

CRB REVISED COMPLAINT EVALUATION FORM

Case Number: 09-008

Complainant Name: Yvonne Edwards

CASE SUMMARY

Date of Incident: 10/17/09
Date of Complaint filed with IA: 10/21/09
Date of Complaint filed with CRB: 10/20/09

Officers: **Officer Thaddeus Calvert**
Detective Michael Chaustit
Detective Richard Thomas
Detective Brian Leahy

Allegation: **Discourtesy**
Excessive Force

The Complainant, Yvonne Edwards, filed a complaint with CRB on October 20, 2009, arising from an incident within her residence. That incident involved the arrest of her granddaughter, Shimika Clark, on October 17, 2009, by the KWPD in the course of executing a felony arrest warrant to take Shimika Clark into custody. The CRB Executive Director met with the Complainant in her residence on October 20, 2009. Ms. Edwards asked the Executive Director to write her complaint as she was very distraught and emotional and could not competently write on the complaint form herself. The Executive Director summarized Ms. Edwards's dictated complaint on the form and Ms. Edwards reviewed it for accuracy before signing it.

Ms. Edwards feels that during the arrest, one or more of the three (3) officers used excessive force against Shimika Clark inside the bathroom of her residence. Ms. Edwards claims that there was no need for the use of a taser upon Shimika Clark, and that the arrest could have been conducted outside the premises when the officers were in hiding when Shimika Clark was outside. Further, Ms. Edwards alleges that one of the officers used inappropriate profanity to direct the removal of Ms. Edwards from her house during the execution of the warrant. Finally, Ms. Edwards felt that no valid arrest and/or search warrant was produced to Ms. Edwards to justify Shimika Edwards's arrest and the searching of her bathroom. Ms. Edwards cannot identify the three (3) officers inside the bathroom, because they had hoods or masks shielding their identity during the execution of the warrant. However, Ms. Edwards did affirmatively communicate that one (1) of the three (3) officers who were wearing the masks and inside the bathroom used a taser on Shimika Edwards.

The complaint was forwarded to KWPD IA for evaluation and/or investigation. The KWPD IA office, by and through Lt. Smith and Inspector Smith, made good faith efforts to meet with Ms. Edwards to hear her complaints directly at the KWPD once. The CRB was represented by the Executive Director at that meeting but Ms. Edwards requested another dialog directly with the officers to express her dissatisfaction. No such other meeting occurred to the knowledge of the Executive Director.

In an abundance of caution, the Executive Director uploaded this file to the CRB website and was directed to put this issue before the CRB at its February 22, 2010 meeting as the 180 time limit was coming to an end. Approximately four (4) days before this CRB meeting, Lt. David Smith

contacted the CRB director and for the first time stated that the KWPD IA department would open up an investigation into the matter. The materials were then taken down from the CRB website and the issue was not addressed at the CRB February 22, 2010 meeting. (This explains the various notices in the packages showing a first CRB hearing date of February 22, 2010 meeting)

A review of the courthouse file reflects that there was a valid felony warrant issued for Shimika Clark's arrest prior to the incident that is the subject matter of this complaint. Shimika Clark plead out these underlying charges mentioned in the warrant and that criminal case is closed Shimika Clark plead guilty to "resisting arrest without violence" in violation of F.S. 843.02 and that criminal case was closed on December 11, 2009. Thus, there are no pending criminal cases opened involving this arrest incident.

The arrest form for that charge is filled out by Officer Calvert in which he identifies himself as using a taser ("Drive-Stun" without deployment/discharge of the cartridge/probes) on Shimika Clark during the incident. The State Attorney's witness list in this case reveals the names of the above referenced officers as witnesses to the event.

The KWPD's IA investigation resulted in the findings the Use of Force allegations were UNFOUNDED and the allegation of discourtesy (Decorum-Conduct Toward Public in violation of KWPD Procedures 02.21.04.03(B)(3)) NOT SUSTAINED. A copy of taser footage was received from IA which shows less than a 2 second discharge of the taser against either the clothing or the skin of the subject (presumably Shimika Clark). Pictures were taken of the outside of the subject premises showing the front and side of the building. Pictures were taken showing the inside of the bathroom of the residence. Internal Affairs conducted an investigation

This file consists of the following written/visual materials:

1. Complaint and transfer to IA cover memo;
2. Court documents, including the arrest reports and subject arrest warrant and pleading of guilty to the "resisting arrest without violence charge";
3. The KWPD operating procedure relative to the use of tasers;
4. F.S. 843.02;
5. Pictures of the outside of the premises and bathroom;
6. Taser footage;
7. IA Investigative File;
8. Audio Clips of IA Interviews of the Complainant, Tangela Edwards, the CRB Executive Director & the Four Respondent Officers; and
9. Notice Letters to involved parties.

THE FACTUAL ALLEGATIONS OF THIS/THESE COMPLAINT(S) HAS/HAVE NOT BEEN INVESTIGATED BY EITHER THE INTERNAL AFFAIRS DIVISION OF THE KEY WEST POLICE DEPARTMENTMENT, NOR THE CITIZENS REVIEW BOARD (CRB). THIS/THESE COMPLAINT(S) IS/ARE BEFORE THE BOARD FOR ADMINISTRATIVE PROCESSING ONLY UNTIL SUCH TIME AS EITHER INTERNAL AFFAIRS OR THE CRB INVESTIGATES THE ALLEGATIONS OF THE COMPLAINT. ANY READER OF THIS/THESE COMPLAINT(S) SHOULD NOT PRESUME THAT THE OFFICER COMPLAINED AGAINST HAS ENGAGED IN ANY WRONGDOING.

1



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Chief Donie Lee/Lt. David Smith/Inspector Randy Smith
FROM: Stephen Muffler, Esquire
DATE: 10/21/09
RE: CRB Complaint 09-008/Transfer to IA

Attached please find a complaint filed by Mrs. Yvonne Edwards against three (3) unknown officers who allegedly entered a bathroom at her residence at 116-B Geraldine Street, Key West Florida on or about October 17, 2009 to serve an alleged felony warrant against Shimika Clark. The complainant cannot identify the officers because according to her, they were wearing apparel over their faces to conceal their identities. She feels that their conduct was discourteous (allegedly using profanity to order the forcible removal of Mrs. Edwards from her home) and excessive force while taking Shimika Clark into custody.

PLEASE ALSO NOTE THAT THIS COMMUNICATION SHALL SERVE AS THE CRB'S PUBLIC RECORDS REQUEST UNDER FLORIDA LAW FOR COPIES OF THE VIDEO & AUDIO OF ALL STUN GUN/TASER EQUIPMENT ACTIVATED (EITHER DISCHARGED OR SAFETY OFF) TRIGGERED RECORDINGS AND THE DATA REFLECTED BY THESE DEVICES AT 116-B GERALDINE STREET, KEY WEST, FLORIDA 33040.

Please acknowledge below receipt of this request and letter/enclosures and report back to the CRB with your findings within the 45 day time frame. Should an investigation under the Florida Officer's Bill of Rights commence, then you may delay the delivery of the aforementioned public records until the conclusion of this formal investigation. If an investigation under the Florida Officer's Bill of Rights is NOT commenced, then please timely tender the above items as soon as possible.

Thanks.

Receipt

A handwritten signature in black ink, appearing to read "Bylan", is written over a horizontal line.

Citizen Review Board

#3 East Quay Road, Key West, FL 33040

PO Box 1946, Key West, FL 33041

(305) 809-3887 Fax (305) 293-9827

email: crb@keywestcity.com

<http://www.keywestcity.com/department/board.asp?fDD=36-153>

- 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.

Yvonne Edwards
Name/Nombre

10-20-09
Date/Fecha

CRB Executive Director filled out the Complaint Form for me and I dictated it and reviewed it for accuracy b/s signing.

COMPLAINT FOR

Citizen Review Board

#3 East Quay Road, Key West, FL 33040

PO Box 1946, Key West, FL 33041

<http://www.keywestcity.com>

[email: crb@keywestcity.com](mailto:crb@keywestcity.com)

(305) 809-3887 Fax (305) 293-9827

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: Yvonne Edwards Date of Birth: 4/12/47
Nombre Fecha de nacimiento
Address: 116-B Geraldine Street Key West 33040
(Dirección) Street (Ciudad) City (Estado) State (Código Postal) Zip
Mailing Address: SAME
Dirección postal PO Box or Street, City, State and Zip
Work Address: N/A
(Dirección del trabajo)
Home Phone: 305 292-8537 Work Phone: ()
Teléfono Particular Teléfono del Trabajo Celular: 305-896-4640
Celular

B. NATURE OF COMPLAINT: CIRCLE ALL THAT APPLY. Naturaleza de la denuncia: Circular le todas las que apliquen.

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

Name: my niece Tangelia Edwards Badge #: _____ Vehicle #: _____
Nombre Patrulla No.

Please provide a physical description of officer:
Describe la apariencia física del oficial: Unknown B/c wheary mask
but ~~she~~ told me that one of the officers
was Leahy.

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

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

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

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

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

Did you witness the incident? Yes No Partially
¿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

I am the grandma of Shimika.

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: Shimika Clark
Nombre _____
Address: 116-B Gerulde Street City Key West State FL
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code 33040 Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

Victim/Witness #2

Victima/Testigo No. 2

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

Name: Tangela Edwards
Nombre _____
Address: 116-B Gerulde Street City Key West State FL
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code 33040 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: Pamela Bailey
Nombre _____
Address: 114-A Gerulde Street City Key West State FL
Dirección: _____ Ciudad: _____ Estado: _____
Zip Code 33040 Contact numbers: Telephone _____ Cell _____
Código Postal _____ Teléfono _____

E. INFORMATION ABOUT THE INCIDENT
INFORMACION ACERCA DEL INCIDENTE

Please provide as much information as possible, using additional pages if necessary.
Suministre la mayor cantidad de informacion posible, utilizando paginas adicionales si fuese necesario.

Date: 10/17/09 Time: Afternoon Location: 116-B Geridine Street
Fecha: Hora: Lugar: Key West FL Case # if applicable: No. de Caso, si corresponde:

2 officers approached me with a taser I believe one was
officer Leahy + Another officer. They were looking for my
Grand daughter Shamika and they told me they had an arrest
warrant for her. I let them into my home to search
and verify Shamika was not in my house. They left but
did not show me the Arrest Warrant even though I asked
for it. They only said it was a felony warrant. I told
them that Shamika will return and they waited outside.

They came back in less than 1 hour and I did not let them
in but told them Shamika is on her way home. Police again
waited outside and Shamika returned home and came inside
and she went back into the truck she came in. She left
the ~~the~~ Truck and came back into the house.

Then later the police rushed in w/o knocking or invite.

Attach additional pages if necessary. Page number ___ of ___ pages of narrative

Are you being prosecuted for this incident or do you have a pending criminal case? Yes ___ No

Have you ever been convicted of a felony? Yes ___ No

"I hereby certify that, to the best of my knowledge, and under the penalty of perjury, the statements made herein are true." I hereby acknowledge and understand that any documents, materials, medical records, e-mail and other communication delivered to the CRB office becomes public record and shall be viewable on the internet by anyone or any entity. You have been advised that any statement made to the CRB can be used by other governmental entities.

Yvonne Williams
Signature of Complainant

10-20-09
Date signed

Complaint Received by:

Complaint Reviewed by:

Action Taken:

Date complaint forwarded to Chief of Police:

I hereby request copies of taser video + audio
that exists (All) relative to the Bathroom
incident. (28)

Shamika closed Bathroom Door to keep everyone out. Shamika was inside Bathroom alone afraid. 3 officers (Big) pushed me aside and went into the Bathroom after Shamika would not open the Bathroom ~~door~~ ^{Door}. 3 officers pushed Door in and went inside with Shamika and used tasers. They shut Door behind them and yelled to another officer "to get me out of here. I was removed and I heard her screaming. I heard one officer say "Stop Resisting Arrest Shamika"

Shamika was taken out under arrest. Shamika was in extreme pain. Medics helped but could not get her Blood Pressure Down.

3 officers used Excessive force as Shamika is small and they all went into the Bathroom + closed Door. It was unnecessary to use that much force + tasers.

Picture of Shamika's injuries were taken with by jail personnel.

Police searched the Apartment Bathroom in my house ~~and~~ no warrant to search my house. No Arrest warrant Ever shown to me. They Forced me out of my house

2

AS A

IN THE CIRCUIT / COUNTY COURT, 16TH JUDICIAL CIRCUIT,
IN AND FOR THE COUNTY OF MONROE, FLORIDA

09-CF 929K

STATE OF FLORIDA

COPY

Originating Agency: Key West Police Department
Originating Agency Case Number: 09-5090

vs.

Shimika Shantae Clark

Warrant No: _____

WARRANT FOR ARREST

WHEREAS, complaint on oath and in writing, supported by an affidavit of a credible witness or witnesses, has this day been made before the undersigned Judge W Miller,
WHEREAS, said facts made known to me and considered by me have caused me to certify and find that the facts set forth in the affidavit show and constitute probable cause for the issuance of this warrant and the Court being satisfied of the existence of the grounds set forth in the affidavit that the laws of the State of Florida have been violated.

Based on a finding of probable cause, you are commanded to arrest the above-named defendant and bring the defendant without unnecessary delay before this court to answer to the charge(s) of:

- 1. Burglary of Unoccupied Dwelling in violation of Florida State Statute 810.02 (3) (b)
- 2. Grand Theft in violation of Florida State Statute 812.014 (2) (c) (1)

GIVEN UNDER MY HAND AND SEAL THIS 16 DAY OF OCT 2009

JUDGE [Signature]

BOND \$ 10,000⁰⁰
5,000⁰⁰ 15,000⁰⁰ TOTAL

Description of defendant:

CASE #: 09-5090
DATE OF BIRTH: [Redacted]
RACE: Black
SEX: Female
HEIGHT: 5'04"
WEIGHT: 160lbs.
EYE COLOR: Brown
HAIR COLOR: Black
[Redacted]

Extradition Information:

- The State will extradite the defendant:
- State of Florida Only AS
 - From any contiguous state
 - From anywhere in the continental United States
 - From anywhere

ORIGINAL ARREST AFFIDAVIT

4848
09-CC-929K

- 1. **Burglary of Unoccupied Dwelling** in violation of Florida State Statute 810.02(3) (b)
- 2. **Grand Theft** in violation of Florida State Statute 812.014 (2) (c) (1)

IN THE CIRCUIT / COUNTY COURT, 16TH JUDICIAL CIRCUIT, COUNTY OF MONROE,
FLORIDA STATE OF FLORIDA VS: **Shimika Shantae Clark**

CASE #: 09-5090

DATE OF BIRTH: [REDACTED]

RACE: **Black**

SEX: **Female**

HEIGHT: **5'04"**

WEIGHT: **160lbs**

EYE COLOR: **Brown**

HAIR COLOR: **Black**

[REDACTED]

FILED FOR RECORD
2009 OCT 16 PM 3:55
DAMIAN J. MURPHY
CLERK OF COURT
MONROE COUNTY, FL

In the name of the State of Florida, to all singular sheriffs of the State of Florida, **Detective Michael Malgrat** of the Key West Police Department has this day made oath that on 10/5/2009 in the county aforesaid, one **Shimika Shantae Clark of 116 Geraldine Street Apt B Key West, FL 33040** did then and there:

On October 5, 2009 Corey Terry (victim) reported to KWPD officers that her residence at 1643 Brunson Court # 4 was burglarized. Terry stated she keeps her shutters closed due to a previous break-in at her old residence. Terry stated her ex-girlfriend, Shakiya Cruz, had broken into her old residence and she suspects she is involved in this incident. Terry conducted a "walk through" with Ofc T. Miller and Ofc. Sanchez of the residence. Terry noticed the following items missing: her puppy, pitbull mix, (\$1,500), 40" Sony TV (\$1,100), 32" Sony TV (\$800), Sony Blu Ray player (\$300), and a Sony DVD player (\$300). Terry stated she has receipts for the electronics.

After speaking with Terry, Ofc Miller spoke with a neighbor, Lissett Ferretti, who said she saw four black females in a black vehicle walk from the rear to the front of the apartment. Ferretti stated she could describe the females, but could not positively ID them again. She described one of the girls as big and chubby wearing shorts and a black and white t-shirt, she described another of the girls as medium build, and the other two as small and skinny.

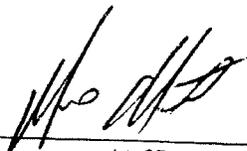
While Ofc Miller was conducting her investigation, Terry received a phone call from a female, identified as Tinesha Mitchell ([REDACTED]). Mitchell stated that she had been present during burglary, as well as three other females. I (Det. Malgrat) was notified as duty detective of the incident. I responded to the Mitchell's address and made contact with her and her mother, Ceasha Gardner. I asked Mitchell to come to the KWPD station for an interview. Both Mitchell and Gardner agreed. At the station the interview was audio/video

recorded. Mitchell was read her Miranda Rights, with Gardner present, and she agreed to talk to me. Mitchell stated she was riding around with Shakiya (Cruz), Shaquila (Ashe), and Shimika (Clark) in Shaquila's black Crown Victoria when Shakiya stated she wanted to get her ID from Terry's mom's house. Mitchell said the group went to Terry's mom's house and there was no answer at the door. She said Shakiya was talking to the group about slashing Mrs. Virginia's (Terry's mom) car tires and putting sugar in the gas tank. Mitchell said they went to Terry's house where Shakiya stated she wanted to get some things back that were bought with money she stole from her grandmother. They could not get into the house and they left. They went to an unknown person's house at a trailer park where Shakiya retrieved a screwdriver and some other tools. Mitchell stated they went back to Terry's house where she stood out front while Shimika and Shaquila went around to the back door. Mitchell said Shakiya broke the front kitchen window with a brick and climbed through it. She said after Shakiya climbed through the window she unlocked the back door for Shaquila and Shimika to enter the residence. Mitchell said she went around to the back door and went inside briefly. She said when she went to the back door she saw Shimika and Shaquila loading the TVs and other electronics into the car. She said when she went inside the dog ran up to her and was jumping on her. Mitchell said Shakiya handed her the dog and she walked with it outside, where Shakiya took it from her and put it in the car.

The descriptions provided by Ferretti are consistent with the physical descriptions of Shakiya Cruz, Shimika Clark, Shaquila Ashe, and Tinesha Mitchell.

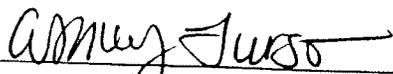
Based on the facts of the case there is probable cause to believe that Shakiya Cruz, Shaquila Ashe, and Shimika Clark took part in the burglary of Corey Terry's residence at 1643 Brunson Court # 4 by unlawfully entering Terry's residence with the intent to commit the offense of theft therein by assisting in removing the TVs, Blu Ray player, DVD player, and pitbull puppy (total approximate value \$4,000). The defendants were not licensed or invited to enter or remain in Terry's residence.

Contrary to the Florida Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

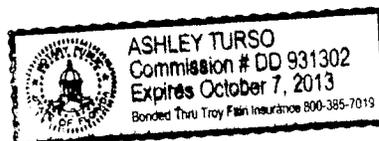


(Affiant's Signature)

Sworn to and subscribed before me this 16 day of October, 2009



(Signature and title of person taking oath)



STATE OF FLORIDA

COUNTY OF MONROE

RESIDENT OF MONROE COUNTY

RESIDENT OF FLORIDA

COMPLAINT AFFIDAVIT

ARREST FORM

ARRESTING AGENCY KUPD

440104390

CASE NO. 09-5263

IN BOOK

Defendant's Name: CLARK SHIMIKA SHANTAE

Date of Birth: [REDACTED]

Place of Birth: FLORIDA

Local Address: 116 GERALDINE ST

Scars

Tattoos:

Permanent Address: 116 GERALDINE ST APT B KW FL 33090

Phone:

Occ.:

Soc. Sec. No. [REDACTED]

Race: B

Sex: F

Eyes: BRN

Hair: BRN

Hgt: 5'4"

Wt: 160

Arrest Date: 17 OCT 09

(Day, Month, Year)

Time: 1620 HRS

Location: 116 GERALDINE ST

(Place of Arrest)

Co-Defendant's Name:

(Last)

(First)

(Middle)

Taken To County Station: MCDC

Citation No.:

Capias No.:

Other: 09MM2370K

OFFENSES CHARGED:

1. RESISTING OR W/O VIOLENCE In Viol. of F.S. 843.02

In Viol. of County Ordinance of

2. _____ In Viol. of F.S. _____

Monroe County, Sec. _____

3. _____ In Viol. of F.S. _____

4. _____ In Viol. of F.S. _____

HOLD FOR FIRST APPEARANCE HEARING - DO NOT BOND OUT (complete reverse sides of white and pink copies for additional witnesses)

PRELIMINARY HEARING:

WITNESSES AGAINST DEFENDANT:

Location

Date Set

1. Name: OFF. M CHAUSIT Address: 1604 N. ROOSEVELT

Phone: 809-1000

2. Name: _____ Address: _____

Phone: _____

Physical Evidence against Defendant: TASER VIDEO

Arresting Officers: T. CALVERT Ct. ID # 3222

Dept.: KUPD

Transporting Officers: M. CHAUSIT Ct. ID # 3141

Dept.: KUPD

The undersigned certifies and swears that he has just and reasonable grounds to believe, and does believe that:

On the 17 day of OCT, 2009

CLARK

(Last Name)

SHIMIKA

(First Name)

S

(Initial)

committed the following violation of law:

Narrative: (Be specific) WHILE CONDUCTING A WARRANT SERVICE AT 116 B GERALDINE ST THE DEFENDANT RESISTED OFFICERS BY BARICADING HERSELF IN A BATHROOM AND PULLING AWAY FROM ME WHILE I ATTEMPTED TO PLACE HER IN HAND CUFFS. I USED MY TASER (WITH OUT CARTRIDGE) TO GAIN COMPLIANCE. THE DEFENDANT WAS TASED FOR A VERY SHORT BURST (APPRX 2 SEC)

Sworn to and subscribed before me, the undersigned authority, this

17 day of OCTOBER, 2009

Judge - Clerk - Notary Public

I swear the above statement is correct and true to the best of my knowledge and belief.

Signature of Officer or Complainant

Dept.: 3226 KUPD

Ct. ID Number 3222

ID NO.: TIF 86

COURT COPY

FILED FOR RECORD
2009 OCT 19 AM 10:16
CLERK OF COURT
MONROE COUNTY, FLA

RESIDENT OF MONROE COUNTY YES X NO

RESIDENT OF FLORIDA YES X NO

CASE NO.: 09-5090

IN BOOK: 4701043 972

Defendant's Name: Clark Shimika Shantae
(Last) (First) (Middle)

Place of Birth: Florida Local Address: 116 Geraldine St., Apt. B Date of Birth: [REDACTED] Scars/Tattoos: Unknown

Permanent Address: 116 Geraldine Street, Apartment B, Key West, FL 33040 Phone: Unknown Occ.: Unknown

Soc. Sec. No.: [REDACTED] Race: Female Sex: Black Eyes: Bro Hair: Blk Ht: 5'04 Wt: 160

Arrest Date: 17-October-2009 Time: 1620 hrs Location: 116 Geraldine St.
(Day, Month, Year) (Place of Arrest)

Co-Defendant's Name: N/A Taken To County Station: Monroe County Jail
(Last) (First) (Middle)

Citation No.: _____ Capias No.: _____ Other: _____

OFFENSES CHARGED

	In Viol. Of F.S.	Ordinance of Monroe Co., Sec.
1. <u>ARREST WITH WARRANT</u>	<u>901.16</u>	
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

FILED FOR RECORD
2009 OCT 21 PM 2:15
MONROE COUNTY

HOLD FOR FIRST APPEARANCE HEARING - DO NOT BOND OUT (complete reverse sides of white and pink copies for additional witnesses)

PRELIMINARY HEARING:

WITNESSES AGAINST DEFENDANT:

- Name: Special Operations Unit Address: 1604 N. Roosevelt Blvd. KW, FL Phone: 305-809-1111
- Name: _____ Address: _____ Phone: _____
- Victim: STATE OF FLORIDA Address: _____ Phone: _____

Physical Evidence against Defendant: ORIGINAL WARRANT

Arresting Officers: Detective John Gallo Ct. ID # 3136 Dept.: KWPD

Transporting Officers: Ole M. Chastit Ct. ID # 3141 Dept.: KWPD

The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that:
On the 17th day of October, 2009

Clark, Shimika, S.
(Last Name) (First Name) (Initial)
committed the following violation of law:

Narrative: (Be specific) See attached narrative.
Sworn to and subscribed before me,
the undersigned authority, this

I swear the above statement is correct and true to the best of my knowledge and belief.

Detective John Gallo
Signature of Officer or Complainant
Dept.: KWPD Ct. ID Number 3136

17th day of October, 2009

[Signature]
Judge - Clerk - Notary Public-LEO

COURT COPY

STATE ATTORNEY'S COPY

ID NO.: OPS 84

P.S.D. RECORD'S COPY

OFFICER'S COPY

DEFENDANT'S COPY

JD

STATE OF FLORIDA
COUNTY OF MONROE

COMPLAINT AFFIDAVIT

ARREST FORM X

ARRESTING AGENCY: KWPD

RESIDENT OF MONROE COUNTY YES X NO
RESIDENT OF FLORIDA YES X NO

CASE NO.: 09-5090 IN BOOK: _____

Defendant's Name: Clark Shimika Shantae
(Last) (First) (Middle) Date of Birth: 29-October-1986
(Day, Month, Year)

On the above date and time, the Special Operations Unit made contact with the defendant at the above mentioned location. The defendant was advised that there is an active warrant for his arrest. The defendant was arrested and transported to MCDC without incident.

Warrant issued: October 16, 2009
Issued by: Judge Miller
Charge: Burglary of an Unoccupied Dwelling (Bond: \$10,000)
Charge: Grand Theft (Bond: \$5,000)

Sworn to and subscribed before me,
the undersigned authority, this

I swear the above statement is correct and true to the
best of my knowledge and belief.

Detective John Gallo [Signature]
Signature of Officer or Complainant

Dept. KWPD Ct. ID Number 3136

17th day of October, 2009

[Signature]
Judge - Clerk - Notary Public-LEO

ID NO.: OPS 84

COURT COPY

STATE ATTORNEY'S COPY

P.S.D. RECORD'S COPY

OFFICER'S COPY

DEFENDANT'S COPY

WITNESS LIST

The following is a list of persons known to the prosecutor to have information which may be relevant to the offense charged:

Thaddeus Patrick Ian Calvert, #3222, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040

Michael Chaustit, #3141, Key West Police Department, 1604 N. Roosevelt Blvd., Key West, FL 33040

Richard Thomas, #2824, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040

I do certify that a copy hereof has been furnished to Office of the Public Defender - Key West, 801 Eisenhower Drive, Key West, FL 33040 by delivery on November 16, 2009.

Respectfully submitted,

Dennis W. Ward, State Attorney
530 Whitehead Street, Suite 201
Key West, FL 33040
Phone: (305)292-3400
Fax: (305)294-7707

By: _____
Gregory R. Hojnowski, Assistant State Attorney
Florida Bar # 554790

COURT MINUTES

IN THE 16th JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

Bond # _____ Bond \$ _____

CASE NUMBER: 09-mm-2370-1

Court Opened 1pm on Dec 11 2009 with the following officer present: (ONE CASE PER PAGE)

HONORABLE Penny Fowler STATE ATTORNEY H. Nowicki
DEFENSE ATTORNEY [Signature] COURT REPORTER [Signature] BAILIFF [Signature]
STATE OF Florida VS Shimika Clark

DEFENDANT CHARGED WITH: 1) LAWY 2) _____ 3) _____

4) _____ 5) _____ 6) _____

PLED TO COUNTS: 1) _____ 2) _____ 3) _____

4) _____ 5) _____ 6) _____

- PLEA** Guilty
- In jail
 - Denial
 - Not Guilty
 - Demand Filed
 - 10 Days Granted For Motion
 - 40 Paid App Fee W/ 7 Days
 - PD Appt () Contact Weekly
 - Information File
 - Present with Attorney
 - Negotiated plea
 - Bond Set \$ _____
 - Other _____
 - Present Without Attorney
 - Guilty
 - PSI Ordered
 - Not Present In Court
 - Nolo-Contendre
 - Speedy Trial
 - Issue Cap
 - Bond Estreated
 - Factual Basis

Sentencing Date: _____ Accepts Plea Admittance No Objection to Score Sheet _____ PTS

SENTENCE

IT IS THE JUDGEMENT OF THE COURT AND THE SENTENCE OF THE LAW THAT YOU, THE ABOVE NAMED DEFENDANT:

- Adjudication Guilty
- Nolle-Prosequi
- Drug Offender
- Drug Court
- Probation Restored
- _____ Hours Comm Service _____ Hours Monthly
- Community Control - Period of _____
- Complete terms probation w/in _____ Months
- Confined to MCSO Jail for 50 Days
- Jip Program
- Early Release Review After JIP Program
- Hold & Transport (bed space) to _____
- Same Terms and Conditions _____
- State Prison
- Tier Program or Other W/ Prison _____
- Sentence Concurrent
- Urinalysis _____ Weekly
- Psychological Evaluation _____
- NA/AA Meetings _____ Weekly
- No Contact with Victim _____
- No Harmful Contact _____
- Surrender Weapons _____
- Indiv/Group Counseling w/Res. Trmt. if needed _____
- Indigent for Evaluation/Treatment _____
- Adjudication Withheld
- Placed on Probation
- After Care
- Probation Revoked
- New Period of Probation
- Electronic Monitor Phone Line Inst. within 10 days
- New Period of Community Control
- Indigent for Cost of Supervision
- Jail Program
- PSW/COS Waived during Jail / Program
- Care Center
- Furlough Granted Start _____ / End _____
- Make up Arrears _____
- Credit For Time Served (CFTS) 50
- Other _____
- Sentence Consecutive
- 90/90 Program
- Report to DOC within _____ of Release
- License Revoked / Suspended Work Permit _____
- Make equal monthly installments
- Previously Imposed JL Remains in Effect
- Daily Activity/Exercise as directed 1/2-1 hr Daily 3xs week
- Sub Abuse Eval W/ _____ days & treatment if needed
- Advised of Immigration Rights Appeal Rights 30 day

COSTS

- Attorney's Fees \$ 50 legal service
- Fines \$ 100
- Judgment Lien \$ all monies owed
- Convert Fines to CSW @ \$10.00/hr
- FHP \$ _____
- Bond Money - deduct court cost \$ _____
- OTHER INFORMATION: _____
- F.S. 27.3455 - \$ _____
- Cost 228
- Cost Super DOC - \$ _____
- Early Term. _____
- FFWL - \$ _____
- Refund Bond Money _____
- BOCC - \$ _____
- \$50 PD app
- SA \$ 75 hrs
- MCSO \$ _____
- PD \$ 40 inv
- Restitution \$ _____

DANNY C. KOLHAGE, CLERK OF THE CIRCUIT AND COUNTY COURTS.
BY: _____ DEPUTY CLERK, in attendance.

Continued
 See Second Page

3

Key West Police Department

Respect Integrity Fairness

Electronic Control Weapon

X-26 Advanced TASER®
with TASER® Cam

Sponsor: Chief Lee

Directive No: **03.29**
This Version Date: 03.26.2009
Date Posted: 06.08.2009
Date Effective: 06.18.2009
Supersedes: (NEW)
Number of Pages: 05



Donald J. Lee, Jr.
Chief Donald J. Lee, Jr.

COLOR CODING DENOTING LEVEL OF LIABILITY: **YELLOW:** High Risk / Low Frequency / No Discretionary Time

PURPOSE

The purpose of this directive is to set forth the policy regarding deployment of the Electronic Control Weapon for the Key West Police Department.

DISCUSSION

The Electronic Control Weapon, herein referred to as a TASER® device, is deployed as an additional law enforcement tool and is not intended to replace firearms or self-defense/defensive tactics techniques. The TASER® device may be used to control an actively resisting or potentially violent subject when deadly physical force does not appear to be justified and/or necessary; or attempts to subdue the subject by other conventional tactics have been, or will likely be, ineffective in the situation confronting the officer; or there is a reasonable expectation it will be unsafe for officers to approach within contact range of the subject.

SCOPE

Specific responsibilities and requirements are contained in this Directive for:

- All sworn personnel
- Watch Supervisor
- Training Officer

DEFINITIONS

Air Cartridge: A single-use cartridge for the TASER® device which uses compressed nitrogen to deploy two barbed probes, connected to thin insulated wires, sending electrical pulses along the wires and into the body.

Anti Felony Identification Device (AFID) - Small confetti-like tags, are ejected each time a TASER® air cartridge is deployed. AFID tags contain the serial number of the deployed cartridge to allow identification of the cartridge used.

Drive Stun: A secondary function of the TASER® device is to stun a subject by making direct contact with the body after the air cartridge has been expended or removed.

Less Lethal Force - Defensive or controlling action that neither is likely nor intended to cause death, great bodily harm, or serious bodily injury.

Sensitive Tissue Area: Areas of the body which are especially sensitive to injury. These areas include the head, face, neck, groin, genitals, and female breast.

Spark Test - A testing procedure conducted by removing the air cartridge from the TASER® device and pulling the trigger to assure the TASER® device is functioning properly by

producing a strong, consistent spark across the electrodes.

TASER® device: An electronic control device with the capability of disrupting the body's ability to communicate messages from the brain to the muscles, causing temporary motor skill dysfunction in a subject.

DIRECTIVE

03.29.01 LEGAL AUTHORITY TO USE

Pursuant to F.S. 943.1717, Electronic Control Weapons, referred to in Statute as dart-firing stun guns, are authorized for use by sworn law enforcement officers to control persons who escalate resistance from passive physical resistance to active physical resistance and who have the apparent ability to physically threaten the officer or others or is preparing or attempting to flee or escape. The use must involve an arrest or custodial situation.

03.29.02 PROCEDURE

03.29.02.01 AUTHORIZED ELECTRONIC CONTROL WEAPON

- A. The X-26 Advanced TASER® with TASER® Cam, herein referred to together as a TASER® device, is the only Electronic Control Weapon, as delineated in General Order - 02.07 "Weapons and Ammunition," authorized for issue, carry and use by sworn members of the Key West Police Department.
- B. Approved models and specifications are maintained by the Training Unit.

03.29.02.02 TRAINING AND ISSUE

- A. TASER® devices shall be issued to and used only by officers who have successfully completed the Department's TASER® Training Program.
 1. Training will meet or exceed the Criminal Justice Standards and Training Commission standards and Florida Statute 943.1717 as related to Electronic Control Devices or "dart-firing stun guns."

2. Officers qualified to carry a TASER® device shall complete annual retraining on its use and any related policies.
- B. Officers issued a TASER® device will carry it on the side opposite the firearm. The TASER® device will only be carried in a Department-issued holster or a holster approved by the Training Unit.
 - C. The Training Unit will issue a TASER® device and air cartridges to the officer after successful completion of the required training. Only those batteries and air cartridges issued by the Department are authorized for use.
 - D. Patrol supervisors may be supplied extra cartridges for re-supply purposes.
 - E. The serial number of the TASER® air cartridge will be recorded upon issue and noted when returned. Members will not exchange TASER® devices or air cartridges with each other, except in an emergency or as authorized and recorded by the Training Unit.
 - F. Officers are responsible for replacing air cartridges by the expiration date. Expired air cartridges shall be returned to the Training Unit and used for training purposes or otherwise disposed of.
 - G. The Training Unit will ensure the TASER® device is working properly prior to issue or reissue. The Training Unit will inspect all TASER® devices and issued cartridges for proper operation, expiration dates, and condition annually. This may occur during annual training or as scheduled by the Training Unit.
 - H. Supervisors will inspect TASER® devices for general condition, supplies, and expiration dates as a part of line inspections.
 - I. Only properly functioning and charged TASER® devices shall be carried for operational needs. If a weapon does not function properly, it will be returned to the Training Unit for repair or replacement.
 - J. The TASER® device and air cartridges will be stored in a secure, clean, and dry location when not worn. The device should not be stored in a temperature less than 20 degrees or more than 114 degrees, as the batteries

may deteriorate or fail in extreme temperatures. Therefore, the TASER® device and air cartridges will not be stored in a vehicle.

03.29.02.03 PRE-DEPLOYMENT CONSIDERATIONS

A. Prior to deploying the TASER® device, the officer should consider the following factors:

- Age, height and weight of the person
- Sex
- Person's apparent ability, actions and behavior
- Proximity of weapons
- Multiple subjects/officers
- Location of the officer and subject

B. Officers will not use a TASER® device on the following persons unless exigent and articulable circumstances necessitate its use:

1. Persons confined to wheelchairs.
2. Females known to be pregnant.
3. Obviously debilitated or elderly persons.
4. Persons, particularly juveniles, reasonably appearing to weigh less than 80 pounds.
5. Persons in danger of falling a lethal distance, falling into machinery, drowning, or while operating a vehicle.
6. Persons secured in restraint devices.

C. The TASER® device may be used on aggressive animals in the defense of the officers, innocent bystanders.

03.29.02.04 DEPLOYMENT PROCEDURES

A. The TASER® device may be used when an arrest or a custodial situation exists, during which the person who is the subject of the arrest or custody escalates resistance to the officer from passive physical resistance to active physical resistance and the person:

1. Has the apparent ability to physically threaten the officer or others; or
2. Is attempting to flee or escape.

B. The TASER® device is a Level 4 Intermediate Weapon, and can be used in response to a subject exhibiting Level 4 Active Physical Resistance on the Response to Resistance Matrix.

C. Deployment of the TASER® device constitutes a Response to Resistance Incident and is subject to all the requirements of a Less-Lethal Incident in General Order - 02.07 "Response to Resistance" and as outlined in section 03.29.03 of this policy.

D. The TASER® device shall not be used on a passively resisting subject. However, it may be displayed as a visual deterrent, and shall be documented, at a minimum, in CAD.

E. The reporting requirement does not apply for presentations that occur during scheduled and sanctioned training or for function testing of the TASER® device.

F. The officer will handle the TASER® device in accordance with their training, taking care not to cover the lens of the TASER® camera. The camera begins recording as soon as the device is activated.

G. The TASER® device is programmed to deliver a five-second electrical current. The officer can shorten or extend this time.

1. After the TASER® device is deployed, the officer will continually evaluate the situation and the subject's level of compliance.

2. Any extension of the initial cycle, or multiple cycles, shall be justified and documented when deployed on a subject in the same incident.

03.29.02.04 GUIDELINES FOR USE OF AN ELECTRONIC CONTROL WEAPON

A. A pre-operation check of the TASER® device will be conducted prior to going into service.

1. With the air cartridge removed and the weapon pointed in a safe direction, perform a spark test of the TASER® device. A full, five-second, cycle will be conducted.

2. Attach the air cartridge and holster the weapon.
 3. If the TASER® device fails to fire or fires slowly, ensure the batteries are fully charged and properly installed.
 4. The officer will not spark test the TASER® a second time during the shift without a specific reason or a supervisor approval.
- B. Keep hands away from the front of the unit at all times unless the safety slide is forward and the TASER® device is deactivated.
 - C. Do not use the TASER® device near flammable liquids or fumes, as has the potential to ignite flammables.
 - D. Whenever practical, the warning "TASER®," should be given prior to discharge of the TASER® device.
 - E. The TASER® device should not be aimed or intentionally deployed at the eyes or face unless justified in using deadly force. In the event the probes unintentionally penetrate the eyes or face, follow the procedures for after-care of sensitive tissue areas.
 - F. Officers should use caution during the deployment of the TASER® device, as electric shock may occur if physical contact is made with a probe, wire, or in the path between the electrodes. Officers should also avoid stepping on or tripping over the wires.
 - G. Avoid contact between static electricity and the TASER® air cartridge because static electricity can cause unexpected discharge.
 - H. Use of the TASER® device should be limited to its functional range; either 21 or 35 feet, depending upon the model issued.
 - I. The "drive-stun" technique may be used when in close contact with a subject. The drive-stun technique may be used with the cartridge in place or after the cartridge has been deployed or removed.
 - J. Each officer should carry a secondary air cartridge for use in the event of a miss, poor probe placement, or other undesirable effect.
- K. The TASER® device will be carried in the "off" position while in the holster and when intended use is not planned.
 - L. No officer shall carry or cause a TASER® device to be introduced into a correctional facility, unless in response to a call for services where it may be needed.

03.29.02.05 POST-DEPLOYMENT PROCEDURES

- A. After the deployment of a TASER® device and the subject is secured, the officer shall remove the probes; unless it appears medical intervention is necessary. Officers shall wear personal protective equipment, and the removal shall be conducted per training.
- B. Once the probes have been removed, they should be inspected for their original integrity. If any part of the probe is missing after removal, the person should be evaluated at a medical facility.
- C. Medical personnel or emergency room staff will remove the probes if the subject is struck in a sensitive tissue area such as face, neck, groin, and breast area of a female, unless a female officer is available to remove the probe.
- D. Additionally, medical intervention will be required when a TASER® device has been used on any of the following:
 1. Subject weighing less than 80 pounds, particularly a juvenile,
 2. Female known to be pregnant.
 3. Disabled person.
 4. Subject exhibiting extremely erratic, violent behavior.
 5. Subject exhibiting unusual/unexpected behavior or has unusual/unexpected complaints after the TASER® device application.
 6. Persons secured in restraint devices
- E. If the person refuses medical treatment or examination, the officer will note the refusal in the incident report.

- F. Documentation of examination, treatment, or refusal should be obtained for the detention facility or receiving facility personnel.
- G. After a visual inspection, discharged probes shall be inverted into the portals they were originally deployed from. Probes are to be treated as a biohazard and shall be handled, packaged and stored per policy. The wires shall be wound around the cartridge. Tape should then be placed over the portals to secure the probes in the cartridge. Submit to KWPD Property Section as evidence.
- H. Officers will attempt to collect a sample of the AFID tags and place in a separate evidence envelope. If the AFID confetti cannot be recovered from the scene (washed away by rain, destroyed by fire, etc.), the circumstances preventing recovery will be detailed in the Offense/Incident Report and the Response to Resistance report.
- I. If the probes have penetrated the skin, the puncture sites shall be brought to the attention of a supervisor and photographed, along with the air cartridge, probe wires, and probes.
- J. The TASER® device will be downloaded by a Supervisor or the Training Unit by the end of the shift, when a Response to Resistance incident includes the discharge or alleged discharge of the TASER® device and shall be forwarded along with the Response to Resistance report.

03.29.03 REPORTING REQUIREMENTS

- A. Supervisors will complete a Response to Resistance report for deployment of a TASER® device, in accordance with General Order – 02.07 “Response to Resistance.” If an accidental discharge occurs, a report will also be completed.
- B. Response to Resistance reports will include the air cartridge serial number, when used.
- C. The TASER® device download reports will be attached to the Response to Resistance report.
- D. The audio/video recordings and device firing data from use of the TASER® device, through

actual deployment will be downloaded to a disc and submitted as evidence, referencing the appropriate CAD or case number.

- E. Any audio/video recordings and device firing data from the use of the TASER® device through presentation that is of evidentiary value will be downloaded to a disc and submitted as evidence, referencing the appropriate CAD or case number.
- F. The estimated distance from the point of impact should be noted (in the report) for future analysis.
- G. Notifications and reports will be in accordance with General Order – 02.07 “Response to Resistance.”
- H. In the event a TASER® device is displayed, but not deployed, whereby creating a visual deterrent, the officer shall ensure it is documented in CAD on the call in which the TASER® presentation was effected. A TASER® presentation will include, in addition to displaying the device, activating the laser and/or light function or producing a spark across the electrodes when the air cartridge is removed (spark test.)

REFERENCES

- ◆ Monroe County Sheriff’s Office; Monroe County, FL; X-26 Advanced TASER® Policy
- ◆ Cocoa Beach Police, TASER® Policy
- ◆ Volusia County Sheriff’s Office; M26/X26 Advanced TASER®
- ◆ West Palm Beach Police Department: 111-17 TASER®
- ◆ Citrus County Sheriff’s Office; Use of Control: Electronic Control Weapon Policy
- ◆ International Association of Chiefs of Police
- ◆ CJSTC Rule 11B-17-00212
- ◆ FS 943.1717 Use of dart-Firing Stun Guns

EVOLUTION

(New Directive)

4

843.02 Resisting officer without violence to his or her person.—Whoever shall resist, obstruct, or oppose any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Parole Commission or any administrative aide or supervisor employed by the commission; county probation officer; parole and probation supervisor; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 3276, 1881; RS 2581; GS 3501; RGS 5386; CGL 7525; s. 1, ch. 63-433; s. 1, ch. 65-226; s. 3, ch. 67-2207; ss. 20, 33, 35, ch. 69-106; s. 1035, ch. 71-136; s. 1, ch. 77-174; s. 2, ch. 78-116; s. 21, ch. 79-3; s. 27, ch. 79-8; s. 6, ch. 85-87; s. 41, ch. 88-122; s. 2, ch. 88-373; s. 51, ch. 88-381; s. 43, ch. 89-526; s. 209, ch. 91-224.

5

Colored Pictures Available Online or at the CRB Office for Inspection

6

Audio/Visual Available at the CRB Office for Inspection

7

Randall Smith

From: Donald Lee

Sent: Thursday, February 18, 2010 2:11 PM

To: David T. Smith

Cc: Randall Smith

Lt. Smith,

Please initiate an inquiry into case #09-5263 to determine if any policy violations or illegal conduct has been committed by our officers.

Donald J. Lee Jr.
Chief of Police
305.809.1042-office
305.809.1043-fax

KEY WEST POLICE
PROFESSIONAL STANDARDS INVESTIGATION

SWORN SUBJECT INTERVIEW

I am Inspector Randy Smith of the Key West Police Department. As part of an internal Administrative Investigation, I am conducting this Sworn Subject interview at 1604 N. Roosevelt Blvd. Office of Internal Affairs.

I am interviewing Detective Richard Thomas. There is no one else present for this interview. This sworn interview is for discussing a complaint of violations of Decorum and Use of Force Policy.

The Professional Standards Number is PS 10-002.

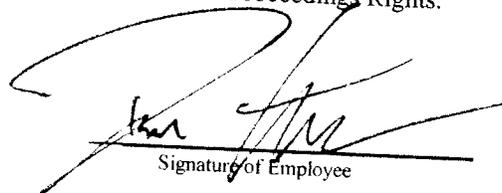
ADMINISTRATIVE PROCEEDINGS "GARRITY" RIGHTS

The law provides that you are to be advised of the following:

- I. I wish to advise you that are being questioned as part of an official internal affairs investigation by the Key West Police Department. You will be asked questions specifically directed and related to the performance of your official duties or fitness for offices. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of this state and the Constitution of the United States and the union contract between the Key West Police Department and the City of Key West, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges that could result in your dismissal from this agency. If you do answer, neither your statements nor any information or evidence that is gained by reason of such statements can be used against you in any subsequent criminal proceeding, (except for perjury or obstruction of justice charges). However, these statements may be used against you in relation to subsequent departmental charges.

Do you understand these rights?

With my signature, I acknowledge that I have read and do understand these Administrative Proceedings Rights.


Signature of Employee

Date 19 MAY 2010 Time 0939 hrs.
RT

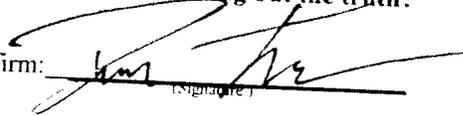
You have been provided the opportunity to review all documentation pertaining to the complaint against you? Is that correct?

OATH

This is a **sworn, digitally-recorded interview**, conducted by a law enforcement officer pursuant to Florida Statutes section 117.10. Det. Thomas, please raise your right hand;

Do you swear or affirm that the answers you are about to give, and any statements you make during this interview, will be the truth, the whole truth, and nothing but the truth?

Yes, I so swear or affirm:


(Signature)

Please state your

Full name
What is your current assignment with the KWPD?
How long have you held that position?

Do you have anything you wish to add before I conclude the interview?

I would like to confirm for the record that you were aware this sworn interview, was being recorded, and that I had your permission to do so.

This interview is concluded at 9:58 hrs.

KEY WEST POLICE
PROFESSIONAL STANDARDS INVESTIGATION

SWORN SUBJECT INTERVIEW

I am Inspector Randy Smith of the Key West Police Department. As part of an internal Administrative Investigation, I am conducting this Sworn Subject interview at 1604 N. Roosevelt Blvd. Office of Internal Affairs.

I am interviewing Detective Michael Chaustit. There is no one else present for this interview. This sworn interview is for discussing a complaint of violations of Decorum and Use of Force Policy.

The Professional Standards Number is PS 10-002.

ADMINISTRATIVE PROCEEDINGS "GARRITY" RIGHTS

The law provides that you are to be advised of the following:

1. I wish to advise you that are being questioned as part of an official internal affairs investigation by the Key West Police Department. You will be asked questions specifically directed and related to the performance of your official duties or fitness for offices. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of this state and the Constitution of the United States and the union contract between the Key West Police Department and the City of Key West, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges that could result in your dismissal from this agency. If you do answer, neither your statements nor any information or evidence that is gained by reason of such statements can be used against you in any subsequent criminal proceeding, (except for perjury or obstruction of justice charges). However, these statements may be used against you in relation to subsequent departmental charges.

Do you understand these rights?

With my signature, I acknowledge that I have read and do understand these Administrative Proceedings Rights.



Signature of Employee

Date 05/19/10 Time 0920 hrs.

You have been provided the opportunity to review all documentation pertaining to the complaint against you? Is that correct?

OATH

This is a **sworn, digitally-recorded interview**, conducted by a law enforcement officer pursuant to Florida Statutes section 117.10. Det. Chaustit, please raise your right hand;

Do you swear or affirm that the answers you are about to give, and any statements you make during this interview, will be the truth, the whole truth, and nothing but the truth?

Yes, I so swear or affirm: 
(Signature)

Please state your
Full name
What is your current assignment with the KWPD?
How long have you held that position?

Do you have anything you wish to add before I conclude the interview?

I would like to confirm for the record that you were aware this sworn interview was being recorded, and that I had your permission to do so.

This interview is concluded at 59:37 hrs.

KEY WEST POLICE
PROFESSIONAL STANDARDS INVESTIGATION

SWORN SUBJECT INTERVIEW

I am Inspector Randy Smith of the Key West Police Department. As part of an internal Administrative Investigation, I am conducting this Sworn Subject interview at 1604 N. Roosevelt Blvd. Office of Internal Affairs.

I am interviewing Officer Thaddeus Calvert. There is no one else present for this interview. This sworn interview is for discussing a complaint of violations of Decorum and Use of Force Policy.

The Professional Standards Number is PS 10-002.

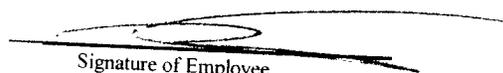
ADMINISTRATIVE PROCEEDINGS "GARRITY" RIGHTS

The law provides that you are to be advised of the following:

- I wish to advise you that are being questioned as part of an official internal affairs investigation by the Key West Police Department. You will be asked questions specifically directed and related to the performance of your official duties or fitness for offices. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of this state and the Constitution of the United States and the union contract between the Key West Police Department and the City of Key West, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges that could result in your dismissal from this agency. If you do answer, neither your statements nor any information or evidence that is gained by reason of such statements can be used against you in any subsequent criminal proceeding, (except for perjury or obstruction of justice charges). However, these statements may be used against you in relation to subsequent departmental charges.

Do you understand these rights?

With my signature, I acknowledge that I have read and do understand these Administrative Proceedings Rights.


Signature of Employee

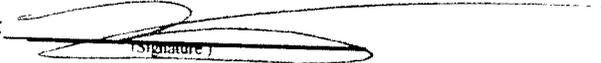
Date 5-18-2010 Time 1701 hrs.

You have been provided the opportunity to review all documentation pertaining to the complaint against you? Is that correct?

OATH

This is a **sworn, digitally-recorded interview**, conducted by a law enforcement officer pursuant to Florida Statutes section 117.10. Officer ~~Cohen~~, please raise your right hand;
CAVERT

Do you swear or affirm that the answers you are about to give, and any statements you make during this interview, will be the truth, the whole truth, and nothing but the truth?

Yes, I so swear or affirm: 
(Signature)

Please state your Full name *THADDEUS CALVERT*
What is your current assignment with the KWPD?
How long have you held that position?

Do you have anything you wish to add before I conclude the interview?

I would like to confirm for the record that you were aware this sworn interview was being recorded, and that I had your permission to do so.

This interview is concluded at *17:21* hrs.

Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

TO: Det. Brian Leahy
FROM: Inspector Randy Smith, Office of Internal Affairs
DATE: May 24, 2010
RE: Subject Member Notification of Internal Inquiry: PS 10-002 Edwards

This memorandum is to serve notice that you are the subject of an Internal Inquiry, authorized by the Chief of Police, in regards to allegations found on page 2 of this Notice. Inspector Randy Smith is the lead investigator in this inquiry.

Key West Police Department members who are either a witness or the subject of any Internal Investigation or inquiry are required to fully comply with all lawful instructions from the assigned investigator or other designated departmental authority, whether given verbally or in writing. Willful refusal to comply with instructions, or refusal to truthfully and completely answer questions during any administrative interview, may result in additional departmental charges and subsequent disciplinary action up to and including possible termination.

You will be notified of a date, time, and location for any necessary interview. Your answers, statements, information, or evidence which are obtained during any administrative interview on this matter cannot be used against you in any possible criminal proceeding, except "Perjury". However, these statements may be used against you in relation to subsequent departmental charges.

Congruent with F.S. 112.533 "Receipt and Processing of Complaints", you may not discuss material matters of this investigation with any individual except your attorney or other representative until such time as you are notified that the investigation is complete, and therefore a matter of public record.

If you are a sworn-member, along with this Notice you are being furnished copies of F.S. 112.532 Law enforcement officers' and correctional officers' rights, F.S. 112.533 Receipt and processing of complaints, and F.S. 112.534 Failure to comply; official misconduct.



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



Complainant: Yvonne Edwards

Allegation: Use of Force
Decorum Toward Public

With my signature below, I acknowledge receipt of this Notice. My signature in no way indicates admission to the allegations.

Signature

Date

FLORIDA STATUTES 112.532 / 112.533 / 112.534

112.532 Law enforcement officers' and correctional officers' rights.--All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(1) **RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.**--Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:

- (a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer or correctional officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
- (b) The interrogation shall take place either at the office of the command of the investigating officer or at the office of the local precinct, police unit, or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.
- (c) The law enforcement officer or correctional officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the officer under investigation.
- (d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.
- (e) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

(g) The formal interrogation of a law enforcement officer or correctional officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(h) If the law enforcement officer or correctional officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights before commencing the interrogation.

(i) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

(2) COMPLAINT REVIEW BOARDS.--A complaint review board shall be composed of three members: One member selected by the chief administrator of the agency or unit; one member selected by the aggrieved officer; and a third member to be selected by the other two members. Agencies or units having more than 100 law enforcement officers or correctional officers shall utilize a five-member board, with two members being selected by the administrator, two members being selected by the aggrieved officer, and the fifth member being selected by the other four members. The board members shall be law enforcement officers or correctional officers selected from any state, county, or municipal agency within the county. There shall be a board for law enforcement officers and a board for correctional officers whose members shall be from the same discipline as the aggrieved officer. The provisions of this subsection shall not apply to sheriffs or deputy sheriffs.

(3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.--Every law enforcement officer or correctional officer shall have the right to bring civil suit against any person, group of persons, or organization or corporation, or the head of such organization or corporation, for damages, either pecuniary or otherwise, suffered during the performance of the officer's official duties, for abridgment of the officer's civil rights arising out of the officer's performance of official duties, or for filing a complaint against the officer which the person knew was false when it was filed. This section does not establish a separate civil action against the officer's employing law enforcement agency for the investigation and processing of a complaint filed under this part.

(4)(a) NOTICE OF DISCIPLINARY ACTION.--A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.

(b) Notwithstanding s. 112.533(2), whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative shall, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation shall remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

(5) RETALIATION FOR EXERCISING RIGHTS.--No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

112.533 Receipt and processing of complaints.-- (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

1. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.
2. Include the following statement, sworn and subscribed to pursuant to s. 92.525:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

The requirements of subparagraphs 1. and 2. shall be completed prior to the determination as to whether to proceed with disciplinary action or to file disciplinary charges. This subsection does not preclude the Criminal Justice Standards and Training Commission from exercising its authority under chapter 943.

- (b)1. Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.
2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges;
or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer shall be made under oath pursuant to s. 92.525.

Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview.

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119. For the purposes of this subsection, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 45 days after the complaint is filed.

(c) Notwithstanding other provisions of this section, the complaint and information shall be available to law enforcement agencies, correctional agencies, and state attorneys in the conduct of a lawful criminal investigation.

(3) A law enforcement officer or correctional officer has the right to review his or her official personnel file at any reasonable time under the supervision of the designated records custodian. A law enforcement officer or correctional officer may attach to the file a concise statement in response to any items included in the file identified by the officer as derogatory, and copies of such items must be made available to the officer.

(4) Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such

complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (2)(a). Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

112.534 Failure to comply; official misconduct.--

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).
 - (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.
 - (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.
 - (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.
 - (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.
 - (e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(2)(a) All the provisions of s. 838.022 shall apply to this part.

(b) The provisions of chapter 120 do not apply to this part.

Rights Updated January 1, 2010

Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

TO: Ofc. Thaddeus Calvert
FROM: Inspector Randy Smith, Office of Internal Affairs
DATE: February 28, 2010
RE: Subject Member Notification of Internal Inquiry: PS 10-002 Edwards

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You will be notified of a date, time, and location for any necessary interview. Your answers, statements, information, or evidence which are obtained during any administrative interview on this matter cannot be used against you in any possible criminal proceeding, except "Perjury". However, these statements may be used against you in relation to subsequent departmental charges.

Congruent with F.S. 112.533 "Receipt and Processing of Complaints", you may not discuss material matters of this investigation with any individual except your attorney or other representative until such time as you are notified that the investigation is complete, and therefore a matter of public record.

If you are a sworn-member, along with this Notice you are being furnished copies of F.S. 112.532 Law enforcement officers' and correctional officers' rights, F.S. 112.533 Receipt and processing of complaints, and F.S. 112.534 Failure to comply; official misconduct.



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Complainant: Yvonne Edwards

Allegation: Use of Force
Decorum Toward Public

With my signature below, I acknowledge receipt of this Notice. My signature in no way indicates admission to the allegations.

Signature

Date

FLORIDA STATUTES 112.532 / 112.533 / 112.534

112.532 Law enforcement officers' and correctional officers' rights.--All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.--Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:

- (a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer or correctional officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
- (b) The interrogation shall take place either at the office of the command of the investigating officer or at the office of the local precinct, police unit, or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.
- (c) The law enforcement officer or correctional officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the officer under investigation.
- (d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.
- (e) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

(g) The formal interrogation of a law enforcement officer or correctional officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(h) If the law enforcement officer or correctional officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights before commencing the interrogation.

(i) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

(2) COMPLAINT REVIEW BOARDS.--A complaint review board shall be composed of three members: One member selected by the chief administrator of the agency or unit; one member selected by the aggrieved officer; and a third member to be selected by the other two members. Agencies or units having more than 100 law enforcement officers or correctional officers shall utilize a five-member board, with two members being selected by the administrator, two members being selected by the aggrieved officer, and the fifth member being selected by the other four members. The board members shall be law enforcement officers or correctional officers selected from any state, county, or municipal agency within the county. There shall be a board for law enforcement officers and a board for correctional officers whose members shall be from the same discipline as the aggrieved officer. The provisions of this subsection shall not apply to sheriffs or deputy sheriffs.

(3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.--Every law enforcement officer or correctional officer shall have the right to bring civil suit against any person, group of persons, or organization or corporation, or the head of such organization or corporation, for damages, either pecuniary or otherwise, suffered during the performance of the officer's official duties, for abridgment of the officer's civil rights arising out of the officer's performance of official duties, or for filing a complaint against the officer which the person knew was false when it was filed. This section does not establish a separate civil action against the officer's employing law enforcement agency for the investigation and processing of a complaint filed under this part.

(4)(a) NOTICE OF DISCIPLINARY ACTION.--A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.

(b) Notwithstanding s. 112.533(2), whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative shall, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation shall remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

(5) RETALIATION FOR EXERCISING RIGHTS.--No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

112.533 Receipt and processing of complaints.-- (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

1. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.
2. Include the following statement, sworn and subscribed to pursuant to s. 92.525:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

The requirements of subparagraphs 1. and 2. shall be completed prior to the determination as to whether to proceed with disciplinary action or to file disciplinary charges. This subsection does not preclude the Criminal Justice Standards and Training Commission from exercising its authority under chapter 943.

- (b)1. Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.
2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges;
or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer shall be made under oath pursuant to s. 92.525.

Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview.

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119. For the purposes of this subsection, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 45 days after the complaint is filed.

(c) Notwithstanding other provisions of this section, the complaint and information shall be available to law enforcement agencies, correctional agencies, and state attorneys in the conduct of a lawful criminal investigation.

(3) A law enforcement officer or correctional officer has the right to review his or her official personnel file at any reasonable time under the supervision of the designated records custodian. A law enforcement officer or correctional officer may attach to the file a concise statement in response to any items included in the file identified by the officer as derogatory, and copies of such items must be made available to the officer.

(4) Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such

complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (2)(a). Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

112.534 Failure to comply; official misconduct.--

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).
 - (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.
 - (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.
 - (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.
 - (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.
 - (e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(2)(a) All the provisions of s. 838.022 shall apply to this part.

(b) The provisions of chapter 120 do not apply to this part.

Rights Updated January 1, 2010

Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

TO: Det. Richard Thomas
FROM: Inspector Randy Smith, Office of Internal Affairs 
DATE: February 28, 2010
RE: Subject Member Notification of Internal Inquiry: PS 10-002 Edwards

This memorandum is to serve notice that you are the subject of an Internal Inquiry, authorized by the Chief of Police, in regards to allegations found on page 2 of this Notice. Inspector Randy Smith is the lead investigator in this inquiry.

Key West Police Department members who are either a witness or the subject of any Internal Investigation or inquiry are required to fully comply with all lawful instructions from the assigned investigator or other designated departmental authority, whether given verbally or in writing. Willful refusal to comply with instructions, or refusal to truthfully and completely answer questions during any administrative interview, may result in additional departmental charges and subsequent disciplinary action up to and including possible termination.

You will be notified of a date, time, and location for any necessary interview. Your answers, statements, information, or evidence which are obtained during any administrative interview on this matter cannot be used against you in any possible criminal proceeding, except "Perjury". However, these statements may be used against you in relation to subsequent departmental charges.

Congruent with F.S. 112.533 "Receipt and Processing of Complaints", you may not discuss material matters of this investigation with any individual except your attorney or other representative until such time as you are notified that the investigation is complete, and therefore a matter of public record.

If you are a sworn-member, along with this Notice you are being furnished copies of F.S. 112.532 Law enforcement officers' and correctional officers' rights, F.S. 112.533 Receipt and processing of complaints, and F.S. 112.534 Failure to comply; official misconduct.



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Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



Complainant: Yvonne Edwards

Allegation: Use of Force
Decorum Toward Public

With my signature below, I acknowledge receipt of this Notice. My signature in no way indicates admission to the allegations.

Signature

Date

FLORIDA STATUTES 112.532 / 112.533 / 112.534

112.532 Law enforcement officers' and correctional officers' rights.--All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.--Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:

- (a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer or correctional officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
- (b) The interrogation shall take place either at the office of the command of the investigating officer or at the office of the local precinct, police unit, or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.
- (c) The law enforcement officer or correctional officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the officer under investigation.
- (d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.
- (e) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

(g) The formal interrogation of a law enforcement officer or correctional officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(h) If the law enforcement officer or correctional officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights before commencing the interrogation.

(i) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

(2) COMPLAINT REVIEW BOARDS.--A complaint review board shall be composed of three members: One member selected by the chief administrator of the agency or unit; one member selected by the aggrieved officer; and a third member to be selected by the other two members. Agencies or units having more than 100 law enforcement officers or correctional officers shall utilize a five-member board, with two members being selected by the administrator, two members being selected by the aggrieved officer, and the fifth member being selected by the other four members. The board members shall be law enforcement officers or correctional officers selected from any state, county, or municipal agency within the county. There shall be a board for law enforcement officers and a board for correctional officers whose members shall be from the same discipline as the aggrieved officer. The provisions of this subsection shall not apply to sheriffs or deputy sheriffs.

(3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.--Every law enforcement officer or correctional officer shall have the right to bring civil suit against any person, group of persons, or organization or corporation, or the head of such organization or corporation, for damages, either pecuniary or otherwise, suffered during the performance of the officer's official duties, for abridgment of the officer's civil rights arising out of the officer's performance of official duties, or for filing a complaint against the officer which the person knew was false when it was filed. This section does not establish a separate civil action against the officer's employing law enforcement agency for the investigation and processing of a complaint filed under this part.

(4)(a) NOTICE OF DISCIPLINARY ACTION.--A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.

(b) Notwithstanding s. 112.533(2), whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative shall, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation shall remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

(5) RETALIATION FOR EXERCISING RIGHTS.--No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

112.533 Receipt and processing of complaints.-- (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

1. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.

2. Include the following statement, sworn and subscribed to pursuant to s. 92.525:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

The requirements of subparagraphs 1. and 2. shall be completed prior to the determination as to whether to proceed with disciplinary action or to file disciplinary charges. This subsection does not preclude the Criminal Justice Standards and Training Commission from exercising its authority under chapter 943.

(b)1. Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.

2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges;
or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer shall be made under oath pursuant to s. 92.525.

Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview.

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119. For the purposes of this subsection, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 45 days after the complaint is filed.

(c) Notwithstanding other provisions of this section, the complaint and information shall be available to law enforcement agencies, correctional agencies, and state attorneys in the conduct of a lawful criminal investigation.

(3) A law enforcement officer or correctional officer has the right to review his or her official personnel file at any reasonable time under the supervision of the designated records custodian. A law enforcement officer or correctional officer may attach to the file a concise statement in response to any items included in the file identified by the officer as derogatory, and copies of such items must be made available to the officer.

(4) Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such

complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (2)(a). Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

112.534 Failure to comply; official misconduct.--

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).
 - (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.
 - (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.
 - (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.
 - (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.
 - (e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(2)(a) All the provisions of s. 838.022 shall apply to this part.

(b) The provisions of chapter 120 do not apply to this part.

Rights Updated January 1, 2010

Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

TO: Ofc. Michael Chaustit
FROM: Inspector Randy Smith, Office of Internal Affairs *RS*
DATE: February 28, 2010
RE: Subject Member Notification of Internal Inquiry: PS 10-002 Edwards

This memorandum is to serve notice that you are the subject of an Internal Inquiry, authorized by the Chief of Police, in regards to allegations found on page 2 of this Notice. Inspector Randy Smith is the lead investigator in this inquiry.

Key West Police Department members who are either a witness or the subject of any Internal Investigation or inquiry are required to fully comply with all lawful instructions from the assigned investigator or other designated departmental authority, whether given verbally or in writing. Willful refusal to comply with instructions, or refusal to truthfully and completely answer questions during any administrative interview, may result in additional departmental charges and subsequent disciplinary action up to and including possible termination.

You will be notified of a date, time, and location for any necessary interview. Your answers, statements, information, or evidence which are obtained during any administrative interview on this matter cannot be used against you in any possible criminal proceeding, except "Perjury". However, these statements may be used against you in relation to subsequent departmental charges.

Congruent with F.S. 112.533 "Receipt and Processing of Complaints", you may not discuss material matters of this investigation with any individual except your attorney or other representative until such time as you are notified that the investigation is complete, and therefore a matter of public record.

If you are a sworn-member, along with this Notice you are being furnished copies of F.S. 112.532 Law enforcement officers' and correctional officers' rights, F.S. 112.533 Receipt and processing of complaints, and F.S. 112.534 Failure to comply; official misconduct.



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www.keywestcity.com



Complainant: Yvonne Edwards

Allegation: Use of Force
Decorum Toward Public

With my signature below, I acknowledge receipt of this Notice. My signature in no way indicates admission to the allegations.

Signature

Date

FLORIDA STATUTES 112.532 / 112.533 / 112.534

112.532 Law enforcement officers' and correctional officers' rights.--All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.--Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:

- (a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer or correctional officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
- (b) The interrogation shall take place either at the office of the command of the investigating officer or at the office of the local precinct, police unit, or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.
- (c) The law enforcement officer or correctional officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the officer under investigation.
- (d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.
- (e) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

(g) The formal interrogation of a law enforcement officer or correctional officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(h) If the law enforcement officer or correctional officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights before commencing the interrogation.

(i) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

(2) COMPLAINT REVIEW BOARDS.--A complaint review board shall be composed of three members: One member selected by the chief administrator of the agency or unit; one member selected by the aggrieved officer; and a third member to be selected by the other two members. Agencies or units having more than 100 law enforcement officers or correctional officers shall utilize a five-member board, with two members being selected by the administrator, two members being selected by the aggrieved officer, and the fifth member being selected by the other four members. The board members shall be law enforcement officers or correctional officers selected from any state, county, or municipal agency within the county. There shall be a board for law enforcement officers and a board for correctional officers whose members shall be from the same discipline as the aggrieved officer. The provisions of this subsection shall not apply to sheriffs or deputy sheriffs.

(3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.--Every law enforcement officer or correctional officer shall have the right to bring civil suit against any person, group of persons, or organization or corporation, or the head of such organization or corporation, for damages, either pecuniary or otherwise, suffered during the performance of the officer's official duties, for abridgment of the officer's civil rights arising out of the officer's performance of official duties, or for filing a complaint against the officer which the person knew was false when it was filed. This section does not establish a separate civil action against the officer's employing law enforcement agency for the investigation and processing of a complaint filed under this part.

(4)(a) NOTICE OF DISCIPLINARY ACTION.--A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.

(b) Notwithstanding s. 112.533(2), whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative shall, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation shall remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

(5) RETALIATION FOR EXERCISING RIGHTS.--No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

112.533 Receipt and processing of complaints.-- (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

1. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.
2. Include the following statement, sworn and subscribed to pursuant to s. 92.525:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

The requirements of subparagraphs 1. and 2. shall be completed prior to the determination as to whether to proceed with disciplinary action or to file disciplinary charges. This subsection does not preclude the Criminal Justice Standards and Training Commission from exercising its authority under chapter 943.

(b)1. Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.

2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges;
or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer shall be made under oath pursuant to s. 92.525.

Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview.

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119. For the purposes of this subsection, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 45 days after the complaint is filed.

(c) Notwithstanding other provisions of this section, the complaint and information shall be available to law enforcement agencies, correctional agencies, and state attorneys in the conduct of a lawful criminal investigation.

(3) A law enforcement officer or correctional officer has the right to review his or her official personnel file at any reasonable time under the supervision of the designated records custodian. A law enforcement officer or correctional officer may attach to the file a concise statement in response to any items included in the file identified by the officer as derogatory, and copies of such items must be made available to the officer.

(4) Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such

complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (2)(a). Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

112.534 Failure to comply; official misconduct.--

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).
- (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.
- (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.
- (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.
- (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.
- (e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(2)(a) All the provisions of s. 838.022 shall apply to this part.

(b) The provisions of chapter 120 do not apply to this part.

Rights Updated January 1, 2010



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Chief Donie Lee/Lt. David Smith/Inspector Randy Smith
FROM: Stephen Muffler, Esquire
DATE: 10/21/09
RE: CRB Complaint 09-008/Transfer to IA

Attached please find a complaint filed by Mrs. Yvonne Edwards against three (3) unknown officers who allegedly entered a bathroom at her residence at 116-B Geraldine Street, Key West Florida on or about October 17, 2009 to serve an alleged felony warrant against Shimika Clark. The complainant cannot identify the officers because according to her, they were wearing apparel over their faces to conceal their identities. She feels that their conduct was discourteous (allegedly using profanity to order the forcible removal of Mrs. Edwards from her home) and excessive force while taking Shimika Clark into custody.

PLEASE ALSO NOTE THAT THIS COMMUNICATION SHALL SERVE AS THE CRB'S PUBLIC RECORDS REQUEST UNDER FLORIDA LAW FOR COPIES OF THE VIDEO & AUDIO OF ALL STUN GUN/TASER EQUIPMENT ACTIVATED (EITHER DISCHARGED OR SAFETY OFF) TRIGGERED RECORDINGS AND THE DATA REFLECTED BY THESE DEVICES AT 116-B GERALDINE STREET, KEY WEST, FLORIDA 33040.

Please acknowledge below receipt of this request and letter/enclosures and report back to the CRB with your findings within the 45 day time frame. Should an investigation under the Florida Officer's Bill of Rights commence, then you may delay the delivery of the aforementioned public records until the conclusion of this formal investigation. If an investigation under the Florida Officer's Bill of Rights is NOT commenced, then please timely tender the above items as soon as possible.

Thanks.

Receipt

Citizen Review Board

#3 East Quay Road, Key West, FL 33040

PO Box 1946, Key West, FL 33041

(305) 809-3887 Fax (305) 293-9827

email: crb@keywestcity.com

<http://www.keywestcity.com/department/board.asp?IDD=36-153>

- 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.

Yvonne Edwards
Name/Nombre

10-20-09
Date/Fecha

CRB Executive Director filled out the Complaint Form for me and I dictated it and reviewed it for accuracy b/c signing.

COMPLAINT FORM

Citizen Review Board

#3 East Quay Road, Key West, FL 33040

PO Box 1946, Key West, FL 33041

<http://www.keywestcity.com>

email: crb@keywestcity.com

(305) 809-3887 Fax (305) 293-9827

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: Yvonne Edwards Date of Birth: 4/12/47
Nombre Fecha de nacimiento

Address: 116-B Geraldine Street Key West 33040
(Dirección) Street (Ciudad) City (Estado) State (Código Postal) Zip

Mailing Address: SAME
Dirección postal PO Box or Street, City, State and Zip

Work Address: N/A
(Dirección del trabajo)

Home Phone: 305 292-8537 Work Phone: () Cellular: 305 896-4640
Teléfono Particular Teléfono del Trabajo Celular

B. NATURE OF COMPLAINT: CIRCLE ALL THAT APPLY. Naturaleza de la denuncia: Circular le todas las que apliquen.

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

Name: my neace Tangela Edwards Badge #: _____ Vehicle #: _____
Nombre Placa No. Patrulla No.

Please provide a physical description of officer:
Describe la apariencia física del oficial: Unknown B/c wheary Masks
but ~~was~~ told me that one of the officers
was Leahy.

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

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

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

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

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

Did you witness the incident? Yes No Partially
 ¿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 Grandmother of Victim Spouse Relative Guardian Child Friend Other
 Padre/Madre Conyuge Familiar Tutor Hijo/a Amigo/a Otra
I am the grandma of Shimika.

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: Shimika Clark
 Nombre: _____
 Address: 116-B Gerldine Street City Key West State FL
 Dirección: _____ Ciudad: _____ Estado: _____
 Zip Code 33040 Contact numbers: Telephone _____ Cell _____
 Código Postal _____ Teléfono _____

Victim/Witness #2

Victima/Testigo No. 2

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

Name: Tangela Edwards
 Nombre: _____
 Address: 116-B Gerldine Street City Key West State FL
 Dirección: _____ Ciudad: _____ Estado: _____
 Zip Code 33040 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: Pamela Bailey
 Nombre: _____
 Address: 114-A Gerldine Street City Key West State FL
 Dirección: _____ Ciudad: _____ Estado: _____
 Zip Code 33040 Contact numbers: Telephone _____ Cell _____
 Código Postal _____ Teléfono _____

E. INFORMATION ABOUT THE INCIDENT
INFORMACION ACERCA DEL INCIDENTE

Please provide as much information as possible, using additional pages if necessary.
Suministre la mayor cantidad de informacion posible, utilizando páginas adicionales si fue necesario.

Date: 10/17/09 Time: Afternoon Location: 116-B Gerildre Street
Fecha: _____ Hora: _____ Lugar: Key west FL Case # if applicable: _____
No. de Caso, si corresponde: _____

2 officers approached me with a taser I believe one was
officer Leahy + Another officer. They were looking for my
Grand daughter Shamika and they told me they had an arrest
warrant for her. I let them into my home to search
and verify Shamika was not in my house. They left but
did not show me the Arrest Warrant even though I asked
for it. They only said it was a felony warrant. I told
them that Shamika will return and they waited outside.

They came back in less than 1 hour and I did not let them
in but told them Shamika is on her way home. Police again
waited outside and Shamika returned home and came inside
and she went back into the truck she came in. She left
the ~~car~~ Truck and came back into the house.

Then later the police rushed in w/o knocking or invite

Attach additional pages if necessary. Page number _____ of _____ pages of narrative

Are you being prosecuted for this incident or do you have a pending criminal case? Yes _____ No

Have you ever been convicted of a felony? Yes _____ No

"I hereby certify that, to the best of my knowledge, and under the penalty of perjury, the statements made herein are true." I hereby acknowledge and understand that any documents, materials, medical records, e-mail and other communication delivered to the CRB office becomes public record and shall be viewable on the internet by anyone or any entity. You have been advised that any statement made to the CRB can be used by other governmental entities.

Yvonne Williams

Signature of Complainant

10-20-09

Date signed

Complaint Received by:

Complaint Reviewed by:

Action Taken:

Date complaint forwarded to Chief of Police: _____

I hereby request copies of Taser video + Audio
that exists (All) relative to the Bathroom
incident.

Shamika closed Bathroom Door to keep
everybody out. Shamika was inside Bathroom
alone afraid. 3 officers (Big) pushed me
aside and went into the Bathroom after
Shamika would not open the Bathroom ~~door~~^{Door}.
3 officers pushed Door in and went inside
with Shamika and used tasers. They
shut Door behind them and yelled to another
officer "to get me out of here. I was removed
and I heard her screaming. I heard one
officer say "Stop Resisting Arrest Shamika"

Shamika was taken out under arrest.
Shamika was in extreme pain. Medics helped
but could not get her Blood Pressure Down.

3 Officers used Excessive force as Shamika
is small and they all went into the Bathroom
closed Door. It was unnecessary to use that
much force + tasers.

(16) Pictures of Shamika's injuries were taken
with by jail personnel.

Police searched the Apartment Bathroom in my
house and no warrant to search my house. No Arrest
warrant Ever shown to me. They Found no ...

Key West Police Department

Respect Integrity Fairness

General Order

Response to Resistance

Directive No: **02.08**
This Version Date: 07.08.2009
Date Posted: 07.13-2009
Date Effective: **07.13.2009**
Supersedes: 08.19.2007
Number of Pages: 16
(Includes 3-page Attachment)



Special Order 071309.1 TASER® Chief Lee

Chief William A. Mauldin

COLOR CODING DENOTING LEVEL OF LIABILITY:

YELLOW: High Risk / Low Frequency / No Discretionary Time

PURPOSE

The purpose of this directive is to establish a Response to Resistance Matrix to assist an officer in the proper response to resistance decision making, when to engage or disengage a person and when to escalate or de-escalate the level of force applied. This directive establishes guidelines for both full-time, part-time, and auxiliary sworn personnel concerning Response to Resistance. The directive reflects agency philosophy and established Florida Department of Law Enforcement Standards. The intended use is a guideline for officers to select effective, reasonable and legal force options in a verbal or physical encounter.

DISCUSSION

Law enforcement officers are confronted frequently with situations where, in order to protect the public safety, control must be exercised to effect arrests, overcome resistance, and neutralize assaults. Therefore, the Key West Police Department adopts the Florida Department of Law Enforcement's Response to Resistance Matrix, and establishes this policy authorizing its police officers to employ only the amount of force that is reasonable and necessary to accomplish a legal purpose.

SCOPE

Specific responsibilities and requirements are contained in this Directive for:

- All sworn personnel

- Watch Supervisor
- Internal Affairs Inspector
- Training Officer
- CID Detective
- Public Information Officer

DEFINITIONS

Accidental Discharge - The unintentional discharge (not associated with an encounter with a subject or lethal force incident) of either a City owned firearm by any person or the firearm of another by a member unless during training, practice or legally sanctioned hunting.

Commission - The Criminal Justice Standards and Training Commission (CJSTC) of the Florida Department of Law Enforcement (FDLE).

Deadly Force - The use of force that is likely to cause imminent death, great bodily harm or permanent disfigurement to the recipient.

Forcible Felony - Treason, murder; manslaughter; sexual battery, car-jacking, home-invasion robbery, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, and any other felony which involves the use or threat of physical force or violence against an individual.

Great Bodily Harm - A bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of a limb, function or organ.

General Order 02.08

CFA SSF Chapter 4

RESPONSE TO RESISTANCE
Key West Police Directives Manual

Effective Date: 07.13.09

Page 1 of 17

Lethal Force - (See Deadly Force)

Less Lethal Force - Defensive or controlling action that neither is likely nor intended to cause death, great bodily harm, or serious bodily injury.

Less Lethal Impact Munitions - Munitions that are fired, launched, or otherwise propelled with the purpose of obtaining compliance, overcoming resistance, or preventing serious injury, without a significant likelihood of causing death. Examples of less lethal impact projectiles include beanbags, launchable foam or rubber batons, rubber pellet, etc.

Officer Involved Shooting - The purposeful or accidental discharge of a firearm by a sworn member, other than for firearms training/practice, recreational activities, and legally sanctioned hunting.

Probable Cause - Circumstances within one's own knowledge and experience that is rational, trustworthy and supported by articulable facts to lead a reasonable and prudent man to conclude that the information is true.

Reasonable Belief - Knowledge sufficient for an ordinary and prudent person under the circumstances, to believe criminal activity is at hand or that a certain condition exists.

Response to Resistance Incident - Any incident where a sworn member of the Key West Police Department responds to resistance where any one of the following conditions exist:

- A. A response through the use of lethal or less-lethal weapons, (response level 4,5, or 6); or
- B. Applies weaponless physical force of strikes, kicks, or "take-downs" in response level 3; or
- C. Any intentional use of OC Spray; or
- D. When any person sustains an apparent substantial or fatal injury as a result of the officer's response to resistance; or
- E. When any person complains of injury as a result of the officer's response to resistance; or
- F. When an Officer discharges his firearm in the line of duty (regardless if off-duty or on-duty) for any purpose other than for training, maintenance or ballistic testing; or

- G. When an Officer is controlling a person by pointing a firearm at that person without discharge. (This does not apply to situations where the Officer has his firearm pointed down at his side or at a low-ready position).

Response to Resistance Matrix - An FDLE approved guideline to aid the officer in proper response to resistance decision making, when to engage or disengage a person and when to escalate or de-escalate the level of force applied.

Serious Bodily Injury - (See Great Bodily Harm)

Use of Force - A defensive or controlling response by an Officer to overcome a person's threatened or actual physical resistance to an Officer's performance of legal duty; to protect an Officer or another person from physical resistance or acts of aggression that are likely to cause harm.

Supervisor's Response to Resistance Report - A form used to document details of a member's response to resistance. (See attachment)

DIRECTIVE

02.08.01 LEGAL AUTHORITY TO USE FORCE

Sworn members of the Key West Police Department derive their authority to use force, to include lethal (deadly) force, from the following Florida State Statutes:

- F.S. 776.012 "Use of force in defense of person", and
- F.S. 776.05 "Law enforcement officers; use of force in making an arrest".

02.08.02 DEPARTMENT POLICY: USE OF FORCE

02.08.02.01 Regardless of the purpose, the use of any force, (lethal or less lethal), by sworn members of the Key West Police Department, must be carried out within the parameters of the Response to Resistance Matrix adopted by the Key West Police Department, and in compliance with, and justified by, current State law.

02.08.02.02 Sworn members will use only the degree of force that is "reasonable" and "necessary" based on probable cause as defined in this directive, to effect lawful objectives, effectively bring an incident under control, to make arrests and/or protect Department member and others.

02.08.03 CONSTITUTIONAL RESTRICTIONS

Despite the State powers granted to Police to use force, the application of police force can not infringe upon those rights granted to each person by the United States Constitution. Any infringement upon a person's constitutional rights can be remedied against a member, his employers or governing jurisdictions by criminal prosecution under Title 18 U.S.C.241 or 242 or by civil remedies under Title 42 U.S.C. 1983 regardless of the outcome of a State's proceedings.

02.08.04 RESPONSE TO RESISTANCE

02.08.04.01 Each situation provides a different set of circumstances that a member must evaluate to determine an appropriate response to resistance.

- A. The Department has adopted FDLE Criminal Justice Standards and Training Commission's "Response to Resistance Matrix" (see Illustration 1) as a guide for members in their "use of force" decision making process.
- B. This continuum is only a guide. Circumstance may dictate that members may escalate from Level One (1) to Level Six (6) response immediately. A member is also required to de-escalate anytime the subject's resistance ceases or drops to another level. The member's control response should be based on; the person's action, fact or what reasonably appears to be fact at the time, the member's perception of threat, and the member's knowledge of his own abilities.

**Key West Police Department
RESPONSE TO RESISTANCE MATRIX**

RESISTANCE LEVELS	6	Aggravated Physical	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	5	Aggressive Physical	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	4	Active Physical	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	3	Passive Physical	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	2	Verbal	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	1	Presence	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
RESPONSE LEVELS	1	Officer Presence	Arrival	Interview Stance	Dialogue	Verbal Direction	Touch	Restraint Devices	OC Spray	Transporters	Take-Downs	Pain Compliance	Counter Moves	TASER Device	Intermediate Weapons	Incapacitation	Less-Lethal Munitions	Deadly Force		
	2	Communication																		
	3	Physical Control																		
	4	Intermediate Weapons																		
	5	Incapacitating Control																		
	6	Deadly Force																		

Illustration 1

Special Order 071309.1 TASER - Reporting inserted "TASER Device" in Level 4, Intermediate Weapons AB

02.08.04.02 RESISTANCE LEVELS

Below are descriptions of the levels of resistance which may be perpetrated by the subject:

- A. **Level 1: Presence**
A person is there, on the scene, in attendance of suspicious activity.
- B. **Level 2: Verbal Resistance**
A person may verbally refuse to comply with an officer's requests or attempts to control the situation. The person may threaten the officer with further resistance or the person may not respond to the officer.
- C. **Level 3: Passive Physical Resistance**
A person physically refuses to comply or respond. He/She does not make any attempt to physically defeat the actions of the officer but forces the officer to employ physical maneuvers to establish control.
- D. **Level 4: Active Physical Resistance**
A person makes physically evasive movements to defeat an officer's attempts at control. This may be in the form of bracing or tensing, attempts to push/pull away or not allowing the officer to get close to him/her.
- E. **Level 5: Aggressive Physical Resistance**
A person makes overt hostile, attacking movements which are likely to cause injury, but are not likely to cause death or great bodily harm to the officer or others.
- F. **Level 6: Aggravated Physical Resistance**
A person makes overt hostile attacking movements with or without a weapon which are likely to result in death or great bodily harm to the officer or others.

02.08.04.03 RESPONSE LEVELS

Below are descriptions of the levels of response which may be employed by the police officer in response to the subject's resistance:

- A. **Level 1: Officer Presence**
In response to resistance level 1, the officer may employ response level 1, which includes:
 1. Arrival - The officer is on the scene, in attendance. This includes proper voice and/or other identification, body language and awareness by the person that he/she is dealing with an officer.

2. Interview Stance - The officer is on the scene, in attendance. This includes proper voice and/or other identification, body language and awareness by the person that he/she is dealing with an officer.

B. **Level 2: Communication**

In response to resistance level 2, the officer may employ response level 2, which includes:

1. Dialogue - A two way, controlled, non-emotional communication between the officer and person, aimed at a problem identification and/or resolution.
2. Verbal Direction - An officer tells or commands a person to engage in, or refrain from a specific action or non-action.
3. Touch - an officer employs a passive physical contact to comfort, console or obtain the attention of a person or citizen in a non-confrontational situation.
4. Show of Force - Display of a weapon as reasonable by an apparent high-risk situation or continuing increase in levels of resistance; may range from display of restraint devices, baton or OC Spray canister, to display of a firearm - down at the side of the leg, in low-ready position or pointed at the subject.
 - When a firearm is pointed at a subject but not discharged, although only a show of force and not a use of force, the officer will detail the situation in an incident report and the supervisor will complete a Response to Resistance Report.

C. **Level 3: Physical Control**

In response to resistance level 3, the officer may employ response level 3, which includes:

1. Restraint Devices - Mechanical tools used to restrict a person's movement and facilitate searching, such as handcuffs, flex cuffs, leg irons, belly chains, optional nylon restraining devices, etc.

2. OC Spray - Oleoresin Capsicum is a naturally occurring inflammatory agent found in cayenne peppers.
 - a. To avoid the dangers involved in making physical contact with a subject whose actions are passive physical resistance, the use of OC Spray should generally be the Officer's first option in lieu of hands-on contact with the subject.
 - b. Any person who flees from lawful arrest or custody is subject to the use of OC Spray.
 - c. OC Spray should generally not be used on an individual secured in restraint devices. Recognizing, however, that a handcuffed individual is still capable of fleeing or injuring an Officer or others, OC Spray may be used on a handcuffed individual who is fleeing or whose actions are of such a violent nature that he creates a substantial risk of injury to himself, the Officer or others if not otherwise controlled.
 - d. When OC Spray is to be used, if practical, the member will broadcast the word "clear" prior to spraying the OC Spray.
 - e. Any person exposed to OC Spray will be provided adequate relief as soon as practical. When no other appropriate immediate relief is available to an individual who has been exposed to OC Spray, Key West Rescue will be called to attend to an affected person.
 3. Transporter - Techniques that redirect, in a controlled manner, a person from point A to point B with minimum effort by the officer in order to gain and retain control over the person.
 4. Take Downs - Techniques that redirect, in a controlled manner, a person to the ground in order to limit his/her physical resistance and to facilitate the application of a restraint device.
 5. Pain Compliance - Techniques that force a person to comply with an officer as a result of the officer inflicting controlled pain upon specific points on the person's body, such as pressure point techniques.
 6. Counter Moves - Techniques that impede a person's movement toward and/or attack on an officer or others, such as blocking, striking, distracting, kicking, parrying, dodging, weaving, redirecting or avoiding followed by appropriate controlling techniques.
- D. **Level 4: Intermediate Weapons**
 In response to resistance level 4, the officer may employ response level 4, which includes:
1. Any impact weapon authorized in General Order – 02.07 "Weapons and Ammunition", used to physically control a subject by striking, as trained, major muscle groups of the body.

Special Order 071309.1 TASER – Reporting
 2. TASER® device – An TASER X26 with TASER Cam deployed in cartridge or drive stun mode, used to physically control a subject through Neuromuscular Incapacitation. Refer to General Order – 03.29 "Electronic Control Weapon" for specific policy and procedures.
 3. When a Departmental canine is used for defensive purposes or for the apprehension of a criminal, its application shall be at "Level-4, Intermediate Weapons" or higher on the Key West Police Department's Use of Force Continuum. (Canine usage is detailed in General Order 03.07 Key West Police Canine Unit.)
- E. **Level 5: Incapacitating Control**
 In response to resistance level 5, the officer may employ response level 5, which includes techniques that are intended to stun or temporarily incapacitate and prevent escalation of resistance or aggression. These techniques may be delivered with or without an impact weapon, such as a strike to a major nerve area. This also includes the use of less than lethal impact munitions.
- F. **Level 6: Lethal (Deadly) Force**
 In response to resistance level 6, the officer may employ response level 6. Response level 6 is the final option in the Response to Resistance Matrix to stop the threat that is likely to result in death or great bodily harm to the officer or others, and should only be used as a last resort following the strict guidelines imposed by the US Supreme

Court, Tennessee V. Garner, 471 U.S. 1 (1985). Lethal force includes techniques or actions that are likely to result in death, great bodily harm or permanent disfigurement, which includes, but is not limited to, the discharge of a firearm at a person, and strikes with an impact weapon or any other instrument of opportunity to the head, neck, throat, eyes, or groin.

02.08.04.04 DETERMINATION OF RESPONSE LEVEL

- A. Members are to use only that force that is "reasonable and necessary" for the individual circumstances to effectively bring an incident under control, to make arrests and protect the lives of the members and/or others.
1. Therefore, as a subject increases his resistance level from verbal to physical, a sworn member may have to increase the level of his response until the resistance ceases and the sworn member is able to gain control of the subject.
 2. As soon as the point of subject compliance is reached, the sworn member must de-escalate his response level.
- B. Members must evaluate many factors when determining the appropriate response to a subject's resistance.
1. For instance, an unarmed small-framed juvenile may be displaying Level 5 resistance, but may only require a Level 3 response by the average member.
 2. On the other hand, a member's response to a large and obviously strong person demonstrating even mild resistance or a person attempting to grab the Officer's firearm may require the member to escalate his response to a higher level.
- C. A sworn member need not retreat to lawfully control a subject, but may utilize the amount of force necessary to accomplish his lawful task. This is not to say that a tactical retreat in the face of overwhelming odds may not be a more appropriate option.
- D. Members should consider the following factors in determining the appropriate level of

response to a subject's resistance or threatened resistance:

Subject Factors:

1. Seriousness of the crime committed by the subject;
2. Size, age, weight, behavior or demeanor of the subject.
3. Subject's apparent or stated physical ability;
4. Number of people involved or who may become involved;
5. Weapons possessed, available or believed to be possessed by the subject;
6. Subject's known history of violence;
7. Whether physical evidence is likely to be destroyed;
8. Presence of innocent victims.

Member Factors:

1. Size, physical ability, and defensive tactic expertise of the member;
2. Number of members present or available;
3. Immediate reactive response to sudden attack;
4. Weapons or restraint devices available to the member;
5. Legal requirements;
6. Departmental directives.

Situational Factors:

1. Physical and structural surroundings;
2. Resisting subject in an empty field vs. a crowded sidewalk;
3. Fighting a resisting subject on a flight of stairs vs. level ground;
4. Presence of other persons;
5. Proximity of subject to Officer and others;

6. Non-criminal nature of incident (Baker Act, Marchman Act, or mentally handicapped individual).

02.08.05	LETHAL FORCE RESTRICTIONS
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02.08.05.01 Members may encounter situations in which lethal force may be justified, but other circumstances are also present which makes the use of lethal force extremely hazardous or ineffective. The following will be adhered to unless exigent circumstances exist which would prevent compliance:

A. Identification as a Police Officer

Before discharging a firearm, a sworn member will, when practical, verbalize a warning, which identifies him as a Police Officer coupled with a verbal command to desist, such as "Police - Stop or I'll Shoot".

B. Danger to Bystanders

Sworn members must always consider target identification and background. The potential for "Cross-fire" with other sworn members or striking bystanders is an unacceptable risk taken to apprehend an offender.

C. Warning Shots

In any environment, there is a high probability of bullets ricocheting or hitting an innocent bystander. Therefore, the firing of a warning shot is prohibited even when the use of lethal force is justified.

D. Shooting at or from a Moving Vehicle or Vessel

Although the use of lethal force may be justified for the occupant within a vehicle/vessel, most conventional Police firearms and ammunition are incapable of penetrating automobile bodies, steel belted tires or angled safety glass from any distance except at very close range. In addition, the increased speed, the unpredictable movement of a vehicle/vessel, instability of a shooting platform, lack of training, and the increased risk to bystanders decreases the accuracy and effectiveness of striking the intended target. Therefore:

1. Officers will avoid placing themselves in a position (while on foot or within their police vehicle) where a vehicle moving

towards them would be considered a threat of deadly force against the Officer.

2. Officers will not shoot at or from a moving vehicle unless **all** of the following provisions exist:

- a. Deadly force is being used against the Officer or another;
- b. The Officer can not initiate evasive action and has no alternative but to use his firearm to end the threat;
- c. The discharge will not endanger the lives of innocent people; and
- d. Such action is being used as a last resort.

E. Display of the Firearm

The Officer is authorized to draw his firearm and place it in a low-ready or tactically ready position when a situation he is encountering is likely to involve an armed person or an individual who is otherwise likely to cause death or great bodily harm to the officer or others.

1. The firearm at a low-ready or tactically ready position without pointing it at the subject, in and of itself does not constitute a Response to Resistance Incident and does not require reporting as described in 02.08.08 of this directive.
2. The firearm pointed at the subject, with no discharge, is classified a Show of Force but does constitute a Response to Resistance Incident and does require detailing in an incident report and reporting as described in 02.08.08 of this directive.

02.08.06	RESPONSIBILITIES AT A LESS-LETHAL INCIDENT
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02.08.06.01 MEMBER RESPONSIBILITIES

Any member that is involved in a less-lethal "Response to Resistance Incident" as defined in this directive is responsible for the following:

A. Medical Attention

Once the scene is safe, provide first-aid or ensure that appropriate medical attention is provided to any person:

1. Upon whom a less-lethal weapon is used; or
 2. Upon whom OC Spray is used; or
 3. Who sustains an apparent substantial or potentially fatal injury as a result of the officer's response to resistance; or
 4. Who complains of injury as a result of the officer's response to resistance.
- B. Immediately notifying Communications and the on-duty Watch Supervisor or Supervisor having command over a particular operation while the incident occurred.
 - C. Removing the involved subject from the area (if required).
 - D. Collecting the names of witnesses and other members for reporting purposes.
 - E. Thoroughly briefing the supervisor on all details of the incident, and cooperating with any inquiry or investigation conducted by the supervisor or other assigned authority.
 - F. As a regularly required work-product, preparing a detailed report of the incident, to include, but not limited to, any medical treatment provided.

02.08.06.02 SUPERVISOR RESPONSIBILITIES

- A. Upon being informed of a "less-lethal" Response to Resistance Incident, the on-duty Watch Supervisor or Supervisor having command over a particular operation while the incident occurred, shall respond to the scene. If exigent circumstances prevent him from responding to the scene, he shall delegate his responsibilities to another supervisor or acting supervisor.
- B. The supervisor shall confirm that medical attention has been or will be given to any person as required by section 02.08.06.01A.
- C. The supervisor shall promptly initiate an inquiry into the circumstances:
 - 1) Review the circumstances and determine if further investigation is required beyond the scope of an Inquiry.

- 2) Speak with all involved members in a preliminary effort to determine the circumstances of the incident.
- 3) If at any time a "reasonable belief" exists by the supervisor that the subject officer's application of force was outside of department policy and that his actions may constitute a criminal act, the supervisor shall limit his questioning of the subject officer to only the following:
 - a. Location and condition of injured persons;
 - b. Description and identity of suspects;
 - c. Description and extent of the incident scene; and
 - d. Location of evidence and weapons.
- 4) Speak with any witnesses and obtain their written statements.
- 5) Ensure that any physical evidence is preserved and/or collected.
- 6) Photograph the subject to include any visible injuries and areas of alleged injuries.

D. Make notifications to the Bureau Commander as may be required depending on the seriousness of the incident.

E. **Response to Resistance Report**
The supervisor shall prepare a Response to Resistance Report pursuant to section 02.08.08 of this directive.

02.08.07 RESPONSIBILITIES AT A LETHAL FORCE INCIDENT

02.08.07.01 MEMBER RESPONSIBILITIES
Any member using any action that could be considered a form of deadly force is responsible for the following:

- A. **Scene Security**
Take reasonable and appropriate measures at the scene to secure suspects, and to provide for the safety of officers, other individuals involved and the public.
- B. **Medical Attention**

If the Officer is injured, he should first provide emergency first-aid to himself if possible. Then, administer first aid to suspects and others, as necessary, until emergency medical assistance arrives

C. **Notifications**

Notifying Communications, requesting EMS as needed, and informing the on-duty Watch Supervisor or Supervisor having command over a particular operation while the incident occurred.

D. **Scene Preservation**

1. Take reasonable and appropriate measures to preserve the crime scene, to include, but not limited to any and all weapons involved.
2. **If the incident is an "Officer Involved Shooting", the involved Officer should secure his fired handgun and not open, reload, remove shell casings or in any other manner tamper with the weapon.**
3. Involved members should take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects and suspect vehicles.
4. As time and capabilities permit before supervisory and other assistance arrives:
 - a. Secure the area, establish a perimeter with crime scene tape and limit access to authorized persons necessary to investigate the incident and assist the injured.
 - b. Protect evidence from loss, destruction or damage that is likely to occur before assistance can arrive.
 - c. Ensure that evidentiary items are not moved or, if moved, note the original location and position of persons, weapons, and other relevant objects and evidence.
 - d. Record the names, addresses and phone numbers of all witnesses and other persons present at the scene and request that they remain on hand in order to make a brief

statement whether or not they say they saw the incident.

E. **Remain at Scene**

Unless necessary for safety considerations or to receive necessary medical attention, all involved officers must remain at the scene until released by the supervisor.

F. **Briefing Arriving Supervisor**

Members shall thoroughly brief the supervisor on all known details of the incident.

1. The member(s) responsible for the application of the lethal force may limit his response to the following:
 - a. Location and condition of injured persons;
 - b. Description and identity of suspects;
 - c. Description of the incident scene;
 - d. Location of evidence and weapons;
 - e. Location or identity of witnesses.

G. **Written Report**

As a regularly required work-product, involved members will prepare a detailed report of the incident.

H. **Investigation**

Involved members shall cooperate with all law enforcement investigators responsible for investigating the incident.

02.08.07.02 SUPERVISOR RESPONSIBILITIES

- A. Upon being informed of a "lethal" Response to Resistance Incident, the on-duty Watch Supervisor or Supervisor having command over a particular operation while the incident occurred shall respond to the scene.
- B. The supervisor's first priority shall be for the safety and welfare of officers, other individuals involved and the public. As needed, the supervisor shall direct appropriate resources to ensure that the scene is safe, the suspects are contained and to preserve evidence.

C. **Medical Attention**

The supervisor shall ensure that appropriate medical attention has been or is being provided to any Officer, suspect or third party in need of such attention.

D. **Command Post**

Depending on the circumstances, as the Officer in Charge, the supervisor should establish a Command Post from where he will coordinate law enforcement efforts at the scene.

1. The Departmental Mobile Command Post, if available, may be utilized as needed.
2. Once the Command Post is established, to prevent confusion and duplication of efforts, officers should direct all their communications to the Command Post.
3. The radio ID for the command post is "Command Post".
4. Communications and requests to and from the scene should then only come to and from the Command Post.

E. **Event Recording**

Since all on-scene activities are to be directed to the Command Post, the member manning the Command Post should chronologically record all activities at the scene, including but not limited to:

- Persons present,
- Actions taken by police personnel,
- Identity of any personnel who entered the incident scene to include medical and fire personnel.

1. If for some reason a Command Post is not established, the supervisor should establish a system to provide this chronological record.

F. **Media and Information**

The Public Information Officer shall be contacted and summoned to the scene.

1. Individuals and the media who come to the scene seeking information should be directed to the Command Post.
2. If the volume of information requests interfere with the Command Post operation, the OIC may establish

another location away from the Command Post to handle information requests and the media.

3. The supervisor shall develop a statement of preliminary basic facts for the media to be delivered by the Public Information Officer, or if unavailable, a Bureau Commander or the Chief of Police.

G. **Separation**

If able, the involved member(s) should be separated and moved away from the center of activity, preferably accompanied by the supervisor.

H. **Member Debriefing**

The supervisor shall speak with all involved members in a preliminary effort to determine the circumstances of the incident.

1. If at any time a "reasonable belief" exists by the supervisor that the subject officer's application of force was outside of department policy and that his actions may constitute a criminal act, the supervisor shall limit his questioning of the subject officer to only the following:

- a. Location and condition of injured persons;
- b. Description and identity of suspects;
- c. Description and extent of the incident scene;
- d. Location of evidence and weapons; and
- e. Location or identity of witnesses.

1. The supervisor must be cognizant of symptoms of post-traumatic stress, to include time and space distortions, confusion, hearing and visual distortion and emotional impairment, including shock. The supervisor must be prepared to attend to members who display such symptoms.

I. **Scene Integrity**

The supervisor shall ensure the integrity of the scene is not compromised, to include, but not limited to:

1. For incidents involving gunfire, the Officer and/or suspect's hands are **not** washed so a residue test can be performed;
2. The Officer and suspect's clothing is retrieved, including any clothing that was removed by emergency medical personnel;
3. For incidents involving gunfire, the Officer and suspect's weapon and ammunition, to include primary and secondary firearms, are preserved and not moved unless necessary for safety considerations;
4. For incidents involving gunfire, spent casing should be marked and preserved in their original location;
5. All other weapons or instruments of opportunity that may have been used in a lethal response are preserved and not moved;
6. The Officer's duty belt is secured;
7. The vehicles of the Officer and suspect are secured;
8. Entry into the scene is limited to necessary personnel only;
9. Everyone at the scene, even if they state they didn't witness the event, is separated and identified.

J. **Diagram / Photographing the Scene**

The Supervisor should document the layout of the scene preferably by photographs or videotape. At a minimum, the supervisor should prepare a preliminary diagram of the scene, to include the positions of involved Officers and suspects.

K. **Notifications**

The supervisor shall notify the following:

1. Operations Captain
2. Commander of Professional Standards or Internal Affairs Inspector
3. Duty Detective
4. Public Information Officer
5. Department Chaplain

L. **Response to Resistance Report**

The supervisor shall prepare a Response to Resistance Report pursuant to section 02.08.08 of this directive.

02.08.07.03 ON-SCENE INVESTIGATION

- A. Upon the arrival of the Duty Detective, the Criminal Investigations Division will assume responsibility and control of the scene.
- B. Subordinate to any criminal investigation, the Office of Internal Affairs will be responsible for any investigation for administrative interests.

02.08.08 REPORTING

02.08.08.01 Any member involved in a "Response to Resistance Incident" as defined in this directive, shall immediately inform the on-duty Watch Supervisor or Supervisor having command over a particular operation while the incident occurred.

- A. It is the responsibility of that supervisor to complete KYPD FORM047 "Response to Resistance Report".
 1. One form will be completed for each subject on which force was used.
 2. If more than one member is involved in the application of "force", page 3 of the report should be used to document the additional members.
- B. If a Departmental Canine is involved in the Response to Resistance, a copy of the detailed KYPD FORM023 K-9 Usage "Bite" Report shall be included with and becomes part of the FORM047 "Response to Resistance Report".

Special Order 071309.1 TASER - Reporting AB

- C. If a TASER® device is involved in the Response to Resistance incident, the following minimum information shall be collected and reported in the Response to Resistance Report:
 1. Identify each device utilized and by which officer;

2. TASER® device serial number;
3. TASER® Cam serial number;
4. Serial # of all expended cartridges;
5. Number of cycles
6. Type of contact made with subject by TASER® device. Types of contact include: probe penetration, drive stun with cartridge on (CODS,) and/or drive stun contact;
7. Did probes penetrate skin;
8. Target distance at probe launch;
9. Distance between probes;
10. Name of person who removed probes;
11. Name of supervisor who downloaded the device.

02.08.08.02 The supervisor shall indicate on the form whether he/she feels that additional review is recommended.

- A. The original completed form will be forwarded directly to the Office of Internal Affairs for review to determine if the application of force was within the guides of the Response to Resistance Matrix.
- B. The "Response to Resistance Report" will not be attached to, or filed with, the original Offense/Incident Report until after review and database entries by the Internal Affairs Inspector.

02.08.08.03 If determined that the application of force was within Departmental policy, the original "Response to Resistance Report" will be forwarded to the Records Division, with a copy forwarded to the Training Division. The Records Division will file the original with the corresponding Offense/Incident Report, and a copy shall be placed in a file dedicated for Response to Resistance Incidents.

02.08.08.04 If determined that the application may be outside of Departmental policy, the Internal Affairs Inspector shall initiate an Inquiry into the circumstances. Upon resolution of the Inquiry, (or any possible subsequent Administrative Investigation), the original

"Response to Resistance Report" will be forwarded to the Records Division, with a copy forwarded to the Training Division. The Records Division will file the original with the corresponding Offense/Incident Report, and a copy shall be placed in a file dedicated for Response to Resistance Incidents.

02.08.08.05 The Training Division shall utilize the completed "Response to Resistance Report" to identify training needs, and to develop effective "use of force" training curricula.

02.080.08.06 ANNUAL ADMINISTRATIVE REVIEW AND ANALYSIS

The Commander of Professional Standards will be responsible for preparing an annual administrative review and analysis of all reported Response to Resistance Incidents that are generated during that year

02.08.09 ADMINISTRATIVE RESPONSE TO CRITICAL INCIDENTS

02.08.09.01 REMOVAL FROM DUTY

- A. Any member, while on-duty or off-duty, whose actions in the line of duty result in death or serious bodily injury to another human being, shall be immediately removed from the line of duty until a preliminary Administrative Review is conducted.
- B. Conducted or overseen by Professional Standards – Office of Internal Affairs, the Administrative review will commence immediately following the event per General Order 02.22 Investigation of Personnel Misconduct. This review will:
 1. Involve a preliminary examination of the involved member's actions for consistency with the law and Departmental directives; and
 2. Provide information that will be helpful to the Department's administration in determining an appropriate course of action for the member.
- C. If the Administrative Review reveals information or evidence that suggests the involved member(s) violated the law or Departmental written directives, the procedures described in General Order 02.25 "Disciplinary Process" will be followed.

1. In all cases, the member will be provided written instructions from his Bureau Commander (with concurrence from the Chief of Police) regarding the member's return to duty, as well as any conditions that may be imposed.

D. Any time a member encounters deadly force used upon him in the line of duty, regardless of on-duty or off-duty, and regardless of whether or not the member was injured, he shall be immediately removed from the line of duty.

02.08.09.02 MENTAL HEALTH ASSISTANCE

Regardless of whether the Officer employed deadly force or deadly force was used upon him, to assist the member in dealing with emotional issues that may occur as a result of the incident, the Department will provide counseling by a qualified mental health professional before he returns to duty.

02.08.10 LETHAL FORCE ON VICIOUS OR INJURED ANIMALS

02.08.10.01 Lethal force may be used to stop or incapacitate a dangerous animal when no other reasonable alternatives are available, or when the immediate use of lethal force is necessary to protect the Officer or others from injury which will most likely be inflicted by the animal if not stopped. When lethal force is used on an animal under this provision, the Monroe County Department of Animal Control will be notified.

02.08.10.02 When ever any animal is so injured or ill as to appear beyond help and is in suffering, the Officer shall first make a reasonable attempt to locate the animal's owner or responsible person. At the same time, the Officer will summon the Monroe County Department of Animal Control.

- A. The disposition of the animal will rest upon the owner or responsible person, or the Monroe County Animal Control agent if the owner/responsible person cannot be contacted.
- B. The use of lethal force to destroy an injured animal under the provision of this section will only be authorized when:

1. Monroe County Animal Control is unavailable and the animal's owner or responsible person requests the animal to be destroyed; and
2. The use of lethal force will not pose a risk of damage to property or injury to any person or other animal; and
3. The on-duty Watch Supervisor authorizes the action.

02.08.10.03 The on-duty Watch Supervisor shall prepare a Supervisor's Incident Report any time lethal force is used on an animal.

02.08.11 TRAINING

02.08.11.01 Before a sworn member is authorized to carry an approved firearm or is placed into a position where he may use deadly force, the member:

- A. Will be issued a copy of this directive, which contains the agency's "Use of Force Policy"; and
- B. Will receive initial instruction, and then annually, on this written directive, which contains the Key West Police Department's "Use of Force" policy.
- C. Must meet the "proficiency requirements" in General Order - 02.07 "Weapons and Ammunition".

REFERENCES

- Hollywood (FL) Police Department SOP #200, Use of Force, 11/1/2001
- FDLE Recommended Use of Force / Levels of Resistance Matrix
- IACP Model Policy, Investigation of Officer Involved Shootings, November 1998
- KWPD General Order 03.07, Key West Police Canine Unit v 080905
- FS 943-1717 Use of Dart-Firing Stun Gun

EVOLUTION

- July 29, 1995
Key West Police Department
Policy, Title 08.1, Use of Force

- February 1993
Key West Police Department
Policy, Title 8.1, Use of Force

- February 21, 2002
Key West Police Department
Directive 02.08 Response to Resistance

- April 2, 2003
KWPD Special Order 040203.3
Removal From Duty (Section 02.08.01.01)

- KWPD General Order 02.08
Response to Resistance v 01.24.2006

- KWPD Special Order 052306.2
Grammar Correction (Section 02.08.05.01 C)

- KWPD General Order 02.08
Response to Resistance e 08.19.2007

ATTACHMENTS

- KWPD FORM047, Response To Resistance Report

Select Year: 2009

The 2009 Florida Statutes

Title XLVII
CRIMINAL PROCEDURE AND
CORRECTIONS

Chapter 941
CORRECTIONS: INTERSTATE
COOPERATION

[View Entire
Chapter](#)

941.35 Definition of "fresh pursuit."--The term "fresh pursuit" as used in this law shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

History.--s. 5, ch. 20461, 1941.

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Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

ORIGINAL

KEY WEST POLICE DEPARTMENT
Internal Investigation – Standard Interview Form – CIVILIAN WITNESS
(State the following when tape recording)

I am Insp. Randy Smith of the Key West Police Department.

The date is Apr 29, 200 the time is 2:5 am/pm. The Professional Standards number is PS 10-002.

I am interviewing TANGELA EDWARDS

This interview is taking place at KWKS

Also present during this interview is N/A

This interview is for the purpose of discussing a complaint lodged against Ofc. Calvert, Det. Thomas and Ofc. Chaustit in reference to an allegation of Use of force.

PTS EDWARDS
(Witness), do you consent to having this interview being tape recorded?

Please raise your right hand...Do you swear or affirm that the statement you about to give is the truth, the whole truth and nothing but the truth?

*(This oath is optional for witnesses, but in accordance with KWPD Policies and the current PBA Contract, every reasonable effort will be made to obtain the complainant's statement under oath.)

1. Have you been provided a copy of the Key West Police Department's Complaint and Commendation Process?

Would you please state your full name (spell your first and last). What is your business address and telephone number?

(questions – only ask questions that would provide information about the allegations(s).

(at the end of the interview)

I would like to confirm for the record that you understood this interview was tape recorded and I had your permission to do so.

Do you have anything you wish to add before I conclude the interview?

This completes the interview. The time is 3:00 am/pm.



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

ORIGINAL

KEY WEST POLICE DEPARTMENT
Internal Investigation – Standard Interview Form – CIVILIAN WITNESS
(State the following when tape recording)

I am Insp. Randy Smith of the Key West Police Department.

The date is April 29 2010 the time is 145 am/pm The Professional Standards number is PS 10-002.

I am interviewing Yvonne Edwards

This interview is taking place at Gonzalez St Myrtle

Also present during this interview is my

This interview is for the purpose of discussing a complaint lodged against Ofc. Calvert, Det. Thomas and Ofc. Chaustit in reference to an allegation of Use of force.

MJ. Edwards
(Witness), do you consent to having this interview being tape recorded?

Please raise your right hand...Do you swear or affirm that the statement you about to give is the truth, the whole truth and nothing but the truth?

*(This oath is optional for witnesses, but in accordance with KWPD Policies and the current PBA Contract, every reasonable effort will be made to obtain the complainant's statement under oath.)

1. Have you been provided a copy of the Key West Police Department's Complaint and Commendation Process?

Would you please state your full name (spell your first and last). What is your business address and telephone number?

(questions – only ask questions that would provide information about the allegations(s).

(at the end of the interview)

I would like to confirm for the record that you understood this interview was tape recorded and I had your permission to do so.

Do you have anything you wish to add before I conclude the interview?
This completes the interview. The time is 1:10 am/pm.



RESPECT - INTEGRITY - FAIRNESS



Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

KEY WEST POLICE DEPARTMENT
Internal Investigation – Standard Interview Form – CIVILIAN WITNESS
(State the following when tape recording)

ORIGINAL

I am Insp. Randy Smith of the Key West Police Department.

The date is April 12, 2010 the time is 11:08 am. The Professional Standards number is PS 10-002.

I am interviewing Stephen Muffler.

This interview is taking place at Office of Internal Affairs 1604 N. Roosevelt Blvd.

Also present during this interview is N/A.

This interview is for the purpose of discussing a complaint lodged against Ofc. Calvert, Det. Thomas and Ofc. Chaustit in reference to an allegation of Use of force and Decorum toward the public.

Mr. Muffler, do you consent to having this interview being tape recorded?
(Witness)

Please raise your right hand...Do you swear or affirm that the statement you about to give is the truth, the whole truth and nothing but the truth?

*(This oath is optional for witnesses, but in accordance with KWPD Policies and the current PBA Contract, every **reasonable** effort will be made to obtain the complainant's statement under oath.)

1. Have you been provided a copy of the Key West Police Department's Complaint and Commendation Process?

Would you please state your full name (spell your first and last). What is your business address and telephone number?

(questions – only ask questions that would provide information about the allegations(s).

(at the end of the interview)

I would like to confirm for the record that you understood this interview was tape recorded and I had your permission to do so.

Do you have anything you wish to add before I conclude the interview?
This completes the interview. The time is 11:23 am.



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



Donald J. Lee, Jr.

Chief of Police



Key West
POLICE DEPARTMENT

TO: Stephen Muffler, City of Key West Citizen Review Board
FROM: Inspector Randy Smith, Office of Internal Affairs
DATE: March 1, 2010
RE: PS 10-002 Edwards

ORIGINAL

This memorandum is to serve notice that you are a Witness member of an Administrative Inquiry, authorized by the Chief of Police, in regards to allegations against Key West Police Officers.

City of Key West members who are either a witness or the subject of any Internal Investigation or Inquiry are required to fully comply with all lawful instructions from the assigned investigator or other designated departmental authority, whether given verbally or in writing. You are not allowed to discuss the investigation with anyone except members of Internal Affairs, the Chief of Police or your legal representative.

Willful refusal to comply with instructions, or refusal to truthfully and completely answer questions during any administrative interview, may result in additional departmental charges and subsequent disciplinary action up to and including possible termination. If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Smith", written over a horizontal line.

Inspector Randy Smith
Internal Affairs

CC: Chief Donald J. Lee Jr.
Lt. David T. Smith
File



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



ROBERT CINTRON, JR.
ATTORNEY AT LAW
317 WHITEHEAD STREET
KEY WEST, FLORIDA 33040
305.296.5676
305.296.4331 (facsimile)

March 17, 2010

Inspector Randy Smith
City of Key West Police Department
Internal Affairs Division
1604 North Roosevelt Blvd.
Key West, Florida 33040

RE: PS 10-002 Edwards

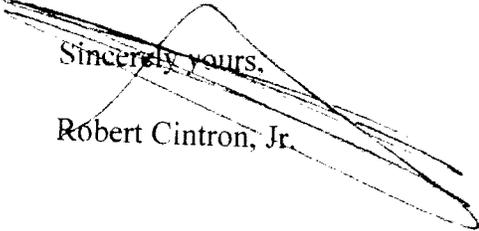
Dear Randy:

Your memorandum of March 1, 2010, directed to CRB Executive Director, Stephen Muffler (a copy of which is attached), was directed to me by CRB Chairman Bryan Green for response. At the outset, I should point out that Mr. Muffler is not a witness to any of the allegations made in the referenced complaint.

As you no doubt are aware, Mr. Muffler is not an employee of the City of Key West but is a contract employee. Further, it is manifest from the City charter amendment creating the CRB that the CRB members and its Executive Director are to have autonomy separate and apart from the City of Key West with respect to complaints filed against sworn officers of the police department.

If you would be so kind to forward to me the legal authority on which you base your requests and admonitions to Mr. Muffler as discussed in your memorandum. I will be happy to review the same and advise you of the CRB's position with respect to these issues. During the interim, kindly be advised that Mr. Muffler has been instructed by Chairman Green and me not to comply with the requests made in your letter.

I look forward to your response to this letter.


Sincerely yours,

Robert Cintron, Jr.

cc: Chief Donnie Lee
Bryan Green
Stephen Muffler



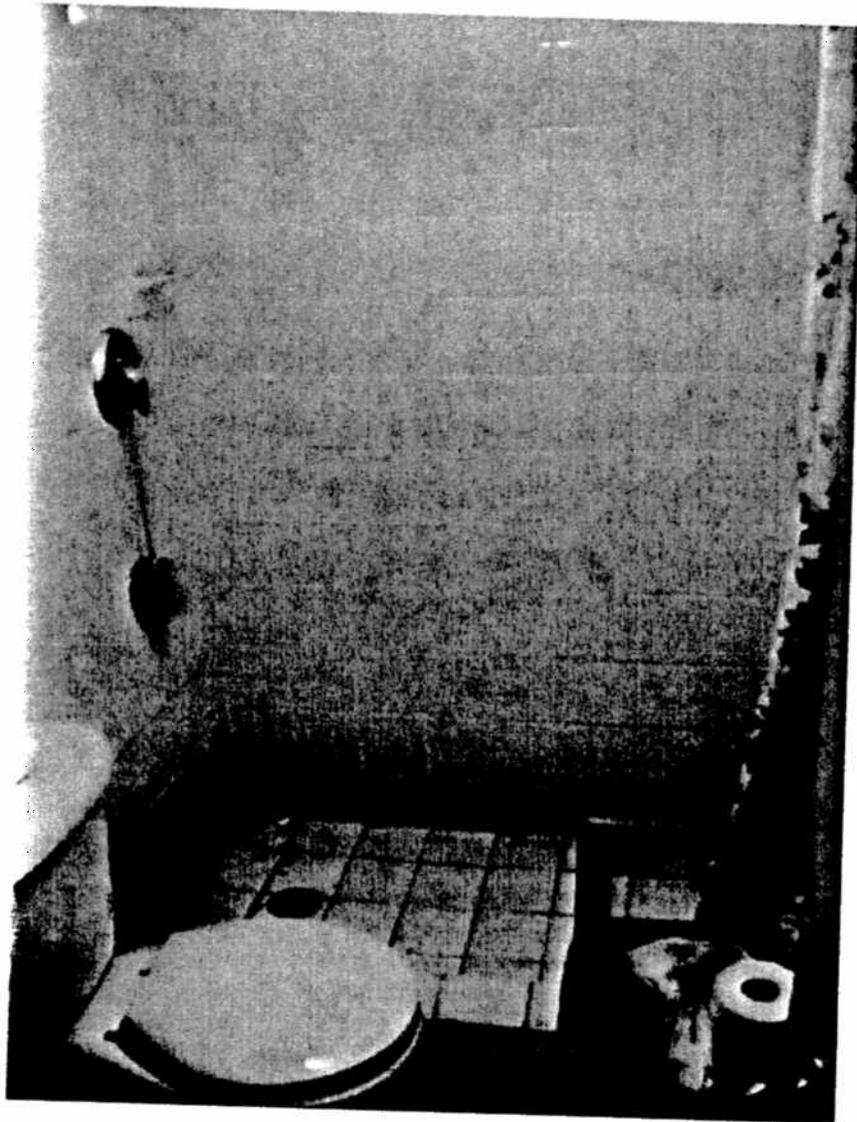
View from bathroom into bedroom



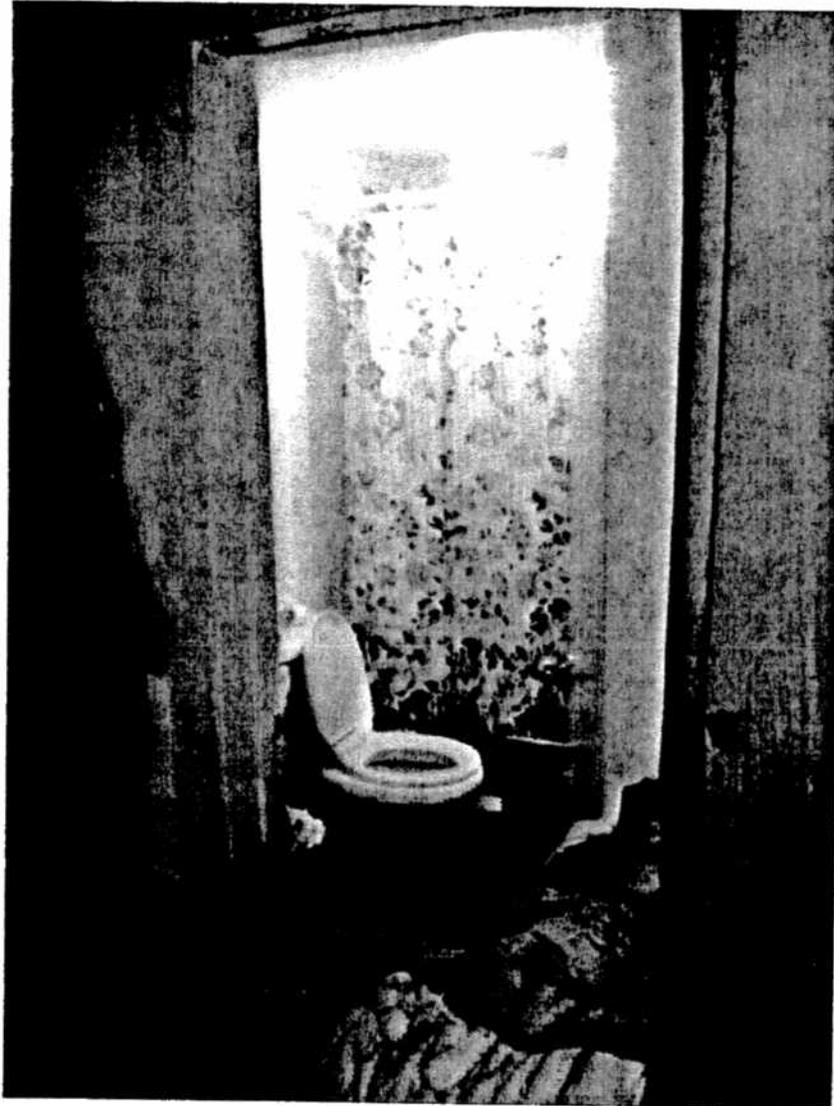
Floor area inside bathroom from the shower area (step-in excludes shower area)



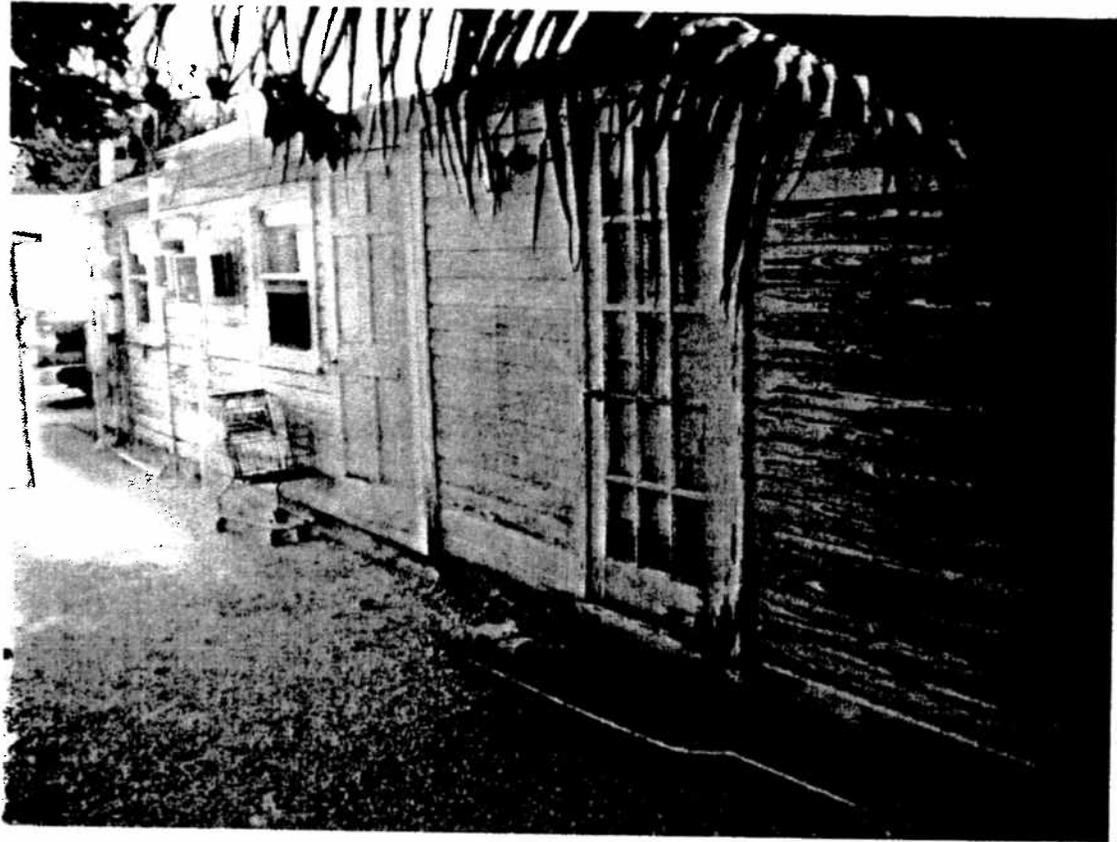
View inside the shower of bathroom with bathroom door closed



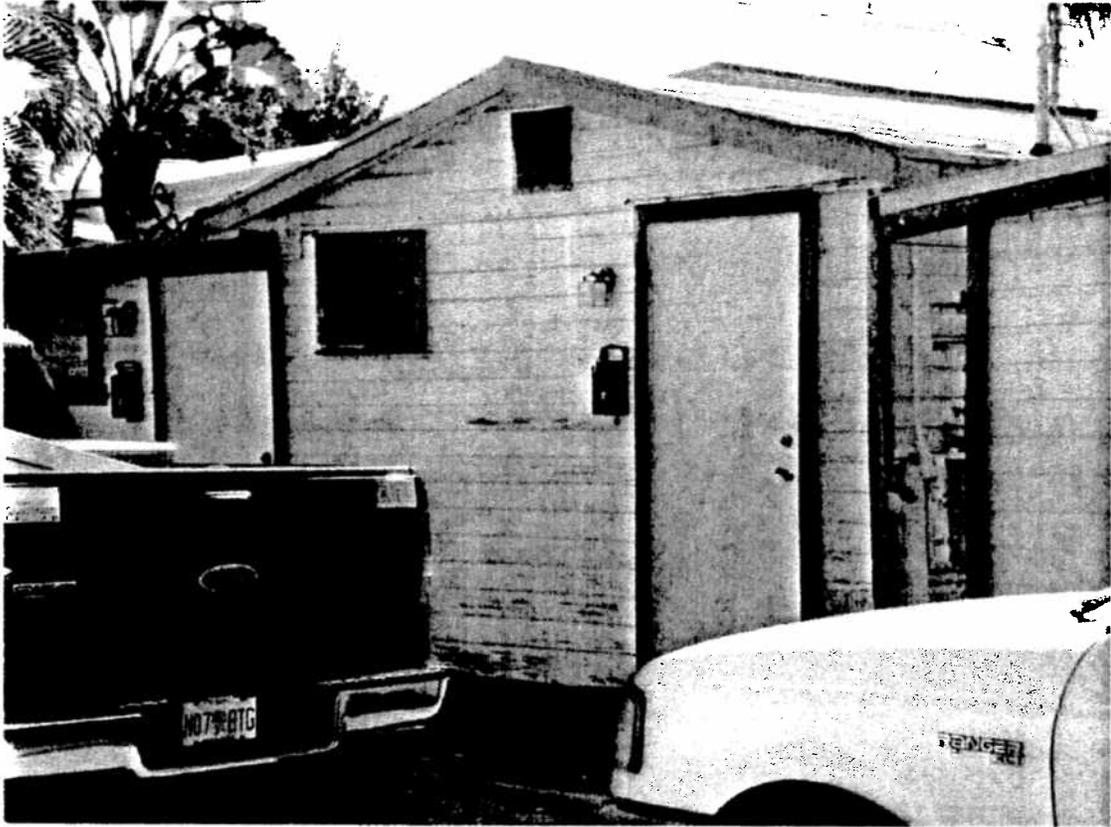
View inside the bathroom within the doorway



View from bedroom into bathroom



Side of Subject Residence



Front of the Subject Residence

STATE OF FLORIDA
COUNTY OF MONROE

RESIDENT OF MONROE COUNTY COMPLAINT AFFIDAVIT ARREST FORM

RESIDENT OF FLORIDA YES NO

ARRESTING AGENCY KWPD
440104392

Defendant's Name: CLARK SHIMIKA SHANTAE CASE NO. 09-5263 IN BOOK

Place of Birth: FLORIDA (Last) (First) (Middle) Date of Birth: 29-OCT-86
Local Address: 116 GERALDINE ST Scars: _____ Tattoos: _____

Permanent Address: 116 GERALDINE ST APT B KW FL 33040 Phone: _____ Occ.: _____

Soc. Sec. No. _____ Race: B Sex: F Eyes: BRN Hair: BRN Hgt.: 5'4" Wt.: 160
Arrest Date: 17 OCT 09 (Day, Month, Year) Time: 1620 HRZ Location: 116 GERALDINE ST (Place of Arrest)

Co-Defendant's Name: _____ (Last) (First) (Middle) Taken To County Station: MCCO

Citation No.: _____ Capias No.: _____ Other: 09mm2370K

OFFENSES CHARGED:

- RESISTING OR W/O VIOLENCE In Viol. of F.S. 843.02 In Viol. of County Ordinance of _____
- _____ In Viol. of F.S. _____ Monroe County, Sec. _____
- _____ In Viol. of F.S. _____
- _____ In Viol. of F.S. _____

HOLD FOR FIRST APPEARANCE HEARING - DO NOT BOND OUT (complete reverse sides of white and pink copies for additional witnesses)
PRELIMINARY HEARING: _____

WITNESSES AGAINST DEFENDANT:

- | Name | Location | Date Set |
|--------------------------------|-----------------------------------|------------------------|
| 1. Name: <u>OFF. M CHAUSIT</u> | Address: <u>1604 N. ROOSEVELT</u> | Phone: <u>869-1000</u> |
| 2. Name: _____ | Address: _____ | Phone: _____ |

Physical Evidence against Defendant: TASER VIDEO

Arresting Officers: T. CALVERT Ct. ID # 3222 Dept.: KWPD
Transporting Officers: M. CHAUSIT Ct. ID # 3141 Dept.: KWPD

The undersigned certifies and swears that he has just and reasonable grounds to believe, and does believe that:
On the 17 day of OCT, 2009,
CLARK (Last Name), SHIMIKA (First Name), S (Initial)
committed the following violation of law:

Narrative: (Be specific) WHILE CONDUCTING A WARRANT SERVICE AT 116 B GERALDINE ST THE DEFENDANT RESISTED OFFICERS BY BARRICADING HERSELF IN A BATHROOM AND PULLING AWAY FROM ME WHILE I ATTEMPTED TO PLACE HER IN HAND CUFFS. I USED MY TASER (WITH OUT CARTRIDGE) TO GAIN COMPLIANCE. THE DEFENDANT WAS TASED FOR A VERY SHORT BURST (APPRX 2 SEC)

Sworn to and subscribed before me the undersigned authority, this
17 day of OCTOBER, 2009
AM
Judge - Clerk - Notary Public

I swear the above statement is correct and true to the best of my knowledge and belief
Signature of Officer or Complainant
Dept.: 3222 KWPD Ct. ID Number 3222

ID NO.: TIF 86

FILED FOR RECORD
2009 OCT 19 AM 11:15
KOLHAGE
CLERK OF COUNTY, FLA

COURT MINUTES

IN THE 16th JUDICIAL CIRCUIT
D FOR MONROE COUNTY, FLORIDA

Bond # _____ Bond \$ _____

CASE NUMBER: 09-mm-2376
(ONE CASE PER PAGE)

Court Opened 1pm on Dec 11 2009 with the following officer present:

HONORABLE Danny Colhage STATE ATTORNEY Ho, Nowski
DEFENSE ATTORNEY Shimika Clark COURT REPORTER Walter
STATE OF Florida VS Shimika Clark BAILIFF Darrah

DEFENDANT CHARGED WITH: 1) LAWAY 2) _____ 3) _____
4) _____ 5) _____ 6) _____

PLED TO COUNTS: 1) _____ 2) _____ 3) _____
4) _____ 5) _____ 6) _____

PLEA

- In jail
- Denial
- Not Guilty
- Demand Filed
- 10 Days Granted For Motion
- 40 Paid App Fee W/ 7 Days
- PD Appt _____
- Information File _____
- Present with Attorney
- Negotiated plea
- Bond Set \$ _____
- Other _____
- Present Without Attorney
- Guilty
- PSI Ordered
- Not Present In Court
- Nolo-Contendre
- Speedy Trial
- Issue Cap _____
- Bond Estreated _____
- Factual Basis

Sentencing Date: _____
 Accepts Plea Admittance No Objection to Score Sheet _____ PTS

SENTENCE

IT IS THE JUDGEMENT OF THE COURT AND THE SENTENCE OF THE LAW THAT YOU, THE ABOVE NAMED DEFENDANT:

- Adjudication Guilty
- Nolle-Prosequi
- Drug Offender
- Drug Court
- Probation Restored
- _____ Hours Comm Service _____ Hours Monthly
- Community Control - Period of _____
- Complete terms probation w/in _____ Months
- Confined to MCSO Jail for 560 Days
- Jip Program
- Early Release Review After JIP Program
- Hold & Transport (bed space) to _____
- Same Terms and Conditions
- State Prison
- Tier Program or Other W/I Prison
- Sentence Concurrent
- Urinalysis _____ Weekly
- Psychological Evaluation _____
- NA/AA Meetings _____ Weekly
- No Contact with Victim
- No Harmful Contact
- Surrender Weapons
- Individ/Group Counseling w/Res. Trmt. if needed _____
- Indigent for Evaluation/Treatment
- Adjudication Withheld
- Placed on Probation
- After Care
- Probation Revoked
- New Period of Probation
- Electronic Monitor Phone Line Inst. within 10 days _____
- New Period of Community Control
- Indigent for Cost of Supervision
- Jail Program
- PSW/COS Waived during Jail / Program
- Care Center
- Furlough Granted Start _____ / End _____
- Make up Arrears
- Credit For Time Served (CFTS) 560
- Other _____
- Sentence Consecutive
- 90/90 Program
- Report to DOC within _____ of Release
- License Revoked / Suspended Work Permit _____
- Make equal monthly installments
- Previously Imposed JL Remains in Effect
- Daily Activity/Exercise as directed 1/2-1 hr Daily 3xs week
- Sub Abuse Eval W/I _____ days & treatment if needed
- Advised of Immigration Rights 30 days
- Appeal Rights 30 days

COSTS

- Attorney's Fees \$ 50 legal service
- Fines \$ 100
- Judgment Lien \$ all monies owed
- Convert Fines to CSW @ \$10.00/hr
- FHP \$ _____
- Bond Money - deduct court cost \$ _____
- OTHER INFORMATION: _____
- F.S. 27.3455 - \$ _____
- Cost 228
- Cost Super DOC - \$ _____
- Early Term. _____
- FFWL - \$ _____
- Refund Bond Money _____
- BOCC - \$ _____
- \$50 PD app
- SA \$ 75 hrs
- MCSOS _____
- PD \$ 40 inv
- Restitution \$ _____

DANNY C. COLHAGE, CLERK OF THE CIRCUIT AND COUNTY COURTS.
BY: _____ DEPUTY CLERK in attendance

Continued
 See Second Page

WITNESS LIST

The following is a list of persons known to the prosecutor to have information which may be relevant to the offense charged:

Thaddeus Patrick Ian Calvert, #3222, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040

Michael Chaustit, #3141, Key West Police Department, 1604 N. Roosevelt Blvd., Key West, FL 33040

Richard Thomas, #2824, Key West Police Department, 1604 North Roosevelt Boulevard, Key West, FL 33040

I do certify that a copy hereof has been furnished to Office of the Public Defender - Key West, 801 Eisenhower Drive, Key West, FL 33040 by delivery on November 16, 2009.

Respectfully submitted,

Dennis W. Ward, State Attorney
530 Whitehead Street, Suite 201
Key West, FL 33040
Phone: (305)292-3400
Fax: (305)294-7707

By: _____
Gregory R. Hoinowski, Assistant State Attorney
Florida Bar # 554790

Key West Police Department

Incident Report

Report 10/17/2009 16:15

Case # 01-09-005263

INCIDENT	Case # 01-09-005263	Report 10/17/2009 16:15	Occurred From 10/17/2009 16:00	Occurred To 10/17/2009 16:15	Report Type Original
	Dept. Classification		Case Status Cleared by Arrest	Case Status Date	Cleared
	Common Name 116 GERALDINE St Apt. B KEYWEST, FL 33040 (MONROE County)				
	Day of Week : Saturday		Beat Assignment : BEAT 2		
	Dispatched : 10/17/2009 16:15		Alcohol Related : Unknown		
Responded : 10/17/2009 16:15		Drug Related : Unknown			
Arrived : 10/17/2009 16:15		Total Damaged Property Value : \$0.00			
Map Reference : 1102WW6XO		Total Stolen Property Value : \$0.00			
Location Type : Residence-Single Family		Total Recovered Property Value : \$0.00			

OFFENSE	State Classification			Attempted/Committed Committed
	Statute/Ordinance 843.02	Location Type		
	SHIMIKA CLARK (SUSPECT/ARRESTEE, Primary Role)		Disposition Date	
End of Offense: 1				

PERSON	Person Type SUSPECT/ARRESTEE	Business/Person Name SHIMIKA SHAUNTAE CLARK			Business Phone
	Home Phone	Person Address 116 GERALDINE St Apt. B Key West FL 33040			
	Other Phone	Employer Address			
	Race BLACK	Sex Female	SSN [REDACTED]	DL Exp. Date	DL Number
	Birth Date 10/29/1986	Birth Place Key West, FL, United States			
	Age : 22		Teeth : OTHER		
	Ethnic Origin : Non-hispanic		Eye Color : Brown		
	Min. Height : 5'04"		Build : HEAVY/LARGE/OBESE		
	Max. Height : 5'04"		Complexion : MEDIUM		
	Min. Weight : 160 lbs		Glasses : No		
Max. Weight : 180 lbs		Hand Use : Unknown			
Adult/Juvenile : ADULT		Status : Arrestee			
Victim Type : Government		Religion : UNKNOWN			
Shirt : Pink sundress		Marital Status : Unknown			
Shoes : Sandals		Speech : NORMAL			
Hair Length : Medium		Residency Type : City			
Hair Style : PULLED BACK		Residency Status : Full year			
Facial Hair : None		Citizenship : United States			
End of Person: 1					

PERSON	Person Type VICTIM	Business/Person Name STATE OF FLORIDA			Business Phone
	Home Phone	Person Address			
	Other Phone	Employer Address			
	Race	Sex	SSN	DL Exp. Date	DL Number
	Birth Date	Birth Place			
	End of Person: 1				

Reporting Officer THADDEUS CALVERT (3222)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Officer Name		Date/Time
Verifying Officer SGT PABLO D. RODRIGUEZ (2298)	Department KEY WEST POLICE DEPARTMENT	Date / Time 10/17/2009 22:38

01-09-005263

Key West Police Department

Report 10/17/2009 16:15

Incident Report

Case # 01-09-005263

End of Person: 2

P R O P E R T Y 1	Category Evidence/Seized	Property Type DIGITAL DISK	Make Dvd	Model	
	Serial #	Color	Description Dvd of taser video		
	Quantity/Weight : 1		Condition		
	Recovery Location : Use Address from Incident Location Information				

End of Property: 1

P R O P E R T Y 2	Category Evidence/Seized	Property Type DIGITAL DISK	Make Cd	Model	
	Serial #	Color	Description Cd with photos		
	Quantity/Weight : 1 Value : \$1.00		Condition		
	Recovery Location : Use Address from Incident Location Information				

End of Property: 2

N A R R A T I V E 1	Topic	Original
	<p>On 10/17/2009, at approximately 1610 hours, Detective R. Thomas, Officer M. Chaustit, and I (Officer T. Calvert) conducted a warrant service on the defendant, Shimika Clark, at 116 Geraldine Street.</p> <p>When I arrived Clark was hidden in the bathroom at the rear of the residence. I advised Clark that if she did not open the door I would have to force it open. Clark did not respond. I forced the door open. I told Clark I had a warrant for her arrest and to put her hands behind her back. I was able to get Clarks left arm behind her back. Clark flexed her right arm across the front of her body. When I attempted to put her right arm behind her back she pulled her arm in a jerking motion. I applied my TASER (without cartridge) to the upper right side of Clarks back for approximately 2 seconds to gain compliance. Clark put her right arm behind her back.</p> <p>Key West Rescue arrived at 116 Geraldine Street to evaluate Clark. Clark said she might be three months pregnant. Key West Rescue advised Clark that it was in her best interest to be evaluated at a hospital by a physician. Clark refused further treatment.</p> <p>I charged Clark for resisting officer without violence, F.S.S. 843.02.</p>	

End of Narrative: 1

Reporting Officer THADDEUS CALVERT (3222)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Officer Name		Date/Time
Verifying Officer SGT PABLO D. RODRIGUEZ (2298)	Department KEY WEST POLICE DEPARTMENT	Date / Time 10/17/2009 22:38

01-09-00526

Key West Police Department

Report Prepared 10/17/2009 22:03

Incident Report

Case # 01-09-005263

I N C I D E N T	Case # 01-09-005263	Date Report Prepared 10/17/2009 22:03	Occurred From 10/17/2009 16:10	Occurred To 10/17/2009 16:15	Report Type Supplemental
	Dept. Classification		Case Status Cleared by Arrest	Case Status Date 10/17/2009	Cleared 10/17/2009 16:20
	Common Name 116 GERALDINE St Apt. B Key West, FL 33040				
	Day of Week : Saturday Dispatched : 10/17/2009 16:10 Responded : 10/17/2009 16:10 Arrived : 10/17/2009 16:10 Location Type : Residence-Single Family			Alcohol Related : No Drug Related : No Total Damaged Property Value : \$0.00 Total Stolen Property Value : \$0.00 Total Recovered Property Value : \$0.00	

P E R S O N 1	Person Type SUSPECT/ARRESTEE	Business/Person Name SHIMIKA CLARK			Business Phone
	Home Phone	Person Address 116 GERALDINE St Apt. B Key West FL 33040			
	Other Phone	Employer Address			
	Race BLACK	Sex Female	SSN	DL Exp. Date	DL Number
	Birth Date 10/29/1986	Birth Place FL, United States			
	Age : 22 Ethnic Origin : Non-hispanic Min. Height : 5'06" Max. Height : 5'08" Min. Weight : 170 lbs Max. Weight : 220 lbs Adult or Juvenile : ADULT Shoes : Sandals Hair Length : Long Hair Style : STYLED				
	Eye Color : Brown Build : HEAVY/LARGE/OBESE Complexion : MEDIUM Status : Arrestee Religion : UNKNOWN Marital Status : Unknown Speech : NORMAL Residency Type : City Residency Status : Full year Citizenship : United States				
	End of Person: 1				

P E R S O N 2	Person Type VICTIM	Business/Person Name STATE OF FLORIDA			Business Phone
	Home Phone	Person Address			
	Other Phone	Employer Address			
	Race	Sex	SSN	DL Exp. Date	DL Number
	Birth Date	Birth Place			
	Victim Type : Government Will File Charges : Yes				
	Can Identify Offender : Unknown Sobriety of Victim : Sober				
	End of Person: 2				

Reporting Officer MICHAEL J CHAUSTIT (3141)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Officer Name		Date/Time
Verifying Officer SGT PABLO D. RODRIGUEZ (2298)	Department KEY WEST POLICE DEPARTMENT	Date / Time 10/17/2009 22:39

01-09-005263

N A R R A T I V E 1	Topic Supplemental
	On Saturday October 17, 2009, at approximately 1610 hours, Det. Thomas, Det. ^{LEAHY} Gatto, Ofc. Calvert, and I were conducting a warrant service for Shimika Clark at 116 Geraldine Street.
	Det. Thomas saw Clark on walking on Geraldine Street toward 116 unit B. Det. Thomas told Clark she had an active warrant and she ran into her residence. Ofc. Calvert Det. Thomas and I followed Clark into her residence. Clark ran toward the rear of the house and attempted to hide in the bathroom. Clark's Grandmother followed her to the bathroom and was screaming for her to come out. Clark's Grandmother was removed from the room and Ofc. Calvert opened the bathroom door. Clark began to scream, " I did not do any thing." Ofc. Calvert gave Clark several loud verbal commands to come out of the bathroom and place her hands behind her back. Clark refused to comply with Ofc. Calvert's lawful command. Ofc. Calvert and I attempted to physically place Clark's hands behind her back. Clark tensed her arms and braced herself between the wall and the sink.
	Ofc. Calvert removed the cartridge from his Taser and drive stunned Clark to gain compliance with his lawful commands. Clark did comply with Ofc. Calvert's commands after she was drive stunned. I handcuffed Clark and placed her in the rear of my patrol car.
Clark said she was three months pregnant and requested Key West Rescue to evaluate her. Key West Rescue arrived and advised Clark to go to the hospital for further evaluation. Clark refused to go to the hospital and was transported to MDCDC for processing.	
End of Narrative: 1	

Reporting Officer MICHAEL J CHAUSTIT (3141)	Department KEY WEST POLICE DEPARTMENT	Report Status: Approved
Officer Name		Date/Time
Verifying Officer SGT PABLO D. RODRIGUEZ (2298)	Department KEY WEST POLICE DEPARTMENT	Date / Time 10/17/2009 22:39

Response to Resistance Report
Key West Police Department

Case No: 09-5263

1. A Response to Resistance Report will be completed by the supervisor for: (Check all that apply)

- A response through the use of lethal or less-lethal weapons. (response level 4, 5 or 6)
- Applies weaponless physical force of strikes, kicks, or "take-downs" in response level 3
- Any intentional use of OC Spray
- When any person sustains an apparent substantial or fatal injury as a result of the application of force
- When any person complains of injury as a result of the application of force
- Discharge of firearm in the line of duty off-duty or on-duty (other than for training, maintenance or ballistics testing)
- Controlling a person by pointing a firearm without discharge

2. **Date:** 10/17/2009 3. **Time:** 1600 4. **Location:** 116 Geraldine St. 5. **Incident type:** Felony Arrest

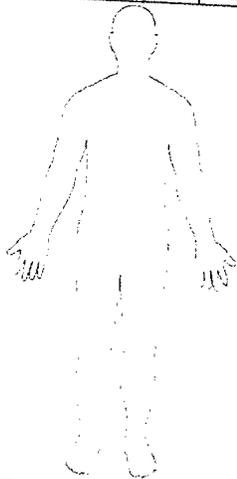
6. <u>Resistance Level</u>	7. <u>Explanation</u>	8. <u>Response Level</u>	9. <u>Explanation</u>
<input checked="" type="checkbox"/> Presence:	Was there	<input checked="" type="checkbox"/> Level 1:	Was there
<input checked="" type="checkbox"/> Verbal:	Advised he was under arrest	<input checked="" type="checkbox"/> Level 2:	Key West Police;
<input checked="" type="checkbox"/> Passive Physical:	Non-compliance	<input type="checkbox"/> Level 3:	
<input checked="" type="checkbox"/> Active Physical:	Pulled away	<input checked="" type="checkbox"/> Level 4:	Drive Stun
<input type="checkbox"/> Aggressive Physical:		<input type="checkbox"/> Level 5:	
<input type="checkbox"/> Aggravated Physical:		<input type="checkbox"/> Level 6:	

10. **Description of Incident:** (If additional space is needed, continue in section 51 or use separate page if needed)

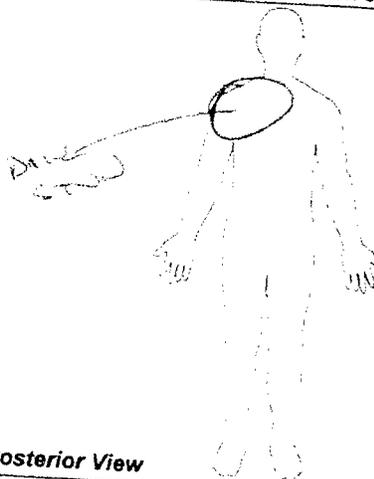
After short chase into a residence, the suspect was captured, actively resisting by pulling away and defeating attempts by officers to control her. After she was in custody, she said she might be in early stages of a pregnancy. Rescue was notified.

11. **Last Name:** Clark 12. **First:** Shimika 13. **Race:** B 14. **Sex:** F
 15. **DOB:** 10/29/86 16. **Height:** 502 17. **Weight:** 150
 18. **Did you observe the subject:** No Yes If NO, explain why in Section 5. If "YES", complete sections 19-23
 19. **Appeared to be:** Intoxicated Under the influence of controlled substance Emotionally / mentally disturbed
 20. **Injuries:** No Evident Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 23)
 21. **Photographed:** No Yes 22. **Treated:** No Yes **By:** EMT/Paramedic on scene Hospital Detention

SUBJECT



23. Anterior View

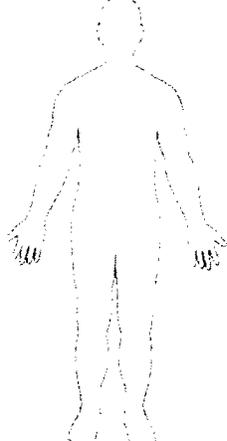


Posterior View

Response to Resistance Report (continued)

Key West Police Department

Case No: 09-5263

OFFICER	24. Officer: Calvert, Thad		25. Race: W	26. Sex: M	27. Age: 33
	28. Duty Status: <input checked="" type="checkbox"/> On-duty <input type="checkbox"/> Off-duty <input type="checkbox"/> Extra duty employment		<input checked="" type="checkbox"/> Uniformed <input type="checkbox"/> Plain clothes		29. Yrs Exp: 2
	30. Injuries: <input checked="" type="checkbox"/> No <input type="checkbox"/> Evident <input type="checkbox"/> Alleged (If Evident or Alleged, describe and indicate areas on charts in Section 33)				
	31. Photographed: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		32. Treated: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		By: <input type="checkbox"/> EMT/Paramedic on scene <input type="checkbox"/> Hospital
33. Response to resistance by this officer: 4 Taser (If TASER®, also reference line number from TASER® section)					
					
34. Anterior View			Posterior View		
TASER USE ONLY	35. TASER® device serial # X00474969		36. TASER® device serial #		
	TASER®Cam serial # V08-007592		TASER®Cam serial #		
	Cartridge 1 serial #		Cartridge 1 serial #		
	Cartridge 2 serial #		Cartridge 2 serial #		
	Number of cycles: 1		Number of cycles:		
	Type of contact: <input type="checkbox"/> Probe <input type="checkbox"/> CODS <input checked="" type="checkbox"/> Drive Stun		Type of contact: <input type="checkbox"/> Probe <input type="checkbox"/> CODS <input type="checkbox"/> Drive Stun		
	Did probes penetrate skin: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Did probes penetrate skin: <input type="checkbox"/> Yes <input type="checkbox"/> No		
	Target distance at probe launch:		Target distance at probe launch:		
	Distance between probes:		Distance between probes:		
	Probes removed by (name):		Probes removed by (name):		
Device downloaded by:		Device downloaded by:			
<input type="checkbox"/> 37. Check and list any additional TASER® devices, cartridges or details in the incident description section.					
SUPERVISOR'S INQUIRY	38. Notified Date: 10/17/09		39. Time: 1615		
	40. Did you respond to the scene: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why in section 10)				
	41. Did you meet with the Officer: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", explain why in section 10)				
	42. Were you able to locate any independent witnesses: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If "Yes," list below)				
	Name		Address		Phone Number
43. Is further review recommended: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		Sgt. P. Rodriguez 2298			
FORWARD COMPLETED ORIGINAL REPORT TO INTERNAL AFFAIRS			44. Preparing Supervisor's Signature / ID		45. Date
				10/17/2009	
INT. AFF.	46. Did the review of this incident conclude that use of force was in compliance with Departmental policy? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If "No", complete section 49)				
	47. Signature of Internal Affairs Inspector			48. Date	
			10/20/09		
49. If section 46 is "No" record the Professional Standards Control Number:				50. Date Entered:	

Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

TO: Captain Scott Smith
FROM: Inspector Randy Smith, Office of Internal Affairs *RS*
DATE: May 20, 2010
RE: PS 10-002 Edwards; Review and Conclusion Fact

Attached is a completed report from the Office of Internal Affairs, who conducted an inquiry into the above referenced complaint. Please review the report and all supporting documentation in order to make a conclusion of fact by preponderance of the evidence, for each allegation/suspicion for each subject member. If there are multiple allegations, a conclusion of fact should be determined for each.

There are **TWO** allegations per officer in this report which requires a finding:

Officer Thaddeus Calvert:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum- Toward Public

Detective Michael Chaustit:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum- Toward Public

Detective Richard Thomas:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum- Toward Public

Detective Brian Leahy:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum- Toward Public

Respectfully request you have your "finding" completed and returned to my office by May 28, 2010. This file will remain OPEN until a response is received from you. Thank you for your assistance in this matter.

Please contact me at your convenience if you have any questions, or if I can be of any further assistance in this matter.



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

TO: Lt. David T. Smith, Commander Professional Standards Division

FROM: Inspector Randy Smith, Office of Internal Affairs

DATE: May 24, 2010

RE: PS 10-002 Edwards

INVESTIGATIVE PREDICATE

On February 18, 2010, an Internal Affairs Inquiry was initiated into the conduct of Ofc. Michael Chaustit, Ofc. Thaddeus Calvert and Det. Richard Thomas. The investigation was a result of a complaint filed Yvonne Edwards, the grandmother of Shimika Clark, through the CRB.

On October 17, 2009, at approximately 1610hrs, Ofc. Chaustit, Ofc. Calvert, Det. Leahy and Det. Thomas attempted to take Shimika Clark, who had an active felony warrant, into custody. Throughout the day the officers made contact with Yvonne Edwards, the homeowner at 116 Geraldine Street and the grandmother of Ms. Clark. Ms. Y. Edwards advised the officers Ms. Clark was staying at the residence but was not presently at home. Ms. Y. Edwards allowed the officers to search her residence to confirm she was not at the residence. Later in the day Ms. Clark arrived at the residence and officers observed her walking and toward the entrance. Det. Thomas' report stated he told Ms. Clark to stop that he had warrant for her arrest. Reports state Ms. Clark fled into the residence and officers followed. Once in the residence, Ms. Clark locked herself in a bathroom and refused to open the door or exit the bathroom. Officers forced there way into the bathroom. Police reports state Ms. Clark continued to resist arrest by placing her hands in front of her and would not comply with the officers commands to place her hands behind her back. Ofc. Calvert used the Drive-Stun feature of his Taser and gave Ms. Clark a brief drive-stun, following which she complied with commands and was taken into custody.

Ms. Y. Edward's complaint stated the officers used excessive force in taken Ms. Clark into custody and there was not a need to Taser her. Ms. Y. Edwards also felt the officers used discourteous service, stating they used profanity during the interaction at the residence. Ms. Y. Edwards also was uneasy about a search which was conducted of her bathroom following the arrest and the removal of her from the bedroom which was attached to the bathroom during the arrest.



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I conducted interviews of personnel who were involved in the incident. The audio CD's should be reviewed for content and context of the interviews.

INVESTIGATION

During the investigation I attempted to interview all witnesses to the event. Ms. Edwards listed Pamela Bailey as a witness; however when I traveled to her residence to interview her, she stated she didn't see anything and did not wish to be involved. I attempted to interview Shimika Clark; however she has moved from the area and has not returned any of my calls. I contacted her probation officer and asked to have Ms. Clark contact me; Ms. Clark has not made any attempt to contact my office. I attempted to use Ms. Y. Edwards as a source to have Ms. Clark contact me, however, Ms. Edwards has a restraining order against Ms. Clark and therefore this is not a viable option. I attempted to locate other witnesses in the area of the residence but was unsuccessful.

INVESTIGATIVE SUMMARY

During the investigation, interviews were taken by Internal Affairs. For a detailed account of each interview, see the attached audio CD. A copy of the Taser Cam video is also attached for review.

Based on the interviews taken in this case there is inconsistency between Ms. Yvonne Edwards', Ms. Tangela Edwards' and the officers' accounts of the event. Ms. Y. Edwards stated in her sworn statement Ms. Clark did flee into the homes bathroom upon police entering. She also stated Ms. Clark would not open the bathroom door, allowing officers to take her into custody. Ms. Y. Edwards stated she heard the officers telling Ms. Clark to stop resisting. Per KWPD policy Ms. Clark was showing active physical resistance (see definition below) in the form of barricading herself in the bathroom, and then tensing her arm in front of her and refusing to allow her self to be handcuffed. This active physical resistance allows officers to use force up to and including intermediate weapons, which would include the Taser in dart firing mode, Asp (impact weapon) or the use of a K-9. The officers were using one level less force in the form of the Taser in Drive-stun mode, where the cartridge is removed. A proper Response to Resistance (RRI) was completed, which included photographs from the scene and the video from the Taser Cam. A review of the RRI and video concluded the use of force was appropriate. Further in viewing the video it is observed Ms. Clark receives approximately a two (2) second drive-stun from the Taser. And not the full five (5) seconds which would be typical in a Taser incident. The explanation I was given for the shortened use was Ms. Clark complied quickly upon being touched by the Taser, allowing a very short cycle to be used.

All of the officers' memory of the event seemed to be cloudy. It was explained on the day in question they were conducting "warrant sweeps" and this incident did not particularly stand out to them. The officers had different perspectives of the events that happened. All four clearly recalled Ms. Clark did barricade herself in the bathroom of the residence's. The officers all clearly recalled at no point was the door pushed all the way closed or were there three officers in the bathroom with her and the door closed. I asked all four officers about additional witnesses in the form of residents in the house. The officers recall seeing Ms. T. Edwards at some point but are certain she was not present in the room or at any position she had a vantage point to see what was happening.

Ms. Y. Edwards stated herself in both of her sworn statements that she could not see what was happening in the bathroom. She stated there was excessive force used by the officers, but again could not see what was happening. Her explanations seemed to be based on the fact that three officers entered after Ms. Clark and at some point in the arrest a Taser was used.

Ms. Y. Edwards' second complaint was use of profanity on the scene. Only Ofc. Chaustit believed he heard someone state, "Get her the fuck out of here." However he was not sure who said it, but was certain he did not use profanity in the interaction. Upon questioning Det. Thomas, Det. Leahy and Ofc. Calvert they do not recall hearing profanity or using profanity during the arrest.

Ms. Edwards also was bothered by the fact she was removed from the residence during the arrest and areas within the bathroom were searched following the arrest without her consent or being shown a warrant. Case law clearly defines that once an offender is taken into custody, officers can search what was in the suspect's immediate control. In this case there is no dispute Ms. Clark had total control over the bathroom for a period of time. This could reasonably allow her to hide fruits of the crime she had a warrant for, Burglary. In addition it would allow the hiding of any other contraband or weapons she may have had. The officers did not violate law or policy in this search. Det. Thomas addressed the reason for removing Ms. Y. Edwards during the arrest. Det. Thomas stated he felt the altercation with Ms. Clark could spill out into the bedroom causing Ms. Y. Edwards to be injured.

Ms. Y. Edwards also addressed the officers entering the residence to arrest Ms. Clark rather than taking her into custody outside. Det. Thomas explained he observed Ms. Clark as she was walking to her residence and did yell to her to stop that she had a warrant. Det. Leahy also recalled Ms. Clark being in front of the residence and fleeing upon their arrival. Ms. Clark then fled into the residence with officers following. Due to the warrant being for a felony the officers had the right to follow Ms. Clark into the residence under the "fresh pursuit" statute. This does not call for officers to stop their pursuit simply because the suspect reaches their residence. (See attached statute) This is not a violation of policy or law.

C. **Level 4: Active Physical Resistance**

A person makes physically evasive movements to defeat an officer's attempts at control. This may be in the form of bracing or tensing, attempts to push/pull away or not allowing the officer to get close to him/her.

941.35 Definition of "fresh pursuit."--The term "fresh pursuit" as used in this law shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

ADMINISTRATIVE PROCEEDINGS FL. SS 112.532

"I the undersigned do hereby swear under penalty or perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in FSS. 112.532 and 112.533, Florida Statutes."



02.21.04.39 COURT AND LEGAL PROCEEDINGS

Members who have been subpoenaed or who are otherwise appearing for court, depositions, intake hearings or other legal proceedings:

- A. Shall report on time to the specified location, in uniform or attired in a manner that demonstrates a professional, business-like appearance.
- B. Shall secure from a responsible person in the office where the member's attendance is required, documentation of the member's arrival date and time. This information will then be submitted to the member's supervisor, along with any required payroll paperwork, for appropriate compensation. *(Note: This paragraph only applies to members who are attending proceedings while off-duty).*
- C. Failure to appear as directed shall result in Departmental disciplinary review unless the member has met "absence due to illness" requirements of **02.21.04.10.A(4)**.

02.21.04.40 ESTABLISHMENTS

Members shall not enter or loiter, while on-duty, in any tavern, nightclub, adult bookstore, adult entertainment establishment, massage parlor, or establishment of the like except for legitimate law enforcement or Departmental business, and only for the amount of time necessary to conduct such business.

02.21.04.41 FIREARMS AND WEAPONS

- A. Sworn members shall carry on their person at all times their official Department identification when carrying a firearm under the authority of a law enforcement officer on or off duty unless carrying the identification would compromise the officer's safety during a covert operation.
- B. Sworn members shall carry on duty, (or off duty under the authority of an off-duty law enforcement officer), only those firearms, ammunition and other less-lethal weapons authorized by the Department and in accordance with General Order 02.07 "Weapons and Ammunition".
- C. No member may carelessly handle or recklessly display a firearm while on or off duty.

- D. No member may discharge their firearm unless for Department sanctioned training, range qualifications, maintenance, or in the official performance of law enforcement duties.
- E. No member should be in possession of any firearm while under the influences of alcohol / drugs.

02.21.04.42 USE OF FORCE

- A. The application of any force by a sworn member using a weapon or weaponless physical force shall be carried out within the parameters of the Key West Police Department's Response to Resistance Matrix and in compliance with General Order 02.08 "Response to Resistance". No member may use any more force than is necessary to effect their lawful objectives.
- B. Any member who is involved in a "Response to Resistance Incident" as defined in General Order 02.08 "Response to Resistance", shall immediately inform the Watch Supervisor or supervisor having command over a particular operation. The supervisor shall immediately initiate an Inquiry into the circumstances and report his findings by established departmental procedures.

02.21.04.43 REPORTS & DOCUMENTS

- A. Members shall prepare all reports and documents accurately and legibly, and within reason, free of spelling and grammatical errors.
- B. When members sign their name on any police report, crash report, citation, field interview card, parking ticket, or other similar document, they shall also print their name along with their four-digit employee ID number.
- C. Members shall complete and submit reports and documents as required by the particular incident or matter prior to the end of their tour of duty unless otherwise approved by their supervisor or allowed for by written directive.
- D. Members shall complete and submit administrative paperwork by the scheduled due date. This paperwork includes, but is not limited to, employee performance assessments, payroll sheets, grant reports, etc.

beyond the scope of the issuing member's authority.

(Note: The authority to issue orders and the breadth of such orders is derived from the rank or authority vested in a member by virtue of his position or function.)

(2) Orders shall be made in a clear and understandable manner.

B. Verbal Directive / Order

Members shall promptly, and without argument or impertinent response, comply with all lawful verbal orders and instructions given to them by a supervisor or other member who has the authority to issue such order or instruction, as well as those relayed through another member.

C. Written Directive / Order

Members shall comply with all written directives in the form of General Orders, Special Orders, and Standard Operating Procedures, as well as any order or instruction in written form given to them by a supervisor or other member who has the authority to issue such order or instruction.

D. Conflicting Orders

(1) No verbal order shall be issued to any member that conflicts with any current General Order, Special Order, or Standard Operating Procedure without sufficient justification. (See 01.04.01.03)

(2) If a member receives an order from a supervisor or other member who has the authority to issue such order that conflicts with another order, the member receiving the order should respectfully inform the member issuing the order of the conflict and request clarification. If the person issuing the second order stands behind his directive, he then becomes responsible for his order and any actions that would arise as a result.

E. Unlawful Orders

(1) No member shall knowingly issue an order to another member that is contrary to state or federal law or municipal ordinance.

(2) Members shall not follow unlawful orders or those orders they reasonably believe to be unlawful.

(Note: Responsibility for a member's refusal to obey rests with that member and he will be required to justify his actions. Certain orders may

legally be more restrictive than law, but shall not be in conflict with such law. A member receiving a perceived unlawful order shall report the facts of the incident, in writing, to the Commander of Professional Standards through the chain of command.)

02.21.04.02 CHAIN OF COMMAND

Members shall adhere to the organizational chain of command both upward and downward as required in the applicable Departmental written directive.

02.21.04.03 DECORUM

A. Conduct Toward Associates

(1) Members shall always treat supervisors, subordinates and associates with respect and in a courteous and professional manner.

(2) When on-duty and in the presence of the public or other members in a professional setting, officers will be referred to by rank. *(Note: Nothing in this section is intended to imply that members may not address each other on-duty in a personal manner when the understood decorum is casual.)*

(3) Members shall not direct any disrespectful, insolent, or abusive language or actions toward a supervisor. Nor shall they make derogatory or disrespectful comments about a supervisor to other members or members of the public.

B. Conduct Toward the Public

(1) Members shall be responsive to the needs of the public and their requests by rendering prompt, accurate and courteous service, and consistently conducting themselves in a manner that promotes public respect and confidence.

(2) Members shall always maintain a professional decorum and treat with respect victims, witnesses, suspects, prisoners and all others with whom they come into contact.

(3) Regardless of the provocation to do otherwise, members shall maintain command of their temper, exercising control, patience and discretion, and refrain from the use of harsh, profane, insolent or abusive language.

(4) The attitudes of Department members shall be objective toward persons and situations encountered. The decisions and actions of members must always be based

Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

TO: Lt. David Smith
FROM: Captain Scott D. Smith
DATE: May 26, 2010
RE: Conclusion/Finding of Fact PS-10-002

ORIGINAL

On Tuesday May 25, 2010, I received a completed Internal Affairs File (PS-10-002) and was asked to complete a finding of facts.

The complaint was originated by Yvonne Edwards on behalf of her granddaughter Shimika Clark. There were multiple allegations on numerous Officers/Detectives. The charges and Officers/Detectives are as follows:

Officer Thad Calvert:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public

Detective Michael Chaustit:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public

Detective Richard Thomas:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public

Detective Brian Leahy:

- 02.21.04.42 (A) Use of Force
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public

02.21.04.42(A) Use of force reads as follows:



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Donald J. Lee, Jr.

Chief of Police



Key West

POLICE DEPARTMENT

The application of any force by a sworn member using a weapon or weaponless physical force shall be carried out within the parameters of the Key West Police Department's Response to Resistance Matrix and in compliance with General Order 02.08 "Response to Resistance". No member may use any more force than is necessary to affect their lawful objectives.

02.21.04.03 (B)(3) Decorum – Conduct Toward Public reads as follows:

Regardless of the provocation to do otherwise, members shall maintain command of their temper, exercising control, patience and discretion, and refrain from the use of harsh, profane, insolent or abusive language.

Ms. Edwards's complaint was two fold. First, that the Officers used excessive force by utilizing the taser on Ms. Clark. Secondly that at some point an Officer used profanity by saying "Get her the fuck out of here".

I have conducted a complete review of all reports and recordings supplied to me in reference to this case and concluded the following:

- Officer Thad Calvert utilized his taser in Drive-stun mode. This was captured on its video and audio. You can clearly here Officer Calvert say "put them behind your back". It is clear he is telling Ms. Clark to put her hands behind her back. This use of the taser is within KWPD Policy and Procedures.
- Ms. Edward states she could not hear nor see the incident and despite numerous attempts to contact Ms. Clark she has not returned calls.
- Detective Chaustit was the only one who remembers someone saying "get her the fuck out of here". Chaustit states this was not directed at anyone but just in getting Ms. Clark out of the bathroom.

Based on all of the evidence provided to me, I find the following:

Officer Thad Calvert:

- 02.21.04.42 (A) Use of Force – Unfounded
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public Not Sustained

Detective Michael Chaustit:

- 02.21.04.42 (A) Use of Force - Unfounded
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public - Not Sustained



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Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

Detective Richard Thomas:

- 02.21.04.42 (A) Use of Force - Unfounded
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public - Not Sustained

Detective Brian Leahy:

- 02.21.04.42 (A) Use of Force Unfounded
- 02.21.04.03 (B)(3) Decorum – Conduct Toward Public - Not Sustained



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Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

ORIGINAL

TO: Lt. David Smith, Professional Standards
FROM: Donald J. Lee, Jr. Chief of Police *(Signature)*
DATE: May 27, 2010
RE: PS 10-002

I have reviewed the finding of facts completed by Capt. Smith. I concur with his findings and consider this matter closed.



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Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

ORIGINAL

May 27, 2010

Yvonne Edwards
116 Geraldine Street Apt. B
Key West, Florida 33040

Ms. Edwards,

In regards to the complaint you filed against Officers, your complaint was forwarded to the Office of Internal Affairs, who conducted an Investigation into the matter. The results of the Investigation were then forwarded to Capt. Smith for a conclusion.

Based on information obtained through the Investigation and subsequent conclusion by Capt. Smith, the allegations against Officers were found to be the following:

- 02.21.04.03 (B)(3) Decorum - **Not-Sustained**
- 02.21.04.42 (A) Use of Force - **Unfounded**

If any portion of your allegation/s were sustained, appropriate corrective or disciplinary action will be documented. No further administrative action will be taken on this matter as your complaint is now classified as **CLOSED**.

If I can be of any further assistance to you in this or other matters, please contact me at your convenience.

Sincerely,

INSJ. RS #935
Inspector Randy Smith
Office of Internal Affairs

CC: Lt. David Smith
File



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8

(Audio Clips Available for Inspection at CRB Office)

9



CITY OF KEY WEST
Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

February 17, 2010

VIA REGULAR US MAIL

Mrs. Yvone Edwards
116-B Geraldine Street
Key West, FL 33040

Complaint File: **CRB No. 09-008**
KWPD-IA File Number: (to be assigned)

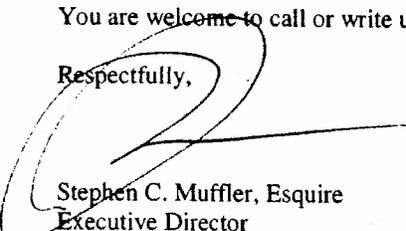
Dear Mrs. Edwards:

Enclosed please find a copy of the CRB file, CDROM with taser footage and colored pictures of the bathroom and outside residence relative to your complaint. These items will be reviewed by the Citizen Review Board (CRB) members individually prior to the meeting on Monday February 22, 2010 at 6:00 p.m. at Old City Hall, 510 Green Street, Key West Florida 33040. You confirmed yesterday with me that you will attend this public meeting and bring as many of your witnesses to address the CRB as possible.

The Board appreciates the time you have taken to lodge this complaint. If you change your mailing address, please send in written notice to this office so our files can reflect the same.

You are welcome to call or write us with any questions you may have.

Respectfully,


Stephen C. Muffler, Esquire
Executive Director
Attorney-at-Law
Encl.
cc: File



CITY OF KEY WEST
Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

Mrs. Yvonne Edwards
116-B Geraldine Street
Apt. B
Key West, Florida 33040

Re: **CRB Complaint #09-008**

Dear Mrs. Edwards:

The Citizen Review Board will be addressing your complaint filed against members of the City of Key West's police department members at its **February 22, 2010** meeting. This will be a public meeting and the CRB requests your attendance. The meeting will be held at **6:00 p.m. at Old City Hall, 510 Greene Street, Key West Florida**. You may bring any witnesses you feel are helpful in attesting to any issue found in your complaint.

Inspector Randy Smith and Lt. David Smith, whom you had a meeting with last month, are still trying to arrange a direct meeting with the involved officers and yourself at the police station. I will call you should such a meeting be arranged in the near future. Regardless, your file will still be addressed at the above referenced CRB meeting. Please call me with any questions you may have.

Very Truly Yours

Copy

Stephen C. Muffler, Esquire
Attorney at Law
CRB Executive Director



CITY OF KEY WEST
Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

Mrs. Yvonne Edwards
116-B Geraldine Street
Apt. B
Key West, Florida 33040

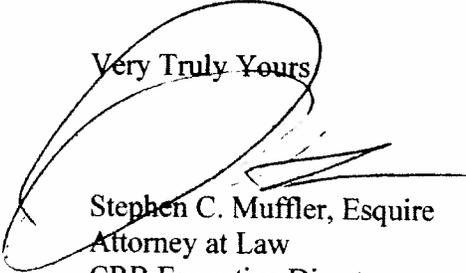
Re: **CRB Complaint #09-008**

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Inspector Randy Smith and Lt. David Smith, whom you had a meeting with last month, are still trying to arrange a direct meeting with the involved officers and yourself at the police station. I will call you should such a meeting be arranged in the near future. Regardless, your file will still be addressed at the above referenced CRB meeting. Please call me with any questions you may have.

Very Truly Yours


Stephen C. Muffler, Esquire
Attorney at Law
CRB Executive Director



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Lt. David Smith
FROM: Stephen Muffler, Esquire
DATE: 2/3/10
RE: CRB Agenda for 2/22/10

Attached please find the CRB Agenda for February 22, 2010 meeting. Enclosed please find the respective officer's notices for this meeting. Would you please forward these notices to the individual officers so that they are aware of this upcoming meeting? It would be desirable for a representative from your office attend this meeting to help address the Board's specific questions on any files or procedures. Please note that all of the Board's materials are now available for yourself or the respondent officers to view via the CRB website before the meeting. **PLEASE ARRANGE FOR THE AVAILABILITY OF THE SUBJECT OFFICERS' PRIOR DISCIPLINARY HISTORY AND COMMENDATIONS (LIST OF THEM BY SOME KIND OF SUMMARY PER THE KWPD & CRB WORKING AGREEMENT) AT THIS CRB MEETING. THANKS.**

AGENDA

Citizen Review Board Meeting
Old City Hall, 510 Greene Street
Monday, February 22, 2010
6:00 p.m.

1. CALL THE MEETING TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES:
 - a. January 25, 2010
5. TRACKING CHART REVIEW
6. CONTINUED OR NEW BUSINESS
 - a. File Review: **CRB #09-008** (_____) (Name Disclosure Pending Return of File from IA to CRB)
 - b. File Review: **CRB #07-001** (Omar Brown)
8. COUNSEL'S REPORT
- 9 CHAIRPERSON'S REPORT
10. BOARD MEMBERS REPORT/GENERAL COMMENTS
11. EXECUTIVE DIRECTOR'S REPORT
- 12 PSO/IA COMMENTS/FOLLOW-UP
- 13 PUBLIC INPUT
- 14 MEDIA AND PRESS QUESTIONS
- 15 ADJOURNMENT



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Officer Thaddeus Calvert
FROM: Stephen Muffler, Esquire
DATE: 2/3/10
RE: CRB Complaint #09-008/Edwards

One or more of the Board Members and/or the Executive Director as placed the above referenced file on the Agenda for discussion at the CRB meeting to be held at 6:00 p.m. at Old City Hall on February 22, 2010. You are a respondent in this file and are invited to attend this meeting to help clarify the matter to the Board members. You are under no obligation to attend nor speak to the Board, but your input on the matter would be carefully weighed and would assist the Board in reaching a fair and just recommendation. You may attend personally, via a union representative or through legal counsel. The documents that will be reviewed by the Board will be uploaded to the CRB website for public viewing before the meeting. The Agenda for this meeting will also be uploaded to the CRB website prior to the meeting for your review.



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Officer Michael Chaustit
FROM: Stephen Muffler, Esquire
DATE: 2/3/10
RE: CRB Complaint #09-008/Edwards

One or more of the Board Members and/or the Executive Director as placed the above referenced file on the Agenda for discussion at the CRB meeting to be held at 6:00 p.m. at Old City Hall on February 22, 2010. You are a respondent in this file and are invited to attend this meeting to help clarify the matter to the Board members. You are under no obligation to attend nor speak to the Board, but your input on the matter would be carefully weighed and would assist the Board in reaching a fair and just recommendation. You may attend personally, via a union representative or through legal counsel. The documents that will be reviewed by the Board will be uploaded to the CRB website for public viewing before the meeting. The Agenda for this meeting will also be uploaded to the CRB website prior to the meeting for your review.



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Officer Richard Thomas
FROM: Stephen Muffler, Esquire
DATE: 2/3/10
RE: CRB Complaint #09-008/Edwards

One or more of the Board Members and/or the Executive Director as placed the above referenced file on the Agenda for discussion at the CRB meeting to be held at 6:00 p.m. at Old City Hall on February 22, 2010. You are a respondent in this file and are invited to attend this meeting to help clarify the matter to the Board members. You are under no obligation to attend nor speak to the Board, but your input on the matter would be carefully weighed and would assist the Board in reaching a fair and just recommendation. You may attend personally, via a union representative or through legal counsel. The documents that will be reviewed by the Board will be uploaded to the CRB website for public viewing before the meeting. The Agenda for this meeting will also be uploaded to the CRB website prior to the meeting for your review.



CITY OF KEY WEST
Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

May 28, 2010

Mrs. Yvone Edwards
116-B Geraldine Street
Key West, FL 33040

VIA REGULAR US MAIL

Complaint File: **CRB No. 09-008**
KWPD-IA File Number: PS 10-002

Dear Mrs. Edwards:

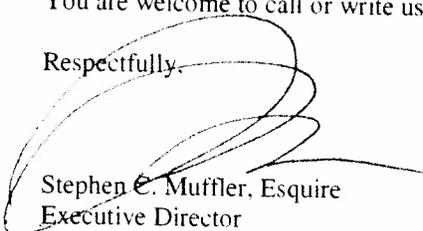
Enclosed please find a copy of the Amended Agenda for the CRB meeting on Monday, June 7, 2010. The CRB has scheduled to review your file/complaint on that day. Please attend this public meeting which will commence at 6:00 p.m. at Old City Hall, 510 Green Street, Key West Florida 33040. Please also bring any witnesses that you have listed to this meeting so that they can address the CRB directly.

Enclosed is a copy of the internal affairs investigation and a CD-ROM of the audio recordings of the interviews of yourself, the involved officers and other witnesses in this investigation. I have also enclosed a CD-ROM of the colored pictures and stun gun footage for your review and consideration.

The Board appreciates the time you have taken to lodge this complaint. If you change your mailing address, please send in written notice to this office so our files can reflect the same.

You are welcome to call or write us with any questions you may have.

Respectfully,


Stephen C. Muffler, Esquire
Executive Director
Attorney-at-Law

Encl.
cc: File



CITY OF KEY WEST
Citizen Review Board
P.O. Box 1946
Key West, FL 33041
Ph: (305) 809-3887
Fax: (305) 293-9827

May 18, 2010

Mrs. Yvone Edwards
116-B Geraldine Street
Key West, FL 33040

VIA REGULAR US MAIL

Complaint File: **CRB No. 09-008**
KWPD-IA File Number: (to be assigned)

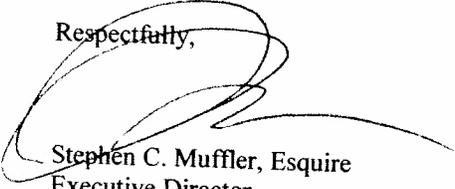
Dear Mrs. Edwards:

Enclosed please find a copy of the proposed Agenda for the CRB meeting on Monday, June 7, 2010. The CRB has scheduled to review your file/complaint on that day. Please attend this public meeting which will commence at 6:00 p.m. at Old City Hall, 510 Green Street, Key West Florida 33040. Please also bring any witnesses that you have listed to this meeting so that they can address the CRB directly. I will forward you a copy of the internal affairs investigation upon receipt of the same by our offices.

The Board appreciates the time you have taken to lodge this complaint. If you change your mailing address, please send in written notice to this office so our files can reflect the same.

You are welcome to call or write us with any questions you may have.

Respectfully,


Stephen C. Muffler, Esquire
Executive Director
Attorney-at-Law

Encl.
cc: File

AGENDA

Citizen Review Board Meeting
Old City Hall, 510 Greene Street

Monday, June 7, 2010

6:00 p.m.

1. CALL THE MEETING TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES:
 - a. May 24, 2010
5. TRACKING CHART REVIEW
6. CONTINUED OR NEW BUSINESS
 - a. **File Review: CRB #-09-008 _____**
8. COUNSEL'S REPORT
9. CHAIRPERSON'S REPORT
10. BOARD MEMBERS REPORT/GENERAL COMMENTS
11. EXECUTIVE DIRECTOR'S REPORT
 - a. Commission Appointed Member Search Update
 - b. Election of CRB Officers Next Meeting
 - c. Seating of New CRB Members Next Meeting
 - d. Budget FY 10/11 Update
12. PSO/IA COMMENTS/FOLLOW-UP
13. PUBLIC INPUT
14. MEDIA AND PRESS QUESTIONS
15. ADJOURNMENT



Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Lt. David Smith
FROM: Stephen Muffler, Esquire
DATE: 5/28/10
RE: CRB Agenda for 6/7/10

Attached is the proposed CRB Agenda for the June 7, 2010 meeting and the various respondent officers' notices. **Would you please forward these notices to the individual officers so that they are aware of this upcoming meeting?** It would be desirable for a representative from your office attend this meeting to help address the Board's specific questions on any files or procedures. Please note that all of the Board materials are now available for yourself or the respondent officers to view on the CRB website approximately five (5) days before the meeting.

PLEASE ARRANGE FOR THE AVAILABILITY OF THE SUBJECT RESPONDENT OFFICERS' PRIOR DISCIPLINARY HISTORY AND COMMENDATIONS (COPIES OF COMMENDATION LETTERS AND LIST OF DISCIPLINARY ACTIONS WITH SUMMARIES PER THE KWPD & IA WORKING AGREEMENT) AT THIS CRB MEETING. THANKS.

AMENDED AGENDA

Citizen Review Board Meeting
Old City Hall, 510 Greene Street

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Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Officer Thad Calvert
FROM: Stephen Muffler, Esquire
DATE: 05/28/10
RE: CRB Complaint #09-008/Edwards

Attached please find a copy of the proposed Agenda for the CRB meeting to be held at 6:00 p.m. at the Old City Hall on June 7, 2010. One or more of the Board Members and/or the Executive Director as placed the above referenced file on the Agenda for discussion. You are a respondent in this file and are invited to attend this meeting to help clarify the matter to the Board members. You are under no obligation to attend nor speak to the Board, but your input on the matter would be carefully weighed and would assist the Board in reaching a fair and just recommendation. You may attend personally, via a union representative or through legal counsel. Materials on this file may be viewable via the CRB website approximately five (5) days prior to the meeting.

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Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Detective Richard Thomas

FROM: Stephen Muffler, Esquire

DATE: 05/28/10

RE: CRB Complaint #09-008/Edwards

Attached please find a copy of the proposed Agenda for the CRB meeting to be held at 6:00 p.m. at the Old City Hall on June 7, 2010. One or more of the Board Members and/or the Executive Director as placed the above referenced file on the Agenda for discussion. You are a respondent in this file and are invited to attend this meeting to help clarify the matter to the Board members. You are under no obligation to attend nor speak to the Board, but your input on the matter would be carefully weighed and would assist the Board in reaching a fair and just recommendation. You may attend personally, via a union representative or through legal counsel. Materials on this file may be viewable via the CRB website approximately five (5) days prior to the meeting.

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Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Detective Michael Chaustit

FROM: Stephen Muffler, Esquire

DATE: 05/28/10

RE: CRB Complaint #09-008/Edwards

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Citizen Review Board
City of Key West Florida
Executive Director's Memo

TO: Detective Brian Leahy
FROM: Stephen Muffler, Esquire
DATE: 05/28/10
RE: CRB Complaint #09-008/Edwards

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15. ADJOURNMENT

Citizens Review Board

From: Citizens Review Board
Sent: Friday, May 28, 2010 2:32 PM
To: Thaddeus Calvert
Cc: Citizens Review Board; David T. Smith; Randall Smith
Subject: CRB Notice Attached

Attachments: Calvert Notice.PDF

Good Day Officer Calvert:

Attached is your CRB Notice for June 7, 2010 CRB Meeting. Please feel free to contact me directly with any questions you may have. Thanks.



Calvert Notice.PDF
(41 KB)

Stephen C. Muffler, Esquire
Executive Director
Attorney at Law

City of Key West
Citizen Review Board
P.O. Box 1946
Key West, Florida 33041
tel(305) 809-3887
fax(305) 293-9827
crb@keywestcity.com
www.keywestcity.com

Note To Recipients: Under Florida law, this communication and any response or reply to it, will be subject to public records requests/disclosure laws, unless an applicable privilege or rule of evidence applies.

Note to Citizen Review Board Members: In accordance with the Florida Sunshine Law, please do not "reply to all" if there are other board members receiving this e-mail concerning Board business. Please only reply to non-board members when responding.

Citizens Review Board

From: Citizens Review Board
Sent: Friday, May 28, 2010 2:34 PM
To: Michael Chaustit
Cc: Citizens Review Board; David T. Smith; Randall Smith
Subject: CRB Notice Attached

Attachments: Chaustit Notice.PDF

Good Day Det. Chaustit:

Attached is your CRB Notice for June 7, 2010 CRB Meeting. Please feel free to contact me directly with any questions you may have. Thanks.



Chaustit Notice.PDF
(41 KB)

Stephen C. Muffler, Esquire
Executive Director
Attorney at Law

City of Key West
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Citizens Review Board

From: Citizens Review Board
Sent: Friday, May 28, 2010 2:35 PM
To: Richard Thomas
Cc: Citizens Review Board; David T. Smith; Randall Smith
Subject: CRB Notice Attached

Attachments: Thomas Notice.PDF



Thomas Notice.PDF
(41 KB)

Good Day Det. Thomas :

Attached is your CRB Notice for June 7, 2010 CRB Meeting. Please feel free to contact me directly with any questions you may have. Thanks.

Stephen C. Muffler, Esquire
Executive Director
Attorney at Law

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Citizens Review Board

From: Citizens Review Board
Sent: Friday, May 28, 2010 2:36 PM
To: Brian Leahy
Cc: Citizens Review Board; David T. Smith; Randall Smith
Subject: CRB Notice Attached

Attachments: Leahy Notice.PDF

Good Day Det. Leahy:

Attached is your CRB Notice for June 7, 2010 CRB Meeting. Please feel free to contact me directly with any questions you may have. Thanks.



Leahy Notice.PDF
(41 KB)

Stephen C. Muffler, Esquire
Executive Director
Attorney at Law

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