

## ARTICLE VI. - CITIZEN REVIEW BOARD<sup>101</sup>

Footnotes:

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**Editor's note**— Local Law No. 11-1993, §§ 1—9, filed June 28, 1993, has been included herein as a new Art. VI, §§ 12-181—12-189 at the discretion of the editor.

**Cross reference**— Police department, Pt. C, § 5-1401 et seq.; Pt. O, § 19-1 et seq.; mayor's commission on human rights, Pt. O, § 28-1 et seq.; duties of police department, Pt. S, § 5-8.

Sec. 12-181. - Purpose.

To establish an open citizen-controlled process for reviewing grievances involving members of the Syracuse police department and provide a non-exclusive alternative to civil litigation. In order to insure public accountability over the powers exercised by members of the Syracuse police department while preserving the integrity of the agency that employs them, citizen complaints regarding members of the Syracuse police department shall be heard and reviewed fairly and impartially by the review board established in this section.

To establish a citizen review board to hear complaints regarding Syracuse police officers and the Syracuse police department, and which would maintain procedural due process safeguards to protect the rights of both police officers and individuals who come in contact with the Syracuse police department and its officers.

(L.L. No. 11-1993, § 1; L.L. No. 1-2012, § 1)

Sec. 12-182. - Definitions.

- (1) The term "board" means the citizen review board (CRB), and such board is a public agency within the meaning of New York Civil Rights Law Section 50-a.
- (2) The term "complaint" shall mean a written report, regarding police misconduct, made by any individual.
- (3) The term "police misconduct" is defined in section 12-183.
- (4) The term "public notice" means published in a conspicuous manner so as to attract citizen attention and interest in the various media outlets, including but not limited to newspapers, television, radio or online.
- (5) The term "sanction" shall mean disciplinary action and/or retraining recommended in response to a substantiated complaint, or a recommendation that restitution be made by the city of Syracuse.
- (6) The term "immediate family" shall mean spouse, sibling, parent, child, and domestic partner.
- (7) The term "conciliation" shall mean a voluntary mediated meeting between the complainant(s) and the police officer(s) in question which shall not result in the imposition of any sanctions as described in subsection (5) hereinabove.
- (8) A "quorum" of the board shall consist of six (6) members.

(L.L. No. 11-1993, § 2; L.L. No. 1-2012, § 2)

Sec. 12-183. - Jurisdiction.

There shall be established a citizen review board independent of the Syracuse police department which shall hear, investigate and review complaints and recommend action regarding police misconduct. Jurisdiction shall include misconduct that violates state, local and/or federal law and/or Syracuse police department rules and regulations, including, but not limited to, complaints of:

- (1) Active misconduct. Behavior which is alleged by any individual to be inappropriately aggressive and intrusive to persons, ranging from excessive physical force to harassment and slurs or insults;
- (2) Passive misconduct. Failure to intervene appropriately, including untimely response and refusal to take complaints;
- (3) Damage to property, including residences, whether owned or rented;
- (4) Denial or violation of individual constitutional rights;
- (5) Disputes regarding the truthfulness of police reports with regard to misconduct in any of the foregoing categories;
- (6) The board may make recommendations to the chief of police with respect to changes in police policies and procedures. Copies of any such recommendations must be sent to the mayor, president of the common council, and the chair of the common council's public safety committee; and
- (7) The board shall have access to written policies and procedures of the Syracuse police department that the board determines are necessary for review of a matter within the jurisdiction of the board. The board or CRB administrator may request copies of such documents in writing from the chief of police or his/her designee. The chief of police shall provide all such documents except where otherwise prohibited by applicable law, when the chief of police determines that disclosure to the board would jeopardize officer safety, or significantly interfere with police tactics, deployment or operational security.
- (8) The annual budget of the CRB shall be prepared and presented in accordance with Article VI of the Syracuse City Charter, 1960, as amended.

(L.L. No. 11-1993, § 3; L.L. No. 1-2012, § 3)

Sec. 12-184. - Composition.

- (1) The board shall consist of eleven (11) members, whose minimum age will be eighteen (18) years old at the time of their appointment.
- (2) Members of the board shall be residents of the city of Syracuse and should aspire to reflect the city's diverse community with respect to age, disability, ethnicity, gender, geography, language, race, religion and sexual orientation. The Board's composition shall aspire to gender balance.
- (3) Members of the board or members of their immediate family shall not be employed by the Syracuse police department or any local, state or federal law enforcement agency.
- (4) Members of the board shall not be members of the immediate family of any incumbent elected official of city of Syracuse, nor have any financial ties with either members of the Syracuse police department or any incumbent elected official of the city of Syracuse.
- (5) At least one member of the board shall be appointed from each common council district.
- (6) The provisions of Article 23-A of New York State Correction Law shall apply to an appointment to the board.
- (7) No practicing attorney or member of his or her firm, or the immediate family of an attorney or member of his or her family who represents a plaintiff or defendant in a police misconduct lawsuit initiated against the city of Syracuse police department, the chief of police of the city of Syracuse or

the Syracuse P.B.A., or a plaintiff or any family member of a plaintiff in such case, shall be a member of the board.

- (8) The provisions of Article 2, Section 5 and Article 3, Section 30 of the Public Officers Law of the State of New York, regarding vacancies, shall apply to all members of the board.

(L.L. No. 11-1993, § 4; L.L. No. 1-2012, § 4)

Sec. 12-185. - Appointment, vacancy, and removal.

- (1) Appointment to the board shall be made as follows:
- (a) Three (3) members shall be appointed by the mayor. When an appointment by the mayor has not been made, and a vacancy exists for more than sixty (60) days from the date of the notice of vacancy provided to the mayor by the CRB administrator or chair, such appointment to fill the board vacancy shall be made by the common council.
  - (b) Eight (8) members shall be appointed by the common council, with each district councilor nominating one member and the at-large councilors jointly nominating a total of three (3) members.
  - (c) Should a councilor fail or refuse to nominate a prospective member of the board, and a vacancy exists for more than sixty (60) days from the date of the notice of vacancy provided to the council by the CRB administrator or chair, then the council as a whole may make such an appointment.
  - (d) When the board vacancy has existed for at least sixty (60) days from the date of the notice of vacancy provided to the council and/or the mayor by the CRB administrator or chair, and the council has not acted to make an appointment to fill that vacancy, the board, by a simple majority, shall have the right to nominate person(s) for review and appointment by the common council.
  - (e) The board, by a simple majority vote of the entire board, may upon good cause be able to request that the common council remove a board member where appropriate.
  - (f) The mayor and/or a member of the common council shall be able to request that the common council remove a board member upon good cause.
  - (g) Public notice shall be made of board vacancies for the purpose of providing the opportunity to qualified citizens to apply, both in the seating of the first full board and for all subsequent board vacancies as they occur.
- (2) It shall be the responsibility of the common council to seek and maintain a balanced composition of the board.
- (3) Terms.
- (a) Except for the initial board members, board members shall serve staggered three-year terms and may be reappointed for another three-year term, after which, however, the member shall not be reappointed for at least one year.
  - (b) A term shall start on January 1 of the first year of that term and shall end on December 31 of the last year of that term. If a person is appointed to complete the unexpired term of a former board member, the newly appointed board member shall be eligible to be appointed to serve two (2) successive three-year terms.
  - (c) The initial board members shall serve the following terms:
    - 1. Four (4) members shall be appointed for one year.
    - 2. Four (4) members shall be appointed for two (2) years.
    - 3. Three (3) members shall be appointed for three (3) years.

- (d) The mayor's appointments to the initial board shall be as follows:
  - 1. One appointment for a three-year term.
  - 2. One appointment for a two-year term.
  - 3. One appointment for a one-year term.
- (e) The appointments of the at-large councilors to the initial board shall be as follows:
  - 1. One appointment for a one-year term.
  - 2. One appointment for a two-year term.
  - 3. One appointment for a three-year term.

(L.L. No. 11-1993, § 5; L.L. No. 1-2012, § 5)

Sec. 12-186. - Officers and staff.

- (1) The board shall elect its chair, by majority vote for a one-year term, at the first meeting of the calendar year. No individual shall serve more than two (2) consecutive terms as chair. The chair will be a voting member of the board. The first order of business for the newly convened Board is to select such a chair, who shall then convene a search committee for a CRB administrator and a committee to establish rules of procedure not provided for herein. The chair will also be responsible to:
  - (a) Facilitate meetings of the board;
  - (b) Establish committees of board members as needed;
  - (c) Work with the CRB administrator to create agendas for board meetings; and
  - (d) Establish a rotation of board members to serve on hearing panels.
- (2) In the absence of a chair, the members of the board shall select a member to facilitate that meeting unless otherwise provided for in the by-laws. A quorum must be present to conduct business. Unless otherwise specified within the legislation, when a quorum is present, action shall be taken by a vote of the majority of the board members present.
- (3)
  - (a) The board shall appoint a CRB administrator. Public notice shall be made of the administrator's vacancy for the purpose of providing the opportunity to qualified citizens to apply. The administrator shall be a resident of Syracuse. The common council, through the annual budget process as set forth in article VI of the City Charter, 1960, as amended, shall provide for the compensation and benefits for the person appointed by the board to be CRB administrator. The CRB administrator will be responsible to the board and may be called to report to the common council. The CRB administrator shall serve at the discretion of the board.
  - (b) A committee of five (5) people shall have the primary responsibility for oversight and annual review of the performance of the CRB administrator, and may, if necessary, make a recommendation to the Board for the removal of a CRB administrator for good cause. This committee shall consist of the board chair; two (2) additional members of the board selected by a majority of the board (provided, however, that the three (3) board members so designated shall consist of one mayoral appointee, one councilor at large appointee, and one district councilor appointee), the mayor or his/her designee, and the chair of the common council public safety committee.
  - (c) The CRB administrator shall not be currently employed by the Syracuse police department or any other local, state or federal law enforcement agency, nor shall any of his or her immediate family be employed by the Syracuse police department. Neither shall the CRB administrator be a member of the immediate family of any incumbent elected official of the city of Syracuse, nor have financial interests with either such an elected official or any member of the Syracuse

police department or their immediate family, or have litigation pending against the city of Syracuse involving a claim of police misconduct, or be a member of the immediate family of a person, or be an attorney representing a person, with such pending litigation.

- (d) The CRB administrator shall be responsible, on a full-time basis, for the daily administrative work of the board which shall include:
1. Maintaining secure files of board records;
  2. Developing an ongoing account and statistics of board business, including all data required for monthly, quarterly, and annual reports;
  3. Interviewing complainants or persons seeking information about the complaint process;
  4. Making referrals;
  5. Representing the board;
  6. Assisting complainants with filing and presenting their cases to the board including:
    - a. Interviewing witnesses and taking statements,
    - b. Advising complainants regarding requests for subpoenas from the board,
    - c. Offering conciliation to complainants as an alternative to hearings and making appropriate referrals for such conciliation and/or to facilitate arrangements for such conciliation.
  7. Conducting investigations of complaints. The CRB administrator may also oversee investigations, or portions of investigations, conducted by an investigator, hired by the CRB as described below;
  8. Creating and maintaining such forms and processes that may be necessary to document and summarize a complaint and any subsequent investigation, to present a complaint to the board, to track the processing and disposition of a complaint, and to identify statistics and trends related to complaints and in reference to the categories of misconduct as defined in section 12-183 of this law and the demographics of residents of the city of Syracuse, including, but not limited to, race and/or ethnicity, sex or gender, sexual orientation and/or gender identity or expression, religion, disability, primary or secondary language other than English, immigrant or refugee, city quadrant or council district in which an incident occurred;
  9. Evaluating information in each complaint, summarizing the key facts in each complaint for presentation to the full board and making a recommendation to the board as to whether there is a reasonable basis on which a complaint should proceed to a hearing;
  10. Providing written notice to complainants regarding the disposition of a complaint and the basis for this disposition;
  11. Assisting the board in pursuing community and youth engagement;
  12. Seeking supplemental grant funding for the board;
  13. Keeping regular working and office hours consistent with other city departments;
  14. Researching and seeking out ongoing training for the board to assist it in developing further competence;
  15. Assisting the board in designing and delivering appropriate public education programs;
  16. Tracking board expenses, preparing periodic written and oral reports;
  17. Facilitating communication and scheduling for board meetings and hearings;

18. Providing written notice to the common council and the mayor of vacancies within one week of a resignation or removal of a board member by action of the council, and at least sixty (60) days prior to the end of a term; and
  19. Other tasks as needed or as directed by the board and its chair within the jurisdiction of the board.
- (4) Should the board deem that the volume or complexity of complaints filed with the board justify the need for an investigator, the board shall direct the CRB administrator to submit a request to the common council to approve the board's hiring of a qualified investigator on a part time, full time, or contractual basis. Any such person shall be free of any conflict of interest, including, but not limited to, current employment with the Syracuse police department or any other local, state or federal law enforcement agency, nor shall any of his or her immediate family be employed by the Syracuse police department. The investigator shall conduct investigations at the direction and under the supervision of the CRB administrator.

(L.L. No. 11-1993, § 6; L.L. No. 1-2012, § 6)

Sec. 12-187. - Powers and duties.

- (1) *Board and CRB administrator training.* The board and CRB administrator shall seek and participate in a broad and independent range of training as they deem necessary to pursue their duties.
- (2) *Public information and education.*
  - (a) In addition to regular monthly business meetings that include review of complaints, the board shall hold public meetings in each council district a minimum of once each year, for the purpose of inviting public input or comment, and education about the board process.
  - (b) The board shall, through a standing board committee dedicated to youth and community engagement, establish and pursue ways to interact with and solicit input from youth, present educational programs designed to promote public awareness of the CRB process, give the public information about their rights and responsibilities regarding encounters with law enforcement officers and publicize the procedure for filing complaints with the board.
  - (c) The CRB administrator on behalf of the board shall publish monthly data on the receipt and dispositions of complaints.
  - (d) The CRB administrator on behalf of the board shall publish quarterly and an annual report that shall document the total number and type of complaints in each city area during that quarter, the categories of complaints as defined in section 12-183 of the local law, the number of cases involving recommendation for sanctions, the number of cases where sanctions were imposed, the number of cases reviewed by the full board, the number of complaints dismissed during the quarter, the number of cases that successfully were routed to conciliation, the number of complainants contacting the board but not following through with a formal signed complaint, the length of time each case was pending before the board, the number of complaints in which the board recommended that the city provide restitution to the complainant and what type of restitution was recommended, and the number of complainants who filed a notice of claim against the city of Syracuse while their complaint was being considered by the board. The annual report shall also include recommendations related to changes in police policies, procedures, training and other systemic improvements. Copies of these reports shall be provided to the mayor, chief of police and chair of the council public safety committee by March 31 of each year covering the prior calendar year. Quarterly and annual reports shall be posted in an appropriate location on the city's website.
  - (e) The city shall provide the board with a website or series of web pages on which the board shall be able to place information, educational materials and links, reports and forms related to the operation of the board and its mission. The city shall provide a reliable method by which the

CRB administrator may have such content posted on this website or web pages in a timely manner.

(3) *Receipt, review, and response to complaints.*

- (a) *Initiation of complaints.* Complaints may be received directly by the CRB, or upon referral from the Syracuse police department office of professional standards. Any complaint received and accepted by the CRB shall be immediately transmitted to office of professional standards, and any complaint received and accepted by office of professional standards shall be transmitted to the CRB within one business day.

The CRB shall receive initial complaints by telephone, in person, by mail or email. Initial complaints shall be taken whether signed or anonymous in order to provide the complainant with the opportunity to discuss his or her options, but the formal review process will not begin without a signed statement. Efforts to simplify the procedure will be made so as not to discourage filing. Professional standards of confidentiality with regard to written releases of information and informed consent will apply to all complaints filed. The board shall comply with the Civil Rights Law Section 50-a by maintaining the confidentiality of any and all personnel records received by the board in the course of their duties.

The CRB administrator shall assist a complainant in writing a complaint. Complainants shall be apprised of legal assistance options and the procedure for filing a notice of claim with corporation counsel against the city pursuant to the general municipal law.

Within sixty (60) days of the receipt of a complaint, the CRB shall complete its investigation, determine whether there is reasonable cause to proceed to a hearing, conduct a hearing, and issue its findings and recommendations to the chief and the corporation counsel.

- (b) *Conciliation.* Conciliation shall be offered at each stage of the board review process until the commencement of a hearing. The person or persons selected to mediate the conciliation process shall be mutually agreed upon. The purpose of the conciliation is to arrive at a resolution that is mutually agreeable to the parties. If the outcome is not satisfactory to both parties, the complainant may resume the board process.

(c) *Investigation of complaints.*

1. The CRB administrator, or a CRB investigator or a designee of the CRB administrator shall interview complainants.
2. The board shall have the power to investigate complaints of police misconduct independent of and concurrently with any investigations conducted by office of professional standards. Within thirty (30) days of receipt of a complaint by any person regarding police misconduct, the office of professional standards shall provide to the CRB administrator a copy of the full office of professional standards report and recommendation to the chief of police, and the entire office of professional standards investigatory case file including any dispatch transcripts related to the allegations in the complaint. The CRB administrator and the chief of police shall endeavor to establish a cooperative relationship between the board, its staff and the police department and its officers and members to ensure the orderly and efficient flow of information between these two (2) agencies of the city.
3. A complainant may decline to cooperate with the office of professional standards investigation, and may seek review directly from the citizen review board. A complainant may, at any time, decline to have his/her complaint investigated and reviewed by the CRB. Such declination must be made in writing by the complainant, and shall immediately be forwarded to the chief of police by the CRB administrator.
4. The chief of police shall take no action on a complaint, whether received directly by the Syracuse police department or by the CRB, until sixty (60) days from the receipt of the complaint, or upon receipt of the board findings and recommendations, or notice that the board will be taking no action, whichever occurs first. Provided, however, that the chief of

police retains his or her authority to discipline members of the police department and the aforementioned provision shall not be interpreted as a restriction on the authority of the chief to order disciplinary measures during this sixty-day time period as he or she deems necessary.

- (d) *Report by CRB administrator on investigations of complaints.* Upon completion of the CRB investigation and receipt of the office of professional standards report, case file, and recommendation to the chief of police, the CRB administrator shall make a determination as to whether there is reasonable cause to proceed to a board hearing on the allegations of misconduct in a complaint. The CRB administrator shall then present his/her report and recommendation to the full board, and provide all board members with access to the full board and office of professional standards case file.
- (e) *Reasonable cause determination.* Upon review of the report and recommendations from the CRB administrator, the full board may either affirm or reverse the recommendation as to whether or not there is reasonable cause to proceed to a hearing. If there is reasonable cause to proceed, the board shall direct the CRB administrator to schedule a hearing and notify the complainant and the chief of police. If there is not reasonable cause, the CRB administrator shall notify the complainant and the chief of police of this determination.
- (f) *Hearing process.*
  - 1. As described above, the board chair shall establish a rotation of board members to serve the hearing panels composed of three (3) members of the board with each panel consisting of one mayoral appointee, one council at-large appointee and one council district appointee. Each panel shall select its own chair on a case-by-case basis.
  - 2. The board, by majority vote of its members, may authorize the issuance of a subpoena. Such subpoenas may compel the attendance of witnesses and/or persons and require the production of such records and other materials as are necessary for the hearing of a complaint including records of the SPD, other persons, or other agencies. A copy of any subpoena served upon a Syracuse police officer shall also be delivered to the chief of police. Board subpoenas are enforceable pursuant to relevant provisions of Article 23 of the New York Civil Practice Law and Rules. The chief of police will use the authority granted to him or her by section 5-1409 of the City Charter to promulgate new rules or utilize existing rules regarding discipline and administration of the officers and members of the department to ensure compliance with the CRB procedure in accordance with applicable law.
  - 3. Panel hearings shall not be open to the public.
  - 4. Panel hearings shall not be recorded verbatim by any means or method.
  - 5. Panel hearings shall follow the substantial evidence standard of proof.
  - 6. Both complainant(s) and officer(s) subject to a hearing shall have the right to obtain counsel and to cross examine witnesses. Complainants may represent themselves, retain counsel to represent them, or use legal assistance options in the community.
  - 7. The hearing panel shall exclude the complainant, officer(s) whose is (are) the subject of a complaint, witnesses from proceedings when the panel receives and considers evidence involving confidential matters that are unrelated to the allegations in the complaint.
  - 8. Decisions of the panel shall be made by majority vote. Deliberations of the panel shall be confidential and confined to the panel members assigned to that particular hearing, and their legal advisors. The decision shall include findings of fact, and recommendations.
    - a. If the panel finds that the officer may have engaged in criminal conduct, it may refer the matter to the district attorney and request that he/she initiate an investigation.
    - b. If a panel finds that misconduct has occurred, the CRB administrator shall notify the chief of police, the officer(s) who were the subject(s) of the complaint, and the

complainant, in writing within one business day of the panel's findings and recommendations, by verifiable means. Such recommendations may include disciplinary sanctions including, but not limited to, counseling, reprimand, suspension, retraining, demotion or dismissal. The panel may also recommend that restitution be paid to the complainant by the city for damage to real or personal property, costs related to medical or mental health treatment, or other losses causally related to the incident.

- c. A panel recommendation regarding restitution shall not include a recommendation as to the specific dollar amount, although the board's records of such cases shall note any estimates or receipts that were provided by the complainant. Restitution shall be the responsibility of the city, as in any case of an indemnified city employee. The corporation counsel shall advise the board of the disposition of cases in which the board has recommended that restitution be paid. Provided, however, that the complainant has filed a timely notice of claim with the city seeking such restitution in accordance with the City Charter and general municipal law.
9. The panel shall report its findings and recommendations to the full board at its next scheduled meeting.
10. The actions of the board do not preclude action by the judicial system. A finding or decision by the board shall not have any collateral effect upon a subsequent administrative or judicial proceeding.
- (g) *Response from the chief of police.* Within thirty (30) days of the receipt of a recommendation from a hearing panel, the chief of police shall advise the board in writing as to what type of actions or sanctions were imposed, and the reasons if none were imposed.
- (4) *Additional recommendations.* The board may identify, analyze, and make recommendations about police policies, procedures, practices or other systemic concerns about police conduct to the chief of police, even without the existence of underlying complaints. The board shall provide copies of any such recommendations to the mayor and the chair of the common council's public safety committee.

(L.L. No. 11-1993, § 7; L.L. No. 1-2012, § 7)

Sec. 12-188. - Legal representation of the board.

The corporation counsel shall advise and represent the CRB as it would other city departments and agencies in accordance with the law department's duties under section 5-1101 of the City Charter. Provided, however, that upon the determination by the board and/or the corporation counsel that a conflict of interest exists, depending on the facts and circumstances of a particular matter, the corporation counsel will advise the CRB administrator of the existence of such a conflict and the need for the board to obtain outside counsel if such counsel is deemed necessary by the board. The board may then seek and retain independent legal counsel, provided, however, that compensation for such legal services shall be established through the annual budgetary process as set forth in article VI of the City Charter, 1960, as amended.

(L.L. No. 11-1993, § 8; L.L. No. 1-2012, § 8)

Sec. 12-189. - Police liaison committee.

- (1) The chief of police shall designate a three (3) member committee to act as liaison between his office and the board.
- (2) The police liaison committee will act as a resource to the board on matters of information regarding Syracuse police department policies, procedures, and training, and will assist the CRB administrator

as requested in developing an initial orientation for board members and ongoing training. No member of the police liaison committee will have voting power on the board.

(L.L. No. 11-1993, § 9; L.L. No. 1-2012, § 9)