

CITY OF NEWPORT NEWS

March 18, 2022

To: Chief Steve R. Drew, Chief of Police
From: Lieutenant Jeremiah Hairston, Internal Affairs Division Commander
Subject: 2019 (Redacted) Internal Affairs Division Annual Report

The Newport News Police Department's Internal Affairs Division 2019 annual statistical report is prepared in compliance with Accreditation Standard version 5.23, chapter 52.1.5. The Police Department's Administrative policy (ADM-270-Administrative/Internal Investigations) 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 **216** administrative/internal/citizen complaints filed against its employees in 2019. This represents an increase of 12.5% from the **192** complaints investigated in 2018. Each complaint is assigned a tracking number and may include more than one administrative charge. For statistical purposes, in 2019, the total number of complaints included **316** administrative charges as opposed to the **336** reported charges from 2018; which is a -5.95% decrease in complaints/charges.

In 2019, the Internal Affairs Division continued 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 2019 numbers reflect all known complaints received. The reporting from prior years only represents complaints assigned a tracking number by Internal Affairs.

Note: The officer-involved firearm discharge incidents are not included in the total number of complaints. However, it is included in the Use of Force section of this report.

TRENDS, PATTERNS & TRAINING ISSUES

In reviewing the administrative charges, 64 of the 148 Complaint/Administrative Charge Dispositions were reported improper procedure violations with 22 of them substantiated and 20 exonerated. There were 26 improper demeanor allegations with 11 of them substantiated and 15 improper conduct allegations with 7 of them substantiated. Listed on the next page is a detailed list of the specific administrative charges. (Next page).

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>Totals</i> |
|--|----------------------|------------------------------|------------------|-------------------|---------------|
| <i>Improper Conduct</i> | 7 | | 5 | 3 | 15 |
| <i>Untruthfulness</i> | 2 | | 1 | | 3 |
| <i>Failure to Obey Orders</i> | 3 | | | | 3 |
| <i>Fail to Report To Duty</i> | 7 | | | | 7 |
| <i>Improper Demeanor</i> | 11 | 3 | 4 | 8 | 26 |
| <i>Pending Legal Matter</i> | 6 | | | | 6 |
| <i>Hostile Work Environment</i> | | | | | 0 |
| <i>Failure to Exercise Good Judgment</i> | 8 | 2 | | | 10 |
| <i>Improper Procedure</i> | 22 | 4 | 18 | 20 | 64 |
| <i>Alteration of Records</i> | | | | | 0 |
| <i>Court Procedures</i> | 1 | | | | 1 |
| <i>Unsatisfactory Job Performance</i> | 4 | | | | 4 |
| <i>Failure to Follow Policy</i> | 2 | | | | 2 |
| <i>Arrest Procedures</i> | | | | | 0 |
| <i>Emergency Vehicle Operation</i> | | | | | 0 |
| <i>Improper Use of Force</i> | | | 1 | 2 | 3 |
| <i>ADM-570 Body Worn Camera</i> | | | | | 0 |
| <i>Property and Evidence</i> | | | | | 0 |
| <i>Carelessness</i> | 1 | | | | 1 |
| <i>Reckless Operation of Vehicle</i> | | 1 | | | 1 |
| <i>Neglect of Duty</i> | | | 2 | | 2 |
| <i>Total Charges</i> | 74 | 10 | 31 | 33 | 148 |

FINDINGS DEFINITIONS

In accordance with departmental policy ADM-270-Administrative/Internal Investigations, 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.

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.

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

| Individual Administrative Charge Comparison <small>(as of 2/25/20)</small> | | | | |
|--|------|------|------|------|
| | 2016 | 2017 | 2018 | 2019 |
| Substantiated | 26 | 87 | 142 | 74 |
| Not Substantiated | 4 | 12 | 7 | 10 |
| Unfounded | 0 | 38 | 115 | 31 |
| Exonerated | 0 | 33 | 45 | 33 |
| Refused to Cooperate/Withdrawn | 1 | 10 | 3 | 0 |

FIREARM DISCHARGES (5) & SPECIAL INVESTIGATIONS (0)

FN19-0091: On April 15, 2019, an officer was off-duty and allegedly had an accidental discharge of his personal weapon while attempting to make it safe. One round was discharged, striking the front passenger tire of his personally owned vehicle. This incident took place in the driveway of his residence located within the City of Newport News.

Internal Affairs Division representatives responded and met with the officers supervisors in the front yard. Observations included: flat front passenger tire of the officer's personally owned truck, one spent casing and one live round of ammunition on the ground next to the front passenger door, one live round of ammunition on the front passenger seat, one 9mm sub-compact pistol (slide back) lying on the front passenger seat, and one partially loaded magazine containing 12 live rounds of 9mm ammunition. Additionally, one live 9mm round was located on the front porch next to the front door (inadvertently dropped by the officer while going inside after the discharge). Preliminary inquiry is that the officer was the only one outside when this incident occurred

The IAD representative spoke with the involved officer in close quarters while inside his vehicle. No odor of an alcoholic beverage was detected and there were no other signs indicating no signs of impairment in any way. "Welfare" check questions were asked and found no indication that the officer was upset prior to the incident and no preliminary indication that he and his wife were having any issues.

Due to the fact that the officer was unable to rule out the possibility his firearm may have malfunctioned, he agreed to have it taken for examination by an armorer. Photos of the scene were taken.

Findings: This investigative matter was reviewed and determined **Unintentional (Accidental) / Avoidable.**

FN19-0173: On July 8, 2019, at approximately 1443 hours officers were dispatched with to 10 Haughton Lane to serve a protective order on an individual. Officers advised that they had an aggressive dog at the residence and that they had an electric fence that kept the dog from the driveway. Officers were advised that the subject was possibly suicidal and had access to firearms. Officers attempted to call the subject on the number provided by a family member but no one answered. They approached the residence and knocked on the door and received no response. Officers then checked the other entrances to the residence and found they were all secure. There is also a two story garage on the premises. As officers were checking the residence a dog began barking and came from the side of the garage. The dog ran at the officers while barking. One of the officers discharged his handgun at the dog and the dog ran away. All officers then backed away from the residence. Dispatch was notified of the incident.

Animal control arrived and located the dog back inside the garage with no injuries.

Findings: Within Policy

FN19-0232: On August 17, 2019 officers were operating as a single training unit. It was determined that a homicide took place in Central Precinct at 115 Ottis Street (IBR 2019-57303). The description of the suspect vehicle from the shooting was a blue/green in color Chrysler 300 bearing Virginia Tag UUV-1005. Officers determined who the owner of the vehicle was and located an address for the suspect. While checking the area of Cottage Grove, they located the suspect vehicle parked in front of 5708 Madison Avenue, facing southbound at 1655 hours.

Officers verified with communications that the vehicle he located was the same vehicle given in the BOLO (be on the lookout) that was placed out by dispatch. Per dispatch he was advised not to approach the vehicle and for other responding officers to set up a perimeter around the Cottage Grove. The officer parked his patrol unit facing westbound on Gloucester Drive just east of Madison Avenue and in front of 706 Gloucester Drive. The officer advised dispatch the vehicle was unoccupied and had constant visual on the driver door.

Around 1726 hours, while watching the suspect vehicle, Officers heard approximately 4-6 gunshots coming from Peninsula Drive. An officer broadcasted that shots were fired and that his civilian ride along and himself were struck by gunfire. The officer who was shot attempted to return fire before his duty issued firearm failed. The responding officer immediately exited his vehicle and ran southbound toward Peninsula Drive through the grass opening of Fairfax Lane and Madison Avenue. Once on Peninsula Drive, another Officer advised he located the suspect and they exchanged gunfire resulting in the suspect ultimately being struck by gunfire. Officers observed a black male in a white t-shirt laying on the steps to 704 Peninsula Drive with his hands directly out in front of him. The individual was detained and identified. He was placed in a patrol unit for further investigation. A protective sweep was conducted of 704 Peninsula Avenue and no additional individuals were located.

Officers on scene were rendering first aid to the wounded officer, the civilian ride along and the suspect. Crime scene was established at 1728 hours. All injured parties were transported to Riverside Hospital for further medical attention. The Tactical Operations Unit (TOU), detectives and forensic technicians arrived on scene. Due to the suspect having a prior address of 5708 Madison Avenue and the suspect vehicle being parked in front of this location, TOU members conducted a protective sweep of the residence. Forensic technicians processed the crime scene and Cousins Towing arrived to impound the wounded officer's patrol unit and the suspect vehicle at the property and evidence impound lot.

Findings: On-Going Investigation

FN19-0317: On October 17, 2019, officers were dispatched to the area of 245 Chesapeake Avenue in reference to two vicious pit bulls in the area. Upon arrival, officers were met by the security guard at Riverside Rehabilitation Center who advised the pit bulls were loose in the area and aggressive. He also advised there was a silver SUV following the canines. We drove back onto Chesapeake Avenue and observed a silver SUV with its hazard lights on travelling west. The vehicle drove off upon seeing us, and we observed the pit bulls walking along the bicycle lane.

Officers stopped the patrol vehicle near the intersection of Beechwood Ave/Chesapeake Ave and stepped out. As the officer was walking around the front side of the vehicle, one of the pit bulls (brown in color) began barking and charged toward him in an aggressive manner. The officer ran in an attempt to get back inside of the patrol car, but was unable to get inside of the car. He immediately turned around and began to back pedal as the pit bull continued to charge in his direction. At that point, the officer drew his weapon and fired approximately five rounds. The pit bull stopped and spun around in circles before running off east bound on Chesapeake Avenue.

Findings: Within Policy/Unavoidable

FN19-0408: On December 27, 2019, officers responded to 137 Nantucket Place in reference to a subject excessively calling 911. Officers attempted to take the subject into custody and a fight ensued. During the fight, an officer attempted to deploy his Taser on the suspect and the deployment was not effective. The suspect was able to gain possession of the Taser. He deployed the Taser and struck an officer with a probe in his leg. Another officer was drive stunned in her leg and hit her head on an unknown object during the confrontation. Officers attempted to regain control of the Taser and was drive stunned in the right hand, right thigh, and right shin. An additional officer received an injury to his leg resulting in soreness.

The suspect pointed the Taser at officers again and an officer fired one round from his duty weapon striking the subject and ending the confrontation. The suspect was pronounced deceased at the scene.

Findings: On-Going Investigation

Note: No special investigations were conducted in 2019.

2019 USE OF FORCE REPORTS ANNUAL ANALYSIS

The Internal Affairs 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, the Training Unit and

new for this year a Use of Force Review Board¹. A Use of Force Report (through BlueTeam) 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
- 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 2019, **116** Use of Force Reports were received, a 61% increase from the **72** Use of Force Reports reported in 2018. Even though we have a young department, their confidence and awareness has increased in knowing when it is necessary to utilize the application of force. This is due to an increase in their training by the Training Section. All of the reports were reviewed by the involved officer's chain of command and the Police Department's Internal Affairs Division along with the Training Section and Use of Force Review Board. This board adds accountability, and transparency to our use of force practices. The importance of this board is to allow two citizens along with other police personnel to review the agencies actions when force is used against its citizens. When appropriate, these reviews identified improper actions and training issues resulting in proper corrective action. A total of **116** Use of Force reports were completed in 2019. These use of force reports consisted of:

- 89 of the department's Use of Force applications were found to be within policy.

The appropriate action was taken to address the identified issues in the 1 incident that was deemed to be not within policy by officers' chain of command, Internal Affairs, Training, and the Use of Force Review Board.

The most active months for Use of Force Reports were October and November with a combined 23, followed by July and August with a combined total of 22. The least active months were February with 8 and May with 4.

USE OF FORCE REPORTS BY MONTH & YEAR

¹ Use of Force Review Board was established October 2018.

| 2019 | | | | | | | | | | | |
|---------------------------------|------------|------------|------------|------------|-------------|-------------|------------|-------------|------------|------------|------------|
| Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec |
| 9 | 8 | 10 | 9 | 4 | 12 | 11 | 11 | 9 | 10 | 13 | 10 |
| Total Reports: 116 | | | | | | | | | | | |
| 2018 | | | | | | | | | | | |
| Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec |
| 7 | 0 | 3 | 3 | 6 | 8 | 8 | 5 | 7 | 7 | 10 | 8 |
| Total Reports: 72 | | | | | | | | | | | |
| 2017 | | | | | | | | | | | |
| Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec |
| 3 | 6 | 4 | 4 | 7 | 6 | 6 | 3 | 4 | 4 | 7 | 10 |
| Total Reports: 64 | | | | | | | | | | | |

FREQUENCY & TYPES OF FORCE USED

| <u>Use of Force</u> | <u>2017</u> | <u>2018</u> | <u>2019</u> |
|-------------------------------|----------------|-------------|-------------|
| # of reports | 64 | 72 | 116 |
| # of involved officers | 141 | 182 | 286 |
| Type: | | | |
| Hands & Feet | 62 | 102 | 140 |
| Kick Stops | 23 | 60 | 46 |
| ECD (Taser) | 15 | 22 | 28 |
| OC Spray | 20 | 0 | 3 |
| ASP Baton | 1 | 0 | 0 |
| Firearm | 4 | 1 | 5 |
| Less Lethal | 1 | 1 | 3 |
| K-9 | 0 | 0 | 1 |
| Distraction Device | Not Calculated | 5 | 2 |
| CS/CN | 3 | 0 | 3 |
| Unauthorized Weapon | 0 | 0 | 0 |
| Total | 109 | 191 | 231 |

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 2019, the number of Use of Force reports submitted increased to **116** from the **72** reported Uses of Force in 2018. This represents a 61% increase. One of the goals for the agency is to reduce the amount of violent crime in Newport News. With this came new holistic strategies on reducing violence and holding those committing violence accountable for their actions. In the later summer months of 2019 each of the three precincts brought back and restructured their High Impact Patrol units to assist in addressing crime. With these pro-active units came an increase in citizen contacts and arrests. It is important to note that in 2018 there were 8,953 arrests and in 2019 there were 9,623 arrests; an increase of 7.48%.

A continuing challenge still facing our community are citizens struggling with mental health issues and the interaction officers have with them. Officers spend many hours addressing these issues and at times, we have to force the individual to the hospital for

the proper mental health treatment. Most of the force used are soft hand techniques and Kick Stop restraints.

In 2019, the frequency and type of force used to take suspects into custody increased by 44 from the previous year. The most frequent type of force used was Hands & Feet (140), which includes soft/hard empty hand control, takedowns and similarly approved defensive tactics. The second was Kick Stop Restraints (46); 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, the officers, and prevents unnecessary City property damage. Our Use of Force policy mandates we report their use.

Two officers discharged their department issued handgun to defend themselves and two others against an attacking pit-bull canine.

The use of an Electronic Control Device (ECD), also referred to as a “Taser”, increased by 6 when compared to 2018, however when compared to the total types of force used, a “Taser” was used approximately 11% of the time to gain compliance in 2019 as compared to 2018 where a “Taser” was used 15 times to gain compliance. Through training and a better understanding of Newport News Police Department’s Use of Force Policy, officers are more understanding on when an application of force or “Taser” can or cannot be used to resolve certain conflicts.

Of the 116 Use of Force Reports submitted in 2019, the Internal Affairs Division investigated or managed five investigations and the Patrol Bureau investigated or managed 111. Of the Use of Force Reports, five were related to firearm discharges. Two of these investigations are where the officer’s actions were found to be within policy and three are still under investigation as of the time of this report

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.

While reviewing the 116 applications of force a trend among the officers began to become apparent. Officers are realizing an application of force is necessary however,

some are hesitating on using force, when the use of force was appropriate, thus prolonging the officer's exposure to violence. The Internal Affairs Division is currently working with the Training Section to analyze this further.

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 2019

WARNING SHOTS (CALEA STANDARD 1.3.3)

Zero warning shots were reported by members of the Newport News Police Department in 2019. 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 2019, 14 thresholds in the Departmental Administrative Policy, 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 took the required actions in compliance with the department's policy.

2019 STAFF INSPECTIONS

| | |
|-----------------------------------|----------|
| Communications | February |
| P&E Unit (Unannounced) | April |
| Professional Standards (Training) | March |
| Organized Crime Division | April |
| Professional Standards (IA) | June |
| P&E Unit (Announced) | August |
| North Precinct | October |
| P&E Unit (Unannounced) | December |

The Internal Affairs 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. An Internal Affairs Sergeant and the Department's Accreditation Manager conduct the unannounced inspections of Property and Evidence. An Assistant Chief and

a Captain conducted the staff inspection on Internal Affairs. 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.

JH

Pc: Accreditation Manager
Internal Affairs Division