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1. *Graham v. Connor, 490 U.S. 386*

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Graham v. Connor

Supreme Court of the United States

February 21, 1989, Argued ; May 15, 1989, Decided

No. 87-6571

Reporter
490 U.S. 386 *; 109 S. Ct. 1865 **; 104 L. Ed. 2d 443 ***; 1989 U.S. LEXIS 2467 ****; 57 U.S.L.W. 4513

GRAHAM v. CONNOR ET AL.

Prior History: [**1]** CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT.

Disposition: 827 F. 2d 945, vacated and remanded.

Core Terms

excessive force, analyzed, substantive due process, seizure, arrest, investigatory stop, circumstances, sadistically, maliciously, objectively reasonable, courts

Case Summary

Procedural Posture

Petitioner diabetic appealed from a judgment of the United States Court of Appeals for the Fourth Circuit affirming a directed verdict for respondent law enforcement officers, in a 42 U.S.C.S. § 1983 suit to recover damages for injuries he sustained during an investigatory stop.

Overview

Diabetic filed a 42 U.S.C.S. § 1983 action against respondent law enforcement officers to recover damages for injuries he sustained when physical force was used against him during an investigatory stop, while he was on his way to obtain orange juice to counteract the onset of an insulin reaction. The appellate court endorsed the four-factor test applied by the trial court. The diabetic argued that it was error to require him to prove that the excessive force used against him was applied maliciously and sadistically to cause harm. The Court vacated the judgment, holding that the diabetic's claims should have been analyzed under the Fourth Amendment's objective reasonableness standard, rather than under a substantive due process standard. The proper Fourth Amendment inquiry was one of objective reasonableness under the circumstances, and subjective concepts like malice and sadism had no proper place in that inquiry.

Outcome

The court vacated and remanded the judgment of the appellate court.

LexisNexis® Headnotes

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Scope of Protection

Criminal Law & Procedure > Commencement of Criminal Proceedings > Arrests > Reasonable Force

Constitutional Law > ... > Fundamental Rights > Search & Seizure > General Overview

HN1[] Protection of Rights, Section 1983 Actions

A free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard.

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

HN2[] Protection of Rights, Section 1983 Actions

The court rejects the notion that all excessive force claims brought under 42 U.S.C.S. § 1983 are governed by a single generic standard. Section 1983 is not itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred. In addressing an excessive force claim brought under § 1983, analysis begins by identifying the specific constitutional right allegedly infringed by the challenged application of force.

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Scope of Protection

Criminal Law & Procedure > Commencement of Criminal Proceedings > Arrests > Reasonable Force

Constitutional Law > ... > Fundamental Rights > Search & Seizure > General Overview

HN3[] Protection of Rights, Section 1983 Actions

Where the excessive force claim arises in the context of an arrest or investigatory stop of a free citizen, it is most properly characterized as one invoking the protections of the Fourth Amendment, which guarantees citizens the right to be secure in their persons against unreasonable seizures of the person.

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Scope of Protection

Criminal Law & Procedure > Commencement of Criminal Proceedings > Arrests > Reasonable Force

Constitutional Law > Substantive Due Process > General Overview

HN4[] Protection of Rights, Section 1983 Actions

Because the Fourth Amendment provides an explicit textual source of constitutional protection against excessive force and physically intrusive governmental conduct, that Amendment, not the more generalized notion of "substantive due process," must be the guide for analyzing such claims.

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Scope of Protection

Criminal Law & Procedure > ... > Obstruction of Administration of Justice > Resisting Arrest > Elements

Criminal Law & Procedure > ... > Obstruction of Administration of Justice > Resisting Arrest > General Overview

HN5[] Protection of Rights, Section 1983 Actions

Determining whether the force used to effect a particular seizure is "reasonable" under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake. Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it. Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Probable Cause

Criminal Law & Procedure > Search & Seizure > Search Warrants > Execution of Warrants

Constitutional Law > ... > Fundamental Rights > Search & Seizure > General Overview

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Scope of Protection

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Warrants

Criminal Law & Procedure > Commencement of Criminal Proceedings > Arrests > Reasonable Force

Criminal Law & Procedure > Search & Seizure > Search Warrants > General Overview

Criminal Law & Procedure > ... > Search Warrants > Probable Cause > General Overview

HN6[] Protection of Rights, Section 1983 Actions

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The *Fourth Amendment* is not violated by an arrest based on probable cause, even though the wrong person is arrested, nor by the mistaken execution of a valid search warrant on the wrong premises. With respect to a claim of excessive force, the same standard of reasonableness at the moment applies. Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers, violates the *Fourth Amendment*. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation.

Civil Rights Law > Protection of Rights > Section 1983 Actions > Scope

Constitutional Law > ... > Fundamental Rights > Search & Seizure > Scope of Protection

Constitutional Law > ... > Fundamental Rights > Search & Seizure > General Overview

HN7[] Protection of Rights, Section 1983 Actions

As in other *Fourth Amendment* contexts, however, the "reasonableness" 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.

Lawyers' Edition Display

Decision

Claims under *42 USCS 1983* that excessive force was used by law enforcement officers in seizing person held properly analyzed under *Fourth Amendment's* "objective reasonableness" standard rather than under substantive due process standard.

Summary

An individual who was a diabetic felt the onset of an insulin reaction and desired to purchase some orange juice to counteract the reaction. A friend drove the individual to a convenience store, but the individual, upon entering the store and seeing a number of people ahead of him at the checkout line, hurried out of the store and returned to the friend's automobile, whereupon the individual requested that the friend drive him to another friend's house. A municipal law enforcement officer, who had seen the individual's hasty entrance into and exit from the store, made an investigative stop of the automobile about 1/2 mile from the store and was informed by the friend that the individual was suffering from a "sugar reaction." The officer nevertheless ordered the friend and the individual to wait until the officer could determine what, if anything, happened at the convenience store, and then called for backup assistance. When the backup officers arrived, the individual, who had meanwhile left the automobile, was tightly handcuffed, shoved face-first against the hood of the friend's automobile, and then thrown head-first into a police car. Finally, the officer who had stopped the automobile received a report that the individual had done nothing wrong at the store, whereupon the individual was driven home and released. The individual, who had sustained multiple injuries during the incident, thereafter filed an action in the United States District Court for the Western District of North Carolina against the officers involved, alleging that the officers had used excessive force in making the investigatory stop in violation of rights secured to him under the *Federal Constitution's Fourteenth Amendment* and *42 USCS 1983*. During the ensuing jury trial, the officers moved for a directed verdict at the close of the individual's evidence. The District Court granted the officers' motion, finding that the officers' excessive use of force did not give rise to a cause of action under 1983, since the amount of force used (1) was appropriate under the circumstances, (2) did not inflict any discernable injury, and (3) was not applied

maliciously or sadistically for the very purpose of causing harm, but in a good-faith effort to maintain or restore order in the face of a potentially explosive situation (644 F Supp 246). On appeal by the individual, the United States Court of Appeals for the Fourth Circuit affirmed, ruling that the District Court had applied the correct legal standard in assessing the individual's excessive force claim (827 F2d 945).

On certiorari, the United States Supreme Court vacated and remanded. In an opinion by Rehnquist, Ch. J., joined by White, Stevens, O'Connor, Scalia, and Kennedy, JJ., it was held that (1) all claims brought under 1983 in which it was alleged that law enforcement officers used excessive force--deadly or not--in the course of an arrest, investigatory stop, or other seizure of a free citizen were properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under the more generalized standard of "substantive due process" pursuant to the due process clause of the Fourteenth Amendment, because the Fourth Amendment provided an explicit textual source of federal constitutional protection against such physically intrusive governmental conduct, and (2) under the Fourth Amendment standard, the inquiry is whether the officer's actions in using the force alleged to be excessive are objectively reasonable in light of the facts and circumstances confronting the officer, without regard to the officer's underlying intent or motivation.

Blackmun, J., joined by Brennan and Marshall, JJ., concurred in part and concurred in the judgment, agreeing with both the court's opinion insofar as it ruled that the Fourth Amendment was the primary tool for analyzing claims of excessive force in the prearrest context and the court's judgment remanding for reconsideration of the evidence under a reasonableness standard, but expressing the view that it was not necessary for the court to have decided that all prearrest excessive force claims were to be analyzed under a Fourth Amendment standard rather than under a substantive due process standard, since such question was not squarely raised in the instant case.

Headnotes

CIVIL RIGHTS §27 > CONSTITUTIONAL LAW §832 > SEARCH AND SEIZURE §11 > 1983 action -- seizure of person by law enforcement officers -- excessive force -- objective reasonableness standard of Fourth Amendment -- due process -- > Headnote:
LEdHN[1A][] [1A]LEdHN[1B][] [1B]

All claims brought under 42 USCS 1983 in which it is alleged that law enforcement officers 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 "objective reasonableness" standard of the Federal Constitution's Fourth Amendment, rather than under the more generalized standard of "substantive due process" pursuant to the due process clause of the Fourteenth Amendment, because the Fourth Amendment provides an explicit textual source of federal constitutional protection against such physically intrusive governmental conduct. (Blackmun, Brennan, and Marshall, JJ., dissented in part from this holding.)

APPEAL §1283 > inferences -- direction of verdict -- > Headnote:
LEdHN[2][] [2]

The United States Supreme Court, in reviewing, on certiorari, a case coming to it from a Federal Court of Appeals decision affirming the entry of a directed verdict, will consider the evidence in the light most favorable to the party against whom the directed verdict was entered.

CIVIL RIGHTS §22 > function of federal statute -- > Headnote:
LEdHN[3][] [3]

42 USCS 1983 is not itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred.

CIVIL RIGHTS §27 > CRIMINAL LAW §76 > SEARCH AND SEIZURE §11 > 1983 action -- analysis of excessive force claims -- seizure of person -- cruel and unusual punishment -- liability on Bivens claims -- > Headnote:
LEdHN[4A][] [4A]LEdHN[4B][] [4B]

For purposes of addressing an excessive force claim

brought under *42 USCS 1983*, analysis begins--as it does in any 1983 suit--by identifying the specific federal constitutional right allegedly infringed by the challenged application of force, which in most instances will be either the *Fourth Amendment's* prohibition against unreasonable seizures of the person or the *Eighth Amendment's* ban on cruel and unusual punishments, which are the two primary sources of constitutional protection against physically abusive governmental conduct; the validity of the claim must then be judged by reference to the specific constitutional standard which governs that right, rather than to some generalized "excessive force" standard; the same analysis applies to determining liability on excessive force claims brought against federal law enforcement and correctional officials under *Bivens v Six Unknown Named Agents of Federal Bureau of Narcotics (1971) 403 US 388, 29 L Ed 2d 619, 91 S Ct 1999*.

SEARCH AND SEIZURE §11 > seizure of person -- > Headnote:
LEdHN[5A][] [5A]**LEdHN[5B]**[] [5B]

A seizure triggering the protections of the *Federal Constitution's Fourth Amendment* occurs only when government actors have, by means of physical force or show of authority, in some way restrained the liberty of a citizen.

CONSTITUTIONAL LAW §848 > due process -- punishment of pretrial detainees -- > Headnote:
LEdHN[6A][] [6A]**LEdHN[6B]**[] [6B]

The due process clause of the *Federal Constitution's Fourteenth Amendment* protects a pretrial detainee from the use of excessive physical force that amounts to punishment.

CONSTITUTIONAL LAW §853 > CRIMINAL LAW §76 > SEARCH AND SEIZURE §11 > cruel and unusual punishment -- use of excessive force -- prisoners -- due process -- seizure of person -- > Headnote:
LEdHN[7A][] [7A]**LEdHN[7B]**[] [7B]**LEdHN[7C]**[] [7C]

The *cruel and unusual punishment clause* of the *Federal Constitution's Eighth Amendment* serves as the primary source of substantive protection in cases where the deliberate use of force after an accused's conviction is challenged as excessive and unjustified; any protection that substantive due process, under the *due process clause of the Fourteenth Amendment*, affords convicted prisoners against excessive force is, at best, redundant of that provided by the *Eighth Amendment*; such *Eighth Amendment* standard, which is less protective than the *Fourth Amendment* protection against unreasonable seizures of persons, applies only after the state has complied with the constitutional guarantees traditionally associated with criminal prosecutions.

SEARCH AND SEIZURE §11 > seizure of person -- reasonableness of force used -- > Headnote:
LEdHN[8][] [8]

A determination of whether the force used to effect a particular seizure of an individual is reasonable under the *Federal Constitution's Fourth Amendment* requires a careful balancing of the nature and quality of the intrusion on the individual's *Fourth Amendment* interests against the countervailing governmental interests at stake; however, because such test is not capable of precise definition or mechanical application, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of law enforcement officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

SEARCH AND SEIZURE §11 > seizure of person -- arrest or investigatory stop -- use or threat of physical coercion -- > Headnote:
LEdHN[9][] [9]

The right of law enforcement officers to make an arrest or investigatory stop of an individual, as a "reasonable" seizure under the *Federal Constitution's Fourth Amendment*, necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect such arrest or stop.

CIVIL RIGHTS §27 > SEARCH AND SEIZURE §11 > 1983 action -- seizure of person -- use of force -- objective reasonableness standard -- > Headnote:
LEdHN[10A][] [10A]LEdHN[10B][] [10B]

With respect to a claim brought under 42 USCS 1983 that a police officer has used excessive force in seizing an individual in violation of the Federal Constitution's Fourth Amendment, the inquiry as to the officer's "reasonableness" is an objective one, with the question being whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting the officer, without regard to the officer's underlying intent or motivation; such reasonableness must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight; not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers, violates the Fourth Amendment, and the calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments about the amount of force that is necessary in a particular situation in circumstances that are tense, uncertain, and rapidly evolving; an officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force, nor will an officer's good intentions make an objectively unreasonable use of force constitutional.

SEARCH AND SEIZURE §12 > arrest -- execution of search warrant -- > Headnote:
LEdHN[11][] [11]

The Federal Constitution's Fourth Amendment, insofar as it provides that a search or seizure must satisfy a standard of reasonableness, is not violated by an arrest based on probable cause even though the wrong person is arrested, nor by the mistaken execution of a valid search warrant on the wrong premises.

SEARCH AND SEIZURE §11 > seizure of person -- use of force -- subjective analysis -- > Headnote:
LEdHN[12][] [12]

An analysis of a claim that law enforcement officers used excessive force upon an individual which requires consideration of whether the officers acted either in good faith or "maliciously and sadistically for the very purpose of causing harm" is incompatible with a proper analysis of such claim under the Federal Constitution's Fourth Amendment, since use of a "malicious and sadistic" factor puts in issue the subjective motivations of the officers, which motivations have no bearing on whether a particular seizure of an individual is unreasonable; subjective concepts like "malice" and "sadism" have no proper place in the Fourth Amendment inquiry, with respect to such claims, of objective reasonableness under the circumstances.

CIVIL RIGHTS §32 > EVIDENCE §789 > SEARCH AND SEIZURE §11 > seizure of person -- use of force -- good faith -- 1983 action -- qualified immunity -- relevancy -- > Headnote:
LEdHN[13A][] [13A]LEdHN[13B][] [13B]

In assessing the credibility of a law enforcement officer's account of the circumstances that prompted the officer's use of force against a free citizen, with respect to the citizen's claim that such force was excessive and violated the citizen's right under the Federal Constitution's Fourth Amendment to be secure against unreasonable seizures, a fact-finder may consider, along with other factors, evidence that the officer may have harbored ill-will toward the citizen against whom force was used; similarly, an officer's objective good faith--that is, whether the officer could reasonably have believed that the force used did not violate the Fourth Amendment--may be relevant to the availability of the qualified immunity defense to monetary liability under 42 USCS 1983.

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 **[****2]** 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 **[****3]** -- 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. 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. 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. 394-395.

(c) The *Fourth Amendment* "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances **[****4]** 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. 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 "punishments" clearly suggest some inquiry into subjective state of mind, whereas the *Fourth Amendment* term **[****5]** "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. 397-399.

Counsel: H. Gerald Beaver argued the cause for petitioner. On the briefs was Richard B. Glazier.

Mark I. Levy argued the cause for respondents. On the brief was Frank B. Aycock III. *

Judges: Rehnquist, C. J., delivered the opinion of the

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* Briefs of *amici curiae* urging reversal were filed for the United States by *Solicitor General Fried, Assistant Attorney General Reynolds, Deputy Assistant Attorney General Clegg, David L. Shapiro, Brian J. Martin*, and *David K. Flynn;* and for the American Civil Liberties Union et al. by *Steven R. Shapiro*.

Lacy H. Thornburg, Attorney General of North Carolina, *Isaac T. Avery III*, Special Deputy Attorney General, and *Linda Anne Morris*, Assistant Attorney General, filed a brief for the State of North Carolina as *amicus curiae* urging affirmance.

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 **[****6]** which Brennan and Marshall, JJ., joined, post, p. 399.

Opinion by: REHNQUIST

Opinion

[*388] **[***450]** **[**1867]** CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

LEdHN[1A][] [1A]This case requires us to decide what constitutional standard governs ***HN1***[] a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person. We hold that such claims are properly analyzed under the *Fourth Amendment's* "objective reasonableness" **[**1868]** standard, rather than under a substantive due process standard.

LEdHN[2][] [2]In this action under *42 U. S. C. § 1983*, petitioner Dethorne Graham seeks to recover damages for injuries allegedly sustained when law enforcement officers used physical force against him during the course of an investigatory stop. Because the case comes to us from a decision of the Court of Appeals affirming the entry of a directed verdict for respondents, we take the evidence hereafter noted in the light most favorable to petitioner. On November 12, 1984, Graham, a diabetic, felt the onset of an insulin reaction. He asked a friend, William Berry, to drive him to a nearby convenience **[****7]** store so he could purchase some orange juice to counteract the reaction. Berry agreed, but when Graham entered the store, he saw a number of people ahead of him in the checkout **[*389]** line. Concerned about the delay, he hurried out of the store and asked Berry to drive him to a friend's house instead.

Respondent Connor, an officer of the Charlotte, North Carolina, Police Department, saw Graham hastily enter and leave the store. The officer became suspicious that something was amiss and followed Berry's car. About one-half mile from the store, he made an investigative stop. Although Berry told Connor that Graham was simply suffering from a "sugar reaction," the officer ordered **[***451]** Berry and Graham to wait while he found out what, if anything, had happened at the convenience store. When Officer Connor returned to his patrol car to call for backup assistance, Graham got out of the car, ran around it twice, and finally sat down on the curb, where he passed out briefly.

In the ensuing confusion, a number of other Charlotte police officers arrived on the scene in response to Officer Connor's request for backup. One of the officers rolled Graham over on the sidewalk and cuffed **[****8]** his hands tightly behind his back, ignoring Berry's pleas to get him some sugar. Another officer said: "I've seen a lot of people with sugar diabetes that never acted like this. Ain't nothing wrong with the M. F. but drunk. Lock the S. B. up." App. 42. Several officers then lifted Graham up from behind, carried him over to Berry's car, and placed him face down on its hood. Regaining consciousness, Graham asked the officers to check in his wallet for a diabetic decal that he carried. In response, one of the officers told him to "shut up" and shoved his face down against the hood of the car. Four officers grabbed Graham and threw him headfirst into the police car. A friend of Graham's brought some orange juice to the car, but the officers refused to let him have it. Finally, Officer Connor received a report that Graham had done nothing wrong at the convenience store, and the officers drove him home and released him.

[*390] At some point during his encounter with the police, Graham sustained a broken foot, cuts on his wrists, a bruised forehead, and an injured shoulder; he also claims to have developed a loud ringing in his right ear that continues to this day. He commenced **[****9]** this action under *42 U. S. C. § 1983* against the individual officers involved in the incident, all of whom are respondents here, [1] alleging that they had used excessive force in making the investigatory stop, in violation of "rights secured to him under the *Fourteenth Amendment to the United States Constitution* and *42 U. S. C. § 1983*." Complaint para. 10, App. 5. [2] The case was tried before a jury. At the close of petitioner's evidence, respondents moved for a directed verdict. In ruling on that motion, the District Court considered the

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[1] Also named as a defendant was the city of Charlotte, which employed the individual respondents. The District Court granted a directed verdict for the city, and petitioner did not challenge that ruling before the Court of Appeals. Accordingly, the city is not a party to the proceedings before this Court.

[2] Petitioner also asserted pendent state-law claims of assault, false imprisonment, and intentional infliction of emotional distress. Those claims have been dismissed from the case and are not before this Court.

following **[**1869]** four factors, which it identified as "[t]he factors to be considered in determining when the excessive use of force gives rise to a cause of action under § 1983": (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) "[w]hether 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." 644 F. Supp. 246, 248 (WDNC 1986). **[****10]** Finding that the amount of force used by the officers was "appropriate under the circumstances," that "[t]here was no discernable **[***452]** injury inflicted," and that the force used "was not applied maliciously or sadistically for the very purpose of causing harm," but in "a good faith effort to maintain or restore order in the face of a potentially explosive **[*391]** situation," id., at 248-249, the District Court granted respondents' motion for a directed verdict.

[**11]** A divided panel of the Court of Appeals for the Fourth Circuit affirmed. 827 F. 2d 945 (1987). The majority ruled first that the District Court had applied the correct legal standard in assessing petitioner's excessive force claim. Id., at 948-949. Without attempting to identify the specific constitutional provision under which that claim arose, [3] the majority endorsed the four-factor test applied by the District Court as generally applicable to all claims of "constitutionally excessive force" brought against governmental officials. Id., at 948. The majority rejected petitioner's argument, based on Circuit precedent, [4] **[****13]** that it was error to require him to prove that the allegedly excessive force used against him was applied "maliciously and sadistically for the very purpose of causing harm." [5] *Ibid.* Finally, the majority held that a reasonable jury applying the four-part test it had just endorsed **[*392]** to petitioner's evidence "could not find that the force applied was constitutionally excessive." Id., at 949-950. The dissenting judge argued that **[****12]** this Court's decisions in Terry v. Ohio, 392 U.S. 1 (1968), and Tennessee v. Garner, 471 U.S. 1 (1985), required that excessive force claims arising out of investigatory stops be analyzed under the Fourth Amendment's "objective reasonableness" standard. 827 F. 2d, at 950-952. We granted certiorari, *488 U.S. 816 (1988)*, and now reverse.

Fifteen years ago, in Johnson v. Glick, 481 F. 2d 1028, cert. denied, *414 U.S. 1033 (1973)*, the Court of Appeals for the Second Circuit addressed **[****14]** a § 1983 damages claim filed by a pretrial detainee who claimed that a guard had assaulted him without justification. In evaluating the detainee's claim, Judge Friendly **[***453]** applied neither the Fourth **[**1870]** Amendment nor the Eighth, the two most textually obvious sources of constitutional protection against physically abusive governmental conduct. [6] Instead, he

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[3] The majority did note that because Graham was not an incarcerated prisoner, "his complaint of excessive force did not, therefore, arise under the eighth amendment." 827 F. 2d, at 948, n. 3. However, it made no further effort to identify the constitutional basis for his claim.

[4] Petitioner's argument was based primarily on Kidd v. O'Neil, 774 F. 2d 1252 (CA4 1985), which read this Court's decision in Tennessee v. Garner, 471 U.S. 1 (1985), as mandating application of a Fourth Amendment "objective reasonableness" standard to claims of excessive force during arrest. See 774 F. 2d, at 1254-1257. The reasoning of *Kidd* was subsequently rejected by the en banc Fourth Circuit in Justice v. Dennis, 834 F. 2d 380, 383 (1987), cert. pending, No. 87-1422.

[5] The majority noted that in Whitley v. Albers, 475 U.S. 312 (1986), we held that the question whether physical force used against convicted prisoners in the course of quelling a prison riot violates the Eighth Amendment "ultimately turns on 'whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.'" 827 F. 2d, at 948, n. 3, quoting Whitley v. Albers, supra, at 320-321. Though the Court of Appeals acknowledged that petitioner was not a convicted prisoner, it thought it "unreasonable . . . to suggest that a conceptual factor could be central to one type of excessive force claim but reversible error when merely considered by the court in another context." 827 F. 2d, at 948, n. 3.

[6] Judge Friendly did not apply the Eighth Amendment's Cruel and Unusual Punishments Clause to the detainee's claim for two reasons. First, he thought that the Eighth Amendment's protections did not attach until after conviction and sentence. 481 F. 2d, at 1032. This view was confirmed by Ingraham v. Wright, 430 U.S. 651, 671, n. 40 (1977) ("Eighth Amendment scrutiny is appropriate only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions"). Second, he expressed doubt whether a "spontaneous attack" by a prison guard, done without the authorization of prison officials, fell within the traditional Eighth Amendment definition of "punishments." 481 F. 2d, at 1032. Although Judge Friendly gave no reason for not analyzing the detainee's claim under the Fourth Amendment's prohibition against "unreasonable . . . seizures" of the person, his refusal to do so was apparently based on a belief that the protections of the Fourth Amendment did not extend to pretrial detainees. See id., at 1033 (noting that "most of the courts faced with

looked to "substantive due process," holding that "quite apart from any 'specific' of the *Bill of Rights*, application of undue force by **[*393]** law enforcement officers deprives a suspect of liberty without due process of law." *481 F. 2d, at 1032*. As support for this proposition, he relied upon our decision in *Rochin v. California, 342 U.S. 165 (1952)*, which used the Due Process Clause to void a state criminal conviction based on evidence obtained by pumping the defendant's stomach. *481 F. 2d, at 1032-1033*. If a police officer's use of force which "shocks the conscience" could justify setting aside a criminal conviction, Judge Friendly reasoned, a correctional officer's use of similarly excessive force must give rise to **[****15]** a due process violation actionable under *§ 1983*. *Ibid.* Judge Friendly went on to set forth four factors to guide courts in determining "whether the constitutional line has been crossed" by a particular use of force -- the same four factors relied upon by the courts below in this case. *Id., at 1033*.

[**16]** In the years following *Johnson* v. *Glick*, the vast majority of lower federal courts have applied its four-part "substantive due process" test indiscriminately to all excessive force claims lodged against law enforcement and prison officials under *§ 1983*, without considering whether the particular application of force might implicate a more specific constitutional right governed by a different standard. [7] Indeed, many courts have seemed to assume, as did the courts below in this case, that there is a generic "right" to be free from excessive force, grounded not in any particular constitutional provision but rather in "basic principles of *§ 1983* jurisprudence." [8]

[**17]** ***LEdHN[3]***[⬆] [3]***LEdHN[4A]***[⬆] [4A]***HN2***[⬆] We reject this notion that all excessive force claims brought under *§ 1983* are governed by a single generic standard. As we have said many times, *§ 1983* "is not itself a **[*394]** source of substantive rights," but **[***454]** merely provides "a method for vindicating federal rights elsewhere conferred." *Baker v. McCollan, 443 U.S. 137, 144, n. 3 (1979)*. In addressing an excessive force claim brought under *§ 1983*, analysis begins by identifying the specific constitutional right allegedly infringed by the challenged application of force. See *id., at 140* ("The first inquiry in any *§ 1983* suit" is "to isolate the precise constitutional violation with which [the defendant] is charged"). [9] In most instances, **[**1871]** that will be either the *Fourth Amendment's* prohibition against unreasonable seizures of the person, or the *Eighth Amendment's* ban on cruel and unusual punishments, which are the two primary sources of constitutional protection against physically abusive governmental conduct. The validity of the claim must then be judged by reference to the specific constitutional standard which governs that right, rather **[****18]** than to some generalized "excessive force" standard. See *Tennessee v. Garner, supra, at 7-22* (claim of excessive force to effect arrest analyzed under a *Fourth Amendment* standard); *Whitley v. Albers, 475 U.S. 312, 318-326 (1986)* (claim of excessive force to subdue convicted prisoner analyzed under an *Eighth Amendment* standard).

LEdHN[4B][⬆] [4B]

LEdHN[1B][⬆] [1B]***LEdHN[5A]***[⬆] [5A]***LEdHN[6A]***[⬆] [6A]***LEdHN[7A]***[⬆] [7A]***HN3***[⬆] Where, as here, the excessive force claim arises in the context of an arrest or investigatory stop of a free citizen, it is most properly characterized as one invoking the protections of the *Fourth Amendment*, which guarantees citizens the right "to be secure in their persons . . . against unreasonable . . . seizures" of the person. This much is clear from our decision in *Tennessee v. Garner, supra.* **[****19]** In *Garner*, we addressed a claim that the use of deadly force to apprehend a fleeing suspect who did not appear to be armed or otherwise dangerous violated the suspect's constitutional rights, notwithstanding the existence of probable cause to arrest. **[*395]** Though the complaint alleged violations of both the *Fourth Amendment* and the Due Process Clause, see *471*

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challenges to the conditions of *pretrial* detention have primarily based their analysis directly on the due process clause"). See n. 10, *infra*.

[7] See Freyermuth, Rethinking Excessive Force, *1987 Duke L. J. 692, 694-696*, and nn. 16-23 (1987) (collecting cases).

[8] See *Justice v. Dennis, supra, at 382* ("There are . . . certain basic principles in *section 1983* jurisprudence as it relates to claims of excessive force that are beyond question [,] [w]hether the factual circumstances involve an arrestee, a pretrial detainee or a prisoner").

[9] The same analysis applies to excessive force claims brought against federal law enforcement and correctional officials under *Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 (1971)*.

U.S., at 5, we analyzed the constitutionality of the challenged application of force solely by reference to the Fourth Amendment's prohibition against unreasonable seizures of the person, holding that the "reasonableness" of a particular seizure depends not only on *when* it is made, but also on *how* it is carried out. Id., at 7-8. Today we make explicit what was implicit in *Garner*'s analysis, and hold that *all* claims that law enforcement officers have used excessive force -- deadly or not -- in the course of an arrest, investigatory stop, or other "seizure" of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard, rather than under a "substantive due process" approach. **HN4**[] Because the Fourth Amendment provides **[****20]** an explicit textual source of constitutional protection against this sort of physically intrusive governmental conduct, that Amendment, not the more generalized notion of "substantive due process," **[***455]** must be the guide for analyzing these claims. [10]

LEdHN[5B][] [5B]

[**21]**

[*396] **LEdHN[8]**[] [8]**LEdHN[9]**[] [9]**HN5**[] Determining whether the force used to effect a particular seizure is "reasonable" under the Fourth Amendment requires a careful balancing of "'the nature and quality of the intrusion on the individual's Fourth Amendment interests'" against the countervailing governmental interests at stake. Id., at 8, quoting United States v. Place, 462 U.S. 696, 703 (1983). Our Fourth Amendment jurisprudence **[**1872]** has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it. See Terry v. Ohio, 392 U.S., at 22-27. Because "[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," Bell v. Wolfish, 441 U.S. 520, 559 (1979), however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively **[****22]** resisting arrest or attempting to evade arrest by flight. See Tennessee v. Garner, 471 U.S., at 8-9 (the question is "whether the totality of the circumstances justifie[s] a particular sort of . . . seizure").

LEdHN[10A][] [10A]**LEdHN[11]**[] [11]**HN6**[] The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. See Terry v. Ohio, supra, at 20-22. The Fourth Amendment is not violated by an arrest based on probable cause, even though the wrong person is arrested, Hill v. California, 401 U.S. 797 (1971), nor by the mistaken execution of a valid search warrant on the wrong premises, Maryland v. Garrison, 480 U.S. 79 (1987). With respect to a claim of excessive force, the same standard of reasonableness at the moment applies: "Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers," Johnson v. Glick, 481 F. 2d, at 1033, violates the Fourth Amendment. The calculus of reasonableness **[***456]** must embody **[****23]** **[*397]** allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation.

LEdHN[10B][] [10B]**HN7**[] As in other Fourth Amendment contexts, however, the "reasonableness" 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. See Scott v. United

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[10] A "seizure" triggering the Fourth Amendment's protections occurs only when government actors have, "by means of physical force or show of authority, . . . in some way restrained the liberty of a citizen," Terry v. Ohio, 392 U.S. 1, 19, n. 16 (1968); see Brower v. County of Inyo, 489 U.S. 593, 596 (1989).

LEdHN[6B][] [6B] **LEdHN[7B]**[] [7B]Our cases have not resolved the question whether the Fourth Amendment continues to provide individuals with protection against the deliberate use of excessive physical force beyond the point at which arrest ends and pretrial detention begins, and we do not attempt to answer that question today. It is clear, however, that the Due Process Clause protects a pretrial detainee from the use of excessive force that amounts to punishment. See Bell v. Wolfish, 441 U.S. 520, 535-539 (1979). After conviction, the Eighth Amendment "serves as the primary source of substantive protection . . . in cases . . . where the deliberate use of force is challenged as excessive and unjustified." Whitley v. Albers, 475 U.S., at 327. Any protection that "substantive due process" affords convicted prisoners against excessive force is, we have held, at best redundant of that provided by the Eighth Amendment. *Ibid.*

States, 436 U.S. 128, 137-139 (1978); see also Terry v. Ohio, supra, at 21 (in analyzing the reasonableness of a particular search or seizure, "it is imperative that the facts be judged against an objective standard"). An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional. See Scott v. United States, supra, at 138, citing United States v. Robinson, 414 U.S. 218 (1973).

[**24]** LEdHN[7C][] [7C]LEdHN[12][] [12]LEdHN[13A][] [13A]Because petitioner's excessive force claim is one arising under the Fourth Amendment, the Court of Appeals erred in analyzing it under the four-part *Johnson* v. *Glick* test. That test, which requires consideration of whether the individual officers acted in "good faith" or "maliciously and sadistically for the very purpose of causing harm," is incompatible with a proper Fourth Amendment analysis. We do not agree with the Court of Appeals' suggestion, see 827 F. 2d, at 948, that the "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances. Whatever the empirical correlations between "malicious and sadistic" behavior and objective unreasonableness may be, the fact remains that the "malicious and sadistic" factor puts in issue the subjective motivations of the individual officers, which our prior cases make clear has no bearing on whether a particular seizure is "unreasonable" under the Fourth **[**1873]** Amendment. Nor do we agree with the **[*398]** Court of Appeals' conclusion, see id., at 948, n. 3, that because the subjective motivations **[****25]** of the individual officers are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, see Whitley v. Albers, 475 U.S., at 320-321, [11] it cannot be reversible error **[***457]** to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. Differing standards under the Fourth and Eighth Amendments are hardly surprising: the terms "cruel" and "punishments" clearly suggest some inquiry into subjective state of mind, whereas the 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." Ingraham v. Wright, 430 U.S. 651, 671, **[*399]** n. 40 (1977). The Fourth Amendment inquiry is one of "objective reasonableness" under the circumstances, and subjective concepts like "malice" and "sadism" have no proper place in that inquiry. [12]

[**26]** LEdHN[13B][] [13B]

Because the Court of Appeals reviewed the District Court's ruling on the motion for directed verdict under an erroneous view of the governing substantive law, its judgment must be vacated and the case remanded to that court for **[****27]** reconsideration of that issue

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[11] In *Whitley*, we addressed a § 1983 claim brought by a convicted prisoner, who claimed that prison officials had violated his Eighth Amendment rights by shooting him in the knee during a prison riot. We began our Eighth Amendment analysis by reiterating the long-established maxim that an Eighth Amendment violation requires proof of the ""unnecessary and wanton infliction of pain."" 475 U.S., at 319, quoting Ingraham v. Wright, 430 U.S., at 670, in turn quoting Estelle v. Gamble, 429 U.S. 97, 103 (1976). We went on to say that when prison officials use physical force against an inmate "to restore order in the face of a prison disturbance, . . . the question whether the measure taken inflicted unnecessary and wanton pain . . . *ultimately turns* on 'whether the force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm.'" 475 U.S., at 320-321 (emphasis added), quoting Johnson v. Glick, 481 F. 2d, at 1033. We also suggested that the other prongs of the *Johnson* v. *Glick* test might be useful in analyzing excessive force claims brought under the Eighth Amendment. 475 U.S., at 321. But we made clear that this was so *not* because Judge Friendly's four-part test is some talismanic formula generally applicable to all excessive force claims, but because its four factors help to focus the central inquiry in the Eighth Amendment context, which is whether the particular use of force amounts to the "unnecessary and wanton infliction of pain." See id., at 320-321. Our endorsement of the *Johnson* v. *Glick* test in *Whitley* thus had no implications beyond the Eighth Amendment context.

[12] Of course, in assessing the credibility of an officer's account of the circumstances that prompted the use of force, a factfinder may consider, along with other factors, evidence that the officer may have harbored illwill toward the citizen. See Scott v. United States, 436 U.S. 128, 139, n. 13 (1978). Similarly, the officer's *objective* "good faith" -- that is, whether he could reasonably have believed that the force used did not violate the Fourth Amendment -- may be relevant to the availability of the qualified immunity defense to monetary liability under § 1983. See Anderson v. Creighton, 483 U.S. 635 (1987). Since no claim of qualified immunity has been raised in this case, however, we express no view on its proper application in excessive force cases that arise under the Fourth Amendment.

under the proper *Fourth Amendment* standard.

It is so ordered.

Concur by: BLACKMUN (In Part)

Concur

JUSTICE BLACKMUN, with whom JUSTICE BRENNAN and JUSTICE MARSHALL join, concurring in part and concurring in the judgment.

I join the Court's opinion insofar as it rules that the *Fourth Amendment* is the primary tool for analyzing claims of excessive force in the prearrest context, and I concur in the judgment remanding the case to the Court of Appeals for reconsideration of the evidence under a reasonableness standard. In light of respondents' concession, **[**1874]** however, that the pleadings in this case properly may be construed as raising a *Fourth Amendment* claim, see Brief for Respondents 3, I see no reason for the Court to find it necessary further to reach out to decide that prearrest excessive force claims are to be analyzed **[***458]** under the *Fourth Amendment* *rather than* under a **[*400]** substantive due process standard. I also see no basis for the Court's suggestion, *ante*, at 395, that our decision in *Tennessee v. Garner, 471 U.S. 1 (1985)*, implicitly so held. Nowhere in *Garner* is a substantive due process standard **[****28]** for evaluating the use of excessive force in a particular case discussed; there is no suggestion that such a standard was offered as an alternative and rejected.

In this case, petitioner apparently decided that it was in his best interest to disavow the continued applicability of substantive due process analysis as an alternative basis for recovery in prearrest excessive force cases. See Brief for Petitioner 20. His choice was certainly wise as a matter of litigation strategy in his own case, but does not (indeed, cannot be expected to) serve other potential plaintiffs equally well. It is for that reason that the Court would have done better to leave that question for another day. I expect that the use of force that is not demonstrably unreasonable under the *Fourth Amendment* only rarely will raise substantive due process concerns. But until I am faced with a case in which that question is squarely raised, and its merits are subjected to adversary presentation, I do not join in foreclosing the use of substantive due process analysis in prearrest cases.

References

5 Am Jur 2d, Arrest 2, *80*; *68 Am Jur 2d, Searches and Seizures 2*

6 Federal Procedure, L Ed, Civil Rights 11:171.1

5 Federal Procedural Forms, L Ed, Civil Rights 10:41

5A Am Jur Pl & Pr Forms (Rev), Civil Rights, Form 4

9 Am Jur Proof of Facts 2d 363, Police Officer's Use of Excessive Force in Making Arrest; 29 Am Jur Proof of Facts 2d 1, Police Officer's Violent Conduct as Basis for Imposition of Governmental Liability

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Index to Annotations, Arrest; Force and Violence; Public Officers and Employees

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Federal constitutional guaranty against cruel and unusual punishment-- Supreme Court cases. *33 L Ed 2d 932*.

When does police officer's use of force during arrest become **[****30]** so excessive as to constitute violation of constitutional rights, imposing liability under Federal Civil Rights Act of 1871 (*42 USCS 1983*). *60 ALR Fed 204*.

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