

# Citizen Review Board

100 Grinnell Street, Key West, FL 33040  
PO Box 1946, Key West, FL 33041  
(305) 809-3887 Fax (305) 293-9827  
e-mail: [crb@cityofkeywest-fl.gov](mailto:crb@cityofkeywest-fl.gov)

- What you need to know before completing the attached complaint form:
- This complaint and any attachment become public record. If you have already filed a report with Key West Police Department Internal Affairs, and you want that complaint to remain confidential until the investigation is complete, you may want to refrain from filing at this time.
- Complaints should be filed as soon as possible the time you became aware of the incident or after resolution of any criminal charges.
- Anyone who has criminal charges pending related to this complaint should consult an attorney before filing the complaint with the CRB and such pending charges may delay the progress of the investigation of your complaint with the CRB. Further, any statements made to the CRB are public record and can be used by anyone to incriminate the complainant. All statements will be uploaded to the internet.
- Complainants must advise the CRB of any changes of address or phone number; failure to provide the CRB current information or means for CRB to contact the complainant may result in dismissal of the case.
- All documents received by this office, including medical records, photo IDs, communications and alike become public records and will be disclosed on the Internet and viewable by anyone or any person. You should consider this fact before sending any matters or materials to this office.
- The CRB and its employees and agents are not your legal representatives. You should seek independent legal representations to understand your legal rights regarding the matters referenced in your complaint.
- The CRB jurisdiction is limited to City of Key West Police Officers and NOT Monroe county sheriffs, correction officers, Florida Fish and Wildlife Officers, FDLE representatives, Florida Highway Patrol Officers, Federal Agents, Military personal and alike.

I have read and understand the information provided to me on this page.

*J. M. Ede*  
Name/Nombre

*August 1 2016*  
Date/Fecha

1. CRB Control #

16-002

COMPLAINT FORM
Citizen Review Board

PO Box 1946, Key West, FL 33041
http://www.cityofkeywest-fl.gov
email: crb@cityofkeywest-fl.gov
(305) 809-3887 Fax (305) 293-9827

2. Day, Date, Time
Complaint Received
8/1/16 2:00 PM

3. KWPD Control System #

Please provide as much information as you can about the incident(s). Use additional pages if necessary.
Suministre la mayor cantidad de información posible acerca del (de los) incidente(s). Utilice páginas adicionales si fuese necesario

A. COMPLAINANT INFORMATION
DATOS DEL DENUNCIANTE

Name: JOHN M. ELLER Date of Birth: 09/26/53
Nombre Fecha de nacimiento
Address: 1612 BERTHA ST KEY WEST FL 33040
(Dirección) Street (Ciudad) City (Estado) State (Código Postal) Zip
Mailing Address: SAME
Dirección postal PO Box or Street, City, State and Zip
E-Mail Address: ELLER JOHN @ ME.COM
(Dirección e-mail)
Home Phone: ( ) Work Phone: ( ) Cellular: 302 540 9479
Teléfono Particular Teléfono del Trabajo Celular

B. NATURE OF COMPLAINT: Naturaleza de la denuncia:

Battery Rudeness Deficient Service Truthfulness Driving False Arrest Excessive Force Searches Other

C. INFORMATION ABOUT THE OFFICER(S) INVOLVED IN THE INCIDENT
DATOS DEL (DE LOS) OFICIAL (ES) INVOLUCRADO(S) EN EL INCIDENTE

Name: Alex Rodriguez Badge #: 3465 Vehicle #:
Nombre Placa No: Patrulla No.

Please provide a physical description of officer:
Describe la apariencia fisica del oficial:

Name: Badge #: Vehicle #:
Nombre Placa No: Patrulla No.

Please provide a physical description of officer:
Describe la apariencia fisica del oficial:

Name: Badge #: Vehicle #:
Nombre Placa No: Patrulla No.

Please provide a physical description of officer:
Describe la apariencia fisica del oficial:

**D. VICTIM/WITNESS INFORMATION**  
**DATOS DE LA VICTIMA/TESTIGO**

Did you witness the incident? Yes  No   
¿Fue usted testigo del incidente denunciado? Si  No

If you are filing a complaint on behalf of someone else, what is your relationship, if any, to the person(s):  
Si usted está presentando una denuncia en nombre de otra(s) persona(s), indique cuál es su relación, si la hay, con esa(s) persona(s):

Parent  Spouse  Relative  Guardian  Child  Friend  Other   
Padre/Madre  Conyuge  Familiar  Tutor  Hijo/a  Amigo/a  Otra

Please provide as much of the following information as you can about the person(s) on whose behalf the complaint is filed and any witness(es) to the incident:  
Suministre la mayor cantidad posible de la información que se solicita a continuación, sobre la (las) persona(s) en nombre de la(s) cual(es) presenta la denuncia, y sobre el (los) testigo(s) del incidente:

**Victim/Witness #1**

**Victima/Testigo No. 1**

Is this person a: victim  witness   
Esta persona es: víctima  testigo

Name: KATHY MAYER  
Nombre \_\_\_\_\_  
Address: 1612 BERITHA ST City Key West State FL  
Dirección: \_\_\_\_\_ Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_  
Zip Code 33040 Contact numbers: Telephone 302 218 2642 Cell 302 218 2642  
Código Postal \_\_\_\_\_ Teléfono \_\_\_\_\_

**Victim/Witness #2**

**Victima/Testigo No. 2**

Is this person a : victim  witness   
Esta persona es: víctima  testigo

Name: \_\_\_\_\_  
Nombre \_\_\_\_\_  
Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
Dirección: \_\_\_\_\_ Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_  
Zip Code \_\_\_\_\_ Contact numbers: Telephone \_\_\_\_\_ Cell \_\_\_\_\_  
Código Postal \_\_\_\_\_ Teléfono \_\_\_\_\_

**Victim/Witness #3**

**Victima/Testigo No. 3**

Is this person a : victim  witness   
Esta persona es: víctima  testigo

Name: \_\_\_\_\_  
Nombre \_\_\_\_\_  
Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
Dirección: \_\_\_\_\_ Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_  
Zip Code \_\_\_\_\_ Contact numbers: Telephone \_\_\_\_\_ Cell \_\_\_\_\_  
Código Postal \_\_\_\_\_ Teléfono \_\_\_\_\_



# From the desk of: John M. Eller



1612 Bertha Street • Key West, FL 33040 • Phone: 302-540-9479  
E-Mail: ellerjohn@mc.com

Date: July 20, 2016

Citizens Review board  
Key West Florida  
100 Grinnell Street  
Key West FL 33040

Dear board members:

I am filing this complaint with the Citizens Review Board because attempts to address these issues with the Key West Police Department have been completely unsuccessful. I filed a detailed complaint with the Key West Police Department by sending Chief Lee a registered letter (attached) that they received on June 23, 2016. Apparently the citizens of Key West are not worthy of acknowledgement, as I was not afforded the common courtesy of a response. Finally I would suggest that as a public servant who oversees the entire police force it is the Chief's duty to respond to any citizen's complaint.

The complaint I now file with your board is not of a headline grabbing nature, like the Elmer complaint, but I submit that it is a valid and serious situation, which involves an overzealous and dishonest officer, Patrolman Alex Rodriguez. I have learned that the injustices of the criminal justice system in Monroe County are many, and I fully understand that some of what I am complaining about may be beyond the scope of your board, but I feel that it is imperative that you understand the entire incident so that you can empathize with my frustration.

I also believe that it is important that you understand who I am, my background and my motive for filing this complaint. I am a retired member of the Newark Delaware Police Department. During my time in law enforcement I have received many accolades, which I can provide if necessary, but the point is that I am anything but a police hater. I filed this complaint because I have been the victim of a dishonest police officer, and apparently a poorly managed police department. It has cost me approximately \$7,000.00 to defend myself from a wrongful arrest. I am not sure if your board has the power to reimburse me for the costs of having to defend myself, but if not I will take additional measures to address the monetary damages.

On November 28, 2015, I began work at the Reach Hotel at 6:00 am, and as soon as I got off I went to work at the Garden's Hotel where I worked until sometime after 9 pm. It was my girlfriend's (Kathy



Mayer) birthday, and some guests asked me to join them at La Te Da where Ms. Mayer works. I had two drinks, however, I picked up the tab for a total of five people. I left at around 10:30 and went to Hogs Breath where I drank water, knowing I had to work again the following morning. On my way home Officer Rodriguez stopped me for allegedly having a broken taillight, and stopping beyond the stop lines at three intersections. My taillight **was not broken** or faulty in any respect, and the stop line violations were not fairly depicted. He was looking for drunk drivers and me being out late that night made him believe I was automatically a drunk driver. After acknowledging that my taillight was not broken he proceeded to investigate, stating that I was “slurring” my words. I explained to the officer that I had an accent, and he proclaimed to somehow know the difference between an accent and a slur. The officer then proceeded to ask me questions about the time and where I had been in an attempt to confuse me. I never got off the scooter, and declined to do “field tests” when asked. Remember, I was a police officer for 20 years so I am well aware that the field tests are subjective. In the past I have witnessed officers arresting people who I believed to be perfectly sober so I exercised my right to decline, knowing that the tests are subjective and feeling that I was dealing with a young overzealous officer. The officer grabbed my girlfriend’s drink and sniffed it to see if it was alcohol. It was water, and I also had a water bottle on my scooter. Somehow, based on all this Officer Rodriguez made the decision to arrest me, even though there was **zero** probable cause. Officer Rodriguez will assert that in addition to the previous “probable cause” that my eyes were bloodshot and droopy, and that I had the moderate odor of alcohol on my breath. This is standard police jargon, but in reality it just was not true. I have never known traffic officers who did not use the same verbiage on everyone they arrested. It is also important to note that during the traffic stop here was never any mention of swerving, wobbling, or an unsteady gait. Again I want to stress probable cause. The traffic stop should have been terminated immediately after learning that the taillight was operating perfectly.

Officer Rodriguez then decided to tow my scooter even though Ms. Mayer was right there. Had they felt she was impaired, they could have parked it in the Circle K, which was right there, or they could have allowed her to call someone, but I assert that he towed it so that I would lose my temper and he would then have video footage of me acting irrationally. Interestingly, in trial, neither Officer Rodriguez nor the back up officer stated that Ms. Mayer was impaired. There was no logical or legitimate reason to tow my vehicle.

Once back in the detention facility Officer Rodriguez read me the advised consent form trying to get me to blow into the intoxilyzer. I refused three times that night, because there are too many studies about the inaccuracy of those machines, and in addition, I have personally seen the machines malfunction. I did however, ask why I was not afforded the opportunity to take a blood test, which is the most accurate

way to determine the blood alcohol content, and in addition it would also indicate any drug usage. Officer Rodriguez stated he was not offering that, even after I pointed out that it was much more accurate. In short, I did not refuse testing but asked for a blood test the results of which are far more definitive than that of an intoxilyzer.

There was a motor vehicle administrative hearing held a couple months later. Officer Rodriguez was under oath and testified that I never asked about a blood test. In addition he also testified about my swerving and wobbling while on the scooter, although admitting that I never left my lane. I find that suspect because my “swerving and wobbling” was never mentioned as the probable cause for the stop! That being said, anyone who lives in Key West knows that the roads are full of potholes and other obstructions that a small scooter should try to avoid. These obstructions are magnified when riding with two people on the scooter. When asked if Eaton Street had been under construction, Officer Rodriguez stated that it had not. The video clearly shows that Eaton Street had been torn up and that the lane I was travelling in had been filled with a crush and run type material. Officer Rodriguez further testified that I had stopped beyond the stop lines at three intersections. However, he never mentioned that at one intersection, the light changed from green to yellow, and that I had to stop quickly as opposed to risking running the light. That indicates that I was *not* impaired but very aware of my surroundings. Furthermore, that particular stop line is badly faded and difficult to see. In failing to mention these points, he was intentionally lying by omission. Additionally, he did not mention that the stop line at another intersection he pointed out was quite a distance behind the intersection to accommodate Conch trains and large trucks. The experience I have gained from living here is that there are many pedestrians and bicycles, which unexpectedly appear so I always try to see what is coming, especially at night. By not mentioning this to the hearing officer he is skewing the facts. This hearing was not decided in my favor, and I submit that had Officer Rodriguez been totally truthful and forthcoming at this hearing it would have been decided differently, because there was not any legitimate probable cause for a traffic stop.

On May 24, 2016, there was a trial presided over by Judge Wayne Miller. Officer Rodriguez once again testified and once again altered the facts in an attempt to gain a conviction. Interestingly, in this hearing he did remember that I wanted a blood test. Furthermore when asked what would have happened had I passed the breath test, he stated that he would have requested blood. That’s incredible, since I wanted a blood test from the start, and had he allowed me to take one, I would not be here today. Officer Rodriguez testified, about the scooter swerving, wobbling, and my staggering, while getting off the scooter. He also testified that I had some difficulties walking. All of which were just blatant lies, and never mentioned during the initial traffic stop. Thankfully there are videos of the entire incident. After seeing the facts on video, Judge Miller stated, *“After sitting here and listening to the officer’s*



*testimony, it was not what I saw on the video.*” Judge Miller then dismissed the case by a Judgment of Acquittal (JOA). He did not even allow the jury the opportunity to decide, and by issuing the JOA he effectively said that there *was not evidence to support a charge*.

I am saddened and furious by what has happened to me. Police are under a lot of scrutiny all over the country and this type of behavior fuels the negative views the citizens of this country have of the police. I feel sorry for the people who are not as fortunate or as knowledgeable about the system as I am, and who cannot afford to put up a defense to fight similar unfounded charges. It is a shame that my *wrongful* arrest has cost me in excess of \$7,000 to defend myself. Interestingly, had I been convicted, I would have had to pay the cost of prosecution, probation, DUI classes, and the cost of alcohol monitors on my vehicles. However, due to the ways the current laws are written the state has no financial responsibility to reimburse an innocent person from a wrongful arrest by a dishonest police officer.

Additionally I am fighting another battle with the Sherriff’s office over a “bill” they sent me for my night in jail. I have asked for legal justification for such a “bill” and once again I have received no answers. How can I be charged for a night in the county facility when I was not supposed to be there to begin with? Furthermore, the Sherriff’s office has no legal justification to send a “bill,” so what they are trying to do is *fine* the citizens, without even having a hearing! It amounts to nothing more than a shameful attempt to extort money from the citizens and to make matters worse; they use the office of the Sheriff to facilitate the extortion! There is no due process, which is a clear violation of the 5<sup>th</sup> and 14<sup>th</sup> amendments of the United States Constitution. And once again the Sheriff’s office also won’t respond to my letters.

Since I cannot get any response from the Chief of Police, I am requesting that your board investigate my claims. I have all the videotapes, and the transcripts from the motor vehicle hearing. Officer Rodriguez manufactured probable cause, lied under oath during the motor vehicle hearing, and misrepresented the truth at trial, all in an attempt to gain a conviction for a wrongful arrest. He is a young overzealous officer who will do what he has to do in order to advance his career at the expense of the citizens or visitors of Key West. If this type of behavior is not addressed it will end up costing the City of Key West a lot of money as well as the support of the citizens.

After the case was decided, I filed a request with the City Managers office to be reimbursed for the towing of my scooter. I furnished the JOA, granted by Judge Miller, as well as a copy of the complaint I filed with the Police Department. On July 13, 2016 I received a call from the City Managers officer denying my request for reimbursement.



I have a valid complaint and I am willing to sit down with representatives of the city to work out a settlement to this complaint, if that is possible. Please contact me if there are any questions, and I can be available, with notice, to supply the necessary transcripts, and videos. I am looking forward to your cooperation in this matter, and awaiting your response.

Sincerely,

John M. Eller

# John Eller

1612 Bertha Street, Key West FL. 33040 • 302-540-9479  
e-mail: ellerjohn@mc.com



May 25, 2016

Chief Donnie Lee  
Chief of Police  
Key West Police Department  
1604 N. Roosevelt Blvd.  
Key West FL 33040

Dear Chief Lee:

On November 29, 2015, Officer Alex Rodriguez placed me under arrest for Driving while Under the Influence of Alcohol. Judge Miller presided over the case on May 24, 2016, and dismissed it with a Judgment of Acquittal.

The purpose of this letter is to alert you as to the conduct of Officer Rodriguez, who I believe to be over zealous and untruthful. I am requesting that you take immediate action to address these issues. Additionally, I feel that your departmental policies concerning the towing of vehicles are in need of review and change.

I am a retired law enforcement officer so I am not one of those people who go around bashing police, but I have witnessed police officers, (mainly traffic officers), who alter the facts in order to advance themselves. It's a shame, but I can easily understand why people have negative views of police.

Officer Rodriguez stopped me with questionable probable cause, most of which was fabricated. I understand that he is looking for drunk drivers, and while I don't agree with the DUI laws in their entirety, I cannot deny that there needs to be enforcement. My concern is that he is so obsessed with his role as a "drunk driving specialist" that he fails to recognize that not everyone who has a drink, or drives a motor vehicle at 2 am is impaired. Sadly, he lied and misrepresented the truth in an attempt to achieve his goal of making DUI arrests.

In my case he made his decision to arrest me based on my crossing three stop lines, an alleged "moderate" odor of alcohol on my breath, my slurred speech, a broken taillight and my having bloodshot or "droopy" eyelids. I don't need to re-litigate the case, it has already been decided, but I do need to illustrate the points where Officer Rodriguez lied or misrepresented the truth. I have never known a "DUI" police officer that did not use the same boilerplate language on almost everyone they encountered. It might sound impressive to a layperson, but lets take a closer look at what Officer Rodriguez is really doing.

The reality is that alcohol, in its true form, has no odor. What people smell are the additives or flavoring. For instance, beer and wine have the strongest smell, but yet have the lower alcohol content. The point is that the odor of alcohol has very little relevance in a drunk driving case. It absolutely has no evidentiary value on the

much more important question of how much the person has consumed, what he had to drink, or when. It is a subjective observation and prone to error. Furthermore, during the trial the back up officer testified that he did not smell **any** odor of alcohol! Officer Rodriguez, as a "DUI specialist," should know all of this so he either purposely altered the truth, or is not properly trained.

Police always claim that everyone has slurred speech. In my case it was an accent, and the way I have always talked. Officer Rodriguez would not accept my explanation, and he intimated that he has some expertise in linguistics. That's amazing since he is in his early 20's and his world experience has been limited to growing up in Key West.

Officer Rodriguez also alleged that I had "droopy" eyelids, but never asked if I was tired or how long had I been awake, or if I had been crying or upset. There could have been many reasons why someone's eyes may appear heavy. In my case I had been awake for 20 hours, but the truth is that I did not have droopy or bloodshot eyes. Once again, Officer Rodriguez misrepresented the truth.

In addition to the above listed "probable cause," Officer Rodriguez said that my taillight was broken, although it was in perfect working condition. The only thing I did that night was stop my scooter past three stop lines. But once again, Officer Rodriguez failed to mention that at one light, it changed from green to yellow forcing me to stop quickly in order to avoid risking running the light. Had I been impaired, my reactions would have been slowed, and I would not have stopped or even noticed the light changing. Furthermore, the officer never mentioned that in "old town" the stop lines are far back from the intersections, to accommodate the turns for large trucks and conch trains. It is very difficult to see oncoming traffic, especially bike and foot traffic unless you are closer to the intersection. By not mentioning those facts in the motor vehicle hearing or the trial, he is attempting to distort the truth.

Officer Rodriguez testified in the motor vehicle hearing that I was swerving on my scooter on Eaton Street, even though I was within my lane. He further testified that there was no construction on Eaton Street. In the video it was clear that the road had been under construction and on that evening, was filled with a crush and run type material. Furthermore, anyone who lives or works in Key West knows that Eaton Street is filled with potholes, manhole covers, and various other obstructions that a scooter should avoid. So by avoiding these obstructions, it once again demonstrates alertness, not impairment. He also testified in the same hearing that he could not recall if I mentioned the taking of my blood in lieu of a breath test. In trial, it was crystal clear that I did in fact ask about the taking of my blood. Therefore, he lied to the hearing officer, under oath, and those false statements potentially caused me to administratively lose my license. There were also a lot of other lies, such as my scooter "wobbling," my alleged unsteady gait, or my "brash" behavior. None of which was true, and the videos and recordings validate the fact that Officer Rodriguez lied outright or by omission.

I also take issue with the towing of my scooter. There was absolutely no reason to tow the scooter. My girlfriend was there to take it home, and if the officers felt that she was impaired, which they stated that they didn't, they



could have let her push it home, allow us to get a friend to assist us, or just park it in the Circle K lot. But no, he towed the scooter, and I assert that it was for the purpose of trying to get me to lose my temper so that he could manufacture video evidence of some rash behavior, which he would then use to imply that I was impaired. Why does the Key West Police tow vehicles in such a case? Towing someone's vehicle, when not necessary, puts a greater financial burden on the people, and furthers the dislike and distrust people have for the police.

There was a trial, presided over by the Honorable Wayne Miller. The judge decided to take the matter into his own hands and declare a "Judgment of Acquittal," without even allowing the jury to decide. In explaining his decision he stated that the testimony of the officer "is not what he saw on the video." That was the polite way of saying that your officer was not being truthful. Officer Rodriguez was over zealous in trying to gain a conviction on bogus evidence and was willing to lie and alter the facts to ensure his conviction. I am certain that he has lost credibility in front of Judge Miller.

Unfortunately, it is difficult but not impossible to file suit against your officer and your department for damages. Immunity laws generally favor the police, but I am still exploring that option. That being said, I do request that you initiate an investigation as to the conduct and truthfulness of Officer Rodriguez. He lied or misrepresented the truth in court and in the motor vehicle hearing, and therefore committed perjury.

I am saddened and furious by what has happened to me. Police are under a lot of scrutiny all over the country and this type of behavior fuels the negative views the citizens of this country have of the police. I feel sorry for the people who are not as fortunate, or as knowledgeable about the system and who cannot afford to put up a defense to fight similar unfounded charges. It is a shame that my *wrongful* arrest has cost me in excess of \$7,000 to defend myself. Interestingly, had I been convicted, I would have had to pay the cost of prosecution, probation, DUI classes, and the cost of alcohol monitors on my vehicles. However, due to the ways the current laws are written the state has no financial burden to reimburse an innocent person from a wrongful arrest by a dishonest police officer.

I am requesting a complete and thorough investigation into the conduct and truthfulness of Officer Rodriguez and I am asking for a timely response as to the final conclusion of the investigation. This type of police conduct will end up costing the City of Key West a large sum of money if this type of behavior is not addressed immediately. I am more than willing to sit down and discuss this, so if you have any questions, please do not hesitate to contact me.

Sincerely,

John M. Eller

IN THE COUNTY COURT OF THE SIXTEENTH JUDICIAL CIRCUIT OF  
THE STATE OF FLORIDA, IN AND FOR MONROE COUNTY

STATE OF FLORIDA,

CASE NO.: 2015-CT-1998-A-K

Plaintiff,

v.

JOHN ELLER,

Defendant.

\_\_\_\_\_ /

ACQUITTAL

THIS CAUSE having come upon the Court for Trial by Jury on the 24<sup>th</sup> of May, 2016, the Defense, having moved for a Judgment of Acquittal and the Office of the State Attorney having failed to present sufficient evidence at trial to establish beyond a reasonable doubt all the essential elements of the offense charged, it is

**ORDERED and ADJUDGED** that the Defendant's Motion for Judgment of Acquittal is hereby **GRANTED** and the Defendant may go hence without day.

**DONE AND ORDERED** at Key West, Monroe County, Florida, this 24<sup>th</sup> of May, 2016.

  
\_\_\_\_\_  
WAYNE M. MILLER  
COUNTY JUDGE

cc: State Attorney's Office  
Loriellen Robertson, Esq.