

# CITY OF NEWPORT NEWS

February 6, 2018

To: Captain J. T. Bollhorst, Professional Standards Division Commander *JTB*  
From: Lieutenant R. E. Petrosky, Internal Affairs Section Commander *REP*  
Subject: 2017 Internal Affairs Section's Annual Report - Redacted

The Newport News Police Department's Internal Affairs Section's 2017 annual statistical report is prepared in compliance with Accreditation Standard version 5.23, chapter 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 us to analyze statistics for trends, patterns and any areas of concern.

## SUMMARY

The Police Department investigated **139**<sup>1</sup> administrative/internal/citizen complaints filed against its employees in 2017. This represents an increase of 308% from the **34** complaints investigated in 2016. Each complaint is assigned a tracking number and may include more than one administrative charge. For statistical purposes, in 2017, the total number of complaints included **208** administrative charges as opposed to the **63** reported charges from 2016.

In 2017 Internal Affairs began assigning and tracking all complaints received regardless of the seriousness of the complaint or who investigated the complaint, i.e., Internal Affairs or another Division/Precinct. The 2017 numbers reflect all known complaints received. The reporting from prior years only represents complaints assigned a tracking number by Internal Affairs.

**Note:** The 4 officer-involved firearm discharge incidents, involving 4 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

In reviewing the administrative charges, 60 of the 208 allegations were reported conduct violations with 19 of them substantiated. During the year, we had several investigations that involved multiple officers with alleged conduct issues.

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<sup>1</sup> See narrative for explanation on the major change in numbers.

In 2017, all patrol officers and sergeants assigned to the 3 precincts are now wearing body worn cameras. We have seen an increase of officers not turning on their cameras as directed in ADM-570 (Body-Worn Camera) or there has been a malfunction with the equipment resulting in encounters not being captured. In 2017, there were 5 substantiated and 5 pending charges against officers for violating ADM-570 (Body-Worn Camera).

In reference to Improper Conduct charges, as of this report date, 19 were substantiated, 6 were cleared not substantiated, 15 unfounded, 10 exonerated, 6 withdrawn and 4 are currently pending findings.

In 2017, there were 6 untruthfulness allegations filed against officers. 4 allegations were substantiated, 1 exonerated and 1 still pending. In the past 2 years we have had 2 (2016) and 1 (2015) untruthfulness allegations filed.

During 2017, the Newport News Police Department's Professional Standards Division received and assigned tracking numbers to 139 official complaints against its employees. Of that total, 208 administrative charges were alleged against sworn and non-sworn police department employees. Listed below is a detailed list of the specific administrative charges.

**COMPLAINT/ADMINISTRATIVE CHARGE DISPOSITIONS**

CALEA Standard 52.1.1 (c)

<i>Investigated Charges/ Allegations</i>	<i>Substantiated</i>	<i>Not Substantiated</i>	<i>Unfounded</i>	<i>Exonerated</i>	<i>Refused/ Withdrawn</i>	<i>Pending/ Other</i>	<i>Totals</i>
<b><i>Improper Conduct</i></b>	19	6	15	10	6	4	<b>60</b>
<i>Untruthfulness</i>	4	0	0	1	0	1	6
<i>Failure to Obey Orders</i>	4	0	1	0	0	1	6
<i>Fail to Report To Duty</i>	2	0	1	0	1	0	3
<i>Improper Demeanor</i>	3	3	6	6	0	0	18
<b><i>Improper Procedure</i></b>	16	2	8	9	3	9	<b>47</b>
<i>Court Procedures</i>	16	1	1	2	0	2	22
<i>Unsatisfactory Job Performance</i>	4	0	3	0	0	1	8
<i>Arrest Procedures</i>	0	0	1	1	0	0	2
<i>Emergency Vehicle Operation</i>	1	0	0	0	0	1	2
<i>Improper Use of Force</i>	3	0	0	0	0	3	6
<i>ADM-570 Body Worn Camera</i>	5	0	0	0	0	0	5
<i>Agency Computer Usage</i>	0	0	0	0	0	2	2
<i>Property and Evidence</i>	2	0	1	0	0	0	3
<i>Carelessness</i>	1	0	0	2	0	1	4
<i>Traffic Enforcement</i>	2	0	0	0	1	3	6
<i>Assigned Vehicle Program</i>	2	0	0	0	0	1	2
<i>Traffic Crash Enforcement</i>	1	0	0	0	0	0	1
<i>OPS-455 - Narcotics Investigations</i>	0	0	0	2	0	0	2
<i>IRMS</i>	2	0	0	0	0	0	2
<i>OPS-340 - Towing/Impounding</i>	0	0	1	0	0	0	1
<b><i>Total Charges</i></b>	<b>87</b>	<b>12</b>	<b>38</b>	<b>33</b>	<b>10</b>	<b>28</b>	<b>208</b>

## FINDINGS DEFINITIONS

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

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

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

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

**Withdrawn:** The complaint may be classified as "withdrawn" in the following instances:

1. The complainant has decided not to pursue the original allegation, and there is no evidence to warrant a continued investigation; or
2. There is no criminal nexus to the complaint, and it involves a sole employee, who separates employment from the City prior to the commencement of the investigation, or during the investigation process.

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

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

**Note:** Pending cases refer to the investigations that either is not completed, the investigation was stopped by order of the Chief, or a finding has not been rendered.

Individual Administrative Charge Comparison (as of 1/22/18)				
	2014	2015	2016	2017
Substantiated	33	26	26	87
Not Substantiated	4	15	4	12
Unfounded	8	3	0	38
Exonerated	2	0	0	33
Refused to Cooperate/Withdrawn	0	1	1	10
Pending	5	18	39 <sup>2</sup>	28

<sup>2</sup> The 39 pending from 2016 have not been recalculated for 2016 and have not been inputted for 2017.

## **FIREARMS DISCHARGES (4) & SPECIAL INVESTIGATIONS (0)**

**FD17-001:** On April 29, 2017, Newport News Emergency Communications Center received a 911 hang-up call from a cellular phone. The call taker who received the call called the number back in an attempt to make contact with the caller. A male answered the phone and advised police were needed at The Pondo. The call taker had a difficult time understanding the caller and believed him to be paranoid due to his comments not making sense. Officers were dispatched to The Pondo for a disorderly situation. It was learned the caller had a firearm and was not allowing people to leave The Pondo. The supervisor on scene called a Tactical Situation. While communications was confirming the supervisor's request, three gunshots occurred inside The Pondo. The bartender who was also on the phone with communications advised he had been shot. Patrol officers did not make entry to address the active shooter situation. Seven TACT Team members arrived and formed a Quick Reaction Force lead by A Tactical Operations Unit (TOU) Team Leader. With permission from the Assistant Chief of Patrol Operations they made entry. After entry was made, the TOU Team Leader observed that the offender was armed with a handgun and posed a significant threat to the occupants. In order to protect them, the TOU Team Leader fired 3 shots using his AR-15, striking the offender 1 time. The offender died on scene.

### **Finding: Within Policy/Unavoidable.**

**FD17-002:** In September and October, 2017, the cities of Newport News, Hampton, York County and Williamsburg were experiencing an increase in vehicle thefts with many of the thefts reporting stolen firearms. Through crime analysis it was noted nine of the reports indicated the offenders fired a weapon(s) at people confronting them. On October 17, 2017, members of the VCRTF were conducting surveillance on an unoccupied stolen vehicle believed to be involved in an exchange of gunfire with another vehicle earlier in the day in the Roses' parking lot. Sometime during this surveillance an Investigator from Williamsburg Police Department met and joined a VCRTF Sergeant. Sometime during the surveillance the VCRTF Sergeant observes a Ford Raptor pickup truck. This vehicle was reported stolen out of Chesapeake. The VCRTF Sergeant and the Williamsburg Investigator follow the vehicle into the City of Hampton while trying to coordinate a takedown of this vehicle. The vehicle pulls into the parking lot of a 7-11 in the City of Hampton. The VCRTF Sergeant activates his emergency equipment, lights and siren. As they are approaching the vehicle on foot the vehicle attempts to flee striking the unmarked vehicle. The Williamsburg Investigator, after seeing a weapon pointed at him from inside the vehicle, fires his weapon at the vehicle causing it to crash into a light pole. The VCRTF Sergeant then fires 4 times into the back glass of the vehicle, while the Williamsburg Investigator continues to fire his weapon at an individual inside the truck who he observed pointing a weapon at him. During this shooting 1 offender died, 2 were injured from gunfire, 1 was taken into custody on scene without injury (he was inside the 7-11 hiding a gun) and 1 apprehended without injury a few blocks away after fleeing from the scene.

### **Finding: Pending.**

**FD17-003:** On December 2, 2017, while assisting on a Domestic Assault related call for service, a Central Precinct MPO came under attack by a canine. During this encounter, the MPO discharged his department issued firearm 1 time at the attacking animal, resulting in a "graze" wound to the area of the animals left chest and leg. According to the report provided by the Peninsula Emergency Veterinary Clinic, the bullet did not penetrate the animal. Diagnosis listed on the animals medical report states, "2 lacerations-superficial-penetrating through skin and dermis; lacerations x2."

**Finding: Pending.**

**FD17-004:** On December 16, 2017, a uniformed patrol officer was working in South Precinct when he noticed a vehicle without a front license plate. Prior to initiating the traffic stop, the vehicle pulled to the curbside in front of 1128 21st Street and the driver exited the vehicle. During the initial contact with the driver a foot pursuit ensued. The foot pursuit ended in the front yard of a residence at the corner of 20<sup>th</sup> Street and Roanoke Avenue. There was an altercation, in which the driver was in possession of a firearm and was shot 3 times by the uniformed patrol officer.

**Finding: Pending.**

**Note:** No special investigations were conducted in 2017.

### **2017 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. A Use of Force Report (NNPD Form #83) is required when:

- an officer discharges a firearm on or off-duty.
- an officer employs physical force.
- an officer employs less-lethal weaponry.
- the use of force employed results in injury or death.
- a citizen complains that an injury has been inflicted as the result of the application of force.
- 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 2017, 64 Use of Force Reports were received, a 20% increase from the 53 Use of Force Reports reported in 2016. All of the reports were reviewed by the involved officer's chain of command and the Police Department's Professional Standards Division which includes, the Training Section and Internal Affairs. When appropriate,

these reviews identified improper actions and training issues resulting in proper corrective action. A total of 64 Use of Force reports were completed in 2017. These use of force reports consisted of:

- 50 or 78% of the department's force applications were found to be acceptable
- 7 were unacceptable
- 1 firearm discharge was within policy
- 3 are pending investigation

The appropriate action was taken to address the identified issues in the 7 incidents that were deemed to be unacceptable by officers' chain of command.

The most active months for Use of Force Reports were December with 10, followed by May and November with 7 each. The least active months were January and August with 3 each.

**USE OF FORCE REPORTS BY MONTH & YEAR**

<b>2017</b>											
<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
3	6	4	4	7	6	6	3	4	4	7	10
<b>Total Reports: 64</b>											
<b>2016</b>											
<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>
7	3	4	3	1	9	2	5	5	6	4	4
<b>Total Reports: 53</b>											

### FREQUENCY & TYPES OF FORCE USED

<u>Use of Force</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
<b># of reports</b>	<b>89</b>	<b>53</b>	<b>64</b>
<b># of involved officers</b>	<b>189</b>	<b>132</b>	<b>141</b>
<b>Type:</b>			
Hands & Feet	54	54	62
Kick Stops	46	27	23
ECD (Taser)	37	19	15
OC Spray	6	2	0
ASP Baton	4	0	1
Firearm	5	3	4
Less Lethal	0	1	1
K-9	0	1	0
CS/CN	2	3	3
Unauthorized Weapon	0	0	0
<b>Total</b>	<b>154</b>	<b>110</b>	<b>109</b>

**Note:** These figures include multiple types of force which may have been used to subdue 1 suspect. Therefore, total Use of Force Reports received is not the same amount as actual uses of force techniques.

In 2017, the frequency and type of force used to take suspects into custody decreased by 1 from the previous year. The most frequent type of force used was Hands & Feet (62), which includes soft/hard empty hand control, takedowns and similarly approved defensive tactics. The second was Kick Stop Restraints (23); the restraints are utilized as a tool to prevent combative arrestees from striking out with their legs while being transported and helps prevent the chance of injuries to the offender and the officers. It also prevents unnecessary property damage.

4 officers had firearm discharges this past year in 4 separate incidents. 1 officer used an AR-15 during a tactical situation (FD17-001). 1 officer along with a Williamsburg officer

was involved in a shooting in the City of Hampton (FD17-002). In 1 of the firearms discharges the officer was defending themselves from an aggressive canine (Pit-bull) (FD17-003). 1 officer fired his weapon after a foot chase when the offender reached for a gun in his waist band (FD17-004).

The use of an Electronic Control Device (ECD), also referred to as a "Taser", decreased by 4 when compared to 2016. There is no significant change in this type of force used. It is important to note in 2016 there were 12,866 arrests and in 2017 there were 13,989 arrests.

Of the 64 Use of Force Reports submitted in 2017, the Internal Affairs Section investigated or managed 7 investigations and the Patrol Bureau investigated or managed 1. 4 were related to firearm discharges, 1 was an excessive force complaint involving 1 officer and 3 are for improper use of force involving 1 officer each. In reference to the 4 firearms discharge investigations: 1 was found within policy/unavoidable and 3 are still pending findings. The excessive force complaint is still pending. In regards to the 2 improper uses of force: 1 was substantiated and 1 is still pending.

### **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 Newport News Police Department has implemented "Open Mat" training once a month along with "Open Range" twice a month. Open Mat allows officers to practice trained use of force applications under the guidance of a certified DCJS instructor, while Open Range allows officers to stay proficient with their firearms. 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. All new officers are taught in our Basic Law Enforcement Academy and have a minimum of 100 instructional/practical hours in the application of use of force and defensive tactics.

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 2017.

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

Zero warning shots were reported by members of the Newport News Police Department in 2017. Newport News Police Department Operational Policy-110-Use of Force; Section C.1., prohibits the use of warning shots.

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

For 2017, 12 thresholds in the ADM – 273 (Accumulated Incident Review) were captured by the Internal Affairs' computerized case management system. The officers' commanders were notified in all of these alerts and they took the required actions in compliance with the department's policy ADM – 273: Accumulated Complaint Review Procedure.

### **2017 STAFF INSPECTIONS**

Logistic support Section	February
P&E Unit (Unannounced)	March
South Precinct	April
P&E Unit (Announced)	June
Tactical Operations Unit	August
Central Precinct	August
P&E Unit (Unannounced)	December

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 1 Lieutenant and 1 Sergeant with 2 exceptions this year. The unannounced inspections of Property and Evidence are conducted by an Internal Affairs Sergeant and the Department's Accreditation Manager. The staff inspections are conducted on 1 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.

REP

Pc: Accreditation Manager  
Professional Standards Division