

AN EVALUATION OF THE FORMAL
DISCIPLINARY PROCEDURES OF THREE
METROPOLITAN POLICE DEPARTMENTS WITH
A RECOMMENDED PROCEDURE GUIDE

Thesis for the Degree of M. S.
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OF THREE METROPOLITAN POLICE DEPARTMENTS
WITH A RECOMMENDED PROCEDURE GUIDE

An Abstract of a Thesis
Presented to the Faculty of the
School of Police Administration and Public Safety
Michigan State University

In Partial Fulfillment
of the Requirements for the Degree
Master of Science

by

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CHAPTER I

INTRODUCTION

The achievement of a professional status in the eyes of society has long been a goal of all dedicated police officers and administrators. To achieve and hold such status requires continued advancement in a number of areas. Police discipline is one such area. One need only be a casual reader of the news media, in recent years, to note that alleged crimes and improper actions on the part of police officers and organizations are being widely reported. While such actions involve a relatively small percentage of the law enforcement profession, the damage done to the public image of the police and to the individual officer's pride in service is incalculable. Although it is not suggested that the entire solution to disciplinary problems will lie in improved disciplinary procedures, an intelligent understanding of the role of discipline in an organization combined with wise and dedicated leadership can do much to direct the individual officer to the proper course of action. A well organized disciplinary system, designed to provide the necessary authority for the supervisor, with due regard for the rights of the individual officer, is a goal worth seeking.

I. THE PROBLEM

Statement of the problem. This study concerns the formal disciplinary procedures presently followed by three metropolitan police departments. These are New York, New York; Chicago, Illinois; and Detroit,

Michigan. The study includes all actions taken from the receipt of a complaint, or discovery of conduct meriting investigation, to the completion of indicated corrective action. To complete the picture, the type and extent of the appeal procedure and its effect upon the disciplinary procedures are considered. To maintain perspective, a study of the meaning and application of discipline as a tool of personnel administration is necessary. Based upon these combined studies a recommended system for the administration of discipline in police organization has been prepared.

Questions to be answered. The first area of consideration concerns the broad aspects of discipline. Questions which must be posed and answered include:

1. What are the objectives of police discipline?
2. What principles are utilized in the application of such discipline?
3. What practices have been established to apply the principles and achieve the objectives?
4. What information is available concerning disciplinary practices in industry and the United States military services which can be utilized by the American police?

The second area of consideration involves a determination of the formal disciplinary practices of New York City, Chicago, and Detroit. Questions to be answered include:

1. How are the services organized with regard to disciplinary process?

2. What policies and procedures are followed in disciplinary actions?

3. What appeal procedures are allowed?

4. Is the total process, including appellate process, effective?

Information will be presented to answer these questions and related problems.

Importance of the study. Bruce Smith, Sr., indicated his thoughts concerning the importance of police discipline when he wrote, "sound discipline will probably contribute more to the solution of our municipal police problems than any other recourse now available."¹

O. W. Wilson supports Mr. Smith by observing that "the members of an undisciplined force lack esprit de corps; they suffer from a damaged morale and have a lackadaisical attitude toward their work, their department, their supervisors, and the public."² When discipline is improperly administered, conditions arise which are conducive to criminal or quasi-criminal acts by members of the service. The step from petty graft to major crime is a short one. Where officers see delinquencies go unpunished and crimes condoned it is difficult for them to maintain even a minimum of self-discipline. The growth and effect of such feelings have been

¹Bruce Smith, Police Systems in the United States (New York: Harper and Brothers, 1940), pp. 171-172.

²O. W. Wilson, Police Administration (New York: McGraw-Hill Book Company, Inc., 1950), p. 367.

described by a psychologist:

Police officers, especially in larger cities are probably more often subject to painful temptation than any other profession. The temptation, usually in the form of money, or stock in trade of vice, can hardly help but appeal. One side of the conflict is the very human desire for money, gifts, or other material gains or pleasures of the flesh. The other side of the conflict is the voice of conscience which says the officer should be law abiding. The conflict is even more difficult when the police officer is frequently exposed to citizens whom he knows are crooked, but whom he watches prosper and succeed on the basis of their racketeering, high-level thieving, or what-have-you. The more he learns that justice is a fickle lady who sometimes rewards the worst and punishes the best, the harder it is to resist temptation.³

It is evident that discipline is important to police and that by the very nature of the job, it must be of a type to fit the situation.

The public has the right to expect an efficient and honest police organization, just as the police have the right to expect support in all forms from the public they serve. Neither group will obtain these objectives when the police service is poorly disciplined.

Available references, for the most part, refer to discipline in broad, general terms. Detailed guidance to practices and procedures is lacking. While individual departments have developed programs with many outstanding features, there seems to be little conscious or concerted effort to assemble, evaluate, and publish the results. One of the hallmarks of a profession is its comprehensive body of available reference material. This study will provide useful information to the police profession and will be of direct value to the student, teacher, and law enforcement practitioner.

³Richard H. Blum, "The Problems of Being a Police Officer," Police, 5: 11, November-December, 1960.

Limitations of the study. It is recognized that the legal authority of police administrators is frequently restricted with respect to the implementation of discipline within their units. Many civil service regulations present formidable obstacles to the conscientious chief trying to raise the performance standards of his organization.⁴ This problem area was not considered in this study.

This study has been limited to three large metropolitan police departments. While the limited scope may appear restrictive, it is believed that the policies and procedures recommended could, with minor modification be applied to any size police organization. This conversion will, of necessity, be left to the individual reader.

Because of the rapid progress which has been made in all forms of police management since 1940, this study was limited, except for selected references used only for perspective and historical purposes, to references prepared since that time.

II. DEFINITIONS OF TERMS USED

Discipline. The term discipline may be defined in many ways, depending upon the objectives of the author. As derived from Latin, the word means simply to teach. Areas of learning such as medicine and law are referred to as disciplines. This concept of the term has little or no relationship to the common association of the term with punishment.

⁴A. C. Germann, Police Personnel Management (Springfield: Charles C Thomas, 1958), p. 169.

In another sense, some writers have viewed discipline in practice as being positive or negative. Positive discipline is described as the results achieved through example, training, and other nonpunitive measures. Negative discipline is the threat or imposition of punishment upon the person who failed to conform, or in a sense, did not learn.⁵ For the purpose of this study, discipline, of necessity, was considered as a corrective procedure utilized when other actions had failed to produce the desired result.

Formal disciplinary procedures. As used in this study, formal disciplinary procedures are those measures which are prescribed for the administrative control of the members of a law enforcement agency.

Disciplinary procedures do not include such related personnel actions as transfer, nonselection for promotion, or corrective training.

Morale. "Morale is the sum of several psychic qualities that include courage, fortitude, resolution, and above all, confidence."⁶ In short, morale is pride in self.

Esprit de corps. Esprit de corps is pride in unit.⁷ When such pride exists the individual cheerfully places the goals of the unit ahead of personal gain or desire.

⁵Ibid., pp. 165-66.

⁶James D. Mooney, The Principles of Organization (New York: Harper and Brothers, 1947), p. 125.

⁷Department of the Army, Commander's Handbook and Check List, Pamphlet No. 22-2 (Washington: Government Printing Office, 1952), p. 5.

III. ORGANIZATION OF THE REMAINDER OF THE THESIS

As an aid to a general understanding of the problem, Chapter II consists of a review of the literature on the subject of discipline and police disciplinary procedures. Since discipline is not peculiar to police administration a survey of discipline in business and the military was included.

Chapter III is devoted to the study of the theory of discipline. In order to intelligently evaluate present practices and propose a recommended procedure, it was necessary to understand the role of discipline in police services. Principles of leadership and discipline and their successful implementation at all levels of command are a necessary prerequisite to the smooth operation of any formal disciplinary system.

Chapter IV is a key portion of this thesis. In it the disciplinary practices of the New York City, Chicago, and Detroit police departments are described and evaluated. Each department has formal procedures which differ from those of the other two. Consideration was given to varied aspects of the disciplinary system of each department.

Chapter V contains the conclusions and a recommended disciplinary system. Also included are questions which were raised during this investigation but which were not within the scope of the thesis. A summary is provided to present the highlights of the study.

CHAPTER II

REVIEW OF LITERATURE

Literature, directly devoted to the detailed discussion of police disciplinary problems, is limited in scope. Several excellent volumes and numerous articles may be found dealing with the problems of discipline in business and industry. In particular, considerable attention has been devoted to discipline and leadership in articles concerning the military profession. Extensive studies have also been made and reported on the problems of discipline encountered by schools and parents in controlling children. While all of these sources are valuable and aid in the proper understanding of the whole problem they present a formidable barrier to the individual seeking complete and direct guidance to the specific problems of discipline encountered in police administration.

I. POLICE LITERATURE

A. C. Germann, in his text, Police Personnel Management, presents the most detailed discussion of discipline found in any major work dealing exclusively with police management and personnel problems.¹ He opens his discussion of discipline in Chapter XVIII by noting:

Probably the most delicate internal control problem facing the police executive is that of discipline. In a few unrepresentative police agencies, "mooching," "chiseling," drunkenness, incompetency, disloyalty, extortion, lechery, perjury, bad debts--and a host of

¹A. C. Germann, Police Personnel Management (Springfield: Charles C Thomas, 1958), pp. 164-74.

lesser offenses--are thoroughly frowned upon, but just as thoroughly "whitewashed" by police administrators sensitive to criticism and adept in covering up or minimizing such conduct.²

From this rather depressing view of police discipline, the author proceeds to a discussion of positive discipline and negative discipline. He notes that positive discipline is the ideal approach to the problem but that where such efforts fail, negative discipline or punishment is the only solution.³

The role of all supervisors in the area of departmental discipline is emphasized. The use of positive disciplinary measures is urged with negative discipline as a last resort. This is a philosophy that is shared by all modern writers on the subject.

Germann recommends the use of a departmental trial or disciplinary board to review the facts concerning individual disciplinary matters. Based upon this investigation, he asserts the board should offer recommendations to the chief as to action to be taken. The use of such a board is urged to "relieve the chief of police of the onus for disciplinary action, and provides protection against ill-advised peremptory disciplinary decision."⁴ This statement, when examined critically, suggests that the chief is unwilling to personally and solely accept the responsibility for his actions and cannot be depended upon to act with judgment and consideration. The desire which the modern executive has to shirk responsibility is discussed by Jennings in his book An Anatomy of Leadership. The inclination of present day executives to place more

²Ibid., p. 164. ³Ibid., pp. 166-69. ⁴Ibid., p. 164.

and more responsibility on groups for decision-making, under the guise of advice, is viewed by Jennings as a device to escape responsibility.⁵ On the positive side it should be noted that in a large department discipline is but one of the many responsibilities of the chief or superintendent which would make the use of such a board almost a necessity.

In discussing the role of such boards Germann considers it desirable for the previous record of the officer charged to be examined only after a finding of guilty has been reached and prior to determining a recommended sentence. The unqualified right to counsel and appeal is recommended. No indication as to the extent of either right is suggested.

"The use of a departmental investigative unit--'Internal Affairs Unit' or 'Shoo-fly' squad--is recommended."⁶ With this picturesque phrase Germann endorses the use of a special group to investigate all complaints made against members of the organization.

The use of the polygraph examination in disciplinary investigations is recommended by Germann.⁷ It is significant that none of the other references consulted considered this question. Unfortunately, the author did not indicate whether the administration of such tests was to be on an optional basis, what authority should exist to require submission to a polygraph examination, and the weight to be placed upon the results.

⁵Eugene E. Jennings, An Anatomy of Leadership (New York: Harper and Brothers, 1960), p. 28.

⁶Germann, op. cit., p. 171.

⁷Ibid.

The general types of offenses encountered are considered to fall into two categories--incompetence and misconduct. The types of offenses falling under each category are discussed and general categories are established. The reason for considering offenses in this way is not discussed.

O. W. Wilson, presently Superintendent of Police in Chicago, Illinois, considers discipline in its broader sense in his text Police Administration. Among the points emphasized by Wilson are the necessity for making all complaints a matter of record, and the responsibility of the immediate supervisor in all aspects of discipline.⁸ He indicates that the immediate supervisor has three basic responsibilities with respect to discipline. These are:

- (1) to discover the weakness, deficiency, failure, or overt act of a subordinate that indicates the need for corrective action,
- (2) to analyze all the factors involved in order to decide the most suitable action, and (3) to initiate and in most instances to carry out the disciplinary action.⁹

Wilson forcefully urges that the police chief must be supported by the city administration and points out, in emphatic terms, that the welfare of the department is more important than the rights of the individuals in it. He takes the position that all doubt should be resolved in favor of the department rather than the individual in all disciplinary matters.¹⁰ He further urges that appeal boards not be allowed to modify the disciplinary actions of the chief, but that they restrict their

⁸O. W. Wilson, Police Administration (New York: McGraw-Hill Book Company, Inc., 1950), p. 367.

⁹Ibid., p. 369. ¹⁰Ibid., p. 371.

actions to publication of their findings concerning any matter brought to their attention.¹¹ This firm, but not unsupportable attitude, toward the authority of the chief administrator may be detected in the disciplinary practices utilized in Chicago at the present time. It is interesting to note that Wilson has expressed conflicting views concerning the selection of trial boards. In 1950 he stated:

When severe disciplinary action is recommended or contemplated, he should appoint a departmental disciplinary board composed of members of the force, none with a rank below that of the officer charged, to review the facts in the case, to make further investigation when necessary, and to submit to him a recommended action. While departmental regulations may establish the relative ranks of board members, it is best that the members be selected on the basis of their competence and fairness and appointed by the chief for each hearing.¹²

Two years later Wilson wrote:

The board may be appointed by the chief or elected by the force, or some members may be selected by the chief and the others by the force. A preferred method is a five-man board with two of its members designated by the chief and three elected by the force, one of the latter being selected by the committee as its chairman. The board should serve a year term but there should be no restriction on the reappointment or reelection of its members.¹³

Eight years later in 1960 Wilson directed the following procedure for the selection of the disciplinary board in the Chicago Police:

There will be a Disciplinary Board appointed by the Superintendent comprised of: three Area Supervisors, or officers of equivalent or higher rank, and six captains who are not serving under the command of one of the higher ranking members.¹⁴

¹¹Ibid.

¹²Ibid.

¹³O. W. Wilson, Police Planning (Springfield: Charles C Thomas, 1952), p. 222.

¹⁴Department of Police, Chicago, Illinois, "General Order No. 16, 1960," p. 136.

The basis for the changes in belief are not indicated by Wilson, but the course of action actually followed in Chicago is obviously more in keeping with his earlier recommendation.

A new element in the selection of board members was introduced by Wilson in the second edition of Police Planning, published in 1958.

...The board may be appointed by the chief or be drawn by lot by the accused from officers superior in rank to him but excluding those in his own organic unit. One or more may be drawn in excess of the number needed, with the accused privileged to select the board members from the total number drawn. When drawn by lot, the board should elect one of its members to serve as chairman.¹⁵

While still Dean of the School of Criminology at the University of California, Wilson wrote a short article pertaining to personnel management in which he pointed out that management is complex and that all actions are interrelated. Administration for the entire department was related to the selection of personnel; the fixing of responsibility; promotion policies; restriction of authority by civil service regulations; and the failure of leadership. It is for these reasons that discipline must generate and be maintained from the top down in a department and not from the bottom up.¹⁶

Bruce Smith, Sr., who was an eminent police scholar, pointed out in his text, Police Systems in the United States, the evils of political pressure on police discipline and the problems presented by the requirements for formal trials, even for minor offenses.¹⁷

¹⁵O. W. Wilson, Police Planning (second edition; Springfield: Charles C Thomas, 1958) p. 242.

¹⁶O. W. Wilson, "Problems in Police Personnel Administration," The Police Yearbook, 1953 (Washington: International Association of Chiefs of Police, 1953), pp. 188-184.

¹⁷Bruce Smith, Police Systems in the United States (New York: Harper and Brothers, 1949), pp. 156-157.

Bruce Smith, Jr., published a revised edition of his father's text in 1960. Changes pertaining to discipline in the revised edition included increased emphasis on the fear of censure by subordinates and elected superior which was viewed as part of the reason why police supervisors were unwilling to assume their proper leadership role in disciplinary matters.¹⁸

A rather surprising addition by Bruce Smith, Jr., in the revised text, was his observation that the reluctance of police supervisors to discipline stems from an adverse reaction to "crude, gruff methods of leadership" encountered during World War II military service.¹⁹ This seems an odd statement when considered in the light of the firmly established modern belief that leadership and positive disciplinary actions are the key to controlling behavior.

Bruce Smith, Jr., further indicates that the use of motorized patrols has contributed to the difficulty of supervision and, hence, discipline.²⁰

The effect of police associations and unions is believed by Bruce Smith, Jr., to have been responsible for some dilution of the chief's authority. He believed the trend to be turning in the other direction in 1960 but cited no supporting evidence.²¹

This problem area was explored by the International Association of Chiefs of Police in a 1944 study which was further developed in a

¹⁸Bruce Smith, Police Systems in the United States (rev.) Bruce Smith, Jr. (New York: Harper and Brothers, 1960), p. 245.

¹⁹Ibid., p. 246. ²⁰Ibid., p. 248. ²¹Ibid., p. 247.

revised edition in August, 1958. A complete analysis of this study would be beyond the scope of this work but portions have a definite relationship to discipline. After presenting both sides of the issue of police unions as well as considering the legal aspects, the conclusion was reached that since police of necessity may not be given the right to strike or effectively use the other forms of collective bargaining the argument in favor of unionism becomes meaningless. In addition, if a police department is unionized it cannot help but deter professionalization since no true profession needs such a collective force. In view of the fact that police supervisors cannot set wages or in many instances take final action on dismissal of personnel these areas would become points of union pressure with a corresponding loss of authority and prestige on the part of the supervisor.²²

Chapman, in his survey of the Police Department of Meriden, Connecticut, noted that the collective bargaining agreement being proposed for the police department of the city "...would further weaken command authority and responsibility and would impose working rules unrealistic in the light of the nature and requirements of police operation..."²³ Included in the agreement were provisions which would affect control over the probationary period; seniority rights and promotions;

²²International Association of Chiefs of Police, Police Unions (Bulletins on Police Problems, rev. ed. Washington: International Association of Chiefs of Police, 1958), pp. 1-74.

²³Samuel G. Chapman, Police and Fire Services of the City of Meriden, Connecticut, (Chicago: Public Administrative Service, 1962), p. 14.

shift assignments; working hours; grievance procedures; and the right to suspend an officer for any period or reason without a hearing.²⁴

While some of these provisions may seem innocuous on the surface each represents a lessening of authority and an increase in the mechanics of disciplinary action. These same provisions which "protect" the individual are not to be ignored but in turn it should be recognized that they remove initiative and make mediocrity the standard.

An additional disciplinary consideration involved in police unions is noted by Allen in the probability of divided allegiance. Loyalty, unity of command, and impartiality are among the many essentials of police attitudes and administration which would be affected by such a situation.²⁵

At the present time the American Federation of State, County, and Municipal Employees has sixty-five municipal police departments and one state--Wisconsin--affiliated with their union. These organizations have a combined total of about ten thousand officers. The total number of departments has not increased or decreased since 1958. While the totals are not large, they do indicate that police administrators will need to become more familiar with all aspects of this movement since it seems reasonable to conclude that union efforts to organize police will continue.²⁶

²⁴Ibid., pp. 14-16

²⁵Edward J. Allen, "Police Unions and Other Police Organizations," The Police Yearbook, 1953 (Washington: International Association of Chiefs of Police, 1953), p. 179.

²⁶Interview with Bill Lange, American Federation of State, County, and Municipal Employees, Washington, D. C., January 22, 1963.

An interesting discussion of the police review board concept is found in the new text Introduction to Law Enforcement by Germann, Day, and Gallati. While not supporting the establishment of police review boards composed of citizens appointed or elected from outside the department, the authors suggest that persons advocating review boards may be motivated by other than Communistic objectives.²⁷ The authors propose that such movements may be better opposed by the establishment of more satisfactory procedures within the police departments, such as complaint review boards, use of nonvoting citizen observers on internal disciplinary boards, or the use of advisory boards composed of distinguished citizens "who could receive complaints of deficiencies of service or conduct, receive and consider the results of agency investigation, and make recommendations to the Chief of Police."²⁸

They propose, moreover, that citizens should take a direct interest in police delinquencies and make complete reports of such incidents and recommend that law enforcement personnel should welcome this assistance and assist by thorough investigations, public trials, press coverage, and a follow-up report to the complainant of action taken.²⁹ This is a more liberal welcoming of public participation and observation of police disciplinary procedures than those proposed by other writers.

Germann et al., however, strongly oppose any review board which would take the responsibility of personnel management, including

²⁷A. C. Germann, Frank D. Day, and Robert R. J. Gallati, Introduction to Law Enforcement (Springfield: Charles C Thomas, 1962), p. 192.

²⁸Ibid., pp. 190-91. ²⁹Ibid., pp. 189-90.

the authority and power to discipline, away from the law enforcement administrator.³⁰

Two extremely strong articles against police review boards, charging that the movement supporting them is for subversive purposes, have been published in California Peace Officer. In companion articles Captain Edward M. Davis and Sergeant Norman H. Moore, both of Los Angeles, California Police Department, indicate that no matter what names are used by sponsors of the so-called "Police Review Boards" that they are motivated by Communistic objectives. The guiding spirit of the effort is indicated as the American Civil Liberties Union. Chief Stanley P. Schrotel of the Cincinnati, Ohio police is quoted as supporting this view and in being in opposition to such police review boards.³¹

This would appear to represent Chief Schrotel's present views on the subject which were expressed in response to a letter of inquiry as:

The Cincinnati Police Division is opposed to the establishment of any type of Police Review Board to look into or make decisions relative to disciplinary action taken by our administrators in resolving complaints by citizens or misconduct by police officers.³²

Davis has continued his opposition to the concept of police review boards and in a speech made recently included an analysis of the experience gained by the Philadelphia board after three years of operation.

³⁰Ibid., pp. 187-94.

³¹Edward M. Davis, "Police Review Boards," California Peace Officer, 11: C-25, September-October, 1960; Norman H. Moore, "Police Review Boards," California Peace Officer, 11: 5, November-December, 1960.

³²Information obtained from letter written by Lieutenant Colonel Robert A. Klug, Assistant Police Chief, Division of Police, Cincinnati, Ohio, dated January 3, 1963 in response to an inquiry directed to Chief Schrotel.

Pointing to the out-of-date studies used to justify the charges against police departments, Davis in turn questions other aspects of generalized charges utilized to support the demand for outside reviewing authorities.³³

While it is possible that groups with obstructive motives may propose police boards as a means of diminishing the effectiveness of the police it is equally true that many others may view this as a means of helping the police. To a large extent the effect of any agency for good or bad is based upon the persons composing it. It is submitted that the views expressed by Germann, Day, and Gallati, are the more reasonable.

V. A. Leonard in Police Organization and Management makes reference to police disciplinary problems but suggests no solutions not discussed by the authorities previously cited.³⁴

Municipal Police Administration, a comprehensive text on police organization, management, and operations, emphasizes the fact that the principal deterrents to dereliction in performance of police duties are "swiftness and certainty of punishment."³⁵ In addition, the text recommends that a memorandum should be made for each disciplinary action calling for more than a minor reprimand. The memorandum should include:

³³Edward M. Davis, "Move Over, Chief," An Address on Police Review Board to the Police Chiefs Section, California League of Cities, October 23, 1962.

³⁴V. A. Leonard, Police Organization and Management (Brooklyn: The Foundation Press, 1951), p. 136.

³⁵Municipal Police Administration (Chicago: The International City Managers' Association, 1961), p. 167.

(1) the situation calling for the interview with the employee; (2) specific reasons for the interview; (3) summary of employee's statement of explanation; (4) summary of supervisor's statement; and (5) mutual understanding on what employee and supervisor will do to improve performance or prevent a recurrence with an understanding of future disciplinary action if the employee fails to correct.³⁶

The employee would then be required to read and sign the memorandum to indicate understanding and acceptance. Any follow-up action should also be made a matter of record by utilizing the same method.

Other areas discussed in Municipal Police Administration include the proposition that all types of reviewing agencies need to become more aware that the rights of an individual with respect to employment are not as important as the rights of an individual in his person.³⁷ For speed and control, more of the authority to discipline should be shifted from boards to the executive.³⁸ Also, police administrators are enjoined to prepare their cases well and to be prepared to back up charges with more than generalities.³⁹ Finally, Municipal Police Administration contends that when a serious disciplinary action is taken, it is mandatory to review the record of the individual and to try to avoid similar situations in the future by detecting weaknesses in recruit selection, training, and leadership.⁴⁰

Police Disciplinary Statistics. Unfortunately, police agencies rarely publish statistics on disciplinary actions. An exception to this is New York City where they are published in the form of special orders

³⁶Ibid., p. 168. ³⁷Ibid., p. 168. ³⁸Ibid.

³⁹Ibid. ⁴⁰Ibid., p. 170

and are made available to the press. Police annual reports infrequently contain such information and when presented, it is not done within a framework which actually has true meaning. As a result there is little basis for determining the type, quantity, and effect of discipline in organizations which are considered to be well disciplined and efficient in contrast to those which are not.

Some consultants include specific information on discipline such as the report prepared by George D. Eastman on the Bureau of Police of New Rochelle, New York.⁴¹ Eastman reports that one hundred and seventy-six disciplinary cases were referred to the chief and five to the city manager during a seventeen-year period from 1939 to 1956. The method of handling the cases was described as:

In the 176 cases referred to above, and handled by the Chief of Police, the charges ranged from complaints of tardiness to insubordination and from the loss of a service revolver to drinking intoxicants on duty. One hundred and sixty-one of these cases only resulted in a warning and/or admonishment and in only fifteen of the cases was there an actual penalty of extra work days imposed. None of the 176 cases was reported to the Civil Service Commission, an utterly untenable position for the Bureau when it is recognized that ten percent of the grade that may be earned on each promotion examination is based on record and seniority...

On reviewing these 181 cases, one can only come to the conclusion unfortunately, that there is an unwillingness on the part of supervisors and command officers to initiate complaints against subordinates...⁴²

"The New York Police Survey" conducted under project director Bruce Smith, Sr., contains detailed information on disciplinary actions

⁴¹George D. Eastman, "The Bureau of Police of the City of New Rochelle, New York, A Study and Report," November 15, 1957, (unpublished).

⁴²Ibid., p. 10.

taken in the New York City Police Department from 1928 to 1950.⁴³ The survey indicates that in 1928 over 5,000 members of the department were accorded a department trial while in 1950 the number had reduced to about 600. During this same period there was an increase in the size of the department. "Court convictions of police show a slow decline over the years, but dismissals from the service have gone down by 90 per cent...."⁴⁴

After reviewing the disciplinary records of the department for the years 1931 through 1950 the records of 584 individuals were selected as representing "all the major cases heard throughout the 20 year period, plus others with lengthy disciplinary records."⁴⁵ The disposition of these cases was analyzed and as a result the following information was obtained:

TABLE I

AN ANALYSIS OF 584 CASES SELECTED FROM THE RECORDS OF
THE NEW YORK CITY POLICE DEPARTMENT FOR THE YEARS 1931-1950

Action Taken on Charges	Per Cent
Charges Dismissed	11
Reprimand Administered	31
Fined One Day's Pay or Less	37
Fined Two or Three Days' Pay	12
Fined Five Days' Pay	5
Fined Ten to thirty Days' Pay	1
Discharged, Resigned or Dropped	2
Pending, or Filed Without Action	1

⁴³Bruce Smith, Sr. (project dir.), "The New York Police Survey," (New York: Institute of Public Administration, 1952).

⁴⁴Ibid., p. 47. ⁴⁵Ibid.

Considering only these cases selected by the investigators conducting the survey it may be seen that 88% of those charged were found guilty and of this number 55% were fined and 2% were separated from the service by dismissal or resignation.

In the year 1937 approximately 2,400 members of the department were charged with offenses and of this number eighty-eight were dismissed. By 1950 the number of charges had been reduced to approximately 600 while the number of officers dismissed dropped to eight.⁴⁶

Dated, but interesting statistics concerning the Boston Police Department are found in a study published in book form.⁴⁷ One of the focal points of the study was to consider the effect of the police strike which occurred in Boston in 1919. For this reason the summary of disciplinary cases presented was broken into three groupings: the twelve-year period prior to the strike; the ten years following the strike; and the four years which followed.⁴⁸

⁴⁶Ibid., p. 8.

⁴⁷Leonard V. Harrison, Police Administration in Boston (Cambridge: Harvard University Press, 1934), pp. 78-83.

⁴⁸Ibid., p. 80.

TABLE II

BOSTON POLICE DEPARTMENT DISCIPLINARY ACTIONS FOR
THE PERIOD 1907 THROUGH 1932

Type Action Taken	1907-19	1919-28	1929-32
Guilty--cases filed	44	54	10
Reprimanded	3	32	10
Punishment duty imposed	69	361	106
Reduced in rank	1	6	0
Resigned--charges pending	28	236	16
Dismissed from the department	73	347	18
Total	218	1,086	160

From this, it can be seen that the proportion of men let off with reprimands or with cases filed has decreased, while the proportion of those given punishment has shown substantial increase. Of the officers charged one out of five left the service through resignation or dismissal during the last period considered.

Fosdick in his study of the Cleveland Police Department considered all aspects of the disciplinary actions taken and presented his findings in considerable detail.⁴⁹ During the year 1920 sixty-seven violations were alleged and sixty-four officers were charged.⁵⁰

⁴⁹Raymond B. Fosdick, Police Administration (Cleveland: The Cleveland Foundation, 1921), pp. 43-52.

⁵⁰Ibid., pp. 45-46.

TABLE III

TABULATION OF CHARGES PREFERRED IN THE CLEVELAND POLICE
DEPARTMENT DURING 1920 BY THE TYPE OF OFFENSE

Offense	Number of Officers Charged
Intoxicated while on duty	12
Intoxicated while off duty	8
Drinking in uniform while on duty	3
Neglect of duty	9
Sleeping on or absent from patrol	11
Reporting late or failure to ring duty calls . . .	11
Disobedience	9
Use of indecent language	5
Feigning sickness	3
Shooting craps or running crap game	3
Interfered with an officer on duty	9
Miscellaneous	9
Total	64

In continuing his study Fosdick examined the records of these sixty-four men and determined that thirty-nine of them had previously been charged with a total of ninety-nine offenses.⁵¹

⁵¹Ibid., p. 46.

TABLE IV

TYPE AND NUMBER OF PREVIOUS OFFENSES COMMITTED BY
THOSE MEMBERS OF THE CLEVELAND POLICE DEPARTMENT TRIED IN 1920

Offense	Number of Officers Charged
Drinking and intoxicated	24
Off post	12
Neglect of duty	11
Late to roll call	10
Failure to ring duty calls	6
Indecent and abusive language	6
Disobedience	5
Failure to report to prosecute	4
Feigning sickness	3
Improper performance of duty	2
Miscellaneous	<u>16</u>
Total	99

In comparing the offenses committed during prior years by the persons charged during 1920, it appears that the type of offense most frequently committed involved drinking. Prior disciplinary actions do not appear to have corrected the situation. The results of the sixty-seven trials held in the Cleveland Police Department for the offenses cited above resulted in the following findings.⁵²

⁵²Ibid.

TABLE V
RESULTS OF DISCIPLINARY TRIALS HELD IN CLEVELAND
POLICE DEPARTMENT DURING 1920

Punishment Imposed or Action Taken	Number
Reprimand, suspended four days, fined ten days' vacation and required to sign a resignation to take effect when accepted by the director	1
Reprimand, suspended four to thirteen days, fined two to six days' vacation	2
Reprimanded, suspended four to six days' vacation . . .	2
Suspended four to thirty-five days, fined four days' vacation to all vacation for a period of five months , and required to sign a resignation to take effect when accepted by the director	10
Suspended three to thirty days, fined one day's vacation to all vacation for nine weeks	17
Suspended nine to fourteen days	2
Fined three days' vacation to vacation for a period of one month, and required to sign a resignation	2
Found not guilty	2
Dismissal from the department	21
Resigned with charges pending	6
Total	67

Of the officers dismissed four were reinstated by the Civil Service Commission on appeal and both of the sergeants who had been reduced in rank were restored to their rank. In all of these cases the individuals had previous disciplinary records, many of a serious nature. Such actions point up the need for a greater understanding of the role of the Civil Service Commission in disciplinary matters. The attitude which should be assumed has been clearly defined as:

...The objective in disciplinary matters should be to maintain the good of the service without violating fundamental justice to the individual. However, emphasis should not be placed primarily upon justice to the individual. It should be incidental to decisions that are for the good of the service. It should be remembered that personnel decisions which are painful at the time are not always to the long-run disadvantage of the employee. Civil service hearings have often been characterized by maudlin sentimentality, and decisions have been based upon the tug of the heart-strings rather than on objective evidence....⁵³

Statistics concerning the total number of disciplinary actions taken by the Counties and Boroughs of England and Wales may be found in the Annual Report of "Her Majesty's Inspectors of Constabulary." For the year ending 31 December 1960 the following disciplinary actions are indicated:

Proceedings...were brought against 945 members of county and borough police forces during the year, including 6 policewomen; 845 were found guilty. The majority of these cases were for comparatively minor offences, such as unpunctuality or neglect of duty; 317 (including 4 policewomen) were dealt with by caution; 177 by reprimand; and 261 by fine. Of the remaining 90 cases, 19 were punished by reduction of pay, 4 by reduction in rank, 34 by being required to resign as an alternative to dismissal, and 33 (including one policewoman) by dismissal. Thirty-three policemen and one policewoman were found guilty of criminal offences in magistrate's or higher courts; of these, 21 policemen and one policewoman were dismissed from office, 8 were ordered to resign, and one was reduced from sergeant to constable, these being included in the figures already given. Two others resigned office while criminal proceedings were pending, and one resigned office after conviction.⁵⁴

Considering that the total strength of these forces during the same period was 77,056, the number of disciplinary actions taken or

⁵³John M. Pfiffner, James V. Bellanca, and Charles W. Terry, What Every Civil Service Commissioner Needs to Know, Personnel Report No. 562, (Chicago: Public Personnel Association, 1956), p. 3.

⁵⁴Home Office, Report of Her Majesty's Inspectors of Constabulary, 1960, (London: H. M. Stationery Office, 1961), p. 10.

considered required would appear to be lower than for a comparable number of police officers in the United States.⁵⁵

The availability of such information on a national basis makes it possible to evaluate the disciplinary standards of various units, and in a limited sense, to judge the command capabilities of the units' supervisors.⁵⁶

II. EMPLOYEE DISCIPLINE IN INDUSTRY

A study of the literature concerning employee discipline under the labor-management relationship, where the authority of the employer has been limited by agreement with the employees through their union contract, is both interesting and profitable for anyone interested in discipline. Employee Discipline by Lawrence Stessin is an excellent volume for this purpose. Stessin skillfully traced the history of the labor arbitration movement in the United States and related its effect upon the authority of management.⁵⁷

Of direct interest is his evaluation of the use of an outside arbitrator to settle disciplinary disputes concerning the exercise of authority by management. Such situations occur when a violation of plant rules has occurred and the individual or union is not satisfied

⁵⁵Ibid., p. 28.

⁵⁶Home Office, Report of the Committee on Police Conditions of Service, Part II, (London: H. M. Stationery Office, 1949), pp. 111-13.

⁵⁷Lawrence Stessin, Employee Discipline (Washington: BNA Incorporated, 1960), pp. 8-19.

with the decision or penalty imposed by the management. It is the belief of Stessin that neither management nor labor "wins" by this system. It is his contention that the real end result of this resort to an administrative "judge" is a dilution of authority on the part of management.⁵⁸

In his study, Stessin compiled a list of forty offenses or rules which appeared to most frequently merit disciplinary action when violated. These included such things as gambling on the job, drinking or drunk on the job, disobedience of orders, and failure to report for work without justification. By checking the penalties imposed by the arbitrators for infractions of plant rules Stessin compiled what may be called a penalty prediction table. In this table Stessin indicates the penalty which the employee may expect to receive upon conviction for a particular offense. This table is organized on the basis of the number of previous offenses committed by the same offender. Some offenses terminate in discharge upon first conviction regardless of previous record. An example of this type of offense is falsifying records.⁵⁹

Such information is of value to the police administrator in considering the penalties imposed in the department and in defending the discharge of officers for certain types of offenses. Certainly the standard of discipline required in a police force is higher than that of industry for a similar offense. If labor and management accept the fact that an employee may be discharged on the first offense of insubordination it would appear that similar or higher standards are supportable for a police department.

⁵⁸Ibid., p. 308. ⁵⁹Ibid., p. 28.

III. PERSONNEL ADMINISTRATION LITERATURE

All personnel administration texts examined contained some discussion of discipline, but the most comprehensive treatment of the subject, in the literature reviewed, was found in Personnel Administration by Pigors and Myers.

The theme of Pigors and Myers section on discipline is that most men want to do what is expected of them. The authors assert, "if the basic conditions that make for good discipline are present in the organization...this large group of employees will seldom 'break the rules.'"⁶⁰ The problem then is to provide corrective disciplinary procedures for the minority which does not choose to conform. "A disciplinary policy embodying definite penalties is needed for this minority of the work force, who, if unchecked, would spread dissatisfaction and poor conduct throughout the organization."⁶¹

As guides for providing the necessary climate for the disciplinary objectives to be achieved, the authors recommend the following:

1. A clear and reasonable list of plant rules, with uniform penalties for their violation.
2. Instruction of all employees in what is expected of them, in terms of both observance of plant rules and established standards of job performance.
3. A procedure for telling employees how well they are meeting the job standards and rules of conduct.
4. Careful investigation of the background and circumstances of each case before taking disciplinary action, when apparent breaches of conduct or expected performance do occur.

⁶⁰Paul Pigors and Charles A. Myers, Personnel Administration (New York: McGraw-Hill Book Company, Inc., 1956), p. 262.

⁶¹Ibid.

5. Prompt, consistent application of disciplinary measures by the employees' immediate superior, when guilt has clearly been established.⁶²

In discussing the effect of punishments, the authors consider an area of discipline not discussed by other authorities cited. The use of disciplinary layoffs is viewed as having two possible adverse effects: (1) the employee will either welcome it as a short vacation; or (2) return to work with strong resentment which may cause further trouble. Demotions are also thought to be a "questionable form of disciplinary action, except where there is a failure to meet established job standards."⁶³

The remainder of the chapter on discipline by Pigor and Myers consists of an excellent discussion of procedures for handling disciplinary problems with strong emphasis on a calm investigation followed by remedial action which does not further aggravate the relations between the organization and the individual.⁶⁴

A more theoretical discussion is found in The Principles of Organization by James D. Mooney. In his text Mooney discussed the disciplinary organizations of the Catholic, Roman, military and industrial organizations. Two points related deserve special consideration: (1) discipline must be by example with the highest degree at the top; and (2) so long as the doctrine of procedure is based on rules and not on principles, true efficiency in decentralized operations remains impossible.⁶⁵ Rules require strict obedience while principles allow the individual to deal with the situation with a greater degree of flexibility.

⁶³Ibid., p. 265. ⁶⁴Ibid., pp. 266-74.

⁶⁵James D. Mooney, The Principles of Organization (New York: Harper and Brothers, 1947), p. 13 and 131.

IV. MILITARY LITERATURE

Military literature on the subject of discipline and disciplinary procedures is extensive. While the primary guide to formal disciplinary procedures in all branches of the armed forces is the Manual for Courts-Martial United States, 1951, the police administrator will find the material on administrative proceedings for separation from the armed forces and the authority given to individual commanders to administer nonjudicial punishment more related to his own problems and authority.

The commander's authority to impose nonjudicial punishment is limited to minor offenses. Punishments authorized include forfeiture of up to one-half of one month's pay for officers and not over two weeks' extra duty of two hours per day for enlisted personnel. Such punishments do not exclude the additional use of reprimand or admonition. If the individual demands formal trial this punishment may not be administered but formal charges may be preferred. One interesting aspect of this type of punishment, as far as enlisted personnel are concerned, is that the record of the incident does not become a permanent part of the individual's record, and does not transfer with him to his next unit.⁶⁶

The advantage of this form of disciplinary procedure from the individual's standpoint is the fact that his record is not permanently marred by a criminal conviction. Advantages of this system from a supervisor's point of view are the simplicity of the proceedings, the speed

⁶⁶Manual for Courts-Martial United States, 1951 (Washington: Government Printing Office, 1951, pp. 205-28.

with which punishment may be administered, and the direct authority which it gives to the commander to control his unit.

While the authority granted the military commander is greater than that necessary for the police supervisor such as the district or precinct commander, it is proposed that the same principle on a reduced scale could well apply. For an example of such a procedure being considered by the Chicago Police Department see Appendix A.

"Army Regulation 15-6" concerns the procedure for investigating officers and boards of officers conducting investigations and includes considerable information on how to prepare, formulate, and conduct a hearing of the type utilized by police boards. Since, in both cases, the objective of the proceeding is to determine the facts of the situation and to make recommendations this regulation should prove of direct value to the police administrator.⁶⁷

The Armed Forces Officer, a text published by the Department of Defense, is an ideal guide to the philosophy of positive discipline for any person in a supervisor position. Included are detailed discussions of human nature, group nature, discipline, morale, esprit, and using reward and punishment.⁶⁸

⁶⁷Department of the Army, "Army Regulation 15-6, Boards, Commissions, and Committees" (Washington: Government Printing Office, 1960).

⁶⁸Department of Defense, The Armed Forces Officer (Washington: Government Printing Office, 1950), pp. 1-246.

CHAPTER III

DISCIPLINE

Like all other problems in police personnel administration, discipline is a part of, and related to, many other actions. Careful selection of personnel can do much to eliminate future disciplinary problems. A well organized training program for recruits which continues through the entire career of each officer of the service provides the guidance so necessary to the proper understanding of duties and standards of conduct. This is particularly true for newly appointed sergeants and lieutenants who are supervisors in direct contact with the individual officer and in the best position to guide and counsel before the need for discipline arises. The exercise of sound leadership practices in the department may avert many personnel problems. The availability of grievance procedure which allows the officer with a problem to secure prompt and willing consideration with the knowledge that his grievance will receive careful investigation and action where warranted is another means of affecting the disciplinary posture of the department. Public relations, both in the form of publicity for the department and, where warranted, for the proper individual, affects both the officer's attitude toward his job, and even more important, his own self-esteem as reflected by the respect which the community at large holds for the department. Discipline, then, is not a thing apart from but is a portion of the entire fabric which is the department.

I. OBJECTIVES

Unless there is discipline, no group enterprise can be carried on efficiently. Where there is discipline, there is orderliness and a sense of direction. This goes beyond the strict adherence to rigid rules and regulations and denotes working, cooperating, and behaving in a normal and orderly way. A primary objective of discipline then is to achieve the assigned missions of the department with a maximum of efficiency.

Discipline in a department is not a right of the persons in supervisory positions but is a major responsibility. No matter how painful, this responsibility may not be shared or surrendered without the corresponding right to supervise being diminished accordingly. The existence of this responsibility for decision making does not relieve the supervisor from some form of review of his actions. The extent and procedure of disciplinary action reviews need not be as complete as the right of review under our criminal court proceedings but should insure that the punishment imposed was reasonable under the circumstances. A second objective of a police disciplinary system is to provide the supervisor with the necessary authority to secure compliance with rules and regulations while at the same time providing adequate protection for the rights of the members of the department.

Men prefer to be associated with an organization of which they can be proud and from which they derive a sense of satisfaction. The very high standards of training, selection, and discipline demanded of

agents in the Federal Bureau of Investigation and the respect which these standards have won for the Bureau is an excellent example of this. A third objective of a disciplinary system is to provide the necessary machinery for securing the compliance or dismissal of the small minority of officers who do not respond to other leadership techniques.

Few people enjoy taking action which may result in unfavorable consequences for another person. This is particularly true in police organizations where a close feeling of comradeship and mutual dependence develops over the years. Under such conditions, the supervisor may hesitate to take any action if he is not sure of the procedure and of the appropriateness of his action. The person charged may tend to feel that this is a personal matter rather than an official one. For these reasons, an important objective is to provide a known, administrative procedure to resort to when such actions are necessary.

By their very association with the enforcement of law, police tend to develop a feeling of being "beyond the law." Such an attitude may lead to rationalizations which if not corrected may result in improper conduct which has serious consequences for both the officer and the department.¹ A final objective of police disciplinary procedures is to provide the proper official attitude toward the standards of conduct which will be acceptable within the department.

¹William A. Westley, "Violence and the Police," The American Journal of Sociology, Vol. LIX, July 1953, pp. 34-41.

II. PRINCIPLES

The general responsibility of a supervisor concerning discipline is to maintain orderly conduct among his subordinates and to apply disciplinary measures which will eliminate conditions interfering with efficiency, insure cooperation, and protect the rights of the group. To accomplish this his goals are: (1) to foster a feeling of mutual respect between himself and his organization; (2) to keep his officers satisfied while at the same time having them conduct themselves in accordance with the established rules of conduct; and (3) to train the police officers within his control to perform their duties efficiently. To achieve these goals certain principles or guides are available to indicate the type and scope of action to take.

Principle Number One

Make instructions simple and understandable. All orders and instructions given should be clear and understandable. One cannot expect a subordinate to follow instructions if he does not understand them. The simplest language to express a thought is the best. If there is any question as to understanding the supervisor must utilize every communication method available to correct the situation. The supervisor must avoid taking as a personal affront any question as to the meaning of his instructions or subordinates will pretend to understand when in truth they do not.

The manner in which orders or instructions are given has an effect on the officer's attitude toward obedience. The average officer desires to get along with his superiors and will readily follow reasonable orders,

but they will be reluctant to do more than the minimum for an overbearing superior. An order which is given harshly, discourteously or without adequate explanation, invites disobedience. Furthermore, it is common sense that an officer will obey an order more readily if he understands the reason for it. This was recognized by George Washington when in an address to his officers during the Revolutionary War he advised "impress upon the mind of every man, from the first to the lowest, the importance of the cause, and what it is they are contending for."² Familiarity with routine orders makes repeated explanations unnecessary but an order which is unusual should be accompanied by an explanation. If the situation does not permit an immediate explanation the trained officer will recognize this and based upon confidence established in the past will act immediately.

Principle Number Two

The supervisor must know and follow the rules. Discipline must start at the top. A supervisor cannot begin to maintain discipline unless he himself knows what action is proper and improper and conducts himself accordingly. The old adage "don't do as I do but do as I say" has little place in the modern police department.³ Where subordinates see their superiors violating the very rules and regulations which they are expected to follow, the effect is obvious. The supervisor who violates the rules

²General George Washington in a message to his officers, cited by Army Information Digest 17: Cover, February, 1962.

³Clifford L. Scott and Bill Garrett, Leadership for the Police Supervisor (Springfield: Charles C Thomas, 1960), pp. 61-67.

tends to realize that he is in no position to have his actions questioned and may not take the disciplinary actions required for this reason. The end result of such a situation reached its logical conclusion in the recent exposures concerning the Denver Colorado Police Department.⁴

Principle Number Three

The principles of organization must be known and followed.

Each officer should know and understand the organization of the department. Such organization should clearly establish the chain of command allowing both supervisor and subordinate to know and understand their relationship. This provides each member of the department with the knowledge of whom he is responsible to and who receives his report. Not to be overlooked is the effect of span of control. The supervisor who has more subordinates than he can effectively supervise will encounter more disciplinary problems and will find them more difficult to cope with than the supervisor with a reasonable size command.⁵

Principle Number Four

Take prompt action on disciplinary violations. When an apparent disciplinary violation comes to the attention of any supervisor he must not overlook it or put off taking action. This does not mean that a formal reprimand or other disciplinary action will be assessed every

⁴Keith Wheeler, "Denver's Crime and Punishment," Life, 52: 109-20, May 18, 1962.

⁵G. Douglas Gourley, "Police Discipline," Journal of Criminal Law and Criminology, 41: 87, January, 1950.

time a violation occurs. It does mean that the supervisor is faced with the responsibility of investigating the facts and doing something about the violation. The supervisor's action will depend upon the nature and circumstances of the offense, and upon the individual's record. The infraction may call for merely cautioning the officer about his conduct, a verbal warning without putting anything on his record, a formal reprimand with a notation on his record, a disciplinary layoff, or even discharge. This does not imply that all supervisors should have the authority to impose these penalties but that these are the possible actions which may occur. The main point is that under no circumstances may the supervisor ignore misconduct which comes to his attention. Inaction is equivalent to condoning the violation and over a period of time could result in making the particular rule or regulation unenforceable unless some affirmative action is taken to warn that in the future such violations will not be overlooked.⁶

Principle Number Five

Investigate before acting. Once the facts of any disciplinary case are assembled the decision as to the proper disciplinary action to take is usually clear. Since most of the difficulty in disciplinary cases involves these facts the same care should be given to disciplinary investigations as would be given to any criminal investigation. As far

⁶Earl R. Bramblett, "Maintenance of Discipline," Management of Personnel Quarterly, 1: 11, Autumn, 1961.

as possible the normal rules of evidence should be followed; however, this does not prevent the consideration of hearsay and other evidence, providing that it is recognized as such and weighed accordingly.

Disciplinary action should be taken only where cause exists if personnel relations are to be kept at the highest level. In any case where disciplinary action is challenged, the burden falls upon the department to sustain the action taken. The responsible individual therefore must make an early and thorough investigation of the facts of alleged disciplinary breach. This allows the proper action to be taken as quickly as possible--either to clear the officer or take appropriate action. No decision should be based upon suspicion or personal bias.

Principle Number Six

Permit the accused officer an opportunity to present his side before any decision is made. As a general rule, disciplinary action should not be taken before the accused officer has a chance to explain his conduct. Scott believes that this should be accomplished prior to any investigation as a means to assure the officer that he is not being prejudged and to avoid needless investigation since many incidents may be resolved at this stage.⁷ In addition he notes the following advantages:

First: It affords the officer who has made an honest mistake a chance to save face.

⁷Scott, op. cit., p. 29.

- Second: It cements the feeling of team spirit within the department.
- Third: It is an efficient device for discovering the officer who is inclined to bluff, rationalize, or lie.
- Fourth: It makes for efficiency in the handling of complaints in that the obviously phony complainers can be more easily recognized.
- Fifth: It guarantees the officer an opportunity to defend himself and if necessary, to secure counsel in controversial cases.
- Sixth: It builds a department-wide feeling of trust in the command policies of the department by all its members.
- Seventh: It stimulates confidence on the beat and hence makes for increased efficiency throughout the department.
- Eighth: It discourages rumor mongering and tale bearing while it strengthens the loyalty of the men to the command and the command to the men.
- Ninth: It clears the air for a fair and impartial investigation of charges and accusations.⁸

Principle Number Seven

Decide what action to take. This decision will involve a number of considerations.

a. Know and understand the principles of corrective discipline. The philosophy of corrective discipline should be based on the following general concepts: (1) the purpose of discipline should be to obtain compliance with the established rules of conduct. Its application should not be punitive in nature and it should not be used to "get even" with the employee. No decision or action should be taken on discipline while in a state of anger or excitement; and (2) while discharge is not corrective in nature as far as the department is concerned it may be the only solution for certain types of offenses or where previous efforts to bring about a change in conduct have not succeeded. In this regard it is important to understand that:

⁸Ibid., pp. 29-30.

...corrective discipline does not apply to the so-called major offenses. It applies only to the lesser offenses which, however, make up the bulk of disciplinary situations.⁹

The utilization of corrective discipline involves the use of reprimand or ~~minimum~~ punishment, depending upon the nature of the offense, for the first offender. The objective of such action is to impress the offender with the desirability of following the rules without at the same time causing him to feel that he has no chance of "living down" his delinquency. If this action does not bring about a change in attitude and the officer is again involved in an offense, a stronger penalty is assessed the second time. If further offenses occur, particularly if they are identical or similar to the prior ones, discharge may be the only solution.

This is not to imply that there is any fixed formula for awarding penalties or making decisions on the best disciplinary procedures to follow. The members of the department deserve to know that their case will receive individual consideration and that twenty years of service will not be sacrificed for some minor error in judgment or lapse of attention.

There are certain guides to keep in mind in deciding the best course of action to take. First, the seriousness and circumstances of the particular offense; second, the past conduct record of the officer and his length of service; third, the lapse of time since his last misconduct for which disciplinary action was taken; and fourth, the precedent

⁹Bramblett, op. cit., p. 11.

for punishment in similar cases. Careful consideration of all these factors should produce a disciplinary action which will fit both the man and the offense and therefore have the best chance of bringing about the desired change in conduct. Because of their importance each of these will be considered separately.

b. Did the act or omission constitute a major or minor offense? In the police service, this is normally not too difficult a determination to make. If the rules are clearly written they will indicate those offenses which, if proved by such evidence that a reasonable man can accept as adequate to support the conclusion, will be considered major.

Major offenses are those offenses so serious in nature that discharge is required without consideration for the officer's service or prior good record. Conviction in criminal court for any offense involving integrity or moral turpitude would automatically fall in this category. Drunk on duty or abandoning post or patrol without excuse or permission would also be major offenses.

Minor violations would include conduct or omissions such as dirty uniform, reporting late, and abuse of equipment. These are some of the offenses for which the concept of corrective discipline may be utilized to good effect.

c. Determine the rule or rules violated. Where the act or omission results in the violation of several rules only the more serious violation normally should be charged. For example, failure to properly account for and turn in property secured as evidence could be larceny and failure to follow regulations concerning the handling of evidence.

Where only suspicion of the more serious violation exists it may prove necessary to select the lesser offense for which evidence is available. If at a later time the evidence for the more serious offense is secured, in this case larceny, the defense of former jeopardy does not exist since this is an administrative and not a criminal process.

Situations may occur where an officer's actions may constitute a series of separate and distinct acts of misconduct. For example, an officer might leave his patrol area without permission, drink while in uniform and in a public place, and assault a citizen while attempting to make an illegal arrest. Each act of misconduct, while related in sequence is a separate and distinct act of its own and could properly be charged.

d. Factors to consider after the offense is established. Consideration as to the action to take in a given disciplinary situation may be given by an individual supervisor in his deliberations as to the preferring of charges, or the final decision by the supervisor with the authority to assess punishment, or by a disciplinary board. In any of these cases certain considerations are in order, after a finding of responsibility or guilt has been made, but prior to the final decision as to the proper penalty to impose.

The prior record of the offender is an important guide line as to his attitude and his value to the force. If prior disciplinary action has been taken, what was the offense and what penalty was given? How long has it been since the last or previous disciplinary problem? Minor offenses occurring over two years prior to the incident in question

should not normally be considered by a board or supervisor in deciding what action to take. In the military forces such consideration is limited to offenses committed during the present enlistment or in the last three years preceding the trial.¹⁰ Such a practice is an aid to morale in that an officer knows that he can "live down" a delinquency by good conduct and that such incident will not survive his entire career to prevent promotion and to weigh against him at some future disciplinary hearing. Since persons who commit major offenses should be eliminated from the force this should prove no loss to the department and will improve morale.

The precedent of punishment in similar cases is a consideration but not a binding guide. Similar cases imply similar offenses committed by officers of comparable value and record. While this is a broad guide both the individual officer and the service as a whole are quick to sense actual unequal treatment which can directly affect the support of the group for the action taken. While such support is not necessary, it can be a very strong factor in the morale of the department.

Matter in extenuation of an offense serves to explain the circumstances surrounding the commission of the offense, including the reasons that actuated the accused but not extending to legal justification.¹¹

Matter in mitigation is submitted by the officer and considered by the department for the purpose of lessening the penalty to be imposed.

¹⁰Manual for Courts-Martial United States, 1951 (Washington: Government Printing Office, 1951), p. 119.

¹¹Ibid., p. 121.

Prior record, citations, and character evidence would be appropriate to consider in this regard.

e. Suspension while awaiting disciplinary action. Where minor offenses are concerned the use of suspension is seldom necessary. There will be occasions when the charge against the officer is such that it is not desirable for him to continue on duty while the problem is being resolved. One example of this is when criminal action is pending but the case has not been tried or where the officer has been convicted by a criminal court and has appealed the conviction. This presents a difficult situation for a department. Where possible, if there is sufficient evidence to sustain a dismissal it would appear that the appropriate action should be taken to reach a decision in this regard without waiting for the final determination of the problem. In most situations the suspension will be only for the purpose of completing the investigation and if indicated, taking appropriate disciplinary action.

The use of the suspension must be carefully considered since investigation may reveal that the charge is unfounded or that it was a minor offense which could properly have been dealt with by a reprimand. In such a situation the department is required to reinstate the officer with pay for the suspension period. Where possible, in doubtful cases, the use of a temporary assignment in a noncritical position may be considered. Suspension should never be used unless the offense under consideration would at least merit time off without pay.

Principle Number Eight

Inform the offender of the disciplinary action taken or recommended. Whether the information to be provided the officer is in the form of indicating the action which has or will be taken to prefer formal charges or to inform the officer of the final verdict regarding a disciplinary proceeding, the procedure is not one which most supervisors find pleasant. The best procedure is to accomplish the action as soon as possible after the decision is made. It should be accomplished in private and in as impersonal a manner as possible.

If a formal reprimand is to be administered it "should be given without a show of emotion, without humor, without sentimentality, without excuse, without rationalization, and without apology."¹²

Since the action has been thoroughly investigated and the decision has been made, the firm nonargumentative attitude is the proper one to maintain. The objective of the discussion is to "...explain to the employee what he did wrong, what disciplinary measure is being taken, and what is expected of him in the future."¹³

Principle Number Nine

Keep records of all formal and informal disciplinary actions taken. Where formal disciplinary action is taken there should be a complete record of the charge, investigation, board action if taken,

¹²Scott, op. cit., p. 33.

¹³Bramblett, op. cit., p. 12.

recommendations, final action, and appeal if made. This practice is normally followed. Of equal importance, but less frequently followed, is for the supervisor to maintain a record of all administrative actions taken which have a disciplinary implication. Examples would be an "on the spot" reprimand for minor delinquencies; counseling sessions required because of borderline performance or conduct; and transfers made because of the individuals inability to perform properly in the prior assignment. Such information can frequently be more revealing concerning an officer's attitude and value to the service than one single instance of misconduct.

Principle Number Ten

Follow established disciplinary procedures. Disciplinary procedures are established to protect the rights of the department and the individual officer. To deprive either of any portion of the established procedures may result in the reversal of an otherwise well processed action. Where the appropriate punishment is voided by improper action by supervisory personnel the result is worse than if no action had been attempted. Each time an officer "beats the charge" there is a loss of respect for the system and for the supervisor involved. This cannot help but affect the morale and discipline of the organization. To the casual observer, it also makes the charged but acquitted officer appear to have been needlessly harassed.

Principle Number Eleven

Disciplinary actions of the chief or superintendent should not be subject to review other than for dismissal from the service. With

the implementation of a fair disciplinary program within a department the supervisor responsible for the operation should have the freedom to discipline as necessary. If the responsible person is not considered competent to assume and properly exercise this authority, he should be replaced. Review of cases appealing dismissal from the service should be limited to the evidence presented to determine its sufficiency and not as a means of "second guessing" the value of the individual to the department.¹⁴

III. LEADERSHIP INDICATORS

Morale, esprit de corps, discipline, and proficiency of the group are all indicators of the effectiveness of leadership within a police organization. By a continuous evaluation of these indicators it is possible to determine where leadership is weak and what actions need to be taken to correct the situation. These indicators are largely interdependent and therefore some factors will affect one or more. "Although discipline, esprit de corps, and proficiency are dependent on the degree of morale present, all four are of equal importance."¹⁵ For this reason it is necessary to understand their relationship if the supervisor is to understand his role in the disciplinary process and to further anticipate the results of his action or inaction upon the department.

¹⁴Gourley, op. cit., p. 87.

¹⁵Department of the Army, Military Leadership, FM 19-100 (Washington: Government Printing Office, 1961), p. 38.

Morale

Morale affects the attitude of the individual officer toward his fellow officers, his supervisors, the department and his very way of life. If the standards of the department are high, it is probable that the individual officer will identify himself with the department in a favorable light and approach his job with a positive and receptive state of mind.

Morale cannot remain static but will be moving up or down at all times. Morale may be measured by diligent observation of the daily activities of the men and their immediate supervisors. Indicators to observe are:

1. Appearance.
2. Standards of courtesy.
3. Personal hygiene.
4. Internal bickering.
5. Harmful rumors concerning the department and its commanders.
6. Condition of police buildings.
7. Care of equipment.
8. Response to orders and directives.
9. Job proficiency
10. Attitude toward training.

Esprit de Corps

Esprit de corps is manifested by loyalty to, pride in, and enthusiasm for the department. Acceptance of responsibility by individual officers, pride in the department, and a personal regard for the honor of the group should also be considered. Esprit de corps may be compared to team spirit or loyalty above and beyond the individuals who make up the unit. A critical factor in this depends upon the satisfaction the members derive from belonging to the department. Indicators which should

be considered in evaluating esprit de corps in a department are:

1. Overt indications by individual officers which show enthusiasm for and pride in the department.
2. The respect which the department receives from the community and other departments.
3. The spirit of friendly competition within units of the department.
4. Willing participation by the officers in department projects not directly involved in their duties.
5. Willing assistance to fellow officers.
6. The percentage of resignations from the department and the waiting list to get in.

Discipline

Discipline is nearest perfect when it assures the individual the maximum amount of freedom of thought and action while at the same time increasing his feeling of responsibility toward the department.¹⁶ This is achieved through effective training and leadership which provides the individual with the information and confidence necessary to take proper action when an independent decision must be made. When this situation exists mutual confidence between all ranks in the department will decrease the necessity for punitive action. Important factors to consider in evaluating the status of discipline in a department include:

1. Individual attention to details.
2. Cooperation between sections and individuals.
3. Mutual respect between subordinate and superior.
4. Conduct of the department's members both on and off duty.
5. Appearance and courtesy of department members.
6. Promptness in responding to commands and directives.
7. Utilization of the chain of command.
8. Number of disciplinary actions taken as compared to similar periods in the past.

¹⁶Department of Defense, The Armed Forces Officer (Washington: Government Printing Office, 1950), p. 142.

9. The number and type of complaints being made against members of the department.

Summary

Discipline then, far from being an entity standing alone, must be considered as it is, a part of the totality of a complicated and sensitive structure, the modern police department.

Discipline cannot be self-generated, cannot start from the bottom, and cannot survive in the face of incompetence and indifference from above. The very number and complexity of the principles of discipline when compounded with problems which have generated unchecked over long periods of time may provide an almost impenetrable obstacle to the police supervisor seeking to reorient the department's thinking, personality, and productivity. It is unfortunate that a stubborn minority in opposition is frequently more vocal than the majority who would like to see reforms effected but lack the spirit to "cross the line" and take a stand. For these reasons, any initial efforts to improve the state of discipline in a department will be slow and must be based upon clear objectives, explained to the entire membership of the department, and formulated in the departmental regulations.

How this problem has been met in three of our major metropolitan police departments is reviewed in the next chapter.

CHAPTER IV

A DESCRIPTION AND EVALUATION OF THE FORMAL DISCIPLINARY PROCEDURES OF THREE METROPOLITAN POLICE DEPARTMENTS

While much may be learned from a theoretical consideration of disciplinary practices and procedures, of even greater importance is the study of the actual application of these practices and procedures. For this reason three of the five largest municipal police departments in the United States were selected for evaluation and comparison. A study was made of the published rules and procedures of each department. In addition, visits were made to the Chicago and Detroit Police Departments, as a further aid to understanding their disciplinary procedures. From these combined studies the following information was obtained.

I. CHICAGO

Introduction. O. W. Wilson, formerly Dean of the School of Criminology at the University of California, Berkeley, California, was appointed Superintendent of Police for the City of Chicago in February 1960. By this act he assumed command of a force of 10,587 officers and 496 civilians.¹ This number serves a city of 3,550,404 persons.² Among his first acts was an attempt to abolish the Civil Service

¹Municipal Year Book, 1961 (Chicago: International City Managers Association, 1961), p. 401.

²World Almanac (New York: New York World-Telegram, 1962), p. 263.

Commission of police disciplinary appeals and the establishment of the Internal Investigation Division to investigate complaints against members of the Department as well as improper practices which were brought to their attention by other means.³ These changes were strongly resisted at the time by Patrolman Frank Carey, President of the Patrolmen's Association and the opposition has not lessened to Spring, 1962.⁴ It is worthy of note that Frank Carey was reelected to his post in April 1962 by a vote of only one-eighth of the patrolmen in the Department.⁵ It can be seen that disciplinary procedures are a matter of no small importance in the Chicago Police Department.

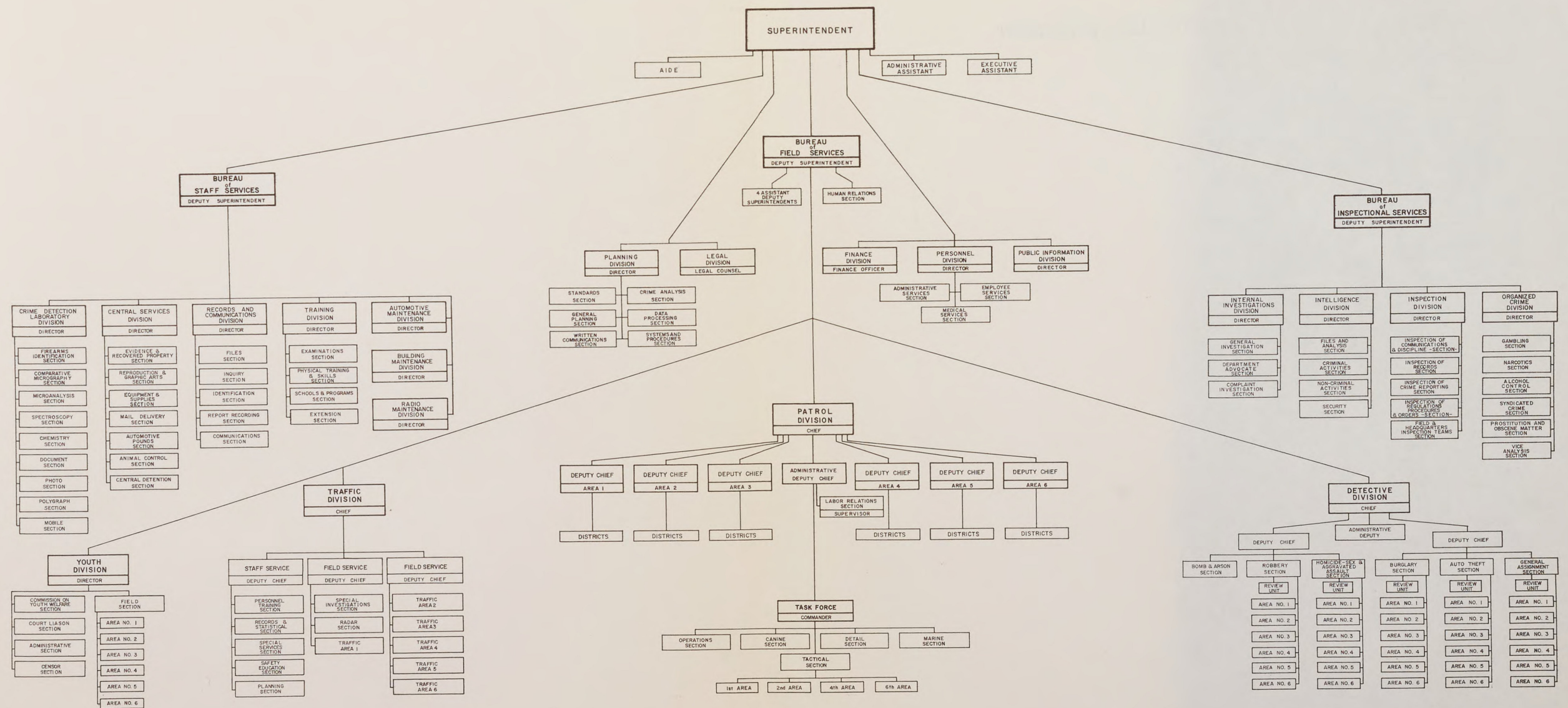
Disciplinary organization. The command or disciplinary organization of the Department as shown in Figure 1 originates with the Superintendent and continues down to the individual officer through the Bureau of Field Services and the various divisional chiefs. With the exception of the Superintendent the span of control does not exceed the optimum number.

Outside of this command chain, but with important responsibilities in the disciplinary procedures of the Department, is the Bureau of Inspectional Services. This Bureau acts in a staff capacity, directly under

³Peter Wyden, "He Makes Cops Come Clean," Saturday Evening Post, 234: 69, August 12, 1961.

⁴Ibid., and news item in the Chicago Tribune, April 3, 1962.

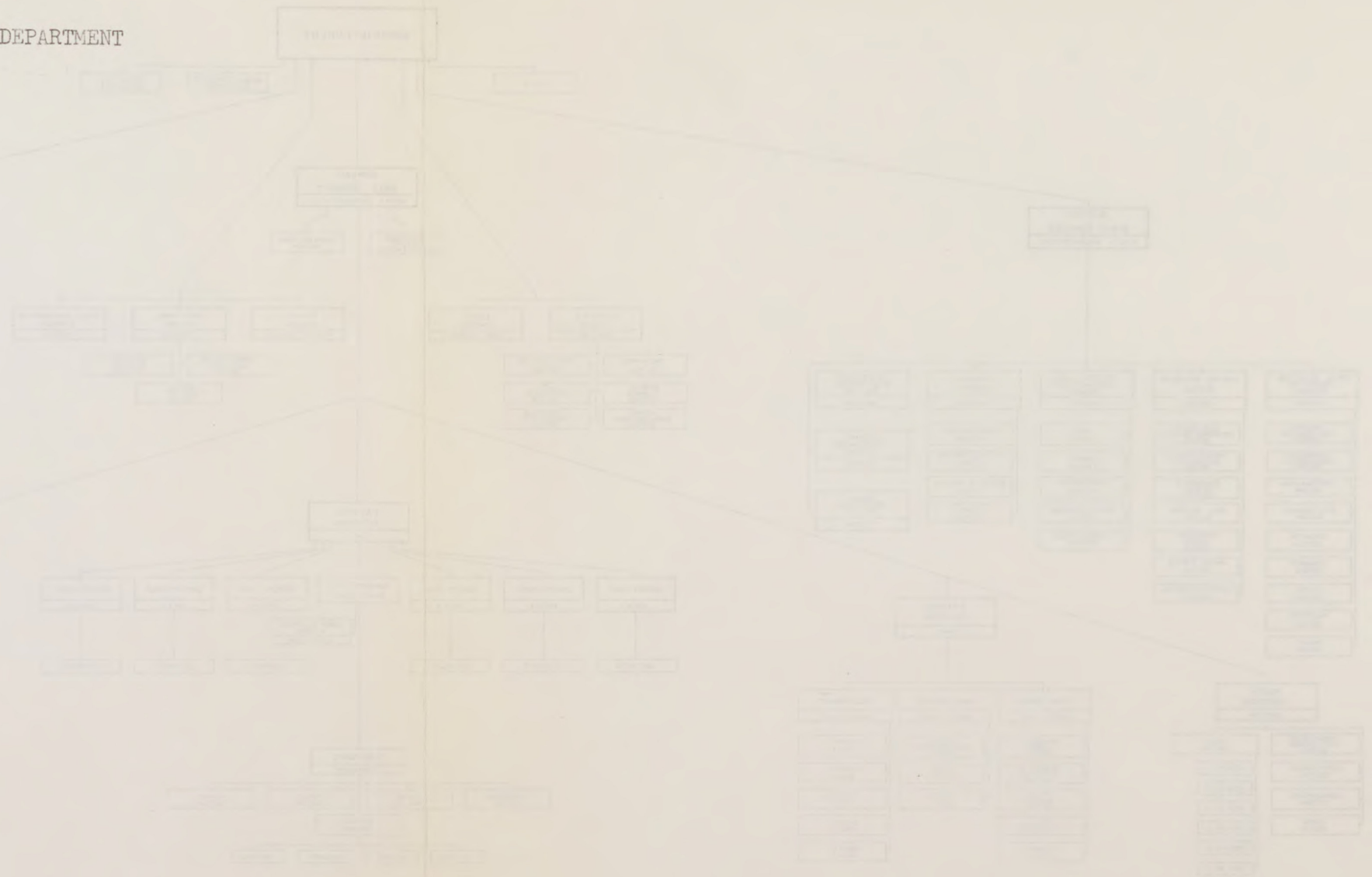
⁵Editorial comment in the Chicago Tribune, May 1, 1962.



CHICAGO POLICE DEPARTMENT

-PLANNING DIVISION-
OCTOBER 1961

FIGURE 1
ORGANIZATION CHART, CHICAGO POLICE DEPARTMENT



the Superintendent. The Bureau of Inspectional Services is divided into four divisions with a director in charge of each. Of these four divisions the Internal Investigation Division is organized and staffed to investigate, prosecute, and record disciplinary actions within the Department.

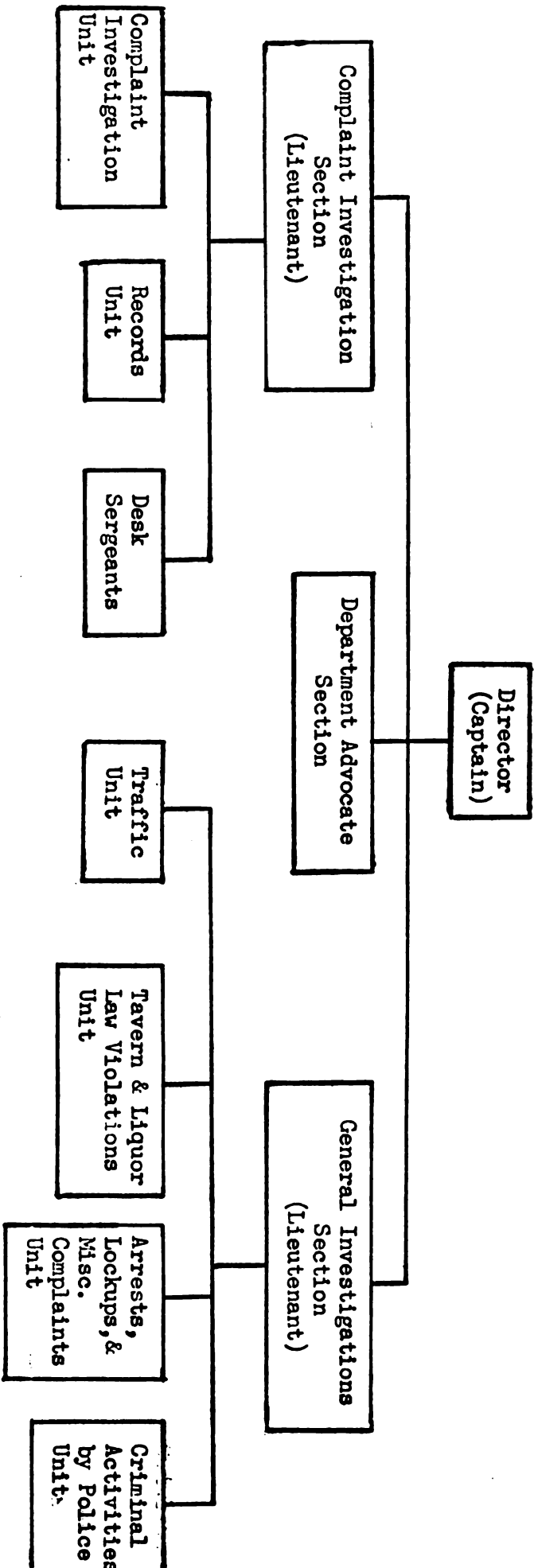
As shown in Figure 2, the Internal Investigation Division is composed of three sections: The Complaint Investigation Section, Department Advocate Section, and General Investigations Section.

Disciplinary procedure. Alleged or suspected violations of law, ordinance, or Department rules, regulations, or orders, observed by supervisory personnel in the Department are reported to the Complaint Investigation Section of the Internal Investigation Division. Complaints from citizens may be made direct to the Section by any means or may be made to any police agency. When complaints alleging improper conduct on the part of the police are received by police agencies, such information is forwarded by telephone to the desk sergeant on duty in the Complaint Investigation Section. This report is required even if immediate investigation by the supervisor proves the complaint to be unfounded.⁶

To process complaints in the Internal Investigation Division the Complaint Investigation Section maintains a twenty-four hour schedule. All complaints, regardless of the source, are entered in a bound ledger called the Discipline Register. Information entered in the

⁶"General Order Number 16," Department of Police, Chicago, Illinois.

FIGURE 2
CHICAGO POLICE DEPARTMENT
INTERNAL INVESTIGATION DIVISION



Register for each violation includes the name, rank, badge number and duty assignment of the alleged violator; the date and hour of receipt of the telephone report or other type complaint; the name, rank, and badge number of the reporting officer. Similar identifying information is obtained, where possible, from citizen complaints. At this time the complaint is assigned a number by virtue of the sequency of the entry in the Register. This number then becomes the key to all filing and reference procedures in the future. Other information entered in the Register, as received, includes the date and hour of receipt of the first written report, the date the case was considered by the Department Disciplinary Board, if applicable, and the date of final action by the Superintendent.

Access to the Disciplinary Register is restricted. Only those persons with a "need to know" as specified by the Superintendent are given this authority. The list of persons authorized to inspect its contents is posted on the cover of the Register to provide ready reference and security.⁷

Complaints may be investigated by the Complaint Investigation Section, by the General Investigations Section, or by the command to which the individual is assigned. In addition, the Complaint Investigation Section may conduct a concurrent investigation or may take over an investigation if it appears that the command investigation is not making the proper progress. Complaints referred to the General Complaint Section are normally limited to instances where the identity of the officer

⁷Ibid., par. 7.

is unknown or where an incident overlaps command areas. In such an instance, after the identity of the officer is established, the investigation may be turned over to the command concerned. All complaints involving an "in progress" offense are reported to the command concerned for immediate action.⁸ Seventy per cent of all general complaints are investigated by the command district with the remaining thirty per cent being investigated by the Internal Investigation Division.⁹

The normal investigative procedure involves six steps. Where possible a statement will be obtained from the complainant. This may be taken at the station where the complaint is first made or at the Internal Investigation Division Headquarters. The contents of this statement are then made known to the officer accused. If possible, the complainant will be present during this period. Where the complaint is made by an anonymous person only the information can be made available. The third step involves the obtaining of statements from all witnesses which also includes the necessary investigation to determine the identity of possible witnesses. The fourth step is a continuation of the investigation to determine all of the facts both for and against the individual involved. If the officer desires to make a statement it is then taken, which completes the investigation.¹⁰

⁸Information obtained during interview with Lieutenant Alfred Conrad, Complaint Investigation Section, Chicago Police Department, February 9, 1962.

⁹Chicago Police Newsletter (Chicago: Department of Police, June, 1961), p. 4.

¹⁰Ibid.

Upon completion of an investigation one of the following conclusions regarding the allegation will be made: (1) unfounded; (2) exonerated; (3) not sustained; or (4) sustained. If the finding is sustained a decision as to recommended action is first made at District level by the officer's own commander. The report of investigation is forwarded through channels together with the recommended action to be taken. Each command level considers the case and either concurs or submits recommended changes which are included.

A concurrent problem to be resolved during this period is the question of the status of the officer. Where an officer was excused from duty while the investigation was being conducted and the result is anything other than sustained the officer is returned to duty and is paid for any time lost. If the charge is sustained or the investigation is to be continued the decision will be based upon the type of offense involved. Alternatives include continuation on duty, change of duty, station duty, excused from duty, or in extreme cases, arrest. Carrying the officer in an excused from duty status during an investigation has the advantage of keeping him subject to Department regulations and orders as opposed to an outright suspension where control is negligible.¹¹

When the recommended action has been staffed to the Deputy Superintendent of the Bureau concerned, it is then returned to the Internal Investigation Division for review and adjustment of any differences in the recommendations. If the action to be recommended is summary

¹¹"General Order Number 16," op. cit., par. 9.

punishment of less than thirty days' suspension, the complete file will be forwarded by the Internal Investigation Division direct to the Superintendent. Just prior to this last action a final check is made by telephone with the captain in charge of the accused to determine if the accused desires to request a hearing before the Department Disciplinary Board in lieu of accepting punishment from the Superintendent. If the hearing is requested such action must take place within twenty-four hours. In either case, a telephone report is made by the captain to the Internal Investigation Division.

Where punishment by the Superintendent is accepted by the officer, the case is reviewed by the Superintendent and his final decision is relayed to the commander of the accused who in turn informs him of his punishment and further notifies the Internal Investigation Division when it has been completed.

If a request for a Disciplinary Board hearing is made, or in those instances where the recommended punishment includes suspension for more than twenty-nine days or separation from the Department, the file will be sent to the Department Advocate who prepares the case for presentation to the Board. If deemed necessary, the Department Advocate may request additional investigation. He schedules the case for a hearing and selects a panel of three officers from the list provided. The panel will be composed of two captains and one officer of higher rank, none of whom will be a supervisor of the accused.¹²

¹²Ibid., par. 16.

The Board will consider the investigation reports, the statements and other documents contained in them, previous disciplinary actions taken against the accused, if any, and other evidence which it feels appropriate. After consideration the Board will reach one of the following findings: (1) dismissal of the charges; (2) written reprimand; (3) need for further investigation; (4) a suspension for a period not to exceed twenty-nine days; or (5) suspension for a definite period in excess of twenty-nine days or separation from the Department if such action can be supported by convincing evidence.

If the fifth finding is reached and concurred in by the Superintendent, the case is referred to the Chicago Police Board for final consideration. If one of the other findings is reached the Superintendent reviews the recommendation and may follow or modify the finding as desired. The final decision is sent to the commander of the individual and the Internal Investigation Division is notified.

The Chicago Police Board, composed of five prominent citizens appointed by the Mayor for five-year terms, (1) assists in the selection of Superintendents of police when necessary; (2) adopts rules and regulations; (3) prepares and submits the annual budget; and (4) sits as a review board on certain disciplinary appeals.¹³

Cases presented before the Police Board are prepared by the City Counsel. The accused is entitled to counsel of his own choice. The decision of the Police Board is transmitted to the Superintendent for implementation.

¹³Chicago Police Newsletter (Chicago: Department of Police, July 28, 1961), p. 6.

If the officer does not desire to accept the verdict of the Police Board he has the right to appeal his case to the Circuit Court of the State of Illinois.

Miscellaneous provisions. Where the charge involves drinking or drunkenness the officer so charged will be required to take visual and breathalyzer tests the results of which will be recorded on an Alcoholic Influence Report Form.

Lie detector examinations may be used in the course of examination of the officer accused by the Department. If the officer refuses to submit to the examination, he is charged with a violation of Department Rule 277 Obedience to Orders. Since the results of such an examination are not admissible in court the Police Board does not consider such evidence since the case may be appealed to the Circuit Court. Within the Department, however, "great credulity is given to the Polygraph, especially when the complainant agrees to submit to it and passes, and the accused fails."¹⁴

Under consideration is a change to General Order 16 which would allow supervisors of the rank of Sergeant and above to impose punishment in certain specified cases not to exceed forfeiture of one day's pay. In such instances no record would be maintained by the Internal Investigation Division. Such punishment could not be imposed over the officer's objection. For a copy of this proposal see Appendix A.

¹⁴Statement in letter concerning this problem from Lieutenant Alfred A. Conrad, Head of Complaint Investigation Section, Internal Investigation Division, Department of Police, Chicago, Illinois, dated March 27, 1962.

Specific provision is not made in General Order 16 for situations involving senior command members of the Department. Such situations would be resolved by the Superintendent and the Internal Investigation Division utilizing the same basic procedures with all normal procedures raised to a corresponding level.¹⁵

Where the commanding officer is a District Captain or of equivalent rank and position he may determine that the offense does not merit referral to higher command and may elect to offer punishment to the offender which will not exceed two days' extra duty without pay. If the offender accepts, the Internal Investigation Division is notified and the more elaborate procedures described in this section are dispensed with. This decision may be overruled if it is determined that such punishment is not in keeping with the offense committed and the other considerations involved.

All efforts of the Internal Investigation Division are not directed toward investigating allegations against members of the Department. Any member of the Department who believes that he may be falsely accused or who has other reason to request assistance may contact the Division without going through command channels.¹⁶

Evaluation. This disciplinary procedure of the Chicago Police Department is highly centralized and efficiently organized. The

¹⁵Information obtained during interview with Lieutenant Alfred A. Conrad, Head of Complaint Investigation Section, Internal Investigation Division, Chicago Police Department on February 9, 1962.

¹⁶"General Order Number 16," op. cit., par. 11.

centralized control of disciplinary procedures provides responsive investigations and complete records concerning all disciplinary actions taken and charges made against members of the Department. Such centralized control would appear, however, to have given one area of authority to a staff agency which properly could be considered as a command function. This involves the authority of the Internal Investigation Division to resolve differences of opinion as to the proper action to take when more than one recommendation has been made as to disposition of a case. Such action would appear to be a command responsibility of the Bureau Commander concerned and not a staff function.

An additional advantage of a system of this type is that it hits hard at any attempt to cover up delinquencies within any unit of the Department.

II. DETROIT

Introduction. The population of Detroit, Michigan in 1961 was 1,670,144 making it the smallest of the three cities studied.¹⁷ Mr. George Edwards, a former Supreme Court Justice in the State of Michigan, is the present Commissioner of Police. The Commissioner of Police is appointed by the Mayor. Commissioner Edwards has a force composed of 4,701 officers and 414 civilians.¹⁸ Like the other cities studied, Detroit has a variety of police problems including port activities, traffic, and the problems generated by the concentration of industry

¹⁷World Almanac, op. cit., p. 267.

¹⁸Municipal Year Book, loc. cit.

in the area. In recent months articles concerning trials of officers in civil courts for damages due to excess use of force and trial board action against officers on a similar charge but in a different case have been published in the Detroit newspapers.¹⁹ The Detroit Police Department, like other departments, has its share of disciplinary problems.

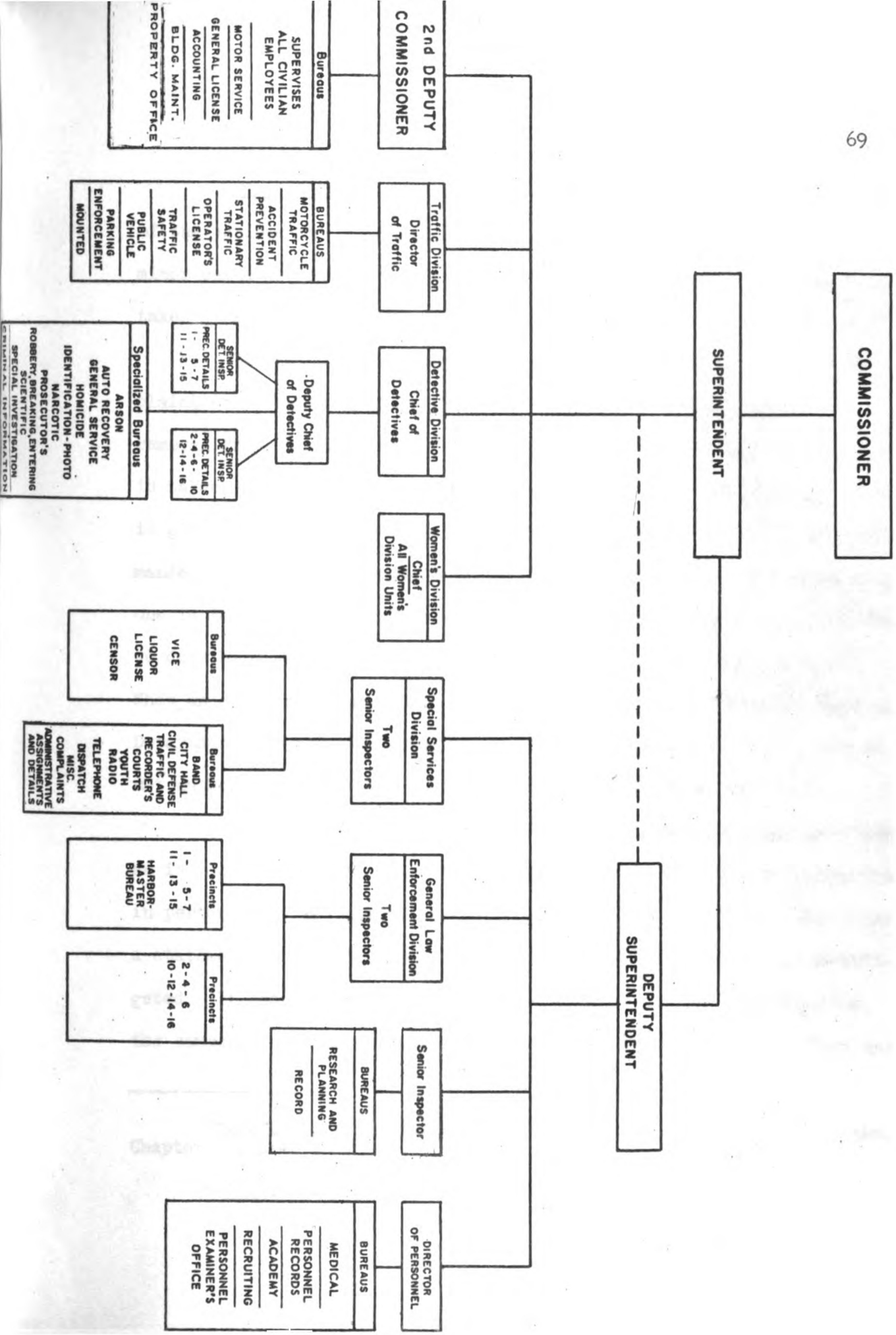
Disciplinary organization. The Detroit Police Department differs greatly in organization from the other departments studied. As shown in Figure 3 the Department is administered by a Commissioner assisted by a Superintendent and Deputy Superintendent. The Deputy Superintendent has direct supervision over two Divisions and two Bureaus while the Superintendent has direct supervision over three Divisions and one Bureau. This group is also shown as having a staff relationship with the Deputy Superintendent. The Commission has no personal staff and is removed from the operations of the Department by three layers of command.

No special investigative agency for the purpose of investigating delinquencies within the Department is maintained. Where charges are brought to the attention of the Department they are investigated by the command receiving the complaint. No centralized agency is responsible for monitoring and recording complaints, investigations, and disciplinary actions.

¹⁹Detroit Free Press, March 15, 16, and 24, 1962.

FIGURE 3
DETROIT POLICE DEPARTMENT ORGANIZATIONAL CHART

MARCH 1961



Disciplinary procedures. The authority of commanding officers of the various units of the Department to take disciplinary action in minor cases is limited to admonitions or warnings. When such action is taken a report is made through channels to the Deputy Superintendent.²⁰

The authority to suspend an officer on the receipt of a complaint or on becoming aware of an offense which requires immediate removal from duty is vested in all superior officers. When such action is taken, a short written report in three copies is prepared. One copy is given to the suspended officer, a copy is sent to the officer's commander, and the third copy is attached to the report of investigation if one is forwarded. An officer who has been suspended may only be restored to duty by direction of the Superintendent or Deputy Superintendent. When an officer is suspended, he is immediately required to surrender all Department property including his badge and identification card, and is not authorized to wear his uniform while in a suspended status.²¹

When misconduct is reported to the offender's commanding officer, he is required to make a thorough investigation. This may be accomplished in person or by the use of investigators. The officer accused may submit a statement in writing giving his version of the incident being investigated. If, as a result of the evidence obtained by the investigation, the commander concludes that a violation has occurred, he supervises the

²⁰Detroit Police Manual, Department of Police, Detroit, Michigan, Chapter 10, Section 112.

²¹Ibid., Sections 99-102.

preparation of charges and forwards the entire file to the Deputy Superintendent or Superintendent who in turn transmits it to the Commissioner.²²

The charge and specification are prepared and submitted on a Misconduct Report Form. The charge consists of a short statement identifying the type of offense alleged to have been committed and the specification is a short concise summary of how the violation occurred. The following is an example:

Charge: Neglect of duty.

Specification: That on January 4, 1958, at 2:00 A.M., he, Patrolman John Doe, being assigned to patrol duty on Woodward Avenue, from Grand Boulevard to Clairmount Avenue, did neglect his duty, to-wit, he did enter a business place at 9287 Woodward Avenue and remained therein from 2:00 A.M. to 2:35 A.M., and not on police business, in violation of Chapter 10, Section 129, Paragraph 10, Detroit Police Manual.²³

If additional specifications are utilized they are listed and numbered in sequence.

Charges may be preferred when substantial evidence exists that a member of the Department has violated a "rule or regulation, a provision of a general or special order, or who commits one of the following listed offenses...." Included in the list are forty acts or omissions ranging from laziness to accepting bribes.²⁴

If, after examining the file, the Commissioner determines that punishment should be imposed, the charges are served on the accused officer. The charges are signed by both the accused and the officer serving the charges and a copy is returned to the commander. One copy

²²Ibid., Sections 104-105. ²³Ibid., Section 106.

²⁴Ibid., Section 129.

is sent to the Commissioner and the third copy is kept by the accused. This action must be accomplished by at least twenty-four hours prior to the date set for trial.²⁵

The Commissioner has the power to subpoena witnesses and this is accomplished by the commander of the accused.

The hearing of charges is conducted by a Trial Board composed of the Commissioner or Deputy Commissioner of Police, the Chief of Detectives, or such assistant as he may appoint, and such other executive officer who may be designated by the Commissioner as the Chief Inspector of Police.²⁶ No challenge procedure is provided.

The trial is conducted by taking a plea from the accused officer which is entered on the reverse side of the charge sheet. Testimony under oath is taken first from the complaining witnesses, and then from the witnesses for the defense. The substance of all testimony is recorded by a stenographer. All officers being tried by the Board have the right to counsel which may be an attorney.²⁷ It is the practice of the Detroit Police Officers Association to provide legal counsel for all officers tried by the Department.²⁸

The penalties which may be assessed by the Trial Board include

²⁵Ibid., Sections 115 and 116. ²⁶Ibid., Section 121.

²⁷Ibid., Section 124.

²⁸Information obtained during interview with Senior Inspector Fred Wright, Detroit Police Department, February 16, 1962.

reprimand, suspension, forfeiture of pay, dismissal, or other penalty as the Commissioner may direct.

Appeal from the decision of the Trial Board may be made to the Circuit Court of the State of Michigan.²⁹

Miscellaneous provisions. If, after a case has been tried, new evidence or testimony is obtained, application may be made to the Commissioner to reopen the case. Such evidence would then be considered for the purpose of mitigating the sentence.³⁰

Where an officer is on temporary duty with another command and is involved in a disciplinary action, the normal procedures are followed except that an extra copy of the report of investigation is sent to the commanding officer concerned.³¹

Commanders are responsible for taking action when misconduct of subordinates comes to their attention.³²

The lie detector is used on an optional basis during Departmental investigations. An officer cannot be required to take such an examination and refusal to submit is not held against him in any way. A member may request such an examination with the objective of clearing himself but the weight given to such tests either way depends upon all of the circumstances.³³

²⁹Ibid.

³⁰Detroit Police Manual, op. cit., Section 129.

³¹Ibid., Section 113. ³²Ibid., Section 114.

³³Information obtained from letter written by Senior Inspector Frederick F. Wright, Research and Planning Bureau, Detroit Police Department, dated March 27, 1962.

Evaluation. The disciplinary regulations of the Detroit Police Department place almost complete responsibility on the command officers for observing, reporting, and prosecuting disciplinary actions within the Department. Such a situation has advantages and disadvantages. Authority, at least to report, is maintained without the interference of any staff agency. Such a procedure does have the disadvantage of leaving the decision as to investigation and prosecution of offenses almost totally within the area where personal feelings are most likely to interfere with judgment and where individual attitudes toward disciplinary offenses can make the action taken in similar cases vary greatly in different units in the Department.

While anonymous complaints are given attention if they "appear" to have any basis, only in person complaints which can be sworn to are referred to in the manual as far as procedure for handling. No provision is made for centralized recording of complaints or disciplinary actions. Such a situation was credited with sidetracking citizens' complaints in the Buffalo Police Department where complaints were often processed by the same unit which had generated the complaint.³⁴

With the exception of admonitions or warnings issued by commanders of units no disciplinary action can be taken in the Department without referral of the case to the Trial Board. The Board is composed of three of the ranking members of the Department which would appear to be

³⁴An Investigation of Law Enforcement in Buffalo (New York: New York State Crime Commission of Investigation, January, 1961), p. 125.

an unwarranted imposition on the time of such officers. Such a situation might discourage subordinates from processing any charges unless of a serious nature.

The policy of the Detroit Police Officers Association in providing legal counsel to its members when tried by the Department insures protection of the rights of the officer but also makes the proceedings appear to be a contest between the officers and the commanders of the Department. Such an adversary relationship does not seem conducive to the proper respect between the two groups.

A newspaper account of a Trial Board decision pointed up one problem area where a Trial Board is organized to reach a final verdict rather than acting in an advisory capacity to the chief administrator.

With the department's two top officers over-riding Commissioner George Edwards, the Detroit police trial board acquitted three white patrolmen Thursday of cruelty to a Negro prisoner... "The preponderance of evidence in this case and its impact on me is the belief that an effort to extract the location of the gun from Mr. Daniels was made," Edwards said in announcing the 2-1 decision. "I discussed this at great length with the other two members" (Of the trial board), he continued. "I respect their view, which is that any doubt should be resolved in favor of the officers."³⁵

Where such a procedure is to be followed it would be preferable for the Commissioner not to be a member of the Board and to act in a reviewing capacity. In this way a united front would be presented by the highest ranking administrators in the Department.

³⁵Associated Press dispatch, State [Lansing] Journal, March 17, 1962.

III. NEW YORK

Serving the largest city in the United States, the New York City Police Department is no stranger to problems of any description. A focal point for immigrants, political organizations, international trade, and communications make the city a police problem of the first order. The population of New York City in 1960 was 7,781,984.³⁶ To provide police service for these citizens 24,456 officers and 1,107 civilians are provided.³⁷ In addition other specialized groups such as the New York Port Authority and the Transportation System maintain sizable forces for specialized purposes.

During the period 1955 to 1961 Stephen Kennedy was the Commissioner of Police for the city. Commissioner Kennedy received considerable publicity during this period for his outspoken comments on discipline and other aspects of police administration. He was not reappointed in 1960 when he coupled a demand for an annual increase in salary for all patrolmen with accepting the appointment.³⁸

Mr. Kennedy's successor, Commissioner Michael J. Murphy, a long time member of the force, initiated the Grievance Board which is composed of the presidents of the various organizations representing the members

³⁶World Almanac, op. cit., p. 271.

³⁷Municipal Year Book, loc. cit.

³⁸Murray Kempton, "The Cop as Idealist: The Case of Stephen Kennedy," Harper's, 224: 66-71, March, 1962.

of the Department with a Deputy Police Commissioner acting as chairman. The objective of the Board is to resolve problems which affect the operation of the Department.

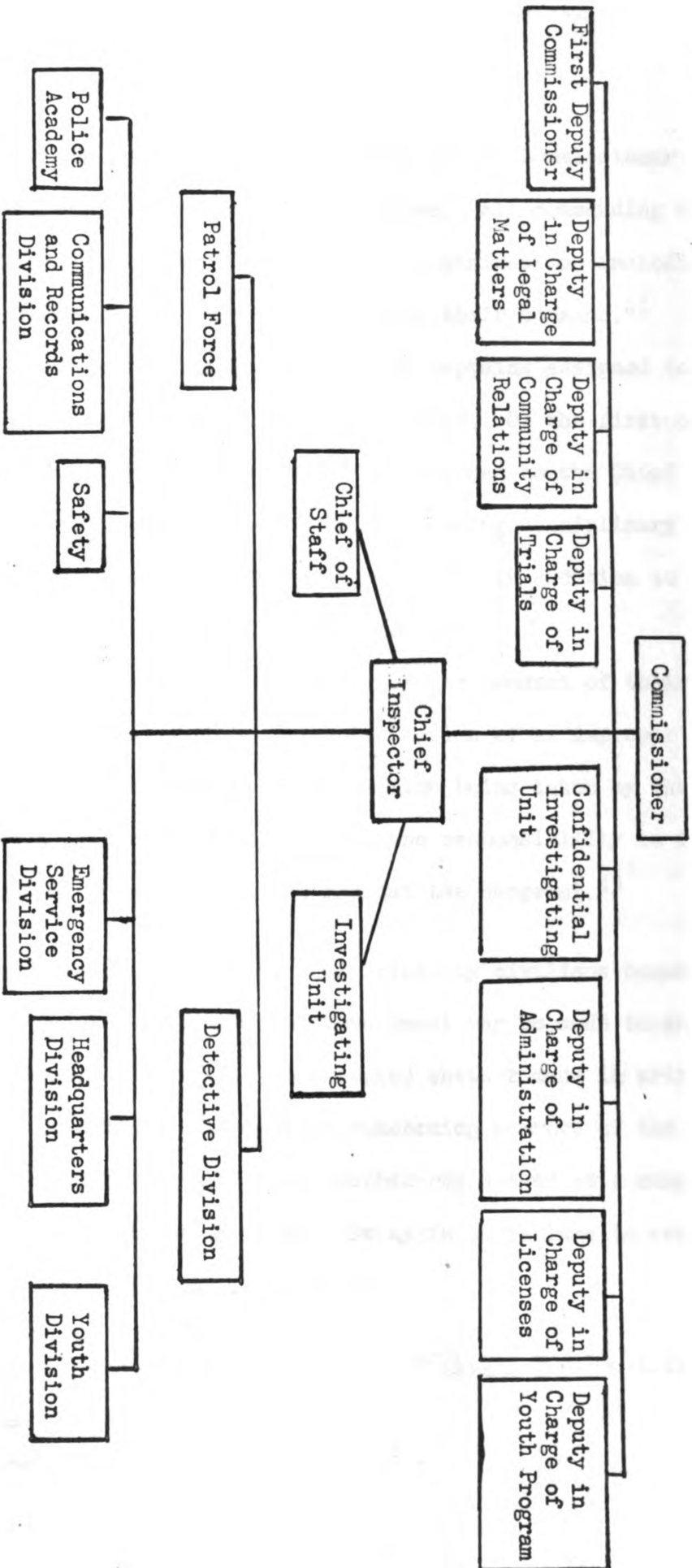
That Commissioner Murphy is not without his problems in administering discipline in a Department the size of a small army is shown by the fact that the Patrolmen's Benevolent Association recently advised its members not to file a financial report as required by a new directive prior to being considered for promotion to plainclothes men and detectives.³⁹

Disciplinary organization. The Commissioner of Police, appointed by the Mayor is in charge of the Police Department of New York City. He is assisted by a Chief Inspector who is in direct command of all operating divisions. In addition, the Commissioner has a staff which is directly responsible to him and which administers such activities as legal matters, community relations, trials, confidential investigations, administration, licenses and youth activities. With the exception of the confidential investigating unit which is commanded by an Assistant Chief Inspector, the other activities are supervised by Deputy Commissioners. Each Deputy Commissioner has the authority to suspend from, and restore to, duty members of the force.⁴⁰ For a graphic demonstration of this relationship see Figure 4.

³⁹News item in the New York Times, July 25, 1962.

⁴⁰Rules and Procedures, Department of Police, New York, New York, 1956 with 1960 changes, Sections 5-11, Chapter 1.

FIGURE 4
NEW YORK CITY POLICE DEPARTMENT
ORGANIZATION CHART



Commanding officers are designated by the Commissioner or are the senior member of an administrative office. All commanding officers are responsible for the operation of their organization, including the efficiency and discipline of the force under their command.⁴¹

In each borough special patrols of captains assigned to the borough are maintained for supervisory purposes. On the first of each month the record of these supervisors is forwarded to the Chief Inspector. This record includes all accomplishments including disciplinary actions taken during the period. This special patrol is in addition to the supervision maintained by Precinct Commanders.⁴²

Sergeants are held accountable for the conduct of their men and in any instance where there is an indication of an improper act on the part of a patrolman without proper action being taken by the supervising Sergeant the Precinct Captain has the responsibility to investigate and if indicated, to prefer charges against the Sergeant.⁴³

Disciplinary procedures. Complaints by civilians concerning the acts or omissions of members of the Department may be made to any office of the Department. Complaints are accepted whether made in writing, in person, or by telephone. Information concerning members of the Department is processed and investigated whether registered as a complaint or not, if such appears to be the case. Delay in or failure to record a complaint is a disciplinary violation.⁴⁴

⁴¹Ibid., Section 14.2d, Chapter 1. ⁴²Ibid., Section 1.1, Chapter 3.

⁴³Ibid., Section 7.0, Chapter 3.

⁴⁴Ibid., Section 3.0-3.1, Chapter 21.

Supervision of the action taken on civilian complaints depends upon the type of offense concerned.

a. Complaints which allege the abuse of authority or the unnecessary use of force. "Abuse of authority" includes any act by a police officer which exceeds the power given him by law, including false arrest and illegal searches, seizures and detentions. These complaints are under the supervision of the Civilian Complaint Review Board.

b. All other complaints, including serious allegations such as graft, gratuities, property missing from police custody and less serious allegations, such as abusive language. These complaints are under the supervision of the Chief Inspector.⁴⁵

The Civilian Complaint Review Board is composed of the Deputy Commissioner for Community Relations who is the chairman, and two other Deputy Commissioners as designated by the Commissioner.⁴⁶

Complaints are recorded in one of two ways. In those instances where a blotter is maintained, the complaint will be entered in the blotter and six copies made of the entry. Where no blotter is maintained, a Disciplinary Report Form is utilized. In all cases one copy is sent to the Chief Inspector and one copy to the commanding officer of the borough in which the complaint is to be investigated. If the complaint falls under the jurisdiction of the Civilian Complaint Board, one copy is sent to its investigating officer and two copies to the Board. The original of either report and three copies are sent to the commanding officer responsible for conducting the investigation, if as stated above, it does not fall under the jurisdiction of the Complaint Board.⁴⁷

⁴⁵Ibid., Section 3.2, Chapter 21. ⁴⁶Ibid., Section 9.0, Chapter 21.

⁴⁷Ibid., Section 5.0-5.1, Chapter 21.

Comprehensive instructions are provided concerning the investigation of various types of complaints which would require considerable detail to explain and are not considered necessary or pertinent to this study.

Officers conducting investigations pertaining to disciplinary matters are required to submit their findings within ten days after receipt of the complaint or to secure an extension before such period has expired, stating the reason for the delay. All reports are submitted in triplicate.⁴⁸ The report will include:

- a. Time the complaint was originally received.
- b. Time the investigating officer received it.
- c. Summary of the complaint and the identity and statements of witnesses and others interviewed.
- d. Steps taken in connection with the investigation and the nature and result of inspections, examinations, surveys, etc.
- e. Findings of fact.
- f. Recommendations.
- g. Further action (including a hearing) contemplated.
- h. Evaluation of the performance of all members concerned with receiving and acting on the complaint and recommendations regarding their delinquencies, if any.⁴⁹

Where the investigation involves the jurisdiction of the Civilian Complaint Board and the investigator determines that a hearing is necessary, it will be held within fourteen days from the time the complaint was received. In such an instance, the investigating officer conducts the hearing which will be attended by the Civilian Complaint

⁴⁸Ibid., Sections 8.0, 8.3, Chapter 21.

⁴⁹Ibid., Section 8.1, Chapter 21.

Supervisor who may participate in the proceedings.⁵⁰ During the hearings the accused and the complainant may be present and represented by legal counsel of their own choosing. Only the investigating officer and the Civilian Complaint Supervisor may participate in the questioning; however, the lawyers may submit questions on behalf of their clients which will be asked by the investigator conducting the hearing.

A report of the hearing is prepared by the investigating officer and is forwarded to the Civilian Complaint Review Board through the Supervisor, who will add his own recommendations. The Board will then consider all of the information, and if charges have not already been preferred may order that this be done or that the existing charges be modified.⁵¹

Where the offense is within the jurisdiction of the Chief Inspector, the procedure for a hearing is the same except that the investigating officer is in complete charge of the proceedings and forwards his findings and recommendations to the Chief Inspector. In serious cases, a copy is also sent to the First Deputy Commissioner.⁵²

If the disciplinary action does not generate as the result of a complaint by a citizen the investigation is conducted under the direction of, or personally by, the commander concerned. Where such

⁵⁰The Civilian Complaint Supervisor is an officer above the rank of Captain appointed to the Board who is responsible for supervising investigations being conducted for the Board, and reports directly to the Chairman of the Board.

⁵¹Rules and Procedures, op. cit., Section 11.0-11.4, Chapter 21.

⁵²Ibid., Section 10.0, Chapter 21.

investigation results in charges being preferred a brief resume of the charges is entered in the blotter before they are forwarded. If the offense for which the charges are preferred comes within the jurisdiction of the Civilian Complaint Review Board four copies are sent directly to the Board. In all other instances they are forwarded through channels to the Commissioner.

When charges are received by a division, district bureau or detective borough commander, he is required to make a prompt investigation before forwarding them. If the charges are determined to be unfounded, the reasons must be given on the forwarding endorsement. If minor, and subject to correction by a warning, the action taken will be noted on the original copy which will be forwarded to the commander. If the charges are believed proper, they are forwarded to the Commissioner for trial.⁵³

All charges forwarded to the Commissioner are reviewed by the First Deputy Commissioner or other Deputy Commissioner designated by the Commissioner. If the charges appear to be proper, they are then referred for trial to the Bureau of Disciplinary Records.

The Bureau of Disciplinary Records notifies the commander of the accused officer of the decision and provides him with the original copy and one duplicate of the charges and a notice of hearing which must be served on the accused at least forty-eight hours in advance of the trial, exclusive of Sundays and legal holidays. Service may be made by

⁵³Ibid., Section 16.0, Chapter 21.

personal delivery or to a member of his household over eighteen years of age, or if neither of these courses of action is possible, by posting a copy in the office of the command. If personal service is obtained, the accused is required to sign the original copy of the charges. The officer serving the charges also signs to indicate that the charges were served.⁵⁴

Trial procedure. Disciplinary trials are conducted by a Deputy Commissioner authorized by regulation to act as a Trial Commissioner. Trials are held in a dignified manner without unnecessary technicalities. Considerable leeway is allowed and departure from the prescribed procedures will not invalidate the proceedings unless a written petition is submitted to the Commissioner within twenty-four hours after the conclusion of the trial showing that such departure adversely affected the accused.

The Department's case is presented by a trial counsel who is a qualified lawyer assigned to the office of the First Deputy Commissioner. The trial counsel is also available to the commanders in the Department who desire assistance in drafting charges. Where necessary, an Assistant Corporation Counsel of the city may perform the same functions.

A defense counsel is provided by the Department and he is also a qualified lawyer. The defense counsel is assigned to the office of the Police Commissioner. The use of such counsel is optional with the

⁵⁴Ibid., Sections 19.0-19.2, Chapter 21.

accused and if he so desires, he may represent himself, or obtain counsel of his choice.

The trial begins with the arraignment of the accused, at which time he is given the opportunity to make appropriate motions or to request an adjournment. If the accused pleads guilty the Trial Commissioner assesses the penalty after a review of the offender's past record. If he does not plead guilty, a trial date is set for the hearing of testimony.

Trial counsel opens the proceedings by presenting the prosecution case. All witnesses are sworn by the Trial Commissioner. Normal questioning procedures are followed by the trial and the defense counsel. When the trial counsel has completed the Department's case, the defense has the opportunity to present its evidence. If requested, the Trial Commissioner may authorize both sides to present further evidence.

The accused may take the stand and make a statement under oath the same as any other witness or he may make an unsworn statement. The Trial Commissioner has the authority, however, to require the accused to testify under oath.

Both counsels make make pertinent motions at the conclusion of the presentation of evidence if they so desire. Closing statements are also authorized.

The decision of the Trial Commissioner is advisory to the Police Commissioner and as approved by him is published in the form of a Special Order, a copy of which is filed with the original charge sheet.⁵⁵

⁵⁵Ibid., Sections 20.0-27.6, Chapter 21.

Appeals may be made to the Supreme Court of the State under Article 78 of the Civil Practice Act of the State of New York. This is a state-wide provision and applies to all administrative rulings.

Miscellaneous provisions. A Central Complaint Desk is maintained in each borough where a record of all complaints is kept.⁵⁶

Any member of the Department convicted by a criminal court for commission of a felony will be dismissed.⁵⁷

A member of the Department who is absent without leave for a period of five consecutive days is considered to have resigned and is dismissed without notice.⁵⁸

Where a lineup is used to identify an officer accused of an offense, at least five other persons will be utilized. The lineup may be conducted in uniform with cap devices and shields removed or in civilian clothing, depending upon the situation.⁵⁹

Where criminal charges are preferred against a member of the Department, similar charges will be preferred within the Department. If the criminal charges do not result in a conviction, consideration will be given to amending the charges pending in the Department.⁶⁰

An individual delinquency record for all officers within the command is kept by each major division.⁶¹

⁵⁶Ibid., Section 72.2, Chapter 1. ⁵⁷Ibid., Section 37.2, Chapter 2.

⁵⁸Ibid., Section 61.3, Chapter 2. ⁵⁹Ibid., Section 6.0, Chapter 21.

⁶⁰Ibid., Section 15.0, Chapter 21. ⁶¹Ibid., Section 17.0, Chapter 21.

Evaluation. The New York City Police Department maintains an elaborate and detailed process for dealing with disciplinary problems. With respect to the preparation of charges, most aspects of the trial procedure, and the publishing of findings by Special Order, there can be detected a strong resemblance to military justice procedures. This is not surprising considering the size and complexity of the Department.

The Civilian Complaint Review Board with its partial jurisdiction over disciplinary matters appears to complicate the already involved disciplinary process. Such a Board does, however, serve the purpose of control, information, and public relations in an area of activity that has become of great concern with the many organizations interested in civil rights. From this standpoint the extra administration and effort may be worth the trouble.

As would be expected in a Department of this size, the Commissioner does not become involved in the details of the administration of discipline unless he feels it is desirable or if an important case is referred to him. Considering his overall responsibilities this would no doubt prove a necessity.

The role of the Commissioners Confidential Squad in disciplinary investigations is not known. Inquiry concerning its size and activities did not produce the requested information.

CHAPTER V

SUMMARY, CONCLUSIONS, PROBLEMS TO BE ANSWERED, AND A PROPOSED PROCEDURE GUIDE

I. SUMMARY

Discipline in both its positive and negative aspects is a continuing problem for police supervisors. It is a problem area that is closely interwoven with public attitude toward the police, the quality of personnel in and recruited to the department, and the ability of supervisors. These in turn are affected by the past record of the department concerned, and to a degree, the records of all police organizations. Discipline then cannot be turned on and off like water and is not subject to rapid and complete change no matter who is placed in charge or what new actions are taken.

On the other hand this does not mean that nothing can be done to improve the discipline in a department. The first steps are to recognize the problem, understand the objectives of a disciplinary system and the factors which will affect it. Once these are accomplished progress may be achieved.

As may be seen from the different systems being utilized by the Chicago, Detroit, and New York Police Departments there is no one solution which has proven so effective that all have adopted it. To what degree this has been due to choice or to lack of knowledge of the other programs is not known.

II. CONCLUSIONS

As a result of this study several conclusions were reached. Some of these conclusions are general and some are specific. Each is believed to be important.

The authority to administer discipline for minor violations should be simplified and extended to commanders at precinct or similar level. Officers with such authority could be indicated by position, rank, or both. Such action should reduce administration while at the same time make punishment more immediate and effective.

Statistics should be kept as to the quantity and type of offenses and punishments within each major unit of the department. The availability of such information on a monthly basis provides commanders with information concerning an important tool of command and is valuable for comparison purposes. Such information should never be used as the only means to measure the effectiveness of a command or commander.

While there is an acknowledged right on the part of the public to be informed concerning major disciplinary actions which occur in a department, it is not believed that any purpose is served by a "washing of dirty linen" in the eyes of the public. Minor punishments made a matter of public knowledge can only harm the individual officer's effectiveness.

Our national preoccupation with job security has tended to cloud the issue of discipline in police departments. As public officials police have the right to know that their job is not subject to forfeit with each

change of administration or on the whim of a superior. It is time, however, that the public and the police profession accept the fact that a higher standard of conduct must be demanded in a police organization than in a business, and that an unhappy or unqualified police officer, or in some few instances a dishonest one, must be separated for the mutual good of the individual and the department. Where such action is as difficult as securing a criminal conviction the only result is that persons are kept in the service to the detriment of all concerned. For this reason disciplinary reviews should be accomplished within the department concerned, with the possible exception of dismissals.

Refusal to submit to a lie detector examination or to testify under oath should be grounds for dismissal from the service if the matter under investigation involves the officer's official duties.

Greater emphasis should be placed upon disciplinary training for all members of the department. The type of training should depend upon the level of command at which it is directed. Because of their importance in the disciplinary system all newly appointed sergeants and lieutenants should be thoroughly briefed on the problems of discipline and the solutions which have proved effective. Proper leadership at this level can do much to eliminate disciplinary problems.

The use of reduction in rank and periods of suspension from duty in excess of thirty days are self-defeating as far as discipline is concerned. The use of dismissals, prorated forfeitures of pay, and formal reprimands are more likely to reform conduct without a corresponding loss of morale.

III. PROBLEMS TO BE ANSWERED

As in all investigations some problem areas were encountered which were not within the scope of this work but which appear to merit further study. The following problems were considered the more important of those encountered:

What role should police associations or societies have in the administration of discipline?

Are police unions a threat to police professionalization?

Are Civil Service restrictions on the disciplinary authority of the police administrator too rigid?

IV. PROPOSED PROCEDURE GUIDE

Based upon this study and experience as a military police supervisor in the United States Army the following procedure guide is submitted. It should be noted that this type of procedure would require modification if used by a small or medium size department. In the small or medium size department the chief may well receive and process all complaints within the department without the necessity for interim reports and checks. In addition, the chief will probably reserve most disciplinary actions for his personal action rather than delegating this responsibility to his assistant. The principles of discipline apply equally to all size departments and in a sense become even more important in the small unit because of the close personal working and social relationships. For this reason it is easier to justify the monitoring of disciplinary actions by an outside agency for the small department than for a large one.

DISCIPLINARY PROCEDURE GUIDE

POLICE DEPARTMENT

CITY OF _____

INTRODUCTION

The maintenance of a high standard of discipline within the Department is the mutual responsibility of all members. Because of their position of leadership some members are able to exercise greater influence in this respect than others and carry a corresponding responsibility for taking the proper action when deviations from the Department's high standards occur.

The policy of this Department is to resort to punitive disciplinary action only when other methods of leadership have failed or where the type of conduct involved requires direct disciplinary action by virtue of its seriousness.

To provide for common understanding throughout the Department as to each member's responsibilities and authority with respect to the formal disciplinary process this Disciplinary Procedure Guide has been formulated.

Superintendent

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SECTION I

General Provisions

A. Disciplinary Authority.

1. The authority and responsibility for the maintenance of discipline is vested in the Superintendent of the Department.
2. The Superintendent ~~may~~ delegate the administration of this responsibility as necessary.
3. The provisions of this guide do not apply to officers above the rank of captain, nor to the personal staff of the Superintendent. Disciplinary actions involving such persons will be:
 - a. under the personal direction of the Superintendent.
 - b. subject to review only in the event of dismissal.

B. Disciplinary Training.

1. During the recruit training period a ~~minimum~~ of two hours of instruction will be provided to include:
 - a. an explanation of disciplinary procedures.
 - b. a discussion of ethics; responsibility; loyalty; and the role of discipline in achieving personal and Departmental objectives.
2. Annual training for members of the Department will include a ~~minimum~~ of one hour devoted to a discussion of discipline.
 - a. the quantity and type of disciplinary actions will be discussed.
 - b. suggestions will be solicited concerning means for reducing the need for disciplinary actions.
3. Leadership classes for newly appointed sergeants and lieutenants will include:
 - a. study and discussion of the responsibility of each in the disciplinary system.
 - b. the principles of discipline.
 - c. the value of the positive approach to disciplinary problems.

C. Administrative Complaints by Subordinates.

1. Superiors at all levels of command will maintain an "open door" policy with respect to the problems and complaints of the members of their unit.
2. A member of the Department may appeal to the next higher supervisor in the chain of command, after notifying the supervisor concerned, if he feels that his problem or complaint has not received fair or proper consideration.

D. Refusal by any member of this Department to testify or to accept a lie detector examination for any Departmental investigator or board or any court or grand jury; when the matter involved concerns his official duties, shall be dismissed from the service.

E. Authorized Penalties.

1. Subject to the restrictions indicated in other sections of this procedure guide the following penalties may, in proper instances, be assessed against members of the Department for disciplinary violations:
 - a. dismissal.
 - b. forfeiture of pay not to exceed ten per cent of the monthly pay for a period not in excess of six months.
 - c. suspension for not more than thirty days.
 - d. written or oral reprimand.
2. Normal admonitions and cautions concerning job requirements are not prohibited and may be used as indicated.

F. Members of the Department who do not perform their duties properly because of inability, unsuitability, or for medical reasons will be dealt with under administrative regulations.

G. Definitions.

1. The immediate supervisor of any member of the Department is that person to whom the individual reports and receives instructions from.
2. A disciplinary offense occurs when:
 - a. there is an unwarranted failure to comply with published orders or regulations, or the disciplinary code. (see Tab 1)

- b. a member of the Department violates the criminal laws, whether or not on duty.
- 3. A major offense is a violation of the rules and regulations of this Department of such a serious nature that dismissal may be authorized, or conviction by a civil criminal court for other than a minor traffic violation.
- H. Administrative suspension from duty will be utilized only in those instances where the charge under investigation is of such a serious nature that the officer should not continue to perform his police duties pending a final decision as to the action to be taken.
 - 1. If the incident under investigation is minor and does not involve moral turpitude the officer should be continued in his job.
 - 2. If this is considered undesirable by the commander in charge a request will be made to personnel to reassign the officer to duties not involving command or police duties on a temporary basis.
 - 3. In no instance should an officer be suspended from duty during an investigation in excess of the amount of time which he could be penalized if the offense is proven, unless dismissal from the Department may result.
- I. An officer in a supervisory or command position may relieve a subordinate from duty for cause; however, this must be reported through the chain of command to the district commander. Examples of situations justifying relief from duty for cause would be:
 - 1. Drunk or drinking on duty or drinking prior to entering on duty to the extent that such condition is noticeable.
 - 2. Inability to perform duty because of illness, injury, or other reason.
 - 3. An officer relieved from duty for cause as indicated above will be taken to the police surgeon for examination.
- J. The Central Records Section will compile disciplinary statistics on a monthly and annual basis.
- K. Release of information concerning disciplinary violations or actions.
 - 1. All requests for information concerning disciplinary actions taken within the Department will be referred to the public relations section.

2. The identity of officers involved in minor disciplinary action will not be made public unless substantial public interest is involved. This will be determined by the public relations officer based upon Departmental policy guides.
3. Information concerning major disciplinary actions will be released routinely to the press.

SECTION II

Receipt of Complaints

A. Complaints originating outside of the Department.

1. All persons desiring to register a complaint concerning acts or omissions of members of the Department involving their performance of duties or reflecting upon the individual officer or the Department, if committed while off duty, will be directed to the nearest office of the Department maintaining a desk.
2. If a citizen makes a complaint to an officer on patrol and refuses to go to the nearest office the officer concerned will obtain as much information as is possible and immediately turn such information in by phone. Radio will not be used unless normal police criminal enforcement actions are indicated.
3. All complaints will be entered in the Civilian Complaint Register and a copy of the complaint will be given to or mailed to the address of the complaining citizen with attention directed to the fact that future inquiries concerning the incident should make reference to the number on the form.
 - a. the original copy will be retained in the Register.
 - b. the second copy will be sent in a sealed envelope to the commander of the individual or responsible supervisor for the area where the incident occurred.
 - c. the third copy will be sent in a sealed envelope direct to Central Records.
4. Anonymous complaints will be accepted. In such instances the citizen's copy will be forwarded to Central Records with the third copy.

5. If the offense or conduct complained of is in progress, the on-duty supervisor will immediately be notified and such action will be indicated on the complaint form in the space provided.
 6. Central Records will bring all complaints received from citizens to the attention of the Deputy Superintendent on a daily basis.
 7. An incident which is likely to bring discredit to the Department will be reported by phone to the commanding officer concerned who in turn will bring it to the attention of the Deputy Superintendent, or if he is not available, the staff duty officer at police headquarters.
- B. Complaints originating inside the Department will be referred to the commander concerned.

SECTION III

Disposition of Minor Offenses

- A. The majority of the instances requiring disciplinary action on the part of superiors involve minor offenses. To expedite administrative actions and to insure the maximum benefit to the individual and the Department the following procedures are established:
1. Officers of the rank of lieutenant or higher, designated in Departmental Orders as Commanders may, in addition to admonition or reprimand, impose one of the following punishments on members of their command for minor offenses;
 - a. forfeiture of pay not to exceed twenty-five dollars; or
 - b. suspension from duty for one day.
 2. This punishment may not be imposed upon any member of the Department who requests a disciplinary trial.
 3. Punishment under this authority is not a bar to action by higher authority if the offense for which punished was a major offense.
 4. Prior to imposing such punishment the commander concerned will conduct such investigation as is necessary to satisfy himself that the offense occurred and that the officer to be punished committed it.

- B. A record of the punishment imposed will be entered in the Command Punishment Book and a copy will be forwarded to the Central Records Section where a confidential file will be maintained. Such records will be retained for a period of two years and will then be retired.
- C. The imposition of command punishment is limited to three offenses in any twenty-four month period unless special permission is obtained from the Deputy Superintendent. Four or more offenses during a twenty-four month period may be grounds for administrative action leading to dismissal for unsuitability.

SECTION IV

Investigation of Charges

A. Responsibility and authority.

- 1. The basic responsibility for the investigation of charges or complaints against members of the Department lies with the commander of the individual or area concerned. There are instances, however, where this will not be practical. When this occurs the commander concerned may request assistance from the Deputy Superintendent who may assign the investigation to the Departmental Special Investigations Division or to a specifically appointed senior officer.
- 2. When deemed in the best interest of the Department the Deputy Superintendent may assume responsibility for any investigation involving members of the Department. Such notice will be transmitted in writing to the commander concerned.
- 3. Department Special Investigations Division may investigate individuals of the Department as directed, for the purpose of disciplinary control. When the purpose of the investigation will not be compromised by such action the commander concerned will be notified of the action being taken and will receive a copy for the final report.

B. Investigative procedures.

- 1. Normal investigative procedures will be utilized in securing information concerning alleged offenses by members of the Department.
- 2. The objective of all investigations is to obtain all available evidence pertaining to the incident. Relevant information, whether

tending to prove or disprove the charge should be included in the report even if it might not be admissible in a court of law.

3. Sworn statements will be obtained where possible.
4. If the investigation is being conducted in an informal manner for the purpose of imposing punishment on the command level no written report is required.
5. If, however, such minor offense was generated by complaint from outside the Department the results of the investigation will be forwarded to the Central Records Section indicating guilt or innocence of the charge and the action taken. The Central Records Section will then notify the citizen, if identified, as to the results of the investigation and that appropriate remedial action has been taken, or that the complaint was not sustained.
6. Where the offense under investigation involves serious charges or may result in trial board action the officer conducting the investigation will forward the report of investigation, including copies of all statements, description and location of evidence, and other related information.

SECTION V

Individual Rights and Obligations

All members of this Department have the following rights and obligations when the subject of an investigation or other disciplinary action:

1. All members of the Department are presumed to be innocent and to have performed their duties in a proper manner unless the contrary is shown by a preponderance of the evidence considered.
2. When requested for official purposes members of the Department will submit to a lie detector examination or the normal sobriety tests. Each individual has the right to refuse and the Department has the corresponding right to dismissal under such circumstances. This authority is necessary if the Department is to maintain the high standards of conduct and respect which it presently enjoys.
3. All members of the Department may consult their superiors concerning disciplinary matters and if the subject of an investigation or charge may consult the provided Departmental Defense Counsel.

4. During Trial Board proceedings and during appeal proceedings, before the State Review Board-Police all members of the Department will be represented by the Departmental Counsel.
5. During preliminary investigation of any complaint or charge the officer concerned will be informed of the purpose of the investigation and will be allowed to make a statement, suggest witnesses to be interviewed and to present all evidence in his behalf. He may request the right to be present during the presentation of evidence by complaining witnesses and may submit questions for the investigating officer to ask. No defense counsel is provided or authorized during preliminary investigations since it is not an adversary proceeding and the investigating officer is interested in securing information, not in resolving the issue.
6. Any member charged with an offense may plead guilty in advance of trial if he so desires. In such an event the commander exercising command punishment authority will be notified of this decision in writing. The commander will forward his recommendation as to the proper action to be imposed. In reaching the final decision the Deputy Superintendent will consider the officer's total service record as well as the type of offense.

SECTION VI

Legal Counsel

- A. The Office of the Legal Counsel will provide legal guidance to all levels of command concerning the administration of discipline. For such purposes commanders and investigating officers are authorized to contact this office directly.
- B. Defense counsel for members of the Department tried by the Trial Board or appealing dismissal to the Police Board will be provided from the staff of the attorney for the city. Such counsel when appointed will be given all reasonable assistance by this Department in securing information for the defense.

SECTION VII

Preferring Charges

- A. Where the evidence available to the officer exercising command punishment authority indicates that a disciplinary violation has occurred which cannot be properly resolved under his own disciplinary authority he will prefer charges for trial by one of the Trial Boards.
- B. The charges with supporting evidence will be forwarded through channels to the Deputy Commissioner who will:
 - 1. Refer the charges for trial.
 - 2. Order the charges dismissed.
 - 3. Direct the offender be punished as a minor violator.
 - 4. If the charges are to be referred for trial the Trial Board will be designated and a copy of the charges and the evidence available will be provided to the appointed Trial Counsel from the Office of the Legal Counsel. A copy of the charges will be served on the accused officer by the Trial Counsel. The accused will be informed of the identity of his appointed Defense Counsel who in turn will contact the accused.
 - 5. An accused officer who refuses to participate in his own defense or who, through his own fault, fails to attend his hearing, may be dismissed from the Department.

SECTION VIII

Trial Boards

- A. Trial Boards as required to expeditiously process cases will be appointed by the Superintendent.
- B. Trial Boards will be composed of three members and two alternates with the senior member in rank acting as president of the Board. Officers appointed to a Trial Board will serve for a period of one month. During this period Trial Board hearings will take precedence over other duties.

- C. The Trial Counsel for the assigned case is responsible for setting the time and date of trial, notifying all parties, and arranging for the presence of witnesses and physical evidence if any.
- D. Procedure.
 - 1. Hearings will be conducted in a dignified manner. Witnesses will be sworn by the Trial Counsel before testifying. Normal procedures for the examination of witnesses will be followed. Members of the Board may ask questions of the witnesses at the completion of direct examination if desired. For a complete description of the procedure refer to Department Regulation 21, Trial Board Procedure.
 - 2. After counsel for both sides have been afforded the opportunity to present all evidence the Trial Board will go into closed session and after discussing the merits of the evidence presented will vote by written ballot as to guilt or innocence. If the accused is found innocent the proceedings are at an end and further disciplinary action may not be taken on this charge. If a finding of guilty is reached by majority vote the Trial Board shall then consider information from the record of the accused and any matters in extenuation or mitigation. After such consideration the Trial Board will again go into closed session and will vote on the punishment to be imposed. This will be accomplished by each member submitting a recommended punishment in writing. The least punishment proposed will be voted on first. Voting will continue until the lowest punishment agreed by two of the three members is determined. If the decision is to include dismissal the vote must be unanimous.
 - 3. The decision will be announced to the accused officer; however, the punishment does not become effective until the record of the trial is reviewed by the Deputy Superintendent. The Deputy Superintendent will take final action on all cases not involving dismissal. If dismissal is involved the Superintendent will review the case, and exercise final approval.

SECTION IX

Appeals

- A. For punishments not involving dismissal from the Department appeals will be submitted in writing within seven days from the date the penalty was approved by the Deputy Superintendent. Such appeals

will be prepared by the Defense Counsel and forwarded through the State Review Board-Police.

SECTION X

State Review Board-Police

- A. The State Review Board-Police is a three man board composed of two professional police officers and a citizen who is qualified for appointment as a judge in the state. Board members are appointed by the Governor with the advice and consent of the Senate for five-year overlapping terms. Such review will be limited to the issues presented and will not go beyond a review of the evidence considered by the Trial Board and the Superintendent. If the Review Board determines that the evidence does not support the action a new Trial Board hearing may be directed. Dismissal by the Department which is reviewed and upheld by the State Review Board-Police deprives the former officer from police employment within the State.
- B. Final action on dismissal will not be taken until the appeal period has expired or the final action by the Board has been taken.

SECTION XI

Miscellaneous Provisions

- A. The Superintendent may dismiss any officer without prejudice and without showing cause during the officer's first three years of service. In such instances severance pay equal to one month's pay will be awarded.
- B. One member of the same organization, chosen by the accused or appointed by the commander will attend the Trial Board hearing as a spectator and will be considered to be on a duty status during such time.
- C. Personnel records will be screened annually and any record of disciplinary punishment occurring four or more years previously will be removed.

TAB I

Discipline Code

The following acts or omissions by members of this Department will be grounds for disciplinary action:

1. Conduct of such a nature that it brings direct discredit upon the individual and thus affects his ability to properly perform his duties, or upon the Department.
2. Insubordination whether by word, act, or demeanor directed toward any member of the force superior in rank or position where such superior was identified as such, and was acting in an official capacity at the time.
3. Use of obscene, abusive, or insulting language while in the performance of duty.
4. Willfully or negligently registering a false complaint against any member of the Department.
5. Willfully withholds from proper authority or in other manner conceals any complaint or charge against any member of the Department.
6. Disobeys the lawful order of a superior whether oral or written.
7. Neglects duty by:
 - a. sleeping.
 - b. noncompliance with procedural instructions.
 - c. permitting a prisoner to escape through negligence or neglect.
 - d. willful failure to make required reports.
 - e. failing to report violations of law or the location of evidence.
8. Makes a false statement knowing it to be false or swears to the truth of any matter which is known to be false.
9. Without proper authority destroys or mutilates any official document or record, or makes any unauthorized change therein.
10. Releases any police information without authority.
11. Allows any unauthorized person access to police records.

12. Signs or circulates any petition concerning the operation of the Department except through the chain of command as provided in the regulations.
13. Attends or calls any unauthorized meeting of the members of the Department to discuss any matter involving the administration of the Department.
14. Accepts a bribe.
15. Fails to account for evidence or money received by him in his official capacity.
16. Receives a gift from subordinates or solicits funds for the purchase of a gift for a superior.
17. Improperly uses his position of authority as a police officer for gain.
18. Issues any card or other device which can be construed as giving any police privilege to the holder.
19. Makes an unlawful arrest where the error in judgment would be apparent to the average officer at the time the event occurred.
20. Uses excessive force to make an arrest or abuses a person under his control after an arrest has been effected.
21. Feigns sickness or injury to avoid duty.
22. Fails to report for duty without reasonable excuse, or is late to duty.
23. Fails to maintain himself, his uniform, and his equipment in good condition and appearance as prescribed by regulation.
24. Willful or careless loss or damage to Department equipment.
25. Failure to report loss or damage of Department equipment.
26. Drunk on duty or unfit to perform duty because of previous indulgence.
27. Drinking on duty or solicitation or acceptance of alcoholic beverages while on duty.

28. Lends money to a superior in rank or borrows money from an inferior in rank.
29. Becomes an accessory before or after the fact to a disciplinary violation by another member of the Department.
30. Is found guilty by a court of law for a criminal offense.

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APPENDIX

APPENDIX A

7 February 1962

DEPARTMENT GENERAL ORDER NO. 62- (draft)

SUBJECT: Summary Punishment for Less Serious Transgressions

I. PURPOSE

- A. This order provides for a slight modification of General Order No. 16 in cases of less serious transgressions.
- B. The procedure outlined herein provides for immediate disciplinary action (summary punishment) against those members of the force who fail to conform to departmental standards of appearance and conduct.

II. LESS SERIOUS TRANSGRESSIONS DEFINED

- A. This order is applicable only in cases of certain specific violations and the provisions of General Order No. 16 will be followed in all other disciplinary matters.
- B. The transgressions which are covered by this order are as follows:
 - 1. Members must report for duty on time.
 - 2. Members must not smoke in public while in uniform.
 - 3. Members must not lounge on Post.
 - 4. Members must carry official equipment.
 - 5. Officers must carry regulation revolver.
 - 6. Officers must keep revolver clean and in good condition.
 - 7. Officers must carry the revolver in such a manner that it is available for immediate use.
 - 8. The grommet must be worn in the uniform cap and it may not be cut down.
 - 9. Uniforms must be clean and pressed.

10. Members must be clean shaven and not in need of a haircut.
11. Shoes must be shined and they may not be old, dirty, or worn-down.
12. Uniform coats (reefer, jacket, tunic) must be worn buttoned.
13. Members must wear uniform hats in squadrols. (squad cars)
14. Sleeves on short-sleeved summer shirts may not be turned up or rolled.
15. Holsters may not extend more than ten inches below the belt-line and may not be worn with a swivel.
16. Black socks must be worn with the uniform unless the officer has a doctor's order requiring that white socks be worn.
17. Proper inserts must be worn in shoulder patches.
18. Reporting unfit for duty for reasons other than would justify action under General Order No. 16.
19. The failure of a supervising officer to take action on observing any of the above derelictions.

III. WHO MAY TAKE IMMEDIATE DISCIPLINARY ACTION

Summary punishment for the transgressions covered in this order may be imposed by any supervising officer of the rank of sergeant and above.

IV. LIMITATIONS ON IMMEDIATE DISCIPLINARY ACTION

- A. The summary punishment which may be ordered by a supervising officer under the provisions of this order is limited to excusing the member for one day, without pay, or to requiring the offending member to work one regular relief day without compensation.
- B. Supervising officers will exercise discretion in the application of this authority, and summary punishment will normally be resorted to only when the offending officer has failed to respond to less drastic methods.

- C. When a greater penalty is justified, either because of the circumstances or because of the offender's past record, the supervising officer will follow the procedures outlined in General Order No. 16 even though the specific offense is one covered by this order.
- D. Action under this order will not bar a recommendation for a more severe penalty by higher authority if it is felt that summary punishment is being used to cover transgressions warranting more severe penalties or dismissal. If a larger penalty results, any summary punishment served will be taken into account in fixing the larger penalty.

V. DISCIPLINARY PROCEDURE

- A. When a supervising officer imposes a summary punishment under the provisions of this order he need not contact the Internal Investigation Division by telephone, and he need not obtain a Disciplinary Register Number. No statement need be taken from the offending officer.
- B. The supervising officer will complete a brief written report of the circumstances and also mention therein whether offender has requested or waived a Disciplinary Board Hearing. One copy of this report will be forwarded to the Payroll Section of the Personnel Division and one copy to the Internal Investigation Division. The subject reports will be forwarded before the end of the watch on which the action was taken.

VI. RIGHT TO A HEARING

- A. An officer who is disciplined under the provisions of this order has the same right to a hearing before the Disciplinary Board as an officer disciplined under General Order No. 16.
- B. The Disciplinary Board which hears the case may recommend the same or a greater or lesser penalty for the violation, or, if the Board finds the penalty was not justified it may exonerate the member. A member will be reimbursed for the time excused, or given time due for the time worked if the Board exonerates him.

- C. When an officer requests a hearing in such a case, an entry will be made in the Disciplinary Register and the other procedures of General Order No. 16 will be followed.

VII. EFFECTIVE DATE

This order is effective.

O. W. Wilson
Superintendent of Police

Distribution: All Personnel

I have read and understand the above order.

Signature

Date

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~~AUG 1 1964~~

~~AUG 20 1964~~

~~AUG 27 1964~~

~~SEP 3 1964~~

~~MAR 18 1965~~

~~MAY 3 1965~~

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