

STATE OF CONNECTICUT
DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE MARSHAL COMMISSION
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Meeting is in North Plaza Meeting Room J at 4:30 p.m.

MINUTES
STATE MARSHAL COMMISSION MEETING
July 25, 2019

Members present: Chairperson W. Martyn Philpot, Jr., Esq., Michael Desmond (via teleconference call), John Vamos (via teleconference call), Shirley Harrell, Esq., Bryan Cafferelli, Esq. and Honorable Susan Connors. Also present were Staff Attorney Jennifer Y. Montgomery and ex-officio members (non-voting) Julianne Ingham and Keith Niziankiewicz. Mildred Torres-Ferguson and Staff Director Douglas J. Moore were not present.

Chairperson W. Martyn Philpot, Jr., Esq. called the meeting to order at 4:41 p.m.

First Business

1. Minutes: June 20, 2019 meeting

The Commission, after a motion by Shirley Harrell, Esq, seconded by John Vamos, voted 4-0 to adopt the minutes from the June 20, 2019 meeting. Bryan Cafferelli, Esq. and Honorable Susan Connors abstained as they were not present at that meeting.

Chairperson Philpot asserted a point of personal privilege and welcomed Commissioner Susan Connors to the Commission. He acknowledged Commissioner Lisa Morgan, Commissioner Susan Connor's predecessor.

New Business

2. Addendum Audit Policy - Next of Kin Requirement

Attorney Montgomery outlined that she had, pursuant to the Commission's request drafted an addendum to the audit policy requiring marshals who engage in client fund or trust account activity provide the name and contact information of their next of kin as well as their staff-person in charge of bookkeeping. This information should be updated with their February audit filing to the extent any changes were made. This information would only be used only in the event of death and incapacitation to assist with the Commission's statutorily mandated audit.

Ex-Officio Keith Niziankiewicz acknowledged that there had been a consensus at the last meeting about the Commission directing Attorney Montgomery to draft the addendum but after discussing the issue with several marshals he felt that he needed to bring the issue back to the Advisory Board for further discussion. He noted that he had reached out to Tom at the Freedom of Information Commission and inquired whether the next of kin or bookkeeper information would be subject to FOIA. Tom noted that he believed it would be subject to disclosure although there may be a statute that may make it exempt. He noted that Betty Collins put a policy in place where a marshal would designate another marshal to take

over their pending executions. He noted his belief that his bookkeeper may not want to work with the Commission knowing that she would not be paid.

Attorney Montgomery noted that under the statutes the Commission is authorized to appoint a successor marshal. She noted that this was not what was at issue. Instead, the purpose for this requirement is so the Commission has the names and contact information for people that we need to contact and refer to the auditors of public accounts to fulfill the Commission's statutory responsibility to complete a death audit. These are the individuals who have access to passwords, account information, records and executor information because these are people who the state auditors will need to contact to complete their review.

She raised the death audit of Marshal Sullivan which was made almost impossible due to a lack of access to records and resulted in an audit report with no information by the auditors.

She also raised that there is a specific statutory exemption to FOIA for state marshal audit information in the General Statutes. Attorney Montgomery stated that she did not understand why Keith had approached FOIC about the issue. He claimed it was because the issue was not brought back to the Advisory Board and no marshals had any input into this whatsoever. Ex-Officio Julianne Ingham noted that she had provided input into the proposal. Attorney Montgomery noted that Ex-Officio Niziankiewicz had not raised concerns at the previous meeting and he sat in an advisory capacity as an ex-officio member of the Commission as a representative of the Advisory Board. She further noted that the proposal came from State Marshal Joe Heap. Ex-Officio Niziankiewicz noted that when the idea was initially discussed, it was as a survey. Ex-Officio Ingham noted that the initial discussion was a survey but evolved due to circumstances such as that with State Marshal Margaret LaBranche. Ex-Officio Niziankiewicz questioned what information State Marshal LaBranche's executor would have about pending executions. Attorney Montgomery noted that the executor is the only person with access to the actual physical records as well as information about the conduct and closure of the client fund account.

Ex-Officio Julianne Ingham noted her belief that the policy addendum is necessary due to the fact that marshals who do client fund work handle other people's money and access to the records is key in the event that a marshal dies with pending executions.

Ex-Officio Niziankiewicz again noted his belief that his wife or bookkeeper should not be mandated to cooperate with the Commission. Attorney Montgomery noted that these individuals would simply be asked to provide information about the current contents of the client fund account, whether the client fund account has been closed, whether there are current client funds in the account or current executions to the extent known. She noted that these people may have the only access to the computer, the filing cabinet and to the bank account. They may be the only individuals with knowledge of how much money is in the account, whether the account was closed and whether and how much money was transferred to the estate. Attorney Montgomery raised that when State Marshal Nick Nikola passed, his son, Eric Nikola provided his bookkeeper's information and was appointed successor marshal.

Staff Attorney Montgomery inquired whether Ex-Officio Niziankiewicz had shared or discussed her draft with any other marshals. He stated that he had not and did not know why she would ask that question. Ex-Officio Ingham noted that State Marshal Chip Quinn had called her and knew the contents of the draft.

Commissioner Bryan Cafferelli, Esq. noted that the FOIA issue seemed to be of the greatest concern to the Advisory Board. Attorney Montgomery raised that there was a statutory exemption in General Statutes § 6-38e which exempts disclosure of audit information which she believed would easily and logically apply to this information.

Chairperson Philpot inquired of the Commissioners whether there was any opposition to tabling the issue until the next meeting due to the questions raised. There was none. Commissioner Shirley Harrell, Esq. clarified that the issue to be considered was whether this information was exempt under FOIA. She inquired whether there were any other issues to consider. Ex-Officio Niziankiewicz stated that the question of whether or not the requirement was mandatory needed to be considered. Chairperson Philpot noted he had heard from individuals that the objection was whether or not, because state marshals are independent contractors, this requirement could be enforced.

Hon. Susan Connors inquired whether Ex-Officio Niziankiewicz was concerned about the next of kin as well as the bookkeeper. He noted that the issue is with both. He noted that state marshals do not want their next of kin contacted. He noted that when State Marshal Chip Quinn was shot, the newspaper published his home address.

Attorney Montgomery noted that the Commission office is very respectful when contacting the executor understanding that this person is often the spouse. She further noted that it is difficult to know who to contact and without contact information often the Commission office staff must do a lot of legwork without proper staffing.

Ex-Officio Niziankiewicz noted that he would bring more specifics regarding the Advisory Board's objections to the next meeting. He noted that his job was to explain that he was getting feedback about giving the next of kin and bookkeeper information and whether they would be willing to actually deal or talk with the Commission when they don't really know anything. Hon. Susan Connors noted that they were being contacted so that the audit could take place. Attorney Montgomery noted that often the executor or executrix is the only individual with information about the bank account and sometimes they are only people with access to the bank account, so the Commission needs cooperation of two individuals. Ex-Officio Niziankiewicz noted he would bring the information about the FOIA exemption to the Advisory Board.

3. Advisory Board

a. State Marshal Commission Office Staffing

Ex-Officio Julianne Ingham noted that the Commission office is down to bare bones as far as staffing. There had been an incident where there was a restraining order issue and the Court could not get ahold of anyone in the Commission office due to vacations. She stated her belief that the office needed support. She emailed Doug Moore about the issue. He responded that he had made a request for a secretary to OPM but these requests must go through three levels at OPM before a position is authorized. He noted that he had several pending submissions for the facilities division that had been returned without approval. Ex-Officio Ingham requested that the Commissioners assist. Chairperson Philpot noted that he had put in a call to Paul Mounds in the Governor's Office and had not heard back. He noted that he would continue to inquire regarding the Governor's intentions. Ex-Officio Ingham asked whether or not the Commission could send a letter to either the DAS Commissioner or the Governor's Office. Chairperson Philpot requested that Attorney Montgomery draft the letter.

b. Judicial Branch Response to Advisory Board TRO proposal

Ex-Officio Julianne Ingham noted that they had several proposals for Judicial regarding restraining order duty. She suggested that the best course of action would be for Doug Moore to

set up a meeting at Judicial to discuss and fine tune the proposed changes. She noted of particular concern is the fact that the policy provides for mailing out of county restraining orders. She noted that they would like the policy updated to permit faxing or emailing the order and utilizing the court service center. Chairperson Philpot noted that he was concerned with the process. He understood that there was an email from Ex-Officio Ingham as well as a letter from State Marshal Chip Quinn that were sent directly to Judicial and the response Chairperson Philpot received noted that the policy was an agreement made between the Commission and Judicial. Attorney Montgomery noted that she could not locate the Memorandum of Understanding (MOU). She recommended that the Commission office facilitate restarting the process by calling Johanna Greenfield and arranging a meeting to discuss the issues at a lower level and see if the Commission office could obtain a copy of the MOU.

Chairperson Philpot noted that he did not object to a meeting but wanted to ensure that whatever is decided comes back to the Commission for its stamp of approval and to make any agreement binding. Attorney Montgomery assented and noted that any recommendations would be brought to the Commission for approval before implementation. Hon. Susan Connors inquired how to obtain the proposed changes. Attorney Montgomery noted that she had circulated the emails from Ex-Officio Ingham and State Marshal Chip Quinn to the Commissioners with her first email. Ex-Officio Ingham noted she would forward them.

[Deliberations proposed for executive session pursuant to Sections 1-200 and 1-225 of the Connecticut General Statutes to discuss the appointment, performance, evaluation, health or dismissal of a public officer]

The Commission, after a motion by Bryan Cafferelli, Esq., seconded by Shirley Harrell, Esq., voted 6-0 to enter executive session.

The Commission, after a motion by Bryan Cafferelli, Esq., seconded by Shirley Harrell, Esq., voted 6-0 to return to the public record. No votes were taken in executive session.

4. Complaints

The Commission, after a motion by Shirley Harrell, Esq, seconded by Bryan Cafferelli, Esq., voted 6-0 to dismiss the following files:

File No.	Name
19-01	In Re Freedman -- 2018 Client Fund Filing
19-02	In Re Gahan -- 2018 Client Fund Filing
19-04	In Re Paolillo -- 2018 Client Fund Filing

The Commission, after a motion by Bryan Cafferelli, Esq., seconded by Honorable Susan Connors, voted 6-0 to find probable cause for a hearing in the following file:

File No.	Name
19-03	In Re Lakowsky -- 2018 Client Fund Filing

5. Request to Extend Inactive Status

The Commission, after a motion by Bryan Cafferelli, Esq., seconded by Honorable Susan Connors, voted 6-0 to grant the following marshal's request to extend his inactive status for a period of one year:

Name	County
James J. Guerrero	Middlesex

6. Request for Inactive Status

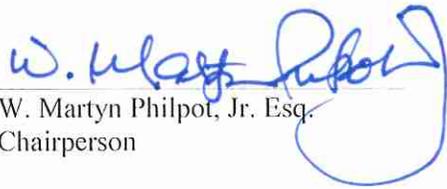
The Commission, after a motion by Bryan Cafferelli, Esq., seconded by Shirley Harrell, Esq., voted 6-0 to grant the following marshal's request to go on inactive status for a period of one year:

Name	County
Domenic Balletto	Fairfield

The Commission, after a motion by John Vamos seconded by Bryan Cafferelli, Esq., voted 6-0 to adjourn the meeting.

The meeting was adjourned at 5:57 pm

Minutes were adopted by the State Marshal Commission at its August 15, 2019 special meeting


W. Martyn Philpot, Jr. Esq.
Chairperson