



STATE OF CONNECTICUT
DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION
Police Officer Standards and Training Council
Connecticut Police Academy

GENERAL NOTICE 20 - 09

To: Chief Law Enforcement Officers
Training Officers
Protective Services
Resident Troopers

From: Karen Boisvert *WBS*
Academy Administrator

Date: 11/5/2020

Subject: Overview of C.G.S. Section 7 – 294d(c)(2) pursuant to the Legislative July Special Session, Public Act No. 20 – 1 (House Bill No. 6004) and Guidance Document regarding Conduct that Undermines Public Confidence in Law Enforcement

At the October 15th, 2020 regular meeting, the Police Officer Standards and Training Council adopted written guidance language to assist Law Enforcement Units concerning grounds for Suspension, Cancellation, or Revocation of certification pursuant to the Legislative July Special Session, Public Act No. 20 – 1 (House Bill No. 6004).

This attached document will provide:

Section 1: Purpose

Section 2: Grounds for suspension, cancellation or revocation and an overview, Section 7 – 294d(c)(2), of C.G.S.

Section 3: Conduct that undermines public confidence in law enforcement, written guidance

Section 4: Evaluation of conduct, written guidance

Section 5: Reporting Procedures to include mandatory reporting

Important Note: The Police Officer Standards and Training Council Certification Division will only review request for suspension, cancellation or revocation that are received from the Chief Law Enforcement Officer of the law enforcement unit in accordance with 7 – 294d (c)(2).

Cases referred to the Police Officer Standards and Training Council Certification Division by the public (sworn or civilian), shall be referred to the appropriate state or local Law Enforcement Unit for further review.

All cases referred to the Police Officer Standards and Training Council Certification Division by the Chief Law Enforcement Officer of the law enforcement unit shall be reviewed by the Police Officer Standards and Training Council subcommittee.

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Section 1: Purpose

The purpose of this document is to provide guidance in accordance with the provisions of Section 7-294d(g) of the Connecticut General Statutes, which allows the Police Officer Standards and Training Council (hereafter "the Council") to develop and issue written guidance to law enforcement units concerning grounds for suspension, cancellation or revocation of certification. This guidance document addresses the following:

Section 2: Grounds for suspension, cancellation or revocation and an overview, Section 7 – 294d(c)(2), of C.G.S.

Section 3: Conduct that undermines public confidence in law enforcement

Section 4: Evaluation of Conduct

Section 5: Reporting Procedures

Sections 3 and 4 of the document shall serve as guidance for law enforcement units and the POST Council to determine what acts constitute conduct that undermines public confidence in law enforcement. Each section contains a framework in which to examine such conduct.

Section 5 describes from whom the Council shall receive requests for suspension, cancellation or revocation of certification and what acts of misconduct a law enforcement unit shall report to the council.

The prohibited conduct expressed in statute or guidance does not reflect the values or professional standards of the law enforcement community. The decertification process is designed to address those acts that ultimately cause irreparable damage to the trust between police officers and the community they serve and/or render a person unsuitable for police service.

The power to suspend, cancel, or revoke a certificate is a solemn one. The Council decertification process is not a tool to address trifling events, personal grievances, or to bypass traditional labor relations procedures. It is based upon an obligation to hold those who do not live up to the high standards of law enforcement accountable to the public and the law enforcement community.

Section 2: Overview of Conn. Gen. Stat. Section 7-294d(c)(2) and July Special Session, Public Act No. 20-1

A. Suspension

Pursuant to Conn. Gen. Stat. Section 7-294d(c)(2), the Police Officer Standards and Training Council may censure a police officer and suspend a holder's certificate for up to 45 days.

B. Grounds for Suspension, Cancellation, or Revocation

July Special Session, Public Act No. 20-1 provides for additional grounds for suspension, cancellation, or revocation. Newly added grounds are underlined.

The council may, suspend, cancel or revoke any certificate if:

- (A) The certificate was issued by administrative error,
- (B) The certificate was obtained through misrepresentation or fraud,
- (C) The holder falsified any document in order to obtain or renew any certificate,
- (D) The holder has been convicted of a felony,
- (E) The holder has been found not guilty of a felony by reason of mental disease or defect pursuant to section 53a-13,
- (F) The holder has been convicted of a violation of section 21a-279,
- (G) The holder has been refused issuance of a certificate or similar authorization or has had his or her certificate or other authorization cancelled or revoked by another jurisdiction on grounds which would authorize cancellation or revocation under the provisions of this subdivision,
- (H) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used a firearm in an improper manner which resulted in the death or serious physical injury of another person,

(I) (new) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit and considering guidance developed under subsection (g) of this section, to have engaged in conduct that undermines public confidence in law enforcement, including, discriminatory conduct, falsification of reports or a violation of the Alvin W. Penn Racial Profiling Prohibition Act pursuant to section 54-11 and 54-1m.

(J) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used physical force on another person in a manner that is unreasonable, excessive, or illegal.

(K) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have committed any act that would constitute tampering with or fabricating physical evidence in violation of section 53a-155, perjury in violation of section 53a-156 or false statement in violation of section 53a-157b.

Section 3: Guidance Regarding Conduct that Undermines Public Confidence in Law Enforcement

Section 7-294d(c)(2)(I) of the Connecticut General Statutes adds a new condition for suspension, cancellation, or revocation: "*The holder has been found by a law enforcement unit, pursuant to procedures established by such unit and considering guidance developed under subsection (g) of this section, to have engaged in conduct that undermines public confidence...*"

The Council has identified five categories of conduct that may undermine public confidence in law enforcement. These categories are listed below in A through E.

A. Discriminatory Conduct

Discriminatory Conduct includes:

(1) Intentional Acts of Bigotry or Bias. An intentional act to intimidate or harass another person based upon actual or perceived protected class membership, identity, or expression. Such acts shall include electronic, audio, or visual posts containing images, acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.

Note on social media: The state has a compelling interest in its police officers upholding the law fairly and without bias. Public posts that contain slurs or imagery that intentionally ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals should not and shall not be tolerated by law enforcement. The Council is aware that this conduct may implicate First Amendment concerns. The Council does not wish to police social media debates or heated political discussions. However, the Council does have an interest in ensuring that police officers act in accordance within appropriate professional standards, including adherence to departmental social media policies. The Council shall evaluate whether such conduct will result in revocation, cancellation, or suspension under guidance issued in Section 4 of this document.

(2) An act or acts that constitute Sexual Harassment. “Sexual harassment” shall, for the purposes of this section, be defined as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

(3) Conduct that constitutes racial profiling (Alvin W. Penn Racial Profiling Prohibition Act. Section 54-11 and 54-1m). For the purposes of this section, “racial profiling” means the detention, interdiction, or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual, *(as defined by state statute)*.

B. Abuse of Power

(1) Inappropriate Benefits. An act or pattern of acts that constitute the exploitation or misuse of the position of a police officer by compelling or threatening to compel an individual to provide opportunities or benefits for the officer or others that would not be available but for that position.

(2) Inappropriate Relationships. An act or pattern of acts that constitute an abuse of power through the exploitation or misuse of the position of a police officer to establish or attempt to establish a sexual, romantic, physical, intimate, or emotional relationship, by compelling or attempting to compel another person to engage in such relationship.

C. Untruthfulness and Lack of Integrity

(1) Intentional Acts of Dishonesty. The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have intentionally committed any material act that would constitute evidence of untruthfulness during any investigation or official inquiry by a law enforcement unit, including but not limited to, a criminal or administrative investigation. (The statement or document need not be sworn).

(2) Falsification of Reports. The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have falsified or alter any material information in a law enforcement unit report, whether the document is sworn or not sworn.

(3) Intentional Disregard for Rules and Regulations of a Law Enforcement Unit. The holder has committed an act or pattern of acts that indicate an intentional disregard for lawful orders to act in accordance with the rules and regulations of the law enforcement unit, and the holder has not responded to corrective measures of the law enforcement unit, including disciplinary policies.

D. Failure to Intervene

(1) Failure to Intervene. The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, while acting in a law enforcement capacity, to have failed to intervene or stop the use of excessive, unreasonable, or illegal force by another police officer, that resulted in serious physical injury or death or the use of, unreasonable, excessive, or illegal force by another police officer that would likely result in serious physical injury or death, or to notify a supervisor and submit a written report of such acts where the holder has personal knowledge of such acts, based upon their own observations and the officer had the ability to prevent such act.

E. Dismissal or Resignation under Section 7-291c of the Connecticut General Statutes.

(1) The holder has been found by a law enforcement unit, to have been terminated, dismissed, resigned, or retired pursuant to the provisions of Section 7-291c of the Connecticut General Statutes.

Section 4: Evaluating Conduct

July Special Session, Public Act No. 20-1 instructs the Council to take into account whether a police officer or law enforcement instructor acted in their official capacity or identified themselves as police officers. "When evaluating any such conduct, the council considers such conduct engaged in while the holder is acting in such holder's law enforcement capacity or representing himself or herself to be a police officer to be more serious than such conduct engaged in by a holder not acting in such holder's law enforcement capacity or representing himself or herself to be a police officer;" Sec. 3 July Sp. Sess., Public Act No. 20-1

Conduct that occurs off-duty or where a holder does not identify themselves as a law enforcement officer may still result in suspension, cancellation, or revocation where the conduct is severe enough to undermine public confidence by adversely and irreparably affecting the officer's ability to exercise the duties of a law enforcement officer.

In determining whether an act or pattern of acts adversely and irreparably affect an officer's ability to exercise the duties of a law enforcement officer, law enforcement units and the Council may consider aggravating/mitigating factors, including but not limited to:

- Does the conduct grossly deviate from the generally accepted standards and behavior of law enforcement?
- Does the misconduct rise to the level of suspension or termination from the officer's law enforcement unit?
- Does the conduct constitute criminal conduct?
- Does the conduct subject an officer to impeachment in a court of law based on prior misconduct?
- Does the officer have a prior disciplinary history?
- Did the conduct result in severe physical injury?
- Did the conduct negatively and irreparably affect working relationships or otherwise interfere with the operation of a law enforcement unit?

On-duty conduct and conduct committed by an individual who holds themselves out to be police officers that meets the categories described in sections A through E shall be considered serious and should be given considerable weight against any possible

mitigating factor. The Council may consider such factors in its decision to censure and suspend a police officer certificate as opposed to a revocation or cancellation.

Section 5: Reporting Procedures

A. Reporting Grounds for Suspension, Cancellation, or Revocation; Hearings.

The POSTC Certification Division shall only review requests for revocation or cancellation from local law enforcement units. Cases referred to the POSTC Certification Division by the public shall be referred to the appropriate state or local law enforcement unit for further review. POSTC administrative staff shall recommend to the appropriate Council subcommittee its' recommendation whether there are sufficient grounds to continue with further proceedings.

The Council shall conduct suspension, cancellation, or revocation of police officer certification hearings on matters submitted to the POST Council Certification Division by law enforcement units only. The Council may conduct suspension, cancellation, or revocation of law enforcement instructor or police training school certificate hearings submitted by the POST Council Certification Division.

B. Mandatory Reporting

All law enforcement units shall report any violation where:

1) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used unreasonable, excessive, or illegal force that causes serious physical injury or the death of another person, or to have used unreasonable, excessive, or illegal force that was likely to cause serious physical injury or death to another person.

2) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, while acting in a law enforcement capacity, to have failed to intervene or stop the use of unreasonable, excessive, or illegal force by another police officer that caused serious physical injury or death to another person, or unreasonable, excessive, or illegal force that was likely to cause serious physical injury or death to another person, or to notify a supervisor and submit a written report of such acts where the holder has personal knowledge of such acts and the ability to prevent such act.

3) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have intentionally intimidated or harassed another person

based upon actual or perceived protected class membership, identity, or expression and in doing so threatens to commit or causes physical injury to another person.

4) The holder has been found by a law enforcement unit, to have been terminated, dismissed, resigned, or retired pursuant to the provisions of Section 7-291c of the Connecticut General Statutes.

C. Documentation required by POST Council.

The POST Council Certification Division shall require the following documentation:

- 1) A cover letter from the Chief Law Enforcement Officer detailing conduct reasonably believed to be grounds for cancellation, revocation, or suspension;
- 2) Investigative Affairs Reports and Findings;
- 3) If available, Labor Board Findings;
- 4) Transcripts of Interviews;
- 5) If alleged conduct is related to a criminal investigation, all case reports, audio, and video, including MVR/Body Cam footage, unless release of such documentation shall be prejudicial to the administration of justice/prosecution.
- 7) If alleged conduct is related to a violation of the Alvin W. Penn Racial Profiling Prohibition Act, all information as required under Section 54-1m(b)(1) of the Connecticut General Statutes
- 8) Any other documentation requested by the POST Council Certification Division.

Failure to supply all required documentation shall result in delays or refusal to bring a request to the POST Council Certification Committee for review.

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