

10.1. BACKGROUND

This policy addresses the use of force as applied by U.S. Department of Housing and Urban Development (HUD) Office of Inspector General (OIG) Special Agents (SAs) in accordance with the Department of Justice (DOJ) Policy Statement on the Use of Less-Than-Lethal Devices, dated May 16, 2011, the DOJ Policy Statement on Chokeholds & Carotid Restraints, dated September 13, 2021, DOJ's Updated Use-Of-Force Policy, dated May 20, 2022, and the Constitutional standard governing the use of force.

10.2. POLICY STATEMENT

- A. It is the policy of HUD OIG to value and preserve human life. SAs may use only the force that is objectively reasonable to effectively gain control of an incident, while protecting the safety of the SA and others, in keeping with the standards set forth in *Graham v. Connor*, 490 U.S. 386 (1989). SAs may use force only when no reasonably effective, safe, and feasible alternative appears to exist and may use only the level of force that a reasonable SA on the scene would use under the same or similar circumstances.
- B. As the Supreme Court stated in *Graham*: The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the SA or others, and whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.” *Id* at 396. “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” *Id* at 396-97. In addition, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id* at 397. “[T]he question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” *Id*
- C. OIG SAs should be well versed and familiar with the objectively reasonable standard for deploying force and the ability to articulate the factors that resulted in the use of force.
- D. Deadly Force is defined as force that is reasonably likely to cause death or serious physical injury and is to be used only, when necessary, that is, when the agent has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the agent or to another person.

10.3. GENERAL PRINCIPLES

- A. Deadly force may not be used solely to prevent the escape of a fleeing suspect.
- B. If feasible, if to do so would not increase the danger to the SA or others, a verbal warning to submit to the authority of the SA shall be given prior to the use of deadly force.
- C. Warning shots are not permitted.
- D. Firearms may not be fired solely to disable moving vehicles. Specifically, firearms may not be discharged at a moving vehicle unless: (1) a person in the vehicle is threatening the SA or another person with deadly force by means other than the vehicle; or (2) the vehicle is operated in a manner that threatens to cause death or serious physical injury to the SA or others, and no other objectively reasonable means of defense appear to exist, which includes moving out of the path of the vehicle. Firearms may not be discharged from a moving vehicle except in exigent circumstances. In these situations, an SA must have an articulable reason for this use of deadly force.
- E. Deadly force should not be used against persons whose actions are a threat solely to themselves or property unless an individual poses an imminent danger of death or serious physical injury to the SA or others in close proximity.
- F. SAs will be trained in de-escalation tactics and techniques designed to gain voluntary compliance from a subject before using force, and such tactics and techniques should be employed if objectively feasible and they would not increase the danger to the SA or others. When feasible, reducing the need for force allows SA to secure their own safety as well as the safety of the public.
- G. SAs will be trained in, and must recognize and act upon, the affirmative duty to intervene to prevent or stop, as appropriate, any SA from engaging in excessive force or any other use of force that violates the Constitution, other federal laws, or Department policies on the reasonable use of force.
- H. OIG SA will be trained in alternative methods as referenced in Control Tactics, OIGM 3027, and Officer Tactics, OIGM 3025, Control Tactics, for handling resisting subjects, which must be used when the use of deadly force is not authorized by this policy.
- I. SAs shall be provided with the tactical equipment outlined in accordance with OIGM 3011, Firearms, section 11.8.

- J. SA are prohibited from using a chokehold or a carotid restraint unless the standard of necessity for use of deadly force is satisfied. ¹
- K. SA will be trained in, and must recognize and act upon, the affirmative duty to request and/or render medical aid, as appropriate, where needed. An SA cannot inform the individual or the medical provider that the government will pay for the provision of any medical services.
- L. Sections 10.1 through 10.4 of this policy shall be made available to the public, including being posted on the HUD OIG's website.
- M. Rights of Third Parties: This policy is not intended to and does not create any right or benefit, substantive or procedural, enforceable by law or equity, against the United States, HUD OIG, its sub-units, its SAs, or employees or any other person.

10.4. TRAINING

- A. Consistent with DOJ policy, all SAs shall receive, at a minimum, annual training on the HUD OIG use of force policy and any related legal updates. Annual training can be completed by including a policy review and discussion during quarterly firearms qualifications, annual Officer Tactics and Control Tactics training, or other in-service training.
- B. In addition, training will be provided on a regular and periodic basis, designed to:
 - 1. Provide techniques for the use and reinforce the importance of de-escalation;
 - 2. Simulate actual shooting situations and conditions; and
 - 3. Reinforce the appropriate exercise of discretion and judgment in using less-than lethal and deadly force, in accordance with this policy.
- C. All use-of-force training shall be documented.

¹ Chokeholds apply pressure to the throat or windpipe and restrict an individual's ability to breathe. The carotid restraint technique restricts blood flow to the brain causing temporary unconsciousness.