
OFFICE OF THE
POLICE COMPLAINT
COMMISSIONER

ANNUAL REPORT
2018/2019

INTEGRITY INDEPENDENCE EXCELLENCE



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Office of the Police Complaint Commissioner (2019)

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OFFICE OF THE
POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

October 2019

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 2018/2019 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,

Clayton Pecknold
Police Complaint Commissioner

Clayton Pecknold
Police Complaint Commissioner

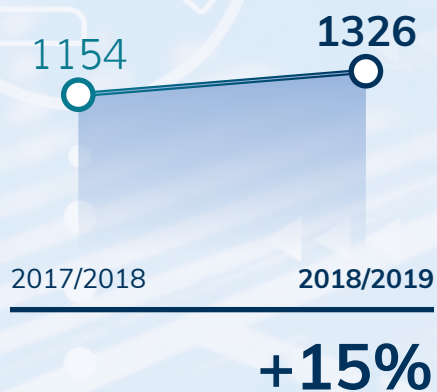
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The Year in Numbers

Files Opened

There are a number of different types of files the OPCC open. There are registered complaints, service or policy complaints, ordered investigations, questions or concerns, monitor files and internal discipline.

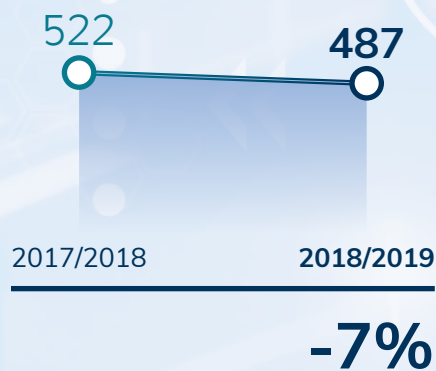
In 2018/2019, the OPCC opened 1326 files. Most of these files are monitor files which are opened when the OPCC receives information from the police, including reportable injuries, or other sources such as public information, that may require an investigation and registered complaints. This was an increase of 15% from last year.



Registered Complaints Received

The public can file complaints about a police officer's conduct or actions. The OPCC reviews all complaints to determine whether there will be an investigation. Once a complaint has been made admissible, the OPCC will oversee the police department's investigation into the police officer's conduct.

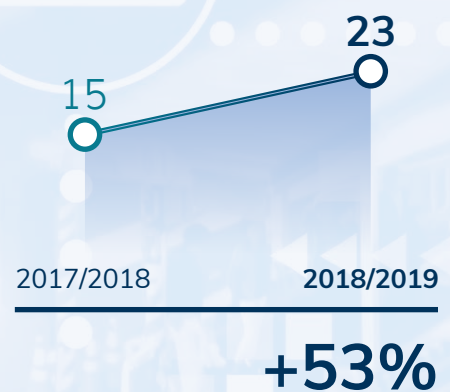
In 2018/2019, the OPCC received 487 registered complaints from the public about police officer conduct, a decrease of 7% from last year.



Service & Policy Complaints

The public can file complaints about the policies or services being provided by a police department. These complaints are the responsibility of the department's police board. The police board is required to advise the OPCC of their course of action. The Commissioner may also make recommendations to the police board.

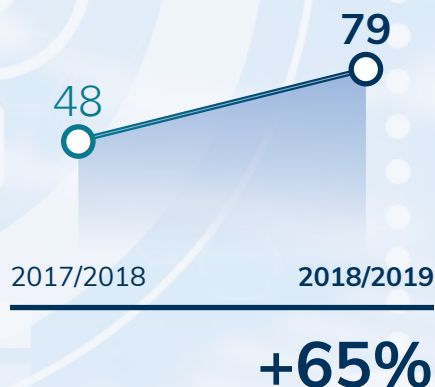
In 2018/2019, the OPCC received 23 complaints about the policies or services being provided at a police department, an increase of 53% from last year.



Ordered Investigations

The Commissioner can initiate investigations into a police officer's conduct or actions, even if there is no complaint filed by the public. Police departments can also ask the Commissioner to initiate an investigation into the conduct of one of their police officers.

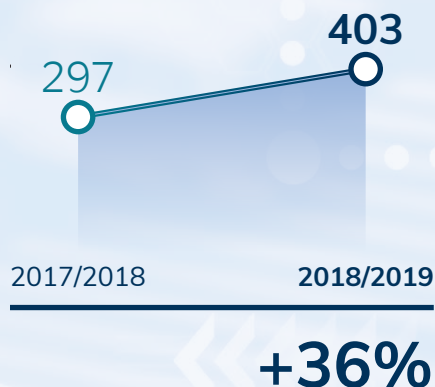
In 2018/2019, the Commissioner initiated 79 investigations into police officer conduct, an increase of 65% from last year.



Reportable Injuries

Police departments are required to notify the OPCC when a person has been injured by police and were transported to hospital for emergency care. The OPCC reviews all injuries to determine whether an investigation into the police officer's conduct is required.

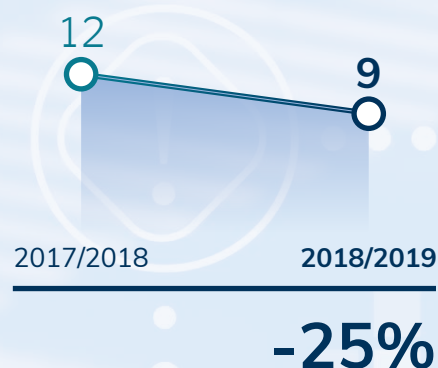
In 2018/2019, the OPCC received 403 reportable injury notifications, an increase of 36% from last year. Of those injuries, a significant number of injuries resulted from police service dog bites and empty hand control tactics (use of force without the aid of weapons).



Adjudicative Reviews

If the Commissioner disagrees with a decision made by a senior officer about whether a police officer committed misconduct or the disciplinary or corrective measure imposed, then the Commissioner can appoint a retired judge to review the matter. There are three types of reviews: section 117 reviews, Reviews on the Record, and Public Hearings.

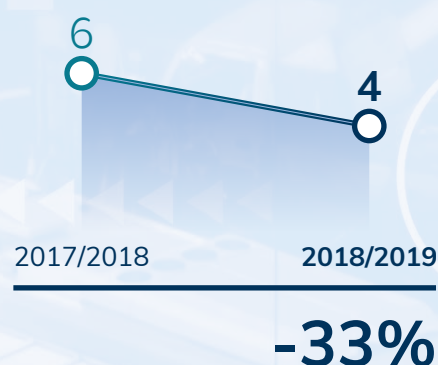
In 2018/2019, the OPCC disagreed with the decision of a senior officer and appointed a retired judge in 9 matters. In the previous year, the Commissioner referred 12 matters to a retired judge for decision.



Recommendations Made to Police Board or Director of Police Services

The Commissioner has the ability to make recommendations to police boards on matters of policy and procedures and can recommend that the Director of Police Services or the Minister exercise their authority to examine training, cultural or systemic issues that may have contributed to the misconduct or which may prevent its recurrence.

In 2018/2019, the Commissioner made recommendations on four matters to police boards or the director of police services. These recommendations relate to the issues of street checks, use of 'lieu time', ceremonial holsters, and use of force in the jail.



Commissioner's Message

Accountability to civilian authority is an immutable tenet of policing in a democratic society.

It is my privilege to present the *2018/2019 Annual Report for the Office of the Police Complaint Commissioner* to the Legislative Assembly of British Columbia.

The year saw a transition of leadership at the Office of Police Complaint Commissioner as former Commissioner Lowe concluded his second successful term. Due to his foresight and planning, the transition was smooth, with minimal impact to the operations of the office. For that I am indebted to him.

I am fortunate to have joined an excellent cadre of public employees dedicated to performing their difficult work with compassion, thoroughness and skill. As a testament to the strength of the team, the Deputy Commissioner role transitioned shortly after my term commenced with the torch passed seamlessly from Rollie Woods to Andrea Spindler, both experienced and long-serving employees.

In addition to personnel changes, the year was busy with the ongoing expansion of Alternative Dispute Resolution Programs (ADR) to improve the timeliness of the complaints process, outcomes and accessibility for the public.

There will continue to be matters which, due to their seriousness, demand a full and transparent accounting before the public. The current structure of the *Police Act* affords an opportunity for these to be adjudicated or reviewed by a retired member of the judiciary. In most instances this fully satisfies the principles of transparency and accountability.

Yet there are also cases where the public interest would be better served through an early examination via a public hearing, something limited under the current legislation. In the absence of legislative reform to expand the ability to call a public hearing much earlier in the process—a request that the former Commissioner made to government and with which I agree—timeliness will continue to be of concern in some serious matters.

The last major overhaul of the accountability provisions under the *Police Act* occurred about 10 years ago. Those changes created a robust and actively-stewarded oversight regime that continues to leave the investigation of misconduct with the police themselves but imbues this office with the necessary powers to closely oversee those investigations.

Looking to the coming months we anticipate being guided by the work of the *Special Committee to Review the Police Complaint Process* established by the Legislative Assembly early in 2019. We look forward to assisting the committee with their important work in advancing an accountable, transparent and independent oversight regime of police in British Columbia.

Accountability to civilian authority is an immutable tenet of policing in a democratic society. The late Honourable Josiah Wood, Q.C. commented on this in his *Report on the Review of the Police Complaint Process in British Columbia* (2007), referring to the fundamental right of the public to have “freedom from police misconduct”. That report gave rise to the 2009 amendments to the *Police Act* and the current police discipline structure which is intended to address misconduct when it arises, fairly and impartially, in furtherance of public confidence in the police.

Regrettably one need not look far—both within our borders and beyond—to see abuses and neglect by police officers continue with all too frequent regularity. This office is but one, albeit central, part of that oversight structure that includes important roles for government, civilian police boards and the courts. While the investigation and adjudication of individual complaints of misconduct are core to our work, we have a mandate beyond ensuring the just and fair administration of a discipline process.

The Police Act also imbues our office with the authority to actively work towards the remediation and prevention of misconduct. We do this through various methods which include identifying broader trends and causative factors leading to misconduct, and by making recommendations to government or to police governing bodies. This is especially important in relation to repeated incidences of misconduct that go to the heart of the integrity of policing institutionally; where systemic or organizational concerns arise.

Accordingly we will be looking closely at how we can better identify early trends in integrity-related misconduct through behavioural “indicators” which if left unchecked can lead, in extreme circumstances, to systemic corruption. These may include those who seek preferential treatment by virtue of their status as police officers, improperly access sensitive information, participate in workplace harassment, or engage in bad faith breaches of the fundamental rights enshrined within the Charter of Rights and Freedoms.

We will also be closely examining trends in the use of force because lessons of the past, as evidenced by the various commissions of inquiry into policing, make it clear that constant vigilance is required to both preserve effective approaches to policing and to prevent their misuse. The office will be paying especially close attention to any instances involving the gratuitous application of force, or the misuse of otherwise lawful techniques and equipment—such as intermediate weapons and police service dogs.

Canadians are very often justifiably proud of their police officers. Our statistics demonstrate clearly that only a small fraction of the many daily interactions between the police and the public result in misconduct. Furthermore, policing in British Columbia has proven to be dynamic in its ability to react and evolve with societal shifts as evident from adaptations to changing demographics, collaborative strategies with other professions such as health or social agencies, and responses to crises and community expectations.



Nonetheless, the Office of the Police Complaint Commissioner is required to consider first and foremost the public interest. When we ensure that the conduct of individual police officers falling below acceptable community standards is fully addressed, it is those fellow officers serving British Columbians everyday with compassion and respect who will retain the public’s trust. Through effective oversight therefore we see that the public interest and the interests of the police themselves are equally served.

A handwritten signature in blue ink, appearing to read 'Clayton Pecknold'.

Clayton Pecknold
Police Complaint Commissioner

About Our Work

Who We Are

The Office of the Police Complaint Commissioner is an independent civilian oversight agency, meaning we are independent of government and police. The office is made up of a team of dedicated civilian employees with a range of backgrounds from policing, law, regulatory fields and academia.

Our Purpose

We promote accountable policing and enhance public confidence in police through impartial, transparent civilian oversight.

What We Do

- Provide an accessible way for the public to voice concerns about the conduct of any municipal police officer or department.
- Oversee and monitor complaints and investigations into police misconduct involving municipal police and special municipal constables in BC.
- Oversee the administration of discipline and proceedings under the *Police Act* and ensure the purposes of the legislation are achieved.



How We Do Our Work

- Determine the admissibility of complaints received from the public.
- Initiate investigations .
- Actively monitor and oversee police misconduct investigations, providing advice and direction as necessary.
- When appropriate, refer matters for independent adjudicative review.
- Maintain records of all police complaints and *Police Act* investigations involving municipal police officers and the investigation outcomes.
- Compile statistical information, including trends and report regularly to the public about these complaints and investigations.
- Make recommendations to Police Boards or to government regarding policies, practices or systemic issues.
- Refer matters to Crown Counsel for consideration of prosecution.
- Assist all parties—complainants, police officers, Discipline Authorities, police boards and adjudicators appointed under the *Police Act*—involved in the complaint process.

Our Goals & Outcomes

- An accessible police complaints process.
- Thorough and impartial investigations of police misconduct.
- Timely resolution of police complaints through dispute resolution processes.
- Remediate and prevent the recurrence of police misconduct .
- Outreach and education.

Where We Work

Our office has the legislative authority to oversee complaints related to the work of approximately 3,500 sworn municipal police officers and special municipal constables (SMC's) employed by 11 municipal police departments, the Transit Police, a First Nations self-administrated police force, and the Organized Crime Agency of British Columbia.



As well, the OPCC's jurisdiction includes other designated law enforcement agencies in BC. These designated law enforcement agencies include the Organized Crime Agency (OCA), and municipal police officers seconded to the Combined Forces Special Enforcement Unit (CFSEU) and the Integrated Road Safety Unit (IRSU).

The OPCC does not have jurisdiction over the RCMP, Special Provincial Constables, BC Sherriff's, BC Conservation Officers, Corrections Officers, Legislative Security officers or Canadian Border Services Agency (CBSA) officers.

The Civilian Review and Complaints Commissioner for the RCMP (CRCC) is an independent agency created to ensure that complaints about the conduct of the RCMP are examined fairly and impartially. For more information about the CRCC, please visit www.crcc-ccetp.gc.ca.

Registered Complaint and Ordered Investigation Statistics by Department (2018/2019)

1	Stl'atl'imx Tribal Police	REGISTERED COMPLAINTS	1	↑
		ORDERED INVESTIGATIONS	1	↑
2	West Vancouver Police Department	REGISTERED COMPLAINTS	11	↓
		ORDERED INVESTIGATIONS	4	↑
3	Vancouver Police Department	REGISTERED COMPLAINTS	256	↓
		ORDERED INVESTIGATIONS	33	↑
4	Port Moody Police Department	REGISTERED COMPLAINTS	10	↑
		ORDERED INVESTIGATIONS	1	↓
5	New Westminster Police Department	REGISTERED COMPLAINTS	17	↑
		ORDERED INVESTIGATIONS	3	↑
6	Delta Police Department	REGISTERED COMPLAINTS	25	↑
		ORDERED INVESTIGATIONS	4	↑
7	Central Saanich Police Department	REGISTERED COMPLAINTS	1	↓
		ORDERED INVESTIGATIONS	2	↑
8	Saanich Police Department	REGISTERED COMPLAINTS	28	↓
		ORDERED INVESTIGATIONS	6	↑
9	Oak Bay Police Department	REGISTERED COMPLAINTS	4	↑
		ORDERED INVESTIGATIONS	3	↑
10	Victoria/Esquimalt Police Department	REGISTERED COMPLAINTS	72	↓
		ORDERED INVESTIGATIONS	10	↑
11	Abbotsford Police Department	REGISTERED COMPLAINTS	29	↑
		ORDERED INVESTIGATIONS	4	→
12	Nelson Police Department	REGISTERED COMPLAINTS	10	↓
		ORDERED INVESTIGATIONS	3	↑
13	Transit Police Service	REGISTERED COMPLAINTS	23	↑
		ORDERED INVESTIGATIONS	5	↑
	Organized Crime Agency of BC	REGISTERED COMPLAINTS	0	→
		ORDERED INVESTIGATIONS	0	↓

12
Nelson Police Department

↑ INCREASE FROM 2017/2018
→ NO CHANGE FROM 2017/2018
↓ DECREASE FROM 2017/2018

Why Our Work Matters

Police officers have been granted extraordinary powers to do their job; powers that ordinary citizens do not have. They can detain or arrest people, search a person or their home, ask to see identification, and use force, which can include deadly force. These are just a few examples of this extraordinary power. The use of these powers is governed by strict rules according to the law.






Abusing those powers—or misconduct—is rare relative to the number of police officers serving British Columbians. But it can have a profound effect on public trust and ultimately the maintenance of an orderly society. That's why civilian oversight—one where police do not police themselves—is vital to ensuring that police understand and strive to meet the public expectations for their conduct. Civilian oversight holds police accountable, provides an impartial place for the public to make complaints, helps educate the public about police, fosters improvements in police operations, and increases the transparency around police disciplinary actions.

The Police Act identifies and describes 13 disciplinary breaches of public trust.

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

On-duty conduct where a police officer engages in oppressive conduct towards a member of the public, which includes,

- Unlawful detentions or arrests
- Unlawful searches of a person, vehicle or residence
- Using excessive force
- Using profane, abusive or insulting language

 See page 17 for an example of a case involving Abuse of Authority including an Unlawful Detention and Unauthorized Entry.

Accessory to Misconduct, section 77(3)(b)

A police officer is an accessory to any of the allegations of misconduct described.




Understanding Types of Misconduct

Some of the allegation types include sub-categories of more specific misconduct. Misconduct can also be found if a police officer has been convicted of an offence.

Corrupt Practice, section 77(3)(c)

A police officer abuses the powers they have been entrusted for personal gain, which includes,

- Failing to return or misappropriating any money or property received;
- Agreeing or allowing to be under a pecuniary or other obligation to a person that would be seen to affect the police officer's ability to properly perform the duties as a member;
- Using or attempting to use their position as a police officer for personal gain;
- Using or attempting to use any police equipment or facilities for purposes not related to their duties as a police officer.

 See pages 18 and 19 for examples of cases involving Corrupt Practice.

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

Misusing, losing or damaging any police property or property that is in police custody. Also includes the failure to report any loss, destruction or damage to that property.

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

Damaging 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)

Making a false or misleading oral or written statement, or entry in an official document or record. Also includes, destroying, mutilating, concealing all or part of an official record or altering, erasing or adding to an official record with the intent to deceive.


 See page 16 for an example of a case involving Deceit

Discourtesy, section 77(3)(g)

On-duty conduct, where a police officer 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)

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.


 See pages 16, 18 and 19 for examples of cases involving Discreditable Conduct

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

Disclosing or attempting to disclose information that is acquired by the member in the performance of duties as a member.

Improper Off-Duty Conduct, section 77(3)(j)

Off-duty conduct where a police officer asserts to purports to assert themselves as a police officer and conducts oneself in a manner that would constitute a disciplinary breach of trust had the police officer been on-duty.

 See page 16 for an example of a case involving Improper Off-Duty Conduct

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

Failure to use or care for a firearm in accordance with standards or requirements established by law. This includes negligent or unintentional discharges of a firearm or unsafe storage of a firearm.

Misuse of Intoxicants, section 77(3)(l)

Being unfit for duty owing to the effects of intoxicating liquor or any drug, or any combination of them. Also includes, accepting intoxicating liquor in a public place without proper authority.

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

Failure to properly account for money or property received, promptly or diligently do anything that is in one's duty as a member to do, or promptly and diligently obey a lawful order of a supervisor, without good and sufficient cause.

This includes,

- Failing to conduct an adequate investigation
- Inadequate notes or documentation
- Failing to provide Charter Rights
- Failing to provide police identification upon request
- Driving dangerously without lawful authority
- Failing to comply with department policies or regulations
- Failing to follow a supervisor's lawful order

CASE STUDY

Duty to Cooperate

ALLEGATIONS

Discreditable Conduct

Improper Off-Duty Conduct

Deceit

Background/circumstances

Amendments to the *Police Act* in 2010 imposed a duty on all police officers to cooperate with investigations into their conduct. Police officers are required to answer questions and provide statements to investigators as often as the investigator considers necessary. This is an example of a police officer not cooperating with an investigation into his off-duty conduct.

In this case, a member of the public filed a complaint concerning the actions of an off-duty police officer who intervened in an interaction between on-duty Vancouver police officers and the complainant. The off-duty officer shoved, punched and slapped the complainant during the course of his interaction with him.

During the investigation by the VPD, the Commissioner determined that it was in the public interest to appoint an external police agency to conduct the investigation as the VPD had demonstrated reluctance to conduct certain follow-up investigative steps to ensure the complaint was thoroughly and completely investigated. Furthermore, additional information was received indicating that the police officer may have knowingly misled the VPD investigator.

The external investigator had identified a number of evidentiary discrepancies and, as a result, requested an additional interview with the respondent police officer. The police officer refused to attend the interview, despite being required to do so.

Investigation/outcome

The matter relating to the police officer not cooperating with the investigation was heard in the Supreme Court of BC (*Kyle v. Stewart* 2017 BCSC 522). The Honourable Justice MacNaughton determined that the officer had a public legal duty to comply with the investigator's

request to attend another interview and established that the scope of the duty of fairness is minimal at the investigative stage of a complaint about professional misconduct. The court ordered the police officer to comply with his statutory duty to attend the interview and answer the questions of the investigator. The police officer subsequently attended the interview and answered the questions posed by the investigator.

The investigation revealed that the police officer committed misconduct for not cooperating in the investigation (**Discreditable Conduct**). In addition, it was determined that the police officer clearly should not have intervened in an incident that did not require his assistance, particularly as the member was under the influence of alcohol at the time (**Improper Off-Duty Conduct**). It was also determined that the police officer lied when asked about his degree of intoxication that evening (**Deceit**).

Disciplinary or Corrective Measures Imposed

The police officer received the following discipline:

- Suspension without pay for five days for improper off duty conduct;
- Reduction in rank and a requirement to attend specified treatment from a certified care provider for providing false information to the investigator; and
- Suspension without pay for one day for failing to cooperate with the investigator.

In concluding this matter, the Commissioner advised that in the future, any breach of the duty to fully cooperate will be seen by the OPCC to be among the most serious misconduct. The expectation of the Commissioner is that the level of discipline should reflect that degree of seriousness.

The Commissioner is currently intervening on a case that will be heard at the BC Court of Appeal involving the Independent Investigations Office and the issue of cooperation.



To review the full decision on the issue of duty to cooperate, click here to go to the OPCC website under Judicial Reviews.

Police Arrest Man in Wrong House

ALLEGATION

Abuse of Authority

Background/circumstances

An example of **Abuse of Authority** where there was a breach of someone's Charter Rights involves a complaint that was filed where police entered into a residence and conducted a search of the residence while detaining the homeowner in handcuffs. Section 8 of the *Charter of Rights and Freedoms* protects citizens from unreasonable search and seizure. Section 9 of the *Charter* protects against arbitrary detention.

In this case, police were retrieving possible stolen property in an effort to return that property back to its rightful owner. The complainant heard the doorbell ring from the rear door of his residence. The complainant found that a police officer, in plain clothes, had entered into the back of his home. The complainant's girlfriend appeared and saw the complainant being accused of something about which he had no idea. Two more police officers arrived. Police detained the complainant and placed him in handcuffs.

Two police officers searched the downstairs living area while the complainant remained handcuffed in the laundry room. After police queried the complainant's name through the police database and completed their search, they removed the handcuffs from the homeowner and left the residence.

Investigation/outcome

As a result of a complaint being filed, two allegations of Abuse of Authority were identified relating to the unlawful entry into the complainant's home and the unlawful search of the downstairs living room, and the reckless detention of the complainant in handcuffs. The investigation initially found that the actions of the police officer appeared to be misconduct. A pre-hearing conference was offered to the police officer who declined to participate. A subsequent discipline proceeding concluded that the police officer did not commit misconduct.

The Commissioner's review of the decision found the findings incorrect and ordered a public hearing before a retired judge in the role as an independent adjudicator. The adjudicator found the police officer committed misconduct by entering into the complainant's home without authorization and placing him in handcuffs.

Disciplinary or Corrective Measures Imposed

The adjudicator imposed the following disciplinary and corrective measures:

- A suspension without pay for two scheduled working days concurrent on both substantiated allegations.
- An order that the member work under close supervision for a term of one year.
- An order for re-education and re-training of the respondent member with respect to an officer's duties with respect to the *Charter of Rights* and the law relating to search and seizure, entry into a private residence, and the circumstances when warrants are required.
- A written apology from the respondent member to the homeowner.

Public Hearings are a form of adjudicative review and are open to the public. The Commissioner appoints a retired judge as an Adjudicator who will review evidence, hear sworn testimony and arrive at a decision to determine whether the police officer committed misconduct, and if applicable, determine appropriate disciplinary or corrective measures. The decision of the Adjudicator is final and conclusive.

The Commissioner appointed a retired judge in **nine** matters in 2018/2019.



To view the full decision of the adjudicator, click here go to the OPCC website under Public Hearings.

CASE STUDY

Officer Uses Position as a Police Officer to Engage in "Predatory" Behaviour Towards Women

ALLEGATIONS

Discreditable Conduct

Corrupt Practice

Background/circumstances

An example of allegations of **Discreditable Conduct** and **Corrupt Practice** is evident in a case involving a victim of intimate partner violence who received inappropriate photographs from a West Vancouver Police Department (WVPD) police officer involved in the investigation. After requesting the Commissioner initiate an investigation into this allegation the WVPD was tasked with carrying out this investigation with oversight by the OPCC.

Investigation/outcome

The investigation revealed that the police officer's conduct spanned six years and involved women that he met and communicated with while on-duty, using his position of trust as a police officer to develop a sexual relationship with 11 women. For all but one of the 11 women, a power imbalance existed and the women were considered to be vulnerable. The pattern of behaviour by this officer was deemed to be predatory in nature.

The officer also misused police department equipment such as departmental cell phones and email by sending sexually explicit and otherwise inappropriate photographs, messages, and written communications to these women. In addition, he used police databases to contact the women for personal reasons which was a breach of their privacy and departmental policy.

The Deputy Chief Constable of the WVPD concluded that the police officer committed a total of 11 allegations of Discreditable Conduct and 14 allegations of Corrupt Practice for unauthorized use of police facilities/resources.

Disciplinary or Corrective Measures Imposed

The Deputy Chief Constable found that the police officer breached the public and police department's trust to such a degree that anything short of dismissal would be unworkable, bring the administration of police discipline into disrepute, significantly harm the reputation of the WVPD and policing in general, and not serve the public interest.

The Commissioner confirmed the Deputy Chief Constable's decision and determined that a public hearing or review on the record was not required. The police officer retired prior to the discipline hearing and did not attend, but his employment records reflect that he was dismissed from the WVPD.

In 2018/2019, three police officers from various departments were dismissed following an investigation into their conduct under the Police Act, compared to two police officers in the previous year.

Even if a police officer retires or resigns from the police department during the proceedings, the investigation will continue and their employment records will reflect that they were dismissed from the police department.

CASE STUDY

Off-Duty Police Officer Pushes Female While Intoxicated then Seeks Preferential Treatment

ALLEGATIONS

Discreditable Conduct

Corrupt Practice

Background/circumstances

Even when police officers are not at work, there's an expectation for their conduct to inspire public confidence.

An example of allegations involving off-duty conduct, which were considered to be **Discreditable Conduct** and **Corrupt Practice** arose in 2018 when an RCMP detachment received a call about an off-duty Vancouver police officer having a verbal and physical altercation with a neighbour stemming from her dog urinating on the officer's lawn. RCMP attended and spoke with both parties, who provided similar accounts of the physical encounter. The RCMP found that the off-duty officer was very intoxicated and considered arresting him for being drunk in a public place. The RCMP also reported that the off-duty officer identified himself as a police officer and told the RCMP that they should treat him like a "brother" and "should have had his back." The RCMP believed that the off-duty officer was telling him this so he would be given preferential treatment because he is a police officer.

Investigation/outcome

The RCMP reported this incident to the VPD. As a result, the VPD requested the Commissioner initiate an investigation into the incident with oversight by the OPCC. The investigation found there was evidence to substantiate the allegations of Discreditable Conduct for being intoxicated and engaging in a verbal exchange with a neighbour that turned physical and Corrupt Practice for identifying oneself as an off-duty VPD member in an attempt to obtain personal gain or preferential treatment.

Disciplinary or Corrective Measures Imposed

A prehearing conference resulted in a two-day suspension without pay for the Discreditable Conduct, and one-day suspension without pay for Corrupt Practice, to be served consecutively.

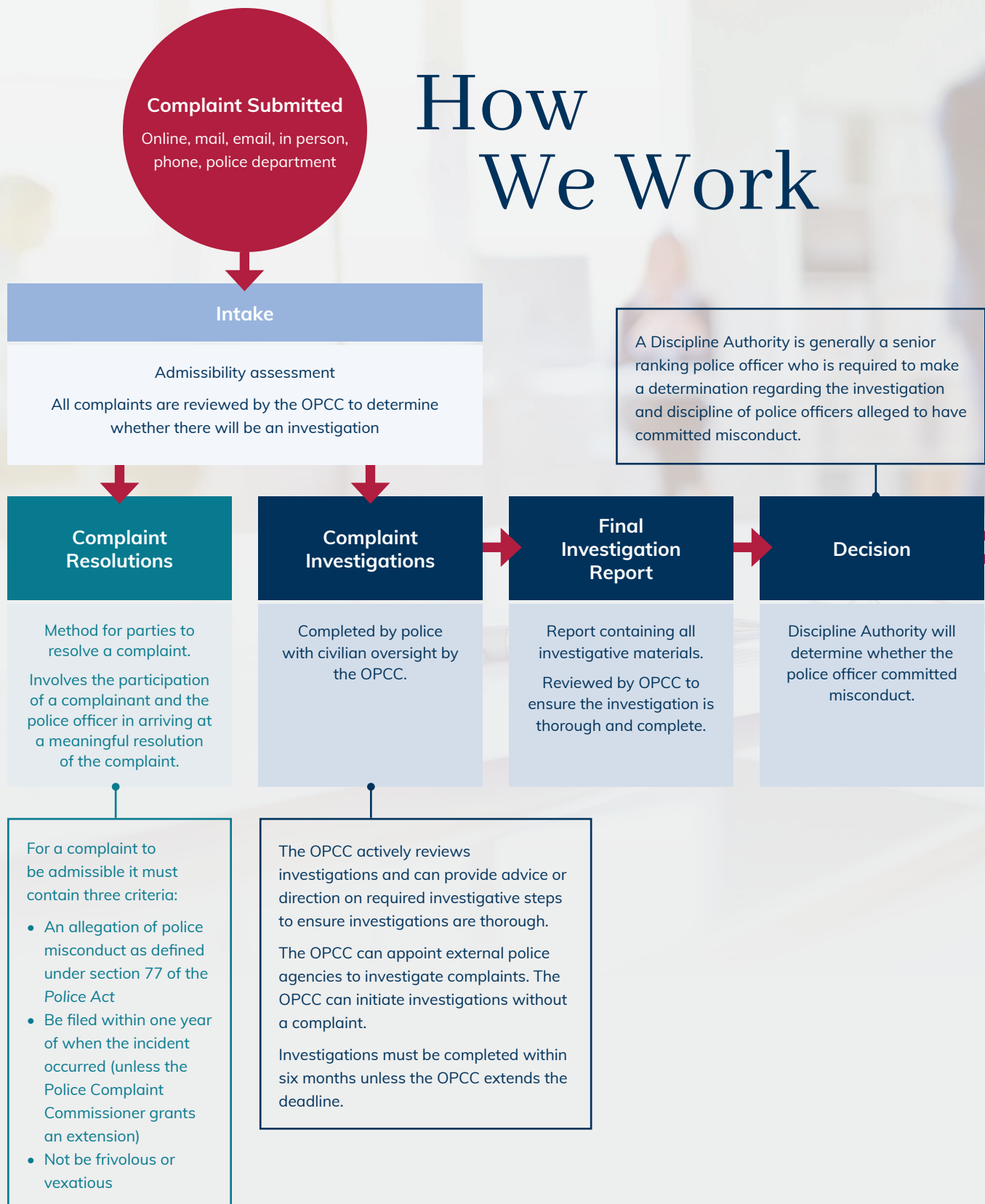
The misconduct was deemed serious and that a reasonable member of the public would find the off-duty officer's conduct brought discredit to the VPD.

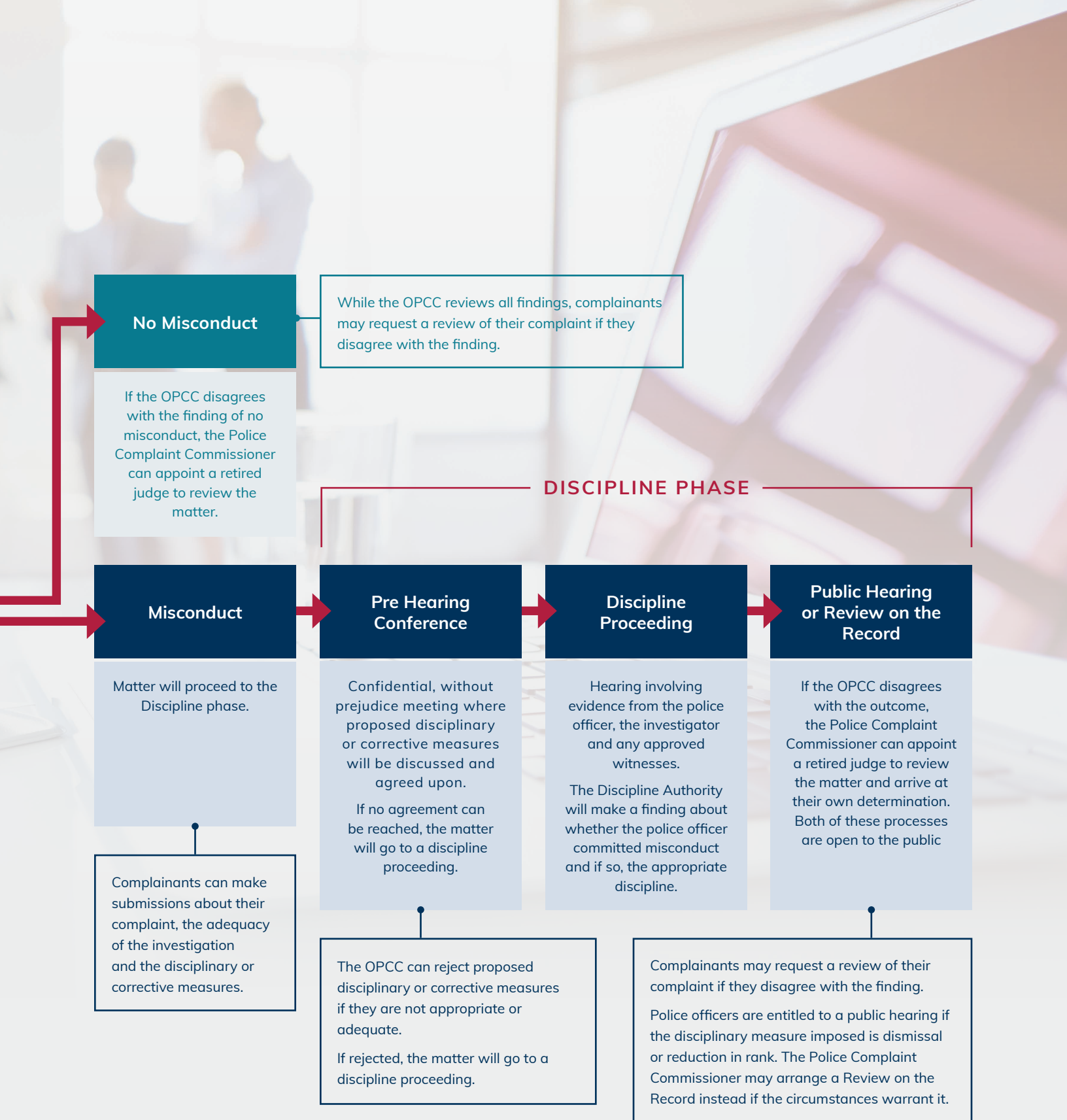
The Commissioner's review of the prehearing conference found the matter had been appropriately handled.

Preferential Treatment

In an effort to better identify trends relating to allegations of discreditable conduct, including off-duty conduct, the OPCC will be implementing a system to better track and report out on conduct relating to preferential treatment, impaired driving, relationship violence, including sexual assault and assault, and workplace harassment or bullying.

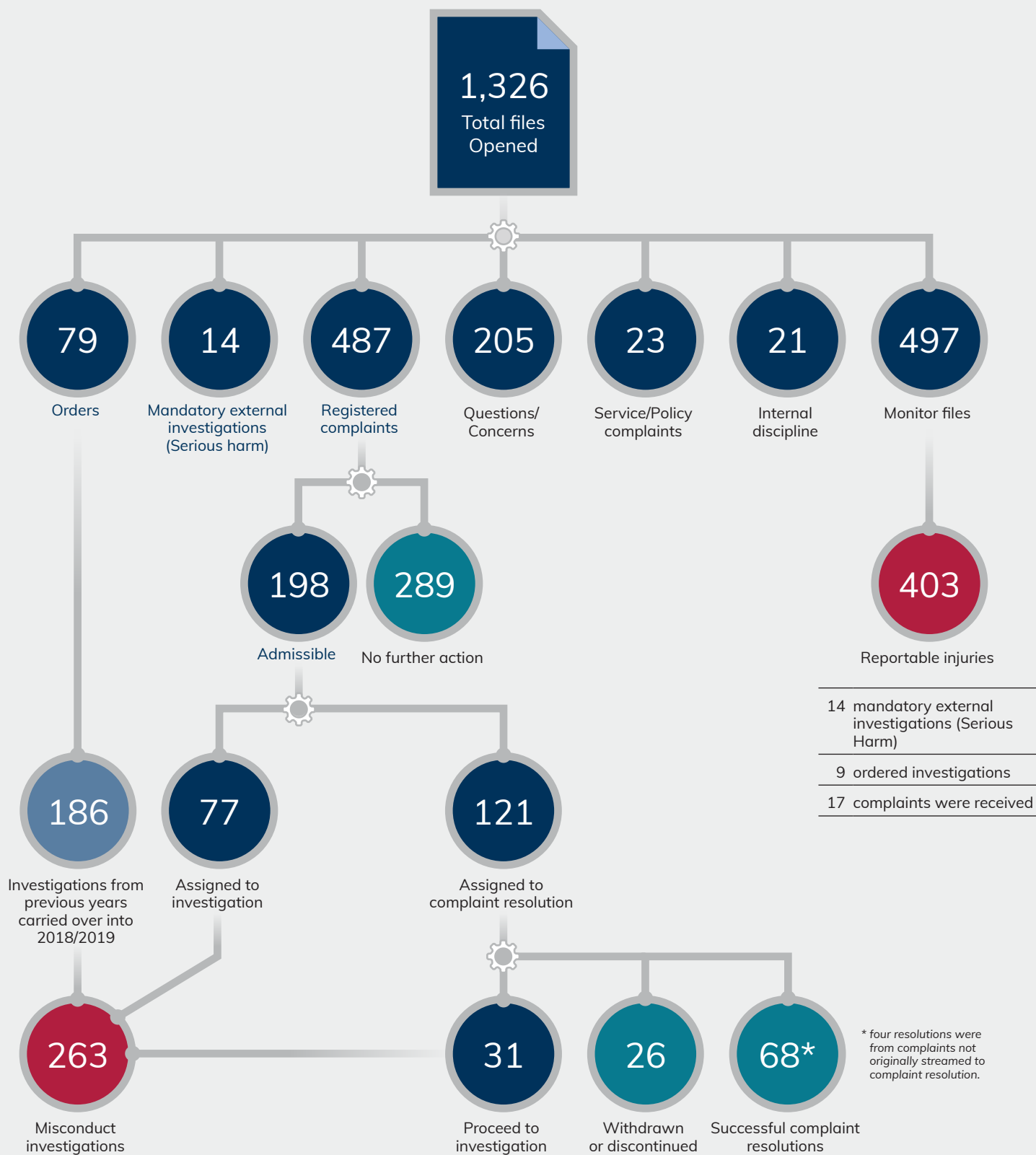
How We Work





The Police Complaint Commissioner may also refer matters to Crown Counsel for consideration of prosecution, or make recommendations to police boards or to government regarding policies, practices or systemic issues that may contribute to the misconduct.

Complaints and Investigations in 2018/2019: Intake, Assessment and Investigation



How We Work

Other Pathways for Complaints: Alternative Dispute Resolution

Depending on the circumstances, and if both the complainant and the officer agree, the OPCC can use alternative processes instead of a lengthy investigation for resolving complaints and improving public confidence in police. These Alternative Dispute Resolution (ADR) processes—either Complaint Resolution or Mediation—can result in a more meaningful, efficient and effective resolutions for all parties. By directly participating in the resolution and finding solutions to a conflict, the majority of complainants and officers come away from the process satisfied and with greater understanding of the situation which gave rise to the complaint.

Before a file can proceed to Complaint Resolution or Mediation, the Commissioner will approve an attempt to ensure the circumstances are appropriate for that process.

Complaint Resolution is facilitated by a police investigator with oversight by the OPCC. The OPCC communicates with all complainants during this process and reviews all Complaint Resolution agreements. Each complainant is contacted following the process to ensure they are satisfied with the resolution. The Commissioner can set aside the resolution if it is considered inadequate or not in the public interest.

Mediation is facilitated by an independent professional mediator. 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.

Resolving conflict through an understanding of each other's perspectives and concerns allows the parties to work together at arriving at a resolution that is meaningful.

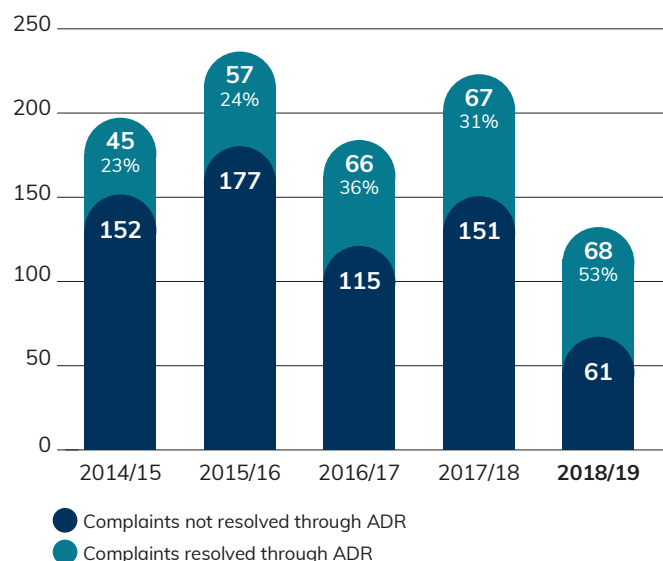


QUESTIONS OR CONCERNS

Police departments also directly receive questions or concerns about members' conduct beyond formal complaints about police misconduct. Police departments are required to record those questions or concerns and forward them to the OPCC for review. Efforts are made to contact the person who brought forward the question or concern to determine their level of satisfaction with the department's response. In instances where our office is unable to reach the complainant, the OPCC reviews the action taken by the department and assesses whether the department took adequate and reasonable steps to address that person's questions or concerns.

In 2018/2019, police departments recorded 205 questions or concerns from the public.

Alternative Dispute Resolution (2014-2019)





Outreach and Education

To successfully fulfill our mandate, it is important that both members of the public and police understand the importance of civilian oversight of police complaints and how the complaint process works.

Through partnerships with community-based organizations that are most likely to be a point of contact for individuals seeking support—including Alternative Dispute Resolution outlined on page 23—assistance and/or searching for information about the police complaint process, the OPCC has been able to provide access to the police complaints process for those who may be hesitant or unable to directly contact a police department or the OPCC to file a complaint.

The following agencies have assisted 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:

- Coast Mental Health
- Covenant House
- Deltassist Family Services
- First United Church
- Jewish Family Service Agency
- John Howard Society of Victoria
- Men's Trauma Centre
- MOSAIC
- Native Courtworker and Counselling Association of British Columbia
- Our Place
- Progressive Intercultural Community Service Society
- The Law Centre
- S.U.C.C.E.S.S.
- Victoria Disability Resource Centre
- Victoria Native Friendship Centre

As well, the OPCC delivers educational presentations to academic institutions to provide information on the complaint process, Police Act legislation and the role of civilian oversight in BC. We also deliver an annual presentation to the interns enrolled in the BC Legislative Internship Program.

The Commissioner meets regularly with the provincial government to discuss the oversight landscape in BC, as well as with police and civil society stakeholders 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 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.

The OPCC continues to be part of the Advisory Committee on Provincial Policing Standards and the Provincial Committee on Cultural Diversity and Policing.



What We Are Recommending

One of the goals of this office is to prevent the recurrence of police conduct that may have contributed to a police complaint or an investigation into police misconduct. The Commissioner has the ability to make recommendations to police boards on matters of policy and procedures, and can recommend that the Director of Police Service or the Minister exercise their authority to examine training, cultural or systemic issues that may have contributed to the misconduct or which may prevent its recurrence.

In 2018/2019, the Commissioner made a number of recommendations to police boards and to the Director of Police Services.

The information on the following pages summarizes the complaints and outcomes. In addition, we have provided updates on outstanding recommendations made in earlier fiscal years.

Use of Restraints in Vancouver Police Department (VPD) Jail

Recommendations

- Examine the current practice of lodging prisoners in cells, on their own, while handcuffed, for extended periods of time.
- 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.
- Research and assess the adequacy of current training and development of VPD members with respect to the practice of lodging prisoners in cells, on their own, while handcuffed, for extended periods of time.

Background

Earlier noted in 2017/2018 Annual Report, this case involves a complainant who reported that after slapping a vehicle with her hand, which she viewed to be reversing toward her and her adult daughter, she was arrested and transported to jail by officers without being informed of the reason for the arrest and was kept handcuffed for the entire duration. The Commissioner appointed a retired judge to conduct a review of the arrest who determined that the complainant's arrest amounted to misconduct.

As a result of this decision along with other similar files, our office noted that there appeared to be ambiguity relating to the policies, operations, and procedural practices of the Vancouver City Jail which contributed to a misunderstanding by jail staff of their duties and responsibilities when leaving a prisoner in a cell in handcuffs for an extended period.

What's Changed

The Vancouver Police Board requested that the VPD investigate the Commissioner's recommendations. The subsequent report to the police board identified that the policy related to handcuffing in the Jail Manual of Operations needed amending.

A new policy for the continued/extended restraint of a prisoner was approved as follows:

Continued/Extended Restraint

- (6) If a prisoner is further restrained by a device within the jail, which may include the continued use of handcuffs while they are in a cell, then until the Jail Supervisor authorizes the removal of the restraint device from the prisoner, Jail Guards shall:
 - (a) place the prisoner in a cell with CCTV monitoring;
 - (b) monitor the prisoner via CCTV, with consideration for constant watch, or a cell check schedule determined by the Jail Guard supervisor; and
 - (c) advise the Jail NCO, who shall:
 - (i) assess the need to continue with the restraint device;
 - (ii) document the incident, including any continued restraint, on both the Prisoner Record (VPD 1656) and the Jail Overnight Report;
 - (iii) advise the Jail Nurse; and
 - (iv) once it is safe to do so, authorize the removal of the restraint device from the prisoner.



Recommendations to the Vancouver Police Board (VPB)

Use of Restraints in VPD Jail

As well, training has been introduced to members who staff the Vancouver City Jail that increases the ability and skill levels. This includes:

- A presentation to jail staff on the Police Act, duty of care to inmates, and providing duty statements.
- More ongoing training consisting of two eight-hour team training days that would include receiving instruction on arrest and control tactics, including the removal and application of handcuffs.
- Training on mental health response skills and practical work on cell extraction, de-escalation training, and practising skills such as searching prisoners.
- Instruction on points of law around search & seizure, access to counsel, and property handling.
- Training for all new Jail NCO's involving Crown Counsel, Police Crown Liaison, and Quality Control. As well, a senior Sergeant provides training to the new Sergeant's to help them better understand their new leadership roles. Since March, 2018 they have had several weeks of on-site training with a senior jail Sergeant. This training also covered the new policy as set out in this report.
- Sending two Special Municipal Constables from each team for six weeks to the Force Options Training Unit (FOTU). After completing training they would share information that they had received with their colleagues that would result in a higher level of skill, professionalism, and confidence in relation to common use of force tactics such as the application and removal of handcuffs.
- Adapting VPD's police judo techniques that utilizes elements of the martial art that does not involve striking blows and is less likely to result in injury to either parties, for use by jail guards.

The VPD Peer Support Unit met with jail staff to discuss strategies for maintaining their mental health while working in the jail environment as it is recognized that mental and physical fitness contribute to making good professional decisions.

To ensure the physical health of prisoners, the Vancouver Jail has two nurses on duty at all times in addition to a nursing supervisor during weekdays, a physician each day for a few hours to do "rounds," as well as a full time on-call physician. This medical service is a critical part of any policy in relation to handcuffing.

Next Steps

The Commissioner made a recommendation to the Director of Police Services that an audit or review of the VPD's detention facility be undertaken to prevent the recurrence of excessive use of force in the Jail. See page 35 for further information on this recommendation.

Bar Watch and Restaurant Watch Programs (Inadmissible Patrons)

Recommendation

- Conduct further investigation into the reported 'common practice' of the Gang Crime Unit (GCU) providing an opportunity for Inadmissible Patrons to meet with a GCU supervisor to discuss their status as an Inadmissible Patron. Further details regarding this 'common practice' is required to understand how this practice has been implemented, frequency of use, criteria used to re-assess the status of Inadmissible Patrons, and any written policy respecting this practice.
- Conduct further investigation into whether the reassessment of an Inadmissible Patron designation has been incorporated into the Inadmissible Patron criteria, training and reference guide.
- Investigate and provide details and examples of people having their Inadmissible Patron status removed immediately, and reasons for the status removal.

Background

Earlier noted in the 2017/2018 Annual Report, this file involves a complainant who was ejected from a restaurant that participates in the Restaurant Watch program. The complainant contacted a supervisor in the VPD's GCU and was informed that he would be considered an Inadmissible Patron for Restaurant Watch and Bar Watch for another 36 months. The complainant believed that police officers had too much discretion as to how long a person who has renounced the gang lifestyle should continue to be an inadmissible patron and that VPD should develop guidelines.

On February 19, 2018, the Vancouver Police Board (VPB) dismissed the complaint and forwarded a copy of the concluding letter and report to our office for review.

The board's report outlined some of the factors taken into consideration when determining if a person is to have their Inadmissible patron status removed. It was noted that such considerations can vary significantly for each inadmissible Patron's history; therefore, it was inadvisable to develop guidelines that attempt to codify such considerations. Members of the GCU encourage inadmissible patrons to meet and review their status as reconsiderations are done on a case-by-case basis.

What's New

The board responded in July 2018 by advising that Restaurant Watch and Bar Watch has clear criteria and that the VPD provides consistent training and an operational reference guide for VPD officers to follow. The Vancouver Police Board added that the report outlined the VPD's process regarding review of inadmissible patron status and provided an example of a reconsideration of a person's inadmissibility. The board noted it was confident in the lawfulness of the programs.

Next Steps

The Commissioner reviewed the response from the Vancouver Police Board. Based on the response by the board, it appears that police officers are afforded considerable subjective discretion in making their assessments on a potential Inadmissible Patron status removal. Without objective guidelines to assist members, this subjectivity has the likely effect of exposing police members to Police Act complaints from members of the public. The Commissioner is considering further steps to address this matter.

Bar Watch and Restaurant Watch Programs (Disclosure of Information)

Recommendation

- Examine and reconsider 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.

Background

Earlier noted in the 2017/18 Annual Report, this file involves a complainant who was ejected from a nightclub after a police officer requested his identification and advised him that that he had been placed on Bar 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, an additional allegation of police misconduct arose about a police officer improperly disclosing information related to the complainant to staff of the nightclub.

What's Changed

The Restaurant Watch and Bar Watch Operational Reference Guide has been revised to specify that no information about an Inadmissible Patron's ejection is to be shared with staff at the participating establishment.

Despite this change, on January 31, 2019, the Commissioner requested further review of the VPD's Inadmissible Patron program.

The Commissioner advised that other Lower Mainland police agencies have implemented similar Inadmissible Patron Programs in their jurisdictions. The Commissioner recommended that the board research and review those programs for consistency with the current Vancouver model. For consideration, the Commissioner included information on another municipal police department's Inadmissible Patron Program.

On May 15, 2019, the board reported that the VPD's Inadmissible Patron program did not require any modifications. The board advised that this program has been reviewed by internal and external legal counsel as well as subject matter experts who had determined that it had proven to be comprehensive and effective at enhancing public safety. Following review and discussion, the board concluded that a change to policy was not required.

Next Steps

The Commissioner is considering further steps to address this matter.

Recommendations to the Vancouver Police Board (VPB)

Service Contract with Private Entities

Recommendation

- Examine and reconsider any policies in other jurisdictions which have entered into service agreements with private entities to assist towards the creation of similar policies.
- Create clear and objective policy for instances where Vancouver Police Department (VPD) is engaged by private entities.
- Examine and reconsider the adequacy of current training and development regarding police roles and authorities when assigned to duties involving private entities.
- Examine and reconsider current policies relating to the use of police databases and release of information from these databases to civilian staff of a private entity about a person's criminal history.
- Development of formalized training to police officers regarding the scope of police authorities when working as agents pursuant to private service contracts, including the application of the Trespass Act, authority to demand identification or identifying information from patrons, and the use of police databases.

Background

These recommendations stem from the review of two separate complaints involving different complainants and were previously reported in the 2016/2017 and 2017/2018 Annual Reports. The first complaint involved a member of the public being ejected from a concert at BC Place by a Vancouver police officer who 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. The second complaint involved a police officer stopping the complainant prior to entering the venue for an event. This officer demanded his identification and placed him in handcuffs for the purpose of seizing his ticket. Again, it appeared that police were acting as agents for a private entity.

What's Changed

The VPD has now entered into an agreement with BC Place, formalizing the relationship. Formal briefings take place before an event that provides a clear delineation of members' roles and authorities. VPD has also agreed to work with BC Place to conduct an annual review of operational practices of VPD members and to make modifications when necessary. These changes place a greater onus for enforcement of BC Place policies on BC Place Security, while also allowing VPD members to contribute to the shared goal of ensuring the safety of people attending these events. The VPD felt that these recent modifications struck an appropriate and lawful balance.

Next Steps

In reviewing the agreement and guides provided, the Commissioner remains concerned about the potential for confusion about the role of police officers working at these events. Police officers perform public duties and it is not their role to enforce private property rights such as terms and conditions for entry to private venues. Public policing services should not be seen to be available for sale or rent. The Commissioner will continue to monitor this issue and consider whether further recommendations to government are necessary.

Lieu Time and Repayment of Funds from Unauthorized Secondary Activity

Recommendation

- Examine and reconsider any policies or procedures relating to 'lieu time' and repayment of funds from unauthorized secondary activity. Specifically,
 - The current system and/or practice for documenting, granting, and tracking 'lieu time', including:
 - a) A definition of 'lieu time' and its appropriate use; and,
 - b) Whether a 'lieu time' system is necessary for the effective functioning of the VPD and, if so, how can it be accurately tracked so that it is fair, accountable, and cost effective.
- Examine whether members paid for unauthorized secondary activities while concurrently performing duties associated with being a member of the VPD should re-pay their VPD remuneration.

Background

Following a Police Act investigation, a police officer was found to have committed Discreditable Conduct after it was discovered that the officer had been teaching courses at a post-secondary education institution during his regular scheduled policing shifts. The police officer was being paid for instructing while simultaneously being paid as a member of the VPD. His discipline was a six-day suspension without pay and the officer was to attend a course on ethical conduct.

As a result of this, and other similar investigations, our office noted that there appeared to be a lack of formal policy related to the practice of VPD members taking time off 'in lieu' with no accountability for the member's whereabouts or proper documentation of this 'in lieu' time. This practice has resulted in a non-accounted for cost to the taxpayer.

What's Changed

The Vancouver Police Board requested the Vancouver Police Department investigate the Commissioner's recommendations.

The subsequent report to the police board noted that the Police Act files provided by our office for context were not an accurate reflection of real 'lieu time' practices within the VPD. One file had not been substantiated; and while two of the files had been substantiated, one of those involved 'lieu time'; the other involved an officer being absent from duty on sick leave while he was engaged in paid secondary employment. Both officers received significant suspensions without pay.

The report further noted that in 2016, the Commissioner had sent a letter to the board with similar concerns. The board concluded at that time that the usage of 'lieu time' within the VPD was infrequent and did not adversely affect policing costs or operations.

In response to the question of whether a member who had been compensated for unauthorized secondary activity while concurrently being paid as a member of the VPD should be required to re-pay the VPD for the unearned compensation, the City of Vancouver Legal Department advised that the options available to seek repayment were very limited.

Next Steps

The Commissioner will not be taking any further action.

Recommendations to the Vancouver Police Board (VPB)

Street Checks

Recommendations

- Conduct further study into appropriate training programs, policies, and internal procedures on the practice of “street checks” and adopt a new policy only after an independent review.
- Consider the Honourable Justice Michael H. Tulloch’s publicly released report from Ontario entitled “Report of the Independent Street Checks Review” when arriving at a determination.

Background

The Union of BC Indian Chiefs (UBCIC) and the BC Civil Liberties Association (BCCLA) complained in June 2018 that there was a lack of adequate and appropriate training programs, policies, and internal procedures on the practice of “street checks” at the Vancouver Police Department (VPD).

As well, in person and in writing the UBCIC and the BCCLA also asked that the board “only adopt a new policy once it has had the benefit of further, independent reports to provide a better picture of the practice of street checks and police stops, their efficacy, and their impact on racialized and Indigenous people in the city.”

Following a review of the street checks issue, the board provided the UBCIC, BCCLA and our office its report entitled *Understanding Street Checks: An Examination of a Proactive Policing Strategy*.

What’s Changed

The board approved six recommendations and added a seventh recommendation that called for the board to engage a consulting group to conduct an independent review comprising of two aspects:

- A review of the data on street checks practice, policy, procedures and guidance on street checks and use of them as a policing tool; and,
- Stakeholder consultation to identify how street checks policies, procedures and training impact Indigenous and racialized people.

The independent consulting group has commenced its work including data analysis, review of VPD training materials, related policies, organizational charts, and examples of investigative files which include street checks. The consulting group has conducted interviews and convened focus groups that included members of various ranks within the VPD. A total of 12 ride-alongs have been arranged, two in each of the four districts, and four ride-alongs with the Beat Enforcement Team. When completed, the information will be further evaluated.

Stakeholder consultation is underway to gather information on the lived experiences of persons in various communities, with a particular emphasis on persons in communities of diversity.

With regards to the remaining six recommendations, the board provided the following updates:

- A street check policy will be formalized upon completion of the external review, and pending information on applicable provincial standards.
- Additional street check training is under development and will be informed by the independent review.
- 2018 street check data will be released by the VPD upon completion of the independent review.
- An Indigenous Advisory Committee has been established to better understand the unique experiences, perceptions and histories of the communities that the VPD serves.
- An Indigenous Liaison position has been established, and a police officer has been assigned to this role. This police officer is also working as a member of the Indigenous Advisory Committee.
- A new street check category in the records system has been established to specifically document when officers are dealing with an individual to ensure their safety and well-being.

The board anticipates that the review will be completed by the end of 2019 and will be released publicly, along with the final report from the board.

Next Steps

The Commissioner will wait to receive the final report and decision from the Police Board to determine whether further recommendations will be required.

Recommendations to the Vancouver Police Board (VPB)

Use of Ceremonial Holsters

Recommendations

- Examine and reconsider any policies or procedures relating to the selection, acquisition, and approval of ceremonial type holsters and further, to review and implement proper training for members assigned to these units.
- Examine and reconsider any policies or procedures relating to the maintenance, inspection and reporting requirements to ensure that all operational firearms carried by Vancouver Police officers remain in serviceable condition.

Background

A police officer was at a private residence preparing for a ceremonial unit function. As the officer was holstering his police issued firearm into the issued ceremonial holster, the firearm discharged and the bullet grazed the police officer's right thigh, requiring 13 stitches.

The Commissioner issued an Order for Investigation into the officer's conduct, for failing to follow departmental policy and guidelines respecting the safe handling of firearms.

The VPD investigator identified that the Vancouver Police Department's Policy and Procedures Manual was silent on the issuance or use of ceremonial holsters for members assigned to the ceremonial unit and other similar duties. The type of ceremonial holster issued to the police officer did not appear to have been subjected to any approval process, nor had the officer been provided with any training or instructions on the use of this type of holster.

In the absence of policy or training, the Discipline Authority determined that the police officer had not violated VPD policy and recommended that the VPD Planning, Research and Audit Section ensure that in future, holsters and other firearm related equipment are reviewed and authorized for issue by the VPD Firearms Training Section before being deemed authorized equipment.

The Commissioner shared the view that the lack of policy may have been a contributing factor in this incident. As well, the Commissioner noted that the BC Provincial Policing Standard 1.1 was silent on the issuance and use of ceremonial holsters.

During this investigation the armourer's inspection found that the police officer's duty pistol was poorly serviced as there was a significant presence of gunpowder residue and carbon and that the firearm was lacking lubrication.

This resulted in our office learning that VPD had not, for a significant period of time, been adhering to its Regulations and Procedures Manual requiring supervisors to:

- Inspect all members' issued pistols every three months, and
- Complete and submit a Firearm Inspection Report (VPD 662) and submit same to the supervisor i/c of the Force Options Training Unit (FOTU) with a copy to their section's respective support staff.

A compliance report is to be completed quarterly by each section's support staff and submitted to their respective commander.

What's Changed

The Commissioner also copied the Director of Police Services to consider the necessity of establishing provincial policing standards under the Police Act, as the use of an approved holster by police officers form an integral part of the officer's ability to maintain security and safety of their issued firearm during the course of their various duties.

The Director of Police Services acknowledged that holsters are critical to maintaining the safety and security of issued firearms, and that her office had taken the recommendation under consideration and would be engaging with stakeholders regarding potential amendments to the *BC Provincial Policing Standards*.

Next Steps

The Commissioner has not yet received a response from the Vancouver Police Board at the time of the publication of this report. The review by the Director of Police Service continues to be ongoing.

Inappropriate Use of Police Department Funds

Recommendation

- 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.

Background

Earlier noted in the 2017/2018 Annual Report, the complainant in this matter 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 directed that the service or policy complaint be dismissed as it did not relate to the general management of the Victoria Police Department (VicPD) as contemplated by section 168(1) of the *Police Act*. The complainant disagreed with the Victoria Police Board's conclusions.

The 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 VicPD 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.

Unrelated to this matter, the Director of Police Services initiated a review of the estimates and expenditures of the Victoria and Esquimalt Police Board which resulted in our office receiving information relevant to this complaint. Specifically, the consultant prepared a confidential report on the board's budget, estimates and expenditures, which included an analysis of the extraordinary expenditures related to the investigation and resignation of former Chief Constable Elsner.

The consultant concluded that the approach taken by the board in terms of communication and approval of the extraordinary expenditures was reasonable. The consultant recommended that the board and Victoria Police provide further updates to Victoria and Esquimalt councils as the matter progressed.

Next Steps

The Commissioner will not be taking any further action.

Excessive Force in Vancouver PD Jail

Recommendation:

- The Director of Police Services exercise their authority to undertake an audit or review to assist the VPD in developing training or other programs designed to prevent the recurrence of excessive use of force in the Vancouver Jail.

Background

The OPCC has been monitoring issues that have been revealed by the complaints process involving the Vancouver Jail environment. The Vancouver Jail, which processes an estimated 19,000 prisoners a year, experiences a high number of use of force incidents. As this is a custodial environment, the staff have a duty to ensure the safety and well-being of the inmates. The jail's use of force training, policies and procedures must reflect this custodial environment with a duty of care to its prisoners.

In addition, there appears to be a lack of clear expectation of conduct and training within the VPD jail. The Jail Manual has not been finalized and remained in draft form for a number of years. The OPCC has noted that this manual is not being consistently adhered to by jail staff or supervisors.

What's Changed

The Director of Police Services exercised their authority to conduct a study of police detention facilities, equipment and related policies across a sample of policing jurisdictions throughout BC. This will include the Vancouver Police Department detention facility.

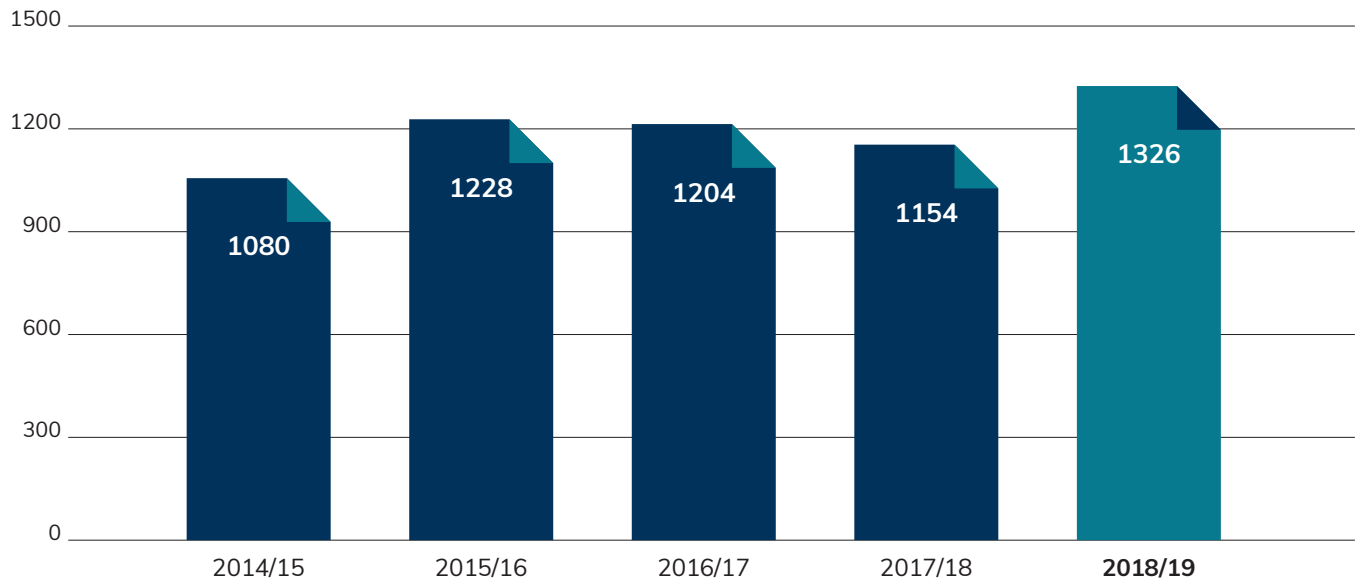
Next Steps

The Director of Police Services has consulted with the OPCC regarding this study. This review continues to be ongoing at the time of publication.

The background is a blue-tinted photograph of several people in a meeting. One person in the foreground is holding a pen and pointing at a tablet. Overlaid on the image are various semi-transparent icons: a row of six human figures, a location pin, a circular gauge with a needle, a network diagram with nodes and lines, a bar chart, and a line graph. The text 'More of our Story in Numbers' is centered in a white serif font.

More of our Story in Numbers

Files Opened: Yearly Comparisons (past five years)



Files Opened: Comparisons by Department (past five years)

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019
Abbotsford	83	81	142	94	127
Central Saanich	10	5	10	13	6
CFSEU	3	2	1	1	1
Delta	61	58	60	49	80
Nelson	14	8	16	15	15
New Westminster	73	62	50	19	38
Oak Bay	7	8	10	4	7
Port Moody	24	30	23	23	33
Saanich	78	120	93	100	72
SCBCTAPS	46	85	105	96	104
Stl'atl'imx	4	1	-	4	5
Vancouver	531	599	522	577	602
Victoria	113	132	142	134	210
West Vancouver	33	37	30	25	25
TOTAL FILES OPENED	1080	1228	1204	1154	1326

Files Opened by Type (past five years)

	2014/2015		2015/2016		2016/2017		2017/2018		2018/2019	
Registered Complaints	532	49%	530	43%	444	37%	522	45%	487	37%
Investigations Initiated by PCC	20	2%	11	1%	20	2%	13	1%	25	2%
Investigations Requested by Department	34	3%	28	2%	26	2%	35	3%	54	4%
Mandatory External Investigations (s. 89)	24	2%	15	1%	8	1%	10	1%	14	1%
Monitor Files	305	28%	419	34%	461	38%	338	29%	497	37%
Internal Discipline Files	16	1%	11	1%	15	1%	15	1%	21	2%
Service or Policy Complaints	14	1%	9	1%	12	1%	15	1%	23	2%
Questions or Concerns	135	13%	205	17%	218	18%	206	18%	205	15%
TOTAL	1080		1228		1204		1154		1326	

File Types

Registered Complaints	Complaints about a police officer's conduct or actions that affect a member of the public.
Ordered Investigations & Mandatory External Investigations	Investigations may be initiated 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 Police Act 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 public information, that may require an investigation pursuant to the Police Act. 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 a complaint or investigation; and no overriding public interest in proceeding with the matter as a public trust matter.
Service or Policy Complaints	Involve the quality of a police department's service to the community or regarding their operating policies.
Questions or Concerns	If a member of the public has a question or concern about a municipal police officer's conduct, that 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.

Files Opened in 2018/2019 by Police Department and Type

Department	Admissible Registered Complaint	Inadmissible Registered Complaint	Mandatory External Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Question/Concern	Service or Policy Complaints	Internal Discipline Files	Monitor Files	TOTAL
Abbotsford	7	22	1	4	0	42	3	1	47	127
Central Saanich	1	0	0	2	0	0	1	0	2	6
CFSEU	0	0	0	0	0	0	0	1	0	1
Delta	9	16	1	1	3	11	0	1	38	80
Nelson	4	6	0	2	1	0	0	0	2	15
New Westminster	6	11	1	1	2	4	0	2	11	38
Oak Bay	1	3	0	3	0	0	0	0	0	7
Port Moody	4	6	0	1	0	14	1	1	6	33
Saanich	5	23	0	4	2	24	0	3	11	72
SCBCTAPS	10	13	0	5	0	19	0	1	56	104
Stl'atl'imx Tribal Police	1	0	0	1	0	0	1	0	2	5
Vancouver	124	132	8	20	13	46	16	6	237	602
Victoria	22	50	3	7	3	41	1	2	81	210
West Vancouver	4	7	0	3	1	4	0	3	3	25
TOTAL	198	289	14	54	25	205	23	21	497	1326

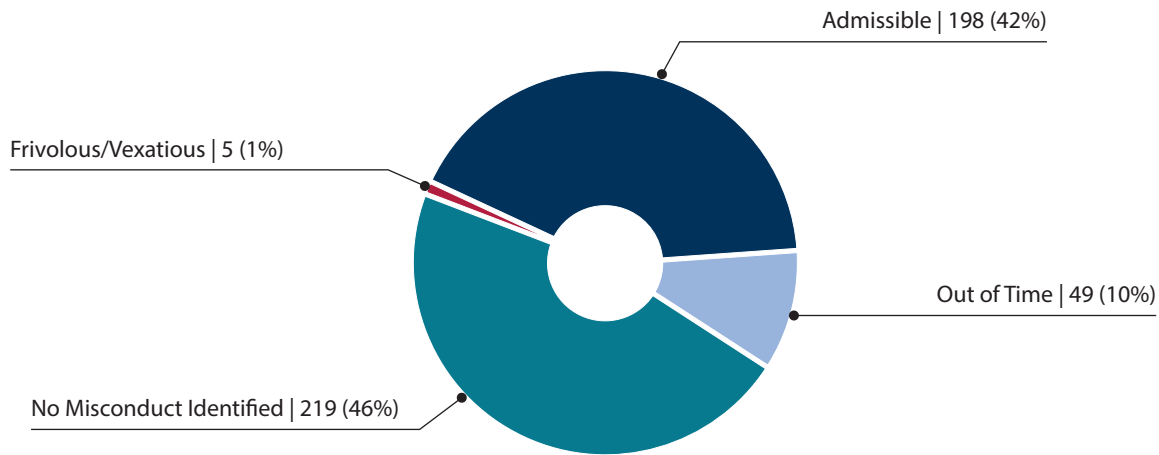
Allegations of Misconduct 2018/2019

A single registered complaint or ordered investigation may contain more than one allegation of misconduct.

Abuse of Authority	164 (36%)
Neglect of Duty	122 (27%)
Discreditable Conduct	95 (21%)
Discourtesy	35 (8%)
Corrupt Practice	9 (2%)
Deceit	8 (2%)
Improper Disclosure of Information	8 (2%)
Unauthorized Use of Police Facilities/Resources	5 (1%)
Damage to Property of Others	5 (1%)
Improper Use or Care of Firearms	2 (>1%)
Damage to Police Property	0
Misuse of Intoxicants	0
Accessory to Misconduct	0
Improper Off Duty Conduct	0

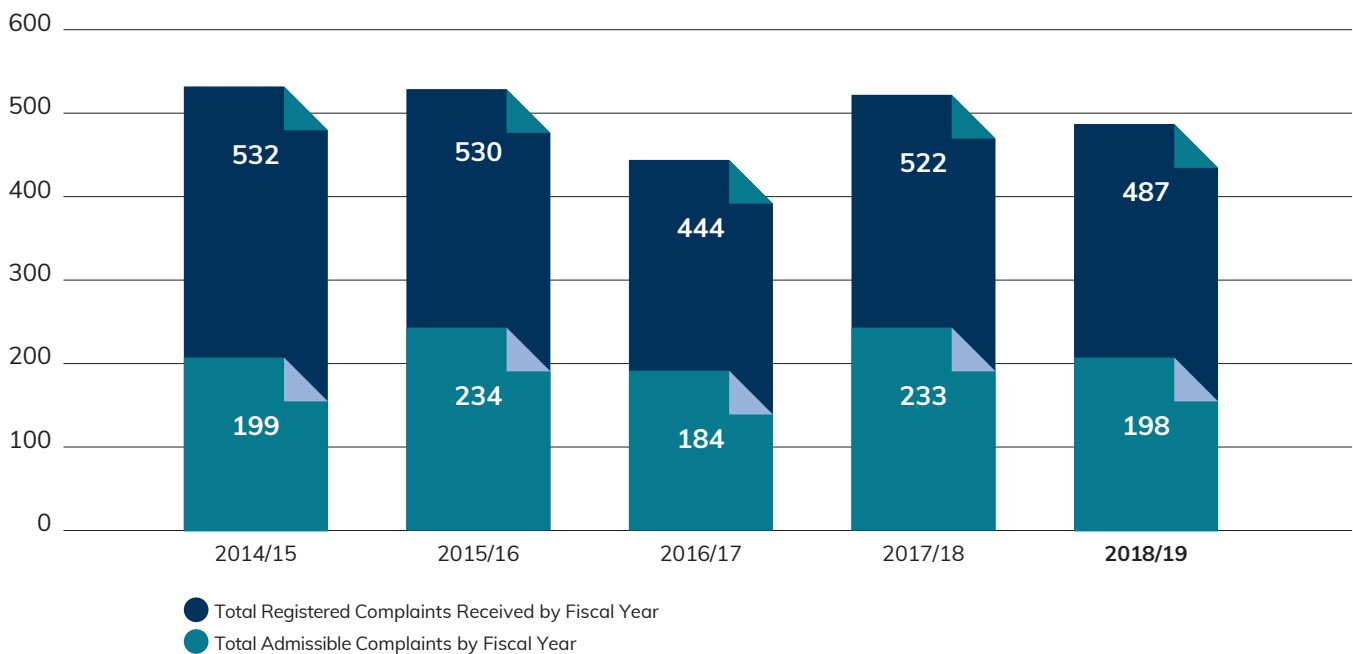
"Unauthorized Use of Police Facilities/Resources" is a subsection of "Corrupt Practice." The OPCC distinguishes this as a separate category of misconduct in order to better capture statistics pertaining to this conduct.

Registered Complaints: Admissibility Assessments 2018/2019



Note: Withdrawn prior to admissibility assessment – 16 (not used in calculating percentages)

Registered Complaints: Admissibility Assessments (past five years)



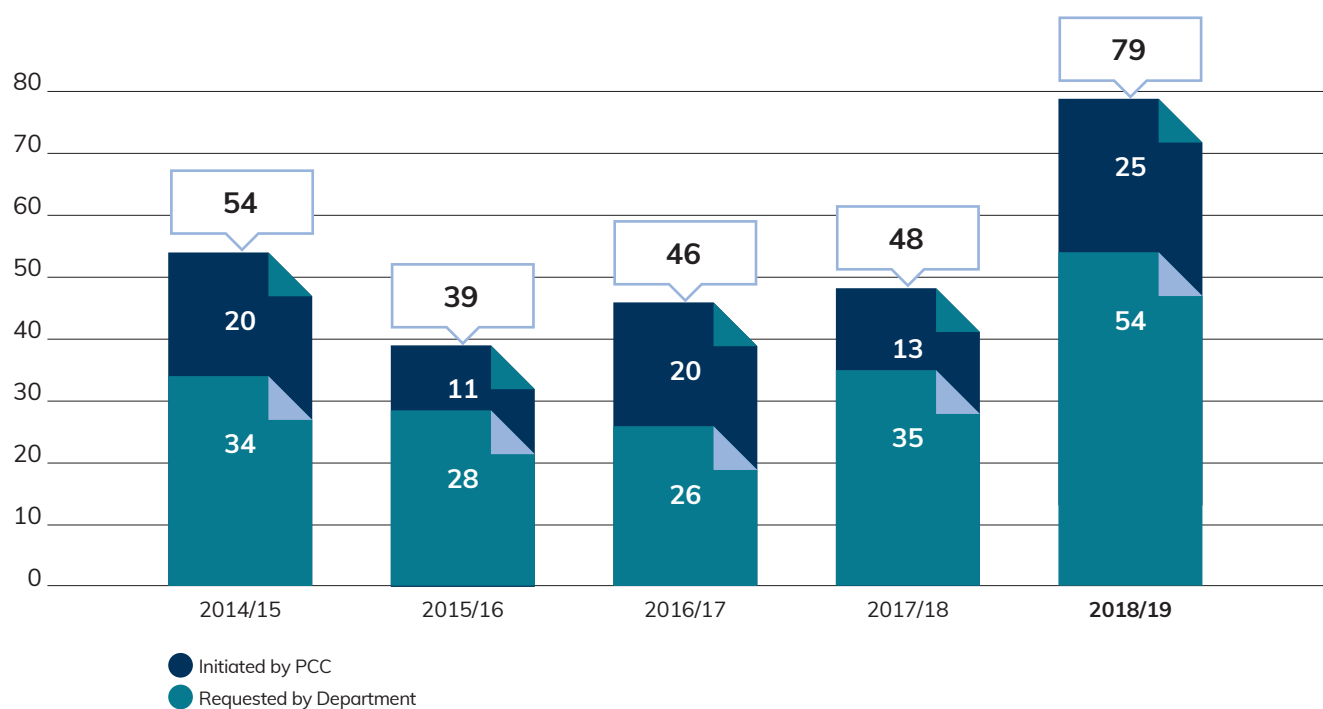
The average admissibility rate for the past five fiscal years is 42%. The majority of complaints are deemed inadmissible because the complainant has not identified an allegation of misconduct. Once the OPCC has determined that a complaint is admissible, the police department must investigate the allegations contained in the complaint. Last year, the OPCC determined 198 (42%) of complaints filed against police to be admissible for investigation.

If a complaint is determined to be inadmissible, complainants will receive a letter outlining the reason why their complaint will 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.

Admissible Complaints and Disposition (past five years)

	Total Registered Complaints Received	Total Admissible Complaints	Complaints Concluded	Discontinued	Complaint Resolution/ Mediated	Withdrawn	Forwarded to DA	No Disposition (still open)
2014/15	532	199	197	18	45	31	103 (52%)	2
2015/16	530	234	234	32	57	36	109 (47%)	0
2016/17	444	184	181	18	66	20	77 (43%)	3
2017/18	522	233	218	35	67	36	80 (37%)	15
2018/19	487	198	129	13	68	19	29 (22%)	69

Ordered Investigations (past five years)

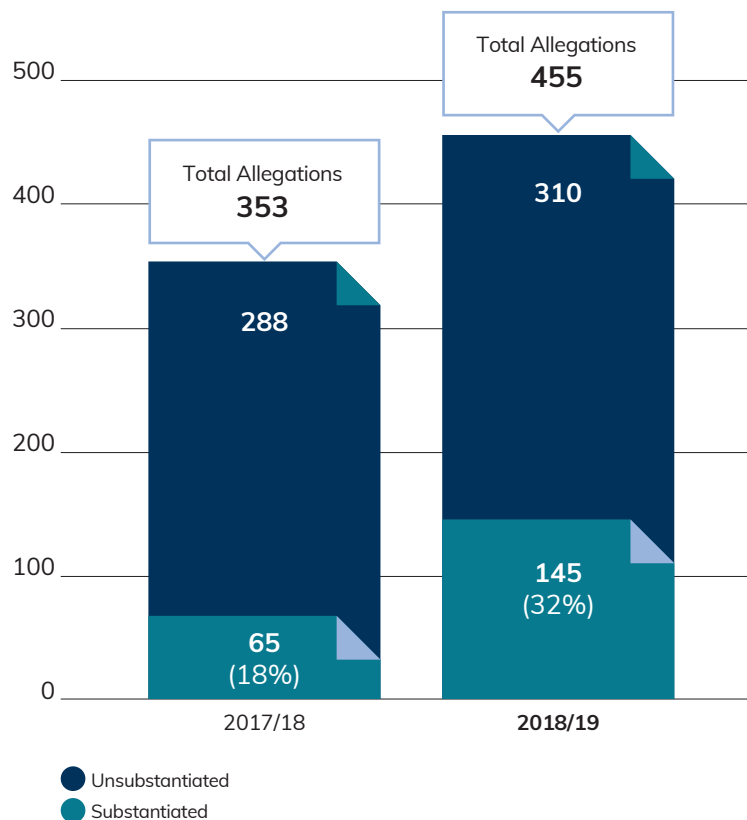


The Police Complaint Commissioner can initiate an investigation in the absence of a complaint from the public. A total of 79 investigations were ordered by the OPCC last year.

Ordered Investigations and Disposition (past five years)

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019
Total Number of Ordered Investigations	54	39	46	49	79
Ordered Investigations With Dispositions	53	38	45	34	34
Discontinued	13	5	4	6	6
Forwarded to DA	39	33	38	29	27
No Disposition (still open)	1	1	1	15	45

Misconduct Rate (past two years)



Each admissible complaint or ordered investigation will contain at least one allegation of misconduct. Following the completion of the investigation, a senior officer (Discipline Authority) at the police department is required to make a determination whether there is sufficient evidence to find that the police officer committed misconduct.

Reportable Injuries by Type of Force (past five years)

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019
Total Notifications	313	409	427	297	403
Total Uses of Force	384	489	523	389	546
Arwen/Bean Bag	23	21	13	22	29
Baton	4	6	5	8	2
Dog Bite	102	181	174	114	137
Empty Hand	108	104	103	79	137
Firearm	6	4	4	1	2
Motor Vehicle Accident	18	26	28	31	35
OC Spray (pepper spray)	5	4	4	8	13
Other	28	28	43	42	56
Pre-Existing	21	20	48	12	32
Self-Inflicted	61	79	84	52	75
Taser	8	16	17	20	27
Other Weapon	-	-	-	-	1

Police departments are to report all incidents where an individual receives an injury caused by the discharge of a firearm or an injury requiring emergency care and transfer to a hospital. All reportable injuries are reviewed to determine whether an investigation into the use of force incident will be completed.

Investigations Following Review of Reportable Injury (past five years)

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019
Mandatory Investigations	24	15	8	10	14
PCC Ordered Investigations	5	4	5	2	7
Department Request Investigations	1	1	1	1	2
Registered Complaints	7	11	7	23	17

Adjudicative Reviews (past five years)

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.
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. Reviews on the Record are conducted by retired judges and is primarily a review of evidence and records of the file, including any submissions.
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.

	2014/15	2015/16	2016/17	2017/18	2018/19	Total
Appointment of retired judge to review (s. 117)	2	1	3	8	3	17
Review on the Record	1	1	4	1	5	12
Public Hearing	1	0	0	3	1	5
Total	4	2	7	12	9	34



All decisions from these three adjudicative avenues are available to the public through the OPCC website at www.opcc.bc.ca. As well, there is a schedule of current Public Hearings or Reviews on the Record indicating the date and place of the hearings. All Public Hearings and Reviews on the Record are open to the public to attend.

Staffing and Budget

Because the OPCC is an independent office of the Legislature providing oversight over municipal police officers who hold significant powers over citizens in the enforcement of federal and provincial laws, it is essential that staff possess strong civilian perspectives as well as expertise and knowledge in the field of policing. Civilian participation in the oversight and investigation of police-involved incidents is an important cornerstone for police accountability that ensures transparency and impartiality to both the complainant and police.

Our team includes staff with diverse backgrounds, including training in the law and policing. Approximately two-thirds of staff with decision-making roles have backgrounds outside of policing. Intensive training, both in-house and external, is provided to staff.

The Commissioner makes it a priority to maintain the balance between the civilian nature of the office and ensuring its staff have the necessary skills and specialized knowledge to conduct their oversight work.

In addition to the Commissioner, the office has 20 staff, which includes 12 Investigative Analysts who are directly involved in the oversight of misconduct investigations. There were an additional 17 Corporate Shared Services staff that provided finance, administration, facilities, human resources, and information technology support for four independent Offices of the Legislature, including the OPCC.

Our Finances

Each Fall, the OPCC is required to present to the Select Standing Committee on Finance and Government Services our budgetary needs. The OPCC will receive approval from the Legislative Assembly to spend funds up to a certain amount. Our Office is bound to this budget amount and cannot exceed it without going through a supplementary process with the Committee to grant access to additional funds. There are two components to our budget: operating and capital. Any unused funds cannot be carried forward for use in subsequent years.

In addition, part of the OPCC's operating budget is dedicated solely for the purpose of Adjudicative Reviews (Public Hearings, Reviews on the Record and S. 117 Reviews) and Judicial Reviews. Any portion of the dedicated funding that is unused for that purpose during the fiscal year is returned to the Consolidated Revenue Fund at the end of the fiscal year.

Fiscal 2018/2019	
Operating Budget	\$3,115,000
Operating Expenditure	\$3,114,167
Capital Budget	\$40,000
Capital Expenditure	\$34,302
Dedicated Funding (Adjudicative and Judicial Reviews) Budget (plus access to contingencies of \$350,000)	\$500,000
Dedicated Funding Expenditure (we received supplemental funding approval to cover this deficit)	\$653,841

Further Resources

Office of the Police Complaint Commissioner website

www.opcc.bc.ca

OPCC brochures

Let Us Help You Guide

https://www.opcc.bc.ca/publications/printable_brochures/Let_Us_Help_You.pdf

General Information

https://www.opcc.bc.ca/publications/printable_brochures/general_information_brochure.pdf

Alternative Dispute Resolution

https://www.opcc.bc.ca/publications/printable_brochures/adr_brochure.pdf

Complaint Form

<https://www.opcc.bc.ca/form/index.asp>

Police Act of British Columbia

http://www.bclaws.ca/civix/document/id/complete/statreg/96367_01

Independent Investigations Office of British Columbia

www.iiobc.ca

Other Canadian oversight agencies

https://www.opcc.bc.ca/outreach/oversight_agencies.html

Appendices

Summaries of all substantiated allegations against municipal police officers concluded between April 1, 2018 and March 31, 2019. A notation is also made for police departments with no substantiated misconduct during the same fiscal year.

Available at: <https://opcc.bc.ca/reports/annual-report/>



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