



## COBB COUNTY POLICE DEPARTMENT

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J.R. Houser *Chief of Police*

R.L. Prince *Deputy Chief of Police*

C.T. Cox *Deputy Chief of Police*

### MEMORANDUM

**TO** Officer M.T. Lawson

**FROM** Chief J.R. Houser

**RE** **SUSPENSION**  
RMS Complaint System ID #893

**DATE** January 15, 2016

The purpose of this memorandum is to advise you that, pursuant to Civil Service Rule 6.10, you will be suspended without pay for **eighty (80) hours** (January 25-28 and February 1-4, 2016), from the Cobb County Police Department based upon the charges described herein. Because I concur with Deputy Chief Cox, I have adopted much of the language from the Disciplinary Proposal.

At the outset, I would like to remind you that Police work is a complicated profession, and sometimes officers make mistakes. I recognize that you are relatively new to policing and are learning and building your skills on a daily basis. In this matter, you immediately recognized your conduct was contrary to departmental policy and expectations, and you self reported your actions.

The reality is that you represent all Cobb County police officers, past and present, every time you go to work. We constantly strive to build a positive working relationship with the citizens who live, work and visit Cobb County. Your actions during this incident fall short of the objective of supporting a positive environment and therefore do not reflect the goals of the department.

Loss of emotional control, statements that can be construed as racially biased or insensitive, and unnecessary banter and invitations to step out of a vehicle that have the potential to lead to an altercation are unacceptable and damaging to the citizens involved and our community as a whole. The Cobb County Police Department is built on courtesy and professionalism. Any conduct that undermines those values will absolutely not be tolerated.

In reaching this decision, I have fully considered your actions, as well as your response to the proposal made by Deputy Chief Cox.

## I. BACKGROUND

On November 16, 2015, at approximately 1:50 a.m., you conducted a traffic stop on a vehicle that was driven by Mr. Brian Baker. You stopped the vehicle for Speeding (65MPH in a 45 MPH zone) and Failure to Maintain Lane.

After the citations were issued to Mr. Baker, you engaged in an exchange which included the following comments: "Please go away to Fulton County. I don't care about you (or your) people". . . "Go to Fulton County cuz, go" and "go back to Fulton County, sir." You denied that your statements were racial.

In addition, although the traffic stop was officially over when the citations were issued, you asked Mr. Baker if he wanted to step out of the car to "talk with you." Mr. Baker did not accept the invitation. In context, the invitation was unnecessary and could be construed as an invitation for a possible altercation, although you stated that was not your intent. As well, when Mr. Baker asked, "Can I go?", you unnecessarily repeated the question, leading to further banter.

After Mr. Baker drove off, you were visibly upset and made several comments (interspersed with profanity), including specifically, "I lose my cool every time..."

Following the incident, Mr. Baker formally complained to CCPD about your conduct. In response to the complaint, you were provided with an Employee Violation on November 22, 2015 detailing the incident and acknowledged your misconduct. (The contents of the Employee Violation are incorporated into these charges by reference.) Following receipt of the complaint, in an effort to work through the issues with the complainant and his counsel, the traffic citations were reviewed and reduced to warnings, and the Sergeant and Captain of the Precinct apologized for your conduct. Statements made by you have served as the basis for numerous negative public and media allegations about you and the CCPD. In addition, the traffic stop, your conduct and your statements have resulted in an internal investigation, an independent investigation by the County Attorney's Office, a fitness for duty evaluation, public demands relative to your employment, and public demands for additional external scrutiny upon the CCPD. The fitness for duty evaluation and scrutiny of prior stops specifically resulted from your statement "I lose my cool every time," which led to a concern that this could have been more than an isolated incident and could have indicated an inability to control your actions in the future.

## II. VIOLATIONS

Cobb County Board of Commission Policy on Conduct and Performance states the following:

*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.*

Cobb County Police Department Code of Conduct 1.02 (**Unbecoming Conduct**) states the following:

*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.*

Cobb County Police Department Code of Conduct 1.25 (**Courtesy**) states the following:

*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.*

This BOC Conduct and Performance policy is similar to, and consistent with Cobb County Police Department Code of Conduct 1.25 (**Courtesy**); therefore, I have considered them to be the same violations.

Based upon the chain of command review, video tape of the incident, statements of the complainant and other officers present, independent review and report by the County Attorney's Office, and in consideration of your comments in your pre-disciplinary hearing, I conclude that you violated the above BOC and Cobb County Police Department Code of Conduct policies. **First**, you engaged in unnecessary and unprofessional banter with Mr. Baker after the traffic citations were issued, failing to conduct yourself in a manner so as to reflect most favorably on the Police Department and the County. Overall, you failed to control your temper and language when interacting with Mr. Baker. **Second**, your statement to Mr. Baker to go back to Fulton County and use of terminology such as "your people" or "you people" was ill advised, improper, discourteous and resulted in an insinuation of racism that has reflected negatively not just upon you, but upon the entire department and the County as a whole. **Third**, your invitation to Mr. Baker to "step out and talk to me" (given the fact that citations had been issued) was unnecessary and can be construed as an invitation for an altercation, especially in light of the present negative atmosphere surrounding law enforcement. **Fourth**, your conduct after the stop, including profanity and the statement "I lose my cool every time" led to concerns regarding your past conduct, the need to conduct additional random reviews of video from prior stops, and a fitness for duty evaluation by the County's physician. **Fifth**, in addition to the above, your conduct has resulted in extensive negative media coverage, reflecting unfavorably on you, the Police Department and the County. As a CCPD officer, the above quoted policies require you to maintain a courteous and professional demeanour, regardless of the demeanour/attitude of citizens you encounter.



I find the accusation that you violated the Courtesy and Unbecoming Conduct Policies as **Sustained**.

### **III. CONSIDERATIONS**

In administering this discipline for the above violations, I considered your time of service and experience, your disciplinary history, your response on Part II of the Employee Violation form, your written response and comments presented in the pre-disciplinary hearing, video of the incident, the Chain of Command review, the County Attorney's independent investigation and the materials referenced therein, the fitness for duty report, the seriousness of the violation, the impact of your conduct upon the Department and County as a whole, your pre-disciplinary response, and the Board of Commissioner's Progressive Discipline Policy.

#### **Time and Service and Experience:**

In viewing your employment history, I note that you have been with the Cobb County Police Department for approximately 1 year and 8 months at the time of this incident. As such, I expect that you were then, and are now, fully aware of the DPS Code of Conduct and Cobb County Police Department policy at issue. A thorough review of your work history shows you potentially have the skills set to be an effective and productive police officer. Your service as a member of the United States Marine Corp is evidence of your positive work ethic and lack of discipline in the past.

#### **Past Disciplinary History:**

In reviewing your most recent disciplinary history, I note that you received a Letter of Reprimand on April 16, 2015 for a pursuit violation. You were also counseled about an incident that occurred on June 13, 2015 where you used slang verbiage from your days in the Marine Corps that was misinterpreted by a juvenile.

#### **Employee's Initial Response:**

I have taken into consideration your self-reporting of your inappropriate conduct on the date of its occurrence before the official investigation was under way, and prior to any media attention. I have considered that you admitted the actions underlying the violations, that you expressed remorse, and that you accepted responsibility for your actions.

In reviewing your response on Part II of the Employee Violation Form, you stated the following:

. . . 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.



Accordingly, you have admitted and have not denied engaging in the misconduct which serves as the basis for this disciplinary action.

**Fitness for Duty:**

Your fitness for duty was examined as a part of the application process and again based on statements you made after the interaction with Mr. Baker on November 16, 2015 (i.e., "I lose my cool every time"). On both occasions, you were determined to be fit for duty. It was also determined that there are no indications whatsoever that you represent a threat of physical harm to African Americans or any other group. Consistent with this evaluation, your immediate supervisors, Sgt. Marchetta, Lt. Ballard and Precinct Commander Captain Adcock also observed that you displayed no evidence of hostility toward minorities or other ethnic groups. Further, the supervisors expressed a belief that the November 16, 2015 incident was an isolated occurrence unlikely to be repeated.

**Severity of Conduct**

I find that your conduct violations were severe and reflected negatively upon you, the Department and the County as a whole as discussed throughout this memorandum.

**Impact of Conduct:**

I have considered the serious impact your conduct has had on the Department and negative reflection upon you as a member of the Department, upon the Department, and upon the County as a whole. Your failure to control your temper, making intemperate remarks to a citizen, and verbal outburst about losing your cool adversely affected your credibility and the operations and efficiency of the Department.

In the short term, your chain of command has expended considerable effort in investigating and documenting the incident, in reviewing your behavior prior to and at the time of the incident, and in evaluating your fitness and suitability to continue to serve the Cobb County Police Department.

In light of the public scrutiny brought upon you specifically, the Department has concerns regarding whether your ability to function as a police officer has or will be impaired. For example, there is a concern that your prior arrests may be open to additional scrutiny (e.g., following this incident, the Department has opened an investigation of your role in a September 30, 2015 incident and arrests). As a result, your performance will be subject to more rigorous review and you will receive additional training. Your actions on this occasion have served to injure the reputation of the Department, to the extent that the Department must engage in efforts to restore public confidence.

The Cobb County Police Department does not now nor has it ever condoned the behavior demonstrated by you during the interaction with Mr. Baker. Such misconduct is a serious violation and cannot be considered lightly.



**Pre-Disciplinary Response:**

In reaching a final decision, I have also considered your verbal and written responses to the disciplinary proposal. You were provided the opportunity to respond and present facts or information that shed light on your behavior. In short, you have not presented any new facts or information to exonerate your behavior or to warrant decreasing the disciplinary sanction proposed. As discussed at length herein, the Department has weighed all relevant factors.

**Progressive Discipline Policy:**

I also considered the Board of Commissioners' Progressive Disciplinary Policy. That policy states, in pertinent part, the following:

*Suspensions are more severe actions that should be used for the constructive improvement of employees. Suspensions should be issued when it is determined that an additional warning or reprimand is not appropriate or when an incident is too severe for a warning, but not sufficiently severe for demotion or dismissal.*

In this situation, both discipline in the form of an eighty (80) hour suspension without pay and other corrective measures are warranted. On January 7-8, 2016 you were sent to 16 hour training class on De-Escalation for Public Safety Officers, and you will also attend 20 hours of remedial training in the area of Verbal Defense and Influence scheduled for March 8 through 10, 2016 at the Georgia Public Safety Training Center.

In this incident, you became angry, argumentative and lost emotional control. However, as police officers, we routinely encounter individuals who may be angry, emotionally upset or just having a bad day. It's paramount to remember that such citizen conduct is not against the law, and it is your job to maintain your professionalism at all times. Your reputation, the reputation of our Department, and maintaining the trust and the support of the community require a high level of commitment to professionalism and courtesy.

Keeping in line with the County policy on progressive discipline, and based upon the seriousness of the violation and all of the considerations above, you will be suspended without pay for **eighty (80) hours** and be required to attend the training described above. Further, future violations of the Code of Conduct may result in more serious discipline, up to and including termination of your employment from the Department. In the future it is expected that you will conduct yourself in a professional and courteous manner when interacting with citizens, will not engage in argumentative behavior with others, and will conduct yourself in a manner so as to reflect most favorably upon the Department and the County.

Prior to the beginning of your suspension, you will surrender your issued Cobb County Police Department identification to your Watch Commander. During the term of your suspension, you will not engage in Secondary Employment or act in an official police capacity except to appear in court under subpoena or cooperate in an internal investigation.



Disciplinary Proposal  
M.T. Lawson  
January 2016

Pursuant to Cobb County Civil Service Rules and Standards Section 7.10 (Filing an Appeal), you have the right to appeal this action, in writing, to the Cobb County Civil Service Board within ten (10) calendar days.

Cc. Deputy Chief C.T. Cox  
Internal Affairs  
DPS Personnel  
Major Patellis  
Captain Adcock



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