

6. The Subcommittee determined that the facts established by the investigation of the complaint supported a finding of unprofessional conduct and, by vote February 16, 2023, concluded in relevant part that Respondent had engaged in Category B conduct (second offense).¹

7. Based on the Subcommittee's determination, the State specifically alleges that, between April 2020 and August 2020, Respondent repeatedly failed to reliably report his location while on duty; and that on or about August 20, 2020, Respondent accessed social media for non-law enforcement purposes while on duty. The State alleges that Respondent's conduct was in violation of the following Springfield Police Department policies: (1) Chapter II Professional Responsibilities and Conduct, Section 430.10 Reporting for Duty, (2) Chapter II Professional Responsibilities and Conduct, Section 520.10 Neglect of Duty, and (3) General Order I-2 Internet Posting/Social Networking, § II.

Conclusions of Law

8. Vermont law sets forth three categories of law enforcement officer unprofessional conduct: Category A, Category B and Category C. *See* 20 V.S.A. § 2401(1)-(3) (categories defined).

¹ By vote on April 19, 2021, re: Docket No. PRS 202007V 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."

9. As relevant to this matter, Category B conduct is defined as “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.” *Id.* § 2401(2).

10. The State alleges that Respondent engaged in prohibited Category B conduct by virtue of failing to reliably report his location while on duty and accessing social media for non-law enforcement purposes while on duty.

11. Respondent acknowledges that if this matter were to proceed to a contested hearing, the State has relevant evidence that, if accepted by the Council, could adequately support the conclusion that Respondent engaged in prohibited Category B conduct. See 20 V.S.A. § 2401(2) (Category B conduct defined to include “gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve. . . substantial deviation from professional conduct as defined by the law enforcement agency’s policy”).

12. Respondent’s participation in this stipulated agreement is not an admission of wrongdoing, but rather an acknowledgement that the State could satisfy its burden at a hearing and that the Council could enter a finding against him pursuant to 20 V.S.A. § 2401, § 2405-2407 and 3 V.S.A. § 812.

13. In the interest of resolving this matter, the Respondent and the State agree to enter this Stipulation and Consent Order, in lieu of proceeding to hearing.

14. The Council adopts as its facts and conclusions in this matter Paragraphs 1 through 7 above. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.

15. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Council, Respondent has determined that Respondent shall enter into this agreement with the Council. Respondent enters no further admissions here, but to resolve this matter without further time, expense, and uncertainty Respondent has concluded that this agreement is acceptable and in the best interest of the parties.

16. Respondent agrees and understands that by executing this document Respondent is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Council in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, to offer evidence of his own to contest any allegations by the State or to appeal from this Stipulation and Consent Order.

17. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order

18. The parties agree that upon the Council's acceptance of this Stipulation and Consent Order, and pursuant to the terms herein, the above-captioned matter shall be resolved by the Council. Thereafter, the Council will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Respondent.

19. This Stipulation and Consent Order is conditioned upon its acceptance by the Council. If the Council rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that if the Council does not accept this agreement in its current form, Respondent shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Council rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, it shall be kept in strict

confidence, and it shall be without prejudice to any future unprofessional conduct disciplinary proceeding and the Council's final determination of any charge against Respondent.

20. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Council file, shall constitute an enforceable legal agreement, and may and shall be reported to other authorities, including the International Association of Law Enforcement Standards and Training National Decertification Index. In exchange for the actions by the Council, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

21. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Council, it may enter an order implementing the terms and conditions herein.

Order

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and based on the consent of Respondent, it is hereby ORDERED that:

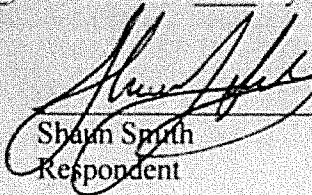
1. Respondent's Vermont law enforcement officer certification shall be PERMANENTLY REVOKED effective June 20, 2023, with no option of recertification.
2. Respondent shall provide a complete copy of this Stipulation and Consent Order to any Vermont law enforcement agency for which he works or to any prospective Vermont law enforcement agency to which he makes application for employment, as well as to any state regulatory body or other certification authority related to law enforcement officers in any

location or jurisdiction where he may apply for law enforcement officer employment, for so long as this Stipulation and Consent Order remains in effect.

3. Respondent shall bear all costs of complying with the terms and conditions of this Stipulation and Consent Order.

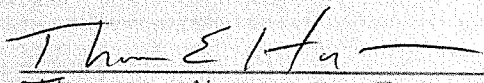
4. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order

DATED at Springfield, Vermont this 13th day of June, 2023


By: 
Shaun Smith
Respondent

Approved as to Legal Form:

DATED at Quincy, VMA this 13 day of June, 2023

By: 
Thomas E. HORGAN, Esq.
Counsel for Respondent

DATED at Pittsford, Vermont, this 13th day of June, 2023

By: 
Heather Simons
Executive Director
Vermont Criminal Justice Council

Approved as to Legal Form:

DATED at Pittsford, Vermont this 13th day of June 2023.

By: *Kim McManus*
Kim McManus
Associate General Counsel
Vermont Criminal Justice Council

**AS TO IN RE: *Shaun Smith* , VCJC Docket No. PRS 20207X0:
APPROVED AND ORDERED
VERMONT CRIMINAL JUSTICE COUNCIL**

William Sorrell

DocuSigned by:

William Sorrell

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DATED: 6/20/2023

ENTERED AND EFFECTIVE: 6/20/2023