

NASHUA POLICE DEPARTMENT



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July 22, 2020

To: Governor's Commission on Law Enforcement Accountability, Community and Transparency
From: Deputy Chief James Testaverde, Nashua Police Department
Re: Comments Made During Public Testimony Regarding Juvenile Arrests

Commission members,

I write to you today in an attempt to provide accurate information regarding the Nashua Police Department's position on juvenile arrests. This letter is based in response to comments made during your July 16, 2020 hearings by Attorney Julian Jefferson. Attorney Jefferson had commented that in Manchester and Nashua children as young as 10, 11, and 12-years-old are constantly being arrested by police officers. Also stated was that students in Manchester and Nashua at times become involved in physical altercations in schools and are then prosecuted for felony level offenses. Attorney Jefferson referenced a case where a student assaulted a classmate for making a derogatory racial slur at him and the student was charged with felony level Riot.

The Nashua Police Department understands the reason for forming this Commission. The Nashua Police Department welcomes any best practice recommendations that can assist us in making our agency even greater. As you have previously heard in the testimony of Mr. William Pease and Lieutenant Carlos Camacho, the Nashua Police Department takes a proactive approach toward making positive connections with all members of our community. Under our current climate, where some individuals have a distrust for law enforcement, we believe that positive nonviolent discussions and community collaborations can rebuild that trust. That being said, it is imperative that these discussions be factually based, as misinformation will only hinder what this Commission is trying to accomplish.

In light of Attorney Jefferson's statements we had our crime analyst pull data from January 1, 2014 to July 16, 2020. In order to assist with understanding the following information I will outline a few brief definitions. The Special Investigations Division (SID) of the Nashua Police Department's Detective Bureau oversees domestic violence investigations, sexual assault investigations and crimes that were committed by or against juveniles. The Criminal Investigation Division investigates felony level offenses committed by adults, against adults, excluding the crimes that fall under SID above. These were our findings:

15-82345-AR/15-82345-OF. SID handled and filed four petitions for Aggravated Felonious Sexual Assault (AFSA) in which a 12-year-old male sexually assaulted a 7-year-old female. No physical arrest took place.

16-33273-AR/16-33273-OF. SID handled and filed three petitions for AFSA in which a 12-year-old male, sexually assaulted an 8-year-old male. No physical arrest took place.

16-69252-AR/16-69252-OF. SID handled and filed one petition for Felonious Sexual Assault against the same 12-year-old male from case 16-33273, for sexually assaulting a 9-year-old female. No physical arrest took place.

19-22548-AR. Patrol Officers placed an 11-year-old male, into protective custody at the request of his guardian and counselor due to uncontrollable behavior associated with ADHD and Oppositional Defiant Disorder. The boy was not handcuffed and was physically controlled while transported by ambulance to St. Joseph's Hospital.

19-45875-AR. Patrol Officers responded to an ambulance call in which a 12-year-old female physically interfered with officers who were attempting to place her mother into protective custody. The juvenile female assaulted officers and was placed into handcuffs during a fluid situation without knowing her age. Once officers realized she was 12-years-old, they took the handcuffs off and the Department of Children, Youth, and Families temporarily placed the juvenile into a foster home.

20-18898-AR. Patrol Officers issued a summons to a 12-year-old male for criminal trespass at a vacant house in Nashua. The juvenile male was released on scene to his mother and SID later completed court diversion paperwork.

20-13535-AR. Patrol Officers located a 12-year-old female who was a reported runaway. She was not handcuffed and was transported in a police vehicle back to her grandmother's house.

We also researched all riot arrests during the same time frame and could not locate any Nashua incident similar to the one referenced by Attorney Jefferson. During this time frame, we arrested five juveniles, ages 15-17, for riot, two felonies and three misdemeanors.

15-61738-AR/15-27632-OF. CID arrested a 16-year-old male for his involvement in a large disturbance involving shots fired in the area of Kinsley Street. A petition was filed for felony riot.

15-66222-AR/15-27632-OF. CID arrested a 17-year-old male for his involvement in the same large disturbance involving shots fired in the area of Kinsley Street. A petition was filed for felony riot.

18-87299-AR/18-61274-OF. Patrol Officers arrested a 17-year-old female for her involvement in a large disturbance at 300 Main Street. SID completed court diversion paperwork for misdemeanor riot.

19-28237-AR/19-22299-OF. Patrol Officers arrested a 17-year-old male for his involvement in a disturbance in the area of Lake Street. A petition was filed for misdemeanor riot.

19-31155-AR/19-22299-OF. Patrol Officers arrested a 17-year-old male for his involvement in the same disturbance in the area of Lake Street. A petition was filed for misdemeanor riot.

Under Nashua Police Department Standard Operating Procedure #7: Arrests & Warrantless Arrests, our policy for juvenile arrests is clearly stated:

JUVENILE ARREST:

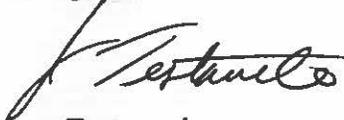
1. An arrest on a juvenile can be made without a warrant (pursuant to 169-B:9) when the Officer has probable cause to believe the juvenile committed a misdemeanor or felony.
2. Offenders **under the age of 13-years-old who commit non-violent** offenses such as property crimes, disturbing the peace etc. **shall not be arrested**, but sent to court via a juvenile petition. The officer handling the incident should prepare their report asking that the case be referred to the Special Investigations Division. The case will then be reviewed by SID supervisory personnel and if they concur, a petition will be issued to have the juvenile summoned to court. Every effort shall be made to diffuse the situation and allow the child to remain within the household or at a relative's residence. If the child is uncontrollable and the situation cannot be diffused, a supervisor will be contacted. The supervisor will make the decision to effect an arrest and follow the procedure as outlined in paragraph #3. *The decision to arrest should be the last resort and the supervisor should make an attempt to contact a Special Investigations Division supervisor prior to authorizing the arrest.*
3. When an offender under the age of 13-years-old commits a serious offense on a person, such as a felony assault, robbery, and felony sexual assault etc. a Special Investigations Division Supervisor or Detective will be immediately notified before any arrest is made. If the juvenile offender is uncontrollable and a risk to the Officer or any person present, the Officer can arrest the juvenile, search and handcuff the individual. The Officer can then transport the juvenile to the Nashua Police Department where they will be escorted to the Special Investigations Division. *The employee North side entrance should be used, so the juvenile will not be seen coming through the front lobby area while in custody* The arresting officer will remain with the offender until the SID Supervisor or Detective clears the Officer. **AT NO TIME WILL A JUVENILE UNDER THE AGE OF 13-YEARS-OLD, BE BROUGHT THROUGH THE BOOKING DIVISION OR PLACED IN A CELL.** The SID Detective on duty will determine what course of action will be taken with the juvenile in

custody such as placement, treatment etc. The Officer will forward all arrest information to the booking Officer for proper documentation in IMC. No photo or finger prints will be taken from the juvenile and he or she will receive placement as soon as possible, (within the allowed 4 hour rule).

The above cases as well as our internal procedures regarding the handling of juvenile arrests should illustrate that the Nashua Police Department is not constantly arresting juveniles under the age of thirteen. As you have seen above, the instances where juveniles were being petitioned to court at young ages were in the most extreme circumstances.

I hope this has been informative and helpful to the Commission. Again, our intent here was not to argue a point, but rather to professionally illustrate the facts in an effort to assist you all with your extremely important assignment. If we can be of more service to your group, please do not hesitate to contact us.

Best regards,



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