



**IN THE MATTER OF AN INVESTIGATION INTO AN INCIDENT INVOLVING
INJURIES DURING RCMP ARREST IN NORWAY HOUSE FIRST NATION**

FINAL REPORT OF THE CIVILIAN DIRECTOR
OF THE INDEPENDENT INVESTIGATION UNIT

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Introduction

On Jan. 31, 2024, the Royal Canadian Mounted Police (RCMP) notified the Independent Investigation Unit of Manitoba (IIU) of an incident.

The written notification disclosed the following information:

Excerpt from Part 7 Notification received on Jan 31, 2024:

On January 28th 2024, the Norway House RCMP responded to a call that AP pointed a gun at an individual while trying to rob him. Attempts to locate AP were negative.

On January 30th 2024, information was received that AP threatened to shoot another community member and AP was currently in Norway House. AP and CW2 barricaded themselves in the residence and expressed on Facebook and verbally wanting to be shot by the police, while challenging the police with a firearm.

After 6 hours of negotiation, a warrant was obtained to enter the dwelling house. AP and CW2 were non-compliant with ERT members resulting in SO firing a 40 mm round at AP, hitting him in the torso.

As this matter concerned injuries during an arrest, the IIU assumed responsibility for the investigation in accordance with Sec. 65(4) of *The Police Services Act*. IIU investigators were assigned to this investigation.

IIU investigators obtained the following information from the RCMP, among other items:

- notes, narratives and reports of officers
- audio transmissions
- social media videos and photos
- injury photos of AP
- medical reports

The civilian director designated one subject officer (SO) and twelve witness officers (WO1 to WO12). IIU investigators also received information from AP and two civilian witnesses (CW1 to CW2).

Facts and Circumstances

Scene Examination

IIU investigators reviewed the scene and attempted to canvas the area. No further information was found by canvassing the neighbouring residences.

Interviews

Affected Person

AP was interviewed by IIU investigators on March 8, 2024, and provided the following information:

AP was at a residence with CW1 and CW2. AP stated that he had just been released a few days earlier and had been taking different drugs since his release. AP saw the officers out the window

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and thought he was going to be raided. AP opened the window and asked police what they were doing. Police told AP that they were there to arrest him for pointing a firearm and asked him to come out of the residence. AP said he didn't have a gun and closed the window. AP stated that because of the intoxicants, he couldn't remember everything that happened. AP said he was pissed off with the police and scared to leave the residence as the police were threatening him with force.

AP said the next thing that happened was a window was smashed and a thing was smoking up the house. AP could not see or breathe and knew he had to leave. AP said that he was very intoxicated and decided to jump through the window even though the door was not barricaded. AP fell out of the window and tried to stand up. AP stood up and could not see anything because of the smoke or hear anything. AP was shot shortly after standing up. AP dropped to the ground and couldn't breathe and was thirsty, so he started to eat snow. AP was then handcuffed and taken into custody.

Civilian Witnesses

Civilian Witness 1 (CW1)

CW1 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

CW1 confirmed that she was with AP and CW2 about five minutes before RCMP attended. AP yelled "cops" and then started to barricade the house. AP went to the window and talked to police several times, saying he was not going back to jail. CW1 was freaking out and wanted AP to let her leave the residence. AP said that he would let her go and that he just needed some time to think.

CW1 noted that it went dark and she knew police were going to hit the residence with smoke bombs. CW1 was concerned as she has breathing problems. A smoke bomb was shot into the residence and she recalled that CW2 gave her a towel to cover her mouth. CW1 crawled out of a small window in the house and landed on an officer. CW1 said the officer pointed a gun at her and put her in handcuffs. CW1 did not know what happened to AP or CW2 as everything happened so fast. CW1 was later taken to the hospital for her injuries.

Civilian Witness 2 (CW2)

CW2 was interviewed by IIU investigators on April 15, 2024, and provided the following information:

CW2 confirmed that he was with AP and CW1 at the residence consuming a variety of drugs. CW2 stated that he had been up for the last five days because of his drug consumption. CW2 recalled that they were playing the music very loud and didn't know the police were there until he heard them on the loud speaker. CW2 confirmed that police asked them to exit the residence because they were under arrest for pointing a firearm. CW2 confirmed that CW1 wanted to exit the residence.

CW2 recalled that police shot in a smoke bomb and he could not breathe or see. CW2 jumped out a window and was immediately arrested by an officer. CW2 was taken to a police vehicle that also had AP in it. AP told CW2 that he was shot with a rubber bullet or something.

CW2 acknowledged that he was intoxicated to the point that he thought his sibling who lives in Calgary was also present during the incident.

Witness Officers

Witness Officer 1 (WO1)

WO1 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

WO1 attended the scene, advising AP and CW2 that they were under arrest for numerous weapons offences. AP told the officers he was not going down without a fight and that they would have to shoot him or he would shoot them. WO1 was directed back to the detachment to write up a warrant. WO1 radioed the emergency response team that the warrant had been approved. WO1 attended back to the scene only to observe AP, CW1 and CW2 had already been arrested.

Witness Officer 2 (WO2)

WO2 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

WO2 recalled that one of the individuals came out of the residence asking the officers what they were doing there. WO2 confirmed that this individual stated that there would be a shootout. WO2's role changed to assisting the emergency response team with containment and with any arrests. WO2 and some officers went to use gas on the residence, but the wind blew the gas back at him and the officers. As a result, they were instructed to leave.

Witness Officer 3 (WO3)

WO3 was interviewed by IIU investigators on Aug. 6, 2024, and provided the following information:

WO3 advised that he was familiar with AP for being extremely violent and using firearms. WO3 was with WO2 while WO1 went back to write up the warrant and await the emergency response team.

Once the CS gas (tear gas) was shot into the residence, WO3 saw AP jump headfirst out the window. AP stood up while officers were directing him to lie on the ground. AP did not listen and started running towards the officers. AP suddenly dropped to the ground. WO3 later found out that AP had been shot with a 40 mm bullet.

AP was arrested shortly after. WO3 noted AP to be extremely intoxicated but did not observe any injuries. AP remained belligerent after the arrest.

Witness Officer 4 (WO4)

WO4 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

WO4 was a member of the emergency response team. He was in an over watch position as the individuals were not complying with directions to exit the residence. WO4 recalled confirmation that the warrant was received, so members deployed chemical munitions into the residence.

WO4 recalled that an individual came out the back of the house and was compliant with being arrested. WO4 went to the front of the house to assist and observed AP in the front yard pacing and being noncompliant with officer directions. WO4 recalled that someone deployed the 40 mm weapon and shot AP who went down to the ground. AP was arrested shortly after.

Witness Officer 5 (WO5)

WO5 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

WO5 was part of the containment team until emergency responders could arrive. After they arrived, WO5's role was to arrest and handcuff. After chemical deployment, nothing was happening on his side. WO5 went to the front of the house and heard officers yelling at AP to get on the ground. AP was not compliant with the directions, and shortly after, he was shot with a 40 mm bullet. WO5 switched his attention back to the house as CW2 was now exiting through a window. CW2 was compliant and WO5 was able to arrest him and apply handcuffs. Wo5 brought CW2 to the same police vehicle as AP.

Witness Officer 6 (WO6)

WO6 was interviewed by IIU investigators on May 15, 2024, and provided the following information:

WO6 was cover for SO. When warrant approval was received, WO6 threw 2 cannisters of gas into the residence while covering SO1. WO6 did not have a gas mask and had to go away from the residence to breathe. WO6 observed SO1 assist a female who was climbing out of a window. WO6 did not observe anything further, but he did hear the sound of the 40 mm gun being deployed.

Witness Officer 7 (WO7)

WO7 was interviewed by IIU investigators on May 24, 2024, and provided the following information:

WO7 was part of the emergency response team. He was to provide lethal cover for WO4. WO4 was at the back of the house and assisted in providing direction to CW2 upon arrest. WO4 did not see AP's arrest.

Witness Officer 8 (WO8)

WO8 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

WO8 provided cover from back on the road. WO8 observed AP at the window earlier on, stating "you will have to kill me and we're not coming out." WO8 stated that AP told the officers that he had a gun, but it looked more like cardboard in his hand from her view.

WO8 watched the house get gassed by the emergency response team from the road. WO8 watched AP jump headfirst out the window and then stand up. WO8 heard officers say to him numerous times to get on the ground. AP started to move towards the officers when WO8 heard a pop and then AP went straight to the ground. WO8 said AP became cooperative after he was hit with the 40 mm bullet.

Witness Officer 9 (WO9)

WO9 was interviewed by IIU investigators on June 11, 2024, and provided the following information:

WO9 was the officer who originally told AP he was under arrest for pointing a firearm and asked him to come out of the house. WO9 observed AP to be intoxicated and agitated in their discussions. AP stated that he had nothing to lose, that his dad died on the floor of a house and that's how he wanted to die.

WO9 took a cover position once the emergency response team came. WO9 observed the deployment of gas into the house and then observed people exiting the house. WO9 recalled that CW1 broke the window with her arm to exit the house. WO9 did not know if it was AP or CW2 that the officers were talking to, but she heard them say numerous times, "show your hands." WO9 then heard the pop of a 40 mm weapon and saw the individual fall or stumble.

Witness Officer 10 (WO10)

WO10 was interviewed by IIU investigators on May 23, 2024, and provided the following information:

WO10 was part of the emergency response team and he was teamed with WO4 and WO7. WO10 was tasked with deploying gas. He deployed it successfully into the residence. And AP came out shortly after. WO10 was getting ready to deploy his 40 mm weapon when he heard someone else deploy theirs. WO10 did not recall any injuries to AP.

Witness Officer 11 (WO11)

WO11 was interviewed by IIU investigators on June 19, 2024, and provided the following information:

WO11 was part of the emergency response team and was tasked with lethal cover. WO11 observed the successful deployment of gas into the residence and observed AP jump out the front window. WO11 heard officers give verbal commands to AP to get on the ground and AP was not compliant. WO11 heard officers asking AP to show his hands and AP was not compliant. WO11 then heard the pop of the 40 mm weapon being deployed and AP going to ground.

Witness Officer 12 (WO12)

WO12 was interviewed by IIU investigators on July 26, 2024, and provided the following information:

WO12 was part of the emergency response team and tasked with providing cover. WO12 observed CW2 being arrested in the back of the house. WO12 did not observe AP's arrest, but he did recall hearing voices at the front of the house providing numerous directions to someone.

Subject Officer

In accordance with his rights, SO declined to be interviewed by IIU investigators. However, he provided his notes, stating the following:

SO confirmed that individuals started to exit the residence after the gas was deployed. AP went out the front window and was refusing to comply with commands to get to the ground. SO deployed the 40 mm weapon, because of AP's tendency to be violent and the possibility of him being armed with a handgun. SO confirmed that AP went to the ground and his behavior became compliant at that point.

Other evidence

Social Media Material

In reviewing the videos and images received, it is clear that AP has no intention of complying with his arrest. One video depicts AP looking out at the officers and daring them to come get him. AP further states in the video that he has guns and there will be a shootout. Photos of AP were also reviewed, showing AP holding a handgun.

Civilian Video

In the video, you can hear the gas cannisters being deployed and then individuals exiting the residence. You can hear officers telling someone to get on the ground and then you hear the deployment of the 40 mm weapon.

Medical Records and Injury Photos

AP was noted and observed to have abrasions to the right side of his abdomen.

Applicable Law

Criminal Code of Canada

All relevant sections of the Criminal Code of Canada were considered with respect to this incident. Sections 25(1), 25(3) and 25(4) of the Criminal Code of Canada have been emphasized here for consideration:

25 (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person
- (b) as a peace officer or public officer
- (c) in aid of a peace officer or public officer
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested

(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant

(c) the person to be arrested takes flight to avoid arrest

(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm

(e) the flight cannot be prevented by reasonable means in a less violent manner

Conclusion

It is my view that, in the full consideration of the circumstances, the use of less lethal force by the subject officer was authorized and justified by law. There are no reasonable grounds to support any charges against the subject officer. Accordingly, IIU has completed its investigation, and this matter is now closed.