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Richard S. Jones, *Processing Civilian Complaints: A Study of the Milwaukee Fire and Police Commission*, 77 Marq. L. Rev. 505 (1994).
Available at: <http://scholarship.law.marquette.edu/mulr/vol77/iss3/9>

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PROCESSING CIVILIAN COMPLAINTS: A STUDY OF THE MILWAUKEE FIRE AND POLICE COMMISSION

RICHARD S. JONES*

I. INTRODUCTION

Today our world is brimming with increased racial tensions and negative police-community encounters. This comes in the aftermath of highly publicized cases of police abuse and public questions concerning the extent of police authority and discretion. These questions have led to a renewed interest in civilian review boards. Cities throughout the nation are becoming increasingly sensitive to the public's need for trust in the police. A recent example of change is in New York City, where the police review process was upgraded to provide more power to civilians.

Civilian review involves the creation of an independent body, outside the police department, to review instances of alleged police misconduct.¹ In theory, civilian review boards function as appellate courts. The defining characteristic of civilian review is the review of police misconduct by persons who are not sworn police officers.² Citizens who feel they are victims of police misconduct and are not satisfied with the way the police department handled their complaint can bring their case before a civilian review board. Although citizen review varies among jurisdictions, its purposes may include bringing police abuse and corruption out in the open, recommending or imposing sanctions on deviant police officers, and recommending or implementing changes in police policies and procedures.³ Currently, boards authorized to review citizen complaints against the police exist in approximately sixty percent of the major cities in the United States.⁴

From the moment of their inception, review boards have met with only moderate success. Some failures have been the result of a lack of sufficient power to sanction police officers who are guilty of abuse or to

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1. GEOFFREY P. ALPERT & ROGER G. DUNHAM, *POLICING URBAN AMERICA* 116 (2d ed. 1992).

2. SAMUEL WALKER & VIC W. BUMPHUS, *CIVILIAN REVIEW OF THE POLICE: A NATIONAL SURVEY OF THE 50 LARGEST CITIES* 1 (1991).

3. ALPERT & DUNHAM, *supra* note 1, at 116-17.

4. WALKER & BUMPHUS, *supra* note 2, at 1.

influence the policy making process.⁵ In addition, review boards have routinely faced opposition from the police departments that they are created to oversee.⁶ This Article examines the role of review boards in contemporary American society, giving special attention to the Milwaukee model.

II. DATA AND METHODS

Fieldwork for this study was conducted at the Milwaukee Fire and Police Commission (MFPC), Milwaukee, Wisconsin, from 1992 to 1993. The research focused on the way in which citizen complaints against the police were processed by the MFPC. Data for this Article consists of interviews of MFPC staff members and observations of citizen complaint hearings before the MFPC. Further information was gained through documents and resource material provided by the MFPC. The data were analyzed to present a profile of the historical development and current structure and operation of the MFPC.

III. THE CREATION OF CIVILIAN OVERSIGHT

Interest in the formation of civilian review boards is of relatively recent origin. During the turbulent 1960s, "[a]s abuses of police power became painfully evident during [the] televised coverage of anti-Vietnam War as well as civil rights protests, many cities established civilian complaints tribunals."⁷ Interest in civilian review boards was short lived, primarily because of the political clout of the law enforcement community. As a result, many of the civilian review boards were dismantled.⁸

In the 1980s, new mechanisms for receiving and investigating complaints against the police were brought about by routine rather than through the confrontational politics of the 1960s.⁹ The primary impetus behind the more recent introduction of civilian review boards was a shift in philosophy toward more community-oriented policing.¹⁰ This renewed interest in civilian oversight by local governments resulted in review boards with a broader focus.¹¹ The spread of civilian review

5. ALPERT & DUNHAM, *supra* note 1, at 116-17.

6. *Id.*

7. David H. Bayley, *Preface* to COMPLAINTS AGAINST THE POLICE: THE TREND TO EXTERNAL REVIEW at v (Andrew J. Goldsmith ed., 1991) [hereinafter COMPLAINTS AGAINST THE POLICE].

8. *Id.* at v-vi.

9. *Id.* at vi.

10. *Id.* at vii.

11. ALPERT & DUNHAM, *supra* note 1, at 118.

represents a new national consensus on civilian oversight as an appropriate way of handling citizen complaints about police misconduct. Although the police continue to bitterly resent any form of civilian oversight, the hostility directed toward civilian review is less than that encountered in the 1960s.¹²

Recent research on police accountability has generally accepted and operated on the following assumptions:

First, police cannot be trusted to police themselves. . . .

Second, civilian review is critical to the legitimacy of the police. . . .

Third, the complaints-handling process must be separated into different categories of problems and solutions. . . . [Fourth], complaints should also be examined to determine recurrent problems in police operations that might lead to changes in policy. . . .

[And finally], police resistance to civilian oversight is more emotional than reasoned.¹³

IV. EXTERNAL VERSUS INTERNAL REVIEW

The recent participation of civilians in the complaint procedure reflects a move away from earlier approaches to citizens' complaints. In earlier approaches, the police assumed total responsibility for the receipt, investigation, and determination of all complaints; "these approaches were adjuncts of the internal police disciplinary system."¹⁴ The emergence of external forms of review arose out of long-standing failure by police to respond adequately to citizen complaints.¹⁵

Traditionally, review boards have been identified as having an internal or external method of handling complaints against the police.¹⁶ Some boards have internal investigations of complaints conducted within the police department offices and ranks. Other boards have external or independent investigations in which the complaints are investigated by personnel outside the police department. However, some surveys:

reject the commonly used distinction between "internal" and "external" review procedures. [They found that] some of the existing procedures (i.e., Chicago and Detroit) are "internal" in the sense that the staff are employees of the police department. . . . Because

12. Bayley, *supra* note 7, at vii.

13. *Id.* at ix-x.

14. Andrew J. Goldsmith, *Introduction to COMPLAINTS AGAINST THE POLICE*, *supra* note 7, at 5.

15. *Id.* at 6.

16. WALKER & BUMPHUS, *supra* note 2, at 2-3.

the staff members are not sworn officers, however, these procedures provide an independent review of complaints. [Alternatively], the Kansas City Office of Civilian Complaints is "external" to the police department, with a civilian director, but complaints are investigated by sworn officers. Although nominally "external," it does not have involvement of nonsworn personnel at the critical fact-finding stage.¹⁷

V. COMPOSITION AND PROCEDURE OF THE BOARDS

Civilian review procedures vary greatly across the United States. Bumphus and Walker's national survey classifies civilian review boards according to who does the initial investigation of a citizen complaint, who reviews the investigative report, and whether the boards have the authority to apply sanctions or make recommendations for action.¹⁸

Bumphus and Walker found that 40% of the civilian review agencies in their study were Class I, where the initial investigation, fact finding, review of the investigative report, and recommendation for action were done by nonsworn personnel or a board consisting of a majority of nonsworn persons.¹⁹ In addition, 47% of the agencies were Class II, where the investigation and fact finding were conducted by sworn police officers, but the review and recommendations for action were made by nonsworn personnel or a board consisting of a majority of nonsworn persons.²⁰ Finally, 13% of the agencies were Class III, with the investigation, fact finding, and recommendation made by sworn officers, but the opportunity existed for the citizen who was dissatisfied with the final disposition of the complaint to appeal to a board that included nonsworn persons.²¹

Other important findings from the Bumphus and Walker study are that most of the existing civilian review procedures have been established by local ordinance (77%), while others were created by state statute (10%) or executive order (13%).²² Notably, only 1 of the 30 review agencies in their sample had the power to impose sanctions on police officers. The remaining agencies had only "the power to make recom-

17. *Id.*

18. WALKER & BUMPHUS, *supra* note 2, at 2-3.

19. *Id.* at 3.

20. *Id.*

21. *Id.*

22. *Id.* at 4.

mendations for disciplinary action to the police chief or police commission."²³

Civilian review or oversight boards are usually composed of a representative cross section of the community independent of the police department.²⁴ One of the major problems contemporary police encounter is the isolation of police officers from the community. Civilian review boards, with members representing all segments of the community, could help to break down that isolation.²⁵ Review board members are generally selected by the mayor or city council. Minority communities often criticize this appointment method as another way they can be assured that no action will be taken against the police.²⁶ Many patrol officers and police administrators have also complained that politicians are attempting to control police behavior through the appointment process.²⁷

The typical complaint procedure is one in which complaints are accepted by mail, by phone, or in person, at the precinct stations or headquarters, thereby reducing the likelihood that prospective complainants will be deterred by inconvenience or fear.²⁸ A citizen might be afraid to complain at his or her local precinct if it is the same precinct where the officer accused of wrongdoing is assigned.²⁹ The inconvenience of going to headquarters might also discourage some citizens from complaining, although civil liberty organizations may file grievances on behalf of a complainant.³⁰ Many citizens do not air grievances because of timidity, or because they feel an inability to properly express their problem. Many citizens may lack the time to deal with their complaint, may be unaware of police procedures, or may feel that the police cannot effectively investigate fellow police officers. Harold Beral, Marcus Sisk,³¹ and

23. *Id.* The Walker & Bumphus study reported that none of the review agencies in their sample had the power to impose sanctions on police officers. This is an error because MFPC has this authority and was a part of this study. Letter from Joan Dimow, Senior Research Assistant, Fire and Police Commission, City of Milwaukee, to Richard S. Jones, Department of Social and Cultural Sciences, Marquette University (Sept. 24, 1993) (on file with author).

24. ALPERT & DUNHAM, *supra* note 1, at 117.

25. SAMUEL WALKER, *THE POLICE IN AMERICA: AN INTRODUCTION* 240 (1983).

26. ALPERT & DUNHAM, *supra* note 1, at 117.

27. *Id.*

28. Harold Beral & Marcus Sisk, *The Administration of Complaints by Civilians Against the Police*, 77 *HARV. L. REV.* 499, 501 (1964).

29. *Id.*

30. *Id.*

31. *See id.* at 501-02.

Herman Goldstein³² found allegations against police departments that included discouraging citizen complaints by: (1) acting hostile when the complainant filed a charge, (2) showing a lack of objectivity in the investigation of the complaint, (3) failing to provide formal adversary hearings, and (4) being unwilling to impose meaningful discipline on officers found guilty of misconduct.³³ This is in spite of the fact that "[c]itizen involvement in the police complaint process is suggested as an alternative to monitor the procedure and to assure some amount of fundamental fairness."³⁴

Some officers and even some citizens may feel that complaints are in some way pathological or abnormal, and the ideal system would not allow for the generation of any complaints.³⁵ This assumption may lead agencies to respond in too harsh a manner and deal with complaints as isolated, individualized problems. Complaints are inevitable and should not be seen simply as threats to existing policies, procedures, or individual officers, but rather as a means for the re-examination of organizational policies and practices.³⁶ However negative a citizen complaint may be initially, it is a way in which citizens can have their say about governmental service and can participate in the democratic political process. With a positive police philosophy regarding complaints, the situation between the police and the citizen can often be turned into something positive for both police service and community relations. Experience has shown that some complainants have become staunch allies of the police and valuable contributors to worthwhile programs and projects.³⁷

VI. POLICE OPPOSITION TO THE BOARDS

During the past twenty years, the police have voiced strong opposition to the use of civilians in the complaint process, offering a number of arguments to support their position.³⁸ First, due to the nature of their job, police are very likely to have a number of false accusations brought

32. See Herman Goldstein, *Administrative Problems in Controlling the Exercise of Police Authority*, 58 J. CRIM. L., CRIMINOLOGY & POLICE SCI. 160, 162-64 (1967).

33. Richard J. Terrill, *Complaint Procedures: Variations on the Theme of Civilian Participation*, 10 J. POLICE SCI. & ADMIN. 398, 399 (1982).

34. *Id.*

35. Andrew J. Goldsmith, *External Review and Self Regulation: Police Accountability and the Dialectic of Complaint Procedure*, in COMPLAINTS AGAINST THE POLICE, *supra* note 7, at 18.

36. *Id.* at 18-19.

37. LOUIS A. RADELET, *THE POLICE AND THE COMMUNITY* 359-60 (2d prtg. 1974).

38. Terrill, *supra* note 33, at 399.

against them, especially by those that have been arrested or those who have been given a citation.³⁹ However, the citizens reviewing the alleged misconduct would be capable of weighing and determining the truth of the citizens' statements, much like the citizens sitting on a jury deciding credibility of witnesses and the outcome of cases.

Second, police have often said that given the variety of tasks they are expected to perform and the stressful circumstances under which they must perform these tasks, mistakes are bound to occur.⁴⁰ Although this may be true, it does not justify self policing. Attempts are being made to alleviate mistakes through rigorous recruitment campaigns, improved basic training, and continuing education programs.⁴¹

Third, police often believe that citizen review boards are not essential because citizens who have a grievance can always turn to criminal law or can seek judgment through civil claims.⁴² However, in reality, the availability of this type of recourse is very limited to citizens, and is frequently very slow:

[C]omplainants are often unwilling [or unable] to initiate a suit because of a lack of personal funds; . . . there is [usually] a scarcity of witnesses for corroborating complainants' statements; . . . [the] plaintiffs are unlikely to receive a sizeable recovery for damages; . . . [many] local prosecutors are unwilling to prosecute because they rely upon a positive working relationship with the police departments; . . . [and many] judges and juries are more apt to believe the officer than the complainant, who is frequently poor, has an unusual lifestyle, or has a criminal record.⁴³

Beyond that, by suggesting that citizens turn to the courts, the police insinuate that most complainants want to sue or prosecute the police.⁴⁴ The police are missing the point, however, by not recognizing that most citizen complainants are merely unhappy with the conduct of the officer and would be satisfied with an explanation or an apology.

Finally, police believe that "[r]eview boards are composed of citizens whose fields of employment and interest are unrelated to law enforcement."⁴⁵ However, most review boards are comprised of very well qualified people. Further, every citizen has a vested interest in the way the

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.* at 400.

44. *Id.*

45. *Id.*

police departments are structured and run. Finally, review boards should be representative of the community as a whole, and if the process of selection becomes too narrow, this goal may never be reached.

Historically, rank-and-file officers have been opposed to civilian review boards.⁴⁶ These officers believe that, until civilians walk in an officer's shoes, civilians cannot accurately judge police behavior.⁴⁷ Despite this, police administrations have begun to recognize that civilian participation in the complaints process is essential to their new strategic vision of a partnership with the community. Police departments are talking about developing a new kind of professionalism that involves paying attention to community opinion, rather than just relying on political directives.⁴⁸ The new professionalism, unlike the old, stresses the connection with communities and civilian feedback rather than autonomy, isolation, and contempt for lay opinion.⁴⁹ Police are realizing that participating in the creation of civilian review boards is better than having them "crammed down their throats."⁵⁰ Boards are viewed as vehicles for making the police more democratic and for maintaining a process of civilian monitoring of the police.⁵¹

VII. MILWAUKEE FIRE AND POLICE COMMISSION: AN EMERGING MODEL

The Milwaukee Fire and Police Commission was established in 1885 with the passage of Chapter 378 of the Wisconsin Laws of 1885.⁵²

It is the oldest established fire and police commission in the United States. The board consists of five members who are appointed by the Mayor to overlapping five year terms, all appointments being subject to Common Council approval. . . . The Board employs a twelve member support staff to conduct its day-to-day business.⁵³

46. Bayley, *supra* note 7, at vii.

47. Interview with Michael Morgan, Executive Director, Milwaukee Fire and Police Commission, in Milwaukee, Wis. (July 21, 1992).

48. Bayley, *supra* note 7, at viii. "Consumer satisfaction is being discussed as an appropriate goal of policing." *Id.*

49. *Id.*

50. *Id.*

51. ALPERT & DUNHAM, *supra* note 1, at 117.

52. MILWAUKEE FIRE AND POLICE COMM'N COMMEMORATIVE BOOKLET 5 (1985) [hereinafter COMMEMORATIVE BOOKLET].

53. 1990 MILWAUKEE FIRE AND POLICE COMM'N ANN. REP. 1.

Legal responsibilities of the MFPC are set forth in the Milwaukee city Charter⁵⁴ and in the Wisconsin State Statutes.⁵⁵ This civilian board has a variety of functions, including setting employment standards, testing, appointing the chiefs, holding sole authority for removing chiefs from office, and holding final authority (upon appeal) for dismissal of any member.⁵⁶ In addition, the MFPC is "empowered to hear appeals from departmental discipline and conduct citizen complaints hearings."⁵⁷ The commission "has original rule making authority for both the Fire and Police Departments, which it has delegated to the respective chiefs."⁵⁸

"The major impetus for the creation of the Board [in 1885] was to stop the mayoral practice of firing police and fire chiefs at will."⁵⁹ Initially, the MFPC was made up of four unpaid commissioners who "appeared at disciplinary hearings and citizen complaint hearings held by the respective departments in an oversight capacity."⁶⁰ In 1911, passage of Chapter 586 expanded the commission to a five-member board. The commission was empowered to hear the complaints of property owners against any member of either department, and to hear appeals of disciplinary action from any member of either department discharged, suspended, or reduced in rank by the chiefs of the departments.⁶¹ On August 5, 1911, the board received its first citizen complaint, which was directed at the chief of the fire department.⁶²

"In 1969 and again in 1977, state legislation revised the Commission's complaint law by broadening the scope of those who could file complaints against fire and police personnel, from property owners only (Laws of 1911) to electors (1969) to any aggrieved person (1977)."⁶³ Finally, with passage of Senate Bill 56 in 1984, the MFPC "acquired the authority to prescribe general policies and standards for police and fire departments . . . [and] to review the efficiency and general good conduct of the departments."⁶⁴ This Article focuses solely on the process of citi-

54. MILWAUKEE, WIS., ORDINANCES ch. 22 (1993).

55. WIS. STAT. § 62.50 (1991-92).

56. 1990 MILWAUKEE FIRE AND POLICE COMM'N ANN. REP. 1

57. *Id.*

58. *Id.* at 2.

59. COMMEMORATIVE BOOKLET, *supra* note 53, at 6.

60. *Id.* at 7.

61. *Id.* at 8.

62. *Id.*

63. *Id.* at 11-12.

64. *Id.* at 12.

zen complaints against the police, although the process is similar to complaints against the fire department.

The citizen complaint procedure in Milwaukee is different from that of any other city. Milwaukee's board offers citizens a completely independent process that does not rely on the police department for any function. The citizen complaint procedure allows individuals to charge members of the Milwaukee Police Department and Milwaukee Fire Department with misconduct. The MFPC can suspend, demote, or discharge department members for conduct in violation of department rules and regulations. This process is described by a staff member of MFPC as follows:

The board has the authority to suspend, anywhere from one to sixty days, without pay. Or demote, if someone's a sergeant we could bust them down to a patrol officer. Or to discharge. We looked into the possibility of having the option of ordering an officer to participate in educational programs or counseling, or public service programs that might be more beneficial than suspensions or demotions, but that option doesn't exist under the current statute.⁶⁵

If a citizen believes that a member of the Milwaukee Police or Fire Department has engaged in misconduct, that citizen may file a written complaint either with the respective department or with the commission. Citizens may file in person or have a complaint form mailed to them. The complainants may have a lawyer handle their complaint or may complete the complaint procedure on their own. However, the commission does not provide or pay for citizens' legal assistance.

The MFPC's Committee on Rules and Complaints determines whether the board has the authority to hear the case. If the behavior described does not violate a department policy, then the commission has no authority. The commission can decide that a complaint should be dismissed because it is outside its authority, that the complaint should be referred to the chief of the fire or police department for investigation, or that the complaint should be referred for conciliation, which is a one-on-one meeting with the citizen and the accused officer. An MFPC staff member explains:

[In] conciliation, . . . the person [who] is complaining comes in, the . . . police officer comes in, they sit down at a table . . . usually there [is a] . . . mediator to keep things moving. They can have a

65. Interview with Joan Dimow, Senior Research Analyst, Milwaukee Fire and Police Commission, in Milwaukee, Wis. (June 29, 1992).

lawyer there, although the lawyers aren't allowed to participate [T]he idea is that they should try and talk it out and see if they can come to an agreement before it gets to a formal hearing and trial.⁶⁶

Many times the complaint is resolved at the point of conciliation because citizens only need an explanation of the policies, or an apology from the accused officer for their grievance to be satisfied. Over 50% of the cases that reach conciliation are resolved at this point.⁶⁷

Sometimes, . . . the best way to get a conciliation is for everybody else to leave the room and leave the two people. . . . [A common complaint] is verbal abuse of some sort. "They swore at me." "They called me a bitch." "They called me a nigger." Things like that. And those are the sort of things that many will accept an apology from the person who did it, and say, "fine, that's what I wanted, please don't do it to anybody else."⁶⁸

If no agreement is reached, a pretrial conference is set to narrow the issues and to set a date for trial. A trial is conducted by a panel of commissioners or by a hearing examiner. The citizen is responsible for meeting the same burden of proof as in a criminal trial: beyond a reasonable doubt. The trial is described as follows:

Basically the way a trial works is the person who is complaining presents their case [sic]. They can present any witnesses they may have, the officer presents his or her case and any witnesses. . . . [T]he biggest problem there is that very few complainants have any real evidence to offer. And most of the time it comes to "he says, she says." The complainant says A, and the officer says B. And the board has to decide who to believe. Now, under the American legal system someone is innocent until they are proven guilty. And if there is no proof. . . what that means is that it's fairly rare for things to come to trial to [sic] end up in a guilty verdict against the officer. Just because most of the time there's no clear evidence. . . . You know, very few people . . . I mean that's probably what would have happened to Rodney King if that guy hadn't been out on his balcony with his video camera.⁶⁹

Prior to the trial or any type of conciliation, citizens are completely responsible for conducting their own investigations. This process is very different from other cities, which often rely on the police department for initial investigations. The process is described as follows:

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

Now, the commission itself can't provide any sort of active help to people. And we also can't provide any sort of active help to the police officers. Everything you have to understand is that when somebody files a citizen complaint they can't get anything out of it. They cannot get any sort of monetary judgement or anything. The most they are going to get is the satisfaction of seeing the officer punished. And partly because of that, and partly because it is a legalistic procedure, we lose a lot of people.⁷⁰

VIII. STRENGTHS OF THE MILWAUKEE MODEL

Within the past two years, Milwaukee's Fire and Police Commission has tried to streamline the citizen complaint process. It has succeeded in paring the process down and making it more accessible to citizens. The commission has also attempted to facilitate increased awareness of the board and the citizen complaint process by creating a pamphlet to be circulated throughout the community. This pamphlet outlines the procedures and fosters awareness of the complaint process to those who otherwise may never know about it. An MFPC staff member explains:

In the past, . . . [citizens] pretty much had to do it themselves. One of the reasons for this booklet is because we have been working with a number of community organizations, because [in] our case and in other cities there's also the problem that many [people] are very uncomfortable about coming to police headquarters. And what we've got now is a half a dozen [community] organizations . . . which will be helping people to fill out complaints.⁷¹

The commission's interest in community-oriented policing is demonstrated in its efforts to hire police officers who will adapt to this philosophy.

[M]ost of the things . . . [talked] about in terms of hiring . . . police officers, looking at how the police department functions, [concern] basic attitudes that are ingrained in police officers. . . . [A]ll of [those] things ultimately are a factor in citizen complaints. . . . If we hire people who are extremely authoritarian, who just want to tell people what to do, you can guarantee that there will be lots of citizen complaints.⁷²

Other cities are handicapped in their ability to make a real difference in one of two ways. Either they only have the ability to advise or make

70. *Id.*

71. *Id.*

72. *Id.*

recommendations to the police chief, or they only have the ability to review the procedure or outcome of a citizen complaint. The primary strength of the MFPC, as compared to other cities, is that the MFPC has the authority to impose sanctions and change policies. The inability to decide cases and impose punishment has been cited as one of the biggest reasons for the failure of many civilian review boards.⁷³ As expressed by the former Executive Director of the MFPC, "I think that the biggest strength is that we have teeth in our law."⁷⁴ The MFPC has the ability to discipline, promote, prevent promotions, and order the chief to do what the board feels is appropriate. Finally, it has the ultimate authority to move the chief aside and actually operate the police department,⁷⁵ "whereas other police and fire commissions actually have very little authority to do anything except to chide and push and plead for police departments to do the right thing."⁷⁶

In summary, the MFPC is an exemplary model for a number of reasons. First, it has reduced many of the barriers that have discouraged citizens from registering complaints against the police. The MFPC is currently working with community organizations to increase public awareness of the activities of the commission and also to help citizens in the filing of complaints. Second, they have streamlined the complaints process in order to make it more accessible to citizens. Finally, in comparison with other cities, the MFPC is alone in having the authority to decide cases and impose discipline. In all other cities, the power to decide cases and impose discipline is handled within the police department, which may raise questions of credibility in the eyes of citizens.

IX. WEAKNESSES OF THE MILWAUKEE MODEL

There are two major obstacles for citizens who bring complaints against the police. First, Milwaukee engages in the practice of a Class I investigation process, which eliminates any sworn personnel from the investigation. As a result, the citizen with no training in investigative work is at a disadvantage in this process. The police officer has been trained in investigative practices, has more resources available for the collection of evidence, and has the additional aid of legal assistance.

A second obstacle is the unequal balance of power that occurs when a citizen complaint progresses to the trial stage. The accused officers

73. ALPERT & DUNHAM, *supra* note 1, at 117-18.

74. Interview with Michael Morgan, *supra* note 47.

75. *Id.*

76. *Id.*

have the support of their union; therefore they always have legal representation. The citizen, on the other hand, most often does not have the resources to attain legal assistance. The citizen's disadvantage in comparison with the officer in question is expressed in the following statement:

[A]ll along the way the police have something that a lot of citizens don't have, and that is they have lawyers representing them, . . . and I think that is probably the most unkind cut of them all. In most cases, even the most sophisticated citizen is going to find it very difficult indeed to out maneuver a person who is trained to maneuver, and to use the law in a way that will benefit his or her client.⁷⁷

Currently, the MFPC is trying to address this problem by compiling a list of lawyers that would be available on a pro bono basis and attempting to organize a clinical program for third-year law students at Marquette University Law School.⁷⁸ Both plans demonstrate that the commission is responsive to the needs of the citizens and is willing to develop programs to assist citizens and improve the complaint process.

It should be pointed out that there are limits to what the MFPC can do to assist citizens in the complaint process. First, the MFPC is not, and cannot be, an advocate for citizens. Since complaints against the police may reach the conciliation or hearing stage, the MFPC must remain impartial in all of its activities relating to specific cases. Second, even if citizens are provided legal assistance on a pro bono basis, police officers will always be at an advantage because they are trained in the collection of evidence, whereas citizens are not. In addition, police officers will be represented by attorneys provided by the union who may have considerable experience with citizen complaint cases. Finally, in most cases that go to trial before the commission, the case centers on the word of the officer against the word of the citizen. Eyewitnesses are rarely available to support a citizen's claims. As in any trial, the defendant is innocent until proven guilty, and that is very difficult to attain in most citizen complaint cases.

X. CONCLUSION

In any urban society, the need for police is an important one. Most people recognize that the job of a police officer is a difficult one, full of stress and the underlying knowledge of the possibility of personal harm.

77. Interview with Michael Morgan, *supra* note 47.

78. *Id.*

Most people also know that police must have authority. But there are limits to that authority and police must be held accountable for actions that go beyond the call of duty. Although parameters of accountability may be questioned, the police are accountable for the services that they render. They are accountable to the law and to the community.

Cities throughout the nation are becoming increasingly sensitive to the public's need for trust in the police. Civilian review boards are one of the most important and proactive ways to foster a continuing relationship between the two groups. From this perspective, cities engaging in civilian review need to invest more energy in making the complaint process more accessible to the citizens that they serve. Cities that do not have such procedures should realize the potential civilian review holds for their communities.

Though the civilian complaint procedure in Milwaukee is far from ideal, it is still an exemplary model to act as a guide in the creation of other boards. The strength of the Milwaukee model lies in the authority that the MFPC has in disciplining wayward police officers and in developing and instituting policy. Its current efforts to reduce the imbalance of power between citizens and the police in the investigation and hearing processes clearly make the MFPC one of the premier civilian review boards in the United States. Other cities throughout the country should look to the Milwaukee model when considering the creation of new citizen complaints processes or the modification of existing ones.

Citizens are increasingly insisting that police be held accountable for their actions. Communities are willing to reach out in a more community-oriented model of participation with the police and the administrations governing them in an attempt to strengthen the police-community relationship. Review boards need to be supported and continually updated. Citizens seeking justice and police departments seeking professional accountability hold joint responsibility for maintaining these boards and developing them into effective mechanisms for helping and serving all of those involved.

