



Cornell Law School

Jared K. Carter
Christina N. Neitzey
Cornell Law School First Amendment Clinic
Myron Taylor Hall
Ithaca, New York 14853
(607) 255-9182
jc2537@cornell.edu
cn266@cornell.edu

March 21, 2024

Burlington City Hall
149 Church Street
Burlington, VT 05401

VIA FEDEX and EMAIL

Dear Mayor Weinberger, Chief Murad, and Councilors Hightower, Bergman, Magee, Carpenter, Traverse, Paul, Dieng, King, Grant, Doherty, Barlow, and Shannon:

We are writing to you in our capacity as legal counsel for William Oetjen regarding what appears to be selective enforcement of the City of Burlington's Municipal Ordinance 21-29 (Graffiti and Defacement of Property) ("the Ordinance"), against Mr. Oetjen in violation of the United States and Vermont State Constitutions. This letter serves as a formal demand for the prompt dismissal of three citations issued to Mr. Oetjen for allegedly violating this ordinance, dated September 17, 2023, September 21, 2023, and October 1, 2023.

Factual Background

Community Activism

In 2018, in connection with an organization calling itself Gender Critical Vermont ("GCV"), Mr. Oetjen began engaging in public advocacy focused on a subset of women's rights he believes are underrepresented in mainstream media. Mr. Oetjen, who also serves as the Vice Chair of the City of Burlington Republican Party, contends that recent efforts to advance the rights of adults and children identifying as transgender have infringed on the rights of women and girls who are natal females (also referred to as "cisgender females" or those "assigned female at birth"). Mr. Oetjen believes that much of the discussion around these issues lacks nuance and critical thinking, both locally in Burlington and nationally in the media. Through his activism, Mr. Oetjen aims to bring awareness to what he believes is an underrepresented viewpoint in his community—in other words, he aims through his activism to make the "other side" of this issue known and to enhance community discussion.

Burlington City officials have made clear their opposition to Mr. Oetjen's advocacy work and the views he expresses since at least early 2020.¹ For example, in January 2020, Mr. Oetjen and GCV helped organize an event at a local library to discuss these issues. Activists opposed to GCV attempted to have the event canceled, but the library, in consultation with the City

¹ Although City officials have the right to free speech and can express disagreement or concerns about statements they find objectionable, their public denunciation of Mr. Oetjen's opinions suggests that the selective enforcement of the Ordinance against him is driven by animus rather than by neutral enforcement of the ordinance.

Attorney's Office, refused, citing legal constraints under the First Amendment.² In the face of community backlash, GCV canceled the event, stating it hoped to reschedule for a place and time with enhanced safety measures in place. In response to the cancellation, Mayor Miro Weinberger stated, "I welcome the news that [Gender Critical Vermont's] meeting was cancelled,"³ though he went on to note the City's legal responsibilities under the First Amendment.⁴ The City Council also weighed in on this matter.⁵ In a resolution introduced by Councilor Perri Freeman, the City Council condemned GCV's views and the event itself as "hate speech."⁶

The Stickering Campaign

City officials' stated public opposition to Mr. Oetjen's beliefs (to which they are entitled), is precisely why Mr. Oetjen believes his advocacy is necessary. In 2020, in keeping with Burlington's longstanding culture of stickering campaigns on social and cultural issues, Mr. Oetjen began placing homemade stickers on public property around Burlington. Mr. Oetjen places stickers on public property such as the backs of traffic signs and telephone poles, often alongside stickers that others have already placed in these locations. Unlike the elaborate designs seen in other stickering campaigns, Mr. Oetjen's stickers feature minimalist black and white text setting forth a variety of messages, including:

- "Defend Women's sex-based rights, spaces, and sports."
- "Lifelong medical dependency isn't 'kindness.' It's a business model."
- "No one was EVER 'born into the wrong body.'"

Mr. Oetjen places his stickers places where he believes they are most likely to be seen by passers-by. Through his stickering, Mr. Oetjen aims to show solidarity with those in the community who may share his views. Moreover, by placing these stickers in high-visibility places, he aims to disrupt what he views as an "echo chamber" on gender issues in Burlington and to create bandwidth in the community for a more robust dialogue on the subject.

² See Mary Danko, *Response to Library Meeting Room Booking: Gender Critical Vermont*, Fletcher Free Library (Jan. 27, 2020), <https://www.fletcherfree.org/response>. In a later response, the Library Director Mary Danko informed the community that the library will look at its Meeting Room Policy "for improvement." *Id.* (Jan. 28, 2020).

³ Statement from Mayor Miro Weinberger in Support of Burlington's Transgender Community (Jan. 28, 2020), <https://www.burlingtonvt.gov/Press/statement-from-mayor-miro-weinberger-in-support-of-burlingtons-transgender-community>.

⁴ *Id.*

⁵ Molly Walsh, *Amid Backlash, Group Cancels Burlington Talk on Transgender 'Agenda'*, Seven Days, (Jan. 27, 2020, 11:14 PM), <https://www.sevendaysvt.com/OffMessage/archives/2020/01/27/amid-backlash-group-cancels-burlington-talk-on-transgender-agenda>.

⁶ *Id.*

The Targeting Begins

Individuals who oppose Mr. Oetjen's views have responded to Mr. Oetjen's activism with their own stickers and signs.⁷ Others reached out to the Mayor seeking government intervention to shut down this public debate. The Mayor's chief of staff, Jordan Redell, responded in July of 2022 to such requests, stating that the Mayor's office was looking into courses of action that would "lawfully address [the] concerns" about Mr. Oetjen's stickers.⁸ Redell noted that the Mayor's concerns were with the impact of the stickers' *message* rather than the stickers *per se*—underscoring that the City's enforcement of the ordinance against Mr. Oetjen alone stems from its disagreement with the viewpoint expressed, rather than the act of stickering on public property itself.⁹

We have been advised that in July 2022, Mr. Oetjen received a personal visit to his home from Burlington Police Chief Jon Murad regarding the stickers. Then, in October 2022, we understand that Mr. Oetjen received a call from an individual at the Burlington Community Justice Center (CJC)¹⁰ offering Mr. Oetjen an opportunity to participate in "restorative justice measures" as a way to resolve the stickering dispute. Mr. Oetjen declined to engage with the CJC.

The City's December 2022 Resolution

Government officials continued to escalate their involvement and commentary regarding Mr. Oetjen's viewpoints. In December 2022, State Representative Emma Mulvaney Stanack spoke at a Neighborhood and Planning Assembly for Burlington Wards 2 and 3.¹¹ During this meeting, Representative Mulvaney Stanack stated that she and other groups "demanded a meeting" with the Mayor so he can finally "take action" regarding Mr. Oetjen's stickering.¹² Representative Mulvaney Stanack thanked the Community Justice Center for their efforts in removing the stickers. She expressed her "hope" that, following the meeting, Mr. Oetjen's speech would be "eviscerated" and the city would "have inclusive wonderful welcoming messages going up instead."¹³ Representative Mulvaney Stanack was involved in a campaign to create and share pro-trans stickers at this time.¹⁴

In March 2023, the City passed a resolution addressing Mr. Oetjen's stickering, among other topics. The resolution starts by alleging that Burlington residents are "spread[ing] hate through . . . aggressive stickering."¹⁵ In response to this stickering and other acts the resolution

⁷ See, e.g., Lilly St. Angelo, *Someone Is Posting Anti-Trans Stickers Across Burlington. Can Police Do Anything About It?*, Burlington Free Press, (July 22, 2022), <https://www.burlingtonfreepress.com/story/news/2022/07/22/anti-trans-stickers-burlington-vt-response-prevention-transphobic/65368335007/>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Community Justice*, Burlington Cmty. Just. Ctr., <https://www.burlingtoncjc.org>.

¹¹ *Burlington Wards 2 and 3 NPA Meeting*, Town Meeting TV (Dec. 8, 2022), <https://www.cctv.org/watch-tv/programs/burlington-wards-2-and-3-npa-meeting-43> (comments beginning at minute 29).

¹² *Id.*

¹³ *Id.*

¹⁴ See Town Meeting TV, *Burlington Wards 2&3 NPA - 10/12/2023*, YouTube, (Nov. 9, 2023), https://www.youtube.com/watch?v=bD0U_XdWJcM (comments at minute 32).

¹⁵ City Council, *Resolution Relation to Supporting LGBTQIA+ Community Members and Condemning Transphobia*, City of Burlington at 5 (Mar. 13, 2023).

characterizes as “transphobic,” the resolution states that the City Council “supports the continuation of tracking all [instances of] . . . hate speech.”¹⁶ Further, the resolution states that “the City Council’s Ordinance Committee shall, in coordination with the Burlington Police Department and the City Attorney’s Office, examine Burlington’s graffiti ordinance and consider changes that address continued defacement of public property, and graffiti that spreads hateful and harmful messages.”¹⁷

The Resolution’s Aftermath

Six months later, on October 3, 2023, Mr. Oetjen was served with three citations for alleged violations of the Ordinance, totaling up to \$1,500 in fines, reduced to \$1,200 upon waiver of a hearing. (See Exhibits A–C.) The citations alleged that Mr. Oetjen violated the Ordinance on September 17, 2023, September 21, 2023, and October 1, 2023. Mr. Oetjen believes that all three citations concern stickers which read: “Defend Women’s sex-based rights, spaces, and sports.” (See example at Exhibit D.)

On October 6, 2023, Mr. Oetjen filed a Public Records Request with the Burlington Police Department requesting “(1) copies of enforcement [o]f graffiti and defacement of property (03/01/2022–10/06/2024)” and “(2) citations issued for the same.” The Department’s response to this request appears to indicate that the three violations for which Mr. Oetjen was fined reflect the *only* instances in which the City has enforced the Ordinance against *anyone* over the 18 months preceding Mr. Oetjen’s Public Records Request. (See Exhibit E.)

The Vermont Judicial Bureau scheduled a hearing for February 28, 2024, on the three citations against Mr. Oetjen. Mr. Oetjen requested a continuance of the hearing while he secured legal counsel. The continuance was granted on February 14, 2024, and the hearing has been rescheduled for April 4, 2024. Mr. Oetjen requested a further continuance of the hearing to a date after April 19, 2024.

The Chilling Effect

The citations issued to Mr. Oetjen have significantly impacted his life, forcing him to grapple with whether to persist in advocating for his deeply held beliefs or to remain silent. Mr. Oetjen has largely ceased his stickering and other activism in the wake of the citations, intimidated by the prospect of additional punishment.

¹⁶ *Id.* at 45–46.

¹⁷ *Id.* at 51–54.

Selectively Ticketing Mr. Oetjen for his Viewpoint Violates the First and Fourteenth Amendments

Application of a statute or regulation may be unconstitutional even when “its general validity as a measure enacted in the legitimate exercise of state power is beyond question.” *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971). Selectively enforcing a facially valid statute can violate the United States Constitution’s Equal Protection clause when there is “an element of intentional or purposeful discrimination,” which “may appear on the face of the action taken with respect to a particular class or person.” *Snowden v. Hughes*, 321 U.S. 1, 8 (1944). Claims of selective prosecution are appropriately evaluated “according to ordinary equal protection standards.” *Wayte v. United States*, 470 U.S. 598, 608 (1985). Further, the Vermont Constitution’s “Common Benefits” clause is coextensive with the Equal Protection clause, and therefore similarly protects against selective prosecution. *See Brigham v. State*, 692 A.2d 384, 395 (Vt. 1997).

It is a violation of the right to Equal Protection to selectively prosecute Mr. Oetjen in retaliation for the content of his speech. Selective enforcement of laws violates Equal Protection if “(1) the person, compared with others similarly situated, was selectively treated; and (2) that such selective treatment was based on impermissible considerations such as . . . intent to inhibit or punish the exercise of constitutional rights.” *In re Letourneau*, 726 A.2d 31, 38 (Vt. 1998); *LaTrieste Rest. & Cabaret Inc. v. Village of Port Chester*, 40 F.3d 587, 590 (2d Cir. 1994).

Ticketing Mr. Oetjen under Municipal Ordinance 21-29 demonstrates the City’s selective treatment of Mr. Oetjen compared with others similarly situated. The Ordinance appears not to have been enforced against anybody except Mr. Oetjen since at least March 2022, despite the existence of other plainly offending conduct. We understand and are prepared to demonstrate that other similarly offending conduct routinely goes unpunished in Burlington—a short walk around downtown Burlington reveals a rich, unchecked culture of stickering in the City.

The City of Burlington has also made clear that its actions come as retaliation for the exercise of Mr. Oetjen’s First Amendment rights. In *LaTrieste*, the “seminal selective enforcement case in the Second Circuit,” *Payne v. Huntington Union Free Sch. Dist.*, 219 F. Supp. 2d 273, 277 (E.D.N.Y. 2002), a zoning board selectively enforced a zoning classification against plaintiffs because they were hosting “topless dancing” at their restaurant. *LaTrieste*, 40 F.3d at 588–89. The Second Circuit acknowledged that this was expressive conduct within the outer perimeter of First Amendment protection. *Id.* at 590–91. The content of Mr. Oetjen’s stickers falls even more squarely within the protections of the First Amendment than topless dancing. The First Amendment indisputably protects the dissemination of controversial or even hateful speech. *See, e.g., R.A.V. v. St. Paul*, 505 U.S. 377, 391 (1992), *Virginia v. Black*, 538 U.S. 343, 358 (2003), *Counterman v. Colorado*, 600 U.S. 66, 87 (2023).

The City of Burlington has, multiple times over, expressed its disagreement with the content of Mr. Oetjen’s speech. For example, in its March 2023 Resolution, the City Council resolved to coordinate with the Burlington Police Department to “examine Burlington’s graffiti ordinance” and address “graffiti that spreads hateful and harmful messages.” But the City’s distaste for Mr. Oetjen’s viewpoint only makes it that much more worthy of protection. What the City believes to be “hateful and harmful” has *never* qualified as an exception to First Amendment protection.

Attempting to stamp out what the City views as “hate speech” through tracking and regulation is not only vague; it also violates the First Amendment and Vermont’s analogous constitutional provisions. *See Volokh v. James*, 656 F. Supp. 3d 431, 436 (2023).

To be clear, the City of Burlington is entitled to regulate graffiti and other defacement of public property. However, it is a clear violation of Equal Protection to selectively apply such a law in order to target protected speech on the basis of its content, as the City appears to have done here.¹⁸

Demand for Relief

In view of the foregoing, we respectfully demand that the City take the following actions:

Immediate Dismissal of Citations: Promptly dismiss the citations issued to Mr. Oetjen for allegedly violating City of Burlington Ordinance, 21-29, Graffiti and Defacement of Property, dated September 17, 2023, September 21, 2023, and October 1, 2023.

Official Acknowledgment and Rectification: Issue an official acknowledgment from the City of Burlington that the selective application of Ordinance 21-29 against Mr. Oetjen was improper and a pledge to refrain from any such unconstitutional enforcement strategies moving forward, both with respect to Mr. Oetjen and other members of the Burlington community.

Equal Enforcement: Conduct a systematic assessment of the City’s enforcement of the Ordinance and other City regulations which regulate citizen speech to ensure that all citizens are subject to equal treatment under the law. The results of this assessment should be made available to the public.

Should the City fail to comply with these demands, we are fully prepared to initiate legal proceedings to seek not only the relief requested herein but also compensatory and punitive damages, as well as the recovery of legal fees and costs incurred as a result of the City’s unconstitutional actions.

Please provide the City’s response to the foregoing demands by no later than **5:00 p.m. on Monday, March 25.**

We would also welcome the opportunity to discuss this matter further and seek a resolution without the need for litigation.

Thank you for your prompt attention to this serious matter. We look forward to your prompt and affirmative response.

This letter is written without prejudice to all of our client’s rights in this matter, legal and equitable, all of which are expressly reserved.

¹⁸ We also note grave concerns under both the Vermont Constitution and the U.S. Constitution with the City’s resolutions to further silence and punish Mr. Oetjen’s expression of protected viewpoints through “track[ing]” and penalizing what the City labels as “hate speech.”

Sincerely,

**CORNELL LAW SCHOOL
FIRST AMENDMENT CLINIC¹⁹**

By: _____

Jared K. Carter
Christina N. Neitzey
Myron Taylor Hall
Ithaca, New York 14853
Tel.: (607) 255-9182
jc2537@cornell.edu
cn266@cornell.edu

Counsel for William Oetjen

Cc:

City Attorney's Office
City Hall
149 Church Street
Burlington, VT 05401

¹⁹ Clinic students Alexander Venditti and Gregory Jameson drafted portions of this letter.

Cornell Law School First Amendment Clinic is housed within Cornell Law School and Cornell University. Nothing in this letter should be construed to represent the views of these institutions, if any.

Exhibit A

**VERMONT CIVIL VIOLATION, FISH AND WILDLIFE
VIOLATION, MUNICIPAL VIOLATION**

<input type="checkbox"/> COL <u>138W</u>				Form 900 Rev. 1/2001	
License State <u>VT</u>		<u>4106042</u>		<input type="checkbox"/> VCVC <input type="checkbox"/> F&W <input checked="" type="checkbox"/> Municipal	
Driver License Number <u>40931805</u>		Hunting/Fishing/Trapping License Number			
Defendant Last or Organization Name <u>OETSEN</u>		First <u>WILLIAM</u>		Maid Initial	
Defendant Current Mailing Address <u>762 NORTH AVE</u>		Home Phone			
City <u>BURLINGTON</u>		State <u>VT</u>	Zip Code <u>05408</u>	Business Phone	
Date of Birth <u>05-16-59</u>	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Corp/Org <input type="checkbox"/> Other	Height <u>508</u>	Weight <u>160</u>	Hair <u>BLU</u>
Vehicle or Boat Reg. number <u>VEE</u>	State <u>VT</u>	Year <u>2001</u>	Make <u>BMW</u>	Color	Model
Violation Date <u>09-17-23</u>	Time <u>1051</u>	Municipality <u>BURLINGTON</u>			
Highway <u>NORTH AVE</u>	Place or Landmark <u>RT 127</u>				
Defendant did then and there commit the following acts in violation of Vermont/Federal law:					
<u>GRATUIT AND DEFACEMENT OF ROAD</u>					
Alcohol Lev. <u>0</u>	Actual Speed <u>0</u> MPH	Posted Limit <u>0</u> MPH	<input type="checkbox"/> Accident	<input type="checkbox"/> Fatality	<input type="checkbox"/> Seat Belt Viol.
<input type="checkbox"/> Commercial Vehicle		<input type="checkbox"/> Hazardous Material		Municipal Ordinance <u>21-29</u>	
In violation of V.S.A. §		49 C.F.R. §		Violation Code <u>21-29</u>	
PENALTIES:	If you REQUEST A HEARING and the State proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$95.00 in court costs are assessed.		POINTS		
	PENALTY RANGE		If you DO NOT WANT A HEARING, you may pay the waiver amount instead of appearing in court.		
	MINIMUM \$		WAIVER AMOUNT <u>\$400.00</u>		
	MAXIMUM \$ <u>500</u>		RESTITUTION (F&R) +		
I have just and reasonable grounds to believe the person named above committed this violation.					
Delivered To <u>Officer</u> (Tag, Agent, or Corp. Officer)		Date Served <u>10-03-2023</u>		<input checked="" type="checkbox"/> In Hand <input type="checkbox"/> U.S. Mail	
Officer No. <u>A4058</u>	Officer Name (printed) <u>E. YEN 38</u>	Officer Signature <u>[Signature]</u>			
Dept. No. <u>405</u>	Department Name <u>BURLINGTON PD</u>	<input type="checkbox"/> Rated criminal charge			
Parent or Guardian Last Name		First Name			
Street Address		City	State	Zip Code	
Significant Civil Relief Act Declaration: Signed under penalty of perjury, I state: <input checked="" type="checkbox"/> Defendant's said vehicle is NOT on active duty in the U.S. armed forces. <input type="checkbox"/> Defendant is under 17 years of age. <input type="checkbox"/> Defendant is a business or corporation. <input type="checkbox"/> Defendant said vehicle is on active duty or is considered to be on active duty in the U.S. armed forces.					
Officer Signature: <u>[Signature]</u>					ORIGINAL

6

Exhibit B

**VERMONT CIVIL VIOLATION, FISH AND WILDLIFE
VIOLATION, MUNICIPAL VIOLATION**

<input type="checkbox"/> COL License State VT		 4106043 VCVC <input type="checkbox"/> FAW <input type="checkbox"/> Municipal <input checked="" type="checkbox"/>		Form 900 Rev. 10/95	
Driver License Number 497518015		Hunting/Fishing/Trapping License Number			
Defendant Last or Organization Name ORTSEN		First WILLIAM		Mid Initial	
Defendant Current Mailing Address 762 NORTH AVE		Home Phone			
City Burlington		State VT		Zip Code 05408	
Date of Birth 05-16-59		<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		<input type="checkbox"/> Corp/Org <input type="checkbox"/> Other	
Vehicle or Boat Reg. number		Year		Make	
Violation Date 09-21-25		Time 1734		Municipality Burlington	
Highway NORTH AVE		Place or Landmark RT 127			
Defendant did then and there commit the following acts in violation of Vermont local law:					
GRAFFITI AND DEFACEMENT OF PROP					
Alcohol Lev. 0 %		Actual Speed MPH		Posted Limit MPH	
<input type="checkbox"/> Commercial Vehicle		<input type="checkbox"/> Hazardous Material		<input type="checkbox"/> Accident <input type="checkbox"/> Fatality <input type="checkbox"/> Seat Belt Viol.	
In violation of V.S.A. §		49 C.F.R. §		Violation Code 21-29	
PENALTIES If you REQUEST A HEARING and the State proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$65.00 in court costs are assessed.		PORTS PENALTY RANGE MINIMUM \$ MAXIMUM \$ 500 RESTITUTION (F&W) +		If you DO NOT WANT A HEARING, you may pay the waiver amount instead of appearing in court. WAIVER AMOUNT \$400.00	
		I have just and reasonable grounds to believe the person named above committed this violation.			
		Delivered To <input checked="" type="checkbox"/> (Signature) Reg. Agent, or Corp. Officer		Date Served 10-03-25	
		Officer No. A4058		Officer Name (printed) E. YEH	
Dep. No. 403		Department Name Burlington PD		<input type="checkbox"/> Related criminal charge	
Parent or Guardian Last Name J		First Name			
Street Address		City		State Zip Code	
Send payment to: Civil Relief Act Declaration: Signed under penalty of perjury. I state: <input checked="" type="checkbox"/> Defendant is NOT on active duty in the U.S. armed forces. <input type="checkbox"/> Defendant is under 17 years of age. <input type="checkbox"/> Defendant is a business or corporation. <input type="checkbox"/> Defendant said he/she is on active duty or is scheduled to be on active duty in the U.S. armed forces.					
Officer Signature: 					ORIGINAL

Exhibit C

**VERMONT CIVIL VIOLATION, FISH AND WILDLIFE
VIOLATION, MUNICIPAL VIOLATION**

<input type="checkbox"/> CDL		Form 100 Rev. 10/01	
License State VT		 4106044	
Driver License Number 40931805		Hunting/Fishing/Trapping License Number	
Defendant Last or Organization Name OETSEN First WILLIAM M.I. Initial			
Defendant Current Mailing Address 762 NORTH AVE Home Phone			
City BURLINGTON State VT Zip Code 05408		Business Phone	
Date of Birth 05-16-59	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Corp/Org <input type="checkbox"/> Other	Race/Ethnicity W Height 503 Weight 160 Hair BRN Eyes BRN
Vehicle or Boat Reg. number	State	Year	Make Color Model
Violation Date 10-01-13 Time 1610 Municipality BURLINGTON	Highway NORTH AVE Place of Landmark RT 127		
Defendant did then and there commit the following acts in violation of Vermont local law:			
GRAFFITI AND DEFACEMENT of PROP			
Alcohol Lim. 0 %	Actual Speed MPH	Posted Limit MPH	<input type="checkbox"/> Accident <input type="checkbox"/> Fatality <input type="checkbox"/> Seat Belt Viol.
<input type="checkbox"/> Commercial Vehicle <input type="checkbox"/> Hazardous Material		Municipal Ordinance 21-29	
In violation of V.S.A. §		40 C.F.R. § Violation Code	
PENALTIES	If you REQUEST A HEARING and the State proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$55.00 in court costs are assessed.		If you DO NOT WANT A HEARING, you may pay the waiver amount instead of appearing in court.
	POINTS		
	PENALTY RANGE		
	MINIMUM \$		WAIVER AMOUNT \$400.00
MAXIMUM \$500		RESTITUTION (F&W) *	
I have just and reasonable grounds to believe the person named above committed this violation.			
Delivered To <input checked="" type="checkbox"/> Reg. Agent, or Corp. Officer		Date Served 10-03-2013 <input checked="" type="checkbox"/> In Hand <input type="checkbox"/> U.S. Mail	
Officer No. 41055	Officer Name K. YEAH	Officer Signature 	
Officer No. 4103	Officer Name Burlington PD	<input type="checkbox"/> Related criminal charge	
Parent or Guardian Last Name		First Name	
Street Address		City	State Zip Code
Sent to members' Civil Relief Act Declaration: Signed under penalty of perjury, I state: <input checked="" type="checkbox"/> Defendant said he/she is NOT on active duty in the U.S. armed forces. <input type="checkbox"/> Defendant is under 17 years of age. <input type="checkbox"/> Defendant is a business or corporation. <input type="checkbox"/> Defendant said he/she is on active duty or is scheduled to be on active duty in the U.S. armed forces.			
Officer Signature 		ORIGINAL	

(8)

Exhibit D

Defend Women's
sex-based rights,
spaces, and
sports.

WARNING



Underground
cables
in this vicinity.

WARNING



Underground

Exhibit E



POLICE DEPARTMENT
CITY OF BURLINGTON

Public Records Request

Pursuant to 1 V.S.A. § 310-320, I, William Oetjen, am requesting the following records from the Burlington Police Department:

- 1) copies of enforcement if graffiti and defacement of property (03/01/2022 - 10/06/2023)
2) citations issued for same

Requested Date: 10/6/23

Please clarify or explain your request if necessary:

Track It #27789

You have the right to appeal a determination that a record is exempt to the agency head, pursuant to 1 VSA § 318. Such an appeal will be decided within 5 business days of the receipt of your appeal. If you are aggrieved by a denial by the agency head, you may then appeal to the superior court pursuant to 1 VSA §319.

If you need assistance please contact the Records Department via phone (802)540-2370 or email recordsgroup@bpdvt.org.

RECORDS USE ONLY

This record is Redacted by JRH on 11/30/23. The reasons for redaction, narrowing, or denial are that releasing these records:

- ☐ Could reasonably be expected to interfere with enforcement proceedings
 - ☐ Would deprive a person of a right to a fair trial or an impartial adjudication
 - ☒ Could reasonably be expected to constitute an unwarranted invasion of personal privacy
 - ☐ Could reasonably be expected to disclose the identity of a confidential source
 - ☐ Would disclose police techniques and procedures, risking circumvention of the law
 - ☐ Could reasonably be expected to endanger the life or physical safety of any individual
- Other:


NOV 29 2023

William Oetjen
762 North Avenue
Burlington, Vermont, 05402
October 6, 2023

Jon Murad
Chief of Police
1 North Avenue
Burlington, Vermont
Re: Public Records Request

Dear Chief Murad:

Pursuant to Vermont Public Records Request 1 VSA Sec 315-320 I hereby request copies of the following:

- 
1. Copies of all records regarding enforcement of Burlington Municipal Ordinance 21-29 (Graffiti and Defacement of Property) between March 1, 2022 and October 6, 2023.
 2. Copies of all citations issued pursuant to Municipal Ordinance 21-29 (Graffiti and Defacement of Property) between the dates of March 1st 2022 and October 6, 2023;

I make this request on behalf of myself as a resident of Burlington.

If you believe that I am not entitled to some of these records, please inform me within three business days, as required by 1 V.S.A. 318(a)(2), and inform me of the specific exemption that you believe applies to each record or portion of a record being withheld. If an otherwise public record has a portion that is exempt from disclosure, I request that you redact only the exempt portion and release a copy of the redacted record.

If some or all of my request is denied, please notify me of the person responsible for the denial, and inform me of the appeal procedures.

If there is anything I can do, or if you have any questions, please do not hesitate to contact me at: 802-373-4568. Thank you for your prompt attention to this matter.

Sincerely,



William Oetjen

Narrative Type *Officer* *Narrative Template*
Summary 387: Murad, J: ☐ *Confidential*

Narrative

Brief noncustodial discussion with William Oetjen re ongoing municipal-code-applicable graffiti issue in NNE. See 21BU009428 as well. See Axon.

Offense Suspect *Offense Victim* *IBR Victim-Offender* *Bias/Motivation (anti)*
V was LEO *V was LEO Assignment* *Other ORI* *LEOKA Narrative*



3

10/20/23, 9:44 AM

23BU022856: Ordinance Violation - Other

Narrative Type

Officer

Narrative Template

Report

226: Labrecqu ☐

Confidential

Narrative

First video was shot on 9/17/23 at 1651 hours - Oetjen UM at N Ave @ 127

Second video is available in Axon under this incident # and was shot on 9/21/2023 at 1734 hours.

Third video is available in Axon under this incident # and was shot on 10/01/23 at 1610 hours.

4

Narrative Type Officer Narrative Template
 Report 368: Yeh, K: 1 ☐
 Confidential

Narrative

On September 29th, 2023 I was instructed by Lieutenant Henry to investigate a municipal ordinance of a male placing stickers on a street sign at the on/off ramp of Rt 127 at North Ave/North Beach. Officer Costanzi and I responded, canvassed the area and did not locate any stickers affixed to the signs.

I reviewed video (Clip 1) uploaded to Valcour. On the video it shows a male, Oetjen, walking up to a type 1 object markers sign at the intersection of North Ave and RT 12 on/off ramp. Oetjen has a sticker in his hand and walks up to the sign and affixes the sticker to the rear of the sign. On video you cannot see what the sticker says because Oetjen affixes the sticker to the rear of the sign, (facing away from the video). Oetjen is seen putting the sticker on the sign then rubbing his hand against it to affix the gum label to the sign. Per Deputy Chief Labrecque Video 1 was taken on 9/17/23 at 1651 hours.

I reviewed video (Clip 3) uploaded to AXON of Oetjen walking with his dog and placing a white sticker on the rear of a sign on North Ave at the on/off ramp to RT 127. I cannot read what the sticker says in the video however I can see prior to Oetjen placing the sticker, the back of the sign had no stickers. Per Deputy Chief Labrecque video 3 was taken on 10/01/23 at 1610 hours.

I reviewed video (Clip 2) uploaded to AXON of Oetjen walking with his dog and placing a white sticker on the rear of a sign on North Ave at the on/off ramp to RT 127. I cannot read what the sticker says in the video however I can see prior to Oetjen placing the sticker, the back of the sign had no stickers. Per Deputy Chief Labrecque video 2 was taken on 10/01/23 at 1610 hours.

On October 3rd, 2023 at 1525 hours I responded to 762 North Ave to issue William Oetjen municipal violations. Upon arrival I observed Oetjen walking southbound on the sidewalk to his residence. His residence is the last residence just south of the RT 127/ North Ave on/off ramps. Oetjen walked out of his residence and advised he was not in the armed forces. I then issued William Oetjen DOB: three Vermont Municipal Ordinance Violations for the three previous incidents. I then walked to the yield sign at North Ave and the Beltline and observed a sticker on the sign that read " Defend Women's sex-based rights, spaces and sports."

5 I spoke with who advised he was the individual who observed and took the photos of Oetjen.

Per the City of Burlington Code of Ordinance:

21-29 Graffiti and defacement of property.

(a) Findings and purpose. This section seeks to help prevent the spread of graffiti and defacement of property, public and private. Graffiti and the defacement of property are destructive of the rights and values of property owners. They are aesthetic blights on the entire community. Graffiti and defacement of property are acts of vandalism, detrimental to the city, and are, therefore, public nuisances.

(b) Definitions.

(1) "Graffiti" means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, without being authorized to do so by the owner of the property or the owner's duly authorized agent.

(2) "Graffiti implement" means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

(3) "Defacement" means any application or causing the application to any surface of public or private property of paint, varnish, lead, crayon, wax, ink, dye or other substance, or the carving, chiseling, writing, or other such act of any mark, figure or letter on such property without being authorized to do so by the owner of the property or the owner's duly authorized agent.

(c) Prohibited acts. It shall be unlawful for any person to make graffiti or deface any surface of public or private property unless authorized by the owner of the property or the owner's duly authorized agent.

(d) Penalties. A violation of this ordinance is a civil offense and shall be punishable by a fine of five hundred dollars (\$500.00) with a waiver penalty of four hundred dollars (\$400.00). At the discretion of the prosecuting officer or city attorney, this penalty or a part thereof may be waived upon the successful completion of community service related to the elimination of graffiti and defacement.

Per the code of Ordinances the stickers adhesive backing would be a "Graffiti implement" which would be the gum label.

BOR

**VERMONT CIVIL VIOLATION, FISH AND WILDLIFE
VIOLATION, MUNICIPAL VIOLATION**

<input type="checkbox"/> COL <u>138W</u>				Form 900 Rev. 1/2001	
License State <u>VT</u>		<u>4106042</u>		<input type="checkbox"/> VCVC <input type="checkbox"/> F&W <input checked="" type="checkbox"/> Municipal	
Driver License Number <u>40931805</u>		Hunting/Fishing/Trapping License Number			
Defendant Last or Organization Name <u>OETSEN</u>		First <u>WILLIAM</u>		Mid Initial	
Defendant Current Mailing Address <u>762 NORTH AVE</u>		Home Phone			
City <u>BURLINGTON</u>		State <u>VT</u>	Zip Code <u>05408</u>	Business Phone	
Date of Birth <u>05-16-59</u>	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Corp/Org <input type="checkbox"/> Other	Height <u>508</u>	Weight <u>160</u>	Hair <u>BLU</u>
Vehicle or Boat Reg. number <u>VEE</u>	State <u>VT</u>	Year <u>2001</u>	Make <u>BMW</u>	Color	Model
Violation Date <u>09-17-23</u>	Time <u>1051</u>	Municipality <u>BURLINGTON</u>			
Highway <u>NORTH AVE</u>	Place or Landmark <u>RT 127</u>				
Defendant did then and there commit the following acts in violation of Vermont/Federal law:					
<u>GRATUIT AND DEFACEMENT OF PROP</u>					
Alcohol Lev. <u>0</u>	Actual Speed <u>0</u> MPH	Posted Limit <u>0</u> MPH	<input type="checkbox"/> Accident	<input type="checkbox"/> Fatality	<input type="checkbox"/> Seat Belt Viol.
<input type="checkbox"/> Commercial Vehicle		<input type="checkbox"/> Hazardous Material		Municipal Ordinance <u>21-29</u>	
In violation of V.S.A. §		49 C.F.R. §		Violation Code <u>21-29</u>	
PENALTIES	If you REQUEST A HEARING and the State proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$95.00 in court costs are assessed.		POINTS		
	PENALTY RANGE		If you DO NOT WANT A HEARING, you may pay the waiver amount instead of appearing in court.		
	MINIMUM \$		WAIVER AMOUNT <u>\$400.00</u>		
	MAXIMUM \$ <u>500</u>		RESTITUTION (F&W) +		
I have just and reasonable grounds to believe the person named above committed this violation.					
Delivered To <u>Officer</u> (Tag, Agent, or Corp. Officer)		Date Served <u>10-03-2023</u>		<input checked="" type="checkbox"/> In Hand <input type="checkbox"/> U.S. Mail	
Officer No. <u>A4058</u>	Officer Name (printed) <u>KYLE 38</u>	Officer Signature <u>[Signature]</u>			
Dept. No. <u>405</u>	Department Name <u>BURLINGTON PD</u>	<input type="checkbox"/> Rated criminal charge			
Parent or Guardian Last Name		First Name			
Street Address		City	State	Zip Code	
Significant Civil Relief Act Declaration: Signed under penalty of perjury, I state: <input checked="" type="checkbox"/> Defendant said he/she is NOT on active duty in the U.S. armed forces. <input type="checkbox"/> Defendant is under 17 years of age. <input type="checkbox"/> Defendant is a business or corporation. <input type="checkbox"/> Defendant said he/she is on active duty or is considered to be on active duty in the U.S. armed forces.					
Officer Signature: <u>[Signature]</u>					ORIGINAL

6

**VERMONT CIVIL VIOLATION, FISH AND WILDLIFE
VIOLATION, MUNICIPAL VIOLATION**

<input type="checkbox"/> COL License State VT		 4106043 VCVC <input type="checkbox"/> FAW <input type="checkbox"/> Municipal <input checked="" type="checkbox"/>		Form 900 Rev. 10/95	
Driver License Number 497518015		Hunting/Fishing/Trapping License Number			
Defendant Last or Organization Name ORTSEN		First WILLIAM		Mid Initial	
Defendant Current Mailing Address 762 NORTH AVE		Home Phone			
City Burlington		State VT		Zip Code 05408	
Date of Birth 05-16-59		<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		<input type="checkbox"/> Corp/Org <input type="checkbox"/> Other	
Vehicle or Boat Reg. number		Year		Make	
Violation Date 09-21-25		Time 1734		Municipality Burlington	
Highway NORTH AVE		Place or Landmark RT 127			
Defendant did then and there commit the following acts in violation of Vermont local law:					
GRAFFITI AND DEFACEMENT OF PROP					
Alcohol Lev. 0 %		Actual Speed MPH		Posted Limit MPH	
<input type="checkbox"/> Commercial Vehicle		<input type="checkbox"/> Hazardous Material		<input type="checkbox"/> Accident <input type="checkbox"/> Fatality <input type="checkbox"/> Seat Belt Viol.	
In violation of V.S.A. §		49 C.F.R. §		Violation Code 21-29	
PENALTIES	If you REQUEST A HEARING and the State proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$65.00 in court costs are assessed.		If you DO NOT WANT A HEARING, you may pay the waiver amount instead of appearing in court.		
			PORTS PENALTY RANGE MINIMUM \$ MAXIMUM \$ 500 RESTITUTION (F&W) +		
			WAIVER AMOUNT \$400.00		
			I have just and reasonable grounds to believe the person named above committed this violation.		
Delivered To <input checked="" type="checkbox"/> Defendant (Reg. Agent, or Corp. Officer)		Date Served 10-03-25		<input checked="" type="checkbox"/> In Hand <input type="checkbox"/> U.S. Mail	
Officer No. A4058		Officer Name (printed) E. YEH		Officer Signature 	
Dept. No. 403		Department Name Burlington PD		<input type="checkbox"/> Related criminal charge	
Parent or Guardian Last Name		First Name			
Street Address		City		State Zip Code	
Sentiment/Intent: Civil Felony Not Declaration: Signed under penalty of perjury. I state: <input checked="" type="checkbox"/> Defendant is under 17 years of age. <input type="checkbox"/> Defendant is a business or corporation. <input type="checkbox"/> Defendant said he/she is on active duty or is scheduled to be on active duty in the U.S. armed forces.					
Officer Signature: 					ORIGINAL

**VERMONT CIVIL VIOLATION, FISH AND WILDLIFE
VIOLATION, MUNICIPAL VIOLATION**

<input type="checkbox"/> CDL		Form 100 Rev. 10/01	
License State VT		 4106044	
VCYC <input type="checkbox"/> F&W <input type="checkbox"/> Municipal <input checked="" type="checkbox"/>			
Driver License Number 40931805		Hunting/Fishing/Trapping License Number	
Defendant Last or Organization Name OETSEN		First Name WILLIAM	
Defendant Current Mailing Address 762 NORTH AVE		Home Phone	
City BURLINGTON	State VT	Zip Code 05408	Business Phone
Date of Birth 05-16-59	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Corp/Org <input type="checkbox"/> Other	Race/Height W 5'05" Weight 160 Hair BRN Eyes BRN
Vehicle or Boat Reg. number	State	Year	Make
			Color
Violation Date 10-01-13	Time 1610	Municipality BURLINGTON	
Highway NORTH AVE	Place of Offense RT 127		
Defendant did then and there commit the following acts in violation of Vermont local law:			
GRAFFITI AND DEFACEMENT of PROP			
Alcohol Lim. 0. %	Actual Speed MPH	Posted Limit MPH	<input type="checkbox"/> Accident <input type="checkbox"/> Fatality <input type="checkbox"/> Seat Belt Viol.
<input type="checkbox"/> Commercial Vehicle		<input type="checkbox"/> Hazardous Material	
In violation of V.S.A. §		Municipal Ordinance 21-29	
40 C.F.R. §		Violation Code	
PENALTIES	If you REQUEST A HEARING and the State proves the violation, the penalty must be within the penalty range. Commonly, the waiver amount plus \$55.00 in court costs are assessed.		If you DO NOT WANT A HEARING, you may pay the waiver amount instead of appearing in court.
	POINTS PENALTY RANGE MINIMUM \$ MAXIMUM \$500 RESTITUTION (F&W) +		WAIVER AMOUNT \$400.00
	I have just and reasonable grounds to believe the person named above committed this violation.		
	Delivered To <input checked="" type="checkbox"/> Reg. Agent, or Corp. Officer Date Served 10-03-2013 <input checked="" type="checkbox"/> In Hand <input type="checkbox"/> U.S. Mail		
Officer No. 41055	Officer Name K. YEAH	Officer Signature 	
Officer No. 4103	Officer Name Burlington PD	<input type="checkbox"/> Related criminal charge	
Parent or Guardian Last Name		First Name	
Street Address		City	State Zip Code
Sent to members: Civil Violation Act Declaration: Signed under penalty of perjury, I state: <input checked="" type="checkbox"/> Defendant said he/she is NOT on active duty in the U.S. armed forces. <input type="checkbox"/> Defendant is under 17 years of age. <input type="checkbox"/> Defendant is a business or corporation. <input type="checkbox"/> Defendant said he/she is on active duty or is scheduled to be on active duty in the U.S. armed forces.			
Officer Signature 		ORIGINAL	

(8)