
Police Use of Force

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High-profile news stories about excessive use of police force, often leading to a person's death, have filled our news feeds and become a hot-button issue. Karen Evans's column for this month's Alert Collector highlights some of the major books on this topic that will flesh out your collection, whether you serve a criminal justice program, students needing the best sources for a pros and cons essay, or a clientele wanting the best resources to help them understand this complex issue. Evans is the librarian for the School of Criminology and Security Studies at Indiana State University. She holds a graduate degree in criminology and criminal justice, and serves as the editor for the criminal justice section of Resources for College Libraries.

Eric Garner died on July 17, 2014; Brendon Glenn died on May 5, 2015; Walter Scott died on April 4, 2015; Philando Castile died on July 6, 2016; and Freddie Gray died on April 12, 2015. All deaths were deemed to be the result of excessive police force. What is excessive use of force by police officers? The International Association of Chiefs of Police (IACP) defines excessive force as "the application of an amount and/or frequency of force greater than that required to compel compliance from a (willing or unwilling) subject."¹ The National Institute of Justice, part of the United States Department of Justice, says that "the use of force by law enforcement officers becomes necessary and is permitted under specific circumstances, such as self-defense or in defense of another individual or group."² Although definitions of excessive use of force vary by law enforcement agencies, the thread running through most of them is that the use of excessive force by a police officer is the use of too much force to make a civilian comply with an officer's orders.

The use of force of any type is based on agency policies, the situation, and the experience of the officer. Police departments have policies on the use of force, usually with stringent guidelines for how and when officers use force to encourage a person to conform to an officer's demands. While officers should know and always adhere to their agency's policies, news reports over the last few years have shown that is not always the case. It should be noted that force to a certain degree is allowed by police agencies to ensure the safety of the police officer, civilians, and the suspect. Force becomes excessive when it exceeds what is needed to control a situation. How do officers determine the amount of force needed in a situation? Many law enforcement agencies have a Use-of-Force Continuum (UFC) to guide their officers in acceptable use of force and under what circumstances. Not all UFC's are the same: some agencies have fewer levels of

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force and others more, some agencies label their levels of force differently. The point of the UFC is to ensure police officers know the levels of force available to them and under what circumstances levels of force can be used to protect lives. Using the Federal Bureau of Investigation's example of a UFC, the first level is Officer Presence. No force is used at this level. The presence of the police officer is enough to contain the situation. The second level is Verbalization. Under this level, the police officer gives commands to the person. The force used in this situation is the voice of the officer; it may be raised to insure the person understands the officer and follows directions. The third level of the continuum is Empty-hand Control. In this circumstance, officers use a soft or hard technique to control the person. A soft technique involves grabbing, holding, or using a joint lock to remove any threats from the situation. A hard technique involves the officer using physical force against a person to control the situation. The last two levels of the continuum involve more force. Less-lethal methods involve using any of the following resources to subdue a person: a baton or projectiles (e.g., bean bag rounds), chemical sprays (by themselves or as a projectile), and conducted energy devices (CEDs) that use electricity, such as tasers. The last level is lethal force. In this situation of last resort, the officer uses a lethal weapon to subdue a subject. Guns are one of the best-known weapons of lethal force.³

Police officers have the legal right to use force to control a situation, to save their lives, or to save the lives of civilians. They also have the legal duty to choose the correct form of control for the situation. Enacting the incorrect form of force or applying too much of a legal use of force can result in tragic circumstances.

PRINT RESOURCES

Albrecht, James. *Police Brutality, Misconduct, and Corruption: Criminological Explanations and Policy Implications*. Cham, Switzerland: Springer, 2017 (ISBN: 9783319644370).

Albrecht, an authority on police use of force, considers five typologies of police misconduct, one of which is excessive use of force by police officers (the others are police corruption, police criminality, abuse of authority, and police misconduct). Using the New York City Police Department, the author illustrates police deviance from the 1960s to the late 2000s. This short volume with fifty-one pages provides an interesting look at how the author believes criminological theories may explain deviant acts by police officers. The author concludes with a blueprint for police departments interested in avoiding hiring officers prone to misconduct. The blueprint focuses on the hiring process and improving the policies of police departments.

Boylstein, Craig. *When Police Use Force: Context, Methods, Outcomes*. Boulder, CO: Lynn Rienner, 2018 (ISBN: 9781626376991).

An interesting chapter in *When Police Use Force* discusses the US federal courts and the police use of force. Covering cases from the 1980s to 2016, Boylstein looks at landmark cases including *Tennessee v. Garner* and *Graham v. Connor*. Like Thomas in *The State of American Policing: Psychology, Behavior, Problems, Solutions* (see below), Boylstein looks at how different groups of people are treated by the police in police-public contact.

del Carmen, Rolando, and Jeffrey Walker. *Briefs of Leading Cases in Law Enforcement*. 9th ed. Waltham, MA: Routledge, 2015 (ISBN: 9781437735062).

Tennessee v. Garner, *Graham v. Connor*, and *Scott v. Harris* are considered primary sources in use-of-force case decisions handed down by the Supreme Court. The *Garner* case limits the use of deadly force by law enforcement officers. *Graham* determined that what is relevant is the fact that the force used was objectively reasonable. The *Scott* case looked at the civil liability police officers may legally face when they employ use-of-force tactics. Another pertinent chapter in this volume is on "stop and frisk" actions by police, which have often been viewed as less than favorable by some factions of society. One of the most important cases highlighting stop and frisk action is *Terry v. Ohio*. This case determined that police officers can conduct a stop and frisk on reasonable suspicion. *Briefs of Leading Cases in Law Enforcement* provides an understanding of important cases in law enforcement, how they were decided by the Supreme Court, and their impact on policing. A tenth edition, published in 2019, adds eight new cases, one of which, *County of Los Angeles, California et al v. Mendez*, is about use of force.

Friedman, Barry. *Unwarranted: Policing Without Permission*. New York: Farrar, Straus, and Giroux, 2017 (ISBN: 9780374280451).

Friedman, Jacob D. Fuchsberg Professor of Law and founding director of the NYU School of Law's Policing Project, believes when citizens do not speak out about police actions, it allows police departments to behave less than admirably. He introduces several real-life scenarios to illustrate his point that officers went too far and used excessive force against citizens, sometimes without any investigation of the situation before they acted. Friedman relates a few similar incidents of questionable police actions, giving credence to his idea that the public should take a more active role in reviewing police actions and speaking up about those actions.

Gallo, Frank J. "Police Use of Force." In *Handbook of Police Psychology*, ed. Jack Kitaeff. New York: Routledge, 2011 (ISBN: 9780415877664).

A recurring theme in several of the sources reviewed is that officers have the legal right to use force in certain

situations, particularly where a life is at stake. Gallo also notes this fact in his opening paragraph. The author moves on to a discussion on psychological evaluations and screenings of those interested in entering policing. Psychological evaluation is common among police agencies hiring officers; the evaluations assist the department in determining if the candidate has the psychological characteristics to perform police duties. Gallo explains that officers with excessive force issues often have psychological issues such as personality disorders or job-related traumas. Intervention and treatment are discussed through a fictional character created by the author. This volume provides insight into how departments hire officers and the criteria they should employ to select the best officers for their departments.

Green, Jeffrey L. *Decision Point: Real-Life Ethical Dilemmas in Law Enforcement*. Boca Raton, FL: CRC Press, 2014 (ISBN: 9781482214642).

Green presents real-life incidents in law enforcement and gives readers the opportunity to decide how they would respond. He provides questions to reflect on about the episode, includes considerations to think about to help make a decision, and relates what the actual decision was. Incidents involve misuse of the powers of police officers, search and seizure, and color of the badge. One chapter specifically deals with the use-of-force incidents. The scenarios are thought provoking and provide additional information that can play into a final decision.

Hicks, Wendy. *Police Vehicular Pursuits: Constitutionality, Liability and Negligence*. Springfield, IL: Charles C. Thomas, 2007 (ISBN: 9780398077617).

Although police use of force is often thought to involve physical action or deadly force with the use of a weapon such as a gun, Hicks considers the possibility of vehicle pursuits and deadly force. Should a police vehicle be considered a deadly force, particularly when involved in a chase? Two cases involving police vehicles used as roadblocks to stop fleeing subjects resulted in very different court decisions. *Police Vehicular Pursuits* provides an interesting look at an aspect of use of force many people may consider, that a police vehicle can be a deadly force instrument.

Kappeler, Victor E. *Critical Issues in Police Civil Liability*, 4th ed. Long Grove, IL: Waveland Press, 2006 (ISBN: 9781577664413).

Kappeler, dean of the School of Justice Studies at Eastern Kentucky University, explores the civil liability for police use-of-force actions. He covers excessive, deadly, and non-deadly force, explaining each and the consequences of their actions. Kappeler states that the possible consequences of use-of-force actions are important in order for police administrators to be effective at their jobs.

Prater, Loretta P. *Excessive Use of Force: One Mother's Struggle Against Police Brutality and Misconduct*. Lanham, MD: Rowman & Littlefield, 2018 (ISBN: 9781538108000).

Prater offers a first-hand look at the anguish and questions a family has when a loved one loses his or her life at the hands of the police. She eloquently captures the disbelief, heartache, and numerous questions that follow this type of incident. The chapter on police brutality stands out. As the author points out, police are disciplined more for theft or drug use than for the excessive force used on a person. Although one may disagree with some of Prater's points, her description of fighting for justice for her son is heart wrenching and raises interesting questions about police procedures.

Roberson, Cliff. *Police Misconduct: A Global Perspective*. Boca Raton, FL: Taylor & Francis, 2017 (ISBN: 9781498753340).

Roberson focuses this book on police misconduct, ranging from a historical analysis of misconduct to investigating and complaining about officer misconduct. Excessive force and the use of deadly force are the subjects of two chapters in this volume. Cases such as *Graham v. Connor* and *Tennessee v. Garner* are discussed concerning the use of force. Practicums and discussion questions make this a source to help readers understand the intricacies concerning use-of-force incidents.

Robertiello, Gina, ed. *The Use and Abuse of Police Power in America: Historical Milestones and Current Controversies*. Santa Barbara, CA: ABC-CLIO, 2017 (ISBN: 9781440843723).

A thematic source on the use and abuse of police power, Robertiello's volume provides five sections ranging from Legal and Societal Limits on Police Powers to the Intensive Debate about the "American Police State." Entries in each section include legislation, theories, and incidents involving police. The encyclopedic-type entries provide comprehensive coverage on topics, including Abner Louima, Eric Garner, and deadly force. See also and further reading sections provide additional sources for users.

Thomas, David. *The State of American Policing: Psychology, Behavior, Problems, Solutions*. Santa Barbara, CA: ABC-CLIO, 2019 (ISBN: 9781440860065).

From the beginning chapter on oppressive police practices against minorities to the closing chapter on the future and recommendations for change, Thomas has written a book examining the psychology, bias, and decision-making of police officers, particularly in relation to minorities. Scenarios and case studies help the reader understand how police decisions are made by providing incident information and asking the reader specific questions about the incident. Thomas provides a resource that can help readers understand how officers are trained and how they react while on duty.

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Worrall, John, and Frank Schmalleger. *Policing*. 2nd ed. Upper Saddle River, NJ: Pearson Education, 2013. (ISBN: 9780134441924).

Worrall and Schmalleger cover the foundations of American policing, legal issues, and the various aspects of policing as a job. The use of force chapter provides an overview of several different types of force, including lethal and nonlethal. One of the most interesting sections provides a discussion on the terms *use of excessive force* and *excessive use of force*; the same four words but with very different meanings between the two. A third edition, published in 2018, includes the latest changes in law enforcement practice as it relates to use of force and includes the most recent data on the applications of force.

Yu, Szde. "Nonlethal Weapons and Technology." In *Police Use of Force: Important Issues Facing the Police and Communities They Serve*, ed. Michael J. Palmiotto. Boca Raton, FL: CRC Press, 2017 (ISBN: 9781498732147).

Police force is often thought to involve physical contact or contact with a lethal weapon. A particular chapter in this volume concentrates on nonlethal weapons: pepper spray, stun guns, bean bag guns, rubber and plastic bullets, and tear gas. Although nonlethal weapons are obviously not considered lethal, misuse or accidental misfire could result in a fatality. The chapter discusses the controversies of this type of force and the policy implications for nonlethal weapons.

WEB RESOURCES

Federal Bureau of Investigation (FBI): National Use-of-Force Data Collection (<https://www.fbi.gov/services/cjis/ucr/use-of-force>)

This FBI database collects information on use of force when a person is injured or killed and when an officer discharges his weapon toward a person. It is comprehensive in that it provides representation from all types of law enforcement agencies, including tribal, National Organization of Black Laws Enforcement Officers, state crime investigation agencies, police and sheriff organizations, and the Police Executive Research Forum (PERF). The types of information collected include incident, subject, and police officer. Contributing data to the FBI database is optional for law enforcement agencies; there is no legal requirement.

Los Angeles Police Department: Use of Force Review Division (http://www.lapdonline.org/categorical_use_of_force/content_basic_view/47397)

The Use of Force Review Division illustrates how a police department reviews and reports incidents of use of force by an officer, including bites by canine officers. The division

meets on incidents and maintains a database on use-of-force events. The archives may be of particular interest for those looking for an understanding of how departments review use-of-force incidents.

National Police Foundation Use-of-Force Infographic (<https://www.policefoundation.org/general-resources/use-of-force-infographic/>)

Established in 1970 with a grant from the Ford Foundation, the National Police Foundation's goal is to help police be more effective at their job. The infographic is intended to help the public understand when police can use force and points out that police are the only public employees permitted to use force against others. The UFC is present, with six levels ranging from verbal (presence of police officer) to firearm (lethal force). Explanations of why police use force include establishing control in a situation, protecting themselves or others, and making an arrest. Additional sections include when the amount of force is justified, factors in determining the reasonableness of use of force, and how use-of-force incidents are investigated. This is an excellent graphic with clear information on the multitude of issues involved in use-of-force incidents.

Office of Justice Programs: Bureau of Justice Statistics: Use of Force (<https://www.bjs.gov/index.cfm?ty=tp&tid=84>)

Collecting use-of-force statistics by law enforcement has been a requirement of the US Attorney General since the passing of the Violent Crime Control and Law Enforcement Act of 1994. Projects sponsored by the Bureau of Justice Statistics and the National Institute of Justice collected data on several aspects of use of force, including police-public contact (PPCS), arrest-related deaths (ARD), law enforcement management and administrative statistics (LEMAS), survey of inmates in local jails (SILJ), FBI's supplementary homicide reports (SHR), and the FBI's law enforcement officers killed and assaulted (LEOKA). This site also provides links to various publications and products related to police actions and interactions between police and civilians. Definitions are provided for five levels of force, ranging from use of force to deadly or lethal force.

References

1. International Association of Chiefs of Police, "Police Use of Force in America 2001," accessed October 29, 2019, <https://www.theiacp.org/sites/default/files/2018-08/2001useofforce.pdf>.
2. National Institute of Justice, "Overview of Police Use of Force," accessed October 28, 2019, <https://nij.ojp.gov/topics/articles/overview-police-use-force>.
3. National Institute of Justice, "The Use-of-Force Continuum," accessed November 18, 2019, <https://nij.ojp.gov/topics/articles/use-force-continuum>.

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