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# USE OF FORCE AUTHORIZATION

Learn about when force is authorized, what the legal standard is, and the key elements of good use of force authorization policy.

Effective Law Enforcement for All is dedicated to creating policing that is safe, effective, and procedurally just. [Find out more about our mission here.](#)



# The Graham Standard and “Officer Reasonableness”

The Graham Standard is the federal legal standard for whether use of force by a police officer is lawful. It states that an officer is still acting within the bounds of the law if the use of force is “objectively reasonable”.

At the time of the ruling, some in the legal community hoped it would help set a progressive bar for police accountability. However, it has since been criticized for setting a low bar and for its vagueness which can lead to the so called “awful but lawful” scenario where an officer can be found using force seen as unacceptable by the community but technically meets the legal standard or a jury finds the officer’s actions “objectively reasonable”.



Objective = Subjective

One key criticism of Graham: **“objective reasonableness” is a paradox.** Judging reasonableness or what constitutes reasonable behavior is inherently subjective. What one juror thinks is reasonable might not be the same as another.



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# Moving Beyond the Graham Standard

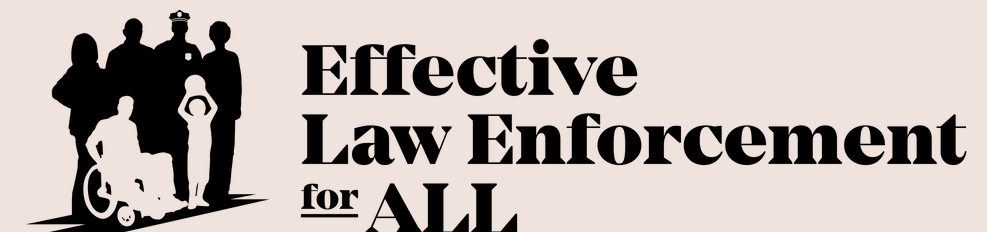
Since the legal standard is vague and can rightfully create confusion among departments and officers as to what constitutes legal force, some states and cities have tried to create a more useful and responsible framework for officers.

Some states have even enshrined in law some further restrictions particularly on the use of deadly force.

Many departments, particularly those under consent decrees, have redrafted their policies to reflect a more precise standard: **Reasonable, Necessary, and Proportional.**

Cities with Model Use of Force Authorization Policy:

- Seattle
- New Orleans
- Baltimore



## Reasonable

Set by the Graham v Connor case, resorting to force must be “objectively reasonable”, though assessing reasonableness is subjective.

## Necessary

Force must be necessary, meaning there is no reasonable alternative, and must be used in order to achieve a lawful objective.

## Proportional

“To be proportional, the level of force applied must reflect the totality of circumstances surrounding the situation at hand, including the nature and immediacy of any threats posed to officers and others.”



# Qualifying and Improving on “Reasonableness”

Another criticism of a “reasonableness” legal framework is that it encourages juries to look only at the “split second” of the decision to use force and ignore the totality of the circumstances. Less weight is given to the wider context, like whether and how the officer meaningfully attempted to de-escalate or the officer’s record and training.

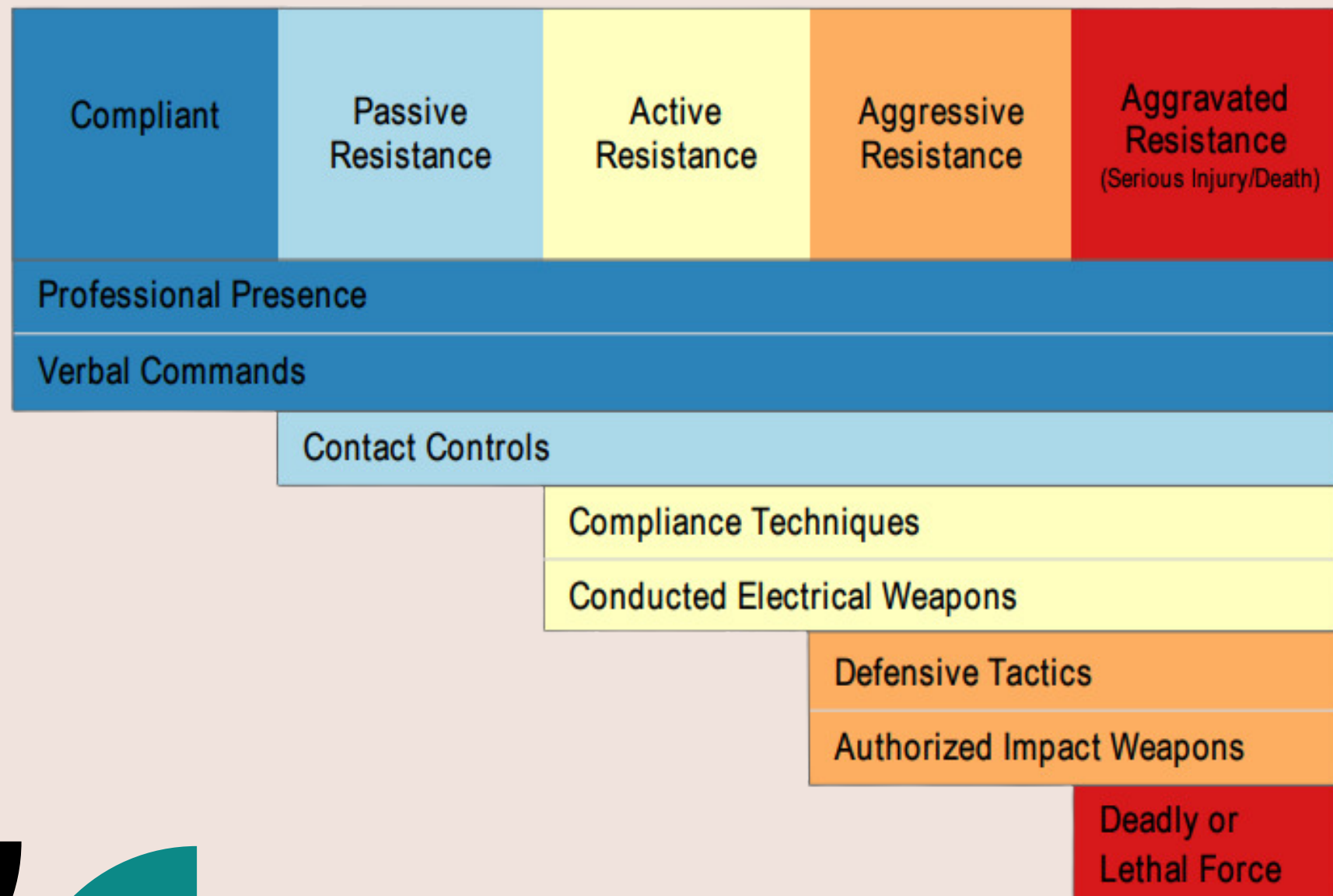
To address this, many policies now enshrine the “totality of circumstances” in officer reasonableness. On the next slide, see some of the language in Seattle’s policy on the factors to consider in officer reasonableness.

# Qualifying and Improving on “Reasonableness”

Factors to be considered in determining the objective reasonableness of force **include, but are not limited to:**

- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to officers or a danger to the community; – The potential for injury to citizens, officers or subjects;
- The risk or apparent attempt by the subject to escape and the government interest in preventing the escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
- The time available to an officer to make a decision;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;
- The environmental factors and/or other exigent circumstances; and
- Whether the subject has any perceived physical disability.

# Use of Force Continuum



The Use of Force Continuum, left, is another good way to frame Authorization Policy. It demonstrates proportional response to the level of resistance displayed. It also centers and gives crucial importance to de-escalation and other non-force options, which should be exhausted or definitively ruled out before resorting to force.

It also recognizes that professional presence is a tool within the continuum of force.

# Why Update Policy?

An updated policy and use of force standard won't necessarily mean that a jury will be likelier to find an officer in violation of the law, which in federal court is still solely based in the Graham standard. However, a better use of force policy is one of the most important first steps in reforming a police department. It sets the tone and standard for behavior in a given department. Below, find some of the other key changes that can help promote responsible and lawful policing that is safe for officers and the community they serve.



## Training to Policy

Training and re-training should promote a strong understanding of a department's use of force policy.



## From the Top Down

Demonstrate how seriously the department takes new use of force policy by having leadership participate in or speak before use of force training.



## Improve Accountability

Policy should clearly delineate the mechanisms for officer accountability, review, and the consequences for failure to meet policy standards.



## Guardian Culture

Do officers see themselves as warriors or guardians in the community?



## Prioritize De-Escalation

Are officers receiving proportional amounts of de-escalation training and skills?  
Are they being assessed?



## Assessment

How is the department measuring how well it meets the standards it has set for itself and how well policy translates to the community's experience of law enforcement?



Learn More

To learn more about what constitutes a use of force; why police use force; and how modern police departments can move towards lawful, safe, and effective use of force; check out our ELEFA Academy Use of Force page!



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