



2020

Use of Force Annual Report/Analysis



Submitted by:
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ACTU Commander
February 9, 2021



**NH Division of Liquor Enforcement
Office of Professional Standards
2020 Use of Force Report/Analysis**

Executive Summary

The NH Division of Liquor Enforcement and Licensing is completing its Use of Force self-analysis phase as a continuing improvement process through the Commission and the Division's policies and procedures. The analysis is systematically structured to identify any patterns or trends. Analysis should reveal patterns or trends that could predict or could indicate the need for an increase in Use of Force training, equipment purchases or upgrade and/or the necessity for policy modification.

This is an annual Use of Force analysis completed by the Division which provides a critical process in reviewing departmental policies and procedures. This analysis provides a process for improvement in our policy language, records management system, capturing additional data in offenses and supervisor oversight in Use of Force incidents.

The Division has implemented a Personnel Early Warning System which will serve many purposes, one being a venue for targeting possible Use of Force concerns. By engaging in a systematic review of specific incidents it will assist in the identification of employees who may exhibit signs of performance and/or stress related issues, and who may benefit from early intervention. In conjunction, supervisory staff must ensure all reports and forms are completed when required. A Use of Force Report Form is completed every time force is used, displayed or threatened.

The Division strives for improvement through personnel development, policy enhancement and pro-active response in order to provide effective and efficient service to the citizens, license holders, and other constituents of the State of New Hampshire. The Division created training on ethics, implicit bias and de-escalation in an effort to streamline training for Investigators per Governor Sununu's Law Enforcement reform.



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Introduction

A written police report is submitted whenever an employee:

1. Discharges a firearm for other than training or recreational purposes.
2. Takes an action that results in, or is alleged to have resulted in, death or injury of another person.
3. Applies force through the use of deadly or non- deadly weapons.
4. Applies weaponless physical force at a level as defined by this agency.

The Division of Liquor Enforcement and Licensing Standard Operating Procedure O-101: Police Use of Force provides our investigators with guidelines on the Use of Force. The Division recognizes the value of human life, which is immeasurable in our society. It is the policy of this agency that investigators may use only the minimum amount of force necessary to accomplish lawful objectives. The lawful Use of Force must be controlled and confined so that an investigator will not subject himself/ herself to civil and criminal liability.

Division Policy and Procedure

General Reporting Uses of Force

A written report (*Addendum #7*) prepared according to departmental procedures shall be required in the following situations:

1. When soft hand control techniques are employed on a subject (*Soft hand control techniques include take downs, escorts and/or anything greater than professional presence and less than hard hand control techniques*).



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2. When hard hand control techniques are employed on a subject (*Hard hand control techniques include palm heel strikes, knee strikes or any of the like.*)
3. When O.C. Spray has been deployed and/or removed from its holster by an Investigator with the intent of being used, or suggested that it be used against another (*Suggested use is defined in this policy as threatening the use of OC Spray with or without removing it from the holster.*)
4. When the Expandable Baton has been deployed and/or removed from its holster by an Investigator with the intent of being used, or suggested that it be used against another (*Suggested use is defined in this policy as threatening the use of the Expandable Baton with or without removing it from the holster.*)
5. When the TASER X26P has been deployed and/or removed from its holster by an Investigator with the intent of being used, or suggested that it be used against another (*Suggested use is defined in this policy as threatening the use of the TASER X26P with or without removing it from the holster.*)
6. When the Firearm has been suggested that it is going to be used, threatened to be used or has been deployed and/or discharged in any manner; other than during range training, practice or qualification (*Suggested use is defined in this policy as threatening the use of the Firearm with or without removing it from the holster.*) (*Deployment includes un-holstering the firearm in the line of duty, even if there were not any rounds discharged.*)



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7. When a subject complains that an injury has been inflicted.
8. When Use of Force results in death or serious injury. ¹

Records Management

The Division's current management and review of Use of Force Reports is the responsibility of the Deputy Director, Field Operations Lieutenant(s), and the ACTU Commander. All Use of Force Reports are reviewed and initially approved by the Lieutenants before being submitted to the Deputy Director and ACTU Commander. Statistical information is reviewed and tallied on a regular basis. At year end, a comprehensive report is completed, compared to the following year and presented at the Division's annual Use of Force Training. This analysis will incorporate 2020 in addition to a comparison of the two years prior.

Use of Force Complaints

It is the policy of this Division to accept and investigate all complaints of personnel misconduct or wrongdoing from any citizen or agency employee. Such complaints will be investigated thoroughly, completely and impartially, following policies and procedures as set forth in the Division's Policy and Procedures Manual. ²

When a complaint is filed, the investigating Officer will file an appropriate report, which will indicate the appropriate decision and disposition based upon the findings of fact. The decision shall be classified as one of the following:

1. Unfounded - *A determination that the charges are false or not factual.*
2. Exonerated - *A determination that the incident occurred, but was justified, lawful and proper.*

¹ Division Policy and Procedures Manual, O-101 Police Use of Force pp.8-9

² Division Policy and Procedures Manual, P-251 Citizen Complaints & Internal Investigations p.2



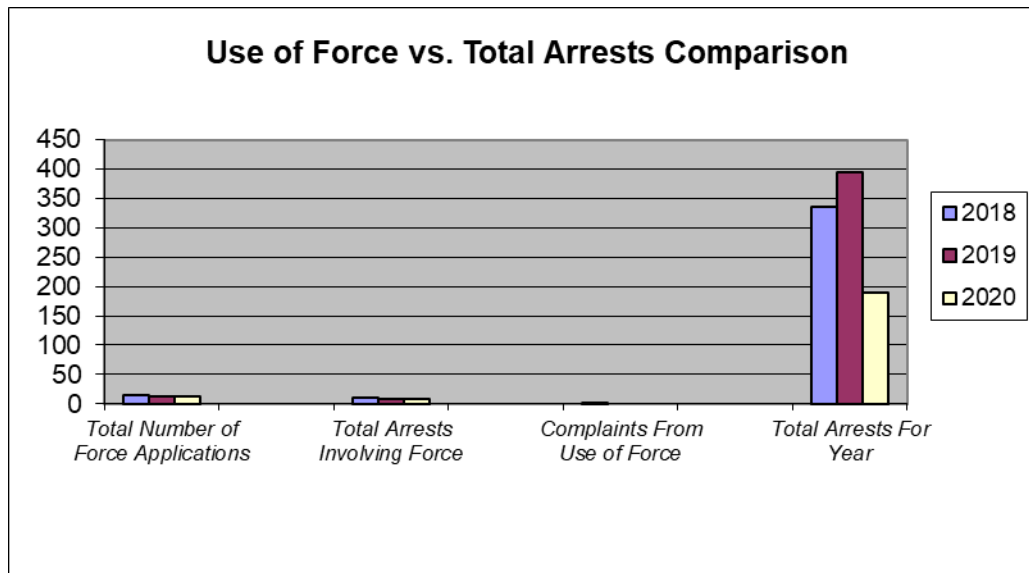
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3. Not Sustained - *A determination that the facts presented are insufficient to clearly prove or disprove the allegation.*
4. Sustained - *A determination that the allegations are supported by sufficient evidence to justify a reasonable conclusion of guilt or that sustained acts have been discovered that indicate misconduct not based on the original complaint.* 3

In 2020 the Division of Enforcement and Licensing recorded two (2) separate Use of Force reports which included a total of two (2) applications of force. Of the two (2) reports, both of them were separate incidents. In both of these two (2) reports Investigators used only soft hand control.

GRAPH #1

Use of Force vs. Total Arrests Comparison



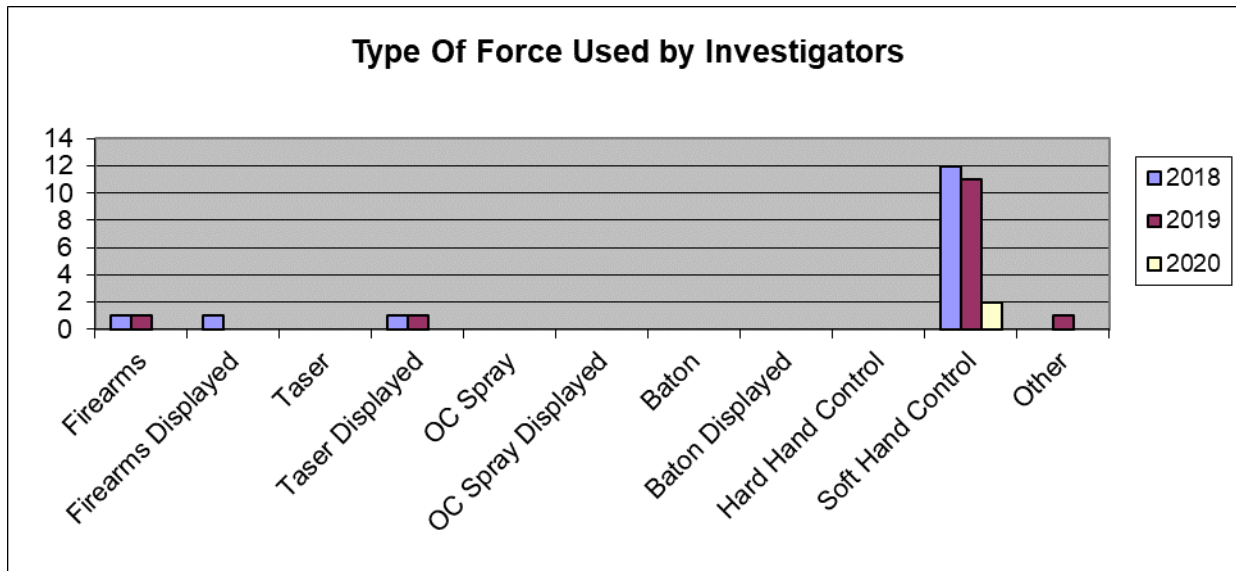
Of the 189 arrests for 2020, only 2 or 1.6% involved the use of force. This is a slight decrease from 2019 (2.0%) and 2018 (2.3%) of the total number of arrests that involved the use of force. This graph also illustrates the total number of force applications as noted above.



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GRAPH #2

Type of Force Used by Investigators



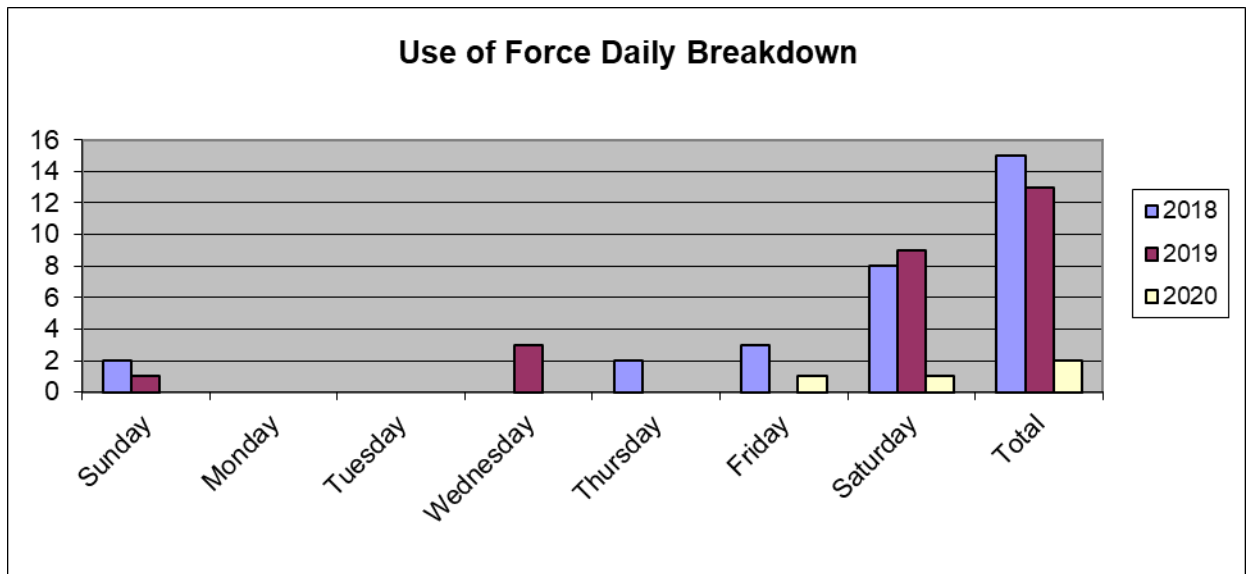
Graph #2 indicates the type of force used. Of the two (2) documented Use of Force Reports for 2020, both reports started and ended with soft hand control applications (100%). The use of firearms displayed and Taser displayed decreased in 2020 to zero. There were no Taser deployments during the three-year comparison. In all instances, the least amount of force necessary was used to control the situation.



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GRAPH #3

Day of the Week



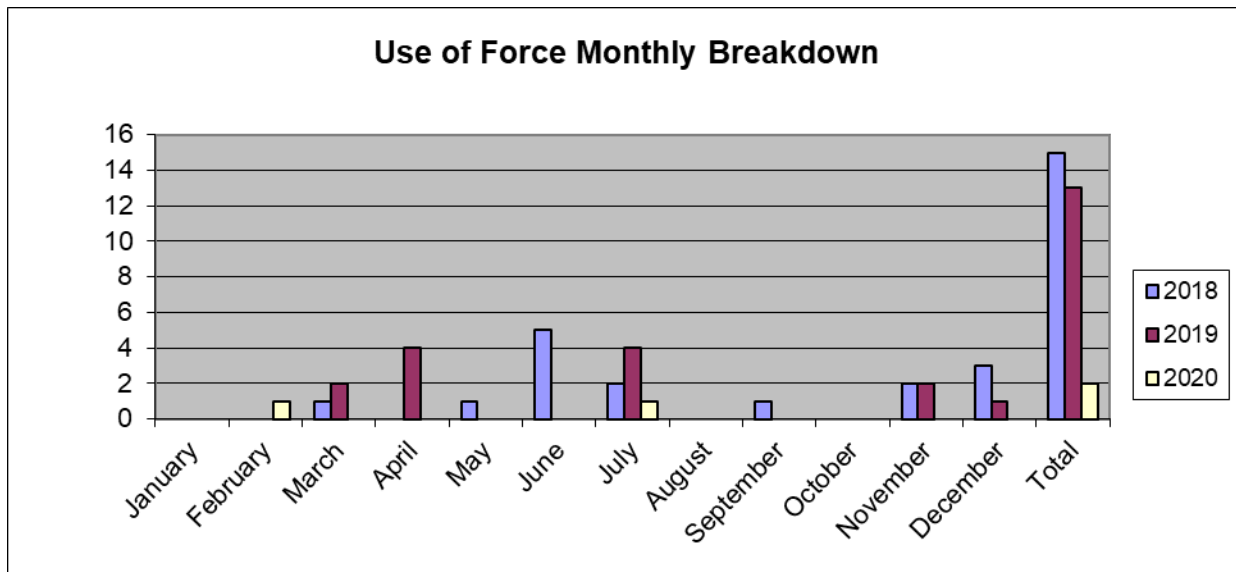
With the schedule for Investigators primarily focusing on Thursday, Friday and Saturday nights, it can be expected these days would yield the highest frequency of incidents involving Use of Force applications. Both of the Use of Force applications that occurred in 2020 were on Friday and Saturday nights. (The applications noted on Sundays for 2018 and 2019 were prior to 0230 am which occurred during the tail end of the investigators Saturday night shifts).



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GRAPH #4

Month of the Year



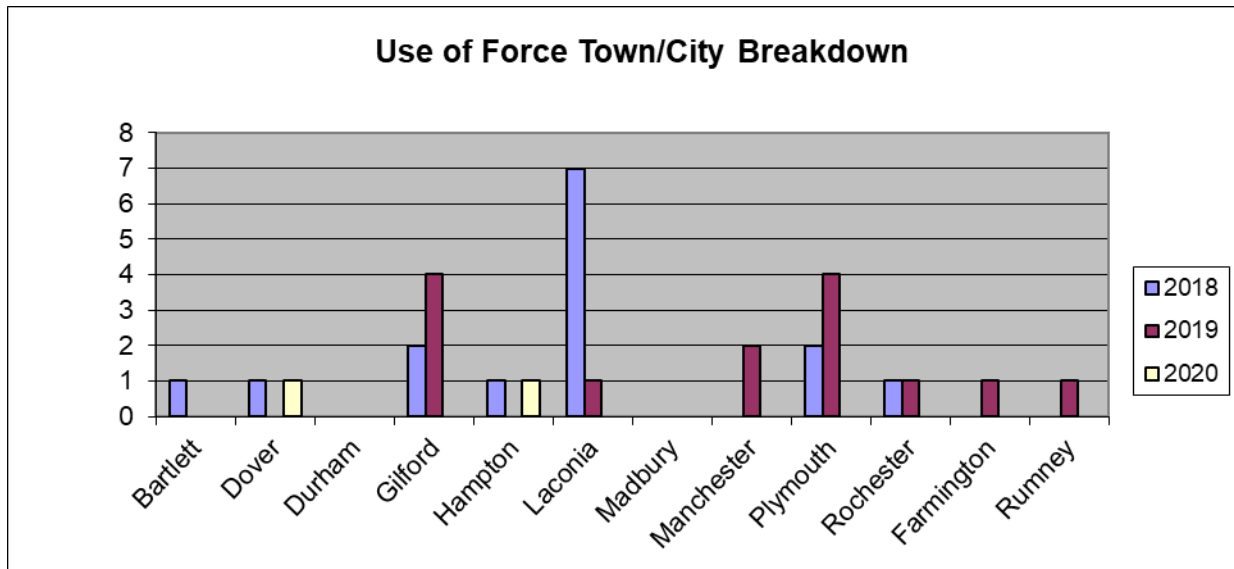
In 2020 there were only two (2) use of force applications out of 189 physical arrests for the Division of Enforcement, one (1) application of force occurred in the month of July while the other occurred in the month of February. Data compiled from 2019 indicated the highest frequency for use of force applications during individual months was four (4) applications in April and July. March and November had two (2) applications each and December had one (1). In 2018 the highest frequency for a given month was five (5) separate use of force incidents which occurred in June.



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GRAPH #5

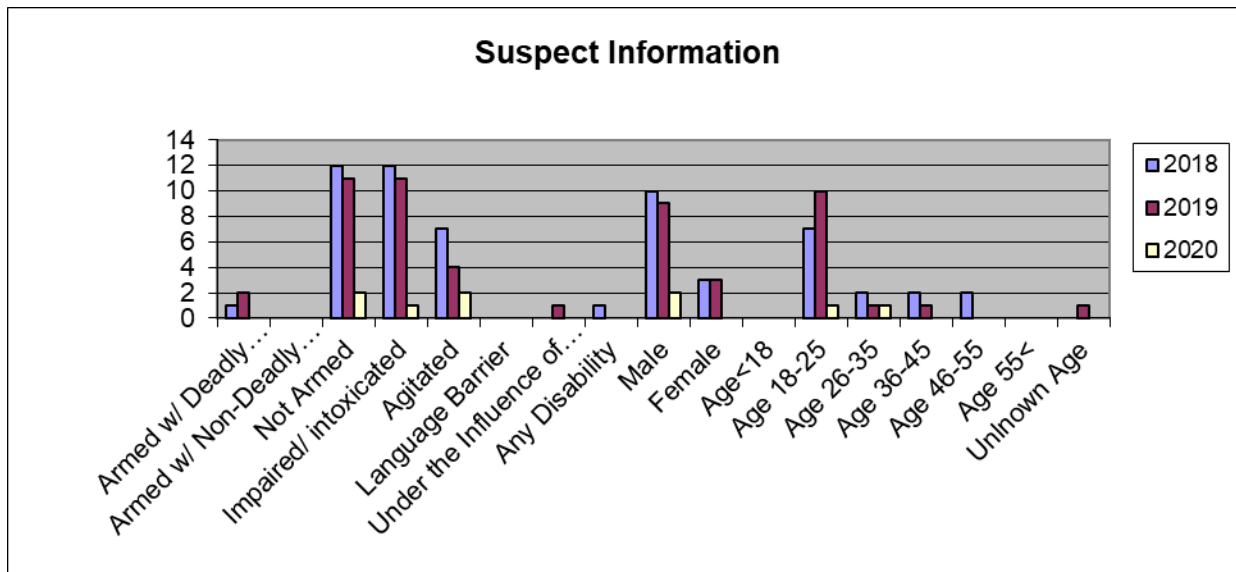
Town/City Occurrences



In 2020 the Covid-19 pandemic struck New Hampshire shutting down all in person interaction at colleges throughout the State as well as large events including the Meadowbrook Concert venue. With the Covid-19 Guidelines in place by Governor Sununu, Laconia Motorcycle Week was very restricted compared to years in the past. In 2019 and 2018, Use of Force applications occurred in seven (7) different towns/cities. The two towns with the highest frequency of reports in 2019 were Plymouth and Gilford. Plymouth is a college town, which tends to yield more arrests than other areas of the state along with Gilford, which has the Meadowbrook Concert venue. There was a significant decrease in force applications in Laconia in 2019. However, in 2018 there were seven (7) use of force reports in Laconia, which occurred during Bike Week. In 2019 and 2020, there were no use of force reports during Bike Week.



GRAPH #6
Suspect Information

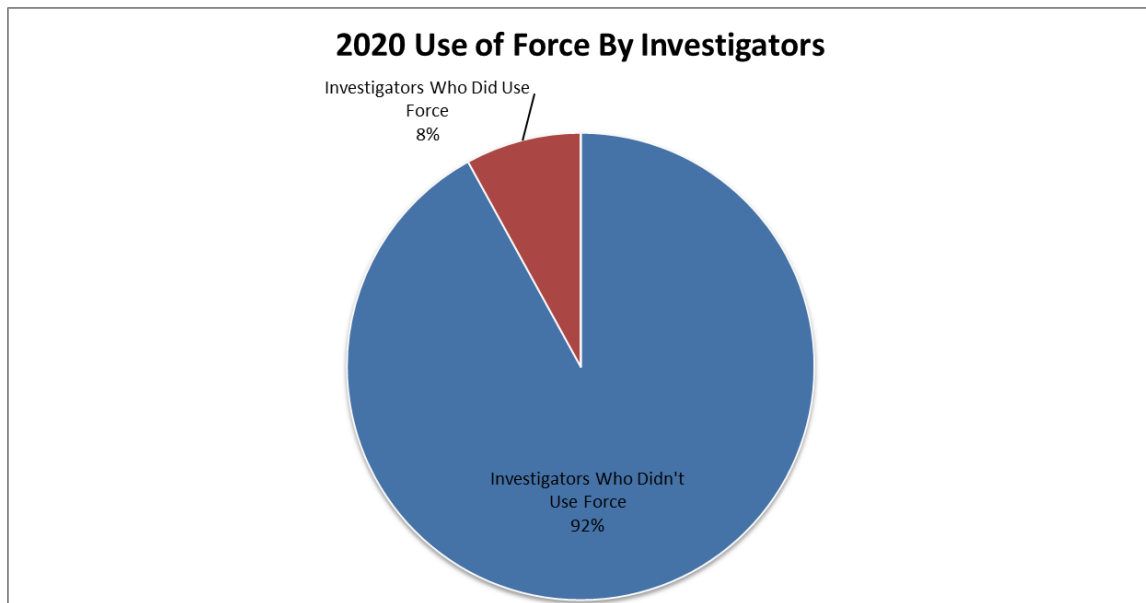


In 2020 there were only two (2) applications of use of force. Both applications involved suspects who were reported to be consuming alcohol prior to the interaction. Both suspects in 2020 were male, one (1) being between the ages of 18-25 years and one (1) being between the ages of 26-35 years old, neither were armed. In 2019 all but one (human) suspect in Use of Force applications were reported to be consuming alcohol/impaired or intoxicated at the time of the Use of Force incident. One (1) suspect was under the influence of drugs and the last force application was against an animal. One (1) suspect was armed during reported incidents (two investigators had separate reports of force on the same armed suspect). The suspect was in possession of a knife. Of the twelve (12) separate applications of Use of Force on humans in 2019, nine (9) or 75% were male and three (3) or 25% were female. In 2019, ten (10) suspects were between the age of 18-25 (83.3%), one (1) was between the age of 26-35 (8.3%), and one (1) was between the age of 36-45 (8.3%).



GRAPH #7

Use of Force by Investigators



In 2020 two (2) Investigators (8% of sworn staff) were involved with Use of Force incidents which was a drastic decrease from 2019 where 27% were involved. That decrease was largely due to the Covid-19 pandemic effecting New Hampshire`s public activities. In 2019 there were a total of seven (7) investigators involved with Use of Force incidents compared to six (6) Investigators in 2018. Twenty-four (24) full-time sworn members of the Division did not use force in 2020. All incidents have been carefully evaluated and are in accordance with Division Policy.



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Conclusion

In 2020 The Division had two (2) Use of Force applications, the number was drastically lower than any previous year documented. With Covid-19 effecting the entire State of New Hampshire and the Governor`s Orders restricting the congregating of people in large groups statewide. In 2020 both suspects involved in the application of Use of Force were male and under the age of 35 years old. In 2018, the ages ranged from 18-55. In 2019 and 2018, three (3) of the suspects were female. 2018 and 2019, the use of force applications occurred in several different towns throughout the state of New Hampshire. The Division prides itself on the most up to date training and technology available for its personnel, such as utilizing the New Hampshire Police Academy`s Virtual Simulator to allow Investigators to be exposed to a realistic training application in 2020.

In comparison with former years, the Division does not appear to be developing any negative trends with the Use of Force incidents or applications. The Division has reduced the Use of Force incidents in Laconia during Bike Week over the past two years. In 2018, 46.6% of all force applications occurred in Laconia during Bike Week, while in 2019, the only application in Laconia did not occur during Bike Week and in 2020 no applications occurred during Bike Week.

This Use of Force Analysis is an effort that the Division has undertaken to ensure compliance of both State and Division regulations. The Division continues to provide annual Use of Force training, which encompasses Defensive Tactics, Handcuffing, Oleoresin Capsicum, Transition/Escalation of force, Use of Force scenarios, Taser and Firearms and De-escalation Techniques.

This Use of Force Analysis is also designed as a building block for the Division to help recognize, meet and create the challenges of the evolutionary process of training. Recognizing the need for this training will improve and at the same time enhance our strengths. The Arrest Control Tactics Unit (ACTU) is moving forward to improve the training given to the investigators in all aspects of force.