

BART Police Use of Force Annual Report

2022

This report contains data and analysis of reported use of force incidents compiled by the Operations Bureau.

Report Content

Use of Force Policy 300.9 requires the following:

At least annually, the Operations Bureau Deputy Chief should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police, the Office of the Independent Police Auditor, and the BART Police Citizen Review Board. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.*
- (b) Training needs recommendations.*
- (c) Equipment needs recommendations.*
- (d) Policy revision recommendations.*

This report will also incorporate the following statistics as they relate to the above topics:

1. Types of force used
2. Cause for use of force
3. Service being rendered at time of use of force
4. Suspect custody status
5. Suspect injuries
6. Officer injuries

Year in Review

While 2020 and 2021 were defined by the COVID lockdowns and civil unrest over social justice issues, 2022 was still very much impacted by the pandemic but in very different ways. Transit ridership began to recover bringing additional riders back to the system along with increased calls for service and crime-rates. Acts of community violence continued to increase nationally from the prior year, reaching levels not seen since the 1990's. The widespread abuse of controlled substances in the communities served by BART created an environment where the side-effects of the illegal narcotics trade (such as carrying illegal weapons, increased incidents of violence and unpredictable behavior, trespassing in restricted areas, and medical emergencies resulting from drug overdoses) created frequent emergencies that required police intervention. During 2022, BART Police employees administered NARCAN to attempt to save lives in 118 different incidents. This was a 24% increase in NARCAN incidents compared to 2021. The impact of these various outside influences is not directly measurable in the rate of law enforcement use of force, but still must be considered as environmental factors when evaluating the use of force outcomes for the BART Police Department.

During 2022 the BART Police Department continued to put greater focus on progressive policing strategies such as increased efforts to divert calls for service away from response by an armed police officer when appropriate, increased use of crisis intervention, increased partnerships for

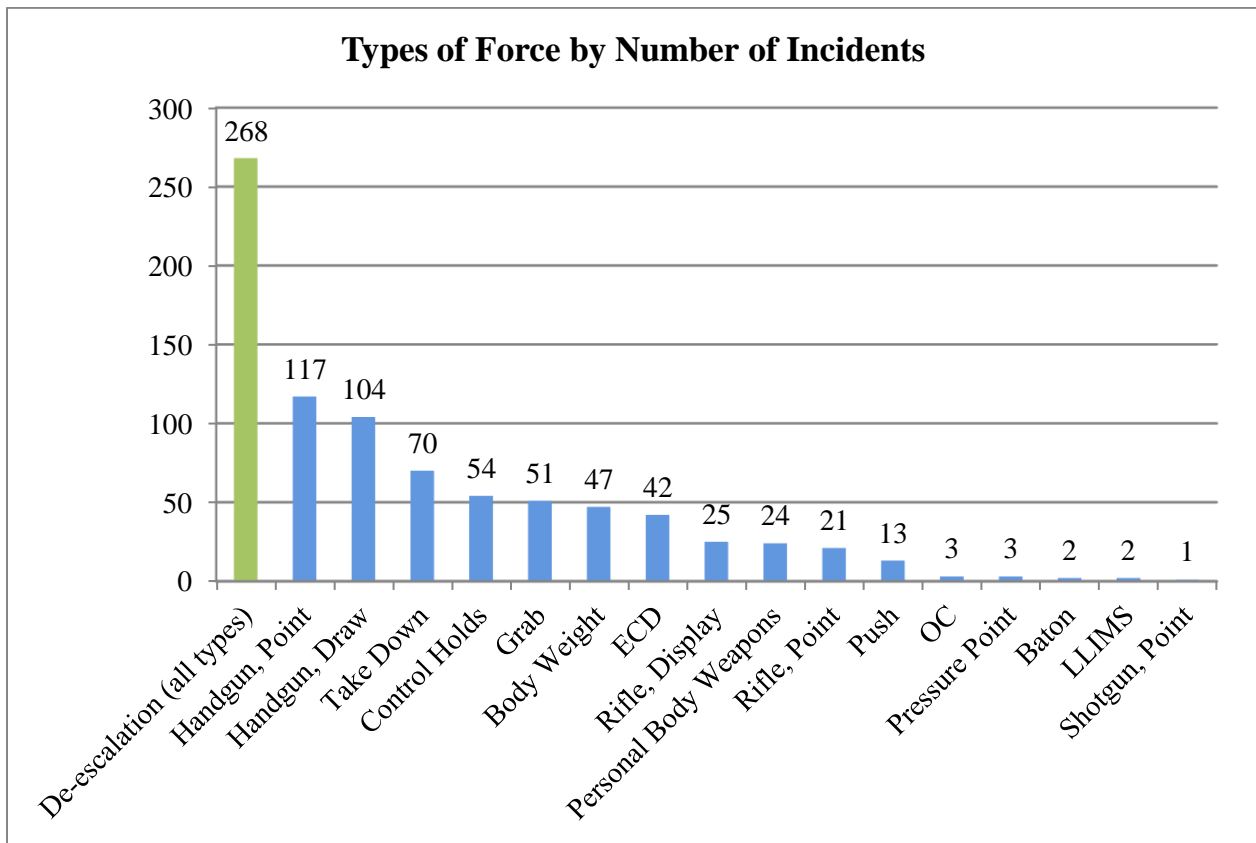
community engagement and outreach, and continued use of de-escalation tactics. The actions included:

- Continued the implementation and staffing for the Progressive Policing and Community Engagement Bureau (PPCEB) including adding a second civilian supervisor to the unit.
- Published the Progressive Policing and Community Engagement Bureau Policy (Policy 411) which provided guidelines for sworn and civilian staff assigned to the PPCEB.
- Provided training to sworn and civilian staff on topics such as crisis intervention and de-escalation training, and mental health first-aid.
- Provided an update to the BART Board of Directors on the Progressive Policing and Community Engagement Bureau. Data showed that unarmed civilian staff from the PPCEB had diverted calls for service from requiring response by sworn staff.
- In October 2022, the California Department of Justice awarded a grant for \$279,367 to enable Crisis Intervention Specialists in the PPCEB to address the mentally ill or drug-addicted individuals on trains and in stations through collaboration with our partner, La Familia. The Crisis Intervention Specialists deter and diffuse acts of violence and vandalism through the use of conflict-resolution and de-escalation techniques. CISs self-initiate contacts and respond to welfare checks for people who are struggling with mental health challenges, substance abuse, lack of shelter or housing, or other personal crises. The Department's efforts in this area build connections in the communities served by BART and highlight the Department's emphasis on community engagement and collaboration.

REPORT TOPIC: TRENDS IN THE USE OF FORCE

In 2022, there were 319 reported incidents that involved an officer’s use of force. This was a 31% increase from 244 incidents reported in 2021. It should be noted that each use of force included in this report was given a thorough review through the chain of command, was subject to independent civilian review, and the use of force by officers is also included as one of the factors considered in the Department’s Early Warning System for employee performance. Overall, employees of the BART Police Department use force infrequently to accomplish their duties. This is demonstrated by the fact that during 2022 there were 82,337 incidents recorded in the Computer Aided Dispatch (CAD) system which equals a ratio where only 1 out of every 258 incidents resulted in a documented use of force investigation by a supervisor.

The data on the chart below counts the total reported number of incidents that involve each type of force used, but not the number of times that force was applied in each incident. This method of reporting gives a better overall comparison of the types of force used in incidents without duplicating the count of force options based on the number of officers who were present at any incident. (The total count of individual force types used is included in a subsequent section of this report.)



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The use of de-escalation, while not a use of force, is included in the summary of the types of force used (and is depicted in the above graph with a green bar summarizing the different types of de-escalation). The BART Police Department utilizes the BlueTeam data collection software which captures the de-escalation statistics only when there is a use of force investigation by a supervisor. As a result, the data set that the BlueTeam software records does not fully capture every instance when a BART Police Officer employs a de-escalation tactic. For example, there are many instances where de-escalation is used that result in no force used by the officer and no BlueTeam entry generated by a supervisor. Therefore, not all de-escalation used by officers is captured in this use of force data. BART Police Officers use de-escalation tactics frequently to successfully resolve situations without a use of force during their normal course of duty; this is essentially a “blind-spot” in the use of force statistics. Another potential area for improvement in use of force data collection is to better define what tactics constitute a use of de-escalation and train supervisors to record de-escalation in a more consistent manner to better record comparable data.

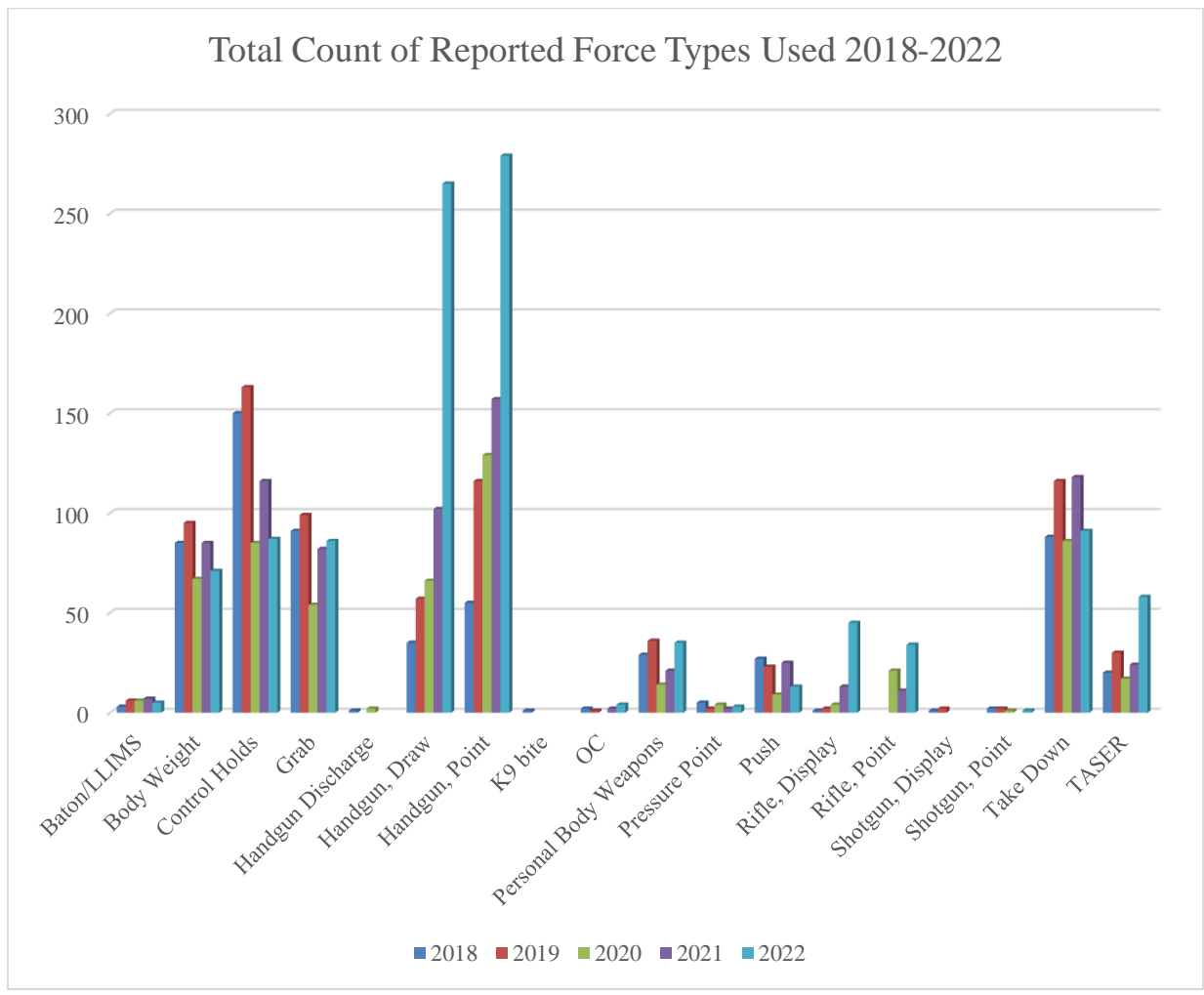
The following table shows the total number of times, including multiple uses in a single incident, that each type of de-escalation was used during 2022. As mentioned above, these figures also do not include de-escalation that was used in incidents that did not result in a use of force. The overall use of de-escalation recorded in BlueTeam did not change compared to the data from 2021 (there were 266 recorded incidents of de-escalation in 2021).

2022 De-escalation	
Verbal Techniques	158
Tactical Techniques (time, distance, etc.)	89
Crisis Intervention Techniques	21
Total uses of de-escalation	268

A potential area for improvement in the analysis of use of force data is to find a way to compare incidents where force was used with similar types of incidents where force could have been used but was not. If possible, future work with stakeholders should go beyond basic use of force counts and explore a deeper comparison of similar incidents to look at the contributing factors that determine why force is used (also known as a causal inference analysis). The BART Police Department will seek to include this type of analysis for future use of force review, if possible.

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The following data compares year to year reported totals of the types of force used. For 2022 there were zero incidents in the categories discharge of firearms or K9 bites, but there was a significant increase in the number of incidents involving drawing or pointing handguns. There has been a significant increase in incidents involving suspects who are armed, or reported to be armed, with weapons which results in more officers needing to tactically deploy firearms and therefore an increase for the total count of force types used. It should also be noted that the reported number of rifle display incidents increased as the Department increased the deployment of patrol rifles. Patrol rifles are generally a safer weapon to deploy as the risk of weapon confusion is eliminated, accuracy is improved, and the risk to bystanders from errant projectiles is reduced.

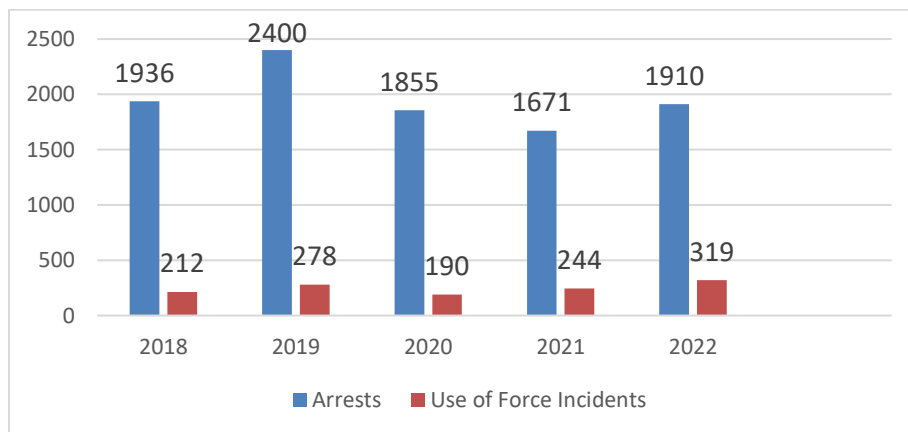


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The following data shows a five-year comparison of the reported number of use of force incidents per month. There were 75 more incidents reported in 2022 over 2021. The total number of incidents in 2022 is higher than both the mean and median average number of incidents of the past five-years (mean = 249, median = 244).

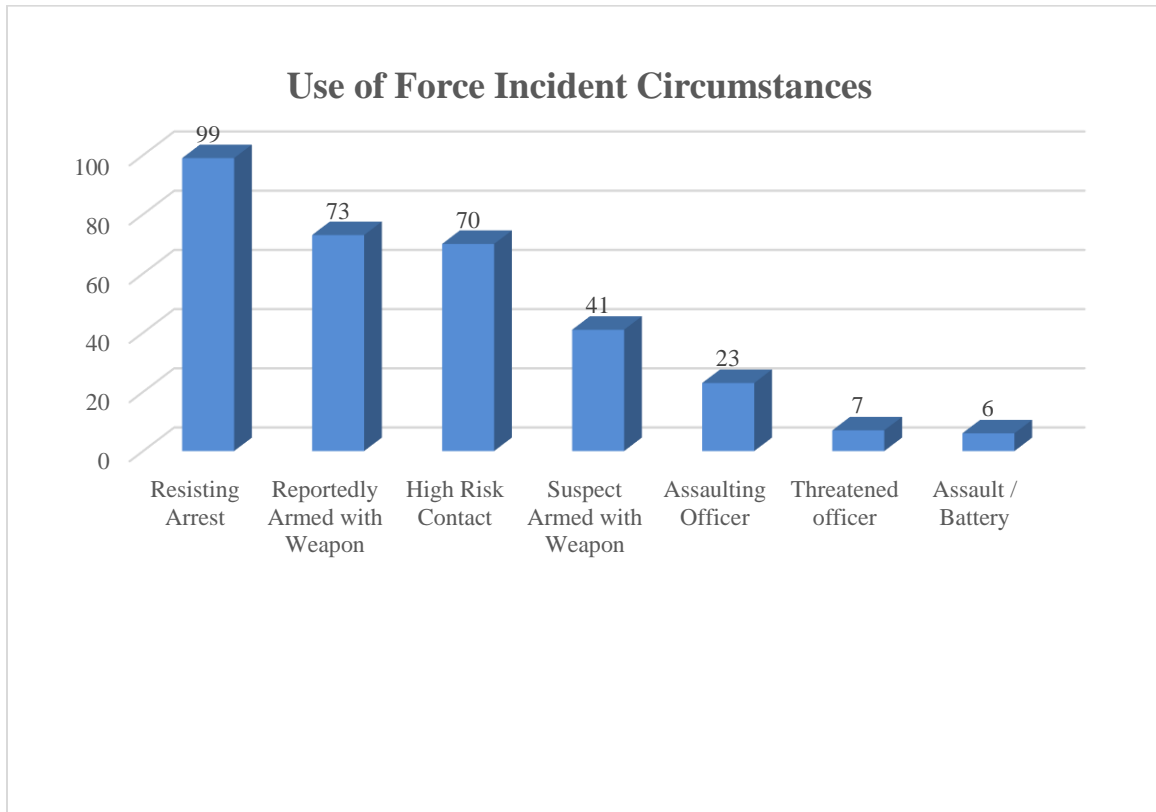
Annual Summary of Use of Force Incidents by Month												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2022	28	18	28	17	22	36	22	38	27	32	30	21
YTD 2022	28	46	74	91	113	149	171	209	236	268	298	319
2021	25	13	22	18	23	16	16	8	24	26	24	29
YTD 2021	25	38	60	78	101	117	133	141	165	191	215	244
2020	21	26	13	10	21	11	13	12	14	17	13	19
YTD 2020	21	47	60	70	91	102	115	127	141	158	171	190
2019	27	21	16	31	20	19	28	26	28	20	17	25
YTD 2019	27	48	64	95	115	134	162	188	216	236	253	278
2018	20	10	21	14	15	15	16	18	23	15	19	26
YTD 2018	20	30	51	65	80	95	111	129	152	167	186	212

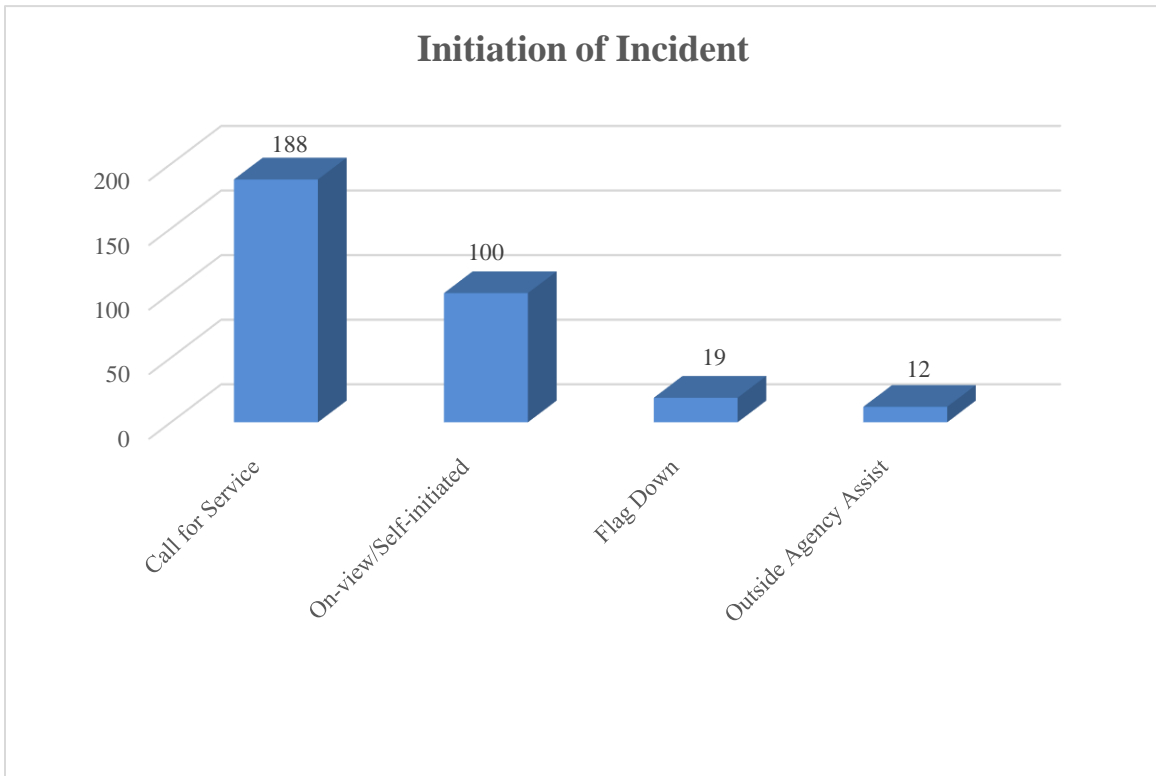
The following data shows the total number of arrests compared to the number of use of force incidents. While the number of arrests during COVID decreased year to year in 2020 and again in 2021, the number of arrests in 2022 returned to levels similar to 2018. The 5-year data indicates that there is a weak correlation between arrest numbers and use of force incidents (a correlation coefficient of +0.31981). In 2022, there was one reported use of force for every 5.98 arrests which was slightly more frequent than the 5-year average of one reported use of force per 8.07 arrests.



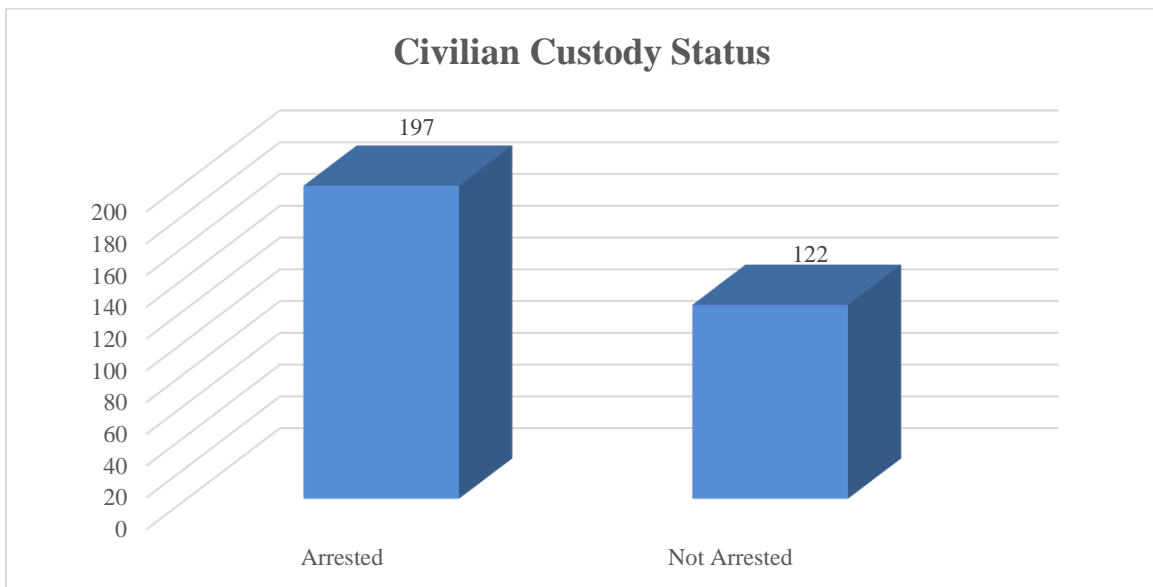
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The following graph shows the circumstances involved in use of force incidents. Each incident may have multiple contributing factors. The most common element in use of force incidents is resisting arrest which was reported in 31% of the uses of force. It should also be noted that the use of force data indicated that incidents involving armed suspects increased by 46% over 2021. The discovery of illegal firearms increased from 21 firearms recovered in 2021 to 40 firearms recovered in 2022. Incidents involving knives and edged weapons were also a common occurrence in 2022.

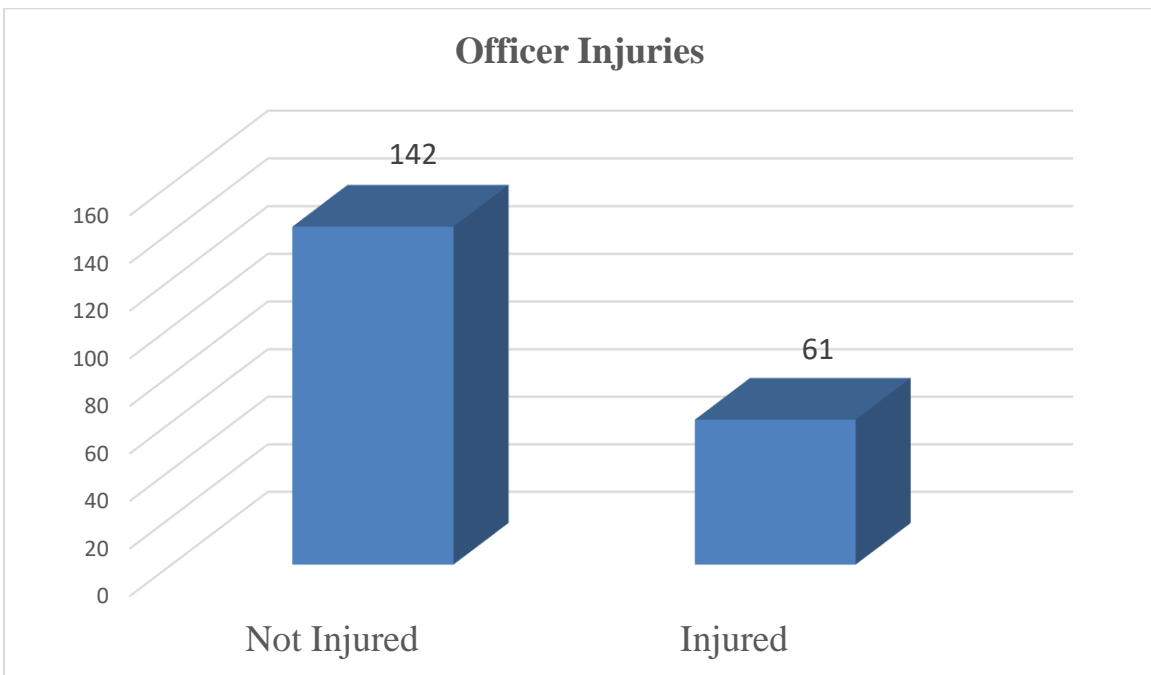
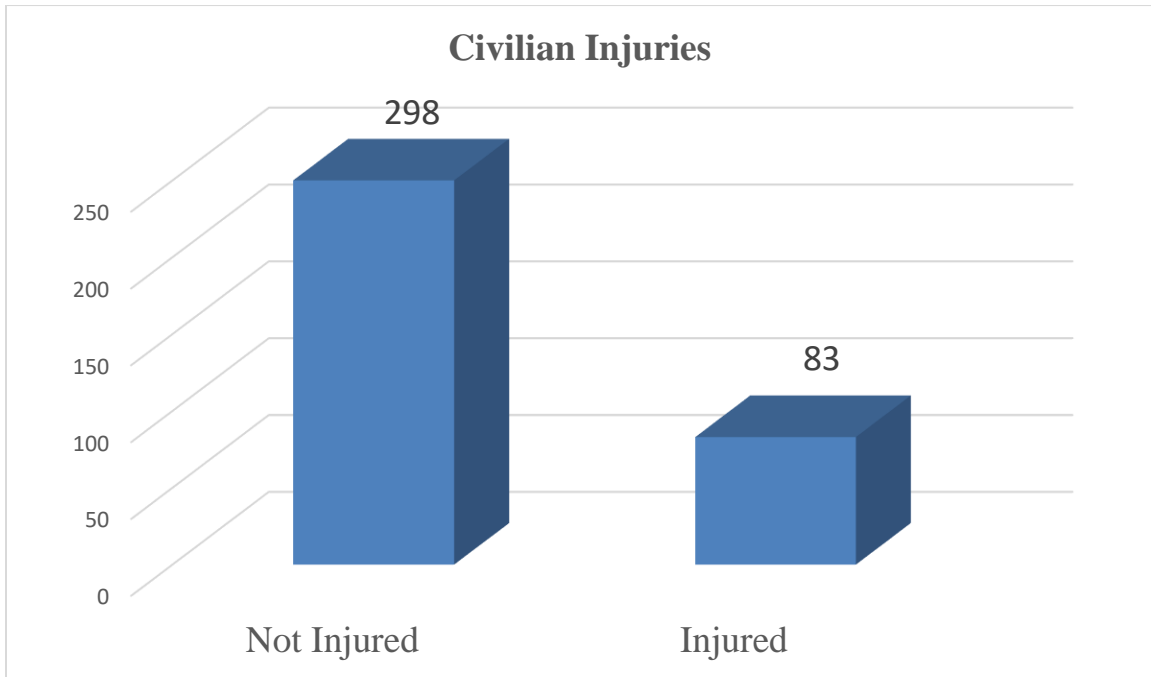




Officers on-viewed/self-initiated contacts in 100 out of the 319 incidents that involved a reported use of force. This was 31% of the total number of incidents.



Note: Reasons for not arresting a person upon whom force was used include psychiatric detentions, or the detention of a person who is later released without criminal charges (such as the investigative detention of a passenger involved in a high-risk car stop or other situations involving a reportable use of force, including incidents where the only force used is the display of a weapon).



Note: Between 2021 and 2022, reported injuries in reported use of force incidents to both community members and officers increased. Community member injuries increased from 57 to 83 and officer injuries increased from 45 to 61. Based on the number of individuals involved in use of force incidents, 78% of civilians and 70% of officers reported no injury as a result of the use of force. The term injury refers to any visible injury or complaint of injury/pain, whether or not medical care was required.

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Demographics from Use of Force Incidents

Age Groups of Involved Persons	Number of Persons	Percentage
under 20	80	21.1%
20 - 29	118	31.1%
30 - 39	104	27.4%
40 - 49	50	13.2%
50 - 59	20	5.3%
60 and up	8	2.1%
Total	380	

Ethnicity/Gender of Involved Persons	Number of Persons	Percentage
Black Male	181	47.6%
Hispanic Male	64	16.8%
White Male	51	13.4%
Black Female	38	10.0%
Hispanic Female	12	3.2%
Other Male	11	2.9%
Asian Male	7	1.8%
White Female	6	1.6%
Other Female	3	0.8%
Pacific Islander Male	2	0.5%
Middle Eastern Male	2	0.5%
Pacific Islander Female	1	0.3%
Non-binary / Transgender	1	0.3%
Indian Male	1	0.3%
Asian Female	0	0.0%
Total	380	

There were 380 persons associated with the 319 use of force incidents that were reported in 2022. This difference in numbers is because some of the use of force incidents involved more than one subject upon whom force was used (including incidents where the force used was drawing or pointing a weapon at a person who was being detained with no physical force applied to the person). An analysis of the data determined that there were eleven individuals during this reporting-period who were each involved in more than one use of force incident. The demographic breakdown of those individuals who were involved in more than one incident was: seven Black Males, two White Males, one Asian Male, and one Black Female.

Black Males account for 47.6% of the persons upon whom force was used, this is an increase of two-tenths of one percent from the data for 2021. The next most frequent persons upon whom force was used were Hispanic Males (16.8%), White Males (13.4%), and Black Females (10%). For reference, the most recent BART customer service demographic survey conducted in 2022 reported the following breakdown of riders; White 33%, Hispanic 22%, Black 12%, Asian/Pacific Islander 26%, all other 8%. It should be noted that the incidents handled by the BART Police Department frequently involve people who are not passengers and therefore are not reflected in the demographic survey of BART riders. Persons who are in areas such as the free area of stations, station parking lots and pedestrian plazas, BART maintenance facilities, and locations outside of BART are not counted in the BART demographic survey although many

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of the use of force incidents occur in these areas. The discrepancy means that the survey demographics do not necessarily represent the community of persons who interact with the BART Police Department.

To examine the disparity in the use of force outcomes for Black Males, the following tables were prepared. The tables analyze the use of force data for Black Males reporting the reason that force was used, community member role, and the force types by the age of the citizens.

Use of Force Reason (Black Males)	
Reportedly Armed with Weapon	52
Resisting Arrest	43
High Risk Contact	42
Suspect Armed with Weapon	27
Assaulting Officer	11
Threatened Officer	6
Assaulting Citizen	2

Community Member Role in Incident (Black Males)	
Arrestee	111
Detainee	74

Force Type and Age Demographics (Black Males)							
	<20	20-29	30-39	40-49	50-59	60-69	Grand Total
Handgun, Draw	27	19	19	5	8	1	79
Handgun, Point	18	20	23	6	7		74
Take Down	4	7	10	8	1	1	31
Body Weight	2	7	12	4	4	1	30
Control Holds	2	13	7	6	1		29
ECD		5	8	7	2	2	24
Grab	1	9	8	4	1	1	24
Rifle, Display	6	3	4	3	2		18
Rifle, Point	7	4	4	1			16
Personal Body Weapons		3	5	2	1		11
Push		1	4	1		1	7
Pressure Point		1		1			2
Baton/LLIMS	1			1			2
OC		1					1
Shotgun, Point		1					1
Grand Total Persons	38	51	53	22	14	3	181

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De-escalation and Age Demographics (Black Males)							
	<20	20-29	30-39	40-49	50-59	60-69	Grand Total
De-escalation (CIT)		4	4	3	2		13
De-escalation (Tactics)	9	10	8	4	2		33
De-escalation (Verbal)	7	18	15	6	5	1	52

While a full analysis of the factors driving the disparity in use of force upon Black Males is beyond the scope of this report, the data above indicates several areas where the Department could focus to ensure that force is being applied in a manner that is compliant with the Constitution, law, and Department policy.

- “Resisting Arrest” is the most commonly reported reason for use of force for all persons and is the second most common reported reason for Black Males. In many cases the involved person’s resistance is beyond the control of the officers, but this is an area that could benefit from training and community outreach focused on building trust and legitimacy for law enforcement. Trust and legitimacy are essential to gain the cooperation of community members, and this is an area in which the Black community’s history of oppression works against the development of effective relationships with law enforcement.
- The categories of “Reportedly Armed with Weapon” and “High Risk Contact” are the second and third most commonly reported reason for the use of force for all persons. For Black Males, these are the first and third most commonly reported reasons associated with use of force. Again, the circumstances of a situation which is reported to the BART Police Department for investigation are mostly outside of the control of the involved officers, but providing additional training on topics such as implicit bias may have positive results in ensuring that employees do not incorrectly categorize Black Males as “high risk” in situations where other persons would not be seen in the same manner. The “Tactics” component of the Department’s ICAT and scenario-based training also provides an opportunity to reduce the level of force used in these types of scenarios by implementing sound tactics that reduce the need to use force.
- Persons between the ages of 20-29 and 30-39 account for the majority of persons who are involved in reported use of force incidents. For Black Males, the age-groups under 40-years account for 78% of the reported use of force incidents. Community outreach should focus on persons in this age-range to build trust and develop better relationships to help reduce conflict and misunderstanding that may contribute to an increased use of force.

As mentioned in prior reports, the BART Police Department voluntarily participated in a multi-year study conducted by the Center for Policing Equity (CPE) to examine policing practices and behavior as part of the National Justice Database (NJD) project. The study includes extensive data of law enforcement contacts over multiple years (2012-2017) and a rigorous analysis of the data. The results of the study were released in early-2020 and showed racial disparities between persons who are subjected to uses of force. While the report found evidence of racial disparities, CPE also included the following statements to put those findings in context.

...Disparities do not necessarily indicate that police officers have engaged in biased or discriminatory behavior. Disparities in rates of police contact and the outcomes of this contact

mean that racial groups in California's Bay area have different experiences of BART PD policing. This is important to measure, as these differences can represent pain points for communities. Factors outside of a department's control (e.g. poverty and crime rates) contribute to disparities. Measuring these factors can help infer what portion of the disparity is likely related to officer behavior and/or departmental policies and practices.

...By participating in CPE's National Justice Database, and various reports and CPE initiatives, BART PD has shown itself to be a leader in its commitment to advancing equitable policing outcomes. BART PD initiated the partnership with CPE and has participated with courage and transparency, knowing that disparities would be found. CPE commends BART PD for their proactive, and ongoing participation in enhancing equity, and encourages BART PD to undertake additional steps to enhance their commitment to fair and equitable policing.

The report also contains the following information about CPE's explanations for racial disparities in policing:

National Justice Database Analytic Framework

The NJD analytic framework aims to distinguish among five broad types of explanations for racial disparities in policing, all of which are likely to play some role in producing racial disparities in BART PD, as elsewhere:

- 1) **Individual characteristics or behaviors:** individual attributes or behaviors that may lead to interactions with law enforcement, such as mental health challenges, homelessness, or participation in criminal activity.*
- 2) **Community characteristics:** neighborhood conditions, such as poverty or high crime rates, that may result in higher rates of interaction with law enforcement.*
- 3) **Individual officer characteristics or behaviors:** Some officers may view members of certain communities with a higher level of suspicion, resulting in a disproportionate rate of stops or more punitive disposition after the stop for these individuals*
- 4) **Departmental culture, law, or policy:** institutional policies, practices, or norms may increase law enforcement contact with some members of the population more than others. For example, officers may be deployed to patrol some communities more intensively than others. Moreover, police departments may be constrained by federal, state, or local laws that may contribute to disparate interactions with individuals and communities.*
- 5) **Relationships between communities and police:** Mistrust of law enforcement can reduce community members' willingness to cooperate with police. Similarly, a sense that communities do not trust or respect police may cause officers to feel unsafe or defensive in some neighborhoods.*

REPORT TOPIC: TRAINING

The Department presented the following training in 2022 to improve professionalism, customer service, and community relations:

Advanced Officer Training - 2022	
Emergency Vehicle Operations (EVOC)	4 hours
Patrol Rifle Update	2 hours
Lowlight Firearm Training	2 hours
Use of Force (PSP)	4 hours
Defensive Tactics	4 hours
Taser 7, Body 3, and Signal Side Arm Training	10 hours
Handgun Training/Qualification	4 hours
Less Lethal Impact Munitions (LLIMS)	4 hours
Lowlight Patrol Rifle Update and Qual	4 hours
Legal Update: Positional Asphyxia	1 hour
POST Portal Vehicle Pursuit Policy	2 hours
Dispatcher Training - 2022	
Crisis Intervention Training for Dispatchers	8 hours
Post Traumatic Stress Disorder and Traumatic Brain Injury	2 hours
POST Stress Management Training	2 hours
POST Strategic Communications Training	4 hours
Non-Sworn Training - 2022	
Mandatory OC Certification/Refresher (CSO, FIO, RPG, CIS, Ambassador)	4 hours

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Based on the annual CALEA review of use of force incidents and officer assaults in 2022, the following training is recommended:

- The department should continue the curriculum in the training plan which includes perishable skills training involving de-escalation, tactical communication, and defensive tactics skills. Increasing officers' competency in these areas will assist with making good use of force decisions during the dangerous and rapidly evolving situations encountered. The department should also ensure that all personnel listed in the training plan attend Crisis Intervention Training to catch-up with training requirements that were delayed due to COVID-related limitations on the availability of approved training courses.
- The Department is now training employees on a POST-approved arrest control and defensive tactics system known as "Gracie Survival Tactics" (GST). GST is a system based on the Jiu-Jitsu discipline of martial arts with an emphasis on techniques that provide an easy to learn system designed to help officers humanely prevail against larger and stronger opponents. The GST program is based entirely on leverage, timing, and efficient use of energy so that the techniques can be successfully applied by anyone against a larger/stronger subject in the field. The techniques are designed to minimize injuries to officers and civilians while also giving the officer increased confidence in their ability to safely control violent subjects. The concept of de-escalation is core to the GST system and provides force options that are consistent with the Department's policy of minimal reliance on the use of force to accomplish lawful objectives.
- The Department should provide line-up training to employees on the trends and patterns of officer assaults to improve officer safety through awareness of the issues that may increase risk and allow for improved decision making and tactics.

The Department will also continue to work through the Progressive Policing and Community Engagement Bureau to identify community engagement opportunities to build stronger ties with the people in the communities we serve.

REPORT TOPIC: EQUIPMENT AND POLICY

Between January and February 2022, the BART Police Department distributed upgraded body worn cameras, implemented cloud-based evidence storage, and upgraded the Department's conducted energy weapons (CEWs) for less lethal force options. The new equipment replaced legacy equipment that was at the end of its serviceable life and established fixed costs for the equipment and services for the next ten years. The new agreement provides the following benefits for public safety and efficient operations.

- Enhance transparency with a new generation of body worn cameras offering higher resolution, a wider field of view and better sound quality.
- The new CEWs will automate the data upload process to enable the Department to better track the data associated with CEW activations.
- Replace existing equipment that has reached the end of its serviceable life and provide ongoing replacements of existing equipment (replacement of all body worn cameras every 2.5 years and all CEWs every 5 years).
- Provide updated training for the new equipment and an unlimited supply of electronic training cartridges and targets to assist with better in-service training for force options.
- Consolidate all related software license and storage contracts into a single agreement.

The new body worn cameras maintained the increased one-minute buffering period, including audio recording during the entire buffering period, which was implemented in late 2020. The outcome from the adjustment to the policy language for the increased buffering period demonstrated that late or missed activations were reduced, resulting in fewer use of force incidents with missing video, and fewer policy violations for late activations. This is helpful for use of force investigations by reducing the number of incidents that were missing video and provides additional information to determine whether the uses of force were within policy.

The Department will continue to work with the Office of the Independent Police Auditor (OIPA) and the BART Police Citizen Review Board (BPCRB) to review the policies and practices of the Department and identify areas for improvement. During 2022, the Department worked with these stakeholders to improve the use of force review process with adjustments to the force-type categories. These adjustments were implemented at the beginning of 2023 and will be evaluated in the next reporting period.