

# 2010 Response to Resistance Report Austin Police Department



August 2011  
Austin Police Department: Planning Unit

## Overview

This report reflects the second full year of response to resistance reporting since major policy changes were made in 2008, based on best practice recommendations from the Department of Justice. These policy changes increased supervisory responsibility for response to resistance incidents; created levels of force that establish more stringent inquiry, reporting and review requirements; and directed the activities of the Force Review Board.

Policy (General Order B101a) defines response to resistance as:

*Any physical contact with a person by an employee using the body or any object, device, or weapon, not including unresisted escorting or handcuffing a person*

During 2010, extensive training was provided to sworn supervisors (corporals, sergeants, lieutenants, and commanders) to improve the accuracy and completeness of officers' response to resistance reports. As a result, the overall number of reports increased from 1,703 in 2009 to 2,165 in 2010 and the number of incomplete reports dropped by more than 60% (from 132 in 2009 to 52 in 2010). Report volume is expected to stabilize now that training has been conducted department-wide.

During 2010, the department responded to 620,578 contacts with the public – 352,358 dispatched calls and 268,220 self-initiated contacts. Of these contacts, less than one quarter of one percent (.2%) resulted in the use of force.

## Background

This annual report reviews the Austin Police Department's response to resistance during 2010, as documented in response to resistance reports filed by officers. Policy (General Order B101a) defines response to resistance as:

*Any physical contact with a person by an employee using the body or any object, device, or weapon, not including unresisted escorting or handcuffing a person*

In prior years, officers were trained on entering response to resistance reports into APD's Records Management System. It was later determined that supervisory oversight would produce further improvements in reporting accuracy and thoroughness, so during 2010 (February through May), additional training was provided to supervisors – corporals, sergeants, lieutenants, and commanders. This training concentrated on the supervisory review of officers' response to resistance reports for accuracy. Supervisors then returned to their units and conducted additional training with their officers.

The department's mission is to "Keep you, your family and our community safe." This guides officers as they encounter a variety of situations during their shifts. Officers may find it necessary to respond to resistance to control a situation and prevent harm to the officer or others. When these situations occur, department policy requires the primary reporting officer to write the initial incident report and the supervisor to review the report. 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
- a detailed description of the force used

Every officer who is involved in an incident submits a basic report and the primary reporting officer must submit a use of force supplement with more details. In addition, the department's Force Review Board reviews all Level 1 and Level 2 incidents to assess the quality and timeliness of the reporting, investigation, and chain of command review.

Police are authorized to respond to resistance to control potentially dangerous situations that may result in harm to the subject, the officer, or others. In 2010, the department responded to 352,358 dispatched calls for service and made 268,220 self-initiated contacts for a total of 620,578 contacts with the public. Of the more than 600,000 police contacts with the public, less than one quarter of one percent resulted 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. In this report, arrests include both custody arrests and incidents where the subject was issued a field release citation. During 2010, 82% of use of force reports involved the arrest of the subject, as compared to 80% during 2009.

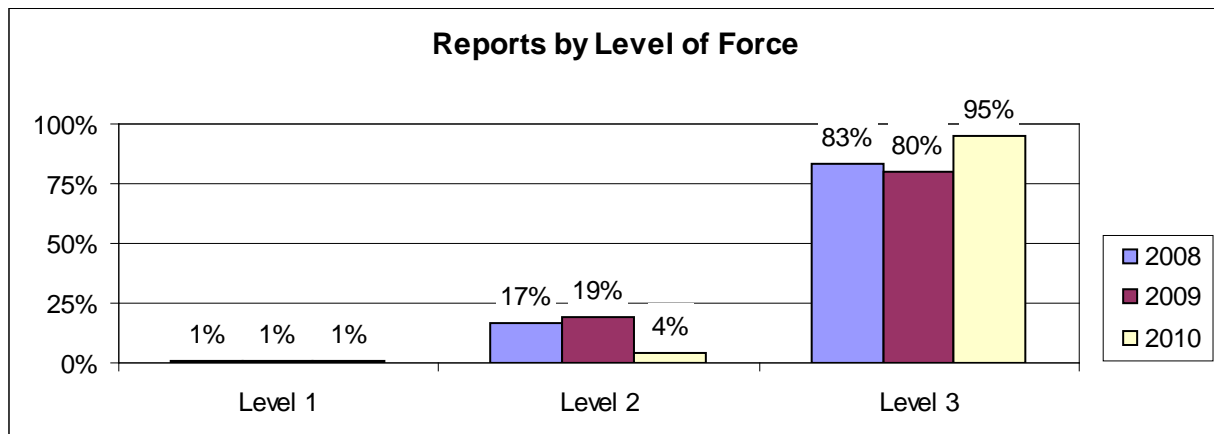
## Reports by Level of Force Used

Three force levels are used for reporting, investigation, and review purposes:

Level 1	<ul style="list-style-type: none"> <li>• force resulting in death</li> <li>• intentional firearm discharge at a person</li> <li>• force that causes serious bodily injury (e.g., impact weapon strike to the head)</li> </ul>
Level 2	<ul style="list-style-type: none"> <li>• use of impact weapons</li> <li>• the deployment of a police canine resulting in a bite</li> <li>• any strike to the head with any weaponless technique</li> </ul>
Level 3	<ul style="list-style-type: none"> <li>• use of Taser</li> <li>• use of baton for non-striking purposes</li> <li>• weaponless techniques</li> <li>• force resulting in injury or a complaint of pain beyond the temporary discomfort of un-resisted handcuffing</li> </ul>

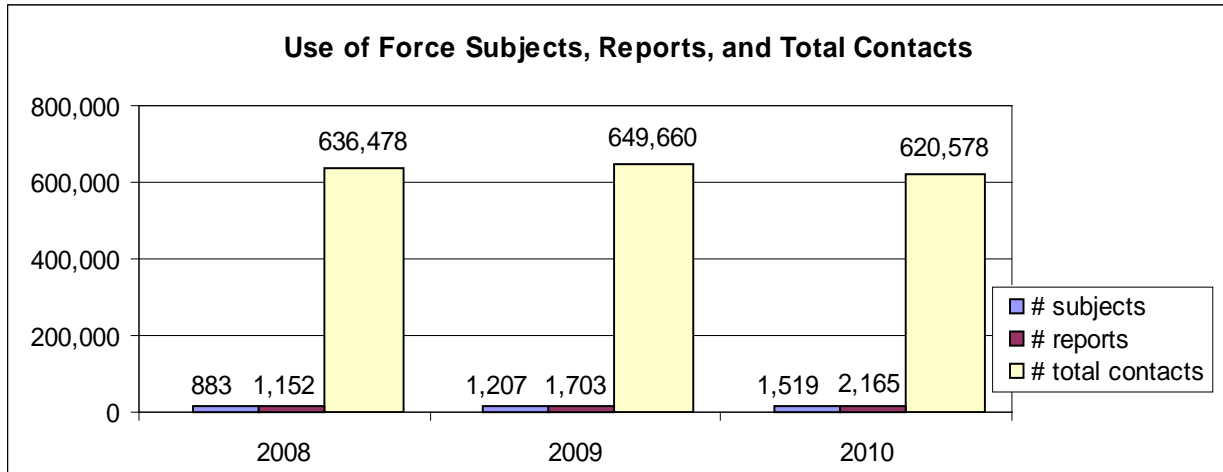
For all use of force events, the direct supervisor responds to the scene. For Level 1 incidents, the Special Investigations Unit prepares a separate report and investigation. For Level 2 incidents, the packet is prepared by the primary officer's supervisor. If any force inquiry indicates a possible policy violation, the supervisor also notifies Internal Affairs. At any time during the process, the level can be upgraded based on information gathered during the inquiry.

During 2010, as in previous years, use of force reports were concentrated in Level 3, the least severe level. In 2010, fewer than 1% of use of force events were Level 1, 4% were Level 2, and 95% were Level 3 (see chart below).



## Number of Use of Force Subjects and Reports

During 2010 there were 1,519 use of force subjects (those who received force), as compared with 1,207 in 2009 (see chart below). And during 2010 there were 2,165 use of force reports (unique use of force events), as compared with 1,703 in 2009. During 2010, there were 620,578 total police contacts with the public, as compared with 649,660 during 2009.



*Note: the data used to produce this report are based on 99% of the use of force reports (2,165); an additional 23 reports were incomplete at the time of this analysis. Also, more than one officer may use force to control a subject, so an incident may result in more than one use of force report.*

## Reports by Use of Force Subject and Citywide Arrests

Most use of force events occur when an officer attempts to make an arrest. In 2010, there were 1,519 subjects involved in a use of force event, which is 2.4% of the 64,004 total subjects arrested citywide. This is an increase from 2009, when the 1,207 subjects involved in a use of force event was 1.7% of the 69,130 total subjects arrested citywide (see the table below).

**Use of Force Subjects by Race/Ethnicity**

	White			Black			Hispanic		
	Arrests	Force Used	% of Arrests	Arrests	Force Used	% of Arrests	Arrests	Force Used	% of Arrests
<b>2010</b>	25,695	526	2.0%	15,565	410	2.6%	21,853	560	2.6%
<b>2009</b>	27,123	387	1.4%	17,590	349	2.0%	23,737	461	1.9%
<b>2008</b>	31,625	305	1.0%	19,803	255	1.3%	27,156	313	1.2%

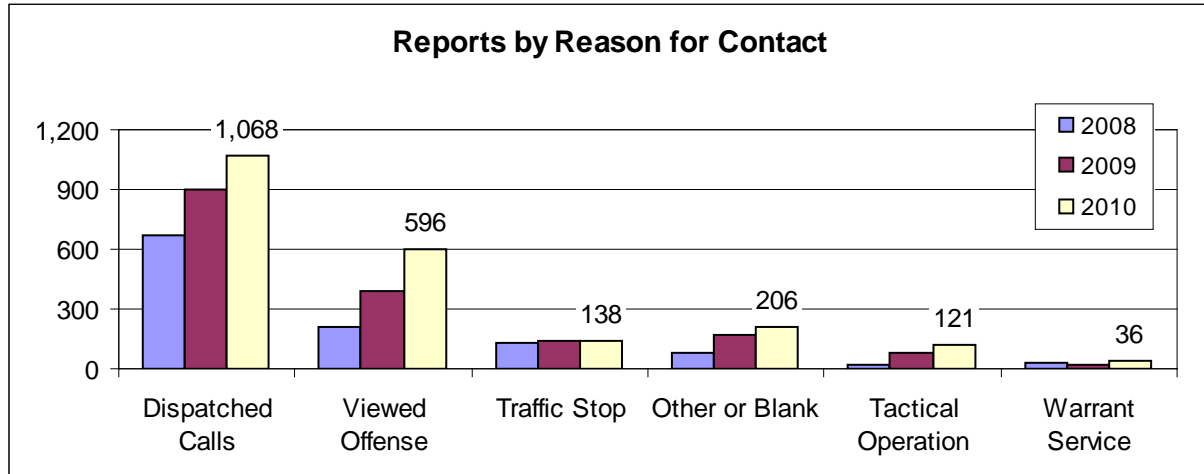
  

	Other*			Total		
	Arrests	Force Used	% of Arrests	Arrests	Force Used	% of Arrests
<b>2010</b>	891	23	2.6%	64,004	1,519	2.4%
<b>2009</b>	680	10	1.5%	69,130	1,207	1.7%
<b>2008</b>	843	10	1.2%	79,427	883	1.1%

\* Other includes Asian, Indian, Middle Eastern, and subjects where the race was not known.

## Reports by Reason for Contact

In 2010 – as in 2009 – most response to resistance reports resulted from dispatched calls, or calls for service. In 2010 these represented 49% of reports. The other large category of response to resistance reports resulted from viewed offenses – contacts made when the officer observed and responded to an offense in progress. In 2010 these were 28% of reports (see chart and table below).



Reports by Reason for Contact	2008	% of 2008 Reports	2009	% of 2009 Reports	2010	% of 2010 Reports
Dispatched Calls	674	59%	897	53%	1,068	49%
Viewed Offense	213	18%	393	23%	596	28%
Traffic Stop	133	12%	138	8%	138	6%
Other or Blank	84	7%	171	10%	206	10%
Tactical Operation	16	1%	83	5%	121	6%
Warrant Service	32	3%	21	1%	36	2%
Total	1,152	100%	1,703	100%	2,165	100%

## Reports by Type of Force Used

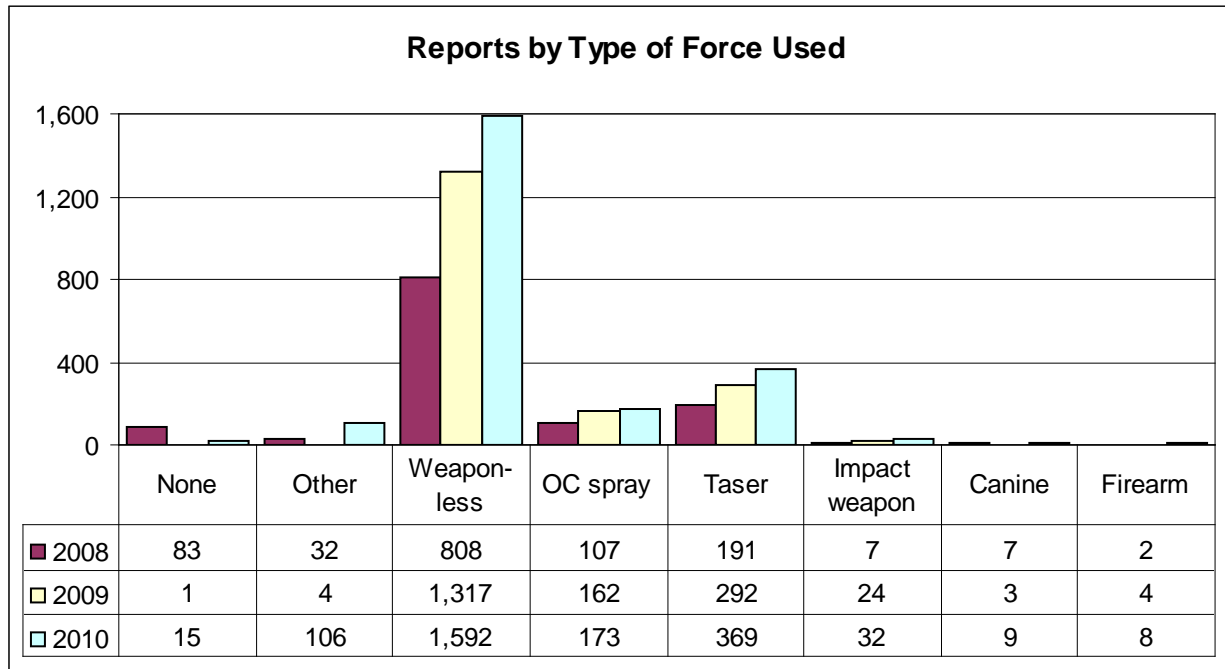
During a response to resistance incident, an officer may need to use more than one type of force. Further, more than one officer may use force to control the situation. As a result, a single incident may result in more than one use of force report and each report may include more than one type of force.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

These are the different types of use of force, ordered from the lowest to the highest level of force.

- None: subject complained of pain but no force was used during the incident
- Other: verbal commands or action that isn't categorized in any specific use of force category
- Weaponless: includes soft-hand control (e.g., joint locks, pressure points, and escort hold) and hard-hand control (e.g., hand and leg strike)
- OC spray: chemical weapon known as "pepper spray"

- Conductive energy device (Taser): a less-lethal device using electronic muscular disruption technology that briefly causes loss of voluntary muscle control; includes drive stun and 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: both intentional and unintentional firearm discharge toward an individual

The chart below shows the number of times each type of force was used in 2008, 2009, and 2010.



In 2010, as in prior years, the most frequent type of force used was “weaponless,” which accounted for 69% of force reported by officers. Weaponless techniques, as shown in the previous list, are considered to be the lowest level of force used in response to a subject’s resistance.

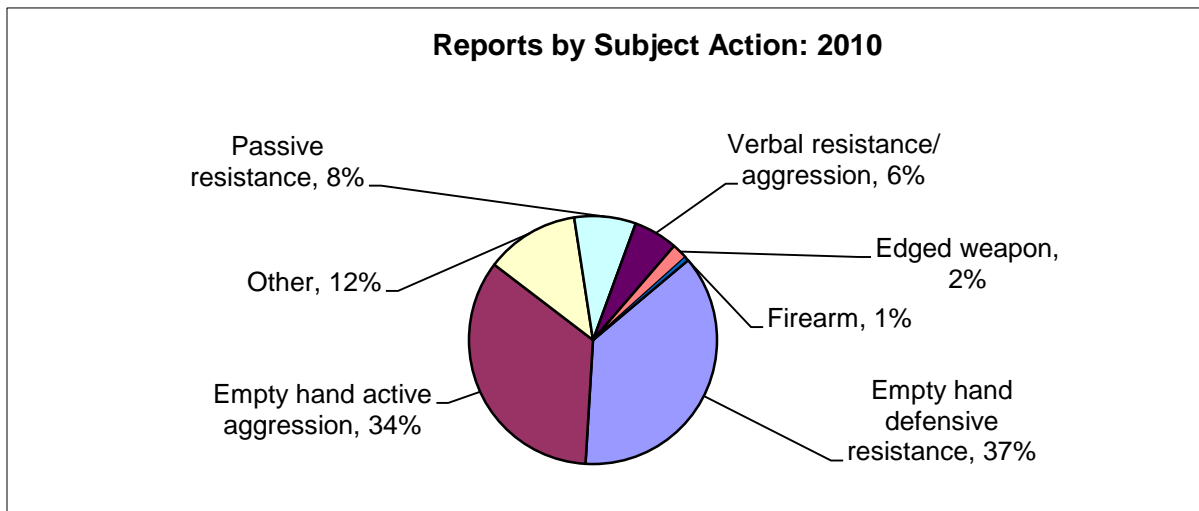
### Reports by Subject Conduct and by Subject Action

In 60% of the use of force reports in 2010, officers noted that the subject was suspected to be under the influence of drugs or alcohol when the incident occurred (1,302 out of 2,165 reports). This is up from 50% in 2009. In 2010, an additional 9% were suspected as being emotionally disturbed, and 5% were suspected of being emotionally disturbed *and* being under the influence of drugs or alcohol.

During 2010, empty hand resistance (e.g., pulling or pushing to resist officer control) and empty hand aggression (e.g., kicking and punching the officer) were the most frequent subject actions resulting in a response to resistance by an officer. For subjects who displayed more than one type of resistance, only the most serious subject resistance is included in the chart and table shown on the following page.

In 2010 officers encountered increases in incidents of all subject conduct types except the use of firearms. The following are definitions of the types of subject action from least 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.

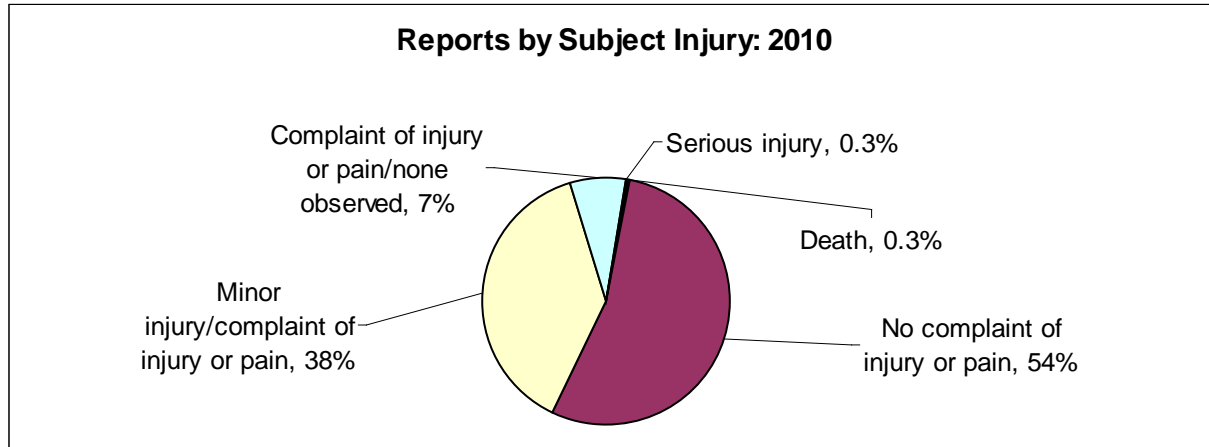


Reports by Subject Action	2008	% of 2008 Reports	2009	% of 2009 Reports	2010	% of 2010 Reports
Empty hand defensive resistance	250	28%	398	33%	563	37%
Empty hand active aggression	319	36%	432	36%	523	34%
Other	138	16%	168	14%	185	12%
Passive resistance	88	10%	110	9%	122	8%
Verbal resistance/ aggression	73	8%	58	5%	87	6%
Edged weapon	11	1%	27	2%	31	2%
Firearm	5	1%	14	1%	8	1%
<b>Total</b>	<b>884</b>	<b>100%</b>	<b>1,207</b>	<b>100%</b>	<b>1,519</b>	<b>100%</b>



## Reports by Subject Injury

In 2010, as in 2009, the most frequent category of subject injury was “no complaint of injury or pain” (54% of subjects). The other frequent category in both 2009 and 2010 was “minor injury or complaint of injury and pain,” which accounted for 38% of reports in 2010 (see chart and table below).



Reports by Subject Injury	2008	% of 2008 Reports	2009	% of 2009 Reports	2010	% of 2010 Reports
Death	1	0.1%	2	0.2%	4	0.3%
No complaint of injury or pain	364	41%	688	57%	824	54%
Minor injury/complaint of injury or pain	329	37%	430	36%	576	38%
Complaint of injury or pain/none observed	72	8%	77	6%	110	7%
Serious injury	1	0.1%	4	0.3%	5	0.3%
Unknown	116	13%	6	0%	0	0%
<b>Total</b>	<b>883</b>	<b>100%</b>	<b>1,207</b>	<b>100%</b>	<b>1,519</b>	<b>100%</b>

During 2010, there were four deaths resulting from use of force.

On Saturday, September 25, just after midnight, the girlfriend of Pat Faith called 911 saying Faith threatened suicide. When officers arrived at the couple’s home, Faith appeared on the porch, armed, and then went inside where officers heard shots fired. Faith then fled the scene in a car, with officers pursuing him at high speeds. Eventually he stopped and came out holding two weapons. He fired several shots in the air, returned to the car, and drove into oncoming traffic on E Ben White Blvd. A truck containing two men just missed hitting the car. Faith emerged and approached them with his guns pointed at them. Corporal Javier Bustos fired one shot, hitting Faith’s shoulder. Faith fell to the ground, and then shot himself. The death was ruled a suicide.

On Friday, October 1, shortly before 6:00 a.m., Officer Derrick Bowman and two other APD officers responded to a burglary-in-progress call at the Big Lots store on William Cannon Dr. On arrival, Officer Bowman went to the back of the store. The other officers remained at the front of the store and observed two suspects, one of whom appeared to be armed and moving to the back of the store. Officer Bowman, located in the alley behind the store, saw the suspects kicked open the back door, and ordered them to show him their hands. One suspect, Devin Contreras, turned,

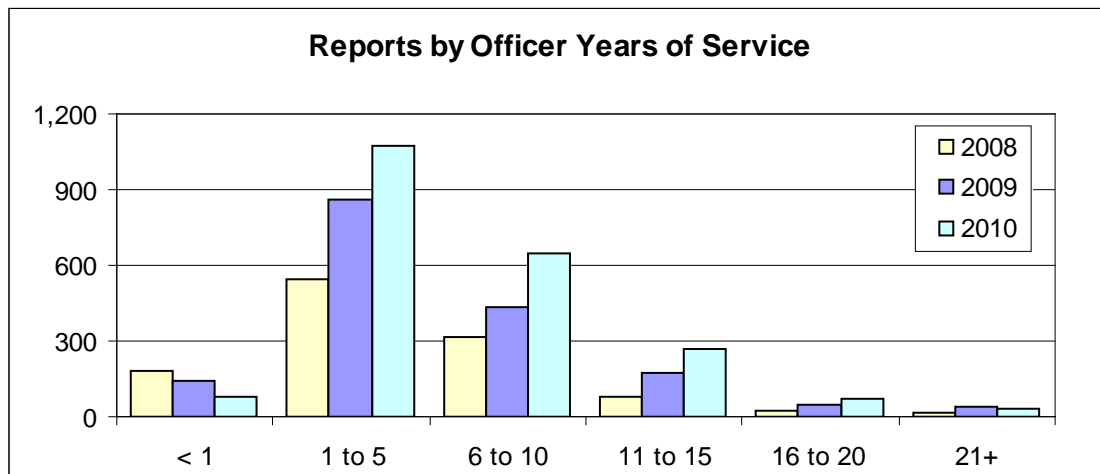
raised his hands, and pointed a gun at Officer Bowman. Officer Bowman shot and killed Contreras, who was pronounced dead at the scene.

On Tuesday, November 2, just after 5:00 a.m., officers responded to a 911 call to Tomanet Trail. Officers arrived at the residence and pushed the door open. The suspect, Howard Huynh, was armed. He shot at the officers and fled on foot out the back door. Soon after, the officers heard gunshot up the street, where a neighbor had been shot by the suspect who was continuing to move up the street. Officer Will Ray arrived at the scene and heard that someone matching Huynh’s description was nearby. He moved in and turned to see the suspect raising a rifle at him. Officer Ray shot and killed Huynh, who was pronounced dead at the scene.

On Thursday, December 23, at around 11:00 p.m., Officer Frank Wilson saw the suspect run a neighborhood stop sign. Officer Wilson activated his overhead lights and attempted to pull over the suspect, who abruptly pulled over, exited his vehicle, and fled on foot. Officer Wilson located the suspect, who led him on a foot pursuit through backyards. After several struggles, the suspect (Maurice Pierce), grabbed the officer’s duty knife and cut Officer Wilson’s neck. Officer Wilson shot Pierce, who was pronounced dead at the scene.

### Reports by Officer Years of Experience

All new officers are assigned to patrol shifts. APD requires officers to have at least five years of patrol experience to be eligible to promote and leave patrol. Therefore, the average length of service of officers reporting response to resistance in 2010 was 6.0 years, similar to the 6.3 years reported in 2009. During 2010, years of service for officers reporting response to resistance ranged from less than one year (probationary officers) to 32 years. In 2010, officers with 1-5 years of service submitted the majority of response to resistance reports followed by officers with 6-10 years of service (see chart below and table on following page).



Reports by Officer Years of Service	2008	% of 2008 Reports	2009	% of 2009 Reports	2010	% of 2010 Reports
< 1	178	15%	143	8%	78	4%
1 to 5	544	47%	859	50%	1,076	50%
6 to 10	316	27%	438	26%	645	30%
11 to 15	77	7%	175	10%	266	12%
16 to 20	21	2%	50	3%	72	3%
21+	16	1%	38	2%	28	1%
Total	1,152	100%	1,703	100%	2,165	100%

## 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 (TCLEOSE). Officers must qualify annually on their handgun, shotgun, and 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 2010, all officers completed the **Basic Defensive Tactics Course**. This 20-hour course covers the basic combative techniques that are the foundation of APD's intermediate and advanced training. It emphasizes the effective use of weaponless techniques when officers face a response to resistance that requires force.

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 on the situation encountered at the scene and the actions of the subject in response to the officer's commands. This model is taught to both cadets and officers, including being covered in an applied, hands-on setting.

"Force options" training helps officers build decision-making skills in stressful, "shoot/no-shoot" scenarios, and covers both lethal and less-lethal force options. The mobile force options simulator trailer provides force options training in a live, mobile, shooting venue that rotates regularly to police substations. In the trailer, defensive tactics are reinforced by using strike pads for fist, elbow, and foot strikes. Training video scenarios are refreshed periodically, to ensure that officers practice on a variety of updated response to resistance scenarios.

During role-playing scenarios using force-on-force training ammunition, officers' response to resistance is tested under pressure. APD's Homicide in Progress training makes extensive use of paint-marking cartridges and live role players (armed and unarmed) to ensure realistic scenarios. Similar training aids are used in teaching cadets how to search buildings.

Monthly shooting training is offered to all APD officers. This training allows officers to qualify on their weapons and also be tested in dynamic shooting-drill practices. Firearms training also includes the course, "Concealed Carry for Law Enforcement," in which officers are exposed to the variables associated with off-duty situations involving a police incident with use of force.

Emphasis is placed on considering the safety of bystanders and in choosing on whether or not to be involved in an off-duty encounter, when the option is available.

For cadets, APD provides more than 250 hours of training in response to resistance, which exceeds the 24 hours mandated by TCLEOSE.

The APD cadet curriculum includes:

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

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

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

Use of force training for cadets also includes scenario-based training that allows instructors to evaluate how cadets react when confronted by violent subjects. Use-of-force training goes beyond addressing use-of-force options, levels of resistance and case law. Additionally, it emphasizes gaining compliance through understanding of psychological factors and using communication skills to de-escalate situations when possible, and minimize the force used. Cadets are taught strategies to reduce the need for force, including officer self-control and understanding cultural differences, prejudices, emotions, and attitudes. The concepts of officer accountability and integrity are woven into the entire training program.