Jack Marshall is 0-2 with Two Ks

MAY 5, 2010 BY CHARLES

After the whole April Fool's debacle wrapped up, I had no intention of going back to Ethics Alarms. Why would I torture myself like that? And then, after a quick trigger finger after his site popped up while my browser was in autocomplete mode, I saw that the top story was about that kid who got tasered at the Phillies game for running on the field. The first clue that this would be a tour-de-force of wrongheaded thinking was in the title: "The Fan, The Taser and Respect for the Law."

After setting the scene, Marshall notes that

> A tsunami of criticism is now crashing over the security officer, condemning the tasering of 17-year-old Steve Consalvi, sometimes in terms more appropriate to discussing Abu Ghraib. If I were Consalvi's father, I would counsel him to immediately issue a statement taking full responsibility for the incident *and absolving the officer*.

It would have been fine if Marshall thought that the kid could use a lesson in responsible behavior. It is even fine – though overwrought – that he is critical of Colaslvi's parents for raising the kind of kid that would engage in foolish behavior. Unfortunately, because Marshall lacks any sense of proportion or decency, he doesn't mind that the lesson is delivered via a disabling jolt of electricity. In fact, Marshall goes on to give carte blanche to any cop to taser any fleeing suspect, regardless of whether the suspect proposes any risk to anyone. And, in a passage that I had to reread multiple times, he essentially laments the days when a cop could just shoot anyone who didn't stop on command. (He claims that they changed the rules for "good reasons" but then catalogs the negative consequences of forbidding cops from wantonly shooting people.)

While Marshall is very keyed in on what he thinks the ethical obligations of citizens are when dealing with the police (obey or face severe consequences) and he catalogs all of the threats that a fan on the field might pose. Alas, it was clear that none of them applied here. Colasvi was running around like an idiot, waving a towel and dodging for the sake of dodging. He never ran at a player, never tried to destroy property, never indicated that he was anything more than a goof. He posed no threat to anyone; the players stood around laughing at the spectacle, aware that they weren't at risk. At no point does Marshall consider the ethics of

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QUOTE OF THE MONTH

"I'm only an abstract imaginary foil written to sound like an idiot and even I know that's really stupid" ~ Kenfoilhat (previous)

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police behavior and their need to use force proportionate to the task at hand.

Do I need to catalog all of the ways in which police overreact? No, of course not, because Radley Balko covers that beat pretty well. But it is well-documented and it is sad to see that Marshall is yet another apologist for the use of excessive force.

I shouldn't be surprised, though, because it appears that Marshall only sees things in black and white and his standard for which side of the line something falls on is his own sense of propriety. Ethics, to him, doesn't lend itself to nuance, to circumstance, to moderation. Jean Valjean would not be amused. I can understand his dilemma, though. It sure is hard to teach a subject if you have to think deeply about it.

Consider me alarmed.

Last 5 posts by Charles

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Comments

Base of the Pillar says
MAY 6, 2010 AT 8:07 AM

Crazy shit that we feel the need to taze this kid. Maybe that's the new playbook for the Philly FOP to treat the people it serves and protects.

Ken says
MAY 6, 2010 AT 8:10 AM

OBEY, CITIZEN.

Dave (nd) says
MAY 6, 2010 AT 8:22 AM

I have no sympathy for such idiots that run onto and interrupt public

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events. It would be one thing if it were always funny and no harm came to anyone, but that's simply not the case. Monica Seles was never the same after she was stabbed and Tom Gamboa wound up in the hospital.

Unless you can guarantee with your own health that someone who blantently disregarded the rules, clearly wants the negative attention, and doesn't care about the legal implications of such a transgression, I'm going to side with security.

Charles says
MAY 6, 2010 AT 8:25 AM

Monica Seles was sitting right next to the stands. Tom Gamboa was jumped, but he was jumped immediately. This kid was running around like a loon; any sense that he might have been a danger had long passed. He was a fast, unarmed kid on a lark being chased by a fat, insecure cop with a weapon.

Base of the Pillar says
MAY 6, 2010 AT 8:38 AM

It's not hard to see the difference between the three incidents. In both instances, the attackers came out directly for their intended victims. In the case of the Seles attacker, he was actually wielding a knife (a steak knife iirc). In this case, you have a teen pretty clearly not threatening anyone, running around waving a towel. I'd no more see him tazed than a big breasted woman who might charge the field exacting a pucker toll from players.

Furthermore, those cops wouldn't even have prevented the Seles or Gamboa incidences purely due to the speed with which they happened.

The real issue is that the penalty for hopping on the field is pretty damn weak.

Charles says
MAY 6, 2010 AT 8:52 AM

The real issue is that the penalty for hopping on the field is pretty damn weak.

Not anymore, BoP – apparently the fine at Citizen's Bank Park is being boosted to $2,500.

Dave (nd) says
MAY 6, 2010 AT 8:54 AM

That's all well and good that you can see differences in hind sight. That's not the issue. The issue is what happens next time.

Charles says
MAY 6, 2010 AT 8:56 AM

Nobody is talking about hindsight, Dave. We are asking officers to use their judgment in the moment. The officer didn't think he was a threat to anything other than his own authority. Apparently that is enough.

Tim LeVier says
MAY 6, 2010 AT 9:16 AM

You talked about the kid's intentions, and that he had none. What about unintended consequences that the kid posed?

Mike says
MAY 6, 2010 AT 9:22 AM

Like getting tased?

Base of the Pillar says
MAY 6, 2010 AT 9:23 AM

Such as…? The bullpen getting more warm up time? What are we thinking here?

Tim LeVier says
MAY 6, 2010 AT 9:38 AM

I dunno, the pitcher's arm going cold and injuring himself on the next pitch, an outfielder not paying attention and having to move out of the kid's way suddenly causing him to twist an ankle and being benched for 3 weeks. Inciting other fans to charge the field, fans with less honorable intentions than waving a towel.

Tim LeVier says
MAY 6, 2010 AT 9:38 AM

Why do I have to use my imagination, you guys are supposed to be smart, what level of consequence does the use of a taser become justified?

Charles says
MAY 6, 2010 AT 9:41 AM

I can't say with specificity, but I'm going to peg it somewhere north of "a butterfly flapping its wings."

Grandy says
MAY 6, 2010 AT 9:42 AM

throws the flag Nobody has to do your legwork for you, Tim.

That said, I don't think anyone is disputing that there should be a penalty for the kid running onto the field like an idiot. It's whether tasering was a reasonable method of stopping the kid.

Patrick says
MAY 6, 2010 AT 9:49 AM

I dunno Tim, I reckon the probability of death or serious injury from a TASER jolt is rather higher than any of the scenarios you mention.

Tim LeVier says
MAY 6, 2010 AT 9:54 AM

throws the flag I didn't say tasering was a penalty, Grandy.

That said, are you saying that a taser shouldn't be used to prevent unintended consequences? I mean, literally using the idea that police can only use similar force, in this instance, the cop would have to run circles around the kid to corral him. Wrangling or tackling would be an escalation of force.

People here seem not to take the literal, and seem to approve of the escalation of force. So why is tasering so much worse than a fat guy tackling and dropping 250 lbs on his skinny frame? And if tasering is so much worse as a method to subdue the runner, why didn't we give him other methods such as a lasso, or those little ninja rope things that trip people?

It's a catch-22. You give him a taser, you tell him to use his judgement, and only after he uses the taser in his judgement do you say "Hey! I didn't mean that!" Where are the guidelines that he violated? Is he just supposed to know what you are thinking?

jb says
MAY 6, 2010 AT 10:06 AM

When tasers were first issued to cops, they were supposed to be a replacement for guns. The guideline was, "use the taser only when you would otherwise use a gun (of course, there are some instances when you should still use the gun)."

If it would have been unreasonable to shoot the guy dead, it was unreasonable to tase him.

Charles says
MAY 6, 2010 AT 10:08 AM

You've got it backwards, Tim. The answer to learning that cops can't properly exercise discretion isn't to throw up our hands, it is to take away their toys and compel responsible behavior.

Grandy says
MAY 6, 2010 AT 10:09 AM

Tim, since it slipped by you, I was referring to this, from the post that preceded mine:

> Why do I have to use my imagination

You have to support your own arguments, nobody else is obligated to do it for you.

Tim LeVier says
MAY 6, 2010 AT 10:14 AM

Grandy, since it was obvious, but not apparent to you, I didn't dispute your flag.

Tim LeVier says
MAY 6, 2010 AT 10:20 AM

So, Charles, your point is that if we take away the tools from the police, we'll have responsible police men? How does that work exactly? No one wants to do my leg-work for me, so I'll let you do yours.

Charles says
MAY 6, 2010 AT 10:23 AM

It means that *this* cop should have his toy – and the entire toybox – taken away until he can prove he knows how he is supposed to use it.

Dave (nd) says
MAY 6, 2010 AT 10:23 AM

"When tasers were first issued to cops, they were supposed to be a replacement for guns. The guideline was, "use the taser only when you would otherwise use a gun (of course, there are some instances when you should still use the gun)."

If it would have been unreasonable to shoot the guy dead, it was unreasonable to tase him."

Is that the guideline? I thought tasers were a replacement for nightsticks.

I still want to know how you guys know someone isn't a threat to the people legitimately on the field.

Tim LeVier says
MAY 6, 2010 AT 10:25 AM

Charles, so back to my point. How is he supposed to use it? Where's the guidelines that he violated? If he violated existing guidelines, I don't think the PD would be standing behind him still.

Charles says
MAY 6, 2010 AT 10:29 AM

To the extent that the guidelines allow this, my beef is with the guidelines, such as they are, Tim. A taser to stop a nonviolent nuisance should be considered excessive, no matter how ornate a fake scenario the cop can create after the fact. That this cop probably can't be punished for following a bad rule is a separate issue. I'd support a suit by this kid against the city/stadium to challenge the propriety of those guidelines.

bw says
MAY 6, 2010 AT 10:44 AM

"Maybe that's the new playbook for the Philly FOP to treat the people it serves and protects."

If so, I'd say it represents an improvement over their past practices, like aerial bombing.

Tim LeVier says
MAY 6, 2010 AT 10:51 AM

So now that we've identified the guidelines as the problem, let's talk about remedies. What other tools could the cop or security personnel use to do their jobs. (If their jobs are to subdue and remove a trespasser from the field.) Assuming the security force will give chase and try to end the trespass event as peaceful as possible to begin, and after the trespasser eludes capture and refuses verbal commands, what is the next escalation?

(Assume there has to be an escalation, because the home team may face tangible penalties for extended delays, and I admit I have to do my homework, but I think I recall they may have to forfeit the game, which while not apparent at the start of the season, might mean missing the playoffs and winning the world series, which is millions of dollars in tourism revenue for the entire city and its population.)

Personally, I'd like to see those canons that shoot nets! I think that could be a lot of fun…but wouldn't such a spectacle conceived in fun and light hearted pursuit motivate others to see if they can do better? The penalties are known (fine) and have been increased as a result of the incident, but that just means you're paying $2500 to have a go at eluding capture

What tool would you like to see subdue the runner, given a 20 minute time limit, after a chase has proved fruitless?

bw says
MAY 6, 2010 AT 11:00 AM

While I agree on the principle Charles is advocating, I have to say, on a personal level, if I had to choose between the $2500 fine and getting tazed, I'd choose like Jack Benny, but that's just me.

Tim, I don't think anyone is disputing that the kid was an ass, but from the information here, anyone who couldn't deduce that the level or risk was below the need for such action shouldn't be a cop. Further, anyone out of shape enough to need the tazer in this scenario also shouldn't be a cop.

What makes your position untenable is that, assuming you're right, it still represents a huge tactical blunder. Even if you believe it warranted such a response, then you'd have to discipline the cop for being too slow on the draw, because, by the time he tazed the kid, enough time had already elapsed for any of your supposed negative outcomes to occur.

bw says
MAY 6, 2010 AT 11:03 AM

"What tool would you like to see subdue the runner, given a 20 minute time limit, after a chase has proved fruitless?"

Put more cops on the task. I don't care how fast he is, in an enclosed space like that, there's a critical number of pursuers he can't elude.

Tim LeVier says
MAY 6, 2010 AT 11:28 AM

Well, not more cops. Cops are expensive for the ball clubs. They come in under dark-time which is essentially overtime, but I think more expensive. So probably 5 more security personnel? You can only pull a few off of the front lines. You can't pull everyone or else you might risk the safety of the stadium crowd. So, they had their procedure for this kid, and pulled the ones they could, but they still needed another 5 or so to corral him.

My position is not untenable because some of the negatives I listed were future based and some were related to unintended consequences.

Call me thick headed, slow, and anything else you would like but I fail to see why I should feel sorry for the kid. Maybe I'm too much of a realist, I always assume I could be tazed by the cops if I trespass. The kid was treated the same way I thought I would be treated.

Now if your argument was that the cop was racist, I might understand your position. After all, a white cop wouldn't have tazed a black kid. The back lash would have been enormous comparatively. So maybe this kid that was tazed was treated differently because he was white.

Charles says
MAY 6, 2010 AT 11:38 AM

I'd love to see what you've been reading that indicates that police go easy on black perpetrators.

Dave (nd) says
MAY 6, 2010 AT 1:04 PM

Brian (The Preacher) brought up an interesting idea, that it's not so much sympanthy toward Consolvi as much as condemnation of excessive force by the officer.

I'm ok with that, but it just seems like there are much better examples than this one.

Base of the Pillar says

MAY 6, 2010 AT 1:31 PM

I can't speak to other sources, but I feel safe in saying that we have plenty of outrage to go around. ;)

Jdog says

MAY 6, 2010 AT 2:52 PM

Brian (The Preacher) brought up an interesting idea, that it's not so much sympanthy toward Consolvi as much as condemnation of excessive force by the officer.

Well, yeah. Criminal defense lawyers, prosecutors, and them what hangs out with such are used to people doing bad/stupid/icky stuff, but at least some figure that, short of social sanctions (shunning, not stunning), punishment should be meted out after that whole due process thing.

And, yeah, the kid was being a jerk, and discomoding a whole bunch of folks for his own idiotic amusement. So what? If the most convenient option to stop him was even less less lethal than the taser, should the cop maybe have winged him a little?

JC says

MAY 6, 2010 AT 4:05 PM

Why not hire some security guards capable of chasing down annoying fans like this? Or, failing that, hire Mike Curtis and give him some pads. See this video at 39 seconds in.

Contracts says
MAY 7, 2010 AT 6:47 AM

Terry Tate.

Base of the Pillar says
MAY 7, 2010 AT 8:14 AM

The best (as a Steelers fan, at least) was the Brownies fan running onto the field…

http://www.youtube.com/watch?v=fC3xNSiRTDc

James Harrison rules!

Charles says
MAY 7, 2010 AT 8:35 AM

Very nice, JC and BotP. I've been searching for the video of when Mike Ditka, as a TE with the Bears, absolutely laid out an intruder but I haven't been able to find it yet.

bw says
MAY 7, 2010 AT 10:05 AM

"My position is not untenable because some of the negatives I listed were future based and some were related to unintended consequences."

My point was, regardless of how long it took for the impact of those negatives to be felt, the cop waited long enough for their precipitating events to have occurred – in the time it took for him to decide to taze, the damage could be done, and your longest term negative outcomes would already be a fait accompli. While it may take six months for the consequences to manifest, that doesn't mean it takes more than a minute or two for them to be irreversibly set in motion. The only way your position is tenable is if the cop tazed the kid BEFORE there was time for those negatives to be put in motion, like as soon as he came over the wall.

"Call me thick headed, slow, and anything else you would like but I fail to see why I should feel sorry for the kid.""

I don't think ANYONE here is advocating sympathy for the kid. He was unquestionably an a***ole. The issue is whether the response was proportional and appropriate, which is a SEPARATE question.

David Schwartz says
MAY 10, 2010 AT 5:00 AM

"What makes your position untenable is that, assuming you're right, it still represents a huge tactical blunder. Even if you believe it warranted such a response, then you'd have to discipline the cop for being too slow on the draw, because, by the time he tazed the kid, enough time had already elapsed for any of your supposed negative outcomes to occur."

That he argues that the tazing is justified does not commit him to arguing that not tazing is unjustified. Nothing about his argument suggests or implies that one and only one response is justified or that the range of justified responses must remain constant even as the situation evolves.

David Schwartz says
MAY 10, 2010 AT 5:02 AM

"The only way your position is tenable is if the cop tazed the kid BEFORE there was time for those negatives to be put in motion, like as soon as he came over the wall."

That is utterly absurd. What the cop actually did has no bearing whatsoever on the question of what responses that he might have taken could or could not be justified.

An escalation of justified responses as a situation continues is totally reasonable. He tried the least violent means first, and when they failed, escalated his response. That is completely reasonable.

(Not that I'm saying the tazing was reasonable. Just that your argument that it wasn't because it was delayed is nuts. What the cop actually did has no bearing on what he could or could not justify.)

bw says
MAY 10, 2010 AT 9:48 AM

"(Not that I'm saying the tazing was reasonable. Just that your argument that it wasn't because it was delayed is nuts. What the cop actually did has no bearing on what he could or could not justify.)"

His argument that it was reasonable is based on the outcomes it was meant to prevent. However, most of those outcomes had time to occur, and in a manner such that he could not have stopped them, even by tazing. The only way tazing could have effectively and reliably prevented those outcomes was if it was immediate. Once you've let the kid run around the field for 10 seconds, there's no need to escalate – he's already had ample opportunity to do all the theorized damage, and the only thing to be salvaged is the cop's ego. A tazer isn't a long range device – IF he intended harm, and the cop couldn't catch him, then he had every opportunity to get clear of the tazer's effective range. IF (and I don't believe there was) there was a justification to taze, it evaporated once the kid had time to do harm or clear tazer range.

David Schwartz says
MAY 11, 2010 AT 8:08 AM

So if I don't accept your argument that tazing was never reasonable, when precisely is the window? When does it open and when does it close? How exactly must the police weigh the risks of the situation as you do? Do they need to check their stopwatches to see how much time has elapsed for each risk? Does each one get its own timeframe? Insisting that police parse risks exactly the way you do and on the same time frame is absurd.

There is simply no way to weigh the risks to that level of detail in the few minutes allowed while you're trying to chase someone who you had no idea would show up in the first place.

Your argument lives or dies on there never having been justification to taze. If you want to address his argument that there could have been other risks known or unknown, you will have to do it head on.

bw says
MAY 11, 2010 AT 11:31 AM

"How exactly must the police weigh the risks of the situation as you do?"

Objectively, depending on the risk cited. Tim cited several risks – for those risks to justify the tazing, the timing of the tazing must have objectively been soon enough to rule out the negative outcome in question. e.g.

If the risk is, as Tim suggested, that he might injure a player, he would have to be tazed before he could get close enough to do so.

If the risk is, as Tim suggested, that the pitcher's arm get cold and result in a stress injury, then he'd have to be tazed, off the field, and play resume before that happened.

If you go through Tim's litany of risks, and take into consideration that the kid was apparently much faster and fitter than those charged with stopping him, the only way the tazing could address all Tim's hypothetical risks is if they tazed him the moment he came over the wall.

"Your argument lives or dies on there never having been justification to taze."

No, Tim's argument lives or dies on demonstrating that the timing of the tazing effectively mitigated the risks he cited. If he is to offer up a list of negative outcomes as justification for the tazing, it's also incumbent upon him to demonstrate how the tazing and its timing eliminated them from possiblity.

Ask yourself, if the kid had sufficient time to get out of tazing range, which I believe he did, THEN what? Ethics aside, from a purely tactical standpoint, it's stupid to rely on a tactic if you first give your opponent the opportunity to render it useless.

It's like the Rodney King story – if he was that gosh darned dangerous, closing to nightstick range represented an enormous tactical blunder.

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