

DECISION

File No. PC-21-0082

NOVA SCOTIA POLICE REVIEW BOARD

IN THE MATTER OF: The *Police Act*, Chapter 31 of the *Acts* of 2004 and the
Regulations made pursuant thereto

-and-

IN THE MATTER OF: An appeal filed by **Cst. Jason Wilson** of the **Halifax
Regional Police**, subject officer in the public complaint
filed by Susan Doman, is requesting a review of a decision
made by Inspector Derrick Boyd dated **February 2nd,
2022.**

BEFORE: Jean McKenna, Chair
Hon. Simon MacDonald, Vice-Chair
Nadine Bernard, Member

COUNSEL: David Bright & Brian Bailey, Counsel for Cst. Jason
Wilson
Andrew Gough, Counsel for Halifax Regional Police
Susan Doman, Self-Represented

HEARING DATES: November 14th – 18th, 2022
November 22nd - 23rd, 2022
December 7th – 9th, 2022
August 29th – 30th, 2023

DECISION DATE: October 22nd, 2024

[1] This is the decision on the of complaint of Susan Doman, against Cst. Jason Wilson regarding incidents that took place on April 28th, 2021. The decision of Inspector Derrick Boyd, Disciplinary Authority, of the Halifax Regional Police (HRP) was to sustain Ms. Doman's complaint as against Cst. Jason Wilson, and on February 2nd, 2022, Cst. Wilson filed a Form 13 Notice of Review. Ms. Doman did not file a Notice of Review.

[2] Cst. Wilson has been an officer with HRP since 2006.

[3] Shortly before the scheduled hearing, Cst. Wilson consented to withdraw his appeal, and HRP agreed to remove the penalty, however, Ms. Doman did not consent to a dismissal, and therefore as she was a party, the matter proceeded to a hearing, which took place on November 14th -18th, 22nd – 23rd, December 7th – 9th, 2022, and continued August 29th and 30th, 2023. The lengthy delay was in part due to the unavailability of a witness officer due to illness. As well, counsel David Bright, QC, representing Cst. Wilson, sadly passed away in March 2022.

The Incident:

[4] On the date of the incident, HRP dispatch received a call from a Jason Morris, Ms. Doman's "ex". Ms. Doman was on a 'no contact' order regarding Mr. Morris. However, Mr. Morris contacted HRP that evening, complaining that Ms. Doman was outside of his home. She was threatening to smash his windows and slash the tires of his girlfriend. The audio of the dispatch was entered as an exhibit in the course of the hearing; Mr. Morris did not testify.

[5] HRP officers attended the Morris residence. The individual that Mr. Morris had stated was Ms. Doman had left the scene by that time. His girlfriend was visiting at the time, and her vehicle had been “keyed”.

[6] Cst. Kavan Daneault and Cst. Hannah Burrige were assigned to locate and arrest Ms. Doman. They learned that she was at the apartment of Saad Khoury, a friend of Ms. Doman. They had called ahead, confirming that she was there, and advised her that they wished to speak to her. They were admitted to the apartment by Mr. Khoury, who was present throughout. According to the evidence of all officers who attended, Ms. Doman was visibly intoxicated. Cst. Burrige summarized the signs that she observed:

- Smell of alcohol
- Erratic behavior
- Eyes not focusing
- Not rational
- Repeating herself
- Wasn't hearing the explanation of the reasons for arrest
- Stumbling gait

[7] Ms. Doman was seated on a couch in the living room, a short distance from the entry to the small apartment. Ms. Doman was initially co-operative, but when their presence (breach of condition) was explained to her, she said that the condition had been lifted. She also denied being at Mr. Morris' home that night. The validity of the continuing condition was confirmed in her presence through telephone contact. However, when Ms. Doman was told that she was being arrested, she became highly agitated, screaming and yelling at the officers, and refusing to co-operate, to the point where Cst. Burrige and Cst. Daneault called for backup to assist. In response, Cst. Jason Wilson and Cst. Olivier Duquet-Perron arrived to assist.

[8] At one point, Ms. Doman had asked if she could have a cigarette before being arrested, and the officers agreed, with a view to de-escalating the confrontation. However, she continued to resist. She would not voluntarily get up from the sofa where she had been sitting

[9] Eventually, with some effort, Cst. Burrige, and Cst. Wilson succeeded in getting her to her feet, and in handcuffing her. There is some dispute as to whether handcuffs were placed on one wrist or both, but the Board accepts that both wrists were eventually handcuffed, behind her back. Cst. Wilson began to escort her down the short passage to the entrance, with Cst. Burrige to the right. Ms. Doman continued to resist, pinning herself against a chair, and the wall in the short hallway leading to the entrance to the kitchen. The kitchen entry is immediately adjacent, and across the hall from the apartment entry door, and the area was described by the officers as "cluttered with footwear, etc.". Ms. Doman's eyeglasses had become fogged, and she asked for someone to remove them, and Cst. Wilson did so.

[10] There is differing evidence as to what happened next. As they neared the entry, Cst. Wilson testified that he heard a throat sound that suggested to him that she was about to spit at him. He said that in response, he used a trained technique described as “blading”, whereby a prisoner's chin is pushed away with one hand. (The same technique was seen later in the video from the prisoner care facility, when it was used by Cst. Burrige for the same purpose when she was removing Ms. Doman from the police vehicle.)

[11] At this point, both Cst. Wilson and Ms. Doman fell down through the kitchen door. According to Cst. Wilson, he reacted by placing his hand behind Ms. Doman’s head to prevent it from hitting the floor. Mr. Khoury did not testify, however he apparently interpreted what he was able to see of the fall and shouted that “he is choking her”. He perceived that Cst. Wilson had placed his hands around Ms. Doman's throat in a “choking motion”, and “throat slammed” her to the floor, where she hit her head. Ms. Doman told the Board that Mr. Khoury had moved out of the province, and that she was unable to locate and subpoena him.

[12] Ms. Doman contends that Cst. Wilson threw her to the floor, intentionally, and that her head hit the kitchen floor with sufficient force to damage a piece of baseboard. She also complained of soft tissue injuries, including some bruising on her arms and wrists. She produced photographs of the bruising.

[13] Cst. Burrige testified that she heard the pre-spitting sound, and described Cst. Wilson's act as the 'blading' technique. She says at that point, Ms. Doman fell into the kitchen entry, and Cst. Wilson fell with her, either on her or beside her. Cst. Burrige also

prepared a sketch at the hearing, (Exhibit 4) which depicts a rough layout of the apartment and the location of individuals. That sketch shows Cst. Duquet-Perron and Mr. Khoury in the living room when the fall took place.

[14] Cst. Kavan Daneault who had arrived with Cst. Burrridge, was in the hallway, just behind Cst. Burrridge and Cst. Wilson. He testified that he heard Cst. Wilson say, “she’s going to spit”, and saw him put his hand on her chin, saying “do not spit on me”, at which point Ms. Doman and Cst. Wilson both fell to the floor.

[15] Cst. Duquet-Perron and Cst. Wilson were working together that night. They arrived at the apartment in response to the call asking for assistance. They could hear the call requesting assistance and were particularly concerned as they could hear shouting in the background. In describing the fall, Cst. Duquet-Perron said that he had been standing “near” the kitchen, and says he heard a commotion, and saw Cst. Wilson's hands on Ms. Doman's throat but he did not see her head hit the floor. He said that at that point he had been trying to explain the situation to Mr. Khoury. After the fall, he picked up the section of baseboard, and placed it on the counter.

[16] Cst. Wilson said that Cst. Duquet-Perron was standing at the back of the apartment. Cst. Burrridge said that Cst. Duquet-Perron was in the living room.

[17] In her post hearing brief, Ms. Doman maintained that Cst. Duquet-Perron was in the kitchen when she and Cst. Wilson fell.

[18] Cst. Burrige testified that Mr. Khoury was in the living room at the time, opposite a pass-through opening to the kitchen. If that is correct, neither Mr. Khoury or Cst. Duquet-Perron who was speaking to him, would have been able to see what had initiated the fall into the kitchen, but only the positions as they fell to the floor.

[19] Ms. Dorman was brought to her feet and escorted out to the police vehicle. Cst. Burrige had been asked to search her, prior to being placed in the vehicle. She testified that Ms. Doman continued to be physically resistant, and agitated, and she exercised her discretion not to do so at that time.

[20] There is no dispute that Ms. Doman was angry, and verbally as well as physically aggressive when she learned that she was being arrested. The issue before the Board is whether the use of force by Cst. Wilson was excessive, and in particular, by grabbing her by the throat and throwing her to the floor. Aside from that possibility, we do not find that the arrest and surrounding conduct was excessive.

[21] The burden is on the Complainant to establish, on the balance of probabilities, that the conduct occurred as she describes. There are a number of problems with her credibility, and evidence. It begins with her evidence concerning her alleged presence at Mr. Morris' home. She denies that she was even there and says that Mr. Morris fabricated the story. (Mr. Morris did not testify, although we can hear his call to dispatch). In that call, he identifies the woman as Ms. Doman, and in the call says that she was in his driveway, then came to his door. He says she is under a 'no contact' order. We can hear him yelling at that person, despite dispatch

advising him not to interact. We can hear him saying the woman is 'keying' his girlfriend's car. He provided the responding officers with a physical description of the woman (about 5'8", brown hair) that matched Susan Doman. He describes the woman driving a red car, but does not have plate number.

[22] Ms. Doman, however, testified that she didn't even have a car. She said that she had gone to Mr. Khoury's to watch a movie. She admitted that she was drinking, and had "a couple of drinks", to celebrate the end of a family services order that she not consume alcohol.

[23] She admits that she was angry and aggressive, and resistant. She says that she thought the no contact order protecting Morris had been removed. This is odd, given that she denied that she had contact. She had to hear the phone call to CPIC to convince her that it was still in place.

[24] She said that the Crown did not proceed with the charges against her, arguing that establishes that they had the wrong individual. We have heard no evidence of whether that is correct, either from the officers or from Ms. Doman. If that is true, however, it is mostly irrelevant. There can be no question that there were reasonable grounds for the arrest. It does impact her credibility. We do not accept that Mr. Morris would go to the lengths of contemporaneously contacting police to fabricate such an event.

[25] While her description of the fall to the floor may well be what she believes took place, we accept the evidence of Cst. Wilson, Cst. Burrige, and Cst. Daneault as to what they heard and / or saw. She does not deny the throat clearing noise may have been heard by Cst. Wilson and Cst. Burrige, but explains if it was made, it was as a result of a sinus condition that she

has. That tends to support Cst. Wilson's evidence, at least as far as what triggered his action.

The other possibility is that he became frustrated with Ms. Doman's conduct, and threw her to the floor in anger.

[26] Cst. Wilson's evidence as to his physical response (blading) is supported by the video at the Prisoner Care Facility, where the blading technique is utilized by Cst. Burrige.

[27] Finally, we cannot find on the balance of probabilities, that Cst. Wilson intentionally applied a choking force, and threw her down. The officers had finally achieved some control over a physically and verbally aggressive individual, and finally had her moving out of the apartment. It is very unlikely that Cst. Wilson would reinstate a new struggle, particularly with a number of other officers present, as well as a civilian witness.

[28] Although Ms. Doman argues in her brief that Cst. Duquet-Perron and Mr. Khoury were in the kitchen, we find that at best, they were in the living room. This is supported by the evidence of the witness officers, and the sketch drawn at the hearing by Cst. Burrige. If that is their location, they would have been able to observe her fall, through the kitchen – living room pass through, neither could have seen the trigger, which happened very quickly in the hallway. Also, it is unlikely that Duquet-Perron and Mr. Khoury would have moved out of the living room, passed the ongoing struggle, and into the kitchen.

[29] Ms. Doman was admittedly resistant, very emotional, and had consumed some alcohol at the time. Her belief may well be that she had been intentionally thrown to the floor in a choke, but we cannot accept, on the balance of probabilities, that her version is correct.

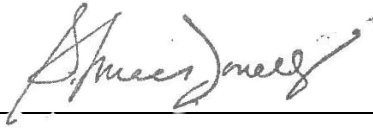
[30] We accept entirely Cst. Wilson's evidence that what he did was in anticipation of being spit upon. The observation as to the aftermath (hands on her throat) is consistent with what Cst. Wilson did, including putting a hand behind her head to protect her.

[31] The complaint is dismissed.

Dated at Halifax, Nova Scotia, this 24th day of October, 2024.



Jean McKenna, Chair



Hon. Simon MacDonal, Vice-Chair



Nadine Bernard, Board Member