

# MAXWELL REVIEW

---

Volume IV

October 1967

Number 1

---

## *Metropolitan Studies Edition*

### Articles

- |   |                      |
|---|----------------------|
| Creative Federalism: Beginning or End<br>of an Era?                           | Alan K. Campbell     |
| A Flight from Suburbia: A Demographic<br>Analysis                             | Alan B. Kirschenbaum |
| Advocate Planning for the Urban Disadvantaged                                 | Robert Thoresen      |
| A Model of the Dependent Metropolis: An<br>Appalachian Case Study             | Henry W. Bowman      |
| The Rochester Police Advisory Board: A<br>Community Response to Racial Unrest | David C. Perry       |
| Property Taxation in the Metropolitan Context                                 | Donald A. Nielsen    |
| A Note on West German Metropolitanism   | Conrad J. Weiler     |

### Communications to the Editors

### Current Research

---

THE MAXWELL GRADUATE SCHOOL OF CITIZENSHIP AND PUBLIC AFFAIRS  
SYRACUSE UNIVERSITY

R  
qr352.35  
P462r



R  
352.35  
P462N

✓



THE ROCHESTER POLICE ADVISORY BOARD: A

COMMUNITY RESPONSE TO RACIAL UNREST

by

David C. Perry\*

As racial tension peaked in numerous cities in the past five years, continual cries of "police brutality" were heard. Few cities were more embroiled with charges of brutality than Rochester, New York. This study investigates the formal (governmental and procedural) and informal (citizen) reactions of the Rochester community to the allegations of police brutality and to the subsequent creation of a Police Advisory Board.

The study is presented in five sections: first, a discussion of the cases of alleged police brutality; second, the formal apparatus for evaluating such charges before the creation of the Board; third, the creation of the Police Advisory Board; fourth, the operation and implications of the Board; and fifth, the author's evaluation.

"When Narcissus Learned to Blush"

In early 1963 a local newspaper reporter wrote that Rochester, ". . . like the mythological Narcissus, looked at its reflected image and generally liked what it saw."<sup>1</sup>

Rochester, claimed its residents, was a well-balanced community, divorced of racial bias and blessed with job opportunities for all. Here could be found the lowest rate of unemployment in New York State--rarely does it exceed 4 percent--coupled with one of the highest rates of industrialization. "The Flower City" boasted not only the highest wage structure in the state, but

---

\*Editor's Note: The author is currently working toward a Doctor of Public Administration degree at the Maxwell School.

<sup>1</sup>William Vogler, "The Rochester Image Two-Faced?" Rochester Democrat and Chronicle, March 13, 1963, p. 6.



## MAXWELL REVIEW

also one of the best systems of education. Moreover, Rochester was "culture conscious." A visit to the Eastman School of Music, the art galleries, or the Civic Music Association would assure anyone that here was a truly refined community.<sup>2</sup> "But Narcissus, trapped by his own vanity and tricked by pagan gods, had been fascinated by an illusion. So, in a sense, had Rochester's 'image' been illusory. And, as illusions will, Rochester's broke down. . . ."<sup>3</sup>

Rochester, states Arthur Curran, City Manager at the time this study was conducted, was and still is trapped in a dilemma. The dilemma springs from the hope which the "image" of Rochester presents the minority group member. He comes to Rochester, to the city of "insured employment" and high wages, to find that he can procure, at best, only part-time employment and minimum wages. Instead of good living conditions, he finds himself and his family living in a sixty year old, one-family house in the Third Ward with four other families.<sup>4</sup>

What the urban immigrant quickly discovers is that he is not equipped to live the Rochester "image." His education and work experience do not prepare him for employment in Rochester's technical industries; the demand for unskilled labor is almost non-existent.

Yet this facet of the Rochester "image" has never been advertised and, as a result, there has been a significant increase in the City's Negro population. Before World War II, there were approximately 3,000 non-whites in the metropolitan area; today there are approximately 35,000.<sup>5</sup>

The combination of this difficult industrial environment and the spectacular increase in non-white population posed a difficult problem for "Narcissus," one which in 1963 reached a peak. The non-white population was frustrated and confused. One dweller of the inner-city expressed this frustration: "We can't make a living. We can't go certain places unless we risk direct or implied discourtesies. And we can't even break the law and get the same treatment that other people do."<sup>6</sup>

While the underlying reasons for these tensions and frustrations were lack of education, good housing, and industrial skill,

---

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Interview with City Manager Arthur Curran, November 3, 1965.

<sup>5</sup> Ibid.

<sup>6</sup> Vogler, Rochester Democrat and Chronicle, March 13, 1963, p. 6.



## POLICE ADVISORY BOARD

the social conflict was openly displayed in the non-white's displeasure with police treatment.<sup>7</sup> This displeasure was reinforced by a flood of protests from committees of clergymen and student and citizen groups. A series of well-publicized incidents of alleged police brutality added salt to the festering racial wounds. Community tension from two of these cases finally led Rochester leaders to decide upon a Police Advisory Board.

City Manager Curran believed that the most "sympathetic" allegations of police brutality stemmed from the Rufus Fairwell incident. On the night of August 23, 1962, Fairwell, a Negro, suffered two fractured vertebrae and serious cuts and bruises in a struggle with two policemen who attempted to arrest him as he closed his employer's gas station. He was arrested on the strength of police charges that he refused to identify himself and resisted arrest. Fairwell denied these allegations and subsequently claimed he was beaten and maligned both before and after forcibly being taken to police headquarters.

The results of this incident were unprecedented. When the two policemen and Fairwell were all "no-billed" by a grand jury, the serene Rochester community erupted in sporadic outbursts of public indignation. Indignation turned to united action as a committee composed of NAACP leaders, the local Human Relations Council, and many private citizens appealed to the United States Justice Department for an investigation. A "Rufus Fairwell Fund" was organized to support necessary legal costs.<sup>8</sup> This case is still pending.

Three weeks later the second incident was made public as part of the increasing demand for governmental action to halt discriminatory actions by members of the Rochester Police Bureau. A. C. White, a forty-six year old Negro, suffered a fractured arm and other injuries while resisting arrest on charges of drunken driving, third degree assault, driving without an operator's license, and driving without proper registration. Police Chief Lombard, in answer to adamant public pressure, suspended the four patrolmen involved, conducted a two-week investigation, and then, after reprimanding the four men, reinstated them with full pay.<sup>9</sup>

This action brought feelings to a boiling point in both Negro and white sectors of the community. The public claimed

---

<sup>7</sup> A conclusion based on statements expressed in various interviews and newspaper articles.

<sup>8</sup> Vogler, Rochester Democrat and Chronicle, March 13, 1963, p. 6.

<sup>9</sup> Blake McKelvey, Rochester's History (October 1963), p. 25.



## MAXWELL REVIEW

that in cases of alleged police brutality the officers of the Police Bureau should be answerable to a neutral body and not merely to their own superiors. Hundreds of persons turned out for mass meetings and the once racially apathetic City of Rochester was on the brink of a violent racial outburst.<sup>10</sup>

At this point a small yet powerful group of civil rights leaders, college professors, businessmen, and religious leaders, under the banner of the Integrated Non-Violence Committee, petitioned Porter Homer, City Manager at the time of the creation of the Police Advisory Board, for the right to set up an impartial committee of citizens to review the A. C. White investigation. The City Manager agreed, and the Committee, after careful study of city documents made available by Homer, and after a series of interviews with leading officials, presented its recommendations. One recommendation called for the formation of a Citizens' Review Board.

### The Pre-Board Status Quo

Prior to the creation of the Board, several channels were open to residents of the city for lodging complaints against members of the Police Bureau.

The Office of the Public Safety Commissioner. The Municipal Code of the City of Rochester gives any local resident the right to bring a written charge against any officer or member of the Police Bureau to the Office of the Public Safety Commissioner. If the complaint is presented in compliance with the general rules set down by the Public Safety Commissioner and if it charges, among other things, ". . . that a policeman has been guilty of neglect of duty, or negligent or derelict in the performance thereof, or that he is incompetent to perform the duties thereof, . . . or . . . guilty of . . . delinquency or misconduct showing an unfitness for office," then it becomes the duty of the Commissioner "to hear, try, and determine the charge according to the rules made by him in relation to such matters. . . ." <sup>11</sup>

The policeman charged has the right to be heard in person and with counsel. For such a hearing the Commissioner has the power to subpoena and call witnesses. If found guilty, the officer may be punished by reprimand, reduction in grade, imposition of up to fifty dollars in fines, forfeiture of pay, or even dismissal.<sup>12</sup>

---

<sup>10</sup> Ibid., p. 26.

<sup>11</sup> The Municipal Code of the City of Rochester, Article VIII, Part D, Section 387, Vol. I (1966).

<sup>12</sup> Ibid.



## POLICE ADVISORY BOARD

This system of internal redress has its defects. Mr. Ross Guglielmino, Executive Director of the Rochester Police Advisory Board, believes that the psychological impact of the Commissioner's decisions will be adverse regardless of the outcome of the case. If he finds in favor of the policeman charged, the decision does not ". . . receive public confidence and cries of political settlement and 'white wash' are heard."<sup>13</sup> On the other hand, if the Commissioner resolves the case in favor of the aggrieved citizen, there is a definite break in police morale. "Such a decision by a city official against a city employee results in feelings of inter-departmental persecution."<sup>14</sup>

Curran claims that the requirements for writing a complaint lack specificity. He states that the section allows citizens' complaints to be "conveniently" vague and deliberately general. Such an inherent weakness leaves room for misguided, if not inaccurate interpretation of complaints. Erroneous interpretations of this nature can lead to wasted time and useless investigations.<sup>15</sup>

The Office of the Chief of Police. A second alternative of internal redress is the Office of the Chief of Police. The Chief has the power to punish any officer or patrolman who does not comply with the set of rules laid down as a guide for his professional conduct.

In 1963, Police Chief Lombard initiated the Internal Inspection Office (I.I.O.) to facilitate and perfect the investigation of complaints against policemen. As of February 1965, 784 investigations had been conducted, 115 of which were termed "justified." In three years 18 policemen have been brought up on departmental charges. Most delinquent officers have been officially reprimanded by either the Public Safety Commissioner or the Chief of Police; others have been suspended; some have quit; and still others have been dismissed.<sup>16</sup>

The complaints received by the I.I.O. have come from citizens as well as from sources within the Police Bureau. The jurisdiction of the complaint-receiving power of the I.I.O. is very broad. It encompasses tardiness, violation of uniform regulations, errors in reports, conduct unbecoming an officer and other violations.<sup>17</sup>

<sup>13</sup> Interview with Ross Guglielmino, Executive Director of the Rochester Police Advisory Board, November 2, 1965.

<sup>14</sup> Ibid.

<sup>15</sup> Curran Interview.

<sup>16</sup> Rochester Times Union, February 24, 1965.

<sup>17</sup> Ibid.

## MAXWELL REVIEW

However, it is the very broadness of the office's jurisdiction which Curran sees as its major weakness in dealing with racial conflicts. The basic complaint levied against the Police Bureau in late 1962 and early 1963 was that of police brutality. It was argued that these outward manifestations of racial tension could be handled effectively only by an open forum of narrow jurisdiction.<sup>18</sup> The I.I.O. cannot provide this restricted jurisdiction for it must investigate the diverse complaints arising from violations of the rules of the entire Bureau.

Court of Law. The final form of redress open to the citizen who claims police brutality is the court of law. However, there are many drawbacks to this alternative. It can be extremely costly for a citizen to bring his case to trial, and the financial burdens may well outweigh the satisfaction he might derive from having his "day in court." Secondly, litigation may extend for years as in the Rufus Fairwell case. Finally, as Mr. Guglielmino has pointed out, the district attorney may be most reluctant to make a powerful case against the very men who must help him investigate and solve his other court cases.<sup>19</sup>

It is clear then, that in 1963 the methods of redress available to abused citizens left much to be desired. It was because of the inadequacy of this set of tools and the intensity of the public dissatisfaction with them that City Manager Porter Homer and Arthur Curran, who was at that time Corporation Counsel, drew up Amendment 10 of Chapter 10 of the Municipal Code, thereby initiating the Rochester Police Advisory Board.

A Neutral Forum of External Redress:  
The Police Advisory Board

The ordinance drafted by Homer and Curran in early March 1963 combined recommendations of the Integrated Non-Violence Committee with provisions of the Charter of the Police Review Board of the City of Philadelphia. Some features of each plan were omitted. For example, the Philadelphia Board has very wide jurisdiction, covering almost every possible instance of police venality. Homer and Curran believed that there already existed an adequate investigation program within the Police Bureau to handle most types of police misconduct. And since racial tension in the City was overtly manifested in charges of police brutality it was deemed necessary to set up a special board, the jurisdiction of which would be limited strictly to cases involving ". . . the use of excessive or unnecessary physical force by a member of the Rochester Police Bureau against a person or persons."<sup>20</sup>

<sup>18</sup> Curran Interview.

<sup>19</sup> Guglielmino Interview.

<sup>20</sup> Section 10-10.3 of Chapter of the Municipal Code of the City of Rochester, Vol. II, as introduced to the City Council on March 12, 1963.

## POLICE ADVISORY BOARD

A second example of discretion on the part of the City Manager and the Corporation Council in drafting the ordinance is seen in the deletion of the Integrated Non-Violence Committee's suggestion that every police officer be required to file an immediate report with the Board concerning any incident involving himself in "... force employed in the exercise of police authority. . . ." <sup>21</sup> Arthur Curran rejected this recommendation because the vast number of police arrests require a certain degree of force. It would be a travesty of the very office the policeman represents to make him fill out a form after every "arrest by force." The policeman would be turned into an armed filing-clerk. <sup>22</sup>

The Board, as finally conceived, was composed of nine members, appointed by the City Manager, with the authority to hear complaints of aggrieved citizens, to investigate these complaints, and to recommend any action deemed advisable. All this had to be done within the purview of the Board's narrowly drawn jurisdiction. Any complaint which was not registered by "... the actual individual who was personally and physically involved in the incident where there is alleged to have been the use of excessive or unnecessary force by a member or members of the Rochester Police Bureau would be inadmissible." <sup>23</sup>

The basic operative details and necessary technicalities of narrow jurisdiction are well defined. This detail is not found in the assigned duties of the Public Safety Commissioner (as discussed above), nor can it be attributed to the recommendations devised by the Integrated Non-Violence Committee. On March 12, 1963, a public hearing was held concerning the newly proposed ordinance. What started out as a normal hearing ran until 2:30 the next morning. More than 500 people crowded into the City Council Chamber.

Many argued that the Board would help alleviate tensions immediately, although long range projects would be required to attack discrimination in housing, employment, and other fields. Pro-Board speakers insisted that the Board would protect the police against public airings of unfounded complaints. <sup>24</sup>

---

<sup>21</sup>Curran Interview.

<sup>22</sup>Ibid.

<sup>23</sup>Municipal Code, as introduced to the City Council.

<sup>24</sup>Rochester Democrat and Chronicle, March 13, 1963, p. 1.



## MAXWELL REVIEW

Anti-Board witnesses, such as police officers and some labor officials, contended that the Board

. . . could undermine police morale, by-pass the traditional law enforcement agencies which were adequate for handling of complaints against police and hobble policemen in the enforcement of their duties. Some of these witnesses also argued that the arguments for the Board missed the point, in that minority group problems were basically of jobs, housing, and education.<sup>25</sup>

On March 26, 1963, the Democratic-controlled City Council passed the ordinance by a 6 to 3 "party line" margin. Councilman Charles T. Malloy explained the Democratic rationale by stating that the Board

. . . was not the final answer for those . . . who do not or will not use other existing machinery for registering complaints about police conduct.

But . . . the Board offers a chance for release of much undesirable emotion and hostility.

. . . The bill will . . . protect from trial whisper, rumor, and innuendo the overwhelming majority of the Rochester Police Bureau who perform capably and fairly.<sup>26</sup>

Malloy's report went on to state that the Board would

. . . contribute to, rather than impair the efficiency of police performance by allowing grievances, some real, many 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.<sup>27</sup>

Appointments to the Board are made by the City Manager. Mr. Ross Guglieomino, Executive Director and legal counsel for the Board, described the appointment process as one of selecting

. . . a permanent and impartial jury. The criteria for appointment include an ability to be neutral (that is not a well-known champion of one cause over another) and fairminded. The members should also represent a fair cross section of the city populace.<sup>28</sup>

---

<sup>25</sup> Ibid.

<sup>26</sup> Rochester Democrat and Chronicle, March 27, 1963.

<sup>27</sup> Ibid. <sup>28</sup> Guglieomino Interview.



## POLICE ADVISORY BOARD

The Board membership has included Jewish, Catholic, and Protestant clergymen, a union official, a former Monroe County Sheriff, a college professor, and a physician.<sup>29</sup>

Results and Ramifications

Results. By January 1964, only fourteen cases had been brought before the Board, all falling outside its jurisdiction. Mr. Guglielmino stated that this was a sign of the success of the Board for it has served

. . . as a deterrent and healthy restraint to the small minority of police who might be tempted to abuse the power entrusted to them. . . . It is the opinion of the Board that the absence of cases means the mission of the Board has been accomplished.<sup>30</sup>

By April of 1964, only one out of the first twenty complaints fell within the jurisdiction of the Board. And by October 1, 1965, there had been a total of fifty cases brought before the Board, only sixteen of which were formal complaints alleging unnecessary use of force. (See Table 1.)

Table 1  
Complaints Received

	<u>June 1</u> <u>1963-1964</u>	<u>June 1</u> <u>1964-1965</u>	<u>June 1-Oct. 1</u> <u>1965</u>	<u>Total</u>
Formal Complaints	2	9	5	16
Informal Complaints (alleging unnecessary or excessive force)	5			5
Informal Complaints (alleging other police misconduct)	13	10	3	26
Others	<u>2</u>	<u>1</u>	<u></u>	<u>3</u>
Total	22	20	8	50

Source: Rochester, N.Y. Police Advisory Board Second Annual Report, October 1965, p. 3.

<sup>29</sup> Ibid.

<sup>30</sup> Rochester Democrat and Chronicle, February 7, 1964.



## MAXWELL REVIEW

It is significant to note that whites have submitted ten more complaints than have the non-whites although more non-whites have submitted complaints alleging "unnecessary use of physical force" than have whites. It is even more interesting that the last twelve complaints were submitted by whites. Of these, five were formal claims of police brutality and seven were informal claims falling outside the legal purview of the Board. (See Table 2.)

Table 2  
Race of Complainants

		<u>Number</u>	<u>Percent</u>
All complaints received	White	30	60
	Non-white	20	40
Complaints alleging force	White	10	42
	Non-white	14	58
Complaints alleging other misconduct	White	20	77
	Non-white	6	23

Source: Rochester, N.Y. Police Advisory Board. Second Annual Report, October, 1965, p. 3.

As of January 1966, seventeen complaints falling within the strict jurisdiction of the Board had been disposed of: three dismissed due to improper submission procedure, three withdrawn by complainants after police action, two decided in favor of police but with reprimand, three turned over to the courts under injunctions, and one decided against the police. Eight formal complaints were pending, with further investigation or possible court action involved.<sup>31</sup>

The Ramifications. The productive results that fill the pages of any agency report have now been examined. The basic result, a lessening of racial tension, has been mentioned by Mr. Guglielmino. It becomes the task of this study to examine the intangible and tangible ramifications of the functioning of the Board as expressed by various public servants and interest groups.

In better than three years, the Board has received more than fifty cases. Many say that it has served its purpose and now should be disbanded. Others claim that the Board should continue to be active.

<sup>31</sup> Ibid., pp. 4 and 5.



## POLICE ADVISORY BOARD

Among those who support the continued existence of the Board is Mr. Guglielmino who believes that the Board: (1) serves as a deterrent factor; (2) weeds out policemen who are by nature discriminatory; and (3) tends to assure adequate quality among officers by encouraging the use of a more sophisticated set of entrance examinations. At the same time, Mr. Guglielmino emphasizes, the Board is not a major avenue of discipline for the policeman; this function remains with the Chief of Police.<sup>32</sup>

The Mayor of Rochester, Frank Lamb, stressed the need for the Board on June 9, 1965 by stating that it has brought about greater "understanding."<sup>33</sup>

Mr. Harper Sibley, Public Safety Commissioner, has pointed out that

.... many Negroes come from the South where law enforcement agents have oppressed them. So there is fear among them. . . . As long as fear exists among Negroes, and a concern that they won't get fair treatment, then the Police Advisory Board has a place in the community.<sup>34</sup>

Mr. Arthur Curran believes that the Police Advisory Board should

. . . continue as a symbol of recognition to our minority groups. . . . It was created to calm things down. We had an upset community on our hands and if we hadn't experimented with the Police Advisory Board we would have had a riot a year earlier.<sup>35</sup>

However, there are those who no longer view the Police Advisory Board as a constructive force for easing racial tensions. Some point to specific weaknesses of the Board and to its alleged transgressions. Others claim that the Board has simply outlived its usefulness and, therefore, should be abolished.

In a January 11, 1965 editorial the Rochester Democrat and Chronicle stated

---

<sup>32</sup>Guglielmino Interview.

<sup>33</sup>Rochester Democrat and Chronicle, June 9, 1965.

<sup>34</sup>Ibid., May 26, 1965.

<sup>35</sup>Curran Interview.

## MAXWELL REVIEW

The work of the Police Advisory Board is done: first because it has served the necessary purpose of being a safety valve for an emotional situation; and second because it must necessarily be an insult to good policemen, Negroes and whites, who have taken an oath to uphold the law without discrimination.<sup>36</sup>

In April 1965, a committee entitled Citizens for Abolition of the Police Advisory Board was created to argue that the Board's ". . . continual existence . . . is an unhealthy restraint on law enforcement."<sup>37</sup>

A few months later, in September 1965, one of the strongest supporters of the Board, Roman Catholic Bishop James E. Kearney, reversed his stand, publicly claiming that the Board was detrimental to police morale.<sup>38</sup>

But what do the critics of the Board mean when they assert that the Board impairs police morale? Most assert that the policeman "holds back" when arresting a minority group member or "turns his back" and ignores the incident altogether if a Negro is involved. Editorials, minority party politicians, and others have used this argument. They contend that, due to this type of situation, the Board has actually contributed to tension rather than alleviated it. Some even claim that the best example of this "failure" of the Board is the race riot in Rochester in 1964.<sup>39</sup>

The patrolmen themselves express a rather confused opinion. The results of twenty-four interviews conducted with policemen are instructive. Not one officer interviewed could substantiate, either by his own experience or that of fellow patrolmen, the contention that officers now "hold back" or are less inclined to arrest a non-white because of the Board. Rather, if he claimed a breach of morale at all--and most said this problem was not as acute as suggested by Board critics--he pointed to local newspapers as the source of his opinion.<sup>40</sup>

<sup>36</sup> Rochester Democrat and Chronicle, January 11, 1965.

<sup>37</sup> Ibid., April 11, 1965.

<sup>38</sup> Phone conversation with the Bishop's Secretary on November 3, 1965, to corroborate statements attributed to the Bishop in the local newspapers.

<sup>39</sup> Thomas Connolly, "Get the Advisory Board Off Us," Rochester Times Union, Section B, p. 1.

<sup>40</sup> Twenty-four personal interviews with Rochester Policemen directly concerned with the riots, November 2 through 5, 1965.



## POLICE ADVISORY BOARD

Secondly, although Captain William Hamill, head of the Police Bureau's Internal Investigation Office, is strongly opposed to the Police Advisory Board, he believes it entirely unfair for critics to contend that the race riot of 1964 demonstrated the failure of the Board to release tension. On the contrary, he relies on a massive Police Bureau Report to argue that the riot was the product of outside interference by professional agitators.<sup>41</sup>

Captain Hamill substantiated this position with evidence gathered in the Police Bureau's post-riot investigation. The chief witness for the Police Bureau was one Vernon Boatner, a Negro laborer. Boatner was released from the hospital, after a two-week stay, at 5:00 p.m. on July 24, 1964, the day the riots commenced. Later that evening he was at a street dance where a "routine summer arrest" of a drunken teenage boy was fanned into a full-blown riot. After the initial incident he returned to his home.<sup>42</sup>

What now follows is Captain Hamill's paraphrased account, read directly from the post-riot investigation, of Boatner's substantiated testimony of outside agitation.

[Boatner was sitting on his porch and said] . . . there then came many people . . . people I'd never seen up until midnight that night. They were gathering around Clinton and Kelly [streets] . . . I went up there, there were two men standing on a corner giving out iron pipes and a swig of whiskey saying "go fight for your race" . . . they were talking in a sing-song--like a barker in a circus. I'd never seen them before. . . . Then there were men standing on Herman Street saying, "We were sent here by Malcolm X to protect the race . . . if anyone tries to interfere they'll get this" . . . and they drew back their coats and showed guns. . . . They were Muslims sent here from New York City.<sup>43</sup>

A test made on the iron pipes showed that they were not made or sold in the Rochester area. The information given by Boatner was corroborated by a number of other witnesses. On the strength of this evidence, Hamill concluded that the riots of 1964 were

---

<sup>41</sup> Interview with Captain William Hamill, Director of the Internal Investigation Office of the Rochester Police Bureau, November 3, 1965.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

## MAXWELL REVIEW

not totally the result of local tensions. The initial incident was a normal one, fanned by professional agitators into a bona fide racial bonfire. Consequently, it does not appear to be accurate to conclude that the 1964 riot was a demonstration of the failure of the Police Advisory Board to relax racial tension.<sup>44</sup>

However, Captain Hamill, as a major spokesman for the administrative branch of the Police Bureau, is definitely against the Board. He believes that there is a real breakdown of police morale today. The morale problem is complicated by the Police Advisory Board, not because of the reasons previously presented, but because the Board:

1. leaves the policeman suspicious and frightened;
2. is unconstitutional and places the policeman in a position of second class citizenship.<sup>45</sup>

First, it should be pointed out that the policeman is very familiar with the procedures of the courts.

This familiarity turns to contempt as the young policeman watches some of his most solid cases weakened or destroyed by the politics which he knows characterize the courts. As a result, his young ambitions to become a "good cop" become mellowed by a sense of frustration.<sup>46</sup>

This same sense of frustration and fear is carried over to the Police Advisory Board as the policeman senses the same atmosphere of legal politics. The policeman perceives the Board, even more than the courts, as an instrument of political incompetence. He sees the Board as a permanent "jury," appointed by a quasi-politician, the City Manager. Captain Hamill says that therefore

. . . the police fear the Board as they would fear a politically established Kangaroo Court. Whether the fear is well founded or not is not as important as the fact that the policeman has come to this realization as a result of his occupational experience with legal forums of this nature.<sup>47</sup>

Mr. Curran counters this charge by stating that ". . . the function of the Board is to give advice only; it is not a court that has the power to pass final judgment."<sup>48</sup> However, Captain

---

<sup>44</sup> Ibid.

<sup>46</sup> Ibid.

<sup>48</sup> Curran Interview.

<sup>45</sup> Ibid.

<sup>47</sup> Ibid.



## POLICE ADVISORY BOARD

Hamill claims that the Board causes a harm that cuts more deeply than any formal punishment ever could.

Even if an accused policeman is completely cleared by the Board, an irreparable mark is cast upon his reputation. Enmity builds up among his fellow patrolmen--they don't want to work with one who has become "involved." . . . Once a cop gets a reputation on a job--he is done.<sup>49</sup>

The second major area of contention which, according to Captain Hamill, has led to a breakdown in police morale is the patrolman's feeling of "second-class" citizenship, a feeling that he is a victim of an unconstitutional ordinance. On April 25, 1965, the Locust Club of Rochester and certain aggrieved policemen sued the City of Rochester, the Police Advisory Board, and its Executive Director for a declaratory judgment, testing the constitutionality of the ordinance which set up the Board. The case is still pending before the Supreme Court of New York State.

The essence of the constitutional question involves the patrolman's alleged loss of his constitutional right against self-incrimination. As a member of the Rochester Police Bureau he swears, under Section 33 of his induction oath, to refrain from ". . . withholding information of police value from a superior officer."<sup>50</sup> This means that if a patrolman is accused by a citizen of using excessive force during an arrest, he must, when questioned by Investigation Officer Hamill admit any such infraction. In such investigations, Captain Hamill will submit the record of this hearing to Chief Lombard (the record usually being in the form of a written deposition) who judges upon the relative merits of the citizen's complaint.

However, Section 10-10.19 of the ordinance creating the Police Advisory Board states that

The Chief of Police's report to the Board shall contain all evidence on which he has based his findings. The Chief's report shall contain his findings, his recommendations and report of action taken, if any.<sup>51</sup>

Therefore, if the same citizen brings this complaint to the Police Advisory Board, the I.I.O. must either turn over the information already gathered from the completed departmental

---

<sup>49</sup> Hamil Interview.

<sup>50</sup> Quoted in ibid.

<sup>51</sup> Municipal Code as presented to the City Council.

## MAXWELL REVIEW

investigation, or conduct such an investigation under Section 10-10.19 of the ordinance and turn the records over. When the evidence compiled by the Internal Investigation Office is turned over to the Board it may include admissions which might, in a court of law, be self-incriminating in nature. Therefore, where a citizen and a patrolman have the right of the Fifth Amendment before the Board, it is argued that the patrolman's Fifth Amendment privilege is destroyed by Section 10-10.19. This aspect of the Board's procedure has led, in Captain Hamill's estimation, to a breakdown in police morale.<sup>52</sup>

Evaluation

In January 1967, the Police Advisory Board was enjoined by the New York Supreme Court from further operation due to a question of correct legal construction of the ordinance creating the Board in the Rochester Municipal Code. The Board has been allowed to advise people on their complaints but not officially to "determine" a case.

The Police Advisory Board has performed an important service at a most crucial time in Rochester's community development. Proponents of the Board claim it has promoted racial harmony in Rochester. The Board is a pragmatic product of our times, a tool to rest a turbulent community so that permanent measures for creating a racially balanced environment can proceed unhampered. Rochester has an excellent educational system at all levels--elementary, secondary, and college. It also has a quickly growing adult education program. The anti-poverty program in Rochester, with emphasis on technical training, adult education, and manpower development is starting to make an impact. Incremental change is also present in the city-wide housing programs of both the duplex and garden apartment varieties.

These are all steps directed at the self-fulfillment of minority groups. But positive programs of education, job development, and housing cannot proceed in a hostile climate. Therefore, as the City of Rochester learned, sometimes an ancillary step must be taken to provide an environment conducive to social change. For Rochester this step took the form of a Police Advisory Board with a jurisdiction strictly confined to cases of alleged police brutality. When an incident of police brutality occurs, the Board is present as a clear indication of an interested community. It is ready to advise impartially on the relative merits of the claim and thereby to attempt to promote racial harmony. Thus, even though the critics of the Board have raised some logical arguments concerning some of its weaknesses, it is not appropriate to simply abolish the Board now.

---

<sup>52</sup>Hamill Interview.



## POLICE ADVISORY BOARD

It is important that communities such as Rochester recognize the diversity of ethnic cultures and the problems of racial integration. Beyond this, it is even more important that these communities constructively solve these problems. The Rochester Police Advisory Board is one city's administrative attempt to create an atmosphere conducive to effective community development. However, administrative and legislative officials must not allow such programs to destroy the efficient governmental balance necessary for the harmonious life of a community as well as the development of racial equity.