
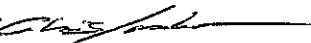
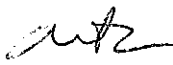


# Ohio | Department of Rehabilitation & Correction

Mike DeWine, Governor  
Annette Chambers-Smith, Director

To: Annette Chambers-Smith, Director 

Through: Chris Lambert, Chief Inspector   
Roger Wilson, Deputy Chief Inspector

From: Antonio Lee, Assistant Chief Inspector   
Nathan Harris, Investigator

Date: July 20, 2021

Subject: Use of Force investigation (Case #04-21-01) –McDaniel #779-807

## Authority

This investigative report and the activities associated with its content were conducted in accordance with the duties and responsibilities set forth in Administrative Rule (AR) 5120-9-30; The Office of the Chief Inspector. This report follows the requirements outlined in Ohio Department of Rehabilitation and Correction (ODRC) policy 09-INV-03 (Special Investigations).

## Background

The Chief Inspector's Office was asked by Director Chambers-Smith to conduct a Special Investigation into the use of force incident involving Michael McDaniel #779-807. The use of force occurred on February 6, 2021 at the Correctional Reception Center (CRC). McDaniel was housed in R2 unit. Officer Sarah Cline and Officer Kristy Judd were assigned to and working in the R2 unit on February 6, 2021. Both officers alleged they heard yelling coming from the right side of the range. Upon investigating where the yelling was coming from, Officers Cline and Judd explained that they decided to conduct their daily random cell searches and they decided to search McDaniel's cell located in that area. It is alleged that McDaniel was ordered to step away from the door and sit on his bunk. According to the officers, once the door was open, McDaniel stood up, stepped toward Officer Cline, pointed his finger at Officer Cline, and stated "I'm going to kill you bitch" at which time Officer Judd took a hold of McDaniel's shoulder and guided him towards the wall under the stairwell. According to the officers, as they attempted to handcuff McDaniel, he became combative and started assaulting the officers.

As responding officers arrived at the scene in R2, McDaniel was handcuffed and escorted to Medical (hereafter referred to as med bay). It is alleged by escorting officers that, during the escort to med bay, McDaniel was resistant, refused to walk, and became "dead weight" at various times, which resulted in McDaniel ending up on the ground sixteen times. Once in med bay, it was alleged that McDaniel was uncooperative and refused treatment. The decision was made to transport him to the Transitional Program

Unit (TPU). During the escort to TPU, McDaniel went to the ground twice more, and became unresponsive the second time he went to the ground. Staff began CPR and called for medical assistance. Medical staff assisted with CPR and attempted to use an AED device. An emergency squad transported McDaniel to a local hospital where he was pronounced dead a short time later.

## **Scope of the Investigation**

The purpose of the investigation was to determine whether 1) the use of force was unjustified or excessive 2) the force used on the part of anyone responding to or caring for McDaniel was appropriate for the circumstances and 3) there was a violation of any policy, rule or practice during the events involving McDaniel on the day in question. To make this determination, these investigators conducted interviews, reviewed incident reports, reviewed available video footage, and the Use of Force packet. Additionally, this investigator reviewed ODRC policies 63-UOF-01, 63-UOF-03, Use of Force End User Training Materials, and Administrative Rule 5120-9-01.

## **Witnesses**

Officer Sarah Cline  
Officer Kristy Judd  
Officer Heath Causey  
Officer Jerry Perkins  
Officer Jason Roberts  
Officer Joey Lemaster  
Officer Jonathan Ambrose  
Officer Jamie Bartlett  
Officer Paul Edwards  
Officer Stanley Cheadle  
Officer Joshua Huff  
Officer J'lynne Morgan  
Lt. Bruce Brown  
Lt. Elgin Shumate  
Captain Dina Miller  
Officer David Skinner  
LPN Jamie Dukes  
Incarcerated individual - C565  
Incarcerated individual - B565  
Incarcerated individual – A007  
Incarcerated individual - B840

Incarcerated individual - H808  
Incarcerated individual - H709  
Incarcerated individual - C564  
Incarcerated individual - V385  
Incarcerated individual - S967  
Assistant Chief Inspector Karen Stanforth  
Deputy Director Edwin Voorhies  
National Guardsman Alec Shrock  
National Guardsman Aaron Reeves  
National Guardsman Brian Weiner

## **Findings**

The February 6, 2021 event at CRC involving Michael McDaniel is comprised of multiple, discrete incidents. As it pertains to this analysis of the use of force, there were sixteen individual times where McDaniel went to the ground—either allegedly by his own volition or by staff placing him on the ground purposely (See attachment B). For each of these sixteen instances, these investigators determined whether McDaniel went to the ground on his own volition or was purposely taken to the ground by staff. We made this determination by examining recorded (written and audio) statements provided, available video footage, and the definition of force as it pertains to each of these incidents. Each incident where we determined that staff purposely took him to the ground is considered a use of force, so we also examined whether the use of force in each of these incidents was justified and reasonable.

Force as defined by 63-UOF is “The exertion or application of physical compulsion or constraint”. In other words, “physically making an offender do what they may not want to do or stopping an offender from doing something that they are not allowed to do” (Voorhies Recording 7:45). To determine if an ODRC employee has properly initiated or responded by using force against an incarcerated individual, there are four elements to be considered:

- 1) Preclusion – whether reasonable alternatives have been considered and/or exhausted prior to using force;
- 2) Jeopardy – determined by looking at the individual’s intent and the employee’s reasonable perception of that intent;
- 3) Ability – determined by looking at the individual’s power and capability to cause harm, and;
- 4) Opportunity – determined by looking at the individual’s physical distance from the employee.

Once a decision is made to use force, the employee is responsible for using only the amount of force reasonably necessary under the circumstances.

After reviewing video footage and statements relevant to each of the sixteen incidences where McDaniel ended up on the ground, these investigators determined that four of the incidents constituted a use of force by ODRC staff. We have identified these four as follows: Incident #1 (occurred at 3:07:26 pm), Incident #2 (3:09:06 pm), Incident #3 (3:09:45 pm), and Incident #4 (3:11:23 pm) (See attachment B). We determined that the other twelve incidents were not uses of force because McDaniel went to the ground on his own volition. We also identified Incident #5, which occurred in med bay. McDaniel did not go to the ground during Incident #5, but it was determined to be a use of force.

Our review of the multiple incidents comprising the February 6, 2021 event involving McDaniel, and the findings of our investigation are set forth below.

### *Circumstances prior to the initial UOF*

There are concerns about the circumstances leading up to the initial Use of Force with Officers Judd and Cline.

The narrative presented by Officers Judd and Cline was that they heard yelling from the right-side bottom range. As they went to investigate the yelling, they reportedly decided to conduct a required random cell search or “shakedown.” The first cell they decided to shakedown was McDaniel’s cell. According to both officers, as they approached the cell, they noticed McDaniel was in the doorway (see attachment C). The officers stated that they directed him to step back and put on his shoes. According to the officers, as Officer Judd opened the door, McDaniel lunged towards Officer Cline without provocation while pointing his finger at Officer Cline and stated, “I am going to kill you bitch”. (See attachment C). According to Officer Judd, she then placed her hand on McDaniel’s shoulder, guided him to the wall behind the staircase and radioed for a supervisor. According to Officer Judd, McDaniel initially complied. Officer Judd stated that as Officer Cline approached to assist with handcuffing, McDaniel turned around and started throwing closed fist punches at both herself and Officer Cline’s head and facial areas. According to Officer Judd, she managed to get McDaniel to the ground where he continued punching and kicking both of them until assistance arrived.

This narrative does not coincide with the video or with the statements provided by incarcerated witnesses. Several incarcerated individuals stated that McDaniel was yelling at his neighbor for a book. The statements given by several incarcerated individuals and confirmed by video footage shows, as Officer Cline was walking around the unit, she stopped at the McDaniel’s cell and spoke with him. According to witness statements, she asked why he was yelling out his door at which time an argument ensued. According to witness statements, McDaniel called Officer Cline “a hillbilly white bitch” and in turn Officer Cline called McDaniel’s mom, “a bitch.” Further, according to several incarcerated individuals including McDaniel’s cellmate, McDaniel stated that “if you open this door, I am going to beat your ass”.

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(Recording of incarcerated individuals: B565 1:17, H808 1:26, V385 (OSHP) 7:20, and S967 (OSHP) 1:06). Several incarcerated individuals reported that Officer Cline was shaking her mace at McDaniel before his cell door was opened. Additionally, an incarcerated individual reported that McDaniel was initially compliant until Cline pulled on McDaniel's wrist while handcuffing him and he turned towards her to ask what she was doing.

In her statement, Officer Cline claimed she did not recall having a confrontation with McDaniel nor stopping to have a conversation with McDaniel. In Officer's Judd second interview, when asked about the confrontation between Officer Cline and McDaniel, she claimed she was on the phone and did not hear anything let alone a confrontation. Though Officer Cline denied even having a conversation with McDaniel, in the video, at 3:05 pm just prior to the use of force, Officer Cline stops at McDaniel's cell and appears to speak to someone in the cell after which time she headed back towards Officer Judd. They then both proceeded directly back in the direction of the cell allegedly to conduct a "random" routine shakedown.

There are a number of problems associated with the officers' actions. First, when an officer is faced with a hostile incarcerated individual making threats towards them and neither the incarcerated individual nor anyone else is in immediate danger, a supervisor should be called prior to opening a cell door. Both Officers Cline and Judd acknowledged that a supervisor should be called prior to opening a cell door if a hostile incarcerated individual was making threats (Recording Judd 29:50; Cline 29:25). This did not happen. Instead, after the verbal confrontation, both officers headed directly to McDaniel's cell, passing two other cells, to conduct the allegedly random shakedown. Officers Judd and Cline should not have opened the door without a supervisor present.

Second, after the door was opened, the video shows Officer Judd physically reached in the cell, grasped McDaniel's arm, and forcibly guided him to the back wall, which could have further escalated an already contentious situation. They knew or should have known that there was a hostile incarcerated individual in the cell making threats. Officers Judd and Cline had other options available to them. They could have kept the cell door secured, attempted to de-escalate the situation, called for a supervisor, and/or issued McDaniel a conduct report, or simply closed the door if McDaniel was threatening them. By opening the cell door and physically removing McDaniel from the cell, Officers Judd and Cline created a situation commonly known, and taught in annual in-service training, as "Officer Created Jeopardy." Officer Created Jeopardy is defined as, "An employee who fails to respond reasonably to existing circumstances or fails to adapt to changing conditions within an incident" (See Attachment J). Their actions were not reasonable given the circumstances. There was not any need to open the cell door to conduct a shakedown. Additionally, that may have been construed as a retaliatory act because of McDaniel's earlier verbal confrontation with Officer Cline. Not only does this shakedown violate the true premise of a random shakedown in that it appeared to be targeted, but an officer's actions are never to be retaliatory in nature.

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Further, according to a CRC post order, a shakedown is never to be conducted during recreation (See Attachment I). Officers Judd and Cline had incarcerated individuals out from the unit for recreation when they attempted to conduct this allegedly random shakedown.

## *Incident #1 (3:07:26 pm)*

This is the initial use of force that took place under the stairwell in the housing unit. Officer Jamie Bartlett was the first Officer to arrive to assist Officers Judd and Cline. Officer Bartlett stated that she heard a call for supervisor assistance, and then an incarcerated individual from R2 (B840) ran into her unit stating that officers needed help. B840 explained that the officers were in a fight and no one seemed to be arriving to help, so he left to tell the other unit officer despite concerns about being ticketed for leaving his unit.

As Officer Bartlett arrived, she saw McDaniel punching both officers in the face and upper body. Officer Bartlett stated that she deployed mace and took McDaniel to the ground where she placed her foot on his upper back to prevent him from getting up and continuing the assault (Recording Bartlett 3:15, 5:00, 6:15, 6:25). Though the video footage does not show what occurred behind the stairs, the statements given by all the officers and multiple incarcerated witnesses are consistent in that McDaniel was actively punching and kicking both officers. The officers were responding to an agitated and aggressive incarcerated individual that was inflicting substantial bodily harm to both Officers Cline and Judd. The magnitude of the assault by McDaniel on both officers was so intense that two incarcerated individuals (S967 and V385) contemplated intervening on behalf of the officers (Recordings OSHP; V385 2:20 and S967 3:00). The actions taken during this time, including using mace, any blows administered by the officers, and taking McDaniel to the ground to fend off McDaniel's aggression, were proper and within the departmental policy and training. However, the circumstances leading to this use of force were not appropriate and will be addressed separately and later in this report.

Once McDaniel became aggressive in Incident #1, the analysis of the four elements that must be considered before force can be used is as follows:

<b>Preclusion – whether reasonable alternatives have been considered and/or exhausted prior to using force</b>	Statements and video footage showed that Officers Judd, Cline, and Bartlett were dealing with an aggressive incarcerated individual that was punching and kicking them in the face and upper body. There was no time to try lesser alternatives. The means by which they defended themselves were appropriate. The element of Preclusion was met.
<b>Jeopardy - determined by looking at the individual's intent and the employee's reasonable perception of that intent</b>	McDaniel threatened Officer Cline and struck both officers. Both officers feared for their lives. The element of Jeopardy was met.

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<b>Ability - determined by looking at the individual's power and capability to cause harm</b>	McDaniel was not handcuffed, was agitated, and was substantially larger than both female officers. McDaniel had the ability to cause harm. The element of Ability was met.
<b>Opportunity - determined by looking at the individual's physical distance from the employee</b>	McDaniel was not secured in his cell, was close to both officers, and was not handcuffed. The element of Opportunity was met.

Based on the aforementioned review, the force used was justified and not excessive. The officers were dealing with an agitated and aggressive incarcerated individual that was inflicting substantial bodily harm to both Officers Cline and Judd.

### *Incident #2 (3:09:06 pm)*

The second incident that was determined to be a use of force occurred after McDaniel was handcuffed, as Officers J. Roberts and J. Perkins were escorting McDaniel out of the R2 unit. Officer Roberts was the second officer to respond to the initial use of force with Officers Cline and Judd. Officer Roberts was the one who cuffed McDaniel and started the escort. Officer Perkins responded to the area as Officer Roberts was escorting McDaniel out. Officer Roberts stated that, once McDaniel was handcuffed and being escorted out the unit, McDaniel was not really struggling but he stopped walking (Recording Roberts 6:45). Officer Perkins presented a different narrative. Officer Perkins stated that, as he entered the area and saw Officer Roberts struggling with a combative McDaniel, Officer Perkins said "take him down" (Recording Perkins 4:12, 6:42, 9:41). However, the video does not support either narrative. The video shows McDaniel was handcuffed and bent over, but walking on his own accord. McDaniel did not appear to be struggling or combative, and never appeared to stop walking. His head was down, and he appeared to be fatigued.

It has been determined that this application of force (a takedown) was not justified and was excessive based on the totality of the circumstances. McDaniel was not combative, resisting, or struggling. He was handcuffed from behind with multiple officers present. McDaniel did not pose an immediate threat of harm. It was not reasonable to take him to the ground. Even if the officers felt as though McDaniel was non-compliant with their commands to walk, as Officer Roberts suggested in his statement, staff were obligated to consider a lesser alternative before using force. For example, McDaniel could have been guided to the wall and de-escalation techniques could have been used in an attempt to gain compliance. Even though moments before McDaniel was actively assaulting staff, the video shows that staff had gained control –and that McDaniel was handcuffed, non-combative, and walking on his own accord. Therefore, staff were obligated to assess the immediate threat and act accordingly. Again, based on the totality of

the circumstances – McDaniel was handcuffed, multiple officers were present and there was no immediate threat - this use of force was not justified and was excessive.

The analysis of the four elements that must be considered before force can be used is as follows:

<p><b>Preclusion – whether reasonable alternatives have been considered and/or exhausted prior to using force</b></p>	<p>McDaniel was non-combative, not struggling, and handcuffed. There were multiple officers in the area. There was no need to take him to the ground. There were lesser alternative means to control McDaniel based on the totality of the circumstances. McDaniel could have been guided to the wall to attempt de-escalation prior to proceeding with the escort. The element of Preclusion was not met.</p>
<p><b>Jeopardy - determined by looking at the individual’s intent and the employee’s reasonable perception of that intent</b></p>	<p>There was not any immediate threat. McDaniel was handcuffed, non-combative, and not threatening the officer. Neither officer voiced a concern of a threat of harm. The element of Jeopardy was not met.</p>
<p><b>Ability - determined by looking at the individual’s power and capability to cause harm</b></p>	<p>McDaniel was handcuffed. Multiple Officers were in the area. McDaniel’s ability to cause harm was greatly diminished. The element of Ability was not met.</p>
<p><b>Opportunity – determined by looking at the individual’s physical distance from the employee</b></p>	<p>McDaniel was close to the officers, but he was handcuffed with multiple officers present. McDaniel’s opportunity to cause harm was greatly diminished. The element of Opportunity was not met.</p>

Based on the aforementioned review, the force used was not justified and was excessive. The takedown was not reasonable based on the totality of the circumstances. Even if the officers felt as though McDaniel was non-compliant with the commands to walk (as Officer Roberts suggested in his statement), staff were obligated to consider a lesser alternative before using force.

*Incident # 3 (3:09:45 pm)*

The third incident that was determined to be a use of force, based on the statements received and the available video footage, occurred just outside the R2 unit. Shortly after the takedown (Incident #2) in the unit, McDaniel was brought to his feet by Officers Roberts and Skinner. Officer Causey relieved Officer Skinner of the escort. Both Officers Roberts and Causey can be seen on video using a forced escort technique to escort McDaniel out of the unit. Officer Causey stated that McDaniel was being combative,



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refusing to walk, and acting as if he was “dead weight”. However, Officer Roberts stated that McDaniel was not being combative, he just stopped walking and acted as if he was dead weight. Both officers contend that McDaniel went face first into the snow just outside of the unit because of his actions and his forward momentum.

This narrative is not supported by other statements or the video footage. The video footage shows McDaniel was walking on his own accord and not being combative as they exited the unit. There is no indication on video that he was being non-compliant. Again, the narrative presented by Officers Causey and Roberts was that McDaniel stopped walking and became “dead weight”. Based on the experience of these investigators, when a man of McDaniel’s stature (6’5”, 273 pounds) becomes “dead weight,” he would typically fall where he stood. Instead, in this instance, the video shows that, as he fell, McDaniel’s body swung off the walk path to an area that appears to be grass covered in snow. His body appeared to go down at an angle that would be consistent with being forcefully taken down and not consistent with a “dead weight” fall. It is also notable that he appeared to be walking on his own accord just before the take down and resumed walking on his own accord following the take down. Additionally, Lt. B. Brown described this incident as a take down (Recording Lt. Brown 2:56) and said it was perhaps the hardest take down of the escort (Recording Lt. Brown 12:22).

The analysis of the four elements that must be considered before force can be used is as follows:

<b>Preclusion – whether reasonable alternatives have been considered and/or exhausted prior to using force</b>	The statements given by Officers Causey and Roberts are inconsistent. Officer Causey asserts McDaniel was combative and struggling. In his first Official statement on DRC 2181, Officer Causey stated McDaniel had to be taken down for his own safety. Officer Roberts asserts that McDaniel was not being combative just stopped walking. Neither assertion appears to be accurate based on statements and video footage. A force escort technique and aggressive take down was not appropriate. Even if these assertions were accurate, there were lesser alternative available such as stopping the escort to de-escalate or requesting guidance from one of the available supervisors. The element of Preclusion was not met.
<b>Jeopardy - determined by looking at the individual’s intent and the employee’s reasonable perception of that intent</b>	There was not any immediate threat. McDaniel was handcuffed and the video shows he was not combative. Multiple officers were in the area. Neither officer voiced a concern of a threat of harm. The element of Jeopardy was not met.

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<p><b>Ability - determined by looking at the individual's power and capability to cause harm</b></p>	<p>McDaniel was handcuffed. Multiple officers were present. McDaniel was not being combative nor striking at Officers. McDaniel's ability to cause harm was greatly diminished. The element of Ability was not met.</p>
<p><b>Opportunity - determined by looking at the individual's physical distance from the employee</b></p>	<p>McDaniel was in close proximity to officers, but he was handcuffed with multiple officers present. McDaniel's opportunity to cause harm was greatly diminished. The element of Opportunity was not met.</p>

Based on the aforementioned review, the force used was not justified and was excessive. The forced escort and the takedown were not reasonable based on the totality of the circumstances.

*Incident #4 (3:11:23 pm)*

The fourth incident that we determined to be a use of force, based on the statements and available video footage, occurred just outside the dining hall. After Incident #3, McDaniel was brought to his feet. Officer Causey and Ohio National Guardsmen Weiner continued the escort. McDaniel was walking on his own accord, not struggling, or resisting. His head was tilted slightly backward as he walked. Both Officer Causey and ONG Weiner were guiding McDaniel with one hand on either side. At 3:11:10, Officer P. Edwards took over the escort from ONG Weiner and immediately began a forced escort technique. After a few steps, Officer Edwards took McDaniel down to the ground for no apparent reason. McDaniel was not struggling, resisting, or being combative. There was no apparent change in McDaniel's demeanor. He was walking on his own accord. Officer Causey indicated in his statement that McDaniel was not speaking; therefore, no verbal threats were made. It was determined by these investigators that this application of force was not justified and was excessive. McDaniel posed no immediate threat.

The analysis of the four elements that must be considered before force can be used is as follows:

<p><b>Preclusion - whether reasonable alternatives have been considered and/or exhausted prior to using force</b></p>	<p>During this incident, McDaniel was first being escorted by Officer Causey and ONG Weiner. Officer Causey and ONG Weiner were simply guiding him with one hand on either side. Just before the dining hall, Officer Edwards took over the escort and immediately used a forced escort technique. After a few steps, McDaniel was taken to the ground. McDaniel was walking on his own accord, not struggling, or resisting. The application of the forced escort technique and</p>
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	subsequent takedown was unjustified and not reasonable. The element of Preclusion was not met.
<b>Jeopardy - determined by looking at the individual's intent and the employee's reasonable perception of that intent</b>	There was not any immediate threat. McDaniel was compliant, handcuffed, multiple officers were present, and neither officer voiced a concern of a threat of harm. The element of Jeopardy was not met.
<b>Ability - determined by looking at the individual's power and capability to cause harm</b>	McDaniel was handcuffed and multiple officers were present. McDaniel's ability to cause harm was greatly diminished. The element of Ability was not met.
<b>Opportunity - determined by looking at the individual's physical distance from the employee</b>	McDaniel was in close proximity to the officers, but was handcuffed with multiple officers present. McDaniel's opportunity to cause harm was greatly diminished. The element of Opportunity was not met.

Based on the aforementioned review, the forced escort and the application of force (takedown) was not justified and excessive.

### *Incident #5 (3:19:54 pm)*

The fifth and final incident we determined to be a use of force occurred in med bay as McDaniel was being moved from the bench at the entry of med bay to the bench outside the treatment room. McDaniel was escorted by Officers J. Lemaster and J. Roberts at that time. The officers are shown using a forced escort technique. The narrative given by Officer Lemaster was he attempted to get McDaniel off the bench to escort him back to the treatment room area when McDaniel lunged forward (Recording Lemaster 12:00). Officer Roberts presented a slightly different narrative. Officer Roberts indicated that McDaniel refused to follow directives to get up off the bench; however, once he was up, it appeared he was struggling to walk and appeared disoriented (Recording Roberts 17:45).

The video does not support Officer Lemaster's narrative. McDaniel did not lunge. It appears as if he may have lost his balance as he was getting up. McDaniel does not appear to be struggling or refusing to walk. A forced escort technique was not appropriate based on the totality of the circumstance. McDaniel had just been involved in multiple uses of force. He was escorted across the yard in 28 degrees weather with no shoes or coat. He had gone to the ground multiple times. McDaniel may have slipped in his socked feet, may have been disoriented, as Officer Roberts had indicated, or may have been struggling to stand and walk, as he appears to be in later video footage of his escort in med bay. Even if the officers felt as

though McDaniel was non-compliant and lunging, staff were obligated to consider a lesser alternative. De-escalation techniques could have been used in an attempt to gain compliance or they could have considered escorting McDaniel in a wheelchair. The forced escort was not appropriate.

The analysis of the four elements that must be considered before force can be used is as follows:

<p><b>Preclusion – whether reasonable alternatives have been considered and/or exhausted prior to using force</b></p>	<p>Officer Lemaster asserted that McDaniel was non-complaint and lunged as he was being escorted off the bench. The video footage does not support this assertion. McDaniel did not lunge or struggle. There was not any need for a forced escort technique. There were lesser alternative means to gain compliance. De-escalation techniques could have been used. Officers could have considered getting a wheelchair or other assistance. The element of Preclusion was not met.</p>
<p><b>Jeopardy - determined by looking at the individual’s intent and the employee’s reasonable perception of that intent</b></p>	<p>There was not any immediate threat. McDaniel was handcuffed and multiple officers were present. Neither officer voiced a concern of a threat of harm. The element of Jeopardy was not met.</p>
<p><b>Ability - determined by looking at the individual’s power and capability to cause harm</b></p>	<p>There was not any immediate threat. McDaniel was handcuffed and multiple officers were present. McDaniel’s ability to cause harm was greatly diminished. The element of Ability was not met.</p>
<p><b>Opportunity – determined by looking at the individual’s physical distance from the employee</b></p>	<p>There was not any immediate threat. McDaniel was handcuffed and multiple officers were present. McDaniel’s opportunity to cause harm was greatly diminished. The element of Opportunity was not met.</p>

Based on the aforementioned review, the forced escort technique was not justified and was excessive based on the totality of the circumstances. Even if the officers felt as though McDaniel was being non-compliant, they were obligated to consider a lesser alternative before using force.

*Other incidents determined not to be uses of force*

As mentioned above, there were twelve additional times McDaniel was on the ground. Based on available video footage and statements received, these investigators found no definitive evidence to suggest any of

these twelve incidences constituted a use of force. However, there are other concerns associated with the escort.

Lt. B. Brown was the first Supervisor on scene. As first supervisor on scene he became the scene supervisor until relieved. It was his responsibility to ensure the safety and well-being of everyone involved. The incident involving McDaniel occurred on February 6, 2021. The high temp for the day was 28 degrees. McDaniel was escorted across the yard without any shoes or a coat, and in a ripped t-shirt. McDaniel was 56-year-old obese male who had just been involved in a use of force, being taken across the yard in handcuffs, and at no point did Lt. Brown take steps to shield McDaniel from the elements.

There was also a failure to recognize that the method by which McDaniel was being escorted was ineffective and inappropriate. It took approximately 8 minutes for the escort to leave R2 and reach med bay. During that 8 minutes, McDaniel was face and/or chest down on the frigid pavement a total of twelve times. There were times during the escort, particularly at the end of the escort, that McDaniel appeared to be barely walking.

Prior to Incident #4, McDaniel appeared to be walking on his own accord. After Incident #4, it appears McDaniel has more difficulty moving and appears very fatigued. In a period of six minutes McDaniel went to the ground ten additional times in a relatively short distance just prior to entering med bay (See Attachment B). McDaniel may have been struggling to walk or may have become fatigued because he went to the ground ten times within six minutes. Nevertheless, Lt. Brown failed to recognize that something appeared wrong with McDaniel and that force was being used inappropriately by his staff.

Lt. Brown failed to take control of the situation and ensure the safety and wellbeing of McDaniel and the staff involved in his escort. Lt. Brown should have stopped the walking escorting of McDaniel by his staff and called for the assistance of medical staff to safely transport McDaniel to med bay, to include the use of a medical cart, security cart, or a wheelchair. When questioned about changing the method by which McDaniel was being escorted after witnessing him go down multiple times, Lt Brown stated he did not think about it at the time (Recording Lt. Brown 10:30) and that it was “definitely on me (Lt. Brown) as the scene supervisor” (Recording Lt. Brown 11:05).

### *Medical evaluation/treatment*

After every use of force, a medical evaluation is required by policy. The nurse is required to complete an anatomical and medical exam report. Nurse Vera Pokuaa was the attending nurse after the use of force with McDaniel. Based on video footage, McDaniel arrived in med bay around 3:18 pm where he first was placed on a bench in the waiting area and later moved to the back bench where he sat for approximately eleven minutes. When he was finally seen, he was in the treatment room for slightly over one minute.

Nurse Pokuaa noted that McDaniel refused a full physical exam. However, the statements obtained from Lt. Brown, and Officers Lemaster and Ambrose indicates that McDaniel never said no or pulled away from the nurse (Recording Ambrose 16:00 and 17:00, Lemaster 14:00, Lt. Brown 15:13). He was just non-verbal. He was not answering questions. Being non-verbal does not equate to a refusal. Nurse Pokuaa noted one bruise and one abrasion, but did not note the size or color (See Attachment D). According to Assistant Chief Inspector Karen Stanforth, who has medical training and experience, in general nursing training and training received at the Corrections Training Academy, nurses are taught four steps of a physical assessment: Inspection, Palpation, Percussion, and Auscultation (Recording Stanforth 2:32). Nurse Pokuaa only did a minimum objective exam. Additionally, an assessment should include a review of the respiratory rate, skin color, Thorax, mobility, and level of consciousness. There was not any indication Nurse Pokuaa completed any of this. Nor did she check his vital signs.

Another problem associated with McDaniel's medical exam was that documentation was completed four hours after the exam at 7:27 PM and 7:31 PM. The rationale for the late entry was that staff had to respond to multiple medical emergencies. A review of the emergency logs, however, does not support this rationale. According to emergency logs obtained and reviewed, there were only two other calls during this time (See Attachment F).

There are other problems with Nurse Pokuaa's documentation. She completed a DRC 5025 "Release of Responsibility" (See Attachment E). This is a form normally completed when an incarcerated individual refuses treatment. The form requires the nurse to review the form with the patient and have the incarcerated individual sign his/her name. It also requires a witness signature. There are several problems with this form being completed for this incident. First, it is not generally completed during a UOF exam (Recording Stanforth II 9:00). Second, it was not completed in McDaniel's presence, instead the form was completed four hours after McDaniel had died. Third, LPN Dukes who signed the form as a witness to the refusal did not have firsthand knowledge of McDaniel's refusal - she was not in the room when McDaniel was evaluated and did not hear him refuse treatment, yet she willingly signed her name to the document four hours after McDaniel had died. Another problem is that Nurse Pokuaa noted on the form, four hours after McDaniel had died, that he should be referred to medical asap. Such notation would suggest McDaniel should have been admitted to the infirmary immediately and was not suitable for TPU. (Recording Stanforth 14:06).

These investigators attempted to contact Nurse Pokuaa for an interview to discuss her involvement with the February 6, 2021 event with McDaniel. Those attempts were not successful. Nurse Pokuaa resigned her employment with ODRC.

### *Emergency care*

Review of the video footage shows that as McDaniel was being escorted out of the med bay, he fell again inside the med bay and was picked up by escorting officers. After exiting med bay onto the compound, McDaniel again collapses to the ground. The escort officers described McDaniel as non-responsive when he fell. They tried to lift him and placed him on his side before releasing his cuffs and beginning CPR. Additionally, an officer reentered med bay and asked for the nurses' assistance. Corrections officers, Ohio National Guardsmen and medical staff attempted CPR, provided oxygen, and tried to use an AED. LPN Duke explained that they tried two AED machines, but had difficulty attaching the prongs to McDaniel, likely because he was wet and had a hairy chest. Once the AED was attached, the machine indicated that it was unable to get a sufficient rhythm to administer a shock. Although it is not visible because of the camera position and angle, witness statements from numerous staff and Ohio National Guardsmen confirm that many employees and Guardsmen participated in CPR while medical staff tried to get the AED machine to work and while waiting for the emergency squad to arrive. The video also shows movement of McDaniel's feet consistent with chest compressions from CPR. While staff were attempting CPR, someone in the captain's office ensured that 911 was called. The local fire department dispatched an emergency squad, which responded and transported McDaniel to a local hospital.

## Conclusion

In conclusion, the evidence supports the finding that force used by Officers Perkins, Roberts, Causey, Lemaster, and Edwards was unjustified and excessive.

Further, the evidence supports the fact Lt. Brown, and Officers Cline and Judd failed to perform their duties as correctional professionals as it relates to their interaction with McDaniel on February 6, 2021.

The evidence also supports the fact that Nurse Pokuaa failed to complete an appropriate medical assessment of McDaniel and submitted improper records. Finally, LPN Dukes signed a document as a witness despite having no personal knowledge of the assessment or actions of the individual.

## Recommendation

As outlined in this investigative report, Officers Perkins, Roberts, Causey, Cline, Judd, Lemaster, Lt. Brown, and LPN Dukes violated the employee standards of conduct; therefore, further disciplinary action is recommended.

No further action is available to ODRC as to Nurse Pokuaa and Officer Edwards because both have resigned their employment with ODRC.

Additionally, it is recommended that the actions of Registered Nurse Pokuaa and Licensed Practical Nurse Dukes be reported to the Ohio Board of Nursing.

*Accepted  
7/20/21*

## Attachments

Attachment A:	Investigatory paperwork
Attachment B:	Map timeline
Attachment C:	Use of force statements
Attachment D:	Medical records
Attachment E:	Release of Responsibility
Attachment F:	Emergency Call Log
Attachment G:	DRC policies 63-UOF-01, 63-UOF-03, Administrative Rule 5120-9-01
Attachment H:	Video footage
Attachment I:	Post Order
Attachment J:	Use of Force Training Material