VERMONT

Criminal Justice Council
Vermont Police Academy
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NOTICE OF HEARING

RE: Hearing to consider imposition of sanctions, up to an including permanent revocation, against the Vermont law enforcement officer certification held by William Bohnyak, 11 VT Rt 113, Chelsea VT. 05038.

Please take notice that pursuant to the authority vested in the Vermont Criminal Justice Council under 20 V.S.A. §§ 2401, 2405 and 2406 a hearing will be held before the Council **at the Vermont Police Academy, 317 Academy Road, Pittsford, Vermont 05763 [*OR remotely via Microsoft Teams*] on December 6, 2022 at 9:00 AM**.

The hearing will be held as a formal contested case hearing under the Vermont Administrative Procedure Act and will be held to consider the imposition of sanctions, up to and including permanent revocation, against the Vermont law enforcement officer certification held by William Bohnyak for alleged unprofessional conduct pursuant to 20 V.S.A. § 2401(3) and (5) (Category C conduct deemed unprofessional conduct), 20 V.S.A. § 2358(b)(2) (Level II certification), 20 V.S.A. § 2404(c) (Council investigation) and 20 V.S.A. § 2406(a) (permitted Council sanctions), which are set forth and specified below.

- 20 V.S.A. § 2401(3) provides:

  "Category C conduct" means any allegation of misconduct pertaining to Council processes or operations, including:

  (A) intentionally exceeding the scope of practice for an officer's certification level;

  (B) knowingly making material false statements or reports to the Council;

  (C) falsification of Council documents;

  (D) intentional interference with Council investigations, including intimidation of witnesses or misrepresentations of material facts;

  (E) material false statements about certification status to a law enforcement agency;

  (F) knowing employment of an individual in a position or for duties for which the individual lacks proper certification;

  (G) intentional failure to conduct a valid investigation or file a report as required by this subchapter; or

  (H) failure to complete annual in-service training requirements.

- 20 V.S.A. § 2358(b)(2) provides:

(2) Level II certification.

(A) An applicant for certification as a Level II law enforcement officer shall first complete Level II basic training and may then become certified in a specialized practice area as set forth in subdivision (B)(ii) of this subdivision (2). Level II basic training shall include training to respond to calls regarding alleged crimes in progress and to react to the circumstances described in subdivision (B)(iii) of this subdivision (2).

(B)(i) Except as provided in subdivisions (ii) and (iii) of this subdivision (B), the scope of practice of a Level II law enforcement officer shall be limited to investigating the following matters:

(I) [Repealed.]

(II) 7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors);

(III) 13 V.S.A. chapter 7 (advertisements);

(IV) 13 V.S.A. chapter 8 (humane and proper treatment of animals);

(V) 13 V.S.A. §§ 505 (fourth degree arson), 508 (setting fires), and 509 (attempts);

(VI) 13 V.S.A. chapter 19, subchapter 1 (riots);

(VII) 13 V.S.A. §§ 1022 (noise in the nighttime), 1023 (simple assault), 1025 (recklessly endangering another person), 1026 (disorderly conduct), 1026a (aggravated disorderly conduct), 1027 (disturbing peace by use of telephone or other electronic communications), 1030 (violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child), 1031 (interference with access to emergency services), 1042 (domestic assault), and 1062 (stalking);

(VIII) 13 V.S.A. chapter 35 (escape);

(IX) 13 V.S.A. chapter 41 (false alarms and reports);

(X) 13 V.S.A. chapter 45 (flags and ensigns);

(XI) 13 V.S.A. chapter 47 (frauds);

(XII) 13 V.S.A. chapter 49 (fraud in commercial transactions);

(XIII) 13 V.S.A. chapter 51 (gambling and lotteries);

(XIV) 13 V.S.A. chapter 57 (larceny and embezzlement), except for subchapter 2 (embezzlement);

(XV) 13 V.S.A. chapter 67 (public justice and public officers);

(XVI) 13 V.S.A. chapter 69 (railroads);

(XVII) 13 V.S.A. chapter 77 (trees and plants);

(XVIII) 13 V.S.A. chapter 81 (trespass and malicious injuries to property);

(XIX) 13 V.S.A. chapter 83 (vagrants);

(XX) 13 V.S.A. chapter 85 (weapons);

(XXI) 13 V.S.A. § 7559(d), (e), and (f) (violating condition of release);

(XXII) 18 V.S.A. §§ 4230(a) and 4230d (cannabis possession);

(XXIII) 18 V.S.A. § 4231(a) (cocaine possession);

(XXIV) 18 V.S.A. § 4232(a) (LSD possession);

(XXV) 18 V.S.A. § 4233(a) (heroin possession);

(XXVI) 18 V.S.A. § 4234(a) (depressant, stimulant, or narcotic drug possession);

(XXVII) 18 V.S.A. § 4234a(a) (methamphetamine possession);

(XXVIII) 18 V.S.A. § 4235(b) (hallucinogenic drug possession);

(XXIX) 18 V.S.A. § 4235a(a) (ecstasy possession);

(XXX) 18 V.S.A. § 4476 (drug paraphernalia offenses);

(XXXI) 20 V.S.A. § 3132 (firework prohibitions);

(XXXII) 21 V.S.A. § 692(c)(2) (criminal violation of stop-work order);

(XXXIII) any misdemeanor set forth in Title 23 of the Vermont Statutes Annotated, except for 23 V.S.A. chapter 13, subchapter 13 (drunken driving), 23 V.S.A. § 3207a (snowmobiling under the influence), 23 V.S.A. § 3323 (boating under the influence), or 23 V.S.A. § 3506(b)(8) (operating an all-terrain vehicle under the influence);

(XXXIV) any motor vehicle accident that includes property damage and injuries, as permitted by the Council by rule;

(XXXV) any matter within the jurisdiction of the Judicial Bureau as set forth in 4 V.S.A. § 1102;

(XXXVI) municipal ordinance violations;

(XXXVII) any matter within the jurisdiction of a game warden or deputy game warden as set forth in 10 V.S.A. chapter 103, subchapter 4 (game wardens); and

(XXXVIII) any matter within the scope of practice of a Level I law enforcement officer.

(ii) In addition to the scope of practice permitted under subdivision (i) of this subdivision (B), a Level II law enforcement officer may also practice in additional areas approved in writing by the Council based on a special certification or training approved by the Council.

(iii) Notwithstanding the limitations set forth in subdivisions (i) and (ii) of this subdivision (B), a Level II officer may respond to calls regarding alleged crimes in progress and may react in the following circumstances if the officer determines that it is necessary to do any of the following:

(I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;

(II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;

(III) detain or arrest an individual who the officer reasonably believes has committed a crime in the presence of the officer; or

(IV) detain or arrest an individual who the officer reasonably believes has committed a felony under Vermont law.

(iv) If a Level II officer responds to calls regarding alleged crimes in progress or reacts to any of the circumstances described in subdivision (iii) of this subdivision (B) and that response or reaction is outside the scope of his or her scope of practice, he or she shall call upon an officer certified to respond and assume law enforcement authority over the incident.

- 20 V.S.A. § 2401(5) provides:

  "Unprofessional conduct" means Category A, B, or C conduct.

- 20 V.S.A. § 2404(c) provides:

  The Council shall investigate allegations of Category C conduct.

- 20 V.S.A. § 2406(a) provides:

  Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

It is alleged that you have knowingly employed an individual in a position or for duties for which the individual lacks proper certification, which constitutes prohibited Category C as defined by 20 V.S.A. § 2401(3)(F). In particular, it is alleged that you employed a Level II certified Deputy Sheriff as an Orange County Sheriff's Department Special Investigative Unit detective investigating matters implicating potential crimes that fell outside of a Level II certified officer's authority to investigate, including at least the following matters: 19ORC000166 (sexual assault); 19ORC003350 (sexual assault-child);19ORC003568 (sexual assault); 20ORC000874 (suspicious event); 20ORC001082 (computer crime); 20ORC001207 (burglary); 20ORC001426 (suspicious event); 20ORC001514 (sexual assault-child); 20ORC2417 (sexual assault- child); 20ORC002074 (lewd and lascivious conduct); 20ORC002896 (suspicious event); 20ORC002353 (sexual assault-child); and 20ORC002478 (sexual assault-child).

The Council shall determine whether or not such alleged violation(s) did occur as specified herein.

The hearing shall be conducted by the Council in accordance with the Vermont Administrative Procedure Act (3 V.S.A. §§ 809-816). Pursuant to 3 V.S.A. § 809(c), you shall have an opportunity by yourself or through your attorney to appear at said hearing to present evidence and argument on all issues involved in this case and bring before the Council all pertinent facts that you believe will have a bearing on the issues involved in this case.

All correspondence and documents pertaining to this matter should be sent to the Vermont Criminal Justice Council, 317 Academy Road, Pittsford, Vermont, 05763, to my attention.

Dated November 1, 2022 at Pittsford, Vermont.

Vermont Criminal Justice Council

Heather Simons

Heather Simons
Executive Director