

Race & Law Enforcement in Austin



There has been extensive discussion about race and law enforcement in Austin since the summer of 2003. We recognize that this is a complex subject and different parties will take a variety of perspectives when interpreting the related statistics. The purpose of this paper is to describe profiling and use of force data from the law enforcement perspective. We will then use this information, along with information from national experts in this field, to guide decisions about changes in officer training and the purchase of equipment. To our knowledge, no other police department in the United States has brought together national experts, local critics and police personnel to audit a department and draft a comprehensive action plan.

There are four categories of data that are generally accepted as appropriate in the exploration of race and policing: Organizational Diversity; Traffic and Pedestrian Stops and Searches; Arrests; and Use of Force. Within each of these categories, we will offer terms and definitions and make some suggestions regarding the implications of the data. We also introduce action items that have arisen so far in our response to areas of concern indicated by the data.

One of the distinctions we would like you to consider as you read this paper is the difference between disparity by race, racial bias, and racism.

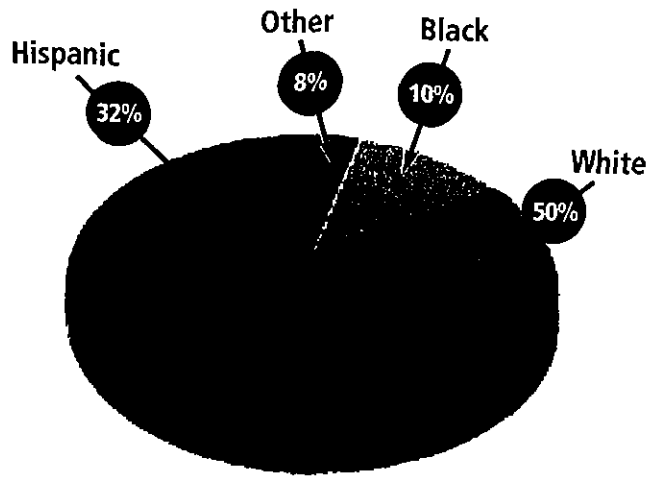
- **Disparity by race** means that things are not the same but it does not automatically involve bias or prejudice.
- **Racial bias** occurs when someone unknowingly allows an inclination or preference to interfere with impartial judgment.
- **Racism** is defined as action based on racial prejudice.

Organizational Diversity

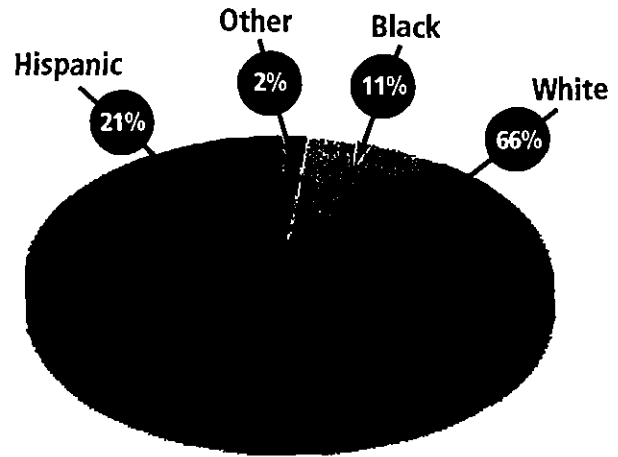
Demographics: The statistical characteristics of human populations.

Parity: When the demographic characteristics of the organization match those of the surrounding population, the organization is said to have achieved parity with the community.

Area Command: A subsection of the City of Austin that has dedicated resources to the extent that law enforcement in the Area can almost function as an independent organization- officers, detectives, supervisors, managers and support staff all reporting to the same Commander.



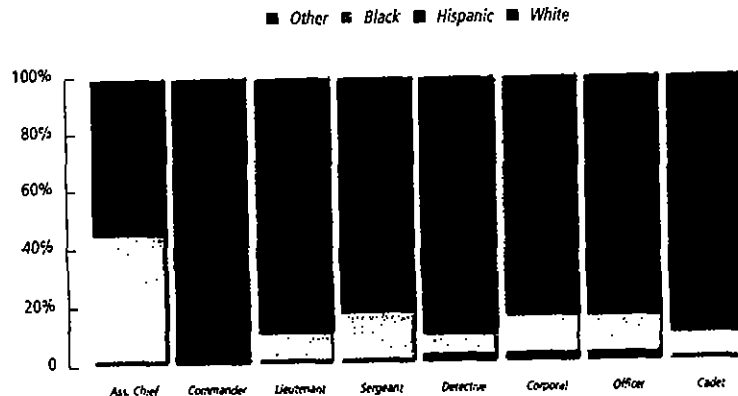
Austin Population by Race, 2003



APD Patrol Officers, 2003

Key Findings on Organizational Diversity:

- Overall, the percentage of African American patrol officers mirrors the percentage of African Americans in the general population.
- Compared to the general population, Hispanic patrol officers are under-represented by 10%.
- At the highest ranks, there were two African American and one Hispanic Assistant Chief and one Hispanic Commander at the Austin Police Department in 2003.

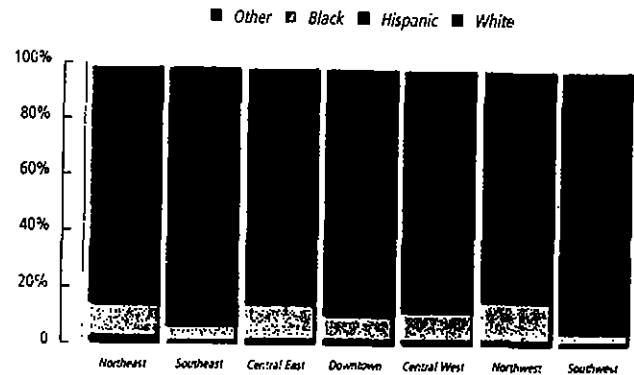


Race/Ethnicity of APD Officers by Rank, 2003
percentage in rank

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**Race Percentages
by APD Area Command, 2003**



**Race of Patrol Officers
by APD Area Command, 2003**

- Compared to the general population, African American residents are concentrated in the Northeast, Central East and Downtown Area Commands. The greatest number of African American residents can be found in Central East (34% of the Area population.)
- Compared to the general population, Hispanic residents are concentrated in Northeast, Central East and Southeast. The greatest number of Hispanic residents can be found in Southeast (55% of the Area population.)
- While these graphs represent population estimates for 2003, it should be noted that the Hispanic population in Austin is growing much faster than the other groups- increased by 88 % from 1990 to 2000, and an estimated 40% in continued growth from 2000 to 2010.
- African American officers are distributed evenly throughout the Area Commands with the greatest number working in Northwest (14.5% of the workforce); Central East (12.2%) and Northeast (11.2%).
- Hispanic Officers are distributed evenly throughout the Area Commands with the greatest number working in Southwest (29.3%); Central West (25.4%) and Southeast (23.1%).

Current Action on Organizational Diversity:

- APD is actively engaged in recruiting Hispanic police officers by targeting persons honorably discharged from the military and persons attending high school and college in predominantly Hispanic communities.
- The department strongly encourages minority Sergeants and Lieutenants to test for promotion. This has been successful in 2004 as the department promoted an African American to Commander in January and will promote a Hispanic to Commander in May.
- The race and ethnic diversity in the Patrol workforce in each Area Command occurs naturally as officers submit their preferences for where they want to work and supervisors grant those requests whenever possible.

Traffic Stops

Racial Profiling (APD policy definition): Any pattern or practice, including but not limited to stopping, detaining, frisking, and searching, by police officers that is based upon a generalized belief that a person of a particular race, ethnicity, or national origin is more likely to commit certain types of crimes.

A Stop: When an officer temporarily detains someone because the officer has a reasonable suspicion that the person may be involved in a past, present or future criminal activity. Stops are generally of two types: vehicle stops and pedestrian stops.

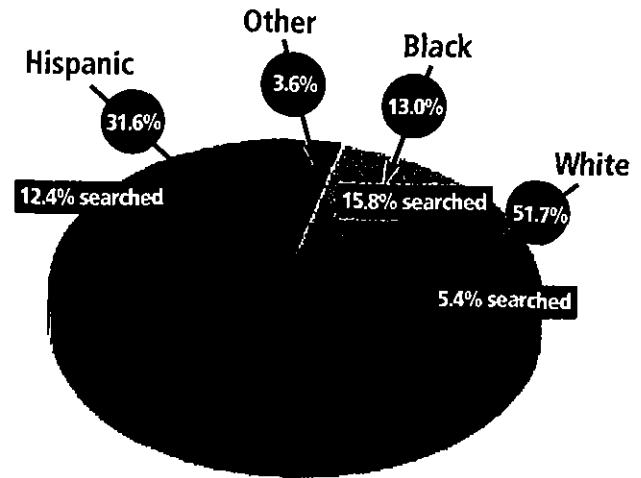
Consent Search: When an officer asks a person's permission to search (a person, place, possession, or vehicle) in order to build additional probable cause or dispel suspicion.

Probable Cause Search: A search based on facts or circumstances that would lead a reasonable, cautious and prudent person to believe that criminal activity is involved.

Incidental to Arrest Search: A search done as a part of the arrest procedure to look for items that are illegal or could be used by the arrestee to injure himself or the officer during the transport to jail. This type of search is required by policy.

Protective Frisk: a pat down search of a person's clothing based on specific facts that led to a reasonable belief that the person is armed or might possess a weapon that could injure the officer.

Search Hit Rate: The percentage of times illegal items are found during a particular type of search compared to the total number of searches.



Traffic Stops by Race, 2003

Key Findings on Traffic Stops:

- Traffic stops by race mirror the general population in Austin suggesting that an individual's chances of being pulled over by an APD officer appear to be equal, regardless of race. Whites are stopped most often (51.7%) followed by Hispanics (31.6%) and African Americans (13.0%).
- Research has shown that comparing traffic stops to census population data does not give an accurate picture since the population numbers do not include drivers coming into the City for work and other activities.
- Race differences in stops are also influenced by the location of dangerous roadways/intersections that require increased traffic interdiction and crime patterns that call for a greater police presence in the neighborhood.

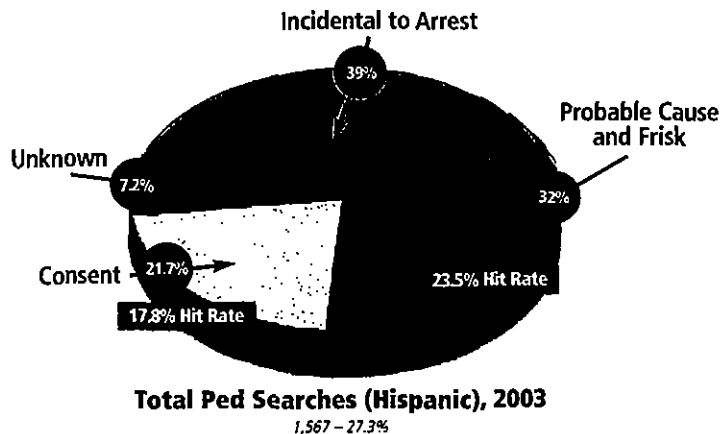
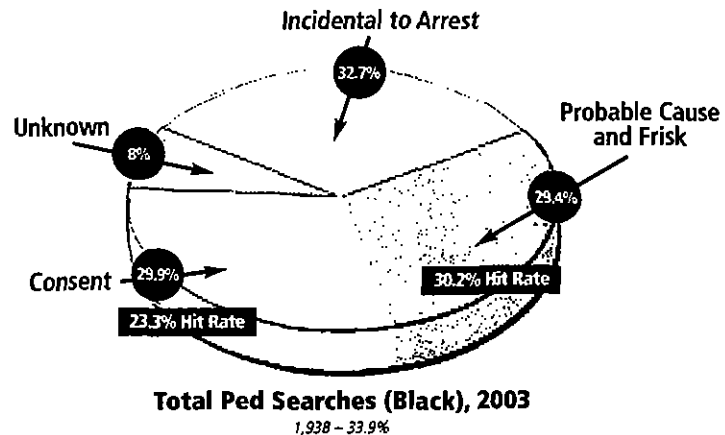
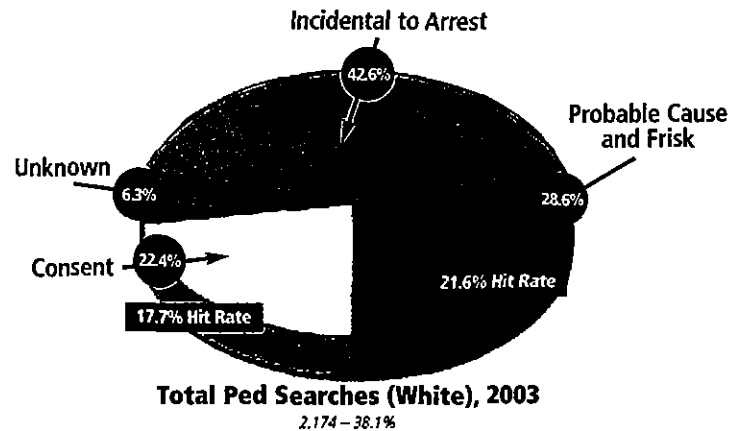
Stops based on gender?

Consider the following logic used to explain gender differences in who is stopped:

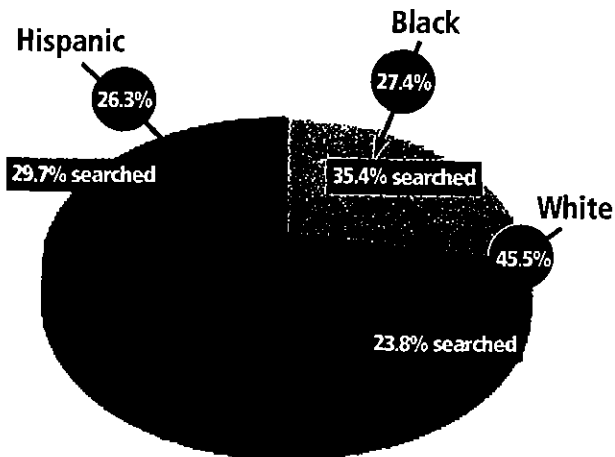
- Men are stopped more than twice as often as women.
- the difference could be due to the *quantity* of their driving, the *quality* of their driving, or the *locations where* men drive.
- the difference could be due to police officer bias about men.
- Since the cause of the gender differences cannot be clearly determined, the differences should not be labeled as gender discrimination or even bias- it is a gender disparity.

Key Findings on Traffic Stops Resulting in Searches:

- There are **very few searches conducted during traffic stops**. Of the 177,194 traffic stops conducted in 2003, only 15,785 (8.9%) resulted in a search of the person or the vehicle.
- Of these searches, 5,740 (36.4%) were related to the arrest of the driver, often for outstanding warrants, and 2,650 (16.8%) involved a frisk of outer clothing for officer safety.
- Most people expect to see the percentage of persons searched to be the same across race categories since disparity in the search rates could indicate possible bias. However, there are no clear benchmarks for "who is at risk of legitimately being searched by police" so it is difficult to draw systematically draw conclusions about "who is searched."
- In the APD traffic stop data, 5.4% of whites are searched compared to 12.4% of Hispanics and 13.0% of African Americans. We do not know if this disparity is due to bias or the behavior of the person stopped.
- The prevalence of certain types of searches done after a traffic stop varies by race.
- During traffic stops, most searches of white drivers (43.1%) are based on the person's arrest compared to 34% for Hispanics and 32.8% for African Americans.
- Hispanics are more likely to be searched based on probable cause or a safety frisk (42.5%) compared to whites (32.4%) or African Americans (37.1%) who are stopped.
- **Hit rates** related to consent searches are low for all race groups ranging from 10.2% for Hispanics to 13.5% for whites. This suggests that officers are asking to search in many situations where the justification for a search is limited.
- On probable cause and frisk searches, the hit rate for African Americans (12.3%) is higher than it is for whites (10.0%) and almost twice the rate for Hispanics (6.3%).



Pedestrian Stops



Pedestrian Stops by Race, 2003

Key Findings on Pedestrian Stops:

- It is important to note that the vast majority of pedestrian stops take place in the downtown entertainment district. The true **demographic profile of the downtown area** is unknown because the population fluctuates with patrons of downtown businesses and homeless persons seeking social services.
- White pedestrians are more likely to be stopped (45.5%) compared with African Americans (27.4%) or Hispanics (26.3%).

Key Findings on Traffic Stops Resulting in Searches:

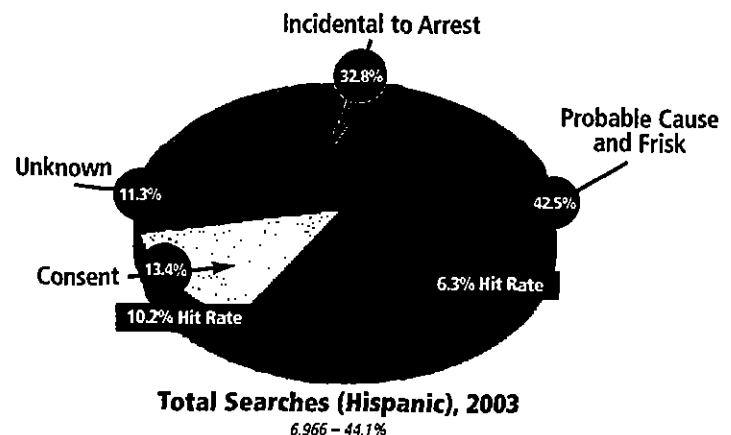
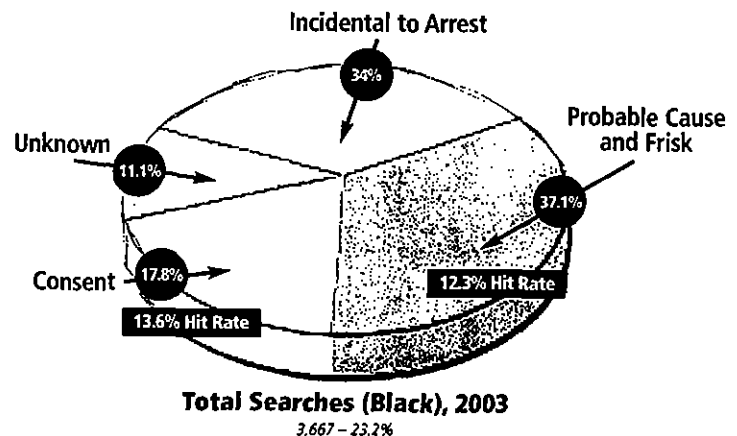
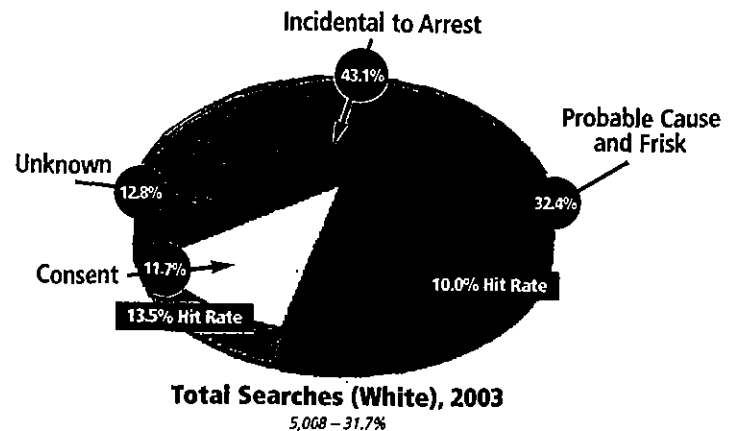
- Just over **one-quarter of the pedestrian stops resulted in a search**. There were 5,712 (28.5%) searches during the 20,013 pedestrian stops conducted in 2003.
- Of these searches, 2,187 (38.3%) were related to the arrest of the pedestrian and 1,210 (21.2%) involved a frisk of outer clothing for officer safety.
- African American pedestrians are more likely to be searched (35.4%) compared to whites (23.8%) or Hispanics (26.3%).
- As with the traffic stop findings, pedestrian stops and searches are influenced by the quantity or amount of time someone spends walking around; qualities they exhibit as they are walking in public; and the location where they walk which in this case is the downtown entertainment district.

National experts, including the Research Director at the *Police Executive Research Forum*, suggest that **hit rates related to probable cause and frisk searches are a good indication of whether bias might be entering into police search decisions**. While the officer has some discretion regarding whether to search or not, the decision is supposed to involve levels of reasonable suspicion that should not be influenced by race bias. **THEREFORE**, experts state that the hit rates should be the same, regardless of race, if the officer is unbiased in his or her application of the criteria for the search.

- During pedestrian stops, the most prevalent type of search of white persons is the search that is incidental to arrest (42.6%) compared to 32.7% of African Americans and 39% of Hispanics.
- Hispanic pedestrians are more likely to be searched based on probable cause or a safety frisk (32.0%) compared to white (28.6%) or African American (29.4%) pedestrians who are stopped.
- **Hit rates** related to consent searches range from 17.7% for whites to 23.3% for African Americans. While these hit rates are higher than those for traffic stops, this data suggests that officers are asking to search in many situations where the justification for a search is limited.
- On probable cause and frisk searches, the hit rate for African Americans (30.2%) is higher than the rate for Hispanics (23.5%) or for whites (21.6%).

Current Action on Traffic and Pedestrian Stops and Searches:

- APD has been using unadjusted census numbers as benchmarks, but the department will be analyzing the stop data differently in the future:
 - narrowing the research to look within the Area Command;
 - considering only those persons stopped who are Austin residents; and
 - using adjusted census benchmarks to reflect the residents who have access to a car and are old enough to drive.
- In an effort to reduce consent searches, APD is changing policy to require a signature from any person giving consent to be searched. The goal is to reduce consent searches that do not yield evidence by 20% in FY04 and another 20% in FY05.
- APD will continue to monitor the hit rates on consent searches for disparity by race.
- We will also monitor the hit rates on probable cause and frisk searches more closely and adjust training to improve the rate.

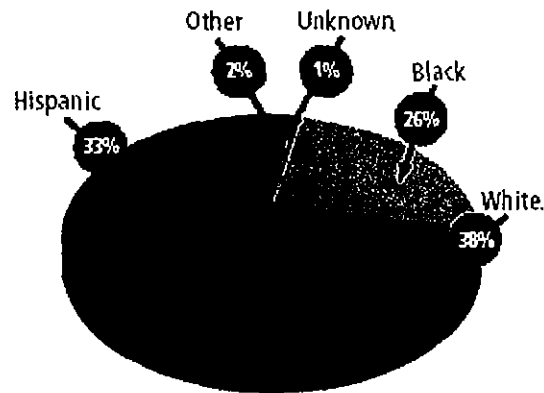


Use of Force and Arrests

Force: Any physical action on the part of a police officer that causes apparent injury, or causes a person to complain of pain or injury.

Reasonable Force: APD policy states, "Officers shall only use the minimum level of force that is reasonably necessary to bring an incident under control while protecting the lives of the officer or another. The amount of force used will be that amount of force which is essential for the officer to attain the objective."

Use of Force and Excessive Force are NOT the same thing.



Use of Force by Race, 2003

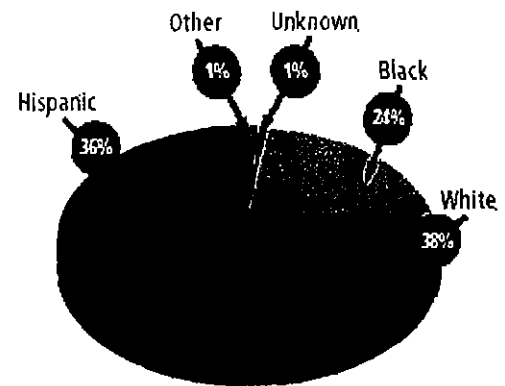
Necessary Force: That amount of force an officer needs to use to reach a law enforcement objective whether it is taking a person into custody or protecting another person's life.

Excessive Force: Force that goes beyond the reasonable and necessary standards to bring a situation to a conclusion.

Deadly Force: Any force capable of causing death or serious bodily harm. The use of a firearm is deadly force (even if no one dies.) The use of other equipment such as impact munitions, a nightstick or an automobile may be deadly force depending on how it is used. Use of Deadly Force does not

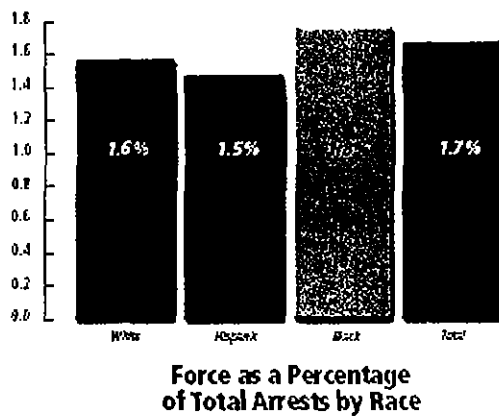
always result in a fatality and, conversely, less deadly force may result in death under unique sets of circumstances.

Use of Force Form: The documentation an officer completes any time he or she uses force even when the force is necessary and reasonable under the specific circumstances at the time. There is no law requiring the department to document use of force. APD requires the documentation to improve organizational effectiveness and accountability.



Total Arrests by Race, 2003

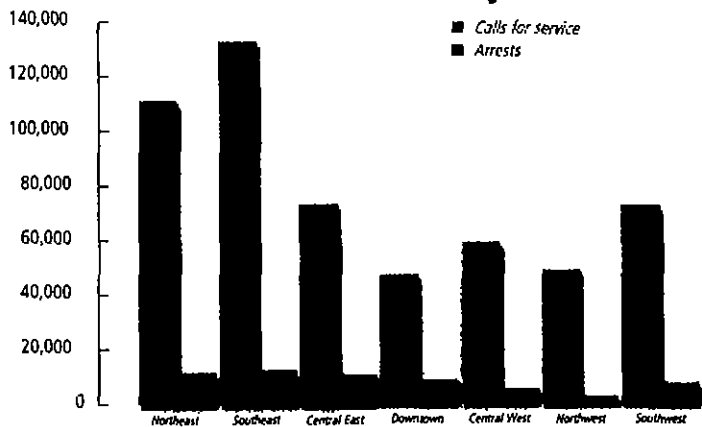
Use of Force and Arrest by Race



Key Findings on Force and Arrest:

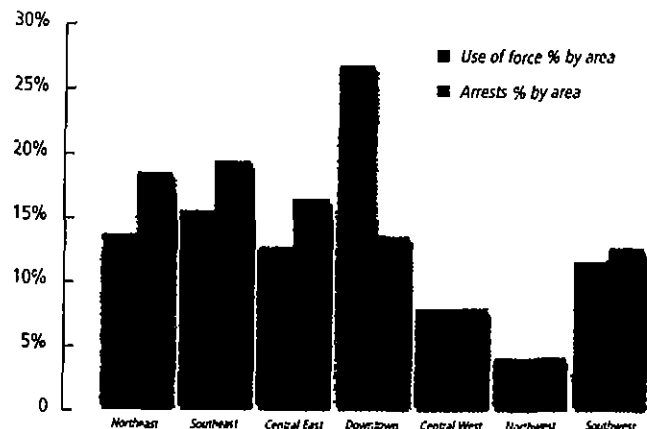
- Very few arrests involve use of force- 1.7% of arrests overall. But when force is used, more than 90% of the incidents occur during an arrest situation.
- Use of force is reported during arrests at roughly the same rates for African Americans (1.8%), whites (1.6%), and Hispanics (1.5%).
- The race percentages in the use of force reports are more similar to percentages in arrests than they are to the percentages in the general population.

Use of Force and Arrest by Area Command



Calls for Service & Arrests by Area Command, 2003

Northeast includes the North Central & the Southeast includes the South Central area commands formed in 2003



Use of Force & Arrests, 2003

By APD Area Command

Key Findings on Force and Arrest by Area Command:

- The Austin Police Department received more than 511,000 **calls for service** in 2003.
- Calls for service are generated more often in East Austin (Northeast, Southeast and Central East.) Since minority representation is higher in East Austin, it suggests that minority residents are calling APD at greater rates.
- The Austin Police Department averaged 12 **arrests** for every 100 calls for service.
- East Austin has the highest percentages of arrests. This suggests that the increased number of calls for service is resulting in increased arrest rates.
- A **Use of Force report** is filed less than 2 times for every 1,000 calls for service.
- Even though there are fewer arrests in the Downtown Area than there are in East Austin, the percent of use of force reports filed Downtown is much greater. The increased reporting of use of force Downtown is due to the nature of the arrests- more public intoxication and disorderly conduct incidents.

Types of Force:

Soft Hand Control: Includes the use of "joint locks", "pressure points", and "escort techniques," but does not include strikes or kicks.

Hand Control: Involves strikes or kicks and can include hard shoves or pushes.

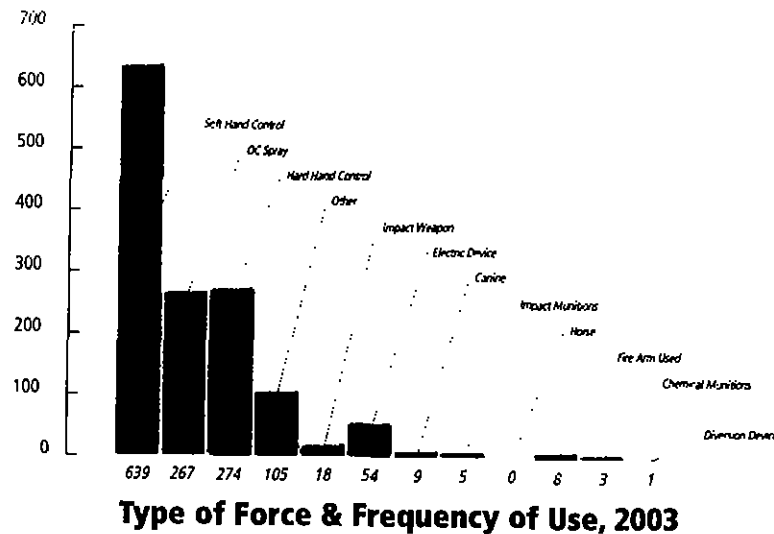
Chemical Weapons: Are designed to cause temporary dysfunction without causing physical injury. All Officers are trained in the use of "pepper spray," also known as OC spray, and carry it as a less-lethal alternative. Specially trained officers use other chemical weapons on rare occasions.

Electrical Device: An electronic shocking device, such as a Taser, used to temporarily incapacitate a violent subject without causing extended discomfort or permanent injury.

Impact Weapons: a nightstick, baton, ASP or similar device most often used to deliver strikes to a person's body, or assist with joint locks and escort techniques. Deliberate or intentional strikes to the head, neck, spine or groin areas are prohibited except when the use of deadly force would be authorized.

Impact Munitions: Less-lethal projectiles such as "beanbag" or "rubber" rounds discharged from weapons specifically designed for their deployment.

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Key Findings on Type of Force Used:

- Soft Hand control, OC (pepper) spray and Hard Hand control represent the overwhelming majority of Use of Force reports filed in 2003.
- Over the last few years, Tasers have been used with increased frequency. This is due to public acceptance of this less lethal weapon and advances in the technology that have improved officer acceptance of the equipment.
- **Deadly Force** causes the greatest concern for officers and the public. From October 1998 to May 2003, Use of Force Reports were filed for 5,288 Incidents:
 - Force resulting in a fatality occurred 6 times since 1998 and constituted one-tenth of 1% (1 in 1,000) of all reported incidents involving Use of Force.
 - Since 1998, 3 of 1,531 Use of Force Incidents involving African American suspects resulted in a fatality- 1.9 in 1,000 incidents
 - Since 1998, 3 of the 1,676 Use of Force Incidents involving Hispanic suspects resulted in a fatality- 1.1 times for every 1,000 incidents.

Current Action on Use of Force:

- Experts from the Police Executive Research Forum will evaluate and provide recommendations on police training:
 - Cadet curriculum will be reviewed within the context of community comments about use of force.
 - defensive tactics training will be reviewed to insure that it exceeds the national standards.
- Beginning with the 2004 Academy class, Cadets will spend an additional 40 hours on communication skills training that includes:
 - de-escalation of conflict during critical incidents.
 - professionalism in communication to insure that new officers create an atmosphere where people feel comfortable interacting with police officers.
 - working with residents who may have mental health issues, or drug and alcohol dependency.

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- Additional less-lethal equipment has been purchased in 2004 including:
 - 730 Tasers, one for each first responder on patrol.
 - 144 existing older model Tasers reallocated to officers in Units outside patrol.
 - 80 "bean bag" shotguns acquired so there are 3 shotguns for each patrol shift.
- APD will participate in a nationwide study of Use of Force involving police departments from cities of all sizes. The purpose of the research is to develop standard measures of Use of Force that can be used to develop benchmarks regarding expected behaviors.
- With PERF's assistance, APD will be reviewing our internal Use of Force reporting policy. The purpose of the review is to assure uniform compliance in order to produce the data necessary to make organizational changes and compare APD to other jurisdictions.

Conclusions

Many of the elements found in the "current action" sections of this paper can also be found in the APD Community Relations Plan for 2004. Updates on the implementation of this plan can be found at www.ci.austin.tx.us/action. The following is a summary of the plan:

1. Officers will be required to document the consent searches by getting a written signature from the person giving consent. The goal of this policy change is to reduce the number of consent searches that do not yield evidence by 20% in 2004.
2. Police training will undergo evaluation and restructuring.
 - Experts from the Police Executive Research Forum (PERF) will evaluate:
 - the training curriculum at the Academy within the context of the community comments.
 - defensive tactics training to insure that it exceeds the national standards.
 - racial profiling data collection and reporting.
 - Cadets will spend additional time on Communication skills (40 hours) and community projects in minority neighborhoods (40 hours.)
 - *Videos on the culture and experiences of minorities will be produced for cadet and advanced officer training.*
3. Additional equipment will be purchased and deployed with the goal of reducing serious injuries to officers and arrestees by 10% in 2004. The equipment includes Tasers, shotguns with beanbag munitions, and in-car video cameras.
4. Community outreach will be enhanced by the creation of a police "speakers bureau," increasing the number of Commander's Forums, and increasing the number of law enforcement education activities with students.

The Austin Police Department is a nationally accredited agency that actively practices the principles of community policing. A central principle of community policing is accountability and transparency through performance measurement. APD goes well beyond standard industry practices in data collection and performance monitoring in its efforts to measure and understand such issues as racial profiling and use of force. The department collects this information so that managers and supervisors can identify potential problems and take corrective action through training and re-alignment of policies and procedures and, in general, learn and grow as an organization.