

Mike Scott
Bainbridge Island City Council
Public Safety Committee Meeting Notes
Date February 16, 2017

1. The meeting was called to order at 5:30 pm. Present were Mike Scott, Val Tollefson, Sarah Blossom, Doug Schultz, Officer Jeff Benkert, Sargent Trevor Ziemba, Chief Matt Hamner, Officer Gary Koon, and Cindy Anderson
2. Public Comment: Cindy Anderson stated that she is very happy with the current operations of our Police Department.
3. Police Chief's Report:
 - a. Outline of Monthly Citizen Survey Criteria – see attached
 - b. Customer Surveys for 2016 – see attached
 - i. when get “low or very low” response, the Department follows up if possible – to rectify or learn lessons
 - c. Performance measures for Four quarters of 2016 – see attached
 - d. 2016 Complaint Review – see attached
 - e. 2016 Use of Force/Pursuit Review – see attached
 - i. There was only one incident that led to injury (pain), and it was not very serious
 - ii. Use of force: includes holding to car (no tools, taser, or anything. The BIPD uses a conservative definition of “use of force.” In the BIPD, if move someone where they didn't want to move it is considered a use of force.
 - iii. In both incidents involving African-American juveniles the BIPD was called in; BIPD was not on patrol and did not search out.
 - iv. Percent of incidents involving use force extremely low: .035%
 - f. 2016 Biased Biased Policing Analysis – see attached
 - g. All these reports new—part of implementing policies and procedures to meet accreditation standards.
 - h. Personnel Complaints Policy – see attached
4. Use of Force
 - a. Use of force has been an item of concern nationwide
 - b. The State of Washington is considering new standards for unlawful use of force— see Seattle Times Editorial, attached. Growing support for removing requirement of malice. Good faith would be standard.
 - c. Policy 300 – Use of Force (Lexipol standard policy) – see attached
 - i. Use of Force Form – see attached
 1. Much improved from previous version
 - ii. Body cameras are voluntary in the BIPD – insurance recommends not using. We need adjustment to public records laws to make use of police body cameras more feasible and common. A majority of BIPD officers wear cameras, but save activation for high risk incidents. All recordings are saved as required by public records act.
 - iii. Use of force flow chart – see attached

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1. Deadly use of force by the BIPD is always investigated by outside departments to ensure objectivity through peer review
- d. Mayor Tollefson asked about training for use of force. The officers reported they engage in yearly training. Situational scenarios, ranging from de-escalation through time-pressure decisions, including deadly use of force. Also review the law relating to use of force. Record training on cameras and then debrief. Also do external training with other departments.
- e. Need to avoid rush to judgment on use of force. Need to wait until all the facts come out.
5. 2017 Public Safety Committee meeting dates and topics: The Committee will meet on the third Thursday of the second month of every quarter (May 18, August 17, November 16) from 6:00 – 7:00 pm.
 - a. Possible topics for discussion this year: internal investigations; how complaints are handled; accreditation
6. Good of the Order
7. The meeting was adjourned at 6:30 pm.



CITY OF
BAINBRIDGE ISLAND

PUBLIC SAFETY COMMITTEE
THURSDAY, FEBRUARY 16, 2017
5:30 PM
CITY HALL
COUNCIL CONFERENCE ROOM
280 MADISON AVENUE NORTH
BAINBRIDGE ISLAND, WA 98110

AGENDA

MEMBERS: MICHAEL SCOTT, CHAIR CITY MANAGER SCHULZE
 MAYOR TOLLEFSON POLICE CHIEF HAMNER
 SARAH BLOSSOM

1. CALL TO ORDER / ROLL CALL / ACCEPT OR MODIFY AGENDA /
CONFLICT OF INTEREST DISCLOSURE
5:30 PM
2. PUBLIC COMMENT (5 MIN)
3. POLICE CHIEF REPORT
4. POLICE USE OF FORCE
5. MEETING DATES AND TOPICS FOR THE REMAINING THREE QUARTERS OF
2017
6. FOR THE GOOD OF THE ORDER
7. ADJOURNMENT

Monthly Citizen Survey criteria –

Send 20 surveys per month

1 fingerprinting

1 collision

1 CPL applicant

5 citations

12 incidents

Diane Rodman at the County sends us a list of any incident reports we have had over the prior month, sorted by officer. The remainder of the surveys are chosen via either Livescan, SECTOR, or I/Leads generated reports for that month.

We do not send surveys for the following incidents:

- Any cases that are still under investigation
- Mental Health
- Death/Suicide
- Anonymous reporting
- Sex offender contact

Once reports are collected we try to select a variety of citizens (victims, suspects, witnesses, reporting party, etc.) to send the surveys out to.

Our goal is to try and send at least one survey out each month, for each officer.

**Although we try to be as “random” as possible, we have to look at each incident in a case by case basis to determine whether sending a survey is appropriate.

BAINBRIDGE ISLAND POLICE DEPARTMENT

CUSTOMER SURVEYS - 2016

In an effort to measure the success of the department's interactions with its customers and improve the overall level of service provided to the community, the BIPD began mailing surveys to the people with whom officers have had interactions with during the course of their duties. Beginning in August, 2012, twenty surveys were mailed to randomly selected individuals each month and continue to date. Both the response rate and the results have been informative and encouraging.



Surveys Mailed	240
Responses Received	77
Response Rate	32%

The respondent's overall impression of the officer or employee with whom they interacted:

Very High	70%
High	23.5%
Average	3.9%
Low or Very Low	2.6%

Survey Comments

The officer was extremely prompt in visiting to review the site of the theft - in this case a 400+ lb. outboard motor. Unfortunately, I have not heard anything further.

The response to my report of a crime was immediate and I am grateful.

The officer was professional and was also collaborative in returning my missing item.

BIPD was conscientious and professional in two encounters this year - a missing person search and roadside assistance for a friend who had been rear-ended. BIPD's public assistance was greatly appreciated in both cases.

The officer who opened my car (I had locked it w/Dog inside by error) was so thoughtful and professional. And he did not flinch when I gave him a hug out of appreciation!

The officer was professional, listened carefully, asked relevant questions, and provided good advice.

They were very polite and respectful. I appreciated their guidance.

Respondent indicated they were pulled over by a motorcycle officer: There was respect by both parties. This was a positive experience. This officer should be praised. Oh yes - I did get a ticket - speeding - "not paying attention."

I reported an incident of missing mail to establish an incident report which I subsequently gave to the USPS. I presume BIPD followed up.

(The officers) were highly professional.

We have had to call a few times do to theft in our store - each time the officer arrived promptly and in one case was able to catch the thief along with all the products they took. We are proud to have the BI

Police on our side - they even are around checking our building around closing time makes us feel safe (sic).

The officer was very professional and understanding when I explained the fraudulent rental information that had just transpired. He was good about following up with others. Overall good interaction for unfortunate circumstances.

Two officers responded - both were pleasant and professional.

Extremely personable staff. I recommend raises for all. #Bluelivesmatter

(The officer) was kind and very professional.

BIPD is awesome. Great officers and amazing chief. Officer X is great. Officer Y is the best, nicest, and coolest officer... promote him or give him a raise.

Great patrol officers & quick and professional response.

The officer was very thorough and when I said that I didn't email, he gave me his cell number and has always answered me back, when I suggested a possible place to look for who side-swiped me (they haven't been found). The technology with him being able to take pictures even when it was dark out, also impressed me!

(The officer) was very professional and friendly and showed interest in my case.

Having our property damaged (bushes and trees cut) right after we bought our home on B.I. made us have some regrets moving here. But Officer Gary Koon was very reassuring and responsive. His suggestions were very valuable, and he said that they will make a stronger presence in the Wing Point community area which will be very helpful. A lot of the neighbors have asked me if the police are going to do that (in the B residences area)... so I think overall this situation may make our community feel safer now that the police are aware!

(The officer was) kind, understanding, and conversational.

(The officer) was very kind and got my information and filed the report quickly.

Bainbridge is a great, safe place to live thanks to the efforts of the CoBI PD.

Very professional and friendly interaction.

The officers I spoke to were very insightful to my situation.

I was never given a police report.

Small crime, lots of service. Thanks.

I appreciated the officer could tell when lies were being told. Good training.

Phone tag getting my case # for fraud that happened in Texas - still don't have it but it takes two to tango & I'm a lousy dance partner.

Thank you, officer, for listening and reacting very fairly. I appreciated your patience and understanding.

Officers at my daughter's collision were so caring. So were firemen and EMTs. Great work to all BI first responders.

The officer was very gentle with me, as I was in a lot of pain.

I feel the officers handled the situation well.

Officers were very friendly, helpful, and made us feel like they cared about our situation.

Your officers were extremely sensitive to the issue that had taken place and the fact that my children were present. I felt that the officers were genuinely concerned about me and my circumstances. I was extremely embarrassed and the officers assured me that there was nothing to be ashamed of. I did not expect the level of respect nor concern from these two officers. At that time I thanked God for them. In the past, my thought had been tainted by the media and what I had seen about police brutality towards the African American Community. Well, these two officers laid those images to rest.

Thank you for being friendly and there for every need - keep being awesome!!

Everybody was great! (Written on the mailing envelope with a hand-drawn red heart.)

The customer service has always been good. I wish they had a few more resources to follow up after a crime has been committed.

(The officer) was very helpful and listened to me and I felt my son and I were cared for by BIPD. Thank you!

Officer indicated displeasure in having to fill out the paperwork involved with the vandalism of our 4 neighborhood mailboxes. I would like to have a status/followup to my case, regardless of how small a case it may be.

The officer was very professional, polite, and straightforward. He was also supportive.

Came in to get a CPL. Great service! Awesome staff!

The officer was very professional and friendly. I was very disappointed that the department failed to notify me that my vehicle had been recovered and impounded in Tacoma on a Saturday. I did not find out until Monday afternoon and had to pay \$500 to get car out of impound. The windshield smashed. Two patrol cars stopped me. Could have given me a warning.

Pleasant interactions with both office staff and officer.

Very positive and professional. I also received a follow-up email that was helpful.

Detective was detailed and informative. Officer (was) very thorough and patient and helpful - reset garage code to make me feel more safe!

Most officers and staff are great. One occasion of young new policeman not knowledgeable about the law.

(The officer) was polite, personable, straight forward and accurate. Great job!

I thought the officers did all they could and I also got good followup after the fact with (your detectives).

Quick response.

Very professional and efficient.

(The officer) was extremely professional and thorough. He was polite, courteous, and made me feel at ease. Impressed that before he made contact with me he did a perimeter check of my house.

I'm afraid I didn't capture names, but everyone was first class!

The staff member was knowledgeable, polite, and helpful.

We know your job is challenging! Please know that we greatly appreciate what you do. We just want to be treated as community members and with respect - not intimidation or fear. When we first moved here, we heard real horror stories about all kinds of things - shootings of mentally ill people, intimidation, drug raids of the wrong house - torn apart & just left, kids hassled, etc. We want community proactive involvement and policing. Thank you.

Can't remember the officer's name but he was extremely nice and helpful.

Comment contained highly personal information related to the incident and was not recorded here.

I was not happy to receive a citation in the mail, since I paid my boat registration. I have challenged the citation but have yet to hear from the municipal court. I would like someone to contact me giving me my court date to appeal the ticket.

Very professional, polite, and effective.

2016

BIPD Performance Measures

ITEM	Quarter 1			Quarter 2			Quarter 3			Quarter 4			Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Dispatched Calls/Initiated Actions: Total Police Responses	1,366	1,125	1,519	1,458	1,494	1,383	1,424	1,447	1,526	1,307	1,435	1,494	16,978
Top Priority calls: Average Time Dispatch to Arrival in Minutes and Seconds	2:06	2:44	5:58	2:42	4:59	2:47	5:16	3:59	2:00	6:06	8:11	4:05	4:14
Case Reports	139	130	153	149	149	172	183	150	157	180	160	155	1,877
Criminal Citations	5	6	5	8	3	1	0	1	5	5	13	1	53
Traffic Infractions	68	71	65	59	48	55	31	54	59	32	36	24	602
Traffic Collisions	29	17	24	20	20	25	16	18	23	30	29	29	280
Adult Arrests	30	26	43	34	18	25	31	18	32	22	30	21	330
Juvenile Arrests	0	0	0	2	5	0	0	0	1	2	2	1	13
Driving Under the Influence (DUI)	3	5	4	6	1	0	2	1	6	5	11	6	50
Drugs/Narcotics	7	3	0	0	0	1	3	0	4	4	5	1	28
Use of Force Incidents	0	1	0	1	0	1	0	0	3	0	0	0	6
Complaints Against Sworn Personnel	6	0	1	1	0	1	0	3	0	1	1	0	14
Complaints Sustained Against Sworn Personnel*	0	0	0	0	0	0	0	1	1	0	0	1	3
Crimes Against Persons Categorized as Domestic Violence	4	2	6	4	8	2	7	2	4	0	0	1	40
ITEM	Oct'15	Nov'15	Dec'15	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	YTD
NIBRS ¹ Offenses: Crimes Against Persons**	4	2	5	8	2	5	12	6	9	7	18	9	87
NIBRS ¹ Clearances: Crimes Against Persons Cleared by Arrest	4	2	3	4	2	3	5	2	2	5	10	0	42
NIBRS ¹ Offenses: Crimes Against Property - Incidents***	54	49	28	54	49	28	30	25	20	38	49	49	473
NIBRS ¹ Clearances: Crimes Against Property Cleared by Arrest	10	6	2	10	6	2	4	0	3	4	4	3	54

¹Due to the reporting cycle for National Incident Based Reporting System (NIBRS) data, values shown reflect a 90-day delay (i.e. Q1 data reflects October-December, 2015).

* Report may occasionally show sustained complaints even if none were received in a given month due to the length of the investigation process.

**Includes Murder, Forcible Sex Offenses, Robbery, Aggravated Assault, Simple Assault, Intimidation, Non-Forcible Sex Offenses, Kidnapping, Human Trafficking, and Violation of No Contact Order

***Includes Burglary/Breaking and Entering, Arson, Larceny, Motor Vehicle Theft, Extortion/Blackmail, Counterfeiting/Forgery, Fraud, Embezzlement, Stolen Property Offenses, and Destruction/Damage/Vandalism of Property

City of Bainbridge Island
 Department of Public Safety
 Matthew Hamner, Chief of Police



Memorandum

TO: Chief Matthew Hamner *MH*
 FROM: Deputy Chief Jeff Horn *JH*
 DATE: January 3, 2017
 RE: **2016 Complaint Review**

Sir,

For 2016 the Department recorded 15 complaints as compared to 14 in 2015.

General Categories of 2016 Complaints	
Driving/Traffic Related	3
Demeanor/Courtesy/Rudeness	8
Issues with Investigation	1
Performance Issues	3
Total General Complaints	15

Dispositions	Explanation of Dispositions	2016 Dispositions
Exonerated	The alleged act occurred, but the act was justified, lawful, and/or proper.	3
Unfounded	The allegation was false or not factual or that the alleged act(s) did not occur or did not involve department personnel.	2
Not-Sustained	This is insufficient evidence to sustain the complaint or fully exonerate the employee.	6
Sustained	The act occurred and it constituted misconduct/policy violation.	4

There was one Internal Affairs Investigation in 2016 that was closed with the officer resignation.

Notes/Trends

- The sustained complaints were handled with coaching/counseling or verbal reprimand.
- One complaint was listed as sustained based on the information given. A complete investigation was not completed due to the officer retiring. The retirement was planned and had nothing to do with the complaint.
- During 2016, eight (8) members of the department were listed in complaints and one volunteer.
- There was no pattern of repeated misconduct.

City of Bainbridge Island
 Department of Public Safety
 Matthew Hamner, Chief of Police



Memorandum

TO: Chief Matthew Hamner *MH*
 FROM: Deputy Chief Jeff Horn *JH*
 DATE: January 3, 2017
 RE: 2016 Use of Force/Pursuit Review

Sir,

USE OF FORCE

Use of Force: Type of Force	
Physical Control	6
Total	6
Use of Force Aggravating Factors	
Intoxicated/Drugs	3
Mental Health	2
Attempt to Flee	1
Total	6
Use of Force by Race	
White (All Adults)	4
African-American (Both Juveniles)	2
Use of Force by Gender	
Male	6
Female	0
Total	6

Use of Force Injuries		Minor-no treatment required	Aid required
Suspect	1	1	0
Officer	1	1	0

Notes / Trends

- Total Incidents where officers used force: 6
- Total Incidents for 2016: 16,978
- % of Incidents in which force was used: .035%

Pursuits

Pursuit Statistics	2016
Total number of pursuits	1
Day pursuits	0
Night pursuits	1
Pursuits discontinued by officer	1
Pursuits ruled "Within Policy"	0
Pursuits ruled "Outside of Policy"	1

Notes / Trends

- The officer was found to be outside of the policy even though he discontinued the pursuit.
- The officer was coached/counseled and re-trained on the policy.

City of Bainbridge Island
 Department of Public Safety
 Matthew Hamner, Chief of Police



Memorandum

TO: Chief Matthew Hamner *MH*
 FROM: Deputy Chief Jeff Horn *JH*
 DATE: January 2, 2017
 RE: **2016 Biased Based Policing Analysis-Traffic Citations/Criminal Citations (Traffic)**

Sir,

I have reviewed the Criminal Traffic Citations and standard Traffic Citations in the table below. While every column is not exactly represented per the percentage of the population I see no patterns of racial profiling or bias. If the officer could not distinguish the race of the individual the designation of unknown was placed in the race box. The Bainbridge Island Statistics are listed at the end of the table. The data is from the website City-Data.com from 2013. There is also a category for individuals with 2 or more races that accounts for 3.7%.

(<http://www.city-data.com/city/Bainbridge-Island-Washington.html>)

Race or Ethnicity	Traffic Infractions		Criminal Traffic		Totals		Bainbridge Island Demographics
	# by Race	% by Race	# by Race	% by Race	# by Race	% by Race	
African-American	5	0.9	2	2.1	7	1	1.3
Asian	15	2.6	2	2.1	17	2.5	3.8
Hispanic	0	0	6	6.4	6	0.9	3.9
American Indian	0	0	0	0	0	0	0.6
White	453	79	71	75.5	524	78.9	86.3
Unknown	97	17	13	13.8	110	16.5	
TOTAL	570		94		664		

Personnel Complaints

1029.1 PURPOSE AND SCOPE

This policy provides the guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Bainbridge Island Police Department.

1029.1.1 DEFINITIONS

Personnel Complaints: An allegation of misconduct or improper job performance against a Department employee that, if true, would constitute a violation of Department policy, federal, or state law.

Department Complaint: An expression of dissatisfaction from an external source with a policy, procedure, practice, philosophy, service level or legal standard of the Department that is not directed at a specific officer or group of officers.

1029.2 COMPLAINTS

It is the policy of the Department to accept and investigate all complaints of employee misconduct and wrongdoing from any citizen.

Any employee receiving a citizen's allegation against any other employee of the Department shall obtain the name, address, and phone number of the person and forward this information to a supervisor as soon as possible, regardless of whether or not the complainant wishes to come forward.

Anonymous complaints and third party complaints will be accepted and investigated to the extent possible given the information that is provided.

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person.

When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form and contacted by a supervisor when the complainant is sober.

Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

When an allegation about an employee is made directly to that employee, that employee shall notify a supervisor immediately.

If the complainant does not speak English, a suitable translator should be utilized.

Complainants shall not be required to appear in person, return to the Department at another time, swear under oath, participate in truth verification exams or acknowledge that making a false complaint is a crime for which they may be prosecuted or sued.

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Personnel Complaints

Complaints made against the Deputy Chief should be reported directly to the Chief of Police. Any person wishing to complain about the Chief of Police will be directed to the City Manager.

If a complainant indicates they wish to withdraw their complaint at any point, they shall not be required to participate in the process. The investigation will continue to the extent possible without the complainant's assistance.

No employee shall harass (or cause another to), verbally abuse, or threaten any person who files a complaint.

1029.2.1 DOCUMENTATION OF COMPLAINTS

Citizen complaint forms are available at the front counter or may be obtained from any supervisor.

Complainants will not be required to fill out the citizen complaint form if they do not want to do so, nor will a citizen complaint form be a condition or prerequisite for investigating an allegation.

Complaints should also be documented by a supervisor on an approved form. If the complaint is minor and can be adequately handled at the supervisory level, the supervisor shall include a summary of actions taken and a disposition of the complaint.

The complaint form and any relevant documentation will be collected as a complaint packet. The packet will be sent to the Deputy Chief who will take appropriate action and forward the complaint to the Chief of Police.

1029.3 RESPONSIBILITIES

1029.3.1 SUPERVISOR RESPONSIBILITIES

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 1. The original complaint form will be directed to the Deputy Chief, via the chain-of-command, who will take appropriate action.
 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the Deputy Chief or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
- (d) Follow-up contact with the complainant should be made within 24-hours of the department receiving the complaint.

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Personnel Complaints

- (e) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Deputy Chief and Chief of Police are notified via the chain of command as soon as practicable.
- (f) Promptly contacting the Personnel Department and the Deputy Chief for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination in accordance with Federal Laws, State Law, and City Policy.
- (g) Forwarding unresolved personnel complaints to the Deputy Chief, who will determine whether to contact the complainant or assign the complaint for investigation.
- (h) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (i) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses, email address, and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured area are taken.
- (j) Ensuring that the procedural rights of the accused are followed.
- (k) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1029.3.2 DEPUTY CHIEF RESPONSIBILITIES

Complaint and Internal Investigations are a collateral duty managed by the Deputy Chief. The Deputy Chief shall have the authority to assign internal investigations and shall report directly to the Chief of Police. The Deputy Chief will:

- (a) Receive all complaints.
- (b) In consultation with the Chief of Police, determine the type of investigation required and who will investigate the allegation.
- (c) Maintain regular communication with the investigator(s) and assist investigators as needed.
- (d) Review all internal investigations for completeness.
- (e) Present the results to the Chief of Police.
- (f) Maintain all records related to complaints and internal investigations.
- (g) Investigate complaints assigned by the Chief of Police.
- (h) Notify the Prosecutor's Office of potential officer credibility issues.

1029.3.3 ASSIGNMENT OF COMPLAINT INVESTIGATION

Once a complaint is received by the Deputy Chief, it will be reviewed, logged and assigned for investigation, if needed. If the complaint is determined to have been satisfactorily handled by the supervisor, the Deputy Chief will close and file the complaint.

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In matters regarding allegation of criminal conduct, or where a conflict of interest exists, the Chief of Police will request an investigation by an outside organization or investigator. The Deputy Chief will maintain liaison with the investigation agency or person.

1029.3.4 CLASSIFICATION OF COMPLAINTS

Minor Complaints to Supervisors. Most minor complaints can be resolved by the immediate supervisor. This is applicable to those allegations of first time incidents of minor misconduct or procedural violations. These may include complaints of:

- (a) Driving.
- (b) Rudeness or discourtesy.
- (c) Poor service.

Complaints Investigated as Internal Investigations. Allegations that should be investigated as internal investigations include:

- (a) Criminal conduct (conducted by an external agency).
- (b) Complex and time-consuming investigations.
- (c) Allegations of serious misconduct.
- (d) Habitual minor misconduct or patterns of minor infractions.
- (e) Those investigations directed by the Chief of Police.

1029.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

The Chief of Police or designee may assign the accused employee to administrative leave pending completion of the investigation of administrative charges, subject to the provisions of the applicable collective bargaining agreement.

1029.5 ALLEGATIONS OF CRIMINAL CONDUCT

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of criminal allegations, the Chief of Police will request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal detective.

No information or evidence administratively coerced from an employee may be provided to a criminal detective.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction, however, no disciplinary action, other than paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report. An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

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When the alleged crime occurred outside the jurisdiction of the City of Bainbridge Island, the Deputy Chief will maintain a liaison with the involved investigating agency.

1029.6 INTERNAL INVESTIGATIONS

1029.6.1 ADMINISTRATIVE SEARCHES

Employees shall have no expectation of privacy when using telephones, computers, radios or other forms of communications or media devices provided by the Department.

Employees shall not store personal information or belongings with an expectation of personal privacy in such places as desks, storage spaces, office spaces, department owned vehicles, file cabinets, or similar areas that are the property of the City of Bainbridge Island. While the Department recognizes the need for employees to occasionally store personal items in such areas, employees should be aware that these and similar places may be inspected or otherwise entered to meet operational needs, internal investigatory requirements, or for other reasons at the direction of the Chief of Police or designee.

This does not extend to personally owned items such as purses, backpacks, luggage, or similar items that are clearly personal in nature and stored within Department owned spaces.

1029.6.2 INVESTIGATIVE PROCEDURES

- (a) Employees will be notified of an internal investigation in accordance with the provisions of the Collective Bargaining Agreement.
- (b) If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal process.
- (c) Information developed from administratively compelled statements of an accused employee cannot be used against employees in any congruent criminal investigation of the same allegation.
- (d) Officers shall cooperate fully in any internal administrative investigation conducted by this or other authorized agency and shall provide complete and accurate information in regard to any issue under investigation. The employee is required to complete any requested statement and answer all questions truthfully. Failure to provide a statement and answer questions truthfully and completely is grounds for disciplinary action. An employee's failure to cooperate with an internal investigation shall be immediately reported to the Deputy Chief or Chief of Police.
- (e) Each investigation shall be conducted in a manner which thoroughly examines all the specifics of the alleged misconduct.
- (f) Investigators should not accept vague and generalized responses to their questions from complainants, witnesses or the accused employee.
- (g) Interviews with the accused employee, taken as part of formal internal investigations, will be conducted in accordance with the current Collective Bargaining Agreement.
- (h) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.

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- (i) If, during the course of the investigation, evidence is developed indicating the employee misconduct not mentioned in the original complaint, the investigator shall consult with the Deputy Chief as to what action should be taken.
- (j) Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, effort should be made to complete each investigation within a reasonable period following the receipt.

1029.7 DISPOSITION OF COMPLAINTS & INTERNAL INVESTIGATIONS

1029.7.1 CASE FORMAT

All internal investigative case files should contain a record of all actions taken by investigators and all relevant statements, reports, documents, physical evidence, and/or photographs.

1029.7.2 CASE REVIEW

Upon completion of the internal investigation, the case file will be reviewed by the Deputy Chief for completeness. The Deputy Chief may direct further investigation be conducted or will submit the case to the Chief of Police.

When the Chief of Police is satisfied that the internal investigation was thorough, complete, and has a reasonable attempt to uncover all relevant evidence, he/she, will make a determination about each allegation, classifying each one in accordance with the dispositions, listed in this policy.

1029.7.3 NOTICE OF FINDINGS

- (a) The Chief of Police will assign a classification to each allegation. The classifications are as follows:
 - 1. **Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel.
 - 2. **Exonerated** - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
 - 3. **Not Sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.
 - 4. **Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.
- (b) The classification will be made by a preponderance of the evidence as the standard of proof.
- (c) A written Notice of Findings shall be sent to the accused employee. The notice shall indicate the findings for each allegation.
- (d) When the findings are unfounded, exonerated, or not sustained, no record of allegation will appear in the employee's personnel file.
- (e) If one or more of the allegations are sustained, disciplinary measures may be taken in accordance with the provisions of the Policy Manual, the Civil Service Rules and the current collective bargaining agreement. A record of the disciplinary action taken will be placed in the complaint investigation file as well as the personnel file of the employee. If the

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consequences of the investigation does not rise to the level of Formal Discipline the record of the corrective action will not be placed in the employees personnel file.

1029.7.4 CLOSING THE CASE FILE

The case file of an internal investigation will be closed when the Chief of Police finds:

- (a) All charges in the case to be unfounded, not sustained, or exonerated.
- (b) Charges are sustained and the accused does not appeal the imposed discipline.
- (c) The accused employee appeals the imposed discipline and the appeal is resolved.

When the case is closed the Deputy Chief will:

- (a) Record findings in the complaint or internal investigation log.
- (b) File the entire case in the secure internal investigation storage area.
- (c) Send a copy of the investigative summary and applicable notices to Human Resources if the investigation resulted in sustained findings (with formal discipline).

1029.7.5 COMPLAINANT NOTIFICATION

All complainants will be provided with written notification concerning the conclusion of fact and disposition of their complaint. This requirement does not apply to anonymous complaints or when reasonable attempts to reach the complainant are unsuccessful.

1029.8 INVESTIGATIONS RECORDS

1029.8.1 CONFIDENTIALITY/SECURITY OF INVESTIGATION FILES

Complaint and internal investigation files will be kept in a secure area, accessible only to the Chief of Police, the Deputy Chief of Police, and the Administrative Supervisor. No file is to be removed from the secure area or shown to any person except upon approval of the Deputy Chief or Chief of Police.

1029.8.2 INVESTIGATION FILES AND LOGS

The following files are to be maintained by the Deputy Chief:

- (a) Complaint Log.
- (b) Internal Investigations Case Log.
- (c) A complete copy of all complaint and internal investigation files for the period required by the records retention schedule.

1029.8.3 RETENTION

All formal personnel complaints shall be retained in accordance with Washington State Retention Guidelines.

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1029.9 ANNUAL REVIEW

An annual review and analysis of all internal investigations will be conducted and presented to the Chief of Police.

Compromise on language in deadly-force law to make it less restrictive

Originally published February 9, 2017 at 3:32 pm Updated February 10, 2017 at 8:44 am

Washington has the nation's most restrictive law for charging officers with unlawful use of deadly force. The Legislature should make a reasonable change to the standard and avoid a bitter initiative campaign.

By [Seattle Times editorial board](#) *The Seattle Times*

CHARGING a police officer for using deadly force should be a very rare event, because society needs smart, well-trained officers to exercise good judgment in terrible situations.

But it **should not be a never event**, because those same officers must not be above the law they enforce.

Washington has set the bar too high for charging officers. A recent Seattle Times investigation, "[Shielded by the law](#)," found **this state had the most prohibitive standard in the nation.**

No Washington state officer has been convicted under that restrictive law in more than a decade, a span that **covers at least 213 fatal encounters with police.** Even in the most questionable incidents, such as the shooting of First Nations woodcarver John T. Williams, officers haven't been charged, let alone convicted.

A task force of law enforcement, lawmakers and community activists studied the issue for much of last year. The Legislature now needs to act on their proposals.

If lawmakers don't, the issue will most likely be sent to voters in the form of an initiative, and that campaign would be divisive and bitter.

At issue are three words in the current law. To charge an officer with unlawful use of deadly force, a prosecutor has to show the cop acted with "**malice**" — that the officer acted with evil intent — and a lack of "**good faith**" — which gets at an officer's judgment and training.

Community activists on the task force wanted both terms removed, significantly lowering the bar for charging officers. Police groups wanted neither, preserving the status quo. The Washington Council of Police & Sheriffs, in a statement, said removing malice or good faith "**is a distraction that fails to reduce violent interactions between law enforcement and the public.**"

Both sides need to compromise. [Sen. David Frockt](#), D-Seattle, has worked diligently to find the middle ground. The Washington Association of Prosecuting Attorneys has shown strong leadership, endorsing a change in state law that gets rid of having to prove "malice" but defines how a reasonable officer would use force.

That approach would put Washington in line with states like Arizona, Colorado, Connecticut, Florida and New York. Those states protect officers from criminal liability for using deadly force if the officers "reasonably believe" it is necessary to protect themselves or another person.

A brokered compromise should also respond to officers' legitimate concerns about the need for [more training](#) and funding for less-lethal weapons.

Changing the state law won't result in many more prosecutions of police officers, because the truly questionable cases are rare.

Nationwide, just 15 officers have been convicted in state courts over the past decade for unlawful use of deadly force. But **making the change will address legitimate concerns by the public about accountability for officers who act recklessly.**

Editorial board members are editorial page editor Kate Riley, Frank A. Blethen, Donna Gordon Blankinship, Brier Dudley, Mark Higgins, Jonathan Martin, William K. Blethen (emeritus) and Robert C. Blethen (emeritus).

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Necessary - That no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended (RCW 9A.16.010(1)).

Deadly force - The intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury (RCW 9A.16.010(2)).

Force - Any physical action taken by a Department member to control a situation or the behavior of others. This includes any physical effort used to control or restrain another, or to overcome the resistance of another. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

Officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to accomplish a legitimate law enforcement purpose. Where deadly force is not authorized, officers may use only that level of force that reasonably appears necessary to effectively control or restrain another, for the safety of the officer or others.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law or policy should promptly report these observations to a supervisor.

300.3 USE OF FORCE

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) The severity of the crime or other circumstances to which the officer(s) responds;

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- (b) The immediate threat to the safety of the officer(s) or to others;
- (c) Whether the subject is actively resisting arrest or attempting to evade arrest by flight;
- (d) The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be necessary;
- (e) The type and amount of force used;
- (f) The availability of alternative methods to subdue and/or take the subject into custody;
- (g) Other factors.

300.3.2 CONTROL TACTICS THAT MAY CAUSE PAIN

Control techniques that may cause pain may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved and has the opportunity to react.

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.

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2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle or occupants, or if deadly force other than the vehicle is directed at the officer or others.

300.4.2 WARNING SHOTS

Warning shots are not authorized.

300.4.3 DESTRUCTION OF ANIMALS

Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured, when the officer reasonably believes that deadly force can be used without harm to the officer or others.

Dogs, cats and other domestic animals should not be destroyed. After attempting to find the owner, animal control should be called so that the dog or cat can be moved to and evaluated by a veterinarian.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 USE OF FORCE REPORT AND NOTIFICATION TO SUPERVISOR REQUIREMENTS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER (TM) device or control device.

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- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.
- (j) A firearm was discharged.

300.6 MEDICAL CONSIDERATION

Aid will immediately be summoned as soon as practicable for serious injury or potentially life threatening situations or if the subject requests it.

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

The Shift Supervisor should respond to the scene of any incident involving the application of force and conduct a preliminary investigation of the incident. In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete a preliminary investigation.

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300.8 TRAINING

Officers will receive annual training on this policy and demonstrate their knowledge and understanding.

RCW 9A.16.010**Definitions.**

In this chapter, unless a different meaning is plainly required:

(1) "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.

(2) "Deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.

[1986 c 209 § 1; 1975 1st ex.s. c 260 § 9A.16.010.]

RCW 9A.16.020**Use of force—When lawful.**

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

(1) Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting the officer and acting under the officer's direction;

(2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him or her to a public officer competent to receive him or her into custody;

(3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary;

(4) Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property lawfully in the possession of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

(5) Whenever used by a carrier of passengers or the carrier's authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to the offender's personal safety;

(6) Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to any person, or in enforcing necessary restraint for the protection or restoration to health of the person, during such period only as is necessary to obtain legal authority for the restraint or custody of the person.

[1986 c 149 § 2; 1979 ex.s. c 244 § 7; 1977 ex.s. c 80 § 13; 1975 1st ex.s. c 260 § 9A.16.020.]

NOTES:

Effective date—1979 ex.s. c 244: See RCW 9A.44.902.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 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 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.

(c) When necessarily used by a peace officer 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.

(3) A public officer or peace officer 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) 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.

[1986 c 209 § 2; 1975 1st ex.s. c 260 § 9A.16.040.]

NOTES:

Legislative recognition: "The legislature recognizes that RCW 9A.16.040 establishes a dual standard with respect to the use of deadly force by peace officers and private citizens, and further recognizes that private citizens' permissible use of deadly force under the authority of RCW 9.01.200, 9A.16.020, or 9A.16.050 is not restricted and remains broader than the limitations imposed on peace officers." [1986 c 209 § 3.]

Graham v. Connor

490 U.S. 386 (1989)

Syllabus | Case

U.S. Supreme Court

Graham v. Connor, 490 U.S. 386 (1989)

Graham v. Connor

No. 87-6571

Argued February 21, 1989

Decided May 15, 1989

490 U.S. 386

Syllabus

Petitioner Graham, a diabetic, asked his friend, Berry, to drive him to a convenience store to purchase orange juice to counteract the onset of an insulin reaction. Upon entering the store and seeing the number of people ahead of him, Graham hurried out and asked Berry to drive him to a friend's house instead. Respondent Connor, a city police officer, became suspicious after seeing Graham hastily enter and leave the store, followed Berry's car, and made an investigative stop, ordering the pair to wait while he found out what had happened in the store. Respondent backup police officers arrived on the scene, handcuffed Graham, and ignored or rebuffed attempts to explain and treat Graham's condition. During the encounter, Graham sustained multiple injuries. He was released when Connor learned that nothing had happened in the store. Graham filed suit in the District Court under 42 U.S.C. § 1983 against respondents, alleging that they

had used excessive force in making the stop, in violation of "rights secured to him under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983." The District Court granted respondents' motion for a directed verdict at the close of Graham's evidence, applying a four-factor test for determining when excessive use of force gives rise to a § 1983 cause of action, which inquires, *inter alia*, whether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm. *Johnson v. Glick*, 481 F.2d 1028. The Court of Appeals affirmed, endorsing this test as generally applicable to all claims of constitutionally excessive force brought against government officials, rejecting Graham's argument that it was error to require him to prove that the allegedly excessive force was applied maliciously and sadistically to cause harm, and holding that a reasonable jury applying the *Johnson v. Glick* test to his evidence could not find that the force applied was constitutionally excessive.

Held: All claims that law enforcement officials have used excessive force -- deadly or not -- in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard. Pp. 490 U. S. 392-399.

(a) The notion that all excessive force claims brought under § 1983 are governed by a single generic standard is rejected. Instead, courts must identify the specific constitutional right allegedly infringed by the challenged application of force, and then judge the claim by reference to the specific constitutional standard which governs that right. Pp. 490 U. S. 393-394.

(b) Claims that law enforcement officials have used excessive force in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are most properly characterized as invoking the protections of the Fourth Amendment, which guarantees citizens the right "to be secure in their persons . . . against unreasonable seizures," and must be judged by reference to the Fourth Amendment's "reasonableness" standard. Pp. 490 U. S. 394-395.

(c) The Fourth Amendment "reasonableness" inquiry 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. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are

often forced to make split-second decisions about the amount of force necessary in a particular situation. Pp. 490 U. S. 396-397.

(d) The *Johnson v. Glick* test applied by the courts below is incompatible with a proper Fourth Amendment analysis. The suggestion that the test's "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances is rejected. Also rejected is the conclusion that, because individual officers' subjective motivations are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. The Eighth Amendment terms "cruel" and "punishment" clearly suggest some inquiry into subjective state of mind, whereas the Fourth Amendment term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions. Pp. 490 U. S. 397-399.

827 F.2d 945, vacated and remanded.

REHNQUIST, C.J., delivered the opinion of the Court, in which WHITE, STEVENS, O'CONNOR, SCALIA, and KENNEDY, JJ., joined. BLACKMUN, J., filed an opinion concurring in part and concurring in the judgment, in which BRENNAN and MARSHALL, JJ., joined, *post*, p. 490 U. S. 399.

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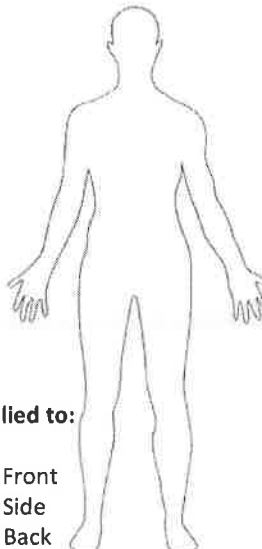
BAINBRIDGE ISLAND POLICE DEPARTMENT
USE OF FORCE FORM
 SIDE 1 - COMPLETED BY OFFICER

Incident # _____ Date: _____ Time: _____ Shift: _____

Subject Information and Actions

Age	Race	Activity ___ Intox/Drug ___ Mental ___ DV Other _____	Subject Actions ___ Compliant ___ Non-Compliant ___ Passive-Resistant ___ Active Resistant ___ Static ___ Egressive ___ Assaultive ___ Aggravated/Life-Threatening Notes:
Ht	Wt		
Language Barrier? ___ Yes ___ No			
Distance from Subject _____ This distance is ___ Estimated ___ Measured			
Subject Weapon ___ Firearm ___ Impact ___ Edged ___ Personal ___ Chemical ___ Other			

Force Information

Circle Affected Area(s)	Tools/Tactics/Techniques	Evaluation	Subject Injuries/Post
 <p>Applied to: ___ Front ___ Side ___ Back</p>	1- Verbal Commands _____ 2 - Draw & Direct _____ Taser _____ Firearm _____ 3 - Physical Controls _____ 4 - Leg Restraints _____ 5 - OC/Chem _____ 6 - Taser _____ Drive Stun _____ Cartridge # _____ 7 - Leverage Tools _____ 8 - Impact Tools _____ 9 - Personal Weapons _____ 10 - Firearm _____ 11 - Other (Describe) _____	Tool: _____ Effectiveness: _____ Low Medium High Tool: _____ Effectiveness: _____ Low Medium High Force Results ___ Fled ___ Ceased ___ Stabilized ___ Escalated Subject Injuries ___ None ___ Visible ___ Taser ___ Lethal Complained of: _____	Application Procedures ___ Photos ___ No Injuries ___ No Treatment ___ On-Scene Aid ___ Hospitalization ___ Decontamination Describe Injuries/Procedures:

Officer Information

Your Name: _____ Age: _____ Height: _____ Weight: _____ Gender: M F

Describe Your Injuries (use more paper if necessary and attach to this form): _____

Your Signature: _____ Date: _____

Use of Force Investigative Flow Chart

