

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
September 26, 2019

Members present: Chairperson W. Martyn Philpot, Jr., Esq., Shirley Harrell, Esq., Michael Desmond (via teleconference call), Bryan Cafferelli, Esq.(via teleconference call), Honorable Susan Connors (via teleconference call), Mildred Torres-Ferguson (via teleconference call), John Vamos (via teleconference call), Attorney Jennifer Y. Montgomery (via teleconference call), Staff Director Doug Moore, Administrative Assistant Gina Samples and Ex-officio Members (non-voting) Thomas Burke and Lisa Stevenson (non-voting).

Chairperson W. Martyn Philpot, Jr., Esq. called the meeting to order at 4:35 p.m.

As an initial matter, Chairperson W. Martyn Philpot, Jr., Esq. confirmed all members and persons in attendance.

Chairperson W. Martyn Philpot, Jr., Esq. took a moment of personal privilege and welcomed Ex-officio member Lisa Stevenson back to the Commission and Thomas Burke who was introduced at the August Meeting.

First Business

1. Minutes: August 15, 2019 special session meeting minutes

The Commission, after a motion by Bryan Caffarelli, Esq. seconded by John Vamos, voted 7-0 to adopt the minutes from the August 15, 2019 special meeting.

New Business

2. Commission Office

State Marshal Commission Staffing Issues

Staff Director Douglas Moore gave an update on the hiring of Staff Attorney II which has been approved and posted. The plan is to commence interviewing next week. In regards to the Secretary 1 position, it is still pending, and do not have any changes to report on the status of the position.

Chairperson W. Martyn Philpot, Jr., Esq. noted Gina Samples in attendance who is performing the functions of the secretary during the transition by recognizing the excellent work she has contributed to the State Marshal Commission and expressed his thanks on behalf of the commission.

Director Douglas Moore had another matter to discuss in reference to the General Assembly requirement of a gender and racial composition bi-annual report of the board. Each board member identified their gender and racial identity. Submission of the report is due by October 1st, 2019.

Chairperson W. Martyn Philpot, Jr, Esq. remarked that a follow up to the correspondence written by Jennifer Montgomery, Esq. ex-SMC attorney to the COO Paul Mounds on the state of the State Marshal Commission staffing issues, he scheduled a meeting on Tuesday, 9/24/19 at the Capitol with Mr. Mounds. However, Mr. Mounds had an emergency so he was able to continue the meeting with his assistant, Deputy Ben Arsenault to explain the origin on the issue of the State Marshal Commission staffing needs and how it relates to the service. Ben Arsenault stated he would follow up with Director Douglas Moore to get a better assessment in regards to the correspondence sent to Mr. Mounds of staffing concerns. Chairman W. Martyn Philpot, Jr, Esq. is optimistic that some action will be done and will leave this subject open ended to what comes to fruition.

3. Restraining Order Duty/Online Calendar

Director Douglas Moore stated that an October to January paper version of the restraining order duty has been created, as we continue to work with BEST for the online calendar. Anticipates the online calendar would be functional in the next week or two, when the online calendar goes live we will notify the marshals via Administrative Bulletin. As of today's meeting we are down to 10 marshals are have not registered on BIZNET. Mr. Moore recognized the ex-officio marshals with assisting to get marshals registered. Gina Samples will be working on instructions for how to amend/ change of restraining order duties.

Ex-officio Marshal Thomas Burke asked the question of what happens if a marshal does not have access to a computer. Director Douglas Moore replied then the marshals will have to get familiar with the computer system or may need someone to assist them. The system is user friendly. Will send a bulletin out to the marshals upon completion to advise them of the new operational system.

Ex-officio Marshal Stevenson commented this is a plus for the courts and the marshals.

4. DMV Access for State Marshals

Staff Director Douglas Moore stated DAS continues to provide access with the assistance of Roz White In the Commissioner Office. DAS, DMV and the Connecticut Justice Information System (CJIS) is presently working on an online system to provide marshals with direct access to DMV information via the internet. He explained that the program is in draft stage right now and is still working on the user agreement and other items with DMV. Projected timeframe for release may be in two months but no solid timeframe.

Chairperson W. Martyn Philpot, Jr, Esq. reiterated the board memorandum of comprehension of the existing the agreement with DMV was supposed to expired at the end of the month. Director Moore explained that it was cancelled in February and continues to extend the service verbally and has not extend by letter. The goal is DAS would continue to provide access until the new program is up and operational. Doug stated that Marshals will have to become computer efficient to access the new system, as the system will be user specific to the marshal user profile.

Ex-officio Thomas Burke asked the question if the new online system will accrued a service fee and how much will be, will it be monthly or annually.

Doug Moore stated to his understanding there will be a charge for this service; Doug asked Millie if she could elaborate on this subject.

Mildred Torres-Ferguson commented they are two cost. There is the initial start-up cost which DMV is talking to DAS, OPM and the Governor's office on how to cover the additional cost. And, then it is pro look up fee which is anyone looking for a person doing a look up which is \$20 a person. She is not sure what the rate is at this point. However, pricing is still be explored to make it affordable to the marshals and the criteria for what is considered a found hit. Marshals will also have to give a reason why they are looking up a person in the system. DMV want to ensure the system is used properly.

Ex-officio Thomas Burke hopes the commission will take it very serious if a marshal(s) misuse the system.

Judge Connor raised a concern about the new system as it relates to identifying the reason a marshal is using the search app. Is there any other reason a marshal will do a lookup. Mildred Torres-Ferguson explained the drop list of reason a marshal will have to listed also determines if is waived or not.

Judge Connor state her concern is the specific reason marshal would be searching the system using the dropdown feature and would there be any other reason as to why would need to do a search.

Mildred Torres-Ferguson explained that the dropdown feature would specify what search was and there is an auditing component to the system to track the marshal's usage.

Chairperson W. Martyn Philpot, Jr, Esq. asked Director Moore if he can explained what CJIS means for all present. Director Moore explained that the Connecticut Justice Information Exchange System (CJIS) is law enforcement state agency whose function is to get access from the criminal justice agencies within the state. Their technical capability is to be used by agencies with criminal justice responsibilities to improve the sharing of actionable information to those agencies involved in the management of crime data.

Mildred Torres-Ferguson explained that this program is only supposed to be used for public safety services they will be a drop-down list of reasons that a marshal will have to select in addition to an auditing process will be in place on the system. Director Moore explained that the CJIS did a site visit with Roz White to get an understanding of the calls and access needed. Mildred Torres-Ferguson clarified that this program is only used for public service programs. In the past was not sure they would allow it for marshals but since then it and all that has happened it was reevaluated to allow access, however, if it is not used properly is problematic. Director Moore explained that it would be the first time this information would be granted via internet not intranet through the state system, one of the reason it is taking longer.

Ex-officio Thomas Burke question if the information on the online system would be updated and live like if a marshal called the DMV marshal line. Mildred Torres-Ferguson confirmed the information would be live updated information.

Ex-officio Thomas Burke related to Mildred Torres-Ferguson a suggestion he had a few months ago to the integrity and security of the system by having the marshal input the person/defendant information so one's history would be tracked or misused the system.

Mildred Torres-Ferguson replied she was not certain if that was built into the system but she would ask Gail at DMV on the process.

Ex-officio Thomas Burke requested from the commission to allow marshals to cost back on services for the fees for the use of the new system.

Mildred Torres-Ferguson explained that cost back is statute and would have to be done by the legislative. Chairperson W. Martyn Philpot, Jr, Esq. commented that the legislative will have to amend or change the statute. Director Moore reconfirmed that cost back of service will have to be taken up with the legislature likely in the next session.

Ex-officio Lisa Stevenson commented that the capias unit performs on weekends and after hours so this new system would give them better access on the civil process side which they are not presently able to access on the DMV marshal line due to the hours of operation.

Chairperson W. Martyn Philpot, Jr, Esq. and Director Moore asked if the ex-officio members have had any success with the state police. Both ex-officio members replied the state police has not been successful for many reasons.

Director Moore explained that under the MOU the state police is open 24 hours for marshals to call for information if needed. For which both ex-officio parties explained was not successful and useful for them.

5. Proof of Liability Insurance and Annual Fees

Director Moore reports that all marshals are in compliance with proof of liability insurance, except for two, Marshal Poeti and Marshal Barnes who have been placed on temporary suspension. The office has requested response from each party.

Marshal Poeti has not responded as to the reason he has no insurance.

Gina Samples spoke to Marshal Barnes on his cell number whose reason for not getting insurance because he was suspended plus it would cause him hardship at this time. Doug Moore stated his suspension ended the latter part of July 30th approximately and was on active status, currently as of 8/16, Marshal Barnes status is suspended.

Doug Moore stated that Marshal's Poeti and Barnes have not responded to notices as of why they have not purchase liability insurance and these matters will be pended, until a Staff Attorney is on board.

Annual Fees

State Marshal annual fees this year has been handled by the business office which is due October 1, 2019. No statistics on how many marshals have paid as of today.

6. Whittlesey Consulting Client Fund Accounts

Director Moore received a report from Whittlesey all marshals are in compliance.

Jennifer Montgomery ex SMC attorney states that the commission does not need to do anything at this time. The State Marshal Commission set a standard last year once we received a final report due to 3 marshals that failed to respond to Whittlesey requests and file the proper reports. The Commission voted to issue a complaint against those marshals and since implementing this process for this current reporting year, marshals have been compliant. Currently, one marshal failed to submit his a full reconciliation due to legal matters against his former officemate and has not been able to have access to his office material. Waiting this marshal legal proceedings to be completed. The marshal has requested extensions and has openly communicated on his situation. He advised the office prior to the deadline.

7. DOC Service of Process (CGS 52-54 Summons)

Director Moore stated a few meetings ago, marshal complaints servicing issues to Correctional Officers in their individual capacity who are based on Correctional Facilities. Department of Corrections (DOC) has setup a policy that a DOC designated person accepts it but that does not fully comply with the law so they have proposed language to put it into law that a Department of Correctional personnel can be a recipient of service and act as agent for a Correctional Officer who is being sued in their individual capacity. The Department of Correction would like to know if the State Marshal Commission is supportive of this language as they anticipate submitting in the next session in February.

Chairperson W. Martyn Philpot, Jr, Esq. questioned Jennifer Montgomery, Esq. if there is any reason why the State Marshal Commission should or should not support this policy.

Jennifer Montgomery stated that she thought this language is a direct result from reaching out to and a conversation she had with Terrence (Terry) O'Neill at the Attorney General's Office, he contacted the attorney general's legislative liaison, Nicole Lake and she then contacted the attorney general legislative liaison at Department of Corrections (DOC) who put this language into effect. Jennifer Montgomery stated that former Ex-officio Julie Ingham was involved in this process and ensured the language was mirrored, when an agent is serving a municipal police department with a subpoena.

Jennifer Montgomery stated she thought this would assist to in solving multiple problems with service on correction officers when the state marshals are serving innumerable inmate complaints.

Ex-officio Lisa Stevenson has been working with one of the assistant attorney generals and stated this language does not meet the statutory requirement for serving someone in their individual capacity. The reason why the Attorney General dismissed multiple cases from the inmates, which in turn resulted the marshals to be served as improper service and leading to multiple marshals being sued. Lisa Stevenson stated this is a huge problem and has been working with the AG's office on finalizing the language to best suit the marshal's interest.

Ex-officio Thomas Burke discussed the problem when correctional staff gets moved (promotion or change in county) the marshal's do not have access to that information and existing departmental staff may not share where that person has gone. He stated what happens to the marshals, when the inmates sue the marshals the cost factor is a \$500 deductible for every lawsuit and if multiple suits are filed it can become costly.

Chairperson W. Martyn Philpot, Jr. directed question to Attorney Jennifer Montgomery, after hearing the concerns is it her view that this language does not completely fix the problem of in-hand service.

Jennifer Montgomery, Esq. in hand service language was not able to review it in detail, due to time and stated that a lot of the issues could be reviewed with the legislature.

Hon. Susan Connors stated she did a short review and believes they are trying to remedy the problem by designating an agent for service for those corrections officers.

Chairperson W. Martyn Philpot, Jr, Esq. stated that the matter would be tabled and Jennifer Montgomery, Esq. will review the language and give her opinion on whether or not to the commission should support language.

Jen Montgomery, Esq. asked a question, if there was a legal deviant that the language is insufficient; and stated she was not exactly sure what the issue is, as the attorney general's (AG) office was instrumental in getting language support. Terrence (Terry) O'Neill is in charge of the unit that handles all inmate cases and he is in favor of getting this problem resolved.

Chairman Martyn Philpot asked Ex Officio, Lisa Stevenson her response to this language that is new and Lisa Stevenson stated it is still does not meet the criteria, there is a loophole. Ex-Officio, Thomas Burke state it does not meet the statute and there are issues that still need to be resolved.

[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 Shirley Harrell Esq., seconded by Judge Connor, voted 7-0 to enter executive session.

Director Moore asked for Gina Samples who has been performing administrative functions for the commission and Jennifer Montgomery, Esq. former legal attorney to be present during executive session.

Ex-officio Thomas Burke asked what the criteria to stay in executive session is. Director Moore explained the criteria of being invited to an executive session and why permission was being asked for the additional two parties.

Chairperson W. Martyn Philpot, Jr, Esq. explained that executive sessions are confidential and is not for discussion outside the session.

Jennifer Montgomery, Esq. remarked that she consulted with the Freedom of Information commission as far as her participation and they said there is nothing in the statute to excluded parties who are interested parties.

The Commission, after a motion by John Vamos, seconded by Shirley Harrell, Esq., voted 7-0 to return to the public record.

8. Addendum Audit Policy – Next of Kin Requirement

W. Martyn Philpot, Jr., Esq.

The Commission, after a motion by Judge Susan Connors, seconded by Mildred Torres-Ferguson, voted 7-0 to approve the addendum audit policy

9. Proposed Decision

The Commission, after a motion by Mildred Torres-Ferguson, seconded by Judge Susan Connors voted 7-0 to approve the recommendation of the oversight committee

File No.	Name	Oversight Committee
16-47	Barcello-Kemp	Vice-Chairperson Shirley Harrell, Esq. Bryan Cafferelli, Esq.

10. Request to Extend Inactive Status

W. Martyn Philpot, Jr., Esq.

The Commission, after a motion by John Vamos, seconded by Mildred Torres-Ferguson, voted 7-0 to extend inactive status.

Name	County
Sean Cassidy	Middlesex

11. Request for Inactive Status

W. Martyn Philpot, Jr., Esq.

The Commission, after a motion by Judge Susan Connors, seconded by John Vamos, voted 7-0 to approve inactive status.

Name	County
Timothy Poeti	Fairfield

12. Request to Reinstate to Active Status

W. Martyn Philpot, Jr., Esq.

The Commission, after a motion by Judge Susan Connors, seconded by Brian Cafferelli, Esq., voted 7-0 to approve reinstate to active status.

Name	County
Dominic Balletto	Fairfield

13. Retirement/Resignation

W. Martyn Philpot, Jr., Esq.

The Commission, after a motion by John Vamos, seconded by Mildred Torres-Ferguson, voted 7-0 to Approve the following retirement with retirement badges.

Name	County
Michael Cassidy	New Haven

Name	County
Vincent Messina	New Haven

14. State Marshall Robert Tasillo

Chairperson W. Martyn Philpot, Jr, Esq. stated this item will be taken up once an attorney is on staff. For the State Marshal Commission.

The Commission, after a motion by Mildred Torres-Ferguson seconded by John Vamos, voted 7-0 to adjourn the meeting.

The meeting was adjourned at 5:40 pm