

# Case of excessive force: graham v connor



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## Graham v. Connor

When a person is arrested there are times when the arrestee is yelling or trying to get the attention of others. This attention seeking is generally due to either trying to get out of charges or they are hurt from the arrest. It is sometimes impossible to determine where the injuries that are sustained are from, but in recent years with the help of technology it is becoming easier. In recent years the question of what excessive force is has been brought up on several occasions. There have been several cases that have come to the courts that have challenged the police and its use of excessive force. One such case is that of Graham v. Connor which is regarding the use of excessive force and violation of the 14<sup>th</sup> Amendment.

The case in question comes from the petitioner Dethorne Graham against an officer named Connor for an investigative stop. Graham was a diabetic that was having insulin reaction that need some food to bring his blood sugar up. It was after he had got to a store and saw the waiting line that he rushes out after going in. It was at this point that the case gets a murky on the details. According to the case it was then that the police officer decided to stop Graham as he thought it is was suspicious that he quickly left the store. Now, Graham was not the driver, his friend William Berry was the actual driver. It was at the beginning of the stop that the Berry informed the police officer that his friend was having a diabetic episode, but they were instructed to wait. Another set of officers showed up at the arresting site, and placed Graham in handcuffs without waiting on the report. It was during the arrest that Graham sustained multiple injuries, despite several attempts by Graham and Berry of trying to explain and ask for treatment for Graham's condition.

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It was after Officer Connor received word that Graham had not committed any crime was, he released from custody.

Graham filed a suit against the officers for the use of excessive force while making the investigative stop. The District Court in which the case was filed granted the respondents (the officers) a directed verdict by applying a four-factor test at the conclusion of the end of Graham's evidence. The four-factor test determines when the use of excessive force was applied in good faith to maintain or restore discipline or if the excessive force was malicious for the purpose of causing harm. The four-factors that were used to determine the excessive use of force are: "(1) the need for the application of force; (2) the relationship between that need and the amount of force that was used; (3) the extent of the injury inflicted; and (4) " 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" (Graham v. Connor, 490 U. S. 386 (1989), n. d.).

Graham appealed the ruling, but the Court of Appeals affirmed the case, and endorsed that the four-factor test can be applied to all claims against government officials in which excessive force is argued. By affirming the four-factor towards this case, the Appeal court did not look at the fact the excessive force was used during an investigative stop. When it is claimed under these instances then the excessive force should be looked under the Fourth Amendment instead. It was then sent to the highest court for final review on whether the use of the excessive force was constitutional.

The case was then taken to the U. S. Supreme Court where it was argued that this case should be looked at for the violation of the Fourth Amendment rather than the Fourteenth Amendment. The Supreme Court ruled that the case such as this should be looked under the Fourth Amendment as the stop was considered an investigatory stop which protects citizens against unreasonable seizures. This is unique in the fact that the many of the lower courts were using the four-factor “ substantive due process” which was outlined in an earlier case of Johnson v. Glick. The key to using the Fourth Amendment would be because of “ objective reasonableness” as outlined. By applying the four-factor the lower courts are not showing the compatibility with the Fourth Amendment as it should be with this case.

Taking this case into consideration, the use of excessive force can be a great debate for the criminal justice system. It is important to look at the exact definition of what can be considered excessive force to understand how it impact a case as well as the legal system itself for the future. When looking at the use of excessive force, it is important to also determine how the officers’ actions were motivated prior to the force being used. Excessive force can be defined as “ Applications of force against individuals by police officers that violate either departmental policies or constitutional rights by exceeding the level of force permissible and necessary in a given situation” (Cole, Smith, & DeJong, 2018). By looking at the definition the use of excessive force can be loosely decided based on the intent behind the officers and whether it was malicious or not. If an officer does in fact inflict force with such intentions, then it should be determined as an excessive force.

This case created a new set of rules for police officers to abide by when it comes to making certain types of stops or arrests. With the use of body cameras and dash cameras it is becoming increasingly easier for the cases of excessive force to be determined when they are brought to court. It is important for police officers to not just rely on their gut when making a stop, instead they will have to acknowledge the reason for the stop. Many cases now are coming to light where the police are making a stop not based on facts, and they are using excessive force when it comes to making these arrests. It is important to arrest criminals, but it is also important for a police officer to do due diligence when it comes to making these stops. There are many cases that are in fact showing that police are using excessive force on people, but there is no logical reason behind it. As technology advances there will be more cases that are brought to the highest court and how policing is done. One thing is for certain is that the criminal justice system just like anything is constantly changing.

The use of excessive force can mean many things to people. Some people see excessive force as the actual hurting of another individual, but it can mean withholding medical care, or even verbal assaulting as well. It is in the new times that as a nation the police force must look to new and non-violent ways to arrest individuals. With the use of technology as it stands, it is getting harder for the police to make unjustifiable stops and this helps to keep them accountable of their actions. *Graham v. Connor* was a great case that has made the use of excessive force become a forefront issue that will constantly be challenged in the courts.

## **Bibliography**

- Cole, G., Smith, C., & DeJong, C. (2018). *The American System of Criminal Justice*. Boston: Cengage.
- *Graham v. Connor, 490 U. S. 386 (1989)* . (n. d.). Retrieved from Justia: <https://supreme.justia.com/cases/federal/us/490/386/>