

INTEROFFICE MEMORANDUM

To: D/Sgt. Kandyce Herr, Michigan State Police  
From: Mike Cheltenham, Chief Assistant Prosecuting Attorney  
Subject: Use of Force Investigation, MSP Incident No. 10-000197-21; CTN 21-1702, 21-1703  
Date: April 8, 2021  
CC: Carol Siemon, Ingham County Prosecuting Attorney

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On March 10, 2021, Meridian Township Police Department Detectives Daniel King and Michael Hagbom were involved in the arrest of [REDACTED]. The arrest occurred in the parking lot of the Meridian Mall near the south entrance to Macy's. During the course of the arrest, Mr. [REDACTED] resisted and the officers used force to accomplish the arrest. After an administrative review of the incident, MTPD Chief Ken Plaga requested an independent review of the incident by the Michigan State Police. Upon completion of the MSP investigation, a warrant request was submitted to the Ingham County Prosecutor's Office for review of the conduct of Detectives King and Hagbom. After a careful review of the evidence submitted, under the totality of the circumstances, the use of force in this incident was reasonable and does not rise to the level of a criminal violation of the law.

In making this determination, our office reviewed the following investigative materials:

- Meridian Township Police Department Incident No. 21926000832 which included
  - o MTPD Officer Jaclyn Allen Original Incident Report
  - o Det. Dan King report
  - o Det. Mike Hagbom report
  - o Officer Jaclyn Allen Property report
- Photos of injury sustained by Detective Dan King
- 911 Incident Detail Report
- Meijer Loss Prevention Incident Report
- Photos of injury sustained by [REDACTED]
- Meridian Township Police Department Use of Force Order
- Officer Jacklyn Allen body worn camera footage
- Video captured by bystander [REDACTED]

### Standard of Review

Pursuant to Michigan Compiled Law 764.15(d), a police officer may make a warrantless arrest of a person if the officer has reasonable cause to believe that a misdemeanor punishable by more than 92 days imprisonment has been committed and reasonable cause to believe the arrested person committed the crime. Generally, under Michigan law, a police officer may use such force as is reasonably necessary to perform his or her official duties such as, for example, making an arrest or subduing a person suspected of committing a crime. If a police officer uses force that is objectively reasonable under the circumstances, the officer's actions are "justified" and he or she does not commit an assault and battery. However, if a police officer uses excessive force or more force than is reasonably necessary, his or her conduct is not justified (not objectively reasonable) and he or she may be individually liable for assault and battery. *Lanman v. Hinson*, 529 F.3d 673, (6th Cir.2008) Finally, a peace officer making a lawful arrest may use, in self-defense, that force which is reasonable under the circumstances and, unlike a private citizen, is not required to retreat before a display of force by the adversary. *People v Doss*, 406 Mich 90; 276 NW2d 9 (1979)

### Facts and Evidence

On March 10, 2021, at approximately 1:00 PM, Detective Dan King responded to the area of the Okemos Meijer for a retail fraud complaint. The caller, [REDACTED] from Meijer Loss Prevention, reported that a Black male, about 25 years old, wearing a white hoodie was seen taking items and leaving the store without purchasing the items. [REDACTED] also reported the suspect was wearing the white ADDIAS shoes that he took from the store shelf and walked out the store wearing. Detective King received this information from dispatch and observed a person matching the given description in the area of Grand River and Marsh Road. The suspect appeared to be heading toward the Meridian Mall. Detective King continued to observe the suspect until the person was near the entrance to the Macy's store located in the mall. Detective King, who was in plainclothes but wearing a MTPD badge and his department issued firearm, approached the subject to make contact before the person entered the mall. Upon making contact, the suspect, who was later identified as [REDACTED], was reported to be immediately uncooperative. Detective King identified himself and the reason for stopping Mr. [REDACTED]. Mr. [REDACTED] indicated that he "did not give a fuck" who the officer was and attempted to enter the mall entrance.

At this point, Detective King grabbed Mr. [REDACTED] clothing to prevent him from walking away. Mr. [REDACTED] responded by grabbing onto the detective's shirt resulting in the two men in a squared off "hockey fighting position". They remained in this position for several seconds before Mr. [REDACTED] released one hand and hit Detective King in the face with a closed right hand. Detective King returned a fist strike to Mr. [REDACTED] face. The two men then released each other and Mr. [REDACTED] took a boxing stance with his fists raised. Mr. [REDACTED] yelled that the two were going to fight now. From this point on the actions of the two men are captured on video by [REDACTED]. [REDACTED] was a bystander in the area and began to record the events on her cell phone.

After taking a boxing stance, Mr. [REDACTED] shed his clothing to prepare for a fight. Detective King tackled Mr. [REDACTED] into a group of bushes near the mall entrance. Once on the ground, Detective King attempted to gain control of Mr. [REDACTED] arm but was unable to as Mr. [REDACTED] intentionally folded his arms inward. MTPD Officer Jacklyn Allen arrived and assisted Detective King. Neither was able to gain control of Mr. [REDACTED] as he pulled away from the officers attempts. While on the ground, Detective King delivered multiple empty hand strikes and elbow strikes to Mr. [REDACTED] upper body and forearms. These strikes had no effect on Mr. [REDACTED] efforts to break free.

Detective Michael Hagbom and Michigan State University Police Officer Adam Silver arrived to assist. In helping to secure Mr. [REDACTED], Detective Hagbom placed Mr. [REDACTED] right wrist in a joint lock and pulled him away from the bushes where the officers could better gain control. Once he had control of his right arm, Detective Hagbom placed his right knee across the shoulder blades of Mr. [REDACTED] and his left knee across his upper back. This allowed the officers to gain control of Mr. [REDACTED] left arm and place him in handcuffs. Despite being handcuffed, Mr. [REDACTED] made threats to the officers and attempted to bite Officer Silver. Once he was secured, Mr. [REDACTED] was placed in a patrol car without further incident.

### Analysis

On March 19, ICPO received warrant requests for Detectives King and Hagbom for the crime of assault and battery. A warrant request is a formal review of an investigation to determine if there is sufficient evidence to prove the commission of crime. Prosecutors are required to prove a person's guilt to the legal standard of "beyond a reasonable doubt". As noted earlier, a police officer may use force that is reasonably necessary to perform his or her official duties. *Lanman, supra*.

It is clear from the reports and video that Detective King was attempting to stop Mr. [REDACTED] to investigate the crime reported. Further, based on his observations of Mr. [REDACTED] clothing and

description, the time between the crime and King's encounter with [REDACTED], and his observations of [REDACTED] coming from the area of the Meijer store, Detective King had reasonable suspicion that Mr. [REDACTED] was the person described by the Meijer caller. This reasonable suspicion allowed Detective King to prevent Mr. [REDACTED] from walking into the mall. A brief detention does not violate the Fourth Amendment if the officer has a reasonably articulable suspicion that criminal activity is afoot. *People v Jenkins, 473 Mich 26, 691 NW2d 759 (2005)*

However, once Mr. [REDACTED] responded by striking Detective King in the face, [REDACTED] could then be arrested and Detective King was allowed to use force to accomplish the arrest. An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony pursuant to MCL 750.81D. Once the felony is committed by Mr. [REDACTED], the question then becomes is the officer's use of force objectively reasonable under the law. There is no evidence that the force used by Detective King and later by Detective Hagbom was unwarranted. Both the video of [REDACTED] and Officer Allen showed Mr. [REDACTED] actively resisting efforts to handcuff him. Further, Mr. [REDACTED] attempted to either bite or spit on the officers while they struggled on the ground. Additionally, while Detective Hagbom's placement of his knees to restrain Mr. [REDACTED] was uncomfortably similar to recent events, careful review of the video revealed that the officer did not make contact with Mr. [REDACTED] neck and the duration of the restraint was no longer than needed to handcuff Mr. [REDACTED].

Ultimately, there is insufficient evidence, to show beyond a reasonable doubt, that the crime of assault and battery was committed or that Detectives King and Hagbom used force that was excessive or unreasonable. Thus, warrant requests in this matter are denied.