



Madison Police Department

Michael C. Koval, Chief of Police

City-County Building
211 S. Carroll Street
Madison, Wisconsin 53703
Phone: (608) 266-4022
Fax: (608) 266-4855
police@cityofmadison.com
www.madisonpolice.com

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The principles of force are highly regulated in policing. Any time an officer uses force, the potentiality for injury exists to both the citizen as well as the officer. So use of force is discouraged due to concerns about liability (both civil and criminal), the possibility of injury, and, most importantly, it is counter-intuitive to the way we want to police with an emphasis on using professional communication, methods which incorporate diffusing and/or disengagement, and de-escalation techniques. Unlike Hollywood bravado, use of force is seldom as easy as it looks---particularly when someone is decidedly non-compliant.

In an ideal world, use of force would never be necessary. But we live in an environment where, despite our best efforts, force is sometimes the only option left. Not a day goes by when our officers aren't thrust into the unenviable position of trying to contain and control persons highly motivated to defeat attempts to be placed under arrest, are "high" and/or uncontrollable owing to an impaired state of mind or episodic break, or simply decide to fight or flee. Fortunately, in spite of these challenges, MPD is still using force sparingly. For example, from April 1st through June 30th (2016), MPD officers responded to 55,599 calls for service. In that time, there were 58 citizen contacts in which officers used some kind of force during their encounter. This means that in the 2nd quarter, MPD officers used force less than 1% of the time when engaging with our citizens. So it would be a disservice to the officers of MPD to suggest that this is a department inclined to use "brawn" over "brains."

With respect to the East Towne Mall incident, while there was no formal complaint or complainant, I exercised my Chief's prerogative and initiated a series of steps that I hoped would advance the interests of both transparency and accountability by having the incident reviewed by an outside agency. Initially, we attempted to engage the Wisconsin Department of Justice/Division of Criminal Investigation (DCI) to conduct the review. While DCI does conduct independent reviews in officer involved critical incidents (by law) that result in a death, they were not in a position to provide the kind of review that we were seeking. Thus, I turned to Sheriff Dave Mahoney and the Dane County Sheriff's Office. Sheriff Mahoney's team has subject matter experts certified in Defense and Arrest Tactics (DAAT), which is the state-approved curriculum to which all certified police officers must adhere whenever use-of-force is applied. Thankfully, Sheriff Mahoney agreed to conduct an independent review to determine whether our MPD officers were in conformity with state use of force guidelines. I agreed to use the findings of the Dane County Sheriff's Office as dispositive on the matter of use of force.

In addition to the DCSO review, I directed our Professional Standards and Internal Affairs (PS&IA) unit to conduct an administrative review to determine whether any MPD policy or procedures had been violated. While both the DCSO and PS&IA reviews were underway, I instructed our Records section to begin the process of compiling, reviewing, and preparing as much information as we could lawfully provide to the public, with the intent to place all releasable documents on our website, upon the conclusion of the various review processes. Finally, knowing that a high profile case of this

magnitude might raise the notion that the officers should be referred for criminal culpability, I further instructed that a copy of the Sheriff's report be sent to the District Attorney's Office for an assessment.

The findings of the DCSO were conducted independently of MPD's own internal review. MPD's review was consistent with the assessment provided by the DCSO. Finally, MPD was advised by the District Attorney's office that there was no criminal culpability on the part of the officers in effecting the arrest. While the respective administrative reviews are now completed, this is not an "ending" where the outcome is a one-size-fits-all answer or where we close the books and move on without any further discussion. As with each call the MPD responds to, we look at this incident and everything we do through a lens of "systems improvement." MPD remains committed to pursuing "best practices" in use of force applications. To that end, here is a sampling of what MPD has been doing over the past year to address concerns relative to use of force issues:

1. Quality Control and Assurance

In 2015, we applied for (and consequently received) a COPS grant that would fund a supervisory "Use of Force Coordinator" slated to begin in mid-September. Through this position, we add another dimension to our "quality and control assurance" methods. Not only is recordable force reviewed by supervisory staff in the field, these reports will have another level of scrutiny from the use of force coordinator. Responsibilities of this position include:

- Conduct research and development functions and advise management of trending "best practices."
- Assist in complementing and leading training throughout the Department and will also be tasked in conducting training for community outreach and engagement purposes.
- Compile statistics and audit all use-of-force reports and note where additional training and/or remediation is appropriate.
- Act as a subject matter expert for the Department and sit as MPD's representative on the State's advisory board for Defense and Arrest Tactics (DAAT).

2. Transparency

Since the beginning of 2016, we have updated our software system(s) and can now access/provide real time tracking and statistical compilations on all of our use of force incidents. Recent updates include:

- Use-of-force summaries now posted to our website for quarterly review (similar to what we do for officer discipline summaries).
- Our use of force standard operating procedures (SOP) has been refined and placed on our website for public review and access (as has been the case with our Code of Conduct and other SOPs).

3. Tracking "Best Practices"

We have sent training staff to national summits and yearly updates on use of force (and will continue to do so). We want to maintain a "macro" perspective on what initiatives are taking place throughout the country. In the first quarter of 2016, our Management Team met with our Training Team for multiple sessions comparing and contrasting our use-of-force policies and procedures with the

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findings produced by PERF (Police Executive Research Forum) as well as the Dane County Joint Task Force recommendations stemming from the United Way/NAACP Law Enforcement and Leaders of Color Collaboration. In going through this lengthy exercise, point by point, some adjustments were made; the vast majority of recommendations were already in place.

4. Continued Training Initiatives

We will continue our commitment to dedicating training time in diffusing, de-escalation, and disengagement. (This is by no means "new" to our Department's approach to use of force training; but it will continue to be a point of emphasis for pre-service, in-service, and specialized training). Additionally, our commitment to crisis intervention training (CIT) remains a hallmark of this Department and has been recognized as a national model by the Bureau of Justice Assistance (BJA). Officers will continue to receive this training throughout their entire career with MPD.

In closing, we have over 460 cops on this Department. The approach, methodologies, tactics and variables taken by one officer could be completely different (and within the scope of training responses) to another officer, particularly since each officer and set of facts is unique unto itself. In order for us to move forward, together, it is important we acknowledge the challenges of balancing "justifiability" (were the actions taken legally defensible) with the "desirability" (of those techniques used). In the East Towne Mall case, there is a "gap" between these two where reasonable people can disagree. Something we can all agree on is this: when "justifiability" and "desirability" are two sides of the same coin, the end result is better.

Respectfully~

A handwritten signature in cursive script that reads "Chief Michael C. Koval". The signature is written in black ink and is positioned above the typed name.

Michael C. Koval
Chief of Police