

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 J at 4:30 p.m.

MINUTES  
STATE MARSHAL COMMISSION MEETING  
January 24, 2019

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

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

First Business

1. Minutes: November 29, 2018 meeting

The Commission, after a motion by John Vamos, seconded by Shirley Harrell, Esq., voted 4-0 to adopt the minutes from the November 29, 2018 meeting. Honorable Lisa K. Morgan abstained as she did not attend the November 29, 2018 meeting.

Old Business

2. Resolutions for Departing Commissioners

Staff Attorney Jennifer Montgomery raised that one of the former ex-officio members of the Commission, State Marshal Thomas Burke, asked that the Commission consider issuing resolutions to departing ex-officio members. In addition, Attorney Montgomery inquired whether the Commission wanted to retain discretion when issuing resolutions going forward. In particular, she noted that the Commission may want to decline to issue a resolution where the Commissioner was removed from the Commission or left the Commission under bad circumstances. Chairperson W. Martyn Philpot, Jr., Esq. noted his position that the Commission should retain discretion when issuing resolutions. Honorable Lisa K. Morgan and John Vamos noted their agreement. Attorney Montgomery inquired whether the Commission would like to issue resolutions to former ex-officio members Burke and Lisa Stevenson, as they departed from the Commission during the time period for which Commission already issued resolutions to departing appointed Commissioners. There was a general consensus that the Commission should issue said resolutions. Attorney Montgomery is preparing said resolutions for adoption at the next meeting.

New Business

3. Report on Capias Unit State Vehicles

Ex-officio Julianne Ingham provided a report regarding the capias vehicle which was recently relocated to Cheshire. She noted that it was much more frequently utilized since the move due to its centralized

location. She also noted that more Hartford County marshals are utilizing the vehicle and it had been driven approximately 800 miles. Ex-officio Keith Niziankiewicz noted that the capias vehicle situated in Eastern Connecticut had been well-utilized as well this year.

#### 4. Compliance with Mandatory Online Protective Order Registry

Staff Attorney Jennifer Montgomery raised that she had had a conference call with Johanna Greenfield and Toby Padegenis at the Judicial Branch regarding state marshal use of Mandatory Online Protective Order Registry. Attorney Montgomery noted that the Commission staff had issued an administrative bulletin after the October Commission meeting reminding marshals of the obligation to use the Registry after which 18 additional marshals signed up for the Registry. The Judicial Branch ran a report of Registry use which shows that just over 50 marshals are apparently not using the Registry. The report specifically outlines which marshals have registered for the Registry and also shows how many restraining orders were entered by each marshal during a certain time period. The Commission staff analyzed the report and removed marshals who have ongoing coverage for their restraining order duty and those who have retired, died or are on inactive status. Attorney Montgomery noted that the staff is proposing combating the failure of compliance with a two-step process. First, the Commission staff will send a letter directly to the marshals who the report indicates are not utilizing the Registry informing them that they must come into voluntary compliance by April 1, 2019. Then, Judicial could run a second report and the Commission could pursue discipline of those marshals who have not come into compliance. Ex-officio Keith Niziankiewicz raised that some marshals, like himself, may not have served restraining orders during the period encompassed by the report. Attorney Montgomery noted that she accounted for those marshals who obtain coverage of their restraining order rotation shifts and marshals are supposed to report this coverage to the Commission.

Ex-officio Julianne Ingham noted that, in her county, there was a marshal who had been continuing to serve police departments with served restraining orders and then billing and receiving payment from the Judicial Branch for the additional mileage. Director Moore inquired whether language could be added to the letter indicating that the information we received from Judicial may be incorrect and providing the opportunity for the state marshal to submit information to the Commission office. Attorney Montgomery indicated that this was possible. She noted that this report only contains information that the office had asked for, namely how many restraining orders were entered. She also noted that Judicial had indicated those marshals who are inappropriately asking Judicial Branch staff to enter their service information into the Registry. She suggested that they tailor the letter to different issues at play and also provide the opportunity for the marshal to explain their lack of use. Ex-Officio Ingham raised the idea of having the marshals maintain their own restraining order duty calendar on a shared Google calendar and input when another marshal is providing coverage. Attorney Montgomery noted that this does not fit within the scope of this agenda item. She suggested that the Commission discuss at the next meeting. She further suggested that she meet with Ex-officio Ingham and other marshals to consider the rotation issues prior to the meeting.

As to the proposed letter, Attorney Montgomery noted that they would be providing until April 1, 2019 for marshals to come into compliance. She noted that there are three categories of marshals to address: those who are registered and are not using the Registry, those who are not registered, and those who are utilizing Judicial Branch staff to enter their service information. Commissioner John Vamos inquired whether there was a statutory penalty for noncompliance with this law. Attorney Montgomery noted that there is none but that the standards of conduct require state marshals to follow the laws of the State of Connecticut. Commissioner Shirley Harrell clarified that we are asking for voluntary compliance. Director Moore indicated his belief that the letters should provide until April 1, 2019 to come into compliance, at which point Judicial will run another report. If marshals are still not in compliance, the Commission will initiate a complaint. Attorney Montgomery clarified that all complaints provide an opportunity for the marshal to file a written response.

The Commission, after a motion by John Vamos, seconded by Honorable Lisa K. Morgan, voted 5-0 to adopt Attorney Montgomery's proposal regarding state marshal failure to use the mandatory Online Protective Order Registry for service of restraining orders.

5. Letter from Attorney Joseph Burns re: Service on Department of Corrections Employees in their Individual Capacity

Attorney Montgomery raised that the Commission had been copied on a letter from Attorney Joseph Burns who frequently represents state marshals on behalf of their insurance carrier. The letter was directed to State Marshal Arthur Quinn, Chairperson of the State Marshal Advisory Board and addressed the issue of state marshals serving Department of Corrections' employees in their individual capacity at work. Apparently, after discussions with Attorney Burns, the DOC Legal Affairs Unit has issued a directive that each DOC facility designate an agent to receive service on behalf of DOC employees at that facility when they are sued in their individual capacity. Attorney Montgomery noted that while this seems like a solution to the service issue, the law does not permit the DOC to appoint an agent for individual capacity service. She noted that the law does permit this appointment in other areas such as service of subpoenas on police officers. Attorney Burns has requested that either the Advisory Board or the Commission staff circulate the directive. Attorney Montgomery expressed concerns about this request, as marshals following the directive may still see the Attorney General move to dismiss their client's cases for failure of service as there is no statutory mechanism to appoint agents for service.

Ex-officio Ingham noted that she had contacted the Legal Affairs Unit attorney at DOC and she was going to reach out to the AG's office. Honorable Lisa K. Morgan noted that she had the same concerns as Attorney Montgomery. She noted that she did not believe the DOC had the legal authority to accept service on behalf of all employees and the AG would move to dismiss.

Chairperson W. Martyn Philpot, Jr., Esq. inquired whether it would be advisable for the Commission to request an opinion from the AG's office on this issue. Attorney Montgomery noted her belief that this is plain on the face of the statute. She also indicated her belief that the request for an opinion would more appropriately come from the DOC Legal Affairs unit as they are the office issuing the directive. She noted that the Advisory Board was pursuing legislation to address the service issue and her recommendation is that the Commission simply wait and see what happens. Chairperson W. Martyn Philpot, Jr., Esq. inquired whether the Commission should respond to Attorney Joseph Burns. Attorney Montgomery indicated that the office was simply copied on the letter and a response was not necessary but she would orally follow up with Attorney Burns and with DOC Legal Affairs attorney O'Brasky referenced in the letter. Commissioner Morgan noted that, in her experience, inmates rarely meet the standards to successfully sue a DOC employee's in his or her individual capacity. Commissioner Vamos inquired about the legislative proposal and Ex-officio Ingham described the efforts of their lobbyist to amend the law to permit individual service on the AG's office. Commissioner Harrell clarified that the Commission staff would not be pursuing an opinion. Attorney Montgomery noted that, with the permission of the Commission, she would reach out to both Attorney Burns and Attorney O'Brasky on the issue. She noted her belief that the DOC is the appropriate agency to request an opinion of the AG's office as it is their directive.

[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 Honorable Lisa K. Morgan, seconded John Vamos, voted 5-0 to enter executive session.

The Commission, after a motion by John Vamos, seconded by Shirley Harrell, Esq., voted 5-0 to return to the public record. No votes were taken in executive session.

## 6. Proposed Decisions

The Commission, after a motion by Shirley Harrell, Esq., seconded by John Vamos, voted 4-1 to adopt the findings of fact, findings of law, and disposition in the Proposed Final Decision of the Oversight Committee in the following matter:

File No.	Name	Disposition
17-20	Gagliardi/Barnes	7 Day Suspension

Honorable Lisa K. Morgan opposed noting that she was in favor of a suspension but not in favor of the proposed penalty as she believed it should be higher given the nature of the violation.

The Commission, after a motion by John Vamos, seconded by Shirley Harrell, Esq., voted 4-1 to adopt the findings of fact, findings of law, and disposition in the Proposed Final Decision of the Oversight Committee in the following matter:

File No.	Name	Disposition
17-50	Brissett/Barnes	30 Day Suspension

Honorable Lisa K. Morgan was opposed for the same reason on the record for File No. 17-20 Gagliardi/Barnes.

The Commission, after a motion by John Vamos, seconded by Shirley Harrell, Esq., voted 4-1 to adopt the findings of fact, findings of law, and disposition in the Proposed Final Decision of the Oversight Committee in the following matter:

File No.	Name	Disposition
17-53	Roman/Barnes	14 Day Suspension

Honorable Lisa K. Morgan was opposed for the same reason on the record for File No. 17-20 Gagliardi/Barnes.

The Commission, after a motion by John Vamos, seconded by Shirley Harrell, Esq., voted 3-2 to adopt the findings of fact, findings of law, and disposition in the Proposed Final Decision of the Oversight Committee in the following matter:

File No.	Name	Disposition
17-63	Esposito/Barnes	90 Day Suspension

Chairperson W. Martyn Philpot, Jr., Esq. was opposed and Honorable Lisa K. Morgan was opposed for the same reason on the record for File No. 17-20 Gagliardi/Barnes.

7. Complaints

The Commission, after a motion by Honorable Lisa K. Morgan, seconded John Vamos, voted 5-0 to find probable cause for a hearing in the following file:

File No.	Name
18-37	Michalski/Privitera

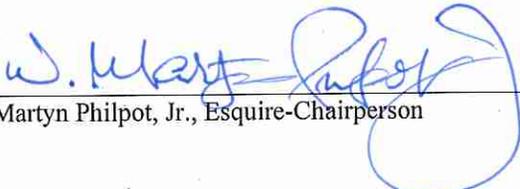
The Commission, after a motion by Honorable Lisa K. Morgan, seconded John Vamos, voted 5-0 to dismiss the following files:

File No.	Name
18-39	Vashalifski/Laden, S.
18-42	Cucka/Makowski
18-43	Cranston/Salafia
18-44	Capra/Lombardi
18-45A	Abrams/Goulet
18-46B	Abrams/Privitera
18-47	Keogh, Burkhart & Vetter/Carusone

The Commission, after a motion by Shirley Harrell, Esq., seconded by John Vamos, voted 5-0 to adjourn the meeting.

The meeting was adjourned at 5:56 p.m.

Minutes were approved by the Commission on February 28, 2019.

  
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W. Martyn Philpot, Jr., Esquire-Chairperson