

NOTICE OF HEARING
VCJC PRS Docket No. 20207X0

RE: Hearing to consider imposition of sanctions, up to and including permanent revocation, against the Level III Vermont law enforcement officer certification held by Shaun J. Smith. 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 Davison Drive, Pittsford, Vermont 05763 and remotely via Microsoft Teams on April 18, 2023 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 Shaun J. Smith for alleged unprofessional conduct pursuant to 20 V.S.A. § 2401(2), (5) (Category B conduct deemed unprofessional conduct), 20 V.S.A. § 2404(a)(1)(A) (agency investigation of category B 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(2) provides:

“Category B conduct” means gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy, and shall include:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under authority of the State, first offense;
- (D) biased enforcement;
- (E) use of electronic criminal records database for personal, political, or economic gain;
- (F) placing a person in a chokehold;
- (G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a chokehold or using excessive force.

- 20 V.S.A. § 2401(5) provides:

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

- 20 V.S.A. § 2404 provides:

(a) 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 provides:
 - (a) 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.

- 20 V.S.A. § 2407:
 - (a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action, except that the Council may take action for a first offense under subdivision 2401(2)(C) (excessive use of force under authority of the State), 2401(2)(F) (placing a person in a chokehold), or 2401(2)(G) (failing to intervene and report to a supervisor when an officer observes another officer placing a person in a chokehold or using excessive force) of this chapter.
 - (b) "Offense" defined. As used in this section, an "offense" means an offense committed by a law enforcement officer during the course of his or her certification, and includes any offenses committed during employment at a previous law enforcement agency.

It is alleged that Shaun J. Smith has engaged in category B conduct in violation of the above identified authority.¹ Specifically, it is alleged:

VCJC PRS Docket No. 20207X0 (Category B)

¹ The alleged Category B unprofessional conduct described herein (Docket No. 20207X0) represents a subsequent case considered after another case (Docket No. 202007V) where the VCJC Professional Regulation Subcommittee determined that Cpl. Smith engaged in Category B (first offense) unprofessional conduct due to gross professional misconduct as defined by the Springfield Police Department Rules and Regulations. The conduct included failing to exercise the authority of his position, failing to have proper knowledge of Laws and Regulations, inappropriate conduct towards the public, and neglect of duty. Pursuant to VCJC Professional Regulation Subcommittee Procedures, § 8.1.1, the VCJC Executive Director delivered a notice letter, dated April 8, 2021, to Cpl. Smith, via certified mail, return receipt requested, which was received by Cpl. Smith on May 20, 2021. The letter provided Cpl. Smith notice that, consistent with the Springfield Police Department's internal investigation, the Subcommittee concluded that Category B unprofessional conduct had occurred due to various violations of Springfield Police Department policies, but that because it was the first such offense, no sanction could be imposed by law. The matter in said Docket No. 202007V was closed with no sanction but the April 8, 2021, notice letter specifically provided, in part: "Please be aware that any future instance of Category B conduct, or any other unprofessional conduct defined in 20 V.S.A. § 2401, may subject you to Council sanction, up to and including permanent revocation of your Vermont law enforcement officer certification, after notice and an opportunity for hearing."



1. Shaun J. Smith (referred to herein as “Cpl. Smith”) was employed as a Corporal with the Springfield Police Department until his resignation from the department on November 11, 2020.

Neglect of Duty

2. From on or about April 2020 through August 2020, there were several times that Cpl. Smith was not seen on his shift by fellow officers for extended periods of time. Cpl. Smith was described as unreliable in reporting his on-duty locations. Other Springfield Police Department members frequently attempted to find out where he was while he was on-duty. In some instances, Cpl. Smith was seen parked in various parking lots around town, sometimes speaking with women unrelated to official duty.
3. Springfield Police Department Chief Mark Fountain learned that department members believed Cpl. Smith was engaged in a pattern of inappropriate behavior and was pursuing extramarital affairs with multiple women while on duty.
4. Springfield Police Department Lieutenant Patrick Call learned that night shift officers would routinely try to find Cpl. Smith because they never know where he was, and called this the “Where’s Waldo” game.
5. Springfield Police Department Officer Jeremy Fitzgibbons stated that it seemed Cpl. Smith would come into work and then get into his cruiser and disappear until it was time to go home.
6. Springfield Police Department Officer Anthony Leonard stated that he observed Cpl. Smith parked in various lots for extended periods of time, often over an hour or more.
7. Cpl. Smith acknowledged that while on duty he made arrangements via Facebook messenger to meet with women.
8. On June 21, 2020, at approximately 2256 hours, Springfield Police Department Officer Anthony Moriglioni requested assistance with traffic control at a complaint scene. It was anticipated that they would need to shut down at least one lane of the road.
9. Cpl. Smith responded that he was at the Exit 7 truck stop off I-91 (Springfield Circle K) grabbing something but that Officer William Singleton would respond.
10. Springfield Police Department Dispatcher Lisa Baker had seen Cpl. Smith on her way into work, and he had been parked in a small parking lot at the end of Youngs Road and had been leaning into a dark sedan also parked there, speaking with a woman sitting in the driver’s seat with the door open.
11. After Dispatcher Baker arrived at work, Officer Moriglioni came to the station asking where Cpl. Smith was. Dispatcher Baker asked Dispatcher Alicia DiPietro where Cpl. Smith was and she responded that he was at the Exit 7 truck stop, as reported by Cpl. Smith.
12. At approximately 2305 hours, Dispatcher DiPietro called the Exit 7 truck stop and spoke to an employee who advised that no police officer was there, nor had he seen any police officer there for a bit.
13. Cpl. Smith acknowledged meeting with a woman at the end of Youngs Road to help her with a car problem. When questioned about the June 21, 2020 incident, Cpl. Smith did not recall the event but acknowledged it could have been a time when he was meeting with the woman.
14. When questioned about meeting with a woman while on duty, Cpl. Smith acknowledged that he would meet the woman and her dog in a field near Fairbanks Road to talk to her. He said they would talk and throw the frisbee to the dog while he was doing a foot patrol. Officers are required to announce to dispatch that they are doing a foot patrol and announce the



- location of the foot patrol. However, a search of Valcour, the department's records management system, of foot patrols for January 1, 2020 to November 30, 2020, revealed no record of Cpl. Smith conducting a foot patrol on Fairbanks Road.
15. Springfield Police Department Rules and Regulations, Chapter II Professional Responsibilities and Conduct, Section 410.10 General Conduct of Members and Employees, in effect in 2020, provided: "All personnel must realize that both their on-duty and off-duty conduct is reflective upon the Department."
 16. Springfield Police Department Rules and Regulations, Chapter II Professional Responsibilities and Conduct, Section 430.10 Reporting for Duty, in effect in 2020, provided: "All personnel shall report for duty whenever so ordered by competent authority. Members and employees shall report for duty at the regularly appointed time and not absent themselves from duty without leave."
 17. Springfield Police Department Rules and Regulations, Chapter II Professional Responsibilities and Conduct, Section 520.10 Neglect of Duty, in effect in 2020, provided: "Any member or employee who in the performance of their official duties displays reluctance to properly perform their assigned tasks or duties; or who acts in a manner tending to bring discredit upon themselves or the Department; or who fails to assume responsibility or exercise diligence and interest in the pursuit of their duties; ... shall be deemed in neglect of duty and shall be subject to disciplinary action."
 18. Springfield Police Department Rules and Regulations, Chapter II Professional Responsibilities and Conduct, Section 590.10 Non-Specified Prohibited Acts, in effect in 2020, provided: "Existence of facts establishing a violation of a law, ordinance or Department regulation is all that is necessary to support any allegation of such as a basis for a charge under this section."

Sexual Misconduct

19. On August 20, 2020, Springfield Police Department Officer Ryan Prince arrived at the office at approximately 0245 – 0300 hours to begin his shift. Officer Prince sat down at a department computer and moved the mouse to log in. When he did this, a Facebook messenger page came up which contained sexually explicit messages.
20. Officer Prince recognized the Facebook account as belonging to Cpl. Smith and saw kisses and heart emojis but saw that the messages were with a woman who was not Cpl. Smith's wife.
21. Officer Singleton, who was in the room at the time, also saw the messages. Officer Fitzgibbons was also present and heard the messages as Officers Prince and Singleton read them out loud.
22. Officer Prince stated that he did not recall clicking anything on the computer and that the Facebook messenger page was "just right there."
23. The messages with the woman were sexually explicit, and included a message from Cpl. Smith to the effect of "when are you going to let me lick your pussy until you cum on my face?"
24. Officer Prince described the woman's response as seeming to ignore the question, but Cpl. Smith asked the question again and the woman replied with something to the effect of "Ha, Ha, LOL." In response to the woman writing that she was cold, Cpl. Smith asked the woman if her nipples were hard. Officer Prince interpreted the woman's responses as not being into it, but not trying to shut Cpl. Smith down.



25. Officer Singleton described the messages appeared to be Cpl. Smith pressuring the woman for sex. The officers were shocked by the messages. Officer Fitzgibbons described the messages as “horrifying,” and noted the woman with whom Cpl. Smith was messaging on Facebook messenger had been a victim in a past sexual assault investigation handled by the Springfield Police Department, of which Cpl. Smith was aware.
26. Officer Prince was “pretty positive” that Cpl. Smith began the messenger conversation while on duty.
27. Officer Singleton believed from the messages that Cpl. Smith was trying to meet up with the woman on shift. Officer Singleton saw a message from Cpl. Smith to the woman that stated Cpl. Smith had to quickly leave to back up Officer Steven Neilly on a DUI stop, and that he would meet with her after that in the Middle School parking lot. On August 19, 2020, Cpl. Smith worked a shift from 0700 to 1700 hours. A check of department records revealed that Officer Neilly did arrest a female for DUI during day shift on August 19, 2020, and Cpl. Smith was dispatched to the scene.
28. During Cpl. Smith’s shift on August 19, 2020, he had been observed on his personal cell phone texting with the woman from the Facebook messages.
29. When questioned regarding the incident, Cpl. Smith admitted to sending a sexually explicit message. He did not recall specifically what he wrote in the message but described it as flirty conversation back and forth. Cpl. Smith acknowledged he was pursuing a sexual relationship with the female recipient.
30. When asked, on October 21, 2020, whether he or the woman still had the Facebook messenger conversation, Cpl. Smith stated that neither of them still had the conversation. Cpl. Smith explained that he always deletes his Facebook messages.
31. Cpl. Smith denied using a department computer to actually send the sexually explicit message. Cpl. Smith claimed he sent the message while driving home after his shift using his personal cell phone.
32. Cpl. Smith claimed his Facebook account was logged in on the department computer because he used Facebook to conduct preservation requests on Facebook accounts that he was seeking warrants on. He explained that officers need to be logged in to Facebook to identify individuals’ accounts so they can be copied and pasted into a preservation letter to Facebook or pasted into a warrant application. He stated the only reason his account was logged in was to do that work. However, he could not recall what case he would have been working on at the time.
33. Springfield Police Department Lieutenant Patrick Call found no record incident in Valcour of Cpl. Smith working on a Facebook preservation request and/or warrant application during the time period of January 2020 through November 2020.
34. Springfield Police Department Administrative Assistant Richard Stillings checked with the Windsor County State’s Attorney’s Office and that office had no record of Cpl. Smith submitting any case involving a Facebook preservation request and/or warrant application to that office during the time period of January 2020 through November 2020.
35. Based on department records, the last Facebook warrant case Cpl. Smith processed was on November 15, 2019.
36. Springfield Police Department, General Order S-4 Sexual Misconduct, § I(B), in effect on August 20, 2020, defined “Sexual Misconduct” as “Any sexual activity while on-duty or stemming from official duty. Sexual misconduct includes but is not limited to use of official



- position and official resources to obtain information for purposes of pursuing sexual conduct.”
37. Springfield Police Department, General Order S-4 Sexual Misconduct, § IV(A), in effect on August 20, 2020, provided: “Sexual activity of any nature while on duty is prohibited.”
 38. Springfield Police Department, General Order S-4 Sexual Misconduct, § IV(B), in effect on August 20, 2020, provided: “Sexual Misconduct is prohibited and shall be disciplined up to and including termination.”
 39. Springfield Police Department, General Order I-2 Internet Posting/Social Networking, § II, in effect on August 20, 2020, provided that “social networking sites ... shall not be used in a manner which is detrimental to the mission and function of this agency.”
 40. Springfield Police Department, General Order I-2 Internet Posting/Social Networking, § III(A), in effect on August 20, 2020, provided: “Employees of this agency are prohibited from using agency computers for any unauthorized purpose including surfing the internet or participating in social networking sites.”
 41. Town of Springfield, Computers, Computer Networks and Internet Access Policy, Permitted Use of the Internet on Town of Springfield Computers or Town Internet, in effect on August 20, 2020, provided: “All [employees with access to Town-owned computers and Internet access] have a responsibility to the Town of Springfield to utilize computer resources and the Internet in a professional, lawful and ethical manner.” The Town’s Computer Network Use Limitations policy, Prohibited Uses section (c), provides that “[e]mployees may not use the computers to display, store or send, by e-mail or any other form of electronic communications ... material that is ... sexually explicit ... or otherwise inappropriate or unlawful.”
 42. Town of Springfield, Computers, Computer Networks and Internet Access Policy, Amendment as to other restrictions as may apply to individuals or individual departments, section (a), in effect on August 20, 2020, provided: “Employees are required to sign out of the Microsoft Outlook Express, Spillman Records Management System when leaving the computer unattended.”

The Council shall determine whether such alleged violations set forth above re: VCJC PRS Docket No. 20207X0 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, either on your own 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 this 15th day of March, 2023, at Pittsford, Vermont.



Executive Director, Vermont Criminal Justice Council

