



Updated 01/01/2016

CITY OF ALPHARETTA
HUMAN RESOURCES DEPARTMENT
DISCIPLINARY ACTION REQUEST FORM

Action: Disciplinary Suspension (Without Pay)

Date Of Action: 03/03/2022

Employee Information

Employee Name: Furr Arick ... Employee File #: ...
Position #: ... Department: Public Safety: Police Uniform Patrol Dept. #: ...
Position Title: Police Lieutenant Supervisor Name: CAPT J.T. Simpson

Incident / Offense Information

Date Of Incident / Offense: 01/27/2022 Location: 2 Park Plaza, Alpharetta, GA 30009

Please define / describe the incident or offense in as detailed a manner as possible. (Attach additional pages as needed.):

On 01/27/2022, LT Furr was working at the front desk of City Hall. An unknown female came to the desk and asked for directions to an office in City Hall. The female walked away but then returned and told him a male was outside City Hall asking for money and made her feel uncomfortable. The female was not identified and the circumstances surrounding her distress were not identified.
LT Furr walked outside and saw a male, later identified as Mr. Gray, holding a cardboard sign. LT Furr attempted to speak to Mr. Gray. Mr. Gray ignored him, folded up his sign, and walked away from City Hall toward South Main Street. LT Furr did not continue the interaction and went back inside City Hall.
A short time later, Mr. Dan Merkel walked into City Hall and told LT Furr that a male was panhandling on the front steps of City Hall.
LT Furr walked outside and contacted Mr. Gray, who was on the front sidewalk holding a cardboard sign. LT Furr told Mr. Gray that panhandling was not allowed in the city and he needed to leave. Mr. Gray become argumentative, called LT Furr stupid and a disgrace, and told LT Furr that he was not leaving, and he was not going anywhere. Mr. Gray asked LT Furr what his legal authority was for ordering him to leave. LT Furr asked for Mr. Gray's identification. Mr. Gray reached into his pockets and pulled out two magnet alphabet letters and told LT Furr that was the only ID he was getting from him. Mr. Gray then took out a Florida driver's license, showed it to LT Furr and again told him he was not getting it and put the license back in his pocket. The conversation continued with Mr. Gray remaining argumentative and when Mr. Gray began to walk away, LT Furr informed Mr. Gray was not free to leave. LT Furr informed Mr. Gray he was being detained and secured him in handcuffs. LT Furr searches Mr. Gray after he is detained and removes his Florida driver's license from his pocket. LT Furr walks Mr. Gray over to the bench near the front doors of City Hall and notices a GoPro camera sitting on the bench pointing in their direction. He asks Mr. Gray to sit down on the bench and turns the camera away from them. Mr. Gray identifies the camera as his. LT Furr took the GoPro, turned it off, and placed it into Mr. Gray's pocket. Officer Shofflett arrives after Mr. Gray is detained. Mr. Gray calms down and LT Furr removes the handcuffs and leaves Mr. Gray on the bench. LT Furr returns to his patrol vehicle, runs Mr. Gray for warrants, and completes a Field Interview in MCT. LT Furr returns to Mr. Gray and informs him that he cannot panhandle for money. Mr. Gray asked if he could remain on the sidewalk and LT Furr tells him no and he must leave. Mr. Gray leaves the area and LT Furr returns to the front desk.
Based on the information provided by LT Furr, I was able to corroborate two persons did speak to him shortly before his interaction with Mr. Gray. City ordinance 30-3(a) states "it shall be unlawful for any person to disturb or endanger the public peace by any disorderly conduct" and (b)(1) further describes disorderly conduct as behaving in "violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life, limb or health." City ordinance 30-4(a)(3) states "it shall be unlawful for any person within the corporate limits of the city to be disorderly while under the influence of alcohol or drugs on the streets, sidewalks, or other public places." 30-4(a)(3) ordinance prohibits panhandling while under the influence of alcohol or drugs.
SEE ATTACHMENT

Was this a violation of City policy? [X] Yes [] No If "yes", please specify what policy(s) were violated:

Department of Public Safety policy, Encountering the Suspicious Person 05-05-04 Paragraph A, Investigative Detention: The brief detention of a person to investigate suspicion of criminal activity. The officer should; based upon his/her natural senses, experience, and good judgment, have articulable reasons to support the suspicion. The person's outer garments may be frisked if the officer believes weapons are involved.
Department of Public Safety policy, Arrest-Legal Process 04-10, Definitions, Investigative Detention: The brief detention of a person to investigate suspicion of criminal activity. The officer should; based upon his/her natural senses, experience, and good judgment, have articulable reasons to support the suspicion. The person's outer garments may be frisked if the officer believes weapons are involved.

The information provided to LT Furr from the two complainants described Mr. Gray as panhandling and making the female complainant feel "uncomfortable". Neither complainant described Mr. Gray as possibly being under the influence.

Therefore, LT Furr did not have a legal basis to conduct a tier 2 detainment of Mr. Gray. A tier 1, consensual encounter was more appropriate. A consensual encounter could have given LT Furr the time to develop enough information to attain RAS.

LT Furr's first statement to Mr. Gray was "you need to leave". LT Furr's interaction with Mr. Gray did not present patience, resolve, or proper investigative steps. LT Furr did not take investigative steps to corroborate the information provided to him by Mr. Merkel or the unknown female. LT Furr immediately giving an order at the beginning of the interaction exacerbated the situation and interrupted the opportunity for investigation or an amicable discussion. Mr. Gray is a self-admitted 1st amendment auditor who purposely records his interactions with law enforcement.

The department's PRIDE model of decision making recommends the use of time to investigate situations where there is no immediate danger. There was no indication that Mr. Gray was an immediate threat to anyone. LT Furr had the time to observe and watch Mr. Gray before encountering him.

Department policy, Goals and Objectives 01-01 Mission Statement, The Department of Public Safety exists to enhance the quality of life of those who live, work, and play in the City of Alpharetta. This mission is met by providing good customer service to everyone we encounter. Ignoring the complaint of panhandling by two citizens would not be good customer service. However, engaging in a confrontation with an individual of a citizen's complaint without first trying to investigate the authenticity of the complaint does not meet the department's expectations of a high-ranking officer.

After Mr. Gray is detained, LT Furr enters his pocket to retrieve his driver's license. *Terry v. Ohio* allows for an officer to frisk a person who has been detained for weapons. The frisk must be non-intrusive, and pockets cannot be entered unless an object which is consistent with a weapon is felt within the pocket. There was no legal justification to enter Mr. Gray's pocket that contained the driver's license. *Department policy, Encountering the Suspicious Person 05-05-04 Paragraph A, Investigative Detention: The brief detention of a person to investigate suspicion of criminal activity. The officer should; based upon his/her natural senses, experience, and good judgment, have articulable reasons to support the suspicion. The person's outer garments may be frisked if the officer believes weapons are involved.*

Current case law allows for citizens to record law enforcement if there is no obstruction or interference of the officer's ability to complete their tasks. Mr. Gray is heard in the GoPro video claiming the camera is his. After LT Furr turns the camera away from he and Mr. Gray, Mr. Gray asks the camera to be turned back toward them to continue recording the interaction. Instead, LT Furr chose to turn the camera off and put it into Mr. Gray's pocket. There is no apparent justification for LT Furr's manipulation of the camera. LT Furr said he was frustrated by Mr. Gray and his actions. After he manipulated the camera, LT Furr said he knew that he should not have manipulated the camera and should have allowed the camera to continue to record.

After Mr. Gray was released from investigative detention, LT Furr informed him that he could not remain in the area. There is no legal justification for LT Furr to order Mr. Gray to leave the area at the end of their interaction. LT Furr felt that ordering Mr. Gray to leave the area was an effective way to de-escalate and diffuse the situation.

LT Furr's detainment of Mr. Gray and his interaction with Mr. Gray is not within the scope of the law or department policy. *Department policy, Arrest-Legal Process 04-10, Definitions, Investigative Detention: The brief detention of a person to investigate suspicion of criminal activity. The officer should; based upon his/her natural senses, experience, and good judgment, have articulable reasons to support the suspicion. The person's outer garments may be frisked if the officer believes weapons are involved.* LT Furr is an experienced police officer within the Alpharetta Police Department. He is a high-ranking officer with vast training, and a department instructor. LT. Furr has been employed as an Alpharetta Police Officer for 14 years and previously employed by the Albany Police Department (GA) for 3 years. The department's expectations for police lieutenants are but not limited to, being accountable for quality decisions, problem solutions, and good judgement regarding critical, routine, or basic matters/situations. Lieutenants will lead by example with enthusiasm, passion, and excellence while building self-confidence in subordinate officers and strengthening community trust.


Corrective / Follow-Up Action Required

Define / describe any and all corrective actions to be taken (attach additional pages as needed). Please note that if a Performance Improvement Plan or Personnel Action (e.g. disciplinary suspension) is affiliated with this disciplinary action report, the corresponding form(s) must also be completed and submitted to Human Resources per standard procedure.

Taking all facts and circumstances into account, LT Arick Furr will be suspended without pay for 3 administrative days (8 hours per day / 24 working hours). LT Furr will provide on-duty and in-service training to the rest of the organization regarding the lessons learned from this interaction.

Employee comments. If the employee elects to provide a separate document in response to this Disciplinary Action, please note such.

Please print one (1) copy of the completed form and send to Human Resources for review **prior to** presenting the document to / meeting with the employee who is the subject of this Disciplinary Action. Human Resources will review the document to ensure compliance with applicable employment laws and City policies and advise the submitting supervisor as to any required changes or to proceed.


Supervisor's Signature:  Date: 03/03/2022

Department Director's Signature: _____ Date: _____

Human Resources Approval By: _____ Date: _____

Employee Signature

Your signature does not imply agreement or disagreement with the notice itself. By signing below you simply acknowledge that the contents of the form have been discussed with you, you understand the contents and the corrective action required, and that you understand the potential consequences of non-compliance.

Employee's Signature:  Date: 3.03.2022