

SYRACUSE

CRB

CITIZEN REVIEW BOARD

Quarterly Report
July 1 to September 30, 2013

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MISSION & OBJECTIVES

The purpose of the Citizen Review Board is to provide an open, independent, and impartial review of allegations of misconduct by members of the Syracuse Police Department; to assess the validity of those allegations through the investigation and hearing of cases; to recommend disciplinary sanctions where warranted and to make recommendations on Syracuse police policies, practices and procedures.

In fulfillment of its legislative purpose and mission, the Board is committed to:

- Creating an institution that encourages citizens to feel welcome in filing a complaint when they believe that they have been a victim of police misconduct;
- Making the public aware of the CRB's existence and process through ongoing community outreach events and coverage by local media;
- Completing investigations and reviews of complaints in a thorough, yet timely fashion;
- Remaining unbiased, impartial, objective and fair in the investigation, evaluation, and hearing of complaints;
- Engaging in community dialog that encourages citizen input with the CRB;
- Respecting the rights of complainants and subject officers;
- Upholding the integrity and purpose of the CRB's enabling legislation;
- Reporting to the Mayor, the Common Council, the Chief of Police and the public any patterns or practices of police misconduct discovered during the course of investigation and review of complaints; and
- Operating in an open and transparent manner to the extent permitted by applicable municipal and state laws, regulations and ordinances.

BOARD MEMBERS & TERMS

The Board Members serve staggered three-year terms and are all unpaid volunteers. Board members devote an average of ten hours per month to CRB matters. This includes their attendance at monthly meetings, preparation for and participation in panel hearings, training, and community outreach. Biographies of each board member are available on the CRB website at www.syracuse.ny.us/CRB_Members.aspx.

Current Members of the Syracuse Citizen Review Board

Mayoral Appointees

- Timothy Jennings-Bey - term expires December 2014
- Joseph Masella, Board Chair - term expires December 2015
- Diane Turner - term expires December 2013

District Councilor Appointees

- Sarah McIlvain – 1st District - term expires December 2014
- Carole Horan - 2nd District - term expires December 2015
- Bill Barber - 3rd District - term expires December 2015
- Tafara Timmons - 4th District - term expires December 2014
- Louis Levine - 5th District - term expires December 2013

At-Large Councilor Appointees

- Mallory Livingston - term expires December 2015
- Raheem Mack, Board Vice Chair, - term expires December 2015
- Donna Oppedisano - term expires December 2013

FILING A COMPLAINT WITH THE CRB

The Syracuse CRB accepts complaints against members of the Syracuse Police Department (SPD) involving allegations of misconduct that may violate SPD rules and regulations, as well as state, local and/or federal law. The CRB accepts complaints on active misconduct – such as excessive force, constitutional violations, harassment, racial or gender bias, poor demeanor, search & seizure violations, theft or damage to property, untruthfulness, and false arrest – as well as passive misconduct such as failure to respond or refusal to take a complaint.

Any member of the public can file a complaint with the Syracuse CRB; a complainant need not be a resident of the City of Syracuse. There are several ways a complaint can be filed. A complainant can walk in to the CRB office in City Hall Commons at 201 East Washington Street, Suite 705, to fill out a complaint, contact our office to have a complaint form mailed to their address, download the complaint form from the CRB website, or request a home visit if necessary. The form can be hand delivered or mailed to our office. The CRB website is www.syracuse.ny.us/CRB.aspx. The CRB office telephone number is 315-448-8750. The CRB can be reached by e-mail at crb@syr.gov.

OPERATIONS

Between July 1 and September 30, 2013, the CRB membership held three monthly business meetings that were open to the public. Quorum was met for each meeting and all regular operating business was able to be conducted.

During this quarter, the CRB received a total of 26 new complaints and fully processed 31 existing cases. By the end of the third quarter of 2013, the CRB had received a total of 93 complaints in 2013. In comparison, the CRB received a total of 69 complaints through the entire year of 2012. Thus, the CRB is on track to receive about 50 more complaints in 2013 as were received in 2012, the first year of operation for the new CRB. This likely indicates a growing public awareness of the CRB and its expanding operations as well as an increasing willingness among individuals to come forward to file a complaint. These are all indications that the CRB is gradually increasing its capacity for complaint intake and investigations.

During this third quarter of 2013, the CRB held eight hearings to examine a variety of complaints. Three of those hearings resulted in a sustained finding against one or more officers. The CRB made disciplinary recommendations to the Chief of Police in those three cases with disciplinary sanctions recommended against six different officers. Notices of Claim (a prerequisite to filing a lawsuit) were filed in two of the three cases sustained by the CRB during this quarter. Due to the recent policy adopted by Corporation Counsel (see below), the Chief of Police did not inform the CRB of the department's final disciplinary decision in these two cases. In the third case, the CRB and the SPD came to opposing findings and no discipline was imposed by the Chief of Police.

HEARINGS & RECOMMENDATIONS

Once the full CRB votes to send a case to a panel hearing, a panel is composed of three members of the CRB (one mayoral appointee, one district councilor appointee and one at-large councilors' appointee) and the hearing is typically held within two to three weeks based on the availability of the complainant.

During the third quarter of 2013, the CRB held eight hearings to determine whether the complaint should be sustained and recommendations made to the Chief of Police. In three of the eight hearings that were held this quarter, the CRB panel sustained at least one allegation of misconduct against an officer. A sustained finding means that the panel found that there was substantial evidence that the alleged misconduct did occur. **The CRB's sustain rate for the third quarter of 2013 was 9.6%.** The sustain rate is calculated by dividing the number of hearings that resulted in sustained findings that quarter (3) by the number of complaints fully processed during that quarter (31).

CRB ACCESS TO INFORMATION IN CASES INVOLVING A POTENTIAL LAWSUIT AGAINST THE CITY

As previously reported, during the summer of 2013 Corporation Counsel established a new policy regarding the provision of documents to the CRB from the investigatory case file of the SPD's Office of Professional Standards. The new policy states that when a complainant files a Notice of Claim against the SPD or an individual SPD officer, the SPD will cease to provide the CRB with any

additional documents related to the case. During the third quarter of 2013, this policy was interpreted to include the Chief's final disciplinary decision and his reasoning for no discipline when the CRB sustains an allegation and recommends discipline, both of which are required to be provided to the CRB according to section 7, subsection 3, paragraphs (c)(2) and (g) of the CRB ordinance.

With the unavailability of this information to the CRB, along with the potential impact that this policy is now having on the CRB's ability to investigate complaints that involve a Notice of Claim, the CRB is now actively seeking a reconsideration of this policy. The CRB understands the difficult position Corporation Counsel is in as legal counsel to both the CRB and the SPD. However, the assertion of attorney-client privilege needs to be balanced against the ability of the CRB to complete its legal obligations of conducting investigations and monitoring the disciplinary decisions of the SPD. The CRB will continue to work with both Corporation Counsel and outside legal counsel to identify a resolution to this matter that is satisfactory to all parties.

PATTERNS & TRENDS

In comparing the data on CRB complaints from the third quarter of 2013 to the previous quarter, there are several significant variations worth noting. There was a significant decline in the number of complaints the CRB received alleging a Failure to Act. During the second quarter of 2013 the CRB received eight complaints of Failure to Act; whereas during the third quarter of 2013 the CRB received only one complaint of Failure to Act. Likewise, during the second quarter the CRB received six complaints alleging False Arrest while in the third quarter no allegations of False Arrest were made to the CRB.

However, there were two other developments that should be tracked and monitored closely. First, there was an increase in the number of cases reported during the third quarter in which SPD officers may have violated the department's policy on high-risk traffic stops, also known as felony stops. Prior to the third quarter of 2013, there had been only one case of this alleged violation which occurred during the first quarter of 2013. During the third quarter of 2013, there were three instances reported to the CRB. Departmental policies on conducting high-risk traffic stops are designed to protect officers and reduce the likelihood that physical force will be used to remove someone from a vehicle. Such policies are intended to limit the extent to which officers expose themselves, their fellow officers, and the vehicle occupants to a greater risk of injury that could otherwise be avoided.

Secondly, there was an increase in complaints from individuals with mental health and/or intellectual disabilities during the third quarter of 2013. During this quarter, the CRB received a total of five complaints (out of 31) from individuals with mental or intellectual disabilities. This represents 17% of the complaints filed with the CRB in the third quarter. In recent previous quarters, the CRB typically had only one or two complaints from individuals with mental disabilities.

PUBLIC MEETINGS & OUTREACH

The CRB typically meets on the first Thursday evening each month from 5:30 to 7:30 PM in Common Council chambers in City Hall. The meeting schedule is posted at area libraries, on the CRB website, and on the calendar on the City's main webpage. These meetings are open to the

public and there is a public comment period that begins no later than 6:30 PM. The purpose of the public meeting is to develop and refine CRB policies and procedures in an open, transparent and accountable fashion and to conduct the on-going business of the CRB. The Board meetings typically include a vote on items that require Board approval, a series of items presented by the Chairman for the Board's consideration, a report on the CRB's monthly activities by the Administrator, a variety of committee reports and an opportunity for public comment. After the conclusion of the public comment period, the Board continues its meeting in a confidential Executive Session to deliberate and vote on whether or not to send investigated complaints to a hearing. During the Executive Sessions, the Board processes on average 10 to 12 complaints per month depending on current case load.

On Wednesday, August 21, 2013 the CRB Administrator gave a presentation at the Southwest Community Center. Following the presentation, the CRB was asked to return to the community center in the near future to conduct a specialized presentation for young people on how best to safely interact with police officers. The CRB will meet this request and also extend this offering to all the city's community and youth organizations.

COMMON COUNCIL HEARING ON SPD TASER & USE OF FORCE POLICY

At the request of the Common Council, on August 19, 2013, CRB Administrator, Joseph Lipari, discussed the SPD's Use of Force policy at a public Council meeting. The Common Council convened the meeting to examine the SPD's policy on the use of Electronic Control Devices (ECDs- commonly known as Tasers). The CRB Administrator's testimony covered both the department's ECD policy and the broader Use of Force policy.

CASE SUMMARIES OF SUSTAINED FINDINGS

Out of the eight panel hearings held during the third quarter of 2013, three resulted in a sustained finding against one or more officers. The CRB provides a summary of the sustained cases below in an effort to provide the public with an accurate understanding of the cases sustained by CRB panels.

- **Excessive Force & Untruthfulness Allegations Sustained**

Three SPD officers were dispatched to a domestic call involving a conflict between an apartment's resident and a temporary guest. Officers were informed that a bladed weapon had been brandished by the resident. After knocking on the door of the residence and receiving a negative response, officers conducted a forced entry into the residence. Accounts differ over what precisely occurred next. The officer who first made contact with the resident upon entry reported that the resident refused to show his hands so the officer drew his service weapon and kned the resident in the chest. The officers alleged that the resident then repeatedly attempted to conceal his hands and refused orders. One officer punched the resident several times in the face, and another officer deployed his department issued Taser on the resident three times. The resident was then handcuffed and arrested.

The resident reported that after the officer forced entry into the residence the officer ordered the resident to show his hands at gun point which the resident claims he immediately did by putting his left hand up while his right hand held a cell phone to his ear

(the resident had called 911 just prior to police arrival and reported being on the phone with 911 when the officers arrived). The resident reports that the officer then ordered him to kneel down on both knees which the resident claims he did. The resident reported that he then felt a hard blow to the left side of his head which he believed may have been from the officer's service weapon. The resident then reported being hit in the face multiple times while officers held his arms. The resident reported feeling multiple Taser deployments alternating with the blows to his face. The resident sustained multiple injuries to the face including a one-and-a-half-inch laceration to the forehead, severe soreness to the left scalp area, a blackened left eye, a broken nose, multiple Taser burns to the back, a split upper lip and bruising on the left arm. Photographs from the scene show the resident's face covered in blood as he kneels with his hands cuffed behind his back.

The CRB panel sustained the allegation of excessive force and further found various aspects of the officers' accounts to not be credible. The panel made specific disciplinary recommendations to the Chief of Police to address the officers' actions.

- **Failure to Act & Untruthfulness Allegations Sustained**

Two officers were dispatched to a domestic dispute. After speaking to both sides, observing no physical injuries or evidence of a crime, and neither side ultimately desiring prosecution the officers made no arrest and eventually escorted the female half of the dispute to a relative's home nearby. The complainant alleges that the male half of the dispute made credible threats of suicide in front of one of the officers. The complainant alleged that she pointed this out to the officer but that the officer responded that it was not the officers' problem and that the suicidal male was "all talk" and "not going to do anything." The complainant alleged that she asked the officer multiple times to return to the residence to check on the male but that the officer threatened her with arrest if she returned to the residence that night. Upon returning to the residence in the morning, it was discovered that the male had indeed taken his own life. The officer denied having heard the male make any threats of suicide or refusing to check on the male. The officer further denied threatening the complainant with arrest if she returned to the residence that evening. During the course of the CRB investigation, the complainant's call to 911 upon discovering the body of the male was acquired. On the call, the complainant could be heard immediately questioning why the officer had failed to take the threat of suicide seriously. The CRB panel found the complainant's allegations credible based on the 911 recording which captured this spontaneous and unscripted statement about the officer's failure to act.

The CRB panel sustained the allegation of Failure to Act and found the officer's denials not credible. The panel made specific disciplinary and training recommendations to the Chief of Police to address the officers' inaction. Moreover, the CRB panel noted with concern that the 911 call which was considered the most compelling piece of evidence by the panel was not mentioned or addressed in the Office of Professional Standards' internal investigative report provided to the CRB.

- **Falsifying a Police Report Allegation Sustained**

An officer was assigned to investigate damage to a vehicle allegedly caused by a DPW plow truck. Two witnesses had informed the owner of the vehicle that they saw a city-operated plow truck accidentally hit his car and continue down the road. Upon viewing the damage,

the officer refused to write a police report because he did not believe the damage was caused by a DPW plow. The officer left without completing a report. A family friend of the car owner contacted a Common Councilor to request that an officer return to the location to complete a police report. Several days later the same officer who originally refused to write the report returned to the location and completed a police report. In his report, the officer claimed that when he asked the owner of the vehicle what the witnesses said, the owner of the vehicle stated that the witnesses told him “if you want I can say a plow did it.” The owner of the vehicle filed a complaint alleging that this statement was fabricated by the officer. The witnesses provided sworn affidavits stating that they never made such a comment to either the vehicle owner or the investigating officer. The affidavits claimed that the officer “fraudulently entered the quote into the report.” The CRB panel found that the officer had indeed intentionally included information in the report that the officer knew to be false. The panel made a disciplinary recommendation to the Chief of Police to address the officer’s actions.

BUDGET

2013-2014 Adopted
 DETAIL ANALYSIS OBJECT OF EXPENDITURE

100 PERSONNEL SERVICES		
101	Salaries	\$ 88,388.00
	Totals:	\$ 88,388.00
200 EQUIPMENT		
202	Office Equipment & Furnishings	\$ 6,000.00
	Totals:	\$ 6,000.00
400 CONTRACTUAL EXPENSES		
403	Office Supplies	\$ 1,000.00
407	Equipment Repair Supplies & Expenses	\$ 400.00
415	Rental, Professional & Contractual Services	\$ 27,500.00
416	Travel, Training & Development	\$ 5,000.00
418	Postage and Freight	\$ 0.00
	Totals:	<u>\$ 33,900.00</u>
	TOTAL:	\$128,288.00

Total Complaints Received during Third Quarter of 2013 (July 1 to September 30, 2013): 26

Categories of complaints as defined in CRB Ordinance (totals from all complaints received from July 1 to September 30, 2013):

Active Misconduct: 27
Passive Misconduct (Failure to Act): 1
Damaged or lost Property: 1
Denial or Violation of Constitutional Rights: 0
Lack of Truthfulness in a Police Report or Falsifying a Report: 1

The number of cases fully processed and closed by the Board during third quarter of 2013: 31

The number of cases where a CRB panel recommended disciplinary sanctions be imposed by the Chief of Police during the second quarter of 2013: 3

The number of CRB cases where the Chief of Police or the SPD imposed sanctions or discipline when disciplinary recommendations were made by a CRB panel during the second quarter of 2013: 3*

*Since two of the three sustained cases involved Notices of Claim, the CRB was unable to learn the disciplinary outcome of those two cases.

The number of complaints processed and not sent to a panel hearing during the quarter: 23

The number of cases that successfully were routed to conciliation: 0

The number of complainants who initiated extended contact with the CRB but did not follow through with a formal signed complaint: 2

The length of time each case was pending before the Board: 2 months on average (but some occasionally take slightly longer due to unavoidable delays).

The number of complaints in which the Board recommended that the City provide restitution to the complainant and type of restitution recommended: 0

The number of complainants who filed a Notice of Claim against the City of Syracuse while their complaint was being considered by the Board: 11

Hearing outcomes

Panel hearings scheduled: 8
Panel hearings held: 8
Panel hearings resulting in disciplinary recommendations from CRB: 3
Panel hearings resulting in no disciplinary recommendations from CRB: 5

Third Quarter of 2013 CRB Sustain Rate: 9.6% (3 hearings resulting in sustained findings out of 31 fully processed cases as of September 30, 2013)

Categories of complaints received by the CRB between July 1 and September 30, 2013

City Wide

Demeanor	Excessive Force	Failure to Act	Harassment	Racial Bias
6	15	1	2	0

False Arrest	Improper Search/Seizure	Theft/Larceny	Taser Discharge	Untruthfulness in a Police Statement or Falsifying a Report
0	3	3	0	1

Gender Bias	Evidence Tampering	Improper Offer to Eliminate Charges in Exchange for Incriminating Information	Constitutional Violation	Violation of SPD high-risk traffic stop policy
0	1	1	0	3

Complaints Received per Common Council District during the 3rd quarter of 2013*

District 1:

Demeanor: 1
Excessive Force: 4
Failure to Act: 0
Harassment: 0
Racial Bias: 0
False Arrest: 0
Improper Search/Seizure: 1
Theft/Larceny: 0
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 1
Gender Bias: 0
Evidence Tampering: 1
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0
Constitutional Violation: 0
Violations of SPD high-risk traffic stop policy: 1

District 2:

Demeanor: 0
Excessive Force: 5
Failure to Act: 1
Harassment: 1
Racial Bias: 0
False Arrest: 0
Improper Search/Seizure: 1
Theft/Larceny: 1
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 0
Gender Bias: 0
Evidence Tampering: 0
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 1
Constitutional Violation: 0
Violations of SPD high-risk traffic stop policy: 1

District 3:

Demeanor: 0
Excessive Force: 0
Failure to Act: 0
Harassment: 0
Racial Bias: 0
False Arrest: 0
Improper Search/Seizure: 1
Theft/Larceny: 0
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 0
Gender Bias: 0
Evidence Tampering: 0
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0

Constitutional Violation: 0
Violations of SPD high-risk traffic stop policy: 0

District 4:

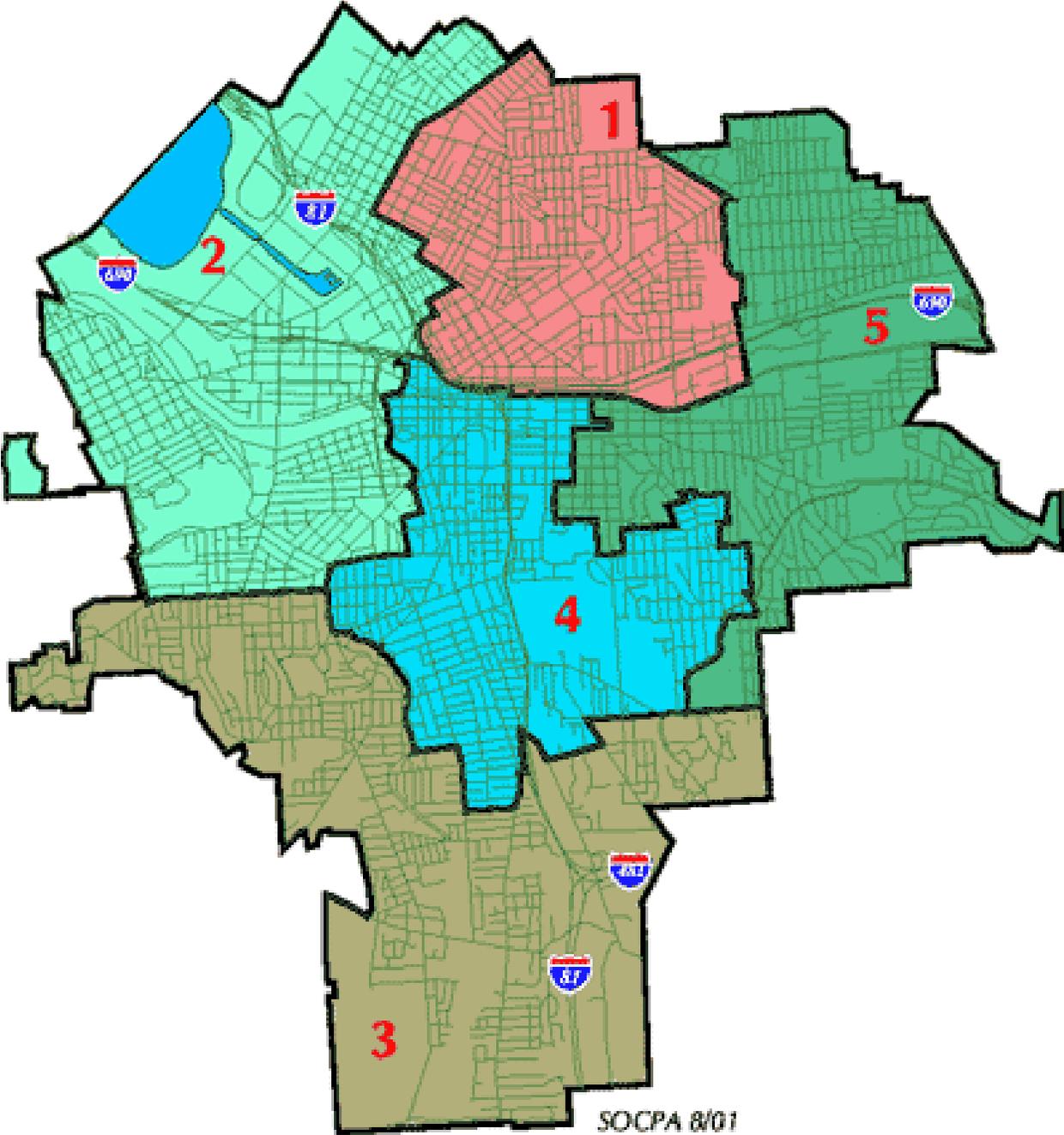
Demeanor: 4
Excessive Force: 4
Failure to Act: 0
Harassment: 0
Racial Bias: 0
False Arrest: 0
Improper Search/Seizure: 0
Theft/Larceny: 1
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 0
Gender Bias: 0
Evidence Tampering: 0
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0
Constitutional Violation: 0
Violations of SPD high-risk traffic stop policy: 1

District 5:

Demeanor: 1
Excessive Force: 2
Failure to Act: 0
Harassment: 1
Racial Bias: 0
Gender Bias: 0
False Arrest: 0
Improper Search/Seizure: 0
Theft/Larceny: 1
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 0
Evidence Tampering: 0
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0
Constitutional Violation: 0
Violations of SPD high-risk traffic stop policy: 0

***See the following page for a map of the Common Council Districts**

CITY OF SYRACUSE COMMON COUNCIL DISTRICTS



Complainant Demographics for All Complaints Received in Second Quarter of 2013

Ethnicity		
Black	16	55.2%
White	10	34.4%
Latino	1	3.4%
Asian	0	0%
Native American	2	7%
Total	29*	100%

*Three complaints were filed by two individuals

Sex		
Male	19	65.5%
Female	10	34.5%*

*Three complaints filed by both a male and a female

Sexual Identity of Complainant		
LGBTQ	0	0%

Age		
Under 18	4	14%
18-35	12	41%
36-50	9	31%
51+	4	14%

Disability		
Visual	0	0%
Hearing	0	0%
Physical	0	0%
Intellectual	5	17%

Language other than English		
Spanish	0	0%
Vietnamese	0	0%
Other	0	0%