

CITY OF NEWPORT NEWS

February 13, 2006

To: James D. Fox, Chief of Police

From: Captain L. M. Perkinson, Professional Standards Division Commander

Subject: 2005 Professional Standards Division Annual Report

Attached is the annual statistical report for the Newport News Police Department Professional Standards Division. The statistical report is prepared in compliance with Accreditation Standard 52.1.11. Additionally ADM-270 also requires that an annual summary of complaints be presented to the Chief of Police. Department policy also requires an analysis of trends, patterns and any areas of concern.

Summary

There were a total of ~~66~~ citizen complaints/Internal Investigations documented with 119 separate charges filed during 2005. This represents a 36.5% decrease in total complaints compared to 2004. Of the 119 separate charges investigated from the 66 citizen complaints, only 33 separate charges were substantiated.

Firearms Discharge/Police Shootings

March 12, 2005 – Officer ██████████ (Within Policy)

On March 12, 2005, at approximately 1927 hours, Officer ██████████ responded to 633 44th Street to conduct a follow-up traffic related investigation. Officer ██████████ knocked on the door and the resident's cousin opened it, a pit bull named "Diesel" emerged from within the residence and ran into the yard.

The residents attempted to retrieve the pit bull but failed. The pit bull ran toward a group of children at the end of the residential street near 657 44th Street. Officer ██████████ reported hearing children screaming and feared the children were being attacked by the pit bull.

Officer ██████████ observed the pit bull viciously attacking a smaller dog in the yard. The pit bull's owners were unable to gain control of the pit bull due to its aggressive behavior and due to fear for their own safety. The pit bull

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momentarily released the small dog and focused on a child near the incident. Officer [REDACTED] attempted to place himself between the pit bull and the children; the pit bull began to advance on Officer [REDACTED] and quickly returned to the small dog and resumed its' attack.

Officer [REDACTED] evaluated the situation and believed the pit bull would kill the small dog, attempt to attack the children and the officer if not stopped immediately. Officer [REDACTED] fired two rounds at the pit bull, striking the pit bull one time near the right ear. The pit bull stopped the attack and fled the area. Animal Control Officers were able to capture the pit bull and transport it to an emergency veterinarian for treatment of its non-life threatening injury.

The final conclusion was that Officer [REDACTED] was justified in his actions and acted in accordance with policy.

May 31, 2005 – Officers [REDACTED], [REDACTED], [REDACTED] (Within Policy)

On May 31, 2005, at approximately 2315 hours, Watch II - South Precinct Officers [REDACTED], [REDACTED], and [REDACTED] were conducting foot patrol in the area of 33rd Street and Roanoke Avenue due to high criminal activity in the area of the Big Apple Convenience Store, 3301 Roanoke Avenue.

The three officers approached the rear of the business to observe any criminal activity being conducted by subjects known to frequent the area. While Officers [REDACTED] and [REDACTED] were positioned between a dumpster and a shed facing the fenced yard behind the store, an unknown black male wearing dark clothing came into their view and appeared to be looking in the direction of the officers.

The suspect reached with his right hand into his waistband, removed a firearm, and began firing several times in the direction of Officers [REDACTED] and [REDACTED]. Officer [REDACTED], whom was behind Officers [REDACTED] and [REDACTED], heard gunfire and took cover along with his partners.

The three officers began to move toward the front of the business as the suspect started to run east on 33rd Street toward Roanoke Avenue. The three officers encountered the suspect at the intersection of 33rd Street and Roanoke Avenue.

Officers [REDACTED] and [REDACTED] observed the suspect make a furtive movement with his right hand to his waist after turning onto Roanoke Avenue, and, in response, both officers discharged their service weapons at the suspect.

Officer [REDACTED] discharged his service weapon once, and the bullet struck the rear window of a parked vehicle on Roanoke Avenue. Officer [REDACTED] discharged his service weapon five times; two of the bullets struck the same vehicle hit by the bullet from Officer [REDACTED] service weapon.

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The suspect fled south on Roanoke Avenue and proceeded east on 32nd Street, eluding the officers. The three officers returned to the area of the store to protect the crime scene and await additional units.

The final conclusion was that Officers [REDACTED], [REDACTED], and [REDACTED] were justified in their actions and acted in accordance with policy.

May 31, 2005 – Officer [REDACTED] (Accidental / Avoidable)

On May 31, 2005, at approximately 2000 hours, off-duty Officer [REDACTED] discharged a .38-caliber round into his left foot while he was sitting in a non-city vehicle in a Gloucester County parking lot. He was treated and released from the local hospital, and returned to full duty.

The investigation revealed that Officer [REDACTED] had planned to place the firearm in his rear pocket. As Officer [REDACTED] went to grab the firearm with his injured right hand, he lost control of the firearm. When he attempted to get a better grip on the firearm with his right hand, he accidentally inserted his right index finger into the trigger well, and the firearm discharged a round. The bullet entered his left heel before exiting out of the bottom of the foot.

The final conclusion was Officer [REDACTED] firearm discharge was determined accidental and avoidable. Officer [REDACTED] received a letter of counsel for the violation.

August 07, 2005 – Officer [REDACTED] (Accidental / Avoidable)

Officer [REDACTED] was in his residence alone. He advised that he had just finished cleaning his Para Ordinance .45 caliber handgun. He assembled all the components and placed the magazine back into the handgun. Officer [REDACTED] charged his weapon by moving the slide back. He then ejected the magazine, placed another round in the magazine, and inserted the magazine back into the weapon. The safety was in the off position. He was wiping down the slide with a rag when his left trigger finger slipped into the trigger guard.

While applying pressure to the slide with his right hand, Officer [REDACTED] accidentally pulled the trigger with his left hand and a round discharged. The round traveled into the floor in the living room and deflected into the wall. There was damage to the carpet and a small hole in the drywall.

The final conclusion was Officer [REDACTED] firearm discharge was determined accidental and avoidable. Officer [REDACTED] received a letter of counsel for the violation.

Trends, Patterns, Training Issues

The vast majority of citizen complaints dealt with perceived officer improper demeanor issues. A review of the listed complaints does not reveal any significant trends or patterns concerning either the types or nature of complaints received from their dispositions. The Professional Standards Database has been developed and is currently being used to track and document citizen complaints and internal investigations. The new Early Warning System will be instrumental in identifying potential problem officers with behavioral or conduct issues that may require attention.

Biased Based Profiling Allegations

CALEA Standard 1.2.9 (d)

The Professional Standards Division investigated three allegations of racial profiling. All three cases were reviewed and classified as Unfounded.

Warning Shots

CALEA Standard 1.3.3

The Newport News Police department recorded no warning shots by officers in 2005.

Early Warning System

CALEA Standard 35.1.15

One patrol officer met the threshold for identification in the Newport News Professional Standards Early Warning System Database due to type of complaint and number of complaints. The early warning system is currently being examined to lengthen the time of officer monitoring from its' current six months to a longer period of time.

Staff Inspections

The below listed staff inspections were completed by Professional Standards Division personnel in 2005:

- Fugitive Apprehension Unit: January 2005
- Major Crimes Section: February 2005
- General Investigations Section: February 2005
- Tactical Operations Unit: April 2005
- Crisis Intervention Team: April 2005
- Planning Division: June 2005
- Communications Division: July 2005

- Field Training Officer Coordination: July 2005
- Community Services Unit: July 2005
- Marine Patrol Unit: July 2005
- Serious Complex Accident Team: August 2005
- K-9 Operations: August 2005
- Budget and Asset Forfeiture Unit: August 2005
- School Resource Officer Program: September 2005
- Property and Evidence Unit: September 2005 (also 2 unannounced inspections).
- Training Unit: October 2005
- Recruiting Division: October 2005
- Narcotics Section: December 2005

Attachments in Package:

2005 Complaint Statistical Report
Use of Force Report

LMP/mrb

2005 Professional Standards Division Complaint Dispositions

CALEA Standard 52.1.1 (c)

During 2005, the Newport News Police Department's Professional Standards Division received a total of 66 official complaints against employees of the department. Within those 66 complaints, 119 formal charges were levied against 37 sworn and civilian employees.

Listed below is a detailed list of formal charges investigated by the Newport News Police Department this year.

Updated February 10, 2006

Investigated Charges/ Allegations	Substantiated	Not Substantiated	Unfounded	Exonerated	Refused/ Withdrawn	Pending	Totals
Perjury			2				2
Fail to Report for Duty	1		1				2
Use of Force	3		11	8			22
Improper Demeanor	5	2	19	3	2		31
Employee Misconduct	7	2	4				13
Malicious Communications							0
Reckless Driving							0
Racial Profiling			8				8
Insubordination	1						1
Untruthfulness	1						1
Falsification of Records	3						3
Neglect of Duty	2		2				4
Improper Procedure	9		12	9			30
Illegal Search	1						1
Larceny			1				1
Fraud							0
False Arrest							0
Harassment							0
Total Charges	33	4	60	20	2	0	119

- The above table reflects the actual number of charges that were investigated by the Newport News Police Department Professional Standards Division and other department supervisors. These figures reflect the actual investigated charges. Due to some complaints having multiple allegations against one officer or multiple officers, each allegation and each officer were counted separately for the purposes of this table.
- The 66 complaints taken this year represent a 36.5% decrease in total complaints from 2004 (104 complaints in 2004).
- 37 - Total number of NNPD officers who received complaints in 2005 (100 officers in 2004).

- 33 of the 119 individual investigated charges were substantiated in 2005 (22 of the 142 charges in 2004).

Special Investigations

Type	Within Policy	Out of Policy	Accidental	Pending	Totals
Firearm Discharges	2	-	2	-	4
Police Shootings	-	-	-	-	0
In-Custody Death	-	-	-	-	0

Individual Charge Comparison

	<u>2004</u>	<u>2005</u>
Substantiated	22	33
Not Substantiated	8	4
Unfounded	77	60
Exonerated	22	20
Ref/Withdrawn	13	2
Pending	0	0

2005 Use of Force Reports Annual Synopsis

The Professional Standards Division, Internal Affairs Unit is the departmental repository for all Use of Force Reports and is charged with reviewing all Use of Force Reports, generated by police officers. A Use of Force report is required when an officer discharges a firearm on or off-duty; when the use of force includes physical force; use of less-lethal weaponry; the force results in injury or death; when a citizen complains that an injury has been inflicted as the result of application of force; when the use of force requires medical attention or whenever OC spray or Chemical gas is employed.

During 2005, 206 Use of Force reports were received, a 25% increase from the 165 Use of Force Reports in 2004. All of the reports were reviewed by Internal Affairs Division and Training division staff with appropriate actions and issues identified and addressed, if required.

The most active month for officers in their reporting of using force was March with 24 reports and the least active was January, May, and October each with 13 reports.

Use of Force Reports by Month/Year

2005											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
13	15	24	16	13	15	23	21	20	13	15	18
Total Reports: 206											
2004											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17	10	12	09	13	22	16	15	20	11	14	06
Total Reports: 165											

Frequency and Types of Force Used

2005	2004
Hands & Feet – 102	Hands & Feet – 69
OC Spray – 88	OC Spray – 66
Less Lethal – 02	Less Lethal – 02
Shackles – 01	Shackles – 02
Kick-Stops – 42	Kick-Stops – 29
ASP Baton – 09	ASP Baton – 08
K-9 - 00	K-9 – 02
Firearm - 02	Firearm – 05
Unauthorized Weapon – 00	Unauthorized Weapon – 01 (Flashlight)
Total: 244	Total: 184

Note: These figures include multiple types of force that may have been used to subdue one suspect.

The year **2005** showed an overall **33%** increase over **2004** in the frequency and type of force used to take suspects into custody. The most frequent type of force used was **Hands & Feet**, which includes: soft/hard empty had control, takedowns and similar approved defensive tactics employed by officers in arrest situations. The second most used type of force used was **OC spray**. **ASP Baton** usage increased by one this year, possibly attributable to the increase in OC Spray usage. **Less Lethal Shotgun** usage was consistent as reported in 2004. In 2005, there was no reported unauthorized weapon use.

Improper Use of Force

During the agencies daily review of the **206** Use of Force Reports submitted in 2005, **6** of the reports were found to be improper in the officers' application of force. The officers involved were disciplined and advised of the proper training procedure, and policy regarding the type of force used, in order to prevent a future unauthorized application of force.

Use of Force Comparison

	<u>2004</u>	<u>2005</u>
Jan	17	13
Feb	10	15
Mar	12	24
Apr	9	16
May	13	13
Jun	22	15
Jul	16	23
Aug	15	21
Sep	20	20
Oct	11	13
Nov	14	15
Dec	6	18