



DAVID W. PRATER
DISTRICT ATTORNEY

SCOTT ROWLAND
FIRST ASSISTANT DISTRICT ATTORNEY

February 26, 2014

Chief of Patrol
Colonel Rick Adams
Oklahoma Highway Patrol
3600 N Martin Luther King Avenue
Oklahoma City, Oklahoma 73111

Re: Oklahoma Highway Patrol Incident #14-0020CI

Dear Colonel Adams:

This office has reviewed the events of January 3, 2014, reported by your department under the above incident number. The case involved Oklahoma Highway Patrol Trooper Eric Foster, Trooper Kelton Hayes and Trooper Jason Owens. The incident occurred on the eastbound Interstate 40 off ramp and Eastern Avenue, Oklahoma City, Oklahoma County, Oklahoma.

The Troopers responded to a call from a citizen who was the victim of a Hit and Run Accident that occurred at 19th Street and Interstate 35, Moore, Oklahoma. The citizen was following the hit and run vehicle northbound on Interstate 35. The driver of the suspect vehicle did not stop at the accident scene nor was he stopping for the victim as he flashed his headlights and honked at the suspect in an attempt to get him to pull over. The victim maintained telephonic contact with OHP dispatch until the assigned Troopers located the suspect at the above-noted off ramp.

Trooper Foster stopped directly behind the hit and run vehicle as it stopped at the red signal light on the eastbound off ramp of Interstate 40 at Eastern Avenue. Trooper Foster's emergency lights were activated. Trooper Hayes stopped his patrol unit behind Trooper Foster's unit. The driver of the hit and run vehicle, later identified as Pearl Pearson Jr., sat in his vehicle with his tinted windows closed.

Troopers Foster and Hayes approached Pearson's vehicle from the left rear. They were unable to see into the vehicle due to the dark tint. The Troopers could not determine how many people were in the vehicle. As they approached the vehicle from the rear, the Troopers moved in an arc, away from the driver's side of the vehicle, to gain a tactical advantage and in an attempt to see into the driver's compartment. The Troopers were giving loud verbal commands to Pearson to roll all of his windows down. After several commands, Pearson rolled down the driver's window.

The Troopers made visual contact with Pearson and gave him loud commands to raise his hands and put them out of the window. Pearson did not respond with any action. The Troopers moved to an elevated position and were able to see that Pearson was resting his left arm on the door frame, with both hands on the steering wheel. Both Troopers holstered their weapons at that point and began to give loud verbal commands for Pearson to raise his hands and put them outside of the window. Pearson looked directly at the Troopers and pointed at his ears. The Troopers believed that Pearson was indicating that he was either hearing impaired or that he couldn't hear due to the loud traffic noise. The Troopers used hand gestures to demonstrate what they were commanding Pearson to do. Pearson did not respond and left his arms and hands down on the steering wheel.

Troopers Foster and Hayes began walking slowly toward the driver's door as Pearson watched them. The Troopers continued to give the "show your hands" gestures as they approached. Pearson still didn't move his hands away from the steering wheel. As the Troopers reached an area within approximately five feet from the driver's door, Pearson suddenly reached down with both hands to the area between his left leg and the inside of the driver's door. Both Troopers immediately reacted to the movement and potential threat by moving directly to Pearson. Trooper Hayes used his left arm to pin Pearson's hand down, between the driver's seat and the inside of the driver's door. Simultaneous to that defensive move, Trooper Hayes struck Pearson in the face with a closed fist to stun and disorient him.

With Trooper Hayes securing Pearson's arms, Trooper Foster opened the driver's door slightly to view the area where Pearson was reaching. Trooper Foster ascertained that Pearson did not have a weapon in his hands and that there did not appear to be a weapon within Pearson's lunge area. With Trooper Hayes continuing to secure Pearson's arms through the open driver's window, Trooper Foster opened the door, grabbed Pearson's left arm and attempted to remove him from the vehicle. Trooper Hayes pulled on Pearson's coat to assist Trooper Foster. The Troopers pulled Pearson out of the vehicle and onto his feet.

As the Troopers were holding on to Pearson, outside of the vehicle, he jerked and attempted to pull away from the Troopers. Pearson had not been searched at this point and they immediately took Pearson to the ground. As the three men went to the ground, Pearson pulled his arms into his waist area. The Troopers were commanding Pearson to relax his arms as they attempted to pull his arms away from his torso in an attempt to handcuff him. Pearson would not comply and continued to pull his arms into his waist area. Pearson was wearing a coat and the Troopers had not been able to visually or physically inspect his coat or waistband area for weapons.

Pearson continued to struggle and fight with the Troopers on the ground for several minutes. Pearson never complied with the Trooper's attempts to secure his hands. During the struggle, Pearson continued to pose a serious threat to the Troopers due to his physical strength and the fact that he may be armed. Physical force was utilized by the Troopers to gain control of Pearson. The Troopers utilized normal, tactical bodily force as they attempted to control Pearson. The Troopers were experiencing exhaustion. Over five minutes into the struggle, Trooper Jason Owens arrived to assist his fellow Troopers. Within a very short period of time the Troopers were able to gain control of Pearson and place him in handcuffs.

After Pearson was secured in an Oklahoma Highway Patrol vehicle, the Troopers determined that Pearson was hearing impaired. Pearson was transported to a local hospital where he was treated and released. He was then taken to the Oklahoma County Jail without any further incident. It is unknown why Pearson left the scene of the motor vehicle collision or why he resisted and fought the Troopers at the scene of his arrest. It should be noted that Trooper Foster's dash cam video and the statements of four civilian witnesses at the scene of Pearson's arrest are all consistent with the Statements of Trooper Foster, Trooper Hayes and Trooper Owens.

I have reviewed the investigative reports, photographs, witness statements, and other documents contained in the Case Investigation Book presented to my office. It is clear that the Oklahoma Highway Patrol Troopers made every attempt to resolve the incident with Pearl Pearson peacefully. Trooper Foster and Trooper Hayes demonstrated commendable restraint and judgment throughout the incident. Only minimal necessary force was employed by the Troopers to defend themselves and civilians at the arrest scene from physical harm and to affect the arrest of Pearson. I have determined that the level of force employed in this incident was lawful and justified. Therefore, no action by the District Attorney's Office is warranted.

Respectfully,

A handwritten signature in blue ink, appearing to read 'D W Prater', with a long horizontal flourish extending to the right.

David W. Prater