

2016/2017 Fourth Quarter in Review

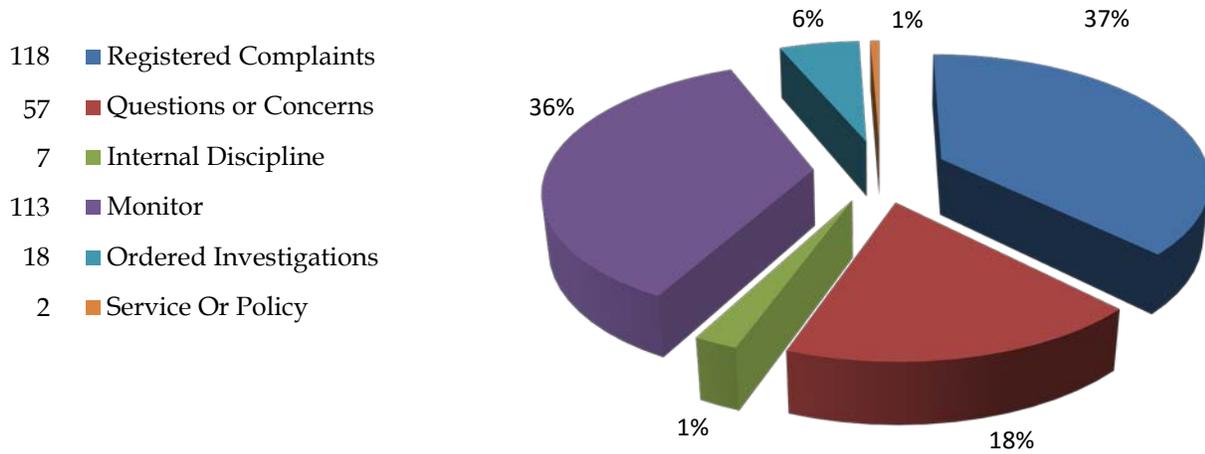
(January 1, 2017 to March 31, 2017)

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.

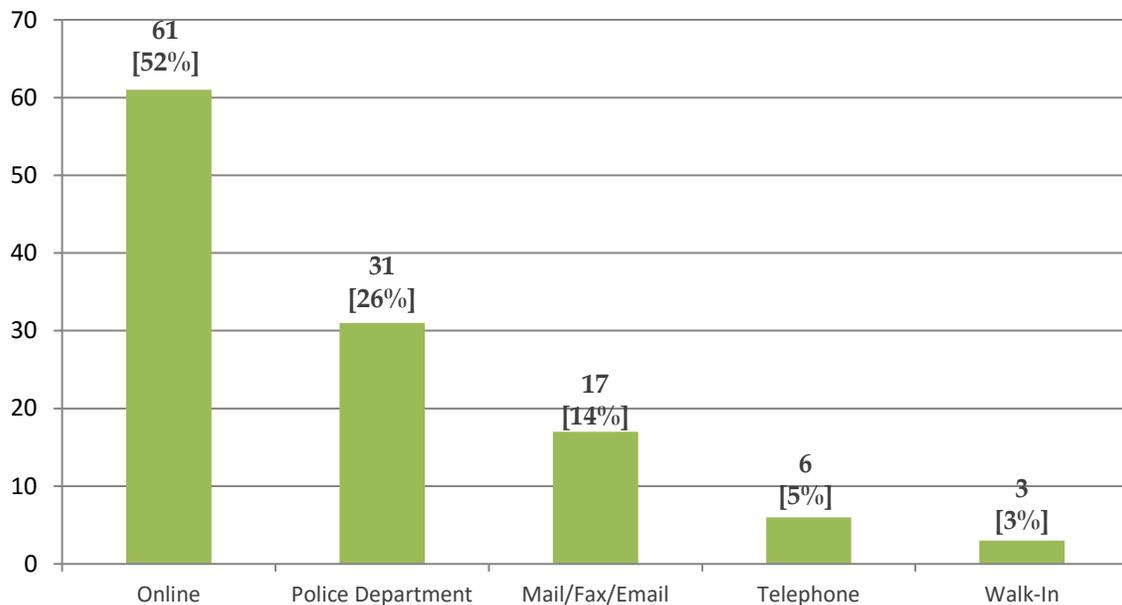
The files opened by the OPCC from January 1, 2017, to March 31, 2017, can be broken down into the following categories:

- 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 January 1, 2017, and March 31, 2017



How Registered Complaints were received between January 1, 2017, and March 31, 2017.



Admissibility of Registered Complaints received between January 1, 2017 and March 31, 2017

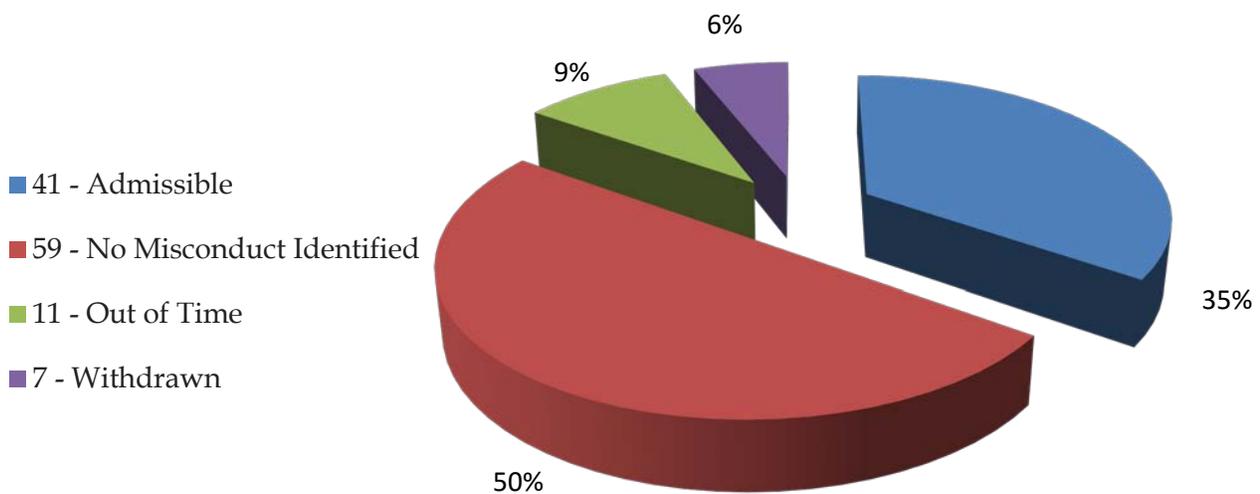
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

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



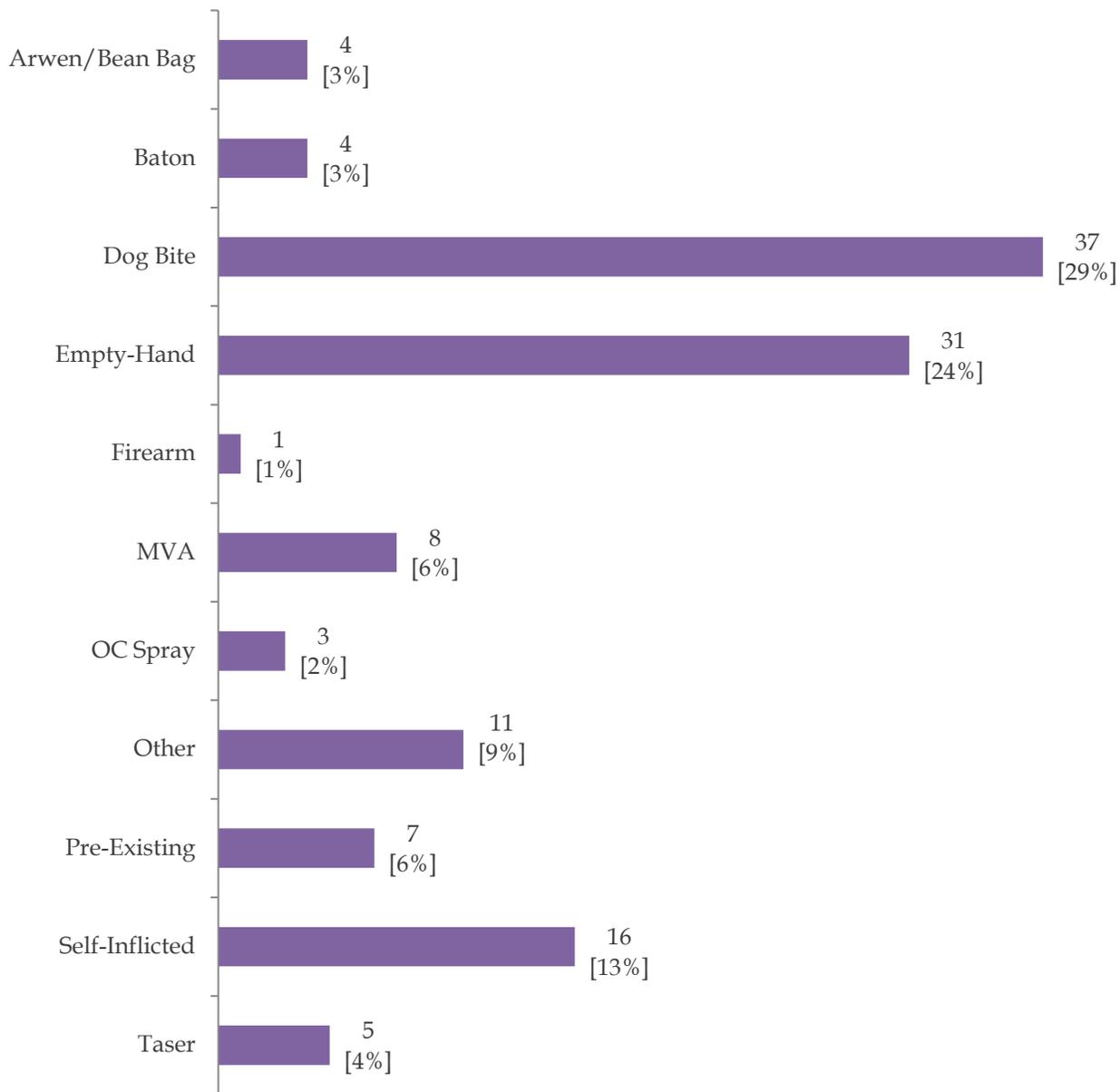
Files Opened between January 1, 2017, and March 31, 2017

Department	TOTAL	Admissible Registered	Inadmissible Registered	Admissibility Decision Pending	Mandatory Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	40	6	7	0	0	0	1	24	2	0	0
Central Saanich	4	0	1	0	0	0	0	0	3	0	0
CFSEU	1	0	0	0	0	0	0	1	0	0	0
Delta	15	2	3	0	0	1	0	7	2	0	0
Nelson	8	2	0	0	0	0	0	2	0	4	0
New Westminster	7	2	1	0	0	1	0	2	1	0	0
Oak Bay	5	0	1	0	0	0	0	0	4	0	0
Port Moody	8	0	1	0	0	1	0	2	4	0	0
Saanich	21	1	3	0	0	2	1	8	6	0	0
SCBCTAPS	28	1	2	0	0	0	0	7	18	0	0
St'at'l'imx	0	0	0	0	0	0	0	0	0	0	0
Vancouver	130	24	42	0	2	2	5	40	10	3	2
Victoria	41	3	14	0	1	0	1	18	4	0	0
West Vancouver	7	0	2	0	0	0	0	2	3	0	0
TOTAL:	315	41	77	0	3	7	8	113	57	7	2

Reportable Injury Notifications received between January 1, 2017 and March 31, 2017

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 January 1, 2017, and March 31, 2017, the OPCC received **100** notifications of reportable injuries involving **127** uses of force.

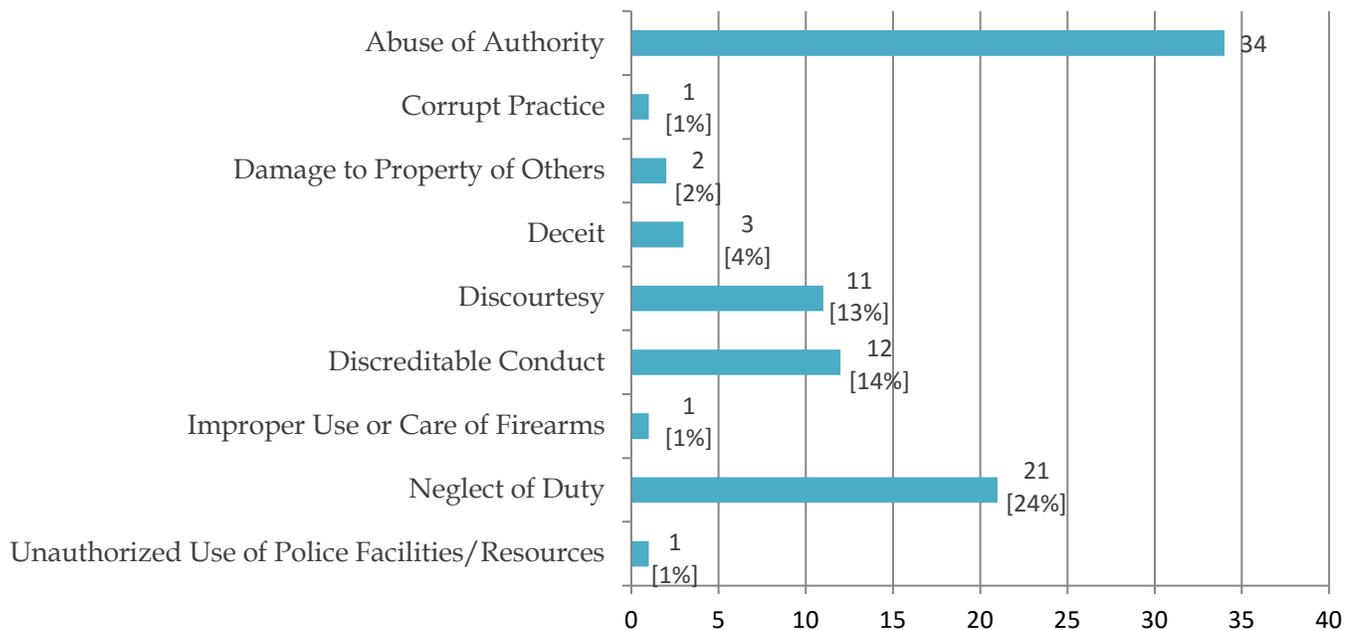
- 03 which resulted in a mandatory external investigation**
- 01 which resulted in an ordered investigation - initiated by the PCC**
- 01 which resulted in an ordered investigation - requested by department**
- 05 which resulted in a registered complaint**



Allegations Forwarded for Investigation between January 1, 2017 and March 31, 2017

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 January 1, 2017, and March 31, 2017, the OPCC identified **86** 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.



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.

Corrupt Practice, section 77(3)(e):

This allegation which is without lawful excuse, failing to make a prompt and true return of, or misappropriating, any money or property received in the performance of duties as a member, agreeing or allowing to be under a pecuniary or other obligation to any person in a manner that would likely be seen to affect the member's ability to properly perform the duties of a member, using or attempting to use one's position as a member for personal gain or other purposes unrelated to the proper performance of duties as a member, or using or attempting to use any equipment or facilities of a municipal police department, or any other police force or law enforcement agency, for purposes unrelated to the performance of duties as a member;

Damage to the Property of Others, section 77(3)(e):

This allegation involves when on duty, or off duty but in uniform, intentionally or recklessly damaging any property belonging to a member of the public, or without lawful excuse, failing to report any such damage, however caused.

Deceit, section 77(3)(f):

This allegation involves any of the following: "deceit", which is any of the following: in the capacity of a member, making or procuring the making of any oral or written statement, or any entry in an official document or record, that, to the member's knowledge, is false or misleading; or doing any of the following with an intent to deceive any person: destroying, mutilating or concealing all or any part of an official record; altering or erasing, or adding to, any entry in an official record; attempting to do any of the things described above.

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.

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.

Improper Use or Care of Firearms, section 77(3)(k):

This allegation which is which is failing to use or care for a firearm in accordance with standards or requirements established by law

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.

Unauthorized Use of Police Facilities/Resources, section 77(3)(c):

This allegation involves when a member conducts an unauthorized search of CPIC/PRIME or uses police equipment without authorization.

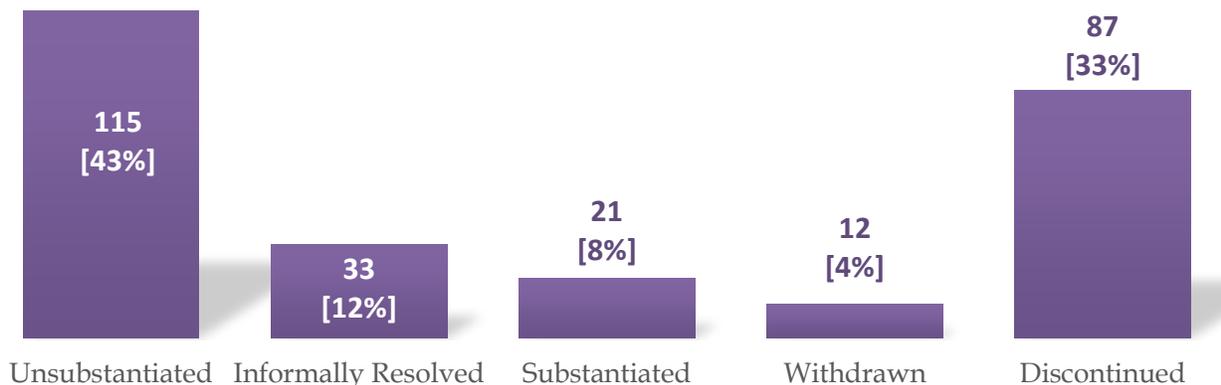
Allegations Concluded between January 1, 2017 and March 31, 2017

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:

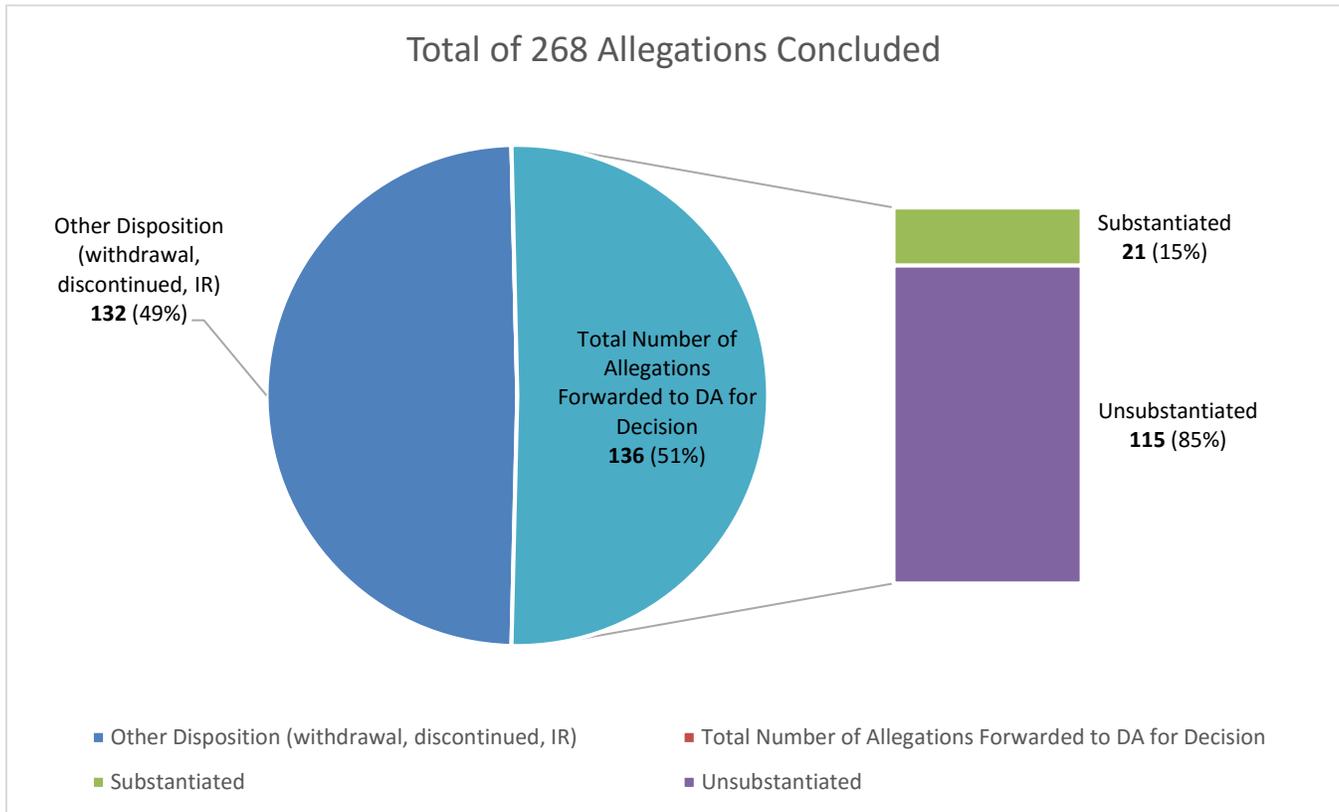
- Withdrawn** *A Complainant may withdraw his/her complaint at any time in the process; however, the Commissioner may direct that the investigation continue if it is determined it is in the public interest to do so.*
- Informally Resolved** *A complaint may be informally resolved pursuant to Division 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 January 1, 2017 and March 31, 2017, the OPCC concluded **268** public trust allegations in the following manner:



Allegations forwarded to a Discipline Authority for Decision between January 31, 2017 and March 31, 2017

Of the **268** allegations that were concluded, **136 (51%)** of those allegations were forwarded to the Discipline Authority for decision. Of those allegations that were forwarded, **21** allegations were substantiated.



Mediation & Complaint 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: Complaint 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 Complaint 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 Complaint Resolution agreements to ensure the resolution is appropriate and adequate.

Between January 1, 2017, and March 31, 2017, the OPCC reviewed and approved Complaint Resolution agreements relating to **33 (19%)** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for alternative dispute resolution.

2016/2017 Fiscal Year	4th Quarter (January 1, 2017 to March 31, 2017)
Allegations Informally Resolved	33 (19%)
Total Allegations Concluded	173

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 January 1, 2017, and March 31, 2017.

Mediation
(Division 4)

Adjudicator Reviews between January 1, 2017 and March 31, 2017

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 January 1, 2017, and March 31, 2017, 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 January 1, 2017, and March 31, 2017, the Commissioner did not appoint a retired judge to conduct a 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 January 1, 2017, and March 31, 2017, the Commissioner did not order 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 January 1, 2017, and March 31, 2017

Abbotsford

No substantiated misconduct in this reporting period

Central Saanich

No substantiated misconduct in this reporting period

CFSEU

No substantiated misconduct in this reporting period

Delta

(OPCC File 2016-11882)

Ordered Investigation (Requested by Department)

<p>Misconduct 1: <i>Discreditable Conduct</i> (Conduct that Discredits the Department) Date of Incident: April 12, 2016</p>	<p>Disciplinary/Corrective Measures: Member 1</p> <ul style="list-style-type: none"> • Verbal reprimand <p>Member 2</p> <ul style="list-style-type: none"> • Verbal reprimand
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On April 12, 2016, two police officers consumed alcohol in an unmarked police vehicle while waiting to board a BC ferry.

<p>Misconduct 2: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: April 12, 2016</p>	<p>Disciplinary/Corrective Measure: Member 3</p> <ul style="list-style-type: none"> • Written reprimand • Ethics and Conflict Resolution training
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On April 12, 2016, a police officer purchased alcohol, consumed alcohol in an unmarked police vehicle while waiting to board a BC ferry, and then drove the police vehicle onto the ferry.

<p>Misconduct 3: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: April 12, 2016</p>	<p>Disciplinary/Corrective Measure: Member 4</p> <ul style="list-style-type: none"> • Written reprimand
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On April 12, 2016, a senior police officer observed other police officers under their 'supervision' consume alcohol in an unmarked police vehicle. One of the police officers then drove the police vehicle onto a BC ferry. This senior officer did not intervene or take any action.

Nelson

No substantiated misconduct in this reporting period

New Westminster

Ordered Investigation – Requested by Department

(OPCC File 2016-11536)

Misconduct 1: <i>Neglect of Duty</i> (inadequate investigation) Date of Incident: December 29, 2015	Disciplinary/Corrective Measure: Member 1 <ul style="list-style-type: none">• Verbal reprimand Member 2 <ul style="list-style-type: none">• Verbal reprimand
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On December 29, 2015, two police officers failed to adequately investigate a report of a suspicious circumstance complaint.

Misconduct 2: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated	Disciplinary/Corrective Measure: Member 1 <ul style="list-style-type: none">• Written reprimand
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A police officer failed to seek the assistance of a supervisor when the police officer was uncertain about whether or not he had the grounds to arrest a suspect for breach of conditions.

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

SCBCTAPS

Internal Discipline

(OPCC File 2016-11515)

Misconduct: <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations) Date of Incident: January 19, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Dismissal
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On January 19, 2016, a police officer breached the department's Respectful Workplace Policy by inappropriately touching another officer in the workplace and repeating the unwanted contact after they were told to stop.

Ordered Investigation – Requested by Department

(OPCC File 2015-11357)

Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Between May 2015 and November 2015	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• 8 day suspension• Ethics training
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A police officer used funds from an account opened for a charitable purpose for personal expenditures.

Crown counsel determined that the evidence did not meet charge approval standard. The funds were repaid by the police officer.

Saanich

Registered Complaint

(OPCC File 2016-11505)

Misconduct 1: <i>Abuse of Authority</i> (excessive force - handcuffs) Date of Incident: January 19, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Verbal reprimand
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On January 19, 2016, a police officer, without lawful authority, grabbed the complainant, pushed him to the ground, and applied handcuffs.

Misconduct 2: <i>Abuse of Authority</i> (unlawful detention) Date of Incident: January 19, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Verbal reprimand
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On January 19, 2016, a police officer detained and searched the complainant without good or sufficient cause.

Following an investigation, the discipline authority determined the evidence did not appear to substantiate either allegation of *Abuse of Authority* against the police officer. The Police Complaint Commissioner disagreed with the discipline authority's findings and on December 7, 2016, appointed retired BC Court of Appeal Judge, Wally Oppal, QC to review the evidence pursuant to section 117 of the *Police Act*.

On January 25, 2017, Mr. Wally Oppal issued his Notice of Adjudicator's decision where he determined that the evidence appeared to substantiate both the allegations of *Abuse of Authority* and offered the police officer a pre-hearing conference.

An officer with the Central Saanich Police Department was appointed to sit as an external pre-hearing conference authority and the above discipline was agreed upon.

When rendering his decision, the pre-hearing conference authority noted that the police officer engaged in training on their own initiative prior to the pre-hearing conference. Specifically, the police officer undertook training on forming reasonable grounds to detain and arrest; had a one-on-one training session with the Saanich Police Legal Updates Instructor to review the grounds required for investigative detention and arrest; and also reviewed key cases in this area, *R. v. Mann*, [2004] 3 S.C.R. 59 and *R. v. Grant*, 2009 SCC 32. In addition, the police officer reviewed the B.C. Civil Liberties Association's "The Arrest Handbook – A Guide to your Rights." The police officer also fully supported the use of this incident as a department wide training

session as they felt that this process had been a tremendous learning experience and thought other officers at the department would benefit from learning from this incident as well.

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

Stl'atl'imx Tribal Police

No substantiated misconduct in this reporting period

Vancouver

Ordered Investigation – Requested by Department (OPCC File 2016-12313)

Misconduct: <i>Unauthorized Use of Police Facilities/Resources</i> (unauthorized search of CPIC/PRIME) Date of Incident: Undated	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Written reprimand
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A police officer searched police databases for a purpose unrelated to duties as a police officer.

Misconduct 2: <i>Improper Disclosure of Information</i> (disclosing information acquired as a police officer) Date of Incident: Undated	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Written reprimand
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A police officer improperly disclosed confidential information acquired from police databases to a member of the public.

Ordered Investigation – Initiated by PCC (OPCC File 2016-12143)

Misconduct: <i>Neglect of Duty</i> (dangerous driving) Date of Incident: January 21, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Advice to future conduct
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On January 21, 2016, a police officer failed to stop at a red light and caused a collision with a cyclist. The collision caused injury to the cyclist consisting of a cut above their right eye that required sutures, chipped teeth and bruised legs.

Ordered Investigation – Requested by Department (OPCC File 2016-12014)

Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: June 25, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• 3 day suspension without pay
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On June 25, 2016, while off duty, a police officer operated a motor vehicle while under the influence of alcohol in contravention of the *Motor Vehicle Act*.

Ordered Investigation – Requested by Department
(OPCC File 2016-12004)

Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: June 06, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Advice to future conduct
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On June 6, 2016, a police officer intentionally discharged a live simunition round at a police recruit during a training exercise.

The OPCC noted that the police officer lost their secondary employment status as an instructor due to this incident, which will have a significant impact on their personal situation in the future, which mitigated the need for a more significant penalty than the one imposed.

Ordered Investigation – Requested by Department
(OPCC File 2016-11976)

Misconduct 1: <i>Improper Use or Care of Firearm</i> (unsafe storage of a firearm) Date of Incident: June 13, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Verbal reprimand
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On June 13, 2016, a police officer neglected to unload a C8 weapon before storing it in their locker.

Misconduct 2: <i>Improper Use or Care of Firearm</i> (negligent discharge of a firearm) Date of Incident: June 14, 2016	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Verbal reprimand
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On June 14, 2016, a police officer negligently discharged their weapon in a locker room located at the police station. No one was injured and only minor damage resulted.

Ordered Investigation – Requested by Department
(OPCC File 2016-11962)

Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: May 21, 2016	Disciplinary/Corrective Measures: Member 1 <ul style="list-style-type: none">• Written reprimand Member 2 <ul style="list-style-type: none">• 1 day suspension without pay
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On May 21, 2016, two intoxicated off duty police officers refused to leave a casino after being directed to do so by casino security.

Registered Complaint
(OPCC File 2016-11586)

Misconduct: <i>Neglect of Duty</i> (failure to provide assistance -general) Date of Incident: Undated	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Advice to future conduct
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A police officer failed to contact the complainant despite the complainant leaving multiple messages over a two month timeframe.

Ordered Investigation – Requested by Department and Registered Complaint

(OPCC File 2015-10560)

Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated	Disciplinary/Corrective Measures: <ul style="list-style-type: none">• Dismissal
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A police officer had inappropriate contact with the female victim of a sexual assault that the police officer was investigating.

Victoria

No substantiated misconduct in this reporting period

West Vancouver

No substantiated misconduct in this reporting period