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**Sent:** Tuesday, February 24, 2009 4:02 PM  
**To:** Manheim, Tom  
**Cc:** Guerra, Antonio  
**Subject:** police statistics followup

*Tom, could you forward this to the members of the Rules Committee? Thanks.*

At the last Rules Committee meeting, during the discussion of police statistical reports, Mayor Reed posed a good question: If the police department issued these reports quarterly, or even annually, what would they tell us? While I probably could have answered off-the-cuff, I decided it would be better to take a look at some recent reports and send a followup.

Let me offer one specific example.

The department's use-of-force report for the year 2006 documented that African Americans made up 10 percent of those arrested, but 17 percent of those against whom force was used. Police were far more likely to use force against African Americans than against any other ethnic or racial group. A Mercury News article at the time quoted Chief Davis as saying the phenomenon was "certainly worth looking at."

In 2007, the numbers were similar. African Americans again made up 10 percent of all arrests, and 15 percent of those against whom force was used.

This is the sort of disparity that can benefit from regular tracking. If, for example, the department were to undertake officer training in hopes of eliminating any police practices that might lead to the disproportionate use of force toward African Americans, regular tracking could help gauge the success of such an effort. From the community's standpoint, regular tracking would help establish whether the use-of-force numbers for African Americans remain a cause for concern.

I have attached the Mercury News articles for the two reports below.

**SJPD: USE OF FORCE MORE LIKELY IN ARRESTS OF BLACKS  
REPORT: NO SHOOTINGS BY S.J. POLICE IN 2007**

Published: Friday, August 1, 2008 Edition: Morning Final Section: Local Page: 1B

Illustration: Charts (2)

Source: BY SEAN WEBBY, Mercury News

For the second year in a row, African-Americans arrested in **San Jose** were more likely to have **force** used against them than any other large ethnic group.

African-Americans made up 10 percent of all arrests in 2007, according to a 23-page report the **San Jose Police** Department released Thursday. They made up 15 percent of the suspects against whom **force** was used.

No such disparity exists with Hispanics and whites. For each of those groups, their arrest rates and the rate at which **force** was used was close to identical.

Overall, officers rarely used **force** at all -- coming against about 3 percent of the 36,000 total suspects arrested last year -- and there were no shootings, according to the report.

Hispanics made up more than half of the 1,156 suspects against which **police** officers used their hands, batons, **Tasers** and other weapons against in 2007. In March 2007, a truck driver on PCP died after being Tased by officers during a violent struggle -- the only death involving **police**.

**Police** Chief Rob Davis said the statistical portrait of **force** showed a professional big-city **police** department trying to **use** the least amount of **force** necessary to keep the city and themselves safe.

"We are doing pretty darn well here," Davis said. "That said, these statistics are still teaching us things and we need to constantly be looking at how we **use force**."

The chief argued that **force** was used against Hispanic and African-American suspects within their groups at roughly the same level. Using this formula, Hispanics and whites made up about the same percentage: 3 percent of their respective arrests resulted in **force**. **Force** was used in about 5 percent of the arrests made of African-Americans.

Davis also flagged a statistic that showed that 30 percent of those subjected to force came from out of town. But he did not address the fact force was used on a higher percentage of the African-Americans arrested.

About 32 percent of San Jose residents are Hispanic; 31 percent white. About 3 percent are African-American.

Mayor Chuck Reed said San Jose was one of the only cities to compile such statistics so it was hard to interpret them, but he was relatively pleased with what the numbers showed.

"I am pleasantly surprised at the low number of times the officers used force," Reed said.

Although a different methodology was used for this year's report, the numbers were mostly similar to those released last year. But unlike last year's report, this year's numbers sparked little immediate controversy.

Victor Garza, head of the La Raza Roundtable, said he thought the statistics showed that police were being "pretty fair." Garza said he was less concerned with the force statistics than the percentage of Hispanics which made up all the arrests. But this, he said, may not be a police matter but a societal one.

The police, Garza said, were trying.

"We need to remember that the chief is doing this so he can see if there are areas to improve in," Garza said. "He is doing that on his own initiative and I appreciate that."

Independent Police Auditor Barbara Attard was on vacation. Her assistant, Shivaun Nurre, said they needed more time to analyze the numbers.

She noted the absence in the report of statistics that might say how many officers use force more than once. The IPA last year logged 107 complaints of "unreasonable force" against city officers.

"It raises more questions than it answers," said Mark Schlosberg, police practices policy director for the American Civil Liberties Union of Northern California.

Schlosberg said few conclusions could be made without analyzing police and individual force reports, something his organization has unsuccessfully tried to get.

A leading expert on crime statistics and trends agreed the report is difficult to interpret as anything but a limited snapshot of last year.

"This is the police department making its own best case and it is self-serving and one-sided, as one would expect," said Franklin Zimring, a law professor at University of California-Berkeley. "This is thin soup."

But he also said he was astounded that there had not been a single use of deadly force used last year.

"If I were chief of police in San Jose and I heard my officers never used deadly force once, it would be a headline," Zimring said. "That ain't chopped liver."

The chief noted there have been no police shootings of suspects since 2006.

Davis also stressed the importance of the percentage of arrested suspects within each ethnicity against whom force was used.

Other force statistics include:

(box) Tasers were used in 9 percent of the force incidents.

(box) About 76 percent of the time, police used their hands -- control holds and takedowns -- the lowest level of force.

(box) Close to 20 percent of the suspects were found in the district that includes the city's entertainment heart.

(box) About 81 percent of the suspects were suspected of being under the influence of alcohol or drugs or had mental health issues.

CHART: MERCURY NEWS

USE OF FORCE

Of the 35,998 suspects arrested in San Jose in 2007, only 1,156 or 3.2% required the use of force. A break down by ethnicity of those arrested by using force.

African-American 15%  
Caucasian 19%  
Hispanic 54%  
Asian/Pacific Islander 6%  
Middle Eastern/East Indian 2%  
Other 2%

CHART: MERCURY NEWS

FORCE METHOD DEPLOYED, 2007

Control hold 829

Takedown 795  
Body weapons (hands/feet) 269  
Taser 240  
Impact weapon (e.g. baton) 231  
Pepper spray 94  
Canine 14  
Projectile impact weapon 6 (e.g. stun bag)  
Legal intervention 1  
Carotid restraint 1  
Deadly force 0

TOTAL USAGE 2,480 times

## **BLACKS, LATINOS MORE LIKELY TO BE ARRESTED BY *FORCE* CIVIL RIGHTS ORGANIZATIONS CONCERNED; *POLICE* CHIEF TO LOOK FOR EXPLANATION**

Published: Wednesday, March 21, 2007 Edition: Morning Final Section: Front Page: 1A  
Memo: **SAN JOSE POLICE** REPORT

Illustration: Photo, Charts (2)

Source: BY SEAN WEBBY AND RODNEY FOO, Mercury News

**San Jose police** are more likely to **use force** against blacks and Latinos than against criminal suspects from other ethnic groups, a new department study shows.

Overall, the first-of-a-kind report says less than 5 percent of the 34,000 arrests last year involved officers using some kind of **force** -- a definition that includes the **use** of hands and feet, pepper spray, batons, **Tasers** and guns. Among the findings: Hands and feet were used most frequently against criminal suspects, firearms least often.

But while the overall numbers weren't surprising, the statistics on arrested minorities drew sharp questions from civil rights groups, the independent **police** auditor and criminal justice experts. And **Police** Chief Rob Davis said the numbers deserve further study, although he added that they demonstrate how infrequently his department **uses force**.

According to the report, 10 percent of those arrested were African-American, but 17 percent of those subjected to **force** were African-American. Latinos were also subjected to **force** at a rate slightly above average.

In contrast, 19 percent of those arrested were white, but 18 percent of those subjected to some kind of **force** were white. The **use-of-force** numbers against Asian groups were also relatively low.

The higher **use-of-force** statistics against blacks suggest two possibilities, said James Alan Fox, professor of criminal justice at Northeastern University at Boston.

"Either there is something about the behavior of the arrestee that legitimately promotes the **use** of force, or because of race, officers are more apt to use force," he said. "I can't answer that question, obviously."

'Matter of concern'

Barbara Attard, San Jose's independent police auditor, said she was not sure how to interpret the numbers. She wondered how many times police are using force without following the department's strict procedures. That number was not addressed in the report, and San Jose police have regularly refused to release the individual incident data necessary to make such a judgment.

Attard said that about 16 percent of the complaints her office had received against police officers came from African-Americans.

"That, coupled with allegations that people are being profiled and allegations that people are being treated disrespectfully, make me think these numbers are a matter of concern," Attard said. "I think they need to be taken seriously."

The report instantly provided fuel for longstanding criticisms of the department from the Latino and black communities.

"This isn't socioeconomics, this is an out-of-control police department," said Rick Callender, head of the San Jose branch of the National Association for the Advancement of Colored People, who has accused San Jose police of racial profiling.

Victor Garza, chairman of La Raza Roundtable -- a civil rights organization, said the numbers "give me grave concern."

"I'm not sure if they are targeting Latinos," Garza said. "But we have to talk to the chief to see if we can reduce that number."

Chief Davis said most of the numbers jibed with the ethnic breakdown of arrests -- showing that officers were not unfairly focusing their force on any ethnic group.

"Simply because more of the people are of a certain race does not mean we are targeting them," said Davis. "The PD is colorblind. The only thing police target is criminal activity."

Davis said he had no explanation of why the arrest rate of the African-Americans last year was lower than the rate that force was used against them, but agreed that it raises legitimate questions.

"It's certainly worth looking at," Davis said.

Initial report

The police report is the first time in recent history that the department has released a statistical portrait of its officers' use of guns, batons, pepper spray and Tasers on suspects. When they began using Tasers departmentwide in 2004, police promised an annual report on their use, but it has now been nearly two years since they have released such statistics.

Davis vowed the department will now release a "use of force" report annually.

Analyzing such statistics can be tricky.

Fox said it is meaningless to compare arrest percentage by race to citywide population because officers only deal with a particular strata of society: suspected lawbreakers. In San Jose, 62 percent of those arrested are black or Latino, while those groups make up 34 percent of the population.

Moreover, as Davis pointed out, many of the suspects San Jose police deal with live in other cities.

Like Fox, Franklin E. Zimring, a law professor at the University of California-Berkeley's Boalt Hall School of Law, said he found the statistics involving Latinos appear to be within norms, but the numbers involving use-of-force against blacks require deeper study.

"What you have is a potential indicator or a differential risk that can't be explained easily or naturally by the concentration of arrests," Zimring said.

He suggested the calls for police service have to be analyzed by race to determine if indeed officers dealt with a disproportionate number of violent or serious crimes involving African-Americans, a factor that could have driven use-of-force responses higher.

"You're looking for potential conflict-generating situations," Zimring said.

The report comes in the midst of an ongoing battle between the police department and those who want more information from it. The ACLU has been trying for months to get the department to release raw data on its Taser usage, and the city's Sunshine Task Force is discussing whether the police should be required to make more information about many aspects of their work publicly available.

Sanjeev Bery, director of the San Jose branch of the American Civil Liberties Union, said he was also troubled by what the report didn't address.

He said, for example, he wanted to know if certain officers had used force more than others, a breakdown of where the officers were using force.

He also said the report lacked data comparing uses of force over several years -- making it almost impossible to say if patterns are changing.

"This report highlights our concern that the SJPD are not being open with the public," Bery said.

According to the report, officers used physical force in 71 percent of their encounters with uncooperative suspects. Batons accounted for 12 percent; Tasers, 10 percent; and pepper spray, 6 percent. Tasers -- the department's most controversial weapon -- were used 232 times in 2006. And police used deadly force -- guns -- four times.

"People get this idea that cops want to mix it up with people; it's not true," said Davis. "These are human beings who want to go home to their families like anybody else."

CHART: MERCURY NEWS

USES OF FORCE, ARRESTS BY RACE

Comparing San Jose's use of force, by race and ethnicity, with total arrests and overall population shows that people of color are disproportionately targeted.

Latino

Percent of total uses of force	54.7
Percent of total arrests	52.3
Percent of San Jose population	31.7

White

Percent of total uses of force	17.7
Percent of total arrests	18.8
Percent of San Jose population	33.7

Asian/Pacific Islander

Percent of total uses of force	9.3
Percent of total arrests	13.7
Percent of San Jose population	29.8

African-American

Percent of total uses of force	16.9%
Percent of total arrests	9.9%
Percent of San Jose population	2%

Other

Percent of total uses of force	1.5
Percent of total arrests	5.2
Percent of San Jose population	2.6

Note: Percentages may not total 100 because of rounding.

Source: San Jose Police Department

CHART: MERCURY NEWS

HOW SAN JOSE POLICE USE FORCE

Here are the methods used by the San Jose Police Department in 2006 to subdue a suspect by force.

Uses of force

Pain compliance/control hold	
Percentage of all uses of force	31.8%
Percentage effective in subduing suspect	73.1
Takedown	
Percentage of all uses of force	31.2
Percentage effective in subduing suspect	90.3
Impact weapon (baton, etc.)	
Percentage of all uses of force	12
Percentage effective in subduing suspect	78.8
Body weapon (hands, feet, etc.)	
Percentage of all uses of force	7.7
Percentage effective in subduing suspect	84
Taser (darts fired)	
Percentage of all uses of force	7.2
Percentage effective in subduing suspect	71.8
Pepper spray	
Percentage of all uses of force	6.2
Percentage effective in subduing suspect	82.3
Taser (direct contact)	
Percentage of all uses of force	3
Percentage effective in subduing suspect	60.9
Canine apprehension	
Percentage of all uses of force	0.4
Percentage effective in subduing suspect	100
40mm single launcher (non-lethal)	
Percentage of all uses of force	0.2
Percentage effective in subduing suspect	100
Carotid restraint (hold on neck)	
Percentage of all uses of force	0.2
Percentage effective in subduing suspect	50
Deadly force	
Percentage of all uses of force	0.2
Percentage effective in subduing suspect	100

Note: Percentages may not total 100 because of rounding

Source: San Jose Police Department

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