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City of Austin
Civil Service Office
Wednesday, March 25, 2020
3:42 p.m.

MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Chief of Police

DATE: March 25, 2020

SUBJECT: Temporary Suspension of Police Officer Richard Bozelli #6624
Internal Affairs Control Numbers 2019-1118

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, and Rule 10, Rules of Procedure for the Firefighters', Police Officers' and Emergency Medical Service Personnel's Civil Service Commission, I have temporarily suspended Police Officer Richard Bozelli #6624 from duty as a City of Austin, Texas police officer for a period of ten (10) days. The temporary suspension is effective beginning on March 26, 2020 and continuing through April 9, 2020.

I took this action because Officer Bozelli violated Civil Service Commission Rule 10.03, which sets forth the grounds for disciplinary suspensions of employees in the classified service, and states:

No employee of the classified service of the City of Austin shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for suspension of an employee from the classified service of the City:

- L. Violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

The following are the specific acts committed by Officer Bozelli in violation of Rule 10:

On September 27, 2019, Officer Richard Bozelli was on duty when he observed a Chevrolet Avalanche (suspect vehicle) traveling northbound at a high rate of speed in the 12000 block of North Lamar Boulevard. Officer Bozelli attempted to conduct a traffic stop of the suspect vehicle at the intersection of North Lamar Boulevard and West Yager Lane. The driver of the suspect vehicle evaded detention and a high-speed vehicle pursuit ensued.

Two minutes and four seconds after attempting to stop the suspect vehicle, Officer Bozelli advised via radio he was terminating the pursuit. Twenty seconds later, the suspect vehicle collided with a civilian's vehicle at Parmer Lane and Dessau Road. The crash was captured on Officer Bozelli's Digital Mobile Audio Video system. At the time of the crash, Officer Bozelli was traveling 82 mph with his emergency overhead lights and siren still activated. As a result of the crash, two civilians were injured, and the suspect driver died at the scene.

On October 4, 2019, Commander Lee Rogers signed an Internal Complaint Memorandum requesting that Internal Affairs conduct an administrative investigation to determine if Department General Orders, Civil Service Rules, or State Law had been violated. Video evidence, radio traffic, and witnesses established that Officer Bozelli did not comport with general orders, by properly terminating the pursuit. Officer Bozelli also acknowledged to investigators, that he did "*not correctly*" terminate the pursuit after stating he would do so.

By these actions, Officer Bozelli violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department:

➤ **Austin Police Department Policy 214.3.3: Vehicle Pursuits: When to Terminate a Pursuit**

214.3.3 When to Terminate a Pursuit

Pursuits should be discontinued whenever the totality of objective circumstances known, or which reasonably ought to be known, to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the subject's escape. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to motorists, themselves, and the public when electing to continue a pursuit. This section shall not be construed to authorize a pursuit that is expressly prohibited as outlined in the Restrictions on Vehicle Pursuits section of this order.

- (a) The factors listed in this order on when to initiate a pursuit are expressly included herein and shall also apply to the decision to discontinue a pursuit. In addition to those factors listed, the

following should also be considered in deciding whether to terminate a pursuit:

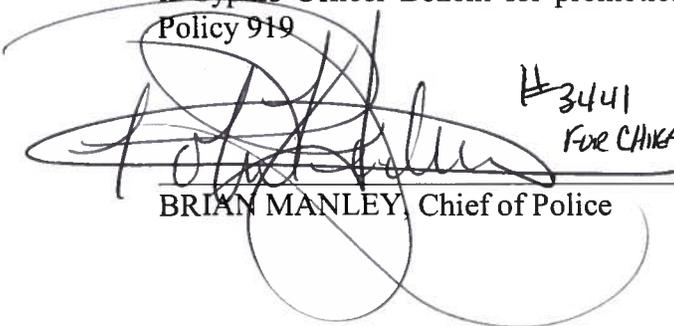
1. Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
2. Pursued vehicle's location is no longer definitely known.
3. Officers shall discontinue the pursuit when they become aware their vehicle has developed a mechanical malfunction. This includes, but is not limited to:
 - (a) Any engine warning light activates on the dash (e.g., brake, ABS, or check engine lights).
 - (b) Audible warning tones.
 - (c) Physical damage that affects the performance, maneuverability, or functioning of the vehicle.
4. Hazards to uninvolved bystanders or motorists.
5. If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
6. Directed by a supervisor.
7. Pursuit speeds:
 - (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
 - (b) Pursuit speeds have exceeded the driving ability of the officer.
 - (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

By copy of this memo, Officer Bozelli is hereby advised of this temporary suspension and that the suspension may be appealed to the Civil Service Commission by filing with the Director of Civil Service, within ten (10) days after receipt of a copy of this memo, a proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Officer Bozelli is hereby advised that such provides for an appeal to an independent third party hearing examiner. If appeal is made to a hearing examiner, all rights of appeal to a District Court are waived, except as provided by Subsection (j) of Section 143.057 of the Texas Local Government Code. That section states that the State District Court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction, or that the order was procured by fraud, collusion or other unlawful means. In order to appeal to a hearing examiner, the

original notice of appeal submitted to the Director of Civil Service must state that appeal is made to a hearing examiner.

By copy of this memo, Officer Bozelli is hereby advised that this temporary suspension may be taken into consideration in my determination as to whether a valid reason may exist to bypass Officer Bozelli for promotion in accordance with Austin Police Department Policy 919


BRIAN MANLEY, Chief of Police

#3441
FOR CHIEF MANLEY

MAE. 25, 2020
Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of temporary suspension and I have been advised that if I desire to appeal that I have ten (10) calendar days from the date of this receipt to file written notice of appeal with the Director of Civil Service in accordance with the provisions of Chapter 143 of the Texas Local Government Code.


Police Officer Richard Bozelli #6624

03/27/20
Date