

2009 RESPONSE TO RESISTANCE REPORT
Austin Police Department



November 2010
Austin Police Department Research and Planning

Executive Summary

This 2009 document reflects the outcome of a full year of response to resistance reporting since major policy changes occurred in 2008 based on best practice recommendations from the Department of Justice. The policy revisions that were implemented in June of 2008 increased supervisory responsibility for response to resistance incidents, created levels of force that establish more stringent inquiry, reporting and review requirements, and redirected the activities of the Force Review Board.

The recording of response to resistance information also transitioned in 2009 from the submission of paper reports to officers directly entering information into Versadex, the police department's records management system. The transition included report writing training that made officers more aware of lower level force situations that should be included in reports.

All officers were also required to complete a Basic Defensive Tactics Course in 2009 that emphasized the effective use of "weaponless" techniques. This training seems to have led to an increased reporting of "weaponless" techniques during response to resistance incidents. In the past, the arresting officer reported the response to resistance to handcuffing, but reports were not filed by the assisting officers. Training emphasized the need for separate reporting, resulting in more than one use of force report associated with a particular incident where weaponless techniques were used.

This report shows an unintended outcome of the policy changes and training. The number of response to resistance reports went from 1,152 in 2008 to 1,703 in 2009. Since implementing the Department of Justice recommendations, *APD has clarified policy and trained officers so that the information reported in 2009 is more accurate and consistent.*

This report provides a summary of the information submitted in all response to resistance reports filed by officers, as well as a detailed description of the circumstances and subject action that resulted in the use of force. The Response to Resistance policy (General Order B101a) defines force as any physical contact with a person by an employee using the body or any object, device, or weapon, not including escorting or handcuffing of a person with no or minimal resistance. Police are authorized to respond to resistance in order to control potentially dangerous situations that may result in harm to the subject, the officer, or others. In 2009, the Austin Police Department responded to 368,071 dispatched calls for service and made 226,401 traffic stops, 16,682 pedestrian stops, and 38,506 self-initiated contacts for a total of 649,660 contacts with the public. **Of the over 600,000 police contacts with the public, less than one half of one percent result in the use of force.**

Most use of force events involve resistance by a person being arrested, particularly those where the officer must take the subject into custody. For the 2009 response to resistance report, arrests include both custody arrests and incidents where the subject was issued a field release citation. **In 2009, there was a slight increase in the percentage of arrests that result in a use of force.** In 2008, 1.1% of all arrests resulted in the use of force, as compared to this year's percentage of 1.7%. The number of arrests citywide has decreased from 79,427 arrests made in 2008 as compared to 69,130 in 2009.

Background

This annual report reviews the Austin Police Department's response to resistance during calendar year 2009. Starting in 2008, the Response to Resistance reports were directly entered by officers into APD's Records Management System (RMS) which involved significant training for officers on the new reporting procedures. Response to Resistance Data Entry training was provided for Corporals, Sergeants and Lieutenants on review of the use of force detail pages within the RMS and methods to correct any entry errors. Training was conducted from February to May 2010, with an emphasis on supervisory review for accuracy as well as methods to correct errors in use of force detail pages. *This training and review by sworn supervisors has improved the quality of the information submitted on the use of force forms.*

The mission of APD is the "Keep you, your family and our community safe." The mission statement guides officers as they encounter the many situations during their tour of duty. APD officers may find it necessary to respond to resistance in order to control the situation and prevent harm to community members, the officer or others. When these situations occur, APD policy requires that the initial incident report be written by the primary reporting officer and reviewed by their supervisor. All response to resistance reports contain the original reason for the police presence at the scene; a detailed description of the circumstances and subject action that resulted in the use of force; and a detailed description of the force used. *Every officer who is involved in a response to resistance event must submit a use of force supplement for the incident.* The changes in policy not only increased the reporting and supervisory responsibility for response to resistance events, but also led to the creation of the Force Review Board. The Board reviews Level 1 and Level 2 incidents to assess the "timeliness of the reporting, investigation and chain of command review."

Reports by Level of Force Used

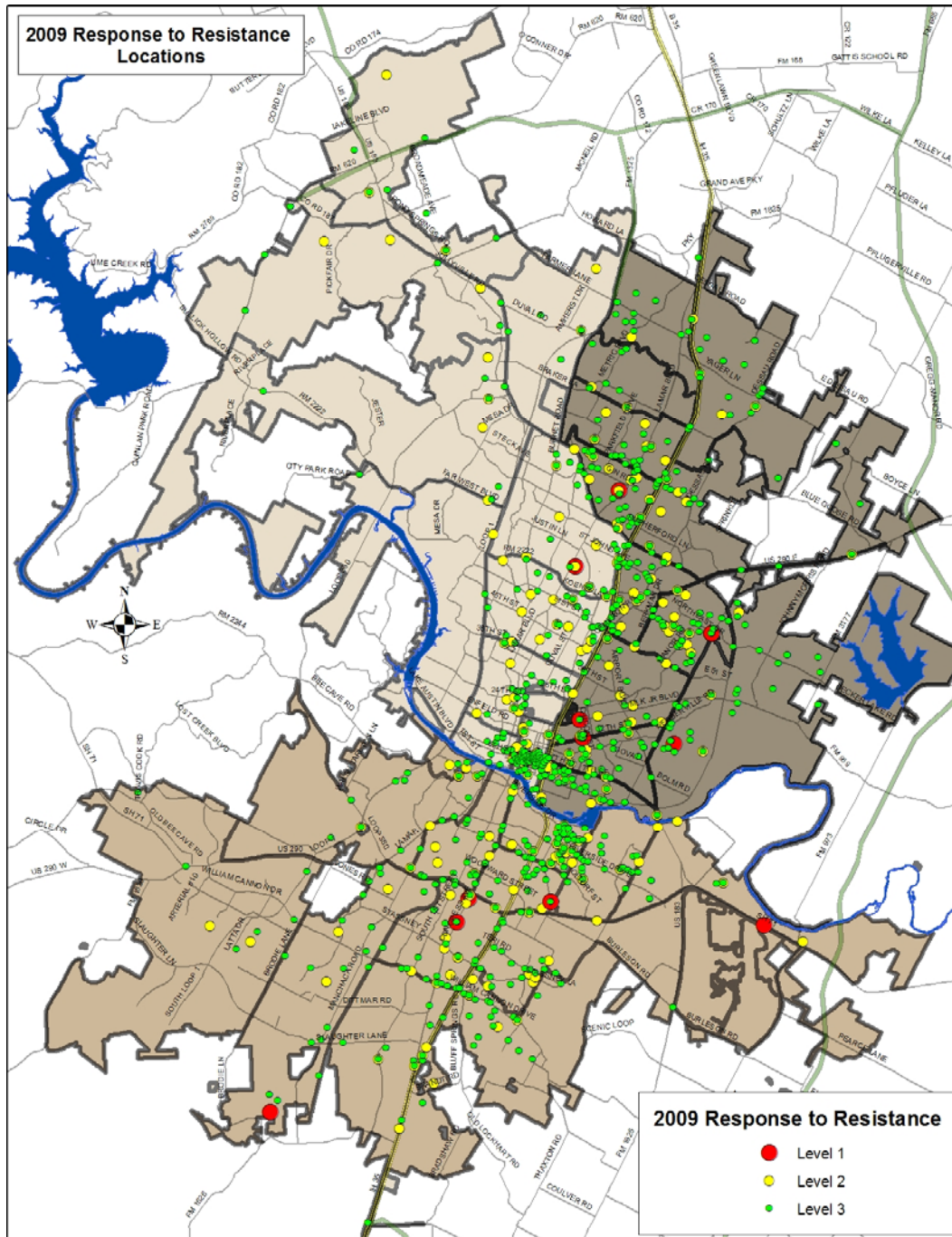
In June of 2008, three force levels were established for reporting, investigation, and review purposes:

- **Level 1** includes force resulting in death; any intentional firearm discharge at a person; and force that causes serious bodily injury such as an impact weapon strike to the head.
- **Level 2** events include use of impact weapons; unintentional firearms discharge that do not result in injury; any deployment of a police canine resulting in a bite or use of force resulting in emergency treatment. **Level 2** incidents include any strike to the head with any weaponless technique.
- **Level 3** events are the most frequent and include use of Tasers, OC spray, baton for non-striking purposes, any force incident resulting in injury or a complaint of pain beyond the temporary discomfort of un-resisted handcuffing, and weaponless techniques.

For all use of force events the direct supervisors respond to the scene. For Level 1 incidents the Special Investigations Unit (SIU) will prepare a separate administrative report or investigation. For Level 2 incidents, the packet is prepared by the investigating supervisor. If any force inquiry indicates a possible policy violation, the supervisor conducts at a minimum, a Level 2 inquiry and notifies Internal Affairs. At any time, the level can be upgraded based on information gathered during the inquiry. In 2009, less than 1% of use of force events were Level 1, 19% were Level 2 and 80% were Level 3. For the 2010 report, APD will be able to compare use of force levels as a second full year of data will be available.

The map on page 3 shows that the majority of the response to resistance events (28%) in 2009 occurred in the Downtown Area Command. The Downtown Area Command includes the entertainment district,

and locations for special events that result in large influxes of residents and visitors. In addition, the Sixth Street entertainment district and surrounding area has the largest concentration of establishments that serve alcohol. Officers often view fights in progress or other offenses where force is required to gain control of the situation. In 2008, 16.3% of all use of force incidents occurred in the downtown area.



Reports by Type of Force and Arrests

Most use of force events occur when an officer attempts to make an arrest. In 2009, there were 1,207 subjects involved in a use of force event and 69,130 subjects arrested. For 2009, 1.7% of all arrested subjects were involved in a use of force. This was an increase from 2008 when 1.1% of subjects were involved in a use of force. The use of force rate has increased in all race categories from 2008 to 2009.

Table 1: Use of Force by Race

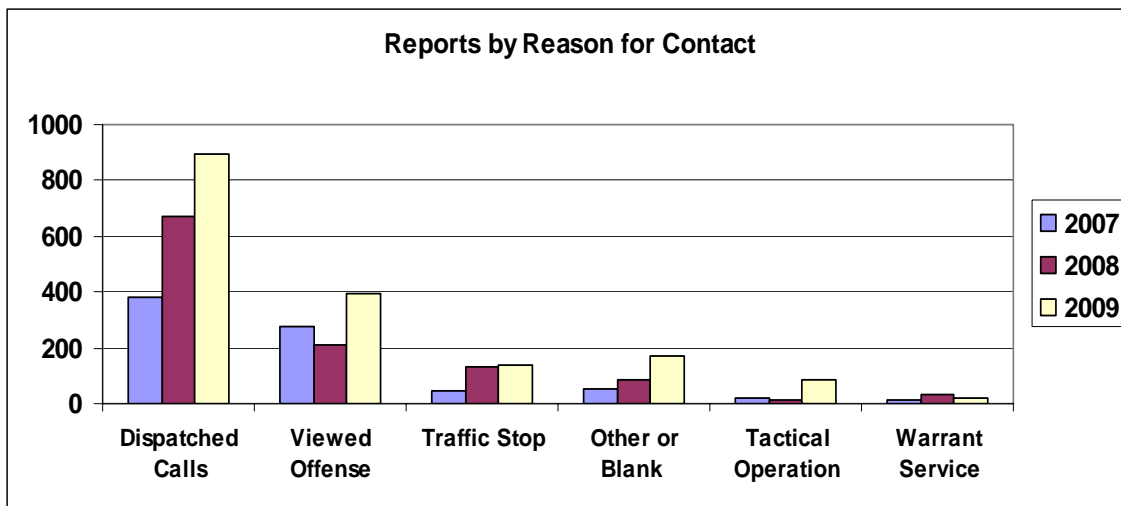
	White			Black			Hispanic		
	Arrests	Force Used	Percentage of Arrests	Arrests	Force Used	Percentage of Arrests	Arrests	Force Used	Percentage of Arrests
2009	27,123	387	1.4%	17,590	349	2.0%	23,737	461	1.9%
2008	31,625	305	1.0%	19,803	255	1.3%	27,156	313	1.2%
2007	28,802	213	0.7%	16,720	176	1.1%	23,094	236	1.0%

	Other*			Total		
	Arrests	Force Used	Percentage of Arrests	Arrests	Force Used	Percentage of Arrests
2009	680	10	1.5%	69,130	1207	1.7%
2008	843	10	1.2%	79,427	883	1.1%
2007	705	11	1.6%	69,321	636	0.9%

*Other includes Asian, Indian and 45 subjects where the race was not known.

Reports by Reason for Contact

In 2009, the majority of the response to resistance reports (897) were related to dispatched calls which is the response to a call for service (see the chart on the next page). This is an increase from the 674 reports that were related to dispatched calls in 2008. There was a decrease in the number of reports related to viewed offenses which are contacts made when the officer observes and responds to an offense in progress. Traffic stops, which are a separate type of viewed offense, showed a slight increase in 2009 due to a continued emphasis on traffic safety to reduce fatalities and collisions citywide, as well as officer initiated activity primarily in the downtown area.



Reason for Contact	2007	Percent of 2007 Reports	2008	Percent of 2008 Reports	2009	Percent of 2009 Reports
Dispatched Calls	380	48.2%	674	58.5%	897	52.7%
Viewed Offense	278	35.2%	213	18.5%	393	23.1%
Traffic Stop	46	5.8%	133	11.5%	138	8.1%
Other or Blank	50	6.3%	84	7.3%	171	10.0%
Tactical Operation	19	2.4%	16	1.4%	83	4.9%
Warrant Service	16	2.0%	32	2.8%	21	1.2%
Total	789	100.0%	1152	100.0%	1703	100.0%

Reports by Type of Force Used

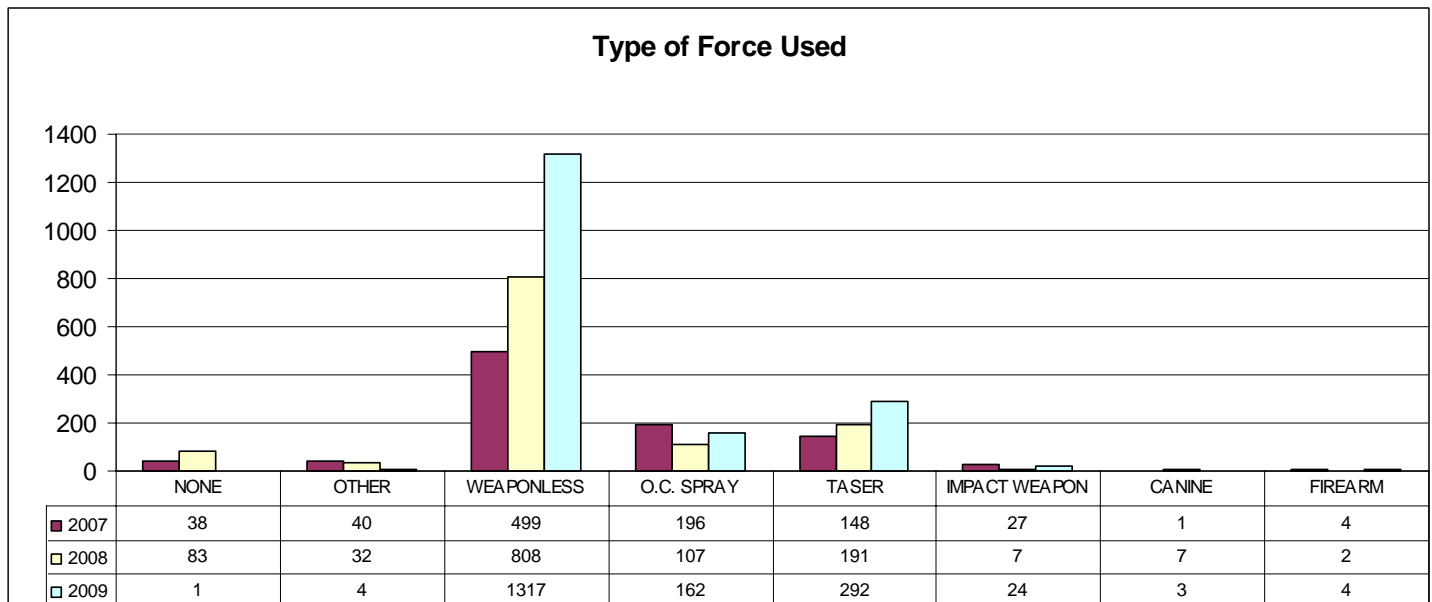
During an incident in which force is used in response to resistance, an officer may have to use more than one type of force. Further, more than one officer may use force in order to try and control the situation. As a result, a single incident may result in more than one use of force report and each report may include more than one type of force. Thus, the types of force used can be more than the total number of response to resistance reports filed.

The chart below shows the types of force that may be used by an officer responding to varying levels of resistance from a subject. The chart also indicates the number of times each type of force was used in 2009, 2008 and 2007.

In 2009 there was an overall increase in the types of force used by officers as documented on the response to resistance reports; there were 1,807 types of force reported in the 1,703 reports. This compares to the 1,237 force types reported in 1,152 reports in 2008.

The most significant increase in the type of use of force is in the weaponless category. In 2008, 808 reports indicated that a weaponless technique was used, as compared to 1,317 reports in 2009. Weaponless techniques, particularly soft-hand control such as escort hold, comprise the majority of use of force reported by officers (72.9% of all use of force reported) and are considered to be the lowest level of force used in response to a subject's resistance. The following list is ordered from the lowest to highest level of force.

- None - subject complained of pain but no force was used during the incident.
- Other - verbal commands or any other action that cannot be categorized in any specific use of force category.
- Weaponless - includes soft-hand control (techniques such as joint locks, pressure points, and escort hold) and hard-hand control (techniques such as hand and leg strike).
- OC Spray - chemical weapon known as "pepper spray."
- Conductive Energy Device (Taser) - a less-lethal device employing electronic muscular disruption technology that briefly causes loss of voluntary muscle control. This category includes Taser drive stun and Taser prongs.
- Impact Weapon - a weapon or object that is used to strike, such as a nightstick.
- Canine - use of a dog in an arrest situation where dog bite occurs.
- Firearm - category includes both intentional firearm discharge and unintentional firearm discharge toward an individual.



Reports by Subject Conduct and by Subject Action

In over 50% of the use of force reports in 2009, officers noted that the subject was suspected to be under the influence of drugs or alcohol when the incident occurred (869 out of 1,703 reports). This is consistent with the reports from 2008 where 50% of the subjects were suspected to be under the influence of drugs and alcohol. In 2009, an additional 6.5% were also noted as having an emotional disturbance and under the influence of drugs or alcohol.

In 2009, empty hand aggression was the most frequent subject action resulting in a response to resistance by an officer. This action includes kicking, punching and slapping the officer. The second most frequent subject action is empty hand defensive resistance which includes physical resistance such as pulling and pushing away to prevent the police officer's control. For subjects that displayed more than one type of resistance, only the most serious subject resistance is included.

In 2009 officers encountered increased incidents where the subject had an edged weapon or a gun. The following are the definitions of the types of subject action from less serious to most serious.

- Passive Resistance - physical resistance less than defensive or aggressive resistance such as going limp.
- Other - any other resistance by the subject to hinder arrest or control. Included in this category are incidents where the subject would not comply with the arrest, and a weaponless technique such as soft-hand control or a take-down was necessary to make the arrest.
- Verbal Resistance/Aggression - verbal statements resisting police control, indicating refusal to cooperate, and threats which constitute actions requiring force.
- Empty Hand Defensive Resistance - physical resistance by the subject such as pulling and pushing away to prevent the police officer's control.
- Empty Hand Active Aggression - physical assaults by the subject on the police such as kicks, punches, slaps, grabs, and head butts.
- Edged Weapon - use or attempted use of a knife or similar weapon.
- Firearm - use or attempted use of a firearm.

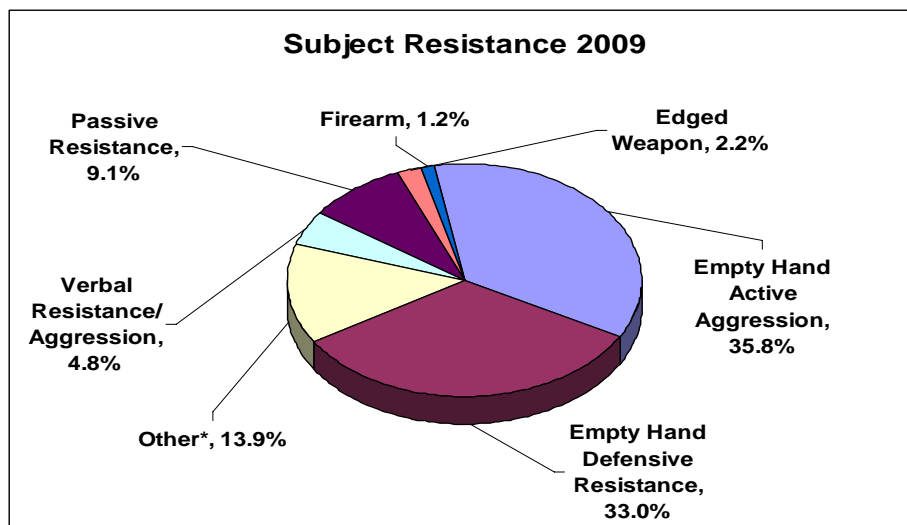


Table 3: Reports by Subject Action	2007	Percent of 2007 Reports	2008	Percent of 2008 Reports	2009	Percent of 2009 Reports
Passive Resistance	30	4.72%	88	9.95%	110	9.11%
Other*	62	9.75%	138	15.61%	168	13.92%
Verbal Resistance/Aggression	49	7.70%	73	8.26%	58	4.81%
Empty Hand Defensive Resistance	171	26.89%	250	28.28%	398	32.97%
Empty Hand Active Aggression	301	47.33%	319	36.09%	432	35.79%
Edged Weapon	15	2.40%	11	1.24%	27	2.24%
Firearm	8	1.30%	5	0.57%	14	1.16%
Total	636	100.00%	884	66.18%	1207	72.16%

*Other includes 6 reports where subject resistance was not included in the reports.

Reports by Subject Injury

In 2009, the most frequent category of subject injury was “no complaint of injury or pain.” Of the 1,207 unique subjects in use of force reports, 57% did not have a complaint of injury or pain. Improvements in reporting have reduced the “unknown” category from 116 reports in 2008 where the subject injury was not noted in the report, to only 6 reports where the information was unavailable. The number of subjects with a minor injury or complaint of injury or pain decreased from 37.3% of reports in 2008 to 35.6% in 2009. In 2008, one subject sustained a serious injury as a result of use of force.

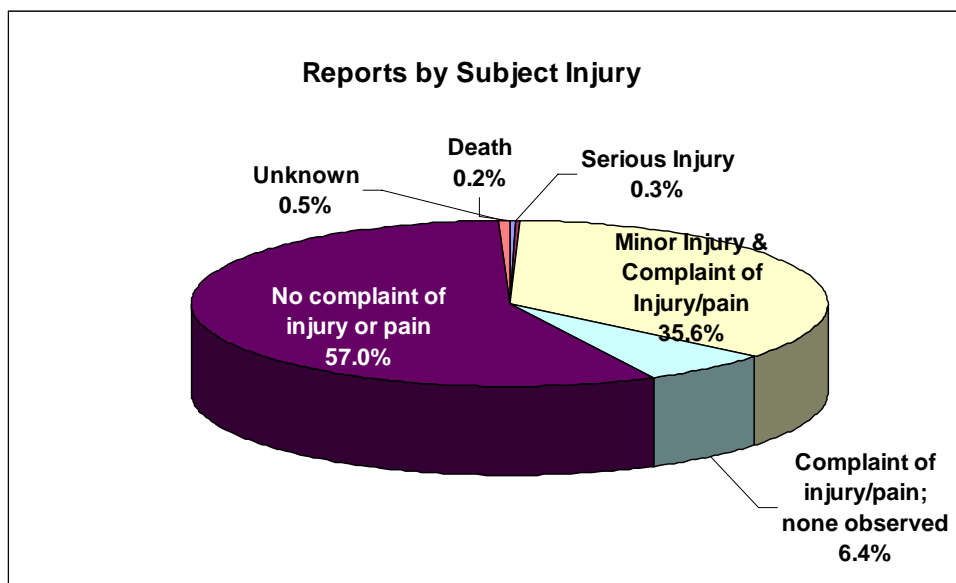


Table 4: Reports by Subject Injury	2007	Percent of 2007 Subjects	2008	Percent of 2008 Subjects	2009	Percent of 2009 Subjects
Death	2	0.31%	1	0.11%	2	0.17%
Serious Injury	4	0.63%	1	0.11%	4	0.33%
Minor Injury & Complaint of Injury/pain	298	46.86%	329	37.26%	430	35.63%
Complaint of injury/pain; none observed	164	25.79%	72	8.15%	77	6.38%
No complaint of injury or pain	151	23.74%	364	41.22%	688	57.00%
Unknown	17	2.67%	116	13.14%	6	0.50%
Total	636	100.00%	883	100.00%	1207	100.00%

During 2009, there were two deaths resulting from use of force.

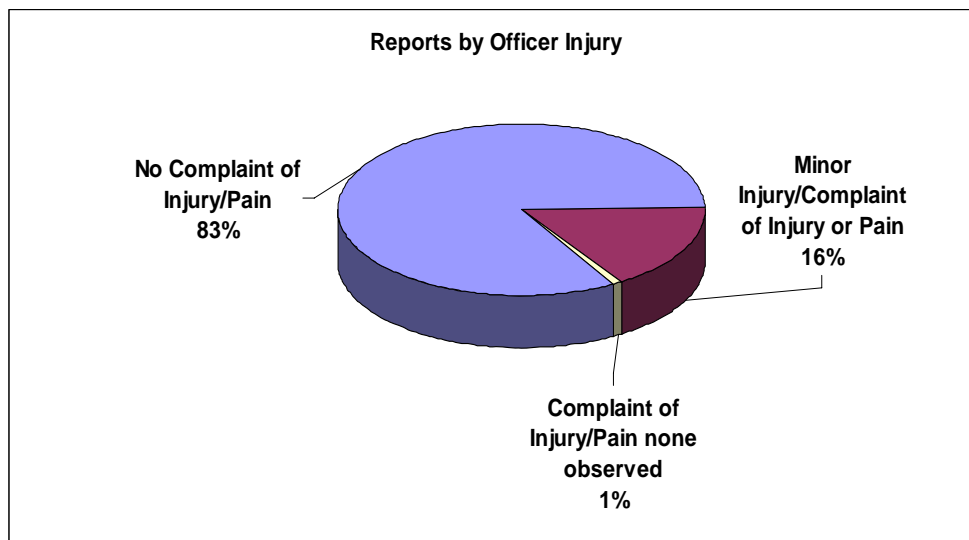
The first incident took place on Monday, May 11, 2009 at 5:07 a.m. in the parking lot of an apartment complex on 6409 Springdale Road. Officer Leonardo Quintana identified a vehicle believed to have been involved in several robberies as well as the source of gunshots earlier that night. Officer Quintana arrested the driver, then, after two back-up officers arrived, they attempted to awaken two additional passengers. Officer Quintana observed a gun in the waistband of the backseat passenger (Nathaniel Sanders). While attempting to remove the suspect from the vehicle, he observed him reaching for a weapon. During a struggle, Officer Quintana fired two shots at the suspect, hitting him twice. The suspect was pronounced deceased at the scene.

The second incident occurred on Monday, December 28, 2009 at 2:54 a.m. Officers responded to a family violence call at a residence at 11815 Johnny Weismuller Lane. Responding agencies included both APD and Travis County Sheriff's Office (TCSO). TCSO Deputy Theodore Ramsey arrived first, followed by APD Officer Justin Berry. The suspect (Roger Tyrone James), had barricaded himself in the house. James opened the door and started walking toward the officers while pointing his gun at them. Officers ordered the suspect to drop his weapon, but he was not compliant. Officer Berry fired one round which did not strike the subject, then Deputy Ramsey fired one round which hit the suspect in the chest. The suspect died at the scene.

Reports by Officer Injury

In 2009, 278 of the reports indicated that an officer suffered an injury or pain as a result of a use of force incident. This compares to 165 minor injuries or complaints of pain in 2008. In the majority of the reports in 2009 (82.8%), no officer injury or complaint of pain was noted. Complaint of injury/pain none observed was not a category on the use of force form in 2007; therefore this data is not available.

Overall in 2009, 16.32% of response to resistance reports noted either minor injury or complaint of injury, an increase compared to 2008 where 14.32% noted an injury.



	2007	Percent of 2007 Reports	2008	Percent of 2008 Reports	2009	Percent of 2009 Reports
No Complaint of Injury/Pain	616	78.07%	980	85.07%	1410	82.80%
Minor Injury/Complaint of Injury or Pain	171	21.67%	165	14.32%	278	16.32%
Complaint of Injury/Pain none observed	*		5	0.43%	15	0.88%
Serious Injury	2	0.25%	2	0.17%	0	0.00%
Total	789	100.00%	1152	100.00%	1703	100.00%

Reports by Officers' Years of Service

The average years of service for officers reporting response to resistance incidents in 2009 was 6.3 years as compared to 5.5 years in 2008. The range of years of service for officers reporting response to resistance was from less than one year (probationary officers) to 24.7 years. In 2009, officers with 1 to 5 years of service submitted the majority of response to resistance reports followed by officers from 6 to 10 years of service. The fewer years of service on average corresponds to the fact that all new officers are assigned to patrol. APD requires that officers have at least 5 years of service on patrol before they are eligible to promote. The number of reports submitted by officers in the 1 to 5 year range increased from 544 reports in 2008 to 859 reports in 2009, a 57.9% increase.

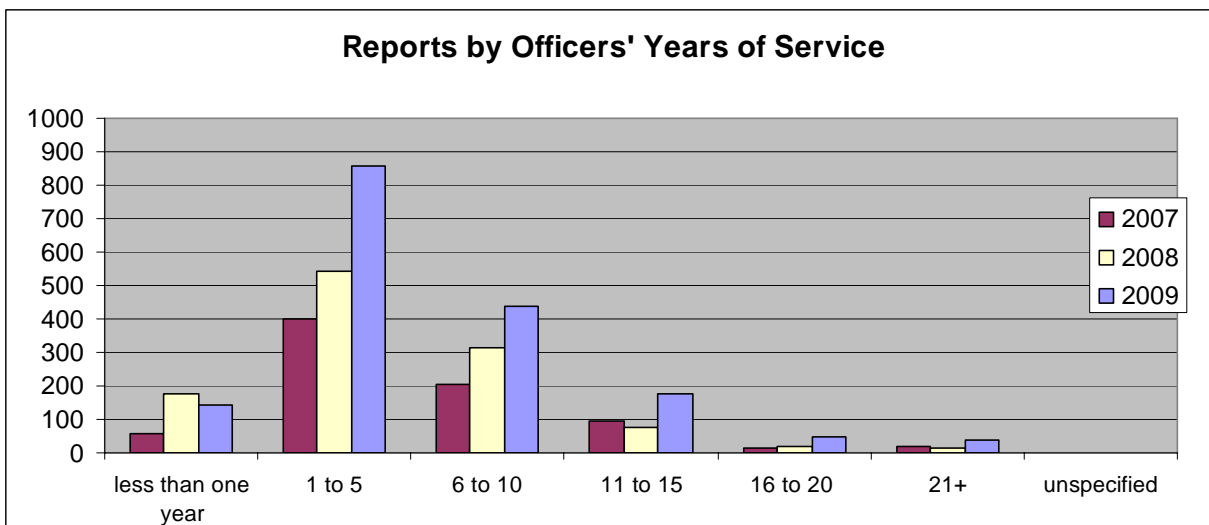


Table 6: Years of Service	2007	Percent in 2007	2008	Percent in 2008	2009	Percent in 2009
less than one year	58	7.40%	178	15.45%	143	8.40%
1 to 5	402	23.60%	544	47.22%	859	50.44%
6 to 10	203	25.70%	316	27.43%	438	25.72%
11 to 15	93	11.80%	77	6.68%	175	10.28%
16 to 20	12	1.50%	21	1.82%	50	2.94%
21+	21	2.70%	16	1.39%	38	2.23%
Total	789	100.00%	1152	100.00%	1703	100.00%

Response to Resistance Training

Current APD officers must complete a minimum of 40 hours of training every two years, a portion of which is mandated by the Texas Commission on Law Enforcement Officer Standards and Education. Officers must qualify annually on their handgun, shotgun, and AR-15 rifle. Firearms qualification also includes a refresher on baton and OC spray policy and technique. All officers must be recertified annually if they carry a conductive energy device (Taser). In 2009 the Basic Defensive Tactics Course was mandated for all ranks over a 2 year time period. It covers the basic fundamental combative techniques that are the foundation of APD's intermediate and advanced training. The majority of officers completed this training in 2009. This training emphasizes the effective use of weaponless techniques when officers face a response to resistance that requires force. This training not only promotes effective techniques, but also helps reduce officer injury.

APD trains officers on the Dynamic Response to Resistance Model, which is a philosophy that supports progressive and reasonable escalation and de-escalation of officer-applied force in proportional response to the actions and level of resistance offered by a subject. The level of response is based upon the situation encountered at the scene and the actions of the subject in response to the officer's commands.

In 2009, the Training Academy's Learned Skills Unit also began to publish quarterly training updates titled "Critical Considerations for Officer Safety." These publications cover real-world lessons learned regarding officer safety trends and current threats against law enforcement throughout the Country. Each update provides a detailed example and provides talking points for Department supervisors to use during shift training. Officers are encouraged to analyze each incident and discuss how they would respond in accordance with policy and training.

For cadets, APD provides over 250 hours of instruction in response to resistance. This exceeds the 24 hours mandated by the Texas Commission on Law Enforcement. In 2009, the hours of training for defensive tactics increased to 65 hours.

The APD cadet curriculum includes:

- Use of Force Concepts (introduction) - 40 hours
- Use of Force Law - 8 hours
- Strategies of Arrest - Mechanics of Arrest - 40 hours
- Strategies of Arrest - Firearms - 80 hours
- Oleoresin Capsicum (OC) Spray - 5 hours
- ASP Baton - 8 hours
- High-Risk Traffic Stops - 4 hours
- Less Lethal Shotgun - 5 hours
- Taser Training - 12 hours
- Other Defensive Tactics - 65 hours

Cadet training also includes topics intended to facilitate mutual understanding and strengthen ties to the diverse communities they will serve. The following topics may help officers to diffuse tense situations that might otherwise escalate into subject resistance and police response with use of force:

- Multiculturalism and Human Relations (including the Cadet Community Immersion Program) - 77 hours
- Crisis Intervention Training - 38 hours
- Leadership - 12 hours
- Spanish - 38 hours
- Excellence in Law Enforcement Communication including verbal judo and de-escalation Techniques - 7 hours
- Services for the Deaf - 4 hours
- Problem Solving Critical Thinking - 2 hours
- Emergency Medical Assistance (First Aid/CPR) - 8 hours
- Public Speaking - 2 hours
- Ethics - 8 hours

Use of force training for cadets also includes approximately 40 role play exercises (scenario-based training) so APD instructors can evaluate how cadets react when confronted by violent subjects. The use of force training does not just address use of force options, levels of resistance and case law, but it also emphasizes gaining compliance through an understanding of psychological factors and how officers may use communication skills to minimize use of force. Cadets are taught strategies to reduce the need for force, including officer self-control and understanding of prejudices, emotions, and attitudes. The concepts of officer accountability and integrity are woven into the entire training program.

Conclusions and Recommendations

The Response to Resistance Annual report is intended to summarize the information gathered from incident reports so the Department can identify potential equipment, training, and tactical needs for response to resistance events.

While APD experienced both increases in the number of response to resistance reports and the number of subjects in the reports, much of this increase can be attributed to policy changes and training that more clearly defined the process for documenting incidents. In 2008, APD Planning recommended officer training on the completion of use of force detail pages (response to resistance reports) to improve the quality of the reports. During 2008, officers were frequently found to have left categories incomplete. For example, officers were not clear on when to use the “no complaint of injury or pain” category, and in these instances, they left the field blank if the subject did not complain. In early 2010, training was provided by APD Central Records staff for corporals and above. This training and renewed diligence by officers has significantly improved reporting. **It is recommended that sworn supervisors as well as Central Records staff continue to monitor the reports for completion and accuracy, and institute training for individual officers and supervisors when data quality issues are discovered.**

Current policy requires that Level 1 and Level 2 force incidents be submitted to the Force Review Board. The Board identifies any training or tactical improvements related to the force incidents that they have reviewed. **It is recommended that APD continue to review these recommendations with an eye towards the development of training programs and other process improvements.**

APD also reviews response to resistance reporting through the CompStat process. Weekly posting of response to resistance data ensures that supervisors are reviewing the reports on a timely basis. In addition, the APD Guidance Advisory Program (GAP) identifies opportunities for employee training and supervisory involvement should the frequency of response to resistance exceed expected thresholds. Both of these processes strengthen the Department’s response to resistance policies. **With the increase in reporting for use of weaponless techniques in 2009, APD’s GAP administrator should review the response to resistance thresholds for officers in patrol to ensure they are reflective of current conditions.**

In 2009, a law enforcement course focusing on “verbal judo” or de-escalation techniques was not available for sworn officers. This training is related to response to resistance as communication techniques can be used when confronted by violent subjects. **It is recommended that common response to resistance scenarios be incorporated into the communication training so that officers are skilled in verbally de-escalating volatile situations.** The Training Academy has identified this as a training need, and an advanced officer course is available in 2010.