

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 **Natasha Davis**, Complainant, against **Cst. Taylor MacLeod**, of the **Cape Breton Regional Police** requesting a review of a disciplinary decision made by Deputy Chief J. Stephen MacKinnon dated April 5th, 2023.

BEFORE: Jean McKenna, Chair
Hon. Simon J. MacDonald, Vice-Chair
Mary Potter, Board Member

COUNSEL: Maria Rizzetto, Counsel for Natasha Davis
Ron Pizzo, Counsel for Cst. Taylor MacLeod
Tony Mozvik, Counsel for Cape Breton Regional Police

HEARING DATE: May 6th - 9th, 2025
August 7th, 2025
November 25th - 26th, 2025

DECISION DATE: June 4th, 2026

[1] This matter arises out of a 911 call made to Cape Breton Regional Police (CBRP), on May 19th, 2022, at 20:58, by a male claiming to be Jordan Mickey, and the resulting arrest and criminal charge laid against the complainant, Natasha Davis by Cst. Taylor McLeod.

[2] The allegation must be characterized as follows:

24 (3) A member who neglects their duties in any of the following ways commits a disciplinary default:

(a) neglecting to or, without adequate reason, failing to promptly, properly or diligently perform a duty as a member;

[3] With consideration of the facts available to Cst. MacLeod at the time of the arrest and charge, beginning with the call to 911. The facts leading up to the call are as follows:

[4] On May 19th, 2022, the complainant, Natasha Davis was living in an apartment leased by her former boyfriend, Jordan Mickey. Mr. Mickey's two children were also living there. Ms. Davis and Mr. Mickey had previously been in a relationship, but that had ended sometime prior to the move to the apartment. Mr. Mickey had leased the subject premises, a second-floor unit at 6 Intercolonial Street, Sydney. He wanted her to move out, but he had allowed her to continue to live in the new unit, until she found a replacement. However, at the time, and leading up to the confrontation, he wanted her to leave. She was not ready to leave. All of her belongings, and her 5 cats, were in the apartment. The dispute had been going on for several days and became verbally and physically confrontational that evening.

[5] The confrontation resulted in a call to CBRP by a male who identified himself as "Jordan Mickey". The caller reported the following:

CALLER: Hi, I have a situation here with, uh, a girlfriend. Um, I even left my house for 13 hours today so, uh, cause she was insistent on arguing and fighting. So anyway, I got home with the kids to try to put them to bed and she continued arguing and fighting and I asked her to leave and then, uh, anyway, she went to go downstairs for something, so I tried to shut the door and uh, she ended up biting my arm and ...

(Dispatch obtains details as to location and identity)

DISPATCH: You two are separated?

CALLER: Yeah, we're separated but I, let her stay with me for a minute until she gets, you know...

DISPATCH: Do you need medical attention for what happened?

CALLER: Hm, I don't think so, no, no.

DISPATCH: Okay, has she been assaulted?

CALLER: No... But she's now making false accusations and she's threatening self-harm and she's very erratic and whatnot.

DISPATCH: ...Okay. And is she still in the basement?

CALLER: Uh, no, she's, I live in an apartment upstairs but she's still in the house.

Ms. Davis's version, to Cst. McNeil:

[6] Cst. Taylor MacLeod was sent on the call and was one of several officers to respond. Cst. Jordan McNeil was the first to arrive. He was advised by Mr. Mickey, who was outside with his

friend Andrew Hicks, that Natasha Davis was still in the upstairs apartment. Given the information that Ms. Davis had threatened self-harm, Cst. McNeil immediately proceeded up into the apartment, on the initial basis of a wellness check. Ms. Davis was crying and upset, but he calmed her down sufficiently such that she was able to tell him her version of what had happened. He noticed a mark on her neck, as well as what she said were carpet burns on her arms. She told him that Mr. Mickey had grabbed her and was trying to drag her down the stairs. He released her, and she ran into her room.

[7] She denied that she had threatened self-harm.

[8] Cst. McNeil testified that when he later spoke to Cst. MacLeod, he told her about Ms. Davis's version of events, and the marks on Ms. Davis' neck and arms. Cst. MacLeod acknowledged in her testimony that she was provided with this information, prior to the arrest.

[9] The carpet burns and scratches which Ms. Davis said occurred in the course of the physical interaction with Mr. Mickey were documented on May 21st, 2022, 2 days later, when she went to outpatients on her own volition, to have the conditions medically documented.
(Exhibits 2 and 3)

[10] The Supplementary Occurrence Report prepared by Cst. McNeil shortly after the incident provides more detail. In that report, Cst. McNeil notes Ms. Davis' comments as follows:

- “- He just wants me to leave
- This is what he does every time he gets mad at me
- He ignores me, won't return my texts, gets mad at me
- The argument was over him asking if the oldest could stay here
- Then when I said his friend Andrew is not welcome here and I packed his bag he said he was going to call the police

- I was cleaning out the kitty litter and he grabbed me and tried to drag me down the stairs
- That's why I have carpet burn all over my arms and marks on my neck
- He was saying 'you're fucked I have Andrew here'
- He was spitting on me"

[11] In his report, Cst McNeil noted "I did observe small scratches to the right side of Natasha's neck and her arms were red. He also added "Cst. McNeil provided information to Cst. MacLeod on scene."

[12] In his evidence to the Board, he said that he "told MacLeod what I was told". Cst. MacLeod in her testimony confirmed his on-scene report to her, and she agreed that at the scene, she had observed carpet burns, as well as scratches on Ms. Davis' neck. However, neither the Case File Synopsis nor the Arrest Reports prepared that night by Cst. MacLeod make reference to any discussion with Cst. McNeil, or Cst. McNeil, discussed below, or any reference to anything other than Mr. Mickey's version.

[13] Cst. McNeil left prior to the arrest. None of the evidence indicates that he took part in any group discussion with Cst. MacLeod, concerning the ultimate decision to arrest Ms. Davis. The Board accepts Cst. McNeil's evidence, also documented in his Report on that issue. Whether Cst. MacLeod shared that information with other officers at the scene prior to her making the decision to arrest Ms. Davis is unknown.

Ms. Davis' statement to Cst. MacLeod May 27, 2022

[14] This further detail from Ms. Davis would not have been available at the scene, and so it would not have impacted Cst. MacLeod's decisions at that time. Ms. Davis was arrested at the scene but was eventually released to go with her father later on the night of the incident. She and her father attended the hospital May 22nd, 2022, to have photographs taken, for the purpose of documenting the injuries sustained on May 19th, 2022. She also signed an authorization to release medical information to Cst. MacLeod. She wanted to provide a statement to CBRP, and Cst. MacLeod arranged to take a formal statement on May 27th, 2022.

[15] In her statement, she confirmed, in more detail, her description of the May 19th, 2022, incident. She said that when she got home from class that day, neither Mr. Mickey, Mr. Hicks, nor Mr. Mickey's two children were there. She was beginning the process of packing some of her items, in order to move. When Jordan Mickey arrived, he asked her to look after his son Emmett while he went somewhere with Andrew Hicks and his other son. When she realized that Mr. Mickey had her number blocked, she told him to unblock her number, that he could not leave the child with her, if she had no way to contact him. This appears to have triggered the ensuing argument.

[16] Mr. Mickey, Mr. Hicks, and the children returned around 8:00 p.m.

[17] Mr. Hicks had been permitted by Mr. Mickey to stay temporarily in the home, and Ms. Davis resented that; she said that Mr. Hicks was continuously urging Mr. Mickey to force her to leave, saying that she was mentally ill, that he should call the police, etc. She had packed his suitcase and placed it at the bottom of the exit stairway. This further angered Mr. Mickey, who brought the bag back up.

[18] She stated that she was in the hallway cleaning the cat litter box, (she has five cats) while Mr. Mickey put the boys to bed. He then closed the door to the boys' room, over their objection. Ms. Davis believed that this was done so that they would not witness what was to follow. He began shouting and swearing at her to get out, and picked her up by the waist, with his arm around her neck, trying to force her down the stairs. She pulled on his arm, trying unsuccessfully to get him to release her. She then bit him, which caused him to drop her. She was on the floor, next to a shoe rack, and he then tried to push her down the stairs. She said that she grabbed the banister at the same time he was dragging her, which she says caused the carpet burns (as depicted in Exhibit 2). He then tried to hold the entry door at the top of the stairs shut but she pushed past him and went into the bedroom, weeping and very upset. She said that Mr. Hicks was still there, egging Mr. Mickey on, "...fuck her, call the cops and get her the fuck out."

[19] Mr. Mickey and Mr. Hicks then apparently left the home with the children, and came back some time later, when the police arrived in response to the call to dispatch. Cst. McNeil came up and spoke to her.

[20] While Cst. McNeil was in the apartment dealing with Ms. Davis, Cst. MacLeod had arrived at the scene, also in response to the dispatch. Mr. Mickey and his friend Mr. Hicks were outside of the building.

Mr. Hicks version, to Cst. Harris, at the scene and in a statement

[21] Cst. Sherry Harris arrived in response to the dispatch. She testified that she arrived at "approximately 21:06 hours". Other officers, including Cst. MacLeod and Sgt. Campbell were already there. Cst. Harris spoke to the two civilian males who were there, Mr. Mickey and Mr.

Hicks. She did not say whether Cst. MacLeod was part of this discussion. Mr. Mickey pulled up his sleeve and showed her a bite mark on his arm, which she photographed. She testified that “Jordan” (Mickey), didn’t want to talk, but had said that there was an argument. Mr. Hick’s reported that although Ms. Davis and Mr. Mickey had ended their relationship, Ms. Davis was allowed to stay in the apartment. **He and Mr. Mickey had stayed outside of the apartment during the day**, and when they came back, an argument began between Davis and Mickey. **He said that he saw Ms. Davis run towards Mr. Mickey and interlock her arms around him, and then she bit him.** According to Cst. Harris’s Supplementary Occurrence report, Mr. Hicks specifically mentioned (apparently without prompting) what he did **not** see. In the course of that initial discussion at the scene, he said that “...there were no marks on Natasha. I saw her arms and face as she walked by me into the room”. [Emphasis added].

[22] Cst. Harris testified that she “...offered the information she received. ... I was the assisting officer ... it is up to the investigating officer...” She added “She did not mention any discussion with Cst. MacLeod about who should be charged. She testified that “Cst. MacLeod is capable of formulating her own grounds.”

[23] Cst. Harris also asked Mr. Hicks if he would be willing to come to the department and provide statement, which he did that evening. In that statement, he reiterated that he and Mr. Mickey stayed out of the house all day. After they dropped Mr. Mickey’s children off at school,

“... Jordan said I’m not going back to the house.

...

So, we stayed outside, drove around um, all day, then we picked the kids up at school.

...

We went out and got lunch and we went to the park and stuff like this. And I asked him, oh, you're not going back to the house, he said no, he doesn't want to go back here, he wants to defuse the situation, he doesn't want to make it worse."

...

...it was like 13, 12, 13 hours we were outside..." [Emphasis Added].

[24] In his recorded statement, he added more detail about the physical confrontation between the two:

"I was in the front room then I went out to the hallway. Natasha instantly went out to fight with Jordan.

...

Uh, being very verbal I'm gonna say.

...

Um, in an aggressive way.

...

And she instantly got up, ran towards Jordan. She wrapped her arms around his waist and interlocked her fingers so he couldn't move away or break away easily. He put his hands o-, be, o-, (sic) by his sides and kinda behind his back and I witnessed this, and he started walking her towards the door, the second doorway to go down to the porch there, to get her out of the situation so he can lock the door so the kids hear what's going on and stuff like this, right? And as he was doing so walking down the stairs um, I went around the corner to look cause I didn't want these two individuals to hurt themselves at all and I wanted to... Be there for both of them to try to calm it down but obviously it didn't calm down. She moved her head and went, when Jordan moved his arm cause he kinda tripped on the stair, and when he moved his arm out to the side, his right arm I believe it was, she instantly latched onto his arm and bit him...

...

She walked up the stairs and instantly ran towards her room.

...

Um, as she was walking past me to go in her room, looked at her.

...

Um, I looked at her face as she was walking by she was right beside me and her arms. I seen her arms, I didn't visually see anything on her arms. Her arms were perfectly fine."

[25] He made no mention of Mr. Mickey trying to close a door to stop her from returning to the unit. (It is notable that this was the second time that he mentioned the absence of marks -what he didn't see as opposed to what he did see - without prompting.)

[26] He then went on to suggest to Cst. Harris that Ms. Davis was very unstable, and that he had told Mr. Mickey that her father should be contacted, he could come over "...before this escalates to the police". He then told Cst. Harris (contrary to his previous stated desire to avoid "escalating to the police") that he told Mr. Mickey that the police should be called, "...it doesn't hurt to call the police because ...they're there to help". He then told Cst. Harris that Ms. Davis had apparently kicked a hole in the bathroom wall that day, about 2-3 hours before this all happened, and that when he left the house that morning there was no hole, and when they came back, she must have bought plaster and tried to fix it, because there was a little container there and the hole was partly repaired. He then speculated that she must have bought the repair kit while he and Mr. Mickey were out with the kids.

[27] No officer at the scene other than Cst. McNeil went up the stairs into the apartment at any time.

[28] In the context of the statement, it seems obvious that this comment, and his comment that she had no marks "whatsoever" when she went into the bedroom was intended to suggest that any injuries that might later be observed was the result of self-harm by Ms. Davis, including any (according to him non-existent marks) on Ms. Davis's arms. He seemed to anticipate blame being directed towards Mr. Mickey, although this is not something that Cst. MacLeod might consider in the brief interactions at the scene.

[29] He reiterated in his statement:

“And I was like that doesn’t look good at all. I said I seen everything, you didn’t touch her at all. She’s the one that assaulted you, bit your arm and all you were simply doing was trying to walk away with someone attached to you to get them out of the house.”

[30] Mr. Hicks painted a very sympathetic picture of Mr. Mickey, as a wonderful father, and a repeated indication that Ms. Davis was a violent and unstable individual. He suggested that Ms. Davis threatened to kill herself and threatened self-harm while she was in the bathroom. He said he was thinking “outside the box” and that “... worst case possible scenario, hopefully it’s not happening, is she goes in that bedroom and she harms herself. ... And I was like that doesn’t look good at all.”

[31] Cst. Harris testified that she didn’t speak to anyone else, but stayed on scene until “a decision was made” (to arrest and charge Ms. Davis). She didn’t say what, if any input she had in that decision, which she said in testimony was that Natasha was the “dominant aggressor” (which might be an easy conclusion if Mr. Hicks was believed without consideration of any conflicting information). She said that Cst. MacLeod was initially present in the discussion with Mr. Hicks, but in her supplementary report, she says that Cst. MacLeod was speaking to Mr. Mickey. Cst. MacLeod made no reference in her reports of any discussion with Mr. Hicks. Cst. Harris added that Cst. MacLeod saw the scratches on Ms. Davis’ neck. She did not say how she knew this, but Cst. MacLeod agreed in her evidence at the Hearing, that she noticed the scratches on Ms. Davis’ neck.

[32] As noted above, Cst. MacLeod's Arrest Report and Synopsis do not refer to the Andrew Hicks version, or any version other than Mr. Mickey's. Nor is any discussion with Cst. Harris mentioned.

[33] Cst Harris testified that after Ms. Davis was arrested, she assisted Cst MacLeod in escorting her to the car. She described her as "very upset".

Mr. Mickey's version to Cst. MacLeod

[34] Cst. MacLeod's supplementary occurrence report shows the following: When she arrived at the scene, Cst.'s McNeil and Campbell were already there. She began speaking with Jordan Mickey. He told her that Ms. Davis had been depressed and angry over the past 2 days over some matters, and **that day, they had been fighting "all day."** [Emphasis added]. He asked her numerous times to stop, but it continued. Later in the evening he asked her to leave, but she would not. **At one point, she walked down the stairs into the porch (the apartment is the second floor of a home, with a separate closed in porch entrance at street level, with stairs leading up to a second "French door" at the entry to the unit.) He then walked down, and tried to close and lock the door behind her, but she pushed through, grabbed his arm, and bit him, just above the wrist.** [Emphasis added]. He did not mention anything about her grabbing him around the waist, pinning his arms to his sides.

[35] Cst. MacLeod testified that after speaking to Mr. Mickey she and Sgt. Campbell proceeded into the ground floor entrance level and called for Ms. Davis to come down. She was reluctant, but eventually she agreed, and when she came out she was arrested, apparently with no

further discussion with her. At 21:17 Ms. Davis was advised of her rights, and cautioned, while seated in the police vehicle. She was then taken to CBRP and placed in a cell.

Sergeant Campbell's Evidence

[36] Sgt. Campbell has been a member of CBRP for 23 years and had been promoted to Sergeant in December 2023. He has worked primarily in Patrol. He responds to a variety of calls, including domestic violence, and is familiar with the 'old' domestic violence policy. (Exhibit 6). He was referred to Paragraph 9 of the policy, and in particular, that a thorough investigation is required, including "...interviewing and statements taken from victims, suspects, and witnesses. All interviews shall be conducted separately, in private, and as soon as practicable". The policy is 'pro-arrest, pro-charge, pro – prosecution' regardless of whether the alleged victim wants it.

[37] Although he was senior in rank, Cst. MacLeod was the senior officer in charge; he was "back up". He testified from memory. He did not make any notes, nor did he file a report. He recalled that Cst. McNeil was first to arrive on scene. He believes there were 2 males outside, when he arrived on scene, and that Jordan Mickey wanted his girlfriend removed. He could hear a female inside, and that he and Cst. McNeil tried to persuade her to come out. She was reluctant, but she came down, still upset. "Other officers" had information from Mr. Mickey and Mr. Hicks, and that "we" agreed that she should be arrested, and that based on Cst. MacLeod's information on the scene and the victim's (Mr. Mickey's) injuries, Ms. Davis was the aggressor. He recalled "some sort of conversation." He said that the main ground was the bite, and in cross he agreed that it was "100% possible" that the bite was in self-defense. He said that he didn't think the decision to arrest was wrong.

[38] In cross examination, he said the discussion on arrest was “...very short, maybe 30 seconds” He described Andrew Hicks as an “independent witness,” but he didn’t compare any differences between the Hicks and Mickey versions, or in fact, the Davis version. He was not aware of any differences, and apparently, not aware of Ms. Davis’s version. Mr. Mickey showed them the bite mark, and he didn’t see any marks on Ms. Davis. He said that no one could have a conversation with Ms. Davis (despite the fact that Cst. McNeil not only had had such a conversation, saw the marks on her, reported all of this to Cst. MacLeod, and that Cst. MacLeod did observe the marks on Ms. Davis.) He said that he didn’t recall any officer mentioning any injury to Ms. Davis.

Thomas Davis Evidence

[39] Thomas Davis is Natasha’s father. When he arrived, he saw two police vehicles as well as an SUV. (Consistent with the 4th officer, Cst. McNeil, having left the scene), and an officer speaking to Jordan Mickey and his friend, Andrew Hicks. He then saw his daughter come out of the building, and saw Cst.’s MacLeod and Harris escorting her across the street, and do a pat down search at the police vehicle. He testified that she was not screaming and was compliant; “like a lamb”. He did hear her say at some point in the arrest, when she seemed to realize what was happening, very loudly. “Thank you for fucking up my life”.

[40] He testified that he knew that it was a police matter, and that he should not get involved, but at the time of arrest, he introduced himself as Ms. Davis’s father. He does not say that he spoke to Cst. MacLeod, but did speak to Cst. Harris. It appears from Cst. MacLeod’s evidence

that she was aware of his presence, but she testified that "... her father being there had nothing to do with it".

[41] Later that night, he was contacted by CBRP and advised that he could pick his daughter up.

Cst. Dawn Morrison Evidence

[42] Cst. Dawn Morrison is assigned to review all domestic violence files in general, as she has specialized training in the field. She conducts training annually within CBRP and conducted one such course prior to this incident in 2021. Cst. MacLeod was not on that course, and had not received specialized training at the time of arrest.

[43] She is also the resource person in CBRP available for consultation in domestic violence cases. She testified that she is not often consulted.

[44] In June of 2022, Ms. Davis met with Cst. Morrison on this file, very upset that she had been charged. Cst. Morrison testified that she was visibly upset; she did not deny biting Mr. Mickey but said it was done to get him to take his arm off her neck. Cst. Morrison approached a superintendent with the information and was tasked to look into the file. She reviewed Ms. Davis' and Mr. Hicks' statements, and noted the difference, particularly in the location.

[45] Ms. Davis also provided her with texts exchanged with her father some three days prior to the incident. Those texts were not in evidence before the Board. She also reviewed photos of the markings on Ms. Davis allegedly resulting from the altercation.

[46] As a result of Cst. Morrison's investigation, Mr. Mickey was charged with assault.

[47] She said that if she had been responding to the incident, she would have separated the parties and scheduled a cautioned statement of both. However, she did clarify that her response would arise from her special training. She felt that there was a lack of training in relation to the general pro-arrest, pro-charge policy. Pre-policy changes, there were more charges laid without statements.

[48] She agreed that officers should consider every detail at the scene.

[49] She was asked what would support not charging at the scene; she provided the example of a situation where both parties showed signs of injuries.

[50] She noted that in this case, Cst. MacLeod spoke to the Crown (which took place after the charge was laid). However, Cst. MacLeod did not reach out to her.

[51] She was referred to the SOC of Cst. MacLeod, dated June 9th, 2022, reporting a discussion on the phone with a very angry Ms. Davis. Cst. MacLeod stated that she “After numerous attempts to tell Natasha that she is not charged with this until she attends court, ...”. Cst. Morrison said that was incorrect; she also said that she spoke to the Crown herself; they reiterated that they would not or could not drop the charges.

[52] She testified that if she had been on the call, with the visible injuries on both parties, and the differing statements, she would have released Ms. Davis to her father at the scene and taken separate statements at a later date. She somewhat qualified her conclusion, adding that “with her training” this is how she would have dealt with it.

Cst. MacLeod's Evidence

[53] Cst. MacLeod has been a member of CBRP since 2021 and has been assigned to patrol. She has been trained on the Spousal Violence Policy. As noted above, Cst. MacLeod was dispatched to the scene, and she recalled that when she arrived, Cst. McNeil and Sgt. Campbell were trying to convince Ms. Davis to come downstairs. She says that she spoke to "Jordan" (Mr. Mickey), who told her that Ms. Davis was aggressive, that he never "went after her", and that she was the instigator. She took him to one side to speak to him. Her Arrest Report reflects that Mr. Mickey told her that he and Ms. Davis had been "fighting all day" (Contrary to Mr. Hicks allegation to Cst. Harris that they had stayed out of the house all day). Mr. Mickey told her that she had at one point walked downstairs on the ground level porch; he was trying to shut the door, and she had grabbed his arm and bit him. (Contrary to the description provided by Mr. Hicks, who said that the incident took place at the top of the stairs when Mr. Mickey was trying to walk down the stairs with Ms. Davis clinging to him)

[54] Cst. MacLeod testified that she then spoke to Cst. Harris, who told her Mr. Hick's version. (as noted above this is not referenced in her reports). We don't know the detail of what was provided to Cst. MacLeod by Cst. Harris. She understood that either Mr. Hicks or Mr. Mickey had called police.

[55] She described the bite mark on Mr. Mickey's arm as a "gash".

[56] She added that there was no indication that Ms. Davis wanted to file an assault charge against Mr. Mickey, although she said that when in the cell at headquarters, Ms. Davis said that she wanted Mr. Mickey charged with what Cst. MacLeod described as "historical abuse".

[57] She said that grounds to arrest (as opposed to release) were set out in the policy;

10. ARREST

- (a) Police officers **shall arrest** a suspect where it is felt there are reasonable probable grounds and that the arrest will serve the public interest in order to:
- 1) Establish the identity of the accused; or
 - 2) Secure or preserve evidence relating to the offence; or
 - 3) Prevent continuation or repetition of the offence or commission of another offence; or
 - 4) Ensure the appearance of the accused in court in order to be dealt with according to law.

...

[Emphasis added].

[58] It mirrors the language of the Criminal Code, however, in the Criminal Code, provision release is the default position:

495 (2) (d)

“A police officer shall **not** arrest a person without warrant, in any case, **unless**:”

[Emphasis added].

[59] She said whether Mr. Mickey wanted charges laid didn’t matter; the policy is pro-arrest, pro-charge, pro-trial. She emphasized that she had seen the bite mark as the apparently predominant ground for arrest. She agreed that at the time of the arrest, she saw the carpet burns and the scratches on Ms. Davis’ neck. She did not explain why those were irrelevant. She said that Ms. Davis wouldn’t speak to her at the scene, and she said that Cst. McNeil told her that Ms. Davis wouldn’t say what caused them. (This is contradicted by Cst. McNeil’s evidence and Supplementary Report).

[60] She did not mention any specific discussion with Cst. Harris.

[61] She determined that Ms. Davis was the “dominant aggressor”.

[62] She said that she didn’t look at the photos of Ms. Davis injuries taken at the hospital two days later, as she “didn’t request that they be taken”. There was some confusion as to whether they had even been added to the file, although Cst. MacLeod could have requested to see them.

She recalled that at the time of the incident, she and Cst. McNeil tried to get Ms. Davis to come out, but that at first she refused. There is some confusion; Cst. McNeil testified that he relayed his discussion with Ms. Davis to Cst. MacLeod, then left. Sgt. Campbell believed he was also involved in attempting to get Ms. Davis to come down, and Cst. Harris testified that she was there and assisted escorting Ms. Davis across the street at the time of the arrest.

[63] She testified that Ms. Davis was arrested on the porch as soon as she was persuaded to come out.

[64] Cst. MacLeod was off for several days following the incident, but after several attempts, was able to contact Ms. Davis and, on May 27th, took a formal, cautioned statement at Ms. Davis’ request. She testified that the purpose of the statement was to detail the “historical abuse”. The statement was included as an exhibit at the hearing. In fact, rather than historical abuse, it deals almost entirely with this incident.

[65] Cst. MacLeod testified that she spoke to the Crown, who told her that she had made the right decision to charge Ms. Davis. An SOC dated June 9th, 2022, reflects that discussion:

“Cst. MacLeod requested some guidance on this file and they advised that the decision made and the charges laid on Davis would be the best way to go about this file.

John and Crista both stressed that they cannot make the decision for Cst. MacLeod, but that they feel the right decision, based on the grounds the officers had, was made at the time.”

The Board has no evidence as to what information had been provided to the Crown at that time.

[66] This discussion took place on June 19th, 2022, at 08:30, well after the charges were laid on June 1st, 2022.

[67] That same day, at 13:43 Cst. MacLeod contacted Mr. Mickey to request a statement; he was “... hesitant on giving one but stated he would call Cst. MacLeod back if he changed his mind.”

[68] At 14:12, Cst. MacLeod attempted to call Ms. Davis, and was finally able to reach her at 17:23, to let her know the charges were staying, after “... numerous conversations had with Inspector Wilson, A/Sgt Campbell and Crown Advise.”. She also told her that she was not charged until she attends court, but that Natasha continued to swear and scream at her, and then hung up the phone.

[69] Cst. MacLeod testified that she was wrong about saying that she was not charged until she attends Court. We accept that the question as to when a charge is actually laid is a difficult issue, but certainly the charge had been laid and was then in the hands of the Crown as of June 1st, 2022. She also testified that she told Ms. Davis how to bring charges against Mr. Mickey.

[70] In cross-examination, she agreed that she did not enter anything in her notes about Mr. Hicks’ version as related to Cst. Harris at the scene. She also agreed that she didn’t speak to Ms. Davis at the scene about her version, or if she was suicidal. She said that she “tried” to speak to her, but that she wasn’t “cordial enough to speak to me”.

[71] She testified that Ms. Davis was given the opportunity to give a statement at the lock up, but that she didn't "feel the need" to put that in the arrest report.

[72] She agreed that she didn't take photos and that she didn't see the need to do so.

[73] In cross-examination on her grounds for arrest, Cst. MacLeod agreed that she didn't need to satisfy herself as to identity, or to preserve evidence of the scene. She did have to remove Ms. Davis from the house, in compliance with the need to prevent the continuation or repetition of the offence. She knew her father was at the scene, but took no steps to determine where Ms. Davis lived, other than in Mr. Mickey's apartment. She repeated that she couldn't have a "cordial" conversation with her, and that her father being there "had nothing to do with it". She didn't have any discussion with him to determine if he could accommodate Ms. Davis as an alternative to arrest.

[74] As far as entering the apartment to consider the descriptions of what had happened, she said that she recalled being at the bottom of the stairs, but did not go upstairs to the hallway, where Ms. Davis told Cst. McNeil that Mr. Mickey assaulted her, or partly on the stairs (Mr. Hicks' version).

[75] She said that she "didn't recall" Ms. Davis asking her why she was being arrested, or responding "Because you bit Mr. Mickey".

[76] She agreed that she had Ms. Davis in the police vehicle by 9:17, when she read her her rights. The entire incident, from Cst. MacLeod's arrival at the scene, until arrest, consumed 10 minutes at most.

[77] She agreed that she didn't look at photos Ms. Davis took herself, or that were taken two days later at the hospital.

[78] She said that her statement was taken to give Ms. Davis an opportunity to give her version of events, but that "it was a formality".

Analysis and Conclusion

[79] It is undisputed that, simply put, within CBRP and in fact all jurisdictions in Nova Scotia, is that in cases of domestic abuse, "pro-arrest, pro-charge, pro-prosecution" applies. In the application of the policy, arrest and charge are in the hands of the police. In their role, officers will often consult with the Crown. That policy does not diminish the requirement for reasonable grounds to exist for the arrest to take place.

[80] In this case, we must first consider two elements; 1) Cst. MacLeod's decision to arrest, and 2) Cst. MacLeod's decision to charge.

[81] The Criminal Code, the CBRP Spousal / Domestic Violence Policy, and interpretations apply.

[82] Once an officer forms reasonable grounds to arrest, then the statutory requirements of the Criminal Code for release apply.

Criminal Code of Canada

495 (2) A peace officer shall not arrest a person without warrant for

...

in any case where

(d) he believes on reasonable grounds that the public interest, having regard to all the circumstances including the need to

- (i) establish the identity of the person,
- (ii) secure or preserve evidence of or relating to the offence, or
- (iii) prevent the continuation or repetition of the offence or the commission of another offence,

may be satisfied without so arresting the person, and

(e) he has no reasonable grounds to believe that, if he does not so arrest the person, the person will fail to attend court in order to be dealt with according to law.

[83] The CBRP Spousal / Domestic Violence Policy also provides guidance for both arrest and charge:

9. INVESTIGATION

- a) A thorough investigation shall be carried out in all cases of spousal/intimate partner abuse with the intention of securing sufficient evidence to substantiate a criminal prosecution.
- b) The investigation will include interviewing and statements taken from victims, suspects and witnesses. All interviews will be conducted separately, in private and as soon as possible.
- c) Evidence, which is relevant to the investigation, shall be preserved through photographs, diagrams or witness accounts of the incident.
- d) The investigator shall determine the past history of spousal/intimate partner abuse of the relationship through the investigation outlining such abuses or other related actions, whether or not the incidents were reported to the police.
- e) The investigator will be responsible for the proper flagging and linking of persons and residences related to offences involving Domestic Violence as part of their investigational process.

10. ARREST

- (a) Police officers shall arrest a suspect where it is felt there are reasonable probable grounds and that the arrest will serve the public interest in order to:

- 1) Establish the identity of the accused; or
- 2) Secure or preserve evidence relating to the offence; or
- 3) Prevent continuation or repetition of the offence or commission of another offence; or
- 4) Ensure the appearance of the accused in court in order to be dealt with according to law.

...

- d) Police shall conduct a thorough investigation regarding the likelihood that the suspect will repeat or continue the offence should the arrest not be made. The investigation shall determine:
 - 1) If the suspect has any previous convictions for similar or related offence; or
 - 2) If the suspect is presently on probation, parole, or subject to a court order or recognizance.

This investigation should involve statements made by victims, witnesses and suspects as well as neighborhood reports and previous occurrence reports. In order that the arrest of the suspect is valid, the arresting officer must be able to support the reasonable grounds with evidence prior to the arrest.

...

11. **LAYING OF CHARGES**

- a) Police officers are responsible for the laying of charges wherever there exists reasonable and probable grounds to believe an offense has occurred and the evidence available and not on the wishes of a complainant.
- b) Police Officers shall inform the victim and complainant that charges were laid by the Police and that the withdrawal of any charge is the sole responsibility of the Crown Attorney.
- c) Any information relevant to the accused will be recorded in the Police Service's Record System and on the CPIC System as soon as possible and updated when necessary.
- d) Police officers will consult the Crown Attorney as soon as possible regarding the prosecution of the charge. The Crown Attorney shall be furnished with a completed crown sheet and advice concerning the terms and conditions of release

or continued custody based on the evidentiary findings of the investigation and must be supportable.

1. Information that may be available to the Crown Attorneys;
2. Any history of violence or threats of violence by the accused against others;
3. Nature of the threat / assault;
4. Whether weapons were used, present or threatened;
5. If alcohol or drugs were involved;
6. The mental state of the accused;
7. If children were present/if the parties involved have children together whether present during the incident or not;
8. The victims / complainants concerns

[84] In determining whether the arrest and / or charge was justifiable in the first place, it is essential to consider the circumstances and information available to Cst. MacLeod at the time of the arrest and then charge. In this case, the decisions were simultaneous.

[85] The leading authority on the standard of care that an officer must meet, in deciding to make an arrest, is **Hill v. Hamilton-Wentworth Regional Police Services Board**, [2007] 3 SCR 129.

[86] In **Hill**, the appellant was arrested after a lengthy investigation, with a single piece of exculpatory information, that was an anonymous Crimestoppers tip. McLachlin, CJ, considered the standard of care expected, and concluded that the officers had met the standard:

“73 I conclude that the appropriate standard of care is the overarching standard of a reasonable police officer in similar circumstances. This standard should be applied in a manner that gives due recognition to the discretion inherent in police investigation. Like other professionals, police officers are entitled to exercise their discretion as they see fit, provided that they stay within the bounds of reasonableness. The standard of care is not breached because a police officer exercises his or her discretion in a manner other than that deemed optimal by the reviewing court. A number of choices maybe open to a police

officer investigating a crime, all of which may fall within the range of reasonableness. So long as discretion is exercised within this range, the standard of care is not breached. The standard is not perfection, or even the optimum, judged from the vantage of hindsight. **It is that of a reasonable officer, judged in the circumstances prevailing at the time the decision was made — circumstances that may include urgency and deficiencies of information.** The law of negligence does not require perfection of professionals; nor does it guarantee desired results (Klar, at p. 359). Rather, it accepts that police officers, like other professionals, may make minor errors or errors in judgment which cause unfortunate results, without breaching the standard of care. The law distinguishes between unreasonable mistakes breaching the standard of care and mere "errors in judgment" which any reasonable professional might have made and therefore, which do not breach the standard of care. (See *Lapointe v. Hopital Le Gardeur*, 1992 CanLII 119 (SCC), [1992] 1 S.C.R. 351; *Folland v. Reardon* (2005), 2005 CanLII 1403 (ON CA), 74 O.R. (3d) 688 (C.A.); Klar, at p. 359.)”

[Emphasis added].

[87] Counsel for Cst. MacLeod refers to the decision of the Nova Scotia Supreme Court in **Jarrett v. Halifax (Regional Municipality)**, 2014 NSSC 116. In, **Jarrett**, the Court referred to the decision of the Supreme Court of Canada in **R. v. Storrey**, [1990] 1 S.C.R. 241 at page 250:

“... the test to determine whether an arrest or imprisonment is false is as follows:

In an action for false arrest or imprisonment, a police officer can prove justification by demonstrating that he/she had reasonable and probable grounds to believe that the plaintiff had committed an offence. The test to determine whether there was reasonable and probable cause is both objective and subjective; there must be both actual belief on the part of the police officer, and that belief must be reasonable in the circumstances. That is to say, a reasonable person placed in the position of the police officer, must be able to conclude that there were indeed reasonable and probable grounds for the arrest.

...

There is no obligation on a police officer to weigh and determine the validity of various versions of events and render judgment before arresting or charging an accused. See *Wiles v. Ontario [Police Complaints Commissioner]*, [1997] OJ. No. 6274 (Ont. Div. Ct.).”

[88] In **Jarrett**, the Court referenced **R. v. Ing**, 2013 ONCJ 46:

“[48] The words, reasonable grounds, are not some magical incantation, or formula, which must be articulated precisely by an officer.

[49] Reasonable grounds does not amount to proof beyond a reasonable doubt, or proof on a balance of probabilities, nor is it even the equivalent of a *prima facie* case. Rather, it is where credibly based probability replaces suspicion. It must be more than a guess or a hunch, however.

[50] In dealing with probabilities relating to human behaviour, trained officers are entitled to draw inferences, and make deductions drawing on experience.

[51] Reasonable grounds is, therefore, not an onerous threshold. However, it must not be inflated to the context of testing trial evidence, nor must it be so diluted, however, as to threaten individual freedom.

[52] All too often, however, the Court is invited to engage in minute decisions about an officers' opinion which was developed on the spot, without the luxury of judicial reflection.

[53] The existence of reasonable grounds, should not devolve to a simple mathematical exercise of comparing factors supporting the decision versus those pointing in the opposite direction “

[89] In **Jarrett**, the action against the officers was dismissed. The arrest was made at a time of extreme urgency, with a sequence of fires being set across a section of central Halifax. All police officers on duty at the time were fully involved, as were all fire departments. Property and lives were at stake, the watch commander that night was running through a cemetery in the direction of the residence of a known arsonist; the watch commander had just seen a new fire erupt blocks away, and was informed that a citizen had observed a woman running in the direction of the home of the known, female, arsonist. The known woman was arrested in her home by two constables on instructions from the watch commander. The action against the officers were dismissed.

[90] In **Jarrett**, it is also notable that after a lengthy interview by police following her arrest, the woman was released and was not immediately charged.

[91] In this case, the information initially available to Cst. MacLeod was the information generated by dispatch, that is, that the caller had reported that Natasha Davis had bitten Mr.

Mickey, that she was suicidal, that she was in the apartment on the second level, that the victim was outside, and children were or had been present.

[92] When she arrived at the scene, she then had information provided to her by Cst. McNeil, that he had spoken to Ms. Davis who was inside the unit, she was not suicidal, and that Mr. Mickey had tried to get her out of the apartment where she had been living with him, by grabbing her around the neck and body and dragging her towards the stairs. She learned of, and then observed, (at the time of arrest) marks on Ms. Davis' neck and arms.

[93] According to Cst. MacLeod, she was told a different story by Mr. Mickey. He told her that Ms. Davis did not want to leave, but for an unknown reason, had gone down to the front porch, that he attempted to shut the door to keep her out, but she managed to push through, grabbed his arm, and bitten him, and then went back in to her room.

[94] She was told a third description of the incident by Cst. Harris, who related Mr. Hicks' version. Mr. Hicks had said that while in the apartment, Ms. Davis had grabbed Mr. Mickey around the waist with her fingers interlocked, and that she then bit Mr. Mickey. She had then run into her room.

[95] According to Cst. MacLeod, she also knew that Ms. Davis' father was at the scene.

[96] At this point, Cst. MacLeod had not just conflicting statements from her presumed 'victim' and 'dominant aggressor', but two other very different versions of what had taken place. With or without specific domestic abuse training, surely if there are three different versions, at least two witnesses must be mistaken or lying. Cst. MacLeod does not deny knowledge of three versions but nonetheless decided that Ms. Davis was the 'dominant aggressor'. Her reason for

arrest was the need to prevent continuation or repetition of the offence but offers no explanation as to why she should disregard all versions other than Mr. Mickey's.

[97] Neither the Hicks nor Davis version is referenced anywhere in Cst. MacLeod's notes or reports.

[98] She did not enter the apartment itself, to satisfy herself as to the layout which might or might not provide some support for the allegations.

[99] She did not take separate statements from the three individuals, but rather relied on at best, very brief discussions with Cst. Harris and Cst. McNeil, and then entirely on the basis of her own discussion with Mr. Mickey.

[100] She did not speak to Ms. Davis before she arrested her; she testified that Ms. Davis "wasn't cordial" to her. This is disputed, and in any event, "cordiality" would not be expected from a possible victim who was arrested immediately as she presented herself to an officer who she had not even spoken to.

[101] She did not consider size discrepancy between Mr. Mickey and Ms. Davis – Cst. MacLeod testified that Mr. Mickey was "not a very big person, he outweighed Ms. Davis (who was observed by the Board to be a rather slight woman) by maybe 75 pounds".

[102] She made the decision to arrest and charge Ms. Davis immediately, after what she said was a discussion with the other officers on scene – and suggested it was a joint decision. The evidence showed that at the time of that discussion, Cst. McNeil had left, Sgt. Campbell had not been a party to a discussion with Mr. Mickey or Mr. Hicks, and Cst. Harris testified that Cst. MacLeod was capable of forming her own grounds.

[103] She relied on the need to prevent a continuation of the offence, to justify the arrest, although she was aware of Mr. Davis, and could have asked if he was willing to take her home with him. That alternative did not cross her mind; in her view, his presence at the scene was irrelevant.

[104] She was certainly faced with a need to separate the parties to prevent continuation. Whether, and who, should be charged, clearly, they could not both be returned to the apartment. She knew Mr. Mickey was the tenant and would or could have known that his children lived there. The choice to extract Ms. Davis was the optimal solution. Was it an option available?

[105] Speaking to Mr. Davis would have been useful, then simply asking Ms. Davis if she would be willing to go to her father's was an option. There was no urgency that would prevent that.

[106] Even if the arrest of Ms. Davis was justifiable, given that there were three separate and conflicting versions of the altercation, there was no reason to charge Ms. Davis immediately (and in Cst. MacLeod's view, irrevocably).

[107] It is the conclusion of the Board that haste was the source of the mis-steps in this case. From the time she arrived at the scene, until she had Ms. Davis arrested and in the police vehicle was barely 10 minutes, even less time than many traffic stops. It appears that even though Cst. MacLeod was made aware of the conflicting versions of the incident, the details may have been limited and would at least call for further clarification. But she did not take the time necessary to absorb or consider them before making her decisions to arrest and charge. She could easily have done a more detailed interview of witnesses at the scene; she had three police vehicles available. No one was fleeing. She could have gone into the apartment while she was there

There was no evidence, such as a busy night, short staff, or immediate and other serious incidents taking place to justify the haste.

[108] There also was no obligation for Cst. MacLeod to immediately charge Ms. Davis, even if she had properly concluded that she had reasonable grounds. (see **Jarrett**) In fairness to Cst. MacLeod, the language of the CBRP Policy leaves her with no ability to withdraw a charge, once laid. (s. 11(b)...the withdrawal of any charge is the **sole** responsibility of the Crown Attorney.) [Emphasis added]. But Cst. MacLeod reasonably believed that once the decision was made at the scene, to lay a charge, that only the Crown would withdraw it. That may be the case, in circumstances where a charge has been laid.

[109] No doubt it was that understanding that left her believing that Ms. Davis's formal statement was irrelevant, and a formality.

[110] She did consult with the Crown **after** the charges had been laid. The Crown advised that the decision made and the charges laid were the best way to go about the file, but that they could not make the decision for her, which on its face, seemed to imply that she still had some ability to change her decision. That would seem to leave her "between a rock and a hard place".

[111] Where the Policy seems to place severe limits on the ability to withdraw a charge once laid, this tangentially must impose a higher standard of care on an officer before laying a charge. Any charge, whether for a serious or 'minor' offence has consequences, and can, and often does, have a serious impact on an individual. In this case, the 10-minute investigation had a very significant impact. Ms. Davis was taking a course, and the existence of a criminal charge precluded her from continuing. It appears that after having been arrested, placed in a cell,

charged with a criminal offence, proceeding partway through a trial, and according to Ms. Davis, coerced to sign a peace bond, she has been able to get her education back on track.

[112] Even without that particular impact, a criminal charge can have other serious consequences, such as impact on the ability to travel, or to obtain employment. The presumption of innocence plays no part.

[113] The allegations fall within the Code of Conduct, s. 24 (3):

(3) A member who neglects their duties in any of the following ways commits a disciplinary default:

- (a) neglecting to or, without adequate reason, failing to promptly, properly or diligently perform a duty as a member;

[114] The allegation against Cst. MacLeod is that she neglected her duties when she arrested and charged Natasha Davis, and when she failed to provide medical care.

[115] Although there are mitigating factors, in particular confusion over the CBRP Policy, the complaint as regards the arrest and charge of Ms. Davis is sustained.

[116] With regard to the allegation that Cst. MacLeod failed to provide medical care for Ms. Davis on the evening of the incident, this allegation is dismissed. There is no substance to this allegation. Cst. MacLeod may not have come across as terribly concerned or sympathetic in her dealings with Ms. Davis, but there is no evidence that Ms. Davis wanted, or needed, medical attention. She had confirmed early on that she had no thoughts of harming herself (via Cst. McNeil). Also, the injuries / markings on her person didn't suggest that medical attention was required at that time. That allegation is dismissed.

[117] We will accept written submissions on penalty with Ms. Davis to submit with 2 weeks of receipt of the decision, and Cst. MacLeod 2 weeks following receipt of Ms. Davis's submissions.

Dated in Halifax, Nova Scotia this 4th day of June, 2026.

ORIGINAL SIGNED

Jean McKenna, Chair

ORIGINAL SIGNED

Hon. Simon MacDonald, Vice-Chair

ORIGINAL SIGNED

Mary Potter, Board Member