



SECTION 14-115 DOES NOT GIVE THE NYPD ~~UNLIMITED~~ DISCIPLINARY POWER

WHAT MORE THAN A CENTURY OF LEGISLATIVE HISTORY REVEALS
ABOUT THE POLICE COMMISSIONER'S AUTHORITY—AND **ITS LIMITS**

Administrative Discretion Presupposes Statutory Jurisdiction

JURISDICTION: The Enabling Law

The statutory grant that creates the power to act. An agency cannot invent non-statutory penalties to serve a disciplinary objective.

DISCRETION: The Latitude to Choose

The authority to choose among legally authorized alternatives. Discretion does not create authority where the enabling law is silent.



The Commissioner's approval establishes WHO made a decision, not WHAT law authorized it.

Section 14-115 Establishes a Structured Disciplinary Architecture, Not a Blank Check

Adjudicative Predicate

Disciplinary power is triggered specifically on conviction, not on mere allegation. Punishment follows adjudication.

Procedural Mandates

§ 14-115(b) requires written charges, formal examination, and hearings. The process cannot be bypassed.

Enumerated Sanctions

The Legislature exhaustively listed the available penalties. If a consequence isn't listed, it isn't authorized by this statute.

Quantitative Limits

Express statutory ceilings restrict financial forfeitures, placing a hard limit on executive power.

Formal Punishment Requires an Adjudicative Predicate: On Conviction



Investigative statuses (e.g., IAB Hold, Open Case) are not statutory predicates for punishment. Punishment follows the legal event that transforms accusation into sustained misconduct.

Enumerated Sanctions Preclude Implied Pre-Judgment Liens

Explicitly Delegated Powers

- ☒ Reprimand
- ☒ Fine / Forfeiture of Pay
- ☒ Suspension
- ☒ Dismissal

Unwritten Administrative Inventions

- ☐ Pre-judgment liens on terminal leave
- ☐ Freezing of accumulated leave balances
- ☐ Withholding Variable Supplements Fund (VSF) payouts

A generalized disciplinary lien against every economic or administrative interest does not exist in the statute.

Financial Forfeitures Are Capped by an Express Statutory Ceiling

"...but no more than thirty days' salary shall be forfeited or deducted for any offense."

30 DAYS



Police
Pension
Fund

Forfeitures are defined legal events. Funds transfer directly to the Pension Fund, not to an informal administrative holding account. The word discretion cannot erase a mathematical limitation appearing in the same sentence.

A Century of Continuity: Lawmakers Preserved the Boundaries

1897

**Greater NY
Charter § 302**

Original boundaries
and adjudicative
structure established.

1940, 1955, 1962

**Legislative
Amendments**

Lawmakers actively refined
procedures and deduction rules
while retaining hard limits.

1937

**Admin. Code
§ 434a-14.0**

Disciplinary
structure
codified.

1985

**Recodification
to § 14-115**

Historical
continuity
preserved.

Lawmakers repeatedly updated the framework without ever converting it into an unrestricted executive prerogative. The present statute continues a bounded regime.

The NYPD Disciplinary Framework is Independent, Yet Strictly Bounded

NYPD Disciplinary Authority

Matter of Montella v.
Bratton (1999)

The NYC Charter and Administrative Code uniquely govern NYPD discipline, establishing an independent framework distinct from standard Civil Service Law (§ 75).

Matter of Elias v. Kelly
(2008)

Confirms historical continuity; § 14-115 is the direct successor to former § 434a-14.0, carrying forward its specific delegations and limits.

The City cannot invoke the independence of this legislative regime to claim broad power while systematically ignoring the limitations written into that exact same regime.

New York Courts Consistently Enforce Statutory Limits on Commissioner Authority



Murphy (1975)

Enforced the 30-day financial ceiling. The First Department reduced a 90-day fine, proving discretion cannot override explicit limits.



Foran (1973)

Confirmed that while the NYPD operates under a special disciplinary regime, it remains strictly bounded by its own terms.



Budd (1940)

Enforced that probation time limits (one year) are jurisdictional. Authority ends when the statute says it ends.

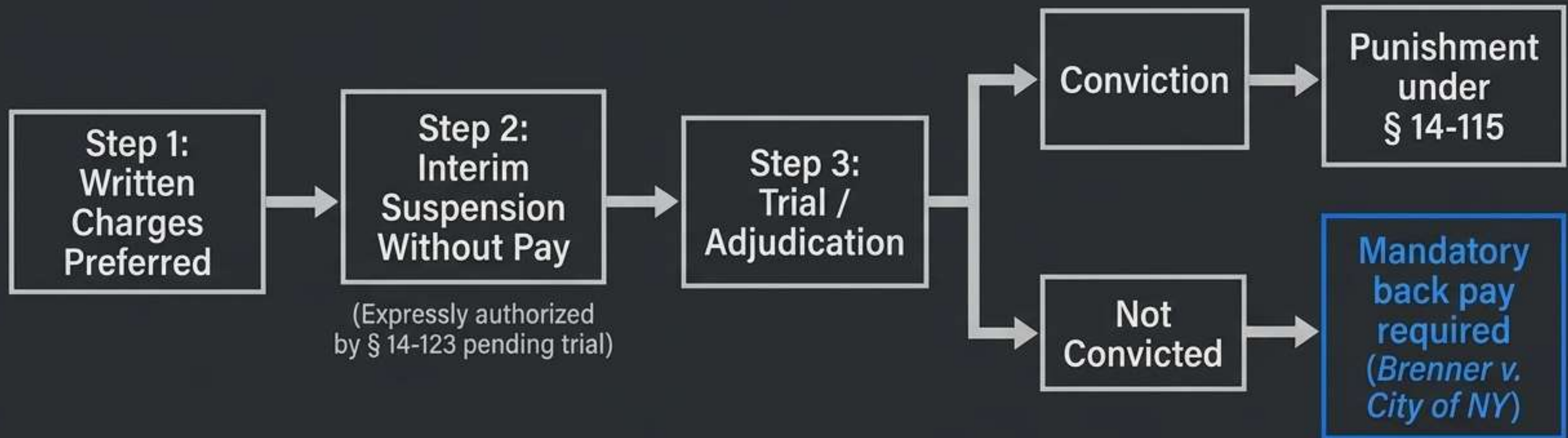


Dubins (1941)

Rejected the proposition that the Commissioner's executive status as department head confers an inherent, non-statutory salary-withholding power.

Section 14-123 Expressly Regulates the Pre-Adjudication Period

The Legislative Solution for Pending Charges



The Legislature specifically defined pre-adjudication economic consequences. Indefinite IAB holds cannot bypass this targeted statutory structure.

Internal Administrative Labels Do Not Manufacture Substantive Legal Power

Internal Nomenclature	Legally Operative Sources
Administrative tracking tools that DO NOT confer legal power.	Independent sources that CAN confer legal power.
IAB Hold	N.Y.C. Administrative Code
Open Case	Collective Bargaining Agreements
Pending Investigation	Formal Adjudications
PC Approved	State/Federal Statutes
	Final Judgments

An internal tracking label cannot freeze assets or delay rights.
Repetition of an administrative practice does not amend the Administrative Code.

Retirement Alters Leverage, But Does Not Enlarge Statutory Jurisdiction

Active Service Jurisdiction

Governed by § 14-115.
Grants power to discipline a member of the force.

Post-Employment Property Interests

Arise under separate legal sources (Terminal Leave, VSF, Accrued Time, Pension).

Retirement reduces the Department's disciplinary leverage, but an unresolved allegation does not generate a new legal power to seize post-employment assets.

Matter of Grottano (1959) addressed the scheduling of active trials before retirement—it did not authorize an asset freeze after separation.

The Proper Order of Review: Jurisdiction Precedes Deference

Step 1: Statutory Jurisdiction

Did the Commissioner have the power to act at all? (Vink, Greater NY Taxi Ass'n — agencies cannot assume ungranted powers).

Step 2: Statutory Predicates

Were the triggering conditions (e.g., on conviction) and procedural mandates met?

Step 3: Pell Deference

Only if Steps 1 & 2 are satisfied, was the exercise of authorized discretion rational?

Deference regulates the judicial review of lawful power. It does not create the power being reviewed. (Scherbyn — no post-hoc rationales allowed).

The Statutory Framework Provides Express Enforcement Mechanisms

Statutory Recovery (§ 14-116(a))

Express two-year statute of limitations for current and former members to sue for salary, pay, or compensation unlawfully forfeited, deducted, or withheld.

Article 78 Proceedings

The primary vehicle to challenge actions taken without or in excess of jurisdiction, or the arbitrary use of bounded power.

Independent Civil Rights

§ 14-115 does not immunize conduct violating Title VII, § 1983 (Monell), NYSHRL, or NYCHRL. Disciplinary action may be statutorily authorized yet independently unlawful (discriminatory/retaliatory) (Muldrow, Robinson, Burlington Northern).

The Commissioner May Enforce the Statute, Not Rewrite It.



Broad authority is legislative in origin, structurally defined, and judicially bounded.
Internal terminology, IAB holds, and executive approval cannot manufacture substantive legal power.
The Commissioner may administer the disciplinary authority the Legislature enacted,
but cannot enlarge that authority where the law is silent.