



July 18, 2025

25-15

**BC Prosecution Service announces no charges following incident
involving Vancouver Police Department jail guard**

Victoria – The BC Prosecution Service (BCPS) announced today that no charges have been approved against a jail guard from the Vancouver Police Department (VPD) involved in an incident on April 19, 2021, when a person in jail suffered injuries.

Because of the serious nature of the injuries, the incident was investigated by the Independent Investigations Office (IIO). Following the investigation, the Chief Civilian Director of the IIO determined that there were reasonable grounds to believe the jail guard may have committed an offence and submitted a report to the BCPS (IIO file #2021-100).

In this case, the BCPS has concluded that the available evidence does not meet the charge assessment standard. There is no substantial likelihood of conviction for any criminal offence in relation to the incident. As a result, no charges have been approved.

In order to maintain confidence in the integrity of the criminal justice system, a Clear Statement explaining the reasons for not approving charges is made public by the BCPS in cases where the IIO has investigated the on-duty conduct of officers, which can include jail guards, and forwarded a report for charge assessment.

Media Contact: Damienne Darby
 Communications Counsel
 bcpsmedia@gov.bc.ca
 236.468.3832

To learn more about BC's criminal justice system, visit the British Columbia Prosecution Service website at: gov.bc.ca/prosecutionservice or follow [@bcprosecution](https://twitter.com/bcprosecution).

Clear Statement

Overview

In the late afternoon of April 19, 2021, two Vancouver Police Department (VPD) jail guards – the Subject Officer (SO) and a Witness Officer (WO1) – were escorting an intoxicated male who was in police custody (the Affected Person or AP) to a cell for intoxicated detainees. The AP fell backwards, striking his head against the far wall of the cell. He suffered a skull fracture. The entire incident was captured by two close-circuit television (CCTV) cameras without audio. Neither the video nor the witness statements are dispositive of what caused the AP to fall.

This Clear Statement provides a summary of the evidence gathered during the investigation and the applicable legal principles. These are provided to assist in understanding the BCPS's decision not to approve charges against the SO. Not all the relevant evidence, facts, case law, nor legal principles are discussed. The charge assessment was conducted by Crown Counsel with no prior or current connection to the SO.

Charge Assessment

The charge assessment guidelines that are applied by the BCPS in reviewing all Reports to Crown Counsel are established in BCPS policy and are available at:

www.gov.bc.ca/charge-assessment-guidelines

BCPS guidelines for assessing allegations against officers, including VPD jail guards, are also established in policy and are available at:

www.gov.bc.ca/allegations-against-peace-officers

The BCPS applies a two-part test to determine whether charges will be approved, and a prosecution initiated. Crown Counsel must independently, objectively, and fairly measure all available evidence to determine:

1. whether there is a substantial likelihood of conviction; and, if so,
2. whether the public interest requires a prosecution.

Under BCPS policy, a substantial likelihood of conviction exists when Crown Counsel is satisfied there is a strong, solid case of substance to present to the court. To reach this conclusion, a prosecutor will consider what evidence is likely to be admissible and available at trial; the objective reliability of the admissible evidence; and the likelihood that viable, not speculative, defences will succeed.

If the Crown Counsel is satisfied that the evidentiary test is met, Crown Counsel must then determine whether the public interest requires a prosecution. The charge assessment policy sets out a non-exhaustive list of public interest factors to be considered, both for and against a prosecution.

Charges considered

The potential charge considered against the SO in this case was assault causing bodily harm.

Timeframe for assessment

The IIO first submitted a Report to Crown Counsel in March 2024. Further investigation was conducted, and additional material was received in March 2025.

Relevant law

Assault / assault causing bodily harm

To prove an assault, the Crown must establish a person intentionally applied, threatened, or attempted to apply force to another person, directly or indirectly, without their consent.

Assault causing bodily harm requires proof that the assault caused harm that was more than trifling or transient. The intent required is the intent to assault. The Crown must prove beyond a reasonable doubt that the assault was a “significant contributing cause” of the injury (*R v Maybin & Maybin*, 2012 SCC 24, at para 28).

Legal defences

Section 25(1) of the *Criminal Code* provides that a peace officer who acts, in the course of their lawful duties, on “reasonable grounds” is “justified in doing what [they are] required or authorized to do and in using as much force as necessary for that purpose.” As designated Special Municipal Constables, VPD jail guards are officers.

Section 26 of the *Criminal Code* provides that an officer “who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.”

In assessing whether a particular amount of force used by an officer was necessary within the meaning of the *Criminal Code*, the trier of fact must have regard to the circumstances as they existed at the time the force was used, recognizing that an officer cannot be expected to measure the force used with precision.

The reasonableness of the officer’s belief must be assessed on an objective standard, but one that also “takes into account the particular circumstances and human frailties” of the officer. In

applying the standard, the Supreme Court of Canada has ruled that, “a certain amount of latitude is permitted to police officers who are under a duty to act and must often react in difficult and exigent circumstances” (*R v Asante-Mensah*, 2003 SCC 38, at para 73). In these dynamic situations, police are not expected to measure the force used precisely and are not required to use the least amount of force that may achieve their objective.

Despite the deference afforded to officers in the application of force in exigent circumstances, the law still requires that the use of force not be excessive. An officer’s use of force is constrained by principles of proportionality, necessity, and reasonableness.

One of the issues in this case is whether the force used by the SO was necessary, reasonable, and proportionate in the circumstances. In a prosecution, the onus is on the Crown to prove that the legal defences provided under the *Criminal Code* to peace officers acting in the course of their duties have not been established.

Summary of evidence

In the late afternoon of April 19, 2021, VPD police officers arrested the AP, who was intoxicated, for the offences of indecent act and breach of the peace in the area of Cambie Street and West Broadway Street in Vancouver, BC. The AP was placed in a prisoner transport van which arrived at the VPD jail at approximately 6:12 p.m.

Upon arrival, the AP was still intoxicated. Security video footage shows that his jeans fell down repeatedly, and at one point his private parts were exposed. The video also shows that at all times following his arrival at the VPD jail the AP was moderately unsteady on his feet. Witness statements from jail guards describe the AP as uncooperative, particularly with regard to instructions to keep his hands on the wall while being searched. Security video footage shows that for the last 25 seconds of the AP’s search in the booking hall, the SO and WO1 held the AP’s hands against the wall.

Another jail guard – Witness Officer 2 (WO2) – directed the SO and WO1 to place the AP in a cell for intoxicated detainees. The vestibule leading to the two cells for intoxicated detainees (cell 1 and cell 2) is immediately adjacent to the search area of the booking hall.

CCTV video

The AP’s fall and the events immediately preceding it were captured by two CCTV cameras. One camera, located outside of cell 1 and cell 2, shows the movements of the AP, SO, and WO1 as the AP is brought into the vestibule area and then moved into cell 1 (camera 1). The second camera, located inside cell 1, shows the movements of the AP, SO, and WO1 after the AP arrives at the cell (camera 2).

Video footage from camera 1 shows how the SO led the AP, who was facing forward, into the vestibule. The SO was behind the AP. With their left hand, the SO was holding the AP's right hand behind his back. With their right hand, the SO opened the door to cell 1. While still in the vestibule, the AP turned such that his back was now facing towards the door to cell 1. Once the AP turned, the SO's right hand was placed on the front of the AP's right shoulder. At this time WO1, present in the vestibule beside the SO and facing the entrance to cell 1, was holding the AP by his left wrist with their left hand. The AP took about three and a half quick steps backwards, lost his footing completely when he reached the doorway to cell 1, and fell backwards. While the AP was stepping backwards, the SO was holding the AP's shirt with his right hand, between the AP's front right shoulder and his neck, and WO1 continued to hold the AP's left wrist. As the AP started to fall, both the SO and WO1 lunged forward towards the AP, with their backs to the camera, blocking the view of their hands. This was a very brief incident: five seconds passed from the time the AP entered the vestibule until he fell in the cell.

Video footage from camera 2 shows that when the parties arrived in front of cell 1 and the AP turned facing backwards, the SO was holding the AP's right hand behind his back with the SO's left hand. The SO's right hand was in the area of the AP's front right shoulder. The AP was standing with his back towards the entrance to the cell. The SO and WO1 were facing the cell. The AP brought his right hand to the front. The SO's right hand was between the SO and the AP. As the AP was falling backwards, both the SO and WO1 extended their left arms and lunged forward, travelling with the AP. The SO's left hand was obscured by the AP's torso around the time of the fall.

This footage shows a less-obstructed view of the AP's right foot immediately prior to him falling over. The AP's foot can be seen traveling backwards and possibly connecting with either the doorframe to cell 1 or the part of the door itself nearest to the hinges. It is not clear whether this contact in fact occurred, and, if so, whether it caused the AP to trip.

Injury

The available evidence establishes that, as a result of this fall, the AP suffered a skull fracture.

AP's statement

The AP provided a statement to the IIO investigators that confirmed he was intoxicated throughout the time he was in cells. He said he had consumed four vodka clamato drinks and a mini bottle of Fireball. He repeatedly stated that he did not have a good memory of what happened due to his intoxication. However, he attributed the fall to having been pushed by an officer. The AP could not remember other physical details of the contact.

WO1's statement

WO1 recalled that as they entered cell 1, the AP stepped towards WO1. In response, WO1 straightened their arms and let go of WO1's grip on the AP for the purpose of creating distance between WO1 and the AP to close the cell door. The AP then fell and hit his head. WO1 described the AP as intoxicated and wobbling on his feet.

WO2's statement

WO2 searched the AP after the AP's arrival at the jail. Because the AP was uncooperative and intoxicated, WO2 determined that the AP should be placed in a cell for intoxicated detainees. WO2 saw the SO holding onto the AP's arm with at least one of his hands as the AP was going into cell 1. The SO then let go of the AP at about the threshold to cell 1, and the AP subsequently fell. WO2 thought the SO was standing still when they released their grip. WO2 heard the AP's head hit the wall but did not see it. WO2 did not make observations of what WO1's hands were doing at the time. WO2 was not able to opine on why the AP fell.

Expert opinion

The IIO retained a biomechanical expert to provide an opinion about the cause of the AP's fall. This expert reviewed the available video footage. Based on this evidence, the expert identified the contact between the AP's foot and the door frame between the vestibule and cell 1 to be the immediate cause of the AP's final loss of footing and subsequent fall.

On the issue of what caused the AP's initial loss of footing, the expert observed from the video that the SO lunged forward and extended their arm at the time the AP fell and then made a leaning motion. The expert opined that it was unclear from the SO's movements whether the SO was pushing the AP or whether the SO was trying to prevent the AP's fall.

The expert's opinion was that, once the AP began to fall, officer-applied forces did not contribute to a material increase in the AP's head speed beyond what would be expected in a backwards fall without pushing.

Police policy and training

There is no evidence that any of the actions of the SO or WO1 were inconsistent with any existing VPD policy or training applicable to jail guards.

Analysis

The IIO recommended a charge of assault causing bodily harm against the SO for their involvement in the incident.

The available evidence, including the video, WO1's statement, and the expert evidence, is insufficient to establish that the SO's actions were a significant contributing factor to how and when the AP fell. It is more likely, though not certain, that the actions of the AP or WO1, or both, caused the AP to fall. As such, the available evidence is not capable of establishing that the SO's physical contact with the AP caused the AP's bodily harm and the offence of assault causing bodily harm is not made out.

To be clear, while WO1's actions may have contributed to how and when the AP fell, the available evidence does not establish that WO1's actions were a significant cause of this fall.

The video shows that the SO and WO1 used low-level force to escort the AP to cell 1. During this escort, it is evident that the AP, who was not fully cooperative, was unsteady on his feet due to intoxication and that just prior to reaching the cell door, it was the AP's own actions that caused him to be facing backwards, toward the SO and WO1, while they were trying to place him in cell 1. As the parties reached the entry to cell 1, both the SO and WO1 had physical contact with the AP: WO1 was holding him by his wrist, and the SO had their right hand on the AP's right shoulder. The AP, who was with his back towards the cell entrance, and who had just taken a few quick steps backwards, possibly tripped on the door frame and fell backwards, hitting his head. Both the SO and WO1 lunged forward, following the movement of the falling AP, and extended their left arms towards him as he was falling.

The expert's opinion is that, when the SO extended his right arm, it was unclear whether the SO was pushing the AP or pulling the AP to stop him from falling. The expert also opined that the AP's fall was accelerated when he tripped over the door frame.

After the AP began to fall, the SO then extended their left arm in what appears to be an attempt to catch the AP before he hit the ground. Ultimately, this attempt was unsuccessful, with the AP continuing to fall until he hit his head on the far wall of the cell.

The force employed by the SO against the AP for purposes of escorting and securing the AP into cell 1 aligned with VPD jail guards' training. The available evidence does not otherwise establish that the SO employed force against the AP beyond that which was reasonable, necessary, or proportionate for purposes of securing the AP into cell 1. At trial, the Crown would be unable to disprove a defence under section 25(1) of the *Criminal Code*.

Conclusion

No charges have been approved in relation to the SO's involvement in this incident.