

Internal Investigative Report

RNC File #2005-22802

Constable Joseph Smyth, Reg. [REDACTED]

ROYAL NEWFOUNDLAND CONSTABULARY
INTERNAL INVESTIGATIVE REPORT

RNC FILE 2005-22808

Member Involved: Constable Joseph Smyth, Reg. [REDACTED]

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ROYAL NEWFOUNDLAND CONSTABULARY

Internal Investigative Report

RNC FILE #2005-22808

Date Submitted: June 14, 2005

**Re: Internal Complaint of: A/Superintendent B. A. Pike
Officer In Charge
Professional Standards Bureau**

Date of Complaint: May 26, 2005

**Member Involved: Constable Joseph Smyth
Regimental [REDACTED]**

Nature of Complaint:

On May 26, 2005, correspondence was received from A/Superintendent Barry Pike regarding an internal complaint against Constable J. Smyth, Regimental [REDACTED] [REDACTED]. Crown Attorney states that Constable Smyth failed to attend court on May 17, 2005 and failed to respond to a Crown Correspondence request dated April 26, 2005.

The complaint was forwarded to a supervisor to investigate and determine if any needless action was taken by Constable J. Smyth. (Correspondence attached)

Background Information:

Constable J. Smyth has been a of the Royal Newfoundland Constabulary for approximately 3 1/2 years and is presently assigned to Patrol Services, Central District, Team 2.

Details of Investigation

On May 26, 2005, an internal complaint was generated. The complaint relates to two incidents:

1. Failing to attend court on May 17, 2005; and
2. Failing to complete a Crown Correspondence.

On May 28, 2005, Constable Smyth submitted a report stating the following:

That on March 17, 2005, he forwarded an email to Chief Crown Attorney, Mr. James Maher informing him that he would be out of the country from May 1, 2005 to May 20, 2005. At that time he had one court subpoena for Traffic Court and was making arrangements with Crown Attorney, Heidi Wells for a postponement.

On April 20, 2005 Constable Smyth was served with a subpoena for May 17, 2005, regarding a trial of [REDACTED]

Constable Smyth anticipated being back in the province for May 17, 2005 and did not foresee an issue being able to attend court.

SB
3
2006-11-01
1420 hrs
typo

Due to unforeseen circumstances in the British Virgin Islands Constable Smyth was detained and was unable to return to Newfoundland until May 20, 2005.

Constable Smyth takes full responsibility for his actions.

This second matter pertains to a Crown Correspondence not being completed where Constable Smyth had to serve a subpoena on a witness for court. The same trial that he missed on May 17, 2005. Constable Smyth also states in his report that his last scheduled shift was April 30, 2005, and up to that date had not received the Crown Correspondence.

I have checked my records and as the Crown Correspondence was dated April 26, 2005, it was not received at the Chief's Office until April 28, 2005. (Correspondence attached) I did not receive it in the NCO Office until May 5, 2005. Constable Smyth was on vacation and knowing he would be back before May 17, 2005, the Crown Correspondence was not reassigned.

Reports attached:

1. Email to Jim Maher, Chief Crown Attorney
2. Crown Attorney's
3. File number / diary date sheet
4. Email from [REDACTED] and Cst. Joe Smyth
5. Email from Cst. J. Smyth to [REDACTED], Crown Attorney

Conclusion:

I have reviewed his file and have considered the following:

Constable Smyth sent an email to Crown Attorney, Jim Maher stating he would not be available for court from May 1, 2005 to May 20, 2005. He requested this information to be sent to all staff at the Crown's Office. Mr. Maher opened the email on 05-03-17 at 3:33 and deleted it on 05-03-17 at 3:35PM (copy attached).

It appears it was not forwarded to any staff at the Crown's Office, therefore [REDACTED] had no knowledge that Constable Smyth would not be available to complete the Crown Correspondence or attend court. Constable Smyth received the subpoena April 20, 2005, approximately 1 month after the email had been sent.

Constable Smyth expected to be back in the province before May 17, 2005, consequently he did not inform Ms. King otherwise.

Circumstances dictated him not getting back to Newfoundland until May 20, 2005. As a result of this investigation I feel that this complaint could have been avoided if Mr. Maher had forwarded the email sent to him by Constable Smyth on March 17, 2005. However, Constable Smyth is responsible for his actions.

Recommendations

Constable Smyth did notify me that he was detained in the British Virgin Islands and would not be back until approximately May 20, 2005. Due to the stress he was under he was not able to relay that he was required in court on May 17, 2005.

The Crown Attorney, [REDACTED] advised a guilty plea was entered and the case was not jeopardized due to the fact that Constable Smyth was not present (email attached).

I have reviewed Constable Smyth's personnel file and there has been no disciplinary action taken against him. Therefore I am recommending a written reprimand be placed in his file.

In regards to the matter of not completing the Crown Correspondence I do not hold Constable Smyth responsible as he did not receive the memo from the Crown's Office. It was received in the NCO Office May 5, 2005 and Constable Smyth had already left for Annual Leave.

If you require anything further please contact me at 729-8015.

I trust this report is in order.

Respectfully submitted,

Sgt. M. A. Jesso #378

Sergeant M. Jesso
Regimental [REDACTED]
NCO i/c Team 2
Central District

*I agree with Sgt. Jesso's findings
of Sgt. A. Pungam.
[REDACTED]
June 30, 2005.*



Royal Newfoundland Constabulary
Office of the Chief of Police

Est. 1871

July 6th 2005

Inspector Singleton

RE: Internal Investigation Constable Smyth

Sir,

I have reviewed the attached report from Sergeant Jesso and concur with her findings and recommendation. She should now continue with the reprimand.

S.D. Roche
Inspector
Central District
Patrol Services

CC :Inspector Singleton



Royal Newfoundland Constabulary

Office of the Chief of Police

Est. 1871

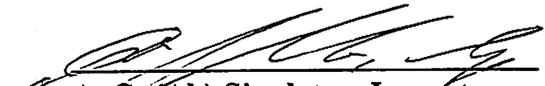
July 7, 2005

Inspector Sean Roche
District Commander
Central District

Re: Internal Investigation
Constable J. Smyth
RNC File 2005-22808

I have reviewed Sergeant Jesso investigative report and agree with her recommendation of a written reprimand under the circumstances presented. Please have Sergeant Jesso prepare the reprimand and have it copied through the chain of command and his personnel file. Furthermore, all reprimands should state that further breaches of the *Royal Newfoundland Constabulary Act, 1992* and the regulations made thereunder will be dealt with by way of progressive discipline.

Should you have any questions, please feel free to contact me at your convenience.


A. G. (Ab) Singleton, Inspector
Officer in Charge
Patrol Services

cc: 2005-22808

cc - Sgt Jesso.
 Marlene please
 write reprimand
 Insp Roche

COPY

Address all correspondence to the Office of the Chief of Police
 1 Fort Townshend, St. John's, NL, Canada, A1C 2G2

RNC - Summons 2 - Internal Files Telephone (709) 729-8333, Facsimile (709) 729-8214

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Royal Newfoundland Constabulary

Office of the Chief of Police

Est. 1871

July 14, 2005

Constable J. Smyth, #610
Team 2, Central District
Patrol Services

**Re: Fail to Attend Court
Fail to Respond to a Crown Correspondence
R.N.C. File #2005-22808.**

Constable Smyth,

On April 20, 2005 you were served with a Subpoena to attend Court for May 17th, 2005 regarding the trial of [REDACTED]

Due to unforeseen circumstances in the British Virgin Islands you were unable to relay to me that you were required in Court. However, it is your responsibility to attend Court or to provide prior notification when you cannot attend Court.

In relation to the Crown Correspondence I do not hold you responsible for not completing the Crown Correspondence as you were already on annual leave when the request was received at the N.C.O. Office.

This letter is a written reprimand in accordance with Section 8 (1)(b) of the Royal Newfoundland Constabulary Regulations and is copied to your personnel file. I would like to inform you that further breaches of the Royal Newfoundland Constabulary Act, 1992 and the regulations made thereunder will be dealt with by way of progressive discipline.

Sgt. M. A. Jesso #378

Sergeant M. Jesso Reg. #378
i/C Team 2, Central District

cc. R.C. Deering, Chief
J. F. Browne, Deputy Chief
A. Singleton, A/Superintendent
Personnel File



R2

NARRATIVE SUMMARY

Page _____ of _____

X R E F	OCC. <input type="checkbox"/>	YEAR	#
	SOT. <input type="checkbox"/>		
	MVA <input type="checkbox"/>		
OCC. <input type="checkbox"/>	YEAR	#	
SOT. <input type="checkbox"/>			
MVA <input type="checkbox"/>			

FILE #
05 22808
CASE HEADING
Internal Files

(1) CR Concluding Report CS Case Summary A/O Administrative/Operational

Royal Newfoundland Constabulary
St. John's, Newfoundland
Received
JUL 25 2005
Patrol Services Division

Date & Time:

05 07 22

Copy of Written Report served on Sgt. J. Smyth.
Please send copy to Personnel file.
File Closed

Jt M.A. Jesso
#378

2005-07-29

This matter is covered RAN +
Mat. help equally. Copy of letter from
S. M. Jesso sent.

Motor Vehicle Recovery

00 <input type="checkbox"/> Unknown	05 <input type="checkbox"/> Destroyed - not burned
01 <input type="checkbox"/> Not recovered	06 <input type="checkbox"/> Destroyed - burned
02 <input type="checkbox"/> Recovered - no damage	07 <input type="checkbox"/> Condition unknown
03 <input type="checkbox"/> Parts and/or accessories missing	09 <input type="checkbox"/> Not applicable
04 <input type="checkbox"/> Damaged	

Person who found vehicle:
Location: _____
Date: _____
Time: _____

CCJS

A <input type="checkbox"/> Unfounded	E <input type="checkbox"/> Death of accused	I <input type="checkbox"/> Accused under 12 years of age	M <input type="checkbox"/> Accused involved in other incidents
B <input type="checkbox"/> Not cleared	F <input type="checkbox"/> Death of complainant	J <input type="checkbox"/> Accused committed to mental hospital	N <input type="checkbox"/> Accused already sentenced
C <input type="checkbox"/> Cleared by charge	G <input type="checkbox"/> Beyond control of department	K <input type="checkbox"/> Accused outside Canada, cannot be returned	O <input type="checkbox"/> Departmental discretion
D <input type="checkbox"/> Suicide of accused	H <input type="checkbox"/> Diplomatic immunity	L <input type="checkbox"/> Complainant declined to lay charges	P <input type="checkbox"/> Diversionary Program

Complainant Notified upon conclusion of file Yes No Date: YY MM DD Time: Reg. No.:

How Notified (1) A In Person B By Telephone C By Letter D Message Left With:

NOTIFIED

<input type="checkbox"/> Forensic/Ident Name:	Date: YY MM DD	Time:	Will Take Action <input type="checkbox"/> Yes <input type="checkbox"/> No	Property Form <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> C.P.S. Name:	Date: YY MM DD	Time:	Will Take Action <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Other Agency Name:	Date: YY MM DD	Time:	Will Take Action <input type="checkbox"/> Yes <input type="checkbox"/> No	

Copy of This Report Has Been Sent To:

CPIC ACTION Query Yes No Add Yes No Removed Yes No Alert Yes No

Submitted by: Reg. No.: Report Date: YY MM DD Supervisor: Reg. No.: Date: YY MM DD

Case Heading:

1. UCR EXT	List In Order Of Seriousness	2. UCR EXT
3. UCR EXT	A <input type="checkbox"/> Attempted C <input type="checkbox"/> Completed	4. UCR EXT
	A <input type="checkbox"/> Attempted C <input type="checkbox"/> Completed	

OPERATIONAL STATUS

C File Concluded P Investigation Pending
D Awaiting Disposition O Other

READER: Officer Name: Reg. No.: Date: YY MM DD No Investigative Indicators

FOLLOWUP 1 Officer Name: Reg. No.: Org. Unit: Diary Date: YY MM DD Assigned By: Reason: 01 Investigation 02 Court Diary 03 Property Diary 04 Warrant Diary 05 Other

FOLLOWUP 2 Officer Name: Reg. No.: Org. Unit: Diary Date: YY MM DD Assigned By: Reason: 01 Investigation 02 Court Diary 03 Property Diary 04 Warrant Diary 05 Other