



## The Police Officer's Fail-Safe

Tyrone Cratic Williams, 6/3/2020

Reflecting on the events leading up to and in the wake of the George Floyd murder, I've observed, heard and felt the pain and anger of so many people, including myself at the situation. Many of these people have never met Floyd personally or even live in the same time zone. But these people, just like many other black and brown people in America, have experienced or know of situations just like Floyd's. Situations involving police officers overstepping their bounds and abusing their authority at the cost of someone's freedom, life and trust while the courts say the officer was "justified" in their actions. These experiences shape our views of those in positions of authority and can have a lasting, traumatic impact, both directly and indirectly, on communities, especially historically marginalized ones.

One of my earliest memories and first encounters with police occurred when I was thirteen years old, in the 8th grade living in Chicago. A student had gotten into an altercation at the school and the police were called to investigate. The student accepted responsibility for his actions and cooperated with officers while they finished their investigation. The student was ultimately arrested, placed into handcuffs and the arresting officer escorted the student out of the room. Just as they were about to exit the classroom, the officer decided to grab the back of the student's head and slam his face against the corner of the metal door frame. The officer looked back at us and just smirked. We watched in silence, at a loss for words for what we just witnessed. That's something I'll never forget. I will never forget that smirk. I will never forget that feeling of hopeless, oppression and anger. I will never forget that feeling of wanting to do something but not knowing how or if I even could do something.

That classroom was full of black children and we all shared that experience. If that memory from 18 years ago could affect me in such a way, I can only imagine what the impact is for others who have been directly abused or have lost loved ones at the hands of police or the criminal justice system. This abuse affects people at all levels, from the

person who is hesitant to call the police on a neighbor for a minor issue, out of fear of what may happen when they show up, to someone who is scared and nervous because, even if they comply, they could still be harmed. We have seen these scenarios play out and heard stories from all across the country, throughout the years, including 2020. And yet, hardly anyone has been held accountable for their actions.

Recently some officers have been held accountable. Mohamed Noor, a former Minneapolis police officer, was convicted for the 2017 fatal shooting of Justine Damond while responding to a call for service. Noor is serving 12 ½ years in prison. Jason Van Dyke, a former Chicago police officer, is serving just under 7 years for the killing of Laquan McDonald. These two are just a few but compared to the overall number of people killed or who claimed to be brutally harmed by police, why aren't there more convictions? Just this year alone, according to [Fatal Force.](#), a real time tracker of fatal shootings by police officers while in the line of duty, 429 people have been shot and killed by police in America.

Communities often witness or record use of force incidents involving police officers, believing it to be excessive and want the officer held accountable. When their claims are investigated by the courts, it's often deemed "justified" behavior and officers walk away, continuing to work with little consequence. It's maddening to clearly see mistakes, poor choices, overly aggressive and obvious prejudicial behavior being claimed as "justified". It's a slap in the face to the involved parties, their families, witnesses and others who were affected and traumatized by these incidents. In this day and age, with smartphones, video and instant access to information, how can something so clear be "justified" by the courts?

Well, actually they aren't "justified" at all. Justified is a subjective word, defined as having, done for, or marked by a good or legitimate reason. When people witness or take part in events, like seeing a person murdered by police in front of them or on video, and then see that murder coined as "justified", regardless of their opinion on the matter, it will elicit a certain response. One response is anger, this can be seen across the country, after years of acquittals, even against evidence suggesting the opposite. People are traumatized and are demanding accountability but it's not happening nearly as often as it should. And here lies the police officer's fail-safe. Nowhere in any federal or state statutes regarding police use of force is the word "justified". The truth is buried in boring and hard to decipher US Supreme Court case law. The word you want to look for is "objective reasonableness".

When looking at excessive police use of force, we want to look at two things: *Graham v. Connor* (US Supreme Court case 490 U.S. 386 (1989)) and the “objective reasonableness” standard of the Fourth Amendment. 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.

In general speak, BY LAW, when reviewing claims of excessive police use of force, the courts CANNOT:

1. Question an officer’s underlying intent or motivations, whether evil, good, malicious or prejudice.
2. Judge information or facts in hindsight.

And SHALL

3. Give officers the benefit of the doubt on the amount of force used, because they are human and often have limited information to work with in fast paced conditions.

In other words, you don’t have to be right, you just have to be reasonable.

### **What is the problem with *Graham v. Connor* ruling?**

As a standalone law, it isn’t bad, it’s actually pretty reasonable. Officers are often faced with legitimate threats veiled in deceit. For instance, most people who intend on doing harm to another person are not going to announce it beforehand, it just wouldn’t be effective. So this law gives officers protections to defend themselves or another from threats of or acts of violence. But when placed in the context of America’s longstanding and well documented racist history along with police being used as the primary vehicle of enforcement of racist laws, *Graham v Connor* and “objective reasonableness” allows prejudice and racism to hide behind a bias of clauses (give officers benefit of the doubt, can’t question intent) and operate in an old-fashioned way with impunity. If an officer wants to do me harm and I present a certain way, theoretically that officer could articulate a “reasonable” circumstance to use force onto me. Whether that officer’s intent was malicious, racist, right or wrong, none of that will be considered, if I even survive to make a complaint. And that’s a problem.

Our world is becoming more connected through technology. Access to information and documentation on police officers is becoming more readily available to the masses in ways that we have never seen. Backgrounds on police officers, their histories, prejudice

and racist behavior are coming to light. Anecdotal evidence is now being supported by technology and the masses who have had these shared experiences of police abuse are connecting from across the country and world and making their voices known. This is changing the landscape of our country and is playing a significant role in highlighting the faults in the system. Similar to how nationalized television gave attention to the 1960's civil rights movement and how camcorders of the 1980's caught Rodney King's incident, times are changing, technology is catching up and we're seeing a paradigm shift in our society. People are mad, angry and tired of the injustices that have been stacked against them, their parents, grandparents and future children. What used to be rumors and whispers of racist, incompetent, prejudice and dirty officers are now live on our smartphones for the world to see. Yet, *Graham v Connor* continues to protect these officers and "JUSTIFIED" continues to be labeled over black and brown bodies while the world watches. When are we going to turn the page America?

Understanding that *Graham v Connor* is a federal issue, controlled by the US Supreme Court, how can we address these matters at home? I'm calling on the Dane County Chiefs to release concrete, tangible plans to deal with implicit racial bias. I, along with my entire community, want to know how they will make sure what happened to George Floyd does not happen in Madison.

We must address the way we recruit and retain officers of color and multilingual officers. Departments should be investing in frameworks to ensure multicultural officers are supported from academy to the end of field training. In my personal experience, multicultural officers are able to lead other officers by example and put a human face to communities of color. Having more officers, who come from underserved communities, provides a natural relatability and empathic connection that no training can give. We must take steps to lessen the sense of mistrust that often exists between police officers and communities of color.

Police departments must also create a strategic plan to implement implicit bias training into academies and in-services. These training should be designed in partnership with members of the communities they serve and with officers of color at the head of the table to ensure best practices. Eight hours of implicit bias training in recruit academies provides a baseline of education for officers when dealing with communities of color and has a definitive impact on their decision-making when it comes to use of force. Implicit racial bias awareness training is never a one-and-done deal. Racial bias is always present in decision-making whether we like it or not.

At the end of the day, implicit racial bias training and understanding how it impacts decision-making is a key part of preventing tragedies like George Floyd's death from happening. Without concrete plans from the Dane County Chiefs, how can our community be sure it is safe from these kinds of avoidable, preventable tragedies?

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