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# CRIMINOLOGY

## THE POLICE INTERNAL SYSTEM OF JUSTICE IN NEW YORK CITY

BERNARD COHEN\*

### THE POLICE JUSTICE SYSTEM

There have been many studies of the criminal justice system in this country.<sup>1</sup> The data used in these studies usually pertain to crimes or criminals and how they progress through the police, court and correctional agencies.

Knowledge of the criminal justice system, although useful for many purposes, tells us little about police officers who violate the law. One reason for this is that police departments operate their own internal judicial system, which is in many ways independent of the civil courts. Police officers who break the law will rarely be processed by the civil criminal justice system unless the police choose to investigate the crime and report it to civil authorities. This is true whether the officer's actions occurred in the performance of his duty or not. Alternatively, the police may dismiss charges of misconduct by officers or process them by departmental trials.

This research is a summary of what we have been able to determine about police misconduct and the operations of the police justice system from data which were collected for a broader study of selection, assignment, promotion, and reward procedures in the New York City Police Department. For this study we have utilized a cohort consisting of all officers who were appointed to the Department in 1957. The present analysis concerns the recorded allegations of misconduct for the 1,915 men in this cohort.<sup>2</sup> These recorded allegations are followed through the police justice

system in order to determine which offenses were brought to departmental trial and which were dropped. Then the final dispositions of those brought to trial are examined.<sup>3</sup>

### DATA SOURCES

Our data on complaints come primarily from the Public Morals Section, the Chief Inspector's Investigating Unit, the Civilian Complaint Review Board and the Disciplinary Record Section. These Units are empowered to record and investigate all forms of police misconduct including departmental complaints, complaints characterizable as corruption and civilian complaints. During the latter part of 1968 and in 1969, a research team visited these units and gathered all allegations of misbehavior which were on record for the cohort of officers who were appointed in 1957.

Reports of police misconduct initially come to the attention of the investigating units in many ways. Some result from citizen complaints and reach the units through channels. Others are reported by departmental commanders or fellow police officers. Some investigations are initiated as a result of surveillance of certain officers for disciplinary control. Finally, unit investigators may see a violation while observing patrol practices or during periodic inspections of precinct activities.

### DESCRIPTION OF THE TYPE OF COMPLAINTS AND DISPOSITIONS

The charges which appeared on the records we examined ranged from minor violations such as absent from post to more serious complaints involving acceptance of gratuities, the use of unnecessary force, etc. At the time they are first recorded, these complaints represent *allegations*

<sup>3</sup> A detailed discussion of our overall research plan and methodology will be described in a forthcoming work on selection, assignment, promotion, and reward procedures. We will, however, discuss briefly the types and sources of data used for an analysis of complaints against members of the police department.

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<sup>1</sup> A review of some of these studies appears in M. E. WOLFGANG & B. COHEN, *CRIME AND RACE* 66-88 (1970).

<sup>2</sup> Twenty-six officers were excluded from our analysis because their race was unknown.

of misconduct; they are not formal charges arising from an investigation. We grouped the complaints into three categories: departmental complaints, criminal charges and civilian complaints.

*Civilian complaints* are those which must be disposed of by the Civilian Complaint Review Board according to the Department's Rules and Procedures. These complaints almost always involved allegations of unnecessary force, abuse of authority, discourteous behavior and ethnic slurs. According to our definition, civilian complaints do not necessarily have to be initiated by civilians, though they always involve civilians. In fact, in a few instances, police officers while on duty initiated civilian complaints in behalf of civilians against fellow officers.

Complaints which do not involve unnecessary force, abuse of authority, discourtesy or ethnic slurs, but are in violation of the New York State Penal Code, were grouped as *criminal charges*. These complaints may be reported either by civilians or police personnel and are handled internally by the Department's investigation units. Some typical examples are gambling, consorting with criminals, acceptance of gratuities and burglary.

All other complaints, mainly those which violate departmental regulations and procedures or result in disruption of the internal organization of the department, were classified as *departmental complaints*. These complaints were usually initiated by commanding officers or supervisory personnel.<sup>4</sup> Examples of these violations include sleeping while on duty, losing a shield, insubordination and drunkenness while on duty and protest summons.<sup>5</sup>

Our classification of charges into three categories was done to facilitate analysis and does not represent any formal labelling of charges by the Department. In some cases it was necessary to make judgments about how to classify the

<sup>4</sup> It should be made clear that both departmental and criminal charges can be, and often are, initiated by civilians.

<sup>5</sup> Protest Summons arises when a complainant, subsequent to receiving a summons for an offense—usually a minor one—protests the actions taken by the officer. In many cases, the complainant also protested the basis for receiving the complaint. Typical complaints were that the officer made a false arrest, or conducted an illegal search of house or person. Other times, the complainant maintained he was taken into an RMP car without apparent reason and detained unjustifiably in a station house. In one case, the person protested the summons because some of his property was missing.

complaints, and no claim is made that our choice is the only way this could have been done.

### *Dispositions*

Detailed procedures for processing departmental, criminal, and civilian complaints are outlined in the New York City Police Department Rules and Procedures and need not be repeated here.<sup>6</sup> Some examples of the dispositions taken by the police department however will help interpret our findings which appear later in this study.

- *Complaint Dismissed*—The complaint is reviewed and unsubstantiated on its merits. It is dismissed.
- *Filed*—The complaint is filed because the complainants refuse to submit to interview; or the complaint is filed because of absence of evidence or witnesses.
- *Complainant Uncooperative*—The complainant refuses to cooperate.
- *Minor Fine*—A fine of less than 10 days' pay or vacation.
- *Major Fine*—A fine equal to 10 or more days' pay or vacation.
- *Suspended*—The officer is suspended from the force for a specified period of time.
- *Probation*—The officer is placed on probation for a specific period of time.
- *Dismissed*—The officer is dismissed from the force.

### DESCRIPTION OF THE COHORT: ACTIVES AND INACTIVES

The group of police officers which was studied consists of 1,915 men who were appointed to the police department in 1957. Most of these men (1,608) are still members of the force and comprise our active cohort. An additional 307 men left the force during the past eleven years and are referred to hereafter as "inactives."

This particular cohort was selected primarily for two reasons. First, the eleven-year period between 1957 and the time the data were collected was suitably long to enable us to discern the career paths available to officers in the Department. Second, it yielded an adequate number of officers in our sample so that we might study subgroups.

In our description of the incidence of complaints against officers, we consider only the active mem-

<sup>6</sup> POLICE DEPARTMENT, CITY OF NEW YORK RULES AND PROCEDURES ch. 21 (charges and trials).

bers of the cohort, since otherwise we would be attempting to compare charges accumulated over different periods of time. However, a detailed comparison of the incidence of allegations against inactive and active is undertaken in another paper. An advantage of using only the active is that we can determine the extent and variety of alleged misconduct which the Department will tolerate and still permit a man to remain on the force.

When we proceed to an analysis of what happens to complaints as they are processed by the police justice system, we naturally include allegations against inactive as well as active, since one would expect to find the officers who had experienced the most severe discipline among the inactive.

#### INCIDENCE OF COMPLAINTS AGAINST OFFICERS

Our data provide us with the number of complaints against each officer in the cohort and the type of each complaint. When these data are aggregated for all the members of the cohort,

we obtain a distribution from which one can determine the average number of complaints experienced over eleven years and also the chances of having an extremely large or small number of complaints.

Our findings on the incidence of complaints are summarized in Table I. They reveal that *41.7 percent of the active officers had no complaints against them during their eleven years on the force, while 58 percent incurred at least one complaint.* We see also that nearly a third of the men (30.6 percent) received 2 or more complaints. Thus, about half of those with at least one complaint went on to incur another. Half of these (260 men, or 16 percent of the cohort) received at least 3 complaints. The highest number of complaints recorded for a single officer in our cohort was 16, but 5 or more charges can be considered extremely rare, since 95 percent of the men had fewer than 5. However, it is noteworthy that an officer can accumulate as many as 16 complaints and still remain on the force.

Our data also show that blacks received more

TABLE I  
DISTRIBUTION OF COMPLAINTS BY RACE FOR THE COHORT OF ACTIVE OFFICERS APPOINTED IN 1957

Number of Complaints	Race							
	Black		White		Puerto Rican		Total	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
0	21	21.2	638	43.0	11	44.0	670	41.7
1	29	29.3	410	27.6	9	36.0	448	27.9
2	23	23.2	204	13.7	1	4.0	228	14.2
3	12	12.1	106	7.1	1	4.0	119	7.4
4	7	7.1	54	3.6	2	8.0	63	3.9
5	4	4.0	33	2.2	1	4.0	38	2.4
6	1	1.0	16	1.1			17	1.1
7	1	1.0	8	0.5			9	0.6
8	1	1.0	5	0.3			6	0.4
9			2	0.1			2	0.1
10			1	0.1			1	0.1
11			3	0.2			3	0.2
12			1	0.1			1	0.1
13								
14								
15								
16			1	.1			1	.1
Unknown			2	.1			2	.1
Total Men	99	100.0	1484	100.0	25	100.0	1608	100.0
Total Charges	180		1798		27		2005	

TABLE II

DEPARTMENTAL, CRIMINAL AND CIVILIAN COMPLAINTS BY RACE FOR THE COHORT OF ACTIVE OFFICERS APPOINTED IN 1957 (PERCENTAGES &amp; MEANS)

Type of Complaint	Race											
	Black			White			Puerto Rican			Total		
	N	%	$\bar{X}$ **	N	%	$\bar{X}$	N	%	$\bar{X}$	N	%	$\bar{X}$
Departmental.....	126	71.2	(1.3)	1095	63.1	(0.7)	20	76.9	(0.8)	1241	64.0	(0.8)
Criminal.....	13	7.3	(0.1)	169	9.7	(0.1)	3	11.5	(0.1)	185	9.5	(0.1)
Civilian Complaints....	38	21.5	(0.4)	471	27.1	(0.3)	3	11.5	(0.1)	512	26.4	(0.3)
Total Charges*.....	177	100.0		1735	100.0		26	100.0		1938	100.0	
Number of Officers....	(99)			(1484)			(25)			(1608)		

\* These totals differ slightly from those in Table I because our method of collecting data did not permit us to record, for 67 complaints (mostly departmental), the precise type of charge, whether it was brought to trial, or the disposition. These complaints were all registered against men who had more than 4 charges and constitute 3 percent of the total number of complaints.

\*\*  $\bar{X}$  indicates the mean, or average, number of complaints per man.

complaints than whites, and whites more than Puerto Ricans, though in each racial group the majority of officers experienced at least one complaint. Nearly 80 percent of the black officers received at least one complaint, compared to only 57 percent of the whites and 56 percent of the Puerto Ricans. Also, on the average, each black officer incurred 1.8 complaints, compared to 1.2 for the white and 1.1 for the Puerto Rican officers.

The difference in rates of repeating complaints also varied by race. Nearly half of the black officers (49.5 percent) incurred at least two charges each, compared to about a third of the whites (29.4 percent) and a fifth of the Puerto Ricans (20 percent). Further, 63 percent of the black officers with at least one charge received another, compared to 48 percent and 36 percent respectively for whites and Puerto Ricans.

Although the data could be interpreted as showing that either blacks engage in misconduct more frequently than others or they have a higher proportion of their misconduct reported, neither of these interpretations is necessarily correct. In fact, the number of charges against officers varies with their assignment, and, as our data indicate, blacks receive a disproportionate number of assignments in special units where all officers, regardless of their race, are more likely to receive complaints.<sup>7</sup> The general volume of allegations of

misconduct indicated by the data is more significant than the differences among the races.

#### *Type of Complaint*

It is important to recall that some complaints are for minor violations of departmental regulations, so that the figures shown on Table I are not indicative of widespread corruption or criminal behavior by police officers. Nor is this suggested when the data are classified by type: departmental violations, criminal charges, and civilian complaints. The details are shown in Table II.

Our data show that well over half of the complaints were for departmental violations, with the next largest category being civilian complaints. Only 185 of the 1,938 charges for which we knew the type were allegations of criminal activities. Examination by race reveals that 71 percent of the complaints against black officers were departmental compared to 63 percent for whites. Also, the average number of departmental charges was nearly twice as high for black as for white or Puerto Rican officers (1.3 compared to .7 and .8 respectively). On the other hand, the average number of criminal charges was equal for the officers regardless of race (.1), while differences in the proportion of civilian complaints were extremely small (.4 for blacks and .3 for whites respectively—there were only 3 civilian complaints against Puerto Ricans). Thus, the relatively high incidence of offenses for blacks is almost entirely accounted for by a greater number of

<sup>7</sup> For instance, men in plainclothes assignments are particularly susceptible to complaints. By the second assignment, four times as many blacks (12 percent) as whites (3 percent) in our cohort performed plainclothes duties.

TABLE III

DEPARTMENTAL, CRIMINAL AND CIVILIAN COMPLAINTS BY TYPE AND RACE FOR COHORT OF ACTIVE OFFICERS APPOINTED IN 1957

Type of Complaint	Race							
	Black		White		Puerto Rican		Total	
	N	%	N	%	N	%	N	%
Procedural.....	7	4.0	70	4.0	1	3.8	78	4.0
Insubordination.....	2	1.1	9	0.5			11	0.6
Absence (AWOL).....	39	22.0	368	21.2	2	7.7	409	21.1
Sick Absences.....			12	0.7	1	3.8	13	0.7
Moonlighting.....			34	2.0	1	3.8	35	1.8
Failure to Safeguard Guns.....	14	7.9	40	2.3			54	2.8
Failure to Safeguard Property.....	13	7.3	49	2.8	1	3.8	63	3.3
Inappropriate Behavior Off Duty.....	4	2.3	28	1.6			32	1.7
Inappropriate Behavior On Duty.....	3	1.7	65	3.7	1	3.8	69	3.6
Fail to Perform Duty.....	6	3.4	33	1.9	1	3.8	40	2.1
Moral Turpitude.....	3	1.7	8	0.5	1	3.8	12	0.6
Purposely Falsifying Report.....	2	1.1	9	0.5			11	0.6
Police Academy Viol.....			1	0.1	1	3.8	2	0.1
Supervise on Patrol.....			11	0.6			11	0.6
False Statements.....	1	0.6	4	0.2			5	0.3
Family Probity.....			1	0.1			1	0.1
Protest Summons.....	19	10.7	193	11.1	5	19.2	217	11.2
Police Negligence.....	10	5.6	124	7.1	1	3.8	135	7.0
Fail to Pay Debts.....	1	0.6	8	0.5			9	0.5
Consorting with Criminals.....	1	0.6	13	0.7			14	0.7
Gratuities.....	6	3.4	101	5.8	3	11.5	110	5.7
Gambling or Policy Operations.....			7	0.4			7	0.4
False Testimony.....	2	1.1	4	0.2			6	0.3
Criminal Offense (8 Codes).....	3	1.7	25	1.4			28	1.4
Criminal Offense (Other).....	1	0.6	19	1.1			20	1.0
Unnecessary Force.....	26	14.7	236	13.6	2	7.7	264	13.6
Discourtesy.....	5	2.8	84	4.8	1	3.8	90	4.6
Abuse of Authority.....	7	4.0	145	8.4			152	7.8
Ethnic Slurs.....			6	0.3			6	0.3
Unknown.....	2	1.1	28	1.6	4	15.4	34	1.8
Total.....	177	100.0	1,735	100.0	26	100.0	1,938	100.0

departmental charges, rather than criminal charges or civilian complaints.

A more detailed breakdown of complaints is given in Table III. The category with the highest proportion of charges is absences (21.1 percent). Other categories with a substantial number of complaints include unnecessary force (13.6 percent), protest summons (11.2 percent), abuse of authority (7.8 percent), police negligence (7.0 percent) and gratuities (5.7 percent). There were few complaints for gambling (.4 percent) or consorting with criminals (.7 percent) and not one recorded instance of collusion in narcotics operations.

In general, the types of complaints against white and black officers were similar. The only substantial differences were for absences, failure to safeguard guns, failure to safeguard property, and protest summons. The black rate was twice as high for absences and protest summons (.2 to .1 for protest summons and .4 to .2 for absences) while it was three times greater for failure to safeguard property and guns (.1 to .03).

#### Detectives

Since detectives are specially selected by the Detective Division and are subject to different administrative controls from those applied to

TABLE IV

DEPARTMENTAL, CRIMINAL AND CIVILIAN COMPLAINTS BY RACE FOR DETECTIVES (PERCENTAGES AND MEANS)

Type of Complaint	Race											
	Black			White			Puerto Rican			Total		
	N	%	$\bar{X}$	N	%	$\bar{X}$	N	%	$\bar{X}$	N	%	$\bar{X}$
Departmental.....	25	55.6	(1.0)	112	51.1	(0.5)	9	64.3	(1.0)	146	52.5	(0.6)
Criminal.....	5	11.1	(0.2)	37	16.9	(0.2)	3	21.4	(0.3)	45	16.2	(0.2)
Civilian.....	15	33.3	(0.6)	70	32.0	(0.3)	2	14.3	(0.2)	87	31.3	(0.3)
Total.....	45	100.0	(1.7)	219	100.0	(1.0)	14	100.0	(1.3)	278	100.0	(1.1)
Number of Detectives.....	27			218			11			256		

uniformed officers, one might suspect that their patterns of charges would differ. We found, however, that the total incidence of charges for these men over the eleven-year period (*i.e.*, both before and after they became detectives) was nearly the same as for non-detectives. In fact, the average number of complaints for detectives and non-detectives were 1.1 and 1.2 respectively (see Tables II and IV).

When broken down by type of complaint, the incidence of departmental violations was nearly equal (.6 for detectives and .8 for non-detectives) while no difference appeared for civilian complaints (.3 for both). The only significant difference between the two groups occurred for criminal charges. *The rate of criminal allegations against detectives (.2) was twice as high as the corresponding rate for non-detectives (.1).* Our data also show that the differences resulted primarily from gratuities and the more serious index offenses. Though there are only one-fifth as many detectives as non-detectives, they account for nearly one-third of the allegations concerning gratuities (32 for detectives, 78 for non-detectives) and other criminal offenses (8 for detectives and 20 for non-detectives). Further details are shown on Table IV.

#### *Actual Incidence of Misconduct*

Just as arrest figures do not accurately measure the extent of crime among civilians, the data concerning charges against officers is not a true measure of police misconduct. On the one hand, some of the officers may not have been guilty of the offense appearing in the complaint. On the other hand, some misconduct may not have been recorded. Thus the figures reported above may be either higher or lower than the true incidence of misconduct.

Instances of misconduct may fail to appear in our data for perfectly legitimate reasons or because of inadequacies in the police system of justice. For example, certain records of misconduct are destroyed after a specified period of time in accordance with regulations; these are for minor departmental violations.

Other possible reasons for the absence of records of misconduct, *which our data can neither confirm nor deny*, are the following:

The investigative machinery available to the police department may be inadequate to uncover many offenses.

An informal system of sanctions may exist to punish officers guilty of misconduct without making an entry on the record. For example, changes in the time or location of an officer's assignment can be used as informal sanctions. Evidence of misconduct may not be pursued by those having the responsibility to report such evidence.

In any event, the number of recorded charges for criminal activities is not substantial enough to provide any evidence of widespread corruption in the New York City Police Department. Nevertheless, the frequency of recorded complaints in the official records is high enough to consider the possibility of different forms of deviant subcultures among police officers.<sup>9</sup>

#### *Summary of Incidence Data*

- Fifty-eight percent of the police officers in our cohort received at least one complaint.
- Blacks exhibited the highest incidence of

<sup>9</sup>In the present study, at least three of these might include a police subculture of violence, a subculture of theft and a subculture of stolidity. Further elaboration of these subcultures will appear in a later paper.

complaints, with whites next, and then Puerto Ricans. However, the differences among races are almost entirely accounted for by differences in departmental violations, rather than in criminal charges or civilian complaints.

- Most of the complaints were departmental violations (64 percent).
- A significant proportion of recorded allegations of misconduct involved civilian complaints (26 percent).
- One hundred thirty-one complaints characterizable as corruption were recorded against 1,608 officers in eleven years.
- The total incidence of complaints was equal for detectives and non-detectives, but detectives had a greater proportion of charges that may be characterized as corruption.

#### POLICE JUSTICE

Our data describe not only the nature of each charge brought against an officer in our cohort, but also the manner in which it was processed by the police justice system. Such information illuminates the extent to which charges are found to be valid and also reveals where the police place their emphasis in prosecuting charges. For this analysis, we use data about all charges brought against inactive as well as active officers, so the incidence of charges differs slightly from that shown in the preceding section.

The most serious limitation of our data occurs for the men who were dismissed from the Department. For various reasons, their files may not be retained in the same locations as those of the other inactive officers. Especially in cases where an officer is dismissed prior to completion of a departmental trial (e.g., if he is indicted by a grand jury), we may have no record of the disposition of his case.

A special search by the Personnel Record Unit, conducted at our request, revealed that twenty-eight members of the 1957 cohort were dismissed. For only five of them do we have the record of a departmental trial resulting in dismissal.

#### Cases Brought to Trial

As shown in Figure 1, *approximately 59 percent of departmental violations against members of our cohort were brought to trial, compared to 15 percent of allegations of criminal misconduct brought to departmental trial.* Considering the fact that de-

partmental violations are usually reported by superior officers, while criminal allegations may be anonymous or otherwise insubstantial, it is not surprising to find a larger proportion of the former brought to trial. However, under the reasonable assumption that charges arising from independent probes by the Department's own investigatory units would be strong enough to come to trial, the data indicate that these units press fewer than two criminal charges per thousand men per year. The police justice system succeeds in detecting and bringing to trial a much larger number of alleged violations of the Department's rules and procedures.

Civilian complaints cannot properly be separated according to which of them were brought to trial, since every civilian complaint is investigated, evaluated, and adjudicated by the Civilian Complaint Review Board. It is necessary to examine the dispositions of this type of misconduct.

#### Disposition

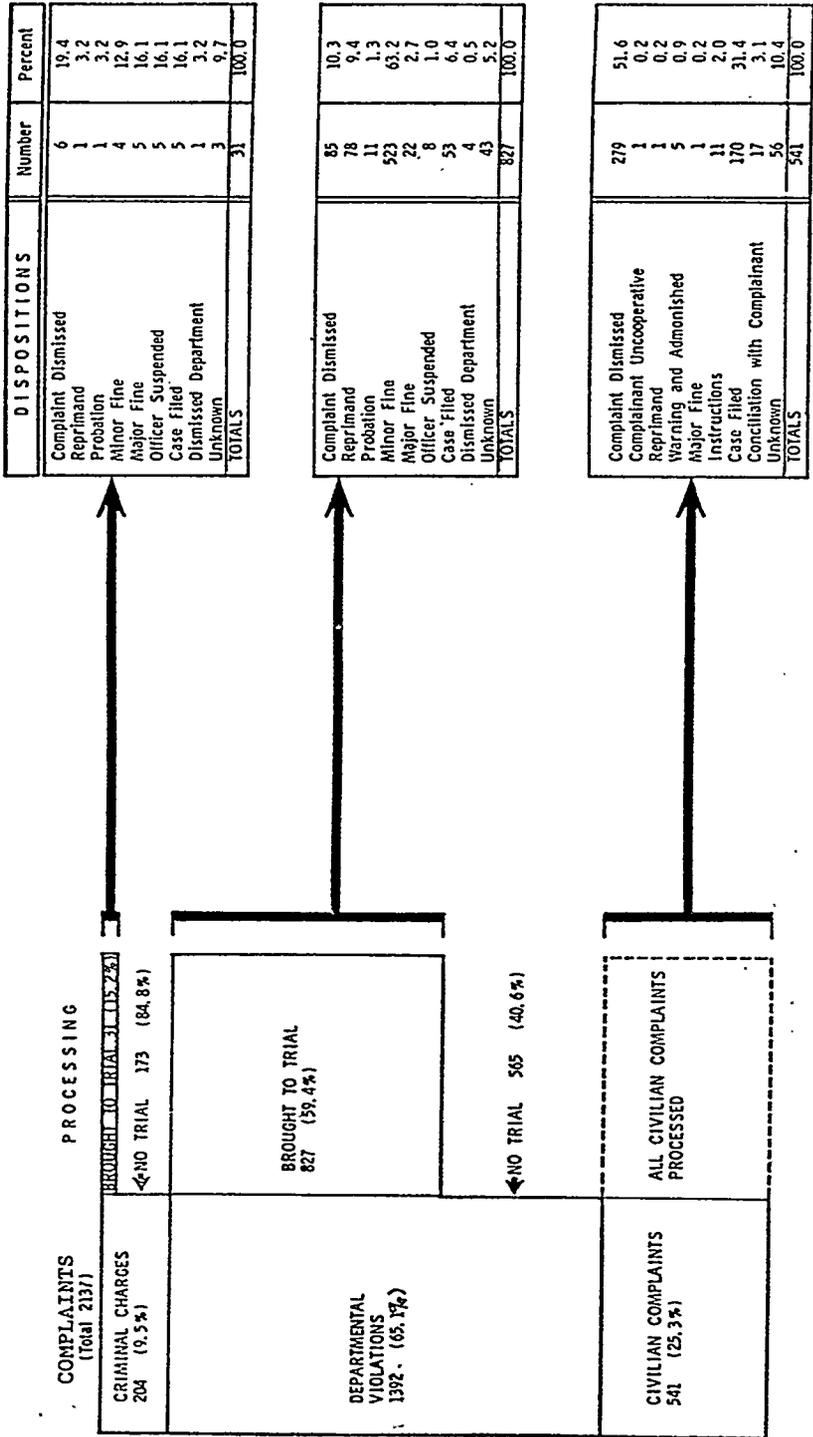
The data show that *very few charges of any type resulted in serious punishment.* The majority of departmental violations received minor fines<sup>9</sup> (63 percent) while major fines were given in 22 (3 percent) of the cases. In only 8 cases (1 percent) were men suspended. Four men in our cohort were dismissed from the Department.<sup>10</sup> Approximately 10 percent of the complaints were dismissed, 9 percent resulted in reprimands, while 1 percent received probation.

Dispositions for criminal charges are more difficult to interpret because of the small number (31 out of a total of 204) brought to trial. One of the men was reprimanded, one was placed on probation and six had their complaints dismissed. Nine men were fined, five of whom received major fines. *Only 5 of the 1,915 men were suspended for criminal charges during the eleven-year period on the force.* Most of the remaining cases were filed (5).

The dispositions for crimes that may be characterized as corruption were analyzed separately. Our data show that 121 gratuity charges, 7 gambling charges and 16 charges of consorting with criminals were recorded. Out of these, 23 cases (16 percent) were brought to trial. Three cases

<sup>9</sup> See text accompanying note 6 *supra* for definitions of minor and major fines.

<sup>10</sup> This figure would presumably change to 28 men dismissed after the update conducted by the Police Department.



**FIGURE 1.**  
The Police Justice System: Actives and Inactives; All Charges, 1,915 Officers Appointed in 1957.

of consorting with criminals, and 1 case each of gambling and gratuities received the two most severe penalties of "major fine" and "suspension." The remainder of the 23 cases (18) received dispositions of complaint dismissed, reprimand, probation, filed and minor fine. Three cases of gratuities resulted in a minor fine, but none received a major one. (Two cases were filed and 2 cases fell into the "unknown" category.)

The remaining criminal cases, most of which consisted of burglary, larceny and minor assault, show similar patterns. Of 54 major and minor offenses, 5 were brought to trial, with 2 resulting in a major fine and 1 a suspension. One complaint was dismissed and in one the disposition was unknown. Three cases of false testimony were brought to trial. Two resulted in major fines and 1 a minor fine.

During the entire 11-year period covered by this study, civilian complaints were investigated and disposed of by members or representatives of the Civilian Complaint Review Board which includes police officers. Our cohort of men experienced the Board during the years of civilian control as well as the period during which the Board was operated by the police.

There were 541 civilian complaints with a little more than half (280) involving unnecessary force. Abuse of authority was next with 160 complaints, 92 complaints involved discourteous behavior, while there were 9 instances of ethnic slurs. *Approximately 85 percent (449) of all civilian complaints were dismissed or filed.*<sup>11</sup> (The same proportion holds for complaints of unnecessary force (241 out of 280).) In 17 cases, conciliations were effected between officer and complainant. In 21 cases (4 percent) officers were found guilty. Eleven of the officers received instructions, five were admonished and one was reprimanded. Charges and specifications were brought in 4 instances (or less than 1 percent of the total cases); one case resulted in a major fine, while in the other 3 cases the disposition was unknown. All four of these cases involved allegations of unnecessary force.<sup>12</sup>

<sup>11</sup> Exactly 51.6 percent were dismissed and 31.4 percent filed.

<sup>12</sup> A detailed breakdown of the disposition of other types of civilian complaints is as follows: 5 cases of unnecessary force received instruction and 6 resulted in conciliation between officer and complainant. In cases involving abuse of authority, 96 percent resulted in no penalty while warnings and/or instructions were given in 5 cases. Conciliation was effected in 3 cases. Like-

The absence of severe penalties in instances involving civilian complaints is repeated in cases where citizens "protest summons." This offense was designated a departmental violation because it was usually recorded by the Bureau of Public Morals or the Chief Inspector's Investigation Unit, but was not processed as a civilian complaint by the Civilian Complaint Review Board. Most cases of "protest summons," however, were initiated by civilians. Moreover, in many cases the officer's personal behavior as well as the legitimacy of the offense was called into question. In any event, *none of the men involved in the 230 cases of "protest summons" were brought to trial.*

### *The Informal System of Justice*

Our data, which come mainly from official records of the disciplinary and investigatory units of the Department, reflect the formal structure of police justice and require careful interpretation. *One major limitation is that our data do not capture directly the informal system of punishments and rewards that presumably exists side by side with the formal system. The fact that a civilian, criminal, or departmental complaint is not brought to trial does not necessarily mean that no punishment is inflicted.* Punishments ranging from verbal sanctions to reassignment may be applied. In serious instances, especially when evidence is difficult to obtain, officers might even be forced to resign without any official documentation being made of this action. In any case, our data do not directly reflect the existence or incidence of these informal sanctions nor do they indicate the effectiveness of such procedures, should they exist.

Certain inferences can be made from some of our data, however, regarding the informal system of justice. Should resignation in lieu of trial be either permitted or encouraged by the Department, we would expect the inactives to have much more serious disciplinary records than their active counterparts. Our analysis of the inactives showed this not to be the case. Only 30 percent of the inactive officers had charges recorded against them compared to 58 percent of the actives, and the average number of charges among inactive officers

wise in only 6 out of 90 cases where discourteous behaviour resulted did officers receive even a warning, reprimand or instruction. Seven cases resulted in conciliation between the officer and complainant. One of nine known dispositions for ethnic slurs resulted in instruction while the others were either dismissed (2), filed (4), or conciliated (1). In one the disposition was unknown.

was .6 compared to 1.3 for the active officers. The difference is explained by the shorter tenure of inactives in the Department (averaging 3.7 years) and the fact that about half of all charges were incurred during the first 4 years on the force.<sup>13</sup> Thus, the history of charges for the inactives is about the same as for the actives.

The results of our analysis also show that the proportion of charges which were for criminal complaints are almost identical for actives and inactives, while the actives had a higher proportion of civilian complaints and a lower proportion of departmental charges than inactives. These data fail to support the argument that many men resigned involuntarily from the Department because they were threatened with the more serious charges involving corruption, brutality, or other forms of criminal behavior.

The notion that the presence of charges on an officer's record might prevent him from obtaining certain desirable assignments is not entirely supported by our data. In fact, as we shall report elsewhere, in the case of appointment to the Detective Division our preliminary analysis showed that unsuccessful applicants did not have more criminal allegations than successful applicants prior to their appointment. We have similarly been unable to find evidence in our data that men are reassigned out of units such as the Detective Division as a consequence of accumulating charges.

Other aspects of the informal system of justice in the Department deserve future attention. We discuss some of them in the final section of this paper.

#### *Detectives and Non-Detectives*

Are detectives treated differently from their uniformed counterparts by the police justice system? Because detectives comprise the elite of the Department and are recruited mainly from the rank of plainclothes units, some of which conduct internal investigations, it might be expected that they are treated less severely by police justice. This would be reflected in few instances of alleged misconduct brought to trial, and less severe dispositions.<sup>14</sup>

<sup>13</sup> The fraction of charges occurring in each year could only be determined from our data for those charges which were brought to trial.

<sup>14</sup> On the other hand, they may be treated more severely because they might be held to higher standards than the uniformed force.

The data in Figure 2 show how charges were processed for men who eventually became detectives. These data cover the entire eleven-year history of these men, but since most of them spent at least seven of the eleven years in specialized units, the data apply mostly to the period of time when they were not in uniform. The data show that 4 percent of criminal charges against detectives were brought to trial. This is less than a third of the corresponding number for non-detectives (14 percent).

Moreover, 34 percent of departmental violations by detectives were brought to trial compared to 60 percent for non-detectives.

The data on final dispositions show that of two detectives brought to trial for criminal charges, one had his charge dismissed and the other was suspended. Thus, for an eleven-year period only 1 out of 256 detectives was punished for criminal charges.

A similar pattern is discernible for civilian complaints. *Ninety-one percent* of complaints against detectives were either dismissed or filed (this compares to 82 percent for non-detectives). In one case (unnecessary force), an officer received instruction, while in seven, we were unable to determine the final disposition.

*As with non-detectives, departmental violations received the most severe dispositions.* Exactly 27 detectives were fined, all of whom received minor ones. Another eight men were reprimanded. In 11 of the cases, the charges were dismissed while 2 cases were filed. No detective was placed on probation.

*In conclusion it is less likely for charges against detectives to be brought to departmental trial than is the case for their uniformed counterparts. This is especially true for charges characterizable as corruption, where only 2 out of 37 cases (5 percent) were brought to trial compared to 14 (16 percent) for non-detectives.*

#### *Police Justice and Race*

We know from several recent National Commissions convened to study crime, riots and violence, as well as from studies of selected areas that black citizens are more likely to be stopped on suspicion, interrogated, searched and arrested than their white counterparts.<sup>15</sup> Moreover, they

<sup>15</sup> See PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, *THE CHALLENGE OF CRIME IN A FREE SOCIETY* (1967); PRESI-

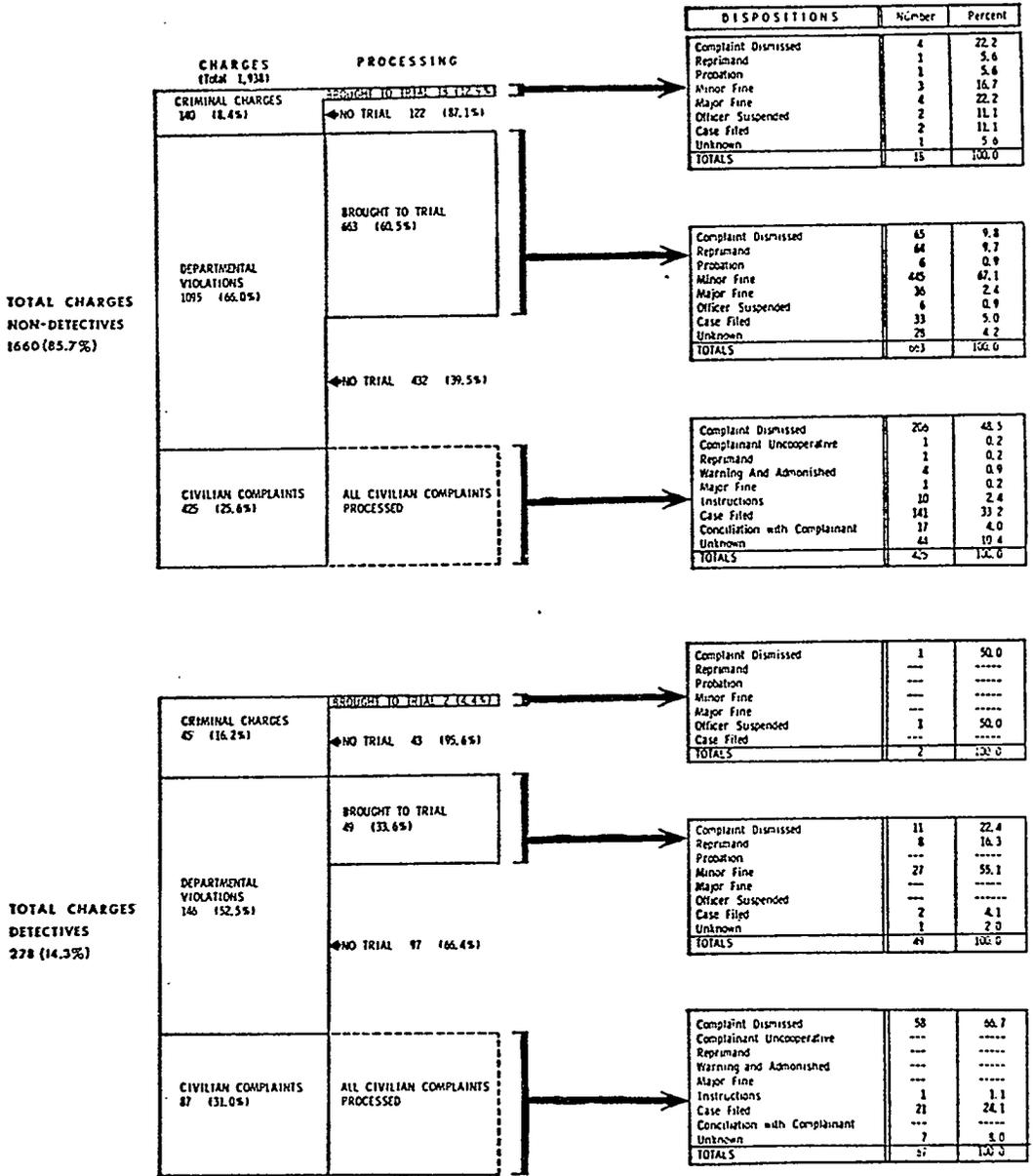


FIGURE 2. The Police Justice System: Detectives and Non-Detectives. 1608 Active Officers Appointed in 1957.

are likely to be treated more severely by the courts. Are there similar differences between the races in the way in which the police justice system

handles officers who violate the law or departmental rules?

DENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TO ESTABLISH JUSTICE, TO ENSURE DOMESTIC TRANQUILITY (1969); REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (1968); WOLFGANG & COHEN, *supra* note 1.

In general, our data showed few differences in the proportion of complaints brought to trial or their dispositions for members of the different races. The data are shown in Figure 3. Sixty percent of the black officers were brought to trial for departmental violations, compared to approxi-

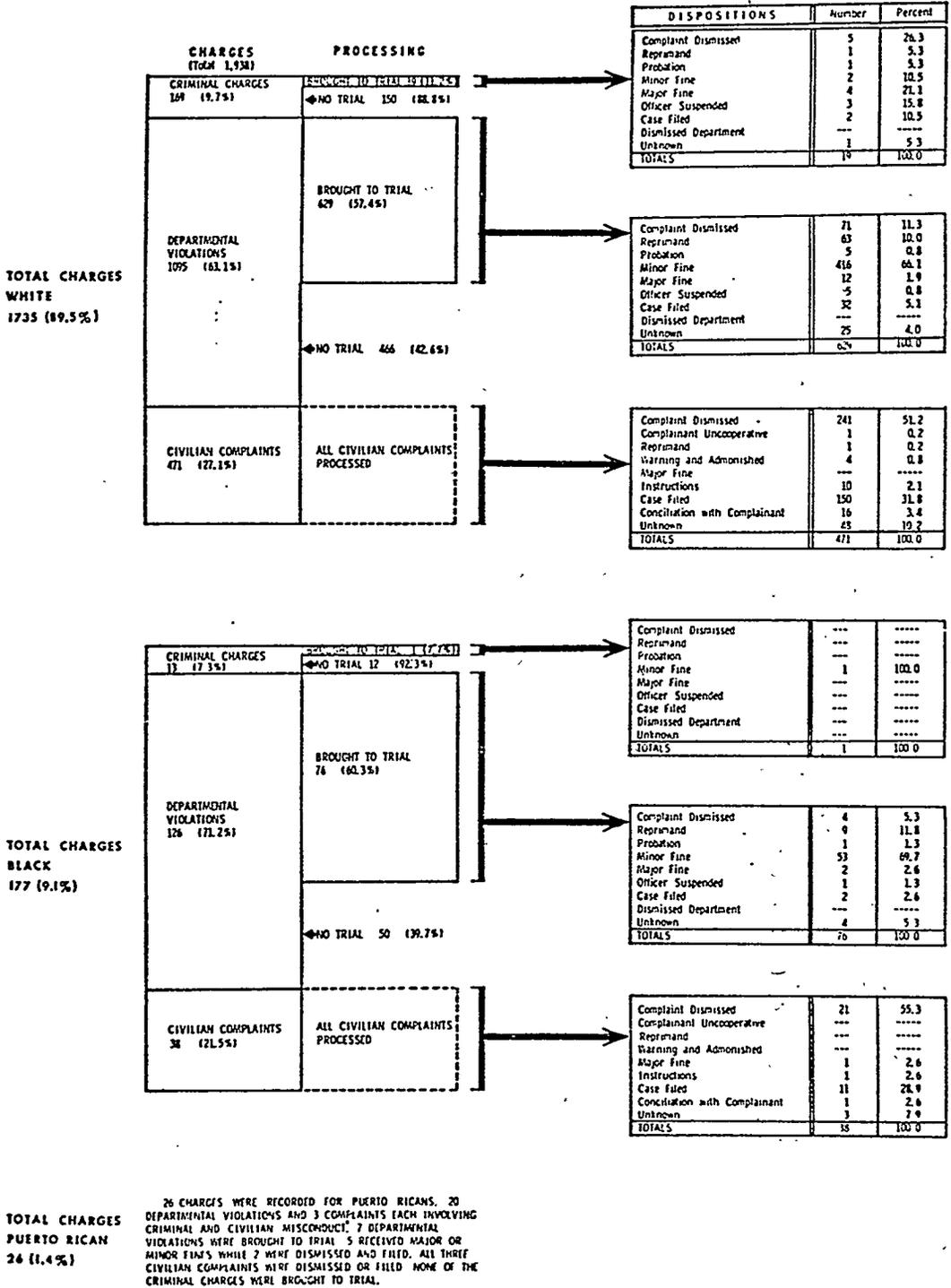


FIGURE 3

The Police Justice System: By Race of Officer, 1608 Active Officers Appointed in 1957.

mately 57 percent of the white officers. With criminal charges nearly 8 percent of the black officers were brought to trial compared to 11 percent for whites. Only 7 Puerto Ricans were tried for departmental violations (35 percent) but none (of 3) for criminal charges. Finally, there were no significant differences in disposition of civilian complaints for members of different races.

#### *Summary of Data Concerning the Processing of Charges*

- Fifteen percent of allegations of criminal misconduct were brought to departmental trial.
- One hundred forty-four allegations of corruption were recorded in eleven years against nearly 2,000 officers. Twenty-three of these were brought to departmental trial, with five of them receiving penalties more severe than a minor fine.
- One of the officers accused by civilians of unnecessary force, abuse of authority, discourteous behavior or ethnic slurs received a penalty more severe than a verbal reprimand.
- Approximately 85 percent of alleged instances of unnecessary force were either dismissed or filed.
- No charges were brought to trial in any of the 230 cases involving "protest summons."
- Fewer detectives than non-detectives were brought to trial for departmental violations or criminal charges.
- Detectives received less severe dispositions for departmental violations, criminal charges and civilian complaints than non-detectives.
- There were no meaningful differences among the races (blacks, whites and Puerto Ricans) in the proportions brought to trial.
- There were no meaningful differences in final dispositions, regardless of the type of complaint, for black, white and Puerto Rican police officers.
- Very few serious punishments of major fine, suspension or dismissal were imposed on the officers charged with alleged misconduct (less than 4 percent of the total).

#### CONCLUSIONS AND RECOMMENDATIONS

The findings of this study neither confirm nor deny allegations of widespread corruption in the

Department. Moreover, our data could not possibly have been used to investigate the honesty and integrity of any particular members of the Department. Instead, the findings raise serious doubts about the effectiveness of the Department's routine operations for dealing with police misconduct, especially criminal and civilian complaints. On balance, they suggest that the Department's formal disciplinary system is much better suited for handling violations of internal rules and procedures that disrupt the normal and routine operations of the force than for responding effectively to complaints where individual citizens or the community at large are victims. It is important that the police, who are most clearly charged with the maintenance of law and the defense of our Constitution, should not tolerate any procedures which leave room for the suspicion that policemen are themselves virtually immune from the law.

#### *Recommendations*

For this reason, the New York City Police Department must make every effort to bring about long-term reform of the police system of justice and not only concentrate on investigations to uncover current instances of misconduct. In this connection, it is suggested that the Police Department give some attention to the following recommendations which are prompted by our findings.

1. *Existing management procedures must be revised to assure that all allegations of misconduct received by the Department are recorded by the appropriate units.*

Although it is not now possible to determine what fraction of allegations are recorded, an experiment could be undertaken in which allegations are reported to 911, the police number, to local precincts, and to various other units. Later, one could determine whether any records of the experimental allegations exist. Provision would have to be made so that no officer would suffer as a result of this experiment.

2. *Complainants should never be discouraged from making complaints against police officers or from pressing charges.*

A follow-up interview of the complainant would discourage police personnel from these practices.

3. *Appropriate criteria must be used in deciding whether or not to bring a particular allegation to a departmental trial.*

To arrive at these criteria we could examine a sample of records and interview responsible officials. Then we could determine whether civilian investigators would have made the same decision about bringing the case to trial. For this purpose, a sample of allegations which have already been processed by the police and not brought to trial could be reinvestigated by civilians. The objective of this investigation would not be to place officers in jeopardy for a second time but to determine whether the large fraction of allegations not brought to trial is explained by the lack of adequate evidence.

4. *Improve personnel management so that investigatory manpower is effectively utilized.*

This would involve collecting data on how much time is spent by investigators on various activities, dividing the time spent investigating allegations according to the type of each allegation, its source, and its ultimate disposition. The advantages and disadvantages of having so many independent investigating units should also be considered. Of interest here is the extent to which records and activities are duplicated in the separate units, the extent to which information is exchanged among them, and the extent to which their responsibilities are clearly distinguished.

5. *Make certain that punishments given to officers found guilty of misconduct are adequate.*

Essentially, this is a matter of judgment for the Police Commissioner and the public. Perhaps a schedule of punishments for various classes of offenses could be established so the an officer would know what to expect for each violation. This would not rule out the use of informal sanctions which would be applied to officers guilty of the most minor infractions.

6. *Officers on the force with numerous allegations of misconduct should either be dismissed from the force or given assignments where interaction with citizens is minimized. The exact penalty would depend on the nature of the offense and the proportion of complaints substantiated.*

It may be that the absence of a central file of allegations against officers has prevented anyone, prior to this study, from knowing that some officers have had more than one allegation a year made against them. Such a failure in the Department's information system could be easily corrected.

At the same time each officer with multiple allegations would have to be carefully adjudicated since a typical case could involve a series of identical unsubstantiated complaints by a single complainant.

7. *The Department must show greater concern for the interests of civilians in its disciplinary procedures.*

Complainants should be notified of the progress of the investigation and the disposition of the case. The Department should provide the public with adequate information about the progress of individual hearings and about its disciplinary activities in general.

8. *There must be a clear and appropriate division of responsibility between the internal police justice system and the larger system of criminal justice.*

The Department together with representatives of the legal profession should establish clear and simple standards to determine when the District Attorney should be informed of the facts of a case. In some cases of misconduct, it would probably be better to have certain authorities conduct the investigations instead of the police. Involved here is the right of a society to treat all persons charged with similar violations of the law in similar ways.