The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

Officers Robert Mahoney (#6269), Sjon Stevens (#6180), Cliff Borjeson (#7597), Officer Christopher Myers (#5452), and 98 other Officers of the Seattle Police Department named below. Plaintiffs, vs. Eric H Holder, Jr., individually, Attorney General of the United States, Jenny Durkan, individually, Assistant United States Attorney for the Western District of Washington, The City of Seattle, including the Seattle Police Department, Merrick Bobb, individually and in his official capacity, Seattle Police Monitor, Ed Murray, individually and in his official capacity, Mayor, City of Seattle, Peter Holmes, individually and in his official capacity, Seattle's City Attorney, Defendants	**Civil Action No.: No. C14-0794** CIVIL ACTION FIRST AMENDED COMPLAINT UNDER 42 U.S.C. § 1983 AND 28 U.S.C. § 1331

I. JURISDICTION and PARTIES

1. Plaintiffs are sworn officers of the Seattle Police Department (SPD) and are listed below. Plaintiffs bring to the court's attention that some officers have been added to the list below who were not Plaintiffs in the original complaint. Some Plaintiffs have been removed who were part of the original complaint, and these officers are no longer Plaintiffs.

2. Plaintiff officers bring this action against the City of Seattle (City), including the SPD, under 42 USC § 1983, alleging that Defendants have intentionally and recklessly deprived Plaintiffs of the rights and protections secured for them by the Constitution under color of policies and

practices of the City related to Plaintiffs' use of force. The City promulgated a new use of force policy ("UF Policy") that unreasonably restricts and burdens Plaintiffs' right to use force necessarily required to protect and defend the public and officers from apparent danger in violation of Plaintiffs' right of self-defense. This is a fundamental individual right embedded in the **Second, Fourth, Fifth, and Fourteenth** Amendments. The intended effect of the new UF Policy is to delay and greatly limit officers' resort to a full range of force tools and techniques and to eliminate their discretion. The real world effect is to induce a reluctance by patrol officers to use appropriate and sufficient levels of force to control dangerous suspects, thus putting officers, suspects, and the general public at unnecessary and unreasonable risk of injury or death.

3. Plaintiffs also bring this action against the Mayor of Seattle (Mayor), Ed Murray, individually and in his official capacity, under 42 USC § 1983, based on his involvement in the implementation of the UF Policy.

4. Plaintiffs also bring this action against the Seattle Police Monitor (Monitor), Merrick Bobb, individually and in his official capacity, under 42 USC § 1983, based on his control over the promulgation and implementation of the unconstitutional UF Policy.

5. Plaintiffs also bring this action against Seattle's City Attorney (City Attorney), Peter Holmes, under 42 USC § 1983, based on his involvement in the promulgation and implementation of the unconstitutional UF Policy.

6. Plaintiffs bring this action, under 28 USC §1331, against the United States Attorney General (AG), Eric Holder, individually. The United States Department of Justice (DOJ) improperly required the new UF Policy as a remedy for a fundamentally flawed finding, and it demanded that the new UF Policy contain the unconstitutional provisions complained of below.

7. Plaintiffs also bring this action against the United States Attorney for the Western District of Washington, Jenny Durkan, individually, under 28 USC § 1331, on the above basis and for her role in implementation of the unconstitutional UF Policy.

II. BACKGROUND AND FACTUAL ALLEGATIONS, INCLUDING SPECIFIC PROVISIONS OF THE NEW UF POLICY THAT BURDEN PLAINTIFFS' RIGHT OF SELF-DEFENSE

8. On December 17, 2013, Judge Robart, United States District Court Judge for the Western District of Washington at Seattle, issued an order approving an alleged "Consensus Use of Force Policy" (UF Policy) to govern SPD. Judge Robart approved the policy as appropriate "for the present circumstances." It went into effect on January 1, 2014. Officers were required to have read the new policy by that date, and officers' conduct has been evaluated under the policy since that date.

9. The "circumstances" referred to by Judge Robart include an investigation opened in March, 2011 by DOJ regarding whether or not SPD officers deprived individuals of their constitutional rights by patterns and practices of discriminatory policing or excessive use of force. After its investigation, **DOJ was unable to make any findings of discriminatory policing.** However, DOJ did issue 'findings' including that SPD patrol officers use force "in an unconstitutional manner nearly 20% of the time." The City **"dispute[d] the alleged patterns or practices of excessive force alleged in DOJ's report,"** and the findings were discredited by an independent analysis by a former DOJ statistician and current professor at Seattle University.

10. Nevertheless, Judge Robart approved the UF Policy as "the most appropriate remedy," noting DOJ's conclusion that SPD's former policy was too "vague" and left "too much room for officer discretion." Judge Robart held that "comprehensive, clear and specific policies" were thus needed. This contradicts long-standing Supreme Court holdings that consistently **acknowledge but reject** concerns about 'vagueness' and 'troubling uncertainty,' holding that simplicity, flexibility, and deference to the officer, instead, are essential for standards governing lawful police action, especially regarding search and seizure, including force.

11. Judge Robart indicated that his role was to "insure" that the UF Policy was constitutional. However, his cursory, one-and-one-half-page order contains no substantive analysis of the UF Policy's constitutionality, particularly as it relates to Plaintiffs' constitutional right to protect and defend the public and themselves from threatening and dangerous behavior by suspects.

12. In July 2012, a Settlement Agreement and Memorandum of Understanding (Consent Agreement) was entered into between the United States and the City. The City

agreed to develop a new UF policy consistent with the constitutional requirements of *Graham v. Connor*. The stated goal of the parties was to create polices that are constitutional and that "ensure public and officer safety." The City was supposed to retain appropriate "flexibility" and have the "ability to develop local and cost effective solutions."

13. The Consent Agreement also provided that the parties would select a federal monitor to oversee implementation of the Consent Agreement. Defendant Merrick Bobb (Monitor) is that monitor. To date, based on bills reported publicly, the City has paid Mr. Bobb and his staff well over $1,300,000.00. The Monitor publicizes his work regarding the Consent Decree on a website called the "Website of the Seattle Police Monitor" (seattlemonitor.com). The Monitor maintains another website, "Police Assessment Resource Center" (www.parc.info), that promotes the full range of services Mr. Bobb will provide for a fee to promote and induce civilian oversight and accountability. It is clear from the PARC website that his organization has a zealous agenda to spread the message of police reform and to steer police departments into adopting similarly written, highly proscriptive UF policies. Mr. Bobb, who has no law enforcement training or experience as a police officer, has made clear that his mission is to change fundamentally the nature of police encounters, i.e. to severely restrict police officers' authority to exercise discretion and use force.

14. On November 27, 2013, the Monitor submitted the UF Policy approved by Judge Robart, with an accompanying Memorandum to the Court (UF Memorandum). The Monitor concedes that it is **not** his role to write the new UF Policy and states unconvincingly that in his role as Monitor he merely evaluated and gave deference to the alleged recommendations of, and policy written by, the parties themselves (the City and SPD).

15. Plaintiffs are primarily SPD patrol officers, or officers responsible for training patrol officers. They are the individuals most significantly and immediately affected by the new UF Policy and with the most knowledge, training and experience regarding the UF situations facing patrol officers in Seattle. Moreover, many SPD patrol officers are established and recognized experts in UF techniques, practices

and standards. However, no SPD officers concurrently engaged in street policing duties or related training were involved in the development of the UF Policy.

16. Plaintiffs' supposed representative, the Seattle Police Officers' Guild (SPOG), though allegedly "consulted" by the Monitor, was not a party to, or at the table for, significant decisions regarding the new UF Policy. DOJ and the Monitor choose instead, inexplicably, to consult the "rank-and-file in Los Angeles" to determine if the new policies "compromise[d] the safety of Seattle police officers and the public they serve." The Monitor also relied on so-called police experts on the Monitoring Team, but it is clear from their background that it has been years since they, if ever, made actual UF decisions in the line of duty.

17. Plaintiffs also allege that the new UF Policy is **not** the policy written by SPD personnel who were tasked with developing it. Those personnel will testify that the UF Policy they wrote was altered almost in its entirety and replaced with specific language provided, and required, by the Monitor. This supports Plaintiffs' contention that DOJ, in partnership with Mr. Bobb, intend to use consent decrees in Seattle, as well as other jurisdictions, to re-write longstanding constitutional law and principles intended to protect officer safety, and eliminate reasonable police practices, with which they - from the comfort and safety of their desks and with no experience facing dangerous threats - disagree or find distasteful.

18. In the very last days of the process, select Plaintiffs were invited to submit comments through SPOG and a departmental website called, Idea Scale. However, it soon became clear that they were token invitations after the fact. Still, Plaintiffs provided a thorough review of the draft and identified how and where the draft policy conflicted with the realities facing patrol officers on the streets of Seattle, and the protections afforded officers under the Constitution. These concerns were ignored. Plaintiffs again attempted to communicate their concerns to those involved in the process, before the draft became a final policy. Plaintiffs were told, in effect: "This is what DOJ and the Monitor are telling SPD to do regardless of whether or not it makes good sense or is good law. A federal judge has approved it. There's nothing SPD can do about it. It's a 'done deal'." The Monitor has continued to make clear that he will not find the City in compliance

under the Consent Decree until it establishes and implements the specific policy demanded by the Monitor and DOJ.

19. To say, as the Monitor does repeatedly, that the Policy represents the "consensus" and "unified" voice of the parties is inaccurate to the point of falsification. As almost every other statement in the UF Memorandum acknowledges, there has been, and Plaintiffs allege continues to be, a severe lack of consensus around the UF Policy. Despite Plaintiffs' predominant role in the implementation of and impact from the UF Policy, neither Plaintiffs nor SPOG, were even a party to the supposed 'contentious' and 'exhausting' negotiations the Monitor claims led to the final 'consensus.'

20. Any appearance of 'consensus' is merely due to the fact that the Monitor ran roughshod over any criticisms and that the various parties involved simply gave up. This is reflected in the tone of the Monitor's semiannual reports, which are self-serving, bullying, and dismissive. In a recent *Seattle Times* article, Mr. Bobb was questioned about this lawsuit and officers' fears for their safety under the new policy. He responded that "the changes have led to understandable anxiety over the new policies," but he "likened the situation to going to an unfamiliar supermarket and not knowing where to find the Cheerios." Plaintiffs allege this is indicative of Mr. Bobb's complete disregard for officers' rights, officers' competence, and officer and public safety as he pushes forward his agenda for a greatly diminished Seattle police force. That Mr. Bobb would equate policing the city streets and confronting the possibility everyday of having to use force to protect oneself or others with grocery shopping for breakfast cereal is unconscionable, although it does explain why he regards his lack of police experience as irrelevant in performing his function.

21. The falsity as to the City's and SPD's alleged agreement with the new UF Policy has only become more evident since Plaintiffs filed the original complaint. A number of high-level City, SPD and Guild personnel have informed Plaintiffs in private that they agree with the allegations in the original complaint. Nevertheless, Plaintiffs have been told that the "politics" of the situation, and the City's perceived inability to successfully fight DOJ, have left them unable to make significant changes to the policy, even during the current "review" of the policy

built into the Consent Decree. This means that the City is now knowingly and willingly playing politics with Plaintiffs' lives and the lives of the law-abiding citizens of Seattle.

22. There is increasing evidence of significant problems wrought by the new UF Policy. Plaintiffs allege that since they filed their original complaint, assaults against SPD officers have increased significantly. Evidence of police injuries is mounting. Officers are turning in their TASERS in large numbers - even though such devices provide reasonable and effective tools when facing threatening behavior and activity. Patrols officers will testify to an insidious new hesitation to respond to calls for backup. First-responding officers, required by the UF Policy to delay and avoid resorting to force, are left unreasonably vulnerable when backup fails to come, or comes late, and these delay and avoidance tactics fail to bring the threat under control in a timely and decisive manner.

23. Even as Plaintiffs were filing the original complaint asserting the significant risks to public safety created by the new UF Policy, SPD itself was issuing a report regarding the sharp decrease in proactive police work to investigate and stop crime. Citizens are feeling vulnerable as the City's streets seem ever more at the mercy of hostile and unstable persons. Patrol officers have retreated from and avoided acting in response to clear threats to their own safety and that of the public for fear of accusations of violating some provision of the UF Policy or new expectations and practices regarding force. Not surprisingly, innocent bystanders have expressed anger and concern at what they see as officers' failure to protect innocent people. Citizens groups are demanding more enforcement resources to deal with increasingly violent incidents throughout the City. This increased lawlessness and disregard of police authority are the logical and inevitable consequences of a policy that puts the interests of criminal suspects above the rights and interests of citizens, officers, and the City itself.

24. Patrol officers are currently being subject to discipline under the new UF Policy both for using too much force and for using too little force, thus supporting Plaintiffs' allegation that the new policy demands 'perfection', not reasonableness. This trend towards a misguided and impossible standard of policing began with former Mayor McGinn's politically motivated promise,

to appease DOJ, that police officers using force "will get it right every time." This trend has now become enshrined in the Department's new policies and practices, as well as the attitudes of those sitting in judgment of officers after the fact. Plaintiffs have taken the opportunity to observe meetings of the Use of Force Review Board (UFRB), which, under the new policy, is required for every so-called Type II and III UF incident. In specific cases, patrol officers and detectives have been criticized and/or recommended for disciplinary investigation, despite having had practical safety reasons for their conduct due to the dynamic and dangerous nature of the situation and the threat created by the suspect. The Monitor, who was in attendance at a meeting attended by Plaintiffs, emphatically stated in response to one of these cases: "Practical considerations never trump this policy." This is a 180-degree contortion of officers' right to self-defense and the Court's holdings that prioritize officer and public safety over the mechanical application of legal standards and policies.

25. Plaintiffs will testify to being significantly less sure of how to police under the new UF Policy than even when they first became police officers. Officers will testify that the training received under the new UF Policy has done nothing to make sense of the UF Policy's confusion and complications. This is not surprising as officers cannot be trained to meet an impossible standard. None of the training addresses the crucial situation that has officers scratching their heads and fearing for their lives and the lives of others, including suspects: what, if any, actions can officers realistically take when confronted with threatening behavior by one of the protected classes of people for whom the policy prohibits any reasonable force tools short of deadly force? Moreover, the training materials recommended for approval by the Monitor regarding suspects in behavioral crisis simply entrench the existing problems with the UF Policy itself, demanding police officers, in effect, become mental health professionals at the expense of their duty and safety. Plaintiffs' role is, and should be, to assess the threat and take reasonable actions to protect the public and themselves from the risk of harm. It cannot be stated too strongly that a threat of danger

is a threat of danger, regardless of the suspect's mental health or other impairments that may be contributing factors to the suspect's criminal behavior!

26. All parties agree that SPD's UF incidents often involve people with mental illness and/or under the influence of drugs or alcohol. DOJ and the Monitor seem to believe this makes all of SPD's uses of force automatically suspect. At the same time, however, DOJ concedes in its findings letters that police officers have become the first responders in a shameful national crisis. DOJ recognizes there is neither the will nor the resources to provide appropriate treatment to the mentally ill. DOJ acknowledges the rotating door through hospitals and jails that quickly and inevitably puts the mentally ill worse off, and often on the street where there is ready access to drugs, alcohol, and dangerous weapons, and where victims can quickly become suspects engaged in activity that threatens the public's safety. The dangerous, unpredictable, often violent, behavior that results is well documented. Indeed, police officers, like the public they serve, are regularly reminded of the deadly outcomes by a steady stream of horrifying news stories of mentally ill people murdering people, often in large numbers, here and across the country. The difference is that officers are on the front line of a ticking time bomb. Policy and training that require delay and hesitation are not preparing officers to act decisively when, as will be inevitable, they find themselves quickly and unexpectedly with their lives on the line.

27. Since Plaintiffs have filed this lawsuit, they have been accused of being "fringe" or "rouge" cops and dismissed as reflexively 'anti-reform.' Plaintiffs, however, represent a significant percentage of patrol officers, whose job is to patrol the street, as well as a large number of training personnel who take seriously their duty to help patrol officers come home safely from each shift. Plaintiffs have consistently supported appropriate reform, e.g. civilian oversight of the department by the Office of Professional Accountability. Plaintiffs do not oppose reform related to UF,

but are asking that reform be consistent with officers' constitutional rights as well as those of suspects.

28. There are many extremely troubling aspects of DOJ's investigation that Plaintiffs do not challenge, because it is not their role or their rights are not immediately at stake. These problems include DOJ's complete overriding of local decision-making, the Monitor's use of the Consent Decree to infiltrate and control almost every aspect of SPD, and the debilitating strain on enforcement resources wrought by the new prioritization of UF reporting and investigation paperwork requirements over the need to respond to actual crime. Plaintiffs challenge the latter only to the extent that the strain puts officers' and citizens' lives in danger by pulling an inordinate number of officers off the street for long periods of time even for relatively minor UF incidents.

29. This is the crux and basis of all Plaintiffs' allegations. Policy cannot stand that restricts and burdens officers' right to defend themselves and others from threats of serious harm. So-called, best practices that violate the fundamental, individual rights of police officers have no place in the law enforcement profession. Mr. Bobb and his organization PARC have long been attempting to sell the notion that police departments are completely free to adopt policies and practices that are more restrictive than the law. Plaintiffs, however, contend that this freedom is not absolute. Rather, it is limited to the point at which it begins to tread upon the fundamental, individual constitutional rights of the officers subject to such a policy. Plaintiffs assert that, although police officers are public servants, they are not enslaved to the government or public. Therefore, despite being representatives of the government and subject to reasonable policy requirements and expectations, police officers also possess the same constitutional right to self-defense as every other citizen. That any 'reasonable' governmental official or representative would attempt to argue otherwise not only shocks the conscience, it is anathema to the Constitution and the common law principles upon which it is founded.

30. The new UF Policy is found in Title 8 of the Seattle Police Manual, a copy of which can be found on the Monitor's web site: www.seattlemonitor.com. Throughout, the policy establishes rigid preconditions for the use of force notwithstanding that the Court has specifically rejected such, holding that all that matters is whether the officer's actions were reasonable.

31. For example, the UF Policy imposes special preconditions for the use of deadly force (defined as use of firearms or any other means likely to cause death or serious physical injury, §8.050). Under § 8.100.5: "Deadly force may only be used in circumstances where threat of death or serious physical injury to the officer or others is imminent. A danger is imminent when an objectively reasonable officer would conclude that:

> • A suspect is acting or threatening to cause death or serious physical injury to the officer or others, and
> • The suspect has the means or instrumentalities to do so, and
> • The suspect has the opportunity and ability to use the means or instrumentalities to cause death or serious physical injury."

32. Thus, while citizens are clearly allowed to act in self-defense based on mistaken perceptions as long they had a reasonable belief in the 'apparent danger' confronting them at the time of the incident, SPD officers now can only use deadly force, without exception, if the threat IS (not "reasonably appears") imminent, "AND" (not "or") the suspect IS (not "reasonably appears") to be acting or threatening to cause death or serious physical injury; "AND" (not "or") the suspect HAS (not "appears to have") the means or instrumentalities to do so; AND (not "or") the subject HAS (not "appears to have") the opportunity and ability to cause the harm. Under the UF Policy, an officer must put his or her own life at risk if not absolutely sure of the suspect's ability to kill or harm, or the officer can risk losing his or her job by using reasonable, though mistaken, force in self-defense. Such a draconian choice clearly burdens the constitutional right of self-defense to the point of destruction.

33. As another example, the policy requires that force cannot be used against handcuffed suspects without "exceptional circumstances," and then such use of force will be "closely and critically reviewed." (§8.100.2) Specific preconditions for particular categories or situations involving force limit

an officer's options for reasonably responding to threatening and dangerous behavior by suspects. All that matters is whether the officer's actions were reasonable.

34. The right of self-defense means that the appearance of an immediate threat justifies an immediate response with reasonable force. This means officers must be permitted to avail themselves of the full range of reasonable force options in the face of threatening behavior.

35. Yet core provisions authorizing force consistently restrict this. For example, sections 8.000.4 and 8.100.1 categorically prohibit an officer from using physical force unless, in addition to being reasonable, the force also is necessary - which means the officer has first considered and eliminated all apparent "reasonably effective alternatives." Such a requirement has been specifically rejected as an impossible standard by the Ninth Circuit.

36. The policy also announces a wholly new requirement that, in addition to being reasonable and necessary, the force used be "proportional" and "proportionate" (§§ 8.000.4, 8.100.1). These extra-constitutional requirements add precision and complexity to a standard that the Court demands be simple, flexible, and reasonable, for the safety of officers and the public.

37. Sec. 8.100.1 states that: "proportional force does not require officers to use the same type or amount of force as the subject." While this appears to allow an officer to retain discretion regarding the amount of force he or she judges appropriate to the circumstances, any such deference is consistently and overwhelmingly contradicted by operation of other parts of the policy. For example, officer discretion is overridden by the policy's requirement that use of force "shall" in all cases be "only...to the degree" necessary (§§ 8.000.4, 8.100.1) Moreover, officers are required unrealistically to "continually assess the situation" and then continually "modulate the use of force" in response (§ 8.000.3), during incidents in which the Court acknowledges objective reflection is an impractical and unrealistic expectation.

38. The policy explicitly overrides officer discretion by limiting officers' right to use certain levels and types of force - even in immediately threatening situations - unless a variety of other factors, conditions, qualifiers are, or are not, present. (§§ 8.100.2, 8.100.5, 8.200.5) The real effect of the policy is to keep patrol officers *constantly* second-guessing their actions, meanwhile remaining at a dangerous force deficit throughout encounters with threatening suspects.

39. Sec.8.200.5, categorically and without exception, prohibits officers from using less-lethal tools against five (5) vaguely defined, newly protected classes of suspects (visibly pregnant, elderly, pre-adolescent, visibly frail, or known or suspected to be disabled) absent active aggression, unless deadly force is the only other available option. These five categories are sufficiently broad, subjective and vague so as to encompass a broad swath of individuals and to invite significant error in application and improper second-guessing. Moreover, by operation of this rule, an officer cannot use reasonable and effective force tools or techniques (i.e. tools and techniques specifically intended to "disrupt subject's threatening behavior" with*out* the probability of death or serious physical injury) until deadly force is justified. This makes no sense as a matter of public policy. It also unreasonably burdens officers' right to defense of self and others because it prohibits officers from responding with reasonable force from the moment they arrive on the scene.

40. Sec. 8.200.5 categorically restricts an officer from using these less-lethal tools and techniques against suspects in another nine (9) sets of circumstances absent active aggression. This means the suspect can be actually resisting, or actively noncompliant with an officer's commands - an important potential indication of an intent to do harm to the officer - yet the officer cannot, without exception, respond with less-lethal techniques before considering and rejecting "any other fashion" of reasonable response, e.g. the impossible "all other alternatives" standard.

41. The UF Policy consistently requires officers first to consider alternatives to force. These are strict mandates: Sec 8.100.3 uses "shall" four separate

times (e.g. § 8.100.3 "officers shall use de-escalation tactics in order to reduce the need for force;" see also § 8.000.2 "officers will de-escalate conflict without using physical force.") The policy attempts to qualify these rigid preconditions in order to make them *seem* reasonable, e.g. stating that de-escalation is required "when safe and feasible." Such qualifiers, however, work only to add complexity and precision to a policy that is already dangerously unwieldy and virtually impossible to follow. In § 8.100.3 alone, officers, at the same time as deciding if it is "safe," are required ("shall") to "slow down or stabilize the situation" (¶ 2), even as they are conducting the required assessment ("shall consider") of the suspect's mental health (¶ 3). Such information "shall then be balanced" against "the facts of the incident" before deciding on the "most appropriate," i.e. the one, 'best' tactical option (¶ 4). This requires superhuman skills in any situation, but clearly is impossible under the potentially dangerous, rapidly unfolding circumstances facing officers.

42. The qualifiers also disguise how the policy, *taken together as a whole*, is out-and-out wrong. Specifically, officers are told to delay only "when time and circumstances permit." In the very same provision, however, officers are required to do the exact opposite and take unreasonable risks. This is because officers are required to delay and not use force even though (1) safety has already been compromised by the subject's lack of compliance (i.e. under § 8.100.3 officers consider not if the subject is non-compliant, but the reasons for the suspect's "lack of compliance"); and (2) there is an immediate threat ("mitigating the existing immediacy of a threat" is the assumed situation when these rules apply).

43. The UF Policy operates under a mistaken and dangerous assumption that threatening situations always move in a linear, predictable direction. It assumes that de-escalation will inevitably result in a reduction of the use of force, because additional "time available" will "promote more rational decision-making" by suspects, and allow "more officers or specialty units" to respond to the scene (§ 8.100.3 para 5). This policy direction comes directly from DOJ's findings letter where it criticizes SPD's training of

its officers to quickly "command and control" situations, proposing instead that SPD require its officers to engage in a 'fair fight' with suspects. Officers' right to self-defense, however, certainly does not depend on ill-conceived assumptions that suspected criminals will fight fair, or behave rationally, or that it's always better to wait for the "specialists."

44. The de-escalation provisions improperly mandate that an officer's UF decisions take into account the suspect's mental and physical state, even where the suspect is actively non-compliant (§ 8.100.3). Furthermore, the Tool Specific provisions categorically tie an officer's hands in cases involving five categories of actively threatening suspects based on physical and/or mental conditions (§ 8.200.5). In essence, the policy categorically defines as "excessive" force used against such persons even when they present a serious threat. This is, of course, DOJ's and Mr. Bobb's real goal. As DOJ states in its findings letters, "Assessing the appropriate force in light of a subject's mental state is not just smart policing, it is required." This position, however, is fundamentally in conflict with the law of self-defense. The crucial factor in deciding whether or not excessive force was used is the nature and immediacy of the threat. The Constitution does not allow second-guessing of an officer's reasonable decisions, even if the officer failed to diagnose mental illness, because requiring otherwise is impractical and dangerous.

45. Consider just one of the factors officers must "consider" and then "balance" in order to make "the most appropriate," i.e. 'best', tactical decision: whether or not the suspect is experiencing a "drug interaction." Police officers are not medical or mental health professionals. It can take doctors and mental health professionals months or years to figure out a patient's diagnosis, drug interactions, and appropriate means of communication, therapy, and treatment. Yet the UF Policy requires police officers to make on-the-spot mental health evaluations and diagnoses under circumstances that will, by definition (because this section of the policy assumes the suspect's "lack of compliance"), be threatening, volatile, and potentially dangerous or deadly. Such requirements are unreasonable and

interfere with an officers' ability to promptly take reasonable actions in self-defense.

46. Throughout its findings letter, DOJ substitutes its judgments about erratic and non-compliant behavior by suspects for the judgments of SPD patrol officers on the scene and facing the threat. Behavior that DOJ categorically defines - well after the fact and from the safety of its offices - as the benign effects of mental illness (yelling expletives at oneself, staring into space, bulging eyes, sweating, balled fists, disregarding or refusing officer commands, taking off pieces of clothing), can be understood, based on an officer's specialized training and real world experience, as evidence of Excited Delirium, "boiling point," and/or pre-attack indicators, i.e. evidence that a suspect's behavior is likely to become violent and rapidly escalate his or her attack on officers or the public. Officers' training and experience demonstrate a strong correlation between mental illness and the use and abuse of drugs. Drug abuse, in turn, is strongly correlated with violent behavior, and experience has shown that such suspects do not respond to usual norms of behavior as suggested by DOJ's de-escalation requirements. The right of self-defense does not permit judges, DOJ, or the Monitor, looking back in perfect hindsight to second-guess what patrol officers know from experience, and confront in the moment.

47. The Constitution and principles of self-defense demand that standards for UF decision-making, like those for all seizures, be fluid, flexible, practical, simple, clear, non-technical, and based on *common sense*, i.e. useful to the officer in his or her work on the street, even if not necessarily the type of neat, categorical rules preferred by legal professionals in the safety of their chambers and offices. Overly proscriptive rules can never substitute for flexibility and deference to experience, as there is nothing predictable about what a patrol officer faces when he or she responds to a volatile call, and every 911 call has the potential to turn harmful or deadly. Yet, DOJ and the Monitor have forced the City into a policy that is complicated, rigid, technical, impractical and allows for no mistakes. It is a policy comprised of mandatory "shall"s and "shall not"s despite the fact that in

the Settlement Agreement, the parties agreed to UF policy and practices "consistent with *Graham v Connor*," and "guided by" principles carefully written with "should"s and "may"s so that any resulting policy would maintain officer flexibility and discretion, as well as prioritize officer safety and the need for "staying in control." (Settlement Agreement, Sec. III. A. ¶. 70, pp.16 and 17; see also Sec. II, ¶. 58, p 14: Defining "'shall' or 'will' to mean that the provision imposes a mandatory duty; 'should' does not indicate a mandatory duty.").

48. A policy cannot be useful to patrol officers facing dangers and making split-second decisions when the required reading is 50 pages long! (23 pages of core principles, definitions, prohibitions, and specific rules for each force tool; 17 pages of more specific definitions, and rules regarding when and how officers should respond with and report use of force, and an additional 10 pages regarding UF reports and review). There is also a new (as yet incomplete) 50-page procedural manual that is required reading for those who investigate use of force.

49. A Policy cannot be useful when it is blatantly contradictory from its opening paragraph. Seattle police officers must accomplish their mission with 'minimal reliance' on force, but at the same time, if they 'fail to use timely and adequate force' they fail at their job. (§ 8.000.1). The only way to reconcile these opposing goals is to assume the impossible: that police officers can act in a precise and perfect fashion despite dangerous, uncertain, and rapidly unfolding circumstances.

50. The policy deceptively states the totality of the circumstances standard correctly (§ 8.100.1 ¶ 4), but then operates to entirely undermine that standard. It promulgates a set of 12 separate, multi-layered, non-exclusive factors that must be considered by the officer to determine reasonableness. (*Graham* lists three.) It then requires officers to also apply two extra-constitutional requirements (necessity and proportionality). It establishes five situations in which force is categorically prohibited (Sec. 8.100.2). In addition, the officer must consider another seven, non-exclusive factors

related to a suspect's mental and physical behavior that must be "balanced" in an officer's decision-making process regarding force (§ 8.100.3 4).

51. If the policy is not to be an exercise in second-guessing, as it purports not to be, these 26 factors, requirements and situations all must be considered and evaluated, and the officer's response must be calibrated accordingly, in the "split second" the officer has to make the decision whether or not to use force in the face of threatening behavior. This is an *impossible* task. Thus, these 26 factors, requirements, and situations are in reality meant only to provide the means for unconstitutional, after-the-fact, second-guessing of officer decision-making.

52. Moreover, this scheme replaces the longstanding reasonableness standard -- one that grants officer's latitude and discretion based upon training, experience, knowledge of the area and suspects, the uncertainty and fast-pace of police encounters, and recognition that the officer's own life is often on the line -- with a 'categorical,' pre-set, 'neat set' of rules that officers should apply precisely, mechanically, and without need or room for mistakes.

53. The clear, though incorrect, implication of the UF Policy is that any use of force requires heightened justification beyond what would be a reasonable response to the situation. Officers historically have been carefully trained to evaluate grounds for reasonable suspicion and probable cause, but under the new UF Policy now hesitate and delay in order to find some special, policy-specific grounds to justify force - and run through all the categories of suspects granted special protection under the policy to make sure force is not used against them - even as they face a threat of serious harm. All this defies reason, common sense, and officers' right of self-defense.

54. This multi-layered and multi-factored analysis addresses only the initial question of whether or not force can be used. The officer must then consider his or her prior conduct to determine the level of force he or she is permitted to use (§ 8.000.3), and assess whether or not a suspect falls into any of five categories before being permitted to use a certain level of force (§ 8.200.5). After engaging in that fraught-with-potential-for-error

assessment, the officer must also know and factor in another 13 pages of detailed rules regarding ten specific force tools and techniques (§§ 8.200-POL-1-10).

55. The policy contains yet another complicated, mechanical scheme related to the reporting and investigation of UF incidents. It defines four separate categories of types of force (§ 8.050). In addition, it creates a four-part classification of types of injuries (§ 8.050). Finally, it has the detailed rules for ten specific force tools (§8.200-POL-1-10). Under § 8.300-POL-1, the policy then establishes a complex system combining type of force, type of injury, and type of force tool to create different categories of reporting requirements for officers and screening requirements for supervisors. The policy also requires that officers justify each and every separate force application, see e.g., §§ 8.200-POL-1.11; 8.200-POL-3.9; 8.200-POL-5.6; 8.200-POL-6.5. Accordingly, officers are unreasonably required to understand this complex system of definitions and reporting even as they need to make UF decisions in the face of suspects' immediately threatening behavior.

56. The factors that the officer uses to justify, and that supervisors, commanders, and citizens use to review, use of force must be the same factors the officer uses to actually make his force decisions on the scene. If factors are too complicated and contradictory to facilitate reasonable decisions in the heat of the moment, they cannot be used, after-the-fact, to invalidate the officer's judgment and conduct as he or she faced an immediate threat. Yet clearly this is what is mandated by the reporting and review provisions of the policy.

57. The UF Policy requires a moment-by-moment analysis both of the officer's conduct leading up to the UF, and a point-by-point, *post-hoc* critique of the incident. These work together to invalidate the totality standard's focus on the circumstances confronting the officer at the moment force was used.

58. Patrol officers are warned that "their conduct prior to the use of force" can be a factor in determining whether or not the subsequent use of force was necessary (ignoring that the constitutional test is "reasonableness")

(§ 8.000.3). They must also "continually" assess and modulate their use of force. This means SPD officer's conduct will be measured as to whether at each and every point he or she made the "most appropriate," i.e. 'best', most correct, decision. If not, the officers' subsequent, reasonable use of force is called into question. This conflicts with the reasonableness standard because reconsideration will nearly *always* reveal that something different could have been done. Even evidence of bad tactical decisions leading up to a use of force does not deprive officers of the subsequent right to use reasonable defensive force.

59. Under the UF Policy an officer's "display of a weapon" can be used against the officer in evaluating any subsequent use of force. This unreasonably burdens the right of self-defense and makes no sense to the reality of the officer's experience. Officers routinely have their firearms out and at the ready when, for example, they search and clear a building or approach suspects during high-risk vehicle stops. In such cases, the threat is the uncertainty, and officers need, and have the right, to be armed and ready because they are always behind the reactionary curve of a potential suspect who has decided to shoot, stab, slash, or smash as a means of resistance or escape.

60. The UF Policy's requirement of moment-by-moment justification of precisely the correct amount of force means that officers will feel compelled to de-escalate "immediately" after using reasonable force without adequately assessing whether or not the threat has in fact been eliminated. Evidence from UF reports under the new UF Policy confirms officers are rushing to immediate de-escalation without any assessment of whether the threat of danger has been realistically eliminated.

61. Officers are required to "justify" and "report" each separate use of a less lethal device during a single incident, including that "each subsequent application of force is a separate application of force that must be individually justified." (§§ 8.200-POL-1-10). Officers are also required to document, and supervisors are required to review, in all but *de minimis* force, each and every blow or application of force. (Sec. 8.300-POL-1,

8.300-POL-1.1) This creates an impermissible "divide and conquer" or "segmented approach" to UF decision-making. Plaintiffs know from DOJ's findings in its similar review of use of force by the Portland Police Bureau that DOJ explicitly advocates a constitutionally flawed "segmented approach" to use of force claims. DOJ and the Monitor demand that supervisors consider, after-the-fact, "each point when an officer made a decision that may have an effect on subsequent events," to allow "intensive," post-hoc reviews in order to identify "flawed tactical decisions." Thus, in DOJ's own words, it is admitting that it intends to promote UF reviews expressly designed to lead to unconstitutional second-guessing. To properly analyze conduct taken in self-defense, an officer's use of force must be reviewed as a continuous event until the threat is decisively stopped, and an officer's judgment and actions must be assessed cumulatively, i.e. *as a whole* picture taken together, without imposing a sequencing of distinct events in order to poke holes and find flaws or to invalidate specific elements of an officer's cumulative judgment. The analysis must conform to the reality that officers need to make split-second decisions under dangerous, rapidly unfolding circumstances.

62. The policy divides force into qualitatively separate and distinct types (e.g. § 8.050). The categorical force type is then applied mechanically for purposes of both an officer's decision, and SPD's and the City's after-the-fact analysis and review, to determine whether or not the officer should be disciplined and/or criminally charged for the UF. Such a mechanical scheme defining and categorizing levels of force is an attempt to impose a "force continuum" on SPD officers. Requiring officers to pigeon-hole force types before, during, and after their decision to use force, complicates and hampers their ability to respond to the particular circumstances they face. It also implies that mechanical decisions can always be made regarding when and what force is reasonably required to meet a suspect's threatening behavior and/or resistance. Plaintiffs know from experience this is never true. Not surprisingly, continuums and mechanical schemes have been discredited by law enforcement experts, even those in other departments of

the DOJ itself, as unconstitutional and promoting dangerous, ineffective policing.

III. CONSTITUTIONAL CLAIMS

A. By Promulgating and Implementing the UF Policy, Defendants have violated Plaintiffs' Constitutional Right of Self-Defense.

63. When a police officer is confronted with threatening behavior, he or she has the right to take reasonable actions in defense of self and others. Plaintiffs' right of self-defense is 'fundamental,' 'basic,' 'natural,' 'central,' and 'inherent.' For well over a century, the Court has held that the right of self-defense existed prior to, and did not depend upon being granted by, the Constitution. It is an individual right of "universal application" that is in no way diminished because Plaintiffs have chosen to be police officers. The right to use force in self-defense is an immediate right based on the immediacy of the threat or danger. The right recognizes a continuity of action such that officers can employ any and all reasonable means until the perceived threat has been fully extinguished. An essential attribute of this right is that it does not turn on the facts and circumstances determined afterwards, but instead on whether or not there were reasonable grounds for a person's belief that he or she was in imminent or immediate danger at the moment of the incident. Detached reflection cannot be demanded in the presence of an immediate threat of serious physical harm. The above allegations provide multiple examples of the specific ways the UF Policy violates these long-standing standards that ensure the individual's right of self-defense. The UF Policy then not only invites but demands unconstitutional second-guessing of UF decisions.

B. By Promulgating and Implementing the UF Policy, Defendants have violated the Second Amendment.

64. The fundamental right to self-defense "pre-exists" and is broader than the specific Second Amendment right to keep and bear arms, although it is embodied in and is the central component of this right. Therefore, Defendants actions in unreasonably restricting and burdening Plaintiffs right of self-defense violate the Second Amendment. Moreover, the contours of Plaintiffs' Second Amendment rights shape an appropriate understanding of

their broader constitutional right to self-defense. The right to keep and bear arms is a right that is exercised individually and belongs to each and every American citizen, regardless of profession, and is not limited to use of an officer's firearm. The right has been understood not merely as the right to use force after a confrontation has occurred but includes the right to be prepared or ready in case of the possibility of a conflict or confrontation with an assailant. Plaintiffs recognize that these rights are not unlimited and can be subject to legitimate and appropriate regulation. Nevertheless, the specific right to keep and bear arms is an 'enshrinement' of a fundamental right to self-defense, which means that regulations cannot burden such rights to the point of destruction, or render them practically meaningless. As the above allegations make clear, decision-making under the UF Policy is sufficiently proscribed so that police officers cannot act decisively in the moment, based on an assessment of the threat, to bring situations under control in order to protect themselves and others from harm.

65. Plaintiffs know their job puts them in danger. They accept these risks in large part because their job also allows them the privilege to serve and protect the innocent. Plaintiffs are not arguing that the Constitution grants them the right to dictate all the terms of a UF Policy or requires the City to keep them safe at all times. The Constitution, however, provides Plaintiffs the fundamental right of self-defense. The City cannot make policy decisions and impose policy requirements that consistently and inevitably place them at unnecessary and, therefore, unreasonable risk when confronting dangerous suspects. Such policy choices have been taken off the table by the law.

C. By Promulgating and Implementing the UF Policy, Defendants have violated the Fourth Amendment.

66. The Supreme Court's Fourth Amendment jurisprudence is the core guide regarding police interactions with persons engaged, or suspected of engagement, in criminal activity. It contains clear and long-standing standards and principles regarding seizures. Plaintiffs argue that when

they are unnecessarily required to face death or serious injury in such encounters, because of the policies of their employer, they have been intentionally and unreasonably seized in violation of their Fourth Amendment rights. A policy with these identified dangers does not simply create the random chance of harm to the officer, it makes it a virtual certainty due to the nature of the job itself and the fact that the government requires them to perform it under the flawed UF Policy each and every day.

D. By Promulgating and Implementing the UF Policy, Defendants have violated the Plaintiffs' Right of Self-Defense as Embedded in the Fourth Amendment.

67. Without finding a specific Fourth Amendment seizure of officers harmed because of the UF Policy, long-standing Fourth Amendment case law still embeds and recognizes a police officer's fundamental right of self-defense. Even as it balances governments' versus citizens' interests, the Court finds a separate, more fundamental and pre-existing right at play, viz. officers' right to take necessary and reasonable steps to secure their own safety and that of bystanders when conducting a seizure: in short, defense of self and others. For "certainly it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties." The Court has made clear that officers do not have to first take a chance on arguably less intrusive measures and 'hope for the best.' As the Fourth Circuit put it succinctly, "The Constitution simply does not require police to gamble with their lives in the face of a serious threat of harm." This is not a hollow right to recover damages (or for officers' widows and children to recover such) after they have been seriously or fatally injured. The constitutional injury occurs regardless of whether or not a police officer happens to be lucky enough to avoid, or to protect himself or herself from, actual harm in the face of danger. Instead, the right of self-defense by necessity means that the City cannot unreasonably restrict or burden the timing and/or range of reasonable options officers may employ in protecting themselves and others. **"It would be clearly unreasonable to deny the officer the power to take necessary measures in order to neutralize the threat of physical harm."**

68. In determining whether or not there was unnecessary and therefore unreasonable risk to the officer's safety, the Court examines whether or not the officer was

'justified,' in other words, reasonable, in his or her belief regarding the present threat of danger. This is also the single most important factor in the objective reasonableness standard under the Fourth Amendment. Thus, the totality of the circumstances standard teaches us about officers' right of self-defense. The Court has been careful not to permit Fourth Amendment standards that invite recklessness or create perverse incentives for criminal suspects to disregard public safety any further than they already do. The Court requires that every police encounter, from social contact through the use of deadly force, be judged by one, consistent, long-standing standard: reasonableness. There is no 'magic on/off switch' or 'rigid preconditions' for when, or what type of, force is appropriate in a particular case. **"All that matters is whether the officer's actions were reasonable."** For the same reason, the Court rejects application of separate tracks or categorical rules when evaluating an officer's conduct in relation to a mentally ill suspect, or one of any other category. Even as courts, including the Ninth Circuit, complain of its "troubling degree of uncertainty," the Court consistently rejects attempts at producing a neat set of rules. Instead, the actual, cumulative information available to the officer on the scene, combined with his own experience and specialized training, always trumps pre-set rules, categorical schemes, or use of post-hoc 'divide and conquer' analysis of the officer's decision. As the above allegations demonstrate, the UF Policy, throughout, contradicts these standards of reasonableness, flexibility and deference, instead restricting and burdening Plaintiffs' right of self-defense.

E. By Promulgating and Implementing the UF Policy, Defendants have violated the Equal Protection Clause of the Fifth and Fourteenth Amendments.

69. The UF Policy rewards suspects' recklessness and disregard for the safety of others as it consistently disadvantages officers in the face of volatile, unpredictable, threatening behavior by suspects. The UF Policy thus places Plaintiffs at considerable disadvantage compared to suspects and the general public as regards their fundamental right to defend themselves from threats of deadly harm and serious bodily injury. This denies Plaintiffs the equal protection of the law as prohibited by the Fifth and Fourteenth Amendments. Moreover, Plaintiffs have asserted a fundamental constitutional right of self-defense and Defendants have not

asserted a justification sufficient to satisfy the heightened scrutiny required by equal protection law.

F. By Promulgating and Implementing the UF Policy, Defendants have violated Plaintiffs' Substantive and Procedural Due Process under the Fifth and Fourteenth Amendments.

70. The Due Process Clause of the Fifth Amendment prohibits a federal agency, such as DOJ, from depriving individuals of life, liberty, or property without the due process of law. Similarly, the due process clause of the Fourteenth Amendment prohibits state actors from doing the same. Clearly such rights are at stake here. Plaintiffs allege that the UF Policy subjects them to unnecessary risk of death and serious bodily injury. Plaintiffs believe we will face unreasonable disciplinary actions, lawsuits, loss of employment, and the inability to obtain police employment in other jurisdictions if and when we are accused of violating the new UF Policy, even though our actions were reasonable under the law.

71. Substantive due process claims have been brought by suspects alleging excessive use of force by the government in cases where the suspect cannot establish that there has been an intentional seizure by the government. These cases, though brought by suspects, reflect the underlying, embedded right of self-defense of the police officer involved and, thus, shed light on the contours of Plaintiffs' right of self-defense. Thus, for example, rules of due process, like the reasonableness standard, cannot be subject to mechanical application and must take into account that officers often will not have the luxury to make unhurried judgments. Moreover, evaluation of officer conduct must consider that officers often need to act quickly even as decision-making is complicated by pulls of competing obligations, i.e. the need to act decisively and to show restraint at the same moment. All of these realities are relevant to evaluating an officer's conduct when his or her actions are taken in response to suspect's threatening behavior. None of these realities are reflected in the UF Policy.

72. Due process however is not only for the benefit of suspects. Plaintiffs assert a substantive due process violation of our own liberty and property interests. Regardless of whether or not Plaintiffs can establish that the policy's restrictions and burdens are a seizure under the Fourth Amendment, DOJ's and the City's deliberate indifference to long-standing rights of self-defense, as they

force Plaintiffs to conform to a policy that blatantly violates those rights, is an abuse of power that shocks the conscience. Defendants know that the policy is fundamentally flawed and puts public safety and officers' lives in jeopardy, yet they still refuse to change it because it would be 'too hard' politically. Other Defendants show callous and aggressive disregard when confronted with evidence of the threat to public and officer safety created by the UF Policy. It is unconscionable and an abuse of authority when, in light of such evidence, those in power are permitted to equate public safety concerns with buying "Cheerios" in a "grocery store."

73. DOJ has imposed, and the City and SPD have acquiesced in, a fundamental rewriting of nearly universal, long-standing, constitutionally-grounded rules of reasonable police conduct based on a secretive and fundamentally flawed factual analysis. This violates both substantive and procedural due process. DOJ repeatedly refused to provide the City, SPD or the public with the data, methods, or analysis it used to reach its conclusions. The little information DOJ did provide indicates that its key finding comes from an extrapolation from a random sample of UF reports. It is therefore nothing more than speculation. An independent and complete analysis by researchers under the supervision of Matthew Hickman, a Professor at Seattle University, and a former statistician for DOJ itself found that only 3.5% of cases could be characterized as even "potentially" excessive. In addition, DOJ's finding regarding the prevalence of excessive force directly conflicts with other key findings by DOJ, such as, the “great majority” of Seattle’s police officers do not use excessive force; the pattern of excessive force exists only for a very small “subset” of officers; and that supervisory oversight should focus only on the “very small number” of officers who use force frequently.

74. Defendants have imposed the new UF Policy without providing Plaintiffs any meaningful opportunity to be heard, even though it is their safety and livelihood that is most significantly and immediately affected by the policy changes. They did so without meaningful consultation with or involvement from SPOG. They did so notwithstanding that many SPD patrol officers are recognized experts in the field of use of force standards and techniques. They ignored Plaintiffs' experience and expertise, even as the constitutional standard at issue - whether the police

officers' conduct was objectively reasonable - depends on an examination of the specific knowledge, experience, training and circumstances facing those officers. Most significantly, Defendants continued even more aggressively to cut Plaintiffs out of the process as they raised the most serious of concerns: that the new policy puts their lives and the lives of citizens in danger.

IV. HARM CAUSED AND RELIEF SOUGHT

75. The dangers and harm cited by Plaintiffs are real, not conjectural. The constitutional right of self-defense includes the right not to be required to take unnecessary and therefore unreasonable risks with Plaintiffs' safety and the safety of the public. **The unnecessary and unreasonable risk required by the UF Policy is itself the injury.** It is unconstitutional to require Plaintiffs to **"gamble with their lives."**

76. While the actual UF Policy has only been in place since January 2014, the standards reflected in it have been imposed by DOJ since it issued its findings letter on December 16, 2011, and quickly became the pattern and practice of what has been required of patrol officers since that time.

77. Plaintiffs seek an immediate injunction against the implementation of SPD's UF Policy that went into effect on January 1, 2014, and all related training. The immediacy of this injunction is crucial in light of Plaintiffs' serious and significant allegations regarding the unconstitutionality of the UF Policy, and the dangers it creates to the safety of SPD patrol officers and the public. Moreover, since the intrusion of DOJ in 2011, SPD patrol officers, including new officers at the Academy (CJTC), have been improperly trained and conditioned to pause, hesitate, overthink and under-react in the face of threats of danger. The longer this training/conditioning is ingrained, the harder it will be to undo, and the safety of officers and the public is further endangered for years, if not decades, to come.

78. Plaintiffs further seek a declaratory judgment that the UF Policy is unconstitutional and beyond repair. Plaintiffs seek a declaration requiring that an entirely new UF policy be drafted as soon as possible, but only after obtaining substantial input from Plaintiffs and other patrol officers with direct experience in appropriate use of force decision-making and tactics in Seattle.

79. Plaintiffs seek compensatory damages for lost time and wages, improper disciplinary action, or any other personnel actions taken against Plaintiffs for violations of the UF Policy where Plaintiffs acted based on their constitutional rights of self-defense. Plaintiffs seek punitive damages from Defendants based on Defendants' callous disregard and belittling of the genuine safety needs of SPD's patrol officers, as well as Defendants disregard for and rewriting of clearly established standards regarding use of force and concomitant disregard for the public's and Plaintiffs' safety. Plaintiffs also seek punitive damages for the resources and funds redirected away from the safety of patrol officers and the public and wasted instead on the production of an unreasonable, unconstitutional UF Policy.

80. Plaintiffs seek any other relief the court deems appropriate.

81. Plaintiffs currently represent themselves *pro se* because of the overwhelming costs related to representation in a complex civil rights matter. Plaintiffs seek to obtain attorneys' fees under 42 USC § 1988, and hope that due to the availability of attorneys fees they will be able to obtain in-state counsel to represent them in this court moving forward.

82. Plaintiffs declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,
Dated this August 27, 2014

By: s/ Sjon Stevens
Sjon Stevens (#6180)
PO Box 25274
Seattle, WA 98165
ufcomplaint@hotmail.com
tel: (206) 684-0850

By: s/ Robert Mahoney
By: s/ Cliff Borjeson
By: s/ Bridget Hillan
By: s/ Lance Basney
By: s/ Salvatore DiTusa
By: s/ Clarke D. Chase
By: s/ Joseph Stankovitch
By: s/ Weldon C. Boyland
By: s/ John L. Farrar
By: s/ Dale W. Umpleby
By: s/ Richard A. McAuliffe

By: s/ George Baseley
By: s/ Leon J. Towne
By: s/ David M. Harrington
By: s/ Henry Feldman
By: s/ Terry Whalen
By: s/ Gilles Montaron
By: s/ Robert Stevenson
By: s/ Joshua Goodwin
By: s/ Ryan Kennard
By: s/ Nathan Lemberg
By: s/ Jeff Mitchell
By: s/ Robert B. Brown
By: s/ Ernest T. Hall
By: s/ Robert Burk
By: s/ Adam Beatty
By: s/ Tomas Trykar
By: s/ Brien Escalante
By: s/ Karen G. Pio
By: s/ Michael Gonzalez
By: s/ Steve Kim
By: s/ Ennis Roberson
By: s/ Leroy Outlaw
By: s/ Kieran Barton
By: s/ Jonathan Reese
By: s/ Eugene Schubeck
By: s/ Sean Hamlin
By: s/ Shannon Waldorf
By: s/ Jeffrey Swenson
By: s/ Michael Spaulding
By: s/ Tabitha Sexton
By: s/ Steven Stone
By: s/ Liliya A. Nesteruk
By: s/ Todd M. Nelson
By: s/ Timothy Jones
By: s/ Timothy J. Wear
By: s/ Theresa Emerick
By: s/ Ariel Vela
By: s/ Michael A. Larned
By: s/ Jeffery Johnson
By: s/ Derek B. Norton
By: s/ Jason Dewey
By: s/ Brett Willet
By: s/ David White
By: s/ Gretchen Hughes
By: s/ Trent Schroeder
By: s/ Audi A. Acuesta
By: s/ Steve Clark
By: s/ Steven L. Berg
By: s/ Erik Johnson
By: s/ Vernon Kelley
By: s/ Shelley San Miguel
By: s/ Christopher J. Anderson
By: s/ Suzanne M. Parton
By: s/ Eric F. Whitehead
By: s/ Alan Richards
By: s/ Ron Willis
By: s/ A. Sheheen
By: s/ Randall Higa
By: s/ Tim Owens
By: s/ Tyler Getts
By: s/ Adam Elias
By: s/ Jon Emerick
By: s/ Louis Chan

By: s/ Paul Pendergrass
By: s/ AJ Marks
By: s/ Ron Martin
By: s/ Rusty L. Leslie
By: s/ TJ San Miguel
By: s/ Jeffrey C. Page
By: s/ Ryan Ellis
By: s/ Austin Davis
By: s/ Nina M. Jones
By: s/ David Fitzgerald

Sjon Stevens (#6180)
Robert Mahoney (#6296)
Cliff Borjeson (#7597)
Christopher Myers (#5452)
Bridget Hillan (#5938)
Lance Basney (#5947)
Salvatore DiTusa (#5668)
Clarke D. Chase (#5709)
Joseph Stankovitch (#6878)
Weldon C. Boyland (#6635)
John L. Farrar (#5922)
Dale W. Umpleby (#4052)
Richard A. McAuliffe (#6403)
George Baseley (#5571)
Leon J. Towne (#6697)
David M. Harrington (#6875)
Henry Feldman (#7548)
Terry Whalen (#6879)
Gilles Montaron (#6382)
Robert Stevenson (#5859)
Joshua Goodwin (#7564)
Ryan Kennard (#7555)
Nathan Lemberg (#7456)
Jeff Mitchell (#6181)
Robert B. Brown (#6194)
Ernest T. Hall (#4792)
Robert Burk (#5516)
Adam Beatty (#7453)
Thomas Trykar (#7616)
Brien Escalante (#7580)
Karen G. Pio (#6088)
Michael Gonzalez (#6412)
Steve Kim (#5955)
Ennis Roberson (#6759)
Leroy Outlaw (#6854)
Kieran Barton (#7568)
Jonathan Reese (#7533)
Eugene Schubeck (#6696)
Sean Hamlin (#5833)
Shannon Waldorf (#6950)
Jeffrey Swenson (#7507)
Michael Spaulding (#7491)
Tabitha Sexton (#7430)
Steven Stone (#7540)
Liliya A. Nesteruk (#7489)
Todd M. Nelson (#7358)
Timothy Jones (#6935)
Timothy J. Wear (#4900)
Theresa Emerick (#5002)
Ariel Vela (#4727)
Michael A. Larned (#6955)

Jeffery Johnson (#5845)
Derek B. Norton (#6917)
Jason Dewey (#7426)
Brett Willet (#7615)
David White (#6404)
Gretchen Hughes (#6237)
Trent Schroeder (#6900)
Audi A. Acuesta (#7417)
Steve Clark (#5987)
Steven L. Berg (#5834)
Erik Johnson (#5116)
Vernon Kelley (#6662)
Shelley San Miguel (#6910)
Christopher J. Anderson (#6609)
Suzanne M. Parton (#5830)
Eric F. Whitehead (#7493)
Alan Richards (#7497)
Ron Willis (#6081)
A. Sheheen (#4916)
Randall Higa (#5740)
Tim Owens (#6748)
Tyler Getts (#7537)
Adam Elias (#6726)
Jon Emerick (#4326)
Louis Chan (#7424)
Paul Pendergrass (#4942)
AJ Marks (#6179)
Ron Martin (#5041)
Rusty L. Leslie (#5209)
TJ San Miguel (#7506)
Jeffrey C. Page (#6845)
Ryan Ellis (#7612)
Austin Davis (#7617)
David Fitzgerald (#6152)

Seattle Police Department
North Precinct
10049 College Way N.
Seattle, WA 98133
Telephone: (206) 684-0850
Email: ufcomplaint@hotmail.com
Pro se Plaintiffs

By: s/ Christopher Myers
By: s/ Joseph A. Maccarron

Christopher Myers (##5452)
Sgt. Joseph A. Maccarron

Seattle Police Department
West Precinct
810 Virginia St.
Seattle, WA 98101
Telephone: (206) 684-8917
email: ufcomplaint@hotmail.com
Pro se Plaintiffs

By: s/ Jack C. Bailey
By: s/ Alfred R. Warner

By: s/ Michael R. Washington
By: s/ Aaron Stoltz
By: s/ Theodore G. Visaya

Jack C. Bailey (#5230)
Alfred R. I. Warner (#6162)
Michael R. Washington (#5143)
Aaron Stoltz (#6073)
Theodore G. Visaya (#5237)

Seattle Police Department
East Precinct
1519 12th Avenue
Seattle, WA 98122
Telephone: (206) 684-4800
email: ufcomplaint@hotmail.com
Pro se Plaintiffs

By: s/ Anthony James Reynolds

Anthony James Reynolds (#7585)

Seattle Police Department
South Precinct
3001 S. Nyrtle St.
Seattle, WA 98108
Telephone: (206) 386-1850
email: ufcomplaint@hotmail.com
Pro se Plaintiff

By: s/ Richard Heintz

Richard Heintz (#4219)

Seattle Police Department
South West Precinct
2300 SW Webster St.
Seattle, WA 98106
Telephone: (206) 733-9800
Pro se Plaintiff

By: s/ Donald L. Waters

Donald L. Waters (#6287)

Seattle Police Department Gang Unit
610 Fifth Avenue
Seattle, WA 98124-4986
email: ufcomplaint@hotmail.com

By: s/ Curtis Gerry
By: s/ Adolph Torrescano
By: s/ Curt E. Wilson
By: s/ James G. Thomsen
By: s/ Richard W. Pruitt

By: s/ Jonard A. Legaspi

Curtis Gerry (#5823)
Adolph Torrescano (#4743)
Curt E. Wilson (#4505)
James G. Thomsen (#6738)
Richard W. Pruitt (#5346)
Jonard A. Legaspi (#6231)

Seattle Police Department Range
11030 E. Marginal Way S.
Tukwila, WA 98168
Telephone: (206) 684-7470
email: ufcomplaint@hotmail.com
Pro se Plaintiffs

By: s/ Rich Peterson

Rich Peterson (#6239)

Seattle Police Department
Education and Training Unit
Park 90/5
2203 Airport Way S.
Seattle, WA
email: ufcomplaint@hotmail.com

Pro se Plaintiff