

**BART Police
Use of Force
Annual Report**

2017

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 was initiated by the Department following a Police Executive Research Forum (PERF) publication, *Guiding Principles on Use of Force*. The Department reviewed recommendations made by PERF, compared the recommendations to current Department policy, and considered potential changes to existing policy.

A tiered documentation system for use of force incidents was introduced into the policy, for efficiency. An essential element for this tiered reporting system to be viable is that officers consistently record incidents on officer worn body cameras. The consideration to modify the policy was reviewed by OIPA, recommended for approval by the BPCRB, and approved by the Chief of Police.

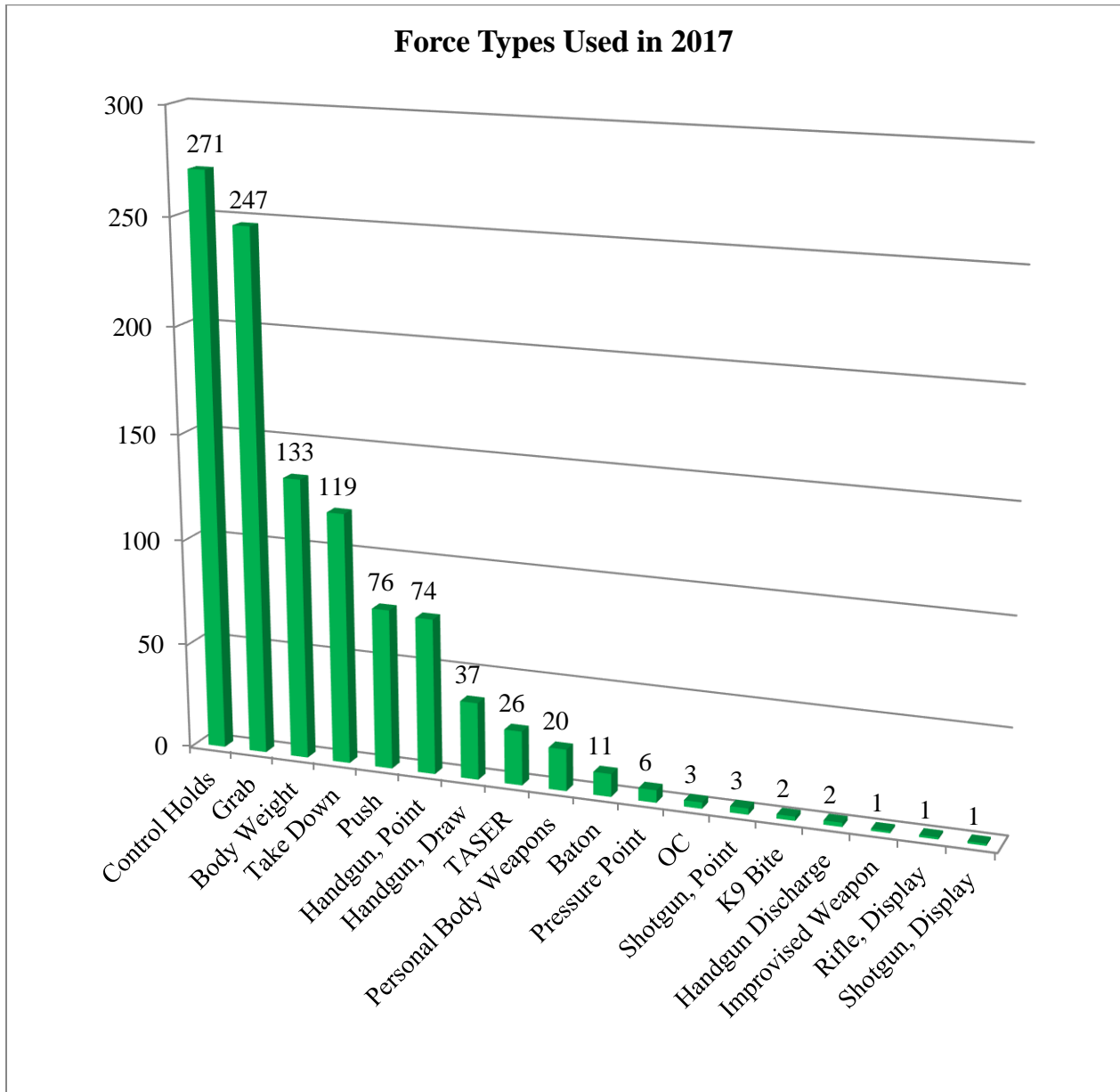
The collaborative effort resulted in a revised Use of Force policy which was reviewed by OIPA, recommended for approval by the BPCRB, and approved by the Chief of Police. The policy revision was adopted in July 2017. The policy revision includes the following:

- *The BART Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department policy builds upon the Supreme Court's broad principles in Graham v. Connor (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law.*
- *Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers must strive to use the minimal amount of force necessary.*
- *Minimal amount of force necessary - The lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective without increasing the risk to others.*
- *The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.*

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- *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.*
- *A tiered documentation system for use of force incidents.*

REPORT TOPIC: TRENDS IN THE USE OF FORCE

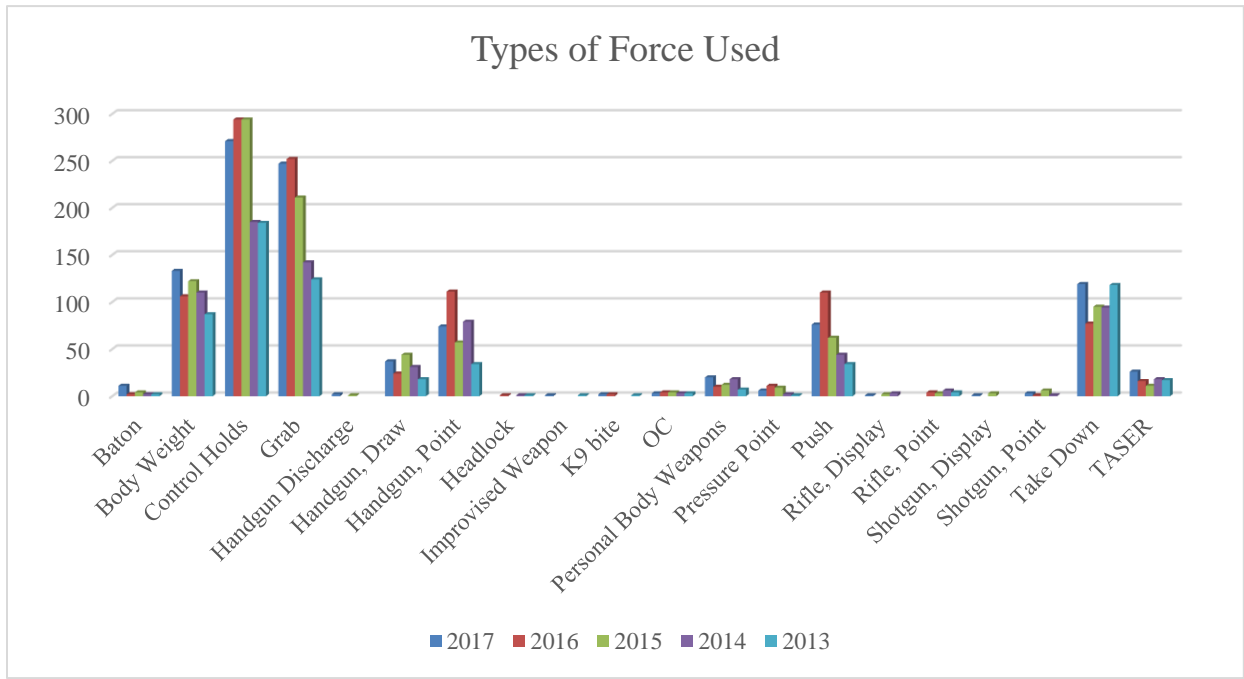


*There were 306 incidents where force was used; however, some incidents involved the use of multiple force types, and/or the same force type used by multiple officers.

This data shows that the most frequently used force options are the low-level options such as control holds and grabs. Officers appear to be using the minimal amount of force necessary in most situations.

The following data compares year to year totals of the types of force used. The data appears to show that the type of force used has not significantly varied from year to year.

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The following data indicates that there was no significant increase or decrease in the number of use of force incidents, compared to the prior two years. There was a 3% increase in comparison to 2016, but a 2.6% decrease in comparison to 2015.

Use of Force Incidents - 2017

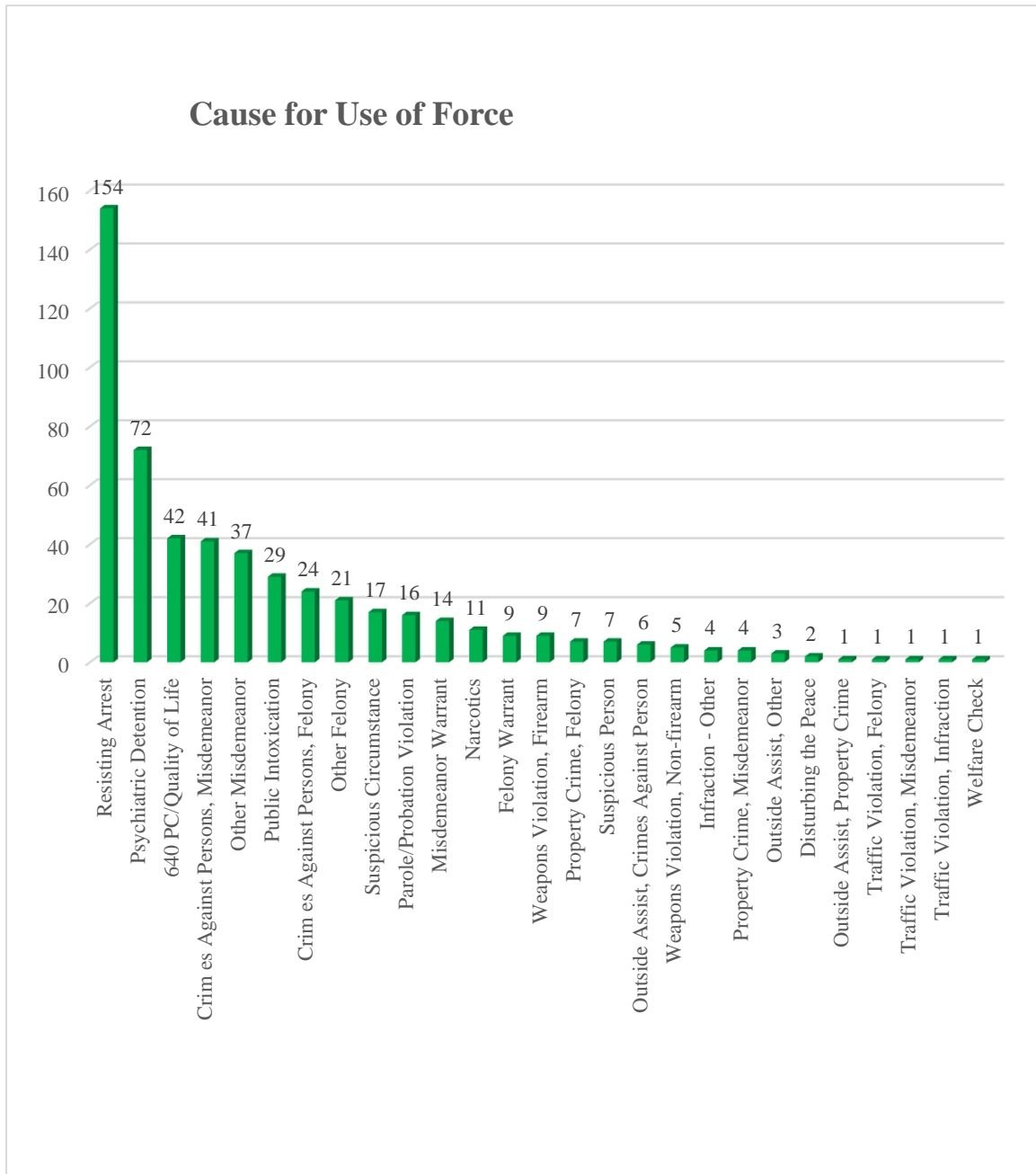
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	29	32	30	35	27	35	24	20	27	20	11	15	305
YTD 2017	29	61	91	126	153	188	212	232	259	279	290	305	

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	

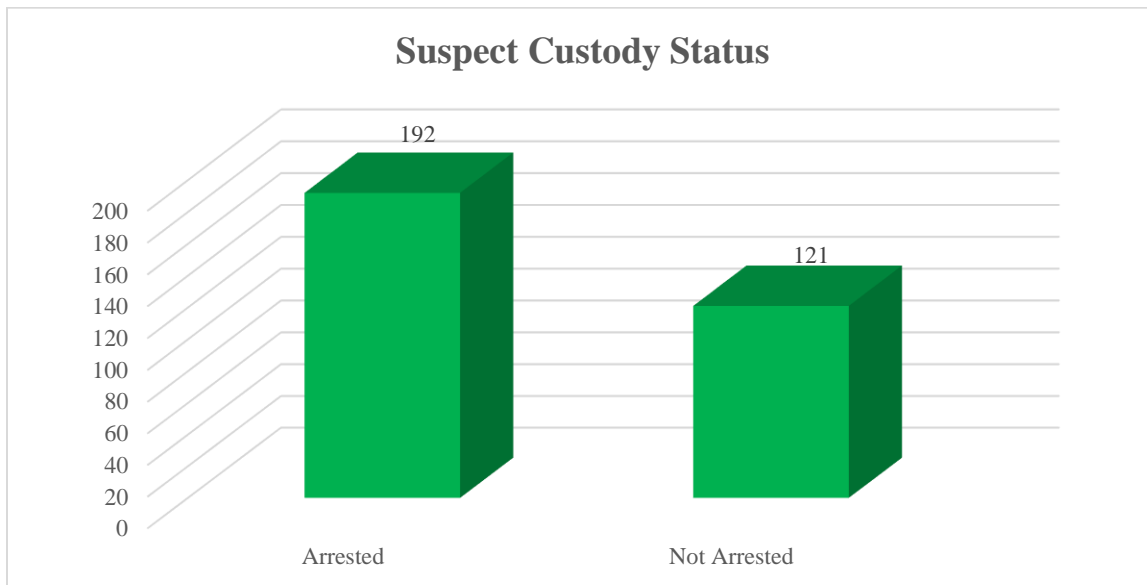
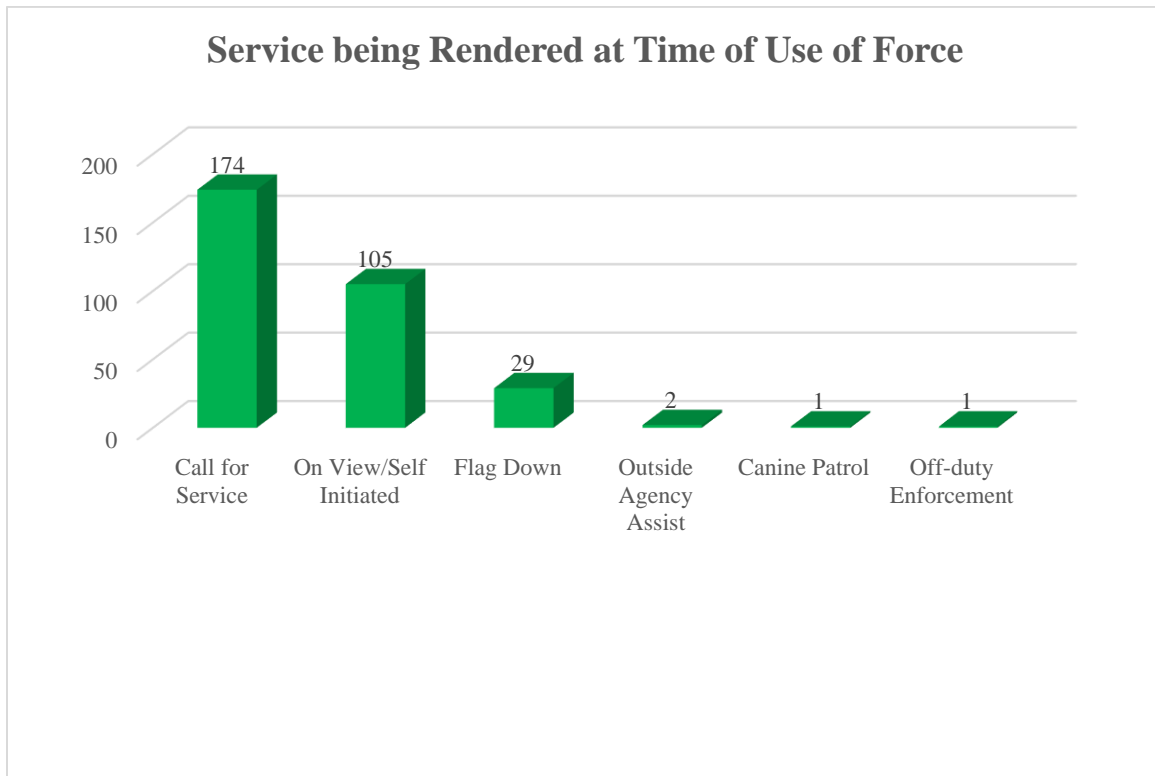
Use of Force Incidents - 2015

	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	



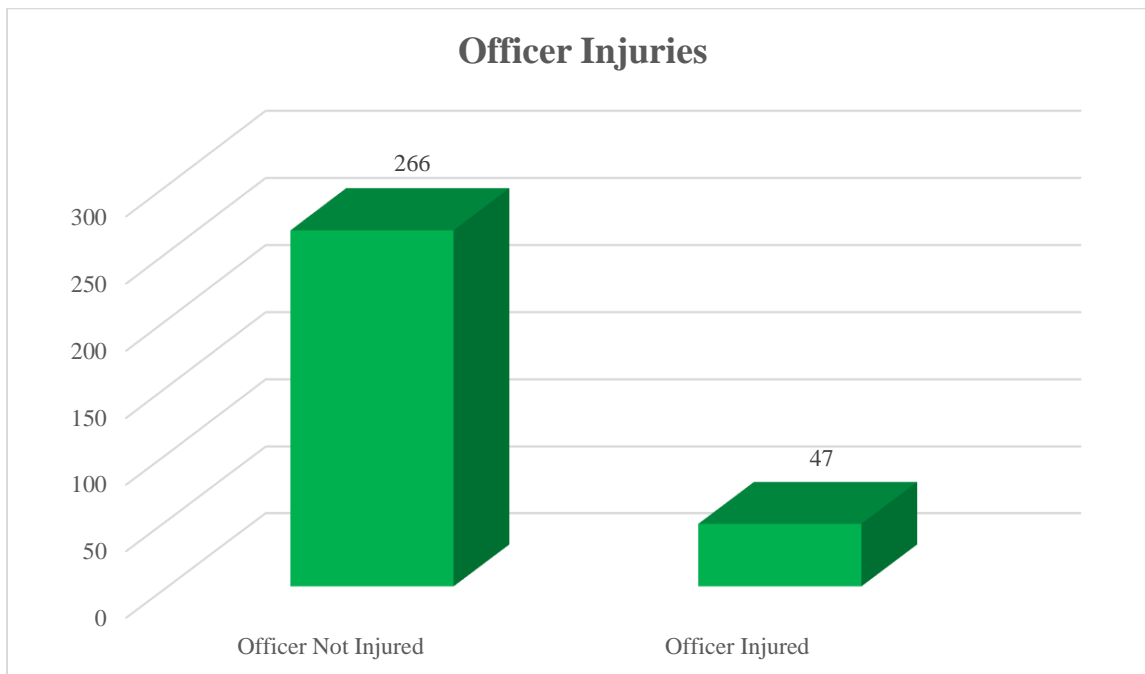
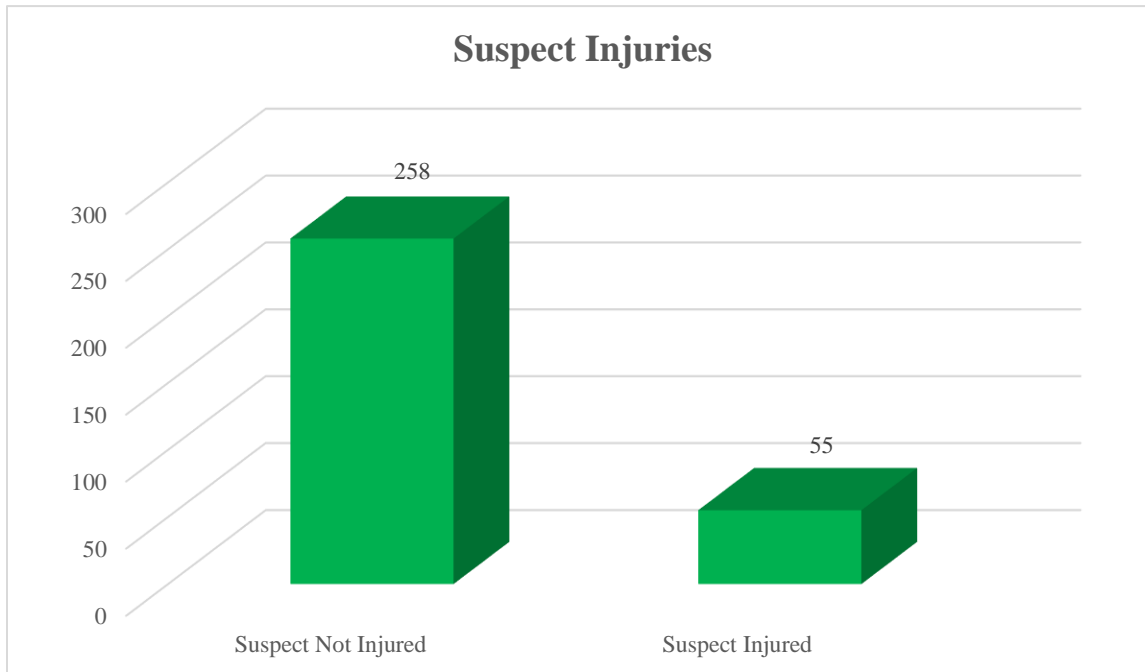
Annual Officer Training in 2018 will re-emphasize the importance for officers to tactically control initial contacts with persons in effort to avoid having to use force. When officers use verbal skills, correct body positioning, and sound tactics to exert control, persons are less able and less likely to attempt to flee or physically resist an officer.

Annual Officer Training in 2018 will also include a review of Crisis Intervention Training, which includes de-escalation tactics and skills to potentially reduce use of force when interacting with persons in crisis and/or persons with mental health issues.



Note: this data shows that 38% of instances when force was used, the suspect was not arrested. The Department would like OIPA to consider reviewing these instances to possibly identify any patterns or trends related to the level of force used upon suspects who were ultimately released from custody.

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Note: this data indicates that suspects were not injured in 83% of use of force incidents and officers were not injured in 85% of incidents. This is an indication that officers are using minimal force upon suspects.

REPORT TOPIC: TRAINING

Supervisors received training on the Use of Force policy update (July 2017) in Staff Meetings and the Patrol Managers Meeting.

All officers received training on the policy as well. Training was conducted by supervisors, and verification of training completion was confirmed with a signature log for each Zone. Officers were also required to acknowledge receipt of the new policy in our on-line Lexipol policy manual update.

Deputy Chief Haight participated in Zone meetings with Chief Rojas to answer questions about the policy.

With the adoption of the policy update, the Department created a mechanism to track the use of de-escalation techniques by officers in the BlueTeam software database. Supervisors were instructed to select the de-escalation force option whenever an officer used de-escalation techniques. The BlueTeam software prompts the supervisor to designate whether the force option was effective or not. Unfortunately, supervisors have not been indicating in BlueTeam when de-escalation has been used. This will be rectified for all incidents going forward in 2018. Additional training will be provided, and use of the de-escalation force option will be monitored throughout the year.

The following training will be reviewed with supervisors and officers in 2018:

- Review of policy related to de-escalation
- Review of BlueTeam software functionality (for supervisors)
- Command Staff training on Use of Force investigation and review

REPORT TOPIC: EQUIPMENT

A significant equipment issue related to Use of Force incidents was identified and resolved in 2017. The issue was with AXON Flex body worn cameras. Frequently, during a physical altercation, the wire connecting the camera to the battery would become disconnected, resulting in the camera powering off, and in some cases the video footage prior to the disconnection would also be lost. To resolve this issue, the Department replaced all AXON Flex body cameras with the AXON 2 body camera, which has the camera and battery integrated in a single unit with no connection wire. The Department purchased 220 new AXON 2 cameras and issued the cameras to all sergeants and officers prior to January 1, 2018.

REPORT TOPIC: POLICY RECOMMENDATIONS

After the July 2017 policy update, there was a request for clarification on the threshold when officers need to notify a supervisor that they have used force. Clarification language has been drafted and is in final review.

Independent Police Auditor Russell Bloom also recommended that the force level and associated documentation requirement should be determined by a supervisor instead of the involved officer. To that end, the following amendment language has been drafted, adoption pending:

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following any application of force.

300.5.2 USE OF FORCE INVESTIGATION, DOCUMENTATION, AND REVIEW

Upon receiving notification of a use of force, a supervisor who was not involved in the use of force incident, will determine the level of investigation and documentation.

Addendum to the 2017 Annual Use of Force Report

The BART Police Citizen Review Board reviewed the 2017 Annual Use of Force Report and asked for the following additional data:

- Data regarding the number of use of force incidents following the implementation of a new Use of Force Policy in July 2017. There was question as to whether the new policy led to a reduction in the use of force.
- Demographic data regarding persons involved in a use of force incident.

I. Following the implementation of the revised Use of Force Policy in July of 2017, there was a noticeable decrease in the percentage of incidents that resulted in use of force.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Enforcement Contacts plus 5150 Contacts	727	1100	905	832	852	707	818	1456	1395	1647	1039	894
Use of Force Incidents	29	32	30	35	27	35	24	20	27	20	11	15
Percentage	4.0	2.9	3.3	4.2	3.2	5.0	2.9	1.4	1.9	1.2	1.1	1.7

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Calls for Service	5855	6093	6250	6331	6670	6605	6448	7562	6850	7460	6117	6553
Use of Force Incidents	29	32	30	35	27	35	24	20	27	20	11	15
Percentage	0.50	0.53	0.48	0.55	0.40	0.53	0.37	0.26	0.39	0.27	0.18	0.23

II. As for the total number of use of force incidents, there was no significant increase or decrease, in comparison to the prior two years. There was a 3% increase in comparison to 2016, but a 2.6% decrease in comparison to 2015.

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Addendum to the 2017 Annual Use of Force Report

- III. Regarding demographics of persons upon whom force was used, it is noted that there are no direct conclusions that should be drawn from the data alone. The data does not quantify the threshold for what constitutes a use of force, in comparison to other police departments. Nor does that data consider the type of force used, level of force used, and/or if the force resulted in injury.

It is very important to note that each use of force incident is independently investigated to determine if the officer had legal justification to use force, if the level of force was appropriate, and if the officer was within policy. Each Use of Force Investigation Report is reviewed through the Chain of Command, by the Use of Force Review Board, and is also accessible for review by the Office of the Independent Policy Auditor. The Police Department and the Office of the Independent Police Auditor do a thorough review of use of force.

The Citizen Review Board has asked for the following data:

Age Groups of Involved Persons	Number of Persons	Percentage
12-17	30	8.8
18-24	81	23.8
25-29	82	24.1
30-34	34	10.0
35-39	36	10.6
40-44	23	6.8
45-49	19	5.6
50-54	8	2.4
55-59	13	3.8
60-64	2	0.6
65-69	3	0.9
no data	9	2.6
Total	340	

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Ethnicity/Gender of Involved Persons	Number	Percentage
Black Males	173	50.9
Black Females	50	14.7
Hispanic Males	43	12.6
White Males	37	10.9
Other Male	9	2.6
Hispanic Females	5	1.5
White Females	5	1.5
Pacific Islander Males	3	0.9
Unknown, Unknown	3	0.9
Asian Males	2	0.6
Native American Males	2	0.6
Hispanic Transgender	1	0.3
Indian Male	1	0.3
Middle Eastern Male	1	0.3
Native American Female	1	0.3
Other Female	1	0.3
Other Transgender	1	0.3
White Transgender	1	0.3
Black Transgender	1	0.3
Total	340	

* There were 305 Use of Force incidents in 2017, and IAPro returned data for 340 persons associated with the 305 incidents. Some incidents involved more than one subject upon whom force was used.