

A Statutory Analysis of Use of Deadly Force Policy for Law Enforcement

Angelo Brown¹, Samantha Tjaden², Dale Willits³, Craig Hemmens³ and Mary K. Stohr³

¹Department of Sociology and Criminology, Arkansas State University

²School of Criminology and Criminal Justice, Missouri State University

³Department of Criminal Justice and Criminology, Washington State University.

E-mail: craig.hemmens@wsu.edu

TO CITE THIS ARTICLE

Angelo Brown, Samantha Tjaden, Dale Willits, Craig Hemmens & Mary K. Stohr (2023). A Statutory Analysis of Use of Deadly Force Policy for Law Enforcement. *Journal of Crime and Criminal Behavior*, 3: 1, pp. 179-204. <https://doi.org/10.47509/JCCB.2023.v03i01.10>

Abstract: Each year in the United States hundreds of people are killed by the police. All states lack compliance with the United Nations Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which restricts the use of deadly force by law enforcement officers. This analysis provides a descriptive overview of state statutes regulating deadly force statutes as of 2021. As of the time of this statutory analysis, no states currently require reporting of the use of force to a national database. Additionally, nine states lack laws governing the use of deadly force by police officers. Eleven states allow officers to use deadly force to suppress a riot, and thirty-eight states allow police to use deadly force to stop a person from escaping custody. Implications for public policy are discussed.

Keywords: police, law enforcement, use of force, deadly force

Introduction

In the early morning hours of March 3, 1991, Rodney King, a 25-year-old unarmed African American male, was viciously beaten by several Los Angeles Police Department officers. The beating was filmed by a neighbor, and the release of the video set off a week of violent protests and riots. While Rodney King survived this act of police use of force, the amount of force caused significant public outcry. More recently, there have been a series of notable police-involved deaths that have been focused on in the media. In 2014, Michael Brown, an unarmed 18-year-old African American male, was shot to

death by Officer Darren Wilson of the Ferguson, Missouri Police Department during an altercation. In 2014, Eric Garner, an unarmed 43-year-old African American male, was killed by a New York Police Department officer after being physically restrained. More recently, George Floyd, a 46-year-old African American male, died after Officer Derek Chauvin placed his knee on Floyd's neck for more than nine minutes while Floyd was lying prone on the ground in handcuffs, which resulted in the conviction of Chauvin for murder. On March 13, 2020, Breonna Taylor, a 26-year-old African American female, was shot and killed by police serving a no-knock search warrant when her boyfriend and officers got into a shootout in her apartment. Later that year on August 23, 2020, Jacob Blake, a 29-year-old African American male, was shot seven times in the back by police while attempting to leave the scene of a domestic dispute. Like the Rodney King incident, these high-profile deaths generated significant public outcry and pressure for police reform regarding use of force.

Importantly, less than 2 percent of police interactions result in use of force (Marenin, 2016). However, when use of force does occur, it can create both civil and criminal liability for the officers involved (MacDonald et al., 2009). According to the National Institute of Justice (2009), many departments have policies and procedures that dictate how a law enforcement officer should respond to such situations.

Use of force can be defined as any action taken by an officer to elicit compliance from an individual or multiple people. Often referred to as the Use of Force Continuum, the levels of force ranked from less serious to most serious, as delineated by the National Institute of Justice (2009) are:

1. **Officer Presence:** This occurs based on the officer merely being present, and no type of force, verbal or physical, is used.
2. **Verbalization:** This level of force includes the officer using verbal commands in various forms. These types of commands can be made in the form of a request or a demand.
3. **Empty-Hand Control:** Using this level of force requires the physical handling of a person by the officer. This can be done soft (through the use of holds or grabs) or hard (through the use of punches and kicks).
4. **Less-Lethal Methods:** This level of force is characterized by the use of tools or equipment, designed to correct behavior while doing no lasting harm to the person. Examples of less-lethal methods are the use of a baton, bean bag gun, Freeze+P, and Tasers (CEDs). Officers use less-lethal technologies to gain control of a person or situation.
5. **Deadly Force:** This is the final and most serious level of force for officers. This is any force that would be reasonably expected to cause death or serious physical injury.

The continuum of force exists as a guideline for how law enforcement officers are meant to respond to situations. The goal is to match the level of force used to the circumstances the officer is confronting at any given time.

In many instances, police officers who engaged in deadly force outside of the legal standards are rarely prosecuted, which appears to be an extension of a pattern in which police officers are rarely prosecuted for job-related violations generally (Skolnick, 2002). As public pressure and protests about the use and abuse of force in the aforementioned cases has mounted, there has been some momentum recently to fire and prosecute in the most egregious cases (e.g., Derek Chauvin), though this is still not the norm. Explanations for the lack of prosecutions and punishment in most cases involving police officers who inappropriately use deadly force range from the deference afforded officers by other actors in the justice system to the existence of systemic racism (Chaney & Robertson, 2015; Cooney, 2009). Marenin (2016) argues that a lack of legal and managerial oversight further contributes to deadly force incidents, noting that the law is written in most states in such a manner that makes it difficult to prosecute officers in deadly force incidents.

Notable cases of police-involved deaths such as those mentioned in this introduction and others have resulted in an increase in the level of public scrutiny, outrage, and protests (Chaney & Robertson, 2015; Johnson, 2016; Sandoval, And one & Beech, 2022). The emergence of activist organizations, such as Black Lives Matter, has increased the demand for reforms in how police interact with the public, in particular how police use deadly force (Lee, 2018; Nix et al., 2017). In 2014, in response to the Michael Brown shooting, President Obama ordered a task force to review existing police policies and practices to identify problems and solutions to rebuild the trust between the community and law enforcement while also reducing crime (Office of Community Oriented Policing Services, 2015). More recently, the George Floyd Justice in Policing Act was under consideration by Congress but was blocked by Republicans. This Act is meant to hold officers who abuse force accountable. Among other things, this proposed federal statute, originally passed by the House in 2020 (Congress.gov, 2021, p.1) would:

- lower the criminal intent standard—from willful to knowing or reckless—to convict a law enforcement officer for misconduct in a federal prosecution,
- limit qualified immunity as a defense to liability in a private civil action against a law enforcement officer or state correctional officer, and
- authorize the Department of Justice to issue subpoenas in investigations of police departments for a pattern or practice of discrimination.

As indicated by these elements of the Bill, the Federal government would be more involved in the monitoring and prosecution of state and local police or correctional

officers who abuse force or departments with a record of systematically doing so. This legislation represents a continuation of Federal involvement in the regulation of state use of force that began with the *Tennessee v. Garner (1985)* United State Supreme Court case, which prohibited the shooting of a fleeing felon unless they represented a significant threat of bodily harm to the officer or others (National Conference of State Legislatures, 2021).

While this national legislation, if passed, could prove significant in the landscape of use of force, as of today, use of force policies and laws are dictated at the state level. In this paper, we examine state statutes regulating police use of force to understand the differences and similarities among states. Understanding the current status of state laws regarding the use of force is important before more effective state-level policies to reduce deadly police encounters can be developed. The statutes vary widely on what is regulated and required as police policies are still primarily developed at the local and state level. Law enforcement officers' legal capacity to use deadly force is often outlined in their departmental policy even when there is no state standard delineated in a statute (National Institute of Justice, 2009), which thus allows the use of force policies to vary by state and department. This lack of uniformity is evident in the amount and types of use of force training law enforcement receive (Stickle, 2016).

Literature Review

Police agencies are one of the few organizations authorized by law to use force to complete their duties (Smith, 2016), as it is a defining characteristic of modern policing (Bittner, 1970). Deadly force is the most serious type of force an officer can use. The consequence of the use of deadly force includes over a thousand people a year killed by police throughout the country, millions of dollars in lawsuits, and the potential loss of trust in law enforcement for many people and communities throughout the country when that use is viewed as inappropriate or abusive (Gill, 2015).

Silver and Pickett (2015) found that support for police use of force is significantly different depending on a person's political affiliation and that public support for police use of force had increased at the beginning of the 21st century. Using the General Social Survey dataset, they found that conflicted conservatives (identify as conservative but are operationally liberal) expressed significantly less support for police use of force, including for excessive use of force, when compared to consistent conservatives (operationally conservative and symbolically conservative), while liberals showed the lowest levels of support for excessive use of force. They also found that racial prejudice predicted the support a person had for excessive use of force.

The calls for change by the public are supported by evidence that police reform can significantly alter police behavior. For instance, in a study by Kramer & Remster (2018),

the researchers found a drop in the number of stops where police used force after reforms were initiated, with an estimated 51,017 fewer Black people subjected to police violence by the New York Police Department. Given these important consequences and evidence that regulations can reduce use of force rates, research is needed on how deadly force is regulated. In terms of legal doctrine, the Fourth Amendment provides protection from unreasonable searches and seizures, creating restrictions on use of force by law enforcement (Smith, 2016) as the use of deadly force constitutes a seizure (Lee, 2018; Smith, 2016; Thompson, 2015). Below, we summarize some of the most noteworthy cases that have established precedent regarding the use of deadly force by police officers.

The Constitution and Deadly Force

Currently, there are various ways to hold law enforcement officers accountable for excessive use of force. An officer could be held criminally liable per 18 U.S.C. § 242 for violation of constitutional rights per the 4th Amendment, through civil litigation per 42 U.S.C. § 1983 or departmentally per 42 U.S.C. § 14141 (Thompson, 2011).

Fourth Amendment

The Fourth Amendment guarantees the right of the people to be ‘secure in their persons, houses, papers, and effects from unreasonable searches and seizures (U. S. Const. amend. IV). The Fourth Amendment has been the primary constitutional rule that governs police use of force and dictates what is reasonable and what is excessive. In *Tennessee v. Garner* (1985), the Supreme Court held that the use of deadly force is unreasonable unless necessary to prevent a fleeing suspect who the officer has probable cause to believe poses a serious imminent threat of injury or death to the officer or the public.

Graham v. Connor (1989) established a reasonableness standard for all uses of force, in which the amount of force used must be proportional to the circumstances that are occurring (Lee, 2018; Smith, 2016; Thompson, 2015). Notably, *Graham* established a standard and framework for assessing allegations of excessive force and determined that an officer’s motivation or intention behind the use of force decision is irrelevant when assessing whether a Fourth Amendment violation had occurred, but the court must consider the facts and circumstances of the case (Lee, 2018; Smith, 2016; Thompson, 2015).

Qualified Immunity

Despite the precedents set by *Garner* and *Graham* governing use of force by law enforcement, recent decisions have shifted towards protecting police officers from civil litigation through the application of qualified immunity (Lee, 2018; Smith, 2016).

The qualified immunity doctrine protects law enforcement from personal civil liability when an officer's actions did not violate 'clearly established statutory or constitutional rights that are reasonably known to a person,' at the time of the event (Thompson, 2011, p. 20). Cases in which the U.S. Supreme Court upheld the application of the qualified immunity defense include *San Francisco v. Sheehan* (2015), *Scott v. Harris* (2007), and *Plumbhoff v. Rickard* (2014). As indicated in the foregoing, should the Floyd bill pass at the federal level and/or a version of it in the states, qualified immunity of law enforcement will be less of a barrier to civil litigation.

Racial Bias and Law Enforcement Use of Deadly Force

Historically, throughout the criminal justice system, minorities have been overrepresented (Alexander, 2020, p.16; Kim & Kiesel, 2018), including in police shootings (Ross, 2015). In their analysis of fatal shootings reported by the U.S. Police Shooting Database, Tate and colleagues (2016) found that an unarmed Black person is 3.49 times more likely to be shot than an unarmed White person. Ross (2015) also found that racially biased police-involved shootings were more likely to occur (20:1 risk ratio) in counties that have a population of people existing at a predominantly low socioeconomic level, have a majority of Black citizens, and have a high rate of financial inequality among residents (Ross, 2015).

Nix and colleagues (2017) confirmed the findings of Ross (2015). In an analysis of 990 fatal police-involved shootings that occurred in 2015 as identified by the Washington Post National Police Shooting Database, the researchers examined the effect of civilian, agency, and city characteristics on police use of deadly force. The researchers found that Black citizens were killed at twice the rate of White citizens (7.2 per million to 2.9 per million) (Nix et al., 2017, p. 328). The researchers assessed implicit bias by analyzing the percentage of victims who were unarmed at the time of the shooting. The researchers found that Black citizens were 3.49 more likely to be shot when unarmed as compared to White citizens (Nix et al., 2017).

Miller (2015) argues that the reason for these findings is that the sample is reflective of the community demographics from which it was pulled. In fact, Miller (2015) argues that there is no evidence that police systematically engage in racial profiling when making use of force decisions. Recent research supports this assertion (Worrall et al., 2020; Worrall et al., 2018), though substantial evidence suggests that these approaches using benchmarking are flawed (Ross, 2015; Ross et al., 2018; Ross et al., 2020). While numerous studies indicate the presence of implicit bias in officers' decision-making when utilizing use of force, other factors could contribute to the decision-making process. There can be situational factors such as high crime rates in a community, increased officer and bystander presence, prior interactions with the suspect, offense severity, or

how the actual interaction is occurring, that can influence use of force decisions (Lim & Lee, 2015; Miller, 2015; Nix et al., 2017).

Contributing to the discord between citizens and law enforcement, especially within the minority community, is the perception that the police lack accountability in their use of deadly force (Gilbert & Ray, 2016), as police officers, with the exception of a few recent cases, are rarely prosecuted. When charges are submitted by prosecutors, it is difficult to convict a police officer (Simmons, 2015). The lack of perceived oversight and accountability for those in an authority position is detrimental to the relationship between law enforcement and the community, especially for minority communities who face use of force by law enforcement at a greater rate.

In research conducted by Mumola (2007, p. 1), law enforcement officer-involved deaths consisted of 55 percent of deaths that occurred during an arrest, 13 percent of their sample died of drug toxicity, the citizen/victims committed suicide in 12 percent of the sample, and 13 percent of the deaths occurred as a result of a medical emergency or accident. Mumola (2007, p. 2) also found that 75 percent of the deaths were from calls in which the types of crime were violent. According to an analysis of 16 states from 2005 to 2012, the annual rate of police homicide was 0.24/100 000 (Barber et al., 2016, p. 924). However, while rare, this action is used at higher rates against Blacks, Native Americans, males, non-White Latinx (Barber et al., 2016), active-duty military, military veterans, and the mentally ill (Buehler, 2017; DeGue et al., 2016).

With the growing calls from the community to attend to their concerns regarding the police and abuse of power, President Obama created the President's Task Force to address community complaints (Marenin, 2016). The President's Task Force on 21st Century Policing was established to analyze current issues in police-community relations, identify areas of concern, and recommend appropriate changes/actions (Marenin, 2016). One of the identified concerns was the lack of accountability for violations of civil liberties by law enforcement, which is enabled by the lack of oversight, legal statutes, court decisions, and courtroom dynamics (Marenin, 2016).

Accountability in Deadly Force Incidents

While there have been prosecutors who file criminal charges against law enforcement in deadly force cases, as in the Rayshard Brooks case and more recently in the George Floyd case, typically, law enforcement officers are not charged by prosecutors (Harmon, 2012; Marenin, 2016). One possible reason is the working relationship between officers and prosecutors (Marenin, 2016). Another suggested reason is the difficulty in convicting an officer at trial (Marenin, 2016). Finally, the language of the law can complicate holding law enforcement officers legally accountable (Marenin, 2016). An additional hurdle in prosecuting law enforcement is the requirement of intent and/or

malice (Marenin, 2016) per *Screws v. United States* (1945), in which the United States Supreme Court determined officers had to purposefully and intentionally engage in the unlawful act for the use of force to constitute a civil rights violation (Thompson, 2015).

The Civil Rights Act of 1866, which was codified by 18 U.S.C. §242, made it a criminal offense to deprive another of a civil right while acting under the color of law (Thompson, 2015). However, only approximately 1 percent of all such complaints are prosecuted (Thompson, 2015). Another remedy is a civil suit against the individual officer per 42 U.S.C. § 1983 (Goldsmith, 2016; Harmon, 2009; Thompson, 2015). Additionally, departments can be found civilly liable if it is found that the practices and policies of the department created/enabled the civil rights violation (Harmon, 2009; Simmons, 2008; Thompson, 2015). An example of a departmental policy that was deemed a civil rights violation resulting in civil liability on the part of the law enforcement department was the policy allowing chokeholds as in *Los Angeles v. Lyons* (Smith, 2016; Thompson, 2015). Additionally, 34 U.S.C. § 12601 (formerly 42 U.S.C. § 14141) gives the Attorney General investigative authority in incidents of the possible use of force violations (; Goldsmith, 2016; Harmon, 2009; Simmons, 2008).

Training and Use of Force Policies

Training is typically handled at the state and department level and varies by department, city, and state (Stickle, 2016). The type of force used, along with policies, can also differ based on departmental access to various non-lethal tools. For basic training, which occurs prior to receiving the peace officer certification from the state, hourly requirements differ by state based on their individual requirements along with what topics are covered by the training for meeting certificate requirements. Departments handle the field training and in-service training hours and requirements, which can also differ from other departments based on agency-level policy requirements.

With regards to law enforcement training, the research that has evaluated the effectiveness of police training has focused primarily on the actual techniques utilized within the training and how that impacts the trainees' learning (Rajakaruna et al., 2017). A specific focus on the use of force training itself is limited (Rajakaruna et al., 2017), with existing studies finding mixed empirical support for the effect of type of training on police behavior (Lim & Lee, 2015). Both Fyfe (1988) and Klinger (2009) found that field tactics and conflict resolution training significantly reduced the use of force by officers, however, a study conducted by Lee and colleagues (2010) found that only training that occurred in-service had a statistically significant impact on use of force by law enforcement while pre-service training had no significant impact (Lim & Lee, 2015).

Prenzler and colleagues (2013) conducted a case study analysis of seven law enforcement cases in which the departments utilized interventions for the purpose

of reducing use of force. The researchers found that increasing training for officers in conflict resolution, communication, stress control, low-impact physical restraint techniques, and risk assessment was successful in reducing use of force complaints. More importantly, the researchers found that agencies that had departmental written policies that clearly defined use of force, set guidelines about acceptable use of force per situation, required use of force reports, and provided training and supervision on these guidelines had lower use of force complaints (Prenzler et al., 2013). This is similar to the findings by Terrill and Paoline III (2017) as they found that officers who worked in departments with restrictive use of force policies had lower use of force incidents.

Policy Recommendation Overview

To date, no national statute governs the use of deadly force by police officers. Instead, state statutes and department policies control the use of force by the police. However, there has been a push in the United States to have more restrictions, accountability, and legislation governing the use of deadly force by police officers (Simmons, 2015).

President Obama signed an executive order in 2014 to address the problems of police accountability and use of deadly force with the President's Task Force on 21st Century Policing. This task force issued a report that provided various recommendations regarding law enforcement and the use of deadly force, including having proper training, independent and external criminal investigations when the use of force results in death, independent prosecutors for such deaths, and police agencies collect and report data to the federal government on officer-involved shootings (Office of Community Oriented Policing Services, 2015). The Department of Justice has also stated that deadly force should be used 'only when necessary' and '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' and when feasible give 'a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.' (Department of Justice, 1995).

The notion that law enforcement use of force requires regulation extends beyond the United States. For example, the United Nations Basic Principles on the Use of Force and Firearms states,

law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional deadly use of firearms may only

be made when strictly unavoidable in order to protect life (United Nations, 1990, p. 2).

Moreover, when death or injury results from use of force by the police, there should be an impartial and independent investigation. The United States is a founding member of the United Nations (UN) and one of the five permanent members of the United Nations Security Council, but is unwilling or unable to adhere to the guidelines adopted by the United Nations. For example, there are states whose use of force statutes allow for law enforcement to use deadly to suppress a riot or to prevent escape from custody. This is a clear violation of the UN standards that stipulate the use of deadly force, including the use of firearms, against an individual by state officers should only occur in self-defense, or in the defense of others against an imminent threat of death or serious injury. Firearm use itself by state officers is only acceptable when it is strictly unavoidable or there are no alternative means available to the officer. Additionally, if lethal force is used during the course of fulfilling the officer's duty, the UN standards require that an officer must render medical aid to the injured as soon as possible after the use of lethal force. The United States is a nation that others look to for guidance, especially in policing. Many foreign police forces are trained by the United States (Ladwig III, 2007) as a result of the United States Department of State overseeing the International Law Enforcement Academies (Serio & Ward, 2008).

The U.S. Commission on Civil Rights (1981) recommended that the Federal Bureau of Investigation collect and make publicly available statistics on killings by the police. However, the national database that collects deadly force incidents has had issues of underreporting, which makes them unreliable and makes it difficult for policymakers to know the rate of lethal force (Williams et al., 2019). Researchers have relied on data on police use of deadly force from non-governmental sources, including the *Washington Post* (Conner et al., 2019; Price & Payton, 2017). Over 30 years after the recommendation of the U.S. Commission on Civil Rights, policymakers and scholars are still advising that policies be implemented that require police agencies to report data to the federal government on the use of deadly force (White, 2016).

As indicated in the above sections, Deadly force policies widely vary throughout the states and lack coherence with international guidelines and recommendations from the President's Task Force on 21st Century Policing. While a revision of use of force policies has been suggested for the purpose of clarification of police reasonableness and providing judicial guidance (Lee, 2018), each reform is state dependent. Our study seeks to provide an informational source of each state's statutes and discover any similarities and differences between states and their statutes and analyze the impact of these statutes on lethal force rates, filling a much-needed gap within the Lethal Force literature.

Methods

The current study analyzed state statutes that regulate the use of deadly force by law enforcement officers. The method used to compile the data was an Internet search to find state statutes. For states with statutes that could not be found through their websites, a search of the Justia Law website was conducted to verify the absence of an applicable statute. The results of our search were compared with The National Conference of State Legislatures database (National Conference of State Legislatures, 2021) on state statutes on use of force to ensure accuracy in the collection and assessment of statutes. First, it was important to identify states like South Carolina and West Virginia that do not have an applicable lethal force statute. Next, we began to evaluate the language used in each individual state's lethal force statutes.

Most states use the 'objectively reasonable' standard for use of force (Storey, 2011), but some states have departed from this standard. California had legislated AB-931, which established the 'necessary' standard (Alcorn, 2018). The statute established under California state law has limited use of deadly to only when 'such force is necessary to defend against a threat of imminent death or serious bodily injury to the officer or to another person' (Alcorn, 2019). Delaware and Tennessee are also unique in that their state policies allow officers to use deadly force only 'if all other reasonable means of apprehension have been exhausted' (Del. Code tit. 11 § 467; Tenn. Code Ann. § 40-7-108). These are some of the ways states have implemented additional policies to regulate the use of deadly force.

The initial review of the statutes led to the identification of various commonalities between states. The first observed similarities were regional, as in those states that were in a similar geographic location had a policy that others outside of that region did not. The geographic location was operationalized using the defined location in the United States Census.

The second most pronounced similarities were political, with states sharing a predominant political party, Republican or Democratic, also sharing similar statutes. Political party was included as a category because the politicization of policing (Sampson, 2012) has made political party an important factor for this analysis and because the political party of a state can also correlate with the laws of a state (Coley & Hess, 2012). Identifying a state as Democratic or Republican in orientation was operationalized by the party of the governor as of October 1, 2019. Lastly, observed similarities were also economic, as we considered poverty as measured by the United States Census Bureau 2017 statistics, rankings states with the highest percentage of persons in poverty.

In addition to noting the similarities, it is important to acknowledge a key difference that was accounted for during the coding process. Because some state statutes use

different terms, it was important to identify key differences in terms when creating our variables to be used in the analyses. For example, Law Enforcement officers can be referred to by different terms based on the state such as a police officer (Rhode Island), policeman (Connecticut), public servant (North Dakota), civil officer (Vermont), and peace officer (Connecticut). Another example, for the variable “deadly force used to prevent an escape”, we looked for language like the escape from a jail, prison, or other institution.

Results

The statutes were coded for the different conditions and circumstances that allowed the use of deadly force. These codes addressed the use of deadly force in the following circumstances: (1) suppressing a riot, (2) preventing an escape from prison or jail, (3) police officers needing to issue warnings when using deadly force if feasible, (4) that the use of deadly force presents no substantial risk of injury to innocent persons, (5) the requirement of training for the use of deadly force for law enforcement officers, and (6) officers using non-deadly means prior to use of deadly force. The states that have statutes addressing these specific circumstances are listed in Table 1.

The use of deadly force to suppress a riot is rarely used, but a recent example occurred on January 6, 2021. During the riot at the Capitol of the United States, Ashli Babbitt was shot and killed by Lieutenant Michael Byrd of the Capitol Police as she was entering through a broken window. Before the shooting law enforcement warned the rioters “Get back! Get down! Get out of the way!”; The shooting was investigated and found to be a lawful use of deadly force.

The second category to prevent an escape is often used when a person is escaping from a lawful arrest or from a correctional facility. In Arkansas, in 2016 a convicted murderer was shot as he attempted to escape a prison. The officers who shot the escapee Christopher Wilson the use of deadly force was found to be justified during the investigation. Wilson was the first person to be shot in over 2 decades during an escape from a prison in Arkansas.

The third category, Warning Required, is used by states such as Washington. The Renton Police department has implemented this policy for all their officers with Policy 300.5 Deadly Force Applications. The policy states “Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.” The department comments on their implementation of Washington State law RCW 9A.16.040 -Use of Deadly Force by a Law Enforcement Officer, in which they state a warning is “Provided that it does not further endanger any person, our officers are trained to provide subjects with warnings that force may be used if they do not cease their dangerous or resistive actions.”

Table 1: State States That Address Specific Use of Deadly Force Issues

<i>Suppress Riot</i>	<i>Prevent Escape</i>	<i>Warning Required</i>	<i>No danger to others</i>	<i>Training Required</i>	<i>Non-deadly force</i>
Arizona	Alabama	California	Colorado	Connecticut	Delaware
Delaware	Alaska	Colorado	Delaware	Delaware	Iowa
Florida	Arizona	Connecticut	Hawaii	Florida	Maryland
Idaho	Arkansas	Florida	Minnesota	Georgia	Michigan
Mississippi	Alabama	Illinois	Nebraska	Illinois	North Dakota
Nebraska	California	Indiana	New Jersey	Indiana	Oregon
Ohio	Colorado	Nevada	Oregon	Louisiana	Rhode Island
Pennsylvania	Connecticut	New Mexico	Pennsylvania	Maryland	Tennessee
Nevada	Delaware	Ohio		Massachusetts	Vermont
South Dakota	Georgia	Oregon		Michigan	Virginia
Washington	Florida	Tennessee		North Carolina	Washington
	Hawaii	Utah		Tennessee	Wyoming
	Idaho	Vermont		Texas	
	Illinois	Virginia		Utah	
	Indiana	Washington		Virginia	
	Iowa	Wisconsin		Washington	
	Kansas				
	Kentucky				
	Maine				
	Minnesota				
	Mississippi				
	Missouri				
	Montana				
	Nebraska				
	Nevada				
	New Hampshire				
	New Jersey				
	New Mexico				
	New York				
	North Carolina				
	North Dakota				
	Ohio				
	Oklahoma				
	Oregon				
	Pennsylvania				
	South Dakota				
	Texas				
	Utah				
	Washington				

The fourth category is No Danger to Others. Delaware has implemented this policy which requires that the officer be careful when using deadly force so that bystanders are not at risk when feasible. When a law enforcement officer attempts to shoot a suspect, bullets may not hit their intended target which can put uninvolved people in grave danger. An example of a violation of this rule occurred in New York, when Officer Craig Mathews and Officer Robert Sinishtaj were involved in a shooting outside of the Empire State building, that led to nine bystanders being shot by the police officers.

The fifth category is Training Required. Various states have implemented new and modified training standards for police officers and the use of deadly force in recent years. In California, for example, Governor Newsom signed into law AB 392 which took effect on January 1, 2020, established a new two-hour training for police officers and the legal authorization for the use of deadly force. The training helps officers be updated on current circumstances of when a peace officer can legally use lethal force with respect to human rights.

The sixth category is that of Non-Deadly Force. Michigan is a state that has implemented the need to attempt to use non-deadly force when feasible prior to using deadly force. The Detroit Police Department has implemented this into their departmental policy to ensure officers use de-escalation techniques and other alternatives to deadly force before using deadly force as it states, "Deadly force is not authorized if less-lethal force could reasonably be used to prevent the escape of a dangerous fleeing subject, or a subject fleeing from a violent felony crime" (Detroit Police Department, 2020).

There were six categories of the use of force outlined. States may have statutes addressing none, one, two, or more of these categories. Table 2 contains information on the states which have no policy, a state policy with one category, a state policy with two categories, or a state policy with more than two categories. Two states do not have policies that regulate the use of deadly force by law enforcement officers. These states are South Carolina and West Virginia.

In the analysis based on political affiliation, four of the states with no statutes are Republican and four states are Democratic, as outlined in Table 2. Seventeen states have one category, and ten of these states are Democratic, and seven are Republican. Fourteen of the states have two of the categories in their statute, with eight being Republican states and six being Democratic states. An example of a state with two categories is Arizona, with the legislation for officers to use deadly force against a person escaping custody and the use of deadly force to suppress a riot as the statute states:

... the suspect or escapee is: 1. Actually resisting the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force; or A felon who has escaped from lawful confinement; or A felon who is fleeing from justice or resisting arrest with physical force.' ... 'Is necessary to lawfully suppress a

Table 2: States Categorized by How Many Categories Present in Policy

<i>No policy</i>	<i>Policy with 1 category</i>	<i>Policy with 2 categories</i>	<i>Policy with more than 2 categories</i>
South Carolina (Rep)	Alabama (Rep)	Arizona (Rep)	Delaware (Dem)
Washington, D.C. (Dem)	Alaska (Rep)	California (Dem)	Florida (Rep)
West Virginia (Rep)	Arkansas (Rep)	Colorado (Dem)	Indiana (Rep)
	Illinois (Dem)	Connecticut (Dem)	Nebraska (Rep)
	Kansas (Dem)	Georgia (Rep)	Nevada (Dem)
	Kentucky (Dem)	Hawaii (Dem)	Ohio (Rep)
	Louisiana (Dem)	Idaho (Rep)	Oregon (Dem)
	Maine (Dem)	Iowa (Rep)	Pennsylvania (Dem)
	Massachusetts (Rep)	Maryland (Rep)	South Dakota (Rep)
	Minnesota (Dem)	Michigan (Dem)	Tennessee (Rep)
	Missouri (Rep)	Mississippi (Rep)	Virginia (Dem)
	Montana (Dem)	New Jersey (Dem)	Washington (Dem)
	North Carolina (Dem)	New Mexico (Dem)	
	New Hampshire (Rep)	North Dakota (Rep)	
	New York (Dem)	Texas (Rep)	
	Oklahoma (Rep)	Vermont (Rep)	
	Rhode Island (Dem)		
	Utah (Rep)		
	Wisconsin (Dem)		
	Wyoming (Rep)		

riot if the person or another person participating in the riot is armed with a deadly weapon. (Arizona Revised Statute Section 13-410, 2015).

Eleven of the states have more than two categories. An example of a state with more than two categories is Washington. The Washington state statute includes the use of deadly force when the following circumstances apply:

To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility; (iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or (iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon . . .] Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given (Revised Code of Washington 9A.16.040, 2019).

Table 3: States statutes that increase the ability to use deadly force

<i>Deadly Force to Suppress a Riot</i>	<i>Deadly Force to Prevent an Escape</i>
Arizona	Alabama
Delaware	Alaska
Florida	Arizona
Idaho	Arkansas
Mississippi	California
Nebraska	Colorado
Ohio	Connecticut
Pennsylvania	Delaware
Nevada	Georgia
South Dakota	Florida
Washington	Hawaii
	Idaho
	Illinois
	Indiana
	Iowa
	Kansas
	Kentucky
	Maine
	Minnesota
	Mississippi
	Missouri
	Montana
	Nebraska
	Nevada
	New Hampshire
	New Jersey
	New Mexico
	New York
	North Carolina
	North Dakota
	Ohio
	Oklahoma
	Oregon
	Pennsylvania
	South Dakota
	Texas
	Utah
	Washington

The first category that was found throughout various states was the use of deadly force to suppress a riot. Within states that have Republican Governors, we found that seven of the states had this category in their statutes while four of the states had Democratic Governors (see Table 3). An example of a state that allows deadly force to suppress a riot is Ohio. The Ohio state statute allows for:

Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either: 1. In obedience to any judgment of a competent court; or 2. When reasonably necessary in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty including suppression of riot or keeping and preserving the peace. (Idaho State Statute Section 18-4011, 1986).

This category was included due to the important ramifications this policy has in extending the power to kill those involved in a riot without considering its circumstances. Arizona specifies that the person must be armed with a deadly weapon, but other states such as Pennsylvania do not specify such a standard.

The second category was the ability of law enforcement officers to use deadly force to prevent an escape, and states which include this provision are listed in Table 3. In total, there were thirty-nine states, which represent 78% of the states, that allow officers to use deadly force to prevent an escape. For example, in Mississippi, the law allows for the use of deadly force by law enforcement or their designee when ‘retaking any felon who has been rescued or has escaped’ (Mississippi Code 97-3-15, 2010).

Yet states do differ in how they define this policy in the statute. Two states ensure that the use of deadly force is for those escapees who the officer believes pose a threat of death or serious injury to the officer or others (e.g., Idaho and New Mexico), while other states such as Alaska and Kentucky do not have the requirement that the escapee poses a threat.

The third category was statutes that required that officers give a warning when using deadly force when feasible, and these states are listed in Table 4. This third category was included in sixteen different state statutes. Ten of these states are Democratic, and six are Republican. This warning alerts the target of the deadly force that deadly force may be used. Wisconsin for example requires police officers ‘If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.’ (Wisconsin Statute 175.44, 2021).

The fourth category includes states that have in their policy a requirement that an officer’s use of deadly force should pose no substantial risk to bystanders (see Table 4). This is a law that restricts when an officer can use deadly force to ensure public safety. Eight states have such a requirement; Seven of these states are Democratic, and one

is Republican. There have been many cases in which bystanders in violent encounters between the police and a suspect have been shot by the police. A recent example comes from New Orleans, Louisiana, in February 2019, when five people were shot at a bus stop in New Orleans by police officers who were shooting at a robbery suspect (Hackney & Cullinane, 2019). If Louisiana's deadly force statute had limitations on putting bystanders at risk, this shooting might have been prevented. An example comes from the state statute of Nebraska, 'The actor believes that the force employed creates no substantial risk of injury to innocent persons...' (Nebraska Revised Statute 28-1412, 1979).

The fifth category includes states that have a policy on training for the use of deadly force. This training requirement is missing from many of the state statutes as only sixteen states (32%) include it (see Table 4). However, a number of states have training, often referred to as Police Officer Standards and Training (POST), that have specific requirements that officers complete use of deadly force training in the police academy (Magers & Klein, 2002). The Tennessee statute states that law enforcement officers receive training and instruction related to the use of force:

Resisting arrest; law enforcement officer; powers and duties (a) A law enforcement officer, after giving notice of the officer's identity as an officer, may use or threaten to use force that is reasonably necessary ... All law enforcement officers, both state and local, shall be bound by this section and shall receive instruction regarding the implementation of this section in law enforcement training programs (Tennessee Code 40-7-108, 2010).

The sixth category is the requirement that law enforcement officers attempt to use non-deadly means when appropriate and other means are not feasible (see Table 3). Only twelve states have in their statute a specific requirement that non-deadly means be attempted prior to using deadly force. The state of Tennessee, for example, states: '... the officer may use deadly force to effect an arrest only if all other reasonable means of apprehension have been exhausted or are unavailable, and where feasible, the officer has given notice of the officer's identity as an officer and given a warning that deadly force may be used unless resistance or flight ceases...' (Tennessee Code 40-7-108, 2010).

The findings show that most states are missing multiple categories on the use of force in their statutes. For example, Delaware is the only state that is missing only one category as it is missing, officer issue's warning when using deadly force, while all the other states are missing multiple categories such as New Mexico which is missing deadly force to suppress a riot, officers need to have no substantial risk to bystanders when using deadly force, training for the use of deadly force, and officers attempt non-lethal means prior to deadly force. Statutes vary on the specific circumstances that

Table 4: States statutes that limit the ability to use deadly force

<i>Officer Issue's Warning When Using Deadly Force</i>	<i>Officers Need to Have no Substantial Risk to Bystanders When Using Deadly Force</i>	<i>Training for the Use of Deadly Force</i>	<i>Officers Attempt Non-Lethal Means Prior to Deadly Force</i>
California	Colorado	Connecticut	Delaware
Colorado	Delaware	Delaware	Iowa
Connecticut	Hawaii	Florida	Maryland
Florida	Minnesota	Georgia	Michigan
Illinois	Nebraska	Illinois	North Dakota
Indiana	New Jersey	Indiana	Oregon
Nevada	Oregon	Louisiana	Rhode Island
New Mexico	Pennsylvania	Maryland	Tennessee
Ohio		Massachusetts	Vermont
Oregon		Michigan	Virginia
Tennessee		North Carolina	Washington
Utah		Tennessee	Wyoming
Vermont		Texas	
Virginia		Utah	
Washington		Virginia	
Wisconsin		Washington	

each category justifies for the use of deadly force, for example, New York specifies that deadly physical force can be used when a person committed kidnapping, arson, or burglary in the first degree, and Vermont allows for the use of deadly force to suppress a person attempting sexual assault, burglary, or robbery.

State statutes also provide vague details in their language. For example, states use the word violence without defining the level of violence, and statutes do not define 'deadly weapon'. Some states have their use of deadly force in separate statutes, and other states have their deadly force legislation within a larger statute. Some of these statutes are listed as "Justifiable Homicide" and apply the same requirements to law enforcement officers and private citizens.

Discussion and Conclusions

Recently many police departments throughout the country have been facing backlash due to police officers taking the lives of unarmed people. A significant concern has been the racial disparities in the use of force incidents that have led to the loss of life of a disproportionately high number of Black males. Protests throughout the country have been focused on holding police officers accountable when they use inappropriate levels of force. States have failed to meet the recommendations set forth by the President's

Task Force on 21st Century Policing and the United Nations Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force. However, a number of states are considering such measures (Robinson, 2020). Democratic states are more likely to have more restrictions on the use of force as 21 democratic states have limits compared to only 13 republican states.

A central challenge to examining this issue is the lack of solid data on lethal force incidents. While many researchers have used data from the Supplementary Homicide Report in the past, these data are known to be inaccurate (Klinger, 2008). As a supplementary analysis, we obtained lethal force data from 2018-2021 from FatalEncounters.org, a crowd-sourced website that tracks lethal force data that research has demonstrated provides reasonably valid data on lethal force incidents (Feldmen et al., 2017). Collapsing states into the categories of no policy to some policy, there are no statistically significant differences between having a policy and lethal force rates ($t = 1.356$). Interestingly, the mean rates of lethal force are higher in states with policies (6.89 per 1 million) than in states without lethal force policies (5.69 per 1 million). Though this difference is not significant, it could indicate that lethal force occurs at a greater rate in states with legal policies regarding lethal force. We cannot, however, determine if this might indicate these policies are ineffective or that states with lethal force problems subsequently enact these policies. As prior scholarship has documented that officers are rarely charged for lethal force incidents, it is possible that states with policies might be more likely to prosecute and convict officers. To our knowledge, no data exists to test this assertion. Lastly, it is possible that these policies may reflect or alter the public's perception of law enforcement in their state. This too, is an area for future research.

Regardless, given the importance and timeliness of this issue, we argue that it is important for those states that lack limitations in their laws regarding the use of deadly force to consider more regulations (Terrill & Paoline III, 2017), if for no other reason than to establish clear criteria and therefore to hopefully minimize public outcry. Another step states can take to better regulate law enforcement's use of deadly force is to ensure mandatory training and clear guidelines at the state level about when the use of deadly force is acceptable. Well-trained and equipped officers who use non-deadly methods in circumstances where there is not an imminent danger, such as in the killing of George Floyd, can save the lives of citizens, and greatly benefit police departments and communities.

States have recently been passing bills to reduce the circumstances that an officer can use force and increase the responsibility of an officer who does use deadly force, such as in the state of Washington with Initiative 940, which passed in 2018 (Stoughton et al., 2020). Initiative 940 removed the requirement that prosecutors prove that an

officer acted with malice, instead only requiring proof that a reasonable officer would not have used deadly force in the same circumstances. Initiative 940 also required de-escalation training for the police and an independent investigation when deadly force is used. This shows how important deadly force has become to voters in Washington. The *Seattle Times* investigation showed that 213 people were killed by police in the state of Washington between 2005 and 2014, and only one officer was charged (Miletich et al., 2015). Voters in many other states, including California, Colorado, and Oregon, have also started to pass laws that limit when an officer could legally use deadly force (Joyce, 2021).

Though many states have far-reaching statutes to protect officers from criminal charges, the Supreme Court has ruled that '[i]t is not better that all felony suspects die than that they escape' (*Graham v. Connor*, 1989). *Graham* states that the officers must have objective reasonableness when using deadly force. States without statutory guidelines continue the common law tradition, which fails to properly meet the recommendations and guidelines of the President's Task Force on 21st Century Policing and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

References

- Alcorn, M. (2018). Setting the Standard: Changing the Use of Force Standard Used by California Police. *McGeorge L. Rev.*, 50, 251.
- Alcorn, M. (2019). Criminal Setting the Standard: Changing the Use of Force Standard Used by California Police. *The University of the Pacific Law Review*, 50(2), 251.
- Alexander, M. (2020). *The new Jim Crow: Mass incarceration in the age of colorblindness*. The New Press.
- Alpert, G. P., & Dunham, R. G. (2010). Policy and training recommendations related to police use of CEDs: Overview of findings from a comprehensive national study. *Police Quarterly*, 13(3), 235–259. <https://doi.org/10.1177/1098611110373993>.
- Barber, C., Azrael, D., Cohen, A., Miller, M., Thymes, D., Wang, D. E., & Hemenway, D. (2016). Homicides by police: Comparing counts from the National Violent Death Reporting System, Vital Statistics, and Supplementary Homicide Reports. *American Journal of Public Health*, 106(5), 922–927. <https://doi.org/10.2105/AJPH.2016.303074>.
- Buehler, J. W. (2017). Racial/ethnic disparities in the use of deadly force by US police, 2010–2014. *American Journal of Public Health*, 107(2), 295–297.
- Chaney, C., & Robertson, R. V. (2015). Armed and dangerous? An examination of fatal shootings of unarmed black people by police. *Journal of Pan African Studies*, 8(4), 45–78.
- Coley, J. S., & Hess, D. J. (2012). Green energy laws and Republican legislators in the United States. *Energy Policy*, 48, 576–583.

- Conner, A., Azrael, D., Lyons, V. H., Barber, C., & Miller, M. (2019). Validating the national violent death reporting system as a source of data on fatal shootings of civilians by law enforcement officers. *American Journal of Public Health, 109*(4), 578-584.
- Congress.gov (2021). H.R.7120 – George Floyd Justice in Policing Act of 2020. Retrieved from H.R.7120 – 116th Congress (2019-2020): George Floyd Justice in Policing Act of 2020 | Congress.gov | Library of Congress.
- Cooney, M. D. (2009). Judge, jury, and executioner: Organizational factors that affect police use of lethal force. *Master's thesis, The University of Tennessee at Chattanooga*. DeGue, S., Fowler, K. A., & Calkins, C. (2016). Deaths due to use of deadly force by law enforcement: findings from the National Violent Death Reporting System, 17 US states, 2009–2012. *American Journal of Preventive Medicine, 51*(5), S173-S187.
- Department of Justice. (1995). Policy Statement Use of Deadly Force. *Attorney General October 17, 1995, Memorandum on Resolution 14*. available at <http://www.justice.gov/ag/attorney-general-october-17-1995-memorandum-resolution-14-attachment>.
- Detroit Police Department. (2020). Directive Number 304.2. *Office of the Chief of Police*.
- Feldman, J. M., Gruskin, S., Coull, B. A., & Krieger, N. (2017). Killed by police: validity of media-based data and misclassification of death certificates in Massachusetts, 2004–2016. *American Journal of Public Health, 107*(10), 1624-1626.
- Fryer Jr, R. G. (2016). *An empirical analysis of racial differences in police use of force*. National Bureau of Economic Research.
- Fyfe, J. J. (1988). The Metro-Dade police/citizen violence reduction project: Final report. *Washington, DC: Police Foundation*.
- Gilbert, K. L., & Ray, R. (2016). Why police kill Black males with impunity: Applying public health critical race praxis (PHCRP) to address the determinants of policing behaviors and 'justifiable' homicides in the USA. *Journal of Urban Health, 93*(1), 122-140.
- Gill, S. (2015). Use of deadly force by law enforcement: building public trust. *Prosecutor, Journal of the National District Attorneys Association, 49*(2), 20-22.
- Goldkamp, J. S. (1976). Minorities as victims of police shootings: Interpretations of racial disproportionality and police use of deadly force. *The Justice System Journal, 169*-183.
- Goldsmith, A. (2005). Police reform and the problem of trust. *Theoretical Criminology, 9*(4), 443–470. <https://doi.org/10.1177/1362480605057727>.
- Greene, L. S. (2015). Before and after Michael Brown toward an end to structural and actual violence. *Washington University Journal of Law & Policy, 49*, 1.
- Hackney, D., & Cullinane, S. (2019, February 18,). Five bystanders shot during police shootout in New Orleans. *CNN*. <https://www.cnn.com/2019/02/18/us/new-orleans-shootout/index.html>
- Harmon, R. (2009). Promoting civil rights through proactive policing reform. *Stanford Law Review, 62*, 1.
- Harmon, R. (2012). Limited leverage: Federal remedies and policing reform. *Louis University Public Law Review, 32*, 33.

- Jeffries Jr, J. C., & Rutherglen, G. A. (2007). Structural Reform Revisited. *California Law Review*, 1387–1422.
- Johnson, R. R. (2016). Dispelling the myths surrounding police use of lethal force. *Dolan Consulting Group*
- Joyce, S. (2020, March 18). George Floyd death drives police accountability laws nationwide. *Bloomberg Law*. <https://news.bloomberglaw.com/us-law-week/george-floyd-death-drives-police-accountability-laws-nationwide>.
- Kim, J., & Kiesel, A. (2018). The long shadow of police racial treatment: racial disparity in criminal justice processing. *Public Administration Review*, 78(3), 422–431.
- Klinger, D. (2008). On the importance of sound measures of forceful police actions. *Criminology & Pub. Pol'y*, 7, 605.
- Klinger, D. (2009). Can police training affect the use of force on the streets? The Metro-Dade violence reduction field experiment. *Holding Police Accountable*, 95–107.
- Klinger, D., Rosenfeld, R., Isom, D., & Deckard, M. (2015). Race, crime, and the micro-ecology of deadly force. *Criminology & Public Policy*, 15(1), 193–222. <https://doi.org/10.1111/1745-9133.12174>.
- Kramer, R., & Remster, B. (2018). Stop, frisk, and assault? Racial disparities in police use of force during investigatory stops. *Law & Society Review*, 52(4), 960–993.
- Ladwig III, W. C. (2007). Training foreign police: A missing aspect of US security assistance to counterinsurgency. *Comparative Strategy*, 26(4), 285–293.
- Lee, C. (2018). Reforming the law on police use of deadly force: De-escalation, pre-seizure conduct, and imperfect self-defense. *University of Illinois Law Review*, 629.
- Lim, H., & Lee, H. (2015). The effects of supervisor education and training on police use of force. *Criminal Justice Studies*, 28(4), 444–463. <https://doi.org/10.1080/1478601X.2015.1077831>.
- MacDonald, J. M., Kaminski, R. J., & Smith, M. R. (2009). The effect of less-deadly weapons on injuries in police use-of-force events. *American Journal of Public Health*, 99(12), 2268–2274. <https://doi.org/10.2105/AJPH.2009.159616>.
- Magers, J., & Klein, L. (2002). Police Basic Training: A Comparative Study of States' Standards in the United States. *Police Ethics*, 103.
- Marenin, O. (2016). Cheapening death: Danger, police street culture, and the use of deadly force. *Police Quarterly*, 19(4), 461–487.
- Miletich, S., Willmsen, C., Carter M., & Mayo, J. (2015, September 26). Shielded by the law. *Seattle Times*.
- Miller, L. (2015). Why cops kill: The psychology of police deadly force encounters. *Aggression and Violent Behavior*, 22, 97–111. <https://doi.org/10.1016/j.avb.2015.04.007>.
- Morton, D. R. (2018). Improving police transparency and accountability in violent encounters with African Americans. *Journal of African American Studies*, 22(1), 125–138.
- Mumola, C.J. (2007). *Arrest-related deaths in the United States, 2003–2005*. US Department of Justice, Office of Justice Programs Washington, DC.

- National Conference of State Legislatures (2021). *Use of force standards*. NCSL. Retrieved from: Use of Force Standards (ncsl.org).
- National Institute of Justice. (2009). *The use-of-force continuum*. Washington, D.C., National Institute of Justice.
- Nix, J., Campbell, B.A., Byers, E. H., & Alpert, G. P. (2017). A bird's eye view of civilians killed by police in 2015. *Criminology & Public Policy*, 16(1), 309–340. <https://doi.org/10.1111/1745-9133.12269>.
- Office of Community Oriented Policing Services. (2015). Final report of the president's task force on 21st century policing.
- Prenzler, T., Porter, L., & Alpert, G. P. (2013). Reducing police use of force: Case studies and prospects. *Aggression and Violent Behavior*, 18(2), 343–356. <https://doi.org/10.1016/j.avb.2012.12.004>.
- Price, J. H., & Payton, E. (2017). Implicit racial bias and police use of lethal force: justifiable homicide or potential discrimination? *Journal of African American Studies*, 21(4), 674–683.
- United States Commission on Civil Rights. (1981). *Who is Guarding the Guardians? A Report on Police Practices: A Report of the United States Commission on Civil Rights*. The Commission.
- Rajakaruna, N., Henry, P. J., Cutler, A., & Fairman, G. (2017). Ensuring the validity of police use of force training. *Police Practice and Research*, 18(5), 507–521. <https://doi.org/10.1080/15614263.2016.1268959>.
- Revised Code of Washington 9A.16.040. (2019). Justifiable homicide or use of deadly force by public officer, peace officer, person aiding—Good faith standard.
- Robinson, L. O. (2020). Five Years after Ferguson: Reflecting on Police Reform and What's Ahead. *The ANNALS of the American Academy of Political and Social Science*, 687(1), 228–239.
- Ross, C. T. (2015). A multi-level bayesian analysis of racial bias in police shootings at the county-level in the United States, 2011–2014. *PLOS ONE*, 10(11), e0141854. <https://doi.org/10.1371/journal.pone.0141854>.
- Ross, C. T., Winterhalder, B., & McElreath, R. (2018). Resolution of apparent paradoxes in the race-specific frequency of use-of-force by police. *Palgrave Communications*, 4(1), 1–9.
- Ross, C. T., Winterhalder, B., & McElreath, R. (2020). Racial disparities in police use of deadly force against unarmed individuals persist after appropriately benchmarking shooting data on violent crime rates. *Social Psychological and Personality Science*, 1948550620916071.
- Sampson, F. (2012). Hail to the chief? how far does the introduction of elected Police Commissioners Herald a US-style politicization of policing for the UK? *Policing: A Journal of Policy and Practice*, 6(1), 4–15.
- Sandoval, P. Andone, D. & Beech, S. (2022, July 4). Jayland Walker suffered at least 60 wounds in fatal police shooting, Akron police chief says, as authorities release bodycam footage. *CNN*. <https://www.cnn.com/2022/07/03/us/jayland-walker-police-shooting-video/index.html>
- Serio, J. D., & Ward, R. H. (2008). Opportunities and challenges in delivering a curriculum for international police training: The case of the international law enforcement academy (ILEA)

- at Roswell, New Mexico (USA). *Publication Series—European Institute for Crime Prevention and Control*, 53, 143.
- Silver, J. R., & Pickett, J. T. (2015). Toward a better understanding of politicized policing attitudes: Conflicted conservatism and support for police use of force. *Criminology*, 53(4), 650-676.
- Simmons, K. C. (2008). The politics of policing: Ensuring stakeholder collaboration in the federal reform of local law enforcement agencies. *Journal of Criminal Law & Criminology*, 98, 489.
- Simmons, K. C. (2015). Increasing police accountability: restoring trust and legitimacy through the appointment of independent prosecutors. *Washington. University Justice Law & Policy*, 49, 137.
- Skolnick, J. (2002). Corruption and the blue code of silence. *Police Practice and Research*, 3(1), 7-19.
- Smith, J. M. (2016). Closing the gap between what is lawful and what is right in police use of force jurisprudence by making police departments more democratic institutions. *Michigan Journal of Race & Law*, 21, 315.
- Stickle, B. (2016). A national examination of the effect of education, training, and pre-employment screening on law enforcement use of force. *Justice Policy Journal*, 13(1), 1-15.
- Stoughton, S. W., Noble, J. J., & Alpert, G. P. (2020). *Evaluating police uses of force*. NYU Press.
- Storey, M. L. (2011). Explaining the unexplainable: Excited Delirium Syndrome and its impact on the objective reasonableness standard for allegations of excessive force. *Louis ULJ*, 56, 633.
- Streeter, S. (2019). Lethal force in black and white: Assessing racial disparities in the circumstances of police killings. *The Journal of Politics*, 81(3), 1124-1132.
- Tate, J., Jenkins, J., Rich, S., Muyskens, J., & Fox, J., (2016, July 7). Fatal Force. *The Washington Post*. https://www.washingtonpost.com/national/how-the-washington-post-is-examining-police-shootings-in-the-united-states/2016/07/07/d9c52238-43ad-11e6-8856-f26de2537a9d_story.html
- Terrill, W., & Paoline, E. A. (2017). Police use of less deadly force: Does administrative policy matter? *Justice Quarterly*, 34(2), 193-216. <https://doi.org/10.1080/07418825.2016.1147593>.
- Thompson, R. (n.d.). II. (2015). Police use of force: Rules, remedies, and reforms. *Congressional Research Service*.
- United Nations. (1990). Code of Conduct for Law Enforcement Officials. G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979); Principle 9, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.
- U. S. Const. amend. IV
- White, M. D. (2001). Controlling police decisions to use deadly force: Reexamining the importance of administrative policy. *Crime & Delinquency*, 47(1), 131-151.
- White, M. D. (2016). Transactional encounters, crisis-driven reform, and the potential for a national police deadly force database. *Criminology & Pub. Pol'y*, 15, 223.

- Williams, H. E., Bowman, S. W., & Jung, J. T. (2019). The limitations of government databases for analyzing fatal officer-involved shootings in the United States. *Criminal Justice Policy Review*, 30(2), 201-222.
- Worrall, J. L., Bishop, S. A., & Terrill, W. (2020). The effect of suspect race on police officers' decisions to draw their weapons. *Justice Quarterly*, 1-20.
- Worrall, J. L., Bishop, S. A., Zinser, S. C., Wheeler, A. P., & Phillips, S. W. (2018). Exploring bias in police shooting decisions with real shoot/don't shoot cases. *Crime & Delinquency*, 64(9), 1171-1192.

Cases cited

- Buckley v. Haddock*, 292 F. App'x 791 (11th Cir. 2008).
- Brown v. City of Golden Valley*, 574 F.3d 491 (8th Cir. 2009).
- City & County of San Francisco v. Sheehan*, 135 U.S. 1765 (2015).
- Graham v. Connor*, 490 U.S. 386 (1989).
- Headwaters Forest Defense v. County of Humboldt*, 276 F. 3d 1125 (9th Cir. 2002).
- Los Angeles v. Lyons*, 461 U.S. 95 (1983).
- Plumbhoff v. Rickard*, 572 U.S. 765 (2014).
- San Francisco v. Sheehan*, 135 S. Ct. 1765 (2015).
- Scott v. Harris*, 550 U.S. 372 (2007).
- Screws v. United States*, 325 U.S. 91 (1945).
- Singleton v. Darby*, 609 Fed. Appx. 190 (5th Cir. 2015).
- Tennessee v. Garner*, 471 U.S. 1 (1985).
- Terry v. Ohio*, 392 U.S. 1 (1968).
- Young v. County of Los Angeles*, 655 F. 3d 1156 (9th Cir. 2011).