

CITY OF NEWPORT NEWS

March 26, 2010

To: James D. Fox, Chief of Police
From: Captain L. N. Minkoff, Professional Standards Division Commander
Subject: 2009 Professional Standards Division's Annual Report

The Newport News Police Department's Professional Standards Division's 2009 annual statistical report is prepared in compliance with Accreditation Standard 52.1.5. The Police Department's policy (ADM - 270) requires that an annual summary of complaints be presented to the Chief of Police. Furthermore, departmental policy requires an analysis of trends, patterns and any areas of concern.

SUMMARY

The police department investigated 67 citizen/internal complaints. For statistical purposes, the total number of complaints includes 77 administrative charges and 7 administrative officer-involved firearm discharge investigations. Each complaint is assigned a number for tracking purposes and may include more than one administrative charge. This represents a 34% increase in total complaints compared to 2008. Of the total of 67 complaints, 47 were substantiated and 4 are pending final disposition.

FIREARMS DISCHARGES (7) AND SPECIAL INVESTIGATIONS (0)

March 20, 2009

While in the 300 block of Buxton Avenue, a police officer was attacked by a canine. The police officer fired his weapon twice, grazing the canine, which survived the injury.

Finding: Within Policy/Unavoidable

April 22, 2009

A police sergeant fired two rounds at a canine while on a call in reference to a vicious canine attacking a citizen in the 1300 block of 24th Street. The

bullets did not strike the canine, which was captured and turned over to the Animal Control Services.

Finding: Within Policy/Unavoidable

July 23, 2009 – Two Separate Discharges

(1) While executing a narcotics search warrant in the 4500 block of Marshall Avenue, a police officer shot and injured a subject, who had pointed a firearm at the officer as he tried to escape with another subject through a rear door. (2) In addition, a police detective shot and killed a canine, which attacked the entry team as it approached the front of the residence.

Findings for both discharges: Within Policy/Unavoidable

August 9, 2009

While searching for a subject suspected of possessing/selling illegal narcotics in the 1000 block of 32nd Street, a police officer fired at and missed a canine that was running towards him.

Finding: Within Policy/Unavoidable – with training issue considerations.

September 22, 2009

A police detective accidentally discharged one round into the floor of his residence. No injuries.

Finding: Accidental/Avoidable

December 24, 2009

While serving a narcotics search warrant in the 800 block of 23rd Street, a detective shot and killed a canine as it attacked the entry team.

Finding: Within Policy/Unavoidable

Note: No special investigations were conducted in 2009.

TRENDS, PATTERNS & TRAINING ISSUES

Improper Conduct complaints were the highest type of complaint, totaling 24. There were 13 improper conduct complaints in 2008. Of the total 24, 16 were substantiated. Eight (8) of the 16 substantiated investigations were initiated after criminal/civil/traffic actions were taken against eight officers. The charges were as follows:

1. Abduction with the Intent to Defile (2 counts)
2. Rape
3. Forcible Sodomy
4. Threats to Kill
5. Brandishing a Firearm
6. Assault & Battery
7. Domestic Assault & Battery
8. Emergency Protective Order
9. Embezzlement
10. Animal Cruelty (2 counts)
11. Larceny
12. Improper Use of State Tags
13. Unauthorized Fireworks
14. Parking in Handicap Space

None of the incidents appears to have occurred while on-duty.

As a result of administrative investigation findings - not all involved criminal charges - 7 officers were terminated, and 5 resigned/retired as a result or during the administrative investigation.

The rise in complaint investigations is due to a more formal response to allegations against employees by the precinct/division commanders. Rather than simply handle administrative investigations at the precinct level, they are securing case numbers and sending documentation through their chain of command and the Professional Standards Division to ensure compliance with the City and the Department's policy and procedures.

The IAPro Case Management System provides the department with a more effective case tracking system. In addition, it provides an early warning mechanism to more effectively identify officers who have met the threshold of complaints, use of force and vehicle pursuits as outlined in departmental policy.

The Code of Ethics has been stressed to all employees. The importance of conduct and ethics are stressed to the officers beginning with the application process. It is reinforced in the basic academy, and into core and leadership training.

The next highest number of complaints was Improper Procedure with 20, which doubled from 10 the previous year. The administrative investigations stemmed from officers failing to properly submit evidence as directed by departmental policy and failing to follow other departmental

policies. As noted with Improper Conduct investigations, the increase was due to supervisors formally handling administrative violations to ensure the department is tracking work-related issues as a result of performance and/or behavior. The third highest complaint was Improper Use of Force at 12, which increased by 3 from the previous year. Only one was substantiated and involved the improper use of an Electronic Control Device (ECD). The appropriate action was taken.

The majority of the substantiated complaints were:

1. Improper Conduct: 17 or 25% of the total complaints
2. Improper Procedure: 14 or 21% of the total complaints
3. Improper Use of Force: 1 or 1% of the total complaints

All substantiated complaints resulted in the appropriate disciplinary action and/or corrective training.

2009 Professional Standards Division Complaint Dispositions

CALEA Standard 52.1.1 (c)

During 2009, the Newport News Police Department's Professional Standards Division received a total of **67** official complaints against employees of the department. Of that total, **84** formal charges were placed against sworn and civilian employees.

Listed below is a detailed list of formal charges investigated by the Newport News Police Department for 2009.

Investigated Charges/ Allegations	Substantiated	Not Substantiated	Unfounded	Exonerated	Refused/ Withdrawn	Pending/ Other	Totals
Improper Conduct	17	4	1			2	24
Improper Procedure	14	2	4				20
Improper Use of Force	1	2	9				12
Firearms Discharges							7
Improper Demeanor	2	1	2	1			6
Careless in Duties	6						6
Racial Profiling							0
Fail to Obey Orders	3					1	4
Untruthfulness	2					1	3
Failure to Attend Court							0
Failure to Submit Paperwork	1						1
Failure to Report for Duty	1						1
Fit for Duty							0
Total Charges	47	9	16	1	0	4	84*

*The total charges of 84, rather than the reported 77 charges, are due to the

additional 7 administrative firearm discharges investigated. Those findings were listed beginning on page 1 of this report.

- The preceding table reflects the actual charges investigated administratively by the Newport News Police Department's Professional Standards Division and department supervisors. A number of the complaints had more than one charge.
- The total **67** complaints taken this year represent a **34%** increase in total complaint investigations from 2008.
- **53** total number of NNPD officers who received complaints in 2009.
- **61%** of all complaint charges (77), 47 were **Substantiated** in 2009.

Individual Charge Comparison

	2007	2008	2009
Substantiated	13	22	47
Not Substantiated	4	1	9
Unfounded	29	24	16
Exonerated	3	2	1
Refused to Cooperate/W/drawn	1	0	0
Pending	1	1	4

*As of March 15, 2010

2009 Use of Force Reports Annual Analysis

The Professional Standards Division is the departmental repository for all Use of Force Reports and is charged with reviewing the reports generated by the police officers. Use of Force Reports are required when an officer discharges a firearm on or off-duty, employs physical force, less-lethal weaponry, when the use of force employed results in injury or death, when a citizen complains that an injury has been inflicted as the result of the application of force, when the use of force requires medical attention or whenever OC Spray, Chemical Agent or Electronic Control Device are employed. Departmental policy, OPS 110: Use of Force defines what is required when force is employed.

During 2009, **179** Use of Force Reports were received, a **9 %** increase from the **164** Use of Force Reports in 2008. All of the reports were reviewed by the Professional Standards Division and the Training & Personnel Support Division. When appropriate, these reviews identified improper actions and training issues resulting in proper corrective action.

The most active months for Use of Force Reports were July with **24**, followed by March, June and August with **17** each. The least active months were April with **9** and November with **10**.

Use of Force Reports by Month & Year

2008											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
11	10	16	11	10	17	14	17	15	11	17	15
Total						Reports: 164					
2009											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
16	15	17	9	16	17	24	17	13	12	10	13
Total						Reports: 179					

Frequency and Types of Force Used

<u>Use of Force</u>	<u>2008</u>	<u>2009</u>
Hands & Feet	78	178
Kick Stops	32	41
ECD (Taser)	3	38
OC Spray	56	28
ASP Baton	14	10
Firearm	6	7
Less Lethal	1	1
K-9	1	0
CS/CN	0	0
Unauthorized Weapon	0	0
Total	191	303

Note: These figures include multiple types of force that may have been used to subdue one suspect; therefore, total Use of Force Reports received is not the same amount.

In 2009, the frequency and type of force used to take suspects into custody increased 58% from the previous year. The most frequent type of force used was Hands & Feet (178), which includes soft/hard empty hand control, takedowns and similarly approved defensive tactics. The second was kick stops (41). A firearm was used in seven incidents.

The increase from 3 to 38 of the ECD was due to the fact the devices were not issued to officers until late 2008. They were found to be effective in 83% of the incidents. The incidents the devices were least effective was due to the two probes not making contact with the subjects' skin. No serious injuries to suspects or major issues were documented in the use of the devices. The concern of officers deploying and activating the device while pursuing a subject was addressed and corrected.

Of the 179 Use of Force Reports submitted in 2009, 12 were investigated in reference to the 12 use of force complaints, 1 was substantiated, 9 were unfounded and 2 were not substantiated.

Use of Force Training and Equipment Considerations

In 2009, five out of the seven firearm discharges involved officers confronted by aggressive dogs. In two separate incidents, the dogs – both pit bull terriers - were shot fatally when they attacked Organized Crime Division detectives executing a legal search warrant in a residence with illegal narcotics. In another incident, officers effectively deployed an ECD on a charging pit bull terrier that attacked a citizen earlier. The dog was later captured by the Animal Control Services and was euthanized by a veterinarian at the request of the owner. In the remaining two incidents, the dogs were not seriously injured. In response, the Training Unit will conduct training on how to more effectively react to an aggressive dog. Furthermore, the department is researching how other law enforcement agencies are dealing with this threat.

To better train on use of force, the department's 2010 core training curriculum incorporates lessons learned from actual incidents and uses these scenarios to teach officers how to more effectively address potentially lethal confrontations.

BIASED-BASED PROFILING ALLEGATIONS CALEA STANDARD 1.2.9 (d)

The Newport News Police Department investigated no complaints of racial profiling in 2009.

WARNING SHOTS CALEA STANDARD 1.3.3

No warning shots were reported by members of the Newport News Police Department in 2009.

EARLY WARNING SYSTEM CALEA STANDARD 35.1.9

The Department's Early Warning System identified six officers who met the threshold for follow-up action during 2009. Their commanders were notified, and took the required actions in compliance with the department's policy ADM – 273: Accumulated Complaint Review Procedure.

2009 STAFF INSPECTIONS

February	P&E Unit (Unannounced)
June	P&E Unit (Announced)
August	North Precinct
September	Organized Crime Division
October	Professional Standards Division
November	Communications Division
December	Public Information Office

The Professional Standards Division supervises and maintains the records of the staff inspections. The staff inspections serve as internal audits of the police department's various units, divisions and precincts to ensure they are operating effectively and efficiently. The staff inspections are conducted by lieutenants outside of the inspected unit. An Assistant Chief and Captain conducted the staff inspection of the Professional Standards Division. Staff inspections are conducted on one or more occasions within a 36-month period with the exception of the Property and Evidence Unit, where announced and unannounced inspections are conducted on an annual basis.