

2018/2019



Office of the Police Complaint Commissioner

2018/2019 - 4TH QUARTER STATISTICAL REPORT
JANUARY 1, 2019 - MARCH 31, 2019

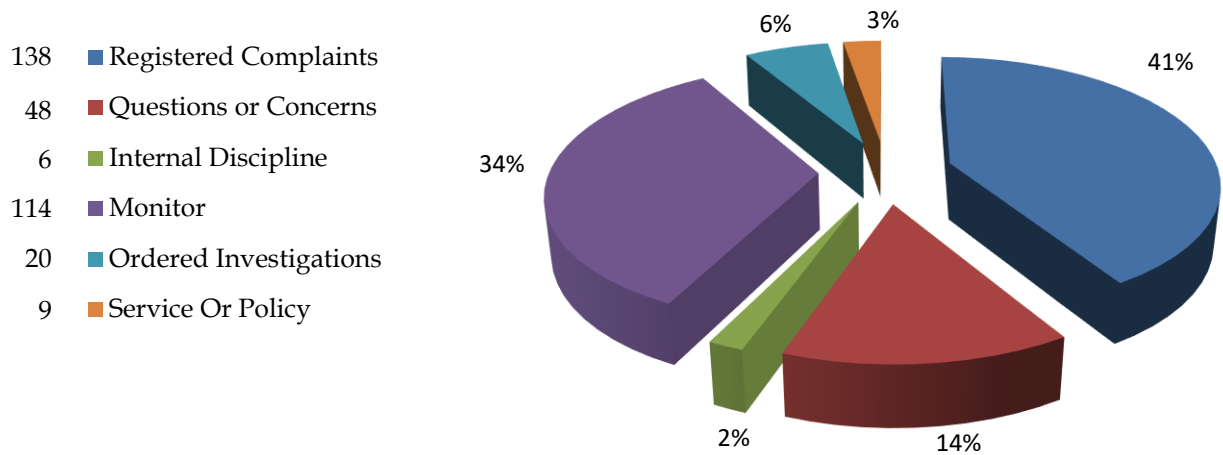
Integrity
Independence
Excellence

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

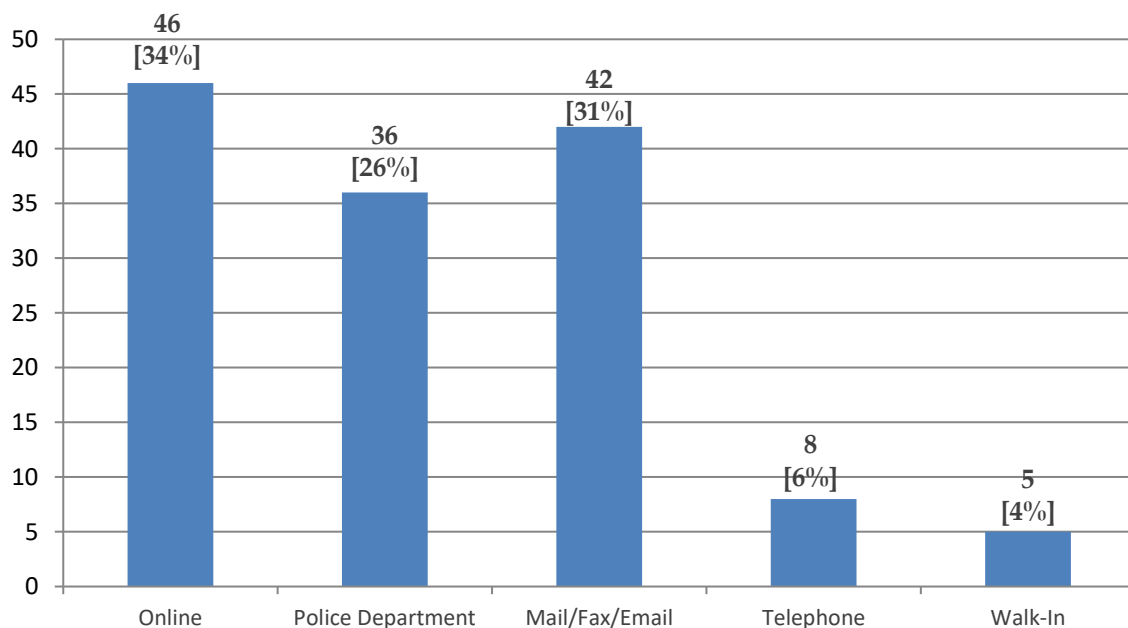
The files opened by the OPCC from January 1, 2019 to March 31, 2019, can be broken down into the following categories:

- Registered Complaints*** Registered Complaints are public trust complaints about a police officer's conduct or actions that affect a member of the public personally or that he or she has witnessed (Part 11, Division 3 of the *Police Act*).
- Questions or Concerns*** If a member of the public has a question or concern about a municipal police officer's conduct, but does not wish to file a registered complaint he/she may contact a municipal police department directly. The member of the municipal police department who receives the question or concern must inform the professional standards section of the involved municipal police department. The professional standards section must record the question or concern, and forward a copy of the record, along with how it was resolved, to the Office of the Police Complaint Commissioner for review (Part 11, Division 3 of the *Police Act*).
- Ordered Investigations & Mandatory Investigations*** Complaint investigations may be ordered by the Police Complaint Commissioner, whether it is upon the request of a department or as a result of information received from any source that raises concerns about officer misconduct. The legislation also requires the Commissioner to order a mandatory external investigation into any incident resulting in serious harm or death (Part 11, Division 3 of the *Police Act*).
- Monitor Files*** Monitor Files are opened when information is received by the OPCC from the police, including Reportable Injuries, or other sources such as media reports that *may* require an investigation pursuant to the *Police Act*. These are typically incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have been identified to date. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "Reviewed & Closed."
- Internal Discipline*** Internal Discipline files involve performance management issues or employer/employee concerns that do not affect members of the public (Part 11, Division 6 of the *Police Act*).
- Service or Policy*** Service or Policy complaints are those regarding the quality of a police department's service to the community or regarding their operating policies (Part 11, Division 5 of the *Police Act*).

Type of files opened between January 1, 2019 and March 31, 2019



How Registered Complaints were received between January 1, 2019 and March 31, 2019



Admissibility of Registered Complaints received between January 1, 2019 and March 31, 2019

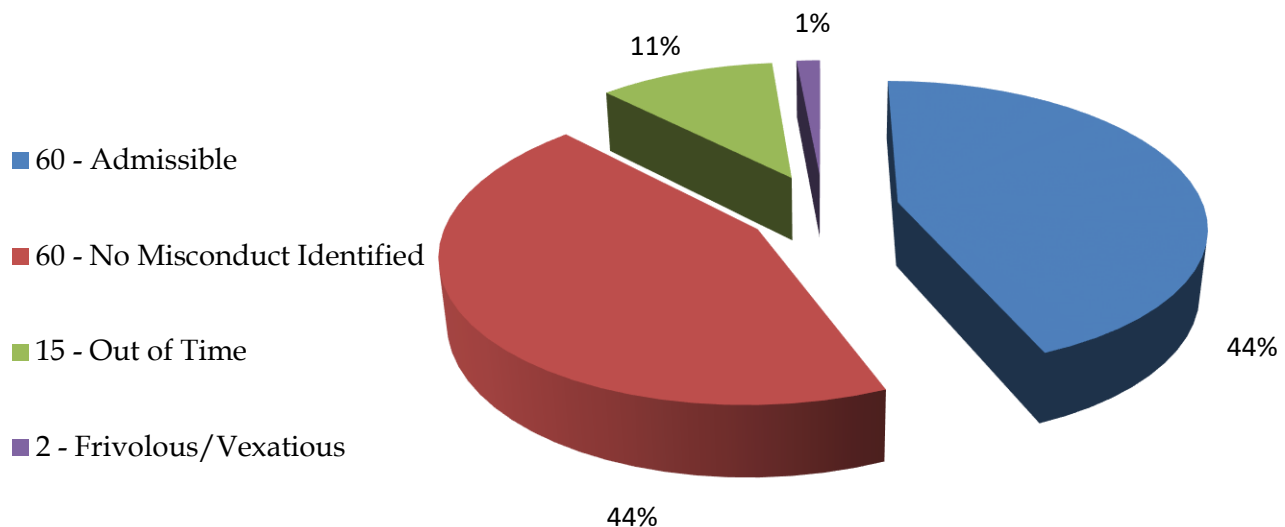
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

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

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

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

Breakdown of Admissibility of Registered Complaints¹



¹ One registered complaint was withdrawn prior to the completion of an admissibility assessment.

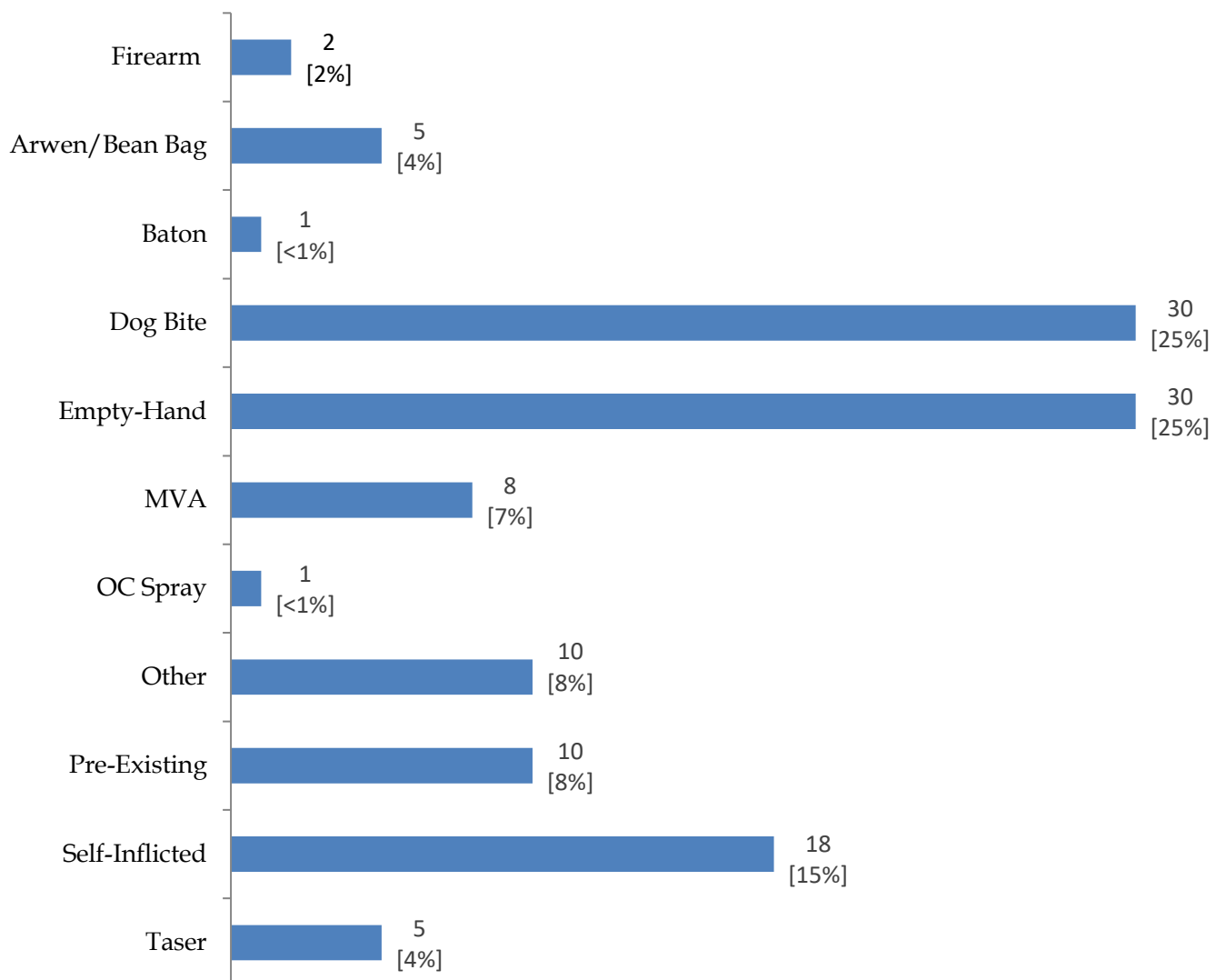
Files Opened between January 1, 2019 and March 31, 2019

Department	TOTAL	Admissible Registered	Inadmissible Registered	Mandatory Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	35	1	7	0	3	0	9	14	1	0
Central Saanich	3	1	0	0	0	0	1	0	0	1
Delta	22	1	5	1	0	0	12	3	0	0
Nelson	7	2	2	0	2	0	1	0	0	0
New Westminster	10	2	4	1	0	0	3	0	0	0
Oak Bay	3	1	2	0	0	0	0	0	0	0
Port Moody	6	1	1	0	0	0	0	3	1	0
Saanich	14	1	5	0	0	0	2	5	1	0
SCBCTAPS	23	3	3	0	2	0	10	4	1	0
Stl'atl'imx	1	0	0	0	1	0	0	0	0	0
Vancouver	157	38	35	1	7	1	59	9	0	7
Victoria	53	8	13	0	3	1	17	10	0	1
West Vancouver	4	1	1	0	0	0	0	0	2	0
TOTAL:	338	60	78	3	18	2	114	48	6	9

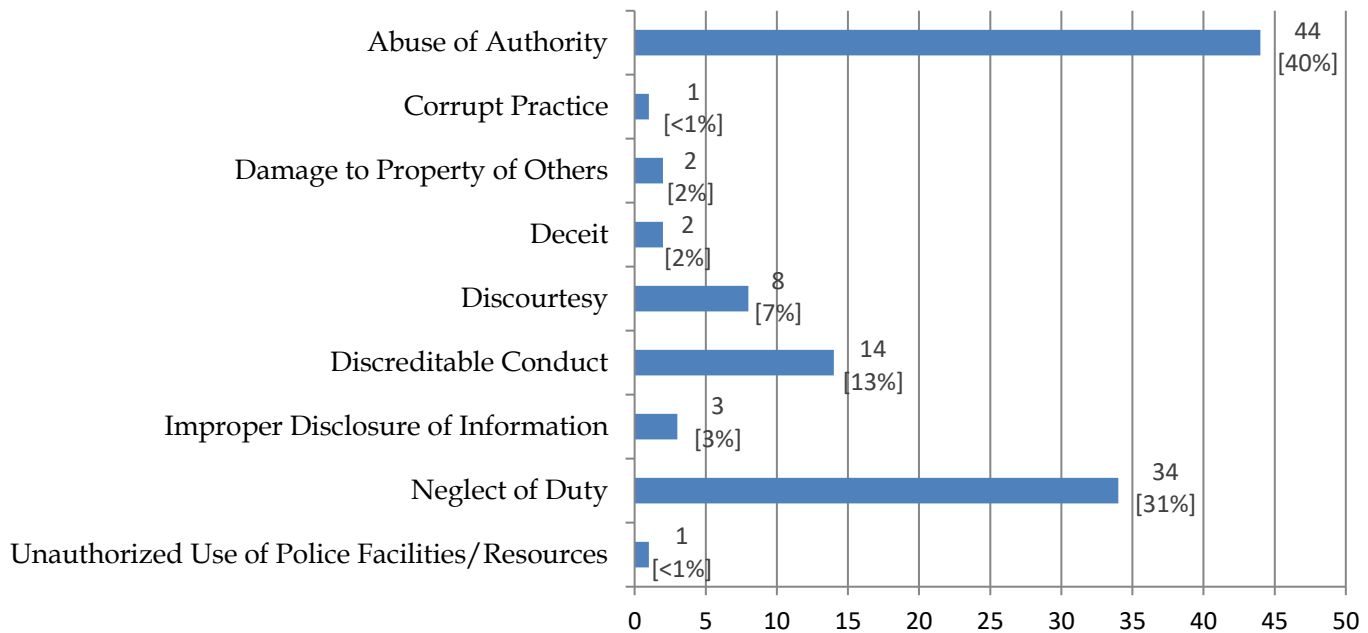
Reportable Injury Notifications received between January 1, 2019 and March 31, 2019

The *Police Act* requires departments to report all incidents where an individual in the care or custody of the police suffers a “reportable injury” that requires transportation to a hospital and medical treatment. These “reportable injuries” are opened as Monitor Files until it is determined whether an investigation will be conducted. Between January 1, 2019 and March 31, 2019, the OPCC received **93** notifications of reportable injuries involving **120** uses of force.

- 2 - Mandatory external investigation (serious harm)
- 0 - Ordered investigation – initiated by the PCC
- 1 - Ordered investigation – requested by department
- 5 - Registered complaints received



Allegations Forwarded for Investigation between January 1, 2019 to March 31, 2019



Once a complaint file is deemed admissible or an investigation is ordered, allegations of misconduct are identified against individual members. The *Police Act* identifies **14** public trust allegations. Between January 1, 2019 and March 31, 2019, the OPCC identified **109** public trust allegations and forwarded them to the member(s) department for investigation. Please note that these are only allegations and do not reflect whether they were substantiated or not substantiated.

Abuse of Authority, section 77(3)(a):

This allegation involves on duty conduct where a member engages in oppressive conduct towards a member of the public, which includes, arresting someone without good and sufficient cause; using unnecessary force on someone; or when on or off duty (but in uniform) uses profane, abusive or insulting language to any person.

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

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

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

This allegation involves damaging the property belonging to a member of the public or failing to report such damage, regardless of how it was caused.

Deceit, section 77(3)(f):

This allegation involves a police officer who makes a statement or report that to the member's knowledge is false or misleading.

Discourtesy, section 77(3)(g):

This allegation involves on duty conduct, where a member fails to behave with courtesy due in the circumstances towards a member of the public in the performance of duties as a member.

Discreditable Conduct, section 77(3)(h):

This allegation involves on or off duty conduct where the members conducts oneself in a manner that the member knows, or ought to know, would be likely to bring discredit on the municipal police department.

Improper Disclosure of Information, section 77(3)(i)

This allegation involves disclosing or attempting to disclose information that is acquired by the member in the performance of duties as a member.

Neglect of Duty, section 77(3)(m):

This allegation involves conduct of a member where they have failed to properly account for money or property received; failed to promptly or diligently do anything that is in one's duty as a member to do; or failed to promptly and diligently obey a lawful order of a supervisor, without good and sufficient cause.

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

This allegation is a sub category of Corrupt Practice that involves using or attempting to use any equipment or facilities of a municipal police department for purposes unrelated to the performance of duties as a member.

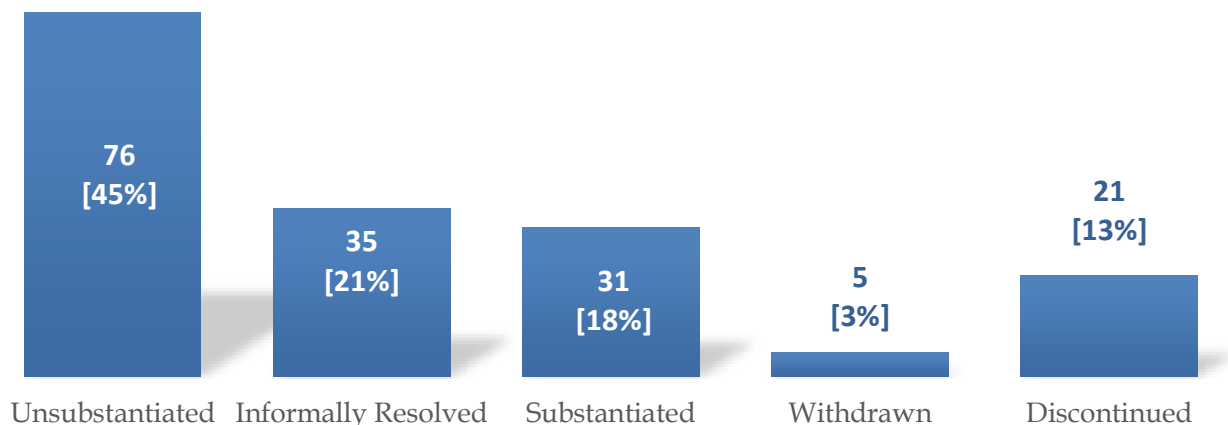
Allegations Concluded between January 1, 2019 and March 31, 2019

All *Police Act* (Division 3 – Public Trust) complaint files are reviewed and separate allegations of misconduct are identified as they relate to each officer involved. A single complaint file may contain multiple allegations against more than one officer. When referring to concluded allegations the figures relate to the allegation, not the complaint file. The figures for files opened and allegations concluded are independent.

Allegations of misconduct against an officer that are processed pursuant to Divisions 3 & 4 of the *Police Act* may result in the following outcomes:

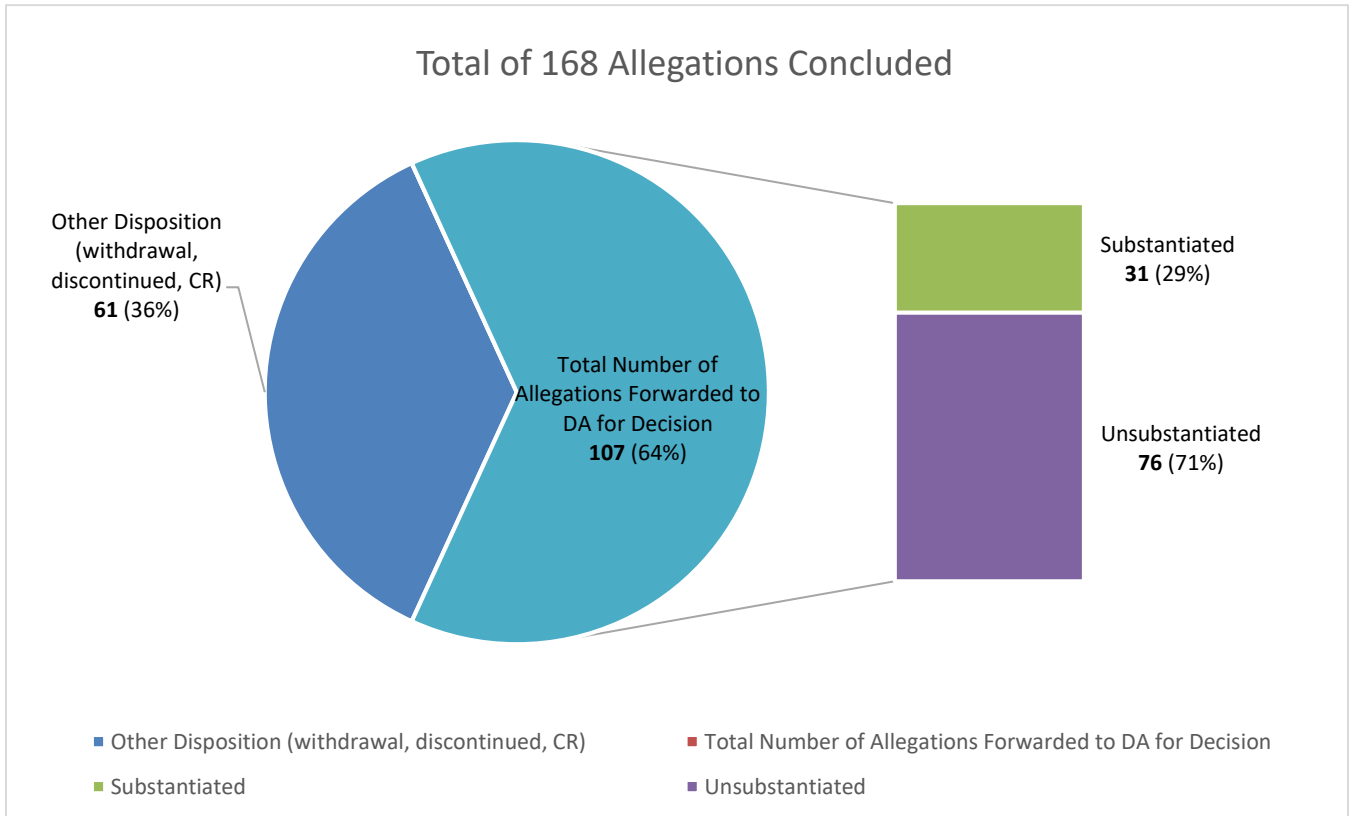
- Withdrawn** *A Complainant may withdraw his/her complaint at any time in the process; however, the Commissioner may direct that the investigation continue if it is determined it is in the public interest to do so.*
- Informally Resolved** *A complaint may be informally resolved pursuant to Division 4 of the Police Act. Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their mind. The OPCC reviews all Complaint Resolutions and if the Commissioner determines it is not appropriate or inadequate, the resolution is set aside and the investigation continues.*
- Mediated** *Division 4 also permits a complaint to be resolved through mediation, facilitated by a professional mediator. If no agreement can be reached, the investigation continues. Amendments to the legislation now give the Commissioner the authority to direct a Complainant to attend mediation, and similarly, the Chief Constable may order the member to attend.*
- Discontinued** *The Commissioner may direct an investigation into allegations of misconduct be discontinued if it is determined that further investigation is neither necessary nor reasonably practical, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false.*
- Not Substantiated** *Following an investigation conducted pursuant to Division 3, the Discipline Authority determines there is no evidence to support the allegation of misconduct and the OPCC determines an adjudicative review is not necessary.*
- Substantiated** *Following an investigation conducted pursuant to Division 3, the Discipline Authority determines the allegation is supported by the evidence. The Discipline Authority must then decide on appropriate disciplinary and/or corrective measures to impose.*

Between January 1, 2019 and March 31, 2019, the OPCC concluded **168** public trust allegations in the following manner:



Allegations forwarded to a Discipline Authority for Decision between January 1, 2019 and March 31, 2019

Of the **168** allegations that were concluded, **107 (64%)** of those allegations were forwarded to the Discipline Authority for decision. Of those allegations that were forwarded, **31** allegations were substantiated.



Mediation & Complaint Resolution of *Police Act* Complaints

Complaint Resolution

(s.157)

Our experience has shown that there are a large number of police complaints that are better suited to be resolved through Alternative Dispute Resolution (ADR) than undergoing a formal investigation. By directly participating in the solution to the dispute, the majority of complainants and members come away from the process with a more meaningful and positive level of satisfaction. The Police Complaint Commissioner has identified Alternative Dispute Resolution as a priority for this office.

Under the *Police Act*, there are two avenues of Alternative Dispute Resolution: Complaint Resolution which is facilitated by a Professional Standards Investigator at the police department; and Mediation which is conducted by an independent and neutral mediator.

Based on the nature and seriousness of the allegations, an attempt at Complaint Resolution may be recommended by the OPCC to the police department. It is up to the police department to determine whether an attempt at resolving a complaint through ADR will be undertaken. Both the complainant and the respondent member must agree in writing to the proposed resolution and both have ten business days to revoke their consent to informally resolve. The OPCC reviews all Complaint Resolution agreements to ensure the resolution is appropriate and adequate.

Between January 1, 2019 and March 31, 2019, the OPCC reviewed and approved Complaint Resolution agreements relating to **35** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for Alternative Dispute Resolution.

2018/2019 Fiscal Year	4 th Quarter (January 1, 2019 to March 31, 2019)
Allegations Informally Resolved	35 (30%)
Total Allegations Concluded ²	117

Mediation is a process for resolving disputes between a complainant and a member with the assistance of a neutral professional mediator.

There were no Mediations held between January 1, 2019 and March 31, 2019.

Mediation
(Division 4)

² Allegations from Registered Complaints only

Adjudicator Reviews between January 1, 2019 and March 31, 2019

The *Police Act* offers three avenues of review following a Discipline Authority's decision:

Appointment of a New Discipline Authority [s.117]

If, following an investigation, the Discipline Authority determines that the conduct of the member did not constitute misconduct, and the Commissioner believes there is a reasonable basis to believe the decision is incorrect, the Commissioner may appoint a retired judge to review the matter.

Between January 1, 2019 and March 31, 2019, the Commissioner appointed a retired judge to act as a new Discipline Authority in **TWO** 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 January 1, 2019 and March 31, 2019, the Commissioner appointed a retired judge to conduct a Review on the Record in **TWO** matters.

Public Hearing [s.143]

Public Hearings remain an option for the Commissioner if he believes such a review of a *Police Act* matter is required in the public interest. Public Hearings are conducted by retired judges, are open to the public and evidence is presented under oath.

Between January 1, 2019 and March 31, 2019, the Commissioner arranged **ONE** Public Hearing.

Decisions from these three adjudicative avenues are available to the public through the OPCC website at www.opcc.bc.ca. All Public Hearings are open to the public to attend, we post all Public Hearing dates, time and location on our website.

Substantiated Allegations - Concluded between January 1, 2019 and March 31, 2019

Abbotsford

No substantiated misconduct in this reporting period.

Central Saanich

Ordered Investigation – Requested by Department (OPCC 2018-14783)

Allegation:

On May 16, 2018, a police officer failed to conduct a sufficiently thorough search of a person who was apprehended by police prior to transport and their admission to a secure psychiatric facility. Two hours after being admitted to hospital, the apprehended person pulled out a knife and started playing with it. The apprehended person relinquished the knife to hospital staff upon request.

Misconduct: <i>Neglect of Duty</i> (inadequate search) Date of Incident: May 16, 2018	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• Advice to future conduct
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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. The intent of the Act is to consider an approach that seeks to correct and educate the police officer as long as the approach does not bring the administration of police discipline into disrepute. The police officer accepted full responsibility for his actions and wished to apologize to all those involved.

Based on the evidence in the Final Investigation Report, the Prehearing Conference Authority recommended that the police department ensure a portable handheld metal detector was available for officers in the field to assist them in clothing searches.

It was also recommended that police department representatives meet with hospital staff to discuss enhancing mutual safety protocols. This would include the potential use of the hospital's fully-trained Protective Services Officers to search patients in a clinical setting before allowing them access to their secured wards.

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

CFSEU

No substantiated misconduct in this reporting period.

Delta

Ordered Investigation – Initiated by PCC
(OPCC File 2018-15138)

Allegation:

On August 10, 2018, a police officer disclosed to his supervisor that he used a police database (PRIME) to conduct a query of an extended family member. In addition, the police officer admitted to additional PRIME queries of the extended family members that the officer conducted in the past.

Misconduct: <i>Unauthorized Use of Police Facilities/Resources</i> (unauthorized search of CPIC / PRIME) Date of Incident: November 2011 – August 2018	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• Written reprimand
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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. 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. Several years ago, the police officer informed the police department that an extended family member had gang associations. The police officer acknowledged that he should have gone through the proper channels if he had further concerns for the security of his family. The police officer reported that he conducted the queries to ensure the security of himself and his family. There was no evidence that the police officer conducted CPIC (Canadian Police Information Center) queries, shared the information, or that the queries negatively impacted any criminal investigation(s).

The police officer participated in a review of departmental policy and relevant manuals in relation to accessing PRIME and CPIC information under the direct supervision of the Inspector in Charge of the Administrative Bureau, prior to the Discipline Authority reaching a decision in this matter.

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

Nelson

Ordered Investigation – Initiated by PCC (OPCC File 2018-15003)

Allegations:

In April 2017, a police officer used a derogatory term in front of work colleagues in the workplace when he referred to a female police officer.

Misconduct 1: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: April, 2017	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• Written reprimand• Training or retraining in respectful workplace or workplace harassment
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Allegation:

The police officer displayed inappropriate behaviour on multiple occasions when he slapped the genital area of fellow male officers while in the workplace.

Misconduct 2: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Multiple	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• Verbal reprimand• Training or retraining in respectful workplace or workplace harassment
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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. 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 police officer acknowledged that the behaviour and comment were clearly a mistake on his part and that he put people in uncomfortable positions within the workplace. He acknowledged more is expected from a front line supervisor.

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

Registered Complaint (OPCC File 2018-14542)

Allegation:

On March 14, 2018, a police officer initiated a traffic stop of the complainant. During the traffic stop the police officer reached through the complainant's car window and pulled a cigarette from the complainant's mouth.

Misconduct: <i>Abuse of Authority</i> (oppressive conduct) Date of Incident: March 14, 2018	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• Training or retraining – the police officer was to participate in the program “Investigative Communication” that is intended to teach appropriate interpersonal skills when dealing with members of the public.
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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. 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 police officer had already sought out advice from senior police officers. The police officer confirmed that, in a similar situation, he would approach the investigation and the driver differently. The Prehearing Conference Authority believed that participating in the agreed-upon program would provide the police officer with further skills on how to more positively engage members of the public. The officer confirmed that he would not take the course simply to appease this process, rather he would take it with the goal of self-improvement as he understood his actions were wrong.

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

New Westminster

No substantiated misconduct in this reporting period.

Oak Bay

No substantiated misconduct in this reporting period.

Port Moody

No substantiated misconduct in this reporting period.

Saanich

Internal Discipline (OPCC File 2018-15439)

Allegation:

On October 10, 2018, a police officer breached department policy for improper storage of firearms.

<p>Misconduct: <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations) Date of Incident: October 10, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Verbal reprimand
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OPCC Review:

The OPCC reviewed the investigation and the Internal Discipline Authority’s decision. Several police officers were involved in a firearms training day. After training had concluded, one member accepted responsibility for the pistols and had a duty to maintain care, control, and continuity of the pistols by transporting them from the range to the exhibit control room at the Saanich Police Department immediately after the firearms training day concluded. Ultimately, the service pistols were not promptly delivered to the exhibit control room of the department but rather secured in a police vehicle which was parked in a secure underground lot at the police department. There was no ammunition stored, at any time, with the service pistols; the pistols were not accessible to the public at any time; the pistols were recovered and secured the next day.

The OPCC determined there were no public trust concerns that required further investigation.

[Ordered Investigation – Requested by Department](#)
(OPCC File 2018-14764)

Allegations:

On October 13, 2016, a police officer neglected to maintain visual continuity of a driver during the observation period of an impaired driving investigation.

<p>Misconduct 1: <i>Neglect of Duty</i> (inadequate investigation) Date of Incident: October 13, 2016</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Written reprimand
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The police officer’s failure to properly prepare for court, including a review of the CCTV video of the observation room area/corridor on October 13, 2016, contributed to his lapse of memory which consequently had a negative impact on the accuracy of his court testimony. As a result, a Provincial Court Judge found that his evidence was not reliable and acquitted the accused.

<p>Misconduct 2: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: February 13, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Training or retraining - court testimony skills
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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. 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 Prehearing Conference Authority considered that approximately two years had passed from the time the police officer investigated the matter to when he testified in court. This time frame would likely diminish one's memory of an event without proper preparation and review of necessary materials/ documents. The police officer took full responsibility and demonstrated a desire to improve his court preparation practice.

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

SCBCTAPS

No substantiated misconduct in this reporting period.

Stl'atl'imx

No substantiated misconduct in this reporting period.

Vancouver

Ordered Investigation – Requested by Department
 (OPCC File 2018-14899)

Allegation:

On June 23, 2018, while off duty, a police officer was intoxicated and engaged in a verbal exchange with a neighbour that turned into a physical encounter where he pushed the female neighbor at least twice in the chest area.

<p>Misconduct 1: Discreditable Conduct (conduct that discredits the department) Date of Incident: June 23, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 2 day suspension*
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Allegation:

On June 23, 2018, while off duty, the police officer identified himself as an off duty VPD member to the investigating police officers in an attempt to gather personal gain or preferential treatment.

<p>Misconduct 2: Corrupt Practice (using police authority for personal gain) Date of Incident: June 23, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 1 day suspension*
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*Suspensions to be served consecutively.

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. 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 Prehearing Conference Authority was of the view that the police officer had many other options available rather than to engage in a verbal and physical encounter with his neighbour. The Prehearing Conference Authority was also of the view that there was no reasonable explanation or duty to advise the investigating officers on scene that he was an off duty police member as the situation was off duty and not related to any police duties. The Discipline Authority did not believe that the reasonable expectation of the community was met.

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

Ordered Investigation – Initiated by PCC
(OPCC File 2018-14590)

Allegations:

On March 14, 2018, a police officer sent an inappropriate text message that insinuated a forced sexual act.

<p>Misconduct 1: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: March 14, 2018</p>	<p>Disciplinary/Corrective Measures:</p> <ul style="list-style-type: none"> • 1 day suspension* • Training or retraining in respectful workplace or workplace harassment
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The police officer used inappropriate and rude language in the workplace, specifically language that is seen to degrade women.

<p>Misconduct 2: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Written reprimand • Training or retraining in respectful workplace or workplace harassment
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The police officer made a vulgar and inappropriate comment in the workplace.

<p>Misconduct 3: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 1 day suspension* • Training or retraining in respectful workplace or workplace harassment
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The police officer made an inappropriate comment to multiple female officers related to a "no dogs allowed" poster in the workplace.

<p>Misconduct 4: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Verbal reprimand • Training or retraining in respectful workplace or workplace harassment
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*Suspensions to be served consecutively.

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. 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 police officer acknowledged the behaviour and comments were clearly a mistake on his part and put many people in an uncomfortable position. The police officer was transferred to a different patrol squad during the investigation of these allegations. The Prehearing Conference Authority further felt that the police officer’s agreement to the disciplinary/corrective measures proposed indicated his willingness to prevent this type of behaviour from recurring.

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

Registered Complaint
(OPCC File 2018-14571)

Allegations:

On February 28, 2018, a police officer used unnecessary force on the complainant during a traffic stop. The police officer was concerned that the complainant was outside their vehicle during the traffic stop. The officer placed his hand on the complainant’s left arm to motion and guide the complainant back to their vehicle. The complainant refused the attempt and the police officer decided to place him in handcuffs for officer safety. The police officer asked the complainant to turn around in order to place the complainant in handcuffs. The complainant did not acknowledge the police direction and so the police officer grabbed the complainant’s arm. The complainant pulled away and the police officer swept the complainant’s foot and took the complainant to the ground.

<p>Misconduct 1: <i>Abuse of Authority</i> (excessive force – empty hand) Date of Incident: February 28, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <p>Member 1</p> <ul style="list-style-type: none"> • Written reprimand • Training/Retraining in use of force and situational assessment and de-escalation techniques
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On February 28, 2018, the police officer and his partner failed to inform the complainant of the reason for their arrest or their legal counsel rights in accordance with Section 10 of the *Charter*.

<p>Misconduct 2: <i>Neglect of Duty</i> (failure to provide <i>Charter</i> rights) Date of Incident: February 28, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <p>Member 1</p> <ul style="list-style-type: none"> • Verbal reprimand • Training/Retraining in arrest and detention authority <p>Member 2</p> <ul style="list-style-type: none"> • Verbal reprimand • Training/Retraining in arrest and detention authority
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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. 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. At the time of this incident Member 1 had been a police officer for one year and had just graduated from the Police Academy two months prior. During the prehearing conference Member 1 stated that he made a mistake during the traffic stop and that he should not have touched the complainant and by doing so he escalated the situation.

The Prehearing Conference Authority found that a failure to provide a citizen with their *Charter* rights can have serious ramifications on criminal investigations as well as the individual's right to legal advice upon arrest or detention. Both officers recognized the importance of communication with one's partner to ensure that the people who are arrested are advised of their *Charter* rights.

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

Ordered Investigation – Initiated by PCC
 (OPCC File 2018-14510)

Allegation:

On July 26, 2017, a police officer failed to slow his police vehicle to a speed consistent with reasonable care when approaching or entering an intersection so other motorists could fully perceive and react, considering the police vehicle was not utilizing the proper siren or rumbler. This resulted in a motor vehicle collision between the police vehicle and three civilian vehicles. Four individuals, including the police officer, sustained minor soft tissue injuries.

<p>Misconduct: <i>Neglect of Duty</i> (dangerous driving) Date of Incident: July 26, 2017</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Advice to future conduct • Training/Retraining in Emergency Vehicle Driving Regulations with a supervisor
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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. 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 Prehearing Conference Authority found that the police officer took full responsibility for his actions and imposed the above-noted discipline.

Section 111 of the *Police Act* authorizes that the Police Complaint Commissioner may report to Crown counsel any matter when the Commissioner considers that the conduct of the member under investigation may constitute an offence created under any enactment, including an enactment of Canada or another province.

After a comprehensive assessment of the available evidence in this matter, the Police Complaint Commissioner determined that the conduct of the police officer may constitute an offence under the *BC Motor Vehicle Act*. Therefore, the Police Complaint Commissioner forwarded a Report to Crown Counsel requesting that the Criminal Justice Branch undertake a charge assessment in relation to this matter. Crown Counsel ultimately determined that it was not in the public interest to proceed with charges.

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

Registered Complaint – Anthony Parker
(OPCC File 2018-14290)

Allegation:

On December 31, 2017, two police officers detained the complainant for Breach of the Peace without good or sufficient cause.

<p>Misconduct 1: <i>Abuse of Authority</i> (unlawful detention) Date of Incident: December 31, 2017</p>	<p>Disciplinary/Corrective Measure:</p> <p>Member 1</p> <ul style="list-style-type: none"> • Written reprimand <p>Member 2</p> <ul style="list-style-type: none"> • Advice to future conduct
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Allegation:

On December 31, 2017, two police officers intentionally or recklessly used unnecessary force by taking physical control of the complainant and applying knee strikes to gain compliance.

<p>Misconduct 2: Abuse of Authority (excessive force – empty hand) Date of Incident: December 31, 2017</p>	<p>Disciplinary/Corrective Measure:</p> <p>Member 1</p> <ul style="list-style-type: none"> • Verbal reprimand <p>Member 2</p> <ul style="list-style-type: none"> • Advice to future conduct
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Allegation:

On December 31, 2017, two police officers failed to properly document the use of force used to effect the arrest of the complainant.

<p>Misconduct 3: Neglect of Duty (failure to comply with departmental policy/regulations) Date of Incident: December 31, 2017</p>	<p>Disciplinary/Corrective Measure:</p> <p>Member 1</p> <ul style="list-style-type: none"> • Advice to future conduct <p>Member 2</p> <ul style="list-style-type: none"> • Advice to future conduct
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Disciplinary process:

The Discipline Authority substantiated the *Neglect of Duty* allegation and the matter proceeded to a prehearing conference. A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review. The Prehearing Conference Authority was of the opinion that the use of force applied on a citizen is a serious matter that should be properly documented in every occurrence as per the VPD Regulations and Procedures Manual. The Prehearing Conference Authority noted that neither officer completed a General Occurrence Report (GO), Subject Behaviour Officer Response (SBOR), or documented the use of force in their police notebooks. The Prehearing Conference Authority noted that it is a department requirement to accurately document the use of force applied by police members. The Prehearing Conference Authority believed this was a learning event for the officers. The officers acknowledged and regretted not completing documentation on the use of force applied during the arrest.

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

Adjudicative process:

The Discipline Authority determined that the allegations of *Abuse of Authority* in relation to unlawful detention and excessive force had not been substantiated.

After reviewing the Final Investigation Report and the Discipline Authority's decision, it was the Police Complaint Commissioner's view that even on the officers' own evidence, it was deficient in establishing a reasonable basis to detain the complainant and that the officers had no grounds to detain and arrest the complainant for a breach of the peace. Therefore, it was the Police Complaint Commissioner's view that the force used on the complainant was not necessary nor reasonable in the circumstances. Consequently, pursuant to section 117(4) of the *Police Act* the Police Complaint Commissioner appointed Mr. Wally Oppal, Q.C., retired BC Court of Appeal Judge, to review the matter and arrive at his own decision based on the evidence.

Retired Judge Oppal reviewed the Final Investigation Report and its attachments including, but not limited to, surveillance video footage; witness and police statements; photographs; and the related materials arising in this disciplinary investigation. Retired Judge Oppal determined that based on the evidence it appeared that both allegations of *Abuse of Authority* had been proven and offered both members a prehearing conference.

At the prehearing conference, the complainant was provided the opportunity to make oral submissions. The complainant advised, in part, that the events of December 31, 2017, significantly impacted him in terms of his embarrassment in front of friends and family.

The Prehearing Conference Authority determined that any unlawful detention and subsequent use of force is a serious matter.

The Prehearing Conference Authority noted that Member 1 was genuinely concerned about how he could avoid this type of occurrence in the future. In particular, Member 1 described his proactive efforts, post incident, to educate himself in the following areas: participated in two modules of the acting supervisors program that included training related to arrest and detention, inclusive of policies and procedures such as breach of the peace as well as responsibilities associated with use of force; participated in the Investigator Development program with a focus on effective decision making; and participated in the Field Trainers program which includes competencies such as communications, problem solving, and decision making.

The Prehearing Conference Authority noted that the complainant specifically spoke to the fact that Member 2 played a minimal role in this incident. Retired Judge Oppal noted in his section 117 review of the matter that "Member 2's role in this matter was very much secondary to her partner's". Member 2 discussed being mindful, where the opportunity exists, to pause in the moment to gather better information prior to an arrest.

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

Victoria

Ordered Investigation – Requested by Department (OPCC File 2018-15218)

Allegations:

On September 4, 2018, a police officer strapped her two children in together in the front seat of her police van, activated her emergency lights and sirens, which caused several motorists to pull over to the side of the road, and then parked near an elementary school and dropped her children off.

<p>Misconduct 1: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: September 4, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Advice to future conduct
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The police officer departed from the City of Victoria for a purpose not related to her policing duties, without notifying a police supervisor and while already assigned to an investigation.

<p>Misconduct 2: <i>Neglect of Duty</i> (leave duty without permission) Date of Incident: September 4, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Verbal reprimand
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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. 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 Prehearing Conference Authority served the police officer with a violation ticket for having her two children seat-belted in a single seat contrary to section 39.02(b) of the *Motor Vehicle Act Regulations*. The police officer was in the process of retiring and therefore there was little likelihood of this behaviour being repeated.

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

Ordered Investigation – Requested by Department (OPCC File 2018-15175)

Allegation:

On August 20, 2018, a police officer left his loaded duty pistol in a desk drawer in the Communications Center of the Victoria Police Department, and did not have care or control over this duty pistol for over a day until it was discovered by a civilian call taker and subsequently returned to him by a police supervisor.

<p>Misconduct: <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations) Date of Incident: August 20, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Advice to future conduct
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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. 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 Prehearing Conference Authority acknowledged that the duty pistol remained within a secure, locked room within the police department and that the police officer accepted full responsibility.

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

Ordered Investigation – Requested by Department
(OPCC File 2018-14537)

Allegations:

A special constable’s daughter was the subject of incarceration. The special constable was rude and disrespectful to corrections staff during telephone calls and visits with her daughter.

<p>Misconduct 1: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 1 day suspension* • Letter of apology to corrections staff
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The special constable requested disclosure of information about her daughter and also fast tracking of the visitation application with Corrections due to her position with the police department.

<p>Misconduct 2: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: Undated</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 1 day suspension*
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The special constable used envelopes with the department’s letterhead to send personal documents to her daughter at the correctional institution and used the department’s email system to send personal emails to the Office of the Correctional Investigator.

Misconduct 3: Discreditable Conduct (conduct that discredits the department) Date of Incident: Undated	Disciplinary/Corrective Measure: <ul style="list-style-type: none">• Written reprimand
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*Suspensions to be served concurrently.

Disciplinary process:

This matter was initially the subject of a prehearing conference. A Report on Disciplinary or Corrective Measures Following a Prehearing Conference was forwarded to the OPCC for review. The OPCC found that the discipline and/or corrective measures proposed did not adequately address the seriousness of the special constable's conduct and therefore rejected the agreement.

Consequently, a Discipline Proceeding was held where the special constable admitted to all three allegations of misconduct.

A copy of the Disciplinary Disposition Record was forwarded to the OPCC for review. The OPCC recognized that an attempt by a police officer to seek advantage or favour on account of his or her status as a police officer was a serious misconduct that would bring disrepute to the police department in the eyes of the public. However, the special constable had not, based on the available evidence presented to the Discipline Authority, repeated the misconduct in question. The OPCC also understood, from the Discipline Authority's findings that there were no previous instances whereby the special constable sought to use her status as a police officer to seek advantage or favour. The OPCC believed that the goals of correcting and educating the special constable had been achieved and that the discipline imposed would not undermine public confidence in the police or the disciplinary process.

With regard to the special constable's repeated rude and disrespectful behavior towards the staff members at the correctional facility, the special constable was to write a letter of apology to each of the staff members. The OPCC believed that this would be meaningful to the staff members negatively impacted by the special constable's conduct.

For these reasons, further adjudication of this matter was not necessary and would not be in the public interest. Therefore, there were insufficient grounds for the Police Complaint Commissioner to arrange a Public Hearing or Review on the Record in these circumstances

West Vancouver

Ordered Investigation – Initiated by PCC (OPCC File 2018-15271)

Allegation:

On September 17, 2018, a police officer failed to handle his pistol in a safe manner when he had an unintended discharge at an outdoor range. The bullet went through the window of a police vehicle. There were no injuries and no other property damage was located.

<p>Misconduct: <i>Neglect of Duty</i> (failure to comply with departmental policy/regulations) Date of Incident: September 17, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • Advice to future conduct
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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. 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 Prehearing Conference Authority reported that the police officer took full responsibility for his actions. The police officer was permanently removed from his duties as a firearms instructor post this incident and was sent for an independent assessment of his firearms handling skills and was qualified to carry a duty pistol.

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

Ordered Investigation – Requested by Department (OPCC File 2018-15129)

Allegation:

On August 12, 2018, an off duty police officer drove his personal vehicle while his ability was affected by alcohol in contravention of the *BC Motor Vehicle Act*.

<p>Misconduct 1: <i>Discreditable Conduct</i> (conduct that discredits the department) Date of Incident: August 12, 2018</p>	<p>Disciplinary/Corrective Measure:</p> <ul style="list-style-type: none"> • 1 day suspension
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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. 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 Prehearing Conference Authority noted that the police officer took full responsibility for his behaviour and had reported receiving the 3 day Warn Immediate Roadside Suspension (IRP) to senior management. The Prehearing Conference Authority explored whether there was an underlying issue associated to the alcohol consumption and determined that there was not. Therefore, he was satisfied that there was no need for a program or activity in these circumstances.

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