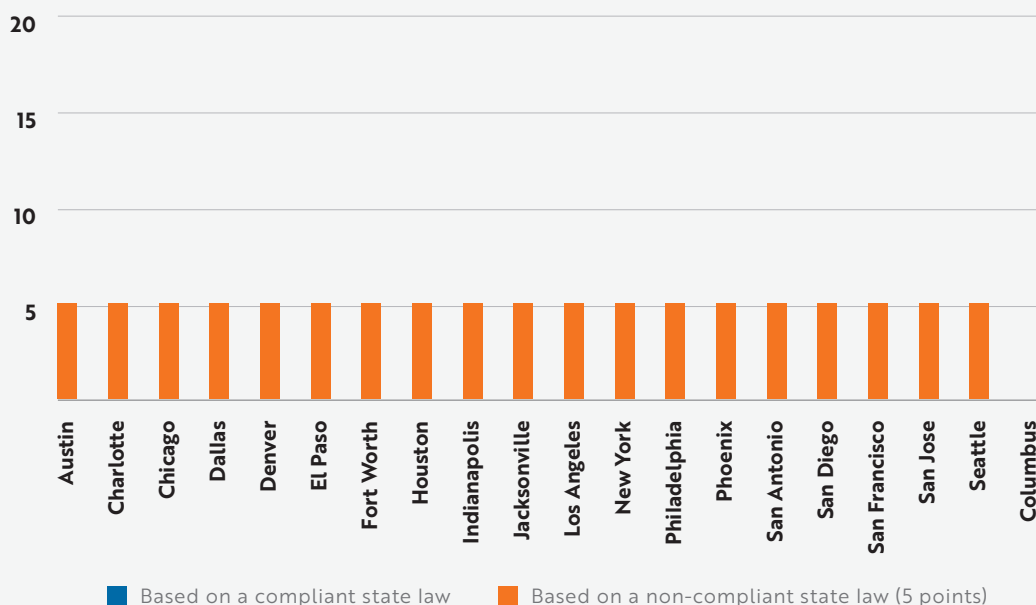


provisions. **San Antonio**, for example, stated that “officers must be aware unnecessary or excessive force violates Federal Statutes, the Texas Penal Code and departmental policy.”<sup>75</sup>

Figure 3  
**Legality**



## 2. Necessity (30 points)

The principle of necessity was assigned 30 points because (1) it provides a substantive limit on police use of force and (2) it includes three conceptually distinct and equally important elements taken directly from the international standards discussed above. Ultimately, necessity serves to direct officers to determine whether use of force is needed at all, and if so, how much force is justified.<sup>76</sup>

The authors disaggregated the principle of necessity into three elements with equal total point assignments:

- **Immediacy (10 points)—policies that only allowed use of lethal force when a person presented an immediate or imminent threat;**
- **Policies that included an exception for the immediacy requirement for fleeing felons received only 5 points of the 10 points;**

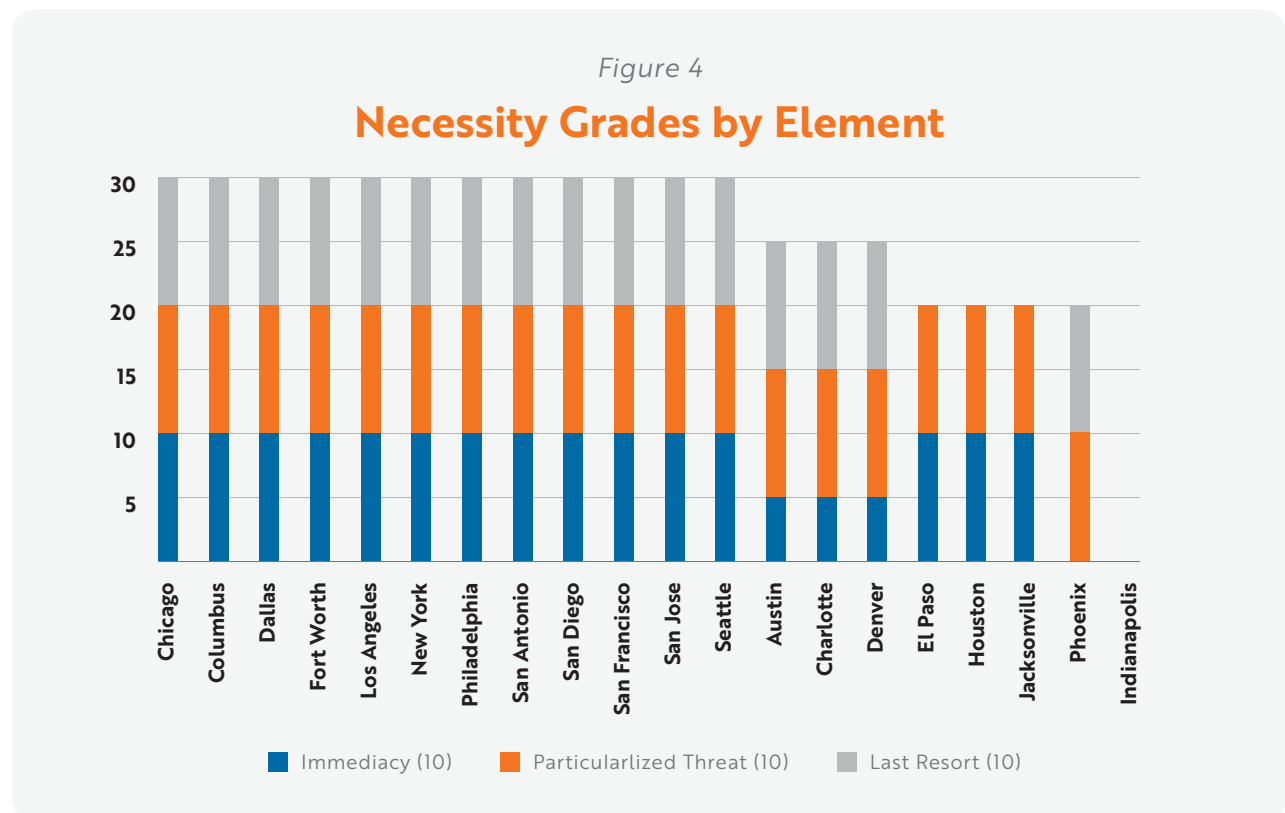
<sup>75</sup> San Antonio Police Department, Policy 501.03(C).

<sup>76</sup> There are other ways in which this principle can be conceptualized and elaborated. The formulation adopted in this report is the most useful for evaluating the language within use of force policies (it tracks the kind of language used) and captures the core requirements provided in international instruments. For a different formulation see e.g. Amnesty Guidelines, *supra* note 31 at 18 (“The principle of necessity has three components: Qualitative: Is force necessary at all or is it possible to achieve the legitimate objective without resorting to force? Quantitative: How much force is needed to achieve the objective? The level of force used should be the minimum that can still be considered effective. Temporary: The use of force must stop once the objective has been achieved or is no longer achievable.”)

- **Particularized Threat (10 points)**—policies that only allowed use of lethal force in response to a specific heightened risk or threat; and
- **Last Resort (10 points)**—policies that only allowed use of lethal force after other non-lethal options had been considered or whenever it was unavoidable.

The policies of all 20 cities required that officers act with an *objectively* reasonable belief or *probable cause* to *believe* that the circumstances required by the necessity elements were present to allow use of lethal force. For example, in a city with an immediacy requirement, officers could only use lethal force if they had an objectively reasonable belief or probably cause to believe that the subject posed an immediate threat. This is in line with the standard used by the Supreme Court to determine the constitutionality of police use of force as established in *Graham v. Connor*. “[the] inquiry in an excessive force case is an objective one: the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation ...”<sup>77</sup>

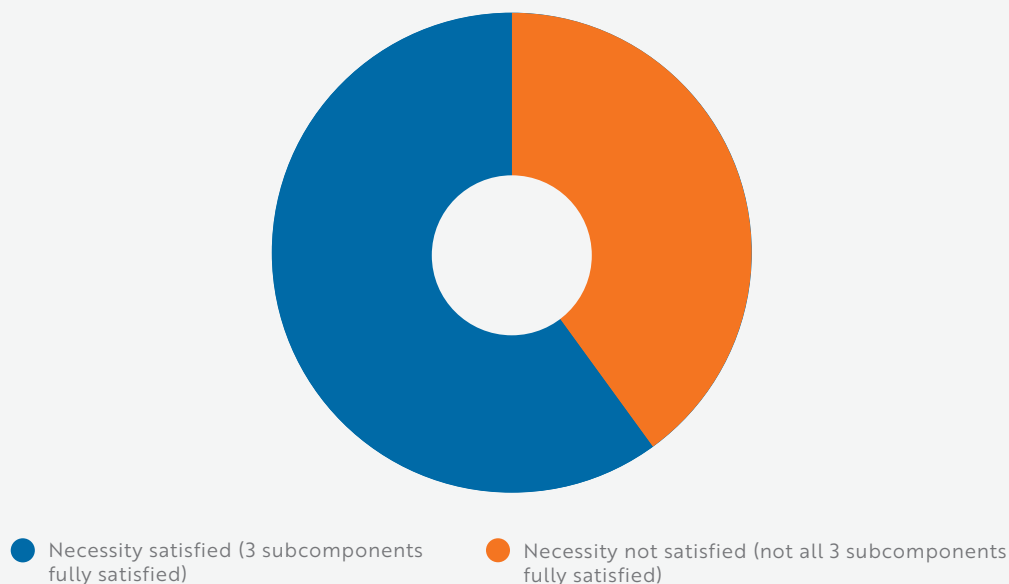
## Necessity Grades Discussion



<sup>77</sup> *Graham*, *supra* note 42, at 397.

Figure 5

## Cities Satisfying Necessity



### i. Immediacy (10 points):

A policy that required an immediate or imminent threat in all situations to allow use of lethal force received 10 points. However, some policies provided more guidance than others on graduated levels of threat and commensurate force permitted. **Philadelphia**, for instance, prohibits an officer from “using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect is dangerous, even if the deadly force would have been justified at an earlier point in time.”<sup>78</sup> **Philadelphia** also required police officers to de-escalate their use of force if the threat allowing lethal force had subsided. **Phoenix** also required lethal force to “immediately be discontinued” when “the circumstances justifying the use of deadly force no longer exist[ed].”<sup>79</sup> A policy received 5 points where immediacy was generally required for use of lethal force, but where an exception was provided for fleeing felons—allowing use of lethal force against someone suspected of a felony without requiring the threat they pose to be immediate or imminent.<sup>80</sup> The UN Basic Principles anticipate such situations, but nonetheless require the threat posed by fleeing subjects to be immediate or imminent.<sup>81</sup> Therefore, a policy that makes this exception fails to comply with international human rights law and standards.

<sup>78</sup> Philadelphia Police Department, Directive 10.1(I)(C).

<sup>79</sup> Phoenix Police Department, Operations Order 1.5(4)(H).

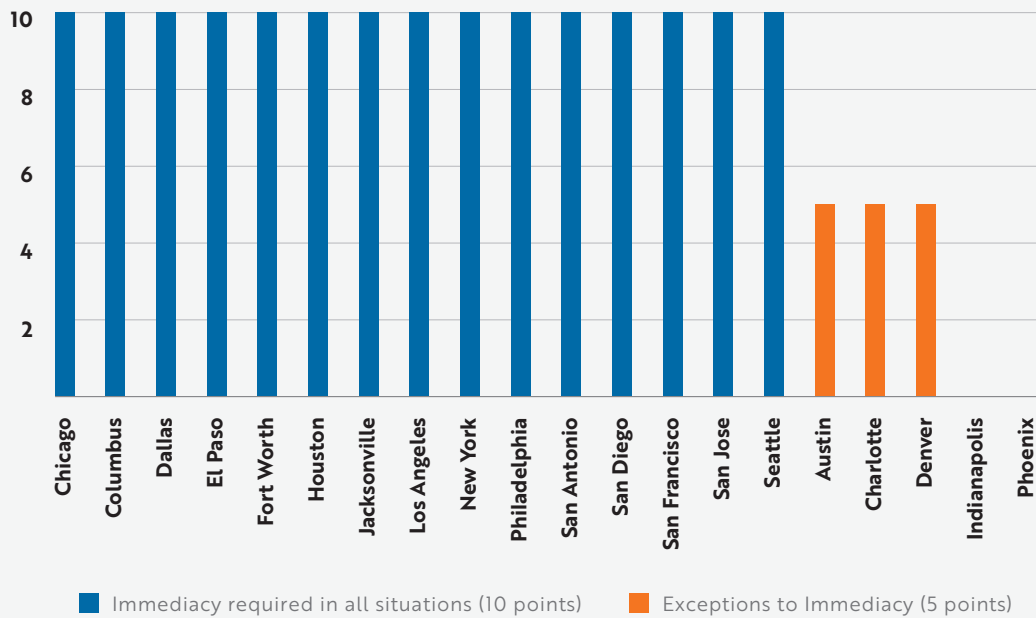
<sup>80</sup> The Charlotte and Austin policies contained fleeing felon exceptions to immediacy. Charlotte-Mecklenburg Police Department, I.D.G.600-018(IV)(A)(2) Procedures for the Use of Deadly Force; Austin Police Department, Policy Manual 200.3 Deadly Force Applications.

<sup>81</sup> Special Provision 9 of the Basic Principles permits lethal force to prevent an escape when the subject presents a threat of death or serious injury or the threat to commit a crime that would involve those risks. Special Provision 9 also requires such a threat to be imminent. See UN Basic Principles, *supra* note 17, at special provision 9.

**San Diego** appropriately carried immediacy through to instances of escaping suspects, allowing lethal force only when suspects pose an “imminent” threat. Some cities, such as **Chicago**, required immediacy in all circumstances, not distinguishing between threats posed by fleeing felons and other subjects. Like San Diego, **Austin** established two different situations in which an officer was authorized to use lethal force. In one situation, officers were permitted to use lethal force to protect themselves and others from “an imminent threat of death or serious bodily injury.”<sup>82</sup> In the second situation, an officer was justified in using lethal force to make an arrest or prevent an escape when a subject had committed or intended to commit an offense involving the infliction or threatened infliction of serious bodily injury or death. However, the policy failed to require an immediate or imminent threat in the second situation, failing to satisfy the immediacy element.

Figure 6

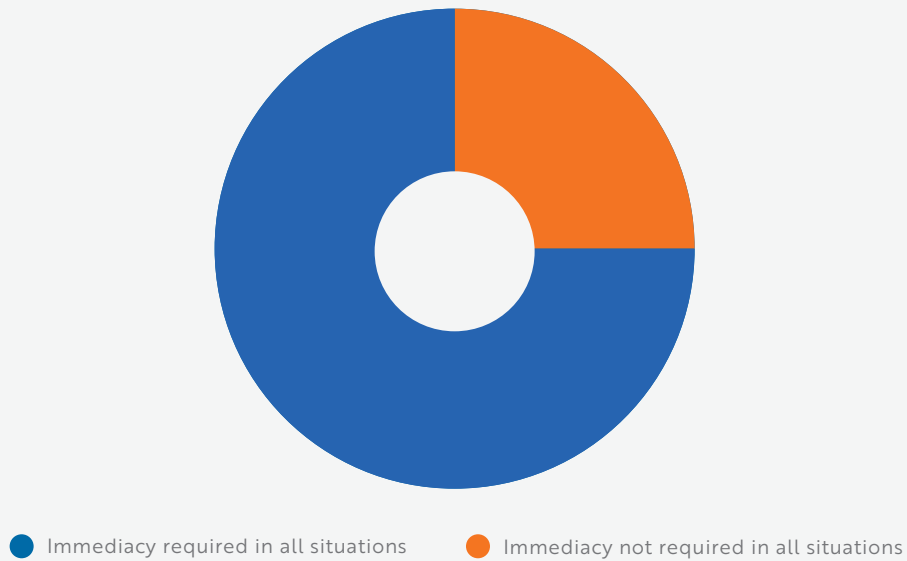
### Immediacy Grade by Element



<sup>82</sup> Austin Police Department, Policy Manual 200.3 Deadly Force Applications.

Figure 7

### Cities Satisfying Immediacy



#### ii. Particularized Threat (10 points):

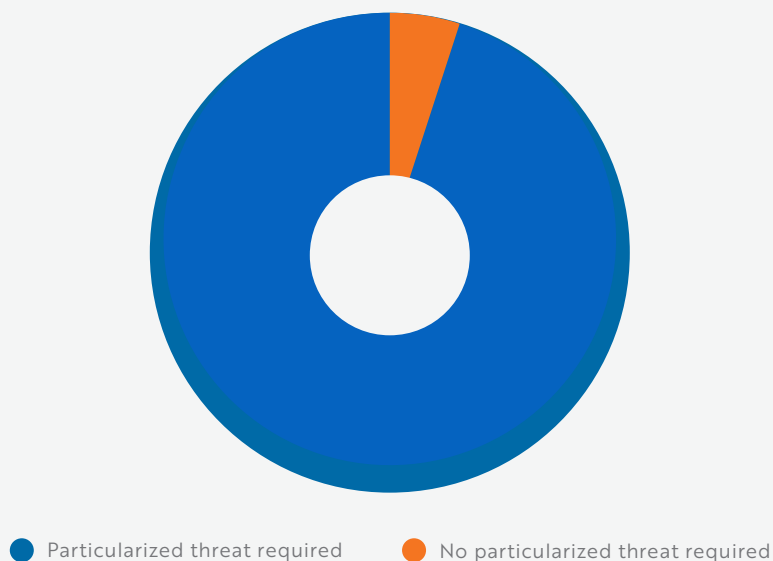
Policies received 0 or 10 points for the particularized threat element of necessity. A policy satisfied this principle if it required a specific heightened risk or threat to allow use of lethal force. All but one of the 20 cities satisfied particularized threat, only allowing use of lethal force in response to a threat of death or serious bodily harm or injury—specific, heightened risks. **Indianapolis** failed to satisfy this element because the policy allows the use of deadly force to prevent the commission of a forcible felony, without limiting or specifying the relevant felonies or the kind of force or threat of force involved in the commission of the felony.<sup>83</sup> **Fort Worth**, for example, established that use of lethal force was authorized “only when it is necessary for officers to protect themselves or others from an immediate *threat of death or serious bodily injury*” (emphasis added).<sup>84</sup>

<sup>83</sup> Indianapolis Metropolitan Police Department, General Order 1.30 Use of Force – Principles.

<sup>84</sup> Indianapolis Metropolitan Police Department, General Order 306.06 Use of Deadly Force.

Figure 8

### Cities Satisfying Particularized Threat



#### iii. Last Resort (10 points):

Policies received either 0 or 10 points for the last resort element of necessity. A policy satisfied this principle and received 10 points if it only allowed use of lethal force after other non-lethal options had been considered or whenever it was unavoidable. It is important to note that while a written policy may direct police officers to make sure lethal force is used as a last resort, training and command must equip officers with the skills to take proactive steps to de-escalate and resolve tense and difficult situations, and to use persuasion and negotiation techniques to avoid circumstances wherein use of lethal force becomes necessary.<sup>85</sup>

There was greater variation in policy language across cities for the last resort element of necessity than for others. Policies that used “last resort,” or an equivalent phrase, received the full 10 points. **Dallas**, for example, stated: “Deadly force will be used with great restraint and as a last resort only when the level of resistance warrants the use of deadly force” (emphasis added).<sup>86</sup> **Columbus** described “use of force levels of control,” in which the degree of force authorized for use increases according to the level of the threat. Lethal force is defined as the eighth and final “level of control” for officers.<sup>87</sup> **Fort Worth** established that “an officer shall use de-escalation techniques...whenever possible and appropriate before resorting to force and to reduce the need for force.”<sup>88</sup>

<sup>85</sup> For more on these measures see Amnesty Guidelines *supra* note 31, at 34-35.

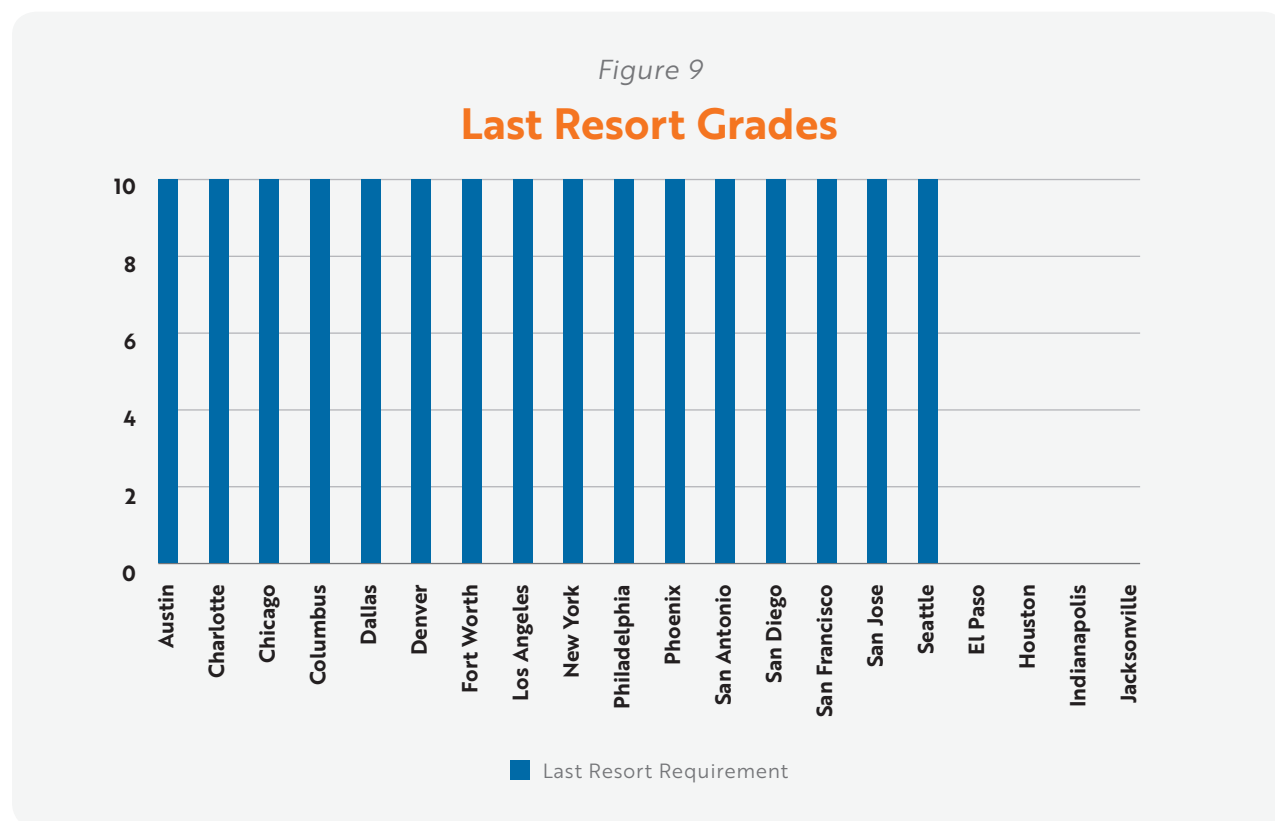
<sup>86</sup> Dallas Police Department, General Order 906.01(C) Use of Deadly Force, Philosophy.

<sup>87</sup> Columbus Police, Division Directive 2.01(I)(B) Use of Force Levels of Control.

<sup>88</sup> Fort Worth Police Department, General Orders, General Order Section 306.04 Use of Force: De-Escalation.

Policies also satisfied the last resort element through description of a variety of escalating measures to be used, where feasible, prior to use of lethal force. **Philadelphia** and **Chicago** for example, included graphical representations of escalating use of force options corresponding to escalating threats. (See Appendix A). For example, **Philadelphia** placed use of lethal force at the apex of a triangle in their Use of Force Decision Chart, indicating lethal force may only be used after non-lethal options are exhausted. The **Seattle** policy included a provision titled “Officers Should Use De-Escalation Tactics in Order to Reduce the Need for Force” that listed and explained the relevant circumstances and techniques.<sup>89</sup> It also stated that officers “shall issue a verbal warning to the subject, other officers, and other individuals present, that a firearm will be shot and defer shooting the firearm a reasonable amount of time to allow the subject to comply with the warning.”<sup>90</sup> The **Chicago** policy described types of subjects and their actions, then detailed the corresponding level of force police may use in response, escalating upwards from the presence of officers and verbal warnings to lethal force with several options in between.

Cities that did not use “last resort,” or an equivalent phrase, and did not require use of escalating measures prior to use of lethal force received 0 points. **Jacksonville** and **Indianapolis**, for example, failed to satisfy the element with their requirement to use a “verbal warning, if feasible,” without more. **Houston** also did not meet the element because it only required police officers “to constantly assess the situation and adjust the use of force accordingly.”<sup>91</sup>



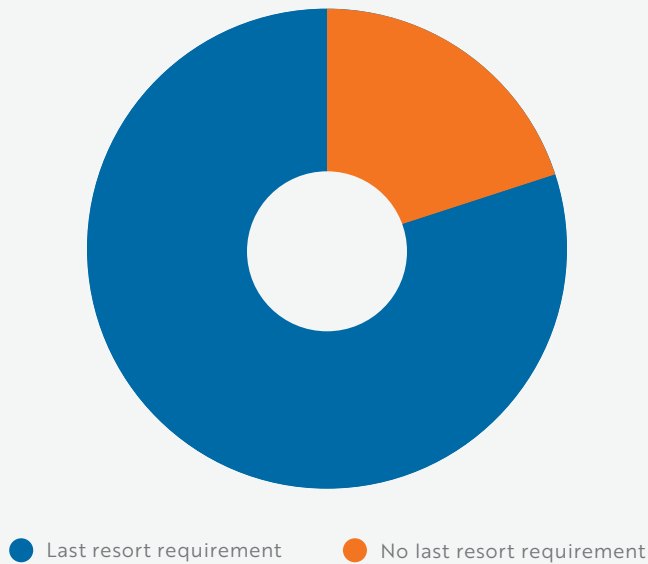
<sup>89</sup> Seattle Police Department, Manual 8.100(2) De-Escalation.

<sup>90</sup> Seattle Police Department, Manual 8.300-POL-4 (7) Firearms.

<sup>91</sup> Houston Police Department, General Order 600.17(I) General Use of Force Principles.

Figure 10

### Cities Satisfying Last Resort



### 3. Proportionality (25 points)

The principle of proportionality was assigned 25 points because it directly constrains police conduct to ensure lethal force is only applied in response to a proportional threat of death or serious bodily injury to the officer or others. The principle of proportionality “serves to determine whether there is a balance between the benefits of the use of force and the possible consequences and harm caused by its use.”<sup>92</sup> It establishes that ends do not justify all means. Policies received 25 points where use of lethal force was only permitted in response to a proportional threat of death or serious bodily injury to the officer or others and where explicit and clear language was used to describe the required threat. If such language was missing, policies received 0 points. Use of lethal force to counter lesser threats would be disproportional—i.e., it would fail to strike the right balance—and would therefore violate the principle of proportionality.

#### Proportionality Grades Discussion

Seventeen cities satisfied the principle of proportionality and received 25 points. Each of these policies used “death,” “serious bodily injury,” or equivalent terms to describe the threat justifying use of lethal force. **Chicago** and **Seattle** both used the specific term “proportional” in their policies. The term appeared four times in Seattle’s Use of Force Core Principles, which required officers “use only the force necessary to perform their duties and that such force be proportional to the threat or resistance of the subject under the circumstances” (emphasis added).<sup>93</sup> **Houston** and **San Antonio** used language

<sup>92</sup> See Amnesty Guidelines, *supra* note 31, at 18. See also UN Basic Principles, *supra* note 17, principle 5.

<sup>93</sup> Seattle Police Department, Manual 8.000 Use-of-Force Core Principles.

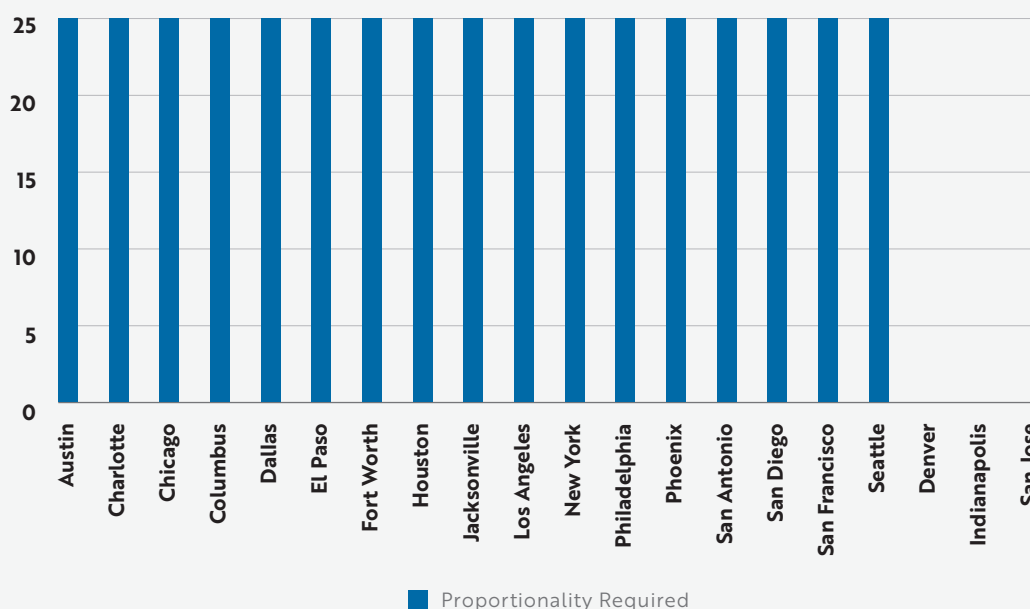


conveying a scale of assessment with which an officer was to re-evaluate the kind of force permitted as circumstances changed during an incident. **Houston** included a duty to “constantly assess” the situation and “adjust the use of force accordingly.”<sup>94</sup> **San Antonio** required a de-escalation of the level of force in response to changing circumstances: “As a subject decreases his or her level of resistance, the responding officer also decreases the level of force required to gain compliance.”<sup>95</sup> In addition to limiting use of lethal force in response to threats of death or serious bodily injury, **Chicago** and **Philadelphia** (as noted above) graphically depicted the proportionality principle, illustrating escalating levels of force to be used in response to escalating threat levels, reserving greater force for more grave threats.

**San Jose** did not satisfy proportionality because it allowed for an exception: officers were authorized to use lethal force when it was “objectively reasonable in self-defense” without clearly requiring that the threat the officer was defending against be to his life or of serious bodily harm. **Indianapolis** likewise failed to satisfy proportionality because it authorized the use of deadly force in response to a forcible felony. Indiana law defines a forcible felony to include any felony that “involves the use or threat of force,” failing to limit the definition to the threat of deadly force or of serious bodily injury. Finally, **Denver** also did not satisfy proportionality because the policy permitted the use of deadly force to “arrest or prevent the escape from custody” of someone who had committed a felony with the use of a deadly weapon, without requiring that the person pose a threat of death or serious injury.<sup>96</sup>

Figure 11

### Proportionality Grades



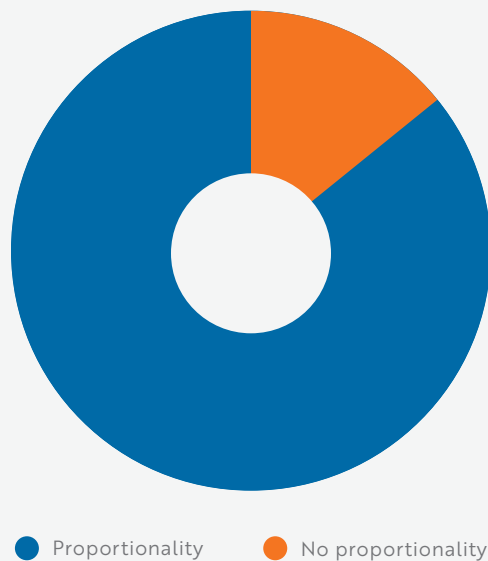
<sup>94</sup> Houston Police Department, General Order 600-17(1) General Use of Force Principles.

<sup>95</sup> San Antonio Police Department, General Manual, Procedure 501-5(f)(3) Use of Force.

<sup>96</sup> Denver Police Department, Operations Manual 105.00 Use of Force Policy (2).

Figure 12

### Cities Satisfying Proportionality



#### 4. Accountability (25 points)

The principle of accountability was assigned 25 points because it requires specific action on the part of police departments following the use of lethal force to ensure accountability in line with international human rights law and standards. The authors disaggregated the principle into five elements with increasing, aggregative point assignments:

- **Mandatory internal reporting for all instances of use of lethal force (5 points);**
- **Mandatory external contact only when death or injury results from use of lethal force (5 points);**
- **Mandatory external contact for all instances of use of lethal force (7 points);**
- **Mandatory external reporting only when death or injury results from use of lethal force (8 points); and**
- **Mandatory external reporting for all instances of use of lethal force (25 points).**

International human rights law and standards require independent review and issuance of a report in all instances of use of lethal force. Unlike necessity, however, international standards do not establish clearly defined sub-elements, thereby requiring exercise of judgement in interpretation of the law and definition of the standards. The five accountability elements are thus based on meaningful distinctions

observed in the 20 policies analyzed.<sup>97</sup> While reflecting these distinctions, they nonetheless prioritize and award the international standard of mandatory external reporting for all instances of use of lethal force with the full 25 points.

In particular, the sub-elements account for two main distinctions observed in policies: (1) internal v. external contact or reporting procedures; and (2) procedures triggered by all instances of use of lethal force v. only instances that result in death or serious bodily injury. The latter accounts for whether a policy requires accountability for when officers shoot at, but miss, human targets *or only* when they hit a person, killing or injuring them. Use of lethal force occurs each time a police officer shoots at a person, regardless of whether he hits or misses the person. The authors therefore awarded more points to policies that do not distinguish between hits or misses, requiring accountability for both.

The term “contact” in the second and third elements refers broadly to a notification process or other kind of contact to indicate that use of lethal force, death or injury has occurred. Contact and notification may require a summation of the facts of the incident, but not full reporting. The term “reporting” in the last two elements refers to the internal police department report created when lethal force is used, or something substantially similar, rather than a summary or brief of the incident. While the grading system does not evaluate the quality of the reporting forms and how they are used, it is important to note that the quality matters a great deal for effective accountability. For example, a reporting form that requires law enforcement officer to provide detailed descriptions of the de-escalation tactics used before the use of a weapon, or the kinds of warnings given before the use of force, and whether the officer considered retreating instead of engaging, will allow for a more thorough evaluation and assessment of the legality of the use of force.<sup>98</sup> Finally, review bodies external to police departments include government prosecutors, as well as other independent bodies with authority to conduct reviews of police use of force (e.g., the Inspector General in Los Angeles).

It is critical to note that for a system of reporting, whether internal or external, to be effective, it requires effective supervision and control, both internally by police leadership and externally by independent public officials. Whenever supervision, discipline, and (where appropriate) prosecution, fail to accompany investigative and reporting requirements, a message is sent that superiors, political leadership, and the public tacitly endorse unlawful and unprofessional behavior.<sup>99</sup> Effective accountability therefore requires institutional, cultural and command commitment beyond what can be provided and measured in policies.

## Accountability Grades Discussion

All 20 cities required internal reporting following all instances of use of lethal force. **Phoenix**, for example, included a provision titled “Reporting use of force incidents.”<sup>100</sup> This section included a series of detailed instructions on procedures to be followed after the use of lethal force: “Employees will document the

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<sup>97</sup> The third and fourth elements are assigned 7 and 8 points, respectively, so that the highest possible score (short of fully satisfying the principle for 25 points) is 20 points—the first (5), third (7) and fourth (8) elements satisfied. The third and fourth elements subsume the second—i.e., both external contact in all instances of use of force and reporting only when death or injury results include external contact only when death or injury result. As a result, it is not possible to receive points for the second element in addition to the third or fourth.

<sup>98</sup> See Amnesty Guidelines, *supra* note 31, at 185.

<sup>99</sup> *Id.* at 187.

<sup>100</sup> Phoenix Police Department, Operations Orders 1.5(6) Reporting Use of Force Incidents.

use of each response option”; “Supervisors will submit the initial Use of Force Report within seven (7) days of notification of the incident”; “Use of Force reports will be submitted up to commander approval within 30 days of initiation of the report.”<sup>101</sup> The report was then distributed to officials and entities within the department. These included: the involved employee’s supervisor; the Professional Standards Bureau; the Violent Crimes Bureau/Homicide Unit; and the Incident Review Unit. The department was not required to notify or distribute the report to any external entities. For serious incidents involving death or serious injury, County Attorney’s Office participates in the primary on the scene briefing.

**Jacksonville** required external contact only when death or injury resulted from use of lethal force. **New York** and **Dallas** required external contact in all instances of use of lethal force without external reporting. New York required the investigating officer to notify the District Attorney’s Office “in all shooting cases” and “[c]onfer with District Attorney before interviewing uniformed member(s) of the service.”<sup>102</sup> The commanding officer is instructed to forward the initial firearm discharge investigation report to, among others: First Deputy Commission; the Chief of Department; the Deputy Commissioner, Legal Matters; the Deputy Commissioner, Training; the Chief of Patrol; the Chief of Personnel; and the Chief of Community Affairs.<sup>103</sup>

The Dallas policy states that the Crimes Against Persons Division will conduct a criminal investigation, among other times, “[a]ny time an officer intentionally discharges his firearm.”<sup>104</sup> As part of the criminal investigation of an officer involved shooting, Dallas required the Media Relations Unit to “coordinate with the investigative supervisor-in-charge and prepare a summary of the facts ... for issuance to the news media,” as well as a summary of the results of the department investigation when it was completed.<sup>105</sup> This constitutes external contact, rather than external reporting, because the internal police department report, or something substantially similar, was not shared; instead, only a summary of the incident and investigation were provided to the media.

**San Jose** and **Columbus** required external reporting only when use of lethal force resulted in death or injury to the subject. In these cities, only internal reporting was required when use of lethal force did not result in death or injury, including when an officer discharged his firearm at a subject, but missed. San Jose, for example, required “properly prepared case reports” to be submitted to the District Attorney’s Office following an officer involved shooting, defined as any time an officer’s discharge of a firearm resulted in “injury or death to any person.”<sup>106</sup> The policy also authorized the District Attorney’s investigator to “monitor the investigative process employed by the Department, including monitoring at the scene,” following an officer involved shooting.<sup>107</sup> **Columbus** required “copies of the investigative packet” to be forwarded to the county prosecutor for use of force resulting in “serious physical harm to or death of a human.”<sup>108</sup>

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<sup>101</sup> *Id.* at 1.5(6)(B).

<sup>102</sup> New York Police Department, Patrol Guide Procedure No: 221-04(20).

<sup>103</sup> New York Police Department, Patrol Guide Procedure No: 221-04.

<sup>104</sup> Dallas Police Department, General Order 317.00: Officer Involved Shootings, Serious Injury of Death Incidents, 317.01(A)(5).

<sup>105</sup> *Id.* at 317.02.

<sup>106</sup> San Jose Police Department, Duty Manual: Policies, Rules, Procedures, L 4705 and L 8512.

<sup>107</sup> *Id.* at L 4705.

<sup>108</sup> Columbus Police, Division Directive 2.01(III)(F)(4).

**Los Angeles** and **Chicago** are the only cities that required mandatory external reporting of all instances of use of lethal force (i.e. discharge of a firearm),<sup>109</sup> including those that did not result in death or injury. **Los Angeles** policy required the department's "Real-Time Analysis and Critical Response Division" to notify the Office of the Inspector General of all instances of use of lethal force.<sup>110</sup> The department was also required to distribute copies of the "Force Investigation Division" administrative report generated after every use of lethal force to the Office of the Inspector General.<sup>111</sup> The assigned investigator or his supervisor was also required to "liaise with the assigned deputy district attorney and Inspector General to ensure that both [were] briefed and allowed to observe the investigation."<sup>112</sup> The Inspector General is an independent civilian charged with monitoring, auditing and overseeing the police department's disciplinary system.<sup>113</sup>

Pursuant to **Chicago** municipal code and reflected in Chicago policy, the Civilian Office of Police Accountability (COPA)<sup>114</sup> "will conduct investigations into all incidents, including those in which no allegations of misconduct is made."<sup>115</sup> COPA is an independent civilian oversight agency established in October 2016 by the Chicago City Council following the resignation of its predecessor agency's (Independent Police Review Authority) Chief Administrator after a series of protests and national attention following the shooting of Laquan McDonald by Chicago PD. COPA has access to all information the police possess even if the information is not connected to a specific ongoing investigation, and can examine police policies and procedures.<sup>116</sup>

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<sup>109</sup> Los Angeles Police, Management Rules and Procedures Section 792.05.

<sup>110</sup> *Id.* at Section 794.35.

<sup>111</sup> *Id.* at Section 794.39.

<sup>112</sup> *Id.* at Section 794.37.

<sup>113</sup> Los Angeles Police Department, Office of the Inspector General, at [http://www.lapdonline.org/police\\_commission/content\\_basic\\_view/1076](http://www.lapdonline.org/police_commission/content_basic_view/1076).

<sup>114</sup> Municipal Code of Chicago, Civilian Office of Police Accountability, Chapter 2-78, available at <http://www.chicagocopa.org/wp-content/uploads/2016/07/COPA-Ordinance.pdf>.

<sup>115</sup> *Id.* at 2-78-120, Office and Chief Administrator – Powers and duties.

<sup>116</sup> Civilian Office of Police Accountability (COPA), <https://www.chicagocopa.org/>.

Figure 13

## Accountability Policy Grades by Element

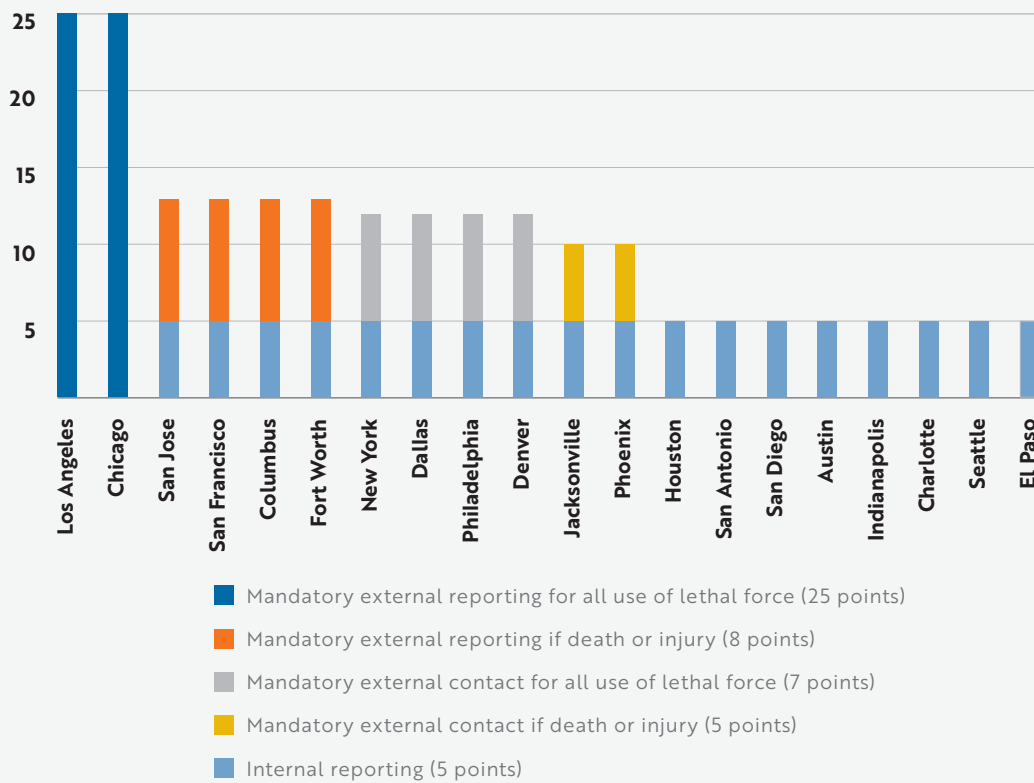


Figure 14

## Cities Satisfying Accountability

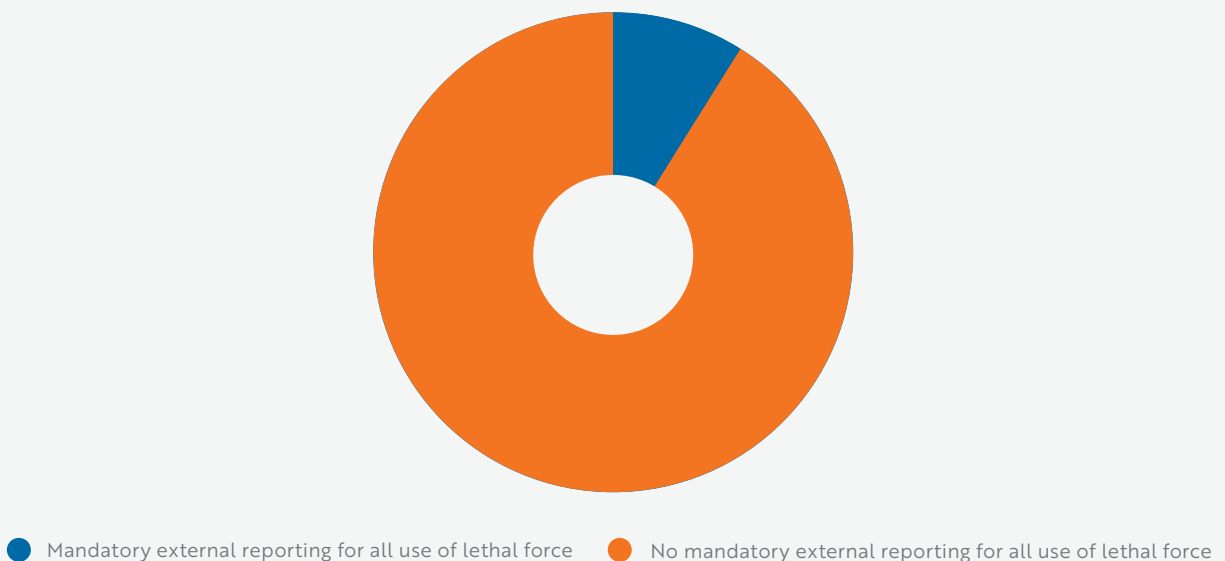


Figure 15

## Overview of Use of Lethal Force Policy Grading System

### INTERNATIONAL PRINCIPLE

### PRINCIPLE ELEMENTS

#### Legality (20 points)

Policies must be based on a domestic law that complies with international human rights law and standards, so that authority for use of lethal force is provided in law.

**Policy not based on state law (0 points):** policies not based on state law granting authorization for use of lethal force.

**Policy based on noncompliant state law (5 points):** policies based on state law authorizing use of lethal force, but the law does not comply with international human rights law and standards.

**Policy based on compliant state law (20 points):** policies based on state law authorizing use of lethal force that complies with international human rights law and standards.

#### Necessity (30 points)

Lethal force may only be used in response to an immediate/imminent and particularized threat and only as a last resort.

**Immediacy (10 points):** lethal force may only be used against a person who presents an immediate or imminent threat.

Only **5 points** were given to policies that contained a general immediacy requirement but did not require immediacy in situations involving a fleeing felon.

**Particularized threat (10 points):** lethal force may only be used in response to a specific heightened risk or threat (of death or serious injury).

#### Proportionality (25 points)

Lethal force may only be used in response to threats to life or serious bodily harm to the officer or others.

**No sub-categories for the principle of proportionality.**

#### Accountability (25 points)

Police departments must conduct an effective review, involve an external oversight body and issue a report in all instances of the use of lethal force.

**Mandatory internal reporting for all instances of use of lethal force (5 points):** all use of lethal force must be reported on to a body internal to the police department.

**Mandatory external contact only when death or injury results from use of lethal force (5 points):** the police department must notify an external body following use of lethal force only when death or injury occurs.

**Mandatory external contact for all instances of use of lethal force (7 points):** the police department must notify an external body following each use of lethal force, regardless of whether death or injury results.

**Mandatory external reporting only when death or injury results from use of lethal force (8 points):** the police department must report to an external body following use of lethal force only when death or injury results.

**Mandatory external reporting for all instances of use of lethal force (25 points):** the police department must report to an external body following each use of lethal force, regardless of whether death or injury results.



Not one of the police departments in the 20 largest cities in United States has a human rights compliant use of force policy. None of the policies are constrained by a state law that complies with human rights law and standards. And too many police departments allow the use of lethal force in response to a non-lethal threat, thereby sanctioning unnecessary and disproportionate use of force.

These policy failures have contributed to the tragic killings of unarmed black and brown men and women by police officers around the country. Ensuring police use of lethal force in the United States is constrained by international human rights law and standards requires a broad range of legal, institutional and practical measures, from a solid grounding in legislation, to a committed political and police leadership. Human rights compliant laws and police policies are an absolutely necessary component, but they alone cannot operationalize and make real the human rights law and standards embodied in the four core principles. Instead, law and policies provide the foundation on which a structure of reinforcing attitudes, practices and mechanisms must be built.

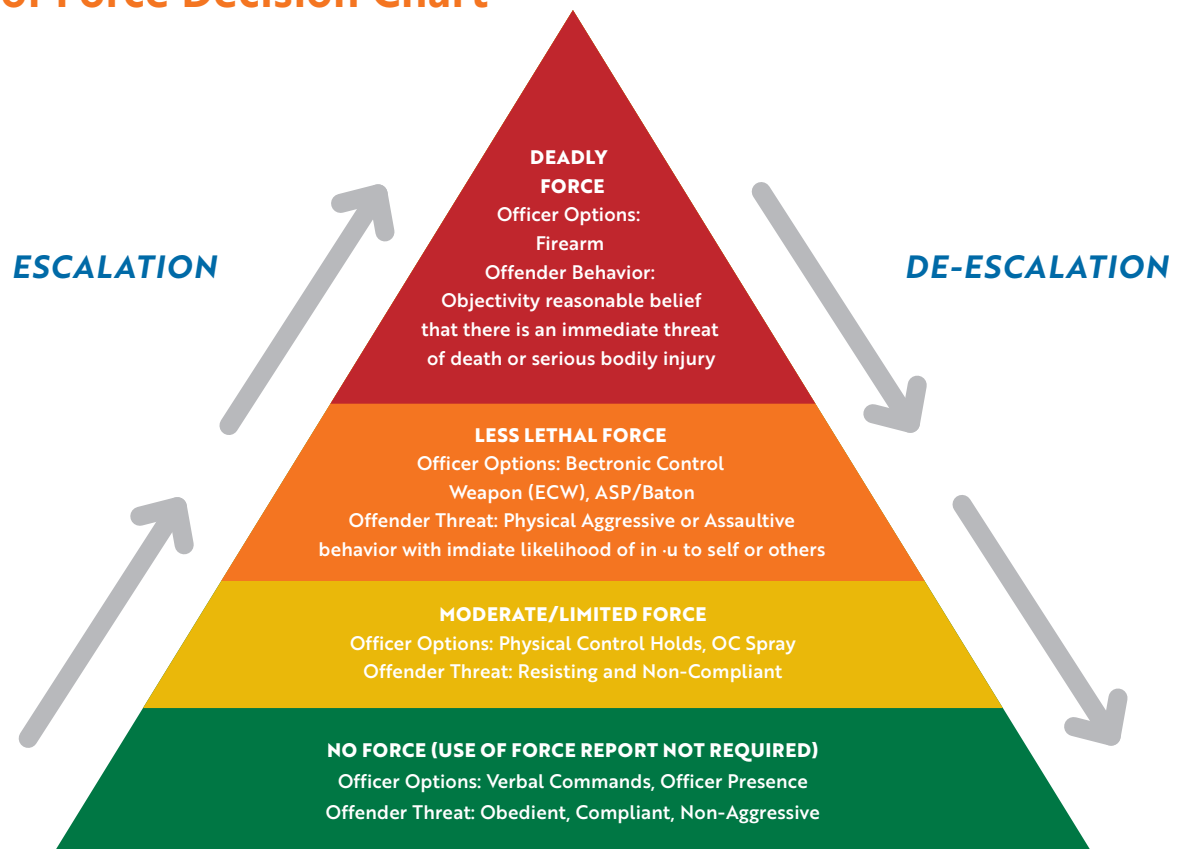
Making law and police policies more than just paper promises requires, among other things: comprehensive, effective and ongoing officer training; effective supervision and planning; robust corrective measures applied to officer misbehavior; independent and transparent investigating and reporting; disciplinary measures; and mechanisms with real independence, resources, power and will to provide accountability. Nevertheless, true structural transformation of law enforcement practices in the United States must begin with police policies that comply with international human rights law and standards.





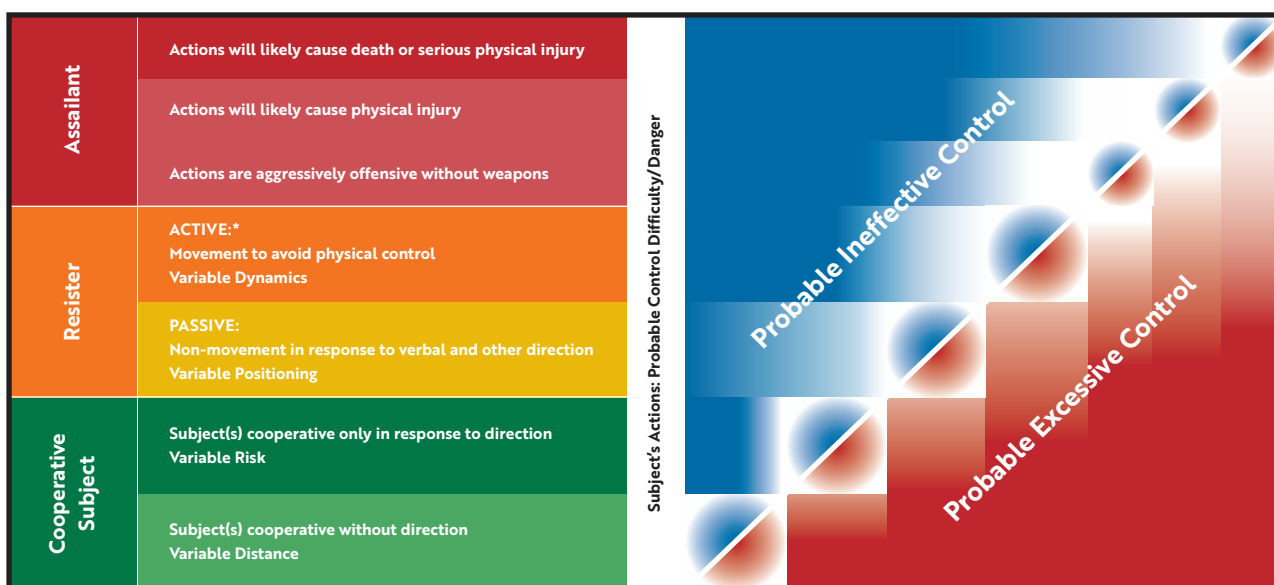
# Appendix A

## Philadelphia Police Department's "Use of Force Decision Chart"



Use the option that represents the minimal amount of force necessary to reduce the immediate threat.

## Chicago Police Department's "Use of Force Model"



Notes: With permission of the authors, the Use of Force Model has been modified to conform with the Chicago Police Department General Order entitled "Use of Force Guidelines."

\* See addendum entitled "Force Options" for appropriate options and specific guidelines on active resisters.

\*\* See addendum entitled "Force Options" for specific conditions on the use of tasers.

\*\*\* See addendum entitled "Canines as a Force Option" for specific conditions on the use of canines.

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Garry F. McCarthy Superintendent of Police

**Officer's Reaction: Probable Reversibility/Control/Tissue Damage**

USED  
ALONE

**Social Control: Presence of Law Enforcement Representative**  
Used with means of physical control

USED  
ALONE

**Verbal Control: Persuasion/Advice/Warning**  
Used with means of physical control

### Control Modes without Weapons

HOLDING	STUNNING	DIRECT MECHANICAL
Pain Compliance/ Neuro Muscular	Diffused pressure striking	Direct body mechanics against body structure

### Control Modes with Weapons

		Impact Weapons Impact Munitions
OC Spray/Chemical Weapons (Individuals not part of group or crowd) See "Force Options for use of OC guidelines for "Resisters"		
OC Spray/Chemical Weapons (Groups, crowds, and individuals taking part in a group crowd) Superintendent or Designee Approval Required		
Capsaicin II Powder Agent Superintendent or Designee Approval Required		
LRAD Acoustic Transmission Superintendent or Designee Approval Required		
Taser**		
Canine***		

**Firearms and other Lethal Force**




## Legality



### Texas: TEXAS STATE LAW: V.T.C.A., Penal Code § 9.51 § 9.51. Arrest and Search

(c) A peace officer is justified in using deadly force against another when and to the degree the peace officer reasonably believes the deadly force is immediately necessary to make an arrest, or to prevent escape after arrest, if the use of force would have been justified under Subsection (a) and: (1) the actor reasonably believes the conduct for which arrest is authorized included the use or attempted use of deadly force; or (2) the actor reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to the actor or another if the arrest is delayed.




(d) A person other than a peace officer acting in a peace officer's presence and at his direction is justified in using deadly force against another when and to the degree the person reasonably believes the deadly force is immediately necessary to make a lawful arrest, or to prevent escape after a lawful arrest, if the use of force would have been justified under Subsection (b) and: (1) the actor reasonably believes the felony or offense against the public peace for which arrest is authorized included the use or attempted use of deadly force; or (2) the actor reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to another if the arrest is delayed.

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Austin</b> 	<b>P.M. 200.3 DEADLY FORCE APPLICATIONS</b> <p>"An officer has no duty to retreat and is only justified in using deadly force against another when and to the extent the officer reasonably believes the deadly force is immediately necessary to (Tex. Penal Code § 9.51(c) and (e)):</p> <p>(a) Protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury.</p> <p>(b) Make an arrest or to prevent escape after arrest when the officer has probable cause to believe that:</p>	Yes	No

## Texas (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Austin (continued)</b>	<ol style="list-style-type: none"> <li>1. The subject has committed or intends to commit an offense involving the infliction or threatened infliction of serious bodily injury or death; or</li> <li>2. The officer reasonably believes that there is an imminent or potential risk of serious bodily injury or death to any other person if the subject is not immediately apprehended."</li> </ol>	Yes	No
<b>El Paso</b> 	<p><b>P.M. 300.4 PARAMETERS FOR USE OF DEADLY FORCE</b></p> <p>"The Texas Penal Code sets forth when the use of deadly force is justified. The Department sets further guidelines and administrative restrictions regarding the use of deadly force. Reasonable belief, bodily injury, and serious bodily injury carry the same definitions as in Section 1.07, Texas Penal Code. Deadly force carries the same definition as in Section 9.01, Texas Penal Code.</p> <p>Deadly force, as a matter of Department policy (whether the officer is on or off duty), is used only in the following situations:</p> <ol style="list-style-type: none"> <li>1. When necessary to protect the officer from what is reasonably believed by the officer, at the time, to be an imminent threat of death or serious bodily injury;</li> <li>2. When necessary to protect another from what is reasonably believed by the officer, at the time, to be an imminent threat of death or serious bodily injury;</li> <li>3. When immediately necessary to make a lawful arrest or prevent an escape after arrest, and an imminent threat exists where the suspect has demonstrated actions that would lead an officer to reasonably believe there is substantial risk that the suspect will cause death or serious bodily injury to another if the arrest is delayed; [...]"</li> </ol>	Yes	No
<b>Houston</b> 	<p><b>G.O. 600-17: USE OF DEADLY FORCE</b></p> <p>"The use of deadly force shall be limited to those circumstances in which officers reasonably believe it is necessary to protect themselves or others from the imminent threat of serious bodily injury or death."</p>	Yes	No

## Texas (continued):



City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Fort Worth</b> 	<b>G.O. 306.06 USE OF DEADLY FORCE</b>  "A. The use of deadly force is authorized only when it is necessary for officers to protect themselves or others from an immediate threat of death or serious bodily injury. Justification for the use of deadly force shall be limited to the facts known or reasonably perceived by an officer at the time the incident occurs."	Yes	No
<b>Dallas</b> 	<b>G.O. 906.02 USE OF DEADLY FORCE POLICY</b>  "A. Justification for the Use of Deadly Force- In all situations, justification for the use of deadly force must be limited to the facts reasonably apparent to the officer at the time the officer decides to use the force.  B. Definitions...  3. Reasonable Belief - A belief that would be held by a n ordinary and prudent person in the same circumstances as the actor."	Yes	No
<b>San Antonio</b> 	<b>G.M. 501.07 USE OF DEADLY FORCE</b>  "B. The use of deadly force is authorized only to protect an officer or another person from what is reasonably believed to be an immediate threat of death or serious bodily injury.  C. The use of deadly force against one who is fleeing from custody, or who is fleeing immediately after committing an offense, is prohibited unless the officer has probable cause to believe the suspect poses an imminent threat of death or serious bodily injury to the officer or a third party."	Yes	No

## CALIFORNIA: Cal. Penal Code § 196; § 196. Justifiable homicide; public officers



"Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either...

2. When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or,

3. When necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest." [§196]

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Los Angeles</b> 	<b>S.O. NO. 5 AMENDING 556.01</b>  "Deadly Force. Law enforcement officers are authorized to use deadly force to: <ul style="list-style-type: none"> <li>• Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,</li> <li>• Prevent a crime where the suspect's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,</li> <li>• Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.</li> </ul> The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force."	Yes	No
<b>San Diego</b> 	<b>D.P. 1.04 V. PROCEDURES</b>  "H. Use of Firearms <ol style="list-style-type: none"> <li>2. No officer shall discharge a firearm in the performance of duty except:</li> <li>c. When necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect's escape would pose an imminent threat to the officer or others."</li> </ol>	Yes	No

## California (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>San Francisco</b> 	<b>G.O. 5.01 USE OF FORCE</b>  "III. CONSIDERATIONS GOVERNING ALL USES OF FORCE 1. USE OF FORCE MUST BE FOR A LAWFUL PURPOSE. Officers may use reasonable force options in the performance of their duties, in the following circumstances: 1. To effect a lawful arrest, detention, or search. 2. To overcome resistance or to prevent escape. 3. To prevent the commission of a public offense. 4. In defense of others or in self-defense. 5. To gain compliance with a lawful order. 6. To prevent a person from injuring himself/herself. However, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an immediate threat of death or serious bodily injury to another person or officer."	Yes	No
<b>San Jose</b> 	<b>D.M. L 2600 USE OF FORCE</b>  "San Jose Police Department recognizes and understands the complexity of those situations necessitating the use of force. Officers follow established authorizations to use force provided by state law (Penal Code Sections 835 and 835a)."  <b>L 2601 GENERAL PROCEDURES</b>  "Officers may use force to affect a detention, arrest, prevent an escape or overcome resistance, in self-defense or defense of others."  <b>L 2601 OBJECTIVELY REASONABLE FORCE</b>  "...whether the subject poses an immediate threat to the safety of the officers or others and whether the subject is actively resisting arrest or attempting to evade arrest by flight. This policy guideline applies to all uses of force, including deadly force."	Yes	No


## Ohio: No Law

## North Carolina: § 15A-401. Arrest by law-enforcement officer, N.C.G.S.A. § 15A-401

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

- a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
- b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
- c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Charlotte</b> 	<p><b>I.D.G. 600-018 IV(A)(1)</b></p> <p>"When it appears to be reasonably necessary to defend him or herself or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force; [...]"</p> <p><b>I.D.G.600-018 IV(A)(2)</b></p> <p>"To effect an arrest or prevent the escape from custody of a person who, the officer reasonably believes, is attempting to escape by means of a deadly weapon; [...]"</p> <p><b>I.D.G.600-018 IV(A)(3)</b></p> <p>"To affect an arrest or prevent the escape from custody of a person who, by his or her conduct or any other means, indicates that he or she presents an imminent threat of death or serious physical injury to others unless apprehended without delay."</p>	Yes	No


## Illinois: 720 ILCS 5/7-5 5/7-5. Peace officer's use of force in making arrest

However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that: [§7-5(a)]

- (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and [§7-5(a)(1)]
- (2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay. [§7-5(a)(2)]



## Illinois (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Chicago</b> 	<p><b>GO3-02 III (C) 3. (A)-(B):</b></p> <p>"Last Resort: The use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person. Consistent with this requirement, a sworn Department member may use deadly force only when such force is necessary to prevent:</p> <ul style="list-style-type: none"> <li>(a.) death or great bodily harm from an imminent threat posed to the sworn member or to another person.</li> <li>(b.) an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay." <p><b>GO3-02 III (C)</b></p> <p>"4. Fleeing Persons. Deadly force may not be used on a fleeing person unless the subject poses an imminent threat, as defined above."</p> </li></ul>	Yes	No

## Indiana: IC 35-41-3-3 35-41-3-3 Use of force relating to arrest or escape

- (b) A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to effect a lawful arrest. However, an officer is justified in using deadly force only if the officer:
  - (1) has probable cause to believe that that deadly force is necessary:
    - (A) to prevent the commission of a forcible felony; or
    - (B) to effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and
  - (2) has given a warning, if feasible, to the person against whom the deadly force is to be used.
- (d) A law enforcement officer who has an arrested person in custody is justified in using the same force to prevent the escape of the arrested person from custody that the officer would be justified in using if the officer was arresting that person. However, an officer is justified in using deadly force only if the officer:
  - (1) has probable cause to believe that deadly force is necessary to prevent the escape from custody of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and
  - (2) has given a warning, if feasible, to the person against whom the deadly force is to be used.
- (e) A guard or other official in a penal facility or a law enforcement officer is justified in using reasonable force, including deadly force, if the officer has probable cause to believe that the force is necessary to prevent the escape of a person who is detained in the penal facility.