

April 15, 2021

Twana R. Powell
[REDACTED]
[REDACTED]

RE: Independent evaluation; Use of Force incident involving Mr. [REDACTED]

Dear Mr. Walsh,

On March 25, 2021, I was contacted by Chief Ken Plaga, Meridian Township Police Department (MTPD), and requested to conduct an independent evaluation of a use of force incident that occurred during a retail fraud investigation involving Mr. [REDACTED] and the subsequent arrest of Mr. [REDACTED] effectuated by MTPD officers Det. Daniel King and Det. Michael Hagbom. This incident occurred on March 10, 2021, at 12:50 p.m. at the Meridian Mall. I was informed that members of the Michigan Department of State Police conducted a criminal investigation into the detectives' actions during this incident and had presented their investigative findings to the Ingham County Prosecutor's Office for review; however, the prosecutor's review had not been completed. Additionally, I was informed Detective King and Detective Hagbom were placed on administrative leave, pending the outcome of the prosecutor's decision.

After meeting with Chief Plaga and Meridian Township's Manager Frank Walsh, I agreed to conduct an independent evaluation and was subsequently engaged to provide an opinion regarding the Reasonableness of force utilized by Detective King and Detective Hagbom and an opinion regarding whether the detectives' actions during the incident were in accordance with MTPD's written policies and procedures. Subsequent to my engagement, the Ingham County Prosecutor's Office determined the detectives' actions were in self-defense and reasonable under the totality of the circumstances. This writing documents the findings of my independent evaluation based on the evidence provided to me. For the reasons stated herein, it is my opinion that the force utilized by Detectives King and Hagbom were objectively reasonable force under the totality of the circumstances and their actions were in accordance with MTPD's policies and procedures.

During my evaluation I reviewed the following investigative records.

ITEMS REVIEWED:

1. Det Dan King's Incident Report Ref Case 2192600832
2. Det Dan King's Use of Force Report
3. Det. Dan King's Supplemental Report regarding an injury to his left eye and photographs of said injury.
4. Officer Jaclyn Allen's Original Report
5. Officer Jaclyn Allen's Supplemental Report regarding video footage taken in the ambulance and an attempt to locate a witness.
6. Detective Michael Hagbom's Incident Report
7. Det. Hagbom's Use of Force report
8. MSU Officer Luke Silver's Incident Report Case # 2158100354

9. Seven (7) photographs reported to be injuries sustained by Detective Dan King 2 of his hand 5 of face.
10. Five (5) photographs reported to be injuries sustained by [REDACTED]
Four (4) photographs of arm, one (1) photograph of his face
11. 911 Incident Detail Report
12. Meijer Incident Report
13. Witness Video
14. MTPD Officer Jaclyn Allen's Body Worn Camera Video
15. MTPD Officer Jaclyn Allen's In Car Camera Video
16. MSUPD Officer Luke Silver's Body Worn Camera Video
17. MSUPD Officer Luke Silver's In Car Camera Video
18. Fire Department Video (EMS Transport)
19. Dispatch Traffic
20. The following Meridian Township Police Department's General Orders
 - Rules of Conduct, General Order: Rules and Regulations, Effective Feb 1, 2003, Revised June 28, 2018
 - Use of Force, General Order No. 801, Effective May 11, 2017, Revised July 20, 2020
 - Arrest Management, General Order No. 803, Effective November 16, 2015, Revised July 20, 2020
 - Foot Pursuits, General Order No. 806, Effective August 28, 2019
21. Interoffice Memorandum from, Mike Cheitenham, Chief Assistant Prosecuting Attorney, Ingham County
22. Michigan Commission on Law Enforcement Standards Subject Control Continuum

ITEMS NOT PROVIDED FOR REVIEW:

Michigan State Police Investigation
Medical Records
Written or Recorded Witness Interviews/Statements
Mr. [REDACTED] Statement
Officers/Detectives Statements

INCIDENT DATE & TIME:

March 10, 2021, at approximately 12:50pm - 1:20pm

LOCATION:

Meridian Mall
1982 W. Grand Rive Ave.
Okemos, MI 48864
Jurisdiction: Meridian Charter Township

I rely on my 25 years as a Michigan Commission on Law Enforcement Standards (MCOLES) certified law enforcement officer employed by the Michigan Department of State Police (MSP). During my tenure with the MSP, I participated in annual defensive tactics techniques and Taser use training and was required to successfully pass a written use-of-force exam annually. I have received training on the MCOLES Subject Control Continuum and, as a member of the MSP, I was required to refer to it when documenting use of force incidents. As an active law enforcement officer, I was involved in use of force incidents. For over two decades, while serving as a detective sergeant (16 years), during my assignment as a task force officer on the Federal Bureau of Investigation (FBI) Eastern District Public Corruption Task

Force, while serving as Acting Detective First Lieutenant in the Second District (Metro-Detroit area; 1 year), and while serving as Commander of the MSP Professional Standards Section (PSS) (3 years), I was responsible for conducting and leading complex administrative and criminal investigations surrounding allegations of excessive force, public corruption, and civil rights violations involving MCOLES certified law enforcement officers, heads of law enforcement agencies, judges, mayors, and prosecutors. During my tenure as a detective sergeant, I was directly involved in the investigation of 25-30 officer-involved shootings, and I assisted with several deadly force investigations involving local agencies. During my tenure as commander of the PSS, I was responsible for conducting and overseeing internal affairs investigations, I was the trier of fact with responsibility for rendering decisions on employee misconduct allegations and making recommendations to the Human Resources Division on policy violation charging decisions. I have rendered decisions on hundreds of use of force incidents, up to and including deadly force incidents. Additionally, I was responsible for ensuring use of force incidents were properly documented according to the MCOLES Subject Control Continuum. I managed the documentation of the MSP's high liability functions: critical incidents, including uses of force, officer-involved shooting incidents, traffic crashes, and vehicle pursuits involving departmental and other law enforcement members.

I have had a myriad of training with respect to my above listed assignments, duties, and responsibilities. I have served as an instructor at the MSP Training Academy in the areas of patrols and ethics. I have been a guest instructor at Eastern Michigan University and a guest speaker at Michigan State University regarding instructions on the internal affairs investigation process and use of force incidents. I have a Bachelor of Science in Business Administration (BSBA) and I am currently pursuing a Master's in Public Administration at the University of Phoenix. Additionally, I have a Graduate Certificate of Achievement, Criminal Justice Education, from University of Virginia as a result of graduating from the FBI National Academy, Session 269. The FBI National Academy (FBI NA) is a professional course of study for United States and international law enforcement managers nominated by their agency heads because of demonstrated leadership qualities. I am a two-time recipient of the Michigan State Police Meritorious Award for going above and beyond the call of duty, and a 6-time recipient of the Michigan State Police Professional Excellence Award for outstanding investigative work. In 2015 I received recognition from the Department of Justice and Federal Bureau of Investigation for investigative assistance, and in 2016 I received an award and recognition from the National Association Professional Women for outstanding leadership and Commitment in Law Enforcement.

Summary of the Incident

The information contained in this section of this report is derived from information contained in the Items Reviewed section above. I make no credibility assessments of the individuals involved in this incident.

Detective King's incident report dated March 11, 2021, contains the following information:

On Wednesday March 10, 2021 just before 1300 Hours, I responded to the area of Meijer in reference to a retail fraud that had just occurred at Meijer. The caller, [REDACTED] with Meijer loss prevention, advised the suspect was a black male, about 25 years old, last seen wearing a white hoodie. [REDACTED] advised the suspect concealed shoes and a hoodie in a backpack, items which were for sale while the business was open. Units were additionally advised that the suspect was wearing white

ADIDAS shoes taken from the shelf. The suspect was also described as wearing headphones with black pants with white spots.

It was then reported that the suspect had exited Meijer, and was now walking behind Jimmy John's and soon after, was reported being near Belle Tire. At the time of this incident, I was driving an unmarked vehicle and was wearing "plain clothes" with a badge of authority displayed on my belt, next to my duty issued firearm.

I responded to this incident due to my close proximity to the scene, Meridian officers not being available due to other calls, and a mutual aid request sent to Michigan State University Police to assist with handling this call.

While waiting for the light at Grand River Ave and Marsh Rd, I observed a black male, wearing a white sweatshirt, black pants with white spots, white shoes, and wearing headphones while carrying a black backpack on his back, crossing Grand River Ave from the area of Jimmy Johns and Belle Tire, heading north toward the Meridian Mall as if he was coming from Meijer.

I proceeded to turn onto Grand River Ave driving toward the suspect, who was now standing in the left turn only lane of Grand River Ave, waiting for traffic to clear so as to continue walking toward the mall. I turned into the southern entrance of the Meridian Mall and verified my observations of the suspect's clothing. He appeared to be 18-20 years old.

I turned right into the mall parking lot from the entrance driveway keeping eyes on the suspect updating dispatch where he was walking. At this time, I was waiting for additional marked units to arrive on scene prior to making contact with the suspect.

I then turned to drive down a parking lane which took me closer to the suspect. I braked in the lot and allowed the suspect to cross in front of me. I then exited my patrol car and went to contact the suspect before he entered the mall, so as to not lose sight of him. Just after exiting my car, I had made the conscious and deliberate decision to verify my clothing was tucked in behind my badge so no part of the badge was blocked and that it could be visibly seen by the suspect. My firearm was also completely exposed. By the time I contacted the suspect, he was on the sidewalk, about 20 feet from the door entrance.

I called out to the suspect to stop, however, the suspect continued walking towards the door. Again, the suspect was wearing headphones and I figured he did not hear me. Therefore, I gently touched the side of the suspect's right arm in order to get his attention while behind him. I did this because there was not enough space nor enough time (for the pace we were walking) for me to walk past the suspect, turn around and face him head-on and identify myself. This would have also placed me at tactical disadvantage as the doors and pillars of the mall would have been right behind me.

The suspect immediately spun around, stopped walking and yelled, "what the fuck? Get the fuck away from me". I too stopped walking and was no longer touching the suspect. There was now about 3-4 feet of distance between us. I stated calmly to the suspect

that I was a police officer with Meridian Township and pointed to my badge, understanding that I may have startled him. The suspect looked down at my badge, looked back up at me and stated he did not "give a fuck who I was". He then began walking backwards from me towards the entrance to the mall.

I continued stating to the suspect that I was a police officer (multiple times) and that I needed to talk to him about a retail fraud that happened at Meijer. The suspect then turned in a quick motion and attempted to run from me. At this point, I grabbed onto the suspect's clothing. I told him to stop again and that I needed to talk to him. The suspect then continued yanking and pulling at his clothing to escape my grasp. I ordered him to stop and sit down but he continued yelling and cursing at me to leave him alone, disobeying my commands. It should be noted that this suspect was several inches taller than me, looked significantly younger, and appeared to be in good physical health.

The suspect then grabbed onto my shirt while I was holding onto his clothing. We remained "squared off" in this "hockey fighting position" as I continued to tell him to stop and continued identifying myself as a police officer. The suspect at one point during this time, again, stated that he "didn't fucking care" and stated that he didn't do anything. He then released his grasp from my clothing and took a deliberate swing with his right closed fist while I still held onto his shirt. Despite attempting to dodge the blow, the suspect's punch glanced the side of my head and part of my face.

I continued holding onto the suspect telling him to stop and to sit down. He continued to disobey these commands and began pulling away with such force, that I felt my grip loosening on his clothing. I then released my grasp of him and delivered a right handed closed fist strike to the suspect's face. The strike connected with the suspect in the face at which point he appeared stunned.

The suspect then shifted his weight, took a boxer's or fighting stance with me and "squared off" facing me. His fists were closed and raised and he began yelling something to the effect that we were going to fight now. He then began attempting to take off his white sweatshirt and backpack. Based on my training and experience, this act of "shedding" clothing is a common practice of an individual who is preparing to fight in order to gain an advantage.

I first attempted to tackle the suspect while he was occupied with taking off sweat shirt and backpack. This attempt failed and the suspect retreated from my grapple, fully drop his backpack and sweatshirt, and then resume a boxing stance with me.

Around this time, I could hear a female yelling for our attention near us, however, due to the suspect's assaultive nature at hand, I could not focus on who she was trying to yell for. I then observed the suspect divert his attention away from me for a second. I took this as a window of opportunity to tackle him.

I charged the suspect from behind and tackled him into a bush near the entrance of the mall. The suspect fell backward and I ended up on top of him. I immediately began attempting to gain control of the suspect's arm, however, he then folded his arms inward and away from me, in order to keep me from gaining control of him. At this

point, Officer Allen arrived on scene and immediately began attempting to gain control of the suspect too. I then delivered another hard empty strike to the suspect's face after several moments of Officer Allen and I failing to get the suspect under control.

I then ordered the suspect to "turn around" and "get on your stomach" after Officer Allen and I continued to fight to keep control of him. I heard the suspect state "I'm trying" however, I could feel the suspect's tensing his muscles, pulling away from our grasps, and fighting to not be turned onto his stomach from our efforts. At no point did the suspect ever willingly stop resisting our attempts to get control of him as he was very much still resisting our verbal commands and physical efforts.

I then delivered several continuous elbow strikes while the suspect continued pulling away from our grasp. These strikes appeared to have little to no effect on the suspect as he still fought to break our grasp and control. I then told the suspect again to get on his stomach and turn over, however he continued to disobey these commands and continued tensing his muscles, pulling away, and fighting my efforts to turn him over. I then delivered two additional hard empty hand strikes to the suspect's head.

At this point, and after more commands for the suspect to get onto his stomach, I was finally able to nearly straighten out his left arm and position his body in a more favorable position to take control of him. Just after this moment, Detective Hagbom and Officer Silver arrived on scene to assist taking the suspect into control.

After several seconds, the suspect was finally handcuffed. After he was seemingly under control, I observed him have several more violent outbursts, as he yelled, jerked away, and threatened officers which including killing and fighting again with us.

Detective Hagbom's incident report dated March 11, 2021, contains the following information:

On 03/10/2021 at approximately 1250 hours MTPD units were advised of a retail fraud that just occurred at Meijer, located at 2055 W Grand River Ave. The caller advised the suspect was walking behind the Jimmy Johns restaurant and was now walking towards the Macy's Department store at the Meridian Mall. I got into my unmarked investigation's vehicle and drove towards Macy's in attempt to help road patrol locate the suspect. I entered the Meridian Mall parking lot entrance off of Marsh Rd, by the old Younkers store. As I was driving towards Macy's, I heard that Det. King was fighting with the suspect. Dispatch toned out the call and called for priority back up. I continued to drive through the parking lot when I located Det. King and a MTPD patrol car on the south side of Macy's. I exited my vehicle and assisted in taking the suspect into custody.

Once I exited my vehicle, I ran towards Det. King and Officer Allen. Det. King and Officer Allen were currently fighting with a suspect in a bush in front of Macy's. The suspect was not putting his hands behind his back and the Officers were struggling to get the suspect secured. I gave verbal commands to the suspect to put his hands behind his back but he continued to resist by not placing his hands behind his back. I grabbed a hold of the suspect's right wrist and put him in a joint wrist lock. I pulled his arm towards me in attempt to drag the suspect out of the bush for tactical reasons. I then

used the wrist lock to move his arm up behind his back. I placed both of my knees across the upper back of the suspect to better control his movements. My left knee was placed across the shoulder blades of the suspect and my right knee was placed on the upper back of the suspect to allow me to keep the suspects arm secured. I avoided placing my knees on the suspect's neck at all times. During this altercation, I directly heard numerous times that the suspect was going to kill us. The suspect said that he hated us because we were white and he was black.

Once the suspect was secured I immediately rolled the suspect on his right side to do a search for weapons, as retail fraud suspects commonly use sharp instruments to take off security devices. Seconds later, Officer Silver (MSU PD) and I moved the suspect on to his buttocks to ensure there was no positional asphyxiation risk to the suspect. At this time, I heard Officer Silver tell the suspect not to try to bite him or spit on him. I did not directly observe the suspect trying to bite or spit at Officer Silver. Due to the suspect's actions, Officer Silver and I moved the suspect back down on the ground, using my left hand to move the suspect's face away from us. The suspect was placed on his stomach; with light pressure being used to hold his face away from us. This maneuver was to ensure that the suspect would not spit or attempt to bite anyone again. I verbally told the suspect not to bite or spit at anyone. The suspect complied and he was immediately moved back to the sitting position. Once in the sitting position, Officer Silver and I helped the suspect to his feet. The suspect was escorted to Officer Allen's patrol car. Once at Officer Allen's patrol car, Officer Silver and I completed a secondary search of the suspect. Once we began to search the suspect, he immediately began to resist again by trying to move his hands and body away from us. Due to his resistance, I moved my left arm start up his back, causing his hand cuffs to move up in the air. I used my body weight to press the suspect against the patrol car. The suspect was held in this position momentarily while Officer Silver and I could complete the search. During the search, I found a small pair of pliers located in the front right pocket of his pants. This type of pliers is commonly used by retail fraud suspects to cut off security devices. Once the search was completed, the suspect was placed in the patrol car without further incident.

The majority of the interactions between Mr. [REDACTED] and the officers after Mr. [REDACTED] was tackled into the bush are captured on video. There is video taken by a witness, body-worn camera video from Officer Allen, and body-worn camera video from Officer Silver. It is evident by the videos that Mr. [REDACTED] was not compliant with the officers' orders and commands. Mr. [REDACTED] resistance ranged from inactive resistance to active aggression.

The entire witness video is approximately 19 minutes in length. Approximately six minutes elapsed between the time the witness started recording the incident to the time Mr. [REDACTED] was placed inside the patrol vehicle. The video begins with Detective King and Mr. [REDACTED] "squared up" to each other. Officers contact with Mr. [REDACTED] ends around the six-minute mark in the video, once Mr. [REDACTED] is secured in the patrol vehicle. Officers make contact again with Mr. [REDACTED] around the 16-minute mark in the video when EMS personnel arrived, and Mr. [REDACTED] is taken from the patrol vehicle to be transported for medical treatment.

Officer's Allen body-worm camera video is 30 and a half minutes in length. Officer Allen's video captures a portion of her and Detective King's struggle with trying to obtain control of Mr. [REDACTED] in the

bushes and it captures Mr. [REDACTED]' physical resistance and verbal statements/ threats. Additionally, it shows a closer view of some of the strikes delivered by Detective King. Officer Allen's video captures several images of Mr [REDACTED] face and there were no significant visible injures noted. Multiple scratches to Mr. [REDACTED]' right bicep are observed while he is still inside the bush.

Officer Silver's body-worn camera video is approximately 19 minutes in length. It begins with Officer Silver arriving on scene and running to assist Detective King, Detective Hagbom, and Officer Allen. It captures Detective Hagbom's left knee on Mr. [REDACTED] left shoulder blade and Detective Hagbom's right knee placed diagonally on Mr. [REDACTED]' mid-back area. The video revealed that Detective Hagbom's left knee was not on Mr. [REDACTED] neck and was on Mr. [REDACTED] left shoulder blade for less than 10 seconds. The video also revealed that Detective Hagbom's right knee was on Mr. [REDACTED]' mid-back area until Mr. [REDACTED] was handcuffed, and a brief search of Mr. [REDACTED] person was conducted. Detective Hagbom's right knee was on Mr. [REDACTED] for less than 30 seconds. During this time, Mr. [REDACTED] did not appear to be in any respiratory distress, he did not complain of an inability to breathe, and his tone and attitude remained the same. Officers rolled over Mr. [REDACTED] and indicated they saw blood on him. Officer tried to assist [REDACTED] to his feet. Mr. [REDACTED] was verbally agitated about Detective King and stated, "I'm about to kill him." Mr. [REDACTED] was verbally combative, using obscenities, and threatening officers. Officers warned Mr. [REDACTED] about spitting, Officer Silver pushed Mr. [REDACTED] face away from him to prevent him from spitting, and Mr. [REDACTED] threatened to bite Officer Silver's hand. Mr. [REDACTED] denied stealing from Meijer. Mr. [REDACTED] made numerous derogatory statements to the officers including, "get the fuck off of me," "I' m killing one of y'all," "Fuck you," "Y'all some bitches," "white boy," "hoe ass nigga," "fuck you, get off me," and "look what y'all did to my clothes dawg, y'all going to get y'all ass killed."

Summary of Opinion

I presently hold the following opinions to a reasonable degree of professional certainty.

Opinion 1:

The force used to arrest Mr. [REDACTED] by Detective King was objectively reasonable under the totality of the circumstances. Detective King had, at a minimum, reasonable suspicion to detain Mr. [REDACTED] for retail fraud based on the information provided by Dispatch along with his observations of Mr [REDACTED]. After Detective King identified himself verbally and physically as a Meridian Township police officer and advised Mr. [REDACTED] of the reason and purpose for the stop, Mr. [REDACTED] attempted to flee, was physically and verbally resistant, and punched Detective King in the face. At this point, Detective King had probable cause to arrest Mr. [REDACTED] for resisting and obstructing and assaulting a police officer. Both of these offenses are felony violations of Michigan law. Accordingly, Detective King was authorized to use objectively reasonable force to overcome Mr. [REDACTED] resistance and physical attack and to effect an arrest.

The seminal case on police use of force is Graham v. Connor, 490 U.S. 386 (1989), which has been expanded by subsequent court cases. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene at the moment the force was used, rather than with 20/20 vision of hindsight. The calculus of reasonableness must account for the fact that law enforcement officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation.

Reasonableness will be determined by balancing the nature and quality of the intrusions with the countervailing governmental interests. The question is whether the law enforcement officer's actions are objectively reasonable in light of the facts and circumstances confronting the officer. Objective factors will determine the reasonableness of force including, but not limited to, the severity of the crime, whether the suspect poses an immediate threat to the safety of the law enforcement officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

My review of the items listed above make it evident that Detective King's actions were objectively reasonable in light of the facts and circumstances confronting him. It should be noted that Detective King was a plain clothes detective that did not have weapons commonly available to uniformed police officers (e.g., chemical spray, Taser, baton). The only weapon available to Detective King was his department-issued firearm.

- Detective King identified himself as a police officer and gave Mr. [REDACTED] verbal direction to stop. Mr. [REDACTED] disobeyed and refused to comply. Mr. [REDACTED] yelled at Detective King, used obscenities, turned in quick motion and attempted to run.
- Detective King then grabbed Mr. [REDACTED] clothes and again gave Mr. [REDACTED] verbal direction to stop. Mr. [REDACTED] continued to disobey, refused to comply, and then engaged in active resistance. Mr. [REDACTED] attempted to escape Detective King's grasp by pulling away.
- Detective King ordered Mr. [REDACTED] to stop and sit down. Mr. [REDACTED] continued to disobey, refused to comply, and engaged in active aggression. Mr. [REDACTED] grabbed Detective King's shirt, and "squared off" with Detective King.
- Detective King continued to order Mr. [REDACTED] to stop and again identified himself as a police officer. Mr. [REDACTED] continued to disobey, refused to comply, and engaged in active aggression. Mr. [REDACTED] released Detective King's shirt and swung and landed a punch that "glanced" the side of Detective King's head and part of his face. Detective King continued to hold onto Mr. [REDACTED] and gave him orders to stop and sit down. Mr. [REDACTED] continued to disobey, refused to comply, and engaged in active resistance. Mr. [REDACTED] pulled away from Detective King. Detective King utilized an empty hand strike to the suspect's face, which is intended to interrupt a mental and physical pattern of resistive behavior to gain control and an appropriate use of force in response to Mr. [REDACTED] actions.
- Mr. [REDACTED] continued his active aggression towards Detective King; he got into a fighting stance, "squared off" with Detective King, closed his fists, raised his hands, and yelled, "We're going to fight now."
- Detective King unsuccessfully attempted to take Mr. [REDACTED] to the ground and Mr. [REDACTED] continued to engage in active aggression by resuming a "boxing stance."
- A female bystander yelled at Mr. [REDACTED] and Detective King. Mr. [REDACTED]' attention diverted to the female and he turned to walk away from Detective King. Detective King then tackled Mr. [REDACTED] into a bush, a technique used to gain leverage and control and reduce Mr. [REDACTED] mobility and an appropriate use of force in response to Mr. [REDACTED] actions. Mr. [REDACTED] landed on his back and Detective King landed on top of him.
- Detective King attempted to gain control of Mr. [REDACTED] arm, but was unsuccessful because Mr. [REDACTED] folded his arms in. Officer Allen arrived on scene and attempted to gain control of Mr. [REDACTED] left arm, but she was also unsuccessful. Mr. [REDACTED] continued to pull away. Detective King delivered an empty hand strike to Mr. [REDACTED] face. It is noteworthy that Mr. [REDACTED] was taken down in bushes and there was limited space for officers to attempt a variety of tactics to gain control of Mr. [REDACTED]. Detective King's strikes were an appropriate use of force in response to Mr. [REDACTED] continued non-compliance and active resistance.

- Mr. [REDACTED] continued to resist, and Officer Allen and Detective King continued to struggle with Mr. [REDACTED]' arm.
- Detective King repeatedly ordered Mr. [REDACTED] to turn around and get on his stomach. Mr. [REDACTED] stated that he was trying to comply, but he was still pulling his arms inward. Detective King and Allen continued to struggle with gaining control of Mr. [REDACTED]' arms. Mr. [REDACTED] was pulling away and being non-compliant. Detective King delivered multiple empty hand strikes and elbow strikes to Mr. [REDACTED]' upper body and forearms. None of the strikes delivered by Detective King were effective in gaining control of Mr. [REDACTED] or getting him to comply with orders. Detective King's strikes were an appropriate use of force in response to Mr. [REDACTED] continued non-compliance and active resistance.
- Detective Hagbom arrived on scene and ordered Mr. [REDACTED] to put his hands behind his back. Mr. [REDACTED] did not comply. Detective King, Detective Hagbom, and Officer Allen rolled Mr. [REDACTED] onto his stomach and pulled him forward out of the bush. Officer Silver arrived on scene. Detective Hagbom and Officer Silver obtain control of Mr. [REDACTED] and handcuff him.
- After the struggle with Mr. [REDACTED] ends, Detective King stands up and his badge can be clearly seen attached to his belt. Detective King does not engage in any further use of force against Mr. [REDACTED].

Opinion 2:

The force used to arrest Mr. [REDACTED] by Detective Hagbom was objectively reasonable under the totality of the circumstances. As discussed in Opinion 1 above, the Graham v. Connor factors control the analysis of Detective Hagbom's use of force. Detective Hagbom heard the information provided by Dispatch regarding the retail fraud that had occurred at Meijer. Detective Hagbom was driving towards Macy's, the suspect's last known direction of travel, when he heard that Detective King was fighting with the retail fraud suspect. Dispatch toned out the call and called for a priority response. Detective Hagbom located Detective King and Officer Allen outside of Macy's. Detective Hagbom observed Detective King and Officer Allen fighting with Mr. [REDACTED] in a bush in front of Macy's. Accordingly, Detective Hagbom was authorized to use objectively reasonable force to assist the officers with overcoming Mr. [REDACTED]' resistance, effecting an arrest of Mr. [REDACTED], and protecting the officers from injury.

My review of the items listed above make it evident that Detective Hagbom's actions were objectively reasonable in light of the facts and circumstances confronting him. It should be noted that Detective Hagbom was a plain clothes detective that did not have weapons commonly available to uniformed police officers (e.g., chemical spray, Taser, baton). The only weapon available to Detective Hagbom was his department-issued firearm.

- Detective Hagbom ran up to assist Detective King and Officer Allen. Mr. [REDACTED] was actively resisting, and Detective King and Officer Allen were unable to control Mr. [REDACTED]' arms. Detective Hagbom ordered Mr. [REDACTED] to put his hand behind his back. Mr. [REDACTED] did not comply with the order. Detective Hagbom grabbed Mr. [REDACTED]' left wrist, and Detective Hagbom, Detective King, and Officer Allen rolled Mr. [REDACTED] onto his stomach and pulled him forward out of the bush. Officer Silver arrived on scene.
- Detective Hagbom secured Mr. [REDACTED]' left arm with a straight arm bar and a joint wrist lock. In doing so, Detective Hagbom placed his left knee on Mr. [REDACTED] left shoulder blade and his right knee diagonally on Mr. [REDACTED] mid-back area. Detective Hagbom's left knee was on Mr. [REDACTED] shoulder blade while officers attempted to gain control of Mr. [REDACTED] arm and get them in a position to be handcuffed. Detective Hagbom's left knee was on Mr. [REDACTED] shoulder blade for less than 10

seconds and was not placed on Mr. [REDACTED] neck. Detective Hagbom's right knee was on Mr. [REDACTED] mid-back area until Mr. [REDACTED] was handcuffed, and a brief search of Mr. [REDACTED] person was conducted. Detective Hagbom's right knee was on Mr. [REDACTED] for less than 30 seconds. Detective Hagbom's use of force was an appropriate response to Mr. [REDACTED] failure to comply with orders and active resistance. The placement of Detective Hagbom's knees on Mr. [REDACTED] was in accordance with training on knee placement when utilizing a straight arm bar and joint wrist lock to handcuff a non-compliant individual.

- Detective Hagbom and Officer Silver attempted to roll [REDACTED] over to his back and assist him to his feet. Mr. [REDACTED] questioned Detective Hagbom about where Detective King was at, became increasing agitated, resistant, and stated, "I'm about to kill him." Mr. [REDACTED] told one of the officers, "Get the fuck off me hoe."
- Officer Silver grabbed Mr. [REDACTED] face and gave him commands to not spit on him (Silver). Mr. [REDACTED] threatened to bite Officer Silver's hand, and Officer Silver used his hand to push Mr. [REDACTED] face away from the officers. Detective Hagbom and Officer Silver lowered Mr. [REDACTED] body back to the ground and turned him on his right side, facing away from the officers. Mr. [REDACTED] attempted to face the officers and lift his body off the ground. Detective Hagbom placed his hands on the left side of Mr. [REDACTED] body, pressing him towards the ground. Detective Hagbom's right hand momentarily goes towards Mr. [REDACTED] face. Detective Hagbom's right knee was placed on Mr. [REDACTED] left shoulder blade to hold the upper portion of Mr. [REDACTED] down, as Mr. [REDACTED] was laying on his right side. Detective Hagbom's knee was on Mr. [REDACTED] for less than five seconds. Detective Hagbom's use of force was an appropriate response to Mr. [REDACTED] active aggression towards the officers.
- Detective Hagbom requested a "spit mask." Mr. [REDACTED] was highly agitated and stated, "Leave me the fuck alone, white boy, hoe ass nigga," and "I tired talking to you and you keep hitting me." Mr. [REDACTED] was told to relax, and he stated, "I'm killing one of y'all." Mr. [REDACTED] was again told to relax, and he stated, "Fuck you, get off me." Mr. [REDACTED] asked, "What did I do," and one of the officers responded about the retail fraud. Mr. [REDACTED] denied stealing. Detective Hagbom and Officer Silver rolled Mr. [REDACTED] back to a seated position and instructed him to sit up. Mr. [REDACTED] stated, "Fuck you, y'all some bitches." Detective Hagbom and Officer Silver rolled Mr. [REDACTED] to a seated position. Mr. [REDACTED] stated, "Look what y'all did to my clothes dawg; y'all gone get y'all ass killed."
- Mr. [REDACTED] continued to act uncooperative, threatening, and obscene. At one point in time, Detective King appeared in front of Mr. [REDACTED], and Mr. [REDACTED] yelled, "fuck you, you try and touch me again I' m gone fuck you up," and Mr. [REDACTED] told Detective King, "Don't put your hands on me again, back up." Detective Hagbom motioned to Detective King to move out of Mr. [REDACTED] sight, and Detective King walked away. Mr. [REDACTED] was again instructed not to bite an officer. [REDACTED] stated, "I'm tired of that white-boy shit...(unintelligible)." Mr. [REDACTED] was asked his name and responded, "Fuck you! Fuck this, that's my name, Fuck you." Detective Hagbom and Officer Silver continued their efforts to get Mr. [REDACTED] off the ground. Mr. [REDACTED] was asked if he was done spitting now, and he responded, "Yeah man." It is noteworthy that despite Mr. [REDACTED] continued uncooperative, threatening, and obscene behavior, Detective Hagbom remained calm and attempted to de-escalate the situation.
- Mr. [REDACTED] became more cooperative and allowed Detective Hagbom and Officer Silver to assist him to his feet. Once to his feet, Mr. [REDACTED] was escorted to Officer Allen's patrol vehicle. Mr. [REDACTED] continued to be threatening and obscene, stating, "I should kill one of y'all bitch ass niggas (unintelligible)."
- Once they approached the patrol vehicle and an officer commented about conducting a more thorough search, Mr. [REDACTED] became physically resistant. He appeared to be pulling away from the officers and when told to lean up against the patrol vehicle and relax, Mr. [REDACTED] refused, told the

officers to let him go, and told the officers to relax. Detective Hagbom moved his arm up Mr. ██████ back, which caused Mr. ██████' arms to move up in the air. This technique is used to keep a subject off balance and assistance with maintaining control. Mr. ██████ was kept in this position until officers finished their search of Mr. ██████ person. Detective Hagbom's use of force in raising Mr. ██████ arms in the air was an appropriate response to Mr. ██████ active resistance.

- Mr. ██████ handcuffs were double-locked, and he was in the rear of Officer Allen's patrol car. When asked to slide back and get into the patrol vehicle, Mr. ██████ did not immediately cooperate as he looked Detective Hagbom in the face and said, "I don't give a fuck, you white. I ain't even racist but y'all white as fuck." Mr. ██████ was placed in the patrol vehicle and the door was closed.

Opinion 3:

Detective King and Detective Hagbom acted in accordance with MTPD's policies and procedures during the investigation and subsequent arrest of Mr. ██████. During the course of my evaluation, I reviewed the Rules of Conduct, Use of Force, Arrest Management, and the Foot Pursuits General Orders. Due to the nature of this incident and the purpose of my engagement, I will discuss the Use of Force General Order in detail below.

Meridian Township Police Department General Order on Use of Force, Policy section, includes the following:

Meridian Township Police officers will use only that amount of force which is objectively reasonable and necessary to overcome physical resistance or attack, up to and including the use of deadly force, to effect a lawful arrest and/or to accomplish the lawful performance of duty. Officers are authorized to use reasonable levels of force to protect themselves, other officers, or other persons while under attack, or threat of attack by persons or animals.

For the details and reasoning listed above in Opinion 1 and Opinion 2 above, the amount of force used by Detective King and Hagbom was objectively reasonable and necessary to overcome Mr. ██████ physical resistance, Mr. ██████ assault on Detective King, and to effect a lawful arrest of Mr. ██████.

Meridian Township Police Department General Order on Use of Force, Procedure section, includes the following:

If verbal directions or commands are ineffective, or not feasible given the circumstances of the situation, the officer may escalate to control methods that involve the use of physical force up to and including the use of deadly force based upon the situation at hand. Officers shall use the minimum amount of force necessary to gain control of the situation.

As detailed in Opinion 1 and Opinion 2 above, Detective King and Detective Hagbom gave multiple verbal commands that were ineffective accordingly, Detective King and Detective Hagbom escalated to control methods that involved the use of force based on the circumstances as they were evolving. Detective King and Detective Hagbom used the minimum amount of force necessary to gain control of Mr. ██████, who repeatedly disobeyed orders given to him and continued to actively resist the offers on scene. The Detective Kings' and Detective Hagbom's actions were appropriate and in compliance with MPTD policy.

Officers are authorized to reasonably use Department approved control techniques and/ or authorized equipment for resolution of incidents as follows: to protect the officer or another from injury or death; in the process of effecting a lawful arrest when the arrested subject(s) offers resistance or when another person attempts to prevent the arrest of the arrested subject; to stop potentially dangerous and unlawful behavior; and to prevent escape from custody.

As detailed in Opinion 1 and Opinion 2 above, Detective King and Hagbom reasonably used department approved control techniques to protect officers from injury, in the process of effecting a lawful arrest when Mr. [REDACTED] offered resistance, to stop potentially dangerous and unlawful behavior, and to prevent Mr. [REDACTED] escape from custody.

The use of choke holds or intentionally applying any amount of pressure to the neck or throat area of a subject for the purpose of restraining the subject using any part of the officer's body or any object outside of the scope of one's training shall be considered a use of deadly force and are only authorized during situations requiring deadly force. Only techniques taught during subject control training such as PPCT that involve safely touching the neck area will be deemed an acceptable use of force under this policy.

As detailed in Opinion 1 above, Detective King did not employ the use of a choke hold or intentionally apply any amount of pressure to the neck or throat area of Mr. [REDACTED]. As detailed in Opinion 2 above, Detective Hagbom did not employ the use of choke a hold or intentionally apply any amount of pressure to the neck or throat area of Mr. [REDACTED] for the purpose of restraining Mr. [REDACTED], using any part of Detective Hagbom's body or any object outside the scope of his training. Although the witnesses video appears to show Detective Hagbom's knees on Mr. [REDACTED] neck area, a review of Officer Silver's Body-Worn Camera video, which documented a close-up view of the incident, revealed Detective Hagbom's left knee was placed on Mr. [REDACTED] left shoulder blade and Detective Hagbom's right knew was placed diagonally on Mr. [REDACTED] mid-back area. Detective Hagbom's knees were not on Mr. [REDACTED] neck area. Additionally, Detective Hagbom's left knee, which was the closer of the two knees to the neck area was placed on Mr. [REDACTED] left shoulder blade for less than 10 seconds. The placement of Detective Hagbom's knees on Mr. [REDACTED] did not appear to cause any respiratory distress; Mr. [REDACTED] did not complain of a diminished/inability to breath or complain of a restricted air way. In fact, Mr. [REDACTED] verbalization skills, tone, and attitude remained the same. This would not be the case had Detective Hagbom's knees been applying pressure to Mr. [REDACTED] neck area.

After Mr. [REDACTED] was spitting and threatening to bite Officer Silver, Mr. [REDACTED] was lowered to the ground and placed on his right side, facing away from the officers. Detective Hagbom's right knee was placed on Mr. [REDACTED] left shoulder blade to hold the upper portion of Mr. [REDACTED] down, as Mr. [REDACTED] was laying on his right side. Detective Hagbom's knee was on Mr. [REDACTED] for less than five seconds. This use of force incident was also captured on Officer Silver's Body-Worn Camera Video. Again, it was evident based on Mr. [REDACTED] continued combative conduct, as documented in several sections of this report, that Detective Hagbom's knees on Mr. [REDACTED] did not cause any respiratory distress or diminished/inability to breathe. Detective Hagbom's use of force was an appropriate response to Mr. [REDACTED] active aggression towards the officers.

Based on the details and reasoning documented in this report, Detective Hagbom did not violate this policy by placing his knees on Mr. [REDACTED] neck area. However, even if Detective Hagbom did place his knees on Mr. [REDACTED] neck area, the manner in which he placed his knees on Mr. [REDACTED] body is a

technique taught during subject control training and would be deemed an acceptable use of force under this policy.

The level of force may be escalated to a level that is reasonable and necessary to control the situation at hand, based upon the level of force or resistance being encountered. When the level of subject resistance is lessened the officer shall de-escalate in a similar manner to a level of force which is reasonable and necessary to allow the officer to maintain control of the subject.

Based on information in Opinion 1 and Opinion 2, Detectives used only that amount of force that was objectively reasonable and necessary to control the situation at hand, based on the level of resistance being encountered. As noted in Opinion 2 above, Detective King and Detective Hagbom appropriately de-escalated their use of force when the level of Mr. [REDACTED]' resistance was lessened. As noted in Opinion 2, Detective Hagbom appropriately attempted to deescalate the situation further when Mr. [REDACTED] was visibly upset by the presence of Detective King. Detective King and Detective Hagbom maintained a level of professionalism during this incident that is expected of a member of the law enforcement profession.

Officers shall be guided by the use of force continuum and consider the following variables when making a decision to escalate or de-escalate the level of control; The type of crime committed; Officers/subject relative size and physical abilities; Environmental conditions such as being in a close confined area; The nature of the contact; Subject's response to the officer's directions or actions; If the subject is known to be under the influence of drugs or alcohol; Does the officer have prior knowledge of the subject - any special skills (i.e. martial arts) or have an assaultive history; Exigent conditions such as the number of officers and/ or subjects involved and the availability of back-up officer; The amount of reaction time required to defend against or react to the subject's actions; Subjects access to weapons; Officer exhaustion due to prolonged foot pursuit or physical encounter; Probability of the officer safely overcoming the resistance encountered.

Based on information in Opinion 1 and Opinion 2, Detective King's, and Detective Hagbom's responsive actions during this incident were guided by the use of force continuum with consideration given to the listed variables when they made decisions to escalate or de-escalate the level of control. Mr. [REDACTED] actions ranged from passive resistance to active aggression. Detective King's and Detective Hagbom's actions ranged from officer presence/verbal direction to physical controls and were undertaken in an objectively reasonable manner in proportion to Mr. [REDACTED] level of resistance.

I reserve the right to amend my opinions should I be provided with new information.



Retired, First/Lt. Twana R. Powell, Commander
Michigan State Police Professional Standards Section