

SYRACUSE

CRB

CITIZEN REVIEW BOARD

Quarterly Report
January 1 to March 31, 2014

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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 2016

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 2016

At-Large Councilor Appointees

- Mallory Livingston - term expires December 2015
- Raheem Mack, Board Vice Chair, - term expires December 2015
- Haji Adan - term expires December 2016

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 January 1 and March 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 24 new complaints and fully processed 17 existing cases. In comparison, the CRB received a total of 32 new complaints and fully processed 26 existing cases during the first quarter of 2013.

During this first 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 recommendations to the Chief of Police in those four cases with disciplinary sanctions recommended against 13 different officers. Notices of Claim (a prerequisite to filing a lawsuit) were filed in two of the four cases sustained by the CRB during this quarter. Due to the policy adopted by Corporation Counsel (see below), the Chief of Police did not inform the CRB of the department's final disciplinary decision in the two Notice of Claim cases. However, the Chief's finding and disciplinary decision in one of the Notice of Claim cases was leaked to the press so the CRB had access to those results. In two of the cases sustained by the CRB, the SPD came to a different finding and no discipline was imposed by the Chief of Police. The Chief of Police imposed discipline in one of the four cases sustained by the CRB during the first quarter of 2014 and the CRB was unable to learn if any discipline was imposed in one of the four sustained cases due to the Notice of Claim policy.

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 first quarter of 2014, the CRB held five hearings to determine whether the complaint should be sustained and recommendations made to the Chief of Police. In four of the five 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 first quarter of 2014 was 23.5 %.** The sustain rate is calculated by dividing the number of hearings that resulted in sustained findings that quarter (4) by the number of complaints fully processed during that quarter (17).

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. 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.

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 ongoing 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 to twelve complaints per month depending on current case load.

In March, the CRB Administrator conducted an outreach event at a Neighborhood Watch meeting in the City's 3rd Council District. The Administrator also traveled to Auburn, NY at the request of the local NAACP to hold an informational session along with a representative from the Auburn Police Department to discuss with young people how to safely interact with police officers. The session also included a discussion on how to create a civilian oversight process in Auburn. Lastly, on March 31, the CRB presented its 2013 Annual Report and policy recommendations to the Common Council.

BOARD TRAINING & EDUCATION

During the first quarter of 2014, the CRB continued to acquire training for both its board members and administrator. On February 1, 2014 the CRB held a day long training and strategic planning seminar for its board members. An attorney with over 40 years of experience conducting hearings developed a training manual and provided training to CRB members on proper procedures for questioning witnesses during a panel hearing. A doctor and medical expert also provided training to the board members on how various forms of intoxication affect memory and perception. The CRB handles many cases involving individuals intoxicated on a variety of substances and benefited greatly from the doctor's expertise.

During the last week of February, the CRB Administrator attended a 40-hour training course on Police Internal Affairs through the Institute of Police Management and Technology at the University of North Florida in Jacksonville, Florida. The comprehensive course's topics included police ethics; policies, rules, standards, and procedures for misconduct and discipline; complaint processing; preparing for and conducting interviews; legal issues and case law; special investigations; and record keeping requirements.

CASE SUMMARIES OF SUSTAINED FINDINGS

Out of the five panel hearings held during the first quarter of 2014, four 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.

- **Violation of High-Risk Traffic Stop Policy, Negligence, Excessive Force, Dereliction of Duty, False Report (verbal), Command Failure to Discipline a False Report, Improperly Obtained Statement Sustained**

An individual was involved in a vehicle pursuit with police that ended in a collision. An officer approached the driver's side door with his gun drawn and ordered the driver out of the vehicle. The driver complied and as the officer saw that the driver had no weapon in his hand, the officer re-holstered his gun. The driver reported that multiple officers ran up to him, took him to the ground, and beat him unnecessarily with punches and kicks. He reported that his face was slammed into the police car and that an officer wrote a statement and made him sign it.

One of the responding officers reported that the driver swung his arms violently at the officers and put his arms under his chest after the officers took him to the ground. However, a witness reported that the driver never had a chance to swing his arms at the officers or resist in any way. The witness reported that the officers threw him to the ground, jumped on him, and "beat the shit out of him." In the process of taking the driver into custody, one of the officers yelled to the other officers that the driver was reaching for a gun even though the officer later acknowledged that he did not see a gun. The officer reported that he did this to put the other officers on notice that the driver was reaching for his waistband. The driver was never in possession of a weapon, but the other responding officers reported hearing an officer yell that the driver was going for a gun and striking the driver multiple times in the face, head, back and abdomen. A subsequent search of the driver did produce a bag of crack cocaine from his waistband area. Officers describe the individual as using his hands to try to push up off the ground and refusing to place his hands behind his back. The individual reports that he could not place one of his hands behind his back because it was trapped underneath him with an officer's weight on top of him.

Two other individuals were in the vehicle. Officers broke the vehicle's windows and pulled the other occupants out through the window opening.

As a large crowd was beginning to form at the original scene, the driver was then put into a police car and taken to a different location to provide a statement. During the CRB hearing, the driver testified that the officer who brought him to this location and took his statement told him that he would have to provide a statement to get medical care and to ensure that the other occupants of the car would be released. The officer denied coercing the driver into giving a statement.

The complainant suffered bruising, swelling and abrasions to his face; a bloody nose; scratches and scrapes to his chest, back, and extremities; an injury to his right wrist; and blurry vision in his right eye.

No officers participated in the CRB hearing. The CRB panel found the complainant's testimony and response to their questions to be credible. The panel sustained several different allegations against multiple officers. The panel found that the failure by a sergeant to follow the department's policy on conducting a high risk traffic stop led to a rapid deterioration of the police response. Given that the vehicle had just been involved in a collision, the panel also found two sergeants negligent for failing to assess the vehicle's occupants for injuries before allowing them to be extracted from the vehicle or forced to the ground. In regards to the considerable use of force by multiple officers, the CRB panel found the witness and complainant's description of events credible. Therefore, each officer that reported striking the driver was found by the panel to have used force that was neither reasonable nor necessary. The panel found a sergeant derelict in his duties for failing to properly manage the scene and control the responding officers. The panel also expressed serious concern over the officer's decision to announce that the driver was reaching for a gun even though the officer later acknowledged that he could not see what was being reached for by the driver. The panel concluded that this is a reckless and dangerous practice that could lead to the use of deadly force when such force is not legally justified. Therefore, the panel sustained the allegation against the officer for making a false (verbal) report at the scene. The panel also sustained a violation against this officer's sergeant for his failure to address the officer's false verbal report of seeing a gun. Lastly, the panel found that the officer who allegedly told the driver he could not get medical care unless he provided a statement to have obtained the statement improperly. The panel recommended specific training and discipline to the Chief of Police for the involved officers.

- **Demeanor Violation Sustained, Excessive Force Not Sustained**

A complainant alleged that an officer repeatedly used demeaning language towards him, publicly accused him of dealing drugs, and that the officer grabbed him around the throat while handcuffed in the back of a police car. A portion of the incident was captured on video. The CRB panel found the officer's demeanor and verbal interaction with the individual to be improper, but found insufficient evidence to sustain the allegation that the officer grabbed the individual by the throat.

- **Excessive Force, Poor Demeanor, Improper Search & Seizure, & Untruthfulness Sustained**

A complainant alleged that an officer slapped him in the back of the head while handcuffed and that other officers forced their way into a residence and searched a bedroom without a warrant. Multiple witnesses provided statements indicating that the officer did in fact slap the individual on the back of the head while he was handcuffed. The complainant and a witness alleged that when the complainant later asked the officer why he hit him, the officer replied by saying "because you're an asshole" and to shut up or he would do it again.

At an associated residence, two other officers entered an apartment and searched a bedroom without a warrant. One of the officers claimed that the person who answered the door refused to allow them into the house without a warrant and then pushed the officer in the shoulder. A second officer placed the individual in a neck lock as the officers entered the home. This individual testified at the CRB hearing that she did in fact refuse to allow the officers into the residence without a warrant, but categorically denied pushing any officer. No officers appeared at the CRB hearing to testify and the panel found the complainant and witnesses to be credible.

The CRB panel sustained the allegations of excessive force and poor demeanor by the officer who slapped the complainant. The panel sustained an improper search and seizure violation against the officers who entered and searched the residence without a warrant. The panel also sustained an allegation of untruthfulness against one of the officers who claimed the person who answered the door pushed him. The panel found this claim by the officer to not be credible.

- **Excessive Force, Untruthfulness Sustained; Racial Bias Not Sustained**

An officer responded to a 911 call reporting a man with a concealed gun standing on a sidewalk. The officer arrived on scene, approached the man with his service gun drawn, and ordered the man to get on the ground. The man and a witness contend that the man was in the process of going down to the ground when the officer walked up to him, pushed down on the man's shoulder which was already near the ground, and then hit the man on the head with the butt of his pistol. The complainant and witness both testified at the hearing that the man was bent over, had both his hands on the ground and was in the process of lowering the rest of his body to the ground when the officer struck him. The man claims to have then temporarily lost consciousness from the strike to his head. The officer reported that the man ignored several orders to get on the ground, that the man then turned away, placed his hands on a chain link fence, and began moving his head as if he were looking for a route to flee. The officer reported that the man attempted to keep himself on his feet when the officer tried to push him down. The officer reported that he then used his right hand to strike the man who was impacted on the right side of his head with the magazine of the officer's handgun. The officer then collected a pistol style BB gun that had been in the man's pocket or waistband. The man suffered a 3 cm. laceration to the right side of his head which required staples to close.

Despite being armed with what turned out to be a BB gun, the man had committed no felony and made no threat towards the officer or anyone else. The panel found the witness and complainant's testimony that the man was in the process of complying with the officer to be credible. Thus, the panel deemed the level of force used by the officer to be excessive. Moreover, the witness testified that he told the sergeant who responded to the scene that the man was following orders when the officer struck him and that the officer was wrong for striking the man. However, the sergeant reported in his use of force report that the witness told him that he did not know why the man did not comply with the officer's orders. On this point the panel also found the witness credible and sustained an untruthfulness allegation against the sergeant. The panel made specific disciplinary recommendations to the Chief of Police for the subject officers.

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
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Total Complaints Received during First Quarter of 2014 (January 1 to March 31, 2014): 24

Categories of complaints as defined in CRB Ordinance (totals from all complaints received from January 1 to March 31, 2014):

Active Misconduct: 30

Passive Misconduct (Failure to Act): 2

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 fully processed and closed by the Board during first quarter of 2014: 17

The number of cases where a CRB panel recommended disciplinary sanctions be imposed by the Chief of Police during first 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 second quarter of 2013: 1

*Due to the current Notice of Claim policy, the CRB was unable to learn the disciplinary outcome in one of the cases sustained by a CRB panel.

The number of complaints processed and not sent to a panel hearing during the quarter: 10

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: 2

Hearing outcomes

Panel hearings scheduled: 5

Panel hearings held: 5

Panel hearings resulting in disciplinary recommendations from CRB: 4

Panel hearings resulting in no disciplinary recommendations from CRB: 1

First Quarter of 2014 CRB Sustain Rate: 23.5% (4 hearings resulting in sustained findings out of 17 fully processed cases)

Categories of complaints received by the CRB between January 1 and March 31, 2014*

City Wide

Excessive Force	Demeanor	Failure to Act	False Arrest	Racial Bias
13	9	1	4	2
54%	37.5%	4%	17%	8%

Harassment	Improper Search/Seizure	Constitutional Violation	Gender Bias	Theft/Larceny
3	2	0	0	1
12.5%	8%	0%	0%	4%

Evidence Tampering	Improper Offer to Reduce Charges	Destruction of Property	Untruthfulness in a Police Statement
0	2	0	3
0%	8%	0%	12.5%

*Note that a single complaint can involve multiple allegations

Complaints Received per Common Council District during the 1st quarter of 2014*

District 1:

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

District 2:

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

District 3:

Demeanor: 0
Excessive Force: 2
Failure to Act: 0
Harassment: 0
Racial Bias: 1
False Arrest: 0
Improper Search/Seizure: 0
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
Violation of SPD high-risk traffic stop policy: 0

District 4:

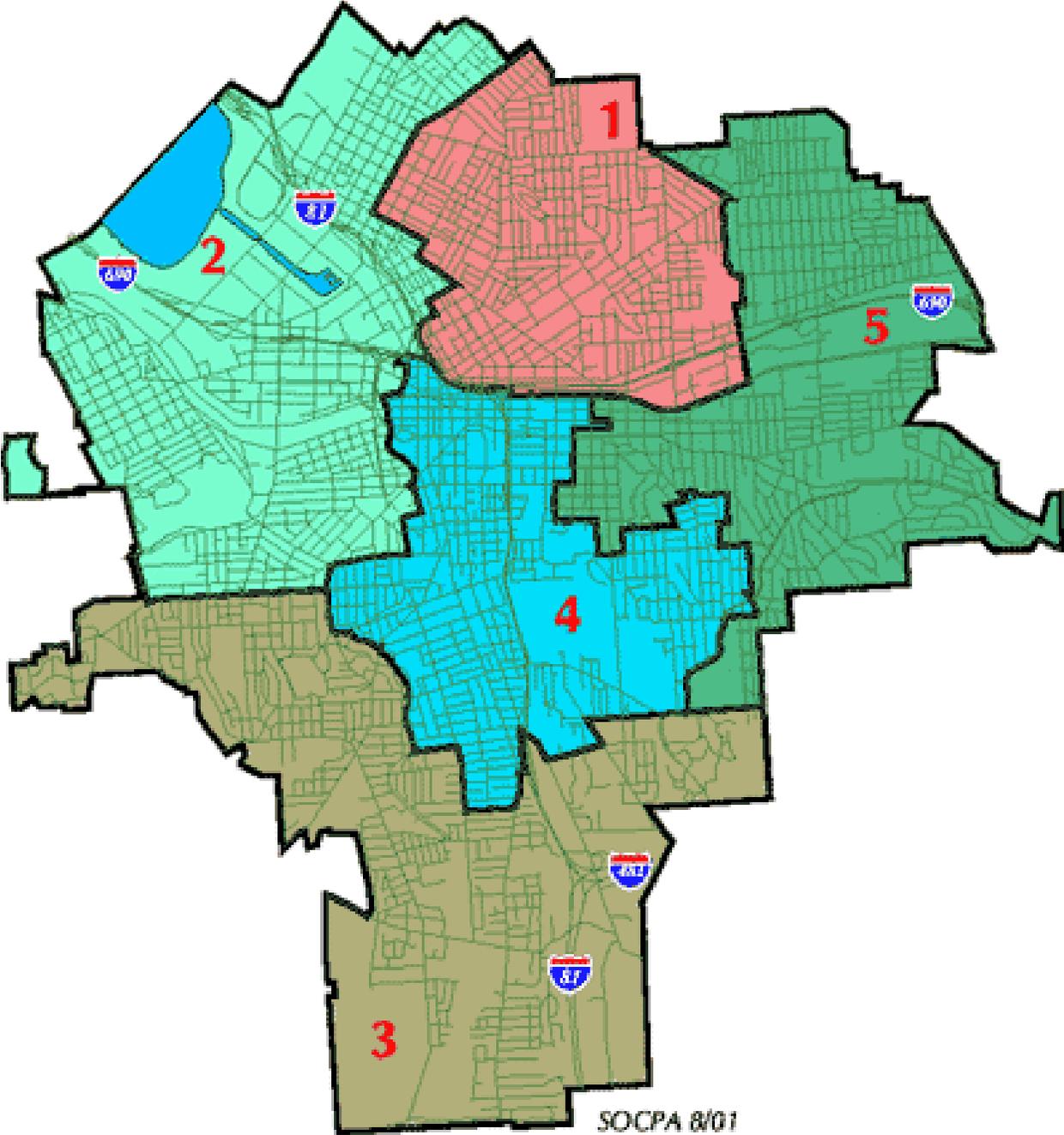
Demeanor: 3
Excessive Force: 4
Failure to Act: 0
Harassment: 2
Racial Bias: 1
False Arrest: 3
Improper Search/Seizure: 0
Theft/Larceny: 1
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 0
Gender Bias: 0
Evidence Tampering: 0
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 1
Constitutional Violation: 0
Violation of SPD high-risk traffic stop policy: 1

District 5:

Demeanor: 3
Excessive Force: 2
Failure to Act: 0
Harassment: 0
Racial Bias: 0
Gender Bias: 0
False Arrest: 0
Improper Search/Seizure: 1
Theft/Larceny: 0
Taser Discharge: 0
Untruthfulness in a Police Statement/Falsifying a Report: 1
Evidence Tampering: 0
Improper Offer to Eliminate Charges in Exchange for Incriminating Information: 0
Constitutional Violation: 0
Violation 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 First Quarter of 2014

Ethnicity		
Black	21	84%
White	4	16%
Latino	0	0%
Asian	0	0%
Native American	0	0%
Total	25*	100%

*One complaint filed by two individuals

Sex		
Male	19	76%
Female	6	24%

Sexual Identity of Complainant		
LGBTQ	0	0%

Age		
Under 18	0	0%
18-35	11	44%
36-50	11	44%
51+	3	12%

Disability		
Visual	0	0%
Hearing	0	0%
Physical	1	4%
Intellectual	0	0%

Language other than English		
Spanish	0	0%
Vietnamese	0	0%
Other	1	4%