

**SYRACUSE**

**CRB**

**CITIZEN REVIEW BOARD**

**Annual Report  
2014**



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## SUMMARY OF 2014 OPERATIONS

The close of 2014 marked another active year of oversight by the Syracuse Citizen Review Board. The following information provides a summary of the CRB's 2014 operations. A more detailed discussion of the data is available in the body of this report:

- 107 complaints received
- 25 hearings held
- **The annual Sustain Rate for 2014 was 19% (of the 107 complaints received, 21 resulted in one or more sustained findings)**

Excessive Force (40% of complaints received)

- 18 out of 43 sustained
- Represents 72% of sustained findings
- Represents 42% of excessive force complaints

Untruthfulness

- 13 sustained findings
- 52% of hearings with a sustained finding

CRB Disciplinary recommendations:

- 4 recommendations for retraining
- 16 recommendations for written reprimands
- 21 recommendations for suspensions
- 3 recommendations for termination

SPD Disciplinary Action Rate: 6%

- The CRB received 16 responses from SPD to the 21 hearings in which a CRB panel sustained an allegation.
- Based on available information, the SPD imposed discipline in one case where the CRB recommended discipline.

## **MESSAGE FROM THE OUTGOING CHAIRMAN**

### ***Taking the First Step***

Every one of them said, “Don’t do it.” That’s the advice friends and colleagues offered when Mayor Stephanie Miner asked me to join the Syracuse Citizen Review Board. I said “yes” to the Mayor. That was back in 2012. On January 8, 2015, I finished my term as the CRB’s Chairman. I was honored by Mayor Miner’s decision to appoint me to the Board and then honored again by my fellow Board members’ decision in 2013 and 2014 to choose me as their Chairman. For me, the past 24 months have been both challenging and rewarding.

### ***The Mission***

At the time of my appointment to the CRB, I had never been involved in civilian oversight of police and frankly knew little about the matter. But thanks to the efforts of those who had extensively studied and written about the topic, particularly Samuel Walker, Emeritus Professor at the University of Nebraska, I began to fill my knowledge gaps about civilian oversight. Upon becoming a member of the CRB, I was also fortunate enough to have joined an organization run by Joseph Lipari, an energetic, conscientious leader, someone both knowledgeable about and experienced in civilian oversight.

As the CRB’s Administrator, Mr. Lipari oversees a diverse group of volunteers, all Syracuse residents, dedicated to fulfilling the mission articulated by the Common Council in Local Law 1 of 2012, the CRB ordinance. In essence, that mission is to “establish an open citizen-controlled process for reviewing grievances involving members of the Syracuse Police Department [SPD]...” Yet, in a larger sense, the CRB’s mission is ultimately to make Syracuse a better place to live and visit. One might even say the CRB’s highest achievement would be to make itself unnecessary. In any event, since joining the CRB, it has become clear to me that the agency and its mission have been widely embraced.

Fulfilling the CRB’s mission, however, has not been easy. Twenty-first-Century policing in the United States, particularly urban policing, is hard and dangerous. In doing its job, our police force is obligated to adhere to countless laws and rules in its effort to combat those who blatantly ignore them. Nonetheless, long-established, yet constantly evolving, citizen rights and protections demand vigilant recognition. It’s up to police management to respond: to citizens’ demands for security and freedom from fear, but also to their demands for respect and professionalism from those sworn to protect. It is within this socially volatile and legally complex environment that the CRB is charged to carry out its mission.

### ***A Model***

Local Law 1 has empowered the CRB’s charge primarily by authorizing the agency to make recommendations. That authorization encompasses both disciplinary recommendations directed at individual SPD officers as well as policy recommendations applicable to the SPD as an organization.

In my own search for an organizational model for the CRB, what eventually came to mind was the National Transportation Safety Board. Operating as an independent federal agency

responsible for investigating transportation accidents, the NTSB has no authority to regulate or be directly involved in the operation of any mode of transportation. Like the CRB, the NTSB investigates and makes recommendations. It is then up to the relevant transportation regulatory authority to decide whether to adopt the NTSB's recommendations. For an oversight body limited to recommendatory powers, such as the NTSB, the ability to influence behavior and bring about change, that is, to have its recommendations adopted, rests to a significant extent on the body's perceived *objectivity* and *competence*. The same holds true for the CRB.

### ***Objectivity***

Is the CRB objective? Is it competent? I'm convinced it is – on both counts. Let's start with objectivity.

The dictionary says that being "objective" means basing decisions on facts rather than feelings or opinions. Is there a foolproof test for determining whether decisions are objective? Not that I know of. But what I do know is that in making its key decisions, that is, in deciding whether to send a complaint to a hearing and then, at the hearing, in deciding whether to sustain the complaint, my personal observations have repeatedly confirmed that the members of the CRB are driven solely by the available evidence and the perceived credibility of that evidence.

Beyond personal observation, however, I believe the diversity of the members of the CRB cannot be ignored when considering the question of objectivity. CRB members are old and young; male and female; white and black; US and foreign born; actively at work and retired; married and single. Membership has included a school teacher, a coach, lawyers, a retired police officer, a deputy sheriff's daughter and a community organizer, among others. So, will diversity necessarily produce objectivity? No, it won't, but diversity does seem to engender a more rigorous and nuanced assessment of any situation, oftentimes exposing, and tempering, biases and prejudices that can stay hidden in a more homogenous environment.

Finally, we can also bring some statistics to bear on the question of objectivity and on the notion held by some that the CRB favors complainants. As a starting point, of the 218 complaints filed with the CRB during 2013 and 2014, a full 78% resulted in no allegation of misconduct being sustained against an SPD officer. Of those 218 complaints, the CRB voted to send 60, approximately one-quarter, to a hearing. Of the 60 complaints sent to a hearing, 48 resulted in one or more allegations of misconduct being sustained. Overall, for the two-year period, the CRB sustained 22% of all complaints received and 80% of complaints sent to a hearing. As a point of reference, the *United States Attorneys' Annual Statistical Report, Fiscal Year 2013* reveals that 92% of prosecuted cases resulted in convictions. Noteworthy too is that the cited sustain rate for the CRB covers a period during which not a single SPD officer accused of misconduct either testified at a hearing, had legal representation at a hearing or produced any witnesses to participate in a hearing, notwithstanding the right of each accused officer to do so.

### ***Competence***

Next, let's address competence. Specific training and experience in policing, criminal law or adjudicatory hearings are not prerequisites to appointment to the CRB, nor is there a required syllabus to follow for educating members of civilian-oversight bodies such as the CRB. Nonetheless, training and education are a key focus of the CRB. In addition to individual study,

over the past two years, members of the CRB have received training in search-and-seizure law, police use of force, alcohol and drug use and conducting hearings. Members are also provided with copies of the SPD's policies and procedures manual. Also, in February, members received training in assessing credibility and police management.

Adding to the training they receive, members also benefit from regular contact with and guidance provided by the CRB's Administrator, someone with formal training and experience in both civilian oversight and the history and practices of policing. Perhaps even more important, the CRB's culture, as expressed in its strategic plan, is to achieve excellence in performing its mission of civilian oversight. I'm confident the CRB can meet any meaningful competency standard for the performance of civilian oversight.

### ***Looking Ahead***

Let me close with some forward-looking comments. Elsewhere in this report, you'll see a number of recommendations the CRB has made to the SPD. One of those recommendations has to do with the development of a comprehensive use-of-force policy. Syracuse needs such a policy. Progress towards a comprehensive policy has already been made with the adoption of excellently crafted rules on the use of electronic control weapons, commonly referred to as Tasers. The City's author of the new Taser policy is to be commended for producing a set of detailed and specific guidelines for the use of such weapons. These guidelines need to be the initial step towards the speedy development and adoption of a modern, inclusive, departmental use-of-force policy. SPD officers, along with our citizens, deserve more precise guidance on the use of force than the broad justifications of Article 35 of the Penal Law. Article 35 is not a use-of-force policy: it applies whether or not the SPD "adopts" it.

Lastly, allow me to express some thoughts on my recently elected successor as Chairman, Bill Barber. During these times of heightened public attention to police conduct, the City of Syracuse could not hope for a better person to oversee its civilian-oversight agency. Bill brings the utmost integrity to his position, along with a passionate desire to see the SPD become a national model of professionalism and service. With his vast experience in policing and private-sector security, his prodigious capacity for hard work and his dedication to excellence, the CRB could not be in better hands.

I'm glad I said "yes" to the Mayor.

**Joseph Masella**

## **MISSION & OBJECTIVES**

The purpose of the Citizen Review Board, all of whose members are volunteers, 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 subject to 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](http://www.syracuse.ny.us/CRB_Members.aspx).

### **Current Members of the Syracuse Citizen Review Board**

#### **Mayoral Appointees**

- Carol Milliken - term expires December 2017
- Joseph Masella - term expires December 2015
- Diane Turner - term expires December 2017

#### **District Councilor Appointees**

- Peter Christiana, Board Vice-Chairman - 1st District - term expires December 2017
- Carole Horan - 2<sup>nd</sup> District - term expires December 2015
- Bill Barber, Board Chairman - 3<sup>rd</sup> District - term expires December 2015
- Tafara Timmons - 4<sup>th</sup> District - term expires December 2014
- Louis Levine - 5<sup>th</sup> District - term expires December 2017

#### **At-Large Councilor Appointees**

- Mallory Livingston - term expires December 2015
- Haji Adan - term expires December 2016
- Open seat to be filled

## **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, failure to intercede 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 complaint form can be hand delivered or mailed to our office. The CRB website is [www.syracuse.ny.us/CRB.aspx](http://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](mailto:crb@syr.gov).

## **PUBLIC MEETINGS**

The CRB meets on the first Thursday evening each month at 5:30 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 ten complaints per month depending on current case load.

## **OUTREACH**

During the last quarter of 2014, the CRB Administrator attended three outreach events. Each event provided an opportunity to introduce the CRB process to the public and respond to any questions. The outreach events included two police community meetings at area churches, one on October 1 and another on November 13. The CRB Administrator also spent an evening meeting with the organizers and volunteers of Jail Ministry at the Brady Faith Center to review the operations and activities of the CRB. The meeting included a discussion on how Jail Ministry's volunteers should respond to inmates who have reason to file a complaint with the CRB. CRB procedures for acquiring and investigating complaints were discussed and clarified so that Jail Ministry's volunteers can explain the CRB process to inmates when the need arises. Additionally, clear lines of communication between Jail Ministry's office staff and the CRB staff were established.

The CRB legislation requires the agency to conduct at least five outreach events annually, one in each council district. Throughout the course of 2014, the CRB conducted a total of eight outreach events, surpassing the minimum requirement. In addition to the events cited above, outreach was conducted at TNT meetings, the Juneteenth Celebration, CNY Pride, the Near West Side Initiative Block Party, and the Westcott Street Cultural Fair.

In 2014, the CRB also entered into a contract with LP&M Advertising to produce a public awareness poster, a bus card, and an e-newsletter. Each component of the public awareness campaign will be launched in 2015.

## **OPERATIONS**

Between October 1 and December 31, 2014, 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 20 new complaints and fully processed 27 new and existing cases. The CRB received a total of 107 complaints in 2014 and completed processing of 94 of cases.

## HEARINGS & DISCIPLINARY 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 and witnesses.

During the fourth quarter of 2014, the CRB held five hearings to examine a variety of complaints. Four of those hearings resulted in a sustained finding against one or more officers. The CRB made disciplinary and training recommendations to the Chief of Police in those four cases. The CRB's fourth quarter disciplinary recommendations included one written reprimand, one retraining, three suspensions without pay, and three terminations. One hearing was adjourned without a final determination as the panel requested additional information from the Police Department. Once the necessary information is provided to the CRB, the panel's finding shall be finalized and annual statistics updated.

During 2014 the CRB held 25 hearings. Twenty-one of the hearings resulted in sustained findings against one or more officers. For the year, the Board made four recommendations for retraining, 16 recommendations for written reprimands, 21 recommendations for suspensions, and 3 recommendations for termination.

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 2014 was 19%**. The sustain rate is calculated by dividing the number of hearings that resulted in sustained findings (21) by the number of complaints received in the year (107).

## DISCIPLINARY ACTION RATE

The disciplinary action rate (or rate of agreement) is the rate at which the Chief of Police imposes discipline when the CRB recommends it. The CRB received 16 of the Chief's disciplinary decisions for the 21 cases sustained by the CRB throughout the year. Three 2014 hearing outcomes occurred during the period when the Chief of Police and the city's Law Department operated under a policy that ceased the provision of police documents and departmental findings to the CRB when a Notice of Claim was filed (see below). A CRB panel sustained one case involving an unidentified SPD employee, but the Chief did not provide a departmental finding for that case. The Chief's finding for one remaining case has been requested but so far has not been provided to the CRB. Based on the departmental findings received in 2014, the Chief of Police imposed discipline in one case sustained by the CRB. For the cases in which the Chief's disciplinary decision is known, the disciplinary action rate was 6% (one out of sixteen).

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

In July 2013, Corporation Counsel implemented a new policy that barred the release of investigatory documents and the Chief's disciplinary findings being provided to the CRB once a Notice of Claim was filed. Over the course of several months in 2013 and 2014, the CRB engaged in an on-going discussion with Corporation Counsel and outside legal counsel regarding the city's policy towards

cases involving Notices of Claim against the city. After considerable research was conducted and legal analysis exchanged between all sides, it was confirmed that the CRB shall receive the investigatory documents and the Chief's disciplinary decisions even when a Notice of Claim is filed. On September 9, 2014, a letter was sent from Corporation Counsel's office to the CRB's outside legal counsel documenting the agreement.

## **ESTABLISHMENT OF POLICE LIAISON COMMITTEE**

In 2014, the CRB established the Police Liaison Committee with the SPD in accordance with Local Law 1 of 2012. The liaison committee is composed of three members of the SPD (a representative from the Office of Professional Standards, the Training Division, and the Police Benevolent Association) and two members of the CRB along with the CRB Administrator. The liaison committee has begun to meet once every quarter to review CRB outcomes and operations and to discuss SPD policy and training. The liaison committee represents an opportunity for both sides to ask questions and develop a better understanding of the other sides' concerns. The first meeting of the Police Liaison Committee was September 24, 2014 at the Public Safety Building.

## **PATTERNS & TRENDS**

### **EXCESSIVE FORCE**

There were several important trends identified by the CRB in 2014. There was a significant increase in the number of excessive force allegations sustained by CRB panels over 2013. This occurred even while there was a slight decrease in the number of complaints alleging excessive force from the previous year. The CRB received 43 complaints of excessive force and CRB panels sustained 18 allegations of excessive force throughout 2014. This represents 40% of the cases received by the CRB and 72% of sustained complaints in 2014. In this year's report, the Board has made a recommendation to improve the SPD's use of force policy by making it consistent with the city's new Taser policy and with recommendations offered by the U.S. Department of Justice (see policy recommendations on page 19 of this report). The CRB will continue to closely monitor the number of excessive force complaints received and the rate at which CRB panels sustain such allegations.

### **UNTRUTHFULNESS**

Secondly, findings of Untruthfulness by officers increased significantly in 2014. In 2013, the CRB sustained three findings of Untruthfulness (less than 9% of all sustained findings); in 2014, the number increased to 13 (52% of all sustained findings). There is a significant degree of overlap among sustained untruthfulness and excessive force findings. Often, when an unjustified level of force was found by a CRB panel to have been used by an officer, CRB panels also found that the subject officers provided false or intentionally misleading information in their reports. Typically, the information found to be false related to the officer's description of the complainant's level of resistance or the amount of force used by subject officer. On one occasion, a CRB panel found untruthfulness by a supervising sergeant responsible for conducting a use of force investigation.

## **DECLINE IN THEFT AND SEARCH & SEIZURE ALLEGATIONS**

In comparing 2014 to 2013, there was a notable decline in the number of complainants alleging theft by police officers as well as a prominent reduction in the number of complaints alleging a search and/or seizure violation. In 2013, the CRB received six complaints alleging theft or larceny by officers and 13 complaints alleging an improper search and/or seizure. In 2014, the CRB only received one complaint alleging theft and only six complaints alleging a search and/or seizure violation.

## **INCREASE IN HARASSMENT AND FALSE ARREST ALLEGATIONS**

Allegations of harassment and false arrest increased for 2014 in comparison to 2013. During 2013, the CRB received five harassment complaints and nine complaints alleging false arrest. In 2014, those numbers rose to twelve harassment complaints and fourteen allegations of false arrest.

## CASE SUMMARIES OF 4<sup>th</sup> QUARTER SUSTAINED FINDINGS

Out of the 27 complaints processed during the fourth quarter of 2014, four resulted in a sustained finding against one or more officers. The CRB provides summaries of the sustained cases below in an effort to afford the public an accurate understanding of the cases sustained by CRB panels. Summaries of the sustained cases from the first, second and third quarters of 2014 are available in the quarterly reports posted on our website. Consistent with Local Law 1 of 2012, no identifying information is included in the summaries to protect the identity of the complainants and officers involved.

- **Excessive Force and False Arrest Sustained against Two Officers; Untruthfulness Sustained against Two Officers and a Sergeant**

A man called police to his residence to assist in deescalating a verbal dispute involving his daughter. When police arrived, the man informed the officers that his daughter had already left the scene and that police presence was no longer needed. A responding officer entered the man's home and then directed the man to go outside to speak with the other responding officer. When the man exited his residence, he pushed or hit the storm door open causing it to strike the exterior railing. The officer that was inside the residence followed the man out of the door and then grabbed the man's arms from behind. The complainant and witnesses reported that after grabbing the man from behind, the officer slung him over the railing and onto the ground where both officers then began striking the man in the face multiple times. The complainant and witnesses also described one of the officers applying a headlock or chokehold on the man. The complainant and witnesses all reported that the man made no attempt to fight with or resist the officers.

Paramedics were called to the scene and transported the complainant to the hospital for evaluation and treatment. Medical records indicate that he suffered a probable broken nose including a palpable lump below his left eye near his nose, bruising and swelling to the left side of his face, tenderness to his left jaw, soreness to and limited range of motion with his left elbow, a laceration over his left eyebrow and a probable concussion.

The officers provided a different account of the incident. The officer who initiated the take down of the complainant reported that the man was yelling and flailing his arms in the direction of his wife while still inside. The officer reported that he decided to place the man in handcuffs, so as he followed the man outside the officer grabbed the man's arms from behind. The officer reports that the man stated, "get your hands off me," turned violently and grabbed the officer around his waist. The officer reported that they both fell to the ground and then he yelled at the man to let go of him and to put his arms behind his back. The officer reported that the man refused and they began rolling around on the ground. The officer claimed that the man tried to roll over on top of him at which point he began to strike the man in the head and face four times. The officer described the man as continuing to refuse orders so the officer punched him in the face four more times, and then as the man allegedly tried to pull his arm away the officer reported that he struck the man two more times in the face. This officer reported a total of ten closed fist strikes to the man's face and reported that the force employed caused the man to eventually surrender his arms for handcuffing. The second officer on scene corroborated the first officer's account of the man's resistance and reported that he heard the first officer tell the man that he was under arrest prior to the officer grabbing the man's arms from behind. After the officer and the complainant were on the ground,

this second officer reported that he grabbed the man's left arm and tried to pry it off the other officer. He reports that he pulled the man's arm off of the officer but the man continued to resist the officer's efforts to place his left arm behind his back. The second officer reported that he then punched the man on the left side of his face with his right hand two times. He reports that they then forced the man's left arm behind his back and placed it in a handcuff. This officer reports that he then ordered the man to put his other hand behind his back but that the man did not comply. This officer reported that he then struck the man in the left thigh with a right knee strike. The officer reports that he then ordered the man to put his other hand behind his back and the man complied.

A cell phone video was taken by one of the witnesses of the last moments of the incident. The complainant is already on the ground, face down, with the officers at his head and legs. One officer maintains a headlock or hold around the individual's neck while the second officer holds the complainant's left arm behind his back. Initially, the complainant's right arm appears to be trapped under his body. Several seconds into the video as the officers are still grasping his head and left arm, the complainant's right arm can be seen with his bloodied elbow on the ground. His right hand and arm are now free and available. He makes no attempt to grab any officer or their weapons, despite the fact that their weapons are dangerously within reach. At that point, one of the officers can be heard saying, "put your hand behind your back now." The complainant immediately complies by lifting his right arm and making it available to the officer holding his left arm. This officer easily cuffs the man's right arm completing the handcuffing process. The officer maintaining the hold on the man's head then releases his hold and the complainant immediately says, "[inaudible] you choking me man?" Once the complainant is handcuffed, there is no further force used on him. The video does not capture any of the strikes either reported by the officers or alleged by the witnesses. However, the video demonstrates that the complainant responded to the officers' verbal directions to provide his right arm when ordered to and that it was not the officers' uses of force that immediately caused the man to surrender his right arm as the officers reported.

The CRB panel conducted questioning of five witnesses in addition to the complainant after examining all available statements, reports, videos and photographs. The subject officers were invited to participate in the hearing but did not. The panel found the complainant and the witnesses' testimony credible and the officers' use of force to be neither reasonable nor necessary for several reasons. The CRB investigation found that there was no credible indication that the complainant had exhibited any violence towards anyone, including the officers and there was no credible evidence presented that justified the arrest and charging of the complainant. In addition, the testimony of multiple witnesses indicated that the arresting officer did not inform the complainant that he was under arrest prior to making physical contact and forcing him to the ground. The testimony also indicated that the officer did not ask or direct the complainant to place his hands behind his back at any point, contrary to the officer's written report. All witnesses, including the complainant, testified credibly that the complainant did not wrap his arms around the officer as the officer reported. The same testimony indicated that the complainant did not roll onto or fight with the officer on the ground. Witnesses indicated that the complainant had no chance to make any effort to resist or fight the officers. The CRB panel concluded that the charges of disorderly conduct, resisting arrest, and harassment 2nd were inappropriately applied to the complainant by the responding officers. The panel thus sustained the allegations of false arrest in addition to the finding of excessive force against the officers. Moreover, the CRB panel found the officers' reports and a responding sergeant's use of force report to contain inaccuracies and intentional misrepresentations. The panel concluded that the misrepresentations were an attempt to

justify the actions of the officers and sustained untruthfulness allegations against the responding officers and the sergeant. The CRB panel provided specific disciplinary recommendations to the Chief of Police for the excessive force, false arrest and untruthfulness allegations sustained against the responding officers and the sergeant.

- **Two Counts of Excessive Force Sustained against an Officer; Insufficient Evidence for a third count of Excessive Force against the same Officer; the same Officer Exonerated of a Demeanor allegation; another Officer Exonerated of Excessive Force**

A group of women went to another woman's residence in the early morning hours and engaged in a physical fight. A responding officer arrived and broke up the fight, but the officer reported that one of the women attempted to restart the fight. As the officer was in the process of arresting the lead instigator of the violence, another woman involved in the dispute began yelling at the officer asking why the other woman was being arrested. This woman complains that a second responding officer then arrived on scene and punched her in the face without warning. This officer then struck another woman in the face. Both women fell to the ground. One woman suffered a black eye and a laceration over her eyebrow while the other woman sustained swelling and redness to her jaw.

The officers reported that the two women struck by the second responding officer were attempting to physically interfere with the arrest of the third woman. The officer who struck the women reported that when he arrived on scene he saw one of the women striking at the arresting officer and attempting to physically restrain the officer by grabbing onto his shoulders and arms while he was attempting to handcuff the other woman. The second responding officer reports that he told the woman allegedly interfering with the arrest to get on the ground but that she refused. He then struck her on her left eye causing her to fall to the ground immediately. This officer reports that he then turned around and saw another woman standing behind him with closed fists. He reports that he commanded her to get on the ground but she refused. He then punched her in the jaw causing her to fall to the ground immediately. All three women were then handcuffed. The initial arresting officer provided no description of the second responding officer's strike to the second woman's face, but corroborated the account of this officer's description of the first woman he struck as grabbing and striking at him while he attempted to handcuff the other woman.

The women deny touching the arresting officer in any way or interfering with the arrest. The first woman struck acknowledged yelling at the officer and demanding to know the charges against the arrested woman, but denied putting her hands on the officer. The women reported that the second responding officer gave them no commands or instructions before striking them in the face.

The woman who was initially being arrested alleged that the first officer on scene kicked her in the back, and that the second officer on scene rammed her head into a vehicle, spit on her, and intentionally broke a gold chain that was around her neck. The CRB panel exonerated the first officer on the allegation that he kicked the woman in the back, found insufficient evidence to sustain the allegation that the second responding officer rammed the woman's head into a vehicle, and exonerated the second responding officer of the allegation that he spit upon the woman and broke her chain.

The CRB panel sustained excessive force against the officer who struck the two women in the face. The panel found the women's denials that they attempted to physically interfere with the arrest of

the other woman by grabbing at or striking the arresting officer to be credible. The CRB panel found that the striking officer employed an inappropriate force option given the totality of the circumstances. The women were unarmed and small in stature. The panel concluded that other options were available to the officer short of closed fist strikes to the women's faces. The panel recommended retraining and a specific disciplinary sanction for the officer who struck the women.

- **Excessive Force and Untruthfulness Sustained against Four Officers**

A young man identified as a wanted burglary suspect ran from police after being observed by officers on patrol. As officers gave chase, more police units arrived in the vicinity to assist in the search for the subject. After a foot pursuit, the subject was cornered behind a house and attempted to hide near a bush. The complainant reported that he followed an officer's command to lie on the ground, was handcuffed behind his back, and then struck throughout his head and body multiple times by several different officers.

A witness reported that she was walking in the vicinity and observed police officers running through the area so she stopped to watch what was happening. She reports that she saw and heard an officer order a man behind a house to freeze and get on the ground. She reported that the man lied on his stomach and that an officer then placed a knee in his back and appeared to handcuff him without any struggle. She reported that about ten officers were standing around the man after he was handcuffed and that these officers then began kicking and punching the man while he appeared to be handcuffed. She reported that there were approximately 15 officers on scene in the general area, but that not all of them took part in striking the handcuffed man.

Medical records indicate the man suffered a broken nose. He also reported a laceration to his lip and swelling to his face. Evidence photos demonstrated that the man suffered multiple lacerations and abrasions to his face and apparent redness and abrasions to his left scalp area beneath his hair. Abrasions and scratches can also be seen on his left shoulder, back and stomach.

Officers reported pursuing the subject until an officer caught him and stuck him in the abdomen to stop him from fleeing. This officer reported that the man continued to try to pull away from him so he struck the man in the face with a closed fist and pulled him to the ground by his left arm. The officer reported that they both fell to the ground and the subject instantly placed both arms under his body. The officer reported striking the man two to three more times on the left side of his face. This officer reported after numerous commands to place his hands behind his back, the man's arms were forcefully pulled behind his back and cuffed. Two other officers corroborate the account of the subjects' alleged resistance. One of these officers reported striking the man two times with a closed fist on the right side of his face. Another officer reported delivering approximately five closed fist strikes to the left side of the man's face. A fourth officer reported delivering three knee strikes to the man's right side.

The CRB panel found the accounts of the use of force provided by the complainant and the witness to be consistent and credible. However, only four officers reported using force upon the man. The CRB panel concluded that more officers took part in striking the man unnecessarily than the four who reported using force, but the CRB investigation was unable to determine conclusively which other officers struck the man after he was in handcuffs and which officers were on scene but abstained from striking the man. The CRB panel did not find the officers' accounts of the man

resisting being handcuffed to be credible. The panel concluded that the officers struck the man multiple times after he was subdued and in handcuffs, contrary to what the officers wrote in their police reports. Therefore, the CRB panel sustained the allegations of excessive force and untruthfulness against the four officers who reported using force on the individual and provided the Chief of Police with a specific disciplinary recommendation for the sustained allegations against the four officers.

- **Excessive Force Sustained against one officer, Untruthfulness Sustained against two officers, and Insufficient Evidence found to Sustain Failure to Identify and Tampering with Evidence**

A man was standing in a city park observing the arrest of an individual that was riding a three-wheeled ATV unlawfully in the park. The man reported that he used a cell phone to record officers using excessive force on the young man being arrested. As the young man was being arrested, the man observing reported that an officer called out his name and address and said that he would be next. The man observing the arrest reported that he was walking away to leave the park when an officer ran from behind, struck him in the left temple with a flashlight or some other tool taking him to the ground, handcuffed him while he held two cell phones in his hands (one allegedly still recording), and then continued striking him with fists and possibly a flashlight. The man reported that an officer kicked and stomped on his right knee and ankle as another officer sprayed him with mace. The man reported that an officer then grabbed the phones out of his hands while another officer twisted and bent his left pointer finger. The man reported that the officer took the phones out of his hands and did not put one of the phones into his property at the Justice Center (the one that allegedly recorded the arrest of the ATV operator).

Two witnesses provided written statements to the CRB indicating that the man was walking away from the officers when an officer made contact with the man from behind. One witness reported that just prior to the use of force on the man an officer asked him if he had “something smart to say.” The witness reported that the man replied, “just put your hands on me.” The witness reported that she then turned the man around and told him to “just go home.” Both witnesses reported that as he was walking away (about 15 feet) an officer went running past them and “jumped on [the man’s] back” bring him down to the ground. The witnesses reported that 6-8 more officers then came over and held the man down. One witness initially reported in her written statement that as the man was on the ground an officer hit him in the face with a flashlight. However, in a subsequent interview with this witness, the witness reported that she did not actually see the man get hit with a flashlight at any point, but was later told that this had happened. This witness also included in the written statement that she did not hear any officer tell the man that he was under arrest prior to or after the use of force upon him.

The involved officers report a very different account of the incident. Two officers report that the man was yelling obscenities and threats at officers during the arrest of the ATV operator. One officer reported that the man yelled, “I’m going to bust that fat cop’s ass.” This officer reported that he approached the man, told him to leave the area, and that the man turned toward the officer

and stated, “If this ----- touches me I am going to bust his ass.” The officer reported that he then told the man that he was under arrest for Disorderly Conduct. This officer reported that the man then “squared up to me in a fighter’s stance with his fist clenched and stated ‘Fuck you.’” The officer reported that he then pushed the man on his upper left shoulder at which point the man fell to the ground. The officer reported that he then grabbed the man’s left arm to handcuff it but the man rolled onto his stomach and pulled his hands under his body. This officer reported that two other officers also ordered the man to stop resisting and place his hands behind his back but the man refused each time while stating, “I am a Martian mother fuckers.” Other officers reportedly attempted to assist in getting the man into custody but the man kept his hands under his body. Officers report forcing the man’s hands out from under him and finally handcuffing the man before placing him in a police vehicle without further incident.

Another involved officer provided a similar account, reporting that during the arrest of the ATV operator, the observing man was calling officers “faggots” and “pussies.” This officer reported that another officer advised the man that he was under arrest and that the man “immediately took a fighting stance and shouted at [the other officer], “Fuck you, I’m going to bust your ass if you touch me.” The officer reported that the man was then taken to the ground by the other officer and that the man tucked his arms under his body to prevent being handcuffed. The officer reported that he then sprayed the man in the face with OC spray causing the man to comply.

The man complained of difficulty breathing after being sprayed with the OC spray. He was transported to a local hospital for an evaluation.

A video of the incident was recorded by a witness and provided to the CRB. The video is dark and unsteady but provided some insight into the incident. The video begins just a few seconds before an officer makes contact with the man. It does not capture the man making any of the statements alleged by officers, but a voice (presumably the man’s) could be heard at the beginning of the video stating, “I’d beat the snot out of y’all one on one, y’all know that, y’all know that.” Just after this statement is made, an officer can be vaguely seen running towards the camera and the physical contact between the officer and the man can be heard. The witness who was recording the video reacts by yelling, “Whoa, whoa, whoa, what are you doing?” Other female voices can be heard screaming in reaction. The person filming the video can then be heard repeatedly calling officers “pussies” and making taunting remarks to the officers. An officer can be heard in the background yelling, “Put your hands behind your back!” The person recording the video can be heard saying to an officer, “Because you guys jumped on him for fucking nothing. He trying to walk by and you fucking with him.” Later in the video the man recording the video can be heard asking an officer for his badge number and then saying that the officer would not provide it. The video of the officer running towards the man, the audio from the recording and the reactions from the observers tended to support the complainant’s contention (along with the two witnesses) that he was walking away when the officer made contact from behind. The video is too dark to see clearly, but the visual images that are discernable would appear to be more consistent with a sudden and unexpected move

by the officer, not a situation where the man was squared off in a fighting stance against the officer. There was nothing in the video that would seem to support the contention that the man was struck repeatedly in the head with a flashlight or other police instrument. At no point in the video was the man heard to say “I’m a Martian motherfucker” as one officer reported.

The video led to two conclusions. First, that the officer did likely make sudden and unexpected contact with the complainant from behind, consistent with the complainant’s claim that he was walking away and contrary to the officers’ claim that the man squared off and took a fighting stance towards the officer. Secondly, it did not appear that the use of force on the man was as severe as the man described in his complaint form and it does appear that the officers were struggling to get control of the man’s hands, consistent with the officers’ descriptions of the man tucking his hands under his body.

It should also be noted that an unidentified officer in the video stood in front of the camera with a flashing strobe light in what appeared to be an effort to disrupt the recording of the incident.

The man reported suffering two black eyes, swelling to the left side of his face, small lacerations on his right hand, wrist, and elbow, and swelling to his knee, ankle and left index finger. Photos of the man were taken by police at the hospital. There was some darkness near his left eye and slight redness, but he did not appear to have two black eyes or any visible swelling to his face.

The CRB panel concluded that the evidence available in the video was more consistent with the account of the initiation of the use of force provided by the complainant and a witness than the account provided by two officers. Specifically, the panel found that while the man did taunt officers with his boast that he could beat them in a one on one fight, he did not appear to square off in a fighter’s stance or raise his fists at the officer, contrary to the written reports of two of the officers. The panel concluded that the man did not represent a credible physical threat to the officers simply because he made a boastful comment. While the man clearly had the physical ability to fight with officers, if he was walking away with his back towards the officer as the witness testimony indicated, it appears he did not possess the actual intent or opportunity to attack officers- key factors in determining whether a threat of violence is in fact imminent.

The totality of the evidence led the panel to conclude that the officer reacted to the man’s verbal taunting by suddenly tackling the man from behind without warning or notice of arrest. The panel concluded that the officer’s decision to take the man down without first attempting to make some indication to the man that he was being placed under arrest constituted an unreasonable use of force. Although two officers reported that an officer told the man he was under arrest for disorderly conduct, the panel found the complainant and witness’ testimony that the man was not told he was under arrest to be credible. The panel did not conclude that the basis for the arrest itself was improper as the man’s behavior could reasonably be considered to be disorderly; rather, the panel found that the officer failed to inform the man that he was under arrest or to give the man an

opportunity to submit to arrest and thus the resort to a physical takedown was premature and unreasonable. The panels' finding of excessive force referred only to the officer's decision to perform a physical takedown, not the allegation that the man was struck in the head with a flashlight or other impact weapon. The panel found no evidence to support the claim that the man was struck in the head with any police tool. The panel sustained excessive force against one officer for the takedown, and untruthfulness against two officers for falsely reporting that the man took a fighter's stance and raised clenched fists at the officer.

It should also be noted that the complainant testified credibly that he had a cell phone in each hand during the interaction with officers. This further supported the panel's conclusion that the man did not raise clenched fists at the officer.

Lastly, the officer reported that the man repeatedly stated, "I'm a Martian mother fuckers" as he refused to place his hands behind his back after the takedown. No such statement appears to be made in the video and the panel concluded that this was an effort by the officer to portray the man as mentally unstable and thus not credible. The panel found this to be an untrue statement by the officer as well.

The CRB panel found insufficient evidence to sustain the allegation of evidence tampering against an officer for allegedly taking one of the complainant's cell phones that may have recorded the events and not turning it in as evidence. The panel also found insufficient evidence to sustain the allegation of failure to identify by another officer.

The panel recommended to the Chief of Police specific discipline for the sustained findings against the two officers.

## 2014 ANNUAL POLICY & TRAINING RECOMMENDATIONS

In each year's Annual Report, the CRB makes recommendations on police policy, training and procedures. The recommendations are provided to the Mayor's office, the Common Council, and the Chief of Police in an effort to spur constructive dialog about how to improve particular aspects of the Syracuse Police Department. We believe that these recommendations, if adopted, will serve the interests of the public as well as our City's police officers. The CRB offers the following recommendations under the authority granted the Board by Section Three, Paragraph (6) of the CRB legislation.

1. ***Revise the Existing Use of Force Policy*** to make it consistent with the city's new well-developed Taser policy. The city's current use of force policy simply states, "It is the responsibility of each officer to be aware of the requirements of Article 35 [of the NYS Penal Law] and to guide their actions based on that law and department policy and training." Article 35 provides no specialized guidance to police officers on the appropriate uses of force and does not constitute a use of force policy. A new use of force policy should be based on recommendations provided by the U.S. Department of Justice in consent decrees reached with other cities.<sup>1</sup> The new policy should include:
  - A. A delineation of all force options, including all department-approved lethal and less-lethal weapons, and specific guidance on when each force option is appropriate and not appropriate;
  - B. Precise definitions of key terms including but not limited to imminent threat, force transition, de-escalation, reportable force, and the definitions and correlation of various levels of subject resistance (passive, active, aggressive and aggravated aggressive) to levels of control (low level, intermediate, and deadly force);<sup>2</sup>
  - C. A discussion of what constitutes "objectively reasonable" force under the U.S. Supreme Court's *Graham v. Connor* (1989) decision;
  - D. Specific prohibitions on when certain forms of force should not be used;
    - i. A more prominent emphasis placed on the limitation of the use of impact weapons to strike the head or neck area to deadly force situations;<sup>3</sup>
    - ii. A clear prohibition against respiratory restraints (i.e. "chokeholds") and the limitation of vascular (or carotid) restraints to situations where deadly force is justified.<sup>4</sup>

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<sup>1</sup> In the DOJ's most recent findings of the Cleveland Division of Police, in a section titled, "Systemic Deficiencies Cause or Contribute to the Excessive Use of Force," the DOJ concludes that police departments "must provide their officers clear, consistent policies on when and how" to use force. See U.S. DOJ Civil Rights Division, [Investigation of Cleveland Division of Police](#), December 2014, pg. 28.

<sup>2</sup> DOJ's [consent decree with the city of New Orleans in 2012](#) provides many of these definitions, see pgs. 4 – 11; as does Syracuse's new Taser policy.

<sup>3</sup> Current SPD policy reminds officers that under certain circumstances the use of a less lethal weapon may constitute a use of deadly physical force; the head and neck are then mentioned in parentheses, see Volume 1, Article 4, Section 6.12. Volume 1, Article 4, Section 2.00 also notes that "deadly physical force can be expanded to include the use of other weapons and force if the intent is to cause serious physical injury. This shall include, but is not limited to, impact weapons such as batons, flashlights, motor vehicles, and bare hands." A clearer prohibition would simply state that strikes to the head or neck with an impact weapon are defined as deadly force and shall be limited in use to situations where deadly force is legally justified.

<sup>4</sup> For more on the definitions and danger of various styles of "chokeholds," see [A MUTATED RULE: Lack of Enforcement in the Face of Persistent Chokehold Incidents in New York City](#), NYC CCRB, 2014, pgs. 11-18.

E. A “Duty to Intervene” policy which indicates that any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another officer use force that exceeds the degree of force permitted by law should be required to promptly report these observations to a supervisor.<sup>5</sup>

2. ***Commence Development of a Comprehensive Body Camera Policy*** ready to be implemented upon the eventual acquisition of body cameras.<sup>6</sup> This policy should be developed with input from both the public and the officers who will use them.

In addition to acquiring body cameras, the SPD should increase the number of dashboard cameras installed in police vehicles. Currently, only seven SPD vehicles are equipped with dashboard cameras; these vehicles are typically used for traffic enforcement.

3. ***Develop and Implement a Disciplinary Matrix*** to bring consistency and predictability to the department’s disciplinary process.<sup>7</sup> A matrix, a common disciplinary tool used by employers both inside and outside of policing, categorizes violations into various levels of severity and provides disciplinary options for each level. A degree of administrative discretion can be built into the matrix by including mitigating and aggravating factors that can increase or decrease the level of discipline.
4. ***Adopt a Policy to Immediately Retrieve and Secure Video*** from the COPS Platform cameras or nearby private surveillance cameras anytime there is a use of force incident within range or as soon as a complaint has been made against an officer (either through 911, at the scene, or later through OPS).

The CRB also recommends that the SPD extend the timeframe that COPS Platform camera videos are available from 15 days to 45 days so the videos will more likely be available for complaint investigations.

5. ***The Office of Professional Standards should Conduct Recorded Interviews with Subject Officers and Acquire Police Radio Transmissions*** as a routine part of their internal affairs investigations. The recording of interviews with officers who are the subject of a complaint or who are a witness to the incident is a widely accepted best practice for internal affairs investigations. The recording of interviews tends to improve the quality of the interview and preserves the interview for review by outside agencies when necessary. The routine acquisition of police radio transmissions would provide investigators with additional

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<sup>5</sup> Model “Duty to Intervene” or “Duty to Report Misconduct” policies can be found in the [Las Vegas](#) and [Los Angeles](#) departmental policies and procedures. See also legal obligations under prior court precedents such as Warren v. Williams, 2006 U.S. Dist. LEXIS 18900 (D. Conn. 2006), O’Neill v. Krzeminski, 839 F.2d 9, 11 (2d Cir. 1988), Anderson v. Branen, 17 F.3d 552, 557 (2d Cir. 1994), and Randall v. Prince George’s County, 302 F.3d 188, 203 (4th Cir. 2002).

<sup>6</sup> Guidance on the development of a comprehensive body camera policy can be found at the [Americans for Effective Law Enforcement \(AELE\) website](#). Washington, D.C.’s Office of Police Complaints also recently produced [a very useful](#) guide for developing such policies. In addition, Seattle Police policy on body cameras can be accessed [here](#).

<sup>7</sup> For more on the application of a disciplinary matrix, see *The Police Chief*, October 2006, [“Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process.”](#)

context and the ability to verify critical aspects of an officer's account of a given incident. If adopted, both recommendations would serve to improve the quality and thoroughness of OPS investigations.

## **REAFFIRMATION OF 2012 & 2013 POLICY RECOMMENDATIONS**

The CRB made a series of policy recommendations in its 2012 and 2013 Annual Reports. Those recommendations are restated here in an effort to encourage the SPD to adopt these recommendations:

### **2013 POLICY RECOMMENDATIONS**

***Develop a Policy on the Use of Police Vehicles when Chasing a Suspect who is on Foot or Bicycle.*** In 2013 the CRB reviewed two different cases in which an individual alleged that police used their vehicle to bump or cut them off as they were either running or riding a bike. The SPD has a clear policy in regards to the use of police vehicles while in pursuit of a suspect in a vehicle, but the CRB could find no policy with regards to the use of police vehicles while in pursuit of a suspect on foot or on bike. Current policy only allows officers to use a police vehicle to hit or box-in another vehicle with the permission of a supervisor. The CRB panel thus recommends that the SPD develop a policy for the use of police vehicles when pursuing suspects on foot or bicycle.

***Initiate a Review of SPD's Use of Force Policy.*** The CRB recommends that the police department conduct a review of the SPD's use of force policy to ensure that it meets current best practices encouraged by the U.S. Department of Justice and increasingly adopted by police departments throughout the country.<sup>8</sup> The current SPD use of force policy states, "It is the responsibility of each officer to be aware of the requirements of Article 35 [of the NYS Penal Law] and to guide their actions based on that law and department policy and training." Article 35 provides the legal justifications under which any citizen of New York can use force within the law, with a few additional qualifications for police and peace officers. It is not a law that provides any specialized guidance to officers for the fluid and fast moving situations they confront every day.

Lack of specific policy guidance on the appropriate use of force may lead officers and supervisors to believe that they are justified in using force in situations in which it would be unreasonable or unnecessary. Conversely, unclear or overly general policies may result in officers refraining from using necessary and appropriate force out of a fear of being accused of using excessive force.<sup>9</sup>

A comprehensive use of force policy would include all force techniques, technologies, and weapons, both lethal and less-lethal that are available to officers. It should clearly define and describe each force option and the circumstances under which use of such force is appropriate.<sup>10</sup> To ensure

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<sup>8</sup> See DOJ finding letters to the cities of Austin, TX. (2008, pgs. 3-27), Seattle, WA. (2011, pgs. 23-34 and 37-38), and the territory of Puerto Rico (2012, pgs. 86-90). See also the DOJ's Consent Decree with the city of New Orleans, (2012, pgs. 14-23 and 33-34). All available online at [www.justice.gov/publications](http://www.justice.gov/publications). See also the DOJ COPS offices' Collaborate Reform Process for Las Vegas, NV. (2012, pgs. 24-25, 60 – 63, and 126-130), available online at [www.cops.usdoj.gov](http://www.cops.usdoj.gov).

<sup>9</sup> DOJ finding letter to the City of Austin, pg. 4.

<sup>10</sup> DOJ finding letter to the City of Austin, pg. 6.

consistency in the application of the use of force, an effective use of force policy should among other things define key terms such as levels of resistance (passive, active, aggressive and aggravated aggressive resistance) and the appropriate force counter-responses available to officers (low level, intermediate level, and deadly force options).

The current SPD use of force policy was put in place prior to the present SPD and mayoral administrations and prior to the current efforts by the U.S. Department of Justice to improve police policies and procedures around the country. Syracuse officials presently have the opportunity to improve the city's use of force policy with little or no cost to taxpayers. Jurisdictions whose policies do not comport with the practices encouraged by the DOJ leave themselves vulnerable to the possible imposition of DOJ mandates that can include significant financial costs to area taxpayers.

In addition to protecting taxpayers' financial interests as well as constitutional rights, addressing this issue should lead to an increase in officer safety. Our police officers work under extremely difficult and stressful circumstances. A clearer set of rules for the use of force coupled with extensive training on those rules would give officers more confidence in reacting to a variety of different forms of subject resistance, expand their range of responses, and ultimately produce a more flexible and appropriate force response to a given situation. Officers need to be as prepared as possible for the multitude of situations that they face.

## **2012 POLICY RECOMMENDATIONS**

The CRB made a series of policy recommendations in its 2012 Annual Report. Those recommendations are restated here in an effort to encourage the SPD to consider the adoption of these policies:

***Securing Entryways following a Forced Entry.*** Current SPD policy states that subsequent to a forced entry in which an entryway is damaged, an officer must ensure that the building is physically secured before leaving the scene. It states that officers *can* contact the Department of Public Works (DPW) for assistance in securing the premise. In 2012, the CRB identified an instance in which an entryway was not sufficiently secured by an officer after the main door and lock was damaged during a legally warranted forced entry by police that resulted in the arrest and removal of the occupants of the residence. An officer did attempt to secure the door but only used two nails to affix the damaged door to the door frame. The nails were subsequently removed by burglars and the residence was burglarized. The CRB discussed the issue with personnel from DPW who are responsible for boarding up structures. The board-up crews from DPW use at least five *screws* on each side of a damaged entryway to fully secure the premise. The CRB recommends that the SPD adopt a similar policy and has suggested language that requires the officers to use a similar number of *screws* (as opposed to nails) or *requires* officers to request the assistance of DPW if no officer on scene possess the required tools or hardware.

***Provision of Property Receipts for Seized Currency.*** Current SPD policy details the process by which seized currency shall be entered into the Property Division, but it provides little guidance to officers on the provision of property receipts to the individual whose money was seized. Property receipts (Form 5.4) are typically provided to individuals from whom police officers seize money due to the presence of other illegal contraband (such as drugs). Occasionally, an officer may not have in his or her possession the required Form 5.4. In the course of past investigations, the

CRB identified an instance in which an officer failed to provide a property receipt to an individual after seizing a substantial sum of money during a traffic stop in which drug paraphernalia was also discovered. The officer did not have a copy of Form 5.4 and did not request one from police dispatch. No property receipt was issued at the point of seizure to document the amount seized. Subsequently, the officer was accused of stealing a portion of the money. To protect officers from false accusations of theft and to ensure that the public's interest is fully protected, the CRB recommends that the SPD make the provision of property receipts (Form 5.4) mandatory at the point of seizure, provided doing so does not jeopardize the safety or security of the officer or any other person. If the officer does not have a property receipt at the point of seizure, then the officer should request one through dispatch and the officer's supervisor should ensure that the necessary form is delivered to the scene without delay.

***Inclusion of a Non-Retaliation Clause in the SPD's Complaint Procedures.***

Current SPD policy for accepting complaints against police officers contains no non-retaliation clause. The CRB recommends the inclusion of an unambiguous clause that restricts any manner of retaliation or intimidation against any individual who files a complaint, seeks to file a complaint, or cooperates with the investigation into a complaint against a member of the SPD.

## **AREAS OF IMPROVEMENT SINCE 2013 ANNUAL REPORT**

### **FELONY STOP PRACTICE**

In 2013, there were a total of four instances in which SPD officers appeared to have violated the department's policy on conducting high-risk traffic stops, also known as felony stops. In 2014, the CRB found no instances in the cases it reviewed where officers violated this policy. 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. In its 2013 Annual Report, the CRB identified multiple violations of this policy and recommended in-service training on the policy for all officers. If any additional training was provided to officers on this policy in 2014, the CRB was not informed; but the sudden decline in such violations may indicate a greater awareness by officers of the critical importance of this policy to officer safety.

### **REDUCING OR ELIMINATING CHARGES IN EXCHANGE FOR INFORMATION OR COOPERATION**

During 2013, the CRB investigated five separate complaints involving officers making offers to suspects to reduce or eliminate criminal charges in exchange for cooperation leading to the seizure of an illegal gun, information on the local drug trade, or information on recent homicides. In most of these instances, the officers made no indication of involving the District Attorney's office in the informal deal. This is commonly known as "working off charges" and is contrary to departmental procedures, which require the involvement and approval of the District Attorney's office in any deals reached with cooperating suspects.

The CRB identified this practice as a problem and provided a training recommendation in its 2013 annual report to address the behavior. The CRB was not informed if any additional training or policy clarification was offered to SPD officers on this matter; but in all cases received in 2014, the CRB found no instances of this practice occurring without the prospective involvement of the District Attorney's office. When officers do offer to make a deal with criminal suspects, they are now more apt to indicate that any deal would have to be brought before the District Attorney's office for approval.

## **BUDGET**

2014-2015 Adopted  
DETAIL ANALYSIS OBJECTS OF EXPENDITURE

100 PERSONNEL SERVICES		
101	Salaries	\$ 92,100.00
200 EQUIPMENT		
202	Office Equipment & Furnishings	\$ 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	<u>\$ 5,000.00</u>
	<b>TOTAL:</b>	<b>\$132,000.00</b>

## Fourth Quarter 2014 Data

**Total Complaints Received during Fourth Quarter of 2014 (October 1 to December 31, 2014): 20**

**Categories of allegations as defined in CRB Ordinance (totals from all complaints received from October 1 to December 31, 2014; note that multiple allegations can be made in one complaint):**

Active Misconduct: 18

Passive Misconduct (Failure to Act): 5

Damaged or lost Property: 0

Denial or Violation of Constitutional Rights: 0

Lack of Truthfulness in a Police Report or Falsifying a Report: 0

**The number of cases processed by the Board during fourth quarter of 2014: 27**

**The number of cases where a CRB panel recommended disciplinary sanctions be imposed by the Chief of Police during the fourth quarter of 2014: 4**

**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 fourth quarter of 2014: 0** (still awaiting one written response from the Chief of Police)

**The number of complaints processed and not sent to a panel hearing during the quarter: 22**

**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: 0**

**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: 4**

### Hearing outcomes

Panel hearings scheduled: 5

Panel hearings held: 5

Panel hearings resulting in disciplinary recommendations from CRB: 4 (one hearing was adjourned while awaiting additional information from the SPD)

Panel hearings resulting in no disciplinary recommendations from CRB: 0

## 2014 Totals

**Total Complaints Received during 2014:** 107

**Categories of allegations as defined in CRB Ordinance (totals from all complaints received in 2014; note that multiple allegations can be made in one complaint):**

Active Misconduct: 108

Passive Misconduct (Failure to Act): 18

Damaged or lost Property: 0

Denial or Violation of Constitutional Rights: 1

Lack of Truthfulness in a Police Report or Falsifying a Report: 5 reported in filed complaints, 8 others identified through course of CRB investigation

**The number of cases fully processed and closed by the Board during 2014:** 94

**The number of cases where a CRB panel recommended disciplinary sanctions be imposed by the Chief of Police during 2014:** 21

**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 2014:** 1

**The number of complaints processed and not sent to a panel hearing during 2014:** 65

**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:** 7

**The length of time each case was pending before the Board:** 2 months on average (but some occasionally take 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:** 1, reimbursement for personal cell phone that was lost by an officer during an arrest.

**The number of complainants who filed a Notice of Claim against the City of Syracuse while their complaint was being considered by the Board:** 17

### Hearing outcomes

Panel hearings scheduled: 26

Panel hearings held: 25

Panel hearings resulting in disciplinary recommendations from CRB: 22

Panel hearings resulting in no disciplinary recommendations from CRB: 3

Categories of complaints received by the CRB between October 1 and December 31, 2014\*

City Wide

Excessive Force	Demeanor	Failure to Act	Harassment	Racial Bias
6	6	5	3	0
False Arrest	Improper Search/Seizure	Theft/Larceny	Taser Discharge	Untruthfulness in a Police Statement or Falsifying a Report
1	0	0	0	0
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	2	0	0	0

\*Some individual complaints include multiple allegations

Categories of Complaints Received by the CRB during 2014  
Number & Percent of Annual Intake

Excessive Force	Demeanor	Failure to Act	Harassment	Racial Bias
43	25	18	12	3
40%	23%	17%	11%	3%
False Arrest	Improper Search/Seizure	Theft/Larceny	Taser Discharge	Untruthfulness in a Police Statement or Falsifying a Report
14	6	1	0	5
13%	6%	1%	-	5%*
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	2	2	0	0
-	2%	2%	-	-

\*Typically not discovered until after a complaint is filed and police reports have been acquired.

**Categories of Allegations Sustained by the CRB during 2014**

**Raw Number, Percent of All Sustained Hearings (25 total) & Percent of that Category that were Sustained**

<b>Excessive Force</b>	<b>Demeanor</b>	<b>Failure to Act</b>	<b>Harassment</b>	<b>Racial Bias</b>
18	1	3	0	1
72%	4%	12%	0%	4%
42%	4%	17%	0%	33%

<b>False Arrest</b>	<b>Improper Search/Seizure</b>	<b>Theft/Larceny</b>	<b>Taser Discharge</b>	<b>Untruthfulness in a Police Statement or Falsifying a Report</b>
1	1	0	0	13
4%	4%	0%	-	52%
0	15%	0%		*

<b>Gender Bias</b>	<b>Evidence Tampering</b>	<b>Improper Offer to Eliminate Charges in Exchange for Incriminating Information</b>	<b>Constitutional Violation</b>	<b>Violation of SPD high-risk traffic stop policy</b>
0	0	0	0	3**
-	0	-	-	12%
-	0	-	-	-

\*More sustained findings than were complaints received. The untruthfulness violation is typically not discovered until after a complaint is filed, police reports are received, and the CRB investigation conducted.

\*\*All three incidents occurred in 2013 but hearings were held in 2014. No complaints received in 2014 involved violations of the high-risk traffic stop policy.

## Complaints Received per Common Council District during the 4th quarter of 2014 and Total for 2014

### **District 1:**

Demeanor: 1/2  
Excessive Force: 1/7  
Failure to Act: 2/5  
Harassment: 0/2  
Racial Bias: 0/0  
False Arrest: 0/2  
Improper Search/Seizure: 0/2  
Theft/Larceny: 0/0  
Taser Discharge: 0/0  
Untruthfulness in a Police Statement/Falsifying a Report: 1/2  
Gender Bias: 0/0  
Evidence Tampering: 0/0  
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0/1  
Constitutional Violation: 0/0  
Violation of SPD high-risk traffic stop policy: 0/0

### **District 2:**

Demeanor: 1/7  
Excessive Force: 1/7  
Failure to Act: 2/5  
Harassment: 0/1  
Racial Bias: 0/1  
False Arrest: 0/2  
Improper Search/Seizure: 0/0  
Theft/Larceny: 0/0  
Taser Discharge: 0/0  
Untruthfulness in a Police Statement/Falsifying a Report: 0/1  
Gender Bias: 0/0  
Evidence Tampering: 0/0  
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0/1  
Constitutional Violation: 0/0  
Violation of SPD high-risk traffic stop policy: 0/0

### **District 3:**

Demeanor: 1/3  
Excessive Force: 1/6  
Failure to Act: 0/1  
Harassment: 0/1  
Racial Bias: 0/1  
False Arrest: 0/1  
Improper Search/Seizure: 0/0  
Theft/Larceny: 0/1  
Taser Discharge: 0/0  
Untruthfulness in a Police Statement/Falsifying a Report: 1/2  
Gender Bias: 0/0  
Evidence Tampering: 0/0  
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0/0  
Constitutional Violation: 0/0  
Violation of SPD high-risk traffic stop policy: 0/0

**District 4:**

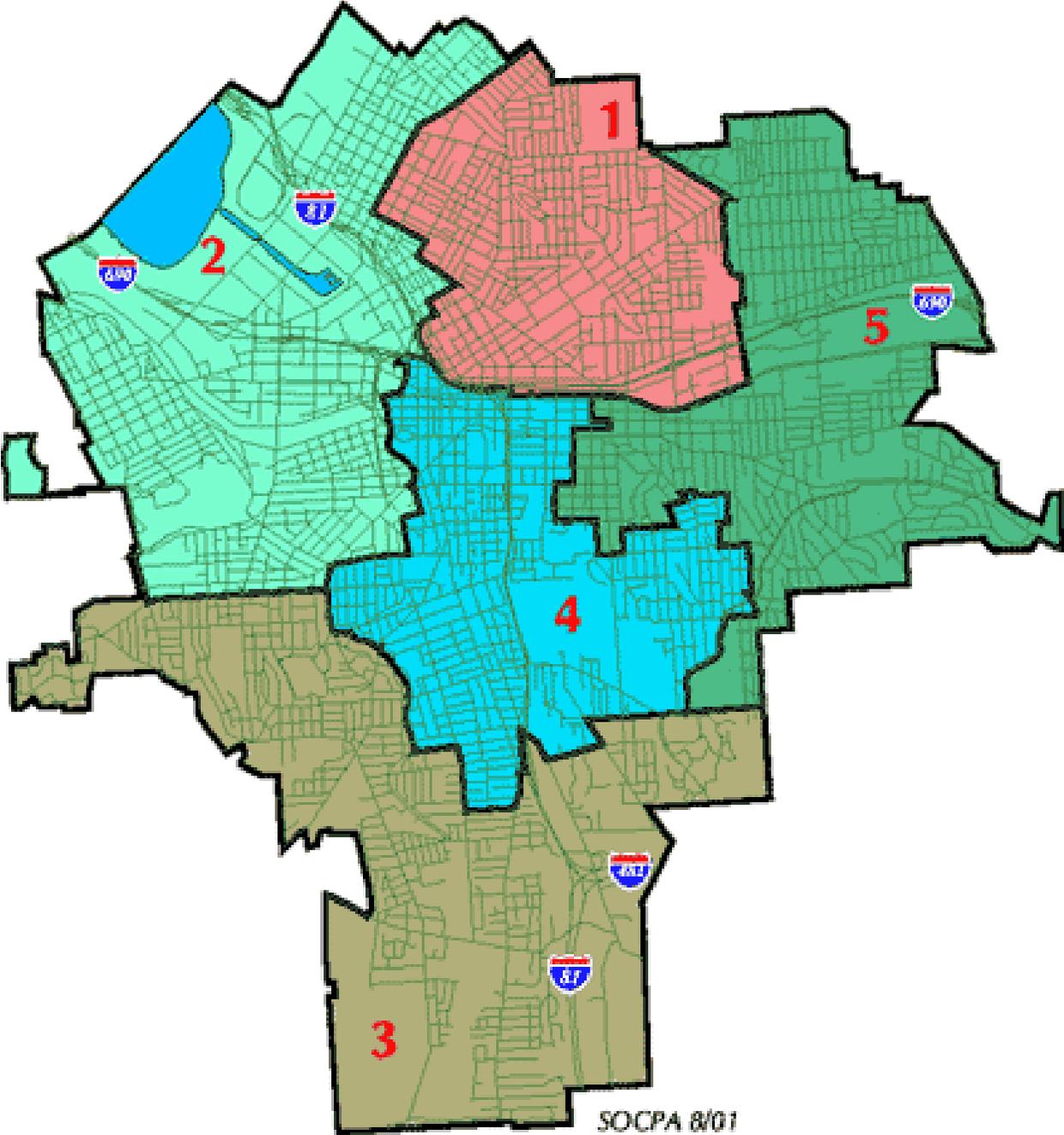
Demeanor: 2/9  
Excessive Force: 3/18  
Failure to Act: 1/1  
Harassment: 1/5  
Racial Bias: 0/3  
False Arrest: 1/7  
Improper Search/Seizure: 0/1  
Theft/Larceny: 0/2  
Taser Discharge: 0/0  
Untruthfulness in a Police Statement/Falsifying a Report: 0/1  
Gender Bias: 0/0  
Evidence Tampering: 1/0  
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 1/1  
Constitutional Violation: 0/0  
Violation of SPD high-risk traffic stop policy: 0/2

**District 5:**

Demeanor: 1/6  
Excessive Force: 0/4  
Failure to Act: 0/1  
Harassment: 0/0  
Racial Bias: 0/0  
Gender Bias: 0/0  
False Arrest: 1/0  
Improper Search/Seizure: 0/1  
Theft/Larceny: 0/  
Taser Discharge: 0/0  
Untruthfulness in a Police Statement/Falsifying a Report: 0/1  
Evidence Tampering: 0/0  
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0/0  
Constitutional Violation: 0/0  
Violation of SPD high-risk traffic stop policy: 0/0

**\*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 Fourth Quarter of 2014**

<b>Ethnicity</b>		
<b>Black</b>	19	95%
<b>White</b>	1	5%
<b>Latino</b>	0	0%
<b>Asian</b>	0	0%
<b>Native American</b>	0	0%
<b>Total</b>	20	100%

<b>Sex</b>		
<b>Male</b>	14	70%
<b>Female</b>	7	35%*

\*one complaint was filed by both a man and a woman

<b>Sexual Identity of Complainant</b>		
<b>LGBTQ</b>	0	0%

<b>Age</b>		
<b>Under 18</b>	0	0%
<b>18-35</b>	11	55%
<b>36-50</b>	9	45%
<b>51+</b>	0	0%

<b>Disability</b>		
<b>Visual</b>	0	0%
<b>Hearing</b>	0	0%
<b>Physical</b>	0	0%
<b>Intellectual</b>	0	0%

<b>Language other than English</b>		
<b>Spanish</b>	0	0%
<b>Vietnamese</b>	0	0%
<b>Other</b>	0	0%

## Complainant Demographics for All Complaints Received in 2014

Ethnicity		
<b>Black</b>	82	76%
<b>White</b>	23	21%
<b>Latino</b>	3	2.8%
<b>Asian</b>	0	0%
<b>Native American</b>	0	0%
<b>Other</b>	2	1.8%
<b>Total</b>	107	100%*

\*Three complaints were filed by multiple individuals

Sex		
<b>Male</b>	76	71%
<b>Female</b>	34	31%*

\* Three complaints were filed by multiple individuals

Sexual Identity of Complainant		
<b>LGBTQ</b>	1	.09%

Age		
<b>Under 18</b>	0	0
<b>18-35</b>	57	53%
<b>36-50</b>	41	38%
<b>51+</b>	14	13%*

\*Three complaints were filed by multiple individuals

Disability		
<b>Visual</b>	0	0%
<b>Hearing</b>	2	1.8%
<b>Physical</b>	1	0.9%
<b>Speech</b>	1	0.9%
<b>Intellectual</b>	5	4.6%

Language other than English		
<b>Spanish</b>	0	0%
<b>Vietnamese</b>	0	0%
<b>Other</b>	5	4.6%