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7 **BEFORE THE CRIMINAL JUSTICE TRAINING COMMISSION**
8 **IN AND FOR THE STATE OF WASHINGTON**

9 In re the Certification of:

NO. 20-796

10 SEAN M. CARR,

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER REVOKING
PEACE OFFICER CERTIFICATION
[CORRECTED]

11 Respondent.

12 An administrative hearing in this matter was held on April 13-14, 2021 via Zoom, before
13 the Washington State Criminal Justice Training Commission Hearings Panel (Hearings Panel) to
14 determine whether Respondent Sean M. Carr's peace officer certification should be revoked. The
15 Hearings Panel was advised by Assistant Attorney General Justin Kato, and consisted of Presiding
16 Member Sheriff Gary Simpson of the Kitsap County Sheriff's Office, Detective Patrick Hatchel of
17 the Mountlake Terrace Police Department, Sergeant Brian Mulvaney of the Washington State
18 Patrol, Captain Matt Couchman of the Washington State Patrol, and Professor Peter Collins of
19 Seattle University. The Petitioner was represented by Assistant Attorney General
20 Susie Giles-Klein. Mr. Carr was represented by attorneys Ted Buck and Nick Gross.

21 **I. PROCEDURAL HISTORY**

22 1.1 Mr. Sean Carr resigned in lieu of termination from the Washington State Patrol
23 (WSP) on or about July 19, 2020. Prior to his separation, Mr. Carr was employed as a certified
24 peace officer with the WSP.

25 1.2 On or about September 21, 2020, the Criminal Justice Training Commission
26 (Commission) filed a Statement of Charges seeking to revoke Mr. Carr's peace officer

1 certification on the grounds that he was discharged from the WSP for disqualifying misconduct
2 as defined by RCW 43.101.010(8)(a)(i)(B) and (b). The Statement of Charges alleged in four
3 separate counts that Mr. Carr was discharged for engaging in conduct constituting a crime
4 committed under color of authority as a peace officer, to wit: Official Misconduct and/or Failure
5 of Duty. RCW 9A.80.010, RCW 42.20.100.

6 1.3 Mr. Carr timely requested a hearing.

7 II. HEARING

8 2.1 A hearing was held on April 13-14, 2021, via the Zoom teleconferencing
9 application, before the Hearings Panel.

10 2.2 The Petitioner presented the testimony of Thurston County Sheriff's Office
11 Detective Carrie Nastansky, WSP Lieutenant Jason Hicks, WSP Captain Dan Hall, and Retired
12 WSP Assistant Chief Jeffrey Sass.

13 2.3 Mr. Carr testified on his own behalf, and presented the additional testimony of
14 Linda Allan and Sheila Batiste.

15 2.4 The Petitioner offered the following exhibits, which were admitted by the
16 Presiding Member following the Second Telephonic Prehearing Conference on March 30, 2021:

- 17 1. Statement of Charges, *In re the Certification of Sean M. Carr*, dated
September 21, 2020 (6 pages);
- 18 2. Peace Officer Certification Application for Sean M. Carr, dated
19 July 17, 2007 (1 page);
- 20 3. Notice of Peace Officer Separation for Sean M. Carr, dated
July 23, 2020 (1 page);
- 21 4. Investigator Case Log for WSP Sergeant Krista Greydanus, dated from October
through November, 2019 (4 pages);
- 22 5. Administrative Reassignment to Residence from WSP Assistant Chief Jeffrey
Sass to Sergeant Sean Carr, dated November 8, 2019 (2 pages);
- 23 6. WSP Internal Incident Report for OPS Case Number 19-1493, initiated
November 8, 2019, removed from criminal hold on February 11, 2020 (2 pages);
- 24 7. WSP Investigative Authorization for OPS Case Number 19-1493, dated
25 November 8, 2019 (1 page)
- 26 8. Directive from WSP Captain Tyler Drake to Sergeant Sean Carr, dated
November 8, 2019 (1 page);

9. Interview of Jane Doe¹ by TCSO Detective Carrie Nastansky for TCSO Case #19-6291, occurring on November 14, 2019 (30 pages);
10. Interview of John Doe² by TCSO Detective Carrie Nastansky for TCSO Case #19-6291, occurring on November 21, 2019 (8 pages);
11. Interview of Sean Carr by TCSO Detective Carrie Nastansky for TCSO Case #19-6291, occurring on December 10, 2019 (10 pages);
12. Email from Sean Carr to WSP Lieutenant Kristene O'Shannon, dated December 12, 2019 (1 page);
13. Report for TCSO Case #19-6291, dated December 19, 2020 (17 pages);
14. Memorandum from Thurston County Prosecutor Megan A. Winder to TCSO declining to file charges in TCSO Case #19-6291, dated February 5, 2020 (1 page);
15. Email from WSP Sergeant Jason Hicks to WSP Captain Dan Hall, dated February 11, 2020 (1 page);
16. Administrative Investigation Advance Notice Form for OPS Case #19-1493, signed by Sean Carr on February 13, 2020 (2 pages);
17. Email from WSP Captain Tyler Drake to WSP Captain Dan Hall, dated February 13, 2020 (1 page);
18. Email from WSP Assistant Chief Dan Huss to numerous recipients, dated February 26, 2020 (1 page);
19. Request to Amend/Expand Investigation for OPS Case #19-1493, dated February 25, 2020 (2 pages);
20. Written Statement from Jane Doe for OPS Case #19-1493, dated March 10, 2020 (2 pages);
21. Letter from WSP Captain Tyler Drake to Sean Carr, dated April 28, 2020 (1 page);
22. Investigator Case Log for WSP Sergeant Jason Hicks for OPS Case #19-1493, dated from February through June, 2020 (2 pages);
23. Witness List for OPS Case #19-1493, undated (1 page);
24. Final Report for OPS Case #19-1493, dated June 9, 2020 (32 pages);
25. Interview of Jane Doe by WSP Sergeant Jason Hicks for OPS Case #19-1493, occurring on March 3, 2020 (52 pages);
26. Interview of Trooper Ian Morhous by WSP Sergeant Jason Hicks for OPS Case #19-1493, occurring on April 16, 2020 (6 pages);
27. Interview of Sean Carr by WSP Sergeant Jason Hicks for OPS Case #19-1493, occurring on April 20, 2020 (45 pages);
28. Second Interview of Trooper Ian Morhous by WSP Sergeant Krista Greydanus for OPS Case #19-1493, occurring on May 18, 2020 (3 pages);

¹ Ms. Doe's real name and identity were redacted from all materials provided to CJTC by WSP.

² John Doe is Ms. Doe's husband. His real name and identity were redacted from all materials provided to CJTC by WSP.

29. Interview of Trooper Sean Meenan by WSP Sergeant Krista Greydanus for OPS Case #19-1493, occurring on May 26, 2020 (9 pages);
30. Aerial view and photographs of McKenzie Road Baptist Church located at 215 McKenzie Road SW, Olympia, WA 98512 (11 pages);
31. Photographs of WSP Scale House #19 in Grays Harbor County, WA (12 pages);
34. Facebook Messages between Sean Carr and Jane Doe, dated April 1, 2017 – January 31, 2018 (825 pages);
35. Email from WSP Lieutenant Pete Stock to WSP Captain Dan Hall, dated June 10, 2020 (1 page);
36. Email from WSP Captain Dan Hall to WSP Captain Tyler Drake, dated June 22, 2020 (1 page);
37. Email from WSP Captain Tyler Drake to WSP Assistant Chief Jeffrey Sass, dated June 22, 2020 (1 page);
38. Resignation of Sean Carr from WSP, dated July 19, 2020 (1 page).

2.5 Mr. Carr offered the following exhibits, which were admitted by the Presiding Member following the Second Telephonic Prehearing Conference on March 30, 2021

1. Job Performance Appraisal – Sergeant Sean Carr – for period of 1/1/18 to 12/31/18, signed by participants in February 2019.
2. Job Performance Appraisal – Sergeant Sean Carr – for period of 1/1/19 to 12/31/19, signed by participants in February 2020.
- 3-8. Job Performance Appraisals 2012 – 2017.³
9. Ms. Doe’s Facebook Messages with Sean Meenan.
10. Ms. Doe’s communications with Mr. Carr’s wife.

2.6 The parties made their respective arguments, which were considered by the Hearings Panel.

Based on the evidence presented at the hearing, the Hearings Panel enters the following Findings of Fact and Conclusions of Law.

III. FINDINGS OF FACT

3.1 Sean Carr was hired as a trooper by the WSP on or about May 15, 2006. Mr. Carr was promoted to the rank of sergeant in 2017, and was employed in that capacity until on or about July 19, 2020, when he resigned in lieu of termination from employment.

3.2 At all times relevant to the events described herein, Mr. Carr was employed by the WSP as a certified peace officer.

³ Not provided to the Hearings Panel prior to the hearing.

1 3.3 Mr. Carr met Jane Doe, a non-commissioned WSP employee, on or about
2 February 24, 2012, at a WSP dispatch center. A few weeks after they met, Mr. Carr contacted
3 Ms. Doe over Facebook Messenger. Mr. Carr and Ms. Doe messaged each other frequently
4 throughout 2012, 2013, 2014, 2015, 2016, and 2017. Though they would go through periods of
5 time where they would not communicate, their association can reasonably be described to have
6 lasted this entire period.

7 3.4 Between 2012 and 2017, Mr. Carr and Ms. Doe communicated over Facebook
8 Messenger, through text messages, and through phone calls. Much of this communication was
9 sexual in nature. Mr. Carr sent Ms. Doe many sexually explicit messages while on-duty,
10 including photos of his naked penis and videos of himself masturbating. Mr. Carr took the
11 explicit photos and videos of himself in various WSP and/or government locations while on-
12 duty and while wearing his WSP uniform.

13 3.5 In 2012, Mr. Carr had his first on-duty sexual encounter with Ms. Doe at a Park
14 and Ride in Federal Way, King County, Washington. During this encounter, Mr. Carr received
15 consensual oral sex from Ms. Doe. At the time he engaged in this sexual activity, Mr. Carr was
16 on-duty, in uniform, armed, and driving his issued patrol vehicle.

17 3.6 Mr. Carr and Ms. Doe did not engage in any on-duty sexual activity in 2013 or
18 2014, though they exchanged on-duty sexual messages, photos, and videos during this period.

19 3.7 At least twice between 2015 and 2017, Mr. Carr visited Ms. Doe's house and
20 engaged in consensual sexual activity while on-duty. On one date in 2015, Mr. Carr received
21 consensual oral sex in a hallway in her home. During this sexual encounter, Mr. Carr was on-
22 duty, in uniform, armed, and driving his issued patrol vehicle. Ms. Doe's child was present at
23 the residence during this encounter. Following the sexual encounter Mr. Carr showed the vehicle
24 to the child.

25 3.8 On multiple occasions in 2015, Mr. Carr and Ms. Doe engaged in consensual
26 sexual activity at the WSP Academy while he was in uniform and on-duty. These sexual

1 encounters occurred in the lactation room, which Ms. Doe had access to following the birth of
2 her child, and also in Ms. Doe's office at the Academy.

3 3.9 On a date either in 2016 or 2017, Mr. Carr and Ms. Doe met on a ramp off of
4 State Route 16 in Pierce County – outside of Mr. Carr's assigned patrol area – while he was on-
5 duty. During their conversation, Mr. Carr asked Ms. Doe to perform oral sex on him. She refused,
6 and Mr. Carr left the scene. In later interviews with the Thurston County Sheriff's Office (TCSO)
7 and WSP, Ms. Doe described Mr. Carr as acting pushy and aggressive during this interaction.

8 3.10 Mr. Carr denied acting in a pushy and aggressive manner during the interaction
9 on a ramp off of State Route 16. Based upon the totality of the circumstances, including a well-
10 established pattern of deceit, dishonesty, and untruthfulness, as well as his demeanor throughout
11 the hearing and while testifying, the Hearings Panel did not find the testimony of Mr. Carr
12 regarding the findings established in paragraph 3.9 to be credible.

13 3.11 The findings regarding this encounter, as established in paragraph 3.9, are based
14 substantially upon evidence provided in the transcripts of the testimony provided by Ms. Doe in
15 her interviews with TCSO and WSP, as well as the accounts of these interviews as provided in
16 the testimony of Detective Nastansky and Lieutenant Hicks. The Hearings Panel found this
17 evidence to be credible. The consistent and parallel evidence that was provided as a result of
18 these two investigations provided further indication of the credibility of this evidence. While
19 these findings are based partially upon the hearsay statements of Ms. Doe, Mr. Carr was able to
20 cross examine Detective Nastansky and Lieutenant Hicks regarding the perceived credibility of
21 Ms. Doe and the circumstances under which those statements were made. Mr. Carr was able to
22 further rebut this evidence by offering his own testimony regarding this encounter.

23 3.12 On a date between January and March 2017, Mr. Carr and Ms. Doe met at the
24 McKenzie Road Baptist Church, located at 215 McKenzie Road SW off of State Route 101 in
25 Thurston County, Washington. While Mr. Carr and Ms. Doe's recollection of this encounter
26

1 differ significantly, it is uncontested that Mr. Carr received oral sex from Ms. Doe behind a small
2 building on the church property.

3 3.13 Mr. Carr's behavior during the encounter behind the church, as established in
4 paragraph 3.12, was highly coercive to the extent that it rendered the sexual encounter
5 nonconsensual in nature. In later interviews with TCSO and WSP, Ms. Doe would describe this
6 encounter as nonconsensual, specifically as an "assault," or a "rape." During the encounter Mr.
7 Carr was on-duty, in uniform, armed, and driving his issued patrol vehicle. Upon her arrival at
8 the church, Mr. Carr directed Ms. Doe to park behind the church so as to be out of plain site from
9 the roadway. Mr. Carr then parked his patrol vehicle behind her vehicle in a manner that made
10 it difficult for her to leave. The encounter included Mr. Carr making an ultimatum that Ms. Doe
11 either reveal the identity of the man she was dating or perform oral sex on him. Mr. Carr exerted
12 physical control over Ms. Doe by grabbing her upper arm with enough force to leave a bruise.
13 Mr. Carr exerted power and control throughout the encounter based upon his position, his
14 uniform, and his actions and verbal demands.

15 3.14 Mr. Carr denied allegations of "assault" or "rape" and characterized the encounter
16 behind the church as mutual and consensual. Based upon the totality of the circumstances,
17 including a well-established pattern of deceit, dishonesty, and untruthfulness, as well as his
18 demeanor throughout the hearing and while testifying, the Hearings Panel did not find the
19 testimony of Mr. Carr regarding the findings established in paragraphs 3.12 and 3.13 to be
20 credible.

21 3.15 The findings regarding this encounter, as established in paragraphs 3.12 and
22 3.13, are based substantially upon evidence provided in the transcripts of the testimony provided
23 by Ms. Doe in her interviews with TCSO and WSP, as well as the accounts of these interviews
24 as provided in the testimony of Detective Nastansky and Lieutenant Hicks. The Hearings Panel
25 found this evidence to be credible. The consistent and parallel evidence that was provided as a
26 result of these two investigations provided further indication of the credibility of this evidence.

1 While these findings are based partially upon the hearsay statements of Ms. Doe, Mr. Carr was
2 able to cross examine Detective Nastansky and Lieutenant Hicks regarding the perceived
3 credibility of Ms. Doe and the circumstances under which those statements were made. Mr. Carr
4 was able to further rebut this evidence by offering his own testimony regarding this encounter.

5 3.16 On or about March 7, 2017, Mr. Carr and Ms. Doe met at WSP scale house #19
6 near Montesano in Grays Harbor County, Washington. While Mr. Carr and Ms. Doe's
7 recollection of this encounter differ significantly, it is uncontested that Mr. Carr and Ms. Doe
8 engaged in sexual intercourse inside the scale house.

9 3.17 Mr. Carr's behavior during the encounter in the scale house, as established in
10 paragraph 3.16, was highly coercive to the extent that it rendered the sexual encounter
11 nonconsensual in nature. In later interviews with TCSO and WSP, Ms. Doe would describe this
12 encounter as coercive and not entirely consensual, as she did not feel free to leave until she
13 consented to sex with Mr. Carr. During this sexual encounter, Mr. Carr was on-duty, in uniform,
14 armed, and driving his issued patrol vehicle. Mr. Carr exerted dominion and control over the
15 space in the scale house by positioning Ms. Doe in a corner or alcove and positioning himself
16 between Ms. Doe and the exit so as to be out of plain view from the roadway. Though she made
17 no physical attempt to leave, more than once she stated "no" or otherwise made it clear that she
18 did not want to engage in sexual activity with Mr. Carr at that time. However, Ms. Doe felt that
19 acceding to Mr. Carr's demands to engage in sexual intercourse was the only way that Mr. Carr
20 would allow her to leave in order to end the encounter. Mr. Carr exerted power and control
21 throughout the encounter based upon his position, his uniform, and his actions and verbal
22 demands.

23 3.18 Mr. Carr denied allegations of coercion, and characterized the encounter as
24 mutual and consensual. Based upon the totality of the circumstances, including a well-
25 established pattern of deceit, dishonesty, and untruthfulness, as well as his demeanor throughout
26

1 the hearing and while testifying, the Hearings Panel did not find the testimony of Mr. Carr
2 regarding the findings established in paragraphs 3.16 and 3.17 to be credible.

3 3.19 The findings regarding this encounter as established in paragraphs 3.16 and 3.17
4 are based substantially upon evidence provided in the transcripts of the testimony provided by
5 Ms. Doe in her interviews with TCSO and WSP, as well as the accounts of these interviews as
6 provided in the testimony of Detective Nastansky and Lieutenant Hicks. The Hearings Panel
7 found this evidence to be credible. The consistent and parallel evidence that was provided as a
8 result of these two investigations provided further indication of the credibility of this evidence.
9 While these findings are based partially upon the hearsay statements of Ms. Doe, Mr. Carr was
10 able to cross examine Detective Nastansky and Lieutenant Hicks regarding the perceived
11 credibility of Ms. Doe and the circumstances under which those statements were made. Mr. Carr
12 was able to further rebut this evidence by offering his own testimony regarding this encounter.

13 3.20 Mr. Carr and Ms. Doe did not engage in any sexual communication or activity in
14 2018 or 2019.

15 3.21 In late 2019, Ms. Doe disclosed to her current partner, another employee at WSP,
16 that she had been involved in a long-term sexual relationship with Mr. Carr. She told her partner
17 about the sexual encounters with Mr. Carr at the church and scale house she experienced as
18 coerced and nonconsensual.

19 3.22 In October 2019, Ms. Doe's partner disclosed this information to WSP Detective
20 Sergeant Krista Greydanus. When WSP learned that the complaint included potentially criminal
21 allegations involving a sergeant, it requested TCSO to conduct an independent criminal
22 investigation. The WSP internal affairs investigation was put on hold until TCSO completed its
23 criminal investigation.

24 3.23 On or about November 12, 2019, TCSO Detective Carrie Nastansky was assigned
25 to Case #19-6291, the investigation prompted by WSP's criminal referral of the complaint
26 against Mr. Carr.

1 3.24 On November 14, 2019, Detective Nastansky interviewed Ms. Doe. During her
2 interview, Ms. Doe described her relationship with Mr. Carr as established in paragraphs 3.3 –
3 3.20 of this order, including the consensual sexual encounters and many sexual messages,
4 photos, and videos exchanged between 2012 and 2017. Ms. Doe also provided details of the
5 encounters she experienced as coercive and nonconsensual. Specifically, Ms. Doe alleged that,
6 during the encounter at the McKenzie Road Baptist Church, Mr. Carr blocked her car with his
7 patrol vehicle, gave her an ultimatum that she could either reveal the identity of the man she was
8 dating or she could give him oral sex, and then grabbed her arm causing pain and bruising when
9 she tried to leave. Regarding WSP scale house #19, Ms. Doe alleged that she repeatedly told
10 Mr. Carr she did not want to have sex, but ultimately did so because she wanted to go and she
11 felt Mr. Carr would not let her leave until she had sex with him.

12 3.25 On December 10, 2019, TCSO Detective Nastansky interviewed Mr. Carr. Also
13 present was Mr. Carr’s attorney, Lisa Elliot. Mr. Carr admitted that his relationship with
14 Ms. Doe was longstanding and sexual in nature.

15 3.26 During his interview with Detective Nastansky, Mr. Carr roughly admitted to the
16 conduct alleged by Ms. Doe regarding the sexual messages, photos, and videos exchanged
17 on-duty between 2012- 2017. Mr. Carr also admitted to the on-duty consensual sexual encounters
18 in Federal Way, at Ms. Doe’s residence, and at the WSP Academy. Mr. Carr admitted to the
19 on-duty sexual encounter at the McKenzie Road Baptist Church, but denied that it was
20 nonconsensual. Mr. Carr’s attorney concluded the interview before Detective Nastansky could
21 question Mr. Carr about the incidents at the ramp off of State Route 16 and at WSP scale house
22 #19.

23 3.27 On or about December 12, 2019, two days after his interview with TCSO
24 Detective Nastansky, Sean Carr sent an email to WSP Lieutenant Kristin O’Shannon. The email
25 states:

26 *Lt. O’Shannon*

1 *Between 2012 and 2016 I was involved with a co-worker. This woman was not a sworn*
2 *officer and she was not a subordinate. There were times when I would meet with her*
3 *while on duty and I would have consensual sexual contact with her during these meetings.*
4 *I am deeply remorseful.*
5 *Sean Carr*

6 3.28 On or about December 20, 2019, TCSO forwarded the case to the Thurston
7 County Prosecuting Attorney (TCPA) for charging. TCSO recommended the following charges
8 against Mr. Carr: Rape in the third degree, unlawful imprisonment, and assault in the 4th degree.

9 3.29 TCPA Assistant Prosecuting Attorney Megan Winder reviewed the case, and
10 interviewed Ms. Doe on February 5, 2020. Ms. Winder found Ms. Doe's allegations against
11 Mr. Carr to be credible, but was concerned that, due to the delay in Ms. Doe's disclosure, there
12 was insufficient physical evidence to prove the case beyond a reasonable doubt. Ms. Winder also
13 noted that, at multiple times during her interview, Ms. Doe expressed that she did not want to
14 testify at a criminal trial. Ms. Doe stated that it was her hope that Mr. Carr would not be permitted
15 to work in law enforcement in the future.

16 3.30 Based on Ms. Winder's concerns about her ability to prove the case at a criminal
17 trial, the TCPA declined to file charges against Mr. Carr on or about February 5, 2020.

18 3.31 On or about February 11, 2020, WSP's Office of Professional Standards removed
19 the criminal hold from its internal investigation. On or about that date, Internal Affairs (IA)
20 initiated an investigation into Mr. Carr's misconduct. The IA investigation was handled by WSP
21 Detective Sergeant Jason Hicks and WSP Detective Sergeant Krista Greydanus.

22 3.32 As part of its investigation, IA obtained images of the scale house and church
23 where Mr. Carr and Ms. Doe engaged in sexual activity. IA also obtained Facebook messages
24 exchanged by Mr. Carr and Ms. Doe between April 1, 2017 and January 31, 2018, photographs
25 of Mr. Carr's penis he sent to Ms. Doe while on-duty, and masturbation videos Mr. Carr took of
26 himself while on-duty and sent to Ms. Doe. IA noted that Mr. Carr was wearing his WSP uniform
in the explicit photos and videos.

3.33 Ms. Doe was interviewed by Detective Sergeant Hicks and Detective Sergeant
Greydanus on or about March 3, 2020. During her IA interview, Ms. Doe re-stated all the

1 information she provided to TCSO Detective Nastansky about her relationship with Mr. Carr.
2 While she stated that their relationship had mostly been consensual, Ms. Doe re-alleged that she
3 experienced aggressive, coerced, and nonconsensual behavior from Mr. Carr during the incidents
4 on the ramp off of State Route 16, the McKenzie Road Baptist Church, and WSP scale house
5 #19.

6 3.34 Mr. Carr was interviewed by Detective Sergeant Hicks and Detective Sergeant
7 Greydanus on or about April 20, 2020. During the interview, Mr. Carr admitted to being involved
8 in a long-term on-duty sexual relationship with Ms. Doe from 2012-2017, and acknowledged he
9 sent her many sexual messages, images, and videos while he was on-duty. He acknowledged
10 that each sexual encounter described by Ms. Doe occurred while he was in uniform, on-duty,
11 and driving his issued patrol vehicle. He denied that he ever acted aggressively, or that any sexual
12 encounter with Ms. Doe was coerced or nonconsensual

13 3.35 Mr. Carr acknowledged that his on-duty sexual interactions with Ms. Doe,
14 including sending explicit photos, videos, and messages, were unacceptable. When asked
15 whether the amount of time he spent creating and sending sexual photos and videos of himself
16 impaired his ability to do his job, Mr. Carr equivocated, but ultimately admitted that he “could
17 have been working more.” He further admitted that, while he was engaging in these on-duty
18 sexual acts with Ms. Doe, he could have been out “helping people” and “stopping cars.”

19 3.36 At the conclusion of his IA interview with WSP, Mr. Carr admitted to the
20 following:

- 21 • Between 2012 and 2017, he used extensive state resources to solicit and participate
22 in sexual acts with Ms. Doe on multiple occasions.
- 23 • Between 2012 and 2017, he sent Ms. Doe sexually explicit photos and videos of
24 himself while on-duty and in uniform.
- 25 • Between 2012 and 2017, he sent Ms. Doe an excessive number of electronic
26 messages while on duty.

1 3.37 OPS concluded its investigation on or about June 9, 2020. The Final Binder,
2 including all interviews, documents, and media files acquired during the investigatory process
3 was provided to Lieutenant Pete Stock, who provided the investigation to Captain Dan Hall,
4 Mr. Carr's Appointing Authority. Believing that the investigation would result in serious
5 discipline up to and including termination, Captain Hall and OPS Captain Tyler Drake elevated
6 the investigation to Assistant Chief Jeffrey Sass on or about June 22, 2020.

7 3.38 WSP had previously disciplined Mr. Carr for a major violation.

8 3.39 Mr. Carr resigned from the WSP on or about July 19, 2020. Had he not resigned,
9 the investigation and Mr. Carr's admissions would have resulted in a second major violation.
10 Had he not resigned, Mr. Carr's employment with WSP would more likely than not have been
11 terminated by Assistant Chief Sass for the disqualifying misconduct established by the
12 Petitioner.

13 3.40 Any Conclusion of Law deemed to be properly considered a Finding of Fact is
14 hereby adopted as such.

15 3.41 Based on the foregoing Findings of Fact, the Hearings Panel makes the following:

16 **IV. CONCLUSIONS OF LAW**

17 4.1 Revocation of Respondent Sean Carr's peace officer certification is governed by
18 RCW 43.101 and WAC 139-06.

19 4.2 The Washington State Criminal Justice Training Commission and this
20 Hearings Panel have jurisdiction over Mr. Carr and these proceedings. RCW 43.101.085;
21 RCW 43.101.105; RCW 43.101.380.

22 4.3 RCW 43.101.105(1)(d) provides that the Commission may revoke a peace
23 officer's certification when "[t]he peace officer has been discharged for disqualifying
24 misconduct, the discharge is final, and some or all of the acts or omissions forming the basis of
25 the discharge proceedings occurred on or after January 1, 2002."
26

1 4.4 The Petitioner bears the burden of proving “discharge for disqualifying
2 misconduct” by “clear, cogent, and convincing evidence.” RCW 43.101.010(8);
3 RCW 43.101.380(1).

4 4.5 RCW 43.101.010(8)(a)(i)(B) defines discharge for “disqualifying misconduct” to
5 include discharge resulting from conduct constituting any of the crimes addressed in
6 RCW 43.101.010(8)(a)(i)(A).

7 4.6 One of the enumerated crimes in subsection (a)(i)(A) of RCW 43.101.010(8) is
8 “any crime committed under color of authority as a peace officer.” RCW 43.101.010(8)(a)(i)(B).

9 4.7 The crime of Official Misconduct specifically requires acting under color of
10 authority as a peace officer. Pursuant to RCW 9A.80.010, a public servant may be found guilty
11 of the crime of Official Misconduct if, in an attempt obtain a benefit or to deprive another person
12 of a lawful right or privilege, they (1) intentionally committed an unauthorized act under color
13 of law, or (2) intentionally refrained from performing a duty imposed upon them by law.

14 4.8 Similar to Official Misconduct, the crime of Failure of Duty also requires the
15 perpetrator to be acting under color of authority. RCW 42.20.100 provides: “Whenever any duty
16 is enjoined by law upon any public officer or other person holding any public trust or
17 employment, their willful neglect to perform such duty, except where otherwise specially
18 provided for, shall be a misdemeanor.”

19 4.9 A peace officer fails to perform a duty that is “enjoined by law” or “imposed upon
20 them by law,” as respectively contemplated in RCW 42.20.100 and RCW 9A.80.010, if a
21 reasonably intelligent person would understand that an officer, while on duty, engaged in
22 conduct that is contrary to their duties. Order Denying Respondent’s Motions to Dismiss, dated
23 May 12, 2021, at 2.

24 4.10 During the time period in question, Mr. Carr was a public officer as defined by
25 RCW 9A.04.110(13).

1 4.11 The Panel concludes that the totality of the circumstances support a finding that
2 Mr. Carr resigned in anticipation of discipline, and that if that discipline had been carried forward
3 that Mr. Carr would more likely than not have been discharged for disqualifying misconduct.

4 4.12 The Panel concludes that Mr. Carr’s resignation in lieu of termination constitutes
5 discharge for disqualifying misconduct within the meaning of RCW 43.101.010(8).

6 4.13 The Panel concludes that Mr. Carr’s discharge is final as that term is defined in
7 RCW 43.101.010(9).

8 4.14 The Panel concludes that the Petitioner established by clear, cogent, and
9 convincing evidence that on numerous occasions between 2012 and 2017, while on-duty as a
10 peace officer, Mr. Carr intentionally used his position as a commissioned WSP trooper and
11 certified peace officer – including his ability access state property and resources – to facilitate a
12 sexual affair with Ms. Doe. Mr. Carr engaged in sexual activity on state property, including at
13 the WSP Academy and WSP scale house #19. All or nearly all of his sexual encounters with Ms.
14 Doe occurred while Mr. Carr was on-duty, in uniform, armed, and driving his issued patrol
15 vehicle. On at least one occasion, Mr. Carr admitted to leaving his assigned jurisdiction in
16 anticipation of receiving oral sex from Ms. Doe. Even when not outside of his assigned
17 jurisdiction, Mr. Carr repeatedly put his own sexual gratification over his responsibilities as a
18 Washington State peace officer. Most egregiously, two encounters with Ms. Doe included
19 nonconsensual sexual acts on the part of Mr. Carr. During his IA interview, Mr. Carr admitted
20 that, while he was engaging in these on-duty sexual acts with Ms. Doe, he could have been out
21 “helping people” and “stopping cars.”

22 4.15 A reasonably intelligent person would understand that the conduct described in
23 paragraph 4.14 is contrary to the duties of a peace officer.

24 4.16 The Panel also finds by clear, cogent, and convincing evidence that throughout
25 2012 – 2017, while on-duty as a peace officer, Mr. Carr created and sent numerous sexually
26 explicit messages, photographs, and videos to Ms. Doe. Mr. Carr took the explicit photos and

1 videos of himself in various WSP and/or government locations while on-duty and while armed
2 and wearing his WSP uniform. During his IA interview, Mr. Carr admitted that the amount of
3 time he spent creating and sending, and receiving these photos and videos impaired his ability
4 to do his job, stating “I’m regretting the fact that I could have done a lot more, uh, if I hadn’t
5 been engaged in this kind of thing.”

6 4.17 A reasonably intelligent person would understand that the conduct described in
7 paragraph 4.16 is contrary to the duties of a peace officer.

8 4.18 Regarding Count I of the Statement of Charges, Mr. Carr admits he intentionally
9 used state resources and property to facilitate a sexual relationship with Ms. Doe while on-duty,
10 which was an unauthorized act. He did so to obtain the benefit of personal, romantic, and/or
11 sexual gratification. In carrying out this sexual relationship with Ms. Doe, Mr. Carr committed
12 two nonconsensual sexual acts. While engaging in these numerous on-duty sexual encounters,
13 Mr. Carr intentionally refrained from performing the duty imposed on him by law, which was to
14 provide law enforcement services to the people of Washington State. By intentionally choosing
15 to pursue his own sexual gratification rather than use his on-duty time to perform his lawful
16 responsibilities as a peace officer, the Panel unanimously finds that Mr. Carr committed conduct
17 constituting the crime of Official Misconduct. RCW 9A.80.080. This qualifies as “disqualifying
18 misconduct” within the meaning of RCW 43.101.010(8)(a)(i)(A).

19 4.19 Regarding Count III of the Statement of Charges, between 2012 and 2017
20 Mr. Carr intentionally and repeatedly spent time on-duty creating and sending photographs of
21 his naked penis and videos of himself masturbating to orgasm in WSP and/or government
22 locations, which was an unauthorized act. He did so for his own personal benefit, and in doing
23 so intentionally refrained from performing his law enforcement duties. Mr. Carr’s actions were
24 motivated by self-interest, and were done without regard for the safety or well-being of his fellow
25 troopers or the citizens of the community he served. By intentionally using his time on-duty to
26 pursue his own sexual gratification rather than his legal responsibilities as a peace officer, the

1 Panel unanimously concludes that Mr. Carr committed conduct constituting the crime of Official
2 Misconduct. RCW 9A.80.080. This qualifies as “disqualifying misconduct” within the meaning
3 of RCW 43.101.010(8)(a)(i)(A).

4 4.20 The Panel unanimously concludes that the events described above also constitute
5 the crime of Failure of Duty, RCW 42.20.100, as alleged in Counts II and IV of the Statement
6 of Charges. It cannot be disputed that Mr. Carr’s decision to engage in sexual activity while on-
7 duty between 2012 and 2017, and his use of state resources to facilitate this sexual affair,
8 constitute a willful neglect to perform, and are contrary to, his duties as a law enforcement officer
9 as alleged in Count II. Similarly, Mr. Carr’s decision to use on-duty time between 2012 and 2017
10 to create and send numerous sexually explicit photos and videos of himself – activity which by
11 his own admission affected his ability to “do more” at work – was plainly a deliberate and willful
12 neglect of his law enforcement responsibilities, and contrary to his duty as a peace officer, as
13 alleged in Count IV. In his IA interview, Mr. Carr freely admitted to violating the WSP
14 Regulation 8.00.030 Conduct Subparagraph J, “Neglect of Duty.” Mr. Carr’s abandonment of
15 his responsibilities as a peace officer amounts to conduct constituting the crime of Failure of
16 Duty and qualifies as “disqualifying misconduct” within the meaning of RCW
17 43.101.010(8)(a)(i)(A).

18 4.21 While Mr. Carr admitted to the majority of the misconduct alleged against him,
19 he did not admit that two of his interactions with Ms. Doe included nonconsensual sexual acts.
20 The Panel unanimously concludes that even when considering only the misconduct that Mr. Carr
21 admitted, that all four counts of disqualifying misconduct alleged in the Statement of Charges
22 would be sustained by clear, cogent, and convincing evidence.

23 4.22 The Panel unanimously concludes that Mr. Carr’s disqualifying misconduct
24 warrants revocation of his peace officer certification. Mr. Carr’s actions, much of which he freely
25 admitted to over the course of two separate investigations, constitute a gross abuse of the public
26 trust he enjoyed as a certified Washington State peace officer. Between 2012 and 2017, Mr. Carr

1 repeatedly put his own self-interest before his responsibilities to the people of Washington State,
2 as well as his fellow troopers and supervisors. This was not an isolated incident, but showed a
3 pattern of repeated dishonesty, deceit, and untruthful activity committed in his official capacity
4 as a certified peace officer. This period encompasses almost half of Mr. Carr's career at WSP.

5 4.23 While the Panel would revoke Mr. Carr's peace officer certification based solely
6 upon the misconduct that he has admitted to, this case is particularly disturbing due to the
7 nonconsensual nature of two of Mr. Carr's sexual interactions with Ms. Doe. Certified peace
8 officers are entrusted with a position of power and responsibility in society. Mr. Carr exerted
9 this power and control in his personal interactions with Ms. Doe in a manner that is vehemently
10 inappropriate and cannot be condoned.

11 4.24 A peace officer certification is a privilege, not a right. It is imperative that fellow
12 officers, courts, attorneys, and the general public are able to trust that the officer is working in
13 the interest of the people, not himself. Moreover, it is the Criminal Justice Training
14 Commission's obligation to protect the integrity of its certifications. Given the facts of this case,
15 specifically Mr. Carr's repeated, gross misconduct, revocation is the only appropriate sanction.

16 4.25 Any finding of fact deemed to be properly considered a conclusion of law is
17 hereby adopted as such.

18 V. ORDER

19 Based on the foregoing Findings of Fact and Conclusions of Law and considering the
20 totality of the evidence presented, the Hearings Panel now therefore issues the following
21 ORDER:

22 That Mr. Carr's peace officer certification is hereby REVOKED.

23 DATED this 20th day of May, 2021.

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Sheriff Gary Simpson
Presiding Panel Member

NOTICE TO PARTIES

1 Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a
2 petition for reconsideration stating the specific grounds on which relief is requested. No matter will
3 be reconsidered unless it clearly appears from the petition for reconsideration that: (a) there is a
4 material clerical error in the Order, or (b) there is specific material error of fact or law. A petition
5 for reconsideration, together with any argument in support thereof, should be filed by mailing or
6 delivering directly to the Washington State Criminal Justice Training Commission, 19010 1st
7 Avenue South, Burien, Washington, 98148, with a copy to all other parties of record and their
8 representatives. Filing means actual receipt at the Commission's office. RCW 34.05.010(6).

9 A timely Petition for Reconsideration is deemed denied if, within twenty days from the date
10 the petition is filed, the Commission does not (a) dispose of the petition or (b) serve the parties with
11 a written notice specifying the date by which it will act on a petition. An order denying
12 reconsideration is not a prerequisite for filing a petition for review.

13 The filing of a petition for reconsideration does not stay the effectiveness of this Order. Any
14 such requests should be made in connection with a Petition for Judicial Review made under chapter
15 RCW 34.05.

16 Proceedings for judicial review may be instituted by filing a petition in superior court
17 according to the procedures specified in chapter RCW 34.05. The petition for judicial review of this
18 Order shall be filed with the appropriate court and served on the Commission, the Office of the
19 Attorney General, and all parties within thirty (30) days after service of this Order, as provided in
20 RCW 34.05.542(2).

21 This order was served on you the day it was deposited in the United States mail.
22 RCW 34.05.010(19).
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