

*ny. (City) Subcommittee*

MAY 29TH, 1935  
REPORT OF SUBCOMMITTEE WHICH INVESTIGATED THE  
DISTURBANCE OF MARCH 19TH



To the Honorable Fiorello H. LaGuardia,  
Mayor of the City of New York.

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LIBRARY OF CONGRESS  
DUPLICATE

Sir:

In response to your instructions, a subcommittee of the Commission appointed by you to investigate the disturbances in Harlem on March 19th last, has held a number of public hearings and examined many witnesses. Much of the tense feeling which engendered the trouble was carried over into the hearings, at which the public was given full opportunity to hear and be heard. Every effort was made to bring out the facts at these meetings with the purpose, not always achieved, of allaying false conceptions of what took place and bringing out the truth as to the cause of the disorders, which resulted in the loss of several lives, the injury to many persons and the arrest of others, together with material damage to shops which ran into large figures. We are now in a position to report, first, that the outburst was spontaneous and unpremeditated; second, that it was not a race riot in the sense of its being a physical conflict between persons of the white and colored groups; third, that it was not instigated by the Communists, though they sought to profit by it and circulated a false and misleading leaflet after the riots were well under way; fourth, that the work of the police was by no means beyond criticism; and fifth, that this sudden breach of the public order was the result of a highly emotional situation among the colored people of Harlem due in large part to the nervous strain of years of unemployment and insecurity. To this must be added their deep sense of wrong through discrimination against their employment in stores which live chiefly upon their purchases, discrimination against them in the school system and by the police, and all the evils due to dreadful overcrowding, unfair rentals and inadequate institutional care. It is probable that their justifiable pent-up feeling, that they were and are the victims of gross injustice and prejudice, would sooner or later have brought about an explosion.

The specific cause was an in itself unimportant happening in the store of S.H. Kress & Company on 125th Street, which grossly exaggerated by women witnesses as to part of the circumstances, was almost immediately twisted by rumor into the beating and killing of a Negro boy in the basement of the store after he had been charged with pilfering. The truth is that at about 2:30 p.m. Lino Rivera, a Negro about sixteen years of age, was seen from the balcony by the manager of the store, Jackson Smith, and an assistant, Charles Hurley, to steal a knife from a counter in the rear of the store. Mr. Hurley and another employee caught the boy as he moved to the front of the building, removed the knife from a pocket and conducted him towards the door. Becoming frightened, Rivera tried to cling to a pillar and bit both his captors on the hand. As the trio reached the sidewalk, Mount Patrolman Donahue was called, took the boy back into the store and asked if an arrest were desired. Mr. Smith replied that he should be allowed to go. The Crime Prevention Bureau was, in the meantime, notified and sent an officer and, unfortunately and unnecessarily, an ambulance was called to dress the injured hands.

Patrolman Donahue, in the exercise of his best judgment, took a course which under any other circumstances would have been commendable, but in this case was mistaken; he conducted Rivera down the stairs to the basement; through the basement and up to the street level near the 124th Street entrance where



the boy was released. Immediately he went to his home. An hysterical shopper cried out: "They have taken the boy to the basement to beat him up"---and the mischief was done. The arrival of the ambulance intensified the excitement; when the surgeon reappeared from the store without a patient the rumor grew that the boy was dead. By an odd trick of fate, a hearse regularly garaged opposite the store at 224 West 124th Street, as its driver testified, was for a time left standing in front of the Kress entrance on that street. This seemed confirmation of the rumor that the boy had been killed.

Throughout the afternoon the excitement grew until the manager of the store twice called the police. The latter and store employees notified those persons in the store that the boy had been released. They were not believed. Policeman Shannon testified that some women were allowed to search the basement. Other policemen moved from group to group, but according to some witnesses, failed to answer questions adequately and directed the shoppers to be quiet and to leave the store. No determined or effective plan of reassuring the public being worked out, the excitement still increased and the crowds on the street as well. At 5:30 it became necessary to close the store. At 6:30 a small group of men sought to start a public meeting at a corner frequently used for such purposes. The police told the group to move on. Its members then set up a stand in front of the Kress store. A Negro chairman introduced the speaker who was immediately removed from the stand by police. Thereupon there was a crash of glass---one of the Kress windows was smashed. The speakers sought to get on lamp posts across the street and were at once arrested and later charged with "unlawful assemblage." From then on the disturbances grew rapidly and spread from 125th Street into nearby avenues. Many windows were broken and in many cases stores were looted, despite the fact that the police were soon on the scene in numbers and arrested about a dozen men who were charged with larceny, burglary and other crimes. It was not until the early morning hours that the disorder was quelled.

In the late afternoon the rumor that a boy had been maltreated and killed in the Kress Store reached the office of a Negro group called the "Young Liberators," an organization having as its legitimate purpose the protection of the rights of Negroes. It is not a Communist group, although it has Communist affiliations. Joseph Taylor, the president of the Young Liberators, on hearing the story, went, according to his claim, to the Kress Store but could get no information there or at the nearest police station. Thereupon, taking for granted that the rumors were true (Mr. Taylor denies that he was personally responsible) the Young Liberators printed and circulated a leaflet stating that a Negro boy had been maltreated and was near death, using the rumor for propaganda purposes. About the same time the Young Communist League published a leaflet to the same effect without taking the trouble to verify the report. But neither of these pamphlets, according to the testimony before us, appeared on the streets until about 7:30 p.m., by which time the disorders were in full swing and the breaking of windows had begun. It is obvious that the action of both groups was highly censurable.

It was at one time alleged that most of the stores which were raided were owned by Jews. We are glad to report that there seems to be no foundation for this statement. Nor is it true that stores owned by Negroes were spared. There is no evidence of any program or leadership of the rioters. Those who looted the stores obviously belonged to the hoodlum class who made use of the opportunity. We repeat that the psychological condition of the populace was such that the scene was set for an outburst, but that there is no evidence of a conspiracy to violate the laws or of any direction



of the mob by any individuals after the trouble began. As it was, there cannot have been more than a few thousand involved, many of whom were idle on-lookers. Where there are so many unemployed of all ages standing on the streets, it is not difficult to draw numbers of people together in a very short space of time. As long as conditions in Harlem remain as they are the danger of a repetition of the disturbance remains.

There are rumors still current in Harlem that Lino Rivera was not the boy who was seized in the Kress Store. Many still believe that Rivera, who at the time was under a police charge in Brooklyn for having placed a slug in a subway turnstile and has since then been placed on probation, was and is being used as a substitute and tool of the police. The proper action of the police in getting Rivera out of bed at 3:00 a.m. on the night of the disturbance and having him photographed with the colored police lieutenant, Samuel Battle, who is known to everybody in Harlem, in order to show that the boy was still alive and unharmed, failed of its purpose although the picture was printed in some of the morning newspapers.

We are satisfied that Rivera is the boy in question. He has himself so stated on the witness stand on two occasions and has been identified by L.F.Coles, a Negro resident of Harlem, who was in the store at the time of the incident, by Jackson Smith, the manager of the store, Charles Hurley, the employee who seized him, Patrolman Donahue, and Officer Alfred W. Eldridge of the Crime Prevention Bureau. No witness appeared before us to testify that the offender was some one else, nor is there any claim that any boy residing in Harlem is missing. Rivera's testimony coincides at every point with that of the store employees and he admits not only his guilt in taking the knife, but says that he was neither injured nor improperly treated by any one after he was caught.

#### THE CONDUCT OF THE POLICE

Making every allowance for the fact that no one could have foreseen that serious results were to follow from the apprehension of a pilferer, something that happens not infrequently, we regret that we find much to criticize in the conduct of the police. Nothing more alarming has been developed in the hearings held by this committee than the intensity of the feeling against the police. It is a grave state of affairs when the inhabitants of a large section of the city have come to look upon the men in police uniforms as lawless oppressors who stop at no brutality or at the taking of human life. This feeling is, of course, not the outgrowth of the riots. It dates back over a long period and the measure of its intensity may be judged from the fact that the feeling expressed at our hearings was just as strong against the colored police, of whom there are 110 on duty in Harlem, as against the white. We should be the last to question the difficulty of the Harlem situation from the police point of view or the incessant demands made upon the guardians of the peace to preserve their tempers and to exercise their best judgment. There are criminals and lawless characters in Harlem as in every other section of the city.

Nonetheless the existence of intense hostility on the part of the law-abiding element among the colored people toward the police is proof positive that there is something seriously wrong in the attitude of the officers toward the people whom they are there to serve and to aid and not to browbeat or abuse. We gratefully recognize the cooperation given to us by Commissioner Valentine, Inspector Di Martini and Lieutenant Battle and are satisfied that these men are sincerely desirous of changing the present unhappy condition of



affairs. But they themselves must have <sup>been</sup> amazed at the intensity of the feeling displayed at every one of the hearings, which has surpassed anything similar in our experience. With every desire to do justice to the police, we believe that a simple recital of the facts brought out before us will prove that there is solid ground for the bitter resentment of the people of Harlem.

To return to the events of March 19th, it is obvious in retrospect that the police were slow to sense the danger and to combat the rumor with authoritative information. We have received the distinct impression that the attitude of the police indicated a desire to suppress the excitement rather than to explain the cause of it. People were ordered to get out of the store, groups were told to disperse, and crowds to fall back. One witness described the scene in the store at around 4:30 or 5 o'clock in the afternoon, as follows:

"There were just a few policemen. They walked through the store to the back. Then something happened in the back. Some people say a woman screamed. All of the group surged to the back of the store. When I got back there, they were driven forward by the policeman who was in front of them and one woman particularly demanded that they produce the manager and the boy and the policeman told her it was none of her damned business. All of this time I heard no explanation, nothing except among the people themselves. Indignation grew higher. In the meantime more policemen came into the store and they said, 'Drive these people out' and became rather rough and pushed the people. Finally they had a few women out of the store. I said to the policeman, 'can't you tell us what happened?' He said, 'if you know what's good for you you better get on home.'"

We have stated that Patrolman Timothy Shannon testified that he appointed a committee of three women to go to the basement of the Kress Store to see that no boy was there, and that he and others testified that they gave information to many people that no boy had been injured. But the suspicion with which police statements are too often regarded stood in the way of the full acceptance of these assurances. When asked why it had not occurred earlier in the day to any of the police officers that they might have stifled the excitement by bringing the boy back and showing to the crowd that he was uninjured, Shannon answered that "such action was up to my superiors." Not until twenty-four hours later were pamphlets or placards distributed at your Honor's direction, which authoritative statements had a calming effect on the people of Harlem.

Reference has been made to the fact that the police broke up an attempt to hold a public meeting in front of the Kress Store at 6:30 in the evening and arrested the speakers, charging them with "unlawful assemblage." We are not prepared to say that, in the light of the great excitement prevailing, the police were wrong in preventing the speaking if the purpose of these meetings was further to excite the populace. The fact is, however, that the speakers were arrested before they had an opportunity to say anything. Worse than that, the evidence shows that two of the speakers were taken to jail, were denied the opportunity to communicate with their attorneys, were beaten by the police and left without food for almost twenty-four hours. The barbarity with which at least one of them was treated is shocking and there has been no denial of his statement that the police made derogatory and threatening remarks suggesting a definitely prejudiced attitude toward Negroes.



About 12:45 a.m. on the night of the riot there occurred perhaps the most regrettable event of the entire disorder. Two high school students, Lloyd and Russell Hobbs, brothers, were standing in front of Greenberg's automobile accessory shop on Seventh Avenue near 128th Street. They were the sons of a family of good standing and upright character. There is not the slightest evidence that Lloyd Hobbs, who was 16 years of age, or his brother, had ever been engaged in any improper activities. The boys had gone to a motion picture house in the evening, were attracted by a crowd on Seventh Avenue in front of this shop and were standing there, according to the statement of Russell Hobbs and several witnesses, when a police car containing two policemen, one of whom was Patrolman John F. McInerney, drove up. McInerney alighted, brandishing a gun. The people standing at that point immediately began to run, among them the Hobbs brothers. Lloyd was singled out for the pursuit by McInerney. The boy ran to 128th Street, crossing it diagonally. As he reached the further sidewalk, the policeman fired, the bullet passing through the boy's body and into his wrist. He was immediately taken to the Harlem Hospital where he died a few days later. It is the testimony of several reputable witnesses that McInerney did not call upon the boy to halt before firing and that his first and only shot hit the boy.

On behalf of the policemen it is claimed that as their car approached 128th Street, they heard the crashing of a window in the Greenberg store when they were perhaps 175 feet away. It is asserted that in the short space of time in which that distance was traversed, Lloyd Hobbs climbed into the window of the store and passed some of its contents to people below; that when the police car stopped, he jumped out of the window with some of the loot; that McInerney, who was at the curb, began to chase Hobbs as he jumped from the window and that he called upon him to halt, but that Hobbs continued to run, carrying in his hands evidence of his guilt. Certain automobile accessories consisting of a wrench and part of a horn are claimed to have been found in the street near where the boy fell. It is significant, however, that these accessories seem to have been produced by Patrolman McInerney, and they were for the first time seen by Detective O'Brien who was investigating the case, in the office of the District Attorney on April 1st.

Proceedings were brought before the Grand Jury after the Mayor's Committee had pressed the District Attorney. Had the killer been other than an officer, obviously no pressure would have been necessary. The Grand Jury failed to return an indictment. We then took up the matter with the Commissioner of Police and a hearing before the Department is pending.

It seems to the Committee that the shooting was inexcusable. The record of Lloyd Hobbs and that of his family are presumptive evidence that he was not the kind of boy who would engage in looting. Even granting that the boy was guilty as charged by the policeman, it must be noted that there was no public disorder at the time to call for violent action, a life should not have been taken for the offense, and the officer should certainly have fired one shot into the air, if necessary, rather than have shot to kill immediately. Better still, would have been the continuation of the pursuit and at least a genuine effort to run the boy down. The gravity of this case and the grave effect it has had upon the Harlem community makes it, in our judgment, essential not only that Commissioner Valentine should himself investigate the happening, but that proper warnings should be issued to the police not to use their revolvers unless thoroughly justified by the emergency and the character of the man they are pursuing. We are well aware that brave and humane officers have repeatedly lost their lives because gunmen and gangsters



and other criminals have shot first. We submit, nonetheless, that the risk all police officers run does not justify indiscriminate shooting, nor the killing of young boys. A policeman who kills becomes at once prosecutor, judge, jury and executioner.

In view of the enormous importance of this question your Committee did not limit itself to hearing the events of March 19th, but investigated other cases of alleged police brutality reported to them. We cite some of them here in order that this part of the background of the riot may be clearly understood and the state of mind of the people as well. For example, on March 23rd Patrolman Zabutinski was called to arrest one Edward Laurie, a Negro 32 years of age, who was charged with disorderly conduct by another Negro. There is evidence that Laurie had been drinking and that he struck the officer a slight blow. Zabutinski struck him in return with such violence as to knock Laurie to the sidewalk, fracturing his skull so badly that he died in the hospital shortly thereafter. Accepting the story of the patrolman, it is obvious that he was in no jeopardy whatever, that Laurie was unsteady upon his feet and was totally unarmed. Good police work would have dictated pinioning the man's arms and then leading him away. In this case, if the story of other witnesses is accepted, there is no excuse whatever for the policeman's blow. This same officer in August, 1934, shot and killed a sixteen year old Porto Rican boy because he ran, after being surprised in a burglary.

Equally shocking is the case of Thomas Aiken, a young colored man, who on March 13th was standing in line in the 369th Regiment Armory awaiting his turn to receive food from the relief bureau established there. He had been there for more than an hour and was at the rear of the line. Behind him was a space of three or four feet; then came another line of applicants. Some men stepped forward and filled this space, contrary to regulations. The police cleared it, putting out not only the newcomers but likewise Aiken, who protested vigorously. Thereupon he was seized by Patrolman David Egan and another officer. Aiken was beaten to the floor, was mercilessly battered so that it was necessary to remove him to a hospital where the doctors were compelled to take out one of his eyes. Aiken's story was confirmed by a straightforward witness and the facts speak for themselves. There was no riot and no disorder; it was merely a question of keeping two lines apart. To add to this grievous wrong the police have charged Aiken with felonious assault, on which charge he was held for the Grand Jury. The Grand Jury refused to indict Aiken. The District Attorney's Office has been urged by your Committee to institute proceedings against the patrolmen involved, and we have likewise communicated with Commissioner Valentine asking that he take action. It is indefensibly bad police work when two armed police officers cannot arrest an unarmed man in broad daylight in a public building without beating him up and gouging out an eye.

Another illustrative case is that of Robert Patterson, a Negro. The records of the Police Department show that on May 5th an anonymous telephone call was received stating that this man was wanted in Philadelphia on the charge of murder and that he had concealed weapons in his house. Several hours later two detectives entered Patterson's home without a warrant, routed him out of bed, searched for concealed weapons, found none and brought him to the police station. Patterson stated that he had come from Philadelphia, that he had known the man he was accused of murdering, that the deceased had died in Harlem Hospital in New York and that he had been released after an earlier inquiry into the same matter. Still the police did not release him but communicated



with the Philadelphia police who then asked for his fingerprints. After they were received in Philadelphia, the police there declared that Patterson was not wanted as there was no record of any such murder. After two days in jail, Patterson was released. It thus appears that the police arrested an innocent man on an anonymous complaint, in spite of the fact that the law requires that a citizen be not arrested, when charged with a felony, without a warrant or unless the arresting officer has definite knowledge that a felony has been committed and reasonable cause to believe that the person charged or suspected committed the felony. In this case the police went beyond the law in arresting Patterson and searching his home, for the detectives had neither the warrant nor the knowledge required by the statute. Your Committee asked Inspector Di Martini, Lieutenant Battle and the detective who made the arrest for their interpretation of the law. It was not in accord with the statute and your Committee feels that the large audience was justified in shouting that the law is not being applied in connection with the arrests of Negroes.

In this connection, the insecurity of the individual in Harlem against police aggression is in our judgment one of the most potent causes of the existing hostility to authority. Various witnesses testified as to illegal searches of their persons and property by the police in quest of policy slips. After one witness had testified to such an illegal search in Harlem, the chairman asked those in the audience who had had similar experiences to stand up. More than twenty-five people arose, of whom only one would admit that policy slips had been in his possession. Still another witness testified that he was arrested and taken to the police station merely because he was talking with a colored woman. He was held at the police station for some time until he could prove to the officer in charge that he was a colored man! There is, of course, no law whatsoever to prevent persons of different sexes and races from walking together.

We are reluctantly compelled to believe that the instances cited above are not exceptional and that nothing is needed in Harlem more than a return by the police to the attitude that the first function of a police officer is to win the good will of those among whom he is stationed by un-failing courtesy and kindness and that "best friend" attitude which was so strongly urged upon them by Commissioner Arthur Woods. We believe that no people would respond more readily and quickly to such a changed attitude than the people of Harlem and that changed attitude on both sides would make for far better police efficiency and morale than is possible under existing circumstances when both parties view one another with apparent hostility. Above all, every officer stationed in Harlem should be instructed that the rights of Negroes, no flouted, are as much to be respected by the police as are those of more fortunate citizens who reside on Fifth or Park Avenues. We think that the police should be made to realize primarily that they are the servant of the public, whether white or colored, and that they themselves under no circumstances whatever have the right to violate the laws they are sworn to uphold. They must be taught that their right to make arrests is strictly limited by law and that the necessity of obtaining warrants both for arrests and searches applies to them and to all citizens.

It is the opinion of many that the police could not properly protect society if they adhered strictly to the law and were observant of technical constitutional restraints. There is little doubt that if the police act with-



out restraint, the job of catching criminals is rendered more simple. On the other hand, it must be remembered that even though violations of law may occasionally result in catching a criminal who would otherwise escape, yet the general effect of this attitude is to antagonize a community, to arouse a spirit of resentment and to make people regard the police as enemies rather than as helpful friends. In the long run it is better to face the situation where an occasional criminal may escape than to have the community in so apprehensive a frame of mind that they feel they have no rights which the police are bound to respect. A friendly and sympathetic attitude toward the police with a willingness to render assistance, would gain more for the police in connection with the apprehension of criminals than they can gain by illegal tactics.

The Bills of Rights in our Federal and State Constitutions were put there as curbs on arbitrary power. James Otis in his historical argument against writs of assistance, referred to apparently unimportant acts of oppression as placing "the liberty of every man in the hands of every petty officer." Blackstone said (Vol. IV, p.350):

"However convenient these" (acts) "May appear at first (as doubtless all arbitrary powers well executed are the most convenient), yet let it be again remembered that delays and little inconveniences in the forms of justice are the price that all free nations must pay for their liberty in more substantial matters; that these inroads upon this sacred bulwark of the nation are fundamentally opposed to the spirit of our constitution and that though begun in trifles, the precedent may gradually increase and spread.\*\*\*"

We recommend that policemen be given thorough instruction in the law as to the limitations of their rights and the few occasions on which they may use violence; that all advice to the police to "muss 'em up" be coupled with an admonition that if any policeman "musses" up an innocent citizen, however, poor or whatever his color, he will lose his job.

You, Mr. Mayor, have long been a leader among liberals, and have often expressed your devotion to the ideals of civil liberty. You, as well as the police Commissioner, have received a heritage of wrong police psychology and a resulting resentment by people who have suffered injustice for many years. The acts of individual policemen who are discourteous or brutal reflects on the entire police force. Kindly decent and well-disposed officers are injured and handicapped in their work and standing by the actions of those whose conduct is censurable. The actions of some police officers (as shown here) will surely rouse indignation among thousands of policemen in our city who carefully respect the rights of citizens and realize that their duty is to protect rights as well as to curb wrongs. The responsibility for a system and psychology which has developed in the course of years, cannot be placed on any individual. The opportunity however to correct present conditions is to a large extent in your hands, and we feel confident that you and Commissioner Valentine will seize that opportunity eagerly.



### RECOMMENDATIONS

In addition to the above recommendations we make the following: We urge that the Commissioner of Police arrange for the appointment of a Committee of from five to seven Harlem citizens of both races to whom colored people may make complaint if mistreated by the police. The Commissioner properly points out that he can do little to better conditions if complaints are not made to the Department. But to this the reply is that citizens are fearful of making complaints lest there be unpleasant consequences to them and they thereby gain the ill-will of the police. It is contended also that complaints are ordinarily referred back to the precinct where the incident arose and there pigeon-holed. We feel sure that the situation would be greatly improved if there were a body of citizens to sift all complaints and to take up with the Commissioner, personally if necessary, such cases as merit attention. We suggest that this committee might well also be an advisory committee, so that the head of the police may know exactly how his men are regarded by the citizens and what can be done to improve relations between citizens and their police guardians. The members of this committee should have the confidence of the people of Harlem, and they should include in their number one or more men who are dissenters from established institutions and also men who are likely to have contact with victims of injustice. Obviously the committee should be quite free of either political or police domination.

We recommend further that officers of the law who violate the law should not only be subject to investigation and punishment by the Police Department, but that action should be taken by the District Attorney, where it is warranted, just as vigorously as where any other person is charged with a crime. It is too readily assumed that an officer who kills or gravely injures a citizen is acting in the line of duty and must be upheld at any cost lest the authority of the police and their power be weakened. We recommend that in every case of a shooting by the police a most careful investigation should personally be made by one of the highest officials in the Department and the result of that investigation be communicated to the entire force, whether the result of the injury be censure or commendation. In either case the efficiency of the force would be improved.

We advise further that a system be devised by which, in the event of any further happening likely to cause grave public disorder, the Police Department would be in a position to set forth the truth by distributing leaflets and placards besides giving the public authoritative information from high officials in the Department as soon as possible. We have no doubt that radio stations owned by private interests would be glad to help in an emergency, in addition to the use of the city station, WNYC

It is idle to deny that the situation in Harlem remains serious and will continue to do so not only until the depression has passed but until the causes for the unhappiness of our fellow citizens residing there are removed. Until they are, Harlem will be a fertile field for radical and other propaganda. It is futile to condemn the propagandists or to denounce them for fishing in troubled waters. The only answer is to eliminate the evils upon which they base their arguments. The blame belongs to a society that tolerates inadequate and often wretched housing, inadequate and inefficient schools and other public facilities, unemployment, unduly high rents, the



lack of recreation grounds, discrimination in industry and public utilities against colored people, brutality and lack of courtesy of the police. As long as these conditions remain, the public order can not and will not be safe.

The present economic conditions may make difficult the carrying out of many recommendations concerning Harlem, but here is one problem that can be solved without the expenditure of money.

Respectfully submitted,

SUBCOMMITTEE:

OTHER MEMBERS OF GENERAL COMMITTEE

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