



2.28.2012

cc: accreditation  
City mgr  
asst Chiefs

February 21, 2012

**MEMORANDUM**

**TO:** Tom Bergamine *AB 2/23/12*  
Chief of Police

**FROM:** Lieutenant C. Davis  
Unit Commander, Office of Professional Standards and Inspections

**SUBJECT:** 2011 Annual Report (Office of Professional Standards & Inspections)

All numbers included for the 2011 annual report are from investigations/summary files that have been closed as of this date.

In 2011, there were significant increases in the following investigative/complaint categories:

- Use of Force Incidents
  - Hands-On Incidents
- Unprofessional Conduct / Negligence Complaints
- Biased Policing Complaints
- Early Warning Alerts (IA Pro)

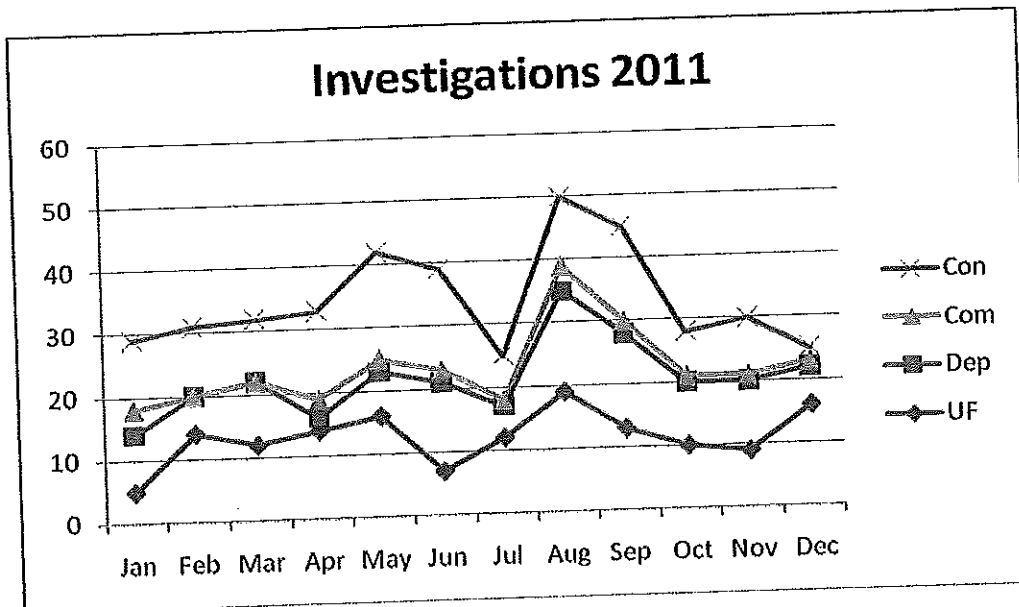
The increase can be attributed to the following:

- Increased attention given to the Department's response to "biased policing" complaints.
- WIDU's (local AM radio station) antagonistic coverage of the biased policing debate.
- Emphasis placed on filing complaints by a group of local activists.
- Publication of "how" to file a complaint with the FPD.
- The Fayetteville Observer's coverage of the biased based policing debate.

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- In 2011, the Observer published 46 articles in which the topic of consent searches was discussed. Many of the articles were critical of the Department's response to the biased policing debate.
- 5 articles in May and 11 articles in September, which bracketed August (high month for incidents in 2011)
- Lack of citizen understanding concerning "search and seizure" law.
- 53 day moratorium on the use of Tasers.
  - The officers did not have access to the Tasers and often resorted to other force options and
  - The threat of being "Tased" was no longer a concern for those contemplating resistance since they had been temporarily removed from the officers.
- Increased emphasis placed on SCAT (Subject Control Arrest Techniques) in BLET.
  - Newer officers may be or may feel more skilled in using "hands on" tactics than officers who did not receive the training early on.

Investigative Category	2008	2009	2010	2011	Variance
Departmental Investigations	66	86	101	110	+9
Citizen Complaints	20	26	23	21	-2
Use of Force	83	91	121	145	+24



UF = Use of Force  
 Dep = Departmental Investigation  
 Com = Citizen Complaint  
 Con = Citizen Contact

In comparing the calculations of investigations within the three investigative categories, investigations initiated as a result of Use of Force incidents, Citizen Complaints, and

Departmental Investigations revealed increases in two of three categories when compared to 2010. The increase in Use of Force investigations can be attributed to the increase in the use of "hands on" incidents.

Overall, Campbellton District officers were involved in more incidents (investigations), but they also made 67% of the Department's arrests.

**Departmental Investigations**

Departmental investigations are normally initiated by a supervisor and include vehicle accidents, vehicle pursuits, performance issues, unbecoming conduct, etc. In 2011, 41% of all Departmental Investigations were the result of officers being involved in vehicle accidents, which is a 15% improvement over 2010. Overall, there was a 4% increase in the number of Departmental Investigations conducted in 2011.

In an attempt to lower the number of vehicle accidents, all Departmental employees involved in "at fault" accidents are mandated to attend the City's Defensive Driving Course.

In addition to vehicle accidents, unsatisfactory performance issues accounted for the majority of the investigations. Unbecoming Conduct investigations, Violations of Law and Vehicle Pursuits accounted for the remainder of the Departmental Investigations. 87.5% of all closed Departmental Investigations were sustained.

Departmental Investigations	Campbellton	Cross Creek	OSB	Service	Total
2011	59	26	17	8	110

	2008	2009	2010	2011	Variance
Vehicle Accidents	29	37	56	46	-10
Vehicle Pursuits	n/a	n/a	n/a	10	
Unsatisfactory Performance	n/a	n/a	n/a	33	
Unbecoming Conduct	n/a	n/a	n/a	10	
Violation of Law	n/a	n/a	n/a	11	
Total	n/a	n/a	n/a	110	

*17 Accident Summary Files were completed.*

**Citizen Contacts / Citizen Complaints**

Citizen Complaints	Campbellton	Cross Creek	OSB	Service	Total
2011	17	5	0	0	22

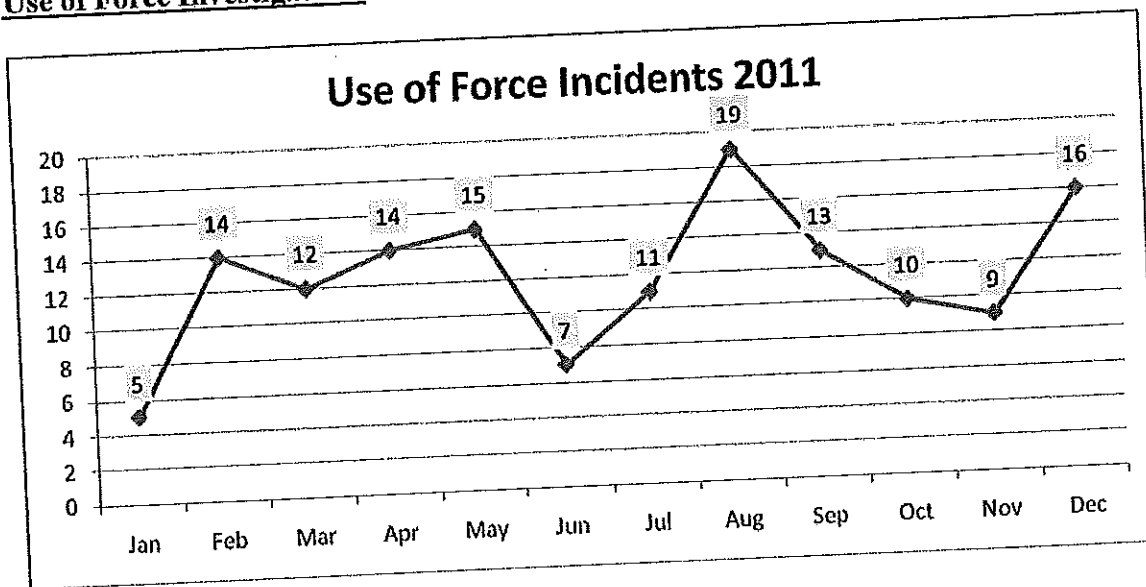
In 2011 the Department received 151 Citizen Contacts / Complaints, which is a 29% increase over the 2010 number of 117. 11% of the complaints were SUSTAINED.

Considering that officers responded to over 222,000 calls for service in 2011, 151 complaints is a very minute number. Excessive Force Complaints accounted for 52% of all Citizen Complaints. After completion, review and recommendation of the internal investigations involved, none of the complaints were found to be sustained.

The following accounted for the majority of the Citizen Contacts:

Citizen Contacts	2010	2011	Variance
Rudeness	21	17	-4
Unprofessional Conduct	21	32	+11
Unsatisfactory Performance	41	16	-25
Negligence	2	30	+28
Violation of Law	2	8	+6
Other	2	12	+10

### Use of Force Investigations



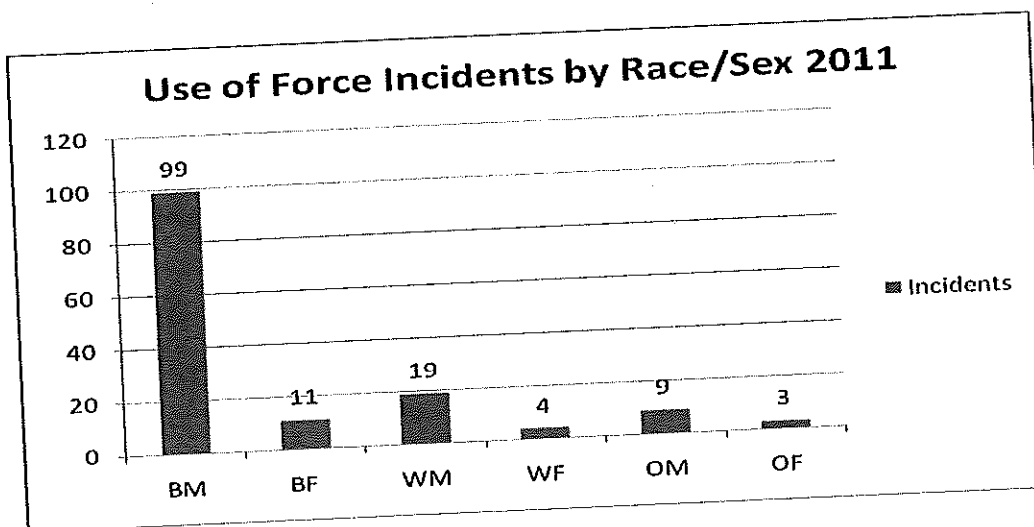
Type of Force	2008	2009	2010	2011	Variance
Hands/Physical	32	27	44	83	+39
OC "Pepper" Spray	33	11	10	13	+3
ASP Baton	2	1	2	2	0
Nova Spirit	3	2	0	0	0
Taser & Taser / Hands	16	31	60	39	-21
Firearm (includes animal shootings)	6	6	5	7	+2
Flashlight	0	0	0	0	0
K-9	4	0	0	1	+1

Total	98	91	121	145	+24
Use of Force Summary Files			4	13	+9

*Hands / Physical and Taser Use accounted for 84% of all Use of Force Incidents.*

Taser Usage & Situational Issues Identified	Incidents	%
Resistance	15	38
Mental Issues	13	33
Drugs	7	18
Alcohol	4	10

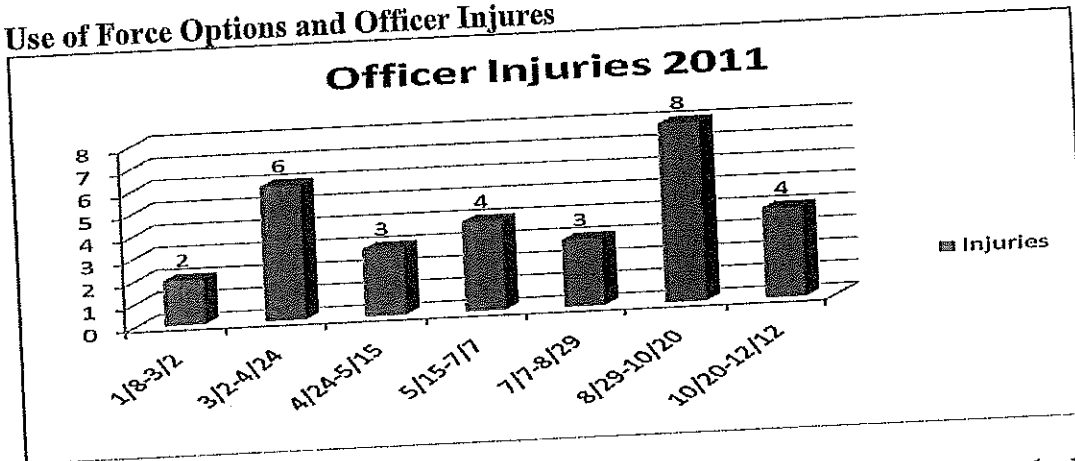
Use of Force Incidents by Bureau	Campbellton	Cross Creek	OSB	Total
2011	95	44	6	145



Historically, it has been difficult to identify the reasons “why” the number of Use of Force investigations increased or decreased. However, in 2011 the Department dealt with increased racial tension brought on by “consent to search” issues and a 53 day moratorium on Taser usage (8/29/11 – 10/21/11), which was prompted by the death of suspect on 8/24/11. Due to the recent issues in Charlotte, NC and the Taser related death on 8/24/11, Chief Bergamine chose to have the Tasers pulled and tested by Taser, before reissuing them on 10/22/11. With the exception of 5 Tasers, all Tasers were within recommended guidelines and those that were not, were actually putting out less electricity than prescribed.

It is recommended that staff consider implementing an annual testing of all issued Tasers to confirm that they are functioning properly. This could be accomplished by having a member of the Training staff certified to perform this function to reduce the cost to the Department and downtime with the availability of the Tasers.

## Use of Force Options and Officer Injures



The number of officers that were injured while trying to apprehend suspects peaked between 8/29/11 – 10/20/11, which was the time frame when the officers did not have Tasers. The increased number of injuries could be attributed to several factors, to include:

- The officers did not have access to the Tasers and often resorted to “hands on,” tactics and,
- The threat of being “Tased” was no longer a concern for those contemplating resistance since the officers were no longer issued a taser.

The 2011 data indicated a 20% increase in the number of Use of Force incidents, but there was a 91% increase in the number of “hands on” incidents and a 42% reduction in the number of Taser incidents.

### Deadly Force Factors

Although many factors determine if a firearm will be used, in 2011 the following facts may have played a role in the five (5) incidents involving service weapons:

1. Narcotics – Present in at least 2 incidents
2. Mental Health Issues – Present in 1 of the incidents
3. Life Style Issues (Prostitution) – Present in at least 1 of the incidents
4. Repeat Offender – Present in all 5 incidents

Use of Force Investigations fall into a “reactive” investigative category that we cannot predict from year to year, but we can continue to closely monitor these investigations to ensure they are thoroughly reviewed. Currently, eighteen (18) 2011 Use of Force investigations are still under investigation.

## Use of Force Summary Files

In 2010, the Department added the Use of Force Summary File, which will be completed if the following situations occur:

1. A suspect sustains an injury that is **not** the result of a use of force or alleged use of force.
  2. A suspect injures himself while fleeing from the officer **prior** to being taken into custody.
  3. A suspect in custody sustains a minor injury **not** due to or caused by the officer's actions or intentionally inflicts injury to himself.
  4. A suspect complains of wrist and/or ankle soreness as a result of being restrained.
  5. An animal is destroyed for defensive purposes OR as a humanitarian measure because the animal is seriously injured or sick.
  6. An officer points a firearm directly at another person(s), under any circumstances the situation does not require any other use of force and no policy violations exists with regard to the circumstances of the deadly use of force.
- b. However, when one or more of the above situations does occur, a summary file including the following documentation is required: (No PIR is required as there is no internal investigation being conducted.)
1. Completed Incident Report and supplemental
  2. A Supervisor will respond and take photographs
  3. A Supervisor will attempt to obtain a statement from the suspect
  4. A CAD report
  5. Medical forms, if available
  6. A Supervisor's written report to OPS
  7. Incident will be documented on e-mail Daily/Special report

All documentation will be forwarded through the Chain of Command to OPS&I. OPS&I will keep the documentation on file for statistical purposes and to address any questions that may arise from the incident at a later time.

In 2011, thirteen (13) Use of Force Summary Files were completed to document the following incidents:

- 7 – Dog Shootings
- 5 – Weapons Pointed
- 1 – Hands On

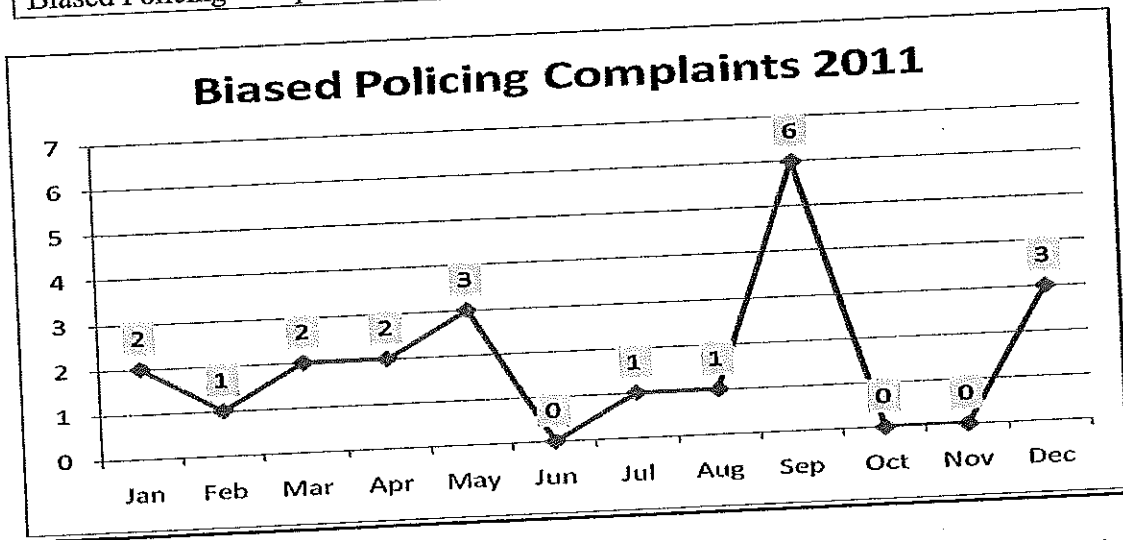
## Recommendations

The Department has experienced many challenges with respect to use of force during 2011. It is important that the training staff identify training opportunities that could provide officers with additional tools for encountering these types of situations. While SCAT is taught in BLET, refresher training on this topic should be incorporated periodically into the training cycle.

As the number of mentally ill persons encountered increases, the training staff should seek to identify specific training that may be available for teaching officers how to diffuse these types of encounters. Are officers more likely to use force on someone who is displaying erratic behavior or are there methods or best practices they could employ that could reduce the occasion for using force. It is recommended that the Training Staff research best practices that may be available within the state and/or nationally.

## Biased Based Policing

	2008	2009	2010	2011
Biased Policing Complaints	9	2	7	21



With regards to Biased Based Policing Complaints, the following has been completed:

- Operational Study completed by PERF (February 2010).
- Recommended that the DOJ investigate our practices and drafted the request for the City Manager's signature in December 2010. *On January 30, 2012, the FPD received a letter from the DOJ stating that they would not be conducting an investigation of the Department's practices and / or procedures concerning this matter.*
- Attended the DWB Forum sponsored by FAMLA in March 2011.



- Amended our existing policies to enhance supervisory review of TSR's, traffic and warning citations.
- Coordinated for mandatory bias policing training with the DOJ.
- Confirmed with the District Attorney's Office that no cases have been dismissed based on a bias policing complaint.
- Updated and distributed officer carry card for factors of reasonable suspicion.
- Re-Accreditation (August 2011).
- Met with Rep. Elmer Floyd in Raleigh.
- Proposed the following policy go into effect January 1, 2012: *Officers shall not request consent to search any vehicle based upon a mere hunch of criminal activity. Although as a matter of law, no such showing is required. Officers shall articulate at least one reasonable factor that the driver and/or occupant(s) may be involved in criminal activity.*
- Implemented training on the revised policy and documentation process developed in RMS.
- As of 1/18/12, 126 in-car camera systems have been installed and 53 more are scheduled to be installed (179 – Total).

*The increase in the number of Citizen Complaints / Contacts concerning Biased Policing can be attributed to many of the same factors mentioned earlier:*

- Increased attention given to the Department's response to "biased policing" complaints.
- WIDU's (local AM radio station) antagonistic coverage of the biased policing debate.
- Emphasis placed on filing complaints by a group of local activists.
- Publication of "how" to file a complaint with the FPD.
- The Fayetteville Observer's coverage of the biased based policing debate.
  - In 2011, the Observer published 46 articles in which the topic of consent searches was discussed. Many of the articles were critical of the Department's response to the biased policing debate.
  - 5 articles in May and 11 articles in September, which bracketed August (high month for incidents in 2011)
- Lack of citizen understanding concerning "search and seizure" law.

Even though there was a significant increase in the number of complaints, I do not recommend a policy change, but I am going to implement a labeling system that allows Bias Based Policing Complaint Files to be more easily identified.

**Police Related Calls for Service**

	2008	2009	2010	2011
Calls for Service	215,797	215,127	225,336	222,136

Once again, the total number of calls for service was over 220,000. The mere fact that the Department only received 151 citizen complaints / contacts is phenomenal.

**Ride-Along Program**

	2008	2009	2010	2011
Ride- Alongs	138	206	235	242

Many ride-alongs are school related, but ultimately that means more students are being exposed to the policing profession and it may spark additional interest in the field, i.e. increased number of job applications.

**PIO / Media Relations**

	2008	2009	2010	2011
Press Releases	295	284	432	823
Facebook Friends			1666	4120
Nixle Subscribers			1200	2167

The Public Information Officer (PIO) position was implemented in 2005 and was assigned to the Office of Professional Standards & Inspections. Since that time, the PIO has played a vital mission in our on-going relationship with the media.

The dramatic increase in the number of press releases can be attributed to having a proactive PIO (MacRoberts) and a desire to promote the Department in a positive light.

In April of 2010, the Department implemented the FPD Facebook, Nixle, and Twitter websites. Since that time, the PIO and other OPS personnel have regularly posted police related updates on the sites. To date, FPDFacebook.com has over 4,120 Facebook Friends and over 2,165 Nixle Subscribers. PIO Grubb left the Department in December 2010 and Gavin MacRoberts was hired in March 2011.

**Employee Turnover**

Turnover Figures	2008	2009	2010	2011
Sworn	22	38	33	26
Non-Sworn	26	14	34	21
Total	48	52	67	47

Why Employees Departed:	Sworn	Non-Sworn

Health / Family / Personal Reasons	3	12
Retired	3	4
Relocation	4	1
Resigned while Under Investigation	7	0
Dismissed	0	0
Career Advancement	6	1
Career Change	2	3
Dissatisfied with Job	0	2
Return to School	0	0
Other	0	0
Total	25	23

Currently we have 26 vacant officer positions or 12%. The next FPD Academy is scheduled to begin in July 2012.

### Early Warning System Review

This is the ninth year since the implementation of the Early Warning System component of the IA PRO software. Thresholds for each investigative category is set at three (3), with an overall threshold of six (6). When an employee reaches the pre-determined threshold, our policy requires that the employee's supervisor contact OPS&I to review all documentation related to the cases listed on the alert in an effort to identify negative performance or behavioral patterns that may need to be addressed. Once the review has taken place, supervisors will submit an administrative memorandum summarizing each case listed on the alert. Supervisors will also articulate whether a formal review with the employee and / or intervention is needed. Options include:

- No additional action
- Informal counseling
- Formal counseling or corrective action
- Formal monitoring
- Mandatory remedial or additional training
- Voluntary or mandatory referral to the Employee Assistance Program (EAP).
- Reassignment

Alert Category	2009	2010	2011	Variance
Departmental	0	3	1	-2
Citizen Complaints	1	0	0	0
Citizen Contacts	7	9	1	-8
Use of Force	28	31	72	+42
Overall Alerts	7	3	34	+31
Total	43	46	108	+62

The increase in Use of Force Alerts and Overall Alerts corresponds with the increased Use of Force incidents. A review of this system indicates that it continues to be a very effective tool for prompting a review into employee behavior providing an additional

resource for use by supervisors to ensure employees are performing consistent with Department Policy. It is recommended that the Department continue to use the current system with no changes needed.

**Promotional / HR Data**

<b>Sworn Officer Promotions (January to December)</b>				
<b>Tested</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Caucasian / Male	33	19	36	0
Caucasian / Female	8	2	6	0
African-American / Male	12	5	11	0
African-American / Female	4	1	1	0
Hispanic / Male	4	0	1	0
Hispanic / Female	0	1	0	0
<b>Total</b>	<b>61</b>	<b>28</b>	<b>55</b>	<b>0</b>
<b>ELIGIBLE</b>				
Caucasian / Male	18	15	18	0
Caucasian / Female	2	1	3	0
African-American / Male	6	5	5	0
African-American / Female	1	1	0	0
Hispanic / Male	3	0	1	0
Hispanic / Female	0	0	0	0
<b>Total</b>	<b>30</b>	<b>22</b>	<b>27</b>	<b>0</b>
<b>PROMOTED</b>				
Caucasian / Male	13	4	3	6
Caucasian / Female	1	0	1	1
African-American / Male	5	2	0	3
African-American / Female	1	1	0	0
Hispanic / Male	2	0	1	0
Hispanic / Female	0	0	0	0
<b>Total</b>	<b>22</b>	<b>7</b>	<b>5</b>	<b>10</b>

\*2011 promotions were based on previous years eligibility lists.

**Grievances - 3**

**Suspensions - 7**

### Pursuit Analysis

The data in the following report is based upon twenty-nine (29) vehicle pursuits reported in 2010. All data and conclusions represented in this report are based solely upon the twenty-nine (29) filed Vehicle Pursuit Reports. (Does this include all internal and summary file pursuits

	2008	2009	2010	2011	Variance
Vehicle Pursuits	31	26	29	46	+17

An analysis of the last three years revealed that the Department has averaged twenty-nine (29) vehicle pursuits per year. In 2011, we had 46 pursuits (35 Pursuit Summary Files and 11 Departmental Investigations), which is a 59% increase in the number of pursuits.

*Nine (9) of the eleven (11) Departmental Investigations are still open, as a result, I am not able to incorporate that data into the findings.*

Reason for Pursuit	2009	2010	2011
Traffic	12	14	19
Stolen MV	5	1	2
B&E	4	1	4
Larceny	2	0	0
Robbery	0	7	2
Suspicious Activity	1	2	5
Check Point Violation	1	0	0
Drug Violations	1	1	0
Weapon Violation	0	1	3
Wanted Person	0	2	1
Loud Music	0	0	1
Total	26	29	37

In 2010, 48% of all pursuits were initiated for traffic related violations and in 2011, that number increased to 51%.

#### Day of Week

	Sun	Mon	Tue	Wed	Thurs	Fri	Sat	Total
2009	6	3	2	5	3	3	4	26
2010	4	2	2	6	7	6	2	29
2011	4	4	6	7	7	5	4	37

Based on the data from the twenty-nine (29) pursuits in 2010, Thursday, followed by Friday and Wednesday were the most prevalent days for pursuit initiation. Sixty-five percent of the pursuits were initiated on those days.

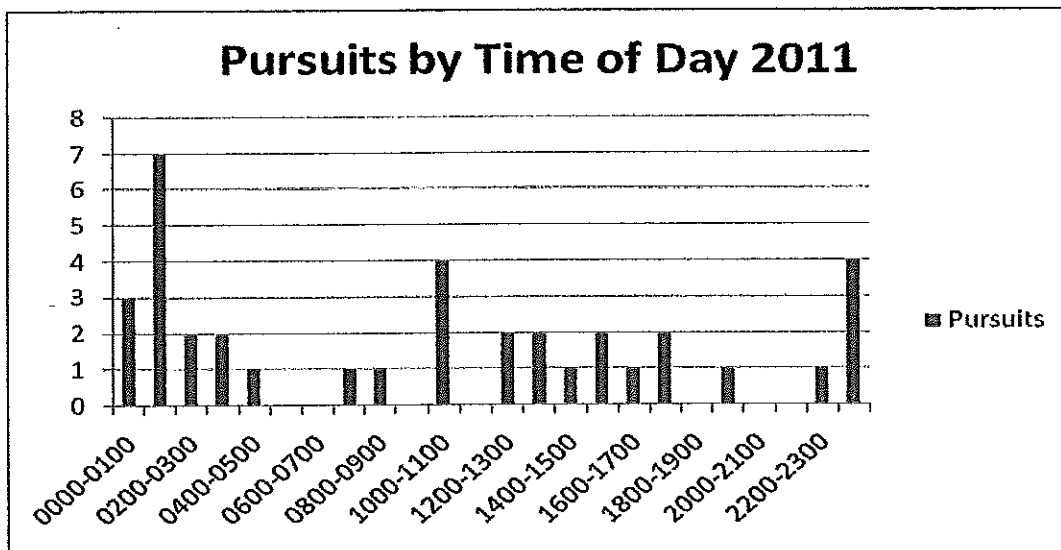
### Weather / Road / Traffic Conditions during Pursuit

In 2011, the majority (92%) of vehicle pursuits took place in ideal conditions (clear weather / dry roads / light traffic). There was only one pursuit that fell into the questionable category of rain / wet roads / moderate traffic, but that pursuit was initiated in reference to a suicidal subject.

### Vehicle Pursuit Speed Data

Taking into account all thirty-seven (37) vehicle pursuits, the top speed registered by a suspect was 150 mph and the top speed registered by a police officer was 125 mph. The average suspect speed for all pursuits was 71 mph and the average officer speed was 67 mph.

### Vehicle Pursuits by Time of Day



Based on the data gathered, 38% of all vehicle pursuits took place between 2300 - 0200 hours: Over half, or 54 % of the pursuits took place in the evening / night hours.

Reason for Pursuit Termination	2009	2010	2011
Suspect Stopped	14	20	26
Accident	8	6	3
Stop Sticks	0	0	2
Officer Terminated	3	1	5
Supervisor Terminated	1	2	1

Total	26	29	37
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At some point, the suspect stopped in 26 of the 37 (70%) vehicle pursuits. Only 7% of all pursuits ended because one or more vehicles were involved in an accident. Only One (1) police vehicle was damaged while participating in a pursuit. Supervisors / officers terminated pursuits in six (6) cases, which is a good indication that both parties are cognizant of their responsibility to terminate a pursuit if the benefits of apprehension do not outweigh the risks of endangering the officer or the general public.

### Property Damage Sustained from Pursuit

	Other Property	Suspect Vehicle	Police Vehicle	Total
<b>2009</b>	\$33,449	\$29,510	\$1,000	\$63,959
<b>2010</b>	\$6,100	\$10,900	\$100	\$17,100
<b>2011</b>	\$5,600	\$15,100	\$50	\$20,750

According to the 2011 vehicle pursuit data, the total amount of damage done to either the suspect vehicle or the police vehicle while engaged in a pursuit increased by 21%. However, damage to police vehicles was at a three (3) year low of \$50.00.

### Apprehensions

Thirty-six (36) suspects were apprehended as a result of vehicle pursuits in 2011. Seventeen (17) suspects successfully avoided apprehension.

### Distance of Pursuit

The longest pursuit in 2011 was 21.4 miles and the shortest was .4 miles. On average, vehicle pursuits lasted 3.4 miles.

Pursuits	Longest	Shortest	Average
<b>2010</b>	28	.4	4.9
<b>2011</b>	21.4	.6	3.4

Distance = Miles

### Number of Vehicle Pursuits by District

	Campbellton	Cross Creek	OSB	Total
<b>2009</b>	19	7	0	26
<b>2010</b>	21	7	1	29
<b>2011</b>	32	2	3	37

86% of all vehicle pursuits were initiated by Campbellton District officers.

## **Vehicle Pursuit Injury Data**

Of the thirty-seven) vehicle pursuits, only 1 or 3.5% resulted in some type of injury.

## **Policy Compliance**

The analysis of the 2011 data revealed that of the thirty-seven (37) pursuits, eleven (11) required a Departmental Investigation be initiated because one of the following factors was present:

Third party injuries

Officer involved collision

Damage to City Property

Damage to third party property over \$1,000 as a result of a vehicle collision

Violation do departmental policy by any officer involved in the pursuit

In three (3) of the ten (10) incidents, officers were found to be in violation of Departmental Policy and five (5) of the ten (10) pursuit investigations are still open. Thirty (30) pursuits were investigated and reviewed as a Pursuit Summary File. (1 – officer exonerated / 1 – pursuit quashed)

## **Recommendation**

The pursuit analysis did not identify any patterns or practices that would cause concern regarding the pursuits that occurred. The current pursuit policy does not require any additional changes at this time. Although the overall number of pursuits increased by 59%, there were no huge increases in any one category, indicating a policy change is not needed, but an awareness presentation may be needed to ensure the command staff is aware of the increase.

In an effort to reduce the number of accidents while officers are involved in a pursuit and/or every day driving, the Training Unit has coordinated a 4-hour Defensive Driving Class for all sworn employees in 2011. The class will be taught by Risk Management employees.

Throughout 2011, the majority of all patrol vehicles were equipped with in-car camera systems, which should assist with the pursuit review process, i.e. vehicle speed, officer actions, etc.