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## **Deadly Discretion: The Failure of Police Use of Force Policies to Meet Fundamental International Human Rights Law and Standards**

University of Chicago Law School - International Human Rights Clinic

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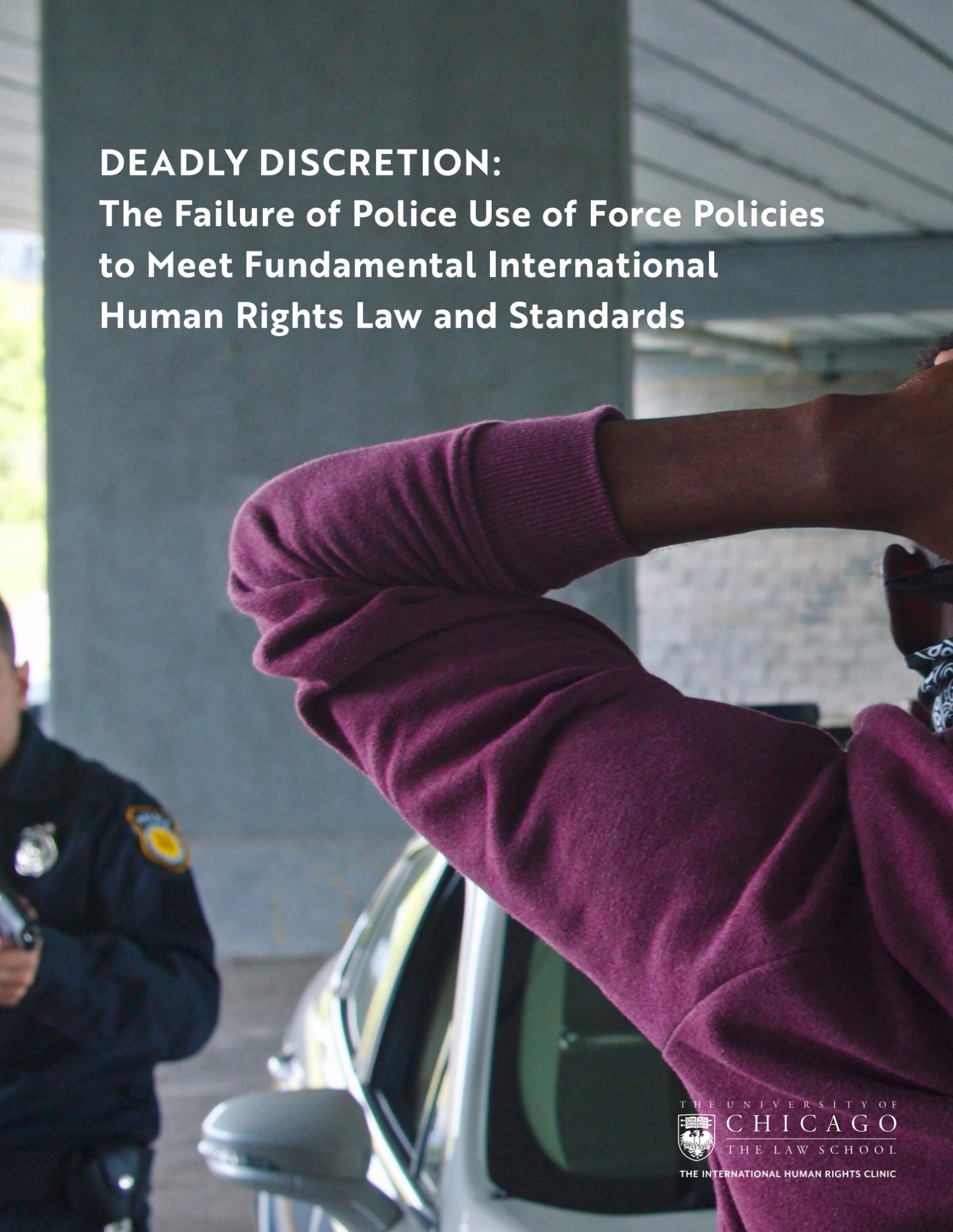
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The background image shows a person wearing a maroon hoodie with their right arm raised, palm facing forward. In the background, a police officer in a dark uniform is partially visible, holding a handgun. The scene appears to be outdoors near a building.

**DEADLY DISCRETION:  
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Human Rights Law and Standards**



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<sup>1</sup> A digital copy of this report may be accessed at <https://chicagounbound.uchicago.edu/ihrcl/14>.

## Acknowledgements

This Report was researched and authored by students, faculty and staff of the International Human Rights Clinic at the University of Chicago Law School during the academic years 2015-2018. This Report represents the views and perspectives of the authors. It does not represent an institutional position of the University of Chicago Law School.

The student research and drafting team includes: Cornelius Cornelssen ('16); Anna Duke ('20); Josia Klein ('20); Brittany McKinley ('19); Ryan Maher ('18); and Shelbi Smith ('18).

The faculty research and drafting team includes: Claudia Flores, Associate Clinical Professor of Law; Brian Citro, Lecturer in Law (now Assistant Clinical Professor of Law, Northwestern Pritzker School of Law); and Nino Guruli, Lecturer in Law.

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THE INTERNATIONAL HUMAN RIGHTS CLINIC



# Introduction

This Report is being published in the midst of a long series of horrifying incidents of police abuse of power in the United States. The deaths of George Floyd, Lacquan McDonald, Eric Garner, Michael Brown, Ahmaud Arbery, Tony McDade, Regis Korchinski-Paquet, Breonna Taylor and many others, have echoed throughout the communities of this nation and prompted protests across the country. The video and testimonies from these incidents provide grim illustrations of the power law enforcement officers have over the people they are sworn to serve and protect, and the deadly consequences when they abuse that power.

Society vests law enforcement with the responsibility to protect public safety and enforce the law when necessary. For these reasons, and these reasons only, law enforcement officers are granted the immense power to use force, including lethal force. This authority—state sanctioned violence—necessarily comes with limits and obligations to ensure those who enforce the law do not abuse it. These limits and obligations require that police use their power in a manner that protects and serves the entire community that has vested them with this privilege. The exercise of this authority also requires accountability when abuses occur. Without accountability, state sanctioned violence is nothing but the exercise of arbitrary brute force, a common tool of tyrannical and despotic governments.

Yet, as endless reports and studies have indicated, the police in the United States do not always use their power in a manner that reflects the restraint, care and humility promised to its people. The many and terrible deaths of unarmed African Americans, the targeting of poor communities and communities of color, and the absence of a mandate to protect individuals from domestic violence, all sanctioned by the Supreme Court of the United States in the name of police discretion, have scarred many and raised questions of whether the police sufficiently serve their mandate.<sup>2</sup>

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<sup>2</sup> See e.g. *Castle Rock v. Gonzales*, 545 U.S. 748 (2005); *Jessica Lenahan (Gonzales) v. United States*, Case 12.626, Inter-Am. Comm’n H.R., Report No. 80/11 (2011).

Even as the evidence of criminality and misconduct permeates the news, drives thousands to the streets, and garners national outrage, the exact scope and scale of lethal use of force remains unknown. The United States does not count the number of lives lost nationally due to police use of force. And police departments vary as to how and whether data on officer use of force, including the discharge of police firearms and deaths, is collected and published. This absence of comprehensive reporting and publishing of data on police use of force severely limits our ability to see the full picture and to accurately evaluate police misconduct. It also constrains our ability to identify practices and institutional mechanisms in need of reform. The failure by states and the federal government to address this lack of transparency and accountability tells its own story and is, on its own, a cause for great concern.<sup>3</sup>

The human rights of people living in the United States are profoundly affected by how law enforcement officials carry out their duties. Police use of force implicates the basic rights of every individual subject to this power—the rights to life, security of person, freedom from discrimination and equal protection of the laws. These rights, established following the atrocities of World War II in the Charter of the United Nations and the Universal Declaration of Human Rights, form the cornerstone of the human rights system. The challenge of managing police power is a global one. People in every country face the difficult and complex balance between granting police the discretion and resources needed to achieve their purpose, while holding them accountable when they abuse their power in violation of the human rights of the communities they serve.

To address this global challenge, the 193 member states of the United Nations, which include the United States, have developed principles and standards to constrain, direct and ensure the proper use of lethal force. These principles—legality, necessity, proportionality and accountability—have been developed and concretized in various forms in the international system, and have been articulated in resolutions by the U.N. General Assembly, rules by committees of experts, and findings by U.N. Special Procedure Mechanisms. These principles and the rules they establish represent the best global effort to consider how police discretion and accountability can contribute to a just and humane society that respects and protects the rights of all its individuals.

In the United States, some of these principles have been adopted and articulated by our courts and law makers.<sup>4</sup> However, this country lacks a comprehensive and effective national legal framework that places specific conditions on the use of force and establishes mechanisms of accountability.<sup>5</sup> While the Constitution sets some limits on the use of force, the standards set by the Supreme Court in its case law fall woefully short of meeting the international standards, and Congress has failed to take action to fill this critical gap in federal law.<sup>6</sup> Due to the decentralized nature of law enforcement in the United States,

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<sup>3</sup> The F.B.I began a national use of force database in January of 2019 based on voluntary reporting from law enforcement bodies across the country. According to reports, fewer than half of the law enforcement bodies nationwide have submitted data. See Federal Bureau of Investigation, National Use-of-Force Data Collection, <https://www.fbi.gov/services/cjis/ucr/use-of-force>; Kimberly Adams, *FBI says new data on police use of force is coming this summer*, Marketplace, June 6, 2020, available at <https://www.marketplace.org/2020/06/01/fbi-police-use-of-force-database/>.

<sup>4</sup> See e.g. *Scott v. Harris*, 550 U.S. 371 (2007); *Graham v. Connor*, 490 U.S. 386 (1989); *Tennessee v. Graner*, 471 U.S. 1 (1985); 42 U.S.C. § 14141; 41 U.S.C. § 1983; 18 U.S.C. § 242.

<sup>5</sup> U.S. Commission on Civil Rights, Briefing Report, *Police Use of Force: An Examination of Modern Policing Practices* (Nov. 2018); Richard M. Thompson II, Congressional Research Service, *Police Use of Force: Rules, Remedies, and Reforms* (Oct. 30, 2015);

<sup>6</sup> *Scott v. Harris*, 550 U.S. 371 (2007). See also Richard M. Thompson II, Congressional Research Service, *Police Use of Force: Rules, Remedies, and Reforms* (Oct. 30, 2015).

and the failure of national leadership to set uniform, federal standards, the main restrictions on police use of force exist at the state and local level. State law and police departmental policies provide the principles and standards on use of force and the consequences for when that authority is abused.

While, in many states, legislation provides some direction on the use of force to police departments, research and data indicates that state laws have overwhelmingly failed to do so in an effective manner. In 2015, Amnesty International, USA released “Deadly Force: Police Use of Lethal Force in the United States,” evaluating state laws’ compliance with international human rights standards. Alarming, the report found that not a single state’s law fully complied.

This Report builds on Amnesty’s findings by examining the other main source of accountability for the use of force: police department policies. To capture a large portion of the population and a diverse set of contexts, this Report evaluates the police policies from the 20 largest cities in the United States during 2017 to 2018.<sup>7</sup> These internal departmental policies provide the primary guidance to police officers on when and how they may use lethal force.<sup>8</sup> They are intended as manuals for officers on how to execute their duties, written by police leadership and, for the most part, adopted by the governing police boards.<sup>9</sup> These policies provide the substantive standards that officers are trained on and the principles that departments must operationalize. Policy violations trigger internal and sometimes external reviews and possible disciplinary measures.

While police policies vary, a use of force policy generally establishes the magnitude and nature of the threat that must exist, and the level of certainty police officers must have, to justify the use of lethal force.<sup>10</sup> Some policies call for a gradual escalation of the use of force; some list a series of measures an officer must or should take before resorting to lethal force.<sup>11</sup> They also prescribe what must happen after force has been used, who must be notified, and how an investigation unfolds.

This Report reviews and analyzes these policies to better understand how and whether police departments provide meaningful and effective direction to officers on the use of lethal force in a manner that respects the rights of the people they are charged to protect and serve. To evaluate use of force policies, authors developed and applied a grading system based on international law and standards on police lethal use of force. Through this evaluation, authors found that the policies in all 20 cities reviewed fail to meet international human rights law and standards. These use of force policies grant police undue discretion and insufficient guidance on when lethal force can be used, and they fail to establish strong enough accountability mechanisms.

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<sup>7</sup> The authors requested and examined use of force policies in effect from January 1, 2017 to June 20, 2018. As of June 1, 2020, some of the 20 police departments have amended their policies. Indianapolis, Los Angeles, San Francisco, New York, Philadelphia, Dallas, Columbus and San Antonio police departments made no changes to their use of force policies. Austin, San Jose, Denver, Seattle, Phoenix, Chicago, Fort Worth, San Diego made some changes to their policies, though many appear to be minor. Analysis and grading of these changes is beyond the scope of this report. Authors were unable to confirm whether Jacksonville, Charlotte, Houston and El Paso departments made changes to their use of force policies after June 20, 2018.

<sup>8</sup> See Appendix B.

<sup>9</sup> The authority of police boards and processes for adopting police policies are typically provided for in the relevant municipal codes. See e.g. Municipal Code of Chicago, Chapter 2-84, §010-030; Los Angeles City Charter, §§ 570-576.

<sup>10</sup> See analysis in Use of Lethal Force Policy Grading System and Grade Results *infra*.

<sup>11</sup> *Id.*

Part I of this Report provides summary of findings and recommendations for the development of a robust mechanism to constrain police lethal use of force. Police departments across the country allow for the use of force in circumstances where there is no immediate threat to life, such as allowing exceptions for the capture of a fleeing suspect. And almost none of the city policies provide adequate oversight and accountability mechanisms.

Part II presents the international law and standards governing police use of lethal force in the United States. It highlights the four main principles derived from these standards—legality, necessity, proportionality, and accountability—and explains their application to police use of force policies.

Part III uses these four principles to analyze and grade the use of lethal force policies of the 20 largest U.S. cities. Like the laws of the 50 states, not a single policy fully complied with international human rights law and standards. In fact, some policies fell well below full compliance, for example, failing to require that lethal force only be used in response to the immediate threat of deadly force.

Ultimately, deep, structural reform of the United States' law enforcement system is needed. The police in the United States kill more people than any of our peer nations.<sup>12</sup> In a 24-day period in 2015, police in the United States shot more people than the police did in England and Wales in 24 years.<sup>13</sup> By all measures, the current system is broken. As this Report demonstrates, the very laws and departmental policies that are meant to guide police officers on how to make the difficult, life and death decisions that are required of them, do not comply with human rights. Structural reform to end police killings of unarmed black and brown men and women must start in the police departments themselves with human rights-compliant use of force policies.

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<sup>12</sup> See Jamiles Lartey, *By the numbers: US Police kill more in days than other countries do in years*, The Guardian, (Jun. 9, 2015) <https://www.theguardian.com/us-news/2015/jun/09/the-counted-police-killings-us-vs-other-countries>.

<sup>13</sup> *Id.*



# Scope and Methodology

This report was researched and drafted by the International Human Rights Clinic at the University of Chicago Law School (“authors”) during October 2015 to August 2018. The authors collected “use of lethal force” policies of police departments in the 20 largest U.S. cities by population in 2018. A summary of these policies is available in Appendix B. To determine the 20 largest cities in the United States by population in 2018, the authors used *The World Almanac and Book of Facts 2018*. This almanac relies on data from the United States Census Bureau. The 2018 almanac’s most updated population data is from 2016, and the U.S. Census Bureau had not yet released updated data on the largest cities by population as of July 2018. These cities are (in order of population size): New York, Los Angeles, Chicago, Houston, Phoenix, Philadelphia, San Antonio, San Diego, Dallas, San Jose, Austin, Jacksonville, San Francisco, Columbus, Indianapolis, Fort Worth, Charlotte, Seattle, Denver and El Paso.

Use of lethal force policies were then analyzed and graded using a system the authors developed based on international law and standards, including: the U.N. Code of Conduct for Law Enforcement Officials; U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and the 2014 report of the former U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, on protection of the right to life during law enforcement.

The authors collected police department 2017-2018 use of lethal force policies online—on police department websites and at [useofforceproject.org](http://useofforceproject.org)—by informal email communications with police departments, and through official public records requests via the relevant state freedom of information act statutes.<sup>14</sup> In the event that a police department modified its use of lethal force policy during 2017-2018, and had multiple policies during the year, all relevant policies were obtained and assessed to determine if the changes impacted the policy.

<sup>14</sup> Texas Government Code 55 (Public Information Act); Calif. Public Record Act: Gov’t Code §6250-6268; Ohio Rev. Code sec. 149.43 et seq.; Ch. 132-North Carolina General Assembly; 5 Illinois Compile Statutes 140-Freedom of Information Act; Indiana Access to Public Records Act §§5-14-3-1- et seq.; Fla. Stat. sec. 119.01 et. seq.; 65 Pennsylvania Statute § 67.101 et.seq. (Right-to-Know Law); Arizona Public Records Law §39-121 et. seq.; New York Freedom of Information Law, Article 6 Sec. 84-90; Washington Public Record Act- Chapter 42.56 RCW; Colorado Public (Open) Records Act, C.R.S. 24-72-201 et seq.



# Summary of Findings and Recommendations

The human rights at stake in policing — the right to life and personal security as well as the freedom from discrimination— are bedrock guarantees, essential for the enjoyment of other fundamental human rights. Out of the 20 city police departments surveyed in this study, not one met the minimum standards established by human rights law. Even the two cities that had the best scoring policies, **Chicago** and **Los Angeles**, did not guarantee basic safeguards (i.e. necessity, proportionality and accountability) in the law.

**Legality:** No city satisfied the requirement of legality because no state has a human rights compliant state law. The failure to enact legislative standards on police use of force undermines the rule of law, frustrates accountability for misuse of state power, and weakens police department policies.

**Necessity:** Twelve city policies satisfied the necessity requirement, mandating immediacy of a particularized threat and the use of force as a last resort. Of the states that failed to satisfy this standard, eight policies contained various exceptions to the necessity requirement, such as permitting force when used to prevent a suspect's escape. **Indianapolis**, which failed on each of the three necessity subcategories, allows for the use of force to prevent the commission of a felony. But the policy does not specify the kind felony or the nature of the threat posed by the felony, thereby allowing the use of lethal force when it may not be necessary.

**Proportionality:** Use of force must be proportional to the threat or resistance the officer confronts. Seventeen city policies met the proportionality standard. Others permitted the use of deadly force in cases of self-defense or to prevent the commission of a felony without specifying that the threat to the officer must be proportionate to the force used.

**Accountability:** Finally, compliance with the requirements of necessity, proportionality, and effective legality require accountability mechanisms that guarantee effective and independent investigation for all instances of the use of lethal force. While all 20 cities have internal reporting requirements, only two cities—**Los Angeles** and **Chicago**—require mandatory external reporting for all instances of the use of

lethal force, as required by international standards. Internal reporting and review processes are important for police departments to self-evaluate and discipline their own. However, independent, external oversight mechanisms are necessary to ensure thorough investigations, achieve true accountability, and secure the public's trust.

## Recommendations

**LEGALITY** Use of force policies must sit within a human rights compliant federal and state legislative framework that properly balances security needs with individual human rights.

1. **The federal government should ensure federal, state and local policing complies with international human rights standards and commitments of the United States.** U.S. Congress should deploy its legislative and spending powers to ensure police use force in a human rights-compliant manner, including requiring that police use of force policies meet the standards of necessity, proportionality and accountability, and that law enforcement officers protect and enable individual human rights.
2. **State legislatures should enact legal limits on police use of force that comply with international human rights and standards of necessity, proportionality and accountability and protect and enable individual human rights.**
3. **In light of extensive evidence of excessive use of force by federal, state and local law enforcement during lawful demonstrations, government at all levels should re-evaluate the presence of armed police during lawful public gatherings.** Alternatives to law enforcement and unarmed and specialized community engagement police units have been shown to be more effective in providing assistance in organized events and public gatherings than armed units in other countries, as documented in *Defending Dissent: Towards State Practices that Protect and Promote the Rights to Protest* (IHRC/INCLO 2018).

**NECESSITY** All law and policies on police use of force must comply with the necessity requirement and only allow for force when “absolutely necessary” to save the life or prevent serious bodily harm of an officer or civilian as a “last resort” to other alternatives.

4. **U.S. Congress should revise the standard under 42 U.S.C. § 1983 permitting police officers to use force from a “reasonableness” standard to “only as a last resort and when absolutely necessary to prevent death or serious bodily harm.”**
5. **U.S. Congress should legally require all federal law enforcement officers to use identified de-escalation techniques to de-escalate all threats posed to officers and others prior to the use of force and mandate all state and local law enforcement agencies accepting federal funds to require use of such techniques.** De-escalation techniques include communication and verbal engagement, warnings and clear instructions, avoiding taunting or menacing language, evaluating the situation to identify alternative causes for lack of compliance (e.g., mental impairment, intoxication, fear, and language barriers), use of time and distance to create room for the situation to calm down, taking cover or disengaging.
6. **U.S. Congress should eliminate by law the use of “no knock” warrants during all federal law enforcement investigations because they have led to the use of lethal force when it was not necessary or proportional.**
7. **State legislatures and state and local law enforcement agencies should require, by law and in departmental policies, that law enforcement officers use de-escalation techniques to de-escalate all threats posed to officers and others prior to the use of force.** De-escalation techniques include communication and verbal engagement, warnings and clear instructions, avoiding taunting or menacing language, evaluating the situation to identify alternative causes for lack of compliance (e.g., mental impairment, intoxication, fear and language barriers), use of time and distance to create room for the situation to calm down, taking cover or disengaging.
8. **State legislatures and state and local law enforcement agencies should require, by law and in departmental policies, any officer standing by while another officer uses unlawful force on a subject to intervene to stop the use of force.**
9. **State and local law enforcement agencies should remove from their policies any exceptions that permit the use of lethal force when the situation does not present an immediate and particularized threat of lethal force or serious bodily harm, and where the use of lethal force is not absolutely necessary as a last resort.** This includes eliminating all “escaping suspect or fugitive exceptions” and all “blanket self-defense or prevention of crime

exceptions” that allow the use of lethal force to capture a suspect, in self-defense or in response to the commission of a felony of any kind, regardless of the nature of the threat posed by the subject.

**PROPORTIONALITY** In addition to being necessary, the use of force must always be proportionate to the threat the officer confronts and weighed against the fundamental human rights of the individual, including the rights to life and security of person.

10. U.S. Congress should condition all federal funds for state and local law enforcement agencies on the agencies’ review and elimination of the use of police techniques, tactics and technologies that pose a risk of death or serious bodily harm but that are not necessary or proportional to the threats posed to officers or others, including chokeholds, carotid holds, neck restraints, tear gas and rubber bullets, among others.
11. State legislatures and state and local law enforcement agencies should eliminate, by law and in departmental policies, the use of police techniques, tactics and technologies that pose a risk of death or serious bodily harm but that are not necessary or proportional to the threats posed to officers or others, including chokeholds, carotid holds, neck restraints, tear gas and rubber bullets, among others.
12. State and local law enforcement policies should require that all use of force be strictly proportionate to the threat confronted, removing all exceptions or equivocations.

**ACCOUNTABILITY** Accountability requires an independent, external review of each use of lethal force by the police as well as departmental transparency of use of force policies and practices.

13. U.S. Congress should require by law that the Department of Justice establish a program to collect, store, analyze and make public, data on police actions, including all incidents involving the use of lethal force, from the 50 U.S. states and territories, and mandate all state and local law enforcement agencies to report periodically with accurate and comprehensive data on police actions to the Department of Justice.
14. U.S. Congress should eliminate by law the doctrine of “qualified immunity” for law enforcement officers prosecuted for violations of the Constitution under 42 U.S.C. § 1983.

15. U.S. Congress should revise 18 U.S.C. § 242 to lower the standard of criminal intent required to convict law enforcement officers of a criminal violation of constitutional rights from “willfully” to “knowingly or with reckless disregard.”
16. U.S. Congress should legally require all uniformed federal officers, at all times, to wear body cameras and use dashboard cameras and mandate state and local law enforcement agencies receiving federal funds to ensure their use by all state and local law enforcement officers.
17. State legislatures and state and local law enforcement agencies should require, by law and departmental policies, all state and local law enforcement officers, at all times, to wear body cameras and use dashboard cameras.
18. State and local law enforcement policies should mandate full reporting to an external, independent civilian oversight body empowered to conduct independent, publicly accessible investigations for every incident involving the use of deadly force, including any time an officer discharges a firearm or uses a technique, tactic or technology capable of causing death or serious bodily harm.

And to strengthen international norms and institutions to ensure policing protects and promotes international human rights, authors recommend:

19. The Secretary-General of the United Nations, Mr. António Guterres, should convene a High-Level Panel on Law Enforcement and Human Rights to address police abuse of human rights around the world comprised of global leaders, eminent experts, people affected by police abuse and law enforcement representatives tasked with, among other things, reviewing and updating the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and developing a set of actionable recommendations to ensure policing is grounded in the protection and promotion of international human rights.
20. The United Nations General Assembly should convene a High-Level Meeting on Law Enforcement and Human Rights to address police abuse of human rights around the world during which Heads of Member States are called upon to review their national policies and practices and commit, through a Political Declaration, to ensuring all policing is grounded in the protection and promotion of international human rights.



# International Human Rights Law and Standards

International human rights law provides the primary basis for global standards on police use of lethal force. The Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), the two fundamental international instruments protecting human rights, establish the rights to life, equality, liberty and security of person, freedom from torture and cruel, inhuman or degrading treatment and freedom from discrimination.<sup>15</sup> To ensure protection of these rights, experts have developed and U.N. bodies have adopted a set of international standards on police use of force during the past forty years. The Supreme Court of the United States has also developed legal standards for use of force derived from the United States Constitution that align with and support its international commitments.

The international standards used to assess police use of lethal force policies in this report are derived from the three main sources: the U.N. Code of Conduct for Law Enforcement Officials;<sup>16</sup> the U.N Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;<sup>17</sup> and a 2014 report by the U.N. Special Rapporteur on extrajudicial, summary, or arbitrary executions on protection of the right to life during law enforcement.<sup>18</sup> These are the three most important interpretive sources on police use of force in international law.

The sources used to develop the grading mechanism employed in this report are briefly summarized below. The summaries are followed by explanations of the four principles that guide the grading system – necessity, proportionality, legality and accountability.

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<sup>15</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948); International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171.

<sup>16</sup> Code of Conduct for Law Enforcement Officials, G.A. Res. 34/169 of 17 (Dec. 17, 1979) [hereinafter UN Code of Conduct].

<sup>17</sup> Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, Aug. 27-Sept. 7, 1990, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 112-13, U.N. Doc. A/CONF.144/28/Rev.1 (1991) [hereinafter UN Basic Principles], available at <http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf>.

<sup>18</sup> Special Rapporteur on Extrajudicial Summary or Arbitrary Executions, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, U.N. Doc. A/HRC/26/36 (Apr. 1, 2014) (by Christof Heyns) [hereinafter UNSR Report], available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Pages/ListReports.aspx>.

## U.N. Code of Conduct for Law Enforcement Officials

In 1979, the U.N. General Assembly adopted the Code of Conduct for Law Enforcement Officials (U.N. Code of Conduct) which was intended to ensure law enforcement officials perform their duties “with dignity and in compliance with the principles of human rights,” but recognized the “potential for abuse ... the exercise of such duties entails.”<sup>19</sup> A Code of Conduct provides the core set of standards for human rights compliant policing practices, concretizing the rights guaranteed through human rights treaties, including the right to life and freedom from torture and cruel, inhumane and degrading treatment and the right to equal treatment. The U.N. Code of Conduct was drafted by the Committee on Crime Prevention and Control and approved by the Commission for Social Development and the Economic and Social Council to “provide[] the citizenry ... with protection of all their rights and interests”<sup>20</sup> and ensure law enforcement officials “protect human dignity and maintain and uphold the human rights of all persons” in the performance of their duty.<sup>21</sup>

The U.N. Code of Conduct provides guidance to police departments for directing and constraining police use of force. While it is not binding law, the Code is a highly persuasive authority for how to interpret treaty obligations which are binding on states. Article 3 of the U.N. Code of Conduct specifies: “Law enforcement officials may use force only when *strictly necessary* and to the extent required for the performance of their duty” (emphasis added).<sup>22</sup> This principle of *necessity* explained in detail below has become a key international standard limiting police use of lethal force. Commentary on Article 3 introduces the “last resort” element of necessity and the principle of accountability:

“In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.”<sup>23</sup>

The commentary also introduces the principle of proportionality and the principle of legality, requiring that restrictions on the use of force be provided in law.<sup>24</sup>

## U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

The U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (U.N. Basic Principles) were adopted in 1990 by the Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders to clarify aspects of the U.N. Code of Conduct and to provide guidelines Member States are encouraged to implement.<sup>25</sup> They aim, in part, to ensure protection of the rights to life, liberty and security of the person, as guaranteed in the UDHR and reaffirmed in the ICCPR, the latter of which the

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<sup>19</sup> UN Code of Conduct, *supra* note 16.

<sup>20</sup> UN Code of Conduct, *supra* note 16, at preamble.

<sup>21</sup> UN Code of Conduct, *supra* note 16.

<sup>22</sup> UN Code of Conduct, *supra* note 16.

<sup>23</sup> See UN Basic Principles, *supra* note 17.

<sup>24</sup> UN Code of Conduct, *supra* note 16, at article 3, commentary (b).

<sup>25</sup> See UN Basic Principles, *supra* note 17.

United States ratified in 1992.<sup>26</sup> In particular, the U.N. Basic Principles are meant to “assist Member States in their task of ensuring and promoting the proper role of law enforcement officials.”<sup>27</sup> While they are not legally binding, the U.N. Basic Principles represent consensus among U.N. member states on rules and regulations based on international human rights law for the use of force by law enforcement agencies.

## Report of the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions

The U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions, formerly Mr. Christof Heyns and currently Ms. Agnès Callamard, is an international human rights expert appointed by the U.N. Human Rights Council, an inter-governmental body of 47 U.N. member states charged with protecting and enforcing human rights. Among other things, the Special Rapporteur’s mandate requires her/him to report to the U.N. Human Rights Council and U.N. General Assembly “on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and [make] recommendations for more effective action to combat this phenomenon.”<sup>28</sup> Towards this end, and to support implementation of the U.N. Basic Principles by law enforcement agencies, Mr. Heyns, then the Special Rapporteur, issued a report with a series of recommendations in 2014.<sup>29</sup> In a section devoted to the use of lethal force by domestic law enforcement officials, the U.N. Special Rapporteur outlined four requirements for the use of lethal force: sufficient legal basis, necessity, proportionality and provision of accountability.<sup>30</sup> Subsequent non-government actors have provided interpretations of the requirements.<sup>31</sup> These requirements align with and support the four principles used in this report, as defined below.

## International Standards on Police Use of Lethal Force: Legality, Necessity, Proportionality and Accountability

### Legality

**The principle of legality requires authority for the use of lethal force to be provided in a domestic law that complies with international standards.** This principle is derived from the U.N. Code of Conduct, the U.N. Basic Principles and the U.N. Special Rapporteur report. The U.N. Code of Conduct notes that national law “ordinarily restricts the use of force by law enforcement officers ...”<sup>32</sup> The U.N. Basic Principles call on governments to “adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials.”<sup>33</sup> They further state that governments “shall ensure that

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<sup>26</sup> International Covenant on Civil and Political Rights, opened for signature Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976; adopted by the United States Sept. 8, 1992).

<sup>27</sup> UN Basic Principles, *supra* note 17, at preamble.

<sup>28</sup> OHCHR, Overview of the Mandate, at <http://www.ohchr.org/EN/Issues/Executions/Pages/Overview.aspx>.

<sup>29</sup> See UNSR Report, *supra* note 18.

<sup>30</sup> See UNSR Report, *supra* note 18, at ¶¶ 86-100. More recently, in response to police use of “less-than-lethal weapons” at protests across the United States following the killing of George Floyd by Minneapolis police, Ms. Callamard has stated that their use “must be restricted to situations of necessity and in proportion to the associated risks.” See Agnès Callamard, *Police in the U.S. are abusing tear gas and rubber bullets in possible violations of international law*, The Washington Post (Jun. 1, 2020) <https://www.washingtonpost.com/opinions/2020/06/01/police-us-are-abusing-tear-gas-rubber-bullets-possible-violations-international-law/>.

<sup>31</sup> See Amnesty International, *Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Amnesty International (Aug. 2015) [hereinafter Amnesty Guidelines].

<sup>32</sup> UN Code of Conduct, *supra* note 16, at article 3, commentary (b).

<sup>33</sup> UN Basic Principles, *supra* note 17, at general provisions 1.

arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.”<sup>34</sup> The U.N. Special Rapporteur report establishes, more specifically, that in order for use of lethal force not to be arbitrary, it must have a sufficient legal basis provided in a domestic law that itself complies with international human rights law and standards.<sup>35</sup>

The principle of legality is also reflected in United States domestic law. In *Tennessee v. Garner*, 471 U.S. 1 (1985), the Supreme Court endorsed the principle of legality through its emphasis on state law in determining whether use of lethal force in the case was constitutional. Though the law in question was found constitutionally invalid, the Court’s decision and reasoning were based on the premise that the state statute provided the authority upon which the officer employed lethal force.<sup>36</sup>

## Necessity

**The principle of necessity permits use of lethal force only in response to an imminent and particularized threat, and only as a last resort.** The U.N. Basic Principles explain that “intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”<sup>37</sup> Article 3 of the U.N. Code of Conduct states that law enforcement officials “may use force only when strictly necessary and to the extent required for the performance of their duty” (emphasis added).<sup>38</sup> The Code further explains that use of firearms is “an extreme measure” allowed only “when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender.”<sup>39</sup>

Necessity, therefore, requires an immediate threat—immediacy; the threat must be particularized—particularized threat; and lethal force must be only used as a last resort—last resort. This report will employ the necessity principle with these three elements.

Immediacy establishes that lethal force is only authorized against a person who presents an immediate or imminent threat. The U.N. Basic Principles state that firearms may only be used “in self-defence or defense of others against the imminent threat of death or serious injury” (emphasis added).<sup>40</sup> Similarly, the U.N. Special Rapporteur report explains that “force may also only be used in response to an imminent or immediate threat—a matter of seconds, not hours.”<sup>41</sup>

In U.S. domestic law, the Supreme Court emphasizes the importance of a similar immediacy requirement in justifying use of force. In *Graham v. Connor*, 490 U.S. 386 (1989), the Court held that an assessment of whether a police officer’s decision to use force is reasonable, and therefore constitutionally valid,

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<sup>34</sup> UN Basic Principles, *supra* note 17, at general provisions 7.

<sup>35</sup> See UNSR Report, *supra* note 18, at ¶¶ 55-56.

<sup>36</sup> See, *Tennessee v. Garner*, 471 U.S. 1, 11 (1985) (the Court stated that the “Tennessee statute is unconstitutional insofar as it authorizes the use of deadly force against such fleeing suspects,” implying that authorization for the use of lethal force derives from the state law—constitutionally valid or not).

<sup>37</sup> UN Basic Principles, *supra* note 17, at special provision 9.

<sup>38</sup> UN Code of Conduct, *supra* note 16.

<sup>39</sup> UN Code of Conduct, *supra* note 16, at article 3, commentary (c).

<sup>40</sup> UN Basic Principles, *supra* note 17, at special provision 9.

<sup>41</sup> UNSR Report, *supra* note 18, at ¶ 59.

“requires careful attention to the facts and circumstances of each particular case, including ... whether the suspect poses an immediate threat to the safety of the officer or others.”<sup>42</sup>

In accordance with the particularized threat component of necessity, lethal force may only be used in response to a specific heightened risk or threat. The U.N. Basic Principles define a heightened risk as one of “death or serious injury.”<sup>43</sup> The U.N. Special Rapporteur further distinguishes force from lethal force by describing the only “legitimate objective” for lethal force as the protection of life or serious injury.<sup>44</sup> The particularized threat requirement is thus closely related to the principle of proportionality (discussed below). However, particularized threat requires police only to identify a particular, as opposed to a generalized, risk or threat, which in the case of use of lethal force must be of death or serious injury, in line with the principle of proportionality.

*Tennessee v. Garner* also establishes a particularized threat requirement analogous to the principle of necessity. In *Garner*, the Supreme Court held that lethal force cannot be used unless the officer “has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.”<sup>45</sup> The Court based its decision on the constitutionality of the use of lethal force in the case, in part, on whether the officer “had an actual basis to think [the suspect] was armed” and thus “posed any physical danger to himself or others.”<sup>46</sup>

The last resort component of necessity prohibits the use of lethal force until after other non-lethal options have been considered or “whenever the lawful use of force and firearms is unavoidable.”<sup>47</sup> The U.N. Code of Conduct explains that the use of lethal force is only permitted when “less extreme measures are not sufficient.”<sup>48</sup> The U.N. Basic Principles state that law enforcement officials “shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.”<sup>49</sup> They further state that police “may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”<sup>50</sup> The U.N. Special Rapporteur explains that “force should be the last resort ..., and if it is needed, graduated force (the minimum required) should be applied.”<sup>51</sup>

## Proportionality

**The principle of proportionality limits use of lethal force only in response to threats to life or serious bodily harm to the officer or others.** The principle requires a balance between the harm done in applying force on one side and the interest protected on the other.<sup>52</sup> Proportionality applies to all use of force by police, not just lethal force. As applied to *lethal* force, the U.N. Special Rapporteur describes the value

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<sup>42</sup> *Graham v. Connor*, 490 U.S. 386, 396 (1989).

<sup>43</sup> UN Basic Principles, *supra* note 17, at special provision 9.

<sup>44</sup> UNSR Report, *supra* note 18, at ¶ 58.

<sup>45</sup> *Garner*, *supra* note 36, at 3.

<sup>46</sup> *Garner*, *supra* note 36, at 20–21.

<sup>47</sup> UN Basic Principles, *supra* note 17, at principle 5.

<sup>48</sup> UN Code of Conduct, *supra* note 16, at article 3, commentary (c).

<sup>49</sup> UN Basic Principles, *supra* note 17, at principle 4.

<sup>50</sup> *Id.*

<sup>51</sup> UNSR Report, *supra* note 18, at ¶ 59.

<sup>52</sup> UNSR Report, *supra* note 18, at ¶ 65.

underlying proportionality as the “protect life” precept: “a life may be taken intentionally only to save another life.”<sup>53</sup> The U.N. Code of Conduct notes that “national principles of proportionality are to be respected” and that lethal force should only be used when a subject “offers armed resistance or otherwise jeopardizes the lives of others.”<sup>54</sup> The U.N. Basic Principles expand the principle to allow use of firearms in response to threats of “serious injury,”<sup>55</sup> which may be referred to as a threat of serious bodily harm.

The Supreme Court affirmed the principle of proportionality in *Tennessee v. Garner*, requiring the subject to pose “a significant threat of death or serious physical injury to the officer or others” for use of lethal force to be constitutional.<sup>56</sup> *Graham v. Connor* also implies that an officer’s use of force must be proportional, stating that the test for constitutionality “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue.”<sup>57</sup>

## Accountability

**The principle of accountability requires an effective review process, involvement of an external oversight body and issuance of a report in all instances of the use of lethal force.** The U.N. Special Rapporteur describes the primary role of accountability as ensuring that police officers are not above the law when they use force.<sup>58</sup> The U.N. Code of Conduct establishes that, “in every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.”<sup>59</sup> The U.N. Basic Principles require “a system of reporting whenever law enforcement officials use firearms in the performance of their duty.”<sup>60</sup> The Principles further call for an “effective review process,” with “independent administrative or prosecutorial authorities” in a position to exercise jurisdiction, and, in cases of death or serious injury, the submission of a prompt, detailed report to the “authorities responsible for administrative review and judicial control.”<sup>61</sup> The U.N. Special Rapporteur goes even further and requires involvement of an external oversight body with “necessary powers, resources, independence and transparency[,] ... community and political support, and civil society involvement.”<sup>62</sup>

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<sup>53</sup> UNSR Report, *supra* note 18, at ¶ 70.

<sup>54</sup> UN Code of Conduct, *supra* note 16, at article 3, commentary (b) and (c).

<sup>55</sup> UN Basic Principles, *supra* note 17, at special provision 9.

<sup>56</sup> *Garner*, *supra* note 26, at 3.

<sup>57</sup> *Graham*, *supra* note 32, at 396.

<sup>58</sup> See UNSR Report, *supra* note 18, at ¶ 100.

<sup>59</sup> UN Code of Conduct, *supra* note 16, at article 3, commentary (c).

<sup>60</sup> UN Basic Principles, *supra* note 17, at special provision 11(f).

<sup>61</sup> UN Basic Principles, *supra* note 17, at reporting and review procedures 22.

<sup>62</sup> UNSR Report, *supra* note 18, at ¶ 84.



# Evaluation of Police Department Use of Lethal Force Policies in the 20 Largest U.S. Cities

As explained above, police department use of lethal force policies are the primary source of guidance for police officers as to the circumstances and conditions in which use of lethal force is permitted. Policies are produced by the police departments at a management level and generally approved and adopted by police boards.<sup>63</sup> Police officers are trained on the content of policies in order to operationalize the rules and principles the policies contain.<sup>64</sup> Police department policies do not carry the force of law, i.e., officers may not be held legally accountable simply for failing to follow an internal policy; however, policy violations often result in departmental disciplinary measures and may trigger external investigations, including criminal investigations.

In order to evaluate the 2017-2018 use of lethal force policies of the 20 largest U.S. cities, the authors developed a grading system based on the four principles derived from international law and standards presented above—legality, necessity, proportionality and accountability. The system also reflects meaningful differences observed in police policies.

Importantly, the grading system is designed to evaluate the written policies' compliance with the four key international principles. The grading system does not measure how these policies are implemented, or whether effective institutional processes are in place to ensure policies shape practice. It also does not establish an exhaustive list of best practices for police use of lethal force policies. In other words, the grading system developed for this report does not measure whether there exists, for example, effective officer training on de-escalation and human rights compliant use of force strategies, whether officers are provided with less lethal tools to ensure use of deadly force is minimized, whether processes are in place for reporting and reviewing each instance of the use of force, or whether police leadership is committed to promoting effective internal accountability. These practices are vital for proper implementation and operationalization of the written policies and the principles they contain.

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<sup>63</sup> The authority of police boards and processes for adopting police policies are typically provided for in the relevant municipal codes. See e.g. Municipal Code of Chicago, Chapter 2-84, §010-030; Los Angeles City Charter, §§ 570-576.

<sup>64</sup> See generally U.S. Commission on Civil Rights, Briefing Report, Police Use of Force: An Examination of Modern Policing Practices (Nov. 2018) Executive Summary; Police Executive Research Forum, *Guiding Principles on Use of Force, Critical Issues in Policing Series* (2016).

Nevertheless, policies matter, especially in a decentralized context in which police officer monitoring and accountability is largely left to city governments and/or individual departments. What police departments put down on paper to instruct police officers on the proper use of lethal force expresses priorities to the individual officers, demonstrates a commitment to modes of operation and establishes the institutional foundation necessary to ensure respect for the human rights of the people they serve.

## Use of Lethal Force Policy Grading System and Grade Results

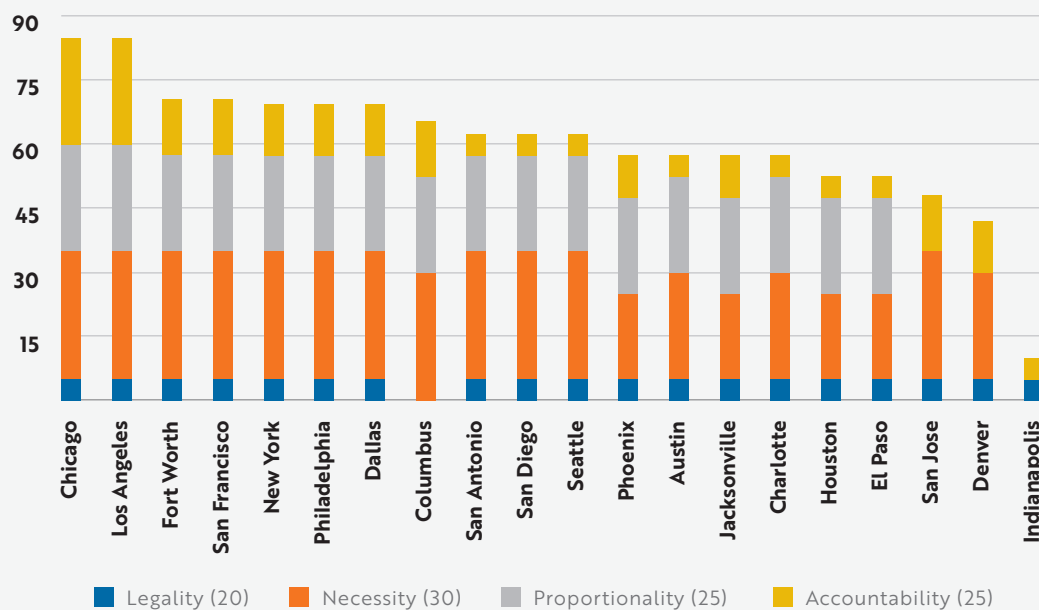
*Figure 1*

### Use of Lethal Force Policy Grades and City Rankings

(1)	Chicago	85
(2)	Los Angeles	85
(3)	Fort Worth	73
(4)	San Francisco	73
(5)	New York	72
(6)	Philadelphia	72
(7)	Dallas	72
(8)	Columbus	68
(9)	San Antonio	65
(10)	San Diego	65
(11)	Seattle	65
(12)	Phoenix	60
(13)	Austin	60
(14)	Jacksonville	60
(15)	Charlotte	60
(16)	Houston	55
(17)	El Paso	55
(18)	San Jose	48
(19)	Denver	42
(20)	Indianapolis	10

Figure 2

## Lethal Use Force Policy Grades



As the visuals above illustrate, under the grading system used by this report, a policy that fully complies with international standards could receive a total of 100 points. As described in detail below, each principle was assigned a point value as follows: legality 20 points; necessity 30 points; proportionality 25 points; accountability 25 points. The principle point assignments were developed taking into account the need to create a functional, coherent grading system and the relative substantive value of each principle. In other words, differing point values were assigned to principles to account for important distinctions in the international human rights law and standards from which the principles are derived and observed differences in the policies themselves. The authors disaggregated three principles—legality, necessity and accountability—into constituent elements (1) based on the content of the principle derived from international human rights law and standards and (2) to ensure grades reflected meaningful distinctions observed in the policies. Only policies in full compliance with a principle received the maximum points available.

No city policy satisfied all four international principles and received the full 100 points. In other words, **none of the police use of lethal force policies from the 20 largest U.S. cities during 2017-2018 complied with basic international human rights law and standards.** Every city fell short of the international standard for legality and most failed to fully satisfy accountability. **Los Angeles** and **Chicago** stand out as the only policies that met the international standard for accountability and received the full 25 points for the principle. As a result, Los Angeles and Chicago received the highest overall grade of the 20 cities with 85 points. Seventeen of the 20 cities satisfied proportionality; **San Jose**, **Indianapolis**, and **Denver** are the only cities not to have met the principle to receive its 25 points. **Indianapolis** received the lowest

grade for necessity, at 0 points, with all other cities scoring 20, 25 or 30. As a result, Indianapolis received the lowest overall grade with 10 points.

## 1. Legality (20 points)

The principle of legality was assigned 20 points in total. The authors assigned legality less total points—20 compared to 25 and 30 for the other principles—because state legislatures, not police departments, draft and enact use of lethal force laws. State legislatures are thus responsible for whether these laws comply with international human rights law and standards. Police departments, however, can and must ensure their policies align with the laws of their state.

Policies received the following grades according to increasing levels of compliance with the principle:

- **Not based on state law (0 points)—policies that were not based on state law granting authorization for use of lethal force;**
- **Based on noncompliant state law (5 points)—policies that were based on a state law authorizing use of lethal force, but for which the law did not comply with international human rights law and standards; and**
- **Based on compliant state law (20 points)—policies based on a state law authorizing use of lethal force that complied with international human rights law and standards.**

The principle of legality is founded, generally, on the principle of the rule of law. The rule of law requires, among other things, that governments and their officials are accountable under clear and just laws that are consistent with human rights norms.<sup>65</sup> The principle of legality thus has two interrelated components: first, the principle of the rule of law requires police policies to be based on enacted law that authorizes and limits police conduct; second, the substantive component requires that the law upon which the policy is based must comply with international human rights law and standards.

The third element of legality represents the international standard, comprising both interrelated components, and is awarded the full 20 points. The first two elements fall below the international standard and are not assigned the full 20 points available for the principle. Police policies based on an enacted state law—meeting the rule of law component—but for which the law itself did not comply with international human rights law and standards—thus failing to meet the substantive component—received 5 points. Points for the second and third elements—5 and 20 respectively—are awarded independently, rather than added together, because the elements are mutually exclusive.

A police policy was “based” on a state law granting it authorization for use of lethal force if the policy used exact or substantially similar language to the main parts of the state statute. The table in Appendix B displays the textual comparison conducted by the authors to determine whether police use of lethal force policies used exact or substantially similar language to their corresponding state laws.

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<sup>65</sup> See, e.g., Report of the U.N. Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies, U.N. Doc. S/2004/616, at ¶ 6 (August 23, 2004); *World Justice Project, What is the Rule of Law?*, available at <https://worldjusticeproject.org/about-us/overview/what-rule-law>.

## Legality Grades Discussion

As noted above, Amnesty International's 2015 report, "Deadly Force: Police Use of Lethal Force in the United States", found that no state law fully complied with international human rights law and standards.<sup>66</sup> The authors re-examined state statutes as of June 2018 and found that no state law was compliant with international human rights standards. As a result, no police policy received the full 20 points for legality.

One state—Ohio—did not have a law governing police use of force in 2018. **Columbus** therefore received 0 points, because no state law existed to grant authorization for use of lethal force upon which the city policy could be based. The remaining 19 cities' policies were based on state law granting authorization for use of lethal force that did not comply with international human rights law and standards. These 19 cities received 5 points.

For example, **Jacksonville's** policy included multiple examples of exact or substantially similar language from the Florida state law. The Florida law authorized use of lethal force when an officer "reasonably believe[d] [it] to be necessary to defend himself or herself or another from bodily harm while making [an] arrest";<sup>67</sup> Jacksonville's policy permitted use of lethal force "when the officer reasonably believe[d] such force [was] necessary to prevent imminent death or great bodily harm to themselves or another person."<sup>68</sup>

The Florida law authorized use of lethal force against fleeing felons when, among other things, the officer "reasonably believe[d]" the felon had "committed a crime involving the infliction or threatened infliction of serious physical harm to another person;"<sup>69</sup> Jacksonville's policy permitted use of lethal force when an officer had "probable cause to believe," among other things, that "the person fleeing committed a violent felony which involved the infliction or threatened infliction of great bodily harm or death ..."<sup>70</sup>

Though not required by international human rights law and standards, it is noteworthy that a number of cities explicitly referenced specific state laws in their policies as the authorization for use of lethal force. For example, **Indianapolis** included a section in its policy in which it presented the text of provisions from the Indiana state code of laws, including for the definitions of "deadly force," "forcible felony" and "serious bodily injury".<sup>71</sup> **Denver** directly quoted the Colorado statute on the use of force.<sup>72</sup> **San Jose** directed police officers to "follow established authorizations to use force provided by state law (Penal Code Sections 835 and 835a)."<sup>73</sup> Most cities did not reference specific state laws, or they did not reference state law as an underlying authorization for the use of lethal force. For example, **Los Angeles** referenced California state law, but only to define "serious bodily injury," not as the statutory authority for the use of lethal force.<sup>74</sup> **San Antonio** and **Jacksonville** referenced state law generally, indicating that officers must follow state and federal law in their use of force, but they failed to designate specific statutory

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<sup>66</sup> Amnesty International, *Deadly Force: Police Use of Lethal Force in the United States*, 4 Amnesty International (2015).

<sup>67</sup> Fla. Stat. § 776.05 (1) Law enforcement officers; use of force in making arrest.

<sup>68</sup> Jacksonville's Sheriff's Office Order Number 551(A)(Ver 2), Response to Resistance, II.C.1 (a).

<sup>69</sup> Fla. Stat. § 776.05 (3)(a) Law enforcement officers; use of force in making arrest.

<sup>70</sup> Jacksonville's Sheriff's Office Order Number 551(A)(Ver 2), Response to Resistance, II.C.1 (b).

<sup>71</sup> Indianapolis Metropolitan Police Department, General Order 1.30, Use of Force.

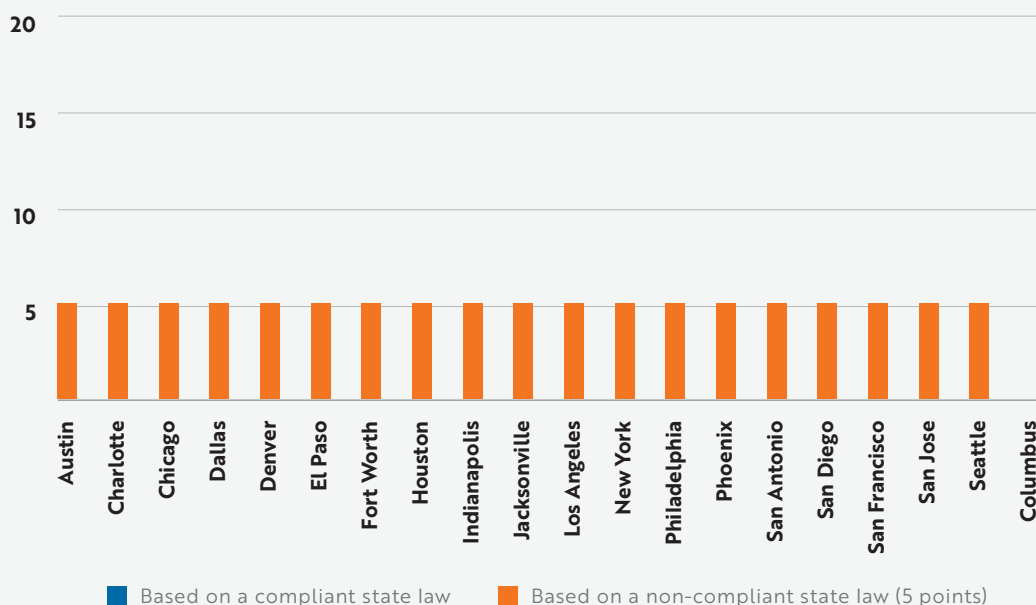
<sup>72</sup> Operations Manual Denver Police Department 105.00 Use of Force Policy (2) State Statutes.

<sup>73</sup> San Jose Police Department, Duty Manual L 2600.

<sup>74</sup> Los Angeles, Office of the Chief of Police, Special Order No. 5, Policy on the Use of Force-Revised, II. Definitions.

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;**

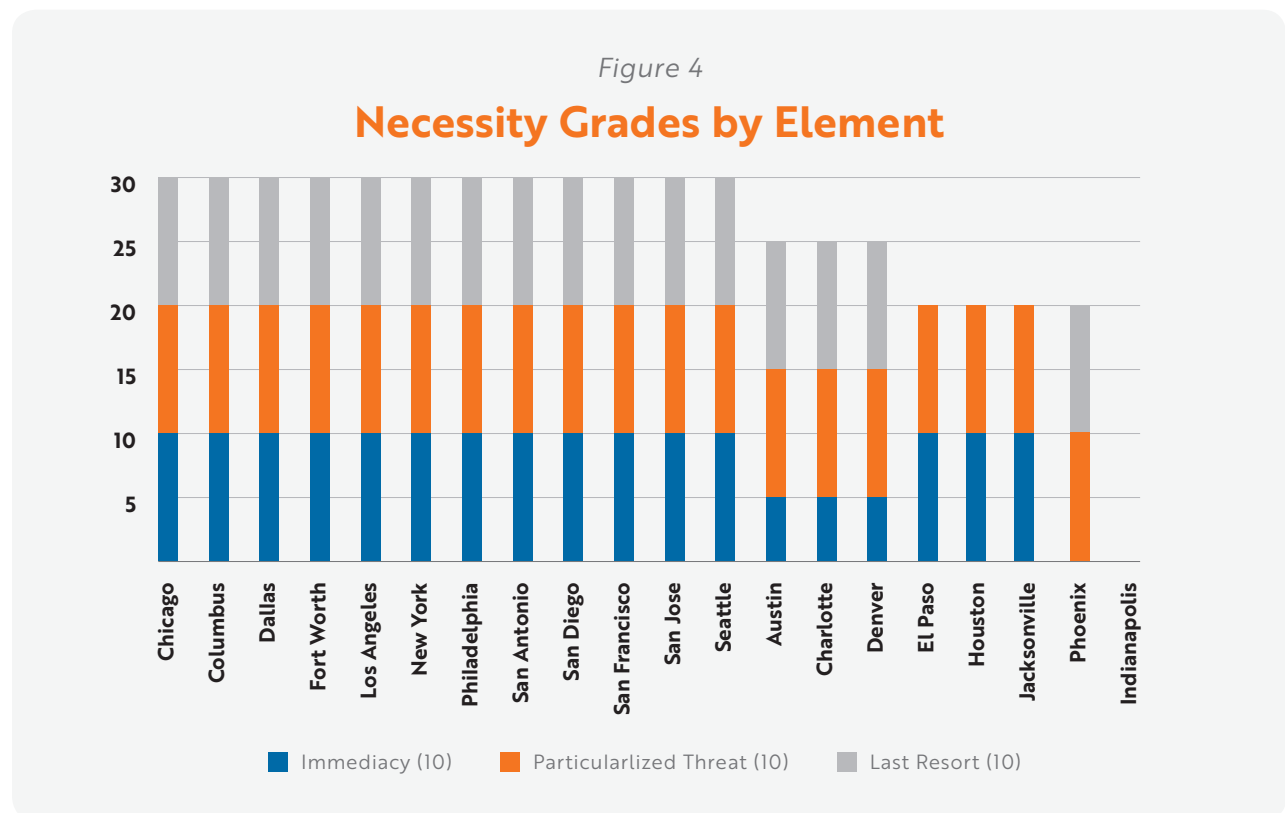
<sup>75</sup> San Antonio Police Department, Policy 501.03(C).

<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>

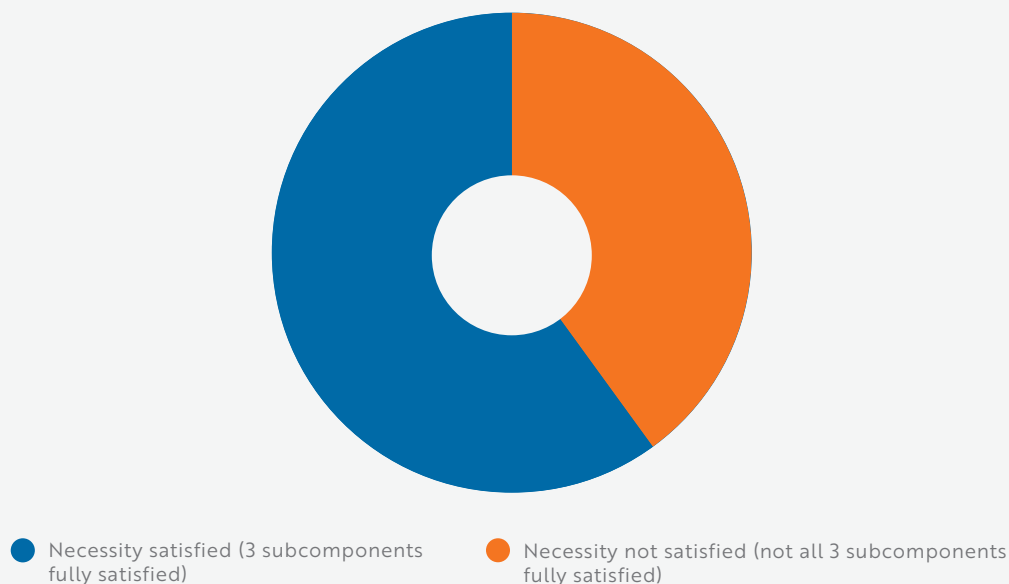
## Necessity Grades Discussion



<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).

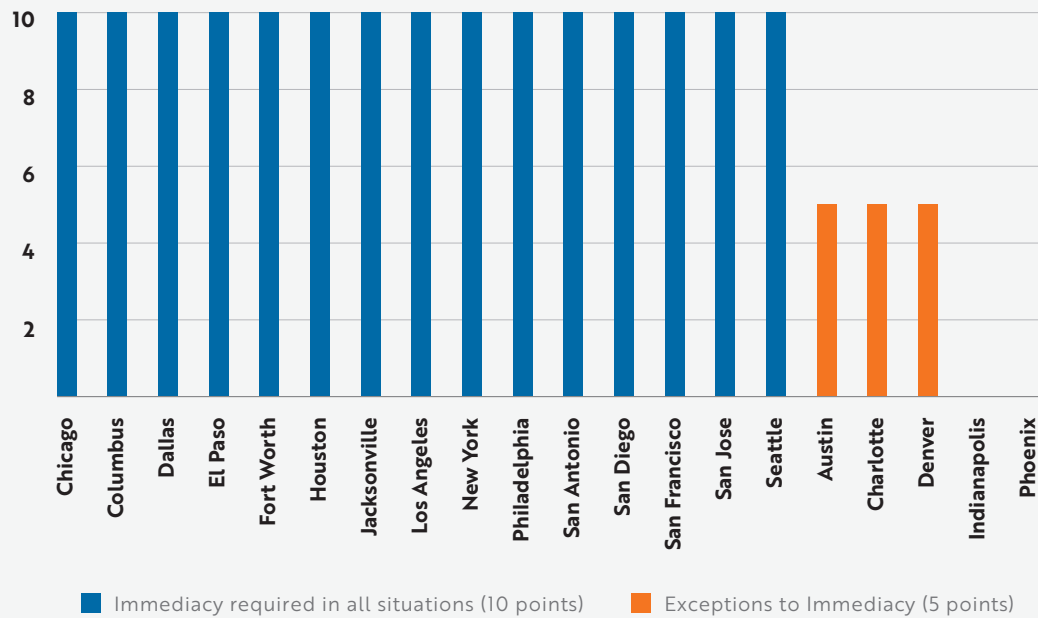
<sup>80</sup> The Charlotte and Austin policies contained fleeing felon exceptions to immediacy. Charlotte-Mecklenburg Police Department, I.D.G.600-018(IV)(A)(2) Procedures for the Use of Deadly Force; Austin Police Department, Policy Manual 200.3 Deadly Force Applications.

<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

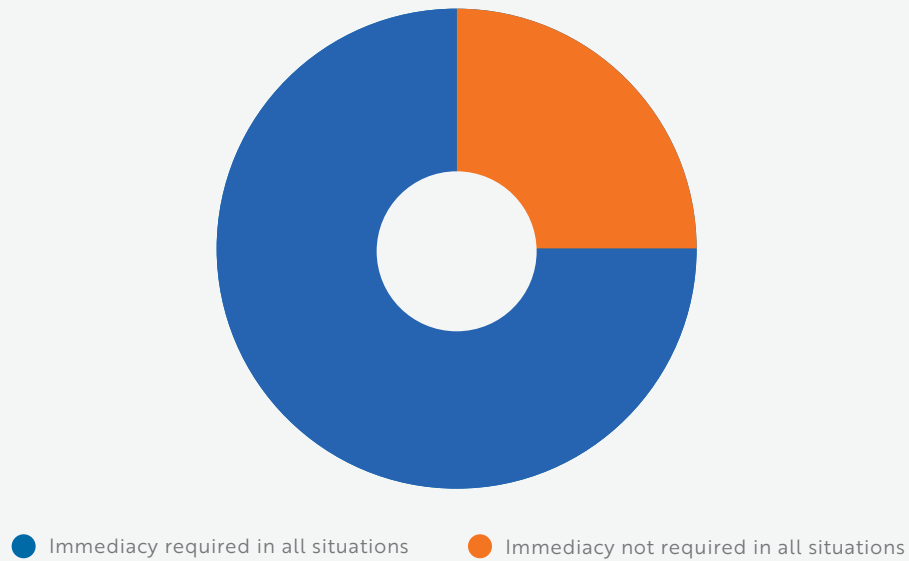
### Immediacy Grade by Element



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

Figure 7

### Cities Satisfying Immediacy



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

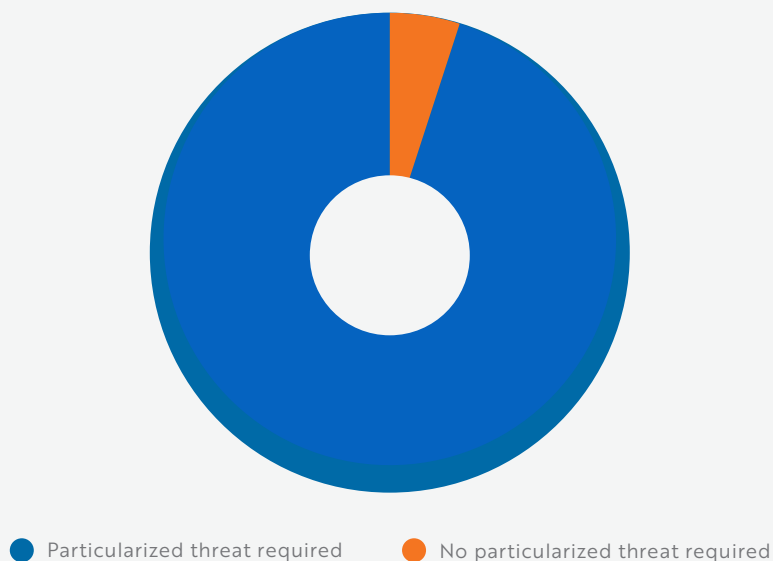
Policies received 0 or 10 points for the particularized threat element of necessity. A policy satisfied this principle if it required a specific heightened risk or threat to allow use of lethal force. All but one of the 20 cities satisfied particularized threat, only allowing use of lethal force in response 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.

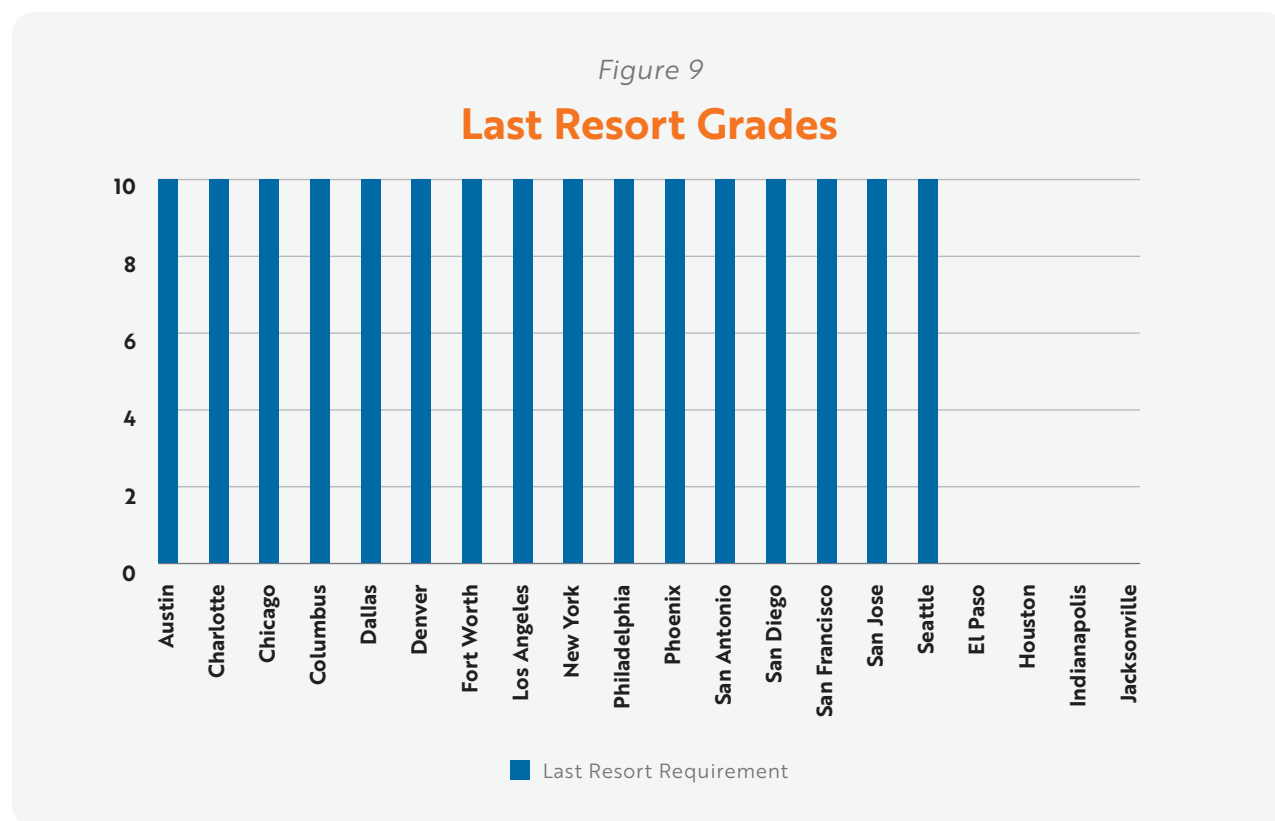
<sup>86</sup> Dallas Police Department, General Order 906.01(C) Use of Deadly Force, Philosophy.

<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>



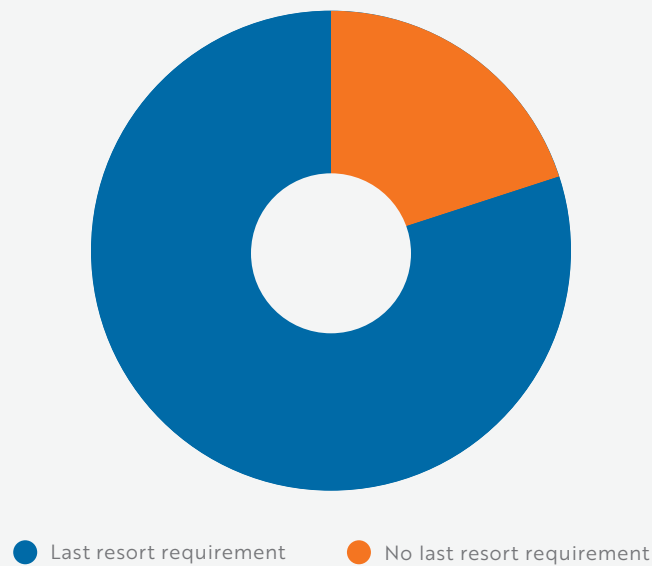
<sup>89</sup> Seattle Police Department, Manual 8.100(2) De-Escalation.

<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.

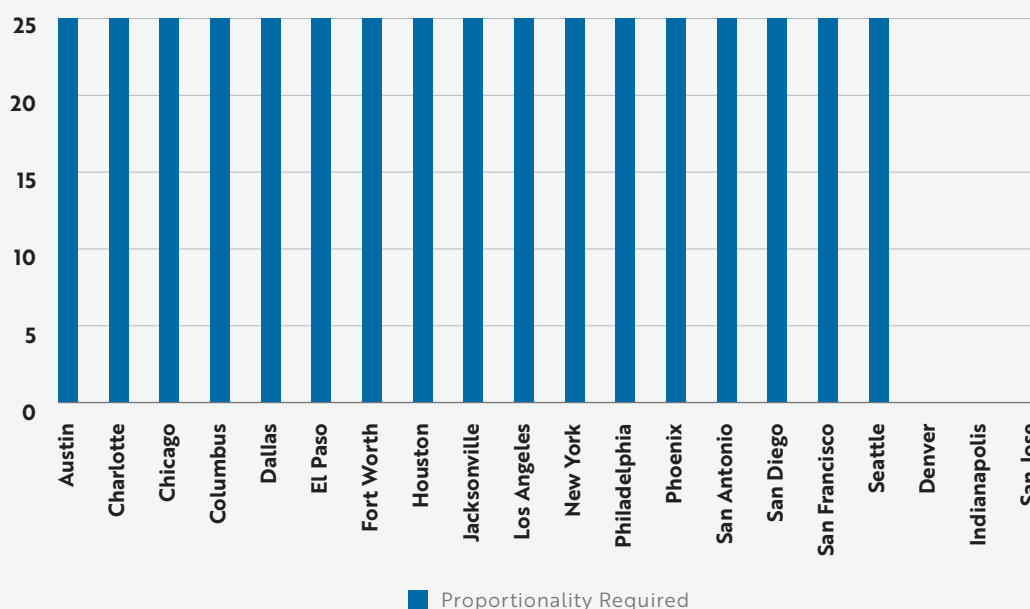
<sup>93</sup> Seattle Police Department, Manual 8.000 Use-of-Force Core Principles.

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



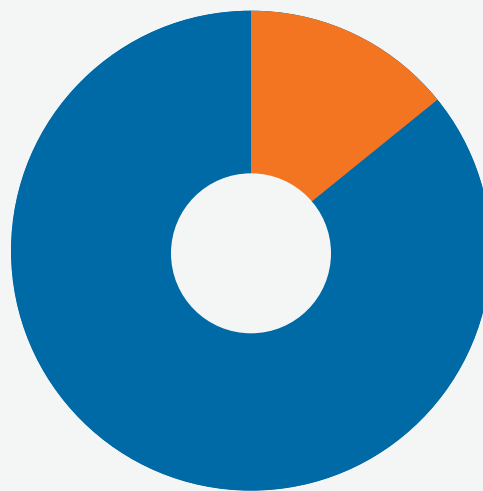
<sup>94</sup> Houston Police Department, General Order 600-17(1) General Use of Force Principles.

<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



● Proportionality    ● No 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

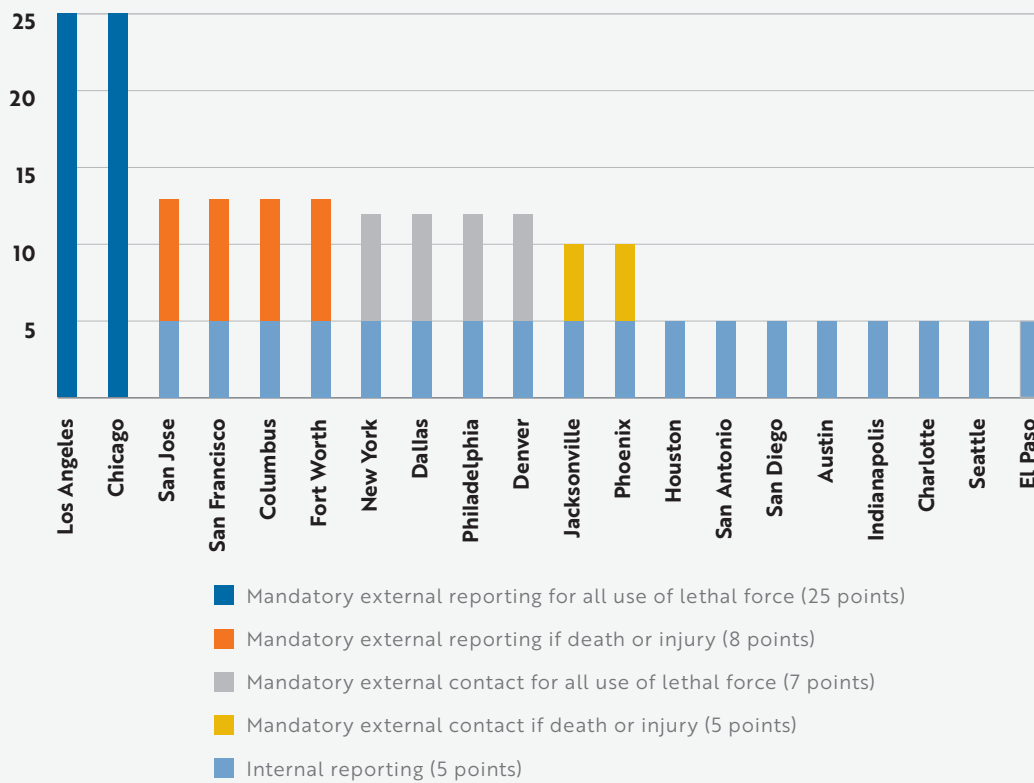


Figure 14

## Cities Satisfying Accountability

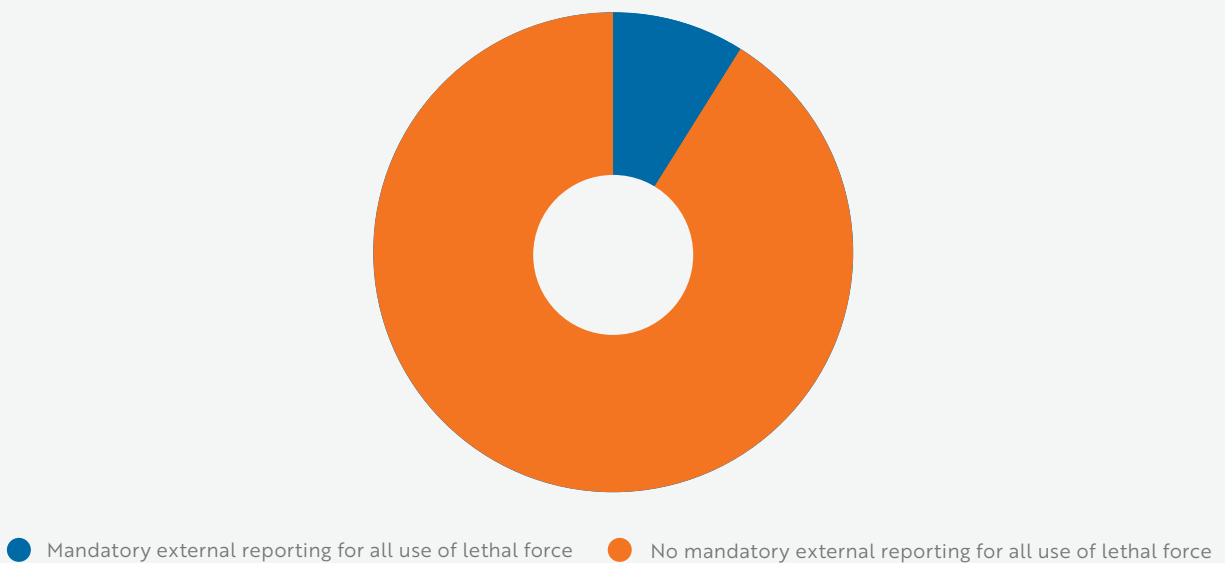


Figure 15

## 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.

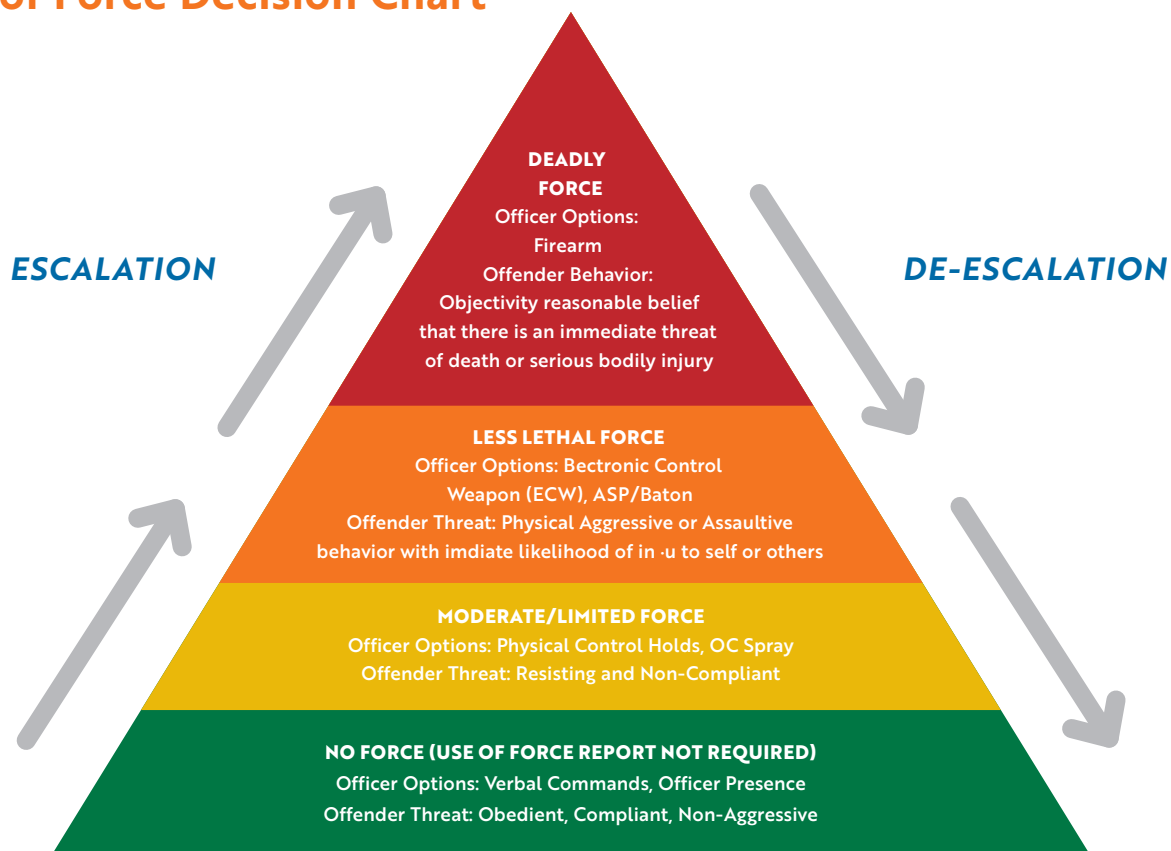
These policy failures have contributed to the tragic killings of unarmed black and brown men and women by police officers around the country. Ensuring police use of lethal force in the United States is constrained by international human rights law and standards requires a broad range of legal, institutional 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.



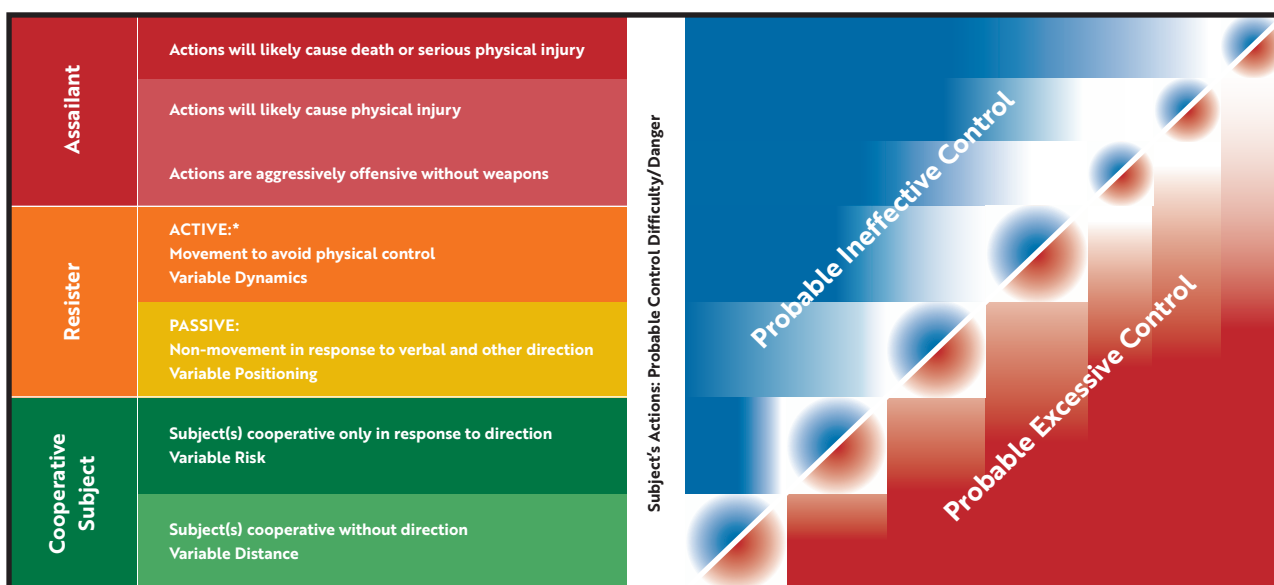
# Appendix A

## 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
Austin (continued)	<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.


## Indiana (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Indianapolis</b> 	<b>G.O. 1.30, POLICY</b> <p>"Officers may use deadly force only if the officer:</p> <p>A. Reasonably believes that the force is necessary to prevent the commission of a forcible felony; or</p> <p>B. Has probable cause to believe that the deadly force is necessary 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 third person; and</p> <p>C. Has given a warning, if feasible, to the person against whom the deadly force is to be used."</p> <b>G.O. 1.31</b> <p>Deadly Force- Defined by 35-31.5-2-85: "Deadly force" means force that creates substantial risk of serious bodily injury.</p>	Yes	No


## Florida: § 776.05. Law enforcement officers; use of force in making an arrest

The officer is justified in the use of any force: [§776.05]

- (1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- (2) When necessarily committed in retaking felons who have escaped; or
- (3) When necessarily committed in arresting felons fleeing from justice. However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:
  - (a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
  - (b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Jacksonville</b> 	<b>ORDER 551.A. VERSION 2 RESPONSE TO RESISTANCE</b> <p>I. A. 1. "The decision to use force at any level must be based upon state and federal laws and the circumstances that the officers reasonably believed to exist at that time."</p> <p>II. C. 1. "a. Officers may use deadly force when the officer reasonably believes such force is necessary to prevent imminent death or great bodily harm to themselves or another person;</p>	Yes	No

## Florida (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Jacksonville (continued)</b> 	<p>b. Officers may use deadly force to apprehend a fleeing felon only when: (1) There is probable cause to believe the person fleeing committed a violent felony which involved the infliction or threatened infliction of great bodily harm or death, or the person fleeing escaped while being held in custody as a suspect or prisoner for a violent felony which involved the infliction or threatened infliction of great bodily harm or death; and (2) The officer reasonably believes the use of deadly force is necessary to prevent escape; and (3) The officer reasonably believes the failure to immediately apprehend the fleeing person will place the officer, another law enforcement officer, or any other person in imminent danger of death or great bodily harm. (4) The officer's decision to use deadly force against a fleeing felon will be judged by the reasonableness of the officer's actions based upon the facts and circumstances available to the officer at the time the force was deployed. (5) If feasible, prior to the use of deadly force, officers shall give some warning of the possible use of deadly force, unless to do so would jeopardize the safety of the officer or any other person."</p>	Yes	No

## Pennsylvania: 18 Pa.C.S.A. § 508 § 508. Use of force in law enforcement

However, he is justified in using deadly force only when he believes that such force is necessary to prevent death or serious bodily injury to himself or such other person, or when he believes both that: **§508(a)(1)**

- (i) such force is necessary to prevent the arrest from being defeated by resistance or escape; and **§508(a)(1)(i)**
- (ii) the person to be arrested has committed or attempted a forcible felony or is attempting to escape and possesses a deadly weapon, or otherwise indicates that he will endanger human life or inflict serious bodily injury unless arrested without delay. **§508(a)(1)(ii)**
- (2) A peace officer or corrections officer is justified in the use of such force, including deadly force, which the officer believes to be necessary to prevent the escape from a correctional institution of a person whom the officer believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense. **§508(c)(2)**
- (3) A corrections officer is justified in the use of such force, which the officer believes to be necessary to defend himself or another from bodily harm during the pursuit of the escaped person. However, the officer is justified in using deadly force only when the officer believes that such force is necessary to prevent death or serious bodily injury to himself or another or when the officer believes that: **§508(c)(3)**
  - (i) such force is necessary to prevent the apprehension from being defeated by resistance; and **§508(c)(3)(i)**
  - (ii) the escaped person has been convicted of committing or attempting to commit a forcible felony, possesses a deadly weapon or otherwise indicates that he will endanger human life or inflict serious bodily injury unless apprehended without delay. **§508(c)(3)(ii)**

## Pennsylvania (continued):

- (ii) The use of deadly force is not in any event justifiable under this subsection unless: **【§508(d)(ii)】**
- A) the actor believes that there is a substantial risk that the person whom he seeks to prevent from committing a crime will cause death or serious bodily injury to another unless the commission or the consummation of the crime is prevented and that the use of such force presents no substantial risk of injury to innocent persons; or **【§508(d)(ii)(A)】**
- (B) the actor believes that the use of such force is necessary to suppress a riot or mutiny after the rioters or mutineers have been ordered to disperse and warned, in any particular manner that the law may require, that such force will be used if they do not obey. **【§508(d)(ii)(B)】**

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
Philadelphia	<p><b>DIR.10.1 (I)(C)</b></p> <p>"Police Officers shall not use deadly force against another person, unless they have objectively reasonable belief that they must protect themselves or another person from imminent death or serious bodily injury. Further, an officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect is dangerous, even if deadly force would have been justified at an earlier point in time."</p> <p>*(PLEAC 1.3.2)</p>	Yes	No


## Arizona: A.R.S. § 13-410 § 13-410.

### Justification; use of deadly physical force in law enforcement

The use of deadly force by a peace officer against another is justified pursuant to § 13-409 only when the peace officer reasonably believes that it is necessary: **【§13-410(C)】**


1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force. **【§13-410(C)(1)】**
2. To effect an arrest or prevent the escape from custody of a person whom the peace officer reasonably believes: **【§13-410(C)(2)】**
  - (a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon. **【§13-410(C)(2)(a)】**
  - (b) Is attempting to escape by use of a deadly weapon. **【§13-410(C)(2)(b)】**
  - (c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay. **【§13-410(C)(2)(c)】**
  - (d) Is necessary to lawfully suppress a riot if the person or another person participating in the riot is armed with a deadly weapon. **【§13-410(C)(2)(d)】**
- D. Notwithstanding any other provisions of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it necessary to protect himself against another's potential use of physical force or deadly physical force. **【§13-410(D)】**

## Arizona (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Phoenix</b> 	<b>O.O. 1.5(4)(H)</b> <p>"When such force is reasonable to protect themselves or a third person from another's use, or threatened use, of deadly force.</p> <p>To prevent the escape of a subject whom the employees has probable cause to believe has committed an offense involving the infliction or threat of serious physical injury or death, and is likely to endanger human life or cause serious injury to another unless apprehended without delay.</p> <p>In situations where the officer must overcome an attack the officer reasonably believes would produce serious physical injury or death to the officer or another person.</p> <p>When the use of techniques taught by the Department's proficiency skills instructors is not practical under the circumstances, the officer may resort to any reasonable method to overcome the attack."</p>	Yes	No

## New York: §35.30 Justification; use of physical force in making an arrest or in making an arrest or in preventing an escape, McKinney's Penal Law §35.30

1. ...except that deadly physical force may be used for such purposes only when he or she reasonably believes that:
  - (a) The offense committed by such person was:
    - (i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or
    - (ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or
  - (b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or
  - (c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>New York City</b> 	<b>P.G. 203-12</b> <p>"Respect for human life requires that, in all cases, firearms be used as a last resort, and then only to protect life.</p> <p>Uniformed members of the service should use only the</p>	Yes	No


## New York (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
New York City (continued)	<p>minimal amount of force necessary to protect human life. Where feasible, and consistent with personal safety, some warning, such as "POLICE - DON'T MOVE," should be given."</p> <p><b>P.G. 203-12(A)-(II)</b></p> <ol style="list-style-type: none"> <li>Police officers shall not use deadly physical force against another person unless they have probable cause to believe they must protect themselves or another person present from imminent death or serious physical injury.</li> <li>Police officers shall not discharge their weapons when, in their professional judgment, doing so will unnecessarily endanger innocent persons.</li> <li>Police officers shall not discharge their firearms in defense of property.</li> <li>Police officers shall not discharge their firearms to subdue a fleeing felon who presents no threat of imminent death or serious physical injury to themselves or another person present.</li> <li>Police officers shall not fire warning shots.</li> <li>Police officers shall not discharge their firearms to summon assistance except in emergency situations when someone's personal safety is endangered and unless no other reasonable means is available.</li> <li>Police officers shall not discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the police officer or another person present, by means other than a moving vehicle.</li> <li>Police officers shall not discharge their firearms at a dog or other animal except to protect themselves or another person from physical injury and there is no other reasonable means to eliminate the threat.</li> <li>Police officers shall not, under any circumstances, cock a firearm. Firearms must be fired double action at all times."</li> </ol>	Yes	No


## Washington: West's RCW 9A.16.040 9A.16.040.

Justifiable homicide or use of deadly force by public officer, peace officer, person aiding

- (1) Homicide or the use of deadly force is justifiable in the following cases:
  - (a) When a public officer is acting in obedience to the judgment of a competent court; or
  - (b) When necessarily used by a peace officer meeting the good faith standard of this section to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty; or
  - (c) When necessarily used by a peace officer meeting the good faith standard of this section or person acting under the officer's command and in the officer's aid:
    - (i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;
    - (ii) To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility; or
    - (iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or
    - (iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.
- (2) In considering whether to use deadly force under subsection (1) (c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:
  - (a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or
  - (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given, provided the officer meets the good faith standard of this section.
- (3) A public officer covered by subsection (1)(a) of this section shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.
- (4) A peace officer shall not be held criminally liable for using deadly force in good faith, where "good faith" is an objective standard which shall consider all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.
- (5) This section shall not be construed as:
  - (a) Affecting the permissible use of force by a person acting under the authority of RCW 9A.16.020 or 9A.16.050; or
  - (b) Preventing a law enforcement agency from adopting standards pertaining to its use of deadly force that are more restrictive than this section.

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Seattle</b> 	<b>S.P.M. 8.200(4)</b> <p>"Deadly force may only be used in circumstances where threat of death or serious physical injury to the officer or others is imminent. A danger is imminent when an objectively reasonable officer would believe that:</p> <ul style="list-style-type: none"> <li>A suspect is acting or threatening to cause death or serious physical injury to the officer or others, and</li> </ul>	Yes	No

## Washington (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Seattle (continued)</b> 	<ul style="list-style-type: none"> <li>The suspect has the means or instrumentalities to do so, and</li> <li>The suspect has the opportunity and ability to use the means or instrumentalities to cause death or serious physical injury."</li> </ul> <p><b>S.P.M. 8.200(5)</b></p> <p>"Deadly Force May Be Used to Prevent the Escape of a Fleeing Suspect Only When an Objectively Reasonable Officer Would Believe That it Is Necessary and That There is Probable Cause That:</p> <ul style="list-style-type: none"> <li>The suspect has committed or is in the process of committing a felony involving the infliction or threatened infliction of serious physical injury or death; and</li> <li>The escape of the suspect would pose an imminent danger of death or serious physical injury to the officer or to another person unless the suspect is apprehended without delay; and</li> <li>The officer has given a verbal warning to the suspect, if time, safety, and circumstances permit."</li> </ul>	Yes	No


## Colorado: C.R.S. 18-1-707

### Justification and Exemptions from Criminal Responsibility

- (1) Except as provided in subsections (2) and (2.5) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:
  - (a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or
  - (b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.
- (2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:
  - (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
  - (b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:
    - (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
    - (II) Is attempting to escape by the use of a deadly weapon; or
    - (III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay

## Colorado (continued):

- (3) Nothing in subsection (2)(b) or subsection (2.5) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.
- (4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances that if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1), (2), and (2.5) of this section unless the warrant is invalid and is known by the officer to be invalid.

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
<b>Denver</b> 	<p><b>O.M. 105.00 USE OF FORCE POLICY</b></p> <p><b>(1)(a) POLICY [...]</b> “When deciding whether to use force, officers shall act within the boundaries of the United States and Colorado constitutions and laws, ethics, good judgment, this use of force policy, and all other relevant Denver Police Department policies, practices and training.”</p> <p><b>(2) STATE STATUTES</b> “C.R.S. §18-1-707 states in the pertinent part: Use of physical force in making an arrest or in preventing an escape:</p> <p>1. (1) Except as provided in subsection (2) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:</p> <p>a. To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or</p> <p>b. To defend him self or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to affect such an arrest or while preventing or attempting to prevent such an escape.</p> <p>2. A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:</p> <p>a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or</p> <p>b. To affect an arrest or prevent the escape from custody, of a person whom he reasonably believes:</p> <p>1. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or</p>	Yes	No

## Colorado (continued):

City	City Use of Force Policy	Based on State Law: Yes/No	Compliant with International Standards: Yes/No
Denver (continued)	<p>2. Is attempting to escape by the use of a deadly weapon; or</p> <p>3. Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay. (The Denver Police Department policy on use of deadly force in this situation is more restrictive than state law – see OMS 105.05(5).</p> <p>3. Nothing in subsection (2)(b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain custody.</p> <p>4. For the purposes of this section a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts and circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is affecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid."</p>	Yes	No

## Necessity

### Immediacy (10 points)

- No Immediacy Requirement (0 pts)
- Fleeing Felon exception (5 pts)
- Immediacy Required in all Circumstances (10 pts)

### City

#### Austin



#### P.M. 200.3 DEADLY FORCE APPLICATIONS

"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)):

(a) Protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury.

(b) Make an arrest or to prevent escape after arrest when the officer has probable cause to believe that:

1. The subject has committed or intends to commit an offense involving the infliction or threatened infliction of serious bodily injury or death; or

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."

5

### Particularized Threat (10 points)

#### P.M. 200.3 DEADLY FORCE APPLICATIONS

"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)):

(a) Protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury."

10

### Last Resort (10 points)

#### P.M. PHILOSOPHY OF THE AUSTIN POLICE DEPARTMENT


"... [A]ll employees will strive to preserve human life while recognizing that duty may require the use of deadly force, as a **last resort**, after other reasonable alternatives have failed or been determined impractical"

#### P.M. 202.1.1

"Where feasible, a warning should be given before an officer resorts to deadly force..."

10

**Austin Final Grade: 25 Points**

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
<b>El Paso</b> 	<p><b>P.M. 300.4 PARAMETERS FOR USE OF DEADLY FORCE</b></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>	<p><b>P.M. 300.4 Parameters for Use of Deadly Force</b></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> </ol>	<p><b>P.M. 300.3 EVALUATION OF SITUATION</b></p> <p>"In determining the appropriate amount of force, officers shall evaluate each situation in light of the known facts and circumstances of each particular case."</p> <p>P.M. 300.3 Evaluation of Situation</p> <p>"When feasible, officers will give a verbal warning before using any force including deadly force. Such warnings require that officers must identify themselves as police officers and convey their purpose and reason for the use of force (UOF)."</p>
	10	10	0

**El Paso Final Grade: 20 Points**

City	Immediacy (10 points)		
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
	Particularized Threat (10 points)	Last Resort (10 points)	
<b>Houston</b>	<b>G.O. 600-17(4)</b> <p>"The use of deadly force will 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> <p><b>G.O. 600-17(4)(B)</b>  <u>"Officers are prohibited from using firearms in the following ways:</u>            ...  <u>b. Firing at fleeing suspects who do not represent an imminent threat to the life of the officer or another."</u></p>	<b>G.O. 600-17(4)</b> <p>"The use of deadly force will be <u>limited to</u> those circumstances in which officers reasonably believe it is necessary to protect themselves or others <u>from the imminent threat of serious bodily injury or death."</u></p> <p><b>G.O. 600-17(1)</b>            "It is the duty of all employees to constantly assess the situation and adjust the use of force accordingly."</p>	
	10	10	0

### Houston Final Grade: 20 Points

<b>Fort Worth</b>	<b>G.O. 306.06 USE OF DEADLY FORCE</b> <p>"A. The use of deadly force is authorized <u>only when it is necessary for officers to protect themselves or others from an immediate threat of death or serious bodily injury.</u> 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</p>	<b>G.O. 306.06 USE OF DEADLY FORCE</b> <p>"A. The use of deadly force is authorized only when it is necessary for officers to protect themselves or others from an <u>immediate threat of death or serious bodily injury."</u></p>	<b>G.O. 306.04 DE-ESCALATION</b> <p>"A. When safely possible, an officer shall use de-escalation techniques <u>consistent with department training whenever possible and appropriate before resorting to force and to</u> reduce the need for force.</p> <p>1. Officers should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force."</p>
	10	10	10

### Fort Worth Final Grade: 30 Points

## City

### Immediacy (10 points)

- No Immediacy Requirement (0 pts)
- Fleeing Felon exception (5 pts)
- Immediacy Required in all Circumstances (10 pts)

### Particularized Threat (10 points)

### Last Resort (10 points)

#### Dallas



#### G.O. 906.02 USE OF DEADLY FORCE POLICY

"D. Authorization to Use Deadly Force – Officers will only use deadly force to protect themselves or another person from imminent death or serious bodily injury."

#### G.O. 906.02 USE OF DEADLY FORCE POLICY

"D. Authorization to Use Deadly Force – Officers will only use deadly force to protect themselves or another person from imminent death or serious bodily injury."

#### G.O. 906.01 PHILOSOPHY

"C. 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."

#### G.O. 906.02 USE OF DEADLY FORCE POLICY:

"Avoiding the Use of Deadly Force: 1. At the point when an officer should reasonably perceive the potential exists that deadly force may be an outcome of any situation, the officer must use reasonable alternatives if time and opportunities permit."

10

10

10

**Dallas Final Grade: 30 Points**

#### San Antonio



#### G.M. 501.07 USE OF DEADLY FORCE

"A. This section applies to all forms of deadly force, regardless of the type of instrument or weapon used.

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

#### G.M. 501.07 USE OF DEADLY FORCE

"A. This section applies to all forms of deadly force, regardless of the type of instrument or weapon used.


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."

#### G.M. 501.05 APPLICATION OF FORCE

"C. The use of force by an officer can be viewed as a matrix of force options used in response to a subject's actions and behavior. The force matrix illustrates the relationship between a subject's actions and the officer's response. As force options move from lesser to greater levels, the risk of injury to the suspects and/or officers increase. The matrix is designed to assist officers in understanding how force can escalate

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
	<ul style="list-style-type: none"> <li>■ No Immediacy Requirement (0 pts)</li> <li>■ Fleeing Felon exception (5 pts)</li> <li>■ Immediacy Required in all Circumstances (10 pts)</li> </ul>		
San Antonio (continued)	believe the suspect poses an imminent threat of death or serious bodily injury to the officer or a third party."		"See table: <u>Deadly Force</u> is last option, allowed only in response to Imminent Serious Bodily Injury/Death"
	10	10	10

### San Antonio Final Grade: 30 Points

Los Angeles	<b>S.O. NO. 5 AMENDING 556.01</b>	<b>S.O. NO. 5 AMENDING 556.01</b>	<b>S.O. NO. 5 PURPOSE</b>
	"Law enforcement officers are authorized to use deadly force to:	"Law enforcement officers are authorized to use deadly force to:	"The purpose of this Order is to revise the use of force policy preamble to include the need to control an incident by using time, distance, communications, and available resources, in an effort to de-escalate the situation, whenever it is safe and reasonable to do so."
	<ul style="list-style-type: none"> <li>• Protect themselves or others from what is reasonably believed to be an imminent threat of death or seriously bodily injury.</li> <li>[...]</li> <li>• Prevent the escape of a violent fleeing felon when there is a probable cause to believe the escape will pose a <u>significant threat of death or serious bodily injury to the officer or others if apprehension is delayed.</u>"</li> </ul>	<ul style="list-style-type: none"> <li>• Protect themselves or others from what is reasonably <u>believed to be an imminent threat of death or seriously bodily injury.</u>"</li> </ul>	<p><b>S.O. NO. 5 AMENDING 556.01: DEADLY FORCE</b></p> <p>"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."</p> <p><b>WARNING SHOTS.</b></p> <p>"Warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage."</p>
	10	10	10

### Los Angeles Final Grade: 30 Points

## City

### San Diego



### Immediacy (10 points)

- No Immediacy Requirement (0 pts)
- Fleeing Felon exception (5 pts)
- Immediacy Required in all Circumstances (10 pts)

#### D.P. 1.04 V. PROCEDURES

"H. Use of Firearms

2. No officer shall discharge a firearm in the performance of duty except:

b. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person;

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;"

### Particularized Threat (10 points)

#### D.P. 1.04 V. PROCEDURES

"H. Use of Firearms

2. No officer shall discharge a firearm in the performance of duty except:

b. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person;"

#### D.P. 1.04 V. PROCEDURES

"F. The Force Matrix is broken into the following five levels: [...]

5. Fifth level – officers defend themselves or others against the subject's life-threatening behavior with the use of deadly force."

### Last Resort (10 points)

#### D.P. 1.04 V. PROCEDURES

"E. The use of force by an officer can be viewed as a matrix of force options that can be used in response to a subject's actions and behavior. The matrix is designed to assist officers in understanding how force can escalate and assist officers in

documenting the subsequent force used. The force matrix illustrates the relationship between a subject's actions and the officer's response. As force options move from lesser to greater levels, the risk of injury to the subject and/or officer increases. However, there may be situations and circumstances that do not

conform to this matrix. Officers who experience those unusual situations must

use only that amount of force that is reasonable, based upon the subject's actions and behavior."

#### D.P. 1.04 V. PROCEDURES

"F. The Force Matrix is broken into the following five levels:

...

5. Fifth level – officers defend themselves or others against the subject's life-threatening behavior with the use of deadly force."

#### D.P. 1.04 V. PROCEDURES

"H. Use of Firearms

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
San Diego (continued)	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		<p>3. A verbal warning to submit to the authority of the officer shall be given prior to the use of a firearm, if feasible..."</p>
	10	10	10

**San Diego Final Grade: 30 Points**

#### San Francisco



#### G.O. 5.01 VI. FORCE OPTIONS

"G. FIREARMS AND OTHER DEADLY FORCE

[...]

##### 2. DISCHARGE OF FIREARMS

a. PERMISSIBLE CIRCUMSTANCES. Except as limited by Sections VI.G.2.d. and e., an officer may discharge a firearm or use other deadly force in any of the following circumstances. The circumstances below (2.a.i-iv) apply to a discharge of a firearm or application of deadly force:

- i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury; or
- ii. In defense of another person when the officer has reasonable cause to believe that the person is in immediate danger of death or serious bodily injury. However, an officer may not discharge a firearm at, or use deadly force against, a person who presents a danger only to him or herself, and there is no

#### G.O. 5.01 VI. FORCE OPTIONS

"G. FIREARMS AND OTHER DEADLY FORCE

...

##### 2. DISCHARGE OF FIREARMS

a. PERMISSIBLE CIRCUMSTANCES. Except as limited by Sections VI.G.2.d. and e., an officer may discharge a firearm or use other deadly force in any of the following circumstances

- i. In self-defense when the officer has reasonable cause to believe that he or she is in immediate danger of death or serious bodily injury
- ii. In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury ..."

#### G.O. 5.01 VI. FORCE OPTIONS

"G. FIREARMS AND OTHER DEADLY FORCE. It is the policy of this Department to use deadly force only as a last resort when reasonable alternatives have been exhausted or are not feasible to protect the safety of the public and police officers. The use of firearms and other deadly force is the most serious decision an officer may ever make. When safe and feasible under the totality of circumstances, officers shall consider other objectively reasonable force options before discharging a firearm or using other deadly force.

[...]

##### 2. DISCHARGE OF FIREARMS

b. VERBAL WARNING. If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm or using other deadly force."

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
San Francisco (continued)	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul> <p>reasonable cause to believe that the person poses an immediate danger of death or serious bodily injury to the officer or any other person; or</p> <p>iii. To apprehend a person when both of the following circumstances exist:</p> <ul style="list-style-type: none"> <li>- The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND</li> <li>- The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed;"</li> </ul>		
	10	10	10

### San Francisco Final Grade: 30 Points

#### San Jose



#### D.M. L 2602 OBJECTIVELY REASONABLE FORCE

"Important factors to be considered when deciding how much force can be used to apprehend or subdue a subject include, but are not limited to, the severity of the crime at issue, whether the subject poses an immediate threat to the safety of the officers or others and whether the subject is actively resisting

#### D.M. L 2600 USE OF FORCE

"...in situations where resistance, a threat to life or a threat of physical force against officers or others is encountered and verbal persuasion has not been effective, is not feasible or would appear to be ineffective, an officer may use objectively reasonable force."

#### D.M. L 2603 FORCE OPTIONS POLICY:

#### D.M. L 2604 GENERAL RESPONSIBILITY WHEN FORCE IS USED


"Each situation is unique. The Department relies on the officer's judgment and discretion to employ an objectively reasonable level of force under each unique circumstance."

#### D.M. L 2600 USE OF FORCE


"...in situations where resistance, a threat to life or a threat of


City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
San Jose (continued)	<ul style="list-style-type: none"> <li>■ No Immediacy Requirement (0 pts)</li> <li>■ Fleeing Felon exception (5 pts)</li> <li>■ Immediacy Required in all Circumstances (10 pts)</li> </ul> <p>arrest or attempting to evade arrest by flight."</p> <p><b>D.M. L 2638 DIRECT USE OF FIREARM</b></p> <p>"...to <u>effect</u> the capture of, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe... <u>would pose an imminent danger of death or serious physical injury...</u>"</p>	<p>"There is no requirement that the person actually has to strike or attempt to strike an officer to be considered physically threatening or assaultive, so long as an objectively reasonable officer has sufficient information (verbal threats, verbal defiance, physical stance, etc.) to believe that a person is <u>physically threatening</u> and has the <u>present ability to harm the officer.</u>"</p> <p><b>D.M. L. 2621 USE OF IMPACT WEAPONS</b></p> <p>"Officers may only intentionally target a suspect's head with an impact weapon as a deadly force option (i.e. when the force being responded to is likely to cause death or serious bodily injury) when objectively reasonable to protect themselves or others from an imminent threat of death or serious bodily injury."</p> <p><b>D.M. L 2638 DIRECT USE OF FIREARM</b></p> <p>"...to effect the capture of, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe... <u>would pose an imminent danger of death or serious physical injury...</u>"</p>	<p>physical force against officers or others is encountered and verbal persuasion has not been effective, is not feasible or would appear to be ineffective, an officer may use objectively reasonable force."</p> <p><b>WHEN FIREARMS WILL NOT BE DISCHARGED</b></p> <p>"Firearms will not be discharged under the following circumstances:</p> <ul style="list-style-type: none"> <li>- At misdemeanants who do not pose an imminent danger of death or serious physical harm to other persons.</li> <li>- To affect the capture, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony which did not involve the use or a threat to use deadly force."</li> </ul>
	10	10	10


**San Jose Final Grade: 30 Points**


City	Immediacy (10 points)		
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
	Particularized Threat (10 points)	Last Resort (10 points)	
<b>Columbus</b> 	<b>D.D. 2.01(II)(B)</b> <p>"Deadly Force</p> <p>1. Sworn personnel may use deadly force when the involved personnel have reason to believe the response is objectively reasonable to <u>protect themselves or others from the imminent threat of death or serious physical harm.</u></p> <p>2. Sworn personnel may use deadly force upon a human being to prevent escape when there is probable cause to believe that the <b>subject poses</b> <u>an immediate threat of serious physical harm to himself, herself, or others."</u></p>	<b>D.D. 2.01(II)(B)</b> <p>"Deadly Force</p> <p>1. Sworn personnel may use deadly force when the involved personnel have reason to believe the response is objectively reasonable to protect themselves or others <u>from the imminent threat of death or serious physical harm."</u></p>	<b>D.D. 2.01(I)(B)(1)</b> <p>"Use of Force Levels of Control</p> <p>1. A progression of techniques used to control a suspect's actions. Levels of Control used by the Division of Police are: [...]</p> <p>Level 8: Deadly force" (Deadly force is last option.)</p> <p><b>D.D. 2.01(II)(B)(4)</b></p> <p>"If reasonable, sworn personnel should give a verbal warning of the intention to use deadly force."</p> <p>police officers and convey their purpose and reason for the use of force (UOF)."</p>
	10	10	10

### Columbus Final Grade: 30 Points


<b>Charlotte</b> 	<b>I.D.G.600-018(IV)(A)(2) PROCEDURES FOR THE USE OF DEADLY FORCE</b> <p>"A. An officer may use deadly force only as follows:</p> <p>1. When it appears to be reasonably necessary to defend him or herself or another person from what the officer reasonably believes <u>to be the use or imminent use of deadly physical force;</u> or</p> <p>2. To effect an arrest or prevent the escape from custody of a person who, the officer reasonably believes, <u>is attempting to</u></p>	<b>I.D.G.600-018(IV)(A)(1)] PROCEDURES FOR THE USE OF DEADLY FORCE</b> <p>"A. An officer may use deadly force only as follows:</p> <p>1. When it appears to be reasonably necessary to defend him or herself or another person from what the officer reasonably believes <u>to be the use or imminent use of deadly physical force ..."</u></p>	<b>I.D.G.600-018(IV)(B)</b> <p>"If feasible, an officer will identify him or herself as a police officer and issue a verbal warning before using deadly force ..."</p> <p><b>I.D.G.600-020</b></p> <p>"The Use of Force Continuum is <u>a guideline for officers in making critical use of force decisions.</u> The above image illustrates the options that an officer has at each level of resistance. It should be noted that professional presence and verbal interaction are present at every level of resistance."</p>
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City	Immediacy (10 points)		
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
	Particularized Threat (10 points)	Last Resort (10 points)	
Charlotte	escape by means of a deadly weapon ..."	(Lethal Force is last of eight options on the continuum.)	
	5	10	10
Charlotte Final Grade: 25 Points			

City	Immediacy (10 points)		
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
	Particularized Threat (10 points)	Last Resort (10 points)	
Chicago	GO3-02 III (C) "4. Fleeing Persons. Deadly force may not be used on a fleeing person unless the subject poses an imminent threat, as defined above." GO3-02 III (C) "3.(a)-(b): A sworn Department member may use deadly force only when such force is necessary to prevent: (a.) death or great bodily harm from an imminent threat posed to the sworn member or to another person. (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"	GO3-02 III (C) "3.(a)-(b): A sworn Department member may use deadly force only when such force is necessary to prevent: (a.) <u>death or great bodily harm from an imminent threat posed to the sworn member or to another person.</u> (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."	GO3-02 III (C) "3. 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."
	10	10	10
Chicago Final Grade: 30 Points			

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
<b>Indianapolis</b> 	<b>G.O. 1.30 POLICY</b> <p>"Officers may use deadly force only if the officer: ...</p> <p>A. Reasonably believes that the force is necessary to prevent the commission of a forcible felony; or</p> <p>B. Has probable cause to believe that the deadly force is necessary to effect an arrest of a person who the officer has <u>probable cause to believe poses a threat of serious bodily injury to the officer or third person</u> [...]"</p>	<b>G.O. 1.30 POLICY</b> <p>"Officers may use deadly force only if the officer:</p> <p>A. Reasonably believes that the force is necessary to <u>prevent the commission of a forcible felony</u>; or</p> <p>B. Has probable cause to believe that the deadly force is <u>necessary 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 third person</u>;"</p>	<b>G.O. 1.30 POLICY</b> <p>"Officers may use deadly force <u>only if the officer:</u></p> <p>[...]</p> <p>C. Has given a warning, if feasible, to the person against whom the deadly force is to be used."</p>
	0	0	0

**Indianapolis Final Grade: 0 Points**

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
<b>Jacksonville</b> 	<b>ORDER 551.A. VERSION 2 RESPONSE TO RESISTANCE</b> <p>II. C. 1.</p> <p>"a. Officers may use deadly force when the officer reasonably believes such force is necessary to prevent imminent death or great bodily harm to themselves or another person;</p> <p>b. Officers may use deadly force to apprehend a fleeing felon only when:</p> <p>(1) There is probable cause to believe the person fleeing committed a violent felony which involved the infliction or threatened infliction of great bodily harm or death, or the person fleeing escaped while being held in custody as a</p>	<b>ORDER 551.A. VERSION 2 RESPONSE TO RESISTANCE</b> <p>II. C. 1.</p> <p>"a. Officers may use deadly force when the officer reasonably believes such force is necessary to prevent <u>imminent death or great bodily harm to themselves or another person</u>;</p> <p>b. Officers may use deadly force to apprehend a fleeing felon only when:</p> <p>(1) There is probable cause to believe the person fleeing committed a violent felony which involved the infliction or threatened infliction of great bodily harm or death, or the person fleeing escaped while being held in custody as a suspect</p>	<b>ORDER 551.A. VERSION 2 RESPONSE TO RESISTANCE</b> <p>II. C. 1.</p> <p>(5) If feasible, prior to the use of deadly force, officers shall give some warning of the possible use of deadly force, unless to do so would jeopardize the safety of the officer or any other person."</p>

City	Immediacy (10 points)		
	<ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>		
	Particularized Threat (10 points)	Last Resort (10 points)	
Jacksonville (continued)	<p>suspect or prisoner for a violent felony which involved the infliction or threatened infliction of great bodily harm or death; and</p> <p>(2) The officer reasonably believes the use of deadly force is necessary to prevent escape; and</p> <p>(3) The officer reasonably believes the failure to immediately apprehend the fleeing person will place the officer, another law enforcement officer, or any other person in imminent danger of death or great bodily harm."</p>	<p>or prisoner for a violent felony which involved the infliction or threatened infliction of great bodily harm or death; and</p> <p>(2) The officer reasonably believes the use of deadly force is necessary to prevent escape; and</p> <p>(3) The officer reasonably believes the failure to immediately apprehend the fleeing person will place the officer, another law enforcement officer, or any other person in <u>imminent danger of death or great bodily harm."</u></p>	
	10	10	0

### Jacksonville Final Grade: 20 Points


Philadelphia	<p><b>DIR. 10(I)(C)</b></p> <p>"Police Officers shall not use deadly force against another person unless they have an objectively reasonable belief that they must protect themselves or another person from <u>imminent death or serious bodily injury</u>. Further, an officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect is dangerous, even if deadly force would have been justified at an earlier point in time."</p> <p><b>DIR. 10.1 (IV)</b></p> <p>"SPECIFIC PROHIBITIONS A. Police officers shall not draw</p>	<p><b>DIR. 10(I)(C)</b></p> <p>"Police Officers shall not use deadly force against another person unless they have <b>an objectively reasonable belief</b> that they must protect themselves or <u>another person from imminent death or serious bodily injury."</u></p>	<p><b>DIR. 10(I)(A)</b></p> <p>"The application of deadly force is a measure to be employed only in the most extreme circumstances and all lesser means of force have failed or could not be reasonably employed."</p> <p><b>DIR. 10(I)(C)</b></p> <p>"Further, an officer is not justified in using deadly force at any point in time when there is no longer <b>an objectively reasonable belief</b> that the suspect is dangerous, even if deadly force would have been justified at an earlier point in time."</p>
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City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
Philadelphia (continued)	<ul style="list-style-type: none"> <li>■ No Immediacy Requirement (0 pts)</li> <li>■ Fleeing Felon exception (5 pts)</li> <li>■ Immediacy Required in all Circumstances (10 pts)</li> </ul> <p>their firearms unless they reasonably believe <b>an immediate threat</b> for serious bodily injury or death to themselves or another person exists."</p> <p><b>DIR. 10 (IV)</b></p> <p>"F. Police officers shall not discharge their firearms to subdue a fleeing individual <u>who presents no threat of imminent death or serious physical injury</u> to themselves or another person."</p>		<p><b>DIR. 10(I)(D)</b></p> <p>"When feasible under the circumstances...verbal warning before using deadly force."</p> <p><b>DIR. 10(III)(B) USE OF FORCE DECISION CHART</b></p> <p>"The following diagram illustrates the amount of force an officer should use based on the <b>suspect's</b> behavior and threat. It is the <b>suspect's</b> behavior that places the officer and/or others in danger. The <b>suspect's</b> threat is the primary factor in choosing a force option. However, the officer should also consider the totality of the circumstances to include, but not limited to, an offender's altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons."</p> <p>(Deadly Force is last option only allowed in response to a threat that shows "<b>objectively reasonable belief that there is an immediate threat</b> of death or serious injury is likely.")</p>
	10	10	10


**Philadelphia Final Grade: 30 Points**

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
Phoenix	<p data-bbox="420 472 570 493"><b>O.O. 1.5(4)(H)</b></p> <p data-bbox="420 516 748 604">"Guidelines - Officers may use deadly force under the following circumstances:</p> <ul data-bbox="420 625 748 1276" style="list-style-type: none"> <li data-bbox="420 625 748 743">- When <u>such force is reasonable to protect themselves or a third person</u> from another's use, or threatened use, of deadly force.</li> <li data-bbox="420 764 748 1073">- To prevent the escape of a subject whom the employees has probable cause to believe has committed an offense involving the infliction or threat of serious physical injury or death, <u>and is likely to endanger human life or cause serious injury to another unless apprehended</u> without delay.</li> <li data-bbox="420 1094 748 1276">- In situations where the officer must overcome an attack the officer reasonably believes would produce serious physical injury or death to the officer or another person."</li> </ul>	<p data-bbox="773 472 922 493"><b>O.O. 1.5(4)(H)</b></p> <p data-bbox="773 516 1101 604">"Guidelines - Officers may use deadly force under the following circumstances:</p> <ul data-bbox="773 625 1101 1276" style="list-style-type: none"> <li data-bbox="773 625 1101 743">- When such force is reasonable to protect themselves or a third person <u>from another's use, or threatened use, of deadly force.</u></li> <li data-bbox="773 764 1101 1073">- To prevent the escape of a subject whom the employees has probable cause to believe has committed an offense involving the infliction or threat of serious physical injury or death, and is likely to endanger human life or cause serious injury to another unless apprehended without delay.</li> <li data-bbox="773 1094 1101 1276">- In situations where the officer must overcome an attack the officer reasonably believes would produce serious physical injury or death to the officer or another person."</li> </ul>	<p data-bbox="1122 472 1271 493"><b>O.O. 1.5(4)(H)</b></p> <p data-bbox="1122 516 1448 634">"Deadly force is utilized as a last resort when other measures are not practical under the existing circumstances."</p> <p data-bbox="1122 655 1271 676"><b>O.O. 1.5(4)(H)</b></p> <p data-bbox="1122 699 1448 821">"When the shooting of a <b>subject</b> appears imminent employees will, if practical, issue a verbal warning."</p>
	0	10	10

**Phoenix Final Grade: 20 Points**

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
<b>New York City</b> 	<p><b>P.G. 203-12(A)</b></p> <p>"Police officers shall not use deadly physical force against another person <u>unless they have probable cause to believe they must protect themselves or another person present from imminent death or serious physical injury.</u>"</p> <p><b>P.G. 203-12(D)</b></p> <p>"Police officers <u>shall not discharge their firearms to subdue a fleeing felon who presents no threat of imminent death or serious physical injury to themselves or another person present.</u>"</p>	<p><b>P.G. 203-12(A)</b></p> <p>"Police officers shall not use deadly physical force against another person unless they have probable cause to believe they must protect themselves <u>or another person present from imminent death or serious physical injury.</u>"</p>	<p><b>P.G. 203-12</b></p> <p>"Respect for human life requires that, in all cases, firearms be used as a <u>last resort</u>, and then only to protect human life. Where feasible, and consistent with personal safety some warning ... should be given."</p>
	10	10	10

### New York City Final Grade: 30 Points

<b>Seattle</b> 	<p><b>S.P.M. 8.200(4)</b></p> <p>"Deadly force may only be used in circumstances where threat of death or serious physical injury <b>to the officer or others is imminent.</b>"</p> <p><b>S.P.M. 8.200(5)</b></p> <p>"Deadly force may be used to prevent the escape of a fleeing suspect only when ... <u>suspect would pose an imminent danger of death or serious physical injury ...unless the suspect is apprehended without delay...</u>"</p>	<p><b>S.P.M. 8.200(4)</b></p> <p>"Deadly force may only be used in circumstances where threat of <u>death or serious physical injury to the officer or others is imminent.</u>"</p>	<p><b>S.P.M. 8.100(1)</b></p> <p>"Officers <b>shall</b> use de-escalation tactics in order to reduce the need for force..."</p> <p><b>S.P.M. 8.000(2)</b></p> <p>"When safe under the totality of circumstances, officers shall use De-Escalation Tactics in Order to Reduce the Need for Force. Additional guidance on how to reduce the need to use force may be found in Section 8.100."</p> <p><b>S.P.M. 8.300-POL-4 FIREARMS (7)</b></p> <p>"Officers shall issue a verbal warning to the subject and</p>
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City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
Seattle (continued)	<ul style="list-style-type: none"> <li>■ No Immediacy Requirement (0 pts)</li> <li>■ Fleeing Felon exception (5 pts)</li> <li>■ Immediacy Required in all Circumstances (10 pts)</li> </ul>		<p>fellow officers prior to shooting firearm: 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.</p> <p>Exception: A verbal warning is not required if giving the warning would compromise the safety of the officer or others. In such circumstances, the deploying officer should document his/her reason for believing his/her safety would have been compromised in his/her use of force statement."</p> <p><b>S.P.M. USE OF FORCE DEFINITIONS 8.050</b></p> <p>"De-escalation: Taking action to stabilize situations <b>and reduce the immediacy of the threat</b> so that more time, options, and resources are available to resolve the situation. The goal of de-escalation is to gain the voluntary compliance of subjects, when feasible, and thereby reduce or eliminate the necessity to use physical force. See Section 8.100 for further guidance."</p> <p><b>S.P.M. DE-ESCALATION 8.100</b></p> <p>"The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used. Other examples include:</p>

City	Immediacy (10 points) <ul style="list-style-type: none"> <li>No Immediacy Requirement (0 pts)</li> <li>Fleeing Felon exception (5 pts)</li> <li>Immediacy Required in all Circumstances (10 pts)</li> </ul>	Particularized Threat (10 points)	Last Resort (10 points)
Seattle (continued)			<ul style="list-style-type: none"> <li>* Placing barriers between an uncooperative subject and an officer</li> <li>* Containing a threat</li> <li>* Moving from a position that exposes officers to potential threats to a safer position [...]"</li> </ul>
	10	10	10

Seattle Final Grade: 30 Points

#### Denver



#### O.M. 105.00 USE OF FORCE POLICY

##### (3) CASE LAW

"a. Colorado law does not require an officer to retreat from an attack rather than resorting to physical force. A peace officer is expected to take appropriate action to handle a situation and is authorized to use the reasonable and appropriate force necessary to overcome resistance. The degree of force required may be different in different situations. (*Boykin V. People*, 22 CO. 496, 45 P. 419).

Law enforcement officers are permitted to use force to affect an arrest only to the extent that it is "objectively reasonable" under the circumstances (*Graham v. Connor*, 490 U. S. 386, 397, 109 S.Ct.1865, 104 L.Ed.2d 443)."

#### O.M. 105.00 USE OF FORCE POLICY

##### (1)(a) POLICY

#### O.M. 105.00 USE OF FORCE POLICY

##### (1)(a) POLICY

"An officer may use deadly force in the circumstances permitted by this policy when all reasonable alternatives appear impracticable and the officer reasonably believes that the use of deadly force is necessary.

[...]

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified."

**105.2** (quoting statutory language) "A peace officer is justified in using **deadly physical force** upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

#### O.M. 105.00 USE OF FORCE POLICY

##### (1)(a) POLICY

"An officer may use deadly force in the circumstances permitted by this policy when all reasonable alternatives appear impracticable and the officer reasonably believes that the use of deadly force is necessary."

##### (1) POLICY

"The level of force applied must reflect the totality of circumstances surrounding the immediate situation. The officer need only select a level of force that is within the range of "objectively reasonable" options. Officers must rely on training, experience and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed. Officers may either escalate or de-escalate the use of force as

City	Immediacy (10 points)	Particularized Threat (10 points)	Last Resort (10 points)
Denver (continued)	<ul style="list-style-type: none"> <li>■ No Immediacy Requirement (0 pts)</li> <li>■ Fleeing Felon exception (5 pts)</li> <li>■ Immediacy Required in all Circumstances (10 pts)</li> </ul> <p>“[...] With these values in mind, an officer shall use only that degree of force necessary and reasonable under the circumstances. An officer may use deadly force in the circumstances permitted by this policy <b>when all reasonable alternatives appear impracticable</b> and the officer reasonably believes that the use of deadly force is necessary.”</p> <p><b>105.2</b> (quoting statutory language) “A peace officer is justified in using <b>deadly physical</b> force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:</p> <p>a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or</p> <p>b. To affect an arrest or prevent the escape from custody, of a person whom he reasonably believes: 1. Has committed or attempted to commit a felony involving the use of threatened use of deadly weapon; or 2. Is attempting to escape by the use of a deadly weapon; or 3. Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.”</p>	<p>a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of <u>deadly physical force</u>; or</p> <p>b. To affect an arrest or prevent the escape from custody, of a person whom he reasonably believes: 1. <u>Has committed or attempted to commit a felony involving the use of threatened use of deadly weapon</u>; or 2. Is attempting to escape by the use of a deadly weapon; or 3. Otherwise indicates, except through a motor vehicle violation, that he is <u>likely to endanger human life or to inflict serious bodily injury</u> to another unless apprehended without delay.”</p>	<p>the situation progresses or circumstances change. When a suspect is under control, either through the application of physical restraint or the suspect’s compliance, the degree of force shall be de-escalated accordingly.”</p>
	5	10	10

**Denver Final Grade: 25 Points**

## Proportionality

### City

### Proportionality (25 Points)

#### Austin



#### **P.M. 200.2 RESPONSE TO RESISTANCE POLICY**

"While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy."

#### **P.M. 200.3 DEADLY FORCE APPLICATIONS**

"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)):

- (a) Protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury."

**Austin Final Grade: 25 Points**

#### El Paso



#### **P.M. 300 USE OF FORCE**

"B. Standard. It is the policy of this Department that officers will use only that force that is objectively reasonable to effectively bring an incident under control while protecting the lives of the officer or other persons. In addition, it is recognized that officers who allow a situation to unnecessarily escalate or who fail to use force when warranted may endanger themselves, the community and fellow officers. The Department's guiding value when using force shall be reverence for all life. Deciding whether to utilize force when authorized in the conduct of official responsibilities is among the most critical decisions made by law enforcement officers. It is a decision which must be made quickly and under difficult, often unpredictable, and unique circumstances."

#### **P.M. 300.4 PARAMETERS FOR USE OF DEADLY FORCE**

"Deadly force, as a matter of Department policy (whether the officer is on or off duty), is used only in the following situations:

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;
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;"

**El Paso Final Grade: 25 Points**

## City

## Proportionality (25 Points)

### Houston



#### G.O. 600-17(1)

"The circumstances justifying the initial use of force may change during the course of an event. It is the duty of all employees to constantly assess the situation and adjust the use of force accordingly."

#### G.O. 600-17(4)

"The use of deadly force will 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."

**Austin Final Grade: 25 Points**

### Fort Worth



#### G.O. 306.05 FORCE OPTIONS

"Under no circumstances will the force used by an officer be greater than necessary to make an arrest or a detention or to protect oneself or another, nor will the force be used longer than necessary to subdue the suspect, and deadly force shall not be used except as specifically provided in this directive."

#### G.O. 306.06 USE OF DEADLY FORCE

"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."

**Fort Worth Final Grade: 25 Points**

### Dallas



#### G.O. 906.01 PHILOSOPHY

"B. Protection of human life is a primary goal of the Police Department; therefore, police officers have a responsibility to use only the degree of force necessary to protect and preserve life."

#### G.O. 906.02 USE OF DEADLY FORCE POLICY

"D. Authorization to Use Deadly Force – Officers will only use deadly force to protect themselves or another person from imminent death or serious bodily injury."

**Dallas Final Grade: 25 Points**

### San Antonio



#### G.M. 501.05 APPLICATION OF FORCE

"C. The use of force by an officer can be viewed as a matrix of force options used in response to a subject's actions and behavior. The force matrix illustrates the relationship between a subject's actions and the officer's response. As force options move from lesser to greater levels, the risk of injury to the suspects and/or officers increase. The matrix is designed to assist officers in understanding how force can escalate."

## City

## Proportionality (25 Points)

### San Antonio (continued)

See table: Deadly Force is last option, only allowed in response to Imminent Serious Bodily Injury/Death.

#### **GM 501.05 F(3)**

The de-escalation of force can be viewed as a direct relationship between a subject's resistance level to an officer's use of force level. As a subject decreases his or her level of resistance, the responding officer also decreases the level of force required to gain compliance.

#### **G.M. 501.07 USE OF DEADLY FORCE**

"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.

1. An officer with an honest and sincere personal belief his life or the life of another person is in imminent danger is justified in using deadly force to preserve that life."

**San Antonio Final Grade: 25 Points**

### Los Angeles



#### **S.O. NO. 5 AMENDING 556.01. DEADLY FORCE**

"Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or seriously bodily injury..."

**Los Angeles Final Grade: 25 Points**

### San Diego



#### **D.P. 1.04 V. PROCEDURES**

"H. Use of Firearms

2. No officer shall discharge a firearm in the performance of duty except:

b. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person;"

#### **D.P. 1.04 V. PROCEDURES**

"E. The use of force by an officer can be viewed as a matrix of force options that can be used in response to a subject's actions and behavior."

#### **D.P. 1.04 V. PROCEDURES**

"F. The Force Matrix is broken into the following five levels:

[...]

5. Fifth level – officers defend themselves or others against the subject's life-threatening behavior with the use of deadly force."

**San Diego Final Grade: 25 Points**

## City

## Proportionality (25 Points)

### San Francisco



#### G.O. 5.01 I. POLICY

"D. PROPORTIONALITY. When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm."

#### G.O. 5.01 III CONSIDERATIONS GOVERNING ALL USES OF FORCE

"A.6. 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."

**San Francisco Final Grade: 25 Points**

### San Jose



#### D.M. L 2600 USE OF FORCE

"...in situations where resistance, a threat to life or a threat of physical force against officers or others is encountered and verbal persuasion has not been effective, is not feasible or would appear to be ineffective, an officer may use objectively reasonable force."

#### D.M. L 2604 GENERAL RESPONSIBILITY WHEN FORCE IS USED

"Each situation is unique. The Department relies on the officer's judgment and discretion to employ an objectively reasonable level of force under each unique circumstance. Each incident in which force is used shall meet the conditions specified in this chapter. Officers need not retreat or desist in the reasonable use of force. There is no requirement that officers use a lesser intrusive force option before progressing to a more intrusive one, as long as the force option used is objectively reasonable under the circumstances at that time. When confronted by force or resistance, an officer may use an objectively reasonable higher level of force to overcome that resistance."

#### D.M. L 2638 DIRECT USE OF FIREARM

"An officer may discharge a firearm under any of the following circumstances:

[...]

- When deadly force is objectively reasonable in self-defense or in defense of another person's life
- When deadly force is objectively reasonable to effect the capture of, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony involving the use or a threat to use deadly force, and whom an objectively reasonable officer could believe would pose an imminent danger of death or serious physical injury to other persons if he or she were to escape."

**San Jose Final Grade: 0 Points**

## City

## Proportionality (25 Points)

### Columbus



#### **D.D. 2.01(I)(B)(1)**

"Use of Force Levels of Control: 1. A progression of techniques used to control a suspect's actions. Levels of Control used by the Division of Police are: ... Level 8: Deadly force." (Deadly force is last option.)

#### **D.D.2.01(II)(B)(1)**

"Sworn personnel may use deadly force when the involved personnel have reason to believe the response is objectively reasonable to protect themselves or others from death or serious physical harm."

**Columbus Final Grade: 25 Points**

### Charlotte



#### **I.D.G. 600-020**

"The Use of Force Continuum is a guideline for officers in making critical use of force decisions...In deciding which level of control an officer should use, the officer should reasonably believe that a lower level of control is not sufficient and a higher level of control is not reasonably necessary."

(Lethal Force is the last option only allowed in response to Aggravated Active Aggression, defined as "actions that are likely to result in the death or serious bodily injury to an officer.")

#### **I.D.G. 600-018(IV)(A)(1)**

"An officer may use deadly force only as follows:

1. When it appears to be reasonably necessary to defend him or himself or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force."

**Charlotte Final Grade: 25 Points**

### Chicago



#### **GO3-02 III (B)(3)**

"Department members will use only the force that is proportional to the threat, actions, and level of resistance offered by a subject. This may include using greater force or a different type of force than that used by the subject. The greater the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be necessary to overcome it. When or if the subject offers less resistance, however, the member will decrease the amount or type of force accordingly."

#### **GO3-02 III (C)**

"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."

**Chicago Final Grade: 25 Points**

## City

## Proportionality (25 Points)

### Indianapolis



#### **G.O. 1.30, Policy**

"Officers may use reasonable force if the officer reasonably believes the force is necessary given the totality of the circumstances.

Officers may use deadly force only if the officer:

- A. Reasonably believes that the force is necessary to prevent the commission of a forcible felony; or
- B. Has probable cause to believe that the deadly force is necessary 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 third person; and
- C. Has given a warning, if feasible, to the person against whom the deadly force is to be used."

#### **G.O. 1.30, Definitions**

"Forcible Felony – Defined by IC 35-31.5-2-138: "Forcible felony" means a felony that involves the use or threat of force against a human being, or in which there is imminent danger of bodily injury to a human being."

**Indianapolis Final Grade: 0 Points**

### Jacksonville



#### **ORDER 551.A. VERSION 2 RESPONSE TO RESISTANCE II.C.1**

"a. Officers may use deadly force when the officer reasonably believes such force is necessary to prevent imminent death or great bodily harm to themselves or another person;

b. Officers may use deadly force to apprehend a fleeing felon only when: (1) There is probable cause to believe the person fleeing committed a violent felony which involved the infliction or threatened infliction of great bodily harm or death, or the person fleeing escaped while being held in custody as a suspect or prisoner for a violent felony which involved the infliction or threatened infliction of great bodily harm or death; and (2) The officer reasonably believes the use of deadly force is necessary to prevent escape; and (3) The officer reasonably believes the failure to immediately apprehend the fleeing person will place the officer, another law enforcement officer, or any other person in imminent danger of death or great bodily harm."

**Jacksonville Final Grade: 25 Points**

### Philadelphia



#### **DIR. 10.1(I)(C)**

"Police Officers shall not use deadly force against another person, unless they have an objectively reasonable belief that they must protect themselves or another person from death or serious bodily injury."

#### **DIR. 10.1 (III)(B)**

"The following [Use of Force Decision Chart] illustrates the amount of force an officer should use based on the suspect's behavior and threat ... The suspect's threat is the primary factor in choosing a force option."

## City

## Proportionality (25 Points)

### Philadelphia (continued)

#### DIR. 10.1 (IV)

"SPECIFIC PROHIBITIONS A. Police officers shall not draw their firearms unless they reasonably believe an immediate threat for serious bodily injury or death to themselves or another person exists."

**Philadelphia Final Grade: 25 Points**

### Phoenix



#### O.O. 1.5(4)(H)

"Employees may use deadly force under the following circumstances: In situations where the employee must overcome an attack the officer reasonably believes would produce serious physical injury or death to the employee or another person."

**Phoenix Final Grade: 25 Points**

### New York



#### P.G. 203-12(A)

"Police officers shall not use deadly physical force against another person unless they have probable cause to believe they must protect themselves or another person present from imminent death or serious physical injury."

#### P.G. 203-12

"Uniformed members of the service should use only the minimal amount of force necessary to protect human life."

**New York Final Grade: 25 Points**

### Seattle



#### S.P.M. 8.000(4)

"Proportional: The level of force applied must reflect the totality of circumstances surrounding the situation, including the presence of imminent danger to officers or others. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be objectively reasonable and necessary to counter it."

#### S.P.M. 8.200(4)

"Use of Deadly Force: Deadly force may only be used in circumstances where threat of death or serious physical injury to the officer or others is imminent. A danger is imminent when an objectively reasonable officer would conclude [...]"

**Seattle Final Grade: 25 Points**

## City

## Proportionality (25 Points)

### Denver



#### O.M. 105.00 USE OF FORCE POLICY

##### (2) STATE STATUTES

"a. C.R.S. §18-1-707 states in the pertinent part: Use of physical force in making an arrest or in preventing an escape:

[...]

2. A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

b. To affect an arrest or prevent the escape from custody, of a person whom he reasonably believes:

1. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
2. Is attempting to escape by the use of a deadly weapon; or
3. Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay. (The Denver Police Department policy on use of deadly force in this situation is more restrictive than state law – see OMS 105.05(5)."

**Denver Final Grade: 0 Points**

## Accountability

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### City

#### Austin



#### INTERNAL REPORTING (5 POINTS)

##### P.M. 211.4(A)

"Involved employees shall notify their supervisor as soon as practicable of any force incident or allegation of use of force."

**Austin Final Grade: 5 Points**

#### El Paso



#### INTERNAL REPORTING (5 POINTS)

##### P.M. 300.6 PROCEDURE

"In all use of force (UOF) incidents:

A. Officer Responsibility. Officer(s) shall: [...]

3. Notify a supervisor as soon as safely possible; and
4. Complete the incident report in I Leads, to include indicating "Y" in the "UOF by Any Officer" box and completing the "UOF Reported To:" field.

B. Supervisor Responsibility. Supervisor(s) who are not involved in the incident shall:

1. Conduct a preliminary investigation at the scene if possible;
2. Review the incident report for proper use of force (UOF) reporting and documentation in I Leads; and
3. Document the use of force (UOF) incident in Blue Team within 5 calendar days of the date of the documented incident, unless Otherwise directed by IAD or the applicable chain of command."

**El Paso Final Grade: 5 Points**

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

#### Houston



#### INTERNAL REPORTING (5 POINTS)

##### G.O. 200-16 FIREARM AND SOFT-IMPACT WEAPON DISCHARGES

2. Internal Affairs/Central Intake Office (hereafter referred to as IAD) and Homicide Division investigators shall immediately be sent to the scene to conduct an investigation if any of the following incidents occur inside the city limits of Houston:

- An officer intentionally discharges a firearm (other than when the discharge is directed toward and animal and does not result in any bodily injury or SBI to any person).
- An officer accidentally discharges a firearm and it results in bodily injury or SBI to a person.
- An officer discharges a soft-impact weapon, whether intentionally or accidentally, and it results in SBI to a person."

##### G.O. 600-17 (9) NOTIFICATION OF REPORT-ABLE FORCE:

"Anytime an involved officer uses reportable force (RF), whether on duty or off duty including during extra employment, an on-duty supervisor shall be notified as set forth below."

**Houston Final Grade: 5 Points**

#### Fort Worth



#### INTERNAL REPORTING (5 POINTS)

##### G.O. 306.07 REPORTING USE OF FORCE INCIDENTS

"A. All use of force incidents which result in injury to any person, involves the use of a physical control method that includes a strike or the grounding/ takedown of a subject, or any use of a weapon to control a subject shall be reported and identified as

##### 1. "Use of Force"

- Officers shall report the full details of the use of force in a related RMS report with the appropriate title in the "Nature of Call" field."

##### G.O. 356 CRITICAL POLICE INCIDENT

#### MANDATORY EXTERNAL REPORTING ONLY WHEN DEATH OR INJURY RESULTS FROM USE OF LETHAL FORCE (8 POINTS)

##### G.O. 356.08 GRAND JURY REVIEW

- All incidents resulting in the death of a person which involves a police officer acting in an official capacity shall be submitted to the Grand Jury for review with the exception of those deaths ruled as suicide or natural causes by the County Medical Examiner or appropriate investigating body. In the event of a death ruled as a suicide or natural causes, the decision to submit the investigation to the Grand Jury shall be made by the District Attorney's Office in the county of occurrence.

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### City

#### Fort Worth (continued)

- B. A critical police incident resulting in serious bodily injury but not death of a person, which involves a police officer acting in an official capacity, may be submitted to the Grand Jury for review upon recommendation by a Deputy Chief or Assistant Chief and concurrence by the Chief of Police.
- C. The department shall furnish to the appropriate District Attorney's Office, upon their request, all criminal investigative material associated with any incident which resulted in injury to a person involving a police officer acting in an official capacity.

**Fort Worth Final Grade: 13 Points**

#### Dallas



### INTERNAL REPORTING (5 POINTS)

#### G.O. 317.00 INVESTIGATIONS OF OFFICER INVOLVED SHOOTINGS, SERIOUS INJURY OR DEATH INCIDENTS

"When a Dallas police officer becomes involved in an incident in which either the officer or another person is seriously injured or killed, or where a death or serious injury occurs to a person in police custody, two different investigations will be conducted... A criminal investigation will be conducted by the investigative unit having responsibility for the offense and an administrative investigation will be conducted by the Internal Affairs Division. Investigations will be conducted as outlined in the sections that follow."

### MANDATORY EXTERNAL CONTACT FOR ALL INSTANCES OF USE OF LETHAL FORCE (7 POINTS)

#### G.O. 317.01

##### CRIMINAL INVESTIGATION

A. The Crimes Against Persons Division, Special Investigations Unit, will conduct a criminal investigation when, in the City of Dallas:

[...]

5. Any time an officer intentionally discharges his firearm, the Special Investigations Unit of the Crimes Against Persons Division will have full investigative responsibility.

[...]

#### G.O. 317.02

##### STAGES OF THE CRIMINAL INVESTIGATION

"R. A member of the Media Relations Unit will coordinate with the supervisor-in-charge and prepare a summary of the facts of the case for issuance to the news media. The Media Relations Unit will also be responsible for issuing a summary to the media when the results of the departmental investigation are completed."

**Dallas Final Grade: 12 Points**

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

#### San Antonio



#### INTERNAL REPORTING (5 POINTS)

##### G.M.5.01.02 POLICY

"C. The San Antonio Police Department requires all officers to document use of force incidents on SAPD Form #62- UOF, Use of Force Report, in accordance with this procedure. The Department also requires supervisors to respond to the scene of use of force incidents and to review all Use of Force Reports, to ensure the application of force conforms to established guidelines and departmental policy and procedures."

**San Antonio Final Grade: 5 Points**

#### Los Angeles



#### INTERNAL REPORTING (5 POINTS) - NOT INCLUDED IN TOTAL

##### P.M. 796.05 INVESTIGATING OFFICER'S RESPONSIBILITY - FORCE INVESTIGATION DIVISION CONTROL NUMBER.

"The officer responsible for conducting the administrative investigation of a FID incident shall:

- Obtain a Force Investigation Division (FID) control number from Administrative Section, FID.
- Place the FID control number on all related administrative reports.

Note: The FID control number shall not appear on the reports related to the criminal investigation.

- Prepare and forward a news release to Media Relations Section, Media Relations and Community Affairs Group, Office of Operations, and the Use of Force Review Board Coordinator, Office of Administrative Services; and,
- In all cases where an individual sustains a gunshot wound, and in other FID cases as appropriate."

#### MANDATORY EXTERNAL REPORTING FOR ALL INSTANCES OF USE OF LETHAL FORCE (25 POINTS)

##### P.M.792.05 DEFINITIONS

"Categorical Use of Force: A CUOF is defined as:

An incident involving the use of deadly force (e.g., discharge of a firearm) by a Department employee ..."

##### P.M.794.39 DISTRIBUTION OF REPORT.

"The original and all copies of the final FID administrative report must be marked 'CONFIDENTIAL.' The Commanding Officer, FID, will retain the original and distribute copies to the Office of the Inspector General (for the Board of Police Commissioners), Legal Affairs Division, and the Department's Use of Force Review Board."

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

#### City

#### Los Angeles (continued)

##### P.M.794.37

##### FORCE INVESTIGATION DIVISION-INVESTIGATIONS.

"Liaison with the District Attorney and Inspector General. The assigned FID investigator or his supervisor shall liaise with the assigned deputy district attorney and Inspector General to ensure that both are briefed and allowed to observe the investigation."

**Los Angeles Final Grade: 25 Points**

#### San Diego



##### INTERNAL REPORTING (5 POINTS)

##### D.P. 1.04 VI.

##### REPORTING THE USE OF FORCE

"A. Officers who use force shall ensure that detailed, accurate reports (arrest, detention, or ARJIS-9) describing the force used and all of the circumstances and facts surrounding the use of that force are prepared, including, but not limited to, factors listed in the Force Matrix section of this procedure. In addition, force effectiveness statistical data is also collected whenever force is used.

[...]

##### B. Reportable Force

For reporting purposes, the following are considered use of force incidents requiring a report: [...]

E. Whenever physical force used by an officer results in an injury that necessitates medical treatment of any person, the officer shall immediately contact a field supervisor (Refer to Department Procedure 6.01, Handcuffing, Restraining,

Searching, and Transporting Procedures).

[...]

3. If the Watch Commander or field lieutenant deems the incident to be of significant magnitude, Internal Affairs will be notified and given the opportunity to respond and conduct an on-scene investigation.

4. If Internal Affairs responds to the scene, the Watch Commander shall immediately telephone the Police Officers' Association and report the general nature of the incident."

**San Diego Final Grade: 5 Points**

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### San Francisco



### INTERNAL REPORTING (5 POINTS)

#### G.O. 5.01 VII. USE OF FORCE REPORTING

"A. REPORTABLE USES OF FORCE. Officers shall report any use of force involving physical controls when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Officers shall also report any use of force involving the use of personal body weapons, chemical agents, impact weapons, ERIWs, vehicle interventions, K-9 bites, and firearms. Additionally, officers shall report the intentional pointing of firearms at a subject.

1. NOTIFICATION OF USE OF FORCE. An officer shall notify his/her supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force."

#### G.O. 8.11(II)(C)

#### INVESTIGATIONS

"1. Officer-involved shootings. The Homicide Detail and the Management Control Division shall respond immediately and conduct a timely investigation into every officer-involved shooting. These investigations shall utilize the same numbering system, and be consistent with each other, e.g., 03-01 (first O.I.S. of 2003), 03-02 (second O.I.S. of 2003) etc.

2. Officer-involved discharges. The Commanding Officer of the member involved shall contact the Management Control Division and obtain an O.I.D. number. The report prepared by the Commanding Officer of the member involved shall reflect the M.C.D. issued O.I.D. number. The final report submitted shall be routed through channels, to the Management Control Division for evaluation prior to review by the Chief of Police."

### MANDATORY EXTERNAL REPORTING ONLY WHEN DEATH OR INJURY RESULTS FROM USE OF LETHAL FORCE (8 POINTS)

#### II. B. INVESTIGATION PROTOCOL

1. Criminal investigations. Investigations to determine if there was criminal conduct on the part of the involved officer(s) are conducted separately by the homicide Detail and the Office of the District Attorney.

(III)(C)

"As soon as practical after an officer-involved shooting occurring within the City and County of San Francisco, the following notifications shall be made: [...]

3. [...]

d. District Attorney's Office"

#### G.O. 8.12 IN-CUSTODY DEATHS

I. Definitions A. In-Custody Death. Any death that occurs when a person is restrained by law enforcement personnel by means of (1) physical restraint and/or any use of force, as defined by Department Policy (DGO 5.01), ...

B. Investigation Protocol. The investigation into an In-Custody Death will be generally divided into separate investigations, criminal and administrative.

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### City

#### San Francisco (continued)

1. Criminal Investigation. Investigations to determine if there is any criminal conduct on the part of any participant. This investigation will be conducted separately by the Homicide Detail and the Office of the District Attorney."

### San Francisco Final Grade: 13 Points

#### San Jose



### INTERNAL REPORTING (5 POINTS)

#### D.M. L 2645 REPORTABLE FORCE BY DEPARTMENT MEMBERS – REQUIRED DOCUMENTATION

"A.1. A Department member who uses deadly force, including the discharge of a firearm, resulting in injury or death, will be interviewed by the Homicide Unit, and the interview will be recorded."

"When an Officer-Involved Incident occurs, it shall be conducted consistent with the most recently published Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines. The Department member will be interviewed by the Homicide Unit and the supplemental report for the Department member's statement as well as the automated use of force template will be completed by the Homicide detective who conducted the interview."

### MANDATORY EXTERNAL REPORTING ONLY WHEN DEATH OR INJURY RESULTS FROM USE OF LETHAL FORCE (8 POINTS)

#### D.M. L 8512 SAN JOSE UNIFIED POLICE OFFICER FIREARMS DISCHARGE

"[...]"

- Not Resulting in Injury or Death: When a firearm is discharged but does not result in injury or death, the incident is handled according to DM Section L 2601 (Use of Force, General Provisions).
- Resulting in Injury or Death: When a firearm is discharged resulting in injury or death to any person, the incident is handled according to DM Section L 4700

(Officer Involved Shooting)."

#### D.M L 4703 NOTIFICATION

The following department members are responsible for performing notifications as indicated:

[...]

ASSIGNED AREA LIEUTENANT: The assigned area lieutenant is responsible for the following notifications:

[...]

District Attorney Investigator: During normal business hours (0800-1700, Monday to Friday) the Chief Investigator, or a designee, in the District Attorney's Office is contacted directly. During non-business

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

#### San Jose (continued)

hours, Communications is contacted and requested to notify the supervising District Attorney Investigator on-call who will then assign an investigator.

#### **D.M. L 4705 DISTRICT ATTORNEY INVOLVEMENT**

"Properly prepared case reports will be submitted to the District Attorney's Office and may subsequently be submitted to the Grand Jury.

In addition, the District Attorney's investigator is authorized to monitor the investigative process employed by the Department, including monitoring at the scene of the shooting."

**San Jose Final Grade: 13 Points**

#### Columbus



### INTERNAL REPORTING (5 POINTS)

#### **D.D. 2.01 II A**

7. "All uses of force shall be reported consistent with Division policies. Involved personnel shall notify an available on-duty Division supervisor in the following descending order:

- a. Their immediate supervisor;
- b. Another sworn supervisor within their chain of command; or
- c. Any other sworn Division supervisor, who may personally conduct the investigation or may notify a supervisor in the involved officer's chain of command to conduct the investigation"

### **MANDATORY EXTERNAL REPORTING ONLY WHEN DEATH OR INJURY RESULTS FROM USE OF LETHAL FORCE (8 POINTS)**

#### **D.D. 2.01 II B 9.**

"Investigations of uses of force resulting in death shall be forwarded to the county prosecutor in the county in which the incident occurred. That prosecutor will determine if the case will be presented to a grand jury."

#### **D.D. 2.01 III F**

Use of Force Resulting in Serious Physical Harm to or Death of a Human

4. "Critical Response Team

- e. Forward copies of the investigative packet as follows:

(l) One copy to the appropriate county prosecutor."

**Columbus Final Grade: 13 Points**

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

## City

### Charlotte



#### INTERNAL REPORTING (5 POINTS)

##### D.G. 600-018(V)

##### "PROCEDURES FOLLOWING THE USE OF DEADLY FORCE

##### "B. Duty to Report Use of Deadly Force

Any officer who uses deadly force, or witnesses another officer use deadly force, will immediately contact his or her supervisor.

##### C. Officer Involved Shooting Team (OIST)

1. OIST will assume the overall responsibility for conducting an investigation whenever an officer uses deadly force resulting in a subject's injury or death.

2. Any investigation conducted by OIST will be pursuant to the written protocol adopted by the Chief of Police, or designee.

##### D. Internal Affairs Bureau

Whenever an officer uses deadly force, the Internal Affairs Bureau will be responsible for conducting an administrative investigation."

**Charlotte Final Grade: 5 Points**

### Chicago



#### INTERNAL REPORTING (5 POINTS) – NOT ADDED TO TOTAL

##### GO3-02-02 III (A)

##### INCIDENTS REQUIRING THE COMPLETION OF A TACTICAL RESPONSE REPORT

"A Tactical Response Report is required to be completed for the following reportable use of force incidents involving a sworn member or detention aide in the performance of his or her duties:

##### 1. All use of force incidents involving:

- a. a subject who is injured or alleges injury resulting from the member's use of a force option.
- b. the active resistance of a subject.

[...]

##### 2. All incidents involving a Department member's: a. discharge of a firearm, impact munitions, Taser, OC spray or other chemical weapons.

- b. use of canines as a force option.
- c. use of a Long Range Acoustic Device (LRAD) acoustic transmission to cause discomfort as a compliance technique.
- d. use of strikes with an impact weapon, kicks, knee strikes, elbow strikes, closed hand strikes or punches, takedowns, and other direct mechanical actions or techniques."

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### Chicago (continued)

#### GO3-02-02 V

B. "Investigatory Responsibility. For reportable use of force incidents, the following ranked supervisor will be responsible for the investigation of the incident and completion and approval of all TRR-Is from the same incident: 1. The exempt-level incident commander will review and approve the following types of incidents: a. the discharge of a firearm or impact munitions by a Department member, excluding discharges to destroy an animal; b. a member's use of force, by whatever means, that results in serious injury or death of any individual"

#### **MANDATORY EXTERNAL CONTACT FOR ALL INSTANCES OF USE OF LETHAL FORCE (7 POINTS)** **– NOT ADDED TO TOTAL**

#### GO3-02-02 V (C)(2)

d. "A notification to IPRA/COPA is required for all incidents involving: (1) the use of deadly force, (2) the discharge of a firearm, (3) the discharge of a Taser, (4) the use of excessive force or an allegation of excessive force, and (5) the death or life-threatening injury to a member of the public that resulted directly from an action or intentional omission of a Department member."

#### **MANDATORY EXTERNAL REPORTING FOR ALL INSTANCES OF USE OF LETHAL FORCE (25 POINTS)**

#### GO3-02-03

#### **FIREARMS DISCHARGE INCIDENTS INVOLVING SWORN MEMBERS**

II. "Investigative Authority

A. Pursuant to Section 2-78-120(c) of the Municipal Code of the City of Chicago, COPA will conduct investigations into all incidents, including those in which no allegation of misconduct is made, in which a Department member discharges a firearm in a manner that potentially could strike another individual."

**Chicago Final Grade: 25 Points**

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

## City

### Indianapolis



#### INTERNAL REPORTING (5 POINTS)

##### G.O. 1.30 (IV)

##### FIREARMS USE AND DISCHARGE

C. "All discharges from department-authorized firearms, on-duty or off-duty, except for training and/or qualification purposes, shall be immediately reported to an on-duty supervisor by the involved officer in the most expedient method possible. The on-duty supervisor shall make appropriate notification to his/her district commander or designee, respond to the scene of the incident, and conduct an investigation."

##### G.O. 1.31

##### DEADLY FORCE III. TYPES OF INVESTIGATIONS

A. "If a firearm is discharged in an attempt to destroy an animal, or accidentally resulting in no injury to a person, the involved officer shall prepare an incident report and a Blue Team entry documenting the circumstances surrounding the firearms discharge.

[...]

2. The Blue Team entry will be forwarded to the investigating supervisor within seventy-two (72) hours.

3. The investigating supervisor shall respond to the scene and conduct a preliminary investigation regarding the use of force

[...]

C. IMPD firearms discharges causing injury or death involve the following investigations:

1. The Homicide Section will investigate and properly document all officer-involved firearms discharges resulting in injury or death, including attempts."

### Indianapolis Final Grade: 5 Points

### Jacksonville



#### INTERNAL REPORTING (5 POINTS)

##### ORDER 551.A.

##### VERSION 2 RESPONSE TO RESISTANCE

P. Response to Officer Involved Shootings and Deadly Force Incidents

1. "The Homicide/Cold Case Team shall respond and conduct a complete investigation for any of the following incidents:

- a. Any time a member of the JSO intentionally discharges a firearm at a person while acting in the capacity of a Sheriff's Office employee;
- b. Any time a member of the JSO accidentally discharges a firearm resulting in a person being shot;

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### Jacksonville (continued)

- c. Any time a member of the JSO takes some action against another person that results in death or life-threatening injuries while acting in the capacity of a Sheriff's Office employee;

[...]

3. The original offense report will be prepared by the Homicide/Cold Case team or other designated Homicide team, at the direction of the Homicide Unit Commander.

[...]

- d. In incidents involving an intentional discharge of a firearm, the RTR Report in ARMOR will be prepared by the Homicide/Cold Case team or other designated Homicide team, at the direction of the Homicide Unit Commander. Any and all applicable RTR reports will be completed using the originating CCR number."

### MANDATORY EXTERNAL CONTACT ONLY WHEN DEATH OR INJURY RESULTS FROM USE OF LETHAL FORCE (5 POINTS)

#### ORDER 551.A.

#### VERSION 2 RESPONSE TO RESISTANCE

#### P. Response to Officer Involved Shootings and Deadly Force Incidents

5. "The Homicide/Cold Case team supervisor will be responsible for requesting the on-call Homicide Assistant State Attorney to respond to officer involved shootings or incidents resulting in serious injury or death.

- a. All sworn statements taken from witnesses shall be coordinated with the on-call Homicide Assistant State Attorney, prior to taking such statements; and

[...]

6. The Homicide/Cold Case team supervisor will be responsible for notifying the City's Deputy or Assistant General Counsel of incidents in which an officer takes some action against another person resulting in death or life-threatening injuries."

### Jacksonville Final Grade: 10 Points

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

## Philadelphia



### INTERNAL REPORTING (5 POINTS)

#### DIR. 10(5)(A)

#### REPORTING DISCHARGES OF FIREARMS

"A. The discharge of any firearm, whether accidental or intentional, by sworn personnel on duty or off duty (except test or target fire at a bona fide pistol range or lawfully hunting game) will be reported as follows: 1. The officer who fired the weapon will:

- Immediately notify Police Radio of the occurrence and provide pertinent information regarding the need for supervisory personnel and emergency equipment if required.
- Inform the first Supervisor on the scene of the location(s) of the crime scene(s) and the general circumstances relative to the preservation and collection of physical evidence."

#### DIR. 10(6)

#### INVESTIGATION OF POLICE DISCHARGES:

"A. The OISI Unit will:

- Investigate all cases involving the discharge of firearms by law enforcement personnel occurring within the confines of Philadelphia."

### MANDATORY EXTERNAL CONTACT FOR ALL INSTANCES OF USE OF LETHAL FORCE (7 POINTS)

#### DIR. (9)

#### RELEASE OF INFORMATION REGARDING OFFICER INVOLVED SHOOTINGS (OIS)

- "A. A press conference will be held by the police commissioner or designee within 72 hours of an officer involved shooting in which an individual was killed or wounded. An official press statement will be released by the Police Commissioner or designee within 72 hours of an incident when an on duty accidental discharge occurs or when an individual was shot at but not struck as a result of a weapons discharge by a member of the Department. The information will include the officer's name, years of service, assignment and duty status. ...
2. The release will contain a preliminary summary stating the circumstances of the incident known at the time and based on the facts collected and confirmed by the investigator. The release will provide a brief synopsis of the incident, conditions (injuries) of the individual, charges (if applicable), and the proceeding steps of the investigation. The names of the individual suspect or the officer will be released unless there are public safety concerns.
3. A preliminary summary based on the facts collected and confirmed by the investigators will be placed on the Philadelphia Police Department's website in the OIS (Officer Involved Shooting) section of the site."

## Philadelphia Final Grade: 12 Points

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

## Phoenix



### INTERNAL REPORTING (5 POINTS)

#### O.O. 1.5(4)(H)

"Notifications: Employees who discharge any firearm will make a verbal report to a supervisor as soon as possible and submit a written report as soon as practical ... The employee's bureau/precinct commander or the duty commander will be advised of the weapons discharge incident."

#### O.O. 1.5(6)

B. Use of Force Report

"(2) Supervisors will initiate the Use of Force Report within 7 days of notification of the incident.

(3) Use of Force reports will be submitted up to commander approval within 30 days of initiation of the report."

#### O.O. 1.5(7)

#### SHOOTINGS AND OTHER CRITICAL USE OF FORCE INCIDENTS

"A. Required Reports - Supervisors will complete the following reports:

Shooting Investigation (if applicable; see section 7.E of this order)

Use of Force Report

B. Investigation and Reporting Responsibilities:

Shooting and Use of Force Incidents Resulting in Death or Serious injury: All shootings and use of force incidents resulting in death or serious injury involving employees of this Department will be investigated concurrently by the following:

- Professional Standards Bureau (PSB)
- Completes the Use of Force Report
- Involved employee's supervisor
- Violent Crimes Bureau (VCB) / Homicide Unit
- Incident Review Unit (IRU)"

### MANDATORY EXTERNAL CONTACT ONLY WHEN DEATH OR INJURY RESULTS FROM USE OF LETHAL FORCE (5 POINTS)

#### O.O. 3.1 SERIOUS INCIDENT POLICY:

"2. Definitions: A. Serious Incident- Involves death, serious injury (hospitalization), officer-involved shootings, prolonged or violent tactical operations, major disaster scenes. Etc.

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

#### Phoenix (continued)

##### O.O. 3.1 SERIOUS INCIDENT POLICY:

"5. On-Scene Briefings: A. Primary Briefing- The following personnel will participate in the primary briefing:

- Assigned criminal investigators
- Phoenix police management
- Country Attorney's Office representative
- PSB Investigator/s and supervisor/s
- Phoenix Police Media Relations Personnel."

**Phoenix Final Grade: 10 Points**

#### New York City



##### INTERNAL REPORTING (5 POINTS)

###### P.G.221-04 FIREARMS DISCHARGE BY UNIFORMED MEMBERS OF THE SERVICE

"**PROCEDURE:** When a uniformed member of the service discharges a firearm, either on or off-duty:

[...]

**UNIFORMED MEMBER OF THE SERVICE:** 2. Request patrol supervisor, precinct of occurrence and safeguard the scene.

[...]

**DESK OFFICER:** 10. Notify precinct/police service area/transit district commanding officer/executive officer, Operations Unit, patrol borough command, Internal Affairs

Bureau Command Center and precinct detective squad, without waiting for details.

[...]

###### COMMANDING OFFICER, FORCE INVESTIGATION DIVISION

25. Upon completion of the firearms discharge investigation, prepare an initial report on Typed Letter-head, addressed to the First Deputy Commissioner, as per the Force Investigation Division Manual."

##### MANDATORY EXTERNAL CONTACT FOR ALL INSTANCES OF USE OF LETHAL FORCE (7 POINTS)

###### P.G.221-04 "FORCE INVESTIGATION DIVISION SUPERVISOR

20. Notify District Attorney's Office in all shooting cases.

- a. Confer with District Attorney before interviewing uniformed member(s) of the service."

**New York Final Grade: 12 Points**

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

## Seattle



### INTERNAL REPORTING (5 POINTS)

#### P.M. 8.400(1)

#### "USE-OF-FORCE REPORTING:

All uses of force are reportable except de minimus force.

[...]

1. Officers Shall Report all Uses of Force Except De Minimus Force Officers shall thoroughly document all reportable uses of force to the best of their ability, including a description of each force application."

#### P.M 8.400-TSK-15

#### RESPONSIBILITIES OF THE FIT UNIT SERGEANT DURING A TYPE III INVESTIGATION (FIREARMS DISCHARGE)

"3. Coordinates with the On-Scene Sergeant to make sure that a General Offense report on the incident is immediately routed to the FIT \* If any video appears to be missing, calls the IT Unit immediately to request a review of the fail safe."

#### P.M 8.400-TSK-18

#### RESPONSIBILITIES OF THE DUTY CAPTAIN DURING A TYPE III INVESTIGATION (FIREARMS DISCHARGE):

"During the investigation of a firearms discharge, the duty captain:

1. Verifies that the following notifications are made:
  - Section captain of the involved officer(s)
  - Assistant Chief of the involved officer(s)' bureau
  - Office of the Chief
  - Chief of Staff
  - Public Affairs Unit"

**Seattle Final Grade: 5 Points**

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### Denver



#### INTERNAL REPORTING (5 POINTS)

##### O.M. 105.00

##### USE OF FORCE POLICY

**5. POLICY** “[...] Officers who use force as described in the Colorado Revised Statutes or the Operations Manual of the Denver Police Department must immediately report the circumstances to a command or supervisory officer and comply with all reporting requirements.

##### O.M. 105.02

##### USE OF FORCE PROCEDURES

“(1) DUTY TO REPORT Officers shall immediately report the circumstances of all resistances or incidents involving use of force to a supervisor or command officer. The supervisor or command officer shall ensure that all sections of the Denver Police Department Operations Manual and the Colorado Revised Statutes have been followed.

- a. The Use of Force Report DPD 12, the related supervisory investigation and reports are required in any of the following circumstances:
  6. An officer discharges a firearm other than in training or for bona fide recreational purposes.
  7. A person is injured or dies while in custody. See OMS 301.13, In-Custody Incident Investigations and OMS 301.14(8), In-Custody Death Investigations.
  8. A person is injured or complains of injury as a result of use of any physical force including the use of any weapon, chemical agent or deployment of a police service dog.
  9. A defendant is charged with resistance and/or assault and a police officer is listed as the victim.
    - a. In any case of assault on a police officer, “Investigation of Assault” will be charged, except when citing directly using DRMC 38-93 Assault. The suspect should not be charged with resistance or any additional charges at this time. Details of the incident, including any additional charges, will be described in narrative form on the Unified Summons and Complaint.
  10. An officer encounters an individual with obvious injuries, and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from contact with the officer.
- 11. An officer applies force through use of the following**, whether an arrest is or is not made:
  - a. Any tool, object or device used as an impact weapon
  - b. Carotid compression technique
  - c. Chemical agent
  - d. Pepper Ball System
  - e. ERD/TASER
  - f. Shotgun or forty (40) mm less lethal round
  - g. Police service dog

## City

### Accountability (25 points)

- Internal Reporting (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)
- Mandatory External Reporting for all Instances of Use of Lethal Force (25 points)

### Denver (continued)

- h. Hand strike, leg thrust/kick
- i. RIPPTM restraint devices"

### MANDATORY EXTERNAL CONTACT FOR ALL INSTANCES OF USE OF LETHAL FORCE (7 POINTS)

#### O.M. 105.04 SHOOTING BY AND/OR OF POLICE OFFICERS

(1) When any law enforcement officer, regardless of agency or department, discharges a firearm as a result of contact with a person, whether or not a death or wounding occurs, officers shall immediately notify the Denver 911 dispatcher.

[...]

- a. The dispatcher will immediately follow Denver 911 procedures by notifying the following as required:

[...]

7. The on-call District Attorney.

#### 301.13

#### IN CUSTODY INCIDENT INVESTIGATIONS

...

- b. When a person is in the custody of law enforcement in the City and County of Denver suffers a potentially life-threatening injury or death .....[t]he dispatcher will notify the following person(s) as required:...7. The on-call district attorney.

**Denver Final Grade: 12 Points**

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OUR LIVES BE FREE  
OF POLICE VIOLENCE**

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