

2016/2017 Third Quarter in Review

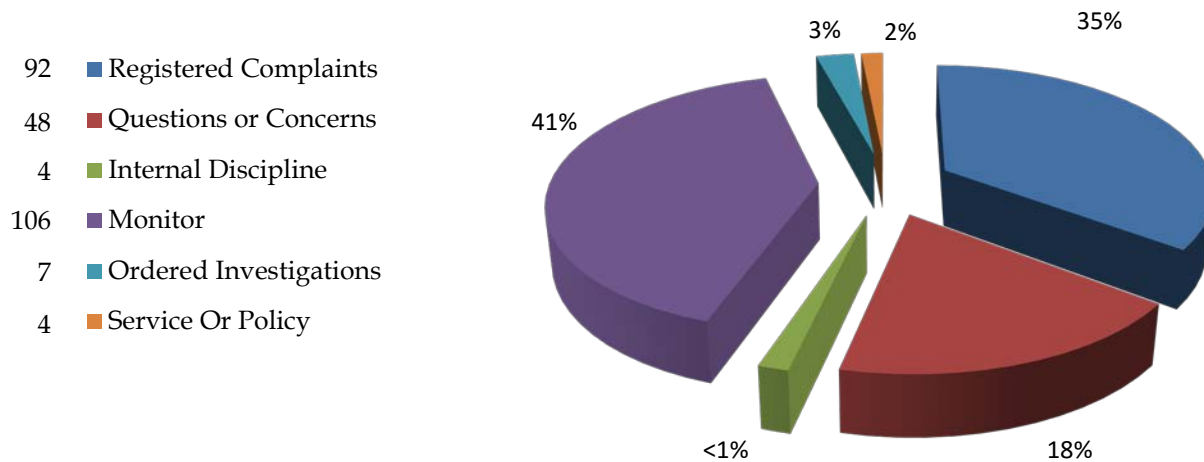
(October 1, 2016 to December 31, 2016)

Please note the data contained in the following report may vary slightly from previous releases. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.

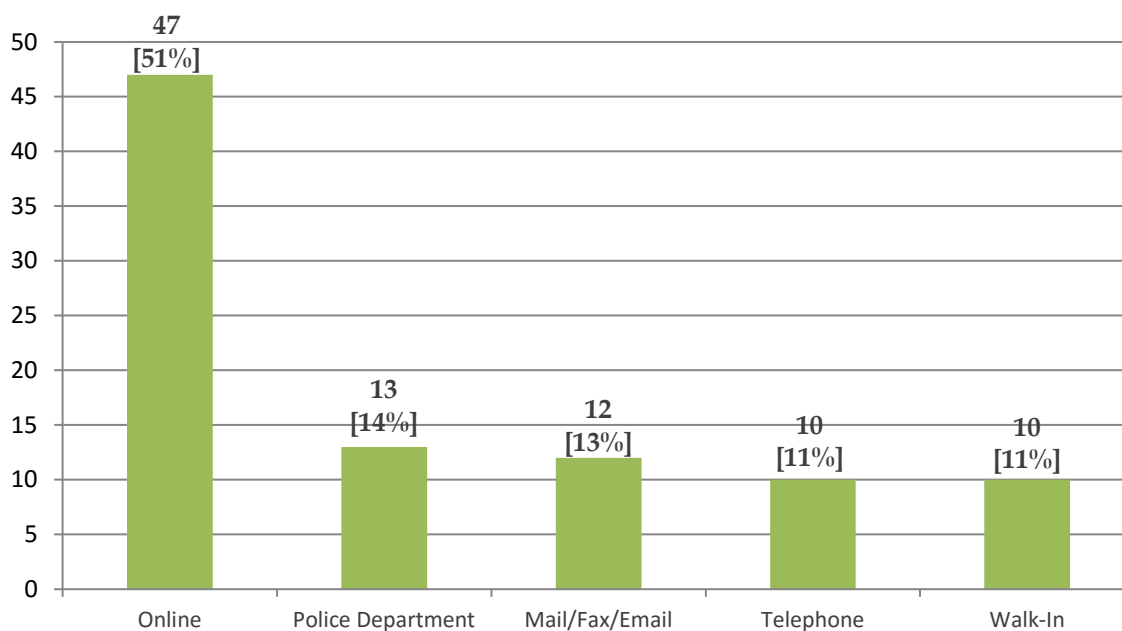
The files opened by the OPCC from October 1, 2016, to December 31, 2016, can be broken down into the following categories:

- Registered Complaints** Registered Complaints are public trust complaints about a police officer's conduct or actions that affect a member of the public personally or that he or she has witnessed (Part 11, Division 3 of the *Police Act*).
- Questions or Concerns** If a member of the public has a question or concern about a municipal police officer's conduct, but does not wish to file a registered complaint he/she may contact a municipal police department directly. The member of the municipal police department who receives the question or concern must inform the professional standards section of the involved municipal police department. The professional standards section must record the question or concern, and forward a copy of the record, along with how it was resolved, to the Office of the Police Complaint Commissioner for review (Part 11, Division 3 of the *Police Act*).
- Ordered Investigations & Mandatory Investigations** Complaint investigations may be ordered by the Police Complaint Commissioner, whether it is upon the request of a department or as a result of information received from any source that raises concerns about officer misconduct. The legislation also requires the Commissioner to order a mandatory external investigation into any incident resulting in serious harm or death (Part 11, Division 3 of the *Police Act*).
- Monitor Files** Monitor Files are opened when information is received by the OPCC from the police, including Reportable Injuries, or other sources such as media reports that *may* require an investigation pursuant to the *Police Act*. These are typically incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have been identified to date. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "Reviewed & Closed."
- Internal Discipline** Internal Discipline files involve performance management issues or employer/ employee concerns that do not affect members of the public (Part 11, Division 6 of the *Police Act*).
- Service or Policy** Service or Policy complaints are those regarding the quality of a police department's service to the community or regarding their operating policies (Part 11, Division 5 of the *Police Act*).

Type of files opened between October 1, 2016, and December 31, 2016



How Registered Complaints were received between October 1, 2016, and December 31, 2016.



Admissibility of Registered Complaints received between October 1, 2016 and December 31, 2016

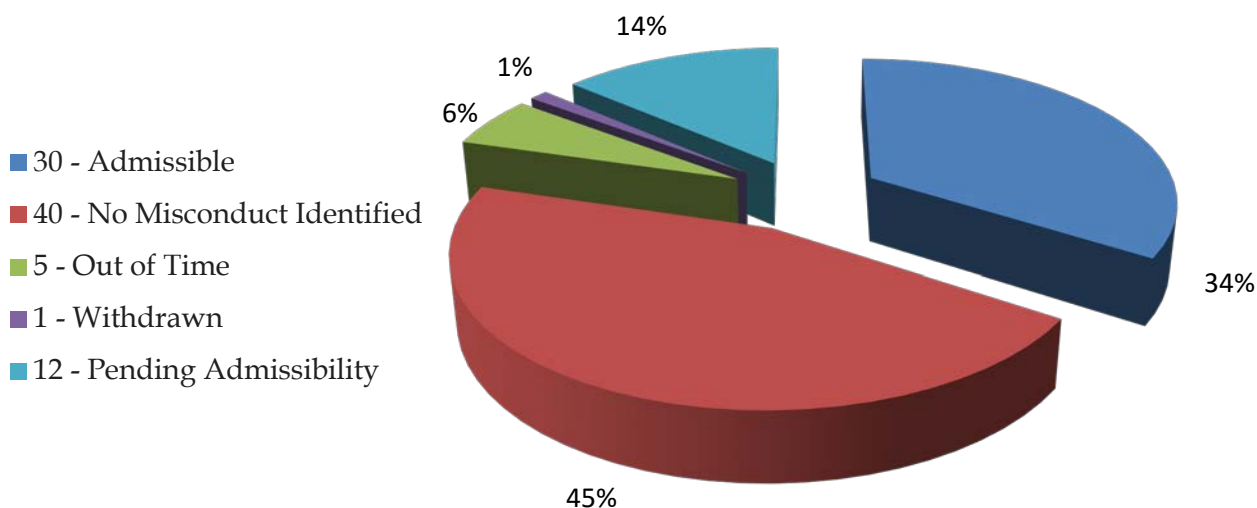
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

In order for a complaint to be deemed admissible, it must:

- Contain allegation(s) of conduct that, if proven, would constitute misconduct as defined by the *Act*;
- The complaint must be filed within one year of when it occurred; and
- Not be frivolous or vexatious

Only admissible registered complaints are forwarded to the Professional Standards Section of the originating department for investigation.

Breakdown of Admissibility of Registered Complaints ¹



¹ When this report was generated, 12 registered complaints were undergoing an admissibility review and a determination had not yet been made.

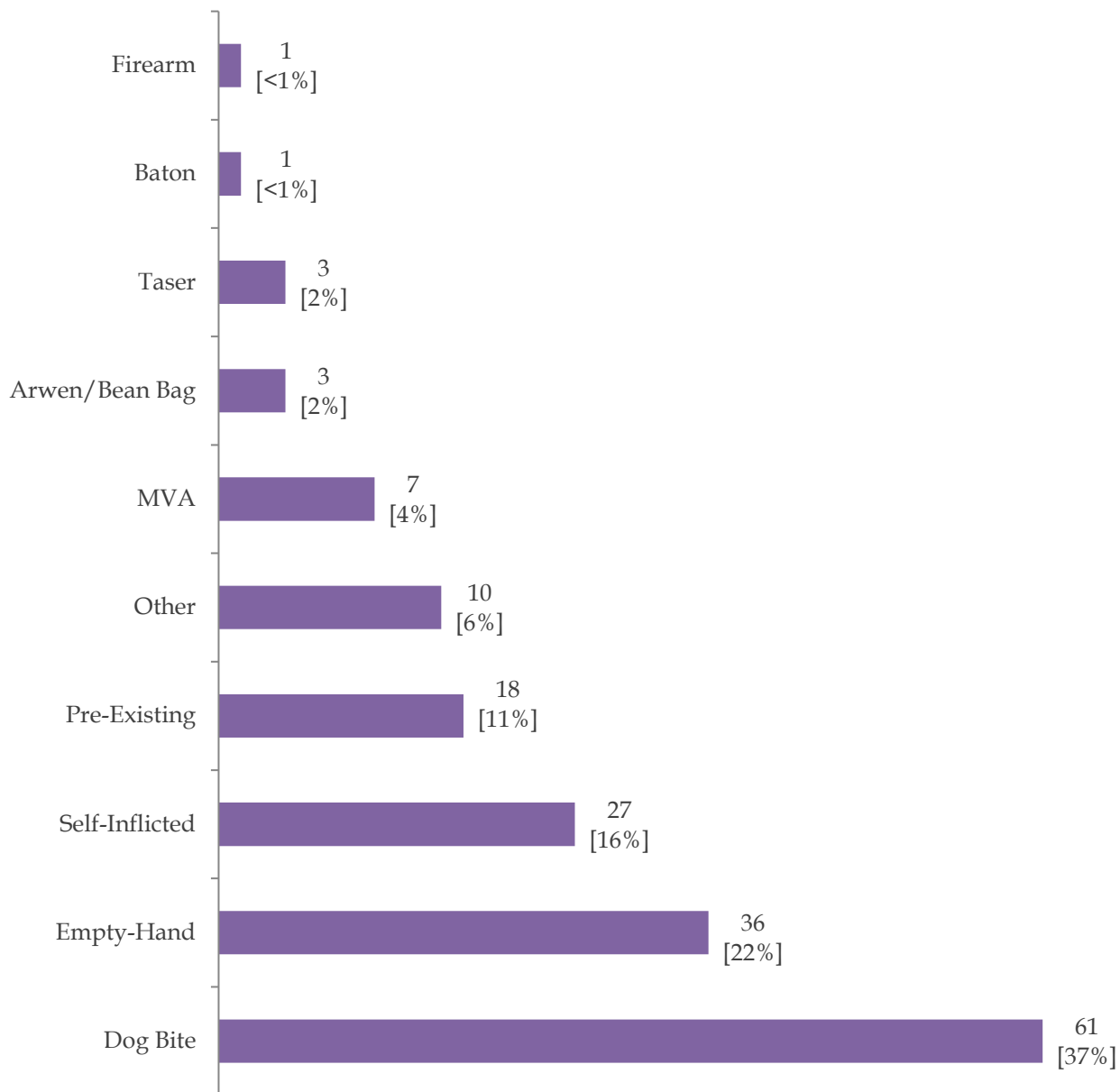
Files Opened between October 1, 2016, and December 31, 2016

Department	TOTAL	Inadmissible Registered	Admissible Registered	Admissibility Pending	Mandatory Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	37	3	1	0	1	0	1	28	3	0	0
Central Saanich	2	0	0	0	0	0	0	2	0	0	0
CFSEU	0	0	0	0	0	0	0	0	0	0	0
Delta	13	3	0	1	0	0	1	3	3	2	0
Nelson	1	0	1	0	0	0	0	0	0	0	0
New Westminster	13	2	0	1	0	1	1	7	1	0	0
Oak Bay	2	0	1	0	0	1	0	0	0	0	0
Port Moody	3	1	1	0	0	0	0	0	1	0	0
Saanich	19	3	2	1	0	0	0	3	10	0	0
SCBCTAPS	24	2	0	1	0	0	0	2	16	2	1
St'at'l'imx	0	0	0	0	0	0	0	0	0	0	0
Vancouver	108	23	18	5	1	0	0	48	12	0	1
Victoria	37	12	6	3	0	0	0	13	1	0	2
West Vancouver	2	1	0	0	0	0	0	0	1	0	0
TOTAL:	261	50	30	12	2	2	3	106	48	4	4

Reportable Injury Notifications received between October 1, 2016 and December 31, 2016

The *Police Act* requires departments to report all incidents where an individual in the care or custody of the police suffers a “reportable injury” that requires transportation to a hospital and medical treatment. These “reportable injuries” are opened as Monitor Files until it is determined whether an investigation will be conducted. Between October 1, 2016, and December 31, 2016, the OPCC received **95** notifications of reportable injuries involving **115** uses of force.

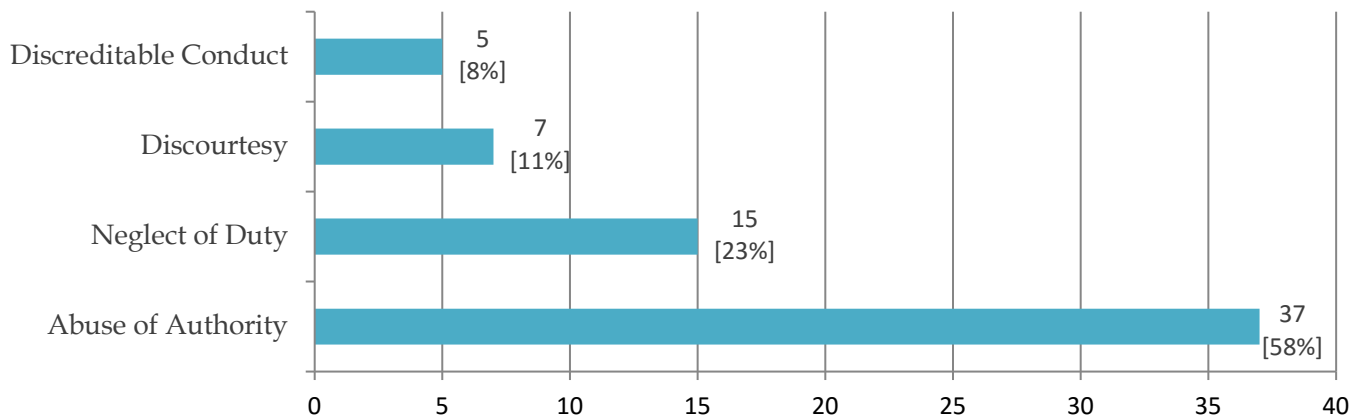
Two incidents resulted in a mandatory external investigation.



Allegations Forwarded for Investigation between October 1, 2016 and December 30, 2016

Once a complaint file is deemed admissible or an investigation is ordered, allegations of misconduct are identified against individual members. The *Police Act* identifies 13 public trust allegations. Between October 1, 2016, and December 31, 2016, the OPCC identified **64** public trust allegations and forwarded them to the member(s) department for investigation.

Please note that these are only allegations and do not reflect whether they were substantiated or not substantiated.



Discreditable Conduct, section 77(3)(h):

This allegation involves on or off duty conduct where the members conducts oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department.

Discourtesy, section 77(3)(g):

This allegation involves on duty conduct, where a member fails to behave with courtesy due in the circumstances towards a member of the public in the performance of duties as a member.

Neglect of Duty, section 77(3)(m):

This allegation involves conduct of a member where they have failed to properly account for money or property received; failed to promptly or diligently do anything that is in one's duty as a member to do; or failed to promptly and diligently obey a lawful order of a supervisor, without good and sufficient cause.

Abuse of Authority, section 77(3)(a):

This allegation involves on duty conduct where a member engages in oppressive conduct towards a member of the public, which includes, arresting someone without good and sufficient cause; using unnecessary force on someone; or when on or off duty (but in uniform) uses profane, abusive or insulting language to any person.

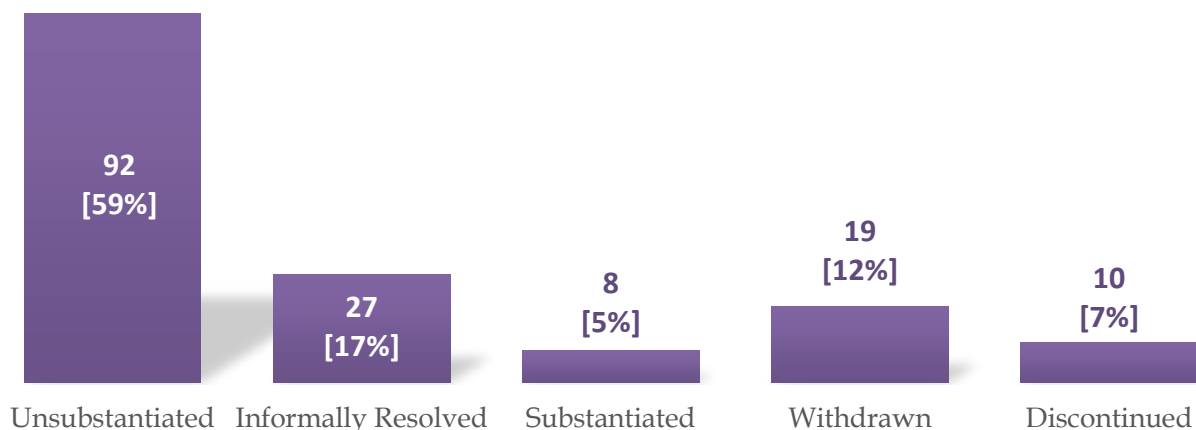
Allegations Concluded between October 1, 2016 and December 31, 2016

All *Police Act* (Division 3 – Public Trust) complaint files are reviewed and separate allegations of misconduct are identified as they relate to each officer involved. A single complaint file may contain multiple allegations against more than one officer. When referring to concluded allegations the figures relate to the allegation, not the complaint file. The figures for files opened and allegations concluded are independent.

Allegations of misconduct against an officer that are processed pursuant to Divisions 3 & 4 of the *Police Act* may result in the following outcomes:

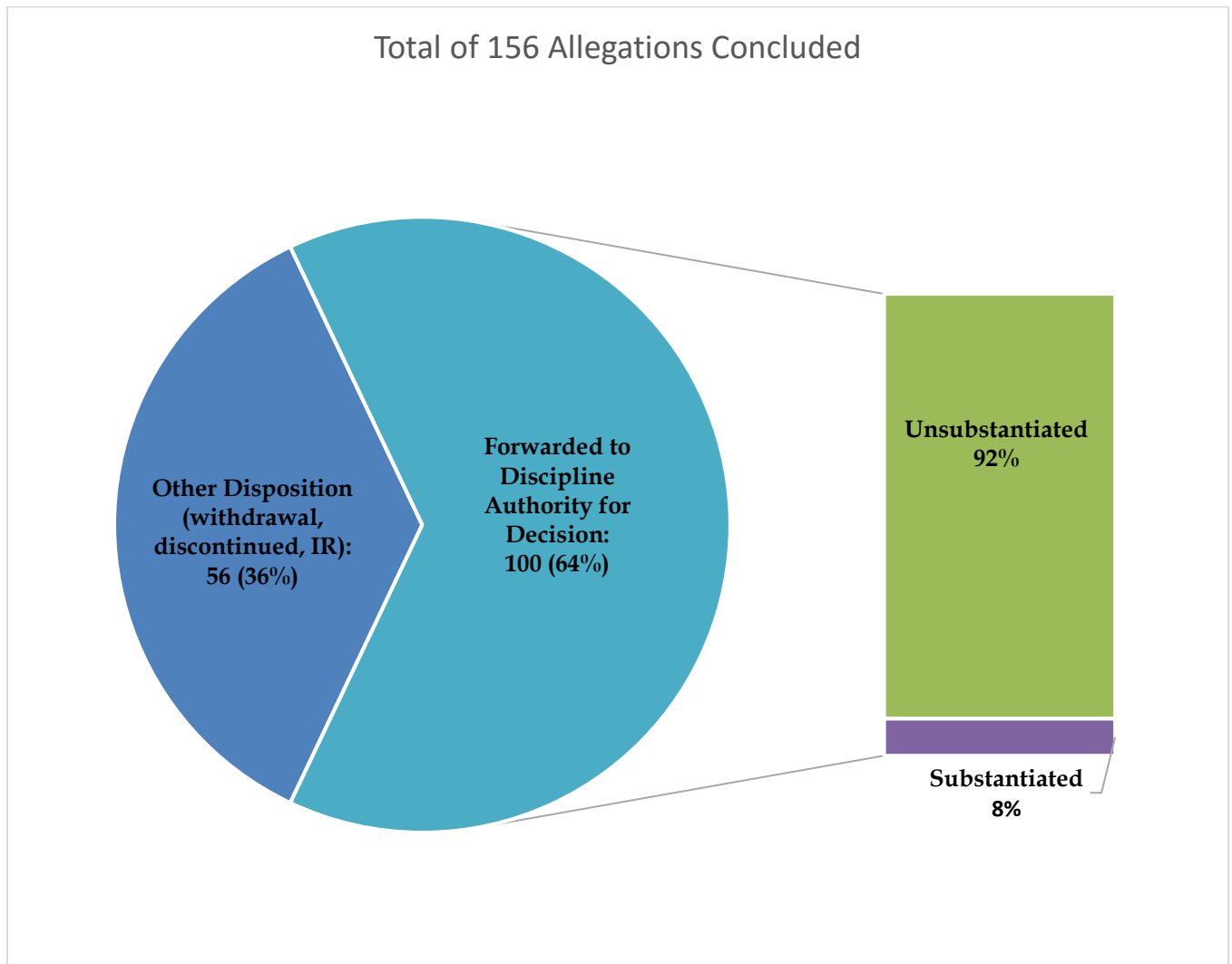
- Withdrawn** *A Complainant may withdraw his/her complaint at any time in the process; however, the Commissioner may direct that the investigation continue if it is determined it is in the public interest to do so.*
- Informally Resolved** *A complaint may be informally resolved pursuant to Division 4 of the Police Act. Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their mind. The OPCC reviews all informal resolutions and if the Commissioner determines it is not appropriate or inadequate, the resolution is set aside and the investigation continues.*
- Mediated** *Division 4 also permits a complaint to be resolved through mediation, facilitated by a professional mediator. If no agreement can be reached, the investigation continues. Amendments to the legislation now give the Commissioner the authority to direct a Complainant to attend mediation, and similarly, the Chief Constable may order the member to attend.*
- Discontinued** *The Commissioner may direct an investigation into allegations of misconduct be discontinued if it is determined that further investigation is neither necessary nor reasonably practical, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false.*
- Not Substantiated** *Following an investigation conducted pursuant to Division 3, the Discipline Authority determines there is no evidence to support the allegation of misconduct and the OPCC determines an adjudicative review is not necessary.*
- Substantiated** *Following an investigation conducted pursuant to Division 3, the Discipline Authority determines the allegation is supported by the evidence. The Discipline Authority must then decide on appropriate disciplinary and/or corrective measures to impose.*

Between October 1, 2016 and December 31, 2016, the OPCC concluded **156** public trust allegations in the following manner:



Allegations forwarded to a Discipline Authority for Decision between October 31 and December 31, 2016

Of the **156** allegations that were concluded, **100 (64%)** of those allegations were forwarded to the Discipline Authority for decision. Of those allegations that were forwarded, **eight** allegations were substantiated.



Mediation & Informal Resolution of *Police Act* Complaints

Informal Resolution (s.157)

Our experience has shown that there are a large number of police complaints that are better suited to be resolved through alternative dispute resolution than undergoing a formal investigation. By directly participating in the solution to the dispute, the majority of complainants and members come away from the process with a more meaningful and positive level of satisfaction. The Police Complaint Commissioner has identified alternative dispute resolution as a priority for this office.

Under the *Police Act*, there are two avenues of alternative dispute resolution: Informal Resolution which is facilitated by a Professional Standards Investigator at the police department; and Mediation which is conducted by an independent and neutral mediator.

Based on the nature and seriousness of the allegations, an attempt at informal resolution may be recommended by the OPCC to the police department. It is up to the police department to determine whether an attempt at resolving a complaint through ADR will be undertaken. Both the complainant and the respondent member must agree in writing to the proposed resolution and both have ten business days to revoke their consent to informally resolve. The OPCC reviews all informal resolution agreements to ensure the resolution is appropriate and adequate.

Between October 1, 2016, and December 31, 2016, the OPCC reviewed and approved informal resolution agreements relating to **27 (19%)** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for alternative dispute resolution.

2016/2017 Fiscal Year	3rd Quarter (October 1, 2016 to December 31, 2016)
Allegations Informally Resolved	27 (19%)
Total Allegations Concluded	141

Mediation is a process for resolving disputes between a complainant and a member with the assistance of a neutral professional mediator.

There were no mediations held between October 1, 2016, and December 31, 2016.

Mediation
(Division 4)

Adjudicator Reviews between October 1, 2016 and December 31, 2016

The *Police Act* offers three avenues of review following a Discipline Authority's decision:

Appointment of a New Discipline Authority [s.117] If, following an investigation, the Discipline Authority determines that the conduct of the member did not constitute misconduct, and the Commissioner believes there is a reasonable basis to believe the decision is incorrect, the Commissioner may appoint a retired judge to review the matter.

Between October 1, 2016, and December 31, 2016, the Commissioner appointed a retired judge to act as a new Discipline Authority in two matters.

Review on the Record [s.141] Following a discipline proceeding, the Commissioner has the discretion to order a review of the proceeding where there is a reasonable basis to believe that the decision of the Discipline Authority is incorrect, or it is in the public interest to review the matter.

Between October 1, 2016, and December 31, 2016, the Commissioner appointed a retired judge to conduct two Reviews on the Record.

Public Hearing [s.143] Public Hearings remain an option for the Commissioner if he believes such a review of a *Police Act* matter is required in the public interest. Public Hearings are conducted by retired judges, are open to the public and evidence is presented under oath.

Between October 1, 2016, and December 31, 2016, the Commissioner ordered one Public Hearing.

All decisions from these three adjudicative avenues are available to the public through the OPCC website at www.opcc.bc.ca. As well, there is a schedule of current Public Hearings indicating the date and place of the hearings. All Public Hearings are open to the public to attend.

Substantiated Allegations - Concluded between October 1, 2016, and December 31, 2016

Abbotsford

Internal Discipline

(OPCC File 2016-12323)

<p>Misconduct: <i>Neglect of Duty</i> (failure to follow a supervisor's lawful order) Date of Incident: April 14, 2016</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Verbal Reprimand
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The police officer subsequently failed to attend their 2016 firearms qualifications. This officer spoke directly to the firearms instructor and made arrangements to attend firearms qualifications beyond that which was scheduled for police officers. The police officer failed to engage or involve his direct supervisor in this conversation or process.

Central Saanich

(OPCC File 2014-9976)

Registered Complaint:

<p>Misconduct: <i>Abuse of Authority</i> (Oppressive Conduct) Date of Incident: October 20, 2013</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 3 day Suspension • Training/Re-Training*
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The complainant reported that on October 20, 2013, her teenage daughter was mistakenly identified by a member as being the subject of a missing person complaint. A second police officer, known to the teenager, subsequently attended the scene. It was reported that this police officer conducted himself in an oppressive manner during his interaction with the teenager.

<p>1.) Misconduct: <i>Deceit</i> (False or Misleading Statement) Date of Incident: October 20, 2013</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 30 Day Suspension • Training/Re-Training* • Work Under Close Supervision for Period of One year
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During the *Police Act* investigation, the police officer advised the investigator that he did not speak privately to the complainant's daughter on October 20, 2013. This statement to the investigator was found to be false or misleading.

Note: For mitigating reasons the two periods of suspension imposed will occur concurrently for each allegation.

*The police officer was required to successfully complete, within a prescribed period of time, the following five Canadian Police Knowledge Network on-line courses; Note Taking, Report Writing, Theory of Communication and Memory, Customer Service in a Police Environment, and Police Ethics and Accountability.

CFSEU

No substantiated misconduct in this reporting period

Delta

No substantiated misconduct in this reporting period

Nelson

No substantiated misconduct in this reporting period

New Westminster

No substantiated misconduct in this reporting period

Oak Bay

No substantiated misconduct in this reporting period

Port Moody

(OPCC File 2016-11801)

Ordered Investigation (initiated by PCC)

Misconduct: <i>Discreditable Conduct</i> (Conduct that Discredits the Department) Date of Incident: January 8, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• 2 Day Suspension
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On January 8, 2016, an off duty police officer attended the police department, while intoxicated, and made inappropriate comments of a personal and sexual nature to a female police officer.

SCBCTAPS

No substantiated misconduct in this reporting period

Saanich

No substantiated misconduct in this reporting period

Stl'atl'imx Tribal Police

No substantiated misconduct in this reporting period

Vancouver

(OPCC File 2016-11585)

Ordered Investigation (request by department)

Misconduct: <i>Improper Use or Care of Firearms</i> (Negligent Discharge of a Firearm) Date of Incident: February 12, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Written Reprimand
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On February 12, 2016, a VPD police officer attended the range for a scheduled firearms training day. The scheduled start time for the training was 0700 hours.

At approximately 0645 hours, the police officer was inside the range's club house conducting self-directed "dry fire" drills. The police officer was unaware that this magazine was loaded with a live round of ammunition. As the police officer pulled the trigger, his pistol discharged and a bullet went through a window. There was no further property damage and no one was injured.

(OPCC File 2016-11578)

Ordered Investigation (initiated by PCC)

1.) Misconduct: <i>Improper Use or Care of Firearms</i> (Negligent Discharge of a Firearm) Date of Incident: May 13, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Verbal Reprimand
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On May 13, 2016, a VPD police officer was cleaning his police issued firearm in the department's gun cleaning room. The police officer placed a magazine in the weapon, moved the slide forward and pulled the trigger. A round subsequently discharged into a wall. No one was injured.

2.) Misconduct: <i>Improper Use or Care of Firearms</i> (Unsafe Storage of a Firearm) Date of Incident: May 11, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Verbal Reprimand
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During the *Police Act* investigation, this police officer was interviewed regarding his conduct. It was determined that the police officer stored his firearm with a loaded magazine in the magazine well. A firearm with a loaded magazine in the magazine well is considered a loaded firearm and storing a loaded firearm is in contravention of departmental policy.

(OPCC File 2016-11276)

Registered Complaint

1.) Misconduct: <i>Abuse of Authority</i> (Unlawful Arrest) Date of Incident: May 17, 2015	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• 1 Day Suspension• *Training/Re-Training
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The Complainant reported that he was arrested for Breach of the Peace without good and sufficient cause.

<p>2.) Misconduct: <i>Discreditable Conduct</i> (Conduct that Discredits the Department) Date of Incident: May 17, 2015</p>	<p>Disciplinary/Corrective Measures:</p> <ul style="list-style-type: none"> • 1 Day Suspension • *Training/Re-Training
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The Complainant also alleged that upon release from custody, the police officer directed that the complainant be transported to North Vancouver which was both against departmental policy and an inconvenience to the complainant.

Following an investigation, the Discipline Authority determined the evidence did not appear to substantiate the allegations of *Discreditable Conduct* or *Abuse of Authority* against the police officer. The Police Complaint Commissioner disagreed with the Discipline Authority’s findings and on October 5, 2016, appointed retired Provincial Court Judge Carole Lazar to review the evidence pursuant to section 117 of the *Police Act*.

On October 16, 2016, Carole Lazar issued her Notice of Discipline Authority’s decision where she determined that the evidence appeared to substantiate the allegations of *Discreditable Conduct* and *Abuse of Authority*.

A member of the Delta Police Department was appointed to sit as an external Pre-Hearing Conference Authority. A Pre-Hearing Conference was offered to the police officer and the above discipline was agreed upon.

Note: Suspensions were to be served consecutively.

*The training consisted of materials related to Breach of the Peace arrests with respect to the *Criminal Code of Canada* and departmental policy. This included the limitations on where a person can be transported after they have been arrested for Breach of the Peace.

For further information on this decision, please visit the OPCC website at www.opcc.bc.ca under Adjudications.

Victoria

No substantiated misconduct in this reporting period

West Vancouver

No substantiated misconduct in this reporting period