

Minutes

RTA Audit, Safety Compliance & Real Estate Committee Meeting

9:37 a.m., August 11, 2020

Committee Members: Moss (Chair) Lucas (Vice Chair), Joyce, McCall, Weiss

Other members: Bibb, Byrne, Clough, Pellot, Serrano

Not present: None

Also Present: Anderson, Barker, Benford, Bitto, Bober, Burney, Caver, Cottrell, Dangelo, Davis, Dietrich, Fields, Freilich, Garofoli, Gautam, Gettings, Joyce, Kirkland, Laule, Lincoln, Manning, Moore, Muti, Pickett, Rascoe, Schipper, Scott, Shaffer, Spriggs, Sutula, Tarka, Temming, Wilson

TSA presented an award to Transit Police and RTA before the start of the Organizational, Services & Performance Monitoring Committee.

Donald Barker, Chris Rascoe and James Spriggs from the Transportation Security Administration (TSA) presented Transit Police and RTA the 2020 TSA Partnership Award for 15 year of working together. Donald Baker is the executive director of the TSA for the State of Ohio. Mr. Spriggs is the regional surface security director for the Midwest. Mr. Rascoe is his assistant federal security director for regulatory enforcement. Mr. Spriggs said that Chief Joyce worked as a close partner with TSA since 2008. He is setting up a new division focused on surface security. He congratulated Chief Joyce on his retirement, but looks forward to a great partnership with RTA. RTA and the TSA has worked on safety and security of the transit system and major events like the RNC. Mayor Clough expressed his appreciation for honoring the Chief and their partnership with RTA. He congratulated Chief Joyce on his retirement.

Casualty Insurance Program

Judy Lincoln, director of risk management made the presentation. Barbara Goodwin is on the line. She is the Executive Vice President of USI, RTA's US insurance broker. We have a London broker, which is Price, Forbes. This is an overview of the current state of the insurance market. It is the hardest market since the mid-80's. After 35 year of soft market pricing, the market cannot sustain that in light of the unprecedented loses they are seeing. The market is bound to turn eventually. There is increased frequency and the claims are exponentially larger than expected. It is bad for auto lines of coverage, which includes bus and transit. We have always been a member of a challenging class of business for casualty insurance, which is rail and transit. The second component of a hard market is shrinking capacities. There is increased pricing and the insurance markets in the US, London, Bermuda and Europe are pulling back their capacity. For example, on RTA's program, if a certain carrier used to have a maximum capacity of \$25 million, they could offer last year, this year they probably only have \$10 million. It is difficult to build the \$95 million in limits coverage.

RTA procures access liability insurance via a broker. There are no direct writers for this coverage. RTA conducts an RFP process to select and retain a casualty insurance broker. The broker is selected on their expertise in the commercial insurance industry and in the rail, transit and transportation industry section. RTA and broker approached the underwriters and put together a submission that describes RTA's operations, its exposures, size and age of the fleet, loss experience,

which is excellent and safety culture, which is superior. They negotiate the best partnerships with markets and the best program for RTA in terms of coverage and pricing.

The casualty program has three components. The purpose of the program is to protect RTA's assets against catastrophic loss. RTA is largely self-insured and have high self-insured retentions. The largest program is the access liability, which consist of general, rail and auto liability coverage. The limits are \$95 million over a \$5 million self-insured retention per loss. Excess Workers Compensation coverage is the second policy in the program. There is a \$10 million coverage limit excess of a \$750,000 self-insured retention. Lastly, is the public officials' liability coverage, which includes employment practices coverage, which has a \$5 million coverage limit and a \$250,000 self-insured retention.

The expiring premium on the excess liability program is \$1.2 million. The renewal negotiations are still underway and difficult for this market. The market is hardening across all classes. They budgeted for a 21% increase last fall at budget season, but the market is more difficult. The broker is predicting the increase could be 50% or higher. She shared this information with the Office of Management & Budget. This program and the structure is a Quarter Share program, which has participation from US, London and Bermuda markets. The first coverage layer is \$20 million excess of the \$5 million self-insurance retention. There are five (5) different insurance companies participating. One company has 42%, another 30% and so on up to the full \$95 million in limits. A quarter share structure is a very sophisticated program. The number of participants allows for leverage and flexibility. It is less of a risk than a traditional layered program. When she first came to RTA, it had two markets. If you loss a market, there needs to be a replacement. With Quarter Share, you can ask the other partners to increase their participation.

The broker accesses insurance markets in London and Bermuda because Lourdes of London was the original subscription based insurance market and it as well as the quarter share approach is well suited to higher risk accounts like transit and rail. RTA utilizes US markets that can write rail and bus. We have large participation from Zurich, who will no longer write rail. They are speaking with a few other US markets to replace them. Excess WC renewal negotiations are complete. The expiring premium was \$261,193. The exiting carrier, Safety National offered a 3.5% rate increase, resulting in a premium of \$272,165. The payroll projection RTA provided they use as a bases for rating was up slightly so it ended up with a 4.2% increase or \$10,972.

Negotiations are still in process for the Public Officials and Employment Practices renewal. This policy provides liability protection to directors and officers as well as RTA for alleged wrongful acts by D&O, committee members or employees. The policy provides insurance coverage for employment practices claims like discrimination, sexual harassment or wrongful termination. The incumbent carrier is AIG or National Union. The expiring premium is \$84,990. They requested a budgeted increase of 15% and was granted an increase of 3%. Current indications for this market, which is also difficult, is to expect an increase of 30% or potentially more given the difficult market. They will provide the final results for the Excess Liability and Public Officials components of the program in a memo to the Board accompanied by resolution containing final recommendations to be brought to the Board at the August 25, 2020 meeting.

Ms. Moss thanked the staff for their work. She added that she does not feel comfortable with the process because she does not know what the increase or the cost will be. This is the nature of the business. Mayor Clough ask why the increase is estimated at 30-50% and why it is so difficult to give the final numbers. Judy said we are experiencing the hard marketplace and there is nothing about RTA's account that is causing that to happen. RTA's loss experience is excellent. They participated in presentations with some underwriters. They said they would take RTA's long-term relationship,

excellent safety culture and loss experience into consideration. The lead carrier said they would try to keep RTA's lower. Barbara said the losses outpace the premiums they are collecting and it has been accumulating over the years. Bus losses are reserved at \$5 million and end up at \$25 million. RTA has experienced decreasing premiums over the years, but now the carriers cannot sustain it any longer. Even though there are multiple carriers on RTA's program, all of them are cutting back or not writing insurance any longer. She has handled clients that have experienced over 100% increases.

Mayor Weiss asked if there was a sensitivity analysis on the pricing versus SIR. They have done analysis on the \$5 million SIR. Judy said they have for the \$5 million SIR and taken an increase on that. They concluded that the pricing is so thin at the moment that the premium credit to increase it would be nominal. On the other two programs, there is always pressure to increase the SIRs in a hard market, so RTA was fortunate to hold on to the \$750,000 on the excess comp. Some agencies have been forced to \$1 million. RTA has the lowest of their clients.

Safety Update

Commander Mike Gettings gave the presentation. This will be Chief Joyce's final meeting. He was featured in a Netflix film about his work with the FBI. Dr. Caver stated that Chief John P. Joyce would be retiring at the end of this month. In the interim, Commander Michael Gettings will serve as the Acting Chief of Transit Police. He has great confidence in Commander Gettings' ability to lead this department during this transition. The Chief has had an exemplary career in law enforcement, coming to RTA from the FBI. Some may have seen the recent Plain Dealer/Cleveland.com article, which highlighted his work on the team, which sought to bring down the New York mafia families. The Chief had previously undersold his contributions only telling us that he worked on some cases related to the Mob. However, he was integral to the cases.

As the Chief of Transit Police, John has modernized RTA's police department focusing on training, special capabilities, and interdepartmental relations. RTA's police department has state of the art video and security-monitoring systems, TSA funded and trained K-9 units, all-terrain safety and rescue vehicles and much more. As for training, the department has consistently had high training capacity with a major focus on cross training opportunities with our partners at the Department of Homeland Security, FBI and other federal police services. He will miss the Chief's leadership, but knows that the season that he spent with RTA caps a terrific life's commitment to protecting Americans and NE Ohioans. He thanked the Chief for his service and leadership of the RTA Transit Police.

Commander Gettings has worked with Chief Joyce for the last 15 years. He has learned a lot from him. Today's agenda will cover Crime Stats, COVID-19 Response, Homeless Initiative, Ohio Collaborative, Use of Force and TSA. Looking at Part 1 crimes, there is a small uptick in the three-year comparison. There was an increase of 29 Part 1 crimes. He found that the majority of the increase is from theft and robbery of electronic devices. This started in 2011-2013 where it was under control. Twenty-six of the 29 cases resulted of theft of electronic devices. He task the detective bureau to look at the increase to come up with a plan to contain this. Rev. Lucas asked if the device is being taken from the person or left behind. Gettings explained that a theft is a non-physical removal of property. If there is a physical interaction, then it is a robbery. There are 50% less Part 1 crimes than 5 years ago. Going back to 2013-2019, they are 73% less Part 1 crimes. Mr. Bibb asked if this is due to a decline in ridership. Gettings said in the past the devices could be sold. He believes it may be a result of people needing money. There is a decrease in quality of life crimes over the three-year period from 2018-2020. Operator assaults are also trending down. There were two so far this year.

In March 2020 when COVID-19 hit, officers began reporting to five different locations around the Authority. This was to limit large group gatherings (Roll Call), to limit the number of partners assigned to each employee and to limit vehicle access. They provide officers with PPE (N95 masks, gloves, safety goggles, disinfectant spray and wipes). They disinfected the vehicle between transporting a prisoner and when they handed the vehicle off to the next officer. They used WebEx to conduct meetings and required masks as part of the GCRTA policy and State mandates. To date only one member of the Transit Police Department has tested positive for COVID-19, which was a dispatcher who has recovered and returned to work. They created an Operational Risk Plan to deal with COVID-19 and the fact that there was many unknowns. This plan was finished in April. They are using it today. They created a Continuity of Operation Plan (COOP). This is for the entire Authority. COVID is a part of this plan. This plan allows us to deal with unexpected incidents that would cause them to go into disarray. For example, a displacement of the organization that needs to go remote. This plan addresses that.

In March 2020, due to COVID-19, they noticed an increase in the number of homeless and mentally ill individuals on our system. They assigned one of our detectives to work with local social service agencies to find a compassionate and non-criminal process to help these individuals. This was due to homeless shelters not taking in as many homeless pre-COVID. The homeless would normally have a routine, but those places shut down. With the assistance of the operators, the officers identified locations where we were experiencing the highest volume of homeless individuals that needed assistance. Their partnership with the social service agencies resulted in numerous people receiving the care they needed. The pre-COVID numbers were 72 and 89. In March, there was an uptick. As they started to address the issue, the number began to go down in June and July.

TP has been a member of the Ohio Collaborative since 2017. It is a community police relations board that was instituted by the State of Ohio. It governs proper use of force, deadly force, recruiting and hiring of officers and implementing community engagement. Members have to meet certain goals and criteria. Seventy-eight percent (78%) of law enforcement officers work for organizations that are governed by the Ohio Collaborative. There are 438 law enforcement agencies in Ohio that are members. In 2021, the OC is changing some of the rules and regulations so RTA will have to be recertified. This includes a Bias Free Policing policy and training on Bias Based Profiling. They have identified web-based training and will provide the classes during their in-service training. They anticipate compliance with the new standards in the fall of 2020.


They plan to conduct racial equity and inclusion training. All of their command staff has been certified by Cleveland Neighborhood Progress in racial equity and inclusion. There was a 2-day program. They are working with HR to make sure all of the officers attend Groundwater, which is a half day program provided by Third Space and CNP. Rev. Lucas questioned whether a half day is enough of training. The commanders and Chief did the two-day program. However, they are looking at other training like biased-based training and they have given courses not required about OC. They looked at the Use of Force Policy. Rev. Lucas requested a session to discuss further. Mr. Bibb said that having a local police dept. go through the REI is a monumental step.

The Use of Force Policy is thorough and in accordance with the Ohio Collaborative requirements. All use of force incidents are reviewed for policy compliance. The policy prohibited neck restraints as of February 16, 2019. They reviewed the policy in 2020 and made adjustments to address positional asphyxia and piling-on on (June 22, 2020). Officers are being certified on the policy. They are in the process of identifying a vendor for body cameras and are working with the GCRTA executive team to identify funding. Mr. Bibb asked if there is a process to review civilian complaints from TP. He suggested a model in San Francisco where they have a non-officer Transit Ambassador program to deal with the homeless. Commander Gettings said they give their officers a 40-hour in-service training

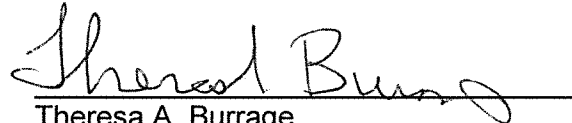
and de-escalation is a part of. Dr. Caver said he would have his staff research this. Mr. Joyce asked how officers are kept safe in a public engagement situation where the public is not engaging in safe practices. Gettings said they provide their officers personal protective equipment like N-95 mask, plastic face shields, etc. No officer has test positive from the virus even though they deal with the public on a regular basis. In April 2020, they requested addition PPE with the County. They just received the order.

Ms. Moss read that RTA had one of the highest complaint rates in the County. She asked how the operators are handling people who do not want to wear their mask. Dr. Caver said the number one cause of operator assault is challenging the fare so they asked the operators not to get involved with challenging situations with the riders. A sign on the vehicle reminds them that mask are required. Operators were asked not to withhold the service. Marketing provided mask to RTA customers. Free masks are being passed out through the Authority. Ms. Moss was concerned about someone getting someone sick on the service. Dr. Caver added that if there are repeat incidents where someone is not wearing a mask, the operators were asked to contact TP. The Governor did not mandate agencies to police the order, but to allow police to do that. She said she understood RTA's position, but asked if we could engage the health department for support or maybe engage through marketing. Mr. Gettings said one of their supervisors addresses all complaints. If the complaint gets to the point where an additional investigation is needed, Internal Affairs would investigate further and report to the Chief. They can also use an outside agency to address complaints like BCI, Cuyahoga County Sheriff's Office, etc. Mr. Bibb asked that a civilian review board be developed. Dr. Caver said he would will review and look to address.

The meeting was adjourned at 10:28 a.m.



Floun'say R. Caver, Ph.D.,
Interim Secretary/Treasurer



Theresa A. Burrage
Executive Secretary