

City of Key West

CITIZEN REVIEW BOARD

Annual Report



January 31, 2012

Table of Contents

Introduction	3
Letter from the Director	4
About the Citizen Review Board	6
Members of the Citizen Review Board	7
CRB Authority and Responsibility	10
CRB Complaint and Review Process	11
CRB Complaint Process Chart	13
Summary of 2011 CRB Files	14
2011 Issues of Concern	15
2011 KWPD Taser Usage Chart	17
In Conclusion	18

2011 Annual Report

CITY OF KEY WEST CITIZEN REVIEW BOARD

Introduction

The City of Key West Citizen Review Board (CRB) has been actively reviewing complaints filed by citizens against Key West police officers since January 2004. This report is based on data and events occurring in the calendar year of 2011. This report is intended to give the reader an overview of the progress of the Board's efforts and major activities undertaken by the CRB during this year. Readers may obtain a copy of this report by visiting the City of Key West web site www.keywestcity.com and then selecting CRB under the city department drop down menu.

The Board continues to look at trends and patterns reflected by the types of complaints filed with the CRB and the police department. Our emphasis is on the continuing changes within the department that have had an effect on the CRB as well as the community to include organization changes, policies and procedures, and community programs.

The CRB would like to take this opportunity to recognize the ongoing professionalism of the KWPD members. This report and its recommendations herein are by no means meant to overshadow this fact. The KWPD, under its current leadership, reflects a professional crime fighting organization and the CRB is appreciative of its ongoing efforts. Chief Lee's administration and the CRB continue to share the same early intervention philosophy to help minimize miscommunications and dispel misinformation involving alleged officer misconduct. These early intervention processes have continued to reduce the number of formal complaints to the CRB.

We hope that this report will enable the reader to better understand the role of the Citizen Review Board. If there are any questions, please call Executive Director Susan Srch at (305) 809-3887 or email us at crb@keywestcity.com.

Letter from the Director

Susan C. Srch

It has been a busy year of changes for the CRB. In January 2011 the Executive Director, Mr. Stephen Muffler, resigned unexpectedly leaving the Board looking for a new Director. We were fortunate that Vicki Grant, former Executive Director, agreed to assume the duties of the position, on an interim basis, while we advertised to a new Director. There were many qualified applicants but in May, I was hired to take on the duties of Executive Director. I feel very strongly about the CRB and am proud of what has been accomplished. Research has shown that the mere existence of a Citizen Review Board influences police departments to do a better job of policing themselves. As a former police officer I want the citizens of Key West to know they can trust and depend on the professionalism of the officers on the Key West Police Department.

In May 2011, our office moved from a trailer on the Truman water front to an office in the Ferry Terminal at Grinnell and Caroline. Not only is it a better location for citizens, it's also a more comfortable environment for those wishing to lodge complaints of misconduct against officers.

In May 2011, Joe Pais was appointed by the City Commission to fill the vacancy left by the resignation of Rev. Sinclair Forbes in October 2010. Mr. Pais is a 30 year resident of Key West and is currently the Deputy Director for AIDS Help. Mr. Pais has also served as City Commissioner and is a welcome addition to the CRB.

In June 2011, Tom Milone was appointed by the Board to fill the vacancy left by my resignation. Mr. Milone has served on many City Boards and Committees since his arrival in Key West and his thoroughness and attention to detail make him a valuable asset.

In November 2011, Mr. Michael Behrend was appointed by the Board to fill the vacancy left by Dr. Bryan Green. Mr. Behrend is an 8 year resident of Key West and currently works for Mosquito Control as well as American Airlines. We look forward to the new perspective he will bring to the Board.

Dr. Green's term expired in June 2011 but with all the changes taking place he agreed to stay on until the newest members were properly trained. I would like to take this opportunity to recognize all of Dr. Greens work on the Board during his term.

I am honored to be a part of the continuing progress of the CRB as we move forward into the New Year.

Susan C. Srch

Executive Director

ABOUT THE CITIZEN REVIEW BOARD

What is the CRB?

Key West voters created the Citizen Review Board (CRB) on November 5, 2002 to review and/or investigate citizen complaints, filed by the public, against Key West police officers for alleged professional misconduct.

CRB Mission Statement

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

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 the Charter of the City of Key West Article I, Chapter 1.07. The CRB also independently reviews citizen complaint investigations against KWPD police officers, recommends changes in departmental policy, and when deemed appropriate by the Board, conducts independent investigations 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 if appropriate.

Members of the Citizen Review Board

The City of Key West Citizen Review Board is composed of seven residents of the City of Key West and are not employed by the City. Originally, the City Commission appointed four (4) members from nominations from community based civic and/or social organizations. The original four (4) members then selected three (3) additional members from applications submitted by the general public. Any vacancies of these seats are filled in the same manner (Commission verses Board appointed positions). As with other City boards and commissions, these are unpaid positions. The term in office for each Board member is four (4) years and a Board member can serve no more than two (2) four (4) year terms.

In accordance with 1.07(IV) (d), Board members have received training through various sources. These sources include presentations by the Executive Director, State Attorney's office, and Key West Police Department, as well as ongoing reviews of professional publications. Mr. Joe Pais and Mr. Tom Milone attended the National Association of Civilian Oversight of Law Enforcement (NACOLE) conference and workshops at the annual meeting in New Orleans, LA in September 2011. Other members were briefed by the attending members as to the information obtained and materials from the NACOLE conference were made available to the entire Board. More information on NACOLE can be found at www.nacole.org.

The Board members who served in 2011 are:

Dr. Kevin Collins, Chair. Kevin Collins is a seven (7) year resident of Key West. He attended graduate school at New York University in the field of clinical psychology. While living in the city, Kevin was employed by the NYC Health and Hospitals Corporation at Bellevue Hospital Center and taught as an Adjunct Professor. Eventually he moved to Connecticut where he worked as the Director of Children and Family Services for a private substance abuse hospital. In 1995 he opened a private practice in Ridgefield, CT. Dr. Collins is a graduate of the 2008 Key West Ambassador Class. Dr. Collins was a previous Board member and Vice Chair who was appointed by the City Commission during the years 2008-2009 and he was replaced by Hayward Magby in June 2009. **The Board appointed Kevin Collins to replace Dr. Mark Kielsingard in June 2010 and his term expires in June 2014. He served as Vice Chair until May 2011 and then served as Chair the remainder of the year.**

Larry Beaver, Vice-Chair. Larry Beaver holds a Bachelor's Degree from Southern Nazarene University and an Associates Degree from Rose State College. He is a veteran of the United States Army and attained the rank of E-5 Sergeant prior to his honorable discharge in 1975. His professional experience includes working for about 20 years with the City of Midwest City, Oklahoma Police Department from police records clerk, police communications officer, uniformed police officer to police detective/investigator. He is also a former investigator for the Office of the Attorney General – State of Oklahoma, conducting various investigations into Medicaid fraud and elderly abuse. Additionally, Larry has extensive security and investigations experience in the private sector. Larry is a graduate of both the Key West Citizen Police Academy and Key West Ambassador Class. **The City Commission appointed Larry Beaver in June 2010 and his term expires in June 2014. He has served as Vice Chair since May 2011.**

Virginia Altobello, Member. Virginia Altobello was born in Manhattan New York and graduated cum laude with an AA degree from Fairleigh Dickinson University. She first arrived in Key West in 1961 with her Naval Officer husband. She moved here permanently in 1983. Her career background includes: modeling, management of family real estate, executive in operations of two major department stores in New York City which included working with police detectives and private investigators. Virginia graduated From Key West Citizen Police academy in 2006 and the Key West Ambassador Class in 2008. She is retired but is working part time at Southernmost Hotel Collection. She enjoys writing and has published two articles in the Miami Herald as well as co-authored a prize winning play performed for New Plays in May series at the Waterfront Playhouse. **The City Commission re-appointed Virginia Altobello to the Board in June 2010 and her term will expire June 2014.**

Dr. Bryan Green, Member. Dr. Bryan Green moved to Key West in 2000. He is the Chairman of the Performing Arts Center of Key West (Tennessee Williams Theatre); Vice Chairman of the City of Key West HARC, Chairman of Wesley House and a Board member of AIDS Help. He remains on the boards of a number of charities and trusts in the UK covering drug addiction and rehabilitation and is past Chairman of War on Want, one of Europe's largest agencies fighting poverty in developing countries. Dr. Green is a member of the Royal Institute of British Architects, Fellow of the Chartered Society of Designers and was appointed to the Royal Victorian Order in recognition of his work for the British Government and the Prince's Trust on urban villages and affordable housing. **Dr. Green was appointed by the Board and his term expired in June 2011. Dr. Green stayed on until December 2011 when Michael Behrend was appointed by the Board to fill the seat.**

Hayward Magby, Member. Hayward Magby returned to Key West in 2002 with his spouse the Reverend Dr. Gwendolyn Magby. He received his Speech Communications degree at Jackson State University. He continued his graduate work in Counseling in England and Ball State University. Mr. Magby is a Viet Nam veteran and retired Non-Commissioned officer in Personnel Administration and Electronic Security Intelligence in the United States Air Force. Since residing in Key West he has been a community organizer and currently the Department of Educations' Substance Abuse and Mental Health Service Administrations (SAMHSA) Program Coordinator at AIDS Help. He is secretary of the Martin Luther King Jr. Scholarship committee, Chair of Tropical Florida Presbytery, Disaster Relief Committee; and Florida representative for the Southeast Region National Black Presbyterian Caucus. **The City Commission appointed Hayward Magby in 2009 and his term expires June 2013.**

Joe Pais, member. Joe Pais has been a resident of Key West for 30 years and is currently the Deputy Director of AIDS help. During his time in Key West Mr. Pais has served on many Boards including the Key West Planning Board, the Business Guild, Monroe County TDC, the Florida League of Cities and SHAL. Mr. Pais is a former City Commissioner having been elected to serve from 1991-1995 and then filled a four (4) month vacancy on the Commission from June – October of 2009. Mr. Pais has a degree from State College in Westfield, Massachusetts in history and secondary education. Mr. Pais is a Viet Nam era veteran having served in the US Army Signal Corps. **The City Commission appointed Joe Pais in 2011, filling the seat vacated by Rev. Sinclair Forbes. His term expires in June 2015.**

Tom Milone, Member. Tom Milone is a 10 year resident of Key West. Before moving to Key West Mr. Milone served as a court clerk for the New York State Supreme Court for 11 years and a court assistant for the City of Buffalo for 5 years prior to that. During his residency in Key West Mr. Milone remains in community service; having served on several Boards and committees including Last Stand, the Port Advisory Board, KW Civil Service Board and the Community Housing Committee. Mr. Milone has a BA in political science from Long Island University, Brooklyn, New York. **Tom Milone was appointed by the Board in 2011 to fill the remaining term of Susan Srch. His term expires in June 2013.**

Michael Behrend, Member. Michael Behrend is an 8 year resident of Key West. He currently works as an Inspector for Florida Keys Mosquito Control and as a lead agent for American Airlines. He has a degree in history from Spring Hill College in Mobile, Alabama and served in the Connecticut National Guard from 2000-2009. **Michael Behrend was appointed by the Board in November 2011 to fill the seat vacated by Bryan Green. His term will expire in June 2015.**

The Executive Director of the CRB is contracted with the City of Key West and reports to the Board Chairperson. Susan C. Srch was hired by the Board to perform these duties in May 2011. Prior to this, Ms. Srch was a CRB Board member since 2009 and served as Chair until her hiring as the Executive Director. The CRB attorney is contracted with the City of Key West and reports to the Board. Robert J. Cintron., Esquire performed these duties during 2011.

The Citizen Review Board's Authority & Responsibility

The CRB has the authority to review and investigate citizen complaints involving Key West Police Department personnel and forwarding findings and 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 and, for the most part, City management.** The seven (7) board members of the CRB all live in Key West and are not employed by the City.

The CRB's review of complaints and policy recommendations are done "in the sunshine" on a fair and impartial basis. The CRB staff and Board work to ensure that all complaints receive a fair and objective investigation and, when necessary, a hearing.

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 accusations of misconduct made against an officer will be fairly and thoroughly investigated. In addition to being a neutral body, the CRB offers a public forum for citizens who want to express their opinion on police-related issues. Finally, the CRB adds additional transparency to the complaint process by providing documents currently being reviewed by the CRB on legistar and offers complaint and commendation forms on its website. The CRB's near autonomous structure is paramount to successfully perform its functions under the City Charter.

The CRB Complaint and Review Process

Typically, a complainant contacts the CRB office to discuss what they feel is a police professionalism issue. The CRB Executive Director at this stage evaluated the issue to confirm that it falls within the CRB jurisdiction and, if not, the complainant is referred to the proper agency. If the issue falls within the CRB jurisdiction the complainant is provided with a complaint form to be filled out documenting the allegation of misconduct.

All formal complaints received by the CRB office are forwarded directly to the KWPD Internal Affairs Bureau (IA) and the Chief of Police within two (2) days of receiving the complaint. IA generally has 45 days to complete an investigation or inquiry and forward findings to the Chief of Police, the CRB and the complainant. However, the CRB reserves the right to commence an independent investigation at any time.

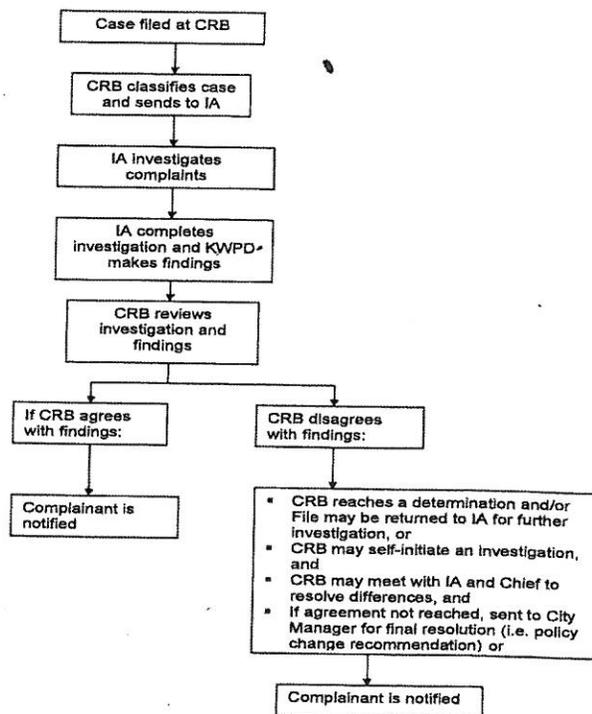
When an investigation is completed and returned to the CRB by IA, the Executive Director reviews it for completeness and writes an executive summary for the Board. The Board then reviews each allegation in each case, reflecting on the complainant's additional comments/testimony and IA's additional statements at a public meeting. The Board thereafter makes a recommended finding based on preponderance of the evidence.

On the occasion the CRB reveals that the IA investigation or inquiry is inadequate or incomplete, the CRB has the option of returning the file to IA or conducting its own investigation. Typically the CRB will refer the file back to IA and outline the areas that require further investigation. The CRB also has the option to conduct its own investigation, employing its own private investigator, and has exercised this option on several occasions over the years. Following the review of a complaint the Board may also consider policies that are in place that relate to the complaint.

At the conclusion of the review or investigation, the CRB forwards its written findings and conclusions to the Chief of Police and affected officers and, to the extent permitted by law, to the complainant. The Chief of Police and City Manager have the sole responsibility for discipline.

During the review process, the Board also critiques the quality of the investigation and investigative process. The review and comment by the Board gives the City and KWPD management the advantage of having a perspective that is not found in most communities. The transparent process allows for citizens to participate in its government and inspire confidence in the KWPD.

CRB COMPLAINT PROCESS CHART



This chart outlines the typical formal complaint processing procedure. However, at anytime during this process the CRB can commence its own investigation

Summary of 2011 CRB Files

The tracking chart below is an example of what the CRB uses, on a monthly basis, to track complaints that have been filed with the CRB and forwarded to IA for investigation. The chart shows the file#, complainant's name, date the complaint was filed with the CRB, date of transfer to IA, the 45 day limit, 180 day limit and the allegation. The 45 day limit and 180 day limit are limitations from the Law Enforcement Officers Bill of Rights and pertain to the amount of time designated for the IA investigation where the complaint remains closed (45 days) and the time frame during which an officer can be disciplined for an infraction (180 days).

CRB Complainant PENDING COMPLAINTS	CRB case No.	Date Filed With CRB	Date Sent To IA	45 day limit	180 day limit	Allegation and Finding
XXXXXXXXXX	11-001					Complaint withdrawn, no re-file. Incarcerated
Diaz, Hector	11-002	03/29/11	03/29/11	05/13/11	0906/11	Harassment, Unfounded
XXXXXXXXXX	11-003					Complaint withdrawn, no re-file. Active Criminal case
XXXXXXXXXX	11-004					Complaint withdrawn, active criminal case
Oehling, William	11-005	10/30/11	10/31/11	12/15/11	4/28/12	False Arrest No Investigation
Nash, Johnny	11-006	11/01/11	11/02/11	12/17/11	4/30/12	Unreturned Property NOT sustained
Webb, Tony	11-007	10/31/11	11/01/11	12/16/11	4/29/12	Excessive Force

Issues of Concern during 2011 File Reviews

The vast majority of Internal Investigations by IA have been handled in a professional and timely manner and the CRB commends the Professional Standards Office and IA for their efforts in 2011. This section, and its analysis of the IA process, should not eclipse these efforts. This section is meant to be constructive in its review of the issue and, in most cases, positive change that has occurred.

1. I-COP Video

At the beginning of 2011 the Board had two (2) complaints to review that were filed late in 2010. One of the complaints was for **Discourtesy** which was **Not Sustained** by the CRB and the other for **Discourtesy and Rudeness** which was **Sustained** by the CRB. In the sustained allegation the Board recommended to Chief Lee that the officer receive remedial training for this infraction. The purpose of adding these complaint reviews to this year's annual report is to highlight the continued problems the Board has had with obtaining I-COP video and information. The CRB received two (2) complaints during 2010 where I-COP information was missing making it necessary for the Board to make findings without all the evidence/information. This is a detriment to not only the complainant but to the officer as well, as the investigation becomes a "he said/she said" type of situation. When questioned about the missing information IA's explanation was either that I-COP wasn't working in the squad car on that date or, that the recordable disc space had run out or, that the audio microphone was not working.

The issue has been a continued subject of concern for the CRB and, in June, Chief Lee made a presentation to the CRB Board on the revised policy for I-COP use. Chief Lee also had Patti McLaughlin (IT) attend the meeting so that technical questions by the Board would be answered more clearly. The main clarification to the policy is the instruction to officers of their responsibility to check the audio and video before each shift and let the supervisor know if there's an issue. **This response by Chief Lee shows his continued efforts to work with the CRB. Since the revision of the policy there have been no CRB issues with the I-COP system.**

2. IA' refusal to commence any investigation under certain circumstances

IA has a standard policy to NOT commence an investigation of a citizen's complaint if the complainant is facing pending prosecution of criminal charges stemming from the interaction with the subject officer. IA has adopted this standard procedure to avoid

infringing on 5th Amendment rights of the complainant. This procedure is applicable even if the complainant wishes to proceed regardless of prejudicing their 5th Amendment rights. The CRB is also concerned with the complainants' rights and therefore usually adopts this same procedure.

IA is willing to reconsider the complaint after the criminal charges have been adjudicated in the court system and the CRB encourages complainants to re-file their complaint after the criminal process is complete. However, this procedure sometimes results in the complainant abandoning their complaints completely and/or delaying a complaint for long periods of time and this delay often leads to lost or discarded evidence. When a complaint is filed with the CRB the Executive Director makes a public record request for any and all information pertaining to the incident when transferring the complaint to KYPD IA. This includes police reports, CAD reports, photographs, and I-COP recordings. If the complaint is not forwarded, the public records request is not made and critical information may be lost. Witnesses may move and I-COP videos may be discarded. I-COP videos are discarded after the amount of time specified by F.S. Chapter 119, if they have no specific evidentiary value. **The KYPD recognizes this issue and is working with the CRB to improve the procedure without infringing on the complainants' rights.**

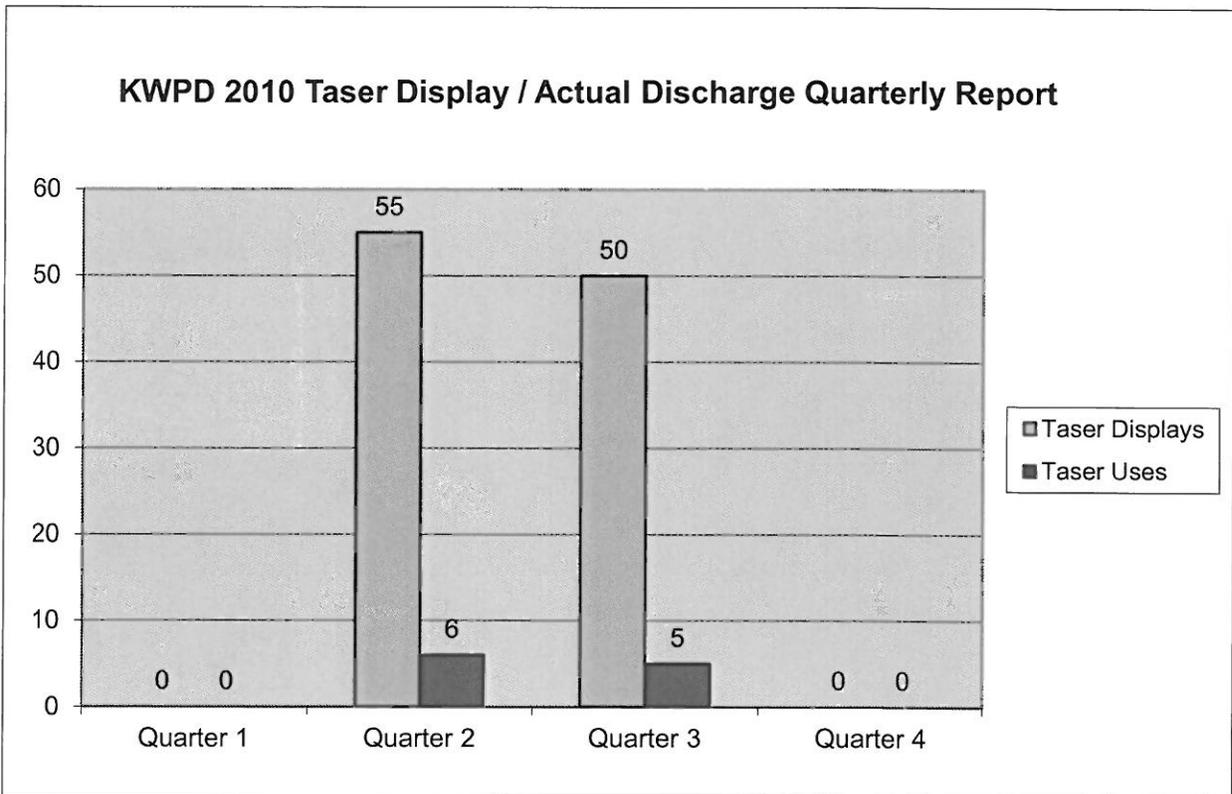
3. Use of Tasers and tracking usage

The KWP adopted the use of video and audio equipped tasers in 2008. These devices can either be deployed via projectile prongs being discharged into a subject or via a "drive stun" feature to direct contact with the subject skin and/or clothing, delivering short disbursements of electric charges without deployment of the projectiles. The CRB recognized the usefulness of such devices, but was mindful of the general concerns of possible misuse or "casual" use of this valuable compliance tool. To date, the CRB has only received one (1) complaint concerning taser usage. However, the CRB still requires the KYPD to submit a report, on a quarterly basis, showing field displays vs. field discharges of the tasers so that any trends could be tracked over a period of time and serve as a kind of "early warning system".

The chart on the next page shows taser display vs. discharges for the year 2011. First quarter statistics were not received and therefore are not on the chart. For the last quarter the KYPD explained that when the date parameters were entered they received an incomplete report and acknowledged that the taser usage was well below average. **They have since corrected this issue.**

KWPD 2011 Taser Display/Actual Discharge Quarterly Report

	Jan-Feb-Mar Quarter 1	Apr-May-Jun Quarter 2	July-Aug-Sep Quarter 3	Oct-Nov-Dec Quarter 4
Taser Displays	0	55	50	0
Taser Uses	0	6	5	0



Taser usage includes both drive stuns and full deployment of taser prongs.

In Conclusion

A. Transparency

The CRB continues to make transparency one of its' main concerns. Most documents being reviewed by the CRB can be accessed through our departmental website which can be located under the "CRB" department link from the City's homepage at www.keywestcity.com. These documents as well as all agendas and minutes can be accessed through the City's legistar system.

Our webpage provides access by the public of:

1. The City Charter Provision 1.07 which creates the CRB
2. The CRB Policy and Procedures
3. The Florida Officer's Bill of Rights
4. A downloadable commendation form to compliment an officer
5. A downloadable complaint form to complain against an officer
6. The entire CRB yearly meeting schedule
7. Useful NACOLE links
8. CRB Staff credentials, and
9. Related police oversight links

The CRB continues to use the City's Legistar system for uploading the public viewing of file contents in an attempt at achieving city wide uniformity of presenting such public records to the citizens of Key West. This continued access to public documents provides IA with a platform to demonstrate the effectiveness and completeness of each of its investigations. The advantage of the foregoing has opened up the transparency of the entire review process.

B. Community Outreach

The CRB continues to conduct aggressive community outreach through the Executive Director's presentations as well as regular monthly appearances on local radio stations to discuss current CRB activities and issues. The Executive Director continues to present the CRB overview to the City Ambassador Class and participated in the National Constitution Day September 16, 2011 at FKCC. During this campus event the Director distributed pocket Constitutions as well as CRB brochures to all participants.

In closing, the CRB would like to stress its highest respect and regard to the men and women of the KYPD who truly are protecting paradise. Chief Lee and his staff continue to prove their willingness to work with the CRB.