



CITY OF MADISON POLICE DEPARTMENT



**INTRA-DEPARTMENTAL CORRESPONDENCE**

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DATE: August 30, 2016

TO: Michael Koval, Chief of Police

FROM: Amy Chamberlin, Lieutenant of Police  
Professional Standards & Internal Affairs

SUBJECT: **Use of Force Investigation 2016PSIA-0010**

On 6/21/2016, I was advised there had been an incident at East Towne Mall involving two Madison Police Department officers, PO Richard Friday and PO Andrew Muir. It was further explained that the officers had been sent to a report of a disturbance there and during the course of their investigation, ultimately used force to affect the arrest of the female suspect who was later identified to me as Genele Laird. I was advised that a citizen, who witnessed the forcible arrest of Ms. Laird, had videotaped the incident and it had already gone "viral" on the internet.

The Madison Police Department, as a matter of routine, and whether there is an official complaint or not, reviews *all* use of force applications in order to check for compliance with both departmental policy as well as state standards. Despite the fact that there was no formal use of force complaint filed by Ms. Laird in this case, and because of the immense public scrutiny this incident drew, Chief Koval directed the MPD office of Professional Standards and Internal Affairs to conduct a more detailed review of the force used by PO Friday and PO Muir. This review was conducted with the assistance of one of MPD's use of force master trainers, Sergeant Minh Duc "Kimba" Tieu. This review was specifically for the purpose of examining whether all MPD policies and procedures were followed.

In addition, the Dane County Sheriff's Department was asked to complete a separate and independent review of the force used as well. Deputies Rehwooldt and Brooks were assigned to complete the review and their findings are recorded in an accompanying document.

**Overview of the Incident**

**Officer Richard Friday Initial Response**

PO Friday documented in his report:

***On 06/21/2016, at approximately 5:16pm, I was dispatched with PO A Muir to the address of 89 East Towne Mall reference a disturbance. Dispatch advised that mall security was behind the food court with a female out of control and making threats. The female was described as a female, light skinned, wearing black pants with a grey and red shirt with a backpack. Dispatch advised the female was screaming at security over a possible theft of a cell phone from Taco Bell and refusing to leave.***

PO Friday stated that upon his arrival, he observed two mall security officers, dressed in uniform, standing outside the food court area. PO Friday stated he made brief contact with one of the security

officers, Bauer, and PO Friday documented the following:

***I approached Bauer and asked him what had occurred. Bauer pointed out a female, later identified to me by PO T Lupo as Genele H Laird, who had caused a disturbance. Bauer was standing with a mall security officer who I believed was named Rose. Rose indicated that Bauer had had a drink thrown from Laird onto him. While in contact with Bauer, Laird approached me and said that she wanted to leave her name for the police report and leave. I informed Laird that she was not able to leave, and she told me that she was going to leave. I told Laird again that she could not leave, and she needed to stay, and she told me she was going to leave. At that point, I told Laird to put her hands behind her back, and my intent was to detain Laird due to my investigation of a possible disturbance with threats being made.***

#### PO Andrew Muir Initial Response

PO Muir documented in his report the following:

***At 17:16, PO Friday and I were dispatched to the East Towne Mall Food Court for a disturbance. The call notes indicated that behind the food court, there was a "female out of control making threats." She was described as a female, light skinned, wearing black pants and a gray and red shirt with a backpack. The call was updated with the note that she continued to scream at the security officer over a possible theft of her cell phone from Taco Bell refusing to leave.***

Prior to his arrival, PO Muir advised that PO Friday indicated over the radio that he needed more immediate assistance and further reported:

***I was originally responding to the scene in a routine fashion. PO Friday arrived before I did, and a short period of time after he arrived, but prior to my arrival on scene, PO Friday called out a "fight in progress." I have worked with PO Friday for more than two years and I am very familiar with his tone of voice and radio transmissions. I could tell from his tone of voice and his use of the radio code "ten ten" that he meant that he was actively involved in fighting with a subject. I activated my emergency equipment and responded.***

Upon arrival, PO Muir reported the following observations:

***As I arrived, I saw PO Friday standing behind the suspect, later identified by other officers as Laird, actively struggling and fighting to take her into custody. I observed a crowd gathering around him. I know my from my training and my experience that crowds can become hostile rapidly and that hostile members of crowds have attempted to physically intervene in arrest situations involving MPD officers recently. I know that this represents a high level of threat both to officers involved or to the original suspect.***

PO Muir went on to state:

***As I observed PO Friday fighting to overcome the suspect's resistance as I arrived, I parked my squad and immediately ran to PO Friday's side. I saw that PO Friday had Laird standing, immediately outside of the mall. I observed that it appeared PO Friday had both of her arms behind her back, but that his grip on her arms was tenuous. She was swaying back and forth, lowering her shoulders side***

*to side such that they came almost parallel with her waist.*

*As I approached, I heard PO Friday say, "put your hands behind your back" in a loud, stern voice. I heard Laird yelling loudly, almost incoherently. As I approached, I instructed the dispatcher to restrict the main police radio channel to emergency traffic for PO Friday and I due to Laird's violent resistance.*

It was at that time that PO Muir went to the assistance of PO Friday, and also physically engaged Ms. Laird.

### **Sergeant Minh Duc "Kimba" Tieu Background and Experience**

Sgt Tieu is currently one of the Master Instructor Trainers in Defense and Arrest Tactics (hereafter DAAT) for the City of Madison Police Department, teaching curriculum developed by the State of Wisconsin Department of Justice, Law Enforcement Standards Board (hereafter LESB). He is also a certified Firearms instructor, TASER instructor, Professional Communications instructor, and Vehicle Contacts instructor. Additionally, he is a member of the Tactical Skills Advisory Committee for the State of Wisconsin LESB. He has both trained and taught hundreds of hours on the topic of police use of force and has been consulted on use of force case analysis for several agencies outside the Madison Police Department.

### **Sergeant Tieu's use of force review:**

#### Summary:

I have reviewed all of the material provided, including - but not limited to - the original and supplemental reports by Friday and Muir, additional officer reports, the officer injury documents, medical discharge paperwork, in-car video footage from the squads present at the scene, and the bystander video footage uploaded to the internet website "YouTube." Based on the totality of circumstances understood by me, I believe the use of force employed by Friday and Muir was both reasonable and appropriate. My determination relied primarily on the thorough and precise documentation of both their decision-making as well as their application of force. The reports – coupled with the bystander footage - demonstrate to me that the officers' actions in this incident were justified and in compliance with current MPD policy and training regarding use of force.

#### Overview:

Per MPD Standard Operating Procedures, any police use of force must be "objectively reasonable," according to the US Supreme Court case, *Graham v. Connor*. Objective reasonableness is measured in part by the following questions:

- Is the suspect an immediate threat to officers and/or others?
- Is the suspect actively resisting seizure?
- Are the circumstances tense, uncertain, and/or rapidly evolving?
- What is the severity of crime(s) at issue?
- Is the suspect attempting to evade seizure by flight?

Having said that, I will focus my review to six points during the encounter where some level of force was applied to Genele Laird:

- The initial physical contact and decentralization attempts of Laird
- The focused strikes (active countermeasures) to Laird when standing

- The decentralization (passive countermeasure) of Laird
- The focused strikes (active countermeasures) to Laird when on the ground
- The deployment of an electronic control device (ECD) to Laird
- The handcuffing of Laird and application of spit hood

Initial physical contact/attempted decentralization by Friday:

Per MPD policy, officers are authorized to use force to detain a subject reasonably suspected of unlawful behavior. In this case, Friday had reasonable suspicion to believe Laird had been involved in a disturbance (i.e. that her conduct had been disorderly), based on specific articulable facts. To wit: she matched the clothing description provided by dispatch of the female who was “out of control and making threats,” and she was further identified by mall security upon his arrival. Friday reported that he initially asked Laird to remain on scene, but that she refused – telling him “she was going to leave.” As Laird began to counteract Friday’s verbal control efforts, he was justified in applying physical means to detain her. That is to say: what officers have the authority to command, they have the power to enforce – again using reasonable physical alternatives to compel compliance with their lawful verbal directives. In this case, Friday established an escort hold by “grasping her right arm by the wrist area.” He similarly tried to control her left arm, and told Laird to “place her hands behind her back,” so he could handcuff her.

Given the tense, uncertain and rapidly evolving circumstances (e.g. he only had preliminary information regarding the disturbance, was the only officer on scene at the time, and was dealing with an immediately uncooperative subject) it was reasonable for Friday to try stabilizing Laird in handcuffs. Stabilization refers to limiting a subject’s ability to resist or attack (i.e. use force against an officer). Nonetheless, Friday was unable to control Laird sufficiently to apply handcuffs to her while she remained standing. Accordingly, Friday next attempted a passive countermeasure on Laird – which is to say he tried to physically direct her to the ground. The State of Wisconsin Law Enforcement Standards Board (LESB) trains officers that it is appropriate to decentralize a person if it is reasonable to believe that control cannot be achieved with the subject standing. Based on Friday’s description of Laird pulling her arms in front of her body (corroborated by video footage from the bystander), it seems Laird was able to actively resist Friday while she was standing. As noted in his report, Friday next positioned himself to her left, “then moved my right leg in front of Laird...to force Laird forward across my extended leg.” While his description is not consistent with any specifically trained passive countermeasures, the DAAT system allows that “decentralizations may be needed in a variety of situations and from a variety of positions,” and that “other techniques may be needed and justified in dynamically evolving confrontations.” Furthermore, both the DAAT system and MPD policy indicate techniques or tactics employed by officers need be consistent with one of the following categories:

- A trained technique
- A dynamic application of a trained technique
- A technique not trained, but justified under the circumstances.

Based on his positioning and fact he held both her arms, it was reasonable for Friday to attempt a technique not trained but justified in this situation. Nonetheless, his attempts at further stabilization proved unsuccessful as Laird not only remained upright but also “was able to move her hands in front of her person.” This resulted in Friday having to use his chin (rather than his hands) to activate his radio shoulder microphone and advise dispatch that there was a “fight in progress.”

Shortly after this transmission aired, Muir arrived on scene. Upon his arrival, there were several threat assessment opportunities presented. In particular, Muir first noted that the radio transmission and tone

of voice used by Friday was unusually urgent. Specifically, he noted, "I could tell from his tone of voice and his use of the radio code...that he was actively involved in fighting with a subject." Additionally, he observed a crowd had gathered near Laird and that Friday was "struggling and fighting to take her into custody." In his report, Muir explained that his training and experience was such that he knew "hostile members of crowds have attempted to physically intervene in arrest situations" previously. Also, he described Laird's movements as "exaggerated...swaying back and forth, lowering her shoulders...such that they came almost parallel to her waist," all while Friday ordered her "put your hands behind your back." Taken together, Muir reasonably concluded there were early warning signs indicating a higher level of danger to officers that should be controlled quickly and decisively.

In particular, Muir responded by "placing both of [his] hands on her right arm." In doing so, he "felt a rigid muscle tone in her arms," and "felt her tugging away from my grasp..." Taken together, these signs represent resistive tension, defined by the DAAT system as the level of agitation in a subject's body. Officers are trained that the more tension or agitation, the more threat potential posed by the subject. This was further heightened when, according to Muir's report (and again, corroborated via video footage), "she managed to bring her right arm entirely in front of her body." Muir explained this was concerning because he did not believe she had been frisked and is trained to know that the front of the abdomen is a frequent place to conceal weapons. Additionally, he "saw that her fist was clenched...a further threat of ongoing resistance or violence toward PO Friday and I [sic]." The DAAT system identifies a clenched fist as "pre-attack posture," one of several behaviors that may indicate imminent danger of physical assault. Accordingly, Muir's assessment was consistent with his training.

Like Friday, however, Muir was unable to control Laird from a standing position. As such, he similarly attempted a passive countermeasure. Specifically, he noted in his report: "Recognizing that my attempt to simply place her arm behind her back had been overcome...I attempted to decentralize her, and deliver her to the ground, by sweeping my right leg along her right leg." As noted above, while the technique described by Muir is not a specific DAAT trained passive countermeasure, it would be one "not trained, but justified under the circumstances," given his positioning relative to Laird and Friday.

#### Focused strikes to Laird by Muir while standing:

Muir then recognized his attempt to decentralize Laird was unsuccessful insofar as "she remained standing and continued thrashing." What is more, Muir observed that Laird was able to "bring her closed fist to the front of her body again," despite his holding her right arm. He noted that he "was forced to respond to her continued and escalating resistance and protect myself from her increasingly assaultive behavior by escalating my use of force." Muir then "delivered two knee strikes to Laird's abdomen" after which "Laird fell to the ground." Observing the bystander video, coupled with Muir's description, it seemed he performed a strong angle knee strike. In the DAAT system, the abdominal area is a proper target insofar as striking it can affect the diaphragm, resulting in a respiratory dysfunction and subsequent disruption in the subject's ability to resist or attack.

The DAAT system also indicates that active countermeasures, such as the aforementioned focused strike, generally fall into the mode of protective alternatives – the purpose of which is to overcome continued resistance, assaultive behavior, or their threats. Continued resistance is further defined as "maintaining a level of counteractive behavior that is not controlled by an officer's current efforts," whereas assaultive behavior is defined as "direct actions or conduct that generates bodily harm."

Although Muir stated in his report that he was forced to protect himself from "her increasingly assaultive behavior," at this point in the encounter, he also explained he was "forced to respond to her continued

and escalating resistance...” It appeared Muir and Friday were predominantly dealing with continued resistance as evinced by Laird’s “thrashing” her body and bringing her hands forward, despite orders to put them behind her back. Focused strikes are indicated to overcome continued resistance because, per the DAAT system, “the longer the encounter lasts the higher the chance of injury to either the suspect and/or officer; along with the decreased effectiveness the officer faces as he/she combats increased exhaustion.” Moreover, the strong angle knee strike (again, performed by Muir as shown in the bystander video) is “designed to *stop a subject’s advance, violent resistance, or assaultive behavior. It can be delivered multiple times, if needed, until control is established* [emphasis added].” Therefore, Muir’s use of the technique in this context was consistent with his training.

Decentralization (passive countermeasure) of Laird by Friday:

In his report, Friday noted that “with the presence of Muir, I recognized I was able to attempt to decentralize Laird again.” As noted above, officers are trained that ground stabilization can be more advantageous than standing stabilization (subject mobility is further restricted, etc.) so Friday’s decision to decentralize Laird was also reasonable and justified. In terms of the passive countermeasure (i.e. decentralization) applied, Friday did not articulate the use of a specific trained technique. However, given the rapidly evolving circumstances, it is reasonable for him to have used a dynamic application of a trained technique or an untrained but necessary technique. With Laird still trying to pull her hands forward and thrashing her body and Muir on the right side of her, it would have been unfeasible for Friday to immediately establish the positioning and holds to properly execute any takedown as he had been trained (e.g. arm-bar, hug-yourself, lower-your-center, rear wrist lock, secure-the-head, pull-in/push-down or rear sentry, etc.). Instead, Friday explained in his report, “I placed my right leg across the front person of Laird, again planting my right foot on the pavement. Laird was directed forward, and I was able to use my right hand in order to direct Laird’s left shoulder area toward the ground. Laird was directed to the ground in a controlled manner and made contact with the ground with her front chest area. I did not observe Laird strike her head on the ground at any time.” His description of the takedown appears consistent with the bystander video in that Laird brought to her knees just before lying prone.

MPD policy requires any use of force to be consistent with training and this decentralization does conform with DAAT methodology. Specifically, for any passive countermeasure (or variation thereof) to be consistent with DAAT, it must 1) direct the subject to the ground 2) control the rate of descent (by maintaining physical contact with the subject) and 3) protect the subject’s head as much as possible. In this instance, all three components are achieved from what we can determine by the officer reports and bystander video.

Focused strikes (active countermeasures) to Laird by Muir while on the ground:

According to Muir’s report, once on the ground, Laird continued resisting by pulling her arms away. Muir and Friday were consequently unable to secure her arms behind her back. Additionally, Muir reported that “Laird began to physically assault me.” In particular, Laird “clenched her right hand and forcibly dug her nails into [Muir’s] skin.” This behavior by Laird marks a significant turn in the encounter, insofar as this action can more easily be perceived as assaultive behavior (that which generates bodily harm to the officer). In other words, while earlier it could be thought she was merely trying to “get away,” her conduct here shows a specific, deliberate intent to hurt the officers. To wit, Muir indicated that each time Laird did this, it caused him pain and furthermore, resulted in visible injuries to his hand and forearm. [Albeit Muir’s report states the Laird clenched the bottom part of his right hand, the photographs of his injuries - taken by Investigator Smith - show it was Muir’s left hand and arm that were scraped or marred.]

Muir responded to this by delivering three knee strikes to Laird's abdomen while alternately ordering her to "Stop pinching me, do it now!" and "Stop!" As noted above, focused strikes may be utilized to overcome assaultive behavior in the DAAT system and the abdomen is an appropriate target to cause a respiratory dysfunction. Moreover, the DAAT system states that "active countermeasures are more effective when used in combination or delivered more than once." Therefore, Muir's use of multiple knee strikes to the same target area is consistent with his training (a tactic known as an "overload"). Despite these knee strikes, however, Muir noted that "her assaultive behavior by clawing and pinching my hand had not ceased..." and that she was able to "forcibly twist her upper body...able to turn up to her right...turn her face toward mine and look at me."

This is another significant change in the encounter, insofar as police are trained to control subjects on the ground in a prone position. By having the subject prone, the subject's personal weapons (hands, feet, etc.) and eyes are oriented downward away from the officer. If, however, the subject is able to turn supine, he/she can see where the officer is, what the officer is doing, and thereby resist the officer's control efforts much more effectively. At that point, Muir also noted that "she continued hurting my hand," and realized that "my series of knee strikes had not succeeded in overcoming her continued, active and violent resistance nor her causing me pain and visible injury." As such, he next responded by "striking her once in the lower abdomen with my closed right fist." The DAAT system identifies this technique as a strong hand strike, and like the above strong angle knee strike, it is meant to cause respiratory dysfunction when directed at the abdomen. That Muir could target her abdomen at all, again shows how Laird was turning in such a way to be supine as opposed to prone. Laird then "bucked her body upwards, off the ground, almost to the point of sitting upright" because of this change in her orientation. She then "kicked her legs up" against Muir's shins which threw him off her and the curb and into the street.

After Laird did this, Muir "ended up briefly straddling her with open space between my groin and her leg." According to Muir, Laird then "attempted to knee me in the groin with her left knee." Although Laird may not have given a specific verbal threat to injure him, it was reasonable for Muir to also perceive this action as assaultive behavior given that she had just been clawing at his hand. Following this, according to Muir's report, Laird was able to spit directly into Muir's face, with saliva entering his eye. While not clearly shown in the video, photographs of Muir's sunglasses and hat support his account of her having spit at him. Taken together, these actions demonstrated another departure from resisting (for the purpose of avoiding custody) to a conspicuous deviation toward attacking (for the purpose of doing bodily harm to the officers).

The State of Wisconsin system of DAAT recognizes several special circumstances that allow an officer to raise his/her level of force, to include: reasonable perception of the threat, sudden assault, special knowledge of the suspect, physical positioning, suspect's ability to escalate force rapidly, availability of backup, equipment or training, injury or exhaustion, other circumstances.

### ***Sudden assault***

The DAAT system teaches that when police officers are attacked without warning, not only are they are vulnerable to injury but they are also less able to control suspects effectively. As such, this condition or circumstance is almost universally accepted as a reason for officers to escalate their use of force in a physical encounter. In particular, when Laird clawed at his hand, attempted to knee his groin, and spit in his eye - not only did Muir have the justification to defend himself using the focused strikes, he also had an obligation to assert immediate positive control of Laird to prevent her from hurting anyone else in the

environment (such as Officer Friday, security guards, other bystanders, etc.). Furthermore, striking Laird was reasonable given the fluid and dynamic nature of the encounter. As mentioned above, Muir delivered strikes in a manner consistent with training. Specifically, officers are taught to strike full-speed and power and use alternate target areas when appropriate (based on positioning and availability).

### ***Physical positioning***

Once the encounter went to the ground, Muir had a new threat assessment and tactical evaluation. In particular, because Laird turned supine rather than prone, it would have been unreasonable for Muir to still attempt to handcuff her at that point (and contrary to his training). Accordingly, both he and Friday continued for several minutes to control her hands and position them behind her back while simultaneously rolling her onto her stomach. But Laird's proximity allowed her to strike at Muir more easily as evinced by the fact she forced him off her legs at one point and then almost struck him in the groin. Additionally, Muir noted in his report that while fighting with Laird on the ground, he and Friday had their backs to the crowd which had formed earlier. Not knowing if bystanders would interfere, it was appropriate to use higher levels of force to end the encounter more quickly in the event anyone did. Beyond this, officers are trained that ground encounters pose a raised level of dangerousness because their mobility is severely limited (as opposed to when they stand upright) and their weapons are that much closer to the subject/suspect. Accordingly, officers are trained to end confrontations much more quickly on the ground than in other circumstances, meaning higher levels of force are indicated.

### ***Suspect's ability to escalate force rapidly***

The unpredictable nature of Laird (e.g. shouting things like "arrest me!" but then physically resisting custody and failing to follow instructions), coupled with her movements and position allowed her to raise the level of force against Muir very quickly. Somewhat related to positioning, when Laird was facing Muir (both while briefly standing and on the ground), Laird could use her personal weapons (e.g. hands, feet, knees, elbows) and potentially access any weapons she had on her person. This was further compounded by the difficulty both Muir and Friday had in controlling her hands and arms.

### ***Availability of backup***

Muir addressed this directly in his report when he remarked "it was a busy day in the city for police resources and that the East Towne Mall is the northern extremity of the district," and that "although I knew backup was en route, it was not yet on scene and PO Friday and I were, for the time being, alone." Similar to the aforementioned circumstances, the DAAT system recognizes that higher levels of force may be warranted when additional personnel are delayed or not readily mustered.

### ***Injury or exhaustion***

Muir reported that he sustained minor abrasions and laceration to hand and forearm, respectively, as a result of fighting Laird. The DAAT system allows that an officer's escalation or heightened use of force is made more reasonable if he/she is hurt at the time that force is applied. Moreover, officers generally understand that it takes more effort to overcome resistance than it does to resist. In this case, Muir explained that he and Friday had been "exerting ourselves to overcome her resistance for more than 30 seconds, and I know from my training and experience that our physical ability to continue would deplete rapidly," thereby inhibiting his ability to control Laird later. Again the DAAT system recognizes that exhaustion can severely impair an officer's ability to control a subject or defend him/herself. As mentioned above, it would have been reasonable for Muir to do what would most immediately control Laird (in this case strike her) in order to shorten the duration of the event.



Deployment of Electronic Control Device (TASER) by Muir:

Again, following the principle that escalating resistance warrants increased force, Muir determined that use of his electronic control device (ECD) was needed. MPD policy dictates that an ECD may only be used under the following circumstances:

- a. To overcome violent or assaultive behavior or its threat; if the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
- b. To control persons in order to prevent them from harming themselves or others.

In this case, Muir recognized that he and Friday had not yet been able to overcome any of the assaultive behaviors displayed by Laird up to that point, such as her clawing at his hand, attempting to knee him in the groin, or spitting in his eye. As such, it was reasonable to believe Laird continued to pose a threat of harm to both him and Friday. What is more, Muir's report indicates that at the time he drew out his ECD, Laird was "thrashing and aggressively kicking with her left leg..." (further evidence of assaultive behavior).

Muir stated that he indexed the ECD against Laird's lower abdomen owing to the physical positioning of her and Friday. However, when he deployed the ECD, Laird's aforementioned movement caused only one probe to enter her body and the other to strike her backpack. In order to achieve neuro-muscular incapacitation (NMI), Muir then placed one edge of the device at her ankle just as the "first deployment timed out". Muir then pulled the trigger a second time, keeping the device in contact with her leg, resulting in an effective deployment and allowing Friday to control Laird's arms and apply handcuffs. What Muir described in his report and what is seen on the bystander video footage is consistent with MPD training on the use of ECD's. Specifically, given the proxemics of the encounter, it would have been appropriate for Muir to fire a "close quarters probe shot" (to avoid accidentally hitting Friday). Furthermore, officers are trained to address the contingency of either a probe miss or close probe spread by conducting a follow-up drive stun in an area of the body farther away from where the one probe attached to the subject. This effectively "completes the circuit" in TASER parlance, allowing electricity to flow or affect the muscle mass between the points of contact and consequently achieve NMI.

Albeit he kept the ECD out and indexed on her ankle, Muir only warned it would be used again when Laird motioned to spit at him and later threatened to bite him. Per MPD policy, "an officer may only display, present, or threaten to use an ECD if the officer reasonably believes that the potential for its authorized use exists." The data download of the ECD in question indicates there were only two automated 5-second cycles at the time of the incident – supporting Muir's account that he only pulled the trigger twice. As such, his use of the ECD conforms with MPD policy and training.

Handcuffing of Laird and application of spit hood:

By MPD policy, "officers shall place handcuffs on any individual in custody when the officer reasonably believes the individual may become violent, attempt to escape, or pose a danger to self or others. It is mandatory that all persons who have aggressively resisted or attacked another person be placed in handcuffs." Given all that Muir described of Laird's actions, it was not only reasonable and appropriate for officers to handcuff Laird, it was also required by policy. According to Friday's report, the handcuffs were checked for fit and double locked; in accordance with his training.

Officers are trained that they may use force to gain control of a subject, but that once control is gained, they must reduce their level of force to that which is needed to maintain control. In all the material you have provided thus far, there is no mention of additional force applied (e.g. focused strikes, ECD cycles, etc.) once Laird is handcuffed.

Following this, upon the arrival of Officers Swanson and Spielbauer, a spit hood was used to cover Laird's head. Per MPD policy:

1. A spit hood is a temporary protective device, which may be used on persons that display behavior or threatening behavior that pose a hazard of exposure to bodily fluids transmitted by spitting, wiping blood from their face/head, or wiping/blowing nasal discharges at or onto officers.
2. Officers should use only MPD-approved spit hoods. In an emergency situation if not readily available, officers may utilize other breathable items, such as pillowcases, surgical masks, etc.
3. Officers shall apply the spit hood in accordance with MPD training.
4. Persons wearing the spit hood must be closely monitored and shall not be left unattended.
5. Officers shall document the use of the spit hood including the circumstances requiring its use in their report of the incident. A copy of the report shall be routed to Training.

Based on officer reports and what is observed on the bystander video, the spit hood applied to Laird was done so in a manner according to policy. What is more, Laird was monitored while wearing it – until she removed it while riding in the backseat of Muir's squad car. Lastly, Laird was given medical treatment for her injuries by Madison Fire paramedics, a hospital physician and jail nursing staff; consistent with MPD policy and training.

#### **Sergeant Tieu's Conclusion**

Sergeant Tieu stated that he believes, in light of the facts and totality of circumstances confronting them in this incident, that the actions of Officers Friday and Muir were objectively reasonable. He further stated that he finds their response to Laird's actions appropriate, justified and consistent with MPD policy and training.

#### **Final Considerations - Transport and Follow Up Care of Ms Laird**

Once Ms. Laird was successfully handcuffed, she was placed into a squad car and transported a short distance away to another location at the mall in order to separate her from the amassing crowd. PO Muir indicated that prior to this transport he had requested a response from the Madison Fire Department/EMS to assess Ms. Laird's condition. MPD policy does state that if the probes of an ECD are embedded in a non-sensitive area of the subject's body, which was the case in this instance, a trained officer may remove them. PO Muir did indicate in his report that once Ms. Laird was later removed from the squad to be seen by EMS that he did remove the probe still embedded in Ms. Laird's abdomen as trained.

It was reported by MPD officers that once EMS arrived on scene to evaluate Ms. Laird that she had calmed considerably and cooperated with the paramedics. EMS reported that Ms. Laird did not require further medical treatment and cleared from the scene. However, due to the fact that Ms. Laird spit in the eye of PO Muir, further medical assessment needed to occur to address the potential significant exposure to the officer. Once transported to a local hospital of Ms. Laird's choice, Ms. Laird was evaluated by a triage nurse and later released without further exam due to the fact that a significant exposure was ruled out and because Ms. Laird indicated she did not desire any further

medical attention. Other unrelated statements made by Ms. Laird to hospital staff were properly vetted and appropriate resources and contacts were made on her behalf by the officers present, all within standard operating procedures of the MPD.

Ms. Laird was ultimately transported to the Dane County jail, where she was turned over to their staff. I did briefly interview PO Lupo who was the MPD officer that was with Ms. Laird while at the hospital and during her intake at the Dane County jail. PO Lupo stated to me that when completing the medical intake form as part of the routine booking process, that Ms. Laird did not report being sick, injured or in need of any medical assistance at that time. PO Lupo stated to me that details of Ms. Laird's arrest as well as previous medical attention both on scene and at the hospital were also conveyed to jail staff. Upon review of the Dane County video capturing Ms. Laird's booking process, Ms. Laird appeared to be cooperative and did display any obvious signs of injury.

### **Documentation of Officer Injuries**

Upon conclusion of the incident, PO Friday was seen by medical professionals due to a lower back injury sustained as a result of physically restraining Ms. Laird, which ultimately led to several missed days of work. PO Muir was seen by local hospital staff as well for several scrapes and lacerations. In addition, further evaluation was completed reference PO Muir's potential significant exposure when Ms. Laird spit in his eye. Ultimately, a significant exposure was not confirmed and PO Muir was released following his other medical treatment.

### **Dane County Use of Force Review Conclusion**

The Dane County Sheriff's Office (DCSO) did complete an independent review of the force used during Ms. Laird's arrest and that document is available with this report. The DCSO concluded:

"It is our opinion that Officer Friday and Muir acted within the scope of their legal authority, Court decisions on the use of force, State law, and training provided by the State of Wisconsin. The level of force used was reasonable, necessary, and appropriate based on the totality of the circumstances outlined above. This opinion comes from our intensive review of all the materials submitted to us by MPD, as well as our extensive law enforcement education, training and experience. See the attached report for further details."

### **Opinion of District Attorney Ishmael Ozanne**

The Madison Police Department did consult with Dane County District Attorney Ozanne who stated that after reviewing the investigation into the arrest of Ms. Laird at East Towne Mall, he determined there was no criminal culpability on the part of PO Friday nor PO Muir.

### **Conclusion**

After reviewing both the separate and independent use of force review by Dane County deputies, as well as the internal use of force review done by MPD Sergeant Tieu, and after examining the entirety of the response from the initial 911 call until Ms. Laird was transported to the Dane County jail, all MPD officers, but particularly PO Friday's and PO Muir's response and ultimate use of force falls within the Madison Police Standard Operating Procedures, within Wisconsin Defensive and Arrest Tactics Standards as well as rules on the use of force established by the United States Supreme Court under

*Graham vs Connor.*

**Recommended Findings:**

**Officer Andrew Muir**

- Use of Non-Deadly Force SOP

**Within MPD Policy**

**Officer Richard Friday**

- Use of Non-Deadly Force SOP

**Within MPD Policy**

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Amy Chamberlin  
Lieutenant of Police  
Professional Standards and Internal Affairs