

**The following, in red, are BD's comments on the two previous proposals for a new Personnel Policy:**

**Barry Del Castilho's proposal**

[General comment: To what degree do we establish a policy that is intended to dictate what the SB does, as opposed to giving guidance as to what is expected. One possibility is a statement that the "shalls" do mean shall, absent a *specific, detailed finding* by the SB in executive session that circumstances indicate otherwise. This would give the SB some flexibility but require the SB to think hard about making an exception to what would otherwise be the rule.]

a. When "probable cause" regarding a "serious" crime [felony?, not including a misdemeanor?] is found by a law enforcement official or court, or so judged by the Select Board [would the SB judge probable cause?], against a Town employee, that employee *shall* be, at a minimum, placed on administrative leave (with or without pay, at the discretion of the SB with advice from town counsel]. A "serious" crime [would be defined with the help of Town Counsel, but certainly would include an alleged incident of sexual assault] is defined as ..... "Probable cause" [is an imprecise term, which also would be defined with the help of Town Counsel, but is a term that essentially means] is defined as ....

[Apparent facts discovered through logical inquiry that would lead a reasonably intelligent and prudent person to believe that an accused person **has committed** a crime, thereby warranting his or her prosecution. ]

[The following is an explanatory comment that may or may not be included in the policy:] A "probable cause" recommendation or finding by an agent of the criminal justice system is a serious matter. If the facts warrant prosecution, then the facts [always?] warrant removal from official duties.

b. No *applicant* shall be employed when "probable cause" has been found and is pending against that applicant.

c. Nothing in the foregoing shall limit the Select Board's authority to impose a greater level of discipline on such an employee.

[This does not specifically address hiring decisions regarding those who have been convicted but who have completed their sentences.]

## Zack Turner's proposal [changes/comments by Barry Del Castilho]

### Personnel Policy Addition:

#### Suspension (Pending Investigation of Misconduct):

##### Conduct on Duty

An employee ~~may~~ shall be suspended when his/her inappropriate conduct is so serious that immediate removal from the workplace is necessary. The employee shall be required to leave Town property pending the completion of an investigation. The ~~Select Board of Selectmen~~ Select Board may elect to suspend the employee with or without pay. A suspended employee ~~may~~ shall not be permitted to work on his/her normal day(s) off, nor take paid leave of time, nor make up the time by working overtime in lieu of a payroll deduction for the period of the suspension. When an investigation has been completed, the ~~Town~~ Select Board shall ~~will~~ decide what further disciplinary action, if any, will be taken up to and including termination. Some examples of conduct warranting such action would be *theft, insubordination, violent action or threat of violent action, including sexual assault, destruction of Town property* or reporting to work under the influence of alcohol or drugs, or *violations of the chain of command*. [are some of these always serious enough for immediate action?]

**NOTE:** The list above of misconduct examples is not meant to be all encompassing or all inclusive.

##### Illegal Conduct On or Off Duty:

Employees who are arrested and/or charged with a criminal offense(s) [~~serious?~~: felony?, misdemeanor, too?] shall ~~will~~ be placed immediately on suspension without pay until the final resolution of their case is determined by the court or until the Town completes its internal investigation.

Depending upon the results of the Town's internal investigation, or any adjudication by the court, the employee may be disciplined further by the ~~Town~~ Select Board up to and including termination.

[This does not specifically address hiring decisions regarding those who are arrested or charged, nor hiring decisions regarding those who have been convicted but who have completed their sentences.]