



Discipline in the NYPD
2019

Introduction

The vast majority of uniformed members of the service (UMOS) abide by the many laws, policies, procedures and rules governing the policing profession. Police work and police decision making in the field rely on the discretionary judgment of UMOS and their accumulated experience, as well as an adherence to guiding principles, to solve a variety of problems. Public trust is eroded each time the conduct of a UMOS does not conform to the values and standards of the New York City Police Department and the policing profession.

When an allegation of misconduct is substantiated, disciplinary action is imposed to:

- Correct employee misconduct;
- Maintain the orderly functioning of the department;
- Ensure compliance to high standards of conduct and establish appropriate consequences for the failure to comply; and
- Assure the public that the department will hold employees accountable for misconduct.

Discipline must be imposed fairly and with equity. **Fairness** within a discipline system means taking the time and effort to objectively review the circumstances surrounding the alleged misconduct, including the reliability, intention and motivation of all witnesses, impact of the misconduct on the department and members of the public, the absence, presence and extent of damages, the level of training of the UMOS in question, and the history of the UMOS with the department, as well as other mitigating and aggravating factors. **Equity** within a discipline system means holding all employees accountable for unacceptable behavior. Unacceptable behavior for one is unacceptable for all, regardless of rank, demographic, assignment, or tenure. Each disciplinary matter is unique, requiring a comprehensive analysis, and must consider the totality of the circumstances.

What is Investigated

The department receives complaints regarding a wide variety of employee behavior, and then conducts thorough investigations to ascertain the veracity of these complaints. Complaints are received from the public, as well as from department personnel who have an obligation to report corruption or other misconduct of which they become aware, or as the result of proactive investigations by various entities within the department itself.¹

Complaints can range from simple violations of department policies and procedures, to more serious allegations of misconduct. The most serious investigations involve allegations of unlawful

¹ The **Conflicts of Interest Board** is another independent city agency that refers alleged violations of the City's conflicts of interest laws to the Department of Investigation for further review. Numerous outside entities also examine policies and procedures of the Department regarding misconduct and discipline. The **Commission to Combat Police Corruption** performs audits, studies, and analyses of the Department's corruption controls. The **Inspector General for the New York City Police Department** investigates and makes recommendations regarding the operations, policies, programs, and practices of the Department.

behavior or criminal conduct. The department investigates allegations of criminal conduct in conjunction with the appropriate prosecutor's office. In these cases, administrative charges can also be levied because the offenses encompass corresponding violations of departmental policies and procedures.

Who Conducts the Investigation

The **Internal Affairs Bureau (IAB)** conducts comprehensive investigations of corruption and misconduct complaints, including criminal conduct, as well as other matters at the direction of the Police Commissioner. IAB uses all available investigative tools, including pattern analysis, surveillance, integrity tests, enhanced drug testing, confidential informants, and undercover officers to investigate incoming complaints as well as to conduct pro-active investigations. IAB works closely with investigation units located within the various bureaus of the department to assist in identifying and exposing corruption. At the precinct level, the **integrity control officer (ICO)** identifies and monitors misconduct within their designated jurisdictions, and assists IAB in any investigations that may arise.

The **Equal Employment Opportunity Division**, within the department's Office of Equity and Inclusion, investigates allegations of employment discrimination and harassment, as well as proactively trains and advises department employees on issues of equality and fairness in the workplace.

Civilian complaints against UMOS regarding excessive force, abuse of authority, discourtesy, and offensive language (known collectively as FADO complaints) are investigated by the **Civilian Complaint Review Board (CCRB)**. The CCRB is an independent city agency authorized under the New York City Charter to investigate FADO civilian complaints with the cooperation of the NYPD. The CCRB then submits its findings regarding each allegation of misconduct, as well as its disciplinary recommendations for substantiated complaints to the department. Under the terms of a memorandum of understanding between the NYPD and the CCRB, prosecutions for the most serious violations within these categories result in the filing of formal disciplinary charges and are handled by CCRB attorneys assigned to their Administrative Prosecution Unit.

To the extent any conduct by department employees is criminal in nature, New York City's **District Attorneys** and the **United States Attorneys' Offices** may also conduct investigations. Once it is ascertained that a department employee has engaged in possible criminal behavior, the department works closely with the relevant prosecutorial agencies to coordinate investigative efforts. This may result in both a criminal prosecution and an internal disciplinary proceeding, regardless of the outcome of the criminal matter.

The Disciplinary Process

When an allegation(s) of misconduct against a UMOS is investigated and evidence is found to show that the event did occur, that the UMOS in question engaged in the action, and that the act itself was a violation of department guidelines, the allegation is deemed by the investigator to be “**substantiated**.” Substantiated allegations of misconduct against a UMOS may result in disciplinary action.

Discipline in the police department is imposed in a variety of ways, largely determined by the seriousness of the substantiated misconduct allegation. The least serious violations result in “**instruction**,” a method of re-training through which a commanding officer instructs a UMOS on proper procedures, or a “**reprimand**,” where UMOS are admonished for low level violations. Other less serious violations of department policies can also be addressed through discipline imposed at the command level, called “**command discipline**.” Command disciplines allow a commanding officer to impose discipline without resorting to filing formal disciplinary charges.

The types of violations subject to punishment by command discipline are outlined in “Patrol Guide 206-03,” and include behavior such as improper uniform, reporting late for duty, and loss of department property. Depending on the severity of the violation, commanding officers may impose penalties that range from ‘warn and admonish’ to revoking up to ten days of vacation time.²

Most substantiated allegations of serious misconduct are handled by the **Department Advocate’s Office (DAO)**. Staffed by civilian attorneys, and augmented by a complement of uniformed and civilian personnel, the Department Advocate’s Office evaluates substantiated allegations of serious misconduct, files administrative charges known as “**Charges and Specifications**” against UMOS, recommends appropriate disciplinary penalties, and prosecutes disciplinary matters. UMOS who face disciplinary charges and specifications may elect to resolve the matter by entering into a **settlement agreement**. They also have the right to decline a settlement agreement and have the case heard at a **department trial**. Both settlement agreements and trial decisions are subject to the Police Commissioner’s approval.

When an NYPD UMOS is charged with a crime, the department also files internal disciplinary charges against the UMOS because criminal conduct always includes a corresponding violation of the department’s internal rules.

² There is also a provision that allows for a command discipline to be resolved with a penalty of up to the loss of twenty vacation days, however that is a hybrid procedure that involves consultation with the DAO, and a formal disciplinary review of the matter.

Resolution of Disciplinary Charges

Faced with disciplinary charges and specifications for substantiated allegations of misconduct or violations of department rules, New York City UMOS may agree to take responsibility for the charged misconduct, and accept a penalty by entering into a **settlement agreement** negotiated between the attorney for the UMOS, and the department. Cases falling under the jurisdiction of the CCRB go through a similar settlement process. The agreed-upon penalty is subject to the Police Commissioner's approval. Settlement terms are based on prior case precedent for similar misconduct, among other factors. Settlements benefit all parties involved by resolving and imposing penalties quickly and efficiently.

If a UMOS contests the charges, or does not agree to the proposed penalty, he or she has the legal right to a full *de novo* administrative hearing known as a **Department Trial**, a process overseen by the **Office of the Deputy Commissioner of Trials**. All UMOS are entitled to be represented by counsel, and the trial proceedings are open to the public. At trial, the Department Advocate's Office, or where applicable the CCRB Administrative Prosecution Unit, has the burden of proving the charges and is required to present evidence against the UMOS. The UMOS is entitled to cross-examine prosecution witnesses, present a defense to the charges, and/or present evidence in mitigation of the proposed penalty.³

The Office of the Deputy Commissioner of Trials conducts department trials in a fair and impartial manner, consistent with the rules and regulations governing administrative hearings, as well as the due process rights of the department's members. At the conclusion of a trial, the Trial Commissioner issues a report that includes an analysis of the evidence presented, a determination on witness credibility and a recommendation as to findings on each charge. Where there is a finding of guilt, the Office of the Deputy Commissioner of Trials recommends an appropriate penalty. All parties review the Trial Commissioner's report and are given an opportunity to submit written comments. The Trial Commissioner's report, and the written comments of the parties, are then submitted to the Police Commissioner for his review.

Regardless of the manner in which a department disciplinary case is resolved, be it by settlement agreement or department trial, the Police Commissioner, by law, makes the final disciplinary determination and penalty finding.

³ Section 75 of the New York State Civil Service Law mandates that permanent, competitive-class employees, including police officers, are entitled to certain rights prior to the imposition of any disciplinary action. These rights include notice of the charges, an opportunity to answer the charges (at a hearing or otherwise), representation at official interviews or disciplinary hearings, and the right to summon witnesses on the accused officer's behalf. *See also*, Title 38, Chapter 15 of the Rules of the City of New York and Section 14-115 of the Administrative Code of the City of New York.

Misconduct Categories

For the purposes of this analysis, the NYPD identified a top misconduct category for each Charges and Specifications case, by determining the most serious allegation in each case closed in 2019. The ten misconduct categories are set forth below:

Department Rule Violations - any act by a UMOS that violates the Department Manual, training, or any other policy or rule of the New York City Police Department.

Domestic Incident - when a UMOS engages in physical or other types of abuse of an intimate partner or member of the family.

DWI/Alcohol Related - when a UMOS drives while under the influence of an intoxicant, or is unfit for duty, while on- or off-duty, because of his or her ingestion of alcohol or any other intoxicant.

False Statements - when a UMOS makes a verbal or written statement that is misleading, that intentionally impedes an investigation, or that is intentionally false as to a material matter.

Firearms - any misconduct involving the illegal or improper possession, carrying, use, or discharge of a firearm, including on- and off-duty incidents.

Force - when a UMOS uses force during a police encounter that is either excessive for the situation, or was used in violation of the department's guidelines.

Misconduct Involving Public Interaction - any misconduct by an on-duty UMOS that occurred when he or she had contact with a civilian, including during law enforcement activities or any other dealings with the public.

Narcotics - when a UMOS illegally possesses, uses, or traffics illegal drugs, steroids, or any other prohibited substances.

Sexual Misconduct - when a UMOS engages in any sexual contact, including: verbal; text; social media; or physical sexual contact, or makes sexual requests of a prisoner or a complainant, or has any unwanted sexual contact with any person.

Unlawful/Criminal Conduct - any conduct committed by a UMOS, either on or off duty, that violates any criminal statute, irrespective of whether the officer was arrested or charged criminally.

Penalties

Final penalties imposed by the Police Commissioner are based upon a number of factors, which may differ from case to case.⁴ Factors that may be considered include, but are not limited to: the nature and seriousness of the misconduct, the circumstances under which the misconduct was committed, the impact of the misconduct on the department and the public, damages or injuries, relevant aggravating and mitigating factors, case precedent for similar infractions, and the UMOS's personnel record, including length of service, training, performance evaluations, honors and awards, his or her commanding officer's recommendation, and prior disciplinary history, if any. Penalties are designed to maintain a consistent level of discipline across the department's approximately 36,000 UMOS.

The most severe penalty the NYPD can impose is dismissal from the department. Lesser penalties include suspension without pay and the loss of vacation leave days. The allowable penalties are described below:

Reprimand

The least severe department penalty is a verbal or written admonishment from the UMOS's commanding officer or supervisor. This form of penalty may be documented in a UMOS's personnel file.

Penalty Days

The most common penalty imposed by the department in disciplinary matters is the loss of vacation days or the imposition of suspension days. By law, UMOS, like most city employees, may be suspended without pay for a maximum of 30 days per charge before they must be returned to salary. If a UMOS was immediately suspended from duty upon the discovery of misconduct, the forfeiture of suspension days imposed prior to the disposition of the case may also be considered as part of a disciplinary penalty.

Dismissal Probation

In serious cases of misconduct, the department may place a UMOS on dismissal probation in addition to imposing the loss of vacation days and/or suspending officers without pay. In these cases, the UMOS is dismissed from the Police Department, and he or she acknowledges that dismissal in writing, but the department delays the imposition of the dismissal for a one-year period during which the UMOS is placed on probation. During the one-year probationary period, the UMOS's conduct is monitored and evaluated on a monthly basis, and the UMOS's commanding officer is required to submit monthly reports assessing the officer's conduct. If the UMOS successfully completes the year on probation, the dismissal penalty will be waived and the UMOS returned to a non-probationary status. If, however, there is further misconduct within the probationary period, the department may summarily dismiss the UMOS without a hearing.

Dismissal probation is also used to enforce other conditions in disciplinary penalties; for example, when a UMOS has admitted to, or been found guilty of, an alcohol-related offense, they may also

⁴ See Appendix A for text of NYC Administrative Code § 14-115 pertaining to discipline of members.

be required to attend counseling services or submit to alcohol testing. Such UMOS may be placed on dismissal probation to ensure their continued cooperation with counseling services, and to allow the department to take immediate action against them if they do not successfully complete the mandated program(s).

Dismissal or Forced Separation

The maximum penalty the department can impose in a disciplinary case is dismissal from the department. Under appropriate circumstances, the department may require that a UMOS separate from the department, in lieu of dismissal, as part of a disciplinary settlement agreement. In these cases, the officer may be entitled to all or part of their accrued pension benefits, as governed by New York State pension laws.

Additional Sanctions

In addition to the penalties outlined above, the department may require UMOS to participate in **formal re-training, non-punitive counseling, or monitoring programs**⁵, designed to address the type of misconduct in which they were involved. For example, a UMOS guilty of alcohol abuse may be required to attend counseling or to submit to ordered breath testing, a process by which a UMOS is randomly notified for alcohol testing. In limited circumstances, the department may opt to place an official **letter of instruction** in a UMOS's personnel file to address low level misconduct, or misconduct which has passed the administrative statute of limitations.

Limited fines or restitution in the form of payments to the city may also be imposed.

Finally, the Police Commissioner may determine that due to the misconduct it is in the best interests of the department to **demote** a probationary supervisor or an officer who has received a discretionary promotion, and/or administratively transfer a UMOS to a different precinct or command.

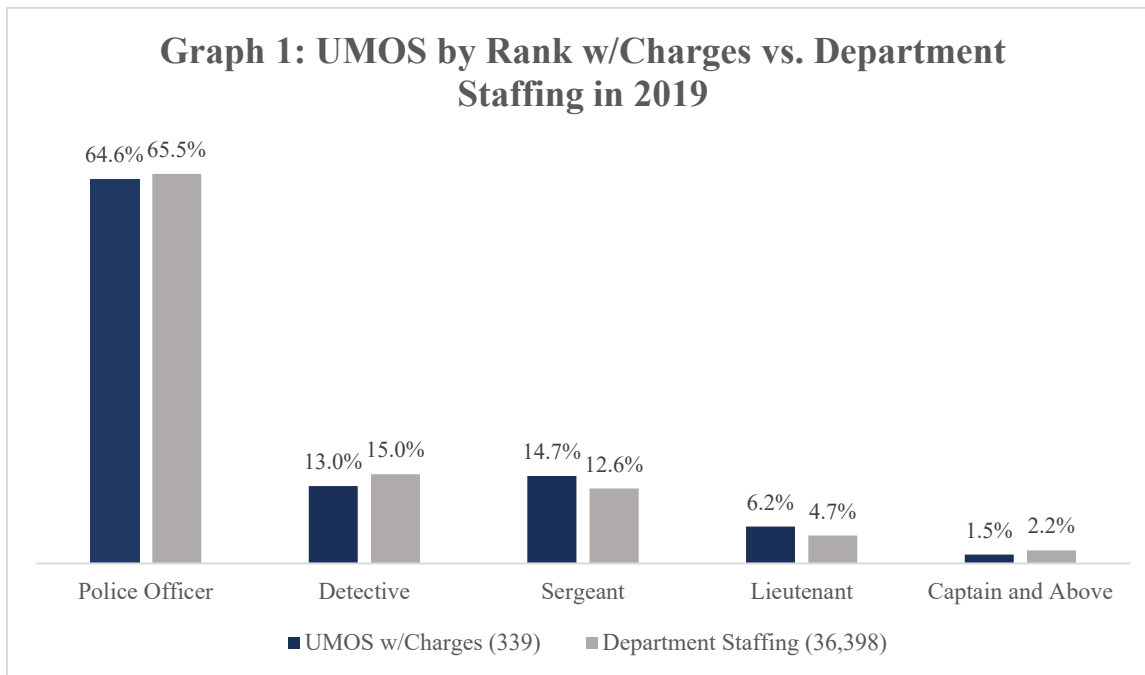
⁵ UMOS placed in a monitoring program as a result of a disciplinary penalty are subject to increased supervision, a change of assignment, more frequent evaluations, and restrictions on hours worked, assignments and off-duty employment. Additionally, UMOS in monitoring may not be promoted or eligible for specialized assignment.

Overview of 2019 Disciplinary Cases⁶

In calendar year 2019, the NYPD closed discipline cases which involved 339 UMOS as respondents. This total does not include UMOS who received command level discipline. The tables below reflect the percentage of UMOS by rank whose disciplinary cases were resolved in 2019.

Rank	Total	% of Total	% Dept. Staff ⁷
Police Officer	219	64.6%	0.6%
Detective	44	13.0%	0.1%
Sergeant	50	14.7%	0.1%
Lieutenant	21	6.2%	0.1%
Captain and Above	5	1.5%	0.0%
Total	339	100.0%	0.9%

- The 339 UMOS with disciplinary cases represent 0.9% of the department's staff during 2019.



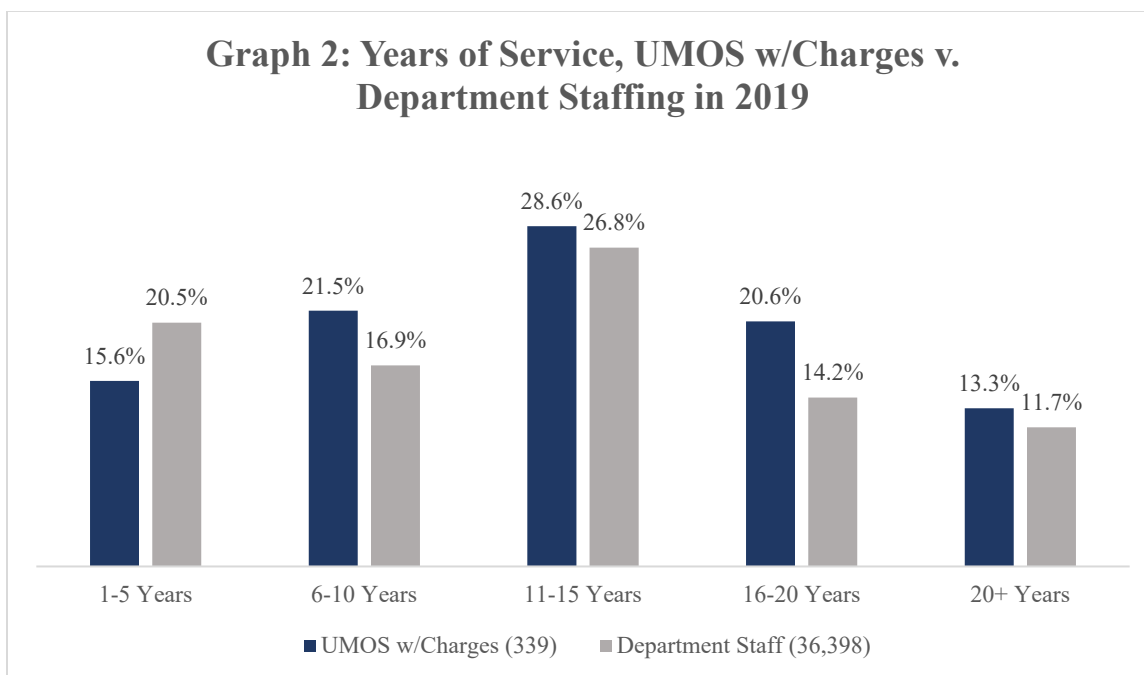
- In 2019, 64.6% of uniform personnel with disciplinary charges were police officers. Police officers represented 65.5% of the department's uniform staff.
- 14.7% were sergeants, who represent 12.6% of the department's total uniform staff.
- 6.2% were lieutenants, who represent 4.7% of the department's total uniform staff.

⁶ All figures are preliminary and subject to further analysis and revision.

⁷ Department staffing numbers are based on an average of 12 monthly snapshots taken throughout the year.

The table below shows UMOS whose disciplinary cases were resolved in 2019, by years of service.

Table 2: UMOS by Years of Service with Disciplinary Charges in 2019		
Years of Service	Total	% Total
1-5 Years	53	15.6%
6-10 Years	73	21.5%
11-15 Years	97	28.6%
16-20 Years	70	20.6%
21+ Years	46	13.3%
Total	339	100%



- 50.2% of UMOS with disciplinary charges in 2019 had between six and fifteen years of service.
- UMOS with six to ten years of service represent 16.9% of the department’s total uniform personnel, while UMOS with 11 to 15 years of service represent 26.8% of the department’s uniform personnel.

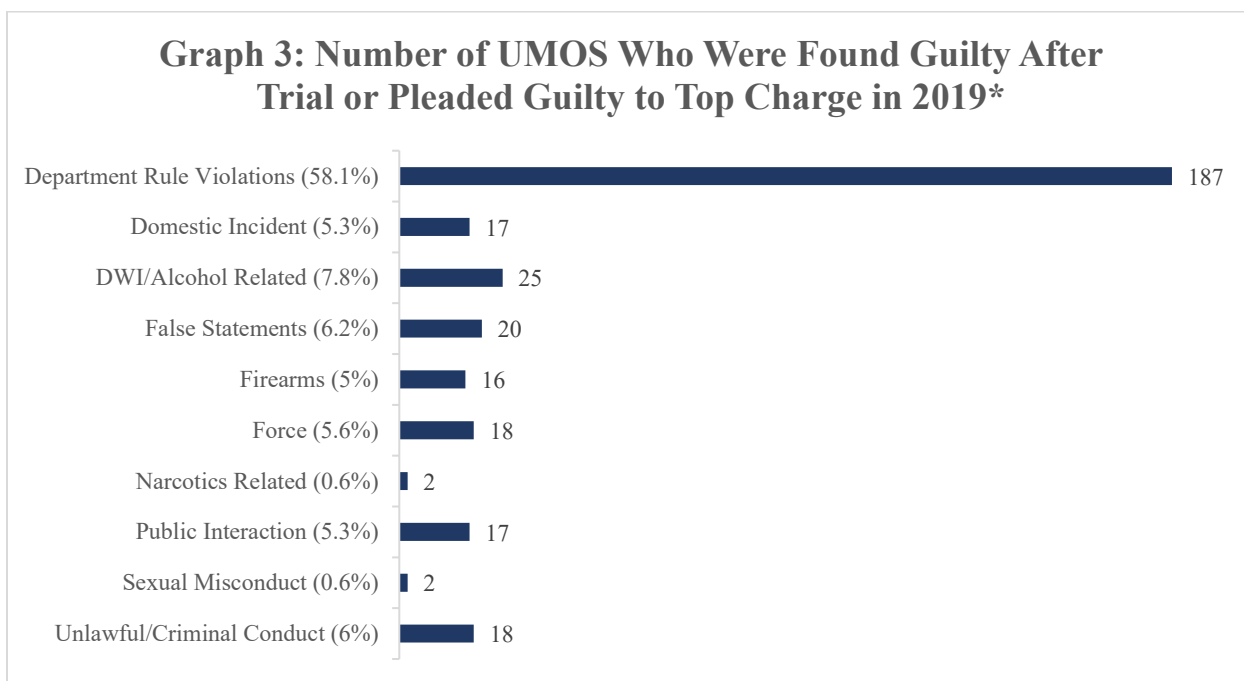
The table below illustrates the total number of UMOS served with charges by category, the number of UMOS who pleaded or were found guilty after trial as opposed to the number found not guilty after a department trial, and the breakdown of penalties imposed for each category of violation. In 2019, there were 79 department trials. Of these, 13 UMOS pled guilty to the underlying charges and had a mitigation hearing, 49 were found guilty of at least one charge after trial, and 17 UMOS were found not guilty of all charges.

Table 3: 2019 Disciplinary Charges to Penalties								
2019	Total Officers	Not Guilty**	Pleaded /Found Guilty***	Dismissed	Forced Separation	Dismissal Probation & Penalty Days	Penalty Day	Reprimand
Department Rule Violations	189	2	187	1	5	46	135	0
Domestic Incident	17	0	17	1	2	8	6	0
DWI/Alcohol Related	26	1	25	1	4	19	1	0
False Statements	20	0	20	1	2	12	5	0
Firearms	16	0	16	1	0	1	14	0
Force	26	8	18	2	0	1	15	0
Narcotics Related	2	0	2	0	1	1	0	0
Misconduct Involving Public Interaction	23	6	17	0	0	0	17	0
Sexual Misconduct	2	0	2	1	0	1	0	0
Unlawful/Criminal Conduct	18	0	18	2	3	5	8	0
Total	339	17	322	10	17	94	201	0

**This number includes officers who were found not guilty of all charges after trial.

***This number includes officers who pled guilty and entered into settlement agreements, pled guilty and testified in mitigation of the penalty, and those who were found guilty after trial.

The majority of charges involved violations of department rules (189 UMOS) and DWI/alcohol related or force related infractions (26 UMOS each). Twenty-six percent of UMOS who pleaded guilty or were found guilty of charges after trial had no prior disciplinary history.



*Percentages based on total number of UMOS who pleaded or were found guilty of disciplinary charges after trial.

The graph above outlines the top charges served to the 322, or 95%, of UMOS charged with a disciplinary case who pleaded guilty and entered into settlement agreements or were found guilty after trial.

Of the 322 UMOS that pleaded or were found guilty after trial:

- 3.1% were dismissed from the department.
- 5.3% submitted for service or vested retirement from the department. The top three charges for forced separation were department rule violations, DWI/alcohol related infractions, and unlawful/criminal conduct.
- 29.2% resulted in dismissal probation with forfeited penalty days. The top two charges for those receiving this combination of penalties were violation of department rules and DWI/alcohol-related.
- Reprimand was not used as a penalty in any disciplinary cases closed in 2019.

Appendix A (Text of NYC Administrative Code)

NYC Administrative Code § 14-115

a. The commissioner shall have power, in his or her discretion, on conviction by the commissioner, or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith into the police pension fund.

b. Members of the force, except as elsewhere provided herein, shall be fined, reprimanded, removed, suspended or dismissed from the force only on written charges made or preferred against them, after such charges have been examined, heard and investigated by the commissioner or one of his or her deputies upon such reasonable notice to the member or members charged, and in such manner or procedure, practice, examination and investigation as such commissioner may, by rules and regulations, from time to time prescribe.

c. The commissioner is also authorized and empowered in his or her discretion, to deduct and withhold salary from any member or members of the force, for or on account of absence for any cause without leave, lost time, sickness or other disability, physical or mental; provided, however, that the salary so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence; and provided, further, that not more than one-half pay for three days shall be deducted on account of absence caused by sickness.

d. Upon having found a member of the force guilty of the charges preferred against him or her, either upon such member's plea of guilty or after trial, the commissioner or the deputy examining, hearing and investigating the charges, in his or her discretion, may suspend judgment and place the member of the force so found guilty upon probation, for a period not exceeding one year; and the commissioner may impose punishment at any time during such period.