
| DHS law enforcement officers are permitted to utilize force against an animal if the animal poses an immediate danger to the officer or others in close proximity to the animal. These incidents shall be reported per agency guidelines. A firearm may also be used to humanely euthanize an animal that appears to be seriously injured or diseased. | <p>The policy did not address this prior to 2023.</p> <p>The Council recommended this update to enhance DHS’s policy.</p> |

²⁵We did not conduct a compliance review on whether or not DHS’s policy is equivalent to or exceeds DOJ’s policy. For more information on how selected DHS agencies’ use of force policies compare to those of DOJ’s law enforcement agencies, see appendix I.

Letter

| Amendments (2023) | Superseded policy (2018) and reason for amendment |
|--|---|
| <p>Agencies shall ensure that their law enforcement officers are trained in their agency's use of force policies, at least annually, including related legal updates, discretion in using deadly force and less than lethal force, and de-escalation techniques. Training shall include scenario-based learning that simulates operating conditions, such as shooting scenarios and the application of force, including deadly force. Such training shall be recorded in agency training records. Agencies must also provide annual training to their law enforcement officers on:</p> <p>The prohibition on chokeholds and carotid restraints unless the legal standard for deadly force is met;</p> <p>The affirmative duty to request and/or render medical aid following the use of force;</p> <p>The affirmative duty to intervene if a law enforcement officer is misusing force or using excessive force; and</p> <p>Implicit bias and profiling.</p> | <p>Agencies were required to provide less-lethal use of force training no less than every 2 years and incorporate decision-making and scenario-based situations in these training programs.</p> <p>The Council recommended this amendment to align DHS's policy with DOJ's policy.</p> |
| <p>As soon as practicable after a use of force incident, agencies shall ensure that employees are immediately advised of available wellness resources if the employee was involved in or witnessed an incident where force was used.</p> | <p>The policy did not address this prior to 2023.</p> <p>The Council recommended this update to enhance current policy and support officer wellness.</p> |
| <p>Deadly force shall not be used against a person whose actions are only a threat to themselves or property. This prohibition expressly does not apply if the person poses an imminent threat of death or serious physical injury to the officer or to another person.</p> | <p>The policy did not address this prior to 2023.</p> <p>The Council recommended this update to align DHS's policy with DOJ's policy.</p> |
| <p>Discharging a firearm from a moving vehicle is prohibited except when deadly force is authorized, or except under the limited circumstances described in the policy.</p> | <p>The policy did not address this prior to 2023.</p> <p>The Council recommended this update—to exclude DHS's air and marine mission requirements—to align DHS's policy with DOJ's policy.</p> |
| <p>Firearms shall not be discharged solely to disable moving vehicles, vessels, aircraft, or other conveyances, except when deadly force is authorized or under the limited circumstances in the policy.</p> | <p>DHS's policy generally prohibited discharging firearms for the purpose of disabling a moving vehicle.</p> <p>DOJ's policy has an exception if 1) the subject in the moving vehicle is threatening deadly force against the officer or another person with means other than the vehicle, or 2) if the subject in the moving vehicle is threatening deadly force with the vehicle and no other objectively reasonable means of defense is available.</p> |
| <p>The Office of Strategy, Policy, and Plans, in consultation with the agencies and DHS headquarters offices, will establish reporting timelines, reportable data elements, and other reporting requirements.</p> | <p>The policy did not address this prior to 2023.</p> <p>The Council recommended this update to implement the Use of Force Policy Subcommittee's recommendations.</p> |

| Amendments (2023) | Superseded policy (2018) and reason for amendment |
|--|--|
| <p>Agencies shall provide to the DHS Office of Strategy, Policy, and Plans the following reportable use of force incidents and data:</p> <ul style="list-style-type: none"> Any injury or death to an officer, subject, or bystander; Any use of deadly force against a person, to include when a firearm is discharged at a person; Any intentional deployment of a less-lethal device against a subject, including canines against a subject; Any use of a vehicle, weapon, or physical tactic or technique that delivers a kinetic impact to a subject; and For only CBP, U.S. Coast Guard, and ICE, use of disabling fire against a maritime vessel or aircraft. | <p>DHS defined a reportable use of force more narrowly in the previous version of the policy. At a minimum, agencies were to report the following as a “use of force incident” when resulting from a use of force:</p> <ul style="list-style-type: none"> A less-lethal device is utilized against a person (except when the device is deployed in a non-striking control technique); Serious bodily injury occurs; Deadly force is used against a person, to include when a firearm is discharged at a person; or Death occurs. <p>The Council recommended this update to implement the Use of Force Policy Subcommittee’s recommendations.</p> |
| <p>All agencies shall participate in the Federal Bureau of Investigation’s (FBI) National Use of Force Data Collection program and report such data to the FBI in the manner prescribed.</p> | <p>The policy did not address this prior to 2023. The Council recommended this update to align DHS’s policy with DOJ’s policy and the executive order.</p> |
| <p>DHS law enforcement officers shall limit the use of no-knock entries to situations where knocking would create an imminent threat of physical violence to the law enforcement officer or another person or only for evidence preservation in national security matters. The policy describes situations where a law enforcement officer can seek judicial authorization to conduct a no-knock warrant and what a law enforcement officer should do in exigent circumstances.</p> | <p>The policy did not address this prior to 2023. The Council recommended this update to align DHS’s policy with DOJ’s policy and the executive order.</p> |
| <p>Agencies shall report data on the use of no-knock entries annually. Agencies shall provide timely notification of all no-knock warrants and entries to the Office for Civil Rights and Civil Liberties within 30 days of execution. The policy goes on to describe what the notification shall include.</p> | <p>The policy did not address this prior to 2023. The Council recommended this update to align DHS’s policy with DOJ’s policy and the executive order.</p> |
| <p>The Secretary, supported by the Office of Strategy, Policy, and Plans, shall manage a Law Enforcement Coordination Council to provide a forum by which agencies can share lessons learned regarding use of force policies, training, law enforcement administrative matters, and oversight. The Council will comprise all agencies and offices with operational law enforcement elements and will include participation from relevant DHS headquarters offices with oversight or support responsibilities. Council members will be responsible for reporting on use of force-related trends, developments, and lessons learned within their respective agencies. The Council will be structured with subcommittees addressing areas of law enforcement policy, training, and administration. Additional subcommittees may be established as needed.</p> | <p>The 2018 policy said that the Office of Strategy, Policy, and Plans, working in consultation with DHS agencies employing law enforcement officers, shall establish the DHS Use of Force Council to provide a forum by which agencies can share lessons learned regarding use of force policies, training, and oversight. The policy listed which agencies would have representatives on the DHS Use of Force Council. This update reflects the establishment of the Law Enforcement Coordination Council in 2021.</p> |

Source: GAO analysis of DHS documents. | GAO-23-105927

Agency Policies and Guidance Must Be Consistent with DHS-Wide Use of Force Policy

The four agencies in our review have supplemental agency-specific use of force policies to implement DHS's department-wide use of force policy.²⁶ DHS officials told us that the agencies are required to update these policies, as necessary, to be consistent with DHS's policy, amended in February 2023. Agencies' policies already contained some of the elements that were additions to DHS's policy. For example, although DHS previously did not have a policy on chokeholds and carotid restraints, all four agencies in our review had already prohibited their use, except when deadly force was permitted.²⁷

Additionally, all four agencies' policies already included statements on the duty to intervene to stop a perceived use of excessive force by another officer or agent, and on the duty to report improper or excessive use of force by law enforcement. The four agencies also had policies on rendering medical aid following a use of force incident.²⁸

All of the agencies' policies reflect the *Graham v. Connor* reasonableness standard; that is, officers are authorized to use force that is objectively

²⁶Although DHS agencies are not required to make their use of force policies public, CBP's use of force policy and its associated administrative guidelines and procedures handbook are publicly available. The agency-level policies from the other three agencies in our review—FPS, ICE, and Secret Service—are not available to the public.

²⁷A DHS law enforcement officer's use of deadly force must be objectively reasonable in light of the facts and circumstances confronting the officer at the time force is applied. Table 3 provides further details on DHS's policy on the use of deadly force.

²⁸For further comparison of agencies' use of force policies, see appendix I.

reasonable.²⁹ In all four policies, officers are instructed, when it is feasible and safe to do so, to use de-escalation tactics before force is used.³⁰

DHS Agencies Have Vehicular Pursuit Policies

DHS's amended definition of a reportable use of force includes any use of a vehicle that delivers a kinetic impact to a subject (for example, when a vehicle hits a person), whereas the superseded policy did not require agencies to report the use of offensive driving techniques as a use of force unless serious bodily injury or death occurred. As we previously described, vehicle pursuits may involve using force. Using offensive driving techniques (e.g., the PIT maneuver) or specialized devices intended to immobilize subjects' vehicles (e.g., spike strips) are considered uses of force.

The four agencies in our review have guidance on emergency driving and vehicular pursuits. Each outlines the considerations an officer must take in determining whether to pursue a vehicle and when the officer should terminate the pursuit, as well as what types of techniques or devices officers are authorized to use.

CBP's updated Emergency Driving and Vehicular Pursuits policy, effective May 1, 2023, provides a framework for weighing the risks associated with vehicular pursuits (e.g., the dangers posed to the public), against the law enforcement benefit or need.³¹ Among the changes is the prohibition of PIT maneuvers, which previously was the only CBP-

²⁹See *Graham v. Connor*, 490 U.S. 386 (1989). In this case, the court held that when assessing whether the totality of circumstances of the situation justified a particular use of force, the "totality of circumstances" refers to all factors surrounding that use of force. In *Graham*, the court lists three factors, often referred to as the "*Graham* factors," that may be considered in assessing reasonableness. First, the severity of the crime or offense at issue. Second, whether the subject poses an immediate threat to the safety of the law enforcement officer or others. Third, whether the subject is actively resisting arrest or attempting to evade arrest by flight.

³⁰De-escalation refers to the use of communication or other techniques during an encounter to stabilize, slow, or reduce the intensity of a potentially violent situation without using physical force, or with a reduction in force.

³¹U.S. Customs and Border Protection, Directive Number 4510-026A, *U.S. Customs and Border Protection Emergency Driving and Vehicular Pursuits* (May 2023).

authorized offensive driving technique, according to officials.³² This change reflects a recommendation in CBP's *Analysis of Vehicular Pursuits* (2021) that CBP perform a review of the effectiveness and associated risk of injury in determining whether to permit the use of PIT maneuvers.³³

FPS's Emergency Vehicle Operations directive discusses vehicle pursuit but does not say anything about the use of offensive driving techniques.³⁴ However, it does direct that before a pursuit is initiated, there must exist probable cause to believe the fleeing subject committed a felony that resulted in or poses an immediate threat of death or serious bodily injury to a law enforcement officer or others. An officer must weigh the risks posed by engaging in a vehicular pursuit against the risk the fleeing subject poses if not immediately apprehended.

ICE Homeland Security Investigations is DHS's investigative arm responsible for investigating transnational crime and threats. Under its Emergency Driving Handbook, Homeland Security Investigations officers must take objectively reasonable precautions to protect the public when involved in emergency driving, including terminating such activities when the risk of harm to themselves, the general public, or the suspect outweighs law enforcement interests.³⁵ In this regard, officers are prohibited from:

- ramming or making deliberate vehicle contact in an attempt to force the pursued vehicle to stop, unless deadly force is justified under ICE's use of force policy;
- boxing-in, except at low speeds when the highest-ranking supervisor or manager on the scene approves the maneuver or in response to an imminent threat of death or serious physical injury to the law enforcement officers or others; and

³²While CBP previously allowed PIT maneuvers, the Office of Field Operations prohibited their use except in situations where lethal force was permitted, according to officials.

³³U.S. Customs and Border Protection, Operations Support, Law Enforcement Safety and Compliance, *Analysis of Vehicular Pursuits*, (December 2021).

³⁴Federal Protective Service, Directive Number: 15.5.13.1, Revision Number:1, *Emergency Vehicle Operations* (February 19, 2020).

³⁵U.S. Immigration and Customs Enforcement, Homeland Security Investigations, HSI HB 12-02, *Emergency Driving Handbook* (May 10, 2012).

- discharging a firearm at or from a moving vehicle, unless use of deadly force is justified.

ICE Office of Enforcement and Removal Operations officers, who uphold U.S. immigration law at, within, and beyond U.S. borders, are not permitted to conduct vehicle pursuits under any circumstances, according to agency policy.

Secret Service's Uniformed Division officers protect U.S. and visiting world leaders, candidates and nominees for U.S. elections, and key federal facilities, including the White House. When engaging in a vehicular pursuit, Uniformed Division officers may not cause deliberate physical contact between their vehicle and a fleeing vehicle, nor can they pull alongside a fleeing vehicle in an attempt to force it into any obstacle.³⁶

Secret Service's Office of Investigations is responsible for detecting and arresting those engaging in crimes that undermine the integrity of U.S. financial and payment systems. The directive that applies to Office of Investigations special agents states that forcible stops of a vehicle by means intentionally applied, such as ramming, have been held to be "seizures" under the Fourth Amendment.³⁷ Thus, such activities are held to the reasonableness standard defined in *Graham v. Connor*, described above.

Agencies Have Mechanisms to Track Law Enforcement Officers' Use of Force Training

DHS Law Enforcement Officers Receive Use of Force Training at Federal Law Enforcement Training Centers

New hires at the agencies in our review—CBP, FPS, ICE, and Secret Service—generally receive basic use of force training at the Federal Law

³⁶U.S. Secret Service, Uniformed Division, UND-07(02), *Operation of Uniformed Division Emergency Vehicles; Vehicular Pursuit; and Fresh Pursuit into Another Jurisdiction*, (August 10, 2017).

³⁷U.S. Secret Service, INV-29, *Emergency and Pursuit Driving* (July 31, 2012).

Enforcement Training Centers (FLETC).³⁸ FLETC's curriculum is accredited by the Federal Law Enforcement Training Accreditation. Accreditation involves a team of assessors conducting a comprehensive review of the agency files, interviews, and observations over the course of three days. Assessors review materials according to a set of 47 standards in four areas: program administration, training staff, training development, and training delivery.³⁹ Reaccreditation occurs every 5 years.

New hires from FPS, ICE Homeland Security Investigations, and Secret Service attend either the Uniformed Police Training Program or the Criminal Investigator Training Program, which are non-agency specific programs taught by FLETC instructors and participating instructors detailed from agencies.⁴⁰ FLETC officials told us that these trainings focus on topics such as the legal and practical application of force, de-escalation techniques, critical decision-making, oral articulation of the incident, and report writing.

CBP Office of Professional Responsibility new hires also attend the Criminal Investigator Training Program at FLETC, but all other CBP new hires attend a CBP-specific basic training at FLETC.⁴¹ According to CBP officials, CBP new hires train in CBP-only groups for these courses, rather than training alongside other federal law enforcement new hires. Throughout all of these basic training programs at FLETC, trainees apply classroom lessons in laboratory exercises, using FLETC-approved standards. Figure 4 shows examples of training courses in progress at FLETC.

³⁸Depending on previous employment, ICE Enforcement and Removal Operations officers receive Enforcement and Removal Operations-specific training at the Basic Immigration and Enforcement Training Program or the Deportation Officer Training Program.

³⁹Standards include that the program applying for accreditation maintains a record for each student that documents course completion, conducts and documents quality checks of its instructional staff to ensure training quality, and adheres to its policy for student remediation and reevaluation.

⁴⁰For more information on use of force training, see [GAO-22-104470](#).

⁴¹CBP's Office of Professional Responsibility's mission is to promote the integrity and security of the CBP workforce. It is responsible for ensuring compliance with all CBP-wide programs and policies relating to corruption, misconduct, or mismanagement, and for executing CBP's internal security and integrity awareness programs.

Figure 5: Examples of Federal Law Enforcement Training Centers' Training Courses



Officers being exposed to oleoresin capsicum chemical spray during training.



An officer receiving training on an electronic control device.

Source: Federal Law Enforcement Training Centers. | GAO-23-105927

FLETC also provides an advanced Use of Force Instructor Training Program for officers in the field and for those individuals who will teach use of force courses at FLETC. This advanced program provides greater depth on use of force for the instructors-in-training to create and teach reality-based use of force scenarios. FLETC delivered 49 sessions in fiscal year 2022, and officials said they anticipate delivering 50 sessions in fiscal year 2023. In 2022, FLETC introduced a 2-hour module on Environmental Influence on De-escalation and Decision Making for the instructor training curriculum. The purpose is to demonstrate how a law enforcement officer's command and control of environmental factors that influence their decision-making—e.g., physical, spatial—may help to reduce or eliminate the need to use force. According to FLETC officials, 207 law enforcement officers had attended this training as of March 21, 2023.

DHS's Law Enforcement Coordination Council chartered a training subcommittee with an emphasis on assessing the department's training curricula and techniques. The Secretary of Homeland Security directed the subcommittee, to be led by FLETC, to review all the current training that FLETC provides to DHS officials. The subcommittee compared all curricula against the Secretary's 11 Principles of Excellence in Law Enforcement Training (see sidebar). For each of the four agencies in our review, the Training Subcommittee reported in June 2022 that the basic

training met all 11 principles, and that the agencies in our scope could consider additional mid-career training to reinforce the principles.⁴²

Agencies Require Additional Agency-Provided Use of Force Training

After officers receive initial basic training at FLETC, DHS and its agencies in our review have additional training requirements for all officers. For example, agencies require officers to attend refresher courses on their agency's use of force policies and to regularly demonstrate proficiency with their firearms and less-lethal devices.

Use of Force Training

According to DHS's amended use of force policy, agencies are required to ensure their law enforcement officers are trained in use of force policies at least annually. The policy requires the training to include scenario-based learning that simulates operating conditions. All agencies in our review require law enforcement officers to be trained on use of force policy at least once per year, except CBP, which requires its officers to receive training on use of force policy once per quarter.

Firearms Training

DHS's amended use of force policy states that discharging a firearm at a person constitutes the use of deadly force, and that agencies should ensure officers are trained on the use of deadly force at least annually. Although DHS's use of force policy does not specify how frequently law enforcement officers must demonstrate proficiency with their firearms, agencies set such requirements. The required frequency differs. For example, CBP requires all officers to demonstrate proficiency with their firearms at least twice per year, and officers within two of its components—Border Patrol and Air and Marine Operations—are required to demonstrate firearms proficiency once per quarter.⁴³ FPS, ICE, and Secret Service also require officers to demonstrate firearms proficiency once per quarter.

⁴²DHS Law Enforcement Coordination Council (LECC) Training Subcommittee Working Group, *Training Management Operations Directorate Information Paper* (June 29, 2022).

⁴³CBP policy allows its components to require more frequent firearms recertification than stated in CBP policy.

Less-lethal Devices Training

DHS's amended use of force policy requires its agencies to have policies regarding the initial and recurring training requirements for less-lethal devices. Additionally, agencies are required to conduct less-lethal use of force training no less than every 2 years, and law enforcement officers must demonstrate proficiency with each less-lethal device they are authorized to carry in accordance with the standards set by the officer's agency. Each agency in our scope requires law enforcement officers to demonstrate proficiency in each less-lethal device they are authorized to carry once per year.⁴⁴

⁴⁴Secret Service's policy requires personnel to recertify on conducted energy weapons within the calendar year that follows their most-recent certification or recertification course. This could lead to personnel demonstrating proficiency outside of a calendar year, but within DHS's standard of every two years.

De-escalation Training

DHS's amended use of force policy requires its agencies to ensure that law enforcement officers are proficient in de-escalation tactics and techniques.⁴⁵ Each of the agencies in our scope has at least some training for its law enforcement officers that discusses de-escalation.

The 11 Principles of Excellence in Law Enforcement Training

1. Understand and comply with high standards in protecting civil rights and civil liberties;
2. Understand and overcome implicit bias, including using statistical analyses of any disparate impact law enforcement strategies may have on communities of color;
3. Promote standards prohibiting profiling based on race, ethnicity, national origin, color, religion, language, sexual orientation, gender identity, and disability;
4. Create standards for the use of force;
5. Develop interpersonal communication skills geared to minimizing use of force;
6. Enhance de-escalation techniques for safe intervention during a crisis;
7. Incorporate lessons learned from previous incidents into training curricula;
8. Understand and respect the public's privacy and First Amendment rights;
9. Encourage peer intervention without fear of reprisal;
10. Develop training and policies to support mental health and wellness; and
11. Foster relationships within the community by engaging and partnering with community-based organizations.

Source: Federal Law Enforcement Training Centers. | GAO-23-105927

CBP's Use of Force Handbook states that officers must receive training on de-escalation tactics and techniques in each quarterly training period as part of their firearms and less-lethal device training.⁴⁶ The agency currently has six modules of de-escalation training available to field instructors, which cover topics such as tactical decision-making, communication skills, and verbal de-escalation. According to officials, instructors and leadership in the field have the discretion to select topics to offer during quarterly trainings.

FPS recently developed a course entitled "Integrating Communications, Assessment, and Tactics," which includes elements of de-escalation. Officials said they trained a group of instructors in fiscal year 2021 to begin teaching the training. FPS officials said the 16-hour training had been added to the agency training curriculum as of March 27, 2023.

ICE documents state that new officers in ICE's Homeland Security Investigations component—the unit responsible for investigating transnational crime and threats—receive 4 hours of training on de-escalation and conflict avoidance. Officials in ICE's Enforcement and Removal Operations component—the unit that upholds U.S. immigration law—told us that new hires receive 10 hours of de-escalation training.

Secret Service officials said that in December 2021, 75 Secret Service instructors received a 16-hour de-escalation instructor class provided by Force Science Division of Training, an organization that provides research-based training for law enforcement officers. Officials said that based on that curriculum, they developed a 4-hour de-escalation course that all Uniformed Division Officer trainees now take during basic training. Special Agent trainees participate in a pilot 4-hour course on de-escalation, according to officials. Additionally, officials said Uniformed

⁴⁵Department of Homeland Security, *Department Policy on the Use of Force*, 044-05 (revision 1) (Washington, D.C.: February 6, 2023).

⁴⁶U.S. Customs and Border Protection, *Use of Force Administrative Guidelines and Procedures Handbook*, HB 4500-002B (Washington, D.C.: January 2021).

Division Officer trainees receive a 1-hour Crisis Intervention Team familiarization training. The Secret Service also offers an advanced level Crisis Intervention Team course to all law enforcement personnel, which aims to help improve response and long-term outcomes of encounters with individuals with mental illnesses, according to officials.

Implicit Bias Training

As previously described, DHS's amended use of force policy update includes a new requirement for agencies to provide annual training to law enforcement officers on implicit bias and profiling.

CBP officials said the agency's quarterly training courses cover bias in a general way, but there is no dedicated course on recognizing or eliminating implicit bias. Officials said CBP's mission to protect the homeland necessarily involves making risk assessments of threats based on the totality of evidence, which includes a subject's national origin. DHS guidance states that it is the department's policy to prohibit the consideration of race or ethnicity in investigation, screening, and enforcement activities in all but the most exceptional instances. The guidance notes that these limits do not apply to antiterrorism, immigration, or customs activities in which nationality is expressly relevant to the administration or enforcement of a statute, regulation, or executive order, or in individualized discretionary use of nationality as a screening, investigation, or enforcement factor.⁴⁷

FPS officials said the agency introduced a course entitled "Promoting Fair and Impartial Policing: A Science-Based Perspective" in June 2022. The course seeks to train officers on the effect of implicit bias and give them skills to reduce and manage their biases. The curriculum addresses biases such as those based on race, ethnicity, gender, and socioeconomic status. FPS officials told us they have contracted with a vendor to deliver the course, and as of March 21, 2023, FPS Senior Leadership has received the training in person and the agency is rolling the training out to all employees in calendar year 2023.

ICE's use of force directive makes no mention of policy or training related to bias. According to officials, ICE's Enforcement and Removal Operations training division will be adding 8 hours of instruction for new

⁴⁷Department of Homeland Security, *Department of Homeland Security's Commitment to Nondiscriminatory Law Enforcement and Screening Activities* (Washington, D.C.: April 2013).

hires that will include content on bias. ICE's Homeland Security Investigations Academy courses on Core Law Enforcement Skills and Conflict Avoidance and De-escalation Skills both discuss implicit bias and how it can influence decision-making.

Secret Service's use of force policy makes no mention of policy or training related to bias. According to officials, Secret Service plans to incorporate implicit bias training into its learning management system after DHS's Law Enforcement Coordination Council finishes developing a course.

Agencies' Data Systems Can Track Law Enforcement Officers' Use of Force Training

Each of the DHS agencies in our review uses data systems to record whether officers completed training, such as those for use of force and firearms and less-lethal devices. Further, all agencies in our review have processes in place to review officers' records related to required trainings.

CBP coordinators ensure that instructors for the required courses record attendance in the Firearms, Armor, and Credential Tracking System. Management in the field offices run regular reports to ensure that personnel complete required training. Additionally, as part of an annual self-inspection program at the field offices, CBP researchers (e.g., CBP employees, such as a firearms instructor at that field office) answer a set of training-related questions by retrieving the answers from reports generated from the tracking system. Officials said when the researcher finishes a worksheet of questions, two additional CBP supervisors review the answers and supporting documentation for accuracy. If the researcher identified any deficiencies (such as an individual not completing a required training), and the reviewers agreed with the deficiencies, officials at that field office create a corrective action plan.

Officials said that the Law Enforcement Safety and Compliance Directorate summarizes the field offices' self-inspection program worksheet results in an annual report for executive leadership and the Management Inspections Division review. A headquarters representative for each CBP component (Border Patrol, Office of Field Operations, Air and Marine Operations) is responsible for reviewing training for their respective component and can view nationwide data on completion rates. Border Patrol has a computer-based dashboard that automatically displays training completion rates. The other CBP components are currently developing a similar dashboard, according to officials.

FPS maintains an automated training and certification system called the Training and Academy Management System. This system provides FPS's Office of Training and Professional Development the ability to track, monitor, and verify training for federal law enforcement officers and security personnel. Regional training managers can create records of attendance and completion. Individual officers in the field have access to view their grades and take training that has been assigned to them. Headquarters and regional training managers are responsible for checking the system to ensure trainings are completed, and can generate completion statistics. According to FPS policy, the Deputy Director of the Office of Training and Professional Development is required to conduct an annual program review to ensure that personnel are trained to conduct their duties and that field offices are following training policies.

ICE's Firearms and Use of Force Handbook notes that firearms and defensive tactics instructors must record officers' demonstration of firearms proficiency scores and all intermediate force weapons proficiency in the Firearms, Armor, and Credentials Tracking System within 5 business days from the date the officer completed training. ICE coordinators are responsible for ensuring that all defensive tactics, use of force, less-lethal devices, and firearms qualification scores are accurately recorded. According to officials, ICE's Office of Professional Responsibility's Management Inspections Unit conducts comprehensive and independent on-site field inspections of ICE programs and operations. Officials said that as part of this field inspection, the unit verifies that law enforcement officers have completed required use of force training and have demonstrated firearms and less-lethal device proficiency in accordance with guidelines in the ICE use of force directive.

Secret Service officials said the agency tracks all firearms and use of force training using a system called the Interim Training Administration Site. Officials said every year, law enforcement officers undergo performance evaluations, and their supervisors check their training histories on the site to ensure they have completed all required training. Additionally, according to officials, the Office of Professional Responsibility Inspection Division conducts an inspection of each field office once every 4 years, which includes a review of firearms training. Officials from this division said they note in their final report whether the completion rates are satisfactory, need improvement, or are unsatisfactory. Officials told us that the specific office being inspected is responsible for taking action to address any areas identified by the Inspection Division as potential or actual inconsistencies with policy.

DHS Agency Data Undercount Uses of Force, and DHS Does Not Have a Plan to Analyze the Data It Collects

DHS Agencies Submit Data on Uses of Force

DHS's amended use of force policy generally defines when its agencies' law enforcement officers must report a use of force to their agency. In May 2022, DHS began requiring its law enforcement agencies to submit data to DHS on officers' uses of force. The May 2022 executive order required the heads of federal law enforcement agencies to submit data to the FBI's Use of Force Database on a monthly basis.⁴⁸

DHS Officers Must Report Uses of Force to their Agencies

DHS's amended use of force policy requires law enforcement officers to report a "use of force" when:

1. any injury or death occurs;
2. deadly force is used against a person, to include when a firearm is discharged at a person;
3. a less-lethal device is intentionally deployed against a person, including canines deployed against a person;
4. any vehicle, weapon, or physical tactic or technique is used that delivers a kinetic impact to a person; or
5. for CBP, ICE, and U.S. Coast Guard, disabling fire is used against a maritime vessel or aircraft.⁴⁹

The DHS agencies in our review require the officer who used force or the officer's supervisor to complete a use of force report. Each use of force report is generally assigned an "incident number." This number is also attached to other pieces of evidence, such as supplemental reports by

⁴⁸Exec. Order No. 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, § 6, 87 Fed. Reg. 32,945, 32,951-52 (May 25, 2022).

⁴⁹Disabling fire is the discharge of a firearm solely to disable moving vehicles, vessels, aircraft, or other conveyances. DHS generally prohibits the use of disabling fire, except in maritime law enforcement operations by authorized U.S. Coast Guard, CBP, or ICE personnel.

witnesses or related video footage. Agencies indicated that this number enables them to electronically connect all relevant evidence related to the use of force. As shown in table 4, each agency uses its own form or reporting system, and each requires the officer or the officer’s supervisor to complete the use of force report within a specified time frame. The reporting form or system collects basic characteristics about the officer and the subject and includes a prompt for the officer to write a narrative statement about the use of force.

Table 4: Department of Homeland Security Agencies’ Use of Force Reporting Form or System and Required Submission Time Frames for Reportable Uses of Force

| Agency | Reporting form or system | Reporting time frame |
|--|---|---|
| U.S. Customs and Border Patrol | The Enforcement Action Statistical Analysis and Reporting system requires that the reporting officer enter various types of information from drop-down menus for each use of force incident. The system also prompts the officer to enter a narrative description of the facts and circumstances surrounding the use of force. | Officers are required to open a use of force report within 24 hours of using force and submit the report within 72 hours of using force. |
| Federal Protective Service | The use of force reporting form has entries for officers to record information such as the date, time, and location of the incident, and the officer’s distance from the suspect at the time they used force. Officers are also required to write a narrative containing additional information on the use of force, such as the circumstances that led the officer to use force. | Officers are required to submit use of force reports by the end of their shift on the day they used force. |
| U.S. Immigration and Customs Enforcement | An officer who uses force must provide a verbal report that contains information such as when and where the use of force occurred and the type of force used. Next, the officer’s supervisor is required to submit a written report that contains all the information provided during the verbal report, as well as any relevant contextual information learned after the verbal report. Supervisors submit this report in the Use of Force, Assault, and Discharge system. | Officers are required to provide a verbal report to a supervisor within an hour of the use of force. Next, the officer’s supervisor is required to submit a written report within 48 hours of the use of force. |
| Secret Service | Starting in January 2023, officers involved in a use of force must report various types of information for each use of force in the electronic Use of Force, Assaults, and Discharges Reporting System. ^a | Officers are required to submit a report by the end of the shift in which the use of force occurred, unless a supervisor approves an extension. ^b |

Source: GAO analysis of DHS agency documents. | GAO-23-105927

^aPrior to implementing an electronic reporting system, Secret Service required officers to submit reports in an unstructured memorandum that consisted of an open narrative and did not include any required fields. According to Secret Service officials, officers received training on the type of information they were to report, such as who delivered the force, the type of force used, and the rationale for the force.

^bSecret Service policy also states that when an officer is involved in a shooting or the incident involves the death or serious injury of a person, the involved officer may delay submitting a report until after the completion of a criminal investigation. Secret Service officials said they permit this delay because information in the officer’s report could potentially be used against the officer in a criminal investigation.

Agencies Must Submit Use of Force Data to FBI and DHS

The FBI's Use of Force Database contains information about incidents in which a law enforcement officer discharges a firearm or uses force that results in the death or serious bodily injury of a person. The database does not contain information on less-lethal uses of force that did not result in death or serious bodily injury of a person.

Additionally, in May 2022, DHS began collecting use of force data from its law enforcement agencies in an effort to better understand DHS's use of force activities. In February 2023, DHS formalized its data collection efforts in its amended use of force policy by requiring agencies to submit use of force data to the department on a quarterly basis.⁵⁰ The policy states DHS intends to use the data to more effectively assess uses of force. DHS collects data on all uses of force, including those that agencies also report to the FBI—those involving a firearms discharge and those resulting in the death or serious bodily injury of a person—as well as all other less-lethal uses of force.

Agencies submit use of force data using a spreadsheet template provided by DHS. In this spreadsheet, DHS requires agencies to provide the same information as required by the FBI Use of Force Database, as well as some additional information on each use of force. This includes detailed information about the number and characteristics of officers and subjects involved. As part of implementing this new data submission process, DHS requested that its agencies submit summary data describing the total number of uses of force—both less-lethal and deadly—per year beginning with fiscal year 2019.

DHS Agency Data Undercount Uses of Force

We found that DHS data undercount the total number of times officers used force for two reasons. First, we found that officers sometimes report multiple uses of force in one report, which might then be counted as one use of force. Second, we found that agencies sometimes combine multiple use of force reports as a single "incident" for reporting purposes. Both of these conditions have resulted in an undercount of the total number of times officers used force in data the agencies submitted to

⁵⁰DHS's 2018 use of force policy stated that agencies were required to report use of force data on no less than an annual basis.

DHS.⁵¹ Without complete data on officers' uses of force, DHS has a limited ability to effectively assess use of force activities across the department.

Reporting Multiple Uses of Force in One Report

We found that officers sometimes report multiple uses of force in one report. For example, during demonstrations in Portland, Oregon, in February 2021, some individual officers used force multiple times during the course of an evening, but reported these uses to FPS on a single reporting form.⁵² In one case, over the course of 30 minutes, one officer deployed his less-lethal weapon three separate times, each time hitting a different individual. The officer reported these three uses of force to FPS in one report. According to DHS policy, each of these uses of force independently counts as a reportable use of force. Additionally, FPS officials said officers who use the same type of force against different subjects should complete a separate report for each time force is used. Using this guidance, the officer should have completed three separate reports. Based on our analysis, we found that if all officers had reported each use of force separately, FPS's total number of uses of force would have been higher than the total number that the agency submitted to DHS. As a result, the data that FPS submitted to DHS is not complete and does not fully reflect the number of times officers used force.

Reporting Multiple Uses of Force as a Single Incident

We found that agencies sometimes combine multiple use of force reports as a single incident. For example, FPS submitted summary data to DHS for fiscal years 2021 and 2022. In these data, FPS reported 36 use of force incidents. These 36 incidents were based upon 79 underlying use of

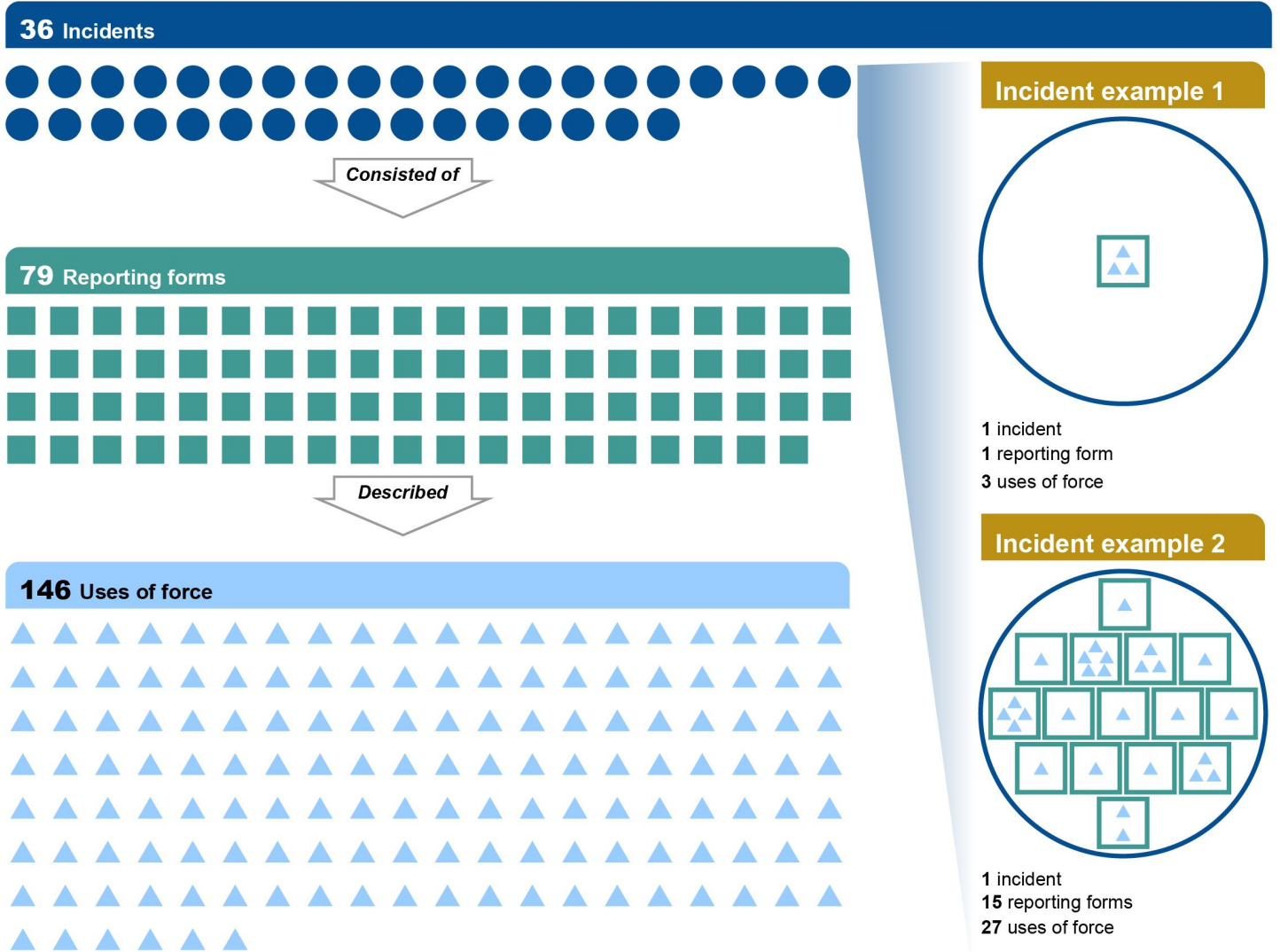
⁵¹In this section, we discuss examples observed in FPS and CBP use of force data. Secret Service officials stated that because the agency did not have consistent procedures in place, such as a standardized reporting format, to collect use of force data prior to 2023, data for fiscal years 2021 and 2022 are incomplete. Consequently, Secret Service did not submit use of force data for those years to us. We reviewed ICE published reports on use of force data for fiscal years 2021 and 2022. We determined that the published reports do not display the data in sufficient detail to determine whether ICE may have considered multiple reportable uses of force as a single incident.

⁵²For the purposes of our report, "multiple times" refers to instances when an officer described using force – in such a way that met DHS's definition of a reportable use of force – more than once during an encounter with a subject, or when more than one officer described using force during the same encounter.

force reports submitted by officers. Our analysis of officer narratives within these 79 reports found that officers described using force 146 times, as shown in figure 5.⁵³ In one instance, FPS counted 15 use of force reports as a single incident. Within these 15 use of force reports, FPS officers described using force 27 separate times. By combining multiple use of force reports as one incident and reporting the number of incidents rather than the number of uses of force, FPS undercounts the number of times officers used force in data submitted to DHS.

⁵³To count the number of times officers described using force, we analyzed officer narratives using the use of force definition in DHS's Use of Force policy. We counted, as one use of force, each time a subject encounter met DHS criteria for a reportable use of force.

Figure 5: Department of Homeland Security's (DHS) Federal Protective Service Use of Force Reporting



Source: GAO analysis of DHS information. | GAO-23-105927

Similarly, we found instances where CBP recorded multiple uses of force as a single incident. CBP data show that more than 1,700 use of force incidents occurred across the 2021-2022 fiscal year period. Of these, 291 incidents involved multiple officers using force, and 216 involved use of force against multiple subjects. For instance, in one encounter with migrants at the U.S. border, four officers reported using force on a group of 62 subjects. CBP recorded these uses of force as one incident. As a result, CBP could be undercounting the total number of times officers used force in the data it submits to DHS.

DHS's use of force policy states it is a department priority to ensure more consistent department-wide reporting and tracking of use of force incidents. According to DHS, this will enable the department to (1) more effectively assess use of force activities, (2) conduct meaningful trend analysis, (3) revise policies, and (4) take appropriate corrective actions. Additionally, federal internal control standards state that management should use quality information to achieve the entity's objectives.⁵⁴ In particular, the standards call for agencies to ensure that external sources provide data that are reasonably free from error and represent what they purport to represent.

DHS agency data undercount officers' uses of force because DHS does not provide additional department-level guidance specifying how agencies should submit data for the range of scenarios when force was used multiple times. According to officials, DHS has not provided such guidance because agencies have sufficient guidance to submit accurate use of force data. DHS officials said DHS currently relies on the agencies to issue guidance and policies regarding use of force reporting, and to ensure their data are accurate. DHS's focus since May 2022 has been to ensure that agencies submit use of force data to the FBI's Use of Force Database, as required in the executive order, according to DHS officials. Additionally, DHS officials said the language in FBI guidance and the executive order is clear about how agencies should submit data to DHS and FBI's Use of Force Database.

However, FBI's guidance specifically applies to situations that resulted in serious injury or death, or involved the discharge of a firearm. DHS requires agencies to submit data, in contrast, on all reportable uses of force, some of which are not addressed by FBI's guidance. Moreover, the executive order does not provide specific guidance on how agencies should submit data for the range of scenarios when force was used multiple times.

Providing guidance on how agencies should submit data to DHS for the range of scenarios when force was used multiple times would enhance DHS's ability to oversee use of force activities across its agencies. Doing so would help ensure that the use of force data agencies provide to DHS accurately capture the frequency with which officers use force against subjects.

⁵⁴[GAO-14-704G](#).

DHS Does Not Have a Specific Plan to Analyze Use of Force Data

As previously described, in May 2022, DHS began requesting department-wide use of force data from agencies. To facilitate its data collection efforts, in June 2022, DHS's Office of Strategy, Policy, and Plans established a working group under the Law Enforcement Coordination Council to oversee the collection and analysis of use of force data across DHS. DHS officials stated that analyzing these data would help guide future adjustments to DHS policy. Additionally, DHS Office of Strategy, Policy, and Plans officials stated they began coordinating with the Office of Homeland Security Statistics to achieve the department's data analysis priorities.⁵⁵ However, at the time of our review, neither the working group nor the Office of Homeland Security Statistics had developed specific plans for the types of analysis to conduct, or the associated time frames.

DHS's use of force policy states that consistent department-wide reporting and tracking of use of force incidents will enable the department to more effectively assess use of force activities, conduct meaningful trend analysis, revise policies, and take appropriate corrective actions. Additionally, federal internal control standards state that management should establish activities to monitor the internal control system and evaluate the results.⁵⁶ We developed a list of leading practices for evaluation based on the American Evaluation Association's Evaluation Roadmap for a More Effective Government.⁵⁷ The first leading practice advises federal agencies to prepare evaluation plans with defined time

⁵⁵In July 2022, DHS created the Office of Homeland Security Statistics (formerly the Office of Immigration Statistics). This office exists to support evidence-based policy development and to provide independent statistical reporting for DHS. This office will support use of force reporting by analyzing historical use of force incident data, according to officials.

⁵⁶[GAO-14-704G](#). Internal control involves the plans, methods, policies, and procedures that an entity uses to fulfill its mission.

⁵⁷GAO, *Foreign Assistance: Selected Agencies' Monitoring and Evaluation Policies Generally Address Leading Practices*, [GAO-16-861R](#) (Washington, D.C.: Sept. 27, 2016), and American Evaluation Association, *An Evaluation Roadmap for a More Effective Government* (September 2019). The American Evaluation Association published the roadmap to guide the development and implementation of federal agency evaluation programs and policies. The framework offers a set of general principles intended to facilitate the integration of evaluation activities with program management.

frames that take into account the need for evaluation results to inform agency program management.

According to officials, they have not developed a plan because it is too early to look at trends in the use of force data. However, leading practices highlight the importance of having a plan in place before data is collected to assure evaluation quality.

Developing and implementing a plan, with time frames, for how it will analyze its use of force data, will enable DHS management to more effectively assess use of force activities, conduct meaningful trend analysis, and take the appropriate steps to strengthen its oversight activities.

Review Boards Generally Determined that Officers Followed Use of Force Policy

Agency Boards Review Officers' Use of Force Reports and Related Evidence

DHS's department-wide use of force policy directs DHS agencies that employ law enforcement officers to establish and maintain use of force review committees. The purpose of these entities is to perform internal analyses of uses of force from the perspective of training, tactics, policy, and equipment; to identify trends and lessons learned; and to propose any necessary improvements to policies and procedures. The four agencies in our scope—CBP, FPS, ICE and Secret Service—maintain boards that review uses of force among their law enforcement officers.⁵⁸

CBP Has One National Use of Force Review Board and 22 Local Boards

Uses of force that result in serious injury or death are reviewed by CBP's National Use of Force Review Board (national board), which is overseen by CBP's Law Enforcement Safety and Compliance Directorate. All other uses of force are reviewed by one of the 22 local review boards (local boards), which are overseen by CBP's Office of Professional

⁵⁸DHS and its agencies refer to these entities by various names—e.g., council, board, committee. For the purposes of our review, we use "boards" to refer to all of these entities, or the term used by the respective agency when discussing that agency's entity.

Responsibility, according to officials. National and local boards include voting members from leadership at three CBP components—Air and Marine Operations, Border Patrol, and Office of Field Operations. The national board also includes voting members from DOJ’s Civil Rights Division, ICE’s Office of Professional Responsibility, and the DHS Office for Civil Rights and Civil Liberties. A representative from CBP’s Office of Chief Counsel serves as a non-voting member in the national and local boards. A representative from the Office of Professional Responsibility is a non-voting member of the national board, and only votes in local boards in tiebreaker situations.

CBP’s Incident-Driven Video Recording Systems

CBP’s Incident-Driven Video Recording Systems, which include the use of body-worn cameras, authorize officers to collect audio and video recordings of interactions with the public. According to CBP’s directive, such systems can be a valuable tool to establish the facts surrounding law enforcement encounters and evidence of criminal activity, when considered alongside all other available evidence.

According to CBP officials, as of October 2022 they had outfitted approximately 5,000 Border Patrol agents with body-worn cameras. Officials said they plan to outfit a total of 10,700 Border Patrol agents and 200 Office of Field Operations Special Response Team officers with body-worn cameras by the end of calendar year 2023.

Source: U.S. Customs and Border Protection (CBP). | GAO-23-105927

The national and local boards review comprehensive reports prepared by an investigative team. The reports are based on evidence such as witness statements, forensic evidence, and when available, photo and video recordings (see sidebar). After reviewing the reports, the boards make three determinations:

1. whether an officer’s use of force was consistent with CBP’s use of force policy or potentially violated that policy;
2. whether there are issues regarding potential misconduct or administrative violations that should be referred for further investigation; and
3. whether they have any recommendations to improve CBP’s use of force training, tactics, policy, or equipment.

If the board finds a potential violation or issue in either of the first two determinations, it refers the case to the Office of Professional Responsibility for further investigation. According to officials, if the board makes any recommendations to CBP, either the Office of Professional Responsibility (local boards), or the Law Enforcement Safety and Compliance Directorate (national board), tracks their implementation.

FPS Has Firearms and Use of Force Review Committee

FPS’s Firearms and Use of Force Review Committee reviews all uses of force. According to the committee’s charter, the purpose of the committee is to conduct timely, comprehensive, and reliable reviews of all uses of force for alignment with policy, training, and tactics. The committee voting members include the Specialized and Advanced Training Division Director (or designee), the Weapons and Tactics Branch Chief, a Regional Senior Firearms Instructor, a Law Enforcement Training Specialist (or instructor), and an attorney advisor from the Office of the

General Counsel.⁵⁹ The committee reviews the use of force form submitted by an officer, and when available, photos, videos, and witness statements. The committee makes two determinations:

1. whether the officer's use of force was in alignment with FPS policy and training, and
2. whether the use of force raises policy, training, equipment, or tactical concerns.

If the committee determines that the officer's actions violated FPS's use of force policy, it refers the case to the FPS Office of Internal Investigations for further action. If the committee determines a use of force raises concerns, it refers the case to the Deputy Director of Operations to ensure the concerns are resolved.

ICE Has the Firearms and Use of Force Incident Review Committee

According to ICE officials, the Firearms and Use of Force Incident Review Committee reviews all uses of force involving death, serious injury, or the use of a firearm. The purpose of the review is to determine if an officer's use of force was within ICE's use of force policy, officials said, as well as to determine if there are any needed changes to agency policy, tactics, or training.

Supervisors and ICE's analytical unit review lethal and less than lethal uses of force, according to officials. For all uses of force, ICE officials told us that an officer's supervisor is generally responsible for determining whether an officer's use of force was within policy. This determination is then approved by a second-level chain of command review. If a supervisor identifies any training deficiencies, local management is responsible for remediating the deficiency. If the supervisor determines that an officer operated outside of policy or engaged in misconduct, the supervisor is then responsible for reporting this finding to ICE's Office of Professional Responsibility.

ICE officials said a second entity that reviews all uses of force is a newly-established analytical unit. Officials said they established this unit in fiscal year 2023 to review all use of force reports submitted to the Use of Force, Assaults, and Discharges Reporting System, which is ICE's electronic

⁵⁹Non-voting members include the Use of Force Review Committee Coordinator and any other participants that the chair of the committee designates as a non-voting member.

system for tracking uses of force. Officials said that the unit will examine uses of force by ICE law enforcement officers to identify trends across the reports that suggest broader training and equipment needs. However, officials said if the unit identifies a potential violation in one of the reports they review, it will forward the case to ICE's Office of Professional Responsibility.

If either the officer's supervisor or the analytical unit refers a case to the Office of Professional Responsibility, the office investigates whether the use of force was consistent with policy, according to ICE officials.⁶⁰ If the Office of Professional Responsibility finds that an officer violated policy or committed misconduct, local management is responsible for taking any appropriate disciplinary actions, which could include termination from employment. If the office finds training or other minor deficiencies, it will refer the case back to the officer's local office and chain of command to address the deficiencies.

Secret Service Has the Use of Force Training Board and the Use of Force Policy Board

In August 2022, December 2022, and February 2023, Secret Service revised three policies related to use of force.⁶¹ These revisions were partly in response to our prior report on less-than-lethal use of force.⁶² In that report, we recommended that Secret Service modify its policies and procedures to ensure that relevant officials document their determination on whether officers used less-lethal force in accordance with agency policy. In addition, Secret Service revised its policies to ensure it aligned with DHS's amended use of force policy, according to officials. The

⁶⁰An officer's supervisor and the analytical unit may both refer the same incident to ICE's Office of Professional Responsibility for review, since those entities generally review the use of force reports in the days directly after an incident has occurred.

⁶¹First, Secret Service updated policy RTC-04(01), *Use of Force*, to include, for example, language on valuing and preserving human life. Second, Secret Service updated policy RTC-04(02), *Less-Lethal Force and Devices*. Third, Secret Service updated policy RTC-04(03), *Use of Force Reporting*, which describes the new electronic system for reporting use of force incidents.

⁶²[GAO-22-104470](#). At the time of that review, Secret Service did not have a review board for determining whether officers used force in accordance with policy. The review found that Secret Service generally delegated responsibility for evaluating uses of force to the officers' supervisors.

revised reporting policy requires that two sets of entities review each use of force.

According to Secret Service's revised use of force and reporting policies, two supervisors, as well as officials at the Use of Force Branch and the training center's legal team, review each use of force report officers submit. They evaluate whether the officer's use of force was objectively reasonable using the standards set forth in *Graham v. Connor*.⁶³ If the Use of Force Branch recommends additional training after reviewing a use of force report, the electronic system notifies the officer, the officer's Special Agent in Charge, Resident Agent in Charge, or the Uniformed Division Chief's Office, as well as the Special Agent in Charge at Secret Service's training center of the training recommendation. The officer's Special Agent in Charge, Resident Agent in Charge, or the Uniformed Division Chief's Office is responsible for coordinating with the Special Agent in Charge at the training center to ensure that the officer is scheduled for the recommended remedial training within 30 days (unless a longer time is approved in writing by the Special Agent in Charge at the training center).

Secret Service's use of force reporting policy, revised in December 2022, specifies that the Use of Force Training Board will meet quarterly to review uses of force to determine if they should make any changes to the training curriculum. Additionally, the Use of Force Policy Board will meet annually to review all uses of force to determine what changes, if any, should be made to use of force policy and make applicable recommendations to the Director and Executive Staff.

Agency Boards Generally Determined that Officers Used Force in Accordance with Policy

CBP, FPS, and ICE had boards that met during fiscal years 2021 and 2022 to review uses of force.⁶⁴ As mentioned earlier in the report, some

⁶³See *Graham v. Connor*, 490 U.S. 386 (1989). As previously described, *Graham v. Connor* established the reasonableness standard—that is, officers are authorized to use force that is objectively reasonable.

⁶⁴At the time of this review, Secret Service officials indicated they did not have a review board for determining whether officers used force in accordance with policy in fiscal years 2021 and 2022. The revised 2023 standard operating procedures for use of force reporting ensure that multiple supervisors, as well as the use of force branch, review uses of force.






use of force reports that boards reviewed may have involved more than one reportable use of force, including the use of more than one type of less-than-lethal device. At the end of each review, the board makes a determination about the reasonableness of the officer's actions. Some of the uses of force that the boards reviewed occurred prior to fiscal year 2021.⁶⁵ Generally, in the meetings during the time period in our scope, the boards determined that officers' actions in these use of force incidents were within agency policy or otherwise were objectively reasonable and justified.

CBP's national board, which is responsible for reviewing incidents involving death or serious injury, met six times and made 12 determinations regarding use of force incidents. For two of these—both occurring in 2012—the board members determined that the officers' actions were outside of CBP policy. As of March 2023, CBP officials indicated that discipline was pending for the officers involved. In a third determination, this one in 2022, board members determined that there was potential misconduct, and referred the case for further investigation.

CBP's 22 local boards, which are responsible for reviewing use of force incidents that did not involve death or serious injury, made 3,039 determinations regarding use of force incidents. In 96 determinations, the boards found a potential policy violation (3.2 percent). The three most common types of force used in these potential violations were tire deflation (29 of 697 determinations), electronic control weapon (17 of 207 determinations), and mixed munitions (11 of 389 determinations) (see figure 6).

⁶⁵Review boards may wait to review cases until any related criminal investigation is complete. As a result, the reviews may be delayed months or years after the use of force.

Figure 6: U.S. Customs and Border Protection Local Use of Force Review Board Determinations that Officers Potentially Violated Policy, by Less-Lethal Device Used

| |  Controlled tire deflation devices |  Electronic control devices (e.g., Taser) |  Mixed munitions (e.g., PepperBall) |  Chemical munitions (e.g., CS gas) ^a |  Kinetic impact munitions (e.g., 40mm launcher) |
|--|---|--|--|--|--|
| Total determinations | 697 | 207 | 389 | 702 | 444 |
| Determinations of potential policy violations^b | 29 | 17 | 11 | 10 | 10 |

Source: U.S. Customs and Border Protection; mipan/stock.adobe.com (tire illustration); GAO (illustrations). | GAO-23-105927

Data for Figure 6: U.S. Customs and Border Protection Local Use of Force Review Board Determinations that Officers Potentially Violated Policy, by Less-Lethal Device Used

| | Controlled tire deflation devices | Electronic control devices (e.g., Taser) | Mixed munitions (e.g., PepperBall) | Chemical munitions (e.g., CS gas) ^a | Kinetic impact munitions (e.g., 40mm launcher) |
|--|-----------------------------------|--|------------------------------------|--|--|
| Total determinations | 697 | 207 | 389 | 702 | 444 |
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Source: U.S. Customs and Border Protection; mipan/stock.adobe.com (tire illustration); GAO (illustrations). | GAO-23-105927

Notes:

^aCS gas is Corson Stoughton gas, or 2-chlorobenzalmalononitrile, commonly referred to as tear gas.

^bOther devices used in cases with potential policy violations included the collapsible baton and the precision immobilization technique (PIT) maneuver.

FPS’s committee, which is responsible for reviewing all use of force incidents, made 58 determinations regarding use of force incidents. Of these, 49 were related to the events in Portland, Oregon, and Washington, D.C., in May through October of 2020. Another seven determinations were related to incidents that took place in Portland, Oregon, in the spring of 2021 and 2022. The remaining two determinations were related to incidents that occurred at the southern border. The devices most frequently used during these incidents were mixed munitions (49 determinations) or chemical spray (13 determinations). The committee found that officers’ actions were objectively reasonable and justified in all but one determination. In that determination, the committee found that a physical takedown of an individual was potentially not reasonable, and referred the incident to

FPS's Office of Internal Investigations for further investigation. According to officials, this incident had already been referred to DHS's Office of Inspector General and that office had not yet returned the findings of its investigation as of March 21, 2023. Officials said that FPS's Office of Internal Investigations has investigated other complaints against the same officer in that incident, and the findings of those investigations are being addressed by FPS's Employee and Labor Relations office as well as the Office of the General Counsel, per FPS policy.

ICE's committee met four times and made 10 determinations related to use of force incidents. In one determination, the committee found that there was both a firearms safety policy violation and a training deficiency. The committee did not refer the incident for further investigation because the officer had retired.

Secret Service's review boards, established in December 2022, had not yet met at the time of our review. Officials said that in fiscal years 2021 and 2022, however, there were three use of force incidents that had been reviewed by officers' supervisors and submitted to the Inspection Division for further review. In all of these incidents, inspectors determined the officers' actions to be reasonable and consistent with policy.

Agencies Have Acted on Lessons Learned from Use of Force Reviews

The DHS agencies in our review applied lessons learned from their reviews of and determinations regarding use of force incidents in fiscal years 2021 and 2022. They did this in a variety of ways, such as revising policy and training content and reminding officers of relevant use of force policies.

CBP's national board made nine recommendations to CBP as a result of its 12 determinations regarding use of force incidents. For example, the national board recommended that CBP review and amend training materials on vehicle interdictions and that CBP identify ways to reduce delays in reviews. According to CBP documentation, one of these recommendations has been implemented and closed, and CBP is in the process of implementing the remaining eight.

FPS's review committee made one or more recommendations to FPS in 57 of its 58 determinations related to use of force incidents. These included recommendations that the agency should remind officers about

details of the use of force policy, or procedures for reporting uses of force. According to officials, in previous instances when there were multiple determinations that involved similar recommendations, FPS's Training and Professional Development office issued training bulletins that summarize the relevant policy and training information on that topic. For example, in March 2021, the office issued bulletins on (a) how to properly use and carry a conducted electrical weapon and (b) clarifying the difference between a consensual contact encounter (i.e., when an officer initiates a conversation with someone) and an investigative detention (i.e., when an officer briefly detains someone they suspect is involved in criminal activity).

ICE's review committee made one policy recommendation and one training recommendation as a result of its 10 determinations related to use of force incidents. In response to these recommendations, (1) officials from ICE's Office of Professional Responsibility said they drafted a notice to employees clarifying the relevant policy matter, and (2) officials from the local field office confirmed the office would examine the committee's recommendation for additional training on proper handgun handling procedures, entry and room clearing tactics, and tactical communications.

Secret Service's review boards, established in December 2022, had not yet met at the time of our review.

Conclusions

Under DHS policy, DHS law enforcement officers may use force when no reasonably effective, safe, and feasible alternative appears to exist. As part of a larger federal effort to strengthen trust between law enforcement officers and the communities they serve pursuant to Executive Order 14,074, in 2023, DHS amended its use of force policy to reflect principles of valuing and preserving human life. Additionally, DHS's revised policy introduced changes to enhance oversight of officers' uses of force. In May 2022, DHS took a step toward this by beginning to collect agency use of force data. These data may facilitate DHS's efforts to (1) better assess uses of force, (2) conduct department-wide trend analysis, (3) revise policies, and (4) take corrective actions.

However, DHS has not provided guidance on how component agencies should submit data to DHS for the range of scenarios when force was applied multiple times, such as when (1) one officer used one device on the same subject multiple times, or more than one device on the same

subject; (2) one officer used one device on multiple subjects; or (3) multiple officers used force against one—or more than one—subject. As a result, agency data submitted to DHS likely undercount the number of times officers used force because some uses of force were not counted. By providing such guidance, DHS would be in a better position to collect consistent and complete department-wide data on its law enforcement officers' uses of force. We also found that DHS has not developed a plan to analyze the use of force data it collects. Developing such a plan would enable DHS to more effectively assess use of force activities, revise policies and training, and take other corrective actions.

Recommendations for Executive Action

We are making the following two recommendations to DHS:

The Secretary of Homeland Security should provide guidance on how its component agencies submit data to DHS for the range of scenarios when force was used multiple times. For example, when:

- one officer used one device on the same subject multiple times, or more than one device on the same subject;
- one officer used one device on multiple subjects; and
- multiple officers used force against one—or more than one—subject. (Recommendation 1)

The Secretary of Homeland Security should develop and implement a plan with time frames to analyze the use of force data submitted by its law enforcement component agencies. (Recommendation 2)

Agency Comments

We provided a draft of this product to DHS and DOJ for review and comment. In its written comments, reproduced in appendix II, DHS concurred with our recommendations and described actions planned to address them. We will continue to monitor DHS's progress in these areas. Also, DHS and DOJ provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, the Acting Assistant Attorney General for Administration at the Department of Justice, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-8777 or goodwing@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

A handwritten signature in cursive script that reads "Gretta L. Goodwin".

Gretta L. Goodwin
Director, Homeland Security and Justice

List of Addressees

The Honorable Chris Murphy
Chair
The Honorable Katie Boyd Britt
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
House of Representatives

The Honorable Dave Joyce
Chair
The Honorable Henry Cuellar
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives

The Honorable J. Luis Correa
Ranking Member
Subcommittee on Border Security and Enforcement
Committee on Homeland Security
House of Representatives

The Honorable Troy A. Carter, Sr.
Ranking Member
Subcommittee on Emergency Management and Technology
Committee on Homeland Security
House of Representatives

The Honorable Glenn Ivey
Ranking Member
Subcommittee on Oversight, Investigations and Accountability
Committee on Homeland Security
House of Representatives

The Honorable Nanette Diaz Barrag?
House of Representatives

Letter

The Honorable Yvette D. Clarke
House of Representatives

The Honorable Bonnie Watson Coleman
House of Representatives

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

The provision for GAO to review the Department of Homeland Security (DHS) use of force in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2022, also asked GAO to compare DHS agencies' use of force policies to those of the Department of Justice's (DOJ) law enforcement agencies.¹

We reported on DOJ's use of force in December 2021.² In the report, we made 11 recommendations to DOJ. For example, we recommended the department assign responsibility for collecting and analyzing data on excessive use of force, and collect and analyze key demographic information about victims. As of May 2023, these two recommendations remained open. We also recommended that DOJ assess the feasibility of systematically tracking and sharing information on civil rights violation allegations within its jurisdiction, and use information from allegations to identify potential patterns of systemic law enforcement misconduct and analyze trends. In June 2022, DOJ assessed the feasibility of systematically tracking and sharing information on allegations and concluded it would not be feasible, but identified opportunities to improve its system for sharing such information. In April 2022, the Civil Rights Division developed two new analytical reports that use allegations the Civil Rights Division receives to identify patterns of police misconduct, and officials said they planned to produce these internal reports twice per year. We closed these recommendations as implemented.

In December 2021, we also reported on DOJ's use of less-than-lethal force during the demonstrations in Washington, D.C., and Portland, Oregon.³ In the report, we made four recommendations to DOJ, including

¹Joint Explanatory Statement, Div. F., tit. I, accompanying the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49.

²GAO, *Law Enforcement: DOJ Can Improve Publication of Use of Force Data and Oversight of Excessive Force Allegations*, [GAO-22-104456](#) (Washington, D.C.: Dec. 7, 2021).

³GAO, *Law Enforcement: Federal Agencies Should Improve Reporting and Review of Less-Lethal Force*, [GAO-22-104470](#) (Washington, D.C.: Dec. 15, 2021).

that the Attorney General develop standards for component agencies on the types of less-lethal force that should be reported when used, and that the U.S. Marshals Service develop specific reporting requirements on the types of information that must be provided for each use of force incident. As of May 2023, the recommendations remained open.

As described in table 1, DOJ has five law enforcement agencies. Similar to the four DHS agencies in our review, DOJ's law enforcement agencies have agency-specific policies implementing DOJ's use of force policy. For example, DOJ prohibits warning shots outside of the prison context, but does not elaborate on when officers can fire them within the prison context. Bureau of Prisons (BOP) policy lays out the circumstances under which it permits warning shots. Table 2 provides selected use of force policy elements at the DHS and DOJ law enforcement agencies in our review. Tables 3 and 4 show the oral and written reporting timeline requirements for DHS and DOJ officers and supervisors after a less-lethal or deadly force incident occurs, respectively.

Executive Order 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*, issued May 25, 2022, requires the heads of federal law enforcement agencies to issue policies with requirements that reflect principles of valuing and preserving human life, and that are equivalent to, or exceed, the requirements in DOJ's use of force policy issued on May 20, 2022.⁴ In December 2022, DOJ's Office of the Inspector General initiated an audit of DOJ's use of force policies within its law enforcement and corrections agencies to determine whether these agencies updated their policies to align with the DOJ's updated guidance and requirements for use of force policies. We did not evaluate whether or not DOJ agencies have aligned their policies to DOJ's department-level policy because we focused on DHS agencies in our review.

Table 5: Selected Department of Homeland Security (DHS) and Department of Justice (DOJ) Agency Missions and Number of Officers

| | Agency | Mission | Officers |
|---------------------|--|--|----------|
| DHS Agencies | U.S. Customs and Border Protection (CBP) | Protects the American people, safeguards the borders, and enhances the nation's economic prosperity; combats terrorism and transnational crime, secures the border, and facilitates lawful trade and travel. | 46,993 |

⁴Exec. Order No. 14,074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* (May 25, 2022).

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

| | Agency | Mission | Officers |
|---------------------|---|---|-----------------|
| | Federal Protective Service (FPS) | Prevents, protects, responds to, and recovers from acts of terrorism and other hazards threatening the federal government's essential services, ensuring the continuity of the U.S. government. | 944 |
| | U.S. Immigration and Customs Enforcement (ICE) | Protects America from the cross-border crime and illegal immigration that threaten national security and public safety. | 12,989 |
| | U.S. Secret Service (Secret Service) | Ensures the safety and security of its protectees, key locations, and events of national significance; protects the integrity of the U.S. currency, and investigates crimes against the U.S. financial system committed by criminals around the world and in cyberspace. | 5,210 |
| DOJ Agencies | Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) | To protect the public from crimes involving firearms, explosives, arson, and the diversion of alcohol and tobacco products; regulate lawful commerce in firearms and explosives; and provide worldwide support to law enforcement, public safety, and industry partners. | 2,653 |
| | Federal Bureau of Prisons (BOP) | Corrections professionals who foster a humane and secure environment and ensure public safety by preparing individuals for successful reentry into our communities. | 17,110 |
| | Drug Enforcement Administration (DEA) | To enforce the controlled substances laws and regulations of the U.S. and bring to the criminal and civil justice system of the U.S., or any other competent jurisdiction, those organizations and principal members of organizations, involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for illicit traffic in the U.S. | 4,380 |
| | Federal Bureau of Investigation (FBI) | To protect the American people and uphold the Constitution of the United States. | 13,575 |
| | U.S. Marshals Service (USMS) | To enforce federal laws and provide support to virtually all elements of the federal justice system by providing for the security of federal court facilities and the safety of judges and other court personnel; apprehending criminals; exercising custody of federal prisoners and providing for their security and transportation to correctional facilities; executing federal court orders; seizing assets gained by illegal means and providing for the custody, management, and disposal of forfeited assets; assuring the safety of endangered government witnesses and their families; and collecting and disbursing funds. | 3,747 |

Sources: Department of Justice, Bureau of Justice Statistics, Federal Law Enforcement Officers, 2020 – Statistical Tables, NCJ 304752 (Washington, D.C.: September 2022) and agency websites. | GAO-23-105927

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

Table 6: Selected Department of Homeland Security (DHS) and Department of Justice (DOJ) Agencies' Use of Force Policy Elements

| | Agency | Chokeholds/carotid restraints prohibited, unless deadly force permitted | Warning shots prohibited | Disabling fire prohibited | Duty to intervene to prevent or stop a perceived use of excessive force by another officer/agent | Duty to report improper/excessive use of force by law enforcement | Policy requiring officers to render or seek medical aid |
|---------------------|--|--|---|--|---|--|--|
| DHS Agencies | U.S. Customs and Border Protection (CBP) | yes | Prohibited except in maritime and aviation environment, under specific conditions | Prohibited unless officers are conducting maritime law enforcement activities against maritime conveyances | yes | yes | yes |
| | Federal Protective Service (FPS) | yes | yes | yes | yes | yes | yes |
| | U.S. Immigration and Customs Enforcement (ICE) | yes | ICE's policy states that the DHS-level policy governs all use of deadly force by law enforcement officers. DHS's policy prohibits warning shots, with limited exceptions. | ICE's policy states that the DHS-level policy governs all use of deadly force by law enforcement officers. DHS's policy prohibits disabling fire, with limited exceptions. | yes | yes | yes |
| | Secret Service | yes | yes | Only permitted while engaged in the protective function | yes | yes | yes |

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

| Agency | Chokeholds/carotid restraints prohibited, unless deadly force permitted | Warning shots prohibited | Disabling fire prohibited | Duty to intervene to prevent or stop a perceived use of excessive force by another officer/agent | Duty to report improper/excessive use of force by law enforcement | Policy requiring officers to render or seek medical aid |
|---|--|---|--|---|--|--|
| DOJ Agencies | | | | | | |
| Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) | yes | yes | Firearms may not be fired solely to disable moving vehicles. | A special agent must intercede when observing another special agent/law enforcement officer using force that is clearly beyond that which is objectively reasonable under the circumstances, when in a position to do so. | If a special agent cannot intercede for any reason, they must immediately notify their supervisor. | yes |
| Federal Bureau of Prisons (BOP) | Not in policy | When authorized, warning shots should be used only if there is no apparent danger to self, other staff and inmates, or the community. | Firearms must not be used solely to disable moving vehicles or aircraft. | Not in policy | Not in policy | yes |
| Drug Enforcement Administration (DEA) | yes | yes | Firearms may not be fired solely to disable moving vehicles. | yes | Not in policy | yes |

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

| Agency | Chokeholds/carotid restraints prohibited, unless deadly force permitted | Warning shots prohibited | Disabling fire prohibited | Duty to intervene to prevent or stop a perceived use of excessive force by another officer/agent | Duty to report improper/excessive use of force by law enforcement | Policy requiring officers to render or seek medical aid |
|---------------------------------------|--|---------------------------------|---|--|--|---|
| Federal Bureau of Investigation (FBI) | yes | yes | yes | DOJ's policy, which includes the affirmative duty to intervene, is included in an appendix to FBI's Domestic Investigations and Operations Guide | Not in policy | DOJ's policy, which includes the affirmative duty to render medical aid, is included in an appendix to FBI's Domestic Investigations and Operations Guide |
| U.S. Marshals Service (USMS) | yes | yes | Firearms may not be fired solely to disable moving vehicles or prevent a fugitive's escape. | yes | Not in policy | yes |

Source: GAO analysis of DHS and DOJ department-level and agency policies. | GAO-23-105927

Table 7: Verbal and Written Reporting Timeline Requirements for Less-Lethal Uses of Force, by Selected Department of Homeland Security (DHS) and Department of Justice (DOJ) Agencies

| Agency | Requirement to orally report use of less-lethal force to supervisor | Requirement to complete written use of force report^a |
|---|--|--|
| DHS Agencies U.S. Customs and Border Protection (CBP) | Within 1 hour or as soon as feasible | Within 72 hours (officer) |
| Federal Protective Service (FPS) | Within 1 hour, unless physically incapacitated | No later than prior to each officer's/agent's end of tour of duty on the day of the incident (officer) |
| U.S. Immigration and Customs Enforcement (ICE) | Within 1 hour, unless physically incapacitated or otherwise unable | Within 48 hours (supervisor) |
| Secret Service | Timeline is not specified | By the end of the shift during which the incident occurred, unless an extension is granted by a supervisor or the incident involves the death or serious bodily injury to any person |

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

| | Agency | Requirement to orally report use of less-lethal force to supervisor | Requirement to complete written use of force report^a |
|---------------------|---|--|--|
| DOJ Agencies | Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) | Immediately | Timeline is not specified |
| | Federal Bureau of Prisons (BOP) | Not in policy | No later than the end of the tour of duty |
| | Drug Enforcement Administration (DEA) | Immediately | The immediate supervisor will complete the form with the information that is available within 10 business days after the incident occurred |
| | Federal Bureau of Investigation (FBI) | As soon as practicable, but within 48 hours | Within 30 days of the incident (Assistant Special Agent in Charge or Supervisory Special Agent assigned) |
| | U.S. Marshals Service (USMS) | As soon as possible | No later than 48 hours after the incident. |

Source: GAO analysis of DHS and DOJ agency policies. | GAO-23-105927

^aThis column refers to the use of force report that officers or supervisors complete after a use of force incident occurs. These reports typically detail the facts and circumstances of the use of force.

Table 8: Verbal and Written Reporting Timeline Requirements for Deadly Uses of Force, by Selected Department of Homeland Security (DHS) and Department of Justice (DOJ) Agencies

| | Agency | Requirement to orally report use of deadly force to supervisor | Requirement to complete written use of force report^a |
|---------------------|---|--|--|
| DHS Agencies | U.S. Customs and Border Protection (CBP) | Orally report within 1 hour, unless the employee is physically incapacitated or otherwise unable | Within 72 hours |
| | Federal Protective Service (FPS) | If not safe/possible to provide a written report within 1 hour, officer must provide verbal report as soon as possible | After completing 72 hours of paid administrative leave, if physically and mentally capable, the involved officer will be allowed a physical walkthrough before submitting an incident report and use of force report |
| | U.S. Immigration and Customs Enforcement (ICE) | Within 1 hour, if it is safe and possible to do so | Within 48 hours (supervisor) |
| | Secret Service | As soon as possible | Upon completion of the criminal investigation |
| DOJ Agencies | Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) | Immediately | A special agent in charge or other manager must, as soon as practicable, if appropriate and not likely to jeopardize in investigation, release an internal investigation reporting the circumstances and welfare of the involved agents, and within 12 hours, submit an incident notification to the appropriate Deputy Assistant Director |
| | Federal Bureau of Prisons (BOP) | Not in policy | No later than the end of the tour of duty |
| | Drug Enforcement Administration (DEA) | Immediately | The immediate supervisor will complete the form with the information that is available within 10 business days after the incident occurred |

Appendix I: Comparison of DHS and DOJ Law Enforcement Agencies' Use of Force Policies

| Agency | Requirement to orally report use of deadly force to supervisor | Requirement to complete written use of force report^a |
|---------------------------------------|--|--|
| Federal Bureau of Investigation (FBI) | Immediately | Not in policy |
| U.S. Marshals Service (USMS) | The district or division office involved will immediately report the incident to the Communications Center | For a shooting incident, the report must be completed within 18 hours of the incident by the supervisor or designee and may not be completed by the individual who discharged their weapon |

Source: GAO analysis of DHS and DOJ agency policies. | GAO-23-105927

^aThis column refers to the use of force report that officers or supervisors complete after a use of force incident occurs. These reports typically detail the facts and circumstances of the use of force.

Appendix II: Comments from the U.S. Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

July 7, 2023

Gretta L. Goodwin
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548-0001

Re: Management Response to Draft Report GAO-23-105927, "LAW
ENFORCEMENT: DHS Should Strengthen Use of Force Data Collection and
Analysis"

Dear Ms. Goodwin:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

DHS leadership is pleased to note GAO's recognition that, in February 2023, DHS amended its use of force policy to align with U.S. Department of Justice policy, and is requiring U.S. Customs and Border Protection, Federal Protective Service, U.S. Immigration and Customs Enforcement, and the U.S. Secret Service to update use of force policies, as needed, to be consistent with DHS policy. GAO also acknowledged that DHS requires these four agencies to submit data on uses of force, and that these agencies have review boards to:

- (1) analyze uses of force from the perspective of training, tactics, policy, and equipment;
- (2) identify trends and lessons learned; and
- (3) propose any necessary improvements to policies and procedures.

DHS remains committed to ensuring that the Department continues to subject the use of force by DHS law enforcement officers to rigorous training, oversight, and reporting.

The draft report contained two recommendations, with which DHS concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical

**Appendix II: Comments from the U.S.
Department of Homeland Security**

comments addressing several accuracy, contextual, and other issues under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future

Sincerely,

JIM H CRUMPACKER Digitally signed by JIM H
CRUMPACKER
Date: 2023.07.07 08:08:57 -0400

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Enclosure

**Enclosure: Management Response to Recommendations
Contained in GAO-23-105927**

GAO recommended that the Secretary of Homeland Security:

Recommendation 1: Provide guidance on how its component agencies submit data to DHS for the range of scenarios when force was used multiple times, such as when:

- one officer used one device on the same subject multiple times, or more than one device on the same subject;
- one officer used one device on multiple subjects; and
- multiple officers used force against one—or more than one—subject.

Response: Concur. DHS's Office of Strategy, Policy, and Plans (PLCY) will work with Components, as appropriate, to develop clarifying guidance on reporting use of force incidents when there are multiple instances of uses of force, multiple officers, or multiple suspects. By January 31, 2024, PLCY, in conjunction with the Law Enforcement Coordination Council Reporting Working Group, will develop recommendations for DHS Components on reporting these types of use of force incidents. Estimated Completion Date (ECD): July 30, 2025.

Recommendation 2: Develop and implement a plan with timeframes to analyze the use of force data submitted by its law enforcement component agencies.

Response: Concur. PLCY will develop and implement a plan, with timeframes, to analyze the use of force data submitted by Components. By December 29, 2023, PLCY, in conjunction with the Office of Homeland Security Statistics, will draft a timeline for actionable steps, and will fully complete the analysis during fiscal year 2025. ECD: July 30, 2025.

Text for Appendix II: Comments from the U.S. Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

July 7, 2023

Gretta L. Goodwin
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548-0001

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- (1) analyze uses of force from the perspective of training, tactics, policy, and equipment;
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DHS remains committed to ensuring that the Department continues to subject the use of force by DHS law enforcement officers to rigorous training, oversight, and reporting.

The draft report contained two recommendations, with which DHS concurs. Enclosed find our detailed response to each recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, and other issues under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future

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JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

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Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Gretta L. Goodwin, 202-512-8777 or goodwing@gao.gov

Staff Acknowledgments

In addition to the above contact, Brett Fallavollita (Assistant Director), Hannah Weigle (Analyst in Charge), Elisabeth Schaerr Garlock, Sarah Williamson, Christina Baker, John Bornmann, Billy Commons, Elizabeth Dretsch, Eric Hauswirth, Erin O'Brien, Kevin Reeves, and Adam Vogt made key contributions to this report.

Related GAO Products

Deaths in Custody: Additional Action Needed to Help Ensure Data Collected by DOJ Are Utilized, [GAO-22-106033](#) (Washington, D.C.: Sept. 20, 2022).

Capitol Attack: Additional Actions Needed to Better Prepare Capitol Police Officers for Violent Demonstrations, [GAO-22-104829](#) (Washington, D.C.: March 7, 2022).

Law Enforcement: Federal Agencies Should Improve Reporting and Review of Less-Lethal Force, [GAO-22-104470](#) (Washington, D.C.: Dec. 15, 2021).

Law Enforcement: DOJ Can Improve Publication of Use of Force Data and Oversight of Excessive Force Allegations, [GAO-22-104456](#) (Washington, D.C.: Dec. 7, 2021).

Federal Tactical Teams: Characteristics, Training, Deployments, and Inventory, [GAO-20-710](#) (Washington, D.C.: Sep. 10, 2020).

VA Police: Actions Needed to Improve Data Completeness and Accuracy on Use of Force Incidents at Medical Centers, [GAO-20-599](#) (Washington, D.C.: Sept. 8, 2020).

Southwest Border: CBP Needs to Increase Oversight of Funds, Medical Care, and Reporting of Deaths, [GAO-20-536](#) (Washington, D.C.: July 14, 2020).

Federal Law Enforcement: DHS and DOJ Are Working to Enhance Responses to Incidents Involving Individuals with Mental Illness, [GAO-18-229](#) (Washington, D.C.: Feb. 8, 2018).

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