

A comparative analysis of the Police Advisory Board and the Civilian Review Board and a 52 year history of police accountability efforts in Rochester, NY

This analysis was written by Ted Forsyth of Enough Is Enough, on March 12, 2015 for the independent civilian review board committee of the Rochester Coalition for Police Reform. Enough Is Enough is an organizational member in the coalition. The analysis was expanded and updated on July 22, 2015. It was written for use by the coalition, its allies, and partners. This version is not for mass publication.

Abstract

This is a history of police accountability efforts in Rochester, NY over the course of 52 years as well as a comparative analysis between the Police Advisory Board (PAB) from 1963 and the Civilian Review Board (CRB) from 1992. This history and comparative analysis includes the salient features of each system, the history between the end of the PAB and the start of the CRB, and concludes with some suggestions on how to move forward with an independent civilian review board. My perspective is informed by my work as an independent journalist and activist. I am for abolition of the police and meaningful justice. I am opposed to corruption, abuse, brutality, and cosmetic changes to systems that offer no justice. For the people of Rochester, NY, justice has been fleeting when it has come to police violence, regardless of whether it's 1963, 1992, or 2015.

Introduction

I approached this analysis using multiple sources. For starters, I used the City of Rochester's Freedom Of Information Law (FOIL)¹ request form to obtain copies of the Police Advisory Board (PAB) legislation from 1963² and the Civilian Review Board (CRB) legislation from 1992.³ I was also able to

¹The website for information on the City of Rochester's FOIL access is at: <http://www.cityofrochester.gov/article.aspx?id=8589936864>; the City of Rochester FOIL form itself can be downloaded as a .pdf here: http://rochester.indymedia.org/sites/default/files/records_access_form.pdf.

²See a scan of the 1963 Police Advisory Board legislation as well as comments submitted to Rochester City Council for and against it, in .pdf format at: <http://rochester.indymedia.org/node/146813>.

³See a scan of the 1992 Civilian Review Board legislation in .pdf format at: <http://rochester.indymedia.org/node/146814>.

get petitions and letters received by City Council on March 4, 1963—both in favor of, and against the PAB legislation.

To find out more about the PAB, I read The Remaking of a City: Rochester, NY 1964 – 1984⁴ by Lou Buttino and Mark Hare. I also looked at Rochester History XXV, 4, “A History of the Police of Rochester, New York.” (October 1963)⁵ by City Historian Blake McKelvey. Finally, I sifted through newspaper clippings from the *Times-Union* and the *Democrat & Chronicle* between the years of 1963 to 1971. These clippings can be found in the Local History Department of the Monroe County Public Library in the Downtown Branch.

The Remaking of a City: Rochester, NY 1964 – 1984 by Lou Buttino and Mark Hare offered some historical insight into events just before and just after the race rebellion⁶ of 1964 and mentioned the PAB, although information about the police was scattered throughout the book. It was written as an historical chronology that relied heavily on a dominate social and political narrative as well as the reporting of the *Democrat & Chronicle* and the *Times-Union* newspapers. It tracked organizations for 20 years, from 1964 to 1984, that were created as a result of the race rebellion in July 1964 such as Freedom, Integration, God, Honor, Today (FIGHT), Action for a Better Community, the Urban League, and others, as well as community groups, neighborhood associations, business, labor, the school district, city administration, and the political parties. The book really *did* feel like a chronology and

⁴The Remaking of a City: Rochester, NY 1964 – 1984 by Lou Buttino and Mark Hare. Dubuque, Iowa. Kendall/Hunt Pub. Co., c1984. This book is in the Rochester Public Library system—see the listing at: <http://catalogplus.libraryweb.org/#section=resource&resourceid=21859492¤tIndex=0&view=fullDetailsDetailsTab>.

⁵This chapter of Rochester History can be found online through the public library system at: http://www.libraryweb.org/~rochhist/v25_1963/v25i4.pdf.

⁶In my experience, I tend to hear the white community describe the events of July 1964 as “riots.” At the same time, I hear people from the Black community describe the events of July 1964 as a “race rebellion.” A riot is understood as the violent actions of an uncontrollable group of people whereas a rebellion can be seen as open opposition to an authority through the use of protest, disobedience, a disregard for normal standards of behavior, and violence. The events of July 1964 seem to have been quickly cast as riots by white supremacist institutions such as the for-profit media, the police, and the government in order to delegitimize the anger and misery people felt that stemmed from poverty, racism, segregation, poor education, bad housing, and police violence. Therefore, I use the term rebellion, making a distinction, knowing that I wasn't alive at the time and that I am going by the recollections of people who were there 50 years ago. See also this article: Osterweil, Willie, 2014. “In Defense of Looting.” *The New Inquiry*, August 21 (<http://thenewinquiry.com/essays/in-defense-of-looting/>). The article briefly addresses the history of looting and critiques the knee jerk reaction to condemn such modes of demonstration and righteous anger that arise because of the way police, property, and white supremacy intersect and overlap in our society holding a mostly racialized group of people back, while allowing a small, mostly white, group to flourish.

nothing else, as critical reflection was absent from its pages. Since there was a dearth of oppositional sources used in the book, Buttino and Hare's narrative, which relied heavily on the two papers and their biases—conservative, pro-business, with white audiences in mind, and opposed to police accountability⁷—remained within a fairly narrow re-telling of the historical record. Reading a decade's worth of newspaper clippings from two main sources of news, specifically focused on a police review board, was a significant education in the depth of racism and the breadth of denial in the white community when compared with the book's narrative. Sadly, Buttino and Hare didn't focus on the police union or the police department in any substantial way. Still, it did offer clues about the nature of police misconduct and brutality at that time.

Another piece of somewhat useful history when looking into the PAB was Rochester History XXV, 4, “A History of the Police of Rochester, New York.” (October 1963) written by City Historian Blake McKelvey. This chapter of Rochester History looked at the beginning of the police force in Rochester up to 1963. The chapter did mention the cases of A.C. White⁸ (“...a Negro charged with drunken driving, resisted arrest and suffered a fractured arm among other injuries that took him to the hospital.”), Rufus Fairwell⁹ (“...a 28-year-old Negro [who] suffered two fractured vertebrae in a struggle with two policemen who attempted to arrest him as he closed the service station at which we was employed...”), and a case of police interference with a group of Black Muslims¹⁰ who were having a religious meeting, on the pretext that they had firearms (those arrested were charged with riot and third degree assault). However, by the end, McKelvey's denial and racism led him to assume an ideal interpretation of Rochester—nine months before the race rebellion—where he wrote in an upbeat tone

⁷See two editorials, one from the *Rochester Democrat & Chronicle* and the other from the *Times-Union*, written on the same day, January 11, 1965 at: <http://rochester.indymedia.org/node/146816>. Thanks is extended to the Local History Department of the Monroe County Public Library for their newspaper archives.

⁸Rochester History XXV, 4, “A History of the Police of Rochester, New York.” (October 1963), p. 25.

⁹*Ibid.* P. 25.

¹⁰*Ibid.* P. 25.

that the city's “prompt action” in creating the PAB “brought a welcome relaxation of tension.”¹¹ He also noted that the police department, “despite some misgivings within its ranks, was ready to meet the complex problems of an expanding city and to do so in a democratic fashion...”¹² Again, clues were offered about police misconduct, but no in-depth analysis was given pertaining to the cases mentioned above, the police union, or the police department for the time period leading to the creation and operation of the PAB.

To find out more about the CRB, aside from reviewing the legislation, I sifted through the newspaper clippings of the *Times-Union* and the *Democrat & Chronicle* between the years of 1984 to 2002. I looked at clippings earlier than 1992 to better familiarize myself with the demands of the people and the work being done to effect real police accountability, as reported by the papers, before the CRB was legislated.

I've also read and watched other news sources with regards to the CRB such as independent journalist David Vara and his blog¹³, community newspapers like *Minority Reporter* and *City Newspaper*, as well as the mainstream, for-profit media. My work has also been informed by my experiences as a Rochester Indymedia journalist and community activist in Rochester for nine years. Over the past nine years, I've listened to the stories of people who have borne the brunt of police violence—in the interviews I've conducted, through the press conferences I've attended, and in the personal conversations I've had with community members and elders.¹⁴

¹¹Ibid. P. 27.

¹²Ibid. P. 27.

¹³Find David Vara's blog with plenty of stories of police violence at: <http://davyv.blogspot.com/>.

¹⁴This is a chronological list of cases reported from *just* Rochester.Indymedia.org starting from the most present and going back four years. There are more cases elsewhere not represented below that were published by the corporate press and other independent journalists. The stories below do not take into account very recent events that have not been publicized: Forsyth, Ted, David Vara. 2015. “Edison Tech student athlete files civil rights lawsuit against police.” Rochester Indymedia, February 18 (<http://rochester.indymedia.org/node/146620>); Forsyth, Ted. 2015. “Exonerating police misconduct: no accountability in Benny Warr case.” Rochester Indymedia, January 6 (<http://rochester.indymedia.org/node/104474>); Forsyth, Ted. 2014. “Ferguson Response Press Conference hosted by UCLM & CPR.” Rochester Indymedia, November 29 (<http://rochester.indymedia.org/node/104299>); Forsyth, Ted. 2014. “The impact of mass incarceration on families.” Rochester Indymedia, November 10 (<http://rochester.indymedia.org/node/104192>);

My work, focusing on police violence, with Rochester Indymedia, Enough Is Enough, and the Rochester Coalition for Police Reform has informed me that both civilians on the receiving end of police violence and elders who have witnessed the failures of the system to police itself—over and over again—know that this is *not* a one-off occurrence or a few bad apples.¹⁵ Police brutality and misconduct—I use that phrase interchangeably with police violence—is a systemic and perpetual problem within the Rochester Police Department and has been for over 50 years. For the people of Rochester, NY, justice is fleeting when it comes to police violence, regardless of whether it's 1963, 1992, or 2015.

A history of the Police Advisory Board

Forsyth, Ted. 2014. "Officer Masic to Mr. Keene: 'If you don't stop moving, I'm going to shoot you.'" Rochester Indymedia, September 30 (<http://rochester.indymedia.org/node/104097>); Eagle, Howard. 2014. "RPD Civilian Review Board Should Have Investigative Power and Authority." Minority Reporter, June 16 (<http://rochester.indymedia.org/node/102062>); Vara, David. 2014. "East Rochester Cops & Monroe County Sheriff's Deputies Taser & Beat Man, Fracturing his Face." DavyV.blogspot.com, May 8 (<http://rochester.indymedia.org/node/101890>); Forsyth, Ted, Susan Galloway, and Enough Is Enough. 2014. "Press conference with Dwayne Ivery announcing his civil rights lawsuit against RPD & city." Rochester Indymedia, February 8 (<http://rochester.indymedia.org/node/101224>); Forsyth, Ted. 2014. "Impossible choices: Brenda Hardaway pleads guilty to assault in the second degree." Rochester Indymedia, January 18 (<http://rochester.indymedia.org/node/101196>); Vara, David. 2013. "Davy V. analyzes Cedric Alexander as a potential new chief..." DavyV.blogspot.com, December 26 (<http://rochester.indymedia.org/node/100974>); Revette, Dawn. 2013. "Video from the Forum on Police-Community Relations." Rochester Indymedia, November 19 (<http://rochester.indymedia.org/node/100532>); Forsyth, Ted, Michele Cunningham. 2013. "Michele Cunningham: another victim of zealous, illegal policing and a broken justice system." Rochester Indymedia, October 29 (<http://rochester.indymedia.org/node/100326>); Forsyth, Ted. 2013. "United Christian Leadership Ministry make demands in the Brenda Hardaway case." Rochester Indymedia, September 24 (<http://rochester.indymedia.org/node/99989>); Forsyth, Ted. 2013. "Rochester Police Officer Mario V. Masic: 'I do what I wanna do. My name's Cowboy. This is my block.'" Rochester Indymedia, August 14 (<http://rochester.indymedia.org/node/99410>); Vara, David. 2013. "Sylvester Pritchett: Beat, Tased by RPD & Monroe County Probation Officers." DavyV.blogspot.com, July 7 (<http://rochester.indymedia.org/node/99138>); Forsyth, Ted. 2013. "Rochester Indymedia checks in with the Center for Disability Rights on Benny Warr's case." Rochester Indymedia, May 30 (<http://rochester.indymedia.org/node/98969>); Vara, David. 2013. "Did the RPD pull a gun on a man videotaping from his porch?" DavyV.blogspot.com, May 6 (<http://rochester.indymedia.org/node/98844>); Forsyth, Ted. 2013. "Human Rights Day: 'The New Jim Crow: Mass Incarceration in the Age of Colorblindness.'" Rochester Indymedia, January 7 (<http://rochester.indymedia.org/node/97932>); Rochester Independent Media Center. 2012. "Video: RPD Officer Assaults & Robs Mark Zullo." Rochester Indymedia, August 30 (<http://rochester.indymedia.org/node/69191>); Rochester Independent Media Center. 2012. "Police Snatch and Arrest 18 from Anti-Capitalist March (Updated)." Rochester Indymedia, July 21 (<http://rochester.indymedia.org/node/53497>); Forsyth, Ted, Andy Dillon, and JuanTV. 2012. "Rally Denounces RPD Murder of Israel 'Izzy' Andino!" Rochester Indymedia, June 28 (<http://rochester.indymedia.org/node/49305>); Loria, Theodore. 2011. "Citizen takes Rochester Police Department to Federal Court." Rochester Indymedia, November 6 (<http://rochester.indymedia.org/node/7536>); Galloway, Susan. 2011. "Raid Traumatizes Family." Rochester Indymedia, September 8 (<http://rochester.indymedia.org/node/6982>); Forsyth, Ted. 2013. "Dredging Up the Past on Police Union President Mike Mazzeo." Rochester Indymedia, May 23 (<http://rochester.indymedia.org/node/6979>); Vara, David. 2011. "The Pink Ruler Boys, The Parking Violations Bureau, and a Tale of Corruption..." Rochester Indymedia, July 26 (<http://rochester.indymedia.org/node/7522>); Forsyth, Ted. 2011. "Monroe County Legislator Willie Joe Lightfoot Talks About His Arrest on May 4, 2011." Rochester Indymedia, July 19 (<http://rochester.indymedia.org/node/7520>); Forsyth, Ted. 2011. "Breaking: Public Safety Chair says 'The City of Rochester has lost control of its police force.'" Rochester Indymedia, July 14 (<http://rochester.indymedia.org/node/7519>); and Rochester Independent Media Center. 2011. "Rochester Police Arrest Citizen for Taping Traffic Stop." Rochester Indymedia, June 21 (<http://rochester.indymedia.org/node/7514>).

¹⁵Our Enemies in Blue: Police and Power in America by Kristian Williams. Brooklyn, NY. Soft Skull Press, 2009. Pages 23 – 26. Mr. Williams, in this section of his book, examines the "Rotten Apple" theory of police brutality. He starts the section with, "Given such pervasive violence, it is astonishing that discussions of police brutality so frequently focus on the behavior of individual officers. Commonly called the 'Rotten Apple' theory, the explanation of police misconduct favored by police commanders and their ideological allies holds that police abuse is exceptional, that the officers who misuse their power are a tiny minority, and that it is unfair to judge other cops (or the department as a whole) by the misbehavior of the few. This is a handy tool for diverting attention away from the institution, its structure, practices, and social role, pushing the blame, instead, onto some few of its agents. It is, in other words, a means of protecting the organization from scrutiny, and of avoiding change."

Below is a beginning to a potentially much longer history of the Police Advisory Board. So much more could be written about it. The history below was created using clippings from the *Democrat & Chronicle* and *Times-Union* newspapers. Though not oral history or direct source documentation, it does give clues and a chronology of events.

On Tuesday, March 26, 1963, the Police Advisory Board (PAB) was passed into law¹⁶ by the Rochester City Council after a “stormy hearing” on March 12. Part of the March 12 storminess was the petition of “40,000 names of persons opposing the creation of a Police Advisory Board” that was submitted to City Council by the Locust Club—Rochester's police union.¹⁷ There was also (at least) a full-page *Democrat & Chronicle* newspaper advertisement paid for by DeCarolis Trucking and Rental Co., Inc. President Louis J. DeCarolis, Peter V. Ereg, and Russell B. Sanguedolce against the PAB, published on March 10, just days before the March 12 Rochester City Council.¹⁸ The first nine-member board was appointed on May 20, 1963¹⁹ and was comprised of three members of the clergy, a pediatrician, an accountant, a treasurer, a lawyer, the Labor Council president, and a history professor.

The first complaint brought to the PAB was ruled outside of its jurisdiction and dismissed on July 17, 1963.²⁰ According to the legislation, the PAB was tasked with *only* hearing complaints that alleged “the use of excessive or unnecessary force.” On its first year of operation, according to a *Times-Union* article from August 7, 1964, the PAB received 20 complaints, dismissed 18 unofficial complaints, and went forward with two official complaints.²¹ Official complaints were complaints that fit the criteria for

¹⁶See a scan of the 1963 Police Advisory Board legislation as well as comments submitted to Rochester City Council for and against it, in .pdf format at: <http://rochester.indymedia.org/node/146813> & <http://rochester.indymedia.org/node/146877>.

¹⁷Spezzano, Vince. 1963. “Police Petitions Against Board Get 40,000 Names.” *Times-Union*, March 12 (<http://rochester.indymedia.org/node/146824>).

¹⁸DeCarolis Trucking and Rental Co., Inc. President Louis J. DeCarolis, Peter V. Ereg, and Russell B. Sanguedolce. 1963. Full-page advertisement. *Democrat & Chronicle*, March 10 (<http://rochester.indymedia.org/node/146875>).

¹⁹Spezzano, Vince. 1963. “9-Man Police Advisory Board Named.” *Times-Union*, May 20 (<http://rochester.indymedia.org/node/146822>).

²⁰No author listed. 1963. “Police Unit In 1st Ruling.” *Times-Union*, July 18 (<http://rochester.indymedia.org/node/146823>).

²¹See both of these articles. No author listed. 1964. “Year's Score: 2 Cases for Police Board.” *Times-Union*, August 7 (<http://rochester.indymedia.org/node/146865>); and no author listed. 1964. “Business' Slow for Police Board.” *Democrat & Chronicle*, August 8 (<http://rochester.indymedia.org/node/146866>).

review and action by the board. Unofficial complaints were rejected because they fell outside of the scope of the board. Between June 1964 to October 1965, the board accepted 14 official complaints.²² In 1968, the PAB reviewed 10 complaints.²³ No cases were reviewed from 1965 to 1968.

Of the 16 official complaints from 1963 to 1965, only three were decided upon.²⁴ In the first case, patrolman Anthony D'Angelo was cleared of using excessive or unnecessary force.²⁵ In the second case, patrolmen Vito D'Ambrosia and Michael Rotolo were also cleared of using excessive force by the board. The board's report stated that the officers "used no more force than necessary."²⁶ In the third case, John Graham, a Black, 19-year-old arrested for public intoxication, stated that four Rochester Police Bureau officers beat him up and used "unnecessary force" while he was in police custody.²⁷ It was the only case, up to that point, where the board and the chief disagreed publicly; this led to the findings of both Police Chief William Lombard and the board to be placed in the officers' personnel files.²⁸ Upon inspection of the newspaper clippings, no other reports regarding the PAB's case load from 1965 to 1968 could be found. The courts had prevented it from functioning.

The PAB functioned for two years, weathering a storm of public disapproval,²⁹ until on April 15, 1965,

²²Vogler, Bill. 1965. "Cases Rising, Police Review Board Reports." Democrat & Chronicle, October 19 (<http://rochester.indymedia.org/node/146867>).

²³No author listed. 1968. "10 Cases Reviewed By PAB." Democrat & Chronicle, February 2 (<http://rochester.indymedia.org/node/146868>).

²⁴No author listed. 1965. "Advisory Board Denies Cops Used 'Extra Force'." Democrat & Chronicle, October 12 (<http://rochester.indymedia.org/node/146870>).

²⁵No author listed. 1964. "Year's Score: 2 Cases for Police Board." Times-Union, August 7 (<http://rochester.indymedia.org/node/146865>).

²⁶No author listed. 1965. "Advisory Board Denies Cops Used 'Extra Force'." Democrat & Chronicle, October 12 (<http://rochester.indymedia.org/node/146870>).

²⁷No author listed. 1965. "Officials Critical of Police Probe." Times-Union, June 4 (<http://rochester.indymedia.org/node/146869>).

²⁸No author listed. 1965. "Complaint Put Into Cops' Files." Democrat & Chronicle, June 4 (<http://rochester.indymedia.org/node/146871>).

²⁹Editorials, letters to the editor and some articles from the *Times-Union* newspaper critical of the Police Advisory Board 1963 – 1965: No author listed. 1963. "Does Police Board Need Executive Staff?" [Editorial.] Times-Union, June 25, 1963 (<http://rochester.indymedia.org/node/146880>); No author listed. 1964. "City Must Answer FBI On Police Board Charges." [Editorial.] Times-Union, October 1 (<http://rochester.indymedia.org/node/146882>); Hoesli, Margaret B. 1964. "Would Abandon Police Board." [Letter to the Editor.] Times-Union, August 14 (<http://rochester.indymedia.org/node/146893>); Smith, Cliff. 1964. "Police Board Opposed," [Letter to the Editor.] Times-Union, August 12 (<http://rochester.indymedia.org/node/146894>); Prattis, Barbara. 1964. "Lauds Police Board Criticism." [Letter to the Editor.] Times-Union, October 1 (<http://rochester.indymedia.org/node/146896>); No author listed. 1965. "Police Advisory Board Should Be Abolished." [Editorial.] Times-Union, January 11 (<http://rochester.indymedia.org/node/146816>); No author listed. 1965. "Police Board Hurts Crime Fight." [Editorial.] Times-Union, January 15, Gordon, Mrs. Albert. 1965. "Feels Advisory Board Hampers Police." [Letter to the Editor.] Times-Union, January 22, and McLain, J. I. 1965. "Raps Police Review Board." [Letter to the Editor.] Times-Union, January 25 (all three can be viewed at: <http://rochester.indymedia.org/node/146898>); Morcan, John. 1965. "Urges Elimination Of Police board." [Letter to the Editor.] Times-Union, February 10 and Connolly, Tom. 1965. "Get Advisory Board Off Us." Times-Union, February 24 (both can be viewed here: <http://rochester.indymedia.org/node/146899>); Miller, Paul. 1965. "Police Need

Supreme Court Justice Daniel E. Macken required “the board to show cause why its operation should not be stopped until the suit is decided.”³⁰ He also ordered a “temporary restraining order enjoining the board from conducting any hearings or investigations or performing any other official acts” until the arguments were heard in the show-cause hearing on April 27, 1965.

Weeks before the court issued the restraining order against the board, Citizens for Abolition of the Police Advisory Board (CAPAB) formed on March 26, 1965. Taking a cue from the FBI's J. Edgar Hoover, the group put out a statement which said, “police advisory boards are detrimental to law and order.” Charles W. Quinn, president, at that time, of the Rochester Local 4146, United Steel Workers, was elected chairman. Quinn told the *Democrat & Chronicle* that the group would formally announce its plans “to work for the abolition of the board 'through legal and honorable methods.’”³¹

The suit against the PAB, brought by the Locust Club and seven officers (John Hunt, Bennie Jaskot, George Signor, Richard Sterling, Anthony D'Angelo, Nelson Evans, and Joseph Favata), argued that police named in cases before the PAB have “no adequate legal remedy against actions of the board.”

Full Support To Help the War Against Crime." [Letter to the Editor.] Times-Union, March 13, DeLorm, Orville. 1965. "Abolish Police Board." [Letter to the Editor.] Times-Union, March 17, No author listed. 1965. "Good Question." [Letter to the Editor.] March 22, and Morcan, John C. 1965. "Calls for Abolishing Police Advisory Board." [Letter to the Editor.] Times-Union, March 26 (All four articles can be seen at: <http://rochester.indymedia.org/node/146900>); "Citizens Group Hits Police Board," April 2, 1965, "Sibley Unconvincing On Need for Police Board," April 12, 1965, and "Review Board Is a 'Group Libel'," April 27, 1965 (<http://rochester.indymedia.org/node/146901>); "Disband Police Board As Soon as Possible," May 18, 1965 and "Police Board--No Confidence," May 27, 1965 (<http://rochester.indymedia.org/node/146906>); "Supports Abolition Of Police Review Board," June 5, 1965, "Police Board 'Fundamentally Unfair'," June 5, 1965, and "Abolish Police Advisory Board," June 10, 1965 (<http://rochester.indymedia.org/node/146910>); "Time To Put End'," July 1, 1965 and "Ex-N.Y. Police Boss Is Still Bristling," July 21, 1965 (<http://rochester.indymedia.org/node/146911>); "Strong New View on Police Board," September 22, 1965 (<http://rochester.indymedia.org/node/146914>); "Police Board Opponents Get Their Lumps But Deserve Credit," October 2, 1965, "Comment on Bishop's Statement" and "Urges Abolishing Police Review Board," October 4, 1965, and "Police Boards Criticized," October 23, 1965 (<http://rochester.indymedia.org/node/146915>); and "Dump Police Review Board'," December 31, 1965 (<http://rochester.indymedia.org/node/146916>).

Editorials, letters to the editor, some articles, and an advertisement from the *Democrat & Chronicle* newspaper critical of the Police Advisory Board 1963 – 1965: DeCarolus, Ereg, & Sanguedolce take out full-page ad against PAB, March 10, 1963 (<http://rochester.indymedia.org/node/146875>); "Police Board's Work is Done," January 11, 1965 (<http://rochester.indymedia.org/node/146919>); "Advisory Board Unnecessary," February 9, 1965 (<http://rochester.indymedia.org/node/146921>); "Advisory Board Should Go," March 25, 1965 (<http://rochester.indymedia.org/node/146922>); "People Should Vote On Advisory Board," April 22, 1965 (<http://rochester.indymedia.org/node/146923>); "City Doesn't Need Advisory Board'," May 2, 1965, "Advisory Board Belittles Cops'," May 4, 1965, "Police Board Foes Lacked Courtesy'," May 4, 1965, "Board Opponent Makes Apology," May 12, 1965, and "N.Y. Top Cop Quits Over Review Issue," May 19, 1965 (<http://rochester.indymedia.org/node/146924>); "10 Vow to Fight Advisory Board," September 17, 1965 (<http://rochester.indymedia.org/node/146925>); and finally, "All Police Advisory Boards Hit As 'Forced by Minorities'," October 23, 1965 (<http://rochester.indymedia.org/node/146926>). It should be noted that the *Democrat & Chronicle* in 1964 focused a lot of their reporting on the possibility of a police review board in New York City.

³⁰No author listed. 1965. "Police Suit Fights Advisory Board." Times-Union, April 16 ().

³¹No author listed. 1965. "Group Will Fight Advisory Board." *Democrat & Chronicle*, March 27 ().

Specifically, officers were “forced to testify against themselves” and had “no redress against decisions of the board even though the board is investigating charges which are legally defined as crimes,” according to a *Times-Union* article from April 16, 1965.³² The officers listed in the suit stated in court papers that they were “all subjects of complaints to the board” and because of this, they had been “damaged in (their) [sic] professional ability to perform (their) [sic] jobs.” The police were represented by attorney Thomas G. Presutti.

On April 27, CAPAB “won the right to intervene as a friend of the court” against the PAB, according to a *Democrat & Chronicle* article published on April 28.³³ Supreme Court Justice Charles B. Brassler allowed the request and postponed the hearing till the following Tuesday. Justice Brassler didn't see “how anyone's interests will be seriously prejudiced if the [restraining] order stays in effect one more week.” June Weisberger, representing the city and the board, objected to the “intervention” by the civic group on the grounds that they were not legally aggrieved and that the restraining order issued by Justice Macken was entirely “too broad.” The justice rejected the motion to modify the order.

A week later, May 6, State Supreme Court Justice Jacob Ark modified the restraining order against the board. The order was limited to “three patrolmen against whom complaints are pending before the board—John R. Hunt, Joseph J. Favata and Nelson T. Evans,” according to a *Times-Union* article from May 7.³⁴ This ruling meant that the board could once again do its work beyond the cases of the three named officers above.

The court gave Presutti until May 20 to file a brief on behalf of the police. Rosario J. Guglielmino was

³²No author listed. 1965. “Police Suit Fights Advisory Board.” *Times-Union*, April 16 ().

³³No author listed. 1965. “Citizens Group Role OK'd In Police Board Suit.” *Democrat & Chronicle*, April 28 (); No author listed. 1965. “Intervention Allowed in Board Suit.” *Times-Union*, April 28 ().

³⁴No author listed. 1965. “Police Board Curb Modified by Court.” *Times-Union*, May 7 ().

given until May 27 to file the city's brief. Once the briefs were in, then a date for oral arguments could be set regarding a motion for a temporary injunction. In the meantime, the Police Conference of New York, Inc. made headlines in the *Democrat & Chronicle* on May 18 with the promise of financial and moral support to the Locust Club and its legal battle with the board. The Police Conference claimed 50,000 members in New York State with aid coming not only from them, but a nation-wide federation of law enforcement officers.³⁵

In late April, Lawrence Jost from Gates, wrote to the *Democrat & Chronicle* exposing the CAPAB as nothing more than mean-spirited police advocates who used intimidation and harassment against people supportive of the board. Mr. Jost was heading to a picket held by the Congress of Racial Equality (CORE) and other civil rights group outside the Policemen's Ball on April 24 where he was accosted by CAPAB members because he refused to take their literature: "I was met by two men passing out leaflets urging the abolition of the Police Advisory Board. After seeing what they were passing out, I returned the card and began to walk up the steps." His civility was paid in kind by one of the men calling out, "Are you going up there with those slobs?" Then, as he was entering the building, he was approached by different members of CAPAB. When he refused their literature, one of the men said, "You mean that you're with the enemy out there, CORE?" In the letter to the editor, he goes onto to chastise the organization and its members for not upholding their own proclaimed values of honor and legality. About a week later, Lawrence C. Conway from CAPAB, responded to Mr. Jost's letter. Conway ate crow on behalf of his organization.³⁶

That fall, the CAPAB notified "approximately 500 city policemen that the five Republican and five

³⁵No author listed. 1965. "Lawmen Pledge Funds To Fight Advisory Board." *Democrat & Chronicle*, May 18 ().

³⁶Jost, Lawrence. 1965. "Police Board Foes Lacked Courtesy." [Letter to the Editor.] *Democrat & Chronicle*, September 17 and Conway, Lawrence C. 1965. "Board Opponent Makes Apology." [Letter to the Editor.] *Democrat & Chronicle*, May 12 (<http://rochester.indymedia.org/node/146924>).

Conservative candidates for City Council have pledged they will work for abolition of the controversial board if they are elected,” according to an article from the *Democrat & Chronicle* from September 17.³⁷ CAPAB seemingly wanted to maintain a media presence and both the *Democrat & Chronicle* and the *Times-Union* wanted to help if they could.

Then, on December 31, 1965, Supreme Court Justice Jacob Ark ruled on the suit brought against the Police Advisory Board. Specifically, he ruled that, “the right of the board to investigate and make recommendations must be eliminated,” according to a *Times-Union* article, and “those functions should be performed by the commissioner of public safety.” The justice limited the board's powers drastically to “receipt of complaints only.”³⁸

In the 10-page decision, Justice Ark explained his decision stating that, “[the commissioner] is in a better position to make a judgement as to what force was necessary under a given set of circumstances and whether the police officer was faced with a situation in which he had no time for calm reflection but acted reasonably under the exigency that confronted him.” Aside from calling upon police expertise to determine if an officer used excessive or unnecessary force, Justice Ark also criticized the city's position with regard to making cases public: “The board overlooks the fact that although its membership consists of nine highly respected members of the community when it it makes a public statement it does not speak for them as individuals, but with the authority of an official body of the City of Rochester. Its public criticism of a police officer bears the imprimatur of the City of Rochester.” This represented a “reprimand” which could only be given by the commissioner after a finding of guilt was made against the officer in question. He also made clear that the board's activities were intertwined

³⁷No author listed. 1965. "10 Vow to Fight Advisory Board." *Democrat & Chronicle*, September 17 (<http://rochester.indymedia.org/node/146925>).

³⁸Hoch, Earl B. 1965. “Police Advisory Board Curtailed By Court Ruling.” *Times-Union*, December 31 (). What's interesting about this date, is that the *Democrat & Chronicle* continually said the ruling happened on December 31, 1965 and the *Times-Union*, initially said December 30, 1965, but eventually switched it to the 31.

with the operations of the police bureau and the Department of Public Safety violating “the rights of a police officer against whom a complaint was filed.” Thankfully, and astoundingly, the story doesn't end there. The city, in an extremely progressive move, pushed ahead.

The headline, “City to Fight Ruling on Police Board” announced the next phase in the PAB saga. On January 6, 1966, City Manager Seymour Scher stated that an early appeal would be made to the Appellate Division, Fourth Department by Corporation Counsel John R. Garrity.³⁹ That appeal wasn't presented for over a year.

The hearing took place on October 16, 1967, according to a *Times-Union* article from October 10, 1967. The appeal was, “argued before five judges of the Appellate Division, Fourth Department.” The article said that if the court reversed the decision, “it in effect would restore the Police Advisory Board's powers.”⁴⁰

Representing the Locust Club on Monday, October 16 was Ronald J. Buttarazzi. The attorney for the police argued that there was an “irreconcilable conflict” between the city's charter and the PAB ordinance. According to Buttarazzi, the safety commissioner should have “exclusive control” over the disciplining of police. He said the “underlying issue” was that officers could be accused and convicted of crimes by the board without a “judicial trial.” He also took issue with the fact that “unnecessary” and “excessive” were not defined.⁴¹

³⁹No author listed. 1966. “City to Fight Ruling on Police Board.” *Democrat & Chronicle*, January 7 ().

⁴⁰Boczkiewicz, Robert. 1967. “Police Advisory Case to Revive.” *Democrat & Chronicle*, October 10 () and No author listed. 1967. “Appellate Division Slates Hearing on Police Board.” *Democrat & Chronicle*, October 11 ().

⁴¹*Our Enemies in Blue: Police and Power in America* by Kristian Williams. Brooklyn, NY. Soft Skull Press, 2009. Pages 10 – 11. Mr. Williams elucidates the issue of definitions: “The study of police brutality faces any number of methodological barriers, not the least of which is the problem of defining it. There is no standard definition, nor is there one way of measuring force and excessive force. As a consequence, different studies produce very different results, and these results are difficult to compare.” And later down the page, “Things get even stickier when general patterns of violence are scrutinized, even where no particular encounter rises to the level of official misconduct. *Use of excessive force [sic]* means that police applied too much force in a given incident, while *excessive use of force [sic]* means that police apply force legally in too many incidents. While the former is more likely to grab headlines, it is the latter that makes the largest contribution to the community's reservoir of grievances against the police. But, since the force in question is within the bounds of policy, the excessive use of force is more difficult to address from the perspective of discipline and

Representing the City of Rochester on October 16 was Ruth B. Rosenberg. She argued that the overlapping of power between the safety commissioner and the board was done intentionally. It was created for the purpose of providing an “alternative and objective forum” to process complaints against officers for excessive and unnecessary use of force. The *Times-Union* article this came from highlighted portions of Buttarazzi's statements but didn't include much else in the way of how the case was argued. After arguments were made, “the court reserved decision” on the ruling, which took months to come down.⁴²

Nearly three months later, the Appellate Division handed down its decision. The text of the decision, written by Justice Earle C. Bastow, appeared in the *Times-Union* on January 12, 1968. Justice Bastow opened with the particulars of the suit brought against the board by the Locust Club and wrote, “A proper understanding of the issues presented requires examination of the provisions of the ordinance.” From there he described the City Charter, how the advisory board functioned and its powers. Then, in the middle of the text, Justice Bastow quoted Justice Ark's finding: “...the functions of the Board have actually become intertwined with the operation of the Department of Public Safety, and particularly the Police Bureau in violation of the rights of a police officer against whom a complaint was filed.” Justice Bastow wasted no further ink as he wrote for the majority: “We reach a contrary conclusion.”

The justice affirmed that the legislated power to City Council establishing the advisory board was “valid.” He wrote, “In summary, the creation of a (board) as proposed in this ordinance, allows complaints to be registered through a non-police agency while allowing regular police procedures full

administration. All of this controversy and confusion points to a very simple fact: Police brutality is a normative construction. It involves an evaluation, a judgement, and not simply a collection of facts.”

⁴²Taub, Peter B. 1967. "Police Board Plea Aired." *Democrat & Chronicle*, October 16 ().

opportunity to satisfy the complainant.” Justice Bastow went on to specifically cite sections of the ordinance in regards to disagreements between the board and city officials. He wrote, “In the absence of any disciplinary power vested in the Board it is difficult to imagine a 'recommendation' that could exceed one that upon the facts presented some affirmative action should be taken by the city administration. The result would be a plain difference of opinion between city officials and the Board.” The justices did not feel the “concern” expressed by the police that such a recommendation would stigmatize the named officer. Neither did they “share the view” that publicizing the recommendation “would constitute a reprimand that only the Commissioner may impose.” In fact, the justices found that the ordinance, “in no way diminishes, dilutes, or infringes upon the statutory power vested in the Commissioner” to punish officers who commit misconduct. “At most such publication might result in direct or implied criticism of the police officer but it is difficult to conclude that such criticism would infect the official record of the officer,” Justice Bastow wrote.

The justice went on about the how the ordinance was trying to strike a “balance between the rights of the police officer and the rights of the citizen.” He then quoted from the report recommending adoption of the board, “The board should contribute rather than impair, the efficiency of police performance of allowing grievances, some real, some imagined, to be considered by a responsible body of citizens, rather than remain, as they often do, smoldering embers of mistrust and contention between police and citizens.”

Near the end of the decision, Justice Bastow dismissed the argument that publicizing a recommendation against an officer was “sufficient reason to strike down the ordinance.” The justice then referenced some case law telling the complainants that police, like judges, “are forced to make unpopular decisions,” and that they are supposed to be “men of fortitude, able to thrive in a hardy

climate.” Essentially, the justices told the police that criticism was part of the job—deal with it. He then dismissed the “other contentions” raised by the police because he found them “without merit.” He concluded, “The order should be reversed and judgement entered declaring chapter 17 of the Code [which created the legislative power to establish the Police Advisory Board] valid and constitutional.”⁴³

The day after the Appellate Division found the board “valid and constitutional” and more than two years after the board was stopped from doing its work by a court injunction, the Democrats in control of the city started to backslide. According to Democratic County Chairman Charles T. Maloy, “a lot things have happened since the board was established almost five years ago, and I think you have a different climate here now.” Democratic Councilman Andrew G. Celli, said he “has had no complaints or demands for investigation.” Public Safety Commissioner Mark H. Tuohey said he “doesn't feel there is a need for an advisory board.” The president for the Locust Club, Ralph Boryszewski, said “it will be up to the membership to determine if the case is taken to the Court of Appeals.”⁴⁴

Which, of course, they did. In a *Democrat & Chronicle* article dated February 6, 1968, the Police Locust Club announced that it was “filing an appeal” with the highest court in the state based on the decision from the Appellate Division, Fourth Department “which upheld the advisory board as legal.” Papers were filed by Buttarazzi on behalf of the Locust Club.⁴⁵

On April 4, the Court of Appeals granted a motion to stay in favor of the police. The PAB's activities were halted once again by the court on the condition that the police union “present its case against the Police Advisory Board (PAB) during the week of April 15.” The PAB, which had begun its work on

⁴³Bastow, Earle C. 1968. "Text of Court Ruling on Police Board." Times-Union, January 12 ().

⁴⁴No author listed. 1968. "Council Now Appears Cool." Democrat & Chronicle, January 13 ().

⁴⁵Stearns, Anne. 1968. "Advisory Unit Case Appealed." Democrat & Chronicle, February 6 ().

February 1 and reviewed 10 cases of police brutality, was abruptly ordered to cease its activity on April 4. The article reported that a decision could be handed down sometime between May and June of 1968.⁴⁶

Then, on June 14, 1968, New York State's highest court, the Court of Appeals, voted 6-1 against the Locust Club, affirming the decision of the Appellate Division, Fourth Department, and once again finding the Police Advisory Board to be constitutional. Associate Judge John Scileppi wrote the only (dissenting) opinion as the majority wrote nothing. Judge Scileppi said he didn't even get to the issue of constitutionality because the ordinance, in his opinion, "is in direct conflict with . . . the Charter of the City of Rochester . . . and 'therefore, invalid.'"⁴⁷

Having New York State's Appellate Court and then the Court of Appeals side with the board didn't stop the Locust Club. The police union announced a few days later on June 16 in a *Democrat & Chronicle* article that it hoped to take the "case before the U.S. Supreme Court." President Boryszewski told the paper that the club would have a special meeting to vote on whether or not to take the case to the highest court in the land. At the very least, the president said, he would "bring the police advisory board issue before the International Police Conference" the following month. He claimed the Court of Appeals ruling was "another step taken by this body to diminish further the power of the grand jury." He called his fellow officers a "minority of citizens" that were "restricted and denied the protection of the 14th Amendment." He said the court's ruling, "opens the door for all cities to have this kind of board."⁴⁸

⁴⁶Gannett News Service. 1968. "Court Stalls Board." *Democrat & Chronicle*, April 5 ().

⁴⁷O'Brien, Emmet N. 1968. "Local Police Board Gets OK from Court." *Democrat & Chronicle*, June 15 ().

⁴⁸No author listed. 1968. "Police Advisory Board May Face New Appeal." *Democrat & Chronicle*, June 16 ().

In order to protect its “minority of citizens,” the Locust Club moved ahead and filed papers with the United States Supreme Court on December 10, 1968, according to the *Times-Union*. The police were represented by Buttarazzi. The article laid out five points of argument brought before the court, although there were 10 all together: 1) “**punishment** [sic] might be imposed without trial of [sic] other due process of law,” 2) “**the board** [sic] may determine whether a man is a criminal without the right of an individual to confront his accusers,” 3) “**it violates** [sic] the Fifth Amendment in that a policeman can be forced to testify against himself or risk the loss of good name and public job,” 4) “**it authorizes** [sic] 'cruel and unusual punishment,' outlawed by the Eighth Amendment,” and 5) “**it denies** [sic] to policemen equal protection of the law granted all other citizens.” The article also stated that the board had “not been functioning because resignations have left it without a quorum.” At that time, there were only five members on the board. Quorum required six. Complaints, according to Mr. Guglielmino, the board's executive director, “have been received and processed.”⁴⁹

Nearly two months later, the legal saga of the Police Advisory Board ended. The U.S. Supreme Court refused to hear the Locust Club's case and accepted the city's motion to dismiss the case “for want of a substantial federal question.” No opinion was written regarding the dismissal, a common practice, though Associate Judges Hugo Black and Byron R. White said “the court should have heard the case.” The action of the court left standing the New York State Court of Appeals decision that “upheld the city law establishing the police Review Board [sic].”⁵⁰

With the board finally found constitutional by the Appellate Court, the Court of Appeals, and the U.S. Supreme Court, the issue of the board went back to the local government for action. And there it sat

⁴⁹ No author listed. 1968. "Rights Periled, Police Say; Asking Top Court Hearing." *Times-Union*, December 10 () and Ringle, William. 1968. "Supreme Court Gets Advisory Board Issue." *Democrat & Chronicle*, December 10 ().

⁵⁰ Ringle, William. 1969. "Locust Club Loses Appeal." *Democrat & Chronicle*, January 27 ().

with little action taken. On June 12, 1969, the American Civil Liberties Union filed a lawsuit against the city on behalf of two board members and two people waiting to make complaints to the board for “excessive force.” The city had no comment.⁵¹

A little over a month later, the suit was dropped. Apparently, through some confusion, it was determined that there were seven members on the board, not five as previously thought. According to a *Democrat & Chronicle* article, one member of the board verbally resigned, but not formally and in writing. Another member was “on sabbatical leave” but returned.⁵²

It didn't matter though. With Mayor-elect Stephen May, a Republican, moving into office, the die was cast regarding the PAB. The *Democrat & Chronicle* ran an article in December of 1969 asking the mayor-elect what would happen to the PAB. “We haven't discussed it in any detail for a long time,” said May. “It will be one of a number of policy questions the administration will be come to grips with when it is firmly established.” The article also noted that the board was under quorum again as James S. Malley requested that he not be reappointed. The outgoing Democratic Party administration “failed to reappoint persons to fill the vacancies, despite requests by remaining board members that it do so.” Republicans, the paper noted, had been “traditionally against such review boards.”⁵³

Finally, in an article from the *Times-Union* dated May 14, 1970, it was announced that the Police Advisory Board was abolished: “The Republican City administration has decided to bury the Police Advisory Board which, for all practical purposes, has been dead for sometime.” The paper noted that neither the outgoing “Seymour Scher, the last Democratic city manager, nor the new Republican

⁵¹ Nauer, Mike. 1969. “Board Revival Sought.” *Democrat & Chronicle*, June 13 ().

⁵² No author listed. 1969. “Police Panel Suit Dropped.” *Democrat & Chronicle*, July 17 ().

⁵³ No author listed. 1969. “Police Board Fate in Doubt Under GOP.” *Democrat & Chronicle*, December 30 ().

administration appointed members to make it active again.” As an aside, it was also noted that with the abolition of the board, the executive director would no longer receive an annual salary, which would mean “a savings to the city of \$5,000.”⁵⁴ The abolition of the board was seen as “commendable” by the *Times-Union* in another article the following day.⁵⁵

The interim, 1970 – 1992

After the board was abolished, police misconduct, brutality, and murder didn't end. To some, the lack of any accountability structure may have given the police free reign to abuse their power. The same year that the board was abolished, police arrested six youths for disorderly conduct during a rock concert at the Highland Bowl, on July 25, 1970.⁵⁶ Events at Highland Park prompted outrage and action by groups who were staunchly in favor of police accountability and the re-instatement of the Police Advisory Board (PAB).⁵⁷ Eventually, the case went to trial and three of the youths were found guilty of disorderly conduct, while the other three were acquitted.⁵⁸

In 1973, “in the wake of charges of alleged police brutality in the black community,” the Rochester Police Department agreed to support the creation of the advisory citizens council on police affairs. This iteration of police accountability had progressive goals as reported in a *Democrat & Chronicle* article: prevent police brutality, create better relationships between the Black community and the police, and improve upon communication between the police and Black community. Freedom, Independence, God, Honor, Today (FIGHT) had promised a “full-fledged battle” with the chief of police on his handling of

⁵⁴No author listed. 1970. “It's Official: Advisory Panel Buried.” *Times-Union*, May 14 ().

⁵⁵No author listed. 1970. “Police Advisory Board Abolished.” *Times-Union*, May 15 ().

⁵⁶Fink, Thomas A. 1970. “Reinstate Police Advisory Board'.” [Letter to the Editor.] *Times-Union*, August 12 ().

⁵⁷Morris, Tom. 1970. “Police Study Unit Vital: Metro Act.” *Democrat & Chronicle*, August 14 (); No author listed. 1971. “Group Asks Revival of Police Board.” *Times-Union*, January 19 (); No author listed. 1971. “Reactivate Police Board, Coalition to Demand.” *Times-Union*, January 21 (); Miller, Richard A. 1971. “Reactivate PAB'.” [Letter to the Editor.] *Democrat & Chronicle*, January 29 (); Sykes, Jim. 1971. “Police Board Backed.” *Times-Union*, April 9 (); and No author listed. 1971. “Reinstate Police Board To Cool Tempers—FIGHT.” *Times-Union*, August 31 ().

⁵⁸Hooper, Ken. 1971. “Councilmen Hear Pleas for PAB.” *Times-Union*, January 27 ().

complaints of brutality, if nothing was done. The police, seemingly fearing such a battle, opted to negotiate with FIGHT rather than wage war.⁵⁹ The Central New York State Police Conference, headed by detective Daniel J. Murphy, opposed the creation of the council.⁶⁰

Beyond 1970, there were high profile police shootings which led to the Black community and its allies, again, demanding an independent civilian review board: Ronald Frazier, 19, murdered by officer James Soles in 1975; Denise Hawkins, 18, murdered by officer Michael Leach on November 11, 1975; Alecia McCuller, 21, murdered by officer Thomas Whitmore on November 13, 1983; Kenneth Jackson, 25, murdered by officer Ceferino Gonzalez on November 16, 1984; Louis Davila, 17, murdered by officer Carlos Perez on September 30, 1985; James Geil, 24, survived a police shooting by officer Allen J. Luccitti on October 12, 1985 (Subsequently, the officer was suspended for 31 days.); and finally, but certainly not last, Calvin Greene, 30, murdered by officer Gary E. Smith in 1988.⁶¹

A few of the above cases led specifically to police review systems, though none as strong as the PAB. One such accountability system came about after the murder of Denise Hawkins by officer Michael Leach on November 11, 1975. The creation of the Citizens Committee on Police Affairs—the Crimi Committee—“examined overall operations of the police department including the internal review process, for 11 months,” according to an article from the *Democrat & Chronicle*. From that, a report bearing 97 recommendations to modify police operations and officer evaluations, was generated.⁶² City Council, feeling pressure from the community over Ms. Hawkins' death, created the Complaint Investigation Committee (CIC) comprised of two command-level officers and a civilian trained in

⁵⁹No author listed. 1973. “Police to Get Advisory Council.” *Democrat & Chronicle*, November 20 ().

⁶⁰No author listed. 1973. “Police Unit Opposes Advisory Council.” *Democrat & Chronicle*, November 22 ().

⁶¹Wikipedia. 2015. “Rochester Police Department” *Wikipedia.org*, May 4 (https://en.wikipedia.org/wiki/Rochester_Police_Department#cite_note-20).

⁶²Myers, Jim. 1984. “Several systems of review evolved after complaints of police abuse .” *Democrat & Chronicle*, February 13 ().

police procedures and jargon. The CIC was administered by the Center for Dispute Settlement (CDS),⁶³ a non-profit corporation. Then, in February 1977, City Council passed 87 of 97 Crimi Committee recommendations. However, according to the article, the report was a “compromise” because the members knew that the “Locust Club wouldn't agree to more expanded civilian review,” and didn't want to see the new system “fought out in the courts.”⁶⁴

Eight years later, another police shooting of a civilian prompted the demand for police review with teeth. The CIC was not seen as a legitimate accountability system because it had active duty police officers who served on it and it had no independent investigatory or disciplinary powers. The police policed themselves. In the wake of the murder of Alecia McCuller by officer Thomas Whitmore on November 13, 1983, the McCuller Committee came together under the leadership of Minister Franklin Florance. At the time, James McCuller, Alecia's father, was the executive director of Action for a Better Community and a well-known person in the community. His daughter's death sparked outrage.

The McCuller Committee proposed a new civilian review board made up of 11 to 13 sitting members, of which a majority would be Black and Hispanic citizens “who would review misconduct complaints and have disciplinary powers” then reserved only for the chief of police.⁶⁵ City Councilwoman Ruth Scott suggested some changes to the CIC such as adding another civilian to the panel of three (at that time, the CIC was comprised of two command-level officers and one civilian trained by CDS), creating a space for people to file complaints outside of the police department, and expanding the investigative powers of the panel. Also around that time, the Police-Community Relations Conference Steering Committee came on the scene and published a six page report. The report urged more “police training

⁶³From “User:Diderot1~enwiki/Civilian Review Board” Wikipedia article:
https://en.wikipedia.org/wiki/User:Diderot1~enwiki/Civilian_Review_Board#cite_note-6

⁶⁴Myers, Jim. 1984. “Several systems of review evolved after complaints of police abuse.” Democrat & Chronicle, February 13 ().

⁶⁵Chaptman, Dennis. 1984. “Haney: Civilian police panel could have 'terrifying' effect.” Times-Union, December 14 ().

in minority relations,” a panel comprised of police, civilians, and city officials to “identify the 'fairest and most trusted' police review process available,” adding another civilian to the CIC, and to create an alternative place for people to file complaints against the police. The group, which saw its report as “a compromise between the Scott and McCuller proposals,” was sponsored by the Genesee Ecumenical Ministries, the Board of Rabbis, and the Urban League of Rochester Inc.⁶⁶ Eventually, at least one of Scott's proposals was adopted in 1984: another civilian was added to the CIC.

Adding to the backdrop of the creation of the Civilian Review Board in October 1992, were the cases of five police officers who were apart of the Highway Interdiction Team or “HIT squad” and Chief of Police Gordon Urlacher. A federal grand jury handed up a 19-count indictment against police officers Scott Harloff, Gregory Raggi, Michael Mazzeo, Thomas Alessi, James O'Brien, and Chief of Police Gordon Urlacher alleging “police brutality, conspiracy to violate the civil rights of suspects, embezzlement, falsification of government documents, falsification of employee time cards, and other corruption,” according to a *Rochester Indymedia* article looking at the sordid past of current police union president, Michael Mazzeo. The indictment was published in the *Democrat & Chronicle* on September 1, 1991. The “HIT squad” came into existence in April of 1988.⁶⁷

Also in 1988, a coalition of Black churches and clergy calling itself United Church Ministries (UCM) came together demanding its model of police review be implemented: a 9-member sitting board appointed by City Council with the understanding that they would choose appointees from a preselected list of possible candidates drawn from organizations that were engaged with oppressed communities; membership that reflected diversity in race, gender, disability, and sexuality; approve the

⁶⁶Chaptman, Dennis. 1984. “Add another civilian to review board, report urges.” *Times-Union*, December 7 ().

⁶⁷Forsyth, Ted. 2013. “Dredging Up the Past on Police Union President Mike Mazzeo.” *Rochester Indymedia*, May 23 (<http://rochester.indymedia.org/node/6979>).

police budget, choose and implement police department policies; oversee state and federal money going into the department; have a budget; choose the chief of police; have subpoena power; hold open meetings that would make public all complaints and decisions; have investigative power; and review all promotions as recommended by the chief.⁶⁸

For at least four years, the city ignored this model of police review and others until Urlacher was found guilty of embezzlement and conspiracy in February of 1992 and the five vice cops, who had their photos and vicious acts printed in all the papers, were approaching their trial in early 1993.⁶⁹ It was at that point that City Council started talking about police review once again.⁷⁰ One of City Council's own, Councilman Wade S. Norwood, was “working on a proposal” to change the review system.⁷¹

A history of the Civilian Review Board, 1992 - 2012

A small article in the *Democrat & Chronicle*, just 11 lines long, noted that City Councilman Wade S. Norwood would “unveil his proposal that could possibly change how city police handle complaints of excessive force and other misconduct,” at a press conference that was held in front of City Hall on October 10, 1992.⁷²

Apparently, details were given to the press on the same day that the above article was published. In a *Times-Union* article, Norwood's plan was made public: investigation of alleged misconduct would be the responsibility of the police; the chief of police would have the “ultimate decision about guilt;” it would be administered by the Center for Dispute Settlement (CDS); it would consist of a three-person

⁶⁸Craig, Gary. 1992. “Group: City ignores plan for police.” *Democrat & Chronicle*, September 24 ().

⁶⁹Forsyth, Ted. 2013. “Dredging Up the Past on Police Union President Mike Mazzeo.” Rochester Indymedia, May 23 (<http://rochester.indymedia.org/node/6979>).

⁷⁰Craig, Gary. 1992. “Group pushes civilian review.” *Times-Union*, September 4 () and Craig, Gary. 1992. “Ministry renews push for civilian review.” *Democrat & Chronicle*, September 4 ().

⁷¹Craig, Gary. 1992. “City Officials, ministry clash on civilian review.” *Democrat & Chronicle*, September 24 ().

⁷²No author listed. 1992. “Norwood to unveil police-review plan.” *Democrat & Chronicle*, October 2 ().

civilian panel with open channels to high-ranking officers that could give “advice and information;” it would review claims of excessive force, “allegations that may constitute a crime, or allegations referred by the chief;” the power to interview witnesses; and “expand the opportunities officers have to learn foreign languages or sign language,” among other provisions.⁷³ The legislation that was passed included four other levels of bureaucracy (Professional Standards Section (PSS), the chief of police, the mayor, and finally City Council) that the board would have to go through if it was not happy with the original PSS investigation.

Reported reaction to Norwood's system was mostly oppositional.⁷⁴ However, City Council was ready to endorse and pass it.⁷⁵ The police thought it was a “betrayal.”⁷⁶ United Church Ministry (UCM) was vocally opposed to the Norwood plan. “We haven't seen this thing. We don't know what's in it. We need more time to study it. But we reject it completely. It is unacceptable,” said Rev. Raymond Graves of UCM in an October 6, 1992 *Times-Union* article. The only provision of the Norwood plan that “made any sense,” according to UCM, was that there would be no cops on the three-member civilian panel.⁷⁷ On October 7, in a *Democrat & Chronicle* article, UCM's Rev. Lewis Stewart was quoted as saying, “It must have its own subpoena powers in order to compel witnesses to testify.” UCM, in the same article, “urged the council to delay the vote.”⁷⁸

Then, on Tuesday, October 13, 1992, after “three hours of sometimes heated controversy” the Civilian Review Board (CRB) came into existence after an 8-1 vote, the lone dissenting vote cast by Maxine Childress Brown. The legislation replaced the Complaint Investigation Committee and was

⁷³Craig, Gary. 1992. “Police review proposed.” *Times-Union*, October 2 ().

⁷⁴Venere, Emil. 1992. “Mixed reaction to police review.” *Democrat & Chronicle*, October 3 ().

⁷⁵Craig, Gary. 1992. “Civilian review board passes a hurdle.” *Democrat & Chronicle*, October 7 ().

⁷⁶Craig, Gary. 1992. “Cops call review proposal a betrayal.” *Democrat & Chronicle*, October 3 ().

⁷⁷Ritter, Carol. 1992. “Police review plan faulted.” *Times-Union*, October 6 ().

⁷⁸Craig, Gary. 1992. “Civilian review board passes a hurdle.” *Democrat & Chronicle*, October 7 ().

administered by CDS (just like the CIC), gave no investigatory power to the board, and the chief of police would have final say over any recommendations and discipline. Councilmember Norwood introduced the CRB proposal 11 days before it was passed into law despite calls for a delay. UCM and other groups were angered at the bait and switch used by City Council to derail the push for an independent civilian review board with investigatory, subpoena, and disciplinary powers only to have that plan replaced by a system, which allowed the police to investigate themselves. It was called a “paper tiger” by activists at the time because it had no substantive power, the police investigated themselves, and the chief had final say. “‘Everyone knows that the police have a strong sense of camaraderie, that they look out, lie and cover up for one another,’ said city resident Howard Eagle,” in a *Times-Union* article.⁷⁹

The next day the *Democrat & Chronicle* ran an article where Councilman Norwood said he wanted to see the board constituted by the end of year with all of the resources it needed. The article also cited the Catholic Family Center calling on all people to “come together” over the new board. With all the other issues facing the community, the Catholic Family Center felt that getting the board constituted as it was was more important than demanding a board with teeth. “As far as we're concerned, we're back to the beginning,” said Rev. Raymond L. Graves. UCM planned to oppose the new board. The *Democrat & Chronicle* must be congratulated for its divide and conquer reporting setting up a group of Black churches against white ones, while it supported the establishment's plan by telling its readership to contact CDS in order to get trained and participate on the board.⁸⁰

“We are appealing to all members of the African-American and Latino communities, as well as fair-

⁷⁹Craig, Gary and Jill A. Zelikson. 1992. “Civilian review board OK'd.” *Times-Union*, October 14 () and Craig, Gary. 1992. “City Council OKs all-civilian board to review police.” *Democrat & Chronicle*, October 14 ().

⁸⁰Craig, Gary. 1992. “Civilian review board on fast track.” *Democrat & Chronicle*, October 15 ().

minded, justice-loving people in the majority community to refrain from participation in all aspects of the City Council's Civilian Review Board process,” said a statement released by UCM on October 23, 1992 in the *Democrat & Chronicle*. UCM was asking folks to refrain from serving because the board had no investigative power.⁸¹ However, on December 1, both the *Democrat & Chronicle* and the *Times-Union* newspapers announced that over 40 people had contacted CDS about training and serving on the board.⁸²

The board members, more than 30, were sworn in to serve on March 22, 1993. The *Democrat & Chronicle* noted that board members went through 60 hours of training with CDS and the police department. (No partisanship there.) The same article also noted the board's racial make up: “Of the 37 members comprising the new Civilian Review Board, 12 are black and three are Hispanic.”⁸³ Only 40% of those sworn in to be on the board's rotating, three-member panels were people of color.

In 1994, UCM brought the case for an independent civilian review board to Mayor William A. Johnson Jr., Rochester's first African-American mayor. The new mayor declined to push for such a system opting instead to let CRB be tested under new Chief of Police Robert Warshaw. The *Democrat & Chronicle* noted that Johnson “endorsed independent investigators during last year's mayoral election.”⁸⁴ The *Times-Union* newspaper printed virtually the same article.⁸⁵

In 1995, cosmetic changes to the CRB were introduced in February by Benjamin L. Douglas, Chair of the Public Safety/Public Services Committee, and passed unanimously soon after. Some of the changes

⁸¹No author listed. 1992. “Group urges residents to shun review board.” *Democrat & Chronicle*, October 23 ().

⁸²Craig, Gary. 1992. “40 offer services for cop review.” *Democrat & Chronicle*, December 1 () and Craig, Gary. 1992. “Civilian review board lures more than 40 applicants.” *Times-Union*, December 1 ().

⁸³Craig, Gary. 1993. “Civilian cop-review board sworn in.” *Democrat & Chronicle*, March 23 ().

⁸⁴No author listed. 1994. “Civilian probe sought for police.” *Democrat & Chronicle*, July 6 ().

⁸⁵No author listed. 1994. “Civilian investigators in police cases urged.” *Times-Union*, July 6 ().

included an increase in the “number of individuals serving as Chairs,” an increase in the amount of time the board had to investigate a case and make a finding, new information was added to its reports that were given to City Council, regular audits were incorporated into the system, and a survey was given to police and civilians who used the process, among other cosmetic changes. No investigative or disciplinary powers were legislated to the board.⁸⁶

There was some “positive” press attention for the CRB in 1994 and 1995. A couple of articles were published that patted the city's back for its review process as well as the drop in complaints to the board (complaints that diluted the statistical pool for excessive and unnecessary force by including a wide range of allegations).⁸⁷ However, police brutality and misconduct continued unabated.

On January 30, 1996, “more than 100 people met at the New Bethel CME Church” and heard stories about police brutality that had occurred in the community. Rev. Lewis Stewart, president of the Congress of African-American Unity, Inc., and the organizer of the event stated, “This is an issue that no longer can be treated with a mild Band-Aid approach. It must be rooted out.” Mayor Johnson said that “the problem” would not “be swept under the rug.”⁸⁸

Three years later, in June of 1999, an article published in the *Democrat & Chronicle* crowed that the city saw a 73% drop in excessive force complaints compared to 1997. Then-Lt. James Sheppard of PSS attributed the drop in complaints to police being “much more people-oriented, service-oriented, [and] treating people with respect.” Activist Howard Eagle, a member of the then-newly formed Rochester chapter of the Southern Christian Leadership Conference, had a different conclusion: “People don't

⁸⁶See a scan of the 1992 Civilian Review Board legislation in .pdf format at: <http://rochester.indymedia.org/node/146814>

⁸⁷Norris, Suzette S. 1994. “City's police review board termed a 'good watchdog'.” *Times-Union*, December 9 () and Wentzel, Michael. 1995. “Rochester police get good mark.” *Democrat & Chronicle*, October 8 ().

⁸⁸Hand, Jon. 1996. “Tales told of cop abuse.” *Democrat & Chronicle*, January 30 ().

have confidence in this process, and never have.” The article reported that Mr. Eagle said people didn't have trust in the system.⁸⁹

A year later, regardless of Lt. Sheppard's denial of the problem, a community forum against police violence occurred on March 25, 2000. The hearing, held by the Center for Constitutional Rights at Monroe Community College, heard 18 people voice their stories of police violence. Ron Daniels, then-executive director of CCR, said those stories were “indicative” of a problem with police violence in Rochester. Both, Monroe County Sheriff Andrew P. Meloni and Rochester Police Chief Robert Duffy, brushed off the complaints. Duffy went so far as to claim that people were ignorant of the process. According to an article in the *Democrat & Chronicle*, “Duffy said some critics don't even know how the board works. 'What we have here is head and shoulders above what other communities have in place.’”⁹⁰

Nearly a year later, the *Democrat & Chronicle* published an article attempting to show both “sides” of the issue regarding the efficacy of the CRB. It started out with a few words from a then-current board member, Patricia Tyser, and how she wished that the critics of the board would inform themselves because, “There's a lot we do, and nobody knows what that is.” Rev. Graves of UCM, wasn't buying it: “The board has absolutely no authority whatsoever.” The article then spent nine paragraphs proving Rev. Graves' point. For instance, board members review “every internal investigation completed” by police internal investigations, they “don't interview subjects,” a findings report based on the police investigation is sent from the board to the chief for “final disposition,” the board does “not suggest discipline,” the chief “has final word on whether a complaint is valid or how an officer should be

⁸⁹Craig, Gary. 1999. “Police brutality cases plunge.” *Democrat & Chronicle*, June 12 () and Flanigan, Patrick. 1999. “Cop watchdog faces fire.” *Democrat & Chronicle*, September 4 ().

⁹⁰Livadas, Greg. 2000. “Hearing examines police actions.” *Democrat & Chronicle*, March 26 ().

disciplined,” and if board members are “not satisfied” with an investigation, they can ask for review from PSS, then the chief, then the mayor, and then finally city council—should they vote to take up the case. Andrew Thomas, the then-director of CDS, touted their “reviews” as “independent” based on the fact that the board is “administered by a private organization.” To recap, according to Rev. Graves, “The board has absolutely no authority whatsoever.”

Matthew Fusco, an attorney for UCM, was given five paragraphs to counter the paper's research. Mr. Fusco made a few wonderful points in his pitiful five paragraphs: how is one “supposed to know what questions weren't asked” if someone else is giving the findings, or, since the board doesn't have investigative power, it can't look at every instance of “officers using force” in order to find patterns and practices of certain officers that could show them clearly guilty. The board wasn't able to study whether or not the officers they were reviewing tended to arrest people of color disproportionately in regards to certain crimes because of a lack of power. Mr. Fusco stated that the board operated in “a vacuum” and that its treatment of cases in isolation severely hinders the possibility of it finding in the complainant's favor. Mr. Fusco was cut off by another critic—Ronald Evangelista, the Locust Club president—who didn't want to see an effective board at all.⁹¹ He wanted to see all boards abolished and was given four paragraphs to discredit the idea of police review boards entirely: “It's a useless political tool to satisfy people who are simply impossible to satisfy.” The last nine paragraphs restated the research of the paper and the perspective of the board members themselves. Luis Zamot, of the CRB, said, “We're not pro-police, we're not anti-police. We are pro-justice and pro-fairness.”⁹²

And yet, justice has not come for the families and victims injured or murdered by police from the

⁹¹Clements, Michael, Steve Crosby, and Jim Myers. 1984. “Rochester Police Locust Club President Ronald Evangelista.” *Democrat & Chronicle*, February 13 ().

⁹²Flanigan, Patrick. 2001. “Criticism hounds police oversight.” *Democrat & Chronicle*, March 11 ().

inception of the CRB. From 2001 to 2015, the “Rochester Police Department” *Wikipedia*⁹³ entry notes that 12 civilians were shot to death by police or injured from police gunfire. None of the officers involved were ever held accountable: Vandre “Vandy” Davis, 21, murdered by officer David Gebhardt in 2001—Gebhardt was promoted to Lieutenant; Craig Heard, 14, was murdered by officers Serge Savicheff and Hector Padgham on June 10, 2002—officer Savicheff went on to serve with the Fairport police department and officer Padgham went on to serve with the Greece police department; Willie Carter, 46, was murdered by unnamed Rochester police officer(s) on August 15, 2002—the murder was found to be justified by the Monroe County Grand Jury; LaShedica Mason, 13, shot but not killed (her gall bladder and several feet of her intestines had to be removed) by officer Mark Simmons on July 10, 2005—officer Simmons was promoted to sergeant and Special Assistant to Chief James Sheppard; Patricia Thompson, 54, was murdered by officer Jeff Lafave on March 2, 2006—officer Lafave's killing was found to be justified by the Monroe County Grand Jury; Jose Luis Casado, 19, shot in the leg by officer Ryan Hickey in 2008—officer Hickey was praised for his conduct by Chief David Moore, Casado was sent to prison for life for firing at an officer; Miguel Cruz, 21, was shot but not killed by officer Daniel Santiago on March 1, 2010—officer Santiago's shooting was found to be justified by the Monroe County Grand Jury; Hayden Blackman, 43, was murdered in his kitchen by officer Randy Book on October 13, 2011—officer Book's murder was found to be justified by the Monroe County Grand Jury;⁹⁴ Israel “Izzy” Andino, 20, was murdered by a firing squad of officers consisting of Sgt. Aaron Colletti,⁹⁵ Sgt. Mike Nicholls, Antonio Gonzalez, Brian Cala,⁹⁶ Greg Kames, Onasis Socol, and Eliud Rodriquez⁹⁷, on June 21, 2012—the murder of Mr. Andino by the seven officers was found to be justified by the Monroe County Grand Jury; Ralph “Irak” Strong, 24, was shot

⁹³Wikipedia. 2015. “Rochester Police Department” Wikipedia.org, May 4 (https://en.wikipedia.org/wiki/Rochester_Police_Department#cite_note-20).

⁹⁴<http://rochester.indymedia.org/node/6547> Protest Police Killing of Hayden Blackman

⁹⁵<http://rochester.indymedia.org/node/104180> Blaqsha Shakur Mandela on video of Sgt. Colletti brutalizing Clem Long Jr., <http://rochester.indymedia.org/node/49305> Rally Denounces RPD Murder of Israel "Izzy" Andino!

⁹⁶Cite the guy that beat up arrested Kerry Coleman and wife—if this is the same dude—ofc. Brian Cala

⁹⁷<http://rochester.indymedia.org/node/49305> Rally Denounces RPD Murder of Israel "Izzy" Andino!, <http://rochester.indymedia.org/node/146620> Edison Tech student athlete files civil rights lawsuit against police

multiple times (and survived) by officers Charles Gorman, Matt Balch, and Daniel Rizzo on July 27, 2013—the officers were praised by Mayor Thomas Richards and Chief James Sheppard for their conduct; Tony Youngblood, 22, was shot (and survived the shooting) by officers Matthew Cushman, Daniel Rizzo, and Daniel Santiago in November of 2014—the shooting was found to be justified by the Monroe County Grand Jury; and Juliano Anthony Plaza, 23, was shot (and survived the shooting) by Cynthia Muratore on December 15, 2014—the outcome was listed as unknown. Recently and not listed on the *Wikipedia* article, Gregory Davis, 50, was tased to death by officer Thomas Frye on May 31, 2015—an investigation is still pending.⁹⁸

Each of these individuals has a story that deserves to be heard, sadly many of them will not be. It is the city and police narratives that rule the news and the public perception. This analysis is not the place to go into each and every case, but it is necessary to state that nearly every year, according to *Wikipedia*, someone has been murdered or shot by Rochester police *after* the CRB was implemented. A board that actually holds officers accountable would presumably be more restrictive when officer-related shootings are involved. In contrast, before officer Daryl Pierson was shot and killed in 2014, the last officer killed by gunfire was patrolman Harold Shaw in 1959.

Civilian Review Board “reformed” again

Two-thousand and eleven brought much scrutiny to the Rochester Police Department (RPD) and the Civilian Review Board (CRB). That scrutiny would eventually culminate in the creation of the Commission to Reform the Civilian Review Board. It consisted of five committees (Community, Government, Police Administration, Center for Dispute Settlement (CDS), and Police Union) and

⁹⁸<http://www.democratandchronicle.com/story/news/2015/05/31/police-holding-press-briefing-tremont-st-incident/28263079/> Family identifies man Tased by police, <http://www.twcnews.com/nys/rochester/news/2015/06/1/tremont-street-fallout.html> Police Give Update on Officer-Involved Taser Death on Tremont Street

lasted 18 months. It was called for by City Councilmember Adam McFadden in the fall of 2011.⁹⁹ By the end of the process, the recommendations would turn out to be cosmetic, without any fundamental changes made to the system.¹⁰⁰

The renewed public scrutiny began with the forceful, violent eviction of Catherine Lennon-Griffin¹⁰¹ by Rochester's SWAT team over a fraudulent eviction order pursued in the courts by Fannie Mae. The bank, that had taken \$90 billion in taxpayer bailout money¹⁰² through the Troubled Asset Relief Program (TARP), refused to negotiate with Ms. Lennon-Griffin after her husband died suddenly of brain and lung cancer. The SWAT team arrived early on the morning of March 28, 2011 and removed her from the home, dispersing 11 of her family members, including 7 grandchildren, and landing her in a motel. Around two dozen police remained as bank-contracted workers boarded up her home and removed her belongings. In the middle of this, five people committed civil disobedience and were arrested as they attempted to block the doorway to the home. Two others were arrested for failure to move, one being a 70 year-old neighbor in her pajamas. Local mainstream media got coverage of the arrests as did *Rochester Indymedia*.¹⁰³ Four years later, Ms. Lennon-Griffin got her home back free and clear,¹⁰⁴ after squatting her own home shortly after being evicted,¹⁰⁵ while fighting to have a new day in court. Ms. Lennon-Griffin's story went viral and was picked up nationally. Former Obama Administration official Van Jones called her a “modern day Rosa Parks.”¹⁰⁶ Attention turned toward

⁹⁹Rochester Independent Media Center. 2011. “Community Members Testify at Commission to Review and Reform the Civilian Review Process.” Rochester Indymedia, November 5 (<http://rochester.indymedia.org/node/7534>).

¹⁰⁰Galloway, Susan. 2012. “The Civilian Review Board Commission Recommendations Leaves Out the Civilian.” Rochester Indymedia, August 28 (<http://rochester.indymedia.org/node/68149>).

¹⁰¹Take Back The Land Rochester. 2013. “Timeline of Catherine Lennon’s Epic Struggle for Her Home.” TakeBackRoc.rocus.org, November 12 (<http://takebackroc.rocus.org/sites/default/files/Timeline%20of%20Catherine%20Lennon%27s%20Epic%20Struggle%20for%20Her%20Home.pdf>).

¹⁰²ProPublica. 2015. Bailout Tracker. “Bailout Recipients.” ProPublica.org, July 13 (<https://projects.propublica.org/bailout/list>).

¹⁰³<http://rochester.indymedia.org/node/7491> and <http://www.rochesterhomepage.net/story/d/story/rochester-woman-evicted-7-arrested/26508/mE566XsB2E6RWnZ80GLnEQ> Rochester Woman Evicted, 7 Arrested

¹⁰⁴Forsyth, Ted and Take Back The Land Rochester. 2014. “Take Back The Land’s Catherine Lennon Seals Historic Foreclosure Fight Victory.” Rochester Indymedia, January 9 (<http://rochester.indymedia.org/node/101110>).

¹⁰⁵National Economic & Social Rights Initiative. 2011. “Family ‘Live In’ Reminder of Need for Paradigm Shift in U.S. Housing Policy.” NESRI.com, May 9 (<http://www.nesri.org/news/2011/05/family-live-in-reminder-of-need-for-paradigm-shift-in-us-housing-policy>).

¹⁰⁶Jones, Van. 2011. “‘This Is Not America’: SWAT Team Evicts Grandmother, Community Fights Back (Video).” HuffingtonPost.com, April 1 (http://www.huffingtonpost.com/van-jones/this-is-not-america-swat_b_843708.html).

Rochester.

Less than two months later, on May 4, 2011, Monroe County Legislator Willie Joe Lightfoot was arrested in front of his barber shop on Jefferson Avenue for speaking out against police officers who “threatened to punch” a Black, youth suspected of riding a bike without a bell “in the face” when the youth called out to Mr. Lightfoot for reassurance.¹⁰⁷ His surveillance camera video clearly showed that he did not interfere with police. He said to the police officer who was threatening physical violence on the youth in custody, “You can do your job, but you can't do that.” For his courage, he was charged with DWI, obstruction of governmental administration, disorderly conduct, and failure to take a breathalyzer “even though, he was neither driving at the time of his arrest nor drunk.”

In his video testimony of what happened,¹⁰⁸ he was called “stupid,” the police misidentified him, he wasn't told why he was arrested, he overheard officers telling each other what to write on their reports, officers told him to urinate on himself, and was driven around in a paddy wagon for several hours in “excruciating pain” as his handcuffs were too tight and on for too long. Mr. Lightfoot, who didn't know that he had surveillance video of the arrest at the time, took a plea deal for a DUI charge in order to maintain his standing as a Rochester firefighter. The media painted him as a drunk driver and took the police version of events, rather than find out the truth of the situation. His case would come to light again later that summer and be heard nationally on *CNN*¹⁰⁹ after the case of Emily Good went viral on the internet.

¹⁰⁷ Forsyth, Ted. 2011. “Indymedia Uncut: Willie Joe Lightfoot Talks About His Arrest on May 4, 2011.” Rochester Indymedia, July 14 (<http://rochester.indymedia.org/node/6976>).

¹⁰⁸ Ibid.

¹⁰⁹ Lemon, Don. 2011. NewsRoom Weekend primetime. “More Accusations of Retaliation by Rochester Police.” CNN.com, July 17 (<http://newsroom.blogs.cnn.com/2011/07/17/more-accusations-of-retaliation-by-rochester-police/>).

Eight days later, on May 12, Emily Good was arrested by officer Mario Masic,¹¹⁰ while she video taped a racially-motivated traffic stop with her ipod from the front lawn of her 19th Ward Neighborhood home. Officer Masic goes by the alias “Cowboy”—a name given to him by the community as a warning—which he co-opted for his own use. Officer Masic has worn the moniker proudly for years. To this day, he continues to terrorize civilians on the westside of the city.¹¹¹ Ms. Good was formally charged with obstruction of governmental administration. Her case didn't receive attention until June 21 when the Public Defender's Office, that was representing her, saw no issue with the video of the arrest being released publicly. The video went viral in just a few days with people around the world commenting online about what had happened. Soon after, both she and Mr. Lightfoot were interviewed on *CNN* about their experiences.¹¹²

Just two days later, on June 23, Ms. Good and her roommates became the victims of presumed police retaliation. At that point, her video had been seen by hundreds of thousands people, and calls were starting to pour into City Hall and the police department. Sometime between noon and 1:00pm, Ms. Good's home was burglarized. Shortly before noon, she went to the library around the corner to drop off some books. About an hour later, she returned home. She saw that the back door of the house had been bashed down breaking the whole door frame and the dead bolt. Doors were opened in the house that were closed before she left and her and her roommates' rooms had been rummaged through. Ms. Good determined that a few hundred dollars of hidden babysitting money and the ipod she used to tape

¹¹⁰ Rochester Independent Media Center. 2011. “Rochester Police Arrest Citizen for Taping Traffic Stop.” Rochester Indymedia, June 21 (<http://rochester.indymedia.org/node/7514>).

¹¹¹ Some recent examples involving “Cowboy”: “Rochester Police Arrest Citizen for Taping Traffic Stop,” <http://rochester.indymedia.org/node/7514>; “Police Illegally Trespass and Arrest Woman in Her Front Lawn for Recording Traffic Stop: An Eyewitness Report,” <http://rochester.indymedia.org/node/6312>; “Police Union Responds to Good Case with Inaccuracies; Bars Indymedia Access,” <http://rochester.indymedia.org/node/6974>; “Rochester Police Officer Mario V. Masic: 'I do what I wanna do. My name's Cowboy. This is my block,’” <http://rochester.indymedia.org/node/99410>; “Officer Masic to Mr. Keene: 'If you don't stop moving, I'm going to shoot you,’” <http://rochester.indymedia.org/node/104097>; and recently (Memorial Day, 2015), the ongoing case of Rasheed Griner, who was beaten and threatened with death after he was in custody if he got blood anywhere in the back of officer Masic's police car.

¹¹² RochesterBillsFan1. 2011. “CNN Interview with Emily Good-Rochester, NY 07.02.2011.” YouTube.com, July 3 (https://www.youtube.com/watch?v=_HXHCWVPWOs) and Lemon, Don. 2011. NewsRoom Weekend primetime. “More Accusations of Retaliation by Rochester Police.” CNN.com, July 17 (<http://newsroom.blogs.cnn.com/2011/07/17/more-accusations-of-retaliation-by-rochester-police/>).

the traffic stop and arrest were missing.¹¹³ According to Ms. Good, 25 minutes after calling 9-1-1, eight marked police cars and a technician van “swarmed the scene.” Police took photos but refused to take finger prints. No formal conclusion to the case has ever been offered by the police.

While there was no hard evidence that proved police responsibility for the break-in, all indications pointed to the police and/or their allies based on circumstantial evidence. That same day, the community decided to gather at the Flying Squirrel Community Space in Rochester's Corn Hill Neighborhood to discuss Ms. Good's case and figure out what could be done in solidarity with her. Here's the *Rochester Indymedia* account of what happened:

At approximately 5:30pm, four police cars were seen driving east on Troup St. and then turned right onto Clarissa St. The police cars parked a block down from the Flying Squirrel and [the officers] got out of their cars holding clips boards and ticket books. They proceeded to walk down the line of parked cars on Clarissa St. checking registrations and inspections directly across from where the meeting was taking place. They then proceeded to pull out [hot, pink] rulers to measure the distance from the curb to the tires of each car. They stated that they had received civilian complaints regarding cars being parked too far from the curb on Clarissa St. Several people received tickets alleging they had parked more than 12 inches from the curb. The fine was marked as \$35. Throughout the evening the police continued to circle the streets surrounding the Flying Squirrel. Attendees of the meeting recognized the police intimidation tactics but weren't deterred from their meeting. Rochester Indymedia was on hand with video cameras to capture the scene.¹¹⁴

¹¹³ See Forsyth, Ted. 2011. "Good's Home Broken Into on Same Day as Community Member Intimidation by RPD." Rochester Indymedia, June 27 (<http://rochester.indymedia.org/node/6381>). Also see, Craig, Gary. 2011. "Burglar Steals iPod Emily Good used to Videotape Police." Democrat and Chronicle, Jun 27, (<http://search.proquest.com/docview/873861768?accountid=47680>) and Craig, Gary. 2011. "Break-in at Emily Good's Home an Oddity." Democrat and Chronicle, Jun 28, (<http://search.proquest.com/docview/873863491?accountid=47680>).

¹¹⁴ See Rochester Independent Media Center. 2011. "Police Harass Community Members Attending Meeting in Support of Emily Good." Rochester Indymedia, June 23 (<http://rochester.indymedia.org/node/6973>).

Two video accounts came out of that police retaliation—one from *Rochester Indymedia* videographer Dawn Zuppelli¹¹⁵ and the other from independent reporter David Vara.¹¹⁶ Eventually, the public outcry regarding Ms. Good's arrest became too much for the city and the police to handle. In response, at her June 27 court date, Monroe County District Attorney Sandra Doorley said that there was “no legal basis” to go forward with the case and that her office was “withdrawing the charge.”¹¹⁷ By the end of July, the three parking tickets issued by “the Pink Ruler Boys,” as Mr. Vara called them, were rightfully dismissed.¹¹⁸ Three days after her charges were dropped, the Locust Club held a press conference at their union hall, from which *Rochester Indymedia* was barred, where police union president Michael Mazzeo stood beside officer Masic and point blank lied to the corporate news media.¹¹⁹ Ms. Good and her allies held a press conference on July 5 responding to the lies spread by the police union.¹²⁰ Her civil lawsuit filed, the case slowly receded from the news.

One last piece of interest regarding her case: in September of 2011, journalists at *Rochester Indymedia* noticed that suddenly the Patrol Division West, formerly under the command of Samuel A. Farina Jr., was command-*less*.¹²¹ There was speculation that Farina had been fired by the city for his bungling of the eviction of Catherine Lennon-Griffin, the arrest of Emily Good, the pink ruler fiasco, and, as *Rochester Indymedia* reported, he may have been the commander in charge of a police riot against anti-war activists on October 7, 2009 “where 12 were arrested, 2 were hospitalized, and over 50 officers

¹¹⁵ Zuppelli, Dawn. 2011. “Rochester Intimidation and Harassment at the Flying Squirrel.” YouTube.com, June 23 (<https://www.youtube.com/watch?v=ZWDLg6gZVrQ>).

¹¹⁶ Vara, David. 2011. “DavyVTV Exclusive... Rochester, NY Police Retaliation and Intimidation Tactics Exposed!” YouTube.com, June 23 (https://www.youtube.com/watch?v=Ytk_FpvHquw).

¹¹⁷ Forsyth, Ted. 2011. “DA Drops Charge Against Good!” Rochester Indymedia, June 29 (<http://rochester.indymedia.org/node/6382>).

¹¹⁸ Vara, David. 2011. “The Pink Ruler Boys, The Parking Violations Bureau, and a Tale of Corruption...” Rochester Indymedia, July 26 (<http://rochester.indymedia.org/node/7522>).

¹¹⁹ Forsyth, Ted. 2011. “Police Union Responds to Good Case with Inaccuracies; Bars Indymedia Access.” Rochester Indymedia, July 3 (<http://rochester.indymedia.org/node/6974>).

¹²⁰ Forsyth, Ted. 2011. “VIDEO: Emily Good Press Conference July 5, 2011.” Rochester Indymedia, July 7 (<http://rochester.indymedia.org/node/6392>).

¹²¹ Rochester Independent Media Center. 2011. “Who IS commanding the West Patrol Division of the Rochester Police Department?” Rochester Indymedia, September 9 (<http://rochester.indymedia.org/node/6511>).

responded to the assault on nonviolent protesters by police.”¹²² These suspicions were partially confirmed in July of 2013 when the *Democrat & Chronicle* ran a story about Farina suing the city, claiming that he had been “blackballed” by the former mayor and police chief over, at least, the arrest of Ms. Good.¹²³

When asked why Ms. Good refused to file a complaint with the CRB, she said that she felt it was never meant to actually dispense justice. She wrote, “I have no confidence in the process. The police get to make the ultimate decision about what happens. When police came to my house, I felt intimidated and didn't want them involved.”¹²⁴

Two days after her charges were dismissed, on June 29, Councilmember McFadden released a strongly worded letter where he stated, “The City of Rochester has lost control of its police force,” and “Our policing system is broken.” Aside from discussing issues of racism in the police force, police misconduct, and police accountability, he offered some demands, one being the “revamping of the Citizen Review Board within 30 days.” He ended his public letter with, “I regret that this Administration and my current colleagues are left to deal with the truly frightening results of years of neglect. But we must act and we must act at once.”¹²⁵ Strong words but, as we shall see, without the necessary and meaningful action required to fundamentally change the foundation upon which the CRB was formed.

A week before the new *commission* to reform the CRB met, Hayden Blackman was murdered by police

¹²² Rochester Independent Media Center. 2009. “Police Brutally Attack Funk the War.” Rochester Indymedia, October 7 (<http://rochester.indymedia.org/node/7398>).

¹²³ Sharp, Brian. 2013. “Former police commander sues Rochester officials.” *Democrat & Chronicle*, July 9 (<http://www.democratandchronicle.com/story/news/local/2013/07/09/former-police-commander-sues-rochester-officials-/2502057/>).

¹²⁴ Text conversation between myself and Emily Good, March 18, 2015.

¹²⁵ Forsyth, Ted. 2011. “Rush Transcript of McFadden Memo.” Rochester Indymedia, July 14 (<http://rochester.indymedia.org/node/6401>).

in his kitchen—shot to death by officer Randy Book on October 13, 2011.¹²⁶ A neighbor of Mr. Blackman's, Darryl Phillips Jr., told the *Democrat & Chronicle* that “less than two seconds passed between the time the officers ascended the stairs to the second-floor apartment and the first gunshots.” According to police, Mr. Blackman was holding a knife and shot multiple times when he didn't drop it. His neighbor never heard police issue any commands.¹²⁷ A rally against the police murder of Mr. Blackman was held right before the *commission* met on October 20, 2011.¹²⁸

After the rally, protesters marched into City Hall and took their seats in a packed City Council chambers to hear the first meeting of the Commission to Reform the Civilian Review Board. At the front of the room sat Councilmember McFadden and Police Chief James Sheppard. Councilmember McFadden opened the proceedings by saying,

“This is a volunteer committee set up to review the process for filing a complaint against a Rochester police officer. This committee is not going to tackle a lot of the issues that plague our community like our relationship with the police, or the wrong-doings or right-doings of the police or the city administration. We are going after reviewing the professional standards process and the Center for Dispute Settlement process for filing a complaint—seeing if it's adequate for our community. We will make suggestions to keep it as is or change it to something else. I want to make sure we're very clear on what we're doing.”

The councilmember then told the audience that the people testifying would be asked specific questions regarding their complaints and their experiences with the police investigation and the CRB. Two

¹²⁶ Wikipedia. 2015. “Rochester Police Department” Wikipedia.org, May 4 (https://en.wikipedia.org/wiki/Rochester_Police_Department#cite_note-20).

¹²⁷ Freile, Victoria; Nestor Ramos; Sean Dobbin. 2011. “Ex-wife: Suspect a nonviolent man.” *Democrat & Chronicle*, October 15 (<http://search.proquest.com/docview/898407096?accountid=47680>). [upload to Rochester Indymedia]

¹²⁸ Rochester Independent Media Center. 2011. “Protest Police Killing of Hayden Blackman.” Rochester Indymedia, October 20 (<http://rochester.indymedia.org/node/6547>).

speakers of note who called out specific officers in the room were Theodore “Teddy” Loria and Emily Good. The case noted by Mr. Loria, from July 24, 2009, involved Sergeant Ronald Malley refusing to get video from a Rochester police blue light surveillance camera for a Professional Standards Section (PSS) investigation that could have sustained his complaint. Mr. Loria said, “The reason why they didn't pull that film is because it would have corroborated my claim.” If they had pulled the video, and it did corroborate his story, PSS's evidence could “be used against them in a civil matter and would open them up to all kinds of legal liability,” he said. He called the process “seriously flawed,” and called out Sgt. Malley who was sitting with the Police Administration Committee members that night.

After her arrest earlier in the year, Ms. Good refused to file a complaint with PSS based on a bad experience attempting to file one from a previous police encounter. Regarding the arrest in May, she said that she had “unwanted contact” with PSS at least four times at her home, which made her feel unsafe. After informing them the first time that she didn't want to talk and that she had a lawyer, they continued to harass and intimidate her. When she found out that the internal investigation was completed, she wondered aloud what the investigation entailed. She said, “They did not speak to any witnesses—like my neighbors who witnessed the entire incident . . . they made no attempt to find out anything.” She called out Mazzeo, a member of the Police Union Committee on the *commission*, for telling lies to the media: “Mr. Mazzeo is sitting back there—told lies about me on all the media stations.” When asked by Councilmember McFadden if there was anything that she would suggest that would improve the process, she said, “Yes. Remove Mr. Mazzeo from the commission. Remove all police from the commission. Scrap the commission and create an independent civilian review board.” The audience went wild.

At the end of the hearing, Councilmember McFadden reiterated the *commission's* charge of evaluating

the process and making or not making recommendations. When the audience got tired of the doublespeak and started speaking out, Councilmember McFadden admonished the very people he was charged with serving,

“Again, respect the process. I'm not one of these people—trust me. I'm not going to play with people. Straight-up. Respect the fact that we're doing this. This is not easy. I've got the floor. A lot of people have put their time and energy into this. The councilmember who did it before me, told me when I got on council, that he got death threats for trying to do this. So this was not something that I was signing up to do. I will not be disrespected by anybody. Let's be clear on that.”

He then threatened to turn a democratic, transparent process into an opaque, closed process: “That said, I promise you that we will do our due diligence, we will be open to meet. We have not done any closed meetings—it would be very easy for me to go into executive session and not have these sessions public.” A next date was set and the meeting was adjourned.

Five days after the first *commission* hearing, Russell Davis¹²⁹ got in touch with *Rochester Indymedia* to publicly share his negative experience with PSS and their so-called investigation into his complaint. Davis is an African American man who was assaulted by police (immediately held at gun point by multiple officers, was wrestled to the ground, received a gash in his head, his hands became swollen and his wrists bled because his handcuffs were too tight, and he was forced to sit in a car for 45 minutes to an hour without medical attention) on August 5, 2006 outside his apartment complex on Dewey Ave. He was then taken to the hospital where he was taunted by officers and not charged with a crime.

¹²⁹ Watch the interview “Indymedia Uncut: Interview with Russell Davis” from October 25, 2011 at: <https://www.youtube.com/watch?v=IrhIkeoWXuI>

Knowing misconduct had occurred, he attempted to use the CRB process. The PSS officer who investigated his complaint and subsequently found no basis for it was the above mentioned Sgt. Ronald Malley. In Mr. Davis' case, he was the officer who ordered the assault on him on that day in August 2006.

In a *Rochester Indymedia* interview conducted with Mr. Davis on October 25, 2011, he said he was outraged, not only that his case was dismissed for “no basis,” but more specifically because Sgt. Malley, who ordered six to ten officers to assault him, refused to recuse himself from the case.

“How can you be involved with an assault on a civilian by the police and you is in charge of these police, and you turn around and investigate the incident?” he said in the video interview. “What kind of police department we got going on here in Rochester, New York?” He found the CRB/PSS process “a waste of time.” He called the process “a hoax.” He also said that because of the assault, he “fears for his life” whenever he sees the police. “What remedy do I have?” he asked, when trying to make sense of a system of “accountability” that failed him.

In Mr. Davis' case, it took about two years to get a ruling, which didn't find in his favor. This was after he had heard nothing about his case and decided to call then-Police Chief David Moore every couple of months for updates. Near the end of the interview, Mr. Davis made clear his demands: an independent civilian review board with subpoena power, that complaints not be investigated by law enforcement officers named in them, and that the federal government conduct an intensive review and investigation of the Rochester Police Department.

A *commission* hearing was held nearly a year later on August 23, 2012,¹³⁰ where Councilmember McFadden presented the recommendations agreed upon by the *commission*. One of the Community Committee members, Ryan Acuff, shared some of his thoughts on the recommendations.¹³¹ He said, “A lot of different perspectives were put out in a way that Adam McFadden tried to adopt what’s more or less called the lowest common denominator position. It’s a position that everybody could have some agreement, more or less.” Jennifer Banister, another member of the Community Committee agreed with Mr. Acuff assessment.¹³² “Adam ran us through which ones everyone could agree to & tabled things that were disputed/debatable for some unspecified later point in another process someday. Of course, the result was the lowest common denominator.” In addition, she noted that, “the [Corporation Counsel for the City of Rochester] used to show up at meetings to tell us what we could apparently NOT [sic] do.” Ms. Banister got involved through Teen Empowerment. The organization was asked “fairly last minute” if youth organizers could come to *commission* meetings and “act out some of the PSS interview transcripts with complainants to demonstrate how accusatory, belittling, making the victim the criminal, etc. the tenor of these interviews were.” Two youth organizers and herself started attending meetings. Mr. Acuff was asked to be on the *commission* by Councilmember McFadden. At the time he was on the board of the New York Civil Liberties Union, Genesee Valley Chapter, and was an organizing force for Take Back The Land Rochester.

Tension and unresolved issues surrounded the hearing where the recommendations were released. Those issues pertained to certain demands like an “autonomous CRB with entirely separate PSS and CRB investigations, that the filing of a complaint would “satisfy notice of claim requirements,” creating separate reporting systems when injuries were sustained by the complainant, and “procedures

¹³⁰ Galloway, Susan. 2012. “The Civilian Review Board Commission Recommendations Leaves Out the Civilian.” Rochester Indymedia, August 28 (<http://rochester.indymedia.org/node/68149>).

¹³¹ Phone conversation between myself and Ryan Acuff, June 17, 2015.

¹³² Email conversation between myself and Jennifer Banister, June 16, 2015.

for evaluating multiple separate complaints against an officer.”¹³³ “From the perspective of the Community Caucus [sic]... the idea was to make fundamental changes in the system of civilian review,” said Mr. Acuff. He continued, “As opposed to having these [commissions] every seven or eight years—making small changes, which are more or less window dressing and don't meet the demand—the 50 year-old demand for an independent civilian review board¹³⁴ with investigative and subpoena power, then there's really no point of these discussions. That's really the fundamental thing. That was made clear.”

It appears there was never any final, published report or amended legislation filed with City Hall after the process was over. Of the people I spoke with, none could recall seeing any kind of final document with the agreed upon reforms. However, it appears everyone had the impression that certain reforms were amended to the legislation.¹³⁵ “What [Councilmember McFadden] considered to be the lowest common denominator was basically two basic reforms,” said Mr. Acuff.

“One was somewhat substantive and one was not. None of them addressed the fundamental issue. The first one was the idea of the civilian advocate. There's the idea that people feel intimidated during the process—who feel that it's more of an interrogation. From that, the civilian advocate would be hired and they would be knowledgeable about the process and take people through the process. The second reform was the appeal process. The idea being that if someone files a complaint against the police, there's a ruling, and the complainant is notified of the finding. If the complainant disagrees with the finding, they can file an appeal. And that goes to City Council. And in

¹³³ Galloway, Susan. 2012. “The Civilian Review Board Commission Recommendations Leaves Out the Civilian.” Rochester Indymedia, August 28 (<http://rochester.indymedia.org/node/68149>).

¹³⁴ Acuff, Ryan. 2012. “Creating an Independent CRB: Can We Put a 50-year-old Demand to Bed?” Minority Reporter, September 10-16 (<http://docslide.us/documents/mr091012web.html>).

¹³⁵ On July 8, 2014, when I received the most current legislation for the CRB that was created in 1992, there was no mention in the documents about the reforms possibly made in 2012. However, it is known that at least the poorly named “community advocate” position exists. I say poorly named because the position doesn't actually advocate for anyone—at least explicitly. They certainly do advocate for the current system which has been shown to fail people again and again. The advocate is simply there to “advocate for the process” in CDS's terms.

someways to me that are not super clear because I've never seen the actual new written legislation, but I'd like to, City Council will make some kind of final decision that could overrule the police chief. So, the idea is that that could actually be an improvement, in theory. That would need to be tested, but it could be an improvement. It still doesn't address the fundamental issue, which is that all of the investigations are done by the police.”¹³⁶

Ms. Banister recalled that the agreed upon recommendations “most of all were for an advocate to be assigned to help guide people through the process.” Frank Liberti, Director of Police/Community Relations Programs for CDS, recalled at a presentation to the Rochester Coalition for Police Reform¹³⁷ that “all panelists who review city cases must be city residents,” as well as the community advocate position. At most, three reforms were made, but it's hard to pin down the language, the when, and the who about the amended legislation— if any exists. **None exists.**

The Civilian Review Board, 2012 – present

Oh, but this whole country is full of lies / You're all gonna die and die like flies / I don't trust you any more / You keep on saying, "Go slow! Go slow!"
But that's just the trouble, do it slow / Desegregation, do it slow / Mass participation, do it slow / Reunification, do it slow
Do things gradually, do it slow / But bring more tragedy, do it slow / Why don't you see it? Why don't you feel it? / I don't know, I don't know¹³⁸

In a way, this 52 year journey of police misconduct, brutality, and murder, brings us to a familiar beginning. It's not a complete and exact loop, as we must account for time, but it is eerily reminiscent.

¹³⁶Phone conversation between myself and Ryan Acuff, June 17, 2015.

¹³⁷ From an audio recording of a CDS presentation given by Frank Liberti to the Rochester Coalition for Police Reform from February 13, 2015.

¹³⁸ Simone, Nina. 1964. Lyrics from “Mississippi Goddamn!” Live in New York City, NY, date accessed July 20, 2015 (https://play.google.com/music/preview/Tc3flzjbijxmqup5k4m5tdyxcqq?lyrics=1&utm_source=google&utm_medium=search&utm_campaign=lyrics&pcampaignid=kp-lyrics).

The last 52 years have seen real justice fleeing from the scene of the many crimes committed against the civilians of Rochester, NY by their police department. This is especially true for people of color and poor people. Even as the Commission to Reform the Civilian Review Board was winding down in 2011 and 2012, police violence continued unabated. Some examples between 2011 – 2015 as reported on *Rochester Indymedia* include: a mother and her two children, ten and six years of age, were traumatized by a SWAT-style drug raid—no drugs were found and no charges were filed (June 12, 2011);¹³⁹ Warren Barnes was arrested for filming police on Monroe Avenue (June 27, 2011);¹⁴⁰ Jeramie Barideaux was racially profiled and spent four months in jail before his case was thrown out after he was vindicated by video (July 2011);¹⁴¹ 48 people total were arrested in Washington Square Park after refusing to pack up Occupy Rochester (October 28, 2011 & November 2, 2011);¹⁴² a homeless encampment by the railroad was cleared (March 15, 2012);¹⁴³ Mark Zullo was held at gun point in his garage and robbed by an RPD officer (April 4, 2012);¹⁴⁴ Israel “Izzy” Andino was murdered by firing squad on his birthday (June 21, 2012);¹⁴⁵ 18 people were arrested on East Avenue during an anti-capitalist march (July 21, 2012);¹⁴⁶ 16

¹³⁹ Galloway, Susan. 2011. “Raid Traumatizes Family.” Rochester Indymedia, September 8 (<http://rochester.indymedia.org/node/6982>).

¹⁴⁰ Forsyth, Ted. 2011. “Officer Aaron Wilcox Questioned on the Arrest of Warren Barnes.” Rochester Indymedia, October 21 (<http://rochester.indymedia.org/node/6552>); and Forsyth, Ted. 2011. “Case Concludes for Warren Barnes.” Rochester Indymedia, October 29 (<http://rochester.indymedia.org/node/6592>).

¹⁴¹ Vara, David. 2012. “Innocent Man Spends Four Months in Jail after Rochester, NY Police officers Rob Osipovitch and Ryan Hartley Lie Under Oath.” CopBlock.org, July 27 (<http://www.copblock.org/18556/innocent-man-spends-four-months-in-jail-after-rochester-ny-police-officers-rob-osipovitch-and-ryan-hartley-lie-under-oath/>); Citizens Against Police Brutality and Misconduct. 2012. “Group Calls for Two Officers Who Submitted False Police Reports and Racially Profiled On Video to Be Held Accountable.” Rochester Indymedia, August 31 (<http://rochester.indymedia.org/node/69457>).

¹⁴² Rochester Independent Media Center. 2011. “32 Arrests at Occupy Rochester.” Rochester Indymedia, October 29 (<http://rochester.indymedia.org/node/6987>); Anonymous. 2011. “Rochester Police Execute Second Forceful Eviction; 16 Arrested.” Rochester Indymedia, November 3 (<http://rochester.indymedia.org/node/6577>); TMKF. 2011. “Labor Federation President Condemns Occupy Rochester Arrests.” Rochester Indymedia, October 10 (<http://rochester.indymedia.org/node/6567>); and Forsyth, Ted. 2012. “It’s 2AM—Do you know where your police force is? Demanding ID’s at Occupy Rochester.” Rochester Indymedia, February 6 (<http://rochester.indymedia.org/node/7545>).

¹⁴³ Forsyth, Ted. 2012. “March Eviction Defense of Railroad Encampment.” Rochester Indymedia, April 19 (<http://rochester.indymedia.org/node/27566>).

¹⁴⁴ Rochester Independent Media Center. 2012. “Video: RPD Officer Assaults & Robs Mark Zullo.” Rochester Indymedia, August 30 (<http://rochester.indymedia.org/node/69191>).

¹⁴⁵ Vara, David. 2012. “Disturbing Details in the Execution of a Young Man by 7 Trigger happy Rochester, NY Cops.” Rochester Indymedia, June 24 (<http://rochester.indymedia.org/node/48162>); Forsyth, Ted, Andy Dillon, and JuanTV. 2012. “Rally Denounces RPD Murder of Israel ‘Izzy’ Andino!” Rochester Indymedia, June 28 (<http://rochester.indymedia.org/node/49305>); and Galloway, Susan. 2012. “RPD, Health Care System and Community Negligent in Mental Health Issues.” Rochester Indymedia, August 7 (<http://rochester.indymedia.org/node/58604>).

¹⁴⁶ Rochester Independent Media Center. 2012. “Police Snatch and Arrest 18 from Anti-Capitalist March (Updated).” Rochester Indymedia, July 21 (<http://rochester.indymedia.org/node/53497>); Brundage, Al. 2012. “Photos and video from July 21 march and police action.” Rochester Indymedia, July 22 (<http://rochester.indymedia.org/node/53685>); Rochester Independent Media Center. 2012. “some points that came out of community meeting regarding Rochester 18.” Rochester Indymedia, July 22 (<http://rochester.indymedia.org/node/53835>); Anonymous. 2012. “Police Involved in False Arrests of East Avenue 18.” Rochester Indymedia, July 23 (<http://rochester.indymedia.org/node/54147>); Rochester Independent Media Center. 2012. “A Press Conference and Court for the East Ave. 18.” Rochester Indymedia, July 23 (<http://rochester.indymedia.org/node/54246>); Woodward, Devon. 2012. “A Demonstration of Demonstrations to Come: Another Look at Rochester’s Anti-Capitalist March.” Rochester Indymedia, July 24

people were arrested at the Puerto Rican Festival—police were donning full riot gear (July 22, 2012);¹⁴⁷ 10 to 12 people were arrested at a non-disruptive private house party (July 22, 2012);¹⁴⁸ a formally homeless man, Timothy Powell, was shot by police during his eviction (January 29, 2013);¹⁴⁹ a man was forced into his home and threatened with arrest (possibly at gun point) as he was video recording a police encounter outside of his home (March 9, 2013);¹⁵⁰ Benny T. Warr was brutalized by officers Joseph Ferrigno, Anthony Liberatore, and Sgt. Mitchell Stewart as he waited for the bus (May 1, 2013);¹⁵¹ Sylvester Pritchett was beaten and tased by RPD and Monroe County probation officers (June 20, 2013);¹⁵² Michele Cunningham was the victim of officer Catherine Klinkman's bad day (July 28, 2013);¹⁵³ Lewis Powell had his car broken into by officer Mario Masic (August 13, 2013);¹⁵⁴ Dwayne Ivery was severely beaten in his back yard by officers Baldauf and Harris (August 17, 2013);¹⁵⁵ Brenda Hardaway, pregnant, was thrown into a railing, punched in the back of the head multiple times, dropped to the ground belly first, and then kneed by officer Lucas Krull (August 27, 2013);¹⁵⁶ Raliek Redd,

(<http://rochester.indymedia.org/node/54418>); and Brundage, Al and Jeff O'Connell. 2012. "More video of July 21 Anti-capitalist march and Police Brutality." Rochester Indymedia, July 26 (<http://rochester.indymedia.org/node/55000>).

- ¹⁴⁷ Hand, Jon. 2012. "Some wonder why problems persist after Puerto Rican Festival." *Democrat & Chronicle*, July 23 (<http://www.democratandchronicle.com/article/20120723/NEWS01/307230039/puerto-rican-festival-rochester-arrests?odyssey=nav/head>).
- ¹⁴⁸ Rochester Independent Media Center. 2012. "Non-disruptive Private Party Violently Broken Up by Police; At Least 12 Arrested." Rochester Indymedia, July 26 (<http://rochester.indymedia.org/node/55032>).
- ¹⁴⁹ Take Back The Land Rochester. 2013. "Take Back The Land Condemns Rochester Police 'Shoot-to-Evict' Approach to Evict Formerly Homeless Man." Rochester Indymedia, January 31 (<http://rochester.indymedia.org/rochesterevictionshooting2013>).
- ¹⁵⁰ Vara, David. 2013. "Did Rochester, NY Police officer Pull his Gun on Man After Forcing him Into his Home and Threatening to Arrest him for Video Recording?" DavyV.blogspot.com, April 27 (http://davyv.blogspot.com/2013/04/did-rochester-ny-police-officer-pull_27.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+DavyV+%28Davy+V.%29).
- ¹⁵¹ Forsyth, Ted. 2013. "Disabled Man Assaulted by RPD While Waiting for Bus." Rochester Indymedia, May 8 (<http://rochester.indymedia.org/node/98871>); Forsyth, Ted. 2013. "Not Guilty! Benny Warr Arraigned." Rochester Indymedia, May 14 (<http://rochester.indymedia.org/node/98904>); Forsyth, Ted. 2013. "Judge Miller Passes the Buck on Benny Warr." Rochester Indymedia, July 29 (<http://rochester.indymedia.org/node/99307>); and Forsyth, Ted. 2015. "Exonerating police misconduct: no accountability in Benny Warr case." Rochester Indymedia, January 6 (<http://rochester.indymedia.org/node/104474>).
- ¹⁵² Vara, David. 2013. "Rochester, NY Police and Monroe County, NY Probation officers Beat and Tase Father." DavyV.blogspot.com, June 24 (http://davyv.blogspot.com/2013/06/rochester-ny-police-and-monroe-county.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+DavyV+%28Davy+V.%29).
- ¹⁵³ Forsyth, Ted, Michele Cunningham. 2013. "Michele Cunningham: another victim of zealous, illegal policing and a broken justice system." Rochester Indymedia, October 29 (<http://rochester.indymedia.org/node/100326>).
- ¹⁵⁴ Forsyth, Ted. 2013. "Rochester Police Officer Mario V. Masic: 'I do what I wanna do. My name's Cowboy. This is my block.'" Rochester Indymedia, August 14 (<http://rochester.indymedia.org/node/99410>).
- ¹⁵⁵ Forsyth, Ted. 2013. "Dwayne Ivery Severely Beaten by RPD in his Backyard." Rochester Indymedia, September 16 (<http://rochester.indymedia.org/node/99931>); Forsyth, Ted, Susan Galloway, and Enough Is Enough. 2014. "Press conference with Dwayne Ivery announcing his civil rights lawsuit against RPD & city." Rochester Indymedia, February 8 (<http://rochester.indymedia.org/node/101224>); and Forsyth, Ted. 2015. "Ivery & Warr in court: Demand city hand over excessive force documentation." Rochester Indymedia, April 28 (<http://rochester.indymedia.org/node/146883>).
- ¹⁵⁶ Forsyth, Ted. 2013. "Affronted by Affronti: Hardaway Bail Increased, Unexpectedly and Without Explanation, to \$25K." Rochester Indymedia, September 17 (<http://rochester.indymedia.org/node/99942>); Forsyth, Ted. 2013. "United Christian Leadership Ministry make demands in the Brenda Hardaway case." Rochester Indymedia, September 24 (<http://rochester.indymedia.org/node/99989>); and Forsyth, Ted. 2014. "Impossible choices: Brenda Hardaway pleads guilty to assault in the second degree." Rochester Indymedia, January 18 (<http://rochester.indymedia.org/node/101196>).

Wan'Tauhjs Weathers, and Daequon Carelock waited for a bus to take them to a basketball scrimmage at Aquinas high school and were arrested for not complying with police orders to move on after which they were subsequently subjected to strip searches and humiliated at the police station (November 27, 2013);¹⁵⁷ Clem Long Jr., was brutalized on his front porch by Sgt. Aaron Colletti (September 18, 2014);¹⁵⁸ officer Masic pepper sprayed and took down Quintin Keene as he was doing his laundry in a laundromat on Genesee Street (September 18, 2014);¹⁵⁹ Sanctuary Village, a homeless tent city, had been allowed to stay under the Frederick Douglass / Susan B. Anthony Memorial bridge—until five days before Christmas when the village was bulldozed away by the Department of Environmental Services, facilitated by the RPD (December 20, 2014);¹⁶⁰ the RPD decided to harass a community space (March 28, 2015);¹⁶¹ George Douglass was forcibly evicted from his home by the RPD under the orders of Wells Fargo bank based on questionable foreclosure proceedings (April 1, 2015);¹⁶² Justice Hill was harassed by police after she started recording the arrests of Black youth as they were leaving the library (April 15, 2015);¹⁶³ and Joe Woods was evicted from his home on Webster Avenue after the police arrested his daughter and used her as leverage to get him out of his home—six other home defenders were also arrested (June 17, 2015).¹⁶⁴ There are also very recent cases still pending such as that of Rasheed Griner who was brutalized, threatened with death, and arrested by officer Masic (Memorial Day weekend, 2015) and Shannon Coleman who was assaulted by two officers as she walked to her car

¹⁵⁷ Forsyth, Ted, David Vara. 2015. "Edison Tech student athlete files civil rights lawsuit against police." Rochester Indymedia, February 18 (<http://rochester.indymedia.org/node/146620>).

¹⁵⁸ Forsyth, Ted. 2014. "Blaqsha Shakur Mandela on video of Sgt. Colletti brutalizing Clem Long Jr." Rochester Indymedia, November 6 (<http://rochester.indymedia.org/node/104180>).

¹⁵⁹ Forsyth, Ted. 2014. "Officer Masic to Mr. Keene: 'If you don't stop moving, I'm going to shoot you.'" Rochester Indymedia, September 30 (<http://rochester.indymedia.org/node/104097>).

¹⁶⁰ Forsyth, Ted. 2014. "Homeless displaced again as City destroys tent city." Rochester Indymedia, December 20 (<http://rochester.indymedia.org/node/104412>); Forsyth, Ted. 2014. "Homeless displaced again as City destroys tent city (in photos)." Rochester Indymedia, December 20 (<http://rochester.indymedia.org/node/104413>); Galloway, Susan. 2014. "City of Rochester Disposes of Citizens ID's and Other Belongings." Rochester Indymedia, December 21 (<http://rochester.indymedia.org/node/104415>).

¹⁶¹ Rochester Independent Media Center. 2015. "Rochester Police harass community space (again)." Rochester Indymedia, April 3 (<http://rochester.indymedia.org/node/146827>).

¹⁶² Forsyth, Ted. 2015. "George Douglass evicted! Shame on Wells Fargo!" Rochester Indymedia, April 8 (<http://rochester.indymedia.org/node/146841>).

¹⁶³ Hill, Justice. 2015. "Justice stands ground in face of police aggression." Rochester Indymedia, May 1 (<http://rochester.indymedia.org/node/146888>).

¹⁶⁴ Rochester Independent Media Center, Ricky Six, Lisa, Alyssa, Ryder, Christian, Ted Forsyth, Liz Mcgriff, and Julie Gelfand. 2015. "7 people arrested defending family; police use extortion to coerce homeowner to leave home." Rochester Indymedia, June 21 (<http://rochester.indymedia.org/node/146942>).

(July 19, 2015). Both of their criminal cases, as well as Mr. Keene's are still pending,¹⁶⁵ and, presumable, many others.

We've also seen, as we always have, the rise of the people's consciousness and rage coupled with the demand for something to be done after cases of police violence are publicized. We continue to bear witness to the same 52+ year-old cry for justice. New groups, like Building Leadership And Community Knowledge (BLACK),¹⁶⁶ Enough Is Enough (EIE),¹⁶⁷ United Christian Leadership Ministry (UCLM),¹⁶⁸ and the Rochester Coalition for Police Reform (CPR)¹⁶⁹ have formed and actions have occurred¹⁷⁰ to support people who have borne the brunt of police violence, while demanding fundamental change in how things work as well as holding those responsible directly accountable—

¹⁶⁵ Rasheed Griner has a hearing on July 22, 2015 in Judge Dixon's court at 2:00pm; Shannon Coleman has a hearing on July 23, 2015 in Judge Astacio's court at 10:30am; and Quintin Keene has a hearing on July 27, 2015 in Judge Morse's court at 9:30am.

¹⁶⁶ BLACK has a presence on social media. Their Facebook page is: <https://www.facebook.com/BLACKlife585>.

¹⁶⁷ The website for Enough Is Enough is: <http://enoughisenough.rocus.org/>.

¹⁶⁸ The website for the United Christian Leadership Ministry is: <http://uclmwny.org/>.

¹⁶⁹ The website for the Rochester Coalition for Police Reform is: <http://www.rochester.cpr.org/>.

¹⁷⁰ Looking back at a instances of resistance and consciousness raising during the period of time 2011 – 2015: Forsyth, Ted. 2011. "Indymedia Uncut: Good, Lightfoot, Frazier Confront City Newspaper's Lack of Coverage and Misinformation." Rochester Indymedia, July 20 (<http://rochester.indymedia.org/node/6977>); Brundage, Al. 2012. "Photos from Rally and March Against Police Brutality July 26 2012." Rochester Indymedia, July 27 (<http://rochester.indymedia.org/node/55184>); Citizens Against Police Brutality & Misconduct. 2012. "Group Calls For New Orleans Style Consent Decree to Overhaul Rochester Police Department." Rochester Indymedia, August 23 (<http://rochester.indymedia.org/node/67118>); Rochester Independent Media Center. 2013. "Video Reportback! Enough Is Enough! Community Rally and March!" Rochester Indymedia, May 28 (<http://rochester.indymedia.org/node/98962>); Forsyth, Ted. 2013. "Enough is Enough! No broken necks! We want Respect! Court report on Benny Warr." Rochester Indymedia, May 30 (<http://rochester.indymedia.org/node/98972>); Revette, Dawn. 2013. "Video from the Forum on Police-Community Relations." Rochester Indymedia, November 19 (<http://rochester.indymedia.org/node/100532>); Forsyth, Ted. 2014. "National Moment of Silence Against Police Brutality." Rochester Indymedia, August 25 (<http://rochester.indymedia.org/node/103758>); Dillon, Andy. 2014. "Ferguson Report Back- Ricardo Adams and Rosemary Rivera." Rochester Indymedia, September 9 (<http://rochester.indymedia.org/node/104047>); Forsyth, Ted. 2014. "Pass OUR community safety act now, before another Ferguson happens." Rochester Indymedia, September 25 (<http://rochester.indymedia.org/node/104065>); Dillon, Andy. 2014. "Black Lives Matter Rally; Sept 27 2014." Rochester Indymedia, October 4 (<http://rochester.indymedia.org/node/104111>); Forsyth, Ted. 2014. "#BlackLivesMatter march & vigil at UR." Rochester Indymedia, October 25 (<http://rochester.indymedia.org/node/104158>); Forsyth, Ted. 2014. "The Whole Damn System is Guilty! From Rochester to Ferguson – a community report back." Rochester Indymedia, December 12 (<http://rochester.indymedia.org/node/104364>); Forsyth, Ted. 2014. "They think it's a game, they think it's a joke! Ferguson organizers speak!" Rochester Indymedia, November 12 (<http://rochester.indymedia.org/node/104213>); Dillon, Andy and Ted Forsyth. 2014. "Spontaneous protest in response to Wilson non-indictment." Rochester Indymedia, November 27 (<http://rochester.indymedia.org/node/104294>); Forsyth, Ted. 2014. "Ferguson Response Press Conference hosted by UCLM & CPR." Rochester Indymedia, November 29 (<http://rochester.indymedia.org/node/104299>); Forsyth, Ted. 2014. "Black Lives Matter March & Rally @ UR: a response to the Ferguson grand jury decision." Rochester Indymedia, December 2 (<http://rochester.indymedia.org/node/104308>); Forsyth, Ted. 2014. "#BlackLivesMatter #ROC2Ferguson Rally, Die-in, & March." Rochester Indymedia, November 30 (<http://rochester.indymedia.org/node/104305>); Dillon, Andy and Ted Forsyth. 2014. "No Justice, No Peace—a response to the non-indictment of Darren Wilson." Rochester Indymedia, December 7 (<http://rochester.indymedia.org/node/104339>); Forsyth, Ted. 2014. "#EnoughIsEnough #BlackLivesMatter march and rally in response to non-indictment of Eric Garner's killer." Rochester Indymedia, December 5 (<http://rochester.indymedia.org/node/104332>); Forsyth, Ted. 2014. "URMC medical students participate in national action: #WhiteCoats4BlackLives." Rochester Indymedia, December 18 (<http://rochester.indymedia.org/node/104400>); Forsyth, Ted and Susan Galloway. 2014. "What rights? Police brutality in Rochester—a panel." Rochester Indymedia, December 26 (<http://rochester.indymedia.org/node/104438>); Forsyth, Ted. 2015. "Police reform group makes policy recs to city for body cameras." Rochester Indymedia, January 29 (<http://rochester.indymedia.org/node/104633>); Brownman, Reginald. 2015. "City of Rochester Changes Name to Pierson." Rochester Indymedia, May 1 (<http://rochester.indymedia.org/node/146890>); and Forsyth, Ted. 2015. "Coalition praises council on body cameras; demands a voice in policy decisions." Rochester Indymedia, June 24 (<http://rochester.indymedia.org/node/146945>).

immediately. And we've witnessed the same pathetic responses from those in power—regardless of their identities—with cosmetic actions taken or pleas for the people to wait and see what might come. In the meantime, the lives of everyday people are shaken badly—sometimes irreparably. Even when a civilian attempts to find justice through a civil lawsuit, the case may not be heard for years—delaying justice needlessly.

One ongoing case in point: Benny T. Warr¹⁷¹, a disabled, African American man was pushed over in his motorized wheelchair after being maced and was subsequently beaten by officers Joseph “Joey” Ferrigno, Anthony “Rock” Liberatore, and Sgt. Mitchell “Bigface” Stewart as he waited for the bus at Jefferson Avenue and Bartlett Street on May 1, 2013. On the ground, he was “kicked, punched, and kneed by police.” He was then put in “handcuffs for nearly two hours until he received care at Strong Memorial Hospital for his injuries.” Those injuries included “broken and fractured ribs, numbness in his hands, neck injuries, internal injuries, cuts on his wrists,”¹⁷² nightmares, short-term memory loss, and Post Traumatic Stress Disorder. The stump where his prosthesis attached (and can no longer) is slowly dying as a result of the vicious attack.

Mr Warr's lawyer, Charles F. Burkwit, advised him to go through with the PSS investigation—counsel was present—that would be turned over to the CRB.¹⁷³ It took Mr. Burkwit a year to get the PSS findings,¹⁷⁴ in which the report used the narrative of the police as fact, independent eye-witnesses—including the videographer who taped the brutality—were never contacted, no in-depth second-by-

¹⁷¹ This is one of the most in-depth articles out there pertaining to Mr. Warr's case: Forsyth, Ted. 2015. “Exonerating police misconduct: no accountability in Benny Warr case.” Rochester Indymedia, Jan 6, (<http://rochester.indymedia.org/node/104474>).

¹⁷² Forsyth, Ted. 2013. “Enough Is Enough! No broken necks! We want Respect! court report on Benny Warr.” Rochester Indymedia, May 30 (<http://rochester.indymedia.org/node/98972>).

¹⁷³ Forsyth, Ted. 2015. “Professional Standards Section: How they work (at least on paper).” Rochester Indymedia, April 17 (<http://rochester.indymedia.org/node/146854>).

¹⁷⁴ Rochester Independent Media Center. 2015. “The full investigative summary from Professional Standards Section re: Benny Warr.” Rochester Indymedia, January 5 (<http://rochester.indymedia.org/node/104491>).

second or minute-by-minute analysis of the police department's blue light surveillance camera footage was done¹⁷⁵, and contradictory statements made by the officers didn't seem to register with police investigators.

Finally, the city's attorney, Spencer Ash, went on the record in an affidavit¹⁷⁶ dated November 7, 2014, saying that, “there was no Civilian Review Board review of this matter.”

In a phone conversation¹⁷⁷ I had with Mr. Burkwit, he said, “I think the PSS does a very careful and calculated analysis of evidence. And if they choose to disregard or ignore evidence—I saw that in the case of Benny Warr, where certain important parts of evidence were not noted; especially, in my opinion, if you compare the blue light camera footage with the officers' sworn statements and testimony, there were plenty of inconsistencies.”

Regarding the CRB, Mr. Burkwit concluded, “Therefore, I think the Civilian Review Board cannot *just* rely on the Professional Standards Section findings as conclusive proof. The Civilian Review Board needs to conduct their own independent investigation. They need to review and scrutinize the investigative work the police have done and they need to decide whether the investigation was accurate or incorrect or if it was partially correct. The Civilian Review board needs to take a much closer look at these cases and not just rely upon the police department's findings.” Sadly, the 1992 legislation that created the CRB explicitly denied it the investigatory powers called for by Mr. Burkwit.

On April 27, 2015, Mr. Burkwit was in federal court demanding the City of Rochester disclose the

¹⁷⁵ Rochester Independent Media Center. 2015. “Attorney Charles F. Burkwit logs City of Rochester's blue light surveillance camera footage, re: Benny Warr's case.” Rochester Indymedia, January 5 (<http://rochester.indymedia.org/node/10449>).

¹⁷⁶ See Spencer Ash's affidavit, dated November 7, 2014, here: <http://rochester.indymedia.org/node/146736>

¹⁷⁷ Phone conversation between myself and Charles F. Burkwit, March 17, 2015.

personnel files of its officers involved in cases of excessive or unnecessary force on behalf of another client of his, Dwayne Ivery.¹⁷⁸ Part of Mr. Burkwit's argument in the cases of both Mr. Ivery and Mr. Warr¹⁷⁹ was that the city “has tolerated a custom or pattern of excessive force on the part of its officers,” which meant, if proven, that both the city and the named officers could be “directly liable, which would raise the amount of damages.”¹⁸⁰ When the judge inquired as to why the PSS investigative packets weren't good enough, Mr. Burkwit explained that in Mr. Warr's case, after he had deposed the named officers, it became apparent that their statements to PSS before they were deposed were in fact complete lies. Mr. Burkwit was trying to illuminate for the court what everyday people who have suffered at the hands of the police know intuitively: the police protect themselves and each other first and foremost—by any means necessary. He fundamentally questioned the foundation of police review in Rochester, NY.

The current CRB process is corrupted. The lack of any independent, civilian oversight of the police is problematic—at best—criminal and barbaric at worst. One could go so far as to claim that the very foundations of police and policing in this country come out of sheer barbarism and thus the whole institution ought to be abolished.¹⁸¹ The fact that the CRB must rely on the investigation conducted by PSS to make their final conclusion is alarming, as noted by Mr. Burkwit.

This concludes the historical corrective to the mainstream (read: middle-class / white) narrative that police review in Rochester is a well-functioning and just system. Today, many people in the community

¹⁷⁸ Forsyth, Ted, Susan Galloway, Enough Is Enough. 2014. “Press conference with Dwayne Ivery announcing his civil rights lawsuit against RPD & city.” Rochester Indymedia, February 8 (<http://rochester.indymedia.org/node/101224>).

¹⁷⁹ Forsyth, Ted. 2013. “Benny Warr announces federal civil rights lawsuit against police & city.” Rochester Indymedia, September 25 (<http://rochester.indymedia.org/node/100004>).

¹⁸⁰ Forsyth, Ted. 2015. “Ivery & Warr in court: Demand city hand over excessive force documentation.” Rochester Indymedia, April 28 (<http://rochester.indymedia.org/node/146883>).

¹⁸¹ For a great analysis of why the institution of police and policing ought to be abolished, see *Our Enemies in Blue: Police and Power in America* by Kristian Williams. Brooklyn, NY. Soft Skull Press, 2009. You can find this book and his newest, *Fire the Cops! Essays, Lectures, and Journalism* at AKPress.org.

see the CRB as a fraud and a process that does not hold police to any standard of account. Nor does it offer any chance of meaningful justice.

Salient Features of Each

Here are the salient points of the Police Advisory Board legislation:

1. The PAB was charged with conducting independent investigations of complaints that alleged “use of excessive or unnecessary physical force” by the police.
2. If within two weeks of city administrators receiving the report of disagreement between the PAB and the chief of police with unsatisfactory action taken as recommended by the PAB, then the PAB could make its recommendations public. This was done at an open, public meeting where names were named and police could not hide behind laws like 50-a¹⁸² that came into effect in the mid-1970s.

Here are the salient points of the Civilian Review Board legislation:

1. The CRB is charged with reviewing all Professional Standards Section (PSS) investigations involving “charges of the excessive use of force,” any conduct that, if proven, would constitute a crime, and any matter referred by the chief. It cannot do its own independent investigations.
2. Following its review of PSS investigations, the CRB makes a recommendation to the chief containing appropriate findings from one of these categories: Sustained (act occurred), Unfounded (act did not occur), Exonerated (act occurred but conduct of officers was good), and Unprovable (insufficient evidence). It is allowed to make non-binding recommendations

¹⁸² Enough Is Enough and Rochester Independent Media Center. 2015. “New York State Civil Rights Law 50-a: The Anti-Transparency Law Creating a Safe Haven for Corrupt Police Officers in NY State.” Rochester Indymedia, July 21 (<http://rochester.indymedia.org/node/146979>).

regarding policies and procedures. It has no disciplinary power.

3. To “correct” for civilians not being police, the chief makes an officer at the rank of captain or higher available to serve in an advisory or consultant capacity. The officer has no voting power; they cannot be a member of PSS or the commander of the officer in question.
4. The CRB can interview civilian and police witnesses—though this is not through subpoena power—but rather voluntarily. All requests must go through PSS and no negative inference can be made about witnesses who refuse to be interviewed.
5. If the PSS investigation is not adequate, the CRB can request a more thorough investigation by appealing to four levels of bureaucracy. Those levels in the order they are appealed to are: PSS, the chief of police, the mayor, and finally City Council, which can then vote to conduct a full review with full subpoena power to call witnesses and produce documents with safeguards for confidentiality and due process. No one has ever gotten to the fourth level of bureaucracy in the 22 year existence of the CRB.

Similarities

The CRB and PAB models have many similarities. Starting with the simplest ones first, both models seated civilians on their boards; both were constituted through legislation passed by City Council; both had to report findings either annually or quarterly; both were authorized to hear complaints involving excessive force; both provided their own intake forms; both models had advisory powers and worked with the city and chief of police to ameliorate complaints if possible; and finally, both were given funding, hired staff, and did at least some of their business in City Hall.

Another, perhaps more serious similarity, was that the PAB and the CRB appear to have been created to reduce racial and class tensions in the city—perhaps too little, too late, at least in the case of the

rebellion in 1964—between police and Black civilians. This language was used various newspaper clippings and texts.¹⁸³ Both models were deployed by the city, with civilian input and demands for justice, in an effort to quell anger in the Black community regarding the actions of an “out of control” police force.¹⁸⁴

Another similarity that surrounded both models was the dissemination of police propaganda through the corporate media and, more recently, the city. “Police / community relations” and more recently “community policing” propaganda are used to downplay and deflect serious scrutiny from police misconduct as well as to create police-sided relationships with civic organizations for the purposes of gaining access to community resources, developing infrastructure for intelligence gathering, and co-opting those organizations for police purposes.¹⁸⁵ This propaganda appears to be deployed to create a (false) sense of unity and commonality—shared interests—when in actuality, according to Kristian Williams, the author of *Our Enemies in Blue*, “The overall result of these efforts is to increase the police role in the community, meaning that the coercive apparatus of the state will be more involved with daily life.” He calls this a “smarter approach to repression,” not “demilitarization, liberalization, or democratization.” He writes, with regards to the more recent use of the term “community policing,” “The goal of community policing is to reduce resistance before force is required.” However, he also emphasizes that the dual strategy of community policing and militarization actually make the police

¹⁸³ Texts: *The Remaking of a City: Rochester, NY 1964 – 1984* by Lou Buttino and Mark Hare. Dubuque, Iowa. Kendall/Hunt Pub. Co., c1984. This book is in the Rochester Public Library system—see the listing at: <http://catalogplus.libraryweb.org/#section=resource&resourceid=21859492¤tIndex=0&view=fullDetailsDetailsTab>; and *Rochester History XXV, 4, “A History of the Police of Rochester, New York.”* (October 1963), p. 25. This chapter of *Rochester History* can be found online through the public library system at: http://www.libraryweb.org/~rochhist/v25_1963/v25i4.pdf. Articles: Bastow, Earle C. 1968. “Text of Court Ruling on Police Board.” Times-Union, January 12 (); No author listed. 1971. “Reinstate Police Board To Cool Tempers—FIGHT.” Times-Union, August 31 (); Fink, Thomas A. 1970. “Reinstate Police Advisory Board’.” [Letter to the Editor.] Times-Union, August 12 (); Myers, Jim. 1984. “Several systems of review evolved after complaints of police abuse .” Democrat & Chronicle, February 13 (); Craig, Gary and Jill A. Zelickson. 1992. “Civilian review board OK’d.” Times-Union, October 14 (); Hand, Jon. 1996. “Tales told of cop abuse.” Democrat & Chronicle, January 30 (); Craig, Gary. 1999. “Police brutality cases plunge.” Democrat & Chronicle, June 12 (); Flanigan, Patrick. 1999. “Cop watchdog faces fire.” Democrat & Chronicle, September 4 (); and Forsyth, Ted. 2011. “Rush Transcript of McFadden Memo.” Rochester Indymedia, July 14 (<http://rochester.indymedia.org/node/6401>).

¹⁸⁴ Forsyth, Ted. 2011. “Rush Transcript of McFadden Memo.” Rochester Indymedia, July 14 (<http://rochester.indymedia.org/node/6401>).

¹⁸⁵ *Our Enemies in Blue: Police and Power in America* by Kristian Williams. Brooklyn, NY. Soft Skull Press, 2009. See page 258.

“less tolerant of resistance and disorder, [and] even more forceful in their own demands.”¹⁸⁶

“Police / community relations,” as propaganda, is concerning because over the last 20+ years, that terms has gained weightiness. The connotations and perceptions associated with the phrase don't actually create the conditions of civilian control of the police force, but rather the perception that police departments don't require oversight. Any criticism is perceived as threatening and is thus unwarranted—even insulting to the mainstream, the police, its unions, and its sympathizers. This might be changing though due to the pressure created by the #BlackLivesMatter movement and recent revelations from the Justice Department's investigation into the Ferguson, MO police department.¹⁸⁷

“Police / community relations” is a deflection from the serious issue of police violence and the policies that retain and promote officers that use misconduct and brutality as tools to assert their authority in encounters with civilians. If we look at the overwhelming body of evidence regarding police brutality and misconduct in Rochester, the propagandist use of the phrase “police / community relations” falls flat on its face.¹⁸⁸

Differences

With regards to differences, the Police Advisory Board (PAB) and the Civilian Review Board (CRB) were definitely not the same model. Nor did they come from same political system of governance. The PAB came together under a city manager form of governance. The CRB was created under an elected mayor form of governance. Also, the PAB had an executive director who was paid by the city and administered the board. The CRB is administered by the Center for Dispute Settlement (CDS), a non-

¹⁸⁶Our Enemies in Blue: Police and Power in America by Kristian Williams. Brooklyn, NY. Soft Skull Press, 2009. See pages 238 – 244 regarding community policing.

¹⁸⁷ United States Department of Justice Civil Rights Division. 2015. “Investigation of the Ferguson Police Department.” Justice.gov, March 4 (http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf). I would also note that the democratization of cameras in cell phones and relative ease in uploading those videos to the internet has created the conditions allowing for widespread rage and demands for justice across the country as more and more images of officers mistreating, abusing, and murdering Black civilians and others flash across screens around the country daily.

¹⁸⁸ Please note all cases listed in the footnotes throughout this analysis.

profit corporation that gets paid contracts from the city to do the work. They are primarily funded through the New York State Judiciary and secondarily by contracts with the City of Rochester and the Monroe County Sheriff's Department.¹⁸⁹

One of the biggest, and perhaps most important differences between the PAB and the CRB, was that the PAB conducted its own independent investigations. Because the board was appointed by the city manager, and thus a part of city government, I am hesitant to say that they were truly independent, but they were certainly more independent relative to the CRB. The CRB, in fact, doesn't even do its *own* investigations. By legislation, it's not allowed. Professional Standards Section (PSS) does the investigation and the CRB simply reviews the findings of the police investigation and then makes non-binding recommendations regarding the officer or changes in police procedure or policy to the chief who has final say.

I have never been to the interview portion of the CRB. From what others have told me, like Mary Adams who testified on behalf of Benny Warr, or Kerry Coleman, or Russell Davis, who have gone through the process, it felt like a police interrogation where they try to trip you up and produce doubt in your story. From there, PSS makes its finding and then hands it over to the CRB, if warranted,¹⁹⁰ and they make a finding as well. The whole process is adversarial. There is no advocacy for the individual who experienced police violence. When the person bringing the complaint is called into the PSS office to give a statement, the possibility exists for the complainant to get re-traumatized. Complainants are advised not to give a statement until after their criminal case has ended. Often they are without legal representation, and are left in a position where they become frustrated by a system that doesn't produce

¹⁸⁹ This according to Frank Liberti of the Center for Dispute Settlement from an audio recording of a CDS presentation given by Liberti to the Rochester Coalition for Police Reform from February 13, 2015.

¹⁹⁰ Some complaints don't qualify for a CRB hearing. Cases involving excessive or unnecessary use of force or that involve a police shooting, automatically go through the CRB.

meaningful, timely justice.

Frank Liberti, Director of Police/Community Relations Programs for CDS (there's that phrase again), came to a Rochester Coalition for Police Reform (CPR) meeting on February 13, 2015 to present on the CRB and CDS's role with it. He spoke about the need for confidentiality and a fair process. What struck me, aside from CDS's funders, hurdles to get on the board, and police/state partisanship, was that the concept of police accountability and meaningful justice seemed to be of little or no importance to the work of CDS. Liberti spoke more about a fair process and confidentiality than about accountability and justice. The idea, as Mr. Burkwit tried to illuminate in federal court, of challenging the collective and institutional power of the police is not an option with CDS or the CRB. In his presentation Liberti said, "That's probably the most effective way of first of all giving people a voice so they can confront that officer and the officer can tell a person why they may have responded the way they did and those are often very effective. Keeping in mind that those are the less egregious types of allegations." The systemic problem of police violence is reduced to individual disputes when possible—not fundamental system change. "We are an oversight process that the intent of which is to build integrity into the system," he said.

Another difference between the PAB and the CRB is that, quite frankly, we have very little data showing what the PAB was able to accomplish because the police union was granted multiple restraining orders against the board preventing it from doing its work. In contrast, the CRB has been able to publish reports annually without fear of legal challenges specifically because the CRB isn't a threat to the police. Enough Is Enough has been able to get the annual PSS and CRB reports for the last 10 years or so after submitting Freedom of Information Law (FOIL) requests to the city. (The reports from the 1990s were not available.) But because some of the reports are different from others, the

information is hard to evaluate over a long period of time.¹⁹¹ Therefore, at this point, no conclusions regarding the data can be shared.

We have had a little over 22 years of a “working” CRB that not many people have faith in and doesn't appear to be interested in pushing boundaries. Liberti told CPR that “pushback” for more information from PSS investigations occurred about 25% of the time. “Pushback” means asking PSS for a more thorough or new investigation if the board feels the completed investigation is substandard. However, “pushback” doesn't mean a whole lot when zero cases have been picked up by City Council surmounting the other three levels of bureaucracy needed to get to City Council. It may be the case that CDS is fearful of contracts drying up should it “pushback” too much. But it's speculation. I asked Mr. Norwood to comment on what he thought about the CRB legislation that he introduced 22 years after it was passed in law. He declined to comment.¹⁹²

The third difference I want to talk about is public perception and transparency. The PAB had the legislative power to hold open hearings if the dialogue/negotiation between the board and the chief had reached an impasse. If no satisfactory action was taken within two weeks after submitting its report to the city, the PAB could go public. This threat of transparency may have been why the police union was so scared. As stated in the history about the PAB above, businesses took out full-page ads in the newspapers against the board; police sympathizers and unionists started Citizens for Abolition of the Police Advisory Board (CAPAB), which attended police accountability rallies and handed out flyers against the board, as Mr. Jost from Gates¹⁹³ can attest. The latent threat to power from the idea of

¹⁹¹ Enough Is Enough is making headway on both of these issues. Regarding the PAB, Freedom of Information Law requests to the city were answered. We received a packet of documents about three inches thick. These source documents from 1963 to 1970 have not been intensely scrutinized yet, but will be. On a topical sweep of the documents, it looks like individual complaints, the officers involved, and outcomes can be connected. This will be put out later in another article or a further expanded and updated analysis. Regarding the CRB, the PSS and CRB reports are being reinterpreted using spreadsheets in order to better understand the data we have and the long-term trends. The data and conclusions will be released when it is ready.

¹⁹² Forsyth, Ted. 2015. “Exonerating police misconduct: no accountability in Benny Warr case.” Rochester Indymedia, Jan 6, (<http://rochester.indymedia.org/node/104474>).

¹⁹³ Jost, Lawrence. 1965. “Police Board Foes Lacked Courtesy.” [Letter to the Editor.] Democrat & Chronicle, September 17 and Conway, Lawrence C.

transparency had the effect of putting the police on notice. This was a great thing for the public. It didn't necessarily stop police violence, but the PAB had a mechanism to go public with cases and expose individual officers and their wrong-doing.

The CRB, on the other hand, is administrated by CDS—a non-profit. It came into being suddenly, with very little time for comment before it was passed into law. It sowed a lot of distrust and hostility towards it in the community. People saw it as another hypocritical system that claimed to be alleviating police misconduct and brutality, but that it was actually maintaining it. The city outsourced police accountability to a private organization (that isn't covered under FOIL), that prided itself on a fair process and confidentiality.

If there's zero threat of going public with specific officers and their misconduct and brutality, then how is the public supposed to know that a) anything has happened (aside from published reports that aren't publicized and offer little in the way of narratives) and b) that justice has been served on those responsible for brutalizing civilians? The simple answer is that we're not supposed to know. When egregious police violence is publicized, we hear the usual, tired phrase “police / community relations,” and how the public just needs to work with the police in order to make those types of encounters magically disappear. Sometimes, other organizations step-in and call the police out for not understanding the realities of the people they repress under the assumption that this knowledge would somehow stop the system of police violence. No real information is relayed and individual officers who abuse the people, sometimes repeatedly, are not held to account. If the people don't know officers are being disciplined or that procedures have changed, then the perception is that nothing is happening. The perception is maintained: lots of injustice and no accountability.

1965. “Board Opponent Makes Apology.” [Letter to the Editor.] Democrat & Chronicle, May 12 (<http://rochester.indymedia.org/node/146924>).

It's not all CDS's fault though. In the mid-1970s New York State passed into law Civil Rights Law 50-a. The law “provides blanket exclusion from disclosure under the Freedom of Information Law (FOIL) for ANY police department documents that could potentially be used to evaluate an officer,” according to a pamphlet released by Enough Is Enough.¹⁹⁴ Why is the abolition of 50-a and other laws like it vital? It's worth quoting the pamphlet at length...

Since the mid-1990s, courts in NY have been expanding the use of 50-a in terrifying ways. At this point, any record that could possibly be used to evaluate the conduct of an officer is now protected from disclosure through FOIL. If citizens complain about an officer or he/she is accused of misconduct, every complaint made (or even just the number of complaints) against that officer is protected from disclosure. If internal affairs conducts an investigation for misconduct, corruption, the use of force, or anything else for that matter, every aspect of that report is protected from disclosure even if the names of the people involved are completely removed! If an officer is caught lying, cheating, or stealing and has disciplinary charges leveled against him/her, all of the findings are exempt from disclosure. Basically, the reasoning is that any police department information that can prove an officer is corrupt can also be used to evaluate that officer's performance, and is therefore protected from ever being disclosed to the public. It's an incredibly serious issue!¹⁹⁵

Matthew Fusco, the lawyer for United Church Ministry in the early 2000s made the point that without investigative power, the board cannot discern patterns and practices of the whole force—everything would be individualized and compartmentalized—the board would operate in a vacuum.¹⁹⁶ But it is

¹⁹⁴ Enough Is Enough and Rochester Independent Media Center. 2015. “New York State Civil Rights Law 50-a: The Anti-Transparency Law Creating a Safe Haven for Corrupt Police Officers in NY State.” Rochester Indymedia, July 21 (<http://rochester.indymedia.org/node/146979>).

¹⁹⁵ Ibid.

¹⁹⁶ Flanigan, Patrick. 2001. “Criticism hounds police oversight.” Democrat & Chronicle, March 11 ().

questionable if the board would have been able to get that information as 50-a was being read by more and more judges as a way to block public scrutiny and shield officers. In 1963, 50-a and other laws like it didn't exist. When discussing the proposed reforms for the CRB in 2012, Ryan Acuff, who sat on the Community Committee, made a similar point: “Many people in the community and on the Community caucus [sic] would like to see [the reforms] happen, but New York State law would have to be changed,” he told me in a recorded phone interview from June 17, 2015.¹⁹⁷ He continued, “It wouldn't have to be changed to get an independent [civilian review board with] investigative and subpoena power—that's possible—it can exist.” But, he emphasized that for the public to get the personnel records of the cops in order to look for patterns and practices of abuse, that would be virtually impossible without a lawyer making motions in court or the abolition of state laws like 50-a.

A fourth difference between the PAB and the CRB is who had final authority in cases of police misconduct and brutality. At the end of the day, the city had final authority with regards to the PAB. The PAB made its findings and recommendations known after its independent investigation. At that point, if the chief and the PAB could not come to a mutual agreement about the case, the PAB could go public, being transparent and perhaps hoping to sway public opinion, but there was no guarantee of justice. Only the city had disciplinary power.

With the CRB the chief of police has final decision making power. A case could go all the way to City Council. However, at the end of the day, the chief still has the power to discipline, fire, and promote officers, regardless of the CRB's findings and recommendations. In both models, neither had the power to discipline officers in any way.

¹⁹⁷Phone conversation between myself and Ryan Acuff, June 17, 2015.

I wanted to briefly mention a few more of the differences between the PAB and the CRB. Take for instance the hurdles one has to overcome in order to become a board member on the CRB. One of the clearest functions of the hurdles is to be indoctrinated by police ideology. The chief is legislated as being able to offer officers at the rank of captain or higher for consulting and advisory purposes. That goes hand in hand with the 32 hours of police policies and procedures training. Part of that includes knowing the laws (like 50-a) that forbid making things public that are supposed to stay secret. Then there is CDS's 30 hour training for certified neutrals—people who learn how to mediate disputes and can maintain fairness and confidentiality. On top of that, the prospective board member must complete 8 hours of ride-alongs with police. Again, this doesn't sound “neutral.” Finally, there are tuition costs—money--that Liberti stated was more to make sure people were committed to finishing what they started. He also mentioned that there were subsidies for city residents. If the prospective member was able to overcome all those hurdles, then they would be added to a pool and called for CRB cases.

In the PAB legislation, it mentioned that active law enforcement officers could not serve as board members. There was no comment about police acting in any kind of advisory fashion.

Another example. The way the PAB worked was that it got the chief's investigative findings, then did their own investigation, and then made recommendations. If the chief and the board disagreed and couldn't resolve the impasse, then the board could go public with its findings and recommendations. In the CRB legislation, cooperation with the CRB is completely voluntary and if the CRB is not satisfied with the investigation, it has to go to the next level of bureaucracy: PSS, the chief of Police, the mayor, and finally to the City Council where a vote must be taken to open an investigation. If City Council voted yes on the case, then subpoenas would become a reality, due process and confidentiality would come into play, and the final results would be made public. (We don't know the reality though, because

this has never happened. Also, it's not the complainant who demands the board push, its the board itself.) No case has ever been pushed to the level where City Council must vote in order to open an investigation in the CRB's 22+ year existence. Councilmember Adam McFadden likes to tell people that no one has asked to use the subpoena power. The truth is that the complainant has no power to ask. To get a favorable ruling today seems astronomical next to the PAB. The bureaucracy is used as a mechanism to protect power, bad officers, and a violent institution, instead of finding meaningful justice.

Conclusions

Based on the large body of evidence above, one of the conclusions I've drawn is that the people of Rochester need to stop accepting the doublespeak from those in power. The time for reform passed us way back in 1963 when the idea of a civilian review board was new and potentially powerful. Since then, there has been a sad decline in the desire to see revolutionary or liberatory change, while at the same time, the police have been creeping into every facet of civil society, which has allowed that institution to control the agenda. We need to grasp that revolutionary / liberatory spark and push hard for fundamental, systemic change.

An independent civilian review board (ICRB) with independent investigative power, subpoena power, and disciplinary power, can certainly play a role in that push. However, the kind of board we want is currently stymied by New York State law. Civil Rights Law 50-a must be abolished. It won't be an easy victory and you can be sure that one of our greatest and most formidable opponents will be the police unions. But if the public is to scrutinize the police in order to find the patterns and practices of abuse—to hold the institution accountable—then those records must be transparent.

I'm also not suggesting that we work incrementally towards modest reforms so that we can make the cage a bit roomier. I don't see the Community Safety Agenda¹⁹⁸ as the end of the line in terms of reforming the police. I see it in a broader context always moving toward abolition of the police.

Kristian Williams hit the nail on the head when he wrote, “The difference between the police accountability perspective and the abolitionist perspective is not a question of reforms or no reforms... The two views suggest fundamentally different visions of society, and correspondingly, different logics of political action. Accountability and abolition are not merely different goals, but different strategic orientations.” If our strategic orientation is accountability, then what we're saying is that we *need* the police in society to protect us from “individual misconduct and organizational dysfunction.”

Accountability presumes that the institution will survive, but in a more lawful and friendly manner. If our strategic orientation is abolition, then we're recognizing that the foundational elements of the police are racism, class-bias, sexism, ableism, and uncontrolled violence and that the institution needs to be torn down in order for it to be replaced by something that *will* address “public safety and dispute resolution”¹⁹⁹ in a non-violent and de-escalated atmosphere.

Back to the Civilian Review Board (CRB) and the Police Advisory Board (PAB). Generally speaking, neither model is great. The PAB certainly seemed to have more legitimacy simply because it was new and had the power to do its own investigations. It also had the ability to go public with its findings and recommendations, if no compromise could be reached with the chief, in a last ditch attempt to hold to account the officers who broke the law.

On the other hand, the CRB and its administrative organization, the Center for Dispute Settlement

¹⁹⁸ Forsyth, Ted. 2015. “Police reform group makes policy recs to city for body cameras.” Rochester Indymedia, January 29 (<http://rochester.indymedia.org/node/104633>),

¹⁹⁹ Fire the Cops! Essays, Lectures, and Journalism by Kristian Williams. Montreal, Quebec. Kersplebedeb, 2014. See pages 174 – 176 from the essay “Police Accountability and Police Abolition: Dilemmas, Paradoxes, Strategies (2011).”

(CDS), has no legitimacy in my mind. The CRB was deployed in such a way as to cut off all community efforts at developing an independent civilian review board. The fact that it was presented one week and passed the next week, speaks volumes about the intention of this piece of legislation and its lack of interest in finding meaningful justice. Also, the fact that the legislation so clearly welcomed police into the process of the board, where there was little actual police resistance to the board's creation, should have set off alarm bells. And as was documented, many in the community shunned the board asking others to shun it as well.

Neither model had disciplinary power or judicial power. Disciplinary power would be an incredible step toward civilian control of the police. Judicial power potentially puts the board's work on par with courts of law. Neither model really included the person who experienced the police violence in the process of getting justice. One makes a complaint and hears about the findings at the end of the process. In some cases with the CRB, the process has taken years.²⁰⁰ In the case of the PAB, there was no mention of informing people about where their cases stood until the very end of the process. I can't imagine how debilitating that would feel—to wait all that time just to hear that the officer was exonerated.

There is a concern regarding the funding of CDS and their status as a private organization. I argued above that the former makes them partisan to the state and thus part of the problem and the latter protects them from unwanted public scrutiny through FOIL requests. The city decided to outsource its CRB training and administrative work to CDS long before the CRB became a reality. In the 1970s and 1980s, the Complaint Investigation Committee (CIC) had been in operation with CDS trained civilians who sat on that board with command level officers. So the city has a long track record of working with

²⁰⁰ Watch the interview “Indymedia Uncut: Interview with Russell Davis” from October 25, 2011 at: <https://www.youtube.com/watch?v=IrhIkeoWXuI>

this organization. Because the organization is funded by the New York State Judiciary (the state) and contracts with the city and the Monroe County Sheriff's Department, the organization seems hardly neutral. According to Frank Liberti of CDS, who responded to a question about "pushback" on Professional Standards Section (PSS) investigations, he let the Rochester Coalition for Police Reform know that it happens about 25% of the time. However, in its 22 year history, no case has ever climbed the legislated levels of bureaucracy to get to the City Council where open hearings and subpoena power come into play.²⁰¹ Is CDS interested in biting the hand that feeds it? Can it have an oppositional stance when the state is concerned? It's a fair question and the answer seems obvious. The concern was expressed extremely well in an essay titled "Social Service or Social Change?" by Paul Kivel found in the anthology The Revolution Will Not Be Funded: Behind the Non-Profit Industrial Complex edited by INCITE! Women of Color Against Violence. He writes,

“...many social service agencies may be intentionally or inadvertently working to maintain the status quo. After all, the non-profit industrial complex (NPIC) wouldn't exist without a lot of people in desperate straights. The NPIC provides jobs; it provides opportunities for professional development. It enables those who do the work to feel good about what we do and about our ability to help individuals survive the system. It gives a patina of caring and concern to the ruling class which funds the work. While there is always the risk of not securing adequate funding, there is a greater risk that if we did something to really rock the boat and address the roots of the problems we would lose whatever funding we've already managed to secure.”²⁰²

It seems like a good time to cut ties with CDS.

²⁰¹This according to Frank Liberti of the Center for Dispute Settlement from an audio recording of a CDS presentation given by Liberti to the Rochester Coalition for Police Reform from February 13, 2015.

²⁰² The Revolution Will Not Be Funded: Behind the Non-Profit Industrial Complex by INCITE! Women of Color Against Violence. Cambridge, Massachusetts. South End Press, 2007. See the essay, pages 129 – 149 “Social Service or Social Change?” by Paul Kivel.

The demand must be for an ICRB that looks ahead to the day when police will be abolished. It must center the individual who experienced the police violence, while creating the conditions where that individual has direct input and knowledge of the case being reviewed. The process must, at least, have investigatory, disciplinary, and advisory powers—if not also judicial power. The ICRB must have a recalcitrant and oppositional stance toward the police and the state—the process can no longer allow police influence or officers—even retired ones—to participate. It must be clearly transparent where meaningful justice is defined by the individual who experienced police violence. In short, it must be a process that finally shifts the balance of power from the police to the people.

Finally, if the demands above are perceived as un-winnable or too difficult to achieve, then we should look to other areas to focus our attention on. It doesn't make sense to take the same action, year after year, decade after decade, and expect different results. It's heartbreaking to read about all of the different panels and forums where people told their personal stories regarding police violence. Seven or eight years later, one can read about another round of panels and forums. This pattern is displayed in the history. Consciousness raising must be done in conjunction with political, direct action. If we're going to allow ourselves to be compromised down to what's palatable for the state, then we should stop now. Let's use our energy more effectively elsewhere.

These conclusions are my own and do not represent the collective view of Enough Is Enough or the Rochester Coalition for Police Reform. If those organizations or others would like to sign on to this analysis in support of the work and its conclusions, those names will be added. I submit this analysis and its conclusions for consideration by the independent civilian review board committee. There is certainly more work to be done. Feedback is welcome. I will be going over this analysis and editing it

for the next several months. I am also going to be uploading more articles from the newspapers to further the goal of showing how the institution of policing is systematically, racist, classist, sexist, ableist, and undeniably violent. It's not just the case of a few bad apples—the whole damn system is guilty.