

City of Key West

CITIZEN REVIEW BOARD

Annual Report



January 28, 2013

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2012 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 2012. 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

While 2011 was a busy year of changes for the Citizen Review Board, 2012 allowed the Board to settle in to a routine of consistency. There were nine (9) complaints filed with the CRB in 2012 allowing the Board members appointed last year the opportunity to review a variety of investigations. During those reviews, the Board showed their diligence in ensuring that each investigation was thorough, impartial and complete.

In an effort to remain as accessible as possible I've adjusted my hours a bit to accommodate those who may not be able to meet with me during the day. Two days a week I come in later in the morning and work later into the evening. I am still available to meet with anyone at any time convenient for them.

In October 2012, Mr. Behrend and I attended the N.A.C.O.L.E. (National Association for Civilian Oversight of Law Enforcement) conference in San Diego, CA. This is our national organization and the conference provides continuing training for our Board members. One of the sessions provided an interactive program where participants participated in a "live" scenario. The instructor is able to adjust the program as the participant is engaging with the suspect/offender based on the participants' reactions. I've spoken with the police department to see if it would be possible for the rest of the Board members to participate in something like this. I believe it would give the members an opportunity to better see situations from the police officers perspective as situations escalate in a matter of minutes, sometimes seconds.

Because of the consistently lower number of complaints, I've implemented various training sessions during our regularly scheduled monthly meetings. In 2012 Mr. Manuel Madruga of the State Attorney's office attended one of our meetings and gave the Board training on allegations of false arrest; explaining that just because his office may choose not to prosecute does not mean that the officer didn't have enough evidence for the arrest. I've also had the police department give training on several of their policies such as Use of Force and Investigation of Personnel Misconduct.

As a former Board member and police officer I feel very strongly about the CRB and am proud of what it has accomplished. Research has shown that the mere existence of a CRB can influence police departments to do a better job of policing

themselves. I want the citizens of Key West to know they can trust and depend on the professionalism of the officers on the KWPD.

I am honored to be a part of the continuing progress of the CRB as we move forward into this 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. Michael Behrend and I attended the National Association of Civilian Oversight of Law Enforcement (NACOLE) conference and workshops at the annual meeting in San Diego, CA in October 2012. 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 2012 are:

Dr. Kevin Collins, Chair. Kevin Collins is a nine (9) 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 has served as Chairman since May 2011 and was re-appointed by the Board in 2012.**

Larry Beaver, Vice-Chair. Larry Beaver holds a Bachelor's Degree from Southern Nazarene University and as 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 and was re-appointed in 2012.**

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.**

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 31 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 11 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 9 year resident of Key West. He currently works as HR Director 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 2012.

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.

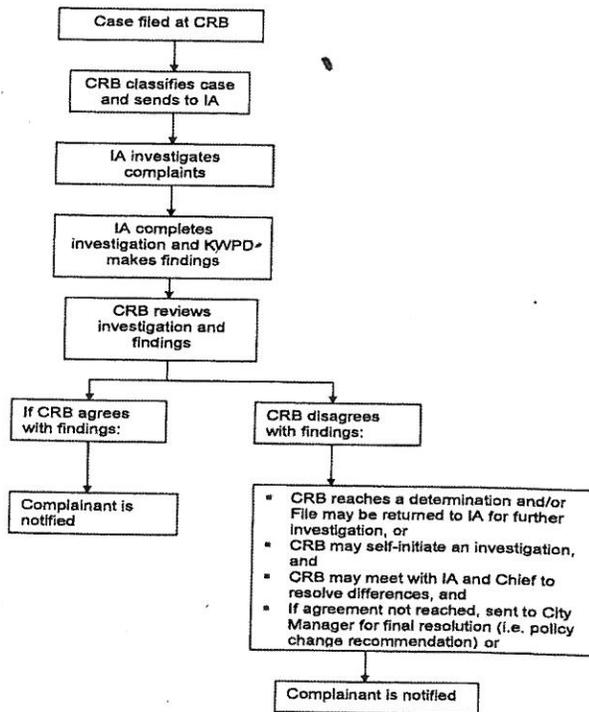
When an investigation is completed and returned to the CRB by IA, the Executive Director reviews it for completeness and writes an executive summary for the Board. The Board then reviews each allegation in each case, reflecting on the complainant's additional comments/testimony and IA's additional statements 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 2012 CRB Files

The tracking chart below is a record 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, the date it was returned, and the allegation. The 45 day limit is a 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	Date Returned	Allegation and Finding
RODD, Shadaroba	12-001	01/06/12	01/06/12	02/20/12	03/21/12	Rudeness – Sustained Illegal Search – Not Sustained
WEBB, Tony	12-002	01/26/12	01/27/12	03/12/12	02/07/12	Threat - Unfounded
Casselmann, Steve	12-003	03/30/12	03/30/12	05/14/12		Complaint withdrawn pleased with IA, no further investigation
DALE, Anja	12-004	04/24/12	04/24/12	06/08/12	08/20/12	Rudeness – Exonerated, Excessive Force – Exonerated, Unlawful Detainment – No Finding
BARROSO, Brian	12-005	05/31/12	06/01/12	07/15/12	06/01/12	No Investigation
WILSON, Everette	12-006	06/05/12	06/06/12	07/21/12	06/15/12	Racial Profiling, Improper Use of TASER, Abuse of Authority - Unfounded

WILSON, Everette	12-007	06/05/12	06/06/12	07/21/12	06/15/12	Racial Profiling, Abuse of Authority, Fabricated Reports – Unfounded
WILLIAMS, Richard	12-008	07/20/12	07/23/12	09/03/12	09/06/12	Complaint withdrawn
BUTLER, Sheila	12-009	09/19/12	09/20/12	11/04/12	09/24/12	Harrasment - Unfounded

Issues of Concern during 2012 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 2012. 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. 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 KWPD 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 video may be discarded. I-COP videos are discarded after a certain amount of time, if they have no specific evidentiary value, due to storage issues. **The KWPD recognizes this issue and is working with the CRB to improve the procedure without infringing on the complainants' rights. ** Note: This is an ongoing issue more than a concern as it appears both KWPD and the CRB recognize this as almost a necessary evil of the complaint process. The Fifth Amendment rights of the complainant must be protected.**

2. Use of Tasers and tracking usage

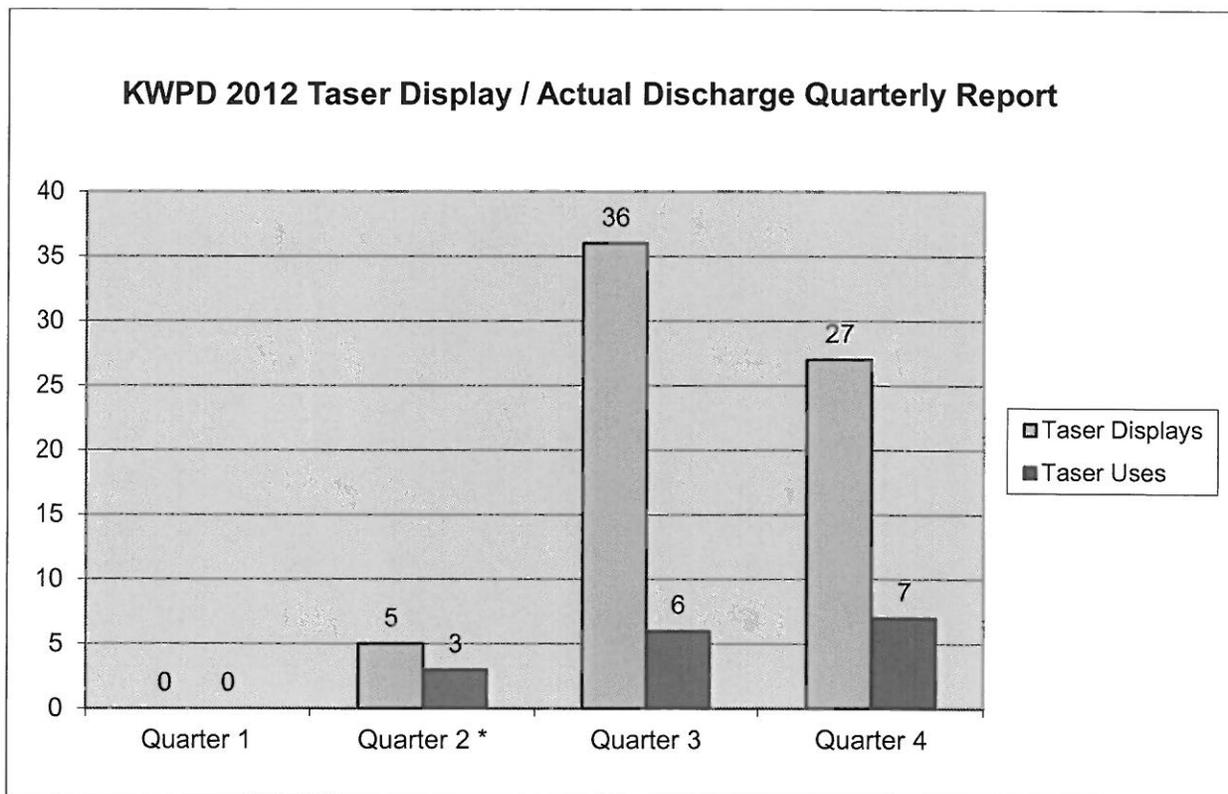
The KWPD adopted the use of video and audio equipped TASERs in 2008. These devices can either be deployed via projectile prongs being discharged into a subject or via a "drive stun" feature to direct contact with the subject skin and/or clothing, delivering short disbursements of electric charges without deployment of the projectiles. The CRB recognizes the usefulness of such devices, but is mindful of the general concerns of possible misuse or "casual" use of this valuable compliance tool. Once again the CRB only received one (1) complaint of TASER misuse however numerous instances of TASER usage has been reported in The Citizen. The CRB requires the KWPD to submit a report, on a quarterly basis, showing field displays vs. field discharges of the TASERs so that any trends can 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 2012. First quarter statistics were not received and therefore are not on the chart. Second quarter statistics show a continued problem with their system however, third and fourth quarter appear accurate. **The Board was concerned with this continued reporting glitch as was Lt. David Smith. Working with the CRB he changed the officer reporting requirements in order to correct this problem.**

KWPD 2012 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	5	36	27
Taser Uses	0	3	6	7

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. Broadcasting CRB Meetings

Once again the issue of broadcasting CRB meetings came before the Board. The pros and cons were discussed at length during several meetings and the issue was finally decided on at the May 2012 meeting by a 4-3 vote. The deciding factor was that if one complainant was intimidated by the possibility of being on TV and therefore didn't make the complaint, then it would be a detriment.

C. 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, attends District VI meetings and participated in the National Constitution Day September 17, 2012 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 KWPD who truly are protecting paradise. These officers are doing a difficult job under extraordinary circumstances every single day to protect the citizens of Key West. Chief Lee and his staff continue to show their professionalism and prove their willingness to work with the CRB.