

STATE OF CONNECTICUT  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
STATE MARSHAL COMMISSION  
450 Columbus Blvd., Suite 1504, Hartford, CT 06103  
Tel. 860-713-5372 Fax. (860) 622-2938  
Meeting is in North Plaza Meeting Room E at 4:30 p.m.

Draft Minutes  
STATE MARSHAL COMMISSION MEETING  
December 15, 2016

Members present: Chairperson W. Martyn Philpot, Jr., Esq., Sarah Fryxell, Esq., Robert P. LaTorraca (via teleconference call), Tracy L. Dayton, Esq., and Michael Desmond (via teleconference call). Also present were Ex-Officios Lisa Stevenson and H. Mark DeAngelis (non-voting members), Staff Director Jeffrey Beckham, and Staff Attorney Jennifer Y. Montgomery. Vice-Chairperson Michael Cronin, Esq., Mildred Torres-Ferguson, and Honorable Elizabeth A. Bozzuto were not present.

Bengana Athmane and State Marshals Joseph Marinan, Arthur Quinn, Elizabeth Ostrowski, Greg Woodruff, Julie Ingham, Travis Romano and Keith Niziankiewicz were present for the public portion of the meeting prior to executive session. State Marshal Kevin McCrewell was present for the public portion of the meeting after executive session.

Chairperson W. Martyn Philpot, Jr., Esq. called the meeting to order at 4:47 p.m.

The Commission, after a motion by Robert P. LaTorraca, seconded by Tracy Lee Dayton, Esq., voted 5-0 to add an agenda item for the inactive status request of State Marshal James Guerrero Sr. effective January 9, 2017.

Attorney Jennifer Montgomery advised that there had been a request by the Respondent in File No. 14-65 to provide oral argument and to have his matter considered on the public portion of the meeting. She suggested that this would be appropriately considered just prior to executive session.

1. Minutes: November 9, 2016 Special Meeting

The Commission, after a motion by Robert P. LaTorraca, seconded by Tracy Lee Dayton, Esq., voted 5-0 to adopt the minutes from the November 9, 2016 special meeting.

2. Final Revised Use of Force Policy

Attorney Montgomery briefly introduced the Final Revised Use of Force Policy previously considered at the November 9, 2016 Special Meeting. She advised that the primary changes from the previous Use of Force Policy were additional training requirements for marshals on the Capias Unit and those who carry firearms during their official duties. Also, the policy requires training at the POSTC Academy. There are seventy-two hour time deadlines added to the existing use of force reporting requirements. The Policy also requires marshals who carry a firearm to carry at least one additional less than lethal option while carrying the firearm. In addition, the new Policy creates training requirements for marshals who carry pepper spray or batons.

Tracy Lee Dayton, Esq., proposed a revision, deleting paragraph 5 from Section I in its entirety as it advises about the appropriate use of pepper spray, instruction which would be more properly provided in the required training. Ex-Officio Lisa Stevenson proposed that the Commission might also consider the deletion of paragraphs 4 and 6 of Section I pertaining to when the marshals should utilize pepper spray and actions subsequent to administering pepper spray. The Commission declined to do so. Ex-Officio Stevenson raised the issue of Tasers and Jeffrey Beckham and Attorney Montgomery advised that the Commission agreed at the last meeting to remove the section pertaining to Tasers, consider this issue at a later date, and draft an addendum to the policy at that time. Ex-Officio Stevenson inquired about the marshals that were currently authorized to carry a firearm. Attorney Montgomery advised that these marshals would be informed by Administrative Bulletin when the Commission sets a compliance deadline and she was going to recommend an ample deadline so that marshals have time to come into compliance with the new training mandate.

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Robert P. LaTorraca, voted 5-0 to adopt the Final Revised Use of Force Policy with the above-articulated deletion.

### 3. Legislation Update

Jeffrey Beckham introduced his suggested Commission legislative proposal which would revise those statutes pertaining to the Commission's responsibility with respect to service of restraining orders, providing certain services to the public, and auditing marshal client fund accounts to make the provisions more closely resemble the nature of the Commission and its authority and capacity. With respect to the audits, he advised that, resources permitting, we would be contracting with a firm to review the statements marshals have submitted to the Commission. With respect to the audits, Ex-Officio Stevenson inquired why the statute did not limit audits to death or complaint. Attorney Beckham advised that there are times that complaints would give rise to an audit. Ex-Officio Stevenson noted that historically audits conducted by the Auditors of Public Accounts had not uncovered major issues such as missing funds. Attorney Beckham also advised that he had met with officials at the Judicial Branch and had been advised that they would not oppose the proposal.

### 4. Commission Meeting Scheduling

With respect to the regular meeting schedule, Jeffrey Beckham introduced the question of whether the Commission should change the time and day of the week of the regular meetings in light of issues obtaining a quorum. The current schedule designates Thursdays at 4:30 p.m. for the meeting. The Commission briefly discussed and agreed that the current schedule worked. Attorney Beckham raised the topic of whether the Commission should continue permitting "calling in" to the meeting and should consider mandating in person participation. Commissioner Fryxell noted that when she was first appointed the Commission did not permit call-ins but implemented this policy to address quorum issues. Chairperson Philpot represented his belief that the Commission should strongly urge Commissioners to participate in person, but should not mandate that they do so. Attorney Beckham advised that he intended to work with the Chairperson, should we not have a quorum for a particular month, to hold a special meeting the next Thursday, if possible. Commissioner LaTorraca apologized for not attending that evening's meeting in person and advised that he had acquired a consulting position.

Attorney Beckham further raised the issue of the schedule providing for two months without scheduled meetings, to permit the staff to hold hearings and also to account for the quorum issues the Commission has historically encountered during certain months due to the legislative session and other factors. Chairperson Philpot inquired whether there was a statutory requirement that the Commission meet every month and Attorney Montgomery advised that there was not. Chairperson Philpot raised the issue of potentially there being several months without meetings if we have to cancel other meetings due to lack

of quorum. Attorney Beckham advised that, should the need arise, the Commission could hold a special meeting pursuant to the restrictions in the Freedom of Information Act for such meetings. Ex-Officio DeAngelis advised that he did not object but inquired about the back-log of complaints and inquired whether he how it would be impacted by the proposal. Commissioner Dayton noted that the proposal would permit more hearings. Attorney Montgomery noted that during off months she could hold hearings and draft pending final decisions.

The Commission, after a motion by Sarah Fryxell, Esq., seconded by Tracy Lee Dayton, Esq., voted 5-0 to adopt the proposed State Marshal Commission meeting schedule retaining the existing 4:30 p.m. time and date schedule (fourth Thursday of each month excepting the November meeting is to be held on the third Thursday of November) and providing for no scheduled regular Commission meeting in May or December.

## 5. Restraining Order Rotation

Jeffrey Beckham led the discussion of the Commission staff recommendations to fulfill the Commission's new legislative mandate to ensure timely, consistent and reliable access to a state marshal for service of restraining orders in Public Act 16-34. He noted that we had received inquiries from domestic violence advocates and the Judicial Branch regarding what actions the Commission was taking. He described the current issues with marshals missing their assigned restraining order duty and the burden on the Commission staff to address. He proposed implementing a sign-in sheet at each courthouse where restraining order duty is held, providing evidence that the marshal was there and available. He noted that Judicial has a statutory obligation under the new law to provide space for the marshals in the courthouse. We would like to use this proposal as a way to open the discussion on this issue. He noted that we recommend providing for a back-up marshal for each shift. He also proposed that the contact information for the duty marshal be made available on the website to ensure that the clerks have the ability to contact the marshals should they not attend their shifts. He indicated that the office would start utilizing a log to document when there are issues as the courthouse pertaining to restraining order duty. In addition, we would like to begin to place more onus on the clerks to contact the duty marshal.

Ex-Officio DeAngelis noted that he and Ex-Officio Stevenson had met with Attorneys Beckham and Montgomery the previous Friday and voiced their opinions. He indicated that he objected to the proposal as he did not believe it was going to work. With regards to the sign-in sheet, he noted that they used to sign in at the door like other law enforcement officers. He represented that Judicial didn't like this system and took that sign-in sheet away. He noted his belief that signing in downstairs didn't work and he didn't believe signing in upstairs would work either. As to the back-up system, he noted that they were independent contractors. He noted his belief that any back-up marshal would have to cancel his or her entire schedule without notice which was not practical. He noted that most of the courthouses are satisfied with marshal performance but that there are always going to be pockets of issues.

Ex-Officio Stevenson indicated that the marshals present had worked on a taskforce with her in the past week. She indicated that she had obtained letters from clerks who were happy with the state marshals. She indicated her belief that the sign-in sheet would not work. She objected to the online schedule and instead proposed that the marshals utilize Google calendar. She noted that more marshals would be willing to provide their cell phone numbers if they were not made available to the public and available to only the clerks and other marshals. She noted that the Advisory Board preferred to implement use of a Google calendar that each marshal could update themselves. With respect to the back-up marshals, she noted that the marshals already have the issue of back-ups covered. There are systems in place. She indicated that they need to speak with the Commission more about the systems that are already working. She did admit that there were two courthouses with issues and they were working on developing ways to

address this. She noted that, to the extent the Commission wanted a back-up system, they could just implement in the bigger courts where there are several orders issued per day.

Chairperson Philpot recognized State Marshal Arthur Quinn from Litchfield County who raised that a back-up system in Litchfield County would never work as marshals would suffer a financial hardship if they were required to serve as a back-up for marshals. He noted that there is not a significant number of restraining orders issued at his courthouse. He also represented that Litchfield had never had an issue with marshals missing mandatory duty. To the extent that there are issues, they have a system already in place. Marshal Quinn further raised that the Litchfield courthouse takes place in the call-in pilot program and he was concerned about being required to personally appear at the courthouse to sign-in. Attorney Montgomery advised that the Commission would exempt the courthouses participating in the pilot call-in program from the sign in sheet responsibility.

Chairperson Philpot recognized State Marshal Julie Ingham who indicated that they did not have issues in Litchfield and her belief that the Commission may be painting with too broad a brush and penalizing the smaller counties as a result. Commissioner Dayton indicated that it might be advisable to limit the back-up system to counties that meet a certain threshold regarding the number of orders issued per week.

Attorney Beckham inquired about the proposed Google calendar system. Ex-Officio Stevenson indicated that marshals would input their own changes and substitutions into the rotation and it would be real-time. Attorney Beckham indicated that he would be willing to incorporate this idea into his proposal once he received more information about how the calendar system works. Ex-Officio Stevenson noted her desire that the Commission work to help the marshals gain efficient access into the courthouses and parking. Attorney Beckham noted he would be happy to raise these issues with Judicial.

#### 6. Advisory Board Study - Waterbury and Stamford Restraining Order Duty

Ex-Officio Lisa Stevenson advised that the Advisory Board would be collecting data about the number of restraining orders issued by the Waterbury and Stamford courthouses during the lunchtime shift. They believe that there are not significant numbers of restraining orders issued by these courts and they would like to present data to Judicial to make the argument that these courts should be part of the call-in program. Ex-Officio DeAngelis asked for Meriden to be studied as well. Attorney Beckham clarified that the Advisory Board should collect this data and then submit it as a whole to the Commission rather than submitting it to staff on a rolling basis.

#### 7. Capias Firearm

Attorney Montgomery noted that Marshal O'Leary had previously requested his firearms request to be considered on the public agenda. The matter was tabled pending consideration of the Use of Force Policy. He had been notified that the matter was on the public agenda for this meeting but had not indicated whether or not he wanted to continue this request. Attorney Montgomery indicated that the marshal was on the Capias Unit. A psychological exam report from a licensed psychologist was received which concluded that there was nothing present to show he should not be qualified to carry. He has no disciplinary history before the Commission. The Commission, after a motion by Robert P. LaTorraca, seconded by Tracy Lee Dayton, Esq., voted 5-0 to approve the following state marshal to carry a firearm while conducting his official duties subject to the submission of the requisite training, inspection, permit and insurance documents:

Name	County
John O'Leary	Hartford

The Chairperson provided the Respondent in File No. 14-65, State Marshal Joseph Marinar, with seven minutes of oral argument before the Commission. He presented oral argument regarding the same.

Marshal Marinar argued that he should not have been cited for failure to file the execution with the court within the statutory four-month time period as he no longer had the execution in his possession at the time of the deadline. He further argued that the provision does not designate that the state marshal has to be the one to file the execution. He indicated that he had provided one month for the Complainant to find another marshal to execute the execution. As to the violation for attempting to collect under the execution from Doug Giacco, a third party, he asserted that he had not attempted to collect until he had already returned the execution to the Complainant. He claimed he did so at the Complainant's lawyer's request. He outlined what he believed that the issue in this matter was a contest between what is legal and what is honest. He objected to the Oversight Committee's finding that he should have served and collected under the execution despite his knowledge about the execution. He believed that the execution was illegal and that the judge was unaware of the facts. He argued that his honesty and integrity is "worth more" than doing what a small claims magistrate directed him to do. So instead he returned the execution to the Complainant. He stated his position that he had clearly demonstrated at the hearing that Giacco Oil was not involved in the matter and that Douglas Giacco was liable. He did so by providing a copy of a check to Douglas Giacco. He was also concerned about collecting property under the execution from a small oil company which would go out of business if he took one of their trucks. He also stated his position that the Oversight Committee "overreached" as it considered points that were not "brought up" by the Complainant in her complaint. The Complainant had written a letter stating the most he should get would be a reprimand. He disclaimed the Complainant's contention that he had a conflict of interest. He finally made an editorial comment that "justice postponed is justice delayed" and the matter had been pending for more than a year and a half.

Subsequently, Commissioners Michael Desmond and Tracy Lee Dayton, Esq. briefly discussed their proposed decision and recommended disposition. Commissioner Dayton noted that the Respondent had not presented the Commission with all of the facts. She noted that he could have failed to accept this job in the first place had he felt it was improper. Chairperson Philpot asked the Respondent why, if he felt uncomfortable or believed that the execution was problematic, he had failed to accept the job. The Respondent noted that he had not found out that there was an issue until he spoke with the office manager who represented that the work was done by their employee. The employee then admitted that he had done the work. Commissioner Desmond indicated his belief that the Respondent could have served Giacco Oil and then they could have consulted an attorney and addressed the execution with the court. Alternatively, he could have gone to the court. Instead the Respondent substituted his judgment. Also, he later served the execution on Giacco Oil even though he believed the execution was fraudulent. He then attempted to collect from Douglas Giacco when he was not named in the execution. Commissioner Dayton noted her belief that it was not the marshal's decision to amend the court's order. She also noted that the Oversight Committee had taken into consideration the Complainant's letter. In addition, she noted that the Complainant does not get to decide the scope of the complaint.

The Respondent asserted that he had a right to rebuttal. The Chairperson declined to permit rebuttal and noted that he had utilized the allotted seven minutes provided.

Ex-Officio Lisa Stevenson noted that in previous matters involving improperly handling paperwork, losing paperwork, and not returning phone calls, the Commission had imposed between a one and a three day suspension. Chairperson Philpot noted that this matter was different and did not involve an instance of losing paperwork. Instead, this was a situation where the Respondent took discretionary action in the face of an order of the court. Ex-Officio DeAngelis noted that there are often errors in papers. He also noted that he has known the Respondent for a long time and he believed he was a stand-up guy.

Commissioner Dayton addressed the length of time that had passed since the complaint had been filed and recommended a reduction in the suspension from five days to three days based on principles of equity. She noted that she believed a three day suspension was warranted as the Respondent had tried to collect money from someone who was not subject to the execution. Commissioner Desmond agreed with this reduction.

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Sarah Fryxell, Esq., voted 5-0 to adopt the findings of fact and law from the Proposed Decision and voted to change the disposition and enter a three-day suspension rather than a five-day suspension in the following file:

File No.	Name
14-65	Rogers/Marinan

The Respondent indicated that he would no longer like to serve his suspension the following week as he had previously indicated to Commission staff. Instead he stated that he would call the Commission office regarding the suspension.

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Sarah Fryxell, Esq., voted 5-0 to enter executive session. The individuals present included those listed above, with the exception of the following: Bengana Athmane and State Marshals Joseph Marinan, Arthur Quinn, Elizabeth Ostrowski, Greg Woodruff, Julie Ingham, Travis Romano, Keith Niziankiewicz, and Kevin McCrewell.

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Michael Desmond, voted 5-0 to return to the public record. No votes were taken in executive session.

#### 8. Proposed Decisions

Jennifer Montgomery

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Sarah Fryxell, Esq., voted 5-0 to adopt the Proposed Decision and dismiss the following file:

File No.	Name	
14-01	Gonzales/Purcell	Dismiss

The Commission, after a motion by Sarah Fryxell, Esq., seconded by Tracy Lee Dayton, Esq., voted 5-0 to adopt the Proposed Decision and enter a reprimand in the following file:

File No.	Name	
15-11	D'Amato/Orr	Reprimand

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Sarah Fryxell, Esq., voted 5-0 to adopt the findings of fact and law from the Proposed Decision and voted to change the disposition and enter a five-day suspension rather than a ten-day suspension in the following file:

15-72	In Re Timothy Poeti
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#### 9. Complaints

Jennifer Montgomery

The Commission, after a motion by Robert P. LaTorraca, seconded by Tracy Lee Dayton, Esq., voted 5-0 to dismiss the following files:

File No.	Name
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15-54	Spencer/Laden
15-62	Thompson/Levine
15-63	Malcolm/Conant
15-66	CT Laborers Legal Services/LaBranche
15-67	Vasco-Allen
15-70	Bengana/Dussault
15-71	Hunt/Winik
15-74	Leonetti/Paolillo
15-65	Pineda/Zaniewski
15-75	Pleines/Zaniewski

The Commission, after a motion by Sarah Fryxell, Esq., seconded by Robert P. LaTorraca, voted 5-0 to find probable cause for a hearing in the following file:

File No.	Name
15-69	Maurer/Pesiri

#### 10. Capias Firearms

The Commission, after a motion by Sarah Fryxell, Esq., seconded by Tracy Lee Dayton, Esq., voted 5-0 to approve the following state marshals to carry a firearm while conducting their official duties subject to the submission of the requisite training, inspection, permit and insurance documents:

Name	County
Peter Meshanic	Tolland
Kevin McCrewell	Tolland

#### 11. Non-Capias Firearms

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Robert P. LaTorraca, voted 5-0 to approve the following state marshal to carry a firearm while conducting his official duties subject to the submission of the requisite training, inspection, permit and insurance documents:

Name	County
Christopher Paoletti	Fairfield

#### 12. Inactive Status

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Robert P. LaTorraca, voted 5-0 to approve the following state marshal's request for inactive status due to active military service:

Name	Effective Date
James Guerrero, Sr.	January 9, 2016

The Commission, after a motion by Tracy Lee Dayton, Esq., seconded by Sarah Fryxell, Esq., voted 5-0 to adjourn the meeting at 6:22 p.m.