



# Audit of the Department of Justice's Law Enforcement and Corrections Components' Use-of-Force Policies



AUDIT DIVISION

23-108

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**SEPTEMBER 2023**

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# EXECUTIVE SUMMARY

## Audit of the Department of Justice’s Law Enforcement and Corrections Components’ Use-of-Force Policies

### Objective

The objective of this audit was to determine whether the Department of Justice’s (Department or DOJ) law enforcement and corrections components updated their policies to align with DOJ’s updated use-of-force guidance and requirements.

### Audit Results and Recommendations

Following certain high-profile use-of-force incidents involving law enforcement, the Department issued guidance in two parts: (1) September 2021 DOJ guidance banning the use of chokeholds and carotid restraints when deadly force is not authorized, as well as restricting the use of “no knock” warrants; and (2) May 2022 DOJ update to its 18-year-old use-of-force policy to include policy and training requirements on de-escalation tactics, the affirmative duty to intervene, and the affirmative duty to render aid. We found that DOJ law enforcement and corrections components made substantial progress towards updating their policies and training to align with DOJ’s updated requirements, as demonstrated in the figure at right. However, we also identified certain policy gaps related to use of force in custodial situations. In addition, some components’ policies and practices for the use of force were inconsistent in their application to task force officers and contractors.

The Department also has not identified a mechanism to help ensure components’ training programs are consistent, appropriate, or complete. We believe that the Department should ensure that its law enforcement and corrections components have an appropriate interpretation of the requirements and a cohesive approach to training, which, in turn, will help promote best practices in use-of-force training for other law enforcement agencies across the country.

We made six recommendations to minimize potential risks associated with use-of-force tactics, including addressing policy gaps at the Department and component levels.

Policy Alignment with DOJ’s Requirements

DOJ Requirements		ATF	DEA	FBI	USMS	BOP
2021 Restraint and “No Knock” Guidance	Ban on the use of <b>chokeholds and the carotid restraint technique</b> unless deadly force is authorized.	✓	✓	✓	✓	⋯
	Limitations on the use of <b>“no knock” warrants</b>	✓	✓	✓	⏸	N/A
2022 Use-of-Force Policy	Requirements for <b>use of deadly force</b>	✓	✓	✓	✓	⋯
	<b>De-escalation tactics and techniques</b>	✓	✓	✓	✓	✓
	<b>Affirmative duty to intervene</b>	✓	✓	✓	✓	⏸
	<b>Affirmative duty to request and/or render medical aid</b>	✓	✓	✓	✓	⋯

✓  
Aligns

⋯  
Partially Aligns

✗  
Not in Alignment

⏸  
In Progress

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# Introduction

In the wake of high-profile use-of-force incidents involving law enforcement around the country, the Department of Justice (Department or DOJ) undertook efforts to improve safety, accountability, and public trust by reviewing tactics DOJ law enforcement and corrections personnel are authorized to use when carrying out their duties. The Department recognized that it had not updated its use-of-force policy since 2004 and determined that its law enforcement components did not have consistent written policies on certain use-of-force techniques. In 2021, the Department issued guidance limiting DOJ law enforcement personnel's use of chokeholds and the carotid restraint technique as well as the execution of high-risk "no knock" warrants. Further, in 2022, the Department updated its 18-year-old use-of-force policy.

## Guidance on Chokeholds, Carotid Restraints, and "No Knock" Warrants

In September 2021, the Deputy Attorney General (DAG) issued a memorandum to DOJ law enforcement, corrections, and litigating components (2021 Restraint and "No Knock" Guidance) that conveyed restrictions on the use of certain high-risk law enforcement tactics and the requirement for DOJ law enforcement components to ensure their internal policies reflect the updates.<sup>1</sup> These updates specifically impacted the following DOJ components: Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); Office of the Inspector General (OIG); U.S. Marshals Service (USMS); and Federal Bureau of Prisons (BOP).<sup>2</sup>

The 2021 Restraint and "No Knock" Guidance explicitly prohibited the use of chokehold and carotid restraint techniques by law enforcement agents and correctional officers, including federal task force officers, unless deadly force is authorized. The use of such tactics was not addressed in prior Department-wide guidance. The 2021 Restraint and "No Knock" Guidance instructed components to appropriately incorporate these updates into their policies and training activities. In addition, the guidance limited the circumstances in which law enforcement officers, including task force officers, may seek a "no knock" warrant to only those instances where physical safety is at stake at the time of entry. Law enforcement officers may also seek a "no knock" warrant in exceptional circumstances, such as to prevent the destruction of significant evidence related to a national security matter, with high-level Department approvals and notification to the DAG. The 2021 Restraint and "No Knock" Guidance also mandated that DOJ law enforcement component heads report quarterly to the DAG regarding the number of "no knock" entries their agency executed during the prior quarter.

*Chokeholds apply pressure to the throat or windpipe and restrict an individual's ability to breathe.*

*The carotid restraint technique restricts blood flow to the brain causing temporary unconsciousness.*

*"No knock" warrants allow law enforcement with reasonable grounds to enter a dwelling without knocking and announcing.*

Source: 2021 Restraint and "No Knock" Guidance

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<sup>1</sup> Deputy Attorney General, DOJ, memorandum to various DOJ components, [Chokeholds & Carotid Restraints; Knock & Announce Requirement](https://www.justice.gov/dag/page/file/1432531/download), September 13, 2021, www.justice.gov/dag/page/file/1432531/download.

<sup>2</sup> Although the guidance was applicable to the OIG's law enforcement officers, in accordance with generally accepted government auditing standards, we excluded the OIG from the scope of our audit to eliminate the appearance of an impairment to our independence. See Appendix 1 for more information about the audit scope.

## Use-of-Force Policy

In May 2022, the Attorney General issued a memorandum to DOJ's law enforcement and corrections components that contained the Department's updated Use-of-Force Policy (2022 Use-of-Force Policy).<sup>3</sup> According to the memorandum, the 2022 Use-of-Force Policy was crafted in consultation with the heads of ATF, DEA, FBI, and USMS and draws from the 2020 *National Consensus Policy and Discussion Paper on Use of Force*.<sup>4</sup> In July 2022, the Department codified this policy in Section 1.16.000 of the Justice Manual.<sup>5</sup> DOJ's 2022 Use-of-Force Policy specifies that officers "may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person." Further, the 2022 Use-of-Force Policy added new requirements and training standards for DOJ law enforcement and correctional officers related, but not limited, to de-escalation tactics and techniques, an affirmative duty to intervene, and an affirmative duty to render medical aid.

*De-escalation* refers to actions taken during a potential force encounter in an attempt to stabilize and resolve the situation without use of force or with a reduction in the use of force necessary.

*Affirmative duty to intervene* refers to the duty to prevent or stop any officer from engaging in excessive force or any other use of force that violates federal law or policy.

*Affirmative duty to render medical aid* refers to the duty to provide appropriate medical care to any individual who has visible injuries, complains of being injured, or requests medical attention.

Source: *National Consensus Policy and Discussion Paper on Use of Force* and 2022 Use-of-Force Policy

## OIG Audit Approach

The objective of this audit was to determine whether DOJ's law enforcement and corrections components updated their policies to align with DOJ's updated use-of-force guidance and requirements. To accomplish our objective, we reviewed ATF, DEA, FBI, USMS, and BOP policies related to the ban on chokeholds and carotid restraints, restrictions on the use of "no knock" warrants, and updated DOJ use-of-force requirements. We conducted interviews with relevant Office of the Deputy Attorney General (ODAG) and Office of Legal Policy (OLP) officials, as well as component policy and training personnel to obtain an understanding of each components' policy implementation and incorporation of Department requirements into training. We also reviewed training curricula and received demonstrations of component training systems to ensure that components were able to track staff completion of use-of-force training. Appendix 1 contains further details on our audit objective, scope, and methodology.

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<sup>3</sup> Attorney General Memorandum: [Department's Updated Use-of-Force Policy](#) May 20, 2022, [www.justice.gov/d9/pages/attachments/2022/05/23/departments\\_updated\\_use-of-force\\_policy.pdf](http://www.justice.gov/d9/pages/attachments/2022/05/23/departments_updated_use-of-force_policy.pdf).

<sup>4</sup> International Association of Chiefs of Police, [National Consensus Policy and Discussion Paper on Use of Force](#), July 2022, [www.theiacp.org/sites/default/files/2020-07/National\\_Consensus\\_Policy\\_On\\_Use\\_Of\\_Force%2007102020%20v3.pdf](http://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf).

<sup>5</sup> The Justice Manual contains publicly available DOJ policies and procedures. See Justice Manual [Section 1-16.000 – Department of Justice Policy on Use of Force](#).

## Audit Results

DOJ law enforcement and corrections components made substantial progress in aligning their component-specific policies with the 2021 Restraint and “No Knock” Guidance, as well as the 2022 Use-of-Force Policy. However, we identified certain gaps in DOJ components’ policies, such as the USMS not formalizing the limitations on “no knock” warrants in its internal policies. We also found that the Department did not effectively convey to the BOP the relevancy of the requirements to correctional officers in custodial versus non-custodial situations, which resulted in disparities in BOP’s policy. Finally, we concluded that the Department should recognize and evaluate inconsistencies in the applicability of use-of-force policies to task force officers and contractors, as well as in the interpretation and implementation of policy and training requirements across components.

### DOJ Should Formalize the 2021 Restraint and “No Knock” Guidance

According to Department policy, a Policy Memorandum may be used to establish guidance requiring expedited approval and distribution for exceptional policy issues that are determined to be time sensitive. Department policy further stipulates that a Policy Memorandum should be converted into a DOJ Directive (i.e., a DOJ Order, DOJ Policy Statement, or DOJ Instruction) within 1 year of issuance.<sup>6</sup> This process helps ensure that DOJ policy updates are formalized, socialized, and easily accessible to DOJ personnel. The Department codified the 2022 Use-of-Force Policy in the Justice Manual within 3 months of the issuance of the Attorney General memorandum.

However, the Justice Manual was not updated to include the restrictions and requirements related to the use of chokeholds, carotid restraints, and “no knock” warrants from the 2021 Restraint and “No Knock” Guidance. As of July 2023, the Department had not formalized the 2021 Restraint and “No Knock” Guidance in a DOJ Directive, as outlined in the aforementioned Department policy and practice.<sup>7</sup> According to ODAG, the Department did not convert this guidance into a DOJ Directive because components were directed to amend their own policies to comply with the requirements. We found this justification inconsistent with the Department’s determination to incorporate the 2022 Use-of-Force Policy into the Justice Manual because that policy also directed components to amend their own internal policies to reflect the updates. We believe that by not formalizing the requirements and restrictions from the 2021 Restraint and “No Knock” Guidance, the Department has not ensured the permanence of this guidance. Additionally, addressing the requirements only in a memorandum could cause confusion among DOJ law enforcement and litigating component personnel who may reference the Justice Manual, which does not include the restrictions on

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<sup>6</sup> DOJ Directives are defined as either DOJ Orders, DOJ Policy Statements, or DOJ Instructions. DOJ Orders are intended for long-term applicability and establish mandatory institutionalized policy for identified Department components or programs and assign responsibilities for achieving the purposes of the Order. A DOJ Policy Statement defines or supplements the broader mandatory guidance provided by a DOJ Order or establishes specific policy for a program area and assigns specific mandatory responsibilities related to a program area or policy initiative. A DOJ Instruction defines and standardizes mandatory procedures or provides clarifying information for an approved DOJ Order or Policy Statement.

<sup>7</sup> Because the Department has not codified in policy the requirements and restrictions on the use of chokeholds, carotid restraints, and “no-knock” warrants contained in the DAG’s September 2021 memorandum, we use the term “guidance” to refer to these restrictions and requirements throughout the report.

chokeholds and carotid restraints or the limitations and required approvals for “no knock” warrants.<sup>8</sup> We recommend that the Department incorporate the 2021 Restraint and “No Knock” Guidance in a DOJ Directive or another appropriate format to ensure permanence.

### Certain Components Need to Align Policies with DOJ’s Updated Requirements

As of July 2023, the ATF, DEA, FBI, USMS, and BOP had taken significant steps to align their policies with Department requirements and inform personnel of the ban on chokeholds and carotid restraints, restrictions on “no knock” warrants, and updates to the Department’s 2022 Use-of-Force Policy. While these components certified the status of their compliance with DOJ’s requirements, the Department did not fully evaluate components’ policies to confirm they aligned with DOJ’s updated requirements, and we found discrepancies, as shown in Figure 1 and described in the following sections.

**Figure 1**  
**Policy Alignment with DOJ’s Requirements**

DOJ Requirements		ATF	DEA	FBI	USMS	BOP
2021 Restraint and “No Knock” Guidance	Ban on the use of chokeholds and the carotid restraint technique unless deadly force is authorized					
	Limitations on the use of “no knock” warrants					N/A <sup>a</sup>
2022 Use-of-Force Policy <sup>b</sup>	Requirements for use of deadly force					
	De-escalation tactics and techniques					
	Affirmative duty to intervene					
	Affirmative duty to request and/or render medical aid					

Aligns    
 Partially Aligns    
 Not in Alignment    
 In Progress

<sup>a</sup> This requirement is not applicable to the BOP because the BOP does not execute warrants as part of its mission.

<sup>b</sup> See Appendix 2 for the 2022 Use-of-Force Policy requirements incorporated in Justice Manual 1-16.000.

**Source:** OIG Analysis of DOJ Requirements

<sup>8</sup> This is not the first instance in which we have observed a lack of Department follow-through with respect to policies that relate to the use of force. In 2017, the Department issued *Guidance on Interactions with Members of the Public with Disabilities in Traditional Law Enforcement Programs and Activities*, which highlighted considerations that should inform Department-wide and component specific policies governing use-of-force encounters with members of the public with disabilities. Such guidance was never formally incorporated into Department policy. Department officials were unaware if this guidance was considered during the development of the 2022 Use-of-Force Policy.

## The BOP Needs to Coordinate with the Department and Reevaluate Its Policies

We found that the BOP faced challenges in aligning its policies with the new Department-level requirements because of miscommunication over the applicability of DOJ's updated use-of-force requirements to the BOP. This is partly due to differences between the missions of the BOP and DOJ's other law enforcement components. Specifically, when the Department updated its 2022 Use-of-Force Policy, it did not transfer or incorporate new requirements specific to custodial situations, which were included as a specific section in the Department's previous 2004 Use of Deadly Force Policy.<sup>9</sup> ODAG officials told us that requirements specific to custodial situations were not included in the 2022 Use-of-Force Policy because the policy was intended to be generally applicable to all DOJ law enforcement officers and would apply to situations where BOP correctional officers operate outside of a prison. These officials stated that the Department was in the process of determining whether updates to DOJ's use-of-force policies to address custodial situations were necessary, and their understanding was that the 2004 custodial-specific requirements were still in effect for the BOP. Yet, we did not identify any indication in DOJ's 2022 Use-of-Force Policy that the 2004 policy language specific to custodial situations was still in effect. Moreover, we confirmed that the BOP was not involved in the development of the 2022 Use-of-Force Policy and BOP officials believed that the 2022 Use-of-Force Policy was applicable to custodial situations.

When the BOP undertook a review to update its policies, it focused on use-of-force requirements in custodial situations only. Although the BOP identified certain areas of potential conflict, it ultimately determined that its policies were already largely in alignment with the 2022 Use-of-Force Policy, with the exception of specific language on the affirmative duty to intervene.<sup>10</sup> However, the BOP's review and policy alignment may have been imprecise given the gap created by the Department when it removed language for custodial situations from the updated 2022 Use-of-Force Policy without clarifying the continued applicability of the 2004 guidance. As a result, we recommend that the Department, in coordination with the BOP: (a) evaluate what use-of-force requirements and restrictions should apply to custodial situations, and (b) ensure these requirements are incorporated into DOJ and BOP policies. We also recognize that part of the USMS's mission is to transport federal inmates and to assume custody of individuals arrested by federal agencies and ordered by a court to be detained, and to oversee the housing and transportation of such detained individuals from the time they are brought into federal custody until they are either released or sentenced to a period of incarceration. Therefore, we recommend that the Department include the USMS in its coordination efforts related to use-of-force requirements for custodial situations.

BOP's review also did not address use of force against persons not in BOP custody, such as BOP personnel and visitors to BOP facilities, who may come to be involved in use-of-force incidents while at a BOP institution. Further, the BOP did not have policies to cover use of force outside of the prison context, such as when the BOP deploys Crisis Management Teams at the request of the Attorney General to respond to non-federal correctional emergencies and fulfill certain law enforcement responsibilities.<sup>11</sup> These gaps in

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<sup>9</sup> See Appendix 3 for the complete 2004 policy requirements for use of deadly force in prisons and correctional facilities.

<sup>10</sup> As of July 2023, the BOP was in the process of updating one of its policies to incorporate the affirmative duty to intervene requirement.

<sup>11</sup> In June 2020, the BOP deployed Disturbance Control Teams (DCT) and Special Operations Response Teams (SORT) to assist in response to large scale protests in Washington, D.C., and Miami, Florida. The mission of DCT is to disperse crowds, move participants, and gain and maintain control of a crisis situation, while the mission of SORT is to respond to unconventional and high-risk situations, such as regional or national emergencies.



BOP's review increase the risk that BOP personnel interacting with the public in a law enforcement capacity may not be aware of or act in compliance with DOJ use-of-force requirements.

In addition to concerns surrounding alignment with the 2022 Use-of-Force Policy, we found that the BOP had not updated its policy to explicitly restrict the use of chokehold and carotid physical restraint techniques unless deadly force is authorized, as required by the DOJ's 2021 Restraint and "No Knock" Guidance. Instead, the BOP highlighted its policy that prohibits the use of "restraint equipment or devices (e.g., handcuffs)... [a]bout an inmate's neck or face, or in any manner which restricts blood circulation or obstructs the inmate's airways." According to the BOP, it does not train correctional officers on the use of chokeholds and carotid restraint techniques and therefore determined that it was not necessary to update its established policy or to alert BOP personnel to DOJ's 2021 Restraint and "No Knock" Guidance. We believe there is a risk that correctional officers could incorrectly interpret the BOP policy to only include restrictions on the use of equipment and not physical force by BOP personnel.

As a result, we recommend that the BOP update its policies to: (a) meet the Department's intent for the 2022 Use-of-Force Policy to apply to BOP non-custodial operations and interactions with the public; and (b) fully comply with the Department's 2021 Restraint and "No Knock" Guidance, to include a ban on physical chokeholds and carotid restraints.

### **The USMS Should Finalize and Disseminate Internal Policies for "No Knock" Warrants**

In addition to the USMS needing to coordinate with the Department on the applicability of the 2022 Use-of-Force Policy in USMS custodial situations, the USMS also needs to take action relative to the 2021 Restraint and "No Knock" Guidance that instructed components to immediately revise their policies to reflect limitations on the execution of "no knock" warrants. We found that the USMS had not issued formal policy incorporating this requirement. According to USMS officials, the USMS prioritized other use-of-force policy revisions and drafted an update to its June 2018 policy on warrants that incorporates the Department's "no knock" requirements, which as of July 2023, was undergoing review by USMS leadership. In the interim, the USMS posted the Department's 2021 Restraint and "No Knock" Guidance to its operations intranet site to ensure awareness and issued a memorandum to all personnel reiterating the updated restrictions and requirements. Moreover, USMS officials stated that the use of "no knock" warrants was not pervasive. ODAG officials also told us that since October 1, 2021, when ODAG began tracking "no knock" warrants, the USMS had not sought approval for, nor executed, a "no knock" warrant.

Although the USMS took steps to inform their personnel of the Department's guidance, without updated and formalized policies, the USMS faces the risk that their law enforcement personnel may seek "no knock" warrants without proper justification and authorization. Therefore, we recommend that the USMS finalize policies on "no knock" warrant restrictions and disseminate the updates to its personnel.

### **The Department Should Evaluate the Consistency of Policy Application and Interpretation of Requirements**





During our review of component policies and training curricula, we identified potential areas of inconsistency in components' interpretation and application of certain requirements. While we understand that the varied missions of these components could be a contributing factor to differences in the

interpretation and application of these policies, the Department should ensure that the overarching intent of the requirements is understood and applied correctly by its components.

### Application of Policies to Task Force Officers and Contractors

The Department’s 2021 Restraint and “No Knock” Guidance explicitly states that the requirements apply to Department law enforcement agents and “include[s] federal task force officers.” In contrast, DOJ’s 2022 Use-of-Force Policy states that it applies to “[l]aw enforcement officers and correctional officers of the Department of Justice...” and, according to ODAG officials, does not specifically include task force officers. These officials told us that holding task force officers to these requirements is permissible and at the discretion of the components. In addition, we found neither the 2021 guidance nor the 2022 policy considered the applicability of the requirements to contractor personnel who are fulfilling a law enforcement-like role, such as providing physical security and protective services. As a result, we found that components accounted for task force officers differently in policy, as shown in Figure 2, and did not consider contractors.

**Figure 2**  
**Policy Applicability to Task Force Officers**

<b>ATF</b>		ATF policy specifically includes task force officers as subject to the use-of-force policy when the employing agency's policy on force is inconsistent with ATF policy. We confirmed with ATF personnel that, in practice, this policy applies to task force officers.
<b>DEA</b>		DEA policy specifically includes special agents and deputized task force officers in the applicable Agents Manual section on use of force. We confirmed with DEA personnel that, in practice, this policy applies to task force officers.
<b>FBI</b>		FBI policy language suggests that it applies to task force officers. Yet, FBI officials stated that beyond familiarizing task force officers with what the FBI requires of its agents and FBI Police personnel for use of force, the policy does not in practice apply to task force officers.
<b>USMS</b>		While the USMS policy does not include task force officers, USMS personnel noted that they are currently updating Memoranda of Understanding for each of their over 1,700 partner agencies. Specifically, according to USMS personnel, task force officers will be required to adhere to the 2021 Restraint and “No Knock” Guidance and the 2022 Use-of-Force Policy.

**Note:** The BOP told us that it does not utilize task force officers.

**Source:** OIG Analysis of DOJ Component Policies

According to various officials, there are certain operational considerations as to why components chose to apply or not apply their component use-of-force policies to task force officers and why the Department opted to exclude task force officers from the 2022 Use-of-Force Policy. Specifically, according to the DEA, because task force officers are usually present in DEA enforcement operations, it is in the DEA’s best interest to have them trained and following the DEA’s policies as well as DOJ policies and procedures. ODAG, FBI, and USMS officials explained that task force officers may come from other law enforcement agencies that have different use-of-force policies. In a situation of imminent danger or threat, these officials stated the task force officer should not have to distinguish between two separate policies (local versus federal) and determine which applies when such a delay could have life threatening consequences to the task force officer or others. These officials stated that it is safest for task force officers to defer to the training and policies they have been subject to prior to assuming the role of a task force officer. This issue is further

complicated by the Department's policy imposing an affirmative duty to intervene to prevent or stop, as appropriate, any officer from engaging in excessive force or any other use of force that violates the Constitution, other federal laws, or Department policies on the reasonable use of force.<sup>12</sup> Specifically, if a DOJ law enforcement officer observes a task force officer using a tactic or technique approved by the task force officer's home agency but not allowed by DOJ use-of-force requirements, this could create a conflict for both officers.

DOJ components also use contractors to fulfill law enforcement type roles, including for facility security. In terms of mission-specific law enforcement duties, the BOP may hire contractors to fulfill the role of a correctional officer in providing guard services for inmate trips to medical facilities, while the USMS utilizes contractors to provide courthouse security.<sup>13</sup> BOP and USMS personnel stated that contract personnel are held to the terms and conditions within their contract, yet officials we spoke with at the BOP and USMS noted that they had not yet updated any contracts to account for the requirements in the 2022 Use-of-Force Policy. We did identify that BOP policy stipulates the contractor must train its employees in use and application of restraints and use of force, but this policy did not specify Department restrictions or requirements in these areas. According to BOP personnel, its contracts require compliance with BOP use-of-force policies which, to the extent BOP's policies are aligned with DOJ's policies, should also require contractors to adhere to updated DOJ requirements. Further, USMS personnel told us that the USMS plans to update its relevant contracts in fiscal year 2024. Nevertheless, until further action is taken there is a potential risk that BOP and USMS contractors acting in a law enforcement capacity could have less restrictive use-of-force standards than DOJ law enforcement or correctional officers. The risk of inconsistent use-of-force standards is also present for contracted facility security positions at ATF, DEA, and the FBI, which we found may or may not be subject to DOJ's use-of-force requirements based on whether the contract was through a DOJ component or another federal agency.

Absent an evaluation by the Department of the applicability of its use-of-force requirements to task force officers and contractors, there is a risk that DOJ components may not be fully achieving the Department's intent for use-of-force incidents set forth in policies. In addition, the inconsistencies in the applicability of these requirements for DOJ task force officers and contractors who are acting in a law enforcement capacity for the Department could pose certain operational risks and have legal implications if a use-of-force incident were to occur. Given these challenges, we recommend that the Department evaluate components' determinations regarding the applicability of DOJ's 2021 Restraint and "No Knock" Guidance and 2022 Use-of-Force Policy to task force officers and contractors acting in a law enforcement capacity to ensure that legal and operational risks are adequately mitigated.

## **Assessment and Coordination of DOJ Use-of-Force Training**

Training programs are essential to preparing law enforcement officers for varied scenarios and encounters where use-of-force decisions must be made on a split-second basis and could have catastrophic consequences. Training also helps to verify that law enforcement officers understand and effectively

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<sup>12</sup> We asked the Department if it considered when the duty to intervene requirement was applicable for its personnel, for example whether DOJ law enforcement personnel were responsible for this requirement while they are off duty or while driving a government vehicle. The Department could not provide an answer.

<sup>13</sup> The USMS is granted authority under 28 U.S.C. § 565 to employ the use of personal services contract guards to assist USMS deputy marshals in day-to-day operations. BOP's [Correctional Services Procedures Manual](#) Chapter 8 discusses Guard Service at Local Medical Facilities, [www.bop.gov/policy/progstat/5500\\_014\\_CN-1.pdf](http://www.bop.gov/policy/progstat/5500_014_CN-1.pdf).

implement the Department's updated use-of-force requirements. The Department's 2022 Use-of-Force Policy mandated that components incorporate the requirements into training programs. We found that ATF, DEA, FBI, USMS, and BOP updated aspects of their training to align with the 2022 Use-of-Force Policy.<sup>14</sup> However, various DOJ component officials highlighted instances where language in the Department's policy was not clear and noted that the ambiguity led to certain challenges in implementing their training programs. For example, both FBI and DEA personnel discussed concerns regarding the Department's expectations for training on de-escalation. Specifically, the FBI has a limited array of less-than-lethal force options compared to other agencies (e.g., FBI Special Agents do not carry or use tasers), which could limit de-escalation techniques. DEA personnel explained that because de-escalation is not specifically defined, there was some question as to what type of training should be done to satisfy the Department's requirement.

Additionally, the 2022 Use-of-Force Policy requires regular and periodic use-of-force training to, among other things, "simulate actual shooting situations and conditions." Yet, the USMS did not require in-person training that incorporates simulations on use-of-force tactics or techniques because, according to officials, while they would have preferred in-person training, they have relied solely on virtual trainings to meet DOJ's requirements because of resource constraints.<sup>15</sup> While we understand the challenge faced by the USMS, we believe that virtual training may not simulate real-life practical application of use-of-force scenario training, which seems to be consistent with other DOJ components' implementation of in-person training.

We believe that the Department should ensure that its components have an appropriate interpretation of the requirements and a cohesive approach to training, which, in turn, will help promote best practices in use-of-force training for other law enforcement agencies across the country. In fact, as the Department continues to reform and modernize its law enforcement practices and policies, it should strive to have a leading role in use-of-force standards and training for law enforcement.<sup>16</sup> This role offers an opportunity to strengthen the Department's responsibilities to carry out its law enforcement operations while fulfilling its duties to protect civil liberties and civil rights.

While we recognize that there is not a one-size-fits-all training on use of force and alternative tactics and

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<sup>14</sup> While we identified BOP trainings on de-escalation and the affirmative duty to render medical aid, we note these trainings use scenarios specific to custodial situations.

<sup>15</sup> Prior OIG work has identified issues related to USMS's Tactical Training Officer Program, which USMS officials stated they rely upon to implement field office trainings. DOJ OIG, [Review of the U.S. Marshals Service's Tactical Training Officer Program](#), Evaluations and Inspections Report 21-065 (April 2021), [oig.justice.gov/news/doj-oig-releases-report-us-marshals-services-tactical-training-officer-program](https://oig.justice.gov/news/doj-oig-releases-report-us-marshals-services-tactical-training-officer-program).

<sup>16</sup> Recent developments have positioned the Department to enhance and advance national policing standards. For example, in May 2022, President Biden issued an executive order that required all federal law enforcement agencies to issue policies that are equivalent to, or exceed, certain policy requirements within DOJ's updated use-of-force guidance. [Executive Order 14074 on Advancing Effective Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety](#), [www.whitehouse.gov/briefing-room/presidential-actions/2022/05/25/executive-order-on-advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and-public-safety/](https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/25/executive-order-on-advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and-public-safety/). Additionally, the [Law Enforcement De Escalation Training Act of 2022](#) directed DOJ's Office of Community Oriented Policing Services to support the development and implementation of scenario-based training for state and local law enforcement agencies on de-escalation tactics and alternatives to the use of force, [www.congress.gov/bill/117th-congress/senate-bill/4003/text](https://www.congress.gov/bill/117th-congress/senate-bill/4003/text).

techniques, the Department has not identified a mechanism to help ensure components' training programs are consistent, appropriate, or complete. Because the Office of Community Oriented Policing Services (COPS Office) is undertaking efforts to formalize de-escalation training for state and local law enforcement, the Department could benefit from coordination between the COPS Office and DOJ's law enforcement components regarding their respective training programs and best practices. Similar to DOJ's law enforcement components, COPS Office personnel highlighted the challenge of creating standardized training for some of the subjective aspects in the use of force due to the need for flexibility in the real-life application of these concepts and the way in which training will be implemented across agencies. Therefore, we recommend that the Department ensure components' training programs align with and accomplish the DOJ's expectations for use-of-force requirements and consider developing a framework for components to coordinate on best practices and opportunities for improvement.

## Conclusion and Recommendations

The Department issued guidance banning use of chokeholds and carotid restraints, restricting the use of “no knock” warrants, and updating its use-of-force policy in recognition of its leading role in promoting trust and accountability of law enforcement. While the Department promptly incorporated the use-of-force policy into official DOJ guidance, it has yet to formalize the ban on chokeholds and carotid restraints and restrictions on “no knock” warrants into a DOJ Directive. The Department also created a gap in its use-of-force policy when it did not include language for custodial situations in the updated policy and did not clarify that the related section from the 2004 guidance continued to apply. We found that ATF, DEA, FBI, USMS, and BOP made substantial progress in implementing DOJ’s guidance, but identified certain areas in which the Department and components should take additional steps to ensure that component policies are sufficiently aligned with DOJ’s updated requirements. We also identified differences in how components applied their policies to task force officers and contractors, which would benefit from further evaluation by the Department to ensure that any associated risks are mitigated. Finally, we found that DOJ should review components’ implementation of the policy requirements into training to ensure a consistent understanding of the Department’s use-of-force standards across all DOJ law enforcement and correctional officers.

We recommend that the Department:

1. Incorporate the 2021 Restraint and “No Knock” Guidance in a DOJ Directive or another appropriate format to ensure permanence.
2. In coordination with the BOP and USMS: (a) evaluate what use-of-force requirements and restrictions should apply to custodial situations, and (b) ensure these requirements are incorporated into DOJ, BOP, and USMS policies.
3. Evaluate components’ determination on the applicability of DOJ’s 2021 Restraint and “No Knock” Guidance and 2022 Use-of-Force Policy to task force officers and contractors acting in a law enforcement capacity to ensure that legal and operational risks are adequately mitigated.
4. Ensure components’ training programs align with and accomplish the DOJ’s expectations for use-of-force requirements and consider developing a framework for components to coordinate on best practices and opportunities for improvement.

We recommend that the BOP:

5. In consultation with the Department, update its policies to: (a) meet the Department’s intent for the 2022 Use-of-Force Policy to apply to BOP non-custodial operations and interactions with the public; and (b) fully comply with the Department’s 2021 Restraint and “No Knock” Guidance, to include a ban on physical chokeholds and carotid restraints.

We recommend that the USMS:

6. Finalize policies on “no knock” warrant restrictions and disseminate the updates to personnel.

# APPENDIX 1: Objectives, Scope, and Methodology

## Objectives

The objective of this audit was to determine whether the Department of Justice's (Department or DOJ) law enforcement and corrections components updated their policies to align with DOJ's updated use-of-force guidance and requirements.

## Scope and Methodology

The scope of our audit was the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), United States Marshals Service (USMS), and Federal Bureau of Prisons (BOP) policies and training documents related to use of force and restrictions on "no knock" warrants.<sup>17</sup>

To accomplish our objectives, we reviewed ATF, BOP, DEA, FBI, and USMS policies, guidance, training material, and communications relevant to use of force and restricted techniques. Additionally, we interviewed 58 officials from ATF, BOP, DEA, FBI, and USMS, as well as the Office of the Deputy Attorney General, the Office of Legal Policy, and the Office of Community Oriented Policing Services. As part of this audit, we performed on-site fieldwork at the headquarters locations of ATF, BOP, DEA, FBI, and USMS.

## Statement on Compliance with Generally Accepted Government Auditing Standards

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

## Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of ATF, DEA, FBI, BOP, and USMS to provide assurance on their internal control structure as a whole. DOJ component management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on these components' internal control structure as a whole, we offer this statement solely for the information and use of the ATF, DEA, FBI, BOP, and USMS.

To accomplish our objective, we determined that ATF, DEA, FBI, BOP, and USMS needed to adhere to such controls as identifying and responding to any risks or significant changes related to the Department memoranda, implementing any necessary policy changes, and communicating policy to appropriate personnel. To test these internal control principles, we discussed policy and training implementation with

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<sup>17</sup> The Office of the Inspector General (OIG) also has law enforcement officers and is subject to the DOJ's use-of-force policies and guidance. In accordance with generally accepted government auditing standards, we excluded the OIG from the scope of our audit to eliminate the appearance of an impairment to our independence.

responsible component personnel, analyzed component policies and training curriculum, and reviewed communication of policy to component personnel. Additionally, we received demonstrations of certain component training systems. The internal control deficiencies we found are discussed in the Audit Results section of this report. However, because our review was limited to those internal control components and underlying principles that we found significant to the objectives of this audit, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.



## **APPENDIX 2: DOJ's 2022 Use-of-Force Policy Requirements**

### REQUIREMENTS FOR USE OF DEADLY FORCE

I. Law enforcement officers and correctional officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

B. Firearms may not be discharged solely to disable moving vehicles. Specifically, firearms may not be discharged at a moving vehicle unless: (1) a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or (2) the vehicle is operated in a manner that threatens to cause death or serious physical injury to the officer or others, and no other objectively reasonable means of defense appear to exist, which includes moving out of the path of the vehicle. Firearms may not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.

C. If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

D. Warning shots are not permitted outside of the prison context.

E. Officers will be trained in alternative methods and tactics for handling resisting subjects, which must be used when the use of deadly force is not authorized by this policy.

F. Deadly force should not be used against persons whose actions are a threat solely to themselves or property unless an individual poses an imminent danger of death or serious physical injury to the officer or others in close proximity.

### DE-ESCALATION TACTICS AND TECHNIQUES

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

### AFFIRMATIVE DUTY TO INTERVENE

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

### AFFIRMATIVE DUTY TO REQUEST AND/OR RENDER MEDICAL AID

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

## TRAINING

V. All officers shall receive training, at least annually, on the Department's use of force policy and related legal updates.

VI. In addition, training shall be provided on a regular and periodic basis and designed to:

- A. Provide techniques for the use of and reinforce the importance of de-escalation;
- B. Simulate actual shooting situations and conditions; and
- C. Reinforce the appropriate exercise of discretion and judgment in using less-than-lethal and deadly force in accordance with this policy.

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

## APPLICATION OF THE POLICY

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

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

## **APPENDIX 3: DOJ 2004 Policy Statement for Use of Deadly Force**

### GENERAL PRINCIPLES

I. Law enforcement officers and correctional officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force possesses an imminent danger of death or serious physical injury to the officer or to another person.

A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

B. Firearms may not be fired solely to disable moving vehicles.

C. If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

D. Warning shots are not permitted outside the prison context.

E. Officers will be trained in alternative methods and tactics for handling resisting subjects, which must be used when the use of deadly force is not authorized by this policy.

### CUSTODIAL SITUATIONS

II. Unless force other than deadly force appears to be sufficient, deadly force may be used to prevent the escape of a prisoner committed to the custody of the Attorney General or the Bureau of Prisons

A. if the prisoner is effecting his or her escape in a manner that poses an imminent danger to the safety of the officer or another person; or

B. if the prisoner is escaping from a secure facility or is escaping while in transit to or from a secure facility.

III. If the subject is in a non-secure facility, deadly force may be used only when the subject poses an imminent danger of death or serious physical injury to the officer or another person.

IV. If the subject is in transit to or from a non-secure facility and is not accompanied by a person who is in transit to or from a secure facility, deadly force may be used only when the subject poses an imminent danger of death or serious physical injury to the officer or to another person.

V. After an escape from a facility or vehicle and its immediate environs has been effected, officers attempting to apprehend the escaped prisoner may use deadly force only when the escaped prisoner poses an imminent danger of death or serious physical injury to the officer or to another person.

VI. Deadly force may be used to maintain or restore control of a prison or correctional facility when the officer reasonably believes that the intended subject of deadly force is participating in a disturbance in a manner that threatens the safety of the officer or another person.

VII. In the prison context, warning shots may be fired within or in the immediate environs of a secure facility if there is no apparent danger to innocent persons: (A) if reasonably necessary to deter or prevent the subject from escaping from a secure facility; or (B) if reasonably necessary to deter or prevent the subject's use of deadly force or force likely to cause serious physical injury.

# APPENDIX 4: The Department of Justice's Response to the Draft Audit Report



U.S. Department of Justice

Office of the Deputy Attorney General

Michael P. Ben'Ary  
Associate Deputy Attorney General

Washington, D.C. 20530

## MEMORANDUM

**TO:** Jason R. Malmstrom  
Assistant Inspector General for Audit  
Audit Division  
Office of the Inspector General

**FROM:** Bradley Weinsheimer *Bradley Weinsheimer*  
Associate Deputy Attorney General  
Office of the Deputy Attorney General

**DATE:** September 8, 2023

**SUBJECT:** Response to OIG's Draft Report: "Audit of the Department of Justice's Law Enforcement and Correction Components' Use-of-Force Policies"

The Office of the Deputy Attorney General (ODAG) appreciates the review undertaken by the Office of the Inspector General (OIG) and the opportunity to comment on OIG's draft report, "Audit of the Department of Justice's Law Enforcement and Corrections Components' Use-of-Force Policies" (the "Report"). As you know, the Department has taken numerous actions to ensure that its law enforcement and corrections personnel use force only in appropriate situations. This work has entailed extensive coordination with Department law enforcement components in order to determine best practices for training on use of force and related topics. This work culminated in a 2021 memorandum issued by the Deputy Attorney General setting forth limits on the use of carotid restraints and no-knock warrants. This memorandum directed that the law enforcement components conform their own policies to that guidance, which they have now done. Additionally, in 2022, the Attorney General issued a memorandum to the Department's law enforcement components updating the Department's Use-of-Force policy. This guidance subsequently was made part of the Justice Manual at Section 1.16.000. The Department has continued to work with the law enforcement and corrections components on these critical issues.

The Report sets forth four recommendations to the Department. As set forth below, the Department concurs with each of the recommendations.

- 1. Incorporate the 2021 Restraint and "No Knock" Guidance in a DOJ Directive or another appropriate format to ensure permanence.**

The Department concurs with this recommendation. The Department notes that the restrictions on carotid restraints and no-knock warrants have been made permanent through the law enforcement components' policies. This is the best format to ensure that these policies are viewed by the Department's law enforcement cadre. Nonetheless, the Department will incorporate the requirements of this guidance, or references to the guidance itself, into the Justice Manual.

- 2. In coordination with the BOP and USMS: (a) evaluate what use-of-force requirements and restrictions should apply to custodial situations, and (b) ensure these requirements are incorporated into DOJ, BOP, and USMS policies.**

The Department has been and will continue to evaluate the use of force in custodial situations. The Department further agrees to ensure that any policy covering the use of force in custodial situations will be incorporated into DOJ, BOP, and USMS policies as appropriate.

- 3. Evaluate components' determination on the applicability of DOJ's 2021 Restraint and "No Knock" Guidance and 2022 Use-of-Force Policy to task force officers and contractors acting in a law enforcement capacity to ensure that legal and operational risks are adequately mitigated.**

The Department has been and will continue to coordinate with the law enforcement and corrections components to evaluate the applicability of the restraint and no-knock guidance, as well as the Use-of-Force Policy to task force officers (TFOs) and contractors acting in a law enforcement capacity. The Department will ensure that legal and operational risks associated with the actions of TFOs and contractors are adequately mitigated.

- 4. Ensure components' training programs align with and accomplish DOJ's expectations for use-of-force requirements and consider developing a framework for components to coordinate on best practices and opportunities for improvement.**

The Department will ensure that the components' training programs meet and accomplish DOJ's expectations for training in these areas and will consider developing a framework for coordination between components on best practices for these types of training.

# APPENDIX 5: The Federal Bureau of Prisons' Response to the Draft Audit Report



U. S. Department of Justice

Federal Bureau of Prisons

Central Office

Office of the Director

Washington, DC 20534

September 8, 2023

MEMORANDUM FOR TODD ANDERSON  
REGIONAL AUDIT MANAGER  
AUDIT DIVISION

FROM:



Colette S. Peters, Director

SUBJECT: Response to the Office of Inspector General's (OIG) Draft Report: Audit of the Department of Justice's Law Enforcement and Corrections Components' Use of Force Policies

The Federal Bureau of Prisons (FBOP) appreciates the opportunity to formally respond to the Office of the Inspector General's above-referenced draft report. Notably, OIG's Recommendation Two indicated that the Department of Justice (DOJ) should, in coordination with FBOP and USMS, evaluate what use-of-force requirements and restrictions should apply to custodial situations, and ensure these requirements are incorporated into DOJ, FBOP, and USMS policies. Although this recommendation is directed at DOJ, FBOP concurs with this recommendation and is currently evaluating what use-of-force requirements and restrictions should apply to custodial situations. FBOP has been in ongoing communication with DOJ officials to coordinate evaluation of relevant requirements and will ensure that such requirements are incorporated into FBOP policies accordingly.

FBOP also offers the following comments regarding the draft report recommendation directed at FBOP.

**Recommendation Five:** In consultation with the Department, [FBOP should] update its policies to: (a) meet the Department's intent for the 2022 Use-of-Force Policy to apply to BOP non-custodial operations and interactions with the public; and (b) fully comply with the Department's 2021 Restraint and "No Knock" Guidance, to include a ban on physical chokeholds and carotid restraints.

**FBOP's Response:** FBOP agrees with this recommendation. With regard to subpart (a), FBOP is currently working with DOJ to develop appropriate guidance language that considers the use of deadly force against FBOP personnel and visitors. FBOP will ensure such policy comports with DOJ's 2022 Use-of-Force Policy.

Further, with regard to subpart (b), although the Report notes that the limitations on "No Knock" warrants are inapplicable to FBOP, FBOP is currently developing and drafting updates to its Use of Force policy to ensure full compliance with the Department's 2021 Restraint and "No Knock" Guidance regarding the ban on physical chokeholds and carotid restraints.



# APPENDIX 6: The United States Marshals Service's Response to the Draft Audit Report



**U.S. Department of Justice**

United States Marshals Service

*Office of Professional Responsibility*

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*Washington, DC 20530-0001*

September 11, 2023

MEMORANDUM TO: Jason R. Malmstrom  
Assistant Inspector General for Audit  
Office of the Inspector General

FROM: Geoffrey S. Deas **GEOFFREY DEAS** Digitally signed by  
GEOFFREY DEAS  
Date: 2023.09.11  
12:37:28 -04'00'  
Assistant Director

SUBJECT: United States Marshals Service Response to Audit Report: Audit  
of the Department of Justice's Law Enforcement and Corrections  
Components' Use-of-Force Policies

In response to recent correspondence from the Office of the Inspector General regarding the subject report, attached is the United States Marshals Service's response to the Formal Draft Audit Report.

Should you have any questions, please contact External Audit Liaison Krista Eck, Office of Professional Responsibility, at 202-819-4371.

#### Attachment

cc: Todd Anderson  
Regional Audit Manager  
Office of the Inspector General

Louise Duhamel  
Assistant Director, Audit Liaison Group  
Internal Review and Evaluation Office  
Justice Management Division

Silas V. Darden  
Chief of Staff  
United States Marshals Service

**United States Marshals Service**  
**Audit of The Department of Justice’s Law Enforcement and Corrections Components’**  
**Use-of-Force Policies**

**Recommendation 6: Recommend that the USMS finalize policies on “no knock” warrant restrictions and disseminate the updates to personnel.**

**USMS Response:** (Concur) The United States Marshals Service will finalize policies on “no knock” warrant restrictions and disseminate the updates to personnel.

## **APPENDIX 7: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report**

The Office of the Inspector General (OIG) provided a draft of this audit report to the Office of the Deputy Attorney General (ODAG); Federal Bureau of Prisons (BOP); U.S. Marshals Service (USMS); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); and Federal Bureau of Investigation (FBI). We addressed recommendations in the report to the ODAG, BOP, and USMS, and each provided responses, which are incorporated in Appendices 4 through 6 of this final report.<sup>18</sup> In response to our audit report, the ODAG, BOP, and USMS concurred or agreed with our recommendations. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

### **Recommendations for the Department of Justice (DOJ or Department):**

- 1. Incorporate the 2021 Restraint and “No Knock” Guidance in a DOJ Directive or another appropriate format to ensure permanence.**

Resolved. The Department concurred with our recommendation. In its response, ODAG stated that the Department has ensured the permanence of the 2021 Restraint and “No Knock” Guidance through its requirement for law enforcement components to update their policies. Additionally, ODAG stated that the Department will incorporate the requirements of the guidance, or a reference to the guidance, in the Justice Manual. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has incorporated the 2021 Restraint and “No Knock” Guidance in a DOJ Directive or another appropriate format.

- 2. In coordination with the BOP and USMS: (a) evaluate what use-of-force requirements and restrictions should apply to custodial situations, and (b) ensure these requirements are incorporated into DOJ, BOP, and USMS policies.**

Resolved. The Department concurred with our recommendation. ODAG stated that it has been and will continue to evaluate the use-of-force requirements that apply to custodial situations and will ensure these requirements are incorporated into DOJ, BOP, and USMS policies, as appropriate. As a result, this recommendation is resolved.

While this recommendation was directed to the Department, the BOP stated in its response that it also concurred with the recommendation. According to the BOP, it is coordinating with DOJ officials

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<sup>18</sup> ATF, DEA, and FBI did not have recommendations directed to them and, therefore, elected to not provide formal responses to our audit report.

and evaluating what use-of-force requirements and restrictions should apply to custodial situations. The BOP stated that it will ensure relevant requirements are incorporated into its policies.

This recommendation can be closed when we receive evidence that the Department has evaluated what use-of-force requirements and restrictions should apply to custodial situations and has ensured that these requirements are incorporated into DOJ, BOP, and USMS policies.

- 3. Evaluate components' determination on the applicability of DOJ's 2021 Restraint and "No Knock" Guidance and 2022 Use-of-Force Policy to task force officers and contractors acting in a law enforcement capacity to ensure that legal and operational risks are adequately mitigated.**

Resolved. The Department concurred with our recommendation. In its response, ODAG noted that it has been and will continue to coordinate with law enforcement and corrections components on the applicability of DOJ's 2021 Restraint and "No Knock" Guidance and Use-of-Force Policy to task force officers and contractors acting in a law enforcement capacity. ODAG further stated that the Department will ensure that legal and operational risks associated with task force officers and contractors are adequately mitigated. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the Department has evaluated components' determination of the applicability of DOJ's 2021 Restraint and "No Knock" Guidance and 2022 Use-of-Force Policy to task force officers and contractors acting in a law enforcement capacity to ensure that legal and operational risks are adequately mitigated.

- 4. Ensure components' training programs align with and accomplish the DOJ's expectations for use-of-force requirements and consider developing a framework for components to coordinate on best practices and opportunities for improvement.**

Resolved. The Department concurred with our recommendation. ODAG stated that the Department will ensure components' training programs meet and accomplish DOJ's expectations and will consider developing a framework for coordination between components on best practices for these types of training. As a result, this recommendation is resolved.

This recommendation can be closed when the Department provides evidence that it has ensured components' training programs align with and accomplish the DOJ's expectations for use-of-force requirements and has considered developing a framework for components to coordinate on best practices and opportunities for improvement.

#### **Recommendation for the BOP:**

- 5. In consultation with the Department, update its policies to: (a) meet the Department's intent for the 2022 Use-of-Force Policy to apply to BOP non-custodial operations and interactions with the public; and (b) fully comply with the Department's 2021 Restraint and "No Knock" Guidance, to include a ban on physical chokeholds and carotid restraints.**

Resolved. The BOP agreed with our recommendation. In its response, the BOP stated that it is currently working with the Department to develop appropriate guidance language that considers the use of deadly force against BOP personnel and visitors and comports with the 2022 Use-of-Force Policy. Additionally, the BOP stated it is currently developing and drafting updates to its use-of-force policy to ensure full compliance with the 2021 Restraint and “No Knock” Guidance ban on physical chokeholds and carotid restraints. As a result, this recommendation is resolved.

The BOP’s response did not specifically address the lack of guidance for use-of-force situations outside a prison setting. Therefore, to ensure adequate action is taken in response to the recommendation, we want to emphasize that the recommendation applies to non-custodial situations inside and outside the prison context. This includes BOP policy language aligning with the Department’s 2021 Restraint and “No Knock” Guidance for non-custodial operations and interactions with the public.

This recommendation can be closed when we receive evidence that the BOP has updated its policies to meet the Department’s intent for the 2022 Use-of-Force Policy to apply to BOP non-custodial operations and interactions with the public and fully comply with the Department’s 2021 Restraint and “No Knock” Guidance, to include a ban on physical chokeholds and carotid restraints.

#### **Recommendation for the USMS:**

**6. Finalize policies on “no knock” warrant restrictions and disseminate the updates to personnel.**

Resolved. The USMS concurred with our recommendation. In its response, the USMS stated that it would finalize the “no knock” policy and disseminate the policy to personnel. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the USMS has finalized its policies on “no knock” warrant restrictions and disseminated the updates to personnel.