

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	November 1, 2019
Time of Incident:	9:08 pm
Location of Incident:	3151 W. Harrison Street (11 <sup>th</sup> District Lockup)
Date of COPA Notification:	November 2, 2019
Time of COPA Notification:	12:43 am

On November 1, 2019, Officer Stephen Whitehead approached Sergeant Matthew Kant and reported that he needed to complete a Tactical Response Report. Sergeant Kant then entered the 011<sup>th</sup> District Lockup and observed [REDACTED] laying on the floor of his cell. [REDACTED] refused to answer any of Sergeant Kant’s questions. Sergeant Kant then reviewed the recordings from the cameras inside the lockup and observed that during the incident Officer Whitehead punched [REDACTED] approximately twice with a closed fist. According to Sergeant Kant, the recording did not show any clear indication that [REDACTED] acted as an aggressor that would require direct mechanical strikes to gain his compliance. [REDACTED] was taken to St. Anthony Hospital for medical evaluation. Sergeant Kant noted that [REDACTED] sustained abrasions to the right side of his face and to the back of his head.

**II. INVOLVED PARTIES**

Involved Officer #1:	Name: Stephen Whitehead; Rank: Police Officer; Star #: 12097; Employee #: [REDACTED]; Unit of Assignment: 011; Date of Appointment: March 9, 2009; DOB: [REDACTED] 1982; Gender: Male; Race: Black.
Subject #1:	Name: [REDACTED] DOB: [REDACTED] 1990; Gender: Male; Race: Black.

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Stephen Whitehead	1) Shoved [REDACTED] against a wall without justification.	Not Sustained

	2) Performed a takedown maneuver on ██████████ without justification.	Not Sustained
	3) Repeatedly punched ██████████ about his head and face without justification.	Sustained
	4) Choked ██████████ without justification.	Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules

1. Rule – 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.

General Orders

1. G03-02, Use of Force (effective October 16, 2017 to February 20, 2020).
2. G03-02-01, Force Options (effective October 16, 2017 to February 29, 2020).

**V. INVESTIGATION<sup>1</sup>**

**a. Interviews**

Attempts to gain ██████████ cooperation in furtherance of this investigation were unsuccessful.

<sup>1</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>2</sup> CMS Notes CO-0036584, CO-0036741, CO-0062075.

In a statement to COPA<sup>3</sup> on January 6, 2023, **Officer Stephen Whitehead** stated that on the night of this incident he was assigned to work in the 011<sup>th</sup> District Lockup with Officer Eduardo Maldonado. Officer Whitehead stated that when being assigned to work the lockup, police officers do not have any weapons (firearm, baton, OC spray, Taser) at their disposal. This is out of concern that these weapons could possibly be taken by a prisoner during an incident and used against the officer and other lockup personnel. Officer Whitehead added that he was not involved, nor did he witness, [REDACTED] arrest. Officer Whitehead stated that on the night of this incident he was alerted that an arrestee, [REDACTED] was being brought straight into the lockup due to him being combative with the arresting officers. Officer Whitehead explained that every arrestee entering lockup gets searched for contraband (i.e., weapons, narcotics, tools of self-harm) whether or not he was searched by other officers prior to reaching the lockup. Because of how combative [REDACTED] was, it was determined he would bypass that regular lockup process and be placed into a cell where he could be secured and observed until he agreed to cooperate and comply with the officers' instructions.

Officer Whitehead stated that when he first came into contact with [REDACTED] he noticed that [REDACTED] was irate and aggressive with him and the other officers. Officer Whitehead recalled [REDACTED] directing profanity at him and the other officers and conveying that he did not intend to cooperate with the officers.

Officer Whitehead stated that initially [REDACTED] behaved in a difficult, but compliant manner, in that he walked into a cell of his own volition with minimal guidance from the officers, but he continued to curse at the officers. Once inside the cell, [REDACTED] allowed Officer Whitehead to remove the handcuffs from his wrists. Officer Whitehead explained to [REDACTED] which articles of clothing needed to be removed and that he would be searched again. Officer Whitehead further explained that after the search was complete [REDACTED] could then put on whatever clothing is allowed in the lockup. [REDACTED] acknowledged that he understood. Officer Whitehead stated that [REDACTED] became aggressive with him immediately after he was uncuffed. [REDACTED] refused to cooperate, refused to be searched, and refused to remove the outer layer of his clothing so Officer Whitehead could search. Officer Whitehead explained that in his experience when an arrestee refuses to submit to a search it is usually because the arrestee is in possession of contraband or a weapon of some type that they do not want the police to find.

Officer Whitehead stated that [REDACTED] turned towards him in an extremely aggressive manner. Officer Whitehead explained that [REDACTED] directed profanity at him and flailed his arms. Officer Whitehead stated that he began to assist [REDACTED] in removing his outer clothing (hooded sweatshirt), and as he did so [REDACTED] appeared to become increasingly agitated. Officer Whitehead stated that because of how aggressive [REDACTED] was behaving, how close they were to each other, and how [REDACTED] clenched his fists and flailed his arms, he (Officer Whitehead) became concerned that [REDACTED] might attack him.

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<sup>3</sup> Attachment 59; Note: Attachment 62 is also a copy of Officer Stephen Whitehead's statement. For purposes of this report, COPA will cite only to Attachment 59.

Officer Angel Nunez<sup>4</sup> entered the cell to assist Officer Whitehead with [REDACTED]. Officer Whitehead stated that he saw [REDACTED] swat Officer Nunez's hand away. He also said that [REDACTED] aggressively removed his hooded sweatshirt. Officer Nunez told [REDACTED] to calm down and relax, at which point [REDACTED] pushed Officer Nunez's hand away a second time. Officer Nunez then pushed [REDACTED] on his chest with one hand and [REDACTED] responded by lunging at Officer Nunez. Officer Whitehead stated that he then pushed [REDACTED] back to prevent him from attacking Officer Nunez. [REDACTED] attention was then focused on Officer Whitehead. Officer Whitehead added that he and [REDACTED] were inches apart inside the cell with little room to maneuver. After Officer Whitehead pushed [REDACTED] he ([REDACTED] lunged at Officer Whitehead while Officer Whitehead focused on [REDACTED] hands, anticipating [REDACTED] might strike him. Officer Whitehead added that [REDACTED] took a fighting stance and clenched his fists as if he was preparing to punch Officer Whitehead, at which point Officer Whitehead performed a take-down maneuver by grabbing [REDACTED] lower extremities and forcing him to the floor. Officer Whitehead attempted to gain control of [REDACTED] and hold him down on the floor, but [REDACTED] aggressively moved his body and kicked his legs enough that he broke free from Officer Whitehead. [REDACTED] was almost immediately able to get to his feet. Officer Whitehead added that inside the cell there is very little room to maneuver, and he could not recall if any of the other officers were able assist him during the struggle to gain control of [REDACTED].

Officer Whitehead stated that [REDACTED] then lunged at him again, at which point he (Officer Whitehead) pushed [REDACTED] hard enough to force him backwards and ultimately into a seated position on the bench inside the cell. Officer Whitehead stated that [REDACTED] then kicked his legs as he (Officer Whitehead) held onto the front of [REDACTED] upper body to gain control of him and prevent him from being able to attack him any further. Officer Whitehead stated that he performed two mechanical strikes to his face. Officer Whitehead explained that he punched [REDACTED] twice on his face with a closed right fist. Officer Whitehead stated that it appeared to not have any effect on [REDACTED] so he (Officer Whitehead) forced [REDACTED] onto his back on the bench while still holding onto the front of [REDACTED] upper body area with his left hand. Officer Whitehead repeatedly told [REDACTED] to calm down and stop fighting. Officer Whitehead explained that his intention was to be able to release [REDACTED] and to back out of the cell to lock [REDACTED] in the cell alone. Officer Whitehead further explained that he wanted to be able to retreat out of the cell without being further attacked by [REDACTED].

Officer Whitehead stated that he released his hold on [REDACTED] and began to retreat by walking backwards toward the cell's exit. [REDACTED] immediately stood up and began to walk towards Officer Whitehead. [REDACTED] closed the distance between them, at which point Officer Whitehead used one hand to push him back as he (Officer Whitehead) exited the cell and locked [REDACTED] inside by closing the cell door. Officer Whitehead stated that [REDACTED] continued to direct profanity at him and the other officers and attempted to pry the cell door open.

Officer Whitehead denied all the allegations made against him, adding that any contact he might have had with [REDACTED] neck was unintentional. Officer Whitehead stated he never grabbed [REDACTED] neck or choked him.

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<sup>4</sup> At the time of his interview, Officer Whitehead did not know the name of this male Hispanic officer. COPA has learned that this officer plainclothes was Officer Angel Nunez. Note that Officer Nunez is no longer with CPD.

In a statement to COPA on September 21, 2022, **Officer Eugene Vann**<sup>5</sup> stated that on the night of this incident he and Officer Pagan arrested ██████ for Domestic Battery. Officer Vann stated that ██████ repeatedly threatened to batter him and Officer Pagan once they removed the handcuffs from his wrists. Officer Vann added that ██████ appeared to be under the influence of some unknown narcotic and stated that they found a metal pipe used for smoking crack cocaine on his person. Because of ██████ combative behavior, Officer Vann and Officer Pagan radioed the 011<sup>th</sup> District Desk Sergeant to alert him that they would be bringing ██████ directly to the lockup.

Officer Vann stated that he and Officer Pagan parked inside the station's sallyport. ██████ continued to be uncooperative and combative with Officer Vann and Officer Pagan, at which point the officers forced him to the floor to gain control of him. Officer Vann stated they were able to remove some of his clothing and the laces from his shoes, after which they escorted ██████ into a cell. Officer Vann stated that ██████ walked into the cell. Officer Vann recalled ██████ asking the officers not to charge him with the metal pipe used for smoking crack cocaine.

Once in the cell Officer Whitehead requested that ██████ remove his outer layer of clothing as per Chicago Police Department (CPD) policy. Officer Vann further explained that ██████ was wearing a shirt and a hooded sweatshirt. ██████ was irate and argumentative with the officers. ██████ did not want to give up any of his clothes, and as the officers attempted to de-escalate the situation, he became combative. Officer Vann stated, "So we're trying to deescalate. And then he becomes more argumentative and then squared -- what I recall, I thought that he squared up on Officer Whitehead. And at which time, Officer Whitehead pushed him against the rear of the cell."<sup>6</sup> Officer Vann explained that he believed Officer Whitehead intended to create separation between him and ██████ after ██████ appeared to take an aggressive stance directed at Officer Whitehead. Officer Vann believed that the situation was successfully deescalated, and that further intervention was unnecessary. Officer Vann and Officer Pagan exited the lockup.

Officer Vann stated that he did not recall seeing Officer Nunez push ██████. Officer Vann also stated that he had no independent recollection of Officer Whitehead punching ██████. Officer Vann also explained that he was not a witness to when Officer Whitehead performed a takedown maneuver on ██████ but that he recalled that he was told about it after it happened the night of this incident. Officer Vann was aware that a Log Number had been registered regarding this incident.

In a statement to COPA on September 20, 2022, **Officer Jacob Pagan**<sup>7</sup> stated that on the night of this incident he was working with Officer Eugene Vann. Officer Pagan stated that he did not have any independent recollection of arresting ██████ for Domestic Battery. Officer Pagan also did not have any independent recollection of what occurred between Officer Whitehead and ██████ while inside the 011<sup>th</sup> District Lockup. Officer Pagan stated he recalled that ██████ was combative and uncooperative and was therefore brought directly into the 011<sup>th</sup> District Lockup upon arriving at the police station.

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<sup>5</sup> Attachment 53.

<sup>6</sup> Attachment 53, pg. 23, lns. 12-16.

<sup>7</sup> Attachment 51.

In a statement to COPA On September 20, 2022, **Officer Eduardo Maldonado**<sup>8</sup> stated that on the night of this incident he was assigned to work the 011<sup>th</sup> District Lockup with Officer Whitehead and a civilian Detention Aide. Officer Maldonado could not recall the Detention Aide's name. Officer Maldonado stated that [REDACTED] was immediately escorted into the lockup upon arrival at the station because he was combative with the arresting officers. Officer Maldonado could not recall who the arresting officers were. Officer Maldonado stated that [REDACTED] was walked into a cell and instructed to remove his extra clothing. Officer Maldonado explained that prisoners are only allowed to have one additional garment, like another shirt or sweater, over their initial shirt. Officer Maldonado stated that [REDACTED] was not cooperative in that he refused to remove his outer garments. Officer Maldonado stated that the situation escalated into Officer Whitehead and [REDACTED] pushing each other. Officer Nunez entered the cell and assisted Officer Whitehead during the physical altercation with [REDACTED]. Officer Maldonado was unable to see clearly what occurred between the three men during the altercation because they were obstructing his view. Officer Maldonado also stated that he did not clearly see who pushed who first. Officer Maldonado added that he did not have any independent recollection of the physical altercation between [REDACTED] and Officers Whitehead and Nunez. Officer Maldonado stated that he recalled [REDACTED] taking a fighting stance as if he was preparing to strike Officer Whitehead, and that Officer Whitehead responded by punching him twice. Officer Maldonado did not recall where Officer Whitehead punched [REDACTED]. Officer Maldonado also did not recall Officer Whitehead choking [REDACTED].

Per **Chicago Police Department's (CPD) Human Resources Section**,<sup>9</sup> as a result of an unrelated Police Board decision, Officer Angel Nunez had been discharged from the police department.

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

The recording from the interior camera inside the 011<sup>th</sup> District Lockup (**POD #8861**)<sup>10</sup> showed that the camera was in a fixed position with a view of Cells G-4 and G-5. There was no audio to the recording. Additionally, the camera's view was partially obscured by the cell bars and the officers standing in the area immediately in front of the cell at different times during this incident.

The recording showed that [REDACTED] with his hands handcuffed behind his back, was escorted into a cell by Officers Whitehead, Vann, Pagan, Maldonado, and Nunez. [REDACTED] walked into the last cell in the row of cells followed by Officer Whitehead and Officer Vann. The other officers remained outside the cell, partially obscuring the camera's view of the inside of the cell.

Once inside the cell Officer Whitehead removed the handcuffs from [REDACTED] wrists, and immediately after the handcuffs were removed from his wrists, [REDACTED] turned to face Officer Whitehead and appeared to speak to him for several moments. [REDACTED] waved his arms and hands as he appeared to speak to Officer Whitehead. The other officers stood in front of the cell. [REDACTED] briefly sat down on the bed inside the cell, then stood up and waved his arms in an aggressive manner, but then held his arms up as Officer Whitehead appeared to attempt to remove [REDACTED].

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<sup>8</sup> Attachment 52.

<sup>9</sup> CMS Note CO-0149693.

<sup>10</sup> Attachment 38.

hoodie by pulling it up over his head. [REDACTED] then jerked his arms backwards and appeared to physically struggle with Officer Whitehead near the rear wall of the cell.<sup>11</sup> Officer Nunez entered the cell to assist Officer Whitehead. At this point it is not clear what transpired because the view of the inside of the cell was obscured by the cell bars and the position of the officers.

At about the same time Officer Maldonado entered the cell behind Officer Nunez as Officers Vann and Pagan walked away from the cell and out of the camera's view. [REDACTED] appeared to flail his arms as he removed his outer garments and flung them around the cell. [REDACTED] then turned and focused his attention on Officer Nunez. Officer Whitehead's position inside the cell obscured the camera's view of Officer Nunez and [REDACTED].<sup>12</sup> The next clear action was that Officer Nunez used one hand to push [REDACTED] on his chest, forcing him backwards and ultimately into a seated position on the bed inside the cell.<sup>13</sup> [REDACTED] immediately stood up and closed the distance between himself and Officer Nunez. Officer Nunez used his left hand to push [REDACTED] a second time on his chest.<sup>14</sup> [REDACTED] was pushed backward but remained on his feet as Officer Nunez retreated out of the cell. As Officer Nunez retreated out of the cell, [REDACTED] appeared to follow him. Officer Whitehead, who was positioned between [REDACTED] and Officer Nunez, performed a take-down maneuver and forced [REDACTED] to the floor.<sup>15</sup> [REDACTED] almost immediately got to his feet and appeared to confront Officer Whitehead. A brief moment later Officer Whitehead pushed [REDACTED] backwards onto the bed.<sup>16</sup> During this altercation, Officer Whitehead punched [REDACTED] twice on the left side of his head with his right fist.<sup>17</sup> Officer Whitehead and [REDACTED] continued to struggle and Officer Whitehead forced [REDACTED] onto his back on the cell's bed. Officer Whitehead used his left hand and appeared to hold [REDACTED] down for several seconds.<sup>18</sup>

Officer Whitehead released [REDACTED] and backed away as [REDACTED] immediately got to his feet and walked towards Officer Whitehead. Officer Whitehead pushed [REDACTED] making contact with his right shoulder, in an apparent attempt to create distance between them.<sup>19</sup> Officer Whitehead then walked backwards towards the exit of the cell as [REDACTED] approached him again in an aggressive manner. As Officer Whitehead reached the exit, [REDACTED] had closed the distance and was only several inches from Officer Whitehead. Officer Whitehead then pushed [REDACTED] back, stepped out of the cell, and pulled the cell's door shut, locking [REDACTED] in the cell alone.<sup>20</sup>

While alone in his cell, [REDACTED] attempted to pull the cell door open, repeatedly punched the cell's toilet/sink, and kicked the wall.

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<sup>11</sup> Attachment 38 at 9:10:50.

<sup>12</sup> Attachment 38 at 9:10:56.

<sup>13</sup> Attachment 38 at 9:11:10.

<sup>14</sup> Attachment 38 at 9:11:13.

<sup>15</sup> Attachment 38 at 9:11:17.

<sup>16</sup> Attachment 38 at 9:11:25.

<sup>17</sup> Attachment 38 at 9:11:28.

<sup>18</sup> Attachment 38 at 9:11:35. Because of the camera angle and the position of the two men, it was difficult to ascertain exactly where Officer Whitehead's hand made contact with [REDACTED] body as he held him down. Officer Whitehead's hand appeared to make contact with either [REDACTED] upper chest area or possibly the front of his neck.

<sup>19</sup> Attachment 38 at 9:11:44.

<sup>20</sup> Attachment 38 at 9:11:52.

### c. Physical Evidence

**Evidence Technician Photographs** depicted that ██████ had what appeared to be a scratch under his right eye.

**Medical Records**<sup>21</sup> obtained from St. Anthony Hospital stated that ██████ told hospital personnel that he had been taken into the back of an office and was beaten by several officers. ██████ reported that he was punched about his head and face numerous times and that he subsequently passed out. ██████ was angry and repeatedly requested his lawyer and photographs be taken of his injuries. ██████ was diagnosed with a minor “closed head injury”<sup>22</sup> and facial contusions and abrasions. ██████ was treated and discharged into police custody.

### d. Documentary Evidence

The related **CPD Reports**<sup>23</sup> stated that Officers Pagan and Vann responded to 740 S. California Avenue regarding a battery in progress. Upon arrival, the officers observed ██████ standing outside being loud and irate. Officers Pagan and Vann first spoke with ██████ father, ██████ and a witness, ██████ who explained that ██████ wanted money from them to go home, but ██████ refused to give him any money. Because ██████ refused to give ██████ any money, ██████ battered him, during which ██████ caused lacerations to his father by biting him on his back, right arm, right ear, and right hand. ██████ was then placed under arrest and transported to the 011<sup>th</sup> District. During the transport to the 011<sup>th</sup> District, ██████ threatened to fight the officers and repeatedly stated that he would not go to jail. Officer Pagan and Officer Vann notified the 011<sup>th</sup> District Lockup that due to ██████ threats and combative demeanor, they requested that ██████ be escorted directly into the lockup.

During a custodial search inside a cell in the 011<sup>th</sup> District Lockup, ██████ stiffened his body and attempted to defeat the removal of two layers of his clothing. As Officer Whitehead removed ██████ clothing, ██████ began to flail his arms to prevent his clothing from being removed. When ██████ started to struggle with Officer Whitehead, Officer Nunez went to assist Officer Whitehead, at which time ██████ quickly removed his hooded sweatshirt and took an aggressive stance with his fists clenched. Officer Nunez extended his left arm to create distance between him and ██████ while also giving ██████ verbal commands, at which time ██████ smacked Officer Nunez’s arm away. Officer Nunez pushed ██████ down onto the cell’s bench. ██████ immediately stood up and Officer Nunez pushed him down onto the bench a second time. ██████ stood up and advanced toward Officer Nunez, at which point Officer Whitehead performed a take-down maneuver and forced ██████ to the floor, allowing Officer Nunez to exit the cell.

After Officer Nunez exited the cell, Officer Whitehead attempted to continue the custodial search of ██████ but ██████ continued to flail his arms and pushed Officer Whitehead. Officer Whitehead responded by pushing ██████ toward a wall in an attempt to gain control of ██████ ██████ took an aggressive stance with his fists clenched and lunged his head towards Officer

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<sup>21</sup> Attachment 34.

<sup>22</sup> Attachment 34, pg. 13.

<sup>23</sup> Attachments 3, 4, 12-18, 23, 24.

Whitehead, placing Officer Whitehead in fear of receiving a battery. Officer Whitehead pushed ██████ onto the bench, at which point ██████ grabbed Officer Whitehead's arm. Officer Whitehead responded by punching ██████ twice on his head. Officer Whitehead exited the cell, leaving ██████ in there alone.

██████ was subsequently charged with Domestic Battery, Battery /Making Physical Contact, Simple Assault, and Possession of a Controlled Substance - Possessing Paraphernalia.

In his **To/From Subject Report**,<sup>24</sup> dated November 2, 2019, Officer Maldonado wrote that ██████ was taken directly to the back of the lockup due to him being combative with the arresting officers. When ██████ was received in the lockup, he was very agitated and aggressive in that he directed profanity and was uncooperative with lockup personnel. After ██████ was placed inside a cell, Officer Whitehead instructed him that when the handcuffs were removed, he was to take off the multiple layers of clothing he was wearing. ██████ was then uncuffed but did not comply with Officer Whitehead's direction to remove the multiple sweaters he had on. ██████ refused and instead told Officer Whitehead to take the clothes from him. ██████ also cursed out Officer Whitehead. As Officer Whitehead assisted ██████ with removing his sweater to complete the search, ██████ pushed him away. Officer Nunez then assisted Officer Whitehead in attempting to gain control of ██████. Officer Nunez was then pushed by ██████ who was pushed back by both Officer Whitehead and Officer Nunez. ██████ continually approached the officers with his fists clenched. Officer Whitehead grabbed ██████ by the legs and performed a takedown maneuver and forced him to the floor. ██████ was then allowed to stand up after he agreed to cooperate with the officers, but instead he maintained his combative behavior and lunged at Officer Whitehead, who grabbed him and punched him twice while holding him down. After Officer Whitehead released ██████ he continued to be aggressive, at which time the cell was quickly closed.

## VI. ANALYSIS AND CONCLUSION

COPA finds **Allegation 1**, that Officer Whitehead shoved ██████ against a wall without justification is **not sustained**. CPD policy requires that any use of force be objectively reasonable, necessary, and proportional.<sup>25</sup> CPD policy 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.<sup>26</sup> An assailant is "a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury."<sup>27</sup> There are two types of assailants: (1) a subject whose "actions are aggressively offensive with or without weapons," but whose actions do not constitute an imminent threat of death or great bodily harm;<sup>28</sup> and (2) a subject whose actions constitute an imminent threat of death or great bodily harm to a CPD member or another person.<sup>29</sup> In this case, ██████ fit the description of the first category of assailant. As the video showing the cell in the 011<sup>th</sup> District Lockup shows, ██████ continued to aggressively and angrily advance first toward Officer Nunez, and then toward Officer Whitehead

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<sup>24</sup> Attachment 47.

<sup>25</sup> Attachment 64, G03-02(III)(B).

<sup>26</sup> Attachment 63, G03-02-01(IV)(B)(2).

<sup>27</sup> Attachment 63, G03-02-01(IV)(C).

<sup>28</sup> Attachment 63, G03-02-01(IV)(C)(1).

<sup>29</sup> Attachment 63, G03-02-01(IV)(C)(2).

and got in the officers' faces. Officer Whitehead explained that before shoving ██████ the first time, he believed that ██████ might try to harm Officer Nunez.

Prior to Officer Whitehead shoving ██████ aggressively advanced toward Officer Nunez and could have harmed Officer Nunez. Initially, Officer Nunez pushed ██████ back, but Officer Whitehead said, and the video shows, that ██████ still appeared to be going back toward Officer Nunez.<sup>30</sup> Officer Whitehead said he shoved ██████ because Officer Whitehead believed that ██████ might attack Officer Nunez.<sup>31</sup> Because ██████ actions were that of an assailant, shoving, a form of stunning, was permissible. ██████ was consistently non-compliant, hostile, and combative.

After this initial shove, ██████ got right back in Officer Whitehead's face, and Officer Whitehead took ██████ down to the ground. ██████ got up and began aggressively yelling in Officer Whitehead's face. Officer Whitehead then shoved ██████ onto the bed. This second shove was again a stunning technique, which created distance between Officer Whitehead and ██████

Based on the preponderance of the evidence, ██████ was an assailant who was obviously angry and, in a position, where he could harm Officer Whitehead. Accordingly, this allegation is not sustained.

**Allegation 2**, that Officer Whitehead performed a takedown of ██████ is **not sustained**. As discussed above, between the two shoves, ██████ was very aggressively getting into Officer Whitehead's face. By standing in this threatening manner so close to Officer Whitehead and yelling at him, ██████ was still an assailant. Officer Whitehead said he was afraid because ██████ took a fighting stance and dropped his fist down as if he was getting ready to "uppercut"<sup>32</sup> him. ██████ stance was evidence of ██████ combative demeanor. Officer Whitehead was afraid that ██████ was going to punch him. This caused Officer Whitehead to perform a takedown. CPD policy permits takedowns for assailants and active resisters.<sup>33</sup> For these reasons, the preponderance of the evidence requires this allegation to be not sustained.

**Allegation 3**, that Officer Whitehead repeatedly punched ██████ is **sustained**. After ██████ got back on his feet, ██████ went back to his aggressive stance, and Officer Whitehead pushed ██████ onto the bed. After getting ██████ onto the bed, Officer Whitehead punched ██████ twice. According to Officer Whitehead, while seated on the bed, ██████ was kicking him. However, after viewing the video, COPA did not observe this and finds that it is unlikely that there was enough time between the shove onto the bed and the punches, for ██████ to have kicked Officer Whitehead. In addition, CPD policy requires members to use de-escalation techniques to prevent or reduce the amount of force when it is safe and feasible to do so based on the totality of the circumstances.<sup>34</sup> With ██████ sitting on the bed and Officer Whitehead's hand on ██████ chest, it would have been reasonable to attempt to de-escalate the use of force. For those reasons, the preponderance of the evidence demonstrates that this allegation is sustained.

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<sup>30</sup> Attachment 38 at 9:11:13.

<sup>31</sup> Attachment 59, pg. 36, lns. 21 to 24.

<sup>32</sup> Attachment 59, pg. 39, lns. 16 to 17.

<sup>33</sup> Attachment 63, G03-02-01(IV)(B)(2)(c)(3).

<sup>34</sup> Attachment 64, G03-02(III)(B)(4).

**Allegation 4**, that Officer Whitehead choked ██████ without justification is **sustained**. Officers are only permitted to apply direct pressure to the front of the neck when deadly force is permissible.<sup>35</sup> Shortly after Officer Whitehead punched ██████ came to lie on the bed, first on his left side and then on his back. While ██████ was lying on his back, Officer Whitehead held ██████ down with Officer Whitehead's hand on ██████ chest near his neck. Officer Whitehead said his hand was on ██████ chest, was not on ██████ neck, and any touching of ██████ neck would have been unintentional. Officer Whitehead said he was just trying to control ██████ who was moving around. Officer Whitehead also denied that he ever grabbed or squeezed ██████ neck or that he ever prevented him from breathing. However, after viewing the video, the preponderance of the evidence shows Officer Whitehead's hand appears to be around ██████ neck. Therefore, COPA finds this allegation is sustained.

## VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Stephen Whitehead

#### i. Complimentary and Disciplinary History

Officer Whitehead has 18 various awards and two SPARs in the last five years.<sup>36</sup>

#### ii. Recommended Penalty

Allegations 3 and 4 against Officer Whitehead, that Officer Whitehead punched and choked ██████ without justification, are serious allegations. As discussed in this report, there does not appear to be any justification for punching ██████ right after Officer Whitehead shoved ██████ onto the bed. Punching ██████ was a failure to de-escalate. Officer Whitehead further failed to de-escalate when he placed his hand on ██████ chest near his neck. Officer Whitehead's actions without justification violated CPD Rules 2, 3, 6, 8, and 9. For those reasons, COPA recommends that Officer Whitehead receive a significant suspension up to 365 days.

Approved:

████████████████████

Sharday Jackson  
Deputy Chief Administrator – Chief Investigator

May 26, 2023

Date

<sup>35</sup> Attachment 64, G03-02(III)(C)(1)(d)

<sup>36</sup> Attachment 65.