

2020 Discipline Report



NYPD
New York City Police Department



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Discipline in the NYPD 2020

**DERMOT SHEA
POLICE COMMISSIONER**

Executive Summary

"The Department is committed to expeditious adjudication of disciplinary matters and is currently working to improve its proficiency and shorten timelines."

The New York City Police Department is committed to a fair, effective, timely, and transparent disciplinary process. This report includes information regarding recidivist officers, the speed of the discipline process, and demographic information about subject employees. Proceedings initiated by the Civilian Complaint Review Board (CCRB) are now disaggregated.

The vast majority of the Department's employees abide by the many laws, policies, procedures, and rules governing the policing profession. Police work and police decision making in the field relies on the officer's discretionary judgment and 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 member of the service 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 and prevent 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 employee in question; the history of the employee 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.

In 2020, over 12,000 penalty days¹ were forfeited by members of the service in regard to disciplinary cases. This represents an increase of 8.1% (12,034 vs. 11,132) from 2019. Additionally, 49 members were subject to a forced separation from Department employment in 2020 as a result of disciplinary matters. As of December 31, 2020, there were 1,034 active cases with charges preferred against members of the service. The Department preferred the overwhelming majority (89% or 920) of these cases, while only 11% (114) were preferred by the CCRB. As of December 31, 2020, only 506 (1.4%) uniformed members of the

service (UMOS) had active charges and specifications².

The Department is committed to expeditious adjudication of disciplinary matters and is currently working to improve its proficiency and shorten timelines. On average, over the last three years (2018, 2019, and 2020), cases the Department Advocate (DAO) has prosecuted have concluded 289 days faster (447 vs. 736) than cases the CCRB-Administrative Prosecution Unit (CCRB-APU) has prosecuted. While CCRB cases do take longer, this timeline includes periods of time when DAO is reviewing a case or settlement agreement, the time it takes to serve the charges, the trial itself, and the Police Commissioner's review and consideration process.

The Department has recently made transformative changes to the disciplinary process with regard to transparency and accountability. Effective January 15, 2021, the Department publicly released its disciplinary penalty guidelines. The guidelines, a recommendation from a blue-ribbon panel of former prosecutors and judges convened for the evaluation and improvement of the Department's disciplinary system, publicly establishes penalty guidelines for an array of infractions and offenses. In February of 2021, the Department and the CCRB released a memorandum of understanding wherein both parties agreed to use the disciplinary penalty guidelines as a framework for discipline

¹ An aggregate of suspension and vacation days uniformed and civilian members were penalized in 2020.

² The Department had 35,386 uniformed members of the service and 18,497 civilian members of the service as of December 31, 2020.

recommendations, and to notify each other in writing if deviating from the guidelines. The Department posts these written explanations on NYPD Online. Continuing its efforts towards transparency, the Department created the Officer Profile Portal in March of 2021. This publicly accessible database, located at NYPD Online, allows users to search by specific UMOS and view various employment related data points. The disciplinary tab on the officer profile displays the date of any charges, a description of the charges, the disposition, and the penalty, if any. In addition, the Department is uploading its trial decisions library to its public website. The creation and posting of the Officer Profile Portal, as well as this report, are proactive steps taken by the Department to be more transparent.

- PERSONNEL
- OFFICER PROFILE**
- TRIAL DECISION LIBRARY
- TRIAL CALENDAR
- OUR DISCIPLINE MATRIX
- DEVIATION LETTERS
- REFORMS TO THE NYPD DISCIPLINARY SYSTEM
- CIVILIAN COMPLAINTS (CCRB)
- CIVIL LAWSUITS (LAW DEPT.)
- FAQ

OFFICER PROFILE

The Officer Profile provides a variety of information about active, uniformed member's work and disciplinary history, and is continually updated. Due to the multiple stakeholders that touch the discipline process, different systems used to capture dispositions, as well as the amount of older, often paper, records, the NYPD continues to work on increasing the data available on platform. There are several tabs on the Officer Profile, each displaying different data:

- **Rank and Shield History:** Lists a member's rank and shield history. Please note that only members in the ranks of Police Officer, Detective, and Sergeant are issued shield numbers.
- **Department Recognition & Awards:** Lists various Department commendations that the member has received. Please note that this tab currently only displays Department recognition. Additional recognitions awarded by civic associations, community councils and organization, and other local honors are not yet displayed.
- **Training Summary:** A comprehensive list of the various trainings, including in-service, promotional, and other modules, that members have received. Some older trainings may not be reflected in this tab, as the Training Database has evolved over time.
- **Disciplinary History:** Currently displays charges and specifications and corresponding penalties resulting from a plea of guilty, plea of nolo contendere, or a finding of guilty after trial. Cases from occurred 2010 – 2021 are displayed at this time. (Note: The date indicated is the date the charges were approved).
- **Arrests Processed:** Provides a record of arrests processed by the member, grouped by classification.
- **Documents:** Displays a portion of final PDF trial decisions from 2013 – 2021 adjudicated by the Office of the Deputy Commissioner, Trials. The NYPD is in the process of preparing more decisions for publication, and they will be added as they become ready. (Note: The date indicated is the date of the Police Commissioner's final approval of the decision and the discipline.)

The NYPD will continue to work towards increasing transparency by expanding the information displayed on this site:

- Additional trial decisions and Disciplinary History cases, including other years and dispositions.
- Display disciplinary actions beyond charges and specifications.

DATA LIMITATIONS

The New York City Police Department's data regarding formal discipline is stored in a case management style database. The purpose of this database is to manage cases throughout the disciplinary process, not for the cataloging and manipulation of data. The complexity of individual cases makes lateral comparisons difficult. Mitigating or aggravating factors, the number of charges per case, and the respondent's disciplinary history make every case unique. Therefore, attempting to correlate one case to another for analytical purposes proves problematic. Accordingly, this report analyzes broad data points that are consistent in the case management system (e.g., intake volume, active cases, case length, separations, etc.).

2020 AND DISCIPLINE

Extraordinary factors, unique to 2020, impacted all aspects of the disciplinary process. COVID-19 disrupted the investigatory process by initially canceling, then limiting, in person interviews of complainants, witnesses, and subject officers. This caused a ripple effect throughout the rest of the disciplinary system, as cases were not being referred at the normal rate. Department trials were initially halted and then transitioned to remote trials, but reopened quickly in June of 2020 with the personnel assigned to the Deputy Commissioner of Trials going to great lengths (retrofitting trial rooms with plexiglass, disinfecting witness stands after each witness, etc.) to hold trials. In addition to the impacts of COVID-19, the civil unrest that engulfed the city in June of 2020 significantly impacted disciplinary proceedings as all full duty uniformed members were assigned to civil disorder details. The temporary reassignment of uniformed members of the service assigned to units such as the Internal Affairs Bureau paused interviews and investigations.

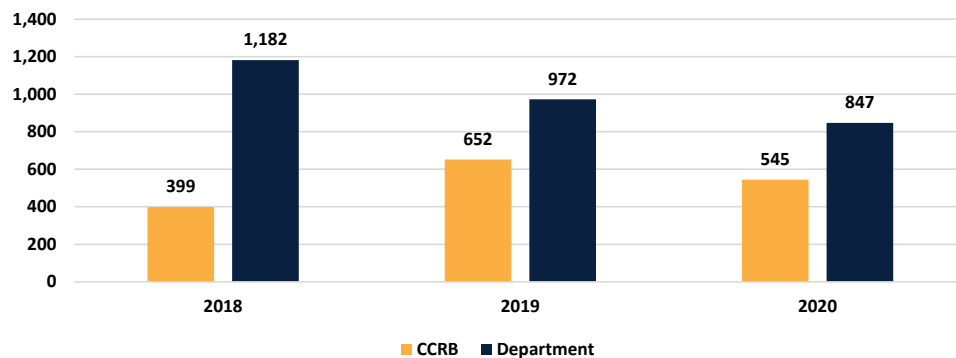


Disciplinary Case Origins

CALENDAR YEAR INTAKE

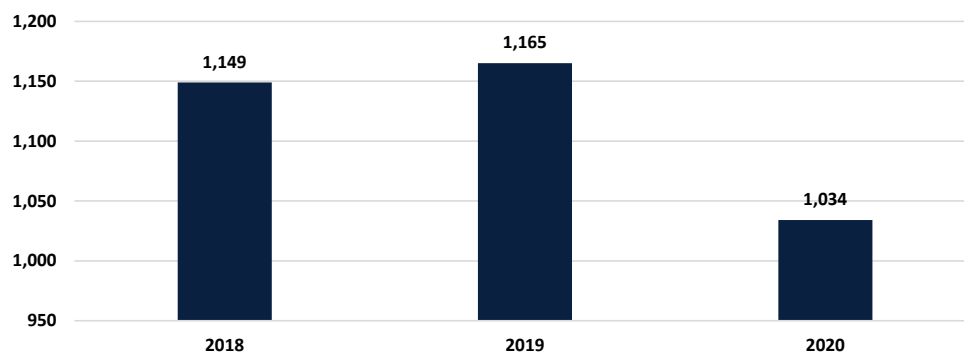
Cases are generated in the disciplinary system by either the Department or CCRB. Historically, the vast majority of disciplinary matters are generated by the Department. This trend continued during 2020. Of all the active cases in 2020, 89.0% (920) were cases initiated by the Department and 11.0% (114) were cases from the CCRB. The following chart illustrates the intake of individual entries into the Department's disciplinary case management system. An entry is created in the disciplinary case management system when the Department Advocate receives a disciplinary matter for review. Some of these cases will result in charges and specifications and some will result in less than charges and specifications. Such outcomes include recommendations for officer re-training on a specific law enforcement subject or a command discipline.

Disciplinary Intake by Calendar Year



In 2020, the Civilian Complaint Review Board (CCRB) forwarded 545 cases to the Department Advocate for review. The CCRB recommended charges and specifications in 5.3% (29) of these cases. The remaining 94.7% (516) of disciplinary matters were recommended to be less than charges by the CCRB.

Active Cases: Charges Preferred

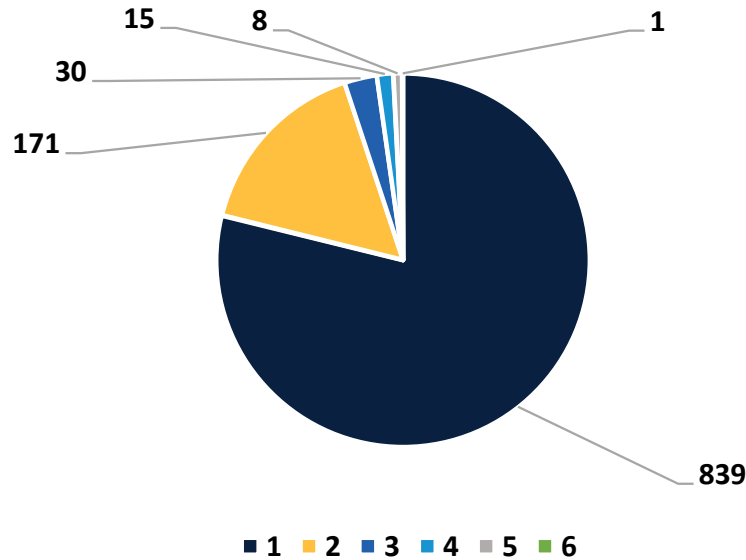


The above chart illustrates the inventory of cases (with charges preferred) from the disciplinary case management system that were active on December 31st of the respective year. Cases frequently transcend calendar years. The above chart captures the year in which a case was active (as of December 31st) and not necessarily the year in which the case originated or was closed.

RECIDIVISM

Out of the 35,386 active uniformed members of the service (as of December 31, 2020), 1,064 have received charges at some point in their entire career. Of these, 225 have received charges more than once. The following chart illustrates active uniformed members of the service who have had charges preferred (at any point in their career) and how many distinct times these active uniformed members have been served with charges.

Disciplinary Recidivism Among Active Uniformed Members of the Service



The number of uniformed members who have ever received charges during their career represents 3.0% of the Department's uniformed members. Of the active uniformed members who have had charges preferred against them, 78.9% (839) received charges only once in their career. The following table depicts active members of the service with charges, the number of times the member received charges, and percentage this group makes up of the overall Department.

Disciplinary Recidivism Among Active Uniformed Members of the Service		
Frequency of Charges	Active Uniformed Members with Charges	% of Department
1	839	2.4%
2	171	0.5%
3	30	0.1%
4	15	0.0%
5	8	0.0%
6	1	0.0%
Total	1,064	3.0%

Timely Prosecutions

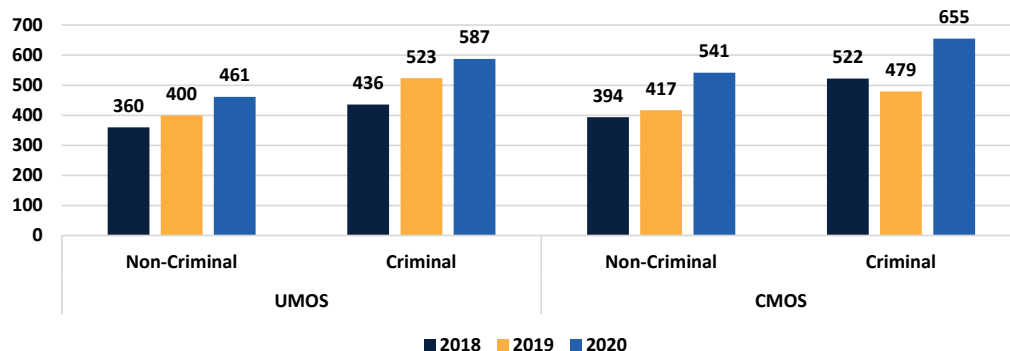
Over the last three years, on average, cases prosecuted by the Department Advocate’s Office have been resolved in 447 days (an aggregate of UMOS/CMOS). Cases involving uniformed members of the service were resolved in 407 days (on average) for disciplinary matters that did not have a parallel criminal investigation against a subject officer, and in 515 days (on average) for cases that did have parallel criminal investigations against a subject officer. Over the same time frame, cases involving civilian members of the service (CMOS) were resolved in an average of 450 days for disciplinary matters that did not have parallel criminal investigations and 552 days for disciplinary matters that did involve a parallel criminal investigation.

Historically, disciplinary cases involving a parallel criminal prosecution take longer to resolve because the Department, at times, defers the administrative cases until the conclusion of the criminal prosecution. When a member of the service is charged with a crime, the Department also files internal disciplinary charges against the member because criminal conduct always constitutes a violation of Department policy. Under the appropriate circumstances, the Department’s internal disciplinary case may proceed on a parallel track to the criminal case. However, in some cases, the disciplinary case

may be deferred until after the criminal prosecution has been fully resolved. The determination to move ahead with a disciplinary proceeding is fact-specific and will be undertaken if the disciplinary proceeding can be accomplished without compromising the criminal prosecution. In making the decision, the Department will always consult with, but not necessarily defer to, the appropriate prosecutorial authority and will consider any issues or concerns presented.

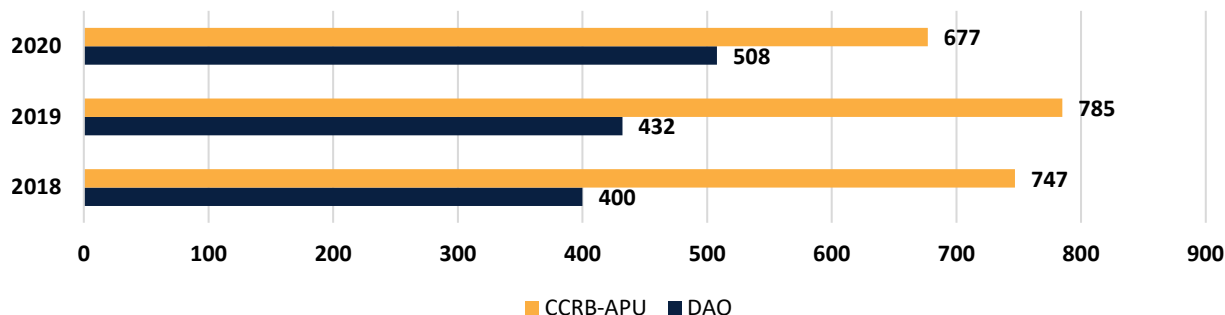
Cases reach their ultimate conclusion when the Police Commissioner grants final approval, and discipline is imposed. It should be noted that the COVID-19 pandemic adversely impacted the 2020 averages, due to the inherent difficulties of transforming an in-person process to a virtual process.

Average Days From Charges Preferred to Police Commissioner's Approval



The following chart shows the average number of days from the date charges were served on a Department employee (“preferred”) to the date the Police Commissioner granted final approval, disaggregated by prosecuting entity.

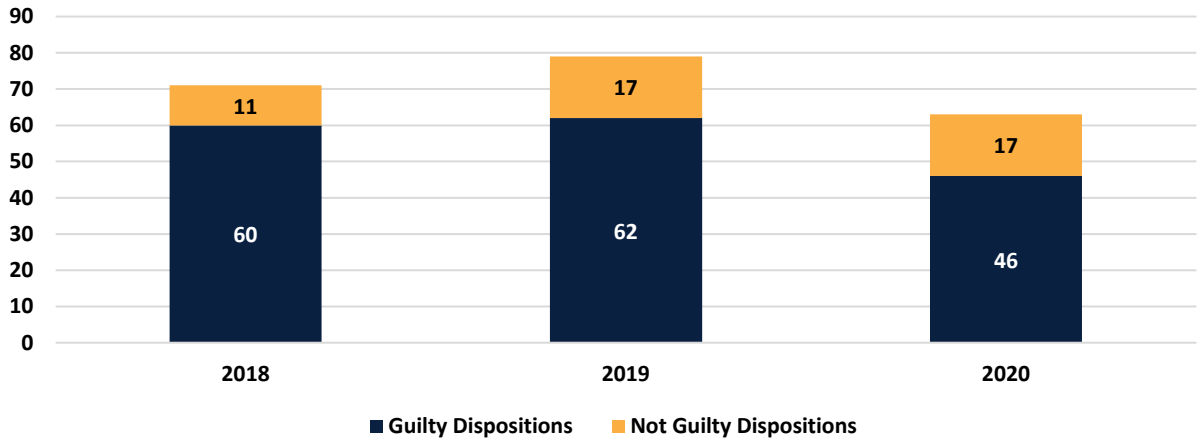
Average Days From Charges Preferred to Police Commissioner's Approval (DAO vs. CCRB-APU)



TRIAL DISPOSITIONS

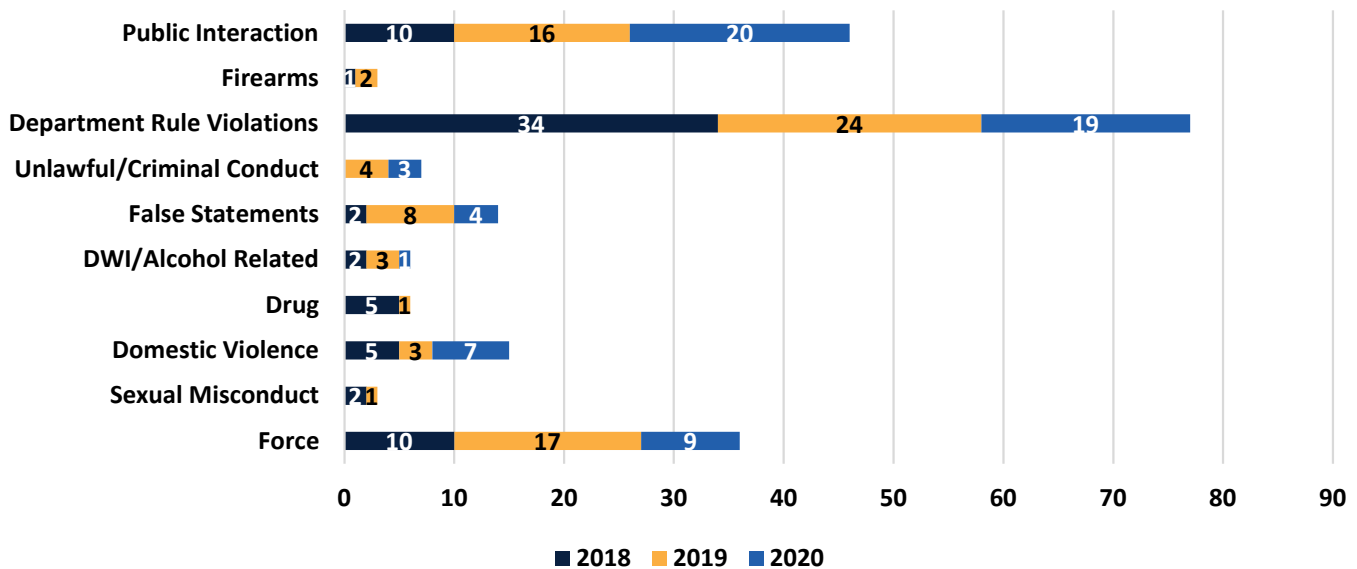
When members of the service receive charges, they may enter into a settlement agreement or elect to have a Department trial. The Office of the Deputy Commissioner of Trials is responsible for administering Department trials in accordance with applicable laws, regulations, and policies. These trials are open to the public and the trial calendar is published on the Department's public website. Trial decisions are also published on the NYPD Online website.

Trial Dispositions



In 2020, the number of disciplinary cases resolved at trial decreased by only 20.3% (63 vs. 79) despite the impact of COVID-19. The conviction rate for cases that went to trial in 2020 was 73.0%.

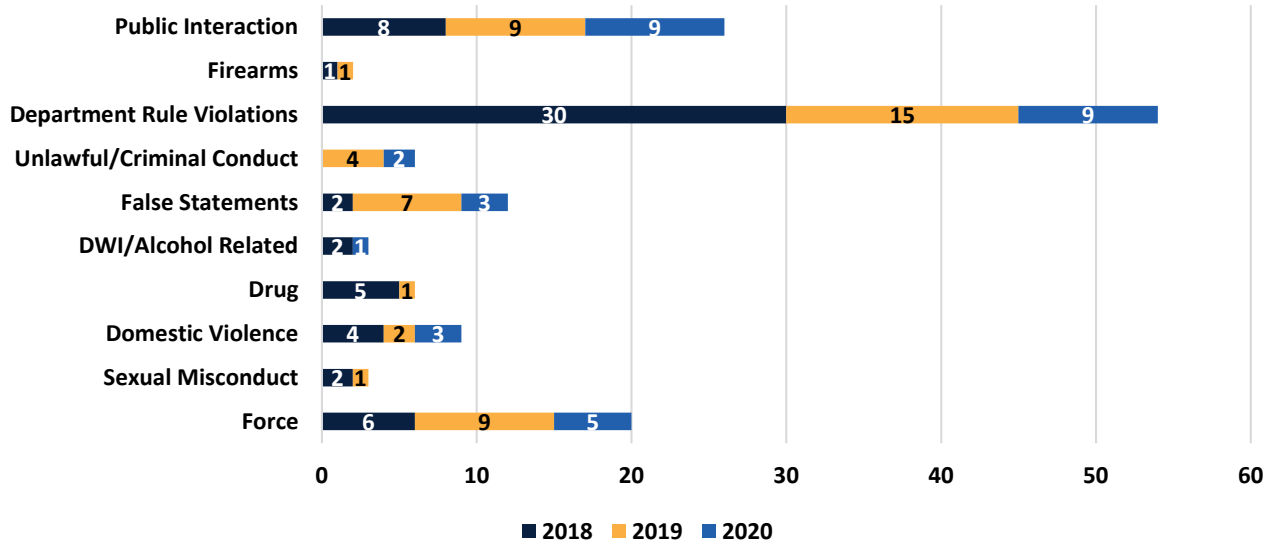
Completed Trials: Totals by Misconduct Category



Force misconduct trials decreased 47.1% (9 vs. 17) compared to 2019, while public interaction misconduct trials increased 25.0% (20 vs. 16) compared to 2019. The Department tried all force cases referred to it by CCRB in 2020.

Completed Trials: Guilty Dispositions by Year

Note:
the chart on the right does not contain guilty pleas; the chart only reflects cases in which UMOs were found guilty after trial.



The percent of guilty dispositions in force misconduct trials was 55%, (5 of 9) compared to 53% (9 of 17) in 2019. The conviction rate in public interaction trials was 45% (9 of 20) in 2020 compared to a conviction rate of 56% (9 of 16) in 2019.

UMOS Trials Completed by Misconduct Category 2020							
Misconduct Category	Total	Not Guilty	Found Guilty	Pled Guilty	Termination/ Forced Separation	Dismissal Probation & Penalty Days	Penalty Days
Force	9	4	5	0	0	1	4
Sexual Misconduct	0	0	0	0	0	0	0
Domestic Violence	7	2	3	2	2	3	0
Drug	0	0	0	0	0	0	0
DWI/ Alcohol Related	1	0	1	0	0	1	0
False Statements	4	1	3	0	1	2	0
Unlawful/ Criminal Conduct	3	0	2	1	3	0	0
Department Rule Violations	19	1	9	9	3	6	9
Firearms	0	0	0	0	0	0	0
Public Interaction	20	9	9	2	0	1	10
Totals:	63	17	32	14	9	14	23

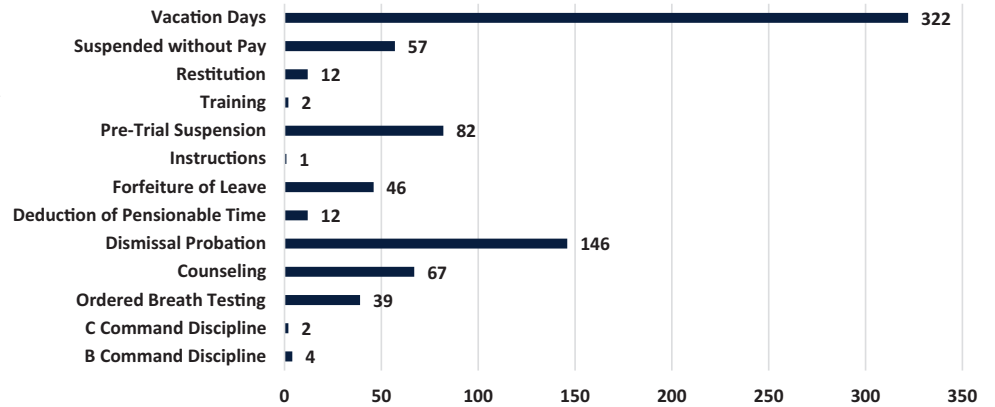
Guilty dispositions (when including plea agreements) were recorded in 73.0% (46 of 63) of cases.

Penalties

2020 CLOSED CASES

In 2020, 619 cases (in which charges were preferred) were disposed of with a penalty. Uniformed members of the service comprised 489 (79.0%) of these cases, while civilian members of the service constituted the remaining 130 cases (21.0%). Each of these cases potentially had more than one set of charges. It should be noted that although the cases were closed in 2020, it does not necessarily mean the cases originated in 2020. The following chart illustrates categories of penalties associated with these closed cases (not including separations).

2020 UAMOS Closed Case Penalties
(less separations)

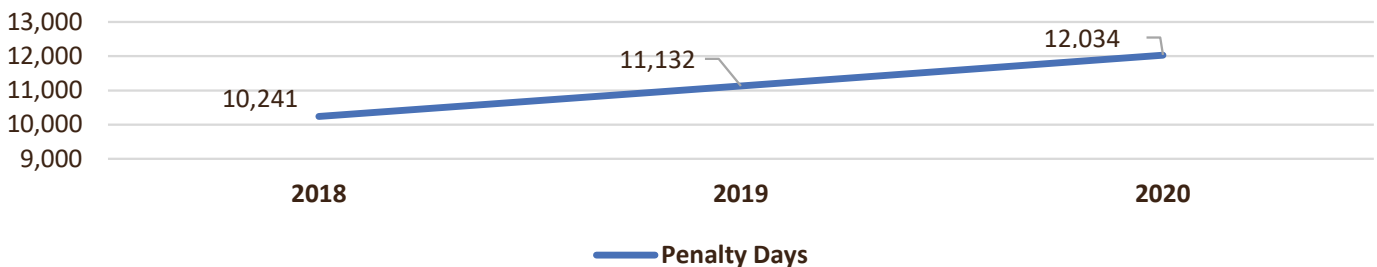


The above chart represents a count of how many times each type of penalty was imposed. It should be noted that often, more than one type of penalty is imposed for a single case (e.g., a suspension followed by counseling and ordered breath testing).

PENALTY DAYS TAKEN IN DISCIPLINARY CASES

In 2020, the Department recorded an increase of 8.1% (12,034 vs. 11,132) in the number of penalty days taken from members of the service. The number of days deducted in 2020 represents a 17.5% (12,034 vs. 10,241) increase from 2018.

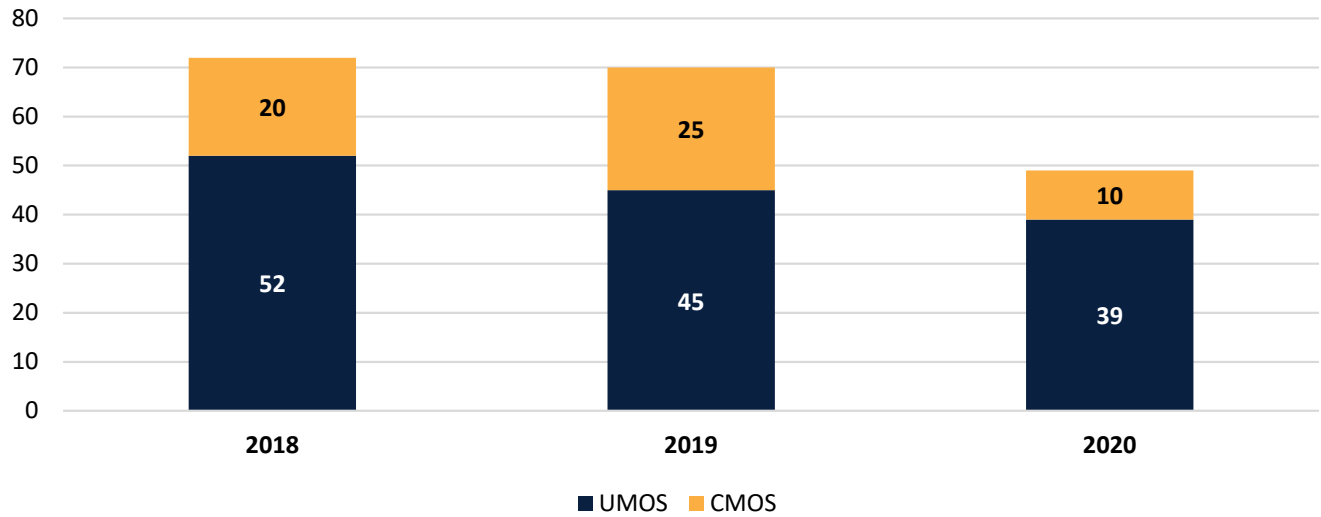
Penalty Days by Calendar Year



SEPARATIONS

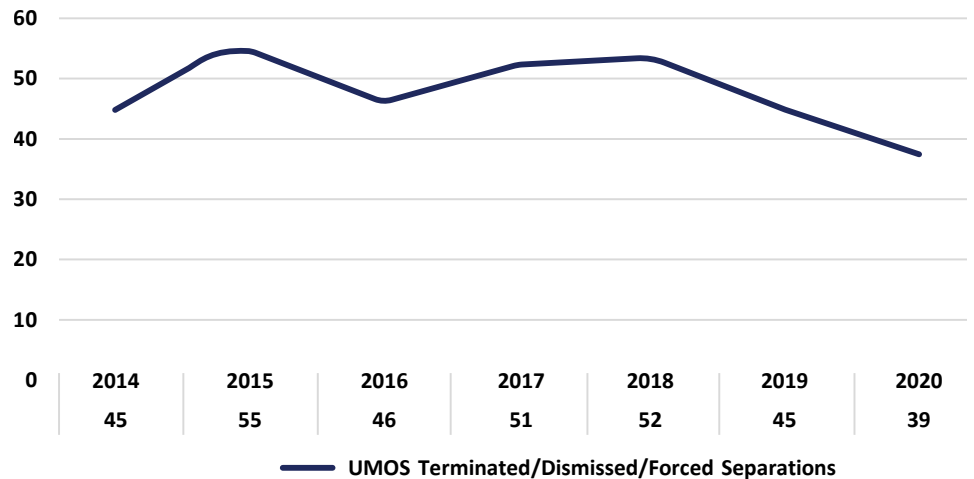
Although COVID-19 impacted the Department’s ability to conduct disciplinary proceedings, resulting in fewer trials and thus a lower absolute number of separations, the outcome of a case was a forced separation in 49 cases. The Office of the Deputy Commissioner of Trials prioritized cases involving separations in 2020.

Forced Separations by Calendar Year



Historical Separations of UMOS

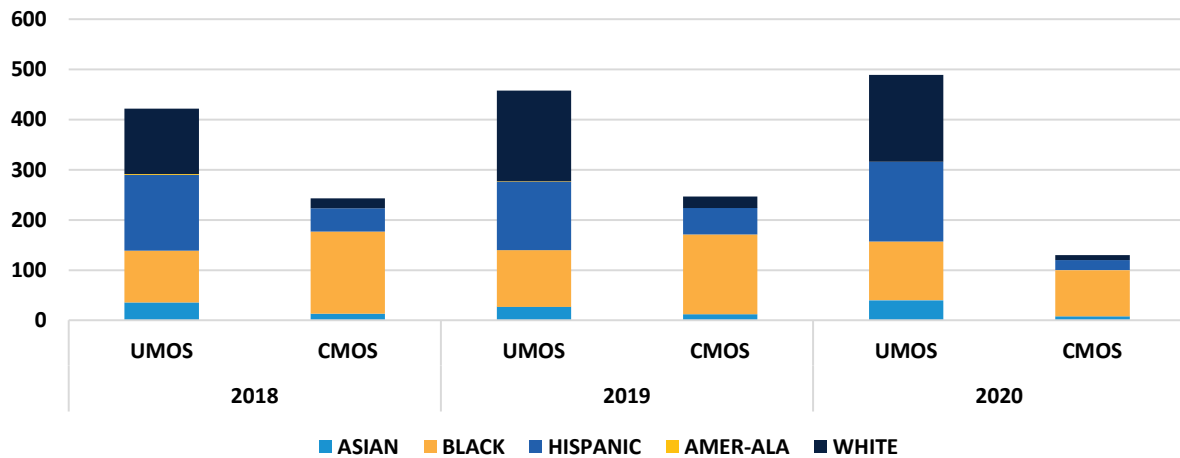
On average (from 2014-2020), there were approximately 48 terminations, dismissals, or forced separations of uniformed members of the service per year.



Personnel Demographics

The following data illustrates disciplinary cases in which charges were preferred. A case may have more than one charge associated with it and is counted in the year in which the case is closed, as cases may span more than one calendar year. A respondent may have more than one case.

Demographics of Members of the Service: Disciplinary Cases (Charges Preferred)



The following table depicts the total number of UMOs in the Department (by race), the percent of UMOs that race represents, the number and percent of individual closed cases (charges preferred) associated with a member of that race, and the percentage that group makes up of their unique race.

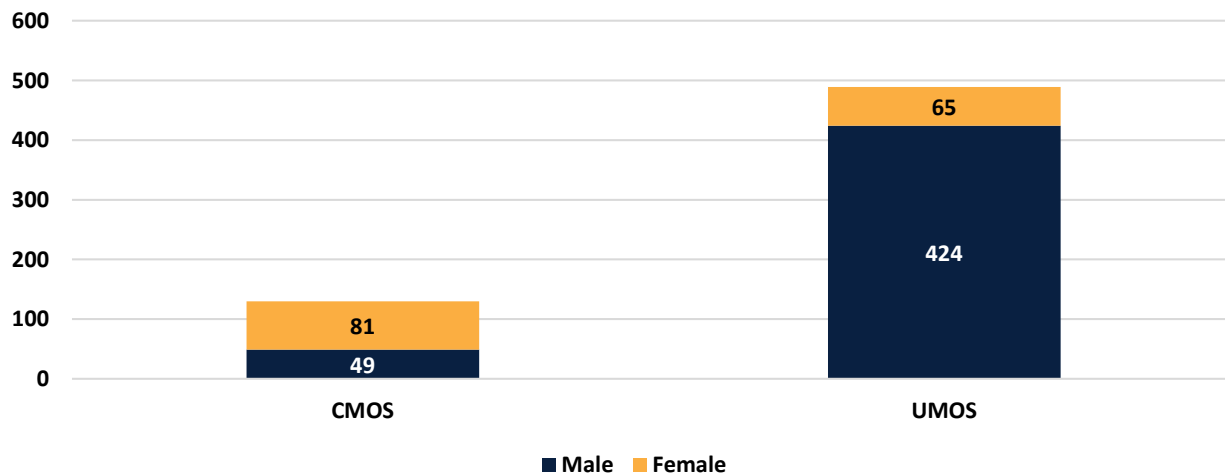
UMOS 2020 Disciplinary Case Demographics					
Race	# of UMOs	% of UMOs	# of Closed Cases	% of Race	% of Cases
White	16,632	47.0%	173	1.0%	35.4%
Black	5,366	15.2%	117	2.2%	23.9%
Hispanic	10,269	29.0%	159	1.5%	32.5%
Asian-Amer-Pac-Isl	3,092	8.7%	40	1.3%	8.2%
Amer-Ind-Alaskan	26	0.1%	0	0.0%	0.0%
Total	35,386	100.0%	489	1.4%	100.0%

The following table depicts the total number of CMOS in the Department (by race), the percent of CMOS represented by that race, the number and percent of individual closed cases (charges preferred) associated with a member of that race, and the percentage that group makes up of their unique race.

CMOS 2020 Disciplinary Case Demographics					
Race	# of CMOS	% of CMOS	# of Closed Cases	% of Race	% of Cases
White	2,861	15.5%	10	0.3%	7.7%
Black	9,027	48.8%	92	1.0%	70.8%
Hispanic	4,206	22.7%	20	0.5%	15.4%
Asian-Amer-Pac-Isl	2,362	12.8%	8	0.3%	6.1%
Amer-Ind-Alaskan	41	0.2%	0	0.0%	0.0%
Total	18,497	100.0%	130	0.7%	100.0%

In 2020, male uniformed members of the service constituted 86.7% of the closed disciplinary cases (when charges were preferred). Males comprise 81.5% of all Department employees. In juxtaposition to uniformed members, females made up the majority (62.3%) of closed disciplinary cases (when charges were preferred) involving civilian members.

Gender of Members of the Service: Disciplinary Cases (Charges Preferred)



The following table depicts the total number of UMOs in the Department (by gender), the percent of UMOs represented by that gender, the number and percent of individual closed cases (charges preferred) associated with a member of that gender, and the percentage this group makes up of their unique gender.

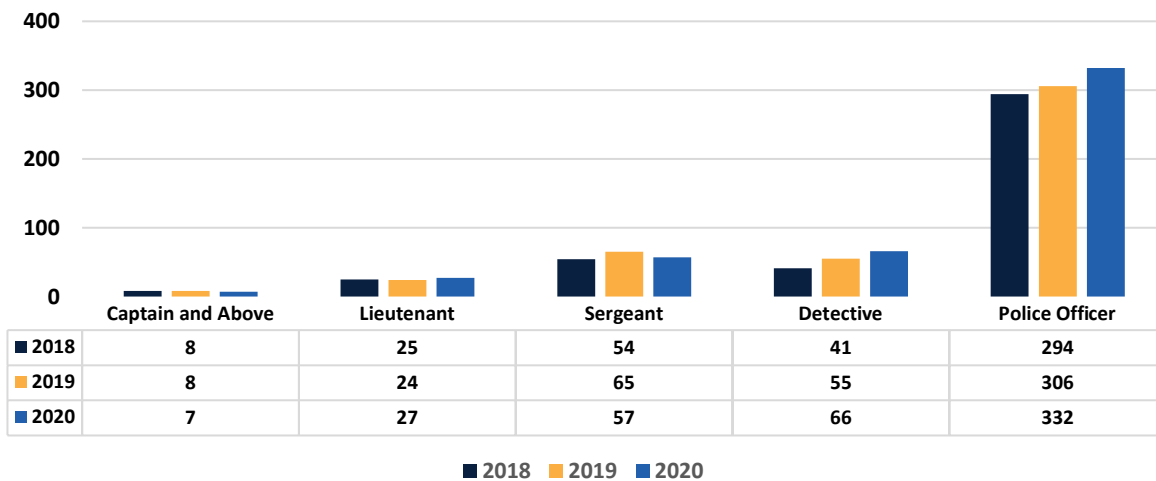
UMOS 2020 Disciplinary Cases by Gender					
Gender	# of UMOs	% of Dept	# of Closed Cases	% of Closed Cases	% of Gender
Male	28,840	81.5%	424	86.7%	1.5%
Female	6,546	18.5%	65	13.3%	1.0%
Total	35,386	100.0%	489	100.0%	1.4%

The following table depicts the total number of CMOS in the Department (by gender), the percent of CMOS represented by that gender, the number and percent of individual closed cases (charges preferred) associated with a member of that gender, and the percentage this group makes up of their unique gender.

CMOS 2020 Disciplinary Cases by Gender					
Gender	# of UMOS	% of Dept	# of Closed Cases	% of Closed Cases	% of Gender
Male	5,991	32.4%	49	37.7%	0.8%
Female	12,506	67.6%	81	62.3%	0.6%
Total	18,497	100.0%	130	100.0%	0.7%

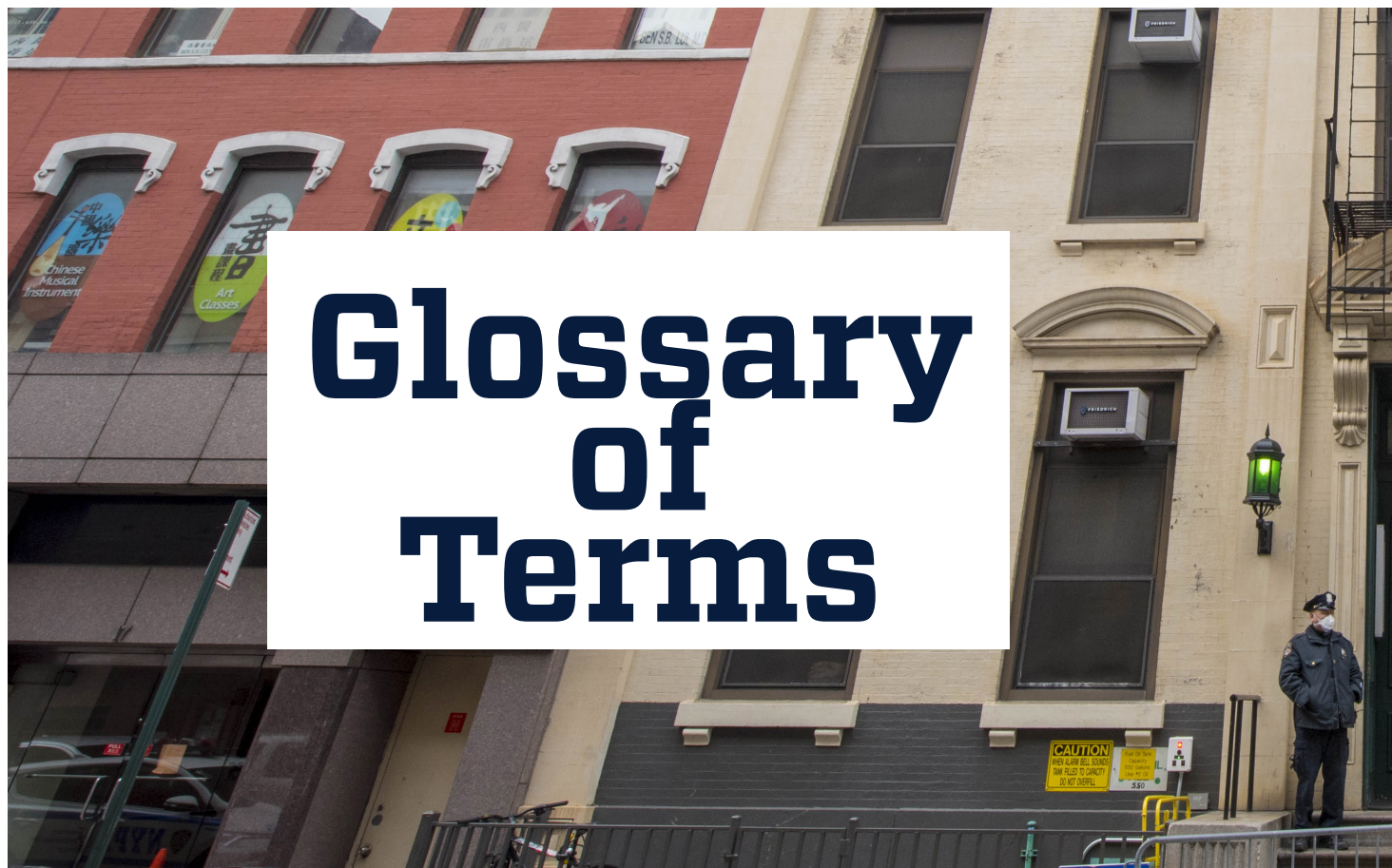
In 2020, police officers comprised 67.9% of the UMOS who had charges preferred. This is consistent with 2018 and 2019 (69.7% and 66.8%, respectively).

Rank of Uniformed Members of the Service: Disciplinary Cases (Charges Preferred)



The following table depicts the number of uniformed members (by rank), the number and percent of individual closed cases (charges preferred) associated with a member of that rank, and percentage that group makes up of their unique rank.

2020 UMOS Disciplinary Cases Per Rank					
Rank	# of UMOS	% of UMOS	Closed Cases	% of Closed Cases	% of Rank
Captain and Above	790	2.2%	7	1.4%	0.9%
Lieutenant	1,633	4.6%	27	5.5%	1.7%
Sergeant	4,481	12.7%	57	11.7%	1.3%
Detective	5,111	14.4%	66	13.5%	1.3%
Police Officer	23,371	66.0%	332	67.9%	1.4%
Total	35,386	100.0%	489	100.0%	1.4%



Glossary of Terms

Charges and Specifications: Formal discipline. Penalties range from additional training to termination. “Charges preferred” refers to a member of the service being served with charges and specifications in a disciplinary matter.

CCRB: The New York City Civilian Complaint Review Board (CCRB) is an independent agency. It is empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language. The Board’s investigative staff, composed entirely of civilian employees, conducts investigations in an impartial fashion. The Board forwards its findings to the Police Commissioner.

CCRB-APU: On April 2, 2012, the NYPD and the CCRB signed a memorandum of understanding (MOU) which conferred on the CCRB the power to prosecute substantiated cases where the board recommended charges and specifications. As a result, the CCRB’s Administrative Prosecution Unit (APU) now prosecutes nearly all these cases, with limited exceptions.

Disciplinary System Penalty Guidelines: An array of disciplinary charges correlated with defined penalties utilized by the Department and the CCRB.

Dismissal: A penalty (ordered by the Police Commissioner) of forced separation without a trial (i.e., a member is convicted of a felony, commits certain infractions or is arrested while on probation/dismissal probation).

Forced Separation: The Police Commissioner, upon a finding or admission of wrongdoing in a disciplinary matter, may require that a member of the service separate (resignation, retirement, or vested interest retirement) from the Department, in lieu of termination, as part of a negotiated settlement agreement. Forced separation may also include the forfeiture of penalty days, all time and leave balances, and any terminal leave to which the member of the service may be entitled. A member of the service who retires may be entitled to all or part of their accrued pension benefits in accordance with local law and New York State pension laws.



Penalty Days: The term penalty days refers to the forfeiture of vacation days and/or the imposition of suspension without pay for a specified time period. The decision to suspend, deduct vacation days, or impose a combination of both, is based upon the severity of the misconduct along with any relevant aggravating and mitigating factors. For some of the most serious categories of misconduct in these guidelines, suspension has been identified, in whole or in part, as the presumptive penalty. A member of the service who is found guilty after an administrative hearing may be suspended without pay for a period not exceeding 30 days for any offense. A member of the service may agree to a longer term of suspension as part of a negotiated settlement agreement. If a member of the service was immediately suspended from duty during the pendency of an investigation, the forfeiture of suspension days, imposed prior to the disposition of the case, may be applied as part of the final disciplinary penalty. When the deduction of vacation days is the imposed penalty, a member of the service may elect suspension in lieu of vacation days if consistent with the needs of the Department.

Termination: The Police Commissioner, upon a finding or admission of wrongdoing in a disciplinary matter, has the authority to dismiss a member of the service from their employment with the Department. Additionally, upon criminal conviction of a felony, or a misdemeanor that constitutes a violation of a member's oath of office, the member vacates their civil service title and is terminated as a matter of law. A member of the service may be entitled to all or part of their accrued pension benefits in accordance with local law and New York State pension laws.

THE DISCIPLINARY PROCESS

When an allegation of misconduct against a member of the service is investigated and evidence is found to show that the event did occur, that the member 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 may result in disciplinary action.

Discipline in the NYPD is imposed in a variety of ways, largely determined by the seriousness of the substantiated misconduct allegation. The least serious violations result in “training” which is either conducted by a commanding officer who instructs a member on proper procedures (informal), or by members assigned to the Training Bureau (formal re-training). A “reprimand,” is where members 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 twenty days of vacation time.

Most substantiated allegations of serious misconduct are managed 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,” recommends appropriate disciplinary penalties, and prosecutes disciplinary matters. Members 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 a NYPD employee is charged criminally with a New York State Penal Law Violation, the Department also files internal disciplinary charges. Criminal conduct always includes a corresponding violation of the Department’s internal rules.

Faced with disciplinary charges and specifications for substantiated allegations of misconduct or violations of Department rules, members of service 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 member of service 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 and the Department Disciplinary Penalty Guidelines. Also taken into account is the employee’s disciplinary history as past discipline may affect final penalty outcomes. Settlements benefit all parties involved by resolving and imposing penalties quickly and efficiently.

If a member 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 employees 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 MOS. The member is entitled to cross-examine prosecution witnesses, present a defense to the charges, and/or present evidence in mitigation of the proposed penalty.

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.

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