

SUMMARY REPORT OF INVESTIGATION<sup>1</sup>

## I. EXECUTIVE SUMMARY

Date of Incident:	July 14, 2016
Time of Incident:	1:35 PM
Location of Incident:	2150 N. California Ave., Chicago, IL
Date of COPA Notification:	July 26, 2016
Time of COPA Notification:	1:02 PM

On June 14, 2016, at or near 2804 W. Chicago Ave., Chicago, IL, at approximately 12:30 AM, Officer Benjamin Fern (“Officer Fern”) and Officer Chad Smith (“Officer Smith”), while working Bt. No 1462, a tactical unit in the 14<sup>th</sup> District, arrested [REDACTED] (“[REDACTED]”) for possession of a stolen motor vehicle. Upon arrival at the 14<sup>th</sup> District, [REDACTED] was placed into a detention holding room for processing. Officers Fern and [REDACTED] then left that detention holding room. While left unattended, and with his personal property thus left unsecured, [REDACTED] took his shoelaces, tied them around his neck and to a bar above the holding room bench. COPA reviewed this incident and recommends that the allegations that Officers Fern and Smith were inattentive to duty be sustained.

## II. INVOLVED PARTIES

Involved Officer #1:	Benjamin J. Fern, Star #7537, Employee ID#: [REDACTED], DOA: 6/21/1999, Rank: Police Officer, Unit of Assignment: 14 <sup>th</sup> District, DOB: [REDACTED] 1971, Male, White
Involved Officer #2:	Chad N. Smith, Star #6021, Employee ID#: [REDACTED] DOA: 5/22/2008, Rank: Police Officer, Unit of Assignment: 14 <sup>th</sup> District, DOB: [REDACTED] 1972, Male, White
Involved Individual #1:	[REDACTED] DOB: [REDACTED] 1979, Male, Black

<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

**III. ALLEGATIONS**

Officer	Allegation	Finding
Officer Fern	1. It is alleged that on or around June 14, 2016, at 2150 N. California Ave., Chicago IL, at approximately 1:35 AM, Officer Benjamen Fern was inattentive to duty by failing to secure personal items after conducting a custodial search of arrestee ██████ in violation of Rule 10.	Sustained
Officer Smith	1. It is alleged that on or around June 14, 2016, at 2150 N. California Ave., Chicago, IL, at approximately 1:35 AM, Officer Chad Smith was inattentive to duty by failing to secure personal items after conducting a custodial search of arrestee ██████ in violation of Rule 10.	Sustained

**IV. APPLICABLE RULES AND LAWS**

Rules

1. **Rule 10:** Inattention to duty.

**V. INVESTIGATION<sup>2</sup>**

**a. Interviews**

On April 7, 2018, **accused Officer Benjamen Fern** (“Officer Fern”), gave COPA a digitally recorded interview. Officer Fern stated on June 14, 2016, he and his partner, Officer Chad Smith (“Officer Smith”) were working as a tactical unit in the 14<sup>th</sup> District. Officer Fern stated ██████ (“█████ along with a ██████ ██████ (“█████ were arrested and transported by a marked unit to the 14<sup>th</sup> District.<sup>4</sup> Officer Fern stated once at the 14<sup>th</sup> District, ██████ and ██████ were taken to the Tactical Unit Office. Officer Fern stated because the 14<sup>th</sup> District detention area was not operational, ██████ was secured and processed in an enclosed

<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon for our analysis.

<sup>3</sup> Attachment 8, Original Case Incident Report

<sup>4</sup> ██████ and ██████ were arrested after the vehicle they were in was stopped for a traffic violation. It was later determined by Officers Fern and Smith that it was a stolen vehicle. This investigation was solely based on the officers’ conduct post-arrest, while ██████ was detained.

holding room in the Tactical Unit office. Officer Fern stated [REDACTED] was processed and handcuffed to a bench in the outer office area.

Officer Fern stated Officer Smith instructed [REDACTED] to place his personal items in a personal property bag. Officer Fern stated during his processing, [REDACTED] complained of chest pains and stated he needed medical attention. Officer Fern stated Officer Smith called for Chicago Fire Department (“CFD”) EMS on his radio while both officers were standing inside of the holding room with [REDACTED]. Officer Fern stated he did not recall whether [REDACTED] was secured to the holding room wall at that time. Officer Fern stated after the call for CFD EMS was made, he and Officer Smith left [REDACTED] alone in the holding room to process the arrest and case reports. Officer Fern stated CFD EMS responded and went to examine [REDACTED] in the holding room. Officer Fern stated Officer Smith and CFD EMS found [REDACTED] lying prone on the floor between two benches in the holding room. Officer Fern stated that at some point between the time that EMS was called and their arrival, [REDACTED] gained access to the property bag containing his shoelaces which was sitting in the doorway of the holding room. Officer Fern stated [REDACTED] must have then tied both shoelaces together, one shoelace around the cuff ring on the bench, and one shoelace around his neck. Officer Fern stated a shoelace was tied in a knot loosely around [REDACTED] neck. Officer Fern stated CFD EMS checked [REDACTED] vitals to ascertain whether he was coherent or alive. Officer Fern stated [REDACTED] was transported from the 14<sup>th</sup> District to St. Mary’s Hospital. Officer Fern stated after receiving treatment at the hospital, [REDACTED] was released back into CPD custody. Officer Fern stated on the date of the incident he spoke with his supervisor, Sergeant Woodie Gibson (“Sgt. Gibson”), Star# 1697, regarding what occurred with [REDACTED] in the processing area.<sup>5</sup>

On July 11, 2018, **accused Officer Chad Smith**, (“Officer Smith”), gave COPA a digitally recorded interview. Officer Smith stated on June 14, 2016, he and Officer Fern were working as a tactical unit in the 14<sup>th</sup> District. Officer Smith stated [REDACTED] was arrested and transported to the 14<sup>th</sup> District. Officer Smith stated the 14<sup>th</sup> District lockup was closed several years prior to the incident. Officer Smith stated once officers are done processing prisoners who are taken to the 14<sup>th</sup> District, they are transported to the lockup at Belmont and Western.<sup>6</sup> Officer Smith stated [REDACTED] was taken to the tactical room at the District. Officer Smith stated [REDACTED] was placed in the detainment room in the tactical office. Officer Smith stated the detainment room is a concrete block cell with a lockable steel door, bench bolted against the wall, with a metal pipe railing. Officer Smith stated arrestees are handcuffed to the metal pipe railing. Officer Smith stated [REDACTED] was alone in the cell, while the other arrestee [REDACTED] was handcuffed to a metal bench and being processed in the outer office area. Officer Smith stated [REDACTED] right hand was handcuffed to the metal pipe railing in the detainment room. Officer Smith stated he could not recall if [REDACTED] was handcuffed the entire time, but that he was unhandcuffed for a custodial search and the collection

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<sup>5</sup> Attachment 17

<sup>6</sup> 19<sup>th</sup> District West, 2452 W. Belmont

of his personal property. Officer Smith described [REDACTED] demeanor at this time as “incredibly belligerent, incredibly uncooperative.”<sup>7</sup>

Officer Smith stated he and Officer Fern were responsible for the processing of [REDACTED]. Officer Smith stated he and Officer Fern would have frequently been in and out of the detainment room processing [REDACTED] and [REDACTED] who was in the outer office area. Officer Smith stated there would have been moments [REDACTED] was alone in the detainment room, “for a very short amount of time, a minute plus or minus, at this point.”<sup>8</sup> Officer Smith stated [REDACTED] would constantly stop him while reading his Miranda rights. Officer Smith stated while reading the Miranda rights, [REDACTED] asked about his charges. Officer Smith stated he told [REDACTED] the charge was possession of a stolen motor vehicle. Officer Smith stated [REDACTED] then said he had a medical emergency and needed to go to the hospital. Officer Smith stated he went over the police radio and requested CFD EMS. Officer Smith stated the police dispatcher wanted [REDACTED] symptoms. Officer Smith stated [REDACTED] said he had chest pains and was hallucinating.

Officer Smith stated he did not recall whether [REDACTED] personal property was in a personal property envelope. Officer Smith stated that while they waited for EMS, [REDACTED] was seated on a bench. Officer Smith stated [REDACTED] was instructed to remove his personal items, but that “we never reached the point of sealing his bag [personal property envelope] prior to him requesting medical attention.”<sup>9</sup> Officer Smith stated [REDACTED] was removing his shoelaces and his personal property bag was on the floor prior to requesting medical attention. Officer Smith stated after calling for CFD EMS, he left [REDACTED] in the detention room to notify his supervisor, Sergeant Woodie Gibson (“Sgt. Gibson”), that he called for an ambulance. Officer Smith stated he could not recall if Officer Fern was in the detention room with [REDACTED] after leaving to notify Sgt. Gibson. Officer Smith stated he was absent from the detention holding room for approximately one minute. Officer Smith stated CFD EMS arrived approximately three minutes after being called. Officer Smith stated he and the CFD paramedics entered the detention holding room and discovered [REDACTED] “laying with his back on the ground, with two shoelaces haphazardly tied together, one end loosely tied around his neck, the other one tied to the bar he would’ve been handcuffed to, the slack going from the railing to his neck, and he was laying on his back holding his breath.”<sup>10</sup> Officer Smith stated the EMS paramedics told [REDACTED] to stop holding his breath. Officer Smith stated he immediately grabbed the string around [REDACTED] neck, “took a housekey out and cut the shoelace from around his neck.”<sup>11</sup> Officer Smith stated the shoelace hanging around [REDACTED] neck was “hanging loosely.”<sup>12</sup> Officer Smith stated [REDACTED] tied the shoelace in a double knot around his neck. Officer Smith stated CFD EMS paramedics transported [REDACTED] to the hospital. Officer Smith did not recall if he went with

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<sup>7</sup> Attachment 18, at 15:13

<sup>8</sup> Id. at 16:40

<sup>9</sup> Id. at 21:03

<sup>10</sup> Id. at 25:48

<sup>11</sup> Id. at 26:28

<sup>12</sup> Id. at 26:44

█████ to the hospital. Officer Smith stated after receiving hospital care, █████ was returned into CPD custody.<sup>13</sup>

#### b. Documentary Evidence

An **Initiation Report authored by Sgt. Woodie Gibson** to Acting Commander Fabian Saldana from June 14, 2016, states arrestee █████ was in police custody for possession of a stolen motor vehicle. The report states █████ personal property was recovered and placed in a Department Inventory Bag. However, as █████ became belligerent towards Officers Fern and Smith, the report states his shoelaces were not placed inside the Department Inventory Bag. While Officer Smith was reading █████ his Miranda rights, █████ requested medical attention. CFD Ambulance 3 paramedics responded to the 14<sup>th</sup> District and Officer Smith opened the door to the holding room. The report states Officer Smith and the paramedics observed █████ lying on the floor adjacent to the metal bench. The report states Officer Smith observed █████ tied both his shoelaces together around his neck and to the bar located on the bench while handcuffed. The report states Officer Smith immediately cut the laces, and █████ was transported by the CFD paramedics to St. Mary's Hospital for treatment.<sup>14</sup>

The **14th District Watch Incident Log** for the 1<sup>st</sup> Watch, June 14, 2016, indicates tactical team arrestee █████ was taken to St. Mary's for a psych evaluation after being arrested for a stolen vehicle, and observed having some mental problems. The Watch Incident Log states Officer Chad Smith observed the arrestee, █████ with a shoestring around his neck, and the other end tied around the bar of the interview bench. The report states █████ had the shoestring tied loosely but he was still taken to St. Mary's for evaluation by CFD. The report states CL# 108977 was initiated for Inattention to Duty.<sup>15</sup>

**CFD Run Sheets Incident # 161660101** states on June 14, 2016, at approximately 1:30 AM, CFD Ambulance 3 was dispatched to the 14<sup>th</sup> District. Upon arrival at approximately 1:34 AM, the paramedics observed █████ lying on the floor of the holding area with his left arm handcuffed to the bench and a shoelace tied to the bar on bench having thrown himself on the ground. The report states per the CPD officer that cut the shoelace around █████ neck, identified as Officer Smith, the shoelace was very slack, and some tension was applied to cut it. The report states █████ accused the police of trying to kill him. The report states █████ was brought to the ambulance but was very unresponsive when asked to step up into the ambulance, letting himself collapse to the ground. The report further states █████ was placed on a stretcher and that he appeared to be holding his breath.<sup>16</sup>

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<sup>13</sup> Attachment 18

<sup>14</sup> Attachment 15

<sup>15</sup> Attachment 12

<sup>16</sup> Attachment 10

**Medical Records from St. Mary of Nazareth Hospital** indicate that [REDACTED] was transported there by CFD Ambulance 3 for treatment. Medical personnel in the Emergency Department (ED) evaluated [REDACTED]. Medical records indicate [REDACTED] was brought into the ED for a psychiatric evaluation.<sup>17</sup> Medical personnel stated CPD members said [REDACTED] “at the station took a shoe string and tied it loosely around his neck and requested an ambulance.”<sup>18</sup> CPD members told medical personnel that the shoestring was tied around [REDACTED] neck with slack and was not tight. Medical personnel stated in their evaluation of [REDACTED] there were “no marks to the neck.”<sup>19</sup> [REDACTED] was considered alert and appeared intoxicated. Medical personnel suspected [REDACTED] was acting in a manner to avoid incarceration. [REDACTED] was discharged back into CPD custody.

## VI. ANALYSIS

COPA concludes that Officer Fern and Officer Smith, while conducting arrest processing of [REDACTED] called for medical assistance after [REDACTED] said he was suffering from chest pains and hallucinations. Additionally, after calling for CFD EMS, both officers left [REDACTED] unattended in the detention holding area with his personal property unsecured thereby giving him access to his shoelaces and other personal effects. Officer Smith returned to the detention hold room with CFD paramedics and found [REDACTED] on the floor with the shoelaces tied around his neck and to the restraint bar.

The actions of Officer Fern and Smith, on their face, demonstrate inattention to duty that potentially could have culminated in the in-custody death of complainant [REDACTED]. As the evidence is overwhelming that they were inattentive to duty, and both officers’ statements corroborate the events that led to [REDACTED] tying the shoelaces around his neck, COPA recommends that allegations against both officers be sustained.

## VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

### a. Officer Benjamin Fern#7537

#### i. Complimentary and Disciplinary History

1. Officer Fern has the following complimentary history: Problem Solving Award: 1, Other Awards: 1, Attendance Recognition Award: 3, Presidential Election Deployment Award 2008: 1, Department Commendation: 4, 2004 Crime Reduction Ribbon: 1, Honorable Mention: 113, Complimentary Letter: 13, NATO Summit Service Award: 1, Honorable Mention Ribbon Award: 1, Life Saving Award: 1, NATO Summit Service Award: 1, 2009 Crime Reduction Award: 1

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<sup>17</sup> Attachment 13, page 7

<sup>18</sup> Id. at page 7

<sup>19</sup> Id. at page 9

2. Officer Fern has the following disciplinary history: None

**ii. Recommended Penalty**

1. COPA recommends a penalty of a 5 day suspension.
2. Mitigating factor: None
3. Aggravating Factors: (1) [REDACTED] had complained of chest problems and hallucinations and requested medical attention. (2) [REDACTED] was left unattended in the detention room allowing him access to shoelaces that he tied in a knot around his neck and to a metal bar.

**b. Officer Chad Smith #6021**

**i. Complimentary and Disciplinary History**

1. Officer Smith has the following complimentary history: Attendance Recognition Award: 1, Presidential Election Deployment Award 2008: 1, Special Commendation: 1, Department Commendation: 2, Honorable Mention: 33, Complementary Letter: 1, NATO Summit Service Award: 1, 2009 Crime Reduction Award: 1
2. Officer Smith has the following disciplinary history: None

**ii. Recommended Penalty**

1. COPA recommends a penalty of a 5 day suspension.
2. Mitigating factor: None
3. Aggravating Factors: (1) [REDACTED] had complained of chest problems and hallucinations and requested medical attention. (2) [REDACTED] was left unattended in the detention room allowing him access to shoelaces that he tied in a knot around his neck and to a metal bar.

**VIII. CONCLUSION**

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

Officer	Allegation	Finding/Recommendation
Officer Fern	1. It is alleged that on or around June 14, 2016, at 2150 N. California Ave., Chicago IL, at approximately 1:35 AM, that Officer Benjamin Fern was inattentive to duty by failing to secure personal items after conducting a custodial search of arrestee [REDACTED] in violation of Rule 10.	Sustained
Officer Smith	1. It is alleged that on or around June 14, 2016, at 2150 N. California Ave., Chicago, IL, at approximately 1:35 AM, Officer Chad Smith was inattentive to duty by failing to secure personal items after conducting a custodial search of arrestee [REDACTED] in violation of Rule 10.	Sustained

Approved:

[REDACTED]

Andrea Kersten  
Deputy Chief Administrator-Chief Investigator

5/16/18

Date