

ATHENS-CLARKE COUNTY POLICE DEPARTMENT

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Cleveland Spruill, Sr.
Chief of Police

MEMORANDUM

Date: 20 May 2020

To: Cleveland L. Spruill, Sr.
Chief of Police

From: Lieutenant S. Harrison Daniel
Office of Professional Standards

Subject: 2019 Annual Use-of-Force Report

The purpose of this memorandum is to report the annual review and analysis of use-of-force (also referred to as UoF) activities in 2019 for the Athens-Clarke County Police Department (hereinafter referred to as ACCPD or Department). This review will begin with an introduction and summary before presenting a breakdown of current and historical UoF data. Review of current training and equipment, policies, and reporting practices will follow. The report will conclude with an analysis of any identified UoF trends, patterns, or areas of concern and recommendations from the Office of Professional Standards (OPS).

A. INTRODUCTION AND SUMMARY

ACCPD has an authorized strength of 254 sworn positions, 64 non-sworn positions, and 33 crossing guards. It is the primary policing agency for Athens-Clarke County (ACC) Georgia, which has an estimated population of nearly 126,000¹ people. Considered the economic and cultural hub for the northeast Georgia region, ACC is also home to the University of Georgia (estimated 35,000² students). However, ACC's median household income is less than \$37,000, and nearly 32% of the ACC population lives at or beneath the poverty line³.

The reporting period for this annual review is January 1, 2019 through December 31, 2019. During this period, the Department reported involvement in 98,216 incidents, which averaged about 270 incidents per day⁴. Of the total incidents for 2019, officers reported 15,052 cases⁵. Of

¹ Estimate based on July 2018 Census estimates; United States Census Bureau.

² Estimated Fall 2016 enrollment.

³ Estimate based on July 2018 Census estimates and 2018 dollars; United States Census Bureau.

⁴ Numbers drawn from CAD Event reporting and is inclusive of all calls for service, officer-initiated incidents, and any other reported citizen contact with the department. This number excludes calls relayed to other agencies only.

⁵ A case is the term used when an officer determines there is need to write a report. Not all incidents require a written report.

note from the reporting period, the department was involved in six (6) officer-involved-shooting (OIS) incidents. This is likely the most significant use-of-force issue in 2019. These incidents are reviewed in detail in Section B, Subsection 6.

The year was marked with significant change and transition within the department. It came on the heels of the departure of the previous Chief of Police in September 2018 and saw the hiring of a new Chief of Police in February 2019. In addition, the ACC Unified Government implemented significant pay adjustments county-wide that impacted members of the department.

In order to conduct this review and analysis, information was gathered from a variety of quantitative and qualitative sources. Following are the primary sources of information:

- 2017 Use-of-Force Review and Analysis Report;
- 2018 Use-of-Force Review and Analysis Report;
- LEFTA-FACTS System⁶ data report for 2019;
- Computer-Aided Dispatch (CAD) data;
- 2019 Use-of-Force reports;
- 2019 OIS Administrative Investigation reports;
- Use-of-force policy (General Orders 3.01-3.10 & Directive 6.01);
- Career Development and Training Unit records; and
- Interviews with departmental personnel.

B. USE-OF-FORCE DATA

The following section contains a breakdown of the reported use-of-force data for the department in 2019. This includes 1) an overall view of the 2019 data compared to the most recent four years; 2) demographics of officers involved in use-of-force incidents; 3) demographics of citizens/subjects involved in use-of-force incidents; 4) a look at complaints received alleging excessive force; and 5) a breakdown of the officer-involved-shooting incidents.

1. UoF Annual Data⁷

Officers reported 283 use-of-force incidents in 2019. This is slightly above the 5-year average but is within the standard deviation (or the statistical norm) for this period⁸. Based on total incidents (98,216) in 2019, officers were required to use force in only about 0.3% of their citizen

⁶ LEFTA (Law Enforcement Field Training Applications) Systems – FACTS (Force Accountability Transparency Software). This is the software application officers use to write their UoF reports in 2019. The data was provided by a company analyst and reviewed by the Office of Professional Standards for quality. It should be noted that this system was newly implemented 2019. Prior to using LEFTA, officers wrote UoF reports by hand on paper forms.

⁷ The total number of force types may add up to more than the total number of UoF incidents because some incidents document more than one type of force application. Example: A report may contain presentation of a firearm and use of a compliance and control tool. These numbers are based on the primary UoF reporting only.

⁸ The statistical mean ($\mu = 263/\text{year}$) was calculated using 2014-2018 UoF incident totals. The standard deviation ($\sigma = +/- 32$) was calculated using the 2014-2018 UoF incident totals.

contacts. There were a total of 641 use-of-force reports written when supplemental use-of-force reports were included with the primary reports⁹.

Each report documents one or more force type applied during a use-of-force incident. The types of force reported in these 283 incidents are as follows:

ACCPD	2015	2016	2017	2018	2019
Total UoF Incidents	268	204	264	298	283
Soft Control/Empty Hands	198	142	155	365	183
Compliance Tools	35	38	23	12	7
Hard Control/Strikes (hand)	16	7	17	0	7
Impact Weapon/Baton	3	1	1	3	0
Taser (CEW) Deployment/Presentation¹⁰	3	17	37D/58P ¹¹	39D/66P	39D/41P
Firearm Presentation	65	56	86	214	105
Lethal Force	0	1	1	0	14 ¹²
Stop Stick Deployment	0	2	9	6	1

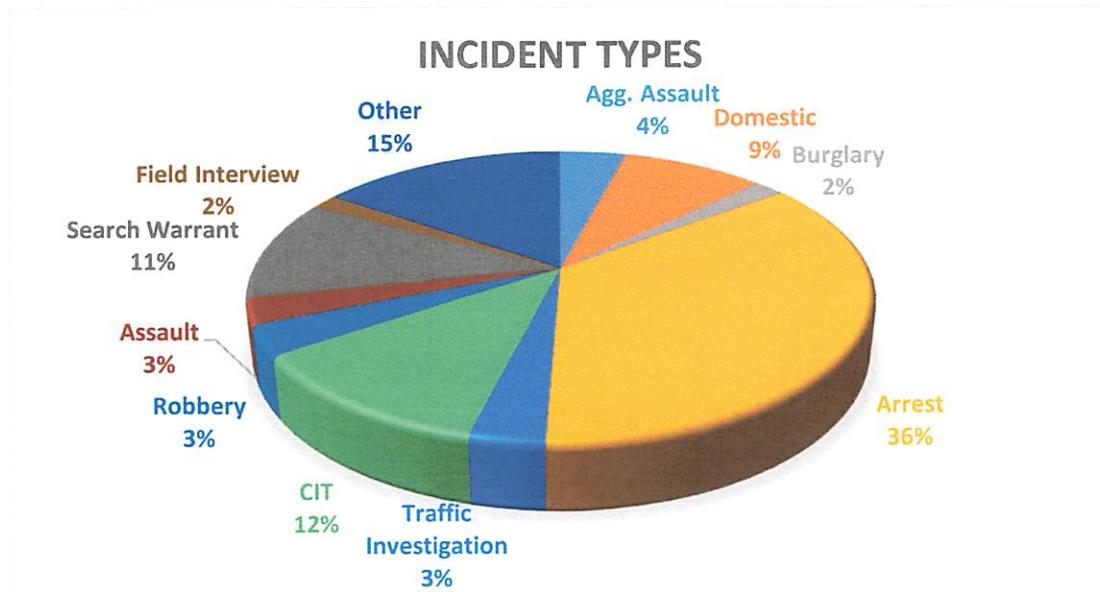
⁹ Each officer involved in a UoF incident writes a separate report. Therefore, one UoF incident will have one or more reports written about the incident.

¹⁰ ACCPD introduced Taser in July of 2015.

¹¹ In the original policy, the committee specifically decided against tracking mere presentation of CEW on the UoF Report. CEW presentation was added in the last quarter of 2016. “D” = Deployed, “P” = Presentation.

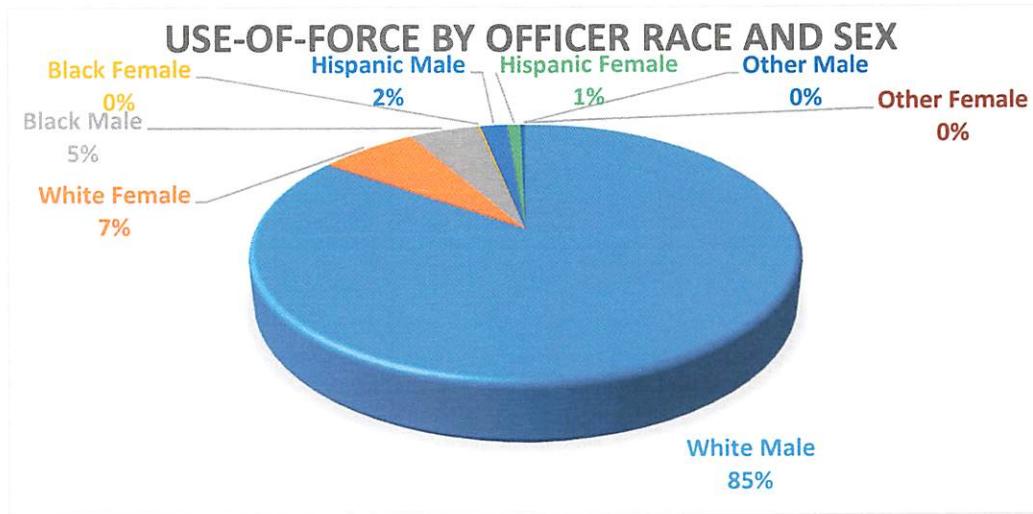
¹² This number reflects the total times an officer in the Department used lethal force and *does NOT* reflect the total number of lethal force incidents that occurred (i.e., if three officers discharged their firearm during a single incident, then the number reflected for this chart would be three and not one). In 2019, there were only six incidents during which officers used lethal force. However, the total number of times officers used lethal force in 2019 was fourteen because several incidents involved more than one officer who used lethal force. In 2016 and 2017, there was only a single incident each year that involved a single officer using lethal force.

Each use-of-force report indicates the type of incident/situation that resulted in the application of force. A complete breakdown of reported incident types is as follows:



2. Officer Data

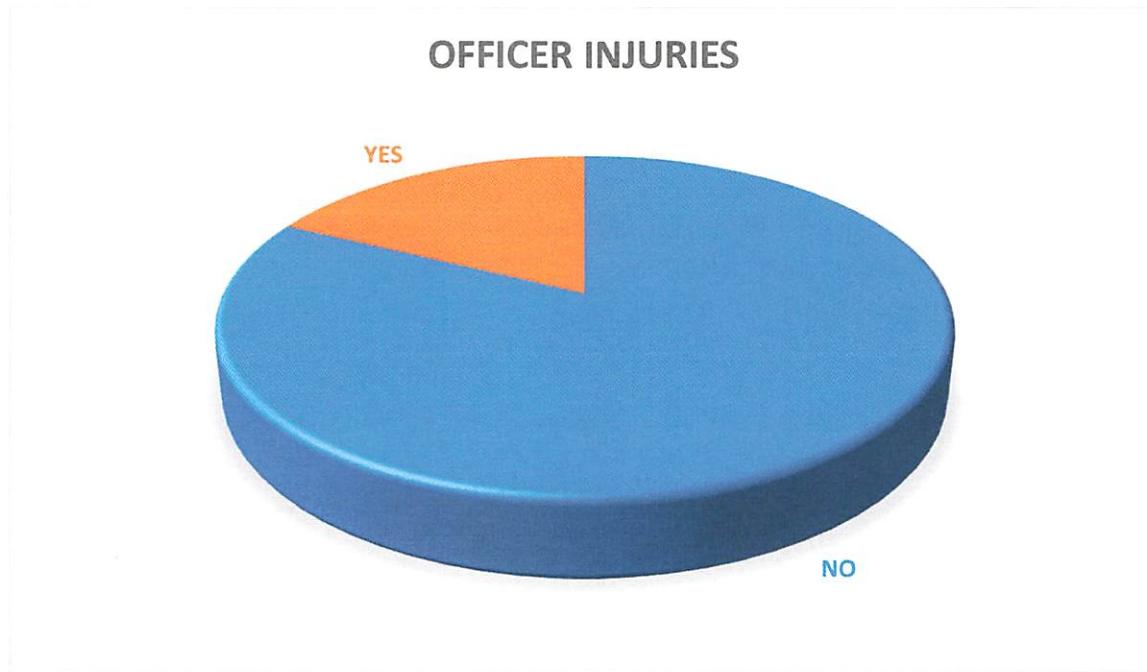
In 2019, 146 officers reported being involved¹³ in at least one use-of-force incident. One-Hundred fourteen officers reported being involved in more than one use-of-force incident. Fourteen officers reported being involved in ten or more use-of-force incidents. The demographic breakdown of officers involved in use-of-force incidents is as follows¹⁴:



¹³ Involvement includes being the primary officer, a secondary/assisting officer, or a witness to the application of force by another officer.

¹⁴ The demographic breakdown on UoF incidents is reflective of and consistent with the demographic makeup of the department. Comparison made using the 2018 Accreditation Report – Assessment and Data Tables: Athens-Clarke County (GA) Police Department Law Enforcement Accreditation produced on April 29, 2020.

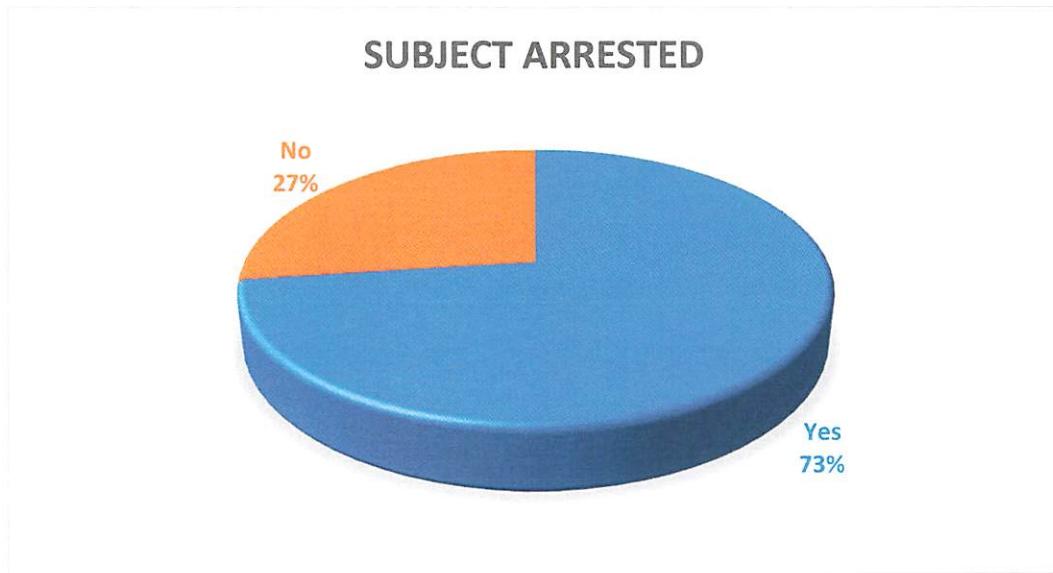
There were 50 use-of-force incidents where officers reported that at least one officer was injured as a result of the incident. This represented about 18% of the reported incidents:



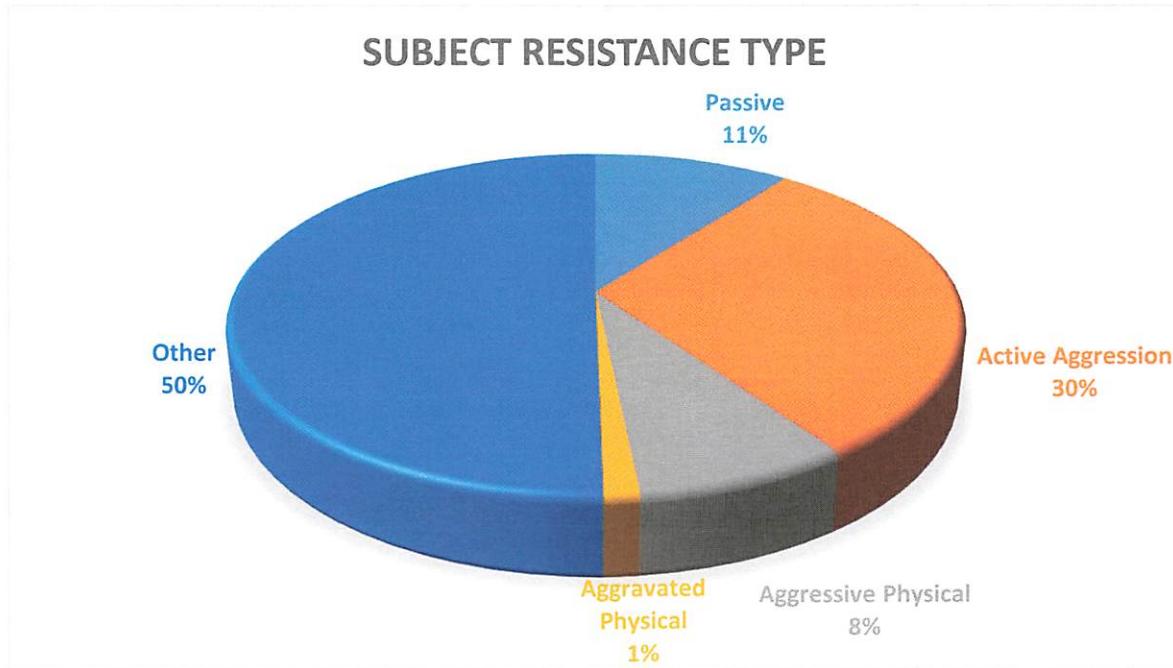
3. Subject Data

Subject data and information was also reported by officers as part of documenting use-of-force incidents. The data and information includes whether or not an arrest occurred, the type of resistance offered by the subject, if the subject was injured or complained of injury, and demographics.

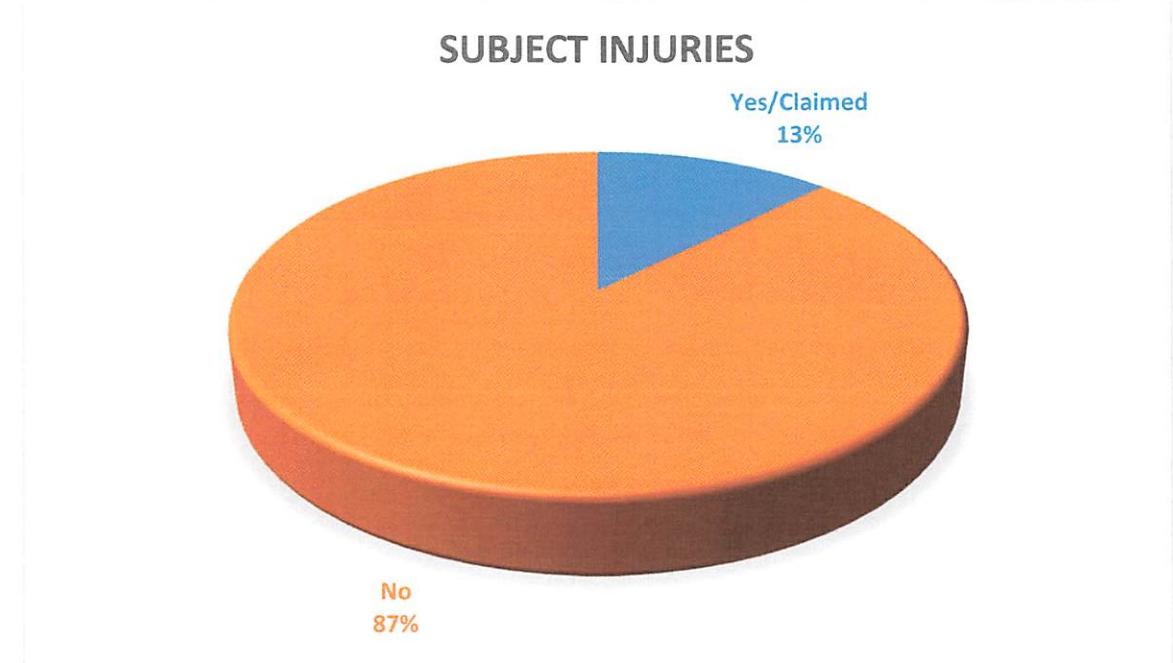
Officers reported arresting the involved subject in a majority of the incidents:



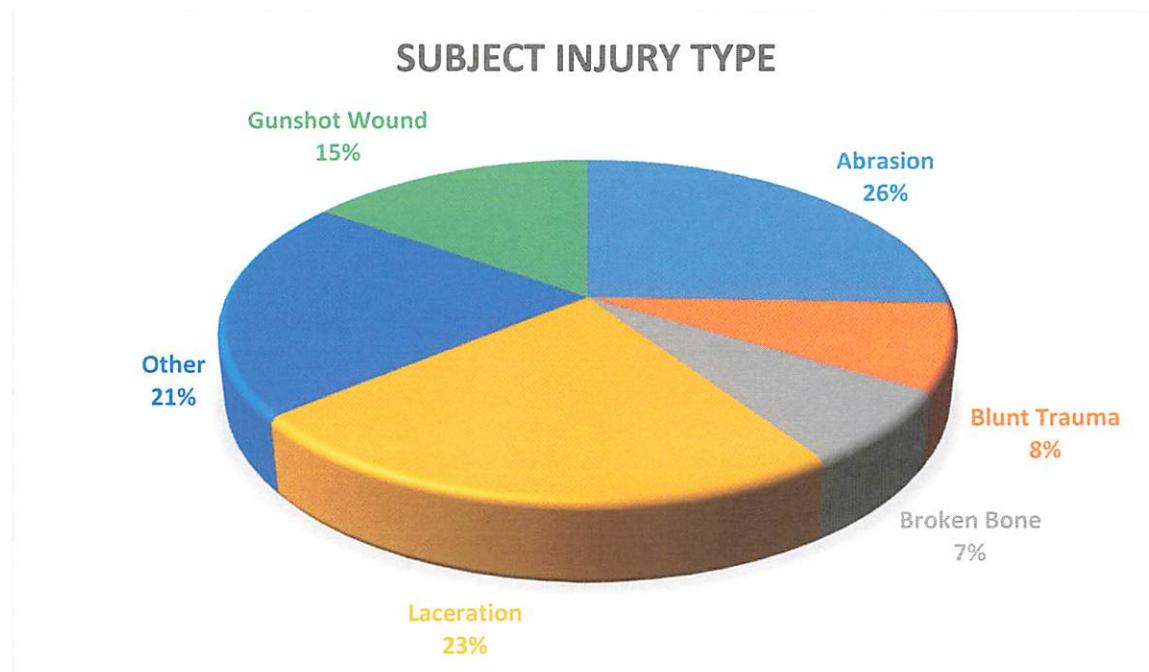
Regarding the type of resistance offered by the subject, Officers reported “other” in about half of the use-of-force reports:



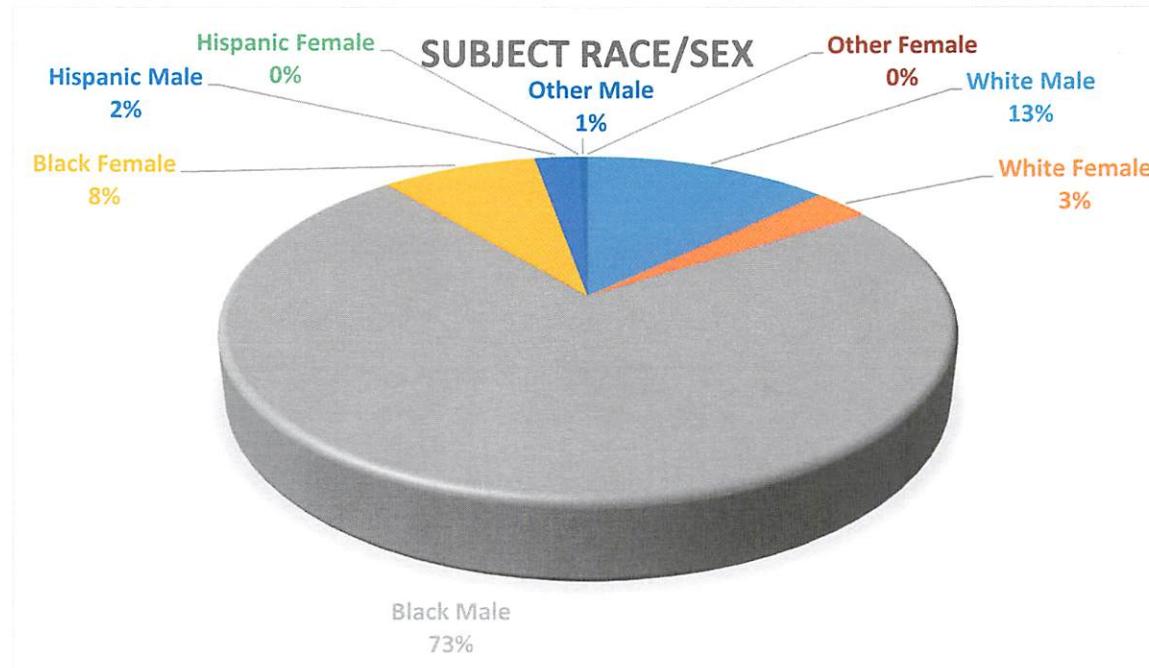
Officers reported that in the vast majority of use-of-force incidents there were no subject injuries or complaints of subject injuries:



In the few cases where a subject injury was reported, minor injuries such as abrasion or laceration were most often reported:



The sex most reported for the subject was male, and the race most reported was black or African-American:



4. Complaints of Excessive Force

In 2019, there were only three complaints of excessive force reported to the Office of Professional Standards. This means that only about 0.0031%¹⁵ of all citizen contacts and 0.01%¹⁶ of all uses of force resulted in a complaint of excessive force. Each was investigated through normal procedures¹⁷. Each excessive force complaint was classified as exonerated because the officers' actions regarding the force applied were deemed within policy¹⁸.

5. Officer-Involved Shootings

There were six (6) officer-involved-shooting (OIS) incidents involving Department officers during 2019. A total of fourteen (14)¹⁹ officers and six (6) subjects were involved in the OIS incidents. Five (5) subjects were pronounced deceased at or near the time of the OIS incident, and one (1) sustained a gunshot wound but survived the shooting incident itself.

Each OIS incident underwent separate criminal²⁰ and administrative²¹ investigations, as well as review by the Office of the District Attorney for the Western Judicial Circuit. The criminal investigations for five (5) incidents have been closed. At the time of this report, one (1) remains open with the Georgia Bureau of Investigation pending prosecution against the subject for a felonious assault perpetrated against the involved officer. For all of the incidents, the District Attorney ruled that the uses of lethal force by each involved officer were legally justified. No criminal charges against involved officers were filed. All six (6) administrative investigations determined that the involved officers' actions in each incident were within policy. The administrative investigations are also closed.

The following highlights significant data/information relevant to the OIS incidents:

- Five (5) subjects were male and one (1) subject was female;
- Four (4) subjects were white, one (1) was Asian, and one (1) was Hispanic;
- Three (3) incidents involved subjects armed with a bladed weapon;
- Three (3) incidents involved subjects armed with a firearm²²;
- Five (5) subjects had reported or identifiable association with some form of mental health disorder/crisis.

¹⁵ Figure derived from the total number of citizen contacts reported in CAD data (98,216)

¹⁶ Figure derived from the total number of UoF incidents report in LEFTA Shield (283)

¹⁷ Every use-of-force incident/report is investigated and reviewed by the involved officer's chain of command and submitted to the Office of Professional Standards. Incidents where there is reason to believe the use-of-force is not within policy limits may be subject to further investigation and disciplinary action.

¹⁸ All 2019 UoF incidents analyze under General Orders 3.01 through 3.10. As of the time of this report, General Orders 3.01 and 3.08 have been rescinded and replaced with General Directive 6.01.

¹⁹ Two (2) officers were involved in more than one OIS incident.

²⁰ Criminal investigations conducted by the Region 11 Office of the Georgia Bureau of Investigation.

²¹ Administrative investigations conducted by the Department's Office of Professional Standards.

²² In one incident the subject possessed a pellet gun replica designed to look like a firearm.

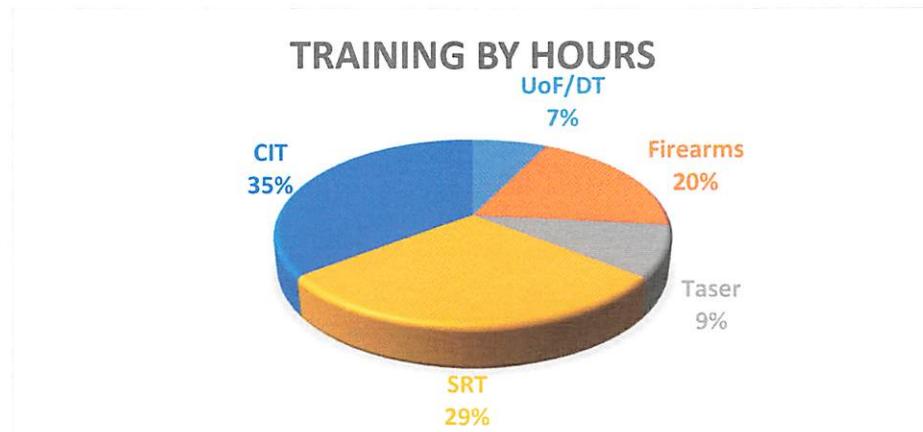
C. TRAINING AND EQUIPMENT

The following section is a review of training and equipment issues relevant to use of force. The information was obtained through a questionnaire submitted to CDTU staff, CDTU records, GA P.O.S.T.²³ records, Power DMS records, and discussion with the Department Quartermaster. It is an account of training offered during 2019, department equipment impacting use of force, and any issues of concern related to training and equipment.

1. Training Hours Offered by ACCPD in 2019

The amount and type of training offered by the department is currently adequate given the needs and resources available. The Department offered its officers a total of 557²⁴ hours of training related to use-of-force, firearms, and crisis intervention/de-escalation. A breakdown is as follows:

- Use-of-force and defensive tactics training – 41 hours;
- Firearms training – 108 hours;
- Taser training – 50 hours;
- SRT specialized training²⁵ – 161 hours;
- De-escalation, Crisis Intervention Team (CIT), and Advanced CIT training²⁶ – 197 hours.



²³ Peace Officer Standards and Training Council

²⁴ The total hours reflects the number of hours made available to personnel through in-service training (i.e. two 8-hour courses would equal 16 hours offered) and does not reflect the total number of hours received by all departmental personnel.

²⁵ This training denotes SRT-specific training provided only to members of the SRT (Strategic Response Team) and is not open to the entire department.

²⁶ De-escalation and Crisis Intervention Team (CIT) training, which includes Advanced Crisis Intervention Team training, are paramount to use of force in 21st Century Policing. The Department continues to incorporate a 40-hour CIT class into its New Officer Basic Course to meet Recommendations 5.6 & 5.8 of the President's Task Force on 21st Century Policing (2015). It should be noted that as of the time of this report, all employees have received Integrating Communication Assessment and Tactics (ICAT) training. ICAT has further been added as mandatory curriculum for all new officers. This training is not reflected above in Subsection 2 (New/Unique Training Offered by ACCPD in 2019) because it was implemented in 2020. This training was implemented in response to the OIS incidents in 2019 to improve departmental tactics and best practices for responding to calls concerning subject who were in crisis and not armed with a firearm. The goals were to improve officer safety, protect the public, and reduce the likelihood that an incident may result in the use of lethal force.

2. New/Unique Training Offered by ACCPD in 2019

The CDTU offered several new types of training to its officers during the 2019 calendar year with the intent to expand officers' skills, improve decision-making abilities, and strengthen confidence in use-of-force incidents. These included:

- Reality-Based Use-of-Force Lab
- Advanced Firearms Training/Tactics
- Vehicle CQB (close quarter combat) Training
- Low-Light Firearms involving vehicles

3. CDTU Staffing Level

The CDTU saw some changes to its staffing during 2019: a) the CDTU lieutenant was transferred to out of the CDTU to fill other operational needs of the Department; b) one training sergeant left the department; c) a sergeant (formerly in the CDTU) was transferred back into the CDTU; and d) another sergeant was appointed as an interim lieutenant within the CDTU. This left the CDTU one member short moving into 2020 and combined the Armory/Range Instructor Sergeant and the CDTU Lieutenant into one position. The potential effect on use-of-force training is a reduction in future training hours offered by the CDTU.

4. Equipment

Firearms

The CDTU Commander did not report concerns related to the types of firearms or ammunition issued by the Department. The Department continued to issue the Glock 17 (9mm) to sworn personnel as the standard sidearm, along with three (3) 17-round magazines. The Department-issued duty ammunition is the Speer Gold Dot 9mm Luger (147 grain GDHP²⁷). Fully loaded, officers are generally equipped with 52 rounds of handgun ammunition.

The Department continued to issue the Daniel Defense Model DDM4 5.56 NATO semi-automatic rifle to officers and the JP Model JP-15 5.56 NATO semi-automatic rifle to the Strategic Response Team (SRT). Additionally, officers were also permitted to carry personally-owned rifles that were approved by Department policy and the Department Armorer. The Department-issued rifle ammunition was the Hornady Tactical Application Police (TAP) 5.56 NATO (75 grain TAP SBR²⁸). The CDTU reported that 107²⁹ officers carry department-issued or personally owned rifles. A breakdown is as follows:

- 60³⁰ department-issued rifles for officers (Daniel Defense Model - DDM4);

²⁷ Gold Dot Hollow Point

²⁸ Short-Barreled Rifle

²⁹ Number reflects current records as of April 9, 2020.

³⁰ This number does not reflect 23 additional rifles that were purchased in 2020 but are pending arrival at the time of this report. It only reflects rifles issued to officers at the time of this report. The pending order of rifles, once issued to officers, will bring the total issued patrol rifles to non-SRT personnel up to 83 rifles.

- 18 department-issued rifles for SRT (JP Model JP-15);
- 29 Rifles that are personally owned and carried by officers.

Tactical Weapon Light

The Department started transitioning to the Streamlight TLR-1 HL (800 lumens) weapon light for handguns in 2017, but has only purchased 132 since that time. The CDTU recommended the purchase of 76 additional TLR-1 HL weapon lights to complete the transition process and equip all officers with this weapon light. The estimated cost to purchase 76 lights was between \$8,800 and \$9,400³¹.

Controlled Electronic Weapons

The Department continued issuing the Taser X26P to sworn personnel. CDTU staff reported that the most recurring issue it observed in 2019 was the bottom probe missing its intended target (i.e., the subject) when deployed in a UoF. The CDTU reported working to address this issue and rectify the problem through training but found it difficult to overcome due to a) the dynamic nature of UoF incidents; and b) varying competency levels among officers. It should be noted that the CDTU reported that it has recommended transition to the Taser 7. The CDTU reported this may help to mitigate bottom probe misses. Additionally, the CDTU reported that the Taser X26P models were reaching the lifecycle expiration.

Impact Weapons

The Department continued to issue the Armament Systems & Procedures (ASP) Friction Loc 26 inch expandable baton to officers. There are no issues to report at this time.

Oleoresin Capsicum (OC)

The Department continued to issue the SABRE Gel version of OC Spray to officers. There are no issues to report at this time.

Body Armor

The Department continued to issue Survival Armor's Paladin Level II as the standard body armor for officers. Except for the SRT, the Drug Task Force, the Safe Streets Task Force, and the Gang Unit, the Department does not currently issue officers rifle plates and rifle plate carriers.

Body-Worn Cameras

The Department continued use of body-worn cameras (BWC) for sworn officers and was issuing the Axon Flex 2 for uniform patrol officers and the Axon Body 2 for the Criminal Investigations Division and other specialized units. The use of BWCs continues to be significant for reporting, documenting, and accounting for UoF incidents. There are no issues to report.

³¹ Estimation is based on three bids the CDTU received from distributors in 2019.

5. Online Training

Department personnel continued to use the GPSTC³² Online Training Portal to attain the mandatory 2-hour UoF annual training, as well as other mandatory trainings. Use of the online training system reduces costs for the Department and increases flexibility and availability of CDTU resources for other training purposes. There is an advantage of convenience in the online training for officers. However, online training reduces the advantages of hands-on instruction. GPSTC UoF online modules are not updated regularly, as well, and risk becoming outdated to best practices and legal standards.

D. POLICIES AND REPORTING

The following section is a review of departmental use-of-force policies and reporting practices. During 2019, use of force policy was covered under General Orders 3.01 through 3.10. There were no significant changes to these policies or directives during the reporting period. There was one minor area of concern identified within General Order 3.06 (Firearms) related to policy requirements on rifle magazine loads (see ANALYSIS AND RECOMMENDATIONS section below).

The analysis for use-of-force incidents continued to be dominated by the objective reasonableness standard established in *Graham v. Connor*, 490 U.S. 386 (1989). At the time of this report, General Orders 3.01 (General Provisions) and 3.08 (UoF Reporting) have been replaced by General Directive 6.01. Based on a review of General Directive 6.01, it appeared to be consistent with current federal, state, and case law. Additionally, there were no significant changes in State or Federal law that appeared to impact use-of-force policy within the department.

In terms of reporting, the department implemented new use-of-force reporting software (LEFTA System) for calendar year 2019. The LEFTA System digitized use-of-force reporting but came with logistical and programmatic flaws. The benefits were a) one-on-one UoF reporting requirements to improve accuracy and accountability; and b) expansion of collectible and analyzable data fields. The shortcomings included a) functional problems due to automatic freezing of input fields within the software; and b) lack of robust query functions to analyze data that officers entered into the system. The department ultimately abandoned this application and in January 2020 implemented IAPro and BlueTeam softwares as a replacements.

Recommendation 2.2 of The Final Report from the President's Task Force on 21st Century Policing (2015), says “Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.” General Orders 3.01 through 3.10, as well as the Department’s policies on open records, appear to adequately meet this recommendation. Directive 6.01 appears to adequately meet this recommendation, as well. This directive, as well as others, should continually be updated on the

³² Georgia Public Safety Training Center

transparency page of the departmental website to ensure public access. There are no issues of concern to report at this time.

E. ANALYSIS AND RECOMMENDATIONS

Weapon Lights

It is recommended that the Department complete its transition to the Streamlight TLR-1 HL (800 lumens) weapon light by purchasing the recommended 76 additional lights.

The older weapon light still carried by some officers is 150 lumens. The TLR-1 HL is an 800 lumen light, which is significantly brighter. The increased brightness will allow for better and faster target identification/acquisition, improve tactical advantage for officers through better light dominance; provide a better less-lethal tool option; and improve officer safety.

Department-Issued Rifles

It is recommended that the Department explore budget and funding options to purchase additional rifles to adequately equip all sworn personnel, as well as training on the use of patrol rifles.

The Department does not possess enough rifles to equip the current staffing level of officers or the approved staffing level (254 sworn). There is a pending order of 23 rifles that will bring the total number of issued rifles up to 101 rifles. However, there are only 78 Department rifles issued to sworn personnel at the time of this report. This means that, at the time of this report, the Department is only equipping about 31% of its sworn capacity with rifles. The patrol rifle is important beyond its lethal force capability because it allows officers to create greater distance between officers and a threat. Greater distance improves officer safety and can reduce the likelihood officers may be required to use force.

Body Armor

It is recommended that the Department explore budget and funding options to purchase rifle plates and plate carriers for all of its sworn personnel.

The Department currently does not issue rifle plates and rifle plate carriers to the majority of its sworn officers. The standard department-issued body armor is adequate for daily wear and use. However, it is not adequately rated for rifle and other high velocity firearms/ammunition. The result is that officers have resorted to purchasing their own rifle plates and plate carriers for use, when necessary, during tours of duty. When officers personally purchase equipment not already issued to them, it suggests that there is a need (or at least a perceived need) for the equipment. Additionally, the Patrol Division and Criminal Investigations Division continue to report responding to and investigating criminal incidents involving the use of firearms, to include rifles.

Rifle plates and plate carriers improve officer safety because they provide a higher level of protection from firearms.

Duty Ammunition Accountability

It is recommended that procedures are adjusted at the unit-levels to improve the individual accountability of each officer regarding duty ammunition. Administrative investigation of more than one OIS incident in 2019 revealed that more than one officer was not carrying handgun magazines loaded to full capacity. These officers were unable to account for why they were carrying less than the mandatory minimum of 52 rounds. It should be noted that this did not impact the legal and administrative conclusions of the OIS incidents because ample evidence (particularly BWC video) was available when determining whether or not the uses of lethal force were lawful and within policy. The number of rounds fired during these specific OSI incidents was not at issue, as well. However, in the absence of other evidence, the number rounds fired could prove pivotal when making determinations about an officer's actions in the future.

Rifle Magazine Loads

It is recommended that the department review its policy related to load capacity of rifle magazines to address concerns about the difficulty seating a fully loaded magazine into the AR-15/M4 weapon system.

General Order 3.06 (IV) (B) (2) requires officers who carry a patrol rifle to carry the rifle "with the magazine loaded to full capacity." The majority of rifle magazines carried by officers have a 30 round capacity. Officers have experienced and expressed that, when loaded to full capacity, rifle magazines are difficult to fully seat in the AR-15/M4 weapon system in the closed-bolt position. The problem occurs when officers make their weapons "duty ready" and during a tactical reload (both closed-bolt). The result is a magazine that may drop from the weapon during operation. This issue can elevate the risk to officer safety during a critical lethal force incident. The CDTU reported that it has been training officers on techniques to improve properly seating fully loaded magazines (e.g., the push-pull method). However, under the stress of a critical lethal force incident, the potential for an improperly seated magazine remains present. The CDTU reported that loading a 30-round magazine with 28 rounds mitigates the potential for an improperly seated magazine.

Citizen Training and Input on Policy

It is recommended that the Department incorporate the soon-to-be-established Citizen's Police Advisory Board (CPAB) in its use-of-force training³³.

It is further recommended that the Department proactively provide use-of-force policy to the CPAB and solicit input on policy from the CPAB³⁴.

Use-of-Force is a highly sensitive and controversial police activity. Therefore, there is greater need for community engagement/understanding of use-of-force training, legal issues, and policies. Incorporating the CPAB into use-of-force training will increase departmental transparency,

³³ Recommendation 5.2 from The President's 21st Century Policing Task Force includes engaging the community in law enforcement agencies' training process.

³⁴ Recommendation 2.1 from the President's 21st Century Policing Task Force includes law enforcement agencies collaborating with the community on policy and policing strategies.

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Prepared by Lt. Daniel/ #1113

further the community's education and understanding of use-of-force issues (e.g., laws, policies, etc.), reduce community misconceptions about the realities of use of force, and strengthen the Department's relationship with the community. Additionally, soliciting input on use-of-force policy from the CPAB will help achieve the abovementioned benefits, as well as enhance the community's buy-in and approval of appropriate Departmental use-of-force activities.