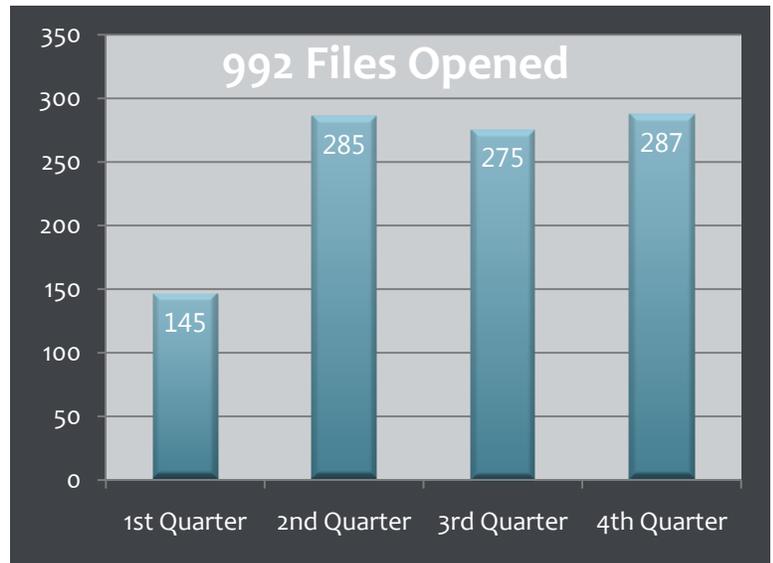


2010 Year In Review

Files Opened in 2010

On March 31st, 2010, amendments to the *Police Act* came into effect, resulting in significant changes to how complaints against police are received, processed and reported. Figures for the 1st Quarter deal entirely with files that were opened and concluded under the previous legislation; however, files that were opened under the old legislation but not concluded until after March 31st, 2010, are considered to be "transitional" complaints. Wherever possible and appropriate to all participants, they have been concluded pursuant to the new legislation. Accordingly, the figures for the 2nd, 3rd and 4th Quarters contain transitional complaint files and where applicable, will be a blending of both old and new legislation and terminology.

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.



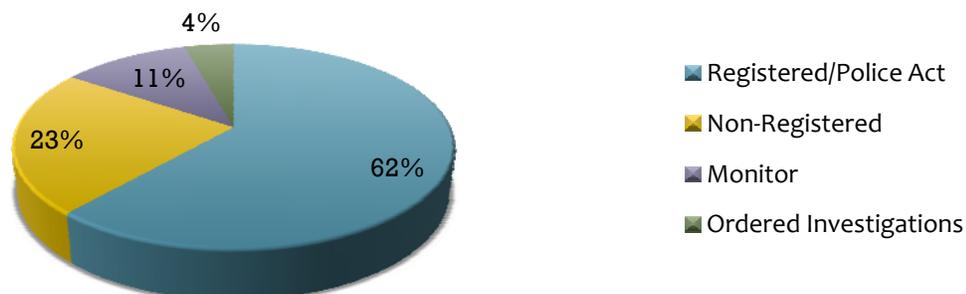
The files opened by the OPCC in 2010 can be broken down into the following categories:

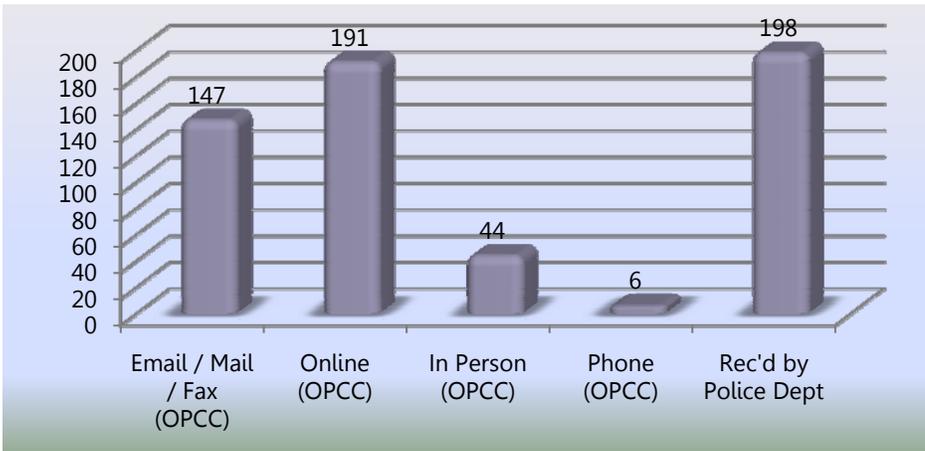
Registered Complaints are formal complaints by members of the public concerning the conduct of municipal police officers. This would include "Police Act" complaints filed under the previous legislation.

Non-Registered Complaints are any oral or written report by a member of the public that raises concerns or questions about the conduct of an officer, but that does not result in the making and registration of a formal complaint. If a non-registered complaint contains allegations of a serious nature, the department may request the Commissioner order an investigation or the Commissioner may order an investigation on his or her own initiative if it is deemed to be in the public interest. Under the previous legislation, these were referred to as "Non-Lodged" complaints.

Ordered 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. This also includes mandatory investigations pursuant to the new legislation.

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".





How Public Complaints were Received

As well as the new legislation coming into effect on March 31st, 2010, the OPCC launched its new website that offered complainants the option of submitting their complaints on-line.

Reportable Injuries & Mandatory External Investigations – s.89

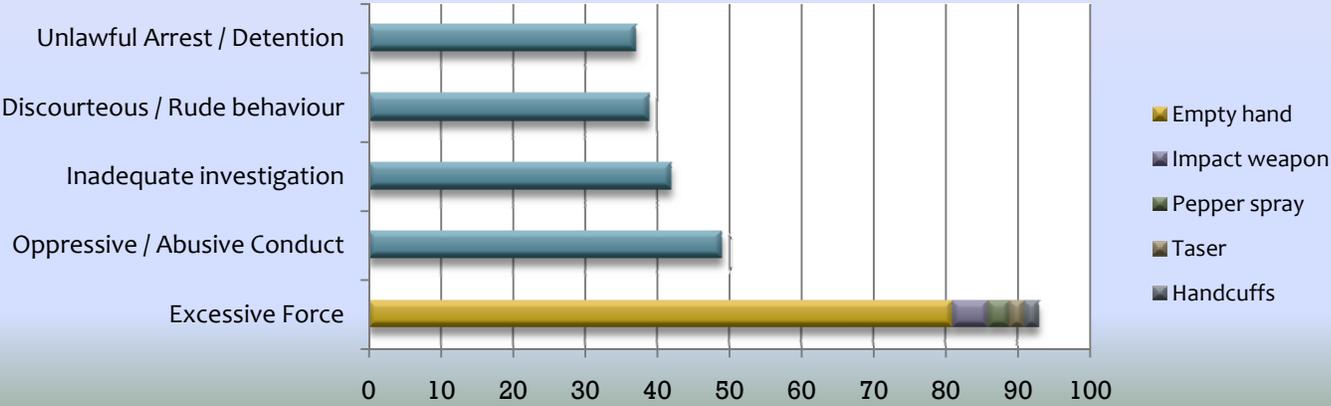
The new legislation requires departments to report all incidents where an individual in the care or custody of the police suffers a “**reportable injury**” that requires medical treatment. These “reportable injuries” are opened as Monitor Files until it is determined whether an investigation will be conducted. In 2010, the OPCC received **100** notifications of reportable injuries; **6** of which are under investigation. Over 50% of the reportable injuries received in 2010 were as a result of Police Service Dog bites. Section 89 also states that there must be “**mandatory external investigations**” into incidents resulting in death or serious harm. In 2010, there has been **1** mandatory external investigation ordered.

The new legislation also requires departments to keep records of all concerns or questions they receive from members of the public, but do not result in a formal complaint. These records are forwarded to the OPCC for review and tracking purposes. These are referred to as **Non-Registered** files. In 2010, municipal departments forwarded to the OPCC **228** Non-Registered files for review and auditing purposes. Out of these 288 files, **8** have resulted in an investigation.

Non-Registered Records - s.85

Most Common Allegations Received in 2010

There is a wide variety in the type of complaints received; however, the allegations listed below reflect the most common allegations that were received in 2010. Please note that these are simply allegations received



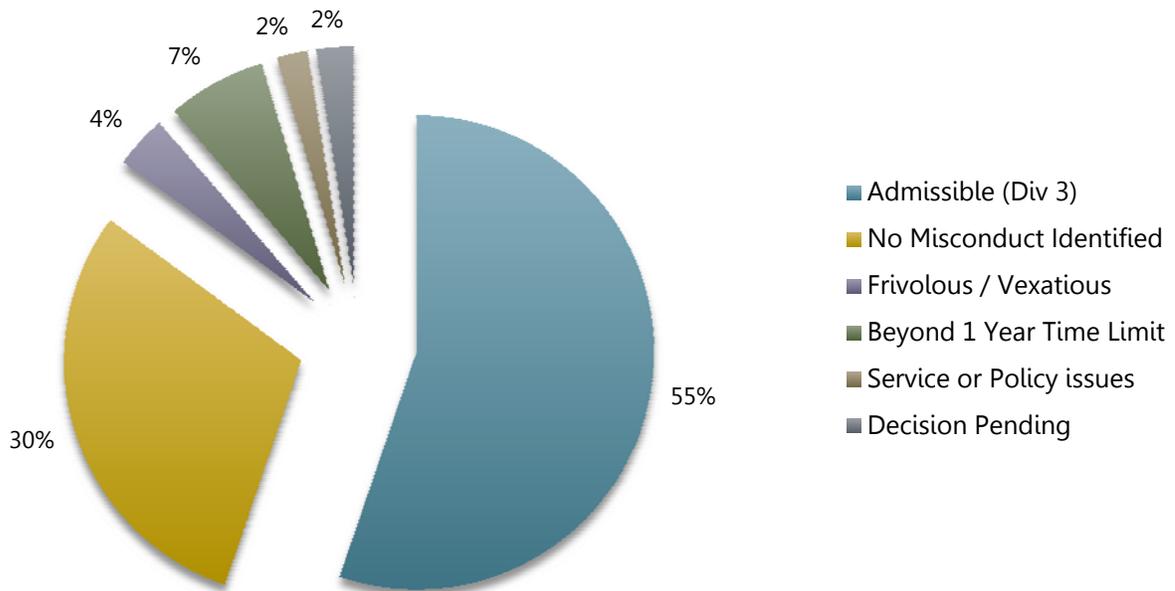
Admissibility of Complaints (s.82)

One of the significant changes to the complaint process is the requirement that ALL registered complaints received from the public must be reviewed by the OPCC to determine whether it is an "Admissible" complaint under the Act. In order for a complaint to be considered admissible, it must:

- Describe conduct that, if substantiated, would constitute misconduct as defined by the Act (section 77 sets out 13 separate categories of misconduct);
- Be filed within 12 months of when the alleged misconduct occurred; and
- Not be frivolous or vexatious in nature.

Since March 31st, 2010, OPCC analysts have reviewed **476** registered complaints. **263** were determined to be admissible and forwarded to the police department's Professional Standards Section. **201** were not admissible for the following reasons:

- 142 Failed to identify any misconduct
- 32 Filed after the 12 month limit
- 17 Frivolous/vexatious
- 10 Deemed admissible under a different area of the Act - Division 5 – Service or Policy issues
- 12 Pending a decision



Files Closed in 2010

In 2010, OPCC analysts concluded **966** files. All complaint files are reviewed and broken down into its individual allegations against individual officers, therefore a single complaint file will often contain multiple allegations against more than one officer. As a result, those 966 complaint files required the analysts to review **1293** allegations (including Non-Registered, Non-Lodged allegations and Monitor files).

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

A complaint may 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 a 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. Under the previous legislation, complaints that met any of these criteria were Summarily Dismissed.

Not Substantiated

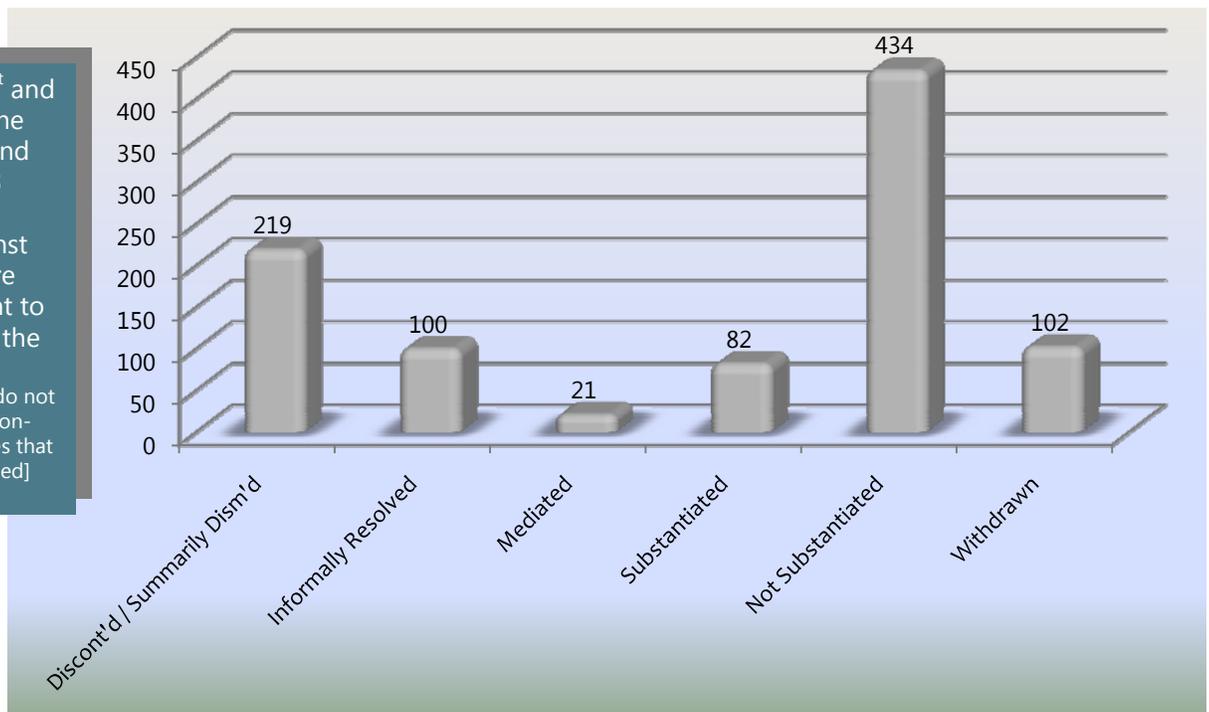
Following an investigation that may take up to 6 months, the Discipline Authority determines there is no evidence to support the allegation of misconduct.

Substantiated

Following an investigation that may take up to 6 months, 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 January 1st and December 31st, the OPCC reviewed and concluded **958** allegations of misconduct against officers that were processed pursuant to Divisions 3 & 4 of the *Police Act*.

[Note: These numbers do not include Non-Reg'd, Non-Lodged and Monitor files that are reviewed and closed]



Mediation & Informal Resolution of Police Complaints

In addition to conducting full investigations and having a third party arrive at a decision, the *Police Act* offers an alternative method of resolving the issues through formal mediation or an informal resolution process.

Informal Resolution (s.157)

If the nature of the complaint is appropriate and both parties are willing to participate, the Discipline Authority may propose an informal resolution to the matter. Both the complainant and the member must agree in writing to the proposed resolution and have ten business days in which they may reconsider their decision and revoke their consent. Before any proposed resolution is final, the OPCC reviews the complaint and proposed resolution to ensure it is appropriate to the circumstances.

In 2010, the OPCC reviewed and approved **72** complaint files (including all allegations contained within the complaint) as successfully informally resolved.

Mediation is a process for resolving disputes between a complainant and a member with the assistance of a neutral professional mediator. Complaints that are appropriate for mediation may contain issues more complicated or serious than those informally resolved and require the assistance of a professional mediator to settle the issues collaboratively and on their own terms. This may include the parties meeting face to face during or after the mediation, but is not necessary. The mediation takes place in a private, non-confrontational setting, where the parties participate in the design of the settlement agreement. The mediator is impartial and trained to help parties arrive at a resolution, but has no decision-making power. The dispute is settled only if all of the parties agree to the settlement.

In 2010, **26** files were approved by the Commissioner to attempt formal mediation. Of those files, **10** complaint files (including all allegations contained within the complaint) were successfully mediated; **10** no agreement could be reached; and there remains **6** that are currently undergoing mediation.

Mediation (Division 4)

Follow up surveys submitted by complainants, members and support persons who attended mediations, including those where no agreement could be reached, indicate that **90%** would be willing to attempt mediation for any future complaints.

Adjudicative Reviews

Under the previous legislation, there was only one avenue for review – a public hearing. The new *Police Act* offers three avenues of review following a Discipline Authority's decision:

Appointment of a New Discipline Authority (s.117)

- If, on review of the Discipline Authority's decision, the Police Complaint Commissioner considers that there is a reasonable basis to believe that the decision is incorrect, the Commissioner may appoint a retired judge to act as a new Discipline Authority, review the matter and make a decision.
- Between March 31st and December 31st, 2010, the Commissioner appointed a retired judge to act as a new Discipline Authority on **6** matters.

Reviews on the Record (s.141)

- The Police Complaint Commissioner may arrange for a review on the record if there is a reasonable basis to believe:
 - the Discipline Authority's findings following a discipline proceeding are incorrect, or
 - the corrective and/or disciplinary measures proposed by the Discipline Authority are not in compliance with the Act, or
 - it is in the public interest to arrange a review on the record.
- A retired judge is appointed as an adjudicator to review the disciplinary decision. Generally, a review on the record is a "paper" review without witnesses being called to testify.
- To date, there have been no reviews on the record.

Public Hearing
(s.143)

- The Police Complaint Commissioner may order a matter proceeds to a public hearing if it determined that, in addition to the above considerations:

- it is likely that evidence other than that admissible in a reviewed on the record will be necessary to complete a review of the disciplinary decision on a standard of correctness; and
- a public hearing of the matter is necessary to preserve or restore public confidence in the investigation of misconduct or the administration of police discipline.

A retired judge is appointed as an adjudicator to preside over the hearing.

- Between January 1st and December 31, 2010, the Commissioner ordered **5** public hearings. To see a schedule of when and where these hearings will take place, please visit the OPCC website.

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 January 1st and December 31st, 2010)

Abbotsford

The officer failed to conduct a thorough search of a female prior to being placed in cells.

Default: Neglect of Duty
Date of Incident: Aug 7, 2009

OPCC File 2008-43289

- Member required to undertake specified training or re-training

Central Saanich

While off-duty, the officer's personal vehicle was broken into and the office's badge, identification card, laptop, secure access key fob and police notebook were stolen.

Default: Damage to Police Property
Date of Incident: May 1, 2009

Ordered Investigation (at request of the dept)

OPCC File 2009-4720

- Advice as to future conduct

The officer had used equipment and facilities of a municipal police department for purposes unrelated to the performance of duties as a member

Default: Unauthorized search of CPIC / PRIME
Date of Incident: Jun 1, 2007 – Mar 18, 2010
Ordered Investigation (at request of the dept)

OPCC File 2009-4885

- Written Reprimand

Delta

The officer failed to properly control his police dog, resulting in the Complainant receiving a dog bite to his upper thigh.

Default: Neglect of Duty
Date of Incident: June 10, 2009

OPCC File 2009-4706

- Written Reprimand

The officer unlawfully searched the Complainant's vehicle.

Default: Abuse of Authority
Date of Incident: Jan 15, 2009

OPCC File 2009-4530

- Verbal Reprimand

The officer conducted an unlawful search of the complainant's motor vehicle and used offensive and abusive language towards the complainant.

Default: Abuse of Authority
Discreditable Conduct
Date of Incident: Nov 3, 2008

OPCC File 2008-4422

- Member required to participate in "Search & Seizure" training
- Managerial Direction

The officer conducted an unlawful search of the complainant's motor vehicle, but was directed to do so by a senior officer.

Default: Abuse of Authority
Discreditable Conduct
Date of Incident: Jan 17, 2009

OPCC File 2009-4531

- Advice as to future conduct

Officers failed to fully investigate a 215 MVA offence involving another member.

Default: Neglect of Duty
Date of Incident: Jan 31, 2009

Ordered External Investigation (initiated by PCC)

OPCC File 2009-4654

- Written Reprimand

While off-duty, the officer was involved in a minor MVA and was issued 24 hour driving suspension.

Default: Improper Off-Duty Conduct

- 2 Day Suspension without pay
- Direction to attend professional counselling

Date of Incident: Jan 31, 2009

Ordered Investigation (at request of the dept)

OPCC File 2009-4525

The officer pointed his service firearm, without lawful authority, at a driver during a traffic dispute.

Default: Abuse of Authority
Date of Incident: May 29, 2009

OPCC File 2009-4675

- Written Reprimand

Nelson

The officer failed to provide the complainant with access to counsel after he had been arrested for being in a state of intoxication in a public place.

Default: Discreditable Conduct
Date of Incident: Feb 23, 2008

OPCC File 2008-4213

- Member required to participate in a specified program or activity
- Advice as to future conduct

New Westminster

The officer had improperly released a text page from a PRIME file to a private citizen without lawful authority and contrary to departmental policy.

Default: Improper Disclosure of Information
Date of Incident: July 2, 2008

Ordered Investigation (at request of the dept)

OPCC File 2009-4741

- Advice as to future conduct

Photographs posted on the officer's Facebook webpage depicted the officer wearing a RCMP hat, standing next to an unknown male wearing a Municipal Police Department dress uniform jacket. Other photographs showed the same unknown male, wearing a Municipal Police Department dress uniform jacket holding a handgun in his left hand with the muzzle pointed toward his head.

Default: Improper Off-Duty Conduct
Date of Incident: July, 2009

Ordered Investigation (at request of the dept)

OPCC File 2009-4748

- Advice as to future conduct

The officer, while off-duty but driving a police department vehicle, was involved in a single vehicle accident and arrested for impaired driving.

Default: Improper Off Duty Conduct
Date of Incident: Oct 16, 2008

Ordered Investigation (at request of the dept)

OPCC File 2008-4400

- Reduction in Rank (24 months – 1st 6 months at the 3rd Class Cst rank, followed by 18 months at rank of 2nd Class Cst)
- Suspended without pay (4 days)
- Direction to undertake professional counseling

The officer entered the complainant's residence without authority and served a subpoena.

Default: Discreditable Conduct
Date of Incident: Jul 18, 2009

OPCC File 2009-4769

- Verbal reprimand
- Member required to participate in remedial legal training

(1) Two officers unlawfully entered and searched a suspect's residence;
(2) One officer failed to submit a Return to Justice justifying his grounds for entry after the fact; and
(3) Both officers failed to properly account for the circumstances of the entry and search in the PRIME police report.

Defaults: Discreditable Conduct (1)
Neglect of Duty (2 & 3)
Date of Incident: Feb 25, 2008

Ordered Investigation (at request of the dept)

OPCC File 2008-4412

- (1) Both officers received a 1 day suspension without pay
- (2) Written Reprimand
- (3) One officer received a Written Reprimand; One officer received a 2 day suspension without pay

Port Moody

The officer did not have sufficient or lawful grounds upon which to arrest the complainant.

Default: Abuse of Authority
Date of Incident: Sept 6, 2008

OPCC File 2008-4368

- Verbal reprimand

The officer unlawfully arrested and detained the complainant.

Default: Abuse of Authority
Date of Incident: Nov 17, 2008

OPCC File 2009-4940

- Written Reprimand
- Training (Legal Update Training session)

Saanich

The officer failed to attend a scheduled traffic court appearance.

Default: Neglect of Duty
Date of Incident: Nov 10, 2009

Form 1 by Department

OPCC File 2009-4942

- Managerial Direction

On 12 separate occasions, the officer had conducted unauthorized searches in a police database (PRIME)

Default: Discreditable Conduct
Dates of Incident: June 6 – 8, 2009

Form 1 by Department

OPCC File 2009-4707

- Suspended without pay (1 day)

The officer inaccurately reported that he had interviewed specific witnesses in relation to a file when he had not.

Default: Neglect of Duty
Date of Incident: Mar 19, 2010

Ordered Investigation (at request of the dept)

OPCC File 2010-5284

- Member required to work under close supervision for a period of 3 – 6 months

The officer failed to properly secure his firearm at his residence.

Default: Improper Use or Care of Firearm
Date of Incident: Feb 9, 2010

Form 1 filed by Dept

OPCC File 2010-5061

- Verbal Reprimand

SCBCTAPS

The officers failed to provide medical treatment to the complainant after he sustained injuries while being arrested.

Default: Neglect of Duty (x2)
Date of Incident: August 8/09

OPCC File 2009-4857

Officer #1:

- Member required to undertake specified training or re-training
- Advice as to future conduct

Officer #2:

- Officer resigned / retired prior to the completion of the complaint process*

The officer used unnecessary force while arresting the complainant, causing him to fall to the ground, injuring his shoulder.

Default: Abuse of Authority
Date of Incident: August 8/09

OPCC File 2009-4857

- Officer resigned / retired prior to the completion of the complaint process*

The officer failed to properly dispose of a can of bear spray seized from the complainant.

Default: Neglect of Duty
Date of Incident: Dec 1, 2009

OPCC File 2009-4977

- Written Reprimand

Vancouver

The officer did not have reasonable and probable grounds to search the complainant. Further, it was found that the officer failed to adhere to the department's policies and procedures.

Defaults: Abuse of Authority
Discreditable Conduct
Date of Incident: July 21, 2008

OPCC File 2008-4307

- Additional training (remedial legal training re Search & Seizure)
- Additional training (refresher training re departmental policies & procedures)

While dealing with the complainant, the officer used inappropriate language.

Default: Abuse of Authority
Date of Incident: May 22, 2009

OPCC File 2009-4667

- Managerial Direction

The officer was rude and discourteous towards the complainant following a traffic court hearing.

Default: Abuse of Authority
Date of Incident: Nov 21, 2008

OPCC File 2009-4641

- Managerial Direction

An off-duty police officer was stopped for driving erratically and was issued a 24-hour driving suspension. It was found that the on-duty officer who conducted the stop gave preferential treatment to the off-duty officer by not demanding a breath sample for impaired driving.

- Managerial Direction

Default: Neglect of Duty
Date of Incident: Oct 12, 2008

PCC directed Ordered External Investigation
by RCMP

OPCC File 2009-4653

The officer, while off-duty, received a 24-hour driving prohibition.

Default: Improper Off Duty Conduct
Date of Incident: Oct 12, 2008

Ordered Investigation at request of the department

OPCC File 2008-4398

- 2 day suspension without pay

The officers unlawfully detained and strip searched the Complainant.

Default: Abuse of Authority (x2)
Date of Incident: June 12, 2008

OPCC File 2008-4260

- Written Reprimand
- Remedial training

The officer, while off-duty, was stopped and charged with impaired driving.

Default: Improper Off-Duty Conduct
Date of Incident: November 16/08

Ordered Investigation (at request of the dept)

OPCC File 2008-4431

- Member suspended for 4 days without pay

The officers, without lawful authority, had taken a photograph of a prisoner.

Default: Abuse of Authority
Date of Incident: Nov 14, 2006
Ordered Investigation (at request of the Dept)

OPCC File 2006-3517

- Verbal Reprimand (Officers #1 & #2)
- 1 Day Suspension without pay (Officer #3)
- 3 Day Suspension without pay (Officer #4)

The officer's issued firearm accidentally discharged during an arrest.

Default: Improper Use or Care of Firearm
Date of Incident: May 23, 2009
Ordered Investigation (at request of the Dept)

OPCC File 2009-4672

- Member was directed to participate in remedial firearms training

The officer failed to adequately to document/notify the complainant that the charges were not proceeding.

Default: Neglect of Duty
Date of Incident: Aug 21, 2007

OPCC File 2009-4665

- Advice as to future conduct

The officer, while driving off-duty, was stopped and issued 24 hour driving suspension. The officer also displayed his badge with the intention of receiving preferential treatment.

Default: Discreditable Conduct (x2)
Date of Incident: Jun 21, 2009

Ordered External Investigation (initiated by the PCC)

OPCC File 2009-4716

- Written Reprimand
- Advice as to future conduct

The officer was convicted of impaired driving while off-duty.

Default: Improper Off-Duty Conduct
Date of Incident: Aug 30, 2009
Ordered Investigation (at request of the Dept)

OPCC File 2009-4841

- 2 Day Suspension without pay

Victoria

The officer had acted in a manner likely to discredit the department by disclosing confidential material to a third party and further, by attempting to release information to a third party without authorization.

Defaults: Discreditable Conduct
Improper Disclosure of Information
Date of Incident: Oct 2007

Ordered Investigation at Request of Dept
External Investigation by the APD & DPD

OPCC File 2008-4381

- Officer resigned / retired prior to the completion of the complaint process*

The officer was found to be in possession of questionable electronic images, many of teenaged girls, and that the officer had used computer software belonging to the department. It was further found that the officer had, for purposes unrelated to his duties as a police officer, conducted queries

- Officer resigned / retired prior to the completion of the complaint process*

<p><i>on police databases.</i></p> <p>Default: Improper Off-Duty Conduct (x2) Corrupt Practice (x2)</p> <p>Ordered Investigation (Initiated by PCC)</p> <p>OPCC File 2009-4606</p>	
<p><i>The officer used excessive force by striking a male while issuing a ticket for consumption of liquor in public.</i></p> <p>Default: Abuse of Authority Date of Incident: Oct 20, 2009</p> <p>Ordered Investigation (at request of the dept)</p> <p>OPCC File 2009-4919</p>	<ul style="list-style-type: none"> ■ 2 Day Suspension without pay ■ Member directed to participate in remedial training on use of force
<p><i>The officer unlawfully arrested the complainant and in doing so used excessive force, a knee strike to the head area.</i></p> <p>Default: Abuse of Authority (x2) Date of Incident: December 27, 2008</p> <p>OPCC File 2009-4488</p>	<ul style="list-style-type: none"> ■ Written Reprimand ■ Retraining in the use of force as it pertains to operating in concert with other officers attempting to tactically takedown a subject who is under arrest. In addition retraining to occur with respect to making assessments of who actively constitutes threats to public or officer safety Retraining with respect to the powers of arrest and the limitations to that power under BC law as it applies to a person being intoxicated in a public place
<p>West Vancouver</p>	
<p><i>The officer's conduct with respect to another officer was inappropriate.</i></p> <p>Default: Abuse of Authority Date of Incident: August 2009</p> <p>OPCC File 2009-4862</p>	<ul style="list-style-type: none"> ■ No discipline or corrective measures warranted**
<p><i>The officer used excessive force when dealing with the Complainant, causing him to fall to the ground.</i></p> <p>Default: Abuse of Authority Date of Incident: April 10/09</p> <p>OPCC File No. 2009-4608</p>	<ul style="list-style-type: none"> ■ Member required to undertake specified training or re-training ■ Written reprimand
<p><i>The officer failed to conduct a timely investigation and seize evidence before it was destroyed.</i></p> <p>Default: Neglect of Duty Date of Incident: Apr 2009 Ordered Investigation (at request of the Dept)</p> <p>OPCC File 2009-4663</p>	<ul style="list-style-type: none"> ■ 2 Day Suspension without pay ■ Member required to work under close supervision for a period of 6 months

During an arrest, the officer used excessive force by striking the complainant with palm strikes to the head area and the use of his police dog resulting in bite wounds to the complainant's legs.

Default: Abuse of Authority (x2)

Date of Incident: June 19, 2009

OPCC File 2009-4718

- Refresher training with respect to office safety and tactical consideration when encountering resistant subjects;
- Ongoing re-certification training in the handling of a police service dog; and
- Verbal Reprimand

* *Under the former legislation, there were no provisions to continue with a complaint against a member who had retired or resigned prior to the completion of the proceedings. The new legislation allows the process to continue with respect to officers who, at the time of the incident in question, were sworn officers but has since resigned or retired.*

** *The former legislation permitted the Discipline Authority to substantiate an allegation of misconduct, but not impose discipline or corrective measures. The new legislation requires the Discipline Authority to impose at least one of the measures as defined by the Act, the lowest being "Advice as to future conduct".*