



December 2021

LAW ENFORCEMENT

Federal Agencies Should Improve Reporting and Review of Less-Lethal Force



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GAO@100 Highlights

Highlights of [GAO-22-104470](#), a report to congressional requesters

Why GAO Did This Study

Federal agencies deployed personnel and used less lethal force during demonstrations in response to the death of Mr. George Floyd and others. Two of the largest deployments were in Washington, D.C., and Portland, Oregon.

This report examines the extent to which federal agencies (1) developed policies, procedures, and training on the use of less-lethal force during demonstrations; (2) reported their use of such force during deployments to Washington, D.C., and Portland, Oregon; and (3) took action to review their use of less-lethal force for these deployments. GAO also presents information on the federal roles and activities during these deployments.

To address these objectives, GAO identified 10 federal agencies that used less-lethal force or deployed large numbers of personnel in Washington, D.C., and Portland, Oregon, from May through September 2020. Specifically, GAO identified four agencies within DHS, four agencies within DOJ, the U.S. Park Police within the Interior, and the National Guard within the Department of Defense. GAO reviewed agency guidance on less-lethal force; analyzed use of force reports and determinations on whether the force was used in accordance with policy; and interviewed agency officials.

View [GAO-22-104470](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or GoodwinG@gao.gov.

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What GAO Found

Less-lethal force includes tactics and weapons that are neither likely nor intended to cause death or serious injury such as physical tactics, batons, chemical spray and munitions (e.g., pepper spray and tear gas), and kinetic impact munitions (e.g., rubber bullets). Most of the 10 federal agencies that GAO reviewed have less-lethal force policies that apply to demonstrations. All 10 agencies provide their personnel with less-lethal force training that varied by the agencies' mission. The agencies reported that they equip their personnel on various types of less-lethal force. Further, all 10 agencies have policies and training related to ensuring that their use of less-lethal force minimizes unintended injuries.

Examples of Less-Lethal Force



Source: GAO analysis of agency information. | GAO-22-104470

The Bureau of Prisons (BOP) is the only agency without a less-lethal force policy that applies to demonstrations. Its policy focuses exclusively on inmates in federal institutions. However, in recent years, BOP deployments beyond its institutions have occurred more often in response to civil disturbances and natural disasters. Updating its policy to address such situations will help ensure that their policy addresses all potential use of force situations facing its personnel.

As shown in the photographs below, federal personnel responded to the demonstrations in Washington, D.C., and Portland, Oregon.

Federal Personnel in Washington, D.C. (left), and Portland, Oregon (right)



Sources: Departments of the Interior and Homeland Security. | GAO-22-104470

Eight of the 10 agencies used less-lethal force during the selected deployments. For those eight agencies, reporting requirements varied and reports often did not include basic information.

- Reporting requirements varied among agencies within the Departments of Homeland Security (DHS) and Justice (DOJ). This variance impairs

What GAO Recommends

GAO is making 10 recommendations, including that:

- BOP update its use of force policy to include demonstrations occurring near and far from federal institutions;
- DHS and DOJ develop standards for their component agencies on the types of less-lethal force that should be reported when used;
- DHS develop standards for its component agencies on the types of information that must be reported for each use of force incident;
- DHS establish monitoring mechanisms to oversee the quality, consistency, and completeness of use of force reporting across all DHS component agencies;
- USMS and USPP develop specific reporting requirements on the types of information that must be reported for each use of force incident; and
- ICE, USMS, and USSS modify policies and procedures to document their determinations on whether less-lethal force was used in accordance with agency policy.

DOJ, DHS, and the Interior concurred with all of the recommendations to their department and component agencies.

departmental oversight. For example, while some agencies require personnel to report their use of a baton in all cases, others in the same department required doing so only if there were serious injury.

- Most agencies' less-lethal force reporting was missing information that would be useful for determining if the force was applied in accordance with agency policy. Specifically, reports from six agencies— Federal Protective Service, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement (ICE), U.S. Secret Service (USSS), U.S. Marshals Service (USMS), and U.S. Park Police (USPP)—were missing basic information, such as time, location, type of munition used, or circumstances surrounding the use of force. For example, some reports provided a high-level summary of the day but did not identify which officers used force or the types of force each officer used. Further, DHS's oversight over the quality and consistency of use of force reporting was impaired because the department has not established a body to monitor use of force reporting across all of its component agencies, as required by DHS policy.

All 10 agencies had processes to determine if less-lethal force was applied in accordance with agency policy, but some of the eight agencies that reported using less-lethal force during selected deployments did not explicitly document their determinations. Specifically,

- USMS, ICE, and USSS did not document if force was used in accordance with policy. Documenting such reviews will help ensure that they review all reportable uses of less-lethal force.
- The remaining five agencies that did document less-lethal force determinations—Federal Protective Service, U.S. Customs and Border Protection; BOP; Bureau of Alcohol, Tobacco, Firearms, and Explosives; and USPP—found that nearly all of their incidents were in accordance with policy. The remaining incidents were referred to the relevant Offices of the Inspector General or were pending further administrative actions as of July 2021.

Demonstrators in Washington, D.C. (left), and Portland, Oregon (right)



Sources: Departments of the Interior and Homeland Security. | GAO-22-104470

Several federal agencies deployed personnel to Washington, D.C., and Portland, Oregon, in response to the demonstrations.

- **Washington, D.C.** At least 12 federal agencies deployed, collectively, up to about 9,300 personnel per day in response to the demonstrations from May 26, 2020, through June 15, 2020. Of these, six agencies reported a total of over 120 less-lethal force incidents during this period, including physical tactics, batons, chemical spray, and chemical and kinetic impact munitions. Three of these agencies (BOP, USPP, and USSS) reported using force as part of the effort to clear Lafayette Square on June 1, 2020.
- **Portland, Oregon.** At least five federal agencies deployed, collectively, up to about 325 personnel per day in response to the demonstrations from June 26, 2020, through September 30, 2020. Four agencies reported a total of over 700 less-lethal force incidents during this period, including batons, chemical spray, chemical and kinetic impact munitions, diversionary devices, and electronic control devices.

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Abbreviations

ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
BOP	Bureau of Prisons
CBP	U.S. Customs and Border Protection
CS	2-chlorobenzalmalononitrile
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
Interior	Department of the Interior
FBI	Federal Bureau of Investigation
FLETC	Federal Law Enforcement Training Centers
FPS	Federal Protective Service
ICE	U.S. Immigration and Customs Enforcement
MPD	D.C. Metropolitan Police Department
OC	Oleoresin Capsicum
OIG	Office of Inspector General
PAVA	pelargonic acid vanillylamide
USMS	U.S. Marshals Service
USPP	U.S. Park Police
USSS	U.S. Secret Service
SWAT	Special Weapons and Tactics

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December 15, 2021

Congressional Requesters:

Beginning in May 2020, federal agencies deployed personnel during nationwide protests and civil unrest in response to the death of Mr. George Floyd and others. Some of the demonstrations turned violent as demonstrators threw objects and became physically combative with law enforcement, and damaged property.¹ While federal personnel were deployed across the country to help protect the public and federal property, two of the largest deployments occurred in Washington, D.C.—which has a large amount of federal property—and Portland, Oregon—which experienced a prolonged period of demonstrations throughout the summer of 2020.² In response to circumstances that arose during the demonstrations in these locations, federal personnel used less-lethal force. Less-lethal force includes tactics and weapons that are neither likely nor intended to cause death or serious injury, such as physical tactics (e.g., strikes and pushes), batons, chemical agents (e.g., pepper spray and tear gas), and kinetic impact munitions (e.g., rubber bullets).

As shown in figure 1, various agencies within the Departments of Homeland Security (DHS), Justice (DOJ), and the Interior (Interior) deployed officers in response to demonstrations in Washington, D.C., and Portland, Oregon. In addition, the Department of Defense's (DOD) primary mission is to defend the nation and, as such, can be asked to support civil authorities, such as law enforcement agencies. DOD's National Guard forces deployed to Washington, D.C., including forces from 12 states and the District of Columbia, to support civil law

¹For the purposes of this report, demonstrations include protests, rallies, civil disturbances, public assemblies, and other intentional or spontaneous gatherings for a particular purpose, such as the expression of political activism. Demonstrations may be peaceful or may involve acts of violence and rioting.

²For the purposes of this report, federal personnel include federal law enforcement officers and National Guard forces. A federal law enforcement officer is any federal employee who is authorized to carry a firearm and make arrests (excluding contractors and employees within intelligence and military agencies). See 18 U.S.C. §§ 3051, 3052 and 3053. There are several positions with this designation, such as agents, investigators, marshals, and officers. National Guard forces are not federal law enforcement officers, but rather military personnel who, under certain conditions, may support law enforcement authorities.

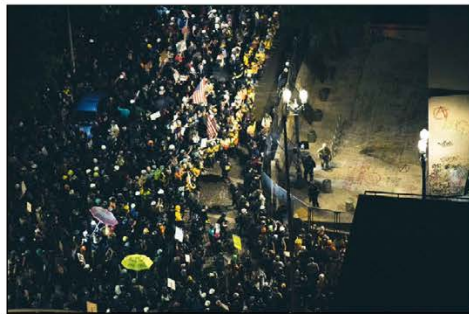
enforcement authorities while serving under Title 32 of the United States Code.³

Figure 1: Federal Personnel Deployed to Demonstrations in Washington, D.C., and Portland, Oregon

Washington, D.C.



Portland, Oregon



Sources: Departments of Homeland Security, Justice, the Interior, and Defense. | GAO-22-104470

You asked us to review issues related to the use of less-lethal force by DHS, DOJ, Interior, and DOD, during demonstrations.⁴ This report addresses the extent to which selected federal agencies (1) developed policies, procedures, and training on the use of less-lethal force during demonstrations; (2) adequately report their use of less-lethal force during deployments to Washington, D.C., and Portland, Oregon; and (3) took

³When operating under this status, National Guard forces are funded by DOD but operate under the command and control of the state governor or, in the case of D.C., the Secretary of the Army.

⁴This report does not address the January 6, 2021, attack on the U.S. Capitol. We have prior and ongoing work on the attack. See GAO, *Capitol Attack: Special Event Designations Could Have Been Requested for January 6, 2021, but Not All DHS Guidance is Clear*, [GAO-21-105255](#) (Washington, D.C.: Aug. 9, 2021).

action to review their use of less-lethal force for deployments to Washington, D.C., and Portland, Oregon, and what have been the results of such reviews. In addition, we present information on the roles, responsibilities, and activities of federal agencies during their deployments to Washington, D.C. (including the operation to clear Lafayette Square on June 1, 2020), and Portland, Oregon, in 2020, in appendixes I and II.

To address all three questions and present the information in the appendixes, we identified federal agencies that used less-lethal force or deployed large numbers of federal personnel in Washington, D.C., and Portland, Oregon, in 2020. Specifically, we reviewed situation and incident reports that described agency activities during deployments, use of force reports, and staffing information. For Washington, D.C., we collected and analyzed information on the deployments from May 26, 2020—the day after the death of Mr. George Floyd—through June 15, 2020—the date by which most of the federal surge personnel had departed the city. For Portland, Oregon, we collected information on the deployments from June 26, 2020—the day the President signed Executive Order 13933 to provide additional federal support to protect American monuments, memorials, and statues and combat criminal violence—through September 30, 2020—the last day of the fiscal year.⁵ We identified 10 agencies that used less-lethal force or deployed large numbers of personnel during one or both of our selected deployments. This included eight agencies that used less-lethal force and two additional agencies that did not report using less-lethal force during either deployment but which deployed up to 400 personnel per day to either location.⁶ We also interviewed agency officials across DHS, DOJ, Interior, and DOD.

⁵Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence, Exec. Order No. 13933, 85 Fed. Reg. 40081 (June 26, 2020) (repealed by Revocation of Certain Presidential Actions and Technical Amendment), Exec. Order No. 14029, 86 Fed. Reg. 27025 (May 14, 2021)).

⁶We selected 400 personnel as a criterion because this number of personnel represented a sizeable deployment of personnel. Other agencies with more limited roles in the deployments, such as the Transportation Security Administration, deployed fewer personnel in response to the demonstrations, which we describe in appendixes I and II. The two agencies that did not use less-lethal force during the deployments but deployed up to over 400 personnel were the National Guard and Federal Bureau of Investigation. Our scope does not include nonfederal agencies, such as the Metropolitan Police Department and the Portland Police Bureau.

To determine the extent to which the 10 identified agencies developed policies, procedures, and training on the use of less-lethal force during demonstrations, we obtained and reviewed departmental and agency policies on the use of less-lethal force, such as standard operating procedures, directives, and handbooks.⁷ We evaluated these policies to determine whether they were generally applicable to demonstrations. We reviewed training materials and requirements on less-lethal force use and demonstrations, such as training policies, lesson plans, certification requirements, and presentation slides. In addition, we reviewed legislation, statutes, and executive orders to describe relevant authorities for deployments to demonstrations. We also interviewed department and agency officials (e.g., managers, supervisors, and team leaders) on policies, procedures, and training for the use of less-lethal force during demonstrations. We conducted interviews with a nongeneralizable sample of relevant industry associations and stakeholders with subject matter knowledge (stakeholders) on challenges and opportunities to improve the use of less-lethal force by federal agencies during demonstrations.⁸ We developed our list of the types of less-lethal force, which we discuss later in this report, on the basis of our review of agency policies on less-lethal force and interviews with stakeholders and agency officials.

To determine the extent to which selected agencies adequately reported their use of less-lethal force during deployments to Washington, D.C., and Portland, Oregon, we reviewed department and agency reporting requirements for less-lethal force use, including the types of force and information that must be reported, as well as related reporting forms and procedures. We compared reporting requirements across agencies within the same department and evaluated the agency policies against their department's requirements and federal internal control standards monitoring control activities.⁹ We analyzed agency use of force reports for

⁷Generally, departments and agencies have an overall use of force policy that covers both deadly force and less-lethal force. We reviewed documentation that was in effect during the demonstrations in 2020. We also reviewed any policies, as applicable, that had been updated following the 2020 demonstrations.

⁸ We conducted interviews with the Federal Law Enforcement Officers Association, International Association of Chiefs of Police, Major Cities Chiefs Association, National Association for Civilian Oversight of Law Enforcement, National Tactical Officers Association, and U.S. Commission on Civil Rights.

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

the selected deployments to identify the amount and types of less-lethal force used by federal agencies.¹⁰ We also reviewed the reports to determine the extent to which the report included basic information on each use of less-lethal force incident. For the purposes of this report, we determined basic information to include information such as time, location, and circumstances surrounding the use of force because such information would be needed to determine if the force was used in accordance with agency policy.

To assess the reliability of the use of force reports, we gathered information on the agencies' mechanisms for monitoring the quality, consistency, and completeness of use of force reporting and interviewed relevant agency officials. Generally, we found the reports reliable for the purpose of describing the amount and types of less-lethal force reported by federal agencies during selected deployments. However, as discussed later in this report, for one of the eight agencies that reported using less-lethal force during selected deployments—U.S. Immigration and Customs Enforcement (ICE)—we found that the reports did not contain sufficient information for the purpose of identifying the number of less-lethal force incidents.

To evaluate the extent to which selected federal agencies reviewed their use of less-lethal force, we analyzed agency policies and procedures for reviewing less-lethal force incidents to determine if the force was used in accordance with agency policy. We analyzed agency documentation, as available, describing the agency's determinations on whether less-lethal force was used in accordance with agency policy and described the result of these reviews. We evaluated these procedures for reviewing the use of force against federal standards for documenting internal control activities and other significant events in a manner that allows the documentation to be readily available for examination.¹¹ We also reviewed agency "after action" reports and interviewed agency officials on any lessons learned related to the use of less-lethal force during the selected deployments, as

¹⁰We developed our list of the types of less-lethal force, which we discuss in more detail later in this report, on the basis of our review of agency policies on less-lethal force and interviews with agency officials and stakeholders.

¹¹[GAO-14-704G](#).

well as any actions that federal agencies have taken or plan to take to address the lessons learned.¹²

We reviewed operational plans, directives, orders, and planning documents for selected deployments to identify roles; responsibilities; command and control structure; direction given to personnel regarding the use of less-lethal force; and coordination with federal, state, and local partners. We also reviewed situation and incident reports that described federal activities during the deployments. In addition, we reviewed documentation describing agency jurisdictions and legal authorities related to responding to demonstrations, such as memorandums of understanding and relevant statutes. Further, for each agency, we reviewed information on the number of personnel who were part of the response to the demonstrations that occurred in the two selected deployments.¹³

We conducted this performance audit from September 2020 to 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

2020 Demonstrations in Washington, D.C., and Portland, Oregon

Federal agencies deployed personnel across the country to respond to the demonstrations that occurred following Mr. George Floyd's death in

¹²After action reports summarize an agency's activities during a deployment and identify best practices and opportunities for improvement. Lessons learned are information gleaned through internal review and analysis that is sufficiently significant or critical to consider a change to policies, procedures, or training standards. Lessons learned may include, for example, information that can enhance law enforcement personnel skills; identify gaps in current training or equipment; or any information that can prevent harm to the community, law enforcement, or the public.

¹³For the purposes of this report, we do not include personnel who were assigned to support positions, such as logistics, administrative, intelligence, and other positions that were deployed to support the operation but were not in direct contact with demonstrators.

2020.¹⁴ According to agency officials, two of the largest deployments of federal personnel occurred in Washington, D.C., and Portland, Oregon. Specifically:

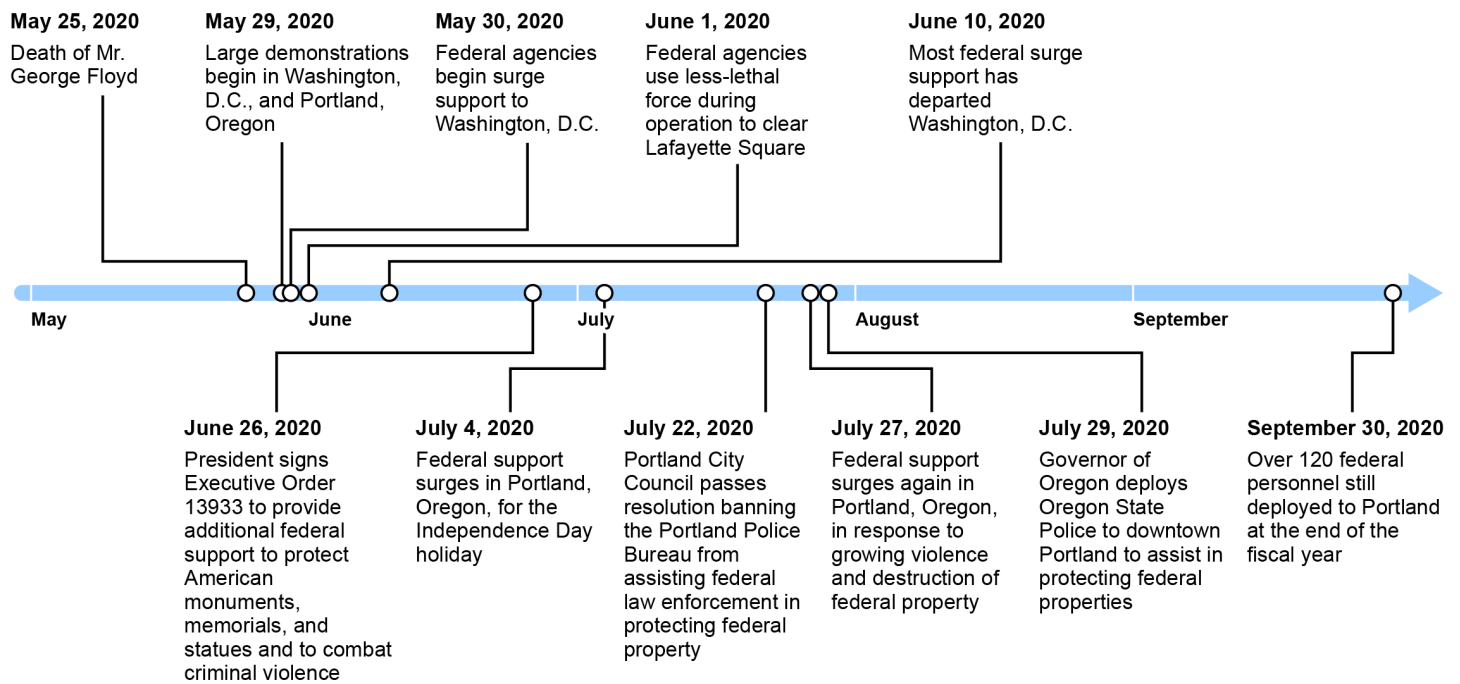
- More than 10 federal agencies deployed up to 9,000 federal personnel per day to Washington, D.C., which became a focal point for demonstrators from May 26, 2020, through June 15, 2020.¹⁵
- Five federal agencies deployed up to 300 federal personnel per day to Portland, Oregon, from July 26, 2020, through September 30, 2020.

See figure 2 for a time line of key events in the federal response to the 2020 demonstrations in Washington, D.C., and Portland, Oregon. For more detailed information regarding these deployments, see appendixes I and II.

¹⁴In an October 2020 report, the Major Cities Chiefs Association reported that there were at least 8,700 demonstrations that took place in 68 major cities across the United States and Canada from May 25, 2020, to July 31, 2020. The association is a professional organization of police executives representing chiefs of police and sheriffs of the 69 largest local law enforcement agencies in the United States and the nine largest in Canada. See Major Cities Chiefs Association, *Report on the 2020 Protests and Civil Unrest* (Washington, D.C.: October 2020).

¹⁵This figure includes the ten federal agencies in our review, as well as the Drug Enforcement Administration and the Transportation Security Administration.

Figure 2: Time Line of Events Related to Demonstrations in 2020 in Washington, D.C., and Portland, Oregon



Source: GAO analysis of agency documents. | GAO-22-104470

Federal Agency Responsibilities Related to Demonstrations

Federal agencies have various responsibilities related to demonstrations, as shown in table 1. Some agencies have core responsibilities related to protecting federal property and personnel, such as the Federal Protective Service (FPS), U.S. Park Police (USPP), U.S. Secret Service (USSS), and the U.S. Marshals Service (USMS). Other agencies have law enforcement assets, including tactical teams and investigative assets, which can be requested to assist other federal agencies in response to demonstrations.¹⁶

¹⁶Tactical teams are specialized law enforcement teams whose members are selected, trained, equipped, and assigned to prevent and resolve critical incidents involving a public safety threat that the agency's traditional law enforcement may not otherwise have the capability to resolve. For more information on federal tactical teams, see GAO, *Federal Tactical Teams: Characteristics, Training, Deployments, and Inventory*, GAO-20-710 (Washington, D.C.: Sept. 10, 2020).

Table 1: Responsibilities Related to Demonstrations for Selected Federal Departments and Agencies

Department of Homeland Security (DHS)	
Federal Protective Service (FPS)	FPS is to protect federal facilities and safeguard the employees, contractors, and visitors who pass through those facilities every day. FPS can also use a “cross-designation” process to designate additional DHS personnel, pursuant to 40 U.S.C. § 1315, to protect federal property.
U.S. Customs and Border Protection (CBP)	Core responsibilities relate to securing the border, legitimate travel, and imports. CBP also is to protect its personnel and facilities, as well as assist other federal agencies by providing law enforcement officers and assets.
U.S. Immigration and Customs Enforcement (ICE)	Core responsibilities include immigration enforcement and combatting transnational crime and terrorism. ICE may protect its personnel and facilities, as well as assist other federal agencies by providing law enforcement officers and assets, where authorized by law.
U.S. Secret Service (USSS)	Responsible for the safety and security of its protectees (e.g., the President and First Family), the White House, other key locations, and events of national significance.
Department of Justice	
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)	Core responsibilities focus on crimes related to firearms, explosives, arson, and the diversion of alcohol and tobacco products. ATF can also assist other agencies by providing law enforcement officers and assets, when requested.
Bureau of Prisons (BOP)	Core responsibilities relate to the incarceration of sentenced prisoners in federal institutions. However, BOP can also assist other agencies by providing law enforcement officers and assets, when requested.
Federal Bureau of Investigation (FBI)	In addition to its intelligence and law enforcement responsibilities, the FBI’s responsibilities include protecting its own facilities and personnel and assists other federal agencies by providing law enforcement officers and assets. FBI officials noted that its tactical teams do not participate in crowd control activities but may be present during demonstrations related to its national security mission.
U.S. Marshals Service (USMS)	To protect the federal judicial process, including protecting individuals in court facilities (such as judges, witnesses, and the visiting public), and managing court security, among other responsibilities. USMS also has the authority to deputize federal, state, local, or tribal law enforcement officers to perform the functions of a deputy U.S. marshal. ^a Deputized officers have the authority to make arrests under Title 18 of the United States Code.
Department of the Interior	
U.S. Park Police (USPP)	Within the National Park Service, USPP has primary jurisdiction and exercises law enforcement over federal park lands, including all National Park Service areas around the White House and Lafayette Square.
Department of Defense	
National Guard	Title 32 of the United States Code provides the authority for National Guard forces to respond to domestic emergencies, law enforcement support, or other domestic needs. The National Guard provides defense support in response to civil authorities and upon approval from the Secretary of Defense, in coordination with governors of affected states.

Source: GAO analysis of agency information. | GAO-22-104470

^a28 U.S.C. § 566(c) and 28 C.F.R. § 0.112.

The National Guard, a component within DOD, has the primary responsibility for providing military assistance to state and local government agencies during demonstrations. According to a DOD official,

most National Guard forces that deployed in response to the demonstrations in 2020 were serving in state active duty status at the request of their state's governor and, as such, were funded and under the command of the state.¹⁷ The National Guard forces deployed to Washington, D.C., including forces from 12 states and the District of Columbia, were under Title 32 of the United States Code.¹⁸ When operating under this status, National Guard forces are funded by DOD but operate under the command and control of the state governor or, in the case of D.C., the Secretary of the Army.¹⁹ Under Title 32, National Guard forces can support civil law enforcement authorities in accordance with DOD's Defense Support of Civil Authorities policy and guidance.

Use of Force and Less-Lethal Force

In carrying out their responsibilities related to demonstrations, federal personnel may need to use objectively reasonable and necessary force to arrest a subject, address a potential threat, or ensure compliance with a lawful order. Officers and military personnel may—depending upon the facts and circumstances surrounding an event—need to rapidly escalate or de-escalate their use of force, which can include officer presence, verbal directions, physical force with empty hands, less-lethal devices such as batons, and deadly force (see fig. 3). Agency policies on the use of force are derived from constitutional law, as interpreted by the federal courts.²⁰ The reasonableness of a use of force is based on the totality of the circumstances known by the officer at the time force is used, in the context of the rights of the subject, and the circumstances surrounding the event. If an officer uses more force than is reasonable under the

¹⁷Under state active duty status, (1) operations are funded by the state, (2) forces are under the command and control of the governor, and (3) law enforcement authorities are based on state laws and authorities. See DOD Instruction 3025.21, *Defense Support of Civilian Law Enforcement Agencies*. Because our review focused on the response by federal agencies, we did not include in our scope National Guard forces deployed under state active duty status. For example, we did not include the National Guard forces under state active duty status that responded to the demonstrations in Portland, Oregon.

¹⁸The National Guard forces can also be deployed under a third status – Title 10 of the United States Code— under which National Guard forces are funded by the federal government and operate under the command and control of the Secretary of Defense. Under Title 10 Active Duty Status, National Guard forces generally do not have domestic law enforcement powers unless the Insurrection Act has been invoked by the President. See 10 U.S.C. §§ 251-255.

¹⁹Unlike the other 53 states and territories, the Commanding General of the D.C. National Guard is subordinate solely to the President. The authority to activate the D.C. National Guard has been delegated to the Secretary of Defense and further delegated to the Secretary of the Army, but this authority does not extend to the Mayor of D.C.

²⁰See *Graham v. Connor*, 490 U.S. 386 (1989); and *Tennessee v. Garner*, 471 U.S. 1 (1985).

circumstances, it is excessive and may violate an individual's civil rights, according to DOJ officials.

Figure 3: Categories of Use of Force



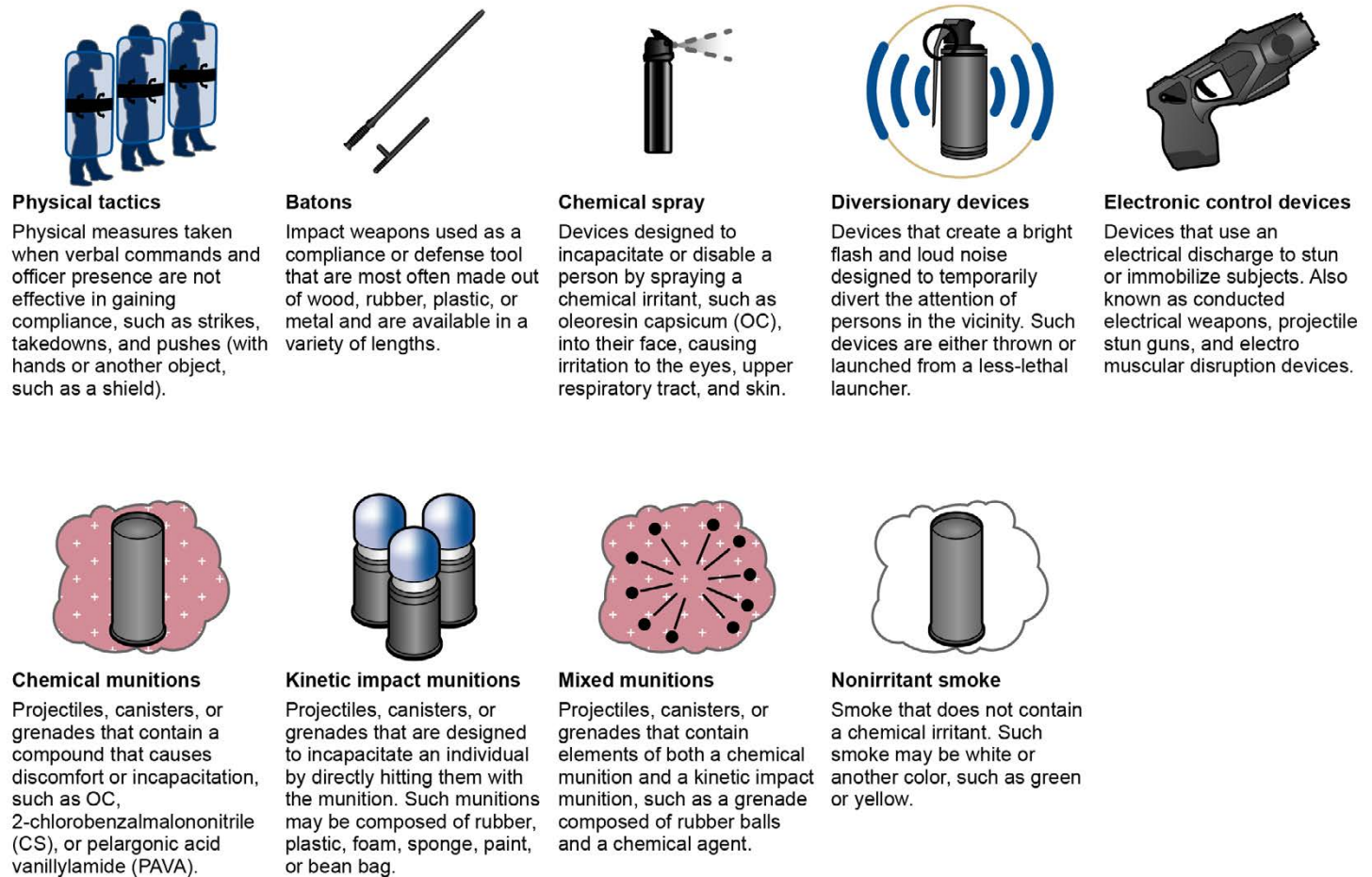
Sources: GAO analysis of agency policies; Art Explosion (clip art). | GAO-21-104470

Less-lethal force are tactics and weapons that are neither likely nor intended to cause death or serious bodily injury.²¹ Some types of less-lethal force are hand thrown, such as a canister containing a chemical irritant gas (e.g., tear gas). Others are dispersed using a less-lethal launcher, such as a 40-mm launcher, compressed air launcher, or 12-gauge shotgun.²² Further, the use of less-lethal force in a manner that could cause death or serious bodily injury (e.g., a baton strike to a region that could cause death, such as the head) is not precluded, if the use of deadly force would otherwise be objectively reasonable. Figure 4 shows the types of less-lethal force covered in our review.

²¹Law enforcement agencies use various terms to describe less-lethal force, including nonlethal force, intermediate force, and less-than-lethal force.

²²In this context, a 12-gauge shotgun may deploy less-lethal munitions, such as bean bags or rubber munitions. There are other types of less-lethal force, including water cannons and acoustic weapons. We did not include these types of force in our review because federal agency officials generally did not identify them as types of force that they use.

Figure 4: Types of Less-Lethal Force



Sources: GAO review of agency documents, and interviews with stakeholders with subject matter knowledge. | GAO-21-104470

Notes: Chemical spray can also be aerosolized. Although such spray may appear like a gas, we classified such devices as chemical spray. Some devices contain elements of both a chemical munition (i.e., has a chemical irritant) and a diversionary device (i.e., creates a bright flash and loud noise). We classified such devices as chemical munitions. Mixed munitions also include projectiles shot by a compressed air launcher that are filled solely with a chemical irritant powder or liquid, because such projectiles are generally intended to directly hit a person (thus serving as a kinetic impact munition), in addition to dispersing a chemical irritant in the nearby area.

Less-lethal force may be used by law enforcement as an alternative to deadly force (such as a firearm) under certain circumstances. Stakeholders told us that the use of less-lethal force can potentially reduce the need for deadly force as well as reduce injuries, as it provides officers with an additional tool to resolve an incident. Further, DOJ’s National Institute of Justice found in a May 2011 study that the use of

chemical spray and electronic control devices can reduce injuries to suspects, and the use of electronic control devices can decrease injuries to officers.²³ Although intended to cause minimal injury, less-lethal force can potentially cause serious injuries and even death.²⁴ For example, the United Nations, the International Network of Civil Liberties Organizations, and Physicians for Human Rights described some of the potential health impacts of less-lethal force on the bases of their reviews of various studies and in consultation with experts:²⁵

- **Chemical spray and munitions.** The use of chemical irritants can temporarily cause breathing difficulties; nausea; vomiting; irritation of the respiratory tract, tear ducts, and eyes; chest pains; skin rashes; and allergies. In large doses, it can cause necrosis of the tissue in the respiratory tract and the digestive system, pulmonary edema (i.e., fluid in the lungs), and internal bleeding.
- **Kinetic impact munitions.** Targeting the face or head may result in skull fracture and brain injury; damage to the eyes, including permanent blindness; or death. Targeting the torso may cause damage to vital organs, and there may be penetration of the body, especially when projectiles are fired at close range.

²³Department of Justice, Office of Justice Programs, National Institute of Justice, *Research in Brief, Police Use of Force, Tasers, and other Less-Lethal Weapons* (Washington, D.C.: May 2011).

²⁴We discuss agency policies and training to minimize injuries from the use of less-lethal force later in this report.

²⁵United Nations Human Rights, Office of the High Commissioner, *Guidance on Less-Lethal Weapons in Law Enforcement* (New York City, NY: 2020); and International Network of Civil Liberties Organizations and Physicians for Human Rights, *Lethal In Disguise: The Health Consequences of Crowd-Control Weapons* (Washington, D.C.: Mar. 1, 2016). The International Network of Civil Liberties Organizations is comprised of 11 independent, national human rights organizations working to promote fundamental rights and freedoms in their respective countries, including the American Civil Liberties Union. According to website, Physicians for Human Rights is an international organization that uses science and medicine to document and call attention to severe human rights violations.

Protective Gear and Officer Injuries

Agency officials reported that federal officers faced various physical threats when deployed to the demonstrations, which required that the officers wear protective gear. For example, the U.S. Customs and Border Protection officer in Portland, Oregon, in the first image below is wearing protective goggles, a helmet, and a gas mask.



Agency officials reported that demonstrators threw dangerous objects, including bricks, rocks, water bottles, and fireworks (see second photo above), which resulted in injuries to officers. For example, agency officials reported that over 150 officers had injuries during demonstrations in Washington, D.C., in late May and early June 2020, including concussions, lacerations, exposure to chemical gas, broken limbs, and severe bruising. Further, agency officials reported over 350 injuries to officers in Portland, Oregon, from June 26, 2020, through September 30, 2020, including injuries from contact with chemicals, heavy objects, fireworks, and lasers.

Sources: Agency information, U.S. Customs and Border Protection (top photo), and U.S. Park Police (bottom photo). | GAO-22-104470

- **Electronic control devices.** Risk of significant injury or even death from electronic control devices is increased under certain conditions. This includes when individuals who have been electrically shocked have heart disease; have taken certain medication or illegal drugs, or alcohol; or, for other reasons, are more susceptible to adverse cardiac effects.
- **Diversionsary devices.** Such devices typically include an explosive powder and other chemicals that create a small explosion that emits a bright flash and loud noise meant to disorient. Those in the vicinity of the device may experience temporary blindness, hearing loss, and a sense of panic. They may also result in injuries caused by flying debris created when the device explodes; blast injuries that result from the pressure waves created by the blast, such as internal bleeding; and burns.

Stakeholders told us that law enforcement should consider various factors when using less-lethal force during a demonstration, including crowd dynamics and the potential impact on bystanders. For example, in some cases, the use of less-lethal force can make a situation worse by further escalating tensions between law enforcement and the crowd. Stakeholders also told us that the officers should consider the intended goal of their law enforcement action during the demonstration, which may inform which kind of less-lethal force is appropriate to use. For example, whereas some types of force are more effective at dispersing a crowd from a general area, such as chemical munitions in gas form (i.e., tear gas), other types of force may be more effective for the purpose of incapacitating an individual in order to effect an arrest, such as electronic control devices.

Most Federal Agencies Have Less-Lethal Force Policies for Demonstrations, and Extent of Training Varies

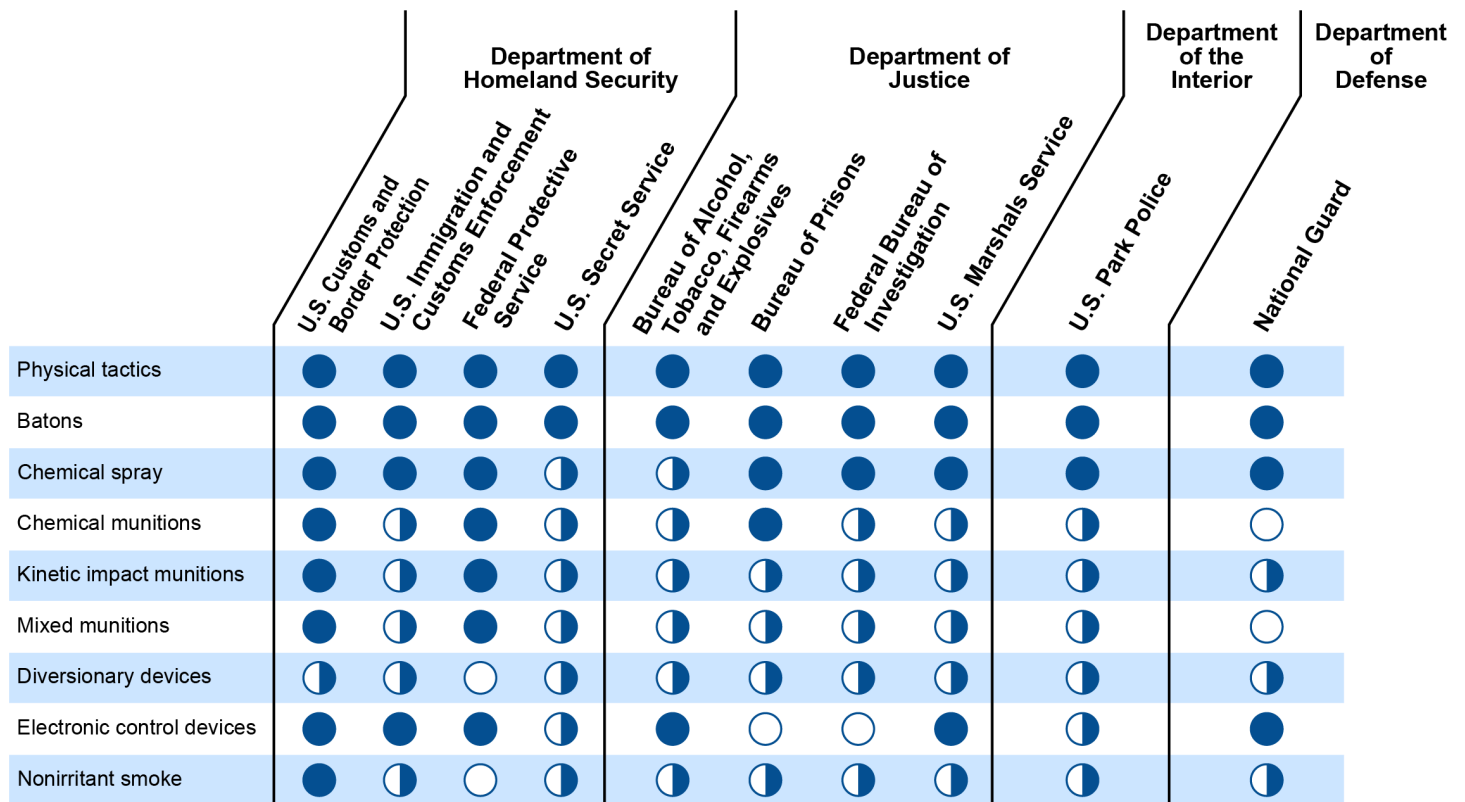
Agencies Generally Have Less-Lethal Force Policies for Demonstrations

The 10 selected agencies have various kinds of less-lethal force available for use during demonstrations, as shown in figure 5. Nearly all of the agencies reported that they equip all of their officers or National Guard forces on physical tactics, batons, and chemical spray and that such force can be used during demonstrations when authorized and warranted to do so.²⁶ Some agencies, such as the Federal Bureau of Investigation (FBI), ICE, and USPP, only train and equip their tactical teams or other specialty teams on additional types of less-lethal force. For example, the FBI only trains and equips members of its tactical teams to use diversionary devices; nonirritant smoke; and chemical, kinetic impact, and mixed munitions. Similarly, USPP only equips its Special Weapons and Tactics (SWAT) team and Civil Disturbance Unit (which respond to civil disturbances, law enforcement emergencies, and other situations) on chemical, kinetic impact, and mixed munitions.²⁷

²⁶In order to use certain kinds of less-lethal force devices, agencies generally require their officers to maintain a certification on such devices. Additionally, agencies may only authorize select types of force for a specific mission.

²⁷USPP SWAT officers are equipped to handle additional types of less-lethal force, such as diversionary devices.

Figure 5: Types of Less-Lethal Force Available to Use during Demonstrations for Selected Agencies



- Legend**
- All officers and National Guard forces are allowed to use as needed
 - ◐ Only tactical team officers or other select officers and personnel are equipped with such force
 - Not used by the agency

Source: GAO analysis of agency information. | GAO-22-104470

Note: Agencies generally require their officers or National Guard forces to maintain a certification for the use of certain kinds of less-lethal force devices. Additionally, agencies may only authorize select types of force for a specific mission. Policies for the Bureau of Prisons focus exclusively on use of force against inmates.

DHS, DOJ, and Interior have department-wide less-lethal force policies, and each of the component agencies in our review retains a more detailed policy tailored to its mission and available force.²⁸ These policies all generally state that its officers should only use force during the course of their law enforcement duties and that the level of force should be

²⁸Generally, these policies are part of a larger use of force policy that also covers deadly force but includes sections specifically discussing less-lethal force.

reasonable and based on the circumstances at hand. DHS and Interior's policies refer to the Supreme Court decision on *Graham v. Connor*, which established standards for determining whether a law enforcement officer's use of force is objectively reasonable.²⁹

DOD also has a department-wide less-lethal force policy for all component agencies providing support to civil authorities.³⁰ The policy, which is applicable to National Guard forces under federal command and control or when operating in Title 32 status, states that the force must be reasonable in intensity, duration, and magnitude based on the totality of the circumstances. Use of force by National Guard forces serving under Title 32 is governed by state law. The rules for the use of force for each local (i.e., state, territory, or District of Columbia) National Guard unit may vary from state-to-state because each state has a unique constitution, laws, and legal opinions on the use of force and how it may be used. Out-of-state National Guard forces serving under Title 32 status generally adopt the rules for the use of force of the supported state they are deployed in.³¹ For example, according to National Guard officials, National Guard forces who deployed from another state to Washington, D.C., in 2020 fell under the command and control of the D.C. National Guard and followed D.C.'s rules for the use of force. Further, according to National Guard officials, all National Guard forces, including those from out of state, received a briefing and a card on the rules for the use of force prior to the start of the mission.

We found that all of the agencies' policies were broadly written and that nearly all policies (nine of 10) applied to demonstrations. Moreover, some agency officials explained that these less-lethal force policies apply to various law-enforcement-related situations. These situations may include demonstrations. For example, USPP's policy does not explicitly state how the force should be applied during interactions with demonstrators but

²⁹490 U.S. 386 (1989).

³⁰DOD's use of force policy discusses the use of less-lethal force, as well as deadly force.

³¹National Guard Bureau, *National Guard Domestic Law Enforcement Support and Mission Assurance Operations*, National Guard Regulation 500-5/Air National Guard Instruction 10-208 (Arlington, VA: Aug. 18, 2010).

instead generally speaks to how force is to be applied when control needs to be maintained in all situations.³²

By contrast, the Bureau of Prison's (BOP) less-lethal force policy focuses exclusively on inmates. According to BOP officials, the law enforcement authority of BOP staff is generally limited to crimes that occur on the grounds of correctional facilities, institution disturbances, destruction of BOP property, and events surrounding an attempted escape. They stated that deployments of BOP staff outside of federal institution property, excluding transfers of high-risk prisoners or protests directly outside of an institution, are relatively rare. However, they also noted that BOP had deployed personnel more often in recent years in response to civil disturbances and natural disasters, including beyond its institutions. Therefore, BOP staff may encounter demonstrators or members of the public, who are not inmates, outside and away from correctional facilities. BOP officials stated that although their less-lethal force policy is written in the context of force against an inmate, in practice it also can apply to noninmates during deployments outside of federal institution property.

According to DOJ's less-lethal force policy, individual components are required to establish rules and procedures for the use of less-lethal force.³³ BOP's current policy is not sufficient because it does not directly address the use of force against noninmates. BOP officials stated that their use of force policy focuses on inmates because inmates are typically the subject of their officers' force. However, there may be important differences to consider when applying the use of force in such situations, in part because the normal law enforcement authority of BOP staff is specific to crimes that occur on the grounds of correctional facilities, institution disturbances, destruction of BOP property, and escapes. In March 2021, BOP officials acknowledged that their policy could be enhanced by clarifying use of force against civilians outside of a federal institution, given the increase of external deployments of BOP personnel in recent years. Updating its policy to address use of force in circumstances outside the context of a federal institution and with

³²For example, USPP's use of force policy describes the levels of behavior that a noncompliant subject may display and the corresponding levels of response by the officer. The policy requires officers to escalate and de-escalate their level of response in accordance with the actions of a subject. The policy also explains that once a level of force is no longer required, it must be decreased or discontinued. An officer is expected to employ only the minimum level of reasonable force necessary to control a situation. See U.S. Park Police, *Use of Force*, General Order 3615.

³³Department of Justice, Office of the Deputy Attorney General, *Policy on the Use of Less-Than-Lethal Devices* (Washington, D.C.: May 16, 2011).

noninmates would enhance BOP's use of force policy by ensuring that it completely addresses all potential uses of force situations facing its staff.

Training on Use of Force Varied by Agencies' Core Mission

New officers from six of 10 agencies receive initial training on less-lethal force at DHS' Federal Law Enforcement Training Centers (FLETC). This includes three DHS agencies, two DOJ agencies, and Interior's USPP. At FLETC, officers receive a mixture of lectures; laboratory practice sessions; and exercises on physical tactics, batons, chemical sprays, and electronic control devices.³⁴ Figure 6 illustrates aspects of training that new officers receive at FLETC.

Figure 6: Less-Lethal Force Training at the Federal Law Enforcement Training Centers



An officer is receiving training on using a baton (first photo) and an electronic control device (second photo).

Source: Federal Law Enforcement Training Centers. | GAO-22-104470

The other four agencies—BOP, CBP, FBI, and the National Guard—provide their own initial training on less-lethal force.

³⁴Officers from FPS, USPP, and USSS (uniformed officers) attend FLETC's Uniformed Police Training Program, and officers from the Bureau of Alcohol, Tobacco, Firearms and Explosives; ICE (Homeland Security Investigations special agents); USMS; and USSS (special agents) attend FLETC's Criminal Investigator Training Program. Agencies generally provide agency-specific training following the FLETC program. For example, according to USPP officials, USPP officers attend an additional agency-specific basic training, which continues instruction in use of force and crowd control.

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- New staff at BOP institutions receive use of force training as part of their introduction to correctional techniques training, which is typically provided within the staff member's first 2 weeks of employment.³⁵
 - New CBP officers receive training on use of force, including batons, chemical sprays, and electronic control devices, and also receive training on less-lethal munitions (chemical, kinetic impact, and mixed) and nonirritant smoke.³⁶
 - The FBI's new special agents attend the FBI Academy in Quantico, Virginia, where they take courses on physical tactics, chemical spray, and baton use.
 - According to a DOD official, National Guard forces are initially trained either by a DOD instructor or a designated nonfederal civilian law enforcement agency. National Guard forces receive training on topics such as communications skills, riot control techniques, less-lethal munitions, and crowd dynamics.

After providing initial training, all 10 agencies have requirements for ongoing training and certification related to less-lethal force. For example, USSS officers attend a 12-hour initial certification course on electronic control devices that discusses legal use of force and medical concerns and must pass a written scenario-based test before they are issued a device. Officers are then required to attend a 4-hour annual recertification to maintain issuance of their electronic control device and certification on the device. As another example, CBP officers who are authorized to use certain types of less-lethal force are required to recertify annually by passing a written test and demonstrating related skills. Additionally, according to a DOD official, National Guard forces are required to train on the use of force, among other topics, 1 weekend a month and 2 weeks a year for federal missions, as well as participate in pre-mission refresher training just prior to deployments for planned demonstrations.³⁷ Further,

³⁵BOP officers take a second phase of this course at FLETC, but the course does not address less-lethal force or crowd control tactics.

³⁶While officers receive some training directly from FLETC, new CBP officers receive their initial training on less-lethal force from CBP directly, using CBP personnel and CBP-specific lesson plans.

³⁷According to National Guard officials, the amount of training on the use of less-lethal force that National Guard forces receive varies by state, territory, or D.C. unit. For example, Tennessee National Guard officials told us that, on average, their forces receive less-lethal force training about 2 to 3 times per year. D.C. National Guard officials stated that their forces receive use of force training for civil disturbance operations and other events requiring crowd management, such as the Independence Day holiday and presidential inaugurations, about 10 to 20 times per year.

five agencies—ATF, CBP, FBI, USMS, and USPP—provide additional training on less-lethal force to members of their tactical teams or specialty teams. Figure 7 illustrates some of the training on less-lethal force from the agencies in our review.

Figure 7: Sample Training Exercises on Less-Lethal Force at Several Agencies



Baton



Nonirritant smoke



Diversiónary device



Hand-thrown less-lethal munition



Less-lethal munition launcher



Electronic control devices

Sources: Departments of Homeland Security and Justice. | GAO-22-104470

Depending on their core mission, some agencies provide training to their officers and National Guard forces on using less-lethal force specifically during demonstrations. Officers who attend one of FLETC's training programs—the Uniformed Police Training Program—are given training on crowd control.³⁸ Such training includes the use of a riot baton, crowd control formations, dissemination of chemical agents, decontamination, and first aid procedures. Further, of the 10 agencies,

³⁸Officers from FPS, USPP, and USSS (uniformed officers) participate in FLETC's Uniformed Police Training Program. FLETC's Criminal Investigator Training Program, which is attended by new officers of ATF, ICE, USMS, and USSS (special agents), does not include crowd control courses.

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- three agencies (USSS, FPS, and National Guard) provide all officers and guardsmen with training specifically on demonstrations,
 - five agencies (BOP, CBP, ICE, USMS, and USPP) provide demonstration-specific training only to members of their tactical teams, specialized civil disturbance groups, or units specializing in crowd management; and³⁹
 - officials from the two other agencies—ATF and FBI—stated that they provide relatively little or no training on the use of force during demonstrations or crowd control because such settings are not related to their core mission. Further, officials from both agencies stated that their use of force training is applicable to a range of situations but that their scenario-based training focuses on situations they are most likely to encounter.

Agencies Have Policies and Training to Minimize Injuries to Demonstrators

All 10 agencies in our review have policies and training related to ensuring that their use of less-lethal force minimizes unintended injuries for all use of force situations, including demonstrations.

DHS. DHS's use of force policy states that officers should seek to employ tactics and techniques that effectively bring an incident under control while promoting the safety of officers and the public and minimizing the risk of unintended injury or serious property damage. The four DHS component agencies have their own policies and training related to minimizing unintended injuries. For example,

³⁹As we discuss later in this report, CBP is planning to provide demonstration-related training to all new officers effective October 2021. CBP's Office of Field Operations instituted such training for its new officers beginning in January 2021, and the U.S. Border Patrol is planning to begin such training for all new officers in October 2021. Additionally, all USPP officers attend a two-hour agency specific training, which provides instruction on the responsibilities of officers dealing with demonstrations and special events, among other things. USPP officers who are assigned a collateral duty with USPP's civil disturbance units receive an additional, specialized civil disturbance training that covers concepts including crowd behaviors and trends, issuing warning messages to the public, and crowd-specific considerations when using specific types of less-lethal force (such as chemical agents and smoke). According to USPP officials, this training, which was established around early 2016, is provided by an outside vendor to USPP and other federal, state, and local law enforcement officials.

Effects of Chemical Spray and Law Enforcement Training

Chemical spray, also called pepper spray, contains a natural inflammatory agent (oleoresin capsicum) that can cause coughing, tearing, and discharge of excessive mucus when deployed in the face. According to stakeholders with subject matter knowledge, the purpose of using chemical spray is to incapacitate or dissuade an assailant or to help effect the lawful arrest of a suspect who is actively resisting.

During training, officers are exposed to chemical spray to help them understand its effect on themselves and others. Trainees also practice decontamination procedures, such as running cold water over their eyes.

In the images below, officers at the Federal Law Enforcement Training Centers are practicing deploying a chemical spray, as well as decontamination procedures.



Sources: Agency information and Federal Law Enforcement Training Centers (photo). | GAO-22-104470

- CBP's and USSS's policies state that some techniques are prohibited when officers are using less-lethal force, including certain physical tactics, such as choke holds, carotid control holds, and other neck restraints; and
- FPS's and ICE's policies state that the use of chemical agents (e.g., chemical spray and munitions) and batons must be discontinued after a subject has been subdued or incapacitated and that officers must ensure that subjects exposed to chemical agents are decontaminated as soon as practicable.

DOJ. DOJ's less-lethal force policy states that officers are not authorized to use less-lethal devices if voice commands or physical control otherwise achieve the law enforcement objective. Moreover, officers are prohibited from using such devices to punish, harass, or abuse any person. The four DOJ component agencies also have their own policies and training related to minimizing unintended injuries. For example,

- ATF tactical team training instructs officers to make every effort not to deploy diversionary devices in the immediate area of children or elderly persons and that there should be no known explosives or flammables in the proposed deployment area;
- BOP training on chemical spray includes instructions on how to decontaminate an inmate after they have been sprayed, such as instructing the inmate not to rub their eyes or scratch irritated skin, and flushing the chemical agent using running water;
- FBI training instructs officers not to intentionally direct baton strikes to certain areas—including the head, neck, internal organs, genitalia, and spinal column—except when deadly force is warranted; and
- USMS policy requires that officers carry an electronic control device on the opposing side of the body from where a firearm is carried to avoid accidental deployment of the wrong device.

Interior. Interior's use of force policy encourages officers to employ tactics and techniques that effectively bring situations under control while promoting the safety of officers and the public. To that end, Interior requires its agencies to incorporate de-escalation tactics and techniques into use of force trainings.⁴⁰ Similarly, USPP policy requires officers to escalate and de-escalate their level of response in accordance with the actions of a subject. If possible, officers are first required to utilize de-

⁴⁰Department of the Interior, Office of Law Enforcement and Security, *Use of Force*, Departmental Manual Chapter 20 (Washington D.C.: Jan. 15, 2021).

escalation techniques such as warning, verbal persuasion, and tactical communication.

DOD. DOD's use of force policy states that force is to be used only as a last resort and should be the minimum level necessary to accomplish the mission. For example, the D.C. National Guard's rules on the use of force for its deployment beginning in late May 2020 state to never respond to verbal threats alone and to use force that will not increase risk of injury to innocent bystanders. If necessary, personnel are expected to provide or arrange for medical attention to the injured. DOD policy also requires that when applying chemical agents, DOD personnel must begin a decontamination process; reassure the subject; and monitor for distress, coherence, and respiration.

FLETC. FLETC's training programs—attended by six of the 10 agencies in our review—address the use of less-lethal force to minimize injuries.⁴¹ For example, FLETC's course on batons instructs officers that strikes delivered to the head, neck, and spine are considered to be deadly force. Per FLETC's training documentation, such strikes must be objectively reasonable under the totality of the circumstances known to the officer at the time the force is used. FLETC's course on the use of chemical spray teaches officers to be aware of wind conditions and make reasonable attempts to avoid discharging chemical spray in the immediate vicinity of infants, children, the elderly, and innocent bystanders. Further, FLETC's course on electronic control devices identifies populations that are potentially more vulnerable to adverse reactions, including small children, the elderly, pregnant women, and frail individuals.

Use of Force Reporting Differs, and Some Reports Lacked Basic Information

Variation in Reporting Requirements Impair Departmental Oversight

Policies on the types of less-lethal force that officers must report vary by agency. For example, some agencies require their officers to report the use of their baton, while others only require reporting baton use if there was serious injury. Further, reporting requirements for agencies within the

⁴¹These agencies are ATF, FPS, ICE, USMS, USPP, and USSS.

DHS’s Reporting Requirements

same department—specifically DHS and DOJ—vary. This variance in reporting requirements impairs departmental oversight of how much and under what circumstances its agencies use less-lethal force. DOD does not have standard reporting requirements because reporting is controlled at the local unit level, and the requirements vary for each deployment.

DHS agencies vary in the types of less-lethal force that its officers report and the format for doing so.

Types of reportable less-lethal force. As shown in table 2, DHS agencies vary in the types of force officers must report when used, per the agency’s less-lethal force policy. For example, of the four DHS agencies we reviewed, only CBP requires officers to report all uses of diversionary devices. Further, FPS and CBP require officers to report of all uses of a baton, while ICE’s and USSS’s polices only require officers to report baton use if its use caused a serious injury.⁴²

Table 2: Required Types of Reportable Less-Lethal Force, by Selected Department of Homeland Security Agencies

Agency	Federal Protective Service	U.S. Customs and Border Protection	U.S. Immigration and Customs Enforcement	U.S. Secret Service (USSS)
Physical tactics	◐	◐	◐	◐
Batons	●	●	◐	◐
Chemical spray	●	●	●	◐
Chemical munitions	●	●	●	◐
Kinetic impact munitions	●	●	●	◐
Mixed munitions	●	●	●	◐
Diversionary devices	n/a	●	○	◐
Electronic control devices	●	●	●	●
Nonirritant smoke	n/a	◐	○	◐

Legend:
 ●= All use required to be reported

⁴²DHS officials stated that agencies generally do not require officers to report baton use when the baton is deployed as a nonstriking control technique, such as when the officer uses the baton to block the path of a subject. DHS defines serious injury as physical injury that involves protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or creates a substantial risk of death.

● = Use only required to be reported if use meets certain conditions, such as if certain techniques were used or if there was a serious injury

○ = Use not required to be reported

n/a = Not applicable because the agency does not use this type of force

Source: GAO analysis of agency information. | GAO-22-104470

Note: Department of Homeland Security officials stated that agencies generally do not require officers to report baton use when the baton is deployed as a nonstriking control technique, such as when the officer uses the baton to block the path of a subject. According to USSS policy, reporting use of force incidents is contingent on whether the application of force resulted in injury or property damage. Therefore, any type of force can potentially be reported if it meets these criteria, though the policy does not state which types of force must be reported even if there is no injury or property damage.

The reporting of less-lethal force incidents across DHS agencies is inconsistent. DHS's use of force policy identifies broad conditions for when officers within its agencies must report use of force incidents. These include when (1) a less-lethal device is utilized against a person; (2) serious bodily injury occurs; (3) deadly force is used against a person (e.g., a firearm is discharged at a person, but the person did not die); or (4) death occurs.⁴³ However, DHS's policy does not specifically identify the types of less-lethal force that officers must report. Specifically, DHS's policy defines a less-lethal device as an instrument or weapon that is designed or intended to be used in a manner that is not likely to cause death or serious bodily injury. The policy provides suggested examples, such as electronic control weapons, impact weapons, and certain chemical agents, but does not identify the specific types of force that must be reported. As previously shown in table 2, the lack of specific requirements allowed the four DHS agencies in our review to interpret this definition differently.

DHS policy states that it is a department priority to ensure consistent department-wide reporting and tracking of use of force incidents. However, the department's variation in requirements for the types of less-lethal force that officers must report impairs departmental oversight of how much and under what circumstances its agencies use less-lethal force. For example, under existing agency reporting requirements, DHS management cannot obtain a comprehensive picture on the extent to which batons, diversionary devices, and nonirritant smoke that its component agencies use because some agencies do not require the use of such force to be reported in certain circumstances. Enhancing its department-wide use of force policy by identifying the types of less-lethal force that officers must report will help ensure that DHS is collecting consistent information on use of force across its agencies. This will

⁴³Department of Homeland Security, Policy Statement 044-05, *Department Policy on the Use of Force* (Washington, D.C.: Sept. 7, 2018).

improve the department's ability to oversee and make informed decisions in the implementation of its use of force policy.

Reporting format. Three of the four DHS agencies in our review require officers or their supervisors to complete a use of force report using a specific form or reporting system. The reporting forms collect a combination of basic characteristics, as well as prompt for a written narrative on the incident. For example,

- **CBP.** The agency's reporting system requires that the officer identify various types of information from drop-down menus for each use of force incident, such as the estimated distance from which the force was used and the reason for using force. CBP also requires a narrative description of the facts and circumstances surrounding the use of force;
- **ICE.** Per agency policy, an officer is required to first develop a situation report that includes a narrative description of the incident and then to create a report that identifies the gear being carried and the type of force used; and
- **FPS.** Reports include fields for some kinds of required information, including the date, time, location of the incident, and the officer's distance from the suspect at the time the force was used. FPS's use of force report forms also requires officers to provide, in a narrative block, additional information on the particular use of force.

By comparison, USSS officers submit reports in an unstructured memorandum that consists of an open narrative and does not include any required fields. According to USSS officials, officers receive training on the type of information they should report, such as who delivered the force, the types of force used, and the rationale for the force.

DOJ's Reporting Requirements

DOJ agencies also vary in the types of less-lethal force that its officers must report and the format for doing so.

Types of reportable less-lethal force. As shown in table 3, DOJ agencies vary in the types of less-lethal force that officers must report. For example, ATF, BOP, and USMS require officers to report physical tactics under certain conditions (e.g., anything greater than minor restraint), while the FBI does not require physical tactics to be reported. Further, while all four DOJ agencies require officers to report the use of

batons and chemical spray, only the FBI and BOP require officers to report use of all diversionary devices.⁴⁴

Table 3: Required Types of Reportable Less-Lethal Force, by Selected Department of Justice Agencies

Agency	Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)	Bureau of Prisons	Federal Bureau of Investigation	U.S. Marshals Service
Physical tactics	◐	◐	○	◐
Batons	●	●	●	●
Chemical spray	●	●	●	●
Chemical munitions	●	●	●	●
Kinetic impact munitions	●	●	●	●
Mixed munitions	●	●	●	●
Diversionary devices	◐	●	●	○
Electronic control devices	●	n/a	n/a	●
Nonirritant smoke	◐	◐	●	○

Legend:

● = All use required to be reported

◐ = Use only required to be reported if use meets certain conditions, such as if certain techniques were used or if there was a significant injury

○ = Use not required to be reported

n/a = Not applicable because the agency does not use this type of force

Source: GAO analysis of agency information. | GAO-22-104470

Note: According to ATF officials, all uses of diversionary devices are reported to supervisors, but use of such devices are only reviewed as a use of force (i.e., to determine if the force was used in accordance with policy) if there was an injury. Because only certain uses are both reported and reviewed as a use of force, we consider ATF's reporting of diversionary devices to only be required if use meets certain conditions (i.e., injury).

DOJ's policy on less-lethal force states that DOJ agencies must individually establish procedures for documenting and reporting all incidents involving the use of less-lethal devices.⁴⁵ This policy also states

⁴⁴According to ATF officials, all uses of diversionary devices are reported to supervisors, but use of such devices are only reviewed as a use of force (i.e., to determine if the force was used in accordance with policy) if there was an injury. Because only certain uses are both reported and reviewed as a use of force, we consider ATF's reporting of diversionary devices to only be required if use meets certain conditions (i.e., injury).

⁴⁵Department of Justice, Office of the Deputy Attorney General, *Policy on the Use of Less-Than-Lethal Devices*.

that less-lethal devices include, but are not limited to, impact devices (e.g., batons and kinetic impact munitions); chemical agents (e.g., chemical spray and chemical munitions); and electronic control devices. However, the policy does not specify the types of less-lethal force that officers must report. As a result, the reporting of less-lethal force incidents is inconsistent across DOJ, which impairs the department's oversight of how much and under what circumstances its agencies use less-lethal force—including potential lessons learned. For example, under existing agency reporting requirements, DOJ management cannot obtain a comprehensive picture on the extent to which component agencies use physical tactics and diversionary devices because some agencies do not require officers to report the use of such force in certain circumstances. Enhancing its department-wide use of force policy by identifying the types of less-lethal force that officers must report will help ensure that DOJ is collecting consistent information on the use of force across its agencies. This will improve the department's ability to oversee and make informed decisions in the implementation of its use of force policy.

Reporting format. All four DOJ agencies have required use of force reporting forms. These forms contain a combination of required fields and a narrative field where officers can provide additional details surrounding their use of force. For example:

- **USMS.** The form contains fields that are filled in from drop-down menus, such as the reason for the use of force, the weapon used, and whether the officer or any other individuals were injured. The form also requires an officer to provide a narrative description on the circumstances surrounding their use of force.
- **BOP.** Per agency policy, officers develop a memorandum describing the use of force incident that does not have any required fields. Then, supervisors attach the memorandum to a use of force report that requires the supervisor to include certain types of information, such as the reason for the use of force and the type of less-lethal device used.
- **ATF.** The reporting form does not include fields for identifying specific pieces of information beyond the officers involved. Instead, information is largely provided through a narrative describing the incident, along with statements of the ATF personnel involved. However, ATF policy requires that the report include various types of information, when possible, such as a description of the events and circumstances occurring prior to the incident, whether verbal warnings

Interior's Reporting Requirements

were given, the weapons used, and the employee's most recent weapon certification.⁴⁶

- **FBI.** The reporting form includes fields requiring officers to identify specific pieces of information, such as information on each officer who used a less-lethal device, whether the subject was injured, and a narrative summary of the incident.

Like DHS and DOJ, Interior's USPP has policies and procedures on the types of less-lethal force that its officers must report and the format for doing so.⁴⁷

Types of reportable less-lethal force. Interior's departmental use of force policy requires the officers within its agencies to report on use of force incidents when any of the following circumstances occur: (1) a less-lethal device is utilized against a person; (2) serious bodily injury occurs; (3) deadly force is used against a person (including the discharge of a firearm); or (4) when death occurs.⁴⁸ The one Interior agency we reviewed—USPP—requires officers to report certain physical tactics (e.g., compliance techniques such as takedowns and defensive tactics such as strikes), as well as the other kinds of less-lethal force in our review, as shown in table 4.

Table 4: Required Types of Reportable Less-Lethal Force by the Department of the Interior's U.S. Park Police

Agency	U.S. Park Police
Physical tactics	●
Batons	●
Chemical spray	●
Chemical munitions	●

⁴⁶Such information is compiled by ATF's Force Review Office from various sources, including statements or interviews with witnesses and other ATF employees.

⁴⁷We did not review the less-lethal force reporting requirements for other agencies within Interior or the National Park Service because such agencies did not meet our agency scoping criteria.

⁴⁸Interior's policy defines a less-lethal device as an instrument, device, or weapon designed or intended to be used in a manner not likely to cause death or serious bodily injury. See Department of the Interior, Department Manual Part 446, Chapter 20, *Use of Force* (Washington, D.C.: Jan. 15, 2021). These reporting requirements were also included in the prior version of Interior's Use of Force policy, issued on December 20, 2019, as interim guidance that was in effect throughout the 2020 calendar year. Interior does not require its law enforcement officers to submit a use of force report if a less-lethal device is displayed but not used.

Agency	U.S. Park Police
Kinetic impact munitions	●
Mixed munitions	●
Diversionary devices	○
Electronic control devices	●
Nonirritant smoke	○

Legend:

● = All use required to be reported

◐ = Use only required to be reported if use meets certain conditions, such as if certain techniques were used or if there was a significant injury

○ = Use not required to be reported

n/a = Not applicable because the agency does not use this type of force

Source: GAO analysis of agency information. | GAO-22-104470

Reporting format. Interior's policy states that it is a priority to ensure consistent department-wide reporting and tracking of use of force incidents. The policy requires its agencies to establish internal processes to collect and report accurate data on the use of force.

For all reportable incidents, USPP officers must submit details on the circumstances surrounding the use of force. The reporting form does not include fields for identifying specific pieces of information but instead relies upon an unstructured narrative to describe the incident. According to USPP officials, while there is no agency policy outlining required information for use of force reports, USPP instructs its officers on potential information to include when writing a use of force report and how to write reports objectively. For example, USPP training on defensive tactics instructs officers to include facts, rather than conclusions, and provide examples on how to do so when reporting the perceived threat to an officer, a subject's behavior, and other circumstances surrounding the incident.

DOD's Reporting Requirements

Unlike DHS, DOJ, and Interior, DOD does not have department-wide requirements that military personnel must use when reporting use of force during domestic deployments to demonstrations. DOD officials stated in August 2021 that although the department has many other kinds of reporting requirements, it is not a law enforcement agency and, therefore, does not have department-wide requirements specifically for reporting the use of force. Instead, the reporting standards related to the use of force are defined at the local unit level (i.e., state, territory, or D.C.). In determining whether use of force incidents should be reported, service members are required to consider various factors, including the severity of the incident and the potential for adverse publicity. According to unit

policy, the Commander establishes use of force reporting requirements for each deployment, which are part of the deployment's overall requirements. Any incident meeting the reporting requirements outlined in the Commander's requirements must be reported to the chain of command as soon as possible.

For the 2020 deployment to demonstrations in Washington, D.C., the D.C. National Guard Commander's reporting requirements stated that service members should report any violent contact with civilians. Per these requirements, service members were required to report an overall assessment of the situation, the location of the incident, its impact to the mission, and an estimate of the crowd size. National Guard officials noted that while the reporting requirements for each mission may vary, any incident involving the use of force against a civilian would always meet the requirements. These requirements apply to any type of less-lethal force that the National Guard member is using, including physical tactics and batons. Out-of-state National Guard forces who supported the deployment in Washington, D.C., were under the command and control of the D.C. National Guard and were expected to follow the D.C. National Guard's rules on the use of force, as well as the D.C. National Guard Commander's reporting requirements.

Some DHS, DOJ, and Interior Reports on Less-Lethal Force Were Missing Basic Information

We found that some reports on the use of less-lethal force in Washington, D.C., and Portland, Oregon, were missing basic pieces of information. Such information would be useful when reviewing the incident to determine if it was in accordance with agency policy, such as the time, location, or circumstances surrounding the use of force. We were not able to identify the number of less-lethal force incidents for ICE because the agency's use of force reports generally did not have sufficient information, which we describe in more detail below.

Eight of the 10 agencies reported using less-lethal force during the selected deployments to demonstrations, as shown in table 5. Specifically, four agencies reported using less-lethal force in response to demonstrations in Washington, D.C. (May 26, 2020, through June 15, 2020); two agencies reported using less-lethal force in response to demonstrations in Portland, Oregon (June 26, 2020, through September 30, 2020); and two agencies reported using force during both deployments. The remaining two agencies—FBI and National Guard—reported that they did not use less-lethal force in either of the deployments. For the purposes of our analysis, we refer to an incident as a single type of less-lethal force an officer used on a single day. For example, a report in which an officer threw two canisters of chemical

munitions and four diversionary devices throughout the course of a night would be counted as two use of force incidents in our analysis –one for the chemical munitions and one for the diversionary devices.

Table 5: Number of Use of Force Reports and Less-Lethal Force Incidents That Select Agencies Reported for Select Deployments

Department	Agency	Deployments in which less-lethal force was used	Number of reports	Number of incidents reported
Homeland Security	Federal Protective Service	Both	84	90
	U.S. Customs and Border Protection	Portland only	35	544
	U.S. Immigration and Customs Enforcement	Portland only	16	Not identifiable ^a
	U.S. Secret Service	Washington, D.C., only	39	50
Justice	Bureau of Alcohol, Tobacco, Firearms and Explosives	Washington, D.C., only	1	2
	Bureau of Prisons	Washington, D.C., only	2	13
	Federal Bureau of Investigation	Did not report using less-lethal force	0	0
	U.S. Marshals Service	Both	26	80
Interior	U.S. Park Police	Washington, D.C., only	39	54
Defense	National Guard	Did not report using less-lethal force	0	0

Source: GAO analysis of agency data and information. | GAO-22-104470

Note: Selected deployments were Washington, D.C., from May 26, 2020, through June 15, 2020, and Portland, Oregon, from June 26, 2020, through September 30, 2020. For the purposes of this table, an incident is a single type of less-lethal force used by an officer on a single day. For example, a report in which an officer threw two canisters of chemical munitions and four diversionary devices throughout the course of a night would be counted as two use of force incidents in our analysis – one for the chemical munitions and one for the diversionary devices. This table only includes reportable use of force incidents, which are use of force incidents that agency policy required to be reported. A single use of force report can include multiple less-lethal force incidents.

^aWe were not able to identify the number of less-lethal force incidents for U.S. Immigration and Customs Enforcement because the agency’s use of force reports for selected deployments generally did not have sufficient information for the purpose of identifying the number of less-lethal force incidents. We describe this issue in more detail later in this report.

DHS’s Reports on Less-Lethal Force

Each of the four DHS agencies in our review reported using less-lethal force in either Washington, D.C., or Portland, Oregon, as shown in table 6. Some of the reports were missing basic information.

Table 6: Less-Lethal Force Incidents That the Department of Homeland Security Reported during Demonstrations in Washington, D.C., and Portland, Oregon

Type of less-lethal force	Washington, D.C. (May 26, 2020, through June 15, 2020)		Portland, OR (June 26, 2020, through September 30, 2020)		
	FPS	USSS	FPS	ICE ^a	CBP
Physical tactics	1	16	None reported	Not identifiable	1
Batons	None reported	14	None reported	Not identifiable	None reported
Chemical spray	None reported	19	11	Not identifiable	9
Chemical munitions	None reported	1	None reported	Not identifiable	229
Kinetic impact munitions	None reported	None reported	15	Not identifiable	106
Mixed munitions	4	None reported	37	Not identifiable	107
Munition type unknown ^b	n/a	n/a	22	n/a	n/a
Diversionary devices	n/a	None reported	n/a	Reporting not required	31
Electronic control devices	None reported	None reported	None reported	Not identifiable	None reported
Nonirritant smoke	n/a	None reported	n/a	Reporting not required	61
Total number of reportable use of force incidents	5	50	85	Not identifiable	544

Legend:

CBP = U.S. Customs and Border Protection; FPS = Federal Protective Service; ICE = U.S. Immigration and Customs Enforcement; USSS = U.S. Secret Service; n/a = Not applicable because this agency does not use this type of force or because there were no incidents for which the munition type was unknown.

Source: GAO analysis of agency data and information. | GAO-22-104470

Note: Agencies may have different definitions of an incident. For the purposes of this table, an incident is a single type of less-lethal force used by an officer on a single day. For example, a report in which an officer threw two canisters of chemical munitions and four diversionary devices throughout the course of a night would be counted as two use of force incidents in our analysis – one for the chemical munitions and one for the diversionary devices. This table only includes reportable use of force incidents, which are use of force incidents that agency policy required to be reported. None reported means that the agency’s use of force reports did not include this type of force. Reporting not required means that the agency’s policies do not require officers to report use of this type of force.

^aWe were not able to identify the number of less-lethal force incidents for U.S. Immigration and Customs Enforcement because the agency’s use of force reports for selected deployments generally did not have sufficient information to identify the number of less-lethal force incidents.

^bMunition type unknown refers to instances in which the report identified the kind of device used, such as a compressed air launcher, but did not identify the type of munition that was used in it, such as a chemical or kinetic impact munition.

CBP’s reports were missing the time the less-lethal force was used. CBP’s use of force reports included most basic information for each use of force incident but did not include information on the specific time of day that the officer used force. Each use of force incident we reviewed contains the type of force used, the general location, the estimated

distance from which the force was used, and the reason for the use of force. However, CBP's reporting system did not allow officers to identify the time of day that the force was used for each use of force.⁴⁹ CBP officials stated that the agency's reporting system does not collect the time for each use of force because it was not designed for situations involving a large number of incidents in a given day, as was the case in Portland, Oregon. Given the characteristics of CBP's deployment in Portland, Oregon, CBP officials stated that they chose to create single-shift reports to limit the administrative burden of separate reporting for each incident. In this context, officers selected a single time to apply to all incidents in the shift report. CBP officials stated that they are updating the reporting system to capture more precise timing information. The officials further stated that this update will begin testing in October 2021 and will go into effect for officer use after any shortfalls identified by the testing period have been addressed.

Some FPS reports were missing information on the circumstances for each use of force incident or the type of munition. While most FPS use of force reports included basic information on the circumstances for each use of force incident, some reports did not include specific information on each use of force by the officer or identify the type of munition used. Specifically, 71 of 84 reports included details on the circumstances for each use of force by the officer, broken out by time or subject of the use of force. The remaining 13 reports did not include specific information on each use of force by the officer.⁵⁰ For example, some officers used the same narrative text for multiple reports across different days but only changed the date of the report. In addition, across all the reports, there were 22 instances in which the report did not identify the type of munition used.⁵¹ For example, some reports identified the kind of device used, such as a compressed air launcher, but did not identify the type of munition the officer used, such as a chemical or kinetic impact

⁴⁹According to CBP officials, information on the approximate time the force was used was later obtained from the officers during interviews conducted by the Office of Professional Responsibility. The officials added that the Office of Professional Responsibility compared the approximated times to surveillance video and found them to be generally accurate. Further, some (but not all) of the written reporting narratives accompanying the report include estimated times.

⁵⁰FPS officials stated in June 2021 that each use of force should be documented on the appropriate form, per agency policy and training. The officials added that it communicated failures to do so to officers as part of the agency's process for documenting use of force incidents, which we discuss later in this report.

⁵¹FPS officials stated in June 2021 that officers should document both the type of launcher used as well as the specific type of munitions.

munition. In such cases, we categorized this use of less-lethal force as an unknown munition type. Further, of the 84 reports, we identified two reports in which the officer did not complete the appropriate reporting form.

Most of ICE's reports contained high-level summaries of the use of force. ICE's use of force reports generally did not have sufficient information to identify the number of less-lethal force incidents in Portland, Oregon. Of the 16 use of force reports, 11 generally provided a high-level summary of the day but did not identify which officers used force or the types of force each officer used. For example, one report noted that a tactical team used various types of less-lethal force throughout the day but did not delineate use by any individual officer. Three of the remaining five reports provided high-level summaries of the use of force incidents but did not provide information on the circumstances surrounding each use of force. For example, one report noted that 13 ICE officers used various kinds of less-lethal force that day but did not describe the specific circumstances for each incident. Consequently, it is not possible to delineate use by individual officer in order to describe the number and types of less-lethal force that ICE officers used in Portland, Oregon.

ICE sent a reminder to its officers in late April 2021 that, per agency policy, use of force reports must include all relevant information, including the names of the officers involved and the weapons and tactics used.

Some of USSS's reports were missing the location, time, or reason the force was used. While most USSS use of force reports included basic information on the circumstances for each use of force incident, almost a third of the reports were missing such information. Specifically, 12 of 39 reports were missing basic information related to the use of force incident, such as location, estimated time the force was used, and the reason the force was used.⁵² For example, one report stated that the officer was required to use the baton but did not explain the circumstances for why the force was required, which would make it difficult for supervisors to determine if the force was used in accordance with agency policy. USSS officials stated that variations in the level of the detail in the reports may be due to the experience of the officer writing the report but that supervisors should be reviewing the reports and asking for additional information, if needed. As of July 2021, USSS is developing a

⁵²For the purposes of our analysis, we did not consider broad time frames, such as evening, to be an estimated time.

use of force reporting system that will help the agency more easily analyze data on the use of force, according to USSS officials, but a rollout date has not yet been determined.

DHS's use of force policy states that consistent department-wide reporting and tracking of use of force incidents will enable both the department and agencies to more effectively assess use of force activities and take appropriate corrective actions. DHS's policy further states that uses of force are to be documented and investigated pursuant to agency policies but does not include standards for agencies on the types of information that must be reported, including whether the circumstances for each use of force must be reported. Consequently, as previously noted, we found variation in the extent to which DHS agencies' use of force reports included basic information on the circumstances surrounding each use of force incident, including factors such as the time, location, type of munition, and specific rationale for the use of force.

The demonstrations in 2020 presented unique challenges in documenting the use of force, due to the large volume of incidents and the prolonged nature of the demonstrations. However, given the potential for both injuries and violations of constitutional rights when force is used in such situations, it is important that DHS agencies have sufficient information to evaluate whether all uses of force were applied in accordance with agency policy. Developing department-wide standards on the types of information that should be required in use of force reporting—including the level of detail needed for each use of force incident—will help ensure that officers develop reports with all of the needed basic information. This in turn, this will allow management to help oversee officers' use of force.

DHS Use of Force Council. DHS's oversight over the quality and consistency of use of force reporting may have also been impaired because the department has not established a body to oversee use of force reporting across all agencies, as required by DHS policy. DHS's September 2018 use of force policy states that the Office of Strategy, Policy, and Plans was to establish the DHS Use of Force Council to provide a forum in which agencies could share information related to the use of force, including oversight. Officials from the Office of Strategy, Policy, and Plans told us, however, that they never established the council nor held any meetings because their office did not have sufficient staffing and that doing so was not a high priority at the time.

DHS officials noted that following the 2020 demonstrations, use of force and law enforcement issues have become a higher priority and that they

were developing an oversight body to provide additional attention to law enforcement issues. In September 2021, the Office of Strategy, Policy, and Plans finalized its charter for the DHS Law Enforcement Coordination Council, which stated that the council would assess a broad range of law enforcement matters, including those related to policies and training. According to DHS officials, the new council will serve as a forum to improve information sharing, coordinate department-wide law enforcement-related strategy and policy guidance, discuss emerging issues, and share best practices. Officials stated that the inaugural meeting of the council was conducted on October 6, 2021. The council will be comprised of senior leadership from DHS component agencies and offices with law enforcement or oversight responsibilities, including the Office of Civil Rights and Civil Liberties, the Privacy Office, and the Office of the General Counsel. DHS officials stated that they intend to create subgroups within the council by December 2021, including potentially a subgroup that will address use of force issues.

DHS's use of force policy calls for consistent department-wide reporting and tracking of use of force incidents to enable the department to more effectively assess use of force activities, conduct meaningful trend analysis, revise policies, and take appropriate corrective actions. Further, federal internal control standards state that management should establish activities to monitor the internal control system and evaluate the results.⁵³ Management retains responsibility for monitoring the effectiveness of internal control over the assigned processes performed by service organizations, such as its component agencies. However, DHS does not yet have an entity within the department that is specifically tasked with monitoring the quality of use of force reporting across DHS agencies, and the department has largely delegated the responsibility for overseeing the consistency, completeness, and quality of use of force reporting to the individual agencies. While DHS has plans to develop a use of force subgroup within a broader oversight body (i.e., the Law Enforcement Coordination Council), the department has not yet determined the extent to which this emerging entity will address issues related to the quality, consistency, and completeness of use of force reporting across all DHS agencies. Establishing monitoring mechanisms at the department level, such as through a department-wide oversight body, would enhance DHS's ability to oversee the use of force across its agencies by helping to ensure that reporting information is consistent and complete.

⁵³[GAO-14-704G](#).

DOJ's Reports on Less-Lethal Force

DOJ's ATF, BOP, and USMS used various types of less-lethal force during the demonstrations in Washington, D.C., while USMS was the sole DOJ agency deployed to Portland, Oregon, that used less-lethal force. As shown in table 7 and discussed below, ATF's and BOP's reporting on their relatively limited number of less-lethal force incidents included basic information, and some of USMS's reporting was missing basic information. The FBI did not report using any force during the deployments we selected.

Table 7: Use of Less-Lethal Force Incidents Reported by the Department of Justice during 2020 Demonstrations in Washington, D.C., and Portland, Oregon

Type of less-lethal force	Washington, D.C. (May 26, 2020, through June 15, 2020)			Portland, OR (June 26, 2020, through September 30, 2020)
	ATF	BOP	USMS ^a	USMS ^a
Physical tactics	None reported	None reported	None reported	✓
Batons	None reported	None reported	None reported	✓
Chemical spray	None reported	1	✓	✓
Chemical munitions	1	None reported	None reported	✓
Kinetic impact munitions	1	None reported	None reported	✓
Mixed munitions	None reported	11	None reported	✓
Diversionary devices	None reported	1	Reporting not required	Reporting not required ^b
Electronic control devices	None reported	n/a	None reported	✓
Nonirritant smoke	None reported	None reported	Reporting not required	Reporting not required ^b
Total number of reportable incidents	2	13	1	79

Legend: ATF= Bureau of Alcohol, Tobacco, Firearms and Explosives; BOP = Bureau of Prisons; USMS = U.S. Marshals Service, ✓=agency used this type of force, but number of incidents is omitted because USMS deemed this information to be sensitive; and n/a = Not applicable because this agency does not use this type of force.

Source: GAO analysis of agency data and information. | GAO-22-104470

Note: For the purposes of this table, an incident is a single type of less-lethal force used by an officer on a single day. For example, a report in which an officer threw two canisters of chemical munitions and four diversionary devices throughout the course of a night would be counted as two use of force incidents in our analysis – one for the chemical munitions and one for the diversionary devices. This table only includes reportable use of force incidents, which are use of force incidents that are required to be reported per agency policy. None reported means that the agency's use of force reports did not include this type of force. Reporting not required means that the agency's policies do not require officers to report use of this type of force.

^aThe total number of each type of force used by USMS was omitted because USMS deemed the information to be sensitive.

^bAlthough not required to be reported per agency policy, use of force reports indicate that its officers also used this type of force during this deployment.

ATF's report included basic information. ATF's use of force report for Washington, D.C., included basic information on both use of force incidents. The report included information on each incident, such as who used the force, when and why the officer used force, and the type of force used.

BOP's reports included basic information. BOP's use of force reports included basic information on each use of force incident. BOP had two use of force reports covering its 13 use of force incidents. The reports, along with the accompanying staff memorandum, included detailed information on each incident, such as who used the force, when and why the officers used force, and the type of force used.

USMS reported less-lethal force inconsistently. USMS had one report covering the single incident in Washington, D.C., and 25 reports covering 79 incidents in Portland, Oregon.⁵⁴ Some of USMS's use of force reports for these deployments were not reported using USMS' use of force reporting form or were missing basic information. Specifically:

- In Washington, D.C., USMS did not use the appropriate form when reporting the use of a less-lethal device. In particular, a USMS officer used a field report instead of the required use of force report. While both field reports and use of force reports are reviewed by supervisors, the forms have different requirements for the information that must be included. For example, the use of force report requires officers to identify the make and model of the force type used and whether anyone was injured, whereas the field report is a narrative report that—at the discretion of the reporting officer—may or may not include such information. According to USMS officials, the use of force report was not used for the incident because the chemical spray in a vaporized form was not targeted at a specific individual, but rather it was used to clear a crowded area. Although the wrong form was used in this instance, we found that USMS later used the correct form for similar incidents that occurred in Portland, Oregon.
- In Portland, Oregon, 10 of 25 reports included limited information regarding the specific circumstances surrounding each use of force incident. For example, one report listed eight USMS officers who each

⁵⁴In some of these reports, a deputy commander drafted a use of force report that intended to cover all use of force incidents carried out by multiple USMS officers during a shift. Other reports described a single use of less-lethal force incident carried out by one USMS official. In our analysis, we removed any incidents that were duplicated in one or more reports.

used various types of less-lethal force that day but did not describe the specific circumstances surrounding each incident. Other reports with limited details did not identify the officer who used the force or the specific type of less-lethal force deployed. In one report, the officer indicated the use of chemical spray and physical tactics during two different incidents but only described the circumstances that led to the use of chemical spray in the narrative. Further, three of the 25 reports indicated that less-lethal force was used but did not include any details on how or why that type of force was used. According to USMS officials, this deployment was the first time that USMS needed to document multiple uses of force over an extended period and, consequently, did not have established processes to document use of force incidents under such circumstances.⁵⁵

DOJ's policy on less-lethal force says that DOJ agencies must individually establish procedures for documenting and reporting all incidents involving the use of less-lethal devices. However, as previously noted, we found variation in the extent to which USMS officers provided basic information on the circumstances surrounding each use of force incident. USMS's use of force policies do not list specific requirements for what officers should include in the report narrative. While USMS's training program instructs officers on how to document use of force incidents, it does not include detailed information on what officers must provide for each use of force incident, including in cases in which multiple officers used multiple kinds of force throughout a day.⁵⁶ Establishing clear guidance on what information officers must report for each use of force incident will ensure more consistency in use of force reporting, which, in turn, will enhance USMS's ability to oversee its use of force activities.

Interior's Reports on Less-Lethal Force

As shown in table 8 and discussed below, Interior's USPP reporting on its less-lethal force incidents for Washington, D.C., generally included basic information but was missing some information that could be useful to

⁵⁵USMS officials stated that some of the incomplete reports may have been from early in the deployment, while USMS's Office of Professional Responsibility was attempting to establish a process to best document the situation while onsite. Our review of the 10 use of force reports with limited information on specific circumstances indicated that they covered incidents from July 4 through July 30, 2020, of the USMS deployment.

⁵⁶For example, USMS training documents encourage officers to include information such as the subject's offenses and the officer's perception of the circumstances. The training does not provide a list of specific details that officers should ensure are included in all use of force reports and also does not provide direction to officers on how to address circumstances such as demonstrations, where officers may need to document multiple use of force incidents during a shift.

Interior as it works toward collecting more consistent and comprehensive use of force data.

Table 8: Reported Use of Less-Lethal Force Incidents by the Department of the Interior’s U.S. Park Police (USPP) during Demonstrations in Washington, D.C.

Types of less-lethal force	Washington, D.C.(May 26, 2020, through June 15, 2020)
Physical tactics ^a	1
Batons	3
Chemical spray	7
Chemical munitions	8
Kinetic impact munitions	13
Mixed munitions	19
Munition type unknown ^b	3
Diversionsary devices	Reporting not required
Electronic control devices	None reported
Nonirritant smoke	Reporting not required ^c
Total number of reportable use of force incidents	54

Source: GAO analysis of agency data and information. | GAO-22-104470

Note: For the purposes of this table, an incident is a single type of less-lethal force used by an officer on a single day. For example, a report in which an officer threw two canisters of chemical munitions and four diversionsary devices throughout the course of a night would be counted as two use of force incidents in our analysis – one for the chemical munitions and one for the diversionsary devices. This table only includes reportable use of force incidents, which are use of force incidents that agency policy requires to be reported. None reported means that the agency’s use of force reports did not include this type of force. Reporting not required means that the agency’s policies do not require officers to report use of this type of force.

^aUSPP reported that on June 1, 2020, its officers used shields to clear Lafayette Square to set up perimeter fencing. USPP use of force policy does not specifically require officers to report on the use of shields, and our review of use of less-lethal force reports that USPP submitted for June 1, 2020 did not identify any reports describing the use of shields. We identified other documents submitted by USPP verifying that officers used shields on May 31 and June 1, 2020. According to USPP officials, officers generally used these shields to protect themselves and did not use them to restrain individuals, except in one incident where an officer used a shield to strike an individual. As of August 2020, this incident was under investigation by the Department of the Interior’s Office of Inspector General. USPP did not provide us with a report for this use of force incident due to the ongoing nature of this investigation.

^bMunition type unknown refers to instances in which the report identified the kind of device used, such as a compressed air launcher, but did not identify the type of munition that was used in it, such as a chemical or kinetic impact munition.

^cAlthough not required to be reported per agency policy, use of force reports indicate that its officers also used this type of force during this deployment.

Washington, D.C., Law Enforcement Jurisdictions for the White House and Lafayette Square

Multiple law enforcement agencies share jurisdiction in the areas surrounding the White House and Lafayette Square, which were the main areas for demonstrations in May and June 2020. The agencies operating in this area have a memorandum of understanding that governs their respective jurisdiction and responsibilities in the area.

- U.S. Park Police, pictured below, is the lead agency for the national park lands surrounding the White House.
- U.S. Secret Service is the lead agency within the White House Complex.
- Washington, D.C., Metropolitan Police Department is the lead agency responsible for several streets and sidewalks around the White House.
- Federal Protective Service has responsibilities for protecting federal facilities, including the 15 federal facilities adjacent to Lafayette Square, such as the headquarters for the Department of Veterans Affairs and the Import-Export Bank.



Sources: Agency information and U.S. Park Police (photo). | GAO-22-104470

Most of USPP's use of force reports generally included basic information on each use of force incident. All 39 reports included the date and location of the incident, as well as the name of the officer who used less-lethal force. Further, 36 of 39 reports included details on the circumstances surrounding the use of force, such as the events leading to the incident, the specific type of less-lethal force used, and the officer's intended goal. However, we identified three reports in which the type of munition used during the incident was not clear. In these three reports, the officer reported using a compressed air launcher but did not specify the type of munition launched from the device nor whether the munition included any chemical irritant.⁵⁷

Interior's policy states that it is a department priority to ensure more consistent department-wide reporting and tracking of use of force incidents. Further, federal internal control standards state that management should process data into quality information and use the information to make informed decisions that support program goals.⁵⁸

Although we found that most of USPP's reports included basic information such as date, location, and the events that led to each use of force, some reports did not identify the type of munition used. USPP's use of force policy states that the officer should complete a detailed use of force report, outlining all the circumstances that pertain to the use of force, but the policy does not provide specific requirements on what information should be included in their reports.⁵⁹

Further, USPP officials stated that it is not necessary for supervisors to know the type of munition used in order to determine if the less-lethal force was used in accordance with policy. However, our review of USPP policies indicates that there are specific requirements for officers using chemical irritants, such as methods of use and the treatment provided to those exposed to the irritant. Without a statement in the report as to whether chemical irritant was used, supervisors will not have a clear understanding of whether the officer's actions were in line with the agency's type-specific policies for less lethal force. Developing more specific reporting requirements on what information officers should include when describing use of force incidents would enhance Interior's

⁵⁷USPP officials stated that officers did not deploy 2-chlorobenzalmalononitrile (CS) in any of these instances. However, such munitions may have included other types of chemical irritants, such as oleoresin capsicum (OC) or pelargononic acid vanillylamide (PAVA), or a kinetic impact munition.

⁵⁸GAO-14-704G.

⁵⁹U.S. Park Police, General Order 3615, *Use of Force* (Washington, D.C.: Nov. 1, 2019).

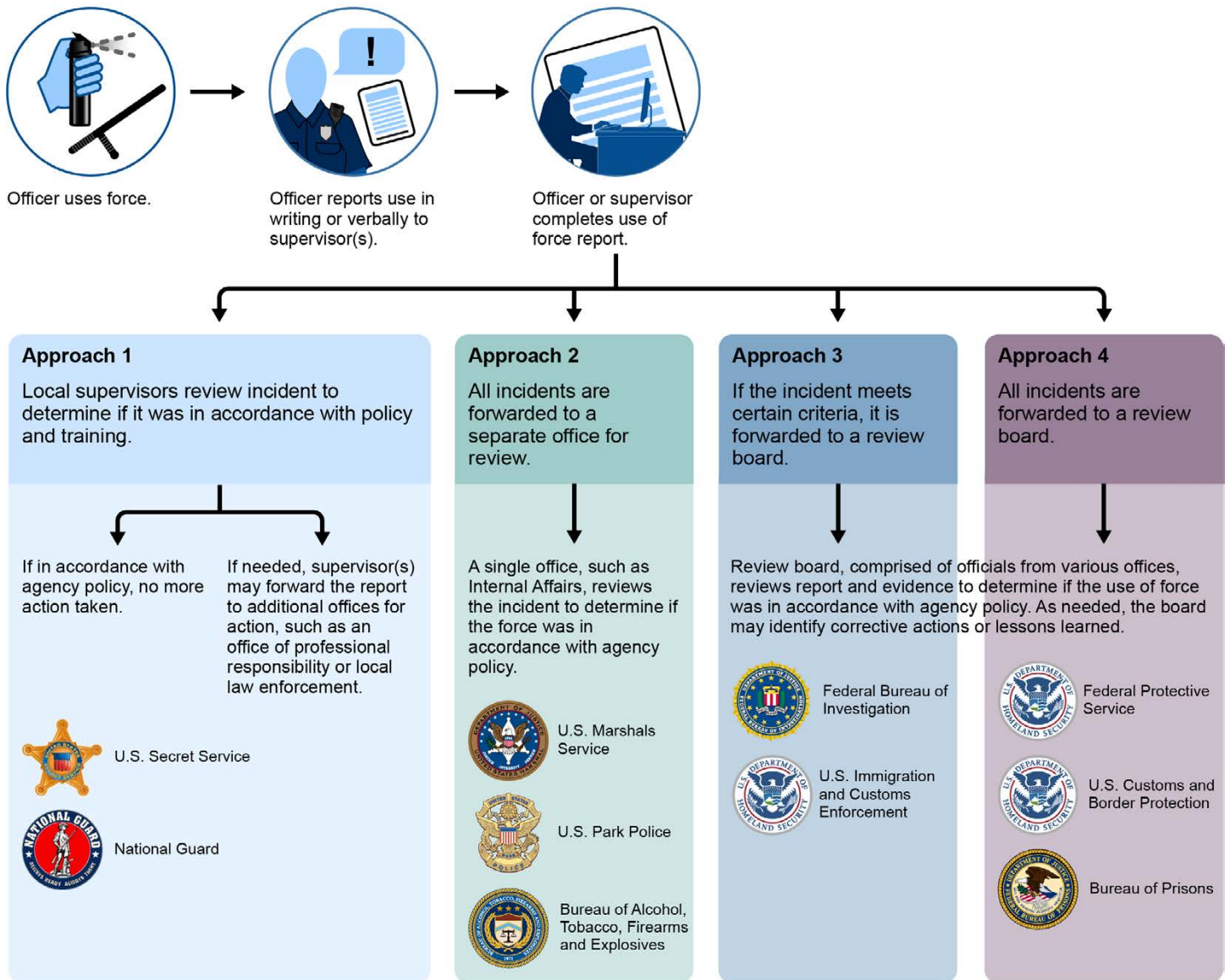
ability to help ensure that USPP is collecting comprehensive information. This in turn would enable both the department and its bureaus and offices to more effectively assess use of force activities, conduct meaningful trend analysis, revise policies, and take appropriate corrective actions.

Agencies Reviewed Less-Lethal Force Incidents and Acted on Lessons Learned, but Some Did Not Document Their Reviews

Agencies Use Various Approaches to Review Use of Less-Lethal Force

Each of the 10 agencies in our review had a process to review less-lethal force incidents to determine if the use of force was taken in accordance with agency policy. Generally, these processes were designed to determine whether the use of less-lethal force was reasonable and justified, given the totality of circumstances surrounding their use. We identified four approaches that agencies took to review the use of force by their personnel (see fig. 8).

Figure 8: Approaches Used to Review Use of Force by Selected Agencies



Sources: GAO analysis of agency policies, Art Explosion (clip art). | GAO-21-104470

Approach 1 – supervisor. Two agencies (USSS and National Guard) generally delegate the responsibility for evaluating use of force incidents to the officer’s supervisor. In such cases, the local supervisor reviews the incident to determine if the force were used in accordance with policy. If the supervisor determines that force were not used in accordance with

policy, they may forward the report to additional officers for action, such as offices of the inspector general or local law enforcement. For example, for each reportable use of force by a USSS officer, the local supervisor reviews and forwards the memorandum on to the next level of supervision within the officer's chain of command.⁶⁰ In the National Guard, if the supervisor reviewing a report determines that further investigation is needed, an investigating officer is to be assigned to the case and conducts a full investigation. Upon completing the report, the officer is to present the findings to a Commanding General or appropriate senior leader.

Approach 2 –separate office. After the supervisor's review, three agencies (ATF, USMS, and USPP) submit use of force reports to an office separate from the officer's normal chain of command for review.⁶¹ For example, within ATF, all uses of less-lethal force greater than minor restraint are reviewed by the Force Review Office, which makes a determination on whether the actions were consistent with policy and training.⁶² In USMS, the Office of Professional Responsibility's Internal Affairs division reviews all use of force reports. Per USMS policy, Internal Affairs is required to assess use of force actions taken for consistency with USMS and DOJ policy and may choose to initiate an administrative investigation, should its review identify potential misconduct. For reports related to less-lethal force specifically, Internal Affairs determines whether to forward the report to the DOJ Civil Rights Division for further review. As another example, USPP supervisors send the use of force report, as well as their assessment of whether the use of force complied with policy, to the Office of Professional Responsibility for further review. The office is to ensure that the incidents were properly investigated. If warranted, the office will instruct Internal Affairs to investigate further.

Approach 3 – review board for specified incidents. After a supervisor has initially reviewed a use of force report for accuracy, two agencies (ICE and FBI) have review boards that evaluate reportable incidents that

⁶⁰USSS does not have a review board for determining whether force was used in accordance with policy but does have another board tasked with discussing possible changes to use of force policy, procedures, and training. We describe this later in this report.

⁶¹As discussed later in the report, USMS established a review board in February 2021. The review board will review incidents that occurred after February 1, 2021, and, therefore, will not be reviewing incidents related to the 2020 deployments in Washington, D.C., or Portland, Oregon.

⁶²ATF officials noted that for deadly force incidents, the agency utilizes a force review board, as described in approach 4.

meet specified criteria. Review boards generally include representatives from offices outside of the officer's chain of command, such as offices of professional responsibility, general counsel, and civil rights. In addition, the boards are to generally review the incident reports and related evidence, such as witness statements, videos, and photographs, and determine if the uses of force were used in accordance with agency policy. As needed, a review board may identify training or other corrective actions for an officer found to have not acted in full accordance with agency policy. Boards may also recommend changes to policy and other actions based on lessons learned from the review. In general, agencies' review boards vary in how often they meet. This review ranges from meeting within days after an individual use of force report is submitted to annual gatherings to review all reports submitted during the prior year. According to ICE officials, its board reviews cases involving critical incidents, which are typically (but not exclusively) related to use of deadly force. The FBI's board only reviews baton and chemical spray use and does not review the use of other less-lethal force, such as physical tactics.

Approach 4 – review board for all incidents. After a supervisor has initially reviewed a use of force report for accuracy, three agencies (BOP, CBP, and FPS) have review boards (like those described in approach 3) that evaluate all reportable use of force incidents to determine if the force was used in accordance with agency policy.

Agencies Generally Found Their Force Was Used in Accordance with Policy, but Some Did Not Document Their Reviews

Of the eight agencies that reported using less-lethal force during selected deployments, three did not explicitly document whether they determined that the force was used in accordance with agency policy. The five agencies that did document these determinations found that all or nearly all of their less-lethal force incidents were in accordance with agency policy.

Documenting Reviews of Use of Less-Lethal Force

Four of the eight agencies that used less-lethal force during selected deployments documented all of the determinations by their review boards or supervisors on whether the force was found to be in accordance with agency policy. First, CBP's review board made a determination for each use of force incident associated with its deployment to Portland, Oregon.⁶³ The board's determination includes a statement on whether each incident was in compliance with CBP's use of force policy. For incidents not in compliance, the board includes a brief explanation.

⁶³CBP officers did not report using any less-lethal force during the Washington, D.C., deployment.

Effects of Chemical Munitions and Law Enforcement Training

Gas released from a chemical munition is sometimes referred to as tear gas. The use of chemical irritants in a gas form, such as 2-chlorobenzalmalononitrile (CS), can temporarily cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, tear duct and eye spasms, chest pains, dermatitis, and allergies.

According to stakeholders with subject matter knowledge, the purpose of using chemical gas is to disperse crowds from the desired area. The gas may have indiscriminate effects in open areas because of changes in wind direction and may affect law enforcement if they are not adequately protected (i.e., wearing gas masks).

During training, officers are exposed to chemical gas like CS to help them understand its effect on themselves and others.

In the image below, officers from U.S. Customs and Border Protection are being exposed to CS gas as part of their training.



Sources: Agency information and U.S. Customs and Border Protection (photo). | GAO-22-104470

Second, the reports from BOP's review board state whether the force was reasonable and appropriate. Third, the report from ATF's review board includes a determination stating whether the force was consistent with ATF training and policy. Finally, USPP supervisors generally prepared their own supplemental report for each of their officers' use of force reports that contained a statement with their assessment on whether the force used was consistent with policy.⁶⁴

One agency, FPS, had not yet completed all of its reviews of less-lethal force incidents. As of July 2021, FPS's review board had completed reviews for 49 of its 81 use of force reports. According to FPS officials, the delay in reviewing the incidents was due to the larger-than-normal volume of incidents, as well as the need to review various forms of evidence. All of the reports we reviewed contained an assessment on whether the force used was objectively reasonable and justified based upon the threat observed. FPS officials stated that the agency had completed all the remaining reviews in July 2021 but had not yet finalized its reports for these reviews as of September 2021.

However, the remaining three agencies (USMS, ICE, and USSS) did not explicitly document whether the use of force was in accordance with agency policy.

- **USMS.** USMS officials stated that supervisors do not make a determination of whether a use of force incident is in line with policy and that reports are routed to the Office of Professional Responsibility's Internal Affairs division for review.⁶⁵ USMS's standard operating procedures indicate that Internal Affairs is to review use of force reports for consistency with USMS policies and to verify all supporting documentation that is pertinent to the use of force. However, USMS's standard operating procedures do not require Internal Affairs to document whether or not the use of force actions were in accordance with policies. Rather, the procedures instruct

⁶⁴The language used by the supervisors varied but generally indicated that the supervisors assessed the use of force to be in accordance with USPP's policies. Examples of such language included that the force was "appropriate," "justified," or "within force policy."

⁶⁵USMS officials stated in June 2021 that the Office of Professional Responsibility had reviewed all of the incidents to determine if the appropriate documentation was present. However, some cases remained open as of October 2021, as the DOJ Office of the Inspector General completes its criminal and administrative investigations. USMS intends to adopt the findings of these investigations once they are completed, but they do not intend to conduct additional reviews or investigations for these use of force incidents.

Internal Affairs to approve the submission, if it is complete and accurate.

USMS stated in an agency memorandum in October 2020 that Internal Affairs had received an annual average of over 600 use of force reports during the past 5 fiscal years. According to the memo, the high volume of reports overwhelmed available resources, prohibited in-depth investigation or analysis, and caused the reviews to focus primarily on any obvious indicators of misconduct. In response, USMS established a Less-than-Lethal Review Board in May 2021 consisting of representatives from within USMS, as well as representatives from outside agencies.⁶⁶ USMS officials stated that the board will implement a more thorough review process. As of September 2021, USMS was in the process of developing the board's standard operating procedures, but had not established any procedures describing how, if at all, the board will document its determination on whether the less-lethal force was used in accordance with agency policy.

- **ICE.** According to ICE officials, all use of force reports are reviewed by various offices (e.g., managers, the Office of Firearms and Tactical Programs, Office of Professional Responsibility), but no determination is made related to policy adherence unless the incident is reviewed by the board. According to ICE officials, ICE's review board did not review the agency's use of force incidents because none of the incidents met the board's criteria for review (i.e., considered a critical incident or use of deadly force). ICE officials stated that front-line supervisors are responsible for alerting management if there are concerns that the less-lethal force was not used in accordance with policy. ICE's use of force policy handbook states that supervisors are to ensure that the written report includes relevant information but does not state that the supervisor is responsible for determining if the less-lethal force was used in accordance with agency policy. On the basis of our analysis of the less-lethal force reports, we did not identify any determinations by the supervisor that force was or was not used in accordance with agency policy. ICE officials stated that supervisors are to forward reports for further review if they identify potential misuse of force, and that not forwarding the report for further review can be considered as an implicit determination by the supervisor that the force was used in accordance with policy. However, without corresponding documentation for each use of force

⁶⁶The review board is part of USMS's newly established Force Review Branch, which we discuss below.

incident, it is unclear whether the agency determined that an officer's actions were in accordance with policy.

- **USSS.** USSS officials told us that supervisors review use of force reports. However, the agency's use of force policy does not state that supervisors are required to review the report to determine if the force used was in accordance with policy. In the use of force reports we reviewed, we found that supervisors had documented their review of the reports by signing the report but did not have an explicit determination that the force was used in accordance with agency policy. According to USSS officials, supervisors submit the report to a USSS board that reviews use of force policy. However, this board is tasked with discussing possible changes to use of force policy, procedures, and training, among other topics. While this board reviews use of force incidents for their implications regarding best practices and lessons learned, it does not review the reports to determine whether the force was used in accordance with policy.⁶⁷

Federal internal control standards state that management should clearly document internal control activities and other significant events in a manner that allows the documentation to be readily available for examination.⁶⁸ The documentation of key decisions may also assist management in identifying and remediating internal control deficiencies. As previously noted, USMS, ICE, and USSS did not document their determinations on whether the use of force during selected deployments was in accordance with their policies. Although USMS is establishing a new review board to implement a more thorough review process, it is not clear whether the board will explicitly document its determinations on whether force was used in accordance with policy. Further, ICE's and USSS's current policies do not require its supervisors to document their determinations on whether force was used in accordance with policy. Given the seriousness of force when used by federal law enforcement officers, it is important that agencies evaluate use of force incidents and document their findings. Enhancing their policies and procedures for documenting a review of the use of force will help these agencies ensure

⁶⁷In April 2021, officials stated that the board last met in late June 2020 just after the Washington, D.C., deployment. We reviewed the executive summary of this meeting and found there was no discussion or documentation related to whether the use of force incidents from the Washington, D.C., deployment earlier in the month were in accordance with agency policy.

⁶⁸[GAO-14-704G](#).

Results of Agency Reviews of the Use of Less-Lethal Force

that all of their reportable uses of less-lethal force were reviewed for accordance with agency policies.

The five agencies that documented their reviews of the use of less-lethal force during selected demonstrations found most of their uses of less-lethal force to be in accordance with policy. BOP determined that all 13 of its less-lethal force incidents were reasonable and appropriate, and ATF determined that both of its less-lethal force incidents were consistent with ATF training and policy. CBP, FPS, and USPP determined that nearly all of their less-lethal force incidents were in accordance with agency policy but identified some incidents that were not.

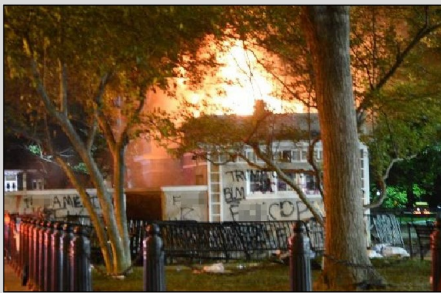
- **CBP.** Among the less-lethal force incidents we identified during selected deployments, CBP's review board found five CBP personnel used force that was not in accordance with the CBP use of force policy.⁶⁹ According to CBP, in each case, the board determined the actual use of force was reasonable and justified. However, the board determined that CBP personnel used force that was not in accordance with policy due to insufficiently documented training records or the use of unapproved devices. As of March 2021, CBP had referred these cases for further investigation or administrative action. Further, the review board made recommendations to CBP in March 2021 regarding tactics, training, equipment, and administrative issues. The recommendations included ensuring timely recording of training certifications in training databases, documenting injuries in use of force reports, providing additional training to ensure that more detailed information is provided in use of force reports, and developing a tracking and accountability system for less-lethal munitions.

As of July 2021, CBP was in the process of addressing these recommendations or stated that existing policies and training sufficiently addressed the recommendation. For example, CBP officials stated that CBP's training on reporting the use of force had

⁶⁹The manner in which CBP reported on its use of force reviews does not allow us to identify how many incidents were conducted by each of the five officers because they used a different definition of incident than we did. According to CBP, the Office of Professional Responsibility conducted interviews with witnesses and employees who utilized force; reviewed video surveillance footage, training records, and policy; and drafted investigative reports for all uses of force in Portland, Oregon, among other activities, in preparation for the board's review.

Damage to Federal Facilities

Agency officials reported that there was significant damage to federal facilities due to the demonstrations in Washington, D.C., and Portland, Oregon, in 2020. In Washington, D.C., damage included broken windows, graffiti on buildings and historic statues, and fires set in vehicles, the Lafayette Square park comfort station (see first photo below), and the basement of St. John's Church. Federal Protective Service officials stated that the General Services Administration had assessed the damages to federal facilities in Oregon from May 2020 through February 2021 to be \$2.3 million, including \$1.6 million in damages to the Hatfield U.S. Courthouse (see second photo below) in Portland.



Sources: Agency information, U.S. Park Police (top photo), and U.S. Customs and Border Protection (bottom photo). | GAO-22-104470

been updated to include more information on how to document injuries in the report. Further, in response to a recommendation to reemphasize the need to know the surrounding area when using less-lethal munitions, CBP officials noted that existing use of force policy already states that officers should consider additional factors when deciding whether to use less-lethal munitions, such as the presence of vulnerable subjects, including small children, the elderly, those who are visibly pregnant, or individuals who lack the ability to quickly disperse from the area.

- **FPS.** FPS's review board determined that nearly all of the less-lethal force incidents it had reviewed as of November 2021 were objectively reasonable and justified, considering the threats observed and the totality of circumstances. Specifically, of the 52 of 84 use of force reports that the board reviewed, it found one incident to be deficient in the basic details needed to justify any serious violation of law, use of force by law enforcement, or probable cause for arrest. Because the board was not able to make a determination that the force used—in this incident, kinetic impact munitions—was reasonable and necessary, it referred the case to the Office of the Inspector General for further review in November 2020. As of July 2021, FPS did not have any additional information to provide us on the status of the investigation. Aside from this one incident, each of the review board's reports identified corrective actions and recommendations for individual officers related to other aspects of agency policy, such as certifying training and fully documenting use of force incidents. FPS officials stated that supervisors meet with the officers after the board's review to go over the results and the corrective actions taken.
- **USPP.** Among USPP's incidents involving less-lethal force, USPP officials stated that they identified 16 cases that, following supervisory review, required additional review by the Office of Professional

Responsibility.⁷⁰ USPP officials stated that among these 16 cases, 15 were in accordance with policy and training and did not require corrective action. USPP identified one case of less-lethal force use that is still under investigation. In this case, a journalist testified before Congress that USPP officers used various types of less-lethal force, including a baton and kinetic impact munitions, toward her and her cameraman. The Office of Professional Responsibility referred the incident to Interior's Office of the Inspector General, and the investigation was ongoing as of August 2021.

Agencies Are Acting on Lessons Learned

Six of 10 agencies completed after action reports following their deployments to Washington, D.C., and Portland, Oregon. The other four agencies—the FBI, FPS, USMS, and USPP—have not completed, or are not planning to conduct, after action reviews as of August 2021. Officials for USPP and USMS stated that they will not complete their after action reports until other investigations are completed.⁷¹ FBI officials stated that they did not believe there was a need for their agency to complete an after action report based on their roles in response to the selected demonstrations. FPS officials stated that they are not planning to develop an after action report for Washington, D.C., because their deployment there was relatively small, and the agency has not finalized its after action report for Portland, Oregon, as of August 2021.

Eight of the 10 agencies in our review are taking actions to improve their response to future demonstrations on the basis of their after action reports—including the six noted above—or lessons learned identified through other means, such as actions identified as a result of informal

⁷⁰USPP's use of force policy identifies five levels of response that officers may use to gain compliance from a subject, ranging from communication to use of deadly force. According to USPP officials, these 16 cases involved a level of response that required additional review. These cases fall under USPP's definition of "compliance techniques" (e.g., use of OC spray, joint manipulation, or pressure point applications), or "defensive tactics" (e.g., striking and blocking techniques, use of batons, and use of electronic control devices). None of these cases involved the use of deadly force. The manner in which USPP reported on its use of force reviews does not allow us to identify how many incidents are included within the 16 cases.

⁷¹According to USMS officials, because of ongoing DOJ Office of the Inspector General investigations, and in an effort to avoid interference with investigative methods related to those investigations, they have not conducted any after action review of their deployment to Portland. USMS officials also stated that because USMS was involved in only one use of force action in Washington, D.C., they determined that an after action review is not necessary. Similarly, USPP officials stated that they would not conduct after action reviews until the Department of the Interior's Office of Inspector General had completed its report, OIG-20-0563, which was issued in June 2021. As of July 2021, USPP had established a working group to review and revise policies related to demonstrations.

reflection from management following the deployments. As shown in table 9, some actions are directly related to the use of force, while others are applicable to other aspects of an agency's demonstration-related deployment. Officials from ATF and FBI stated that they did not identify any lessons learned related to their deployments in response to the demonstrations in 2020.

Table 9: Examples of Actions That Selected Agencies Are Taking to Improve Their Use of Less-Lethal Force Following the Demonstrations in Washington, D.C., and Portland, Oregon, in 2020

Agency	Examples of actions taken or planned to be taken to improve use of less-lethal force during demonstrations
Federal Protective Service (FPS)	<ul style="list-style-type: none"> <li data-bbox="285 795 1511 898">• In June 2021, FPS began training officers on a new course related to the use of force during demonstrations on the basis of the lessons learned from the agency's experiences in Portland, Oregon. The training is first being piloted in region 10, which includes Portland, and will later be offered to other regions. The training will address various topics, including how to properly document the use of force. <li data-bbox="285 909 1511 1094">• FPS's review board identified several instances in which a type of less-lethal mixed munition was discharged in a manner not in line with FPS training. Specifically, this type of mixed munition contains a liquid chemical irritant and is to be aimed directly at an individual, per FPS training, and not for the purpose of area dispersal (i.e., dispersing a crowd from an area by shooting a chemical irritant at the ground). Although the use of less-lethal force in these instances was determined to be objectively reasonable and justified, FPS officials stated that they are in the process of updating their training to clarify the proper use of this munition type and issued a training bulletin in November 2020, as well. <li data-bbox="285 1104 1511 1234">• FPS issued its first policy on public order policing in June 2021. The policy describes the agency's philosophy and approach to managing the use of police authority and capacity to preserve governmental and societal rights, responsibilities, and interests associated with First Amendment activities, mass demonstrations of grievances, protests, and similar expressions. As of November 2021, FPS officials stated that the agency is developing a related directive and training curricula on public order policing.
U.S. Customs and Border Protection (CBP)	<ul style="list-style-type: none"> <li data-bbox="285 1245 1511 1346">• Following the 2020 protests, the Office of Field Operations began requiring all of its new officers in January 2021 to receive training in mobile field force operations, which includes training on crowd behaviors, crowd management and dispersion tactics, and instruction for the use of riot control helmets and gas masks. New U.S. Border Patrol officers will begin taking a similar course in October 2021.
U.S. Immigration and Customs Enforcement (ICE)	<ul style="list-style-type: none"> <li data-bbox="285 1356 1511 1440">• In July 2021, ICE officials stated that the agency had updated its training curricula for the use of chemical, kinetic impact, and mixed munitions after a review of lessons learned and best practices from law enforcement teams who responded to the 2020 demonstrations. <li data-bbox="285 1451 1511 1581">• ICE updated its use of force reporting system in April 2021 to better capture information related to crowd size for use of force incidents. According to ICE officials, the prior reporting system did not have an option for officers to report an unknown number of subjects when there was a large crowd. The update added a new field so that officers could specify whether a crowd was involved in the use of force incident and whether the number of subjects in the crowd was known or unknown.
U.S. Secret Service (USSS)	<ul style="list-style-type: none"> <li data-bbox="285 1591 1511 1675">• In September 2020, USSS reorganized its use of force policy to help clarify the use and reporting of less-lethal force. Further, in September 2021, USSS approved a new policy specific to demonstrations and civil disturbances, including the use of force. <li data-bbox="285 1686 1511 1812">• In 2020, USSS created a law enforcement community of interest as a way for law enforcement agencies to meet quarterly and share best practices on various policy issues, such as on the use of force and body-worn cameras. Other agencies, such as CBP, ICE, the Federal Bureau of Investigation, and the U.S. Marshals Service, have participated in this community of interest. The community of interest's last meeting was held in June 2021. <li data-bbox="285 1822 1511 1875">• In February 2021, USSS established a Civil Disturbance Working Group to prioritize civil disturbance procurement priorities, civil disturbance training initiatives, and operating procedures.

Agency	Examples of actions taken or planned to be taken to improve use of less-lethal force during demonstrations
Bureau of Prisons (BOP)	<ul style="list-style-type: none"> According to BOP officials, the agency did not identify any lessons learned related to the use of force. Outside of the use of force, BOP has made some changes to the deployment process. For example, BOP deployed a small number of officers for the January 2021 presidential inauguration, and there were changes to procedures to ensure that deployed officers received specific information about deputation and arrests, using the agency's experience during the deployment to Washington, D.C., in 2020. BOP officials in headquarters provided this information verbally to the officers who were deployed.
U.S. Marshals Service (USMS)	<ul style="list-style-type: none"> In February 2021, USMS established a Force Review Branch, which intends to assume use of force review responsibilities previously performed by the Internal Affairs division. According to USMS officials, the Force Review Branch will implement a more thorough review process and will track reports for trends and best practices. In May 2021, the Force Review Branch established a Less-Than-Lethal Review Board to analyze less-lethal force incidents to determine if the employees' actions were authorized within USMS policy. As of September 2021, the review board was in the process of establishing standard operating procedures.
U.S. Park Police (USPP)	<ul style="list-style-type: none"> In July 2021, following the issuance of a report by the Office of Inspector General, the Secretary of the Interior announced the creation of a task force to identify opportunities for improvement in the department's law enforcement programs (including USPP). This includes ways to (1) strengthen trust in law enforcement programs; (2) ensure appropriate policy and oversight is implemented; and (3) ensure that supportive resources are available for officer mental health, wellness, and safety. The Department of the Interior is also in the process of procuring a records management system that will help the department analyze patterns and trends related to use of force incidents. In addition, USPP reported that the agency had made some changes related to civil disturbance operations. For example, USPP acquired a new, long-range acoustic device in November 2020 to help improve its ability to communicate effectively with the public and law enforcement during crowd control operations. Further, USPP reported that it had drafted a guideline manual for its Civil Disturbance Unit, which was under review as of August 2021.
National Guard	<ul style="list-style-type: none"> In May 2021, the D.C. National Guard updated its Rules for the Use of Force cards describing when to use force by adding more detailed guidance for personnel designated as special police. In October 2020, the National Guard Bureau issued new guidance that provides best practices on civil disturbance operations; lessons learned; and techniques, tactics, and procedures on the use of less-lethal force. As a result of the lessons learned from the 2020 demonstrations, the Army National Guard has incorporated COVID-19 mitigation strategies, methods to distribute civil disturbance equipment, and improved public affairs messaging for future civil disturbance missions.

Sources: GAO analysis of agency documents, and interviews with agency officials. | GAO-22-104470

Some of the agencies in our review are also participating in an interagency working group using some lessons learned from the selected 2020 deployments. Specifically, in April 2021, FLETC began facilitating an interagency Civil Disturbance Working Group. The working group includes representatives from six of 10 agencies in our review (CBP, FPS, ICE, USMS, USPP, and USSS), as well as DHS's Office of Civil Rights and Civil Liberties and the U.S. Capitol Police, among others. According to FLETC officials, one of the objectives of the working group is to increase consistency and interoperability of the federal response to civil disturbances and demonstrations, as multiple federal agencies are typically called up to respond to such situations. The group is reviewing standard operating procedures, equipment, and training for civil disturbances and demonstrations across the participating agencies.

As part of this interagency effort, FLETC hosted a curriculum development conference in May 2021. According to FLETC, 130 participants from 26 federal agencies, offices, or associations attended. Conference attendees examined the current crowd control curriculum used during agencies' basic training programs. Attendees also explored the development of an advanced FLETC training program on civil disturbance and demonstration response. Further, stakeholders identified core tasks that should be covered by training programs on civil disturbance and demonstration response, such as familiarization with basic response protocols, crowd dynamics, protective equipment, formations and hand signals, and chemical gas exposure. As of July 2021, FLETC officials stated that they are revising their curriculum on the basis of the recommendations and discussions from the conference and that these updates will include modernizing training equipment, reevaluating training venues, standardizing definitions and commands used during training, and expanding the crowd control curriculum into other FLETC training programs.

Conclusions

The 2020 demonstrations in Washington, D.C., and Portland, Oregon, in response to citizen concerns related to police use of force, presented unique challenges for federal law enforcement due to the size, nature, and length of the demonstrations. To help meet its mission of protecting federal property and the public, federal law enforcement must sometimes use less-lethal force in certain circumstances—which themselves can be fluid during any given encounter with the public. Given the potential for injuries, it is critical that federal agencies ensure that its personnel are appropriately using force against citizens.

- BOP's use of force policy focused exclusively on BOP inmates, even though the agency's external deployments outside and away from correctional facilities have occurred more often in recent years in response to civil disturbances and natural disasters. Updating its policy to address use of force in circumstances outside the context of a federal institution and with noninmates would enhance BOP's use of force policy by ensuring that it completely addresses all potential uses of force situations facing its staff.
- DHS's and DOJ's oversight of the use of force was impaired because of variation in agency reporting requirements. Moreover, use of force reporting across agencies within DHS, DOJ, and Interior were inadequate because reports were missing basic information or were inconsistent. Complete and consistent information on the circumstances surrounding the use of force should be reported to determine if less-lethal force was used in accordance with policy.

Further, DHS's oversight over the quality of use of force reporting was also impaired because the department has not established a body to specifically oversee use of force reporting across all agencies, as required by DHS policy. Establishing monitoring mechanisms at the department level would enhance DHS's ability to oversee the use of force across its agencies by helping to ensure that reporting information is consistent and complete.

- Finally, while most agencies in our review documented that all or nearly all of their less-lethal force was used in accordance with policy, three agencies—USSS, USMS, and ICE—did not document their reviews. Reviews of use of force incidents should be documented to ensure that reportable uses of less-lethal force are reviewed to determine if the force was used in accordance with policy.

Recommendations for Executive Action

We are making 10 recommendations, including five to DHS, four to DOJ, and one to Interior:

- The Director of BOP should update BOP's use of force policy to address the use of force during demonstrations occurring near and far from federal institutions. (Recommendation 1)
- The Secretary of Homeland Security should develop standards for its component agencies on the types of less-lethal force that should be reported when used. (Recommendation 2)
- The Attorney General should develop standards for its component agencies on the types of less-lethal force that should be reported when used. (Recommendation 3)
- The Secretary of Homeland Security should develop standards for its component agencies on the types of information that must be reported on each use of force incident. (Recommendation 4)
- The Secretary of Homeland Security should oversee the quality, consistency, and completeness of use of force reporting across all DHS components, such as through a department-wide use of force oversight body or regular evaluations of use of force reporting. (Recommendation 5)
- The Director of USMS should develop specific reporting requirements on the types of information that must be provided for each use of force incident. (Recommendation 6)
- The Chief of USPP should develop specific reporting requirements on the types of information that must be provided for each use of force incident, such as the type of munition. (Recommendation 7)

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- The Director of USMS should, as part of the agency's efforts to develop procedures for the Less-than-Lethal Review Board, develop policies and procedures that require relevant officials to document their determination on whether force was used in accordance with agency policy. (Recommendation 8)
 - The Director of ICE should modify policies and procedures to ensure that relevant officials document their determination on whether less-lethal force was used in accordance with agency policy. (Recommendation 9)
 - The Director of USSS should modify policies and procedures to ensure that relevant officials document their determination on whether less-lethal force was used in accordance with agency policy. (Recommendation 10)

Agency Comments

We provided a draft of this report to DHS, DOJ, Interior, and DOD for review and comment. DHS, DOJ, and Interior concurred with our recommendations to their department and component agencies. DHS and Interior provided comments, which are reproduced in appendices III and IV.

With regard to our first, third, sixth, and eighth recommendation, DOJ concurred and provided us with comments in an e-mail. Specifically, an audit liaison for DOJ stated that the department will formally provide an update on its corrective actions when responding to Congress after the final report is issued.

With regard to our second recommendation, DHS concurred, stating that it will expand department-wide reporting standards for less-lethal force incidents.

With regard to our fourth recommendation, DHS concurred, stating that it will develop standards for its component agencies on the types of information that must be reported on each use of force incident.

With regard to our fifth recommendation, DHS concurred, stating that it will compile data collected from components by developing department-wide reporting templates.

With regard to our seventh recommendation, the Department of Interior concurred, stating that it plans to update internal policies to include specific, required reporting information for each use of force incident.

With regard to our ninth recommendation, ICE concurred, stating that it will review existing policies and procedures to ensure they are representative of the operational actions currently taken by supervisors in documenting their determinations on whether force was used in accordance with ICE policy.

With regard to our tenth recommendation, USSS concurred, stating that the agency is in the process of updating its policy on less-lethal force reporting requirements, which is expected to include a use of force reporting and tracking database, and streamlined procedures for reviewing use of force incidents.

DHS, DOJ, and the Interior also provided technical comments, which we incorporated as appropriate. The Department of Defense did not provide technical comments.

We are sending copies of this report to the appropriate congressional committees, Secretaries of Defense, Homeland Security, and the Interior, and Attorney General. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff members 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 V.



Gretta L. Goodwin
Director, Homeland Security and Justice

List of Requesters

The Honorable Richard J. Durbin
Chair
Committee on the Judiciary
United States Senate

The Honorable Jon Tester
Chair
Subcommittee on Defense
Committee on Appropriations
United States Senate

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

The Honorable Raúl M. Grijalva
Chair
Committee on Natural Resources
House of Representatives

The Honorable Tammy Baldwin
United States Senate

The Honorable Richard Blumenthal
United States Senate

The Honorable Cory A. Booker
United States Senate

The Honorable Tom Carper
United States Senate

The Honorable Christopher A. Coons
United States Senate

The Honorable Tammy Duckworth
United States Senate

The Honorable Dianne Feinstein
United States Senate

The Honorable Kirsten Gillibrand
United States Senate

The Honorable Martin Heinrich
United States Senate

The Honorable Mazie Hirono
United States Senate

The Honorable Amy Klobuchar
United States Senate

The Honorable Patrick Leahy
United States Senate

The Honorable Edward J. Markey
United States Senate

The Honorable Robert Menendez
United States Senate

The Honorable Jeffrey A. Merkley
United States Senate

The Honorable Jack Reed
United States Senate

The Honorable Bernard Sanders
United States Senate

The Honorable Charles E. Schumer
United States Senate

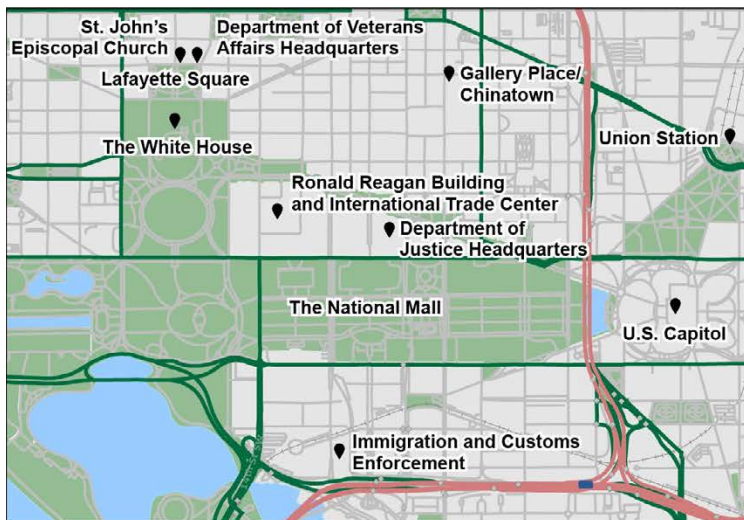
The Honorable Chris Van Hollen
United States Senate

The Honorable Ron Wyden
United States Senate

Appendix I: Agencies' Response to Demonstrations in Washington, D.C.

Summary of events. Nationwide civil unrest and demonstrations occurred following the death of Mr. George Floyd, a 46-year-old African American man, on May 25, 2020, while in police custody in Minneapolis, Minnesota. Related large demonstrations began in Washington, D.C., on May 29, 2020, and continued through mid-June, with smaller, sporadic demonstrations occurring the rest of the summer across the country. While the demonstrations occurred across the city, the main focus of the demonstrations was in the area around the White House and Lafayette Square, which is a federal park located north of the White House (see fig. 9 for map).

Figure 9: Map and Image of Demonstrations in Washington, D.C.



Large demonstration near the Renwick Gallery and Eisenhower Executive Office Building on May 30, 2020

Sources: Department of Homeland Security; MapInfo (map). | GAO-22-104470

Federal Protective Service (FPS) officials estimated that the crowd size of demonstrators had at one time grown to approximately 8,000. The nature of the demonstrations varied, at times being peaceful and violent at other times. Agency officials reported that demonstrators threw dangerous objects at law enforcement, including bricks, rocks, water bottles, and fireworks. For example, FPS, the U.S. Secret Service (USSS), and the U.S. Park Police (USPP) reported that at least 180 officers were injured during the demonstrations, including concussions, lacerations, exposure to chemical gas, and severe bruising. Damage to structures included broken windows, graffiti on buildings and historic statues, and fires set in vehicles, the Lafayette Square park comfort station (see fig. 10), and the basement of St. John's Church.

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Figure 10: Images of Property Damage and Dangerous Objects Thrown in Washington, D.C.



Firefighters respond to fire set on comfort station in Lafayette Square in Washington, D.C., on May 31, 2020.



Agency officials reported that demonstrators threw dangerous objects, including fireworks and bricks.

Source: Department of the Interior. | GAO-22-104470

Given the size and nature of the demonstrations, federal agency officials were called in to assist with the protection of federal property, government personnel, and the public. For example, the Secretary of the Interior requested assistance from the District of Columbia National Guard (D.C. National Guard) on May 30, 2020, to provide additional security around

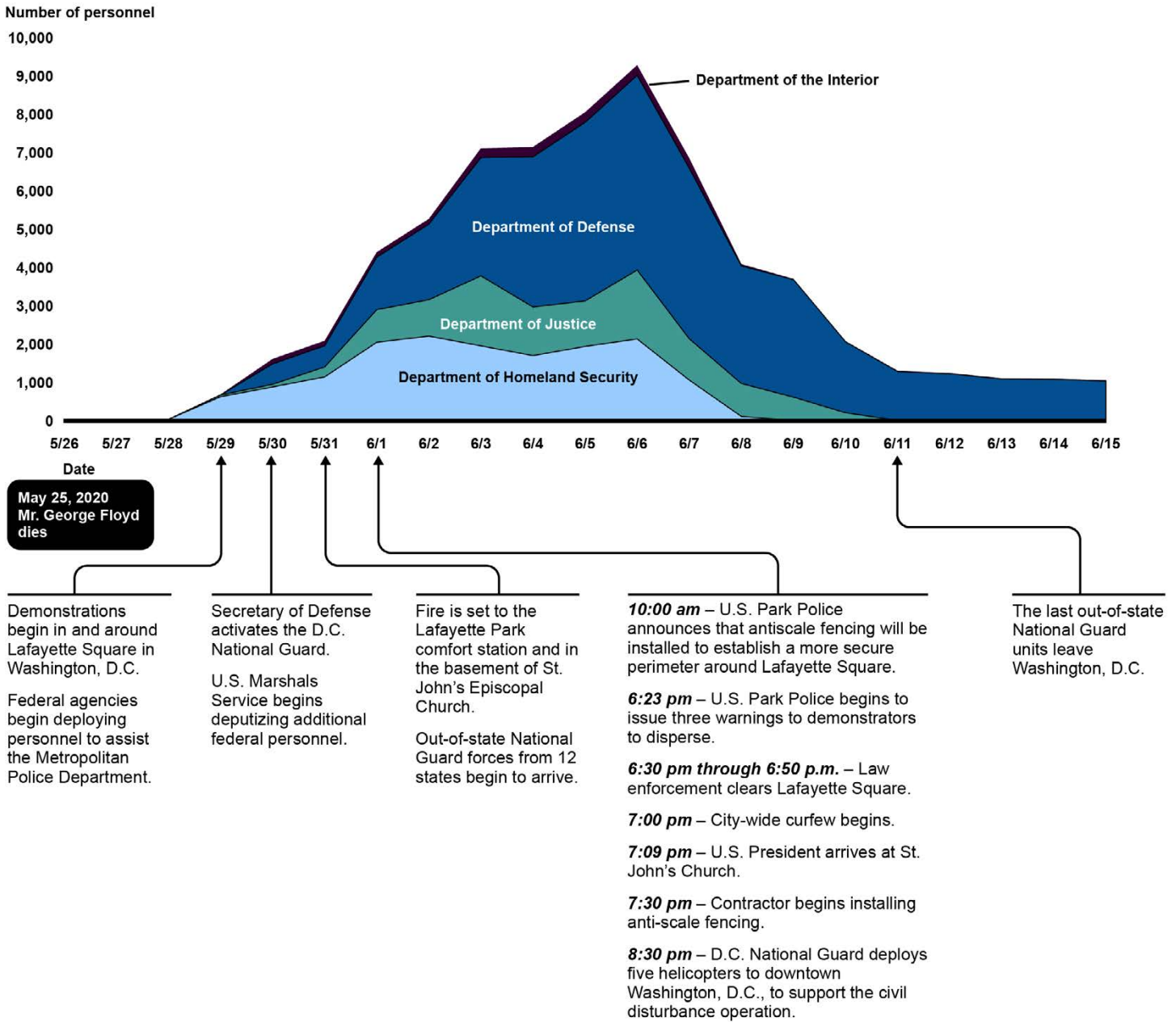
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the White House and National Mall.¹ Other agencies, such as the Bureau of Prisons (BOP), the U.S. Marshals Service (USMS), and FPS deployed personnel to Washington, D.C., with the approval of the Attorney General or under a mutual aid agreement. Following the violence during the first few days of the demonstrations, the President requested additional National Guard forces from other states to come to Washington, D.C., to help protect federal functions, persons, and property. On June 1, 2020, the Secretary of Defense requested 5,000 National Guard members to support the D.C. National Guard and law enforcement agencies within the District of Columbia. See figure 11 for a detailed time line of relevant events and the number of federal personnel deployed.

¹National Guard forces who deployed to Washington, D.C., served under Title 32 of the United States Code. When operating under this status, National Guard forces are funded by the Department of Defense (DOD) and are under the command and control of the state Governor or, in the case of D.C., the Secretary of the Army.

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Figure 11: Time Line of Relevant Events during Demonstrations, and Federal Personnel Deployed to Washington, D.C., by Agency, from May 26, 2020, through June 15, 2020



Sources: GAO analysis of agency staffing data and documents. | GAO-22-104470

Note: This figure does not include personnel who were assigned to support positions, such as logistics, administrative, intelligence, and other positions that were deployed to support the operation but were not in direct contact with demonstrators.

Lafayette Square. On the evening of June 1, 2020, several federal agencies participated in an operation to clear demonstrators from Lafayette Square, which was then followed by a visit from the President to survey the damage, walk to St. John's Church, and pose for photographs. The timing of the events raised questions from Members of Congress. The Office of Inspector General (OIG) for the Department of the Interior reported in June 2021 that the evidence it reviewed showed that the USPP cleared the park to allow a contractor to safely install antiscale fencing in response to destruction of property and injury to officers from the previous days (see fig. 12). Our interviews with agency officials and review of agency documents generally comported with the OIG's conclusion. For example, USPP officials stated that they had no intent to utilize USPP's crowd control efforts to facilitate a photo opportunity for the President. The officials said that they had hoped to erect the antiscaling fencing earlier in the day to help decrease the use of less-lethal force on demonstrators and injuries to officers by creating more physical distance between the two groups. The USPP officials attributed the delays in starting the operation to difficulties in obtaining the fencing material as well as having enough assistance to clear the park, in part due to injuries that officers had sustained in the prior days. Similarly, USSS officials stated that the clearing of Lafayette Square was not carried out as part of planning for the unscheduled President's walk over to the St. John's Church, but that USSS and USPP were planning to install the fencing in response to the threat of violent and destructive behavior in the prior days.

Figure 12: Photographs Taken near Lafayette Square



U.S. Park Police facing St. John's Church (right side).



Truck leaving White House Complex after unloading antiscaling fencing.

Sources: Departments of Homeland Security and the Interior. | GAO-22-104470

Generally, we also found that contemporaneous situation reports from federal officials, including FPS, the Federal Bureau of Investigation (FBI), USPP, and USSS, did not attribute the efforts to clear the park to the President's visit. For example, some reports discussed the plan to install the antiscaling fencing. In other reports, USPP and USSS officials attributed the timing of the operation to increased unrest on the days prior to June 1, 2020, such as injuries to law enforcement personnel and attempts by demonstrators to breach the fence line. However, we identified one instance in which a federal officer discussed the plan to clear the park in relation to the visit by the President. Specifically, the officer was one of 12 BOP officers who reported deploying mixed munitions and a diversionary device on June 1, 2020. The officer stated in his report that he had been told by local law enforcement to clear the area for the visit from the President. The reports developed by the other 11 officers did not attribute their law enforcement actions to the operation to clear the park for the visit by the President.

Gallery Place. On June 1, 2020, the D.C. National Guard deployed five helicopters to downtown Washington, D.C. (see fig. 13). Four of the five helicopters were air ambulance assets. According to aircrew members, the purpose of the helicopters was to provide surveillance and show a military presence to help deter criminal activity, such as looting. However, according to a senior D.C. National Guard leader, some of the aircrew misunderstood the mission's purpose and believed that they were instructed to fly low and hover over crowds to help disperse them. One of

the five helicopters purposefully descended below 100 feet in the Gallery Place neighborhood. Flying at this low level could produce a downward wind that potentially causes damage to structures and injuries to people.

Figure 13: National Guard Personnel and Helicopters Deployed to Washington, D.C.



D.C. National Guard deployed at night.



UH-72 Lakota helicopters, the same type used to disperse crowds around Gallery Place on June 1, 2020.

Source: Department of Defense. | GAO-22-104470

The use of the helicopters prompted an investigation by the Army. The Army found that all aircrew members had acted in good faith and had executed the mission as they understood it. However, the Army concluded that the helicopters that were designated as air ambulances were not used in accordance with Army regulation and that the D.C. National Guard did not have a plan to maintain command and control by using the helicopters for the mission. The Department of Defense's OIG reviewed the Army's investigation and determined that the Army's analysis of facts was reasonable. The OIG concluded, however, that the regulation stipulated that use of the air ambulance-designated helicopters was justified by the unprecedented emergency circumstances that existed at the time. The OIG also concluded that there were no specific policies, procedures, or training in place for using helicopters to assist civilian authorities in civil disturbances. The Department of Defense's OIG recommended including the use of aviation assets into existing plans and training all appropriate personnel on the proper use of helicopters when supporting law enforcement authorities.

Jurisdictions, Legal Authorities, and Operational Command

Multiple law enforcement agencies share jurisdiction in the areas surrounding the White House and Lafayette Square. The agencies operating in this area have a memorandum of understanding that governs each law enforcement agency's jurisdiction and responsibilities in the area:

- USPP is the lead agency for the national park lands surrounding the White House;
- USSS is the lead agency within the White House Complex; and
- Washington, D.C.'s Metropolitan Police Department (MPD) is the lead agency responsible for several streets and sidewalks around the White House and Lafayette Square.

In addition, FPS has responsibilities for protecting federal facilities, including the 15 federal facilities adjacent to Lafayette Square, such as the headquarters for the Department of Veterans Affairs and the Import-Export Bank.

Some agencies also requested additional legal authorities through special deputation to perform their missions in response to the demonstrations. USMS has the authority to deputize federal, state, local, or tribal law enforcement officers to perform the functions of a deputy U.S. marshal, including making arrests under Title 18 of the United States Code and to defend federal government buildings and personnel.²

During the summer of 2020, USMS provided special deputation authority to over 2,800 agency officials for various federal entities in D.C., including BOP; U.S. Customs and Border Protection; Transportation Security Administration; U.S. Immigration and Customs Enforcement; and the National Guard, including units from the D.C. National Guard and other states. According to USMS, these agencies requested and received special deputation following the U.S. Attorney General's authorization for USMS to deploy nationwide to address civil unrest. According to USMS officials, they did not have oversight authority over law enforcement personnel or National Guard forces who were deputized to address the 2020 demonstrations. Specifically, deputized personnel were responsible for adhering to their home agency's use of force policies and procedures, including the procedures for reporting use of force incidents. According to USMS officials, the number of special deputation requests that USMS received in 10 days during the May and June demonstrations was

²28 U.S.C. § 566(c) and 28 C.F.R. § 0.112.

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unprecedented and equivalent to the number of requests that USMS typically receives in a 4-month period.

In terms of command and control, agency officials stated that USSS and USPP led operations in the areas surrounding the White House and Lafayette Square in coordination with other federal agencies and MPD (see fig. 14). All National Guard forces—including out-of-state forces—were under the command of the D.C. National Guard.

Agencies coordinated and shared information through the existing network of operations centers. For example, the USSS Uniformed Division White House Branch emergency operations center was physically staffed by supervisors from USSS, USPP, D.C. National Guard, and other partner agencies. Further, the FBI's Washington Field Office set up a command post to collect, analyze, and share information with other federal, state, and local agencies to identify and inform on potential threats to national security, federal criminal activity, and threats to federal personnel and facilities.

Figure 14: Federal Officers Deployed in Washington, D.C.



U.S. Marshals Service officers form a police line.

Sources: Departments of Homeland Security and Justice. | GAO-22-104470



U.S. Customs and Border Protection officers near the White House

Agency Activities

At least 12 federal agencies deployed personnel in response to the demonstrations in Washington, D.C., from May 26, 2020, through June

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15, 2020 (see table 10).³ The staffing numbers we present represent approximately the highest number of personnel from that agency that deployed to Washington, D.C., from May 26, 2020, through June 15, 2020. The number of personnel deployed from each agency fluctuated over the period covered.

Table 10: Federal Agency Activities in Response to Demonstrations during the Deployment in Washington, D.C., from May 26, 2020, through June 15, 2020

Agency	Roles, responsibilities, locations, and activities
Federal Protective Service (FPS)	<ul style="list-style-type: none"> • Reason for deployment. FPS deployed personnel to protect federal buildings and property near Lafayette Square in response to the demonstrations and to assist other federal agencies, such as the U.S. Park Police (USPP) and the Department of Justice. • Who deployed. Up to about 40 personnel per day, including the FPS Quick Response Force, which is comprised of law enforcement officers assigned to FPS headquarters who served as an augmentation force in the National Capital Region • Locations. Federal buildings near the White House, such as the headquarters for the Department of Veterans Affairs, as well as Lafayette Square, the Department of Justice headquarters, and various federal buildings across the city • Activities. Officers monitored crowds and inspected federal properties for damage and vandalism, including the Trump International Hotel, Washington, D.C., which is a federal historic property leased by the General Services Administration. Officers also assisted USPP in Lafayette Square by providing personnel armed with less-lethal munitions and supported the Department of Justice by monitoring a demonstration at its headquarters.
U.S. Customs and Border Protection (CBP)	<ul style="list-style-type: none"> • Reason for deployment. CBP deployed personnel in response to a request from the Department of Justice to augment local and federal law enforcement partners in Washington, D.C., to protect property, the public, and law enforcement partners. • Who deployed. Up to about 640 personnel per day from the southwest border sectors and field offices from Border Patrol; the Office of Field Operations; and Air and Marine Operations, including tactical teams • Locations. Multiple locations across the city, including the White House Complex, Lafayette Square, and the Ronald Reagan Building (CBP's headquarters) • Activities. CBP officers augmented local and federal law enforcement partners by monitoring demonstration activity, identifying potential threats to officers and the public, and protecting federal property and employees from violent activity.

³Two of these agencies—the Drug Enforcement Administration and the Transportation Security Administration—are not included elsewhere in our report because they did not meet our criteria for inclusion that an agency either used less-lethal force during the demonstration or deployed over 400 personnel.

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Agency	Roles, responsibilities, locations, and activities
U.S. Immigration and Customs Enforcement (ICE)	<ul style="list-style-type: none"> • Reason for deployment. At the request of the Department of Justice, ICE personnel were deployed to Washington, D.C., to support federal operations during demonstrations. • Who deployed. Up to about 130 officers and tactical team members per day from Enforcement and Remove Operations and Homeland Security Investigations. Officers came from field offices in Baltimore, New York City, Boston, Detroit, Miami, El Paso, Phoenix, San Antonio, and Washington, D.C. • Locations. Locations throughout Washington, D.C., including Lafayette Square and ICE headquarters at Potomac Center North • Activities. ICE officers patrolled, staged, secured, and protected federal interests, buildings, and personnel; waited on standby as a quick reaction force to support other law enforcement personnel; conducted patrols with Federal Bureau of Investigation teams; assisted with felony arrests and high-risk encounters, as needed; and protected the ICE headquarters building.
U.S. Secret Service (USSS)	<ul style="list-style-type: none"> • Reason for deployment. USSS requested assistance from local partners (USPP and D.C. Metropolitan Police Department) to assist in the security of the White House Complex. • Who deployed. Up to about 1,540 personnel per day, including tactical team members from the Counter Assault Team, Counter Sniper Team, and the Emergency Response Team • Locations. White House Complex and Lafayette Park • Activities. Installed temporary security fencing to act as a barrier for public safety reasons (e.g., maintain order and quell violent demonstrations) and assisted USPP in protecting federal property from further destruction. Tactical team members were tasked to protect, mitigate, and de-escalate violent demonstrations so that there was not a breach at the White House Complex, other USSS permanent protected facilities, and Lafayette Park.
Transportation Security Administration (TSA)	<ul style="list-style-type: none"> • Reason for deployment. Federal Air Marshals Service law enforcement officers were deployed to provide support to FPS to protect federal property and persons. • Who deployed. Up to about 80 Federal Air Marshals per day, who are federal law enforcement officers who typically operate under covert status to ensure safe travels and protect airline passengers and crew against criminal and terrorist activity • Locations. Union Station and the U.S. Postal Museum • Activities. Federal Air Marshals safeguarded federal property and personnel, while maintaining transportation security.
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)	<ul style="list-style-type: none"> • Reason for deployment. At the direction of the Attorney General and requested by USPP, ATF personnel were deployed to assist in responding to the civil unrest near the White House. • Who deployed. Up to about 160 personnel per day, including tactical team members from the Special Response Team • Locations. Lafayette Square and the White House • Activities. ATF special agents provided surveillance and intelligence on crowds, both in law enforcement gear and covertly. The ATF Special Response Team was initially tasked with protecting the Department of Justice headquarters building and also assisted USPP and USSS with the protection of federal property and crowd control activities near the White House.
Bureau of Prisons (BOP)	<ul style="list-style-type: none"> • Reason for deployment. At the direction of the Attorney General and a request from the D.C. Metropolitan Police Department, BOP deployed personnel to assist in responding to the civil unrest near Lafayette Square. • Who deployed. Up to about 660 personnel per day, including members of the Disturbance Control Team and Special Operations Response Team • Locations. White House; Lafayette Square; headquarters buildings for the Department of Justice, the Federal Bureau of Investigation, and BOP; the Lincoln Memorial; the U.S. Naval Memorial; and a Federal Bureau of Investigation location in Virginia • Activities. Assisted USPP, USMS, and the D.C. National Guard in responding to the demonstrations near the White House and provided tactical support from inside Lafayette Park, such as holding the line between demonstrators.

Appendix I: Agencies' Response to Demonstrations in Washington, D.C.

Agency	Roles, responsibilities, locations, and activities
Drug Enforcement Administration (DEA)	<ul style="list-style-type: none"> • Reason for deployment. At the request of the D.C. Metropolitan Police Department, DEA deployed personnel to help quell the social unrest in the city and to support local and federal law enforcement. • Who deployed. Up to about 320 officers per day • Locations. DEA officers were posted at perimeter and street intersections in the Washington, D.C. area • Activities. DEA monitored crowds and identified bad actors who were committing acts of violence, conducted weapons search of suspects, and provided basic first-aid triage to a demonstrator.
Federal Bureau of Investigation (FBI)	<ul style="list-style-type: none"> • Reason for deployment. At the direction of the Attorney General and the Director of the FBI, personnel were deployed to provide a visible law enforcement presence to deter criminal activity and to be readily available to respond to, disrupt, and investigate criminal activity occurring in Washington, D.C., within the jurisdiction of the FBI, such as assaults on federal personnel or destruction of federal property. • Who deployed. Up to about 680 personnel per day, including FBI Special Agents and Special Weapons and Tactics (SWAT) team members from the Washington, D.C., field office and the Hostage Rescue Team • Locations. Various locations across the city, including the White House, National Mall, federal monuments, St. John's Church, and Lafayette Square • Activities. FBI special agents conducted patrols within zones containing significant federal interests; performed investigative work related to any crimes that occurred, such as interviewing witnesses; and assisted federal partners in securing and monitoring federal properties. SWAT teams were deployed at times for physical security of FBI and Department of Justice buildings in support of FBI police, who provide security for FBI locations and assets, and otherwise on standby in the event of violence directed toward federal facilities or emergencies. For this deployment, the primary responsibility of Hostage Rescue Team members was to protect federal facilities and potentially respond as a quick reaction force in the event of injured officers. The FBI also monitored social media posts for threats of violence and conducted aerial surveillance to monitor large crowd movements for situational awareness.
U.S. Marshals Service (USMS)	<ul style="list-style-type: none"> • Reason for deployment. At the direction of the Deputy Attorney General, USMS personnel were deployed to respond to civil unrest, enforce criminal statutes, and to protect federal property and personnel. • Who deployed. Deputy U.S. Marshals, including tactical team members from the Special Operations Group^a • Locations. Lafayette Square, the National Mall, and other locations in the city • Activities. USMS Special Operations Group personnel responded to civil unrest in the area and assisted USPP with maintaining a law enforcement perimeter at Lafayette Square on June 1, 2020, after the area had been cleared by USPP and other law enforcement officials and before a perimeter fence was installed.
U.S. Park Police	<ul style="list-style-type: none"> • Reason for deployment. USPP had primary jurisdiction and authority to exercise law enforcement over Lafayette Square. • Who deployed. Up to about 260 personnel per day, including members of USPP's SWAT team and Mounted Horse Patrol. Up to about 30 USPP personnel who were deployed each day served as members of USPP's Civil Disturbance Unit, who are trained to respond to civil disturbances and other critical situations, as well as large-scale events in the National Capital Area (such as presidential inaugurations). The National Park Service also deployed over 30 members of its Special Event Teams to integrate with USPP and support its deployment. • Locations. Lafayette Square, areas near the White House, and federal monuments • Activities. In coordination with USSS, USPP established a unified command to coordinate the law enforcement response to the demonstrations occurring in and around the White House Complex. USPP cleared Lafayette Square before installing antiscale fencing. Special Event Teams assisted with crowd mitigation, patrols, and civil disturbance responses.

Appendix I: Agencies' Response to Demonstrations in Washington, D.C.

Agency	Roles, responsibilities, locations, and activities
National Guard	<ul style="list-style-type: none"> <li data-bbox="310 464 1511 569">• Reason for deployment. At the request of federal and local law enforcement, D.C. National Guard forces were deployed to conduct civil disturbance operations and to protect lives and infrastructure. At the direction of the President, the Secretary of Defense requested National Guard forces from outside of D.C. to protect federal functions, property, and personnel. <li data-bbox="310 575 1511 680">• Who deployed. The D.C. National Guard deployed up to about 1,850 personnel per day, including the 33rd Weapons of Mass Destruction and Civil Support Team. In addition, up to about 3,730 personnel per day from 12 states (Florida, Idaho, Indiana, Maryland, Mississippi, Missouri, New Jersey, Ohio, Pennsylvania, South Carolina, Tennessee, and Utah) deployed to Washington, D.C. <li data-bbox="310 686 1511 743">• Locations. Lafayette Square and various points around the city, including Hains Point, the Washington Monument, and various points along the National Mall <li data-bbox="310 749 1511 932">• Activities. D.C. National Guard forces assisted the D.C. Metropolitan Police Department with traffic control and USPP with crowd management at Lafayette Square and around the White House Complex, provided aerial support for civil disturbance operations, and assisted BOP with extending the security perimeter near Lafayette Square. Out-of-state National Guard forces—who were under the command of the D.C. National Guard—conducted similar activities but, pursuant to Department of Defense guidance, they were not allowed to accompany D.C. National Guard forces or D.C. Metropolitan Police Department personnel on missions outside of federal government properties.

Sources: GAO analysis of agency documentation, and interviews with agency officials. | GAO-22-104470

Note: The staffing numbers contained in this table do not include personnel who deployed in a support or administrative role. Some agencies, such as USPP, USSS, and FPS, have responsibilities for protecting federal property in Washington, D.C., and have staff that are normally assigned to protect such property regardless of whether there are demonstrations. Therefore, the staffing numbers cited above include both the normal staffing level for those locations as well as the additional staff that deployed to assist with the demonstrations. The staffing numbers we present represent approximately the highest number of personnel from that agency that deployed to Washington, D.C., from May 26, 2020, through June 15, 2020. The number of personnel deployed fluctuated over the period covered, and in some cases some agencies may not have had any officers deployed in response to the demonstrations on certain days.

^aThe approximate number of USMS personnel deployed to Washington, D.C. was omitted because USMS deemed the information to be sensitive.

Use of Less-Lethal Force

Six federal agencies reported that their personnel used less-lethal force during the demonstrations in Washington, D.C., from May 26 through June 15, 2020, as shown in table 11. Each agency had established its own rules for the use of force during the deployment on the basis of each agency's use of force policy and guidance. For example, all National Guard forces received Rules for the Use of Force cards that identified less-lethal force measures before the mission. These cards, which differ for each mission, state that National Guard forces should never provoke or respond to verbal threats, should use the minimum amount of force necessary to accomplish the mission, and should attempt to de-escalate the situation. Some agencies, such as the National Guard and the FBI, reported that their personnel were equipped with less-lethal force and protective gear but that none of their personnel reported using less-lethal force.

Appendix I: Agencies' Response to Demonstrations in Washington, D.C.

Table 11: Reported Number and Types of Less-Lethal Force Incidents by Selected Agencies in Washington, D.C., from May 26, 2020, through June 15, 2020

Type of force	Federal Protective Service	U.S. Secret Service	Alcohol, Tobacco, Firearms and Explosives	Bureau of Prisons	U.S. Marshals Service ^a	U.S. Park Police
Physical tactics	1	16	None reported	None reported	None reported	1 ^b
Batons	None reported	14	None reported	None reported	None reported	3
Chemical spray	None reported	19	None reported	1	✓	7
Chemical munitions	None reported	1	1	None reported	None reported	8
Kinetic impact munitions	None reported	None reported	1	None reported	None reported	13
Mixed munitions	4	None reported	None reported	11	None reported	19
Munition type unknown ^c	n/a	n/a	n/a	n/a	n/a	3
Diversionsary devices	n/a	None reported	None reported	1	Reporting not required	Reporting not required
Electronic control devices	None reported	None reported	None reported	n/a	None reported	None reported
Nonirritant smoke	n/a	None reported	None reported	None reported	Reporting not required	Reporting not required ^d
Total	5	50	2	13	1	54

Legend: ✓=agency used this type of force, but number of incidents is omitted because the U.S. Marshals Service deemed this information to be sensitive; and n/a = not applicable because this agency does not use this type of force or because there were no incidents for which the munition type was unknown.

Source: GAO analysis of agency information and data. | GAO-22-104470

Notes: For the purposes of this table, an incident is a single type of less-lethal force used by an officer on a single day. For example, a report in which an officer threw two canisters of chemical munitions and a diversionsary device throughout the course of a night would be counted as two use of force incidents in GAO's analysis – one for the chemical munitions and one for the diversionsary device. Requirements for which types of less-lethal force must be reported vary by agency. None reported means that the agency's use of force reports did not include this type of force. Reporting not required means that the agency's policies do not require officers to report use of this type of force.

^aThe total number of each type of force used by U.S. Marshals Service was omitted because U.S. Marshals Service deemed the information to be sensitive.

^bUSPP reported that on June 1, 2020, its officers used shields to clear Lafayette Square to set up perimeter fencing. USPP use of force policy does not specifically require officers to report on the use of shields, and our review of use of less-lethal force reports that USPP submitted for June 1, 2020 did not identify any reports describing the use of shields. We identified other documents submitted by USPP verifying that officers used shields on May 31 and June 1, 2020. According to USPP officials, officers generally used these shields to protect themselves and did not use them to restrain individuals, except in one incident where an officer used a shield to strike an individual. As of August 2020, this incident was under investigation by the Department of the Interior's Office of Inspector General. USPP did not provide us with a report for this use of force incident due to the ongoing nature of this investigation.

^cMunition type unknown refers to instances in which the report identified the kind of device used, such as a compressed air launcher, but did not identify the type of munition that was used in it, such as a chemical or kinetic impact munition.

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^dAlthough not required to be reported per agency policy, use of force reports indicate that its officers also used this type of force during this deployment.

Officers reported various reasons for why they needed to use force, such as to prevent demonstrators from breaching the police line, to prevent further damage of federal property, or to protect themselves and other officers from flying objects. Six agencies reported using force, three of which reported using force as part of the operation to clear Lafayette Square on June 1, 2020 (USPP, USSS, and BOP).

- **USPP.** Tactical team members deployed less-lethal munitions, including chemical and kinetic impact munitions that were either hand thrown or shot via compressed air launcher. For example, one report noted that USPP officers launched mixed munitions (pepper balls) into the crowd toward demonstrators who were throwing sticks, rocks, and full water bottles at officers instead of clearing Lafayette Square, as requested. When the crowd increased the rate at which they were throwing projectiles and began to advance toward the officers, a USPP officer deployed nonirritant smoke and kinetic impact munitions (sting-balls without irritant) until the fence was secured.
- **USSS.** Officers reported using chemical spray, batons, and physical tactics against demonstrators who were, for example, attempting to breach the established police line, damaging vehicles, or throwing objects at police officers. For example, USSS officers reported that they used chemical spray and batons as part of the effort to clear Lafayette Square on June 1, 2020, on demonstrators who were refusing to comply with the officer's commands to move.
- **Bureau of Alcohol, Tobacco, Firearms and Explosives.** A tactical team member reported using a chemical munition (hand-thrown chemical gas) to move a crowd. The officer reported doing so because the crowd had refused to comply with law enforcement and so that the fire department could reach the area to extinguish fires that had been set by demonstrators. Another tactical team member reported using a kinetic impact munition (bean bag round) on a demonstrator who had attempted to pick up the chemical munition and throw it back at law enforcement.
- **BOP.** Officers reported using chemical spray and mixed munitions. For example, BOP officers used mixed munitions (kinetic impact munition with chemical irritant shot via compressed air launcher) on June 1, 2020, to clear demonstrators from Lafayette Square who were assaultive or refused to leave the area.

- **USMS.** Tactical team members from the Special Operations Group used chemical spray in a vaporized form to clear demonstrators away from the fence barrier to Lafayette Square.
- **FPS.** FPS used physical tactics and mixed munitions against demonstrators who were throwing bricks, rocks, water bottles, eggs, and other items. For example, one officer reported that he shot mixed munitions at tree branches, street signs, and other structures near demonstrators who had been throwing objects at law enforcement so that the demonstrators would disperse as the chemical agent fell on the area.

Appendix II: Agencies' Response to Demonstrations in Portland, Oregon

Summary of events. Nationwide civil unrest and demonstrations occurred following the death of Mr. George Floyd, a 46-year-old African American man, on May 25, 2020, while in police custody in Minneapolis, Minnesota. Related large demonstrations began in Portland, Oregon, on May 29, 2020, and continued into 2021. The main focus of the demonstrations was in the area around a group of federal and local government buildings in downtown Portland, including the federal Hatfield U.S. Courthouse and the Green-Wyatt Federal Building (see fig. 15 for map). Federal Protective Service (FPS) officials estimated that the crowd size had at one time grown to 10,000.

Figure 15: Map and Image of 2020 Demonstrations in Portland, Oregon



Demonstrators outside of Hatfield Courthouse

Sources: Department of Homeland Security; MapInfo (map). | GAO-22-104470

The nature of the demonstrations varied, at times being peaceful and at times violent. Agency officials reported that demonstrators threw dangerous objects at law enforcement. For example, officials from the FPS, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Marshals Service (USMS) reported over 350 injuries to officers from June 26, 2020, through September 30, 2020, including injuries from contact with chemicals, heavy objects, fireworks, and lasers. Further, according to FPS officials, there was extensive damage to federal facilities and assets. For example, FPS officials stated that the General Services Administration had assessed the damages to

federal facilities in Oregon from May 2020 through February 2021 to be \$2.3 million, including \$1.6 million in damages to the Hatfield U.S. Courthouse alone.

As shown in figure 16, the Departments of Homeland Security (DHS) and Justice (DOJ) surged personnel to Portland, Oregon, throughout the summer of 2020.¹ On June 26, 2020, the President issued an executive order in advance of the July 4, 2020, holiday that required DHS and DOJ, among others, to provide personnel to assist with the protection of federal monuments, memorials, statues, and property.² In response to the executive order, the Acting Secretary of Homeland Security issued a memorandum creating the Protecting American Communities Task Force to protect federal facilities and property at various locations, including Portland, Oregon, during the holiday weekend. DHS and DOJ again surged personnel to Portland, Oregon, in late July after the Portland City Council voted to cease cooperation between the Portland Police Bureau and federal law enforcement.

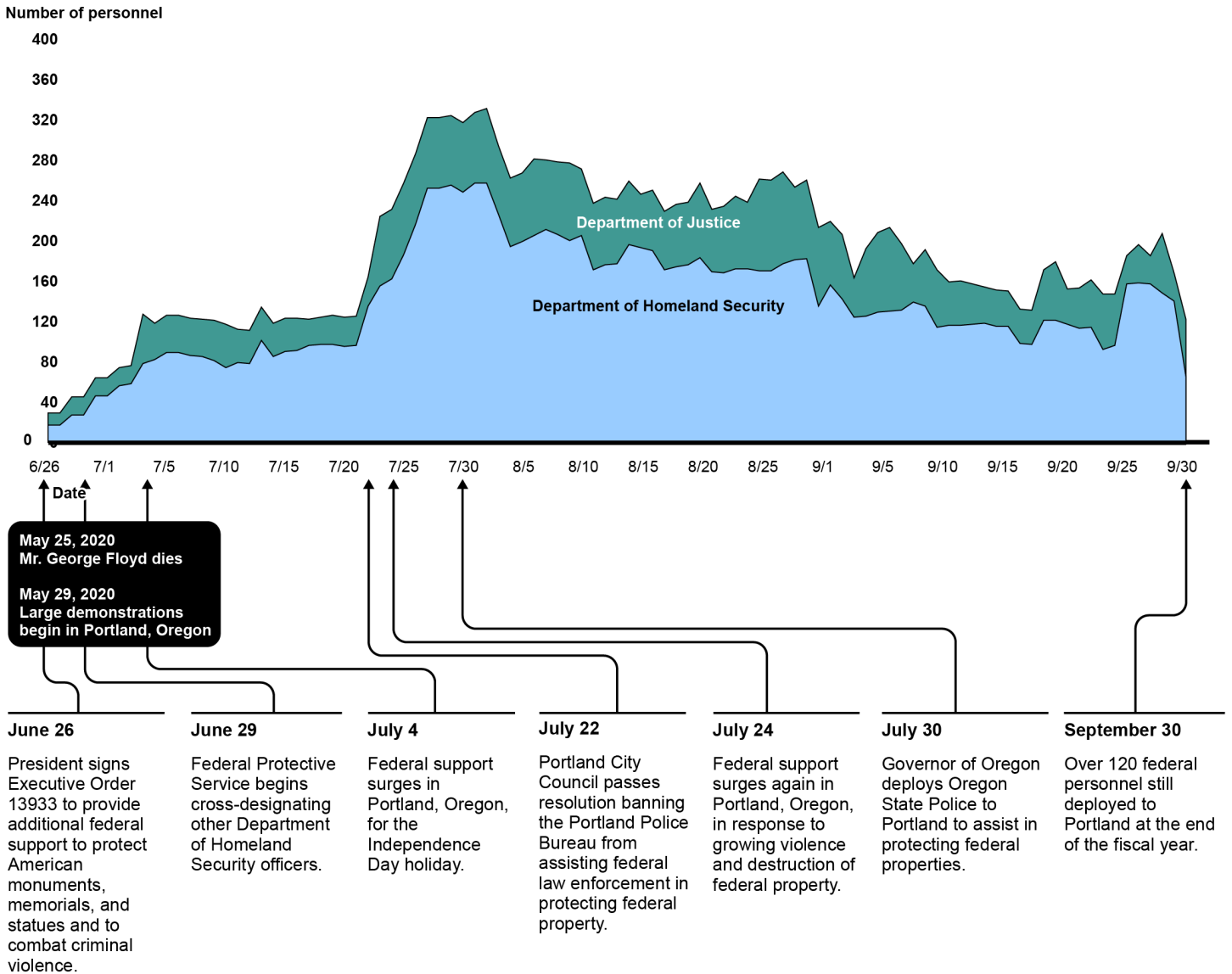
According to FPS officials, the actions of the Portland City Council caused federal law enforcement to assume exclusive protective responsibility for five federal buildings during a time of historic high threats and attacks. After the Governor of Oregon and the Acting Secretary of Homeland Security reached an agreement, Oregon State Police were sent to assist federal law enforcement in protecting federal properties, beginning on July 29, 2020. At that time, DHS announced that the increased federal presence in Portland, Oregon, would remain until the department was certain that federal property was safe. While the federal presence in Portland began to decrease in the fall, at least 120 federal personnel were deployed per day through the end of September 2020.

¹Some federal agencies began deploying personnel to Portland, Oregon, in early June 2020. However, our report focuses on the period beginning in late June 2020 when federal agencies began surging larger numbers of personnel.

²Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence, Exec. Order No. 13933, 85 Fed. Reg. 40081 (June 26, 2020) (repealed by Revocation of Certain Presidential Actions and Technical Amendment, Exec. Order No. 14029, 86 Fed. Reg. 27025 (May 14, 2021)).

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Figure 16: Time Line of Relevant Events during Demonstrations, and Federal Personnel Deployed to Portland, Oregon, by Agency, from June 26, 2020, through September 30, 2020



Sources: GAO analysis of agency staffing data and documents. | GAO-22-104470

Jurisdictions, Legal Authorities, and Operations Command

Multiple law enforcement agencies share jurisdiction in Portland, Oregon, particularly in the downtown government district, which includes various federal and local government buildings. Areas under federal jurisdiction include federal buildings such as the Green-Wyatt Federal Building, which houses agencies that include the Internal Revenue Service, U.S. Forest

Appendix II: Agencies' Response to Demonstrations in Portland, Oregon

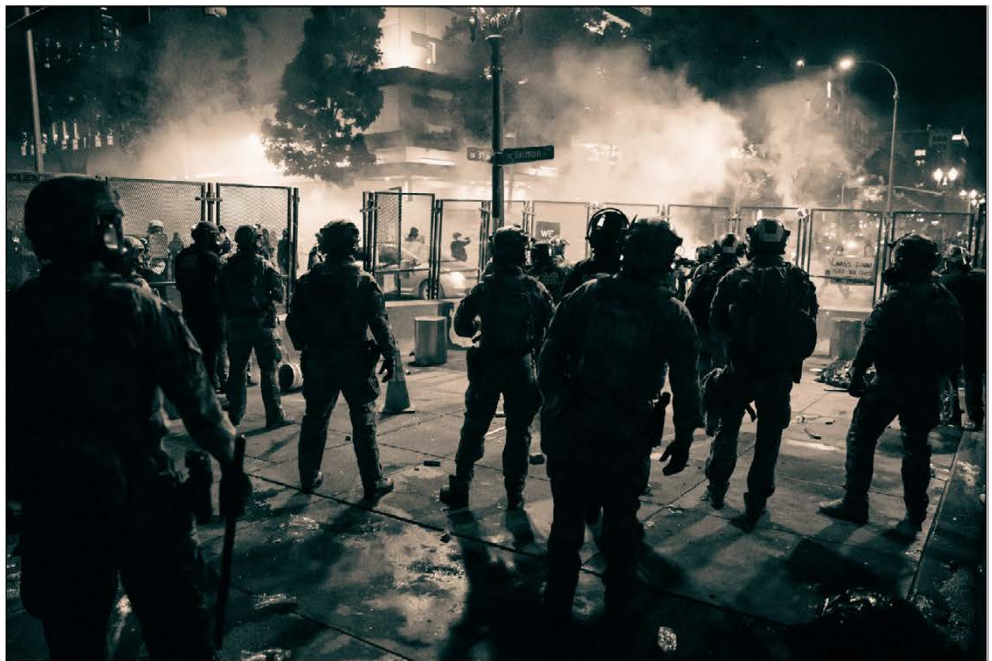
Service, and Bureau of Land Management; Terry Schunk Plaza, which is across the street from the Green-Wyatt Federal Building and is owned and maintained by the General Services Administration; and the Hatfield U.S. Courthouse (see fig. 17). City and county buildings and areas include the Multnomah County Justice Center, which houses the Portland Police Bureau; City Hall; and the Portland Building, which include administrative offices for the city; and two parks maintained by the city (Lownsdale and Chapman Squares).

Figure 17: Demonstration Activity Near the Hatfield U.S. Courthouse



Graffiti on the courthouse

Source: Department of Homeland Security. | GAO-22-104470



Officers behind the perimeter fence around the courthouse

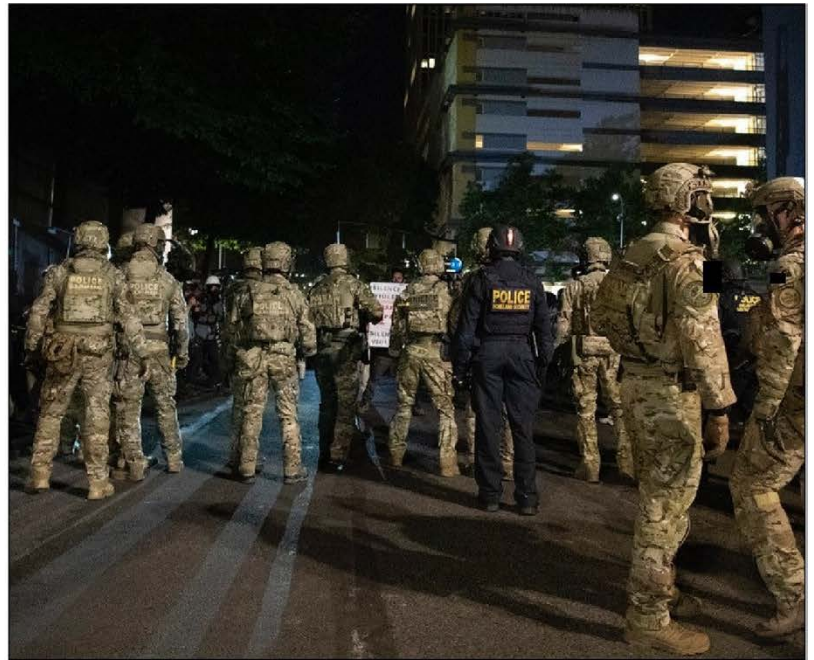
According to federal agency officials, FPS was the lead agency for DHS, and USMS was the lead agency for DOJ (see fig. 18). FPS has responsibilities for protecting federal facilities, and USMS has responsibilities for protecting federal courthouses. The Portland Police Bureau and Oregon State Police have law enforcement authorities at the local and state levels.

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Figure 18: Federal Protective Service and U.S. Marshals Service Officers Deployed to Portland, Oregon



Federal Protective Service



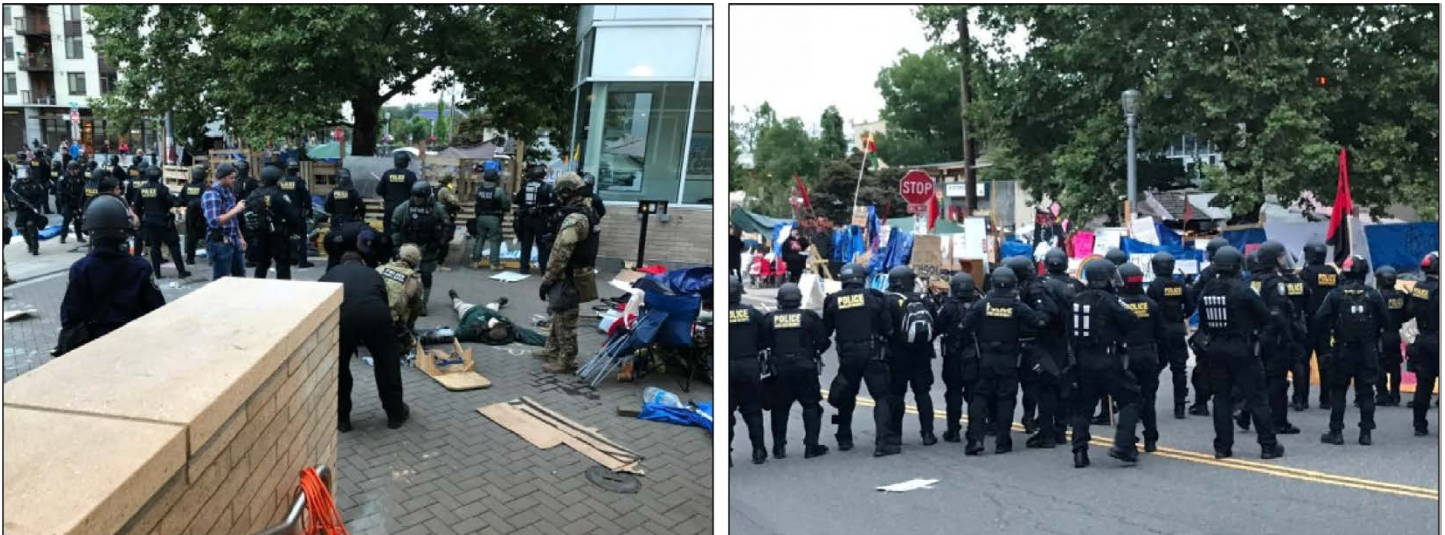
U.S. Marshals Service and other law enforcement officers

Sources: Departments of Homeland Security and Justice. | GAO-22-104470

Coordination mechanisms among federal, state, and local law enforcement agencies changed throughout the course of the deployment. Prior to the city of Portland passing a resolution that prohibited local police from assisting federal law enforcement, the DHS Incident Commander was integrated into an emergency operations center that included federal, state, and local agencies. After the resolution was passed in late July, FPS operated an emergency operations center that included DHS and DOJ and later included Oregon State Police, once an agreement was reached with the Governor of Oregon to do so. Figure 19 illustrates the joint DHS-DOJ law enforcement operation in Portland, Oregon.

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Figure 19: Joint Federal Law Enforcement Effort to Remove Demonstrators from U.S. Immigration and Customs Enforcement Facility



In coordination with the Department of Justice's U.S. Attorney for the District of Oregon, Federal Protective Service officers cleared demonstrators on June 28, 2020, from the U.S. Immigration and Customs Enforcement facility in southwest Portland, Oregon. Demonstrators put up blockades that obstructed the entrance into the building for several days.

Source: Department of Homeland Security. | GAO-22-104470

Some federal agencies sought additional legal authorities through special deputation to assist with the federal response to the demonstrations. USMS has the authority to deputize federal, state, local, or tribal law enforcement officers to perform the functions of a U.S. deputy marshal, including making arrests under Title 18 of the United States Code and to defend federal government buildings and personnel.³ From June 26, 2020, through September 30, 2020, USMS provided special deputation authority to over 200 law enforcement officers for various local, state, and federal agencies, including the Portland Police Bureau, Oregon State Police, Port of Portland Police, Multnomah County Sheriff's Office, Gresham Police Department, U.S. Customs and Border Protection, and Bureau of Prisons.⁴ According to USMS, these agencies requested and received special deputation following the U.S. Attorney General's authorization for USMS to deploy nationwide to address civil unrest. USMS officials stated that they did not have oversight authority over law

³28 U.S.C. § 566(c) and 28 C.F.R. § 0.112.

⁴The Bureau of Prisons sent about 25 personnel to Portland, Oregon, in early June 2020 to help support USMS in securing the federal grounds surrounding the Hatfield U.S. Courthouse. We do not include information related to this deployment because it occurred before the time frame covered by our review for Portland, Oregon.

enforcement personnel who were deputized to address the 2020 demonstrations. Instead, deputized personnel were responsible for adhering to their home agency's use of force policies and procedures, including the procedures for reporting use of force incidents.

Further, within DHS, the Secretary of Homeland Security can "cross-designate" DHS officers with additional authorities to protect property owned or occupied by the federal government, including in areas outside the property to the extent necessary to protect the property and persons on the property.⁵ FPS manages the cross-designation process, and all cross-designated DHS personnel must—prior to deployment—attend a training session provided by FPS attorneys on FPS legal authorities.⁶ According to FPS officials, DHS personnel outside of FPS who are cross-designated continue to follow their home agency's use of force policy and not FPS's policy. FPS made initial requests to cross-designate personnel from U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, the U.S. Secret Service, and the Transportation Security Administration in late June 2020 and then requested an extension through the end of the calendar year in late July 2020. According to FPS training records, over 4,500 DHS personnel received the required cross-designation training from June 6 through August 8, 2020.⁷

Agency Activities

At least five federal agencies deployed personnel in response to the demonstrations in Portland, Oregon, from June 26, 2020, through September 30, 2020, as shown in table 12. In addition to the federal agencies identified in table 12, other federal agencies provided personnel for investigative or support purposes.⁸ For example, the U.S. Secret Service provided personnel to assist with the collection of operational

⁵40 U.S.C. § 1315(b)(1).

⁶According to the DHS Office of the Inspector General, some of the DHS officers may not have taken the required cross-designation training as of August 7, 2020. See Department of Homeland Security, Office of the Inspector General, *DHS Had Authority to Deploy Federal Law Enforcement Officers to Protect Federal Facilities in Portland, Oregon, but Should Ensure Better Planning and Execution in Future Cross-Component Activities*, OIG-21-31 (Washington, D.C.: Apr. 16, 2021).

⁷This figure represents all DHS personnel who completed such training, not only those who were deployed to Portland, Oregon. Receiving the cross-designation training does not mean that the officer was necessarily deployed to protect federal property at any location.

⁸Oregon National Guard forces were activated in early June 2020 to support law enforcement during the demonstrations in Portland, Oregon. We do not include information related to this deployment because these forces were deployed under state active duty status at the request of the Governor of Oregon, and not under Title 32 status.

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information and identification of criminal suspects, and DHS's Office of Intelligence and Analysis provided personnel to assist with the collection and dissemination of open source information. Additionally, special agents and explosives specialists from the Bureau of Alcohol, Tobacco, Firearms and Explosives assisted with criminal investigations relating to the demonstrations. The staffing numbers we present below represent approximately the highest number of personnel from that agency that were deployed to Portland, Oregon, from June 26, 2020, through September 30, 2020. The number of personnel deployed fluctuated over the period covered.

Table 12: Examples of Federal Agency Activities in Response to Demonstrations during the Deployment in Portland, Oregon, from June 26, 2020, through September 30, 2020

Agency	Roles, responsibilities, locations, and activities
Federal Protective Service (FPS)	<ul style="list-style-type: none"> • Reason for deployment. FPS is responsible for protecting federal properties, including 34 properties in Portland, Oregon, such as the Green-Wyatt Federal Building. • Who deployed. Up to about 100 personnel per day • Locations. Green-Wyatt Federal Building, Hatfield Courthouse, and other locations near federal properties • Activities. Monitored crowds, conducted patrols of federal buildings, and dispersed individuals, as needed, to prevent the breaching of, or damage to the facility. FPS was responsible for protecting the exterior of the Hatfield Courthouse.
U.S. Customs and Border Protection (CBP)	<ul style="list-style-type: none"> • Reason for deployment. At the request of the Acting Secretary of Homeland Security, CBP deployed personnel to assist FPS in protecting federal property. • Who deployed. Up to about 160 personnel per day from U.S. Border Patrol, Office of Field Operations, and Air and Marine Operations, including tactical teams and tactical medics • Locations. Green-Wyatt Federal Building, Hatfield Courthouse, and other locations near federal properties • Activities. Served as quick reaction or mobile field force teams, such as by monitoring protest activity, identifying potential threats to officers and the public, and detaining or arresting persons related to assaults or other criminal activity. Tactical teams also provided grenadier support to launch less-lethal munitions to disperse hostile crowds and protect law enforcement, as needed.
U.S. Immigration and Customs Enforcement (ICE)	<ul style="list-style-type: none"> • Reason for deployment. At the request of the Acting Secretary of Homeland Security, ICE deployed personnel to assist FPS in protecting federal property, including the ICE facility in Portland, Oregon. • Who deployed. Up to about 40 tactical team members per day from Homeland Security Investigations and Enforcement and Removal Operations • Locations. ICE field office in Portland, Green-Wyatt Federal Building, Hatfield Courthouse, and other locations near federal properties • Activities. Served as a quick reaction force; provided grenadier support to launch less-lethal munitions, as needed; identified suspects attacking federal facilities and employees; communicated with arrest teams; and conducted follow-up investigations on serious crimes.

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Agency	Roles, responsibilities, locations, and activities
U.S. Marshals Service (USMS)	<ul style="list-style-type: none"> • Reason for deployment. USMS has responsibilities related to protecting federal courthouses, including the Hatfield Courthouse in Portland, Oregon. • Who deployed. Deputy U.S. marshals and members of the Special Operations Group^a • Locations. Hatfield Courthouse and surrounding area • Activities. Provided 24-hour security to the Hatfield Courthouse, which was open during the day for judicial proceedings. Monitored crowds and dispersed engaged individuals as needed to prevent the breaching of, or damage to the courthouse.
Federal Bureau of Investigation (FBI)	<p>Reason for deployment. At the request of the Attorney General, the FBI deployed personnel to assist federal law enforcement and to provide investigative services.</p> <p>Who deployed. Up to about 50 special agents per day, including members of the Special Weapons and Tactics (SWAT) team</p> <p>Locations. Green-Wyatt Federal Building and Hatfield Courthouse</p> <p>Activities. Special agents supported investigative activities, provided situational awareness, coordinated with local and federal law enforcement, and provided surveillance of criminal activities. SWAT team members served as a quick reaction force in the event that agents were injured. FBI officials noted that special agents were not used to perform tactical crowd control operations.</p>

Sources: GAO analysis of agency documentation, as well as interviews with agency officials. | GAO-22-104470

Note: The staffing numbers described in this table do not include personnel who were deployed in a support or administrative role. Some agencies, such as FPS, have normal responsibilities for protecting federal property in Portland, Oregon. Therefore, the staffing numbers cited above also include the normal staffing level for those locations. The staffing numbers we present represent approximately the highest number of personnel from that agency that were deployed to Portland, Oregon, from June 26, 2020, through September 30, 2020. The number of personnel deployed fluctuated over the period covered, and in some cases some agencies may not have had any officers deployed in response to the demonstrations on certain days.

^aThe approximate number of USMS personnel deployed to Portland, Oregon was omitted because USMS deemed the information to be sensitive.

Use of Less-Lethal Force

Four federal agencies reported that their personnel used less-lethal force during the demonstrations in Portland, Oregon, from June 26 through September 30, 2020, as shown in table 13.

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Table 13: Reported Number and Types of Less-Lethal Force Incidents by Selected Agencies in Portland, Oregon, from June 26, 2020, through September 30, 2020

Type of Force	Federal Protective Service	U.S. Immigration and Customs Enforcement ^a	U.S. Customs and Border Protection	U.S. Marshals Service ^b
Physical tactics	None reported	Not identifiable	1	✓
Batons	None reported	Not identifiable	None reported	✓
Chemical spray	11	Not identifiable	9	✓
Chemical munitions	None reported	Not identifiable	229	✓
Kinetic impact munitions	15	Not identifiable	106	✓
Mixed munitions	37	Not identifiable	107	✓
Munition type unknown ^c	22	n/a	n/a	n/a
Diversionary devices	n/a	Reporting not required	31	Reporting not required ^d
Electronic control devices	None reported	Not identifiable	None reported	✓
Nonirritant smoke	n/a	Reporting not required	61	Reporting not required ^d
Total number of reportable use of force incidents	85	Not identifiable	542	79

Legend: ✓=agency used this type of force, but number of incidents is omitted because the U.S. Marshals Service deemed this information to be sensitive; and n/a = not applicable because this agency does not use this type of force or because there were no incidents for which the munition type was unknown.

Source: GAO analysis of agency data and information. | GAO-22-104470

Note: For the purposes of this table, an incident is a single type of less-lethal force used by an officer on a single day. For example, a report in which an officer who threw two canisters of chemical munitions and four diversionary devices throughout the course of a night would be counted as two use of force incidents in our analysis – one for the chemical munitions and one for the diversionary devices. This table only includes reportable use of force incidents, which are use of force incidents that are required to be reported per agency policy. Requirements for which types of less-lethal force must be reported vary by agency. None reported means that the agency's use of force reports did not include this type of force. Reporting not required means that the agency's policies do not require officers to report use of this type of force.

^aWe were not able to identify the number of less-lethal force incidents for U.S. Immigration and Customs Enforcement because the agency's use of force reports for selected deployments generally did not have sufficient information for the purpose of identifying the number of less-lethal force incidents.

^bThe total number of each type of force used by the U.S. Marshals Service was omitted because U.S. Marshals Service deemed the information to be sensitive.

^cMunition type unknown refers to instances in which the report identified the kind of device used, such as a compressed air launcher, but did not identify the type of munition that was used in it, such as a chemical or kinetic impact munition.

^dAlthough not required to be reported per agency policy, use of force reports indicate that its officers also used this type of force during this deployment.

Officers reported various reasons for why they needed to use force in these situations, such as to prevent demonstrators from breaching the police line, to prevent further damage of federal property, or to protect themselves and other officers from thrown objects.

- **U.S. Customs and Border Protection (CBP).** Officers reported using physical tactics, chemical spray, less-lethal munitions (chemical, kinetic impact, and mixed), and diversionary devices. For example, officers reported less-lethal force to disperse crowds, to stop demonstrators from assaulting other federal law enforcement officers, or to prevent protestors from throwing fireworks and other dangerous objects.
- **FPS.** Officers reported using chemical spray and less-lethal munitions (chemical, kinetic impact, and mixed). For example, officers reported using mixed munitions against subjects attempting to damage or gain entry to a federal facility and who had also thrown rocks and bottles at the officers.
- **U.S. Immigration and Customs Enforcement (ICE).** Although ICE's reporting did not contain sufficient information for the purpose of identifying the number of less-lethal incidents in Portland, Oregon, the reports we reviewed described using various types of less-lethal force, including less-lethal munitions, diversionary devices, and nonirritant smoke.
- **USMS.** Officers reported using physical tactics, batons, chemical spray, less-lethal munitions (chemical, kinetic impact, and mixed), and electronic control devices. For example, officers reported using less-lethal force to stop demonstrators from assaulting other federal law enforcement officers, among other reasons.

Appendix III: Comments from the U. S. Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

November 10, 2021

Gretta L. Goodwin
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-22-104470, "LAW ENFORCEMENT: Federal Agencies Should Improve Reporting and Review of Less-Lethal Force"

Dear Ms. Goodwin:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

DHS leadership is pleased to note GAO recognizes the Department's actions to review less-lethal force incidents and act on lessons learned following the demonstrations in Washington, D.C., and Portland, Oregon, in 2020. GAO also acknowledged the Department's existing trainings and reporting mechanisms related to the use of less-lethal force across multiple DHS Components. DHS remains committed to continued enhancement of transparency and accountability around the use of force.

For example, DHS will evolve training and reporting procedures through the Law Enforcement Coordination Council (LECC), the formation of which DHS announced on September 29, 2021. Chaired by Secretary of Homeland Security Alejandro N. Mayorkas, the LECC brings together senior law enforcement leaders from across the Department to evaluate, discuss, and respond to emerging law enforcement policies to ensure more fair, equitable, and impartial policing, as well as officer and community safety. The LECC's Use of Force subcommittee will be a critical forum through which the Department will consider the issues addressed in this draft report.

The draft report contained 10 recommendations, including 5 for DHS with which the Department concurs. Attached find our detailed response to each recommendation. DHS

**Appendix III: Comments from the U. S.
Department of Homeland Security**

previously submitted technical comments addressing several accuracy, contextual, sensitivity, and other issues under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H
CRUMPACKER

 Digitally signed by JIM H
CRUMPACKER
Date: 2021.11.10 12:49:35 -05'00'

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations
Contained in GAO-22-104470**

GAO recommended that the Secretary of Homeland Security:

Recommendation 2: Develop standards for its component agencies on the types of less-lethal force that should be reported when used.

Response: Concur. Through the activities of the LECC and the DHS Office of Strategy, Policy, and Plans, Law Enforcement Policy (LEP) team, the Department will expand DHS-wide reporting standards for less-lethal force incidents. Estimated Completion Date (ECD): March 31, 2022.

Recommendation 4: Develop standards for its component agencies on the types of information that must be reported on each use of force incident.

Response: Concur. The LECC Use of Force Policy Subcommittee and the LEP team will develop templates for Components to gather data about, and document the occurrence of, use of force incidents. DHS Components with law enforcement personnel will provide input to these templates to ensure agreement about the type of information included in reporting. Once implemented, these templates will enable the Department to consistently track use of force incidents with detail across DHS. ECD: March 31, 2022.

Recommendation 5: Oversee the quality, consistency, and completeness of use of force reporting across all DHS components, such as through a department-wide use of force oversight body or regular evaluations of use of force reporting.

Response: Concur. Under the auspices of the LECC, the LEP team will compile data collected from Components through new DHS-wide reporting templates currently under development, which will ensure regular, consistent, and complete reporting. ECD: September 30, 2022.

GAO recommended that the Director of U.S. Immigration and Customs Enforcement (ICE):

Recommendation 9: Modify policies and procedures to ensure that relevant officials document their determination on whether less-lethal force was used in accordance with agency policy.

Response: Concur. ICE existing policies and procedures, such as the ICE Firearms and Use of Force Handbook, dated August 2, 2021, include the requirement for documenting whether a use of force incident involving firearms, property damage, injury or death was

**Appendix III: Comments from the U. S.
Department of Homeland Security**

in accordance with agency policy. These incidents are referred to ICE's Office of Professional Responsibility for investigation, and are presented quarterly to the ICE Firearms and Use of Force Incident Review Committee, which makes a determination of policy adherence, as well as whether changes to current tactics, training, or policy are needed. For the use of force for intermediate incidents, the Office of Firearms and Tactical Programs, in collaboration with the ICE Homeland Security Investigations, Enforcement and Removal Operations and Office of Regulatory Affairs and Policy, will review existing policies and procedures to ensure they are representative of the operational actions currently taken by supervisors in documenting their determinations on whether force was used in accordance with ICE policy. ECD: November 30, 2022.

GAO recommended that the Director of the United States Secret Service:

Recommendation 10: Develop policies and procedures that require relevant officials to document their determination on whether a use of force incident was in accordance with agency policy.

Response: Concur. The Secret Service's Office of Training is currently in the process of updating its policy, RTC-04(02) Less-Lethal/Intermediate Devices/Techniques and Use of Force Reporting Requirements, dated January 14, 2021, on Secret Service use of force reporting requirements and use of force incident review processes. Once complete, the updated policy will include a use of force reporting and tracking database, as well as streamlined doctrine and provision for reviewing use of force incidents to determine if incidents were in accordance with policy. ECD: September 30, 2022.

Appendix IV: Comments from U. S. Department of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Ms. Gretta Goodwin
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Director Goodwin:

Thank you for providing the Department of the Interior (Department) an opportunity to review and comment on the draft Government Accountability Office (GAO) report titled, *Law Enforcement: Federal Agencies Should Improve Reporting and Review of Less-Lethal Force* (GAO-22-104470). The National Park Service (NPS) generally agrees with the findings and concurs with the recommendation.

We appreciate GAO's review of NPS policies and practices related to the use of less-lethal force. The GAO issued one recommendation to the Department as part of its overall findings: that the Chief of the United States Park Police of the National Park Service develop specific reporting requirements on the types of information that must be provided for each use of force incident, such as the type of munition. Below is the response to the specific recommendation, including the steps the NPS has taken or will be taking to address the concern raised.

Recommendation 7: "The Chief of USPP should develop specific reporting requirements on the types of information that must be provided for each use of force incident, such as the type of munition."

Response: Concur. The National Park Service's planned action for your consideration when finalizing the report is to update our internal policies to specify the required reporting information for each use of force incident.

Responsible Official: Chief, USPP

Target Date: December 1, 2022

If you should have any questions or need additional information, please contact Caitlin Rogalski, Chief of the Accountability Office, at caitlin_rogalski@nps.gov or 202-513-7241.

Sincerely,

SHANNON
ESTENOZ

Digitally signed by
SHANNON ESTENOZ
Date: 2021.11.21
10:49:26 -0500

Shannon A. Estenoz
Assistant Secretary for Fish and Wildlife Park

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

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

Staff Acknowledgments

In addition to the above contact, Brett Fallavollita (Assistant Director), Erin O'Brien (Analyst-in-Charge), Willie Commons III, Elizabeth Dretsch, Dorian Dunbar, Nicole Harris, Eric Hauswirth, Diana Maurer, Danielle Pakdaman, Kevin Reeves, Jodie Sandel, and Catherine Vitro made key contributions to this report.

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