

De-escalation and Training Breakdowns

BACKGROUND

A police officer on patrol observes a motorist not wearing his seat belt and initiates a traffic stop. Immediately and throughout the traffic stop, the driver of the vehicle is belligerent and agitated with the officer. Despite multiple attempts by the officer to obtain the required information to issue the seat belt violation, the driver refuses and continues to escalate his language and attitude and requests a supervisor. After approximately 20 minutes, the officer requests backup. During this time, several patrol vehicles passed them on the side of the road but did not stop.

Once backup arrives, the two officers attempt to remove the driver from the vehicle, at which time the driver and one officer get into a physical confrontation. The second officer, who is one month off of FTO training, engages in the altercation. Ultimately, this rookie officer determines that additional control measures should be taken and announces she is going to use her TASER; however, as she gives the verbal warning about the use of the TASER, she draws her firearm and discharges one (1) round into the back of the driver. The driver ultimately collapses on the ground. The driver is transported to the hospital with a gunshot wound to the middle of his upper back. He is initially treated in the emergency room and then was brought into surgery to have the bullet removed. He is hospitalized for several days and suffers from numbness of his left arm and hand. The rookie officer resigned from the police department after this incident.

FACTS:

- At approximately 12:30 pm a police officer on patrol, while sitting at a traffic light, observes a black SUV in the oncoming lane at the light. The officer has a clear line of sight through the vehicle windshield and notices that the driver was not wearing his seatbelt.
- Upon the light turning green, the SUV proceeds through the intersection and continues down the road. The officer activates his warning lights and sirens and attempts to catch up to the black SUV. The officer stated that he never lost site of the vehicle.
- The officer pulls behind the SUV and initiates a traffic stop. Hearing the siren and seeing the activated emergency lights, the driver of the SUV pulls his vehicle to the right side of the road and stops.
- The officer notifies dispatch of his location and then exits his police cruiser.
- Upon arriving at the driver side window of the SUV, the officer identifies himself and provides an explanation to the driver for the reason of the traffic stop. Immediately, the driver becomes verbally agitated and yells at the officer several times that he is a racist and asks "Don't you have anything better to do than bother me for a seatbelt violation?"
- The officer makes multiple attempts to obtain the driver's information – driver's license and proof of insurance – and explains that this is a minor violation and all the driver has to do is comply and he will be on his way in less than five minutes.
- Despite the officer's attempts, the driver continues to yell and become belligerent with the officer.
- After approximately ten minutes, the driver of the SUV asks the officer to call his supervisor; he specifically said, "I want to talk to your supervisor."
- The officer denies the request stating that "He is not holding court on the side of the road." The driver again requests a supervisor.
- The officer again denies the request, telling the driver he is "being ridiculous" and that he would have been on his way if he just complied. The officer then states that the driver will go to jail over a seat belt violation if he does not provide the information requested by the officer.
- The driver denies the request again and then requests to speak to a supervisor as it is his right. The officer denies this request stating "It is not your right, and he is not going to call a supervisor to listen to him tell the driver the same thing."
- The driver of the SUV begins to yell at the officer, at which time the officer requests backup to his location.
 - It is noted that several patrol vehicles have passed the scene prior to this request and did not stop or communicate with the officer to determine if he needed any assistance.
- A second officer, who is one month off FTO training arrives on scene. She is notified by the first officer that the driver is going to jail and that they will need to extract him out of the vehicle.
- The female officer proceeds to the passenger side of the SUV, opens the door, enters the SUV, and begins to engage the driver to try and push him out of the vehicle, while the male officer is pulling the driver through the open driver-side door.
- Upon exiting the vehicle, the driver engages in a physical altercation with the male officer, punching him in the head and ribs. The male officer and the driver fall to the ground and continue to fight.
- Seeing this, the female officer exits the SUV and attempts to engage in the altercation. She begins notifying the driver to "put your hands behind your back or I will tase you." She provides several commands to the like, with no compliance by the driver. After multiple unsuccessful attempts to take the driver into custody, the female officer yells out "Taser, taser, taser". however, she grabs her department issued firearm, removes it from the holster and fires one round into the back of the driver. As a result, the driver collapses to the ground, and can be heard screaming in pain on the dash cam video.
- The female officer can also be heard saying "Oh my God, I thought I grabbed my TASER, oh my God".

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- The female officer ultimately resigns from the police department as a result of this incident.
- Emergency Medical Services (EMS) arrive on scene and transport the driver to a local hospital where he is treated in the emergency room, stabilized, and transferred to surgery to have the bullet removed. The driver was admitted to the hospital where he remained for several days.

INVESTIGATION:

- It was determined that the female officer was carrying her TASER on her “strong side” next to her firearm.
- The department had completed de-escalation training.
- The department had a Standard Operating Procedure indicating that when a civilian requests a supervisor, the officer should inform the civilian that the request will be made and based on the supervisor’s availability, the interaction with the officer would be extended. The officer then “shall” notify dispatch of the request.
- The male officer becomes frustrated during the interaction with the driver and makes a decision to arrest the driver for interfering with a police officer, rather than calling for a supervisor or to release the individual and follow up with other avenues to provide the citation to the driver.
- The driver of the vehicle was not wearing his seat belt.
- The driver of the vehicle was not compliant.
- The female officer entered the vehicle on her own accord. She mentioned in her statement that she interpreted the direction of the male officer to be for her to get in the vehicle.
- The female officer stated that she was not aware of the protocol to wear the TASER on her support side in the ‘cross draw’ fashion and that her FTOs never mentioned it to her during the time period she was on duty with them.
- The department was able to produce training records for all officers involved in this scenario that illustrated they had gone through de-escalation training and less than lethal weapons training – specifically on the utilization of the TASER.
- During the deposition of the training officer, it was determined that, although the department did not have a formal policy on the placement of the TASER on the duty belt, the training officer stated that it is “common sense” not to carry the TASER next to the gun and assumed that the FTOs explained that to the female officer.

DAMAGES:

- The driver sustained a gunshot wound to the upper back, between the shoulder blades. The bullet damaged several nerves causing permanent numbness and loss of fine motor skills in the driver’s left arm and hand.
- As a result of the incident, the driver suffered from nightmares, mood changes, and depression and was subsequently diagnosed by a psychologist with Post Traumatic Stress Disorder.
- The driver was hospitalized for several days as a result and continues to treat with both physical and occupational therapists as well as with a psychologist.
- It was determined that, although the driver did not comply with the officers commands, both the male and female officers failed to comply with department policy. It was further determined that the lack of policy for the carrying of the TASER on the duty belt contributed to the OIS.
- The claim was ultimately settled for \$325,000; which included medical bills, attorney fees and indemnification.

RECOMMENDATIONS:

- Retrain all officers on the department regulations and policies on civilian requests to speak with a supervisor.
- Develop and train all officers on a policy to carry the TASER on the support side in the cross draw position.
- Train officers on the dangers of entering vehicles of potential suspects.
- Retrain FTOs on the department policy for carrying a TASER on the duty belt, and require FTOs to document their corrective actions for rookie officers when they are not in compliance with department policy.
- Continue to provide de-escalation training to officers, including simulated scenarios to illustrate how best to avoid escalating to a physical use of force.
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Questions? Ask your Supervisor or contact your CIRMA Risk Management Consultant at (203) 946-3700.