

2017/2018



Office of the Police Complaint Commissioner

2017/2018 - 2ND QUARTER STATISTICAL REPORT
JULY 1, 2017 - SEPTEMBER 30, 2017

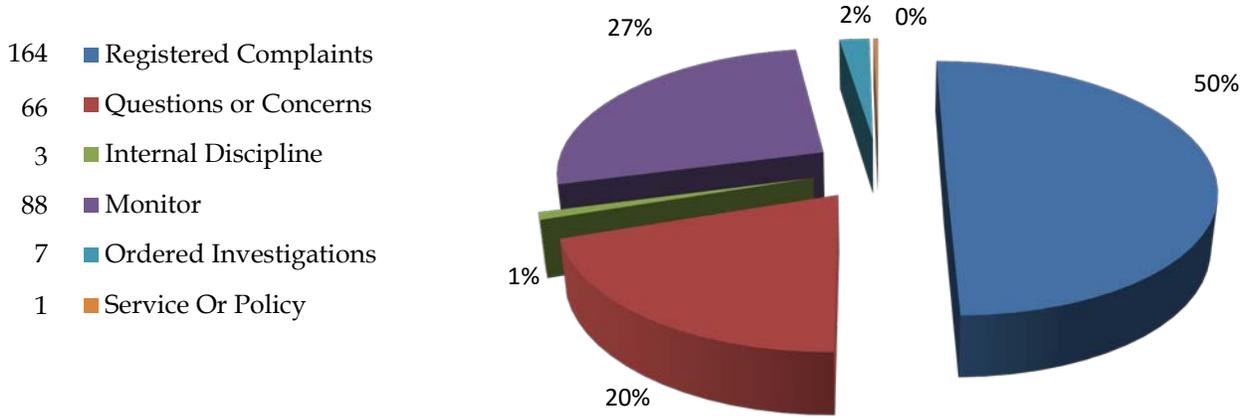
Integrity
Independence
Excellence

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.

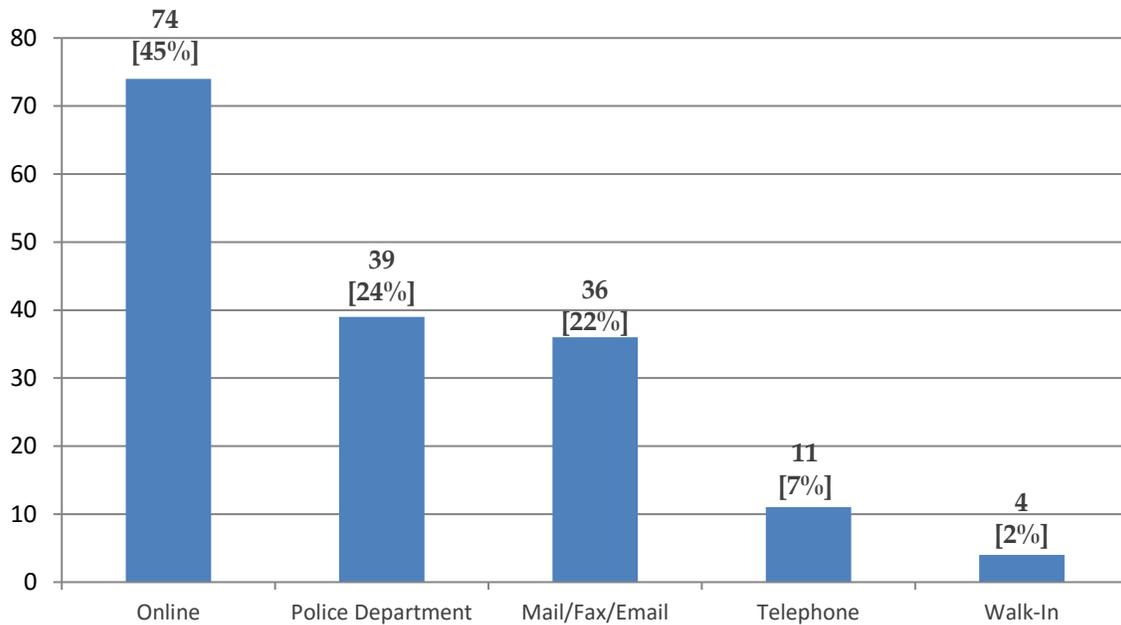
The files opened by the OPCC from July 1, 2017, to September 30, 2017, can be broken down into the following categories:

- 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 July 1, 2017, and September 30, 2017



How Registered Complaints were received between July 1, 2017, and September 30, 2017



Admissibility of Registered Complaints received between July 1, 2017, and September 30, 2017

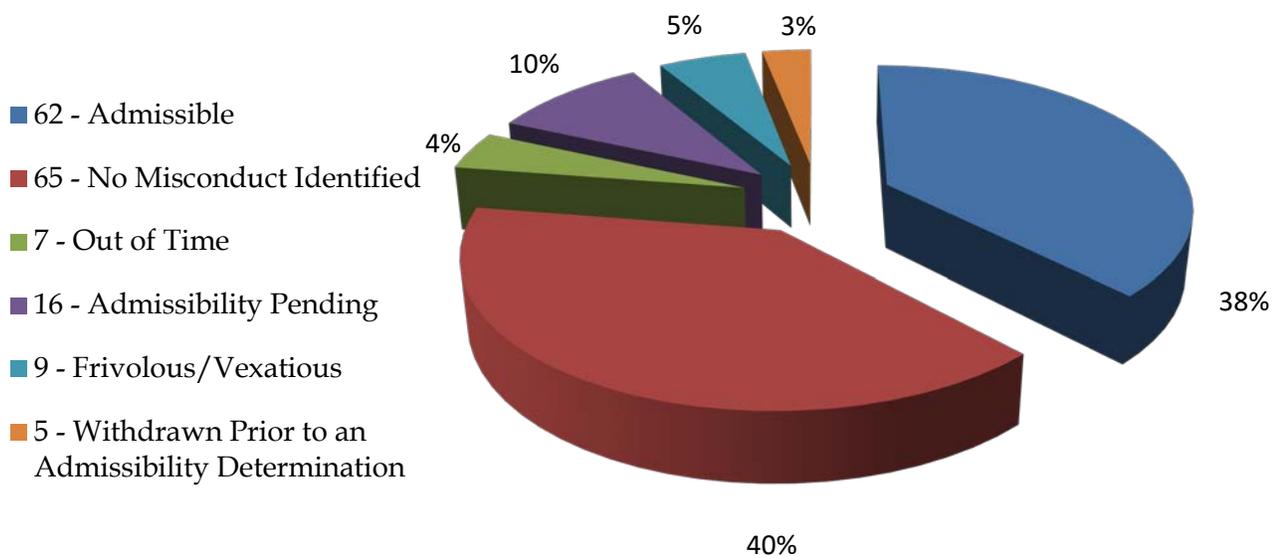
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

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



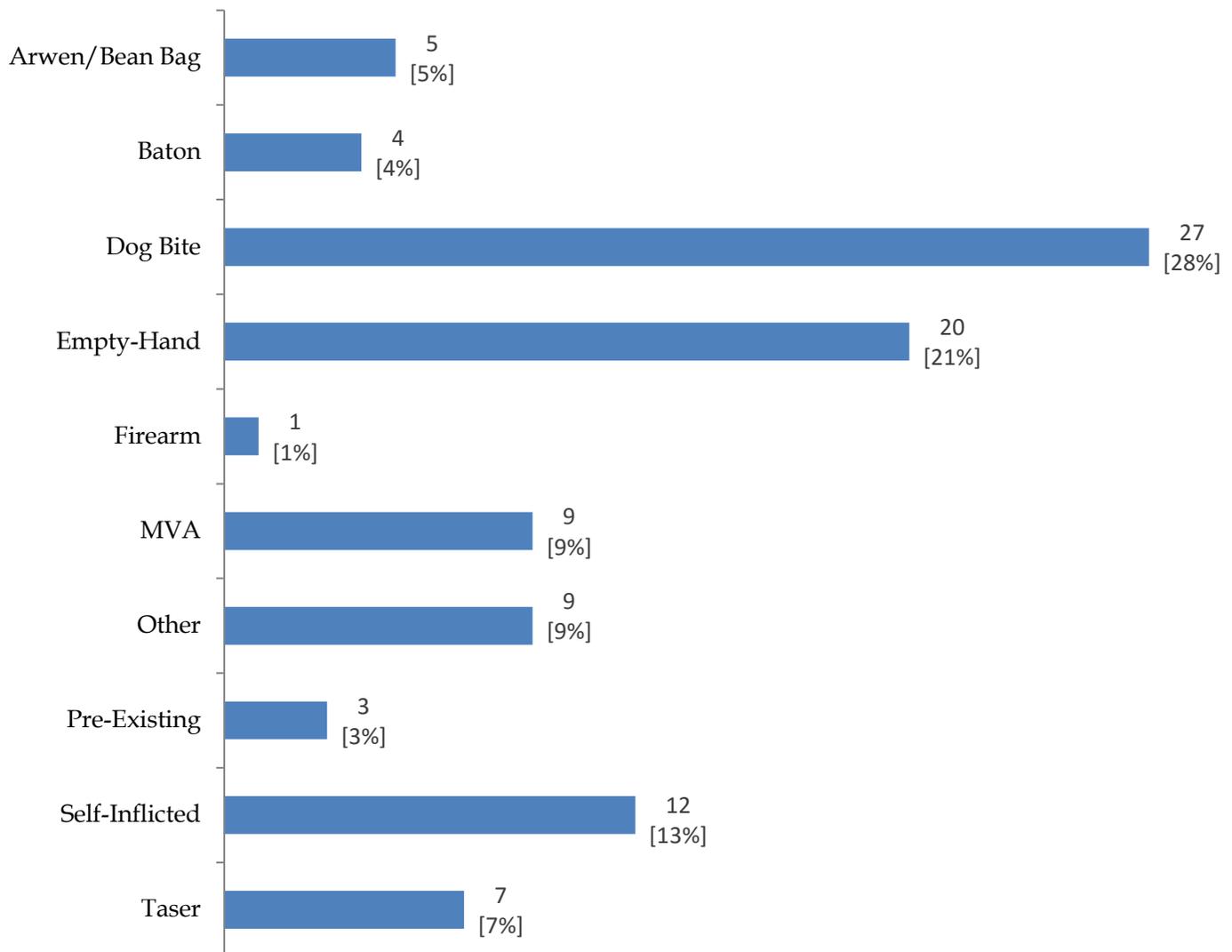
Files Opened between July 1, 2017, and September 30, 2017

Department	TOTAL	Admissible Registered	Inadmissible Registered	Withdrawn Prior to an Admissibility Determination	Admissibility Decision Pending	Mandatory Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	17	1	4	-	-	-	-	-	12	-	-	-
Central Saanich	5	-	2	-	-	1	-	-	1	1	-	-
CFSEU	-	-	-	-	-	-	-	-	-	-	-	-
Delta	18	1	4	-	2	-	-	-	6	5	-	-
Nelson	4	4	-	-	-	-	-	-	-	-	-	-
New Westminster	6	2	-	-	1	-	1	-	1	1	-	-
Oak Bay	-	-	-	-	-	-	-	-	-	-	-	-
Port Moody	7	2	1	-	1	-	-	-	2	1	-	-
Saanich	35	1	10	-	2	-	1	-	3	15	2	1
SCBCTAPS	26	2	1	-	-	-	1	-	7	15	-	-
Stl'atl'imx	1	-	-	-	-	-	-	-	-	-	1	-
Vancouver	164	43	36	4	8	1	2	-	46	24	-	-
Victoria	40	5	21	1	2	-	-	-	9	2	-	-
West Vancouver	6	1	2	-	-	-	-	-	1	2	-	-
TOTAL:	329	62	81	5	16	2	5	-	88	66	3	1

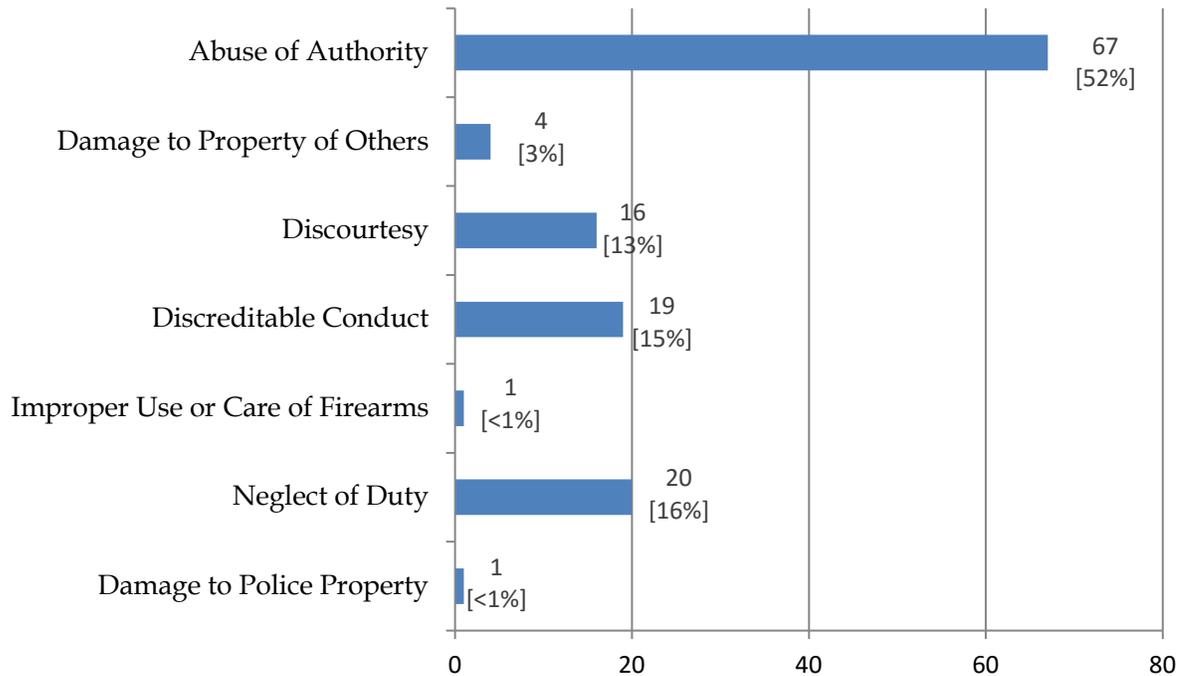
Reportable Injury Notifications received between July 1, 2017 and September 30, 2017

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 July 1, 2017, and September 30, 2017, the OPCC received 77 notifications of reportable injuries involving 97 uses of force.

- 2 which resulted in a mandatory external investigation
- 0 which resulted in an ordered investigation – initiated by the PCC
- 0 which resulted in an ordered investigation – requested by department
- 3 which resulted in a registered complaint



Allegations Forwarded for Investigation between July 1, 2017 and September 30, 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 **14** public trust allegations. Between July 1, 2017, and September 30, 2017, the OPCC identified **128** 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.

Damage to Police Property, section 77(3)(d):

This allegation involves intentionally or recklessly damaging any police property, or any property that is in custody or the care of which has been entrusted to the member in the performance of duties as a member, or without lawful excuse, failing to report any loss or destruction of, or any damage to, any property.

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.

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.

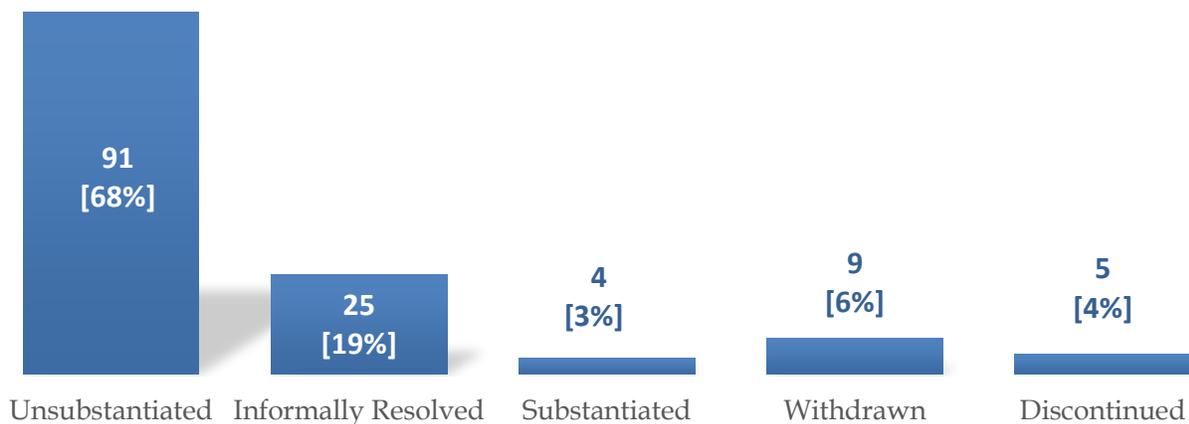
Allegations Concluded between July 1, 2017 and September 30, 2017

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:

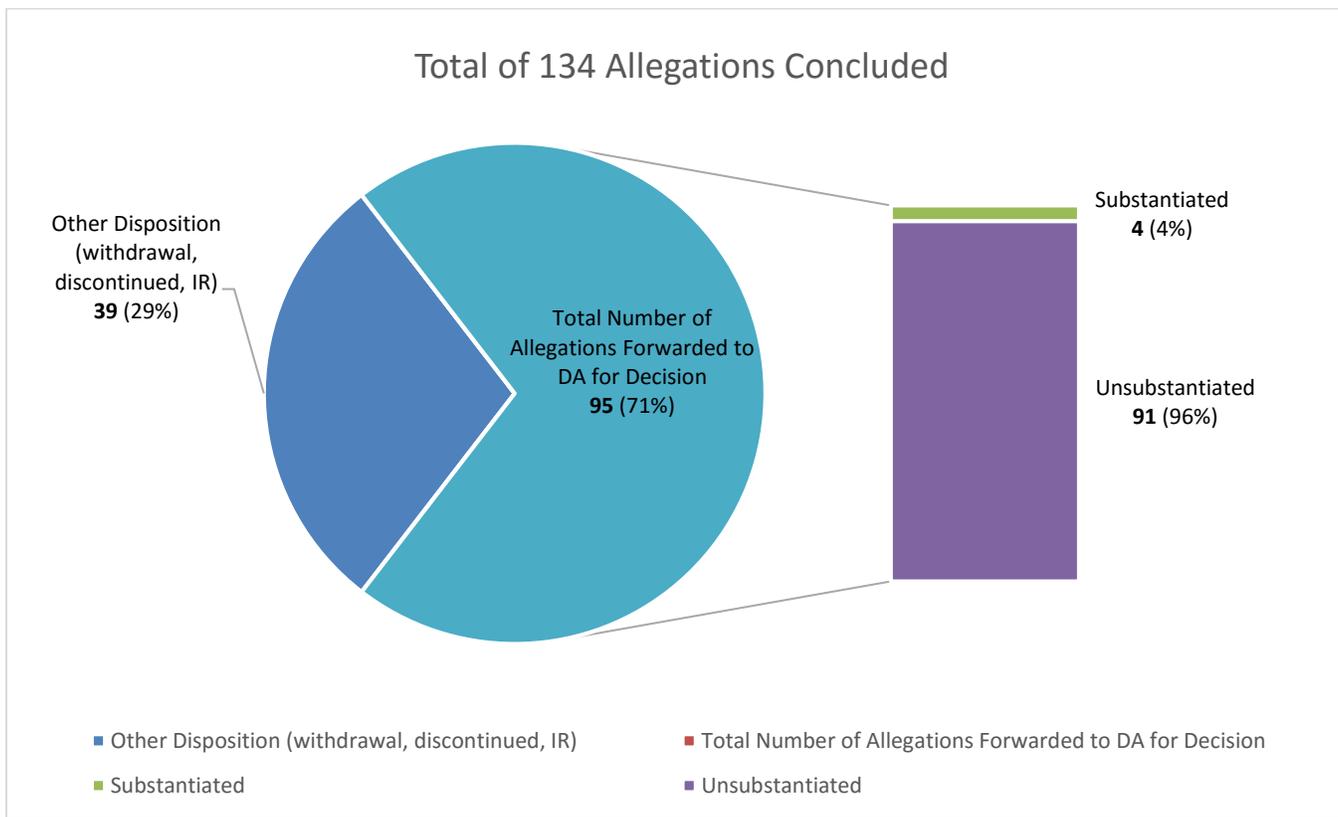
- Withdrawn** *A Complainant may withdraw his/her complaint at any time in the process; however, the Commissioner may direct that the investigation continue if it is determined it is in the public interest to do so.*
- Informally Resolved** *A complaint may be informally resolved pursuant to Division 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 Complaint 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 July 1, 2017 and September 30, 2017, the OPCC concluded **134** public trust allegations in the following manner:



Allegations forwarded to a Discipline Authority for Decision between July 1, 2017 and September 30, 2017

Of the **134** allegations that were concluded, **95 (71%)** of those allegations were forwarded to the Discipline Authority for decision. Of those allegations that were forwarded, **4** allegations were substantiated.



Number of External Investigations and Appointments of Discipline Authority

In regards to the files opened between April 1, 2017, and September 30, 2017, the Police Complaint Commissioner ordered **7 external investigations**.

In regards to the files opened between April 1, 2017, and September 30, 2017, the Police Complaint Commissioner appointed an **external Discipline Authority in 4 files**.

Mediation & Complaint Resolution of *Police Act* Complaints

Complaint 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 July 1, 2017, and September 30, 2017, the OPCC reviewed and approved Complaint Resolution agreements relating to **25 (20%)** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for Alternative Dispute Resolution.

2017/2018 Fiscal Year	2 nd Quarter (July 1, 2017 to September 30, 2017)
Allegations Informally Resolved	25 (20%)
Total Allegations Concluded	127

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 July 1, 2017, and September 30, 2017.

Mediation
(Division 4)

Adjudicator Reviews between July 1, 2017 and September 30, 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 July 1, 2017, and September 30, 2017, the Commissioner appointed a retired judge to act as a new Discipline Authority in one matter.

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 July 1, 2017 and September 30, 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 July 1, 2017, and September 30, 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 July 1, 2017, and September 30, 2017

Abbotsford

Internal Discipline

(OPCC File 2015-10992)

This internal investigation arose out of a public trust investigation that was requested by the Abbotsford Police Department (see OPCC file no. 2014-9552 referenced in OPCC’s 2017/2018 First Quarter Review). The public trust investigation involved 17 allegations of misconduct, which included a public trust offence pursuant to section 77(2) of the Act. In this case, the police officer entered a guilty plea in Provincial Court for two counts of Fraud, sentenced to a Conditional Discharge and was placed on probation for 12 months.

During the criminal investigation, the police officer’s cell phone was searched and a number of concerning text messages were found. These text messages formed the basis for this internal discipline investigation.

The internal discipline investigation was completed in March of 2016, however the proceeding involving the public trust allegations was still ongoing. As a result, the Discipline Authority reserved his findings until the completion of the public trust matter as the potential outcome for the allegations considered in the public trust matter included dismissal.

<p>Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Between October and December, 2013</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Suspension
<p>Allegation: Between October and December, 2013, the police officer communicated with a person who illegally sold steroids.</p>	

<p>Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Between November, 2013 and January, 2014</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Suspension
<p>Allegation: Between November 2013 and January 2014, the police officer used his cell phone to communicate with sex trade workers.</p>	

The Discipline Authority’s decision to defer this matter caused a lengthy delay in terms of imposing these disciplinary measures. The Discipline Authority expected that if the police officer remained a serving member, an arbitrator would not impose these disciplinary measures because of the length of time taken to determine the matter and impose disciplinary/corrective measures.

The outcome of the public trust matter resulted in the member being dismissed from the police department. Due to the member’s dismissal, the Discipline Authority did not finalize the disciplinary measures imposed.

Central Saanich

No substantiated misconduct in this reporting period

CFSEU

No substantiated misconduct in this reporting period

Delta

Ordered Investigation – Requested by Department
 (OPCC File 2017-13478)

<p>Misconduct: <i>Improper Use or Care of Firearms</i> (unsafe storage of a firearm) Date of Incident: May 29, 2017</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Written reprimand
<p>Allegation: On May 29, 2017, a police officer was scheduled to attend a rifle operator’s course in Langley, BC. While loading items into a personal vehicle, the police officer placed an unlocked black gun box containing the police officer’s department issued firearm and ammunition onto the driver’s side rear wheel. The police officer failed to remove the gun box from the wheel before driving away. The police officer reported the matter to the police agency with jurisdiction. A civilian subsequently found the gun case and its contents and turned it over to the police agency without incident.</p>	

Nelson

No substantiated misconduct in this reporting period

New Westminster

No substantiated misconduct in this reporting period

Oak Bay

Ordered Investigation – Requested by Department
 (OPCC File 2017-13312)

<p>Misconduct: <i>Improper Use or Care of Firearms</i> (negligent discharge of firearm) Date of Incident: April 5, 2017</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Advice to future conduct
<p>Allegation: On April 5, 2017, a police officer was scheduled to attend a mandatory training day which included firearms re-qualification. A colleague, with more experience in the handling of firearms, conducted a refresher session with the police officer in terms of how to disassemble the service revolver. After this refresher, it was the police officer’s intention to disassemble a service revolver five times in order to be ready to do so on the range with ease. On what was believed to be the fifth repetition of the disassembling process, the police officer negligently discharged a bullet. There appeared to be a jammed casing in the firearm. The area was searched thoroughly but no bullet was found. No one was hurt as a result of this incident.</p>	

Port Moody

No substantiated misconduct in this reporting period

SCBCTAPS

Internal Discipline

(OPCC File 2017-13438)

<p>Misconduct: <i>Neglect of Duty</i> (failure to comply with departmental policy/ regulations) Date of Incident: undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Dismissal
<p>Allegation: In April of 2017, a probationary police officer filed a complaint of harassment and bullying against their supervisor. The complaint was investigated under the police department’s Respectful Workplace Policy. At the end of the investigation, the investigator found the complaint to be without foundation, and made for ulterior motives (to deflect attention from the probationary police officer’s performance issues, and to retaliate against the probationary police officer’s supervisor for attempting to manage their performance). The complaint was dismissed and the matter was referred to senior management for consideration as to whether discipline against the probationary police officer was warranted for filing a baseless complaint. A member of senior management reviewed the investigation report and the Respectful Workplace Policy, which contemplates discipline against those who make baseless allegations.</p> <p>Based on a review of the material, the member of senior management recommended that the probationary police officer’s employment be terminated. It was determined that the probationary police officer failed to meet the standard of suitability as set out in TransLink Security Management Limited’s collective agreement in that the probationary police officer’s conduct, quality of work, and ability to work harmoniously with others, fell below the required standard.</p>	

Internal Discipline

(OPCC File 2016-12824)

<p>Misconduct: <i>Unauthorized Use of Police Facilities/Resources</i> (unauthorized search of CPIC/PRIME) Date of Incident: undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Written reprimand • Review the following policies: Director and Employee Code of Conduct, particularly section 7.2 Confidential Information; Confidentiality Agreement; and the CPIC Acknowledgment of Use Form • The police officer also provided a written apology.
<p>Allegation: The police officer used the PRIME database system, without permission, to gather statistics for their master’s degree course.</p>	

Internal Discipline
 (OPCC File 2016-12652)

<p>Misconduct: <i>Neglect of Duty</i> (inadequate investigation) Date of Incident: undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Undertake training or re-training in the following areas: <ol style="list-style-type: none"> a. Domestic violence, including the Provincial Government’s Violence Against Women in Relationship policy as well as the department’s own internal complementary policy, and b. Investigative skills, report writing, and note taking. • Implementation of a coaching and development plan, which would provide the police officer with the opportunity for success and improvement.
<p>Allegation: The police department conducted a file review of a criminal investigation that was completed by the police officer. It was determined that this officer failed to conduct a thorough and timely investigation, and failed to ensure that the investigation was conducted with reasonable diligence and in accordance with department policy.</p>	

<p>Misconduct: <i>Neglect of Duty</i> (inadequate investigation) Date of Incident: undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Undertake such training or re-training in the following areas: <ol style="list-style-type: none"> a. the Provincial Government’s domestic violence policy, as well as relevant department policy; b. Supervisor’s responsibilities in relation to the oversight of investigations, including follow up and workflow.
<p>Allegation: A police supervisor failed to provide proper oversight and supervision over this police officer’s investigation.</p>	

Saanich

No substantiated misconduct in this reporting period

Stl’atl’imx Tribal Police

No substantiated misconduct in this reporting period

Vancouver

Ordered Investigation – Requested by Department
(OPCC File 2016-12502)

Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: August 27, 2016	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• 4 day suspension without pay
Allegation: On August 27, 2016, while off duty, a Special Municipal Constable (SMC) was the subject of an impaired driving investigation while in another police agency's jurisdiction. The SMC was reportedly driving in an unsafe manner and as a result, someone called 9-1-1 to report this driving behaviour. The SMC provided two breath samples into a breathalyser instrument which reported a reading of 180 mg alcohol/100 mL blood. This was more than twice the legal limit. The SMC was subsequently issued a 24 hour driving prohibition, an Administrative Driving Prohibition (ADP – 90 day driving prohibition) and released on a Promise to Appear for Impaired Driving charges.	

Criminal charges against the SMC were not forwarded to Crown Counsel as it was determined the case would fall short of obtaining a substantial likelihood of conviction. This finding did not affect the issuance of the 24 hour driving prohibition and the ADP served on the SMC.

The Discipline Authority offered the SMC a prehearing conference where an agreement was reached with respect to the proposed discipline of a four day suspension.

A report following the prehearing conference was forwarded to the OPCC for review. In considering the proposed four day suspension without pay, this office reviewed a portion of the Reasons for Judgement by Mr. Ian Pitfield, a retired judge in OPCC file 2015-10904 (available on the OPCC website www.opcc.bc.ca), which notes:

In my opinion, verbal or written reprimands and minimal suspensions for operating a motor vehicle while off duty and under the influence of alcohol sufficient to result in a "Fail" reading on an ASD are woefully inadequate and the Disciplinary Authority rightly decided the sanction should be greater. In my opinion, given the serious consequences associated with drinking and driving, the important role played by police in reducing the incidence of drinking and driving, and the public expectation that police officers will respect the laws they themselves enforce, suspension should be the rule rather than the exception, the minimum should be not less than 3 days, and the maximum, in the range of 7 to 10 days.

Mr. Pitfield also noted:

The prehearing conference process is intended to promote the just, speedy and cost-efficient conduct of the disciplinary process. The conferences are a vital part of the process. Their use should be encouraged. As a consequence, unless the result clearly falls outside the range of reason, whether below or beyond the appropriate range, I am of the view that acceptance of the prehearing conference result best serves the disciplinary process.

Considering all of the factors pursuant to section 126 of the *Police Act*, the OPCC found that the proposed four day suspension was at the low end of the acceptable range for appropriate discipline based on the circumstances. However, the OPCC did not believe that the discipline imposed would bring the administration of police discipline into disrepute.

**Ordered Investigation – Requested by Department
 (OPCC File 2016-11928)**

<p>Misconduct: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Between February 1 and May 13, 2016</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 15 day suspension without pay
<p>Allegation: A police officer received remuneration for teaching courses at the Justice Institute of British Columbia while off on sick leave.</p>	

This matter was concluded by way of a discipline proceeding. The Disciplinary Disposition Record was forwarded to the OPCC for review. The OPCC reviewed the reported aggravating and mitigating factors considered in arriving at a decision. Given the seriousness of the misconduct, the lack of acceptance of responsibility from the police officer, the police officer’s past record of employment, the range of discipline in similar circumstances, and the public interest, a fifteen day suspension without pay, the OPCC determined the disciplinary measure imposed to be adequate and appropriate in the circumstances.

Victoria

No substantiated misconduct in this reporting period

West Vancouver

No substantiated misconduct in this reporting period