

City of Key West

CITIZEN REVIEW BOARD

Annual Report

2015



January 25, 2016

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2015 Annual Report

CITY OF KEY WEST CITIZEN REVIEW BOARD

Introduction

The City of Key West Citizen Review Board (CRB) has been actively reviewing complaints filed by citizens against Key West police officers since January 2003. This report is based on data and events occurring in the calendar year of 2015. This report is intended to give the reader an overview of the progress of the Board's efforts and major activities undertaken by the CRB during this year. Readers may obtain a copy of this report by visiting the City of Key West web site www.cityofkeywest-fl.gov and then selecting CRB under the city department drop down menu.

The Board continues to look at trends and patterns reflected by the types of complaints filed with the CRB and the Key West Police Department (KWPD). Our emphasis is on the continuing changes within the department that have had an effect on the CRB as well as the community to include organization changes, policies and procedures, and community programs.

The CRB would like to take this opportunity to recognize the ongoing professionalism of the KWPD members. This report and its recommendations herein are by no means meant to overshadow this fact. The KWPD, under its current leadership, reflects a professional crime fighting organization and the CRB is appreciative of its ongoing efforts. Chief Lee's administration and the CRB continue to share the same early intervention philosophy to help minimize miscommunications and dispel misinformation involving alleged officer misconduct. These early intervention processes have continued to reduce the number of formal complaints to the CRB.

We hope that this report will enable the reader to better understand the role of the Citizen Review Board. If there are any questions, please call CRB Executive Director Larry Beaver at (305) 809-3887 or email us at crb@cityofkeywest-fl.gov.

Letter from the Director

Larry T. Beaver

This past year has been very active for the Citizen Review Board. There were several complaints filed with the CRB in 2015 and one Board member was replaced with a new member. While reviewing those complaints, the Board continued to show their diligence in ensuring that each investigation was thorough, impartial and complete. The new Board member hit the ground running, getting involved in the facts of the cases coming before the Board very quickly.

In February of 2015 the Board voted to televise its regular monthly meetings. The meeting videos are now archived on the City of Key West webpage and can be viewed by the general public at any time.

In April of 2015 the Board voted by unanimous vote to retain myself as the Executive Director for another year. I learned a lot during my first year as Executive Director and look forward to applying the skills that I have learned to my next year as the CRB Executive Director.

At the request of Commissioner Lopez, I have attended all of the District VI meetings this year; giving several presentations on how the complaint process works and how complaints can be made. I continue to present to the Key West Ambassador program and have made other presentations in the continuing effort to make the Board more visible to include Constitution Day at the Florida Keys Community College. I feel this has been extremely important this year in getting the word out about the CRB and how to file a complaint.

In June 2015 the Board lost Member Rodney Gullatte Jr. after he completed his first full year. Mr. Gullatte was replaced by the City Commission in July 2015 with Ms. Deborah Dingler. Ms. Dingler will serve the remainder of Mr. Gullatte's four year term. Mr. Gullatte is a military spouse and his wife received orders and was re-assigned to Colorado. The Board will miss Mr. Gullatte, but looks forward to working with Ms. Dingler.

In July of 2015, the Board voted to retain the same two officers. Mr. Michael Behrend was re-appointed as Chair and Mr. Tom Milone was re-appointed as Vice-Chair. They will serve in these positions until June 2016 when the Board will once again vote on new officers.

In October 2015, Mr. Joe Pais and Ms. Debo Dingler attended the N.A.C.O.L.E. (National Association for Civilian Oversight of Law Enforcement) conference in Riverside, CA. This is our national organization and the conference provides continuing training for our Board members. The attending Board members are then required to give a presentation to the other Board members, upon their return, to share the knowledge gained by these sessions.

As a former Board member and police officer I feel very strongly about the CRB and am proud of what it has accomplished. Research has shown that the mere existence of a CRB can influence police departments to do a better job of policing themselves. I want the citizens of the City of Key West to know they can trust and depend on the professionalism of the officers on the KWPD and the cooperation of the Citizen Review Board.

I am honored to be a part of the continuing progress of the CRB as we move forward into this New Year.

Larry T. Beaver

Executive Director

ABOUT THE CITIZEN REVIEW BOARD

What is the CRB?

Key West voters created the Citizen Review Board (CRB) on November 5, 2002 to review and/or investigate citizen complaints, filed by the public, against Key West police officers for alleged professional misconduct.

CRB Mission Statement

The mission of the CRB is to promote public confidence in the professionalism and accountability of the police officers of the Key West Police Department (KWPD).

Purpose of the CRB

The purpose of the CRB is to establish guidelines for the receipt and processing of allegations of KWPD police misconduct in compliance with the Charter of the City of Key West Article I, Chapter 1.07. The CRB also independently reviews citizen complaint investigations against KWPD police officers, recommends changes in departmental policy, and when deemed appropriate by the Board, conducts independent investigations of citizen complaints. The CRB forwards findings and/or recommendations to City management, the Chief of Police, State Attorney, other state and federal law enforcement agencies and/or grand juries if appropriate.

Members of the Citizen Review Board

The City of Key West Citizen Review Board is composed of seven residents of the City of Key West and are not employed by the City. Originally, the City Commission appointed four (4) members from nominations from community based civic and/or social organizations. The original four (4) members then selected three (3) additional members from applications submitted by the general public. Any vacancies of these seats are filled in the same manner (Commission verses Board appointed positions). As with other City boards and commissions, these are unpaid positions. The term in office for each Board member is four (4) years and a Board member can serve no more than two (2) four (4) year terms.

In accordance with 1.07(IV) (d), Board members have received training through various sources. These sources include presentations by the Executive Director, State Attorney's office, and Key West Police Department, as well as ongoing reviews of professional publications. Mr. Joe Pais and Ms. Debo Dingler attended the National Association of Civilian Oversight of Law Enforcement (NACOLE) conference and workshops at the annual meeting in Riverside, CA, in October 2015. Other members were briefed by the attending members as to the information obtained and materials from the NACOLE conference were made available to the entire Board. More information on NACOLE can be found at www.nacole.org.

The Board members who served in 2015 are:

Michael Behrend, Chair. Michael Behrend is a 12 year resident of Key West. He currently works as HR Director for the Florida Keys Mosquito Control and was a lead agent for American Airlines. He has a degree in History from Spring Hill College in Mobile, Alabama, and served in the Connecticut National Guard from 2000-2009. **He served as Vice Chair in 2013/2014 and was appointed Chair in June 2014. He was re-appointed as the Chair for 2015/2016. Michael Behrend was appointed by the Board in November 2011 to fill the seat vacated by Bryan Green. He was re-appointed to a second term in April 2015 and his term will expire in June 2019.**

Tom Milone, Vice Chair. Tom Milone is a 13 year resident of Key West. Before moving to Key West Mr. Milone served as a court clerk for the New York State Supreme Court for 11 years and a court assistant for the City of Buffalo for 5 years prior to that. During his residency in Key West Mr. Milone remains in community service; having served on several Boards and committees including Last Stand, the Port Advisory Board, KW Civil Service Board and the Community Housing Committee. Mr. Milone has a BA in political science from Long Island University, Brooklyn, New York. **Tom Milone was appointed by the Board as Vice Chair in 2014 for the 2014/2015 term. He was re-appointed as Vice Chair in June 2015 for the 2015/2016 term. He was appointed by the Board in 2011 to fill the remaining term of Susan Srch. The Board re-appointed him in June 2013. His current term will expire in June 2017.**

Kathleen S. Ford, Member. Kathleen Ford relocated from Detroit, MI, to Key West in 1969 with her parents. She graduated from the Florida School of Massage, Institute of Natural Health in Gainesville, FL, in 1990 and has been in private practice as a Licensed Massage Therapist in Key West for over 24 years. She attended the Leadership success Academy offered by the Community Foundation of the Florida Keys and is a graduate of the 2013 Key West Ambassador Class #19. She also completed the Monroe County Sheriff's Office Citizen Police Academy. **The Board appointed Kathleen S. Ford to replace Dr. Kevin Collins in August 2014 and her term expires in June 2018.**

Arthur Dennison, Member. Arthur Dennison was born in Miami, Florida, and was raised and educated in Europe. He graduated from the Gregorian University in Rome, Italy. He was ordained a Roman Catholic priest in St. Peter's Basilica in the Vatican. He has been a pastor in three South Florida parishes and has taught forty-two semesters at Columbus, a Catholic high school for boys in Miami. He retired and moved to Key West in 2013 to reside and work at St. Mary's Basilica. **The City Commission appointed Arthur Dennison to the Board to fill the vacancy left by Larry Beaver in June 2014 and his term will expire June 2018.**

Hayward Magby, Member. Hayward Magby returned to Key West in 2002 with his spouse the Reverend Dr. Gwendolyn Magby. He received his Speech Communications degree at Jackson State University. He continued his graduate work in Counseling in England and Ball State University. Mr. Magby is a Viet Nam veteran and retired Non-Commissioned officer in Personnel Administration and Electronic Security Intelligence in the United States Air Force. Since residing in Key West he has been a community organizer and currently the Department of Educations' Substance Abuse and Mental Health Service Administrations (SAMHSA) Program Coordinator at AIDS Help. He is secretary of the Martin Luther King Jr. Scholarship committee, Chair of Tropical Florida Presbytery, Disaster Relief Committee; and Florida representative for the Southeast Region National Black Presbyterian Caucus. **The City Commission appointed Hayward Magby in 2009 and he was re-appointed in June 2013. His current term will expire in June 2017.**

Joe Pais, Member. Joe Pais has been a resident of Key West for over 34 years and is currently retired. During his time in Key West Mr. Pais has served on many Boards including the Key West Planning Board, the Business Guild, Monroe County TDC, Anchors Aweigh, Aids Help Board, the Florida League of Cities and the Monroe County Homeless Services Board. Mr. Pais is a former City Commissioner having been elected to serve from 1991-1995 and then filled a four (4) month vacancy on the Commission from June – October of 2009. Mr. Pais has a degree from State College in Westfield, Massachusetts in history and secondary education. Mr. Pais is a Viet Nam era veteran having served in the US Army Signal Corps. **The City Commission appointed Joe Pais in 2011, filling the seat vacated by Rev. Sinclair Forbes. The City Commission re-appointed him for a second term in 2015. His term expires in June 2019.**

Deborah Dingler, Member. After graduating from Southwest Texas State University with a BS in Education, and teaching in Texas for six years, Ms. Dingler moved to Key West in 1994. She taught emotionally handicapped and learning disabled students for 25 years. She is currently teaching Physical Education at Horace O'Bryant School. Ms. Dingler is a member of Metropolitan Community Church. She was given the Paul Harris Fellow award in the Key West Sunrise Rotary Club. She is an avid volunteer for Aids help. **Debo Dingler was appointed by the City Commission in June of 2015 to replace outgoing member Rodney Gullatte Jr. Her term expires in June of 2018.**

The Executive Director of the CRB is contracted with the City of Key West and reports to the Board Chairperson. Larry T. Beaver was hired by the Board to perform these duties in May, 2014 and was contracted to continue for another year in April, 2015. Prior to this, Mr. Beaver was a CRB Board member since 2010 and served as Chair until his hiring as the Executive Director. The CRB attorney is contracted with the City of Key West and reports to the Board. Robert J. Cintron., Esquire, performed these duties during 2015. He has been the Board counsel since 2002.

The Citizen Review Board's Authority & Responsibility

The CRB has the authority to review and investigate citizen complaints involving Key West Police Department personnel and forwarding findings and recommendations to City management, the Chief of Police, State Attorney, other state and federal law enforcement agencies and/or grand juries. **It is completely independent of the Key West Police Department and, for the most part, City management.** The seven (7) board members of the CRB all live in Key West and are not employed by the City.

The CRB's review of complaints and policy recommendations are done "in the sunshine" on a fair and impartial basis. The CRB staff and Board work to ensure that all complaints receive a fair and objective investigation and, when necessary, a hearing.

The CRB is a neutral body designed to be a bridge between the community and the police department. It was designed to give the public confidence that accusations of misconduct made against an officer will be fairly and thoroughly investigated. In addition to being a neutral body, the CRB offers a public forum for citizens who want to express their opinion on police-related issues. Finally, the CRB adds additional transparency to the complaint process by providing documents currently being reviewed by the CRB on Legistar and offers complaint and commendation forms on its website. The CRB's near autonomous structure is paramount to successfully performing its functions under the City Charter.

The CRB Complaint and Review Process

Typically, a complainant contacts the CRB office to discuss what they feel is a police professionalism issue. The CRB Executive Director at this stage evaluates the issue to confirm that it falls within the CRB jurisdiction and, if not, the complainant is referred to the proper agency. If the issue falls within the CRB jurisdiction the complainant is provided with a complaint form to be filled out documenting the allegation of misconduct.

All formal complaints received by the CRB office are forwarded directly to the KWPD Internal Affairs Bureau (IA) and the Chief of Police within two (2) days of receiving the complaint. IA generally has 45 days to complete an investigation or inquiry and forward findings to the Chief of Police, the CRB and the complainant. However, the CRB reserves the right to commence an independent investigation at any time.

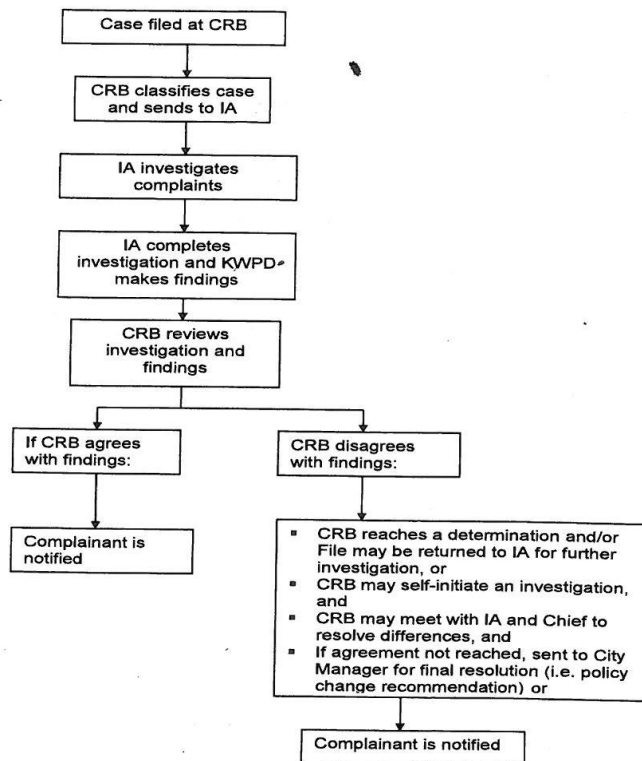
When an investigation is completed and returned to the CRB by IA, the Executive Director reviews it for completeness and writes an executive summary for the Board. The Board then reviews each allegation in each case, reflecting on the complainant's additional comments/testimony and IA's additional statements at a public meeting. The Board thereafter makes a recommended finding based on a preponderance of the evidence.

On the occasion the CRB reveals that the IA investigation or inquiry is inadequate or incomplete, the CRB has the option of returning the file to IA or conducting its own investigation. Typically the CRB will refer the file back to IA and outline the areas that require further investigation. The CRB also has the option to conduct its own investigation, employing its own private investigator, and has exercised this option on several occasions over the years. Following the review of a complaint the Board may also consider policies that are in place that relate to the complaint.

At the conclusion of the review or investigation, the CRB forwards its written findings and conclusions to the Chief of Police and affected officers, and to the complainant, to the extent permitted by law. The Chief of Police and City Manager have the sole responsibility for discipline.

During the review process, the Board also critiques the quality of the investigation and investigative process. The review and comment by the Board gives the City and KWPD management the advantage of having a perspective that is not found in most communities. The transparent process allows for citizens to participate in its government and inspire confidence in the KWPD.

CRB COMPLAINT PROCESS CHART



This chart outlines the typical formal complaint processing procedure. However, at anytime during this process the CRB can commence its own investigation

Summary of 2015 CRB Files

The tracking chart below is a record of what the CRB uses, on a monthly basis, to track complaints that have been filed with the CRB and forwarded to the Police Internal Affairs for investigation. The chart shows the complainant's name, the file case number, date the complaint was filed with the CRB, date of transfer to IA, the 45 day limit, the date it was returned, and the allegation and finding by the CRB. The 45 day limit is from the Law Enforcement Officers Bill of Rights and pertains to the amount of time designated for the IA investigation where the complaint remains closed (45 days) and the time frame during which an officer can be disciplined for an infraction (180 days).

CRB Complainant PENDING COMPLAINTS	CRB case No.	Date Filed With CRB	Date Sent To IA	45 day limit	Date Returned	Allegation and Finding
Eimers, Charles	14-006	12/17/14	12/17/14	01/31/15	01/26/15	Excessive Force & Truthfulness- Pending
Carswell, Troy	15-001	07/27/15	07/27/15	09/10/15	08/05/15	Excessive Force with Taser Violation & Truthfulness Unfounded

There were a total of 57 Response to Resistance Incident (RRI) reports produced and provided to the CRB during 2015. Of that total, the Taser was used in 25 of those cases. Physical "hands-on" take downs were the majority of the RRI reports. The demographics of those being Tased broke down as follows: White-13, Hispanic-7, African-American-4 and Other-1. A total of 23 were male and 2 were Female.

Issues of Concern during 2015

The two (2) complaints investigated by IA have been handled in a professional and timely manner and the CRB commends the Professional Standards Office and IA for their efforts in 2015.

The Citizen Review Board members had no particular issues of concern with the KWPD investigative process during 2015. They continue to monitor and analyze any uses of the TASER as that is an area of concern nationwide. In the past the police department gave the Board quarterly reports on TASER usage. The Board requested and the KWPD agreed to provide the Response to Resistance Incident (RRI) reports on a monthly basis to the Board. The RRI reports are completed by a supervisor anytime resistance is used by a subject that requires the officer to take additional actions during the arrest which includes the officer using the Taser. Upon implementing this change it was determined that the Quarterly Taser Report was no longer needed. The Board does show concern on how often the Taser is used in lieu of other means of taking a person into physical custody. The Board will continue to monitor the cases where the Taser is used and the demographics of the persons being Tased. Also a concern is the KWPD's policy on "Strip Searches" and the Board is aware that the KWPD is in the process of making changes to this policy to reflect the State requirements and has completed additional training on the current Strip Search Policy of all KWPD Officers.

Excessive Force and Truthfulness are re-occurring issues in the complaints received by the Board during 2015. Mainly in dealing with the Taser (as outlined above) and whether the officers involved reported the entire set of facts that occurred correctly in their written reports. CRB case 14-006 is still pending awaiting the completion of the U.S. Department of Justice (DOJ) investigation into the allegations. As of the publication of this Annual Report, the CRB had not received notification from the DOJ on the progress of their investigation or an expected completion date.

CRB complaint 15-001 was a self-initiated Board investigation as there was no formal complaint filed with the CRB. Board Member Joe Pais witnessed the incident and felt that it deserved an in-depth review by the Board. At the conclusion of the investigation the case was closed as "Unfounded" by the Board. The case involved one officer and multiply Taser discharges on the subject. Because of this case the KWPD did conduct further training of its officers on the use of the Taser.

In Conclusion

A. Transparency

The CRB continues to make transparency one of its' main concerns. Most documents being reviewed by the CRB can be accessed through our departmental website which can be located under the "CRB" department link from the City's homepage at www.cityofkeywest-fl.gov. These documents as well as all agendas, minutes, and meeting videos can be accessed through the City's on-line Legistar system.

Our webpage provides access by the public of:

1. The City Charter Provision 1.07 which created the CRB
2. The CRB Policy and Procedures
3. The Florida Officer's Bill of Rights
4. A downloadable commendation form to compliment an officer
5. A downloadable complaint form to complain against an officer
6. The entire CRB yearly meeting schedule
7. Useful NACOLE links
8. CRB Staff credentials
9. Related police oversight links
10. The current and previous year's Annual Report

The CRB continues to use the City's Legistar system for uploading the public viewing of file contents in an attempt at achieving city wide uniformity of presenting such public records to the citizens of Key West. This continued access to public documents provides IA with a platform to demonstrate the effectiveness and completeness of each of its investigations. The advantage of the foregoing has opened up the transparency of the entire review process.

B. Community Outreach

The CRB continues to conduct aggressive community outreach through the Executive Director's presentations as well as regular monthly appearances on local radio stations to discuss current CRB activities and issues. The Executive Director continues to present the CRB overview to the City Ambassador Class, attends District VI meetings and participated in the National Constitution Day September 17, 2015 at Florida Keys Community College. During this campus event the Director distributed pocket Constitutions as well as CRB brochures to all participants.

In closing, the CRB would like to stress its highest respect and regard to the men and women of the KWPD who truly are protecting paradise. These officers are doing a difficult job under extraordinary circumstances every single day to protect the citizens of Key West. Chief Lee and his staff continue to show their professionalism and prove their willingness to work with the CRB.