BART Police Use of Force Annual Report

2019

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

Report Content

Use of Force Policy 300.9 requires the following:

At least annually, the Patrol Division Commander 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

A significant revision was made to the Use of Force Policy in 2017, through the collaborative efforts of the Department, the BART Police Citizen Review Board, The Office of the Independent Police Auditor, and the BART Police Officers and Managers Associations.
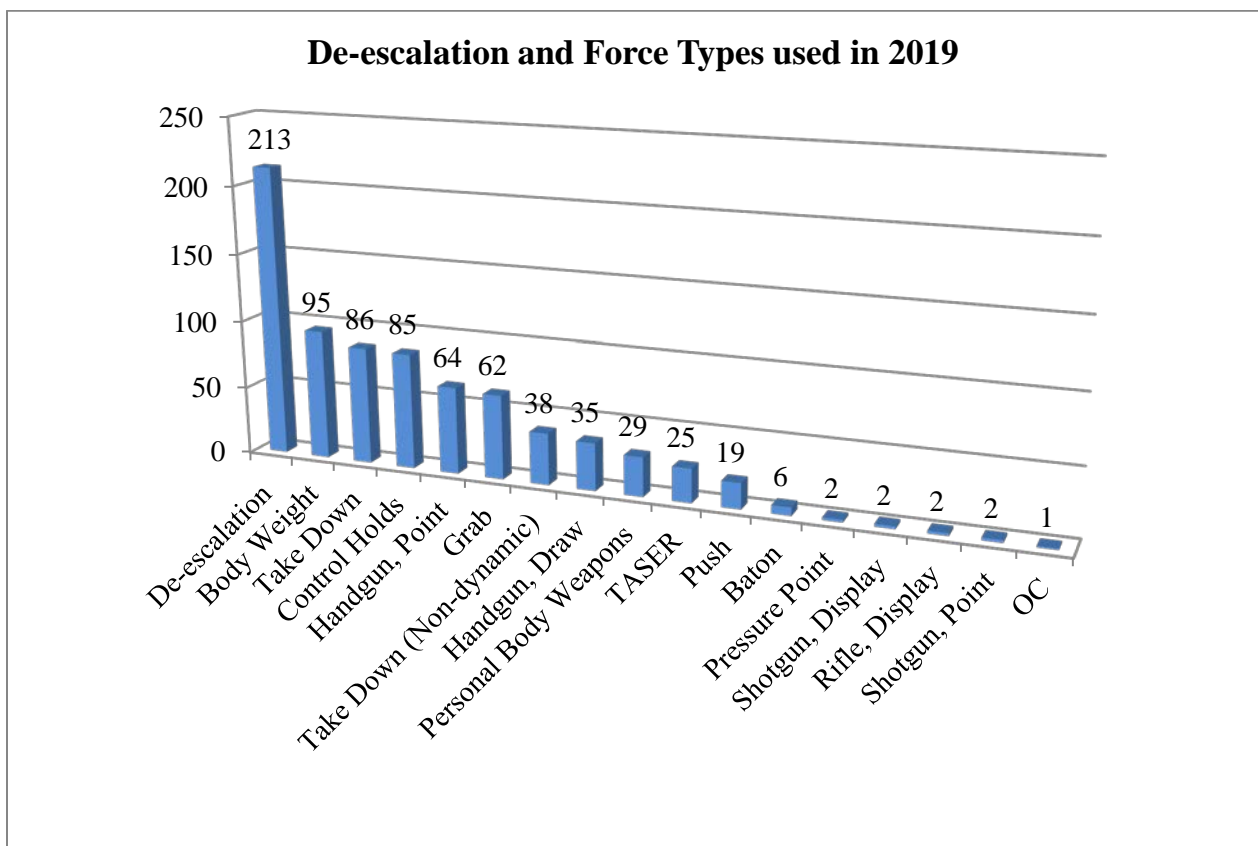
The policy revision included the following:

- *Officers shall use de-escalation techniques whenever feasible and appropriate: to potentially reduce or eliminate the need to use force; and to prevent injuries to the subject, the public and the officer(s). Use of de-escalation techniques must allow for the fact that officers are often forced to make split-second decisions, with limited information, and in circumstances that are tense, uncertain and rapidly evolving.*

In order to document use of de-escalation techniques, the Department created a "de-escalation" category in the BlueTeam database. In all cases when a supervisor investigates a use of force incident, the supervisor is tasked with reviewing whether de-escalation was used. If de-escalation was used, the supervisor selects the de-escalation option, similar to selecting a force option. The BlueTeam database can then search and report on de-escalation. It should be noted that BlueTeam incidents are created only when force was used and investigated. There are many instances when de-escalation was employed and there was no force used by the officer. Such instances do not

generate a BlueTeam entry, therefore not all de-escalation is captured in this data. Our officers use de-escalation tactics frequently during the normal course of duty.

Documenting de-escalation in use of force incidents has been a relatively new process for supervisors in 2018 and continuing in 2019. Supervisors are becoming more consistent in documenting de-escalation in BlueTeam, however there's still room for improvement. There are still instances when the use of force review is sent through the chain of command to the Patrol Operations Deputy Chief, and de-escalation is not documented until the end of the review process.

REPORT TOPIC: TRENDS IN THE USE OF FORCE

De-escalation and Force Types used in 2019

Category	Value
De-escalation	213
Body Weight	95
Take Down	86
Control Holds	85
Handgun, Point	64
Grab	62
Take Down (Non-dynamic)	38
Handgun, Draw	35
Personal Body Weapons	29
TASER	25
Push	19
Baton	6
Pressure Point	2
Shotgun, Display	2
Rifle, Display	2
Shotgun, Point	2
OC	1

In 2019, there were 277 incidents that involved an officer(s) use of force.

In prior years, the above chart showed the total number of times that each force option was used. For instance, if two officers both used a control hold in one incident, the number reported above would be "2." Beginning with this year's report, the above chart shows an incident count only. For instance, if two officers used a control hold in one incident, the number reported above is "1." This method of reporting gives a better comparison of force types being used from incident to incident.

The above data shows that the most frequently used option is de-escalation. The three next most-used options are body weight, take down, and control hold. This data appears to reflect our objective of using minimal force.

De-escalation options are further divided into categories of crisis intervention techniques (CIT), verbal techniques, and tactical techniques. One incident may involve multiple de-escalation techniques. De-escalation techniques in 2019 are as follows:

2019 De-escalation	
Verbal Techniques	163
Tactical Techniques (time, distance, etc.)	90
Crisis Intervention Techniques	16
Total	269

The following data compares year to year totals of the types of force used. The data shows that the comparative proportions of force options are similar from year to year.
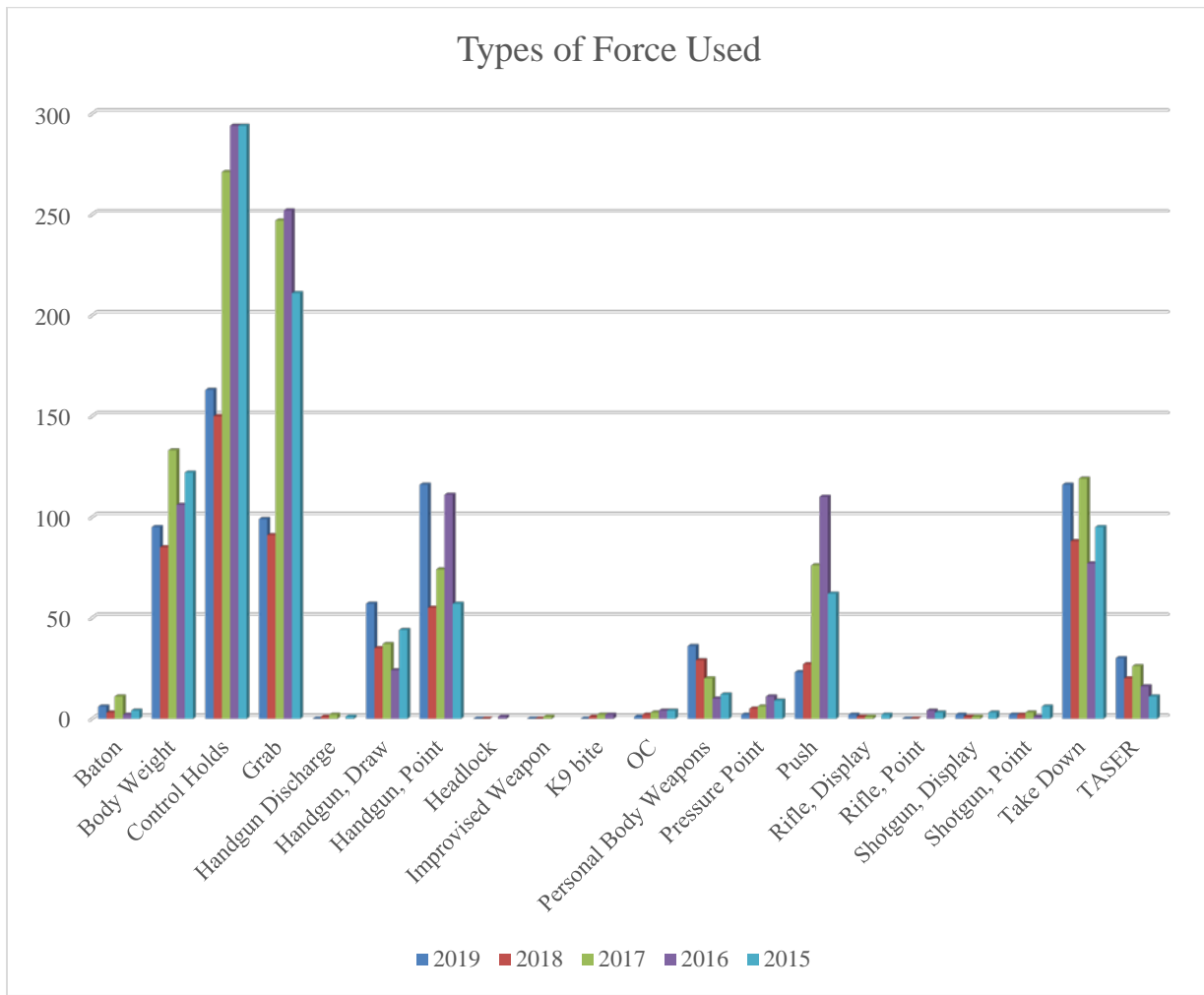
The following data shows an increase in the number of use of force incidents from 2018 to 2019; however there were more arrests made in 2019. There were fewer use of force incidents in 2019 than 2015, 2016, or 2017.

Use of Force Incidents - 2019

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2019	27	21	16	31	20	19	28	26	28	20	15	25	276
YTD 2019	27	48	64	95	115	134	162	188	216	236	251	276	

Use of Force Incidents - 2018

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2018	20	10	21	14	15	15	16	18	23	15	19	26	212
YTD 2018	20	30	51	65	80	95	111	129	152	167	186	212	

Use of Force Incidents - 2017

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	30	31	33	36	28	35	23	22	25	22	13	16	314
YTD 2017	30	61	94	130	158	193	216	238	263	285	298	314	

Use of Force Incidents - 2016

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2016	37	24	32	13	24	31	30	20	14	20	29	22	296
YTD 2016	37	61	93	106	130	161	191	211	225	245	274	296	

Use of Force Incidents - 2015

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2015	17	19	34	20	24	22	30	29	30	28	33	27	313
YTD 2015	17	36	70	90	114	136	166	195	225	253	286	313	

The following data shows that the number of arrests steadily increased over the last 5 years; however, use of force incidents have not increased proportionally. The reduction in use of force can be attributed to de-escalation.
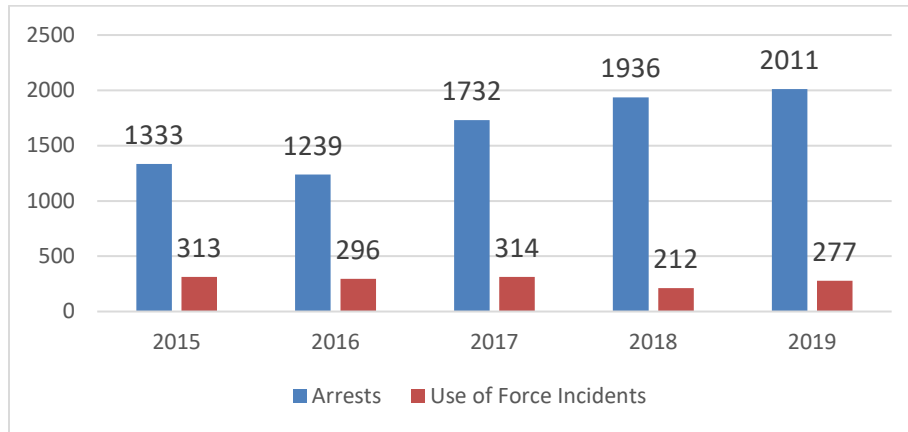

The following graph shows the circumstances involved in use of force incidents. Each incident may have multiple contributing factors. The most common element in use of force incidents is resisting arrest.

Initiation of Incident

Call for Service	124
On-view/Self-initiated	119
Flag Down	27
Outside Agency Assist	6
Off-duty Enforcement	1

Suspect Custody Status

Arrested	207
Not Arrested	70
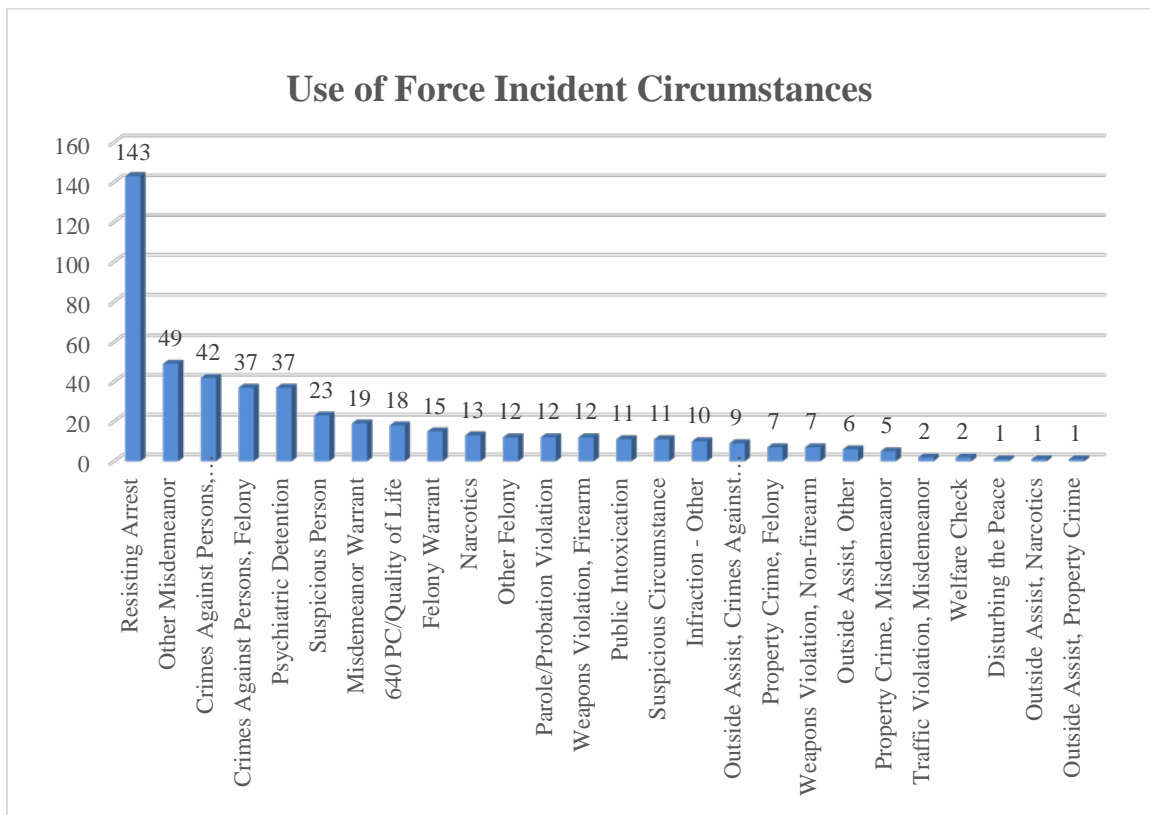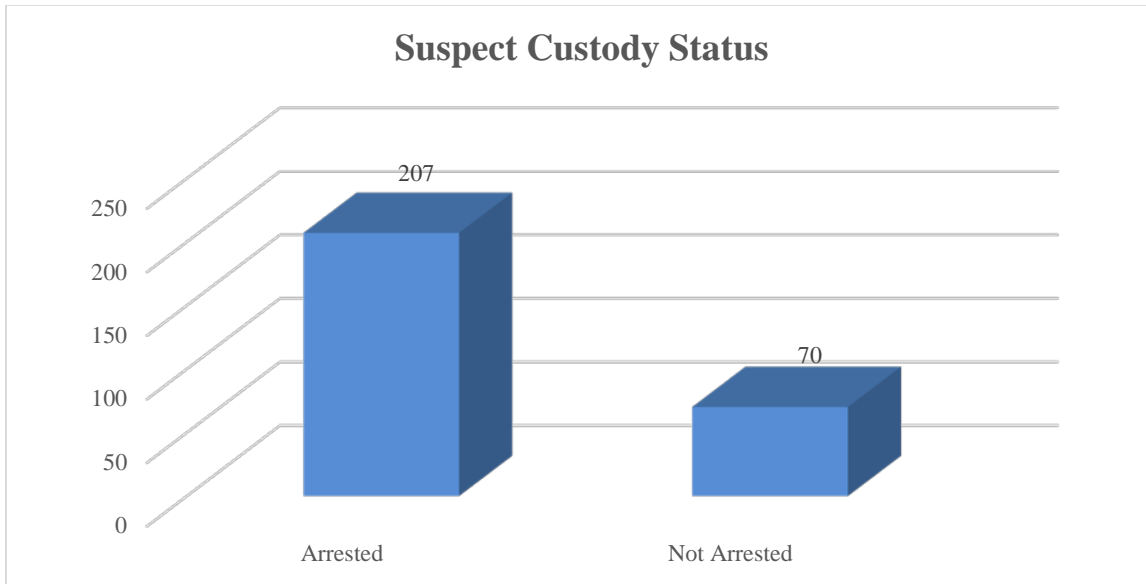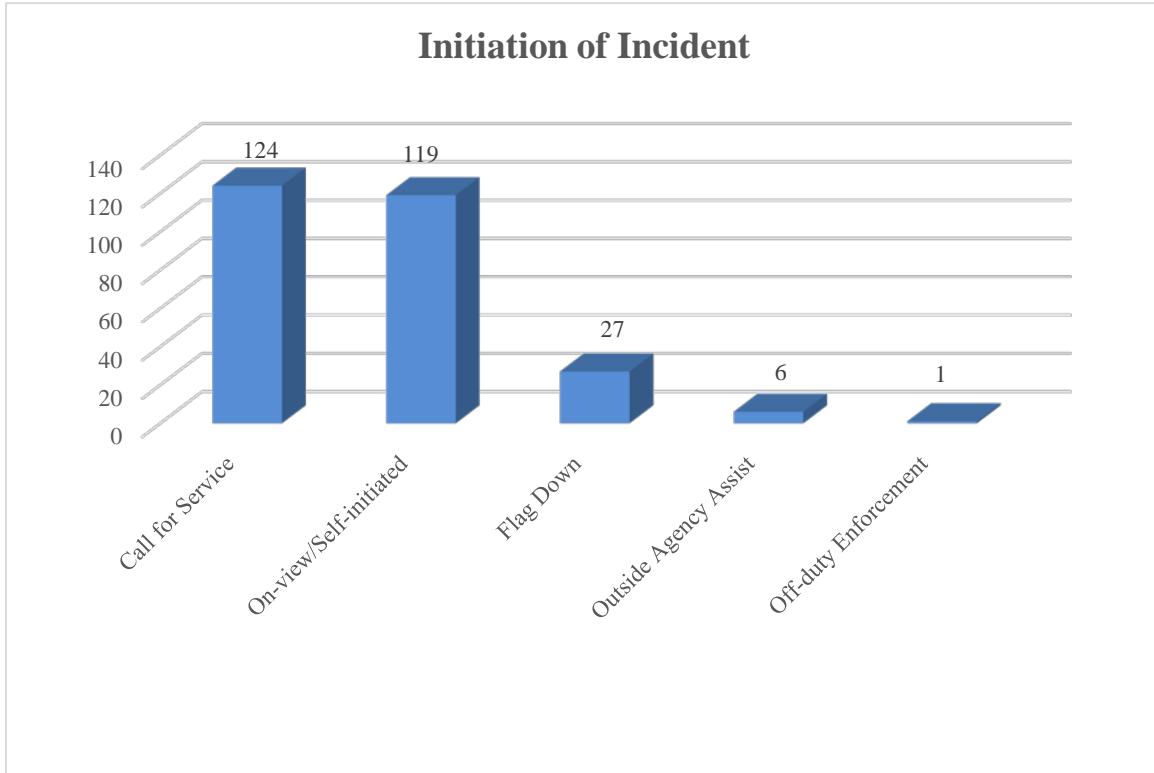
Note: this data shows that 33% of instances when force was used, the suspect was not arrested. It is noted that 37 incidents resulted in a psychiatric detention, which is not an arrest.

Subject Injuries

215 — Not Injured

62 — Injured

Officer Injuries

226 — Not Injured
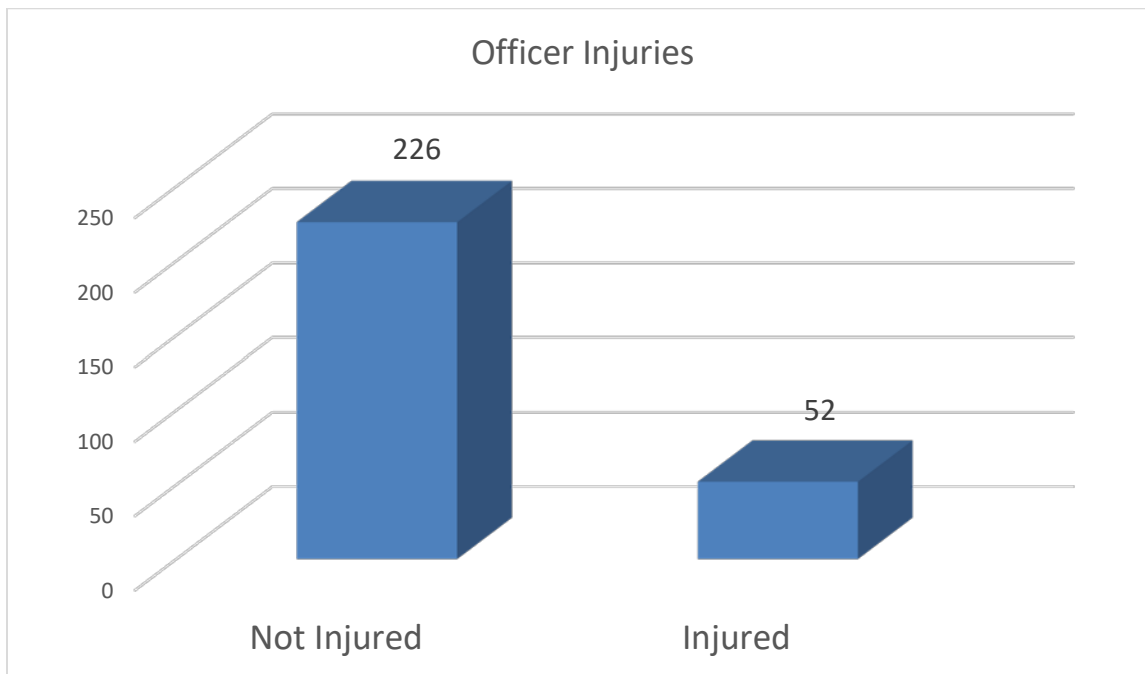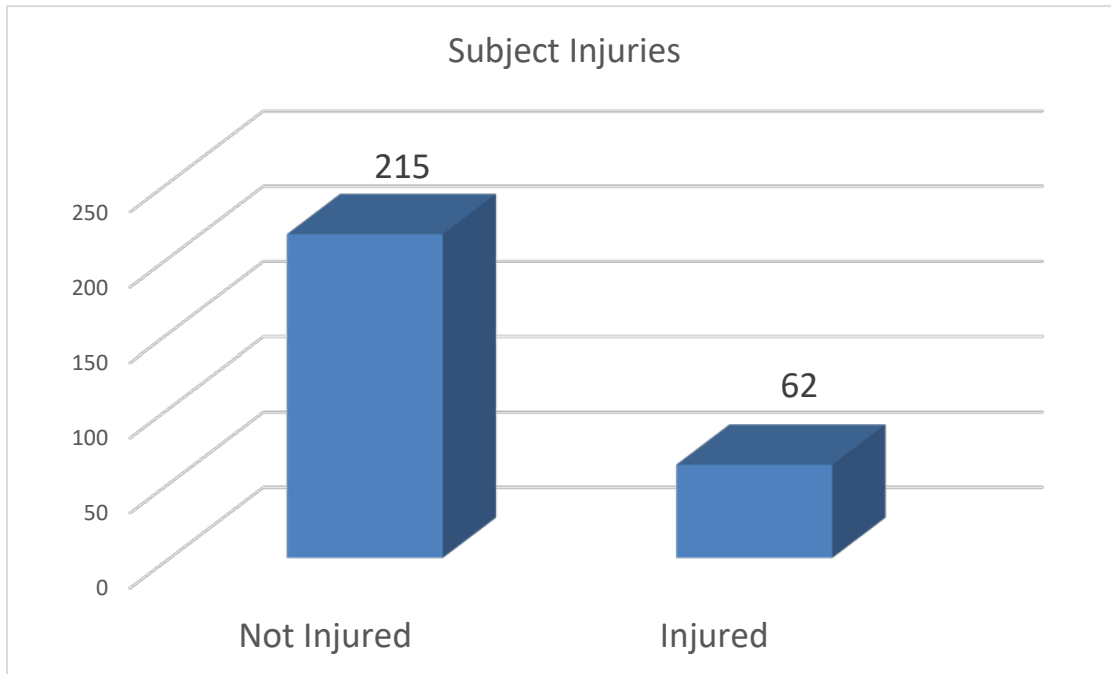
52 — Injured

Note: this data indicates that suspects were not injured in 78% of use of force incidents, which is an indication that officers are using minimal force upon suspects. Officers were also not injured in 81% of incidents.

Demographics from Use of Force Incidents

Age Groups of Involved Persons	Number of Persons	Percentage
under 20	55	17.8%
20 - 29	121	39.2%
30 - 39	69	22.3%
40 – 49	40	12.9%
50 - 59	19	6.1%
60 and up	5	1.6%
Total	309	

Ethnicity/Gender of Involved Persons	Number of Persons	Percentage
Black Males	151	48.9%
Hispanic Males	45	14.6%
White Males	43	13.9%
Black Females	37	12.0%
Other Males	13	4.2%
White Females	9	2.9%
Asian Males	6	1.9%
Hispanic Females	2	0.6%
Other Females	2	0.6%
Pacific Islander Female	1	0.3%
Total	309	

* There were 277 Use of Force incidents in 2019, and IAPro returned data for 309 persons associated with the 277 incidents. Some incidents involved more than one subject upon whom force was used.

Regarding demographic analysis, the Department voluntarily requested a years long study conducted by the Center for Policy Equity (CPE). The study includes extensive data of law enforcement contacts over multiple years and a rigorous analysis of the data. The study is near completion and the Department will be releasing the report publicly in the fall of 2020. The report contains the following from CPE:

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 polices, 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.*

The Department participated in the CPE study for transparency and accountability, but also to consider the multiple factors that contribute to disparity in demographic data. The CPE report will include recommendations for our Department based on their analysis and observations; the content of which will be included in the 2020 Annual Use of Force Report.

REPORT TOPIC: TRAINING

I. Officers received the following advanced officer training in 2019:

First AID/CPR/AED	8 hours
Active Shooter Response (grant funded)	8 hours
Mandatory Firearms Range Training	8 hours
Defensive Tactics/Arrest Control Techniques	4 Hours
Mandatory TASER Update	4 hours
Vehicle Pursuit Policy Training	2 hours

II. Assembly Bill 382 was passed in 2019 and enacted in 2020. The bill made changes to Penal Code section 835a, which sets conditions for lawful use of force by peace officers. BART Police Policy 300, Use of Force, was updated to incorporate the new standards for use of force, and the policy revision was distributed to all officers. Additional training will be provided to all sworn personnel in August 2020.

III. Based on a review of use of force incidents from 2019, the following training will be provided to officers in 2020:

a) Officers should readily notify subjects when they are being detained and the legal justification for the detention (unless there is a tactical or safety issue to deter an officer from doing so).

b) Officers should avoid putting excessive bodyweight on a subject that would inhibit the person's ability to breathe. Officers should also strive to expedite the handcuffing process. (These principles were already in our existing Defensive Tactics curriculum but will be reiterated in Advanced Officer Training for 2020.)

REPORT TOPICS: EQUIPMENT AND POLICY

AXON body worn cameras have a buffering feature. When powered on, the AXON camera continuously maintains a buffer. When the camera is activated to record an incident, the buffering period is then included in the permanent recording. From the onset of BART officers wearing cameras, the camera was preset to have a 30 second buffer of video only, but no audio. The manufacturer then upgraded the cameras to have variable buffers.

A policy change was made in 2019, through the collaboration of the Department, the Office of the Independent Police Auditor, the BART Police Officers Association, and the BART Police Managers Association. The policy changed the buffer to a one-minute buffer with video and audio. This extended and expanded buffer will give more detail to actions that occurred prior to a camera being activated. This will also help eliminate late activations.