



Memorandum

To: Paul Bockelman
Town Manager

From: Pamela Nolan Young
DEI Director

Re: July 5th Police and Youth Interaction

Date: August 14, 2022

Factual Background:

At 12:32 AM on July 5th 2022, two Amherst Police Department officers responded to a noise complaint. The officers arrived on the scene to find nine minors near two vehicles. All were under the age of 18. The minors were of various races and ethnicities; at least three of the nine were BIPOC youths. The officers interacted with the nine teens for about fifty minutes. During the interaction the officers asked the teens to identify themselves, as is police protocol. One member of the group questioned the officers as to why they were being detained and why they were being asked to present identification.

People under the age of 18 are considered “junior operators” for motor vehicles under Massachusetts law. As a junior operator the teens were in violation of M.G.L. c 90 sec. 10 and sec.8B which states that junior operators are prohibited from driving between 12 AM - 5AM.

In response to questions from the teens, one of the Amherst Police Officers erroneously stated “you do not have rights at this point.” The 54 second video of this portion of the nearly one-hour conversation was posted on social media. Naturally, Town residents expressed concern.

In response to the concerns and complaints raised the following has occurred. The Town Manager issued a statement reinforcing the Town’s commitment to treat everyone fairly and stating that the Town would review the 54 second video. The Director of Diversity, Equity, and Inclusion officially sought a review of the interaction. At the Town Council meeting on July 18th, three members of the public made public comments and the Town Manager spoke to the issue during his report. The Human Rights Commission filed a complaint with the Amherst Police Department on July 21, 2022 alleging an abuse of authority. The Community Safety and Social Justice Committee issued a letter of condemnation on July, 29, 2022.

The Amherst Police Department is conducting an investigation.

The Amherst Police Department has responded to several requests for information regarding the interaction under the Freedom of information Act. The information provided to those requests is considered to be a part of this report. The owner of the video allowed a member of the Amherst Police Department to view two additional video recordings, one five seconds and the other four seconds long. The owner of the video stated that she was aware of no other video. The owner would not agree to release any additional video.

The Amherst Police Department has completed its investigation, but has delayed finalizing a report pending any additional information that may come forward following the meeting of the Town Council. The Amherst Police Department sought information from and to meet with the youths and with the parents and guardians of the youth involved. NO parent or guardian of any of the teens involved has filed a complaint. Any additional video or statements from the minors or their parents or guardians would be welcomed. The officer conducting the investigation has reviewed the recording of the noise complaint, met with both officers who responded to the call, reviewed the Department's policies and regulations regarding officer conduct, and reviewed the Amherst Department's Juvenile, Noise Enforcement and Arrest policies.

To date the following facts have been discovered:

- A noise complaint was received on July 5, 2022 at 12:32 AM at 683 Main Street in Amherst.
- Nine teens were detained and released to their parents or guardians.
- The police were on the scene and cleared the call within fifty minutes.
- No citations, summons or arrests were made.
- No physical force was used.
- No parties reported physical injuries.
- No property damage was reported.
- No profanity was used.

The employment conditions of the members of the Amherst Police Department are governed by a collective bargaining agreement and departmental policies. The Department's Discipline Policy is being followed. The policy is considered to be part of this report. Pursuant to the policy, the officers are subject to progressive discipline. Both state law, departmental policy, and the collective bargaining agreement prohibit the release of personal personnel actions. The Chief has followed the progressive discipline procedures outlined in the departmental policy.

Ironically, July 5th is also the date that the Town swore in members of two new Departments, Community Responders for Equity, Safety, and Service (CRESS) and Diversity, Equity, and Inclusion (DEI). The creation of these departments is evidence of the Town's commitment to diversity, equity and inclusion. As stated in the Town's DEI statement "The Town believes in fostering and maintaining a safe and welcoming community, which is based on mutual respect for our residents, students, employees, businesses, and guests."

The Town Manager created a team that included Police leadership, CRESS leadership, and DEI leadership to review this situation and the Town's response to it. This team approach provided an excellent model for addressing this incident and incidents like this going forward. These departments worked together to explore the appropriate response to this incident which included ascertaining facts, assessing the facts and impacts on participants, and utilization of progressive discipline.

The Issue: Did the actions of the responding officers or the statement of the one police officer to the youth "that you have no rights" equate to an abuse of power?

Analysis: The statement of the officer was incorrect. The Equal Protection clause of the 14th Amendment prohibits a state from depriving or denying any person rights under the law. Minors are afforded rights under the Massachusetts State Constitution and the United States Constitution. For example, the courts have held that minors have a right against self-incrimination as would adults.

A simple definition of abuse of power from the United States Department of Justice "is the misuse of a position of power **to take unjust advantage of individuals**, organizations, or governments"
[Emphasis added]

While the words of one of the responding officers were incorrect, the reported actions of the officers do not indicate an abuse of power. The youth were not placed under arrest, nor was a citation given. The officers made sure the youths left in the custody of a parent or guardian, as required for juvenile operators.

Conclusion: One of the officers responding to the noise complaint erred when the statement "you have no rights" was made in response to an inquiry by one of the teens regarding the officer's request for the teens to present identification. This error does not equate to an abuse of power.

The police interaction has been investigated. The Department will follow the departmental discipline policies and the collective bargaining agreement.

Observations: The Town should be more proactive in communicating the status of an event like this to elected officials and the public.

"Not everything that is faced can be changed. But nothing can be changed until it is faced".

– James Baldwin

"If you want to make peace with your enemy, you have to work with your enemy. Then he becomes your partner."

– Nelson Mandela