

November 28, 2022

Sgt. Pablo Vazquez

Via Email

**DISPOSITION OF ADMINISTRATIVE INVESTIGATION AND
NOTICE OF CONTEMPLATED DISCIPLINE**

Sgt. Vazquez,

I have now completed my review of Corporal Bender's administrative investigation into the incident that occurred on September 16, 2022, near U.S. Highway 85 and Weld County Road 36. This letter serves to provide you with a final disposition of the internal investigation, as well as notice that the Town is contemplating discipline. Upon receipt of this notice, you will be afforded five days in which to provide a written or oral response as outlined in Platteville Police Department Policy 1010.11.

In addition to reviewing Corporal Bender's administrative investigation, I have also reviewed your body camera footage from the incident, as well as the body camera footage from your interview with Corporal Bender. Should you wish to review any of this information before a final determination is made on any discipline, please let me know and I will make arrangements for you to review those records.

Given your familiarity with the incident, I will only briefly summarize the facts that led to this administrative investigation and the contemplation of discipline. On September 16, 2022, you initiated a felony stop of a suspect who was reported to have engaged in felony menacing with a gun on U.S. Highway 85. The suspect turned right off Highway 85 and onto County Road 36. The suspect's vehicle stopped just east of the train tracks that run roughly parallel to Highway 85. You stopped your patrol vehicle on the train tracks and proceeded to conduct a felony car stop with the assistance of officers from the Fort Lupton Police Department.

Unbeknownst to you, an officer of the Fort Lupton Police Department placed the suspect in the back of your patrol vehicle. While searching the suspect's truck, a train horn can be heard in the background. Immediately thereafter, a northbound train struck your vehicle with the suspect inside.

During your interview with Corporal Bender, you stated you thought your vehicle was parked in an area that was clear of the train tracks. You also assumed that officers from Fort Lupton would not place the suspect in your vehicle, but rather would secure her in one of their vehicles.

At the conclusion of his investigation, Corporal Bender made recommendations regarding policy violations under five sections of the Platteville Police Department's policies:

- 321.5.1 LAWS, RULES, AND ORDERS
 - o (c) Violation of federal, state, local or administrative laws, rules or regulations. **(SUSTAINED)**
- 321.5.6 EFFICIENCY
 - o (a) Neglect of duty. **(SUSTAINED)**
 - o (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delaying in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse **(SUSTAINED)**
- 321.5.9 CONDUCT
 - o (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members. **(SUSTAINED)**
- 321.5.10 SAFETY
 - o (f) Unsafe or improper driving habits or actions in the court of employment or appointment **(SUSTAINED)**
 - o (g) Any personal action contributing to a preventable traffic accident. **(SUSTAINED)**
- 424.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER
 - o (a) All enforcement and investigative contacts including stops and field interview (FI) situations. **(SUSTAINED)**
 - o (b) Traffic Stops including but not limited to traffic violations and all crime interdiction stops. **(SUSTAINED)**

I will address each of these recommendations in turn:

(1) 321.5.1 LAWS, RULES, AND ORDERS

Corporal Bender sustained a policy violation based on the fact that the Weld County District Attorney's Office filed eight charges against you arising out of this incident. However, you have neither been found guilty nor accepted a plea deal with respect to any or all of the eight charges. For those reasons, I currently find this policy violation to be **NOT SUSTAINED**, although circumstances surrounding the criminal proceeding could ultimately affect that finding and support Corporal Bender's finding.

(2) 321.5.6 EFFICIENCY

Corporal Bender sustained policy violations on neglect of duty and unsatisfactory work performance due to a lack of judgment and situational awareness when parking your vehicle on train tracks. He also noted your failure to active your siren when initiating a traffic stop.

Based upon my review of the relevant evidence, including the body camera footage, I find these violations to be **SUSTAINED**. While the area surrounding U.S. Highway 85 and County Road 36 was dark and not well lit, there were visible railroad markings present. Notwithstanding your belief that you had cleared the tracks, it was incumbent upon you to actually verify the positioning of your vehicle relative to the tracks. I agree with Corporal Bender's assessment that you failed to use good judgment and/or lacked situational awareness when initiating a traffic stop.

Corporal Bender also noted that when searching the suspect's vehicle, a train horn can be heard multiple times with no acknowledgement by you. While the horn could be heard on the recording, it is unclear from the video exactly when you heard the train horn, nor does it appear that you would have had sufficient time to safely move your vehicle and/or remove the suspect from it. Even with that information considered, I still find sufficient evidence to support a policy violation for the reasons stated above.

(3) 321.5.9 CONDUCT

Corporal Bender sustained a policy violation for conduct that "any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members." Corporal Bender found that your actions contributed to a suspect incurring injury, as well as damage to a vehicle owned by the Town of Platteville.

I agree with Corporal Bender. While you did not place the suspect in your vehicle, nor were you aware of the suspect's location prior to the accident, your actions in parking on the train tracks reflects unfavorably upon the Town of Platteville Police Department and its officers. I therefore **SUSTAIN** this policy violation.

(4) 321.5.10 SAFETY

Corporal Bender found two violations of this policy, namely unsafe driving habits or actions and any personal action contributing to a preventable traffic accident.

I agree with Corporal Bender that you did not use good judgment when positioning your vehicle on the train tracks. While I understand the nature of this stop, *i.e.* a felony stop involving a weapon, that is no excuse for your lack of awareness on where your vehicle was parked. Officers are expected to maintain situational awareness in all aspects of their duties, regardless of the nature of the law enforcement action being undertaken.

Based on the foregoing facts, I also agree with Corporal Bender's finding that your action contributed to an otherwise preventable traffic accident. Again, while you were not responsible for placing the suspect in your vehicle, the placement of your vehicle on the tracks was a preventable error.

I also agree that your failure to use your siren when attempting to stop the suspect vehicle was a violation of policy. As such, I **SUSTAIN** the policy violations found under 321.5.10 – Safety.

(5) ACTIVATION OF THE AUDIO/VIDEO RECORDER

As confirmed by Corporal Bender, you failed to activate your body camera until well after initiation of the traffic stop. While I again understand your concerns with the execution of a felony stop, it was incumbent upon you to activate your camera at the start of the encounter. I therefore find sufficient grounds to SUSTAIN this violation.

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While the conduct discussed above does not appear to have been intentional, the serious nature of this matter, coupled with a lack of awareness of where your vehicle was parked and the various violations of policy, warrant discipline by the Town.

The Town has undertaken a comprehensive evaluation of your actions, the consequences of those actions, and the appropriateness of any proposed discipline. Because of the nature of the sustained violations, and the circumstances that led to those violations, the Town is considering termination of your employment. Please note that while I can make a recommendation for termination, under the Town of Platteville Employee Handbook Policies and Procedures, the Town Manager has the final authority to authorize the termination of employment.

As noted above, you have the ability to schedule a meeting or submit a written response to this notice within five days under Platteville Police Department Policy 1010.11. The purpose of a disciplinary review meeting is to provide you with an opportunity to offer any additional information related to the incident and/or any mitigating factors. You may bring any written documents which detail any disagreements with the policy violations. You have the right to request copies of, or the opportunity to review, documentation supporting the proposed disciplinary action.

Should you elect to participate in a pre-disciplinary review, please submit any written response on or before December 5. If you elect to participate in a meeting in-person, please advise me at your earliest convenience and a meeting will be set for December 5.

Following a disciplinary review meeting (or after December 5, if no meeting is scheduled), I will render a final recommendation on discipline. If my decision is something less than termination, my decision will be final. If my decision is to recommend termination, my recommendation will be sent to the Town Manager for approval. Please note that consistent with Town policy, your employment remains at-will.

Should you have any questions, or would like to schedule a pre-disciplinary meeting, please contact my office at your earliest convenience.

Sincerely,

Chief Dwyer