

Durham Police Department

Response to Resistance and Assault on Officer Analysis

This analysis documents all events categorized as a “use of force” related call for service by members of the Durham Police Department as well as assaults or attempted assaults on Durham Officers occurring in 2019. The term “Response to Resistance” refers to any form of resistance by an offender requiring a response beyond the accepted application of handcuffs by a Durham Police Officer.

David Holmstock
1/17/2020

Response to Resistance and Assault on Durham

Police Officer Analysis – 2019

Executive Summary

The Durham Police Department [DPD] has concluded its annual analysis of force-related incidents for the period January 1, 2019 through December 31, 2019. The analysis was conducted by Captain David Holmstock who is a 30-year veteran of New Hampshire Law Enforcement, a graduate of the FBI National Academy (224th Session), and Homeland Security Leadership Academy (2nd Session), a Cadre member of the 113th New Hampshire Police Academy staff, a former supervisor of the Durham Police Department Criminal Investigations Division, and a former defensive tactics instructor. Captain Holmstock has trained officers within his own agency, as well as recruits at the New Hampshire Police Academy and New Hampshire Police Cadet Training Academy in all less-lethal mediums employed by the department.

Documents reviewed as part of this analysis include all 2019 Response to Resistance Reports; all related arrest, offense, and supplement police reports including; shift schedules and training records of all the involved officers.

Procedurally, each time an officer uses any amount of physical force greater than the simple application of handcuffs to safely bring a suspect into custody, that officer must complete a standardized “Response to Resistance Report” and attach related police reports. Additionally, all secondary officers must complete a supplemental report that will be attached to the Response to Resistance report.

The completed reports are forwarded to a [DPD] State Certified Use of Force instructor. The instructor reviews the facts and circumstances resulting in force being used and compares them to department policy, applicable State and Federal laws, and applicable judicial review. If the involved officer(s) acted within policy and law, the report is forwarded to the Deputy Chief of Police for additional review. If the Deputy Chief of Police concurs that no violations occurred, the report is approved, filed, and later included in this annual report.

During the Response to Resistance Report review process, if it is believed that a policy violation has occurred, the report is forwarded to the Chief of Police and an Internal Affairs investigation would commence pertaining to the use of force. From 1996 to 2019, no violations of policy/law have occurred when an officer of the Durham Police has engaged force. Additionally, over this time period, there have been no policies detected that would be deemed flawed or not current to modern police procedures. In 2019, the Durham Police Department did not detect any response to resistance as warranting an internal investigation.

Commencing in 2017, the Durham Police Department analyzed all assaults on police officers in the Town of Durham annually in an attempt to determine trends or patterns that would allow the department to enhance officer safety, revise policy, or address training needs. In 2019, of the 17 incidents reported by the Durham Police Department involving the use of force, 3 resulted in actual assaults or attempted assaults on the officer involved.

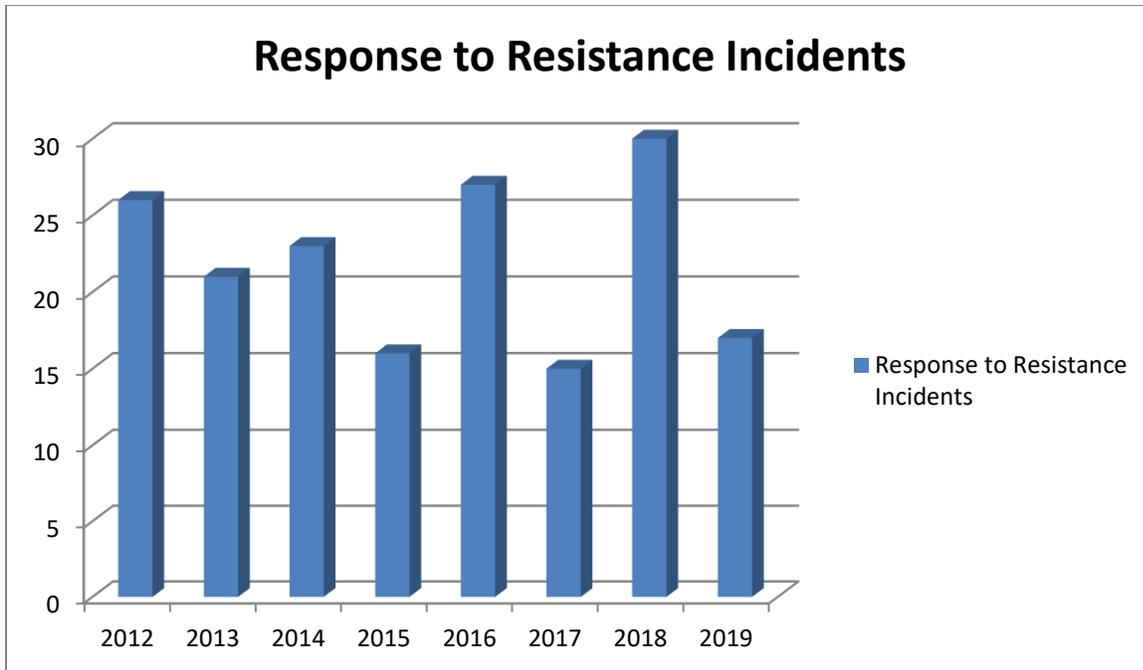
Two Use of Force policies were modified in 2019. Policy (1.3.6) Use of Force, Report and Review and policy (1.3.6.1) Use of Force, Officer Involved Shooting were both modified to meet the requirements of the new CALEA standard (11.3.4) Police Action Death Investigations. This new standard required written direction to clearly establish the administrative procedures for the investigation of use of force and other police actions that result in death or serious bodily injury, to include; establishing the criminal investigative authority, establishing the administrative investigative authority, describing the role of the prosecutor's office, providing a public information plan to include all involved organizations, process training for agency personnel responsible for managing such incidents and awareness training for all personnel potentially impacted. The Durham Police Department policies noted above already contained much of the information required. Modifications to the policies allowed the information to be formatted in a more concise manner while ensuring any additional information met the required standard.

Response to Resistance Incidents

In 2019, the Durham Police Department experienced a (31%) decrease in calls for service from 2018. During the same period, the department experienced a (43%) decrease in the number of instances that officers found it necessary to resort to force in order to bring a person safely into custody.

Additionally, in 2018, the Durham Police Department experienced a (50%) increase in response to resistance incidents from 2017. In 2017, the Durham Police Department experienced a (46%) decrease from 2016. In 2016, the Durham Police Department experienced a (41%) increase from 2015. In 2015, the Durham Police Department experienced a (31%) decrease from 2014. In 2014 we experienced a (9%) increase from 2013, and in 2013 we experienced a (19%) decrease from 2012.

See related graph below.

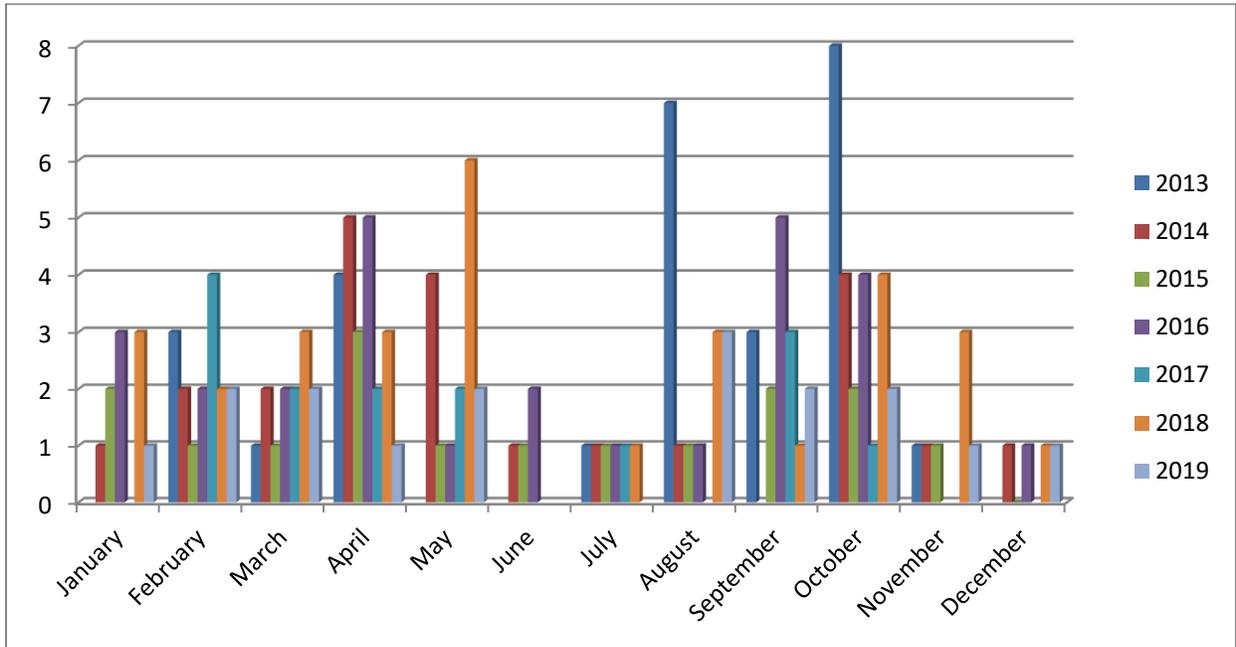


In the 2018 report, we noted a pattern that has developed since 2012. That pattern demonstrated that response to resistance increased one year and decreased the next. We concluded that student involvement did not make up a significant sampling of the calls to explain the deviation. In 2019, with additional data available, this conclusion was further reviewed to discover that from 2012 to 2017, calls for service increased every year. In 2018 and 2019 calls for service decreased while these patterns remained constant. Further investigation into the factors related to the alternating pattern may be beneficial to our future training and planning efforts as we head into 2020. At this time we can find no related factors to explain the alternating pattern.

“The Durham Police Department responded to approximately 10,213 calls for service in 2019. Of those calls, Durham Police Officers responded to 17 incidents where resistance was displayed by offenders. **In essence, Durham Police Officers used physical force less than .002%** of the time when responding to calls for service, a statistic that has remained comparative and stable from previous years. The evidence helps confirm that Durham Police Officers value patience and professionalism in the performance of their duties, as well as continuing the practice and principles of “conflict resolution” before resorting to the necessity of engaging force to affect an arrest or overcome active resistance by the offender.”

The analysis also revealed that there were twelve incidents where department members ended the suffering of an injured animal. Those incidents are not factored into this report for analysis purposes.

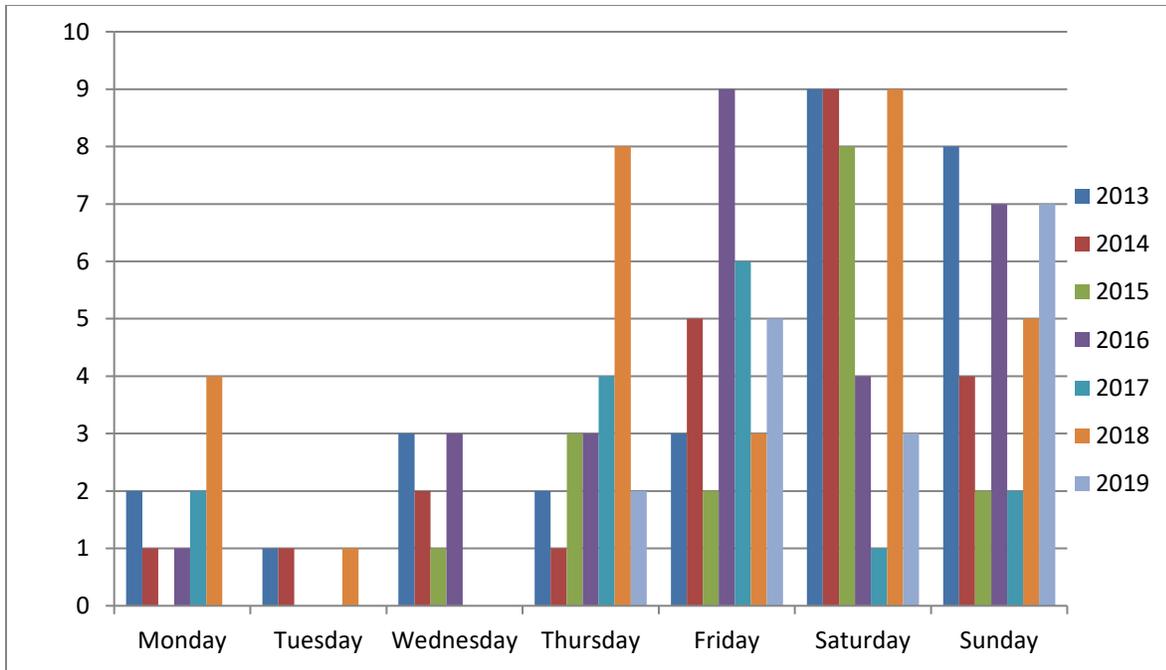
The following statistical analyses serve to correspond to each category that comprises the department's resistance reports. The goal is to analyze how that breakdown applies to response to resistance incidents occurring in the Town of Durham and how the response by Durham police officers impacts the safety of the community. Mutual aid calls and response to resistance actions by members of the Special Reaction Team (SRT) have been included in this analysis.



Response to Resistance by Month: 2019

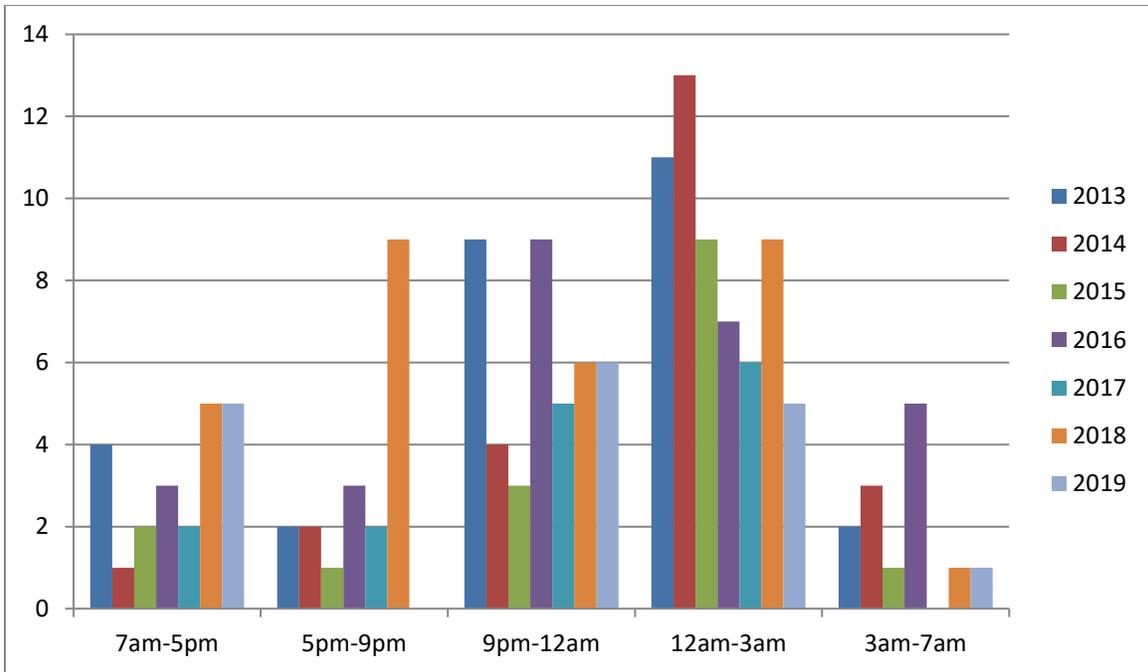
This chart represents a review of response to resistance activity for the past seven years by month. In 2019, Durham officers have responded to acts of resistance during every month except June and July. As in previous years, the beginning of the UNH academic school year, identified as the end of August to midway through October, remains relatively steady and predictable regarding assault patterns. This remains true for the spring semester, particularly the months of April and May. Although many of the calls do not involve students as a direct antagonist, calls may still be student related. In other words, a student may have been the victim, may have known or possibly may have been related in some way to the offender. Only six of the seventeen incidents reported in 2019 involved students directly or indirectly.

As in previous years, it is the conclusion of this report that the agency continue to monitor the activity, and maintain the current staffing strategy for both spring and fall. In 2019, we have identified no discernable pattern that would cause alarm or suggest we change our current strategy.



Response to Resistance by Day- 2019

This chart illustrates that the majority of incidents (100%) resulted in officers responding to resistance on Thursday, Friday, Saturday and Sundays. On those particular days, the agency encountered significantly more responses to force than any other time. Incidents occurring on Sunday happened in the early hours, between midnight and 3:00 AM. There is nothing in the data related to uses of force to suggest additional staffing should be provided for patrol shifts on Sundays. In 2019, the data validates that our practice of additional staffing on Thursday, Friday and Saturday nights remains an effective and warranted strategy.

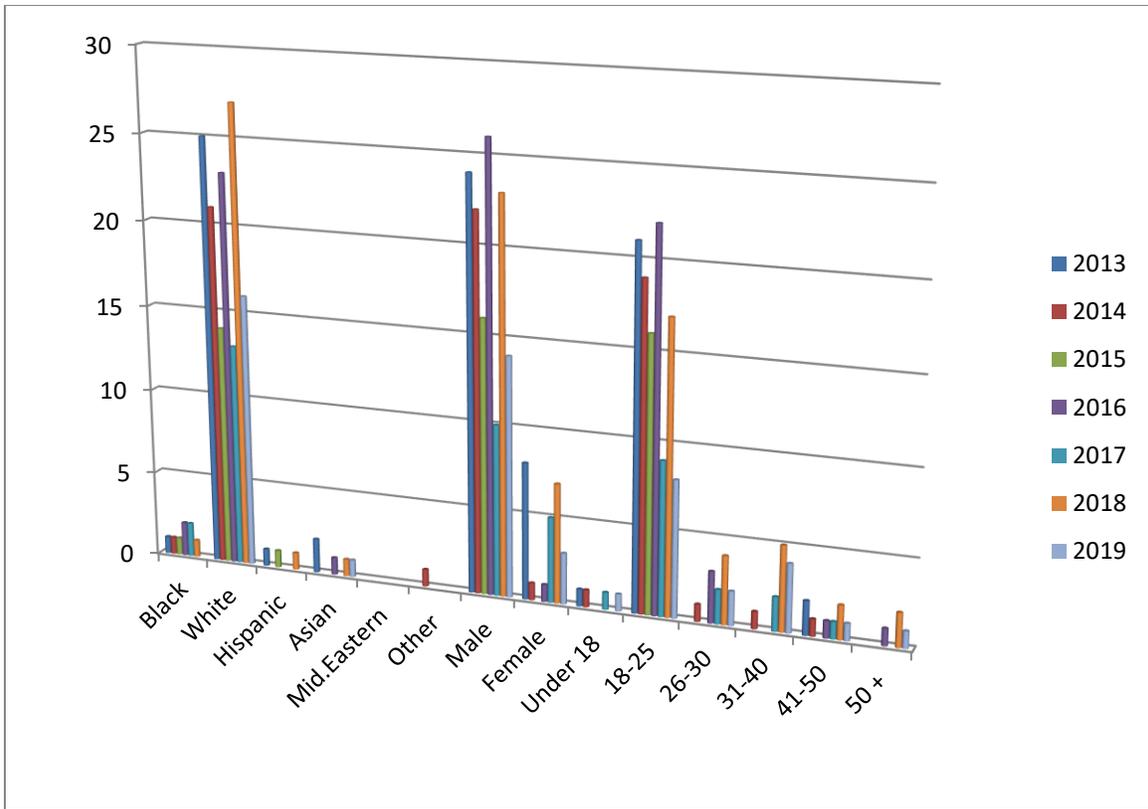


Response to Resistance by Hour - 2019

Analyzing 2019 response to resistance data hour-by-hour illustrates that the most physically dangerous hours for a Durham Police Officer was between 9:00 PM and 3:00 AM. There were five incidents of force that occurred between the hours of 7:00 AM and 5:00 PM. Eleven incidents occurred between 9:00 PM and 3:00 AM, and only one incident was reported to have occurred from 3:00 AM to 7:00 AM. The pattern has remained relatively unchanged since 2013. It is valuable information to the department when factoring in shift coverage or any possible modifications to the schedule.

Based on the information presented, it comes as no surprise that the majority of the department's response to resistance (59%) occurred during dark or low-light hours; this suggests that the Durham Police Department's use of force training continue to include scenarios that occur in darkness or low-light conditions. Our policy regarding additional staffing between 9:00 PM and 3:00 AM should continue. Further, continuation of the current shift schedule alignment, which allows for overlapping coverage during the most physically dangerous hours, remains warranted.

In 2018 there was a spike in the number of response to resistance incidents that occurred during the 5:00 PM to 9:00 PM time frame. In 2019, it should be noted that we had no incidents involving the use of force during that time frame and therefore it does not appear to be a concern regarding modifications to future shift coverage.



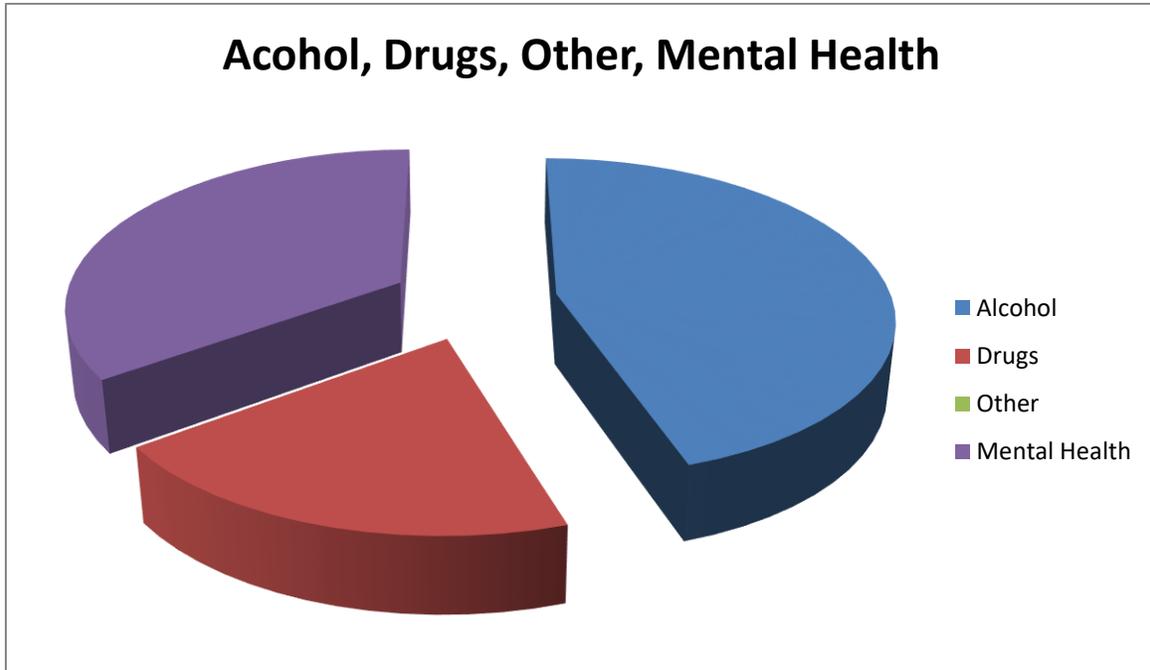
**Demographics by Gender,
Ethnicity, and Age-2019**

In 2019, roughly (53%) of the suspects encountered were between the ages of 18 and 25. The oldest suspect involved in a use of force incident this year was 50 years old, and the youngest was 16 years old. The demographic data has remained consistent over the past seven years. As in previous years, instructors should continue to take this fact into account when evaluating use of force lesson plans. Officers should always be reminded during training that there is no instance when an officer should allow themselves to make assumptions due to the apparent age, gender or ethnicity of a suspect.

The breakdown of gender and ethnic origin has remained fairly consistent from year to year. In 2019, (82%) of the suspects encountered were male. The number of female suspects has fluctuated over the years but remains relatively consistent. I have identified no discernable pattern that would signify females are becoming more inclined to resist law enforcement.

White males and females accounted for 16 of the 17 response to resistance encounters by members of the Durham Police Department. Less than 1% of all response to resistance incidents involved minorities. There is no pattern that would suggest any

form of bias by any individual officer or the agency as a whole. The analysis of response to resistance reports allows for the conclusion that all persons encountered are treated fairly and equally with the officer's response appropriate to the level of force necessary to affect a lawful arrest.



Alcohol/Drugs/Mental Health and Other-2019

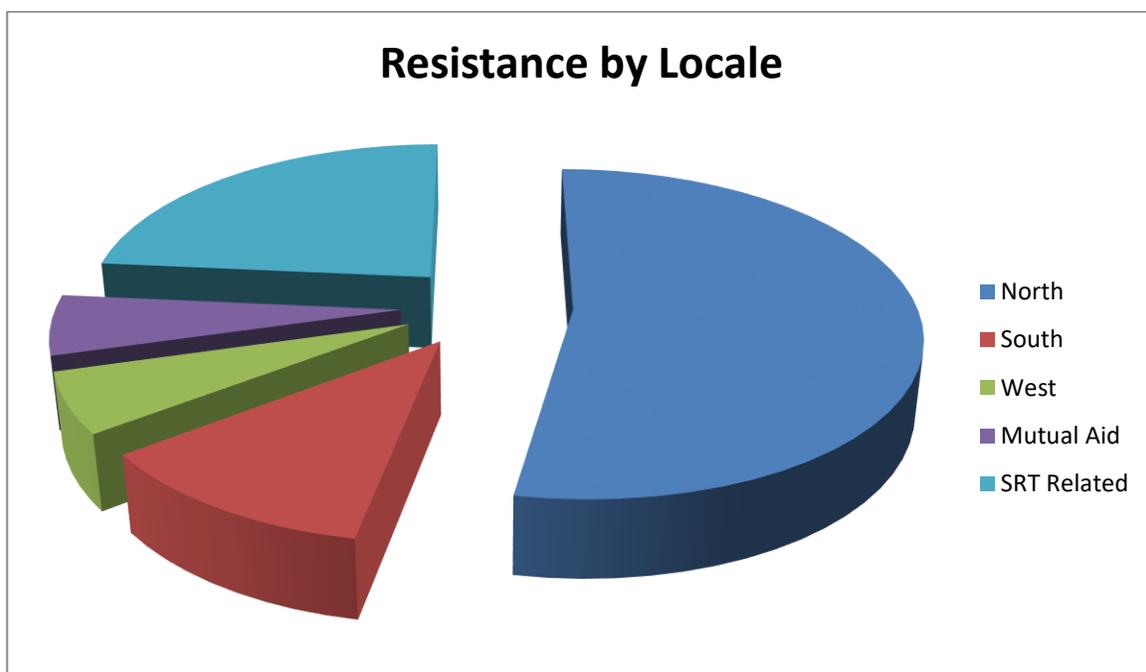
Alcohol and drugs continue to play a significant role in poor judgment and decision-making by persons that are subjected to a lawful arrest. Out of 17 Responses to Resistance, (65%) of the people taken into custody were under the influence of alcohol, drugs or a combination of both. The average age of an offender was twenty-seven. It is important to note that only (29%) of all calls involving alcohol or drugs were university students. There is no definitive pattern concerning the types of calls that officers respond to that involve the consumption of alcohol or drugs. Six of the incidents involved intoxicated suspects that attracted attention to themselves due to their behavior. Two incidents involved members of the SRT Team responding to neighboring communities, and one incident took place as the department attempted to take the suspect into custody on a lawful warrant.

Mental health issues continue to play a significant role in calls involving some form of resistance. Of the suspects encountered in 2019, (41%) of them were suffering from some sort of mental health related issue at the time of the encounter. Additionally, at least (18%) of the cases involved the consumption of alcohol, drugs or both. It is possible the number of cases involving alcohol, drugs, and mental health related issues was greater than reported because drugs and alcohol can mask certain symptoms.

No one can be certain if mental health related calls are on the rise. It may be a more accurate statement that the issue of mental health and law enforcement has received a new emphasis as a challenge facing the profession as never before. In recent years, law enforcement has placed a priority on understanding how to better deal with situations involving suspects known or thought to be suffering from a mental health related issue. The Durham Police Department's field training program and in-service training programs continue to prioritize de-escalation technique training and awareness.

Officers continue to receive annual training in identifying possible mental health related issues, as well as learning appropriate interaction methods. It is an extremely fine line for an officer to make that connection when taking a person into custody who is physically resisting the lawful command of the officer. Unfortunately it is not unusual for the level of resistance from a person suffering from mental health related issues to be similar to that of someone attempting to avoid arrest.

It remains critical that Durham police officers understand the extra level of patience and restraint that may be required when dealing with a person who may be suffering from a mental health related issue. In 2019, the department conducted training related to; IEA and Mental Illness Awareness, Dementia, Alzheimer's, Suicide, Mental Illness Response Involving Juveniles, and Emotionally Disturbed Person Dynamics. As mental health related calls continue to rise around the country, I recommend the department continue seek out new and updated training opportunities so we can stay abreast of what is truly a very challenging issue for law enforcement officers to deal with.



Response to Resistance by Location-2019

Of the 17 responses to resistance examined, (65%) occurred immediately adjacent to or within a one-mile radius of the downtown businesses. Diminished lighting, narrow roadways, and confined spaces may make it more inviting for suspects to attempt to flee from officers when an encounter happens in that area. There is no pattern that would identify one property significantly standing out from any other properties.

The Durham Police Department assigns officers on duty to sectors identified as North, South, and West. Unlike 2018, where the call pattern was evenly distributed between the North and South sector, in 2019, the majority of the department's response to resistance encounters (53%) took place in the North sector. The "North Sector" includes all businesses, residences, properties and roadways north of Main Street. This sector is predominantly off-campus student housing, fraternal organizations, liquor establishments, and food stores that remain open late at night or into the morning hours. Several major arteries lead to these areas and they are heavily traversed by vehicle and pedestrian traffic.

Patrol Sergeants continued to address the activities in the North Sector by assigning the majority of officers to patrol these areas. Incidents appear to have occurred in random locations. There were no fraternities, sororities or liquor establishments involved in any reported incidents in 2019.

Durham police officers responded to 2 calls for service resulting in resistant behavior south of Main Street. The "South Sector" includes all businesses, residences, properties and roadways south of Main Street. This sector is similar to the make-up of the North Sector, but it does not include fraternities and sororities and it does not usually produce the level of foot traffic normally found in the North Sector. There was no discernable pattern identified in the South Sector for this analysis.

There was one incident reported on the western side of town. The "West Sector" is made up of off-campus student housing such as "The Lodges" located on Mast Road, and "The Cottages" located off Technology Drive. It remains critical that a robust oversight philosophy by the management companies remains in place. Proactive management reduces the department calls for service to these areas, thereby reducing the opportunity that an officer must react to resistance upon their arrival.

Incident: 4/7/2019: Officers responded to the Cottages after security reported a suspicious male in the area. An officer located a male walking on Technology Drive and the male showed signs of intoxication.

The Durham Police Department responded to two mutual aid calls to Newmarket and UNH respectively, and four SRT related call-outs to the community of Rochester, NH.

Incident #1: 3/31/2019: Officers responded to the area of Lodges/West Edge Lot for a report of a male sitting in his vehicle with a handgun. The UNH Police Department assumed command of the scene while other officers formed a perimeter.

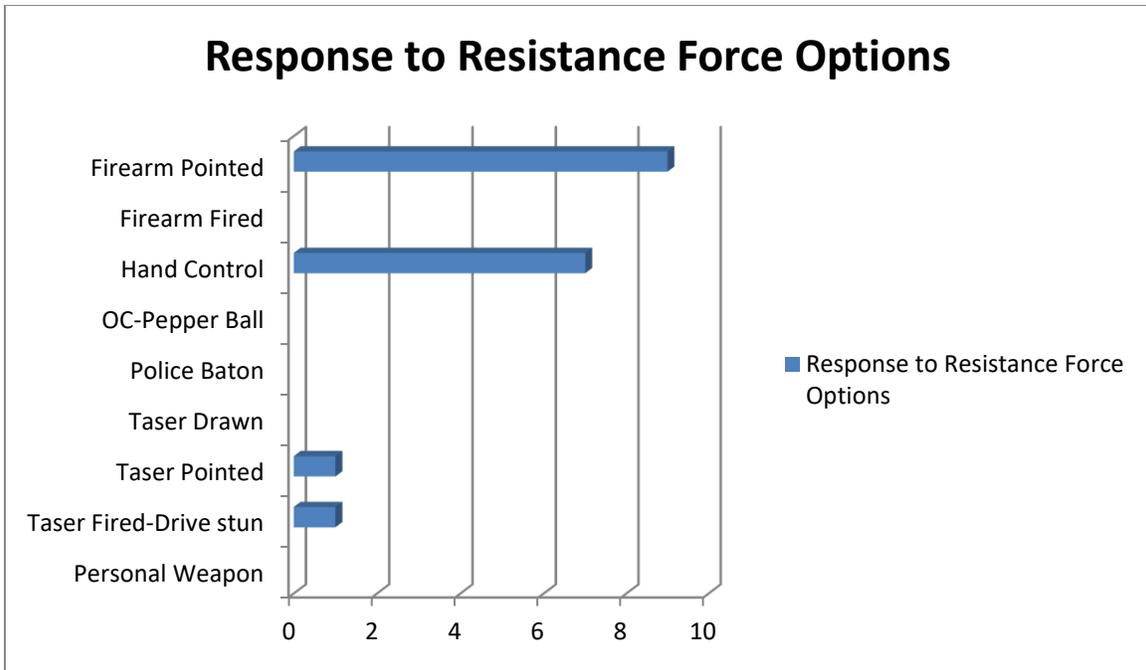
Incident #2: 5/19/2019: A Durham supervisor responded to Newmarket to assist Newmarket Police Department. The caller reported a man outside the front door of his residence holding a handgun.

Incident #3: 8/3/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A Rochester Police Officer initiated a motor vehicle stop resulting in a male driver shooting at the officer and fleeing into the woods. As part of the team, both Durham Officers were assigned to a perimeter position.

Incident #4: 8/16/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A wanted male with warrants out of Georgia and Domestic Violence warrants in Rochester, NH was posting photographs and messages online indicating he had a sawed-off shotgun and would not go back to prison. The male was known to be affiliated with the prison gang, Brotherhood of the White Warriors (BOWW). The team believed the male was located at a residence in Rochester.

Incident #5: 10/6/2019: Durham Officer deployed as part of the Strafford County Tactical Operations Unit. Prior to deployment, suicidal male threatened Rochester Officers with a firearm while they conducted a welfare check on him at his apartment.

Incident #6: 11/2/2019: Durham Officer deployed as part of the Strafford County Tactical Operations Unit. Prior to deployment, a barricaded suicidal male in Rochester was believed to be under the influence of alcohol and drugs.



Force Methods/Types/Tools 2019

Deadly Force Related

In 2019, there were 9 documented incidents (41%) where a Durham Police Officer displayed the threat of deadly force. Of the 9 incidents, fifteen officers displayed deadly force by deploying a pistol, rifle, shotgun or less-lethal shotgun during the incident. Four of the incidents involved members of the SRT Team while acting as part of a team response. No firearms were discharged in 2019 unrelated to department training.

In this analysis, the term “low-ready” is used when an officer has taken their weapon out of the holster and keeps the weapon tip angled forward and towards the ground. It is not pointed directly at the suspect. The following is a breakdown of each incident involving the display of deadly force.

Incident #1: (RIFLE/PISTOL/SHOTGUN DEPLOYMENT) 3/22/2019: Officers received a BOLO from Portsmouth PD regarding a male that was terminated from his job. The male made suicidal comments and alleged statements that he wished to “go out as violently as possible.” Officers stopped the vehicle in Durham and conducted a felony stop on Madbury Road near Pendexter. The initiating officer deployed his rifle and additional officers deployed a shotgun and pistols. The weapons were pointed at the driver who cooperated with subsequent commands. The male was taken into custody and transported to Portsmouth Regional Hospital for evaluation. He was released to Portsmouth Hospital after the officers completed a petition.

Incident #2: (RIFLE/PISTOL/LESS-LETHAL – 37 MM Bean Bag) 3/31/2019: Officers responded to area of Lodges/West Edge Lot for a report of a male sitting in his vehicle with a handgun. Officers determined the male vehicle was in West Edge Lot and UNH was given command of the scene while other officers formed a perimeter. The SCRTOU Unit was called to respond. Sgt. Ruby and Officer Castricone deployed with the team and in the course of their duties at various times pointed a pistol, a rifle or a 37 mm Less-Lethal Bean Bag rifle in the direction of the male. The male eventually shot himself in the arm and surrendered shortly thereafter.

Incident #3: (RIFLE) 5/19/2019: An officer responded to assist Newmarket PD for a report of a man outside the front door of a residence holding a handgun. Upon arrival, the officer deployed his patrol rifle and pointed it at the male found outside the residence. Further investigation revealed the reporting party was hallucinating about a person outside his residence and it was determined he was off of his medication. No further action was taken by Durham Officers.

Incident #4: (PISTOL/LESS-LETHAL) 5/16/2019: An officer attempted to issue a parking ticket to an Uber Driver parking illegally on Main Street after he was warned previously for parking and obstructing traffic. The driver pulled forward and struck the officer. The officer moved out of the way and the suspect continued to accelerate, striking and cutting the officers hand. The driver refused to stop when directed and fled the scene until he was stopped by a second Durham Officer. The driver refused to exit the vehicle and ignored instructions from the officer. The driver fled the scene again at high speed, over 85 mph, and was stopped in Newmarket by Durham and Newmarket Officers after a short pursuit. One Durham Officer drew his pistol while a second Durham Officer retrieved the Less-Lethal Shotgun. The suspect was taken into custody without further incident.

Incident #5: (RIFLES – SRT CALL-OUT) 8/3/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A Rochester Police Officer initiated a motor vehicle stop resulting in a male driver shooting at the officer and fleeing into the woods. As part of the team, both Durham Officers were assigned to a perimeter position. With the help of a State Police Helicopter, the operators were able to locate the male in the woods and both officers pointed their rifles in his direction. One Durham Officer, in the company of other team members, approached the male and determined he had shot himself. Officers provided first aid and carried him to the waiting ambulance to be transported to the hospital where he later succumbed to his self-inflicted gunshot wound.

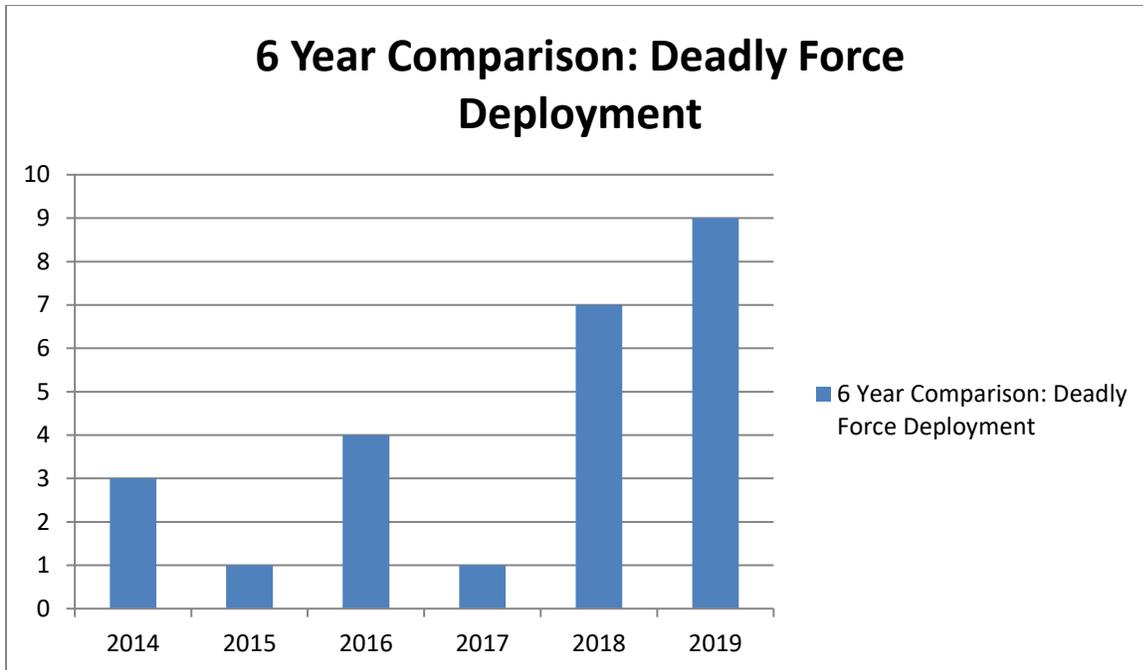
Incident #6: (Rifle – SRT CALL-OUT) 8/16/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A wanted male with warrants out of Georgia and Domestic Violence warrants in Rochester, NH was posting photographs and

messages online indicating he had a sawed-off shotgun and would not go back to prison. The male was known to be affiliated with the prison gang, Brotherhood of the White Warriors (BOWW). The team believed the male was located at a residence in Rochester. During the stand-off, one of the Durham Officers pointed his rifle in the general direction of the suspect. The suspect ultimately agreed to surrender and was taken into custody without further incident.

Incident #7: (Pistol – Warrant Service) 8/30/19: Officers were informed of a vehicle involved in a prior pursuit with Portsmouth PD. The vehicle was located at the Holiday Inn Express. The operator (known male) was known to be a drug dealer with a criminal history and known to carry a firearm. The male suspect was reported to be in the company of a female. Hotel management stated the male and female were being kicked out of hotel for failure to pay. The female suspect returned in the company of a male whom we later learned was a friend of the suspect. When the officer saw the couple entering the hotel room he drew his pistol and ordered the pair to stop and get on the ground. The couple was taken into custody without incident. Although the suspected male drug dealer had not returned, the male friend confirmed to our officers that the male suspect in question did indeed carry a pistol on his person and had access to an assault rifle as well.

Incident #8: (Rifle – SRT CALL-OUT) 10/6/2019: An officer deployed as part of the Strafford County Tactical Operations Unit. Prior to deployment, a suicidal male threatened Rochester Officers with a firearm while they conducted a welfare check on him at his apartment. The Durham Officer deployed with his rifle but never pointed it in the direction of the suspect. The male ultimately agreed to surrender and was taken into custody without further incident.

Incident #9: (Rifle – SRT CALL-OUT) 11/2/2019: An officer deployed as part of the Strafford County Tactical Operations Unit. Prior to deployment, a barricaded suicidal male in Rochester was believed to be under the influence of alcohol and drugs. The Durham Officer deployed with his rifle and pointed it in the direction of the suspect when the suspect exited the trailer. The suspect re-entered the trailer before he ultimately agreed to surrender. The suspect was taken into custody without further incident.



Even with a significant decline in the number of calls involving officers responding to some level of resistance, the number of times an officer had to resort to the display of deadly force continued to increase. It is important to note that we did not start adding SRT callouts to our Response to Resistance statistics until last year. This year we had four callouts that required the display of deadly force. There appears to be no true pattern regarding the types of calls requiring the display of deadly force. It would appear that the majority of the calls involved a suspect that was dealing with some sort of mental health issue. As noted previously in this report, the agency should continue to prioritize mental health related training for our officers and instructors.

Hand on Control Tactics

The use of “hand-on” control tactics is the principal method used by officers to subdue and ultimately gain control of suspects. Seven (41%) of our Response to Resistance incidents involved the officer taking a person into custody through the utilization of hand control tactics. In several incidents it took more than one officer in order to gain control and compliance of the suspect. Hand control tactics may include grappling/wrestling with the suspect or physical control only. Basically this equates to holding onto the suspect and guiding him/her as they walk towards a transport vehicle or actually taking them to the ground to gain control. The department must continue to prioritize defensive tactics training, with an emphasis on “hands-on” control techniques. All officers attended Defensive Tactics Training in 2019.

Personal Weapons as Striking Tools

For two years in a row there were no incidents involving an officer physically striking a suspect.

Application of Handcuffs

Traditional hinged handcuffs were used (76%) of the time while taking suspects into custody. Handcuffs were double locked and checked for looseness every time it was possible to do so relative to the violent behavior of the suspect.

The suspects reviewed in this report are routinely found to be under the influence of intoxicants. In most cases, by the time there is a response to resistance from the officer to take a suspect safely into custody, the suspect has already demonstrated a willingness to be violent.

Level of Resistance (Psychological Intimidation, Spitting on officer, Verbal threats, Defensive/Active Aggressive Posture, Passive Resistance, Defensive Resistance: Pulling Away, Twisting/Turning, Walk/Run Away, Active Aggression, Unarmed: Pushing/Pulling, Punching, Kicking, Slapping, Biting, Scratching, Suspect Armed or Suspected of Being Armed: Firearm, Knife/Edged Weapon, Blunt Weapon, Other, Attempted/Threatened to Disarm Officer, Officer Disarmed by Suspect, Other).

The levels of resistance used by most of the offenders included pulling away, or twisting and turning (65%). Several offenders attempted to resist by running away (18%). Only (18%) of the offenders showed “active aggression” tendencies such as pushing, pulling away, or punching the officers as they were being placed into lawful custody. Officers were verbally threatened by the suspect (12%) of the time, the suspect demonstrated a defensive or aggressive posture (6%) of the time, passively resisted (12%) of the time, and (76%) of the time demonstrated resistive defensive behaviors in some form or another while being arrested.

Special Circumstances (Suspects proximity of firearm, edged weapon or other type of weapon, Special Knowledge of Suspect: Known Martial Arts/Boxing/Wrestling Skills, Prior Assault(s) on Officer, Known/Suspected of Carrying Weapon, Known Physical Strength, Officer Exhausted, Officer Knocked to Ground, Officer Disabled or Injured, Officer Disarmed or at risk of being disarmed)

There were 8 incidents where a suspect was alleged to be armed or the officer believed the suspect might be armed with a weapon. Four of the incidents involved direct knowledge that the suspect currently possessed a firearm. Four additional incidents involved knowledge that the suspect may have been armed with a firearm or some other form of deadly force. One additional incident involved the suspect making a

movement designed to get the officer(s) confronting him to believe the he was armed. The suspect quickly grabbed his waistband and moved his hands in such a manner as to mimic drawing a weapon. In this case, the officers used their training and experience to quickly evaluate the threat and take the suspect into custody safely and without further incident.

Incident #1: 3/22/2019: Officers received a BOLO from Portsmouth PD regarding a male that was terminated from his job. The male made suicidal comments and alleged statements that he wished to “go out as violently as possible.”

Incident #2: 3/31/2019: Officers responded to area of Lodges/West Edge Lot for a report of a male sitting in his vehicle with a handgun. The male eventually shot himself in the arm and surrendered shortly afterwards.

Incident #3: 5/19/2019: An officer responded to assist Newmarket PD for a report of a man outside the front door of a residence holding a handgun. Upon arrival, the officer determined the male was hallucinating and was off of his medication.

Incident #4: 8/3/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A Rochester Police Officer initiated a motor vehicle stop resulting in a male driver shooting at the officer and fleeing into the woods. As part of the team, both Durham Officers were assigned to a perimeter position.

Incident #5: 8/16/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A wanted male with warrants out of Georgia and Domestic Violence warrants in Rochester, NH was posting photographs and messages online indicating he had a sawed-off shotgun and would not go back to prison.

Incident #6: 8/30/19: Officers were informed of a vehicle involved in a prior pursuit with Portsmouth PD. The vehicle was located at the Holiday Inn Express. The operator (known male) was known to be a drug dealer with a criminal history and known to carry a firearm.

Incident #7: 10/6/2019: An officer deployed as part of the Strafford County Tactical Operations Unit. Prior to deployment, a suicidal male threatened Rochester Officers with a firearm while they conducted a welfare check on him at his apartment.

Incident #8: 11/2/2019: An officer deployed as part of the Strafford County Tactical Operations Unit. Prior to deployment, a barricaded suicidal male in Rochester was believed to be under the influence of alcohol and drugs.

Contributing Factors (Size/Strength/Skill of suspect, Multiple suspects, Low light/darkness, Only 1 officer, Officer assistance delayed, Crowd gathering/surrounding, Crowd hostile to officer, Crowd hostile to suspects:

In 2019, Durham Officers confronted multiple suspects on one occasion. It is not uncommon in a university community setting for officers to encounter multiple suspects or to deal with large crowds gathering. Confronting suspects in large crowds such as those that gather during celebratory events can offer significant challenges. The Durham Police Department understands the delicate nature of these events and officers are taught to use common sense and an abundance of caution when forced to make arrests in such situations.

As noted earlier in the report, 7 encounters took place in dark or low light situations. All officers in the department have received low light training in 2019 as a part of the semi-annual firearms training. One officer indicated that the size and strength of the suspect they encountered played an important role in the decision to escalate the force continuum. It would not be unusual in the Town of Durham for a 110-pound female officer to encounter a 320-pound suspect. Again, the importance of alternate force options such as the Taser and OC cannot be overstated. Only one officer was present during two of the reported incidents. In each of those cases, a back-up officer was responding to the scene.

Injuries:

In 2019, no officers were injured while in the act of taking a person into custody. Officers may have been injured during an interaction with a suspect, but not at the time they were applying some sort of force to gain compliance.

Four people were treated for injuries that occurred prior to or during their interaction with a Durham Officer.

Incident #1: 01-27-2019: Officers responded to a 911 call on Emerson Road. The caller sounded panicked and stated that her boyfriend was, "going to do something." While responding, the officers were notified that the boyfriend was possibly attempting suicide. Dispatch advised they did not believe weapons were involved. Upon arrival, the male suspect ran at the initial officer while attempting to take his shirt off. The officer ordered the suspect to stop and he continued to approach the officer in an aggressive manner. As the suspect continued to approach the officer, he told the officer to shoot him. The suspect quickly brought his hands to his waist and made a motion consistent with pulling a firearm and brought his hands up as if he was aiming a weapon at the officer. As the officer started to pull his firearm, he observed there was nothing in the suspects hand and. A second officer approached the male from the side and drew his Taser as he ordered the suspect to stop. The suspect continued to approach the first officer and

the second officer deployed his Taser with immediate effect. The suspect fell to the ground and was handcuffed. The suspect complained of a cracked tooth. The officers noted he was bleeding from his knees as a result of the Taser and falling to the ground. EMS was called and the suspect was transported to Portsmouth Hospital.

Incident #2: 3/31/2019: Officers responded to area of Lodges/West Edge Lot for a report of a male sitting in his vehicle with a handgun. The male eventually shot himself in the arm and surrendered shortly thereafter. He was immediately transported to the hospital.

Incident #3: 8/3/2019: Officers deployed as part of the Strafford County Tactical Operations Unit. A Rochester Police Officer initiated a motor vehicle stop resulting in a male driver shooting at the officer and fleeing into the woods. One Durham Officer, in the company of other team members, approached the male and determined he had shot himself. Officers provided first aid and carried him to the waiting ambulance to be transported to the hospital where he succumbed to his injury.

Incident #4: 9/27/19: Officers responded to 14 Strafford Avenue for a report of a male with a head injury. Upon arrival, the officers determined the male was intoxicated and appeared to have received the laceration to his forehead by falling. The male displayed indicators of impairment and due to the head injury and level of intoxication it was determined he needed to go to the hospital. The male resisted placement on the backboard and flailed his arms and threw a punch at the officer. The officer was able to gain control over the suspect and he was transported to the hospital.

As in previous years it is evident from the analysis that Durham Officers use the minimum amount of force necessary when taking a person into custody. It is my conclusion that our hiring practices and our annual use of force training play a vital role in how Durham Officers treat people in custody. Our hiring practices are centered on identifying mature officers that reflect a calm and patient demeanor when communicating in stressful situations. The annual training focuses on the appropriate amount of force needed during response to resistance encounters, when that force should stop, and signs and symptoms that would indicate to an officer the suspect is in distress, both mentally and physically. Our instructors should be commended for the outstanding training they continue to provide every year.

Plainclothes vs. Uniformed Patrol: In 2019, we had two officers involved in a response to resistance situation while wearing plainclothes. During that encounter, two detectives assisted three uniformed officers on a felony stop. All uniformed officers had their badges clearly displayed. Officers involved in use of force encounters were wearing the appropriate style uniform for the time of year or assignment. There is no discernable pattern that shows the style of uniform playing a role in the outcome of an

encounter. Additionally, the type of cruiser did not appear to factor into the outcome of any of incident during the past six years.

Verbal Directions: Officers shouted verbal commands during all reported incidents where it was necessary to do so. Officers made every effort to identify themselves as Durham Police Officers and continued to repeat commands when necessary.

TASER X2

The Taser Electro-Muscular Disruption System is an important tool that filled the continuum between OC and deadly force, and proves to be a desirable alternative method of force that substantially limits injury to the suspect and the responding police officer.

The Taser can be deployed two ways. The officer can use their discretion to fire the weapon or drive-stun the suspect. Firing the weapon happens when the officer pulls the trigger and a cartridge shoots two prongs attached to two separate wires. The prongs enter through the skin and a charge is delivered to the suspect. The duration of the charge is 5 seconds. When using this method, the Taser deploys its own evidence in the form of confetti that has the Taser serial number of each cartridge used.

Drive-stunning the suspect involves pressing the “arc switch” and placing the cartridge bays against the suspect. The officer can control the seconds utilized by pressing and releasing the arc button. An officer may possibly choose this method when a suspect is wearing loose clothing or they are dealing with the suspect in close quarters.

When using the drive-stun method, there is no confetti evidence because cartridges are not used. All of the information concerning deployment is downloaded to the computer. Downloading information immediately after deployment is completed when the officer uses the drive-stun method or fires the weapon. Downloaded information will also verify that the officer tested the Taser prior to the start of their shift.

During 2019, out of the 17 calls Durham Officer’s responded to involving some level of resistance, on one occasion was a Taser drawn from the holster and pointed at the suspect and fired. The effect on the suspect was immediate and there was no further resistance.

Incident: 01-27-2019: Officers responded to a 911 call, noting the caller sounded panicked and stated that her boyfriend was “going to do something.” While responding, the officers were notified that the boyfriend was possibly attempting suicide. Upon arrival, the male suspect ran at the initial officer while attempting to take his shirt off. The officer ordered the suspect to stop and he continued to approach the officer in an aggressive manner. As the suspect continued to approach the officer, he told the officer

to shoot him. The suspect quickly brought his hands to his waist and made a motion consistent with pulling a firearm and brought his hands up as if he was aiming a weapon at the officer. As the officer started to pull his firearm, he observed there was nothing in the suspect's hand. A second officer approached the male from the side and drew his Taser as he ordered the suspect to stop. The suspect continued to approach the first officer and the second officer discharged the Taser with immediate effect. The suspect fell to the ground and was handcuffed. The suspect complained of a cracked tooth and officers noted he was bleeding from his knees as a result of falling to the ground. EMS was called and the suspect was transported to Portsmouth Hospital.

It is my conclusion that we continue supplying officers with this force continuum option. As agency personnel encounter incidents involving mental health, the Taser provides the officer with a much safer and less-lethal use of force. Additionally, it provides officers of smaller statute an effective option. In 2019, all officers completed Taser re-certification training.

OC/Pepper Spray

OC, unlike tear gas, is a highly concentrated form of peppers or other natural substances, therefore product is deemed biodegradable. OC acts as an inflammatory to the mucous membranes of humans and animals. When applied to the face, it typically causes swelling of the mucous membranes, involuntary closing of the eyes, gagging, coughing, shortness of breath, and an intense feeling of burning on the exposed areas.

In 2019, officers of the Durham Police Department had no documented incidents of using OC Spray to subdue a suspect. OC spray remains an effective tool when in close quarters or when the Taser does not affect the suspect in the manner anticipated. It is clear that OC spray can reduce injuries. I recommend that we continue to keep this non-lethal option available to sworn officers.

Police Expandable Straight Baton

The "Police Expandable Straight Baton", formally known as the ASP Straight Baton, was designated as an "optional" tool on the Use of Force Continuum in 2011. At that time, several of the officers voiced concern and lack of confidence in the straight baton as an effective tool. There were no documented uses of the straight baton in 2019, nor was it used in any manner during the four previous years. It is my recommendation that the department continue to train in the use of the baton and provide officers the option to carry it on duty if they choose to do so. When trained properly, and with individual practice, the baton can be a very effective option on the Force Continuum.

PepperBall

Pepper balls contain Pelargonic Acid and Vanillylmaide (PAVA). PAVA is pharmaceutically manufactured. It acts as an inflammatory agent to the mucous membranes of humans and animals. When the powder contacts the face, it typically causes swelling of the mucous membranes, involuntary closing of the eyes, gagging, coughing, shortness of breath, and an intense feeling of burning on the exposed areas. Pepper Ball Guns are used by members of the Durham Police Department to control and disperse large crowds of moving or resisting demonstrators or to prevent self-destructive acts of violence, such as any violent or potentially violent act by a suspect that is attempting or threatening to commit suicide by any means or cause serious bodily injury to themselves by any means.

In 2019, there were no incidents involving the deployment of PepperBall. It is important we maintain our training and preparation for celebratory events due to the unpredictable nature of these incidents. It is important that the organization continue to train and explore optional methods of deployment regarding the use of PepperBall or similar products.

Assaults or Suspected Assaults on Durham Police Officers in 2019

The following is an analysis of all assaults or attempted assaults on police officers in the Town of Durham for 2019. This analysis began in 2017 and will be conducted annually in an attempt to determine trends or patterns that will allow the department to enhance officer safety, revise policy, or address training needs. In 2019, of the seventeen responses to resistance reported by officers of the Durham Police Department, only three resulted in an attempt or actual assault of the officer involved.

Annual Assaults or Attempted Assaults on Officers

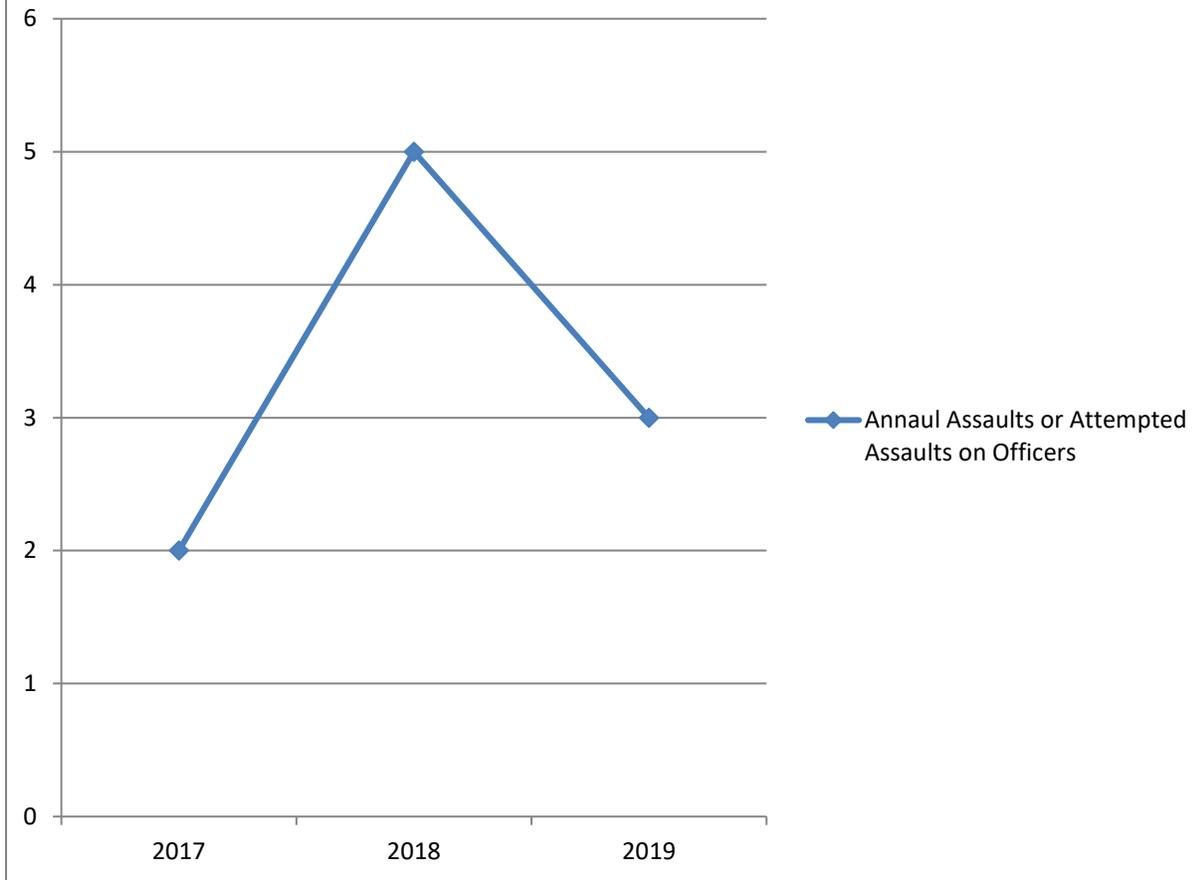


Chart A

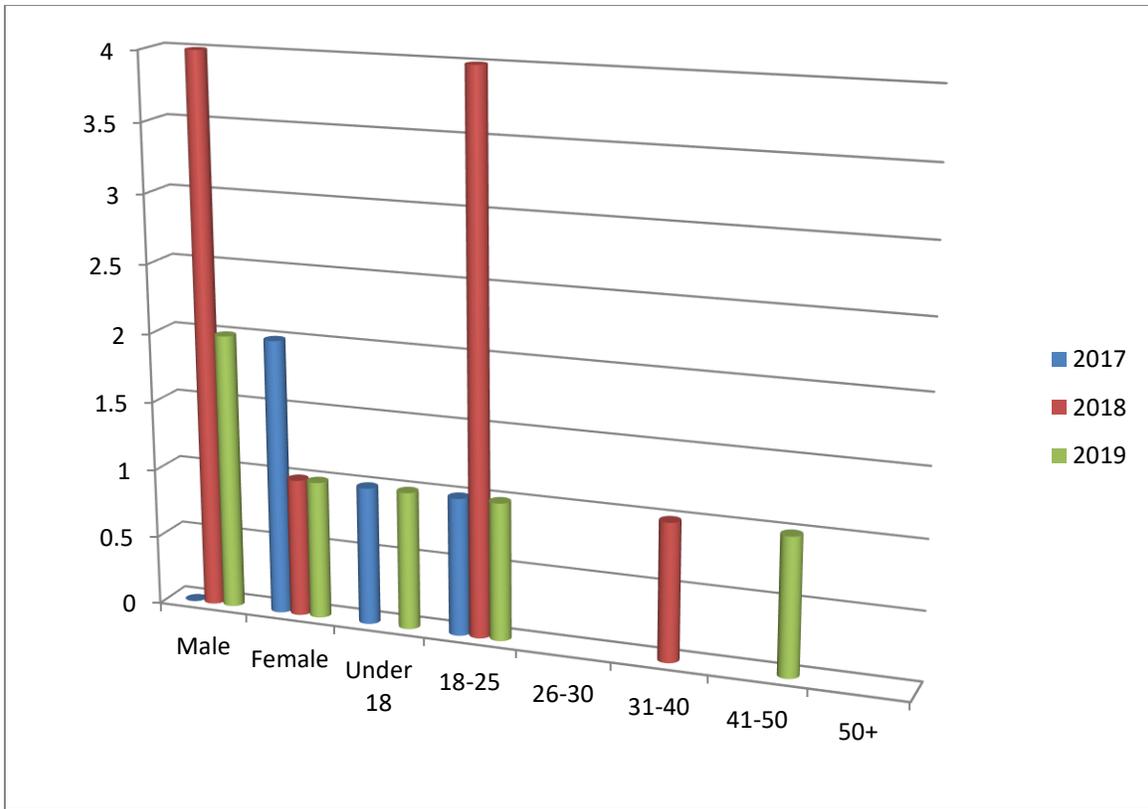


Chart B: Assaults or Attempted Assaulted by Suspect Gender and Age

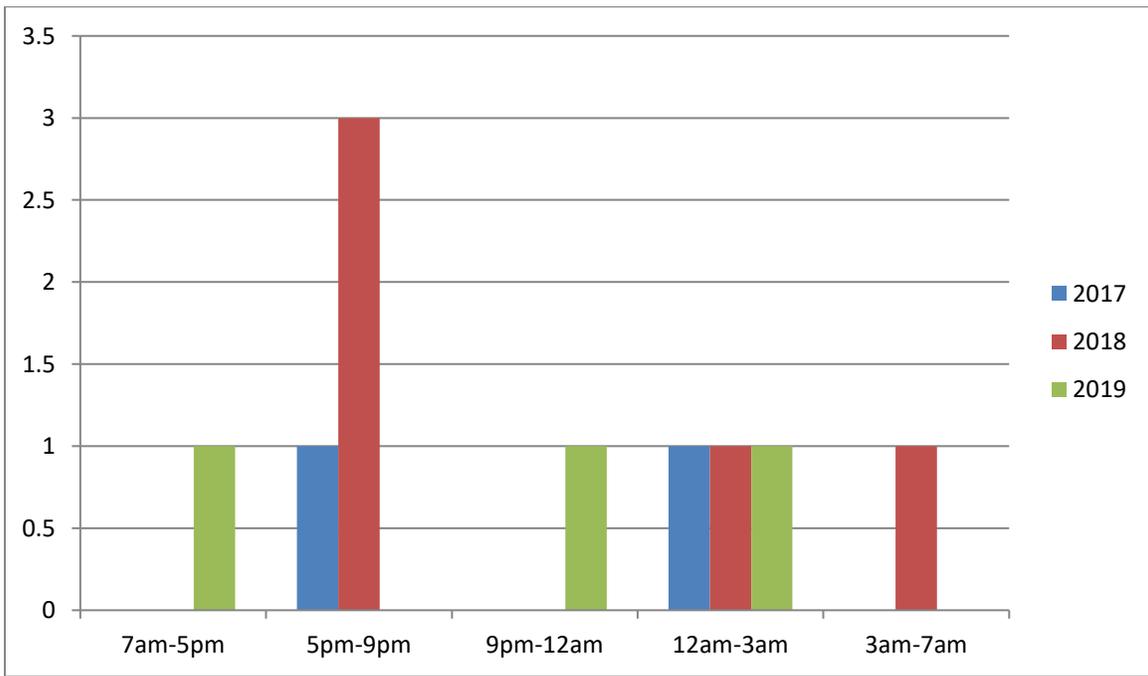


Chart C: Assaults or Attempted Assaulted by Time Frame

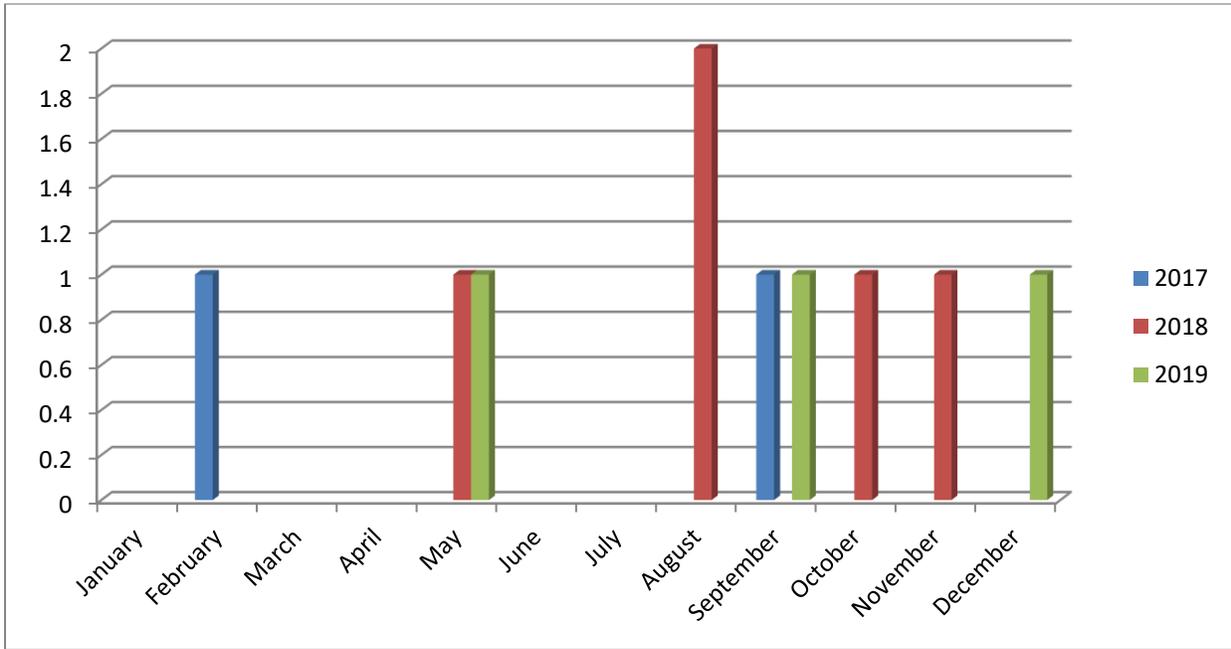


Chart D: Assaults or Attempted Assaults by Month

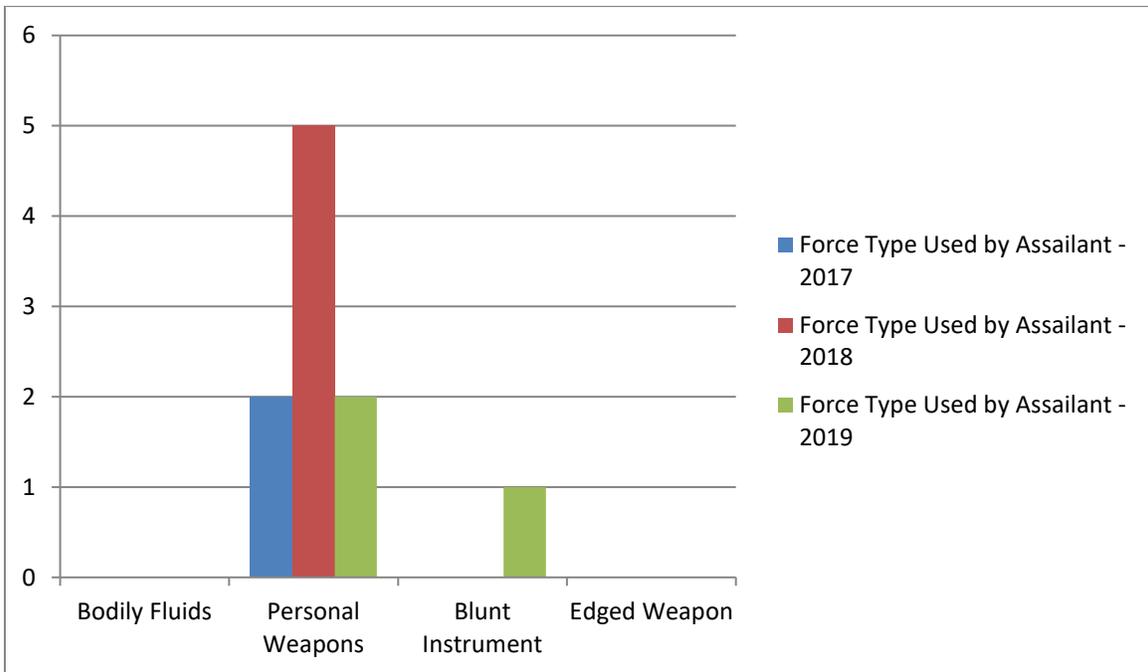


Chart E: Method of Assault or Attempted Assault

Incident #1: Officers attempted to issue a parking ticket to an Uber Driver parking illegally on Main Street after he was warned previously for parking and obstructing traffic. The driver pulled forward while an officer was standing in front of the vehicle and struck the officer. The officer moved out of the way and the suspect continued to accelerate, striking and cutting the officers hand.

Incident #2: (Attempted) Durham Officers responded to 14 Strafford Avenue for a report of a male with a head injury. Upon arrival, the officers determined the male was intoxicated and appeared to have received the laceration to his forehead by falling. The male displayed indicators of impairment and due to the head injury and level of intoxication it was determined he needed to go to the hospital. The male resisted placement on the backboard and flailed his arms and threw a punch at the officer.

Incident #3: A juvenile was in the process of receiving an in-school suspension when she stated she was going to fight the School Resource Officer and immediately started punching him. The SRO was able to gain control over the student as she continued to resist and ignore the officer's commands. The officer used physical control only to place the student in handcuffs.

Assaults on Durham Police Officers- Trends or Patterns

The analysis over the past three years shows no emerging patterns or trends that would affect our current staffing levels or shift allocations.

As noted in Chart A, the number of assaults or attempted assaults decreased from 2018 to 2019, corresponding to a decrease in the number of response to resistance incidents encountered by our officers.

Chart B shows that males and females are both likely to strike or attempt to strike an officer. Data has shown that the majority of calls involving resistance to a lawful arrest involve male suspects; therefore it stands to reason that males will be shown to commit more assaults.

What has and will always remain true is that Durham officers continue to age while the university age clientele does not. Additionally, many of our officers do not possess the size and strength of many of the suspects encountered regardless of their commitment to maintaining physical fitness. It is important that agency personnel continue to train with both lethal and less-lethal weapons, such as the Taser and OC, to provide our officers with more options on the force continuum.

The periods noted in Chart C match the times officers of the Durham Police Department most frequently responded to calls for service that resulted in some form of resistance.

Although the months where activity is the highest is easily observed it is impossible to negate the possibility of assaults during other months as well.

The primary method of assault by suspects is the utilization of personal weapons such as hands, feet, biting or spitting. As observed on page 15, officers primarily use hands on tactics to prevent the various types of resistance they encounter. It verifies that our officers are using the appropriate level of force when dealing with unarmed or armed suspects.

In 2017 and 2018, no weapons were used against any officers of the Durham Police Department. In 2019, one suspect used his motor vehicle as a deadly weapon (See Incident #1) and struck an officer as he was attempting to speak with him during what initially appeared to be a normal encounter with a citizen. I recommend that we continue to prioritize our defensive tactics training, and remind our officers to remain vigilant no matter what time of day, month, gender, or age a suspect might be when dealing with a hostile situation.

Officer Data: In 2019, the age and relative experience of officers reporting the application of force when responding to resistance generates no discernable pattern. The majority of force was employed by those officers assigned to the busiest shifts of the week; closely followed by those officers that often work overtime during those busy hours in the spring and fall to supplement patrol needs. This trend has been consistent for many years.

An examination of data collected since 1997 has shown that Sergeants assigned to supervise shifts on Thursday, Friday, and Saturday nights between the hours of 9:00 PM and 3:00 AM have as many, and in most cases more uses of force than any other officer or group of officers. In 2019, (59%) of the incidents involving response to resistance were initiated by supervisors. By policy, Sergeants must be dispatched to any call for service that involve or may involve felony crimes, crimes against persons, or other violent acts. An examination of each Response to Resistance Report by the Durham Police Department Command Staff immediately following the incidents revealed that the level of force used in every instance during 2019 was lawful, reasonable, necessary, and consistent with department policies.

Identified Deficiencies/Suggestions for Improvement

- Because of the expected high-level of turnover in 2020 due to retirements, promotions and new personnel selection processes, the department will need to prioritize the identification and training of new Taser, Firearms, PepperBall and Defensive Tactics Instructors.

- It would be appropriate to identify and train a second Exterior Response to Active Shooter Event (ERASE) Instructor.

Positive Efforts

- We are now tracking student vs. non-student involvement in response to resistance reports.
- Officers continue to be sent to mental health awareness training above and beyond the yearly roll-call refresher training.
- A follow-up to the 2017 Homeland Security tabletop exercise was conducted jointly with all in-town first responding agencies, to include the fire department, McGregor EMS and both dispatch centers. The joint training allows for better communication and understanding for all involved in the event of an active shooter situation on University or Durham property.
- Emergency tactical first aid was taught to all officers. This training included tourniquet application, CPR and tactical considerations when moving victims.
- All officers received Ethics and Bias Awareness training.
- The agency has continued to modify existing policies in an effort to maintain best practices related to police response to force.
- Instructors continue to ensure that the firearms, less lethal, and hands on defensive tactics training plan outlines are consistent and complement each other. .
- We continue to work at building partnerships with companies such as Sig Arms Inc., allowing us to receive free training under their email notification alert system.

Recommended Action Steps

- The department should continue refresher training in Use of Force Policies.
- The agency should continue refresher training in Ethics, Standards of Conduct, and Mission and Values to ensure that our officers understand the agency is committed a “Guardian” culture. It is critical that we continue to ensure the officers understand and embrace the premise that policing in Durham exists to provide services in a compassionate and unbiased manner.

- Continue to seek mental health, domestic violence, and suicide related awareness training.
- Increase practical training in the use of defensive tactics and simunitions scenarios.
- Continue our practice of training in low-light conditions.
- The department should continue to provide specialized training for Use of Force instructors and make every effort to identify qualified officers to join the cadre of certified instructors.
- The department must continue to evaluate all force continuum options; ensuring that whenever new technology emerges, officers are being provided with the most advanced tools and training. By maintaining best practice standards, it will allow our officers to utilize the least amount of force necessary when attempting to gain compliance from a resisting suspect.
- Continue training in verbal de-escalation strategies that have been proven effective to lessen the need to respond to violent offenders with force.
- Continue to staff historically busy/violent nights with additional officers.
- Continue to target unlawful sources of alcoholic beverages and drug trafficking; under-age drinking parties; and, other alcohol/drug related offenses that often lead to behaviors associated with poor judgment and decision-making.
- Continue to pursue alternative training methods such as the PRIMEX Driving and Use of Force Simulator or academy simulator and continue to seek and build partnerships with other companies and agencies.

Conclusion:

After reviewing all relevant data from previous years, I have once again concluded that there is no emerging pattern to suggest that any officer, individually or collectively, is using force greater than is reasonable and necessary to affect the arrest or detention of violently resisting persons. There is no data that suggests any Durham officer is acting in an overly aggressive or “badge-heavy” manner. The evidence over the past seven years is compelling and demonstrates that Durham officers use an extreme amount of restraint and professionalism when under duress, when provoked, and when threatened with harm. I believe it is a credit to our instructors, hiring process, field training program as well as adherence to sound policy and procedures under the CALEA accreditation process that allows our success to continue.

Analysis Prepared By:
Capt. David Holmstock _____ Date: _____

Reviewed By:
Deputy Chief Rene Kelley _____ Date: _____

Approved By:
Chief David Kurz _____ Date: _____