

NOTICE OF HEARING

August 9, 2023

VCJC PRS Docket No. 2020CQM

RE: Hearing to consider imposition of sanctions, up to and including permanent revocation, against the Level III Vermont law enforcement officer certification held by Chad Emery.

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 Fire Academy, 93 Davidson Drive, Pittsford, Vermont 05763 and remotely via Microsoft Teams on September 19, 2023 at 9:00AM.**

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 Zachary Emery for alleged unprofessional conduct pursuant to 20 V.S.A. § 2401(1)(C)(iii) and (v) (Category A conduct misdemeanors committed off duty), 20 V.S.A. § 2404(a)(1)(A) (agency investigation of Category A conduct), 20 V.S.A. § 2405 (Council sanction procedure) and 20 V.S.A. § 2406(a) (permitted Council sanctions), which are set forth and specified below along with other relevant authority.

- 20 V.S.A. § 2401(1) provides:

(1) “Category A conduct” means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

- (i) simple assault, second offense;
- (ii) domestic assault;
- (iii) false reports and statements;
- (iv) driving under the influence, second offense;
- (v) violation of a relief from abuse order or of a condition of release;



- (vi) stalking;
- (vii) false pretenses;
- (xii) possession of a regulated substance, second offense.
- (viii) voyeurism;
- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

- 20 V.S.A. § 2401(5) provides:

“Unprofessional conduct” means Category A, B, or C conduct.

- 20 V.S.A. § 2404(a)(1)(A) provides:

Agency investigations of Category A and B conduct.

(1)(A) Each law enforcement agency shall conduct a valid investigation of any complaint alleging that a law enforcement officer employed by the agency committed Category A or Category B conduct. An agency shall conclude its investigation even if the officer resigns from the agency during the course of the investigation.

- 20 V.S.A. § 2405:

Except as otherwise provided in this subchapter, the Council shall conduct its proceedings in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

- 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 engaged in three instances of Category A unprofessional conduct in violation of the above identified authority. Specifically, it is alleged:

1. Chad Emery (referred to herein as “Emery”), at the time of the allegations below, was employed as an officer with Brattleboro Police Department (BPD). Emery resigned from BPD July 15, 2020. He is currently not employed by any law enforcement agency in Vermont.
2. Emery holds a Level III law enforcement certification from the Vermont Criminal Justice Council. He received his Level III May 27, 2005

VCJC PRS Docket No. 2020CQM (Category A)

1. On or about June 18, 2020, Vermont State Police (VSP) responded to a domestic disturbance at the home of Chad and Michelle Emery. A criminal investigation was conducted by VSP. The BPD initiated an internal investigation as well.
2. According to Ms. Emery’s sworn statements, Emery returned to the family home on June 18, 2020, appearing intoxicated, and he began to goad her into an argument. She retreated to her room where she locked the door to prevent his entry. Emery proceeded to bang on the door and yell at Ms. Emery. He then started to break the door down, eventually breaking the door into three separate pieces. Emery swung the broken door open and hit Ms. Emery in the face with the door. Ms. Emery reported that she yelled from the pain and initially thought that her nose might be broken. Ms. Emery reported that Emery would often turn on his phone’s video to capture her reaction when arguments started. He did so on this evening. The video images capture Emery following Ms. Emery around the house, yelling derogatory remarks at her, and then banging on the bedroom door.
3. The Windsor County State’s Attorney’s office filed a three count Information against Emery on June 22, 2020 charging him with two counts of domestic assault, 13 V.S.A. § 1042 and one count of aggravated disorderly conduct-fighting, 13 V.S.A. § 1026a(a)(1).

4. Count Two and Count Three, one of the domestic charges and the aggravated disorderly conduct charge, were based on the events of June 18, 2020, as described above.
5. Count Two of the Information stated as follows: “Chad M. Emery, in the County of Windsor, at Guilford on or about June 18, 2020, recklessly caused bodily injury to a family or household member, when he struck his wife, Michelle Emery, with a bedroom door, causing pain, in violation of 13 V.S.A. § 1042.”
6. Count Three of the Information charged as follows: “Chad M. Emery, in the County of Windsor, at Guilford on or about June 18, 2020, engaged in a course of conduct directed a[t] a specific person with the intent to cause the person inconvenience or annoyance and engaged in violent, tumultuous or threatening behavior, in violation of 13 V.S.A. 1026a(a)(1).
7. Count One of the Information, the other domestic assault charge, was based on an assault that Ms. Emery revealed while being questioned about the June 18, 2020 incident. Ms. Emery disclosed that approximately a year prior, Emery had punched her in the face with a closed fist. Ms. Emery had two pictures taken after the assault that she showed to law enforcement. One picture showed the side of her mouth with blood, a split lip and swelling throughout her face. The second picture showed blood on the kitchen floor as a result of the assault.
8. Count One of the Information charged as follows: Chad M. Emery, in the County of Windsor, at Guilford on a date between March 1, 2019 to October 1, 2020, willfully or recklessly caused bodily injury to a family or household member, when he punched his wife Michelle Emery, while in their kitchen in violation of 13 V.S.A § 1042.
9. The Vermont Superior Court, Windsor Unit, Criminal Division found probable cause for all three charges on June 22, 2020.
10. On March 31, 2023, Emery entered into a global plea agreement with the State, in which he pled guilty to one count of domestic assault (count two) and one count of disorderly conduct (the State amended Emery’s Information to add a fourth count, Disorderly Conduct, 13 V.S.A. 1026(a)(2)). In return, the State dismissed the remaining domestic assault charge and the aggravated disorderly conduct charge.
11. Emery received a deferred sentence for one year on the domestic assault charge, and was placed on probation with conditions for the period of the sentence deferment.

12. During both investigations, the criminal and the internal agency investigation, Michelle Emery reported a number of domestic assaults committed by Emery spanning approximately six years prior to, and leading up to, the assault on June 18, 2020. Ms. Emery's domestic assault allegations were corroborated with photographic evidence.
13. The underlying facts that formed the basis for the domestic assault misdemeanors are contained in the probable cause affidavit with supplemental affidavits for Docket number: 20-CR-00528. While the guilty plea for domestic assault alone permits the Council to act, the facts and/or witnesses included in the probable cause affidavit for the convictions will be presented to the Council at the September 19, 2023 hearing, if needed.
14. Emery's admission of guilt to domestic assault constitutes unprofessional conduct as it is a misdemeanor that even if committed off duty is sanctionable as Category A conduct by the Vermont Criminal Justice Council pursuant to 20 V.S.A. § 2401(1)(C)(iii) and (v).

The Council shall determine whether such alleged violations set forth above re: VCJC PRS Docket Nos. 2020YFJ 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 August 9, 2023, at Pittsford, Vermont.

Vermont Criminal Justice Council

A handwritten signature in black ink that reads "Heather Simons". The signature is written in a cursive, flowing style.

Heather Simons, Executive Director

