

2015/2016 Third Quarter in Review

(October 1, 2015 to December 31, 2015)

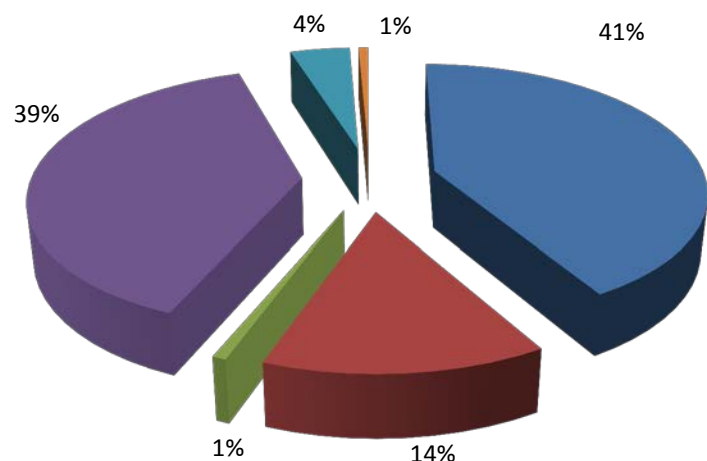
Please note the data contained in the following report may vary slightly from previous releases. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.

The files opened by the OPCC from October 1 to December 31, 2015, 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*).

286 Files Opened between October 1 and December 31, 2015

- 119 ■ Registered Complaints
- 40 ■ Questions or Concerns
- 2 ■ Internal Discipline
- 111 ■ Monitor
- 12 ■ Ordered Investigations
- 2 ■ Service Or Policy



Admissibility of Registered Complaints Received between October 1, and December 31, 2015

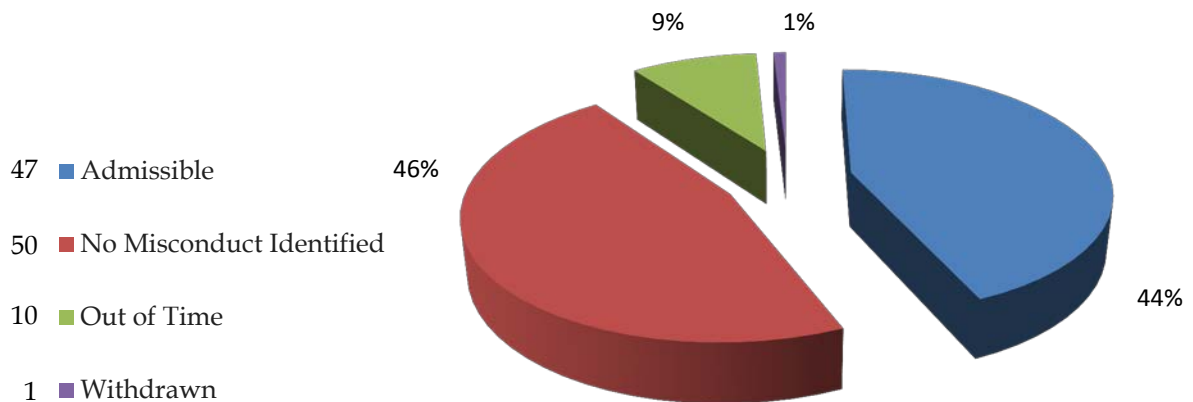
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

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

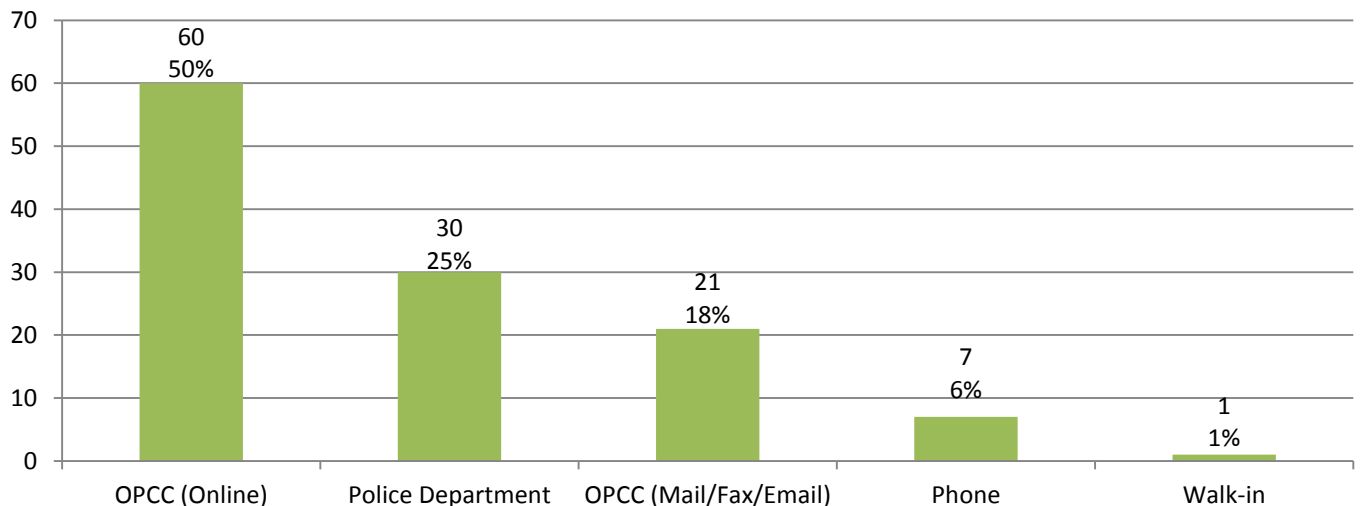
- Contain allegation(s) of conduct that, if proven, would constitute misconduct as defined by the *Act*;
- The complaint must be filed within one year of when it occurred; and
- Not be frivolous or vexatious

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

Breakdown of Admissibility of Registered Complaints ¹



How Registered Complaints were received between October 1 and December 31, 2015



¹ When this report was generated, 11 registered complaints were undergoing an admissibility review and a determination had not yet been made.

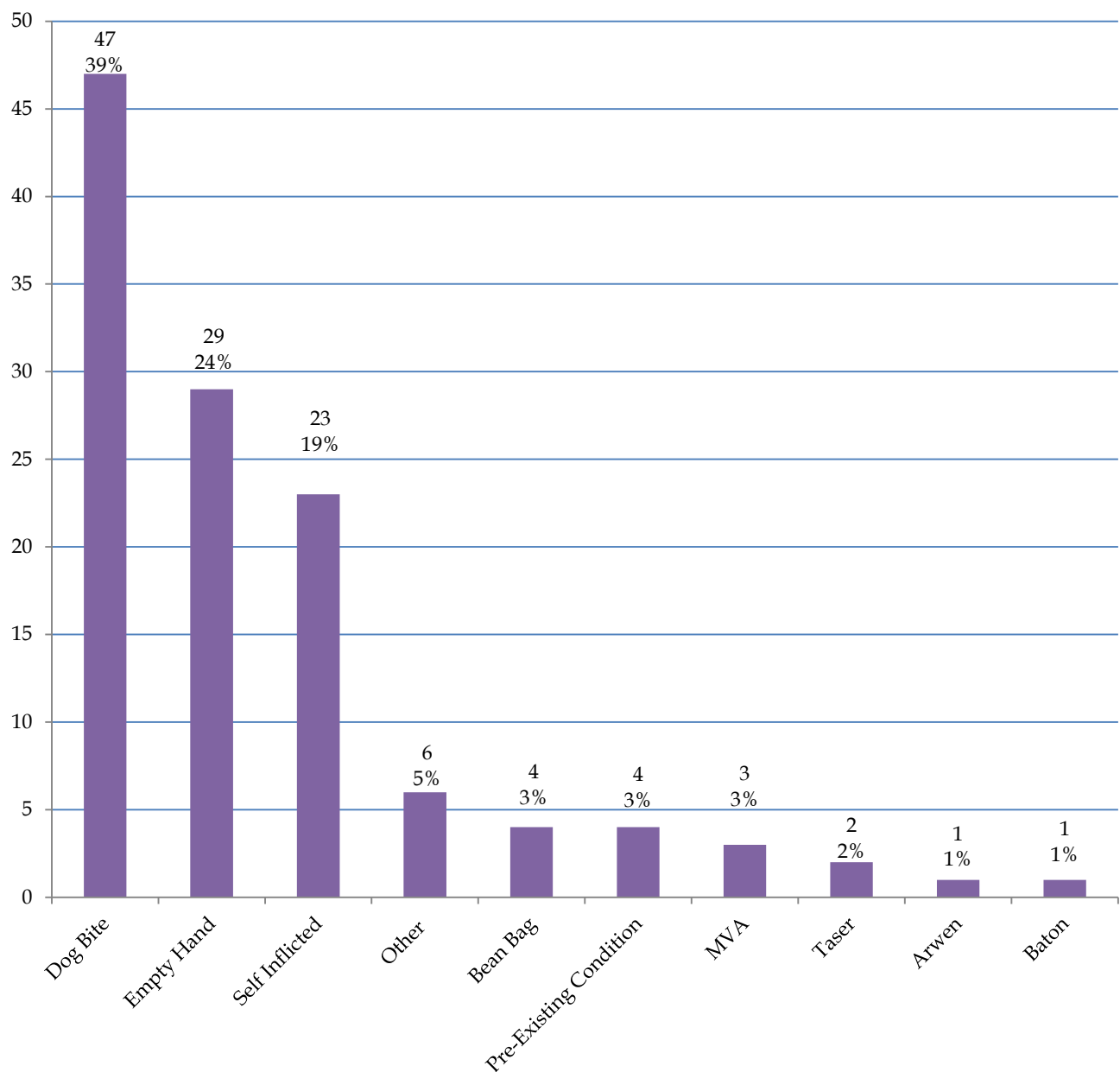
Files Opened between October 1 and December 31, 2015 – By Department

Department	TOTAL	Inadmissible Registered	Admissible Registered	Admissibility Decision Pending	Mandatory Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	19	6	1	0	0	1	0	11	0	0	0
Central Saanich	1	1	0	0	0	0	0	0	0	0	0
CFSEU	1	0	0	0	0	0	0	1	0	0	0
Delta	18	2	1	0	0	1	0	9	4	1	0
Nelson	2	1	1	0	0	0	0	0	0	0	0
New Westminster	11	0	2	0	0	0	0	6	3	0	0
Oak Bay	0	0	0	0	0	0	0	0	0	0	0
Port Moody	7	0	0	1	0	1	0	1	4	0	0
Saanich	29	7	1	3	0	0	1	5	12	0	0
SCBCTAPS	19	5	4	0	0	1	0	5	3	1	0
Stl'atl'imx	0	0	0	0	0	0	0	0	0	0	0
Vancouver	149	30	33	7	1	1	2	62	11	0	2
Victoria	21	5	4	0	0	0	2	10	0	0	0
West Vancouver	9	3	1	0	0	0	1	1	3	0	0
TOTAL:	286	60	48	11	1	5	6	111	40	2	2

Reportable Injury Notifications s. 89 Received between October 1 and December 31, 2015 ²

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 medical treatment. These “reportable injuries” are opened as Monitor Files until it is determined whether an investigation will be conducted. Between October 1 and December 31, 2015, the OPCC received **98** notifications of reportable injuries involving **120** uses of force.

- 01 which resulted in a mandatory external investigation;
- 02 which resulted in Police Complaint Commissioner Ordered Investigation
- 02 which resulted in an individual filing a registered complaint.

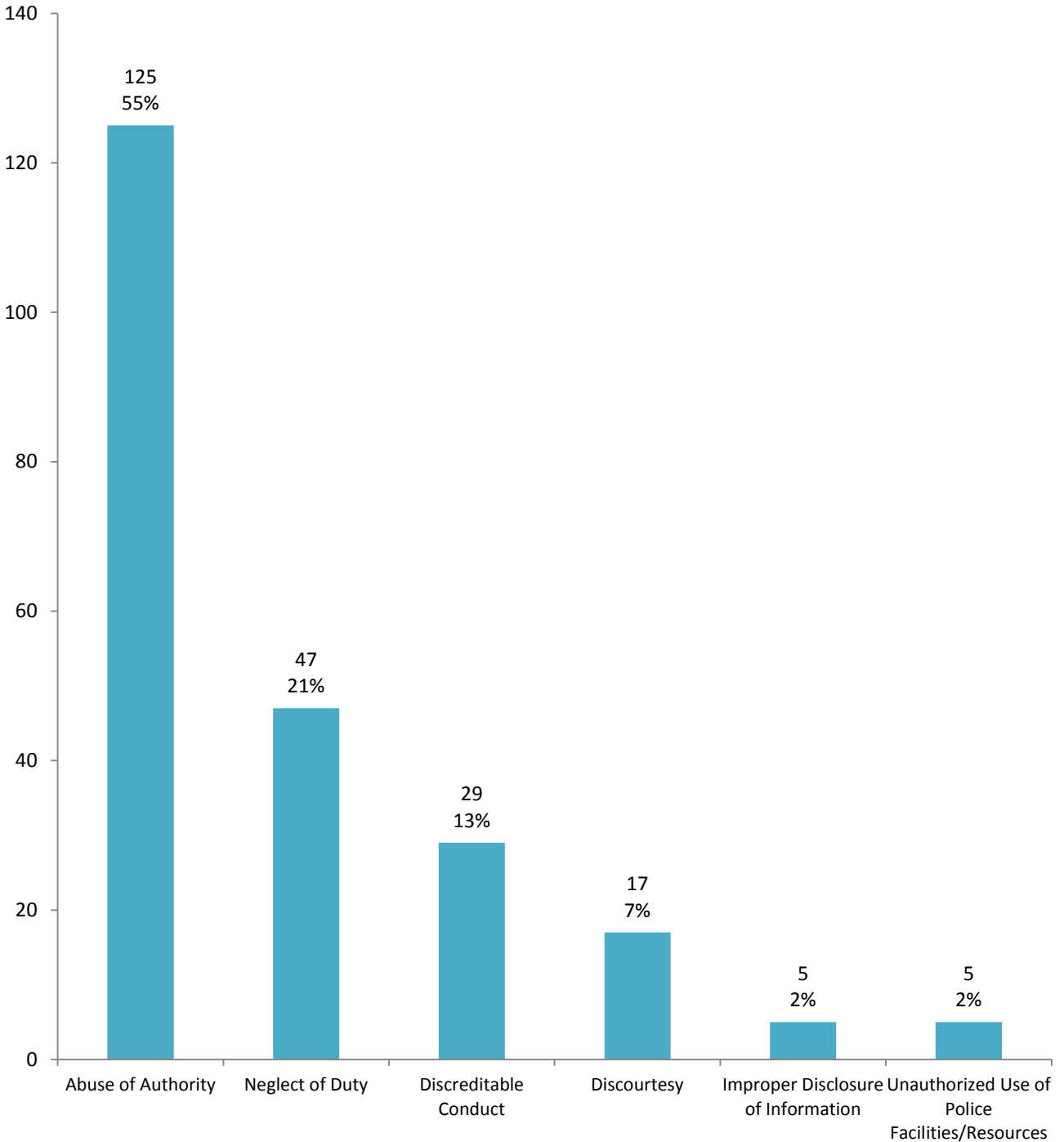


² 'Other' are incidents where a person is in medical distress with the cause being unknown.

Allegations Forwarded on for Investigation between October 1 and December 31, 2015

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 and December 31, 2015, the OPCC identified **228** 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.



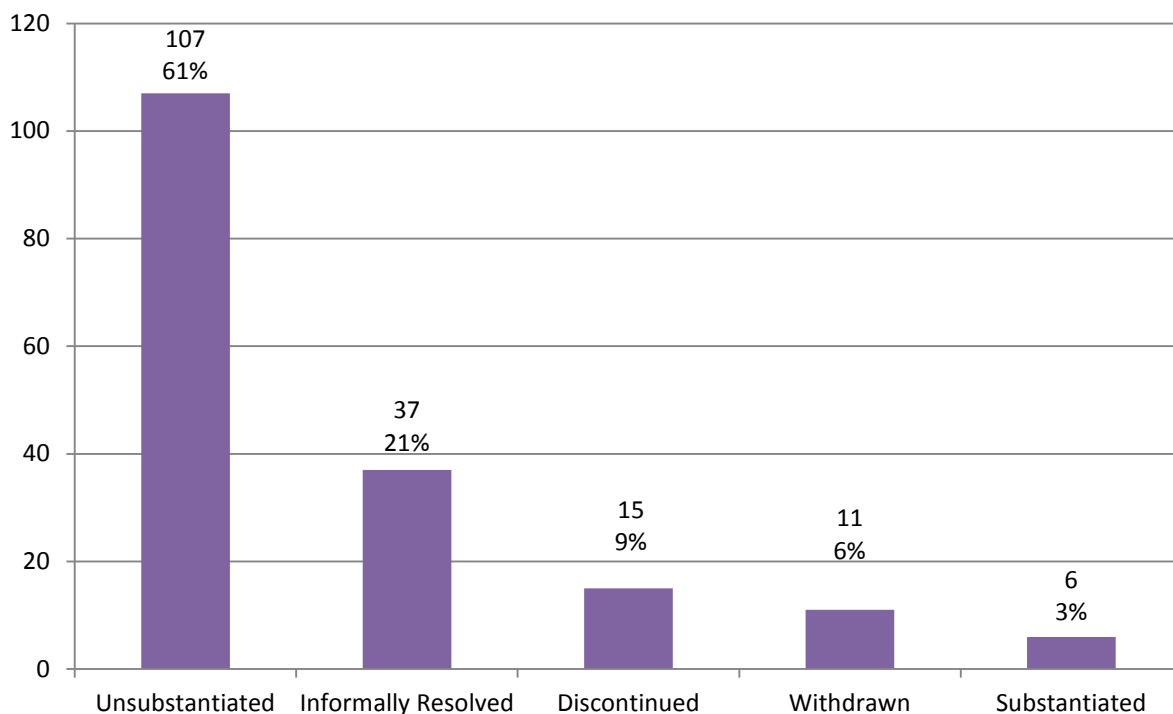
Allegations Concluded between October 1 and December 31, 2015

As stated earlier, 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	<i>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.</i>
Informally Resolved	<i>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.</i>
Mediated	<i>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.</i>
Discontinued	<i>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.</i>
Not Substantiated	<i>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.</i>
Substantiated	<i>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.</i>

Between October 1 and December 31, 2015, the OPCC concluded **176** public trust allegations in the following manner:



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 and December 31, 2015, the OPCC reviewed and approved informal resolution agreements relating to **37 (22%)** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for alternative dispute resolution.

2015/2016 Fiscal Year	3rd Quarter (October 1 to December 31, 2015)
Allegations Informally Resolved	37 (22%)
Total Allegations Concluded	170

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 and December 31, 2015.

Mediation (Division 4)

Adjudicator Reviews between October 1 and December 31, 2015

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 and December 31, 2015, the Commissioner did not appoint a retired judge to act as a new Discipline Authority.

**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 and December 31, 2015, the Commissioner appointed a retired judge to conduct one review 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 and December 31, 2015, the Commissioner did not call a 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, and December 31, 2015

Abbotsford

No substantiated misconduct in this reporting period

Central Saanich

No substantiated misconduct in this reporting period

CFSEU (Combined Forces Special Enforcement Unit)

No substantiated misconduct in this reporting period

Delta

Registered Complaint
(OPCC File 2014-10014)

Misconduct: Discourtesy
Date of Incident: August 17, 2014

The police member failed to behave with courtesy due in the circumstances towards a member of the public.

Re Discourtesy
(discourteous conduct)

- Written reprimand

Ordered Investigation (request by department)
(OPCC File 2015-10965)

Misconduct: Improper Use or Care of Firearms
Date of Incident: July 23, 2015

The police member accidentally discharged his/her police issued firearm in a locker room located in the police department.

Re Improper Use or Care of Firearms
(accidental discharge of firearm)

- Written reprimand

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

No substantiated misconduct in this reporting period

Saanich

No substantiated misconduct in this reporting period

No substantiated misconduct in this reporting period

Stl'atl'imx Tribal Police

No substantiated misconduct in this reporting period

Vancouver

Ordered Investigation (initiated by PCC)
(OPCC File 2014-10136)

Misconduct: Neglect of Duty
Date of Incident: October 31, 2014

The police member failed to properly clear an intersection and as a result collided with a civilian vehicle.

Re Neglect of Duty
(dangerous driving)

- Training
Review VPD policy and relevant manuals in relation to Emergency Vehicle Driving Regulations and section 122 of the *Motor Vehicle Act*, and satisfy a supervisor designated by the VPD that the member understands the intent and application of that information.
Participate in a four (4) hour, one on one, driver training program designed to evaluate a driver's on-road driving skills and to provide coaching on collision avoidance techniques.

Victoria

Ordered Investigation (request by department)
(OPCC File 2014-9930)

Misconduct: Neglect of Duty
Discreditable Conduct x 2
Date of Incident: Various

On May 29, 2014, the department served the member with a Letter of Expectations as a result of his/her soliciting loans from private individuals. On August 20, 2014 a member of the public contacted the department and reported that the member had recently contacted him asking for money.

The police member failed to comply with the department's Letter of Expectations.

The police member was the subject of a criminal investigation, the result of which the member pled guilty to one count of forgery for which he/she received an absolute discharge.

Re Discreditable Conduct
(conduct that discredits the department)

- Transfer/reassignment

Re Neglect of Duty
(failure to follow supervisor's lawful order)

- Transfer/reassignment

Re Discreditable Conduct
(conduct that discredits the department)

- Dismissal

The police member resigned from the department prior to a pre-hearing conference being held. An agent for the former member attended the pre-hearing conference and entered submissions wherein the former member admitted the misconduct. Accordingly, in considering the appropriate disciplinary or corrective measures for the allegation of Neglect of Duty and one of the allegations of Discreditable Conduct, the discipline authority was guided in part by the fact that the member was no longer serving as a police officer and his/her Service Record of Discipline would indicate that he/she was dismissed as a result of disciplinary action.
Having regard to the unique and complicated

factors in this case, the discipline authority was satisfied that in totality the measures noted above were an appropriate way to ensure that the member had been corrected and educated, and such a disposition would not bring the administration of police discipline into disrepute.

West Vancouver

No substantiated misconduct in this reporting period