

PS 23-056

COPY

JONESBORO POLICE DEPARTMENT

Performance Notice

To: Ptl. Will Tate Badge Number 1428

You are hereby: Counseled Admonished Reprimanded


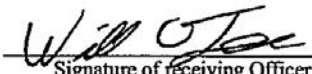
The narrative below explains the reason and/or reasons for this action.

On 10/31/23, you were dispatched to 207 North Main in reference to a shoplifting complaint that is documented in report 23-10893.

When you arrive on scene and begin to interact with the subject, and a verbal altercation occurs. The subject appears to be friends of the owner and is asking for an explanation as to why he is being forced to leave the business. You did not explain the process of a criminal trespass, and only keep telling the subject that he has to leave. You then escalated the situation by closing the distance to the subject, drawing your tazer, and then grabbing the subject by his shirt collar. At this point, the only verbal commands you have issued to the subject are to get out of the store, at which you have now begun yelling. As you are pushing the subject towards the door, the subject asks you to remove your hands from him when you get outside of the business. As you clear the doorway, you then push the subject away from you and then deploy your tazer as the subject turns to walk away. At no point during the contact was the subject anything more than verbally confrontational and you never developed probable cause for an arrest in which a use of force would have been authorized.

Your actions were a violation of policy 401.08 (Response to Aggression).


Due to this policy violation, you have been reprimanded. You will be required to take a remedial training course "Legally Justified; But was it Avoidable" which has a focus on use-of-force incidents. A copy of this reprimand will be forwarded to the Office of Professional Standards for further review, and further disciplinary action may be taken at the discretion of the Chief of Police. Any future violations will result in further disciplinary actions, up to suspension or termination.

From:  Received by:  Date: 11/10/23
Signature of Supervisor Signature of receiving Officer

Jonesboro Police Department

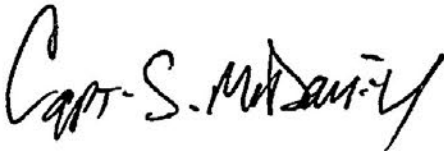
Complaint Notification

November 06, 2023

Chief Elliott: 

A complaint has been received concerning the conduct of an employee of our department. The Jonesboro Police Department Office of Professional Standards will be investigating to determine if the alleged conduct conforms with or violates any of our policies. Accordingly, your office will be appraised of our findings. The specific complaint is referenced below:

Professional Standards Number Assigned:	PS 23-056
Employee(s) Named In Complaint:	Will Tate
Nature of Incident:	Excessive Force
Date of Incident:	10/31/2023



Captain Stephen McDaniel



Internal Complaint EVT-00000965-1

Primary Officer: Baker, Scott (346)

Overview

Event Information

Event Details

Incident ID: PS 23-056 Date: 10/31/2023 Time: 21:49
Location: Main Stop Gas (207 N Main St, Jonesboro, AR, 72401, USA)

Officers

Tate, Will (1428)

Officer Details

Officer / Employee Number: Tate, Will (1428) Role: Involved

Allegations

Allegation: Excessive Force Resolution: Sustained

Citizens

BAKER, MARCUS D

Citizen Role

Role: Witness

Citizen Details

Last Name: BAKER First Name: MARCUS DOB: [REDACTED] Sex: Male Race: Black or African American

Identifying Documents

ID Type: Driver's License DL Number: [REDACTED]

Contact

Address Type: Home Location: 307 Melrose St, Jonesboro, AR, 72401, USA Location Note: Apt. 15
Phone Number Type: Home Phone Number: (870) 504-2993

Complaint

Complaint Details

While conducting a Response to Aggression review of an incident (23-10893) that occurred on 10/31, I found issues with Officer Tate's conduct and use of force in the encounter. Tate is dispatched to the Exxon station at Main/Johnson for a

Complaint (continued)

Complaint Details

shoplifter complaint which ends up being more of a criminal trespass situation. When he arrives he gets into a verbal altercation with the suspect, and does not project a positive officer presence which leads to the encounter escalating. Officer Tate begins to yell at the suspect to go outside, and threatens him with his Tazer. Once he pushes the suspect out of the door, he deploys his Tazer as the suspect is walking away from him. At no point in the encounter did Officer Tate advise the individual of criminal trespass nor did he ever tell the suspect he was under arrest or attempt to physically take him into custody. I do not believe the use of force to be within policy, nor for Tate to have probable cause for his arrest at the time. I have conducted a review in Axon and forwarded this to you.

Also, I have checked at CCDC and the suspect has already been released from custody at the time of these findings.

Lt. Bryan Davis

Delta Squad / SWAT

Review and Recommendation

Review and Recommendation

Supervisor Name: Davis, Bryan (1091)

Investigation Report

Officer Tate responds to the scene and begins to speak with Baker. The exchange becomes escalated and heated between the two as they continue arguing. Officer Tate tells Baker to go outside of the business to which Baker continues to argue. Officer Tate tells Baker to go out the door, to which Baker asks "Why?" Officer Tate then yells "because I told you to" and then pulls his Tazer out and points it at Baker and begins yelling at him to go outside. Officer Tate then grabs Baker by the collar of his hoodie, and begins to push him towards the door while continuing to yell for him to go out the door. Baker makes statements to the effect of when we get outside the door, take your hands off of me. As soon as Tate and Baker clear the doorway and are outside of the business, Officer Tate pushes Baker away and deploys his Tazer, striking Baker. Baker was then taken into custody.

Tate states in his narrative, and when I spoke to him that he thought he heard Baker say "When we get outside, we're going to throw hands". This statement did not occur, and I believe Tate misheard Baker when he was saying "when we get outside your hands better be off me".

At no point during the encounter does Officer Tate expressly advise Baker of criminal trespassing, nor does he ever advise him that he is under arrest. Baker is charged with Criminal Trespass, Resisting Arrest, and Disorderly conduct. I find the probable cause for these charges to be lacking, nor there to be a need for a use of force in this incident.

Supervisor Name: Baker, Scott (346)

Investigation Report

After watching the video, I agree with Lt. Davis's assessment of the response to aggression. The subject asks Officer Tate to explain to him why he has to leave. Officer Tate initially begins to do this, but seems to get frustrated and does not do a very good job of explaining to this to the subject. Officer Tate begins to try and grab the individual and make him leave and the subject tells him not to touch him, that there is no reason to touch him or get that close to him. Officer Tate then points his Taser at him and the subject

Review and Recommendation (continued)

Review and Recommendation

begins to walk toward the door. Officer Tate then grabs the subject's hoodie while still pointing the Taser at him while the subject is walking toward the exit. The subject again asks Officer Tate why he is grabbing him and not to touch him. The subject then says once we get outside get your hands off of me. When they get outside the subject is still walking away when Officer Tate pushes the subject then tases him without warning. Officer Tate does say

"Taser, Taser, Taser," but it is after he has deployed the Taser. The subject was being less than verbally compliant, but was leaving the store. The subject stated he was friends with the owner and was wanting some explanation as to why he was being made to leave. Officer Tate did not to a good job of explaining this, which led to the situation escalating. The situation was beginning to de-escalate by the subject leaving when Officer Tate decided to deploy his Taser.

I recommend remedial training for Officer Tate. I believe a class in de-escalation would be beneficial, as well as, the Calibre Press class Legally Justified; But was it Avoidable?