

MINUTES

CITIZEN REVIEW BOARD

OLD CITY HALL, 510 GREENE STREET

MONDAY, January 28, 2013

A regular meeting of the City of Key West Citizen Review Board was held in the main room of the Commission Chambers, Old City Hall, on Monday, January 28, 2013.

Chairman Kevin Collins called the meeting to order at 6:06 p.m.

Answering roll call were Board members Virginia Altobello, Joe Pais, Tom Milone, Hayward Magby, Vice Chair Larry Beaver and Chairman Kevin Collins.

Mr. Michael Behrend was absent.

Also present were Executive Director Susan Srch, Counsel Robert Cintron, and KWPD Sgt. Joe Tripp.

The pledge of allegiance to the flag of the United States of America was given by all present.

CHANGES TO THE AGENDA:

There were no changes to the agenda and it was approved.

MINUTES – November 26, 2012

Mr. Milone wants to make a correction to the minutes on page two (2), first paragraph, changing the word “use” to “misuse”; so the sentence will read “I see no misuse of the TASER”. Based on this correction Mr. Milone makes a motion to approve the minutes, second by Mr. Beaver. Motion passes.

ACTION ITEMS

1) Contract Renewal Attorney

Mr. Cintron states that that would like to have a have his contract renewed if the Board chooses to retain his services. Mr. Magby asks if Mr. Cintron has undergone any continuing training in the field and Mr. Cintron answers nothing specific other than mandatory education specified by the Florida bar.

Mr. Milone makes a motion to renew the contract, second by Mr. Pais. Motion passes.

PRESENTATIONS:

1) KWPD TASER Policy

Sgt. Tripp offers to summarize the TASER policy as Chief Lee stated he already made a presentation to the Board on this policy. ED Srch states that the TASER policy was not presented to the Board but the Use of Force policy was and so a lot of the information does overlap. Sgt. Tripp summarizes the TASER policy. He states that the TASER is a tool used by police on resisting subjects and is called an *electronic control device* or *electronic control weapon*, depending on who you ask. There are two (2) ways to use the TASER; one is pain compliance and neuro-muscular incapacitation, it makes your muscles cramp. He further states that the officers train on this annually. All officers who carry the TASER must be TASED in initial training. The next part of the policy has to do with considerations that are taken in making the decision to use the TASER and they are the same considerations officer use in making the decision to use any type of force. It's the totality of the circumstances happening at that time and its objective reasonableness; it's not hindsight decision making process. It's what that officer knew at that moment, proximity of weapons, escalation of force, etc. Exclusions (unless exigent circumstances) Pregnant women, individuals in wheel chairs, juveniles less than 80 lbs., people in restraint devices or in danger of falling. Doesn't preclude the use of the TASER but must be exigent circumstances in order to use it on these people. TASER may be used when arrest situation exists. Drive stun (cartridge removed off the TASER), is pain compliance technique and can be used on a subject actively or passively resisting. Deploying probes causes muscular incapacitation. Reporting requirements include a police report as well as a "response to resistance" report. Incidents are reviewed by the supervisor as well as the Office of Professional Standards.

Dr. Collins questions the process officers go through to discharge probes vs. removing the cartridge for drive stun mode. He goes on to ask how much emphasis is being placed on all other compliance methods before using the TASER. Sgt. Tripp assures that this is an annual training on the TASER. Dr. Collins voices his concern that use of

the TASER has become an easy fix for non-compliance and other mediation methods are not being used.

Mr. Milone clarifies that officers can un-holster and display the TASER without turning it on for use.

Dr. Collins asks how long TASER videos are retained and Sgt. Tripp replies that videos are kept on the TASER itself for a while and then kept on files for a period of time. Mr. Milone voices his concern over the fact that there's no policy in place for how long these videos are kept.

ED Srch states that the storage capacity is similar to the I-COP videos. That they would be retained as evidence until the case is adjudicated and that kept for a certain time after in accordance with public records retention laws.

Mr. Milone questions other than arrest, what other custodial situations would exist. Sgt. Tripp explains either a "Baker Act" or "Marchman Act" would constitute a custodial situation.

Mr. Pais asks whether a supervisor checks to see if the camera is working prior to going on duty. Sgt. Trip states that's the officers' responsibility. Mr. Pais further asks if the officer puts gloves on after firing the probes. Sgt. Trip states that officers should put gloves on to pull out the probes because of the bio-hazard concerns. Mr. Pais voices his concerns over the fact that there is nothing in the policy addressing the possibility of officers using TASERS at public demonstrations. It's up to the individual officer, based on totality of the circumstances and the level of resistance, where the safest decision is to use the TASER.

Mr. Beaver points out that the policy specifically refers to people moving from passive resistance to active resistance that would move the officer to use the TASER.

Mr. Cintron explains the existing case laws on the use of TASERS. He further states his disappointment in KWPD because the Chief had said there were no plans to have TASERS in Key West, and then all of a sudden they were bringing it up before the Commission without any input from the CRB.

Mr. Magby questions Sgt. Tripp on a point from earlier and asks if there are any officers that do not carry a TASER because they didn't want to be tased. Sgt. Tripp states that there were a few in the beginning but that he doesn't know of any officers not carrying them now. To the best of his knowledge all officers are carrying TASERS and have been tased.

Mr. Milone wishes to go back to records/video retention and refers to the "Marchman Act" where someone is taken into custody due to their level of intoxication and a danger

to themselves. Since there's no arrest or court case how long would the audio and video be kept in a file. Sgt. Tripp states he's not sure but they would be considered medical records and confidential. He further states that most likely, if someone had been tased on a "Marchman Act" criminal charges would be filed. Mr. Milone then clarifies that the "Baker Act" is for subjects displaying a mental illness and a danger to themselves or others.

Dr. Collins questions the shock that's given when deploying the TASER. The shock can last for a specific number of seconds and can it be adjusted? Sgt. Tripp states that if you hold the trigger it will continue to shock. It's set to 5 seconds unless the officer turns it off. Sgt. Tripp goes on to say that the biggest frustration for him in regards to the video is that most of the time the video is instantaneous; the officer turns on the TASER and immediately pulls the trigger so there's nothing indicating what led up to the event.

REPORTS:

1) TASER Chart: ED Srch clarifies to Mr. Pais that the higher number on the chart is the times the TASER is displayed not actually deployed. Sgt. Tripp explains that the number of displays is actually in addition to the times deployed. Dr. Collins points out that one of the selling points for TASERs was that it would be safer for the officer and safer for the citizen. He would like to see if that, in fact, has been shown to be true. Sgt. Tripp states that they don't keep track of the usage in that way but says that on a personal level he believes that to be true.

2) ED Srch answers Mr. Pais' question from the November 2012 meeting, inquiring about the letter of apology that was supposed to be sent to the complainant in 12-004 (Dale). ED states that the letter had been sent to Mrs. Dale.

ED also points out that Mr. Magbys' and Mr. Milones' term will expire in June 2013. Mr. Milone is a Board appointment and so needs to be re-appointed by the Board but Mr. Magby is a Commission appointment so his application will need to be sent to the Commission. ED asks that both let her know of their decisions by the February 25, 2013 meeting.

PUBLIC COMMENT:

Mr. John Walsh and Mr. John Caris were signed up to speak.

BOARD COMMENTS:

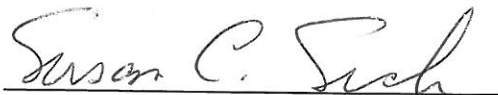
Mr. Milone would like the Bahama Village survey be put on the next month agenda for discussion.

Mr. Pais suggests that we do one meeting in Bahama Village, perhaps April or May; advertise the meeting in Bahama Village. Since we're not televised he doesn't feel there's a reason they have to be held in City Hall. Dr. Collins would prefer to look at the survey first and then determine whether or not to hold a meeting in Bahama Village.

Mr. Magby points out that there are regular meetings held monthly in District VI (Bahama Village) that the Board members can attend.

ADJOURNMENT:

There being no further business the Chairman adjourned the meeting at 7:33 p.m.

A handwritten signature in cursive script, reading "Susan C. Srch", is written over a horizontal line.

Susan C. Srch, Executive Director