

City of Key West

CITIZEN REVIEW BOARD

Annual Report

2022



JANUARY 2023

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2022 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 2003. This report is based on data and events occurring in the calendar year of 2022. 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.cityofkeywest-fl.gov 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 Key West Police Department (KWPD). 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. The CRB has worked closely with Chief Brandenburg's administration and the CRB will 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 CRB Executive Director Thomas E. Pakenas at (305) 809-3887 or email us at crb@cityofkeywest-fl.gov.

Letter from the Director

Thomas E. Pakenas

This past year there were five cases filed with the CRB. This is an increase over the two filed in 2021. While reviewing the complaints, the Board continues to show diligence in ensuring that each investigation is thorough, impartial, and complete.

This year Mr. Richard Haskins continues as Board Chairman and Mr. James Olive as Vice-Chairman. Both ensure that meetings run smoothly and take the time to listen to all aspects of the complaint consideration process.

As a civil litigation attorney, I have worked closely with numerous State and Local Police Agencies impartially gathering evidence and providing representation to individuals who felt aggrieved. I believe very strongly about the CRB and I'm proud of what it has accomplished thus far. Research has shown that the mere existence of a CRB can influence police departments to do a better job of policing themselves. I would like the citizens of the City of Key West to know they can trust and depend on the professionalism and transparency of the officers on the KWPD and the independence and competency of the Citizen Review Board.

I am honored to be a part of the continuing progress of the CRB as we move forward into this new year.

Thomas E. Pakenas

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 officer 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 materials from The National Association for Civilian Oversight of Law Enforcement, presentations by the Executive Director, CRB Attorney, Robert Cintron, and Key West Police Department, as well as ongoing reviews of professional publications.

The Board members who served in 2022 are:

Richard Haskins Chairman. Born and raised in Key West Rick began his career serving our country with the United States Navy for almost ten years. He then returned home to join the family business with his brother at Haskins Plumbing and quickly began exploring his entrepreneurial skills by starting his own swimming pool company. After seven years Rick decided to expand on his knowledge of the community and the wonderful people he knew here in the Keys by purchasing Key West Vacation Rentals and obtaining his Real Estate Sales license and his Condominium Associations License with the state of Florida. These qualifications lead him to start Buy The Keys, a Real Estate Brokerage company. Rick's recent accomplishments have become some of the most exciting yet. Both real estate ventures have been bought out by Vacasa, the largest nationwide vacation rental company in North America and he is now the Broker of Record for the entire state of Florida. Rick is honored to serve the Florida Keys Community locally as a member of the Board of Directors for the Key West Association of Realtors, one of the Directors of the Key West Wildlife Center and now to serve you on the CRB Committee. **Richard Haskins was re-appointed June 7, 2022 and his term expires June 7, 2026.**

James Olive, Vice-Chairman. Mr. Olive served as an officer in the United States Coast Guard for 26 years. He has a Bachelor of Science degree in Business Management and “on the job training” in law and law enforcement. As a Commanding Officer of two ships, and later as a supervisor of shore operations, he certified personnel as Law Enforcement Boarding Officers, and has had the responsibility to revoke those certifications where necessary and appropriate. Mr. Olive is very active in community service as a longtime member of Rotary Club of Key West where he served as past president. He also serves in the Military Affairs Committee. He is currently self

employed as a realtor. **James Olive was appointed to the Board in May of 2019. His term expires in May 2023.**

Rochelle McEntyre, Member. Born in Brooklyn, New York, Ms. McEntyre worked in the health care industry before leaving there after the September 11th, 2001, attack. She moved to South Carolina where she lived for twelve years and obtained her nursing degree and Bachelor Degree in Religious Studies. She has worked in the senior care industry for the past twenty years holding several positions from Administrative Assistant to Director. She is currently working on her Master's Degree in divinity from the Asbury Theological Seminary. She was ordained as a Reverend in 2011 by the African Methodist Episcopal (AME) Zion Church and in 2013 was assigned as Pastor of the Cornish Memorial AME Zion Church in Key West. She is a member of Theta Alpha Kappa Honor Society and Kappa Mu Honor Society and is currently the CEO of the Rural Health Network of Monroe County Florida Inc. and the Interfaith Ministerial Alliance. **Rochelle McEntyre was appointed by the City Commission in July of 2016. She was reappointed in 2020 and her term expires in May of 2023.**

Richard "Rick" Wagner, Member. As an immediate past member of the UF Health Florida Recovery Center Team, Rick Wagner helped law enforcement officers and firefighters move from their work environment, through the recovery program and back to their jobs, after successful completion. Mr. Wagner assisted program participants with their unique professional requirements. He has 20 years of on-the-street experience as the director of the crisis transportation service, a New Orleans police department program responding to psychiatric and substance abuse crises. Additionally, he has acquired emergency room proficiencies that give him an unprecedented understanding of the daily pressures experienced by law enforcement officers and public safety personnel. He also is a qualified expert witness for mental health and substance abuse cases as they relate to law enforcement procedures. Rick provides representation for those first responders who are required to appear before their respective regulatory bodies. He provides testimony and counsel for people who are in jeopardy of losing their certifications, credentials or licenses to practice within their profession. In December 2021 Rick published a book, *The Third Floor, Where Crazy Don't Mean Stupid*, illustrating how the New Orleans Police Department and mental health professionals teamed up to provide a more civil approach on interventions with individuals experiencing a psychiatric emergency. Rick has had a vacation rental business in Key West since 1994 and is involved with the Conch Republic Days Celebration in April. **Rick Wagner was appointed by the City Commission in**

February 2017. He was re-appointed February 7, 2021 and this term will expire on February 7, 2025.

Gerri Gates, Member. A frequent visitor to Key West since 1978, Ms. Gates moved here permanently in 1987. She was previously employed by the school board and left there to become a social worker specializing in job development for people with addictions, mental illness, and homelessness. She spent a lot of time involved with the Key West arts and theater communities as well as working on many charity events around town. Now retired, Ms. Gates has time to devote to her duties as a CRB Board Member and continue to support the people of our community. **Gerri Gates was appointed to fill a vacancy by the Board in October of 2018.**

Bruce Troutman, Member. With twenty years of experience as a volunteer and paid firefighter, EMT and Battalion Chief, Mr. Troutman has had ample opportunity to work with numerous law enforcement agencies including arson investigations and two cases with the FBI. His business career provided the opportunity to work with colleagues, customers, and suppliers throughout the world. He is currently a soccer coach and athletic mentor for Special Olympics of Florida and a member of USCG Cutter Ingham Museum Ship, Key West Art and Historic Society, and the Tropic Cinema. He is a graduate of the Key West Ambassador's Class 33. **Bruce Troutman was appointed by the City Commission in 2021 and his term will expire in October 2025.**

John Strachan, Member. Enjoyed a career in law enforcement which included time as an officer, working in training and serving in management. He graduated from Cooley Law School with a Juris Doctor and passed the State Bar shortly thereafter. John left law enforcement to take a position with a local union. In that capacity he acted as in-house legal counsel and supervised operations of the Local. John worked part-time representing indigent criminal defendants for a period of about four years. He also served in the U.S. Marine Corps and Army National Guard. John is retired from the military and all previous careers. He has lived in Key West since 2011 and has been involved with several community organizations including American Legion Post 168 in Bahama Village. He is a graduate of the Key West Ambassador's Program Class 27. **John was appointed by the Board in 2021 and his term will expire in October 2025.**

Contracted Positions

Thomas E. Pakenas, Executive Director. The Executive Director of the CRB is contracted with the City of Key West and reports to the Board Chairperson. Thomas E. Pakenas, Esquire, was reappointed by the Board in October 2022 with a contract ending date of October 31, 2023. The CRB Executive Director directs major operations of the Board, including supportive services, records management, public notice, information management, and communications with Key West government members and the public. Mr. Pakenas holds a law degree from DePaul University School of Law and practiced law in the City of Chicago for 27 years. He is a Board Member of The Sunrise Rotary of the Conch Republic, a Board Member of FIRM, Fair Insurance Rates in Monroe County, and holds a 50-ton masters license from the United States Coast Guard.

Robert J. Cintron, Esquire, CRB General Counsel. The general counsel to the CRB provides legal advice and counsel to the Board. He attends all Board meetings, researches questions of law, and renders advice. Mr. Cintron performed these duties during 2022. He has been the Board counsel since 2002 and his contract has been renewed for another year.

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 forward 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 (a City web-based program) and offers complaint and commendation forms on its website. The CRB's near autonomous structure is paramount to successfully performing 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 evaluates 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. 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 a preponderance of the evidence.

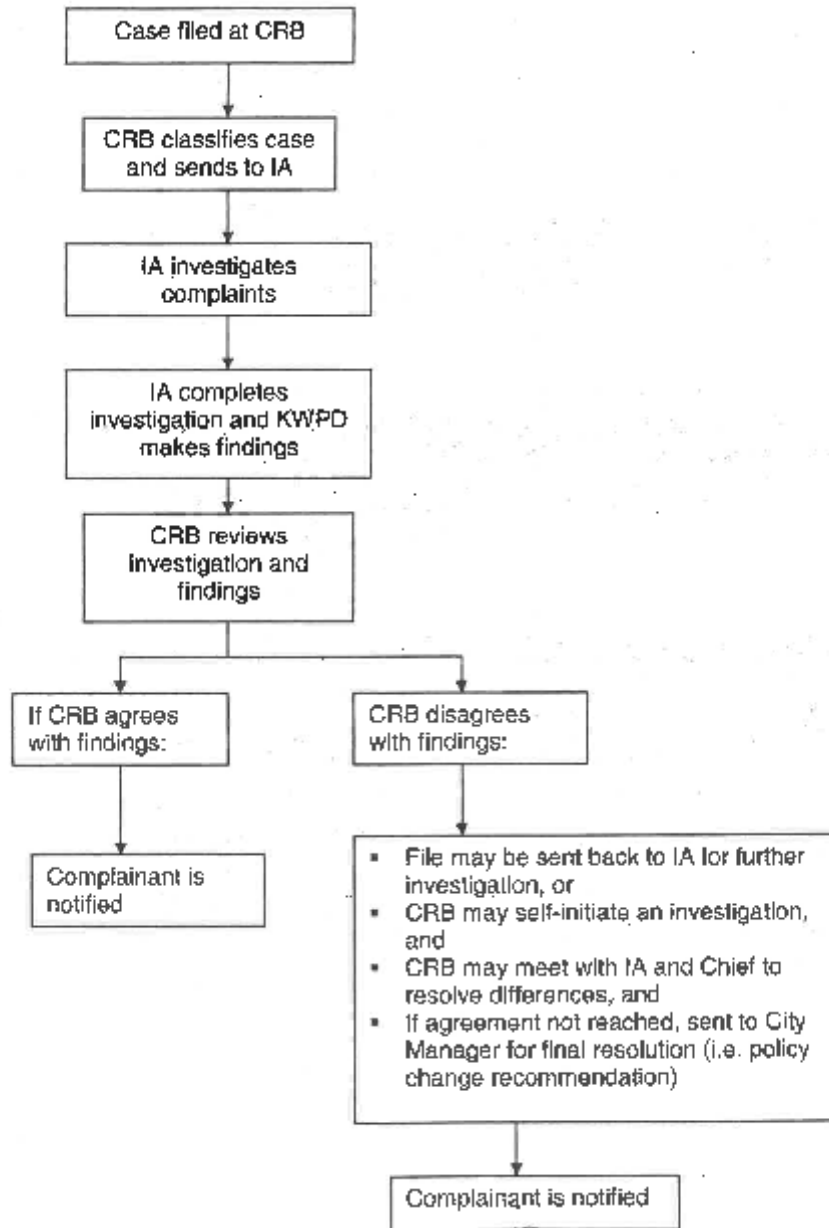
On the occasion the CRB reveals that the IA investigation or inquiry is inadequate or incomplete, the CRB has the option of returning the file to IA or conducting its own investigation. Typically, the CRB will refer the file back to IA and outline the areas that require further investigation. The CRB 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 complainant, to

the extent permitted by law. 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. This transparent process allows for citizens to participate in its government and inspire confidence in the KWPD.

CRB COMPLAINT PROCESS CHART



Summary of 2022 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 the Police Internal Affairs for investigation. The chart shows the complainant's name, the file case number, 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 and finding by the CRB. The 45 day limit is from the Law Enforcement Officers Bill of Rights and pertains 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	CRB case No.	Date Filed With CRB	Date Sent To IA	45 day limit	Date Returned	Allegation and Finding
Davey, Mathew	22-001	2/6/22	2/7/22	3/24/22	3/15/22	Rudeness, Improper search, Unfounded
Croft, Taylor	22-002	8/15/22	8/15/22	9/29/22	9/29/22	Excessive Force, No Finding Complainant Discontinued Contact
Williams, Denise	22-003	9/6/22	8/8/22	10/17/22	10/26/22	Deficient Service, Not Sustained
Cassandra, Moran	22-004	11/16/22	11/18/22	1/2/23	12/6/22	Deficient Service, Withdrawn By Complainant
Gerald, Knorr	22-005	11/30/22	11/30/22	1/16/23	1/10/23	False Arrest, Harassment, Pending

There was a total of 70 Response to Resistance Incident (RRI) reports produced and provided to the CRB during 2022. This was down from a total of 74 last year. Of that

total, a Taser was used in 15 of those cases, again down from a total of 26 last year. The demographics of those being Tased broke down as follows: White-9, Hispanic-3, African-American-3. All of the individuals tased were male. Of the 70 RRI reports all utilized a body camera. Of the 70 individuals who generated RRIs 43 were assessed as being intoxicated.

Issues of Concern during 2022

The Citizen Review Board continues to monitor and analyze any uses of the TASER as that is an area of concern nationwide. In the past the police department gave the Board quarterly reports on TASER usage. The Board requested and the KWPD agreed to provide the Response to Resistance Incident (RRI) reports on a monthly basis to the Board. The RRI reports are completed by a supervisor anytime resistance is used by a subject that requires the officer to take additional actions during the arrest which includes the officer using the Taser. Upon implementing this change, it was determined that the Quarterly Taser Report was no longer needed. The Board does show concern on how often the Taser is used in lieu of other means of taking a person into physical custody. The Board will continue to monitor the cases where the Taser is used and the demographics of the persons being Tased.

CRB complaint 22-001 was premised in Rudeness and Improper Arrest. In summary, Complainant alleged that on or about January 17, 2022, a Key West Police Officers began the process for towing an illegally parked bus from 1300 Duval Street. The owner of the bus had been advised as to the parking restrictions of a forty-foot bus on Key West streets on January 15, 2022. The Complainant requested he be given a warning and said he would move his vehicle. KWPD denied his request and arrested Complainant for lodging in a vehicle. Complainant alleges he was not given sufficient warning prior to arrest. After hearing testimony from Complainant and review of KWPD documents and bodycam video the Board concluded Complaint 22-001 to be "Unfounded". A finding of "Unfounded" is entered where the review or investigation shows that the act or acts complained of did not occur or there is not credible evidence to support it.

Complaint 22-002 was filed by Complainant alleging Battery, Rudeness, False Arrest, and Excessive Force against her boyfriend while KWPD was towing their illegally parked rental golf cart. KWPD responded that the actions taken by the involved officers were all within KWPD Policies and Procedures. Hearing on Complaint 22-002 was set for November 28, 2022, and notice thereof was sent to Complainant. Three additional emails were sent to Complainant prior to the hearing date and Complainant failed to

reply to any of them. As such the Board closed Complaint 22-002 with a “No Finding” resolution.

Complaint 22-003 was filed by a Key West citizen alleging KWPD was providing deficient service regarding her complaints of stalking and harassment. She reported that individuals have followed her from Newark to Tampa to Key West and that an unidentified man from St. Pete has been sending people to Key West to harass her. KWPD did respond to a service call regarding Complainant being harassed but the responding officer determined there was no criminal violation charges which could be pursued. The CRB conducted a hearing of Complaint 22-003 on February 27, 2023. After Complainant testified to the Board and answered questions raised by the Board her complaint was closed with a finding of “Not Sustained”. “Not Sustained” is entered where the review or investigation fails to disclose sufficient facts to support the allegation made in the complaint.

Complaint 22-004 was filed by a Key West Citizen again alleging Deficient Service. On October 10, 2022, Complainant encountered a trespasser within her home. Trespasser was a construction worker working next door to Complainant who claimed he was looking for Complainant to move her car. Trespasser had been in Complainant’s home on prior occasions and given food or water. KWPD interviewed trespasser and reviewed homeowner’s security video. Officers determined there was no criminal intent but issued a trespass warning to the worker. On February 21, 2023, Complainant contacted the CRB requested that her file be closed. Complaint 22-004 has been closed.

Complaint 22-005 was file against KWPD premised upon False Arrest and Harassment. On November 25, 2022, Complainant was arrested for Obstruction of Public Right-Of-Way/Sidewalk. He was in the sidewalk surrounded by a sleeping pad, three duffel bags and plastic grocery store bags. KWPD responded to Complaint 22-005 stating that the officers were respectful to Complainant and that the arrest was valid. This complaint is pending at time of filing Annual Report

In Conclusion

A. Transparency

The CRB continues to make transparency a main concern. 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.cityofkeywest-fl.gov. These documents as well as all agendas, minutes, and meeting videos can be accessed through the City’s on-line Legistar system.

Our webpage provides access by the public of:

1. The City Charter Provision 1.07 which created 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
9. Related police oversight links
10. The current and previous year's Annual Report

The CRB continues to use the City's Legistar system for uploading and 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 advantages of the aforementioned demonstrates the transparency of the entire review process.

B. Community Outreach

The CRB continues to conduct aggressive community outreach through the Executive Director's presentations. The Executive Director will continue to attend Constitution Day in September 2023 at College of the Florida Keys

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 Brandenburg and his staff continue to show their professionalism and prove their willingness to work with the CRB.