

Victoria Police Department

Annual Use of Force Analysis

Victoria Police Department Use of Force Analysis 2011

Use of Force Analysis 2011

This report analysis was completed for the purpose of reviewing the Victoria Police Department's Use of Force for the year 2011. The data collected for this report was generated manually from the paper Use of Force Reports currently used by Victoria PD. This information is kept in the Office of the Chief of Police. This report will be used to identify any trends in the use of force by agency personnel, training needs, equipment needs, or policy revisions.

Use of Force Reporting

These statistics include the following:

- the number of use of force incidents and the effectiveness of the force used;
- the type of resistance used by citizens;
- injuries sustained by citizens, officers and the nature of those injuries;
- the service being rendered at the time the force was used and whether or not there was an arrest in conjunction with the use of force.

Per Victoria Police Department General Order 3.03 Use of Force, a Use of Force Report Form shall be submitted under the following circumstances, when an officer:

- Discharges a weapon, except for killing animals which shall be documented in a police report;
- Applies force;
- Causes any injury to another person;
- Threatens the use of deadly force (ex. - points firearm at an individual). This does not include being at a "ready gun position." This also does not include threatening the use of O.C. spray or Taser.
- Implements Stationary or Rolling Roadblocks;
- Uses an Electronic Control Device (Taser).

Any officer (on or off duty) shall file a Use of Force Report with the Captain of their respective division. The Captain shall then forward the Use of Force Report to the Chief of Police for Final Review and dissemination.

The original Use of Force Report form will be forwarded by the Captain to the Chief of Police for review, signature, and retention for permanent storage. The Chief's Administrative Assistant will assign each Use of Force incident a control number and scan it into the VPD Records Management System in the case or incident. Copies will be disseminated to VPD Investigations and the Training Section by the Chief's office.

This report will receive executive review by the Chief of Police, or designee, to:

- A. Determine the reason for the discharge (if it applies).
- B. Ensure the officer's use of force complied with state laws and departmental policy.
- C. Determine any need for additional firearms safety training, special counseling or other training.
- D. Determine whether the situation requires further action.

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There were no policy changes regarding the use of force or reporting requirements during the year. It appears as if the training being completed related to our policy has been effective. Officers appear to have used good judgment during the year as to what level of force was necessary to complete objectives.

The statistics and analysis contained within this report were collected directly from 2011 Use of Force Reports. This was all done manually. There were eighty-two (82) uses of force incidents during the year. Encompassed in those reports were one hundred twenty-five (125) different uses of force by one hundred sixteen (116) officers.

Of the 125 uses of force, 36 citizens were reported impaired with alcohol/drugs, 3 were considered mental consumers, 31 physically resisted arrest, 48 citizens reported minor injuries, 65 were arrested and 12 officers reported injury (minor). *{See chart title 2011 Victoria PD Use of Force Facts}*

The types of calls or service rendered where VPD used the most force were

Disturbance calls-25

Fight calls-9

Warrant service-9

Traffic related-8

{See chart 2011 Victoria PD Calls Related to Use of Force}

In late 2011, Victoria Police Department switched to an operating system (OSSI) which has a Use of Force Module. In 2012, Use of Force data will be inputted to improve the function and time management of this analysis.

The current VPD Use of Force Form does not match the Use of Force Module in OSSI. The old form will need to be modified to obtain the data to correctly input the information. Another area VPD Use of Force Form lacks, whether or not the use of force was effective or not. That is an important part of this analysis which will be fixed in the near future.

Use of force incidents received between Jan 1, 2011 - Dec 31, 2011 by type of force used:

Level 3- OC Spray: 0 times (0%)

Level 3- Control/Restraint: 61 times (48.8%)

Level 3- Taser: 27 times (21.6%)

Level 4- Hard Hands 10 times (8%)

Level 5- Impact 0 times (0%)

Level 5- Canine without Bite: 0 times (0%)

Level 5- Canine with Bite: 0 times (0%)

Level 6- Less than Lethal 0 times (0%)

Level 7- Deadly Force 0 times (0%)

Other - Firearm Pointed 27 times (21.6%)

Other - None for 2011

{See chart title 2011 Victoria PD Use of Force-Types}

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Level 3- Oleo-resin Capsicum (OC Spray) - Creates a low level of incapacitation with minimal chance of injury. The person may be attempting to physically attack the officer or is a danger or hazard. The OC spray utilized by the Victoria Police Department is 5.5 percent by volume.

There were no uses of force related to OC Spray for 2011. It should be noted that I checked back a few years and discovered little to no use with OC Spray.

- 2011- 0 times
- 2010- 2 times
- 2009- 4 times
- 2008- 11 times
- 2007- 6 times
- 2006- 2 times

With such little to no use of OC Spray since 2006, Victoria PD Administration should consider no longer purchasing/issuing this product as the dollars spent to purchase replacements and training funds could be directed on other needed supplies.

While OC Spray provides officers with another option in the use of force continuum, some of the downsides are it takes up real estate on already crowded duty belts and when used, it usually gets on the officers, their clothes and items they come in contact with, creating much discomfort and sometimes affecting them negatively when trying to control an arrest. Another negative factor with OC Spray, if used while inside a home or business, the agent could possibly enter the ventilation system creating distress for all those inside. The Taser seems to be the tool of choice as it falls in the same level as OC Spray, but does not have the downside of coming back (OC Spray) on the officer.

Level 3- Control and Restraint - Soft Hand (Empty Hand) - Tactics and techniques which are designed for gaining control of the person and do not have a high potential for injury. This includes (but is not limited to) applying handcuffs, a wrist lock, take-down, pressure point techniques, etc.

There were forty-six (46) incidents where sixty-one (61) officers (48.8% of force used) used Control & Restraint/Soft/Empty hand as a use of force. Control & Restraint/Soft Hand-Empty Hand control is the level of force used when simple verbal commands are not effective. This requires officers to place hands on a person using very minimal force in order to gain compliance. This is the lowest level of force used which requires physically touching a person.

In most cases, this level of force was enough to gain compliance from the person. In some cases, additional officer(s) were required to use the same force with a single subject/incident. Some of these incidents, officers had to resort to a higher level of force due to Empty Hand Control not being enough. Those cases resulted in officers stepping up higher in the continuum of force, depending on the subject's action in response to the Empty Hand Control.

There were 17 reports of minor injuries (mainly minor bumps/bruise/abrasions, minor pain, one bloody nose from being on the ground and one due to chest pain) due to Empty Hand Control being utilized by the officers. In some cases the officers could have immediately gone to a higher level of force, however decided to first use this method to gain compliance. In other cases, officers utilized a higher level of

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force which then allowed them to withdraw back to Control & Restraint/Soft Hand-Empty Hand to accomplish the objective.

Level 3- Electronic Control Device (Taser) –The Taser may be used to control violent, potentially violent or mentally deranged individuals when an officer reasonably believes that the force is necessary to subdue the subject and the Taser is the best or most practical tool available to achieve submission. Unless circumstances dictate otherwise, only one Taser will be used on any subject at the same time. A Taser, with air cartridges, may be used when there is a reasonable expectation that it will be unsafe for officers to approach the individual. Drive Stun the Taser may also be used in certain situations.

The Taser was used as a force option by officers twenty-seven (27) times and during twenty (20) incidents (21% of force used) during the year.

The Taser was deployed (darts) eleven (12) times.

The drive stun method was used on fifteen (15) occasions as a force option.

1. On one incident a single person was drive stun 3 times by two officers related to a fight call and making a drug arrest the individual refused to be cuffed and stiffened his body and began to kick at officers. He was impaired by alcohol/drugs and it took three officers additionally using control and restraint to subdue him. This individual was able to kick an officer in the chest, knee and genitals.
2. On another incident a violent felon punched an officer as he tried to flee. He was taken to the ground and he continued to violently resist saying he would kill officers. The Taser darts were deployed and were not effective (according to the offense narrative), so the felon was given a drive stun and he gave up and was taken into custody.
3. On another incident a single officer encountered a 450 pound male who just committed a felony, was armed with a knife and was refusing to obey commands. The officer pointed his service handgun at the male who dropped the knife but within arms reach. The male still refused to obey commands and according to the report kept looking at the knife, the officer deployed the Taser darts and applied two cycles to take him to the ground. The male then refused to be cuffed and two drive stuns were applied for the male to eventually comply. Size of the male was definitely a factor.

Other than the minor marks left behind by the darts or drive stun method, there was only one reported injury as a direct result of the Taser being deployed by either method. A subject was running towards an officer after fleeing from another officer. The officer believed he was going to be attacked by this subject. He first warned for this subject to stop then fired the Taser at the subject advancing on him. The subject fell and claimed he injured his shoulder when he fell. This subject was treated for a dislocated shoulder at the hospital then released for incarceration.

There were minor scrapes and abrasions reported along with Taser use, but they were likely caused by the person resisting prior to Taser use. It appears that none were caused directly or indirectly by the Taser. No complaints were filed during the year based on Taser usage.

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Level 4- Striking Techniques - Hard Hand (Empty Hand) - An increase in the level of resistance by the person (e.g., punching or increased struggling) may cause the officer to respond by striking the suspect. These blows shall be directed towards areas which are not likely to cause great bodily harm unless deadly force is authorized under Level 7.

Striking Techniques was used as a force option by officers ten (10) times and during ten (10) incidents (8% of force used) during the year.

1. Suicidal subject held screwdriver, officer kicked and stepped on hand to remove object.
2. Subject attempt to bite officer, in order to prevent the bite, the officer punch the subject in the face. (subject- no injuries claimed)
3. Subject violently resisting, officer punched subject in the thigh several times.
4. Subject fled from officers clenching an unknown object. Subject refused to be cuffed and was punched in the right side of his body.
5. Subject attempted to strike an officer in the face twice, the officer punch the subject in the face. (subject- no injuries claimed)
6. Subject fighting and punched officer, officer punched back in the face. (subject-swollen eye and cut on nose, refused medical treatment)
7. Subject fleeing, hard tackle to apprehend. (subject-claimed knee injury, seen by EMS)
8. Subject resisting, officer slapped subject in the back to get control of hands (subject-claimed head injury, taken to hospital, cleared for incarceration)
9. Subject punched at officer, officer punched back in the face. (subject-injury to right arm and left eye, taken to hospital cleared for incarceration)
10. Subject punched at two officers, officer punched subject in the mid section.

While most of these hard hands use of force deal with split second responses, none were considered too much force. While there was some with injury that were not considered minor, there were no complaints of use of force related to hard hands for the year 2011.

There were no uses of force in the following sections. A portion of the General Order related to each use of force is attached to define that particular section.

Level 5- Impact Weapons - Officers may use an approved impact weapon (an issued wood baton, flashlight, or approved ASP) to protect themselves or another from assault or to arrest a person who unlawfully and violently resists arrest, if lesser methods have failed or if circumstances warrant the immediate use of the baton. An officer may also use the baton as a barricade or to repel or control crowds. **No impact weapon use of force for 2011.**

Level 5- Canine Without/With Bite

K-9 Use of Force - For purposes of this General Order, the use of the K-9 under circumstances during which a bite is likely to occur shall be considered a Level 5 use of force (Impact Weapons). **No K-9 use of force for 2011.**

Level 6- Less Lethal Weapons - Officers may use an approved Less Lethal weapon (Sage impact batons, Shotgun Beanbag rounds, or other approved impact munitions) to protect themselves or another from assault including from armed mental subjects threatening to harm themselves, or to arrest a person

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who unlawfully and violently resists arrest, if lesser methods have failed or if circumstances warrant the immediate use of Less Lethal weapons. Avoid making impact capable of inflicting permanent injury; do not make impact to the head or upper chest area; and deliver only impacts taught in departmentally approved training to incapacitate the opponent. **No Less than Lethal Weapons use of force for 2011.**

Firearm Pointed

Threatens the use of deadly force (ex. - points firearm at an individual). This does not include being at a "ready gun position."

Officers used their firearms by pointing them at citizens during seventeen (17) incidents by twenty-seven (27) officer which related to 21.6% of force used during the year. There were no reports of officers firing their weapons. Some of these incidents involved more than one officer pointing there firearm at the same individual and one incident, and one call two officers pointed their firearms at four individuals.

All the reports, the officers were justified in their actions which dealt with felons, felonies in progress, weapons in view, barricaded subject and believed or reported to have a gun.

This use of force appears to be effective as out of the 17 incidents, only 3 incidents required additional use of force.

1. Disturbance and subject armed with a metal bar required Control and Restraint to be taken into custody after the officer got the subject to drop the weapon. No injuries related to use of force.
2. Felony traffic stop, subject would not remove his hands from his pocket. Two officers covered the subject with their service weapon and another officer deployed the Taser when the subject refused to remove his hands from his pockets. Minor injury related to the Taser dart.
3. Disturbance call where a large 450 lbs subject held a knife. Officer pointed his service weapon at the subject who eventually set the knife down but within arms reach. The officer believed the subject was going to reach for the knife who was refusing to obey all commands and deployed the Taser. Several applications of the Taser were required in order for this large subject to comply for an arrest.

There were no reported incidents involving officers pointing their weapon when they should not have done so. There were no complaints related to officers pointing their weapons in 2011.

Level 7- Deadly Force - The use of any weapon or force in a manner that is likely to cause death or serious bodily injury. The application of choke holds or carotid restraints are included in this level. Force used in and around the neck region in the form of a choke to retrieve evidence is unacceptable. Force used in and around the neck region to subdue a person is only acceptable as a last resort to immediately prevent death or serious injury of the officer or a third party who is at risk. Roadblocks may be considered deadly force and should be used only in accordance with established policy. **No Deadly Force use of force for 2011.**

Other Force Used

There were no reports during 2011 showing a force of "other" or not classified in the previous sections as being utilized.

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Use of Force Complaint

There were two reported formal complaints reference use of force in 2011.

1. One formal complaint of unnecessary use of force was unfounded.
2. One formal complaint of excessive use of force; after the investigation was completed, the officer was exonerated.

Conclusion

Year	OC Spray	Control	Taser	Hard Hands	Impact	K9	Less than Lethal	Point Firearm	Deadly Force	Other	# Incidents	Uses of Force	# Officers
2010	2	48	10	3	1	0	0	30	0	0	69	94	92
2011	0	61	27	10	0	0	0	27	0	0	82	125	116

In 2010 there were sixty-nine (69) uses of force incidents with ninety-four (94) uses of force during those incidents. Ninety-two (92) officers were involved in these uses of force.

In 2011 there were eighty-two (82) uses of force incidents with one hundred twenty-five (125) uses of force during those incidents. One hundred sixteen (116) officers were involved in these uses of force.

The number of incidents rose slightly from the year before and the number of uses of force rose by fifty-six (56).

Using the formula of the # of uses of force divided by the # of incidents

- 2010 year 094 uses of force divided by 69 uses of force incidents equals 1.36 per use of force incident.
- 2011 year 125 uses of force divided by 82 uses of force incidents equals 1.52 per use of force per incident.

Therefore uses of force in 2011 closely resembled the reports made from 2010 with one exception; the number of incidents involving officers deploying the Taser in 2011 nearly tripled that of 2010.

Victoria PD Patrol Captain Kevin Sanderson said our officers are quick to “tase” someone instead of going hands on. While this may not be a problem, he said most officers are carrying the Taser and usually go to it first when someone resists or threatens to resist.

Taser Instructor Sgt Jason Mikeska said they instruct officers that the Taser offers less chances for injuries on both sides because it incapacitates/gains compliance quicker. Sgt Mikeska also said the Taser has been extremely effective without deployment (threatened use). It causes many to think twice about resisting. He further added that they are teaching Taser dart spread is very important for neuromuscular incapacitation. If Taser dart deployment lacks dart spread and is ineffective, they teach officers to keep the darts attached and to drive stun in a different location preferably in an opposite region (using the belt line as the spilt for upper and lower region) to gain compliance which has shown to be very effective.

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Officer Injuries during use of force

Based on the Use of Force reports for 2011, 12 officers sustained minor injuries while using force. The injuries mainly consisted of bite marks, minor bruising, minor abrasions, pain from punches/ head butt and one officer's genitals were squeezed. While these injury reports are minor, and are expected in violent scuffles, with 125 use of force incidents in 2011, that averages out to every 10.42 uses of force, a Victoria Officer was injured. Again, we are talking very minor injuries. Nothing to address related to policy revisions or training needs in this area for 2011.

With the increase in Taser use, this may be the reason why VPD Officers only received minor injury. Out of the 12 reported officer injuries, only 3 of those incidents had Taser use. Out of the 12 reported officer injuries, only 5 incidents has more than the single officer using force (meaning 7 of those officers were by themselves)

Recommendations

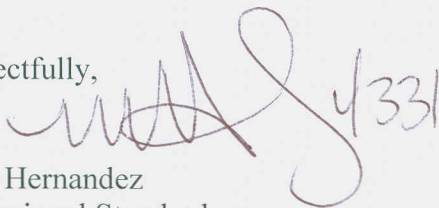
1. It appears as if the Taser has been a valuable tool for the officers to utilize. Due to the increase in incidents when officers deployed their Tasers in 2011 compared to 2010, continued training on policy may be needed to ensure officers are acting appropriately. This may be attributed to more violent situations or the number of calls officers responded to as well as the number of officer initiated stops. Therefore, the increase itself does not suggest officers are using this force option too much; it simply suggests that something has changed.
2. Continue with defensive training to ensure officers are able to defend use of force at the lowest level to avoid injuries and complaints. Disturbance calls and warrants activity offered the most encounters with use of force. Ensure these calls have automatic backup and officers need to let the backup arrive and or be in control of the situation before calling of a back up officer.
3. Ensure officers are properly trained in firearms and when not to shoot. While there was no reported misuse of pointing firearms, officers need to be continually trained to ensure they have the abilities to make the right decision when the time comes.
4. With very little use in 2010 and no use in 2011, officers need to be trained on the use of impact weapons. With the application of the Taser, this may have a better affect with minimal injury.
5. An administration review of keeping OC Spray for VPD should be analyzed. With its very little use the past two years, saving funds to be spent on other areas makes sense.
6. Redo the Use of Force report to match the OSSI module and add other areas to improve the function of review and analysis.
7. Supervisory assessment on the use of force should be immediate and may require response to the scene right after occurrence for their evaluation and proper documentation on the use of force report. Supervisors should comment on the use of force report on how they arrived at their decision on whether the use of force was approved (or complies with VPD policy/Chapter 9 Penal Code) or not.
8. All use of force reports should contain a narrative on the details on the use of force. Having to conduct this analysis manually, it was extremely time consuming to review a large percentage of these

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reports by having to go into the case file due to lacking a narrative (the reports said something similar to “see offense report for details”). This will require more work on the officer’s part; however this is essential to the overall efficiency of this department and to make the use of force report independent from a criminal case report.

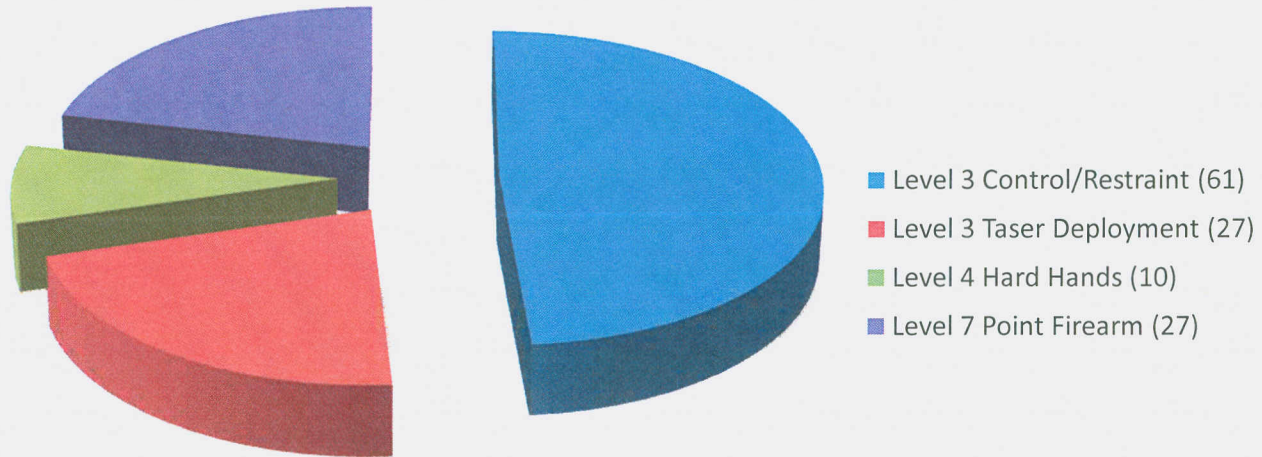
9. According to Sgt Jason Mikeska, many supervisors who review Use of Force reports have not attended Taser training (as it’s not mandatory) but yet approve the use of the Taser in the Use of Force reports. Sgt Mikeska said all supervisors who have the potential to approve Use of Force reports, should be required to attend Taser training to be familiar with its use and training methods.

Respectfully,

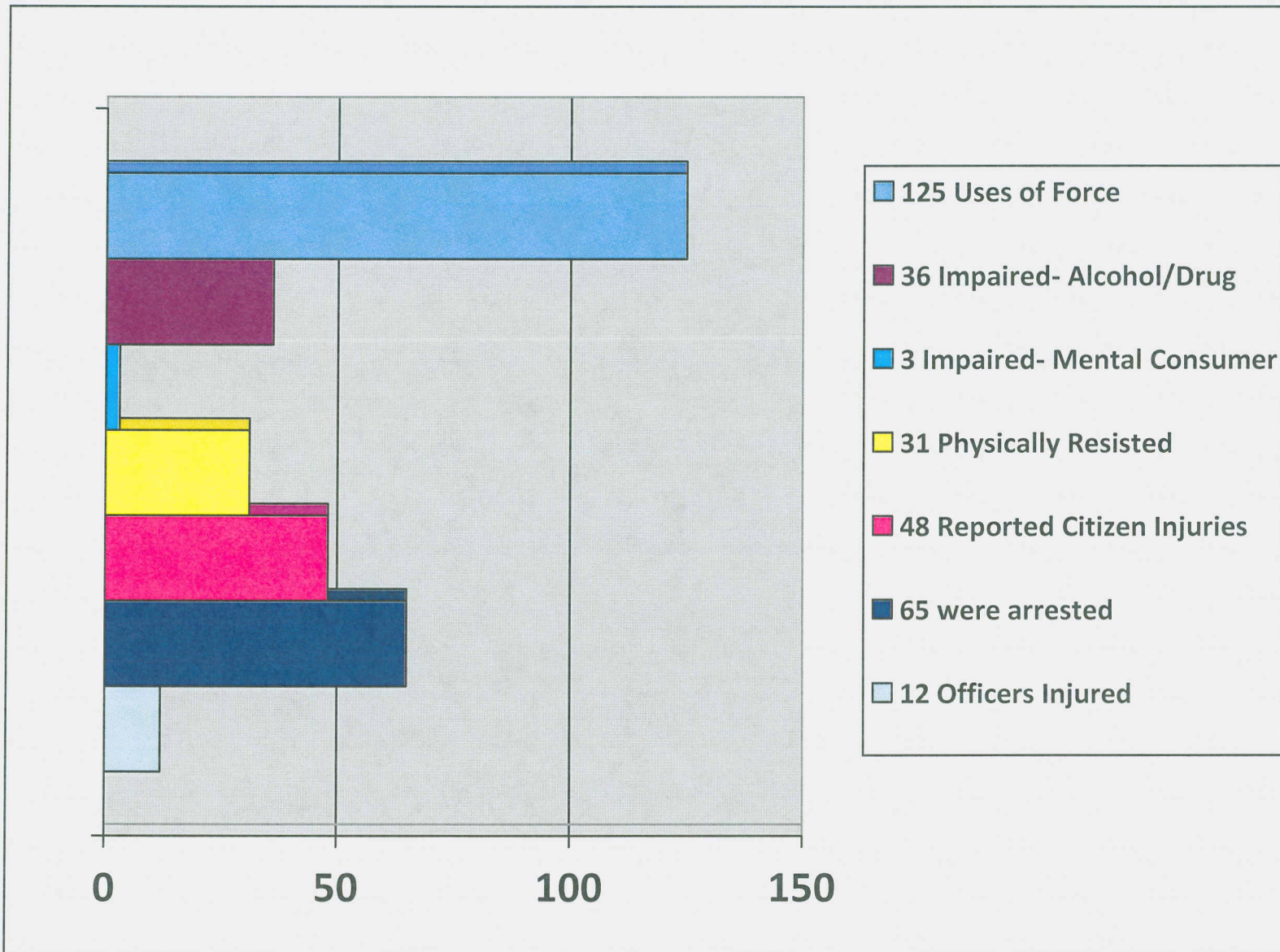
A handwritten signature in blue ink, appearing to read "MH 4/331". The signature is stylized and includes a large loop at the end.

Mike Hernandez
Professional Standards
Lieutenant
Victoria Police Department

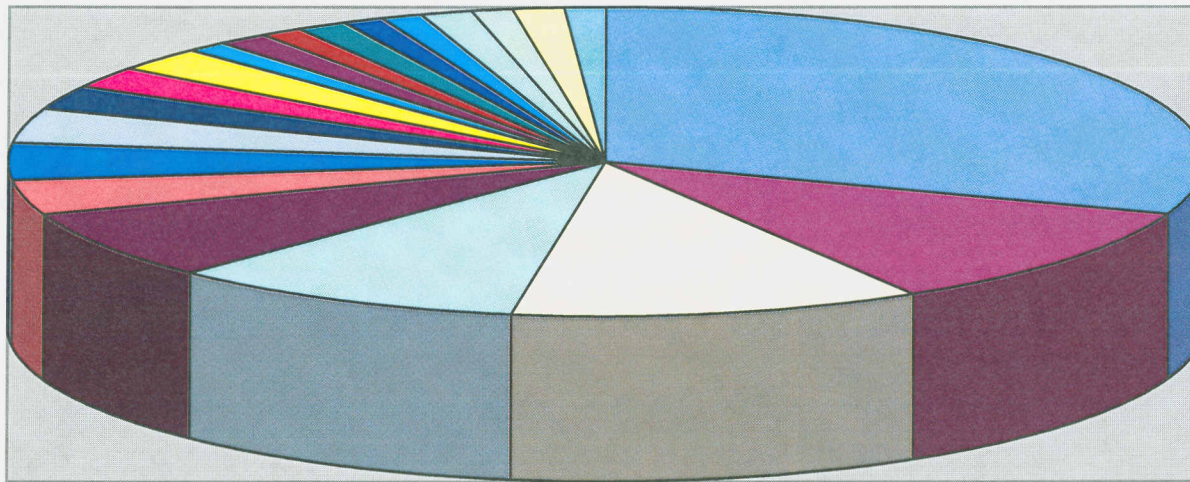
2011 Victoria PD Use of Force-Types



2011 Victoria PD Use of Force Facts



2011 Victoria PD Calls Related to Use of Force



- 25 Disturbance
- 9 Fight
- 9 Warrants
- 8 Traffic
- 6 Intoxicated
- 3 Assault
- 3 Suicidal
- 3 Suspicious Activity
- 2 Loud Music
- 2 Stolen Vehicle
- 2 Burglary
- 1 Agg Robbery
- 1 Att Murder Suspect
- 1 Beer Theft
- 1 Hit/Run
- 1 Prostitution
- 1 Runaway
- 1 Trespassing
- 1 Welfare Ck
- 1 Vehicle Pursuit
- 1 School Incident