



Office of the Attorney General
Washington, D. C. 20530

May 20, 2022

MEMORANDUM FOR THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION
ACTING DIRECTOR, BUREAU OF ALCOHOL, TOBACCO,
FIREARMS & EXPLOSIVES
DIRECTOR, UNITED STATES MARSHALS SERVICE
DIRECTOR, BUREAU OF PRISONS
INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL

FROM:

THE ATTORNEY GENERAL

A handwritten signature in blue ink, appearing to read "Merrick Garland".

SUBJECT:

DEPARTMENT'S UPDATED USE-OF-FORCE POLICY

Attached is the Justice Department's updated use-of-force policy. This policy has been crafted in consultation with, and has been approved by, the heads of the ATF, DEA, FBI, and USMS. With these updates, our Department-wide policy is now more in line with the training and best practices you use every day. Our policy was last updated in 2004 -- eighteen years ago. In the time since, you have all spent countless hours training to the highest standards of law enforcement. And you have continued to steadfastly uphold the legal standards set forth in *Graham v. Connor* and *Tennessee v. Garner*.

The updated policy draws from the 2020 *National Consensus Policy on Use of Force*, drafted by a coalition of eleven major law enforcement groups representing federal, state, and local law enforcement officers. The policy reflects the excellence we have come to expect from the Department's officers and agents, while protecting their safety and the safety of the people and communities we serve. I am grateful to the Department's law enforcement components for your time and valuable input throughout this process.

The policy will take effect in 60 days, on July 19, 2022. Each law enforcement component will designate a senior official with responsibility for implementation. That official will ensure that all component policies and training are aligned with this policy by the effective date.

Thank you for your service and for your commitment, day in and day out, to upholding the Constitution and keeping all of us safe.

Attachment

DEPARTMENT OF JUSTICE POLICY ON USE OF FORCE
Adopted May 20, 2022

It is the policy of the Department of Justice to value and preserve human life. Officers may use only the force that is objectively reasonable to effectively gain control of an incident, while protecting the safety of the officer and others, in keeping with the standards set forth in *Graham v. Connor*, 490 U.S. 386 (1989). Officers may use force only when no reasonably effective, safe, and feasible alternative appears to exist and may use only the level of force that a reasonable officer on the scene would use under the same or similar circumstances.

As the Supreme Court stated in *Graham*: The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.” *Id.* at 396. “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Id.* at 396–97. In addition, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.* at 397. “[T]he question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” *Id.*

This Department-wide policy emphasizes core principles and training standards for the DOJ law enforcement component agencies, which have updated their individual use of force training programs regularly.

DEADLY FORCE

- I. Law enforcement officers and correctional officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.
 - A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.
 - B. Firearms may not be discharged solely to disable moving vehicles. Specifically, firearms may not be discharged at a moving vehicle unless: (1) a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or (2) the vehicle is operated in a manner that threatens to cause death or serious physical injury to the officer or others, and no other objectively reasonable means of defense appear to exist, which includes moving out of the path of the vehicle. Firearms may not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.

- C. If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.
- D. Warning shots are not permitted outside of the prison context.
- E. Officers will be trained in alternative methods and tactics for handling resisting subjects, which must be used when the use of deadly force is not authorized by this policy.
- F. Deadly force should not be used against persons whose actions are a threat solely to themselves or property unless an individual poses an imminent danger of death or serious physical injury to the officer or others in close proximity.

DE-ESCALATION

- II. Officers will be trained in de-escalation tactics and techniques designed to gain voluntary compliance from a subject before using force, and such tactics and techniques should be employed if objectively feasible and they would not increase the danger to the officer or others. When feasible, reducing the need for force allows officers to secure their own safety as well as the safety of the public.

AFFIRMATIVE DUTY TO INTERVENE

- III. Officers will be trained in, and must recognize and act upon, the affirmative duty to intervene to prevent or stop, as appropriate, any officer from engaging in excessive force or any other use of force that violates the Constitution, other federal laws, or Department policies on the reasonable use of force.

AFFIRMATIVE DUTY TO RENDER MEDICAL AID

- IV. Officers will be trained in, and must recognize and act upon, the affirmative duty to request and/or render medical aid, as appropriate, where needed.

TRAINING

- V. All officers shall receive training, at least annually, on the Department's use of force policy and related legal updates.
- VI. In addition, training shall be provided on a regular and periodic basis and designed to:
 - A. Provide techniques for the use of and reinforce the importance of de-escalation;
 - B. Simulate actual shooting situations and conditions; and

- C. Reinforce the appropriate exercise of discretion and judgment in using less-than-lethal and deadly force in accordance with this policy.

VII. All use-of-force training shall be documented.

APPLICATION OF THE POLICY

VIII. This policy shall be made available to the public, including being posted on the Department's website.

IX. This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its departments, agencies, or other entities, its officer or employees, or any other person.