

Rights Periled, Police Say; Asking Top Court Hearing

The city's Police Advisory Board has powers against policemen which the U.S. Constitution forbids against all citizens, city policemen have argued in asking the U.S. Supreme Court to hear its case.

The Locust Club (city policeman's organization) and several individual policemen have filed a brief asking the Supreme Court to hear an appeal from a ruling of the State Court of Appeals. That court affirmed a ruling of the Appellate Division, Fourth Department, which last January upheld the law establishing the board.

The Appellate Division decision reversed a ruling of State Supreme Court Justice Jacob Ark who on Dec. 31, 1965, held that the board could only hear complaints and pass them without comment to the police chief.

The board was created in March, 1963, following arrests of two Rochester Negroes and their subsequent charges of police brutality. A nine-member board was appointed by the city manager and empowered to investigate complaints against any member of the police bureau involving alleged use of excessive force.

The board has not been functioning because resignations have left it without a quorum. Six members must be present at meetings, and there are only five members left on the board — Wilson H. Coates, James S. Malley, Rev. James A. Rockwell, Milton Gottfried and Andrew Langston.

However, complaints have been received and processed by the board office, according to Rossario J. Guglielmino, executive director.

At least 10 of a policeman's rights under the U.S. Constitution are violated by the Advisory Board law, it was argued in the brief to the U.S. Supreme Court. The appellants are represented by Ronald J. Butterazzi.

Among faults of the Advisory Board setup, the police contend, are:

That punishment might be imposed without trial of other due process of law, as required by the Constitution.

That the board may determine whether a man is a criminal without the right of an individual to confront his accusers.

That it violates the Fifth Amendment in that a policeman can be forced to testify against

himself or risk the loss of good name and public job.

That it authorizes "cruel and unusual punishment," outlawed by the Eighth Amendment.

That it denies to policemen equal protection of the law granted all other citizens.