

**RILEY COUNTY LAW ENFORCEMENT AGENCY  
LAW BOARD MEETING  
City Commission Meeting Room  
1101 Poyntz Ave  
Manhattan, KS  
December 15, 2014 12:00 p.m.  
Minutes**

**Members Present:**            John Matta                    Robert Boyd  
   Barry Wilkerson            Ron Wells  
   Dave Lewis                   Richard Jankovich

**Absent:**                            Wynn Butler

**Staff Present:**                Director Schoen            Assistant Direct Doehling  
   Captain Hegarty            Captain Hooper  
   Captain Moldrup            Captain Fink  
   Captain Kyle

**Recorder:**                        Kathy Carpenter

**I.            Establish Quorum:** By Chairman Matta at 12: 00 p.m.

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

**III.          Consent Agenda:**

- A. Approval of November 17, 2014 Law Board Meeting Minutes
- B. Approve 2014 Expenditures
  - a) Seizure Expenditures
  - b) Budget Expenditures
- C. Juvenile Transport Reimbursement
- D. County Inmate Medical, Facilities, Maintenance & Repairs Expenditure *–(Review)*
- E. Riley County Jail Average Daily Inmate Population *–(Review)*
- F. Monthly Crime Report *–(Review)*

Lewis moved to approve the Consent Agenda as presented. Jankovich seconded the motion. On a roll call vote, motion carried 6-0.

**IV.          General Agenda**

**G.    Additions or Deletions:** None

**H. Public Comment: Bud Valerius, Manhattan Resident:** Mr. Valerius presented three separate concerns to the Board. The first concern involved the use of body cams recently implemented at the Riley County Police Department. He asked numerous questions regarding the use of the cameras, in particular, will the cameras

be initiated at the start of the officers' shift to the end of the shift or will they be initiated at the officers' discretion when a situation might be out of control? He expressed his concern about lacking 24 hour surveillance on the cameras while worn on the officer.

The second concern involved the interview rooms. A couple of attorneys which handle DUI's informed him they no longer have access to the interviews conducted when the suspect is taken into custody.

The third concern involved an employee of Mr. Valerius who was arrested on 18 counts of theft, the arrest is reflected in the local newspaper, the bond is set at \$20,000, and he is spending money to defend himself. None of this would have happened had the investigation been up to par. The accused allegedly used a truck which was in the shop owned by Mr. Valerius for over two months disassembled. It is impossible he used my truck for these crimes and the investigator appears to only have listened to the victim in the case without pursuing any follow-up with the information I provided regarding my employee and the vehicle during the time frame the crimes were committed.

**Schoen** responded to inquiries cited by Mr. Valerius. He explained the body cam policy has been drafted but not finalized. We don't anticipate the camera to be on at all times an officer is walking around. It would be impractical and the storage cost would be astronomically higher than it is now along with the fact the download time would need improved to transfer the data back and forth to store the videos. The plan is store the data off-site. We will need to make a decision as to when the officer is to turn it on and off which has not been determined but I do anticipate it will come before the board and those issues can be addressed at that time.

**Matta** stated when the policy is finalized and comes before the Board, more discussion will take place on these concerning issues. Currently we are dealing with lots of theoretical ideations.

**Schoen** spoke to the second inquiring of Mr. Valerius involving local attorneys not having access to interviews. It appears this information is second and possibly third-hand information and it could be something coming out of our office or it could be something via the discovery process that comes out of the County Attorney's Office. If a video is created in a criminal matter, it is available via discovery but if a video doesn't exist, it simply doesn't exist. Schoen asked Mr. Valerius to have the attorney contact him to get to the bottom of the problem.

**Wells** expressed his understanding of the potential expense incurred should the officer turn the camera on at the start of his shift and off at the end of the shift. He added his concern if the officers have discretion to turn them on and off when deemed necessary it could add fuel to the fire of these radical groups across the country claiming the officers didn't turn it on to protect themselves and not the alleged suspect.

**Schoen** suggested Mr. Wells misunderstood his statement conveying the officers have the discretion to turn the cameras off whenever they like, that is not my intent. There will be some discretion on the part of the officer but parameters will be set and they must operate and comply within those parameters.

**Wilkerson** stated if lawyers are having issues receiving videos on particular cases, these issues should be raised in front of a judge. They involve 4<sup>th</sup> amendment issues and it's really not for the Law Board to make decisions on those kinds of things. If there are attorneys unable to obtain video evidence or whatever else then that is subject to court review, by our judges, destruction of evidence things of that nature. I have not

been told that there is a major concern in this area regarding body cams or anything else. Secondly, pointing out on the body cams there may be a number of people that approach officers who may not want to be disclosed and may not want to be video recorded. We have this frequently with parents of children who are victims of crime, they are not going to want to be filmed at the first contact with an officer. It would be very uncomfortable for them. We are going to look at this very closely and make sure we do it the right way but there is always some give and take in these scenarios and there are just some situations where people don't want to be recorded.

Lastly, Schoen added the need for transparency and privacy are going to be in conflict with these cameras. We will need to figure out a balance and that's what we will be striving for within the policy.

**Matta** asked for other public comment, none heard.

**Brian Johnson – Manhattan Resident, Detective at Riley County Police Department, FOP President:**

Mr. Johnson approached the Board stating as the FOP President he wanted to publicly recognize his appreciation toward Director Schoen and Assistant Director Doehling. In his first year as FOP President, the open and honest dialogue created the atmosphere of transparency allowing good relationships to foster. The meetings were very positive and productive. Mr. Johnson informed the Board members he placed his business card at each placement and welcomes the opportunity to address any concerns or questions. Additionally, the FOP participates in community wide benefits, in particular Special Olympics. The past weekend participation raised \$2,000 in this single event for Special Olympics. It is one of four events throughout the year. The Fraternal Order of Police is very proud to be part of these events. The FOP also provides funding to support Big Lakes Developmental Center and Pawnee Mental Health Center.

**I. Board Member Comments:**

**Richard Jankovich** stated it was an honor and privilege to serve on the Law Board. Many interesting topics were discussed over the last couple of years and appreciate Director Schoen and his staffs time and willingness to talk. He also commended RCPD Attorney, Michael Gillespie and Riley County Attorney, Barry Wilkerson for helping with issues. I hope I added something that was positive, but if I didn't, I apologize. Jankovich added he made the decision to step down to allow other members of the City Commission to experience the opportunity of serving on the Law Board. It's important for all members to serve on this board because of the intermingling of the agencies, County, City and Police Department. Thank you.

**Ron Wells** thanked Riley County for placing him on the Law Board as this is his last meeting. Two years isn't a very long period of time to be effective but enjoyed being involved. Wish the incoming Board the best in the future. I too hope I added something positive to the Board but if I didn't, I apologize. Thank you.

**Dave Lewis** commented it was a terrific honor to be on the Law Board. What I take away most is the tremendous honor and respect for the men and women that serve Riley County in their capacities through the police department. It has been an honor to get to know many of them. I gained a tremendous amount of respect and appreciate the work and sacrifice they make and their families make. It has been a wonderful learning experience. One thing we have accomplished is we opened up more dialogue between the community and that is a goal anyone within this capacity would be proud to have accomplished. Thank you.

**Matta** thanked everyone who served on the Board and those who continue to serve on the Board.

**J. Community Advisory Board – Chairman Leavell:** Mr. Leavell thanked Richard Jankovich for his willingness to listen.

Since my last report to the Law Board there were many meetings between RCPD, CAB, K-State Black Student Union and other members of the community. Each meeting discussed topics such as the Ferguson shooting, does racial profiling exist in Riley County, the national relationship between police officers and civilians and the relationship between RCPD and our local community. The first meeting was held at the police department on 29 Oct. The intense discussion lasted almost 4 hours. The second meeting was held 18 Nov at the K-State Student Union. The Black Student Union invited CAB to participate in a panel discussion. The third meeting was held 2 Dec Dr. Exdell, from K-State and members of the Black Student Union attended. After each meeting, we all agreed while there may be a national problems with aggressive policing and racial profiling, RCPD seems to heading in the right direction.

**K. The Police Society for Problem Based Learning Instructor Certification – Director Schoen and Captain Kyle** - Historically when a police officer is hired by a department, they are sent to the academy for training. When they graduate from the academy they are placed with a veteran officer to train them how to apply what they learned at the academy to the field. In 2005, Captain Hegarty, the training officer at the time, became dissatisfied with the field training program and researched other options. He found a program and attended a two week problem based learning school which produced two significant things: 1) problem solving for police officers 2) informal leadership program. RCPD is not the only agency that uses PBL and PTO in this area. This society created a certification program for instructions with four tiers from level 1 instruction to level 4 instructors. When RCPD implemented this program it became apparent the Corrections Officers were very interested in a program pertaining to corrections officers. Unfortunately, the program did not have a corrections officer module, it is designed for police officers. Sgt. Larry Greinke, Corrections Officer, designed a training program for corrections officers. Greinke graduated from the 80 hour PBL course for his leadership project. He is one of the first corrections officers in this area to receive his certification. Captain Hegarty received Level 2 instruction certification.

**Director Schoen added** Captain Kyle is the vice president of the Police Society for Problem Based Learning group. This mode of training is gaining more traction across the country. The KS Law Enforcement Training Center stated there are more agencies looking into this type of training.

**L. Letters of Appreciation – Director Schoen and Assistant Director Doehling:**

a) **Citizen David Manges** - in the early morning hours on Nov 2<sup>nd</sup> he observed someone damaging vehicles. Mr. Manges spotted a police officer, flagged him down subsequently giving the officer the necessary information to stop the individual from further damaging vehicles. With his assistance, the officer was able to properly identify the individual who was responsible for damaging 18 vehicles and was arrested. This is an excellent example of community policing and assisting the police department to protect the citizens of Riley County.

b) **Manhattan Fire Department Firefighter Kody Songs** – In Aggieville on the early morning of Oct 26 officers responded to a fight in the alley of the 1200 block of Moro. Responding officers disbursed the fight quickly but Kody took the time to let the officers know one of the male subjects' involved threatened people with a handgun. He along with other witnesses was able to provide enough information to apprehend the subject a short time later. The subject was arrested for Aggravated Assault, Interference with Law Enforcement, Felony Possession of a Firearm, and criminal carrying of a weapon. These actions reflect highly

on yourself and MFD.

**M. Approval of General Order 2014-058 Employee Assistance Program – Assistant Director Doehling**

Doehling stated the Employee Assistance Program has been in place for some time and while there is no significant change, it is necessary to update the policy. The primary change is an expansion to the services the current provider offers to the department. Previously, individual counseling and family counseling is what was provided but now they offer on-line and telephonic services available to all employees increasing the number of services available. Jankovich moved to approve General Order 2014-058 Employee Assistance Program as presented. Lewis seconded the motion. On a roll call vote, motion carried 6-0.

**N. RCLEA 2015 Meeting Resolution – Director Schoen:**

Director Schoen commented on the 2015 Riley County Law Enforcement Agency Meeting Resolution pointing out the January and February meetings are moved to the third Tuesday instead of the third Monday due to the holidays falling on the regularly scheduled meeting time. The asterisk next to the March 23<sup>rd</sup> date, the week of spring break, indicates the possibility of moving the meeting dependent upon the membership of the board. Once those representatives are determined, we can make a decision on the March 23<sup>rd</sup> meeting. Boyd moved approval of the RCLEA 2015 Meeting Resolution as presented. Wilkerson seconded the motion. On a roll call vote, motion carried 6-0.

**O. Ka-Comm. Inc. Maintenance Agreement – Captain Hooper:**

Hooper informed the Board this is the annual maintenance agreement with Ka-Comm. Inc., the business that provides all radio maintenance to our portable radios the officers carry as well as the radios in the cars and the radios in the jail. The contract for 2015 reflects no increase of cost from the contract in 2014. Lewis moved approval as presented. Jankovich seconded the motion. On a roll call vote, motion carried 6-0.

**P. Report to the Board – Response to Mr. Seymour’s Landlord Tenant Act Concerns – Director Schoen:**

Schoen informed the board most of Mr. Seymour’s concerns presented at the previous Law Board Meeting was resolved while he was present. The only issue unresolved was the landlord tenant act and how officers were dealing with it. Mr. Gillespie and I visited with a veteran officer who took many landlord tenant calls over the years and how she dealt with those situations. Mr. Gillespie reviewed the statute and he is prepared to explain the interpretation of the statute. Under the right circumstances as a landlord, he can enter the premises he rented to tenants and remove property, hold it, sell it and apply proceeds of the sale back to the rent, etc.

**Gillespie** explained the issue is how officers are handling these situations. RCPD receives a call from a tenant, that the landlord is there and has taken their property, or *is* taking their property and won’t give it back. Mr. Seymour, as any other landlord, has the statutory authority under *K.S.A. 58-2565* to take possession of one of his tenants’ personal belongings in basically three situations. 1) If the tenant surrenders the premises before the lease term is up. 2) If the tenant is evicted, gone through the legal process called ‘Forcible Detainer’ and the landlord is restored possession of the premises. The third one is the one Mr. Seymour found most concerning. 3) If the tenant abandons the property. Those situations typically come up when the tenant is behind on his rent. The landlord goes to the property and it appears the premise is abandoned. Under common law, abandonment means when someone leaves the premises and there is evidence they have no intention to return. In the landlord tenant case, the applicable statute, entitles the landlord to presume the tenant has abandoned the property. This is a two-step process 1) the tenant has to be behind in rent for ten or more days or in default for payment of rent. 2) The tenant has removed a substantial portion of his belongings from the unit. Once that is determined, the landlord may take the remaining property, remove it and sell it placing the proceeds toward the delinquent rent. Only exception is if the tenant advises the landlord he is not

abandoning the unit in which case the landlord can't take the property and would have to resort to eviction. The problem confronting the officer and the landlord, is the question, have they removed a substantial portion of their property?

**Schoen** stated after discussion of the statute interpretation with Mr. Gillespie, he phoned Mr. Seymour and informed him if the tenant removed a substantial portion of their property and it appears abandonment, it entitles him to remove the remaining property. After discussion, Seymour inquired if he was describing substantiality by dollar value verses volume of property. The most common occurrence for the officers is the tenant arrives home to find all of his property missing and phones RCPD or the property is being removed in front of the tenant and the tenant phones RCPD. In these situations, the officer may not consider these scenarios abandonment. Mr. Seymour disagreed with the interpretation and stated he would have his attorney contact Mr. Gillespie of which I encouraged. It is difficult to determine what a substantial portion of property is in most circumstances. Our officers are doing as good a job as they can. We will emphasize with the officers the explanation of the statute so they don't react instantly to a situation that it is a civil matter asking them to explore more details of the situation prior to arriving to that conclusion.

**Boyd** commented any reasonable person would ascertain that if the tenant is there, they did not abandon their property.

**Jankovich** added in terms of the possession or trying to determine volume out and volume in, the possessions may not belong to the tenant, it could be a rent to own situation and if they are behind in rent, they could possibly be behind on that property as well. If that is the case, the business would pick up that property and is the rightful owner of the property. The laws are difficult.

**Schoen** commented on the difficulty determining abandonment therefore the cleaner way is the eviction route.

**Matta** stated the laws make it difficult.

**Wells** commented he experienced a similar situation. A tenant decided on very short notice he wanted to move down the street and gave notification and his rent was paid up. I told him in order to let him out of the lease, I needed to rent it out the first of the next month and needed a thirty day grace period to clean the place. I was unaware of the landlord tenant laws as it applied to this situation.

**Schoen** commented the statute addresses the situation Wells described. Schoen added he will provide a copy of the statute to each member.

**Lewis** inquired if there was any discussion regarding this matter with the Landlord Association?

**Schoen** stated RCPD has not contacted the Landlord Association regarding this inquiry and have no idea if there is anything going on or not.

**Matta** asked for any public comment on the subject, none heard.

**Q. Executive Session – Non-elected Personnel issues:** at 12:50 p.m., Lewis moved to go into executive session for the purpose of discussing non-elected personnel matters not to exceed five minutes. Boyd seconded the motion. On a roll call vote, motion carried 6-0.

At 12:55 p.m. the open meeting reconvened.

**R. Affirmation or Revocation of Discipline:** Lewis moved approval of the disciplinary action. Boyd seconded the motion. On a roll call vote, motion carried 6-0.

**S. Adjournment:** Jankovich moved to adjourn the meeting. Lewis seconded the motion. On a roll call vote, motion carried 6-0. The December 15, 2014 Law Board Meeting adjourned at 1:00 p.m.