

Internal Affairs Report Broad Street Police Response August 8, 2007

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March 1, 2008



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INTRODUCTION

This report examines a verbal altercation in front of *Pronto's* fast food restaurant at the corner of Broad and South Beach Streets between a Nantucket Police Summer Officer and a group of teenagers and subsequent events on August 8, 2007 at 23:30¹. The investigation centers upon the initial encounter on Broad Street and the response by officers of the Nantucket Police Department to the altercation which resulted in the detention and arrests of persons that comprised the group of teenagers on Oak Street.

The first known complaint to the Chief of Police regarding this incident was made by a parent of one of the injured bicyclists five days later on August 13, 2007. Following that initial report, other members of the group made their complaints know either directly or through representatives. While there has been no formal written complaint by an individual alleging impropriety by a Nantucket Police officer, there has been a general complaint regarding the behavior of the Summer Officer on Broad Street and the response and behavior of officers who detained and arrested the teenagers on Oak Street. It has been alleged by members of the group that the initial encounter giving rise to the verbal altercation was not appropriate and the subsequent detention and arrests were unwarranted. It was also alleged that injuries were sustained by two teenage members of the group and that these injuries were the result of excessive force by Nantucket Police officers.

Over thirty interviews were conducted over a six month period. Police reports, witness transcripts, photographs, video and audio data was also compiled and

¹ All times shown in this report are based on the 24 hour military clock, Eastern Daylight Time.

reviewed. Interviews with the two persons arrested in the incident, Adeane Watty and Nicholas Phillips have not been completed as they have not been willing to meet with investigators. This investigation was hampered due to limitations placed upon investigating officers by the teenage groups representatives by limiting the manner in which interviews were conducted. The *Summary of Investigation* is a compilation of the evidence obtained. Information presented in this report is based upon witness statements that are in general agreement as to certain occurrences. Those witness statements directly contradictory to other witness statements were not used as a basis for conclusions, but have been included in the Appendix.



EXECUTIVE SUMMARY

On August 8, 2007, about 22:30, a Nantucket Police Department, Summer Special Officer encountered seven teenage black males who were upon bicycles on the sidewalk and street in front of *Pronto's* fast food restaurant at the corner of Broad and South Beach Streets. The Summer Officer asked the bicyclists who were blocking the passage of pedestrians to move off of the sidewalk and a verbal altercation ensued between the officer and one of the bicyclists. As the altercation escalated in intensity, members of the bicyclist's party intervened and restrained their friend. Simultaneously, the Summer Officer radioed for help. The Summer Officer's cryptic radio call generated an overwhelming police response to the area. Full-time officers on foot ran from the nearby police station to the area as well as a response by an officer in a marked patrol car. Other on-duty Summer Special police officers on foot and bicycles quickly saturated the area. The seven male bicyclists and one additional female bicyclist quickly fled as the responding officers approached. Two of the bicyclists stopped of their own accord at the intersection of Oak and South Water Streets when a third companion, either fell off of his bicycle or ran in to a marked patrol car. As the three bicyclists were being detained, it was determined that none of them were directly involved with the altercation. They were immediately released. At the same time, the teenage male who was the source of the altercation with the Summer Officer at *Pronto's* appeared at the scene and admitted to officers that he was the one responsible. He was then placed under arrest for the assault on the Summer Officer and creating a disturbance on Broad Street. Upon the arrest of the responsible person, another teenage male attempted to intercede and struck an officer. This teenager was arrested for assault and battery and disorderly conduct. This entire incident, from the

radio call from the Summer Officer to the arrests of the two subjects, occurred in the span of approximately five minutes.

This investigation has determined that none of the Full-time or Special Police Officers exceeded their lawful authority during this police response. The officers also acted permissibly within the bounds of Nantucket Police Department regulations. The arrests of the two teenage males were based upon probable cause. However the investigation has revealed several issues regarding the police response to this incident. There was a general lack of command and control at the scene which lead to overall confusion. Contributing to this was a lack of following proper radio procedures and the failure of the dispatcher and responding officers to correctly identify the situation and determine a proper police response. The manner in which the three teenagers were detained was not appropriate and the force used was not proportionate to the situation that existed. This investigation was hampered by the failure of all responding officers to identify and interview potential witnesses and to complete detailed police reports regarding their actions and observations.

The issues discussed in this report focus on the need for (1) improved supervision of responding personnel to an incident, (2) the implementation of standardized radio procedures for Summer Special and Full-Time Officers, (3) on scene supervision and control of officers, (4) additional training for Full-Time and Special Officers in dealing with community members of different racial or ethnic origins, (5) dispatcher protocols need to be established for all shifts, and (6) implementation of proper police procedures to identify and interview witnesses and incident documentation.

3. CONCLUSIONS

This investigation has determined that the actions of police officers noted in this report was within their lawful authority. Special Officer Noll's actions were appropriate in asking the group of teenagers to move their bicycles to the opposite side of Broad Street. The police response to Noll's request for assistance was excessive and it was apparent that none of the responders knew or had any understanding of what they were responding to. No information was obtained or relayed by the police dispatcher. None of the full-time officers who responded requested any information, nor did they make any inquiries as to why they were responding or what they might be looking for.

Officer Nee, while responding to Broad Street in a marked police cruiser, came across two groups of bicycles. Officer Nee had no knowledge he was looking for bicyclists and stopped his cruiser only because the bicycles had crossed his path. Troy Sullivan, a bicyclist in the second group that approached Nee fell off of his bicycle to the ground. Whether the fall was due to: contact by a moving cruiser, impact from a moving bicycle into a stopped cruiser or, falling to the ground in front of the cruiser because of attempting to abruptly stop the bicycle, can not be determined. What can be determined is that Troy Sullivan fell off of his bicycle because of the cruiser. At the time, no injuries were reported or observed due to this fall. There has also been no subsequent report of any injury to Troy Sullivan consistent with an impact with a vehicle.

Officer Aprea was the only officer who had some idea, although wrong, of what he was responding to. He was under the mistaken impression it was a fight. Officer Aprea along with Special Officer Ketcham pursued the bicyclists toward Officer Nee, but for some unexplained reason, Aprea gave the command for the three stopped bicyclists to

“Get on the Ground!”. The basis for such a command was not justified by the events known to the officers at the time. Proper police techniques were used in placing the three bicyclists on the ground, but the situation where those techniques were applied was not appropriate, nor were they justified by the facts. The shoulder injury sustained by Terrence Johnson was directly attributable to a properly applied arm bar takedown to the ground, the application of this takedown during this event was inappropriate and excessive. Subsequent pat-frisking of the three subjects detained and allowing them to stand on their own to be escorted to the side wall of the Dreamland theater was appropriate. Officer Aprea did act properly, upon learning that these three did not include the individual who was in the verbal altercation with Special Officer Noll, by releasing them immediately. The subsequent arrest of Nicholas Phillips²³ was based upon probable cause as well as the arrest of Adeane Watty²⁴. However, upon their arrests, the police sought out no additional information or witnesses. There were approximately eighty to one hundred witnesses, yet no Officer sought out any names or statements. No Officer on the scene took command to ensure that proper procedural follow-up was done. Officer Muhr, the officer in charge²⁵ of the shift, was in the station when the initial radio call was received, but he took no affirmative action to determine the nature and scope of the incident. Furthermore police reports, beyond initial arrest reports, were not immediately completed.

²³ Charges filed were: MGL c.265 s.13D(A) Assault on Police Officer. c.272 s.53 Disorderly Conduct, c.268 s. 32B Resisting arrest.

²⁴ Charges filed were: MGL c.265 s.13D(A) A&B on Police Officer. c.272 s.53 Disorderly Conduct, c.268 s. 32B Resisting arrest.

²⁵ Normally a Sergeant would be the Officer in Charge, however when no Sergeant is working, the most senior police officer assumes the duties of an Officer in Charge.

3.1 Findings

1. Special Officer Noll properly followed department policy and the Nantucket Town Code by attempting to keep bicycles off of the sidewalk.
2. The verbal altercation was initiated by Nicholas Phillips and was in violation of Massachusetts General Law.
3. Special Officer Noll failed to de-escalate the verbal altercation and failed to properly communicate his need for assistance to the police dispatcher.
4. The Police Dispatcher, Officer Gonzalez, failed to properly identify the need for assistance and took no effort to coordinate a police response. The implementation of a central dispatch system with full-time trained dispatchers should proceed without delay
5. Officer Aprea, being the first Full-Time Officer to respond to Special Officer Noll, took no action in identifying the suspects, the incident, nor did he properly communicate the rapidly evolving situation to the dispatcher and other responding officers.
6. Officer Nee was properly operating his police vehicle in response to the request for assistance by Special Officer Noll.
7. The police cruiser operated by Officer Nee did come in contact with a bicycle ridden by Troy Sullivan. It is undetermined if Nee's cruiser was stopped and

- hit by Sullivan or if the cruiser was slightly moving. The placement of Officer Nee's cruiser in the middle of the street did cause the bicycle operated by Troy Sullivan to fall to the ground. Sullivan was not injured nor was there any reported damage to his bicycle or the police cruiser.
8. Officer Aprea initiated detention of the three bicyclists which, based upon his knowledge of the event, was legally permissible. However the manner in which the detention was made, although legal and pursuant to training, was not warranted. Officer Aprea failed to conduct proper field interview procedures.
 9. The detention and subsequent takedown of Terrence Johnson by Special Officer Ketcham although performed properly, was not appropriate and was excessive. The shoulder injury to Terrence Johnson was a direct result of this takedown.
 10. Officer Aprea, upon learning that the three bicyclists that he had detained were not wanted in connection to the Broad Street altercation were immediately and properly released. The length of time that the three were detained did not exceed three minutes.
 11. Nicholas Phillips voluntarily returned to the area and admitted that he was the responsible person for the altercation with Special Officer Noll. Phillips was arrested and charged with assault upon a police officer, disorderly conduct and resisting arrest.

12. Adeane Watty was a bystander, who, upon witnessing the arrest of Phillips, became agitated. He then pushed or struck Officer Hollis with his hands. He was arrested and charged with assault and battery on a police officer, disorderly conduct and resisting arrest.
13. Nicholas Phillips was properly arrested and escorted over to the Police Station. No injuries were reported by him or observed by Officers.
14. Adeane Watty was properly arrested and escorted over to the Police Station. Watty reported no injuries, but it was noted during booking that he had a limp. Watty declined any medical treatment. It is inconclusive if the arrest aggravated a pre-existing knee injury.
15. Witnesses to this event were neither identified or sought out by the police.
16. Officer Muhr failed to direct officers, beyond the arresting officers, to complete contemporaneous reports of the events.

4. RECOMMENDATIONS

4.1 Recommendations

1. All officers should receive diversity training and how the police are perceived by various demographic groups.
2. Summer Special Officer training should be enhanced to include situational scenarios and methods to de-escalate volatile encounters.
3. Summer Special Officer training should include radio procedures during high stress events.
4. Summer Special Officer training should include enhanced defensive tactics instruction to include role playing and situational application of the techniques taught.
5. All officers assigned to desk duty should receive training on how to effectively manage police resources in responding to incidents.
6. All officers should receive training on the proper collection of witness information, statements, and use of proper field interview procedures.
7. The assignment of a patrol officer as Officer in Charge should be reviewed and curtailed. Meanwhile, those patrol officers who are assigned should be thoroughly familiar with their responsibilities as Officer in Charge.