

# ANNUAL REPORT

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OFFICE OF THE POLICE  
COMPLAINT COMMISSIONER

*British Columbia, Canada*

2017/2018



integrity independence excellence

Office of the Police Complaint Commissioner (2018)

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Any enquiries related to this publication should be sent to us at:  
Office of the Police Complaint Commissioner  
5<sup>th</sup> Floor, 947 Fort Street  
Victoria, BC V8W 9T8  
Tel: 1-250-356-7458  
Email: [info@opcc.bc.ca](mailto:info@opcc.bc.ca)

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Office of the  
Police Complaint Commissioner

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British Columbia, Canada

November 2018

The Honourable Darryl Plecas  
Speaker of the Legislative Assembly  
Parliament Buildings, Room 207  
Victoria, BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2017/2018 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*, RSBC 1996, c.367.

Yours truly,

A handwritten signature in black ink, appearing to read 'Stan T. Lowe', enclosed in a thin black rectangular border.

Stan T. Lowe  
Police Complaint Commissioner

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Stan T. Lowe  
Police Complaint Commissioner

5<sup>th</sup> Floor, 947 Fort Street  
PO Box 9895 Stn Prov Govt  
Victoria, British Columbia V8W 9T8  
Tel: (250) 356-7458 Fax: (250) 356-6503

## YEAR IN NUMBERS

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FILES OPENED

1,154

RECOMMENDATIONS TO POLICE  
BOARDS

6

522

REGISTERED COMPLAINTS RECEIVED

NUMBER OF INVESTIGATIONS  
ORDERED

48

APPOINTED RETIRED JUDGE TO  
REVIEW MATTERS (s. 117 Review, Reviews  
on Record and Public Hearings)

12

281

297

REPORTABLE INJURY FILES WHERE A  
PERSON WAS INJURED BY POLICE  
AND WENT TO THE HOSPITAL FOR  
TREATMENT

TOTAL NUMBER OF FILES FOR  
MISCONDUCT INVESTIGATION  
(Admissible Complaints and Ordered  
Investigations)

ALLEGATIONS CONCLUDED

628

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## COMMISSIONER'S MESSAGE

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In July 2018, the Office of the Police Complaint Commissioner marked its 20<sup>th</sup> Anniversary. This milestone was an opportunity to reflect on the development of our office and what the future may hold for civilian oversight of law enforcement in British Columbia. This 20<sup>th</sup> anniversary also coincides with the end of my tenure as Commissioner of this Independent Office of the Legislature. I am very proud of the accomplishments we have been able to achieve, and sombre with the work which still remains to ensure that the accountability of the police complaint system promotes public confidence in policing, and police confidence in the process.

In my term as Commissioner, our office has entrenched Alternative Dispute Resolution (ADR) as an essential component of the oversight system which has grown tremendously during the past nine years. In less serious incidents, ADR serves to repair and maintain positive relationships between police and the community they serve. This mending of relationships has far reaching implications, as it is our experience that both parties benefit from ADR and rarely return to complaint system in the future.

This past year marked an unusually high number of adjudicative reviews as part of the police discipline process. This being said, our office has enjoyed the strong support of the Legislature, and these adjudicative reviews serve to promote the accountability and transparency of civilian oversight of law enforcement. These reviews generate significant adjudicative guidance and precedent which will assist the police complaints process in the future.

Our office has come a vast distance in terms of the quality and effectiveness of our work. We have in place internal business practices to promote consistency in our decision-making, as well as a records management system to bolster the efficiency of our operations. We have developed a robust training program and a strong support system focused on the successful development of our staff. Our strongest asset has been the development of organizational loyalty

amongst our staff, whose focus remains through a public interest lens.

Our office has been fortunate to have forged a strong educational relationship with the Honourable Justice Michael H. Tulloch, the recent author of a comprehensive police oversight review in Ontario. His wisdom and insights have served to motivate our Investigative Analysts to strive for excellence in our daily work, and to ponder the future of civilian oversight of law enforcement in terms of improvements and enhancements.

As this is my final message as Commissioner, I would like to reiterate some comments I have shared in the past with various stakeholders in our system.

Policing has often been referred to as a "noble" profession, a description that I truly endorse. Nobility has generally been defined as excellence of character and superior ethical qualities often in the service of others. It has been my experience that those engaged in policing in this province work hard to uphold the nobility of policing, and are almost always successful in this endeavour. It has been my experience that the overwhelming majority of police officers conduct themselves professionally, with integrity, and uphold the public trust day in and day out. You cannot work in the field of oversight of law enforcement without possessing a deep respect and admiration for the profession of policing.

In Canada, the public is served by a network of agencies engaged in civilian oversight of law enforcement. These federal and provincial organizations vary in their respective processes in terms of transparency and accountability, but what they do is garner a level of confidence amongst the public at large that has avoided the unsettling unrest that exists between the public and policing in the United States.

The two cornerstones of civilian oversight of law enforcement are transparency and accountability. The importance of accountability in this model of policing cannot be overstated,

## COMMISSIONER'S MESSAGE

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and has fueled the development of a network of civilian oversight across the country. This sea change in terms of civilian oversight has taken place over the past two decades and has established Canada as a leader in the world in the area of civilian oversight of law enforcement. It is important to note that there is no other profession that is held to the same level of accountability through civilian oversight than policing. This enhanced accountability is a reflection of the significant powers police possess in terms of their interaction with members of the public. No other profession has the powers over citizens to detain and arrest; to search premises and persons, up to and including a strip search; and to use force, including the use of lethal force. Policing is a profession which stands alone and which is engaged in a social contract with the public based on consent.

British Columbia has earned the reputation as one of the most progressive jurisdictions in Canada in the area of civilian oversight of police. While British Columbia has remained a leader in police oversight, these cornerstones require legislative improvements to continue to foster public confidence in policing and police confidence in the process.

Throughout my tenure, it has been a honour to work alongside a dedicated staff of exceptional public servants all committed to the common goals of engendering public trust in policing and police confidence in our civilian oversight system. British Columbians are well served by our staff at the OPCC.

It has been a heartfelt privilege to serve the public and Legislature of British Columbia through the crucial work of this office.



Stan T. Lowe  
Police Complaint Commissioner



# ABOUT THE OPCC

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## Mandate

The Office of the Police Complaint Commissioner (OPCC) is a civilian, independent office of the Legislature which oversees and monitors complaints and investigations involving municipal police in British Columbia and is responsible for the administration of discipline and proceedings under the *Police Act*.

The OPCC performs a gatekeeping function by determining the admissibility of complaints received from the public, initiating investigations and, when appropriate, referring matters for adjudicative review. The OPCC ensures that investigations by police agencies under the *Police Act* are thorough and professional and are undertaken with impartiality and fairness to all parties involved.

The OPCC maintains records of all police complaints and *Police Act* investigations involving municipal police officers and the investigation outcomes. The office compiles statistical information and reports regularly to the public about these complaints and investigations. The Police Complaint Commissioner (the Commissioner) is responsible for advising, informing and assisting all parties involved in the complaint process; this includes complainants, police officers, Discipline Authorities, police boards and adjudicators appointed under the *Police Act*.

## Mission

The Office of the Police Complaint Commissioner promotes accountable policing within our communities and enhances public confidence in law enforcement through impartial, transparent civilian oversight.

## Vision

To engage in effective civilian oversight that provides accountability and builds public confidence in policing.

## Guiding Principles

### *Integrity*

We act fairly and honestly in our oversight of the complaint process involving municipal police in British Columbia while ensuring a principled and just approach in arriving at decisions.

### *Independence*

As an independent office of the Legislature, we serve the public objectively, impartially and free from any improper influence or interference.

### *Excellence*

We are committed to excellence in our work while promoting courage and perseverance in our staff. We recognize that it is outstanding and dedicated people, working as a team, who make our mission and values a reality.

*Did you know?*  
The OPCC opened 1,154 files last year



## ABOUT THE OPCC

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### SERVING THE PUBLIC INTEREST

#### Who We Are

The OPCC is an independent office of the Legislature. What this means is that we are independent of government and police. We are an organization staffed by a team of dedicated civilian employees with a range of backgrounds from policing, law, regulation and academia.

#### What We Do

The OPCC is the province's independent civilian oversight agency that provides an accessible way for the public to voice their concerns about the conduct of any municipal police officer or department. Our office is responsible for ensuring compliance with Part 11 – Misconduct, Complaints, Investigations, Discipline and Proceedings, of the *Police Act*.

Our office determines the admissibility of all complaints filed against municipal police officers and forwards the complaint to the respective police department for investigation. We also can independently order an investigation into an incident that comes to our attention. While investigations into police misconduct are completed by the police, our office adds a layer of accountability and transparency to the complaint process by ensuring that investigations into police misconduct are both thorough and competent. If there are areas of deficiency, our office can either recommend or direct further investigative steps or follow-up. Our office can also determine whether it is in the public interest to direct a complaint to be investigated by an external police department or whether the decision maker should be a Chief Constable or other high ranking member from an external police department. We review all police misconduct investigations and decisions. If we disagree with a finding of no misconduct, we can forward the matter for review by a retired judge.

In addition to the above mentioned roles, the OPCC can make recommendations to police boards for improvements to the manner in which they deliver their police services to the public in British Columbia, such as recommendations for policy creation or amendment. We can also make recommendations for improvements to the *Police Act*. We are committed to ensuring that the police complaint process in British Columbia continues to improve and meet the needs of both the public and policing community.

#### Who We Serve

We serve all British Columbians and all parties involved in the complaint process.



*To learn more about the OPCC, please visit our website at [www.opcc.bc.ca](http://www.opcc.bc.ca).*

## OUR WORK

### Public Trust

The primary purpose of the OPCC is to build and maintain the public's confidence in the police complaints system in British Columbia. The office does this by providing independent and impartial civilian oversight of investigations into police misconduct.

### Commissioner

The Police Complaint Commissioner is an independent Officer of the Legislature. He oversees the police complaint system and investigations into police misconduct and reports regularly to the public.

He establishes guidelines on how complaints are to be handled. He has the authority to appoint retired judges to Public Hearings and establishes procedures for mediation and Complaint Resolution.

### Oversight

We actively monitor and oversee police misconduct investigations as they are investigated. Police departments are required to send their investigative materials to our office for review.

### Legislation

The OPCC's work is guided by the BC *Police Act*. The Commissioner can make recommendations to government to improve the *Police Act* with respect to police oversight.

### Intake Services

The Intake Coordinator, supported by the Executive Administrative Assistant, responds to complaints and inquiries received in any form. They can also connect complainants with one of our many support agencies to provide assistance during the complaint investigation process.

### Research

The OPCC will be embarking on new research initiatives in the area of police oversight. We are facilitating a research project between the School of Criminology at Simon Fraser University and the Canadian Association of Civilian Oversight of Law Enforcement to begin a new and exciting oversight study in the area of Alternative Dispute Resolution.

### Police Board Recommendations

The Commissioner can make recommendations to municipal police boards on how policing services are delivered to the public and how services and policies can be enhanced. Efforts are made to ensure that these recommendations are implemented within a reasonable timeframe.

### Adjudication

When the Commissioner disagrees with a finding, he can appoint a retired judge to review the matter. Retired judges work at arms-length from the OPCC to ensure their decisions are made independently and without interference. These reviews can be a paper review of the matter or an in-person hearing where witnesses are called to testify.

### Stakeholder Engagement

The OPCC has a broad range of stakeholders. We strive to keep them informed of our role and services. We recognize that our stakeholders have individual, diverse and sometimes conflicting needs. Our stakeholders include: complainants and their advocates; municipal police bodies; adjudicators; and government.

*What guides the staff of the OPCC?*  
Integrity • Independence • Excellence

# POLICE ACT REQUIREMENTS

The Police Complaint Commissioner is **required** by the *Police Act* to:

1. Establish guidelines to be followed with respect to the receiving and handling of registered complaints and questions or concerns.
2. Establish forms to be used for registered complaints, mandatory investigations and by members of the public who have questions or concerns.
3. Establish and maintain a record of each complaint and investigation, including all supporting documents.
4. Compile statistical information regarding complaint records, including:
  - a. demographic information;
  - b. number and frequency of complaints, types or classes of complaints and the outcomes or resolutions; and
  - c. trends in relation to police complaints.
5. Report regularly to the public about complaints, complaint dispositions and the complaint process. Such reports must be published at least annually and be posted on a publicly accessible website.
6. Develop and provide outreach programs and services to inform and educate the public on the police complaint process and the services provided by the OPCC, with special consideration and attention to addressing the particular informational needs of British Columbia's diverse communities.
7. Establish and make available to the public a list of support groups and neutral dispute resolution service providers and agencies that may assist complainants with informally resolving or mediating their complaints when appropriate.
8. Inform, advise and assist the public, complainants, police officers, discipline authorities, police boards and adjudicators with the complaint process.
9. Accept and consider comments from any interested party regarding the administration of the police complaint process.
10. Make recommendations for the improvement of the police complaint process in the Annual Report.
11. Establish procedures for mediation and guidelines for Complaint Resolutions of public trust complaints.

***Did you know?***

*You can find brochures and other resources on our website to learn more about the OPCC as well as to assist you with registering a complaint.  
[www.opcc.bc.ca](http://www.opcc.bc.ca)*

## ABOUT THE OPCC

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The Police Complaint Commissioner *may* also do the following:

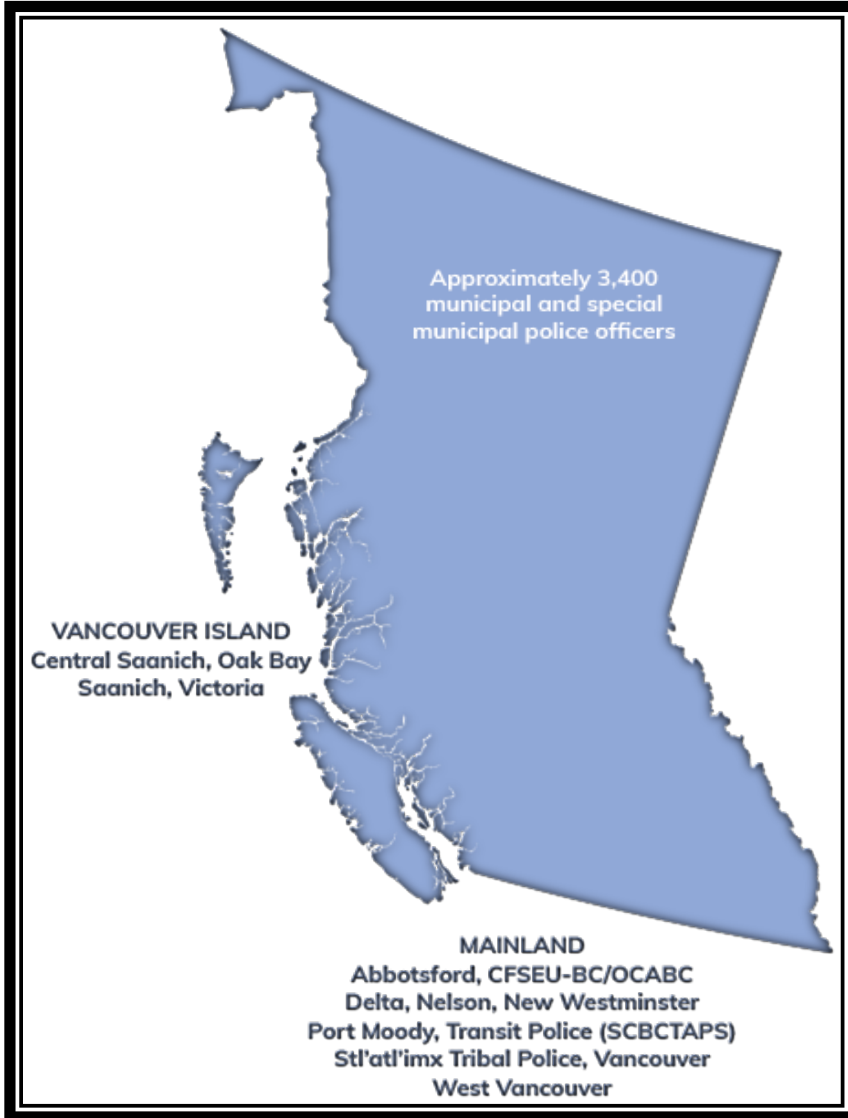
- Report on any matter related to the functions of the Commissioner.
- Engage in or commission research on any matter relating to the police complaint process.
- Make recommendations to police boards about policies or procedures on factors that gave rise to a complaint.
- Make recommendations to the Director of Police Services or the Solicitor General that a review or audit be undertaken to assist police in developing training or other programs designed to prevent the recurrence of problems revealed by the complaint process.
- Make recommendations to the Director of Police Services to exercise one or more of their legislatively-appointed functions in relation to a service or policy complaint.
- Make recommendations to the Solicitor General for a public inquiry under the *Public Inquiry Act* if there are reasonable grounds to believe:
  1. The issues supporting an inquiry are so serious or widespread that a public inquiry is necessary in the public interest; or
  2. An investigation conducted under Part 11 of the *Police Act*, even if followed by a Public Hearing or Review on the Record, would be too limited in scope, and powers granted under the *Public Inquiry Act* are needed.
- Consult with and advise contemporaries in other Canadian jurisdictions or with the Royal Canadian Mounted Police.



# ABOUT THE OPCC

## JURISDICTION

The Office of the Police Complaint Commissioner oversees the handling of complaints involving the following municipal police departments:



### MAINLAND

Abbotsford  
Delta  
Nelson  
New Westminster  
Port Moody  
South Coast BC Transportation Authority Police Service  
Stl'atl'imx Tribal Police  
Vancouver  
West Vancouver  
Combined Forces Special Enforcement Unit of British Columbia (CFSEU - Members of the Organized Crime Agency of BC)

### Vancouver Island

Central Saanich  
Oak Bay  
Saanich  
Victoria

On August 1, 2016, jurisdiction for complaints involving **Special Municipal Constables** were transferred to the OPCC.

The Commissioner does not have jurisdiction over the handling of complaints involving members of the Royal Canadian Mounted Police (RCMP). The *Royal Canadian Mounted Police Act* provides a separate process for complaints regarding a member of the RCMP. Complainants are referred to the Civilian Review and Complaints Commission for the RCMP:

#### Civilian Review and Complaints Commission for the RCMP

National Intake Office  
PO Box 1722, Station B  
Ottawa, ON K1P 0B3  
Toll-Free: 1-800-665-6878  
Website: [www.crc-cetp.gc.ca](http://www.crc-cetp.gc.ca)

#### Did you know?

The OPCC is able to receive complaints in person, by mail, email, fax, or phone, or via our website at [www.opcc.bc.ca](http://www.opcc.bc.ca).

## ABOUT THE OPCC

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### OTHER AGENCIES

There are two other agencies in British Columbia responsible for either investigating police-involved incidents, or providing civilian oversight of police complaint investigations.

#### Independent Investigations Office (IIO)

The IIO is a civilian investigative body responsible for investigating officer-involved incidents that result in death or serious harm in order to determine whether or not an officer may have committed an offence. The IIO has jurisdiction over both municipal police agencies and the RCMP in British Columbia, as well as officers appointed as Special Constables when they are exercising their authority as Special Constables. For more information about the IIO, please visit [www.iiobc.ca](http://www.iiobc.ca).

#### Civilian Review and Complaints Commission for the RCMP (CRCC)

The CRCC is an independent agency created to ensure that complaints about the conduct of RCMP members are examined fairly and impartially. The CRCC conducts reviews when complainants are not satisfied with the RCMP's handling of their complaint. The CRCC also conducts investigations, holds hearings, reports findings and makes recommendations for changes to national policing policies and practices. For more information about the CRCC, please visit [www.crcc-ccetp.gc.ca](http://www.crcc-ccetp.gc.ca).



### THE CIVILIAN COMPONENT

The work of the OPCC is unique in comparison to that of other independent offices of the Legislature. It provides oversight over municipal police officers who hold significant powers over citizens in the enforcement of the law created both federally and provincially.

OPCC analysts must possess a comprehensive understanding of the *Police Act* and associated processes. They must also possess an expertise in the professional aspects of police operations. This policing expertise includes policing operations, policy, training and the conduct of all aspects of police investigations.

Recent commissions of inquiry and review involving police incidents and oversight headed by the Honourable William H. Davies, Q.C., the Honourable Thomas R. Braidwood, Q.C., and Ontario Ombudsman André Marin, have echoed a common theme: *the importance of civilian participation in the oversight and investigation of police-involved incidents.*

In terms of staffing, the OPCC will continue to rely upon the valuable contribution from former

police officers to address its needs for expertise and knowledge in the field of policing. An internal training process is in place to ensure the development of this specialized knowledge and expertise amongst OPCC civilian staff members.

The OPCC's goal is to maintain the optimal balance between promoting the civilian nature of the office and ensuring its staff have the necessary skill sets in place to maintain excellence in their oversight work.

Approximately two-thirds of the staff engaged in decision-making roles have backgrounds outside of policing. Many are the product of an intensive in-house training program which began several years ago.

While civilian participation in oversight is an important goal for the OPCC, the Commissioner has set the office's operational focus as *organizational loyalty*, in our performance of the OPCC's important service to the public, regardless of our staff's collective backgrounds.

### Our Operations

At the heart of the OPCC is a dedicated group of people from both civilian and police backgrounds. To meet our objectives, our team includes staff with diverse backgrounds, including training in the law, academia and policing.

We are proud of our paperless office and are privileged to work in a LEED-certified building which provides great facilities for our green commuters.

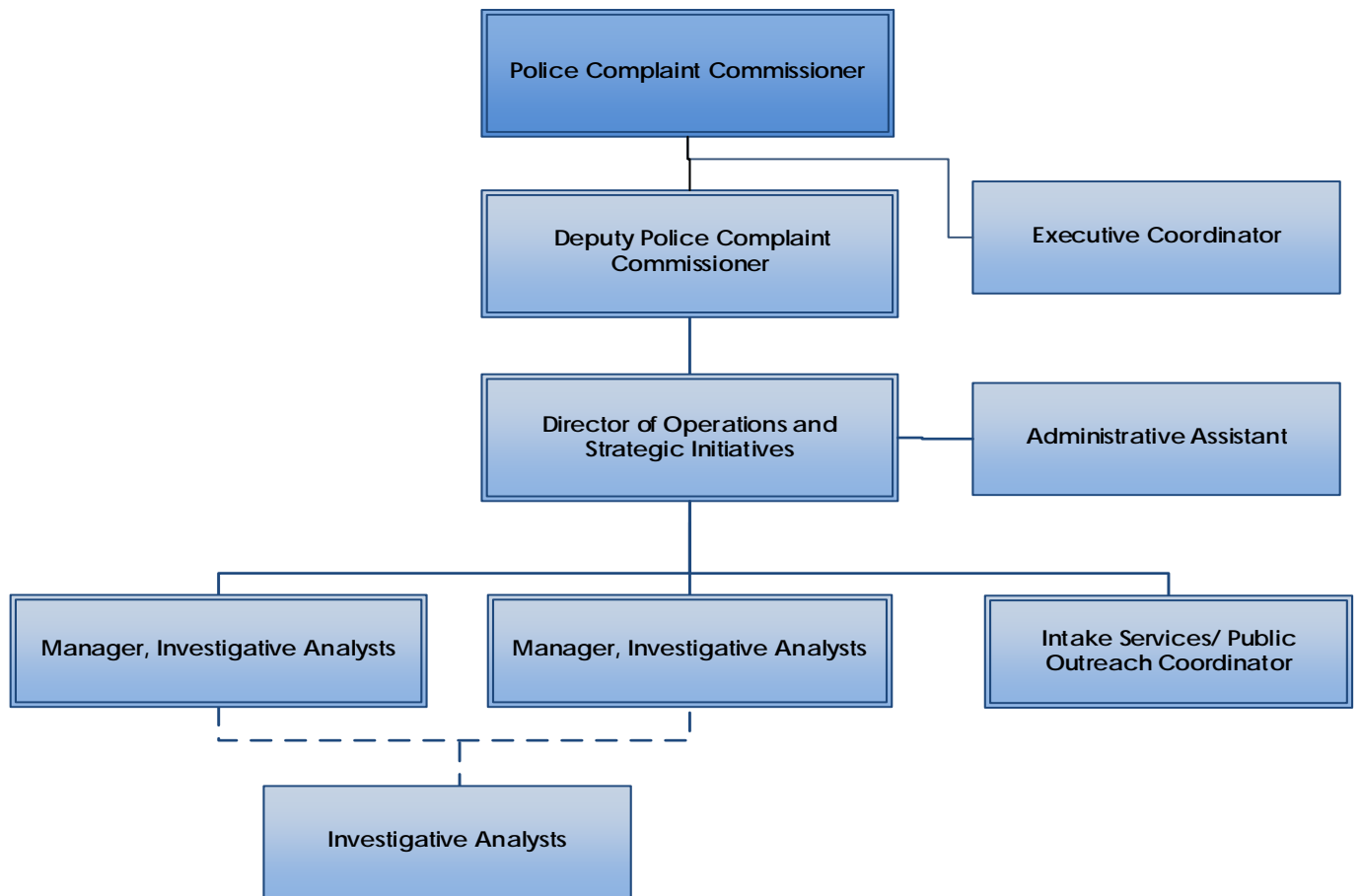
#### **Did you know?**

*We gain insight from engaging with those who have an interest in our work to inform and improve the service we deliver.*

# ABOUT THE OPCC

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## OPCC STRUCTURE





## OUTREACH & EDUCATION

Outreach and education are important tools that provide the OPCC with the opportunity to ensure that both members of the public and police understand the importance of civilian oversight of police complaints and how the complaint process works.

### Using Outreach to Increase Access to the Police Complaint Process

The Office of the Police Complaint Commissioner's outreach initiatives focus on creating pathways to the police complaint process for members of the community who might not otherwise have access to our services. The OPCC formed partnerships with community-based organizations that are the most likely to be a point of contact for individuals seeking support, assistance and/or searching for information about the police complaint process. By engaging in collaborative partnerships, we are able to improve accessibility to the police complaint process for those who may be hesitant or unable to directly access a police department or our office to file a complaint.

An important part of the police complaint process is resolving complaints using **Alternative Dispute Resolution** (see page 22 for a full description). During the ADR process, a community support person may assist a complainant who may face challenges such as cultural, economic, age, language or physical barriers. Many community-based organizations recognize that there are those in our society who do not have a support system in place and have generously offered to assist those who fall within their mandate. A list of these support groups is available from the OPCC.

The OPCC would also like to recognize the following agencies that assist our office by disseminating information about the police complaint process, as well as by providing support to those who need it during the police complaint process:

Abbotsford Community Services	Kettle Friendship Society	Sixth Avenue United Church
Atira Women's Resource Society	Knowledgeable Aboriginal Youth Assn	South Vancouver Neighbourhood House
Battered Women's Support Services	Men's Trauma Centre	S.U.C.C.E.S.S.
BC Coalition of People with Disabilities	Métis Nation British Columbia	UBC First Nations Legal Clinic
Carnegie Community Centre	MOSAIC	Urban Native Youth Association
Coast Mental Health	Motivation, Power & Achievement Society	Vancouver Aboriginal Friendship Centre Society
Covenant House	Native Courtworker and Counselling Association of BC	Vancouver Rape Relief
Cool Aid Society	Our Place Society	Victoria Disability Resource Centre
Cridge Centre for the Family	PACE Society	Victoria Immigrant and Refugee Centre Society
Deltassist Family & Community Services	Pacific Community Resources Society	WISH
Downtown Eastside Women's Centre	PEERS Victoria	Women Against Violence Against Women Rape Crisis Centre
Elizabeth Fry Society	Progressive Intercultural Community Services	YWCA Crabtree Corner
First United Church	Salvation Army	YWCA Legal Educator
Frank Paul Society	Shiloh Housing Society	
Fraserside Community Services Society		
Jewish Family Service Agency		
John Howard Society of BC		
Justice For Girls		

# THE COMPLAINT PROCESS

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## Outreach and Educational Activities



This year, the OPCC delivered a number of educational presentations to academic institutions, both on Vancouver Island and the Mainland, to provide information on the complaint process, *Police Act* legislation and the role of civilian oversight in British Columbia. Each semester we meet with the University of Victoria Law Centre students to discuss the complaint process and how their organization could provide support to those who wish to file a police complaint. We also deliver an annual presentation to the interns enrolled in the BC Legislative Internship Program.

The Police Complaint Commissioner meets regularly with the provincial government to discuss the oversight landscape in British Columbia, as well as with police department executives and police unions to promote mutual understanding and information on best practices.

As a member of the Canadian Association for the Civilian Oversight of Law Enforcement (CACOLE), the Police Complaint Commissioner consults with and advises persons who, in other jurisdictions of Canada or within the Royal Canadian Mounted Police, hold the same or similar position.

In addition to providing educational presentations, the Police Complaint Commissioner continues to be part of the Advisory Committee on Provincial Policing Standards and the Provincial Committee on Cultural Diversity and Policing.

The OPCC will continue to create and maintain relationships with organizations, representatives and policing agencies to strengthen public and police confidence in our office and our role in providing impartial civilian oversight of complaints involving municipal police.

# THE COMPLAINT PROCESS

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## HIGHLIGHTS OF OUR WORK

The OPCC is focused on achieving greater effectiveness and efficiency in its work. The key features of our work over the past 12 months include:

### *Promotion and Encouragement of Alternative Dispute Resolution (ADR) of Police Complaints*

It is the goal of the OPCC to continue to promote ADR and to lead other provinces in this area. Under the current legislation, the OPCC can only encourage and recommend that ADR be attempted by police departments. Considering the initial success with the implementation of the ADR pilot project with the Vancouver Police Department, we are currently implementing the strategies developed during the pilot project with the other municipal police departments.

We recently facilitated a training session on ADR which was led by current and former Professional Standards Investigators who are seen to be leaders in the area of ADR. The goal of this training session was to communicate strategies that have proven successful in resolving police complaints. Last year saw the greatest percentage of complaints resolved through ADR. A total of 39% of admissible complaints opened in 2017/2018 were successfully resolved compared to 24% in years prior to this. It is clear that the focus on ADR and the strategies implemented by this office over the past two years have had a significant impact on the number of complaints that are successfully resolved. See page 22 for further information on the ADR program.

### *Statutory Audit*

The OPCC will be subject to a statutory audit in the next fiscal year. The OPCC will continue with our internal auditing program to ensure compliance with our Internal Business Practices and overall excellence in our oversight work. A former OPCC manager and a former OPCC senior investigative analyst have been brought on board in preparation of this audit as they have significant experience in understanding the work we do and the unique challenges faced by this office.

One of the recommendations from the previous audit conducted by the Auditor General in 2012 concerned the police departments' receiving and handling of police complaints. In order to ensure that police departments are in compliance with the *Police Act* and Guidelines issued by this office, we have started the search for a suitable agency to undertake a compliance audit with each of the municipal police departments to ensure police are appropriately receiving and handling complaints.

### *Building and Maintaining Relationships with all Stakeholders*

The nature of oversight may be inherently adversarial; however, the OPCC is committed to developing strong working relationships with all stakeholders, to foster an effective and efficient complaint process. Our public outreach program will target the public and community organizations, particularly our listed support agencies. It is important that the public is aware of the complaints process and our office, that they understand the important role of civilian oversight, and have an understanding of their rights and responsibilities under the Act.

Now that the new OPCC website is up and running, we have identified a few key areas where we can make improvements to access of the complaints process and increased transparency in the work of this office. We are in the process of researching a new feature where the public can listen to and/or view Public Hearings through a streaming service on the website for added transparency to the adjudicative process. In addition, we are looking into the production of a video that will explain the complaints

## THE COMPLAINT PROCESS

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process which will be posted to the OPCC website. To ensure the complaints process is accessible across all communities, we have identified an agency who will assist in the translation of our brochures and other resource materials in multiple languages.

### *Improvements to the Training Program for Investigative Analysts*

Modifications to the OPCC in-house training program have been completed and include the implementation of a mentorship program. We continue to offer bi-annual professional development workshops for our analysts. These sessions are an excellent opportunity for analysts to learn from experts in the field of oversight, administrative law, and policing. Our next session is scheduled for the Fall 2018 and will include a full day experiential workshop focusing on Indigenous values, Canada's colonial history and a discussion on the intersection between policing and Indigenous people.

### *Continued Improvements Made to Internal Business Practices for OPCC Staff and Information Bulletins to Police Departments*

In an effort to maintain consistency across departments, Information Bulletins are sent out regularly to ensure police departments are employing a consistent approach in their responsibilities, and to provide clarity in the application of certain sections of the *Police Act*. A recent review of internal discipline practices revealed that not all internal discipline matters were being dealt with in a consistent manner by departments. A revised Information Bulletin was disseminated to all departments and police boards, providing guidance on the difference between public trust and internal discipline matters.

In addition, the Commissioner issued a Guideline to all municipal police departments regarding their statutory requirement to notify this office of incidents of death and serious harm. The purpose of the Guideline is to provide clarity to departments in what matters require reporting to this Office, criteria to be applied in determining whether an injury constitutes serious harm and provide guidance in matters where police officers render assistance to members of the public (e.g., drug overdose).

### *Information Management and Development*

The OPCC has a legislated duty to compile statistical information and make these statistics available to the public by posting statistical reports on our website at least annually. We will continue to improve on the nature and quality of the statistics provided to the public and to police. One new area of data collection will be in the area of demographic information, such as gender, age, and ethnicity/race. Collection of this type of information is important to understanding the relationship between demographics and police misconduct. After conducting a review of the collection of this type of information, we are in the process of making modifications to our online and fillable complaint forms which includes an explanation for the collection of this demographic information. Modifications have also been made to our case management system to record this type of information.

While a number of Internal Business Practice have been developed, we will continue to review, assess and revise these internal processes to ensure an effective and smooth operation of the oversight system.

# THE COMPLAINT PROCESS

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## *CACOLE Facilitated Research Project*

There has been a lack of research in Canada in terms of civilian oversight of police and misconduct trends. The Canadian Association for Civilian Oversight in Law Enforcement (CACOLE) has chosen a successful doctoral student from Simon Fraser University (SFU) who will conduct a research project in this area. Furthermore, CACOLE has also approved the student's research proposal which is anticipated to begin this fall once approval has been obtained from the SFU Research Ethics Board. It is our hope that this will be the first of many directed research projects in this country in the area of civilian oversight, police misconduct and police professionalism.

## THE COMPLAINT PROCESS

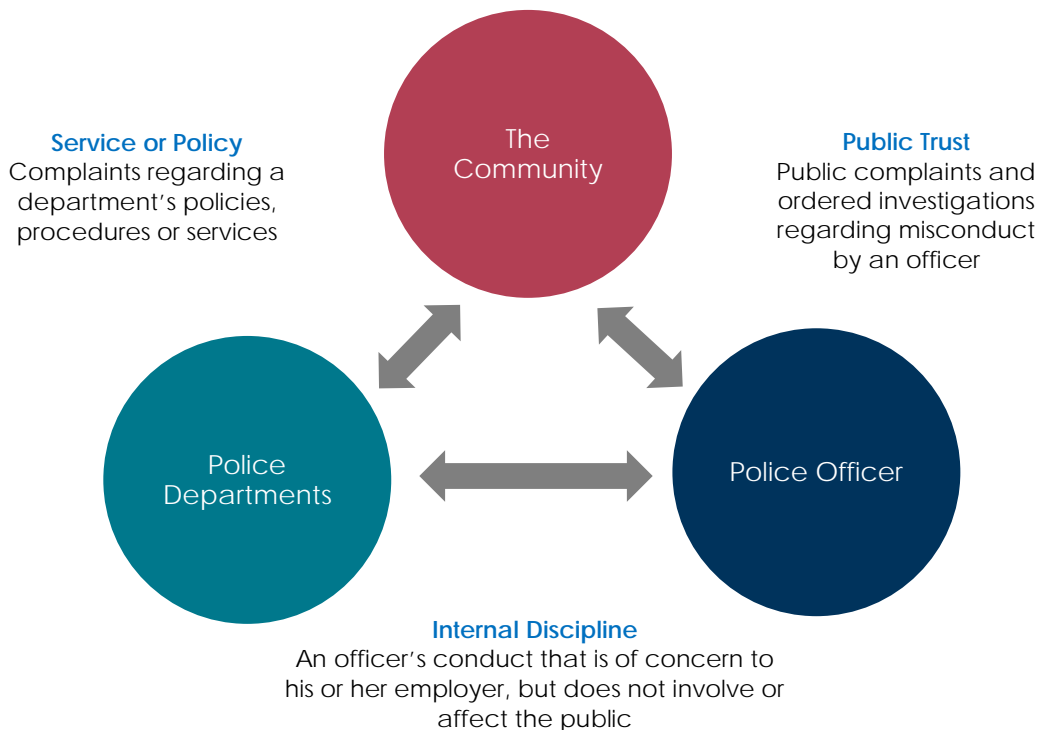
### What is a *Police Act* Complaint?

There are **three types** of complaints that are handled under Part 11 of the *Police Act*:

**Public Trust** complaints are about a police officer's conduct or actions that affect a citizen personally or that he or she has witnessed; the Police Complaint Commission can also independently order an investigation in the absence of a complaint.

**Service or Policy** complaints are those regarding the quality of a police department's service to the community or regarding their operating policies.

**Internal Discipline** complaints involve performance management issues or employer/employee concerns that do not affect or involve members of the public.



# THE COMPLAINT PROCESS

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The Public Trust process may be initiated by three different routes:



An **ordered investigation** is initiated when information of potential misconduct is received but no complaint has been submitted by a member of the public. Between April 1, 2017, and March 31, 2018, there were **48 ordered investigations**: **35** at the request of the police department and **13** on the Commissioner's initiative as a result of information received.

The *Police Act* stipulates that all incidents that result in serious injury or death to individuals in the custody or care of the police, or as a result of operations of a department, must be reported to the OPCC and the Commissioner

must order an investigation be conducted by an external agency. Between April 1, 2017, and March 31, 2018, there were **10 mandatory external investigations** ordered.

By far, the most common method of initiating the complaint process is through complaints received from members of the public. A citizen may submit a complaint regarding an incident in which they were directly involved or witnessed, or a third party may submit a complaint. Between April 1, 2017, and March 31, 2018, there were **522 registered complaints** received.

## What does misconduct mean?

The *Police Act* sets out categories of officer conduct that, if proven, would constitute misconduct. The Act defines misconduct as follows:

***Conduct that constitutes a public trust offence which is an offence under the Criminal Code or of any provincial enactment, a conviction in respect of which does or is likely to:***

- 1. render an officer unfit to perform his or her duties as a police officer; or***
- 2. discredit the reputation of the department with which the officer is employed.***

According to the Act, any conduct that is considered to be harassment, coercion or intimidation of anyone making a complaint, or hindering, delaying, obstructing or interfering with a *Police Act* investigation, is conduct that constitutes misconduct.

# THE COMPLAINT PROCESS

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## Types of Police Misconduct

Once a complaint file is deemed admissible or an investigation is initiated, allegations of misconduct are identified against individual officers. The *Police Act* identifies and describes 13 disciplinary breaches of public trust:

1. *Abuse of Authority*
2. *Accessory to Misconduct*
3. *Corrupt Practice*
4. *Damage to Police Property*
5. *Damage to Property of Others*
6. *Deceit*
7. *Discourtesy*
8. *Discreditable Conduct*
9. *Improper Disclosure of Information*
10. *Improper Off-Duty Conduct*
11. *Improper Use or Care of Firearm*
12. *Misuse of Intoxicants*
13. *Neglect of Duty*



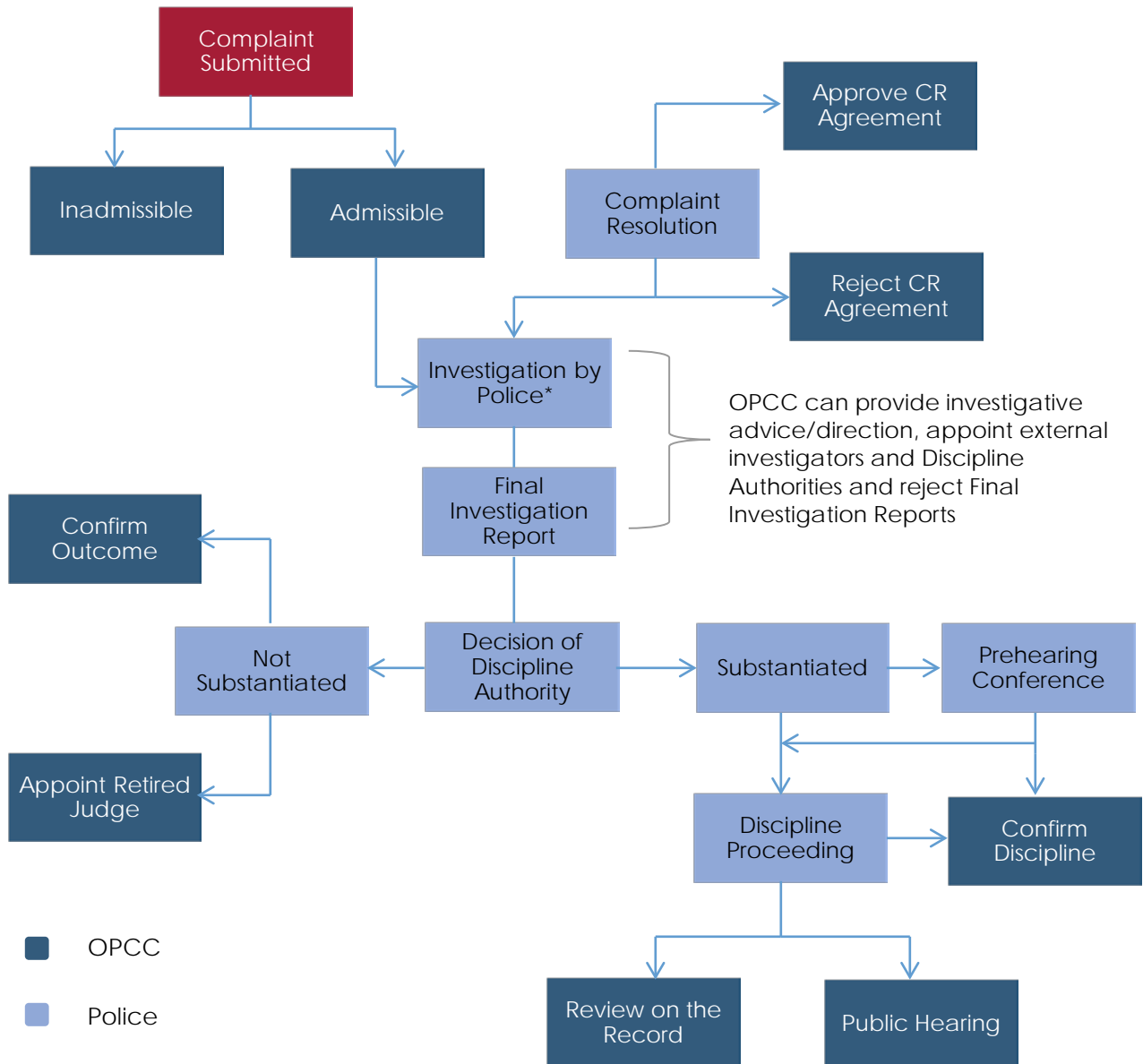
### *Did you know?*

*The Police Complaint Commissioner forwarded 484 public trust allegations to police departments for investigation last year.*

# THE COMPLAINT PROCESS

## COMPLAINT FLOWCHART

This chart is an overview of the complaint process under the *Police Act*. The OPCC provides a gatekeeping role by conducting admissibility assessments of complaints and can appoint retired judges for the purposes of adjudicative review. This office also provides independent civilian oversight over misconduct investigations conducted by police.



\*The OPCC can also order an investigation and municipal police departments can request that the OPCC initiate an investigation.



# THE COMPLAINT PROCESS

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## ADMISSIBILITY REVIEWS

Since the revisions to the *Police Act* in 2010, all registered complaints 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:

1. Contain an allegation of conduct that, if substantiated, would constitute misconduct as defined by the *Police Act*;
2. Be filed within one year of the occurrence, except when the Commissioner considers that there are good reasons for extending the time limit and that an extension is not contrary to the public interest; and
3. Not be frivolous or vexatious.
  - o Frivolous:
    - is not based on an evidentiary foundation and has an insufficient level of plausibility in order to be made admissible
    - is lacking in any arguable basis or merit in either law or fact
    - is trivial, lacks seriousness or is futile
  - o Vexatious:
    - the complaint was brought for an improper or oblique purpose
    - complainant has persistently submitted complaints involving an issue that has already been determined
    - complainant has raised substantively the same issues as contained in previous complaints

Once a complaint has been deemed admissible, it is forwarded to the Professional Standards Section of the originating police department for investigation.

***Did you know?**  
We received 522 registered  
complaints last year.*

# THE COMPLAINT PROCESS

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## ALTERNATIVE DISPUTE RESOLUTION

Alternative Dispute Resolution (ADR) has been identified as a legacy initiative by the Commissioner. Resolving suitable complaints through communication, understanding and reconciliation results in a more meaningful resolution for the participants. ADR allows for repair and improvement of public confidence in police, one relationship at a time.

Depending on the particular circumstances, it may be determined that a complaint is suitable for Complaint Resolution. A complaint can only be resolved if both the complainant and the officer agree to engage in the process and, ultimately, agree to the proposed resolution in writing. All agreements are reviewed by the OPCC to ensure the resolution is meaningful and appropriate based on the circumstances. Agreements reached are confidential, final and binding once confirmed by the Commissioner.

A complaint may also be suitable for resolution through the assistance of an independent professional mediator. Before a file can proceed to mediation, the Commissioner must first approve the mediation attempt to ensure the circumstances are appropriate for mediation. Mediations are completely confidential and agreements reached are final and binding as long as all the issues are resolved in accordance with the guidelines established for mediation.



Our experience has shown that there are a high number of complaints which are better suited to Complaint Resolution or mediation, as opposed to an investigation, which could take up to six months to reach a conclusion. By directly participating in the resolution and finding solutions to a conflict, the majority of complainants and officers come away from the process confirming that the experience resulted in a meaningful level of satisfaction. A successful Complaint Resolution provides the opportunity to gain a greater understanding of the situation which gave rise to the complaint and both parties achieve a broader perspective on the issue. As a result, a greater degree of learning and relationship-building can be gained as compared to the outcome of an investigation. The OPCC encourages

# THE COMPLAINT PROCESS

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complainants and police at the front end to take full advantage of these options while ensuring the public interest is met.

During the review of all Complaint Resolution agreements, complainants are contacted to ensure they are satisfied with the process. The responses from complainants have been positive and constructive. Feedback from complainants is very valuable to us as it assists us in improving our Alternative Dispute Resolution program.

## PILOT PROJECT

On February 1, 2017, the Office of the Police Complaint Commissioner and the Vancouver Police Professional Standards Section initiated a pilot project in the area of Alternative Dispute Resolution (ADR) to resolve admissible complaints under the *Police Act*. The goals of this project were to increase the overall number of successful resolutions and to improve upon the quality, or meaningfulness of these resolutions.

Feedback from complainants has been overwhelmingly positive and often times complainants have reported how quickly and seriously their complaint was handled. Complainants also frequently noted that the process was beneficial in resolving their concerns. We have many examples of resolutions where facilitators have gone above and beyond to resolve the complainant's concerns against police.

Considering the initial success with the implementation of the ADR pilot project with the Vancouver Police Department, the OPCC implemented the strategies developed during the pilot project with the other municipal police departments.

The following strategies were developed through the course of the pilot project:

1. OPCC Alternative Dispute Resolution Team formed;
2. Rebranded the name of the resolution program (Complaint Resolution);
3. Regular contact with the complainant and the Resolution Facilitator;
4. Active review of all files to assess the suitability to resolve through complaint resolution;
5. Revisit the possibility of complaint resolution if the initial attempt fails;
6. Regular meetings with the police department's professional standards section;
7. Internal team meetings and developing lessons learned; and
8. Implementation of training sessions led by current and former Professional Standards Investigators who have shown leadership in the area of police complaint resolution.

Last year saw the greatest percentage of complaints resolved through ADR. Between April 1, 2017, and March 31, 2018, the OPCC encouraged a resolution attempt in 113 complaints, or 48% of complaints reviewed. The OPCC reviewed and approved Complaint Resolution agreements relating to 134 allegations of misconduct that were contained in 68 complaints. The number of allegations resolved through ADR is consistently higher than under the previous legislation where only 7.8% of allegations were resolved informally.

While we have seen an increase in the number of complaints successfully resolved, our goal is to lead the country in the Alternative Dispute Resolution of police complaints. Despite our efforts in promoting

## THE COMPLAINT PROCESS

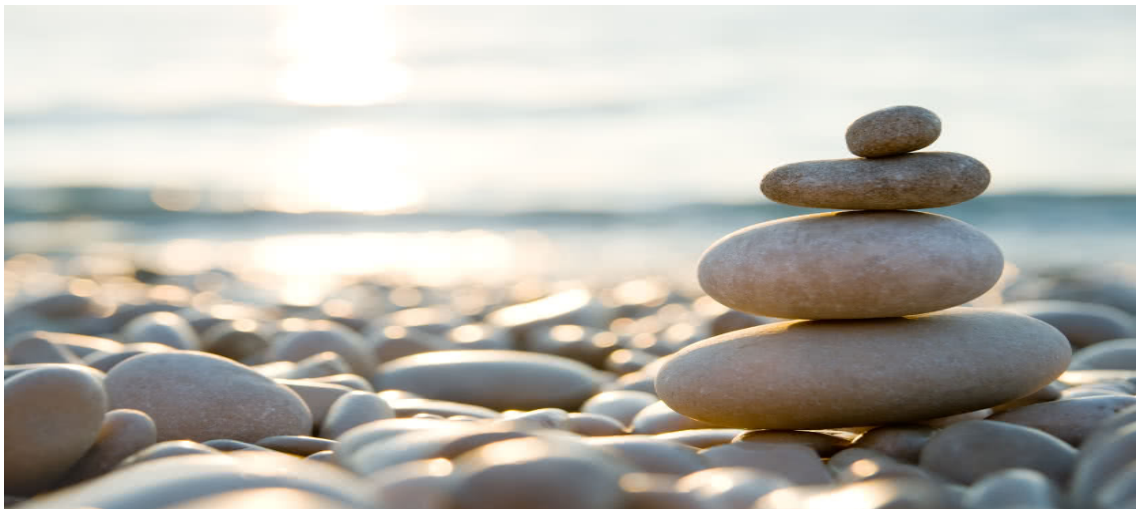
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and encouraging ADR, it is our view that we require further changes to the *Police Act* to ensure that an ADR process is at least attempted for those allegations deemed appropriate.

### Training

In partnership with certified mediators, the OPCC previously developed a Complaint Resolution training program specifically designed for Professional Standards Investigators and frontline officers. Both members of municipal police departments and the RCMP had attended these training sessions in the past. While the participant feedback was positive, we determined that changes needed to be made to the training program. As a result of the pilot project with VPD, the OPCC has facilitated training sessions which are led by experienced police resolution facilitators who have the expertise to provide strategies and tips for successfully resolving police complaints.

The OPCC will continue to promote and encourage the use of ADR by providing assistance to Professional Standards Investigators wherever possible and guidance to complainants through the process. A number of support agencies are also available to complainants (for a full list, please visit [www.opcc.bc.ca](http://www.opcc.bc.ca)). Our office is able to facilitate the use of a community agency to provide support to complainants as they go through the Complaint Resolution process.



# THE COMPLAINT PROCESS

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## QUESTIONS AND CONCERNS

When a member of the public raises and reports a question or concern about a member of the municipal police department but does not file a formal complaint, police departments are required to record those questions or concerns and forward them to the OPCC for reviewing purposes. This differs from the ADR process, as a complaint must be filed in order for a formalized ADR process to be attempted.

Last year, the OPCC received and reviewed **222 Questions or Concerns** reported by the public, in **127 (57%)** of those files, complainants reported they were very satisfied with the department's response and felt their concerns were resolved. An analyst from the OPCC will contact the person who brought forward the question or concern to determine their level of satisfaction with the department's response.

In over half of the cases, the person reported that they were very satisfied with the department's response and felt their concerns were resolved and did not want to take any further action. In cases where our office was unable to reach the complainant, the OPCC reviewed the action taken by the department and determined that the department took adequate and reasonable steps to address that person's questions or concerns.

## DISCONTINUATIONS

*Police Act* investigations may be discontinued if, after further information is obtained, it is established that:

1. further investigation is neither necessary nor reasonably practicable;
2. the complaint is frivolous or vexatious; or
3. the complaint was made knowing it was false or misleading.

## CORRECTIVE AND DISCIPLINARY MEASURES

The *Police Act* sets out the range of corrective and/or disciplinary measures to be imposed if misconduct has been proven against the officer. The measures must include one or more of the following:

- Advice as to future conduct
- Verbal reprimand
- Written reprimand
- Participate in program/activity
- Undertake counselling or treatment
- Undertake training or re-training
- Work under close supervision
- Transfer/reassignment
- Suspension without pay (up to 30 days)
- Reduction in rank
- Dismissal

Measures that seek to correct and educate the member take precedence, unless it is unworkable or would bring the administration of police discipline into disrepute.

# THE COMPLAINT PROCESS

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## INVESTIGATIONS

Investigations into allegations are conducted by a Professional Standards Investigator within a police department. Investigations into complaints are to be completed within six months and both the complainant and subject officer receive regular progress reports on the investigation. An OPCC investigative analyst is assigned to the file and contemporaneously monitors the investigation to ensure it is conducted professionally and addresses the concerns raised.

Once the investigation is complete, the investigator submits a Final Investigation Report to the Discipline Authority of the police department for a decision and to the OPCC for review. A Discipline Authority is the Chief Constable of the department, or a senior officer designated by the Chief Constable. The OPCC will review the Final Investigation Report to ensure the investigation is thorough and can reject the report and direct further investigation.

Within 10 business days of receipt of the report, the Discipline Authority must provide his or her decision to the complainant, the subject officer and to the OPCC. The decision must set out whether the evidence appears to substantiate the allegation of misconduct and, if so, advise as to the range of proposed discipline or corrective measures.

A prehearing conference may be held allowing the officer the opportunity to admit the misconduct and accept the proposed discipline or corrective measures. If no agreement is reached, or a prehearing conference is not held, the matter then proceeds to a discipline proceeding before the Discipline Authority.

The complainant may request a review of the file if they disagree with the Discipline Authority's decision not to substantiate an allegation, or if they disagree with the results of a discipline proceeding. An officer may also request a review if he or she disagrees with the outcome of a discipline proceeding. Also, if the penalty imposed is dismissal or a reduction in rank, the officer is entitled to a Public Hearing or, if the Commissioner deems it more appropriate, a Review on the Record.

You can see the *Police Act* in its entirety at:  
[http://www.bclaws.ca/civix/document/id/complete/statreg/96367\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/96367_01)

# THE COMPLAINT PROCESS

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## ADJUDICATIVE REVIEWS

The OPCC reviews all investigations and decisions to ensure the integrity of the process and to confirm that decisions are impartial and fair. If the Commissioner disagrees with a decision, he has three avenues of adjudicative review to choose from, depending on the unique circumstances of the matter. The Commissioner may:

### Appoint a new Discipline Authority (s.117)

[Appoint a retired judge to review the Final Investigation Report](#) and arrive at a decision as to whether the allegation appears to be substantiated by the evidence. If the finding is that the allegation appears to be substantiated, the retired judge then becomes the Discipline Authority for the matter. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive.

Last year, the Commissioner disagreed with the Discipline Authority's decision that there was no misconduct and appointed a retired judge in **eight** cases.

### Arrange a Review on the Record (s.141)

[Arrange for a Review on the Record](#) following a discipline proceeding. A retired judge is appointed to conduct a "paper review" of the entire matter, deliver a decision and, if substantiated, the corrective and/or disciplinary measures to be imposed. A retired judge's decision following a Review on the Record is final and conclusive and is not open to question or review in any court.

Last year, the Commissioner arranged a Review on the Record in **one** case. In this case, the retired judge determined that the member committed misconduct and imposed a disciplinary/corrective measure.

### Order a Public Hearing (s.143)

[Order a Public Hearing](#) following a discipline proceeding. A retired judge is appointed to sit as the adjudicator and review the evidence, hear sworn testimony and arrive at a decision. These hearings are open to the public and an adjudicator's decision is final and conclusive and may only be appealed on an issue of law. The Commissioner arranged for a Public Hearing in **two** cases last year. In each case, the retired judge determined the member committed misconduct and imposed disciplinary and corrective measures.

# RECOMMENDATIONS TO POLICE BOARDS

## (SUMMARIES)

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### Fiscal Year 2017/2018

#### **Vancouver Police Department**

Registered Complaint 2015-11435

Collection of Identifying Information  
(Previously reported in 2016/2017 Annual Report)

After being ejected from a concert at BC Place by a Vancouver police officer, a member of the public filed a complaint against the Vancouver Police Department (VPD). The Vancouver police officer informed the complainant that the reason for his ejection was his history of drug use. According to the evidence reviewed, the officer was acting as an agent of BC Place pursuant to a private agreement. Pursuant to section 177(4)(c) of the *Police Act*, the Police Complaint Commissioner recommended that the Vancouver Police Board examine and reconsider any policies or procedures that may have been a factor in the collection of identifying information.

On April 26, 2018, the Vancouver Police Board provided a response to the Police Complaint Commissioner's recommendations. The VPD has revised its practices in policing this event by entering into a formal agreement with BC Place and providing clear written direction to members while policing this event. VPD will work with BC Place to annually review and modify operational practices of members.

#### **Vancouver Police Department**

Registered Complaint 2016-12951

*Service Contracts with Private Entities*

The complainant attended a concert at BC Place. A police officer stopped the complainant prior to his entering the venue and demanded his identification and placed him in handcuffs for the purpose of seizing his ticket.

The OPCC reviewed the *Police Act* investigation and it appeared that police officers were conducting themselves under the belief they were acting as police officers when they were actually acting as agents for a private entity. The Police Complaint Commissioner was of the view that the Vancouver Police Department (VPD) could benefit from the creation of clear and objective policy when the VPD is engaged by private entities.

The Vancouver Police Board (VPB) considered this complaint along with OPCC file no. 2015-11435 and 2016-12616 as the issues and concerns brought forward were similar in nature. The VPB consolidated their response to this office. The VPB response to these concerns was the same as reported in the summary for OPCC file no. 2015-11435. After completing a review of the Police Board's response, the OPCC requested the agreements and guides referenced in the Board's response to this office. Specifically, the OPCC has requested the Restaurant Watch/Bar Watch Operational Reference Guide, the Inadmissible Patron Agreement with BC Place and the VPD Emergency and Operations Planning Section (EOPS) Briefing Notes.

The OPCC has not received this documentation from the Vancouver Police Board at the time of the publication of this report.

#### **Vancouver Police Department**

Registered Complaint 2016-12616

*Bar Watch and Restaurant Watch Programs*

The complainant was ejected from a nightclub after a police officer approached him and requested his identification. The complainant was advised by the police officer that he had been placed on Bar



## RECOMMENDATIONS TO POLICE BOARDS – SUMMARIES

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Watch. The complainant promoted a nightclub and as a result had cause to attend the nightclub on a weekly basis.

During the *Police Act* investigation, another allegation of police misconduct arose wherein a police officer was reported to have disclosed information related to the complainant to staff of the nightclub. The Police Complaint Commissioner recommended that the Vancouver Police Board examine and reconsider VPD policies with respect to the legal validity of the Bar Watch/Restaurant Watch Program in their current form as well the disclosure of police database information to staff at Bar Watch/Restaurant Watch signatory establishments.

With respect to accessing police databases and sharing information while policing events, the VPD agrees that any disclosure of details or specifics about a member of the public from police databases to staff members is inappropriate. In recognition of this, VPD has revised its policy to indicate that members are not to disclose any specifics or details about an ejected person(s) to staff at an establishment or event, nor are members to specify which criteria were met.

After completing a review of the Police Board's response, the OPCC requested the agreements and guides referenced in the Board's response to this office. The OPCC has not received this documentation from the Vancouver Police Board at the time of the publication of this report.

**Vancouver Police Department**  
*Bar Watch and Restaurant Watch Programs*

Service or Policy Complaint 2016-14151

The complainant reported concerns related to the Vancouver Police Department's implementation of the Bar Watch Program, specifically that he believes the VPD must establish guidelines to provide a reasonable timeline for determining when an Inadmissible Patron (IP) will be removed from the Bar Watch Program.

The Police Board dismissed this complaint and provided reasons to the OPCC and the complainant. In their reasons, the Board stated that it was inappropriate to develop guidelines to determine when an IP's status should be removed as the factors involved often vary significantly for each IP's history. It was also noted that although members of the Gang Crime Unit (GCU) routinely encourage IPs to meet and review their status, this offer is rarely taken advantage of by the majority of IP's.

The OPCC completed a review of the response to this complaint and determined that officers in the GCU have a considerable amount of discretion in determining whether or not to remove an individual from the IP program. The Police Complaint Commissioner recommended that the Vancouver Police Board provide further investigation into the practices and procedures relating to the implementation of the Restaurant Watch and Bar Watch programs for the purposes of developing a written policy in support of the common practices currently in place.

The OPCC has not received a response from the Vancouver Police Board at the time of the publication of this report.

## RECOMMENDATIONS TO POLICE BOARDS – SUMMARIES

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### Vancouver Police Department *Use of restraints in VPD Jail*

Registered Complaint 2016-13493

The complainant reported to our office that after slapping a vehicle which she viewed to be reversing toward her and her child, she was arrested and transported to jail by officers without being told the reason for the arrest. The complainant reported she was handcuffed for the entire duration, while in the police wagon and in the jail (1 hour 31 minutes).

The Police Complaint Commissioner appointed a retired judge to conduct a review of the arrest of the complainant, and the retired judge determined that the complainant's arrest amounted to misconduct. However, as a result of this and other files, the OPCC noted that there appeared to be ambiguity relating to the various policies, operations, and procedural practices of the Vancouver City Jail which contributed to a misunderstanding by members and jail staff of their duties and responsibilities when leaving a prisoner in a cell in handcuffs. The OPCC strongly recommended that there should be an operational process in place to support the duty of care to those prisoners and a guide to assist the members with the required duty of care. The OPCC recommended that the Vancouver Police Board examine and reconsider policies and procedures relating to lodging handcuffed prisoners in Vancouver jail cells.

The OPCC has not received a response from the Vancouver Police Board at the time of the publication of this report.

### Victoria Police Department

Service or Policy Complaint 2016-12399

The complainant reported concerns related to how the Victoria Police Board was utilizing monies from the 2015/2016 budget to pay for an external consultant and continued funding of lawyer(s) to deal with the Chief Constable Elsner investigation even though the Chief Constable had been suspended with pay.

The Victoria Police Board (Vic PB) directed that the service or policy complaint be dismissed as it did not relate to the general management of the VicPD as contemplated by section 168(1) of the *Police Act*. The complainant disagreed with the Victoria Police Board's conclusions.

The Police Complaint Commissioner reviewed the police board's decision and determined that this matter fell within the scope of both the general management and general operation of the Victoria Police Department pursuant to section 26(4) of the *Police Act*. The Commissioner was also of the view that an accountable and transparent review of the allegations into this complaint was in the public interest and recommended that the Director of Police Services exercise his discretion to conduct a special investigation or prepare a report on the Victoria Police Board's actions as alleged in this complaint.

The Director of Police Services asked the Victoria Police Board to consider further action in relation to this complaint. This matter remained outstanding at the time of the publication of this report.

***For more details regarding the recommendations made by the Police Complaint Commissioner, please see Appendix on page 104.***

# CASE STUDIES

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The following complaint summaries are intended to provide samples of the variety of complaints which were concluded between April 1, 2017, and March 31, 2018. All substantiated complaints resulting in corrective or disciplinary measures are recorded on the officer's Service Record of Discipline.

## QUESTIONS AND CONCERNS

When a member of the public raises and reports a question or concern about a member of a municipal police department but does not file a formal complaint, police departments are required to record those questions or concerns and forward them to the OPCC for review.

[OPCC file no. 2017-14216](#)

The complainants contacted police regarding their concern that officers appeared to be "siding" with their landlord as the result of a Residential Tenancy dispute.

Upon meeting with PSS Investigators, the complainants disclosed that they had been threatened by the landlord and a third party; however, it was learned that the complainants did not advise the officers at the scene of the threats. It was also learned that the actions of the Landlord were contrary to the *Residential Tenancy Act*.

Upon becoming fully aware of the situation, the PSS Investigators arranged, through the Watch Commander, to have the original responding officers contact the landlord to advise they were required to comply with the *Residential Tenancy Act*, as well as contact the third party to advise that they were not legally allowed to enter the suite.

The PSS Investigators also tasked the original responding members with obtaining statements from the complainants regarding the threats made to them and to conduct an investigation once the statements were received.

The PSS Investigators also advised the complainants to contact police for assistance if there were any further interactions with the landlord or third party.

The PSS Investigators did follow up with the complainants and offered to assist them if they wished to file a Registered Complaint and were also advised they could file a complaint directly with the OPCC. The complainants indicated they were satisfied with the help the police had provided.

The complainants did not further contact the Police Department or the OPCC.

[OPCC file no. 2017-14135](#)

The complainant attempted to park her vehicle in the patient parking lot of a medical clinic only to find the lot full. The complainant noted that there were two police vehicles parked in stalls clearly marked as "patient only" parking. When the complainant learned that there were no police officers inside the clinic, nor had there been an incident, she took a photograph of one of the police vehicles. The complainant advised that she would like to initially proceed as a Question or Concern rather than a registered complaint.

## CASE STUDIES

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The police department's professional standards investigators identified the police officer who signed out the vehicle in the photograph. The police officer's supervisor met with the police officer to discuss how his actions could adversely affect other people. The police officer took full responsibility and stated he would not repeat the behaviour in future.

The professional standards section next spoke to the department's Operations Section who advised that they were already aware of the issue and were in the process of preparing a memo to be distributed to all patrol members about the proper procedures for parking police vehicles at the medical clinic as well as any other location in the city.

The complainant was pleased with the response, stating that the steps taken were exactly what she was hoping for and that she did not wish to take the matter any further.

### REGISTERED COMPLAINTS

When the OPCC receives a complaint about police misconduct, we must determine whether or not it is an admissible complaint that should be forwarded for investigation.

For a complaint to be admissible it must contain the following three criteria:

1. An allegation of police misconduct as defined under section 77 of the *Police Act*;
2. Be filed within one year of when the incident occurred (unless the PCC grants an extension of the time limitation period);
3. Not be frivolous or vexatious.

[OPCC file no. 2018-14389](#)

#### Inadmissible – No Misconduct Identified

The complainant was involved in a minor altercation with another person which resulted in his vehicle sustaining damage. Police attended and interviewed both parties. A BC Motor Vehicle Traffic Collision Police Investigation Report (MV6020) was provided to both parties to sort out the damages to the complainant's vehicle.

The complainant filed a Registered Complaint advising that the police officer would not provide the other party's personal information which he needed to collect the insurance deductible. The complainant further reported that upon police attending the scene, he was threatened with arrest for asking a question.

In reviewing a complaint, our office may contact the police agency involved or the complainant to obtain further information that may assist us in arriving at a principled decision regarding the admissibility of the complaint.

The OPCC obtained further details from the complainant. The complainant advised that police told him that both parties were not to have further contact with each other and stated, "If I have to come back here, someone is going to get arrested." The complainant felt this comment was directed at him.

## CASE STUDIES

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Following an admissibility assessment, the OPCC determined that for an officer not to provide third party information for use in a civil matter did not amount to an allegation that, if substantiated, constituted misconduct as defined by the *Police Act*.

In relation to the complainant's perception that he was threatened with arrest for asking a question, this office noted that according to the complainant the officer directed this comment to both parties should police have cause to re-attend the scene.

The OPCC was satisfied that the conduct described in these circumstances would not, if substantiated, constitute misconduct as defined pursuant to section 77 of the *Police Act*.

The OPCC determined the allegations contained in this complaint to be inadmissible.

### DISCONTINUATION

The Police Complaint Commissioner may discontinue an investigation into alleged misconduct if, after further information is obtained, it is established that:

1. Further investigation is neither necessary nor reasonably practicable;
2. The complaint is frivolous or vexatious; or
3. The complaint was made knowing it was false or misleading

[Registered Complaint – OPCC file no. 2017-13719](#)

[Admissible – Investigation Discontinued](#)

The complainant advised he was attending a performance at a festival when police told him he smelled like alcohol and was required to take a breathalyzer test. The complainant provided two breath samples, into two separate devices, each resulting in a .05 reading. Based on the results of both breath samples, the complainant was issued a seven day Immediate Roadside Prohibition and a seven day Notice of Impoundment. The complainant was concerned that police misapplied that law in these circumstances and were malicious in their conduct.

The complainant advised that he appealed the seven day suspension with the Superintendent of Motor Vehicles and was successful.

The complaint was determined to be admissible and forwarded to the police department for investigation with the following potential misconduct identified:

1. *Abuse of Authority* pursuant to section 77(3)(a) of the *Police Act* by engaging in oppressive conduct towards a member of the public.

The investigator completed a number of investigative steps, which included obtaining a statement from the police officers involved, the complainant, and other witnesses. The investigator later received information that the complainant had lied in his statement to the investigator. The investigator conducted a follow up interview with the complainant who admitted that he provided false information to the OPCC in his complaint and his subsequent interview with the investigator.

## CASE STUDIES

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Based on this information the investigator requested the Police Complaint Commissioner discontinue the *Police Act* investigation pursuant to under section 109(1)(b)(ii) of the *Police Act*.

Pursuant to section 109(1)(b)(ii) of the *Police Act*, the Police Complaint Commissioner may discontinue an investigation initiated under Division 3 if, in the case of an investigation initiated under an admissible complaint, the Police Complaint Commissioner considers that the complaint was made with the knowledge that it was false or misleading.

Accordingly, having regard to all the circumstances, including information obtained after this matter was deemed admissible, the OPCC directed that the investigation into this matter be discontinued advising that no further action was required.

### Registered Complaint – 2017-13088

#### Admissible – Unsubstantiated - OPCC agreed no misconduct but for different reasons than DA

Pursuant to section 89 of the *Police Act*, the police department first reported this matter to the OPCC as a reportable injury. The affected person sustained several minor puncture wounds to his lower left leg as a result the deployment of a police service dog. The nature and extent of the injury did not meet the definition of serious harm.

The OPCC subsequently received a registered complaint where the complainant reported that he was in a car accident and requested someone call for an ambulance. The complainant then laid down on the ground and a police dog was ordered to attack. The complainant stated that he was compliant at the time, lying on the ground with his arms out.

The complaint was determined to be admissible and forwarded to the police department for investigation with the following potential misconduct identified:

1. *Abuse of Authority* pursuant to section 77(3)(a)(ii)(A) of the *Police Act* which is in the performance, or purported performance of duties, intentionally or recklessly using unnecessary force on a person.

Following the completion of the investigation, the assigned Professional Standards Investigator submitted a Final Investigation Report (FIR) to the OPCC. After reviewing the FIR, the Police Complaint Commissioner determined that further investigative steps needed to be completed. After consultation with the Discipline Authority (DA), the Police Complaint Commissioner rejected the Final Investigation Report under section 98(9) of the *Police Act* and directed that the further investigative steps be undertaken.

The investigator completed the required investigative steps and resubmitted the FIR. The Discipline Authority reviewed the investigation and determined that there was not sufficient evidence to support a finding that the member committed an allegation of *Abuse of Authority*.

The complainant was informed that if he was not satisfied with the decision, he could file a written request with the Police Complaint Commissioner for the appointment of a retired judge to review the file under section 117 of the *Police Act*. The complainant did not make a request, however to promote accountability in the complaint process, all Discipline Authority decisions are reviewed by the Office of the Police Complaint Commissioner, regardless of whether a request has been made.

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Based on a review of the available evidence, the OPCC was satisfied that the Discipline Authority appropriately determined the allegation of *Abuse of Authority* was unsubstantiated. However, the OPCC arrived at this conclusion for different reasons.

The police department's Use of Force policy, as well as the Provincial Policing Standards policy, outline the requirements to be met for a police service dog's utilization. The OPCC's review found that the respondent officer was in substantial compliance with these policies.

In cases examining police use of force, the courts have conducted an analysis of section 25 of the *Criminal Code* which authorizes that police, if acting on reasonable grounds, to use as much force as is necessary when they are required or authorized to do something in the administration of justice or enforcement of the law. The test under section 25 includes both an objective and subjective test. Three conditions must be met before this statutory protection may apply:

- The police officer must be engaged in activity he/she is required or authorized by law to do in the administration or enforcement of the law,
- The police officer must act on reasonable grounds; and,
- The police officer must use only as much force as it necessary

In this case, the DA concluded that the actions of the complainant met the criteria for arrest for possession of stolen property pursuant to the *Criminal Code*.

The OPCC was of the view that the 2008 **Public Hearing** decision of Adjudicator Hutchinson regarding the actions of Victoria Police Constable Greg Smith provided useful guidance for assessing allegations of unnecessary force pursuant to the *Police Act*. In this decision, the adjudicator found that while the respondent officer's subjective intention is relevant, it is not conclusive. The appropriate test is whether the use of force and amount of force employed were necessary in all the circumstances when evaluated from the perspective of a reasonable police officer in the position of the respondent officer.

Based on a review of the available evidence, there did not exist sufficiently clear, convincing and cogent evidence that established on a balance of probabilities that the respondent officer committed *Abuse of Authority* when he used force in arresting the complainant for possession of stolen property pursuant to the *Criminal Code*.

### [Registered Complaint OPCC 2015-10950](#) [Substantiated – Review on the Record](#)

The complainant reported that she applied for a civilian position with the police department. At the end of her interview the respondent officer gave the complainant his personal cell phone number.

The complainant met with the respondent officer a couple of times but ultimately informed him that she did not have romantic feelings towards him. In response, the respondent officer sent inappropriate text messages of a sexual nature.

The complainant also advised that the respondent officer supplied her with a confidential DVD of his interrogation with a sex offender.

## CASE STUDIES

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The complaint was determined to be admissible and forwarded on to an external police department for investigation with the following potential misconduct identified:

1. *Discreditable Conduct* pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department.
2. *Improper Disclosure of Information* pursuant to section 77(3)(i)(i) of the *Police Act* which is intentionally or recklessly disclosing , or attempting to disclose, information that is acquired by the member in the performance of duties as a member.

At the end of the investigation the Final Investigation Report (FIR) was forwarded to the Discipline Authority who determined that both allegations had been substantiated. The Discipline Authority offered the respondent officer a pre-hearing conference wherein an agreement was reached with respect to the proposed discipline.

The report following the pre-hearing conference was forwarded to the OPCC for review. After considering of all the relevant factors in this case, the Police Complaint Commissioner did not approve the discipline agreed to at the Prehearing Conference as it seemed not appropriate to the circumstances. Accordingly, a Discipline Proceeding was convened.

Following the Discipline Proceeding, the Discipline Authority proposed a 12 day suspension without pay and ethics based training in relation to the substantiated allegation of *Discreditable Conduct* and a Written Reprimand and training on departmental disclosure policies in relation to the substantiated allegation of *Improper Disclosure of Information*.

Although neither the complaint nor the respondent officer exercised their right to request a **Public Hearing** or a **Review on the Record**, the Police Complaint Commissioner determined that a **Review on the Record** was necessary in the public interest as there had been a significant breach of the public trust, the discipline or corrective measures were inappropriate and/or inadequate and a **Review on the Record** was required to preserve or restore public confidence in the administration of police discipline.

In his oral reasons, the Adjudicator notes that he viewed both substantiated allegations as being egregious. The respondent officer was in a position of trust and there was clearly an imbalance of power. Furthermore, one would expect that in an investigation conducted by any police authority, there is an expectation of privacy, at least during the investigative stage. That expectation was clearly breached. The Adjudicator imposed an 18 day suspension without pay in relation to the substantiated allegation of *Discreditable Conduct* and a five day suspension in relation to the substantiated allegation of *Improper Disclosure of Information*. The Adjudicator ordered that the suspensions be served consecutively because there were two separate, distinct offences.

### ORDER FOR INVESTIGATION

The Police Complaint Commissioner can exercise his discretion to order an investigation when information of potential misconduct is received but no complaint has been submitted by a member of the public.



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### Ordered Investigation OPCC 2016-12894 Requested by Department – Substantiated

A police officer reported that his wallet, which included his police badge, was lost.

The Chief Constable of the police officer's department subsequently received confidential information that a member of his department used the services of a sex trade worker and that sex trade worker had stolen the police officer's wallet. The confidential information provided the type of vehicle the police officer operated. It was subsequently confirmed that the police officer who had reported the loss of his wallet drove the same type of vehicle.

The Chief Constable submitted a request for an *Order for External Investigation* to the OPCC. In this request, the Chief Constable advised that the matter was also the subject of a criminal investigation and as such requested the *Police Act* investigation be suspended as it could prejudice the ongoing criminal investigation into the same matter. The Chief Constable also deemed it necessary to withhold notification of the *Police Act* investigation from the respondent officer pursuant to section 88 of the *Police Act* in order to obtain and preserve evidence related to this matter.

The Police Complaint Commissioner issued the *External Order for Investigation and Notice of Suspension of Investigation* with the following potential misconduct identified:

1. *Discreditable Conduct*, pursuant to section 77(3)(h) of the *Police Act* which is, when on or off duty, conducting oneself in a manner that the member knows, or ought to know, would likely bring discredit on the municipal police department.

The external investigator subsequently advised the OPCC that, after reviewing the matter and conferring with Regional Crown Counsel, there was insufficient evidence to support a criminal prosecution. Therefore, pursuant to section 179 of the *Police Act* the suspension of proceedings under Division 3 was lifted and the respondent officer was informed of the investigation.

The Chief Constable reported that he may be a material witness for the *Police Act* investigation as he was the one who received the report of the lost wallet and the confidential information. As a result, pursuant to section 135(1) of the Act, the Police Complaint Commissioner appointed an External Discipline Authority.

The External Discipline Authority received the Final Investigation Report and determined that the evidence appeared to support a finding of substantiation. The evidence included, but was not limited to, the duty report of the respondent officer, witness officers' statements, an interview with a civilian, video surveillance, transaction records, production order results for credit card and cellular phone records and the General Occurrence Report related to this incident.

The External Discipline Authority proposed that the range of corrective and/or disciplinary measure(s) include one or more of the following:

Within a range of measures including a suspension from duty, without pay, for up to 30 days, up to, and including dismissal.

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The External Discipline Authority directed the respondent officer to a discipline proceeding. Having retired during the *Police Act* investigation the respondent officer advised that he would not participate in the proceeding.

After the discipline proceeding, the Discipline Authority found that the allegation of *Discreditable Conduct* had been proven and proposed dismissal as the disciplinary measure.

The respondent officer did not request a **Public Hearing** or a **Review on the Record**, however, it is the OPCC's practice to review all findings and determinations flowing from discipline proceedings.

The Discipline Authority reviewed the aggravating and mitigating factors in section 126 of the *Act*. The Discipline Authority concluded that the respondent officer's integrity as a police officer and the trust that comes with that office were irreparably damaged and that dismissal was the appropriate level of discipline.

The OPCC found that there was no reasonable basis to believe that the Discipline Authority's findings under section 125(1) were incorrect or that he incorrectly applied section 126 in proposing disciplinary or corrective measures under section 128 of the *Police Act*. Therefore, there were insufficient grounds to arrange a **Public Hearing** or **Review on the Record** in the circumstances.

### Ordered Investigation 2017-13239

#### Initiated by PCC – Unsubstantiated – Evidentiary uncertainty

Pursuant to section 89 of the *Police Act*, the police department first reported this matter to the OPCC as a reportable injury. The affected person's injuries were described as facial bruising with swelling, abrasions and a subarachnoid bleed/hematoma that did not warrant surgical intervention. The nature and extent of the injury did not meet the definition of serious harm.

According to the information received, police officers witnessed a truck lose control while making a turn and strike a parked, unoccupied vehicle before driving away. Police stopped the vehicle and subsequently used a police baton to remove the driver from the vehicle and delivered several hand strikes to his head during his arrest.

After reviewing the circumstances, the Police Complaint Commissioner exercised his discretion under section 93(1) of the *Act* and ordered an investigation into the application of force with the following potential misconduct identified:

1. *Abuse of Authority* pursuant to section 77(3)(a)(ii)(A) of the *Police Act* which is in the performance, or purported performance of duties, intentionally or recklessly using unnecessary force on a person.

During the course of the investigation the OPCC identified several issues of concern with respect to the quality of the investigation which the OPCC communicated to the police department. In addition, an additional allegation of *Neglect of Duty* was included as it was determined that one of the members did not accurately report and document their use of force in the police report.

At the end of the investigation, the Final Investigation Report was provided to the Discipline Authority and the OPCC. The Discipline Authority determined that the allegations related to the use of force

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and *Neglect of Duty* were unsubstantiated. The Discipline Authority applied section 25(1) of the *Criminal Code* to assess the force used by the respondent officers and concluded that the force used was reasonable. In addition, the Discipline Authority concluded that there was no evidence that the member neglected his duty to sufficiently document the force used.

The OPCC conducted a review of the decision of the Discipline Authority. In relation to the allegation of *Abuse of Authority*, the OPCC determined that the baton strikes appeared to have been delivered consistently with police training; however, there appeared to be conflicting evidence in the force described in relation to the hand strikes and without the participation of the affected person, this conflict could not be resolved. As result, there was a degree of uncertainty in the evidence as the affected person did not participate in the investigation.

In relation to the *Neglect of Duty* allegation, the OPCC determined that the manner in which this member applied force and their lack of compliance with policy for accurately reporting the force used approached the threshold for misconduct but considering the lack of participation by the affected person, the Police Complaint Commissioner did not exercise his discretion to appoint a retired judge to review the matter.

### INTERNAL DISCIPLINE

Internal discipline files are the responsibility of the police member(s) employer and are processed under Division 6 of the *Police Act*. Internal discipline files concern the conduct or department of a member that is not the subject of an admissible complaint or ordered investigation and cannot directly involve or affect the public.

The Internal Discipline Authority must provide the Police Complaint Commissioner with a copy of any recommendation on disciplinary or corrective measures arising from an internal discipline matter and the final decision reached by the Internal Discipline Authority.

#### [Internal Discipline – 2017-13127 Discipline – Verbal Reprimand](#)

A member of the police department reported an incident that caused them concern to their supervisor. It was reported that during the search of a vehicle that was being prepared for submission to the Civil Forfeiture Office, a piece of rock cocaine was found. This member along with another member and his wife (CBSA officer) were participating in the search of the vehicle. The member alleged that the member who had his retired Police Service Dog (PSD) present told him that he was going to take the drugs home to use as a training aid for both his retired PSD and his wife's CBSA drug dog.

The member admitted to taking the drugs but did not view it as taking a narcotic but instead "garbage" which was to be used as a training aid for his dog that recently retired. The member stated that he wanted to keep his dog healthy and give him something to do since retiring.

It was determined that the member breached departmental policy regarding drug handling procedures. According to the departmental policy, drug exhibits for destruction are to be placed in a tamper proof plastic bag, list the contents on the bag, attach a bar code sticker to the exhibit,

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ensure the property has been appropriately documented and deposit the bag in the appropriate locker.

The member recognized the seriousness of breaching departmental policy and procedures with respect to drug handling and accepted full responsibility for his actions. He also understood that he placed his fellow officer in a difficult position and that his fellow officer did the right thing by notifying the supervisor.

The Discipline Authority substantiated a single allegation of *Neglect of Duty* and imposed a disciplinary/corrective measure of a verbal reprimand. The Discipline Authority also noted that the member would be advised that he is not use his retired PSD to conduct police work in relation to his duties as a member; and that any requests for CSBA assistance for drug searches be communicated and authorized through the appropriate chain of command.

### Internal Discipline – 2017-13438

#### Dismissal

A probationary police officer filed a complaint of harassment and bullying against a supervisor. An internal discipline investigation was conducted in relation to the department's Respectful Workplace policy. After interviewing the complainant, and the witnesses he identified, the investigator found there to be no evidence of harassment. In fact several witnesses found it inconceivable that such a complaint had been made.

The department's Respectful Workplace policy contemplates discipline against those who make baseless allegations.

The investigator concluded that the complaint was without foundation, and was made for ulterior motives (i.e. to deflect attention from the complainant's performance issues, and to retaliate against his supervisor for raising concerns about his performance).

As a result, the investigator recommended that the probationary officer's employment be terminated.

Senior management reviewed the matter and determined that the probationary officer did not meet the standard of suitability as set out in the collective agreement, and that the probationary officer's quality of work and ability to work harmoniously with others fell below the required standard.

The probationary officer's employment was terminated based on a lack of suitability as a probationary officer.

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## SERVICE OR POLICY COMPLAINTS

Service or policy complaints are managed by the department's police board. The Police Complaint Commissioner can make recommendations to the board regarding these types of complaints.

### [Service or Policy – 2017-13802](#) [Investigated – Policy Change](#)

The OPCC received two complaints from residents in a neighbourhood where police were conducting a training exercise.

One of the complainants reported that he was working in his back yard during this live scenario-based training at a private residence nearby. As part of the scenario-based training, a Noise Flash Diversion Device (NFDD) and a Smoke Canister were utilized.

The use of live NFDD and smoke in training replicates some of the real stress and noise that officers experience during a real event and is a valuable part of training. The NFDD produces a loud noise at approximately 175 decibels from 5 feet away.

The complainant suffers from severe Post-Traumatic Stress Disorder (PTSD) as a result of his experiences in the Gulf War and Afghanistan. As a result of the explosions near his home, the complainant's PTSD was triggered and he required medical assistance. The second complainant outlined how the lack of notification of the training exercise impacted the community, including his neighbour who suffered from PTSD.

The Chair of the Police Board initiated a four-step study as follows:

1. A general review to the specific incident
2. Policy Recommendations specific to the department to be brought to the Board for review
3. Working with Emergency Response Team (ERT) Joint Management Team to ensure modifications to ERT specific policies (recognizing that modifications to practices are already underway), and
4. Working with other area police agencies participating in ERT to develop their own policies for their Board.

The investigator responsible for the study spoke to the residents of the neighbourhood and it became apparent that while there was a recognized need for these types of training scenarios to take place, communication between members conducting the training and residents was key.

As a result a new policy was developed that included the following:

1. The public will be notified of any training exercises that are likely to alarm persons, adversely affect traffic, or disturb the peace of a neighbourhood.
2. It is expected that integrated units and/or other police agencies conducting training exercises will notify the Watch Commander, who will ensure that the unit or agency has conducted notifications consistent with this policy.
3. This policy also applies to the department's police training exercises occurring within another jurisdiction. The policies and procedures of that jurisdiction will also apply.

## CASE STUDIES

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The policy was approved by the Board. This new policy would also be shared with other departments for consideration of adoption into their respective departmental policies.

The complainants were provided a copy of the Police Board's concluding letter and the investigation report. The complainants were informed that pursuant to section 172(2) of the *Police Act*, if they were dissatisfied with the actions of the Police Board they could request a review by the Police Complaint Commissioner.

Having had the opportunity to review the Board's decision, the OPCC was satisfied with the outcome and would not be making any recommendations for further investigation, study, course of action, or changes to service or policy respecting this particular matter, nor would the OPCC be making any recommendations to the Director of Police Services.

The OPCC noted that this new policy was created due to the complainants' concerns which brought to light the absence of a current policy relating to the notification of training exercises to potentially affected individuals.

### [Service or Policy - OPCC 2017-13118](#)

#### [No Investigation - Dismissed](#)

The complainant filed a service or policy complaint with the police board as he was concerned about the legal indemnification of two retired senior officers.

The Board dismissed the complaint advising that the two retired officers had employment contracts that included language covering legal expense indemnification incurred while in the performance of their duties. The Board further considered it noteworthy that an indemnification clause in a private employment contract is not a subject eligible for a service or policy complaint under sections 168(1)(a) or 168(1)(b) of the *Police Act*.

The complainant exercised his right pursuant to section 172(2) of the *Police Act*, for the Police Complaint Commissioner to conduct a review of the Board's decision.

Upon review of the Board's letter and the complainant's request, the OPCC requested further information from the Board. Specifically, the OPCC requested the following:

1. A generic, anonymized copy of the indemnification clause contained in the employment contracts for senior department management
2. Information describing the scope of the indemnification provision, the process for determining whether a specific matter falls within the scope of the indemnification provision, and whether any safeguards were in place to protect the integrity of the process, such as avoiding conflicts of interest.

The Board's response provided additional information with respect to the wording of the indemnification provisions contained in the senior officer contracts of the police department and the scope which includes seeking legal guidance in terms of the application of the indemnification provisions.

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Having had the opportunity to examine the Board's decision and the additional information provided, the concerns expressed by the complainant involved the contractual obligations of employment between senior police members and the Police Board. This office noted that these employment contracts and any included provisions, do not fall within the scope of governance of the *Police Act* and therefore, are outside the OPCC's jurisdiction.

The OPCC's jurisdiction is limited to the service and policy of the department as opposed to the contracts and processes in place by the Board. Also this office does not provide oversight of Police Boards in British Columbia, that responsibility falls to the Ministry of the Solicitor General, specifically the director of Police Services.

Although the Board chose not to address aspects of the complainant's requests for specific information, the OPCC was of the view that the complainant may pursue other avenues to obtain the information.

# SUBSTANTIATED ALLEGATION SUMMARIES

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The following table provides summaries of all substantiated allegations against municipal officers which were concluded between April 1, 2017, and March 31, 2018.

## Abbotsford

Ordered Investigation – Requested by Department  
(OPCC File 2016-12409)

### *Allegations:*

On July 31, 2016, an off-duty police officer was a registered guest at a hotel in another policing jurisdiction. There was a report of a disturbance at the hotel causing police to attend. The off-duty police officer spoke to the attending officers in an unprofessional manner.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li></ul>
<b>Date of Incident:</b> July 31, 2016	

### *Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC reviewed the prehearing conference report and, considering all the relevant factors in this case, the discipline fell within the acceptable range for appropriate discipline in the circumstances. In this case, the police officer accepted responsibility for their conduct which was evidenced in part, through self-disclosure of this matter to their supervisor.

The OPCC approved the agreement reached at the prehearing conference.

## 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). The public trust investigation involved several allegations of misconduct which included a public trust offence pursuant to section 77(2) of the *Police Act*.

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

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



## SUBSTANTIATED ALLEGATION SUMMARIES

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*Allegations:*

Between October and December 2013 the police officer communicated with a person who illegally sold steroids.

<p><b>Misconduct 1:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)</p> <p><b>Date of Incident:</b> Between October and December 2013</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Suspension</li> </ul>
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Between November 2013 and January 2014 the police officer used his cell phone to communicate with sex trade workers.

<p><b>Misconduct 2:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)</p> <p><b>Date of Incident:</b> Between November 2013 and January 2014</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Suspension</li> </ul>
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*OPCC Review:*

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 here.

### Ordered Investigation – Requested by Department (OPCC File 2014-9552)

*Allegations:*

A police officer placed Citizen A and Citizen A’s child on the police officer’s employment benefits claiming they were cohabitating when they were not.

The police officer committed the offence of Fraud contrary to section 380(1) of the *Criminal Code* by defrauding the BC Medical Services Plan.

<p><b>Misconduct 1:</b> <i>Public Trust Offence</i> (pursuant to section 77(2) of the <i>Police Act</i>, by committing an offence under an enactment of Canada, a conviction in respect of which does or would likely render a member unfit to perform his or her duties as a member or discredit the reputation of the municipal police department with which the member is employed)</p> <p><b>Date of Incident:</b> Between January 30, 2013, and April 14, 2014.</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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The police officer committed the offence of Fraud contrary to section 380(1) of the *Criminal Code*, by defrauding Pacific Blue Cross Health Benefits Society.

On April 20, 2015, the police officer entered a plea of guilty in Provincial Court to two counts of Fraud and was sentenced to a conditional discharge and was placed on probation for 12 months.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<p><b>Misconduct 2: <i>Public Trust Offence</i></b> (pursuant to section 77(2) of the <i>Police Act</i>, by committing an offence under an enactment of Canada, a conviction in respect of which does or would likely render a member unfit to perform his or her duties as a member or discredit the reputation of the municipal police department with which the member is employed)</p> <p><b>Date of Incident:</b> Between January 30, 2013, and April 14, 2014.</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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On April 29, 2014, a police supervisor served the police officer with a written Order directing the police officer to have no further contact or communication with Citizen A or Citizen A's family members. This Order also directed the police officer to notify the police supervisor in the event there was incidental contact.

On the same date the Order was issued, the police officer attempted communication with Citizen A. The police officer did not report this contact to the police supervisor.

<p><b>Misconduct 3: <i>Neglect of Duty</i></b> (failure to follow a supervisor's lawful order)</p> <p><b>Date of Incident:</b> April 29, 2014</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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In contravention of the April 29, 2014, department issued Order, the police officer answered one or more telephone calls from a family member of Citizen A between the dates of April 30 and May 23, 2014. Due to the call display feature, the police officer knew who was calling and chose to answer the phone call. The police officer did not report this contact to the police supervisor.

<p><b>Misconduct 4: <i>Neglect of Duty</i></b> (failure to follow a supervisor's lawful order)</p> <p><b>Date of Incident:</b> Between April 30 and May 23, 2014</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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In contravention of the April 29, 2014, department issued Order, the police officer had two telephone conversations with a family member of Citizen A between the dates of April 30, 2014, and May 26, 2014. The police officer did not report this contact to the police supervisor.

<p><b>Misconduct 5: <i>Neglect of Duty</i></b> (failure to follow a supervisor's lawful order)</p> <p><b>Date of Incident:</b> Between April 30 and May 26, 2014</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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In contravention of the April 29, 2014, department issued Order, the police officer had in-person contact with Citizen A at their place of employment on May 22, 2014. The police officer did not report this contact to the police supervisor.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct 6: <i>Neglect of Duty</i></b> (failure to follow a supervisor’s lawful order)  <b>Date of Incident:</b> May 22, 2014	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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In contravention of the April 29, 2014, department issued Order, the police officer sent a text message and had a telephone conversation with Citizen A on June 1, 2014. The police officer did not report this contact to the police supervisor.

<b>Misconduct 7: <i>Neglect of Duty</i></b> (failure to follow a supervisor’s lawful order)  <b>Date of Incident:</b> June 1, 2014	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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On May 23, 2014, during the course of the *Police Act* investigation, the investigator conducted an interview with the police officer. During that interview, the police officer denied having any contact with Citizen A after receiving the department issued Order on April 29, 2014.

<b>Misconduct 8: <i>Deceit</i></b> (false or misleading oral or written statement)  <b>Date of Incident:</b> May 23, 2014	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• 15 day suspension</li> </ul>
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On June 13, 2014, the police officer was arrested for Fraud and released on a Recognizance of Bail with eight conditions, including, in part, not to have contact or communication, directly or indirectly, with Citizen A or any member of Citizen A’s family and not to attend Citizen A’s place of employment. This Recognizance was in effect until April 20, 2015.

In contravention of the April 29, 2014, department issued Order and/or the Recognizance of Bail (as applicable), the police officer sent text messages to Citizen A between the dates of June 8 and July 8, 2014. The police officer did not report these contacts to the police supervisor.

<b>Misconduct 9: <i>Discreditable Conduct</i></b> (conduct that discredits the department)  <b>Date of Incident:</b> Between June 8 and July 8, 2014.	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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Between July 9, 2014, and September 19, 2014, the police officer attended Citizen A’s place of employment on approximately three different occasions in contravention of the April 29, 2014, department issued Order and/or the Recognizance of Bail (as applicable).

<b>Misconduct 10: <i>Discreditable Conduct</i></b> (conduct that discredits the department)  <b>Date of Incident:</b> Between July 9, 2014 and September 19, 2014.	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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On April 11, 2014, the police officer searched police databases for a purpose unrelated to his duties and accessed reports he was not authorized to access.

<b>Misconduct 11:</b> <i>Unauthorized Use of Police Facilities/Resources</i> (unauthorized search of CPIC and PRIME) <b>Date of Incident:</b> April 11, 2014	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 10 day suspension</li></ul>
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On April 11, 2014, the police officer sent a text message to Citizen A which contained confidential police information that the police officer was not authorized to disclose.

<b>Misconduct 12:</b> <i>Improper Disclosure of Information</i> (disclosing information acquired as a police officer) <b>Date of Incident:</b> April 11, 2014	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 10 day suspension</li></ul>
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Between February 20, 2012, and April 11, 2014, the police officer searched police databases for a purpose unrelated to his duties.

<b>Misconduct 13:</b> <i>Unauthorized Use of Police Facilities/Resources</i> (unauthorized search of CPIC and PRIME) <b>Date of Incident:</b> Between February 20, 2012, and April 11, 2014	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 2 day suspension</li></ul>
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### *Disciplinary process:*

This matter proceeded to a discipline proceeding. The Discipline Authority substantiated each allegation of misconduct and issued a decision on the appropriate disciplinary/corrective measures. This decision included the disciplinary measure of dismissing the police officer from employment at the department.

### *Adjudicative Review:*

Pursuant to section 137 of the *Police Act*, where a Discipline Authority proposes a disciplinary measure of dismissal or reduction in rank, upon written request from the police officer, the Commissioner must promptly arrange a **Public Hearing** or **Review on the Record**. The police officer requested a **Public Hearing** into the matter.

After reviewing all of the relevant information, the Police Complaint Commissioner determined that it would not be necessary to examine witnesses or receive evidence that was not part of the record of disciplinary decision. Therefore, pursuant to sections 137(2) and 143(2) of the *Police Act*, the Police Complaint Commissioner arranged a **Review on the Record**. The Police Complaint Commissioner appointed the Honourable Ronald McKinnon, retired British Columbia Supreme Court Judge.

On May 10, 2017, Adjudicator McKinnon determined that the Discipline Authority's findings were correct and the discipline imposed was appropriate given the serious nature of the misconduct.

*For further information on this decision, please visit the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca) under Adjudications.*

# SUBSTANTIATED ALLEGATION SUMMARIES

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## Central Saanich Police Service

No substantiated misconduct during the fiscal year 2017/2018.

### CFSEU

Ordered Investigation – Requested by Department  
(OPCC File 2017-13573)

*Allegation:*

On June 20, 2017, a police officer, while on duty, attended the Chilliwack Fish and Game Club for a training day. The police officer was in the process of unloading his firearm when he discharged a round from his service pistol. The firearm was pointed in a safe direction causing minor damage to a wood floor. No one was injured as a result of this incident.

<b>Misconduct:</b> <i>Improper Use or Care of Firearms</i> (negligent discharge of a firearm)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Verbal reprimand</li></ul>
<b>Date of Incident:</b> June 20, 2017	

*Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC reviewed the prehearing conference report and, considering all the relevant factors in this case, the discipline fell within the acceptable range for appropriate discipline in the circumstances. The OPCC approved the agreement reached at the prehearing conference.

## Delta

Internal Discipline  
(OPCC File 2017-13969)

The internal discipline investigation arose following a third-party complaint regarding potential misconduct between police officers within a patrol platoon. Although not required under the *Police Act*, due to the serious nature of these allegations the Delta Police Department kept the OPCC apprised of the internal investigation as it progressed.

*Allegations:*

Between April 19, 2017, and August 19, 2017, two police officers contravened the department's Respectful Workplace Policy, "Sexual Harassment", by participating in making inappropriate comments towards one or more police members.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<p><b>Misconduct 1: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)</p> <p><b>Date of Incident:</b> Between April 19, 2017 and August 19, 2017.</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <p><b>Member 1</b></p> <ul style="list-style-type: none"> <li>• 3 day suspension without pay</li> <li>• transfer to another platoon (change in mentorship)</li> <li>• further respectful workplace training</li> <li>• a meeting with Chief Constable to ensure that the member has gained an understanding of the training</li> </ul> <p><b>Member 2</b></p> <ul style="list-style-type: none"> <li>• 5 day suspension without pay</li> <li>• transfer to another platoon (change in mentorship)</li> <li>• further respectful workplace training</li> <li>• a meeting with Chief Constable to ensure that the member has gained an understanding of the training</li> </ul>
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Between April 19, 2017 and August 19, 2017, two police officers contravened the department’s Respectful Workplace Policy, “Bullying and Harassment,” by participating in harmful hazing and initiation practices towards one or more police members.

<p><b>Misconduct 2: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)</p> <p><b>Date of Incident:</b> Between April 19, 2017 and August 19, 2017.</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <p><b>Member 1</b></p> <ul style="list-style-type: none"> <li>• 3 day suspension without pay</li> <li>• transfer to another platoon (change in mentorship)</li> <li>• further respectful workplace training</li> <li>• a meeting with Chief Constable to ensure that the member has gained an understanding of the training</li> </ul> <p><b>Member 2</b></p> <ul style="list-style-type: none"> <li>• 5 day suspension without pay</li> <li>• transfer to another platoon (change in mentorship)</li> <li>• further respectful workplace training</li> <li>• a meeting with Chief Constable to ensure that the member has gained an understanding of the training</li> </ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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Between April 19, 2017, and August 19, 2017, the police officer engaged in unorthodox field practices which created an intimidating environment.

<p><b>Misconduct 3: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)</p> <p><b>Date of Incident:</b> Between April 19, 2017 and August 19, 2017.</p>	<p><b>Disciplinary/Corrective Measure:</b> <b>Member 2</b></p> <ul style="list-style-type: none"> <li>• 5 day suspension without pay</li> <li>• transfer to another platoon (change in mentorship)</li> <li>• further respectful workplace training</li> <li>• a meeting with Chief Constable to ensure that the member has gained an understanding of the training</li> </ul>
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The discipline imposed was based on the totality of the circumstances rather than per allegation.

*OPCC Review:*

At the end of the investigation, the Discipline Authority identified a number of areas that could be improved within the department. His nine recommendations included: further respectful workplace training, a fulsome review of the field training officer program, stabilizing patrol supervision through substantive supervisors, implementation of a recruit check-up system, re-assignment of C-platoon, debriefs with subject officers, professional standards section and the Delta Police Association, and mediation between subject officers and affected officers.

The OPCC reviewed the investigation and determined that the outcomes were appropriate. The OPCC determined there were no additional public trust matters that required investigation.

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

*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><b>Misconduct: <i>Improper Use or Care of Firearms</i></b> (unsafe storage of a firearm)</p> <p><b>Date of Incident:</b> May 29, 2017</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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*Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC reviewed the prehearing conference report and, considering all the relevant factors in this case, the OPCC determined the discipline was within the acceptable range for appropriate discipline based on the circumstances.

## SUBSTANTIATED ALLEGATION SUMMARIES

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In this case, the police officer accepted full responsibility for their actions in not locking the transport container, knowing that it contained both ammunition and a departmental firearm. The police officer also accepted responsibility for failing to ensure that the police issued firearm remained under their control and not considering the serious potential consequences resulting from its loss. It was determined that additional training with respect to the safe handling of firearms was not required for the member as they are considered to be an experienced firearms handler.

The OPCC approved the agreement reached at the prehearing conference.

### Internal Discipline (OPCC File 2016-12680)

*Allegation:*

A police officer failed to follow department policy on handling drug exhibits.

<b>Misconduct:</b> <i>Neglect of Duty</i> (improper/inadequate documentation of seized property) <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li></ul>
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*OPCC Review:*

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. The OPCC determined there were no public trust concerns that required investigation.

### Registered Complaint (OPCC File 2016-12392)

*Allegation:*

On July 22, 2016, a police officer initiated a traffic stop of a vehicle where the complainant was a passenger. The police officer failed to properly document a contemporaneous detailed account of the vehicle stop, arrest, and search of the complainant and the driver of the vehicle.

<b>Misconduct:</b> <i>Neglect of Duty</i> (inadequate documentation/notes/records) <b>Date of Incident:</b> July 22, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li></ul>
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*Disciplinary process:*

The matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC reviewed the prehearing conference report and, considering all the relevant factors in this case, the OPCC determined the discipline was within the acceptable range for appropriate discipline based on the circumstances.

The OPCC approved the agreement reached at the prehearing conference.



## SUBSTANTIATED ALLEGATION SUMMARIES

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### Ordered Investigation – Initiated by PCC (OPCC File 2016-11864)

*Allegations:*

On November 13, 2015, a police officer arranged to meet a woman that the police officer had initially met on the Ashley Madison dating website. At the time of the meeting, the police officer was on duty and, as a means of identification, presented department issued police identification to the woman.

<p><b>Misconduct 1:</b> <i>Discreditable Conduct</i> (conduct that would discredit the department)</p> <p><b>Date of Incident:</b> November 13, 2015</p>	<p><b>Disciplinary/Corrective Measure:</b> <b>Member 1</b></p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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While “on call”, the police officer improperly used a police vehicle for the purpose of engaging in an extramarital affair and had an unauthorized civilian in a police vehicle.

<p><b>Misconduct 2:</b> <i>Discreditable Conduct</i> (conduct that would discredit the department)</p> <p><b>Date of Incident:</b> Undated</p>	<p><b>Disciplinary/Corrective Measure:</b> <b>Member 1</b></p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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The police officer disclosed holdback information from a suspected homicide investigation to the woman.

<p><b>Misconduct 3:</b> <i>Improper Disclosure of Information</i> (disclosing information acquired as a police officer)</p> <p><b>Date of Incident:</b> Undated</p>	<p><b>Disciplinary/Corrective Measure:</b> <b>Member 1</b></p> <ul style="list-style-type: none"> <li>• 15 day suspension</li> </ul>
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The police officer disclosed information from a drug warrant execution by showing the woman photographs.

<p><b>Misconduct 4:</b> <i>Improper Disclosure of Information</i> (disclosing information acquired as a police officer)</p> <p><b>Date of Incident:</b> Undated</p>	<p><b>Disciplinary/Corrective Measure:</b> <b>Member 1</b></p> <ul style="list-style-type: none"> <li>• 1 day suspension</li> </ul>
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The police officer disclosed information from a fatal motor vehicle collision to the woman.

<p><b>Misconduct 5:</b> <i>Improper Disclosure of Information</i> (disclosing information acquired as a police officer)</p> <p><b>Date of Incident:</b> Undated</p>	<p><b>Disciplinary/Corrective Measure:</b> <b>Member 1</b></p> <ul style="list-style-type: none"> <li>• 1 day suspension</li> </ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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The police officer requested another police officer to block the phone number of the phone used to call the woman. The police officer further requested that the other police officer not identify themselves as a police officer when requesting the woman cease contact with the police officer.

<b>Misconduct 6: <i>Discreditable Conduct</i></b> (conduct that would discredit the department)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <b>Member 1</b> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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Member 1 directed Member 3 to conduct an investigation into his complaint of criminal harassment. This created a conflict of interest in that Member 1 failed to make his report as a private citizen through the proper protocols.

<b>Misconduct 7: <i>Discreditable Conduct</i></b> (conduct that would discredit the department)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <b>Member 1</b> <ul style="list-style-type: none"> <li>• 1 day suspension</li> </ul>
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The police officer operated outside their authority as a police officer by requesting the woman to cease contacting the police officer with whom she was alleged to have been in a relationship with.

<b>Misconduct 8: <i>Discreditable Conduct</i></b> (conduct that would discredit the department)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <b>Member 2</b> <ul style="list-style-type: none"> <li>• Verbal reprimand</li> </ul>
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The police officer failed to adequately investigate a complaint of harassment.

<b>Misconduct 9: <i>Neglect of Duty</i></b> (inadequate investigation)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <b>Member 3</b> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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*Disciplinary process:*

This matter proceeded to a prehearing conference for each of the police officers. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC reviewed the prehearing conference reports and, considering all the relevant factors in this case, the OPCC determined the discipline was within the acceptable range for appropriate discipline based on the circumstances.

The OPCC approved the agreement reached at the prehearing conference.

*\*Note all suspensions for this police officer were to be served concurrently.*

## SUBSTANTIATED ALLEGATION SUMMARIES

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### Registered Complaint (OPCC File 2015-11042)

#### *Allegations:*

On May 28, 2015, a police officer intentionally or recklessly used unnecessary force on the complainant by tossing or hip-checking him to the ground and stepping on his chest.

<b>Misconduct 1:</b> <i>Abuse of Authority</i> (excessive force – empty hand)  <b>Date of Incident:</b> May 28, 2015	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• 1 day suspension</li></ul>
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On May 28, 2015, the police officer was part of an integrated unit that attended the complainant's residence. Once inside the residence, the police officer detained and handcuffed the complainant without lawful authority.

<b>Misconduct 2:</b> <i>Abuse of Authority</i> (unlawful detention)  <b>Date of Incident:</b> May 28, 2015	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Training/Retraining consisting of a legal refresher in Arrest and Detention Authority</li></ul>
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On May 28, 2015, the police officer failed to advise the complainant the reason for his detention and of his right to counsel.

<b>Misconduct 3:</b> <i>Neglect of Duty</i> (failure to provide <i>Charter</i> rights)  <b>Date of Incident:</b> May 28, 2015	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Training/Retraining consisting of a legal refresher in Arrest and Detention Authority</li></ul>
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On May 28, 2015, the police officer participated in a search of the complainant's vehicle, house, garage and cell phone without good and sufficient cause and seized property belonging to the complainant.

<b>Misconduct 4:</b> <i>Abuse of Authority</i> (unlawful search – non person)  <b>Date of Incident:</b> May 28, 2015	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Training/Retraining on Search and Seizure</li></ul>
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#### *Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC reviewed the prehearing conference reports and, considering all the relevant factors in this case, the OPCC determined the discipline was within the acceptable range for appropriate discipline based on the circumstances. A significant mitigating factor was the conduct of several other officers\* who were present at the time that this incident occurred.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference. *\*This police officer was part of an integrated gang task force. There were other officers present during this conduct; however these officers were from an agency outside the jurisdiction of the Office of the Police Complaint Commissioner.*

# SUBSTANTIATED ALLEGATION SUMMARIES

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## Nelson

Internal Discipline  
(OPCC File 2017-13226)

*Allegation:*

A police officer entered into a relationship with a civilian employee of the Nelson Police Department whom the police officer was supervising.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li><li>• Transfer/Re-Assignment</li></ul>
<b>Date of Incident:</b> Late 2016/Early 2017	

*OPCC Review:*

The internal discipline investigation determined that the relationship was consensual and did not take place while the police officer was on duty or on police property. Although the relationship ended, the police officer would not be provided the opportunity to act as the civilian employee's supervisor again.

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. The OPCC determined there were no public trust concerns that required investigation.

Internal Discipline  
(OPCC File 2017-13225)

*Allegation:*

An off-duty police officer was seen at a pub in the early hours of December 18, 2016, and then failed to report for a scheduled shift that morning.

<b>Misconduct:</b> <i>Neglect of Duty</i> (absent/late for duty)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Counselling/Treatment*</li></ul>
<b>Date of Incident:</b> December 18, 2016	

*OPCC review:*

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. The OPCC determined there were no public trust concerns that required investigation.

Internal Discipline  
(OPCC File 2017-13006)

*Allegation:*

Sometime near the end of October 2016, a police officer approached a supervisor to request a change in working night shifts to day shifts for the week on November 2 – 5, 2016, to accommodate his feeling sick, a new relationship, and a social event. The supervisor was unable to accommodate this request.

On November 2, 2016, at 0822 hours, the supervisor received a text message from the police officer stating that they had a fever, sore throat, and congestion but hoped to return to duty for November 4 and 5, 2016.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct:</b> <i>Neglect of Duty</i> (absent/late for duty) <b>Date of Incident:</b> November 2 and 3, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Counselling/ Treatment*</li></ul>
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*OPCC Review:*

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. The OPCC determined there were no public trust concerns that required investigation.

\* Based on the concerns contained in OPCC 2017-13225 and OPCC 2017-13006, a work agreement was formalized between the department and the police officer that included an understanding that any non-compliance with the agreement may result in the police officer being deemed unfit to work for the department.

### New Westminster

#### Ordered Investigation – Requested by Department (OPCC File 2016-12722)

*Allegation:*

On October 16, 2016, while off duty, a police officer was stopped while driving a motor vehicle at a police road check for impaired drivers. During the course of the stop the police officer was requested to provide breath samples into an Approved Screening Device (ASD). The police officer provided an initial breath sample that registered a "WARN" on the ASD and a "FAIL" on the second breath sample. As the result the police officer was issued a three day Immediate Roadside Prohibition (IRP) and his vehicle was towed to his residence.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department) <b>Date of Incident:</b> October 15, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 3 day suspension</li></ul>
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This matter proceeded to a discipline proceeding where the Discipline Authority (DA) substantiated the allegation for operating a motor vehicle while under the influence of alcohol and receiving an IRP. The DA did not substantiate two additional allegations of *Discreditable Conduct* which related to the member displaying their police badge to the investigating officer and for interfering with an impaired investigation by lying to the investigating officer about their consumption of alcohol.

*Adjudicative review:*

Pursuant to section 117 of the *Police Act*, if the Police Complaint Commissioner disagrees with the decision of the Discipline Authority to not substantiate an allegation of misconduct, the PCC may appoint a retired judge to review the matter. In this case, the Police Complaint Commissioner disagreed with the Discipline Authority and appointed the Honourable Carole Lazar, retired Provincial Court Judge to review the allegations that were not substantiated.

## SUBSTANTIATED ALLEGATION SUMMARIES

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Ms. Lazar issued her determination on the matter and found that the evidence did not appear sufficient to substantiate the allegations related to the member displaying their police badge or for interfering with an impaired investigation. Ms. Lazar's decision is not open to question or review by a court on any ground and is final and conclusive.

*For more information on this decision, please visit the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca) under Adjudications.*

### Oak Bay

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

*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.

<b>Misconduct:</b> <i>Improper Use or Care of Firearms</i> (negligent discharge of firearm)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li></ul>
<b>Date of Incident:</b> April 5, 2017	

*Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. In reviewing the proposed discipline in this matter, the OPCC determined that the discipline appeared to be correct and appropriate with respect to the circumstances. There did not appear to be any moral culpability on the part of the member considering the circumstances.

Anytime a police firearm is unintentionally or negligently discharged, the potential for serious injury exists. The police officer acknowledged that they did not use the unloading station and advised that they will ensure they do so in the future. The police officer accepted full responsibility for his actions.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

## SUBSTANTIATED ALLEGATION SUMMARIES

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### Ordered Investigation – Requested by Department (OPCC File 2016-12894)

*Allegation:*

The police officer, either on or off-duty, used the services of a sex trade worker.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>Dismissal</li></ul>
<b>Date of Incident:</b> Undated	

*Disciplinary process:*

This matter proceeded to a discipline proceeding. The Discipline Authority determined that the allegation was substantiated and determined that the police officer ought to be dismissed from employment at the police department for this conduct.

In cases where the imposed discipline is dismissal or reduction in rank, the police officer has a right to a **Public Hearing** or a **Review on the Record**, if requested. No request was received from the police officer. Based on a review of the evidence, the OPCC was satisfied that the decision of the Discipline Authority was appropriate considering the circumstances.

## Port Moody

### Ordered Investigation – Requested by Department (OPCC File 2017-12978)

*Allegation:*

A police officer played a practical joke on a fellow officer which resulted in an unintended, but serious, injury to the other officer.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>Verbal reprimand</li></ul>
<b>Date of Incident:</b> December 25, 2016	

*Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. In reviewing the proposed discipline in this matter, the OPCC determined that the discipline appeared to be correct and appropriate with respect to the circumstances.

In this case, the police officer accepted full responsibility for their actions from the beginning, demonstrated remorse, and has remained friends with the victim member. The police officer reviewed both the department's Occupational Health and Safety policy and Respectful Workplace policy. The police officer also completed an online course through Canadian Police Knowledge Network on Respectful Workplace prior to the prehearing conference.

## SUBSTANTIATED ALLEGATION SUMMARIES

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Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### SCBCTAPS

Internal Discipline  
(OPCC File 2017-13438)

*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 was 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.

<b>Misconduct:</b> <i>Neglect of Duty</i> (failure to comply with departmental policy/ regulations)  <b>Date of Incident:</b> undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Dismissal</li></ul>
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*OPCC Review:*

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.

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. The OPCC determined there were no public trust concerns that required investigation.



## SUBSTANTIATED ALLEGATION SUMMARIES

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### Internal Discipline (OPCC File 2016-12824)

*Allegation:*

The police officer used the PRIME database system, without permission, to gather statistics for their master's degree course.

<p><b>Misconduct:</b> <i>Unauthorized Use of Police Facilities/Resources</i> (unauthorized search of CPIC/PRIME)</p> <p><b>Date of Incident:</b> undated</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Written reprimand;</li> <li>• 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;</li> <li>• The police officer also provided a written apology.</li> </ul>
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*OPCC Review:*

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. The OPCC determined there were no public trust concerns that required investigation.

### Internal Discipline (OPCC File 2016-12652)

*Allegations:*

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><b>Misconduct:</b> <i>Neglect of Duty</i> (inadequate investigation)</p> <p><b>Date of Incident:</b> undated</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Undertake training or re-training in the following areas:             <ol style="list-style-type: none"> <li>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</li> <li>b. Investigative skills, report writing, and note taking.</li> </ol> </li> <li>• Implementation of a coaching and development plan, which would provide the police officer with the opportunity for success and improvement.</li> </ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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A police supervisor failed to provide proper oversight and supervision over this police officer's investigation.

<p><b>Misconduct:</b> <i>Neglect of Duty</i> (inadequate investigation)</p> <p><b>Date of Incident:</b> undated</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Undertake such training or re-training in the following areas:             <ol style="list-style-type: none"> <li>a. the Provincial Government's domestic violence policy, as well as relevant department policy;</li> <li>b. Supervisor's responsibilities in relation to the oversight of investigations, including follow up and workflow.</li> </ol> </li> </ul>
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*OPCC Review:*

The OPCC reviewed the investigation and the Internal Discipline Authority's decision. Upon review of this matter, the Police Complaint Commissioner determined that there were public trust concerns; however, he determined that it was not in the public interest to exercise his discretion to order as the PCC learned this matter was proceeding to arbitration where those concerns would be addressed.

**Registered Complaint**  
(OPCC File 2014-9836)

*Allegations:*

On July 18, 2014, two police officers were directed to attend a private residence to effect the arrest of a suspect in a criminal harassment complaint. A police supervisor instructed the two police officers to contact the local police department and request cover officers to prevent an escape of the suspect. The two police officers failed to contact the local police department and request the back-up officers.

<p><b>Misconduct 1:</b> <i>Neglect of Duty</i> (failure to follow a supervisor's lawful order)</p> <p><b>Date of Incident:</b> July 18, 2014</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <p><b>Member 1</b></p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul> <p><b>Member 2</b></p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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The two police officers attended the suspect's apartment building and buzzed the suite to gain entry. The officers then proceeded to the apartment where a male answered the door. The male asked the reason for the police presence and then advised that he was going to telephone his lawyer. After waiting a few moments, a female exited one of the bedrooms. When questioned, the female advised that she did not know where the male had gone. One of the police officers proceeded to enter the private residence without permission and without a warrant.

<p><b>Misconduct 2:</b> <i>Abuse of Authority</i> (unlawful entry)</p> <p><b>Date of Incident:</b> July 18, 2014</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <p><b>Member 1</b></p> <ul style="list-style-type: none"> <li>• At least 10 hours of training on the law relating to entering and searching homes and buildings and the <i>Charter</i> protection against unreasonable search and seizure.</li> </ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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The male suspect was not located on July 18, 2014, despite the area being searched with the assistance of local officers and a police dog. It was determined that the officers neglected to comply with standard procedures of covering a potential escape route and did not have sufficient resources present for a person who was suicidal and an escape risk. These actions were deemed to be a disregard for basic procedures that placed the public at risk.

<b>Misconduct 3: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)  <b>Date of Incident:</b> July 18, 2014	<b>Disciplinary/Corrective Measure:</b> <b>Member 1</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul> <b>Member 2</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
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### *Disciplinary process:*

This matter proceeded to a discipline proceeding. The Discipline Authority substantiated the three allegations of misconduct and, imposed discipline: a written reprimand for the unlawful entry of the complainant's residence; a written reprimand for the failure to properly execute an arrest; and a four day suspension without pay for failing to obey a lawful order of a supervisor.

### *Adjudicative Review:*

The two respondent police officers submitted a request for a **Review on the Record** to the Police Complaint Commissioner pursuant to section 141 of the *Police Act*. They believed that the decision of the Discipline Authority was incorrect and established a precedent where members must follow directions from a supervisor, regardless whether that direction is lawful. Additionally, the officers believed the discipline imposed was excessive and did not consider the intent of the Act to be corrective and educational.

After reviewing all of the relevant material, the Police Complaint Commissioner agreed with the Discipline Authority's determination that the alleged misconduct had been proven. However, the Police Complaint Commissioner determined that there was an arguable basis that the proposed discipline was inappropriate in the circumstances.

Therefore, pursuant to sections 137(2) and 141 of the *Police Act*, the Police Complaint Commissioner arranged a **Review on the Record** to review the proposed disciplinary and corrective measures issued by the Discipline Authority in this matter. The Police Complaint Commissioner appointed the Honourable Wally Oppal, Q.C., retired British Columbia Court of Appeal Judge to preside as an Adjudicator in these proceedings.

On January 22, 2018, Adjudicator Oppal, Q.C., issued his decision where he imposed a written reprimand to both officers for the failure to follow a lawful order and for failing to execute the arrest of the suspect for both officers. Adjudicator Oppal directed the officer who unlawfully entered the residence to attend at least 10 hours of training on the law relating to entering and searching homes and buildings and the *Charter* protection against unreasonable search and seizure.

*For further information on this decision, please visit the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca) under Adjudications.*

# SUBSTANTIATED ALLEGATION SUMMARIES

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## Saanich

Ordered Investigation – Requested by Department  
(OPCC File 2017-13855)

*Allegation:*

On August 12, 2017, a police officer left a backpack in a covert police vehicle parked outside of a hotel. On the morning of August 13, 2017, it was noted that the covert police vehicle had been entered overnight and the backpack had been stolen. The contents of the stolen backpack included a mini Glock magazine containing eight .40 caliber rounds, one OC spray, a video camera, a police issued notebook, and a camouflage rain jacket and pants. It was reported that the video camera contained surveillance footage.

On August 18, 2017, the mini Glock magazine containing the eight rounds of ammunition, the O.C. spray, the JVC video camera, the police notebook and a jacket were recovered. The Vortex Diamondback binoculars and several of police officer's personal clothing items remain missing.

<b>Misconduct:</b> <i>Neglect of Duty</i> (failure to comply with departmental policy/regulation)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li></ul>
<b>Date of Incident:</b> August 13, 2017	

*Disciplinary Process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. In this case, the police officer inadvertently left a bag containing police equipment in a police vehicle which was broken into during the overnight hours and the bag and contents were stolen. There was no evidence of any deceitful or malicious intent behind the officers' actions and the officer accepted full responsibility. It was determined that the likelihood of similar future misconduct to be unlikely.

In reviewing the proposed discipline in this matter, the OPCC determined that the discipline appeared to be correct and appropriate with respect to the circumstances.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

## SUBSTANTIATED ALLEGATION SUMMARIES

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### Ordered Investigation – Requested by Department (OPCC File 2017-13496)

*Allegation:*

On May 23, 2017, a police officer left a loaded service firearm in a public washroom. An outside policing agency conducted a criminal investigation for Careless Use of a Firearm pursuant to section 86(1) of the *Criminal Code*. A Report to Crown Counsel was submitted and Crown Counsel determined there was no substantial likelihood of conviction and no public interest in pursuing a prosecution.

<b>Misconduct:</b> <i>Improper Use or Care of Firearm</i> (unsafe storage of firearm)  <b>Date of Incident:</b> May 23, 2017	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Verbal reprimand</li></ul>
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*Disciplinary process:*

This matter proceeded to a prehearing conference. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. In this case, as soon as the police officer realized their firearm was missing, the police officer immediately notified their supervisor, took steps to locate the firearm and have it secured, then retrieved it right away while offering apologies. Additionally, the police officer did not minimize their conduct and was open and transparent during their interview. The police officer readily admitted to what occurred and accepted responsibility for their actions. The police officer had also taken steps to ensure this behaviour will not occur again.

After reviewing the criminal investigation into this matter and the *Police Act* investigation, it was the OPCC's view that the discipline proposed was in the appropriate range based on the circumstances of the file.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Ordered Investigation – Requested by Department (OPCC File 2017-13174)

*Allegations:*

The police officer continued an informant relationship after the department ordered the relationship be terminated.

<b>Misconduct 1:</b> <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 30 day suspension</li></ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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The police officer inappropriately shared personal information with the informant through text messaging.

<b>Misconduct 2: <i>Discreditable Conduct</i></b> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• 30 day suspension</li> </ul>
<b>Date of Incident:</b> Undated	

*Disciplinary process:*

This matter proceeded to a discipline proceeding where the Discipline Authority substantiated both allegations of misconduct and determined that the conduct warranted a 30 day suspension for each allegation that was to be served concurrently.

The police officer was informed that if they were aggrieved by these findings, they could request the Police Complaint Commissioner arrange a **Public Hearing** or **Review on the Record**. The OPCC did not receive a request from the police officer.

Based on a review of the evidence, the OPCC was satisfied that the decision of the Discipline Authority was appropriate considering the circumstances.

### Ordered Investigation – Requested by Department (OPCC File 2017-13019)

*Allegations:*

A police officer misappropriated monies seized from a member of the public.

<b>Misconduct 1: <i>Corrupt Practice</i></b> (misappropriation of property or money received in course of duty)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
<b>Date of Incident:</b> Undated	

A police officer threatened a member of the public.

<b>Misconduct 2: <i>Discreditable Conduct</i></b> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
<b>Date of Incident:</b> Undated	

The police officer knowingly provided false or misleading evidence to the *Police Act* investigator in relation to the meaning of text messages relevant to the allegation that the police officer committed *Corrupt Practice* by misappropriating money.

<b>Misconduct 3: <i>Deceit</i></b> (false or misleading oral or written statement)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
<b>Date of Incident:</b> January 31, 2017	

## SUBSTANTIATED ALLEGATION SUMMARIES

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The police officer knowingly provided false or misleading evidence to the *Police Act* investigator.

<b>Misconduct 4: Deceit</b> (false or misleading oral or written statement)  <b>Date of Incident:</b> January 31, 2017	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>Dismissal</li></ul>
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### *Disciplinary process:*

This matter proceeded to a discipline proceeding where the Discipline Authority substantiated each allegation of misconduct and determined that the conduct of the member warranted dismissal from employment at the police department.

In cases where the imposed discipline is dismissal or reduction in rank, the police officer has a right to a **Public Hearing** or a **Review on the Record**, if requested. No request was received from the police officer.

Based on a review of the evidence, the OPCC was satisfied that the decision of the Discipline Authority was appropriate considering the circumstances.

### Ordered Investigation – Requested by Department (OPCC File 2015-10543)

The police department requested an Order for Investigation after receiving information that a police officer was involved in an inappropriate relationship. During the course of the investigation several more allegations of misconduct were identified.

### *Allegations:*

A police officer attempted to collect monies on behalf of an associate via threats and coercion, including threats of criminal sanctions.

The *Police Act* investigation was suspended during the criminal investigation into this allegation. After reviewing the criminal investigation, Crown Counsel did not approve charges and the suspension of the *Police Act* proceedings was lifted.

<b>Misconduct 1: Corrupt Practice</b> (using police authority for personal gain)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>Dismissal</li></ul>
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The police officer failed to conduct an adequate investigation into a report of a domestic assault.

<b>Misconduct 2: Neglect of Duty</b> (inadequate investigation)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>5 day suspension</li></ul>
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The police officer sent and received sexual text messages and images to and from a victim of crime.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct 3: <i>Discreditable Conduct</i></b> (conduct that discredits the department)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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The police officer failed to comply with the requirements of Saanich Police Department Policy OD50 governing the handling of confidential sources.

<b>Misconduct 4: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• 5 day suspension</li> </ul>
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The police officer conducted an inadequate investigation into a complaint of sexual assault and robbery.

<b>Misconduct 5: <i>Neglect of Duty</i></b> (inadequate investigation)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Reduction in rank for a minimum period of 1 year</li> </ul>
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The police officer filed a false or misleading investigative report and made false or misleading radio broadcasts related to an investigation.

<b>Misconduct 6: <i>Deceit</i></b> (false or misleading entry in an official document or record)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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The police officer conducted queries of the PRIME Records Management System for information about individuals that were not related to the proper performance of the police officer's duties.

<b>Misconduct 7: <i>Unauthorized Use of Police Facilities/Resources</i></b> (unauthorized search of CPIC/PRIME)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Reduction in rank for a minimum period of 1 year</li> </ul>
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On September 7, 2016, the police officer made false or misleading statements to the investigating officer responsible for this *Police Act* investigation.

<b>Misconduct 8: <i>Deceit</i></b> (false or misleading oral or written statement)  <b>Date of Incident:</b> September 7, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Dismissal</li> </ul>
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The police officer observed a privatized file on the PRIME Records Management System and then communicated with an associate and made multiple attempts to further communicate with the associate in an effort to determine what had been disclosed to police that resulted in his removal from normal operational duties.



## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct 9: <i>Discreditable Conduct</i></b> (conduct that discredits the department) <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Reduction in rank for a minimum period of 1 year</li></ul>
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The police officer made false or misleading statements in his written statement to Crown Counsel.

<b>Misconduct 10: <i>Deceit</i></b> (false or misleading oral or written statement) <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Dismissal</li></ul>
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The police officer made false or misleading statements.

<b>Misconduct 11: <i>Deceit</i></b> (false or misleading oral or written statement) <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Dismissal</li></ul>
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### *Disciplinary process:*

This matter proceeded to a discipline proceeding. During the *Police Act* investigation, the police officer resigned and chose not to participate in the Discipline Proceeding.

The Discipline Authority found the officer's conduct in relation to these allegations to be inexcusable and put the public at risk, the public confidence in the Saanich police at risk, the reputation of the Saanich police at risk and, in their totality, were grounds for dismissal. While individually some of the allegations may have warranted a lower level of discipline, the Discipline Authority was compelled to look at the conduct as a continuum of behaviour that occurred over a period of time and that was interconnected. As such, the Discipline Authority determined that the disposition must represent this context.

As the former member resigned from the Saanich Police Department, the Discipline Authority's decisions regarding the proposed disciplinary measures were written as though the police officer was still with the department and they will form part of the Service Record of Discipline for this member regardless of their current employment situation.

In cases where the imposed discipline is dismissal or reduction in rank, the police officer has a right to a **Public Hearing** or a **Review on the Record**, if requested. No request was received from the police officer.

Based on a review of the evidence, the OPCC was satisfied that the decision of the Discipline Authority was appropriate considering the circumstances.

### Ordered Investigation – Requested by Department (OPCC File 2014-10016)

#### *Allegations:*

The police officer disclosed information acquired as a police officer to their spouse.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct 1: <i>Improper Disclosure of Information</i></b> (disclosing information acquired as a police officer)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
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The police officer had knowledge of matters that the police officer should have brought to the attention of the police department.

<b>Misconduct: <i>Discreditable Conduct</i></b> (conduct that discredits the department)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
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### *Disciplinary process:*

This matter proceeded to a discipline proceeding where the Discipline Authority determined that the allegations were substantiated. The police officer was informed that if they were aggrieved by either the findings or determinations, they could request the Police Complaint Commissioner arrange a **Public Hearing or Review on the Record**. The OPCC did not receive a request from the police officer. Based on a review of the evidence, the OPCC was satisfied that the decision of the Discipline Authority was appropriate considering the circumstances.

## Stl'atl'imx Tribal Police

No substantiated misconduct during the fiscal year 2017/2018.

## Vancouver

### Ordered Investigation – Requested by Department

(OPCC File 2017-13402)

### *Allegation:*

On February 17, 2017, a Special Municipal Constable (SMC) failed to abide by the *Motor Vehicle Act* by disobeying a sign prohibiting a right turn.

<b>Misconduct: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)  <b>Date of Incident:</b> February 17, 2017	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Advice to future conduct</li></ul>
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### *Disciplinary process:*

This matter proceeded to a prehearing conference where an agreement was reached with respect to the proposed discipline of advice to future conduct.

A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. The OPCC determined that the discipline was on the low end of the range for appropriate discipline based on the circumstances. In this case, the SMC was aware that the right turn was illegal, as evidenced by a comment made to others in the vehicle, and chose to clear the intersection and

## SUBSTANTIATED ALLEGATION SUMMARIES

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proceed anyway. However, the SMC admitted to the error in judgement and accepted full responsibility for the misconduct.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Ordered Investigation – Initiated by PCC (OPCC File 2017-13254)

*Allegation:*

On March 16, 2017, a police officer was in their office preparing for a firearms qualification session later that day. The police officer placed a magazine into the firearm and racked the slide which placed a bullet into the chamber. The gun discharged with the bullet entering the cement wall. No one was injured as a result of this incident.

<b>Misconduct:</b> <i>Improper Use or Care of Firearms</i> (negligent discharge of a firearm)  <b>Date of Incident:</b> March 16, 2017	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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*Disciplinary process:*

The matter proceeded to a prehearing conference where an agreement was reached with respect to the proposed discipline of a written reprimand.

A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. In this case, the OPCC was informed that the police officer already completed follow up training before a final determination was made which indicated the police officer's desire to correct any deficits in the safe operation of this firearm. The police officer also assumed full responsibility for their actions and admitted their error in judgement.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Internal Discipline (OPCC File 2017-13186)

*Allegations:*

A civilian employee reported that on January 20, 2017, a police officer made inappropriate comments towards them in front of other staff members that caused the civilian employee to feel "bullied and harassed... embarrassed and belittled."

<b>Misconduct 1:</b> <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations)  <b>Date of Incident:</b> January 20, 2017	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"> <li>• Written reprimand*</li> <li>• Training/Re-Training consisting of completing the City of Vancouver's City Learn – Conflict Management Skills</li> </ul>
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## SUBSTANTIATED ALLEGATION SUMMARIES

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While in a telephone conversation with another officer, the police officer stated that the civilian employee “needs to be knocked off their throne.”

<p><b>Misconduct 2: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)</p> <p><b>Date of Incident:</b> January 20, 2017</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Written reprimand*</li> <li>• Training/Re-Training consisting of completing the City of Vancouver’s City Learn – Conflict Management Skills</li> </ul>
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In that same telephone conversation the police officer indicated that the civilian employee was replaceable or could be replaced within minutes.

<p><b>Misconduct 3: <i>Neglect of Duty</i></b> (failure to comply with departmental policy/regulations)</p> <p><b>Date of Incident:</b> January 20, 2017</p>	<p><b>Disciplinary/Corrective Measure:</b></p> <ul style="list-style-type: none"> <li>• Written reprimand*</li> <li>• Training/Re-Training consisting of completing the City of Vancouver’s City Learn – Conflict Management Skills</li> </ul>
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After reviewing the Internal Discipline Investigation Report, the Discipline Authority was satisfied that there was sufficient evidence to support that the respondent police officer contravened the Respectful Workplace Policy relating to each of the three alleged comments about the civilian employee.

The Discipline Authority recognized that there existed a power imbalance as the police officer was a senior member of the Vancouver Police Department.

The police officer did not admit the misconduct as the police officer indicated that they could not recall their exact comments and did admit in the second part of the investigation that, while they did not recall what was said, they “cannot categorically deny making the statements.”

The Discipline Authority considered that the corrective measures considered must provide deterrence to the both the respondent police officer and to the rest of the workforce. The Discipline Authority also recognized that corrective measures in general are to correct behaviour as opposed to punish that behaviour.

*\*The Discipline Authority imposed one written reprimand for all three allegations of Neglect of Duty and directed the police officer to complete a training course on conflict management skills to assist with successfully managing interpersonal conflict.*

**OPCC Review:**

The OPCC reviewed the Internal Discipline Record of Decision and determined there were no public trust issues.

## SUBSTANTIATED ALLEGATION SUMMARIES

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### Internal Discipline (OPCC File 2017-13144)

#### *Allegations:*

On February 16, 2017, a police officer communicated intimidating comments by way of a text message to a co-worker contrary to section 4.1.11 of the Respectful Workplace Policy of the Vancouver Police Department Regulations and Procedures Manual (RPM).

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)  <b>Date of Incident:</b> February 16, 2017	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• 1 day suspension</li></ul>
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#### *OPCC Review:*

The OPCC reviewed the Internal Discipline Record of Decision and determined there were no public trust issues.

### Ordered Investigation – Initiated by PCC (OPCC File 2017-13143)

The Vancouver Police Department reported this matter to the OPCC as the off-duty police officer was the subject of a police investigation.

#### *Allegations:*

An off-duty police officer acted in a manner that prompted a civilian to call police to report suspicious behaviour. When police attended, the off-duty officer was found to be intoxicated in public to the point where it was determined there were grounds for an arrest for Causing a Disturbance. It was subsequently decided that the off-duty police officer would be driven home and placed in the care of their partner.

<b>Misconduct 1:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)  <b>Date of Incident:</b> December 28, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 1 day suspension</li></ul>
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When police asked the subject of the complaint for their identification, the off-duty officer pulled out a small badge wallet and flipped it open to a police badge while stating they were a police officer.

<b>Misconduct 2:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)  <b>Date of Incident:</b> December 28, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
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#### *Disciplinary process:*

The Discipline Authority reviewed the investigation and determined there was sufficient evidence to substantiate the allegation of *Discreditable Conduct* in relation to the police officer acting in a manner that prompted police attendance and for being intoxicated in public to the point that there were grounds for arrest for Causing a Disturbance.

## SUBSTANTIATED ALLEGATION SUMMARIES

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The Discipline Authority did not find that there was sufficient evidence to support a second finding of *Discreditable Conduct* for producing their police badge to the responding police officers and for stating they were a police officer.

This matter proceeded to a prehearing conference in relation to the first allegation of *Discreditable Conduct* where an agreement was reached with respect to the proposed discipline of a one day suspension. A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review.

In reviewing the investigation and considering all the relevant factors in this case, it was the OPCC's view that the discipline was on the very low end of the range for appropriate discipline based on the circumstances. However, the police officer took responsibility for their actions at the prehearing conference and passed on their apologies to the civilian who contacted police for assistance and the police officers who attended the call.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### *Adjudicative review:*

In relation to the second allegation of *Discreditable Conduct* against the police officer, the Police Complaint Commissioner disagreed with the Discipline Authority's findings and, on October 17, 2017, appointed retired Provincial Court Judge Carol Baird Ellan to review the evidence pursuant to section 117 of the *Police Act*.

On November 3, 2017, Ms. Baird Ellan issued her Notice of Discipline Authority's decision where she determined that the evidence appeared to substantiate the second allegation of *Discreditable Conduct*, but also a third allegation of *Corrupt Practice* in relation to the alleged badging incident.

### *New allegation:*

When police asked the subject of the complaint for their identification, the off-duty officer pulled out a small badge wallet and flipped it open to a police badge while stating they were a police officer.

<b>Misconduct 3:</b> <i>Corrupt Practice</i> (using police authority for personal gain)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
<b>Date of Incident:</b> December 28, 2016	

Ms. Baird Ellan, in her capacity as the Discipline Authority, suggested a range of discipline from advice as to future conduct up to and including transferring or reassigning the member within the municipal police department. Ms. Baird Ellan precluded dismissal, reduction in rank and suspension as available disciplinary or corrective measures. A prehearing conference was offered to the member.

The Police Complaint Commissioner appointed a senior officer at an external police department to act as the Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of a written reprimand for each allegation: *Discreditable Conduct* and *Corrupt Practice*.

A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review. It was the OPCC's view that the discipline was within the range of appropriate

## SUBSTANTIATED ALLEGATION SUMMARIES

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discipline based on the circumstances. The police officer had already admitted to drinking too much that night and arranged for counselling on their own initiative. The police officer accepted full responsibility for their actions and was apologetic both to the police officers that responded to the call and to the civilian that called the police.

The intent of the Act is to consider an approach that seeks to correct and educate the police officer concerned as long as that approach does not bring the administration of police discipline into disrepute. The OPCC did not believe that the discipline imposed here for the badging allegations, while on the low end of acceptability, would bring the administration of police discipline into disrepute.

*For further information on this decision, please visit the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca) under Adjudications.*

### Internal Discipline (OPCC File 2017-13127)

#### *Allegation:*

On February 9, 2017, a police officer neglected to follow the proper procedures for the disposition of drug exhibits.

<b>Misconduct:</b> <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations)  <b>Date of Incident:</b> February 9, 2017	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Verbal reprimand</li></ul>
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#### *OPCC Review:*

The OPCC reviewed the Internal Discipline Record of Decision and determined there were no public trust issues.

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

#### *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.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)  <b>Date of Incident:</b> August 27, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 4 day suspension without pay</li></ul>
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#### *Disciplinary process:*

## SUBSTANTIATED ALLEGATION SUMMARIES

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This matter proceeded to 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](http://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.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Registered Complaint (OPCC File 2016-12498)

#### *Allegation:*

The complainant reported witnessing a police wagon being driven in an unsafe manner on August 25, 2016.

<b>Misconduct:</b> <i>Neglect of Duty</i> (dangerous driving)  <b>Date of Incident:</b> August 25, 2016	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Verbal reprimand</li></ul>
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#### *Disciplinary process:*

This matter proceeded to a prehearing conference. The OPCC reviewed the prehearing conference report and noted that the only aspect of the complaint that could be fully investigated was the



## SUBSTANTIATED ALLEGATION SUMMARIES

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allegation of speeding as that could be determined through GPS records. The other driving allegations needed further information from the complainant who chose to have no further contact with the OPCC or the assigned *Police Act* investigator. Therefore, the OPCC determined that the disciplinary measure imposed at the prehearing conference was both correct and appropriate.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

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

*Allegation:*

A police officer received remuneration for teaching courses at the Justice Institute of British Columbia while off on sick leave.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>15 day suspension without pay</li></ul>
<b>Date of Incident:</b> Between February 1 and May 13, 2016	

*Disciplinary process:*

This matter proceeded to a discipline proceeding. At the time of the discipline proceeding, the police officer was no longer a member with the VPD. The former police officer did not make any submissions during the discipline proceeding.

The former police officer was provided with a copy of the Discipline Authority's decision and was informed that if they were aggrieved by either the findings or determinations, they could file a written request with the Police Complaint Commissioner (the Commissioner) to arrange a **Public Hearing or Review on the Record**. The OPCC did not receive a request from the former member.

Given the seriousness of the misconduct, the lack of acceptance of responsibility from the former member, the former member's past record of employment, the range of discipline in similar circumstances, and the public interest, a fifteen day suspension without pay, the OPCC was satisfied that the decision of the Discipline Authority was appropriate considering the circumstances.

### Registered Complaint (OPCC File 2016-11665)

*Allegations:*

An off-duty police officer attempted to enter a casino while intoxicated. After being denied entry, the off-duty officer flashed a police badge and requested preferential treatment.

<b>Misconduct 1:</b> <i>Discreditable Conduct</i> (conduct that discredits the department)	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>1 day suspension</li></ul>
<b>Date of Incident:</b> October 16, 2015	

When the off-duty police officer was denied entry into the casino, the off-duty police officer directed offensive and rude language at a security officer.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct 2: <i>Discreditable Conduct</i></b> (conduct that discredits the department)  <b>Date of Incident:</b> October 16, 2015	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• 2 day suspension</li><li>• Training/Re-Training focused on bias free language and policing a diverse community.</li></ul>
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*Disciplinary process:*

This matter proceeded to a prehearing conference. An agreement was reached with respect to the proposed discipline of suspensions and training.

A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute. In reviewing the investigation, and considering all the relevant factors in this case, the OPCC determined that the Prehearing Conference Authority had appropriately considered the aggravating and mitigating factors pursuant to section 126 of the *Police Act*.

In this case, the police officer took responsibility for his actions and had proactively taken a number of steps to address the concerns brought forward regarding his conduct. As a result, the OPCC determined that the discipline imposed was within the acceptable range.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Ordered Investigation – Requested by Department (OPCC File 2016-11660)

*Allegation:*

On October 16, 2015, an off-duty police officer was banned from a casino for one year. On March 4, 2016, the off-duty officer attended the casino once more. Police were called to the scene. The off-duty officer identified himself as a police officer and sought preferential treatment.

<b>Misconduct: <i>Discreditable Conduct</i></b> (conduct that discredits the department)  <b>Date of Incident:</b> March 4, 2016	<b>Disciplinary/Corrective Measure:</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
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*Disciplinary process:*

This matter proceeded to a prehearing conference where an agreement was reached with respect to the proposed discipline of a written reprimand. A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review.

In reviewing the investigation and, considering all the relevant factors in this case, the OPCC determined that the Prehearing Conference Authority had appropriately considered the aggravating and mitigating factors pursuant to section 126 of the *Police Act*. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute.

## SUBSTANTIATED ALLEGATION SUMMARIES

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In this case, the police officer took responsibility for their actions and at the time of the conduct it was determined that there were factors that influenced the police officer's conduct.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Registered Complaint (OPCC File 2015-10950)

#### *Allegations:*

A police officer attempted to use their position as a police officer to encourage the complainant to enter into a relationship and sent inappropriate sexual and pornographic texts messages to the complainant.

<b>Misconduct:</b> <i>Discreditable Conduct</i> (conduct that discredits the department) <b>Date of Incident:</b> June 13, 2016	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• 18 day suspension</li><li>• Training specific to the misconduct</li></ul>
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The police officer provided the complainant with a DVD of an interview the police officer had conducted with a sexual assault suspect. The interview was conducted as part of the police officer's duties.

<b>Misconduct 2:</b> <i>Improper Disclosure of Information</i> (disclosing information acquired as a police officer) <b>Date of Incident:</b> June 14, 2016	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• 5 day suspension</li><li>• Training specific to the misconduct</li></ul>
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#### *Disciplinary process:*

This matter proceeded to a prehearing conference where an agreement was reached with respect to the proposed discipline. After consideration of all the relevant factors in this case, the OPCC did not approve the discipline agreed to at the prehearing conference as it seemed not appropriate to the circumstances.

As a result, this matter proceeded to a discipline proceeding where the police officer admitted both allegations. The Discipline Authority proposed a 12 day suspension and ethics based training for the allegation of *Discreditable Conduct* and a written reprimand and training related to VPD disclosure of information for the allegation of *Improper Disclosure of Information*.

The complainant and the police officer were provided with a copy of the Discipline Authority's findings and determinations on appropriate disciplinary or corrective measures. They were informed that if they were aggrieved by either the findings of substantiation or the disciplinary/corrective measures, they could file a written request with the Police Complaint Commissioner to arrange a **Public Hearing** or **Review on the Record**. Neither party made a request.

#### *Adjudicative review:*

Having reviewed the investigation, the discipline proceeding and associated determinations, pursuant to section 138 of the *Police Act*, the Police Complaint Commissioner determined that a **Review on the Record** was necessary for the following reasons: the complaint was serious in nature as the allegations

## SUBSTANTIATED ALLEGATION SUMMARIES

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involved a significant breach of the public trust; the disciplinary or corrective measures proposed were inappropriate and/or inadequate; and a **Review on the Record** was required to preserve or restore public confidence in the administration of police discipline. The Police Complaint Commissioner appointed the Honourable Wally Oppal, Q.C., retired British Columbia Court of Appeal Judge to preside as an Adjudicator in these proceedings.

At the completion of the **Review on the Record**, Adjudicator Oppal determined that the conduct of the police officer was “egregious” and that the allegation of *Discreditable Conduct* “border[ed] on dismissal” due to the member’s position of trust. Adjudicator Oppal determined that the member ought to serve a suspension of 18 days for the allegation of *Discreditable Conduct* and a suspension of five days for the allegation of *Improper Disclosure of Information*. The suspensions were to be served consecutively. The Adjudicator agreed that training for each allegation should also be imposed but the training should be much more specific to the specific misconduct committed.

*For further information on this decision, please visit the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca) under Adjudications.*

### Ordered Investigation – Requested by Department (OPCC File 2012-7218)

*Allegations:*

A police officer was convicted on two counts of Unsafe Storage of a Firearm contrary to section 86(2) of the *Criminal Code* and two counts of Unauthorized Possession of a Firearm contrary to section 91(1) of the *Criminal Code*. The police officer was sentenced to a conditional discharge and was placed on probation for six months.

<p><b>Misconduct 1: Public Trust Offence</b> (Conviction of an Enactment of Canada, pursuant to section 77(2)(b) of the <i>Police Act</i> which is a conviction in respect of which does or would likely discredit the reputation of the municipal police department with which the member is employed)</p> <p><b>Date of Incident:</b> Undated</p>	<p><b>Disciplinary/Corrective Measures:</b></p> <ul style="list-style-type: none"> <li>• 2 day suspension</li> </ul>
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The police officer had property at their residence that was obtained during the course of their duties as a police officer.

<p><b>Misconduct 2: Neglect of Duty</b> (failure to account for money/property received)</p> <p><b>Date of Incident:</b> Undated</p>	<p><b>Disciplinary/Corrective Measures:</b></p> <ul style="list-style-type: none"> <li>• Written reprimand</li> </ul>
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The police officer failed to properly log property seized in the course of the police officer’s duties into the VPD property office.

## SUBSTANTIATED ALLEGATION SUMMARIES

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<b>Misconduct 3: Neglect of Duty</b> (failure to account for money/property received)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Written reprimand</li></ul>
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*Disciplinary process:*

Upon the conclusion of the criminal matter and the subsequent *Police Act* investigation, this matter proceeded to a prehearing conference.

A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review.

In reviewing the investigation and considering all the relevant factors in this case, the OPCC determined that the Prehearing Conference Authority had appropriately considered the aggravating and mitigating factors pursuant to section 126 of the *Police Act*. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

### Victoria

No substantiated misconduct during the fiscal year 2017/2018.

### West Vancouver

Ordered Investigation – Requested by Department  
(OPCC File 2016-11719)

*Allegation:*

The police officer shared information received from the West Vancouver Bylaw Department with a member of the public and attempted to influence the West Vancouver Bylaw Department not to get a warrant to seize a dog.

<b>Misconduct: Discreditable Conduct</b> (conduct that discredits the department)  <b>Date of Incident:</b> Undated	<b>Disciplinary/Corrective Measures:</b> <ul style="list-style-type: none"><li>• Verbal reprimand</li><li>• Training/Re-training on ethics</li></ul>
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*Disciplinary process:*

This matter proceeded to a prehearing conference. A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review.

In reviewing the investigation and, considering all the relevant factors in this case, the OPCC determined that the Prehearing Conference Authority had appropriately considered the aggravating and mitigating factors pursuant to section 126 of the *Police Act*. The intent of the Act is to consider an approach that seeks to correct and educate the member as long as the approach does not bring the administration of police discipline into disrepute.

## SUBSTANTIATED ALLEGATION SUMMARIES

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In this case, the police officer admitted and accepted full responsibility for their actions, and it was determined that the officer's actions were as a result of poor judgement and not related to the normal course of their duties as a police officer.

Given the totality of the circumstances, the OPCC approved the agreement reached at the prehearing conference.

# STATISTICS

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## Introduction

When a complaint is received at the OPCC, a file is opened and assigned to an investigative analyst. All complaints are reviewed to determine whether they are admissible pursuant to the *Police Act* and, if so, complaints are then broken down into their individual allegations. An admissible complaint file often contains more than one allegation, involving one or more officers.

The following is an example of how one complaint file can result in multiple allegations and results:

*A complainant states that three officers entered his residence without a warrant and two officers used excessive force in order to handcuff him. The complainant further states one officer unlawfully seized property that was subsequently lost.*

The admissibility analyst reviews the complaint and breaks it down into its individual components or “allegations.” The above complaint would likely be broken down into the following allegations of misconduct as defined by the *Police Act*:

*Abuse of Authority*    unlawful entry – involving three officers  
*Abuse of Authority*    excessive force – involving two officers  
*Abuse of Authority*    unlawful seizure of property – involving one officer  
*Neglect of Duty*        improper care and handling of seized property – involving one officer

Following the investigation, the Discipline Authority may determine that none, some or all of the allegations of misconduct have been proven against none, some or all of the officers. Continuing with the example above, the decision may be:

*Abuse of Authority*    unlawful entry – substantiated against officers 1, 2 and 3  
*Abuse of Authority*    excessive force – substantiated against officer 2  
*Abuse of Authority*    unlawful seizure of property – not substantiated  
*Neglect of Duty*        improper care and handling of seized property – not substantiated

A Discipline Authority’s decision is final and conclusive unless the Commissioner considers there is a reasonable basis to believe the decision is incorrect. Please note the data contained in the following report may vary slightly from previously released statistical reports. Where differences exist, it can be assumed that the most current data released reflects the most accurate and up-to-date data.

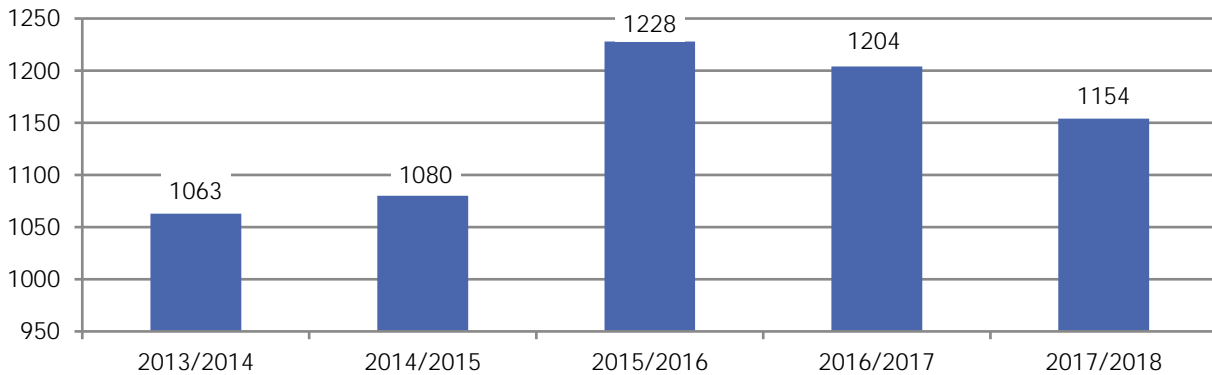
## FILES OPENED

There was a modest decrease in the number of files opened in 2017/2018 compared to the previous year.

Two notable differences were observed between 2016/2017 and 2017/2018: the number of registered complaints increased from 444 in 2016/2017 to 522 in 2017/2018; and the number of monitor files decreased from 461 to 338.

The majority of monitor files contain reportable injury (RI) notifications from police departments. The number of reportable injury files reported to the OPCC was significantly lower in 2017/2018 (297 RI vs. 427). In fact, reportable injury notifications are at an all-time low meaning fewer people are being injured by police. Departments are required to notify the OPCC any time someone is injured by police and are transported to hospital for emergency care.

### Yearly Comparisons (past 5 years)





## STATISTICAL REPORTS

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### Year- By-Year Comparisons by Department

Department	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
Abbotsford	105	83	81	142	94
Central Saanich	6	10	5	10	13
CFSEU	1	3	2	1	1
Delta	46	61	58	60	49
Nelson	12	14	8	16	15
New Westminster	48	73	62	50	19
Oak Bay	5	7	8	10	4
Port Moody	27	24	30	23	23
Saanich	54	78	120	93	100
SCBCTAPS	52	46	85	105	96
Stl'atl'imx	1	4	1	-	4
Vancouver	539	531	599	522	577
Victoria	134	113	132	142	134
West Vancouver	33	33	37	30	25
<b>TOTAL FILES OPENED</b>	<b>1063</b>	<b>1080</b>	<b>1228</b>	<b>1204</b>	<b>1154</b>

## COMPLAINT CATEGORIES

REGISTERED COMPLAINTS	Public trust complaints about a police officer's conduct or actions that affect a member of the public.
QUESTIONS OR CONCERNS	If a member of the public has a question or concern about a municipal police officer's conduct, but does not result in the making of a registered complaint, he or 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.
ORDERED INVESTIGATIONS & MANDATORY EXTERNAL INVESTIGATIONS	Complaint investigations may be ordered by the Commissioner, whether requested by a department or as a result of information received from any source that raises concerns about officer misconduct. The <i>Police Act</i> also requires the Commissioner to order a mandatory external investigation into any incident resulting in serious harm or death.
MONITOR FILES	Opened when information is received by the OPCC from the police, including reportable injuries, or from other sources, such as media reports, that may require an investigation pursuant to the <i>Police Act</i> . Typically, these are incidents that are serious in nature or that have generated media attention but no potential disciplinary defaults have yet been identified. 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 and closed."
INTERNAL DISCIPLINE FILES	Involve performance management issues or employer/employee concerns that do not affect members of the public; are not the subject of an admissible complaint; and no overriding public interest in proceeding with the matter as a public trust matter.
SERVICE OR POLICY FILES	Involve the quality of a police department's service to the community or regarding their operating policies.

*All adjudicative decisions are available on the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca).*

## STATISTICAL REPORTS

### COMPLAINT TYPES

Files Opened by Type (past five years)

Types of Files	2013/2014		2014/2015		2015/2016		2016/2017		2017/2018	
Internal Discipline	14	1%	16	1%	11	1%	15	1%	15	1%
Monitor	321	30%	305	28%	419	34%	461	38%	338	29%
Questions or Concerns	113	11%	135	13%	205	17%	218	18%	206	18%
Mandatory External Investigations (s. 89)	28	3%	24	2%	15	1%	8	1%	10	1%
Investigations Initiated by PCC	26	2%	20	2%	11	1%	20	2%	13	1%
Investigations Requested by Department	41	4%	34	3%	28	2%	26	2%	35	3%
Registered Complaints	517	49%	532	49%	530	43%	444	37%	522	45%
Service or Policy	3	<1%	14	1%	9	1%	12	1%	15	1%
<b>TOTAL</b>	1063		1080		1228		1204		1154	

There was an increase in the number of registered complaints filed against police last year; however, the number of complaints received appears to be consistent with previous years. Out of the 338 monitor files, 297 of those files were found to be reportable injury notifications which departments are statutorily required to send to the OPCC for review. There were only minor variations in the other complaint types.

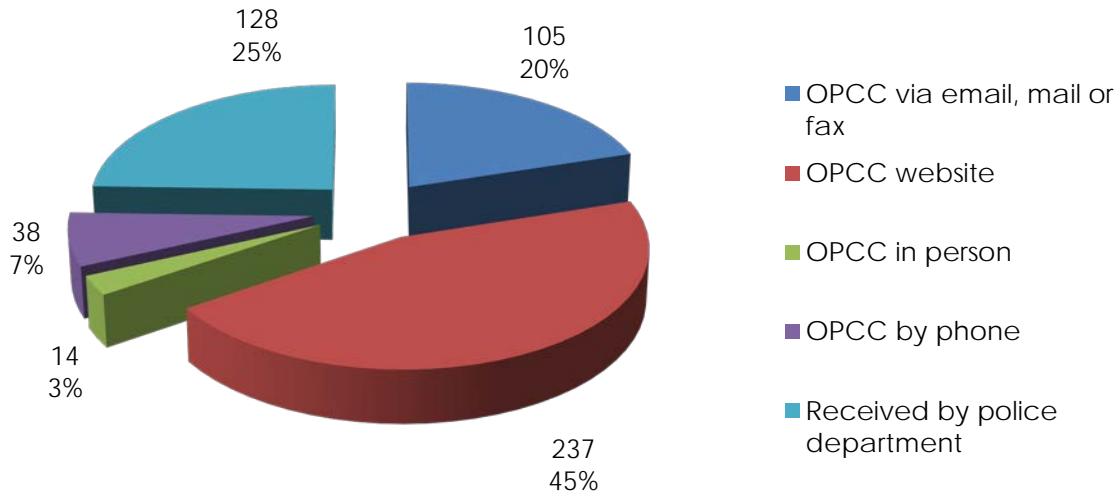
## STATISTICAL REPORTS

### Files Opened in 2017/2018 by Department & Category

	TOTAL	Admissible Registered	Inadmissible Registered	Withdrawn Prior to Admissibility Determination	Mandatory External Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	94	14	10	0	0	2	2	61	5	0	0
Central Saanich	13	1	7	0	1	0	0	1	1	0	2
CFSEU	1	0	0	0	0	1	0	0	0	0	0
Delta	49	4	12	1	0	1	1	14	14	2	0
Nelson	15	6	4	2	0	0	0	2	1	0	0
New Westminster	19	3	6	1	0	1	0	2	6	0	0
Oak Bay	4	0	1	0	0	1	0	2	0	0	0
Port Moody	23	4	5	0	1	1	1	4	7	0	0
Saanich	100	2	39	1	0	3	0	10	37	5	3
SCBCTAPS	96	9	8	1	0	2	1	24	49	2	0
Stl'atl'imx	4	0	0	0	0	0	0	3	0	1	0
Vancouver	577	158	124	8	7	20	7	165	75	5	8
Victoria	134	28	46	2	1	2	2	44	7	0	2
West Vancouver	25	4	11	0	0	1	0	5	4	0	0
<b>TOTAL</b>	<b>1154</b>	<b>233</b>	<b>273</b>	<b>16</b>	<b>10</b>	<b>35</b>	<b>13</b>	<b>338</b>	<b>206</b>	<b>15</b>	<b>15</b>

# STATISTICAL REPORTS

## How Registered Complaints Were Received in 2017/2018



There are a variety of ways to register a complaint against a municipal police officer or department. Complainants use the OPCC website most frequently to file a complaint, followed by filing a complaint directly with the police department. Police departments are required to forward all registered complaints and questions or concerns to the OPCC for assessment and review.

## ADMISSIBILITY

### Admissibility of Registered Complaints Received in 2017/2018

The *Police Act* requires that all registered complaints 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:

1. Contain an allegation of conduct that, if substantiated, would constitute misconduct as defined by the Act;
2. Be filed within one year of when the incident occurred; and
3. Not be frivolous or vexatious.

A complaint deemed "inadmissible" under Division 3 could still be investigated under a different division of the *Police Act*. If the complaint contains allegations that concern a department's services or policies, it would be processed under Division 5 of the Act.

A registered complaint must also involve a municipal police department to be under the jurisdiction of the OPCC.

# STATISTICAL REPORTS

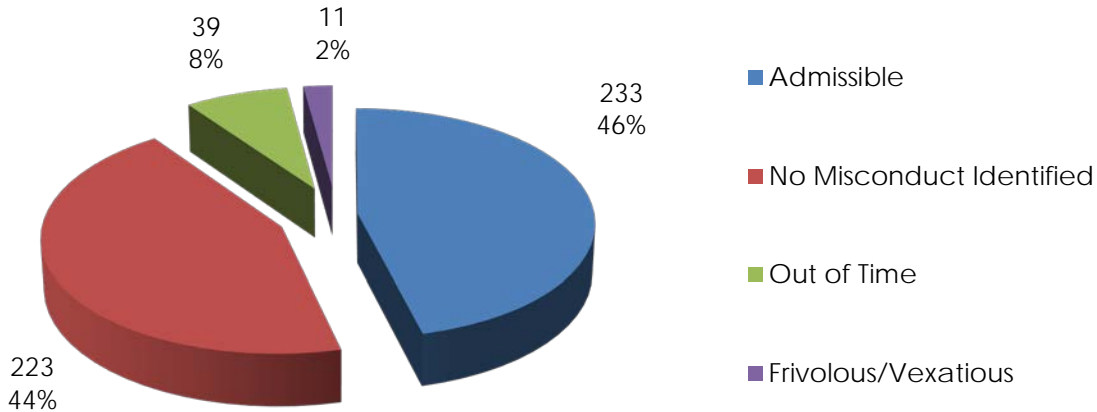
## Breakdown of Admissibility Reviews in 2017/2018

When conducting an admissibility review, the primary document relied upon is the complaint itself. However, if the information in the complaint is not clear, an OPCC analyst will contact the complainant to confirm the material aspects of the complaint. If necessary, the analyst may contact the originating police department for further information in order to have context in which to assess the allegations and arrive at a principled decision regarding the admissibility of the complaint.

Analysts are careful not to weigh the evidence at this stage, but in exercising their gatekeeping function, they must ensure they have considered all the relevant circumstances which provide an accurate context to the matter.

With this important gatekeeping role, the OPCC has been able to ensure that those complaints which meet the admissibility criteria are forwarded to municipal police departments for Alternative Dispute Resolution, or an in-depth examination.

## Admissibility Assessments



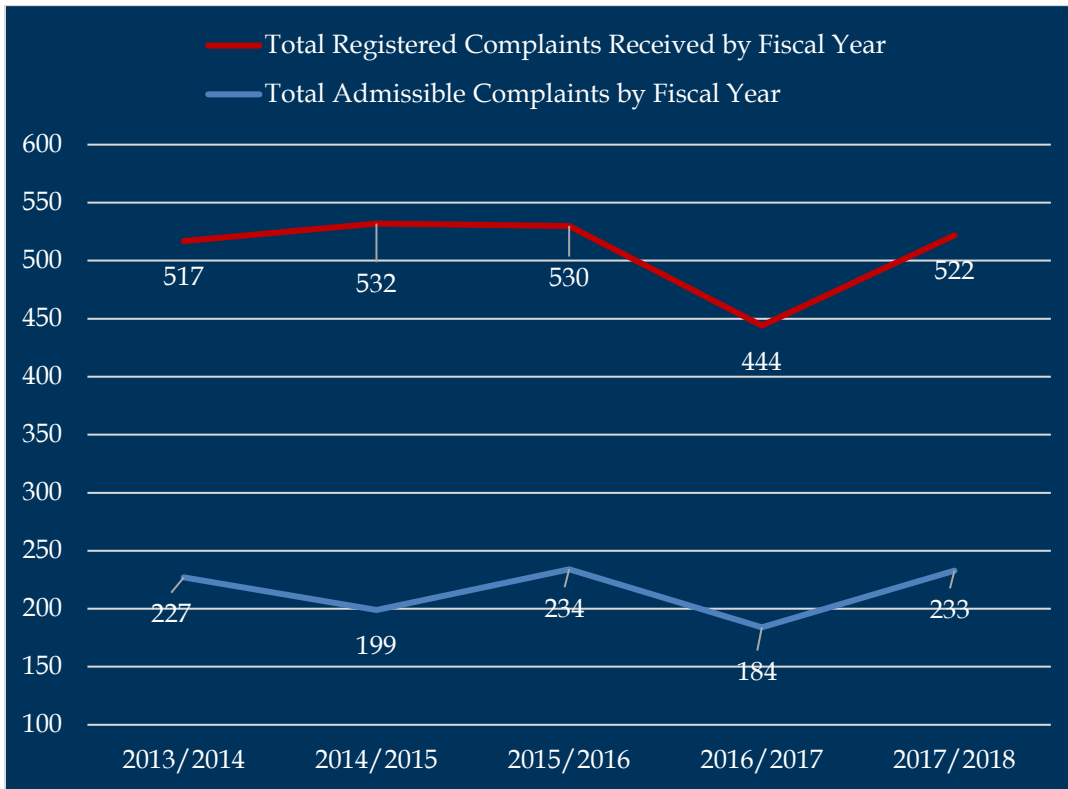
A total of 506 admissibility assessments were completed in 2017/2018<sup>1</sup>. When a complaint is determined to be inadmissible, complainants receive a letter outlining the reason why their complaint would not be investigated. Complaints must contain an allegation of misconduct, be made within one year of the date of the conduct, and not be frivolous or vexatious.

In 223 (44%) of the assessments, no misconduct was identified in the complaint. In 39 complaints (8%), it was determined that the complaint was not made within the 12 months' time frame and the Commissioner did not extend the time to make the complaint. Only 11 (2%) complaints were determined to be frivolous or vexatious. These complaints were all determined to be inadmissible.

\* 16 (3%) complaints were withdrawn prior to the completion of an admissibility review. "Withdrawn" complaints here mean that a complainant withdrew his or her complaint prior to the completion of an admissibility assessment.

# STATISTICAL REPORTS

## Admissibility Assessments (past five years)



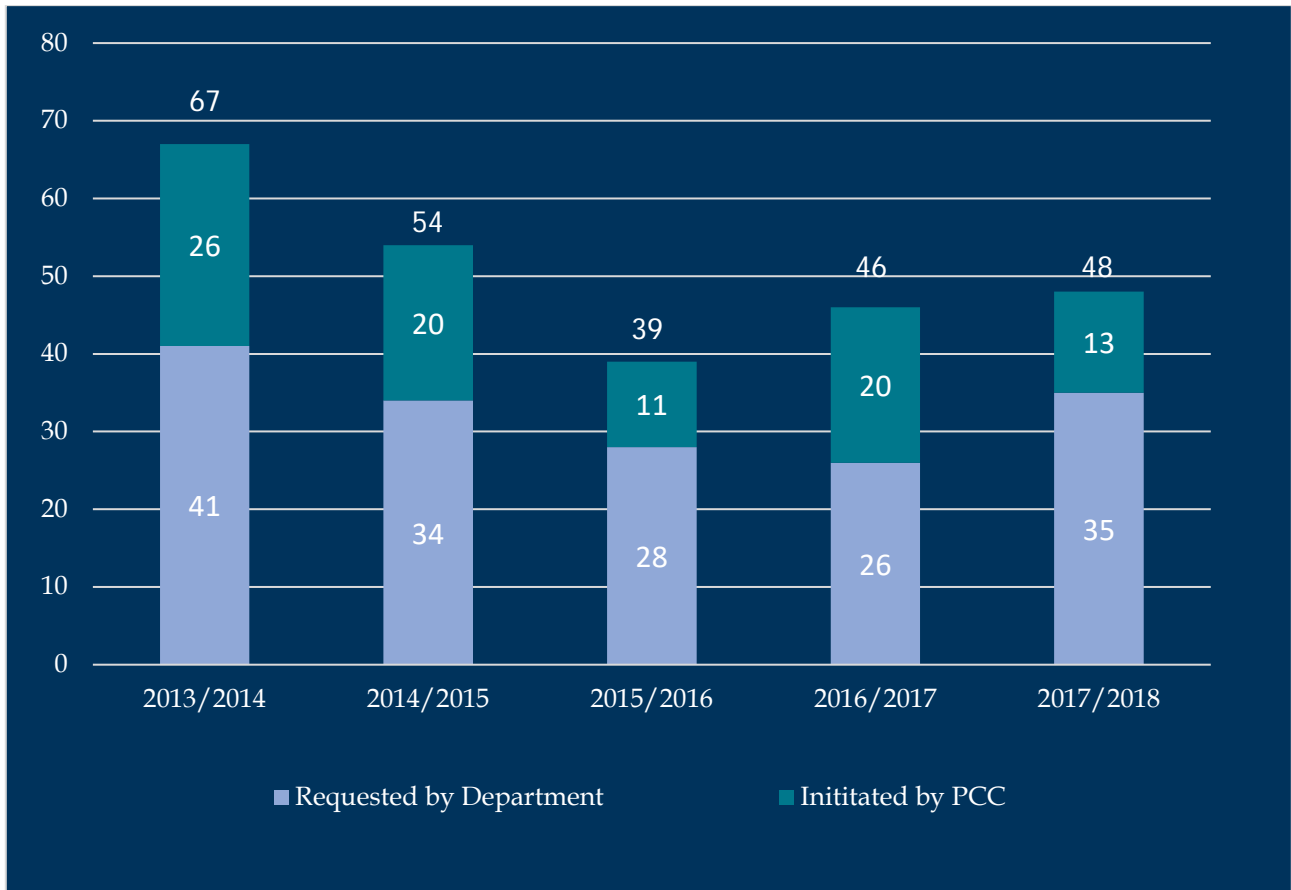
The number of registered complaints filed against police officers has remained steady over the past five years with the exception of 2016/2017 where the number of complaints dropped to 444.

The average admissibility rate<sup>2</sup> for the past five fiscal years is **44%**. The majority of complaints are deemed inadmissible because the complainant has not identified an allegation of misconduct pursuant to section 77 of the *Police Act*. Once the OPCC has determined that a complaint is admissible, the police department must investigate the allegations contained in the complaint. Last year, 233 (**46%**) of complaints filed against police were determined to be admissible.

<sup>2</sup> Registered complaints that were withdrawn prior to an admissibility determination were not included in the calculation of the admissibility rate.

# STATISTICAL REPORTS

## Ordered Investigations (past 5 years)



The Police Complaint Commissioner can initiate an investigation in the absence of a complaint from the public. A total of 48 investigations were ordered by the OPCC last year. Most orders for investigations are initiated as a result of a request from the police department. Last year, **73%** of investigations ordered by the Commissioner were at the request of the police department.





# STATISTICAL REPORTS

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## Types of Misconduct Alleged

Once a complaint is deemed admissible or an investigation is initiated, allegations of misconduct are identified against individual officers. The *Police Act* identifies 13 public trust allegations:

- |  |  |   |
|--|--|---|
| 1. <i>Abuse of Authority</i>           | 6. <i>Deceit</i>                             | 10. <i>Improper Off Duty Conduct</i>        |
| 2. <i>Accessory to Misconduct</i>      | 7. <i>Discourtesy</i>                        | 11. <i>Improper Use or Care of Firearms</i> |
| 3. <i>Corrupt Practice</i>             | 8. <i>Discreditable Conduct</i>              | 12. <i>Misuse of Intoxicants</i>            |
| 4. <i>Damage to Police Property</i>    | 9. <i>Improper Disclosure of Information</i> | 13. <i>Neglect of Duty</i>                  |
| 5. <i>Damage to Property of Others</i> |  |   |

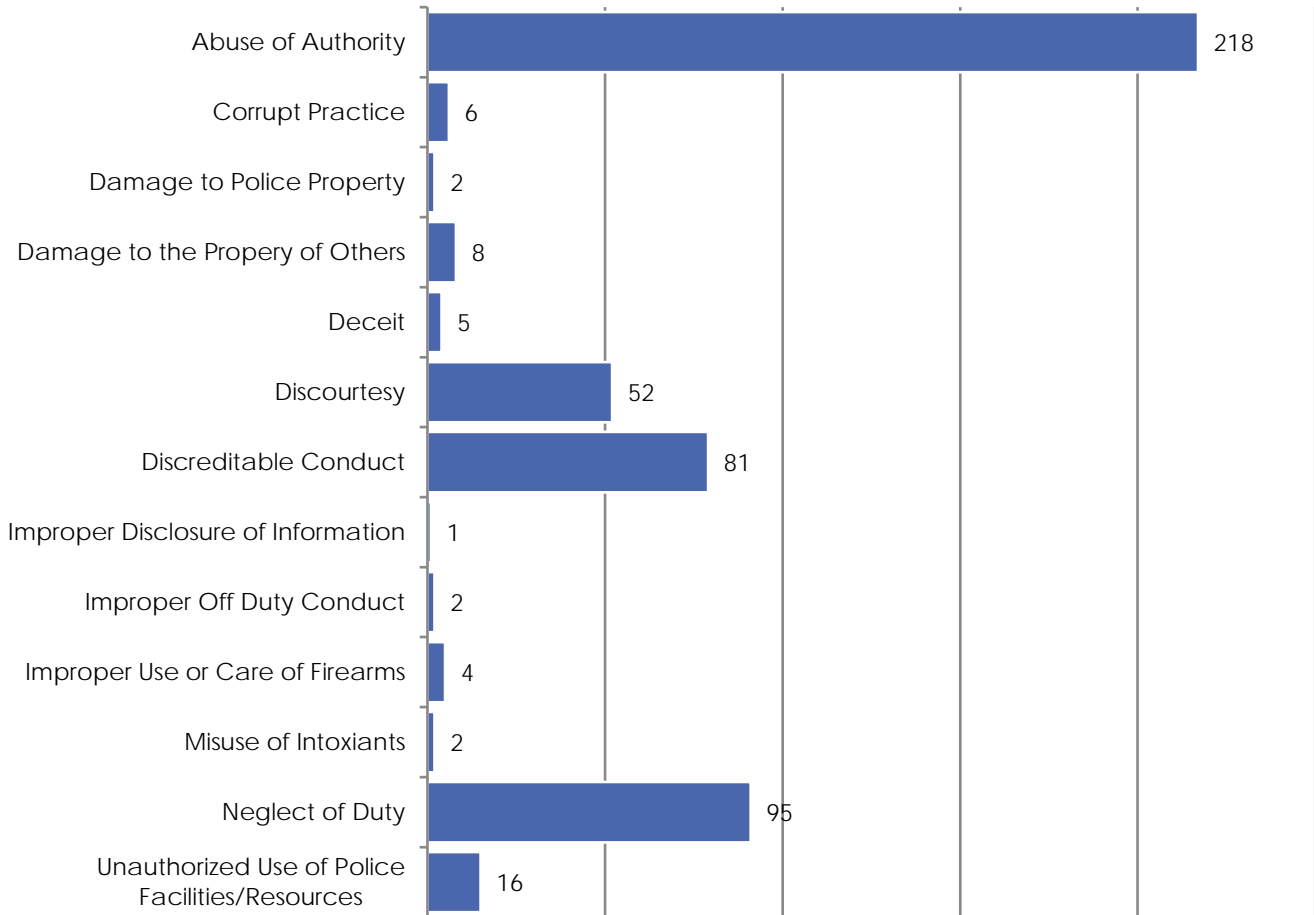
From April 1, 2017, to March 31, 2018, the OPCC identified **492** potential public trust allegations and forwarded them to the respective police department for investigation. Please note that these are only allegations and do not reflect whether the allegations were substantiated.

The allegations of *Abuse of Authority* (e.g., arrest or detention without good and sufficient cause or unnecessary use of force) account for almost half (**44%**) of all allegations forwarded for investigation, followed by *Neglect of Duty* (**19%**) (e.g., inadequate investigation, failure to provide *Charter Rights*, or failure to comply with departmental policy) and *Discreditable Conduct* (**16%**) (e.g., conduct that discredits the reputation of the police department).



# STATISTICAL REPORTS

## Types of Alleged Misconduct for 2017/2018



**NOTE:**

- These are allegations arising from admissible registered complaints and ordered investigations pursuant to Division 3 (Public Trust).
- A single registered complaint or ordered investigation may contain more than one allegation of misconduct.
- The subsequent investigation may determine there is more than one police officer associated to the identified misconduct.
- *"Unauthorized Use of Police Facilities/Resources"* is a subsection of *"Corrupt Practice."* The OPCC distinguishes this as a separate category of misconduct in order to better capture statistics pertaining to this conduct.

### COMPLAINT DISPOSITIONS

A complaint file may contain a number of allegations of misconduct involving multiple police officers and have a variety of outcomes. Allegations of misconduct against an officer may result in one or more of the following outcomes:

Withdrawn	A complainant may withdraw his or her complaint at any time in the process; however, the Commissioner may direct that the investigation continue or order an investigation.
Complaint Resolution	A complaint may be subject to a Complaint Resolution pursuant to Division 4 of the <i>Police Act</i> . Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their minds. The OPCC reviews all Complaint Resolutions and if the Commissioner determines it is inappropriate or inadequate, the resolution is set aside and the investigation continues.
Mediated	A complaint may be resolved through mediation, facilitated by an independent professional mediator. If no agreement can be reached, the investigation continues. The Commissioner has the authority to direct a complainant to attend mediation, and similarly, the Chief Constable of a department can order the officer to attend.
Discontinued	The Commissioner may discontinue an investigation into allegations of misconduct if it is determined that further investigation is neither necessary nor reasonably practicable, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false.
Substantiated	If, following an investigation, the Discipline Authority determines the allegation appears to be supported by the evidence, the Discipline Authority must then decide on appropriate disciplinary and/or corrective measures to impose. The officer may accept the proposed measures at a prehearing conference or the matter may proceed to a discipline proceeding. The Commissioner may arrange for a Public Hearing or Review on the Record by a retired judge if it is in the public interest. The officer also has an automatic right to a Public Hearing or Review on the Record if the proposed penalty is a reduction in rank or dismissal.
Not Substantiated	Following an investigation, the Discipline Authority may determine there is not sufficient evidence to support the allegation of misconduct. All complaints determined to be unsubstantiated are reviewed by the OPCC and, if it is determined that there is a reasonable basis to believe the Discipline Authority's decision is incorrect, the Commissioner may appoint a retired judge to conduct a review of the investigation and arrive at a decision.

## STATISTICAL REPORTS

### Admissible Registered Complaints Opened and Disposition – Past Five Years

Total Registered Complaints Received	Total Admissible Complaints	Complaints Concluded	Discontinued	Complaint Resolution/ Mediated	Withdrawn	Forwarded to DA for Decision	No Disposition (Not Yet Concluded)
2013/2014							
517	227	226	41	74	34	77 (34%)	1
2014/2015							
532	199	197	18	45	31	103 (52%)	2
2015/2016							
530	234	234	32	57	36	109 (47%)	1
2016/2017							
444	184	180	17	66	20	77 (42%)	4
2017/2018							
522	233	163	30	63	32	38 (23%)	70

Out of the 233 admissible registered complaints opened last year, 163 of those complaints have been concluded and 57 complaints are still outstanding. Looking at the complaints that have been concluded, **18%** (30) of complaint investigations are discontinued by the OPCC. Most of the time, the OPCC discontinues a complaint because of a lack of participation by the complainant, despite efforts made by the OPCC and the police department to contact the complainant and encourage their participation in the complaints process. In these cases, it is not reasonably necessary nor practicable to continue with the investigation.

Another **20%** (32) complaints are withdrawn by the person who filed the complaint. Most times, complainants have reported that they either have lost interest in pursuing their complaint or were satisfied with the follow up done by the police department.

Approximately **39%** (63) of admissible complaints were diverted from the investigation stream and were successfully resolved through the complaint resolution process. 114 (**48%**) of complaints made admissible were flagged as appropriate for complaint resolution.

This left just **23%** (38) of complaints being fully investigated and a report submitted to a Discipline Authority for a decision determining whether the police officer committed misconduct. A significant portion of complaints have not yet concluded.

## STATISTICAL REPORTS

### Ordered Investigations Opened and Disposition – Past Five Years

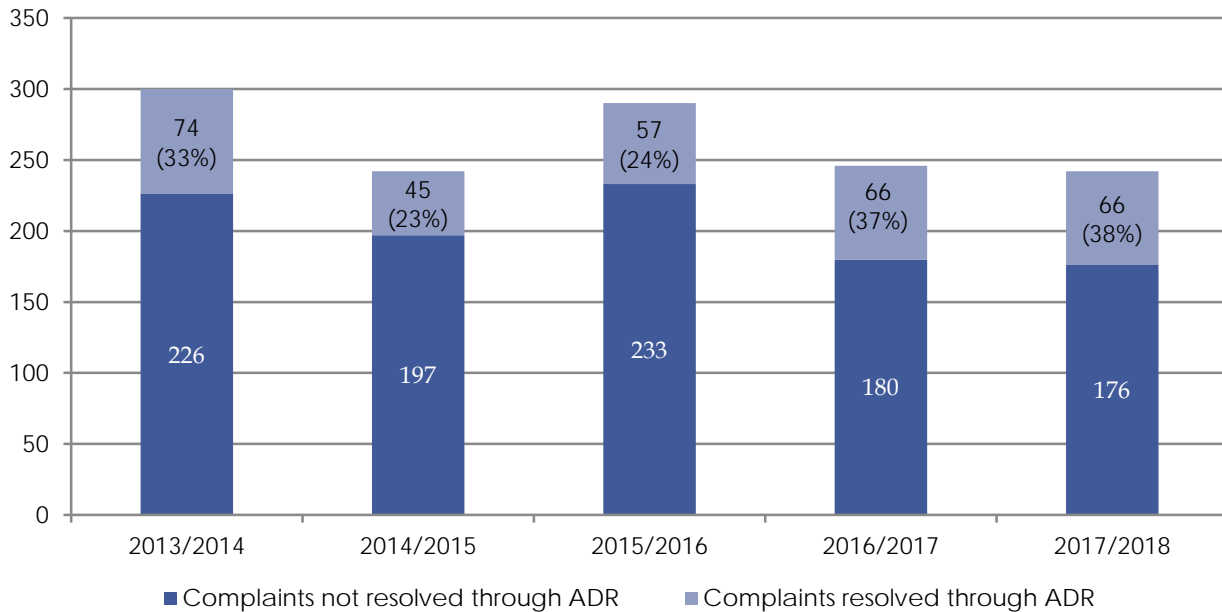
Total Number of Ordered Investigations	Ordered Investigations with Disposition	Discontinued	Complaint Resolution/ Mediated	Forwarded to DA for Decision	No Disposition (Investigation Not Yet Complete)
2013/2014					
67	64	7	2	55 (86%)	3
2014/2015					
54	53	13	1	39 (74%)	1
2015/2016					
39	34	5	-	29(85%)	5
2016/2017					
46	41	3	3	35 (85%)	5
2017/2018					
48	16	3	-	13 (81%)	32

As mentioned earlier, the Police Complaint Commissioner can order an investigation in the absence of a complaint. Last year, the Commissioner ordered 48 investigations into possible misconduct by a police officer. Currently, 32 matters are still under investigation with 17 matters resulting in a conclusion thus far. Considering the nature of the allegations in these types of investigations, almost all end up being fully investigated and submitted to a Discipline Authority for decision.

## ALTERNATIVE DISPUTE RESOLUTION

### Complaint Resolution

Under the *Police Act*, only registered admissible complaints are eligible for Alternative Dispute Resolution (ADR). Between April 1, 2017, and March 31, 2018, the OPCC determined 233 complaints to be admissible. Of those 233 complaints, the OPCC reviewed and approved Complaint Resolution agreements relating to 134 allegations of misconduct, contained in 66 registered complaints. A number of initiatives have been implemented over the past couple years which has had a direct impact on the number of successful resolutions; last year showed the highest proportion of registered complaints resolved through ADR (**38%**).



Based on the current legislation, it is the police department which decides whether to attempt to resolve a complaint using Complaint Resolution. The Commissioner cannot direct police departments or complainants to use Alternative Dispute Resolution. The OPCC is working closely with police departments to encourage and promote the use of Alternative Dispute Resolution as a meaningful tool to resolve complaints. Mechanisms have been put in place to track the success rate of those complaints where Complaint Resolution is determined to be suitable and the OPCC is now tracking why some Complaint Resolutions do not succeed. Based on a review of the reasons why certain Complaint Resolutions failed, the OPCC implemented a number of internal changes in an effort to more effectively encourage the use of Complaint Resolution amongst complainants.

### Mediation

Mediation is a more formal process for resolving disputes between a complainant and an officer with the assistance of a neutral professional mediator.

There were no mediations held between April 1, 2017, and March 31, 2018.

## STATISTICAL REPORTS

### Extensions

Investigations must be completed within six months from the date the investigation is initiated. The Police Complaint Commissioner may grant an extension if she/he is satisfied that one or more of the following applies:

- New investigative leads are discovered that could not have been revealed with reasonable care;
- The case or investigation is unusually complex; or
- An extension is in the public interest

Average Length of Time to Complete Investigation for Discipline Authority Decision – April 1, 2015 to March 31, 2018.

Department	Investigations Completed	Average Length of Time (days)	# Files Requiring at Least One Extension
Abbotsford	19	176	5
CFSEU	1	183	-
Central Saanich	4	200	3
Delta	20	214	11
Nelson	6	196	2
New Westminster	14	180	1
Oak Bay	4	168	1
Port Moody	5	166	-
SCBCTAPS	15	196	3
Saanich	18	189	2
Vancouver	193	201	43
Victoria	26	201	5
West Vancouver	9	193	1
<b>Total</b>	<b>334</b>	<b>189.5</b>	<b>77</b>

The OPCC has been monitoring the number of extensions each department has requested. An investigation should be completed within six months or approximately **182** days.

## STATISTICAL REPORTS

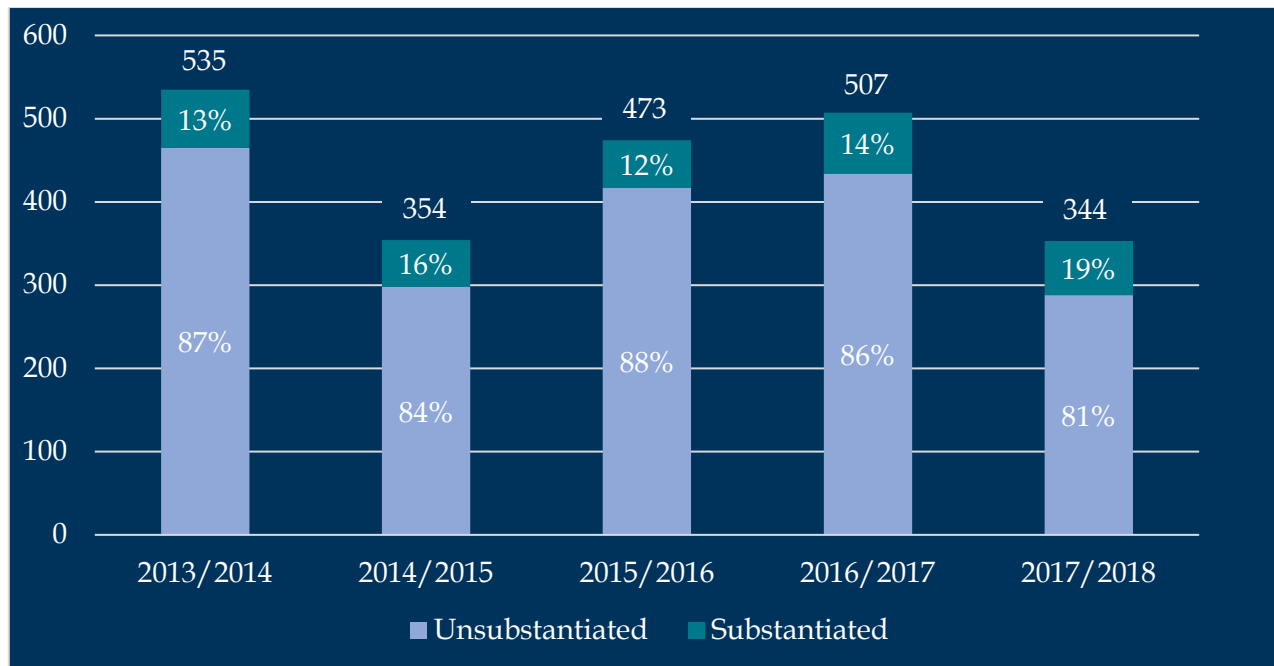
The Vancouver Police Department (VPD) has completed the highest number of investigations over the three year time period examined. They also receive the highest number of complaints considering the geography of their jurisdiction and have the highest number of dedicated Professional Standards Investigators. An extension to the six month completion date was required in **22%** (43) of the investigations. Central Saanich required extensions in three out of the four investigations completed and the Delta Police Departments required an extension in 11 out of the 20 investigations completed. Overall, **23%** of all investigations over the past three years required at least one extension to the time limitation period.

The OPCC will continue to monitor the completion time for investigations and work with departments to reduce the need for an extension.

## FILES SUBMITTED TO DISCIPLINE AUTHORITY FOR DECISION

Each admissible complaint or ordered investigation will contain at least one allegation of misconduct. Following the completion of the investigation, the Discipline Authority (DA) is required to make a determination on a balance of probabilities as to whether there is sufficient evidence to substantiate a finding of misconduct.

### Substantiation Rate – Past Five Years



The substantiation rate has remained fairly steady over the five past years. Out of the 353 concluded allegations last year, 65 (**19%**) allegations reviewed by a Discipline Authority were substantiated. Once a Discipline Authority determines there is sufficient evidence to support a finding of misconduct, one of two



## STATISTICAL REPORTS

disciplinary processes can occur: a confidential without prejudice pre-hearing conference or a discipline proceeding.

Last year, **25** matters proceeded to a pre-hearing conference. In these cases, the member admitted the misconduct and voluntarily accepted the disciplinary/corrective measures imposed. The OPCC confirmed the disciplinary/corrective measures imposed in all but three cases. The cases that were not approved by the OPCC were directed to a discipline proceeding. A total of **19** discipline proceedings were held last year.

## REPORTABLE INJURIES

The *Police Act* requires departments to report all incidents where an individual in the care or custody of the police suffers a “reportable injury” which is one requiring medical treatment. These “reportable injuries” are opened by our office as Monitor files and reviewed to determine whether an investigation into the matter will be conducted.

### Reportable Injuries by Year and Type (Past five years)

	2013/2013	2014/2015	2015/2016	2016/2017	2017/2018
	336 Notifications/ 360 Uses of Force	313 Notifications/ 384 Uses of Force	409 Notifications/ 489 Uses of Force	427 Notifications/ 523 Uses of Force	297 Notifications/ 389 Uses of Force
Arwen/Bean Bag	15	23	21	13	22
Baton	6	4	6	5	8
Dog Bite	84	102	181	174	114
Empty Hand	62	108	104	103	79
Firearm	2	6	4	4	1
Motor Vehicle Accident	18	18	26	28	31
OC Spray (pepper spray)	3	5	4	4	8
Other <sup>3</sup>	68	28	28	43	42
Pre-Existing	15	21	20	48	12
Self-Inflicted	80	61	79	84	52
Taser	7	8	16	17	20

Although dog bites still account for the highest proportion of reportable injuries (**29%**), there was a notable decrease in the number dog bites compared to previous years. Effective September 1, 2015, the province released provincial policing standards for police dog use. These standards govern the threshold

<sup>3</sup> “Other” are incidents where a person is in medical distress with the cause being unknown.

## STATISTICAL REPORTS

and circumstances of using a police dog, requirements for reporting, and performance testing and maintenance of police dogs. Empty hand techniques accounted for the second highest proportion of reportable injuries. These include force options such as strikes, stuns, takedowns, and joint locks/manipulation.

### Investigation Orders Following Review of Reportable Injuries

	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
Mandatory Investigations	28	24	15	8	10
PCC Ordered Investigations	10	5	4	5	2
Department Request Investigations	2	1	1	1	1
Registered Complaints	9	7	11	7	23

Of the 297 reportable injury notifications, ten met the definition of serious harm under the *Police Act* and resulted in a mandatory external investigation; an additional three resulted in misconduct investigations. There was a significant increase in the number of people who suffered a reportable injury and filed a complaint about the incident with the OPCC.



## ADJUDICATIVE REVIEWS

### APPOINTMENT OF A NEW DISCIPLINE AUTHORITY [s.117]

If, following an investigation, the Discipline Authority determines that the conduct of the officer 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 April 1, 2017, and March 31, 2018, the Commissioner appointed a retired judge to act as a new Discipline Authority in eight matters.**

### 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 April 1, 2017, and March 31, 2018, the Commissioner appointed a retired judge to conduct a Review on the Record in relation to one matter.**

### 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 April 1, 2017, and March 31, 2018, the Commissioner ordered three Public Hearings.**

	2010/ 2011	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	Total
Appointment of retired judge to review (s. 117)	6	6	2	5	2	1	3	8	33
Review on the Record	0	3	0	0	1	1	4	1	10
Public Hearing	3	1	2	6	1	0	0	3	16
Total	9	10	4	11	4	2	7	12	59

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.

# RESOURCES

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1. Office of the Police Complaint Commissioner website [www.opcc.bc.ca](http://www.opcc.bc.ca)
2. OPCC brochures:
  - i. *Let Us Help You Guide*  
[https://www.opcc.bc.ca/publications/printable\\_brochures/Let\\_Us\\_Help\\_You.pdf](https://www.opcc.bc.ca/publications/printable_brochures/Let_Us_Help_You.pdf)
  - ii. *General Information*  
[https://www.opcc.bc.ca/publications/printable\\_brochures/general\\_information\\_brochure.pdf](https://www.opcc.bc.ca/publications/printable_brochures/general_information_brochure.pdf)
  - iii. *Alternative Dispute Resolution*  
[https://www.opcc.bc.ca/publications/printable\\_brochures/adr\\_brochure.pdf](https://www.opcc.bc.ca/publications/printable_brochures/adr_brochure.pdf)
  - iv. *Complaint Form*  
<https://www.opcc.bc.ca/form/index.asp>
3. *Police Act* of British Columbia [http://www.bclaws.ca/civix/document/id/complete/statreg/96367\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/96367_01)
4. Independent Investigations Office of British Columbia [www.iiobc.ca](http://www.iiobc.ca)
5. Other Canadian oversight agencies [https://www.opcc.bc.ca/outreach/oversight\\_agencies.html](https://www.opcc.bc.ca/outreach/oversight_agencies.html)



# APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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Vancouver Police Department  
Service Contracts with private entities

Registered Complaint 2015-11435  
(Previously reported in 2016/2017 Annual Report)

## Background

The complainant attended an Electronic Dance Music Festival at BC Place with two friends, gained entry with valid tickets, and was cleared by BC Place security. The complainant and his friends were then stopped by a VPD officer inside BC Place and asked for identification. The individuals all complied and the officer queried all three on a police database. After conducting the query, the officer informed the complainant and one of his friends that they would have to leave the venue. The officer explained to the complainant that the reason for his ejection was due to his history of drug usage. The complainant subsequently filed a registered complaint.

Throughout the course of the *Police Act* investigation, the OPCC identified a number of concerns regarding the role of the officers at private functions, especially considering the officers were stopping patrons after they had been properly admitted to the event, demanding the production of identification, conducting database queries using police terminals to determine their police history, then ejecting the patron, without refund, if that history was contrary to criteria of which patrons were unaware.

Therefore, the Police Complaint Commissioner exercised his authority pursuant to section 177(4)(c) of the *Police Act* and recommended the Vancouver Police Board examine any policies or procedures that may have been a factor in this complaint, including, but not limited to, creating a policy that outlined and defined the roles and authorities of VPD officers when working pursuant to service agreements with private entities.

Furthermore, the Police Complaint Commissioner considered that accessing private information of patrons who have properly gained entry to the event by police officers who are seemingly acting on behalf of a private entity and then ejecting the patron based on their police history would be of interest to the Information and Privacy Commissioner.

Consequently, the Police Complaint Commissioner exercised his discretion pursuant to section 95(2) of the *Police Act* and disclosed information relating to the investigation so that the Information and Privacy Commissioner could conduct an independent review of the investigation materials and make his own determination regarding whether an investigation into the matter pursuant to section 42 of the *Freedom of Information and Protection of Privacy Act* was warranted.

## Police Board Response

On April 26, 2018, the Vancouver Police Board provided a response to the Police Complaint Commissioner's recommendations. According to the police board,

The VPD has revised its practices in policing this festival by entering into a formal agreement with BC Place and by providing clear written direction to members on their responsibilities and authorities while policing the event. These revisions clarify and formalize the role of VPD members as they work to ensure the public safety of the event.

In addition, the VPD has worked with BC Place to annually review and modify the operational practices of members. These modifications now place a greater onus on BC Place Security, while still allowing VPD members to contribute to the shared goal of ensuring public safety at the event.

## APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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With respect to demanding identification or identifying information from a person, the VPD advised the following:

EOPS' 2017 briefing points to members emphasized that VPD members must be satisfied that there are circumstances that justify demanding identification from a person and running names on police databases. Previous knowledge of the individual, and observed behaviours of individuals or groups are among the factors which can contribute to such circumstances. If VPD members viewed the behaviour of a patron either inside or outside the event that caused them to have a public safety concern then they were able to approach the patron and request identification.

With respect to accessing police databases and sharing information while policing events,

The 2017 festival briefing note stated "whenever practicable, members should have a BC Place Stadium security person with them and inform them of the reasons for recommending that they be denied access or be removed from the venue." Consultation with members during the preparation of this report indicates that such specifics were not shared with BC Place staff, nor was that the intent of that specific briefing point. Rather the intent was to advise that the ejected person met one or more of the criteria. For future events, the VPD briefing note on this direction will have language that clearly directs members to not articulate a specific reason to BC Place staff and only state that the person meets one or more of the venue's criteria for the denial of entry or removal.

The VPD is of the view that these enhancements "achieve an appropriate and lawful balance in responsibility and authority." The VPD re-iterated that enforcement action against patrons who have become trespassers under the Restaurant Watch (RW) and Bar Watch (BW) programs is supported by the *BC Trespass Act*. The VPD has also obtained an independent legal opinion about the RW/BW programs and the VPD advised they are confident of the lawfulness of the programs.

After completing a review of the Police Board's response, the OPCC requested the agreements and guides referenced in the Board's response to this office. Specifically, the OPCC has requested the Restaurant Watch/Bar Watch Operational Reference Guide, the Inadmissible Patron Agreement with BC Place and the VPD Emergency and Operations Planning Section (EOPS) Briefing Notes.

The OPCC has not received this documentation from the Vancouver Police Board at the time of the publication of this report.

**Vancouver Police Department**  
Service contract with private entities

Registered Complaint 2016-12951

### Background

The complainant went to BC Place to attend the Contact Music Festival. That complainant was stopped by a police officer just seconds after getting a wrist band to enter the venue. Upon speaking with the complainant it was determined that he was inadmissible to the event and he was told that he had to leave. The complainant was placed in handcuffs and his ticket was removed from his person. The complainant estimated that he was in handcuffs for five minutes before being released without charge.

It was determined through the *Police Act* investigation that the police used their authority to compel the complainant to provide his identification; this requirement came prior to entering the concert for which he had purchased a ticket. This, in effect, became a police screening table provided to the venue. The Police Complaint Commissioner was of the view that there was an arguable case that officers did not have the authority to demand identification from the complainant, handcuff him, or to apply force to him for the purposes of seizing his ticket.

## APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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Having reviewed the available evidence, the officers appeared to be conducting themselves under the belief they are acting as police officers when they are actually acting as agents for a private entity. The Police Complaint Commissioner was of the view that the Vancouver Police Department could benefit from the creation of clear and objective policy in the area of the roles of the Vancouver Police Department when engaged by private entities.

Accordingly, pursuant to section 177(4)(c) of the *Police Act*, the Police Complaint Commissioner recommended that the Vancouver Police Department Police Board examine and reconsider any policies or procedures relating to agreements with private entities.

Specifically,

1. Examine and reconsider policies in other jurisdictions relating to the topic of entering into service agreements with private entities. This research may assist to provide general principles and act as a model towards the creation of similar policies relevant to the needs of the Vancouver Police Department.
2. Examine and reconsider the adequacy of current training and development of Vancouver Police Department members with respect to their roles and authorities when they are assigned to duties relating to service agreements between the Vancouver Police Department and private entities.
3. Examine and reconsider current policies relating to the usage of police databases and the potential release of disclosure of information from police databases to civilian staff of a private entity about a person's criminal history.

### Police Board Response

The Vancouver Police Board (VPB) considered this complaint along with OPCC file no. 2015-11435 and 2016-12616 as the issues and concerns brought forward were similar in nature. The VPB consolidated their response to this office. The VPB response to these concerns was the same as reported in the summary for OPCC file no. 2015-11435.

After completing a review of the Police Board's response, the OPCC requested the agreements and guides referenced in the Board's response to this office. Specifically, the OPCC has requested the Restaurant Watch/Bar Watch Operational Reference Guide, the Inadmissible Patron Agreement with BC Place and the VPD Emergency and Operations Planning Section (EOPS) Briefing Notes.

The OPCC has not received this documentation from the Vancouver Police Board at the time of the publication of this report.

**Vancouver Police Department**  
Bar Watch and Restaurant Watch

Registered Complaint 2016-12616

### Background

The complainant promoted a nightclub and as a result had cause to attend the nightclub on a weekly basis. One evening the complainant was in the nightclub when a police officer approached him and requested his identification. A few moments later the complainant was escorted outside and advised that he had been placed on Bar Watch.

The complainant subsequently contacted the head of Bar Watch, who advised him that he would have to speak with the police officer who placed him on Bar Watch to be removed or find out why he was deemed inadmissible. The complainant filed a registered complaint reporting that being placed on Bar

## APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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Watch and Restaurant Watch restricted his employment, decreased his income, ruined his reputation, and violated his rights.

During the *Police Act* investigation another allegation of police misconduct arose wherein a nightclub staff member reported that a police officer stated that the complainant “was in possession of drugs at a rave party.”

Based on the evidence, the information alleged to have been disclosed to the staff member was consistent with information detailed in a PRIME system VPD police report that was used, in part, to identify the complainant as an inadmissible patron. The complainant had not been charged with any offence pertaining to that incident. The evidence also indicated that officers conducting BarWatch/Restaurant Watch checks are expected to advise the establishment when a person has been deemed inadmissible.

Pursuant to section 177(4)(c) of the *Police Act*, the Police Complaint Commissioner recommended that the Vancouver Police Board examine and reconsider VPD policies with respect to the Bar Watch/Restaurant Watch Program, specifically the legal validity of these programs in their current form as well the disclosure of police database information to staff at Bar Watch/Restaurant Watch signatory establishments.

Furthermore, as this matter involved allegations related to third-party privacy, the Police Complaint Commissioner was considering exercising his discretion pursuant to section 95(2) of the *Police Act* to advise the Information and Privacy Commissioner of the facts of this case so that he may consider whether to exercise any of his powers pursuant to the *Freedom of Information and Privacy Act*.

### **Police Board Response**

On April 26, 2018, the Vancouver Police Board (VPB) provided a response to the Police Complaint Commissioner’s recommendations. According to the VPB,

The VPD agrees that any disclosure of details or specifics about an IP from police databases to staff members at a [Restaurant Watch (RW)/Bar Watch (BW)] participating establishment is inappropriate. In recognition of this, the VPD’s Gang Crime Unit has revised the RW and BW Operational Reference Guide to include appropriate direction to members.

Specifically, the RW and BW Operational Reference Guide was revised to include the following direction to members:

Members are not to disclose any specifics or details about an ejected person(s) to staff at the establishment, nor are members to specify which Inadmissible Patron (IP) criteria were met. If asked by a staff member of the establishment as to a reason for the ejection, the member’s reply should be limited to ‘the ejected person meets one or more of the IP criteria.’

After completing a review of the Police Board’s response, the OPCC has requested the Operational Reference Guide referenced in the Board’s response to this office. The OPCC has not received this documentation from the Vancouver Police Board at the time of the publication of this report.



# APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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Vancouver Police Department  
Bar Watch and Restaurant Watch

Service or Policy Complaint 2016-14151

## Background

The complainant reported to our office concerns related to the Vancouver Police Department's implementation of the Bar Watch Program. The complainant reported that he believes that the VPD must establish guidelines to provide a reasonable timeline for determining when a former gang associate who has denounced the lifestyle will be removed from the Bar Watch Program. This complaint was processed pursuant to Division 5 – Service and Policy Complaints.

## Police Board Response

The Police Board dismissed this service or policy complaint and provided reasons to the OPCC and the complainant. In their reasons, they stated that it was inappropriate to develop guidelines to determine when an Inadmissible Patron's (IP) status should be removed. According to the VPD,

The considerations for such a decision are based on a combination of factors such as (but not limited to): how violent the [IP] was while in the gang lifestyle; how prominent the IP was in the gang lifestyle or as an associate; how long the IP was in the gang lifestyle, and; how long has it been since have they removed themselves from the lifestyle. Such considerations can vary significantly for each IP's history and, as such, it is inadvisable to develop guidelines that attempt to codify such conclusions.

It was also noted that members of the Gang Crime Unit (GCU) routinely encourage IPs to meet and review their status as reconsiderations are done on a case by case basis. GCU member make this offer on a regular basis and it is rarely taken advantage of by the majority of IP's.

## OPCC Response

Pursuant to section 173 of the *Police Act*, upon review of the police board's decision following receipt of a service or policy complaint, the Police Complaint Commissioner may recommend to the board further investigation, study, courses of action or changes to service or policy. These recommendations and any response received must be included in the Police Complaint Commissioner's annual report.

The OPCC completed a review of the Vancouver Police Board's (VPB) response to this service or policy complaint. As a result of this review, the OPCC recommended that the VPB conduct further investigation related to the development of objective guidelines regarding the timeframe a person who has renounced the gang lifestyle should continue to be considered an Inadmissible Patron (IP) under the Bar Watch and Restaurant Watch programs.

The circumstances as outlined in the complaint indicated that officers in the GCU have a considerable amount of discretion in determining whether or not to remove an individual from the IP program and when they may do so. It is the OPCC's position that further exploration of reasonable objective guidelines for IP status removal would assist police officers, the public, and the establishments in ensuring public safety in concert with an individual's rights.

## Recommendation 1:

Provide further investigation into the 'common practice' of GCU to welcome and encourage IPs with an opportunity to meet with a GCU supervisor. Provide details of its implementation, frequency of use, the process it is measured by, and examine these areas with the purpose of identifying and developing written policy in support of a 'common practice'.

## APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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### Recommendation 2:

Provide further investigation into the details of the clear criteria of Restaurant Watch and Bar Watch, the consistent training provided by VPD, and the operational reference guide for VPD officers to follow and examine if removal as an IP is included in the criteria, training, and reference guide.

### Recommendation 3:

Provide further investigation into and provide details of the examples of people having their IP status removed immediately. In addition, provide further investigation into the reasons for IP status removal.

The OPCC has not received a response from the Vancouver Police Board at the time of the publication of this report.

**Vancouver Police Department**  
Use of restraints in VPD Jail

Registered Complaint 2016-13493

### Background

The complainant reported to our office that while walking in a lane, a vehicle was backing up towards her and one of her children, so she slapped the rear trunk of the vehicle to indicate their presence to the driver. The driver exited and the complainant realized that it was a police officer. The complainant tried to explain her perception of the situation. The members took custody of the complainant and placed her in handcuffs. The complainant stated that the members did not tell her why she was being arrested and she was subsequently transported to jail in a police wagon.

The complainant stated that her arm was sore because her arms were kept in the same position for a long time while wearing handcuffs. The handcuffs were kept on while the complainant was lodged in a cell. The complainant felt that the VPD jail staff might have been teaching her a lesson for being vocal and argumentative.

The complainant reported being handcuffed the entire duration, while in the police wagon and in the jail. She stated that the handcuffs were not loosened or adjusted until being released from custody around 1:30 to 2:00 a.m., the following morning. The complainant recalled screaming in pain the entire time because of the tight handcuffs and repeatedly asked for the jail staff to rotate the handcuff position to the front of her body to reduce the pain being experienced, but the members and the jail staff did not assist with this.

The complainant informed our office that she asked for medical assistance because of wrist and arm pain due to being in handcuffs for an extended period of time. The complainant stated the jail staff ignored the request and she was not able to access medical assistance until after being released from custody.

The Vancouver Police Department conducted an investigation into the Registered Complaint and produced a Final Investigation Report.

Two main concerns resulted from the investigation: the grounds for the arrest of the complainant and the fact that she was left in handcuffs in the VPD jail for 1 hour and 31 minutes while apparently intoxicated.

The Police Complaint Commissioner appointed a retired judge to conduct a review of the arrest of the complainant, pursuant to section 117 of the *Police Act*. The retired judge determined that the complainant's arrest, which led to her attendance in VPD cells, amounted to misconduct.

In relation to the handcuffing, the Discipline Authority found that the members processing the complainant in cells were concerned for their safety due to the complainant's behaviour. The Discipline

## APPENDIX: RECOMMENDATIONS TO POLICE BOARDS

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Authority felt it was reasonable to have the handcuffs remain on until the complainant demonstrated a level of cooperation and sobriety. The OPCC disagreed with the Discipline Authority's decision; however, it was determined that the lack of clear policy and training in the jail was a factor in this investigation.

### *Use of Restraints in the jail*

Upon reviewing the issue of the complainant remaining in handcuffs while lodged in a cell, the OPCC considered that the current state of the VPD jail policy and Jail Manual of Operations (JMO) were factors in the conduct that was the subject of this complaint and investigation. There remained ambiguity as to when certain restraints may be used, for how long, and who must authorize the restraint devices - including handcuffs.

It appears that the VPD Jail Policy and the JMO in relation to restraints has contributed to a misunderstanding of the jail staff's duties and responsibilities when leaving a prisoner in a cell in handcuffs.

The OPCC contacted the Vancouver Police Department during this investigation and requested a copy of their current policy and procedures relating to keeping prisoners in handcuffs while lodged in the Vancouver Jail. When asked for a copy of the JMO, the assigned Professional Standards Investigator, advised that the JMO is a "live document" and was being amended. The Investigators stated that he could not find anything in the JMO to indicate that there was a requirement to notify a supervisor when keeping an individual in handcuffs while in jail cells.

From the OPCC's perspective, there does not appear to be any standardized policies or procedures in force or effect for restraining prisoners in the Vancouver City Jail in handcuffs.

In this case, the complainant was considered to be an intoxicated prisoner. The VPD Regulations and Procedures Manual (RPM) indicates that intoxicated prisoners are to be checked every 15 minutes.

While handcuffed, and lodged in the cell, the complainant was only checked once in a manner that was consistent with 15 minute required checks. The complainant remained in a cell, in handcuffs, for 1 hour and 31 minutes, before the handcuffs were removed.

The period that the complainant remained in handcuffs, in these circumstances, caused the OPCC significant concern. It is our view that handcuffs are passive restraints and render a prisoner vulnerable to significant discomfort, wrist and related joint injuries, and the potential for positional asphyxia should the prisoner remain in a prone position handcuffed to the rear for an extended period of time.

The OPCC has been documenting issues of significant concern in relation to the Vancouver Jail as they arise. The issues related to the JMO such as the amount of time the manual has remained "under review" and the lack of adherence by jail staff in practice, including lodging prisoners in cells while handcuffed, has been ongoing since before 2012.

The Vancouver Jail processes over 19,000 prisoners a year and is a vulnerable aspect of VPD operations for civil litigation related to the duty of care to those prisoners. The OPCC strongly recommended that there should be an operational process in place to support the duty of care to those prisoners and a guide to assist the members with the required duty of care.

Accordingly, pursuant to section 177(4)(c) of the *Police Act*, the Police Complaint Commissioner recommended that the Vancouver Police Board examine and reconsider any policies or procedures relating to lodging handcuffed prisoners in Vancouver jail cells. Specifically,

1. Examine the current practice of lodging prisoners in cells, on their own, while handcuffed, for extended periods of time. Consideration should be given to the development of policies and/or procedures, consistent with the public interest, where it is determined that current policy and/or

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procedures are either non-existent or are not sufficiently adequate to protect the rights and safety of prisoners.

2. Research and review policies in other jurisdictions relating to the topic of lodging prisoners in cells, on their own, while handcuffed, for extended periods of time. These and other sources of current research may assist to provide general principles and act as a model towards the creation of similar policies relevant to the needs of the Vancouver Police Department.
3. Research and assess the adequacy of current training and development of Vancouver Police Department members with respect to the practice of lodging prisoners in cells, on their own, while handcuffed, for extended periods of time. Where appropriate, develop and deliver in a timely manner, training aimed at increasing officer awareness of the risks and consequences in the application of lodging prisoners in cells, on their own, while handcuffed, for extended periods of time to prevent a reoccurrence of similar incidents in the future. Any training developed should include a component related to prisoners suffering from intoxication.

### Police Board Response

The OPCC has not received a response from the Vancouver Police Board at the time of the publication of this report.

### Victoria Police Department

Service or Policy Complaint 2016-12399

### Background

The complainant reported to our office concerns related to how the Victoria Police Board was utilizing monies from the “operational” side of the Victoria Police Department’s 2015/2016 budget to pay for an external private media crisis consultant to deal with the Chief Constable Elsner investigation and the continued funding of lawyer(s) retained by Chief Constable Elsner, even though Chief Constable Elsner has been suspended with pay. This complaint was processed pursuant to Division 5 – Service and Policy Complaints.

### Police Board Response

The Victoria Police Board (Vic PB) directed that the service or policy complaint be dismissed. The Vic PB advised that the complaint referred to “specific financial transactions clearly within the legislative responsibility of the Board. It [did] not relate to the general direction, general management or general potation of the VicPD as contemplated by section 168(1) of the *Police Act*.”

The Board’s letter advised the complainant of their right to request a review of the matter by our office if they disagreed with the Board’s decision.

The OPCC received correspondence from the complainant disagreeing with the Victoria Police Board’s conclusions.

### OPCC Response

Pursuant to section 173(1)(c) of the *Police Act*, upon review of the police board’s decision following receipt of a service or policy complaint, the Police Complaint Commissioner may make recommendations to the director under section 177(4)(e) of the *Police Act*. These recommendations and any response received must be included in the Police Complaint Commissioner’s annual report.

Upon review of this matter, the Police Complaint Commissioner determined that the Victoria Police Board’s determination that this complaint did not relate to the general direction, general management or general operation of the Victoria Police Department as contemplated by section 168(1) of the *Police Act* was arguable.

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The Commissioner noted that section 26(4) of the *Police Act* requires police boards, in consultation with the Chief Constable, to determine the priorities, goals and objectives of the municipal police department. Based on that section and the fact that this complaint was related to the Board's use of operational funds, the Commissioner was of the view that this matter fell within the scope of both the general management and general operation of the Victoria Police Department. The Commissioner was also of the view that an accountable and transparent review of the allegations into this complaint was in the public interest.

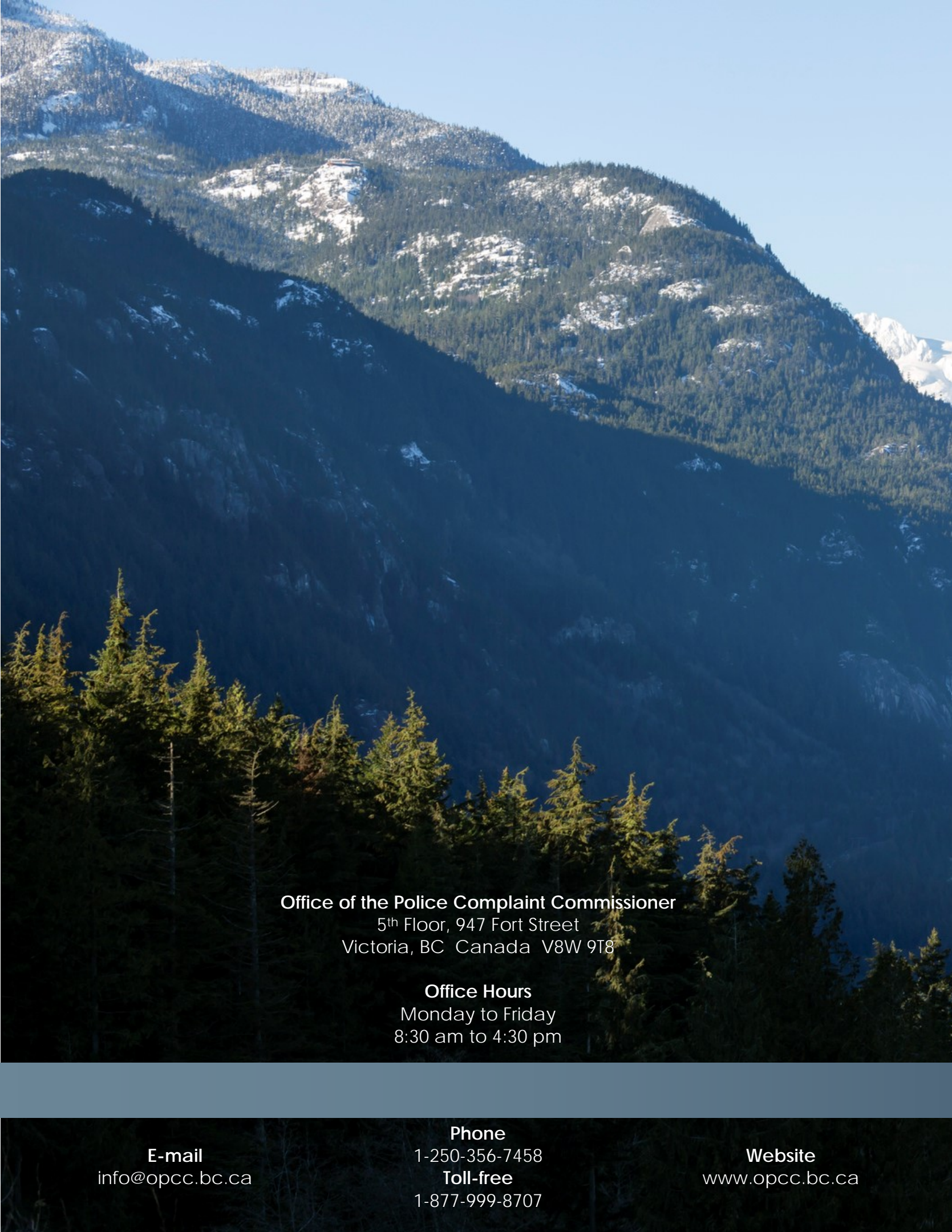
### **Recommendation:**

The Director of Police Services consider exercising his discretion to conduct a special investigation into the actions of the Victoria Police Board as alleged in this particular complaint or, in the alternative, consider exercising his discretion to study, investigate and prepare a report on the Victoria Police Board's use of the Victoria Police Departments budget during the material times as outlined in the complaint.

### **Police Services Response**

The Director of Police Services asked the Victoria Police Board to consider further action in relation to this complaint.

This matter remained outstanding at the time of the publication of this report.



**Office of the Police Complaint Commissioner**  
5<sup>th</sup> Floor, 947 Fort Street  
Victoria, BC Canada V8W 9T8

**Office Hours**  
Monday to Friday  
8:30 am to 4:30 pm

**E-mail**  
[info@opcc.bc.ca](mailto:info@opcc.bc.ca)

**Phone**  
1-250-356-7458  
**Toll-free**  
1-877-999-8707

**Website**  
[www.opcc.bc.ca](http://www.opcc.bc.ca)