



**IN THE MATTER OF THE INJURY OF A FEMALE
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN THE CITY OF NANAIMO, BRITISH COLUMBIA
ON MAY 26, 2020**

**DECISION OF THE CHIEF CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATIONS OFFICE**

Chief Civilian Director:	Ronald J. MacDonald, Q.C.
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INTRODUCTION

On May 26, 2020, several RCMP members went to a residence in Nanaimo in response to a report that a 'suicidal female' had locked herself in a bathroom with scissors. The officers found that the Affected Person ('AP') was barricaded in a bedroom on the upper floor of the home, and was shouting at police to leave. After some time, AP left the bedroom and went to the living room, which was also on the upper floor. When she was informed that the officers intended to apprehend her under the *Mental Health Act*, AP became resistant and a struggle ensued. In the course of that struggle and a fall that occurred as officers were attempting to walk AP downstairs to the lower level, AP suffered injuries to her face.

The Independent Investigations Office ('IIO') was notified and commenced an investigation.

The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- verbal and written statements of AP to the IIO and to the media;
- statements of four other civilian witnesses, one paramedic and three witness police officers;
- police Computer-Aided Dispatch ('CAD') and Police Records Information Management Environment ('PRIME') records;
- recordings of 911 call and police radio transmissions;
- scene photographs;
- a Closed-Circuit Television ('CCTV') video and audio recording;
- records of AP's complaint to the Civilian Review and Complaint Commission ('CRCC') for the RCMP;
- AP's Statement of Claim in a civil proceeding; and
- medical, dental and counselling evidence.

The IIO does not compel officers who are the subject of an investigation to submit their notes, reports and data. In this case, Subject Officer 1 ('SO1') did not provide any evidence. SO2 gave access to his notes, photographs and PRIME report.

NARRATIVE

Affected Person

AP has worked as a personal fitness trainer and witnesses have described her as a large, strong, physically capable woman, between five feet ten inches and six feet tall.

AP told the IIO that on May 26, 2020, she had “a bit of an argument” with her adult son, Civilian Witness 1 (‘CW1’). She said that she had been struggling with depression at the time, and became “quite emotional”, but also said that she was “very calm”. She said she went to her bedroom “safe space”, and then went into the en-suite bathroom, crying. Her son and daughter, she said, came into the bedroom, asking her to come out of the bathroom, “but in a very negative kind of way ... taunting me”. AP said she came out into the bedroom, grabbed a pair of scissors and a lighter, and told the son and daughter to go away. AP said she then went back into the bathroom, very upset, and “emptied the drawers”. She said she made a series of small cuts on her upper arm.

Shortly afterwards, AP said, she heard sirens, and “panicked”, because she was afraid of the RCMP. When police officers came to the bedroom door, AP refused to leave the room and told the officers to leave the house. She told them she wanted an ambulance. After some time, she said, she cleaned the blood off her arms and hands, came out of the bedroom and went to sit on a couch in the living room. In her IIO interview, AP indicated that her memory of the events that followed was imperfect.

AP told IIO investigators that despite her showing the officers her wrists and throat and telling them she did not intend to kill herself, they told her she was to be apprehended under the *Mental Health Act* and taken to hospital. AP said she refused to go:

I said, “No you’re not. I will fucking fight you”. As soon as I stood up and said that, the officer to my left struck me with one of his fists. I couldn’t tell you which one. However, the specialist’s report for my nose, when I saw the surgeon about my nose, he agreed that I was struck on a 45 degree angle from my left side. I asked her to confirm that in the notes, for my records.

In a subsequent written statement, AP wrote:

They told me they were apprehending me under the mental health act to which I stood up suddenly and was struck in the face by the fist of the officer immediate to my left. I lost consciousness, falling face first with my mouth open, breaking many of my front teeth including breaking off my two front teeth. Upon awaking I tell them they broke my glasses, but

then I saw the pool of blood under my face, larger than my head, and my teeth on the ground beneath me.

AP said she started screaming. The officers were trying to pin her down and she was fighting them. She said they then pulled a “bag” over her head, and said she could neither see nor breathe.

AP gave interviews to news media outlets after the incident. In one she is quoted as having told the interviewer that the hood was put on her after she was “trying to spit blood out of her mouth”. Similarly, AP acknowledged during her IIO interview that she had spit blood at one point in the struggle, but only down onto the floor and not at the officers.

The written statement continues AP’s narrative:

The officers dragged me to standing and pulled me to the top of the stairs, where I lost consciousness without oxygen. I fell down two stories of stairs. I was revived when the front of my face hit the bannister half way down the two stories that they dropped me down.

AP’s complaint to the CRCC also refers to her having been “dropped down two flights of stairs”.

“I saw stars, blacked out and fell”, AP told the IIO, “I felt the impact of my broken nose on the banister”. Officers then pulled her to her feet and walked her out through the front door. “I yelled at them, ‘That was awesome!’”, said AP, and said she then started screaming for help.

AP said that the officer who had struck her was the tallest of them, and that he rode in the ambulance with her (WO1 was the officer who rode in the ambulance with AP, and he is significantly taller than any of the other attending officers). At the hospital, she said, she asked this officer, “Have you ever struck a woman before? And he said, ‘No’”.

The next day, she said, a more senior RCMP officer called her and asked if she would be willing to give a blood sample to compare with blood found on the officers, and she refused.

Civilian Witness

Civilian Witness 1 (‘CW1’) told the IIO that on May 26, 2020, his mother (AP) “got upset”, had a panic attack, started hyperventilating and went into the en-suite bathroom off her bedroom. He said he went and knocked on the bathroom door. AP, he said, was screaming, and he got “pretty worried”. He said that he and his sister were sitting on the bed when AP reached out through the bathroom door, grabbed scissors from the dresser

and went back in. She told them to get out of the room, and CW1 said he had “a really bad feeling about it”. He said he tried to get into the bathroom, but could not, and AP became unresponsive. At this point, he said, he panicked.

At 2:00 p.m., CW1 called 911 asking for police to attend. CW1 told the call-taker that AP was locked in the bathroom with scissors and was threatening to harm herself. He also said that AP had “suicidal tendencies”, and that there were minor children in the home. “All I wanted”, he told IIO investigators, “was to get an officer or two to help escort my mother to a safe place where she could not be a danger to herself”. He said he told the 911 operator that AP might be harming herself and needed someone to escort her to somewhere safe:

I did say a lot of things that could have been out of context, but with the intention of getting help as quickly as I needed and simplifying terms. I may have mentioned suicide... suicidal tendencies, in order to avoid explaining, ‘Hey, this, this, this, this and this happened’. I needed... I needed, you know, quick response, just in case. And, as far as I know, you know, there was no prior suicidal tendencies, but this is the best way I could, I think, simplify as far as a quick term to, you know, refer to, you know, for help ... I think I may have mentioned scissors, and that she was going to harm herself, possibly”.

CW1 told the IIO that he and his siblings went down to the lower level of the house, and “five or six” police officers quickly arrived. He said he was questioned by one of them. His mother, he said, was clearly not comfortable with police being in the house, “which was a surprise to me”. After a while, he and the siblings were escorted out of the house, and went to a nearby friend’s home.

Involved Officers

There were five police officers involved in this incident, responding to a Dispatch at 2:04 p.m. for “a suicidal female”. At 2:06 p.m., Dispatch updated the call with the comment “PRIME says she has suicidal tendencies”. Three of the involved officers were subsequently designated by the IIO as witness officers, and two as subject officers.

The first officer to arrive, at 2:07 p.m., was SO1. He immediately entered the house and was directed upstairs by CW1 to where AP was apparently barricaded in a bedroom. SO2 arrived very soon afterwards, and joined SO1 in the hall outside the bedroom door. SO2 advised Dispatch that AP was barricaded in the room. The two officers tried to persuade AP to come out of the bedroom and talk to them, but she refused, screaming at them to leave the house. The two subject officers were soon joined by Witness Officers 1 and 2 (‘WO1’ and ‘WO2’, a new recruit being mentored by WO1), and there is no dispute in the

evidence that a fairly extended period followed during which different officers in turn tried and failed to start or continue a dialogue with AP, until she finally and suddenly came out of the bedroom and went to sit on a couch in the living room.

While the bedroom door negotiations were taking place, WO3 had arrived downstairs. WO3, the most senior of the attending officers, told IIO investigators that the call was for “a suicidal person locked in a room with scissors”. He said his risk assessment was “very high”, and he responded ‘Code 3’ (emergency lights and siren activated). Upon entry into the home, he spoke with CW1 and found the other children hiding in the basement, crying. WO3 said that CW1 told him he was concerned for AP’s safety, that there were mental health concerns, and that she had tried to harm or kill herself in the past. CW1 told WO3 that he had called the police out of fear that AP was going to kill herself. Based on this information and the current circumstances, WO3 concluded that there were sufficient grounds for police to apprehend AP pursuant to their duty and authority under the B.C. *Mental Health Act*, and went upstairs to advise the other officers. He told IIO investigators that he informed SO2, based on information from the children, that

...there had been previous... a previous or some previous incidents or her trying to or attempting to kill herself or harm herself, that there was some mental health diagnosis, that she was actively, in my mind, attempting to kill herself, and had a pair of scissors to do that.

Up in the living room, WO2 said, SO1 was standing near AP as she sat on the couch at one side of the room, trying to talk with her, asking how she was feeling and if he could help. SO2, WO1 and WO2 were standing farther back. WO2 said that when WO3 came upstairs, he conferred with SO2 and WO1 for “a couple of minutes”.

WO1 told IIO investigators that he had been concerned about what AP had been doing in the bedroom or bathroom, and felt it was important now to find out “what was going on” with her, and that police would probably have to apprehend her:

I was thinking we were going to end up having to apprehend her. She was so... I guess just denying everything, and she denied having scissors or anything like that at all. And so I felt like we couldn't leave her there safely. We couldn't just say, “Ok, we'll believe you. Nothing happened. Your kids made this all up, 'cos they're mad at you or whatever”. That was kind of what she was hoping we would do, it seemed like.

The information WO3 had passed on from CW1 confirmed that conclusion. WO2, who had seen the discussion between the three more senior officers, said that he then saw SO2 walk over to AP and tell her she was being apprehended under the *Mental Health*

Act and would be taken to hospital. In his PRIME report, SO2 stated that AP asked what his grounds were to do so, and he told her it was the information provided by her children.

At this point, WO3 said, SO1 was standing in front of AP to her left, SO2 was to her right, WO1 was behind SO2, and WO2 was further back still, with WO3. There is significant inconsistency between the witness accounts as to what happened next.

- As set out above, AP has said that she stood up, saying she would not go with the officers and threatening to fight them, and was immediately punched in the face by the officer on her left.
- WO1 said that AP “jumped off the couch screaming something to the effect of ‘No, you’re not’ or ‘No, I’m not’, and started punching and swinging her arms at [SO1] and [SO2], who were the two officers closest to her. At that point, there was a wrestling match, ended up with her and the two officers on the floor”. WO1 described AP’s action, as she jumped up, as “striking at” the officers.
- WO2 said AP started “yelling profanities”. He said SO1 and SO2 approached her on both sides and placed their hands on her arms, standing her up from the couch. AP, he said, started screaming for them to let her go, and was “thrashing around”, trying to get out of their grip. He said AP was bigger than either officer, taller than SO2 and “stockier” than SO1, and there was an “intense struggle” for them to control her arms. WO2 said the two subject officers were giving commands such as “stop resisting”. The three of them, he said, “began to go to the ground”. He said AP managed to get one arm free and delivered a forceful punch towards SO2’s face, but missed. “It appeared as though she knew how to deliver a punch”, said WO2. Then, he said, SO2 delivered a closed hand strike to AP’s face in the area of her nose or mouth, with a “similar amount of force”, and yelled, “Don’t punch officers!”
- WO3 said that when SO2 put his hand on AP’s right shoulder, telling her she was being apprehended, AP became enraged, and began to flail or kick. “Within a second or two”, he said, she abruptly stood up and said she was not going anywhere. WO3 recalled the word “fight”. He said AP moved to her right, towards SO2, appeared to spit at him, and then attempted to punch SO1. WO3 evaluated her behaviour at this point as “actively resistant and assaultive”. WO3 saw SO2 deliver a one-handed strike, and saw AP drop to her knees. WO3 described the strike as sounding like a “slap”, but said he did not see if it was a slap or a punch.
- SO2 wrote in his police report that AP said she would not go to the hospital, and started kicking at both SO1 and SO2. He stated that AP was making fists with her

hands, and he grabbed her right arm, concerned that she would punch him. He said that as he pulled AP to her feet she managed to get her right arm free and began punching at SO1, saying, "I'm not going, I'm going to fight you". He said that he and SO1 were able to pull her to the ground by her arms. He said she was yelling and swinging her arms and legs, threw a punch that narrowly missed SO2's head and spit on his chest. SO2 continued:

[SO2] then "grabbed onto [AP's] arm with his left hand and pulled it across her body attempting to roll her away. [SO2] struck [AP] one time with a partially closed fist on her right cheek in a pushing motion to keep her from spitting more on him. [AP] rolled over to her belly and pulled her arms under her upper torso. [SO2] grabbed onto her left arm and [SO1] on to her right and eventually were able to pull her arms free. Her face banged against the hardwood floor and blood began to come from somewhere on her face.

WO1 said that, seeing AP struggling on the floor with the two subject officers, he moved in to try to control her kicking legs. He said that as AP was being stood up, "she turned and spat blood into the face and chest area of [SO1], and started kicking again". Asked by investigators if the spitting looked deliberate to him, WO1 responded, "One hundred per cent". He said that he only saw AP spit once: "As soon as that happened, it was trying to get her under control again". He said the officers placed AP back down on the floor and pulled the hood of her 'hoodie' top over her face "so she couldn't spit at the officers'. He said he asked WO2 to go out to the car and bring in a spit hood and cord cuffs to prevent further spitting or kicking. He said he also called Dispatch to ask for an ambulance, as AP was bleeding from the mouth and was saying that her nose was broken. The recorded radio transmission request includes the information "fighting with police".

WO2 said that after SO2 struck AP, her "thrashing" lessened, and the officers were able to gain control of her and roll her onto her front. WO2 saw WO1 and WO3 approach and try to take control of AP's kicking legs, and he moved in and applied handcuffs to her. When she was stood up, WO2 said, he saw blood on the floor and on her face, and saw her "spit a mouthful of blood onto [SO1]". SO1, he said, had "little red droplets all over his face and on the sleeves of his uniform". WO2 said SO1 did not react against AP.

WO3 also described AP struggling on the floor with SO1 and SO2, and AP then turning as she was being lifted up in handcuffs and spitting in SO2's face.

WO2 said that he brought a spit hood, as requested, and was told to go back for cord cuffs (a device intended to bind a detainee's ankles together and secure the bound ankles to the back of the waist, in what is sometimes called a 'hogtie'). Neither WO1 nor WO3 could say who who put the hood on AP, as they were still holding her legs. SO2 wrote in

his report that “[WO2] brought a spit hood to [SO2] and it was placed on [AP] to protect police from her blood and saliva”.

WO1 said that AP had “calmed down a little” at this point, arguing and shouting but not physically fighting, so the officers decided it would be possible to walk her out of the house rather than applying the cord cuffs and having to carry her. He said that the two subject officers walked AP out of the living room, and he followed behind. He said that he could see AP’s eyes through the mesh upper part of the spit hood at that time, so was sure she could see as she was moving towards the stairs:

When they got to right near the top of the stairs, she started thrashing, and like lunged towards the stairs. [SO1] lost control of one side of her, and kind of stumbled down the stairs with her. [SO2] didn’t go tumbling down the stairs, but had to kind of grab on to keep everybody from falling down the stairs. They got control of her, they didn’t fall down the stairs, but had to turn her around so she was facing with her feet up the stairs, so that she wouldn’t be able to push them off, and carried her kind of with her, her legs pointing up the stairs, in like a pike position, and brought her down the rest of the stairs without any issue, and out into the driveway, secured her in the back of one of the police cars.

WO1 said he did not see or hear any part of AP’s body hit the banister, but agreed that it was possible, and noted that AP had told the paramedics that it had happened.

SO2 wrote in his report that:

Once at the top of the stairs [AP] attempted to throw herself down them. [SO2] had a good grip of her right arm and was able to save her from completely falling. [SO1] lost grip of the left arm. This caused her to swing around to her right and hit her head/face on the railing. [SO2] was able to hold the corner post and her arm and prevent both [AP and SO1] from falling any further. [SO2] was able to walk around [AP] to the lower side and take control of her, walking backward and pulling her down the stairs. [AP] was kicking at the stairs trying to push [SO2] down. [SO1] grabbed onto her as well and assisted in pulling her down the stairs.

WO3 said that from his perspective, AP “appeared to attempt to break free from both officers at the top of the stairs”. He said that SO2 was able to hold on to AP, and prevented her from falling down the stairs:

Thankfully, [SO2] had a really good grip, and was able to stop her falling down the stairs ... I imagine that she was trying to harm herself further.

WO2 witnessed this part of the incident from the foot of the stairs. He was returning from his vehicle with cord cuffs, as requested, and saw AP being walked to the top of the stairs, already in the spit hood, by SO1 and SO2. He said she was crying, saying she was going to kill herself, and began lifting her body, bracing against the officers' holds, kicking her legs out and then going "dead weight". WO2 described seeing the group begin to come down the stairs, SO1 in front of AP and SO2 behind her. He said that the officers lost control of her arms and she fell, but he said he did not see any contact between her and the banister rails. He said that AP was yelling as the officers picked her up, but as they came down the stairs she began walking by herself between them.

Video/Audio Evidence

A few small fragments of the exchanges between police and AP inside the residence were recorded intelligibly by a security camera mounted outside the front door. At one point, an officer, calling AP by her first name, is heard to say, "how are you doing...can you open the door? Shortly after, AP can be heard shouting, "Get out of my house!" A number of similar exchanges follow.

AP's response to being told she is being apprehended can be heard clearly: "No I am not! Come near me and I will fucking fight you! Fuckers!" Not long after this, WO2 is seen running to a police vehicle to fetch a spit hood. AP can be heard in the house screaming and complaining about her injuries. The incident on the stairs is audible to some extent: AP's shouts suddenly become louder as she is brought onto the top landing and then there is a 'thump', and AP says "Oh my God".

A little later, the video shows AP being brought out of the residence, seconds after WO2 exits carrying the cord cuff. SO1 is holding AP's left arm and SO2 her right, and the officers are leading her backwards through the door, with WO1 following. SO2 says, "walk please", and AP replies, "No, take this thing off my face" (the white opaque section of the spit hood has ridden up so that it is covering her whole face including her eyes). AP then says, in a conversational and relatively calm tone, "You guys, remember when you smashed my face into the banister? That was fucking awesome". A couple of seconds later, she screams, "Fuck you! Help me!" and then continues screaming incoherently as the officers take her to a police vehicle and place her into the back seat.

While in the back of the police vehicle, AP told officers that she was having trouble breathing, and was able to reach her cuffed hands around far enough to pull at the spit hood. She first pulled it down so that it bunched in her mouth, and WO1 said he reached into the car and adjusted it properly (this can be seen on the video). AP then managed to rip the hood down again until it was hanging around her neck.

Subsequently, an ambulance arrived at the scene, paramedics attended to AP, and she was then transported to hospital. WO1 went with her in the ambulance, and said he removed the handcuffs once they were safely inside and on the way to the hospital, as AP was now “more calm”:

While we were in the ambulance and on the way up to the hospital, she spoke to the paramedics and said that she was feeling suicidal, that she had nothing left to live for. She admitted that she had cut her arm with something in the house, but she hadn't been trying to kill herself at that time, she was just cutting. And she told the paramedics that the police had punched her in the face and had hit her face on the banister of the stair, and that she had injured her wrist, her wrist was sore when she was trying to remove the spit hood in the back of the police car.

WO1 said that at the hospital, AP accused him personally and asked him if he “enjoyed punching women”. “But”, he added, “that didn’t happen, so...” WO1 told the IIO that at no time did he see any officer strike AP in the face with a fist or otherwise.

Photographic Evidence

A family member provided the IIO with photographs said to have been taken shortly after the incident, once police had left. One of the photographs shows a significant amount of blood on the hardwood floor of the living room, together with a chip from a tooth or crown and a pair of broken glasses.

There are also photographs of small droplets of what appears to be blood on a window, window frame and wall.

Another of the photographs shows what appears to be a significant amount of blood smeared down one of the vertical posts holding up the stairway banister. The house has two stories in total. The stairs consist of three short flights, with a ninety degree turn and a landing between each of them, and with the final (lowest) flight ending in a short hallway at the front door. The blood smear appears to be on one of the posts on the uppermost flight, immediately below the top floor and just above the first landing.

Immediately after the incident, WO3 went through the house looking for and photographing physical evidence. He photographed blood on the floor of the living room and on the floor of the bathroom. The photographs of the bathroom also show the bathroom drawers pulled out, with the contents scattered around on the floor. No photograph was taken of any blood on the stair railings.

The security camera footage shows SO2 photographing SO1's face shortly before the ambulance arrives. In those photographs, small dark spots can be seen, both on SO1's cheeks and on his uniform, that have the appearance of small, drying blood droplets.

Medical and Dental Evidence

The evidence provided to the IIO by attending paramedics and gleaned from patient care reports is that AP told paramedics she had gone into the bathroom to cut herself, had then become agitated and had tried to escape from police. She said she had been pinned down and handcuffed, and had then been punched in the face. AP is reported as having acknowledged that "she did then spit in the face [of a police officer] and they placed a bag over her head". There is a further report that "on the way down the stairs [with] the bag on her head she says that her head hit the banister of the railing", but no mention of her reporting that she was "dropped down two flights of stairs". Police officers are reported to have acknowledged to paramedics that AP had been punched in the face. AP was noted to have "superficial cuts to the right upper arm".

With respect to AP's nose, a specialist's report says, in the material parts:

She claims that the police punched her in the face. They punched her on the left side of her nose ... The tenderness was more prominent on the left side. She had a palpable prominent crest along the upper lateral aspect of her left nasal bridge ... She claims that she was punched on the left and central aspect of her nose.

Regarding subsequent treatment for her injuries, AP said "The oral surgeon has determined they will remove my front tooth, to later place an implant. The tooth next to it is half missing. I have four lower chipped teeth". AP needed a repair for a chipped crown on one upper front tooth and an implant to replace the other. A dental expert stated that the damage to AP's upper teeth could have been caused either by a punch or by a fall onto a hard floor. AP's dental records note wear to four lower teeth, likely caused by habitual grinding of the teeth, but there is no indication that she either sought or received any treatment for her lower teeth in relation to this incident.

AP was also found to have a wrist injury caused by her twisting her arms around in handcuffs to reach and pull down the spit hood.

AP's medical records include mention of a suicide attempt approximately six years ago, and a history of anxiety, depression and self-cutting.

Civil Claim

AP filed a civil claim against police for her injuries. Her Statement of Claim says, in part, that AP “did not agree with the apprehension”, stood up from the couch and was immediately punched in the face by an officer, knocking her unconscious. She says she fell on the floor with her mouth open, breaking her teeth and her glasses. She says she was bleeding heavily, and was handcuffed, and an officer placed a hood over her head. The hood, she said, covered her eyes so she could not see.

At the top of the stairs, she says, she lost consciousness again, the officers let her go, and she fell forward down the stairs, hitting her head against the banister. She says she then regained consciousness again and fell down the rest of the stairs. She was helped to her feet, she says, and upon exiting from the house she “spoke to the defendant officers regarding the fall on the banister and found it difficult to breathe again”.

LEGAL ISSUES AND CONCLUSION

The purpose of any IIO investigation is to determine whether there are reasonable grounds to believe that an officer, through an action or inaction, may have committed any offence in relation to an incident resulting in serious harm or death. More specifically, the issues to be considered in this case are whether any officer may have committed an assault by using unauthorized, unnecessary or excessive force against AP, or by unauthorized or improper use of a spit hood in dealing with AP.

Use of Force

Section 28 of B.C.’s *Mental Health Act* authorizes a police officer to apprehend a person if satisfied from personal observations or information received that the person is acting in a manner likely to endanger that person’s own safety or the safety of others, and is apparently a person with a mental disorder. There seems little doubt that the involved officers in this case reasonably believed that the circumstances authorized them to apprehend AP:

- The initial dispatch was evidently based on what CW1 had said in his 911 call, and was for “a suicidal female”, or a woman with “suicidal tendencies”.
- AP’s behaviour upon police arrival—barricading herself in a bedroom, screaming and shouting—was concerning, and officers quickly learned that she had taken scissors with her, apparently for the purpose of self-harm.

- WO3 found AP's children hiding in the basement, crying, and gained information from CW1 that there were "mental health concerns" and a fear that AP was going to kill herself.
- WO3 was also told AP had tried to harm or kill herself on past occasions.

There is no suggestion in the evidence that police used or attempted to use any force on AP initially. They made no attempt to break into the bedroom, and when AP suddenly exited the bedroom, they stood aside and let her walk to the living room and sit on the couch, unimpeded. CW1 had called for police to attend to take AP to hospital, and AP says that is where she wanted to go, so it is unfortunate that, for her own reasons, she forcefully refused and resisted when the officers told her they were going to take her there. The interaction that caused her injuries was precipitated by that somewhat inexplicable verbal and physical resistance.

AP has acknowledged—and her home security system has recorded—that her response to being told she was to be taken to hospital was an absolute refusal to go and a threat that she would fight the officers. AP has minimized her physical actions, but on the available evidence it appears that she either stood up abruptly shouting defiance, jumped up screaming and punching, or started screaming and thrashing as officers made moves to take her arms or to pull her up.

AP has alleged in more recent statements that she was immediately punched in the face when she stood up, but that allegation is not supported by the weight of the evidence. As noted above, in a narrative provided to paramedics immediately after the events AP is reported to have said that she was struck only after being taken to the floor in a struggle. Evidence from the involved officers is consistent with that version of AP's account.

The evidence about what caused the injuries to AP's face, however, is less clear. There is no doubt she suffered a nose injury and two damaged front teeth. Those injuries are consistent with having been caused either by a blow or blows to the face from a hand or fist, or by a fall face-first onto a hard floor, or indeed by a fall on the stairs and a collision with a banister post.

AP says she was punched in the face; WO2 says AP received a closed hand strike from SO2; WO3 says SO2 delivered a strike that was either a punch or a slap; SO2 has acknowledged striking AP in the face with "a partially closed fist". Despite the fact that AP has said the blow came from the officer on her left (SO1), and has also accused the tallest officer, who rode with her in the ambulance (WO1), it has to be concluded that if there was only a single blow—and no witness, including AP, has described there being more

than one—then it was SO2 who delivered it. The question remaining is whether that blow was necessary, reasonable and proportionate in the circumstances.

Those circumstances were that AP had said that she would fight police rather than go with them peacefully, and although her narrative does not include any acknowledgement of having carried through with the threat, it is reasonable to conclude that she did. All the officers' accounts feature descriptions of AP striking and spitting at officers, swinging her arms and punching, flailing and kicking with her legs: as WO3 put it, "actively resistant and assaultive". Strikes against a struggling, fighting individual are used by police officers to temporarily disable, to distract, or to gain compliance simply by causing short-term pain. SO2's stated justification for striking AP in the face was that she had just punched and spit at him and his intention was to put a stop to those assaultive acts. It is important to note, in this regard, that AP was not simply being resistant and uncooperative; she was actively fighting against and attempting to harm the officers. That being so, a single measured strike to the face, whether it was a slap, a punch or a strike with "a partially closed fist" was justified, necessary and proportionate.

The blow, on the evidence, was effective in causing AP's struggles to subside temporarily, enabling the officers to gain control of AP and apply handcuffs. The evidence also suggests that at some point AP's face may have landed hard against the floor, which was not carpeted. She suffered what appear to be two distinct injuries to her face (to her nose and to her upper front teeth), as well as having her glasses broken. There is no way to determine the precise mechanism of her injuries but it seems highly likely that a significant proportion was the result of one or more contacts with the floor in the course of the struggle by officers to overpower and control her.

It is also possible that AP's face may have been further injured by accidentally striking a banister railing in the stairway. As set out above, AP has stated that she was "dropped" down "two stories" or "two flights" of stairs. At the time, she accused the officers of having "smashed [her] face into the banister".

From an evaluation of the evidence as a whole, it seems likely that AP herself caused the fall, that she only fell a very short distance, and that any contact with the banister posts was incidental to the fall she had caused and the officers' attempts to prevent her falling farther. As mentioned above, the home security system recorded a sudden outburst of shouting and screaming from AP that seems to have occurred at just the moment when she says she "saw stars, blacked out and fell" (which seems inconsistent with her claim that she blacked out). The officers' accounts are consistent in describing AP suddenly starting to thrash, lunge or drop forward as if either attempting to break free or to throw herself down the stairs. They are also consistent in stating that SO2 was able to maintain

his grip on her right arm, which prevented her from falling down even the first short flight, but which would also have caused her to swing to her right, potentially bringing her against the banister on that side. If she suffered any injury from that, no blame can be ascribed to any of the involved officers.

The physical evidence with respect to the event on the stairs, as mentioned earlier, is a photograph, provided by the family afterwards, of quite a large smear of what appears to be blood on one banister post, part way down the very topmost of the three short flights. It is notable that WO3, examining the home before police left, looking for any visible evidence and photographing what he found to document it, did not photograph any blood in the area of the stairs, though he found and photographed blood in both the living room and in the bathroom. It may also be significant that the front door video captures the left side and front of AP as she is brought out through the door with the spit hood pulled up over her entire face, and there does not appear to be any blood visible on the outside of the white spit hood, which is of course designed to prevent the passage of bodily fluids. It is therefore difficult to explain what caused that smear of blood on the banister rail.

On the evidence as a whole, it does not appear that any act of an officer, either deliberate or negligent, caused any injury to AP in the course of her being brought from the living room of the residence, down the stairs and out to the police vehicle.

Use of Spit Hood

The use by police of a spit hood, as mentioned earlier, is a further complaint brought by AP in this case. There are two issues in that regard: whether any action or actions by AP might, in principle, justify recourse by the officers to a spit hood, and whether they should nevertheless have chosen not to use it because of AP's injury and resulting physical condition.

As noted above, AP has admitted spitting out blood during the incident, but has denied spitting at an officer. All of the officers, on the other hand, have described in various ways seeing AP turn her head towards an officer and deliberately spit at his face. As also noted above, the report prepared by the attending paramedics mentions that AP acknowledged having spat at the officers, and one of the paramedics confirmed that evidence during her IIO interview. The photograph of SO1 taken shortly after the incident is not conclusive, but appears to show dark droplets on his face and uniform shirt. It seems likely that the spots on the officer's shirt and face are indeed the result of AP's having spat blood at him. On balance, the evidence confirms that officers had a valid basis for a belief that they needed to try to stop her spitting at them.

However, the instructions for use printed on the wrapper of the spit hood include a prohibition on using the device on a person who is “vomiting, having difficulty breathing, or is bleeding profusely from the area around the mouth or nose”, as well as a warning that in any case a person wearing such a hood “must be under constant visual supervision and should never be left unattended”. RCMP policy reflects similar concerns, saying that a spit hood should not be used “on any person who is unconscious, vomiting, bleeding from the mouth or nose, in respiratory distress, or in obvious need of medical assistance”. Whether or not AP could be said to have been bleeding ‘profusely’, she was clearly bleeding significantly from the nose before the officers put the hood on her, and during the time she was wearing it, and use of the hood in those circumstances might therefore be said to have been in breach of police policy.

The policy continues, in part, to require that the hood be removed “when the prisoner is composed or no longer in a position to spit, sneeze or cough at members”. It is not clear that AP was sufficiently ‘composed’ after she was placed in the police vehicle, as she was still emotional and screaming intermittently.

AP has also complained that she was left unsupervised in the back of the police vehicle with the hood over her face and unable to breathe. Review of the relevant video shows that, while they may not always have been in AP’s direct field of view, officers (and WO1 in particular) were never at any point more than one or two paces from the open rear driver’s side window of the vehicle where AP was seated. WO1, in fact, can be seen reaching into the vehicle attempting to re-adjust the hood for AP.

Conclusion

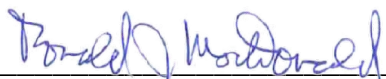
This is a case in which police were called to take AP to hospital, where her family wanted her taken to hospital and where she claims she herself wanted to go to hospital. The officers’ decision to take her to hospital was not only what was justified and proper in law, but was also what everyone said they wanted. AP has complained to news media that the officers did not wait for an ambulance to arrive, but they did not have to. They were legally authorized simply to transport her peacefully themselves. Until she precipitated the violent incident that led to her injuries, AP was not in need of an ambulance or its specialized medical personnel.

All involved officers were acting in lawful execution of their duty when they attended in response to CW1’s 911 call. They made observations and received information consistent with AP being a person apparently suffering from a mental disorder and in danger of harming herself, and so were justified and acting lawfully in deciding to apprehend her and to take her for evaluation at a hospital. When AP reacted in a threatening and resistant manner, the officers used necessary and reasonable force to restrain her. And

in response to her deliberate strikes against them, SO2 used necessary, reasonable and proportionate force to stop them—force that was effective in allowing the officers to gain control of AP. It is unfortunate that AP suffered injuries in the course of the incident, but the evidence does not lead me to conclude that those injuries were the result of an unnecessary or excessive use of force.

The use of a spit hood in this case appears to have been contrary to police policy. However, the police were dealing with a person who was emotionally and physically aggressive, and who had spat blood on one officer. This will always raise personal safety issues, and particularly does so during a pandemic. Without the spit hood, the officers faced the potential of further spitting. It would seem the purpose of the policy is to ensure a person's ability to breathe is not impacted by the spit hood. In this case, the audio from the video evidence shows that AP was heard to be almost constantly talking, shouting, or screaming. Her ability to breathe and communicate was not impacted by the hood. In addition, officers were always either directly beside her or very close at hand to monitor her condition. In these circumstances the use of the hood made sense, and was at most a technical breach of the policy. These actions certainly do not rise to the level of criminal culpability.

Accordingly, as the Chief Civilian Director of the IIO, I do not consider that there are reasonable grounds to believe that an officer may have committed an offence under any enactment and therefore the matter will not be referred to Crown counsel for consideration of charges.



Ronald J. MacDonald, Q.C.
Chief Civilian Director

February 3, 2021
Date of Release