In Fall 2018, the Portsmouth Police Commission (PC) unanimously agreed to create a sub-committee comprised of the three commissioners, citizens and representatives from the police department (PD) to review the pros and cons of equipping officers with "body worn cameras" (BWCs). Given the trend nationally toward adoption of car and body cameras by police departments, the Commission agreed that an exploration of the issue now would be prudent. The sub-committee focused on body camera adoption issues only; in-car cameras may be reviewed at a future date.

Following a public request for volunteers and a review of the pool of 17 applicants, seven citizens were selected by the PC in November 2018 at a non-public session and then appointed and confirmed later that evening at the Commission's public meeting. The citizen members are: Albert (Buzz) Scherr, Meghan Hagaman, Kathleen Collier, Jen Murray, Tom Morgan, Karen Bouffard and Mike MacDonald.

Commissioners Joe Onosko, Jim Splaine and Stefany Shaheen also attended the meetings, along with the following department personnel: Chief Robert Merner, Captain Mark Newport, Lieutenant Darrin Sargent, Dispatcher Ed Walsh, IT Specialist Jim Layton, Patrol Officer Aaron Stacy, Patrol Office Sean Evans, and Administrative Manager Karen Senecal.

The seven-member citizen group, with support from PD personnel and the commissioners, were charged with:

(a) reviewing research findings to determine the impact, benefits, concerns, legal and technological implications, and costs of BWC adoption, and

(b) creating a report and sharing it with the community.

At the first meeting, the group was told by the PC that they could either create a pro and con summary without taking a position on adoption, or they could include a recommendation.

The group was also told the final decision would be the responsibility of the PC and that a Commission decision would not be made until feedback was received from the community following a release of the report and a public presentation by the sub-committee.
The Body-Cam Sub-Committee first convened on November 29, 2018 and held nine meetings over the winter and spring. At the initial meeting, UNH Law Professor Buzz Scherr was selected chair of the sub-committee. Each meeting lasted approximately two-hours and involved many discussions amongst the citizen and police members (see meeting minutes for details of each session).

The sub-committee heard from three police departments in New Hampshire that had either adopted body-cams or were engaging in a pilot program:

- The Dunbarton Police Department is small with five full-time officers. It chose to adopt BWCs at the instigation of two officers. They have a voluntary program in which three officers have chosen to use them and two have not. They are using Axon Corporation’s BWCs.

- The Goffstown Police Department is larger with about 35 full-time officers. They chose to adopt BWCs at the instigation of the chief who saw them as the wave of the future and wanted to get ahead of the curve.

- The Manchester Police Department is the state's largest, with about 240 full-time officers. They researched BWCs a year or so ago but did not move forward. More recently, at the instigation of the new chief, and the financial support from the mayor and the Board of Aldermen, they decided to move forward with BWCs. They recently completed a pilot program with 14 officers, some of whom were chosen because they did not like the idea of BWCs.

The sub-committee also met with Professor Daniel Bromberg, a nationally known BWC researcher at the Carsey School of Public Policy at the University of New Hampshire. His research has focused on studying public attitudes towards BWCs, in particular, whether the adoption of BWCs had a measurable effect (positive or negative) on public attitudes towards police departments.

Professor Bromberg and several sub-committee members provided voluminous research for the committee to review, including research studies that used officer and citizen perceptions and/or actual behavioral outcomes related to the following: excessive force, biased policing, citizen conduct, judicial outcomes, officer motivation and officer productivity measures (e.g., number of citations written, arrests made). In addition, the sub-committee received model protocols for departments using BWCs, collective bargaining agreement models, pieces from non-profit advocacy groups on both sides of the issue, as well as other research.

Finally, after reviewing the range of issues, three members of the sub-committee (Chair Scherr, Police Commissioner Onosko, and PD Administrative Manager Senecal) met with two of the leading BWC vendors, Axon Corporation (used by the Goffstown and Dunbarton PDs) and Pileum Corporation, a reseller for BWCs (used in the Manchester PD’s pilot program) to
learn about the equipment and other adoption costs. Both vendors provided the sub-committee with a deeper understanding of their products, their use, and their costs.

The sub-committee collected information generally about the direct and indirect potential costs for the adoption of BWCs. The task of weighing the benefits to the department versus the costs of adopting BWCs is a decision for the Police Commission itself. That elected oversight body has full knowledge of the police department’s goals, objectives and budget, and how BWCs would fit into the overall department strategic and budget plan. The Commission members attended a majority of the sub-committee’s meetings and, therefore, are aware of the many variables to consider when making an adoption decision.

The sub-committee learned that the adoption of BWCs would involve a direct financial commitment of somewhere between $427,500 and $699,675 over a five-year contract commitment (an average of $85,500 to $139,935 per year) based upon a vendor’s most favorable and useful plan. Car cameras would be extra, as would additional features vendors offer. This direct cost does not include potential indirect costs such as; adding cell phone plans for each camera to the department’s cell-provider contract at approximately $19,000 per year, staffing issues for video evidence handling, discovery and Right to Know requests. It also does not include the issue of whether the department’s current IT infrastructure is capable of managing the adoption of BWCs, or if current staffing can handle equipment maintenance and trouble shooting. Nor does it include an assessment of federal grants that may be available for one-time equipment costs only. Such considerations are in the purview of the Commission, whose job it is to assess the costs of immediate adoption, or the efficacy of phased adoption, and in relation to other Portsmouth PD needs and priorities.

Finally, the sub-committee has made every attempt to track down and assess issues raised by sub-committee members. The pro and con list that follows is an effort to identify the pros and cons of BWC adoption grounded in: (a) published research and other literature, (b) perceptions provided by the three New Hampshire PDs interviewed, and (c) assessments offered by members of the Portsmouth PD and citizens participating on the committee.

At the final meeting of the sub-committee on July 9, 2019, the citizen representatives decided (i) they wanted to make a recommendation and (ii) identified and voted on three options. The results are as follows (one representative was absent):

- **Implement body cameras** at this time: 1
- **Do not adopt body cameras** at this time: 5
- **No recommendation** at this time: 0
Pro and Con List

**PROS**

- Officer safety options available (dependent upon vendor/equipment chosen):
  - Provides for car location GPS (PPD currently does not have)
  - Provides for officer location GPS (PPD currently does not have)
  - Ability to notify dispatch of an officer down without manual activation by officer
  - Non-manual activation when running, when shots fired, with removal of gun from holster, when entering a previously designated zone/area

- Citizen-encounter documentation:
  - Ability of department to include officer perspective to any citizen smartphone video and testimony
  - Assist in resolution of citizen complaints
  - Officer protection from false allegations by citizens
  - Potential moderating effect on aggressive citizen behavior with awareness of BWC

- Administrative benefits:
  - Prosecution support; visual and auditory data may aid in the resolution of civil and criminal cases
  - May provide evidence of improper officer conduct
  - Evidence from the three NH departments we interviewed and the studies we reviewed suggest some degree of buy-in from officers once they had experience with BWCs
  - Parameters of officer use has been effectively negotiated between towns and unions in the Collective Bargaining Agreement (CBA)
  - Can use video for training
  - Privacy protection technology comes with BWCs (though privacy breaches can occur -- see con list below):
    - Ability to turn camera off while maintaining audio recording (e.g., in domestic violence cases)
    - Video redaction feature to mask or blur the identity of any individual (e.g., a bystander)

**CONS**

- Studies consistently show little effect on citizen perception of trust in departments using BWCs.

- Studies of police perceptions regarding the impact of BWCs on: (a) use of force, (b) citizen complaints, (c) officer activity/productivity, and (d) judicial outcomes, result in
mixed/conflicting findings. The one randomized controlled trial that examined behavioral outcomes (not officer perceptions) conducted in Washington, DC found no effect of BWCs on officer behaviors in any of the above four areas. (Apert & McLean; “Evaluation Effect of Body Worn Cameras: A Randomized Controlled Trial”)

- IT concerns:
  - Police department technology would require significant upgrades to support what is needed for BWCs
  - Dispatch would also need technology infrastructure upgrades

- Administrative requirements:
  - Officer training
  - Officer data entry during or after each shift
  - Labor for video evidence management, including discovery and potential increase in Right to Know requests
  - Labor for equipment maintenance and trouble shooting
  - Implementation and compliance challenges. A number of research papers highlighted the need to set clear directives on BWC use, as there can be confusion or non-compliance by officers (“Where is the Goal Line”? Apert & McLean; “Evaluation Effect of Body Worn Cameras: A Randomized Controlled Trial”)

- BWCs do not address a problem in Portsmouth:
  - Body cameras are not needed because the Portsmouth PD does not have citizen complaints regarding undue force, biased policing and other officer behaviors

- Prosecution impact:
  - None of the NH PDs we talked with could think of a video that helped with a prosecution, nor did the study of BWC outcomes find a positive effect on judicial outcomes (i.e., “Evaluation Effect of Body Worn Cameras: A Randomized Controlled Trial”)

- Privacy and assistance to police:
  - Potential citizen privacy violations: a concern with having their face on camera
  - Right to Know requests revealing embarrassing moments for citizens
  - Can't guarantee security breaches won't happen
  - Citizens may be less willing to say anything to help the police because it's on videotape

- Officer impact:
  - Officers may feel they have less discretion in how they resolve an incident (resulting in an increase in citations according to some of the studies reviewed)
  - Impedes their sense of professionalism, motivation and quality of their interactions with citizens
Other Considerations

In addition to the above pro and con list, the sub-committee offers the following observations:

- A number of police departments in the US have pulled out of police cam contracts or not gone forward following a pilot program due to changes in state requirements regarding data storage and other aspects of BWCs that significantly increased annual costs to PDs.

- Contract negotiations with BWC providers now involve explicit provisions about the cost increases in subsequent contracts (to avoid ballooning charges by the provider).

- The PC at a future date may want to review the pros and cons of cameras in PD cruisers.

- For officer safety, the PC should consider equipping all cruisers with GPS technology.
DATE: January 31, 2019  
TO: Chief Robert Merner  
FROM: Lt. Michael Maloney  
RE: Annual Bias-Based Profiling Analysis- 2018

This analysis will serve as an administrative review of the department’s response to Bias Based Profiling for calendar year 2018. The department has a policy titled Bias Based Policing (SOP O-144). The policy became effective on January 26th 2017. All department members are required to read and acknowledge the content of the policy.

The policy clarifies the circumstances in which race, ethnicity, gender, sexual orientation, gender expression, or other potentially improper criteria can legitimately be used as factors establishing reasonable suspicion or probable cause. It also reinforces procedures that serve to assure the public that we are providing services and enforcing laws fairly, equitably, and impartially. Portsmouth Police will not initiate police contact, action, or intervention based solely on the aforementioned or other potentially erroneous criteria.

All enforcement actions, such as investigative detentions, traffic stops, arrests, searches and seizures, etc., will be based on reasonable suspicion or probable cause as required by NH statutes and the 4th Amendment of the US Constitution.

Except in cases where credible, reliable, locally-relevant information that links persons of specific description criteria to particular criminal incidents, officers will not consider race, ethnicity, gender, sexual orientation, gender expression, or other improper criteria in establishing either reasonable suspicion or probable cause. Persons will not be singled out or otherwise treated differently because of their race, ethnicity, gender, sexual orientation, gender expression, or other improper criteria.

The policy also addresses procedures for receiving calls for service that potentially involve bias. For example, if a call is received in the Communications Center or an officer is flagged down and someone reports a concern based solely on a person’s race, ethnicity, gender, sexual orientation the reporting party is questioned further. They will be referred to the Shift Commander at the same time being advised that the department will not stop, detain and or question an individual based only on one or any of the above characteristics. The caller should be questioned further as to what specific behaviors the subject is displaying that could in fact be a need for a legitimate police response. Occasions like this are also an opportunity for the department to inform the public on our bias based policy philosophy and policy.

Officers will receive initial and periodic training in subjects that promote and encourage impartial policing. In 2018 all sworn members received specific training relative to bias
based policing. Applicable training subjects may include, but are not limited to, officer safety, courtesy, cultural diversity, search and seizure, asset seizure and forfeiture, interview techniques, interpretational communication skills, and constitutional and case law. Officers will, as necessary and professionally appropriate, use techniques and strategies to advance the reality of impartial policing.

Citizen complaints that allege officers conducted policing activities based on any improper criteria will be investigated consistent with department policy. A custom field in Guardian Tracking allows the department to track any citizen complaints or internal affairs that have been reported to be based on bias or prejudice.

In 2017 there was one instance of a citizen complaint that alleged bias based on race. This complaint was investigated formally by a supervisor and determined to be unfounded. In 2018 there were no complaints alleging bias. Considering that the department handled over 50,000 calls for service in 2018 it is commendable that there was not a single complaint alleging bias. Based on this, it appears clear the members of the department exercise their authority with due regard to race, ethnicity, sexual preference or other personal preference issues.

END OF REPORT
This analysis will address the department’s pursuits for calendar year 2018. The mission of the Portsmouth Police Department includes providing a feeling of security and safety among persons within our jurisdiction. Each incident in which the Department becomes involved should be resolved in a fashion that maintains the positive level of confidence which the community has in the Department.

Vehicular pursuit of fleeing suspects can present a danger to the lives of the public, officers, and suspects involved in the pursuit. It is the responsibility of the Portsmouth Police Department to assist its officers in the safe performance of their duties. It will be the policy of this Department to regulate the manner in which vehicular pursuits are undertaken and performed. The intent of the department’s policy on pursuits (SOP O-150) is to reduce potential dangers involved in a pursuit situation.

Our policy defines a pursuit as an active attempt by a law enforcement officer in a motor vehicle, displaying emergency lights and siren, to apprehend one or more occupants of another motor vehicle, where the driver of the fleeing vehicle is aware, or should be aware, of the attempt, and is resisting apprehension by failing to stop. Under this definition, it is the VIOLATOR who initiates a pursuit.

Incidents of pursuits are documented on the department’s Pursuit Form prior to the officer going off duty the day of the incident. The form is submitted to the Shift Commander, who in turn forwards it to the Captain of Operations. After review, the Captain of Operations forwards the form to the Professional Standards Division. The Professional Standards Lieutenant makes an entry in Guardian Tracking under the Pursuit category, transferring all the data from the form.

Each incident where a department member engages in a vehicle pursuit, is reviewed by the Pursuit Review Committee. The committee consists of two sergeants and a lieutenant, two of which are emergency vehicle driving instructors. Every pursuit is analyzed by the committee as soon as practical after the reports are complete. The committee reviews the report and any associated paperwork, along with any other documentation including but not necessarily limited to the radio audio recording of the entire incident. The committee analyzes each incident to ensure proper procedure and protocol was followed. Any discrepancies that are noted or identified are followed up with documented remedial training, discipline, or policy adjustment as necessary.
In 2018, there were 7 pursuits involving Portsmouth Police Officers. This number is relatively high in that there were no pursuits in 2017 and 2 pursuits in 2016. Analyzing the data there is no clear indication as to why this is the case. In fact, in 2017 there were actually more motor vehicle stops than in 2018. Motor vehicle stops for traffic violations is by far the most common reason a pursuit is initiated.

**2018 Total Pursuits – 7**

Terminated by Agency - 2

Policy Compliant – 7

Crash Resulting – 1

Injuries – Unknown. In 6 out of the 7 pursuits there were no injuries. In one instance a motorcycle crashed but the operator fled on foot and was never located.

Policy Revisions - 2

**Reasons for Pursuit**

Traffic Violations/DWI – 5

Assist other Agency – 1

BOLO/Armed Suicidal Subject - 1

After carefully analyzing the seven pursuits the Pursuit Review Committee determined that in each instance policy and procedure were followed. However, in two instances it was determined revisions to the policy be made, which have been done.

One revision encompassed more clearly defining the term, “terminate”. In this instance an officer was pursuing a motorcycle for multiple traffic offenses when he was ordered to terminate the pursuit. The officer did as directed but still followed the motorcycle with the flow of traffic at a distance (no lights or siren). The offender at this point was travelling with the flow of traffic. The officer was in a low profile cruiser some distance behind the offender. At one point the offender turned around and noticed the cruiser behind him. This caused the offender once again to increase speed, drive recklessly and pass other vehicles. The Committee determined that although the officer did follow policy and the order of the supervisor to terminate the pursuit it should be more clearly stated in the policy the definition of, “terminate”. The policy now reads that, “terminate” is defined as discontinuing all efforts to observe, monitor or apprehend the offender.

Another revision to the policy as a result of the committee review was to further restrict the parameters for pursuing motorcycles and other such vehicles. This restriction was
based on the increased likelihood of injury or death to a person riding or being a passenger on a motorcycle or OHRV type vehicle. Also taken into considerations the extreme high speeds these vehicle can attain and the likelihood of “outrunning” pursuing officers. The policy now reads that pursuits involving these types of vehicles shall only occur when the offender has previously caused serious bodily injury or death in the commission of a crime or there is probable cause to believe the offender WILL commit serious bodily injury or death to another unless immediately apprehended.

Although it remains difficult to determine what caused the increased in pursuits in 2018 it is clear that the review procedures in place to ensure compliance with department policy and procedure is effective. In all circumstances the safety of the public, the officer and the offender are always a priority when determining courses of action following a pursuit. Every pursuit is unique and a “one size fits all” approach is not appropriate. In 2019 all pursuits will once again be closely reviewed, scrutinized and evaluated for improvement if necessary.

END OF REPORT
Summary:

The Portsmouth Police Department is completing its Response to Resistance self-analysis phase as a continuing improvement process through the Commission on Accreditation for Law Enforcement Agencies (CALEA). The analysis is systematically structured to identify any patterns or trends. Analysis should reveal patterns or trends that could be predictive or could indicate a need for additional Response to Resistance training, equipment upgrade and or policy modifications.

The 2018 Response to Resistance analysis provides a critical process in reviewing departmental policies and procedures. The analysis provides for process improvement in policy language, records management system, capturing additional data in offenses and supervisory oversight in Response to Resistance incidents.

The Portsmouth Police Department has implemented a Personnel Early Warning System through the Guardian Tracking software. This allows another level of systematic review of specific incidents to assist in the identification of employees who may exhibit signs of performance and/or stress related situations, and who may benefit from early intervention. In conjunction, supervisory staff must ensure all reports and forms are completed when required. A Response to Resistance Report Form is completed every time we respond to resistance as defined by policy.

The Portsmouth Police Department strives for improvement through personnel development, policy enhancement and responsiveness in order to provide effective and efficient police service to the citizens of Portsmouth.
Introduction

The Portsmouth Police Department Standard Operating Procedure O-101 (Response to Resistance), provides our officers with guidelines on all aspects of Responding to Resistance and proper reporting. This department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this department that police officers shall use only the force necessary to affect lawful objectives.

A police officer who responds to resistance in the performance of his or her duty takes many risks. Officers must not only answer to their own conscience, but to the law, the Police Department, and the public. A crisis situation gives little time for study and thought. Reactions must be based on sound principles and instilled through repeated training. An officer must be ready to act instantly, but with the sound judgment that comes with knowledge.

Portsmouth Police SOP O-101 Response to Resistance

“Response to Resistance Incident” means an incident in which any of the following occur:

A. The intentional or accidental discharge of a firearm while on duty, or while off duty taking a police action (except animal euthanasia)
B. When an officer draws their firearm and challenges a person, or otherwise points a firearm at another during any police action.
C. The use of the ASP baton to strike another person.
D. The use/display/accidental discharge of the Taser
E. The use of the RIPP Hobble restraint
F. The use of OC Spray
G. The use of hand techniques to restrain, bring into control, or otherwise subdue a resistant person.
H. The use of defensive techniques.
I. The use of a flashlight, knife, or any other item used as a weapon in cases of extreme emergency.
J. Intentional contact, while operating a city owned vehicle, with a person, other vehicle, or any other object.
K. K-9 Deployment with injury.

**Response to Resistance Review:**

The Portsmouth Police Department's current management and review of Response to Resistance reporting is the responsibility of the Professional Standards Division. Officers who respond to resistance based on the criteria listed above, are required to complete a department RTR Form prior to the end of their tour of duty. The form is turned in to the Shift Commander who reviews it for completeness and accuracy. The form is then forwarded to the Operations Captain. After review by the Operations Captain, the form is forwarded to the Professional Standards Division.

At the completion of each month, the Professional Standards Lieutenant runs an RTR report in and sends it to the RTR Committee which consists of a Lieutenant, Sergeant and the Training Officer. The RTR Committee analyzes each incident by reading the associated reports. The Committee members report back to the Professional Standards Lieutenant on whether or not the response to resistance used was appropriate and within the guidelines of state law and department policy. Any discrepancies are discussed and an appropriate disposition is delivered. Dispositions can range from remedial training, discipline, or policy modification. The Professional Standards Lieutenant adds a comment in each Guardian Tracking entry with the
disposition of the Committee review, and if further action is needed, ensures that is followed through with. All hardcopy files are stored in the Professional Standards Division.

![908 In-Custody Arrests in 2018](chart.png)
Response to Resistance Comparison 2017 vs. 2018

2017 vs. 2018
Comparison of Types of Responses to Resistance Used

- ASP BATON: 8 (2018)
- CRUISER CONTACT: 8 (2018)
Comparison by Month

2017 vs. 2018
Comparison of Monthly RTR Incident Totals

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Comparison by Day of the Week

2017 vs. 2018
RTR Incidents by Day of the Week

Although Statistical information indicates that Sunday had the greatest number of Response to Resistance Reports, most are actually from Saturday night after midnight.

Conclusion:

In 2018, the Portsmouth Police Department recorded 135 Response to Resistance reports as compared to 2017 in which there was 152 Response to Resistance reports, marking an 8% decrease in overall usage.

Of the 135 total reports in 2018, 65% were instances where Hands on Techniques were used. The next highest category was the Challenge with a Firearm (28), followed by Display of the Taser (12).
There were 908 custodial arrests in 2018. Out of those, force was used on 61 occasions to assist in effecting the arrest. In other words, roughly 6% of the time force is used to effect an arrest.

In 2018 there was a 20% decrease in the amount of injuries sustained to suspects and a 42% decrease in injuries sustained by officers.

As previously stated, there were a total of 135 instances where some type of force was used. Of all these instances there was 1 complaint in 2018 regarding excessive use of force. This complaint was investigated by a formal Internal Affairs investigation and the allegation was determined to be unfounded.

The Response to Resistance Analysis is an instrument the department utilizes to ensure compliance of federal and state law and departmental regulations. The department continues to provide annual Response to Resistance Training, which encompasses a classroom session, defensive tactics, handcuffing, Taser, Oleo Resin Capsicum, transition/escalation of force and any other contemporary and relevant topics as deemed appropriate by Personnel and Training.

The Response to Resistance Analysis is also designed as a building block for the department to help recognize, meet and create the challenges of the evolutionary process of training. Recognizing the need for this, training will improve and at the same time enhance our strengths. The department continues to progress forward with basic skill building in the areas of low light firearms and force on force. We will also continue to provide training in handcuffing strategies, team control and arrest, and transporting officer subject control.