

**DECISION OF
THE ȤAWIIȤ COUNCIL**

Application # HCR 25-002

**Determination re Risk to Public Safety – David Bird
2025 HCD 2**

Place and date of hearing: Port Alberni, BC
April 3, 2025

Date of judgment: April 3, 2025

Panel:

Yaalthuuaa-uks (Sherri Cook), head of Yaaluuwaštakamalth house

ȥapinyook (Tommy Happynook), head of Čačaahsiȥas house

Thlut'as aksup (Theresa Nookemus), representing Ȥaw'eȥtak'amalth house

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I. BACKGROUND

1. On February 19, 2020, David Bird (“David”) was convicted of two offences under the *Criminal Code of Canada*: forcible confinement (section 279(2)) and assault with a weapon (s. 267(a)). As a result, the Executive Director issued an exclusion order prohibiting David from being on Huu-ay-aht treaty lands as required under section 6(1) of the *Community Safety Act*, HFNA 4/2021 (the “Act”).
2. David made an application under section 10(1) of the Act for a determination that he does not pose an unreasonable risk to public safety and seeking that the exclusion order be rescinded or varied. The H̱aw̱iiẖ Council held a hearing to consider the matter on November 7, 2024.
3. On November 19, 2024, the H̱aw̱iiẖ Council determined that David continued to pose an unreasonable risk to the public safety and ordered that the exclusion order remain in place (the “November 2024 Decision”).
4. David’s exclusion order was set to expire on February 19, 2025. Under the Act, the H̱aw̱iiẖ Council must hold a review hearing to review exclusion orders in the year before they expire to determine whether they should be extended and, if so, on what conditions. The H̱aw̱iiẖ Council decided to hold David’s review hearing in writing.
5. Public notice of the hearing was given on January 23, 2025. The public notice provided information about how members of the public could seek to participate in the review hearing. David was also given notice of the hearing and provided with an opportunity to share with the H̱aw̱iiẖ Council any information he wished the Council to consider in determining whether he continued to pose an unreasonable risk to public safety. Both David and members of the public were requested to provide any information or comments in respect of the review hearing by February 12, 2025.
6. No information or comments were forthcoming.

7. On February 18, 2025, the H̱aw̱ii̱ẖ Council issued an interim order, keeping the exclusion order in place pending the outcome of the review hearing.
8. A panel of three members of the H̱aw̱ii̱ẖ Council, made up of Yaaḻthuu̱aa-uks (Sherri Cook), head of Yaaḻuuwaštaḵam̱ḻtẖ house; ɥapinyuuk (Tommy Happynook), head of Čačaaɥsiʔas house; and Thlut'as aksup (Theresa Nookemus), head of H̱aw'eɥtak'am̱ḻtẖ house (the "panel") conducted the review hearing and determined the matter on behalf of the H̱aw̱ii̱ẖ.

II. WHAT THE H̱AW̱II̱H̱ COUNCIL HEARD

9. No information, comments, or submissions were provided by David or by any other member of the public in relation to the review hearing.

III. WHAT THE H̱AW̱II̱H̱ MUST CONSIDER

10. Section 11 of the Act sets out the factors that the H̱aw̱ii̱ẖ must take into account in determining whether an excluded person poses an unreasonable risk to public safety, and deciding whether to extend an exclusion order:
 - a) the time that has elapsed since the actions giving rise to the conviction and the excluded person's behaviour during that time;
 - b) the role of substance use in the offence and the excluded person's current status with respect to substance use, including participation in any treatment program;
 - c) the excluded person's ties to the Huu-ay-aht community;
 - d) the potential impacts of the exclusion order on the excluded person, impacted individuals, and the Huu-ay-aht community;
 - e) the nexus between the offence and the potential risk posed by the person to people on Treaty Lands and to the Huu-ay-aht community;
 - f) any proposed mitigation plan;
 - g) participation of the individual in a restorative program;
 - h) any supports put in place by the excluded person's Huu-ay-aht Maht Mahs;

- i) whether the excluded person has a criminal history beyond the commission of the prescribed offence giving rise to the exclusion order;
- j) whether the excluded person has a history of non-compliance with court orders;
- k) any expressions of remorse or attempts to make restitution undertaken by the person; and
- l) any other factors it considers relevant.

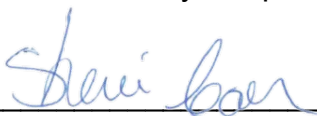
IV. APPLICATION AND DECISION

11. In the November 2024 Decision, the panel determined that David continued to pose an unreasonable risk to public safety. The panel did not receive any new information in the review hearing which would allow the panel to determine that David no longer poses an unreasonable risk to public safety. Consequently, the panel concludes that David continues to pose an unreasonable risk to public safety and that the exclusion order should be extended.

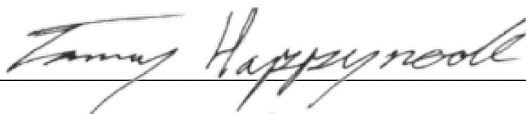
V. ORDER

The Hāwīih Council orders that the exclusion order is extended for a further period of five years, expiring on February 19, 2030.

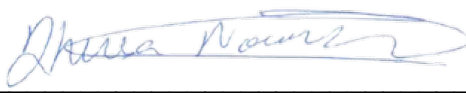
Decided this 3rd day of April, 2025.



Yaalthuuaa-uks (Sherri Cook)



hapinyook (Tommy Happynook)



Thlut'as aksup (Theresa Nookemus)