



**CUYAHOGA COUNTY
AGENCY OF INSPECTOR GENERAL**

REPORT OF INVESTIGATION

CASE NUMBER: 20-0034-I
SUBJECT(S) NAME: Gregory Croucher
COUNTY DEPARTMENT: Cuyahoga County Sheriff's Department
SOURCE OF REFERRAL: Current County Employees
METHOD OF REFERRAL: Various
DATE INITIATED: February 4, 2020
DATE OF REPORT: March 31, 2020

I. SUMMARY

The Cuyahoga County ("County") Agency of Inspector General ("AIG") received separate complaints by Cuyahoga County Corrections Center ("CCCC") employees alleging that Warden Gregory Croucher ("Croucher"):

- 1) Retaliated against employees who voiced complaints regarding CCCC management;
- 2) Misused his position by asking CCCC staff to drive him to Cleveland Hopkins Airport on County time for a personal trip; and
- 3) Used an improper level of force or otherwise failed to properly de-escalate a situation involving a female detainee brought to the CCCC but still in the custody of the U.S. Marshal's Service.

AIG staff interviewed County personnel, reviewed security video and examined relevant documents. AIG staff requested, but as of the date of this report, had not received written reports from members of the US Marshal's Service. Based upon the available information as further described in this report, the AIG is of the opinion that there is:

- 1) **Sufficient** evidence to indicate Warden Croucher committed malfeasance by misusing his official position and retaliating against employees who complained about Croucher's management practices and the County's camera usage practices.

- 2) **Sufficient** evidence to indicate that Warden Croucher violated the County Code by misusing county resources for personal purposes; and by requesting a subordinate employee to perform tasks outside the scope of his County employment. Specifically, Croucher violated the County Ethics Code by using an on-duty CCCC employee to transport him to the airport in the employee's personal vehicle for Croucher's personal travel.
- 3) **Insufficient** evidence, at this time, to indicate that Warden Croucher violated the County Ethics Code Section with regard to an improper use of force against a female detainee. The AIG's review was limited by the CCCC's inadequate camera system that has material blind spots in the Sally Port as well as the lack of conclusive body camera video. For example, Warden Croucher did not wear an operational body camera that would have been required had he been a first responder. Nonetheless, the incomplete video record does not indicate that Croucher initiated strategies to de-escalate the incident, or, that he used force only as a last resort. This matter should be further reviewed by the County Sheriff's Department ("CCSD") and County Department of Human Resources ("HR").

The AIG found that camera coverage in CCCC is incomplete. The CCCC's camera system has blind spots that prevented the recording of the use-of-force incident at issue here. The AIG recommends that CCCC conduct an inventory and review of its camera system to eliminate such blind spots. The AIG also recommends that the CCCC evaluate whether to require the wearing of body cameras by all persons who are likely to engage in a use of force.

As set forth in further detail below, the AIG is referring this report of investigation to County Executive Armond Budish, Interim Chief Human Resource Officer Holly Woods, Sheriff David Schilling, Chief Deputy Sheriff Bryan Smith and Administrator of Corrections Ronda Gibson for consideration of further review and/or disciplinary action commensurate with the violations and for consideration of the recommendations expressed herein.

II. **BACKGROUND**

A. **Allegations**

The AIG received complaints regarding Croucher between February 1, 2020 and March 4, 2020. The complaints alleged that Croucher improperly retaliated against corrections officers for voicing complaints regarding Croucher's management practices, thereby creating a hostile work environment; using an on-duty CCCC employee to transport him to the airport for a personal purpose, and engaged in the excessive use of force against a female detainee on March 3, 2020.

B. **Department Description**

The mission of the Sheriff's Department is as follows:

Our mission as caretaker of the public's safety is dedicated to maintaining the trust and respect of those we serve by resolutely and aggressively enforcing the law and by committing ourselves to the efficient and effective delivery of safety services. As agents of the community, we strive to provide appropriate custodial care along with programs that support the physical, spiritual and constitutional needs of individuals committed to our custody. Further, every effort will be made to assist the inmates in our custody to understand and take responsibility for their involvement in the justice system.

The CCSD has three divisions – Civil, Law Enforcement and Corrections – and is led by County Sheriff David G. Schilling Jr. According to the Corrections webpage, the CCCC is the second largest jail in the state and is categorized as a full-service jail serving over 26,000 inmates annually. The CCCC operates a full-service kitchen, medical clinic and pharmacy and provides social service programming, all managed by a staff of over 700 employees. CCCC partners with The Metro Health System (“MetroHealth”) for medical care.

The CCCC is managed by an Administrative Director, a Warden, four Associate Wardens, Facility Services Manager, Mental Health Services Manager, and Health Care Services Director. The daily operations are managed by Lieutenants who oversee Sergeants who oversee Corporals and a complement of approximately 600 Corrections Officers.

C. Warden Gregory Croucher

Croucher has been employed with the County since August 5, 2019. He has 20 years of corrections experience as a former jail inspector for the state of Minnesota Department of Corrections. As Warden of CCCC, Croucher is responsible for managing the day-to-day operations of the jail.

III. INVESTIGATION REGARDING COMPLAINTS OF MALFEASANCE, RETALIATION & MISUSE OF POSITION

A. Electronic Documents Reviewed by AIG – Complaints of Malfeasance, Retaliation & Misuse of Position

1. Croucher's emails from January 1, 2020 through February 6, 2020;
2. Email sent January 10, 2020 with the subject line “Labor management meeting,” and

From: gcroucher@cuyahogacounty.us
Sent: Fri, 10 Jan 2020 18:36:34 -0500
To: Correction Officer Sergeants <COSergeants@cuyahogacounty.us>, Ronda Gibson <rgibson01@cuyahogacounty.us>
Subject: Labor management meeting

Good evening,
It was brought to my attention today by C.O's O'Donnell, Jones, Chapman and Talley that they were told by 3 different Sergeants that I email them @ 0200-0300 hours from home while I watch the camera system. They further claim that they were told by sergeants that I sit outside the building between 0300-0500 hours and watch staff enter and exit the building.

Please email me individually and let me know if either of these rumors was communicated by any of you to these staff members.

Thanks,
Warden Croucher

Sent from my iPhone

3. Employee Reprimand dated 2/11/2020

CUYAHOGA COUNTY EXECUTIVE
DEPARTMENT OF HUMAN RESOURCES

EMPLOYEE REPRIMAND

Type: Verbal Written

DATE ISSUED: 2/11/2020

TO: Dainyell Chapman 216434 CLASSIFICATION: _____
Employee's name

DIVISION: Corrections DEPT / UNIT: Sheriff

DATE(S) OF INCIDENT: Januaru 21, 2020

As a County employee, you are responsible for performing your job in a competent and professional manner that advances the goal of the County and increases public confidence in County government. This requires that you refrain from behavior that might be harmful or which violates conflicts with County policies, practices, or procedures. Your behavior is in violation of the County's Personnel Policies and Procedures Manual.

DESCRIPTION OF MISCONDUCT:

On Tuesday January 21, 2020 at 0605 hours while working in the Jail I Sally Port, Officer Dainyell Chapman was involved in an argument with Officer Melissa Dallachiesa. Officer Chapman stepped toward the control room area as the two argued. The argument created enough of a commotion in the area to necessitate Corporal Eddie Griffin's intervention. This is a Rule 52 violation: "Engaging in any disorderly or disruptive conduct while on duty."

Remember, the County's Employee Assistance Program, EASE@Work, is available to you. To learn more, you can consult the County's policy manual (Section 7.03) or Human Resources for more information about this program

Should further infractions occur in the future, you will be subject to additional disciplinary action, including suspension and/or removal from your position. The employee's signature below acknowledges receipt of this notice and does not constitute agreement with the details herein.

 EMPLOYEE SIGNATURE	2-11-2020 DATE
 SUPERVISOR SIGNATURE	2-11-20 DATE
 WITNESS SIGNATURE	2-11-20 DATE

CC: Human Resources Personnel File

B. Interviews - Complaints of Malfeasance, Retaliation & Misuse of Position

1. Employee 1 – January 28, 2020

On January 28, 2020 County Employee 1 (“Employee 1”) filed a complaint of retaliation against Croucher and reported the following: The Labor Management Committee (“LMC”) held a meeting between Corrections Officers (“COs”), Croucher and members of the HR department. In the meeting, the Corrections Officers expressed concerns that Croucher was improperly using the Jail surveillance system cameras for employment purposes, rather than security. The four employees at the LMC told Croucher that three different sergeants complained about this practice. Employee 1 and at least one sergeant also expressed concern regarding an email Croucher sent to all the sergeants and the Jail Administrator, Ronda Gibson (“Gibson”), identifying the names of individuals who complained about Croucher’s alleged camera monitoring process. In the email, Croucher instructed each sergeant to email him individually indicating who communicated this information to the staff members.

Employee 1 also stated that as a result of Warden Croucher’s email, one of the four employees who questioned Croucher about the cameras was called a “snitch” by one of the sergeants and that they were treated differently as a result of the email. Employee 1 believed this was in retaliation for speaking out to Croucher about employee complaints regarding the use of cameras.

2. Employee 2 – February 5, 2020

Employee 2 also attended the LMC meeting where Corrections Officers questioned Croucher’s use of video surveillance. Employee 2 described the supervisors watching the jail cameras to observe employees as “nitpicking” and a “witch hunt.” Employee 2 stated that the cameras should only be used to review incidents, but supervisors have been using the cameras to “go after disliked officers.”

After the LMC meeting, Employee 2 first saw Croucher’s email as a print-out. A sergeant notified another union representative, who then gave the email print-out to Employee 2 at another LMC meeting. Employee 2 believes that Croucher specifying names in his email to the sergeants was unethical because LMC meetings are confidential and intended to promote the free exchange of ideas and complaints. As a result of the email from Croucher to the sergeants, one of the COs mentioned in the email was called a “snitch” and they have been intimidated into not expressing their management concerns.

Employee 2 also indicated that COs are afraid to speak up due to fear of retaliation. For example, a union lawyer toured the jail with supervisors and COs, but the COs did not want to speak up while management was present. They fear retaliatory acts such as a denial of vacation days or placement in bad positions or units.

3. Employee 3 – February 5, 2020

Employee 3 is a member of the LMC. Employee 3 stated that there is no written policy for camera usage. Employee 3 stated that he learned about Croucher sending the email to sergeants firsthand. As a union representative, Employee 3 said he is involved in disciplinary hearings, including hearings regarding violations found on camera. Employee 3 stated that these actions have created a hostile work environment.

Employee 3 said the LMC discussed the cameras with Croucher during an LMC meeting. According to the account given by Employee 3, Croucher sent an email to all the sergeants identifying the names of the individuals who complained that he uses the cameras to monitor them following the LMC meeting. The next day, two sergeants asked Employee 3 what happened in the LMC meeting and which of the sergeants' names were mentioned during the meeting. Employee 3 told the sergeants that he could not discuss what was said during the meeting. Employee 3 also noted that a sergeant called one of the COs mentioned in the email a "snitch," although the sergeant has no previous history background of calling whistleblowers such names.

4. Employee 4 – February 5, 2020

Employee 4 attends bi-weekly LMC meetings. The purpose of the meetings is to bridge the gap between upper management and staff. At these meetings either Croucher or Gibson is supposed to be in attendance. Croucher has attended at least one meeting but does not consistently attend. Employee 4 did not mention explicitly if Gibson attends or not. According to Employee 4, everything that is discussed in the meetings is promised to be confidential.

Employee 4 was informed that Croucher uses the cameras to see if officers commit any infractions. Employee 4 stated their belief that the cameras are not supposed to be used that way. Employee 4 stated the cameras were purchased pursuant to a Prison Rape Elimination Act (PREA) grant. Employee 4 explained that the cameras are supposed to be reviewed only if there is an incident.

Employee 4 learned that Croucher sent an email asking which one of the sergeants told the other officers that he watches the cameras and staff come in and out of the building. This email was sent to the Sergeants and was copied to Gibson. Employee 4 said in the email Croucher named four officers who were present in the meeting. According to Employee 4, Croucher stated in the email that these four officers questioned him regarding his camera use. Employee 4 said of the four officers listed in the mail, only three discussed the camera usage issue with Croucher.

Employee 4 stated that he/she was provided a counseling session with his/her immediate supervisor. Employee 4 later learned that Croucher wanted to "push" the issue and give Employee 4 a formal written reprimand which was issued on February 11, 2020. According to

Employee 4, this was retaliation for participating in questioning Croucher's use of the cameras during the LMC meeting.

5. Employee 5 – February 26, 2020

Employee 5 has been a Cuyahoga County employee since April 29, 1991. Employee 5 started as a corrections officer at CCCC and was promoted to corporal in 1994. In 1998, Employee 5 became a sergeant and currently holds that position.

Employee 5 confirmed that Croucher sent an email to all the sergeants identifying the names of persons complaining that he watches the camera at night from his home. Employee 5 stated he viewed this email in disbelief and printed it out to give a copy to his union representative. According to Employee 5, following the release of the email, Croucher told the sergeants in a meeting that he didn't appreciate the email getting out to the rest of the officers.

Following the meeting with Croucher, Employee 5 saw one of the officers from the LMC standing in the hall. As he passed the group, Employee 5 stated he jokingly called the LMC officer and the other officers a "snitch." He also stated that he told them that they now have a target on their backs and to protect themselves. Employee 5 said he was remorseful for calling the officer a snitch.

6. Warden Croucher – February 27, 2020

Croucher has been the Warden at CCCC since August 2019. He has 20 years of corrections experience and prior to coming to CCCC he was a Minnesota State Jail Inspector. Croucher explained that since joining CCCC there have been LMC meetings with jail staff to find solutions to labor management issues. Croucher described these meetings with the COs as "unstructured" and a "free for all." Croucher stated that HR has too much control over what happens in the jail and the jail is now run by "jail professionals" who should be allowed to do their jobs. Croucher stated he believes he is the best one to make corrections decisions. When asked about the Labor Management email sent on January 10, 2020, Croucher stated he did send this email with the approval of Gibson who was also listed as a recipient of the email. Croucher stated that he listed the names of the COs in the email because he is all about accountability. He said he wants all the information out in the open to address it head on. Croucher said he did not think that by naming the COs that those COs would face retaliation. Croucher stated that after he emailed the Sergeants to speak up if they shared information to the COs, Employee 5 acknowledged to Croucher that he had printed a copy of the email and he took responsibility for the COs finding out about the email. Croucher said he was also aware that Employee 5 called one of the COs from the email a "snitch." Croucher said he later learned that one of the CO's listed in the email filed a complaint with HR regarding being called a "snitch."

7. Ronda Gibson – March 10, 2020

During an in-person interview, Gibson was asked by AIG staff if she had approved or authorized Croucher's email regarding the Labor Management Meeting at issue. Gibson stated that Croucher asked her if he could send an email to the sergeants addressing the issue, however she did not review a draft of the email prior to Croucher sending it. Gibson said she was unaware that he was going to list the names of the COs. Gibson further said that after the email was sent, Croucher called her to ask her if she saw the email. Gibson responded that she saw his email and he should not have listed the names of the COs. Gibson went on to say she later learned that a sergeant called one of the COs listed in the email a "snitch." Gibson said she believed if Croucher had not sent an email listing the names of the COs the name calling would not have occurred.

C. Analysis and Findings - Complaints of Malfeasance, Retaliation & Misuse of Position

Section 3.09(12) of the County Charter empowers County Council "to establish by ordinance a code of ethics, which shall be in addition to, and not inconsistent with, general law on the subject, which shall guide and inform County officers and employees in the performance of their official duties in a manner that will represent high standards of professionalism and loyalty to the residents of the County and that will avoid conflicts of interest, self-dealing and other violations of the public trust;"

Pursuant to the Charter's power to enact an ethics ordinance, the County enacted County Code Section 204.01(B)(3) (empowering the Inspector General to "conduct investigations under Section 2.05 and Article XV of the County Charter and shall, therefore, have all such rights and duties to investigate. . . misfeasance, malfeasance, and nonfeasance without interference or pressure from any other Public Official or Employee."); 403.03(A) (prohibiting elected officials, employees, or board members from knowingly using his or her official position or official powers for material personal benefits) and Section 406.01 (prohibiting retaliation against whistleblowers. Similarly, Section 3.06 of the County Employee Handbook provides:

Retaliation includes, but is not limited to:

- Any negative employment action, such as termination, refuse to hire, or denial or promotion
- Other actions impacting employment such as threats, unjustified negative evaluations, unjustified negative references or increased surveillance
- Any other action, such as assault or unfounded civil or criminal charges likely to deter a reasonable person from pursuing their rights

The AIG's investigation found that Croucher sent an email to all sergeants and to the Jail Administrator, naming four COs who questioned the camera usage policy during an LMC meeting. The complainant alleged that as a result of Croucher's email, one of the four COs was called a "snitch" by a Sergeant who received the email.

AIG staff reviewed the email sent by Croucher to the Sergeants and the subsequent emails sent in response to the original email. In the email dated January 10, 2020 Subject: Labor Management Meeting, Croucher asked the sergeants to email him back individually to let him know who told the COs rumors about him watching the cameras. By sending the email explicitly identifying the COs who challenged his management practices, Croucher committed a retaliatory harmful action against a group in response to a complaint, which is one definition of revenge.¹ Croucher also increased the discipline of one of the CO's who was listed in the email sent to the Sergeants. An issue that was originally handled with a verbal counseling was increased to a written reprimand. Further, the AIG finds that Croucher's email would "likely deter a reasonable person from pursuing their rights" to express grievances to management and thus constitutes retaliation.

D. Conclusion(s)- Complaints of Malfeasance, Retaliation & Misuse of Position

Having carefully reviewed the evidence in this investigation, the AIG concludes that there is **sufficient** evidence to indicate that Croucher violated the County Ethics Code when he sent an email identifying the names of the COs who questioned his management practices in the LMC meeting. Furthermore, by releasing the names of COs, Croucher created an inappropriate environment for harassment that allowed sergeants to target whistleblowers in retaliation for raising a complaint.

IV. INVESTIGATION REGARDING COMPLAINT OF MISUSE OF POSITION

On February 26, 2020, the County AIG received information from the CCSD Internal Affairs Unit regarding an ongoing investigation into a complaint regarding Croucher. CCSD informed the AIG that they are investigating an allegation that Croucher asked a subordinate employee ("Employee 6") to drive him to the airport for a personal trip while that employee was on County time.

The AIG reviewed the CCSD Internal Investigation as well as conducted its own review of additional evidence. Both the CCSD Investigation and the AIG supplementary review are discussed below.

¹ <https://www.lexico.com/en/definition/venge>

A. CCSD Internal Investigation – Complaint of Misuse of Position/Resources

On March 7, 2020 the AIG received a copy of CCSD's Report of Investigation and supporting documentation which was prepared by the CCSD Internal Affairs Unit. The following is a summary of the CCSD investigation:

1. CCSD Interviews

- Warden Croucher- February 27, 2020

Sergeant Bartczak began the interview by reviewing with CCJ Warden Croucher his Garrity Warning; CCJ Warden Croucher read and signed a form that defined his Garrity Warning. Sergeant Bartczak then asked Warden Croucher if he was transported via motor vehicle by a CCJ SRT officer on Friday, the 20th day of December 2019. Warden Croucher admitted that he was. Sergeant Bartczak asked Warden Croucher to describe how it occurred.

Warden Croucher told Sergeant Bartczak that he was probably traveling back home to Minnesota. Either the day of his flight or the previous day Employee 6 asked Warden Croucher if he needed a ride to the airport and if he did, he could transport him during his (Employee 6's) lunch break. CCJ Warden agreed to allow Employee 1 to transport him but only if he was on break. CCJ Warden Croucher denied asking and/or ordering Employee 1 to transport him to the airport.

Sergeant Bartczak asked Warden Croucher what schedule was assigned to. Warden Croucher told Sergeant Bartczak that Employee 6 was assigned to begin his shift at 0545; Warden Croucher did not remember if Employee 6 was working overtime on the day of his flight. CCJ Warden Croucher told Sergeant Bartczak that SRT Officer's do not have an assigned break schedule but they are required to punch-out for lunch. CCJ Warden Croucher has known it to happen where CCJ Officers have taken a lunch break within one (1) hour of when they began their shift. Before leaving for the airport, CCJ Warden Croucher did not ask Employee 6 if he had punched-out for lunch.

On the day of CCJ Warden Croucher's flight, he arrived at work via his personal motor vehicle and parked it in the Sheriff's Garage. CCJ Warden Croucher believed he worked for a short time before leaving for the airport via the personal motor vehicle owned and operated by Employee 6. On the day CCJ Warden Croucher returned to Cleveland he was picked-up by Employee 6 but he (Employee 6) was not on-duty at the time.

Sergeant Bartczak reviewed surveillance video depicting CCJ Warden Croucher and Employee 6 exiting the elevator on the 2nd floor of the Judges/City parking garage on Friday, the 20th day of December 2019 at 07:02 AM. CCJ Warden Croucher

watched the video and admitted that the video depicts he and Employee 6 walking out of the elevator. CCJ Warden Croucher told Sergeant Bartczak that the video depicts him walking out of the elevator with his luggage and CCJ SRT Officer Employee 6 wearing his CCJ issued uniform with his CCJ issued radio. Sergeant Bartczak then played surveillance video depicting Employee 6 entering into the aforementioned elevator on the 2nd floor of the Judges/City parking garage on the 20th day of December 2019 at 07:52 AM while wearing his CCJ issued uniform. Sergeant Bartczak asked CCJ Warden Croucher if his relationship with Employee 6 is business only or do they have a friendship. CCJ Warden Croucher told Sergeant Bartczak that he believes that in addition to their business relationship they are friends as well. Sergeant Bartczak read out loud to CCJ Warden Croucher the time punches for Employee 6 for his lunch on Friday, the 20th day of December 2019 (1645-1718). Sergeant Bartczak then told CCJ Warden Croucher that his punches prove that he was not on lunch when he transported him to the airport. Sergeant Bartczak then asked CCJ Warden Croucher if he was aware that Employee 6 was not on lunch and he said that he was not. CCJ Warden Croucher admitted that it was a violation of policy, procedure, and/or protocol for Employee 6 to transport him to the airport while on-duty.

Sergeant Bartczak asked CCJ Warden Croucher if he attended County Ethics training. CCJ Warden Croucher admitted that he did attend County Ethics training and reviewed the Ethics Code. Sergeant Bartczak asked CCJ Warden Croucher if he believed he is in violation of any Ethic laws. CCJ Warden Croucher told Sergeant Bartczak "no." CCJ Warden Croucher told Sergeant Bartczak that he believes he did not violate an ethics law because he did not ask or order anybody to do anything illegal or unethical. Sergeant Bartczak asked CCJ Warden Croucher if he believes that Employee 6 was intimidated by him and felt that he was required to take him to the airport. CCJ Warden Croucher told Sergeant Bartczak "no."

- Employee 6

Sergeant Bartczak began the interview by reviewing with Employee 6 his *Garrity* rights; Employee 6 read and signed the form that defined his *Garrity* rights. Sergeant Bartczak then asked Employee 6 if he recalled transporting CCJ Warden Croucher to the airport on Friday, the 20th day of December 2019 via his personal motor vehicle. Employee 6 admitted that he did recall doing so by stating "yes."

Sergeant Bartczak gave Employee 6 a paper record of his time punches for Friday, the 20th day of December 2019 and asked him if he was on-duty at the time he transported CCJ Warden to the airport via his personal motor vehicle. Employee 6 reviewed the aforementioned record and admitted that he was on-duty when he transported CCJ Warden Croucher to the airport and that he did not punch out for his lunch until 1645 and returned at 1718.

Sergeant Bartczak then asked Employee 6 how it came about that he transported CCJ Warden Croucher to the airport. Employee 6 told Sergeant Bartczak that CCJ Warden Croucher asked him to drop him off at the airport and he responded by telling CCJ Warden Croucher that if he needed to take him to the airport, he would do it. Employee 6 does not remember if CCJ Warden Croucher asked him the day of his flight or a previous day. CCJ SRT Officer admitted that it was his decision to use his personal motor vehicle for the transport because he did not like the assigned CCJ vehicle. Employee 6 denies being told by CCJ Warden Croucher that he would need to be on break while transporting him to the airport.

Sergeant Bartczak asked Employee 6 if he had ever taken his lunch break one (1) hour into his shift and he stated, "I don't remember." Sergeant Bartczak then asked CCJ SRT Officer Employee 6 if he ever heard of an officer taking their lunch break one (1) hour into their shift and he stated "no." Sergeant Bartczak asked Employee 6 if he was on-duty when he transported CCJ Warden Croucher to the airport via his (Employee 6) personal motor vehicle. Employee 1 stated "yes."

Sergeant Bartczak asked Employee 6 who besides him and CCJ Warden Croucher knew that he had left the CCJ to complete the transport. Employee 6 stated "I don't think anybody." Employee 6 told Sergeant Bartczak that he did tell CCJ SRT Sergeant Kelly that he had to do a quick detail but did not tell him that he was leaving the building.

Sergeant Bartczak then asked Employee 6 if he and CCJ Warden Croucher are friends and he stated "No, friends? He ain't been here long enough to be a friend." Sergeant Bartczak asked Employee 6 if he picked-up CCJ Warden Croucher from the airport and he admitted that he did but advised he wasn't on-duty at the time.

Sergeant Bartczak asked Employee 6 if he felt he had a choice to transport CCJ Warden Croucher to the airport. Employee 6 told Sergeant Bartczak that he believes he always has a choice. Sergeant Bartczak then asked Employee 6 if he had any concerns if he told CCJ Warden Croucher no that he would receive backlash. Employee 6 told Sergeant Bartczak "no" and "no favors."

2. Record Review – Time Keeping Records

COs use a time keeping system that requires them to “punch” in at the start of the workday and to punch out at the end of their workday. Additionally, they are required to punch out at the start of their lunch and punch back in at the end of their lunch.

Bartczak's review of Employee 6's time punches revealed that Employee 6 did not punch out on December 20, 2019 during the time he transported Croucher to the airport.

B. AIG Investigation – Complaint of Misuse of Position/Resources

1. Warden Gregory Croucher

The AIG made multiple attempts to schedule a follow-up interview with Croucher regarding this issue. Eventually, the AIG was informed that Croucher was on vacation and out of the country until March 18, 2020. As of the date of this report, the AIG has been unable to conduct a follow-up interview with Croucher.

2. Employee 6- March 11, 2020

On March 11, 2020, the AIG conducted a telephone interview with Employee 6. Employee 6 told investigators that he drove Croucher to the airport on the morning of December 20, 2019 while on duty. Employee 6 stated that Croucher did not instruct him to punch out prior to driving him and stated that he did not know where Croucher was traveling.

Employee 6 confirmed that he picked Croucher up at the airport in his personal car on his own time when he returned from the December 20, 2019 trip.

Employee 6 stated that he did not ask for and Croucher did not offer Employee 6 any compensation for his assistance.

C. Analysis and Findings – Complaint of Misuse of Position/Resources

1. Use and Misuse of Official Position

Section 403.03(A) of the County Code prohibits elected officials, employees, or board members from knowingly using his or her official position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she has an interest.

During an interview with CCSD, Croucher admitted that a subordinate CCSD employee transported him to the airport for a personal reason and timekeeping records reviewed by CCSD confirmed that Employee 6 was on-duty at the time.

Based upon the information reviewed during this investigation, the AIG concludes that there is **sufficient** evidence to indicate that Croucher violated Section 403.03(A) of the County Code by misusing his position or official powers to secure a financial or material benefit. Specifically, Croucher violated Section 403.03(A) by using an on-duty CCSD employee to transport him to the airport in the employee's personal vehicle for Croucher's personal purpose.

Additionally, Section 403.03(B) of the County Code states that no elected official, employee, or board member shall request without offering just compensation, require, or coerce a subordinate employee to perform any task unreasonably outside the scope of his or her

County employment that does not further a County interest, including the performance of any clerical or other work on behalf of the individual, his or her family, business, social, church, or fraternal interest that does not further a County interest, or the purchase of goods or services for personal, business, or political purposes. Excessive requests by a supervisor to perform tasks unreasonably outside the scope of a subordinate's County employment constitute a violation of this Section, regardless of whether compensation is offered.

During separate interviews with CCSD, both Croucher and his subordinate employee admitted that, at Croucher's request, the subordinate CCSD employee transported Croucher to and from the airport for his December 2019 personal trip. The subordinate's job description does not include transporting jail personnel for personal trips and therefore this request was "unreasonably outside the scope of [his] County employment and did not further a County interest" but rather furthered Croucher's interest. The subordinate asserted that Croucher did not offer any form of compensation for his assistance.

Based on the information reviewed during this investigation, the AIG concludes that there is **sufficient** evidence to indicate that Croucher violated Section 403.03(B) of the County Code by requesting without offering just compensation that a subordinate employee perform a task unreasonably outside the scope of his County employment that does not further a County interest. Specifically, Croucher violated Section 403.03 (B) by having a subordinate CCSD employee pick him up from the airport on County time and in his personal vehicle for Croucher's personal purpose without offering just compensation.

2. Misuse of Resources

Section 403.02 (A) of the County Code defines County Resources as including, but not limited to, County personnel, money, procurement/credit cards, vehicles, equipment, materials, supplies, or other property.

Section 403.02 (C) of the County Code prohibits elected officials, employees, or board members from using or permitting the use of County resources for personal or private purposes unless the use of County resources is de minimis or authorized by law or County policy, or the use of County resources is provided as part of his or her official compensation.

As stated above, during an interview with CCSD, Croucher admitted that a subordinate CCSD employee transported him to the airport for a personal reason and timekeeping records reviewed by CCSD confirmed that Employee 6 was on-duty at the time.

Based upon the information reviewed during this investigation, the AIG concludes that there is **sufficient** evidence to indicate that Croucher violated Section 403.02 (C) of the County Code by requesting an on-duty CCSD employee transport him to and from the airport for a personal purpose.

V. INVESTIGATION REGARDING - COMPLAINTS OF EXCESSIVE USE OF FORCE

The AIG received an anonymous complaint from a CCCC employee alleging that Croucher engaged in excessive use of force against a hand-cuffed female detainee in the custody of the U.S. Marshal Task Force.

A. Electronic Documents Reviewed by AIG - Complaints of Excessive Force

1. CCCC's Video Does Not Show the Critical Elements of the Incident.

The CCCC's security camera system does not cover all relevant areas of the Sally Port. Instead, there is a blind spot in the coverage system. It is in this blind spot that the use of force occurred. The presence of cameras exists to protect officers as well as detainees. The lack of conclusive video evidence injects unnecessary uncertainty into the evaluation of this incident.

Separately, CCCC policy requires first responders to have working body cameras at all times. Warden Croucher did not wear or record body camera footage at the time he initiated a use of force encounter.

2. AIG Reviewed Available Video Footage From Cameras In Or Pointing Toward The Sally Port Area Of The Jail. Footage Was Reviewed From Approximately 10:20 A.M. Until Approximately 10:30 A.M.

CCCC video labeled Jail P-1 Booking 2 showed the following:

Detainee was shown entering the door where the Property and Medical Staff were located at approximately 10:20:12 AM. The Detainee walked into the facility calmly with her hands cuffed in front of her body.

Two members of the U.S. Marshal's Task Force followed her in. Once inside, Detainee moved to the left corner of the camera view and moved in what appeared to be a rocking motion. For several minutes Detainee walked between the wall and the desk where the nurse was stationed. The female U.S. Marshal was positioned facing toward the Detainee, while the male U.S. Marshal appeared to be completing some paperwork. Several CCCC employees came in and out of the area.

At approximately 10:25:58 AM the Detainee appeared to be agitated and pointed in the direction of the Nurse, and the two (2) US Marshal Task Force members ("US Marshals"), while she walked in what appeared to be a circle. The female US Marshal made a shrugging motion with her shoulders as she responded to the Detainee who then stepped back out of the camera view.

At 10:26:10 AM, four CCCC employees were seen standing outside of the property room along with the 1 female officer and one male officer who are assigned to a US Marshals Task Force and a detainee who was standing in the far corner of the room outside of the camera view. The female officer appeared to be looking in the direction of the Detainee.

At 10:26:42 AM Croucher stepped into the camera view from the direction of the property room. He stood in the doorway and appeared to look in the direction of the Detainee. Croucher could be seen near a CCCC employee and the 2 U.S. Marshals. At this time, the Detainee was still positioned in the far corner of the room outside the camera view.

At 10:26:57 AM the CCCC nurse positioned behind the window/desk glanced in the direction of the Detainee.

At 10:27:02 AM the female U.S. Marshal made what appears to be a verbal command before walking toward the Detainee. The male U.S. Marshal turned his head in what appears to be the direction of the Detainee and the female U.S. Marshal. At that time there was one CCCC employee standing with the male US Marshal who also appeared to look in the direction of the Detainee who was still in the far corner of the area outside of the camera view.

At 10:25:05 AM Croucher stepped out of the doorway and walked past the male US Marshal and the CCCC employee, toward the area where the Detainee was positioned outside of the view of the camera. The female US Marshal was seen pointing her finger at the Detainee. It appeared the female US Marshal spoke to the Detainee.

At 10:27:10 AM the female U.S. Marshal was seen stepping back away from where the Detainee was positioned. Croucher had his hand on his radio as he was seen walking toward the Detainee. At 10:27:12 AM Croucher stood next to the female U.S. Marshal and faced in what appeared to be the direction of the Detainee who was still standing outside of the camera view in the far corner of the area.

At 10:27:18 AM another CCCC employee entered the area behind the female U.S. Marshal and parallel to the male U.S. Marshal and the CCCC employee, which brought a total of 5 staff in the area with the Detainee.

At 10:27:26 AM one of the CCCC employees stepped inside the property room area. Another CCCC employee appeared to step closer to the female US Marshal detainee walking closer in proximity to where the detainee was positioned to the far corner of the area outside the camera view. Croucher turned his body so that his back was directly to the window/desk area where the Medical staff member was positioned. The medical

staff member looked in the direction of where the Detainee was positioned. The female US Marshal pointed in the direction of the Detainee.

At 10:27:27 AM Croucher moved from in front of the window/desk and proceeded toward the Detainee who was still in the far corner outside of the camera view. The CCCC employee along with both US Marshals held their positions.

By 10:27:29 AM Croucher was outside of the camera view while the CCCC employee and 2 US Marshals looked in what appeared to be the direction of where the Detainee and Croucher were located outside the camera view.

At 10:27:30 AM the CCCC employee and the female US Marshal shifted closer to the Detainee and Croucher while they maintained view in front of the camera.

At 10:27:31 AM the Detainee's right elbow was visible with a part of Croucher's hand held against the Detainee's elbow as it was pressed against the glass wall while the CCCC employee and both US Marshals moved in closer.

By 10:27:36 AM three other CCCC employees entered the area, while the Detainee's elbow was still visible and appeared to be held against the glass wall while the female US Marshal appeared to watch.

By 10:27:52 AM the female U.S. Marshal stepped away from the Detainee whose elbow was still visibly held against the glass by Croucher. Four CCCC employees were in a position to observe the situation while one of the CCCC employees appeared to use his radio.

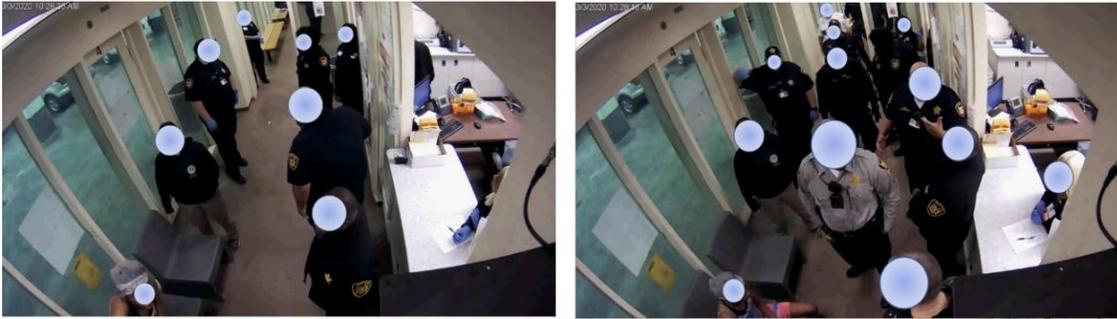
By 10:28:34 AM 7 additional CCCC employees were in the area and had joined Croucher, the 2 U.S. Marshals and the Detainee.

At approximately 10:28:40 AM the Detainee reentered the camera view as she sat in the chair with Croucher holding on to her right arm.

At approximately 10:28:58 AM, what appeared to be a Corporal and a member of the SRT team approached the area where the Detainee is sat.

By 10:29:59 AM the area was filled with CCCC SRT team, a Corporal and a Sergeant. Croucher was no longer visible on video.





B. Policy Review- Complaints of Excessive Force

The AIG reviewed the Ohio Administrative Code's requirements applicable to CCCC regarding *Minimum Standards for Jails* 5120:1-8-03(B)(10) Security:

(10) In regard to the use of force:

(a) (Essential) Use of force shall be limited to instances of justifiable self-defense, prevention of self-inflicted harm, protection of others, prevention of riot, discharge of firearm or other weapon, escape or other crime and controlling or subduing an inmate who refuses to obey a staff command or order.

(b) (Essential) Use of force shall be limited to the amount of force necessary to control a given situation and shall include a continuum of escalating force levels. In no event is physical force used as punishment.

(c) (Essential) An examination and/or treatment by qualified health care personnel shall be provided to inmates or staff involved in a use of force incident when there is obvious physical injury or there is a complaint of injury or request for medical attention.

(d) (Essential) Use of force incidents shall be recorded and reviewed by the jail administrator or designee.

The AIG also reviewed the CCCC's *Officer Manual of Instruction and Direction* Understanding Response to Resistance (Use of Force). Section 3.27 No employee shall apply physical force to an inmate unless, and only to the degree that is reasonably necessary, in the act of:

- Self-defense
- Prevention of self-inflicted harm (inmate)

- Protection of others (staff, visitors or other inmates)
- Prevention of a riot, escape or other crime
- Controlling or subduing an inmate who exercises physical resistance to a lawful command or order

C. Written Witness Statements- Complaints of Excessive Force

A total of 8 written Incident Reports were submitted recording the incident. Two of the reports are from Staff who were not present during the time of the incident but arrived after. The following summaries address the six (6) statements written by witnesses who were present at the time of the incident:

1. Warden Gregory Croucher (“Croucher”) – 3/3/2020

In his report, Croucher indicated that the Detainee was attempting to remove her handcuffs by stepping on them with her boots and that as he approached her, the Detainee swung her arms in a large circular motion towards his face. Croucher wrote, he “caught her by the arm and secured her up against the glass.” He also stated that he verbally directed her to “stop resisting.” Additionally, Croucher reported the Detainee continued to be verbally threatening and physically resistant. Croucher says a 10-25 was called out, then he was able to de-escalate the situation and have the Detainee sit in a chair. Finally, Croucher wrote that once the Sergeant and Corporal took control of the incident, he was able to exit the area.

2. Officer Robert Love (“Love”) – 3/3/2020

Love reported that he witnessed the handcuffed Detainee in the custody of the U.S. Marshals. Love wrote in his report that he witnessed the Detainee being “irate” and using profanity. He reported that Croucher took control of the Detainee by the arm and secured her to the window which resulted in her hitting her face and head on the glass window, then Croucher put his elbow in her back so she could not move. Love wrote that he was the person who called out a 10-25 and several supervisors responded.

3. Officer Stanley Jacobs (“Jacobs”) – 3/3/2020

Jacobs reported in his written statement that he witnessed Croucher physically restrain the Detainee to the glass wall, facing away from him, using both hands and arms as well placed his knee into the back of the Detainee. Jacobs stated that a 10-25 was requested and Jail 1 supervisors responded to the scene and took charge of the incident.

4. Officer Shawn Tyler (“Tyler”) – 3/3/2020

Tyler submitted a written report stating that he heard a female yelling who was later identified as the Detainee. Tyler stated he heard a loud thump that caused him to exit the property area where he witnessed Croucher with his left forearm in the Detainee’s back and his left knee

against the chair, his right hand holding her arms while handcuffed in the front with her face against the glass. Tyler stated a 10-25 was called by Love and as a Corporal, SRT and other supervision arrived in the area, Croucher had the Detainee seated in a chair.

5. Officer Dainyell Chapman (“Chapman”) – 3/3/2020

Chapman wrote in her statement she heard a female yelling and screaming. Chapman stated she got up from her desk to see what was going on. She said she witnessed 2 U.S. Marshals and Croucher with the Detainee. According to Chapman, the Detainee was handcuffed in the front and was yelling and screaming. Chapman claims she then began talking to other officers in the property room to find out what was going on. Chapman reports that she heard a thump and she looked and saw the Detainee’s face pressed against the window while Croucher had his left forearm in her back hold the cuffs with his right hand and his left knee pressed to the lower back of her legs. Chapman reported that Love called out a 10-25 and Croucher had the Detainee sit in a chair until SRT, Corporal and Lieutenant arrived to handle the situation.

6. Brian Rice (“Rice”) – 3/5/2020

Rice wrote in his statement that he was inside the property room when he heard a female yelling and screaming. Rice reported that medical staff asked the Detainee several times to calm down, but the Detainee did not. Rice wrote that the Detainee stated she was getting ready to slap/attack the nurse if she asked her another medical screening questions. Rice claims that Croucher instructed the COs in the area to radio for assistance several times in order to have a team de-escalate the situation. Rice reported that the COs kept saying the radio had too much traffic and could not get through. According to Rice’s statement, after several moments of no COs stepping in Croucher restrained the irate Detainee so she would not attack the nurse until back up could arrive.

D. Interviews- Complaints of Excessive Force

1. Employee 7 – March 7, 2020

Employee 7 was asked to recount the incident on March 3, 2020 at approximately 10:26 a.m. in the Sally Port area of CCCC. Employee 7 stated that the Detainee was loudly yelling “Don’t touch me. Let me calm myself down.” Employee 7 said the Detainee was still in the custody of the U.S. Marshals and had not yet been accepted and cleared by the County medical team to continue the booking process. Employee 7 said it is typical for people who have been arrested to come into CCCC angry and yelling because they clearly are unhappy about being there. Employee 7 said under normal conditions that COs and medical staff allow the detainees to yell and calm themselves down as long as there is no threat to themselves or others. Employee 7 reported that they felt the detainee was merely a loudmouth and they did not believe that the Detainee was a threat to herself or anyone else as she was secure in handcuffs. Employee 7 stated that they felt Croucher’s actions were unnecessary and that Croucher thinks he does not have to follow protocols. Employee 7 said Croucher tells staff that

CCCC is a “hands-off” facility, so it is unclear to Employee 7 why Croucher would be involved in the situation.

2. Employee 8 – March 7, 2020

Employee 8 was in the booking area when the incident occurred. Employee 8 stated the Detainee’s behavior was not uncommon based on what is normally experienced in the booking area when people come in after an arrest. Employee 8 said he chose not to intervene in the situation because the nurse had not yet accepted the Detainee into CCCC custody. Employee 8 confirmed he heard the thump when the Detainee’s face hit the glass and Croucher had his leg in the back of her leg and his arm pressed against the Detainee’s back. Employee 8 claims this was an excessive use of force. Employee 8 did not recall seeing the Detainee move her hands toward Croucher.

3. Medical Staff 1 – March 10, 2020

Medical Staff 1 was the on-call nurse assigned to the Sally Port booking area. Medical Staff 1 stated she was responsible for conducting the medical pre-screening to determine if individuals are medically suitable for acceptance into CCCC custody. On the date of the incident, Medical Staff 1 stated that he was positioned behind the Property area window/desk and had a clear view of the incident. Medical Staff 1 stated she witnessed 2 U.S. Marshals escort the Detainee into the Sally Port area handcuffed in the front. Medical Staff 1 reports that at the time of the altercation, the Detainee appeared to be irritated and at some point, the Detainee was trying to use her foot to push on the handcuffs. Medical Staff 1 stated that Croucher told the Detainee to stop trying to take the cuffs off as he came from behind the desk area where Medical Staff 1 was positioned, and he moved toward the area where the Detainee was positioned. Medical Staff 1 claims the detainee was yelling “Don’t touch me” “If anybody touch me, I’m going to swing on them.” According to Medical Staff 1, the Detainee did not wave her arms in a circular motion or make any moves toward Croucher’s face that appeared threatening. Medical Staff 1 claims the Detainee moved back away from Croucher’s reach and told him not to touch her. Medical Staff 1 said Croucher then pushed the Detainee against the window and put his arm in her back with one hand while using the other hand to hold onto her handcuffs. Medical Staff 1 said she also witnessed the Detainee’s face pressed against the glass. Medical Staff 1 said she heard Croucher say to the Detainee “I told you to comply, you wouldn’t comply. I’m not going to get off you until you are calm.”

When asked what the 2 U.S. Marshals were doing at the time, Medical Staff 1 replied they “just stood there.” Medical Staff 1 stated that she felt the Detainee was not a threat to herself or anybody else. Medical Staff 1 said she believes if Croucher would not have interfered, the detainee would have eventually been able to de-escalate the situation herself, which typically happens when individuals enter the Sally Port area irate about being detained. Medical Staff 1 stated that in the 5 months she has been working in the area, this is the first time she has witnessed use of force against an individual behaving in a similar manner as the Detainee.

Medical Staff 1 said she never felt threatened by the Detainee. Medical Staff 1 also said she does not believe the situation needed to have a physical de-escalation. The Detainee was secured with handcuffs and the 2 U.S. Marshals who brought her in were standing in close proximity. The Detainee's behaviors were mostly verbal and not physical. Medical Staff 1 also said she keeps replaying the incident over trying to see it from Croucher's perspective but cannot see why Croucher responded by using force. Medical Staff 1 said in her opinion, his actions were unnecessary, and the use of force was excessive especially due to the physical size difference between the Detainee and Croucher. Medical Staff 1 described the Detainee as 5'4" and 105 lbs. compared to Croucher who Medical Staff 1 described as 6'0" and 250 lbs.

After the incident, Medical Staff 1 said she was unable to finish the medical pre-screening questions with the Detainee because she refused to answer the questions, so the Detainee was sent directly to the Mental Health provider to complete the pre-screen.

4. Ronda Gibson – March 10, 2020

Gibson asked Croucher to submit a written report pursuant to the Use of Force Policy of CCCC, she stated the 10-35 form he completed was sufficient to meet the standard for written reports. Gibson was asked if the Detainee was evaluated by the Medical Department to document any injuries that may or may not have been sustained during the incident. Gibson replied she was seen sometime later, and her hand was x-rayed, but she was not certain of exactly when or how the Detainee was sent to the medical department nor was she clear on the outcome of the medical visit. Gibson could confirm that the Detainee was sent to Mental Health to be evaluated after the incident where she was then cleared for booking into CCCC.

5. The Detainee – March 9, 2020 (audio interview with Sgt. Bartczak)

During her interview with Sgt Bartczak, the Detainee stated that she was very upset and wanted to talk to her mother before answering any questions of the medical staff. She said the handcuffs were too tight and she made repeated requests to the U.S. Marshals to loosen the cuffs. She admitted she was saying "disrespectful" things and she tried to take off the cuffs because her wrists were red. The Detainee admitted that she refused to provide medical staff with her last name and that she got "more upset and more upset" as staff attempted to question her. The Detainee said that as she attempted to remove her handcuffs, Croucher slammed her up against the window and twisted her arm with the handcuffs still on and put his knee into her back with her leg shaking. Detainee stated she repeatedly asked him to get off her and allow her to calm herself down. She said Croucher responded he would not get off her until she calmed down. Detainee said she responded to Croucher by saying she "will be calm if you get off me." "You are hurting me." Once she calmed down, Croucher got off her and pushed her down in the chair.

The Detainee continued to reiterate that she could calm herself down, she did not want anyone to put their hands on her because it would remind her of things in her past. She stated she does not like a lot of men around her because that triggers her and scares her a lot and she

does not like that. That is why she repeatedly asked that she not be touched and that is why she was all “hyped up” and “upset.”

Detainee stated that once she eventually calmed down, the female U.S. Marshal removed the handcuffs.

Near the end of the interview, Sgt. Bartczak asked the Detainee to describe the “disrespectful” things she was saying to staff prior to the incident. The Detainee stated that she called the officers derogatory names and on one occasion she threatened to fight them. Although the Detainee admitted to threatening to fight officers, the Detainee asserted that she did not try to fight or “swing on” the officers.

6. U.S. Marshal Task Force Officers

As of the date of this report, the two (2) U.S. Marshals present at the time of the incident have not yet responded to AIG requests for an interview.

E. Analysis and Findings- Complaints of Excessive Force

1. The County Sheriff and County HR Should Evaluate Whether Croucher Violated County Policy by Failing to Wear an Operational Body Camera at the Time He Initiated a Use of Force Incident.

When he responded to the Detainee, Croucher was not classified as a first responder. Had Croucher been classified as a first responder, he would have been required to follow the CCCC body camera policy which states: First responders are equipped with “Personal Digital Video Recorders” and emergency summons i.e. P.A.T. activation, 10-25 or other request for back-up via two-way radio broadcast will be recorded and downloaded and forwarded along with reports pertaining to all incidents that occur in the Correction Center which are reviewed by the Regional Director of Corrections or Designee.

Furthermore, the CCCC *Officer Manual of Instruction and Direction* (p.24) requires that

Security devices (mechanical and electronic) must be operational 24 hours a day; it is imperative that any malfunction or damage must be reported to a supervisor immediately and then documented.

Here, there is no evidence that Croucher was wearing an operational security device when he used force to subdue the Detainee. CCSD and County HR should evaluate whether Croucher’s failure to wear an operational body camera when he engaged in a use of force and was the first to respond was inconsistent with County policies that are intended to protect detainees and officers. CCSD and County HR should also evaluate whether to require all officers to wear body cameras when they are in the CCCC or in situations where they are likely to use force.

2. The County Sheriff and County HR Should Evaluate Whether Croucher Failed to Exhaust Alternatives or Used Excessive Force in Restraining a Hand-Cuffed Female Detainee.

According to the CCCC use of force policy, use of force is only allowed when all alternatives have been exhausted and only in certain circumstances. The County should evaluate whether the Detainee was engaged in “physical resistance” when she refused to calm herself.

Furthermore, the use of a physical response or use of force by CCCC staff is guided by Section 3.27 of the *Officers Manual of Instruction and Direction* which states:

A physical response to resistance is permissible only when all other alternatives have been exhausted. Elements of fact that will be considered in reviewing all incidences of physical response to resistance are:

- The degree of force or amount of resistance used by the inmate.
- The inmate’s possession, non-possession or availability of a weapon.
- The reasonable perception on the part of the Officer(s) that he/she or another person was in danger of death or serious bodily harm.
- The means of force available to the Officer(s).

* * *

Each case of response to resistance will be evaluated on its own merits. Additionally, immediately following the incident giving rise to the use of a physical response to resistance, the inmate must be evaluated by the Medical Department to document any injuries that may or may not have been sustained during the incident and decontaminated as soon as possible.

Aside from the situations itemized above, no inmate should have to fear or be threatened with physical assault. A physical response to resistance is permissible only when all other alternatives have been exhausted. Elements of fact that will be considered in reviewing all incidences of physical response to resistance are:

- The degree of force or amount of resistance used by the inmate.
- The inmate’s possession, non-possession or availability of a weapon.
- The reasonable perception on the part of the Officer(s) that he/she or another person was in danger of death or serious bodily harm.
- The means of force available to the Officer(s).

A physical response to resistance should be utilized only as a “last resort.” Any critical situations that occur with inmates can best be handled through verbal intervention techniques.

The multitude of situations that occur in a correctional environment prevents listing the kinds and levels of response to resistance that may have to be utilized against inmates. The best guideline should be only that response to resistance reasonably necessary to gain or regain control of the situation must be used, and once the situation is in control no additional force may be used.

Here, Warden Croucher’s failure to wear an operational body camera, and the failure of the CCCC to eliminate blind spots in its security system prevents this review from having conclusive video evidence.

Instead, the Sheriff’s Department and the HR Department should evaluate this matter based upon the statements of witnesses and the incomplete video record. The evaluation should determine whether: 1) the Detainee was exhibiting "physical resistance to a lawful command or order" (or other permissible scenario); and 2) whether Warden Croucher’s “physical response” was “utilized only as a last resort” as required by the policy.

At least one written witness report concludes that there was no misuse of force. For example, one witness statement indicates that Croucher “restrained the irate female as so she would not attack the nurse.” However, this appears to be inconsistent with the video surveillance which showed the nurse separated from the hand-cuffed Detainee by a window/desk partition and the hand-cuffed Detainee was far enough away from the nurse’s desk to be visible in the camera view.

In this incident, the incomplete video record does not appear to demonstrate that Croucher exercised alternative strategies to de-escalate the inmate within the approximately 3-minute time span of the incident. Based on the policy requirements, the Detainee did not appear to be in possession of a weapon, nor did the Detainee appear to be in danger of death or serious bodily harm. Furthermore, the use of force Croucher exerted is inconsistent with the “hands off” policy of the CCCC.²

² According to witnesses of the incident, a typical response in a similar situation would be to allow the secured detainee to calm down without use of physical force. The hand-cuffed Detainee was 5’4” tall and approximately 121 lbs. Croucher was approximately 6’0” tall and over 200 lbs. Eyewitness statements do not support Croucher’s claims that the Detainee swung her arms toward Croucher’s face. Croucher’s statement represents that he physically secured the Detainee but that she continued to be physically resistant while he held her “secured” up against the glass.

At the time of the incident, there were 2 U.S. Marshals standing in the direct vicinity of the Detainee who still maintained custody of the Detainee and neither of whom appeared to make any movements to subdue the Detainee. There were also COs in the immediate vicinity of the inmate, who did not appear to make any moves to subdue the Detainee as a result of her behavior at the time of the incident.

Nonetheless, the available evidence is inconsistent and incomplete. Based on employee interviews, review of the County Code and relevant policy and other documents, there is **insufficient** evidence to indicate that Croucher violated the County Ethics Code Section 403.03 Use and Misuse of Official Position.

VI. SUMMARY

After interviewing County personnel and reviewing documents, the AIG is of the opinion that there is **insufficient** evidence at this time to establish Croucher violated the County Ethics Code or engaged in a misuse of force. In the event that additional evidence comes to light, this opinion is subject to change.

Nonetheless, the CCSD and County HR should evaluate this matter pursuant to the specific elements of the County's use of force policy, including whether, under the circumstances, the use of force was a last resort, "all other alternatives had been exhausted", and whether this incident was consistent with the County's "hands off" policy. Finally, CCSD should eliminate blind spots in the CCCC's camera system and review whether all officers in the CCCC should wear body cameras.

VII. CONCLUSION

For all the foregoing reasons, it is my recommendation that the AIG refer this report of investigation to County Executive Armond Budish, Interim Chief Human Resources Officer Holly Woods, Sheriff David Schilling, Chief Deputy Bryan Smith and Administrator of Corrections Ronda Gibson for consideration of disciplinary action commensurate with the violations.



Mark Cutright
Deputy Inspector General

Approval as to conclusions and recommendations:



Mark D. Griffin
Inspector General

March 31, 2020
Date