

2017 Professional Standards Annual Report

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Introduction

In 2017, the Asheville Police Department continued with department wide changes and restructuring to increase operational efficiency. Numerous promotions and transfers occurred along with the hiring of new police officers. The department continues to move forward and look for ways to improve.

Prior to 2016, several annual analyses and reviews by the Professional Standards Section were created and submitted separately. Beginning in 2017 (evaluating the 2016 calendar year) all of these reports were combined and submitted as one Professional Standards Annual report. Presenting the information and findings together provides a more comprehensive picture of the department's performance. This report now contains the following reviews and analyses:

- » Vehicle Pursuit Analysis and Review
- » Use of Force Analysis
- » Review of Assaults on Sworn Officers (new in 2017 report)
- » Bias Based Policing Review
- » Analysis of Grievances
- » Internal Affairs Statistical Summary

The annual and historical review of complaints of employee misconduct, use of force actions, vehicle pursuits, employee grievances, and bias based policing practices allows the department as well as city officials to evaluate the department's service to the community and reveals patterns or trends that may indicate needed modifications to training, equipment, and/or policy.

In 2018 (for the 2017 yearly report) a new review was added to evaluate assaults on sworn officers. Careful review of the circumstances surrounding assaults on officers will help the department determine what steps may be needed to enhance officer safety and maintain training curriculum developed on real field-based events.

Vehicle Pursuit Analysis & Review

Methodology & Procedure

Pursuant to Asheville Police Department Policy 1032 – Vehicle Pursuits, any officer involved in a pursuit is required to complete an internal report via the department's internal reporting system. These reports are submitted for evaluation and review through the involved employee's chain of command.

All internal report submissions and subsequent chain of command reviews are maintained electronically by the Professional Standards Section and are separate from standard incident reports within the department's Records Management System.

Compilation and review of this data, in conjunction with officer narratives and chain of command review, allows for analysis of various factors to identify trends or patterns related to pursuit initiation, termination, and other related issues. Areas selected for analysis include:

- Pursuit initiations (reasons & initial violations)
- Accidents and property damage
- Injuries resulting from pursuits
- Time of day and weather
- Pursuit distances
- Pursuit terminations and persons terminating pursuit
- Driving under the influence factors
- Use of forcible stopping techniques
- Policy compliance

This analysis will be focused on pursuits involving this department during the calendar year of 2017 but will include data for comparison and reference from at least the three preceding calendar years.

Analysis of Data

Policy Compliance and Discipline

This area of analysis will review compliance with policy guidelines. Figure 1 provides the overall total of pursuits in comparison with previous years. There were a total of four vehicle pursuits in 2017, which is lower than the three preceding years.



Policy Compliance in Vehicle Pursuits





Only one pursuit was not in compliance with department policy for being initiated outside the allowable parameters for a pursuit. This is consistent with the continuing downward trend in compliance deficiencies.

Property Damage and Injury

Analysis of property damage and related injuries from vehicle pursuits may be related to several factors, such as weather/time of day, the use of forcible stopping techniques, or impairment of a driver. Figure 3 provides a comparison of the number of accidents occurring during pursuits overall for the past five calendar years.





In 2017, three of the four pursuits ended with the suspect crashing their vehicle for reasons unrelated to actions taken by law enforcement. No injuries were reported as the result of these crashes.

No forcible stopping techniques were used by the department in 2017.







Figure 4 illustrates the continuing correlation between pursuits and time of day.

The data demonstrates that zero pursuits were initiated during the daytime hours, which corresponds with the time period that the City of Asheville experiences its highest pedestrian and traffic volume. The pursuit policy mandates that officers consider that volume when determining whether a pursuit should be initiated in order to maximize the safety of persons and property not involved with the pursuit.

Pursuit Initiation and Termination

Of the four pursuits initiated in 2017, half were initiated as the result of the driver, or another occupant of the vehicle, being pursued for assaulting a third party with a firearm or threatening the use of a firearm against a third party.

2017 Vehicle Pursuit Initiations						
Initiation Reason Number of Pursuits						
Leaving Scene of Collision	1					
Warrants/Wanted Person	1					
Assault with a Firearm	2					

Three of the four pursuits were initiated as the result of the driver being suspected of committing a violent felony offense. The remaining instance was found be have been not within policy following an internal review of the incident.





In 2017, the majority of pursuits were concluded by the suspect crashing their vehicle. Figure 6 shows a breakdown of the conclusion of all department pursuits in 2017.

In two of the collisions, the driver was found to be impaired after further evaluation by officers. The driver in the third collision abandoned the vehicle prior to bringing it to a stop and attempted to flee from officers on foot.

Pursuit Policy and Procedures

As part of the department's larger policy revision process, the vehicle pursuit policy is currently under review. Past pursuit analysis reports and recent policy issues are being considered during the revision process, as well as recommendations from an internal department committee. Significant changes pending in the revision vary from the previous directive and will address the following:

- Adjustment to conditions under which a pursuit can be initiated
- Expansion of factors to be considered when initiating or continuing a pursuit
- Guidelines added for the pursuit of motorcycles, mopeds or other two wheeled vehicles
- Expanded operational / tactical guidelines such as:
 - Clarified guidelines for communication and radio responsibilities
 - Updated guidelines for department unmarked or specialty vehicle involvement
- Section added specific to police supervisor responsibilities
- Forcible stopping (tire deflation devices) provisions were updated to meet current best practices
- Clearer guidelines for pursuits leaving and entering the department's jurisdiction

No forcible stopping techniques were used during the 2017 calendar year, so a specific evaluation of the department's policies and procedures related to forcible stopping cannot be conducted. No issues were identified with the reporting procedures for pursuit reports via the BlueTeam platform.

Conclusion

The department's limitation on pursuit initiation means there are relatively few pursuits to evaluate.

The nature of police vehicle pursuits can often lead to motor vehicle crashes, property damage, and/or injury. It can be concluded that the department's current initiation and pursuit procedures are helping to reduce factors which contribute to undesirable outcomes, although may require consideration.

No significant trends were identified relating to the department's vehicle pursuits in 2017.

Use of Force Analysis

The regular review and analysis of the uses of force employed by Asheville Police Department employees is central to ensuring the delivery of fair, safe, and effective police services to the citizens of Asheville.

Methodology & Procedure

Pursuant to Asheville Police Department Policy 402 – Use of Force, any officer involved in a use of force incident is required to complete a report using the department's internal system. These reports are submitted for evaluation and review through the involved employee's chain of command.

All internal incident report submissions and subsequent chain of command reviews are maintained electronically by the Professional Standards Section and are separate from incident reports within the department's standard Records Management System.

Compilation and review of this data, in conjunction with officer narratives and chain of command review, allows for analysis of various factors to identify trends or patterns related to the department's use of force. Areas selected for analysis include:

- Overall number of use of force incident
- Force applications by type
- Use of force incidents by month and time of day
- Officer and citizen injuries
- Policy compliance

Specific factors will be selected for comparison focusing on policy compliance, injury, and force applications. This analysis will be focused on use of force incidents during the calendar year of 2017 but may include data for comparison and reference from preceding calendar years.

Analysis of Data



Total Use of Force Incidents 2013 to 2017



In 2017 there was a 61% decrease in use of force incidents when compared to 2016. Although uses of force were overall trending downwards, 2017 represents major decline from the otherwise consistent numbers in the previous three years (2014-2016).



Figure 8





Figure 9 displays a continued trend of a consistently higher occurrence in uses of force in the afternoon and evening hours, although the trend was less clear in 2017 than previous years. The hours of 6PM until midnight see the highest instances of force being used.

Force Applications by Type



Figure 10

In 2017, the most common force application was physical force, used in 86% of use of force incidents. Physical force has consistently been the most common type of force employed in use of force incidents.







The type of application of force in 2017 varied from previous years. Due to the sharp decrease in overall use of force incidents, fewer physical force and TASER application types were employed. Use of all other force application types have continued to trend downward or remain consistent.

*In 2017, euthanizing a seriously injured or diseased animal is no longer counted in the department's use of force statistics as the use of a firearm, resulting in the drop in the firearm force application from previous reports.

Demographics



2017 Uses of Force by Age

In 2017, force was not used on any subject under the age of twenty or over the age of sixty. Most incidents involved persons between the ages of 20 and 39.



2017 Uses of Force by Race/Sex

Almost all use of force incidents involved males, with only one incident involving a female.

Officer and Citizen Injuries

In 2017, departmental uses of force resulted in fourteen incidents where a citizen suffered an injury; ten of those persons received treatment at the hospital for those injuries. Officers were injured in nine incidents in the same time period, with four being treated at the hospital. Both officer and citizen injuries have decreased from the two preceding years.





Policy Compliance

In 2017, there was only one use of force incident found to have been not within department policy.

Use of Deadly Force

There were no uses of deadly force during the 2017 calendar year.

Use of Force Policy and Procedures

In 2016, APD, in partnership with the Vera Institute of Justice (Vera), undertook a process of engaging with the Asheville community to develop new de-escalation policies that incorporated community feedback and priorities. As part of this process, Vera facilitated a forum aimed at obtaining community input for development of the department's use of force de-escalation policy. The forum engaged 21 department officials and community members from the Racial Justice Coalition, NAACP, Black Lives Matter, Asheville Public Schools, and various other

organizations in a discussion focused on the notion and purpose of de-escalation as it pertains to police use of force, as well as the benefits of such a policy for police and community.

The final report from Vera, along with the department's use of force policy draft was released to the public for review and comment in November of 2016. Based on these recommendations, the department implemented a fully revised use of force policy on May 5th, 2017.

The department's updated use of force policy focuses on de-escalation, streamlined the formatting and wording of existing provisions, and includes new requirements for reporting and incident response. Specifically, changes include:

- Updated and amended definitions for terms such as physical force, objectively reasonable, de-escalation techniques, and proportional force
- A new section for the use of de-escalation in use of force situations
- Provision requiring officers to intercede and report uses of excessive force
- New language regarding firing at or from a moving vehicle
- Added response procedures for supervisors for all use of force incidents

Less lethal weapon policy was separated from the department's use of force policy and is now included in Policy 403 - Less Lethal Weapons.

In October 2017, additional changes were made to the use of force policy to allow for the use of controlled directed-fire.

Conclusions

The department's overall use of force numbers have decreased *significantly*. There are a variety of factors which may have contributed to the dramatic change in use of force for the 2017 calendar year:

- Full deployment of body-worn cameras to operations personnel.
- Body-worn camera footage of all use of force incidents is reviewed by the chain of command and Professional Standards, thereby ensuring review for policy compliance and proper categorization for reporting.
- The department's increased emphasis on de-escalation. The revised use of force policy was released in tandem with de-escalation training for all officers at the beginning of 2017.
- The department introduced a requirement for a supervisor to respond to the scene of all use of force incidents.
- Continuing decline in use of TASERs in response to the February 2016 4th Circuit Court of Appeals decisions regarding the use of TASER weapons.

Review of Assaults on Sworn Officers

Assaults on law enforcement officers are critical events that significantly impact the safety of public safety personnel. The department, beginning in 2018, will review and evaluate these type of events to determine what actions may be taken to enhance officer safety.

To assist in identifying any specific trends or patterns data was collected on incidents involving a charge of Assault on Government Official (AOGO) from both the 2016 and 2017 calendar years.

The total number of assaults on officers remained similar in 2016 and 2017, with 36 AOGO charges in 2016 and 37 in 2017.



Date and Time of Assaults



There appears to be no correlation between assaults and time of year between 2016 and 2017 - although both years had a significant spike either in early spring or summer and rise in incidents in January.



Assaults by Day of the Week

Figure 14

In 2016 and 2017 there were similar trends of a spike in assaults on officers either on Saturday or Sunday.



Figure 15

There is a clear correlation between the time of assaults in 2016 and 2017, with almost half of all assaults on officers occurring between 6PM and 12AM both years.

Assault Locations



Assaults by District



A disproportionate number of assaults occurred in Charlie District, 63% of assaults in 2016 and 72% of total in 2017. A further breakdown shows that a majority of these incidents occurred in AC3 (Beat 3) which is the downtown area. 15 assaults (41% of the total) in 2016 occured in this beat in 2016 and 17 assaults (45% of the total) in 2017.

In 2017, 13 assaults occurred at or in proximity to public housing (35%), which was higher than the 7 (19%) occurring in 2016. 2017 also had more assaults occurring at hospital or mental health care facilities (5) and during processing at the jail (3).

Call Types and Circumstances

Initial call types which resulted in the assault on officers did vary, although with some predictable similarities. Civil disturbances, suspicious persons/vehicles, domestic disturbances, and fights in progress all resulted in more than one officer assault during both 2016 and 2017. Incidents involving alcohol or drug use were consistently more likely to result in an assault or attempted assault on officers.







In 2016 and 2017 officers were most likely to be assaulted while attempting to detain a suspect, placing subjects into a patrol vehicle, or securing them for transport in a vehicle.



Assault on Officer Circumstances

Figure 18

Officer Injuries

In 2016, assaults on officers resulted in nine minor injuries (cuts/scrapes) and four serious injuries. The four serious injuries were the result of two incidents. In the first incident, officers sustained hand and knee injuries while trying to detain a suspect. In the second incident, during a struggle with a suspect, two officers were tased and assaulted with serious physical force. The second incident resulted in the hospitalization of an officer.

In 2017, assaults on officers resulted in eight minor injuries and three serious injuries. The serious injuries were from one incident where officers were hit with shrapnel from a bullet striking near their position. All officers had to receive medical attention at the hospital and two required surgical removal of the metal shrapnel.

Recommendations

The most notable data set in the review is the location of assaults on officers. Almost half of all assaults in both 2016 (41%) and 2017 (45%) occurred in downtown Asheville. The department has already acknowledged the increase in violent crime in the city, particularly in the downtown area. In 2017, additional officers for Asheville's downtown area were requested based on the swelling tourist/city population and violent crime.

The department will be expanding the number of officers in the downtown district, which in turn should increase officer safety. Expanding downtown staffing will also allow for increased visibility and focused community policing efforts.

Bias Based Policing

Background

This review will evaluate complaints of bias based policing, including any citizen concerns and corrective actions taken.

The department generates quarterly reports examining statistical data regarding department traffic stops. These reports are being used to improve data collection and analysis and provide a complex and thorough assessment of traffic stops.

Complaints and Citizen Concerns

There were no complaints filed or concerns registered against Asheville Police Department employees based on racial or bias-based profiling in 2017.

Bias Based Profiling Policy and Procedures

In January of 2016 the department's biased based profiling policy was revised. The new revision covers not only prohibitions against bias-based profiling, but includes overall prohibitions against the practice of bias-based policing.

A significant change included updates and expansions of policy related definitions, specifically expansion of protected demographics. The policy's definition of individual demographics for which officers are forbidden from considering when performing law enforcement duties or delivering police services (except when part of a specific suspect description) was expanded to include gender identity, disability, and political status. The definition previously included personal characteristics including race, ethnic background, national origin, gender, sexual orientation, religion, socioeconomic status, age, and cultural group.

Language was also added requiring employees who witness or are aware of instances of bias-based policing to report the incident to a supervisor, and that such complaints must be forwarded to the department's Professional Standards Section.

So far, no issues have been identified related to the revision released on January 25, 2016.

Revisions are planned in 2018 to reflect changes to CALEA standard 1.2.9, whereby the policy will require initial and annual bias based policing training for affected personnel.

Training

In 2017, all sworn employees were provided in-service training on juvenile minority sensitivity with a focus on positively impacting youth. Additionally, officers received training through the Racial Equity Institute, to include Executive staff members who attended Advanced Racial Equity training hosted by the Government Alliance on Race and Equity. The department is continuing to explore, develop, and implement quality diversity and implicit bias training for all personnel.

Grievance Analysis

In accordance with the City of Asheville Personnel Policy, grievances (a complaint or dispute of an employee related to his/her employment) may be filed for reasons such as, but not limited to: unfair interpretation or application of policies, unfair or inappropriate disciplinary actions, unsafe workplace environments, unfair or discriminatory disciplinary or supervisory practices, sexual or racial harassment, or any other grievance related to conditions of employment.

Employees who which to file a grievance may do so orally or in writing, formally or informally, present complaints to supervisors, starting with their immediate supervisor and proceeding through supervisory channels to the department director and City.

Asheville Police Department Grievances 2017						
Date Filed	Type/Nature	Disposition				
01/09/2017	Other	Resolved outside of department				
06/05/2017	Separation	Pending final outcome				
06/20/2017	Other	Resolved outside of department				
10/17/2017	Disciplinary Action	Resolved within department				

In 2017, the following employee grievances were initiated:

Figure 19

The analysis of employee grievances filed for the calendar year of 2017 found that two were related to disciplinary actions. Due to the nature of the other filed grievances, the cases were handled and resolved outside of the department.



Employee Grievance Types 2010-2017



In 2014 grievances classified in the "other" category were related to workplace harassment (2), military leave (1), and personnel privacy (1). In 2017 the grievances in the "other" category were related to workplace harassment and compensation. There has been a significant drop (absence) of promotional or assignment based grievances since 2013.



Grievance Dispositions 2010 - 2017

Figure 21

The disposition of grievances in 2017 does not differ significantly from previous years. Unlike 2015 and 2016, the department had two grievances resolved outside of the department due to the nature of the complaints. There are two continuing cases still pending from 2015 and 2016.

In reviewing grievances from 2010 to 2017, no new trends were identified. There have been no grievances filed related to promotion or assignment since 2013, with the majority of grievances continuing to be related to discipline or separation from the department.

The department convened a committee in 2016 to review and discuss revisions to the department's disciplinary policy and practices. Department level adjustments were recommended which did not conflict with the city's established disciplinary system. Changes to the department's discipline and professional standards policies were implemented in June 2017.

Grievance policy and processes are dictated by local ordinance and civil service regulations.

Internal Investigations Statistical Summaries

All complaints received by the Asheville Police Department are taken seriously and investigated fully. We recognize that despite our best efforts, there will be times when citizens, fellow employees or supervisors perceive an employee's behavior to be inappropriate. When this occurs, the department uses a well-established process for receiving, investigating, and adjudicating complaints.

The department accepts complaints from all sources, including those filed anonymously. Investigations may be initiated from an internal (generated by department employees) or external source (citizen complaints). Investigations are assigned for investigation after receipt.

The Professional Standards Section typically investigates allegations of significant concern, while other allegations of misconduct and peer related issues are typically investigated by a supervisor in the employee's chain of command.

The department makes every effort to investigate and adjudicate all complaint allegations within 60 days from the time the complaint is made. However, there are circumstances, including case complexity and witness availability, which may not allow this goal to be achieved in every instance.



Complaints and Internal Investigations

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Citizen Complaints	88	81	74	68	59	57	47	32	39	21
Internal Complaints	14	18	11	15	18	18	10	30	35	55

Internal Investigations 2006 - 2017



	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Internal Investigations	100	82	103	99	85	83	77	72	57	64	74	76

Complaint Origination



Complaints by Department Division 2012-2017*



*The department's organizational structure was changed in late 2015 and a new department division was created. What was previously labeled as *Support* was divided into two Divisions, *Special Services* and *Administrative Services* for 2016 and 2017 figures.

- The Patrol Division includes all city patrol districts, as well as the department's public housing and downtown units.
- Investigations represents the department's Investigations & Operations Support Division, which includes Criminal Investigations, Forensics, Victims Services, Traffic and Animal Services, and Special Operations.
- The Administrative Services Division includes primarily civilian support units, such as the department's Records and Communications Sections.
- The Special Services Division includes the Planning and Evidence Section and Recruitment and Career Development Section.
- Administration includes all other organizational components including the Office of the Chief, the Professional Standards Section, and Financial Services Division.

Type and Dispositions of Internal Investigations

After an investigation is completed, there are five possible dispositions:

- <u>Exonerated</u>: the incident occurred but was lawful and/or proper.
- <u>Sustained</u>: the allegation is supported by sufficient evidence.
- <u>Not Sustained</u>: there is insufficient evidence either to prove or disprove the allegation.
- <u>Unfounded</u>: The allegation is demonstrably false or not factual.
- <u>Policy Failure</u>: the allegation is true and the action of the employee was within existing policy. The policy requires review or modification.

The figures below show the totals for dispositions related to all internal investigations and related allegations investigated in 2017. Since one investigation may include several officers and/or allegations, multiple dispositions may be associated with one case resulting in a higher number of dispositions than total investigations.

Allegation Dispositions by Type (2017)									
	Sustained	Not Sustained	Unfounded	Exonerated	Pending	Total			
Unsatisfactory Performance	9	0	1	3	5	18			
Responsibilities of Duty	2	0	0	0	10	12			
Body-Worn Cameras	3	1	0	0	4	8			
Unbecoming Conduct	7	0	0	0	1	8			
Property and Evidence	4	0	1	1	0	6			
Personnel Policy	2	0	0	0	3	5			
Use of Excessive Force	1	1	0	2	1	5			
Ethics	1	0	0	0	3	4			
Conformance to Rules & Policy	3	0	0	0	1	4			
Other (categories with four or	less allegatio	ons)							
Computer Technology	3	0	0	0	0	3			
Pursuits	1	0	0	0	1	2			
Truthfulness	1	0	0	0	1	2			
Insubordination	2	0	0	0	0	2			
Courtesy	2	0	0	0	0	2			
Conduct Towards Supervisors/Subordinates	1	0	0	1	0	2			
Vehicle Operations	0	0	0	0	1	1			
Juveniles	1	0	0	0	0	1			
Dissemination of Information	0	0	0	0	1	1			
Court Appearances	1	0	0	0	0	1			
Totals	44	2	2	7	32	87			

Complaint Allegations by Type (2017)



Disposition/Status of Internal Investigations (2017)



Disposition Status	Number of Dispositions	Percentage
Sustained	44	49%
Unfounded	2	2%
Not Sustained	2	2%
Exonerated	7	8%
Handled by Human Resources	2	2%
Pending Disposition	32	36%

Demographics

Complainant-Employee Demographics (Citizen Complaints 2017)

Complainant Race/Gender	Employee Race/Gender								
	African American Male	White Male	African American Female	White Female	Totals				
African American Female	0	2	0	0	2				
White Female	1	3	0	3	7				
African American Male	0	3	0	1	4				
White Male	0	7	0	1	8				
	1	15	0	5	21				

There were no anonymous citizen complaints filed in 2017.