

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	May 28, 2019
Time of Incident:	6:39 pm
Location of Incident:	CPD 011 <sup>th</sup> District Station Lockup 3151 West Harrison Street, Chicago, Illinois
Date of COPA Notification:	May 28, 2019
Time of COPA Notification:	8:18 pm

An arrestee complained to a Chicago Police Department (CPD) sergeant that a detention aide struck her without justification.<sup>1</sup> COPA investigated the arrestee’s complaint by reviewing video footage depicting the incident and by interviewing the involved detention aide and another detention aide who was nearby at the time of the incident.<sup>2</sup> Having concluded that investigation, COPA finds that the arrestee’s allegation is supported by the preponderance of the evidence.

**II. INVOLVED PARTIES**

Involved Member #1:	Iesha Wheatley, Employee # [REDACTED], Date of Appointment: July 1, 2014, Rank: Detention Aide, Unit of Assignment: 011, Female, Black
Involved Individual #1:	[REDACTED] Female, Hispanic

**III. ALLEGATIONS**

CPD Member	Allegation	Finding / Recommendation
Detention Aide Wheatley	On May 28, 2019, at approximately 6:39 p.m., at 3151 West Harrison Street, Chicago, Illinois, Detention Aide Iesha Wheatley committed misconduct through the following acts or omissions:  1. Struck [REDACTED] without justification.	<b>Sustained / 90-Day Suspension</b>

<sup>1</sup> A CPD detention aide is a civilian employee whose job responsibilities include providing for the custody, care, and processing of prisoners in the CPD’s central detention facility and in CPD district lockups.

<sup>2</sup> COPA was unable to locate the complainant after she was released from police custody, and she was not interviewed.

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
  2. Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
  3. Rule 6: Disobedience of an order or directive, whether written or oral.
  4. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
  5. Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
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##### General Orders

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1. General Order G03-02, Use of Force (effective October 16, 2017 to February 29, 2020).<sup>3</sup>
  2. General Order G03-02-01, Force Options (effective October 16, 2017 to February 29, 2020).<sup>4</sup>
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#### V. INVESTIGATION<sup>5</sup>

##### a. Interviews

COPA interviewed **Detention Aide (DA) Iesha Wheatley** on August 13, 2021.<sup>6</sup> DA Wheatley expressly denied that she struck or ever hit ██████ in the face.<sup>7</sup> Instead, DA Wheatley explained that she pushed ██████ in the chest or shoulder area.<sup>8</sup> COPA asked DA Wheatley why she had entered ██████ cell, as depicted in the video footage.<sup>9</sup> In response, DA Wheatley said, "I pushed her back from spit -- she did not only spit just once that day, she spit twice. So I went in there, I pushed her back . . . up out of there. And that's when . . . my partner came with the key."<sup>10</sup> When asked why it was necessary to push ██████ back at all, DA Wheatley replied, "Because she kept spitting. That -- she not only spit once, she spit inside, towards the cell, too. . . . And then she kept spitting, she'd have ended up spitting on me again, and my partner again . . . ." <sup>11</sup>

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<sup>3</sup> Att. 49.

<sup>4</sup> Att. 50.

<sup>5</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>6</sup> Atts. 23 to 25 comprise an audio recording of that interview; Att. 29 is a transcription of that recording.

<sup>7</sup> Att. 29, p. 23, lns. 11 to 14, 22 to 23.

<sup>8</sup> Att. 29, p. 19, lns. 1 to 3, p. 23, lns. 13 to 14, p. 25, lns. 4 to 7, p. 52, lns. 13 to 14, and p. 53, lns. 6 to 9, 22 to 23.

<sup>9</sup> Att. 29, p. 25, lns. 2 to 3.

<sup>10</sup> Att. 29, p. 25, lns. 4 to 8.

<sup>11</sup> Att. 29, p. 25, lns. 10 to 19.

DA Wheatley denied being able to think of anything else that she could have done to prevent █████ from spitting at her again.<sup>12</sup> Subsequently, DA Wheatley acknowledged that she could have walked away from the cell gate.<sup>13</sup> DA Wheatley further explained that walking away from the cell gate did not occur to her at the time, and that, in any event, walking away would have left the cell unlocked and might have permitted █████ to exit the cell.<sup>14</sup>

COPA interviewed **DA Tambora Brewer** on February 7, 2022.<sup>15</sup> DA Brewer denied seeing Wheatley strike █████<sup>16</sup> According to Brewer, she had walked away from █████ cell, with her back turned away from Wheatley, in order to retrieve a key to the cell's gate, and she then heard a commotion causing her to run back to the cell.<sup>17</sup>

#### **b. Digital Evidence**

COPA accessed and reviewed **CPD lockup video footage** depicting the incident under investigation.<sup>18</sup> In summary, the footage depicts the following: (1) █████ was on the floor, face down and handcuffed behind her back, as DA Wheatley and DA Brewer searched █████ person; (2) DA Wheatley then dragged █████ into a cell by █████ arms; (3) DA Wheatley then exited the cell and closed the cell's exterior gate as DA Brewer walked out of frame to DA Wheatley's left, facing away from DA Wheatley; (4) █████ then stood and made a spitting motion towards DA Wheatley, (5) █████ and DA Wheatley then both stepped backward, █████ further into the cell, and DA Wheatley away from the cell's closed gate; and (5) DA Wheatley then opened the cell's gate, re-entered the cell, approached █████ and assumed the stance depicted in Figure 1 below.<sup>19</sup>

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<sup>12</sup> Att. 29, p. 27, lns. 16 to 19.

<sup>13</sup> Att. 29, p. 28, lns. 6 to 8,

<sup>14</sup> Att. 29, p. 28, ln. 10, through p. 29, ln. 4.

<sup>15</sup> Att. 33 is an audio recording of that interview. Att. 34 is a transcription of that audio recording.

<sup>16</sup> Att. 34, p. 19, lns. 10 to 15.

<sup>17</sup> Att. 34, p. 17, ln. 11, to p. 19, ln. 9.

<sup>18</sup> Att. 3 is a copy of that footage. Att. 4 is a segment of that footage, clipped to two minutes and two seconds in length, for purposes of convenience.

<sup>19</sup> Att. 4 at 00:03 to 01:41.



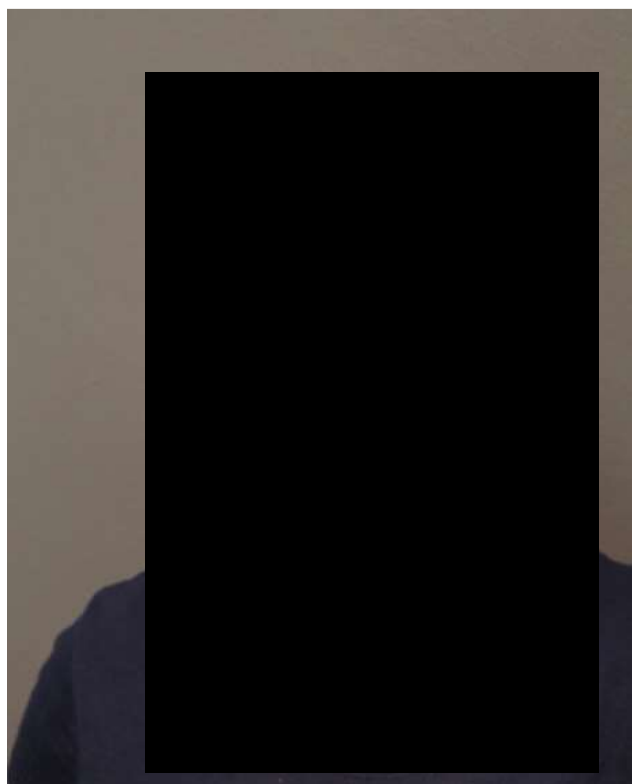
**Figure 1:** A screenshot from Att. 4, CPD lockup video footage at 01:41, showing DA Wheatley’s left arm or hand making contact with [REDACTED]



**Figure 2:** A screenshot from Att. 4, CPD lockup video footage at 01:41, showing [REDACTED] head turning to her right after being struck by DA Wheatley.

█████ head turned to her right at the moment of contact, which is depicted in Figure 2 above.<sup>20</sup> █████ was handcuffed behind her back throughout the incident.<sup>21</sup> The footage then shows DA Wheatley back away from █████ and raise her right arm to █████<sup>22</sup> DA Wheatley and █████ then faced off and apparently exchanged words, appearing to stand only several feet apart.<sup>23</sup> DA Wheatley is then exited the cell and slid the cell's gate to a near-closed position as DA Brewer returned to DA Wheatley's left.<sup>24</sup> DA Wheatley and █████ apparently continued to exchange words, still standing only several feet apart, with DA Wheatley outside the cell and with █████ inside; DA Wheatley then opened the cell gate, apparently preparing to re-enter the cell as the two faced each other.<sup>25</sup> DA Brewer then closed the cell gate as DA Wheatley walked away.<sup>26</sup> COPA also enhanced the video recording by zooming in on the cell and slowing down the playback: the enhanced version of the video recording more clearly shows DA Wheatley's left hand striking █████ in the head.<sup>27</sup>

A **booking photograph** taken of █████ at 10:01 pm on May 28, 2019 (Figure 3 below) depicts what appears to be a skin discoloration under █████ right eye, possibly indicative of injury.



**Figure 3:** Att. 28, CPD Booking Photograph of █████ taken at 10:01 pm on May 28, 2019.

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<sup>20</sup> Att. 4 at 01:41.

<sup>21</sup> Att. 4.

<sup>22</sup> Att. 4 at 01:41 to 01:44.

<sup>23</sup> Att. 4 at 01:44 to 01:46.

<sup>24</sup> Att. 4 at 01:46 to 01:51.

<sup>25</sup> Att. 4 at 01:51 to 02:00.

<sup>26</sup> Att. 4 at 01:51 - 02:02.

<sup>27</sup> Atts. 45 to 47.

COPA accessed and reviewed **body worn camera (BWC) video footage** recorded by CPD members involved in [REDACTED] arrest in attempting to rule out the possibility that [REDACTED] had sustained an injury causing that discoloration prior to the incident under investigation.<sup>28</sup> However, that footage does not depict the discoloration.

**Photographs** taken by a CPD Evidence Technician (ET),<sup>29</sup> along with an associated **Crime Scene Processing Report**,<sup>30</sup> document [REDACTED] physical appearance at approximately 11:40 pm on May 28, 2019. The ETs documented that they observed injuries to [REDACTED] right eyebrow and upper lip.<sup>31</sup>

### c. Physical Evidence

A Chicago Fire Department (CFD) **Patient Care Report** documents that CFD paramedics responded to [REDACTED] on May 28, 2019, at 10:45 am.<sup>32</sup> The paramedics saw [REDACTED] lying on the ground with another woman (later identified as [REDACTED] daughter) sitting on her and punching her in the face. Because of the ongoing assault, the paramedics requested a police response. Once the police were on scene, the paramedics observed that [REDACTED] had dried blood coming from her nostrils, which were slightly swollen. [REDACTED] told the paramedics that she had been punched in the face by her daughter.<sup>33</sup> After the initial patient assessment, [REDACTED] declined further treatment and was not transported to a medical facility.

### d. Documentary Evidence

A CPD **Original Case Incident Report** (OCIR) documents that police responded to [REDACTED] at 11:03 am on May 28, 2019, and conducted a domestic battery investigation.<sup>34</sup> The officers observed [REDACTED] lying on the ground, with her daughter sitting on her. The daughter told police that [REDACTED] had been arguing with her mother (the daughter's grandmother) and had struck the grandmother in the face with a skateboard. The daughter punched [REDACTED] pushed her to the ground, and held her there while defending her grandmother and waiting for the police. The OCIR further documents that [REDACTED] sustained a bloody nose. [REDACTED] was placed in custody after the grandmother signed complaints against [REDACTED]

An **Arrest Report** documents that [REDACTED] was arrested for domestic battery at 11:16 am on May 28, 2019, and transported to the 11<sup>th</sup> District police station at 11:28 am.<sup>35</sup> [REDACTED] was photographed in lockup at 10:01 pm. A comment from Lt. Shoshi, entered at 7:46 pm, indicates that felony battery charges were pending against [REDACTED] for the battery of a Detention Aide. A comment from Sgt. Matthew Kant, entered at 10:10 pm, indicates that the victim of the battery was DA Wheatley.<sup>36</sup>

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<sup>28</sup> Atts. 31 to 33.

<sup>29</sup> Att. 6.

<sup>30</sup> Att. 48.

<sup>31</sup> Att. 48.

<sup>32</sup> Att. 34.

<sup>33</sup> Att. 34, pg. 4.

<sup>34</sup> Att. 8.

<sup>35</sup> Att. 10.

<sup>36</sup> Att. 10, pg. 8.

Another OCIR documents that ██████ had refused to get up after sitting in the entrance to the 11<sup>th</sup> District female lockup, telling the Detention Aides that they would have to drag her in.<sup>37</sup> After DA Wheatley and DA Brewer moved ██████ to the cell area and patted her down, she was placed in cell A6, where she rose to her feet as DA Wheatley was closing the cell door. ██████ spat at DA Wheatley, with the spittle striking DA Wheatley in the face. While DA Brewer was bringing keys to lock the cell, DA Wheatley “entered the cell and pushed [██████] back to prevent [██████] from advancing towards [DA Wheatley] and spitting again while [DA Brewer] was returning with the key to lock the cell.”<sup>38</sup> The cell was then locked without further incident, and an Evidence Technician was requested to take photographs of ██████

An **Initiation Report** completed by Sergeant (Sgt.) William Jackowski documents that on May 28, 2019, at 6:39 pm, ██████ was in custody in the 11<sup>th</sup> District for domestic battery.<sup>39</sup> After being placed in a cell, ██████ spit on DA Wheatley’s face. ██████ alleged that DA Wheatley opened the cell door and punched her in the jaw. Sgt. Jackowski requested a copy of the video recording from the lockup surveillance camera.

A **Tactical Response Report (TRR)** documents that DA Wheatley struck ██████ at approximately 6:40 pm on May 28, 2019, in the 11<sup>th</sup> District lockup.<sup>40</sup> According to the TRR’s *Narratives and Notifications* section, which bears DA Wheatley’s electronic signature, DA Wheatley struck ██████ “open handedly” and “towards the chest” to push ██████ back after ██████ spat at DA Wheatley.<sup>41</sup> In the TRR’s *Reviewing Supervisor* section, Sgt. Jackowski reported that he spoke with ██████ at ██████ request after the incident, and ██████ alleged (also in the presence of Lieutenant (Lt.) Leonard M. Shoshi) that DA Wheatley had punched her in the jaw.<sup>42</sup> In the TRR’s *Lieutenant or Above / Incident Commander Review* section, Lt. Shoshi made a similar report.<sup>43</sup>

## VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined that an allegation is proven by a preponderance of the evidence;
2. Not Sustained - where it is determined that there is insufficient evidence to prove the allegation by a preponderance of the evidence;

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<sup>37</sup> Att. 7.

<sup>38</sup> Att. 7, pg. 2.

<sup>39</sup> Att. 1.

<sup>40</sup> Att. 5.

<sup>41</sup> Att. 5, pg. 2. When COPA interviewed Wheatley on August 13, 2021, Wheatley denied having prepared the TRR’s *Narratives and Notifications* section, stating that she had previously been unaware that anyone had prepared a TRR in connection with the incident. See Att. 29 (a transcript of that interview), at p. 7, lns. 14 to 24 and at p. 14, ln. 12, through p. 15, ln. 19. However, Wheatley gave an account of the incident that is substantially similar to the account that is set out in the TRR’s *Narratives and Notifications* section, thereby rendering immaterial her denial of having prepared that report section.

<sup>42</sup> Att. 5, pg. 2.

<sup>43</sup> Att. 5, pgs. 3 to 4.

3. Unfounded - where it is determined an allegation is false or not factual by clear and convincing evidence; or,
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that a proposition is proved.<sup>44</sup> For example, if the evidence gathered in an investigation establishes that it is more likely that the conduct violated Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense.<sup>45</sup> Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.”<sup>46</sup>

## VII. ANALYSIS

### a. Credibility Analysis

COPA finds credible DA Wheatley’s claim that █████ spit upon her as that claim is supported by video evidence. However, COPA finds DA Wheatley’s contention that she struck █████ in the chest rather than in the face to be not credible, as that contention is inconsistent with video evidence showing █████ head turn sharply to the right immediately upon having been struck by DA Wheatley.

### b. Detention Aide Wheatley’s Use of Force

As a threshold matter, COPA is unable to determine if the apparent injury under █████ eye was caused by DA Wheatley. The evidence shows that █████ was involved in a confrontation with her daughter earlier the same day where her daughter punched her about the face. While no injuries are visible in the BWC footage recorded by CPD members at the scene of that incident, injuries are not always immediately visible and bruising or discoloration may develop hours or even days after an injury is sustained. Also, █████ specifically complained that DA Wheatley punched her in the jaw – not in the eye. However,

COPA finds that the sole allegation against DA Wheatley is **Sustained**. The main issue in evaluating every use of force is whether the amount of force the CPD member used was objectively reasonable, necessary, and proportional in light of the totality of the circumstances faced by the

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<sup>44</sup> See *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 191 (2005) (“A proposition proved by a preponderance of the evidence is one that has been found to be more probably true than not true.”).

<sup>45</sup> See, e.g., *People v. Coan*, 2016 IL App (2d) 151036.

<sup>46</sup> *Id.* ¶ 28.



officer.<sup>47</sup> The factors to be considered in assessing the reasonableness of force include, but are not limited to: (1) whether the person was posing an immediate threat to the safety of officers or others; (2) what risk of harm and level of threat or resistance is presented by the person; (3) what is the person's proximity or access to weapons.<sup>48</sup> In all uses of force, the goal of a Department member's response is to resolve the incident "with the foremost regard for the preservation of human life and the safety of all persons involved."<sup>49</sup>

As mentioned above, the primary question in reviewing use of force incidents is whether a member's actions were reasonable based upon the totality of the circumstances. The circumstances may further limit these permissible responses to only that which is necessary, by using "only the force that is proportional to the threat, actions, and level of resistance offered by a subject."<sup>50</sup>

In her statement to COPA, DA Wheatley explained that she entered the cell and pushed ██████ in the chest with an open hand because ██████ had spit on her. DA Wheatley said that she wanted to push ██████ towards the rear of the cell to prevent ██████ from spitting at her or her partner, who was returning with keys to lock the cell. However, the lockup video footage shows that DA Wheatley punched ██████ in the head. Also, entering the cell placed DA Wheatley closer to ██████ under circumstances where ██████ was already secured with handcuffs and inside a cell. While the cell door was not yet locked, ██████ was not making any apparent effort to escape, and DA Wheatley had the option to either back away entirely or to finish closing the door.

The force that DA Wheatley used is classified by CPD as a "direct mechanical technique," which are "forceful, concentrated striking movements such as punching and kicking, or focused pressure strikes and pressures."<sup>51</sup> Pursuant to CPD directives, direct mechanical strikes may only be used against a subject who is labeled as an "assailant."<sup>52</sup> An assailant is a person "who is using or threatening the use of force against another person . . . which is likely to cause physical injury."<sup>53</sup> When ██████ spat on DA Wheatley, she was unarmed, handcuffed, and inside a cell. And while ██████ actions were crude, offensive, and could potentially spread disease, her expectoration did not cause bodily harm to DA Wheatley or to any other persons present. Additionally, any threat that could have been posed by her was substantially minimized. She was restrained, and another Detention Aide was on the way back with keys to lock her cell.

The battery committed by ██████ was not a use of force or threatened use of force which would render her an assailant as defined by the directives quoted above. Spitting can be considered a battery, but Illinois law recognizes two distinct categories of battery: the first type involves causing bodily harm to an individual, and the second type involves making contact of an insulting or provoking nature with an individual.<sup>54</sup> Only the first type of battery, involving bodily harm, implicates the definition of "assailant" found in the Department's use-of-force directives. Illinois

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<sup>47</sup> Att. 49, G03-02(III)(B)(1) to (3), Use of Force (effective October 16, 2017 to February 29, 2020).

<sup>48</sup> Att. 49, G03-02(III)(B)(1).

<sup>49</sup> Att. 49, G03-02(II)(A).

<sup>50</sup> Att. 49, G03-02(III)(B)(3).

<sup>51</sup> Att. 50, G03-02-01(IV)(C)(1)(a)(1), Force Options (effective October 16, 2017 to February 29, 2020).

<sup>52</sup> Att. 50, G03-02-01(IV)(C).

<sup>53</sup> Att. 50, G03-02-01(IV)(C).

<sup>54</sup> See 720 ILCS 5/12-3(a).

courts have consistently held that an offender spitting on a law enforcement officer has committed the “insulting or provoking” type of battery,<sup>55</sup> and the United States Court of Appeals for the Seventh Circuit has held that the insulting-or-provoking form of the Illinois battery statute is not a crime of violence for purposes of a federal sentencing enhancement.<sup>56</sup>

None of this suggests that DA Wheatley was obligated to allow ██████ to spit in her face. To the contrary, DA Wheatley could use reasonable force to prevent ██████ from spitting, even if she believed that she could not avoid the spit by simply backing away from ██████ cell. However, ██████ conduct would properly be classified as active resistance, and direct mechanical techniques, such as punching with a closed fist, are not authorized for use against active resisters.<sup>57</sup> Further, even if DA Wheatley classified ██████ as an assailant, this would not automatically allow DA Wheatley to punch ██████. Instead, DA Wheatley’s actions would still be constrained by the requirement to use force in an objectively reasonable, necessary, and proportional manner, in light of the totality of the circumstances. Given that ██████ was handcuffed and inside a cell, punching her in the head was not objectively reasonable, necessary, or proportional, regardless of his classification under the rubric created by CPD’s use-of-force directives.

Therefore, COPA concludes that DA Wheatley’s punch to ██████ head was excessive. It was an objectively unreasonable and unnecessary tactic that was disproportional under the totality of the circumstances. By engaging in this conduct, DA Wheatley violated Rule 2 (bringing discredit upon the Department), Rule 3 (failing to promote the Department’s efforts to implement its policy or accomplish its goals), Rule 6 (disobeying written directives G03-02 and G03-02-01), Rule 8 (engaging in disrespect to or maltreatment of ██████) and Rule 9 (engaging in an unjustified physical altercation with ██████).

**VIII. FINDINGS**

Based on the analysis set forth above, COPA makes the following findings:

CPD Member	Allegation	Finding / Recommendation
Detention Aide Wheatley	<p>On May 28, 2019, at approximately 6:39 p.m., at 3151 West Harrison Street, Chicago, Illinois, Detention Aide Iesha Wheatley committed misconduct through the following acts or omissions:</p> <p>1. Struck ██████ without justification.</p>	<p><b>Sustained / 90-Day Suspension</b></p>

<sup>55</sup> See People v. Wrencher, 2011 IL App (4<sup>th</sup>) 080619, ¶¶ 54-55; People v. Peck, 260 Ill. App. 3d 812, 814-15 (1994).

<sup>56</sup> See United States v. Hampton, 675 F.3d 720, 730 (7th Cir. 2012).

<sup>57</sup> See Att. 50, G03-02-01(IV)(B). This order defines a “resister” as “a person who is uncooperative,” and further defines an active resister as “a person who attempts to create distance between himself or herself and the member’s reach with the intent to avoid physical control and/or defeat the arrest.” Within the framework created by General Order G03-02-01, ██████ is best characterized as an active resister because she was uncooperative when being placed in the cell and because she spit at DA Wheatley with the apparent intent to either force DA Wheatley to retreat or to avoid physical control.

**IX. DISCIPLINARY AND REMEDIAL RECOMMENDATIONS**

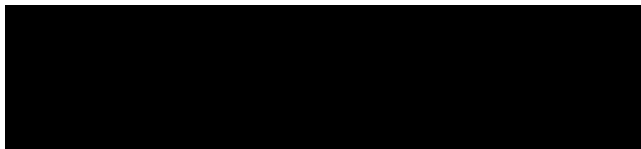
**a. Complimentary and Disciplinary History**

DA Wheatley has received one Honorable Mention and the 2019 Crime Reduction Award. She has not been subject to any disciplinary action within the past five years.<sup>58</sup>

**b. Recommended Penalty**

DA Wheatley’s offense is serious: she unjustifiably made violent contact with a person entrusted to her care who was handcuffed behind her back. That Wheatley was undoubtedly provoked by having been spit upon is insufficient mitigation: CPD members must be capable of responding to provocation with professionalism and forbearance. DA Wheatley’s use of force did not result in any documented serious injury to ██████ Under these circumstances, COPA finds that a 90-day suspension is the appropriate discipline to impose on DA Wheatley.

Approved:



May 31, 2023

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Angela Hearts-Glass  
*Deputy Chief Administrator – Chief Investigator*

\_\_\_\_\_  
Date

<sup>58</sup> Att. 51.