



December 2021

LAW ENFORCEMENT

DOJ Can Improve Publication of Use of Force Data and Oversight of Excessive Force Allegations

GAO@100 Highlights

Highlights of [GAO-22-104456](#), a report to congressional addressees

Why GAO Did This Study

Recent deaths of individuals during law enforcement encounters have generated interest in the federal government's efforts to better understand and reduce the use of excessive force and bias in law enforcement. Law enforcement officers may use force to mitigate an incident, make an arrest, or protect themselves or others from harm. However, if an officer uses more force than is reasonable under the circumstances, that use of force is excessive and may violate an individual's civil rights.

Generally, the regulation of the nation's estimated 18,000 state and municipal law enforcement agencies is entrusted to the states. However, within the federal government, DOJ performs some roles related to law enforcement's use of force, including collecting relevant data, providing grants and training to law enforcement agencies, and receiving and investigating allegations of excessive force.

GAO prepared this report under the authority of the Comptroller General in light of national and congressional interest in law enforcement's use of force. This report addresses (1) DOJ's collection and publication of data on use of force by law enforcement officers; (2) what is known about practices to reduce excessive force; (3) DOJ resources for such practices; and, (4) DOJ's investigations into allegations of excessive force by law enforcement.

View [GAO-22-104456](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or goodwin@gao.gov.

December 2021

LAW ENFORCEMENT

DOJ Can Improve Publication of Use of Force Data and Oversight of Excessive Force Allegations

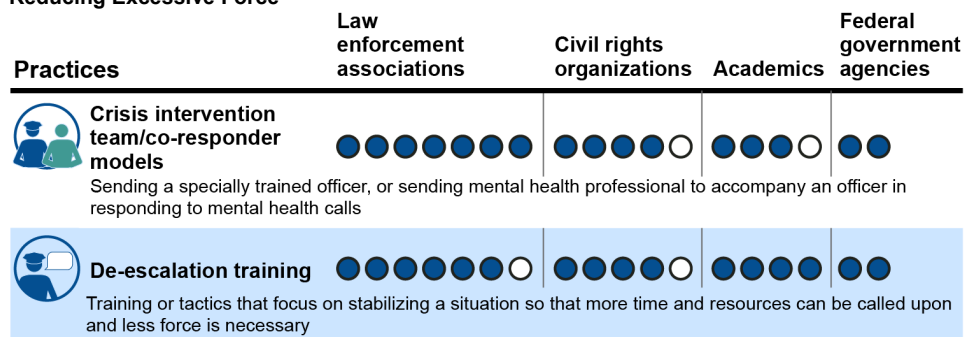
What GAO Found

Between fiscal years 2016 through 2020, the Department of Justice (DOJ) collected and published some data related to law enforcement's use of force. However, DOJ did not publish an annual summary of data on excessive force in each of these fiscal years, as required by the Violent Crime Control and Law Enforcement Act of 1994, because officials did not assign roles and responsibilities for doing so. Stakeholders GAO interviewed, including law enforcement associations, civil rights organizations, and academic researchers, underscored the importance of these data to improve understanding of how to reduce excessive force. Assigning and communicating responsibility for publishing such data would help DOJ meet the law's requirements and develop useful data for the Congress and the public.

In 2016, the Federal Bureau of Investigation (FBI) initiated a new data collection effort on law enforcement use of force incidents. However, due to insufficient participation by law enforcement agencies, the FBI has not met thresholds set by the Office of Management and Budget for publishing use of force data or continuing the effort past December 2022. Further, as of February 2021, the FBI had not assessed alternative data collection strategies. Assessing alternative data collection strategies would position the FBI to more quickly publish use of force data if the program is discontinued.

In addition, stakeholders GAO interviewed identified some practices as promising or potentially promising in reducing the use of excessive force (see fig.).

Figure: Practices Stakeholders Most Often Identified as Promising or Potentially Promising in Reducing Excessive Force



Legend

● Stakeholder rated practice as promising or potentially promising ○ Not promising/did not know

Source: GAO analysis of stakeholder interviews. | GAO-22-104456

DOJ does not have a specific grant program focused on reducing excessive force by law enforcement, but GAO identified six programs that awarded grants that covered practices that may reduce law enforcement's use of force. From fiscal year 2016 through fiscal year 2020, these six grant programs cumulatively provided \$201.6 million for grant awards that included practices that may reduce law enforcement's excessive force.

To conduct this audit, GAO reviewed DOJ data and documentation and interviewed DOJ officials. GAO also analyzed data on DOJ grants and investigations and cases related to civil rights violations. In addition, GAO reviewed academic literature and interviewed stakeholders from law enforcement associations, civil rights organizations, academic researchers, and federal government agencies.

What GAO Recommends

GAO is making 11 recommendations including the following:

- The Attorney General should assign responsibility for collecting and annually publishing data on the use of excessive force by law enforcement officers and communicate this responsibility to the designated DOJ components.
- The Director of the FBI should begin to assess potential alternative data collection strategies for the National Use of Force Data Collection.
- The Attorney General should ensure that the Office for Civil Rights, the Civil Rights Division, the FBI, and the U.S. Attorney's Offices jointly assess the feasibility of systematically tracking and sharing information on civil rights violation allegations within DOJ's jurisdiction.
- The Assistant Attorney General for Civil Rights should require staff to use information from allegations within the department's jurisdiction received from across DOJ to identify potential patterns of systemic law enforcement misconduct and analyze trends.

DOJ concurred with nine recommendations, but did not concur with two recommendations related to its management of excessive force allegations. GAO continues to believe these recommendations would help DOJ better oversee such allegations.

In addition to grants, DOJ components provided training and technical assistance related to practices that may reduce excessive force. For example, DOJ's Community-Oriented Policing Services provided online courses on practices that may reduce excessive force (see fig.).

Figure: DOJ-Provided Online Training Courses Related to Practices That May Reduce Excessive Force



Source: GAO analysis of Community-Oriented Policing Services Training data. | GAO-22-104456

Five components within DOJ have the authority to act upon allegations of civil rights violations by law enforcement, including those arising from excessive force. These components include: (1) the Special Litigation Section within DOJ's Civil Rights Division, (2) the Criminal Section within DOJ's Civil Rights Division, (3) DOJ's 94 U.S. Attorneys' Offices, (4) the Civil Rights Unit within the FBI, and (5) the Office for Civil Rights within the Office of Justice Programs.

From fiscal year 2016 through fiscal year 2020, all five components opened investigations into civil rights violations. However, DOJ does not ensure that all allegations within its jurisdiction are shared across these components. In 2016, the Civil Rights Division and the Office for Civil Rights established a protocol, which directed the components periodically assess and, when appropriate, adopt available options for systematically sharing electronic information on misconduct allegations related to law enforcement agencies that may be receiving DOJ grants. As of March 2021, officials from the Office for Civil Rights stated that they had not done so, as they believed that the protocol was merely advisory. Rather, Civil Rights Division officials told us they share allegations of civil rights violations with the FBI, Office for Civil Rights, and U.S. Attorneys' Offices through monthly meetings, emails, and phone calls.

Members of the public who submit allegations to one DOJ's five components with jurisdiction over civil rights may not have complete information on the respective jurisdictions and priorities of each of these components. Therefore, systematic tracking and information sharing could provide members of the public with assurance that their allegations will be shared with all components with the power to take action.

The Civil Rights Division's Special Litigation Section is responsible for identifying patterns and practices of law enforcement misconduct. However, Special Litigation Section staff are not required to use DOJ's allegation information to identify potential problems at law enforcement agencies or analyze trends. Instead, staff review each allegation independently, and are not required to identify trends across individual allegations of police misconduct that cumulatively may indicate a pattern or practice of misconduct. Civil Rights Division officials stated that, though not required, staff could use the Civil Rights Division's allegation database to identify patterns and trends if they wanted to do so. Requiring staff to use allegation information to identify potential patterns of systemic law enforcement misconduct and analyze trends could improve the utility of DOJ's allegation information and provide greater assurance that the Division is optimizing its use of information assets to aid decision-making.

Contents

Letter		1
	Background	6
	DOJ Collected but Did Not Fully Publish Data Related to the Use of Force	12
	Research on Practices to Reduce Excessive Force and Law Enforcement Bias Is Limited, but Stakeholders Have Identified Some Practices as Potentially Promising	27
	DOJ Funded Some Grants and Trainings for Practices That May Reduce Use of Excessive Force	37
	DOJ Investigated Some Excessive Force Incidents but Could Improve Oversight of Related Allegations	47
	Conclusions	63
	Recommendations for Executive Action	65
	Agency Comments and Our Evaluation	66
Appendix I	Objectives, Scope, and Methodology	72
Appendix II	Department of Justice Data Collection Efforts Related to Law Enforcement’s Use of Force	80
Appendix III	Literature Review Bibliography	88
Appendix IV	List of Stakeholders and Interview Results	97
Appendix V	Comments from the Department of Justice	99
Appendix VI	GAO Contact and Staff Acknowledgments	105
Tables		
	Table 1: Department of Justice (DOJ) Data Collection Efforts Related to Law Enforcement’s Use of Force	13

Table 2: Office of Management and Budget Thresholds for Publishing Data Collected through the Federal Bureau of Investigation's (FBI) National Use-of-Force Data Collection	18
Table 3: Planned and Actual Publication Dates for Bureau of Justice Statistics (BJS) Reports Related to Law Enforcement's Use of Force, Initiated from Fiscal Years 2016 through 2020	21
Table 4: Areas of Potential Overlap between Department of Justice (DOJ) Data Collection Efforts Related to Law Enforcement's Use of Force	25
Table 5: Practices Identified in Scholarly Studies and Articles That May Reduce Excessive Force	28
Table 6: Selected Community-Oriented Policing Services Office Training Related to Practices That May Reduce Excessive Force, Fiscal Year 2016 through Fiscal Year 2020	43
Table 7: Number of Special Litigation Section Matters Related to Law Enforcement Misconduct Opened and Closed, Fiscal Year 2016 through Fiscal Year 2020	48
Table 8: Number of Color-of-Law Matters Opened and Closed by the Department of Justice's (DOJ) Civil Rights Division's Criminal Section, Fiscal Year 2016 through Fiscal Year 2020	50
Table 9: GAO Analysis of Law Enforcement Agencies' Training Reported to the Bureau of Justice Assistance, Fiscal Years 2016 through 2020	83
Table 10: GAO Analysis of Law Enforcement Agencies' In-Service Training Hours as Reported in Applications for the Community-Oriented Policing Services (COPS) Hiring Grant Program, Fiscal Years 2017 and 2020	84
Table 11: Stakeholders Organizations and Individuals Interviewed on Practices That May Reduce Excessive Force and Bias	97

Figures

Figure 1: Practices Identified as Promising or Potentially Promising by Selected Stakeholders	32
Figure 2: Grant Awards from Six Selected Department of Justice Grant Programs, Fiscal Year 2016 to Fiscal Year 2020	38
Figure 3: Funding for Body-Worn Cameras in Marshalltown, Iowa	39
Figure 4: Crisis Intervention Training in Minnesota	40

Figure 5: Deploying Technology to Gauge Community Trust in Washington, D.C.	40
Figure 6: Procedural Justice Technical Assistance with the University of Illinois at Chicago	41
Figure 7: De-Escalation Research at the University of South Carolina	42
Figure 8: Collaborative Reform Initiative Technical Assistance Center Training in New York	44
Figure 9: Community Relations Service Community Dialogue on Law Enforcement in California	45
Figure 10: Arrests, Indictments, and Prosecutions for Excessive Use of Force Supported by the Federal Bureau of Investigation (FBI), Fiscal Year 2016 through Fiscal Year 2020	53
Figure 11: Practices Identified as Promising or Potentially Promising by Stakeholders	98

Abbreviations

BJA	Bureau of Justice Assistance
BJS	Bureau of Justice Statistics
JAG	Edward Byrne Memorial Justice Assistance Grant
COPS Office	Office of Community Oriented Policing Services
DCRA	Death in Custody Reporting Act of 2013
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
OMB	Office of Management and Budget

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

December 7, 2021

Congressional Addressees:

Recent deaths of individuals during law enforcement encounters, including that of Mr. George Floyd and others, have generated interest in the federal government's efforts to better understand and reduce the use of excessive force and bias in law enforcement.¹ The Department of Justice (DOJ) has noted that such incidents can erode public trust in law enforcement and hamper its effectiveness. According to DOJ, law enforcement officers may use force to mitigate an incident, make an arrest, or protect themselves or others from harm. If an officer uses more force than is reasonable under the circumstances, that use of force is excessive and may violate an individual's civil rights.² While national data are limited, research has indicated that certain racial and ethnic groups may be disproportionately impacted by law enforcement's use of force. For example, according to the U.S. Commission on Civil Rights, the best available evidence indicates that Black, Latino, and Native American individuals are more likely to be killed by law enforcement officers than White individuals.³

¹On May 25, 2020, George Floyd died in the custody of the Minneapolis police after an officer pressed his knee into Floyd's neck while he was restrained on the ground and handcuffed. According to DOJ guidance, "biased law enforcement" refers to the inappropriate use of race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops. DOJ guidance states that it may be appropriate to use one of these characteristics when, for example, there is trustworthy information, relevant to the locality or time frame, that links an individual possessing such a characteristic to a specific suspect description. See Department of Justice, *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation or Gender Identity* (Washington, D.C.: 2014).

²See *Graham v. Connor*, 490 U.S. 386 (1989). The level of force an officer uses—such as physical restraint (e.g., handcuffs), less-lethal methods (e.g., pepper spray) or a firearm—does not indicate whether or not the force is excessive and a potential violation of an individual's civil rights.

³U.S. Commission on Civil Rights, *Police Use of Force: An Examination of Modern Policing Practices* (Washington D.C.: November 2018). The U.S. Commission on Civil Rights is an independent, bipartisan agency established by the Congress to inform the development of national civil rights policy and enhance enforcement of federal civil rights laws.

Generally, the regulation of the nation's estimated 18,000 state and municipal law enforcement agencies is entrusted to the states. However, within the federal government, DOJ performs some roles related to law enforcement's use of force, including collecting relevant data and pursuing civil remedies and criminal penalties related to excessive use of force.⁴

The DOJ Office of Inspector General has previously evaluated DOJ's efforts to collect data relevant to law enforcement's use of force and pursue civil remedies for law enforcement agency misconduct. In December 2018, the Inspector General reported that, from December 2014 through July 2018, DOJ had made some progress in collecting relevant data; however, DOJ's plans to collect these data were potentially duplicative of other DOJ data collection efforts.⁵ The Inspector General also reported that some DOJ components responsible for addressing law enforcement agency misconduct coordinated informally, but this coordination did not ensure that appropriate information was shared.⁶ We discuss the status of relevant Inspector General's recommendations later in this report.

We prepared this report under the authority of the Comptroller General to conduct work in light of national and congressional interest in law enforcement's use of force. This report addresses (1) DOJ's collection and publication of data related to use of force by law enforcement officers, (2) what is known about practices to reduce excessive force and the extent to which such practices may also address biased law enforcement, (3) DOJ resources for practices that may reduce excessive force, and (4) DOJ's investigations into allegations of excessive force used by law enforcement.

To address our first objective, we identified relevant DOJ data collection efforts from fiscal years 2016 through 2020 and reviewed data and

⁴See 34 U.S.C. §§ 10228, 12601, 18 U.S.C. §§ 241, 242.

⁵Department of Justice, Office of Inspector General, *Review of the Department of Justice's Implementation of the Death in Custody Reporting Act of 2013 Evaluation*, 19-01 (Washington, D.C.: December 2018).

⁶Department of Justice, Office of Inspector General, *Audit of the Department of Justice's Efforts to Address Patterns or Practices of Police Misconduct and Provide Technical Assistance on Accountability Reform to Police Departments*, 18-14 (Washington, D.C.: February 2018).

documentation related to these efforts.⁷ The data we reviewed included Federal Bureau of Investigation (FBI) use of force data and Bureau of Justice Assistance (BJA) and the Office of Community Oriented Policing Services (COPS Office) data on training provided by law enforcement agencies. We assessed the reliability of these data through activities such as assessing these data for obvious errors in accuracy and completeness and interviewing DOJ officials from components responsible for collecting these data. We determined that FBI data on use of force incidents and BJA and COPS Office data on law enforcement officer training were sufficiently reliable for reporting trends on these topics during this period.

As part of this objective, we also reviewed documentation from DOJ components, including documentation submitted to the Office of Management and Budget (OMB), which generally reviews and approves federal agencies' requests to collect data. Further, we interviewed DOJ officials to understand their responsibilities, processes, and time frames for collecting and publishing data related to law enforcement's use of force. We compared our findings with relevant laws; our guide on fragmentation, overlap, and duplication; as well as with selected principles found in the Project Management Institute's *Standard for Project Management*.⁸ We also compared our findings with principles found in *Standards for Internal Control in the Federal Government*, including assigning responsibility, communicating internally, and evaluating and remediating deficiencies.⁹

To address our second objective, we conducted a review of academic literature and collected perspectives from stakeholders. Specifically, we conducted a search of scholarly articles to identify publications from 2000 through June 2021 (see app. III). We chose these dates because they encompassed both historical and current perspectives on this issue. Most

⁷We began our review of DOJ activities in fiscal year 2016 to include and extend past the period covered by DOJ Office of Inspector General reports, discussed later in this report. We ended our review period in fiscal year 2020, the last year of complete data at the time we initiated our work.

⁸See Pub. L. No. 103-322, § 210402, 108 Stat. 1796, 2071 (Sept. 13, 1994). See 34 U.S.C. § 12602; GAO, *Fragmentation, Overlap, and Duplication: An Evaluation and Management Guide*, [GAO-15-49SP](#) (Washington, D.C.: Apr. 14, 2015); and Project Management Institute, *A Guide to the Project Management Body of Knowledge*, 6th ed. (Newtown Square, PA: 2017).

⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

of the studies we examined focused on the extent to which practices changed the amount of force used, regardless of whether the force was excessive.¹⁰

Based on our review of the literature, we developed a list of the most commonly discussed practices. To further develop this list, we also considered input from stakeholders, as well as DOJ officials, on additional practices to include. We then solicited views on these practices from a variety of stakeholders. To ensure that we obtained diverse perspectives regarding practices that may reduce excessive force, we identified four types of stakeholders to meet with: (1) civil rights organizations, (2) law enforcement associations, (3) academic researchers (including representatives from think tanks), and (4) federal agencies with expertise on this topic. The organizations we identified are not representative of the universe of stakeholders on law enforcement's use of force and, therefore, do not represent all views on this topic. However, their views provide insights on practices that may reduce excessive force. Further information on how we identified these stakeholders is available in appendix I, and a full list of stakeholders with whom we met is available in appendix IV.

To address our third objective, we obtained documentation and interviewed officials from DOJ components that provide grants, training, and technical assistance to law enforcement agencies.¹¹ These DOJ components included the COPS Office, the Office of Justice Programs, the Civil Rights Unit within the FBI, and the Community Relations Service. Specifically, we obtained information on grants, training, and technical assistance provided by these entities from fiscal year 2016 through 2020 that related to the practices we identified as part of our second objective. We assessed the reliability of data on the number of awarded grants, the

¹⁰Generally, law enforcement officers may use force to mitigate an incident, make an arrest, or protect themselves or others from harm. Because reducing the use of any force may also reduce the use of excessive force, we refer to these practices as potentially promising for reducing excessive force and assume that if force is unavoidable, these practices would not make them avoidable.

¹¹Other entities within the federal government may provide resources that address practices that may reduce the use of force. For example, while not a DOJ program, the Department of Homeland Security's Federal Law Enforcement Training Center provides some low-cost and no-cost training opportunities to state, local, and tribal law enforcement officers. According to officials, the center has recently begun expanding training for these officers on racial profiling, implicit bias, procedural justice, the use of force, and the duty for officers to intervene when witnessing the use of excessive force against civilians. For the scope of this report, we focused on resources provided by DOJ components.

amount of those grants, and the number of law enforcement officers trained, by interviewing agency officials and comparing awarded grant data with other previously published information on awarded grants from fiscal year 2016 through fiscal year 2020. We determined that the data on the number of awarded grants, the grant amounts, and the number of law enforcement officers trained were sufficiently reliable for the purposes of our reporting objective.

To address our fourth objective, we obtained data from fiscal year 2016 through fiscal year 2020 on investigations and cases from the entities within DOJ that investigate civil rights violations: the Civil Rights Division, the 94 U.S. Attorneys' Offices, the Office of Civil Rights within the Office of Justice Programs, and the Civil Rights Unit within the FBI. We also analyzed data from this same period from the U.S. Sentencing Commission, which collects and publishes data on the number and outcomes of cases filed in federal court.¹² We assessed the reliability of these data by reviewing existing information about the data and the systems that produced them, such as relevant training materials, and by interviewing relevant DOJ officials. We determined that the data were sufficiently reliable for reporting on the number of allegations received by certain DOJ components, investigations opened and closed by DOJ components, and the number and outcomes of cases filed in federal court.¹³

We also obtained and analyzed agency documentation, including DOJ policies and memorandums to understand DOJ's process and procedures for internally sharing, analyzing, and managing excessive force allegations.¹⁴ We interviewed officials from the Civil Rights Division, three

¹²The U.S. Sentencing Commission, a bipartisan, independent agency located in the judicial branch of government, was created by the Congress in 1984 to reduce sentencing disparities and promote transparency and proportionality in sentencing. The commission collects, analyzes, and distributes a broad array of information on federal sentencing practices. See 28 U.S.C. §§ 991-998.

¹³We discuss limitations of these data later in this report.

¹⁴For the purposes of this report, we use the term "allegation" to refer to information regarding misconduct, potential cases, and requests for investigations provided to DOJ components by members of the public, community groups, local and national advocacy organizations, citizen mail, and government officials, as well as referrals between DOJ components. These allegations can take the form of formal letters requesting investigations; emails, phone calls or letters highlighting specific or general concerns, either sent directly to DOJ staff or submitted to its online allegation portal.

U.S. Attorneys' Offices, and the Office of Civil Rights.¹⁵ We compared our findings with a recent executive order, DOJ protocols, and DOJ's *Information Technology Strategic Plan*.¹⁶ In addition, we compared our findings with principles from *Standards for Internal Control in the Federal Government* related to setting objectives; monitoring internal control activities; and obtaining and using relevant, quality data. Appendix I provides additional information on our scope and methodology.

We conducted this performance audit from August 2020 through December 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

DOJ Roles and Responsibilities Related to Law Enforcement's Use of Force

DOJ and its components perform three roles related to law enforcement's use of force: (1) collecting relevant data; (2) providing grants and other resources, such as training and technical assistance, to law enforcement agencies that may reduce excessive force; and (3) pursuing civil remedies and criminal penalties for civil rights violations, including excessive force. Additionally, a 2020 executive order directed DOJ to take on new roles and responsibilities to help reduce excessive force.¹⁷

Data collection related to the use of force. Several laws and congressional directives assign DOJ responsibility for collecting data

¹⁵In particular, we interviewed officials from the U.S. Attorneys' Offices for the District of Arizona, the Western District of Louisiana, and the District of Columbia. We selected these U.S. Attorneys' Offices based on the number of investigations opened in each office related to civil rights violations from fiscal year 2016 through fiscal year 2020. While the information from interviews with officials from these three U.S. Attorneys' Offices are not generalizable to all 94 U.S. Attorneys' Offices, the interviews provided us with valuable perspectives on how three offices prioritize; investigate; and prosecute civil rights violations, including excessive force.

¹⁶Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Exec. Order No. 13,985, 86 Fed. Reg. 7009 (Jan. 20, 2021).

¹⁷Safe Policing for Safe Communities, Exec. Order No. 13,929, 85 Fed. Reg. 37325 (June 16, 2020).

related to law enforcement's use of force. For example, the Violent Crime Control and Law Enforcement Act of 1994 requires the Attorney General to collect and annually publish data on the use of excessive force by law enforcement officers.¹⁸ The Death in Custody Reporting Act of 2013 (DCRA) requires states that receive certain federal funding, as well as federal law enforcement agencies, to report to the Attorney General information on the deaths of individuals in the custody of law enforcement agencies, including deaths that were the result of law enforcement's use of force.¹⁹ Additionally, from fiscal year 2016 through 2020, congressional reports accompanying annual DOJ appropriation acts directed DOJ to collect information from law enforcement agencies on officer training related to the use of force, racial and ethnic bias, conflict de-escalation, and constructive engagement with the public.²⁰

Several DOJ components share responsibility for collecting these data. Within the Office of Justice Programs, BJA is responsible for collecting data on deaths in custody from states, while the Bureau of Justice Statistics (BJS) is responsible for collecting these data from federal law enforcement entities. BJA and the COPS Office are responsible for

¹⁸Pub. L. No. 103-322, § 210402, 108 Stat. 1796, 2071 (Sept. 13, 1994). See 34 U.S.C. § 12602. Generally, law enforcement officers may use force to mitigate an incident, make an arrest, or protect themselves or others from harm. However, if an officer uses more force than is reasonable under the circumstances, that use of force is excessive and may violate an individual's civil rights.

¹⁹DCRA requires information on the gender, race, ethnicity, and age of the deceased; the date, time, and location of death; the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and a brief description of the circumstances surrounding the death. Pub. L. No. 113-242, 128 Stat. 2860. See 34 U.S.C. § 60105 (related to state information regarding individuals who die in the custody of law enforcement). See 18 U.S.C. § 4001 note (related to the federal law enforcement death in custody reporting requirement).

²⁰For example, Senate Report 114-66, accompanying the Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, 129 Stat. 2242, directed the Department of Justice to require law enforcement agencies to submit information on training on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public that officers have received as part of the grant application submission for Justice Assistance Grant (JAG) and COPS Hiring programs. Similarly, Senate Report 116-127, accompanying the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317, directed the Department to continue following direction provided in fiscal years 2017, 2018, and 2019 regarding the submission of officer training data as part of both the Byrne-JAG and COPS hiring grant process. The Department was further directed to provide this data to the Bureau of Justice Statistics in order to begin a data collection set and issue a report on how officers are trained, what kind of training they receive, and the rank of officers receiving training.

collecting information on officer training related to the use of force.²¹ In addition, BJS has historically collected and published other data related to law enforcement's use of force.²² Lastly, in 2016, the FBI began developing the voluntary National Use-of-Force Data Collection to collect and analyze data on use of force incidents from federal, state, local, and tribal law enforcement agencies.²³

DOJ resources, including grants, training and technical assistance.

Several DOJ components provide resources—including grants, training and technical assistance—for practices that may reduce excessive force. These components include the Office of Justice Programs, the COPS Office, the Community Relations Service, and the FBI.

Within the Office of Justice Programs, BJA administers the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, which provides states, territories, tribes, and local governments with funding to support a range of law enforcement program areas.²⁴ The National Institute of Justice, also within the Office of Justice Programs, serves as DOJ's research, development, and evaluation agency and provides research grants into law enforcement topics.²⁵ Additionally, from fiscal year 2016 through fiscal year 2020, the Office of Justice Programs administered two technical assistance centers that served law enforcement agencies:

²¹According to DOJ officials, BJA and the COPS Office collected these data to assist DOJ in assessing the level of training provided in the field, along with identifying gaps in training that the federal government may be able to fill.

²²BJS is authorized to collect, analyze, publish, and disseminate information on crime, criminal offenders, victims of crime, and the operation of criminal justice systems at all levels of government, pursuant to 34 U.S.C. § 10132.

²³As part of the National Use of Force Data Collection, law enforcement agencies are to report on any incident in which a law enforcement officer discharges a firearm at or in the direction of a person, or that results in death or serious bodily injury. For each incident, law enforcement agencies are to report information on the gender, race, ethnicity, and age of the officer and individuals involved; the date, time, and location of the incident; and the law enforcement agencies involved in the incident. The FBI was not required by law to develop this collection, and law enforcement agencies are not required to submit information.

²⁴See 34 U.S.C. §§ 10151-10158.

²⁵See 34 U.S.C. § 10122.

BJA's National Training and Technical Assistance Center, and the Diagnostic Center.²⁶

DOJ's COPS Office is responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.²⁷ Through several programs, including its Community Policing Development program, the COPS Office provides grants to improve the capacity of law enforcement. The COPS Office also maintains an online training portal with a catalog of training courses and resources for the law enforcement community. The COPS Office also provides technical assistance to law enforcement agencies through its Collaborative Reform Initiative Technical Assistance Center.

DOJ's Community Relations Service provides services aimed at improving communities' abilities to prevent and respond to conflict, tension, and hate crimes based on an individual's race, religion, gender or other statutory category.²⁸ These services include facilitating community dialogues, mediating between parties in conflict, and providing training on relevant issues. The Community Relations Service may provide such services to communities after an excessive force incident when the incident relates to a hate crime or discriminatory act against an individual based upon their membership in one of these protected classes.²⁹

²⁶DOJ ended the Diagnostic Center in fiscal year 2018 and transferred its responsibilities to other DOJ components and centers. According to DOJ officials, technical assistance includes long-term engagements that can take a variety of forms, including training or specialized guidance that can be combined or modified to meet the unique needs of the recipient.

²⁷According to the COPS Office, community policing promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.

²⁸Generally, these statutory categories include the individual's perceived or actual race, color, national origin, gender, gender identity, sexual orientation, religion, or disability. See 42 U.S.C. § 2000g-1.

²⁹Various federal statutes make discrimination based upon membership in a protected class unlawful. Generally, these protected classes are: race, color, religion, sex, national origin, disability, sexual orientation and gender identity.

Finally, two entities within the FBI—the Critical Incident Response Group, and the Civil Rights Unit—provide trainings to law enforcement agencies on practices that may address excessive force.

Civil remedies and criminal penalties for excessive force. DOJ may investigate allegations of excessive force and pursue civil remedies or criminal or administrative penalties based upon such investigations.

DOJ has delegated authority to five components to act upon allegations of excessive force that they receive from members of the public, law enforcement agencies, and other parties:

(1) The Special Litigation Section within DOJ’s Civil Rights Division is responsible for investigating systemic civil rights violations arising from law enforcement misconduct and pursuing civil remedies under 34 U.S.C. § 12601.³⁰

(2) The Criminal Section within DOJ’s Civil Rights Division may investigate and prosecute criminal violations of individuals’ civil rights, including excessive force used by law enforcement officers. Instances of excessive force use are generally prosecuted at the federal level under two statutes:

1. Under 18 U.S.C. § 242, it is generally a crime for a person acting under color of any state or federal law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.
2. Under 18 U.S.C. § 241, it is generally unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person in the free exercise or enjoyment of any right or privilege secured by the Constitution or the laws of the United States.

³⁰Under 34 U.S.C. § 12601, which authorizes the Attorney General to sue local law enforcement agencies for “engag[ing] in a pattern or practice of conduct” that “deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.” Where there is a pattern or practice of unconstitutional policing, 34 U.S.C. § 12601 authorizes “appropriate equitable and declaratory relief to eliminate the pattern or practice. According to the Civil Rights Division, the aim is to identify and substantially remedy unlawful practices.

(3) DOJ's 94 U.S. Attorneys' Offices may also investigate and prosecute criminal violations of individuals' civil rights under 18 U.S.C. §§ 241 and 242.³¹

(4) Within the FBI, the Civil Rights Unit may receive, investigate, and refer for prosecution allegations of excessive force use by law enforcement.

(5) Finally, DOJ's Office for Civil Rights, within the Office of Justice Programs, enforces, among other things, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance and can be used to address discriminatory uses of force by law enforcement agencies that receive grants from DOJ.

These components receive information about allegations of excessive force from a variety of sources. According to DOJ officials, the majority of DOJ's investigations and prosecutions of excessive use of force are internally-generated by DOJ attorneys and staff, who review media reports, court filings, and other publicly-available information. DOJ components also receive letters, emails, phone calls, and online reports from members of the public, community groups, local and national advocacy organizations, and government agencies.

Executive Order on Safe Policing for Safe Communities. In addition, the *Executive Order on Safe Policing for Safe Communities* requires DOJ to take certain steps to help reduce excessive force.³² Issued in June 2020, the executive order generally requires the Attorney General to

1. allocate DOJ discretionary grant funding only to those state and local law enforcement agencies that have sought, or are in the process of seeking, appropriate credentials from a reputable independent credentialing body certified by the Attorney General, as appropriate and consistent with applicable law;
2. create a database to coordinate the sharing of information between and among federal, state, local, tribal, and territorial law enforcement agencies concerning instances of excessive use of force related to

³¹According to DOJ, U.S. Attorneys are not authorized to independently investigate or litigate civil actions, under 34 U.S.C. §§ 10228, 12601.

³²Safe Policing for Safe Communities, Exec. Order No. 13,929, 85 Fed. Reg. 37325.

law enforcement matters, accounting for applicable privacy and due process rights;

3. identify and develop opportunities to train law enforcement officers with respect to encounters with individuals suffering from impaired mental health, homelessness, and addiction, in consultation with the Secretary of Health and Human Services, as appropriate; and
4. develop and propose new legislation to the Congress that could be enacted to enhance the tools and resources available to improve law enforcement practices and build community engagement, in consultation with the Assistant to the President for Domestic Policy and the Director of OMB, to include recommendations to enhance current grant programs for those purposes.

DOJ Collected but Did Not Fully Publish Data Related to the Use of Force

Between fiscal years 2016 through 2020, DOJ components collected and published some data related to law enforcement use of force incidents and related policies, procedures, and trainings. However, DOJ components did not publish an annual summary of data on excessive force each of these fiscal years, as required by the Violent Crime Control and Law Enforcement Act of 1994, because DOJ has not assigned and communicated responsibility for fully collecting and annually publishing these data. Further, DOJ has faced delays in publishing some additional data related to the use of force and has not assessed potential alternative data collection strategies or identified the causes of such delays.

DOJ Collected Some Data on the Use of Force through Recent and Long-standing Efforts

DOJ collected data related to law enforcement's use of force through nine data collection efforts, managed across four components, as shown in table 1. Some of these efforts are long-standing; DOJ has initiated others more recently (see app. II for more detailed descriptions of these and other long-standing DOJ data collection efforts). Specifically, DOJ initiated five of these data collection efforts in, or after, fiscal year 2016.

Table 1: Department of Justice (DOJ) Data Collection Efforts Related to Law Enforcement’s Use of Force

Data collection effort	Component responsible	Collected in response to law or congressional directive	Year data collection began	Use of force data collected			
				Deaths during arrests	Deaths in detention	Nonfatal incidents	Training or policies
State deaths in custody data	Bureau of Justice Assistance (BJA)	√	2019	√	√	—	—
National Use-of-Force Data Collection	Federal Bureau of Investigation (FBI)	—	2019	√	—	√	—
Federal Law Enforcement Agency Deaths in Custody Reporting Program	Bureau of Justice Statistics (BJS)	√	2016	√	√	—	—
Office of Community Oriented Policing Services (COPS Office) law enforcement officer training data	COPS Office	√	2016	—	—	—	√
BJA law enforcement officer training data	BJA	√	2016	—	—	—	√
Mortality in Correctional Institutions	BJS	√	2000	—	√	—	—
Police-Public Contact Survey	BJS	√	1996	—	—	√	—
Law Enforcement Management and Administrative Statistics	BJS	—	1987	—	—	—	√
Supplementary Homicide Reports	FBI	—	1960s	√	—	—	—

Source: GAO analysis of DOJ information. | GAO-22-104456

Note: DOJ collected information through all of these data collection efforts during the fiscal year 2016 through 2020 period. In the table, we use the formal title of a DOJ data collection effort related to law enforcement’s use of force—such as the Police-Public Contact Survey—if DOJ has given them one. Otherwise, we summarize the data collection effort based on the information it generally collected.

BJA’s state deaths in custody data. In October 2019, BJA began collecting data from states on deaths of individuals in the custody of state and local law enforcement agencies, in response to DCRA. According to BJA officials, they developed a process to review the validity and completeness of these data and plan to complete an initial review by October 2021. Officials also stated that BJA plans to provide training and technical assistance, as appropriate, to improve states’ data submissions, in response to DCRA.

DCRA also requires DOJ to study these data and submit a report on its findings to the Congress.³³ This report is to (1) determine means by which death in custody data can be used to reduce the number of such deaths; and (2) examine the relationship, if any, between the number of deaths and the actions of management of jails, prisons, and other specified facilities relating to such deaths. In March 2021, DOJ entered into an agreement with a consultant to develop a report that would address the first topic and, where feasible, address the second. As of October 2021, BJA officials stated that the consultant submitted a draft report for agency review.

The FBI's National Use-of-Force Data Collection. In January 2019, the FBI launched a nationwide data collection effort on law enforcement use of force incidents through the National Use-of-Force Data Collection. As of August 2021, the FBI collected data on incidents that occurred from January 2019 through March 2021 and published a list of the law enforcement agencies that submitted data during that period.³⁴ We provide more information on the FBI's efforts to implement the National Use-of-Force Data Collection later in this report.

BJS's Federal Law Enforcement Agency Deaths in Custody Reporting Program. In December 2016, BJS began the Federal Law Enforcement Agency Deaths in Custody Reporting Program to collect data on deaths of individuals in the custody of federal law enforcement agencies, in response to DCRA.³⁵ In December 2020, BJS published a report on deaths that had occurred in fiscal years 2016 and 2017, which included information on the number of deaths by federal agency, manner of deaths, and demographic characteristics of the deceased.³⁶

COPS Office's law enforcement officer training data. In response to congressional directives, the COPS Office collected data in fiscal years 2016, 2017, and 2020 on the extent to which law enforcement agencies

³³See 34 U.S.C. § 60105 (related to state information regarding individuals who die in the custody of law enforcement).

³⁴We provide additional information on the number of law enforcement agencies that have submitted data, as well as descriptive statistics of these data, in app. II.

³⁵See 18 U.S.C. § 4001 note (related to federal law enforcement death in custody reporting requirement).

³⁶Department of Justice, Bureau of Justice Statistics, *Federal Deaths in Custody and During Arrest, 2016-2017 - Statistical Tables* (Washington, D.C.: December 2020).

that applied for the COPS Hiring Program offered officer training on various topics, including the use of force.³⁷

BJA's law enforcement officer training data. In response to the same congressional directives, BJA also collected data on the extent to which law enforcement agencies that received a JAG award offered officer training on the use of force and other topics. BJA collected these data from fiscal years 2016 through 2020.

DOJ Did Not Annually Publish Data on Excessive Force Pursuant to Requirement

The Violent Crime Control and Law Enforcement Act of 1994 requires the Attorney General to collect data about the use of excessive force by law enforcement officers and to publish an annual summary of the data.³⁸ However, DOJ did not publish annual summaries of the data for each fiscal year for fiscal years 2016 through 2020, the period of our review, pursuant to the requirement.³⁹

DOJ officials identified two components—BJS and the FBI—as responsible for implementing these requirements, but neither component annually published data on excessive force each year from fiscal year 2016 through 2020, as required.⁴⁰ BJS officials told us that BJS is partially responsible for collecting and publishing these data. Specifically, according to DOJ, BJS's Police-Public Contact Survey was one means through which DOJ collected and published required data on excessive force.⁴¹ The Police-Public Contact Survey includes questions on whether surveyed members of the public experienced threats or use of force from

³⁷For example, Senate Report 116-127, accompanying the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317, directed the Department to continue following direction provided in fiscal years 2017, 2018, and 2019 regarding the submission of officer training data as part of both the Byrne-JAG and COPS hiring grant process. However, according to DOJ officials, the 2018 and 2019 COPS Hiring Program grant solicitations were placed on hold due to the issuance of a nationwide injunction by a U.S. District Court on April 12, 2018. Therefore, the COPS Office did not solicit applications for the grant program for fiscal years 2018 and 2019 and it did not collect training data from its applicants for those years.

³⁸Pub. L. No 103-322, § 210402, 108 Stat. 1796, 2071-72. See 34 U.S.C. § 12602.

³⁹Due to the scope of our review, we did not evaluate the extent to which DOJ met this requirement for fiscal years 1995 through 2015.

⁴⁰See 34 U.S.C. § 12602(c).

⁴¹Agency Information Collection Activities: Proposed eCollection eComments Requested; Revision of a Currently Approved Collection: 2020 Police Public Contact Survey, 84 Fed. Reg. 48647 (Sept. 16, 2019).

law enforcement officers, as well as whether they perceived a use of force to be excessive. However, over the 5-year period from fiscal year 2016 through fiscal year 2020, BJS published results from this survey twice. Further, one of those publications was a retrospective report of previously published data that were collected from 2002 through 2011.⁴² BJS officials also stated that the Law Enforcement Management and Statistics Survey was another means through which DOJ published required data on excessive force. However, BJS publishes information on policies and procedures related to officers' use of force collected through this survey, but does not publish any information specifically on excessive force by law enforcement officers.⁴³

DOJ officials also stated that the FBI's National Use-of-Force Data Collection effort is another means through which DOJ implemented requirements to collect and publish data on excessive force. However, FBI officials told us that they had not been informed of this responsibility. Further, according to FBI documentation, the National Use-of-Force Data Collection does not differentiate between incidents involving reasonable force and incidents involving excessive force. Specifically, the collection does not contain information on whether officers followed their department's policy or acted lawfully in any given incident. Therefore, it is unclear how DOJ could use these data to publish a summary on excessive force by law enforcement officers. In addition, the FBI began collecting these data in 2019 and has not yet published any use of force incident data collected through the program, as discussed later in this report.

Federal internal control standards state that management should assign responsibility and delegate authority to key roles throughout the entity to achieve its objectives. Additionally, these standards state that management should internally communicate the necessary quality information to achieve the entity's objectives.⁴⁴ Although BJS officials

⁴²See Department of Justice, Bureau of Justice Statistics, *Contacts between the Police and Public 2015* (Washington, D.C.: October 2018); and *Police Use of Nonfatal Force, 2002-11* (Washington, D.C.: November 2015). See app. II for more information on the Police-Public Contact Survey.

⁴³The Law Enforcement Management and Statistics Survey collects information on, whether law enforcement agencies maintain computer files on use of force incidents, whether they have written policies or procedures related to the use of force, and whether they require external investigations into use of force incidents that result in death or serious bodily injury.

⁴⁴[GAO-14-704G](#).

stated that their office has partial responsibility for meeting the requirements within the Violent Crime Control and Law Enforcement Act of 1994, DOJ has not identified how it is fully meeting the requirements on an annual basis. Stakeholders we interviewed, including law enforcement associations, civil rights organizations, and academic researchers, underscored the importance of DOJ collecting data related to law enforcement's use of force. One academic researcher told us that valid DOJ data related to law enforcement's use of force could inform the Congress about where excessive force is occurring and how it could be reduced. Representatives from one civil rights organization further stated that data on the use of excessive force would help all levels of government, including federal, state, and local governments, as well as independent civil rights organizations, to better understand excessive force and inform changes to laws and policies, as needed. Additionally, these representatives told us that such data could improve transparency in law enforcement operations, which could inspire public trust in law enforcement.

By assigning responsibility for fully collecting and annually publishing data on the use of excessive force by law enforcement officers and then communicating this responsibility to the designated components, DOJ can better generate useful and timely data for the Congress and the public.

DOJ Has Faced Delays in Publishing Other Data Related to the Use of Force

Two DOJ components—the FBI and BJS—have experienced delays in publishing use of force data. First, due to insufficient participation from law enforcement agencies, the FBI faces risks that it may not meet the participation thresholds established in OMB's terms of clearance for publishing data from the National Use-of-Force Data Collection, and therefore may never publish use of force incident data from the collection. Further, the collection itself may be discontinued as soon as the end of 2022. Additionally, BJS has not assessed or documented the causes of delays in some of their publications related to law enforcement's use of force, and BJS's timeliness performance measure does not reflect those delays. Finally, DOJ has not analyzed the extent of overlap among DOJ's various data collection efforts related to law enforcement's use of force.

FBI Has Not Met Thresholds for Publishing National Use-of-Force Data

The FBI's National Use-of-Force Data Collection has not yet met participation thresholds set by OMB and, as a result, the FBI faces risks that this data collection effort may be discontinued before publishing any data on use of force incidents. Specifically, when the FBI obtained OMB approval for the National Use-of-Force Data Collection in September 2018, OMB set participation thresholds for publishing data through this

effort.⁴⁵ OMB stipulated that the FBI needed to achieve participation from law enforcement agencies representing at least 60 percent of all sworn law enforcement officers in the U.S. to publish limited data on use of force incidents, and 80 percent of all sworn officers to publish data without conditions. Table 2 provides more details on the participation thresholds set by OMB.⁴⁶

Table 2: Office of Management and Budget Thresholds for Publishing Data Collected through the Federal Bureau of Investigation’s (FBI) National Use-of-Force Data Collection

Participation rate	Conditions to publication
Law enforcement agencies representing less than 40 percent of all sworn law enforcement officers	The FBI cannot publish any data.
Law enforcement agencies representing between 40 percent and 59 percent of all sworn law enforcement officers	The FBI may publish limited information, such as the response rates for key questions, such as the injuries an individual received in the use of force incident and the type of force that the law enforcement officer used.
Law enforcement agencies representing between 60 percent and 79 percent of all sworn law enforcement officers	The FBI may publish the most frequently reported responses to questions, expressed in either ratios, percentages, or in a list format.
Law enforcement agencies representing 80 percent or more of all sworn law enforcement officers	The FBI may unconditionally publish collected data.

Source: GAO analysis of Office of Management and Budget Information. | GAO-22-104456

OMB further stipulated that if the FBI did not achieve 60 percent participation by the end of 2022, the FBI was to end the data collection effort and explore alternatives for collecting law enforcement use of force data. OMB officials stated that OMB set these participation thresholds because a high response rate is an important indicator of data quality. OMB officials also stated that use of force data are highly influential and, therefore, warrant a high standard of quality.

As of November 2021, after 2 years of data collection, the FBI had achieved 44 percent and 55 percent participation for calendar years 2019

⁴⁵As required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (codified, as amended, at 44 U.S.C. §§ 3501-3521), OMB generally reviews and approves federal agencies’ requests to implement data collection efforts.

⁴⁶According to FBI documentation, when determining law enforcement participation in the National Use of Force Data Collection, the FBI uses a total count of 860,000 sworn police employees, as estimated by the Uniform Crime Reporting Program. This police employee count includes all known and reasonably presumed federal, local, state, tribal, and college and university sworn law enforcement personnel eligible to participate in the National Use of Force Data Collection.

and 2020, respectively.⁴⁷ At that time, FBI published a list of the law enforcement agencies that had submitted data for these years. However, the FBI has not yet met the thresholds for publishing data on use of force incidents and may not meet the threshold for continuing the program after December 2022.

FBI documentation identified failure to achieve the 60 percent participation threshold as a key risk for the National Use-of-Force Data Collection. FBI officials also told us that they knew that the participation thresholds required by OMB presented a risk to the program because such a high level of participation may be difficult to meet because law enforcement agencies may be reluctant to share sensitive data on use of force incidents.

Should the program fail to meet the OMB participation thresholds by the end of 2022, the FBI is not positioned to quickly transition to a new data collection effort. Specifically, the FBI's business plan for the National Use-of-Force Data Collection states that by June 2020, the FBI would begin assessing potential alternative data collection strategies—such as relying on a sample of law enforcement agencies—if the data collection had not yet met the 60 percent participation threshold. However, as of February 2021, FBI officials told us that they had not assessed potential alternative data collection strategies. Instead, FBI officials stated that they were focused on implementing a strong recruiting strategy to meet the OMB participation thresholds and to ensure that the National Use-of-Force Data Collection is successful.

Federal internal control standards state that management should identify, analyze, and respond to risks related to achieving the defined objectives.⁴⁸ The FBI identified and analyzed the risks that not meeting the OMB's participation thresholds posed to the National Use-of-Force Data Collection. However, it has not responded effectively to these risks because it has not assessed other potential data collection strategies, as originally planned. For example, the FBI's business plan for the collection states that using a sample of agencies may be a potential alternative data collection mechanism. While implementing a strong recruiting strategy is important, assessing potential alternative data collection strategies now would better position the FBI to quickly build upon its data collection

⁴⁷In November 2021, FBI officials also told us that the FBI has achieved 54 percent participation for calendar year 2021 as of October 18, 2021.

⁴⁸[GAO-14-704G](#).

BJS Experienced Delays in Publishing Reports Related to Law Enforcement's Use of Force

efforts and publish data on use of force incidents in an expedient manner, should the existing program be discontinued.

BJS, which manages some data collection efforts related to law enforcement's use of force, has experienced significant delays in publishing reports on these data, in some cases by more than a year beyond planned publication dates. However, the component has not assessed or documented the causes of these delays. Additionally, BJS lacks an external performance measure to account for the timeliness of all of its reports, including those related to law enforcement's use of force.

BJS's standard operating procedures outline its publication development process and identify time frames for publishing reports in a timely manner. The procedures state that, once BJS statisticians have analyzed data and drafted a report, the BJS publications unit is then responsible for conducting a quality assurance review and publishing the report. As part of its quality assurance review, the publications unit is to determine whether the submission is complete, meets BJS's standards, and is ready to proceed to editing. Once this step is complete, BJS's standard operating procedures state that the publications unit is to generally publish the report within 8 to 10 weeks. BJS set these planned publication dates to ensure that reports are issued in a timely manner.

However, BJS missed its planned publication dates for reports related to law enforcement's use of force initiated from fiscal year 2016 through 2020. The length of the delays varied—sometimes the delay was as little as 8 days, and sometimes as much as a year and a half. Table 3 shows planned and actual publication dates for BJS reports related to the use of force, from fiscal years 2016 through 2020.

Table 3: Planned and Actual Publication Dates for Bureau of Justice Statistics (BJS) Reports Related to Law Enforcement’s Use of Force, Initiated from Fiscal Years 2016 through 2020

BJS report	Date draft report submitted to BJS publications unit	Planned publication date	Actual publication date	Delay between planned and actual publication dates
Contacts Between Police And The Public, 2015	August 2017	October 2017	October 2018	1 year
Body-Worn Cameras in Law Enforcement Agencies, 2016	June 2018	August 2018	November 2018	~ 3 months
Mortality in State and Federal Prisons, 2001-2016 - Statistical Tables	June 2018	August 2018	February 2020	1 year, 6 months
Mortality In Local Jails, 2000-2016 - Statistical Tables	June 2018	August 2018	February 2020	1 year, 6 months
Federal Deaths in Custody and During Arrest, 2016-2017 - Statistical Tables	September 2019	November 2019	December 2020	1 year, 1 month
Local Police Departments: Policies and Procedures, 2016	June 17, 2020	August 12, 2020	August 20, 2020	8 days
Contacts Between Police And The Public, 2018	October 20, 2020	December 15, 2020	December 11, 2020	N/A (published 4 days early)

Source: GAO analysis of BJS data. | GAO-22-104456

Note: In addition, BJS initiated another report, Federal Deaths in Custody and During Arrest, 2018-2019 – Statistical Tables, in fiscal year 2020. However, because this report was not complete at the time of our review, we did not include it as part of our analysis of publication dates.

BJS officials explained that the planned publication date for any given report could change, due to a number of factors, including extensive, unforeseen editorial changes and changes in leadership priorities. However, when we asked BJS officials about why some reports were delayed by more than a year, BJS officials stated that they did not know why these particular reports were delayed because they had not assessed the causes of delays in the publication process or determined where in the process some of these reports became delayed.

Consensus-based standards for program and project management, such as those disseminated by the Project Management Institute, indicate that managers should implement monitoring and controlling activities to ensure project success. Specifically, these activities could include comparing a project’s actual performance with its planned performance

and recommending appropriate corrective action, as needed.⁴⁹ Additionally, federal internal control standards state that management should evaluate and remediate deficiencies.⁵⁰

Stakeholders, including law enforcement associations, civil rights organizations, and academic researchers we interviewed, stated that delays in the publication of data by BJS made such data less useful. For example, one law enforcement association noted that the years-long gap between data collection and data publication meant that the data could be irrelevant or outdated by the time BJS released them. Assessing the causes of delays in its publication process and identifying corrective actions to address such delays would better position BJS to ensure that future publications related to law enforcement's use of force are made available to the public in a timely manner.

BJS's Timeliness Performance Measure Does Not Reflect Delays in Reports Related to Law Enforcement's Use of Force

Further, although BJS has experienced delays in publishing reports related to law enforcement's use of force, BJS's timeliness performance measure does not reflect those delays. Specifically, as part of the Office of Justice Programs' annual performance budget submitted to the Congress and posted to its website, BJS provides information on the extent to which it published reports within 1 month of the expected publication date.⁵¹ From fiscal years 2016 through 2020, BJS reported meeting this performance measure each year.

However, this performance measure does not account for the timeliness of most of BJS's reports, including those related to law enforcement's use of force. Instead, BJS calculates this performance measure based on seven reports—none of which, according to BJS officials, is related to law enforcement's use of force.⁵² In comparison, from 2016 through 2020, BJS averaged 26 reports per year. BJS officials stated that BJS

⁴⁹Project Management Institute, *A Guide to the Project Management Body of Knowledge*, © 6th ed. (Newtown Square, PA: 2017). *The Standard for Project Management* identifies processes, such as monitoring and controlling the progress and performance of a project, that are considered good practices for most projects most of the time.

⁵⁰[GAO-14-704G](#).

⁵¹See Department of Justice, Office of Justice Programs, *Fiscal Year 2021 Performance Budget* (Washington, D.C.: February 2020).

⁵²The seven reports that BJS uses to calculate its performance measure are (1) Criminal Victimization Bulletin; (2) Annual Prisoners Report; (3) Midyear Jail Inmates Report; (4) Correctional Population in the U.S.; (5) Annual Capital Punishment Report; (6) Probation and Parole in the U.S.; and (7) Annual Federal Justice Statistics Bulletin.

developed this performance measure in 2000 and reflected longstanding annual collections, but they were unsure why BJS limited the performance measure to certain reports or why BJS selected those reports in particular.

OMB guidance states that it is important that agencies communicate relevant, reliable, and timely performance information within and outside their organizations to improve performance outcomes and operational efficiency.⁵³ We have previously reported that to be useful, performance information must be complete and valid. Additionally, we have reported on possible strategies for increasing the completeness and validity of agency performance information, including assessing specific performance measures to ensure that the data adequately represent actual performance.⁵⁴

BJS's current timeliness performance measure provides an inaccurate picture of BJS's performance, which may limit effective oversight of BJS operations by the Congress and the public. Assessing, and adjusting as appropriate, this performance measure to ensure that it adequately represents BJS's performance in publishing reports in a timely manner would help BJS more accurately communicate its performance to the Congress and the public.

DOJ Data Collections Related to Use of Force May Be Overlapping

Some of DOJ's data collection efforts related to law enforcement's use of force may be overlapping; however, DOJ has not completed a review of the extent of this potential overlap for all of them.⁵⁵ In a December 2018 report, the DOJ Inspector General reviewed DOJ's implementation of DCRA and found the potential for overlap or duplication in data collection efforts related to law enforcement's use of force. Specifically, the DOJ Inspector General found that BJA's state deaths in custody data collection effort could potentially collect information that is overlapping or duplicative of information collected through BJS's Mortality in Correctional Institutions data collection effort, as well as the FBI's National Use-of-Force Data

⁵³OMB Circular No. A-11, § 210.6 (2016).

⁵⁴GAO, *Managing for Results: Enhancing the Use of Performance Information for Management Decision Making*, [GAO-05-927](#) (Washington, D.C.: Sept. 9, 2005) and *Performance Plans: Selected Approaches for Verification and Validation of Agency Performance Information*, [GAO/IGD-99-139](#) (Washington, D.C.: July 30, 1999).

⁵⁵Overlap occurs when multiple agencies or programs have similar goals, engage in similar activities or strategies to achieve them, or target similar beneficiaries. See [GAO-15-49SP](#).

Collection. The DOJ Inspector General also reported that requesting duplicate or overlapping data from law enforcement agencies could lead to respondent fatigue, which can undermine the completeness and quality of submissions.⁵⁶ To address this concern, the DOJ Inspector General recommended that the FBI and the Office of Justice Programs, which includes BJA and BJS, identify and implement data collection best practices and reduce duplicative data collection efforts related to deaths in custody. Both components concurred with the DOJ Inspector General's recommendation, but neither the FBI nor the Office of Justice Programs had implemented it as of August 2021.

At the time of the DOJ Inspector General's report, these concerns were largely prospective, as neither the FBI nor BJA had begun its respective data collection efforts. However, since that time, in January 2019, the FBI began collecting information nationwide through its National Use-of-Force Data Collection, and BJA began collecting data in October 2019 from states in response to DCRA. Our analysis indicates that DOJ may collect overlapping data through these two data collection efforts. For example, both efforts collect information on the number and demographic characteristics (i.e., age, sex, race, or ethnicity) of individuals who died in arrest-related incidents involving state and local law enforcement agencies. Additionally, the FBI's National Use-of-Force Data Collection and BJS's Federal Law Enforcement Agency Deaths in Custody Reporting Program both collect similar data for fatal use of force incidents involving federal law enforcement agencies. Table 4 illustrates the areas of potential overlap between DOJ data collection efforts.

⁵⁶Respondent fatigue occurs when survey participants become tired of answering a survey and, as a result, the quality of the data they provide begins to deteriorate. For example, tired or bored respondents may answer "don't know" more often, give perfunctory answers, or give up answering a survey altogether.

Table 4: Areas of Potential Overlap between Department of Justice (DOJ) Data Collection Efforts Related to Law Enforcement’s Use of Force

Data collection effort	DOJ component responsible	Use of force data collected				
		State and local arrest-related deaths	Federal arrest-related deaths	Deaths in state and local detention	Deaths in federal detention	Nonfatal incidents
National Use-of-Force Data Collection	Federal Bureau of Investigation	√	√	—	—	√
State deaths in custody data	Bureau of Justice Assistance	√	—	√	—	—
Federal Law Enforcement Agency Deaths in Custody Reporting Program	Bureau of Justice Statistics	—	√	—	√	—

Source: GAO analysis of DOJ data collection efforts. | GAO-22-104456

Note: In the table, we use the formal title of a DOJ data collection effort related to law enforcement’s use of force—such as the National Use-of-Force Data Collection—if DOJ has given them one. Otherwise, we summarize the data collection effort based on the information it generally collected.

DOJ officials told us that components have taken some steps to coordinate data collection efforts related to law enforcement’s use of force. In July and August 2021, FBI and BJA officials told us they had drafted a memorandum outlining the responsibilities of each agency and the terms of data sharing. According to FBI officials, the memorandum will incorporate strategies to analyze and compare BJA’s state deaths in custody data collection effort and the FBI’s National Use-of-Force Data Collection. However, officials stated that the memorandum was not yet finalized because FBI and Office of Justice Programs managers were reviewing the memorandum at the time of our discussion.⁵⁷

While these efforts to coordinate are positive steps, this memorandum is not yet finalized, and the FBI and BJA have not established a date for when the components will complete the analysis and comparison of BJA’s state deaths in custody data collection effort and the FBI’s National Use-

⁵⁷At the conclusion of our audit, DOJ officials stated in technical comments on a draft of this report that FBI and BJA executed this memorandum in September 2021. Because DOJ provided this information at the conclusion of our audit, we were unable to review the executed memorandum.

of-Force Data Collection.⁵⁸ Additionally, the draft memorandum, as described by agency officials, discusses data sharing between BJA and the FBI but does not include BJS's Federal Law Enforcement Agency Deaths in Custody Reporting Program. In May 2021, Office of Justice Programs officials stated that BJS has not yet worked with the FBI to determine overlap between the National Use-of-Force Data Collection and the Federal Law Enforcement Agency Deaths in Custody Reporting Program because BJS was still collecting fiscal year 2020 data from, and analyzing fiscal year 2018 and 2019 data collected through, the Federal Law Enforcement Agency Deaths in Custody Reporting Program.

We have previously outlined steps for agencies to take in areas where federal programs may be inefficient or ineffective because they are fragmented, overlapping, or duplicative.⁵⁹ In our guidance, we recommend that agencies identify the potential overlap and its related effects; validate their findings using relevant information; and identify options to better manage overlap, as appropriate. DOJ officials cited factors that could contribute to potential overlap between these collections. They noted that BJA's state data collection effort and BJS's Federal Law Enforcement Agency Deaths in Custody Reporting Program began in response to DCRA requirements. Moreover, DOJ officials stated that, while they believe overlap between these data collection efforts in response to DCRA and the FBI's National Use-of-Force Data Collection was possible, the amount of overlap would be small because the majority of deaths in law enforcement custody are unrelated to use of force.⁶⁰ However, they have not identified related effects of this potential overlap, validated their findings using relevant information, or identified options to better manage this overlap.

⁵⁸Officials stated that, as of November 2021, the FBI and BJA had completed their analysis comparing BJA's 2020 state death in custody data to FBI's 2020 National Use-of-Force data, but the findings were still under review at both agencies.

⁵⁹[GAO-15-49SP](#). We have developed and made use of standard definitions for fragmentation, overlap, and duplication. As stated previously, overlap occurs when multiple agencies or programs have similar goals, engage in similar activities or strategies to achieve them, or target similar beneficiaries.

⁶⁰See Pub. L. No. 113-242, 128 Stat. 2860. See 34 U.S.C. § 60105 (related to State information regarding individuals who die in the custody of law enforcement). See 18 U.S.C. § 4001 note (related to federal law enforcement death in custody reporting requirement).

DOJ faces challenges from insufficient participation and incomplete reporting in its efforts to collect data on law enforcement's use of force. DOJ could ensure that it is minimizing the burden on respondents, and potentially increase participation in these efforts, by completing a review of overlap among data collection efforts related to law enforcement's use of force. Such a review could include identifying positive and negative effects arising from such overlap, validating their findings using data, and identifying options to better manage the overlap.

Research on Practices to Reduce Excessive Force and Law Enforcement Bias Is Limited, but Stakeholders Have Identified Some Practices as Potentially Promising

Literature on Practices to Reduce Excessive Force Is Limited and Inconclusive, and it is Unclear Whether Such Practices Reduce Bias in Law Enforcement

We reviewed 86 scholarly studies and articles and identified 14 of the practices most commonly discussed related to reducing the use of excessive force.⁶¹ These practices included de-escalation training and tactics, crisis intervention teams (or co-responder models), and body-worn cameras (see table 5).

⁶¹App. III provides a full listing of these studies. Most of the studies we examined focused on the extent to which practices changed the amount of force used at all, regardless of whether it was excessive. Generally, law enforcement's use of force is reasonable—for example, if the lives of officers or civilians are in danger. Because reducing the use of any force may also reduce the use of excessive force, we refer to these practices as potentially promising for reducing excessive force and assume that if force is unavoidable, these practices would not make them avoidable.

Table 5: Practices Identified in Scholarly Studies and Articles That May Reduce Excessive Force

Practice	Definition
<i>Administrative use of force policies</i>	Implementing policies that regulate how and when a law enforcement officer should use force and require law enforcement officers to record when they use force
<i>Body-worn cameras</i>	Implementing or increasing the use of body-worn cameras by law enforcement officers to record interactions with the public
<i>Crisis intervention team and co-responder models</i>	Responding to individuals experiencing a mental health crisis by either sending a specially-trained law enforcement officer or sending both a law enforcement officer and a mental health professional to the scene together
<i>De-escalation training and tactics</i>	Implementing or increasing training or tactics that focus on stabilizing a situation so that more time and resources can be called upon without resorting to use of force, or with reduced force, if necessary
<i>Diversity in hiring</i>	Implementing efforts to recruit and retain a more diverse law enforcement workforce, including officers of diverse races and ethnicities
<i>Guardian orientation in law enforcement</i>	Creating a law enforcement agency culture that prioritizes community trust and respectful interactions with the public as the primary methods of conducting law enforcement and achieving public compliance with laws through trainings and management tone
<i>Higher education hiring standards</i>	Adopting standards requiring law enforcement officers to have a higher level of education, such as some college education
<i>Implicit bias trainings</i>	Implementing or increasing trainings or activities aimed at providing law enforcement officers with tools or tactics to adjust an unconscious bias or pattern of thinking and reduce biased behaviors
<i>Independent oversight</i>	Establishing an independent board or committee to oversee and review law enforcement conduct
<i>Less-lethal force methods</i>	Increasing training and availability of tactics and weapons that are neither likely nor intended to cause death or serious bodily injury
<i>Pre-employment screening</i>	Employing personality tests to screen candidates' potential for aggressive behavior
<i>Procedural justice orientation in law enforcement</i>	Implementing trainings and other efforts to improve communication between law enforcement and members of the public during an interaction
<i>Reforming qualified immunity</i>	Changing, amending, or abolishing laws that shield law enforcement officers from being personally liable for constitutional violations
<i>Women in law enforcement</i>	Implementing efforts to recruit women for law enforcement positions and to increase the number of women in law enforcement, either in the field or in leadership positions

Source: GAO analysis of peer-reviewed studies. | GAO-22-104456

Our analysis of nine peer-reviewed formal literature reviews and meta-analyses selected from among the 86 studies indicates that research on the overall effectiveness of these practices on reducing force or bias in law enforcement was not conclusive.⁶² Specifically, the nine articles we selected and reviewed generally indicate that practices meant to reduce

⁶²For further details on our criteria for selecting formal literature reviews and meta-analyses, see app. I. App. III indicates which literature reviews and meta-analyses we included to determine the overall effectiveness of practices to reduce excessive force.

excessive force did not consistently achieve these results, nor did such practices consistently reduce bias in law enforcement. The authors of these articles cited a lack of comparable research and a lack of comprehensive data as reasons why the research findings are inconclusive.

Lack of comparable research. All nine articles we reviewed stated that a lack of comparable research across studies made it difficult to draw generalizable conclusions about the effectiveness of practices in reducing law enforcement's use of force. Researchers noted that implementation of practices to reduce the use of force varied across law enforcement agencies, which made it difficult to determine the overall effectiveness of any given practice. For example, with respect to body-worn cameras, one literature review stated that law enforcement agencies have different policies about when officers must use and activate body-worn cameras.⁶³ As a result, it is difficult for researchers to generalize results from studies on body-worn cameras because these different law enforcement agencies' policies may be an important factor in the effectiveness of the use of force. Additionally, another literature review found that research on the use of force used a wide variety of data sources to determine the impact of a practice on the use of force, including police reports, police self-reported data, and citizen complaints, making it difficult to compare the results of the research.⁶⁴

Eight of the nine articles we reviewed also found that studies used different outcome measures to evaluate the effectiveness of practices, such as reductions in arrests, officer injuries, or the use of force.⁶⁵ These differing outcome measures made it difficult, or in some cases impossible, for researchers to compare the effectiveness of a practice across studies. For example, in one article, researchers studying the effectiveness of body-worn cameras considered a variety of different outcome measures, such as reductions in use of force complaints, reductions in assaults on law enforcement officers, and increased public perception of police

⁶³Timothy I.C. Cubitt et al., "Body-worn Video: A Systematic Review of Literature," *Australian and New Zealand Journal of Criminology*, vol. 50 (2017): 379-396.

⁶⁴Meghan E. Hollis, "Measurement Issues in Police Use of Force: A State-Of-The-Art Review," *Policing: An International Journal*, vol. 41, no. 6 (2018): 844-858.

⁶⁵An outcome measure is an event or metric that can be observed and measured to assess the effectiveness of the practice being examined.

accountability, to determine if body-worn cameras are effective.⁶⁶ Therefore, the authors of this literature review could not effectively compare and evaluate the effects of body-worn cameras across different studies.

Another literature review examining research on crisis intervention teams identified 18 different outcome measures across the studies examined.⁶⁷ Some of these outcome measures included changes in officers' confidence in handling individuals with mental illness, number of arrests, and number of injuries to law enforcement officers. The literature review stated that because of the wide variation in outcome measures, it was not possible to make generalizable conclusions on this practice's effectiveness in reducing the use of force.

Lack of comprehensive data. Six of nine articles we reviewed noted that the lack of comprehensive and reliable national data on law enforcement's use of force hindered researchers in fully understanding which practices may be effective in reducing the use of force. For example, one literature review on de-escalation training noted that one of the most consistently documented findings regarding the use of force is a lack of empirical knowledge about it, including under which circumstances force is used, and how often.⁶⁸ Because there is so little empirical knowledge on de-escalation training, this researcher was unable to conclude if de-escalation training was generally effective in reducing the use of force and indicated that any negative impacts associated with de-escalation training, such as decreased officer safety, are also unknown.⁶⁹

The research we examined on law enforcement's use of force sometimes discussed bias and racial disparities in law enforcement; however, as with

⁶⁶Cubitt et al., "Body-worn Video."

⁶⁷Chunghyeon Seo, Bitna Kim, and Nathan E. Kruis, "Variation across Police Response Models for Handling Encounters with People with Mental Illnesses: A systematic Review and Meta-Analysis," *Journal of Criminal Justice*, vol. 72 (2021).

⁶⁸Robin S. Engel, Hannah D. McManus, and Tamara D. Herold, "Does De-escalation Training Work? A Systematic Review and Call for Evidence in Police Use-Of-Force Reform," *American Society of Criminology*, vol. 19 (2020): 721-759.

⁶⁹Specifically, according to this article, some law enforcement officials have stated that de-escalation training and policies may encourage law enforcement officers to slow down during potentially dangerous or unpredictable situations, which could increase the risk to their safety. However, due to the lack of empirical evidence based on comprehensive data, the research could not determine whether or not this was the case.

the use of force, it was inconclusive on the extent to which practices can address biased law enforcement.⁷⁰ Specifically, the literature we reviewed identified measurement challenges associated with bias, which inhibit the extent to which researchers could measure law enforcement bias or determine the extent to which the practices addressed bias in law enforcement. For example, one literature review examined racial disparities in law enforcement’s use of force and found that research on this topic yielded mixed results, mainly due to the variety of methodologies used to study race and the use of force.⁷¹ This literature review found that some studies used police officer surveys to assess racial disparities in law enforcement’s use of force, whereas other studies used surveys of the general public to assess perceptions of racial bias in law enforcement. As a result, some research examined in this literature review did not find any correlation between race and law enforcement’s use of force, whereas other research found that law enforcement officers are more likely to use force against Black individuals.

Civil Rights and
Law Enforcement
Organizations and Other
Stakeholders Identified
Some Practices as
Potentially Promising in
Reducing Excessive Force

We interviewed 18 stakeholders from civil rights organizations, law enforcement associations, academic researchers, and federal agencies about the extent to which the 14 practices, listed in table 5, are promising or potentially promising for reducing the use of excessive force.⁷² Figure 1 shows the eight practices that these stakeholders identified as most promising or potentially promising for reducing excessive force.⁷³









⁷⁰According to DOJ guidance, “biased law enforcement” refers to the inappropriate use of race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops. DOJ guidance states that it may be appropriate to use one of these characteristics when, for example, there is trustworthy information, relevant to the locality or time frame, that links an individual possessing such a characteristic to a specific suspect description. See Department of Justice, *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation or Gender Identity*.

⁷¹Meghan E. Hollis and Wesley Jennings, “Racial disparities in police use of force: a state of the art review,” *Policing: An International Journal*, vol. 41 (2018): 178-193.

⁷²Information on how we identified these stakeholders is available in app. I, and a full list of stakeholders with whom we met is available in app. IV.

⁷³A full list of organizations and individuals from whom we obtained perspectives, and a summary of the results of our interviews with respect to all 14 practices, is included in app. IV.

Figure 1: Practices Identified as Promising or Potentially Promising by Selected Stakeholders

Practices for reducing excessive use of force	Law enforcement associations (7 stakeholders)	Civil rights organizations (5 stakeholders)	Academic researchers and think tanks (4 stakeholders)	Federal agencies (2 stakeholders)
 Crisis intervention team/co-responder models	●●●●●●●○	●●●●○	●●●○	●●
 De-escalation training	●●●●●●○	●●●●○	●●●●	●●
 Procedural justice orientation in law enforcement	●●●●●●○	●●●○	●●●●	●●
 Women in law enforcement	●●●●●●○	●●●●○	●●●●	●○
 Administrative use of force policies	●●●●●●○	●●●○	●●○	●●
 Body-worn cameras	●●●●●●●	●●●○	●●○	●●
 Independent oversight	●●●●●○	●●●○	●●●●	●○
 Higher education hiring standards	●●●●●●○	●●●○	●●●○	●○

Legend

● Stakeholder rated practice as promising or potentially promising ○ Not promising/did not know

Source: GAO analysis of stakeholder interviews. | GAO-22-104456

Note: Most of the studies we examined focused on the extent to which practices changed the amount of force used at all, regardless of whether it was excessive. Because reducing the use of any force may also reduce the use of excessive force, we refer to these practices as potentially promising for reducing excessive force and assume that if force is unavoidable, these practices would not make them avoidable. A full list of organizations and individuals from whom we obtained perspectives, and a summary of the results of our interviews with respect to all 14 practices, is included in app. IV.

Of the 14 practices we asked about, two—(1) crisis intervention teams/co-responder models and (2) de-escalation training—were highly rated across all stakeholder groups. In particular, 16 out of the 18 stakeholders across the four different groups we spoke with identified crisis intervention teams and co-responder models as promising or potentially promising.

However, stakeholders we met with had differing views on the role of mental health professionals in crisis intervention team and co-responder models. For example, stakeholders from one civil rights organization stated that this practice would be more effective if the mental health professional accompanying a law enforcement officer was not an employee of the law enforcement agency, so that the mental health professional could maintain a greater degree of independence. However, stakeholders from two law enforcement associations noted that paying mental health professionals to accompany law enforcement officers could require a significant financial investment, which could hinder implementation.

Additionally, 16 of 18 stakeholders identified de-escalation training and tactics as promising or potentially promising. For example, an official with a federal agency noted that slowing down a law enforcement interaction is helpful because it provides officers time for their adrenaline to subside and, as a result, they may make a more appropriate decision about whether to use force.

As shown in figure 1, six other practices also received broad consensus across stakeholders. These included promoting a procedural justice orientation in law enforcement agencies, increasing the number of women in law enforcement, developing administrative use of force policies, implementing body-worn cameras, establishing independent oversight, and requiring higher education hiring standards. For example, 15 of 18 stakeholders identified increasing the number of women in law enforcement as promising for reducing excessive force.⁷⁴ According to some stakeholders, including those from law enforcement associations, civil rights organizations, academic researchers, and federal officials, increasing the number of women in law enforcement was promising or potentially promising because female law enforcement officers were less likely to use force and more likely to use de-escalation tactics, as

⁷⁴According to FBI data, in 2017 less than 13 percent of sworn law enforcement officers nationwide were female.

compared with male officers. For example, representatives from one law enforcement association and from one civil rights group cited research that found female officers were less likely to use force as compared with male officers.⁷⁵

In addition to the 14 practices we identified, stakeholders from law enforcement associations, civil rights organizations, and academic researchers also identified “duty to intervene” policies as promising in reducing excessive force. Duty to intervene policies require an officer to intervene and stop wrongful actions of other officers, such as the use of excessive force.⁷⁶ Stakeholders from one law enforcement association told us that, absent a duty to intervene policy, some officers, particularly newer and more junior officers, may be hesitant to intervene in a situation in which a colleague appears to be using excessive force.⁷⁷ According to stakeholders from another law enforcement association, training to help officers intervene could also be effective in reducing the use of excessive force.

Factors Supporting Implementation of Practices That May Reduce Excessive Force

Stakeholders stated that implementing any of the 14 practices we asked about might require additional efforts to ensure that they are effective in reducing excessive force. For example, many of the stakeholders we spoke with stated that (1) institutional support, (2) implementation of multiple practices, and (3) officer accountability are important factors in ensuring that the practices are successful in reducing excessive force.

Eight stakeholders we spoke with—five law enforcement associations, one civil rights organization, and two academic stakeholders—

⁷⁵Mindy E. Bergman, Jessica M. Walker, and Vanessa A. Jean. “A Simple Solution to Policing Problems: Women!” *Industrial and Organizational Psychology*, vol. 9, no. 3 (2016): 590–97; B.A. Bacar et al., “The role of officer race and gender in police-civilian interactions in Chicago,” *Science*, vol. 371, no. 6530 (2021): 696; Pew Research Center, “Behind the Badge: Amid protests and calls for reform, how police view their jobs, key issues and recent fatal encounters between blacks and police” (2017); Peter B. Hoffman and Edward R. Hickey. “Use of Force by Female Police Officers” *Journal of Criminal Justice*, vol. 33, no. 2 (2005): 145-51.

⁷⁶Benjamin B Ferrell, “Duty to Intervene: An Officer’s Dilemma,” *Journal of Contemporary Criminal Justice*, vol. 4, no. 2 (1988): 93-105.

⁷⁷According to DOJ officials, an officer’s failure to intervene to stop a constitutional violation is a well-established federal criminal offense. However, according to the International Association of Chiefs of Police, duty to intervene policies can be used by local law enforcement agencies to regulate a wider scope of wrongful actions, including any act that is unethical, violates policy, or when force is being inappropriately applied or applied when it is no longer required.

emphasized institutional support or “buy-in” from law enforcement leaders, rank-and-file officers, and their labor unions as key to these practices in reducing excessive force. For example, one federal agency official told us that, for administrative use of force policies to be effective, law enforcement leaders need to consistently enforce the policies. Furthermore, stakeholders from one civil rights organization stated that buy-in from rank-and-file officers would make the implementation of these practices successful in reducing excessive force. Finally, stakeholders from two law enforcement associations, three civil rights organizations, and one group of academic researchers told us that support from labor unions representing law enforcement officers is critical to successfully implementing practices that may reduce the use of excessive force. Representatives from one civil rights organization noted that law enforcement labor unions are critical because they are politically powerful and can influence the behavior of their rank-and-file members. For example, stakeholders from one law enforcement association stated that in the past, some law enforcement labor unions opposed implementing practices aimed at reducing excessive force, such as banning chokeholds. More recently, however, these stakeholders noted that some law enforcement labor unions have become proactive in addressing law enforcement’s use of excessive force.

Half of the 18 stakeholders we spoke to indicated that practices had more potential to reduce excessive force if implemented together rather than as single, stand-alone efforts. For example, stakeholders from one civil rights organization stated that higher education standards, paired with de-escalation and implicit bias trainings, would be more promising than if either of those practices was implemented on its own. Additionally, stakeholders from one law enforcement association stated that de-escalation training needs to be paired with procedural justice training for it to achieve its optimal potential to reduce excessive force.

Stakeholders we interviewed also stated that holding law enforcement officers accountable for excessive force incidents is an important factor in supporting implementation of these practices, but stakeholders from some civil rights organizations stated that some worker protections for law enforcement officers may reduce accountability. For example, stakeholders from two civil rights organizations we spoke with stated that provisions within officers’ collective bargaining agreements may make it difficult to hold officers accountable for misconduct or excessive force incidents. Stakeholders from one civil rights organization we spoke with cited clauses in collective bargaining agreements that limit oversight and discipline of officers, disqualify certain complaints against officers, or

require misconduct records to be erased after a set period of time as provisions that can make it difficult for law enforcement agencies to hold officers accountable for misbehavior. Additionally, stakeholders from one law enforcement association stated that the ability of law enforcement agencies to quickly terminate law enforcement officers who have acted wrongfully in an excessive force incident is an important factor in reducing excessive force.

Practices to Reduce Bias in Law Enforcement

Stakeholders we spoke with identified some practices as potentially promising in reducing bias in law enforcement, but were generally less confident about the effectiveness of these practices for this purpose. The practices that stakeholders indicated may be most promising or potentially promising for reducing bias in law enforcement included implementing or increasing the use of body-worn cameras, promoting a procedural justice orientation in law enforcement agencies, increasing women in law enforcement, and promoting diversity in hiring.

However, many stakeholders noted that reducing bias in law enforcement is more difficult than reducing excessive force because less is known about how to change biases. For example, one group of academic researchers we spoke to stated that there are few means of measuring discriminatory biases, so researchers cannot assess officers' level of bias before or after the implementation of any practice and, therefore, cannot assess the effectiveness of the practice. Stakeholders from one civil rights organization told us that they believed changing an individual's inner biases was very difficult but noted that law enforcement agencies may be able to take actions to reduce outward manifestations of these biases through certain practices, such as implementing body-worn cameras. In particular, stakeholders from one law enforcement association, one civil rights organization, two academic researchers, and officials from one federal agency we interviewed stated that body-worn camera footage could be used by law enforcement agencies as a tool to help train officers to recognize their own biases or the biases of other officers, among other things.⁷⁸ Additionally, one group of academic researchers noted that while trainings to address bias generally have not been shown to change behavior, such training may still be a valuable means of providing knowledge to officers. Further, these researchers noted that they believed that increasing the diversity of law enforcement

⁷⁸Representatives from one law enforcement association that noted body-worn camera footage could be useful for training officers in many ways, including de-escalation techniques and tactics, as well as in recognizing bias in themselves or others.

officers to include more female, Black and Latino officers could reduce bias in law enforcement.

DOJ Funded Some Grants and Trainings for Practices That May Reduce Use of Excessive Force

DOJ Awarded \$201.6 Million for Grants to Support Practices That May Reduce Use of Excessive Force, from Fiscal Years 2016 through 2020

Although DOJ does not have a specific grant program focused on reducing excessive force by law enforcement, we identified six programs that provided a portion of their grant awards for practices that may reduce law enforcement's use of force.⁷⁹ The six grant programs are (1) the JAG Program, (2) Body-Worn Camera Policy and Implementation Program, (3) Justice and Mental Health Collaboration Program, (4) Strategies for Policing Innovation, (5) COPS Community Policing Development Program, and (6) National Institute of Justice. Cumulatively, these six grant programs provided \$201.6 million for grant awards to support practices that could reduce law enforcement's use of excessive force.⁸⁰ This represented about 10 percent of the \$1.9 billion in grants awarded through these programs from fiscal year 2016 through fiscal year 2020.⁸¹ Figure 2 shows the amounts awarded for grants that included practices that may reduce excessive force, from fiscal year 2016 through fiscal year 2020.

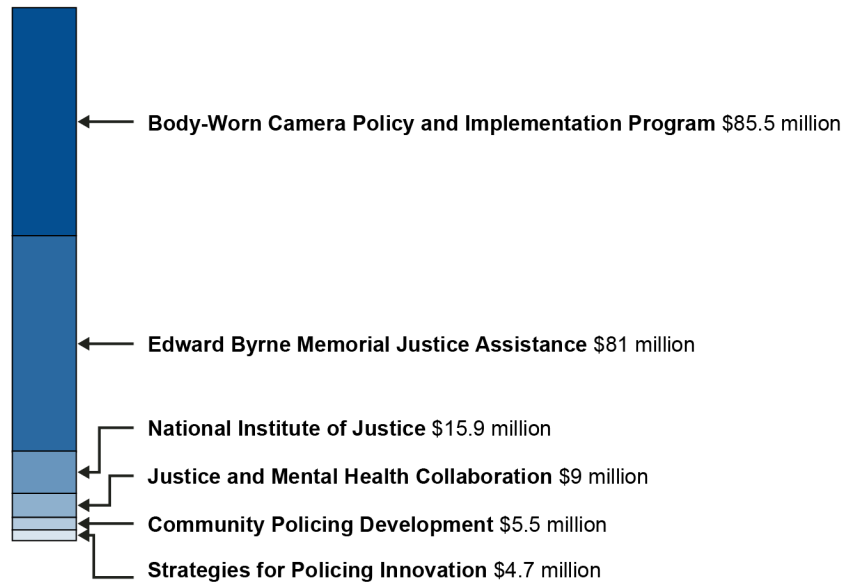
⁷⁹As previously discussed, we identified 14 practices from a review of academic literature that may reduce excessive force, such as the crisis intervention and co-responder models and de-escalation training, among others. We then used DOJ grant information to identify programs and grants that could provide awards related to these 14 practices. A full description of how we identified these grants can be found in our Objectives, Scope, and Methodology statement, app. I.

⁸⁰Recipients of these grants may use grants to fund a variety of activities; including those related to the 14 practices that may reduce excessive force. In addition, some of these programs may fund other, unrelated activities.

⁸¹From fiscal year 2016 through fiscal year 2020, DOJ awarded approximately \$25.2 billion in grants across all its grant programs.

Figure 2: Grant Awards from Six Selected Department of Justice Grant Programs, Fiscal Year 2016 to Fiscal Year 2020

Grants related to practices that may reduce excessive use of force
\$201.6 million



Source: GAO analysis of Department of Justice data. | GAO-22-104456

Note: Using Department of Justice grant information, we identified six programs that provided a portion of their grant awards for practices that may reduce excessive force. A full description of how we identified these grants can be found in app. I.


BJA administered four of the six grant programs we identified: (1) the Edward Byrne Memorial Justice Assistance Grant (JAG) Program; (2) Body-Worn Camera Policy and Implementation Program; (3) Justice and Mental Health Collaboration Program; and (4) Strategies for Policing Innovation.

JAG Program. The JAG Program is intended to assist state, local, and tribal governments in law enforcement. Generally, grantees can use JAG funds for a wide range of purchases and costs, including personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice.⁸² From fiscal year 2016 to through fiscal year 2020, BJA awarded \$80.9 million through the JAG

⁸²See 34 U.S.C. § 10152.

Program for 920 grants that included practices that may reduce excessive force. Figure 3 provides an example.

Figure 3: Funding for Body-Worn Cameras in Marshalltown, Iowa



In fiscal year 2017, the city of Marshalltown, Iowa, received \$21,822 from the Department of Justice's Edward Byrne Justice Assistance Grant Program to purchase 10 body-worn cameras and related items, such as data storage technology, battery packs, and holsters. According to the project description, these body-worn cameras would aim to improve the department's ability to ensure officer safety, enhance evidence collection, and increase officer accountability and public transparency.

Source: GAO analysis of Department of Justice data. | GAO-22-104456

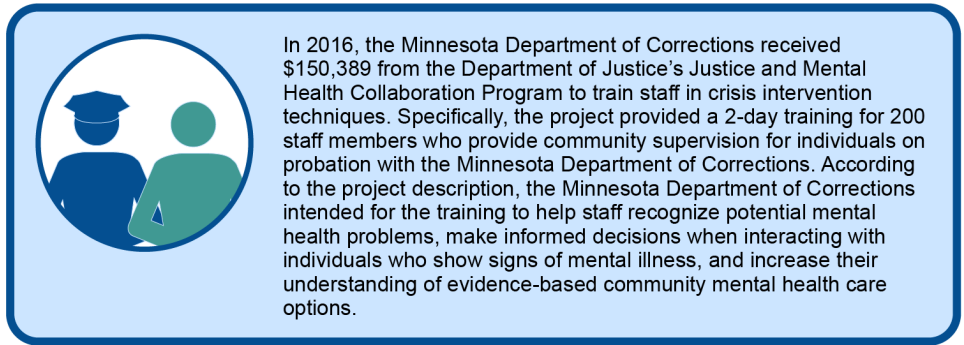
Body-Worn Camera Policy and Implementation Program. The Body-Worn Camera Policy and Implementation Program—established through annual appropriations acts—provides funds to law enforcement agencies seeking to establish or expand comprehensive body-worn camera programs.⁸³ From fiscal year 2016 through fiscal year 2020, BJA awarded \$85.5 million through the Body-Worn Camera Program to 389 law enforcement agencies.⁸⁴ These grants can vary from \$1,602 to \$10 million.

Justice and Mental Health Collaboration Program. The Justice and Mental Health Collaboration Program supports projects that aim to improve the criminal justice system's response to individuals with mental illnesses. Between fiscal year 2016 and fiscal year 2020, BJA awarded \$9 million for 34 grants that included practices that may reduce excessive force. Figure 4 provides an example.

⁸³In annual appropriations acts for fiscal years 2016 through 2020, funds were appropriated for initiatives to improve police-community relations, including \$22,500,000 for a competitive matching grant program for purchases of body-worn cameras for state, local, and tribal law enforcement. Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, 129 Stat. 2242, 2308-09; Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, 131 Stat. 135, 205; Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 348, 422; Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, 133 Stat. 3, 114; and Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317, 2408-09.

⁸⁴Under this program, grantees may receive up to 50 percent of the cost for a new or expanded body-worn camera program and must identify another source of funding for the other half of the project's cost.

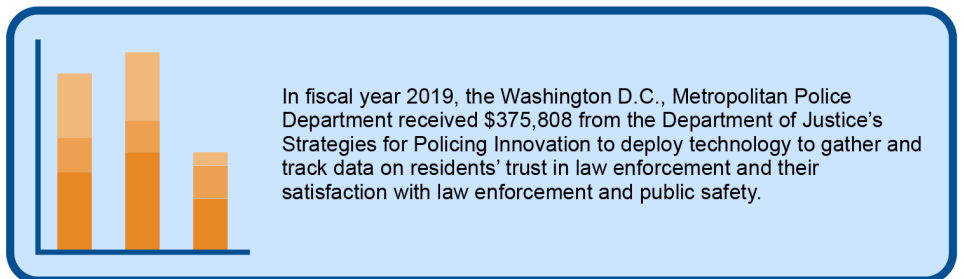
Figure 4: Crisis Intervention Training in Minnesota



Source: GAO analysis of Department of Justice data. | GAO-22-104456

Strategies for Policing Innovation.⁸⁵ BJA's Strategies for Policing Innovation provides funding for evidence-based practices, data, and technology to help law enforcement agencies identify and address their most pressing issues. Between fiscal year 2016 and fiscal year 2020, the Strategies for Policing Innovation program awarded \$4.7 million for seven grants that included practices that may reduce excessive force, including grants for body-worn cameras, de-escalation, and procedural justice topics. Figure 5 provides an example.

Figure 5: Deploying Technology to Gauge Community Trust in Washington, D.C.



Source: GAO analysis of Department of Justice data. | GAO-22-104456

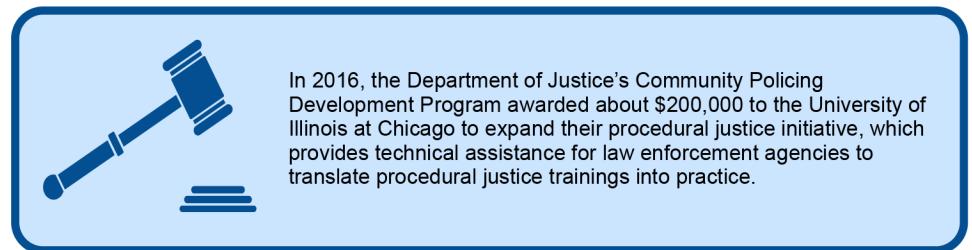
In addition to the grant programs administered by BJA, the COPS Office also provided relevant grants.

COPS Community Policing Development Program. The COPS Office's Community Policing Development Program provides awards to

⁸⁵According to BJA officials, the Strategies for Policing Innovation was renamed in May 2021 to the Smart Policing Initiative.

state, local, and tribal law enforcement agencies to develop and implement community-policing strategies, with the goals of preventing crime and promoting safe communities. From fiscal year 2016 through fiscal year 2020, the COPS Office awarded \$5.5 million for 27 grants through the Community Policing Development Program for practices that may reduce excessive force, such as increasing women in law enforcement and providing procedural justice training. Figure 6 provides an example.⁸⁶

Figure 6: Procedural Justice Technical Assistance with the University of Illinois at Chicago



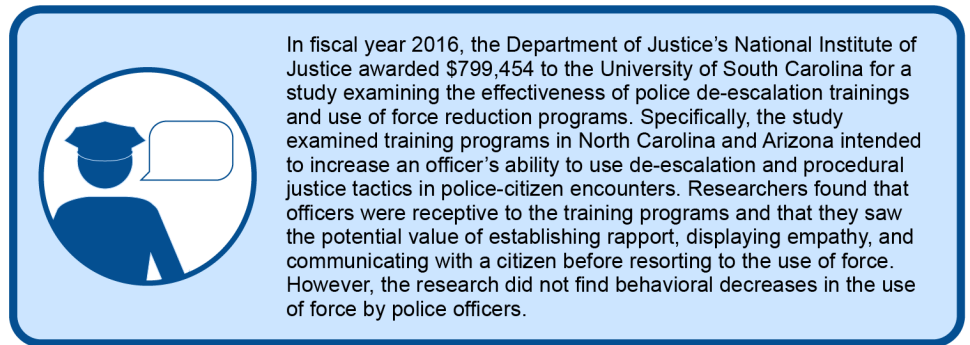
Source: GAO analysis of Department of Justice data. | GAO-22-104456

In addition to these programmatic grants, the National Institute of Justice provided grants for research related to law enforcement's use of force.

National Institute of Justice. From fiscal year 2016 through fiscal year 2020, the National Institute of Justice awarded \$15.9 million for 18 research grants related to law enforcement's use of force. Figure 7 provides an example.

⁸⁶In addition, in fiscal year 2021, the COPS Office's Community Policing Development Program opened a de-escalation training solicitation program, which includes de-escalation training, crisis intervention teams, and diversity and antibias training as subcategories.

Figure 7: De-Escalation Research at the University of South Carolina



Source: GAO analysis of Department of Justice data. | GAO-22-104456

DOJ Provided Training and Technical Assistance for Practices That May Reduce the Use of Excessive Force

In addition to grants, DOJ components provided training and technical assistance and undertook other efforts related to practices that may reduce excessive force. As with grants, such training and technical assistance did not comprise the majority of the total training and technical assistance that DOJ components provided from fiscal year 2016 through fiscal year 2020. For example, from fiscal year 2016 through fiscal year 2020, BJA provided training to 5,431 law enforcement officers nationwide in practices that may reduce excessive force, out of 472,581 officers trained during this period.⁸⁷

BJA Training and Technical Assistance Programs. BJA officials identified 17 programs that provided training for law enforcement officers in practices that may reduce excessive force. From fiscal year 2016 through fiscal year 2020, these 17 programs provided training to 5,431 law enforcement officers.

Additionally, BJA's Diagnostic Center and National Training and Technical Assistance Center completed a total of 24 technical assistance engagements related to practices that may reduce the use of excessive force.⁸⁸ In particular, the Diagnostic Center provided 18 agencies in New

⁸⁷DOJ officials noted that some of their training funds may be directed through annual appropriations and, therefore, could not be used for other purposes, such as training, that may reduce excessive force.

⁸⁸The Diagnostic Center is a consultation service to help law enforcement agencies find solutions to their public safety challenges using evidence-based approaches. The National Training and Technical Assistance Center provides specialized national experts to help train state, local, and tribal governments on criminal justice-related topics.

York with procedural justice training in September 2017, and the National Training and Technical Assistance Center provided use of force training and curriculum development for law enforcement agencies in New Jersey, Massachusetts, Indiana, and Ohio.⁸⁹ From fiscal year 2016 to fiscal year 2020, this center provided a total of 543 technical assistance engagements.

COPS Office Training and Technical Assistance Programs. The COPS Office Training Portal provides in-person training as well as an online catalog of training courses and resources for the law enforcement community related to a range of topics, including practices that may reduce excessive force. Of the 40 training courses available, from fiscal year 2016 through fiscal year 2020, we identified five that cover practices that may reduce the use of excessive force, including courses on fair and impartial policing and procedural justice (see table 6).

Table 6: Selected Community-Oriented Policing Services Office Training Related to Practices That May Reduce Excessive Force, Fiscal Year 2016 through Fiscal Year 2020

Course title	Number of agencies trained	Number of officers trained
Fair and Impartial Policing: Changing Perceptions	411	5,114
Procedural Justice Training Suite	27	1,032
Fair and Impartial Policing	17	939
Diversity and Inclusion for Law Enforcement: Enhancing Cultural Responsiveness	12	513
Public Safety De-escalation Tactics for Military Veterans	32	187

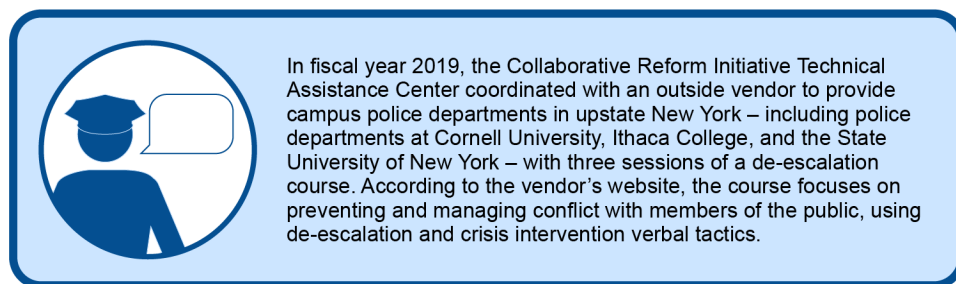
Source: GAO analysis of Community-Oriented Policing Services Training Data. | GAO-22-104456

In addition, through the Collaborative Reform Initiative Technical Assistance Center, the COPS Office has provided technical assistance to state and local law enforcement agencies on a range of topics, including de-escalation. Between fiscal year 2018 and fiscal year 2020, this center completed 81 technical assistance engagements related to de-escalation,

⁸⁹DOJ ended the Diagnostic Center in fiscal year 2018 and transferred its responsibilities to the National Training and Technical Assistance Center.

out of 297 completed during this time frame.⁹⁰ Figure 8 provides an example.

Figure 8: Collaborative Reform Initiative Technical Assistance Center Training in New York



Source: GAO analysis of Department of Justice data. | GAO-22-104456

FBI trainings. Two entities within the FBI—the Critical Incident Response Group and the Civil Rights Unit—provide trainings to state and local law enforcement officers on practices that may reduce the use of excessive force. Specifically, FBI officials told us that the Critical Incident Response Group’s National Crisis Negotiation Course is intended to help law enforcement officers achieve outcomes in which all parties, including both law enforcement and members of the public, avoid violence. From fiscal year 2016 through fiscal year 2020, the FBI delivered this course to 54 law enforcement officers.

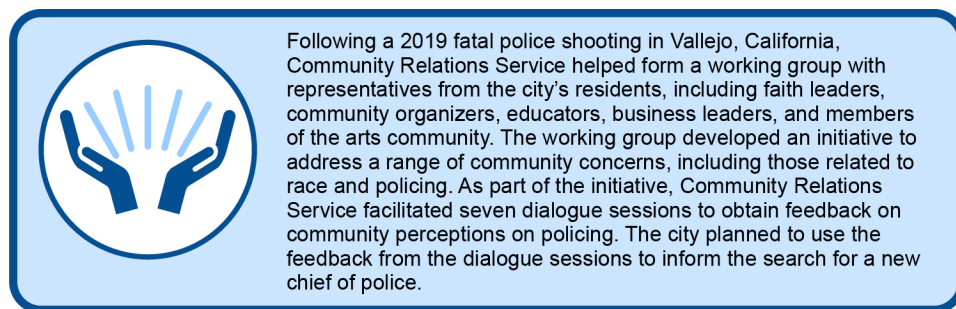
In addition, FBI officials stated that the Civil Rights Unit provides relevant training to state and local law enforcement officers. For example, the Color of Law for Law Enforcement Officers course provides instruction on federal civil rights statutes, including those related to the use of excessive force by law enforcement officers. From fiscal year 2016 through fiscal year 2020, the Civil Rights Unit provided this training to 11,603 officers.

Community Relations Service engagements. From fiscal year 2016 to through fiscal year 2020, 347 of the service’s 1,670 engagements were related to conflict over law enforcement’s excessive force, police

⁹⁰Prior to 2018, the Collaborative Reform Initiative Technical Assistance Center focused on conducting in-depth assessments of law enforcement agencies with publicly available findings, recommendations, and technical assistance. DOJ shifted the focus of the program in 2018 and began using field professionals to provide technical assistance to law enforcement agencies. As part of this shift, in-depth assessments of agencies’ practices were no longer conducted.

misconduct, and biased policing. Figure 9 provides an example of one engagement.

Figure 9: Community Relations Service Community Dialogue on Law Enforcement in California



Source: GAO analysis of Department of Justice data. | GAO-22-104456

DOJ Took Steps to Implement the Executive Order on Safe Policing for Safe Communities

Executive Order on Safe Policing for Safe Communities. BJA and the COPS Office took steps to implement the President's *Executive Order on Safe Policing for Safe Communities*. Specifically:

(1) Allocate discretionary DOJ grant funding to law enforcement agencies certified by independent credentialing bodies.⁹¹ As of June 30, 2021, COPS Office officials stated that approximately 8,600 state, local, university, and college law enforcement agencies have been certified or were in the process of certification by an independent credentialing body. In August 2021, officials with the COPS Office stated that all state, local, and university or college law enforcement agencies must be certified by an approved independent credentialing body or have started the certification process to be allocated fiscal year 2021 DOJ discretionary grant funding, as either a recipient or a subrecipient.

(2) Create a database to coordinate the sharing of information concerning instances of excessive force. BJA officials stated that the department had signed an agreement with the International Association of

⁹¹Safe Policing for Safe Communities, Exec. Order No. 13929, 85 Fed. Reg. 37325 (June 16, 2020). The executive order requires the Attorney General to certify independent credentialing bodies that meet standards to be set by the Attorney General. The standards for certification require independent credentialing bodies, at a minimum, to confirm that the law enforcement agency's use of force policies adhere to all applicable state, local, and federal law and that the state or local law enforcement agency's use of force policies prohibit the use of chokeholds, except in those situations where the use of deadly force is allowed by law.

Directors of Law Enforcement Standards and Training to create a national database for sharing information on terminations or de-certifications of law enforcement officers, criminal convictions of law enforcement officers for on-duty conduct, and civil judgments against law enforcement officers for improper use of force. BJA officials stated that they will have a plan for the launch of the database by September 2022.

(3) Identify and develop opportunities to train law enforcement officers with respect to encounters with individuals suffering from impaired mental health. BJA officials stated that they convened a working group with the Substance and Mental Health Services Administration within the Department of Health and Human Services to identify and develop training opportunities for law enforcement officers with respect to encounters with individuals suffering from impaired mental health, homelessness, and addiction. In 2021, BJA developed the Collaborative Crisis Response Training Program, which aims to fund crisis response training for state, local, correctional, and tribal law enforcement officers.

(4) Develop and propose new legislation to the Congress that could be enacted to enhance the tools and resources available to improve law enforcement practices and build community engagement. BJA officials stated that their office had been involved with some efforts under the prior administration including participating in a DOJ working group. However, as of July 2021, BJA was not aware of any ongoing efforts.

DOJ Investigated Some Excessive Force Incidents but Could Improve Oversight of Related Allegations

DOJ Components Investigated Allegations of Law Enforcement Misconduct, Including Excessive Force

As previously discussed, five components within DOJ have the authority to investigate allegations of excessive force that they receive from members of the public, law enforcement agencies, and other parties and may pursue civil remedies and criminal penalties for such violations: (1) the Special Litigation Section within the Civil Rights Division; (2) the Criminal Section within the Civil Rights Division; (3) the 94 U.S. Attorneys' Offices; (4) the FBI Civil Rights Unit and (5) the Office for Civil Rights within the Office for Justice Programs. All five of these components opened investigations from fiscal year 2016 through fiscal year 2020, though the extent to which this area was a priority for investigation and prosecution varied by component. Specifically, some components we spoke with—including officials from three U.S. Attorneys' Offices—stated that investigating civil rights violations, including excessive force, was a priority from fiscal year 2016 through fiscal year 2020. However, officials with the Special Litigation Section within the Civil Rights Division, stated that opening new investigations was not a high priority of the prior administration. As with all law enforcement matters, DOJ may use its discretion in determining whether to pursue further investigation, prosecution, or litigation based on the allegations it receives, even if facts would support a case.

Special Litigation Section within DOJ's Civil Rights Division. The Special Litigation Section may investigate and seek reform agreements or federal injunctions to bring about structural changes to law enforcement agencies found to have engaged in systemic unconstitutional misconduct. The Special Litigation Section does not focus on isolated instances of alleged wrongdoing by individual officers, but rather systemic misconduct related to the responsibilities of law enforcement agencies and local

governments.⁹² Reform agreements generally take the form of consent decrees—a court order that establishes an enforceable reform plan for a law enforcement agency, generally with an independent consultant who monitors adherence to the plan.⁹³

From fiscal year 2016 through fiscal year 2020, the Special Litigation Section opened 12 matters and closed 30 matters related to systemic law enforcement misconduct (see table 7). Matters include both preliminary inquiries approved at the section level and formal investigations authorized by the Assistant Attorney General for the Civil Rights Division.

Table 7: Number of Special Litigation Section Matters Related to Law Enforcement Misconduct Opened and Closed, Fiscal Year 2016 through Fiscal Year 2020

Fiscal year	Opened	Closed
2016	4	4
2017	2	15
2018	2	9
2019	1	0
2020	3	2
Total	12	30

Source: Department of Justice Civil Rights Division. | GAO-22-104456

Note: The Special Litigation Section closes a matter either when it does not plan to take additional action, because it has determined that no further investigation is warranted; or, because the law enforcement agency has fully implemented the requirements of a reform agreement or postjudgment order. Matters opened include both preliminary inquiries approved at the section level and formal investigations authorized by the Assistant Attorney General for the Civil Rights Division in that fiscal year. Matters opened in one year may be closed in subsequent years and, therefore, matters closed in a given fiscal year were not necessarily opened in that fiscal year.

⁹²Within the Special Litigation Section, there are multiple practice groups that focus on different areas, including the police practice group, which mainly relies on 34 U.S.C. §§ 10228, 12601, to investigate patterns or practices of law enforcement misconduct. The Special Litigation Section Corrections practice group, which works to protect the rights of individuals in prisons and jails run by state or local governments, may also investigate patterns and practices related to excessive force in correctional facilities. For the purposes of this review, we assessed the Special Litigation Section’s Police Practice Group and investigations conducted under 34 U.S.C. §§ 10228, 12601.

⁹³The Special Litigation Section may also pursue an out-of-court settlement agreement or, if the Special Litigation and law enforcement agency cannot agree to a plan, a court may order a reform plan.

The Special Litigation Section closes a matter either when it does not plan to take additional action, because it has determined that no further investigation is warranted; or, because the law enforcement agency has fully implemented the requirements of a reform agreement or postjudgment order.

From October 2015 through January 2017, the Special Litigation Section entered into four new reform agreements resulting from systemic law enforcement misconduct, including excessive force and biased law enforcement practices, such as discriminatory traffic stops. These agreements were with the cities of Miami, Florida, in February 2016; Ferguson, Missouri, in March 2016; Newark, New Jersey, in April 2016; and Baltimore, Maryland, in January 2017.

The Civil Rights Division's Special Litigation Section opened fewer matters of police misconduct from fiscal year 2016 through fiscal year 2020 than in previous years. Specifically, from fiscal year 2011 through fiscal year 2015, the Special Litigation Section opened 16 matters into law enforcement misconduct, compared with 12 matters from fiscal years 2016 through 2020. Civil Rights Division officials cited several factors that contributed to this decrease. First, Civil Rights Division officials stated that such cases were not a priority of the prior presidential administration.⁹⁴ Second, officials also stated that in 2015, the section formed the Case Selection Advisory Committee to help the division select jurisdictions where it may be appropriate to open preliminary inquiries, which resulted in a more selective process for opening preliminary inquiries into police misconduct. Finally, according to Civil Rights Division officials, between approximately 2013 and 2017, the Special Litigation Section's Police Practice Group began to close preliminary inquiries that were not progressing, which resulted in an increased number of matters closed.

Criminal Section within DOJ's Civil Rights Division. According to Civil Rights Division officials, the Criminal Section often—but not exclusively—uses 18 U.S.C. §§ 241 and 242 to prosecute criminal instances of excessive force. However, not all individuals investigated and prosecuted under these statutes are law enforcement officers, and not all offenses prosecuted under these statutes are related to excessive force. For example, with respect to 18 U.S.C. § 242, Civil Rights Division officials

⁹⁴In August 2021, division officials stated that investigating law enforcement misconduct was a priority of the current presidential administration.

noted that other public officials, including parole officers, prison doctors and judges, may also be covered by the statute.⁹⁵ Additionally, Civil Rights Division officials noted that 18 U.S.C. § 241 is used not only to prosecute color of law conspiracies but also, for example, some hate crime conspiracies.

From fiscal year 2016 through fiscal year 2020, the Criminal Section of the Civil Rights Division opened or supported 823 matters and closed 1,361 matters related to these color-of-law violations (see table 8).⁹⁶

Table 8: Number of Color-of-Law Matters Opened and Closed by the Department of Justice’s (DOJ) Civil Rights Division’s Criminal Section, Fiscal Year 2016 through Fiscal Year 2020

Fiscal year	Opened	Closed
2016	196	279
2017	174	239
2018	130	164
2019	169	283
2020	154	396
Total	823	1,361

Source: DOJ’s Civil Rights Division. | GAO-22-104456

Note: According to Civil Rights Division officials, the Supreme Court has defined action taken under color of law as “[m]isuse of power, possessed by virtue of state [or federal] law and made possible only because the wrongdoer is clothed with the authority of [that] law.” *United States v. Classic*, 313 U.S. 299, 326 (1941). Civil Rights Division officials stated that, while color of law matters may include investigations into excessive use of force incidents, they are not exclusive to such incidents. DOJ officials stated that the number of Criminal Section matters includes matters opened by U.S. Attorneys’ Offices, as it frequently partners with and supports civil rights prosecutions by the U.S. Attorneys’ Offices.

Civil Rights Division officials cited various factors that contributed to the numbers of opened and closed matters during this period. Officials stated that, during the last several years, the Criminal Section changed its approach regarding opening new matters and began adding new matters to its tracking system only when staff believed that the matter had investigative merit and, therefore, a potential path toward criminal

⁹⁵According to Civil Rights Division officials, the Supreme Court has defined action taken under color of law as misuse of power, possessed by virtue of state [or federal] law and made possible only because the wrongdoer is clothed with the authority of [that] law. *United States v. Classic*, 313 U.S. 299, 326 (1941).

⁹⁶DOJ officials stated that the number of Criminal Section matters includes matters opened by U.S. Attorneys’ Offices, as it frequently partners with and supports civil rights prosecutions by the U.S. Attorneys’ Offices.

prosecution. Officials stated that this change reduced the number of matters formally opened. Additionally, officials stated that the Criminal Section took steps during this period to close out matters that were initially opened but then not ultimately pursued.

U.S. Attorneys' Offices. In addition, the 94 U.S. Attorneys' Offices may investigate and prosecute criminal civil rights violations, including excessive force. We analyzed data on investigations and cases initiated by U.S. Attorneys' Offices from fiscal years 2016 through 2020.⁹⁷ We found that 89 of the 94 offices cumulatively opened 1,846 investigations during this period. Of these, 74 percent were closed during this period, due to insufficient evidence. During this time frame, our analysis of DOJ data indicates that U.S. Attorneys' Offices filed 375 cases in court related to civil rights violations. Of these, 224 had been closed, and 151 were open and ongoing as of October 2020.

Officials from three U.S. Attorneys' Offices we spoke with stated that obtaining a conviction against a law enforcement officer for excessive force is difficult for a number of reasons, including the specific burden of evidence required by 18 U.S.C. § 242. Under this statute, U.S. Attorneys' Office officials stated that prosecutors must prove beyond a reasonable doubt that an officer violated an individual's civil rights, and that the officer did so "willfully."⁹⁸ Officials from these U.S. Attorneys' Offices stated that this standard therefore requires prosecutors to prove the officer's mindset, which is more difficult than simply proving the facts and circumstances of a case. As a result, U.S. Attorneys may choose to

⁹⁷We included all investigations where charges were considered under either 18 U.S.C. §§ 241 or 242, or under 18 U.S.C. § 1001, 18 U.S.C. § 1512, 18 U.S.C. § 1519, 18 U.S.C. § 4 when the data indicated that these investigations were related to a civil rights violation. We chose these other statutes because DOJ officials stated these statutes are sometimes used to investigate and prosecute criminal activities linked to use of excessive force, such as lying to federal agents about a use of force incident or otherwise obstructing justice. We included all closed investigations, as well as investigations that ultimately led to charges filed in federal court from fiscal year 2016 through 2020.

⁹⁸In *Screws v. United States*, 325 U.S. 91, 103, the Supreme Court held that willfulness under 18 U.S.C. § 242 requires "a specific intent to deprive a person of a federal right made definite by decision or other rule of law." According to the Congressional Research Service, the Supreme Court's interpretation of the willfulness requirement has resulted in what some view as a significant hurdle to bringing Section 242 claims. See Congressional Research Service, *Federal Police Oversight: Criminal Civil Rights Violations Under 18 U.S.C. § 242* (Washington, D.C.: June 15, 2020).

charge an officer under another statute— such as obstruction of justice, if the evidence supports it.

Officials from the three U.S. Attorneys' Offices we spoke with stated that prosecuting excessive force was a priority for their office from fiscal year 2016 through fiscal year 2020. For example, officials from one U.S. Attorney's Office stated that they assigned additional attorneys to this practice area, and officials from another U.S. Attorney's Office developed a unit focused on civil rights cases.

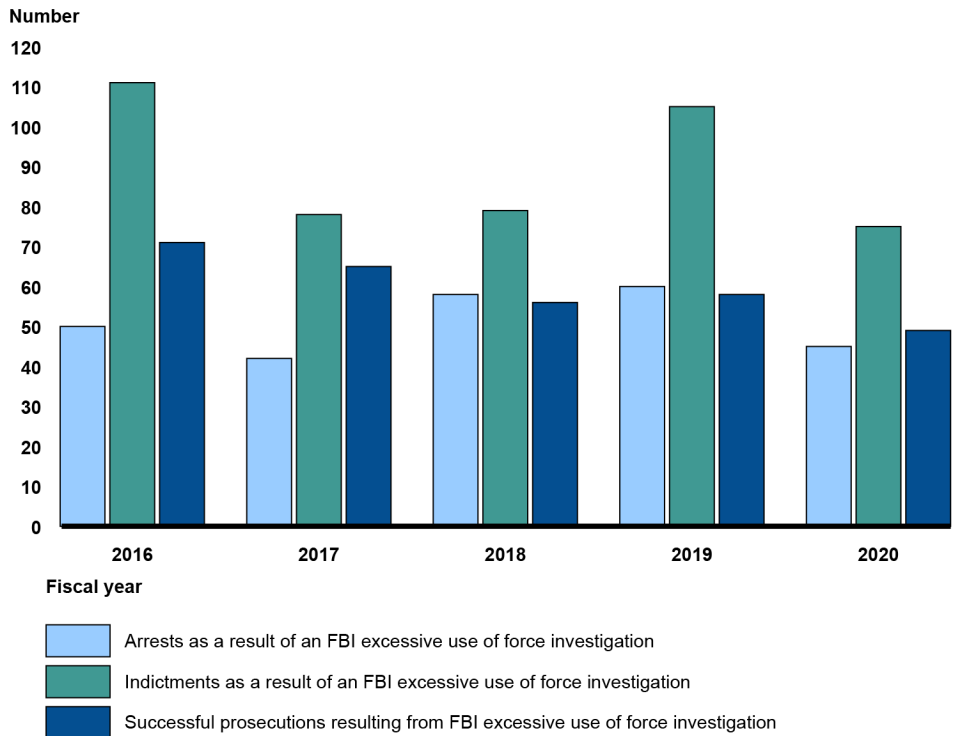
FBI Civil Rights Unit. Within the FBI, the Civil Rights Unit may receive, investigate, and refer for prosecution allegations of excessive force by law enforcement. From fiscal year 2016 through fiscal year 2020, the FBI opened 1,623 investigations into excessive force incidents, representing about half of all investigations opened by the Civil Rights Unit.⁹⁹ FBI investigations led to an average of 51 arrests, 90 indictments, and 60 successful prosecutions per year from fiscal year 2016 through fiscal year 2020.¹⁰⁰ These numbers represented an increase, compared with fiscal years 2013 through 2015, when FBI investigations led to an average of 45 arrests, 53 indictments, and 57 successful prosecutions per year.¹⁰¹ Figure 10 shows the number of arrests, indictments, and prosecutions supported by FBI investigations from fiscal year 2016 through fiscal year 2020.

⁹⁹The FBI Civil Rights Unit explicitly tracks investigations related to use of excessive force.

¹⁰⁰Indictments and prosecutions include those brought by the Civil Rights Division, U.S. Attorney's Offices, and state and local prosecutors' offices. These results are based on the year the activity occurred, not the year the investigation was initiated.

¹⁰¹The FBI transitioned to a new system in fiscal year 2012 and, therefore, data from prior to fiscal year 2013 are not available.

Figure 10: Arrests, Indictments, and Prosecutions for Excessive Use of Force Supported by the Federal Bureau of Investigation (FBI), Fiscal Year 2016 through Fiscal Year 2020



Source: GAO analysis of FBI data. | GAO-22-104456

Note: Indictments and prosecutions include those brought by the Civil Rights Division, U.S. Attorneys' Offices, and state and local prosecutors' offices. These results are based on the year the activity occurred, not the year the investigation was initiated.

Office of Justice Programs' Office for Civil Rights. The Office of Justice Programs' Office for Civil Rights may initiate administrative investigations into allegations of discrimination by law enforcement agencies that have received grants from DOJ, including allegations of excessive force based upon discrimination.¹⁰² Additionally, the Office for Civil Rights may initiate compliance reviews, which are general audits of a

¹⁰²The DOJ Office for Civil Rights is the principal DOJ office that enforces Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. ("Title VI"), which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance.

DOJ grant recipient's policies and procedures to determine whether the recipient has complied with federal civil rights laws.

From fiscal year 2016 through fiscal year 2020, the Office for Civil Rights reported that it had reviewed 7,277 allegations. We analyzed the 247 allegations of use of excessive force that the office had received during this period, 3 percent of all allegations received by the office. Of those, 242 were closed administratively. Officials stated that they administratively close cases for various reasons at different points of the investigations. For example, they stated that they will administratively close a case if, for example, witnesses stop cooperating, or if the Office for Civil Rights refers the case to another entity within DOJ, such as the Civil Rights Division. Of the five allegations that the office did not administratively close, the office found no violations. Officials stated that, if there is a discriminatory aspect, it is within the jurisdiction of their office to investigate allegations of excessive force. However, in practice, officials stated that they generally refer allegations of excessive force to the Civil Rights Division because they believe the Civil Rights Division has greater expertise and ability to address such issues.

From fiscal year 2016 through fiscal year 2020, the Office for Civil Rights reported that it initiated two compliance reviews on correctional facilities that had multiple complaints alleging excessive use of force.

Outcomes for federal civil rights violations. According to data we analyzed from the U.S. Sentencing Commission, 227 individuals were sentenced for civil rights violations from fiscal year 2016 through fiscal year 2020.¹⁰³ Of these offenders, U.S. Sentencing Commission data indicate that 205 individuals were public officials or law enforcement officers at the time the offense was committed.¹⁰⁴ From fiscal year 2016 through fiscal year 2020, 153 public officials and law enforcement officers received 1 month or more of prison time, with an average prison time of 4 years.

¹⁰³We limited our analysis to offenders where 18 U.S.C. § 242 (Color of Law) or 18 U.S.C. § 241 (Civil Rights Conspiracy) was a statute of conviction. The sentences may reflect convictions on other charges not analyzed as part of this report.

¹⁰⁴Specifically, for offenses involving individual rights, including civil rights, the U.S. Sentencing Commission collects and publishes information on whether the offender was a public official at the time of the offense or the offense was committed under color of law. According to U.S. Sentencing Commission officials we interviewed, law enforcement officers would generally be considered to be acting under color of law.

DOJ Could Improve Oversight of Excessive Force Allegations and Collection of Key Demographic Information, Such as Race

All five DOJ components with jurisdiction over excessive force investigations solicit and receive civil rights allegations from the public. However, these components do not systematically share allegations they receive. Further, the Civil Rights Division's Special Litigation Section does not require staff to analyze such data for trends. In addition, the Civil Rights Division does not have sufficient information to monitor the extent to which it reviews allegations in a timely manner. Finally, these DOJ components do not collect or analyze information on the demographics of potential victims of civil rights abuses, including excessive force.

DOJ Could Better Ensure Allegations of Excessive Force Are Shared Across Relevant Components

DOJ does not ensure that all allegations within the department's jurisdiction are shared with components that may investigate such allegations. We identified two factors that contributed to DOJ components' inconsistent sharing of civil rights allegations—(1) inconsistent tracking of such allegations and (2) incomplete information-sharing practices.

First, some DOJ components did not consistently track civil rights allegations that their offices received. Specifically, the Civil Rights Division and the Office for Civil Rights both track some information related to civil rights allegations that their offices receive. This information includes the date of the allegation, the name of the individual making the allegation, the law enforcement agency indicated, the nature of the allegation, and the outcome of the allegation. However, the U.S. Attorneys' Offices and the FBI do not track allegation information so that it can be shared across the department. Officials with the Executive Office for U.S. Attorneys, which provides administrative support to the nation's 94 U.S. Attorneys' Offices, stated that there was no requirement for U.S. Attorneys to record information on allegations of civil rights violations, including those related to excessive force. Further, officials representing two of three U.S. Attorneys' Offices we interviewed stated that they did not track allegations that their office received.¹⁰⁵ These officials stated that they believed the FBI would track such allegations after the U.S. Attorneys shared them. Officials with the FBI's Civil Rights Unit in headquarters stated that their office did not track allegation information across field offices, but they believed this information was maintained at the field office level.

¹⁰⁵Officials from the third U.S. Attorney's Office we met with stated that their office did track allegations and that this information was helpful to informing their office's prosecutorial priorities.

Second, although DOJ components have taken some steps to share information, components did not consistently share allegations that may have been under DOJ's jurisdiction. For example, our analysis of Office of Civil Rights data indicates that this office did not consistently share allegations that may have been under the jurisdiction of the Civil Rights Division. From fiscal year 2016 through fiscal year 2020, we identified 71 allegations that the Office for Civil Rights, within the Office of Justice Programs, closed solely because this office did not have jurisdiction but did not refer to the Civil Rights Division for further consideration.¹⁰⁶ Office for Civil Rights officials stated that they used their discretion not to refer those complaints to the Civil Rights Division after determining that referral was not appropriate. However, cases that are outside the jurisdiction of the Office for Civil Rights may not be outside of the jurisdiction for the Civil Rights Division, since the Civil Rights Division has a broader ability to investigate and address excessive force allegations through statutes it enforces.

In 2016, the Civil Rights Division and the Office for Civil Rights established a protocol to coordinate and share information on allegations of civil rights violations when these components have overlapping jurisdiction, including allegations of excessive force. This protocol directed the Civil Rights Division and the Office for Civil Rights to share allegation information. This protocol also directs that the components periodically assess and, when appropriate, adopt available options for systematically sharing electronic information on misconduct allegations related to law enforcement agencies that may be receiving DOJ grants.

However, as of March 2021, officials from the Office for Civil Rights stated that they had not worked with the Civil Rights Division to assess or adopt options for systematically sharing electronic information on misconduct allegations related to law enforcement agencies, as called for in the protocol. Officials stated that they believed the protocol's direction to do so was aspirational in nature. Rather, officials from the Office for Civil Rights stated that, when their office receives an allegation of excessive

¹⁰⁶Of the 71 complaints closed administratively but not referred to the Civil Rights Division, 61 complaints were closed because the complainant did not indicate that discrimination was a factor in their treatment, five complaints were not made within 180 days of the incident occurring, and four complaints were closed because the law enforcement agency was not a recipient of federal funding at the time the alleged incident occurred. Though these factors indicate that these allegations are outside the jurisdiction of the Office for Civil Rights, they do not necessarily preclude the Civil Rights Division from initiating an investigation, if warranted.

force that is outside of their jurisdiction, it is their practice to refer such allegations to the Civil Rights Division via email or by regular mail.¹⁰⁷

Civil Rights Division officials told us that they share allegations of civil rights violations with the FBI, Office for Civil Rights, and U.S. Attorneys' Offices through monthly meetings, emails, and phone calls. However, while Civil Rights Division officials provided information on referrals from these offices to the Special Litigation Section, officials were not able to identify the number of referrals made to the Criminal Section because the Criminal Section did not track data related to referrals. Civil Rights Division officials stated that they did not systematically share allegation information because very few of the allegations are both actionable and within DOJ's jurisdiction. For example, officials noted that the Civil Rights Division received more than 18,000 nonactionable allegations related to the Coronavirus Disease 2019 pandemic and masks. Officials also stated that both the Civil Rights Division's public reporting website and the response letter it sends in response to allegations also direct members of the public to report allegations of law enforcement misconduct to the FBI. These officials stated that referring individuals directly to the FBI is more efficient than referring allegations after they are submitted.

Similarly, the FBI and the U.S. Attorneys' Offices also have concurrent jurisdiction with the Civil Rights Division on criminal civil rights violations but do not systematically share allegation information with the Civil Rights Division. Rather, officials representing these offices stated that they share information on specific allegations with the Civil Rights Division through meetings and phone calls when they believe it appropriate to do so. However, neither the FBI, nor the Executive Office for U.S. Attorneys, nor the three U.S. Attorneys' Offices we met with were able to identify the number or type of allegations referred to the Civil Rights Division.

Federal internal control standards state that federal managers should obtain relevant data from reliable internal sources, process these data into quality information, and periodically ensure that their organization has the appropriate tools to communicate such information throughout the

¹⁰⁷As stated previously, the Office for Civil Rights may initiate administrative investigations into allegations of excessive force based upon discrimination by an entity receiving DOJ grant funding. Therefore, not all allegations of excessive force would be under the jurisdiction of the Office for Civil Rights. For example, an allegation of excessive force against a law enforcement agency that is not receiving DOJ grant funding, or an allegation that does not allege discrimination as part of the incident, would not be within the jurisdiction of the Office for Civil Rights.

organization.¹⁰⁸ Additionally, the department's Information Technology Strategic Plan for fiscal years 2019 through 2021 states that reliable information sharing internally across DOJ is required to achieve DOJ's mission.

Phone calls, emails, and meetings are valuable tools for sharing information on a case-by-case basis. However, there may also be benefits to systematically tracking and sharing information across components with the authority to act on excessive force allegations, when such allegations fall within the department's jurisdiction and are legally actionable. For example, DOJ components may decline to pursue an allegation of misconduct at one point in time for a variety of reasons, such as a lack of resources or because the allegation does not fall within priorities of that component, or of the presidential administration, at the time it is received. However, changing circumstances could prompt components to revisit that allegation in the future. Systematically tracking and sharing such allegations would allow the department to more easily revisit allegations in the future, if warranted by changing circumstances.

In addition, members of the public who submit allegations to one of DOJ's five components with jurisdiction over civil rights may not have complete information on the respective jurisdictions and priorities of each of these components. Therefore, systematic tracking and information sharing could provide members of the public with assurance that their allegations will be shared with all components with the power to take action. Further, assessing the feasibility of systematically tracking and information sharing across these components could help address the requirements of the 2016 protocol.

DOJ Could Improve Use of Allegation Information to Identify Patterns or Trends in Police Misconduct

Although the Civil Rights Division's Special Litigation Section is responsible for investigating patterns and practices of law enforcement misconduct, it does not analyze the thousands of misconduct allegations it or other components receive each year to identify patterns or trends of such misconduct.

According to Civil Rights Division officials, the Special Litigation Section typically receives far more allegations related to law enforcement misconduct than it can investigate. Therefore, to assist in identifying potential matters for the Special Litigation Section to pursue, in 2015 the Civil Rights Division established a Case Selection Advisory Committee.

¹⁰⁸[GAO-14-704G](#).

The Civil Rights Division also developed a policy that specified which allegations staff are to refer to the Case Selection Advisory Committee. According to the policy memorandum, staff are to refer allegations in which an individual allegation alleges a pattern or practice of misconduct but do not need to refer allegations of a single incident of misconduct to the Case Selection Advisory Committee.¹⁰⁹

Individuals who are victims of law enforcement misconduct, such as excessive force or biased policing, may not have information to allege a pattern or practice of misconduct in their complaints to the Civil Rights Division. For example, an individual who files an allegation against a particular law enforcement agency may not have knowledge of other incidents involving that agency. Further, even if an individual did have knowledge of other incidents involving the same agency, the Civil Rights Division's online allegation reporting portal, launched in March 2020, does not ask whether individuals are aware of other incidents of a similar nature, so individuals using this form to submit allegations may not be aware that they should share such information.

No entity within the Special Litigation Section is responsible for using the department's allegation information—including information on allegations received by the Civil Rights Division, the FBI, the U.S. Attorneys' Offices, and the Office for Civil Rights—to identify potential problems at law enforcement agencies or analyze trends. Instead, Special Litigation Section staff review each allegation independently and are not required to identify trends across individual allegations of police misconduct that cumulatively may indicate a pattern or practice of misconduct. Civil Rights Division officials stated that, though not required, staff could use Civil Rights Division's allegation database to identify patterns and trends, if they wanted to do so. However, DOJ officials stated that they did not believe such analysis would be valuable because allegations from members of the public very rarely warrant further action and are not a driver of the division's work. As of September 2021, DOJ officials stated that, since the launch of its new online allegation reporting portal in March 2020, none of the civil law enforcement matters initiated by the Special Litigation Section have originated from this source. More generally,

¹⁰⁹Specifically, the memorandum states that if there are indications that the information received involves more than a single incident of misconduct, the information should be referred to the Case Selection Advisory Committee for tracking and review. Information concerning single incidents of misconduct do not need to be forwarded to the Case Selection Advisory Committee for tracking and review.

officials stated that they are not aware of any recent civil rights-related prosecution that originated from an allegation submitted through the portal.

DOJ documentation states that the first step in investigating systemic police misconduct is bringing to light any persistent patterns of misconduct from within a given police department.¹¹⁰ Additionally, the department's Information Technology Strategic Plan from fiscal years 2019 through 2021 identifies optimizing the use of information assets to aid decision-making as a goal and states that the department's success depends on staff having timely access to reliable and useful information to drive decisions in support of litigation, law enforcement, and other mission activities.

Independently analyzing each allegation DOJ receives does not allow the Civil Rights Division to identify patterns and trends across the thousands of allegations DOJ receives each year and, therefore, does not provide DOJ with assurance that its Case Selection Advisory Committee has full information upon which to select cases. Further, while staff may initiate such actions, relying on staff initiative does not provide the department with assurance that it is fully and consistently using its information assets to aid decision-making. Requiring staff to use information from allegations within the department's jurisdiction received across DOJ to identify potential patterns of systemic law enforcement misconduct and analyze trends does not create an obligation for the Special Litigation Section to initiate an investigation. However, doing so—and then sharing this information with the Case Selection Advisory Committee—could improve the utility of DOJ's allegation information and provide greater assurance that the Case Selection Advisory Committee is optimizing its use of information assets to aid its decision-making.

DOJ Could Take Steps to Ensure Staff Review Allegations in a Timely Manner

The Civil Rights Division does not fully monitor the extent to which staff review allegations the division receives in a timely manner. Specifically, the Civil Rights Division does not have a goal for how quickly staff are to initially review incoming allegations—that is, when staff should read each allegation to determine whether the allegation falls within the department's jurisdiction and, if so, what additional steps, such as opening an investigation, may be appropriate to take. According to Civil Rights Division officials, they have not set a timeliness goal because such

¹¹⁰Department of Justice, *How Department of Justice Civil Rights Division Conducts Pattern-or-Practice Investigations*, accessed May 18, 2021, <https://www.justice.gov/file/how-pp-investigations-work/>.

a goal would be unachievable, given the large and fluctuating volume of allegations the division receives.

Further, the division does not have readily available data with which to monitor when staff initially review allegations. Specifically, the division tracks the date an allegation was submitted to the division in its allegation database but does not track the date that personnel initially reviewed the allegation. Instead, officials stated that they use the date an individual submitted an allegation and the closed date—the date division staff sent a response to that individual—to measure how long it took staff to review an allegation, then tracks the median number of days it takes each section to close allegations. However, these data may not give Civil Rights officials sufficient information to determine whether allegations are being initially reviewed in a timely manner. For example, by only reviewing allegations that have been closed, the Civil Rights Division lacks information on whether open cases have been initially reviewed, but are still being investigated, or whether they have not been reviewed at all.

Federal internal control standards state that federal agencies should set objectives to ensure the effectiveness and efficiency of operations. Furthermore, these standards state that managers should conduct monitoring activities to assess the quality of performance over time and obtain relevant data from reliable internal and external sources in a timely manner to achieve its objectives.¹¹¹ The Civil Rights Division cannot ensure that staff are initially reviewing allegations in an efficient and effective manner without setting an objective, or goal, for when staff should conduct such reviews. While it may be appropriate for the division to consider the volume of allegations it receives—and the extent to which the volume may fluctuate—when setting this goal, such circumstances do not negate the importance of monitoring the division’s performance to initially review such allegations in a timely manner. Moreover, without readily available information on the date that staff initially reviewed each allegation, Civil Rights Division officials will not be able to determine whether staff are meeting such a goal. Setting a timeliness goal for initially reviewing allegations and collecting data on when staff review allegations—such as by requiring staff to enter the date of initial review into its case management system—would better position the Civil Rights Division to ensure that serious and viable allegations of excessive force are identified and investigated in a timely manner.

¹¹¹[GAO-14-704G](#).

Collection of Key Demographic Information Could Help DOJ Ensure Equity

DOJ components responsible for investigating and prosecuting civil rights abuses, including excessive force, do not collect or analyze information on the demographics of potential victims of such crimes, such as their races, ethnicities, or other characteristics in matters or cases they initiate. For example, the Civil Rights Division's Special Litigation Section and the Office for Civil Rights collect whether complainants allege that race was a factor in a civil rights violation but do not systematically track the specific racial identities of victims, such as Black or Native American, in color of law or police misconduct matters.

Other DOJ components stated that they do not require staff to track the category of protected class (e.g., race, gender) at all. For example, officials with the criminal section of the Civil Rights Division stated that their database has a field for documenting the demographic group that was the basis for alleged discrimination. However, it does not require staff to identify or collect relevant protected class categories while conducting a matter because the victim's identity as part of a protected class is not necessary to obtain a conviction under criminal statutes relevant to excessive force. Moreover, Civil Rights Division officials stated that they may not have information on a victim's demographics at the outset of a matter. However, Civil Rights Division officials stated that such information might be helpful.

In January 2021, Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, established a goal of embedding equity across federal agencies and programs and noted that the lack of data on key demographic variables—including race, ethnicity, gender, disability, income, and veteran status—has cascading effects and impedes efforts to measure and advance equity.¹¹² Further, federal internal control standards state that federal agencies should obtain relevant data from reliable internal and external sources in a timely manner and process that data into quality information that supports the internal control system.¹¹³ By collecting and analyzing key demographic information of individuals who are victims in color of law or police misconduct matters and cases, DOJ could better ensure that it is

¹¹²Exec. Order No. 13,985, 86 Fed. Reg. 7009. According to this executive order, the term "equity" means "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment."

¹¹³[GAO-14-704G](#).

serving all racial and ethnic groups—including those that may be disproportionately impacted by law enforcement’s excessive force.

Conclusions

High-profile incidents of excessive force by law enforcement officers, such as the death of Mr. George Floyd, can erode public trust in law enforcement and hamper its effectiveness. DOJ can play a key role in reducing excessive force by collecting data on the use of force to support research and by pursuing civil remedies and criminal penalties against law enforcement officers. DOJ has made efforts in these areas, including implementing new data collection efforts and opening investigations into civil rights violations. However, DOJ could improve oversight of these efforts to better realize their potential in addressing law enforcement misconduct, including excessive force.

DOJ did not publish annual summaries of data on the use of excessive force by law enforcement officers for each fiscal year for fiscal years 2016 through 2020, pursuant to the requirement in the Violent Crime Control and Law Enforcement Act of 1994, because it did not assign and communicate clear roles and responsibilities for doing so. Taking such steps would provide DOJ with assurance that it is addressing the requirements of the act and generating useful data for the Congress and the public.

The FBI has also begun collecting data through the National Use-of-Force Data Collection but has not yet published any data on use of force incidents and faces a risk that the program may be discontinued at the end of calendar year 2022. The FBI identified and analyzed the risks associated with the program but has not yet begun to assess other potential data collection strategies, as planned. Assessing alternative data collection strategies would better position the FBI to quickly build upon its data collection efforts and publish data on use of force incidents in an expedient manner, should the existing program be discontinued.

BJA experienced delays in publishing some reports related to law enforcement’s use of force, which, according to stakeholders, has made such data less useful for understanding the topic. However, BJA has not assessed the cause of these delays or determined where in the process some of these reports became delayed. Assessing the causes of these delays and identifying correction actions would better position BJA to ensure that future publications related to law enforcement’s use of force are made available to the public in a timely manner. Further, BJA’s publicly reported timeliness performance measure does not account for

delays in reports related to law enforcement's use of force and, as a result, the agency may have provided the public and the Congress with an inaccurate picture of mission performance and limited effective oversight of BJS operations. Assessing, and adjusting, as appropriate, the publicly reported timeliness performance measure would help BJS determine if it adequately represents BJS's performance in publishing reports in a timely manner and would help BJS more accurately communicate its performance with the Congress and the public.

DOJ has not completed a review for overlap within its data collection efforts related to law enforcement's use of force. Completing a review of these data collection efforts to understand the extent of this potential overlap, positive or negative effects, validating these findings using relevant information and identifying options for managing such overlap could help DOJ ensure that it is minimizing the burden on respondents.

The Civil Rights Division and other DOJ components have cumulatively received thousands of allegations of the use of excessive force but could improve the department's handling of these allegations. Specifically, these components share information on a case-by-case basis but do not systematically track and share information across these components. Though DOJ components have wide latitude in determining whether to open an investigation, systematic tracking and sharing of allegations within DOJ's jurisdiction could provide assurance to members of the public who submit such allegations to DOJ that all components with the authority to take action are aware of their allegations, regardless of how the components chose to proceed. Further, the Civil Rights Division has not established a procedure to use this information to identify potential patterns of systemic law enforcement misconduct, analyze trends, and share this information with the Case Selection Advisory Committee. Requiring staff to analyze allegation information from across the Department to identify potential patterns of systemic law enforcement misconduct and then share this information with the Case Selection Advisory Committee would provide the Civil Rights Division with greater assurance that the division is optimizing its use of information assets to aid its decision-making.

By submitting allegations of police misconduct, including excessive force, members of the public are trusting the Civil Rights Division to review such allegations in a timely manner. However, the Civil Rights Division has not established time frames for staff to initially review allegations. Establishing a goal for initially reviewing allegations in a timely manner would provide the Civil Rights Division with better assurance that staff are

aware of it and make efforts to meet it. Further, absent collecting and monitoring data on the extent to which staff meet this goal, Civil Rights Division officials cannot ensure that serious and viable allegations of excessive force are identified and investigated in a timely manner.

Finally, DOJ components responsible for investigating and prosecuting civil rights abuses, including excessive force, do not collect or analyze information on the demographics of victims of such crimes, such as their race. As a result, DOJ could be missing an opportunity to ensure that it is serving all racial and ethnic groups—including racial and ethnic groups that may be disproportionately impacted by excessive force.

Recommendations for Executive Action

We are making a total of 11 recommendations, including four to the Attorney General, four to the Assistant Attorney General for Civil Rights, two to the Assistant Attorney General of the Office of Justice Programs, and one to the Director of the FBI:

The Attorney General should assign responsibility for collecting and annually publishing data on the use of excessive force by law enforcement officers and communicate this responsibility to the designated DOJ components. (Recommendation 1)

The Director of the FBI should begin to assess potential alternative data collection strategies for the National Use-of-Force Data Collection. (Recommendation 2)

The Assistant Attorney General of the Office of Justice Programs should direct BJS to assess the causes of delays in publishing reports related to law enforcement's use of force and identify corrective actions to address such delays. (Recommendation 3)

The Assistant Attorney General of the Office of Justice Programs should direct BJS to assess, and adjust, as appropriate, its publicly reported performance measure on the timeliness of publishing its reports to help ensure that it accurately reflects BJS's performance. (Recommendation 4)

The Attorney General should complete an analysis to understand the extent of potential overlap among its data collection efforts related to law enforcement's use of force, its positive or negative effects, validate these findings using relevant information and identify options for managing such overlap. (Recommendation 5)

The Attorney General should ensure that the Office for Civil Rights, the Civil Rights Division, the FBI, and the U.S. Attorneys' Offices jointly assess the feasibility of systematically tracking and sharing information on civil rights violation allegations within DOJ's jurisdiction. (Recommendation 6)

The Assistant Attorney General for Civil Rights should require staff to use information from allegations within the department's jurisdiction received across DOJ to identify potential patterns of systemic law enforcement misconduct and analyze trends. (Recommendation 7)

The Assistant Attorney General for Civil Rights should establish a procedure to share information on potential patterns of systemic law enforcement misconduct and trends with the Case Selection Advisory Committee. (Recommendation 8)

The Assistant Attorney General for Civil Rights should establish a timeliness goal for staff to initially review incoming allegations. (Recommendation 9)

The Assistant Attorney General for Civil Rights should ensure that the division collects and monitors data on the extent to which staff meet the division's timeliness goal for reviewing incoming allegations. (Recommendation 10)

The Attorney General should ensure that components responsible for investigating and prosecuting civil rights abuses, including excessive force, collect and analyze key demographic information about victims in matters or cases that components initiate. (Recommendation 11)

Agency Comments and Our Evaluation

We provided a draft of this report to OMB and DOJ for their review and comment. OMB informed us that they had no comments on the draft report. DOJ provided written comments, which are summarized below and reproduced in full in appendix V, and technical comments, which we incorporated as appropriate.

DOJ concurred with nine of our eleven recommendations and described actions planned or under way to address them. DOJ did not concur with two of our recommendations.

DOJ concurred with our first recommendation and stated that the department will evaluate its current data collections and resources in

order to assign and communicate this responsibility. DOJ concurred with our second recommendation and stated that the FBI will begin to explore alternative strategies while taking steps to increase participation in its data collection efforts. DOJ concurred with our third recommendation and stated that BJS will review its collections from the last 5 to 6 years and assess delays at each stage of its process. DOJ concurred with our fourth recommendation and stated that the BJS will review and assess its timeliness measures and adjust them, as appropriate, to ensure they accurately reflect BJS's performance. DOJ concurred with our fifth recommendation and stated that the department will expand OJP and FBI's efforts to identify and implement death in custody data collection best practices and reduce duplicative data collection efforts to include all data collections related to law enforcement's use of force.

DOJ also concurred with our sixth recommendation that the Office for Civil Rights, the Civil Rights Division, the FBI, and the U.S. Attorney's Offices jointly assess the feasibility of systematically tracking and sharing information on civil rights violation allegations within DOJ's jurisdiction. DOJ also provided additional context related to its efforts to implement this recommendation. Specifically:

- First, DOJ stated that many of the allegations it receives from members of the public fall outside the department's jurisdiction. We note this in our report, and our recommendation is focused on how DOJ tracks and shares allegations within DOJ's jurisdiction.
- Second, DOJ stated that our report does not include an analysis of the full scope of sources for the Department's law enforcement misconduct work, or the Department's steps to investigate and share among its components, as appropriate, all allegations about law enforcement misconduct that are within its jurisdiction and have indicia of investigative merit. DOJ also stated that the department's criminal prosecutions and civil enforcement cases related to law enforcement misconduct arise primarily from proactive work by DOJ attorneys and staff in the Criminal and Special Litigation Sections, the FBI and U.S. Attorneys' Offices, rather than from allegations submitted by members of the public. Our report discusses the various sources of DOJ's work related to law enforcement misconduct, including media reports, court filings, and other publicly-available information, as well as processes for internal coordination between DOJ components. In response to DOJ's comments, we have also included in the report DOJ's position that the majority of its work in this area is generated by DOJ attorneys and staff. DOJ also stated that our

report suggests allegations submitted by the public should be the primary source of the DOJ's law enforcement misconduct work. This is not what we say in our report. Rather, our report notes that the department has discretion in determining which allegations to pursue. We continue to believe that systematic tracking and sharing of allegations within DOJ's jurisdiction could provide assurance that all components with the authority to take action are aware of these allegations, regardless of how the components chose to proceed.

- Third, DOJ stated that each component has the expertise to review the reports it receives, assess whether they warrant further review within their component or by another component, and refer those reports to other components where appropriate. DOJ further stated that requiring multiple components to conduct duplicative reviews would divert limited resources away from enforcement work. We believe that evaluating the feasibility of systematically tracking and sharing this information would allow DOJ to weigh potential costs, including the potential for duplicative reviews by components, against the potential benefits of each component having complete information to inform its work.

Regarding our seventh recommendation, that the Civil Rights Division use information from allegations within the department's jurisdiction received across DOJ to identify potential patterns of systemic law enforcement misconduct and analyze trends, DOJ did not concur. In its comments, DOJ stated that that implementing the recommendation would be contingent upon the outcome of the feasibility assessment called for in recommendation six. We disagree that this recommendation is contingent upon DOJ systematically tracking and sharing allegations across components. While systematic tracking and sharing may make it more efficient for staff to identify potential patterns of systemic misconduct, a lack of such sharing would not preclude staff from analyzing the allegations already received and shared across the department. For example, as we note in our report, officials representing the Office for Civil Rights, the FBI and the U.S. Attorneys' Offices stated that they share information on specific allegations with the Civil Rights Division through meetings and phone calls when they believe it appropriate to do so. Further, the Civil Rights Division itself receives thousands of allegations of police misconduct each year, which it could also use to analyze trends. Using this information could help bring to light persistent patterns of misconduct in police departments and support the department's goal of optimizing the use of information assets to aid decision-making.

Similarly, DOJ did not concur with our eighth recommendation, that the Civil Rights Division establish a procedure to share information on potential patterns of systemic law enforcement misconduct and trends with the Case Selection Advisory Committee. In its comments, DOJ stated that implementing the eighth recommendation would also be contingent upon the outcome of the feasibility assessment called for in recommendation six. We disagree that this recommendation is contingent upon DOJ systematically tracking and sharing allegations across components. As discussed above, the Civil Rights Division is already positioned to identify potential patterns of law enforcement misconduct and analyze trends within the allegations it receives and the allegations already shared by other components through meetings and phone calls. After it identifies such patterns and trends, establishing a procedure to share information with the Case Selection Advisory Committee would help the division optimize the use of its information assets to aid its decision-making.

Regarding our ninth and tenth recommendation, DOJ concurred and stated that it plans to adopt a goal of six weeks for conducting initial reviews. With respect to our eleventh recommendation, DOJ concurred pending coordination with OMB, as necessary.

We are sending copies of this report to appropriate congressional committees; the Attorney General, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

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



Gretta L. Goodwin
Director, Homeland Security and Justice

List of Addressees

The Honorable Patrick Leahy
Chairman
Committee on Appropriations
United States Senate

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Jeanne Shaheen
Chairwoman
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Jerry Moran
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Jon Ossoff
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Cory Booker
Chair
Subcommittee on Criminal Justice and Counterterrorism
Committee on the Judiciary
United States Senate

The Honorable Sheldon Whitehouse
Chairman
Subcommittee Federal Courts, Oversight, Agency Action, and Federal Rights
Committee on the Judiciary
United States Senate

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

The Honorable John Katko
Ranking Member
Committee on Homeland Security
House of Representatives

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
House of Representatives

The Honorable Matt Cartwright
Chairman
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
House of Representatives

The Honorable Robert Aderholt
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
House of Representatives

The Honorable Shelia Jackson Lee
Chair
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on the Judiciary
House of Representatives

The Honorable Karen Bass
House of Representatives

Appendix I: Objectives, Scope, and Methodology

We prepared this report under the authority of the Comptroller General to conduct work in light of congressional interest in law enforcement's use of force. This report addresses (1) DOJ's collection and publication of data related to use of force by law enforcement officers, (2) what is known about practices that may reduce excessive force, and the extent to which such practices may also address biased law enforcement, (3) DOJ resources for practices that may reduce excessive force, and (4) DOJ's investigations into allegations of excessive force used by law enforcement.

To address our first objective, we reviewed laws, such as the Violent Crime Control and Law Enforcement Act of 1994 and the Death in Custody Reporting Act of 2013 (DCRA), as well as congressional directives referenced in reports accompanying annual appropriations acts, to identify data collection requirements.¹ We identified DOJ's data collection efforts that address these requirements, as well as other collections initiated by DOJ components, by reviewing DOJ's documentation and websites. We included DOJ data collection efforts related to law enforcement's use of force—including those that collected information on use of force incidents, as well as use of force policies and trainings—during fiscal year 2016 through 2020.² We also learned about DOJ data collection efforts through interviews with officials from DOJ components, such as the Bureau of Justice Statistics (BJS) and the Bureau of Justice Assistance (BJA) within the Office of Justice Programs and the Federal Bureau of Investigation (FBI).

We then reviewed and analyzed data on use of force incidents from the FBI's National Use-of-Force Data Collection.³ Further, we reviewed and analyzed BJA and the Office of Community Oriented Policing Services' (COPS Office) data on law enforcement officer training on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public. We assessed the reliability of these data by performing electronic testing for obvious errors in accuracy and

¹Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796; Death in Custody Reporting Act of 2013, Pub. L. No. 113-242, 128 Stat. 2860.

²We began our review of DOJ activities in fiscal year 2016 to include and extend past the period covered by DOJ Office of Inspector General reports, discussed in this report. We ended our review period in fiscal year 2020, the last year of complete data at the time we initiated our work.

³Specifically, we reviewed and analyzed data that the FBI collected on law enforcement use of force incidents that occurred in 2019 and in 2020. We selected these years because they were the years in which the FBI fully collected these data during our review.

completeness; reviewing existing information about the data and the systems that contain these data, such as relevant guidance and training materials; and interviewing relevant DOJ officials. We determined that FBI data on use of force incidents and BJA and COPS Office data on law enforcement officer training were sufficiently reliable for reporting trends on these topics during this period.

We then reviewed agency documentation related to the implementation of these data collection efforts. This documentation included standard operating procedures for collecting or publishing data, survey questionnaires used to collect data related to the use of force, published analyses of the data collected, and information collection requests that DOJ components submitted to the Office of Management and Budget (OMB).⁴

We then compared our findings with the Violent Crime Control and Law Enforcement Act of 1994; our guide on fragmentation, overlap, and duplication; as well as selected principles found in the Project Management Institute's *A Guide to the Project Management Body of Knowledge*.⁵ We also compared our findings with principles found in *Standards for Internal Control in the Federal Government*.⁶ The *Standards for Internal Control in the Federal Government* principles we identified as significant to this objective were assigning responsibility and delegating authority to key roles throughout an entity to achieve objectives; communicating internally; identifying, analyzing, and responding to risks related to achieving defined objectives; and evaluating and remediating deficiencies.

To address our second objective, we conducted a review of academic literature and collected perspectives from various stakeholders.⁷ To

⁴As required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (codified, as amended, at 44 U.S.C. §§ 3501-3521), OMB generally reviews and approves federal agencies' requests to implement data collection efforts.

⁵See GAO, *Fragmentation, Overlap, and Duplication: An Evaluation and Management Guide*, [GAO-15-49SP](#) (Washington, D.C.: Apr. 14, 2015); and Project Management Institute, *A Guide to the Project Management Body of Knowledge*, 6th ed. (Newtown Square, PA: 2017).

⁶GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

⁷See app. III for a full listing of studies we used and app. IV for the full list of stakeholders we interviewed.

conduct the literature review, we searched databases, including EBSCO, HeinOnline, ProQuest, Medline, and Westlaw Edge to identify scholarly publications published in the United States from 2000 through June 2021.⁸ We chose these dates because they encompassed both historical and current perspectives on this issue. We continued and repeated these searches over the course of the audit to capture the most recent publications through June 2021. We used the following search terms: “police” or “law enforcement,” with the terms “use of force,” “lethal force,” “excessive force,” or “police brutality.” To refine these results, we filtered these results by using additional search terms.⁹ We then conducted additional searches using terms to identify specific practices used by law enforcement and using terms identified in stakeholder interviews and background reading.¹⁰

We then selected articles to identify the practices most commonly discussed related to reducing excessive use of force. Specifically, we assessed 257 abstracts produced by the literature search and identified 86 scholarly studies and articles that discussed practices related to reducing excessive use of force. We then read and analyzed each of the 86 articles to determine the type of practices discussed and whether the article also discussed bias in law enforcement. Most of the studies we examined focused on the extent to which practices changed the amount of force used at all, regardless of whether it was excessive. Generally, law enforcement officers may use force to mitigate an incident, make an arrest, or protect themselves or others from harm. Because reducing the use of any force may also reduce excessive force, we refer to these practices as potentially promising for reducing excessive use of force and assume that if force is unavoidable, these practices would not make them

⁸The full list of databases we searched included ABI/INFORM® Professional Advanced, Analytical Abstracts, APA PsycInfo, Current Contents® Search, EBSCO, EconLit, ERIC, HeinOnline, NTIS: National Technical Information Service, Policy File Index, ProQuest Criminology Collection, ProQuest Dissertations and Theses Professional, ProQuest Education Database, ProQuest Health Collection, ProQuest Science and Technology Collection, ProQuest Sociology Collection Medline, PTSDpubs, SciSearch®: a Cited Reference Science Database, Social SciSearch, and Westlaw Edge.

⁹These terms were “review,” “review of studies,” “review of the literature,” “literature review,” “systematic review,” “meta-analysis,” “study,” or “what is known.”

¹⁰These terms included “best,” “leading,” “good,” “novel,” “innovate,” “professional,” “accepted,” “effective,” “key,” “essential,” or “standard,” in close proximity to “practice,” “process,” “procedure,” “strategy,” “approach,” “method,” “technique,” “lesson learned” or “benchmark.” Other terms we used included “crisis intervention,” “team model,” “de-escalation,” “independent oversight,” or “body camera,” “training,” or “sensitivity.”

avoidable. To further develop the list of practices, we also considered input from academic researchers and stakeholders, as well as DOJ, on any additional practices to include. Using this work, we identified 14 of the practices most commonly discussed related to reducing excessive use of force.

To determine what is known about how effective the most commonly discussed practices are in reducing the use of excessive force, we then narrowed our scope to peer-reviewed articles that employed formal literature reviews or meta-analyses.¹¹ We focused on formal literature reviews and meta-analyses to synthesize the existing body of academic literature. We then evaluated the methodology used in each of the articles to ensure that they met our criteria and eliminated the 77 articles where the methodology did not meet our criteria.¹²

We then recorded key findings, and any relevant limitations and caveats of the nine remaining formal literature reviews and meta-analyses, in an Excel spreadsheet, which another GAO research specialist independently reviewed to determine if they agreed with the team's conclusions. The GAO research specialist agreed with the team's conclusions in all instances.

To obtain additional perspectives not captured in the academic literature, we obtained views from stakeholders on the extent to which the most commonly discussed practices may be promising in reducing the use of excessive force and bias in law enforcement. We identified four core groups to meet with: (1) civil rights organizations, (2) law enforcement associations, (3) academic researchers, and (4) federal agencies. We identified groups and individuals to meet with based on references in articles included in our literature review and referrals from internal stakeholders, field practitioners, and the other individuals and groups we met with. We ensured that these stakeholders had experience or

¹¹Meta-analyses are reviews that analyze other studies and synthesize their findings, usually through quantitative methods.

¹²We selected articles for inclusion if the purpose of the article was to synthesize or evaluate findings from the existing literature; the author's search methodology was provided in the article and included the key details, such as the data sources searched, search terms used, and time period of search; and the author(s) provided how they selected the articles they reviewed or analyzed. Articles were marked as not relevant if they did not focus their literature review or meta-analysis on literature examining outcomes, such as police use of force or racial bias.

knowledge of practices that may reduce the use of excessive force by analyzing their publications (including materials posted to their web sites), professional conferences or academic presentations, training, or testimony on this topic.¹³

Based on these efforts, we identified 9 law enforcement associations, 20 civil rights organizations, four academic researchers and three federal agencies as having relevant experience or knowledge on these practices. We reached out to each of these groups by phone and e-mail requesting their input. We held interviews with each group that responded to our outreach. This resulted in interviews with seven law enforcement associations, five civil rights organizations, four academic researchers and two federal agencies. The results from our interviews are not generalizable and may not represent all views on this topic. However, their views provide helpful insights on practices that address excessive use of force and bias in law enforcement.¹⁴

To address our third objective, we obtained documentation and interviewed officials from DOJ components, including the COPS Office, BJA, and the Community Relations Service. First, we reviewed DOJ websites and documentation for potentially relevant programs that may have provided resources for practices that may reduce the excessive use of force. We then sent a list of the potentially relevant programs to DOJ officials to confirm that these programs could have provided resources related to reducing the excessive use of force. Next, we provided DOJ officials with a list of key words related to practices that may reduce the use of excessive force, which they used to search their grant management and training databases.¹⁵ Specifically, DOJ officials provided us with information on any grants, training, and technical assistance provided by these entities from fiscal years 2016 through 2020 that matched the list of key words we provided them. Finally, we requested project descriptions from the relevant grants, trainings, or

¹³We also considered referrals from other stakeholders or references to relevant organizations from the literature review.

¹⁴See app. IV for the full list of stakeholders we interviewed.

¹⁵We identified the following key words from the literature review: use of force, body-worn cameras, body cameras, less-lethal force, less than lethal force, independent police oversight, civilian review boards, TASERS, tear gas, pepper spray, flash bangs, procedural justice, guardian model, guardian policing, Crisis Intervention Model, co-responder model, de-escalation, implicit bias training, higher education standards for hiring officers, personality test, prescreening, employment screening, inclusion, diversity, and women in law enforcement.

technical assistance to describe how these resources were used to reduce excessive use of force.

We assessed the reliability of these data by interviewing agency officials and comparing them with other previously published data. Specifically, we compared the grant dollar amount, grant recipient, and fiscal year of the grant award with publicly available data on DOJ's Office of Justice Programs' website. Additionally, we requested samples of project descriptions for each grant program and reviewed the project descriptions and grant category (e.g., body-worn cameras, de-escalation, procedural justice) that mention excessive use of force or the key words we identified for practices to reduce the excessive use of force. A second analyst reviewed the first analyst's initial determination of these grants, trainings, and technical assistance identified to confirm that they are relevant to reducing the excessive use of force. We identified some grants, trainings, and technical assistance that were duplicative or not relevant and removed them from our analysis. To confirm that our analysis of these grants, trainings, and technical assistance was correct, we asked DOJ officials to review and concur with our methodology. We assessed the reliability of data on the number of awarded grants, the amount of those grants, and the number of law enforcement officers trained by interviewing agency officials and comparing awarded grant data to other previously published information on awarded grants from fiscal year 2016 to fiscal year 2020. We determined that the data on the number of awarded grants, the grant amounts, and the number of law enforcement officers trained were sufficiently reliable for the purposes of our reporting objectives.

To address the fourth objective, we obtained data from fiscal year 2016 through fiscal year 2020 on civil rights violations allegations, investigations, and cases from DOJ's Civil Rights Division, the 94 U.S. Attorneys' Offices, the FBI, and the Office of Civil Rights within the Office of Justice Programs, as well as the U.S. Sentencing Commission. We assessed the reliability of these data by reviewing existing information about the data and the systems that produced them, such as relevant handbooks and training materials, and interviewing relevant DOJ officials.¹⁶ We determined that the data were sufficiently reliable for reporting on the number of allegations received by certain DOJ

¹⁶Additionally, we conducted electronic testing on data from the 94 U.S. Attorneys' Offices, the Office of Civil Rights and the U.S. Sentencing Commission.

components, investigations opened and closed by DOJ components, and the number and outcomes of cases filed in federal court.

We further obtained and analyzed agency documentation, including DOJ policies and memorandums, to understand DOJ's process and procedures for internal sharing, analyzing, and managing of excessive use of force allegations. We corroborated our understanding of agency documentation by interviewing officials from the Civil Rights Division, three U.S. Attorneys' Offices, the FBI, and the Office of Civil Rights. We further discussed with these officials the extent to which investigating civil rights violations, including excessive force, was a priority area for their offices from fiscal years 2016 through 2020, and various challenges associated with investigating and prosecuting such incidents. In particular, we interviewed officials from the Special Litigation Section and Criminal Section of the Civil Rights Division; the Civil Rights Unit within the FBI; and officials from the U.S. Attorney's Office for the District of Arizona, the Western District of Louisiana, and the District of Columbia.¹⁷

We compared our findings with the President's Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, DOJ's Information Technology Strategic Plan, DOJ protocols, and *Standards for Internal Control in the Federal Government*.¹⁸ The *Standards for Internal Control in the Federal Government* principles we identified as significant to this objective related to setting objectives, internal communication; evaluation; monitoring internal control activities; and obtaining and using relevant, quality data.

We conducted this performance audit from August 2020 through December 2021 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

¹⁷We selected these U.S. Attorneys' Offices based on the number of investigations opened in each office violations from fiscal year 2016 through fiscal year 2020. In particular, we selected one office that had a high number of investigations and two offices that had an average number of investigations as compared with other U.S. Attorney's Offices. While the information from interviews with officials from these three U.S. Attorney's Offices are not generalizable to all 94 U.S. Attorney's Offices, the interviews provided us with valuable perspectives on how three offices prioritize; investigate; and prosecute civil rights violations, including excessive force.

¹⁸Exec. Order No. 13,985, 86 Fed. Reg. 7009 (Jan. 20, 2021); and [GAO-14-704G](#).

believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Department of Justice Data Collection Efforts Related to Law Enforcement's Use of Force

During fiscal years 2016 through 2020, Department of Justice (DOJ) components—including the Bureau of Justice Assistance (BJA) and the Bureau of Justice Statistics (BJS) within the Office of Justice Programs, the Federal Bureau of Investigation (FBI), and the Office of Community Oriented Policing Services (COPS Office)—collected data related to law enforcement use of force through nine data collection efforts. See descriptions of these data collection efforts below.

BJA's state deaths in custody data. In October 2019, BJA began collecting data from states on the deaths of individuals in the custody of state and local law enforcement agencies in response to the Death in Custody Act of 2013 (DCRA).¹ DCRA generally requires states that receive funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program to report “on a quarterly basis and pursuant to guidelines established by the Attorney General, information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).”² Generally, DCRA requires states receiving certain federal funds to submit the following data: the deceased individual's name, gender, race, ethnicity, and age; date, time, and location of death; the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and a brief description of the circumstances surrounding the death.³

DCRA also required the Attorney General to carry out a study of the information reported by states and federal law enforcement agencies on deaths in custody to “(A) determine means by which such information can be used to reduce the number of such deaths; and (B) examine the relationship, if any, between the number of such deaths and the actions of management of such jails, prisons, and other specified facilities relating to such deaths.” The Attorney General was required to prepare and submit

¹Pub. L. No. 113-242, 128 Stat. 2860.

²34 U.S.C. § 60105(a). Pursuant to 34 U.S.C. § 10251(a)(2), “State” means “any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.”

³34 U.S.C. § 60105(b).

to the Congress a report that contains the findings of the study 2 years after December 18, 2014, the date of enactment of DCRA.⁴

According to BJA officials, they began assessing the validity and completeness of fiscal year 2020 data in May 2021 and plan to complete a review of these data by October 2021. BJA officials also stated that, as of March 2021, BJA had begun collecting fiscal year 2021 data. Further, as of March 2021, DOJ had entered into an agreement with a consultant to develop a report that is intended to meet the DCRA requirement to determine the means by which death in custody data can be used to reduce the number of such deaths. According to DOJ, where feasible, this report is also to examine the relationship, if any, between the number of such deaths and the actions of management of such jails, prisons, and other specified facilities relating to such deaths. As of October 2021, BJA officials stated that the consultant submitted a draft report for agency review.

BJS's Federal Law Enforcement Agency Deaths in Custody Reporting Program. In December 2016, in response to DCRA, BJS began collecting data on the deaths of individuals in the custody of federal law enforcement agencies⁵ In December 2020, BJS published a report on deaths in federal custody in fiscal years 2016 and 2017, which included information on the number of deaths that occurred in the custody of federal law enforcement agencies, manner of deaths, and demographic characteristics of the deceased.⁶ In September 2021, BJS published a report analyzing these data it collected for fiscal year 2018 and 2019.⁷

The FBI's National Use-of-Force Data Collection. In January 2019, the FBI began collecting data on law enforcement use of force incidents

⁴Pub. L. No. 113-242, 128 Stat. 2860 (Dec. 18, 2014). Specifically, DCRA required the Attorney General to submit this report to the Congress not later than 2 years after December 18, 2014, but because DOJ did not begin collecting DCRA data until after this date, it was not positioned to develop the study. See 34 U.S.C. § 60105(f).

⁵Pub. L. No. 113-242, § 3, 128 Stat. 2860, 2861-62 (Dec. 18, 2014). See 18 U.S.C. § 4001 note.

⁶Department of Justice, Bureau of Justice Statistics, *Federal Deaths in Custody and During Arrest, 2016-2017 - Statistical Tables* (Washington, D.C.: December 2020). According to the report, 82 federal law enforcement agencies responded to BJS's Federal Law Enforcement Agency Deaths in Custody Reporting Program in fiscal year 2016 while 108 responded in fiscal year 2017.

⁷Department of Justice, Bureau of Justice Statistics, *Federal Deaths in Custody and During Arrest, 2018-2019 - Statistical Tables* (Washington, D.C.: September 2021).

nationwide through the National Use-of-Force Data Collection. According to FBI documentation, the FBI initiated the program because the lack of nationwide statistics has hindered the ability of law enforcement and the communities they serve to have an informed dialogue on law enforcement's use of force.

Through the National Use-of-Force Data Collection, law enforcement agencies report to the FBI, on a voluntary basis, information on any incident in which a law enforcement officer discharges a firearm at or in the direction of a person, or which results in death or serious bodily injury. For each incident, the FBI collects information on

- the type of force used (e.g., firearm, electronic control weapon, baton, physical, etc.) and associated outcomes (e.g., death or serious bodily injury requiring medical intervention or hospitalization);
- general information about the incident, including the date, time, location, and reason for initial contact; and
- demographic information on both the law enforcement officers and individuals involved in such incidents, including their age, gender, and race.

As of September 2021, the FBI had collected data on incidents that occurred from January 2019 through September 2021 and has published a list of the law enforcement agencies that submitted data for the same period.

After 2 full years of data collection, the FBI had achieved participation by law enforcement agencies representing 44 percent and 55 percent of officers nationwide in the National Use-of-Force Data Collection, according to FBI documentation, for calendar years 2019 and 2020, respectively.⁸

Because the FBI has not yet met participation thresholds set by the Office of Management and Budget (OMB) for the National Use-of-Force Data

⁸According to the FBI, when determining law enforcement participation in the National Use of Force Data Collection, the FBI uses a total count of 860,000 sworn police employees, as estimated by the Uniform Crime Reporting Program. This police employee count includes all known and reasonably presumed federal, local, state, tribal, and college and university sworn law enforcement personnel eligible to participate in the National Use of Force Data Collection. In November 2021, FBI officials told us that the FBI has achieved 54 percent participation for 2021 as of October 18, 2021.

Appendix II: Department of Justice Data
Collection Efforts Related to Law
Enforcement's Use of Force

Collection, the FBI has not yet been able to publish the data on use of force incidents.

BJA and the COPS Office's data on law enforcement officer training. From fiscal years 2016 through 2020, BJA and the COPS Office collected data on the extent to which applicants or grantees of specific grant programs offered officer training on topics such as the use of force, de-escalation, and bias, in response to congressional directives.⁹

Specifically, BJA collected training data on whether law enforcement agencies that received a JAG award offered trainings on certain topics (see table 9).

Table 9: GAO Analysis of Law Enforcement Agencies' Training Reported to the Bureau of Justice Assistance, Fiscal Years 2016 through 2020

Fiscal year	Number of law enforcement agencies reporting	Percent of agencies that offered training, by topic					
		Use of force	De-escalation	Racial/ethnic bias	Gender bias	Bias based on sexual orientation/gender identity	Community engagement
2016	958	96	87	85	72	69	73
2017	733	96	89	86	76	72	74
2018	651	96	89	85	72	71	73
2019	511	96	91	85	74	74	73
2020	381	96	85	84	73	72	67

Source: GAO analysis of Department of Justice data. | GAO-22-104456

Note: The percentages in the table reflect the percent of law enforcement agencies that reported offering mandatory or optional training to law enforcement officers or recruits on specified topics for a given fiscal year, as of August 2021. For all of these topics for fiscal years 2016 through 2019, the majority of law enforcement agencies reported that their training was mandatory. Additionally, Department of Justice officials provided the information contained in the table for fiscal year 2020.

⁹For example, Senate Report 114-66, accompanying the Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, 129 Stat. 2242, directed the Department of Justice to require law enforcement agencies to submit information on training on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public that officers have received as part of the grant application submission for Byrne-JAG and COPS Hiring programs. Similarly, Senate Report 116-127, accompanying the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317, directed the department to continue following direction provided in fiscal years 2017, 2018, and 2019 regarding the submission of officer training data as part of both the Byrne-JAG and COPS Hiring grant process. The department was further directed to provide these data to the Bureau of Justice Statistics in order to begin a data collection set and issue a report on how officers are trained, what kind of training they receive, and the rank of officers receiving training.

Appendix II: Department of Justice Data
Collection Efforts Related to Law
Enforcement's Use of Force

The COPS Office collected data on law enforcement training hours offered on selected topics through the application process for one of its grant programs, the COPS Hiring Program. However, the COPS Office did not solicit applications for the grant program for fiscal years 2018 and 2019, so it did not collect training data from its applicants for those fiscal years.¹⁰ Table 10 provides the median in-service training hours reported by applicants of the COPS Hiring Program.

Table 10: GAO Analysis of Law Enforcement Agencies' In-Service Training Hours as Reported in Applications for the Community-Oriented Policing Services (COPS) Hiring Grant Program, Fiscal Years 2017 and 2020

Fiscal year	Number of law enforcement agencies reporting	Median hours of in-service training reported, by topic per year					
		Use of force	De-escalation	Racial and ethnic bias	Gender bias	Bias based on sexual orientation/gender identity	Community engagement
2016	1,181	8	2	2	2	1	2
2017	1,143	8	4	2	2	1	2
2020	1,091	8	4	2	2	1	2

Source: GAO analysis of Department of Justice data. | GAO-22-104456

Note: The COPS Office did not solicit applications for the COPS Hiring Grant Program in fiscal years 2018 and 2019 and, therefore, did not collect training information for those years.

BJS's Mortality in Correctional Institutions. In 2000, BJS began the Mortality in Correctional Institutions data collection effort in response to a previous iteration of DCRA—the Death in Custody Reporting Act of 2000.¹¹ This program annually collected data on individuals who died in custody from 50 state departments of corrections, approximately 2,800 local jail jurisdictions, and the Bureau of Prisons. Specifically, the data that BJS collected through Mortality in Correctional Institutions included

¹⁰According to COPS Office officials, the fiscal year 2018 and 2019 COPS Hiring Program grant solicitations were placed on hold, due to the issuance of a nationwide injunction by a U.S. District Court on April 12, 2018.

¹¹Pub. L. No. 106-297, 114 Stat. 1045 (Oct. 13, 2000). Under the Death in Custody Reporting Act of 2000, to be eligible to receive certain grant awards, a state is required to submit an application to the Attorney General that demonstrates that the state has provided assurances that it will follow guidelines established by the Attorney General in reporting, on a quarterly basis, information regarding the death of any person who is in the process of arrest, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, or other local or State correctional facility (including any juvenile facility) that, at a minimum, includes—(A) the name, gender, race, ethnicity, and age of the deceased; (B) the date, time, and location of death; and (C) a brief description of the circumstances surrounding the death. See 34 U.S.C. § 12104(a)(2).

deceased individuals' demographic characteristics and criminal background (i.e., legal status, offense type, and time served). BJS also collected data on the circumstances surrounding individuals' deaths, including the date, time, location, and cause of death, as well as information on the autopsy and medical treatment provided. BJS published four reports during fiscal years 2016 through 2020 on individuals who died on correctional institutions using Mortality in Correctional Institutions.¹² BJS discontinued the Mortality in Correctional Institutions program in March 2021. According to officials, BJS discontinued the collection because BJA became responsible for collecting these data. According to its web site, BJS is planning to publish the results of its 2019 collection in December 2021.

BJS's Police-Public Contact Survey. Since 1996, BJS has periodically administered a nationally representative survey to members of the public on their interactions with law enforcement, including experiences with use of force, through the Police-Public Contact Survey. This survey collects information on instances when the surveyed individuals sought assistance from law enforcement (e.g., to report suspicious activity, a medical emergency, etc.) as well as instances when law enforcement stopped or approached them (e.g., for a traffic stop, an arrest, etc.). Additionally, the survey asks whether respondents experienced any threats or use of force from law enforcement officers, the type of force used, and whether they perceived the force to be excessive. According to DOJ, the Police-Public Contact Survey is one means through which DOJ collected and published information required by the Violent Crime Control and Law Enforcement Act of 1994.¹³ Since fiscal year 2016, BJS has administered the Police-Public Contact Survey twice and has published

¹²See Department of Justice, Bureau of Justice Statistics, *Mortality in State and Federal Prisons, 2001-2016 - Statistical Tables* (Washington, D.C.: February 2020); *Mortality in Local Jails, 2000-2016 - Statistical Tables* (Washington, D.C.: February 2020); *Mortality in Local Jails, 2000-2014 - Statistical Tables* (Washington, D.C.: December 2016); and *Mortality in State Prisons, 2001-2014 - Statistical Tables* (Washington, D.C.: December 2016).

¹³Agency Information Collection Activities: Proposed eCollection eComments Requested; Revision of a Currently Approved Collection: 2020 Police Public Contact Survey (PPCS), 84 Fed. Reg. 48647 (Sept. 16, 2019).

analyses based on data collected through the survey in October 2018 and in December 2020, respectively.¹⁴

BJS's Law Enforcement Management and Administrative Statistics.

Since 1987, BJS has collected data from a representative sample of general-purpose law enforcement agencies on their job functions, policies, and training requirements through the Law Enforcement Management and Administrative Statistics data collection effort.¹⁵ Regarding law enforcement use of force, the data collection effort surveyed law enforcement agencies about whether they have written policies or procedures on reporting use of force incidents, use of deadly or less-lethal force, body-worn cameras, in-custody deaths, civilian complaints, and racial profiling. It also surveyed law enforcement agencies about whether they require an external investigation into the discharge of a firearm at or in the direction of an individual or use of force incidents resulting in serious bodily injury or death.¹⁶ BJS published eight reports using data from the Law Enforcement Management and Administrative Statistics data collection effort from fiscal years 2016 through 2020. Some of these reports include a report on body-worn cameras in law enforcement agencies published in November 2018; and two reports about policies and procedures within local police and sheriff's departments, both published in August 2020.¹⁷

The FBI's Supplementary Homicide Reports. Beginning in the early 1960s, the FBI began to collect detailed data on homicides, including

¹⁴See Department of Justice, Bureau of Justice Statistics, *Contacts Between Police and the Public, 2015* (Washington, D.C.: October 2018); and *Contacts Between Police and the Public, 2018 - Statistical Tables* (Washington, D.C.: December 2020).

¹⁵According to BJS, general-purpose law enforcement agencies include "municipal, county, and regional police departments; most sheriffs' offices; and primary state and highway patrol agencies. They are distinct from special-purpose agencies (e.g., those with jurisdiction on tribal lands; and in parks, schools, airports, subways, hospitals, housing authorities, and government buildings), sheriffs' offices with only jail and court duties, and federal law enforcement agencies." See Department of Justice, Bureau of Justice Statistics, *Full-Time Employees in Law Enforcement Agencies, 1997-2016* (Washington, D.C.: August 2018).

¹⁶See, for example, Department of Justice, Bureau of Justice Statistics, *Local Police Departments: Policies and Procedures, 2016* (Washington, D.C.: August 2020).

¹⁷See Department of Justice, Bureau of Justice Statistics, *Body-Worn Cameras in Law Enforcement Agencies, 2016* (Washington, D.C.: November 2018); *Local Police Departments: Policies and Procedures, 2016* (Washington, D.C.: August 2020); and *Sheriffs' Offices: Policies and Procedures, 2016* (Washington, D.C.: August 2020).

justifiable homicides committed by on-duty law enforcement officers, through its Supplementary Homicide Reports.¹⁸ These homicide data include the jurisdiction; month and year of the incident; victim and offender demographic characteristics; the weapon used; the circumstances surrounding the incident; and the relationship between the victim and offender, if known.¹⁹ FBI officials told us that law enforcement agencies are not required to submit information on law enforcement-involved justifiable homicides, nor are they required to complete all of the information within the report for a given incident. FBI officials stated that around 1 percent of law enforcement agencies submitted at least one Supplementary Homicide Report from calendar years 2016 through 2019. The FBI published data on law enforcement-involved justifiable homicides through its annual *Crime in the United States report from calendar years 2015 through 2019*. The FBI released the 2020 Crime in the United States report in September 2021.²⁰

¹⁸For the purposes of collecting these data, the FBI defines a justifiable homicide as the killing of a perpetrator of a serious criminal offense by a law enforcement officer in the line of duty, or the killing of the offender during the commission of a serious criminal offense by a private individual.

¹⁹See Department of Justice, Bureau of Justice Statistics, *The Nation's Two Measures of Homicide* (Washington, D.C.: July 2014).

²⁰According to the FBI, the downloadable files of the 2020 *Crime in the United States* report is available on its Crime Data Explorer at <https://crime-data-explorer.app.cloud.gov/pages/home>.

Appendix III: Literature Review Bibliography

We used the following 86 articles to identify the most commonly discussed practices to reduce law enforcement's excessive use of force. Of these, nine articles met our criteria to determine what is known about the effectiveness of practices to reduce excessive use of force and to what extent those practices also reduced bias in law enforcement. We denote these nine articles with an asterisk. See appendix I for a full description of our literature review methodology.

Adams, Kenneth, and Victoria Jennison. "What We Do Not Know about Police Use of Tasers." *Policing: An International Journal of Police Strategies and Management*, vol. 30, no. 3 (2007): 447-465.

Ariel, Barak et al. "Wearing Body Cameras Increases Assaults against Officers and Does Not Reduce Police Use of Force: Results from a Global Multi-Site Experiment." *European Journal of Criminology*, vol. 13 (2016): 744-755.

Armacost, Barbara E. "Police Shootings: Is Accountability the Enemy of Prevention?" *Ohio State Law Journal*, vol. 80, no. 5 (2019): 908-986.

Bennell, Craig et al. "Promising Practices for De-Escalation and Use-of-Force Training in the Police Setting: A Narrative Review." *Policing: An International Journal*, vol. 44, no. 3 (2021): 377-404.

Bieler, Sam. "Police Militarization in the USA: The State of the Field." *Policing: An International Journal of Police Strategies and Management*, vol. 39, no.4 (2016): 586-600.

Blaskovits, Brittany, and Craig Bennell. "Exploring the Potential Impact of Body Worn Cameras on Memory in Officer-Involved Critical Incidents: A Literature Review." *Journal of Police and Criminal Psychology*, vol.35 (2020): 251-262.

Bolger, P. Colin. "Just Following Orders: A Meta-Analysis of the Correlates of American Police Officer Use of Force Decisions." *Southern Criminal Justice Association*, vol. 40 (2015): 466-492.*

Boxer, Paul et al. "Addressing the Inappropriate Use of Force by Police in the United States and Beyond: A Behavioral and Social Science Perspective." *Aggressive Behavior* (2021): 1-11.

Brown, Haywood L. et al. "Black Lives and the Police." *Journal of the National Medical Association* (2021): 1-4.

Browning, Samuel L. et al. "Dealing with Individuals Who Have Mental Illness: The Crisis Intervention Team (CIT) in Law Enforcement." *The British Journal of Forensic Practice*, vol. 13, no. 4 (2011): 235-243.

Charbonneau, Amanda, Katherine Spencer, and Jack Glaser. "Understanding Racial Disparities in Police Use of Lethal Force: Lessons from Fatal Police-on-Police Shootings." *Journal of Social Issues*, vol. 73, no. 4 (2017): 744-767.

Chavis, Kami N. "Body-Worn Cameras: Exploring the Unintentional Consequences of Technological Advances and Ensuring a Role for Community Consultation." *Wake Forest Law Review*, vol. 51, no. 5 (2016): 985-1020.

Cigno, John T. "Truth and Evidence: The Role of Police Officer Body Cameras in Reforming Connecticut's Criminal Justice System." *Connecticut Law Review*, vol. 49 (2016): 293-323.

Cojean, Sebastien, Nicolas Combalbert, and Anne Taillandier-Schmitt. "Psychological and Sociological Factors Influencing Police Officers' Decisions to Use Force: A Systematic Literature Review." *International Journal of Law and Psychiatry*, vol. 70 (2020): 1-11.*

Cowell, Mariah et al. "The Factors That Motivate Law Enforcement's Use of Force: A Systematic Review." *American Journal of Community Psychology*, vol. 67 (2021): 142-151.

Cubitt, Timothy I.C. et al. "Body-Worn Video: A Systematic Review of Literature." *Journal of Criminology*, vol. 50, no. 3 (2016): 379-396.*

Culhane, Scott E., and Kimberly Schweitzer. "Police Shootings and Body Cameras One Year Post-Ferguson." *Policing and Society*, vol. 28 (2018): 1038-1049.

Dayley, Eric H. "Reducing the Use of Force: De-Escalation Training for Police Officers." *Naval Postgraduate School* (2016): 1-115.

Khalsa, Hari-Mandir K. et al. "Specialized Police-Based Mental Health Crisis Response: The First 10 Years of Colorado's Crisis Intervention Team Implementation." *Psychiatric Services*, vol. 69 (2018): 239-241.

Dyson, Maurice R. "Excessive Force, Bias, and Criminal Justice Reform: Proposals for Congressional Action." *Loyola Law Review* (2017): 27-74.

Engel, Robin S., Hannah D. McManus, and Tamara D. Herold. "Does De-Escalation Training Work?: A Systematic Review and Call for Evidence in Police Use-of-Force Reform." *Criminology and Public Policy*, vol. 19, (2020): 721-759.*

Engel, Robin S., Hannah D. McManus, and Gabrielle T. Isaza. "Moving Beyond 'Best Practice': Experiences in Police Reform and a Call for Evidence to Reduce Officer-Involved Shootings." *The Annals of the American Academy of Political and Social Science*, vol. 687 (2020): 146–165.

Goh, Li Sian. "Did De-Escalation Successfully Reduce Serious Use of Force in Camden County, New Jersey? A Synthetic Control Analysis of Force Outcomes." *Criminology and Public Policy* (2021): 1-35.

Goode, David B. "Law Enforcement Policies and the Reasonable Use of Force." *Willamette Law Review*, vol. 54, no. 2 (2018): 371-424.

Headley, Andrea M. "Accountability and Police Use of Force: Interactive Effects between Minority Representation and Civilian Review Boards." *Public Management Review* (2021): 1-23.

Headley, Andrea M., and James E. Wright, II. "National Police Reform Commissions: Evidence-Based Practices or Unfulfilled Promises?" *The Review of Black Political Economy*, vol. 46 (2019): 277-305.

Hollis, Meghan E. "Measurement Issues in Police Use of Force: A State-of-the-Art Review." *Policing: An International Journal*, vol. 41, no. 6 (2018): 844-858.*

Hollis, Meghan E., and Wesley G. Jennings. "Racial Disparities in Police Use-of-Force: A State-of-the-Art Review." *Policing: An International Journal*, vol. 41, no. 2 (2018): 178-193.*

Jennings, Wesley G., Mathew D. Lynch, and Lorie A. Fridell. "Evaluating the Impact of Police Officer Body-Worn Cameras (BWCs) on Response-to-Resistance and Serious External Complaints: Evidence from the Orlando Police Department (OPD) Experience Utilizing a Randomized Controlled Experiment." *Journal of Criminal Justice*, vol. 43 (2015): 480-486.

Johnson, Amanda D. "Balancing Risk: TASERs as a Less-Lethal Option in Police Use of Force." *Criminal Law Bulletin*, vol. 54, no. 5, (2018): 3-15.

Kahn, Kimberly Barsamian et al. "How Suspect Race Affects Police Use of Force in an Interaction Over Time." *Law and Human Behavior*, vol. 41 (2017): 117-139.

Kent, Julie A. "Use of Force Simulator for Law Enforcement Handgun Qualification." *Springer Nature Switzerland* (2020): 248-255.

Kirillova, Olga et al. "Practical Recommendations for Improving the Training of Police Officers." *Journal of Legal, Ethical and Regulatory Issues*, vol. 21, no. 3 (2018): 1-13.

Klahm, Charles Frank IV, James Frank, and John Liederbach. "Understanding Police Use of Force: Rethinking the Link between Conceptualization and Measurement." *Policing: An International Journal of Police Strategies and Management*, vol. 37, no. 3 (2014): 558-578.*

Lawler, Robert M. "Everyone Is Doing It: The Effectiveness of Body-Worn Cameras beyond Randomized Controlled Trials." *Naval Postgraduate School* (2018): 1-113.

Lawson, Edward Jr. "Trends: Police Militarization and the Use of Lethal Force." *Political Research Quarterly*, vol. 72, no. 1 (2019): 177-189.

Le, Loan K., and Maitria Moua. "Civilian Oversight and Development in Less Lethal Technologies: Weighing Risk and Prioritizing Accountability in Domestic Law Enforcement." *Seattle Journal for Social Justice*, vol. 14, no. 1 (2016): 101-144.

Lee, Cynthia. "Reforming the Law on Police Use of Deadly Force: De-Escalation, Pre-Seizure Conduct, and Imperfect Self-Defense." *University of Illinois Law Review*, vol. 2018, no. 2 (2018): 629-692.

Levchak, Philip J. "Stop-And-Frisk in New York City: Estimating Racial Disparities in Post-Stop Outcomes." *Journal of Criminal Justice*, vol. 73 (2021): 1-13.

Lum, Cynthia, and Daniel S. Nagin. "*Reinventing American Policing*." *Crime and Justice*, vol. 46 (2017): 339-393.

Machado, Mychal A., and Ashley M. Lugo. "A Behavioral Analysis of Two Strategies to Eliminate Racial Bias in Police Use of Force." *Behavior Analysis in Practice* (2021): 1-11.

Mangual, Rafael A., "Police Use of Force and the Practical Limits of Popular Reform Proposals: A Response to Rizer and Mooney". *Federalist Society Review*, vol. 21 (2020): 128-135.

Marcus, Nancy C. "From Edward to Eric Garner and Beyond: The Importance of Constitutional Limitations on Lethal Use of Force in Police Reform." *Duke Journal of Constitutional Law and Public Policy*, vol. 12 (2016): 53-106.

McStravick, Michelle E. "The Shocking Truth: Law Enforcement's Use and Abuse of Tasers and the Need for Reform." *Villanova Law Review*, vol. 56, no. 2 (2011): 363-394.

Miller, Laurence. "Why Cops Kill: The Psychology of Police Deadly Force Encounters." *Aggression and Violent Behavior*, vol. 22 (2015): 97-111.

Moon, Sarah H., Tranese Morgan, and Steven J. Sandage. "The Need for Intercultural Competence Assessment and Training among Police Officers." *Journal of Forensic Psychology Research and Practice*, vol. 18, no. 5 (2018): 337-351.

Nascimento, Isabella. "'Hands Up, Don't Shoot': The Use of Deadly Force by Police Against Racial Minorities in the United States." *U.C. Davis Journal of International Law and Policy*, vol. 24 (2017): 63-97.

Obasogie, Osagie K., and Zachery Newman. "Police Violence, Use of Force Policies, and Public Health." *American Journal of Law and Medicine*, vol. 43 (2017): 279-295.

Oliver, John E. "Armstrong v. Village of Pinehurst, et al: The Fourth Circuit Establishes Constitutional "Excessive Force" Standards for Taser Use, Placing New Limits on Officers' Use of Force When Responding to Individuals in Mental Health Crisis." *Developments in Mental Health Law*, vol. 35, no. 1 (2016): 1-34.

Patel, Sunita. "Toward Democratic Police Reform: A Vision for 'Community Engagement Provisions in DOJ Consent Decrees.'" *Wake Forest Law Review*, vol. 51, no. 4 (2016): 793-880.

Payne, B. Keith, and Joshua Correll. "Race, Weapons, and the Perception of Threat." *Advances in Experimental Social Psychology*, vol. 62 (2020): 1-50.

Peck, Tabitha C., Jessica J. Good, and Katharina Seitz. "Evidence of Racial Bias Using Immersive Virtual Reality: Analysis of Head and Hand Motions during Shooting Decisions." *IEEE Transactions on Visualization and Computer Graphics*, vol. 27, no. 5 (2021): 2502-2512.

Peeples, Lynne. "Brutality and Racial Bias: What the Data Say." *Springer Nature Limited*, vol. 583 (2020): 22-24.

Prenzler, Tim, Louise Porter, and Geoffrey P. Alpert. "Reducing Police Use of Force: Case Studies and Prospects." *Aggression and Violent Behavior*, vol. 18 (2013): 343-356.

Pryor, Cori et al. "A National Study of Sustained Use of Force Complaints in Law Enforcement Agencies." *Journal of Criminal Justice*, vol. 64 (2019): 23-33.

Pryor, Marie, Kim Shayo Buchanan, and Phillip Atiba Goff. "Risky Situations: Sources of Racial Disparity in Police Behavior." *Annual Review of Law and Social Science*, Vol. 16 (2020): 343-360.

Pyo, Sunyoung. "Do Body-Worn Cameras Change Law Enforcement Arrest Behavior? A National Study of Local Police Departments." *American Review of Public Administration*, vol. 51 (2021): 184-198.

Quattlebaum, Megan, and Tom Tyler. "Beyond The Law: An Agenda For Policing Reform." *Boston University Law Review*, vol. 100 (2020): 1017-1046.

Ramirez, Deborah et al. "Policing the Police: Could Mandatory Professional Liability Insurance for Officers Provide a New Accountability Model?" *American Journal of Criminal Law*, vol.45, no. 2 (2019): 407-459.

Richardson, L. Song. "Implicit Racial Bias and Racial Anxiety: Implications for Stops and Frisks." *Ohio State Journal of Criminal Law*, vol. 15 (2017): 73-88.

Rizer, Arthur, and Emily Mooney. "The Evolution of Modern Use-of-Force Policies and the Need for Professionalism in Policing." *The Federalist Society Review*, vol. 21 (2020): 114-126.

Robinson, Laurie O. "Five Years after Ferguson: Reflecting on Police Reform and What's Ahead." *The Annals of the American Academy*, vol. 687 (2020): 228-239.

Rogers, Michael S., Dale E. McNeil, and Renee L. Binder. "Effectiveness of Police Crisis Intervention Training Programs." *The Journal of the American Academy of Psychiatry and the Law*, vol. 47 (2019): 414-421.*

Rohrer, Alexander J. "Law Enforcement and Persons with Mental Illness: Responding Responsibly." *Journal of Police and Criminal Psychology*, vol. 36 (2021): 342-349.

Rosenthal, Lawrence. "Good and Bad Ways to Address Police Violence." *The Urban Lawyer*, vol. 48, no. 4 (2016): 675-736.

Rushin, Stephen. "Using Data to Reduce Police Violence." *Boston College Law Review*, vol. 57 (2016): 117-166.

Sacca, Giacomo. "Not Just Another Piece of Equipment: An Analysis for Police Body-Worn Camera Policy Decisions." *Naval Postgraduate School* (2017): 1-121.

Sajor, Antonio Jr. "Ideal Police Oversight And Review: The Next Piece of the Community Policing Puzzle." *Naval Postgraduate School* (2015): 1-83.

Schwartz, Martin A., Section 1983 *Litigation Claims and Defenses*, 4th ed. (CCH, Inc., 2020, 2134-2746).

Seo, Chunghyeon, Bitna Kim, and Nathan E. Kruis. "Variation across Police Response Models for Handling Encounters with People with Mental Illnesses: A Systematic Review and Meta-Analysis." *Journal of Criminal Justice*, vol. 72 (2021): 1-14.*

Sierra-Arevalo, Michael. "Technological Innovation and Police Officers' Understanding and Use of Force." *Law and Society Review*, vol. 53 (2019): 420-451.

Smith, Michael R., and Geoffrey P. Alpert. "Pepper Spray: A Safe and Reasonable Response to Suspect Verbal Resistance." *Policing: An International Journal of Police Strategies and Management*, vol. 23, no. 2 (2000): 233-245.

Smith, Michael R. et al. "Measuring Disparities in Police Activities: A State of the Art Review." *Policing: An International Journal*, vol. 40, no. 2 (2017): 166-183.

Sussman, Aaron. "Shocking the Conscience: What Police Tasers and Weapon Technology Reveal about Excessive Force Law." *UCLA Law Review*, vol. 59 (2012): 1342-1415.

Terrill, William, and Eugene A. Paoline. "Police Use of Less Lethal Force: Does Administrative Policy Matter?" *Justice Quarterly*, vol. 34 (2017): 193-216.

Terrill, William, Fredrik H. Leinfelt, and Dae-Hoon Kwak. "Examining Police Use of Force: A Smaller Agency Perspective." *Policing: An International Journal of Police Strategies and Management*, vol. 31 no. 1 (2008): 57-76.

Terrill, William. "Police Use of Force and Suspect Resistance: The Micro Process of the Police-Suspect Encounter." *Police Quarterly*, vol. 6, no.1 (2003): 51-83.

Thacher, David. "The Learning Model of Use-of-Force Reviews." *Law and Social Inquiry*, vol. 45, no. 3 (2020): 755-786.

Todak, Natalie, and Lois James. "A Systemic Social Observation Study of Police De-Escalation Tactics." *Police Quarterly*, vol. 21, no. 4 (2018): 509-543.

Todak, Natalie, and Michael D. White. "Expert Officer Perceptions of De-Escalation in Policing." *Policing: An International Journal*, vol. 42, no.5 (2019): 832-846.

Volpe, James. "Police and Community Relations: Will "To Serve and Protect" Be Words the Public Can Ever Trust?" *Northern Illinois University Law Review*, vol. 39 (2019): 288-300.

Watson, Amy C. "Research in the Real World: Studying Chicago Police Department's Crisis Intervention Team Program." *Research on Social Work Practice*, vol. 20 (2010): 536-543.

Watson, Amy C., and Michael T. Compton. "What Research on Crisis Intervention Teams Tells Us and What We Need to Ask." *The Journal of the American Academy of Psychiatry and the Law*, vol. 47 (2019): 422-426.

Wittmann, Linus et al. "Effectiveness of a Contact-Based Anti-Stigma Intervention for Police Officers." *International Journal of Law and Psychiatry*, vol. 76 (2021): 1-5.

Wolf, Ross et al. "Police Use of Force and the Cumulative Force Factor." *Policing: An International Journal of Police Strategies and Management*, vol. 32, no. 4 (2009): 739-757.

Zwach, Sarah. "Disproportionate Use of Deadly Force on Unarmed Minority Males: How Gender and Racial Perceptions Can Be Remedied." *Wisconsin Journal of Law, Gender and Society*, vol. 30, no. 2 (2015): 185-222.

Appendix IV: List of Stakeholders and Interview Results

Table 11 lists the 18 stakeholders we interviewed to understand which practices may be promising for reducing the use of excessive force. These stakeholders are broken out into four core groups: (1) civil rights organizations, (2) law enforcement associations, (3) academic researchers (including representatives from think tanks), and (4) federal agencies. For information on how we selected these groups, see appendix I.

Table 11: Stakeholders Organizations and Individuals Interviewed on Practices That May Reduce Excessive Force and Bias

Law enforcement associations	Civil rights organizations	Academic researchers	Federal agencies
Federal Law Enforcement Officers Association	Asian Americans Advancing Justice	American Psychological Association	National Institute of Justice
Fraternal Order of Police	Campaign Zero	Center for Policing Equity	U.S. Commission on Civil Rights
International Association of Chiefs of Police	Lawyers' Committee for Civil Rights Under Law	Dr. Geoffrey Alpert, University of South Carolina	—
Major Cities Chiefs Association	National Association for the Advancement of Colored People (NAACP)	RAND Center for Quality Policing	—
National Association of Police Organizations	National Urban League	—	—
National Association of Women Law Enforcement Executives	—	—	—
Police Executive Research Forum	—	—	—

Source: GAO. | GAO-22-104456

Figure 11 shows the results from our interviews with stakeholders. We identified 14 practices that were most commonly discussed based on this work and asked stakeholders to rate these practices as promising, potentially promising, or not promising.¹

¹Stakeholders could also indicate that they did not know or had no basis to judge if a practice was promising in reducing the use of excessive force.

Appendix IV: List of Stakeholders and Interview Results

Figure 11: Practices Identified as Promising or Potentially Promising by Stakeholders

Practices for reducing excessive use of force	Law enforcement associations	Civil rights organizations	Academic researchers and think tanks	Federal agencies
Crisis intervention/co-responder models	●●●●●●●●	●●●●●○	●●●●○	●●
De-escalation training/tactics	●●●●●●●○	●●●●●○	●●●●●	●●
Procedural justice orientation in law enforcement	●●●●●●●○	●●●●○○	●●●●●	●●
Women in law enforcement	●●●●●●●○	●●●●●○	●●●●●	●○
Administrative use of force policies	●●●●●●●○	●●●●●○	●●○○○	●●
Body-worn cameras	●●●●●●●●	●●●●○○	●●○○○	●●
Independent oversight	●●●●●●○○	●●●●●○	●●●●●	●○
Higher education hiring standards	●●●●●●●○	●●●●○○	●●●●○	●○
Diversity in hiring	●●●●●●●○	●●●●○○	●●○○○	●○
Guardian orientation in law enforcement	●●●●●●●○	●●●●○○	●●○○○	●○
Preemployment screening	●●●●●●○○	●●●●○○	●●●●○	●○
Implicit bias training	●●●○○○○○	●●○○○○	●●●●●	●●
Less lethal force methods	●●●●●●●●	●●●●○○	○○○○○	●○
Reforming qualified immunity	○○○○○○○○	●●●●○○	●●○○○	●○

Legend
 ● Stakeholder rated practice as promising or potentially promising ○ Not promising/did not know

Source: GAO analysis of stakeholder interviews. | GAO-22-104456

Appendix V: Comments from the Department of Justice



U.S. Department of Justice

Justice Management Division

Washington, D.C. 20530

Gretta L. Goodwin, Ph.D.
Director, Justice and Law Enforcement Issues
Homeland Security and Justice Team
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Director Goodwin:

The Department of Justice (the Department or DOJ) has reviewed the October 2021 final draft report from the Government Accountability Office (GAO) entitled "Law Enforcement: DOJ Can Improve Publication of Use of Force Data and Oversight of Excessive Force Allegations." This letter constitutes the Department's formal comments and we request that it be included in the final report.

The Department engages in a multi-faceted approach to ensuring public safety and promoting the fair and impartial administration of justice. Addressing the use of excessive force and ensuring the type of accountability that builds trust between law enforcement and the communities they serve is significant to those efforts. The Department provides substantial training, technical assistance, and grants to state, local and Tribal law enforcement partners across the country to support programs that may reduce the unnecessary use of force. Through these and other resources, the Department provides critical support to law enforcement agencies to establish crisis intervention and co-responder teams, train staff on de-escalation techniques, purchase equipment such as bodyworn cameras, and provide procedural justice training.

The Department also works tirelessly to investigate and bring civil and criminal enforcement actions to hold law enforcement agencies and individual law enforcement officers accountable where they have engaged in unlawful misconduct, including the use of excessive force. Such enforcement work is a high priority for the Department, as evidenced by the hiring of additional attorneys and staff for the Civil Rights Division's Criminal Section and the Special Litigation Section, and the opening of pattern or practice cases in Louisville, Minneapolis and Phoenix.

The Department has confidence in the work being conducted by its dedicated professionals, but recognizes that it must continue to strengthen its practices in several key areas. While the Department concurs with some of GAO's recommendations, others may not be feasible or practical when understood in the context of the Department's existing resources and statutory authority. The Department is submitting this response to provide critical information that is

Gretta L. Goodwin, Ph.D.

2

necessary to understand and place into context the Department's law enforcement misconduct work.

Recommendation 1: The Attorney General should assign responsibility for collecting and annually publishing data on the use of excessive force by law enforcement officers and communicate this responsibility to the designated DOJ components.

The Department concurs with recommendation 1. The Department will evaluate its current data collections and available resources for additional collection and publication of data under the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No 103-322, § 210402, 108 Stat. 1796, 2071-72, and will assign and communicate responsibility as appropriate within the Department.

Recommendation 2: The Director of the FBI should begin to assess potential alternative data collection strategies for the National Use-of-Force Data Collection.

The Department concurs with recommendation 2. Per FBI's Criminal Justice Information Services Division's agreed upon terms of clearance with OMB, the FBI is required to explore alternate approaches for collecting information if required thresholds are not met and the FBI will take steps to meet this requirement. However, as noted in GAO's Report, the FBI believes the agreed upon thresholds will be met to allow the data collection to continue, and is taking steps to increase participation in data collection efforts. Further, earlier this year, the Department sent a letter to federal law enforcement agencies encouraging their participation in the National Use-of-Force Data Collection.

Recommendation 3: The Assistant Attorney General of the Office of Justice Programs should direct BJS to assess the causes of delays in publishing reports related to law enforcement's use of force and identify corrective actions to address such delays.

The Department concurs with recommendation 3. The Department's Bureau of Justice Statistics (BJS) within the Office of Justice Programs (OJP) will review its data collections over the last 5-6 years and assess each stage of the data collection, analysis, and publication process for length of time to complete and potential reasons for delay. Based on these findings, BJS will identify areas for improvement and corrective actions.

Recommendation 4: The Assistant Attorney General of the Office of Justice Programs should direct BJS to assess, and adjust, as appropriate, its publicly reported performance measure on the timeliness of publishing its reports to help ensure that it accurately reflects BJS's performance.

The Department concurs with recommendation 4. BJS will review and assess its publicly reported performance measures on the timeliness of publishing its reports and will adjust, as appropriate, those performance measures to ensure that they accurately reflect BJS's performance.

Gretta L. Goodwin, Ph.D.

3

Recommendation 5: The Attorney General should complete an analysis to understand the extent of potential overlap among its data collection efforts related to law enforcement's use of force, its positive or negative effects, validate these findings using relevant information and identify options for managing such overlap.

The Department concurs with recommendation 5. The Department has engaged the Office of Justice Programs and the Federal Bureau of Investigation to work together to identify and implement death in custody data collection best practices and reduce duplicative data collection efforts. The Department will expand these efforts to include all data collections related to law enforcement's use of force and validate the findings accordingly.

Recommendation 6: The Attorney General should ensure that the Office for Civil Rights, the Civil Rights Division, the FBI, and the U.S. Attorney's Offices jointly assess the feasibility of systematically tracking and sharing information on civil rights violation allegations within DOJ's jurisdiction.

The Department concurs with recommendation 6 to assess the feasibility of systematically tracking and sharing information on civil rights violation allegations within the Department's jurisdiction. However, this response provides additional context that is specific to the Department's law enforcement misconduct work. This information is necessary to understand the existing practices for tracking and sharing information about potential allegations of use of excessive force and law enforcement misconduct between the Department's components.

The Department continually strives to be accessible to members of the public and responsive to their concerns. To that end, the Department receives, reviews, and responds to tens of thousands of reports from members of the public each year. For instance, in the last year alone, the Department's Civil Rights Division (CRT) received more than 70,000 such reports which were reviewed by CRT personnel. In recent years, CRT proactively invested significant resources in creating an online reporting portal to assist members of the public in making reports, including official misconduct complaints, and to more accurately and efficiently route those reports to the appropriate section within CRT for timely review and response. CRT has a team of intake staff that reviews each of those reports to determine if the information reported falls within the Department's jurisdiction and appears to raise an actionable violation of those laws. Many of those reports raise concerns that are outside of the Department's jurisdiction or otherwise not actionable under the federal civil and criminal laws related to official misconduct. For example, citizen complaints may address concerns about an individual's own state or local criminal case, which the Department does not have authority to address. CRT sends response letters to individuals who submit reports and provides them with additional information about the types of issues that the Department can and cannot address.

Where a report appears to fall within the Department's jurisdiction and warrants further review, intake staff forwards it to the appropriate CRT staff for further review. For instance, if a report appears to relate to a pattern or practice of police misconduct, CRT's Special Litigation Section's intake staff forwards the report to the Section's Police Practice Group's Case Selection Advisory Committee for further review. Consistent with CRT's written policy, which was provided to

Gretta L. Goodwin, Ph.D.

4

GAO, that committee looks at whether there are prior complaints against a particular jurisdiction in determining whether to bring a pattern or practice enforcement action. Where appropriate, a report from a member of the public could result in the opening of a civil or criminal matter by CRT and/or be shared with the FBI and/or a US Attorney's Office for further review. In addition, for some matters—such as the pending police misconduct investigation in Louisville, Kentucky—CRT also maintains an email address and a hotline to provide the public with additional avenues to report information.

Although the Department invests substantial resources in receiving, reviewing, and responding to thousands of reports a year, it is critical for the purposes of this report to be clear that the Department's criminal prosecutions and civil enforcement cases related to law enforcement misconduct arise primarily from proactive work by Department attorneys and staff in the Criminal and Special Litigation Sections, the FBI and U.S. Attorneys' Offices. Only a small fraction of complaints or reports about law enforcement misconduct submitted by members of the public fall within the Department's statutory authority and merit federal investigation.

The GAO Draft Report does not include an analysis of the full scope of sources for the Department's law enforcement misconduct work, or the Department's steps to investigate and share among its components, as appropriate, all allegations about law enforcement misconduct that are within its jurisdiction and have indicia of investigative merit. Instead, the Report and recommendations 6 through 10 focus primarily on whether the Department electronically tracks and shares reports from members of the public—which GAO refers to in the Report as civil rights "allegations"—a term that can be misunderstood to include all allegations of law enforcement misconduct rather than the subset of reports from members of the public. The Report and recommendations seem to suggest that citizen reports, which often fall outside the Department's jurisdiction, should be the primary source of the Department's law enforcement misconduct work. As a result, the Report and recommendations may create the misimpression that thousands of allegations of law enforcement misconduct submitted by members of the public should be—but are not being—investigated by the Department because they are not tracked collectively by and/or shared systematically among various components. As noted above, citizen reports about law enforcement misconduct include allegations that fall within the Department's jurisdiction and appear to have investigative merit are routed to the appropriate staff for further review.

Although the Department will implement recommendation 6 and will assess the feasibility of systematically tracking and sharing information on reports about law enforcement misconduct from members of the public within its jurisdiction, the Department provides the following observations: (1) requiring multiple components to conduct duplicative reviews of non-actionable reports would divert already limited resources away from enforcement work, (2) each component has the expertise to review the reports it receives and assess whether they warrant further review within their component or by another component and to refer those reports that are within the Department's jurisdiction and merit enforcement action to the other component(s) where appropriate, and (3) requiring duplicative reviews of non-actionable complaints would

Gretta L. Goodwin, Ph.D.

5

necessitate the hiring of additional staff and additional appropriated funding, but potentially would not result in additional cases that merit enforcement activity.

Recommendation 7: The Assistant Attorney General for Civil Rights should require staff to use information from allegations within the department’s jurisdiction received across DOJ to identify potential patterns of systemic law enforcement misconduct and analyze trends.

The Department does not concur with recommendation 7 at this time because it is contingent upon the outcome of the feasibility assessment called for by GAO in recommendation 6 and should be merged with recommendation 6 or held in abeyance pending that assessment.

Recommendation 8: The Assistant Attorney General for Civil Rights should establish a procedure to share information on potential patterns of systemic law enforcement misconduct and trends with the Case Selection Advisory Committee.

The Department does not concur with recommendation 8 because it is contingent upon the outcome of the feasibility assessment called for by GAO in recommendation 6 and should be merged with that recommendation or held in abeyance pending that assessment.

Recommendation 9: Assistant Attorney General for Civil Rights should establish a timeliness goal for staff to initially review incoming allegations.

The Department concurs with recommendation 9. CRT will adopt a goal of conducting an initial review within six weeks of receipt with flexibility for sections with high volume and for unanticipated spikes.¹ The six-week target is for the initial review; secondary reviews and final determinations will likely take longer than six weeks for non-routine reports.

Recommendation 10: The Assistant Attorney General for Civil Rights should ensure that the division collects and monitors data on the extent to which staff meet the division’s timeliness goal for reviewing incoming allegations.

The Department concurs with recommendation 10. CRT will work with its reporting portal team to assess the feasibility of capturing the date each report is initially reviewed by an intake specialist.

Recommendation 11: The Attorney General should ensure that components responsible for investigating and prosecuting civil rights abuses, including excessive force, collect and analyze key demographic information about victims in matters or cases that components initiate.

The Department concurs in principle with recommendation 11, but it must assess the feasibility of and authority for the data collection suggested by this recommendation. Further evaluation of the mechanics of GAO’s recommendation on collecting and analyzing demographic data is

¹ For example, the Department received 18,000 reports from members of the public related to COVID-19.

Gretta L. Goodwin, Ph.D.

6

needed, but the Department notes that collections of information must be submitted to the Office of Management and Budget (OMB) for review and approval before they may be conducted, in accordance with the Paperwork Reduction Act of 1995, PL 104-13, May 22, 1995, 109 Stat 163. As part of this approval process, the Department evaluates the need for the collection, provides notice in the Federal Register, solicits comments from the public, and certifies to OMB that the data collection is necessary for the proper performance of the functions of the Department.

If I may be of further assistance to you, please do not hesitate to contact me. Your staff may also contact Louise Duhamel, Acting Assistant Director, Audit Liaison Group on 202-514-4006.

Sincerely,

ARTHUR
R GARY

Digitally signed
by ARTHUR GARY
Date: 2021.11.12
17:28:47 -05'00'

--Signing for
Lee J. Lofthus
Assistant Attorney General
for Administration
Justice Management Division
U.S. Department of Justice

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Gretta L. Goodwin at (202) 512-8777 or goodwing@gao.gov

Staff Acknowledgments

In addition to the contact named above, Ashley Davis (Assistant Director), Kathleen Donovan (Analyst-in-Charge), Emilio Fonseca, and Steven Rocker made key contributions to this report. Also contributing to the report were Hiwotte Amare, Billy Commons, Elizabeth Dretsch, Eric Hauswirth, Jan Montgomery, and Kevin Reeves.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through our website. Each weekday afternoon, GAO posts on its [website](#) newly released reports, testimony, and correspondence. You can also [subscribe](#) to GAO's email updates to receive notification of newly posted products.

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).
Subscribe to our [RSS Feeds](#) or [Email Updates](#). Listen to our [Podcasts](#).
Visit GAO on the web at <https://www.gao.gov>.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: <https://www.gao.gov/about/what-gao-does/fraudnet>

Automated answering system: (800) 424-5454 or (202) 512-7700

Congressional Relations

A. Nicole Clowers, Managing Director, ClowersA@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814,
Washington, DC 20548

