

# CITY OF NEWPORT NEWS

March 6, 2014

To: Richard W. Myers, Chief of Police

From: Captain F. L. Hileman, Professional Standards Division Commander

Subject: 2013 Professional Standards Division's Annual Report – Internet Version

The Newport News Police Department's Professional Standards Division's 2013 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 **41** administrative/internal/citizen complaints filed against its employees in 2013. This represents a **43%** decrease from the 72 complaints investigated in 2012. Each complaint is assigned a tracking number and may include more than one administrative charge. For statistical purposes, in 2013, the total number of complaints included **72** administrative charges. In 2012, there were **126** administrative charges.

**Note:** The five (5) officer-involved firearm discharge incidents, involving seven (7) officers, are not included in the total number of complaints. However, they are included in the Use of Force section of this report.

## TRENDS, PATTERNS & TRAINING ISSUES

The decrease in administrative charges from 126 to 72 is attributed to several changes made in the preceding two years. The city revamped its policy on disciplinary matters – taking a more rigid stance in the area. The department has improved training and raised officers' awareness of why complaints are generated by the public and how they are addressed. Furthermore, the widespread issuance of Electronic Control Devices (ECD) and Axon wearable camera systems has had the most significant impact on the number of incidents reported.

In 2013, the most prevalent administrative charge was **Improper Procedure** at 25 or 35% of the total 72 administrative charges. The next highest number was **Improper Conduct** at 22 or 31%. In the previous year, **Improper Procedure** led in complaint

charges with 41 or 33%.

In reference to Improper Procedure, as of this report date (2/25/14), 17 were substantiated. Improper Procedure is a general classification which is applied to violations of City and departmental policies and procedures ranging from possessing improper equipment to failing to report to duty on time.

There has been the significant decrease in Improper Conduct complaint charges. The number of Improper Conduct charges decreased from 29 in 2012 to 21 in 2013. Of which, ten (10) were substantiated, one (1) was not substantiated, four (4) were unfounded and six (6) are currently pending.

During 2013, there were two (2) complaints of failure to attend court. In both cases, the charges were substantiated. In 2012, the department began to address the problem of failing to attend court more formally. These actions were taken in order to address the various issues contributing to the problem. The Court Liaison Sergeant, who reports directly to the Professional Standards Division, monitors court attendance, as well as the officers' demeanor, paperwork and testimony.

In reference to Untruthfulness, the number of complaints declined to two (2) in 2013. This is down from four (4) in 2012, and fifteen (15) complaints in 2011. In both cases, the complaint was substantiated.

The number of employees charged with criminal/civil/traffic actions dropped to two (2) from four (4) in 2012 and nine (9) in 2011. Both employees were convicted of their respective criminal charges and no longer are employed by the department.

The most identifiable pattern or trend has been the significant reduction in the number of complaints made against departmental employees. Some of this can be attributed to increased scrutiny by supervisors addressing behavioral and performance issues, an increased emphasis on court attendance, and, most importantly, the issuance of Axon camera systems to many of the officers and detectives working in the field.

**COMPLAINT/ADMINISTRATIVE CHARGE DISPOSITIONS**

CALEA Standard 52.1.1 (c)

During 2013, the Newport News Police Department's Professional Standards Division received a total of 41 official complaints against its employees. Of that total, 72 formal administrative charges were placed against sworn and non-sworn police department employees. Listed below is a detailed list of the specific administrative charges.

Investigated Charges/ Allegations	Substantiated	Not Substantiated	Unfounded	Exonerated	Refused/ Withdrawn	Pending/ Other	Totals
Improper Procedure	17	0	0	3	0	8	28
Improper Conduct	10	1	4	0	0	6	21
Un-truthfulness	2	0	0	0	0	0	2
Court Procedures	2	0	0	0	0	0	2
Improper Use of Force	0	1	6	3	0	2	12
Failure to Obey Orders	1	0	0	0	0	1	2
Improper Demeanor	2	0	0	1	0	0	3
Failure to Report for Duty	0	0	0	0	0	0	0
Reckless Operation of a City Vehicle	0	0	0	0	0	0	0
Hostile Work Environment	0	0	0	0	0	0	0
Rudeness	0	0	0	0	0	0	0
Neglect of Duty	1	0	0	0	0	0	1
Carelessness	1	0	0	0	0	0	1
Racial Profiling	0	0	0	0	0	0	0
<b>Total Charges</b>	<b>36</b>	<b>2</b>	<b>10</b>	<b>7</b>	<b>0</b>	<b>17</b>	<b>72</b>

- **61** employees received complaints in 2013.
- **50%** of all complaint charges were **substantiated** in 2013.

## FINDINGS DEFINITIONS

In accordance with departmental policy ADM-270, the findings are defined as follows:

**Substantiated:** The allegation is supported by sufficient evidence to justify a reasonable conclusion that the allegation is factual.

**Not substantiated:** There is insufficient evidence to prove or disprove the allegation occurred.

**Unfounded:** The allegation is unfounded in that it has been proven to be false or not factual.

**Exonerated:** The incident occurred, but was lawful and proper.

**Refused to cooperate:** The complainant refused to cooperate with the investigation and determination cannot be made.

**Voluntarily withdrawn:** The complainant has decided not to pursue the original allegation and there is no evidence to warrant a continued investigation.

**Note:** Pending cases refer to the investigations that either is not completed or a finding has not been rendered.

Individual Administrative Charge Comparison				
	2010	2011	2012	2013
Substantiated	41	66	69	36
Not Substantiated	4	5	19	2
Unfounded	26	12	11	10
Exonerated	2	8	8	7
Refused to Cooperate/Withdrawn	0	0	1	0
Pending	7	17	18	17

**FIREARMS DISCHARGES (5) & SPECIAL INVESTIGATIONS (0)**

FD13-001: On February 23, 2013, an officer was invited to another officer's residence, located in West Point, for a cookout. During the cookout the officer began to act erratically. The officer then went to the backyard of the host officer's home, produced their personal firearm and fired a single shot into the wood line. There were no injuries as a result for the discharge and the West Point Police Department declined to file any charges.

**Finding: Not Within Policy/Avoidable.**

FD13-002: On February 28, 2013, Members of the South Precinct CRT and Narcotics Enforcement Unit attended a briefing at Briarfield Station. The briefing was being conducted in regard to narcotics Search Warrant for a home in the 2000 block of Chestnut Avenue. After the briefing, officers and detectives started toward their target location on Chestnut Avenue. Upon approaching the residence, the involved officers encountered a residence fortified by steel storm doors. After announcing they were the police with a search warrant, the officers were unable to breach the doors. A detective began to break out a window in order to make entry into the residence. While attempting to make entry, the entry team began to receive gunfire from within the residence. As the entry team began to move to cover, two detectives each fired one round from their rifles into the room where the gunfire was coming from – this was an effort to suppress the gunfire aimed at the police. After taking cover, a tactical situation was called and a perimeter was set around the residence.

The suspects were eventually extricated from the residence, the situation was normalized and the scene was turned over to the criminal investigators and forensic technicians. The weapon used to fire upon the officers was recovered inside. The suspect was charged with the Attempt Murder of a Law Enforcement Officer (11 Counts), Use of a Firearm in the Commission of a Felony (11 Counts) and Possession of a Firearm by a Felon.

**Finding: Within Policy/Unavoidable.**

FD13-003: On March 20, 2013, Officers responded to the 1000 block of 28th Street to a report of children having been bitten by a pit bull. The involved officer was the first officer on scene and observed a pit bull in the rear of a house in the 1000 block of 28th Street running free. The officer walked around to the front of the house to put some distance between himself and the dog. The dog followed him to the front of the house and then charged towards him while barking and showing his teeth. The officer attempted to retreat, but was unable. He removed his duty firearm from the holster and fired three rounds. Only one round struck the dog, causing it to turn and flee to the 2700 block of Roanoke Avenue. The dog was subsequently found and taken for medical treatment. The dog was euthanized due to its injuries. Prior to arriving on scene, the

dog had bitten a nine year old female in the abdomen and her six year-old brother on the thigh. The injuries were not serious and did not require medical treatment.

**Finding: Within Policy/Unavoidable.**

FD13-004: On September 18, 2013, an officer was at his residence trimming the grass around the inner-perimeter of his backyard with a weed eater when two vicious pit bulls approached the exterior of his six foot wooden privacy fence. The two dogs were growling and biting at his fence trying to get at him and his own 13 year old dog. The officer was armed with his personal weapon at the time.

The involved officer thought the owners of the dogs were in the vicinity so he began to yell, "come get your dogs." The dogs were acting so aggressively, that they began fighting each other while trying to get into the officer's yard. The officer made several attempts to discourage the dogs and get them to move away from his property – this only seemed to make the dogs even more aggressive. The two dogs continued to chew and tear through the officer's fence, allowing one of the dogs to get his head and leg through. At this point, the officer fired one shot into the head of the pit bull -- striking it in the mouth. The pit bull immediately ceased its aggressive actions and sat down on the ground. The second pit bull turned and ran back home. The officer immediately notified the Suffolk Police Department of his actions.

**Finding: Within Policy/Unavoidable.**

FD13-005: On December 20, 2013, two officers were dispatched to an animal disturbance call at 1100 block of 73rd Street. Upon arrival, they encountered two vicious pit bulls. The dogs had just killed the complainant's cat by ripping it apart. Both officers initially tried to corral the dogs and wait for the arrival of Animal Control; however, one of the dogs became very aggressive and began running toward one of the officers in an apparent attack. As the officer attempted to get away from the charging dog, the second officer fired one round at it. The round missed; but, the dog was startled and moved away from the fleeing officer. While making notifications of the officer involved shooting, the dog charged again. At this point, one of the officers fired several rounds at the dog, striking it once in the abdomen. The dog then fell to the ground and appeared to be suffering greatly. The officer originally targeted by the pursuing pit bull then walked over to the dog and shot it once in an effort to euthanize the suffering dog.

**Finding: Within Policy/Unavoidable.**

**Note:** No special investigations were conducted in 2013.

## 2013 USE OF FORCE REPORTS ANNUAL ANALYSIS

The Professional Standards Division is the departmental repository for all Use of Force Reports and is tasked with reviewing the reports generated by the police officers. In addition, the reports are reviewed by the involved officer's chain of command and the Training Unit. Use of Force Reports (NNPD Form #83) 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 (ECD) are employed. Departmental policy, OPS 110 - Use of Force, defines what is required when force is employed.

During 2013, **140** Use of Force Reports were received, a 1% increase from the **134** Use of Force Reports in 2012. All of the reports were reviewed by the Police Department's Professional Standards Division, Training Unit and involved officer's chain of command. When appropriate, these reviews identified improper actions and training issues resulting in proper corrective action. With a total of 140 Use of Force reports, 132 or 94% of the department's force applications were found to be acceptable, six (6) were unacceptable and two (2) were within policy/unavoidable.

The most active months for Use of Force Reports were October with 16, followed by June with 15, and August with 14. The least active months were November with six (6), followed by July with eight (8) and September with nine (9) each.

## USE OF FORCE REPORTS BY MONTH & YEAR

2013											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
13	12	12	10	13	15	8	14	9	16	6	12
Total Reports: 140											
2012											
Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
12	7	12	14	15	12	15	7	7	16	11	6
Total Reports: 134											

**FREQUENCY & TYPES OF FORCE USED**

<b><u>Use of Force</u></b>	<b><u>2011</u></b>	<b><u>2012</u></b>	<b><u>2013</u></b>
<b># of reports</b>	<b>148</b>	<b>135</b>	<b>140</b>
<b># of involved officers</b>	<b>349</b>	<b>289</b>	<b>314</b>
<b>Type:</b>			
Hands & Feet	157	158	101
Kick Stops	68	56	56
ECD (Taser)	50	28	45
OC Spray	28	17	3
ASP Baton	11	9	5
Firearm	8	6	4
Less Lethal	6	1	0
K-9	0	0	0
CS/CN	3	1	0
Unauthorized Weapon	0	0	0
<b>Total</b>	<b>329</b>	<b>276</b>	<b>214</b>

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

In 2013, the frequency and type of force used to take suspects into custody increased by 5 from the previous year. The most frequent type of force used was Hands & Feet (101), which includes soft/hard empty hand control, takedowns and similarly approved defensive tactics. The second was kick stops (56), a device used to secure safely a physically combative individual taken into custody. Seven (7) different officers discharged their department-issued firearms in five separate incidents. Two (2) officers fired their weapons while engaging a subject firing upon them, three (3) officers fired at an attacking canine while on-duty, one (1) officer fired at an attacking canine while off-duty and one (1) officer discharged their weapon in an unapproved manner while off-duty.

An Electronic Control Device (ECD), also referred to as a "Taser," was used in 45 instances, an increase of 17 over the previous year. They were found to be effective in 80% of the incidents. The incidents in which the devices were least effective were 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. As of the date of this report, 62 ECDs have been issued to officers, who have been trained on how to properly carry and deploy the devices.

Of the 140 Use of Force Reports submitted in 2013, there were a total of eleven (11) complaints investigated related to the use or application of force. Two (2) were investigated as administrative complaints, three (3) were investigated as citizen complaints and six (6) were investigated as inquiries. Of the two administrative complaints, one is pending disposition while the second was not substantiated. Of the three citizen complaints, one was unfounded and two were exonerated. Of the six inquiries, five were unfounded and one was exonerated.

In reference to officer-involved firearm discharges, as noted above, there were 5 separate incidents involving seven (7) officers discharging their department-issued firearm. In one (1) incident, detectives engaged one (1) offender who was found to be armed with a firearm. In three (3) separate incidents, three (3) canines were shot and killed. The canines were large canines and had attacked the officers or other people. The remaining incident involved an off-duty police officer discharging a personally owned weapon in an inappropriate manner. In these five cases, three (3) were determined to be Within Policy/Unavoidable, one (1) was Not Within Policy/Avoidable and one (1) is Pending as of the date of this report. In accordance with departmental policies, an administrative/internal investigation is initiated whenever an officer discharges a firearm with the exception of department-sanctioned training or matches. The investigation focuses on, not only the officer's actions, but also the actions of the responding supervisors, training received and liability issues.

### **USE OF FORCE TRAINING & EQUIPMENT CONSIDERATIONS**

The Training Unit provides classroom and hands on training in reference to use of force application in its basic and annual core training. Core training attendance is mandatory for all sworn employees. To provide better training in the applications of use of force, the department's basic and core training curriculums incorporate lessons learned from actual incidents, and it uses these scenarios to teach officers how to more effectively address non-lethal and potentially lethal confrontations.

In reference to equipment, the Police Department continues to address equipment needs through training, inventory, line and staff inspections.

### **BIASED-BASED PROFILING ALLEGATIONS (CALEA STANDARD 1.2.9 (d))**

The Newport News Police Department investigated no complaints of racial profiling in 2013.

### **WARNING SHOTS (CALEA STANDARD 1.3.3)**

No warning shots were reported by members of the Newport News Police Department in 2013.

### **EARLY WARNING SYSTEM (CALEA STANDARD 35.1.9)**

For 2013, the 10 thresholds in the ADM – 273 (Accumulated Incident Review) were captured by the PSD's computerized case management system. The officers' commanders were notified, and took the required actions in compliance with the department's policy ADM – 273: Accumulated Complaint Review Procedure.

### **2013 STAFF INSPECTIONS**

Fiscal Services & Special Projects	March
Planning Division	March
Property & Evidence (Announced)	May
Training & Personnel and Support	June
Special Operations Section	June
Property & Evidence (Unannounced)	July
Criminal Investigations	July
Property & Evidence (Unannounced)	October

The Professional Standards Division supervises and maintains the records of all 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.

Each staff inspection was conducted by a team comprised of one Lieutenant and one Sergeant, who were not assigned to the division they were assigned to inspect. The only exception is the staff inspection for the Professional Standards Division which is conducted by a team comprised of one Assistant Chief and one Captain. The staff inspections are conducted on one or more occasions within a 36-month period with the exception of the Property and Evidence Unit, in which announced and unannounced inspections are conducted on an annual basis in accordance with departmental policy ADM - 170: Inspections/Audits.