

Merrimack College

## Merrimack ScholarWorks

---

Criminology Student Work

Criminology

---

Spring 2021

### Police Use of Force Policies

Shannon Moran

Follow this and additional works at: [https://scholarworks.merrimack.edu/crm\\_studentpub](https://scholarworks.merrimack.edu/crm_studentpub)



Part of the Law Enforcement and Corrections Commons

---

**Police Use of Force Policies**

**Shannon Moran**

Master of Science in Criminology & Criminal Justice

Merrimack College

May 2021

### **Police Use of Force Policies**

Police brutality has been a societal issue within our country for a very long time. Police brutality has existed since the Industrial Revolution and has progressively gotten worse. Today's society defines police brutality as "the use of excessive or unnecessary force by law enforcement officers when dealing with civilians" (2019). In our country today, police brutality has expanded into different forms, such as the use of physical assault, pepper spray, weapons, and nerve gas. All races and ethnicities are affected by police brutality. More recently, police brutality has been associated with assault weapons and physical contact between an officer and a civilian. Within the last decade, police brutality has been broadcasted more through the increase of technology. Social media and crime scene recordings have led more police brutality cases to make national news. There have been police brutality cases, such as George Floyd, Nicolas Chavez, and Michael Brown, just to name a few, that have made national news.

Technology has given police departments and our society an eye-opening view that something needs to change. With the use of technology, I am curious to examine whether police brutality occurs more with assault of firearms than hand-on-hand contact with a civilian. Legal cynicism relates to the laws that have been broken, especially in regards to law enforcement officers. In the United States, civilians affected by police brutality have mistrust in law enforcement agencies and feel they cannot rely on society to help them. There needs to be a change in how police use force to protect themselves and society. Police officers need to stop officers who misuse conduct and abuse the power of their profession.

### **Public Interpretations of Law Enforcement's Use of Force Cases**

A common theme discussed throughout research is the public's interpretation of how law enforcement agencies determine when the use of force is necessary or unnecessary. There is a

significant disconnect between how the police, the public, and the court systems view the use of force (Atherley & Hickerman, 2014). All use of force cases differ from one another, and society expects officers to use proper force for the situation responsibly. However, in some situations, law enforcement officers use excessive force when it is not necessary. For instance, Atherley & Hickerman (2014) explain that law enforcement agencies have full responsibility and control over their use of force. However, when the use of force occurs within a few seconds, agencies cannot rescind the situation. Instead, law enforcement agencies can learn and improve officer's behaviors to help make a positive societal impact.

Atherley and Hickerman's (2014) analysis provided administrative data from the Seattle Police Department to identify cases where excessive force was present and examples of officers properly using force. Atherley and Hickerman (2014) identify that judging force is most effective when viewing reasonable observations based on the presented facts. This research concluded that the GFF method does not fully identify excessive use of force cases. However, this method does identify cases that lacked justification which leads these cases to have additional scrutiny (Atherley & Hickerman, 2014). The influence from the media dramatically affects how the public interprets the use of force cases. Without prior knowledge of the Graham four-factor test that determines the reasonableness of force, the public will always interpret the use of force as excessive. Some cases clearly show that an officer was using excessive force, but it is important to remember that officers can use proper force when necessary.

Renauer and Covelli (2010) examine how societal opinions interpret how police officers use racial bias in legal procedures. Their analysis consisted of a telephone survey of participants from the state of Oregon to determine their perception of police bias. When individuals have negative attitudes towards law enforcement officers, they may not be willing to assist in

investigations (Renauer & Covelli, 2010). However, when individuals have personal interest and positive attitudes towards police officers, they may have more positive encounters with law enforcement officers about police investigations (Renauer & Covelli, 2010). Renauer and Covelli (2010) found that individuals who have a negative experience with law enforcement officers during involuntary police contact are in relation to police bias. Previous encounters with law enforcement influence the public's perception of law enforcement.

One other factor that can influence the public's perception of the use of force cases is the prone position following police use of force, mainly focusing on sudden death that occurs while in custody. Hall and colleague's (2012) analysis focused on cohort individuals who were suspects of police use of force incidents. They based their analysis on data conducted over three years from an urban police department in Canada (Hall et al., 2012). Their findings found a small number of cohort individuals who have died from sudden deaths while in custody. These were small numbers of cohort individuals who police restrained and suddenly died, and the force that law enforcement officers used was not the cause of death (Hall et al., 2012). Most of these individuals' deaths were caused by the influence of mental illness or substance intoxication in their system when restrained. However, without knowledge of the individual's medical history, the public interprets the restraint as the cause of death for the suspect.

### **Use of Force is Dependent on Officer's Characteristics**

Within all use of force cases, police officers' characteristics reflect on the type of force the officers choose to use in incidents. Taylor and colleague's (2011) research focused on the types of weapons available for law enforcement officers and which weapons officers choose to use more in use of force incidents. Non-lethal weapons, such as batons, tasers, rubber bullets, and pepper spray, have significantly decreased officers' urge to use a fire weapon (Taylor et al.,

2011). The use of non-lethal weapons that law enforcement agencies use now can help decrease the use of lethal weapons in incidents. They based their analysis on two surveys of LEAs conducted by the Police Executive Research Forum (PERF) and the University of South Carolina. From 2005 and 2008, the research team collected surveys from states that provide non-lethal weapons to departments (Taylor et al., 2011). Their findings suggest that baton and empty hand tactics have become less commonly used by law enforcement officers (Taylor et al., 2011). Now, officers are more likely to use CED weapons, which is the leading cause of officers using firearm weapons in use of force cases. Law enforcement officers' beliefs play a role in their perceptions of how to handle incidents. A greater number of suspects end up severely injured in use of force cases due to the greater likelihood of LEAs using firearms rather than non-lethal weapons (Taylor et al., 2011).

Moreover, Cooper (2015) examined the relationship between the War on Drugs policing and police brutality. During the War on Drugs, police officers' characteristics targeted violence against African American adolescents (Cooper, 2015). Cooper's (2015) analysis focused on the historical connections between race and ethnicity and police, how the War on Drugs destroyed legal protections for police power, and the implications of police targeting Black communities (Cooper, 2015). These strategies used for the War on Drugs policing caused an increase in police brutality in communities of color. During this time, law enforcement officers abused their power against black communities by bringing in SWAT teams to deal with the War on Drugs. The actions of the SWAT team show the disrespect that the black community received during this time. Black citizens were treated poorly and experienced disrespect from law enforcement officers, which caused no progress in decreasing drug activity in targeted communities.

In correlation to the use of force being dependent on a police officer's characteristics, Harris (2009) employed a systematic review based on various studies determined to be caused by improper force. His analysis contained three studies with different situational variables on improper use of force (Harris, 2009). His findings showed that situational factors impact police officers who choose to use improper use of force. All of the officers who participated showed that most officers choose not to use improper force even in situations where one would think an officer would. Officers who engage in the improper use of force have specific characteristics that may affect their decision. Most officers that use improper force are young, inexperienced, male officers (Harris, 2009). Harris (2009) identified the characteristics of officers that are more likely to be involved in excessive force incidents. Experienced law enforcement officers have a lower likelihood of being involved because these officers are taking advantage of the new training and safety guidelines to help deter crime. However, some officers need to continue becoming more educated to handle situations and keep their personal beliefs aside from their profession.

### **Law Enforcement Abuse of Power and Legal Cynicism**

Law enforcement officers' power has a significant effect on legal cynicism. Legal cynicism plays a role in understanding different types of neighborhoods in regards to complaints about police brutality. For instance, McCarthy and colleagues (2020) proclaimed that legal cynicism is linked to neighborhood conditions, African American communities, and behavior (McCarthy et al., 2020). Researchers often compare the connection between legal cynicism and racial segregation to police brutality complaints that African American communities file. Their analysis contained a survey to help measure legal cynicism used from data in the city of Chicago. For example, the city of Chicago found that legal cynicism is related to areas with the greatest number of racial minorities, such as Black and Hispanics (McCarthy et al., 2020). Individuals

who live in these communities mistrust law enforcement and believe that they can take care of their communities on their own. These individuals feel this way because of the lack of respect they receive from law enforcement agencies. People within these communities will never forget the abuse of power law enforcement has used against their community. This affects not only the individual involved, but the entire community. These researchers found that legal cynicism can be used in a more productive way for the future. Legal cynicism can help benefit communities, such as positive police presence in these communities, rather than individuals expressing their emotions through violent protesting (McCarthy et al., 2020).

### **Policies and Training to Decrease Police Brutality**

Law enforcement agencies have established policies and training to help improve police officer's behaviors. Within the last decade, there have been more training and policies for police officers to follow in situations where force likely occurs. New policing tactics such as batons, pepper spray, and tasers are just a few non-lethal weapons officers are trained to use. For instance, Pinizzotto and colleagues (2012) published research on how law enforcement officers use force. The purpose of the research was to educate individuals on the concept of "deadly mix." This concept can be described as "the understanding of circumstances where officers who have the legal authority to use deadly force, choose not to" (Pinizzotto et al., 2012). This term supports the training of police officers because most officers choose not to use deadly force in situations where it is necessary to. These researchers' methodology employed a survey that was given to three hundred officers around the country. They found that only 20% of officers were involved in situations where firearms were used (Pinizzotto et al., 2012). However, 70% of officers were involved in situations where they were legally able to use their firearms and chose not to (Pinizzotto et al., 2012). The data collected from these surveys demonstrated how officers'



training has taught them when it is necessary and appropriate to use force. Policies that law enforcement agencies put in place within their department affect an officer's decision-making in a situation of use of force as well (Pinizzotto et al., 2012). However, police agencies still need to implement stricter policies and training procedures for officers because there will always be an individual who may abuse their power as a police officer.

It is important to note that law enforcement officers interpret situations differently from society. The public needs to become more informed on the types of force officers can use in certain situations. Researchers have also found that officers who choose to use excessive force are based on the characteristics and beliefs of a particular officer. All law enforcement officers do not choose to use force, even in situations where it is necessary. Law enforcement officers took an oath to protect individuals within society, and those who stick to that oath choose not to use excessive force. Law enforcement officers need to use legal cynicism positively rather than target individuals in communities of color.

### **Overview of Police Use of Force**

The National Institute of Justice (2009) focuses on research regarding crime control and justice issues. The NIJ helps provide data and records to law enforcement agencies across the country in order to prevent injustice within our criminal justice system. According to the National Institute of Justice (2009), law enforcement officers should only use the amount of use force necessary under specific circumstances. Specific circumstances where the use of force is necessary include self-defense or defense of an individual or group. Law enforcement officers can use proper force in various situations. These situations consist of arrests, protection or harm to an officer, and incidents where force is necessary. All law enforcement officers experience different levels of training. For instance, an officer who is new to the force will have the basic

training of an officer compared to an officer who has been on the force for many years. Officers' levels of training increase based on the officer's experience and time in the field. The level of force an officer uses reflects on the guidelines of the use of force training they are required to follow (NIJ, 2009).

In the first level of force, police officers use basic verbal and physical restraint. Verbal and physical restraint forces officers to handle situations where they need to talk down and restrain a civilian with basic physical contact. A less-lethal force known as non-lethal force is when an officer uses equipment or technology to help protect the officers and the public from harm (NIJ, 2009). Law enforcement officers currently use these types of non-lethal equipment and technology: pepper spray, tasers, stun grenades, tear gas, laser dazzler, barriers, and blunt force. This non-lethal force reduces the possibility of injury or death to civilians and officers involved in the particular situation. Non-lethal forces give law enforcement officers alternative force to use rather than fully pursuing lethal force. Depending on the situation, officers may use more than one type of non-lethal force to control the situation. Lethal force is a more dangerous force to, not only officers, but suspects as well. Most officers who choose to use lethal weapons in situations are mainly trying to control the situation. Lethal force should only be used if the officer believes that the suspect is a threat to themselves or the public. When officers choose to use lethal force, firearms are the deadly weapon that officers choose to use to stop an individual from posing a more significant threat to society (NIJ, 2009).

Law enforcement officer's purpose regarding the level of force is to regain control in a situation as soon as possible. All officers across the country learn that lethal use of force is the absolute last option. As stated above, officers should only use lethal force as a necessary course of action to protect the community. In incidents where law enforcement officers may receive

injuries from being involved in a force incident, these injuries are covered within the department. These injuries that officers may gain from an incident can reflect how serious the incident was. Injuries can also help identify how the officer or suspect was using force to receive their injuries. However, there is no national database within the criminal justice system that records officers involved in incidents.

In 2019, the FBI finally launched their first national data collection to use force incidents. The data collection includes national statistics of incidents of where the use of force was used in incidents. Also, the data collection only provides agencies across the country with basic information on what happened, such as the officers and subjects involved. This data collection effort has only collected information on relevant incidents within the past two years. The information does not fully provide enough knowledge or information to agencies to further educate their departments with training for officers. The data collection that the FBI has launched is open to all federal, state, and local law enforcement agencies across the country. This data collection is voluntary, meaning that law enforcement agencies can participate in the data collection if their departments want to. The FBI has been working closely with agencies to encourage them to participate and share data from their departments.

### **Massachusetts Use of Force Policies**

The Commonwealth of Massachusetts' use of force policies are similar to many other state and federal policies regarding the use of force. The Massachusetts State Police thoroughly explain the state's policies. Massachusetts states that law enforcement officers shall use or if a commanding officer authorizes them to use force in situations where it is reasonably necessary (Massachusetts State Police, 2013). Examples of situations in which force is reasonably necessary are to effect an arrest, to restrain an individual who is resisting a lawful seizure, or to

protect the officer or others from more physical harm (Massachusetts State Police, 2013).

Commanders advise officers to assess each situation as its own. This advice helps the officers thoroughly determine if the actions involved in the incident need controlling through force that is reasonably necessary.

Lethal force is defined as the use of force intended to cause serious harm to an individual's body, such as physical injuries or death (Massachusetts State Police, 2013). Officers can only use lethal force per the law of Massachusetts and the content of the officer's General Order within their jurisdiction. Non-lethal force is described as the use of force that is not intended to harm an individual severely (Massachusetts State Police, 2013). These injuries should not lead to the death of an individual nor long-term harmful physical injuries. Identifying the two types of force that law enforcement officers use helps clarify the difference between the two. In general, it is required for law enforcement officers to always use proper force. As a law enforcement officer, you take an oath to protect civilians within the community. Officers learn to pay careful attention to the facts and the circumstances within each particular situation. All situations are different based on the suspect involved and the severity of the crime. Officers have to assess whether the suspect may be an immediate threat to others in the area, and if the suspect is resisting arrest, officers may have to change their tactics quickly. This is just one example of when an officer may have to take action in a situation where more proper force is needed to restrain a suspect (Massachusetts State Police, 2013).

### **The Use of Force Continuum Responses**

Massachusetts breaks down the responses for the use of force continuum for officers. First, the suspect is cooperative; the officer would respond to the situation with only a verbal command. Next, the suspect is uncooperative but not assaultive; the officer should start with

verbal commands and then lead into control techniques. These control techniques should only be used based on the training the officers received. Control techniques include a baton, pepper spray, and physical manipulation. When officers are dealing with a suspect that is considered assaultive, the officers follow all of the above techniques. However, if those tactics are not successful, the officers have the authority to use striking techniques. Striking techniques can also involve using a baton, but officers can use their hands, feet, elbows, or knees properly. When officers begin to use their bodies to help restrain the suspect, they need to follow department protocol from their training. Lastly, when an officer deals with a suspect presenting a threat to the officer and themselves, such as serious injuries or death, an officer must follow all of the previously stated responses to situations. If the officers do not fully succeed in restraining the suspect with all of the other responses, the officer then has the authority to use proper lethal force (Massachusetts State Police, 2013).

### **Use of Firearms**

Additionally, within the Commonwealth, officers have the authority to use lethal force in situations where suspects are attempting to escape from specific scenarios. These types of scenarios are an arrest involving a suspect that committed a felony, substantial risk that the suspect can cause death or harm to the public, and the crime that the suspect was involved in has conduct where the use or was threatened use of deadly force (Massachusetts State Police, 2013). In most of these scenarios, the suspect may be considered armed and dangerous. This may lead law enforcement officers to use lethal force to bring the suspect into custody. There are also specific circumstances where law enforcement officers should not use their firearms. When an officer should not fire their weapon, it is as a warning to disable a fleeing or moving vehicle (Massachusetts State Police, 2013). The only time an officer is legally allowed to fire their

weapon at a moving vehicle is if the suspect in the vehicle threatens to use it during a pursuit (Massachusetts State Police, 2013).

Under the law in Massachusetts, all law enforcement officers are responsible for keeping their equipment safe and operational (Massachusetts State Police, 2013). An officer must keep up with their cleanings to any equipment. The state of Massachusetts takes these protocols very seriously. Anytime an officer is involved in an incident where force was used, the officers must file a UOF-03 report (Massachusetts State Police, 2013). These reports are handled within the department to identify if the officer was legally able to use the force in the situation. Officers report the use of force incident forms when "an officer on duty discharges their firearm outside of a required training range, off duty discharge of an officer's firearm, striking techniques and/ or OC spray was used, and force during the incident caused injury or death to the officer or suspect" (Massachusetts State Police, 2013, p. 497). All law enforcement officers must receive medical attention after all incidents where the use of force is present. Having officers receive medical attention immediately gives them more precise information for the incident report (Massachusetts State Police, 2013).

### **The State of Texas Use of Force Policies**

The Texas Police Chief Association has specific guidelines for police departments to follow regarding use of force. The purpose of this policy is to provide law enforcement officers guidelines to help assist them in the field. These specific guidelines revolve around the use of deadly force and non-deadly force. First, they define deadly force as "any use of force that creates a substantial risk of causing death or serious bodily injury" (The State of Texas, 2011, p. 2). Next, the Police Chief Association defines the term of non-deadly force as "any use of force other than that which is considered deadly force. This includes any physical effort used to control

or restrain another, or overcome the resistance of another" (The State of Texas, 2011, p. 2). Their definitions of force and non-deadly force are very straightforward for law enforcement officers to clearly understand. Lastly, the association defines "objectively reasonable" for law enforcement officers to strictly follow as well as "in determining the necessity and level of force, shall evaluate each situation requiring the use of force in light of the known circumstances, including, but not limited to, the severity of the crime, whether the subject poses an immediate threat to the safety of the member or others, and whether the subject is actively resisting. Reasonableness will be judged by what a reasonable officer faced with the same circumstances would do" (The State of Texas, 2011, p. 2). These definitions help clarify the difference between these three terms. The term objectively reasonable can give members of the department a more clear and thorough understanding of when is an appropriate time, per situation, to use a level of force. All situations where force is used are thoroughly examined and handled differently based on the circumstances per situation.

### **Authorization to Use Force**

Within all departments in Texas, when the use of non-deadly force occurs, law enforcement officers are advised only to use the amount of force that is necessarily reasonable within the situation (The State of Texas, 2011). As stated above, the objectively reasonable of officers to perform their duties varies by situation. In the description of objectively reasonable, the policy is advising law enforcement officers only to use the proper amount of force based on the training they have received regarding the use of force. This refers to officers training on using non-lethal force, such as batons and pepper spray, before escalating force in situations. The Texas Police Chief Association advises law enforcement officers to use deadly force within only two particular situations. First, law enforcement officers are authorized to use deadly force when

they are in a situation where the officers need to protect themselves or others (The State of Texas, 2011). However, the officers must fully believe that there is an immediate threat to themselves and others in the surrounding area by the offender.

Texas law enforcement officers also learn to use deadly force in situations where they prevent the escape of a violent offender (The State of Texas, 2011). When a violent offender is fleeing from a situation where police have probable cause that the offender is a threat to themselves and the community, the officers have the authority to use deadly force. Officers involved in situations where a violent offender is fleeing a situation, the first thing an officer needs to do in pursuit is to identify themselves to the offender. The officer does not have the authority to fire their firearm without identifying themselves to the offender. If the officer is in a public area where civilians are around, the officer needs to identify themselves if there is intent to use their firearm (The State of Texas, 2011). However, there is prohibited and unreasonable use of force policies that law enforcement officers must follow.

### **Unreasonable and Prohibited Use of Force**

Texas's use of force policy explains explicitly what is considered unreasonable and prohibited use of force. There are specific guidelines that all law enforcement officers must acknowledge as prohibited within the state of Texas. The law prohibits unreasonable force due to the unnecessary force an officer may demonstrate while on duty (The State of Texas, 2011). For example, when an officer is using excessive force that does not apply to the situation's circumstances is unacceptable. Unacceptable force does not support the association policy of force being objectively reasonable (The State of Texas, 2011). The use of force policy also specifically goes through examples where the use of force is prohibited unless the circumstances of the situations give a reason for using deadly force. First, when an officer's head strikes an



individual deliberately or recklessly with a weapon is a force that is prohibited (The State of Texas, 2011). Using this type of force is unacceptable for officers because this can cause severe or deadly injuries to an offender. Officers who choose to use aggressive physical harm/assault to an offender are prohibited as well (The State of Texas, 2011). The policy gives an example of an officer standing and begins to kick an offender with their foot repeatedly. In these situations, inappropriate professional behavior is not tolerated. Other examples of this would be an officer using their knee or other body parts to harm an offender while they are on the ground physically. Lastly, law enforcement officers are prohibited from putting offenders in chokeholds and continuously choking them (The State of Texas, 2011). The only circumstance where this is acceptable is when an officer reasonably believes that placing an offender in a chokehold will be the only way of protecting the offender and the officer from receiving severe injuries (The State of Texas, 2011). However, officers who do this must receive permission from their department's chief to use choke holding to control an offender. The police chief should only give an officer permission if the officer successfully used other methods and strategies such as proper force guidelines prior (The State of Texas, 2011).

### **The State of California Use of Force Policies**

Within the past two years, the governor of California has filed and passed a new law for law enforcement agencies across the state. In September of 2019, the Governor of California passed a bill that requires all law enforcement agencies to maintain and follow specific guidelines regarding the use of force. These guidelines should focus on de-escalation techniques for officers, alternatives for the use of deadly force, and the process of how to evaluate incidents where force is used (Secretary of State, 2019). Having these specific guidelines, within each law

enforcement agency, will help develop a mandated program regarding use force policies within the state.

Having this bill passed gives each agency the ability to inform the public of these departments' policies properly. Also, the bill orders all law enforcement agencies to participate in periodic training for all officers who are serving within the departments. These periodic training will be consistent with the use of force policies that comply with the California bill. This training will stay up to date with the specific guidelines that are provided within the policy. Within this new law, there is an establishment of the Commission on Peace Officer Standards and Training. The commission requires to be fully able to adopt rules and regulations regarding the minimum standards of recruitment of new law enforcement officers. This new bill allows the commission to provide single or multiple courses relating to law enforcement officer's use of force policies. Previously, the commission did not involve a course on the use of force, and now the bill requires all law enforcement agencies to do so (Secretary of State, 2019).

The state of California defines deadly force as any force that can create a substantial risk of serious bodily injury or the cause of death (Secretary of State, 2019). The use of deadly force can include a firearm but, not in all situations. After the governor signed the new bill into law, law enforcement agencies across California have created more specific policies for their departments. For example, the city of Los Angeles is one of many agencies that has provided the Board of Police Commissioners with an updated policy regarding the use of force. Within the Los Angeles Police Department, the department gives specific guidelines regarding the principle of using force in regards to a human's life. "Officers shall attempt to control an incident by using time, distance, communication, and available resources to de-escalate the situation, whenever it is safe, feasible and reasonable to do so" (Secretary of State, 2019). As stated below, when

warranted, department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe that such force is necessary to defend human life based on the totality of circumstances. Officers who use unreasonable force degrade the confidence of the community we serve, expose fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community, and fellow officers" (Secretary of State, 2019).

These law enforcement officers have specific training policies to use in situations rather than improper use of force. First, law enforcement officers should use the use of de-escalation techniques. Law enforcement officers should use techniques and tools consistent with the department's de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation. Second, law enforcement officers should use verbal warnings within situations. The officer should always use verbal resources to identify themselves and inform that force can be used. The officers should always use verbal communication techniques before using any type of force in a situation. Next, law enforcement officers should use the proportionality policy. "Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance" (Secretary of State, 2019). For example, if an officer is in a situation where they believe they are unsafe by the suspect's behavior, the officer feels threatened, the officers may use force if necessary. Law enforcement officers within Los Angeles are ordered to serve the city with fair and unbiased policing. Regarding the city's use of force

guidelines, the city-states, "Officers shall carry out their duties, including use of force, in a fair and unbiased manner. Discriminatory conduct based on race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited" (Secretary of State, 2019). This is important that the city of Los Angeles put this in their use of force policy. After what has happened within our country regarding police-suspect interactions, this gives the public the ability to feel safer within their community. Lastly, the city of Los Angeles identifies the use of force officers can use when it is objectively reasonably necessary. Officers can use force to defend themselves, defend others, effect an arrest or detention, prevent escape, or overcome resistance (Secretary of State, 2019).

### **Strengths of Use of Force Policies**

Across the states of Massachusetts, Texas, and California, all three of these states have the same common goal within their policies. The common goal between all three of these states is for law enforcement officers to follow specific guidelines on handling situations where proper force is necessary. Law enforcement officers have the authority to use proper force in situations where it is reasonably necessary. Officers can use proper force when restraining a suspect and to protect the officer or the public from physical harm. Each state thoroughly defines the different types of force that are reasonably necessary and those that are prohibited. They each define lethal force, and non-lethal force describes lethal and non-lethal force in their ways but have the same approachable meaning. These states also define the terms deadly force and non-deadly force. Having these terms presented within their use of force policies gives officers in police departments a clear and concise understanding of the meaning of these terms. All of these policies identify that improper use of force is forbidden. Improper force is not tolerated in these

states, but when officers use improper force, there are specific guidelines and protocols for departments to follow.

Each of these states' policies provides breakdowns on how police officers should properly use force. For instance, the state of Massachusetts provides examples of situations based on the suspect that is involved in the situation, such as a cooperative vs. uncooperative suspect. Texas and California explain situations where officers may be dealing with a suspect considered a felon that may be dangerous to the public. All situations that police officers are in are handled differently based on the circumstances of the individual situation. Each situation is not only different, but the appropriate timing of the situation matters as well. These policies inform officers that the use of level of force may not be essential based on the situation.

Each policy explicitly breaks down the protocols and techniques that police officers should be using before using their firearms. These techniques revolve around using non-lethal force on all suspects before jumping to using lethal force. Having non-lethal force gives the officers control of the situation by the guidelines as to how they were trained. All law enforcement officers have experienced different levels of training. When officers are in situations where force is necessary, officers should always begin with a non-lethal force based on their training. All officers in the force are required to be trained on how to use non-lethal force techniques properly. These techniques are baton use, pepper spray, verbal communications with the suspect, such as physical manipulations. These are a few techniques that all three states train all law enforcement officers to partake in to become an officer. Officers who are in the force longer can quickly advance their level of training regarding the use of force if the Department provides it for the officers.

Massachusetts, Texas, and California advised officers to only use lethal or deadly force in situations where the officers believe their life or others are in danger. Situations, where lethal force is considered acceptable are when an officer deals with a fleeing violent felon. Officers may believe that themselves and the public may be in danger with a fleeing suspect and is described as armed and dangerous. Officers do not have the legal authority to fire a firearm or use any lethal force without identifying themselves to the suspects and the public area. When officers have gone through all prior protocols for the level of force, the officer must notify and receive permission from their supervisor or chief to proceed on other methods of proper force to follow through with. Only in specific situations where a fleeing felon is armed and dangerous or when an officer believes their life and others are in danger to follow through with proper lethal force. All law enforcement officers are fully aware and advised to follow protocols on using proper force guidelines before using lethal force.

### **Weaknesses of Use of Force Policies**

Although the states of Massachusetts, Texas, and California have many strengths in their use of force policies, there are several weaknesses. Primarily, all policies focus on the levels of force officers can use based on their training. As stated above, all officers experience different types of training based on their years of experience. However, officers should all be fully trained with the same amount of training to use force situations. Use of force situations is present in all officers' duties. All types of officers, such as patrol officers and detectives, come across these types of situations. When officers are in these types of situations, they need to know all training techniques to follow. Having officers present who can only deliver a certain amount of training can easily make the situation more complicated. For instance, the state of Massachusetts and Texas specifically informs officers only to use levels of force based on their training. However,

if an officer is in a situation where they have used the techniques they have been trained on and need to further the level of force, all officers should have the ability to have more advanced training. In some situations, officers can call back up and wait, but all situations are different. Officers should all be receiving the same level of training to help not only benefit more successful officers and help protect officers from using improper tactics.

These policies state that if an officer fully believes that a suspect is an immediate threat to themselves or the public area that an officer can use deadly force when necessary. This section of the policies can become tricky based on the officers who are present on the scene. Police officers' duties are to serve and protect the public, and every situation in the field is unpredictable. Officers need to go into situations open-minded because they will never fully predict what will exactly happen. Officers will always experience fear while on duty, but that does not mean that every officer should be using lethal force to detain a suspect. In situations where officers believe that there is a threat to their life or others, officers should always follow the protocols before firing their weapons. Officers need to ask for assistance from other officers in the area or at the scene to help successfully detain the suspect. Having other officers present to assist can provide other methods and strategies to go about the situation.

The state of California recently passed a bill in 2019 that enforces all law enforcement agencies to follow strict guidelines regarding the use of force policies. Within the past two years, the governor has ordered all law enforcement officers to participate and pass periodic training to use force. The training that officers have to participate in is up-to-date training that correlates with the use of force policies for the state. Before this bill was passed, the state of California did not provide use of force courses in their police curriculum until now. Most would think that having this bill being passed would be considered a strength to their state's policy, but why did

the state not have this in their curriculum previously? From having no specific policies within their agencies, this clearly shows the fall behind the state of California has for their use of force policy. Not having strict training and policies to follow has given officers the ability to use their subjective beliefs in the line of duty. Officers were given the opportunity to use their best instinct to make decisions that are not okay in today's society.

### **Discussion**

Within the last decade, police officers' use of improper force has been broadcasted through advances in technology. The use of technology, especially social media, has given easy public access to viewing recorded force incidents. Social media has led these videos to lead to many police brutality cases making national news. These videos and situations affect civilians, and they begin to mistrust law enforcement officers. Law enforcement agencies need to consistently update their use of force policies and provide more training to help reduce the use of improper force. The National Institute of Justice (2009) provides a clear overview of police force and explains what circumstances police use of force is necessary.

This paper begins to examine the state of Massachusetts, Texas, and California's existing use of force policies. All of the policies specifically outline types of use of force, how officers handle and respond to use of force situations, techniques officers can use based on level of training, use of firearm abilities, and addressing no tolerance for unreasonable force. All three states require their officers to follow guidelines on how to handle situations where proper force is necessary. These policies break down protocols and techniques that officers are trained to use before using their firearms. These states only advise officers to use lethal force when officers fully believe their life or others are in danger. On the other hand, officers may abuse their power as an officer in given situations. Officers need to be trained with the same amount of training in



regards to the use of force above and beyond what is offered in police academy training. No officer should only have a certain amount of training due to their status as an officer. For only a few years now, the state of California has just begun enforcing all agencies to have officers partake in the use of force training. All three of these states have a history of police brutality that goes back for decades. Our country needs new policies to be implemented and enforced in order to decrease the use of improper and sometimes deadly force.

### **Policy Implications**

In December of 2020, Governor Charlie Baker of Massachusetts signed a new police reform legislation called "An Act Relative to Justice, Equity, and Accountability in the Commonwealth." This police reform legislation creates a mandatory certification process for law enforcement officers, increases the accountability and transparency in law enforcement, and gives departments a greater ability to hire and promote only qualified applicants (Rogers, 2020). This bill created the Peace Officer Standards and Training (POST) Commission. The POST Commission was established to provide certification and decertification protocols for law enforcement officers and agencies across the Commonwealth (Rogers, 2020). Within the commission, there are two divisions. The first is Divisions of Police Certification, responsible for developing training standards and certification processes for agencies and officers. The second division is the Division of Police Standards. This division focuses on investigating complaints in regards to police officer's misconduct (Rogers, 2020). These divisions investigate police misconduct and focus on making disciplinary recommendations to the commissions and providing a database on officer's complaints (Rogers, 2020). The legislation thoroughly addresses the state of Massachusetts's use of force policy as well.

At the federal level, as of the 3rd of March 2021, the House of Representatives passed the George Floyd Justice in Policing Act of 2021. This act will increase the accountability of law enforcement officer's misconduct in the courts, reform police training and policies, and enhance transparency within data collections (Congress, 2020). This is the first legislation that can fully hold police accountable for their actions, end racial profiling, build trust between law enforcement and our communities by addressing systematic racism, and finally, change the culture of policing (Congress, 2020). First, this act is working to end racial profiling by prohibiting federal, state, and local law enforcement from racial, religious, and discriminatory profiling (Congress, 2020). Officers are going to be mandated to partake in training that focuses on profiling. Having officers take this training will require law enforcement officers to collect data on investigatory activities in the field. The new national registry of police misconduct will show data where profiling by race, sex, disability, religion, or age was used by an officer (Congress, 2020).

Law enforcement agencies will need to follow the new requirements of the use of body cameras. Even federal uniformed officers will be required to wear body cameras as well. State and local law enforcement agencies are advised to use existing federal funding to purchase the body cameras. The use of body cameras will help begin to change the culture of policing. The act creates law enforcement officers to develop and train in new programming where body cameras are fully required. Depending on an officer's status, the act requires federal officers to have dashboard cameras in their vehicles. Having these cameras on an officer and in federal vehicles can help increase transparency and build trust between law enforcement and the communities (Congress, 2020).

Law enforcement officers will be held accountable for misconduct in the court system. Having this federal legislation makes it easier for federal law to prosecute an officer for police misconduct. There is an improvement that is happening in the investigations of police misconduct. At the federal level, the Department of Justice Civil Rights Division will be creating a grant program where state attorney generals can conduct independent investigations for misconduct. Due to the death of George Floyd, this act bans the use of chokeholds and carotid holds at the federal, state, and local levels of law enforcement. The act supports banning chokeholds due to other techniques that officers can use without causing serious danger to a civilian. At the federal level, the use of deadly force should always be an officer's last resort, and officers are required to employ de-escalation techniques first. Officers should use force based on whether the force was necessary for the situation rather than the force was reasonable (Congress, 2020). The creation of the national police misconduct registry will be the beginning of preventing problematic officers who are fired or left their agency without any accountability (Congress, 2020).

### **Recommendations for the Future**

Our country is finally taking a stance to change law enforcement agencies systematically. Change does not happen overnight; change takes time, effort, and support to create a movement. After the death of George Floyd, civilians walked the streets of major cities and towns to show respect for George Floyd and the importance that laws and regulations need to change. The Black Lives Matter Movement raised significant attention throughout 2020 and 2021 through their marches and inspirational speeches. Now, the verdict of Derek Chauvin and The George Floyd Justice in Policing Act of 2021 is only the beginning of necessary change. New laws and regulations that are being put in place will be the impetus for the change. For instance, all police

officers participating in the use of force training and follow more specific policies. However, training and policies will not be enough to make a systematic change fully.

For the future of our country, higher education is the primary key to avoid the repeat of history. People say all the time that young generations will be the change within our country. For this to happen correctly, younger generations need to become more educated on what is happening worldwide. When I was a kid, in history class, I learned about significant historical events such as Civil Rights Movement, 9/11, and the Holocaust to show us as children that we do not want repeating events like these to happen again. Our school system should begin to educate children of all ages about these major current events happening. Educating children now about how systematic racism and white privilege still exist can help the movement of change. Young individuals are educating themselves from social media and documentaries. However, some sources can be biased, making it difficult to determine the accuracy of the information and the validity of a source. Individuals need to rely on research and educational sources in our school system to provide more accurate information to younger generations in order for them to become change agents.

This past year has been a very sensitive and difficult time for many Americans. No matter your skin color or religious beliefs, Americans tend to focus on an individual's political beliefs. After the death of George Floyd, this country turned into people caring more about whether you are a Republican or Democrat than the change that needs to be made. No matter what your political beliefs, you can support the Black Lives Matter Movement and law enforcement at the same time. Some may disagree, but this movement for social change is not political. It is about civil and human rights. There are law enforcement officers that do not support what Derek Chauvin did. Police officers become officers to serve, protect, and make a positive difference in

their communities. Officers are there day or night to help all civilians who need help. They are the first ones to arrive when you dial 911, to share with you that a loved one has passed away, and would give up their own lives to protect yours. All professions are faced with bad employees that should not be working with their profession. In order to stop "bad cops" from becoming police officers, all Americans need to support by providing donations and resources to help make state and federal policies, use of force training, and regulations entirely acceptable to all law enforcement agencies in our country. All Americans should come together, no matter their political beliefs, to help make the systemic change we have all been waiting for.

## References

- N/A. 2019. "What Is Police Brutality?" *TheLawDictionary.Org*. Retrieved November 30, 2020 (<https://thelawdictionary.org/article/what-is-police-brutality/>).
- Atherley, L. T., and M. J. Hickman. 2014. "Controlling Use of Force: Identifying Police Use of Excessive Force through Analysis of Administrative Records." *Policing A Journal of Policy and Practice*, 8(2): 123–34.
- Congress.gov. (2021). *H.R.1280 - George Floyd Justice in Policing Act of 2021*. Rep. Karen Bass. <https://www.congress.gov/bill/117th-congress/house-bill/1280/text>
- Cooper, Hannah L. F. 2015. "War on Drugs Policing and Police Brutality." *Substance Use & Misuse*, 50(8–9): 1188–94.
- Hall, Christine A., Anne M. D. McHale, Adam S. Kader, Lauren C. Stewart, Christopher S. MacCarthy, and Gordon H. Fick. 2012. "Incidence and Outcome of Prone Positioning Following Police Use of Force in a Prospective, Consecutive Cohort of Subjects." *Journal of Forensic and Legal Medicine*, 19(2): 83–89.
- Harris, Christopher J. 2009. "Police Use of Improper Force: A Systematic Review of the Evidence." *Victims & Offenders*, 4(1): 25–41.
- Massachusetts State Police. (2013, June 17). Massachusetts State Police Policy and Procedures Index. *Use of Force, I*: 491-510. <http://msptrooper.org/wp-content/uploads/2016/04/Ma-State-Police-Policy-Procedure-Combined.pdf>

- McCarthy, Bill, John Hagan, and Daniel Herda. 2020. "Neighborhood Climates of Legal Cynicism and Complaints about Abuse of Police Power." *Criminology: An Interdisciplinary Journal*, 58(3): 510–36.
- National Institute of Justice, "The Use-of-Force Continuum," August 3, 2009, nij.ojp.gov: <https://nij.ojp.gov/topics/articles/use-force-continuum>
- Pinizzotto, A. J., E. F. Davis, S. B. Bohrer, and B. J. Infanti. 2012. "Law Enforcement Restraint in the Use of Deadly Force within the Context of 'the Deadly Mix.'" *International Journal of Police Science & Management*, 14(4): 285–98.
- Renauer, Brian C., and Emma Covelli. 2011. "Examining the Relationship between Police Experiences and Perceptions of Police Bias." *Policing (Bradford, England)* 34(3):497–514.
- Rogers, D. (2020, December 3). *An Act Relative in Justice, Equity, and Accountability in Law Enforcement in the Commonwealth*. Retrieved from <https://www.repdaverogers.com/an-act-relative-to-justice-equity-and-accountability-in-law-enforcement-in-the-commonwealth/>
- Rojek, Jeff, Geoffrey P. Alpert, and Hayden P. Smith. 2012. "Examining Officer and Citizen Accounts of Police Use-of-Force Incidents." *Crime and Delinquency* 58(2):301–27.
- Secretary of State. (2019, November 17). *Senate Bill No. 230*. California Legislative Information.

Taylor, Bruce, Geoffrey Alpert, Bruce Kubu, Daniel Woods, and Roger G. Dunham. 2011.

“Changes in Officer Use of Force over Time: A Descriptive Analysis of a National Survey.” *Policing*, 34(2): 211–32.

Taylor, Bruce, and Daniel J. Woods. 2010. “Injuries to Officers and Suspects in Police Use-of-Force Cases: A Quasi-Experimental Evaluation.” *Police Quarterly*, 13(3): 260–89.

The State of Massachusetts. (2020, December 31). *Governor Baker Signs Police Reform Legislation*. Mass.gov. <https://www.mass.gov/news/governor-baker-signs-police-reform-legislation>

The State of Texas. (2011, January 1). *Texas Police Department*. Texas Police Chief Association. [https://www.texaspolicechiefs.org/plugins/show\\_image.php?id=1313](https://www.texaspolicechiefs.org/plugins/show_image.php?id=1313)