

**RILEY COUNTY LAW ENFORCEMENT AGENCY  
SPECIAL LAW BOARD MEETING  
City Commission Meeting Room  
1101 Poyntz Avenue  
Manhattan, KS  
May 1, 2014 5:30 p.m.  
Minutes**

**Members Present:**            John Matta                                 Wynn Butler  
   Richard Jankovich                         Barry Wilkerson  
   Ron Wells                                     Robert Boyd  
   Dave Lewis (left at 6:32 p.m.)

**Absent:**                                 Assistant Director Doehling

**Staff Present:**                         Director Schoen                             Captain Hegarty  
   Captain Hooper                             Captain Nelson  
   Captain Moldrup                            Captain Fink

**I.     Establish Quorum:** By Chairman Matta at 5:30 p.m.

**II.    Pledge of Allegiance:** Led by Director Schoen.

**III.   General Agenda:**

**A.    Public Comment:** None.

**B.    Continuation of Citizens Assuring Transparency:** Rusty Wilson, Manhattan resident, member of Citizens Assuring Transparency and Aggieville business owner presented the Law Board and those in attendance with a video he took dated October 6, 2012 of an incident involving Riley County Police Department Officer Ryan Doehling wherein he removed a female for minor in possession from Mr. Wilson's establishment. Present with Mr. Wilson at the Law Board Meeting was his Attorney Jeremy Platt.

Director Schoen provided the Law Board with a PowerPoint presentation containing an analysis of alcohol violations in Aggieville from March 2012 through March 2014. Schoen explained that at the close of the April 21, 2014 Law Board Meeting Mr. Wilson indicated that he was not the owner of Last Chance in 2010, and that he took ownership of the establishment in 2012. Therefore, he requested new figures to reflect this change. Schoen noted that the intent behind the numbers provided in the former presentation was to view violations by address. However, the requested information has since been updated and included in the presentation being given to the Board today.

Schoen stated that in conclusion, Kite's and Rusty's are still 1<sup>st</sup> in citizen generated calls for service, 1<sup>st</sup> in part I crime, 1<sup>st</sup> in violent crime, 2<sup>nd</sup> in the number of violations within the establishment, 1<sup>st</sup> in reports referred to ABC, and they are tied for last with 1863 in regard to self-policing of Minors In Possession (MIPs).

Wilson said that he did not feel that the figures presented by Director Schoen were an accurate apples-to-apples comparison. With respect to the citizen generated calls for service, he believes the

majority of the calls were made by his employees rather than citizens calling for police assistance. He wished to know if the hours of operation, square footage, volume of sales and number of patrons were taken into account when conducting the analysis. Given the size of his establishments, and his ability to move people through the doors quickly, he explained that it would only stand to reason that he would have more problems.

Wilson stated that with respect to self-policing he offers employees monetary incentive for confiscating fake IDs. He believes that to be an act of self-policing. He went on to state that he is not comfortable with the term self-policing and preferred the term self-reporting. He and his staff cannot detain an individual, nor can they place someone under citizen's arrest unless they have committed a felony. He feels that the Department is asking him to do something that is very scary and could potentially result in a lawsuit for both sides.

Wilson briefed the Board on a study conducted during the past two weeks by a group of college students. In the study, the group visited nearly every drinking establishment in town. According to Wilson, there were a number of restaurants and establishments outside of the Aggieville area that did not card members of the group and allowed them to purchase alcohol. He feels that if all drinking establishments are to be treated the same those outside of Aggieville should be also be included. As a business owner he does not think it is right to have people target a business. He truly believes that he has been targeted. Wilson said that he wants a working relationship with RCPD. He wants to know that he can trust the police when they come into his establishments.

Platt explained that he handles violations that are reported to the Kansas Department of Alcoholic Beverage Control (ABC) for Mr. Wilson's establishments. He wished to know who gives RCPD discretion when a violation has occurred to either do nothing or send the violation to the ABC. In his opinion, part of the issue is that there is discretion afforded to the police officer and that discretion is an unknown.

Schoen explained that if an establishment is able to show due diligence in identifying violators and a demonstrated ability to self-police the officer will use discretion when issuing citations and forwarding citations to the ABC. The criteria, which has been in place since 2010, was presented at the Law Board Meeting in which Schoen provided the first presentation. Schoen went on to state that he believes the criteria to be fair and the Department does not deal with establishments differently. The Department encourages all establishments to self-police to the extent that they ID minors and report them to the police.

Schoen said in response to Mr. Wilson's comment regarding self-policing, the Department has no expectation that bar employees detain anyone. In fact, in the training provided by RCPD bar employees are instructed not to take such action. If there is a problem patron who attempts to run from the employee, police instruct the employee to let the individual go. However, the employee can direct the individual to sit down while they contact law enforcement. If the individual complies, the officer will take it from there when he/she arrives.

Schoen added that the officer does not have sole discretion when forwarding citations to the ABC. The officer makes a recommendation in their report and the report goes through a review process. The lieutenant makes the final determination whether to forward the citation to ABC. Schoen said that officers use discretion throughout the course of their daily duties; it is not limited to ABC referrals. Officers make recommendations on whether reports should be inactivated, forwarded to

the Investigations Division for follow-up, referred to the Manhattan Municipal Court or the County Attorney's Office.

Juan Deleon, Manhattan resident and employee at Rusty's in Aggieville addressed the statistics that were provided to the Law Board by Director Schoen. Deleon, a 12 year veteran of the U.S. Army Military Police Corps and police officer in assimilated law stated that the last thing anyone wants to show proof of is quid pro quo. The statistics showed that areas in Aggieville that had higher incidents of self-policing had less citations issued. He wished to know if turning individuals in to the police gives the establishment more leeway. He asked if turning someone in buys the establishment less officer time in the bar.

Schoen responded that there have been no occurrences of quid pro quo.

Dralinn Burks, Manhattan resident and head of security at Rusty's in Aggieville said that often times when confiscating fake IDs he and his staff call or text the officer on his/her cellphone. The employee does not go through RCPD dispatch because it is faster to reach the officer on the phone and get a response. In his view, they are self-policing; however, it may not show up on the records because they are not going through dispatch.

Schoen said that he was informed by RCPD Lieutenant Steve Boyda that Burks and his staff do contact the officers directly. Schoen said that is a good and bad thing from his perspective. It is good because the officer gets to the establishment quicker. Unfortunately in doing so it makes it extremely difficult for RCPD to track the data when they are unaware that something has happened. Schoen said that Rusty's does a decent job with the ID issue, but since 2010 there have been no MIPs reported out of the establishment on their own volition, which gets back at the crux of the issue.

Alex Smith, Manhattan resident and manager at Rusty's in Aggieville explained that they do not allow minors into the bar like a lot of other bars do. The point that keeps coming up in a negative light is that Rusty's does not turn in MIPs to the police. Smith said as far as the employees are concerned the minors are not in the establishment. They trust the doormen to do their job and stop the minors at the door. If a minor is in Rusty's, the employees are unaware of it. It keeps being stated that Rusty's does not self-police when in fact they do it at the door every night.

Schoen replied to Mr. Smith's statement that as far as the employees are concerned the minors are not in the establishment. Schoen asserted that minors are in the establishment because officers are identifying and removing them. Employees at Rusty's have told police that they let minors in. Schoen said that Mr. Wilson previously informed him that minors are allowed in until they quit serving food at 10:00 p.m. at which time they are supposed to leave. He and Schoen had a considerable conversation as to whether minors were let in and how to better enforce that. The fact is, minors are in the establishment, they are purchasing alcohol, and the police are catching them.

Drake Clemow, Manhattan resident and employee at Rusty's in Aggieville stressed that employees are continually carding people, even during the day when there may not be a doorman present. Rusty's serves food until 10:00 p.m. Prior to manning the entrances and exits the doormen go through the bar to each table and once again ID those with alcoholic beverages. Employees do go through multiple times before late night to try to make sure that only individuals twenty-one and older are in the bar.

RCPD Officer Ryan Doehling and Rusty Wilson each provided the Board with their personal account of the incident depicted in the video dated October 6, 2012.

Officer Doehling said that with respect to Mr. Wilson's assertion that he is out to get him and that he has made it his private war to shut Mr. Wilson down. Doehling assured the Law Board, Mr. Wilson, Mr. Platt and the citizens of Manhattan and Riley County that is not the case. Officer Doehling explained that if the allegation were true he could have issued Mr. Wilson a citation for interference with law enforcement during the investigation of a criminal matter/MIP on October 6, 2012. In addition, Officer Doehling could have arrested Mr. Wilson for criminal trespass when he attempted to enter the Aggieville police substation after being denied access. Officer Doehling did not take any of those actions. Despite admission from the female that she was drinking underage in Mr. Wilson's establishment, Officer Doehling decided not cite the female for MIP after he determined that the beer can confiscated from the bar did not belong to her.

Butler made a motion to approve the subsequent action items for the Department to follow-up on and report back at the next regularly scheduled meeting: provide routine reports to the Law Board on alcohol enforcement with the frequency to be determined by the Department, conduct a review of the Departments policies concerning officer discretion, and assist in facilitating communication between Law Board representative Richard Jankovich and the Community Advisory Board to establish open door meetings for the public to attend.

Boyd seconded the motion. On a roll call vote, motion carried 6-0.

Schoen stated that he would report back on the requested action items. He added that Mr. Wilson provided additional information to Commissioner Lewis alleging misbehavior on the part of other RCPD officers. The Department has commenced an internal affairs investigation into the matter and at this time they have found no wrong doing on the part of the officers. He did not want to lend the impression to Mr. Wilson or the Board that the allegations were ignored and not addressed. He wished to know if Mr. Wilson would like a brief report on the investigation.

Wilson indicated that he did not and said he was ready to move forward.

**C. Executive Session:** At 7:25 p.m. Jankovich moved to go into executive session for the purpose of discussing non-elected personnel matters and attorney client privilege not to exceed 15 minutes. Wells seconded the motion. On a roll call vote, motion carried 6-0.

At 7:40 p.m. the open meeting reconvened.

Jankovich moved to affirm the Director's disciplinary actions. Butler seconded the motion. On a roll call vote, motion carried 6-0.

**D. Adjournment:** Wilkerson moved to adjourn the meeting. Jankovich seconded the motion. On a roll call vote, motion carried 6-0. The May 1, 2014 Special Law Board Meeting adjourned at 7:40 p.m.