

BART Police Use of Force Annual Report

2021

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 was defined by the COVID lockdowns and civil unrest over social justice issues, 2021 was still very much impacted by the pandemic but in very different ways. 2021 brought widely available vaccines, but also vaccine mandates and new variants of the virus. COVID restrictions were lifted in some areas while public resistance to the remaining COVID mandates increased. BART was on the frontlines of COVID controversy with a local mask-mandate that was implemented when both the State and Federal governments lifted COVID restrictions for public transit. 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 violence and unpredictable behavior, trespassing in secure areas, and medical emergencies in stations and on trains resulting from overdosing) created frequent emergencies that required police intervention. During 2021, BART Police employees administered NARCAN to attempt to save lives in 95 different incidents (this was a 58% increase in NARCAN use compared to 2020). The impact of these various outside influences is not directly measurable on 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.

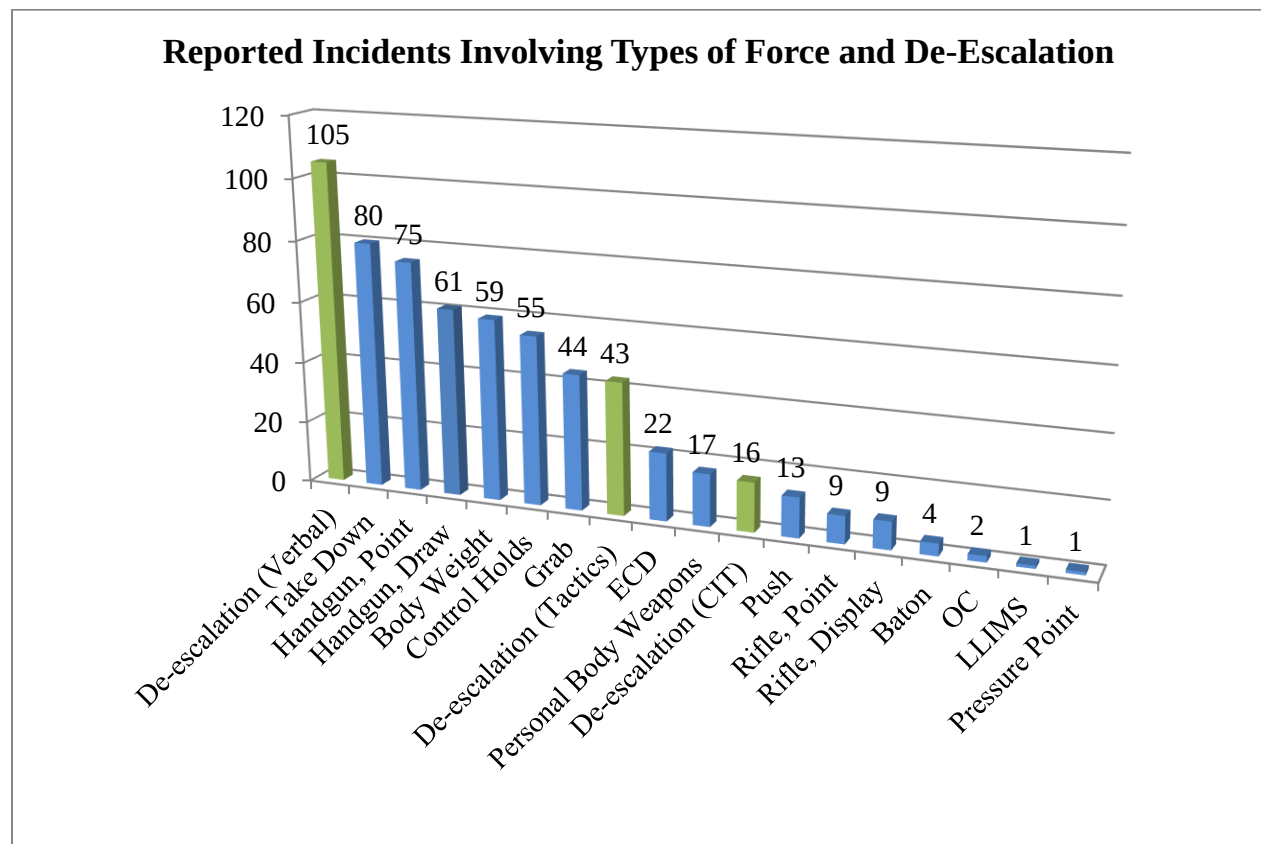
Prior to 2021 the BART Police Department had already implemented progressive changes related to use of force, and in 2021 Chief Alvarez implemented additional changes which will continue the progress which has been made on reducing the use of force by the BART Police Department. These changes put greater focus on progressive policing strategies such as an awareness of bias-based policing, use of crisis intervention, increasing cultural competence, and continued use of de-escalation. The changes that Chief Alvarez continued to implement included:

- Continued the implementation and staffing for the Progressive Policing and Community Engagement Bureau.
- Completed early implementation of the California Racial and Identity Profiling Act (RIPA) data collection for the Department in advance of the deadline mandated in legislation. The data collected for RIPA may assist the Department with identifying solutions for decreasing disparities in detentions and uses of force.
- Implemented the Integrating Communications Assessment and Tactics (ICAT) program from the Police Executive Research Foundation (PERF) as department-wide training. ICAT is described by PERF as “*a use-of-force Training Guide designed to fill a critical gap in training police officers in how to respond to volatile situations in which subjects are behaving erratically and often dangerously but do not possess a firearm. The Training Guide includes model lesson plans and support materials (including Power Point presentations, videos, and other resources) in the key areas of decision-making, crisis recognition and response, tactical communications and negotiations, and operational safety tactics.*” According to PERF, a recent evaluation of the ICAT training in Louisville, Kentucky suggests overall use of force rates can decline through this training.

REPORT TOPIC: TRENDS IN THE USE OF FORCE

In 2021, there were 244 reported incidents that involved an officer's use of force. This was a 28% increase from 190 incidents reported in 2020. 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 2021 there were 72,061 incidents recorded in the Computer Aided Dispatch (CAD) system which equals a ratio where only 1 out of every 295 incidents included 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.)



BART Police Use of Force, 2021 Annual Report

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 green bars 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 2021. 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 increased by 48% compared to the data from 2020 (compared to the 180 recorded incidents of de-escalation in 2020).

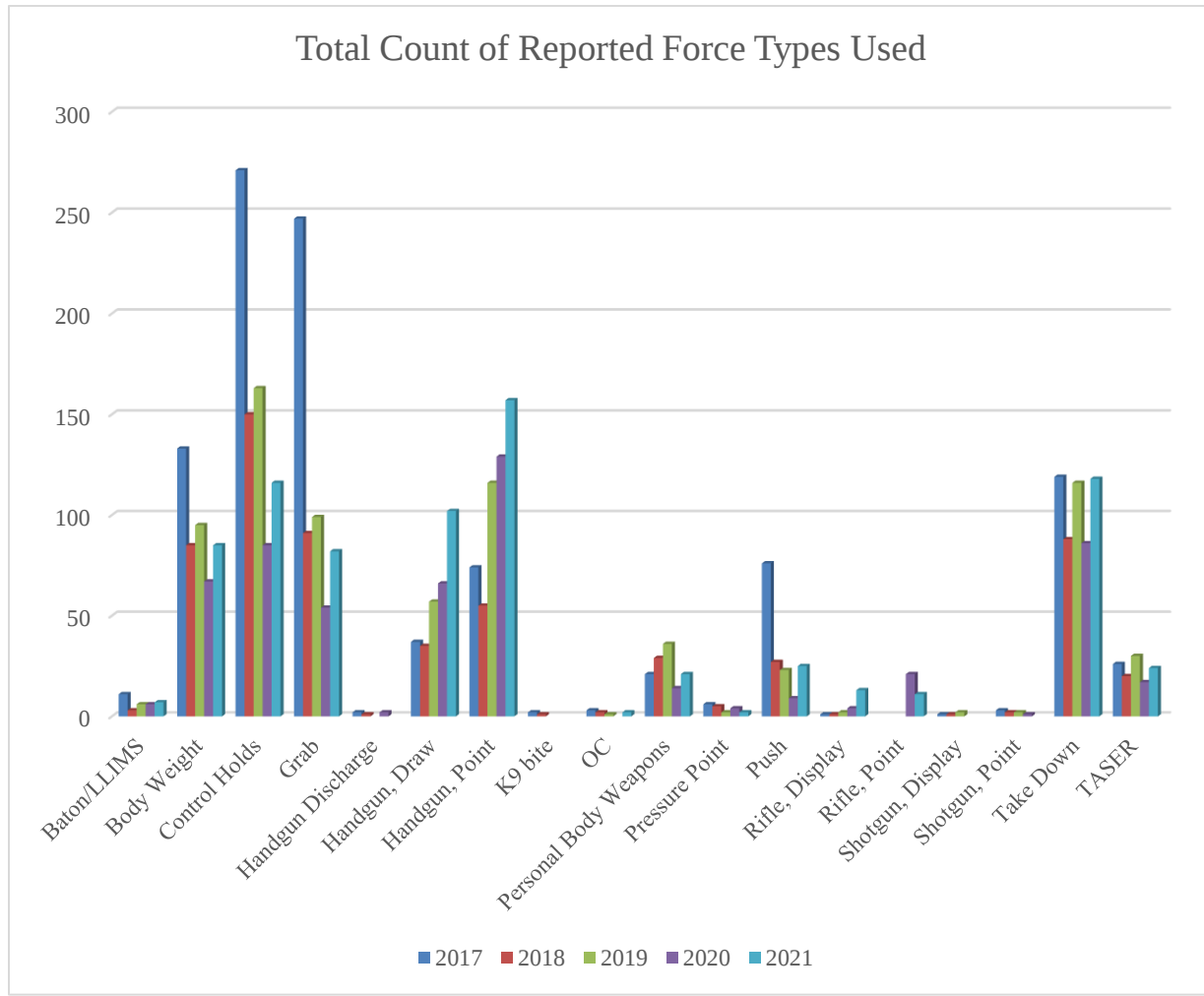
2021 De-escalation	
Verbal Techniques	178
Tactical Techniques (time, distance, etc.)	65
Crisis Intervention Techniques	23
Total uses of de-escalation	266

Each year the BART Office of the Independent Police Auditor (OIPA) issues a Positive Outcome Award. The narrative of the award for calendar year 2021 noted that OIPA observed many officers use effective de-escalation tactics and highlighted a particular incident worthy of praise where an officer “demonstrated exceptionally effective policing while responding to someone having a mental health crisis.”

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 groups such as the Center for Policing Equity 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 is scheduled to enter the next phase of data collection and use of force analysis with the Center for Policing Equity in calendar year 2023 and will seek to include this type of analysis, if possible.

BART Police Use of Force, 2021 Annual Report

The following data compares year to year reported totals of the types of force used. For 2021 there were zero incidents in the category of firearms discharge, K9 bite, and use of a shotgun (display or point). It should be noted that the reported number of rifle display incidents increased as the Department increased the deployment of patrol rifles (although the number of rifle point incidents decreased by 47% from 2020). It appears that patrol rifles are being deployed more frequently but pointed at a person less frequently. 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.

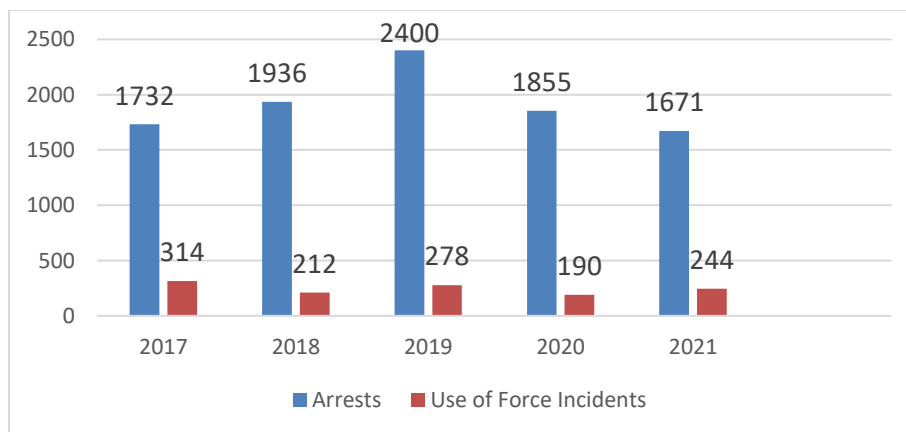


BART Police Use of Force, 2021 Annual Report

The following data shows a five-year comparison of the reported number of use of force incidents per month. There were 54 more incidents reported in 2021 over 2020 (which was the year that had the fewest number of reported use of force incidents in the past 5-years). The total number of incidents in 2021 is equal to the median-average number of incidents of the past five-years and slightly lower than the mean-average of 248 incidents per year.

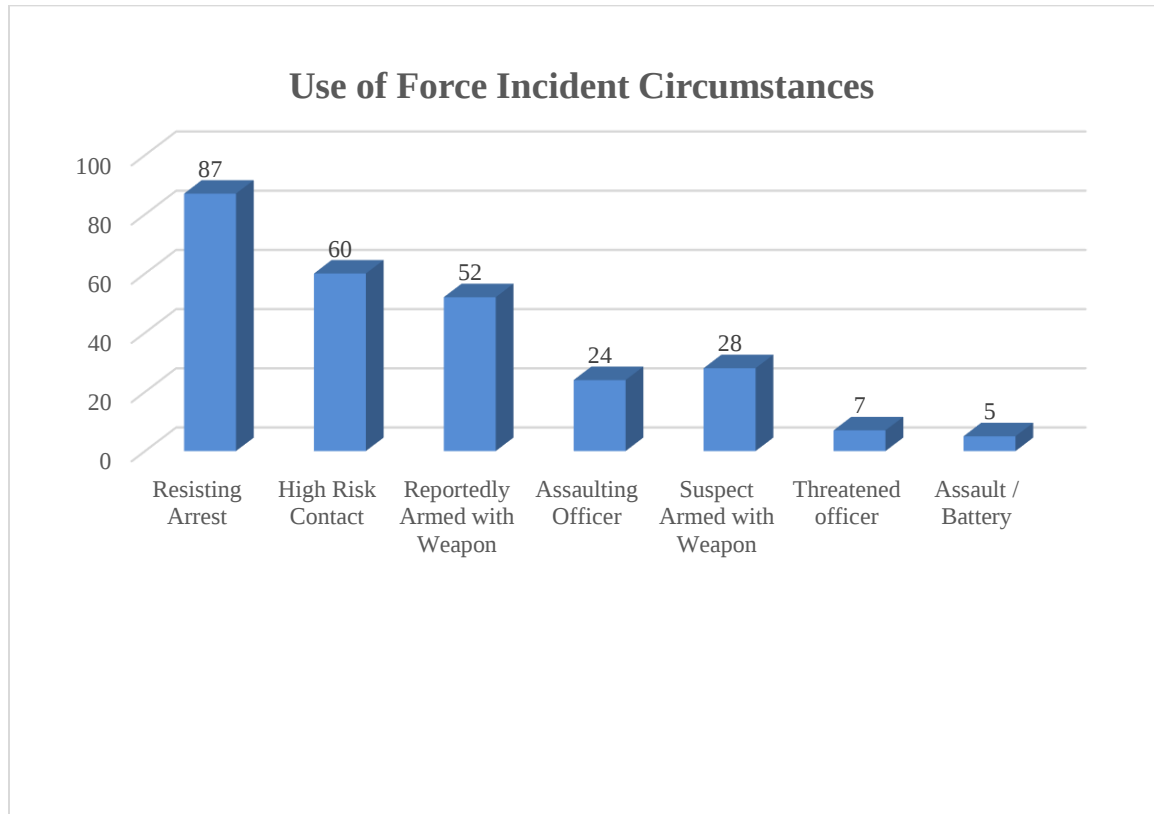
Annual Summary of Use of Force Incidents by Month												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2021	25	13	22	18	23	16	16	8	24	26	24	29
YTD 2021	25	38	60	78	101	117	133	141	165	191	215	244
2020	21	26	13	10	21	11	13	12	14	17	13	19
YTD 2020	21	47	60	70	91	102	115	127	141	158	171	190
2019	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
2017	30	31	33	36	28	35	23	22	25	22	13	16
YTD 2017	30	61	94	130	158	193	216	238	263	285	298	314

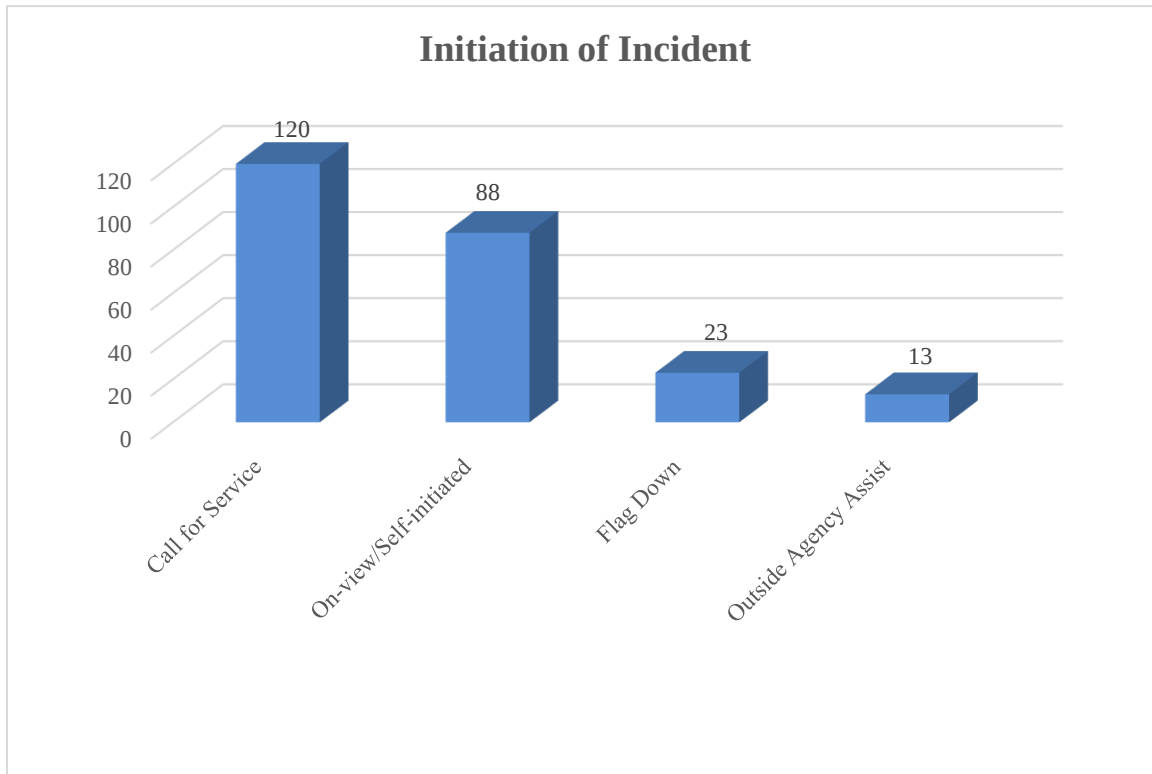
The following data shows the total number of arrests compared to the number of use of force incidents. While arrests increased each year prior to COVID, the number of arrests decreased year to year in 2020 and again in 2021. The data indicates that there is a weak correlation between arrest numbers and use of force incidents (a correlation coefficient of +0.10759). In 2021, there was one reported use of force for every 6.85 arrests which was slightly more frequent than the 5-year average of one reported use of force per 7.97 arrests.



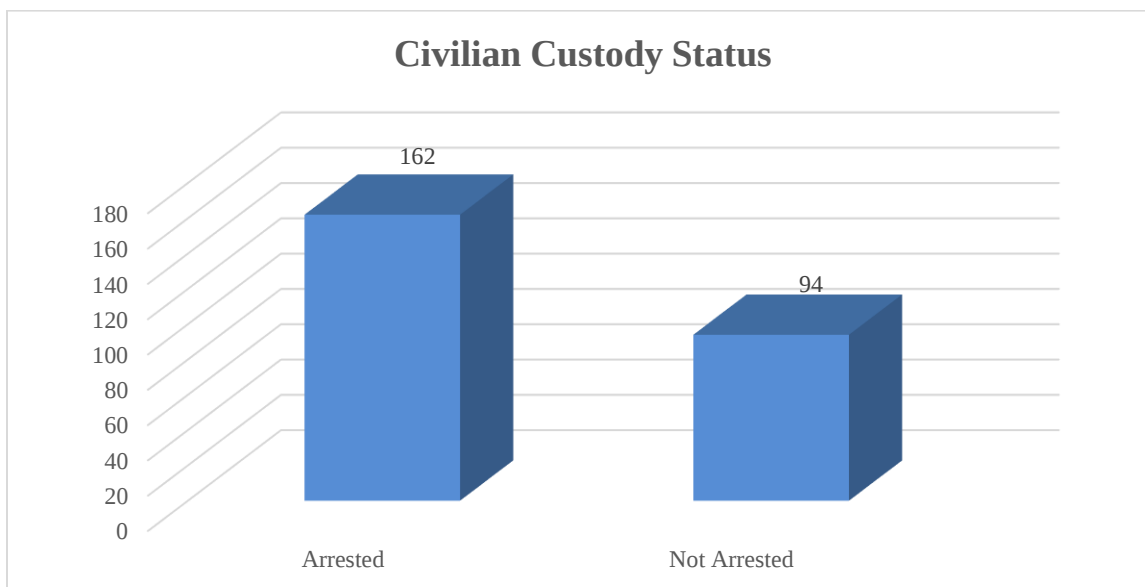
BART Police Use of Force, 2021 Annual Report

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 33% of the uses of force. It should also be noted that the use of force reports indicated that incidents involving assaults of police officers increased by 41% over 2020.

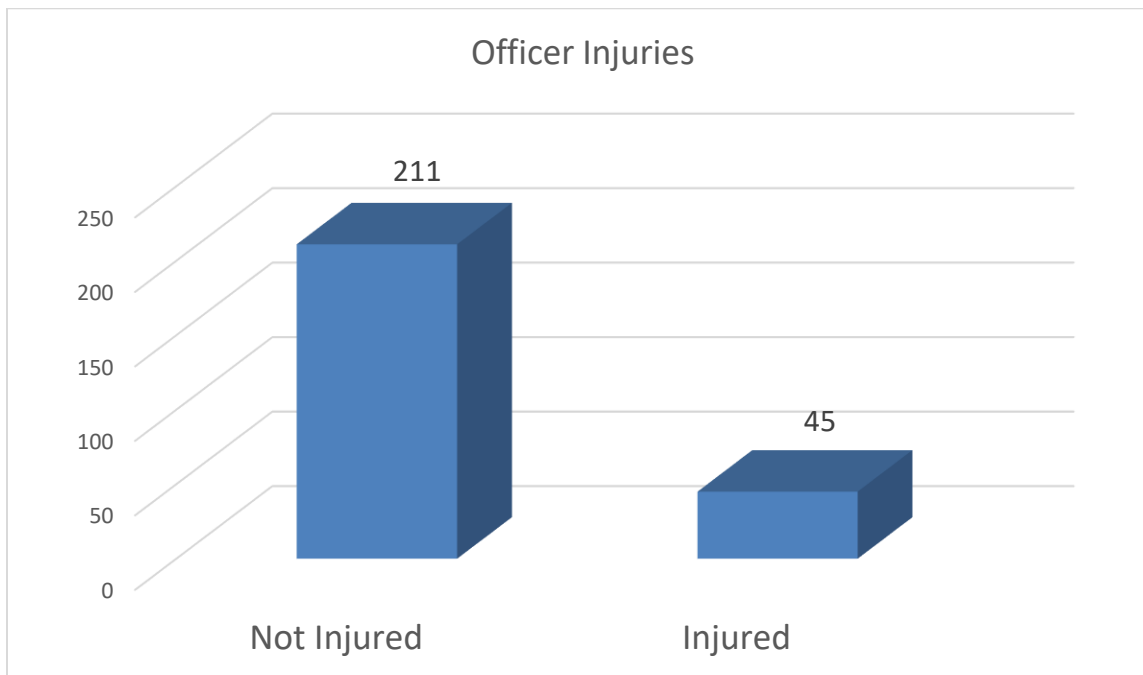
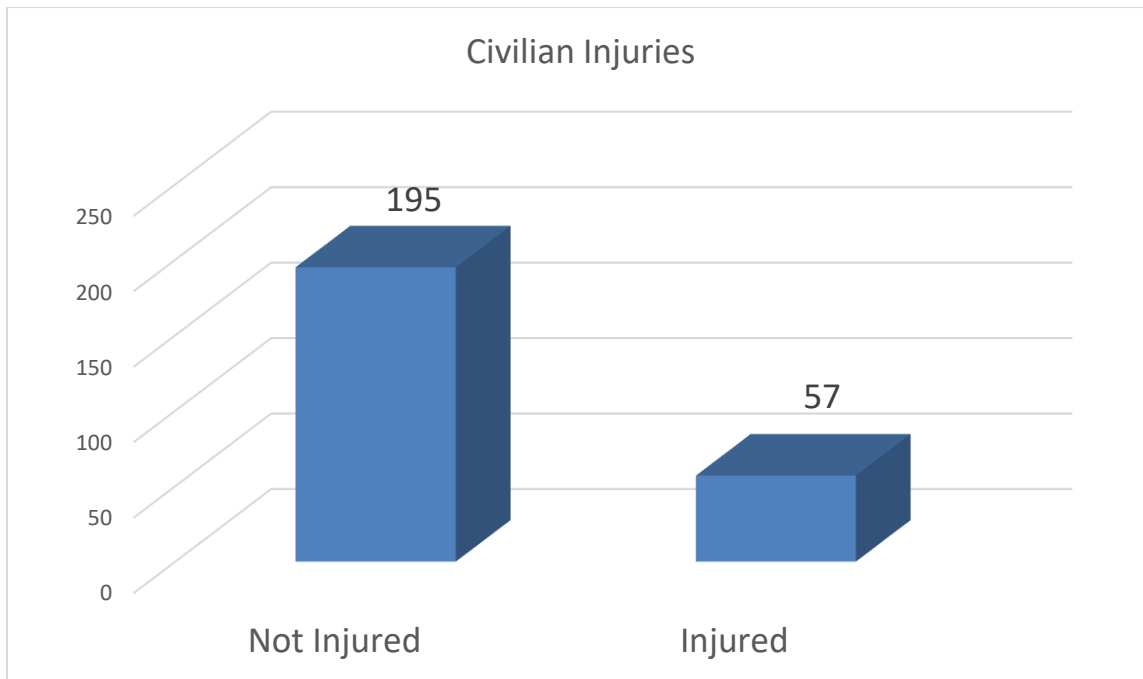




Officers on-viewed/self-initiated contacts in 88 out of the 244 incidents that involved a reported use of force. This was 36% of the total number of incidents.



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 2020 and 2021, reported injuries in reported use of force incidents to both community members and officers increased. Community member injuries increased by 39% from 35 to 57 and officer injuries increased by 44% from 25 to 45. The increased percentage of injuries to officers is very close to the percentage increase of assaults against officers. The term injury refers to any visible injury or complaint of injury/pain, whether or not medical care was required.

BART Police Use of Force, 2021 Annual Report

Demographics from Use of Force Incidents

Age Groups of Involved Persons	Number of Persons	Percentage
under 20	24	9.6%
20 - 29	98	39.4%
30 - 39	80	32.1%
40 – 49	32	12.9%
50 - 59	12	4.8%
60 and up	3	1.2%
Total	249	

Ethnicity/Gender of Involved Persons	Number of Persons	Percentage
Black Male	118	47.4%
Hispanic Male	53	21.3%
White Male	36	14.5%
Black Female	21	8.4%
Asian Male	3	1.2%
Hispanic Female	6	2.4%
Asian Female	1	0.4%
Other Male	2	0.8%
Pacific Islander Male	3	1.2%
Non-binary / Transgender	0	0.0%
Middle Eastern Male	2	0.8%
White Female	4	1.6%
Total	249	

There were 249 persons associated with the 244 use of force incidents that were reported in 2021. 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 twelve 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, three Hispanic Males, one Black Female, and one White Male.

Black Males account for 47.4% of the persons upon whom force was used. The next most frequent persons upon whom force was used were Hispanic Males (21.3%), White Males (14.5%), and Black Females (8.4%). For reference, the most recent BART customer service demographic survey conducted in 2020 reported the following breakdown of riders; White 25%, Hispanic 25%, Black 21%, Asian/Pacific Islander 21%, 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, BART maintenance facilities, and locations outside of BART are not counted in the BART demographic survey although many 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.

BART Police Use of Force, 2021 Annual Report

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 age demographics.

Use of Force Reason (Black Males)	
Resisting Arrest	40
High Risk Contact	24
Reportedly Armed with Weapon	24
Threatened officer	5
Suspect Armed with Weapon	12
Assaulting Officer	13
Assaulting Civilian	1

Community Member Role in Incident (Black Males)	
Arrestee	79
Detainee	41

Force Type and Age Demographics (Black Males)						
	<20	20-29	30-39	40-49	50-59	Grand Total
Take Down	4	18	14	2	2	40
Handgun, Point	4	15	4	10	4	37
Handgun, Draw	2	16	11	3	1	33
Body Weight	3	10	12	3	1	29
Control Holds	2	15	9		2	28
Grab		12	10			22
ECD		5	6	3		14
Personal Body Weapons	1	3	2	1	1	8
Push	2	4			1	7
Rifle, Display	1		3	2		6
Rifle, Point		3	1			4
Baton		1	1			2
OC			2			2
Pressure Point			1			1
SIMS					1	1
Grand Total Persons	11	49	34	18	6	118

BART Police Use of Force, 2021 Annual Report

De-escalation and Age Demographics (Black Males)						
	<20	20-29	30-39	40-49	50-59	Grand Total
De-escalation (Verbal)	1	26	19	7	1	54
De-escalation (Tactics)		12	6	5	1	24
De-escalation (CIT)		6			2	8

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 the use of force, generally and also for Black Males. In many cases the 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 maintenance of effective relationships with law enforcement.
- “High Risk Contact” is the second most commonly reported reason for the use of force, again generally and also for Black Males. Again, the circumstances of a situation are mostly outside of the control of the involved officers but providing additional training on subjects such as implicit bias may have positive results in ensuring that officers 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 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, these age-groups account for 70% of the reported use of force incidents. Community outreach should focus on persons in this age group to build trust and relationships to help reduce conflict that often leads to 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.*

The BART Police Department has committed to continuing the partnership with CPE for further data collection and analysis of our enforcement and use of force data. The Department has also made a request to CPE to see whether future data analysis by CPE may include a "causal inference analysis" for our use of force data. This type of analysis can assist in determining what factors contribute to the cause/decision to use force which would be helpful in identifying areas for change or improvements.

REPORT TOPIC: TRAINING

The Department presented the following use of force advanced officer training in 2021:

Advanced Officer Training - 2021	
Crowd Control Update	2 hours
NAACP Cultural Diversity	2 hours
Mandatory Firearms Training	8 hours
First Aid	8 hours
PSP Firearms and TASER Training	8 hours
PSP Arrest and Control	4 hours
Taser 7, Body 3, and Signal Side Arm Training	8 hours
Integrating Communications, Assessment, and Tactics (ICAT)	8 hours
Racial Profiling Update	2 hours
AOT Impact Weapons Update	4 hours
Racial Identity Profiling Act Training (RIPA)	30 minutes
Policy 300: Use of Force Review	1 hour
POST Portal Vehicle Pursuit Policy	2 hours
Dispatcher Training - 2021	
Crisis Intervention Training for Dispatchers	8 hours
Racial Profiling Update Training	2 hours
Active Shooter POST Video	2 hours
Next Generation Dispatching: Beyond the Voice	2 hours
Initial Response to Critical Incidents	2 hours
Ethical Decision Making	2 hours

Based on the annual CALEA review of use of force incidents and officer assaults in 2021, the following training will be recommended for FY-2023:

- 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 has begun to implement 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 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

During August 2021 the BART Police Department received approval from the BART Board of Directors to enter into a 10-year bundled service agreement with a commercial vendor to provide upgraded body worn cameras, cloud-based evidence storage, and upgraded conducted energy weapons (CEWs) for less lethal force options. The agreement 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 CEW's 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 CEW's 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

In March 2020, Chief Alvarez along with the Independent Police Auditor and the presidents of the police associations signed a letter of understanding to increase the buffering period for body worn cameras to one-minute with the addition of audio recording during the entire buffering period. The outcome during calendar year 2021 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. During 2021 there were only 15 incidents of late or missing body worn camera activations associated with use of force incidents. Also, during 2021, the deadline for completing use of force investigations by supervisors was increased to 7-days to provide additional time for supervisors to review all sources of video, such as station CCTV which must be requested separately from body worn camera video, thereby ensuring more complete investigations.

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 practices of the Department and identify areas for improvement. The Department is currently discussing updates to the Fare Evasion and Use of Force policies with stakeholders to keep the policies current with best practices and legislative/case law updates.