



## COBB COUNTY ATTORNEY'S OFFICE

100 Cherokee Street, Suite 350  
Marietta, Georgia 30090-7003  
(770) 528-4000 • fax: (770) 528-4010

Deborah L. Dance  
County Attorney

**TO:** David Hankerson, County Manager  
Sam Heaton, Public Safety Director

**FROM:** Deborah L. Dance, County Attorney   
Eddie Snelling, Jr., Senior Associate Attorney

**RE:** INVESTIGATIVE REPORT,  
CCPD Complaint 893, November 16, 2015

**DATE:** Tuesday, December 22, 2015

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### REQUEST FOR INVESTIGATION & SCOPE

On December 7, 2015, the County Manager and Public Safety Director requested that the County Attorney's Office conduct an independent, comprehensive investigation regarding a traffic stop that occurred on Mableton Parkway, November 16, 2015 at approximately 1:50 a.m. The stop was initiated by Cobb County Police Officer Maurice Lawson, who cited Brian J. Baker for speeding and failure to maintain his lane. Subsequently, Mr. Baker complained about how he was treated during the stop. This report will focus on a review of the officer's conduct and examination of the facts of the incident, including policy violation and other factors to be considered in effecting corrective and/or disciplinary action.

**COUNTY ATTORNEY'S OFFICE INVESTIGATIVE REPORT  
REVIEW OF OFFICER LAWSON'S CONDUCT  
INCIDENT TO NOVEMBER 16, 2015 TRAFFIC STOP**

**A. FACTUAL SYNOPSIS**

The following factual synopsis is based upon the investigation into the November 16, 2015 incident involving Officer Maurice Lawson and Brian Baker. An Appendix at the end of this report contains a "Course of Investigation," "Summary of Critical Facts," "Sequence of Events," and "Index to Attachments."

*1. Applicable Policies*

According to BOC Policy Conduct and Performance § III J. concerning Employee Relations:

Employees are expected to be courteous to the public and employees. In demonstrating courtesy, employees are expected to be tactful, to control their tempers, and to exercise patience and discretion. In performing their duties, employees are expected to refrain from abusive, threatening, harassing, violent, intimidating, crude, vulgar, profane, or insolent language, gestures, or actions. As well, employees are expected to refrain from expressing prejudice toward any person(s) or any group(s) based upon sex, race, national origin, age, religion, politics, lifestyle, or any personal characteristics.

(Attachment 1). As such, Cobb County employees, police personnel are bound by the BOC policy to be courteous and refrain from bias in performing their duties.

In addition to the above, the Department of Public Safety has a separate set of policies governing the behavior of officers. According to the Code of Conduct §§1.02 and 1.25:

1.02 Unbecoming Conduct

Personnel shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Police Department. Unbecoming conduct shall include that which tends to bring the Department into disrepute or reflects discredit upon the person as a member of the Department, or that which tends to impair the operation or efficiency of the Department or its personnel.

1.25 Courtesy

Personnel shall at all times be courteous and respectful to the public and to one another. Personnel shall be tactful in the performance of their duties, shall control their tempers, and exercise patience and discretion. In the performance of their duties, personnel shall not use coarse, violent, profane, or insolent language or gestures, and shall not express any prejudice concerning sex, gender, race, ethnic background, religion, age, politics, national origin, lifestyle, or similar personal characteristics.

(Attachment 2). Hence, DPS policies require that police officers be courteous and respectful to the public in performing their duties.

The CCPD has guidelines governing traffic stops and contact with motorists. (Attachment 3. i., CCPD Policy 5.18, § VI. B)(officer must maintain professional demeanor). CCPD also specifically prohibits bias-based profiling in all contacts. (Attachment 3. j., CCPD Policy 5.30).

To address policy violations, the CCPD has a Disciplinary Actions Policy. (Attachment 3.e., Disciplinary Actions, 2.14). Said policy provides that discipline is to be administered as a function of command in accordance with the Progressive Discipline Policy and procedures of the Cobb County Civil Service Board. Under the County's Progressive Discipline Policy (Attachment 1.a., Progressive Discipline), discipline is to be determined by the nature and circumstances of a violation. "Discipline should be progressive when appropriate; however, some violations warrant immediate suspension or dismissal without prior disciplinary action." *Id.*

The Progressive Discipline Policy speaks to the fair, appropriate and consistent discipline of employees based upon the facts of a violation. Accordingly, "disciplinary action should be determined based on factors, including, but not limited to, the nature, severity, or frequency of the violation; the degree of deviation from expectations; the discipline taken by the decision-maker for the same or similar violations; and the individual's employment record." (Attachment 1.a., Progressive Discipline, § IV. B) (emphasis added).

Corrective action and discipline for employees of the CCPD is to be imposed by the “Appointing Authority,” the Chief of Police,<sup>1</sup> subject to review in certain cases by the Civil Service Board. (Attachment 1. a., Progressive Discipline § IV. A; Attachment 1. b. Rules and Standards of the Civil Service Board; Attachment 1. c., Article II. Civil Service; Attachment 3 e., CCPD Disciplinary Actions, 2.14, § III C. 1).

## 2. Police Officer Maurice Lawson

Maurice Lawson grew up in Mableton, Georgia, where he attended and graduated from Pebblebrook High School. (Attachment 6). After high school, Lawson served 4 years in the Marines. He received the Good Conduct Medal, Afghanistan Campaign Medal (with Bronze Service Star) and was honorably discharged after completing his tour of duty. *Id.* Lawson was employed by CCPD in March, 2014.

After he was employed, Lawson acknowledged receiving the CCPD Code of Conduct, which requires officers to be courteous and respectful to the public in performing their duties. *Id.*

Like all new hires, Lawson received “mandate” training for 6 months. (Lawson Interview, December 11, 2015). During training, *inter alia*, Lawson received instruction in (1) diversity, (2) communication and interviews, (3) professionalism, (4) stress, and (5) vehicle pullovers. (Attachment 12). Including basic and ongoing instruction, Lawson has accumulated nearly 800 hours of training. (*Id.*; Lt. Ballard Interview, December 10, 2015).

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<sup>1</sup> An employee of the Public Safety Department, which would include a police officer, is covered by the Cobb County Civil Service System. (Attachment 1.b., Rules and Standards, Sections 4.100, 4.200; Attachment 1.c., Cobb County Code State Enabling Legislation, Chapter 22, Article II, Division 2, Sec. 22-44). Under the Civil Service Board’s Rules and Standards, the Appointing Authority may, upon written notice stating the reasons therefore, suspend, demote or terminate an employee for good cause as identified in Rules and Standards sections 6.100, 6.200 and 6.300. Depending on the department, “Appointing Authority” means a department head, elected official, or division head. (Attachment 1.b., Rules and Standards, Rule 1, Definitions, Par. 1.2). Currently, since only the employees of the Sheriff’s Office and Tax Commissioner are covered under the Cobb County Civil Service System, the only elected officials included as an “Appointing Authority” are the Sheriff of Cobb County and the Cobb County Tax Commissioner. (Attachments 1.b.; 1.c.). Accordingly, for CCPD employees, the Chief of Police is the Appointing Authority charged with making decisions on appropriate disciplinary action. *See Krieger v. Walton County Board of Commissioners*, 269 Ga. 678, 683, 506 S.E.2d. 366, 370 (1998) (appointing authority is person with authority to hire and discharge employees).

After mandated training, Lawson was assigned to a field training officer (“FTO”). (Attachment 13; Lawson Interview, December 11, 2015, Grizanti Interview, December 10, 2015). The FTO is to provide additional on-the-job instruction, including how to deal with the public. (Grizanti Interview, December 10, 2015; Marchetta Interview, December 10, 2015). The FTO is to make daily observations about performance.<sup>2</sup> (See Attachment 13). After completing nearly 9 months of training, Officer Lawson began working in Precinct 2, the area where he grew up. (Lawson Interview, December 11, 2015).

During his service with CCPD, Lawson was reprimanded once on April 18, 2015 for inappropriately applying the pursuit policy after a suspect fled during a traffic stop. (Attachment 6. a). Lawson’s performance report reflects “. . . it was the second day of the new pursuit policy. It was also [Lawson’s] first ‘solo’ day and his first ‘solo’ traffic stop. Officer Lawson willingly accepted accountability for his actions.” (Attachment 6, Performance Appraisal, 10/31/15). Lawson also received a complaint about his language regarding a June 13, 2015 incident. Using slang, Officer Lawson was attempting to explain to a juvenile that if he had complied with a request to move, the juvenile would not have had a Cobb County police officer near him. (Attachment 14). The complainant thought Officer Lawson made a comment about Lawson “putting his tongue in [the complainant’s] ear.” After review, it was determined that Officer Lawson stated, “with my nose in your ear,” slang terminology from his service in the Marines.<sup>3</sup> (Attachment 6, Performance Appraisal, 10/31/15; Attachment 14). Officer Lawson was counseled about the incident, and the incident was reflected in his performance appraisal. *Id.*

In addition to the above, on July 14, 2015, Officer Lawson was involved in what became a highly publicized undercover operation in Precinct 2 to detect and apprehend individuals entering automobiles to commit thefts. The undercover operation was instituted because of an increasing number of complaints in the Precinct. (Attachment 4, Investigative Report). At approximately 1:40 a.m., Officer Lawson noticed an SUV leave the parking lot at a high rate of speed. (*Id.* p. 6). According to Officer Lawson, based on his observations, he suspected criminal activity and followed. (Approximately 70% of the crime in Cobb County occurs in Precinct 2, where the incident took place. (McCreary Interview, December 10, 2015; Attachment 21, Map of Precinct 2)). After running the tag on the vehicle, Officer Lawson discontinue following

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<sup>2</sup> For example, Lawson once was written up by his FTO because Lawson’s handcuffs were not properly placed in the pouch. (See Attachment 13, March 5, 2015).

<sup>3</sup> In response to the explanation, the mother of the juvenile offered to have her son perform volunteer work for CCPD. *Id.*

when the owner of the vehicle was determined to be a Cobb County commissioner. A complaint was filed containing a series of questions regarding the stop. (Attachment 4, Investigative Report, pp. 1, 2-5, 11-15). Numerous media outlets reported the incident as a race issue.<sup>4</sup>

In addition to responding to questions posed, the Investigative Report (Attachment 4), prepared by the Public Safety Director, concluded that Officer Lawson acted within departmental policies and guidelines.

During his service with CCPD, Lawson has received comments relative to his respect toward citizens and conduct reflecting favorably on the department. (Attachment 6, Performance Appraisal 10/01/2013, Evaluation Factors). His performance appraisal cites an instance when, on September 30, 2015, Officer Lawson responded to a call about suspicious persons. “The subjects immediately fled on foot. Officer Lawson pursued the subjects and was able to apprehend one of the subjects in the woods, and in a creek. This apprehension was the beginning of an investigation that resulted in the clearing of 30 some-odd cases of Entering Auto that night.” (*Id.*, Performance Appraisal 10/31/2015, Evaluation factors; Attachment 20, Major Incident Report).<sup>5</sup>

### 3. Officer Lawson’s Chain of Command

At the time of the incident giving rise to this investigation, Officer Lawson’s immediate supervisor was Sergeant Andrew Marchetta, a veteran of 25 years with CCPD. The next level supervisor was Lieutenant Damon Ballard, a veteran of 14 years with CCPD and 18 years in law enforcement. (Interview of Adcock, December 9, 2015; Interview of Ballard, December 10, 2015). Above the Lieutenant was the Precinct Commander, Captain Jeff Adcock, a veteran with

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<sup>4</sup> For example, *Atlanta Journal Constitution*, July 22, 2015, headline read, “Cobb Commissioner: Police tailed me because I wasn’t white or in affluent neighborhood.” The *Marietta Daily Journal*, August 13, 2015, stated “[the commissioner] repeatedly has accused the department and the officer of racism.” (Attachment 5).

<sup>5</sup> Prior to the issuance of this report, on December 16, 2015, based upon information received by Commissioner Cupid, a request was made to review the above incident as a part of the investigation. Documents associated with the arrests were obtained and reviewed. (Attachment 20). Nothing in the documents reviewed indicated racial bias or policy violations on the part of Officer Lawson. (*Id.*; See discussion at Number 8, *infra*). However, as the cases are otherwise with the District Attorney’s Officer for prosecution, and under review by the CCPD, they are beyond the scope of this investigation.

23 years of service.<sup>6</sup> (Interview of Adcock, December 9, 2015; Attachment 3. b, Chain of Command).

4. Officer Lawson's Fitness for Duty Evaluations & Results

Officer Lawson's mental status and fitness for duty were examined as a part of the application process, and again based on statements he made after the interaction with Mr. Baker on November 16, 2015 (i.e., "I lose my cool every time").<sup>7</sup> On both occasions, Lawson was determined to be fit for duty. Besides finding Officer Lawson fit for unrestricted law enforcement duty at the present time, the Fitness for Duty Report<sup>8</sup> for the current incident contained these conclusions/opinions:

- There is no evidence of a disorder or traits that might predispose Officer Lawson to project hostility or display poor judgment or diminished behavioral control.
- There is no affirmative evidence of hostility toward minorities or other ethnic groups.
- External factors contributed to Officer Lawson's diminished judgment and behavior control during the traffic stop, including: situational factors related to Mr. Baker's behavior during the stop and the officer's statement he had prior difficulty dealing with oppositional individuals; fatigue; ongoing stress related to public scrutiny for allegations of racism related to a prior incident involving a commissioner; and Officer Lawson's relative inexperience.
- "I feel confident that there is no affirmative indication that Ofc. Lawson is particularly hostile to members of the African American community (or that he is a generally hostile person). There is also no indication whatsoever that he represents a threat of physical harm to African Americans or any other group. He has no history of deadly force encounters and appears to have handled both his military career and to date law

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<sup>6</sup> Captain Adcock reported to Major Jeff Patellis; Major Patellis reported to Deputy Chief Charles Cox; Deputy Chief Cox reported to Chief John Houser, the "Appointing Authority." Chief Houser reported to the Director of Public Safety, Sam Heaton. Director Heaton reported directly to the County Manager, David Hankerson. The County Manager is the chief executive officer of Cobb County and administrative head of the county government. (Attachment 1. d., Cobb County Code Sec. 2-33). As such, the County Manager "exercises control over all departments or divisions of the county . . ." (*Id.* Cobb County Code Sec. 2-33 (c)).

<sup>7</sup> The Fitness for Duty Report is not a public attachment; it is a confidential document containing privileged personal health information. It is attached to this review, under seal, for reviewed by authorized personnel for purposes of making employment decisions

enforcement career without harming anyone or causing conflict that might reasonably result in harm. In contrast, he appears well controlled for the most part and quite resilient and stress tolerant, and there is no evidence even during the incident leading to this evaluation that he might be vulnerable to acts of aggression toward Mr. Baker.”

Consistent with the above medical evaluation, Officer Lawson’s immediate supervisors, Sgt. Marchetta (W/M) and Lt. Ballard (B/M) and Precinct Commander Captain Adcock (W/M) also observed that Officer Lawson displays no evidence of hostility toward minorities or other ethnic groups. (Interview of Marchetta, December 10, 2015, December 16, 2015; Interview of Ballard, December 10, 2015, Interview of Adcock, December 9, 2015). Further, the supervisors expressed a belief that the November 16, 2015 incident was an isolated occurrence unlikely to be repeated. *Id.*

5. Brian Baker

Brian Baker is a resident of Fulton County, Georgia. (Interview of Baker, December 18, 2015). Mr. Baker has a master’s degree and is presently a middle school teacher in Clayton County. *Id.* On November 16, 2015, around 1:50 a.m., Mr. Baker was traveling on Mableton Parkway after leaving his girlfriend’s house. *Id.* Mr. Baker did not believe he was speeding at the time of the incident. (Interview of Baker, December 18, 2015).

6. November 16, 2015 Incident

When a citizen complaint is made, one step in the CCPD multi-step disciplinary process is the completion of the “Employee Violation” form that contains charges alleged against the officer. (Attachment 3.e.(i), CCPD Policy 2.14; Attachment 11, Employee Violation Form of 11/22/15). Presently, there is no verbatim transcript of the exchange between the officers and Mr. Baker during the November 16, 2015 traffic stop. The Employee Violation Form for the incident, written by Sergeant Marchetta and based on his review of the video/audio, described the incident. The following facts are based on Sgt. Marchetta’s account, and an independent review of the video/audio of the incident.

At approximately 0200 hours, on November 16, 2015, OFC Lawson initiated a traffic stop of a vehicle being operated by Mr. Brian Baker. The in-car video captured the paced speed of the vehicle (65 MPH/45 MPH zone) and the vehicle’s failure to maintain lane multiple times. [OFC Lawson] activated his blue lights and the vehicle abruptly yielded at Mableton Pkwy near Doyle Dr. . . . The entirety of the stop was captured on video. (Attachment 11).

OFC Lawson exited his patrol car and made contact with the driver, Mr. Brian Baker. OFC Lawson informed Mr. Baker of the reason for the stop. At contact, Mr. Baker stated that he was “sober” and immediately challenged OFC Lawson’s explanation by stating “I didn’t do nothin’ wrong man” for the stop. OFC Lawson again stated the reason for the stop in a raised voice. (Attachment 11). Mr. Baker believed that Officer Lawson was yelling at him. (Interview of Baker, December 18, 2015). Mr. Baker made a comment to OFC Lawson that OFC Lawson was agitated. OFC Lawson informed Mr. Baker that they were being video recorded. Mr. Baker handed OFC Lawson his license. OFC Lawson stated, “Thank you, Sir.” (Attachment 11).

OFC Lawson then asked whether Mr. Baker was the registered owner of the vehicle, and Mr. Baker informed him that he was. OFC Lawson asked where [Mr. Baker] was coming from. Mr. Baker stated something unintelligible and informed OFC Lawson that it was none of his business. OFC Lawson then asked Mr. Baker where he was going and Mr. Baker stated that it was none of his business. (Attachment 11).

When asked where he was headed, besides saying “it’s none of your business,” Mr. Baker stated, “don’t worry about where I’m headed.” (Lawson’s patrol vehicle video, November 16, 2015).

OFC Lawson then asked Mr. Baker what his address was. Mr. Baker stated words to the effect that it was the one on the ID (license). This question was asked several more times, and Mr. Baker’s response was the same. OFC Lawson then asked for an insurance card for the vehicle. (Attachment 11).

When asked for proof of insurance, Baker stated “I understand that you feel that you have to give me a hard time.” *Id.* OFC Lawson stated “Sir, I am just trying to conduct my investigation.” OFC Lawson again asked for an insurance card and Mr. Baker told him that he did not have one. OFC Lawson then stated that “you’ll take the ticket” and returned to his car. (Attachment 11).

As Officer Lawson was completing paperwork in his patrol vehicle, FTO Grizanti and Officer Knight, who were in the general area, stopped at the scene as backup.

(Interview of Grizanti and Knight, December 10, 2015).<sup>9</sup> Officer Knight asked Officer Lawson if there was anything interesting. (Interview of Knight, December 10, 2015). After a brief conversation with Officer Knight, Officer Lawson asked Knight to get FTO Grizanti. (Interview of Grizanti, and Knight, December 10, 2015). When Grizanti arrived, Officer Lawson discussed the stop and speculated that Mr. Baker was probably texting. Officer Lawson and FTO Grizanti discussed the need for an accurate address and an inconsistency between the registration address and the license address. Officer Lawson stated, "I don't think [Baker] will talk to me." Grizanti offered to talk with Mr. Baker, and Officer Lawson stated "good luck." (Lawson's patrol vehicle video, November 16, 2015).

FTO Grizanti then ensured that his bodycam was operating and approached the vehicle. He made contact with Mr. Baker and engaged him in conversation about the stop. Mr. Baker made reference to wanting to get his ticket and to go. FTO Grizanti informed him that they were trying to do that, and began to address the issue of a different address on the vehicle registration and the license. FTO Grizanti called Mr. Baker's attention to the date on the registration that was more recent than the date on the license. FTO Grizanti explained that they wanted to make sure that they had the right address for the court system. Mr. Baker then stated his current address (111 Bagby Ct). (Baker Interview, December 18, 2015). FTO Grizanti asked if he lived at one address and had the vehicle registered at another address. Mr. Baker stated that he lived at "about three different addresses." To this, FTO Grizanti stated simply "OK." (Attachment 11).

Mr. Baker then asked FTO Grizanti if there was anything else. FTO Grizanti stated "it's a pretty nice car." To this comment, Mr. Baker responded "Yea, Gestapo." FTO Grizanti asked "What's that?" Mr. Baker stated "Gestapo, are you the Gestapo?" FTO Grizanti clarified the question "are you the Gestapo?" Mr. Baker then stated "you asked the question, and you are still going on, are you the Gestapo?" FTO Grizanti then asked "what is your problem, do you not like the police?" To this, Mr.

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<sup>9</sup> Officer Lawson did not call for backup. Instead, Officer Knight, who was in training, heard Officer Lawson radio that Lawson was making a traffic stop. Officer Knight was patrolling in the area and was not involved with any other activity so he decided to "back up" Officer Lawson, which is a common practice, especially at night. (Interview of Adcock, December 9, 2015, Grizanti and Knight, December 10, 2015). Because Knight was in training, FTO Grizanti was also in the patrol vehicle. (Interview of Grizanti and Knight, December 10, 2015).

Baker stated, “no, I don’t like you.” FTO Grizanti stated “you don’t like me? I have been nothing but nice to you.” Mr. Baker responded with “I appreciate it community policing that is what you are doing.” At about that time, Mr. Baker retrieved his Smartphone and stated, “Dude, your antagonizing behavior is unprofessional.” Mr. Baker then stated that he had answered the question, and what else did [FTO Grizanti] want? FTO Grizanti stated that he had not asked any more questions, and that it was Mr. Baker who told him he was impolite. Mr. Baker then began to roll up his window, and FTO Grizanti stated that he was going to get him on his way and returned to Lawson’s patrol car. (Attachment 11; video recorded by Lawson’s patrol vehicle, Grizanti’s patrol vehicle and Grizanti’s body camera). FTO Grizanti was not able to resolve the discrepancy between the registration address and the license address as Mr. Baker stated that he lived in three different places. (Grizanti body cam, November 16, 2015; Grizanti interview, December 10, 2015).

Once at OFC Lawson’s patrol car, FTO Grizanti briefed OFC Lawson on his discussion with Mr. Baker and that he had confirmed his address. FTO Grizanti informed OFC Lawson that Mr. Baker had called him “Gestapo.” OFC Lawson discussed the term and FTO Grizanti stated that it was a Nazi. OFC Lawson then stated the Nazi police. FTO Grizanti then asked how many citations were being issued, and OFC Lawson stated “two.” (Attachment 11). When Officer Lawson was informed about the “Gestapo” comment, his response was “whatever.” (Lawson’s patrol vehicle video, November 16, 2015).

OFC Lawson then re-approached the vehicle and stated to Mr. Baker that he was giving him two tickets, one for Speeding and one for Failure to Maintain Lane. While he was issuing the tickets, OFC Lawson asked Mr. Baker to sign the tickets “if you don’t mind.” (Attachment 11). Mr. Baker sought to clarify the comment “if you don’t mind,” which it appeared he may have thought was something like “you got no mind.” (Lawson’s patrol vehicle video; Fitness for Duty Evaluation).

OFC Lawson repeated himself for Mr. Baker, and stated “if you don’t mind” which Mr. Baker understood. Mr. Baker then signed the ticket, and told OFC Lawson that he needed to “wash his hands.” . . . Mr. Baker then asked “can I go?” OFC Lawson then responded “can you go?” Mr. Baker then asked again “can I go?” OFC Lawson responded “I am asking you, can I go?” (Attachment 11). Baker said, “I don’t know, you Gestapo.” (Lawson’s patrol vehicle video, November 16, 2015; Marchetta Interview, December 10, 2015, Lawson Interview, December 11, 2015).

OFC Lawson then said “please go away to Fulton County I don’t care about you (or your) people.” Mr. Baker then referenced “my people,” to which OFC Lawson responded “go to Fulton County cuz, go” and snapped his fingers. Mr. Baker asked “...you don’t care about my people, that is what you said?” At this point the conversation became rapid, and intermixed in the conversation was OFC Lawson’s statement “go to Fulton County” and words to the effect of ... “I did not say your people...I said you people and go to Fulton County” . . . Mr. Baker stated “that is not what you said, you said that you don’t care about your people...that is mean.” (Attachment 11).

OFC Lawson then asked Mr. Baker to step out. OFC Lawson later stated that he saw that he was being recorded on Mr. Baker’s Smartphone and that is why he asked Mr. Baker to step out to talk. (Interview of Lawson, December 11, 2015). In his interview, Mr. Baker stated that he attempted to record the conversation but was not able to activate the recorder. (Interview of Baker, December 18, 2015). Mr. Baker responded whether OFC Lawson wanted him to step [out] to fight the police. OFC Lawson responded that he wanted Mr. Baker to “step out and talk to me.” Mr. Baker wanted to know what there was to talk about. OFC Lawson stated “I am asking you sir, if you want to get out and talk to me.” Mr. Baker then stated “you said you don’t care about ‘your people.’” OFC Lawson responded again “yea, and go back to Fulton County, sir.” Mr. Baker said something unintelligible, and OFC Lawson told [Baker] in a calm voice that he “is free to leave from this traffic stop.” Mr. Baker stated “I know” but did not leave. OFC Lawson stated “go please.” Mr. Baker made a reference to OFC Lawson’s position next to the car, and OFC Lawson indicated that there was enough room for Mr. Baker to leave. A few moments later, Mr. Baker left the traffic stop. (Attachment 11). Lawson told Marchetta that, at the conclusion of the traffic stop as Mr. Baker drove off, Baker stated “Gestapo.” (Marchetta Interview, December 10, 2015).

After Mr. Baker drove off, OFC Lawson was visibly upset. No public was present. OFC Lawson made several comments (interspersed with profanity), including, “I lose my cool, man, every time... Why do I got to deal with sh\*t like that? F\*\*king America we live in, Ain’t it?... G\*d Damn...” (Attachment 11; Video recorded by Lawson’s patrol vehicle, Grizanti’s patrol vehicle and Grizanti’s body camera, November 16, 2015).

At the time of the incident and when he first contacted CCPD, Mr. Baker focused on the “Fulton County” and “you” or “your” comments as being inappropriate. After

reflection, Mr. Baker stated in the December 18, 2015 interview that he believed that Officer Lawson's use of the term "cuz," was also inappropriate as that was a slang term for the Crips gang. (Baker Interview, December 18, 2015).

#### 7. Internal Review of the November 16, 2015 Incident

On November 16, 2015, around 8 a.m., Brian Baker called the CCPD to complain about the traffic stop earlier that morning. (McCreary Interview, December 10, 2015). A message was left for a supervisor to respond to the call. Night shift supervisors had left for the day; day shift supervisor Sgt. Nathan McCreary responded to the call shortly after getting the message. (McCreary Interview, December 10, 2015). Initially, Sgt. McCreary, who was in his patrol vehicle at the time, responded by cell phone. After speaking with Mr. Baker briefly, Sgt. McCreary informed Baker he would call back once he got to the Precinct. *Id.* The essence of the complaint was not discussed in the initial call. *Id.*

Shortly thereafter, when Sgt. McCreary arrived at the Precinct, he saw Officer Lawson who "self reported" the incident to McCreary. (Attachment 9, p. 1; McCreary Interview, December 10, 2015, Lawson Interview, December 11, 2015). The officer recounted the incident to Sgt. McCreary and explained the terminology he used, including the "go back to Fulton County" and the "I don't care about you people" comments. *Id.* Officer Lawson stated that he meant "you" people as in people who want to give police officers a hard time. He distinguished "you" people from "your" people which would be, in his belief, a reference to a group of people. (McCreary Interview, December 10, 2015, Lawson Interview, December 11, 2015). As to the "you" or "your" statement, Officer Lawson stated that Mr. Baker misunderstood him, similar to Baker initially misunderstanding the statement, "if you don't mind." Regarding his "step out of the car" comment, Officer Lawson explained that he thought Mr. Baker was recording the conversation and that if Mr. Baker wanted to have a conversation about what was stated it would be best to have the discussion in the open. *Id.* Sgt. McCreary informed Officer Lawson that his comments would be deemed "unbecoming conduct," a violation of CCPD policy for which there would be discipline. (McCreary Interview, December 10, 2015). Sgt. McCreary stated that Officer Lawson knew he had messed up and was remorseful. *Id.*

After his discussion with Officer Lawson, at approximately 8:30 a.m., Sgt. McCreary called Brian Baker. (McCreary Interview, December 10, 2015; Attachment 9, Baker Audio Recordings, 11/16/15). Mr. Baker was told that Officer Lawson self reported and was remorseful. (*Id.*, p. 1, 4, 6; Baker Interview, December 18, 2015). Mr. Baker stated, "I'm not the easiest one to deal with when I'm angry, when I don't think I'm wrong . . ." (*Id.* p. 1). Sgt. McCreary explained why officers ask for certain information, including where a driver is going or where the driver is

coming from.<sup>10</sup> (*Id.*, p. 2, 3). During the recorded conversation, Sgt. McCreary told Mr. Baker that Officer Lawson had disclosed that he said “go back to Fulton County” and “I’m tired of you people.”<sup>11</sup> (*Id.* p. 1). Mr. Baker stated that “maybe he didn’t mean race, maybe he just meant Fulton County which is still wrong . . .” (*Id.*, p. 3; Baker Interview). Mr. Baker did not mention other comments made by Officer Lawson, including the “step out of the car” to talk with me comment or the “cuz” comment. *Id.* Baker stated that he was scared during the encounter, but also stated: “Honest . . . they’re probably scared, more scared than me, you see what I’m saying ’cause they don’t know me they don’t know if I (inaudible) they don’t.” (*Id.*, p. 6).

In this first full conversation about the incident, Mr. Baker asked that Officer Lawson provide a written apology. (*Id.* p. 5; McCreary Interview, December 10, 2015).<sup>12</sup> Sgt. McCreary informed Mr. Baker that Officer Lawson was “going to have to pay” and that he would be held accountable. (*Id.* p. 4, 6). Mr. Baker provided his email address so the apology could be sent to him. *Id.* Sgt. McCreary checked with his supervisor, Captain Adcock, who informed Sgt. McCreary that Officer Lawson could apologize, but that the department would proceed with internal discipline. (McCreary Interview, December 10, 2015).

Sgt. McCreary called Baker, who informed the sergeant that after the 8:30 conversation, he had consulted with counsel and was requesting that, in addition to the apology, the traffic citations be dropped. (Baker Second Audio Recording, 11/16/15). Sgt. McCreary informed Mr. Baker that the traffic citations were separate from the statements, so he would again check with his supervisor. *Id.*

Later on the night of November 16, 2015, Mr. Baker contacted Sgt. Andrew Marchetta, the night shift supervisor and Officer Lawson’s immediate supervisor. (Marchetta Interview, December 10, 2015). In response to the call, Sgt. Marchetta sent a confirming email to Mr. Baker at 9:08 p.m., providing Mr. Baker with the sergeant’s work hours and contact information. (Marchetta Interview, December 16, 2015, Attachment 15, November 16, 2015 email). Sgt. Marchetta

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<sup>10</sup> For instance, a driver might disclose that the driver is coming from an establishment that serves alcohol.

<sup>11</sup> The comment was actually, “go back to Fulton County, I don’t care about ‘you’ (or ‘your’) people.” (Lawson’s patrol vehicle video, November 16, 2015).

<sup>12</sup> The *Marietta Daily Journal* headline for December 11, 2015, stated “Victim calls for officer’s resignation in traffic stop incident.” (Attachment 5). At the Board of Commissioner’s public meeting on December 17, 2017, public speakers demanded that Officer Lawson be terminated. Most recently, during his interview for this investigation, Mr. Baker stated that Officer Lawson should be dismissed. (Baker Interview, December 18, 2015).

characterized the complaint as a “courtesy” complaint, meaning that Officer Lawson violated the policy requiring officers to be courteous. (Marchetta Interview, December 16, 2015, Attachment 2). Sgt. Marchetta ended the email by stating, “Feel free to e-mail (or call) if you have an (sic) additional questions. I anticipate contacting you on Wednesday.” (Attachment 15, November 16, 2015 email).

Sgt. Marchetta consulted with his supervisor, Lt. Ballard, and then started the multi-step disciplinary process.<sup>13</sup> (Marchetta Interview, December 16, 2015). Sgt. Marchetta emailed Mr. Baker on Wednesday, November 18, 2015, informing Mr. Baker that a formal complaint, designated as number 893, had been initiated. (Attachment 10, Attachment 15; Marchetta Interview, December 16, 2015; Ballard Interview, December 10, 2015). Mr. Baker’s counsel responded to the email. (Attachment 15).

Sgt. Marchetta reviewed the video of the incident and interviewed FTO Grizanti and Officer Knight. (Marchetta Interview, December 16, 2015). The sergeant could not formally interview Officer Lawson until November 19, 2015 because Officer Lawson was off duty until then. *Id.*

On November 19, 2015, Captain Adcock notified his supervisor about the incident, noting that “it is a complaint that will be sustained.” (Attachment 17).

After interviewing Officer Lawson on the evening of November 19,<sup>14</sup> Sgt. Marchetta completed the employee violation form on November 22, 2015. (Attachment 11). In the violation form, Sgt. Marchetta stated these conclusions:

Based upon my review I believe that OFC Lawson violated Code of Conduct Rule 1.25 (Courtesy). During the above traffic stop, OFC Lawson failed to be tactful in the performance of his duties. OFC Lawson’s repetitive statements of “can I go,” “go to Fulton County,” and “your people” or “you people” and “step out” were ill advised,

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<sup>13</sup> Presently, a complaint is (1) validated as to whether a violation is stated, (2) documented, (3) referred to the appropriate supervisor, (4) preliminarily investigated, (5) assigned a complaint number, (6) subject to additional investigation, (7) written up on an employee violation form and submitted to the employee, (8) after the employee responds, the matter becomes a “justification” packet and is submitted (9) to a Major, (10) then to the Deputy Chief, and (11) then to the Chief of Police for approval. (Marchetta Interview, December 16, 2015).

<sup>14</sup> Sgt Marchetta and Officer Lawson work the evening shift, 10 p.m., until 8 a.m. (Marchetta, Interview, December 16, 2015).

improper and discourteous. OFC Lawson failed to control his temper when Mr. Baker demonstrated a belligerent attitude.

(Attachment 11). Officer Lawson submitted an employee response to the violations stating:

. . . I accept accountability for my actions and statements during the traffic stop of Mr. Baker. I realize I said the wrong things, and I allowed him to make me upset. I realize this was wrong for me to do. There was no intent by me to make race an issue.

(Attachment 11 a.). The response was signed November 22, 2015.

On November 24, 2015, Captain Adcock wrote a letter to Mr. Baker formally apologizing for the statements made during the incident and informing Mr. Baker there would be formal discipline, training and reassignment for Officer Lawson. (Attachment 17 a.).

On November 30, 2015, Mr. Baker emailed Capt. Adcock, reminding the captain to send a copy of the final disciplinary action once it was completed. (Attachment 15). Although Captain Adcock authorized reducing the traffic citations to warnings, disciplinary action was proceeding through the normal channels. (Attachment 15).

Upon review of the incident, and the post incident statements such as “I lose my cool every time,” on December 3, 2015, CCPD initiated a “fitness for duty” examination for Officer Lawson.<sup>15</sup>

Supervisors regularly conduct monthly “spot checks” of video tapes from each officer’s patrol car. (Attachment 18). The monthly checks for Officer Lawson do not show a pattern of discourteous behavior or bias; to the contrary, Lawson is described as “calm” and “polite.” *Id.* After the November 16, 2015 incident, and in light of the “I lose my cool every time” comment, Sgt. Marchetta was asked to perform an additional “random review” of video from Officer Lawson’s patrol car. (Marchetta Interview, December 16, 2015; Attachment 18 a.). Specifically, the sergeant was asked to randomly review at least two videos a month from the time Officer Lawson starting solo patrol until July, 2015. (Marchetta, Interview, December 16, 2015). The sergeant was directed to select a variety of different incidents, looking for indications of bias or inappropriate conduct. *Id.* Not all videos were reviewed because of the

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<sup>15</sup> The letter initiating the fitness for duty evaluation is under seal along with the fitness for duty report. *See* footnote 7, above.

large number and time involved.<sup>16</sup> The video review conducted by the Sergeant involved a variety of 13 incidents including traffic stops, arrests and domestic calls and spanned March of 2015 to July of 2015. The video review revealed no policy violations or pattern of behavior demonstrating bias. (Marchetta Interview, December 16, 2015; Attachment 18 a.).<sup>17</sup> In the independent random review conducted by the County Attorney's Office for this investigation, videos were randomly selected from June 2015 to November 2015. On some dates, a number of videos were reviewed. The review of 15 videos for this investigation yielded similar negative results for indications of policy violations or bias.<sup>18</sup>

#### 8. September 30, 2015 Incident

On November 16, 2015, Commissioner Lisa Cupid received information from constituents and requested that, as a part of the instant investigation, the County Attorney's Office also look into a September 30, 2015 incident involving Officer Lawson. The incident had been referenced in

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<sup>16</sup> The number of videos varies for every shift worked, depending on the number of incidents per shift. The length of the videos varies depending on the nature of the incident. For instance, the video from an accident scene would be longer than a video for a traffic stop. For Officer Lawson there are 1,853 videos. (Attachment 19). The videos are organized by date and not otherwise labeled.

<sup>17</sup> Sergeant Marchetta did not observe any inappropriate behavior among the 13 stops on the videos he reviewed. (Marchetta Interview, December 16, 2015; Attachment 18 a.). The chart created by the Sergeant at the time of his video review was explained and clarified during his second interview. *Id.* Had any inappropriate behavior been observed, Sergeant Marchetta would have listed the behavior in the last column, denoted "misc." The word "none" indicates that no inappropriate behavior was noted. The column also contained comments about the quality of the video and in one instance that Officer Lawson attempted to give the citizen helpful advice. *Id.*

<sup>18</sup> Videos were reviewed for the following dates and times: June 13, 2015, all times; August 28, 2015, 2:09 a.m.; September 9, 2015, 5:50 a.m.; September 26, 2015, 12:25 a.m.; September 26, 2015, 2:17 a.m.; October 30, 2015 11:01 p.m.; October 30, 2015, 2:47 a.m.; and November 16, 2015 multiple times. Based on the limitations of the investigation, it was determined that only a random sample could be conducted. A statistically significant sample, with a 95% degree of confidence, would require a review of at least 317 videos. *See* [www.calculator.net/sample-size-calculator.html](http://www.calculator.net/sample-size-calculator.html). Based upon the time needed to review the 15 randomly selected videos, it would have taken approximately a week to review 317 videos, depending on their length.

Officer Lawson's performance appraisal. (Attachment 6, Performance Appraisal 10/31/2015, Evaluation Factors; Attachment 20, Major Incident Report).

The incident was summarized in the arrest warrants. (Attachment 20 a., Daiquan Camp Warrant). Nothing in the warrants or reports of the incident indicated wrongdoing or policy violations by Officer Lawson.<sup>19</sup> Incident reports revealed that Officer Lawson was one of numerous officers from Cobb (Precinct 2 and 3) and Douglas Counties responding to the 911 call. (Marchetta Interview, December 16, 2015; Attachment 20). Officers constructed a perimeter around the area to catch the suspects. Ultimately, the suspects were charged with a variety of crimes including entering autos, drug possession and violations of Georgia's "gang statute." *Id.* O.C.G.A. § 16-15-4.

Since their arrests in September of 2015, none of the suspects or their families has made a complaint to the Cobb County Police Department. (Marchetta Interview, December 16, 2015). As a result of the inquiry into the incident for this investigation, and the request from Commissioner Cupid, an internal CCPD investigation has been initiated regarding the September 30, 2015 incident.

## **B. CONCLUSIONS FROM FACTUAL SYNOPSIS**

The actions of Officer Lawson relative to a July 14, 2015 traffic incident were previously investigated by the Public Safety Director and received intense media coverage.

Against this backdrop, on November 16, 2015, Officer Lawson observed a driver who had failed to maintain the travel lane and was travelling 20 miles per hour over the posted speed limit.<sup>20</sup> O.C.G.A. § 40-6-48, 40-6-181. The video of the incident showing the speed of Officer Lawson's patrol vehicle as he "paced" Mr. Baker confirmed the speeding violation. The video also showed Mr. Baker weaving in the travel lane. Based on his law enforcement experience, Officer Lawson concluded that the driver's behavior was indicative of an impaired or distracted driver. (Lawson Interview, December 11, 2015). According to Officer Lawson, he was not aware of the driver's race when the decision was made to conduct the traffic stop. (Lawson Interview, December 11, 2015; *see also* Lawson's patrol vehicle video, November 16, 2015).

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<sup>19</sup> Lawson did use profanity during the arrest.

<sup>20</sup> According to the most recently available statistics from the website of the Governor's Office of Highway Safety, Cobb County is in the top ten for counties with roadway fatalities. (Attachment 16).

Accordingly, the facts discovered in this investigation reveal no evidence of bias-based profiling. (Attachment 3 j.). Officer Lawson made a traffic stop of a vehicle observed as failing to maintain lane and to be travelling 20 miles per hour over the posted speed limit. The driving pattern (speeding and weaving) was indicative of an impaired or distracted driver. The stop was made based upon the behavior of the driver, not upon any “trait common to a group.” *Id.*

After the stop was made, Officer Lawson asked appropriate investigatory questions, such as “where are you going” and “where are you coming from,” to determine whether Mr. Baker was impaired, and to ensure that the court information would be sent to the correct location. Mr. Baker refused to answer questions, did not appear to be scared or intimidated, and stated almost immediately, “I understand you feel that you have to give me a hard time.” (Lawson’s patrol vehicle video, November 16, 2015). When a second officer sought to obtain information, Mr. Baker referred to that officer as “Gestapo.” Initially, officers responded appropriately by ignoring Mr. Baker’s comments. Specifically, when told of the Nazi comment, Officer Lawson stated, “whatever.” (Lawson patrol video, November 16, 2015). The evidence does not show that Lawson engaged in inappropriate behavior or comments prior to issuing the traffic citations.

After the citations were issued, Mr. Baker asked, “can I go?” Officer Lawson unnecessarily repeated the question. After the question was repeated a few times, Mr. Baker used the term Gestapo.<sup>20</sup> *Id.* Officer Lawson violated BOC and CCPD policy when he stated “please go away to Fulton County – I don’t care about you (or your) people.” Officer Lawson denied that the statement was racial in nature. In the November 16, 2015 recorded conversation with Sgt. Marchetta, Mr. Baker conceded that the statement may not have meant race. (Attachment 9, p. 3). Regardless of whether Lawson intended the statements to be racial, they violated policy as his interaction was inconsistent with the BOC and CCPD requirements to be courteous. (*See* Attachment 3 i. § VI B. 2; Attachment 11, Employee Violation). Further, the statement can be, and has been, construed as race based. The statement was not indicative of the “patience and discretion” required of CCPD officers. The statement was totally unnecessary as the traffic stop was complete. Officer Lawson’s immediate supervisors agreed that the statement was improper.

In addition, although the traffic stop was officially over when the citation was issued, Officer Lawson asked Mr. Baker if he wanted to step out of the car to have a conversation. According to Officer Lawson, he saw that Mr. Baker was apparently recording the conversation and asked him to step outside so they could have the conversation in the open. Mr. Baker admitted that he

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<sup>20</sup> Law enforcement has long been subjected to name calling by the public. (Ballard Interview, Marchetta Interview, McCreary Interview, December 10, 2015).

retrieved his cell phone to record conversation, but was unable to do so. (Baker Interview, December 18, 2015). In context, Officer Lawson's invitation was unnecessary and could have been construed as an invitation for a possible altercation.<sup>21</sup>

Officer Lawson's statements (1) "go back to Fulton County" (2) "you" or "your" people and (3) the invitation to "step out of the car" all crossed the line of being courteous to the public and brought disrepute on Officer Lawson and the Department. The statements were inappropriate even though not vulgar, profane or blatant; the statements lent themselves to interpretations or insinuations that are not appropriate for professional law enforcement officials.<sup>22</sup> All officials interviewed for this investigation, including Officer Lawson, agreed that the statements were inappropriate. As well, the deluge of media attention validates the charge of "unbecoming conduct" (conduct which brings the Department into disrepute or reflects discredit upon the person as a member of the Department). (See, Attachment 2, Attachment 5).

In his interview of December 18, 2015, Mr. Baker stated for the first time that he also believed it inappropriate for Officer Lawson to use the term "cuzz," as the same refers to members of a notorious street gang, Crips. According to internet sites like Wiktionary, Dictionary.com, The Urban Dictionary, and Answers.com, "cuzz" has several meanings including cousin, friend, or brother. It may also be a term that members of the street gang Crips use in referring to one another as family. Although Baker previously did not mention being offended by this term to the CCPD, Officer Lawson's use of the term was unnecessary to the traffic stop and again lent itself to an interpretation that is not appropriate for a professional law enforcement officer.

In addition to the above, as mentioned by Sgt. Marchetta in the employee violation form, Officer Lawson clearly allowed the demeanor and words of a member of the public to upset him: "OFC Lawson failed to control his temper when Mr. Baker demonstrated a belligerent attitude." (Attachment 11). Officer Lawson's failure to control his temper was evident after Mr. Baker left

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<sup>21</sup> It is unlikely that the incident would have progressed to an altercation as a more experienced officer, FTO Grizanti, was present and stated he was prepared to intervene when Mr. Baker left. (Grizanti Interview, December 10, 2015).

<sup>22</sup> The statement – "I don't care about 'you people' or 'your people'" – has been construed as a racial statement in media and other accounts and has led to demands for Officer Lawson's termination. (Attachment 5).

the stop, “I lose my cool man,” and “why do I got to deal with [expletive] like that.”<sup>23</sup> (Lawson’s patrol vehicle video, November 16, 2015).

Following the incident, Mr. Baker formally complained to CCPD officials. All indications are that officials took the complaint seriously, and although there was an attempt at an informal reconciliation with Mr. Baker, Officer Lawson was informed from the outset there would be disciplinary consequences to his actions. The process was formalized by Complaint 893, initiated on November 18, and the Employee Violation Charges and Response were completed on November 22, 2015, prior to widespread public scrutiny. By November 18, 2015, the multi-step disciplinary process was fully under way.

This investigation revealed no discernible pattern of racial bias or discrimination by Officer Lawson. His fitness for duty status included the opinion that he presents no threat of hostility towards minorities or other ethnic groups. The medical opinion is supported by statements from supervisors, the periodic review of video and random checks of video from his patrol vehicle conducted in the internal CCPD review, and the random review conducted in connection with this investigation.

## C. CONSIDERATIONS FOR DISCIPLINARY ACTION

### 1. *Disciplinary Action*

The facts from the investigation indicate that Officer Lawson violated policy. In addressing violations of policy, the BOC has in place a Progressive Discipline Policy (Attachment 1.a., Progressive Discipline), under which discipline is to be determined by the nature and circumstances of a violation. “Discipline should be progressive when appropriate; however, some violations warrant immediate suspension or dismissal without prior disciplinary action.” *Id.*

Herein, Officer Lawson was dealing with a driver who was admittedly oppositional. Regardless of Mr. Baker’s disposition, Departmental policies require officers to be professional and

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<sup>23</sup> While no member of the public was present for these statements, the statements demonstrate Officer Lawson’s state of mind at the time. Notably, there was no statement about race in these post-incident outbursts. The statements were cited as a basis for the CCPD’s request that Officer Lawson undergo a Fitness for Duty evaluation. The letter is sealed, along with the Fitness for Duty Evaluation. *See* footnotes 7 and 15.

courteous at all times. Accordingly, both discipline and other corrective measures (as previously mentioned by supervisors, “formal discipline, enhanced training, and reassignment,” Attachment 17 a.) are warranted with respect to Officer Lawson in accordance with BOC, DPS, and CCPD policies. (See Attachment 1.a; Attachment 2; Attachment 3. c.).

The Department is authorized and obligated to make a determination as to the appropriate level of discipline in accordance with the totality of the circumstances, including all factors cited herein. Further corrective actions are also warranted, and, given the present public perception and sensitivity to words and actions, particularly in law enforcement and citizen encounters, refresher training would be appropriate for the entire Department. In this regard, present diversity training may not be sufficient – as the Department should not be involved in expensive, time-consuming and distracting inquiries over whether an officer said “you” or “your.” Law enforcement professionals must be made aware of and appreciate the heightened scrutiny of today’s world in which they operate, performing the critical function of protecting and safeguarding the public.

Consistent with the heightened scrutiny and sensitivity of the public to law enforcement interactions with the public, and as a part of additional training, it is highly recommended that the Department revisit the level of discipline for substantiated claims of policy violations such as those covered by the comparators herein. Greater discipline may encourage fewer deviations from the professional standards required in Cobb County.

## *2. Factors to Consider for Discipline*

In making a proposal for disciplinary/corrective action, the CCPD should be guided by the totality of the circumstances, including relevant policies and practices, and the findings and facts of this case. (Attachment 1. a). Based on this investigation, the following factors are provided for consideration in reaching appropriate employment decisions.

### *a. Bias-Based Profiling Not at Issue*

CCPD specifically prohibits the selection of an individual for enforcement action based solely on a trait common to a group. (Attachment 3. j, CCPD Policy 5.30). Based upon the totality of the evidence as set forth in the factual findings, Officer Lawson made an appropriate stop for an individual who was both speeding and weaving in his lane, without knowing the driver’s race and therefore without regard to any characteristics “common to a group.” There is no evidence of bias-based profiling during the traffic stop on November 16, 2015.

b. Policies at Issue: BOC Employee Relations, DPS Courtesy

The Board of Commissioner's Conduct and Performance Policy addressing Employee Relations, and the DPS Police Department Code of Conduct contains provisions on Courtesy and Unbecoming Conduct that prohibit discourteous behavior or language that might express prejudice towards a group of people and/or conduct that might bring the individual, the County or its Departments into disrepute. (Attachment 1; Attachment 2, DPS Policy 1.25).

In this incident, Officer Lawson's conduct at the time of the stop and after the issuance of the lawful citations has been challenged regarding several statements: the repetition of the "can I go?" statement, the exchange about "you" or "your" people, the statement about returning to Fulton County, the invitation to step out of the car, and, most recently, his use of the term "cuzz".

Officer Lawson conceded making the statements and conceded that at least some of the statements were improper. He denied that any were racially motivated. The evidence therefore supports the conclusion that Officer Lawson violated BOC and DPS policy regarding being courteous during the traffic stop on November 16, 2015. Considerable media attention following the November 16, 2015 incident would be considered as evidence validating the charge of "unbecoming conduct" with respect to the elements contained in that standard. (Attachment 2, DPS Police Department Policy 1.02).

c. The nature and severity of the violation

In this incident, Officer Lawson allowed a citizen to visibly upset him to the point that he committed courtesy violations. Officer Lawson's interaction with Mr. Baker crossed the line with respect to at least two statements he made to Mr. Baker after issuing him lawful citations: the exchange about "you" or "your" people and the invitation to step out of the car. Further, Lawson's discourtesy extended to his repeating, unnecessarily, the "can I go" question. Finally, other statements such as "go back to Fulton County" or "cuzz" statements were also discourteous, unnecessarily adding to the overall improper tenor of the exchange.

As to severity, at the time of the stop, Officer Lawson did not touch or use any force in his interaction with Mr. Baker. He did not curse, use vulgar language, or use an overtly racial slur. Officer Lawson self reported his conduct and admitted on the day of the incident that he made unprofessional and insensitive statements that were interpreted as being racial in nature. (Officer Lawson denied any racial intent, and the medical provider conducting his fitness for duty examination found "no evidence of hostility toward minorities or other ethnic groups" and "no

indication whatsoever that he represents a threat of physical harm to African Americans or any other group.” Officer Lawson’s chain of command – Capt. Adcock, Lt. Ballard, Sgt. Marchetta, and Sgt. McCreary – concurred.) In asking Mr. Baker if he wished to step out of the car, Officer Lawson also engaged in speech that could have been perceived as an invitation to an altercation. (The provider conducting the fitness for duty examination stated that “there is no evidence even during the incident leading to this evaluation that he might be vulnerable to acts of aggression toward Mr. Baker.”).

d. The frequency of the violation

The investigation revealed no prior similar infractions by Officer Lawson.<sup>24</sup> There is nothing in his performance reviews or random video reviews indicating either a disposition towards discourtesy or racial bias. Further, supervisors working with Officer Lawson denied noting any prior indication of discourtesy or racial bias. The observations of the supervisors were supported by the fitness for duty evaluation that concluded that Officer Lawson harbored no affirmative evidence of hostility toward minorities or other ethnic groups.

e. The degree of deviation from expectation

In analyzing the degree of deviation from expectations, the Department may evaluate the statements made against the expectations of the Department. Simply stated, it is expected that officers will be courteous, even with difficult or uncooperative citizens, and conduct themselves so as to reflect most favorably on the Police Department. Analysis of Officer Lawson’s deviation from expectations would involve determinations of how far the officer strayed from the standard and for how long. In this case, Officer Lawson made unprofessional and insensitive statements that were interpreted as being racial in nature. The deviation from professionalism was brief, lasting only a few moments. The inappropriate portion of the traffic stop lasted 1 minute, nineteen seconds (Lawson patrol video, November 16, 2015, 16:30 -17:49).

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<sup>24</sup> It is the conclusion of this investigation that the July 14, 2015 incident would not be a prior similar incident relevant to considering the frequency of the violation, as no departmental policies or procedures were found to have been violated in that instance. (Attachment 4, Investigative Report, p. 16).

f. Disciplinary action for the same or similar violations

According to the Progressive Discipline Policy, when determining the appropriate level of discipline, one factor to be considered by the Appointing Authority is the discipline taken by the decision-maker for the same or similar violations. (Attachment 1. a., Progressive Discipline, § IV. B).

A number of cases that may be considered as relevant or similar were reviewed. For instance, an officer who was rude to drivers received a 1-day suspension; an officer who was unprofessional to court personnel received a 1-day suspension; an officer who admonished a citizen for wasting his time received a letter of reprimand; an officer who used inappropriate language and made threats, received a letter of reprimand; and an officer who engaged in a physical roadside altercation with a citizen received a 15-day suspension.

Focusing on race and ethnicity issues, a white officer making inappropriate comments about Asians during an internal staff meeting received a 5-day suspension, and a black officer who made inappropriate comments of a racial nature to a white citizen during a traffic stop received a critical incident reminder. (See Attachment 3.e., § A.3., Critical Incident Reminder). It appears, therefore, that the range of discipline in similar type cases has been from issuing a critical incident reminder to varying levels of suspension without pay.

g. Officer Lawson's employment record

Officer Lawson is a relatively new officer having started in March 2014. His employment record is summarized herein and contains a reprimand and counseling for minor offenses and a commendation. (Attachment 6).

h. Responsibility for his actions

It is also recommended that the CCPD consider whether Officer Lawson took responsibility for his actions. The facts reveal that he immediately self reported the incident before the official investigation was under way and prior to any media attention, admitted the actions underlying the violations, expressed remorse, and took full responsibility for his actions.

i. Effect of Officer Lawson's Conduct on Department & Training

Finally, in considering what disciplinary/corrective action is appropriate, the Department should evaluate the effect of Officer Lawson's actions on the Department and on his effectiveness as an

officer. While unintentional on his part, Officer Lawson's statements have served as the basis for negative public and media allegations about Lawson and the Department. Other reasonably similar cases cited as comparators lacked the present level of intense public scrutiny for behavior that has been characterized as racial in nature.

With respect to corrective action specifically, the Department may wish to consider effects upon citizen interactions and requests for assistance and how those will be handled. For example, the Department may receive and should be prepared for greater scrutiny and complaints as a result of not only this incident, but also a regional/national focus on police-citizen interactions. As Captain Adcock expressed an intention to include training as part of remedial efforts, the Department will need to make determinations as to the scope and content of such training and whether it should be individualized or centralized.

Separately, the Department may wish to consider whether the specter of being subject to the level of scrutiny of this interaction will impede or impair officers, including Lawson, in performing their duties in the future. In this regard, citizens could be at risk if officers hesitate to be proactive when, for instance, stopping a driver showing indications of impairment or distraction for fear of what might occur during an interaction. As well, officers may be a risk if hesitation or unreasonable second-guessing about how their speech or actions will be perceived impedes their ability to deal assertively with difficult situations.

For Officer Lawson, supervisors were unanimous in their beliefs that Lawson can remain an effective law enforcement officer. The Fitness for Duty evaluation determined that Officer Lawson is fit for unrestricted law enforcement duty. Despite the above, the Department has a justifiable interest in taking action to negate the effects of any present perceptions, including appropriate discipline and other measures to restore public confidence.

#### **D. CONCLUSION**

In conclusion, it is the finding of this investigation that Officer Lawson violated BOC and DPS policies during the traffic stop on November 16, 2016. Not only are the violations evident from video recordings, but Officer Lawson self-reported and admitted to the violations. Accordingly, disciplinary action is appropriate, based on the factors analyzed in Section C 2, above. Further, and in light of the heightened public scrutiny of the statements made in this matter and law enforcement interactions with the public in general, additional training, and greater discipline should be administered for future transgressions.

## **APPENDIX TO INVESTIGATIVE REPORT**

COURSE OF INVESTIGATION  
SUMMARY OF CRITICAL FACTS  
SEQUENCE OF EVENTS  
INDEX TO ATTACHMENTS

## COURSE OF INVESTIGATION

During the time allotted, the following materials were reviewed and are relied upon herein:

1. BOC Policies (Attachments 1, a-d);
2. DPS Code of Conduct (Attachment 2);
3. CCPD Policies (Attachments 3a. to 3l.);
4. CCPD Memoranda Orders (Attachment 3 m., n.)
5. Investigative Report into July 14, 2015 Incident by S. Heaton, (attached as Attachment 4);
6. Media stories (cited stories attached as Attachment 5);
7. CCPD complaint procedures and performance feedback (CCPD website);
8. Maurice Lawson Personnel file (Attachment 6);
9. Traffic citations issued to Brian Baker (Attachment 7);
10. Census Data regarding Fulton County (Attachment 8);
11. Video recorded by Officer Lawson's patrol vehicle;
12. Video recorded by Officer Grizanti's body camera;
13. Video recorded by Officer Grizanti's patrol vehicle;
14. CCPD Dispatch transmissions;
15. Brian Baker Conversation with Sgt. McCreary (audio) of 11/16/15 (Attachment 9);
16. Brian Baker Second Conversation with Sgt. McCreary (audio) of 11/16/15;
17. Email Correspondence with Brian Baker, November 2015 (Attachment 15);
18. CCPD Complaint 893 (Attachment 10);
19. CCPD, Employee Violation, and Employee Response (Attachment 11);
20. Letter of Apology from Captain Adcock (Attachment 17 a.);
21. Maurice Lawson Training Records (Attachment 12);
22. Maurice Lawson Daily Observation reports (Attachment 13);
23. CCPD Videos of Lawson traffic stops (monthly and random)(Attachment 18);
24. Blackmore Complaint regarding Lawson (Attachment 14);
25. Major Incident Form and Warrants for September 30, 2015 (Attachment 20);
26. Comparative Disciplinary actions;
27. Governor's Office of Highway Safety Statistics (Attachment 16) and,
28. Fitness For Duty Evaluation, M. Lawson (*Confidential*).

In addition to reviewing the above materials, the following individuals were interviewed: Captain Jeffery Adcock (December 9, 2015), Lieutenant D.L. Ballard (December 10, 2015), Sgt. Andrew Marchetta (December 10, 2015 and December 16, 2015), Sgt. Nathan McCreary (December 10, 2015), Officer Anthony Grizanti (December 10, 2015), Officer Maurice Lawson (December 11, 2015), Officer Stephen Knight (December 10, 2015) and Brian J. Baker (December 18, 2015).<sup>25</sup>

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<sup>25</sup> The interviews were conducted separately; witnesses were placed under oath and recorded. Sgt. Marchetta was interviewed twice. Brian Baker's attorney, Kimberly Bandoh, was present for his telephone interview on Friday December 18, 2015.

## SUMMARY OF CRITICAL FACTS

The investigation into the officer's conduct revealed the following critical facts:

1. BOC and CCPD policies prohibit discourteous or discriminatory behavior or language;
  2. Officer Maurice Lawson, although a relatively new officer, knew of the policies;
  3. On November 16, 2015, at approximately 1:50 a.m., Brian Baker was observed by Officer Lawson to be speeding and failing to maintain his lane on Mableton Parkway in Cobb County;
  4. Officer Lawson made a traffic stop for violations of the Georgia traffic code based on his observations;
  5. According to Officer Lawson, he was not aware of the race of the driver until the stop was made and Lawson approached the vehicle;
  6. Officer Lawson asked Mr. Baker investigatory questions at the outset of the traffic stop;
  7. Officer Lawson violated no policy prior to issuing the citations to Mr. Baker;
  8. After issuing the citations, Officer Lawson violated BOC and CCPD policies regarding courtesy;
  9. On November 16, 2015, Mr. Baker called CCPD and left a message indicating that he wanted to make a complaint about an officer;
  10. Upon returning to his Precinct Headquarters on November 16, 2015, Officer Lawson "self reported" the incident and statements made incident to the traffic stop to Sergeant Nathan McCreary, a supervisor;
  11. On November 16, 2015, in response to the "self report," Sgt., McCreary informed Officer Lawson that he had violated policy and there would be disciplinary consequences;
  12. Shortly thereafter, but still on November 16, 2015, Sgt., McCreary contacted Mr. Baker, who had called earlier and left a message, to discuss his verbal complaint against Officer Lawson;
  13. In the initial discussion, Mr. Baker was primarily concerned about the "go back to Fulton County" and the "you" or "your" people statements and said he wanted an apology;
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14. During the November 16, 2015 conversation, Mr. Baker was informed by Sgt. McCreary that Officer Lawson would be held accountable for his statements;
15. On the evening of November 16, 2015, Mr. Baker also contacted Sgt. Andrew Marchetta about Officer Lawson. Sgt. Marchetta wrote an email to Mr. Baker confirming the conversation;
16. On November 18, 2015, based on the verbal complaint made by Mr. Baker on November 16, 2015, a written complaint form, documenting the incident, was generated by Sgt. Marchetta;
17. On November 22, 2015, Officer Lawson responded to the written complaint, accepting responsibility for his actions/statements and apologizing for his conduct;
18. After preliminary investigation, Precinct Captain Jeff Adcock wrote a formal letter of apology to Mr. Baker. In the letter the Captain mentioned that Officer Lawson would be subject to formal discipline, training and reassignment;
19. A small number of founded complaints can be characterized as similar in some respect to the facts and charges against Officer Lawson in this case; discipline has ranged from a critical incident reminder to various levels of suspension without pay; and
20. Prior to the November 16, 2015 incident, Officer Lawson had been involved in a previous highly publicized incident occurring on July 14, 2015.

## SEQUENCE OF EVENTS

On November 16, 2015, Officer Lawson stopped Mr. Baker for speeding and failure to maintain lane during at approximately 1:50 a.m. After citations were issued, Officer Lawson made comments to Baker, including a comment about Fulton County and “you” or “your” people.

On November 16, 2015, Mr. Baker left a phone message with CCPD indicating that he wanted to complain about Officer Lawson’s conduct during the traffic stop.

On the morning of November 16, 2015, Sgt. McCreary, the day shift supervisor, returned Mr. Baker’s call (on his cell phone) and spoke to him briefly, stating he would talk further when he reached the Precinct.

On the morning of November 16, 2015, after his shift was over (around 8 a.m.), Officer Lawson self reported the incident and his conduct to Sgt. McCreary. During the conversation, Officer Lawson was informed by Sgt. McCreary that there would be disciplinary action by the Department.

On the morning of November 16, 2015, after speaking with Officer Lawson, Sgt. McCreary contacted Mr. Baker, and in a recorded conversation, discussed the incident. Mr. Baker asked for a written apology. Sgt. McCreary discussed Mr. Baker’s request for an apology with his supervisor, Captain Adcock.

On the morning of November 16, 2015, after speaking with his supervisor, Sgt. McCreary called Mr. Baker and was informed that after speaking with counsel, Mr. Baker also wanted the traffic citations dropped. Sgt. McCreary informed Mr. Baker he would have to discuss the new request with his supervisor.

On November 16, 2015, Sgt. McCreary informed his supervisor, Captain Adcock, of the new request from Mr. Baker.

Later on November 16, 2015, at approximately 8:45 p.m., Mr. Baker contacted Sgt. Marchetta by phone and again complained about Officer Lawson. Sgt. Marchetta watched the video of the traffic stop as he was talking to Mr. Baker. Sgt. Marchetta briefed his supervisor, Lt. Ballard, and started the investigation that evening. In addition, Sgt. McCreary was informed by Captain Adcock that Sgt. Marchetta would be handling the investigation.

On November 18, 2015, as the investigation which had officially been assigned to Sgt. Marchetta proceeded, Sgt. Marchetta emailed Mr. Baker and informed him that the formal Complaint number for the incident was 893.

On November 22, 2015, an “Employee Violation” form was completed by Sgt. Marchetta, including policy violations allegedly committed by Officer Lawson.

On November 22, 2015, Officer Lawson responded to the Employee Violation and accepted responsibility for actions and apologized for his conduct.

On November 24, 2015, Captain Adcock wrote a letter to Mr. Baker formally apologizing for the statements made during the incident and informing Mr. Baker there would be formal discipline, training and reassignment for Officer Lawson.

On November 30, 2015, Mr. Baker was informed that he would be provided a copy of the final disciplinary action once it had been issued through the chain of command.

On December 3, 2015 CCPD initiated a “fitness for duty” examination for Officer Lawson.

On December 7, 2017, the County Attorney’s Office was asked to independently investigate the November 16, 2015 traffic incident, focusing upon the officer’s conduct and disciplinary considerations. The gathering of facts for the investigation concluded on December 18, 2015 at 4:30 p.m., with the interview of Mr. Baker.

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  - a. Progressive Discipline
  - b. Rules and Standards of the Cobb County Civil Service Board
  - c. Article II. Civil Service
  - d. Sec. 2-33. County Manager
2. DPS Code of Conduct 1.02, Unbecoming Conduct, 1.25 Courtesy
3. CCPD Policies
  - a. Policy 1.03 Organization
  - b. Policy 1.04 Chain of Command
  - c. Policy 1.05 Inspections
  - d. Policy 2.13 Disciplinary Investigations
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    - i. Employee Violation Forms
  - f. Policy 3.06 Car Video Recording Equipment
  - g. Policy 3.10 Records Management
  - h. Policy 5.01 Call and Incident Response
  - i. Policy 5.18 Traffic Enforcement
  - j. Policy 5.30 Bias Based Profiling
  - k. Policy 6.03 Public Information
  - l. Policy 9.01 Fitness For Duty
  - m. Memorandum Order, April 20, 2015
  - n. Memorandum Order, October 1, 2015
4. Investigative Report by S. Heaton
5. Selected Media Stories
6. Maurice Lawson Personal file
  - a. Reprimand, April 18, 2015
7. Traffic citations issued to Brian Baker, November 16, 2015
8. Census Data regarding Fulton County

9. Transcript Brian Baker audio statement, November 16, 2015
10. CCPD Complaint 893, November 18, 2015
11. CCPD Employee Violation, November 22, 2015
  - a. Employee response, November 22, 2015
12. Lawson Training records
  - a. County DPS Training Center
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  - c. Peace Officer Standards and Training Council Officer Profile
13. Lawson Daily Observation reports
14. Blackmore Complaint regarding Lawson, June 20, 2015
15. Emails to Brian Baker and Kimberly Bandoh
16. Governor's Office of Highway Safety Statistics
17. Email from Adcock, November 19, 2015
  - a. Letter to Baker from Adcock, November 24, 2015
18. CCPD Video Reviews (Monthly March 2015 – November 2015)
  - a. CCPD Random video review, December 9, 2015
19. Emails Regarding Number of Lawson Videos, December 14, 18, 2015
20. Major Incident Report, September 30, 2015
  - a. Warrant, Dalquin Camp
  - b. Warrant, Malcolm Clarence
  - c. Warrant, Omar Little
21. Map of Precinct 2