

# 2016/2017 First Quarter in Review

(April 1, 2016 to June 30, 2016)

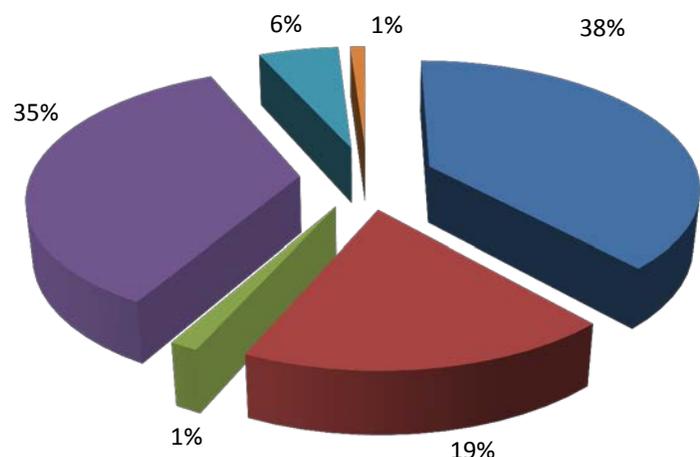
*Please note the data contained in the following report may vary slightly from previous releases. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.*

The files opened by the OPCC from April 1, 2016, to June 30, 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*).

284 Files Opened between April 1, 2016 and June 30, 2016

109	Registered Complaints
52	Questions or Concerns
4	Internal Discipline
100	Monitor
16	Ordered Investigations
3	Service Or Policy



# Admissibility of Registered Complaints Received between April 1, 2016 and June 30, 2016

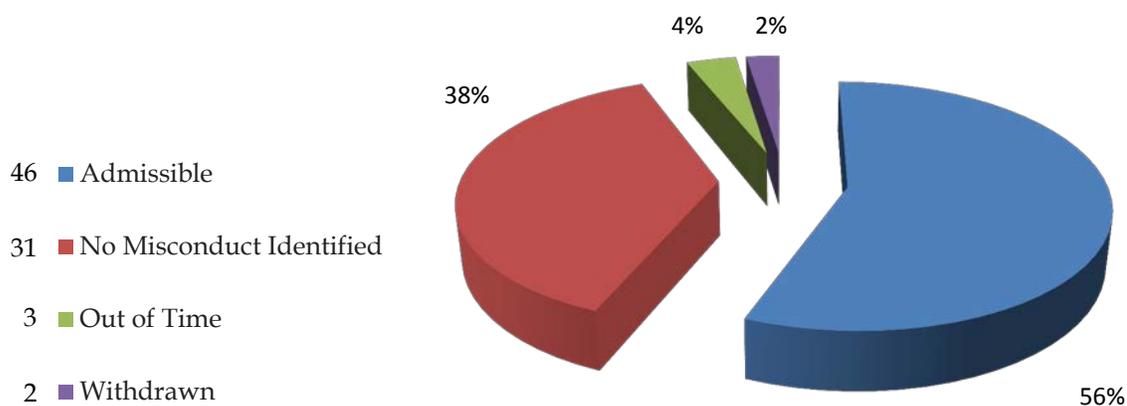
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

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

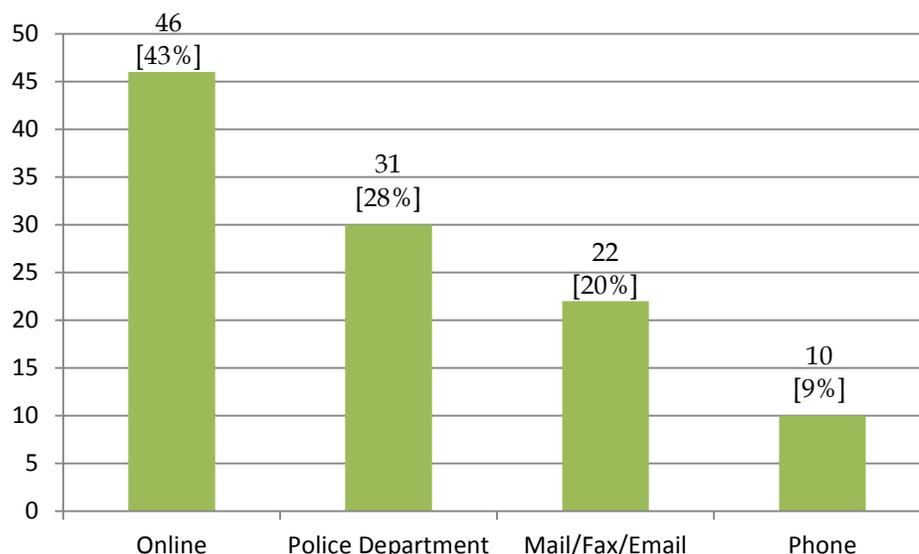
- Contain allegation(s) of conduct that, if proven, would constitute misconduct as defined by the *Act*;
- The complaint must be filed within one year of when it occurred; and
- Not be frivolous or vexatious

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

## Breakdown of Admissibility of Registered Complaints <sup>1</sup>



## How Registered Complaints were received between April 1, 2016 and June 30, 2016



<sup>1</sup> When this report was generated, 27 registered complaints were undergoing an admissibility review and a determination had not yet been made.

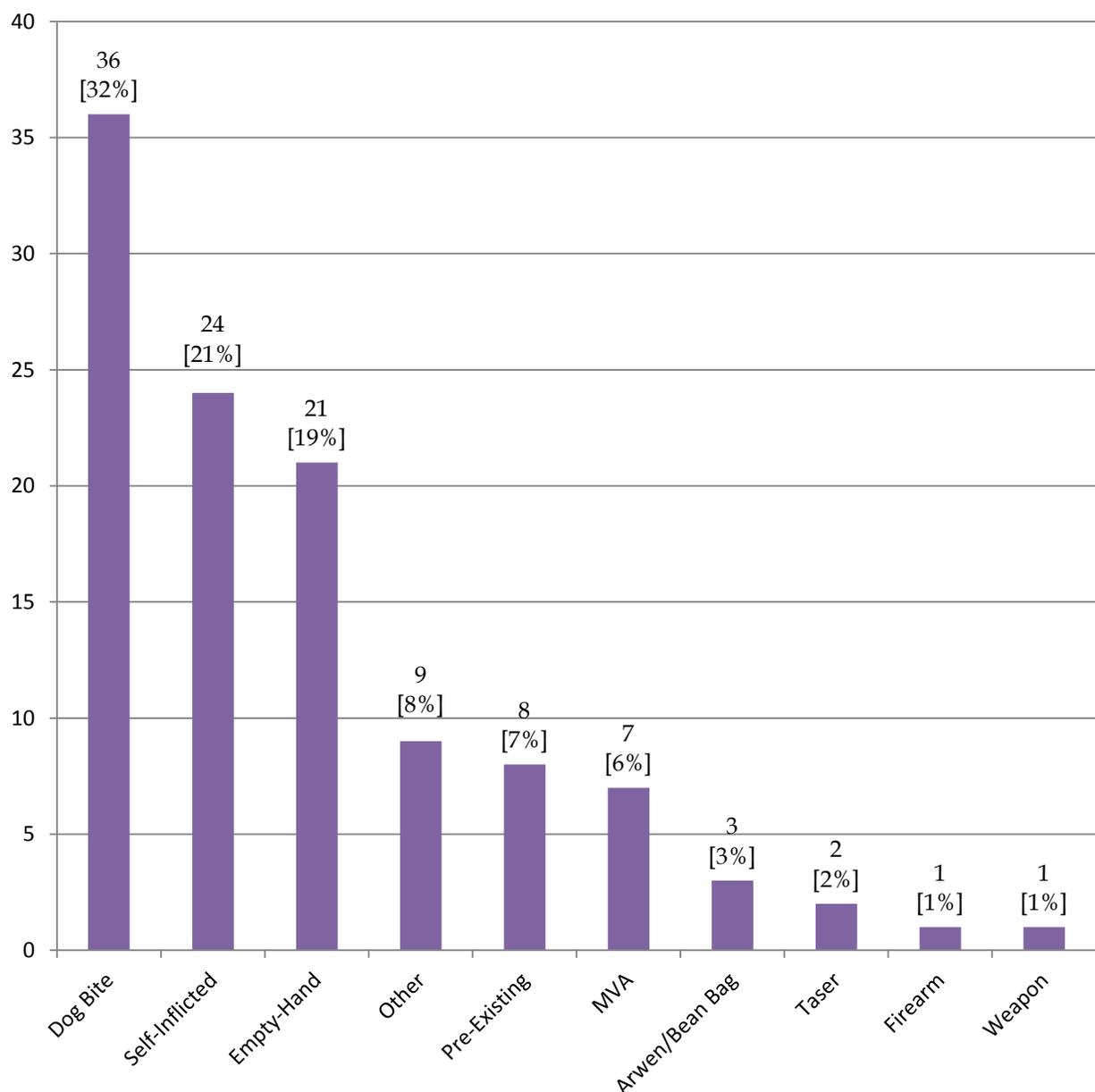
## Files Opened between April 1, 2016, and June 30, 2016 – By Department

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	37	3	3	6	0	1	1	18	3	2	0
Central Saanich	3	1	2	0	0	0	0	0	0	0	0
CFSEU	0	0	0	0	0	0	0	0	0	0	0
Delta	16	2	4	0	0	2	0	8	0	0	0
Nelson	4	2	1	1	0	0	0	0	0	0	0
New Westminster	13	2	3	2	0	0	1	1	3	0	1
Oak Bay	2	1	0	0	0	0	0	0	1	0	0
Port Moody	10	1	3	0	0	0	0	1	4	1	0
Saanich	22	2	4	3	0	0	0	5	8	0	0
SCBCTAPS	24	1	1	2	0	0	0	5	14	1	0
Stl'atl'imx	0	0	0	0	0	0	0	0	0	0	0
Vancouver	119	16	23	9	1	6	2	50	11	0	1
Victoria	23	3	2	3	0	1	1	11	1	0	1
West Vancouver	11	2	0	1	0	0	0	1	7	0	0
<b>TOTAL:</b>	<b>284</b>	<b>36</b>	<b>46</b>	<b>27</b>	<b>1</b>	<b>10</b>	<b>5</b>	<b>100</b>	<b>52</b>	<b>4</b>	<b>3</b>

## Reportable Injury Notifications s. 89 Received between April 1, 2016 and June 30, 2016 <sup>2</sup>

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 April 1 and June 30, 2016, the OPCC received **92** notifications of reportable injuries involving **112** uses of force.

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

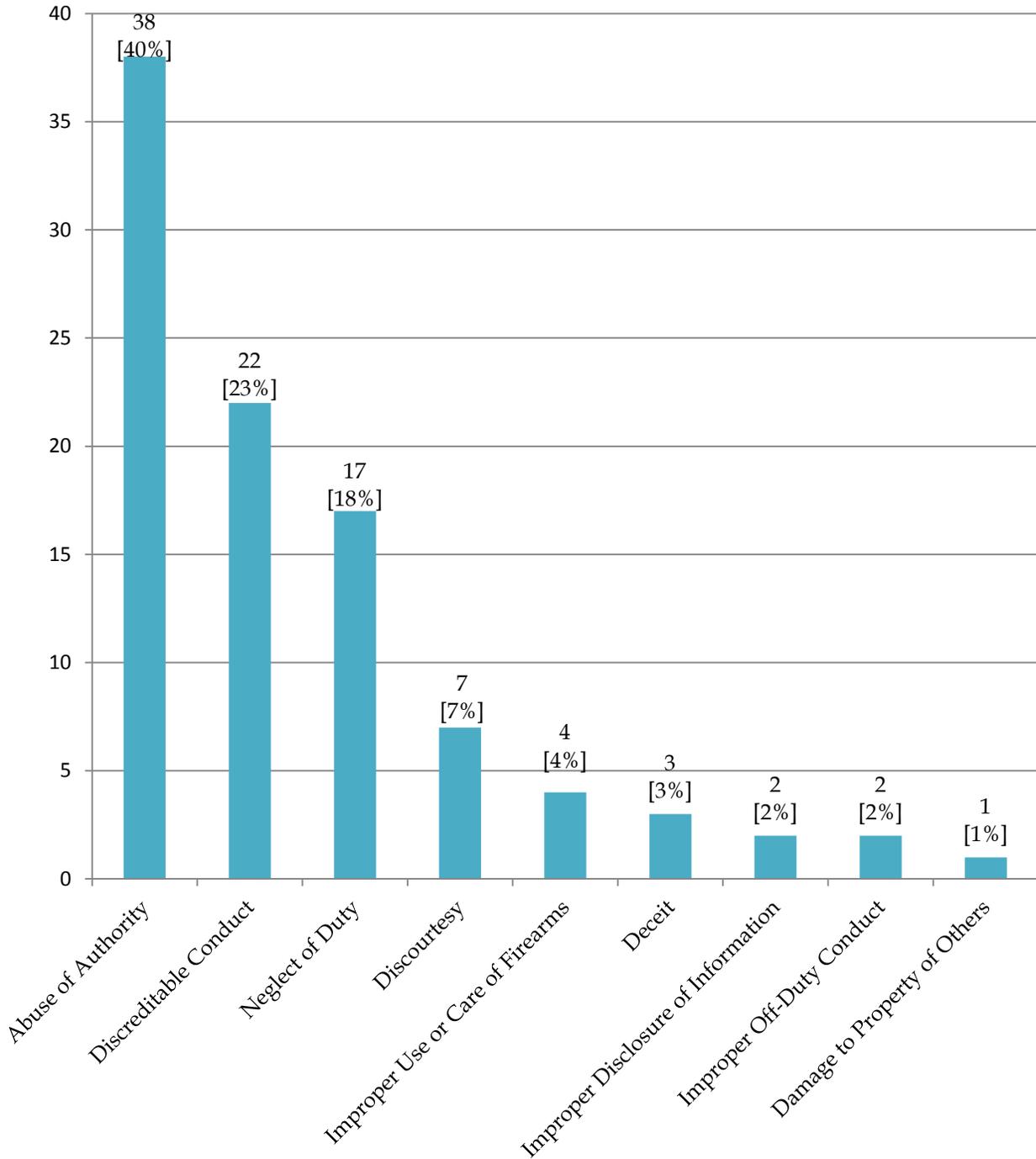


<sup>2</sup> 'Other' are incidents where a person is in medical distress with the cause being unknown.

## Allegations Forwarded on for Investigation between April 1, 2016 and June 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 April 1, 2016, and June 30, 2016, the OPCC identified 96 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.



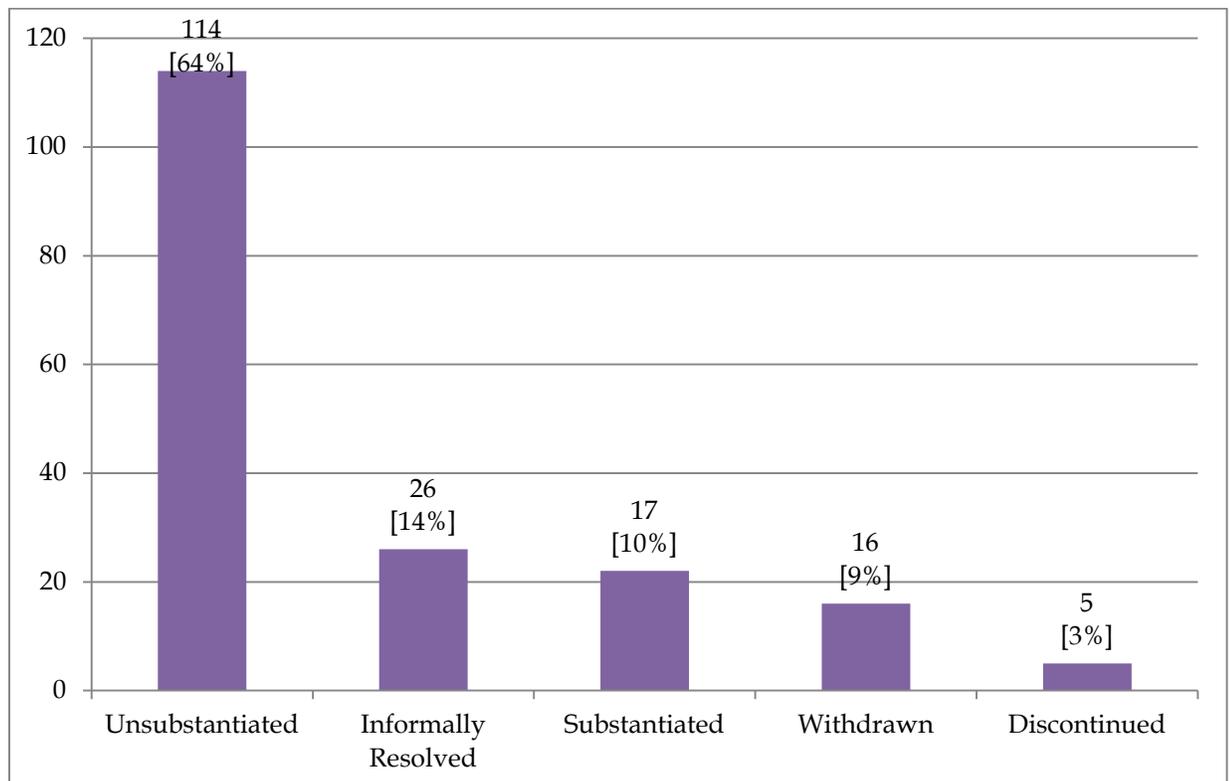
## Allegations Concluded between October 1 and December 31, 2015

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:

<b>Withdrawn</b>	<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>
<b>Informally Resolved</b>	<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>
<b>Mediated</b>	<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>
<b>Discontinued</b>	<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>
<b>Not Substantiated</b>	<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>
<b>Substantiated</b>	<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 April 1, 2016, and June 30, 2016, the OPCC concluded **178** 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 April 1, 2016, and June 30, 2016, the OPCC reviewed and approved informal resolution agreements relating to **26 (16%)** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for alternative dispute resolution.

2016/2017 Fiscal Year	1st Quarter (April 1, 2016 to June 30, 2016)
Allegations Informally Resolved	26 (16%)
Total Allegations Concluded	163

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 April 1, 2016, and June 30, 2016.

## 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](http://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 April 1, and June 30, 2016

### Abbotsford

<p>Ordered Investigation (request by department) (OPCC File 2016-11835)</p> <p>Misconduct: Improper Use or Care of Firearms Date of Incident: April 25, 2016</p> <p>The police member negligently discharged his/her police issued firearm in the cleaning area of a gun club.</p>	<p>Re Improper Use or Care of Firearms (negligent discharge of firearm)</p> <ul style="list-style-type: none"> <li>• Advice to future conduct</li> </ul>
<p>Ordered Investigation (request by department) (OPCC File 2016-11687)</p> <p>Misconduct: Discreditable Conduct Date of Incident: March 13, 2016</p> <p>While off duty, the police member was issued a motor vehicle violation ticket for speeding, a 24 hour roadside suspension from driving pursuant to section 215 of the <i>Motor Vehicle Act</i> and had his vehicle impounded.</p>	<p>Re Discreditable Conduct (conduct that discredits the department)</p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
<p>Ordered Investigation (request by department) (OPCC File 2015-11295)</p> <p>Misconduct: Discreditable Conduct Date of Incident: November 18, 2015</p> <p>The police member was involved in a domestic dispute with his/her partner. The police member was arrested for assault and the subsequent criminal proceeding was concluded pursuant to a sec. 810 Peace Bond.</p>	<p>Re Discreditable Conduct (conduct that discredits the department)</p> <ul style="list-style-type: none"> <li>• 1 day suspension without pay</li> <li>• Undertake and complete Respectful Relationship counseling</li> </ul>

### Central Saanich

No substantiated misconduct in this reporting period

### CFSEU (Combined Forces Special Enforcement Unit)

No substantiated misconduct in this reporting period

### Delta

<p>Ordered Investigation (initiated by PCC) (OPCC File 2015-11096)</p> <p>Misconduct: Discreditable Conduct Date of Incident: March 5, 2015</p> <p>The manner in which the police member spoke to a member of the public was aggressive and laced with profanities.</p>	<p>Re Discreditable Conduct (conduct that discredits the department)</p> <ul style="list-style-type: none"> <li>• Counselling/Treatment</li> </ul>
<p>Registered Complaint (OPCC File 2015-10427)</p> <p>Misconduct: Discourtesy Date of Incident: August 29, 2014</p> <p>The police member's tone and language during an interaction with a member of the public was not in line with that of a professional police officer and diminished his/her authority.</p>	<p>Re Discourtesy</p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>

Nelson

Ordered Investigation (request by department)  
Registered Complaint  
(OPCC File 2014-9620)

Misconduct: Abuse of Authority  
Date of Incident: May 1, 2014

An off duty member used unnecessary force by punching a handcuffed female in the face after being advised by attending on duty members that they had the female under control.

Re Abuse of Authority  
(excessive force - empty hand)

- Dismissal  
The police member resigned before the disciplinary proceeding was held. The Nelson Police Department requested that the Police Complaint Commissioner assign an external agency to conduct the investigation due to the severity of the allegation. The external investigating department conducted the investigation from both a *Criminal Code* perspective and pursuant to the *Police Act*. The external investigators submitted a Report to Crown Counsel in relation to the *Criminal Code* investigation wherein it was recommended the police member be charged with assault. That request was approved by Crown Counsel and the police member was subsequently found guilty of one count of assault. The police member was sentenced to 30 days of incarceration under the terms of a conditional sentence order; no contact order; twelve months of probation; and to attend and participate in counselling as directed.

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

Ordered Investigation (request by department)  
(OPCC File 2015-10833)

Misconduct: Neglect of Duty  
Date of Incident: Undated

The police member lost a personal thumb drive that was not encrypted and contained information that was the property of the Saanich Police Department. The lost information included digital material related to previously written search warrants and unvetted confidential source information.

Re Neglect of Duty  
(failure to comply with departmental policy/regulations)

- Advice to future conduct

SCBCTAPS

Registered Complaint  
(OPCC File 2012-7201)

Misconduct: Abuse of Authority  
Date of Incident: February 9, 2012

Two police members arrested the complainant without good and sufficient cause.

Re Abuse of Authority x 2  
(unlawful arrest)

- 1 day suspension without pay

Misconduct: Abuse of Authority  
Date of Incident: February 9, 2012

Two police members used unnecessary force on the complainant.

Misconduct: Neglect of Duty  
Date of Incident: Undated

A police member's police notes did not comply with departmental policy on notebooks/notebook entries.

Re Abuse of Authority x 2  
(excessive force - pepper spray)

- Work under close supervision for a minimum period of 500 work hours as directed by the Chief Officer
- 2 day suspension without pay

Re Neglect of Duty  
(inadequate documentation/notes/records)

- Advice to future conduct

#### St'at'l'mx Tribal Police

Registered Complaint  
(OPCC File 2015-10531-01)

Misconduct: Abuse of Authority  
Date of Incident: March 13, 2015

The police member arrested a person for public intoxication when the person was in fact inside a residence and not a "public place".

Misconduct: Abuse of Authority  
Date of Incident: March 13, 2015

The police member used unnecessary force to effect the arrest when other options could have been utilized.

Re Abuse of Authority  
(unlawful arrest)

- Verbal reprimand

Re Abuse of Authority  
(excessive force - empty hand)

- Verbal reprimand

#### Vancouver

No substantiated misconduct in this reporting period

#### Victoria

Ordered Investigation (request by department)  
(OPCC File 2015-11086)

Misconduct: Discreditable Conduct  
Date of Incident: August 1, 2015

The police member participated in a ride-a-long with another policing agency in violation of departmental policy.

Misconduct: Unauthorized Use of Police Facilities/Resources  
Date of Incident: August 1, 2015

The police member used Victoria Police Department equipment for purposes unrelated to the performance of her duties.

Re Discreditable Conduct  
(conduct that discredits the department)

- 1 day suspension

Re Unauthorized Use of Police Facilities/Resources  
(unauthorized use of police equipment)

- Written reprimand

#### West Vancouver

Registered Complaint  
(OPCC File 2015-11160)

Misconduct: Discreditable Conduct  
Date of Incident: September 24, 2015

The police member displayed aggressive behaviour and threatened to report the complainants for child neglect.

Re Discreditable Conduct  
(conduct that discredits the department)

- Advice to future conduct