



# **Use of Force 2022**

## **January 1, 2022 to December 31, 2022**



**“Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or an investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.”**

**U.S. Supreme Court, *Graham v. Connor*  
490 U.S. 386, 396 (1989)**

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**Executive Summary**

## Use of Force 2022

### Summary

The frequency in reporting use of force for the year 2022 is 0.11% of CAD. Use of force to CAD ratio was consistently 0.16% from 2012 – 2014, but has declined over the last few years. The ratio is only slightly elevated for 2021 when compared to 2020. The use of force to arrest ratio in 2014 was 2.44% and declined to 2.00% in 2015. The 2016 use of force to arrest ratio was 1.97% and 2.52% in 2017. The 2018 use of force to arrest ratio was 2.42%, down to 2.35% in 2019 and still declining to 2.21% in 2020. The use of force to arrest ratio has jumped to 3.37% in 2021, but dropped back down to 2.4% in 2022.

The Baton Rouge Police Department arrest data is comparable and matches expectations with the national arrest data available through the FBI. There does not appear to be any racial or gender bias in the use of force data within the Baton Rouge Police Department. However, the Department recognizes that there is a disproportionate number of contacts and arrests made among African Americans and requires further examination.

### Recommendations

The following are the recommendations of this study.

1. Continue to utilize the use of force reporting system. The current issues are how to address the traceability of reports and how to query the number of displaying of firearms due to the new RMS system in place.
2. Ensure that training needs are identified and documented. This information is the basis for justifying and adjusting some of our in-service training programs.
3. Continue the current initial and in-service training. This is the only means on assuring our long-term compliance with the standards set forth in the general orders.
4. Ensure that current policy and practice on the use of TASER type devices coincide.
5. Continue the periodic analysis as required.

## Use of Force

### Literature and Overview

The use of force by officers in the Baton Rouge Police Department falls under the 4<sup>th</sup> Amendment's search and seizure clause. The amendment states, "*The right of the people to be secure...against unreasonable searches and seizures shall not be violated.*" When using force to subdue or restrain a person, an officer must be aware of this "*unreasonable search and seizure*" clause. Because this right is in the Constitution, persons may file suit under 42 U.S.C. 1983 when they feel that this right has been denied. The issue was even more clearly defined in two cases brought before the Supreme Court, Johnson vs. Glick (1973) and Graham vs. Connor (1989). In the first case, the level of force had to "shock the conscience" by its maliciousness and extent of injury. The second case relaxed the Glick standard by establishing the "reasonable force" standard. Recently, the reasonable force standard adopted by the court in Graham vs. Conner was addressed again in Saucier vs. Katz (2001). In a more recent and not so obvious case where the officer was in direct danger, Kisela vs. Hughes (2018) ruled in favor of the officer for shooting a woman who was threatening her roommate with a knife. Unless an officer complies with the reasonable force standard, he will not be entitled to the defense of qualified immunity. The reasonable force standard is also set forth in the Louisiana Code and memorialized by the Louisiana Supreme Court in Mathieu vs. Imperial Toy (1994).

Quoting from "*Police Use of Nondeadly Force to Arrest*" by John C. Hall (Law enforcement Bulletin 10/97) the following is stated:

*“The Fourth Amendment standard of “reasonableness” is not conducive to “precise definition or mechanical applications,” but “requires careful attention to the facts and circumstances of each particular case,” as viewed “...from the perspective of a reasonable officer at the scene, rather than the 20/20 vision of hindsight...” Moreover, allowances must be made for the fact that officers “...are often forced to make split second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation.”*

*“Among the ‘totality of circumstances’ that may govern the reasonableness of using a particular level of force, the Supreme Court has emphasized (1) the severity of the crime; (2) whether the suspect poses an immediate threat to safety of the officers or others; and (3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.”*

The “reasonableness” standard enhances the public’s ability to bring lawsuits against the Baton Rouge Police Department and its officers, and as such, requires an analysis of the department’s use of force. In addition to reducing the risk of lawsuits, studying the department’s use of force enhances professional and safe interaction with the public, allows trends in the use of force to be identified, and encourages modification in training to address issues identified by the study.

This study will address several topics:

- Policies and Training
- Reporting requirements
- Frequency of use of force
- Demographics of general, contact, arrestee and suspect populations
- Possible bias in the use of force

The data used for this study came from the Use of Force database maintained by Internal Affairs. The data was collected from response to resistive behavior forms submitted by various divisions of the department. In 2021, 231 “Response to Resistive Behavior” reports were filed involving 243 unique incidents.

This study will not attempt to address the issue of the use of excessive force or using legitimate force excessively. The study will only examine broader issues that describe the systems related to the use of force. Internal Affairs and the administrative systems of the Baton Rouge Police Department better address individual performance.

### **Definitions, Policies, and Training**

The use of force is best defined by the IACP as “...that amount of effort required by police to compel compliance from an unwilling subject.” The key phrase is “unwilling subject,” eliminating the routine handling of a compliant subject. The definition of excessive force is further defined by the IACP as “...the application of an amount and/or frequency of force greater than that required to compel compliance from a willing or unwilling subject.”

The Baton Rouge Police Department has two policies that address the use of force. The first is General Order 131, “Use of Deadly Force.” In it, deadly force is defined “...as that level of force, which a reasonable and prudent person would consider likely to cause death or great bodily harm.” (BRPD G.O. 131) The policy further defines the circumstances under which deadly force can be employed as the following:

“The employees shall employ deadly force only in defense of their own lives or in defense of the life of another person. It is essential that the officer reasonably believes that he or some other person is in immediate and apparent danger of

suffering death or great bodily harm and that the use of deadly force is the only prudent preventative measure available to him.” (BRPD G.O. 131.II.B)

The policy also places the following constraints on the use of deadly force:

“Deadly force shall not be justified merely in the protection of property nor in the prevention of escape by a prisoner or felon, unless the standard set forth above is met.” (BRPD G.O. 131.II.C)

The second policy is General Order 135 and governs non-lethal force. While the policy does not formally define non-lethal force, the implication is that it is a level of force that a reasonable and prudent person would consider less likely to cause death or great bodily harm. Under this policy, the use of non-lethal force “...be limited to situations involving resistance to arrest, defense against physical assault or to perform official duties, and that only that force which is reasonable and necessary may be used to achieve these objectives.” The policy further defines a continuum for the application of force as follows (from least to greatest force):

- Officer Presence
- Verbal Command
- Aerosol Subject Restraint – Commonly known as “pepper spray”
- Hands On
- TASER – Electro muscular disruptor
- Intermediate Weapons – Weapons such as batons that are normally used to deliver less than lethal force, but may be used to deliver lethal force if the situation warrants.
- Deadly force

It is important to note that the mere placement of handcuffs on a subject does not require a use of force report unless they are used to exert pressure to maintain control of a resistant subject (Known as an iron wristlock and/or an iron wristlock takedown).

General Order 135 defines the escalating levels of subject resistance as follows:

- Psychological intimidation – Threatening, non-verbal body language
- Verbal non-compliance – Verbal responses that indicate an unwillingness to comply with officer’s commands of arrest or a direct verbal threat to the officer.
- Passive resistance – Passive physical actions (demonstrator resistance, going limp, etc.)
- Defensive resistance – Pulling away or fleeing on foot without harming the officer.
- Active Aggression—Physical actions of assault
- Deadly force assault—Deadly force encounters that are likely to result in death or great bodily harm.

Many training documents display the force continuum next to the levels of resistance. Displaying the levels in this manner implies that each level of resistance must be met with the corresponding and equal level of force. Even if the diagrams indicated that one level of force above the level of resistance could be used, it would still appear that a step-by-step progression is required. Using a circle to display the levels of force with the officer in the center would be more consistent with our actual practice (see illustration below).

It is our practice to respond to resistance with the level of force required to overcome such resistance and to maintain control of the situation. This allows an officer meeting resistance to enter the force continuum at any level the officer reasonably and prudently believes is necessary up to and including deadly force. It also allows the officer to adjust the level of force as the perceived level of risk increases or decreases and to skip levels of force if the situation dictates.

Those examining the level of force used must keep in mind the multiple factors affecting the decision to use force and to what extent. Environmental conditions, the physical condition of the officer and suspect, and the physiological and psychological effects of prolonged struggles are, but a few examples of the factors that affect an officer's decision to use force as well as influence how that force is escalated and de-escalated during the encounter. Great care should be used in deciding if and when the use of force has become excessive. As stated earlier, monitoring possible excessive use of force is not within the scope of this analysis and will not be addressed in this study.

### **Reporting requirements**

When force is used on an unwilling subject, a "Response to Resistive Behavior" report form should be completed under General Orders 131 and 135. This form is forwarded to Internal Affairs (IA), through the chain of command, where the information is entered into a database for analysis. This analysis, under GO135, was originally to be conducted by the Training Services Division. It is now the responsibility of the Crime Statisticians. The analysis is done based on statistics generated by the IA database.

### **Frequency in the use of force**

The frequency of the use of force by Baton Rouge Police Department officers is the first factor to be examined. In the "Use of Force Study" conducted in 2002 by Darryl Armentor, a study done by Croft and Austin (1985) was cited as providing a valid estimate of the percentage of calls for service (CAD) that resulted in the use of force. The figure they developed was 0.19% of calls for service resulted in the use of force. The "2001 Police Use of Force in America" study by the IACP placed the percentage at 0.0361%. We do not recommend the IACP study due to concerns with the methodology and a lack of reporting agencies similar in size to the Baton Rouge Police Department.

In 2021, there were 194,225 calls received by the Baton Rouge Police Department. During that same period, the Internal Affairs Division received 207 “Response to Resistive Behavior” reports, involving 225 officers. Therefore, the percentage is:

$$207/194,225 * 100 = 0.11\% \text{ of CAD}$$

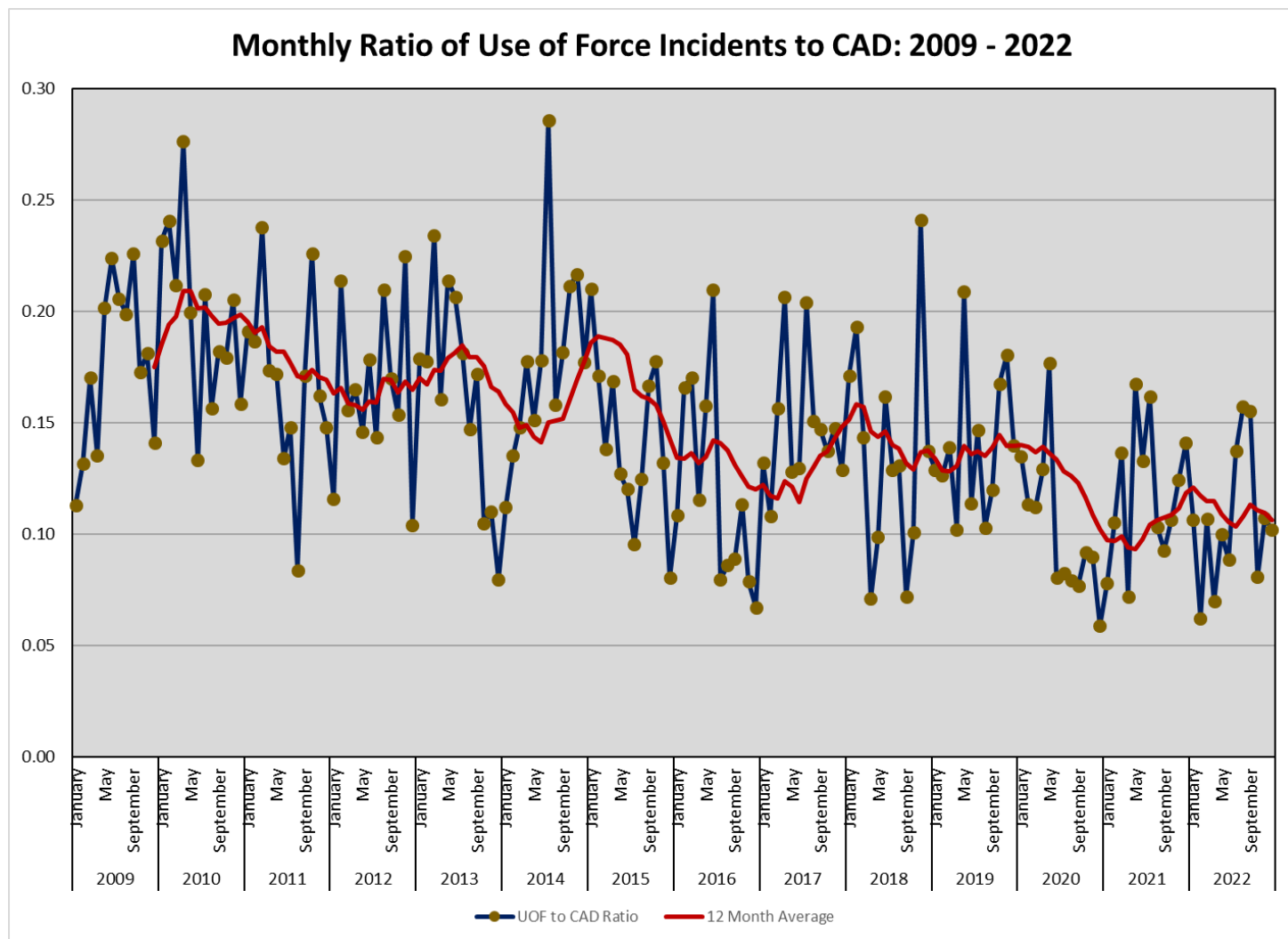
This result is around the same of studies for 2016 and slightly under the outcome for 2017-2019 of the use of force by the Baton Rouge Police Department, but below a few of the prior years (2012-2015). For the Baton Rouge Police Department, the previous three studies found that the average ratio of use of force incidents to CAD calls was 0.13%. While some year to year variation is to be expected, the long term trend for the UOF-CAD ratio has been slightly downward. Comparable cities when considering population are Seattle, New Orleans and Minneapolis. Our current use of force to CAD ratio continues to be the same or lower than all three cities.

The following table summarizes various studies and comparable findings:

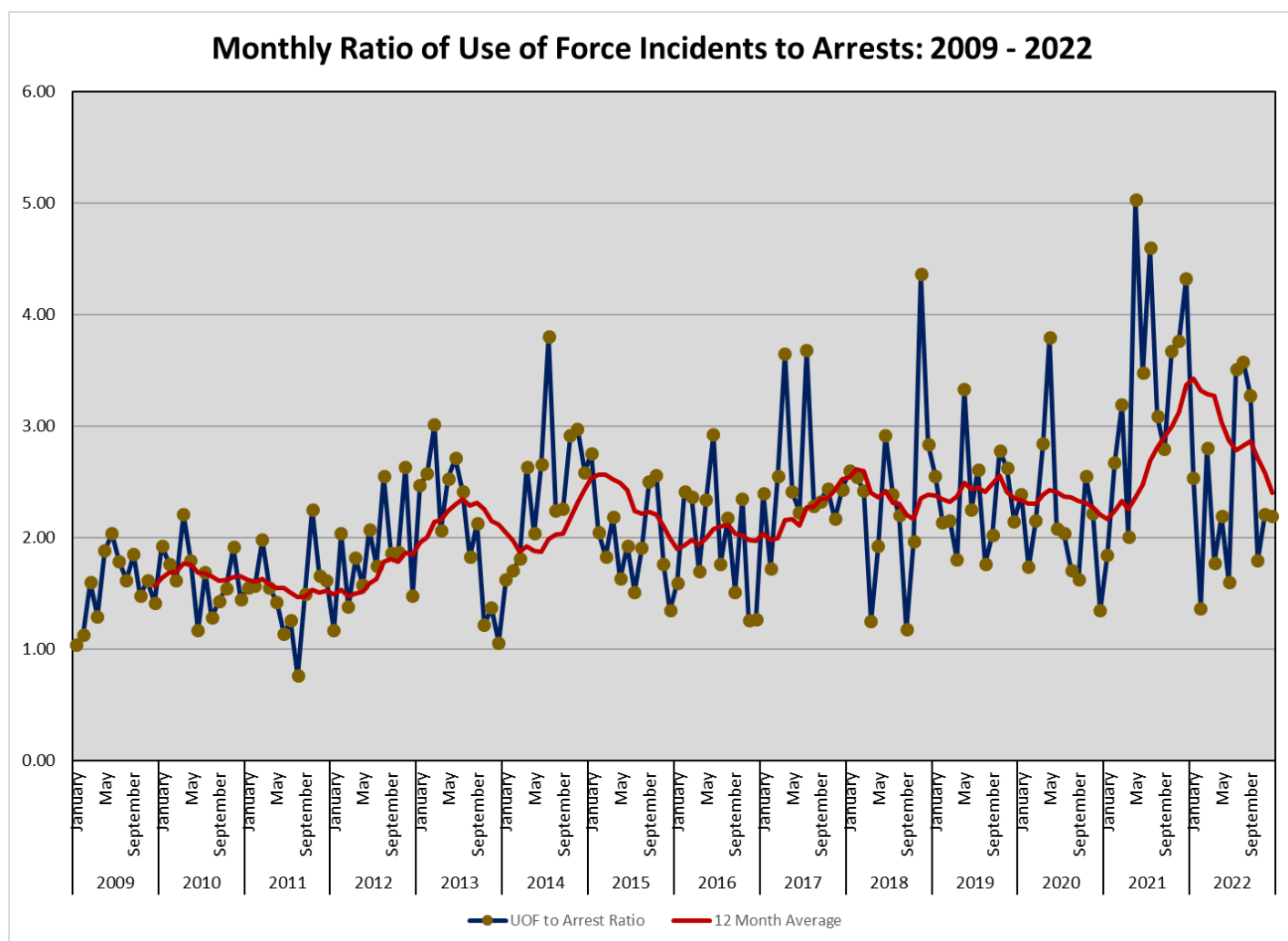
Use of Force to CAD Comparisons		
Source	Year	UOF/CAD Percentage
ICMA		0.09%
Croft and Austin	1985	0.19%
Seattle	2010	0.18%
Seattle	2014-2016	0.39%
Seattle	2017	0.30%
Seattle	2018	0.48%
Seattle	2019	0.32%
Seattle	2020	0.41%
Seattle	2021	0.32%
Seattle	2022	0.37%
New Orleans	2014	0.09%
New Orleans	2015	0.17%
New Orleans	2016	0.39%
New Orleans	2017	0.35%
New Orleans	2018	0.24%
New Orleans	2019	0.18%
New Orleans	2020	0.19%
New Orleans	2021	0.19%
New Orleans	2022	0.11%
Minneapolis	2016	0.27%
Minneapolis	2017	0.22%
Minneapolis	2018	0.23%
Minneapolis	2019	0.26%
Minneapolis	2020	0.45%
Minneapolis	2021	0.63%
Minneapolis	2022	0.56%
BRPD	2009	0.20%
BRPD	2010	0.20%
BRPD	2011	0.17%
BRPD	2012	0.16%
BRPD	2013	0.16%
BRPD	2014	0.16%
BRPD	2015	0.14%
BRPD	2016	0.12%
BRPD	2017	0.15%
BRPD	2018	0.14%
BRPD	2019	0.14%
BRPD	2020	0.10%
BRPD	2021	0.12%
BRPD	2022	0.11%

The Baton Rouge Police Department responded to 194,225 calls for service in 2022. As shown below, the recent Response to Resistive Behavior incidents to calls for service (CAD) ratio 12 month trend line was trending upward for the

year 2019, but turned downward for 2020. Heading into 2021, the trend has begun to turn upward, but decreased over the next year in 2022. In 2017, we began counting all use of force incidents and not just unique files. There appears to have been issues over the previous years with the use of force reporting system, but it is unknown if this is a data entry issue, under reporting, or a change in how the department's officers are using force.



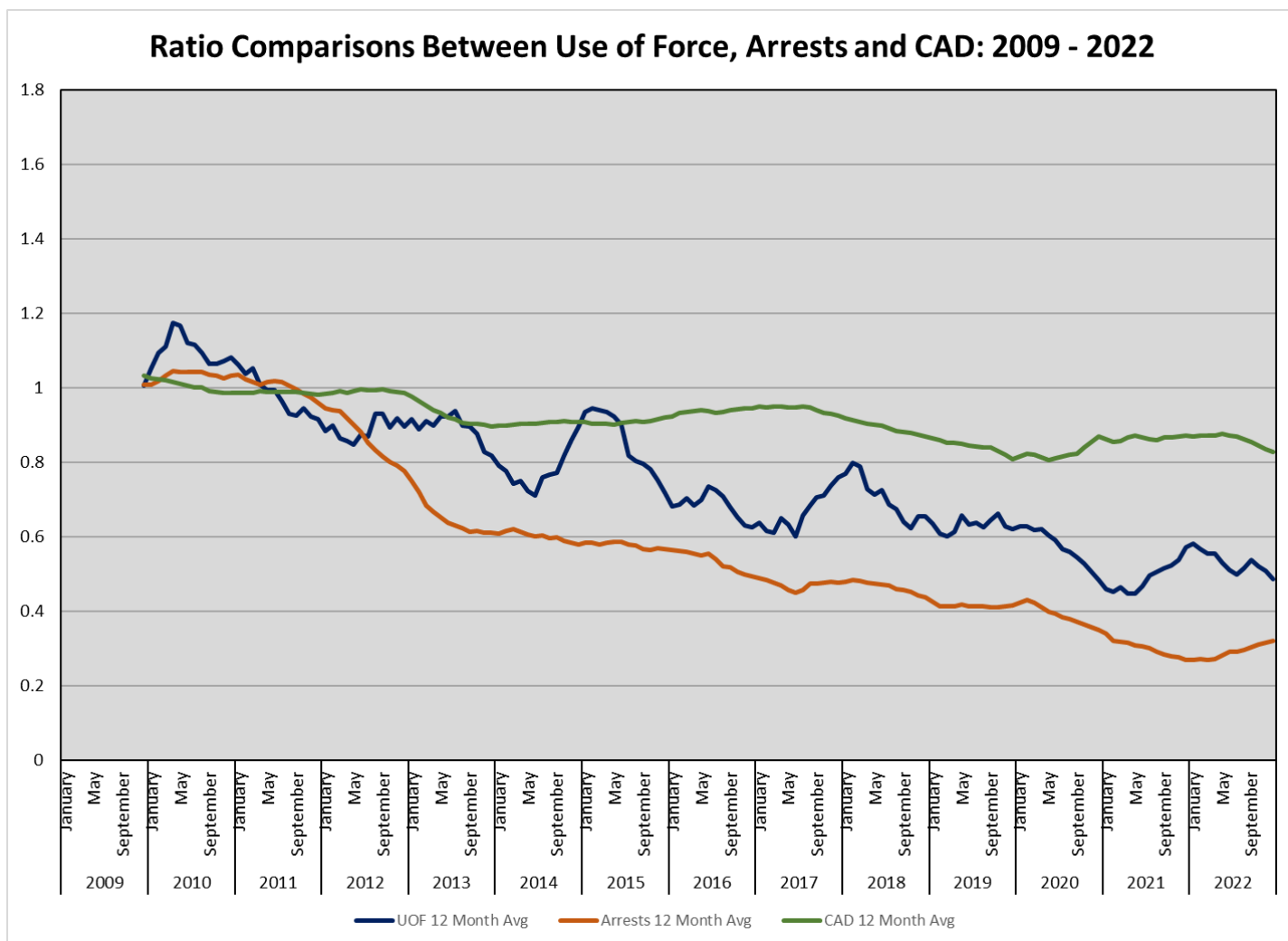
Because the level of criminal activity varies from month to month and we know that looking at history, the number of arrests track closely to the number of files issued, the number of incidents in which there was a use of force is tracked as a percentage of the number of arrests made. This removes some of the seasonal variation from the raw number of files. The chart below tracks the number of incidents as a percentage of all arrests.



The decrease in late 2013 into early 2014 was attributed to a previously known data entry and form issue. The trend chart indicates that we have another decreasing pattern of reported use of force beginning in late 2014 and continuing thru 2015. The trend turned upward at the beginning of 2016, but turned back downward at the latter part of that year. Beginning in 2017, the trend turned upward. This can be attributed to the fact that we began counting all use of force incidents and not just unique files. From the beginning of 2018 up until approximately November of that year, the trend was turning back downward. At the end of 2018, there was an uptick in the trend line. This upward trend continued into 2019, but turned back downward in 2020. Since the beginning of 2021, this trend has begun increasing again, but turned back downward for 2022. There have been inconsistencies over the years with the reporting system and data entry process. We have been in the process of trying to correct these issues for a more consistent and efficient analysis.

The chart below represents a comparison of ratios using monthly use of force incidents, arrests and CAD calls. Averages from 2009-2011 are used as a baseline for these comparisons. Despite the inconsistencies and the increase in use of force incidents in 2017 as compared to 2016, the count of use of force reports is still down 51.52% from 2009. Arrests have continued to decline over the years (from 2009, -68.12%). CAD has continued to decline over the last few years as well (only a slight uptick from 2019 to 2021) and is down 19.94% from 2009.

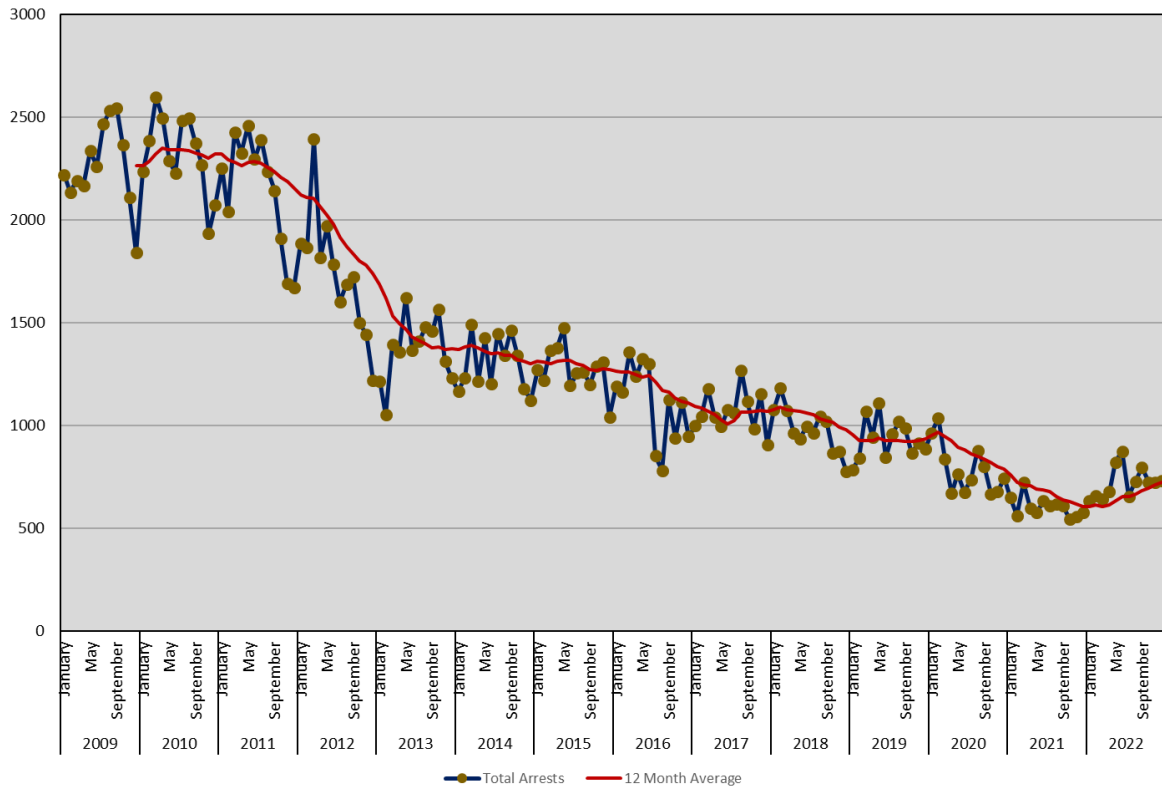




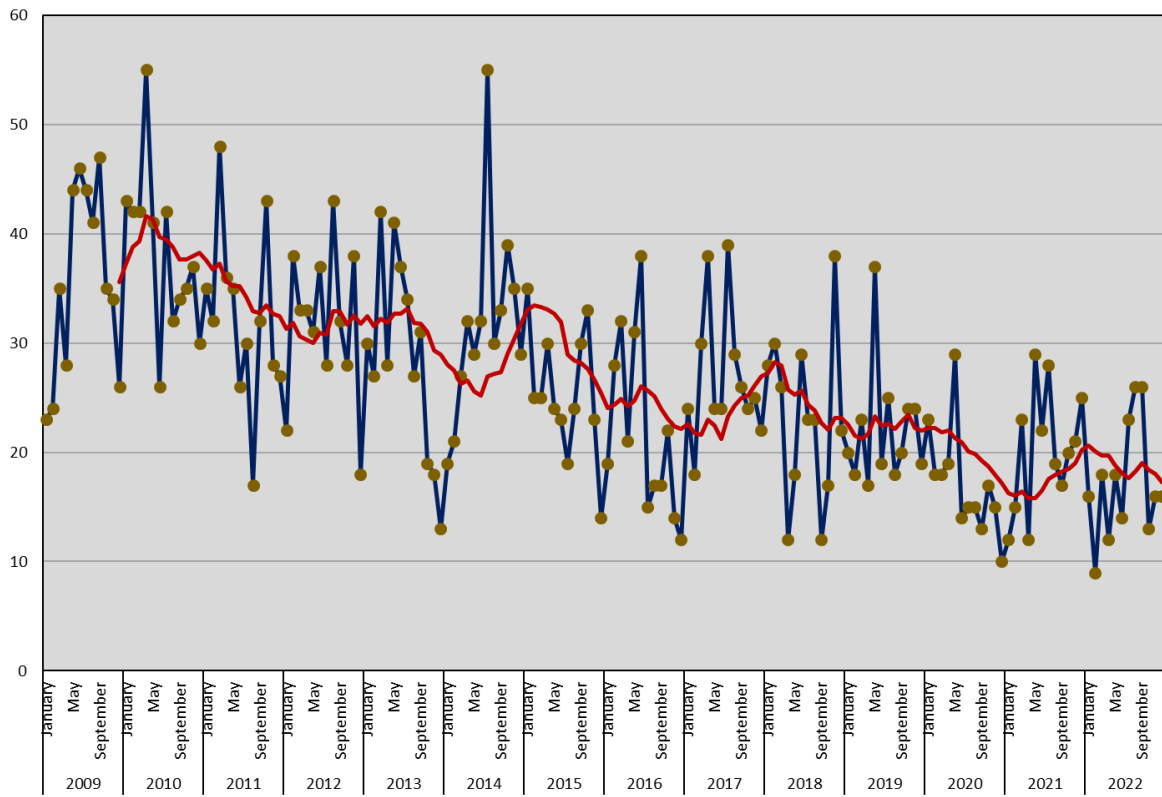
The monthly arrest data and count of use of force incidents are shown below. The arrest trend started flattening out around mid-2013, but turned slightly downward shortly after. A heavier downward trend began after July 2016. The officer-involved shooting resulting in the death of Alton Sterling that occurred on 7/5/2016 was a big factor in the decrease of arrests. Additionally, the officer-involved shooting that resulted in the fatality of three law enforcement officers that occurred on 7/17/16 contributed to the decline in arrests. Our department was more focused on maintaining control versus arrests. At the beginning of 2017, the arrest trend continued to decline and flattened out towards the end of the year. Since the beginning of 2018, we have seen a downward turn in the number of arrests. In 2019, arrests began flattening out, but turned downward again in 2020 and continued throughout 2021. At the start of 2022, the trend began to rise again.

The monthly use of force incident trend remained on a downward trend from 2009 – mid 2014, increased periodically through mid-2015, but turned back downward until 2017. In 2017 the trend rose again, but went back down for the year 2018. In 2019, the trend turned slightly upward, but has been declining since the beginning of 2020. Looking into 2021, the trend has started an upward tick throughout the year, but turned back downward in 2022.

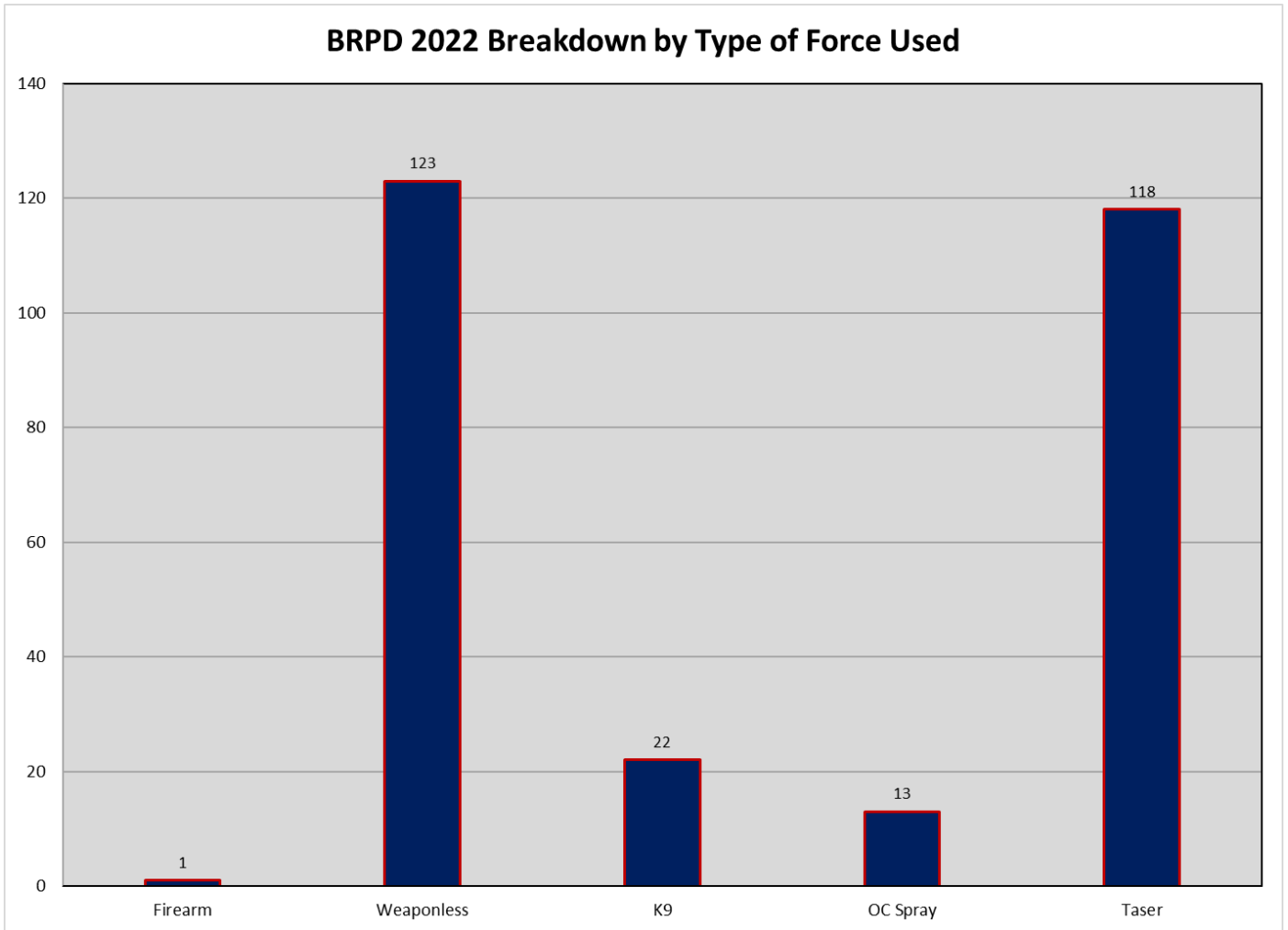
**Total UCR/LIBRS Arrests: 2009 - 2022**



**Monthly Use of Force Incidents: 2009 - 2022**



The table below depicts the breakdown of the types of use of forces used by the Baton Rouge Police Department in 2022. The most frequent types of force used were weaponless (44.4%) and EWC/taser tactics (42.6%). These two types of force were followed by the use of K9 (7.94%) and OC Spray (4.69%).



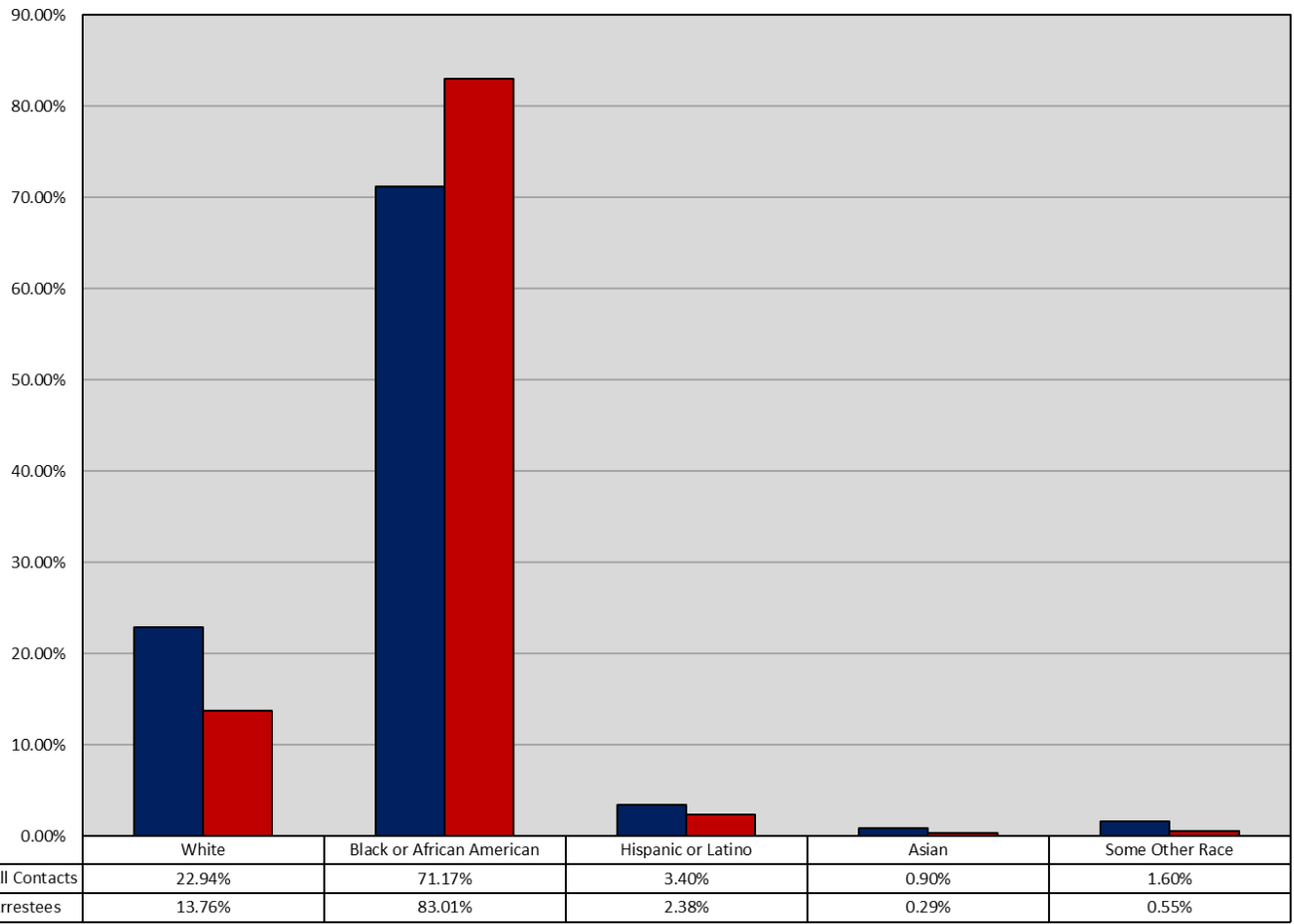
Demographics

2022 Demographic Comparisons				
Race/Gender	Parish	City	Arrestee	All Contacts
<b>White</b>				
Female	105566	45529	360	12617
% Female	49.12%	50.39%	32.11%	45.77%
Male	109361	44819	761	14947
% Male	50.88%	49.61%	67.89%	54.23%
Total	214927	90348	1121	27564
<b>Black or African American</b>				
Female	92268	67083	1696	45417
% Female	46.25%	53.60%	25.08%	53.11%
Male	107237	58072	5067	40104
% Male	53.75%	46.40%	74.92%	46.89%
Total	199505	125155	6763	85521
<b>Hispanic or Latino</b>				
Female	9263	3301	32	1540
% Female	56.92%	43.13%	16.49%	37.68%
Male	7011	4352	162	2547
% Male	43.08%	56.87%	83.51%	62.32%
Total	16274	7653	194	4087
<b>Asian</b>				
Female	6295	3557	6	450
% Female	50.90%	47.34%	25.00%	41.71%
Male	6072	3957	18	629
% Male	49.10%	52.66%	75.00%	58.29%
Total	12367	7514	24	1079
<b>Some Other Race</b>				
Female	3913	1111	10	412
% Female	62.09%	37.60%	22.22%	21.47%
Male	2389	1844	35	1507
% Male	37.91%	62.40%	77.78%	78.53%
Total	6302	2955	45	1919

<b>2022 BRPD Arrestee Demographics</b>					
<b>Race</b>	<b>Female</b>	<b>Male</b>	<b>Total</b>	<b>F %</b>	<b>M%</b>
Asian	6	18	24	25.00%	75.00%
Black	1696	5067	6763	25.08%	74.92%
Hispanic	32	162	194	16.49%	83.51%
Indian	0	0	0	-	-
Middle Eastern	4	18	22	18.18%	81.82%
Other	6	17	23	26.09%	73.91%
White	360	761	1121	32.11%	67.89%
<b>Grand Total</b>	<b>2104</b>	<b>6043</b>	<b>8147</b>	<b>25.83%</b>	<b>74.17%</b>
<b>2022 BRPD All Contacts Demographics</b>					
<b>Race</b>	<b>Female</b>	<b>Male</b>	<b>Total</b>	<b>F %</b>	<b>M%</b>
Asian	450	629	1079	41.71%	58.29%
Black	45417	40104	85521	53.11%	46.89%
Hispanic	1540	2547	4087	37.68%	62.32%
Indian	1	2	3	33.33%	66.67%
Middle Eastern	185	1001	1186	15.60%	84.40%
Other	226	504	730	30.96%	69.04%
White	12617	14947	27564	45.77%	54.23%
<b>Grand Total</b>	<b>60436</b>	<b>59734</b>	<b>120170</b>	<b>50.29%</b>	<b>49.71%</b>

The data used for the tables above contains “all contacts,” being defined as a citizen that has come in contact with the Baton Rouge Police Department (BRPD), despite their role in the report. Also included is data for those who are specifically categorized as “arrestees,” being defined as those responsible for the crime in the report and who are subsequently charged/arrested/booked. The city of Baton Rouge has approximately 227,470 citizens (approximately 48% female, 52% male). For consistency purposes, US Census Bureau data is utilized. According to the table above, the BRPD arrestee data shows that 25.83% are female and 74.17% are male. The number of citizens that BRPD comes in contact with are 50.29% female and 49.71% male. Of those that BRPD comes in contact with, majority are African American (71.17%), with White contacts coming in second at 22.94%. Of those that are arrestees by BRPD, majority are African American (83.01%), with White arrestees coming in second at 13.76%. Below is a table depicting the racial breakdown of those that have come in contact and those that were arrested with/by BRPD.

### BRPD Interaction with Citizens by Race for 2022



2021 NIBRS National Arrest Data					
	Number of Persons Arrested			Percent	
	Total	Female	Male	Female	Male
<b>Total</b>	4,538,284	1,236,850	3,301,434	27.25%	72.75%
<b>Violent Crime</b>	816,942	216,600	600,342	26.51%	73.49%
<b>Property Crime</b>	700,947	217,107	483,840	30.97%	69.03%

The data in the table above confirms that the ratio of arrests by gender of 25.83% female and 74.17% male is consistent with the national averages for the last complete year available (2021) through the FBI (CDE Website NIBRS Table).

2021 NIBRS National Arrest Data							
	Number of Persons Arrested				Percent		
	Total	White/Cauc	Black/Af Am	Other	White/Cauc	Black/Af Am	Other
<b>Total</b>	4,538,284	3,011,660	1,244,006	182,185	66.36%	27.41%	4.01%
<b>Violent Crime</b>	816,942	492,348	278,162	32,169	60.27%	34.05%	3.94%
<b>Property Crime</b>	700,947	450,420	215,309	22,939	64.26%	30.72%	3.27%

The data in the chart above shows that, while the “other” race category (0.55%) remains fairly consistent with the national averages, the ratio of arrests by race of 13.76% White and 83.01% Black are inconsistent with the national averages for the last complete year available (2021) through the FBI (CDE Website NIBRS Table).

### Results of 2022 UOF study

- BRPD has implemented a new RMS system and documentation of displaying weapons was included. We do not currently have the ability to query this data from the new RMS system.
- There does not appear to be any racial or gender bias in the use of force within the Baton Rouge Police Department. However, the Department recognizes that there is a disproportionate number of contacts and arrests made among African Americans and requires further examination. As part of the Collective Healing Grant, the Department of Justice has provided technical assistance and training to the Baton Rouge Police Department in Procedural Justice Policing and there are trained personnel in place to teach the Procedural Justice course. This has been included as part of the curriculum in the police academy and courses are scheduled throughout the year to make sure all officers complete the course.
- There are issues with our Use Of Force/Response to Resistive Behavior analysis process, as well as the IA Pro database:
  - The data entry process has changed – Internal Affairs now enters the data into a new system and the raw data is no longer available to the Statisticians for a more thorough analysis.
  - A Use of Force form is not completed in an officer involved shooting (fatal or non-fatal), therefore officer fatalities are not tracked by forms.