

No Standing News

Since we have no standing, we stand with those left standing.

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THE GOVERNOR'S COMMISSION:

ETHICALLY IMPAIRED OR JUST STUPID?

The state Administrative Hearing Commission, a panel of three lawyers appointed by the Governor and confirmed by the Senate, announced last fall that a former reserve deputy for the Phelps County Sheriff's Department has been cleared of the 1997 charge of stealing from a Phelps County prisoner. They cleared him despite his confession because they found that **he made a mistake because he really meant to steal from the county petty cash and besides the other Phelps County deputies do it all the time!** Governor Carnahan this is a heads up - the three lawyers you appointed to your Hearing Commission need to have their collective heads, and their bar licenses, re-examined.

This is part of the commission's press release as reported in the Rolla Daily News, October 18, 1999

"Schowengerdt intended to borrow the \$100 from a blue petty cash bag that was near the prisoner's property bag and was similar in appearance, but he mistakenly took it from a prisoner's bag," the hearing commission concluded. "Prior to October 1997, other officers had borrowed cash from the petty cash bag."

"The prisoner's money was discovered missing when the prisoner posted bond and

was released. It was then Schowengerdt realized he had taken the money from the wrong bag, the commission noted, but he "was unable to return the money until he received his next paycheck."

The commission determined that Schowengerdt's borrowing of the money, while wrong, was action that had been taken by other officers, too."

Notice that the commission carefully avoids using the word "steal." They describe the act as "taking" or "borrowing" as in, "I borrowed the bank teller's money at gunpoint."

Is it any wonder that we have trouble teaching ethical behavior and respect for law to our children when the reasoning of adults holding public office is so glaringly flawed? Here is how the commission's logic worked in this case

- "Taking" money is okay if you meant to give it back. (An excuse heard frequently from embezzlers and three-year olds.)

- "Taking" money from a prisoner's property bag is okay as long as it was a mistake and you really meant to steal from someone else - in this case the county taxpayers.

- "Taking" money from a county fund is okay as long as everyone else does it. (The commissioners state very clearly that

Sheriff Blankenship lets everybody else do it.)

- When someone with a badge “takes” or “borrows” the possession of another it’s not really stealing so they are given this very special treatment by this odd quasi-judicial process.

Thinking that the press release must have left out critical information, which would bring more sense to these bizarre findings, we obtained the actual report from the hearing commission issued in July 14, 1999, entitled “Findings of Fact and Conclusions of Law No.98-2898.” (see url #1) The detailed explanation of how they arrived at their very queer ruling was even worse than their press release. If these “Conclusions of Law” are typical of the Governor’s Hearing Commission the only possible verdict is that the commissioners need to be sentenced to remedial law school. Somewhere there is a village that has been deprived of its idiots. Now that we have had the dubious benefit of their thoughts on the subject, this is what we recommend to Governor Carnahan and select Phelps County officials

- **Governor Carnahan** should immediately suspend his Administrative Hearing Commissioners and have their other administrative findings (over 2000 a year) examined to find out how many other perverted “Conclusions of Law” such as this have been handed out. We want to know if this is their typical work product or just an example of the special treatment given to law enforcement officers? What role did the **Missouri Department of Public Safety** have in helping to divert this case to a quiet little innocuous state hearing in order to keep this dirt off the Sheriffs coattails?

- **The Missouri Bar Association** should have their own hearing to find how these lawyer/commissioners passed their bar exams without knowing the difference between “taking” and stealing. Are ethics questions now multiple choice on the bar exam?

- **The Phelps County Prosecutor, Kenneth Clayton** should immediately review the Administrative Commission’s evidence and “Findings of Fact” that stealing from the county petty cash fund is a regular practice of Phelps County deputies! This document alone is grounds for an investigation by the prosecutor. If their “facts” hold up, then Prosecutor Clayton needs to start treating county employees, including the Sheriff, who “borrow” from public money the same way he treats civilian defendants who have “borrowed” from anyone else. Helping yourself to an interest free “loan” with public money from a petty cash fund is legally and ethically unacceptable even if the sheriff condones the practice. IT’S NOT HIS MONEY, it belongs to county taxpayers and we didn’t give OUR permission. Thieves with badges deserve exactly the same treatment as thieves without badges. This case did not originate on Clayton’s watch but we would like to know if it will be his practice, as it was Pat King’s, to ignore charges against public officials and law enforcement officers, and instead allow them to be shuffled off to the kid glove treatment of this strange commission? It is an appropriate time, and this is an appropriate case for him to differentiate his prosecution policies from that of Blankenship’s old political crony Pat King - if indeed there is a distinction.

- **The Phelps County Commissioners** could very prudently spend some of our tax money for a special audit of

the Sheriff's office. This is not the first evidence they have had from state officials that the Sheriff and some members of his department can't distinguish between what is "theirs" and what is only in their custody. A surprise audit of that office is long overdue. They have proof from the last four state audits* that Blankenship either cannot or will not comply with the most elementary accounting and compliance standards. What are they waiting for?

- **Phelps County's Circuit Judges Wiggins, Haslag and Sheffield** should assign a special investigator or convene a grand jury to get to the bottom of the alleged misconduct. Now that the Hearing Commissioners have raised these questions, leaving them hanging is also unacceptable and casts doubt on the integrity of the entire law enforcement and judicial system in Phelps County and the circuit. They have the authority to do it and it's about time they got down off their highly paid pedestals and showed some interest in the questionable quality of justice which is taking place right under their noses. The circuit judges have pretended for years that the condition of Blankenship's filthy jail is none of their business. But the fact is that prisoners are locked up on their authority and they are, therefore, responsible for the health, welfare and the inhumane conditions to which all county prisoners are subjected under Blankenship's custody. If they don't intervene in the, now suspect, conduct of the sheriff's department, Judges Wiggins, Haslag and Sheffield have no business judging others for the same crimes they allow the sheriff's department to commit.

- **The Phelps County Sheriff, Don Blankenship** should, at the very least, resign if he has condoned this corrupt "borrowing" practice by his staff. If he has permitted, or turned a blind eye to acts of

theft by deputies he has not just broken the law, he has forfeited both his moral and legal authority to enforce the law because he has blurred the ethical line between law enforcers and law-breakers. The state commissioners claim to have proof that he has been running a private bank for his department out of a county petty cash fund. If true, that is gross misconduct by the sheriff. On the other hand, if Blankenship's deputies have been secretly "taking" money from the county petty cash fund without his knowledge or permission then he is guilty at the very least, of negligent supervision and we don't need elected officials who can't control their employees.

We Need Answers. Phelps county voters need to know one way or the other exactly what is going on and who is responsible - and we need to know before the next election. Just because the hearing commissioner's rationale for giving the deputy only a tap on the wrist was wrong - and it was - doesn't mean all the evidence about sloppy department practices produced in their hearing is without merit or fact. Is Blankenship guilty of nothing more than bad management and just can't control his own deputies? If that is all, that's bad enough. Or, as Blankenship claims, is the hearing commission way off base? If the statement in the commission report which says, "The record shows that other officers had borrowed cash from the petty cash bag." is true, then the Sheriff had better make them produce "the record" so he can prosecute those employees who "borrow" county money for personal use. On the other hand, if the state commission can't back up this record of pilfering they claim to have, then Blankenship should make them publicly retract the statement. But if the commission's report is wrong why, as the report explains, was Detective Hope investigating two other missing

amounts of money in the department when Schowengerdt confessed to “borrowing” the \$100? What is really going on in that department? Both the commission report and the Sheriff’s rebuttal raise more questions than they answer.

Despite Blankenship’s “total shock” and denials, accounting for the department’s cash and property is a long-term, and well-documented failing of this Sheriff. Every state audit of Phelps County during his tenure has revealed that Sheriff Blankenship is, at the least, a very poor administrator. Unlike most other county office holders, Blankenship has made little or no effort to improve the bad accounting and record keeping practices for which he has been cited by the state auditors over and over again.* His record on administrative custody of money, records and seized property is pathetic. He is better at promoting himself and bragging about his drug interdiction activities than providing protection for county residents. But if the Hearing Commission’s “record” showing “that other officers had borrowed from the petty cash bag” is in error then the reputation of some, or all of the deputies has been unfairly tarnished and they are entitled to have the record set straight. At this point only an audit and investigation can resolve these questions.

We have every right to demand that all our elected and appointed officials, including the Governor’s Administrative Hearing Commission, meet an ethical standard at least on par with that of the average Cub Scout. Unfortunately, in this case they have not. It was, however, fortunate that the Governor’s Commissioners shared their idiotic logic with us in their press release. It provides a useful object lesson with which to teach the young that “taking” really is stealing even if “everybody does it” and it’s

still wrong even if official grown-ups prosecutors, county commissioners and circuit judges, condone it.

url #1 to our web page - AHC’s “Findings of Fact” No.98-2898
<http://www.rollanet.org/~rwnash/Hearing_Commission.html>

(The web page of the AHC is at
<<http://www.oa.state.mo.us/admhrcom.htm>
> They do not put their decisions on line. We have posted the entire text on the NSN page.)

*Copies of the biannual state audits containing reports on the Sheriff and all county office holders for 1992, 1994, 1996 and 1998 may be requested from
<<http://www.auditor.state.mo.us/>> or viewed at the Phelps County Clerk’s office.

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