IIU | Independent Investigation Unit of Manitoba

# *FINAL REPORT:* IIU concludes investigation into excessive force allegations by BPS officers

On June 4, 2021, the Brandon Police Service (BPS) notified the Independent Investigation Unit (IIU) of an incident that occurred on January 16, 2021, that concerned an allegation that the affected person (AP) was choked and rendered unconscious during an interaction with police.

The notification, provided to IIU (edited for clarity), read in part:

> *"[AP] was taken into custody under the Mental Health Act (MHA) on 2021-01-16 after he threatened self harm. [AP] was transported to Brandon Regional Health Centre (BRHC) where due to combative behavior he was placed into a wheelchair and had his legs and arms secured. [AP] reports in a complaint that he made to BPS Chief in a letter dated 2021-05-05 that "in my agitated state I kicked out, breaking the strap binding my feet to the wheelchair." [AP] alleges that in response to his breaking the strap that three officers responded and that, "The third officer already standing behind me even though I was totally incapacitated put me in a choke/stranglehold until I was unconscious."*
>
> *Given the mental state that [AP] was in at the time of his arrest under the MHA initial efforts were made to determine the validity of his complaint prior to contacting the IIU. It was determined that no video surveillance is available for the area in which the incident allegedly occurred at BRHC, efforts to identify nursing staff working were unsuccessful and while the officer notes mention the event at BRHC and the need to restrain him - they were silent on the use of a choke hold on [AP]. On 2021-06-03 a discussion was had with [AP] in which he indicated his intention of following through with a complaint of assault/excessive force... the requirement to report to the IIU became clear and phone notification was made"*

As the allegations in the notification are discretionary matters pursuant to the provisions of The Police Services Act (PSA), the civilian director determined that it was in the public interest for an independent investigation to be undertaken by IIU. Accordingly, pursuant to s. 75 of the PSA, IIU assumed conduct of this matter and commenced an investigation. IIU investigators were assigned to this investigation.

BPS file material and other information obtained by IIU investigators included:

- Incident report
- Copies of correspondence between AP and BPS
- BPS Cruiser Car video
- BPS use of force report
- Report summaries
- Witness officer notes
- Audio recording of 911 telephone call

- Audio interview of CW7 by BPS
- Photographs of AP
- AP's medical records
- BPS Use of Force policies

Based on the dearth of information received by IIU at the outset, it was the decision of the civilian director to defer the designation of any BPS officer as a subject officer until more was received through the investigation.

The civilian director designated six BPS officers as witness officers (WO1 – WO6). IIU investigators met with and interviewed AP. Seven civilian witnesses (CW1 – CW7) were identified as individuals to be interviewed in this investigation. IIU investigators subsequently determined that there was no need to interview CW1. This witness was the initial caller to the 911 operator and had provided a lengthy and detailed statement to BPS. On review of the statement, the audio of the 911 telephone call and conversations with CW1, it was determined that she had no further information to add.

No surveillance video was available from BRHC as the video is only stored for 30 days. To preserve any surveillance video beyond this limitation, a written request for this purpose must be provided to BRHC within 30 days of the recording date. The incident under investigation occurred on January 16, 2021 and was reported by AP to BPS on May 9, 2021. IIU was not notified of this matter until June 4, 2021.

IIU investigators did consult with the province's Chief Medical Examiner (CME) to obtain an opinion on the medical information and records received in this investigation.

## Facts and Circumstances

### Affected Person:

AP was interviewed by IIU investigators about the events of January 16. During the course of his interview, AP provided the following information:

- On January 16, he was home with CW1 and was in a state of mental health distress;
- He had made comments wanting to harm himself that caused CW1 to call 911 and request paramedics attend the residence. AP stated that CW1 specified that police were not to attend the residence;
- AP was in his bedroom shredding photographs while CW1 went down to the basement. When AP exited the bedroom, he noticed a police officer standing inside his house. AP believes that CW1 let the police officer into the house. AP stated that he became angry and *"lost it"*. AP stated that he kicked the officer in the stomach and forced him out of the house;
- AP stated that he noticed a police officer standing outside the living room window. AP stated that he *"gave that police officer the finger"*;
- Suddenly, five or six police officers smashed through the front door and entered the house. One of the police officers had a shotgun. AP described himself as *"mentally gone, toasted"*;

- AP stated he was curious whether or not this was a *"bean-bag shotgun"* so he stood and pointed at that officer. AP stated that he did not threaten the police officer;
- AP stated that as he pointed, another police officer *"tasered"* him and, as he fell to the ground, another police officer was punching him on the side of the head;
- AP stated that he was handcuffed, removed from the house and placed in the rear of a police cruiser car. AP stated that he repeatedly banged his head against the vehicle's protection shield to hurt himself;
- AP stated that he was driven to the hospital so he could get help for his mental health issues. On arrival, a wheelchair was brought to the police cruiser car. There were three police officers present. AP, still handcuffed, was placed in the wheelchair, his legs were tied to the sides and his head was covered with a *"spit hood".* AP stated that he was wheeled to the triage area then placed in a small room;
- AP stated that a nurse checked his vital signs while two police officers stood in front of him and a third police officer stood behind him;
- AP said he kicked out his legs and broke the straps. Two police officers jumped on his feet and legs to hold him down while the officer behind grabbed him forcefully around his throat and repeatedly squeezed his neck;
- AP recalls saying to this police officer, *"Is that all you got?"* which caused the officer to squeeze his throat harder, resulting in AP *"blacking out"*. AP does not remember anything after that point in time other than he woke up as he was placed and restrained on a stretcher and eventually taken to the main area of the hospital;
- AP stated that the officer that choked him was the same officer that was standing outside his living room window earlier;
- AP stated that as a result of this incident, he suffers from pain to the back of his neck on the sides of his skull, often gets a *"stingy pain"*, and suffers from a sore throat and back pain that makes it difficult for him to lay down in bed. AP stated that he did not mention being in pain to anyone at the hospital. AP stated that he saw the doctor a couple of months after the initial incident. AP stated that x-rays of his neck were *"negative"*. His doctor is sending him for a *"CT scan"* on July 2, 2021;
- AP stated that at no time did he believe he was threat to anyone at his house or at the hospital;
- AP stated that he delayed reporting this matter for months but as time passed, he was increasingly bothered by what had happened. AP acknowledged that he was misbehaving that day and had called police officers names. However, AP stated that what the police did to him in response was not justified. In fact, even when he broke loose from his leg restraints, it should not have drawn the police reactions.

**Medical Records:**

AP provided IIU investigators with a written consent for the release and review of his medical records and reports for this investigation.

**BRHC:**

At 2:00 p.m. on January 16, an initial assessment of AP was completed and as part of the admission process the following was documented:

- AP was threatening violence to others, aggressive and was damaging property;
- Urine toxicology screen was positive for cannabinoids and no other substances;
- AP had self-inflicted hematomas to his right forehead and to his right jaw;
- AP was agitated, in restraints and had declined further examination.

AP was admitted to the Centre for Adult Psychiatry (CAP) for an *"Involuntary Psychiatric Assessment"*. While in CAP, AP refused to discuss his issues or attend group sessions. AP has longstanding mood difficulties including depressive symptoms and irritability.

AP was discharged from hospital on January 21, 2021.

**Western Medical Clinic (personal physician):**

Medical report dated July 7, 2021, indicated a review CT scan of AP's neck. The scan showed degeneration of several discs but the neck was otherwise normal.

**Diagnostic Imaging Report – St. Boniface General Hospital – Examination Date: August 30, 2021 - MRI cervical spine:**

> Cervical Discs 2-3 demonstrate no significant disc protrusion or foraminal (narrowing of the disc spaced) compromise.
>
> Cervical Discs 3-4 show a shallow defuse posterior protrusion, flattening the anterior aspect of the spinal cord. There is no significant spinal canal compromise. There is very mild C4 narrowing.
>
> Cervical Discs 4-5 show a diffuse posterior protrusion extending laterally into uncinated (hook shaped) process osteophytes (bone spurs) causing moderate bilateral C5 narrowing. There is flattening the anterior surface of the spinal cord by the diffuse posterior disc protrusion. There is mild spinal canal narrowing.
>
> Cervical Discs 5-6 show a shallow diffuse posterior protrusion and small uncinated process osteophytes causing mild bilateral C6 narrowing. Anterior aspect of the spinal cord is just approached but not compressed.
>
> Cervical Discs 6-7 show disc narrowing and there is posterior ridge osteophyte formation extending into uncinated process - osteophytes causing mild to moderate right and moderate left C7 narrowing. Anterior aspect of the spinal cord is approached and mildly flattened. There is no significant spinal canal compromise.
>
> Thoracic Discs 1- 2 signal intensity corresponding to the calcification on the prior CT neck examination of July 2, 2021. The appearance is somewhat atypical but I would favor

it represents an atypical partially ossified (turning into bone) cavernous hemangioma (benign birthmark) unchanged. On the T1-weighted sequence there is some fat along the periphery of the lesion supporting this diagnosis.

**Impression:**

Moderate multilevel degenerative changes as described.

**Civilian Witnesses:**

IIU investigators spoke with CW1 and learned that she had provided a written statement to BPS detailing the events that lead to her calling 911 for assistance and what occurred once the police arrived at the residence to deal with AP, suffering from mental health issues. It was also confirmed that CW1 was not present at anytime at BRHC and had no additional information to provide that could be of assistance to the investigation.

A review of CW1's statement to BPS disclosed the following:

- On January 16, AP was in the throes of significant mental health issues – he was destroying personal property and mementos, punching himself in the face, and threatening serious self-harm;
- Attempts to talk to AP and calm him down were not successful so CW1 contacted 911 by telephone for assistance;
- CW1 made her way to the basement to call 911 and wait for arrivals. When CW1 heard a knock at the front door, she made her way to the main level and let a police officer into the house. CW1 then returned downstairs to the basement;
- CW1 stated that she heard the sounds of scuffling from upstairs but it stopped after she heard the sound of a door being locked. AP then yelled, *"why did you call the cops, you f*****g b****"***.** Moments later, CW1 stated she and one other individual crawled out the basement window to escape, knowing there was no one else in the house other than AP;
- CW1 believed that AP would have harmed himself if police did not get involved;
- CW1 believed that AP would be agitated because she had called the police;
- Once outside, CW1 was placed into the back seat of a police cruiser car and waited in the police car until AP was taken to the hospital. CW1 did not attend BRHC while AP was there on January 16.

CW2 was working as a senior staff nurse in the emergency department at BRHC on January 16. CW2 was also the triage nurse and due to AP's behaviour when he was initially brought into the regular patient area, he was taken to a separate room for mental health and safety precautions. AP was in the custody and had to be restrained by the police officers. AP was not cooperative with anyone. It was decided for the safety of the staff in the emergency room, AP was transferred to a hospital bed and restrained using four point restraints[1]. AP did not cooperate when he was transferred to the bed and restrained. AP had a bruise on his forehead and stated that he had a

[1] Four point restraints are used when a patient is being restrained by straps to their legs and arms, individually, to a stretcher or bed, to prevent the patient from swinging or assaulting staff, to prevent them from hurting themselves or from escaping.

headache but would not share any information as to how he received the injuries. AP kept repeating that he did not want any treatment and wanted to die. BPS officers advised CW2 that AP was *"tasered"* at his house. CW2 conducted a full assessment of AP. AP was noted as *"very agitated, his heart rate and blood pressure were very high"*. CW2 does not recall anyone having to use any form of excessive force to restrain AP. CW2 recalled that AP was initially in a wheelchair that she had taken to the parking bay on his arrival. Two police officers were involved in taking AP out of the police car and transferring him onto the wheelchair. When AP was taken to the small room, CW2 recalls asked him if he could *"help himself onto the stretcher but he would not cooperate"*. A decision was made to transfer him to the stretcher and she had the four point restraints ready to be utilized. The first time CW2 could safely check AP's vital signs was after he was already strapped down to the bed. CW2 recalled AP putting his feet on the ground to prevent the wheelchair being pushed forward. CW2 recalls that police officers were able to assist him back on the wheelchair. CW2 states that there was no altercation when AP was helped back on to the wheelchair by the police officers. When AP tried to get up from the wheelchair, the police officer to the right grabbed him by his shoulders and pulled him back on to the wheelchair. The police officer on the left went to the front and grabbed his legs. The police officers were telling AP to sit down but he was resisting and refusing to cooperate. CW2 could not recall if a third police officer was involved trying to get AP into the wheelchair. CW2 did not recall any police officer coming from behind and applying a choke hold or arm lock to AP's neck at any time. When AP was restrained to the hospital bed, one of the police officers was holding his head down to prevent him from getting up. CW2 reviewed AP's medical chart and confirmed there were no entries stating that AP lost consciousness at any time that he was in the emergency room or area.

CW3 is a nurse who was working at the BRHC emergency department on January 16. CW3 stated that a review of AP's chart suggests that she would have dealt with AP when he was in a bed, restrained with four point restraints. CW3 stated that police officers were present during the two times that she had dealings with AP. AP was extremely aggressive, belligerent, and would not answer any questions. During the times that CW3 had interactions with AP, he did not complain of any injuries or pain other than that his head and jaw hurt.

CW4 was the charge nurse in the BRHC emergency room and took over AP's care starting at 7:30 p.m. AP's bed was moved into an area close to the front where he could be monitored by staff. AP was restrained to the bed. At some point, psychiatry staff spoke with AP. AP was angry throughout the evening and one point told her not to ask anymore questions. AP was medically cleared and needed to be transferred over to the CAP. Brandon police were requested to assist with the transfer of AP. A decision was made to keep AP restrained to the bed during the transfer. Once AP arrived at CAP, his restraints were removed and he was moved into a room without any issues. When CW4 took over care for AP from dayshift staff, she did not notice any visible injuries on him. A note was made in his chart about one of his arms having a scrape. During the time CW4 cared for AP, he did not complain of any pain.

CW5 was a security guard at BRHC and was working there on January 16. CW5's day to day duties include watching the security camera and patrolling both inside and outside the hospital. At any given time there are three security officers working at the hospital. CW5 made no notes on any events from January 16 nor did she write a report about any incident involving AP. If something were to happen in the emergency room, she or one of the other security guards would

write a report on the computer in their office. Only one of the security guards working is responsible for writing a daily occurrence report each day. CW5 does not recall seeing the police choking AP while at the hospital. If something like did happen, a report would have been written.

CW6 is a security guard who was working at BRHC on January 16. CW6 recalled the event involving AP and BPS that day. CW6 stated that AP was handcuffed but did not recall whether his legs were strapped with restraints. However, CW6 felt he could not discuss or disclose any further details due to privacy restrictions under The Personal Health Information Act (PHIA). CW6 stated that his day-to-day duties include protection of staff and visitors as well as patrolling the property of the hospital. CW6 carries a notebook and records any details related to any events or incidents that might occur during his shift. CW6 stated that he checked his notebook for January 16 and made no notes in reference to the incident involving AP. A daily occurrence report was written by another security officer and covers the actions of all the security officers working that day. CW6 reviewed the daily occurrence report from January 16 and did not see any details of any event involving AP and BPS officers. CW6 recalled that he was sitting at the security desk in the emergency room when AP tried to get up from a wheelchair. CW6 does not recall whether AP was *"strapped down"* to the chair. Security officers were called to assist BPS and staff due to AP's violent and unpredictable behaviour. Security officers assisted with securing AP with restraints to a hospital bed. When CW6 entered the room to assist, AP was already on a stretcher and security officers assisted with the application of the four point restraints. CW6 did not see any police officers to have their arms around AP's neck. CW6 stated that he did not witness the police officers do anything that would be considered excessive force during the restraining process.

CW7 was a security guard working at BRHC on January 16. CW7 had little to no recollection of any incident involving AP and BPS officers at the hospital that day. One of shift's security guards are to complete a daily run sheet to record any significant events that may take place during that time. CW7 stated that he was unable to access a daily run sheet for January 16. He does recall hearing a *"code white"* in the emergency room that he responded to. A *"code white"* is a call for assistance regarding an aggressive patient. CW7 stated that he attended to the treatment room but was unable to recall whether he assisted the police with restraining the patient or if he was the last person in the room and his assistance was no longer required. However, CW7 does state that he did not observe any police officer choking a patient while he was in the treatment room.

**Witness Officers:**

WO1 was working night shift on January 16, starting his shift at 7:00 p.m. At 02:00 a.m., BPS received a call for assistance requesting two members to attend BRHC as AP was ready to be transferred to CAP. WO1 and WO2 were dispatched to the hospital arriving at 2:22 a.m. AP was located in a room near emergency. AP was restrained to either a hospital bed or wheelchair. AP still appeared quite agitated, especially when he saw the police in the room. It was decided that the restraints would be left on AP to avoid any further incident. There was no conversation or physical contact between WO1 and AP during the entire time they were together. WO1, WO2 and two security guards were involved in transporting AP to CAP. Once the transport was complete, CAP staff just wheeled AP's bed into a room. That ended their involvement with AP. At no time did AP complain of being choked by anyone.

WO2 was with WO1 when they were dispatched to BRHC to provide assistance. They arrived at the hospital at 2:25 a.m. AP was still in restraints and in an agitated state. Security officers and nurses were present but they did not feel safe transporting AP without police being present to assist. WO2, WO1, and two security officers transported AP to CAP. There were no issues of concern during the transport and AP was turned over to CAP staff. AP did not complain of being choked by anyone or suffering from any pain.

WO3 was working the BPS day shift acting as the street supervisor. At approximately 12:40 p.m., a call for service was received from a female caller requesting assistance as AP was threatening self-harm. WO4 was the first BPS officer on scene and had advised that AP had locked himself in the house and there may be others inside. WO3 stated that on his arrival, he was advised that CW1 and one other escaped through a basement window and were secured in the back of a police cruiser. AP refused to speak with police or come outside on his own and at one point, closed the living room window blinds making it impossible to watch his movements. The residence was secured from the outside and a plan was devised to enter the residence via the south side door and take AP into custody under the MHA. When BPS officers entered the residence, AP was located sitting on a couch in living room. AP stood up and yelled *"shoot me, shoot me"* and lunged at the police. WO5 deployed his conductive energy weapon (CEW) at AP which resulted in him going to the ground and was successfully taken into custody. AP was handcuffed, escorted to a police cruiser car, and seated in the rear seat. WO3 stated that he returned to the BPS station and briefed the shift supervisor on the details of the incident. WO3 then made his way to BRHC to check on the officers with AP. WO3 stated he was briefed a BPS officer and advised that he was not needed to stay.

WO4 was working the dayshift and was assigned to general patrol duties. WO4 was one of several BPS officers that responded to the 911 call for assistance at APs residence. Once AP was taken into custody, he was transported by WO6 in his police vehicle. WO4 stated that he and WO5 attended BRHC to assist WO6. As AP continued to be in a very agitated state, it was decided that he would be put in a wheelchair and his legs tied with a RIPP™ Hobble[2] to ensure everyone's safety. A spit hood was placed over AP's head to prevent him from spitting at police or hospital staff. AP was wheeled to the triage area where he continued to yell and scream at everyone. It was decided that AP be taken to a separate room that was located just around the corner from the regular triage area. In the room, AP stated that he suffered from heart problems but AP was refusing to cooperate with staff who were trying to assess him. AP then broke his leg RIPP™ hobbles and attempted to stand up. WO4 stated that he was near the front of the wheelchair and jumped onto AP's legs to prevent him from getting up. WO5 was standing at the back of the wheelchair. When AP tried to get up from the wheelchair, WO5 reached from behind with his arm and pulled AP back into the chair[3]. WO5 was holding on and pulling AP back into the wheelchair by putting his arm across his chest and not his neck. WO4 stated that police officers were giving commands to AP to calm down and cooperate. A short time later, AP calmed down and agreed to move on to a hospital bed. Hospital staff and security officers restrained AP to the hospital bed by his legs and arms. WO4 stated that at no time was AP choked, lost consciousness or

[2] A device made of one-inch polypropylene strapping designed to be wrapped around the legs of a potentially violent offender preventing the subject from aggressively kicking, standing or escaping.

[3] WO4 was the police officer who was standing outside the living room window at the residence attempting to communicate with AP. WO5 was the BPS officer who was standing behind the wheelchair at BRHC and grabbed AP from behind.

had trouble breathing. After AP was secured and restrained in the hospital bed, WO4 left the hospital. WO5 and WO6 remained there with AP.

WO5 was working the dayshift on January 16, when he responded to a 911 call for assistance involving AP. Once taken into custody, AP was transported to the hospital by WO6. On arrival at BRHC, AP was very agitated and yelling and screaming at police. AP had a spit hood placed over his head to prevent him from spitting at anyone. He was removed from the rear seat and seated on a wheelchair. AP's legs were restrained with a RIPP™ Hobble to the side of the wheelchair to prevent him from kicking or assaulting police or hospital staff. Hospital staff advised police to take AP to a separate room and away from the public waiting area to be triaged. WO5 pushed the wheelchair into the room. WO5 stated that WO4 was near the front left side of the wheelchair, while WO6 was standing by the door. AP was not cooperating with the triage nurse. Suddenly, AP broke out of the RIPP™ Hobbles. WO5 stated that he has never seen anyone break out of RIPP™ Hobbles like this before. It requires enormous amount of energy for someone to break free. Once his legs were free, AP tried to get up from the wheelchair. WO4 got on top of AP's legs to prevent him from standing. WO5 stated that as he was standing at the rear of the wheelchair, he put his arm around AP's upper body and pulled him back onto the chair. WO5 stated that he did not choke or restrict AP's breathing in any manner. In fact, throughout, AP continued to yell and scream at nurses and hospital staff. WO5 stated that he did nothing more than holding AP down while he was out of control. WO5 stated that he believed only himself and WO4 were involved in bringing AP under control after he had broken out of the leg restraints. The security guards and hospital staff came in with restraints to secure AP to a hospital bed but he was still actively kicking and screaming at everyone. AP started to calm down once he was restrained to the hospital bed.

WO6 was working the dayshift on January 16. Once AP was taken into custody and handcuffed, he was escorted outside and placed in the rear seat of WO6's police cruiser car. WO6 stated that he transported AP to BRHC. As he left AP's residence, WO6 stated that he turned on the police cruiser's audio and video recording device. On arrival at BRHC, AP was removed from the police cruiser, a spit hood was placed over his head, and he was seated in a wheelchair with his legs were tied with restraints. AP was yelling and screaming and causing a disturbance in the triage area. WO6 stated that hospital staff directed the police to wheel AP into a secure room located around the corner from public triage area. WO6 stated that he, WO4 and WO5 were in the room with AP for approximately 15 to20 minutes. AP refused to cooperate with the triage nurse. Suddenly, AP tried to get out of the wheelchair by kicking out his legs and breaking free of the restraints. Once AP's legs were free, he was starting to get up and out of the wheelchair. WO4 was at the front of the wheelchair, WO5 was standing at the back of the wheelchair and WO6 stated he was to the right of AP, near his right shoulder, a few feet away. WO6 stated that WO4 restrained AP by his legs from the front while WO5 reached in from behind, put his arm around AP's upper chest area and pulled him down onto the wheelchair. WO4 and WO5 were able to bring AP under control and he was seated back on to the wheelchair. WO6 stated that he did not have to be involved as WO4 and WO5 had everything under control. WO6 stated that WO4 and WO5 used standard restraining technique on someone that was acting out of control and being violent. AP was not choked or rendered unconscious at any time. The hospital staff made the decision to move AP to a hospital bed and secure him with restraints. The police officers left the room once AP was secured to the bed.

**Audio recording of the 911 Call by CW1**

The audio recording of CW1's 911 call was reviewed and transcribed by IIU investigators. CW1 provided detailed information to the operator including AP's background and the current situation at the residence. CW1 stated that she was scared by AP's actions. CW1 advised the operator that she was in the basement and that AP was upstairs in the bedroom. The operator advised that the paramedics have been dispatched already. CW1 stated that she was concerned about AP's wellbeing. Yelling and screaming could be heard in the background of the call. The call concluded when CW1 advised that police had arrived at the residence. At no point during the entirety of the call to 911 did CW1 state that she did not wish or want police to attend the residence. The only request made by CW1 is that police not use their emergency lights or sirens when they arrived at the residence.

**Video Footage from BPS Police Vehicles:**

**WO6 Cruiser Car:**

**1:07 p.m.** - AP is placed in the rear seat and seat belted by a police officer – AP appears to be agitated;

**1:19 p.m.** – WO6 enters the cruiser car and asks AP if he was feeling ok. AP said, *"I am in the back seat of a cop car, what you think, f**k"* – AP also indicated that he did not want to go to the hospital;

**1:20 p.m.** – WO6 left with AP for the hospital;

**1:27 p.m.** – WO6 and AP arrive outside the ambulance bay and cruiser car pulls inside;

**1:32 p.m.** – A police officer opens the rear door and asked AP wanted to talk now. AP said, *"What did I tell you earlier, f**k";*

**1:38 p.m.** – The rear door is opened again, a police officer places a spit hood over AP's head, the seat belted removed and he is removed the rear seat. AP is seated on a wheelchair and legs are tied with restraints to the sides. AP appears very agitated, screaming and yelling at police officers;

**1:39 p.m.** - AP is taken inside BRHC.

**Consultation with the Chief Medical Examiner**

On December 29, 2021, the CME was consulted by IIU investigators to review AP's medical records and reports and to provide an opinion with respect to the allegations that AP was choked to unconsciousness by a BPS officer at BRHC. The CME noted that the reports describe degenerative changes only, with no injuries being mentioned. There is nothing in these reports to suggest any skeletal injury occurred during AP's interaction with police at BRHC. Furthermore, the CME stated that he cannot comment whether or not AP lost consciousness during this event. Choke holds, even when they result in loss of consciousness, typically leave little to no external evidence of injury. In his opinion, witness accounts would be the most compelling evidence in this respect.

**Conclusion**

This investigation must consider whether the actions of any or all of the police officers who were involved with AP at his residence caused, or in any way contributed, through action or inaction, to his injury, and if so, should criminal code consequences flow therefrom.

The following facts and circumstances have been established:

- All BPS officers that attended AP's residence or BRHC, in the company of AP, were on-duty, lawfully placed and in lawful execution of their duties at all material times;
- AP was in the throes of a significant mental health episode at his residence, when a call to 911 was made by CW1 requesting assistance;
- A police officer was initially invited into the residence by CW1 and was physically assaulted by AP. More BPS officers entered the residence to deal with AP, try to gain control of him and restrain him;
- There was a confrontation between AP and BPS officers where AP stood and lunged at police. This resulted in the deployment of a CEW to gain control of him. BPS police were successful in handcuffing AP and removing him from the residence;
- AP was placed in the rear of a police cruiser car and was transported to BRHC for further assessment;
- AP committed acts of self-harm both at his residence and while in the rear of the police cruiser car;
- On arrival at BRHC, AP was restrained in a wheelchair and had a spit hood placed over his head to protect police and hospital staff. AP continued to act in an agitated and disruptive manner to the extent that staff requested that he be placed in a separate room and away from the general public for purposes of triage;
- While in the separate room, AP broke free of his leg restraints and attempted to stand from the wheelchair. Two police officers, WO4 and WO5 were involved in restraining AP to the wheelchair. Other than as alleged by AP, no witness observed any police officer place a choke hold on him or observe him rendered unconscious. There is no entry in the BRHC medical records noting that AP was rendered unconscious at anytime during his stay at the hospital;
- AP alleged that the BPS officer he observed outside his living room window was the same police officer who stood behind the wheelchair and choked him. The evidence shows that WO4 was the police officer standing outside the living room window and was the police officer stationed at the front of the wheelchair when AP was at BRHC. WO5 was the police officer standing behind the wheelchair;
- AP alleges that CW1 specified during the 911 call that police were not to attend the residence. A review of the 911 call audio and CW1's statement has determined that no such request was ever made.

Based on the various witness accounts and other information obtained in this investigation, I am not satisfied that reasonable grounds exist to justify the designation of any BPS officer as a

subject officer. I am not satisfied that there exists any evidence to find that any BPS officer used excessive and unnecessary force during all interactions with AP.

The IIU investigation is complete and this file is closed.

**Final report prepared by:**
Zane Tessler, civilian director
Independent Investigation Unit
January 20, 2022

*Ref # 2021-0020*