



LEXINGTON POLICE DEPARTMENT
PERSONNEL ORDER
 Lexington, Kentucky

DATE OF ISSUE January 26, 2022	EFFECTIVE DATE January 20, 2022	NUMBER PO:22-031
TO: SUSPENSION WITHOUT PAY		AMENDS:
INDEX AS: OFFICER MYLES FOSTER		RESCINDS:

Effective, Thursday, January 20th, 2022, Officer Myles Foster will be suspended without pay for one (1) day, for violation of General Order 1973-02K, Disciplinary Procedures of Sworn Officers, Appendix B, Operational Rule 1.02 – Misconduct.

Officer Foster is to surrender all police credentials and division-owned equipment. Officer Foster’s suspension from duty eliminates his right to carry concealed deadly weapons, make arrests, and any other law enforcement duties.

The Urban County Council approved this suspension on January 13, 2022.

Lawrence B. Weathers

Lawrence B. Weathers
 Chief of Police

LBW/rmh

LEXINGTON POLICE DEPARTMENT

AGREEMENT OF CONFORMITY WITH KRS 95.450 / 15.520 AND RELEASE

FORM 113 (8/20)

An allegation has been made that: Officer Myles Foster #58517

has committed the offense of:

Misconduct

which constitutes misconduct under the provisions of KRS 95.450 and/or KRS 15.520

(list other applicable law or rule)

General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.02

in that on the 8 day(s) of October, 20 21 he/she allegedly:

On Friday October 8, 2021 at approximately 2100 hours Officer Myles Foster made contact with a group of subjects in the parking lot located at 321 E. Vine Street. During this interaction, the complainant alleged Officer Myles Foster was unprofessional, antagonistic and made threats to multiple individuals gathered at a "car show".

At the conclusion of the investigation it was determined Officer Fosters violated the above policy which states: "Officers shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the department and to not cast doubt on the officer's integrity, honesty, judgement, or character. Misconduct of an officer shall include that which tends to bring the department into disrepute or reflects discredit upon the officer as an employee of the department, or that which tends to impair the operation and efficiency of the department or officer".

This is Officer Myles Fosters first sustained formal complaint since his employment on January 20, 2020.

I have read KRS 95.450, 95.460 and 15.520, and attest that I fully understand all rights guaranteed by these statutes, including the rights to have formal charges preferred and a hearing conducted on those charges.

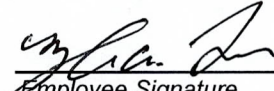
Further, I, with knowledge of the provisions and my rights under KRS 95.450, 95.460, and 15.520 and in consideration of the recommendation of the Chief of Police of the Lexington Police Department, acknowledge that the appropriate punishment for this conduct is:

One (1) Day Suspension Without Pay

I do hereby voluntarily accept the above disciplinary action, provided that the punishment awarded by the Urban County Council will not exceed the above recommendation of the Chief of Police.

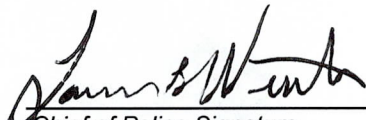
If the Urban County Council rejects the above recommendation, I will be so notified, in which case I may withdraw my acceptance, and will be entitled to all rights, as applicable, under KRS 95.450, 95.460 and 15.520, and this agreement will not be used against me or by me in any hearing in determination of my guilt of punishment.

In further consideration of the acceptance of the above recommendation and penalty by the Urban County Council, I do for myself, my heirs, legal representatives, as assigns hereby expressly release and forever discharge the Lexington-Fayette Urban County Government, its officers, agents, employees, and their successors and assigns from all claims, demands, actions, damages or causes of action and from all liability for damages of whatsoever kind, nature of description that I ever had, now have or may have against the aforementioned entities created by or arising out of the action contained herein.



Employee Signature

1/5/2022
Date



Chief of Police Signature

1/6/2022
Date

ACTION BY URBAN COUNTY COUNCIL

APPROVE ABOVE RECOMMENDATION

DISAPPROVE ABOVE RECOMMENDATION



Signature of Authorized Representative of
Urban County Council

SUSPENSION SERVICE GUIDELINES:

Suspensions will be served as outlined in General Order series 1973-02 Disciplinary Procedures of Sworn Officers.



Lexington-Fayette Urban County
 Division of Police
MEMORANDUM
 Lexington, Kentucky

DATE OF ISSUE
 December 9, 2021

EFFECTIVE DATE

NUMBER
 COP:
 21-0204


TO: Kenneth Armstrong, Commissioner Department of Public Safety	SUBJECT: Disciplinary Recommendation PIU2021F-022 Officer Myles Foster
FROM: Lawrence B. Weathers Chief of Police	

I met with Officer Myles Foster on December 7, 2021, and have determined this as "Improper Conduct" for violation of:

- General Order 1973-02K - Disciplinary Procedures of Sworn Officers, Appendix B, Operational Rule 1.02 – Misconduct

I have recommended a one (1) day **Suspension Without Pay** for the violation. I have included the summary of this formal complaint for your information. Reviewed video provided by PIU regarding the complaint.

Officer Foster accepted this discipline on December 8, 2021.

Lawrence B. Weathers


Lawrence B. Weathers
 Chief of Police

LBW/rmh

Attachment



LEXINGTON POLICE
DEPARTMENT
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE
November 29, 2021

EFFECTIVE DATE

NUMBER
PIU 21-133

TO:
Lawrence Weathers
Chief of Police

SUBJECT:
Formal P.I.U.21.F.022
Officer Myles Foster
Summary

FROM:
Lieutenant David Biroshik
Bureau of Investigation
Public Integrity Unit

This memorandum will provide a synopsis of the investigation; however, other supporting documents may be viewed in conjunction with this memorandum.

On October 11, 2021 Mr. Christian Gross filed a formal complaint against Officer Myles Foster for the violation of General Order 1973-02K, Disciplinary Procedures of Sworn Officers Appendix B, Operational Rule 1.02 – Misconduct

Allegations:

On Friday October 8, 2021 at approximately 2100hrs Officer Myles Foster made contact with Mr. Christian Gross and a group of his friends in the parking lot located at 321 E. Vine Street. During this interaction Mr. Gross alleges Officer Myles Foster was unprofessional, antagonistic and made threats to multiple individuals gathered at a “car show”.

If the above allegations are true, Officer Foster is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rules: 1.02 - Misconduct

1.02 Misconduct

- Officers shall interact with the public in a civil and professional manner that conveys a service orientation that fosters public respect and cooperation.
- Officers shall treat individuals with courtesy, respect and dignity.
- Officers shall not use language that might belittle or ridicule individuals and shall be tactful in the performance of their duties, shall control their tempers, exercising the utmost patience and discretion.
- Officers shall perform their duties equitably in both the enforcement of laws and the delivery of law enforcement services within the community and shall strive to maintain public trust by conducting all law enforcement business in an unbiased, fair, and impartial manner.

Mr. Gross’s Interview

Mr. Gross was interviewed at Headquarters on October 11, 2021 at approximately 12:15 in the afternoon. During this interview he spoke of his encounter with Officer Foster during the night of October 8, 2021.

He began the interview by saying he and his friends, along with multiple other individuals were gathered in the parking lot of Gus's Chicken, located at 321 E. Vine Street. All of the individuals there were visiting with each other and looking at each other's cars at an impromptu "car show". It was during this time that they observed Officer Foster conduct a "traffic stop" in the same lot they were loitering in. During the stop two friends of Mr. Gross, who were also brothers, were arguing with each other. During this argument one brother said to the other "fuck you pussy". Mr. Gross states this was not intended towards Officer Foster in any manner, although he may have heard it. There was no reaction from Officer Foster at this time and he continued with the traffic stop eventually allowing the suspect to leave.

Once the traffic stop was completed, Mr. Gross advised Officer Foster drove his cruiser over towards the group and exited the vehicle. He then allegedly walked over to the friend who made the earlier explicit statement and poked or pushed him in the chest, causing him to stumble backwards. At the same time he allegedly stated "you better watch who the fuck you're talking to and what the fuck you say to me". At this time the friend told him he wasn't talking to him, but was instead talking to his brother. Allegedly Officer Foster then puts his hand on his gun and says "I don't care, I'll put all 8 of you in the dirt right now".

The exchange between Officer Foster and Mr. Gross's friend continued with the friend telling Officer Foster to "whoop" him then and that he was a minor so there would be a lawsuit. Officer Foster stated back "whopty fucking doo, I don't care". Officer Foster then began walking back to his cruiser when he spotted Mr. Gross. Officer Foster has had a prior dealing with Mr. Gross in the past when he cited him for "Impersonating a Police Officer". Without being prompted, Officer Foster pointed at Mr. Gross and stated "yeah, that guy almost went to jail the other day, he is a wanna be cop". Mr. Gross continued to video tape the incident and pointed the phone towards the car to confirm the officer's identity.

After the incident occurred with Officer Foster, Mr. Gross and several of his friends went to Headquarters where they eventually spoke with Sergeant Powers. They explained to him what had just occurred and advised him they wanted to file a complaint. Sergeant Powers listened to the complaint and then told them to contact the Public Integrity Unit the next day to start the official paperwork.

During this exchange Mr. Gross advised that he had activated the camera on his phone to record the exchange with Officer Foster. He advised he did not want to be obvious he was recording, so instead of showing the scene between Officer Foster and his friend he held the camera facing up towards his face so you can hear them talking. Mr. Gross was unable to capture the entire event, but was able to capture enough that some of his claims can be substantiated.

Investigation

During the interview of Mr. Gross, he provided a copy of the incident he taped on his phone. I have reviewed this recording along with body worn camera footage from the original traffic stop completed by Officer Foster. There is not body worn camera footage of the alleged incident to review as Officer Foster failed to activate his camera during the confrontation.

The first thing to take notice of with Mr. Gross's video is that there is an overwhelming amount of surrounding noise coming from people talking and the exhaust noise from vehicles

parked nearby. This noise makes the video extremely hard to hear and make out what is being said. Also the video does not capture video footage of Officer Foster until he is getting into his cruiser and driving away; because of this the allegation of him pushing the friend can't be substantiated.

Despite the outside noise during the recording, the allegations that can be confirmed starts with Officer Foster approaching someone in the group and saying "watch out what you fucking say, alright". This is followed by unintelligible statements and then you hear the subject say "I didn't say nothing to you". The subject continues on telling Officer Foster he is under age and for him to "whoop him". You do hear Officer Foster say back to him "well whoopty fucking do". In the recording you do also hear Officer Foster make the comments about Mr. Gross almost being arrested and being a "wanna be cop".

I have spoken to Mr. Gross about witnesses that could be interviewed to confirm his allegations. He advised he has spoken to everyone that he knew that was there and they do not wish to be interviewed out of fear of reprisal.

Officer Foster's Interview

On October 28, 2021 at approximately 1320 hours, Officer Foster was interviewed in the Public Integrity Office by myself and Lieutenant Brotherton. During the interview he confirmed he did make a traffic stop on the way into Roll Call on the alleged date and was involved in the confrontation described by Mr. Gross shortly after.

During the traffic stop Officer Foster advised that the group in the parking lot were making "vague" comments towards him. He advised they also would yell at him, although it wasn't clear what they were saying. After issuing a citation for the stop he turned his body worn camera off and proceeded to leave the parking lot. As he was driving past the group his window was cracked, he observed and heard an individual call him a "pussy". He did stop at this time, get out of his car and approach the crowd.

Officer Foster does deny that he ever "poked" or shoved any of the individuals he got out with. His intention was to get out with the individual and "talk" to him about calling him the name. He also does not deny that the subject "pushed his buttons" and made him mad. He also does not deny that he spoke to Mr. Gross, although he did not recall what he had said. He does admit to using inappropriate language during his exchange with the group. He admits to cursing multiple times due to being angry.

When questioned about why he did not activate his body worn camera as required by policy, Officer Foster stated he did not know why he didn't activate it. He only meant to get out and talk to the group and didn't expect anything "crazy" to occur. He advised he knew the policy required him to activate it and admits to violating policy.

Summary

After reviewing this incident it is clear that Officer Foster responded in a manner that is inconsistent with training and policy laid out by the Lexington Police Department. His failure to activate his body worn camera inhibits this investigation to determine everything that occurred during his encounter with Mr. Gross and his friends. The video that was provided by

Mr. Gross does show Officer Foster acting in a manner that is inappropriate and supports multiple allegations that were brought forward. The allegation that Officer Foster did in fact touch or shove in an inappropriate manner can't be substantiated at this time. The allegations that he cursed and spoke to the individuals in an unprofessional manner can be confirmed. Due to these actions it is my opinion that Officer Foster violated General Order 1973-02K, Disciplinary Procedures of Sworn Officers Appendix B, Operational Rule 1.02 – Misconduct.



Lexington Police Department
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE
October 11, 2021

EFFECTIVE DATE
October 11, 2021

NUMBER
PIU: 21-114

TO:
Assistant Chief Brian Maynard
Bureau of Patrol

SUBJECT:

FORMAL COMPLAINT

FROM:
Lieutenant David Biroshik
Bureau of Investigation
Public Integrity Unit

COMPLAINANT: Mr. Christian Gross

ACCUSED OFC.: Officer Myles Foster

ALLEGATION: Violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.02 – Misconduct.

ALLEGED CIRCUMSTANCES: On Friday October 8, 2021 at approximately 2100 hrs Officer Myles Foster made contact with a group of citizens in the parking lot located at 321 E. Vine Street. During this interaction the Complainant Christian Gross alleges Officer Myles was unprofessional, antagonistic and made threats to multiple individuals gathered at a "car show".

ACTION REQUESTED:

- The Bureau Commander and Officer Myles Foster should sign the Acknowledgment Sheet and process this complaint.
- The Commanding Officer should provide the attached copy of the Form 111 and the Officer's Rights Packet to Officer Foster.
- Officer Foster should contact the Public Integrity Unit to arrange for a time to provide a formal statement.

DATE

TIME

Bureau Commander C. Gaurin 43184 10/21/21 2239

Supervisor Lt. J. Jackson 41912

Officer M. Foster 58517 ykz

Accused officer would like the Public Integrity Unit to notify the FOP President or their designee that a formal complaint is filed against them. (Circle One) YES or NO

Returned to the Public Integrity Unit M. B. [unclear] 11/01/21 0800

L. D. Biroschik
Lieutenant David Biroschik
Bureau of Investigation
Public Integrity Unit

mr v

enclosures

cc: Chief Lawrence Weathers
file - PIU2021F-022

