

SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	July 15, 2017
Time of Incident:	10:32 am
Location of Incident:	1805 W. 87th Street, Chicago, IL 60620
Date of COPA Notification:	July 15, 2019
Time of COPA Notification:	4:04 pm

Field Training Officer Thomas Kocanda¹ and Officer Michael Marozas (collectively “the Officers”) were patrolling the 1800 block of W. 87th Street when they observed Mr. ██████ peering into and pulling on the doors of a boarded abandoned business. The Officers stopped ██████ obtained his identification, completed a name check, learned ██████ driver’s license was suspended, and released him. After releasing ██████ the Officers drove into the alley behind the business and observed ██████ driving his vehicle towards 87th St. The Officers stopped ██████ who responded by exiting the driver’s seat and throwing the keys away. ██████ was arrested for driving on a suspended driver’s license and his vehicle was impounded. Upon the arrival at the district station, ██████ refused to exit the rear of the Department vehicle. The Officers removed ██████ from the vehicle and carried him into the station. Once inside the station, ██████ agreed to walk into Lockup and was placed in a holding cell. While in the holding cell ██████ began to bang on the door or wall of the cell and complain of wrist pain. An Ambulance was called, and ██████ was transported to Little Company of Mary Hospital. ██████ was diagnosed with a possible fracture to his scaphoid and released to the Officers. ██████ returned to the district station and was processed for operating an uninsured motor vehicle with a suspended driver’s license.

In his statement to COPA, ██████ made the below allegations. COPA determined that the improper arrest allegations is **exonerated**, and the handcuffing allegations is **not sustained**.

II. INVOLVED PARTIES

Involved Field Training Officer #1:	Field Training Officer Thomas Kocanda / Star #9200 / Employee ID# ██████ / DOA: April 13, 1998 / Unit: 022 / DOB: ██████ 1973 / Male / White.
Involved Officer #1:	Officer Michael Marozas / Star #3942 / Employee ID# ██████ / DOA: May 2, 1994 / Unit: 022 / DOB: ██████ 1964 / Male / White.

¹ FTO Kocanda obtained the title of Field Training Officer in November of 2019 and will be referred to with his current title.

Involved Individual #1: ██████████ / DOB: ██████████ 1965 / Male / Black.

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer Thomas Kocanda	1. Arresting Mr. ██████████ without justification, in violation of Rule 6.	Exonerated.
	2. Handcuffing Mr. ██████████ too tightly, in violation of Rule 8.	Not Sustained.
Officer Michael Marozas	1. Arresting Mr. ██████████ without justification, in violation Rule 6.	Exonerated.
	2. Handcuffing Mr. ██████████ too tightly, in violation Rule 8.	Not Sustained.

IV. APPLICABLE RULES AND LAWS

Rules

- 1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

Special Orders

- 1. S04-13-09 – Investigatory Stop System – effective July 10, 2017 to current.

V. INVESTIGATION²

a. Interviews

In a **statement to COPA³** on July 17, 2019, Mr. ██████████ stated he was peering into a vacant business when he was approached by the Officers. The Officers accused ██████████ of casing the vacant business, completed a brief investigation, released ██████████ and left the area.⁴ ██████████ returned to and entered the driver’s seat of his vehicle. As he observed the Officers returning, he threw his keys to the ground. The Officers approached ██████████ and told him that he was being arrested for driving with a suspended driver’s license. ██████████ admitted that he had knowledge his license was suspended.⁵ ██████████ was placed in handcuffs “real hard” and

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Att. 10.

⁴ COPA reviewed this interaction and determined that there was no need to serve any allegations as both ██████████ account and the Department Records – to include an ISR – detail a reasonable basis for an Investigatory Stop. *See* Atts. 10 and 27.

⁵ ██████████ explained to COPA that his driver’s license was suspended for failing to pay parking citations. ██████████ provided a copy of proof of payment for the parking violations. Att. 15, pg 2.

transported to the 022nd District Station.⁶ [REDACTED] was clear that he told the Officers than his handcuffs were too tight, but that the Officers did not respond.

[REDACTED] explained that his transport took so long that he fell asleep in the rear of the CPD vehicle. [REDACTED] was woken by the Officers and went “limp” to resist with the Officers so they would have to remove him from the vehicle.⁷ The Officers grabbed [REDACTED] right hand and moved it in a manner to get him to exit the vehicle.⁸ Once [REDACTED] exited he was carried into the station. At that time [REDACTED] began to feel pain in his hands. [REDACTED] requested medical treatment and was taken to the hospital by the Officers.⁹

After receiving treatment and being diagnosed with a broken wrist, [REDACTED] was returned to the station, and processed for operating an uninsured motor vehicle with a suspended license.

In a **statement to COPA**¹⁰ on January 30, 2019, **FTO Thomas Kocanda** stated that his partner (Officer Marozas) and he were patrolling the 1800 block of W. 87th Street when they observed [REDACTED] peering into a boarded business. The Officers completed an investigatory stop on [REDACTED] during which they learned his driver’s license was suspended. The Officers informed [REDACTED] he was free to leave. The Officers drove around the boarded business and into the alley. While driving down the alley, they observed [REDACTED] entering his vehicle and driving towards 87th Street. The Officers conducted a traffic stop on [REDACTED] vehicle. [REDACTED] responded by stopping, exiting the driver’s seat, and throwing his keys. The Officers arrested [REDACTED] for driving on a suspended driver’s license and impounded his vehicle.

Officer Marozas drove [REDACTED] vehicle to the district station while FTO Kocanda transported [REDACTED]. Upon arrival at the district station, [REDACTED] refused to exit and remained laying across the back seat. The Officers physically lifted [REDACTED] out of the vehicle and placed him in a rolling desk chair that was inside the vestibule. Once in the chair [REDACTED] explained that he would walk into Lockup, which the Officers allowed him to do. Once in Lockup, [REDACTED] was released from handcuffs and placed in a holding cell. While in the holding cell, [REDACTED] began to bang on the wall or door of the cell while complaining of wrist pain. An Ambulance was requested, and [REDACTED] was transported to the hospital. While at the hospital [REDACTED] was diagnosed with a fractured wrist.

FTO Kocanda explained that [REDACTED] did not complain that his handcuffs were too tight nor of any pain or injury until after he began to bang on the cell wall or door. Additionally, FTO Kocanda recalled checking [REDACTED] handcuffs for fit at the time of the arrest by placing two fingers between the handcuff and [REDACTED] wrist. Further, FTO Kocanda detailed he lifted [REDACTED] legs and Officer Marozas lifted his shoulders as they removed [REDACTED] from the vehicle, and he did not believe either officer used a wristlock or any similar type of wrist control while they removed [REDACTED] from the vehicle.

⁶ Att. 10 at 10:44.

⁷ Att. 10 at 14:29.

⁸ [REDACTED] description of this action is consistent with a wristlock.

⁹ A CFD Event Query shows the [REDACTED] was transported by Ambulance 17 to the hospital. Att. 18.

¹⁰ Att. 47.

In a **statement to COPA**¹¹ on January 28, 2019, **Officer Michael Marozas** stated essentially the same information as FTO Kocanda. Additionally, Officer Marozas did not recall [REDACTED] ever commenting on his handcuffs being too tight or uncomfortable and explained that he drove [REDACTED] vehicle to the district station so was unaware of any conversation [REDACTED] had during his transport.¹² Additionally, Officer Marozas specifically recalled that as he removed [REDACTED] from the Department vehicle at the station, he observed that his pinky finger fit between the handcuffs and [REDACTED] wrist. Further, Officer Marozas explained that in his twenty plus years with the Department he always checks for fit¹³ and double locks the handcuffs, unless the subject is being combative – which he explained [REDACTED] was not. Finally, Officer Marozas explained that while at the hospital a member of the medical staff informed him that [REDACTED] injury, a fractured wrist, was unlikely caused by handcuffing.

b. Documentary Evidence¹⁴

An **Initiation Report**¹⁵ details [REDACTED] alleged his right hand was broken by the Officers when he was being removed from the rear of a CPD vehicle at the 022nd District Station. [REDACTED] explained his delayed reporting of the injury because he was out of town.¹⁶

[REDACTED] **Arrest Report**¹⁷ and an **Original Case Incident Report**¹⁸ details that the Officers were aware [REDACTED] driver's license was suspended when they observed him driving a gray Dodge Dart. The Officers stopped [REDACTED] and arrested him. [REDACTED] was transported to the 022nd District Station. Upon arrival [REDACTED] refused to exit the CPD vehicle and refused to explain why he was not exiting. [REDACTED] was physically carried from the CPD vehicle into the station. Once inside the station, [REDACTED] threatened to a lawsuit against various Department members and directed profanities at Sergeant Dennis Smith. While in Lockup, [REDACTED] complained of burning wrist pain. Chicago Fire Department Ambulance 17 responded and transported [REDACTED] to Little Company of Mary Hospital.

Tactical Response Reports¹⁹ (TRRs) detail that [REDACTED] presented as a passive resister by not following verbal directions, stiffening, and refusing to exit a CPD vehicle. The response of the Officers is detailed as member presence, verbal commands, and carrying [REDACTED] into the district station. The reports detail that [REDACTED] was not injured by the Officers but that he alleged that he was injured. Further, the reports detail that [REDACTED] was treated at Little Company of Mary Hospital for his alleged injuries. Finally, the report details that [REDACTED] refused to speak with Lt.

¹¹ Att. 43.

¹² Officer Marozas drove [REDACTED] vehicle to the district station so that it could be impounded, as permitted by Municipal Code. See Att. 30, pg.2

¹³ Officer Marozas demonstrated he checks for fit by placing his pinky finger between the handcuff and the subject's wrists.

¹⁴ COPA notes Body Worn Cameras were issued to the 022nd District on October 30, 2017; therefore, no footage of this incident exists.

¹⁵ Att. 1.

¹⁶ COPA notes [REDACTED] delay was exactly two years.

¹⁷ Att. 2.

¹⁸ Att. 4.

¹⁹ Atts. 6 and 7.

Andre Parham about the incident and that Lt. Parham reviewed all the records and determined that the Officers acted within Department policy.

██████████ **Medical Records**²⁰ detail that he presented to CFD personnel with complaints of wrist pain but would not explain how he injured his wrist.²¹ ██████████ was transported to Little Company of Mary Hospital where he presented to the emergency room with a complaint of right wrist pain with slight swelling after being arrested by Department members.²² While in the emergency room, ██████████ would not allow hospital staff to fully examine his wrist.²³ ██████████ was diagnosed and treated for a possible nondisplaced fracture to his right scaphoid.²⁴

VI. 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 occurred and violated 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 misconduct occurred, 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.

²⁰ Atts. 17 and 26.

²¹ Att. 17 at 4.

²² Att. 26 at 3.

²³ *Id.* at 9.

²⁴ *Id.* at 4 and 5.

VII. ANALYSIS

COPA finds that Allegation #1 against the Officers is **exonerated**. An officer must have probable cause to arrest a subject.²⁵ “Probable cause to arrest exists where the police have knowledge of facts that would lead a reasonable person to believe that a crime has occurred and that the subject had committed it.”²⁶ The reasonable basis of any arrest “should be considered from the perspective of a reasonable officer at the time” of the arrest.²⁷ Additionally, it is unlawful for a person to “drive or [be] in actual physical control of a motor vehicle” with a suspended driver’s license.²⁸ While “actual physical control” does not have a clear definition, courts have found that a person seated in the driver’s seat and in possession of the keys to the vehicle is in “actual physical control.”²⁹

Here it is undisputed that [REDACTED] driver’s license was suspended while he was occupying the driver’s seat of his vehicle and in possession of the vehicle keys. While it is unclear if [REDACTED] was actually driving the vehicle, as the Officers assert, or if he was just seated in the driver’s seat, as [REDACTED] asserts, it is clear that [REDACTED] was either driving or in actual physical control of the vehicle while his driver’s license was suspended. Therefore, the Officers decision to arrest [REDACTED] was reasonable and proper.

COPA finds that Allegation #2 against the Officers is **not sustained**. Here, COPA was unable to locate any evidence, other than his statement, that corroborates the allegation. Additionally, COPA was unable to locate any evidence, other than the Officer’s statements, that refute the allegation. While the [REDACTED] medical records detail a possible fracture to his right scaphoid, it is unclear when or how this injury occurred.³⁰

VIII. CONCLUSION

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

Officer	Allegation	Finding / Recommendation
Officer Thomas Kocanda	1. Arresting Mr. [REDACTED] without justification, in violation of Rule 6. 2. Handcuffing Mr. [REDACTED] too tightly, in violation of Rule 8.	Exonerated. Not Sustained.
Officer Michael Marozas	1. Arresting Mr. [REDACTED] without justification, in violation Rule 6.	Exonerated.

²⁵ *People v. [REDACTED]*, 408 Ill. App. 3d 107 (citing *Beck v. Ohio*, 379 U.S. 89, 91, (1964)).

²⁶ S04-13-09 II(D).

²⁷ S04-13-09 II(D).

²⁸ 625 ILCS 5/6-303(a).

²⁹ See *People v. Morris*, 16 N.E.3d 269; *City of Naperville v. Watson*, 677 N.E.2d 955 (Ill. 1997); *People v. Brown*, 175 Ill. App. 3d 676 (1988); *People v. Parks*, 2014 Ill. App. 2d 140080 (Ill App. Ct. 2014).

³⁰ COPA notes that [REDACTED] striking of the holding cell wall or door could have caused his injury. Additionally, the mere presence of an injury, in and of itself, is not dispositive of misconduct.

2. Handcuffing Mr. [REDACTED] too tightly, in violation Rule 8.

Not Sustained.

Ap



9/30/20

James Murphy-Aguilu
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	5
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	James Murphy-Aguilu