

# Austin Police Department

*2008  
Response to Resistance  
Annual Report*

December 21, 2009  
Austin Police Department Research and Planning

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## Executive Summary

In 2008, the Austin Police Department underwent major revisions to its response to resistance policy and reporting. These changes include increasing supervisory responsibility for response to resistance incidents, creating levels of force that establish more stringent inquiry, reporting and review requirements, and the implementation of a Force Review Board. Under the General Order B101, prior to the June 2, 2008 revision, the determination to fill out a Use of Force Report Form was based “on a consistent and repetitive complaint of pain beyond the initial arrest procedure, which would lead a reasonable person to conclude that an injury could have occurred.” Under current policy, any complaint by a subject that an employee caused pain or injury is treated as a use of force, except for complaints of minor discomfort from un-resisted handcuffing. *This change in reporting is a contributing factor to the overall increase in response to resistance reports.*

The current 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.

### **Of the over 600,000 contacts with APD officers, very few contacts result in a use of force.**

- In 2008, the Austin Police Department responded to 375,667 dispatched calls for service and made 212,838 traffic stops, 18,111 pedestrian stops, and 29,862 self-initiated contacts for a total of 636,478 contacts with the public. **Contacts have increased by 52,862 when compared to 2007** primarily due to increases in traffic stops. Traffic stops increased by 30% as 48,747 more stops were made in 2008 as compared to 2007. The increase is due to several factors including patrol being more fully staffed, motor officers being able to work traffic initiatives as opposed to taking routine calls for service, and the implementation of CompStat that supports traffic enforcement in crime hotspots to increase visibility and proximity to crimes.
- **In 2008, APD officers filed 1,152 response to resistance reports involving 883 subjects.** There are more reports than subjects because in those incidents that involved more than one officer, each officer using force on a subject completed a report.
  - In 2007 there were 789 reports involving 636 subjects. There has been an increase in both the number of subjects and the number of reports that may be attributed to the changes in policy that occurred in 2008.
  - Of the 1,152 reports filed in 2008, 82% were for incidents that occurred after the June 2, 2008 policy revision.
  - Most use of force events involve resistance by a person being arrested. 1.4% of all custody arrests resulted in the use of force, as compared to the 2007 rate of 1.5%, and the 2006 use of force rate of 2.0. In 2008, there was also a slight increase in arrests citywide—51,809 arrests were made in 2008 as compared to 51,465 arrests in 2007.
- **While response to resistance events occur throughout the city of Austin, 38% occurred in the Central Bureau which includes the North East (13.1%), Central East (12.2%) and North Central (12.2%) Area Commands.** These area commands are also areas where higher numbers of violent crimes have occurred relative to other commands within the city. The majority of response to resistance events occurred in the Downtown Area Command (16.3%) which includes the entertainment district, and locations for special events that result in large influxes of residents and visitors.

## Background

This annual report reviews the Austin Police Department's response to resistance during calendar year 2008. The report includes an analysis of the response to resistance events reported prior to the policy change that was effective June 2, 2008 as well as the events that occurred during the remainder of 2008.

In 2008 the Response to Resistance reports were directly entered by officers into APD's Records Management System which involved significant training for officers on the new reporting procedures. This also involved data quality review and report correction by sworn supervisors and the Central Records Unit. While certain data elements, such as response to resistance levels, are only available for incidents that occurred from June 2, 2008 through the end of the calendar year due to the change in policy, future years will allow for comparison of data.

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 others who use 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 related to an incident must submit a use of force supplement.* The changes in policy not only brought increased levels of reporting and supervisory responsibility for response to resistance events, but also led to the creation of the Force Review Board that 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. The highest level of force is:

- **Level 1** includes force resulting in death; any intentional firearm discharge at a person and those that cause 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 of the use of the three force levels and include use of 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.

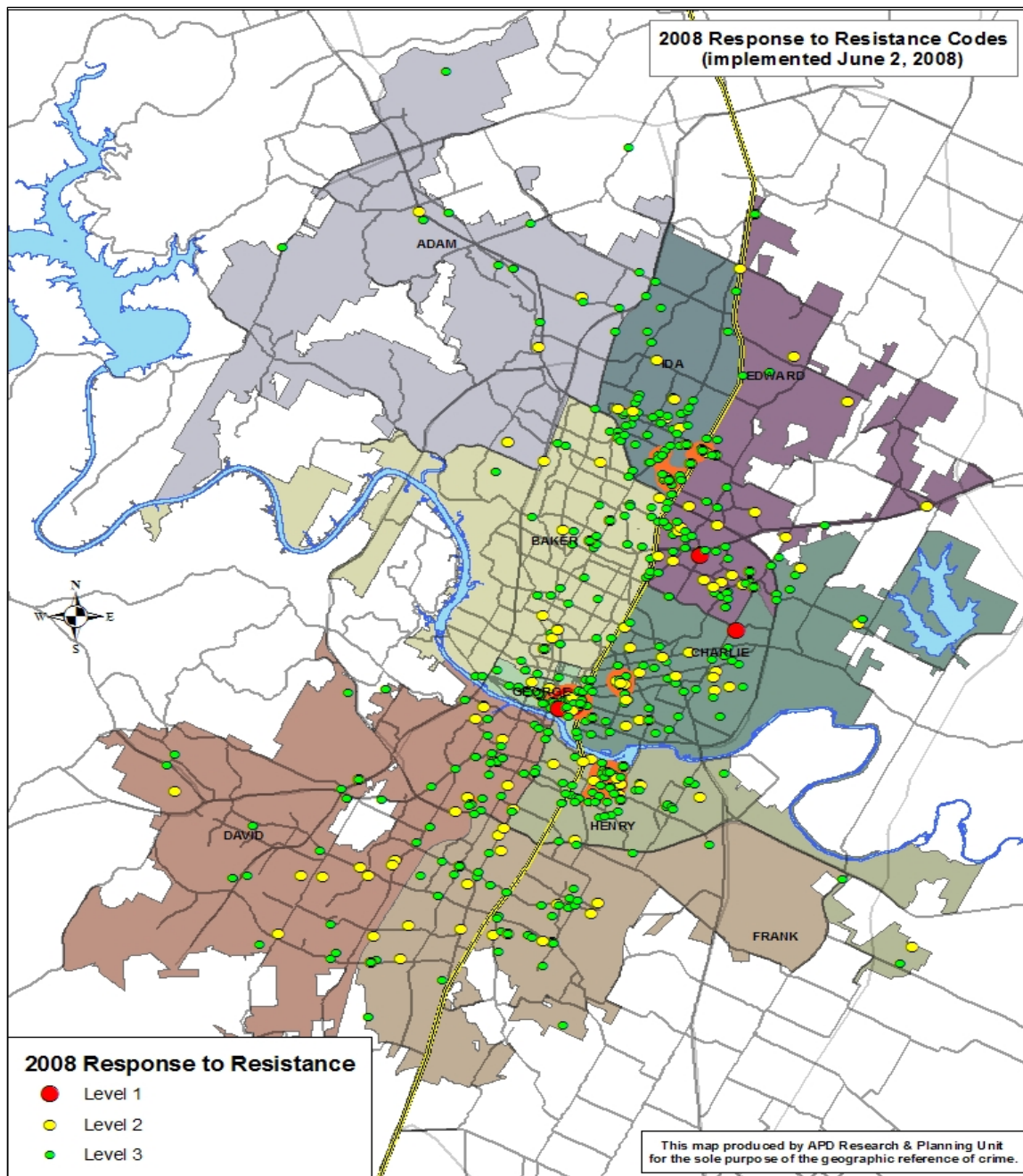
For all use of force events the direct supervisors respond to the scene. For Level 1 incidents the Special Investigations Unit (SIU) will prepare a separate administrative report or investigation. For Level 2 incidents, the packet is prepared by the investigating supervisor. If any force inquiry indicates 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 2008, less than 1% of use of force events were Level 1, 17% were Level 2 and 83% were Level 3. The map below shows the locations within Austin where force events have taken place.

- While response to resistance events occur throughout the city of Austin, the majority of response to resistance events, 38%, occurred in the Central Bureau which includes the North East (13.1%), Central East (12.8%) and North Central Area (12.2%) commands. These area commands are also areas where higher numbers of violent crimes have occurred relative to other parts of the city. The majority of response to resistance events occurred in the Downtown Area Command (16.3%) which includes the entertainment district, and locations for special events that result in large influxes of residents and visitors.

Map 1: 2008 Force Levels



## Reports by Type of Force and Arrests

Most use of force reports involve an officers attempt to arrest an individual. The frequency of the use of force reported by officers can best be analyzed using a rate per 1,000 arrests. The rate standardizes year-to-year data comparisons. In 2008, there were 883 subjects involved in a use of force event and 51,809 subjects arrested. This produces a rate of 17.1 use of force events per 1,000 arrests, an increase from 2007 when the use of force rate per 1,000 arrests was 12.4.

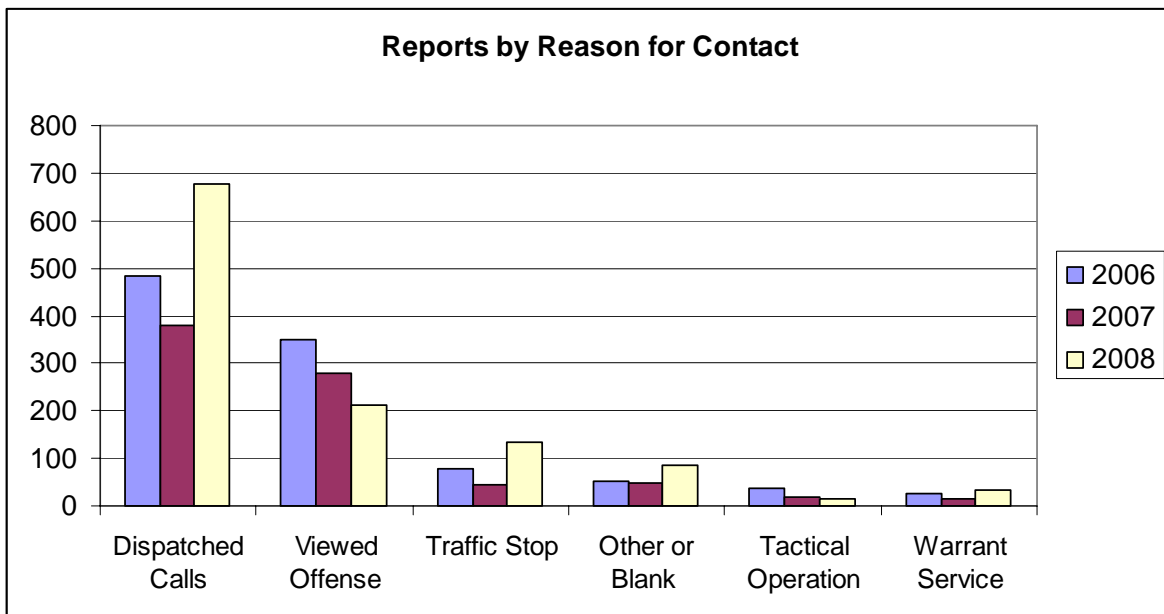
**Table 1: Use of Force by Race**

	White			Black			Hispanic		
	Custody Arrests	Force Used	Use of Force Rate per 1,000 Arrests	Custody Arrests	Force Used	Use of Force Rate per 1,000 Arrests	Custody Arrests	Force Used	Use of Force Rate per 1,000 Arrests
2006	21,344	270	12.6	12,167	221	18.2	17,909	295	16.5
2007	21,655	213	9.8	11,915	176	14.8	17,556	236	13.4
2008	19,540	305	15.6	12,006	255	21.3	19,843	313	15.8
Percent Change from 07-08	-9.8%	43.9%	59.4%	0.8%	54.2%	53.0%	13.0%	37.9%	22.0%

	Other			Total		
	Custody Arrests	Force Used	Use of Force Rate per 1,000 Arrests	Custody Arrests	Force Used	Use of Force Rate per 1,000 Arrests
2006	294	36	122.4	51,714	822	15.9
2007	339	11	32.4	51,465	636	12.4
2008	<b>420</b>	<b>10</b>	<b>23.8</b>	<b>51,809</b>	<b>883</b>	<b>17.1</b>
Percent Change from 07-08	23.9%	-9.1%	-26.6%	0.7%	43.5%	42.6%

## Reports by Reason for Contact

In 2008, the majority of the response to resistance events (674) were related to dispatched calls-- the officer responded to a call for service. This is an increase from the 380 events that were related to dispatched calls in 2007. 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. Viewed offenses primarily include pedestrian stops. Traffic stops, which are a separate type of viewed offense, increased in 2008 due to a renewed emphasis on traffic safety to reduce fatalities and collisions.

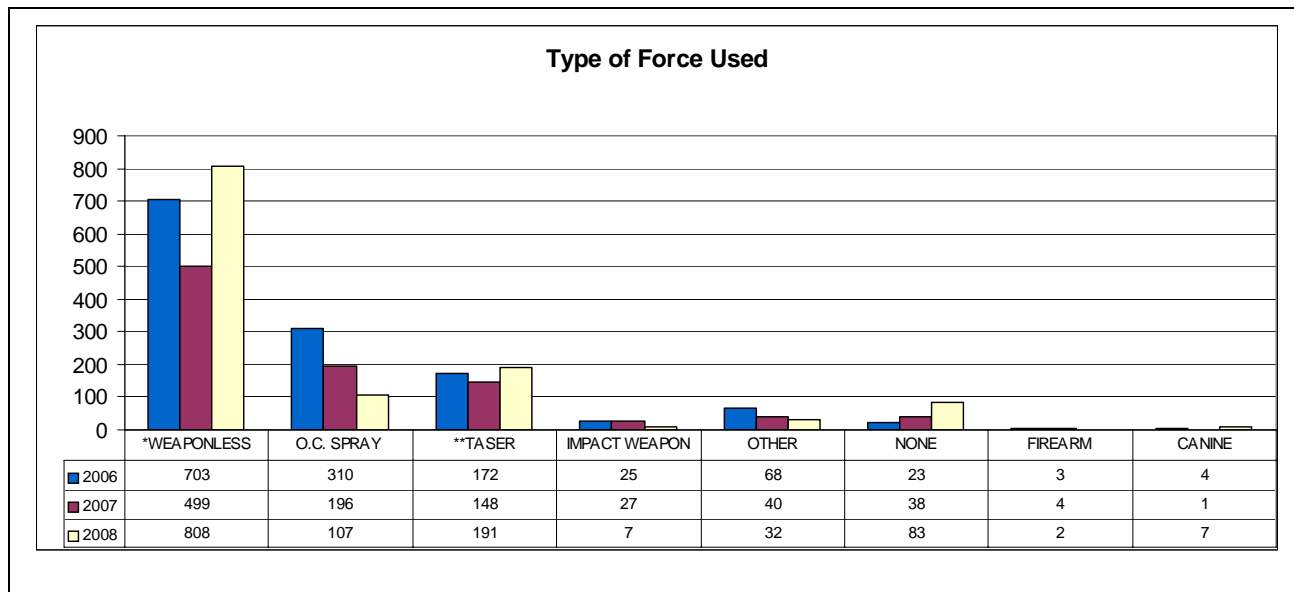


Reason for Contact	2006	Percent of 2006 Reports	2007	Percent of 2007 Reports	2008	Percent of 2008 Reports
Dispatched Calls	482	47.1%	380	48.2%	674	58.5%
Viewed Offense	348	34.0%	278	35.2%	213	18.4%
Traffic Stop	79	7.7%	46	5.8%	133	11.5%
Other or Blank	53	5.2%	50	6.3%	84	7.1%
Tactical Operation	36	3.5%	19	2.4%	16	1.4%
Warrant Service	25	2.4%	16	2.0%	32	2.8%
Total	1023	100.0%	789	100.0%	1152	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.

**In 2008 there was an overall increase in the types of force used by officers as documented on the response to resistance reports;** there were 1,237 types of force reported in the 1,152 reports. This compares to the 923 force types reported in 789 reports in 2007. In 2008, in 83 of the reports, no force was used but a subject complained of pain, so the officer documented the complaint in the response to resistance report. In 2006 there were 1,289 types of force used in a total of 1,023 reports.



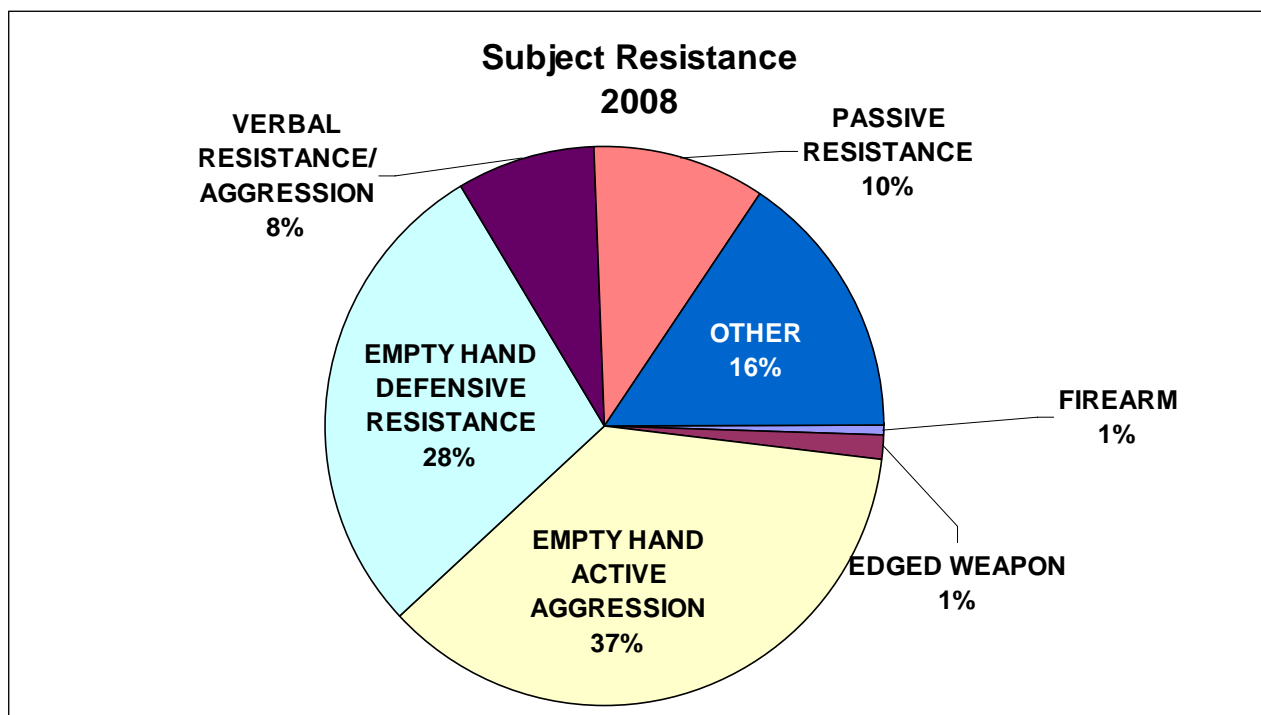
The chart above shows the types of force that may be used by an officer responding to varying levels of resistance from a subject. The chart also indicates the number of times each type of force was used in 2008, 2007 and 2006. Changes in reporting in 2008 affect the Weaponless category. Prior to 2008, hard hand and soft hand controls were reported separately on the use of force form. In 2008 these two categories have been combined into the Weaponless category.

Impact Munitions and Horses are not shown in the table above as they were not used in 2008. Previous reports included a category for Chemical Munitions and Diversion devices that are primarily used by SWAT and SRT units. The use of these weapons is documented in an after-action report and are therefore not included in this analysis.

- 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 reported separately for 2008.
- Other - verbal commands or any other action that cannot be categorized in any specific use of force category.
- Impact Weapon - a weapon or object that is used to strike, such as a nightstick.
- None- subject complained of pain but no force was used during the incident.
- Canine – use of a dog in an arrest situation where dog bite occurs.
- Impact Munitions - extended-range impact weapon such as the shotgun that fires a bean-bag round.
- Firearm – category includes both intentional firearm discharge and unintentional firearm discharge toward an individual.

## Reports by Subject Conduct and by Subject Action

In approximately 50% of the use of force reports in 2008, officers noted that the subject was suspected to be under the influence of drugs or alcohol when the incident occurred or displayed conduct indicating a possible emotional disturbance. This data was not available on response to resistance reports prior to the policy change in June of 2008. In 2008, the most frequent action resulting in a response to resistance by police was empty hand active aggression by the subject. 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, the most serious subject resistance is included in the chart below.



The following are the definitions of the types of subject action from most serious to less serious.

- Firearm—use or attempted use of a firearm.
- Edged Weapon—use or attempted use of a knife or similar weapon.
- Empty Hand Active Aggression—physical assaults by the subject on the police such as kicks, punches, slaps, grabs, and head butts.
- Empty Hand Defensive Resistance—physical resistance by the subject such as pulling and pushing away to prevent the police officer's control.
- Verbal Resistance/Aggression—verbal statements resisting police control, indicating refusal to cooperate, and threats which constitute actions requiring force.
- Passive Resistance—physical resistance less than defensive or aggressive resistance such as going limp.



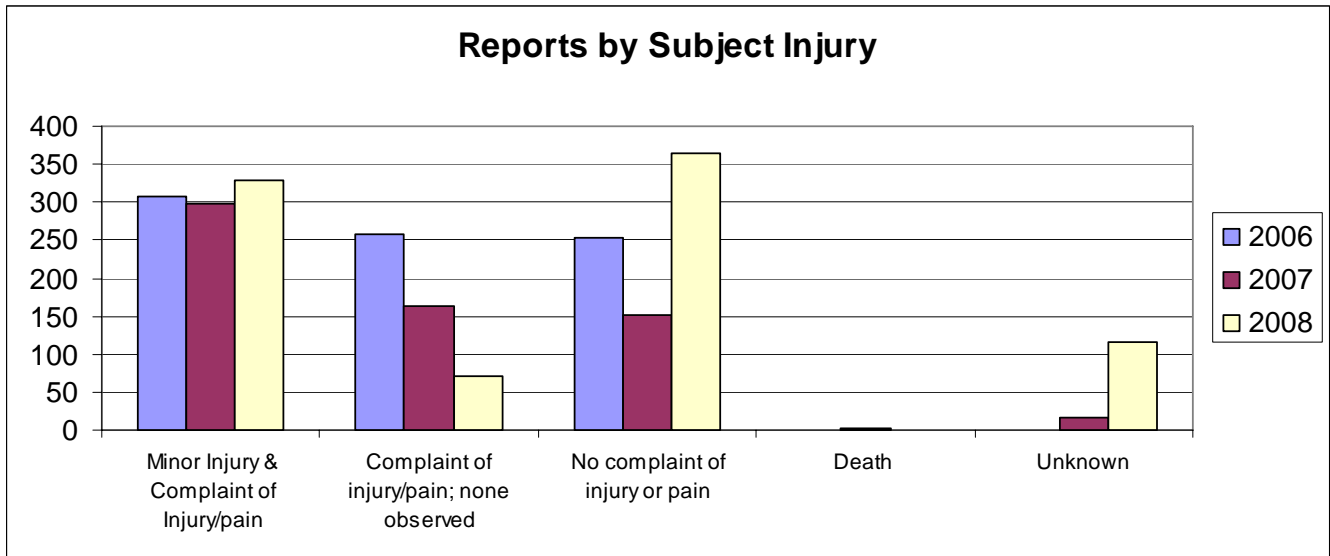
- Other—any other resistance by the subject to hinder arrest or control, actions that might be harmful to a person other than the officer, or actions by the subject that might harm themselves. Also included are situations where response to resistance reports were generated because subjects complained of pain and/or injury while in custody or where no subject resistance was noted.

<b>Table 3: Reports by Subject Resistance</b>	2006	Percent of 2006 Reports	2007	Percent of 2007 Reports	2008	Percent of 2008 Reports
Empty Hand Active Aggression	401	48.78%	301	47.33%	319	36.09%
Empty Hand Defensive Resistance	218	26.52%	171	26.89%	250	28.28%
Other	70	8.52%	62	9.75%	138	15.61%
Verbal Resistance/Aggression	56	6.81%	49	7.70%	72	8.15%
Passive Resistance	46	5.60%	30	4.72%	88	9.95%
Edged Weapon	22	2.68%	15	2.40%	11	1.24%
Firearm	9	1.09%	8	1.30%	5	0.57%
<b>Total</b>	<b>822</b>	<b>100.00%</b>	<b>636</b>	<b>100.00%</b>	<b>883</b>	<b>100.00%</b>

## Reports by Subject Injury

In 2008, the most frequent category of subject injury was “no complaint of injury or pain.” Of the 883 unique subjects in use of force reports 41.3% did not have a complaint of injury or pain. This figure has increased from 2007 where 24.63% reported no complaint of injury or pain. In 2008, 37.26% of subjects reported minor injuries or a complaint of injury/pain, a decrease from 2007 where this category (48.61%) represented the largest proportion of injury reports. A new category was added in 2008, Complaint of injury/pain; this data has been added to the minor injury category.

<b>Table 4: Reports by Subject Injury</b>	2006	Percent of 2006 Subjects	2007	Percent of 2007 Subjects	2008	Percent of 2008 Subjects
Minor Injury & Complaint of Injury/pain	308	37.50%	298	48.61%	329	37.26%
Complaint of injury/pain; none observed	258	31.40%	164	26.75%	72	8.15%
No complaint of injury or pain	254	30.90%	151	24.63%	365	41.34%
Death	1	0.10%	2	0.33%	1	0.11%
Unknown	0	0.00%	17	2.77%	116	13.14%
<b>Total</b>	<b>822</b>	<b>100.00%</b>	<b>613</b>	<b>100.00%</b>	<b>883</b>	<b>100.00%</b>



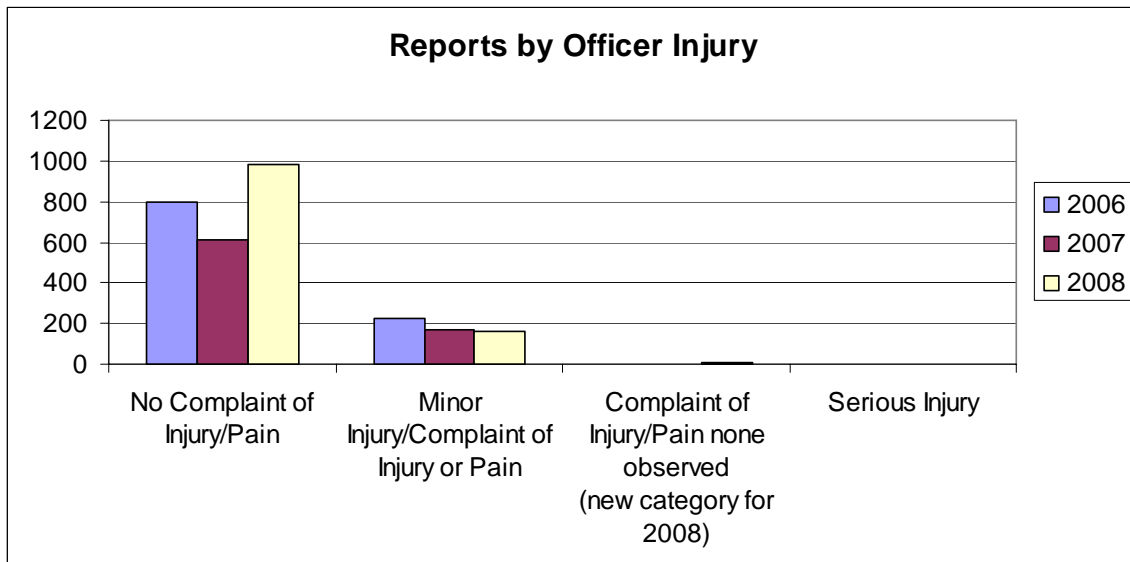
There was one death as a result of use of force that occurred in 2008. This death occurred on Thursday, November 6, 2008, at 3:58 a.m. Officers responded to a 911 call of a disturbance with a gun and several calls of shots fired in the 7600 block of Blessing Avenue. As officers arrived on the scene they observed the suspect vehicle leaving the area. APD officers pursued the suspect vehicle that later crashed at the intersection of Berkman Drive and Patton Lane. After crashing, the occupants of the vehicle ran from the scene. One suspect, armed with an AK-47 assault rifle was pursued on foot by Officer Will Ray. The suspect shot at Officer Ray who returned fire striking the suspect. Austin-Travis County EMS responded to the scene and the suspect was pronounced deceased.

## Reports by Officer Injury

In 2008, 117 of the reports noted that the officer suffered minor injuries in responding to subject resistance and 48 reported a complaint of pain. This compares to 171 minor injuries in 2007. In the majority of the reports in 2008 (85%), no officer injury or complaint of pain was noted. In addition, for the 2006 and 2007 reports, “complaint of injury/pain none observed” was not a category on the use of force form; therefore this data is not available for these two years.

**Overall, 14.32% of response to resistance reports noted either minor injury or complaint of injury, a reduction compared to 2007 where 21.67% noted an injury.**

<b>Table 5: Reports by Officer Injury</b>	2006	Percent of 2007 Reports	2007	Percent of 2007 Reports	2008	Percent of 2008 Reports
No Complaint of Injury/Pain	798	78.01%	616	78.07%	980	85.07%
Minor Injury/Complaint of Injury or Pain	223	21.80%	171	21.67%	165	14.32%
Complaint of Injury/Pain none observed (new category for 2008)					5	0.43%
Serious Injury	2	0.20%	2	0.25%	2	0.17%
<b>Total</b>	<b>1023</b>	<b>100.00%</b>	<b>789</b>	<b>100.00%</b>	<b>1152</b>	<b>100.00%</b>



## Reports by Officers' Years of Service

The average years of service for officers reporting response to resistance incidents in 2008 was 5.5 years as compared to 6.6 years in 2007 and 6.3 years of service in 2006. The range of years of service for officers reporting response to resistance was from less than one year (probationary officers) to 30.1 years. In 2008, officers with 1 to 5 years of service submitted the highest number of response to resistance reports followed by officers from 6 to 10 years of service. The majority of arrests are made by patrol officers, who must have at least 5 years of service on patrol before they are eligible to promote. Increases in response to resistance by officers with less than one year of service is a reflection of an increase in authorized strength in 2008.

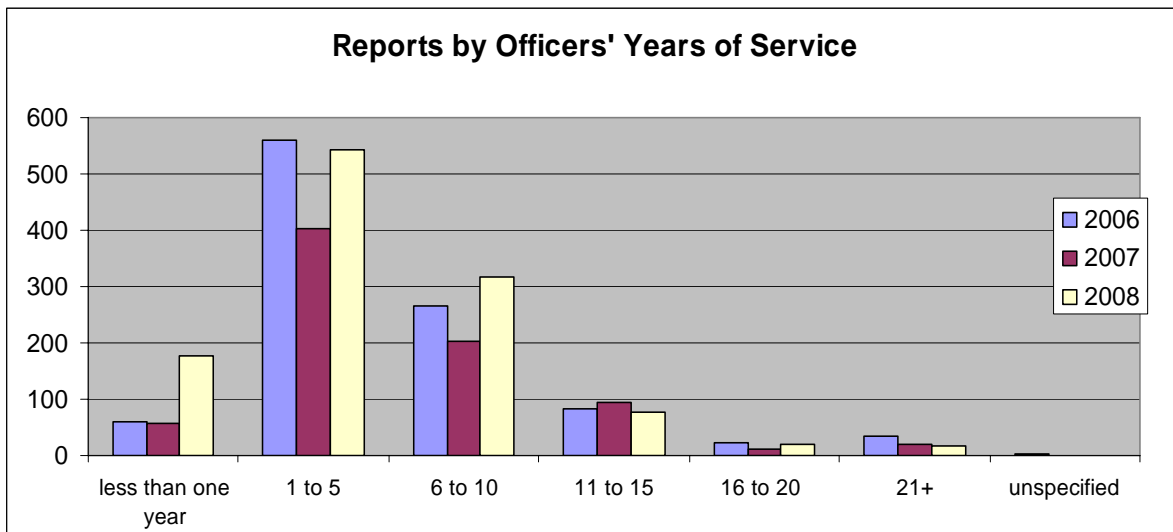


Table 6: Years of Service	2006	Percent in 2006	2007	Percent in 2007	2008	Percent in 2008
less than one year	59	5.80%	58	7.40%	178	15.45%
1 to 5	559	31.90%	402	23.60%	544	47.22%
6 to 10	267	26.10%	203	25.70%	316	27.43%
11 to 15	83	8.10%	93	11.80%	77	6.68%
16 to 20	22	2.20%	12	1.50%	21	1.82%
21+	33	3.20%	21	2.70%	16	1.39%
unspecified	4	0.40%	0	0.00%	0	0.00%
Total	1023	100.00%	789	100.00%	1152	100.00%

## **Response to Resistance Training**

In 2008, to prepare APD officers for the changes in Response to Resistance policy, mandatory 4 hours of training was held for all Corporals, Sergeants, Lieutenants, and Commanders on the policy and the Dynamic Response to Resistance Model. In addition, APD provided a presentation on the web-based training system, Breeze, for all patrol officers. This Breeze training was done in conjunction with Corporals providing shift briefing training on the new policy. The Dynamic Response to Resistance Model 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.

Current APD officers must complete 40 hours of training every two years, a portion of which is mandated by the Texas Commission on Peace Officer Standards and Education. Officers must qualify annually on their handgun and shotgun. Officers who have been approved to carry an AR-15 rifle qualify twice annually. Firearms qualification also includes a refresher on baton and OC spray usage. All officers must be recertified annually if they carry a conductive energy device (Taser).

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 2008, the hours of training for other 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 (previously 88 hours)
- Oleoresin Capsicum (OC) Spray – 5 hours (increased by one hour)
- ASP Baton – 8 hours
- High-Risk Traffic Stops – 4 hours
- Less Lethal Shotgun – 5 hours (increased by one hour)
- Taser Training – 12 hours (increased by 4 hours)
- Other Defensive Tactics – 65 hours (increased by 31 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) - 16 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**

While APD experienced both increases in the number of response to resistance reports and the number of subjects in the reports, part of this increase may be due to policy changes that more clearly define the process for documenting of incidents, as well as the entry of the reports into APD's records management system. The Response to Resistance Annual report is an effort to summarize the information gathered from the use of force reports so the Department can identify potential equipment, training, and tactical needs for response to resistance events. There are two recommendations for improvement from this year's report.

**First, on-going training needs to take place to improve the quality of the data in response to resistance reports.** Officers tend to leave some of the categories blank. For example, officers are not used to using the new "no complaint of injury or pain" category - they tend to leave it blank if they didn't hear the subject complaint. Larger amounts of unknown fields make it difficult to draw conclusions from the data. Documents such as the APD Case Law Newsletter are helpful in providing guidance for officers on reporting requirements.

**Second, changes to response to resistance reporting including establishing levels of force have improved the handling of use of force incidents.** It is recommended that APD continue to analyze the frequency of which higher of levels of force (Levels 1 and 2) are used and any recommendations that result from the investigations and Force Board reviews.