

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 30, 2019
Time of Incident:	6:00 p.m.
Location of Incident:	946 W. Belmont
Date of COPA Notification:	June 30, 2019
Time of COPA Notification:	9:45 p.m.

In the early evening after the Chicago Pride Parade, Officer Ngitami was on crowd control duty and directing foot traffic. Officer Ngitami was pushed from behind by a pedestrian, [REDACTED] and he pushed Mr. [REDACTED] back. Mr. [REDACTED] then spat on Officer Ngitami, who performed a takedown and placed Mr. [REDACTED] under arrest.

II. INVOLVED PARTIES

Involved Officer #1: Abdulhamid Ngitami	Abdulhamid Ngitami, Star# 14337 / Employee ID# [REDACTED] / Date of Appointment: February 2, 2015 / Police Officer / 25th District / Black Male
Involved Officer #2: Sergeant Anthony Nicpon	Anthony Nicpon, Star# 972 / Employee ID# [REDACTED] / Date of Appointment: December 5, 2005 / Sergeant of Police / 15th District / White Male
Involved Officer #3 Sergeant Brian Conlisk	Brian Conlisk, Star# 2251 / Employee ID# [REDACTED] / Date of Appointment: April 30, 2007 / Sergeant of Police / 14th District / Hispanic Male
Involved Individual #1: [REDACTED]	[REDACTED] / DOB: [REDACTED] 1996 / Black Male

III. ALLEGATIONS

Officer	Allegation	Finding
Officer Abdulhamid Ngitami	1. It is alleged that on or about June 30, 2019 at approximately 6:00 pm, at or near 946 W. Belmont, Officer Abdulhamid Ngitami struck	NOT - SUSTAINED

	<p>██████████ in the head without justification.</p> <p>2. It is alleged that on or about June 30, 2019 at approximately 6:00 pm, at or near 946 W. Belmont, Officer Abdulhamid Ngitami placed his hand(s) and or arm(s) around ██████████ ██████████ neck without justification.</p> <p>3. It is alleged that on or about June 30, 2019 at approximately 6:00 pm, at or near 946 W. Belmont, Officer Abdulhamid Ngitami failed to activate his body-worn camera.</p>	<p>SUSTAINED/5-day suspension</p> <p>SUSTAINED/5-day suspension</p>
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IV. APPLICABLE RULES AND LAWS

Rules of Conduct

- **Rule 01:** Prohibits violation of any law or ordinance.
- **Rule 02:** Prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- **Rule 03:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- **Rule 08:** Disrespect to or maltreatment of any person, while on or off duty.
- **Rule 09:** Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02 Use of Force
2. G03-02-01 Force Options

Special Orders

1. S03-14 Body Worn Cameras

Illinois Statutes

1. 50 ILCS 706 Law Enforcement Officer-Worn Body Camera Act

INVESTIGATION¹

The Civilian Officer of Police Accountability (COPA) investigated this incident. The following is a summary of the most relevant evidence, including interviews of the complainant, involved officers, documentary evidence, and video evidence.

a. Interviews²

Accused Officer Abdulhamid Ngitami was interviewed by COPA investigators on March 12, 2020. In his statement, Officer Ngitami said he was working in Unit 213, which is a bicycle unit, on the date of the incident and was assigned to crowd control for the annual Pride Parade. Officer Ngitami said he was stationed under the CTA Red Line near Clark and Belmont and was directing foot traffic. Officer Ngitami was working crowd control with several other officers, including Officers Paredes, Wojcik, Campos, Sgt. Conlisk and Sgt. Nicpon.

Officer Ngitami said that while directing foot traffic away from Clark St., Officer Ngitami said he was pushed from behind by a pedestrian. The pedestrian, now known to be ██████████ ended up directly in front of Officer Ngitami after pushing him. Officer Ngitami pushed Mr. ██████████ back to create some distance between himself and Mr. ██████████ and directed Mr. ██████████ not to proceed in that direction. Officer Ngitami said his bodycam came off with the initial contact with Mr. ██████████. Mr. ██████████ spat in Officer Ngitami's face, fearing an additional battery by Mr. ██████████. Officer Ngitami performed a takedown of Mr. ██████████ by grabbing Mr. ██████████ and throwing him to the ground. Officer Ngitami said that in the course of the takedown, he struck Mr. ██████████ on his upper-body with a closed hand-fist. Officer Ngitami didn't know exactly where he struck him except that it was somewhere on Mr. ██████████ upper body. Officer Ngitami said he didn't recall whether he ever had his arm or arms around Mr. ██████████ neck. He also said he didn't recall whether he ever had his hand or hands around Mr. ██████████ neck.³

Witness Sergeant Anthony Nicpon was interviewed by COPA investigators on July 18, 2019. Sgt. Nicpon said he was a Sgt. in the same unit as Officer Ngitami on the date of the incident and assigned to the Pride Parade. Sgt. Nicpon said he was standing outside of the Red Line station on Belmont and saw a commotion out of the corner of his eye that was a struggle between Officer Ngitami and a civilian (now known to be ██████████). Sgt. Nicpon said he went over to help the officer and there was a struggle to get the handcuffs on Mr. ██████████ who was ultimately placed into custody. Sgt. Nicpon said he did not remember other specifics about the incident aside from what he documented in his Initiation Report. Sgt. Nicpon said Officer Ngitami pushed or struck Mr. ██████████ in the head while Mr. ██████████ was handcuffed. After that, Officer Ngitami was behind Mr. ██████████ with his arm around Mr. ██████████ neck.⁴

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² COPA attempted to interview ██████████ but was unable to do so.

³ Attachment 24.

⁴ Attachment 14.

Witness Sergeant Brian Conlisk was interviewed by COPA investigators on August 1, 2019. In his statement, Sergeant Conlisk said he was notified by Sgt. Nicpon on the date of the incident that a use of force incident had occurred, and they were going to process the paperwork at the 19th District police station. Sgt. Conlisk proceeded to the 19th District station, where he spoke with Sgt. Nicpon and Officer Ngitami. Sgt. Conlisk said he and Sgt. Nicpon reviewed bodycam footage from the incident, and although it wasn't definitive in the video, it appeared Officer Ngitami had his arm around Mr. ██████ neck. Sgt. Nicpon said he would prepare an Initiation Report.⁵

b. Documentary Evidence

The **Initiation Report** by **Sergeant Anthony Nicpon** dated June 30, 2019. In his report, Sgt. Nicpon documents that he observed Officer Ngitami push or strike Mr. ██████ in the head without apparent justification while Mr. ██████ was handcuffed. Sgt. Nicpon also observed Officer Ngitami use an improper hold on Mr. ██████ in that it appeared Officer Ngitami placed his arm around Mr. ██████ neck.⁶

The **Arrest Report** of ██████ The arrest report documents the June 30, 2019 arrest of Mr. ██████ for aggravated battery to a peace officer and resisting arrest. The report states that Officer Ngitami was stationed under the CTA Belmont Red line station working crowd control. Officer Ngitami was pushed from behind by ██████ and Officer Ngitami pushed him back to create distance, at which point Mr. ██████ turned around and spat in Officer Ngitami's face. Officer Ngitami then performed an emergency take down, striking the offender once in the side of the head during the takedown. Mr. ██████ made physical movements on the ground to resist arrest but was placed into custody and transported to the 19th District.⁷

The **Tactical Response Report (TRR)** by Officer Ngitami. In his TRR, Officer Ngitami documents that Mr. ██████ pushed him from behind, that he pushed Mr. ██████ back to create distance, at which point Mr. ██████ spat in Officer Ngitami's face. Officer Ngitami performed an emergency takedown, striking Mr. ██████ once on the side of the head during the takedown.⁸

The **Exposure Report** by Officer Ngitami. The report documents that ██████ spat in Officer Ngitami's face on June 30, 2019, while Officer Ngitami was working the Pride Parade.⁹

c. Digital Evidence

Bodycam Footage from Officer Wojcik's bodycam captures a portion of the incident. In the video, ██████ is seen being placed under arrest, presumably after the takedown documented by Officer Ngitami. Mr. ██████ is standing up near a chain-link partition erected for the parade. Several officers are assisting in his arrest as they try to place handcuffs on Mr. ██████

⁵ Attachment 16.

⁶ Attachment 1.

⁷ Attachment 11.

⁸ Attachment 7.

⁹ Attachment 8.

Officer Ngitami is behind Mr. [REDACTED] and his hand is around Mr. [REDACTED] neck for several seconds while another officer is securing the handcuffs on Mr. [REDACTED]. This can be seen at 55 seconds into the footage. Mr. [REDACTED] is escorted away from the sidewalk area into the middle of the street. Officer Wojcik picks up a body cam that came off in the scuffle, asks whose bodycam it is, and can be heard reading the star number on the back of the bodycam. The bodycam is Officer Ngitami's.¹⁰

V. LEGAL STANDARD

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

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; 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 the conduct reviewed complied with Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with 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. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). 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." *Id.* at ¶ 28.

VI. ANALYSIS

COPA recommends a finding of **Not Sustained for Allegation #1** against **Officer Ngitami** in that he struck [REDACTED] in the head without justification.

Rules 8 and 9 forbid officers from engaging in any unjustified physical altercation with an individual and forbid maltreatment of any person. General Orders G03-02 and G03-02-01 govern

¹⁰ Attachment 18.

the use of force policies for the Chicago Police Department. Generally, a use of force must be objectively reasonable and proportional to the threat to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape. General Order G03-02-01 has guidelines for when a takedown may be employed and when direct mechanical strikes may be used against an individual. A takedown can be initiated against an active resister, which is defined 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.” Direct mechanical strikes, such as punching, may be used against individuals classified as assailants. An assailant is defined as “a subject who is using or threatening the use of force against another person or himself/herself which is likely to cause physical injury.

In this case, Sgt. Nicpon’s initiation report stated that he observed Officer Ngitami push or strike Mr. ██████ in the head. The TRR completed by Officer Ngitami documents that he struck Mr. ██████ in the head while he was performing a takedown maneuver. In his statement to COPA, Officer Ngitami said he thought he struck Mr. ██████ with a closed-hand in the upper-body somewhere after the takedown because Mr. ██████ was resisting arrest while on the ground. Officer Ngitami also stated and that he performed the takedown maneuver in response to being spit on, fearing an additional battery.

Officer Ngitami was pushed from behind and spat on by Mr. ██████. Once Mr. ██████ took those actions against the officer, he became an assailant and had committed a battery against Officer Ngitami. Officer Ngitami’s use of the takedown was permissible, although it’s not clear whether Officer Ngitami provided specific verbal direction to Mr. ██████ before performing the takedown, like telling Mr. ██████ he was under arrest or telling him not to move. When responding to an assailant, it’s not required that the officer make such declarations first, even though it is advisable to do so when possible.

It is not clear that Mr. ██████ attempted to flee or defeat the arrest prior to the takedown. The only mention of Mr. ██████ resisting arrest is while Mr. ██████ was already on the ground, after the takedown. It’s permissible to use closed-hand strikes against an assailant, as Officer Ngitami said he did here, and closed-hand strikes can be used in conjunction with a takedown. Officer Ngitami made no mention of whether he tried to de-escalate the situation before the takedown, or use other force mitigation principles, although he said he pushed Mr. ██████ in order to create distance. While it’s unclear whether Mr. ██████ was avoiding arrest or he knew he was under arrest, his actions of pushing and spitting on the officer made him an assailant. Officer Ngitami was not required to give a warning before performing the takedown in order to effectuate the arrest.

Sergeant Nicpon’s initiation report documented that the “push/strike” to Mr. ██████ head appeared unjustified; however, Sergeant Nicpon stated he saw the act out of the corner of his eye, he was not sure whether it was a push or a strike, and he thought Mr. ██████ was handcuffed. According to the body-cam footage, Mr. ██████ was not handcuffed at that time. Officer Ngitami said in his statement that Mr. ██████ was resisting arrest on the ground after the takedown, and that’s why he struck him in the upper body. However, his TRR says he struck Mr. ██████ in the head during the course of the takedown, with no additional reason as to why the head strike was necessary, although G03-02-01 says direct mechanical techniques may be combined with takedowns.

Based on the available evidence, COPA is unable to determine whether the strike to Mr. [REDACTED] head was unjustified. Therefore, COPA recommends a finding of Not Sustained for Allegation No. 1 against Officer Ngitami.

COPA recommends a finding of **Sustained for Allegation #2 against Officer Ngitami** in that he placed his hand around [REDACTED] neck without justification.

Rules 1, 8 and 9 forbid officers from violating any law, engaging in any unjustified physical altercation with an individual, and forbid maltreatment of any person. General Orders G03-02 and G03-02-01 govern the use of force policies for the Chicago Police Department. Generally, a use of force must be objectively reasonable, necessary and proportional to the threat to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape. General Order 03-02-01 defines a chokehold as “applying direct pressure to a person's trachea (windpipe) or airway (the front of the neck) with the intention of reducing the intake of air.” Chokeholds are only allowed when the use of deadly force is allowed.

In his statement, Officer Ngitami said he did not place his hands or arms around Mr. [REDACTED] neck, however, body-cam from the incident shows Officer Ngitami's hand around Mr. [REDACTED] neck while he is being placed in handcuffs. Because Officer Ngitami did not recall placing his arms or hands around Mr. [REDACTED] neck, he did not explain why he would have felt it was necessary in this case. When Officer Ngitami's hand is around Mr. [REDACTED] neck, Mr. [REDACTED] is seen grimacing in discomfort in the footage. Sgt. Nicpon begins to remove Officer Ngitami's arms from around Mr. [REDACTED] neck area. Sgt. Nicpon then initiates this complaint against Officer Ngitami. There is no apparent reason for the officer's hand to be around Mr. [REDACTED] neck. There is no evidence that Mr. [REDACTED] was using deadly force against Officer Ngitami. Mr. [REDACTED] was under control at that point and was being placed into custody. Therefore, COPA recommends a finding of Sustained for Allegation No. 2 against officer Ngitami.

COPA recommends a finding of **Sustained for Allegation #3 against Officer Ngitami** in that he did not activate his body-worn camera.

Illinois Statute 50 ILCS 706/10 and CPD Special Order S03-14 provide the procedures for officers' use of body-worn cameras. Section 10(a) (3) (A) of the Illinois statute Law Enforcement Officer-Worn Body Camera Act says “[i]f exigent circumstances exist which prevent the camera from being turned on, the camera must be turned on as soon as practicable.” Special Order S03-14 states “If circumstances prevent activating the BWC at the beginning of an incident, the member will activate the BWC as soon as practical.” For purposes of law-enforcement activity, the Special-Order states that an incident is considered completed when the department member leaves the scene of the incident.

In his statement, Officer Ngitami said his bodycam fell off in the beginning stages of the incident but didn't remember exactly when. From Officer Wojcik's body-cam, we see him picking up Officer Ngitami's body camera from the ground after Mr. [REDACTED] has been placed into custody, and handing it to Officer Ngitami. Officer Ngitami remains at the scene waiting for [REDACTED] to be transported for well over five minutes and never activates his bodycam, even after it's recovered,

as required by Illinois Statute and the Department Special Order. Officer Ngitami is still in the presence of the arrestee once his camera is recovered and is still at the scene of the incident. Therefore, Officer Ngitami should have activated his body-worn camera because the incident was not concluded.

COPA finds that although Officer Ngitami did not have time to activate his body-worn camera as the situation occurred, he failed to activate his bodycam once he had an opportunity to do so, while the situation was still an active event. Therefore, COPA recommends a finding of Sustained for Allegation No. 3.

VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer Abdulhamid Ngitami

Officer Ngitami’s complimentary, training and disciplinary histories were considered when recommending discipline in this matter. COPA sustained the allegations that Officer Ngitami used excessive force when he had his hands/arms around the neck of [REDACTED] and that he failed to activate his body worn camera. Officer Ngitami received training on the Use of Force July 25, 2017 but has no documented training for the use of Body Worn Cameras. Officer Ngitami has a history of discipline. He received a 1-day suspension for a preventable accident April 24, 2018. Officer Ngitami also received reprimands for Court Appearance Violations June 10, 2019, and August 26, 2019.

In this case, Officer Ngitami did not recall having his hands or arms around [REDACTED] neck, however, Sergeant Nicpon saw and reported the misconduct and the event was clearly captured on body worn camera. Officer Ngitami also had no justification for failing to activate his body worn camera, once retrieved. COPA finds it troubling that Officer Ngitami had no explanations for either acts of misconduct. COPA recommends Officer Ngitami be trained on Use of Force and Body Worn Cameras and receive a 5-day suspension for his misconduct in this case.

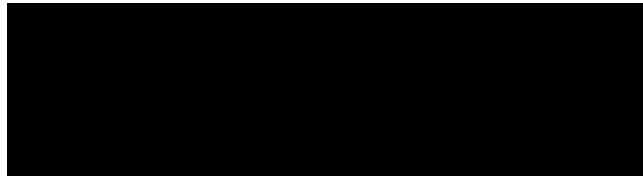
VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Abdulhamid Ngitami	1. It is alleged that on or about June 30, 2019 at approximately 6:00 pm, at or near 946 W. Belmont, Officer Abdulhamid Ngitami struck [REDACTED] in the head without justification. 2. It is alleged that on or about June 30, 2019 at approximately 6:00 pm, at or near 946 W. Belmont, Officer Abdulhamid Ngitami placed his hand(s) and or arm(s) around [REDACTED] neck without justification.	NOT SUSTAINED - SUSTAINED/ 5-day suspension

	<p>3. It is alleged that on or about June 30, 2019 at approximately 6:00 pm, at or near 946 W. Belmont, Officer Abdulhamid Ngitami failed to activate his body-worn camera.</p>	<p>SUSTAINED /5-day suspension</p>
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Approved:



8-31-2020

 Angela Hearts-Glass
 Deputy Chief Administrator

 Date

Appendix A

Assigned Investigative Staff

<p>Squad#:</p>	<p>06</p>
<p>Investigator:</p>	<p>Linda Wyant</p>
<p>Supervising Investigator:</p>	<p>Elaine Tarver</p>
<p>Deputy Chief Administrator:</p>	<p>Angela-Hearts-Glass</p>