

Substantiated Allegations

Concluded between April 1, 2019 and March 31, 2020

Abbotsford Police Department

Internal Discipline (OPCC 2019-16741)

An internal investigation was initiated into the conduct of an Abbotsford Police Department member and his communication with a former spouse using a work email account.

The OPCC determined that there were no public trust issues and that no complaint was received.

Allegation 1

That the member used his email account to contact his former spouse in direct contravention of an order outlining a number of restrictions issued to him by a supervisor in November 2016.

MISCONDUCT

Neglect of Duty
(Failure to comply with department policy/regulations)

Date of Incident: August, 2019

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Allegation 2

That the member used offensive and/or profane language in an email utilizing the department email system.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: August, 2019

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Internal Discipline (OPCC 2019-16127)

The Abbotsford Police Department (APD) reported receiving information regarding the conduct of an APD Sergeant and comments made about another officer's limitations as result of required workplace accommodations. This officer felt that the Sergeant had made critical comments to him and others about his disability.

The OPCC determined that there were no public trust issues and that no complaint was received. An internal investigation was initiated.

Allegation 1

That the member inappropriately discussed, on one or more occasions with one or more members, issues pertaining to another member's future in the Unit contrary to the Respectful Workplace Policy I.B. 060.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: March 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Work Under Close Supervision
Program/Activity: partner with a leadership coach and participate in a mediation/conflict resolution with the aggrieved member

Allegation 2

Contacting the member at his home during evening hours, questioning him about his limitations and restrictions imposed by WorkSafe BC in a manner which caused the member to be humiliated and/or intimidated contrary to the Respectful Workplace Policy I.B. 060.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: March 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Work Under Close Supervision
Program/Activity: partner with a leadership coach and participate in a mediation/conflict resolution with the aggrieved member

Allegation 3

Engaging in a conversation with the member about his limitations and restrictions imposed by WorkSafe BC in a public location following his return to work and doing so in an angry and/or hostile manner which caused the member to be humiliated and/or intimidated contrary to the Respectful Workplace Policy I.B. 060.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: March 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Work Under Close Supervision
Program/Activity: partner with a leadership coach and participate in a mediation/conflict resolution with the aggrieved member

Ordered Investigation – Requested by Department (OPCC 2019-16071)

An Abbotsford Police Department (APD) member’s spouse was involved in a minor motor vehicle collision. The member advised a Sergeant that they had viewed the relevant police report file so they could see where the collision occurred. The Sergeant advised that there was no reason to query the police report to determine the location of the collision given the member was already communicating with their spouse.

Allegation

Failing to comply with departmental policy by reviewing a police report to ascertain the location of their spouse’s motor vehicle collision.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: January 2019

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

A pre-hearing conference was offered and accepted by the member. The OPCC reviewed and approved the proposed disciplinary/corrective measure considering that the member had accepted responsibility and had disclosed the conduct to her supervisor.

Internal Discipline (OPCC 2019-15908)

An internal investigation was initiated after four constables submitted complaints against their supervisor regarding ongoing incidents which included harassing and bullying behavior. These incidents occurred over a two-year period commencing in 2018. The supervisor was alleged to have made remarks that could be considered derogatory and degrading, and to have screamed and sworn at his members, all contrary to departmental policy.

Allegation 1

The Sergeant engaged in harassing/bullying behaviour towards Constable "A" by yelling, screaming, making derogatory, berating and degrading remarks including swearing contrary to departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: February 2019

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Allegation 2

The Sergeant engaged in harassing/bullying behaviour toward Constable "B" by making intimidating and humiliating comments regarding his family situation contrary to departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: January 2019

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Allegation 3

The Sergeant engaged in harassing/bullying behaviour toward Constable "C" by defacing his personal calendar by pasting derogatory, degrading homophobic and inappropriate sexual comments on each page contrary to departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: February 2018 – March 2019

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Allegation 4

The Sergeant engaged in harassing/bullying behaviour toward Constable “C” by creating a poster depicting unwelcome remarks, inappropriate humour, innuendoes, taunting, teasing, and insulting conduct contrary to departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: January 2018 – March 2019

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Allegation 5

The Sergeant engaged in harassing/bullying behaviour toward Constable “C” through shunning and purposeful isolation and engaged in disrespectful, intimidating, insulting, behaviour contrary to departmental policy. Specifically, this Sergeant prevented Constable “C” from attending a community appreciation event with the rest of his team, telling him that it was punishment for “faking” an injury.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: February 2019

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Allegation 6

The Sergeant engaged in bullying behaviour toward Constable “C” regarding his obtaining new computer monitors by yelling, screaming, making derogatory, berating, and degrading remarks including swearing contrary to departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: June 2018 – September 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Allegation 7

The Sergeant engaged in harassing/bullying behaviour toward Constable “D” by yelling, screaming, making derogatory, berating, and degrading remarks including swearing contrary to departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: June 2018 – September 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Ordered Investigation – Requested by Department (OPCC 2018-14679)

The Abbotsford Police Department (APD) reported that one of their members of the APD Drug Squad had been summoned to appear in criminal court in April 2018, for a ‘*voir dire*’ where it was alleged by defense counsel that the member committed a serious criminal act respecting seized currency and other evidence during the course of executing a search warrant at his client’s residence.

Upon request by the APD, the OPCC directed the New Westminster Police Department (NYPD) to complete the investigation and appointed Chief Constable Dave Jones as the Discipline Authority. This investigation was suspended while a criminal investigation by the RCMP was undertaken. The RCMP referred the matter to the BC Prosecution Service who elected to not proceed with criminal charges.

Allegation

Inappropriate handling of exhibits, including the placement of cash in his sock while conducting a judicially authorized search.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
Reduction in Rank
Training/Re-Training
Transfer/Re-Assignment

Disciplinary Process

Chief Constable Jones, as the Discipline Authority, reviewed the investigation and identified an allegation of Discreditable Conduct based on the manner in which the search of the residence was conducted and the statement made by the member where he indicated that he intended to play a practical joke with evidence while at the residence. The matter proceeded directly to a discipline proceeding.

In arriving at his determination, the Discipline Authority noted that the actions of the member during the search were of “great concern, whether he misappropriated the money, or played a practical joke” and that the member was “unaware that he was being video recorded, and his actions in how he handled some of exhibits, while conducting a judicially authorized search, are clearly inappropriate including the placing of the cash in his sock. Without the video being made available neither the court, nor the public, would have been made aware of [the member’s] actions.”

The Discipline Authority found that there were several gaps within the video evidence and that video had been erased or lost which left the Discipline Authority with limited evidence: that the small denomination American bills were not accounted for, and the action of the member putting the cash into his sock, which he admitted to. What the video did not show is what happens after the last thirty second video clip. The Discipline Authority reasoned that there was no confirmation that the cash was taken from the residence, and if the cash was taken there is no evidence about who did. The Discipline Authority had concerns with the missing video and the fact that there were others entering the home and removing items, which prevented in the Discipline Authority having a complete picture of what occurred. While the member stated that he did not carry out the practical joke, the cash that was involved was never accounted for, either in his notes, or as part of any records of seizures from the residence. To this date the member could not state, with any certainty, what happened after he put the money in his sock, and where he left the money after he decided not to perform the practical joke.

The Discipline Authority ultimately concluded that the member’s “attempt at humour gave the appearance that [he] had had misappropriated the money, and led to negative public exposure for both [the member] and the Abbotsford Police Department, as a whole.” As a result, the Discipline Authority reduced the member’s rank, had the member transferred out of the major crimes unit and required the member to undertake additional training in police ethical behaviour.

The OPCC reviewed this matter and determined that there were insufficient grounds to arrange for a further review of this matter. The OPCC noted that the proposed discipline will ensure continued monitoring of the member’s performance and additional training will assist in preventing this conduct from recurring.

Ordered Investigation – Requested by Department (OPCC 2014-9474)

On May 5, 2013, an Abbotsford Police Department (APD) drug enforcement officer, Constable Christopher Nicholson, was arrested and charged with several criminal offences including *Breach of Trust*, *Obstructing Justice*, and *Conspiracy to Traffic a Controlled Substance*.

Upon request from the APD that another police agency conduct this investigation, the OPCC directed the New Westminster Police Department (NWPD) to complete the investigation and appointed Chief Officer Dave Jones as the Discipline Authority. This investigation was suspended pending the outcome of the criminal proceedings. Constable Christopher Nicholson pled guilty to the criminal charge of *Breach of Trust*.

Upon completion of the criminal proceedings, additional allegations of misconduct were identified and investigated.

Allegation 1

Two search warrants were executed at Constable Christopher Nicholson’s residence following his arrest. A safe was contained in a closet believed to belong to Constable Christopher Nicholson. Inside the safe, investigators located three loaded firearms in contravention of section 86(2) of the *Criminal Code of Canada* and the *Canadian Firearms Act*.

MISCONDUCT
<i>Improper Use or Care of Firearms</i> (Unsafe storage of firearm)
Date of Incident: May 6, 2013

DISCIPLINARY/CORRECTIVE MEASURE
30-day suspension without pay ¹

Allegation 2

Acting in a manner that this constable knew, or ought to have known, would be likely to bring discredit to the Abbotsford Police Department by excessive speeding on several occasions.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: Various

DISCIPLINARY/CORRECTIVE MEASURE
30-day suspension without pay

Allegation 3

Constable Christopher Nicholson facilitated the trafficking of a controlled substance to a target residence through a confidential source in order to include this interaction in an Information to Obtain (ITO) for the purposes of obtaining a search warrant.

¹ Maximum suspension allowable under the Police Act is 30 days.

MISCONDUCT
Corrupt Practice (Using police authority for personal gain)
Date of Incident: 2011

DISCIPLINARY/CORRECTIVE MEASURE
30-day suspension without pay

Allegation 3

Constable Christopher Nicholson facilitated the trafficking of a controlled substance to a target residence through a confidential source in order to include this interaction in an Information to Obtain (ITO) for the purposes of obtaining a search warrant.

MISCONDUCT
Corrupt Practice (Using police authority for personal gain)
Date of Incident: 2011

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 4

Constable Christopher Nicholson facilitated the trafficking of a controlled substance to a target residence through a confidential source. Information regarding Constable Christopher Nicholson's role in the facilitation of the trafficking was not included in the ITO. In addition, APD policy, as it relates to Confidential Informant and Agent Relationships, was not adhered to.

MISCONDUCT
Corrupt Practice (Using police authority for personal gain)
Date of Incident: 2011

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 5

Constable Christopher Nicholson committed the disciplinary default of a Public Trust Offence, contrary to s. 77(2) of the *Police Act* as result of entering a guilty plea to a charge of *Breach of Trust by Public Officer* pursuant to section 122 of the *Criminal Code of Canada*.

MISCONDUCT
Public Trust Offence (contrary to section 77(2) of the <i>Police Act</i>)
Date of Incident: 2011

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

At the conclusion of the investigation, Chief Officer Jones, as the Discipline Authority, found that Constable Nicholson committed five allegations of misconduct. No pre-hearing conference was offered to the member and as a result, the matter proceeded to a discipline proceeding. Constable Christopher Nicholson was ultimately dismissed from the Abbotsford Police Department. The OPCC did not order a further review.

Central Saanich Police Service

No substantiated misconduct in this reporting period.

CFSEU (Organized Crime Agency of BC)

No substantiated misconduct in this reporting period.

Delta Police Department

Registered Complaint (OPCC 2018-15431)

A complainant reported that he was lured to a location in Delta, BC, and was subsequently attacked by several men. The complainant phoned police for assistance. The complainant reported that the officer did not adequately investigate his complaint of assault and robbery.

The OPCC reviewed the complaint and determined that an investigation was required into the incident.

Allegation

Failing to conduct an adequate investigation by not contacting and taking a statement from an independent witness.

MISCONDUCT

Neglect of Duty
(Inadequate investigation)

Date of Incident: September 2018

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Disciplinary Process

The respondent member was offered a pre-hearing conference during which the member accepted responsibility for their actions. Given the totality of the circumstances, the OPCC approved the agreement reached at the pre-hearing conference.

Ordered Investigation – Requested by Department (OPCC 2018-14566)

It was reported that an Inspector engaged in inappropriate sexual communications with a woman interested in employment as a police officer. The former Inspector contacted the woman through social media, initially communicating about potential employment as a police officer, but later engaged in communications of a sexual nature, both via text and in person. During the course of the *Police Act* investigation, the former Inspector provided false or misleading evidence when investigators asked about these communications.

At the request of the Delta Police Department, the Office of the Police Complaint Commissioner initiated an investigation into the matter and appointed the Saanich Police Department (SPD) to conduct the investigation. The OPCC also appointed Chief Constable Scott Green of the SPD to act as the Discipline Authority for this matter.

Allegation 1

The former Inspector sent text messages to the complainant of a sexual nature.

MISCONDUCT

Discreditable Conduct
(Conduct that discredits the department)

Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE

Dismissal

Allegation 2

The former Inspector engaged in a conversation that was sexual in nature with the complainant

MISCONDUCT
<i>Unauthorized Use of Police Facilities/Resources</i> (Unauthorized use of police equipment)
Date of Incident: March 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 3

The former Inspector did not use his department issued mobile device in a reasonable manner when he sent personal sexual text messages to the complainant.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE
2-day suspension without pay

Allegation 4

The former Inspector provided a false or misleading oral statement to an investigating officer in the course of this *Police Act* investigation.

MISCONDUCT
<i>Deceit</i> (False or misleading oral or written statement)
Date of Incident: July 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

Prior to the commencement of the discipline proceeding, the former Inspector submitted a letter of resignation to the Chief Constable of the Delta Police Department. The former Inspector did not attend the proceedings which commenced in his absence.

Chief Constable Green determined that the former Inspector had committed several counts of misconduct. He found that the former Inspector's conduct was "deliberate and calculating in an effort to establish safeguards that would enable him to engage in a covert and sexually explicit relationship with [the woman]." The former Inspector was "in a position of trust, authority and power by virtue of being a male, a police officer, a senior officer and someone who could have significant influence on [the woman's] career aspirations."

Chief Constable Green also found that "Knowingly, purposefully, and intentionally committing the act of deceit as a police officer is extremely serious misconduct. It undermines the reputation of the police department and the profession itself. It also undermines and has a significant and adverse impact on public trust and confidence in the police to do their jobs with honour and integrity."

The OPCC reviewed these findings and determined that the nature and seriousness of this matter was addressed through a thorough, professional investigation and appropriate sanction was imposed. The former Inspector retired prior to the discipline hearing but his employment records will reflect that he was dismissed from the Delta Police Department.

Metro Vancouver Transit Police²

Ordered Investigation – Requested by Department (OPCC 2018-15651 and 2019-15758)

While off-duty, a Metro Vancouver Transit Police (MVTP) member visited another off-duty member of the MVTP and a member of the Vancouver Police Department (VPD) in a hotel room in Vancouver. The respondent member was doing private security detail work and had his department issued service pistol with him. The member placed the pistol in a bedside table without locking it contrary to departmental policy. At approximately 1900 hours, the three members went out to dinner leaving the pistol in the hotel room. A hotel room attendant entered the room to service it; found the gun and called hotel security. Hotel security took possession of the pistol, secured it, and called the Vancouver Police. While VPD members were on scene to investigate, the respondent member returned to retrieve his issued pistol.

A criminal investigation was conducted by the Vancouver Police which did not result in any criminal charges. The member ultimately resigned from the MVTP.

Allegation 1

Leaving an unsecured departmentally issued handgun in a hotel room while off-duty.

MISCONDUCT
<i>Improper Use or Care of Firearms</i> (Unsafe storage of firearm)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 2

Being in possession of his police issued pistol while off-duty, without departmental permission or knowledge.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 3

Engaging in outside employment without proper written authorization while being employed by the Metro Vancouver Transit Police, thus contravening departmental policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
15-day suspension without pay

² Formally the South Coast British Columbia Transportation Authority Police Service (SCBCTAPS)

Allegation 4

Using police equipment and databases to search for information and details unrelated to his duties as a police officer, but in relation to the private security detail he was working on.

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
20-day suspension without pay

Disciplinary Process

This matter proceeded to a discipline proceeding. At the conclusion of the discipline proceeding, the Discipline Authority found four allegations of misconduct had been proven. Even though the member resigned prior to the conclusion of this matter, his service record of discipline will reflect that he was dismissed from the Metro Vancouver Transit Police.

Ordered Investigation – Requested by Department (OPCC 2018-15085)

An off-duty Metro Vancouver Transit Police member was the subject of a traffic stop where he registered a “Fail” on the roadside alcohol screening device. He received a 90-day immediate roadside prohibition (IRP) from driving and his vehicle was impounded.

Allegation

By consuming a quantity of alcohol, then operating a motor vehicle with a quantity of alcohol that resulted in receiving a 90-day immediate roadside prohibition (indicative of exceeding 80 milligrams of alcohol in 100 millilitres of blood).

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the Department)
Date of Incident: August 2018

DISCIPLINARY/CORRECTIVE MEASURE
3-day suspension without pay

Disciplinary Process

A prehearing conference was offered and held before a Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of a 3-day suspension without pay.

The OPCC reviewed the discipline imposed in this matter. In reviewing the investigation and considering all the relevant factors in this case, including significant financial and other penalties imposed under the IRP program, the OPCC determined the Prehearing Conference Authority had appropriately considered the aggravating and mitigating factors but noted that a 3-day suspension in this case was on the low range of acceptable discipline.

Registered Complaint (OPCC 2018-15084)

A female complainant reported that an unknown male person assaulted her while walking downtown in Vancouver. The complainant’s boyfriend began to follow the male suspect and called 911. The complainant approached a marked Metro Vancouver Transit Police (MVTP) vehicle stopped at a red light and knocked on the window. The complainant told the member who was seated in the passenger seat what had happened and pointed to her boyfriend who was following the suspect. The member’s response was, “What do you want us to do about it” and, “it’s not really our jurisdiction.”

The OPCC reviewed the complainant and determine an investigation was required into the incident.

Allegation 1

Member 1: Failing to assist the complainant by taking a report or assisting her by making a report of a crime that occurred against her.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide assistance)
Date of Incident: July 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Allegation 2

Member 2: Failing to assist the complainant by taking a report or assisting her making a report of a crime that occurred against her.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide assistance)
Date of Incident: July 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

This matter proceeded to a prehearing conference. The Prehearing Conference Authority took into consideration that the complainant did not suffer physical injuries as a result of the assault but also noted that the complainant's trust in police had been damaged. Both members prepared a letter of apology to the complainant and undertook steps to improve their communication and customer service skills. Consideration was given to the fact that one of the members did not communicate with the complainant or contribute to the deteriorating conversation with the complainant. As a result, this member received a verbal reprimand whereas the other member involved received a written reprimand for the handling of this matter.

The OPCC reviewed the discipline imposed in this matter and determined that the corrective and disciplinary measures agreed to at the prehearing conference sufficiently served to correct and educate the members involved.

Registered Complaint (OPCC 2018-14810)

The complainant reported that he had an encounter with four members of the Metro Vancouver Transit Police (MVTP) while travelling on the SkyTrain where police asked him to produce his ticket. The complainant alleged that he was wrongfully detained and was not provided a reason for having to provide his identification even though he asked the members why he had to do this. The complainant reported that one of the members stated that he knew how to deal with people like him, told him to shut up, called him an idiot, and got very close to his face.

The OPCC reviewed the complaint and determined that an investigation was required into the incident.

Allegation

By using derogatory terms to refer to the complainant, telling him to shut up, making hand gestures about the complainant, and invading his personal space while speaking to him.

MISCONDUCT
<i>Discourtesy</i> (Discourteous conduct)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was held in relation to this matter where a written reprimand was proposed. The OPCC approved the discipline in this matter noting that the member had recently retired from police department and therefore additional training would not be necessary and would not serve to correct or educate the member to prevent future misconduct.

Ordered Investigation – Requested by Department (OPCC 2018-14701)

Upon receiving notification from the Metro Vancouver Transit Police (MVTP) of an injury to a 17-year-old male (the “affected person”), the OPCC initiated an investigation into the use of force incident and appointed the RCMP to complete the investigation.

According to the MVTP, on April 30, 2018, an Acting Sergeant was conducting fare checks at the Coquitlam Central SkyTrain Station when he encountered the affected person who appeared to be intoxicated. After being issued with a Fare Infraction Notice and escorted out of the station, and being refused service for 24 hours, the affected person returned several times, each time becoming increasingly abusive.

At approximately 12:30 am, the affected person was reported to have challenged the Acting Sergeant to a fight. The Acting Sergeant concluded that the affected person's behaviour had escalated beyond a 24-hour refusal of service and advised him that he was under arrest for *Breach of the Peace*. When the Acting Sergeant attempted to take the affected person into custody, the affected person fled the scene.

Two other MVTP members responded and located the affected person. Police described that the affected person squared up to him to fight and then attempted to run past him. In response, the affected person was taken down to the ground, where additional force was used by members before being placed in handcuffs. CCTV video capturing this incident shows one of the members appearing to forcefully hit the right side of the affected person head against the platform surface.

CCTV video also showed police lifting the affected person off the ground by his arms once the handcuffs were applied and continued to raise him up by the arms as he was escorted to and down the escalator.

Adjudicative Review

Chief Officer Dave Jones, as the Discipline Authority in this matter, reviewed the investigation and determined that the members did not commit misconduct. The OPCC disagreed with this decision and appointed Retired BC Supreme Court Justice, Ron McKinnon to review the matter. The Police Complaint Commissioner had concerns with the force used by the members and the manner in which the affected person was escorted by the members.

Mr. McKinnon completed an independent review of this use of force incident and determined that the members committed misconduct. In arriving at his decision, Mr. McKinnon noted that the strikes to the affected person as he was taken to the ground, and the force used against the affected person's head and neck while on the ground were objectively unnecessary. In addition, Mr. McKinnon found that the members did not appear to have had a reasonable basis to manipulate or control the affected person's arms in the way that they did when they lifted him up and escorted him out of the SkyTrain station. The affected person did not appear to be posing a threat or an impediment to their actions to warrant the amount of force used.

Allegation 1

Member 1: Intentionally or recklessly using unnecessary force when arresting the affected person.

MISCONDUCT

Abuse of Authority
(Excessive force – empty hand)

Date of Incident: April 30, 2018

DISCIPLINARY/CORRECTIVE MEASURE

Training/Re-training: direction to undertake training relating to the apprehension, handcuffing and escorting of uncooperative subjects.

Allegation 2

Member 2: Intentionally or recklessly using unnecessary force when arresting the affected person.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive force – empty hand)
Date of Incident: April 30, 2018

DISCIPLINARY/CORRECTIVE MEASURE
Training/Re-training: direction to undertake training relating to the apprehension, handcuffing and escorting of uncooperative subjects.
Verbal Reprimand

Mr. McKinnon offered a prehearing conference, which was accepted by both members. The prehearing conference resulted in an outcome where both respondent members admitted to the allegation and accepted the proposed disciplinary or correctives measures.

For further information on this incident and decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/Summary>

Ordered Investigation – Requested by Department (OPCC 2018-14297)

Upon receiving notification from the Metro Vancouver Transit Police (MVTP) of an injury to a member of the public and upon request from the MVTP, the OPCC initiated an investigation into a police pursuit of a vehicle.

According to the MVTP, two MVTP members were travelling in Surrey, BC, when they observed a vehicle exceeding the speed limit cross in front of their marked police vehicle. The members pulled in behind this vehicle and attempted to catch up but lost sight of the vehicle. A short time later, the suspect vehicle was located and appeared to have slid off the road and crashed into some bushes in front of a residence.

After a short foot chase, both suspects were apprehended. The driver was subsequently arrested for several offences related to his driving, possession of drugs and failing to comply with court orders he was under at the time. The driver complained of soreness and was transported to hospital where he was treated and released.

A review of this pursuit was undertaken by the MVTP. The review identified potential breaches of MVTP policy and the Emergency Vehicle Driving Regulations.

Allegation 1

Member 1: By failing to comply with MVTP policy requiring the broadcast of information on the police radio upon engaging in a pursuit in accordance with MVTP Policy OA130-#20.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Allegation 2

Member 1: By failing to comply with departmental policy requiring members to ensure that any vehicle they are assigned is operated in a safe and professional manner in accordance with MVTP Policy AG090-#11.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Allegation 3

Member 2: For failing to comply with departmental policy requiring the broadcast of information on the police radio upon engaging in a pursuit in accordance with MVTP Policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Disciplinary Process

A prehearing conference was offered to the members. In arriving at this discipline, the Prehearing Conference Authority noted that each of the members undertook relevant training as a result of the administrative pursuit review. In addition, it was noted that the Justice Institute of BC (JIBC) recruit training and departmental policy played a role in how the member responded to this incident. Amendments have been made to departmental policy to address this issue.

The OPCC approved the discipline imposed in this case, noting that the discipline of advice to future conduct and a written reprimand in this case was on the low end for the range of acceptable discipline.

Nelson Police Department

Internal Discipline (OPCC 2019-16216)

An internal investigation was initiated following a report of a Nelson Police Department (NPD) member verbally confronting another member about an ongoing *Police Act* investigation. The member was alleged to have made inappropriate comments in relation to an upcoming promotional competition. These comments were contrary to the department’s respectful workplace policy.

The OPCC determined that there were no public trust issues and that no complaint was received.

Allegation

Failing to adhere to the Nelson Police Department Respectful Workplace Policy following an interaction with another Nelson Police Department member.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: March 2019

DISCIPLINARY/CORRECTIVE MEASURE
Training/Re-Training: related to respectful workplace policy
Program/Activity

Ordered Investigation – Requested by Department (OPCC 2019-15763)

The Nelson Police Department (NPD) reported a matter involving the off-duty conduct of one of their members and his girlfriend. It was reported that while off-duty, the member attended a bar with his girlfriend, yelled at her, including using an expletive and made a gesture with his middle finger. The member then returned home where he caused damage to the property, including punching holes in the bedroom wall. Police were called as a result of the member’s off-duty conduct.

The OPCC determined it was in the public interest that an external police agency be appointed to conduct this investigation. The RCMP was appointed to conduct the investigation and a senior officer at the Vancouver Police Department was designated to be the Discipline Authority.

The *Police Act* investigation was suspended pending the outcome of a criminal investigation. The matter was referred to the BC Prosecution Service; charges were not approved.

Adjudicative Review

The Discipline Authority determined that the off-duty conduct of the member did not constitute misconduct.

After reviewing the Final Investigation Report and the Discipline Authority's decision, it was the Police Complaint Commissioner's view that there was a reasonable basis to believe that decision of the external Discipline Authority was incorrect and appointed Retired BC Court of Appeal Justice, Wally Oppal, Q.C., to review the matter and arrive at his own decision based on the evidence.

Mr. Oppal determined that the conduct of the member appeared to constitute misconduct. In his decision, he noted that the police and the Discipline Authority appear to have treated this matter as a domestic incident involving two people. Mr. Oppal disagreed with the assessment that this was simply a case of "domestic discourse." He further noted that there were a number of specific examples where the conduct of the member appeared to constitute misconduct. They include going into the pub and making a gesture with his middle finger to his girlfriend, and returning to their residence and causing willful damage to the property therein, including punching holes in the bedroom wall. Mr. Oppal concluded that taken individually, these actions may not appear to be discreditable conduct, however, taken cumulatively, they appear to constitute misconduct within the meaning of the *Police Act*.

Allegation

While off-duty, the member made a gesture with his middle finger to his female partner, returned to their shared residence and caused damage to the residence, including punching holes in the bedroom wall and throwing building materials out of the front door.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: September 2018

DISCIPLINARY/CORRECTIVE MEASURE
Counselling/Treatment
Written Reprimand

A prehearing conference was held during which the member accepted full responsibility for his actions and admitted to the allegation of Discreditable Conduct. An agreement was reached with respect to the disciplinary/corrective measures of a written reprimand and counselling for two years. The Prehearing Conference Authority considered that, at the time of the incident, the member had been a long serving police officer with no current service record of discipline.

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

For further information on this incident and decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/Summary>

New Westminster Police Department

Ordered Investigation – Initiated by PCC (OPCC 2018-15450)

A New Westminster Police Department (NWPD) member was observed by police to be travelling at a high rate of speed in an HOV lane. A speed of 140 km/h was registered by laser in a posted 90 km/h zone. The vehicle was then observed to make a sudden lane change in very close proximity to another vehicle, cutting it off. Police stopped the vehicle and issued the member a violation ticket. It was determined that the member was driving an unmarked police vehicle for which the member had overnight privileges. It was determined that the member was on his way to work and was not actively engaged in police duties.

Allegation

Operating a vehicle at a high rate of speed in the HOV lane, 140 km/h in a posted 90 km/h zone, and making a sudden lane change in close proximity to another vehicle, cutting it off.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: October 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was offered to the member where the member agreed to the proposed discipline.

The OPCC reviewed the proposed corrective measure and determined that the proposed discipline was not appropriate considering the circumstances as it did not adequately address the risk to the public safety. In addition, the OPCC disagreed that the member had accepted responsibility for his actions.

The matter proceeded to a discipline proceeding where the member admitted to the allegation of Discreditable Conduct. The member was invited to make submissions with respect to penalty. The Discipline Authority reviewed the relevant aggravating and mitigating factors and imposed a written reprimand.

The Police Complaint Commissioner reviewed the outcome of the discipline proceeding and determined that further review of this matter by appointed a retired judge was not required. In arriving at this decision, the Commissioner further considered that in this case the member was issued a violation ticket for excessive speeding.

Internal Discipline (OPCC 2018-15040)

A member sought approval from the Chief Constable to seek outside employment however, the Chief Constable denied the request. The member was suspended without pay at the time as a result of an unrelated criminal investigation into his conduct. It was learned that the member owned and was operating a business.

The OPCC determined that there were no public trust issues and no complaint had been received. An internal investigation was initiated as a result.

Allegation

Working outside his employment contract contrary to the New Westminster Police Department Policy Code of Administrative Conduct and contrary to specific direction from the Chief Constable.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

Following the investigation, the Discipline Authority substantiated the allegation of Discreditable Conduct and reviewed the aggravating and mitigating factors. The Discipline Authority noted the serious nature of this conduct particularly as the member was already facing an unrelated serious criminal allegation where the member was currently suspended without pay. The member was aware of the requirements to seek permission of the Chief Constable to engage in outside employment or business opportunities. This permission was sought and denied; however, the member chose to disregard this and pursue the outside employment/business opportunity. The Discipline Authority noted that the member already had discipline on his service record of discipline and that the member did not take responsibility for his actions.

Oak Bay Police Department

Registered Complaint (OPCC 2019-15814)

A complainant contacted the Oak Bay Police Department to report that she had an altercation with an off-duty member where the member had taken exception to her driving. A verbal exchange occurred and the off-duty member, after having returned to the office, queried the complainant, then phoned her several days later and warned her about her driving behaviour.

The OPCC reviewed the complainant and determine an investigation was required into the incident.

Allegation

The member failed to report the alleged driving offence to the police jurisdiction where the offence occurred.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide assistance)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Disciplinary Process

Following an investigation, the Discipline Authority determined that the member should have notified the RCMP in the first instance as the driving incident occurred in their jurisdiction. A prehearing conference was offered to the member and held before the Deputy Chief Constable as the Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of advice to future conduct.

In reviewing the investigation and considering all the relevant factors in this case, the OPCC approved the discipline in light of the respondent member's service record which contained no substantiated entries.

Ordered Investigation - Requested by Department (OPCC 2018-15661)

The Oak Bay Police Department reported that one of their members had failed to follow the provisions of the British Columbia Emergency Vehicle Driving Regulations when he initiated a police pursuit of a vehicle and was in contravention of the Emergency Vehicle Operator Guidelines. The member had queried the licence plate of a vehicle which indicated that the owner may have been a prohibited driver and engaged in a pursuit of that vehicle for several blocks without notifying dispatch. The member terminated his pursuit and self-reported it to his supervisor who reviewed the relevant dash cam video.

Allegation

Failing to follow the provisions of the British Columbia Emergency Vehicle Driving Regulations.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

Following the investigation, the Discipline Authority substantiated the allegation and offered the respondent member a prehearing conference. The member admitted to the misconduct and an agreement was reached with respect to a discipline/corrective measure of a written reprimand.

The respondent member had no previous service record of discipline, and had immediately reported the incident to his supervisor and accepted full responsibility for his actions. The member completed a refresher course on the Emergency Vehicle Operator Guidelines and the Emergency Vehicle Driving Regulations. Considering these factors, the OPCC approved the disciplinary measure imposed at the prehearing conference as they were both correct and appropriate with respect to the circumstances.

Ordered Investigation – Requested by Department (OPCC 2018-15160)

The Oak Bay Police Department reported an off-duty Oak Bay Police Reserve Constable was observed by Victoria police officers to be intoxicated and urinating on a building in downtown Victoria. It was also reported this Reserve Constable was uncooperative with Victoria police officers during this interaction.

It was further reported a few weeks later that this same off-duty Reserve Constable was found unconscious in front of a downtown Victoria nightclub. He was initially released to the custody of friends but was later found in a similar state and a decision was made by police to transport him to hospital by ambulance due to his severe intoxication.

The Reserve Constable resigned from the Oak Bay Police Reserve Program prior to the conclusion of the investigation.

Allegation 1

Being found intoxicated in a public place, urinating with his pants down and failing to identify himself upon initial request by a police officer.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Allegation 2

Being found intoxicated in a public place to the point of being unable to care for oneself.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

Following an investigation, the Discipline Authority determined the evidence appeared to substantiate the allegations of Discreditable Conduct and offered a prehearing conference. The prehearing conference was held before the Chief Constable as the Prehearing Conference Authority. An agreement was reached with respect to the proposed discipline of a written reprimand for two counts of Discreditable Conduct. Considering that the Reserve Constable resigned from the program, the OPCC approved the discipline in this case.

Port Moody Police Department

No substantiated misconduct in this reporting period.

Saanich Police Department

Internal Discipline (OPCC 2020-17311)

The Saanich Police Department reported that an unencrypted, password-protected USB drive containing information related to a major crime investigation was missing. The member had the USB drive in a backpack which was stolen from his department vehicle. The theft occurred while he was on a personal trip to Seattle. The member was authorized to take the vehicle to Seattle and was also authorized to have the materials outside of his place of employment for work at home purposes. The theft was reported to the Seattle Police at the time but the officer did not realize the USB drive was missing until much later when he reported it to the Chief Constable.

The OPCC determined that there were no public trust issues and that no complaint has been received by the OPCC. An internal investigation was initiated as a result.

Allegation

Breach of Saanich Police Department's policy for failing to care for and properly secure Saanich Police Department property.

MISCONDUCT

Neglect of Duty
(Failure to comply with department policy/regulations)

Date of Incident: January 2020

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Internal Discipline (OPCC 2019-17046)

A Saanich Police Department member failed to attend traffic court on two occasions in October 2019. The member had been away on medical leave and had not been cleared for full duties, but had been approved to attend traffic court, which he did on two occasions in September.

In October, the member's supervisor notified him that he had missed a traffic court appearance. The member then realized he had missed another traffic court date two weeks earlier. The member learned that the calendar on his phone was not functioning properly. As the member was on leave, he was not attending the office to review the work schedule for reminders and had relied on his electronic calendar set up on his phone as a reminder.

The member took full responsibility for his actions and proactively took steps to prevent the recurrence of this type of mistake.

The OPCC determined that there were no public trust issues and that no complaint has been received by the OPCC. An internal investigation was initiated as a result.

Allegation

That in October 2019, the member failed to attend traffic court on two occasions as required, breaching departmental policy.

MISCONDUCT

Neglect of Duty
(Failure to comply with department policy/regulations)

Date of Incident: October 2019

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Ordered Investigation – Requested by Department (OPCC 2019-16478)

The Saanich Police Department reported that a Reserve Constable completed a pre-employment polygraph exam as part of the application process with another police agency. During this exam, the Reserve Constable disclosed that while working as a civilian at the police department they became aware of information regarding a third-party which they later disclosed to a person who was not entitled to know this information.

Allegation

Disclosing information acquired during the performance of their duties as a Saanich Police Department employee to a personal friend.

MISCONDUCT
<i>Improper Disclosure of Information</i> (Disclosing information acquired as police officer)
Date of Incident: August 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

A prehearing conference was offered where an agreement was reached with respect to the proposed discipline of a verbal reprimand.

In light of the recent decision from Retired Provincial Court Judge, Brian Neal, Q.C. (OPCC file no. 2017-14249) which provided guidance for allegations involving the disclosure of private and confidential information, the OPCC determined that the discipline/corrective measure imposed was on the low end of the range of acceptable outcomes. However, it was noted that based on the circumstances, there is a low likelihood of future misconduct. Further, the OPCC considered that in light of the Special Municipal Constable’s status as an unpaid Reserve Constable, a suspension would be ineffective as there would be no monetary consequences. Therefore, the OPCC approved the agreement reached at the prehearing conference.

Internal Discipline (OPCC 2019-15721)

The Saanich Police Department reported that a Special Municipal Constable (SMC) was on his way home from work when he observed several Saanich Police members involved in a large incident. Upon returning to work the following day, the SMC queried the incident on the police computer for his own interest despite having no association to the call.

The OPCC determined that there were no public trust issues and that no complaint had been received by the OPCC. An internal investigation was initiated as a result.

The investigation revealed that the SMC did not further share this information with any unauthorized persons.

Allegation

Using their position as a member of the Saanich Police Department to gain confidential information of any kind, from any printer, electronic, or personal police department source, for reasons of personal benefit.

MISCONDUCT
<i>Unauthorized Use of Police Facilities/Resources</i> (Unauthorized use of police equipment)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Internal Discipline (OPCC 2018-15679)

The Saanich Police Department (SPD) reported that a member did not adhere to departmental policy respecting court notifications, which states that members will attend court or a prosecutor's interview as required, and are expected to manage their individual court commitments. In December 2018, the member did not attend provincial court as required and as a result the Crown prosecutor entered a stay of proceedings. The nature of the court proceeding involved an offence under the *Motor Vehicle Act*. The Crown prosecutor called the member after court to inquire about the reason he did not attend. It was at this time that the member realized that he missed his court appearance.

The OPCC determined that there were no public trust issues and that no complaint has been received by the OPCC. An internal investigation was initiated as a result.

The investigation determined that the member simply forgot about the court proceedings and did not knowingly disregard his responsibility to attend. The member accepted full responsibility for his actions.

Allegation

Failing to attend court proceedings as required pursuant to department policy.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Ordered Investigation – Requested by Department (OPCC 2018-15667)

Saanich Police reported that a member left two issued pistols and two magazines with ammunition in an unlocked drawer of a filing cabinet used as part of his workstation. During an office reorganization, the unsecured items were discovered and moved to a locked cabinet by a civilian employee.

Allegation

Failing to promptly and diligently secure and store his service firearms in his assigned firearms locker.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

A prehearing conference was offered to the member where the member accepted responsibility and also took the initiative to review Saanich Police Department's policy regarding firearms. In addition, it was noted that no injuries occurred a result of this improper storage. The OPCC approved the proposed discipline.

Registered Complaint (OPCC 2018-15546)

The complainant filed a complaint following his interaction with Saanich members at a roadblock. The complainant was ultimately arrested and transported to cells. He reported, in part, that members breached his section 10(b) Charter rights during his arrest and that members uttered profane comments to him while he was being transported to the police department following his arrest. The complainant alleged that members provided false and inaccurate testimony during his criminal trial.

During the criminal proceeding, the presiding judge dismissed the charges filed against the complainant due to a serious breach of the complainant's Charter rights under section 10(b) which provides that everyone has the right on arrest or detention to retain and instruct counsel without delay and to be informed of that right.

The OPCC reviewed the complaint and determine an investigation was required into the incident.

Allegation 1

Further questioning the complainant after he asserted his right to counsel and interfering with the exercise of the complainant's right to counsel by interrupting his phone call with legal counsel.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide Charter rights)
Date of Incident: December 2017

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-Training

Allegation 2

Making comments to the complainant while he was being transported in a police vehicle to the Saanich Police Department that were profane, disrespectful and lacking professionalism.

MISCONDUCT
<i>Discourtesy</i> (Discourteous conduct)
Date of Incident: December 2017

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Allegation 3

Providing testimony during a criminal trial resulting in adverse judicial comments, where the judge noted that the member's testimony in Provincial Court was "careless, lacking reliability... and highly unprofessional."

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: December 2017

DISCIPLINARY/CORRECTIVE MEASURE
Training/Re-Training

Disciplinary Process

A prehearing conference was held in this matter where the member accepted responsibility for his actions. The Saanich Police Department determined that the misconduct committed by this member to be serious, particularly considering that there was a finding that there was an egregious breach of the complainant's section 10(b) Charter rights which resulted in the decision to exclude evidence that was material to Crown's case. In addition, the adverse comments made by the presiding judge spoke to the member's carelessness in court, lack of reliability and unprofessionalism.

The member was directed to complete a session with a legal updates instructor to review applicable case law regarding section 10(b) of the *Charter of Rights and Freedoms* in addition to completing a course on "Courtroom Testimony Skills."

The OPCC approved the agreement reached at the prehearing conference.

Stl'atl'imx Tribal Police Service

No substantiated misconduct in this reporting period.

Vancouver Police Department

Ordered Investigation – Initiated by PCC (OPCC 2019-16296)

A report was received of a male waving a knife on Granville Street in Vancouver. Police responded to this call. One of the members was armed with a with a less-lethal “beanbag shotgun.” Once the call was complete, the member slung the beanbag shotgun over his shoulder and entered a crosswalk to return to his police vehicle. At mid-point in the crosswalk, the member heard a popping sound. The member inspected his shotgun and saw that the safety was not engaged and a discharged shell casing was visible. The spent projectile was later found on the roadway.

Allegation

Failing to use or care for a firearm in accordance with standards or requirements established by law resulting in the negligent discharge of a beanbag shotgun in public.

MISCONDUCT

Improper Use or Care of Firearms
(Accidental discharge of firearm)

Date of Incident: May 2019

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Disciplinary Process

This matter proceeded to a prehearing conference where the member accepted responsibility for their actions. No injuries or property damage occurred as a result; however, this discharge occurred near a civilian.

The OPCC determined that the discipline was appropriate in the circumstances.

Internal Discipline (OPCC 2019-16220)

It was reported that a Special Municipal Constable (SMC) potentially breached the Vancouver Police Department’s Respectful Workplace Policy by bullying, engaging in retaliatory conduct and breaching confidentiality in relation to an ongoing *Police Act* investigation.

An internal investigation was initiated as a result. The OPCC determined there were no public trust issues and no complaint had been filed.

Allegation

Making accusatory comments to another co-worker, breaching confidentiality related to another *Police Act* investigation, and using profane language when referring to another person.

MISCONDUCT

Neglect of Duty
(Failure to comply with department policy/regulations)

Date of Incident: April 2019

DISCIPLINARY/CORRECTIVE MEASURE

Written Reprimand

Registered Complaint (OPCC 2019-16137)

A complainant reported concerns following an incident she observed which involved Vancouver Police Department (VPD) members using force on a male person. She advised she witnessed members arrest the male, who was handcuffed, laying on the ground with approximately six members holding him down. She observed one member use two knee strikes and a punch to the head on this person.

The OPCC reviewed the complainant and determine an investigation was required into the incident.

Allegation

Applying an unnecessary and inappropriate level of physical force (punch to head area) on a citizen who was handcuffed and held on the ground by members.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive force – empty hand)
Date of Incident: April 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-Training

Disciplinary Process

A prehearing conference was offered to the member and an agreement was reached with respect to the proposed discipline. The member will be required to undertake additional review with a use of force instructor, specifically, use of force techniques with an emphasis on situation assessment, re-assessment, and de-escalation.

The OPCC determined that the disciplinary/corrective measures imposed in this case were appropriate in these circumstances.

Ordered Investigation – Requested by Department (OPCC 2019-15877)

The Vancouver Police Department (VPD) reported an incident involving one of their members who was seconded to the RCMP. It was reported that this member had misused a police vehicle and was in contravention of their departmental policy.

Allegation

Using an assigned police vehicle for personal reasons and in contravention of departmental policy.

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was offered to the member. The member admitted to using the police vehicle to run a personal errand and acknowledged it was a mistake on his part. The OPCC reviewed the outcome of the prehearing conference and approved the disciplinary/corrective measures imposed.

Registered Complaint (OPCC 2018-15634)

A complainant filed a complaint with the OPCC following an interaction with Vancouver Police Department (VPD) members where members had used force on him to place him under arrest for *Breach of the Peace*. The complainant reported that the force used by members was excessive and that he had sustained injuries to his face, shoulder and wrists as a result of this experience.

The OPCC reviewed the complaint and determined that an investigation was required into this incident.

Disciplinary Process

Upon completion of the investigation, the Discipline Authority determined that none of the members involved committed misconduct when they detained the complainant and used force to place him into custody.

The OPCC disagreed with this determination and appointed a retired judge to review this incident to arrive at an independent decision. Retired Provincial Court Judge, Carole Lazar reviewed this matter and determined that the evidence appeared that the members committed misconduct by arresting the complainant without good and sufficient cause and also that members used unnecessary force when taking the complainant into custody. Ms. Lazar also added an additional allegation of misconduct for failing to provide the complainant with his section 10(b) Charter rights. As a result, the matter proceeded to a discipline proceeding before Ms. Lazar as the Discipline Authority.

Allegation

Failing to advise the complainant of his rights under Section 10(b) of the *Canadian Charter of Rights and Freedoms*.

MISCONDUCT

Neglect of Duty
(Failure to provide Charter rights)

Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE

Advice to Future Conduct

Upon hearing further testimony from the members involved, Ms. Lazar did not find that the members committed misconduct for arresting and using force on the complainant. She found that the members had grounds to detain the complainant and to complete a protective pat down search. She determined that members acted reasonably when they took the complainant to the ground to gain control. Ms. Lazar determined that based on the evidence before her, the complainant continued to resist and tried to strike one member with his elbow which resulted in the member striking the complainant in the face with a closed fist, possibly three times. Ms. Lazar found that the complainant was assaultive and actively resistant, and attempts at communication and applying softer physical controls were attempted by members but were ultimately ineffective. Ms. Lazar concluded that the members did not unlawfully detain or use unnecessary force during their interaction with the complainant.

Ms. Lazar did find that the members breached the complainant's section 10(b) Charter rights and imposed the disciplinary/corrective measure of Advice to Future Conduct as a result.

For further information on this incident and decision, go to <https://opcc.bc.ca/decisions/section-117-reviews/Summary>

Ordered Investigation – Requested by Department (OPCC 2018-15625)

The Vancouver Police Department (VPD) reported that a Surrey RCMP Corporal responded to a motor vehicle collision at an intersection in Surrey. Upon his arrival, the Corporal determined that one of the three vehicles involved in the collision was operated by an off-duty VPD member and was registered to the Combined Forces Special Enforcement Unit (CFSEU). The RCMP Corporal spoke with the VPD member and noticed an odour of liquor on his breath. The RCMP Corporal read the demand for a breath sample to the VPD member and obtained a reading of "Fail". An offer to provide a second breath sample was given to the member who provided four additional breath samples; however, none were sufficiently suitable for an analysis to be made. The respondent member was issued a 90-day Immediate Roadside Suspension (IRP) and the police vehicle was towed back to the RCMP office.

The information from the VPD also indicated that the member attempted to use his position as a police officer to obtain preferential treatment from RCMP investigators, and was uncooperative and difficult with RCMP investigators.

Allegation 1

Operating a motor vehicle while impaired by alcohol.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
6-day Suspension without pay

Allegation 2

For being rude, uncooperative and seeking to use his position to gain influence over the attending RCMP members.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
3-day Suspension without pay

Allegation 3

Using his position to receive preferential treatment.

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
4-day Suspension without pay

Disciplinary Process

A prehearing conference was offered and accepted by the member. Upon review of the disciplinary/corrective measure proposed, the OPCC determined that the discipline did not reflect the seriousness of the conduct by the member. As a result, the matter proceeded to a discipline proceeding.

The Discipline Authority noted that the misconduct committed by the member was “extremely serious,” and that there is no question that the member’s actions brought discredit to the VPD. The Discipline Authority further determined that conduct of the member at the scene was a marked departure from what would reasonably be expected from a police officer, that his behavior served to further bring the VPD and CFSEU into disrepute, and that his statements were damaging to the reputation of the VPD. The Discipline Authority did not alter the discipline that was accepted by the member at the prehearing conference.

Upon review of the outcome of the discipline proceeding and the additional rationale provided by the Discipline Authority, the Police Complaint Commissioner determined that the disciplinary measures proposed were appropriate under the circumstances. The Commissioner determined that a Public Hearing or Review on the Record was not necessary in the public interest.

Registered Complaint (OPCC 2018-15623)

The complainant reported that two Vancouver Police Department (VPD) members attended his residence and arrested him on an outstanding warrant. The complainant reported that excessive force was used during his arrest, that he was forced to walk to the police van while barefoot, and that one member had threatened him.

The OPCC reviewed this complaint and determined that an investigation was required.

Allegation

Unlocking and opening the door to the complainant’s residence and pulling him outside to effect his arrest without lawful authority.

MISCONDUCT
<i>Abuse of Authority</i> (Oppressive conduct)
Date of Incident: March 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-Training

Disciplinary Process

The Discipline Authority determined that the member did not have the legal authority to unlock the complainant’s door, open the door, and pull the complainant outside of the residence. The Discipline Authority determined that there were no exigent circumstances present to necessitate this action. Accordingly, the Discipline Authority concluded that the manner in which the complainant was arrested was unlawful.

A prehearing conference was offered to the member where an agreement was reached with respect to the discipline to be imposed. Upon review, the Police Complaint Commissioner determined that the Prehearing Conference Authority appropriately considered the aggravating and mitigating factors and the discipline measures imposed were both correct and appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2018-15571)

The Vancouver Police Department (VPD) reported that a Special Municipal Constable (SMC) employed as a jail guard in the Vancouver jail used a personal cell phone to take a photograph of a male prisoner committing an indecent act in his jail cell and later showed the photograph to another jail guard and to the jail nurse.

Allegation

Taking an inappropriate photograph of a male prisoner and showing it to other VPD personnel.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: November 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

The member was offered a prehearing conference. At the prehearing conference, the member accepted responsibility for her actions. It was determined that the member’s inexperience and immaturity contributed to the misconduct; however, the Discipline Authority noted that, "although the member provided a rationale for using her personal phone to take a photograph of the prisoner’s image; that rationale is not keeping with professional practice and is contrary to common sense."

Upon review, the OPCC determined that the Prehearing Conference Authority appropriately considered the aggravating and mitigating factors and that the discipline measure imposed was both correct and appropriate in the circumstances.

Ordered Investigation – Requested by Department (OPCC 2018-15467)

The Vancouver Police Department (VPD) reported that members of the North Vancouver RCMP attended a house party in response to a noise complaint and gave the homeowner a warning to turn down the loud music. Later that evening, RCMP members were called back to the residence as the noise had resumed. A bylaw ticket was issued to the homeowner for violation of the noise by-law. A male guest approached the RCMP members as they were leaving, identified himself as an off-duty Vancouver police officer and requested that the ticket be waived.

Allegation

By attempting to have attending police officers waive the bylaw ticket, implying they were “on the same team.”

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: October 2018

DISCIPLINARY/CORRECTIVE MEASURE
3-day Suspension without pay

Disciplinary Process

A prehearing conference was offered to the member where a disciplinary measure was proposed. The OPCC did not approve this proposed discipline noting it did not adequately address the seriousness of the member’s conduct.

As a result, the matter proceeded to a discipline proceeding where the discipline proposed was increased to a 3-day suspension. The Discipline Authority noted that seeking favour or special consideration based on being an off-duty police officer is serious. The member acknowledged that he put the RCMP in an uncomfortable position and apologized to the RCMP and the VPD for his actions.

Upon review, the OPCC determined that the Discipline Authority appropriately considered the aggravating and mitigating factors and the discipline measure imposed was both correct and appropriate in the circumstances.

Internal Discipline (OPCC 2018-15350)

The Vancouver Police Department (VPD) reported that during a mandatory team training day at the VPD Tactical Training Centre, attending officers were conducting practical scenario training. During a self-defence scenario, an officer discharged his simulated sidearm at a role player after the role player was already lying on the ground. As a result, the instructor responded angrily and declined to speak to the officer about the incident in private.

An internal investigation was initiated as a result. The OPCC determined there no public trust concerns and no complaint was received.

Allegation

Contravening VPD’s Respectful Workplace Policy by failing to maintain a respectful workplace that is supportive, equitable, productive, and fosters the well-being of professional workplace relationships of all persons who are employed, volunteer, or contracted with the VPD.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: September 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Ordered Investigations – Initiated by PCC (OPCC 2018-15342) (OPCC 2018-14524)

The Vancouver Police Department (VPD) reported that they received reports from two female VPD members that another VPD member inappropriately touched them while off-duty and at a party with fellow co-workers. Further allegations were brought forward regarding additional unwanted advances and physical touching by this member. This conduct was investigated criminally by the New Westminster Police Department (NWPD). The BC Prosecution Service approved charges of sexual assault; however, a stay of proceedings was entered for the criminal charges.

The investigation revealed that each of the physical contacts were initiated by the member, were sexual in nature, and non-consensual. They included occasions where the women told him to stop or instances where they had to remove themselves from the situation for the behaviour to cease.

Allegation 1

While off-duty, grabbing a woman’s buttocks on two occasions without her consent.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 2

For pushing a woman at a party against a wall and grabbing her buttocks while trying to engage in a kiss.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: January 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 3

For inappropriately touching a woman at party while she was asleep and for continuing to touch her after she told him to stop.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 4

For inappropriately touching a woman at a party without her consent.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

The matter proceeded to a discipline proceeding where the member denied each of the allegations he was facing. The Discipline Authority determined that allegations were not minor and were troubling as they were sexual in nature and were considered to be a “physical violation of each of the victims.” He also noted that the member did not appear to accept responsibility that he acted in a manner that was inappropriate. In arriving at his decision, the Discipline Authority noted “the growing trend within all workplaces, and within society in general, about the impact of inappropriate sexualized actions.”

Upon review, the Police Complaint Commissioner determined that the Discipline Authority appropriately considered the aggravating and mitigating factors and determined that disciplinary measures imposed were both correct and appropriate with respect to the circumstances. The Commissioner concluded that a Public Hearing or Review on the Record was not necessary in the public interest noting that the member received the most severe penalty available under the *Police Act* and that the matter had been investigated criminally and reviewed by the BC Prosecution Service.

Although the member resigned from the VPD during the course of these proceedings, the former's member's service record of discipline will reflect that he was dismissed from the police department.

Ordered Investigation – Requested by Department (OPCC 2018-15320)

The Vancouver Police Department (VPD) reported that Langley RCMP patrol officers stopped a vehicle for speeding. The driver was an off-duty VPD member. Police suspected the driver of possible alcohol impairment and as a result administered two roadside alcohol screening device tests, both registering a "Fail". The member received a 90-day Immediate Roadside Prohibition (IRP) and the vehicle was impounded for thirty days.

In addition, it was learned that the member had placed his wallet open with his police badge angled towards the RCMP officer's field of vision and that when the RCMP officer asked the member to exit the vehicle, the member asked if there was another way to deal with this.

Allegation 1

Operating a motor vehicle while impaired by alcohol.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
4-day Suspension without pay: served consecutively

Allegation 2

Displaying his police badge when the RCMP member approached his vehicle.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
3-day Suspension without pay: served consecutively

Allegation 3

For comments related to seeking preferential treatment.

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: May 2018

DISCIPLINARY/CORRECTIVE MEASURE
3-day Suspension without pay: served consecutively

Disciplinary Process

Following an investigation, the Discipline Authority substantiated three allegations and a prehearing conference was offered, and held. The OPCC did not approve the outcome of the prehearing conference and noted that the proposed measures did not adequately address the seriousness of an officer in a leadership position driving in excess of the speed limit while under the influence of alcohol, and using his position as a police officer to obtain preferential treatment.

As a result, a discipline proceeding was held where it was determined that the conduct of the member posed a public safety risk which could have had serious consequences, adding that the public does not tolerate persons who drink and drive and that intolerance is compounded when the person is an off-duty police officer.

During the discipline process, the member retired from the VPD and did not participate in the proceedings.

The VPD did not modify the discipline proposed and imposed the same measures as at the prehearing conference. The OPCC reviewed the matter and determined that it was not in the public interest to proceed with a further review in all the circumstances.

Registered Complaint (OPCC 2018-15308)

The complainant was on a public sidewalk video recording security officers arresting a male person. Upon police arrival, the complainant engaged police with antagonistic dialogue using loud vulgar language towards them. During this verbal exchange, the respondent member can be heard on video asking the complainant how his child pornography charges are going.

The OPCC reviewed this complaint and determined that an investigation was required.

Allegation

For engaging in an inappropriate verbal exchange with a member of the public by asking how their child pornography charges were going in front of other VPD members and citizens.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was held in this matter where the member accepted responsibility for his actions and disciplinary or corrective measures were accepted. The OPCC approved the agreement reached at the prehearing conference.

Ordered Investigation – Initiated by PCC (OPCC 2018-15224)

According to the Vancouver Police Department (VPD), an off-duty female constable was the subject of inappropriate advances and contacts made towards her by another member on a number of occasions.

As the VPD was of the view that this matter should be handled as an internal discipline investigation rather than a public trust investigation, the OPCC determined that it was in the public interest that an external agency conduct the investigation. As a result, the West Vancouver Police Department (WVPD) was appointed as the investigating agency along with the Deputy Chief Constable of the WVPD as the Discipline Authority.

Allegation 1

Touching a female member on her buttock/crotch area without her consent, while off-duty.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: July/August 2018

DISCIPLINARY/CORRECTIVE MEASURE
12-day Suspension without pay
Training/Re-Training: Respectful Workplace Policy

Allegation 2

Yelling out to the female member, "I haven't washed this hand since the party" while in public and in front of other members.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: July/August 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was offered to the member where disciplinary/corrective measures were proposed. The OPCC did not approve the proposed discipline noting it was not appropriate considering the serious conduct of the member. Further, the OPCC noted that the proposed discipline did not include any corrective measures aimed at educating the member and preventing future occurrences. As a result, the matter proceeded to discipline proceeding where the member received 12-day suspension without pay along with training and a written reprimand.

The OPCC determined that a Public Hearing or Review on the Record was not necessary in the public interest and that the disciplinary and corrective measures were within an acceptable range which included a substantial period of suspension without pay and retraining in respectful workplace behaviour.

Ordered Investigation – Requested by Department (OPCC 2018-14498)

The Vancouver Police Department (VPD) reported that a Securiguard employee observed a group of men she believed were drinking on private property and in public view and asked them to leave. One of the men identified himself and the others as members of the Vancouver Police Department and said words to the effect of, “the other guy doesn’t mind as long as we clean up after ourselves.” The guard reiterated her earlier demand for them to leave. Further conversation ensued and the group ultimately left. The guard called the Vancouver Police Department to report this incident.

It was further reported that the member who conversed with the security guard earlier attended the offices of Securiguard and spoke with the manager about his interaction. This member was in full uniform and discussed how the allegations made by the Securiguard employee affected him and the other VPD members and provided examples of where other Securiguard employees had committed *Motor Vehicle Act* infractions and were not penalized by members of the VPD.

Allegation

For attending the office of the security company and attempting to use his position as a police officer to address the apparent inaccuracies in the security guards report to police of this incident for the purposes of mitigating or eliminating a potential *Police Act* complaint.

MISCONDUCT
<i>Corrupt Practice</i> (Using police authority for personal gain)
Date of Incident: February 2018

DISCIPLINARY/CORRECTIVE MEASURE
4-day Suspension without pay

Disciplinary Process

The Discipline Authority offered a prehearing conference to the member in relation to the allegation of Corrupt Practice. The OPCC rejected the proposed discipline noting that the discipline did not adequately address the seriousness of the member’s conduct, particularly considering that the member was an experienced officer. As a result, the matter proceeded to a discipline proceeding.

The Discipline Authority noted that given the experience of this officer, along with the information contained in the Computer-Aided Dispatch (CAD) report, this member knew, or reasonably ought to have known, that the incident detailed in the CAD call would very likely be the subject of an internal investigation and that there were alternatives to attending the Securiguard office to address the inaccuracy of the police report. The Discipline Authority found that this member attended the Securiguard office for the purpose of mitigating, or perhaps eliminating, a potential *Police Act* complaint and concluded that this constituted a personal and professional gain that the member was attempting to garner. The Discipline Authority imposed a four-day suspension without pay.

The OPCC reviewed this outcome and determined that there were insufficient grounds to arrange a Review on the Record or Public Hearing into the matter.

For further information on this incident, visit the OPCC website at www.opcc.bc.ca/decisions/section-117-reviews/ to review Mr. Wally Oppal, Q.C.'s independent review of the allegations concerning the allegation that police were drinking in the parking lot.

Registered Complaint (OPCC 2018-15195)

The complainant reported that he was in a pizza shop with a few friends when an unknown male threw a pizza at the group. The pizza hit the complainant and as a result he became involved in a fight with the male. Police officers attended the area and saw the complainant running; they attempted to stop and arrest the complainant. During the arrest, force was applied and the complainant received injuries to his head.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Allegation

Failing to appropriately document the force used on the complainant.

MISCONDUCT
<i>Neglect of Duty</i> (Inadequate documentation/notes/records)
Date of Incident: August 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Disciplinary Process

It was determined that police had lawfully used force on the complainant but found that the members did not properly document their application of force. A prehearing conference was offered to both members and an agreement was reached with respect to the proposed discipline of a verbal reprimand.

The OPCC reviewed the matter and agreed with the disciplinary/corrective measure imposed in this matter.

Internal Discipline (OPCC 2018-15080)

The Vancouver Police Department (VPD) reported an internal matter respecting two Special Municipal Constables (SMC's) both employed as clerks who had accused each other of bullying and harassing behaviour. The identified concerning behaviour included derogatory comments, monitoring other employee's punctuality, making inappropriate comments about co-workers and their physical appearance, and for spreading rumors about other co-workers.

The OPCC did not identify any public trust concerns and no complaint was received at the OPCC. An internal investigation was initiated as a result.

Member 1 - Allegation

Inappropriate comments towards other co-workers in contravention of the department's Respectful Workplace Policy.

MISCONDUCT
<i>Neglect of Duty (2 counts)</i> (Failure to comply with department policy/regulations)
Date of Incident: December 2014 – July 2019

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand
Training/Re-Training

Member 2 - Allegation

Making negative and inappropriate workplace comments and engaging in bullying and harassing behaviour.

MISCONDUCT
<i>Neglect of Duty (8 counts)</i> (Failure to comply with department policy/regulations)
Date of Incident: December 2014 – July 2019

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand
Training/Re-Training
1-day Suspension without pay

Registered Complaint (OPCC 2018-14833)

A complainant reported that police stopped her without reason and that she was assaulted when she tried to walk away from police as they did not inform her of the grounds for being stopped. She advised that she was placed in handcuffs and one officer twisted her arm behind her back while another ran her name in a police database. The complainant further reported that one of the officers refused to provide her with his badge number.

The OPCC reviewed the complaint and determined that an investigation into the incident was required.

Disciplinary Process

Following an investigation, the Discipline Authority concluded that the evidence did not appear to substantiate any allegations of misconduct. Upon review of the investigation and Discipline Authority's decision, the OPCC determined that there was a reasonable basis to disagree with the Discipline Authority. As a result, Retired Provincial Court Judge, Carole Lazar was appointed to review this matter and arrive at her own decision.

Upon review of the evidence, Ms. Lazar determined that police appeared to have committed misconduct during their interaction with the complainant. Ms. Lazar noted the Supreme Court of Canada decision of *R. v. Mann*, [2004] 3 S.C.R., 2004 SCC 52, which had made it clear that for an investigative detention to be lawful it requires police to have reasonable grounds to suspect in all the circumstances that the individual is connected to a particular crime. Ms. Lazar determined that the continued detention of the complainant after she had been cleared of any involvement in the earlier fight did not meet this test.

In addition, Ms. Lazar noted that there are no limitations that are prescribed by law on the immediacy of providing section 10 Charter rights. In this case, the concerns for public safety were addressed once the complainant had been handcuffed and controlled. The officer had a duty to advise the complainant of her Section 10(b) Charter rights at this point. The respondent member failed to provide these rights and therefore, Ms. Lazar substantiated an allegation of Neglect of Duty.

Allegation 1

Continued detention of the complainant without lawful authority after being advised that the complainant was no longer a suspect in an assault investigation.

MISCONDUCT
<i>Abuse of Authority</i> (Unlawful detention)
Date of Incident: June 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Allegation 2

Failing to provide the complainant with rights under Section 10(b) of the *Canadian Charter of Rights and Freedoms*.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to provide Charter rights)
Date of Incident: June 2018

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

A prehearing conference was offered to the respondent member with respect to these two allegations where the proposed discipline was agreed to. The OPCC reviewed and approved the discipline in circumstances of this case.

Ordered Investigation – Requested by Department (OPCC 2017-14260)

In December 2017, a member of the Vancouver Police Department (VPD) was involved in a single motor vehicle accident in Delta, BC. Members of the Delta Police Department (DPD) attended the scene and observed a vehicle on its roof. The driver was subsequently identified as an off-duty VPD member. The Delta police officers observed the driver to be unsteady on his feet, to have slurred speech, and to have an odour of liquor emanating from his breath. The driver provided a breath sample into an Approved Screening Device (ASD) which resulted in two “Fail” readings. While the Delta police officers were conducting their investigation, the driver made several attempts with different members to persuade them from proceeding with their investigation. The driver was issued a 90-day Immediate Roadside Prohibition (IRP) and the vehicle was impounded.

Allegation 1

Operating a motor vehicle while his ability to do so was impaired by alcohol.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: December 2017

DISCIPLINARY/CORRECTIVE MEASURE
6-day Suspension without pay

Allegation 2

Attempting to receive special consideration during the impaired driving investigation due to his status as an off-duty police officer.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: December 2017

DISCIPLINARY/CORRECTIVE MEASURE
3-day Suspension without pay

Disciplinary Process

A prehearing conference was offered to the member where discipline was proposed for operating a motor vehicle while being impaired by alcohol and for seeking preferential treatment. The OPCC reviewed the proposed discipline and determined the discipline did not reflect the seriousness of the conduct and more specifically, the egregious conduct of the member’s attempts to seek special consideration. The matter proceeded to a discipline proceeding where the discipline increased to a six-day suspension for the impaired driving and a three-day suspension for seeking preferential treatment.

Adjudicative Review (Review on the Record)

The OPCC disagreed with the Discipline Authority’s decision on discipline noting the multiple attempts by the member to obtain special treatment. The OPCC determined it was in the public interest that a retired judge review the matter to arrive at their own determination and appointed Retired Provincial Court Judge, Carol Baird Ellan. As the Adjudicator, Ms. Baird Ellan determined that the penalties imposed by the Discipline Authority at the discipline proceeding would not bring the administration of police discipline in disrepute, noting that the member had made efforts at rehabilitation since the incident, that the prior decisions on this matter appeared to have considered the relevant factors and that the Discipline Authority had the benefit of seeing both the member’s testimony and his genuineness.

For more information on this review, visit the OPCC website at <https://opcc.bc.ca/decisions/reviews-on-the-record/Summary>

Ordered Investigation – Requested by Department (OPCC 2017-14249)

The OPCC ordered an investigation into the conduct of a Vancouver Police officer following information that he had accessed police databases to search for records related to a young person and may have disclosed confidential information.

Allegation 1

Conducted a CPIC and/or PRIME search of a member of the public for a purpose unrelated to his duties as a police officer.

MISCONDUCT
<i>Corrupt Practice</i> (Unauthorized use of police facilities/resources)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
5-day Suspension without pay

Allegation 2

Improperly disclosed confidential information to a member of the public that he acquired from a CPIC and/or PRIME search.

MISCONDUCT
<i>Improper Disclosure of Information</i> (Disclosing information acquired as police officer)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
5-day Suspension without pay

Allegation 3

Conducted a CPIC and/or PRIME search of a family member for a purpose unrelated to his duties as a police officer.

MISCONDUCT
<i>Corrupt Practice</i> (Unauthorized use of police facilities/resources)
Date of Incident: November 2017

DISCIPLINARY/CORRECTIVE MEASURE
5-day Suspension without pay

Disciplinary Process

This matter proceeded to a prehearing conference where discipline was proposed. The OPCC did not approve the proposed discipline as it failed to adequately assess the seriousness of the member’s conduct. The matter proceeded to a discipline proceeding where the Discipline Authority increased the discipline to a written reprimand.

Adjudicative Review (Review on the Record)

Upon review of this matter, the OPCC considered that the disciplinary measures imposed did not reflect the seriousness of the breaches of privacy and the use of sensitive information for personal purposes. This was out of step with the public’s expectations and the standards expected by professions entrusted with protecting private and sensitive personal information. The conduct undermined public confidence in the police and the disciplinary process due to the fact that the member was aware that he would be contravening law and policy, yet used sensitive databases for personal reasons on two separate occasions.

The Commissioner arranged an adjudicative review to be held before Retired Provincial Court Judge, Brian Neal, Q.C. As the Adjudicator, Mr. Neal reviewed this matter and determined that the conduct required discipline that would serve as a deterrence to other members. He imposed a penalty of 5-day suspensions without pay for each allegation of misconduct. In his decision, Mr. Neal noted the seriousness, particularly as this was a case of data that was protected by the *Youth Criminal Justice Act* (YCJA).

Mr. Neal also made a recommendation to the Chief Constable that a renewed focus be applied to the training of all VPD members. The renewed focus should reinforce the importance of complying with policy and statutory obligations of all members arising in connection with access to police databases, disclosure of information on those databases and privacy obligations of members with respect to such data, particularly data governed by the YCJA.

For more information on this review, visit the OPCC website at <https://opcc.bc.ca/decisions/reviews-on-the-record/>

Ordered Investigation – Requested by Department (OPCC 2017-14017)

Upon request from the Vancouver Police Department (VPD), the OPCC initiated an investigation into Sergeant Dave Van Patten relating to his conduct while working in the Human Resources Section of the VPD. The OPCC appointed the New Westminster Police Department (NWPD) to carry out this investigation and Chief Officer Dave Jones of the Metro Vancouver Transit Police was designated as the Discipline Authority in this matter.

A criminal investigation was also completed by the NWPD and charges were forwarded to Crown Counsel for review. Charges were not approved by Crown and therefore the matter proceeded under the *Police Act*.

Disciplinary Process

The investigation revealed that Sergeant Van Patten was in an inappropriate relationship with a fellow VPD member, Constable Nicole Chan while also serving as a Human Resources Officer for the VPD. The matter was remitted to a discipline proceeding before Chief Officer Jones.

Among his findings, Chief Officer Jones determined that Sergeant Van Patten committed Discreditable Conduct by entering into an inappropriate relationship with Constable Chan who was under his supervision. According to Chief Officer Jones, “the allegations facing Sergeant Van Patten [were] extremely serious. He not only maintained a relationship with an individual who was junior in rank and service, but who was experiencing mental health related issues. He sought to maintain privacy, of their relationship to the detriment of both of them, and the Vancouver Police Department as a whole.”

Chief Officer Jones also found that “Sergeant Van Patten had entered into an agreement with Constable Chan that they would never tell anyone about their relationship, which included not disclosing their relationship to medical professionals who were treating Constable Chan for mental health related matters.”

Considering the power imbalance between these two officers, Chief Officer Jones noted that “the real, or apparent, power imbalance of a person in a supervisory position, over a subordinate, is challenging regardless of whether the individuals work within the same unit or area. In this instance with the member not revealing their relationship Sergeant Van Patten was in a position, within the Human Resources Section to have some knowledge, and even withhold information that may have had an impact on decisions affecting Constable Chan.” He found that this conduct would bring discredit on the reputation of the VPD.

Chief Officer Jones also found that Sergeant Van Patten obtained access to the phone belonging to another member through false pretenses, copied communications from the device and then used that information in a threatening manner towards Constable Chan.

Chief Officer Jones imposed disciplinary measures ranging from a 30-day suspension without pay to dismissal. Sergeant Van Patten resigned from the police agency prior to the conclusion of these proceedings; however, his service record of discipline will reflect that he was dismissed from the VPD.

The OPCC reviewed the outcome and determined that a further review of this matter was not required in all the circumstances.

In order to assist in preventing the reoccurrence of this type of misconduct from, the OPCC made recommendations to both the Vancouver Police Board and to the provincial government recommending that a review be undertaken by an independent third party to review department policies and procedures related to workplace relationships involving power dynamics, supervisory and leadership functions, and vulnerable employees.

Ordered Investigation – Requested by Department (OPCC 2017-13726)

According to the Vancouver Police Department (VPD) the RCMP received a report of a criminal assault and sexual assault that was alleged to have been committed by an off-duty Vancouver Police Special Municipal Constable (SMC). It was reported that, while off-duty, the SMC met a woman at a pub. After consuming alcoholic drinks, they left the pub, where it was alleged that the SMC physically assaulted and sexually assaulted the woman.

A criminal investigation into the matter was completed by police and charges were approved by the BC Prosecution Service; however, Crown Counsel ultimately entered a stay of proceedings. An investigation under the *Police Act* into this matter proceeded.

Allegation 1

Pinning the woman to the ground and attempting to kiss her without her consent.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2017

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Allegation 2

Sexually touching the woman without her consent.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2017

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

This matter proceeded to a discipline proceeding. The SMC resigned from the Vancouver Police Department and did not attend or participate in the discipline process. The Discipline Authority determined that the conduct of the member to be “serious in nature and go to the heart of the principles of trust, decision making, ethics and integrity; all of which are essential in policing.” Furthermore, when arriving at the decision to dismiss the officer, the Discipline Authority noted that “integrity as a peace officer and the trust that comes with that office” were irreparably damaged as a result of the member’s conduct. The Discipline Authority imposed dismissal as the outcome.

The Commissioner reviewed the Discipline Authority’s decision and the discipline imposed and determined that further review was not necessary. The members’ service record of discipline has been updated to include that he was dismissed from the Vancouver Police Department.

Registered Complaint (OPCC 2017-13617)

The complainant reported that he was arrested on a bench warrant and removed from a detox centre and taken to Vancouver jail cells. He reported that the jail guards had beaten him unconscious and dislocated his shoulder.

The OPCC reviewed this complaint and initiated an investigation into allegations of police misconduct. In addition, the Vancouver Police Department requested that the New Westminster Police Department (NWPD) conduct a criminal investigation into the use of force by the jail guards. The NWPD referred the matter to the BC Prosecution Service (BCPS) for possible criminal charges; however, charges were not approved.

Allegation 1

For entering the jail cell and unnecessarily applying force to a prisoner.

MISCONDUCT
<i>Abuse of Authority</i> (Excessive force – empty hand)
Date of Incident: May 2017

DISCIPLINARY/CORRECTIVE MEASURE
Training/Re-Training: Review of VPD policies regarding use of force and de-escalation
3-day Suspension without pay

Allegation 2

Not notifying the Jail supervisor after a use of force incident.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with departmental policy/regulations)
Date of Incident: May 2017

DISCIPLINARY/CORRECTIVE MEASURE
Advice to Future Conduct

Disciplinary Process

There was sufficient evidence to remit this matter to a discipline proceeding. The Discipline Authority noted that although the members indicated that actions by the complainant by tossing a paper cup at them was an assault, at no time did the members document the incident as an assault, notify another police member, or suggest that criminal charges should be contemplated. In addition, the Discipline Authority found that the use of restraints to “correct” a person’s behaviour was unacceptable and that “it is not the role of police to inflict corrective measures on an individual but...to address safety and security concerns.” The Discipline Authority concluded that the jail guard’s decision to enter the cell and apply force was wrong, done for inappropriate reasons, and was not proportionate to the actual degree of assaultive behaviour. It was determined that facial area of the prisoner became injured and he suffered a cut to his nose area.

The Discipline Authority also noted that jail staff had been trained to deal with assaultive prisoners and the method of using handcuffs to stop such behaviors. The Discipline Authority concluded that while “this does not excuse an individual from having committed a disciplinary default, it does mitigate what corrective measures should be considered.”

The OPCC reviewed the outcome and did not order further review.

Ordered Investigation – Requested by Department (OPCC 2016-12496)

The Vancouver Police Department (VPD) reported that a member assigned to a criminal investigation unit submitted 26 overtime claims including call-out overtime and extended-duty overtime that were false or misleading. These overtime claims were in relation to various investigations in which the member claimed to be the surveillance coordinator or team leader when the member was not actively engaged in those duties.

Allegation

Submitted overtime claims that to the member’s knowledge was false or misleading.

MISCONDUCT
<i>Deceit (26 counts)</i> (False or misleading entry in official document or record)
Date of Incident: September 2015 – January 2016

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

Upon conclusion of the investigation, this matter was remitted to a discipline proceeding where the Discipline Authority imposed the penalty of dismissal. During the *Police Act* process, the member had resigned. The member did not make a request for a review of the decision to dismiss him

from the police department and the OPCC determined that no further review was necessary in the public interest. The members' service record of discipline has been updated to include that he was dismissed.

Victoria Police Department

Internal Discipline (OPCC 2019-16542)

The Victoria Police Department (VicPD) reported that a Reserve Constable was operating a marked patrol vehicle and inappropriately activated the emergency equipment (lights and siren) to clear an intersection.

The OPCC did not identify any public trust concerns and no complaint regarding this conduct was received. An internal investigation was initiated as a result.

Allegation

Contravening training and departmental policy by inappropriately activating emergency equipment (lights and sirens) to clear an intersection.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to comply with department policy/regulations)
Date of Incident: June 2019

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal from the Reserve Constable Program

Ordered Investigation – Requested by Department (OPCC 2019-16254)

The Victoria Police Department advised that some of their members had found 22 property exhibits in an unlocked drawer in another member's desk, which included cash, drugs, a laptop. Some of the exhibits were from occurrences several months earlier; some were marked with investigative file numbers while others were not.

Allegation

Failing to properly process a number of exhibits involving nine separate files over a several month period.

MISCONDUCT
<i>Neglect of Duty</i> (Failure to account for money/property received)
Date of Incident: May 2019

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-Training: exhibit seizure and management
Work Under Close Supervision: 12 months in exhibit handling and documentation

Disciplinary Process

This matter proceeded to a prehearing conference. The OPCC reviewed and approved the proposed discipline noting it contained appropriate measures to correct and educate the member to prevent future misconduct from occurring.

Ordered Investigation – Requested by Department (OPCC 2019-15972)

According to the Victoria Police Department (VicPD), two groups of young people engaged in an argument and physical fight in downtown Victoria at approximately midnight.

The member was responding to the incident when he noticed a male, dressed in black, running west on the south sidewalk. The member yelled at the male to stop and put his police vehicle's front wheels up onto the sidewalk in order to block the path of the male, leaving only a small space between the building, the planter box touching the building, and the police vehicle's front bumper. When the male attempted to squeeze between the planter box and the police vehicle's front bumper, the member released the police vehicle's brake slightly and trapped the male between the police vehicle's bumper and the planter box.

A patrol sergeant attended the member's location and confirmed that the male was the same male who ran from him. The male complained that he suffered an injury to his leg from contact with the police vehicle which presented as some scratches on his left leg. The male was transported to hospital for assessment and was later released.

Allegation

Using a police vehicle to apprehend a suspect.

MISCONDUCT
<i>Abuse of Authority</i> (Police vehicle)
Date of Incident: December 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand
Training/Re-Training: operating police vehicles and the application of a police vehicle as a force option

Disciplinary Process

This matter proceeded to a prehearing conference where the Discipline Authority noted that any deployment of a police vehicle as a use of force carries risk and potential serious harm to individuals, and should only be reserved for instances to prevent death or serious bodily harm. In this case, the motivation for the force was to apprehend a suspect and the inappropriate use of the police vehicle only occurred for approximately one to three seconds at low speed, slower than walking.

The OPCC reviewed and approved the proposed discipline.

Internal Discipline (OPCC 2018-15312)

During a work-related meeting, the member became upset during a verbal exchange with another member and left the meeting. While leaving, the member threw open a steel door with enough force that it was damaged and unable to close.

The OPCC reviewed this matter and determine that there were no public trust issues and no complaint was received about this conduct. An internal investigation was initiated.

Allegation

By opening the stairwell door with enough force thereby damaging it and rendering it unable to close.

MISCONDUCT
<i>Damage to Police Property</i> (Misusing/losing/damaging police property)
Date of Incident: September 2018

DISCIPLINARY/CORRECTIVE MEASURE
Counselling/Treatment

Ordered Investigation – Initiated by PCC (OPCC 2018-14638)

The Victoria Police Department (VicPD) reported that a member attended a work conference in Vancouver. Several weeks later, the Deputy Chief Constable became aware of information that the member had only attended the first day of the conference. VicPD reviewed this matter internally to ascertain the member's attendance at the conference. Upon review and discussions with the member and his supervisor, the police department did not consider that the member's attendance at the conference met departmental expectations. In addition, further information was learned

indicating that the respondent member knowingly provided false or misleading information to supervisors regarding the conference attendance and had submitted expense claims that were of questionable legitimacy in light of the respondent member's early departure from the conference.

At the department's request, the OPCC initiated an investigation into the matter.

Allegation 1

On February 16, 2018, the respondent member failed to attend any training sessions at the conference for this date.

MISCONDUCT
<i>Neglect of Duty</i> (Leave duty without permission)
Date of Incident: February 16, 2018

DISCIPLINARY/CORRECTIVE MEASURE
Verbal Reprimand

Allegation 2

Providing false or misleading information regarding his conference attendance to his Staff Sergeant and Inspector on March 29, 2018, and again to the Staff Sergeant on April 11, 2018.

MISCONDUCT
<i>Deceit</i> (False or misleading oral or written statement)
Date of Incident: March 29, and April 11, 2018

DISCIPLINARY/CORRECTIVE MEASURE
20-day Suspension without pay

Disciplinary Process

This matter proceeded directly to a Discipline Proceeding where the member admitted to committing misconduct. The Discipline Authority imposed a verbal reprimand for the Neglect of Duty allegation and revoked the member's pending promotion to the rank of sergeant to serve as a "reduction in rank" sanction for the allegation of Deceit.

Adjudicative Review (Review on the Record)

Based on the Discipline Authority's determination on the disciplinary or corrective measures for the Deceit allegation, the OPCC did not consider revoking a pending promotion to constitute a "reduction in rank" under the *Police Act* and was not an option available to the Discipline Authority. Therefore, the OPCC concluded that there was a reasonable basis to believe that the Discipline Authority incorrectly applied section 126 of the *Police Act* in proposing disciplinary measures. The OPCC arranged a Review on the Record and appointed Retired BC Supreme Court Justice, Ron McKinnon to preside as the Adjudicator.

As the Adjudicator, Mr. McKinnon concluded that removing the respondent member from a ranked eligibility list for a promotion to sergeant did not serve as a "reduction in rank" and that the Discipline Authority incorrectly imposed discipline that was not available to him under the Act.

Mr. McKinnon imposed a suspension of 20 days without pay as the appropriate sanction for the allegation of deceit.

For further information on this review, please visit <https://opcc.bc.ca/decisions/reviews-on-the-record/>

Ordered Investigation – Requested by Department (OPCC 2017-13591)

The Victoria Police Department (VicPD) reported that a Sidney/North Saanich RCMP member initiated a stop of a vehicle operated by an off-duty Victoria member. The RCMP officer noted an odor of liquor on the off-duty member's breath. The RCMP engaged in an impaired investigation and administered a roadside screening device. The off-duty member provided two breath samples, both registering a "Fail". It was also reported that the member denied having anything to drink. The member was issued a 90-day driving prohibition and his vehicle was impounded for 30 days

Allegation 1

Providing false or misleading information to a police investigator in an attempt to subvert their investigation into whether he had consumed alcohol prior to operating a motor vehicle or vessel.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2017

DISCIPLINARY/CORRECTIVE MEASURE
20-day Suspension without pay

Allegation 2

Receiving a 90-day Immediate Roadside Prohibition and a 30-day Vehicle Impoundment as a result of his blood-alcohol level as measured by an approved [alcohol] screening device.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: June 2017

DISCIPLINARY/CORRECTIVE MEASURE
Dismissal

Disciplinary Process

A prehearing conference was not offered to the member and the matter proceeded directly to a discipline proceeding. In arriving at the disciplinary outcome, the Discipline Authority noted that the member was stopped previously for suspicion of impairment while driving a motor vehicle, had a service record of discipline for similar behaviour, did not accept responsibility, and denied committing misconduct. The Discipline Authority stated that there was a reasonable prospect that the member would commit similar misconduct in the future.

The Discipline Authority concluded that honesty and forthrightness are at the core of policing legitimacy and the police ability to maintain the public's confidence. In addition, the Discipline Authority emphasized the substantial public harm that results from drinking and driving, the lives that this behaviour destroys and the costs to our health care system and economy. In arriving at his decision to dismiss the officer, the Discipline Authority stated that as this was the member's second substantiated allegation for failing an approved screening device, that an approach to correct or educate would be unworkable and would harm the reputation of the VicPD and would harm public confidence in policing in general.

Upon review, the Commissioner determined that the Discipline Authority appropriately considered the aggravating and mitigating factors and determined that the disciplinary measures imposed were both correct and appropriate with respect to the circumstances. Furthermore, the member did not submit a request for a review of this decision. The Commissioner determined that either a Public Hearing or Review on the Record was not necessary in the public interest.

West Vancouver Police Department

Ordered Investigation – Requested by Department (OPCC 2019-16639)

An off-duty West Vancouver Police Department (WVDP) member was the subject of a traffic stop by the Surrey RCMP. The RCMP Constable read the Approved Screening Device (ASD) demand and two breath samples were obtained. Both samples registered a "Warn" on the ASD. The member was served with a 3-day Immediate Roadside Prohibition (IRP).

Allegation

Driving his personal vehicle while his ability was affected by alcohol, in contravention of the BC *Motor Vehicle Act*.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: August 2019

DISCIPLINARY/CORRECTIVE MEASURE
2-day Suspension without pay

Disciplinary Process

A prehearing conference was offered to the member. In this case, the member notified the Deputy Chief Constable and supervisor after receiving the IRP, was remorseful and admitted the misconduct. An agreement was reached with respect to the proposed discipline of a two-day suspension without pay.

The OPCC reviewed and approved this outcome in all the circumstances noting the member’s self-reporting and acceptance of responsibility throughout this matter.

Ordered Investigation – Requested by Department (OPCC 2018-15584)

RCMP responded to a call regarding the off-duty conduct of a West Vancouver Police Department (WVPD) member. During their investigation into the incident, it was reported that the off-duty member was highly intoxicated, was defiant with the investigating officer and refused to provide his identity.

Allegation 1

Acting in a discreditable manner, refusing to provide his name and “name dropping” an acquaintance from the RCMP following the initiation of a police investigation for which he was identified as the subject of investigation.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: November 2018

DISCIPLINARY/CORRECTIVE MEASURE
1-day Suspension without pay

Allegation 2

For being highly intoxicated while wearing a West Vancouver Police ceremonial uniform.

MISCONDUCT
<i>Discreditable Conduct</i> (Conduct that discredits the department)
Date of Incident: November 2018

DISCIPLINARY/CORRECTIVE MEASURE
Written Reprimand

Disciplinary Process

A prehearing conference was offered to the member where the member accepted responsibility for his actions. The Discipline Authority noted that although the officer was imbibing amongst other police and fire officers in ceremonial uniform, he was amongst the public and the standards expected of police officers by the public are higher. The OPCC reviewed and approved the disciplinary outcome.

Internal Discipline (OPCC 2018-15374)

The West Vancouver Police Department (WVPD) reported that one of their members submitted a Subject Behaviour – Officer Response Report (SBORR) which contained inaccurate information regarding a use of force incident with a member of the public. Specifically, the member did not report that he drew his firearm at the scene of an arrest, and when questioned about this omission, he lied to a supervisor about it.

An internal investigation was initiated as a result. No public trust issues were identified and no complaint was received.

Allegation

Submitting a SBORR that the member knew falsely described his actions, and that he lied to a supervisor when questioned about it.

MISCONDUCT	DISCIPLINARY/CORRECTIVE MEASURE
<i>Deceit</i> (False or misleading oral or written statement)	12-day Suspension without pay
Date of Incident: August 2018	Work Under Close Supervision: 12 months
	Training/Re-Training: certified police ethics and accountability program
	Prohibition of acting as a field trainer for two years

Registered Complaint (OPCC 2018-14858)

The complainant reported that he was involved in a parking lot dispute with another driver where he was assaulted and threatened. The complainant asserted the officers who attended were biased and prejudiced in their investigation and in their determination to not pursue charges.

The OPCC reviewed this complaint and determined that an investigation was required. An additional concern was identified during the course of the investigation relating to a member who conducted a file review of this investigation and did not identify any additional investigative steps for follow-up.

Allegation

For failing to identify a number of investigative steps for completion upon review of the criminal investigation.

MISCONDUCT	DISCIPLINARY/CORRECTIVE MEASURE
<i>Neglect of Duty</i> (Inadequate investigation)	Advice to Future Conduct
Date of Incident: December 2018	

Disciplinary Process

A prehearing conference was offered to the respondent member where the discipline of advice to future conduct was accepted by the member. The OPCC reviewed and approved the proposed discipline.