1.07 Citizen review board.

I. *Duties and powers of the board.*

(a) The Citizen Review Board (CRB) is an independent board with authority to review and/or investigate complaints involving Key West police officers 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. The chief of police must respond to CRB recommendations in writing within thirty (30) days.

(b) The CRB may make written recommendations to the city commission, city manager and chief of police concerning police department policies and procedures. The chief of police must respond to CRB recommendations in writing within thirty (30) days.

(c) The CRB may retain the services of an attorney and professional investigators and may conduct investigations, inquiries and hearings, working as appropriate with the State Attorney and chief of police. The existence of ongoing investigations does not preclude the CRB from acting, but the board should exercise its powers so as not to interfere with ongoing investigations and conduct its activities consistent with applicable law, including the Florida Government in the Sunshine Law and applicable labor laws.

(d) The CRB may subpoena witnesses and documents when conducting an investigation as follows:

(1) A request for a subpoena must be reviewed by the CRB attorney;

(2) The CRB attorney may or may not approve the request after consulting with the State Attorney's Office; and

(3) The CRB does not have the authority to offer immunity from prosecution.

II. *Board membership.*

(a) The CRB shall consist of seven (7) volunteer members, to be appointed as follows:

(1) The city commission shall appoint four (4) members from nominations from community-based civic and social service organizations, including, but not limited to: the League of Women Voters, the Key West Business Guild, the Bahama Village Business Association, the NAACP, the Key West Chamber of Commerce, the local chapter of the Florida Bar and local organizations of clergymen. Each nomination must be accompanied by an application from the prospective member, outlining why

he or she wishes to serve, detailing qualifications and agreeing to the time demands of the job. The Committee for a Citizens Review Board shall, on an ad hoc basis, coordinate the nomination process, including publicly noticing organizations, soliciting nominations, and ensuring that nominations are complete and that the qualifications of prospective members meet the membership criteria specified in this ordinance before they are submitted to the city commission.

(2) The original four (4) members will then meet to select three (3) additional members from applications from the general public. The Committee for a Citizen Review Board shall coordinate the nomination process, including the placement of public notices soliciting applications and ensuring that nominations are complete and that the qualifications of prospective members meet the membership criteria specified in this ordinance before they are submitted to the first four appointees of the Board for consideration.

(3) All appointments to the CRB should be made with sensitivity to the racial, gender, ethnic, religious, linguistic and cultural diversity of the City of Key West.

III. *Vacancies.*

(a) If a vacancy occurs among the four members of the CRB appointed by the city commission, that vacancy shall be filled by the city commission from nominations submitted by community-based organizations within ninety (90) days from the time the vacancy is announced. Every nomination must be accompanied by an application from the potential member. The executive director of the CRB will coordinate the nominating process, including noticing the organizations, soliciting nominations, and ensuring that nominations are complete and the qualifications of prospective members meet membership criteria specified in this ordinance before they are submitted to the city commission.

(b) If a vacancy occurs among the three members appointed by the CRB, the CRB, by majority vote, shall fill that vacancy from nominations from the general public. The executive director of the CRB will coordinate the nominating process.

IV. *Qualifications for members of the CRB; training and education.*

(a) All members of the CRB shall be residents of the City of Key West and shall have good reputations for integrity and community service.

(b) No appointee to the CRB, nor any member of his or her immediate family, shall be currently employed by the City of Key West.

(c) No appointee may be currently a party in litigation against the City of Key West.

(1) The filing of a complaint against the City of Key West alleging liability of the City through actions of any law enforcement officer shall immediately disqualify any appointee from serving on the CRB.

(2) Any appointee who has been a legal representative of any party in litigation against the City of Key West is prohibited from serving on the CRB for two years from the conclusion of such litigation.

(d) Training and education. In applying to become a member of the CRB, applicants must agree to participate in at least 30 hours of structured training, as recommended by the National Association for Civilian Oversight of Law Enforcement, before participating in Board activities, plus extensive continuing education throughout their term of office. In addition, the city manager and city attorney shall coordinate training for the Board concerning applicable City laws and procedures. The CRB must undergo up to six (6) months of training and organization before it accepts the first complaint for action.

V. *Terms of office.*

(a) The terms of office for all members is four (4) years, except for the initial terms as follows: two (2) members shall serve for four (4) years; three (3) members shall serve for three (3) years; and two (2) members shall serve for two (2) years. All initial terms shall be determined by lot after all appointments have been made. This formula will result in the terms of either two or three members expiring every year.

(b) CRB members will continue to serve until their successors have been appointed; but no member shall serve more than nine consecutive years on the Board.

VI. *Meetings, quorum and voting; officers.*

(a) Meetings, quorum and voting. All meetings of the CRB will be open to the public and advertised in advance as per the Florida Government in the Sunshine Law. Exceptions shall be to discuss confidential matters before the Board. Meetings shall be conducted at Old City Hall.

(1) The chairperson and three members may call a meeting.

(2) A quorum shall consist of four members of the CRB.

(3) An affirmative vote of not less than 51 percent of the members present and voting at any meeting is required for any action to be taken by the CRB unless otherwise set forth herein.

(b) Parliamentary authority and rules of procedure. The parliamentary authority of the CRB shall be Robert's Rules of Order (current legislation) unless the CRB adopts its own order of business and rules of procedure governing its meetings.

(c) The CRB meetings shall be open to the public as per the Florida Government in the Sunshine Law. Notice of the meetings shall be posted by the city clerk at City Hall and other appropriate locations after being advised by the CRB of an upcoming meeting. Advertisements of meetings shall be placed in newspapers of general circulation no less than seven (7) days prior to the meeting. The CRB executive director shall coordinate with the city clerk concerning noticing of CRB meetings.

(d) Recordation. The CRB shall be responsible for the recordation and transmittal of its minutes as per the Florida Government in the Sunshine Law. Copies of minutes of all CRB meetings shall be furnished to the mayor, city commissioners, city manager, city clerk and chief of police, and shall be available for public inspection as per provisions in the Sunshine Law.

(e) Officers. The CRB shall select, from its members, by majority vote, a chairperson, a vice-chairperson, and such other officers as deemed necessary. The chairperson shall have the authority to appoint all members serving on the various committees that the CRB may establish from time to time.

VII. *Procedures.*

The following procedures shall be followed:

(a) Complaints concerning allegations of police officer misconduct may be submitted to the CRB. All complaints shall be in writing using a form approved by the CRB for that purpose. The Chief of police shall be notified of complaints received by the CRB within two (2) working days;

(b) The review or investigation of complaints shall proceed as follows:

(1) Consulting with the Key West police department and the State Attorney's Office, the CRB Executive Director or attorney will determine if an investigation related to the complaint is already underway.

(2) The existence of an ongoing investigation does not preclude the CRB from opening its own investigation when, for example, an internal affairs investigation seems to be taking an inordinately long time to complete. If the CRB votes to take such action, however, it should be based on advice of counsel that such action will not interfere with any ongoing criminal investigation.

(3) A decision of the CRB to proceed with an investigation may be challenged by any agency engaged in such investigation or prosecution by seeking a judicial order. Written notification of such challenge to the CRB shall stay the investigation for 48 hours to permit the agency to obtain such an order.

(4) If it is determined that there is already an ongoing investigation into the complaint submitted to the CRB, the CRB may opt to take no immediate action, except to monitor the progress and outcome of the current investigation.

(5) If the complaint received by the CRB is already being investigated by police internal affairs, the final internal affairs report prepared for the chief of police shall be transmitted to the CRB for review within three (3) working days after it is sent to the chief.

(6) When a decision is made to launch an independent investigation of a complaint or after review of an internal affairs report, the CRB may:

(i) request that the chief of police conduct further investigation; or

(ii) obtain further case-specific information from the chief of police, including written materials, audio or video tapes and related documents; or

(iii) conduct an independent investigation, such investigation to be concluded within 180 days or within a time period set by the CRB; or

(iv) notice and hold a hearing to gather evidence; or

(v) report its written findings and conclusions to the chief of police, with copies to the mayor, city commissioners, and city manager.

(7) The CRB chairperson may assign a member or committee to review internal affairs reports and make a recommendation that the CRB take one of the actions enumerated in subsection (6) above.

(8) Affected officers and complainants, to the extent permitted by law, shall receive copies of CRB reports to the police department and of the CRB's requests for information.

(c) The review or investigation process shall be concluded within 180 days or within a time period set by the CRB.

(d) At the conclusion of each review or investigation, the CRB shall render one of the following findings based on the preponderance of the evidence:

(1) Unfounded - where the review or investigation shows that the act or acts complained of did not occur or were misconstrued;

(2) Exonerated - where the acts that provide the basis for the complaint occurred, but the review or investigation shows such acts were proper;

(3) Not sustained - where, for example, the review or investigation fails to disclose sufficient facts to prove or disprove the allegation made in the complaint;

(4) Sustained - where, for example, the review or investigation discloses sufficient facts to prove the allegations made in the complaint;

(5) No finding - where, for example, the complainant failed to produce information to further the investigation, the review or investigation revealed that another agency was responsible and the complaint has been referred to that agency, the complainant withdrew the complaint, or the CRB did not reach a conclusion.

(e) 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 complainants. The chief of police shall respond in writing within 30 days.

VIII. *Procedures related to city employees and witnesses.*

(a) When a City of Key West employee, including police officers, appears before the CRB in response to a request or subpoena, such employee shall be formally advised prior to the commencement of testimony that if the employee has a good-faith belief that the testimony would tend to be self-incriminating, and if, in reliance upon that good-faith belief, the employee declines to answer any question, that employee's decision not to provide testimony will not subject him or her to any adverse employment consequences. Any employee who, after receiving such advice, decides to testify or provide evidence, must sign a statement acknowledging that the employee understands the advice and is testifying or providing evidence voluntarily and knowingly.

(b) A police officer who is the subject of an investigation shall be informed of the nature of the investigation and provided with a copy of the complaint prior to being interrogated.

(c) A person who appears before the CRB in response to a request or subpoena may be represented by counsel or any other representative of his or her choice, which representative may be present at all times during the subject's appearance before the CRB. Rules of procedure shall be established by the CRB.

(d) Policies and procedures shall be established to ensure compliance with Chapters 112 and 119 of the Florida Statutes and other applicable laws.

IX. *Review and approval of annual budget.*

(a) The City shall adequately fund the CRB to allow it to carry out its function effectively of citizen oversight of the Key West police department.

(b) The CRB will adopt a fiscal year that coincides with that of the City. The city manager shall assign appropriate personnel to assist the CRB in the preparation of an annual budget and that budget shall be submitted to the city commission as part of his annual budget proposal.

(c) While the members of the CRB are volunteers, there shall be a full-time paid Executive Director with clerical assistance. The CRB shall also retain an attorney to advise the Board. The CRB may also engage the services of professional investigators, as needed. The cost of appropriate office space, equipment and reasonable office expenses shall also be included in the budget. The cost of necessary training of the CRB members and staff may be a significant budget item the first year.

(d) No expenditure shall be made in any given year without approval by the city commission of the CRB budget for that year and all expenditures shall comply with City procedures for acquisition of goods and services. The city manager shall assign personnel to brief the CRB and staff concerning these procedures and to assist as appropriate.

(e) Nothing contained herein shall be construed to prohibit the CRB from submitting a supplemental budget and appearing before the City Commission to request approval.

X. *Annual reports.*

The CRB shall, at least annually, provide a report in writing to the mayor, the city commission, the city manager, the chief of police and the city attorney. Such reports should include, but are not restricted to, statistics and summaries of citizen

complaints, a comparison of the CRB's findings and conclusions with the actions taken by the chief of police, recommendations related to changes in police policies and procedures, and any recommended changes concerning this ordinance.

XI. *Severability.*

If any section, part of a section, paragraph, clause, phrase or word of this charter section is declared invalid, the remaining provisions of this charter section shall not be affected.

(Referendum of 11-5-2002)

Editor's note: At an election held Nov. 5, 2002, the electors of the city approved the addition of § 1.07, Citizen review board. See also § 8.01(b) of this Charter.

Cross references: Methods of amending charter, § 8.01.