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This case was brought to us last week by the Grand Rapids Police Department for review. We reviewed all of the body camera videos from the officers involved, the in-car videos, and all of the reports in this case. After consulting with the appellate and trial staff in this case we will not be filing any criminal charges against the officer involved.

Placing the barrel of a gun on the head of a suspect being arrested is completely inappropriate, offensive, and against any training protocol put out by the Grand Rapids Police Department or any other department in Kent County. It is not an appropriate way to attempt to gain the compliance of the person being arrested, but the question is whether a crime occurred. Grand Rapids Police were dispatched regarding an armed individual. Every officer on the scene had their weapons drawn and were justified having their weapons out given the nature of the call; a possible armed individual had committed a robbery. They were further justified when the suspect refused to comply with their commands by repeatedly dropping his hands to his waist, arguing with the police, and continuing to move when being told not to. It was this failure to comply after a lengthy period of time that led to him being tased. Even after he was tased and on the ground, officers continued to point their weapons at him. This is appropriate, and accepted protocol while a potentially armed person is being handcuffed.

Former Officer Penn took it one step further. He put the barrel of his gun to the suspect's head. Viewing the in-car video of the incident, there was a second officer also pointing a gun at the suspect; she however was standing a few feet away when she did so. Both officers had their guns out for safety purposes in covering their fellow officers. The law does not put a "distance test" on this sort of behavior when an arrest is being made. Both are doing the same thing in providing cover, Mr. Penn clearly is trying to get the suspect to comply with their commands when you hear his comments to the person on the ground. He indicated to investigators when interviewed he felt he had to place the gun there for fear of possibly hitting the other officers due to close proximity if he did have to fire, and to try and control the individuals head as he was not complying with commands. This once again is nothing police are trained in, nor something an officer is supposed to do, but the behavior does not rise to the level of a criminal offense under this set of facts.

There was no injury to the suspect. There were no abrasions, cuts, or any other sort of injury from the gun making contact with his head. The suspect was interviewed a few days later by Lt. Kristen Rogers and he indicated he was not injured, and he never sought medical treatment for any sort of injury. From the interview it would appear he did not remember most of what had happened due to him being intoxicated, but he did not lodge a complaint about what had occurred. The request to review the incident came internally from Grand Rapids Police.

We do not condone the behavior of the officer, nor should this be seen as approval for this technique in the future. It is simply under these specific facts we are not charging the former officer given all the circumstances presented in this incident.

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