



POLICE DEPARTMENT  
CITY OF BURLINGTON

## 2019 Use of Force Report

### Executive Summary

The lawful authority to use force is one of policing's greatest responsibilities, as is the obligation to use it properly. The Burlington Police Department expects officers to use objectively reasonable force when necessary, but strives to control and decrease instances of force through better training, tactics and tools. This report examines patterns in use of force from 2012 through 2018, including the type of force used, the timing of use-of-force incidents, and the demographics of subjects of force. The data show that:

- Each year, the Burlington Police Department responds to approximately 30,000 incidents or calls for service. **Force is used in 2/3rds of one percent of all BPD incidents.**
- **Use-of-force incidents have decreased 40% over seven years.**
- One in five instances of force results in a subject injury.
- Officers are most likely to use force late-night downtown, which is also when and where assaultive crimes are most likely to occur.
- 21% of subjects of force are black, which is similar to the percent of black offense suspects (18%) and arrestees (17%).

### Introduction

Nearly two hundred years ago, Sir Robert Peel noted that "Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice, and warning is found to be insufficient."<sup>1</sup> In Vermont, Level I and Level II police are empowered to (I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury; (II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury; (III) detain or arrest an individual who the officer reasonably believes has committed a crime in the presence of the officer; or (IV) detain or arrest an individual who the officer reasonably believes has committed a felony under Vermont law.<sup>2</sup> And although Level III officers have wider powers—"the scope of practice of a Level III law enforcement officer shall include all law enforcement authority"—there is no specific statute relating to use of force. As a result officers are governed by the Supreme Court, specifically *Graham v. Connor*, 490 U.S. 386 (1989). Accordingly, when necessary to accomplish a legal purpose and ensure public safety, officers may employ **objectively reasonable force**. Officers should use only the force that is necessary and appropriate for compliance and use it only until compliance has been achieved.

Force is defined by Burlington Police Department directive as "[physical] conduct on the part of a police officer that is designed to assist the officer in controlling a situation, actions, or behavior of a person/s" (DD05 1C). Colloquially, it is any action beyond persuasion that may reasonably injure a subject.

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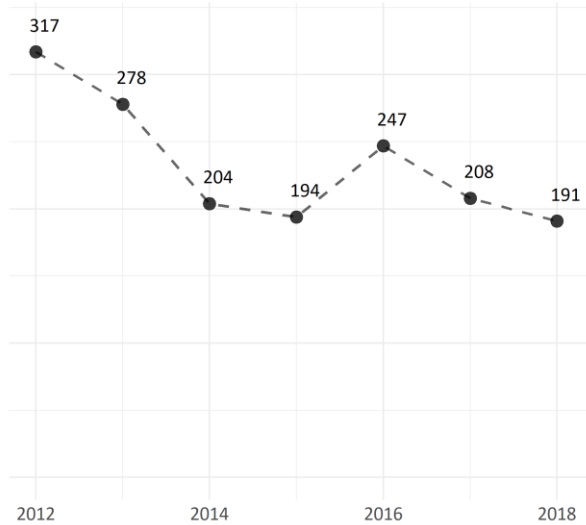
<sup>1</sup> Sir Robert Peel's Principles of Law Enforcement, 1829.

<sup>2</sup> 20 V.S.A. § 2358. All BPD officers are Level III officers.

## Force Used Over Time

Using force during the course of police work is rare, but occasionally necessary. From 2012 through 2018, there have been **1,639** police incidents in which some amount of force has been used.<sup>3</sup> During that same period, BPD officers responded to **240,137** incidents and made **14,068** arrests (although force does not occur only during arrests). Over this time period, police use-of-force incidents have been decreasing, from a high of 317 in 2012 to 191 in 2018, or a decrease of 40% over seven years. In the first half of 2019 there have been 90 incidents involving a use of force.

Incidents with Force Trending Down



## Subjects and Officers Involved

Any given police incident where force is used could involve multiple officers and subjects. For the purposes of this report, a “subject” is a person against whom an officer uses force. Since 2012, 89% of use-of-force incidents involve one subject, 8% involve two subjects, and 3% involve three or more subjects. There are slightly more officers using force in any given force incident than there are subjects. Of the 1,639 incidents, 36% had more than one officer who used force. This does not account for other officers who were present at the incident but did not use force.

## Types of Force Used

Officers are required to report any force used “beyond that of persuasion,” such as when an officer “meets physical resistance during a detention or arrest or takes any action that may reasonably result in injury to another person” (DD05 IV: Reporting). This means that a use of force event could include anything from discharging a firearm to grabbing the arm of an unwilling subject to handcuff him or her.

This analysis generally breaks down the type of force used into weaponless tactics and weapon tactics. Weaponless tactics include physical force (pushing, strikes, etc.) and empty-hand techniques (techniques to redirect movement or create pain compliance, such as a joint wrist lock, or a body-fold takedown). Weapon tactics include pointing a firearm, using pepper spray, or deploying a conducted electrical weapon (CEW, or Taser). This analysis considers all weaponless tactics as one category, while weapon tactics are analyzed separately. These categories do not have an inherent hierarchy of severity, as the weapon tactics may well do less lasting damage than a weaponless tactic like a push or a strike. Likewise, a threat of force using a firearm, while causing no physical injury, may be traumatic for resisting subjects and could be considered more severe than some forms of physical force.

Two thirds of all incidents in which force is used involve some form of weaponless tactics, categorized as either “Physical Force” or “Empty Hand Techniques.” The next most common types of force used are OC

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<sup>3</sup> A previous analyst calculated a higher number of incidents owing to a different definition of “incident”, where each subject/officer combination counted as a separate incident. This analysis assumes that one incident can cover the actions of multiple officers and subjects as long as they occur during the same police activity.

Spray (i.e. pepper spray) or pointing a firearm. It is important to note that pointing a firearm, even if no other force was used, must be reported. Of the 402 incidents in which a firearm was pointed, other types of force were used in only 106 of these incidents.

While there were 1,639 incidents in which any kind of force was used, officers responded to 240,137 incidents during the same time period. **Force was used in fewer than 7 out of every 1,000 incidents.**

*Note that in any incident there can be multiple types of force used, so the categories are not exclusive to an incident; percentages will not add to 100%.*

Type of Force Used 2012-2018 n=1,639	Percent	Count
Physical Force/Weaponless Tactics	65.6%	1,075
Weapons Used	21.0%	345
Weapons Displayed	35.1%	576

Incidents where weapons were used (2012-2018) (n=345)	Percent	Count
OC Spray	86.1%	297
Taser	18.8%	65
Firearm	0.9%	3

Incidents where weapons were displayed (2012-2018) (n=576)	Percent	Count
OC Spray	13.1%	76
Taser	24.1%	139
Firearm	69.8%	402

There are other forms of force that are used rarely by the Burlington Police Department, including canine bites (occurring three times in seven years), projectile launchers (used eight times), and batons (used seven times).

### Types of Resistance

Subject behavior determines the level of force used against the subject. Officers use force to respond to resistance or violent behavior, which ranges from physically and actively refusing to obey lawful directions to using a weapon against officers or others. The most common form of resistance was “Active Physical Resistance” meaning “any affirmative action used by the subject to defeat the officer’s ability to take the subject into custody” (DD05 1A).

Note that in any incident there can be multiple types of resistance; percentages will not add to 100%.

Type of Resistance (2012 – 2018)	Percent	Count
Active Resistance	56.4%	924
Refused Commands	36.6%	600
Passive Resistance	25.4%	416
Assaultive	23.7% <sup>4</sup>	389
Escape from Detention	15.4% <sup>5</sup>	252
Verbalized Threats	12.4%	203
Walk or Ran Away	9.7%	159
Weapon Used	2.6%	42

## Officer and Subject Injuries

Whether an officer or subject is injured in an encounter indicates the severity of the force and resistance used, regardless of the type. Any injury that is sustained or claimed by the subject must be documented. However, an audit revealed there has been some confusion about whether an officer should mark a subject injured if the subject was injured before the officer was involved.<sup>6</sup> Often officers need to use force in situations where a subject is already in physical danger, either from his or her own actions or because he or she has been involved in some sort of assault. An injury may indicate that the subject was injured during the altercation with an officer, or it may indicate that the subject was injured previously; the data do not differentiate clearly between these situations.

In addition, an incident may involve a subject being medically monitored, either on scene or in the hospital, yet this could also be a result of injuries sustained before the interaction with the officer. Most use-of-force incidents do not result in any medical monitoring (67%). In 19% of incidents a subject or subjects were transported to the ER; in 3% of incidents a subject or subjects were admitted to the hospital; and in 11% of incidents a subject or subjects were evaluated at the scene, usually by the Burlington Fire Department. It is not clear from the data collected whether being brought to the hospital or evaluated on scene is a result of force used by an officer or owes to injuries or the mental state of the subject prior to the use-of-force incident.

The percent of use-of-force incidents in which an officer or subject was injured has remained fairly steady over time. From 2012 through 2018, 12% of use-of-force incidents resulted in an officer injury, and 19% of incidents resulted in an injury to the subject of force. In 74% of use-of-force incidents, neither an officer nor a subject was injured, and in 5.3% of incidents at least one officer and one subject in the encounter was injured.

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<sup>4</sup> Assaultive resistance has increased steadily, from 21.8% of all UoF incidents in 2012 to 28.6% of incidents today. Other departments across the country have noted this trend, e.g. [Larimer County, CO](#).

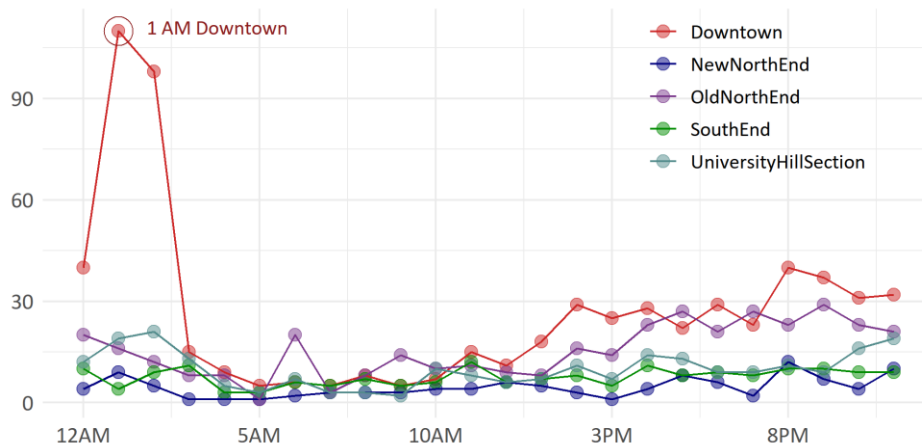
<sup>5</sup> Likewise, escapes have increased from 11.4% of UoF incidents in 2012 to 20.3% of all incidents in 2018.

<sup>6</sup> For the purposes of this report, if any officer involved in a use-of-force incident marked the subject as injured it was counted as an injury. In other words, the data is as inclusive as possible of injuries and pre-existing injuries.

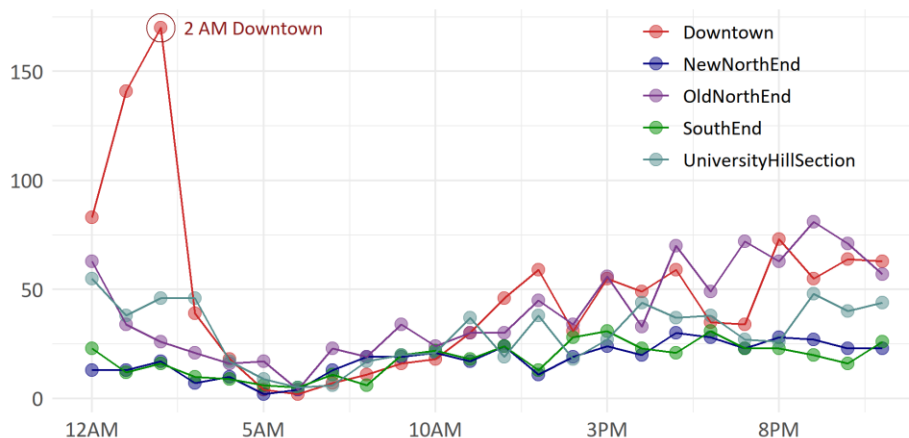
## When and Where Use of Force Incidents Happen

The Burlington Police Department divides the city into five lettered areas. Each area roughly corresponds to existing city neighborhoods: New North End, Old North End, University/Northern Hill Section, Downtown, and South End. The city's busiest section is Downtown, which runs from the waterfront to South Union Street, and is bordered by Pearl St to the North and Maple Street to the south. It is home to most of the city's bars and nightlife. Thirty percent of all BPD incidents occur in the Downtown area. This area is also the site of more uses of force than other areas. The chart below shows that the need for force increases during the evening hours, both in the Old North End area and Downtown, but there is a significant jump in incidents from midnight through 3 am in the Downtown area.<sup>7</sup> Assaultive crimes, including robberies, assaults on law enforcement, and domestic assaults, closely match the timing and location of use-of-force incidents, spiking in the early morning hours downtown.

**Use of Force Incidents Spike Late Night, Downtown**  
*Total Incidents, 2012-2018*



**Assaults Track Use of Force Timing**  
*Total Assaultive Crimes, 2012-2018*



<sup>7</sup> Hours rounded down, so an incident occurring at 2:59 am is included in as a 2 am incident.

## Arrests and Offenses Associated with Force

From 2012 through 2018, 67% of use-of-force incidents are associated with an arrest, and 60% of subjects are arrested during use-of-force incidents. But arrests are not the only instances in which officers may be required lawfully to use force. Individuals harming themselves may be subject to force if they do not comply; individuals threatening to harm others or actively harming others may be subject to force to end that behavior, but may not be subject to arrest if they lack the mental capacity or intent to understand their actions. For arrests where the charge is known,<sup>8</sup> the most common charge is Disorderly Conduct, which can include mutual frays as well as other disruptive behavior. The second and third most common charges are Assault on a Law Enforcement Officer and Resisting Arrest.

Traffic stops are not commonly associated with use of force; on average, there have been seven uses of force associated with traffic stops each year.

## Subjects of Force

The BPD strives to ensure that force is used according to a subject's behavior and only his or her behavior. While officers respond to hundreds of calls a weeks, and make dozens of arrests, force is used sparingly to control otherwise uncontrollable situations. Understanding whom force is used against is important both for measuring equity and understanding how situations rise to the level of force. The Burlington Police Department used force against 1,391 unique subjects from 2012 through 2018, for a total of 1,897 uses of force. Three hundred subjects had more than one use of force incident during this time. One individual was a subject in 35 incidents during this period.

## Age and Gender

The mean age of a subject of force in Burlington is 35, while the median age is 32.<sup>9</sup> The average age of use-of-force subjects has been decreasing since 2013. In that year, the average age of force subjects was 38, while the average age of subjects in 2018 was 31. The median age of subjects was 28 in 2018, versus 33 in 2013. From 2012 through 2018, 19% of use-of-force subjects were women, although women comprised 27% of BPD arrests over the same time period.

## Race

Approximately one-fifth of use-of-force subjects are black, which is significantly higher than the share of black residents in Burlington. That rate, however, tracks closely with both the percent of offense suspects and the percent of arrestees who are black.<sup>10</sup> On average, there are 57 incidents each year where the BPD uses force on black people.

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<sup>8</sup> Of the 1,140 arrests of subjects, 756 (67%) of the arrests have charges associated with them in the data. The charges may be missing due to expungements, misspellings, or other data issues.

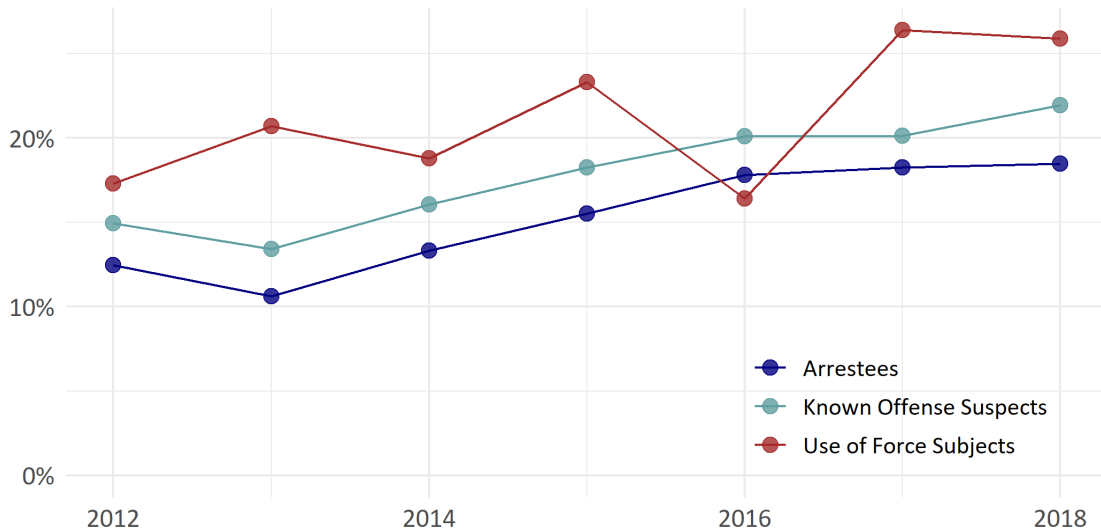
<sup>9</sup> This is a bit higher than the mean and median age of all arrests (33 and 30 years). Arrests do not follow the same pattern over time, and in fact the average age of arrest has been increasing since 2012 (from 30.9 to 33.6 years on average).

<sup>10</sup> A RAND Safety and Justice report on NYC Stop and Frisk practice states "residential census data ... possibly provide an estimate of the racial distribution of those exposed to police but do not reflect rates of criminal participation. As a result, external benchmarks based on the census have been widely discredited. The racial distribution of arrestees has been proposed as a more reliable benchmark. A more promising external benchmark is the racial distribution of individuals identified in crime-suspect descriptions, though this benchmark also has serious pitfalls." *Analysis of*

Race 2012 – 2018	All Use of Force Involvements		Unique Individuals		Known Offense Suspects	Arrestees <sup>11</sup>
	%	Count	%	Count	%	%
Black	20.9%	396	19.7%	274	17.6%	17.2%
Asian	2.2%	42	2.0%	28	2.9%	3.0%
Hispanic/Latino <sup>12</sup>	2.2%	42	2.2%	30	-	-
Other/Not Reported	2.0%	38	2.0%	28	1.6%	1.0%
White	72.7%	1,379	74.2%	1,034	77.9%	78.8%

### Black Involvement with BPD

As Percentage of Arrestees, Suspects and Subjects of Force

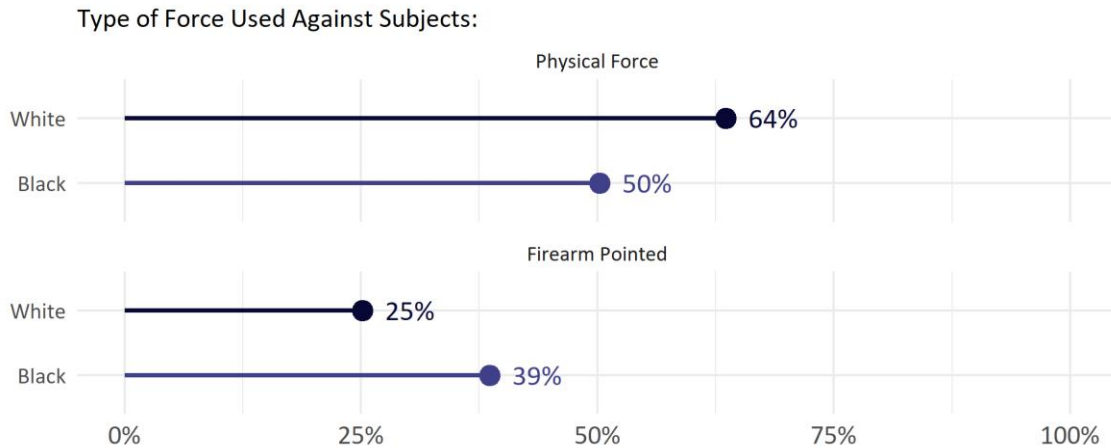


The type of force used by officers is largely consistent by race. Black subjects are as likely to have OC Spray or a Taser displayed or used during a force incident as white subjects. Seventeen percent of incidents with black subjects involve the use of some type of weapon compared to 19% of incidents with a white subject. OC Spray or a Taser is displayed to 9% of black subjects versus 13% of white subjects. This consistency does not hold for pointing firearms, however. Black subjects are more likely to have a firearm pointed at them during a use-of-force incident, but less likely to have physical force used against them. It is important to note again that each type of force is not exclusive; an incident with physical force, for example, could include a weapon displayed or used as well.

*Racial Disparities in the New York Police Department's Stop, Question, and Frisk Practices*, Greg Ridgeway. Technical report, page xi.

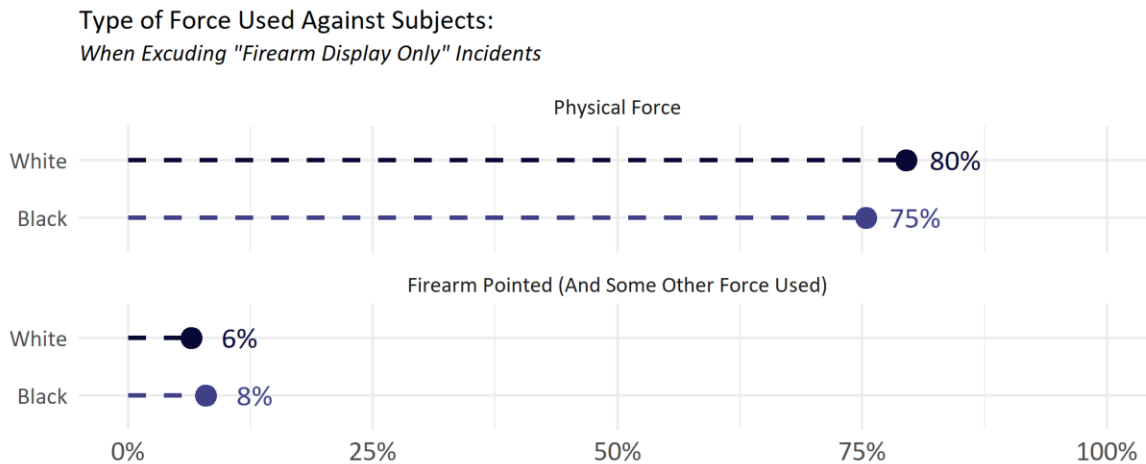
<sup>11</sup> This excludes arrests where the arrest has been expunged, which was about 10% of incidents in 2018, and around 5% in other years.

<sup>12</sup> Hispanic/Latino is an option as a race for use-of-force subjects, but the database that contains arrests and offenses classifies it separately as an ethnicity.



The disparity in the types of force used by race are caused by “firearm display only” incidents —where a firearm is pointed at a subject, but no other force is used. These incidents are largely attributable to search warrant executions or incidents involving a violent felony suspect, when subjects’ behavior is unpredictable or volatile. Per department policy, an officer must record every person at whom the officer pointed his or her firearm. During search warrants, this may involve more than one officer pointing a firearm at more than one person, thus generating numerous reports and involving numerous subjects. Fully one third of black use-of-force subjects are involved in these types of incidents, compared to a fifth of white subjects. In total, there were 432 subjects involved in “firearm display only” incidents.

When these incidents are excluded the disparity in the type of force used against subjects of different races all but disappears. Physical force is then used in the majority of both white and black use-of-force incidents (877 of 1,103 force incidents with white subjects, 199 of 264 incidents with black subjects).<sup>13</sup> Pointing a firearm as well as using some other type of force is quite rare, and is used against less than 10% of subjects of force. In addition, when “firearm display only” incidents are excluded from the overall use-of-force data, the proportion of black subjects declines to 18% of subjects, which closely matches the rate at which BPD encounters black arrestees or offense suspects.



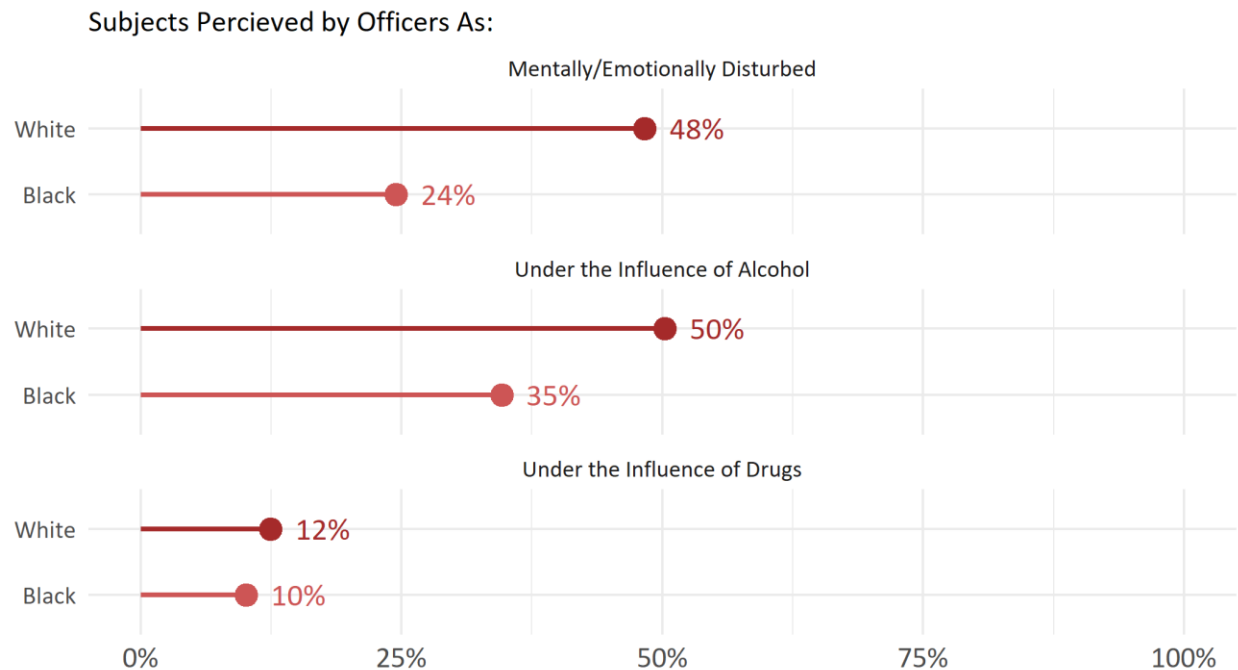
<sup>13</sup> Tables for race and force used can be found in the appendix.



### Subjects Affected by Drugs, Alcohol, or Mental Health Issues

When officers file a use-of-force report, they report on whether a subject of force appears to be mentally or emotionally disturbed, or under the influence of drugs and alcohol. Most subjects are marked as being within at least one of these categories. Nearly half of all subjects appeared to be under the influence of alcohol, or 896 of the 1,897 subjects (47%). A similar percent appeared to the responding officers to be emotionally or mentally disturbed (810 subjects, or 43% of all subjects). Subjects were less likely to appear to be under the influence of drugs (218 subjects, 12%).

Black subjects were less likely to be marked as under the influence of alcohol or mentally/emotionally disturbed than white subjects.



### Conclusion

The lawful authority to use force is one of the most significant responsibilities with which officers are entrusted. It is a power that must be used only when made necessary by a subject's behavior, and only in objectively reasonable ways. Through new training, tactics, and tools, the Burlington Police Department has sought to control and decrease the instances in which force is used. While we hope for a day when force is never necessary, we know that officers cannot influence every situation—subjects are ultimately responsible for their own behavior. Nevertheless, studying and tracking use-of-force incidents is an invaluable tool for developing training that helps us continue to ensure that when force must be used, it is used lawfully, fairly, consistently, and in as few instances as possible.

## Appendix

### Type of Response by Race

2012-2018	White n = 1,379		Black n = 396		Asian n = 42		Hispanic n = 42		Other / Unknown n = 38	
	%	Count	%	Count	%	Count	%	Count	%	Count
<b>Physical Force</b>	63.6%	877	50.3%	199	66.7%	28	59.5%	25	52.6%	20
<b>Weapons Used</b>	18.7%	258	17.2%	68	21.4%	9	26.2%	11	23.7%	9
OC Spray	16.0%	221	14.6%	58	21.4%	9	21.4%	9	18.4%	7
Taser	3.1%	43	4.3%	17	2.4%	1	7.1%	3	7.9%	3
Firearm	0.2%	3	-	-	-	-	-	-	-	-
<b>Weapons Displayed</b>	35.7%	492	45.7%	181	38.1%	16	33.3%	14	44.7%	17
OC Spray	4.6%	63	2.0%	8	2.4%	1	9.5%	4	2.6%	1
Taser	8.2%	113	6.8%	27	9.5%	4	7.1%	3	10.5%	4
Firearm	25.2%	347	38.6%	153	26.2%	11	21.4%	9	31.6%	12

2012-2018	White				Black			
	n = 1,379		Excluding Firearm Pointed Only n = 1,103		n = 396		Excluding Firearm Pointed Only n = 264	
	%	Count	%	Count	%	Count	%	Count
<b>Firearm Pointed, No Other Force Used</b>	<b>20%</b>	<b>276</b>	-	-	<b>33.3%</b>	<b>132</b>	-	-
Physical Force	63.6%	877	79.5%	877	50.3%	199	75.4%	199
Weapons Displayed	35.7%	492	21.1%	233	45.7%	181	20.1%	53
OC Spray	4.6%	63	5.6%	62	2.0%	8	3.0%	8
Taser	8.2%	113	9.1%	100	6.8%	27	9.1%	24
Firearm	25.2%	347	6.4%	71	38.6%	153	8.0%	21

## USE OF FORCE SUMMARY DATA

### Counts by Year

	2012	2013	2014	2015	2016	2017	2018
Force Incidents	317	278	204	194	247	208	191
Arrests	1,927	2,163	1,959	2,165	2,342	1,890	1,624
Offenses	5,885	5,823	5,472	5,313	5,589	4,848	3,944
Total Incidents	32,825	34,278	36,275	37,324	37,131	32,671	29,633

### Resistance and Response

Resistance Type	2012	2013	2014	2015	2016	2017	2018
Active Physical Resistance	169	160	123	107	147	124	94
Assaultive	69	52	46	48	63	56	55
Escape Detention	36	39	34	26	38	40	39
Passive Physical Resistance	74	75	50	54	62	55	46
Refused Commands	106	121	79	69	90	81	54
Verbalized Threats	32	30	28	26	34	31	22
Walk or Run Away	23	21	20	25	30	21	19
Weapons Used	8	11	3	5	6	5	4

Response Type	2012	2013	2014	2015	2016	2017	2018
Firearm Display	80	61	37	59	49	60	55
Firearm Used	0	1	0	1	1	0	0
OC Spray Displayed	9	6	14	13	14	12	8
OC Spray Used	66	37	38	34	42	41	39
Physical Force / Weaponless Tactics	201	191	144	121	161	145	112
Taser Displayed	31	23	7	12	21	25	20
Taser Used	31	9	2	0	5	10	9

### Injuries

Incident with injury to at least one:	2012	2013	2014	2015	2016	2017	2018
Subject	77	53	32	40	43	26	44
Officer	35	35	26	26	32	20	26

## Subjects of Force

Subject Count	2012	2013	2014	2015	2016	2017	2018
	364	338	234	223	268	246	224

Subject Gender	2012	2013	2014	2015	2016	2017	2018
Female	64	81	53	26	60	40	36
Male	300	257	181	197	208	206	188

Subject Race	2012	2013	2014	2015	2016	2017	2018
Asian	5	8	8	3	6	8	4
Black	63	70	44	52	44	65	58
Hispanic / Latino	11	5	5	7	6	4	4
Other / Not Reported	14	5	4	1	9	1	4
White	271	250	173	160	203	168	154

Subject Age	2012	2013	2014	2015	2016	2017	2018
Mean	35.7	37.9	34.4	34.9	35.1	34.1	31.2
Median	32.0	33.0	32.0	31.0	32.0	33.0	28.0