



**IN THE MATTER OF THE INJURY OF A MAN
WHILE BEING APPREHENDED BY MEMBERS OF THE RCMP
IN COURTENAY, BRITISH COLUMBIA
ON APRIL 7, 2024**

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

Chief Civilian Director: Jessica Berglund

IIO File Number: 2024-080

Date of Release: February 6, 2025

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This report details situations that may be distressing to some readers. If you are in crisis, help is available:

- (1) Call 310-6789 to be connected to the crisis centre nearest you (no area code required)
- (2) Crisis Services Canada: [crisisservicescanada.ca](https://www.crisisservicescanada.ca)
- (3) British Columbia: [crisislines.bc.ca](https://www.crisislines.bc.ca)
- (4) Vancouver and surrounding areas: [crisiscentre.bc.ca](https://www.crisiscentre.bc.ca)
- (5) Vancouver Island: [vicrisis.ca](https://www.vicrisis.ca)
- (6) VictimLinkBC: 1-800-563-0808

INTRODUCTION

On the afternoon of April 7, 2024, RCMP members went to the home of the Affected Person (“AP”) in response to reports that he had breached a bail condition by being away from his residence without prior permission. The AP refused to come out of the house and issued a series of death threats to officers while brandishing a large knife. The Emergency Response Team (“ERT”) was called to the scene and after a lengthy standoff, entered the house with a judicial authorization. In the course of the AP’s arrest, which he strenuously resisted, he suffered several serious injuries.

The Independent Investigations Office (“IIO”) was notified and commenced an investigation. The narrative that follows is based on evidence collected and analyzed during the investigation, including the following:

- statements of the AP, four civilian witnesses and five witness police officers;
- police Computer-Aided Dispatch (“CAD”) and Police Records Information Management Environment (“PRIME”) records;
- audio recordings of police radio transmissions;
- video recordings from civilian witness security cameras;
- video recording from responding fire department dash camera;
- crisis negotiation team documents;
- scene photographs and measurements;
- police training records;
- Conducted Energy Weapon (“CEW” or “Taser”) data download;
- copies of court documents, including judicial warrants and their supporting documentation; and
- medical evidence.

The IIO does not compel officers whose actions are the subject of an investigation to provide evidence. In this case, none of the subject officers has given an account.

NARRATIVE

The Affected Person (“AP”) is a former military member previously diagnosed with post-traumatic stress disorder (“PTSD”). His life experiences are relevant to the narrative that follows.

In the months before April 7, 2024, the AP had amassed a significant justice system history involving allegations of violence, threats and non-compliance with police. This history was known to responding officers and informed their decision-making on the day of this incident. On March 12, 2024, the AP had been released on bail with several conditions, including “house arrest.” That condition required the AP to remain inside his residence, except between noon and 3:00 p.m. on Sunday and Wednesday afternoons, or with prior written permission from his bail supervisor.

April 7, 2024, was a Sunday. At 1:42 p.m. that day, police received 911 calls complaining that the AP was in front of his house causing a disturbance by yelling. One caller added that the AP had been out riding a bicycle and had just returned home. Security camera video recordings from a nearby building, obtained by IIO investigators, confirm that the AP arrived home on a bicycle at 1:38 p.m., and was out in front of his house, shouting a series of obscenities and threats.

Responding officers checked with their dispatcher regarding the AP’s bail conditions, and received incorrect information, to the effect that the Sunday and Wednesday exceptions to his house arrest also required prior written permission. This led to a disagreement between police and the AP at his front door: he was told he was under arrest for breach, and responded angrily that he was “allowed to be out” and did not need permission. The AP locked the door and proceeded to shout insults and threats at police, who maintained containment on the house while other officers applied for a warrant for arrest within a dwelling house (a “Feeney warrant”).

The following narrative is drawn from witness officer accounts, corroborated by civilian witnesses and physical evidence from the scene.

When officers tried to negotiate with the AP, he brandished a large knife, slammed the door on them and continued to shout threats. Charges of uttering threats and assault with a weapon were added to the warrant application.

At approximately 2:45 p.m., the decision was made to call out ERT members. As the team arrived and deployed around the AP’s home, RCMP crisis negotiators began attempts to communicate with the AP. Those attempts were not successful, as the AP limited his responses to more insults and threats, including stating that if police entered his home he

was prepared to use lethal force against them. Despite this, the police negotiators continued calling to the AP over a loudhailer, telling him to come out with empty hands. At one point, the AP was seen through a window, apparently putting on a gas mask.

At 5:13 p.m., ERT members attempted to use a ram to prevent the AP from opening the garage door and exiting in a vehicle. This was not successful, and the AP opened the door partway, reaching out to grab the ram. In order to prevent this, pepper ball rounds were fired at the AP's hand. In response, the AP appeared at a window, showing that a pepper ball impact had not affected him and saying that police would have to use lethal rounds.

At 6:45 p.m., the AP asked police to call his lawyer, which they did. The lawyer subsequently called police back and told them he had talked to the AP but was not able to persuade him to exit the house and surrender.

At 7:12 p.m., officers at the scene received the Feeney warrant and began preparations to insert chemical gas into the residence, aiming to force the AP to come out. Those preparations were suspended shortly afterwards, because the AP asked for a telephone number for the police negotiators. They provided it to him, using the loudhailer, but did not receive a call for a few minutes. When they did, the caller was an acquaintance of the AP, who told them that the AP had said he was sitting in the house wearing a gas mask, and would kill the police if they entered. The friend indicated that to the best of his knowledge, the AP did not possess any firearms.

At 7:21 p.m., police inserted gas into the residence. Coughing was heard from the crawl space, and more gas was inserted into that area. At about 8:00 p.m., an infrared camera inserted into the crawl space located a large heat signature consistent with a human shape, and pepper ball rounds were fired in that direction with no apparent effect. Subsequently, at 8:55 p.m., after ERT members entered and cleared the main portion of the house, a camera inserted through the crawl space hatch showed the AP in a corner, wearing a gas mask and mostly covered in what appeared to be a large blanket or sleeping bag. He was seen to be holding a large knife in his right hand.

When there was no response from the AP to police commands to drop the knife and come out, members started cutting holes through the floor to gain access to the crawl space from multiple points. Attempts to deploy CEW's at the AP were unsuccessful because the probes were blocked by the sleeping bag under which the AP was sheltering. Officers also tried to hook the sleeping bag and pull it away from the AP, but again were unsuccessful. The ERT team leader concluded that it was too dangerous to send members into the crawl space, as the AP was still protected by the gas mask and sleeping bag and was still armed with a large knife.

At 9:36 p.m., after the AP slashed at an officer through a crawl space vent, narrowly missing him, several 40mm blunt impact rounds were fired at the AP, and officers attempted again to disable the AP with CEW deployments. None of these “less lethal” force options appeared to have any effect on the AP, and he was seen moving around the crawl space holding the knife and a spade. A police dog handler with a Police Service Dog (“PSD”) was directed to be ready to send in the dog if the AP could be separated from his weapons.

At 10:13 p.m., an officer aimed a firehose at the AP through an exterior vent. The AP used a section of wall insulation to block the jet of water, so a second hose was then inserted from a different direction. At the same time, the AP was again struck by several 40 mm rounds, but was still able to maintain possession of the knife.

At 10:21 p.m., after members managed to dislodge the AP’s gas mask using a fire hose, more gas was inserted into the crawl space, and police suspended further action because the gas obscured visibility. Police made multiple callouts to the AP, telling him to surrender.

By 10:37 p.m., the AP had managed to get the gas mask back on, and was still holding the knife. Struck in his right hand by an impact round, he dropped the knife, but picked it up again with his left hand. He told the officers that his right hand was broken, but said the knife would only be taken from him when he was unconscious. Even after further impact rounds were fired at his left hand, the AP continued to maintain possession of the knife.

Finally, at 10:47 p.m., the AP told the ERT members that he wanted to come out. He left the knife in the crawl space and came out through the hatch. He was observed to be wet and shivering, and had a badly swollen hand. He was given an initial assessment by an ERT medic, and was then helped out to a waiting ambulance by two officers, his feet dragging on the ground. He told the officers, “Well, that was fun, guys, we should do it again”, and asked, “Aren’t you guys proud of me? I stayed in there for a long time.”

The AP was found to have suffered a broken right forearm, a puncture wound to his thigh and injuries to both hands, including fractured finger bones.

Interviewed later by IIO investigators, the AP stated that when officers came to his front door, he was aware he had not breached his conditions and did not want police to enter his home. He recalled being “Tasered” 16 times in the course of the incident, being shot repeatedly with 40mm rounds, and that the police had “tried to drown me” in the crawl space. He said that his response to the police actions aimed at getting him to leave his home was limited to taking up defensive positions, and added that he had no intention of

harming police. He said he kept telling himself to remember his military training, and that the police were civilians he had a duty to defend and protect.

LEGAL ISSUES AND CONCLUSION

The Independent Investigations Office of British Columbia is mandated to investigate any incident that occurs in the province in which an Affected Person has died or suffered serious physical harm and there appears to be a connection to the actions (or sometimes inaction) of police. The aim is to provide assurance to the public that when the investigation is complete, they can trust the IIO's conclusions, because the investigation was conducted by an independent, unbiased, civilian-led agency.

In the majority of cases, those conclusions are presented in a public report such as this one, which completes the IIO's mandate by explaining to the public what happened in the incident and how the Affected Person came to suffer harm. Such reports are generally intended to enhance public confidence in the police and in the justice system as a whole through a transparent and impartial evaluation of the incident and the police role in it.

In a smaller number of cases, the evidence gathered may give the Chief Civilian Director ("CCD") reasonable grounds to believe that an officer has committed an offence in connection with the incident. In such a case, the *Police Act* gives the CCD authority to refer the file to Crown counsel for consideration of charges.

In a case such as this one, involving the use of force by officers, the IIO investigators collect evidence with respect to potential justifications for that use of force. The IIO then analyzes this evidence using legal tests such as necessity, proportionality and reasonableness to reach conclusions as to whether officers' actions were lawful, or whether an officer may have committed the offence of assault.

It is unfortunate that the officers who initially responded to the 911 calls about the AP were misinformed about his bail conditions. While the conditions were not perfectly drafted, the only reasonable interpretation of them is that there were two separate provisos to his house arrest: (1) permission to be outside between specified times on any Sunday or Wednesday afternoon; and (2) further permission, at other times, if authorized in advance by the bail supervisor. It does not appear that the AP was actually in breach of his bail when he was reported to police for being out riding his bicycle on a Sunday afternoon.

However, both 911 callers also complained that the AP was yelling and causing a disturbance in public. Those complaints gave police grounds to arrest. Unfortunately, the

AP's response, who was angry at being accused of committing an offence he had not committed, amounted to the further and more serious offence of uttering threats.

The bail conditions under which the AP was bound were fairly standard ones, with a general permission to leave the home during specific periods, for any purpose, plus permission to leave in exceptional circumstances, if approved on a case by case basis by the bail supervisor. All the involved officers would have been familiar with that type of arrangement, and it is unfortunate that, between the time of initial police attendance and receipt of the Feeney warrant, no officer thought to question the incorrect version of the conditions they had been given by Dispatch. That failure does not amount, in itself, to a criminal offence on the part of any officer, but it contributed significantly to a sequence of events that could easily have had a tragic outcome and that was traumatizing for the AP. While the AP displayed bravado upon his eventual apprehension, it is clear from his interview with the IIO that the incident caused him continuing physical and psychological distress.

Having said this, however, once events had been set in motion, the AP's actions left police very little choice in how to proceed. He had brandished a weapon at them and had repeatedly yelled that he would use lethal force if they entered the home to arrest him—for which they had judicial authorization in the form of a Feeney warrant.

The evidence is that police tried over an extended period to communicate with the AP with the aim of negotiating a de-escalation and a non-violent conclusion to the incident. It was the combination of the AP's refusal to do as police asked and his remarkable ability to withstand the repeated deployment of non-lethal force against him that caused the incident to become as drawn out and violent as it was. It cannot be said that the ERT members used force beyond what was necessary and justified in the circumstances.

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



Jessica Berglund
Chief Civilian Director

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