

City of Key West
CITIZEN REVIEW BOARD

Annual Report



June 30, 2004

**2003-2004 ANNUAL REPORT
of the
CITY OF KEY WEST CITIZEN REVIEW BOARD**

Executive Summary

This is the first annual report of the City of Key West Citizen Review Board (CRB). This CRB was created by a majority vote of the citizens of Key West on November 5, 2002. The City Commission completed the task of selecting the first four of seven board members in March 2002. Selection of the final three by the original four board members was completed in June 2002. Selecting the board, setting up and organizing the office and training the Board Members and Executive Director consumed the first six months of the 2002-2003 fiscal year.

The most comprehensive task to date has been developing the initial Policies and Procedures located in appendix B. Several models of successful Citizen Review Boards were available as resource material for this crucially fundamental set of guidelines. However, the uniqueness of Key West has afforded a most challenging opportunity.

Seventeen complaints have been filed through the CRB office since December 2003. Complaint types range from "Excessive Use of Force", "Excessive Use of Pepper Spray" and "False Arrest" to allegations such as "Rudeness" or "Conduct Not Becoming of an Officer". Another seven informal complaints have been lodged but the complainants themselves made the decision not to file formal complaints. Of those seven informal complaints, two were resolved to the complainants' satisfaction due entirely to the opportunity to air the grievance to the CRB.

In January 2004 the CRB began reviewing files completed by Key West Police Department's Internal Affairs (IA). After reviewing those complaints, the CRB agreed with IA's finding of "Unfounded" for one complaint and recommended that the finding should be changed from "Unfounded" to "Exonerated" in two other complaints.

During the initial interactions between the CRB and IA, the CRB observed that IA investigations had not always been thorough and complete and that timely access to IA-generated information was difficult possibly due to a continuum of turnover within the department. IA has demonstrated progress in the investigation reporting process and the CRB has noted a marked improvement in the thoroughness of IA's investigative reports beginning with complaints filed in May 2004. Timely responses to

requests for files and information are, however, still falling short of the mark.

The CRB will continue to monitor complaints, evaluate policy, track trends and work to improve communication with the Key West Police Department as well as promote Citizen confidence in the police department.

This initial report establishes a benchmark from which future comparisons can be made regarding the activities and accomplishments of the Citizen Review Board and the Key West Police Department.



Chairman's Message

By Todd German

This report marks the end of an historic first year. It is now time to see where we have been and to take stock of our accomplishments. This has been a year of hard work at sometimes a gruelingly slow pace for the entire CRB. All meetings are conducted under the Sunshine Law so all topics are discussed for the very first time at each open meeting. This has led to some very long meetings that included administrative housekeeping until the Executive Director was hired in the sixth month. The CRB met weekly for the first seven months with nearly perfect attendance demonstrating to each other and the citizens a strong commitment to the task at hand.

An agency born out of controversy will always have its critics and the CRB is no exception. We are charged with making unpopular decisions under a microscope. Some of our decisions have been mischaracterized by the press and by a few citizens who may not have been fully informed as to the facts. The CRB will continue to strive to make sure that the press is fully informed as to the Board's activities so that citizens will form their conclusions about the CRB's activities with complete information.

However, all should know that this CRB arrived at its conclusions with the utmost honesty and integrity. Board members have demonstrated a healthy respect for each other's opinions no matter how strongly each may disagree and this mutual respect has made all the difference in a functioning board.

We know we still have an abundance of work ahead. We have developed policies and established measurable goals. It has been an interesting and challenging year for us and I believe we have made progress in establishing the CRB as a useful tool in the eyes of the public.

I would be remiss not to thank the many other Review Boards that have paved the way for us. Because of them, we have been able to accomplish more in our first year than the norm.

I thank each and every board member for their hard work and support during this important inaugural year. I take great pride in our accomplishments.

Todd German, Chairman
Citizen Review Board

ABOUT THE CITIZEN REVIEW BOARD

What is the CRB?

Key West voters created the Citizen Review Board (CRB) on November 5, 2002. The City Commission appointed four of the seven board members and three board members were interviewed and selected by the initial four board members. Board members can serve no more than nine consecutive years and terms are staggered so that no more than three board members' terms will expire in any given year.

What is the Mission of the CRB?

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

What is the Purpose of the CRB?

The purpose of the CRB is to establish guidelines for the receipt and processing of allegations of KWPD police misconduct in compliance with Charter of the City of Key West Article I, Chapter 1.07.

The CRB independently reviews citizen complaint investigations against KWPD police officers, recommends changes in departmental policy, and when deemed appropriate by the board, conducts an independent investigation of citizen complaints. The CRB forwards findings and/or recommendations to City management, the Chief of Police, State Attorney, other state and federal law enforcement agencies and/or grand juries.

Who is on the Citizen CRB?

The City of Key West Citizen Review Board is composed of seven residents of the City of Key West. The City Commission appointed four (4) members from nominations from community based civic and social service organizations. The original four (4) members then selected three (3) additional members from applications from the general public. As with other boards and commissions, these are unpaid positions. The term in office for each board member is four years and no member shall serve more than nine consecutive years.

The Executive Director of the CRB is contracted with the City of Key West. The Executive Director reports to the Chairman of the Board.

The board members who served in 2003-2004 are:

Todd German, 36, is a 7-year resident of Key West and a branch manager for Keys Federal Credit Union. Before going into banking here in 1997, he owned a construction company in Virginia Beach, Virginia. He was in the U.S. Army for three years, serving with the 82nd Airborne and 7th Special Forces Group. German is an active member of the Government Affairs Committee of the Key West Chamber of Commerce and has been involved in the community through events such as the American Red Cross Relay for Life and Children's Day. The City Commission appointed Todd German to the board effective July 1, 2003. He was then elected to serve as the first Chairman of the board. He has completed the Civilian Police Academy conducted by the Key West Police Department and the Key West City Ambassador Academy. **His first term expires in June 2005.**

Guadalupe "Lou" Hernandez, 61, is a 21-year resident of Key West and is the CEO of Helpline, Inc. He is serving his second term as an elected member of the City of Key West Utility Board. Hernandez holds a bachelors degree in psychology from Texas A & M University. He was a Captain in the U.S. Army, winning a bronze star for his service in Viet Nam. Following his tenure in the Army he held several government positions in personnel, training and budgeting in Washington, D.C. He is currently chairman of the Southernmost Homeless Assistance League (SHAL) and has served on and chaired numerous boards in Key West to include the Historic Architectural Review Commission (89-93), Monroe County Democratic Party, Old Island Restoration Foundation, Key West Business Guild and Inter-Agency Council. The City Commission appointed Lou Hernandez to the board effective July 1, 2003. He was then elected

as the first Vice Chairman of the board. **His first term expires June 2006.**

Charles E. Lee, 61, is a 24-year resident of Key West. He has been in the real estate profession for 22 years and is currently broker/owner of Cabana Realty, Inc. He has served on the board of directors of the Key West Board of Realtors and is a former Realtor of the year. Lee holds a bachelor's degree from Georgia Tech and a MBA from University of Florida. He served in the U.S. Air Force including a one- year tour in Vietnam and finished his tour of duty as a captain. He has completed the Civilian Police Academy conducted by the Key West Police Department. Charles Lee was selected to serve by the original appointed board. **His first term expires June 2007.**

Atavia Lopez, 27, is a 27-year resident of Key West. She is the chief medical record analyst at the Lower Keys Medical Center. She is a graduate of Key West High School and has attended Florida Keys Community College and Florida A & M University. Lopez worked as a community outreach worker with the High Intensity Drug Area program, a joint project of the Department of Justice, Monroe County Sheriff's Office and the Key West Police Department. The City Commission appointed Atavia Lopez to the board effective July 1, 2003. **Her first term expires June 2007.**

Roberta Lowe, 56, is an 18-year resident of Key West and is the owner/broker of Lowe & Associates real estate brokerage. She was formerly the city's only all-rental broker, as owner/broker of Rent Key West Properties. Lowe earned a bachelor's degree from University of Tennessee with graduate studies at City University of New York. She has served as a volunteer and board member for several Key West civic and professional organizations such as Helpline, Zonta and Key West Association of Realtors. She has completed the Civilian Police Academy. Roberta Lowe was selected to serve by the original appointed board. **Her first term expires June 2005.**

Larry Maas, 51, is a 4 - year resident of Key West and is the Broker/Owner of Realty Executives. He holds a bachelor's degree from North Eastern Illinois University, with graduate studies at University of IL. Maas enjoyed an extensive military career retiring as a Colonel from the U.S. Army in 2001. He started as an enlisted man, than as an Engineer Officer, Military Police Officer, Inspector General, Infantry Officer and a Signal Officer. His last assignment was a Brigade Commander responsible for 3200+ soldiers. He also served as an Auxiliary Police Officer while living in Riverside, Illinois. Larry Maas was selected to serve by the original appointed board. **His first term expires June 2006.**

Susan O. White, Ph.D., 68, is a 3-year resident of Key West. She retired to Key West from the University of New Hampshire in 1998. During her more than 30 years of teaching in the Department of Political Science, her primary academic interest was on the administration of justice: The Politics of Crime and Justice, Civil Rights and Liberties, and Law and Society. Many of the students in Dr. White's classes were preparing for careers in police work; some are now in senior positions in law enforcement. She also administered an intern program in Justice Studies in which 50-75 students each year interned with probation, prosecution, public defender and victim's advocates offices, as well as with the criminal courts and police agencies. The City Commission appointed Dr. White to the board effective July 1, 2003. **Her first term expires June 2006.**



The CRB's Responsibility

Is the Citizen Review Board Truly Independent?

The Citizen Review Board (CRB) created by Key West voters on November 5, 2002, has the authority to review and/or investigate citizen complaints involving Key West Police Department personnel and forward findings and/or recommendations to City management, the Chief of Police, State Attorney, other state and federal law enforcement agencies and/or grand juries. It is completely independent of the Key West Police Department (KWPD). The seven (7) board members of the CRB all live in Key West and are not employed by the City.

The CRB is independent in that it makes its findings and issues policy recommendations independent of any outside influence.

The CRB staff works to ensure that all complaints receive a fair and objective investigation and/or hearing. The CRB may retain the services of an attorney and professional investigators and may recommend mediation or conduct investigations, inquiries and hearings.

Who is The Citizen Review Board Supposed to Represent?

The CRB is a neutral body designed to be a bridge between the community and the Police Department. It was designed to give the public confidence that any accusations of misconduct lodged against an officer will be fairly and thoroughly investigated.

In addition to being a neutral hearing body, the CRB offers a public forum for citizens who want to express their opinion on any police-related issue.

When a complaint is received, the Executive Director reviews it for completeness and writes an executive summary for the board. The board then reviews each allegation in each case and makes a recommended finding. During this review process, the board also critiques the quality of the investigation and investigative process. This review and comment by the board gives City and Police Department management the advantage of having a perspective that is not found in most communities.

First Year Report

On November 5, 2002, the citizens of Key West voted to create the City of Key West Citizen Review Board. The first order of business following the vote was to select the seven-member board.

The Charter requires that the City Commission appoint four (4) members from nominations from community-based civic and social service organizations. The four selected were nominated from the Key West Chamber of Commerce, Key West Business Guild, Key of the Gulf #53 – Order of the Eastern Star, Criminal Trial Lawyer’s Association. Each board member submitted an application outlining why he or she wished to serve, detailing qualifications and agreeing to the time demands of the job. The original four (4) board members are Todd German, Lou Hernandez, Atavia Lopez and Dr. Susan White.

Three (3) additional board members, Charles Lee, Roberta Lowe and Larry Maas, were then selected from applications submitted from the general public by the original four (4) members. The Committee for a Citizen Review Board (CCRB) coordinated the nomination process, including the placement of public notices soliciting applications and ensuring that nominations were complete and that the qualifications of prospective members met the membership criteria specified in this ordinance before they were submitted to the City Commissioners and the first four appointees of the Board for consideration.

Appointments and selection was a daunting task prompting constant media attention. Because all State agencies must comply with Florida’s Sunshine Laws, citizens soon learned that decisions are long coming. The full board was finally in place for the first July 2003 meeting.

Todd German was elected as the first Board Chair and Lou Hernandez as the Vice Chair. Initially, the board agreed to meet every Monday at 6:00. First on the agenda was interpreting the Charter, creating a budget, finding a suitable office space, coordinating training and seeking out a CPA and an attorney to assist them with these tasks.

Paul Mills, CPA volunteered his time and expertise to develop an itemized budget to fit the \$200,000.00 allocated by the City of Key West. The law firm of Morgan & Hendrick agreed that one of their attorneys, Robert Cintron, Jr., would assist the board with all legal issues on a volunteer (*pro bono*) basis.

In October, the board attended a National Association of Civilian Oversight of Law Enforcement (NACOLE) conference in California. They returned to Key West with a wealth of information from other CRBs across the Country, from suggested policies and procedures to intake forms. They also befriended knowledgeable individuals that have proven to be excellent resources throughout the training process.

It did not take long for the board to realize that they needed an Executive Director to coordinate and schedule meetings as well as the additional training that was required before opening their doors to the public. Another slow and arduous task, they began developing a list of qualifications followed by a job description; then an evaluation system and finally a ranking system in order to select the best candidate. Vicki Grant began on December 15, 2003 as the first Executive Director of the CRB.

While the board began discussing and developing policy and procedures, the citizens became anxious for the CRB to open its doors. However, the CRB did not even have an office. After five months of negotiating between the City of Key West and the landlords of The Galey Building, the CRB moved into 417 Eaton Street on February 1, 2004.

Five complaints were mailed to the CRB's post office box during the month of December 2003. These complaints were immediately forwarded to Key West Police Department's Internal Affairs Department (KWPDIA). The CRB, not yet prepared to review complaints, continued to meet every Monday, schedule workshops to vote on policy and to coordinate more training. NACOLE representatives performed a 3-day workshop here in Key West. Not only did the entire board participate, but two Internal Affairs officers as well. Following the workshop, the Executive Director attended a 40-hour course on Internal Investigations at the Institute of Police Technology and Management at the University of North Florida, again with two officers from the KWPD. Initial training completed, the doors of the CRB officially opened on March 1, 2004.

The CRB continues to develop more comprehensive policies and procedures, each complaint being unique leading to policies not previously considered. KWPD Internal Affairs has provided the board with standard operating procedures and terminology to assist them in evaluating investigation reports and arrest records.

The CRB is engaged in receiving IA investigation reports with an eye to improving their clarity, making them more complete and improving the credibility of their finding.

Citizens have filed a total of seventeen (17) complaints with the CRB since December 2003. The CRB has reviewed and concluded six of these complaints and forwarded its finding to the Chief of Police and the City Manager. In addition to the formal complaints, six citizens have lodged complaints verbally without following up with a formal complaint and two citizens dropped their complaints.

The CRB has faced many challenges this first year and many will follow them into the next. The KWPD will negotiate a new bargaining agreement with the Police Benevolent Association (PBA) and must somehow acknowledge the CRB. IA has experienced turnover and staff away for extended periods undergoing training.

Because the media has sometimes mischaracterized the CRB's position on several issues, more efforts are needed to build trust with the community and to get the word out about what type of service this agency can provide. Our goal is to make that extra effort.



How Does The Complaint System Work?

The complaint process is activated when a complaint is filed against a police officer of the Key West Police Department. While the Internal Affairs Department or designee investigates all complaints, the CRB is currently reviewing only those complaints that are filed directly with the CRB against a sworn officer.

If a complainant has filed directly with the Key West Police Department and is not satisfied with the finding, he/she can request a review by the CRB. Complainants may also choose the option to request mediation.

Typically, all a person has to do to file a complaint is to contact the CRB by phone or in person. A complaint form and instructions are also available on the Key West City website.

All complaints received at the CRB office are forwarded directly to the KWPD Internal Affairs (IA) Bureau and the Chief of Police within two days of receiving the complaint. IA has 45 days to complete an investigation or inquiry and forward findings to the Chief of Police, the CRB and the complainant. The CRB Executive Director contacts the complainant to find out if the complainant is satisfied with the results of IA's investigation. A confirmation letter affirming the complainant's position is mailed to the complainant.

The CRB reviews IA's findings and the complainant's response to IA's findings. The CRB will determine if there is need for further investigation, inquiry and finally, a hearing. If the board determines the need for further investigation, a letter will be sent to the Chief of Police requesting that the department take no further action until the CRB investigation is complete. The CRB has the option to recommend that the Chief of Police conduct further investigation. At the conclusion of each review or investigation, the CRB shall render a finding based on the preponderance of the evidence.

At the conclusion of the review or investigation, the CRB shall forward its written findings and conclusions to the Chief of Police and to affected officers and, to the extent permitted by law, to the complainant. The Chief of Police shall respond within 30 days.

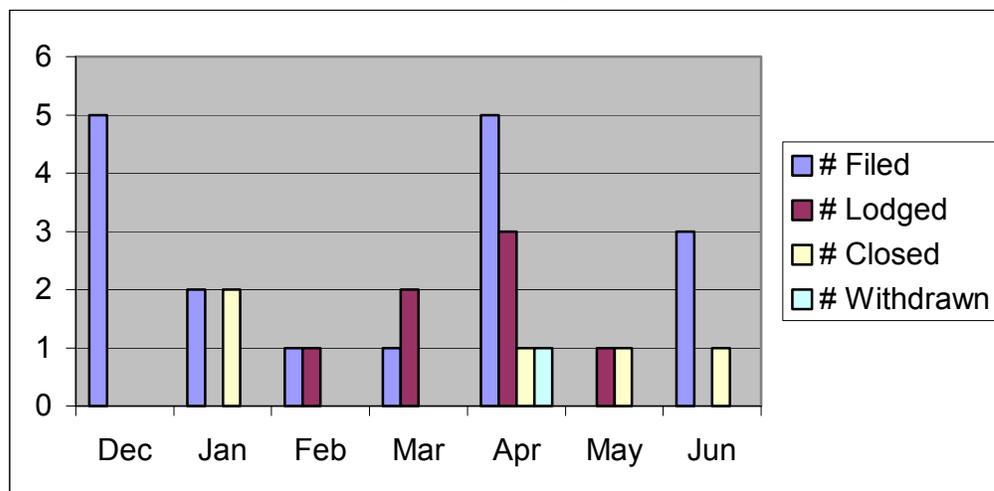
Complaint Processing Analysis

The timing of the complaint process is clearly defined by State Statutes in the Policeman's Bill of Rights and within the CRB Charter. Once a complaint is filed with the KWPD, Internal Affairs has 45 days to complete the investigation or inquiry or demonstrate that the investigation is still in progress. The CRB forwards all complaints to Internal Affairs as well. This process allows the CRB to track the investigation, collect the file when the investigation is complete and review the investigation process.

Citizens can submit their complaints directly to the KWPD and many still do. Effective April 2004 the CRB is requesting a copy of Internal Affairs' log of complaints as well as the "Response to Resistance" tracking log to evaluate trends and to compare the complaints to those received by the CRB.

The CRB began receiving complaints by mail on December 10, 2003. Figure 1 shows the number of complaints received by the CRB each month beginning December and ending May 2004.

Figure 1

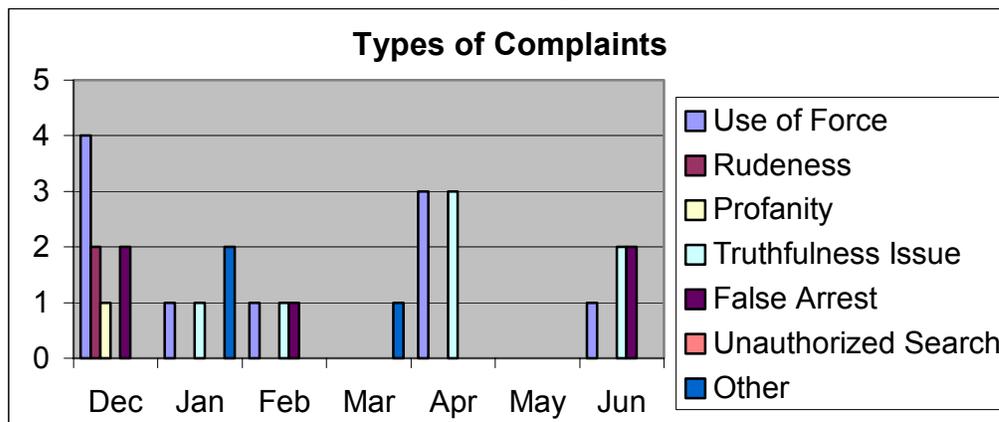


For future reference the Citizen CRB will track complaints based on the type of complaint e.g. Rudeness, Use of Force, and the officer the complaint is filed against to determine if there is a need to recommend further training, discipline or a policy recommendation. The CRB's responsibility is to recommend. **The Police Chief has the sole responsibility for discipline.**

Tracking

Figure 2 shows the types of complaints received by the CRB since December 2003. Currently complaints that are categorized as "Other" include minor allegations such as "dress unbecoming of a police officer".

Figure 2



All complaints investigated by IA prior to May 2004 received the finding of "Unfounded". The CRB reviewed the investigations and referenced the definitions of the findings to determine if the use of the term "unfounded" should in some cases be exonerated or otherwise defined.

The General Order of the KWPD Investigation of Personnel Misconduct guide defines "Unfounded" as the allegation/suspicion is demonstrably false or there is no credible evidence to support it.

"Exonerated" is defined as the allegation/suspicion is true, however, the actions of the agency or its member was consistent with Departmental written directives.

The CRB is of the opinion that an officer who is exonerated for acting within policy is better served by that designation. If the action did in fact take place, then the complaint, by definition, cannot be "Unfounded".

Since the CRB's review of the definition, the Chief has agreed with the recommendation of the CRB to change a finding to "Exonerated". In addition, two investigations completed by IA in June 2004 concluded that the officers were "Exonerated" as opposed to the often-used "Unfounded," thereby demonstrating the Police Department's good faith in working with the CRB to insure that IA investigations accurately reflect the result of their investigations. While the distinction between "unfounded" and "exonerated" may seem to be of no consequence to the

reader, the CRB considers the Police Department's change of policy on this issue to be a significant indicator of the Police Department's willingness to work with the CRB on a productive and constructive basis. Make no mistake, more work needs to be done. The CRB intends to continue to foster the relationship with the Police Department with the goal that the citizens will have the utmost confidence in both the CRB and the Police Department when either or both are called upon to investigate complaints of misconduct by police officers.

Trends & Patterns

- Past investigations used for training read like a defense brief as opposed to an objective investigation. The CRB found that the investigator provided his or her opinion as opposed to simply gathering evidence. There was little effort to contact witnesses or conduct a thorough investigation or inquiry. More recent investigations have shown improvement.
- KWPD supervisors continue to investigate cases in which they are personally involved or where they are witnesses of the incident.
- Approximately 71% of all complaints received from IA were determined "Unfounded" by IA. The CRB found that the finding was not in accordance with IA's own definition of that term and the facts found in the investigation; instead, more likely than not, the finding should have been "Exonerated".
- Often the time allowed IA to turn over a completed investigation of a complaint is exceeded or the file is incomplete.
- As a result of lack of cooperation from the KWPD, meetings have taken place between the CRB, Chief of Police and City Management to address cooperation issues. Both have agreed to ensure that every effort is made by their staff to cooperate with CRB requests. This is an area that must continue to improve.

Because of constant reorganization of the IA department for the past six months (December 03 – May 04) the department has lacked the tools to effectively supply the CRB requested information on a timely basis. Investigation files are sometimes incomplete or delinquent without adequate explanation. Additional administrative staff is recommended to assist in these efforts as well as time allotted for software training in the Access software that will allow for more efficient tracking of response to resistance and other trends.

Since its inception, the CRB has noticed a marked improvement in the quality of the investigative reports written by supervisors and field sergeants. However, the CRB believes that this is an area that needs further improvement.

Goals

We have established the core of our policies and procedures and we now have a year behind us. One criticism we have received is that many citizens do not know who we are, what we do and how they can reach us. This issue is addressed in our first goal for 2004-2005.

Our goals are:

- Establish an Outreach Committee to focus and direct our public education and outreach efforts.
- Create and disseminate informational brochure "A Citizens Guide to Police Practices".
- Improve communications with the Key West Police Department and City Management.