



INTEGRITY  
INDEPENDENCE  
FAIRNESS

OFFICE OF THE  
POLICE COMPLAINT  
COMMISSIONER

# ANNUAL REPORT 2022/2023



OFFICE OF THE  
POLICE COMPLAINT  
COMMISSIONER



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*The Office of the Police Complaint Commissioner  
acknowledges that we are located on the unceded traditional  
homelands of the Lək̓ʷəŋən (Lekwungen) People and  
ancestors of the Songhees and Esquimalt Nations.*



OFFICE OF THE  
POLICE COMPLAINT COMMISSIONER

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British Columbia, Canada

November 15, 2023

The Honourable Mr. Raj Chouhan  
Speaker of the Legislative Assembly  
Parliament Buildings, Room 207  
Victoria, BC V8V 1X4

Dear Mr. Speaker,

It is my honour to present the 2022/2023 Annual Report. In doing so, I gratefully acknowledge that our office is located on the unceded traditional lands of the Lək̓ʷəŋən (Lekwungen) People and ancestors. The work of the Office of the Police Complaint Commissioner extends across the homelands of the Indigenous Peoples within what we now call British Columbia.

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

Yours truly,

Clayton Pecknold  
Police Complaint Commissioner

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# Commissioner's Message

The year 2023 marks 25 years since the formation of the Office of the Police Complaint Commissioner, as an Independent Office of the Legislature.<sup>1</sup> One of the important functions of the OPCC is to make recommendations for improvements to the police complaint process.<sup>2</sup> In doing so, it is prudent to keep a firm eye on the past.

During the last 25 years, police-accountability in BC has been anything but static. Judicial inquiries into policing and at least one major study have all contributed in some fashion to the evolution of the civilian police accountability framework. Much of this evolution was driven in reaction to tragic circumstances rather than proactive policy-making by governments. For example, public outrage over the police-involved deaths of Frank Paul and Robert Dziekanski and the horrific failures made stark by two Inquiries into Missing and Murdered Indigenous Women and Girls spurred demands for reform.

The lessons learned from these inquiries speak to the critical importance of a comprehensive police-accountability system. They also highlight the challenge of ensuring robust scrutiny of police actions while respecting the important principle of police operational independence tempered by accountability to civilian authority.

In his 1994 report on policing, then Justice Wally Oppal observed that:

*"Thus in a system of responsible government, the police are ultimately accountable to civilian authority. This fundamental tenet of a liberal democracy distinguishes Canada from totalitarian or dictatorial states in which the police are either accountable only to the executive branch or, in extreme cases, to no other authority at all."*<sup>3</sup> [emphasis added]

Referring to this passage, in his 2009 report into the use of Conducted Energy Weapons arising from the tragic death of Robert Dziekanski, Commissioner Thomas Braidwood emphasised the importance of the role of the legislative and executive branches of government in ensuring "proactive accountability"<sup>4</sup> in policing. This is done through setting standards of practice "in the first instance" on how they will execute their duties. Commissioner Braidwood went on to caution that "[i]gnoring this responsibility or delegating it to the police would be an abdication of a fundamental element of our liberal democratic system; we do so at our peril."<sup>5</sup> [emphasis added]

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1 Bill 16 - 1997 Police Amendment Act, 1997 (First Commissioner Appointed February 19, 1998).

2 Section 177(2), Police Act, [RSBC 1996] c. 367

3 Closing the Gap, Policing and The Community, Commission of Inquiry into Policing in BC; Oppal, Wallace (1994): Volume 1, p. B-3

4 Braidwood Commission on Conducted Energy Weapon Use; Braidwood, Thomas (2009), p. 61

5 Ibid

“As policing reform continues to occupy our collective attention, it is important we honour the lessons of the past.”

Commissioner Braidwood was reminding us that policing policy is in fact, *public* policy and must remain firmly in the hands of civilian authority. The elements of the police regulatory framework such as rules, procedures and standards fall squarely in that category of “proactive accountability” and are set by civilian authority through a transparent legislative process. This transparency hopefully guards against the susceptibility to unseen influences protecting the status quo and gives voice to those persons whose deaths were the focus of inquiries; some of our most vulnerable citizens.

In Mr. Braidwood’s definition, government occupies a place on the accountability spectrum through its broad regulatory oversight of policing. Government sets standards, appoints members of police governing boards, conducts audits and studies and ensures overall adequacy and effectiveness in policing. Likewise, civilian police boards serve an important oversight function by promoting sound executive leadership, fiscal accountability, and responsiveness to community needs. Similarly, police leaders who support sound organisational values, supervision and training can also be said to pursue proactive accountability.

This nuanced view of the accountability spectrum dovetails with reality of modern public safety challenges and the complex legal requirements under which police do their work. Solely examining conduct in a criminal or disciplinary context after the fact prevents the value of effective accountability—prevention of misconduct—from being fully realized.

Accountability structures occasionally overlap but do not duplicate. Instead, they represent thoughtful policy-making to uphold the integrity of policing as an important part of the criminal justice system insulated from the chilling effect of political interference. The rationale and evidence for this is well documented in the reports of the various Commissions of Inquiry and the tragedies they recall.

As policing reform continues to occupy our collective attention, it is important we honour the lessons of the past. Perhaps more valuable than the recommendations arising from those inquiries are the truths which emerged from the survivors and families. They remind us that the inquiries were all rooted in a human story.

We pay respect to these truths, and the persons to whom they belong when we approach policing reform—and by extension improvement to the police accountability spectrum—by carefully recalling the lessons from the past 25 years.



**Clayton Pecknold**  
Police Complaint Commissioner



# The Year in Numbers



## Files Opened

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

In 2022/2023, the OPCC opened 1,518 files. This is a decrease of 9 from last year. Most of these files are police complaints, which are opened when the OPCC receives a complaint from a member of the public about a police officer's behaviour.



## Police Complaints Received

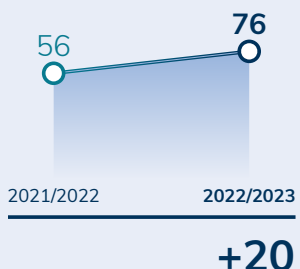
The public can file complaints about a police officer's conduct or actions. The OPCC reviews all complaints to determine whether there will be an investigation. All investigations are conducted by the police under the oversight of the OPCC.

In 2022/2023, the OPCC received 706 complaints from the public about police officer conduct, a decrease of 25 from last year.



## Police Complaints – Total Assigned for Investigation or Resolution Attempt

In 2022/2023, the OPCC assigned a total of 256 admissible police complaints to investigation or resolution—a decrease of 5 from last year.



## Independently Ordered Investigations

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

In 2022/2023, the Commissioner initiated 76 investigations into police officer conduct, an increase of 20 from last year. A total of 64 of these investigations were requested by the involved police department.



## Reportable Injuries

Police departments are required to notify the OPCC when an incident involving police results in an injury requiring transport to hospital for emergency care. The OPCC reviews all injuries to determine whether an investigation into the police officer's conduct is required.

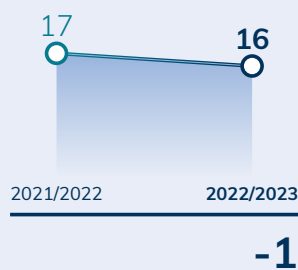
In 2022/2023, the OPCC received 445 reportable injury notifications, an increase of 4 from last year. Of those injuries, a significant number of injuries resulted from less-lethal firearms (ARWEN and bean bag shotguns) and dog bites.



## Mandatory Serious Harm Investigations

The OPCC must order a mandatory external investigation into any incident resulting in serious harm or death. These investigations are separate and distinct from investigations by the Independent Investigations Office (IIO) and are not restricted to evidence gathered by the IIO. These investigations will assess all of the circumstances including but not limited to, any training, policy considerations, or misconduct allegations.

In 2022/2023, the OPCC ordered 30 serious harm investigations, an increase of 6 from last year.



## Adjudicative Reviews

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

In 2022/2023, the OPCC disagreed with the decision of a senior officer and appointed a retired judge in 16 matters, a decrease of 1 from last year.



## Service or Policy Complaints

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

In 2022/2023, the OPCC received 10 complaints about the policies or services being provided at a police department, a decrease of 32 from last year.



## Recommendations Made to Police Board or Director of Police Services

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

In 2022/2023, the Commissioner made recommendations on 3 matters to police boards and the Director of Police Services. These include recommendations on use of force reporting, unbiased policing, police uniforms and the thin blue line.

## ABOUT OUR WORK:

# Advancing Public Confidence and Trust in Policing

## Who we are

The Office of the Police Complaint Commissioner (OPCC) is the office that British Columbians turn to when they have concerns about the conduct of municipal police. We are an impartial agency—independent of police and government—that oversees complaints and investigations involving municipal police officers. We ensure complaints made under the *Police Act* are resolved in a timely, transparent and accountable manner, and that the process is accessible to the public it serves.

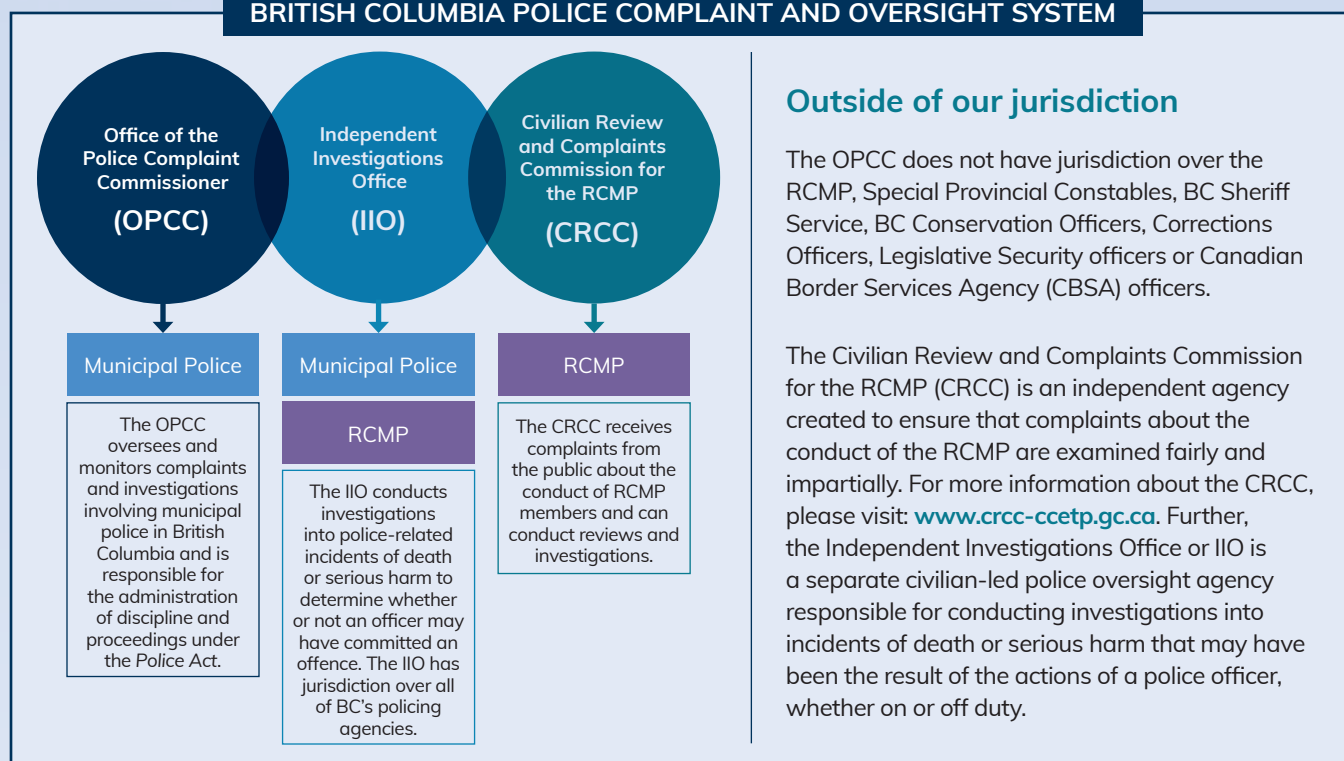
## Our purpose

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

## What we do

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

### BRITISH COLUMBIA POLICE COMPLAINT AND OVERSIGHT SYSTEM





# How we do our work

## Fairness

- Determine the admissibility of complaints received from the public.
- Initiate investigations.
- Actively monitor and oversee police misconduct investigations, providing advice and direction as necessary.
- When appropriate, refer matters for independent adjudicative review.
- Refer matters to Crown Counsel for consideration of prosecution.

## Transparency

- Maintain records of all police complaints<sup>6</sup> and Police Act investigations involving municipal police officers and the investigation outcomes.
- Compile statistical information, including trends, and report regularly to the public about complaints and investigations. Additional information about the work of the OPCC can be accessed at <https://opcc.bc.ca/>

## Public Engagement and Education

- Facilitate engagement in dispute resolution processes where appropriate.
- Identify and address barriers to the police complaint process through outreach efforts.

## Prevention and Systemic Responses

- Make recommendations to Police Boards or to Government regarding policies, practices or systemic issues.

## Independence

- Assist all parties—complainants, police officers, Discipline Authorities, police boards and adjudicators appointed under the Police Act—involved in the complaint process.

## Our Goals

- To strengthen police accountability.
- To provide an accessible, effective, and understandable police complaint process.
- To improve organizational performance.
- To promote people wellness and development.

## Our Team

Driving our work is a team of committed professionals with backgrounds including law, regulatory fields, policing, public and social policy, and academia who believe in the fundamental importance of civilian oversight of the police complaints process.

Our intake services and outreach and accessibility coordinator are often the public's first points of contact with the OPCC. They help people understand the processes available to them and connect complainants who would like assistance with support agencies.

Our “No Wrong Door” approach means that even when the complaint falls outside of our jurisdiction, our intake team helps complainants find the appropriate avenue for redress. Last year, 375 enquiries were redirected by our skilled and compassionate front-line staff.

Once a complaint has been initiated, our team of analysts works to ensure that the *Police Act* and its associated processes are followed correctly. To carry out this important work, they must have a comprehensive understanding of the *Police Act* and its associated processes, as well as police investigations, policies and procedures. [For more, see Staffing and Budget, page 48]

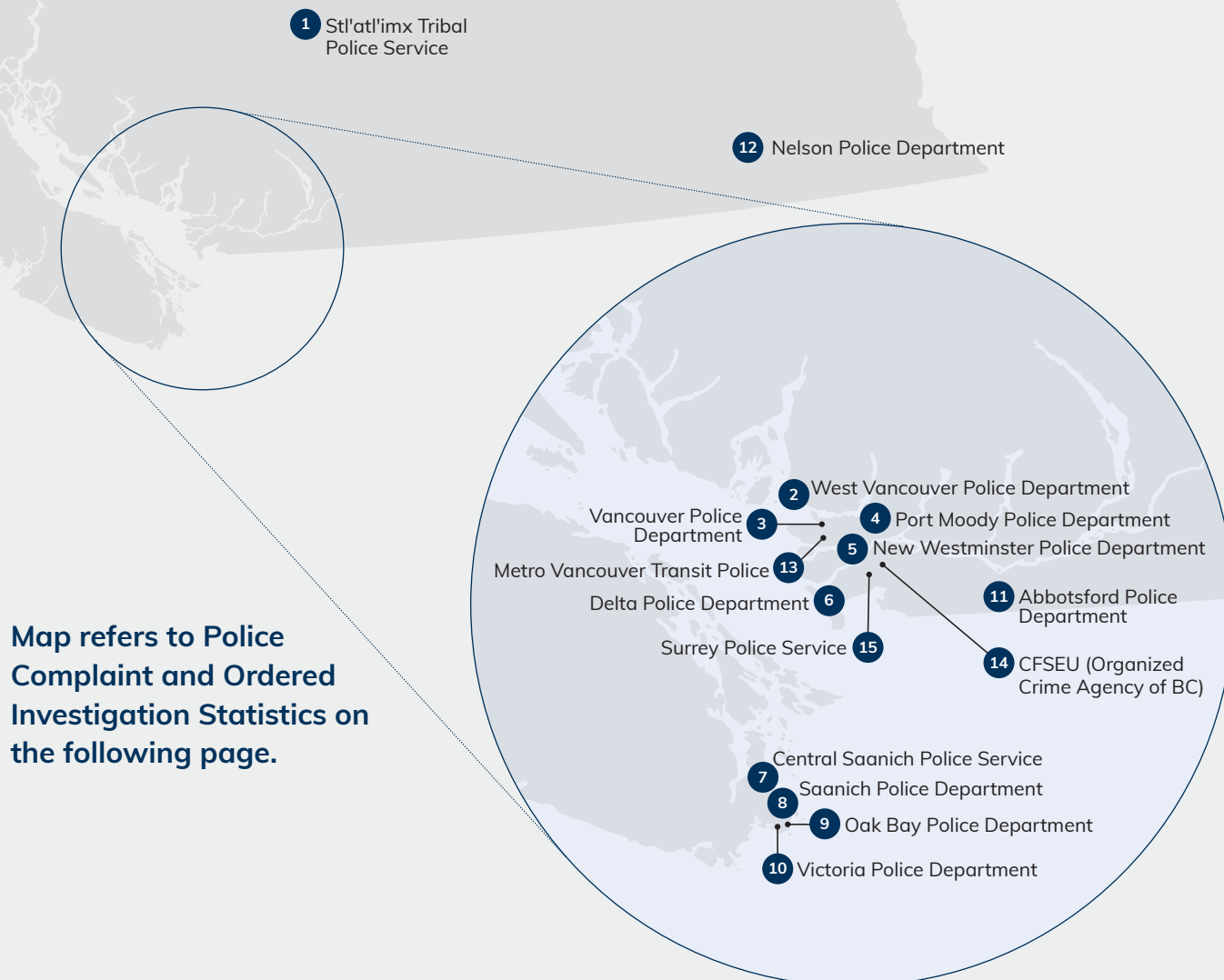
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<sup>6</sup> Of note, previous OPCC reports have included references to registered complaints; this term has been replaced by police complaints

# Where We Work

## OPCC oversight

The OPCC oversees complaints related to the work of municipal police officers, special municipal constables and officers serving on other police agencies throughout British Columbia. As detailed in the map that follows, 12 municipal police departments fall under our jurisdiction, as well as the Metro Vancouver Transit Police, Stl'atl'imx Tribal Police Service and the CFSEU (Organized Crime Agency of British Columbia).



**Map refers to Police Complaint and Ordered Investigation Statistics on the following page.**

# Police Complaint and Ordered Investigation Statistics by Department (2022/2023)

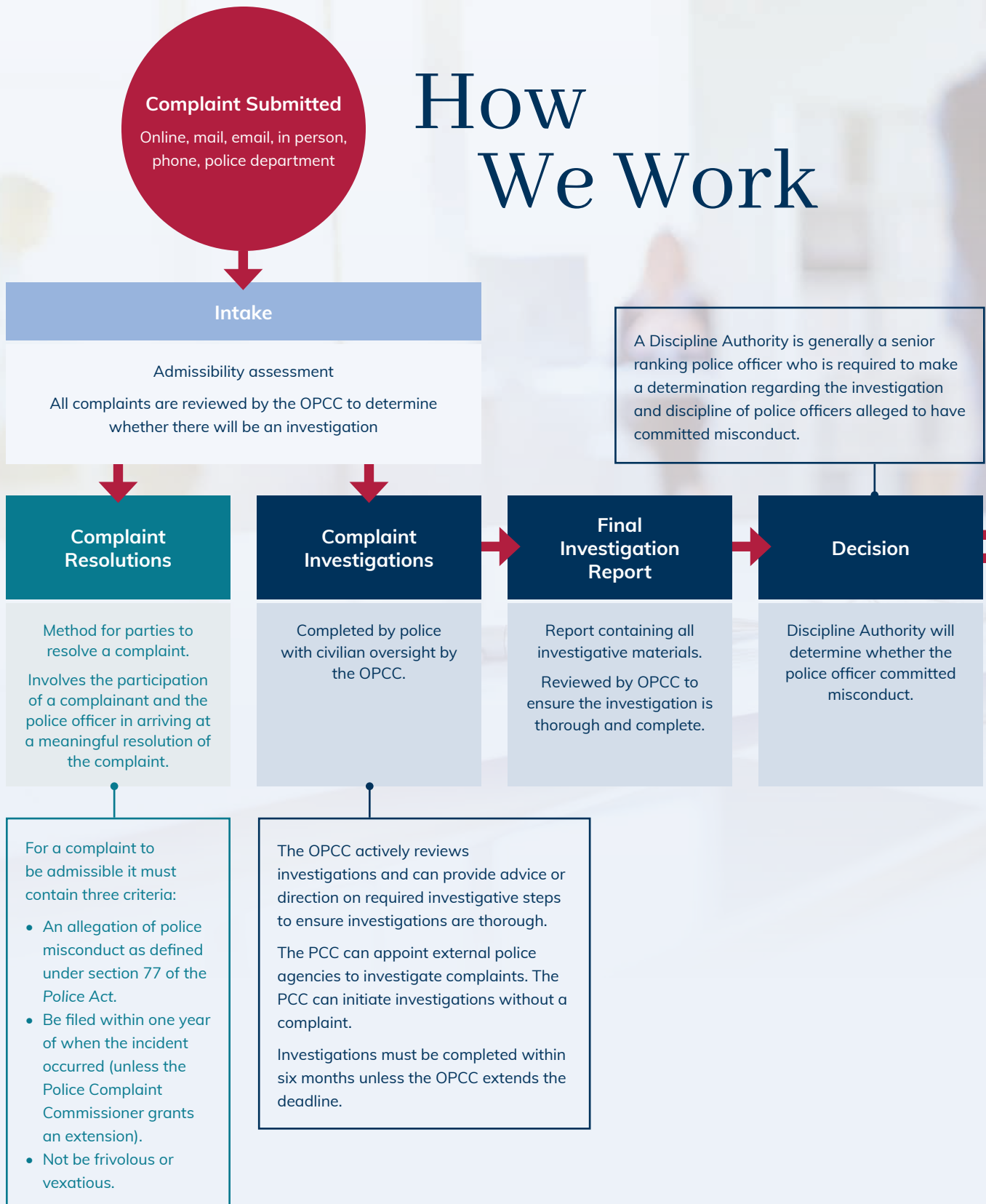
1	<b>Stl'atl'imx Tribal Police Service</b>	POLICE COMPLAINTS	4	➡
		ORDERED INVESTIGATIONS	1	⬆
2	<b>West Vancouver Police Department</b>	POLICE COMPLAINTS	8	⬇
		ORDERED INVESTIGATIONS	2	⬇
3	<b>Vancouver Police Department</b>	POLICE COMPLAINTS	400	⬆
		ORDERED INVESTIGATIONS	41	⬆
4	<b>Port Moody Police Department</b>	POLICE COMPLAINTS	7	⬇
		ORDERED INVESTIGATIONS	2	➡
5	<b>New Westminster Police Department</b>	POLICE COMPLAINTS	24	⬇
		ORDERED INVESTIGATIONS	2	➡
6	<b>Delta Police Department</b>	POLICE COMPLAINTS	29	⬇
		ORDERED INVESTIGATIONS	2	⬇
7	<b>Central Saanich Police Service</b>	POLICE COMPLAINTS	7	➡
		ORDERED INVESTIGATIONS	0	➡
8	<b>Saanich Police Department</b>	POLICE COMPLAINTS	39	⬇
		ORDERED INVESTIGATIONS	0	⬇
9	<b>Oak Bay Police Department</b>	POLICE COMPLAINTS	2	⬇
		ORDERED INVESTIGATIONS	0	➡
10	<b>Victoria Police Department</b>	POLICE COMPLAINTS	77	⬇
		ORDERED INVESTIGATIONS	8	⬆
11	<b>Abbotsford Police Department</b>	POLICE COMPLAINTS	56	⬆
		ORDERED INVESTIGATIONS	7	⬆
12	<b>Nelson Police Department</b>	POLICE COMPLAINTS	6	⬇
		ORDERED INVESTIGATIONS	2	⬇
13	<b>Metro Vancouver Transit Police</b>	POLICE COMPLAINTS	20	⬇
		ORDERED INVESTIGATIONS	3	⬆
14	<b>CFSEU (Organized Crime Agency of BC)</b>	POLICE COMPLAINTS	1	⬇
		ORDERED INVESTIGATIONS	0	⬇
15	<b>Surrey Police Service</b>	POLICE COMPLAINTS	26	⬆
		ORDERED INVESTIGATIONS	6	⬆

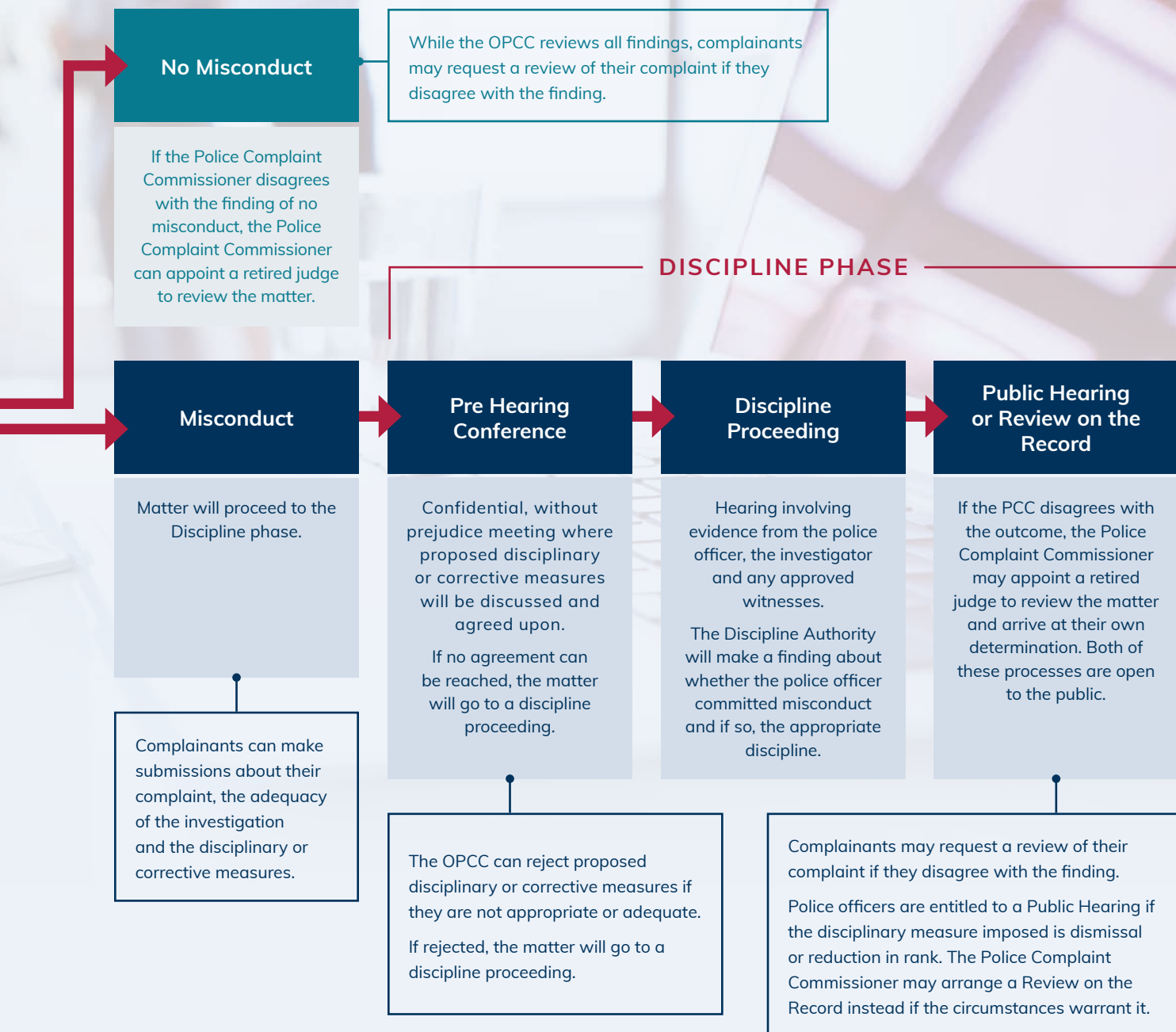
⬆ INCREASE FROM 2021/2022

➡ NO CHANGE FROM 2021/2022

⬇ DECREASE FROM 2021/2022

# How We Work

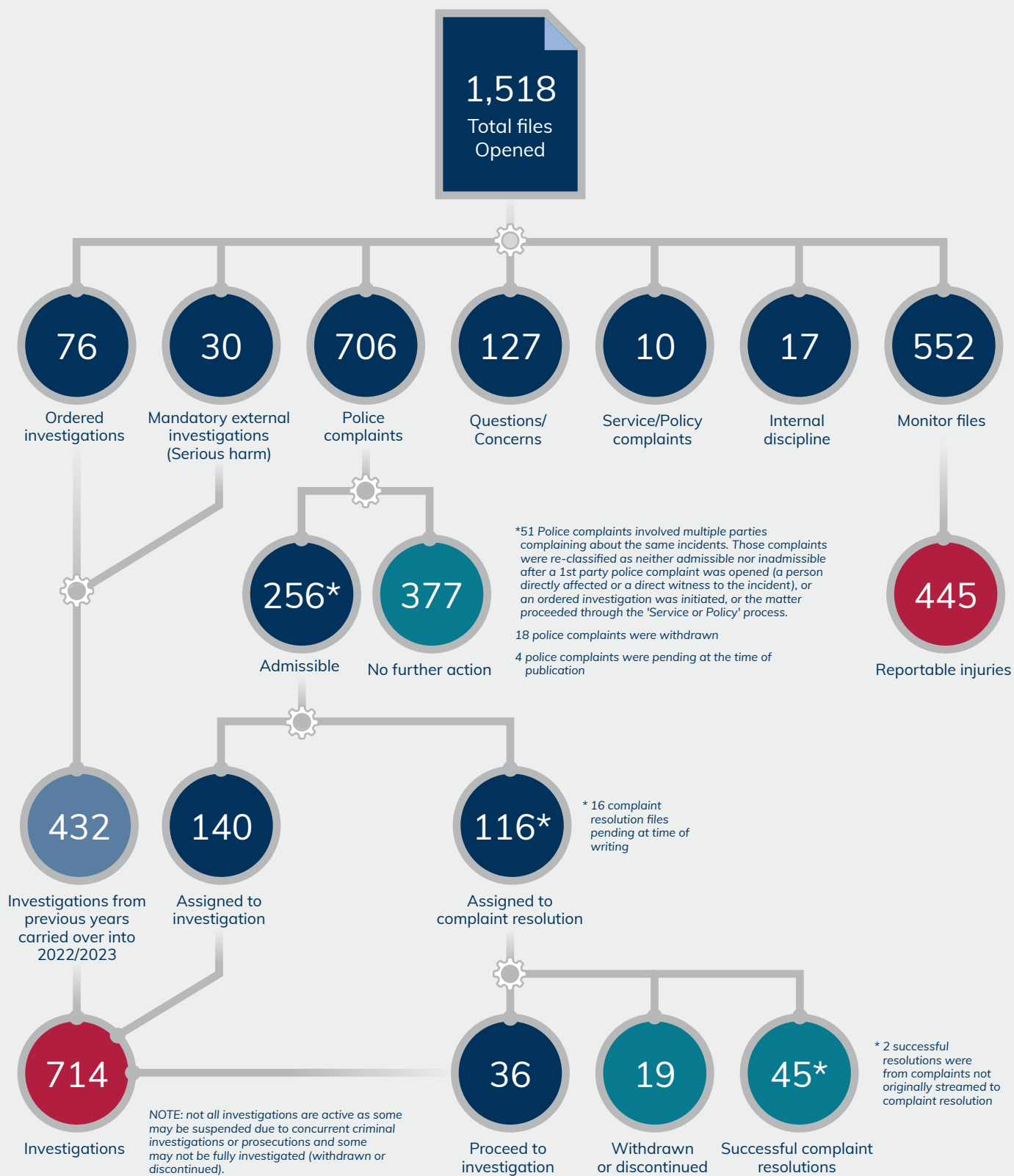




The Police Complaint Commissioner may also refer matters to Crown Counsel for consideration of prosecution, or make recommendations to police boards or to government regarding policies, practices or systemic issues that may contribute to the misconduct.



# Complaints and Investigations in 2022/2023: Intake, Assessment and Investigation



# Outreach and Education



Fulfilling our mandate means working to make the municipal police complaint process accessible and understandable for all those citizens it is meant to serve, including the most vulnerable and marginalized groups in our society. In 2022/2023, the OPCC continued to build relationships with community-based organizations, focusing on engaging with agencies that support newcomers, those with disabilities, and Indigenous community service organizations. Our aim is to both empower these organizations to help the people they serve navigate the complaints process, and to listen and learn from them about any barriers individuals face due to factors including language, gender and sexual orientation, age, race, disability, and/or socioeconomics.

## Community Engagement and OPCC Training

This past year, the OPCC focused on improving our outreach activities with targeted communities to inform and educate British Columbians about the complaints process. These activities also provided opportunities to better understand important issues impacting those communities and how we can work together to address barriers to access and improve awareness of the complaints process. We appreciate that these organizations face many demands and are grateful our staff were able to learn from them and to improve our cultural competency. These organizations include, Autism BC, BC Aboriginal Network on Disability Society (BCANDS), the Native Courtworker and Counselling Association of BC, the BC Family Information Liaison Unit, Cool Aid Society, and Our Place Society. In addition, the OPCC had the opportunity to attend or participate in several conferences and events including the National Indigenous Disability and Wellness Gathering organized by BCANDS, Camosun Access to Justice Information Session, Provincial Training Conference for Legal Advocates- Law Foundation of BC and Legal Aid BC, and the Law Society of BC Indigenous Engagement in Regulatory Matters Task Force consultation and summit.

## Improving Access to the BC Municipal Police Complaints Process

In 2022/2023, the OPCC completed important updates to OPCC communications materials to make them more accessible and understandable to the diverse public we serve. The police complaint process is complex, and it is important that our materials are written in plain language and explain the process as clearly as possible. We translated the OPCC complaint form into eight languages: Punjabi, Traditional Chinese, Simplified Chinese, Arabic, Farsi, Vietnamese, Korean, and Somali. Key informational brochures have been translated into Punjabi, Traditional Chinese, and Simplified Chinese. These translated materials are available on our website and have been distributed across municipal police departments and a number of support agencies in BC. We also updated the OPCC website to improve navigation and access to the information people need to file a police complaint.

Those looking to access the complaints system have diverse needs and in order to better support complainants, the OPCC has prioritized building relationships with a number of community-based organizations and service providers. The OPCC has created a support agency network which focuses on those organizations who serve Indigenous, newcomer and other marginalized and vulnerable communities.

# Outreach and Education

## Indigenous Engagement

In keeping with recommendations that were made by the National Inquiry into Missing and Murdered Indigenous Women and Girls in the Truth and Reconciliation Commission's Final Report, and the province's *Declaration on the Rights of Indigenous Peoples Act*, we continue to advance a multi-year Indigenous Accessibility Strategy. The project aims to improve the OPCC's responsiveness to the needs of Indigenous Peoples and overall awareness of the complaints process, and to improve complaint outcomes through, where possible under the current legislative framework, culturally safe and relevant pathways for Indigenous Peoples accessing the complaint process.

## Support Agency Assistance

In the past year, the OPCC facilitated 46 support agency connections for complainants. These agencies included community law clinics, organizations serving women experiencing gendered violence, newcomers, seniors, Indigenous service providers in urban areas, youth, and persons with disabilities. These agencies provided assistance to complainants with the filing of their police complaint, language support, attending meetings, providing emotional support, and preparing written submissions at various stages of the process on behalf of the complainant.

In 2022/2023, several agencies provided either information or direct assistance to the members of the community they serve to improve accessibility to the complaints process. We recognize that staff and volunteers of these community organizations have many demands and we appreciate and acknowledge their contributions:

- Archway Community Services
- Atira Women's Society
- Battered Women's Support Services (BWSS)
- Bridges for Women Society
- British Columbia Aboriginal Network on Disability Society
- HiM Health Initiative for Men
- Indigenous Community Legal Clinic – Peter A. Allard School of Law
- Keeping Families Together
- The Kettle Society
- Kiwassa Neighbourhood House
- Law Students' Legal Advice Program (Vancouver)
- Men's Therapy Centre
- MOSAIC BC
- Native Courtworker and Counselling Association of BC

- Nelson Cares Society – the Advocacy Centre
- OASIS
- Qathet SAFE
- Richmond Multicultural Services Society
- RISE Women's Legal Centre
- The Law Centre (Victoria)
- Victoria Brain Injury Society
- Victoria Sexual Assault Centre
- Salal Connect - Sexual Violence Support Centre (Formerly WAVAW)
- Vancouver Aboriginal Friendship Centre Society



Click here to go to the OPCC website for a list of support agencies. Please note, not all agencies in the support agency network are found on this list.

## Engagement with Government Agencies

The Commissioner and Deputy Commissioner continue to meet with the Provincial Government to provide insight into and recommendations on improvements to the municipal police complaints process and *Police Act* reform, as well as hear from the Province on initiatives that may impact the complaints process including decriminalization of personal possession of some drugs under the federal *Controlled Drugs and Substances Act*, and the use of police body-worn cameras amongst some police agencies in BC. In addition, the OPCC continues its involvement in the Advisory Committee on Provincial Policing Standards and the Provincial Committee on Diversity and Policing (PCDP), including direct consultation with some PCDP community advisors to assist with updates to our communications materials.



# Why Our Work Matters

## Public interest demands robust, vigilant, and independent oversight

Police officers have tremendous powers in our society and public demands are intensifying - both within our borders and beyond - for accountability and transparency when it comes to their use. In British Columbia, the OPCC plays a central role in ensuring both. Our office was formed out of a fundamental need for civilian oversight of the police complaints process. The public interest is not served when police are accountable only to themselves, nor is the trust that is so essential for officers to do their jobs fostered in those circumstances.

Our work focuses in large part on ensuring that every complaint made against a municipal police officer in BC is dealt with in a fair and transparent way. Overseeing the municipal police complaints process also allows us to look at the “bigger picture.” The OPCC is uniquely placed to identify trends in the complaints we see and make recommendations to address not only the conduct of individual officers, but systemic barriers impacting greater numbers of British Columbians. At a time when calls for greater accountability and reforms in policing are being made, our dual role remains a vital part of the police oversight framework in British Columbia. Over the next several pages, we share key themes drawn from OPCC files that exemplify some of the efforts to make the municipal police complaints process more transparent in British Columbia. We also share feedback from those who have been through and benefited from the Alternative Dispute Resolution processes.

# The *Police Act* identifies and describes 14 disciplinary breaches of public trust.

## Public Trust Offence, section 77(2)

On or off-duty conduct where the member has been convicted of an offence, which has or would likely render them unfit to do their duties, or discredit the reputation of the municipal police department.

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

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

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

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

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

## Corrupt Practice, section 77(3)(c)

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

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

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

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

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

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





## Deceit, section 77(3)(f)

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

## Discourtesy, section 77(3)(g)

On-duty conduct, where a police officer fails to behave with courtesy due in the circumstances towards a member of the public in the performance of duties as a member.

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

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

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

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

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

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

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

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

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

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

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

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

This includes,

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

# Investigations Involving Serious Harm or Death

## Issue

The public interest demands that there be a *full* accounting of the circumstances whenever someone dies or is seriously injured by police. As a result, the *Police Act* mandates that there will be a thorough investigation into all matters where there has been a police-involved death or serious injury and, where appropriate police are held accountable for their actions.

## Background

The system of police oversight and accountability in British Columbia has evolved in part as a result of Commissions of

Inquiry into tragic police-involved deaths (see inset).

The system can best be described as a matrix of accountability, with built in “checks and balances” in which each component performs independent yet complimentary functions in pursuit of the truth.

## Applicable Law

The BC *Police Act* mandates that certain processes be followed whenever there is a police-involved death or serious injury. In those circumstances, there will generally be a criminal investigation by the IIO to determine whether or not the officer(s) committed an offence. More broadly, there will also be a separate administrative investigation

## TRAGEDIES DRIVING CHANGE

In 1998, Frank Paul, a Mi'kmaq man originally from the Elsipogtog First Nation of New Brunswick died “alone and cold” in an alley after being turned away from the Vancouver Police Department jail. He was intoxicated, could not care for himself, and ultimately died from hypothermia. This tragedy led to a public inquiry into the circumstances of his death and resulted in several recommendations relating to the need for wholesale changes to how police-related deaths are investigated.<sup>7</sup>


In 2007, Robert Dziekanski, a Polish immigrant to Canada, died at the Vancouver International Airport after police used a conducted energy weapon (CEW) against him and was subdued and handcuffed. The tragic circumstances of this death led to another public inquiry where additional calls were made for significant changes with how police involved deaths are investigated. This inquiry highlighted the legitimate concern with police investigating themselves and argued that there is an inherent conflict of interest and bias, either real or perceived, which can lead to public distrust and a lack of confidence in the police.<sup>8</sup>

On March 31, 2010, significant changes were made to Part 11 of the *Police Act*, which govern investigations into police conduct. One of these changes included the requirement for mandatory administrative investigations

into the circumstances of all municipal police involved deaths and serious injuries with independent civilian oversight provided by the OPCC. In 2012, the Independent Investigations Office of BC, a civilian led agency, was established to criminally investigate these matters solely to determine whether or not the police committed an offence.

The Independent Investigations Office (IIO) of BC is a government entity which has a criminal investigative mandate. IIO investigators have the same powers as police officers and investigate to determine whether a police officer may have committed an offence against an enactment and, whether it should be referred to the BC Prosecution Service.

The OPCC on the other hand, is not an investigative agency, but oversees a broader mandate to ensure civilian oversight of complaints, investigations and the administration of police discipline. Whereas the IIO must operate in the criminal law context, the OPCC operates in the administrative law context in pursuit of accountability for police misconduct but also to prevent that misconduct where possible. The hallmark of this work is that it is conducted as an Independent Office of the Legislative Assembly, wholly independent of governments and political influence.



“into the matter” which examines the circumstances which led to that death or serious injury. This is not restricted to the specific actions of the officer(s) but is expanded to assess whether such factors as training or departmental policies or procedures contributed to the death or injury.

### The key distinction

IIO investigations are criminal investigations, which means that they must be conducted according to strict criminal rules of evidence and case law. For example, the IIO cannot compel officers who are facing criminal jeopardy to provide statements.<sup>9</sup> Other investigative avenues, such as the seizure of evidence, are also subject to the legal requirements of the *Canadian Charter of Rights and Freedoms* (Charter) including the necessity of seeking a warrant. The outcome of these investigations may result in a referral to the BC Prosecution Service for consideration of charges based on the available and admissible evidence<sup>10</sup> or the release of a Public Report which includes a public accounting of the incident and a decision that police did not commit an offence.<sup>11</sup>

In contrast, serious harm and death investigations under Part 11 of the *Police Act* are administrative in nature. They are not restricted to evidence available in criminal investigations and the standard of proof for misconduct is the less stringent “balance of probabilities.”<sup>12</sup> All municipal police officers can be compelled to provide statements, answer questions and otherwise be required to account for their actions. Police departments are also compelled to provide all necessary documents, records or other things without the requirement of a warrant. All police officers, including those facing allegations of misconduct, are under a duty to cooperate fully.<sup>13</sup>

Reflecting on the administrative nature of *Police Act* matters and the primary orientation of preventing misconduct and maintaining public confidence in the police, the Commissioner may also make recommendations to Police Boards or to government regarding policies, practices or systemic issues that may arise during the *Police Act* process. In some cases, matters may also be referred to a retired judge for adjudication. These adjudications are a further independent check and balance against political interference.

To illustrate this distinction, see the case summary below.

### Deaths of two persons during a hostage rescue operation

Police were called to a residence after receiving a 911 call reporting that a person with a gun was barricaded with his female partner, who was considered a hostage. The Lower Mainland District Emergency Response Team (LMD-ERT)<sup>14</sup> was called to the scene. A Feeney warrant<sup>15</sup> was approved for police to enter the residence. A crisis negotiation team made attempts to reach the parties inside the residence but were unsuccessful. Police ultimately entered the residence to rescue the hostage and multiple shots were fired by police in response to what was perceived to be gunfire directed at the police. The subject was shot and killed by police. Tragically, the hostage had also been shot and succumbed to her injuries.

As a result of the fatal shooting of two individuals, the OPCC was required to initiate an independent *Police Act* investigation into the matter. This matter was suspended pending the completion of the IIO’s criminal investigation. The IIO ultimately designated four subject officers.

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7 Alone and Cold, the Davies Commission Inquiry into the death of Frank Paul, 2009

8 Why? The Robert Dziekanski Tragedy, Braidwood Commission on the death of Robert Dziekanski, 2010

9 [What are my rights as a Subject Officer? | Independent Investigations Office of BC, IIO, IIOBC](#)

10 There are two components to the Crown Counsel charge approval standard: an evidentiary test that requires substantial likelihood of conviction and a public interest test. The criminal standard of proof is “beyond a reasonable doubt.”

11 [Public Reports | Independent Investigations Office of BC, IIO, IIOBC](#)

12 Meaning that there is evidence to support the allegation that the conduct more likely than not took place, *F.H. v. McDougall*, 2008 SCC 53.

13 *Kyle v. Stewart*, 2017 BCSC 522.

14 The LMD-ERT is an integrated team of RCMP and municipal police officers.

15 Feeney warrants provide judicial authorization to police which allow them to enter into a private residence to affect an arrest.

# Investigations Involving Serious Harm or Death

*...continued*

None provided any statements to the IIO. The IIO's investigation did not find any criminal wrongdoing and determined that the matter would not be referred to Crown Counsel for consideration of charges.<sup>16</sup>

Upon review of the IIO's conclusion, the *Police Act* process resumed, and further investigation was directed to review materials pertaining to hostage incidents and human shield encounters, in addition to an in-depth assessment of the number of rounds that were fired by police in a short period of time.

A municipal police officer, who was named as a respondent member, cooperated fully and provided a detailed accounting of their decision to use lethal force as they were required to do under the *Police Act*. This accounting had not been provided to the IIO as the officer had asserted their rights under the Charter and declined to provide a statement to the IIO. The IIO determination therefore did not include the officer's statement. Other ERT members (RCMP) who were considered subject officers also deployed their firearm. They were not compellable to provide a statement under this process.<sup>17</sup>

The *Police Act* investigator conducted a thorough review and investigation of this matter and determined that "each ERT member responded to the deadly threat in one sustained offensive suggesting members continued to shoot until the threat was neutralized."<sup>18</sup> It was determined that police were not reckless in the use of deadly force or that they used excessive force. The available objective evidence supported the members belief that the affected person posed an imminent threat of grievous bodily harm or death to the hostage or to them.

## Conclusion:

Police have a constitutional right against self-incrimination. Some police receive legal advice that they should not make any police statements or notes while the subject of an IIO investigation. Therefore, investigations under the *Police Act* are often the first time a subject police officer details their observations and actions and provide answers to questions relating to the death or serious injury to a person. This accounting may occur after considerable time has passed from the date of the incident resulting in the death or serious harm. This is an area to which the OPCC is paying particular attention.

The overall accountability matrix ensures appropriate checks and balances are in place for the most serious of police interactions. As police are authorized to use force in the lawful execution of their duties, including lethal force, these accountability mechanisms are meant to ensure the truth is ultimately uncovered.

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16 Case number 2019-061, [Cases | Independent Investigations Office of BC, IIO, IIOBC](#)

17 RCMP offers are not compellable to cooperate with conduct investigations under Part 11 of the *Police Act*. Part 11 of the *Police Act* governs the conduct of municipal and special municipal constables as it relates to complaints and investigations of misconduct and serious harm.

18 Final Investigation Report submitted to OPCC in November 2022.



# Police Use of Force – Intermediate or Less Lethal Weapons

## Issue

Police have a number of important functions in our democratic society, including duties to: preserve the peace; protect life and property; prevent crime; enforce the law; and apprehend offenders. Police officers are authorized to use force in the course of their duties pursuant to section 25 of the Criminal Code of Canada. Various force options are available to police to carry out those duties including the use of intermediate weapons. These types of weapons may also be referred to as “less-lethal” weapons as they are intended or designed to be used as a weapon with the goal of minimizing the risk of serious injuries or fatalities and can be a valuable tool for police when taking a person into custody. These force options can also cause injuries requiring hospitalization, and at times those injuries can be significant and serious. It is important for there to be adequate checks and balances with the use of these weapons to ensure that they are being used as intended and with the necessary legal grounds for doing so.

## Background

In British Columbia, the Police Act provides the authority for government to create binding standards on police in a number of different areas of policing, including training and use of force, and to evaluate the compliance with those standards. These Provincial Policing Standards (PPS) cover several areas of police force options, including firearms,

intermediate weapons and restraints, Conducted Energy Weapons, and Police Service Dogs. The province has also issued standards mandating training for all front-line police officers and supervisors in crisis intervention and de-escalation.<sup>19</sup>

The National Use of Force Framework (NUFF) is a graphic representation of an officer’s assessment, planning and response to a situation which may threaten public and officer safety.<sup>20</sup> This framework provides a tool to assist in the understanding of police use of force, but it is not intended to serve as a justification for an officer’s specific use of force. This tool outlines five use of force options available to police:

1. Officer Presence
2. Communication (verbal and non-verbal)
3. Physical Control (soft and hard)<sup>21</sup>
4. Intermediate Weapons
5. Lethal Force

## EXAMPLES OF LESS-LETHAL WEAPONS

- **Baton (expandable/collapsible and straight):** a cylindrical club with a cylindrical outer shaft containing telescoping inner shafts that lock when expanded and has a weighted cap at the striking tip. Used as a compliance tool and defensive weapon.
- **Conducted Energy Weapon (CEW):**<sup>22</sup> a weapon that when discharged uses a conducted electrical current to incapacitate a person or to generate compliance through pain.<sup>23</sup>
- **Oleoresin Capsicum (OC) or Pepper Spray:** an oily organic resin that is delivered in various forms.
- **Extended Range Impact Weapons/Kinetic Energy Impact Projectile:**<sup>24</sup> a device firing a special projectile (flexible or non-flexible) designed to gain compliance, overcome resistance, or prevent or have a reduced potential for serious injury or death. Projectiles include rubber and plastic bullets; sponge rounds; bean bag rounds.

19 Provincial policing standards - Province of British Columbia (gov.bc.ca)

20 <https://www.cacp.ca/policiesguidelines.html>

21 Soft physical control techniques may include joint locks. Hard physical control techniques may include empty hand strikes such as punches and kicks.

22 Commonly referred to as a Taser.

23 A commission inquiry was called after the death of Robert Dziekanski, a Polish immigrant who was tasered by RCMP officers at Vancouver International Airport in 2007. It was found that the use of the CEW contributed to the death of Mr. Dziekanski. Justice Braidwood made a number of recommendations which led to restrictions on the use of the CEW by police (Restoring Public Confidence: Restricting the use of conducted energy weapons, Braidwood Commission on Conducted Energy Weapon Use, 2009).

24 Can include weapons commonly referred to as “beanbag shotguns” or the “ARWEN”. These weapons are classified as firearms.



# Police Use of Force – Intermediate or Less Lethal Weapons

...continued

## Applicable Law

Section 25 of the Criminal Code provides the legal justification for police to use force. This use of force is constrained by the principles of reasonableness, necessity, and proportionality.<sup>25</sup> All police are responsible for any excess use of force, but that consideration must be given to the circumstances as they existed at the time, and that a police officer's use of force cannot be measured with exactitude or against a standard of perfection. Any assessment must also allow for dynamic and exigent situations and take into consideration the volatility and uncertainty that police officers face.<sup>26</sup>

## What are the concerns?

As an important accountability mechanism, the OPCC reviews all injuries resulting from the use of an intermediate weapon where the affected person is transported to hospital for medical care. In addition, even if a person is not taken to the hospital, the OPCC reviews all incidents where someone is injured because of the discharge of firearm, which includes the “beanbag shotgun” and “ARWEN.” Investigations into an officer's conduct may occur if there is an allegation of misconduct or the injuries meet the threshold of serious harm.

During fiscal year 2022/2023, the OPCC reviewed 205 uses of force involving the use of an intermediate weapon. During this same time, the OPCC directed 37 investigations into police use of force involving intermediate weapons.<sup>27</sup>

Not all uses of force by police will be investigated, as police are lawfully entitled to use force in some circumstances. In critically reviewing these matters, the OPCC takes into consideration any crisis intervention and de-escalation techniques employed by police during the interaction, the subject's reported responses and behaviours, the reasons provided by police for their use of force, the availability of video and other witness evidence, whether a complaint was filed with the OPCC about the incident, and the nature and extent of the injuries.


The following case highlights the importance of crisis intervention and de-escalation efforts by police when responding to incidents where there may be mental health issues and the threshold of use for an intermediate weapon.

### Inappropriate Use of a CEW:

Following a complaint received by the affected person, the OPCC directed an investigation into the circumstances of a CEW deployment and other uses of force following police attendance at a hotel on East Hastings Street in Vancouver, BC where the complainant suffered injuries. Police were responding to a call of an unwanted male in the hotel lobby where staff had requested police assistance in removing the male. The male was described as argumentative after requests to leave but that no significant physical interaction had been reported.

A police officer initially attended and spoke with the affected person for a few minutes before other officers arrived. The initial member formed the view that there may have been mental health issues present with the affected person. In response to the arrival of the additional police, the affected person began to demonstrate signs of increased agitation, pacing, clenching fists, and appeared at times to be confused and incoherent. One of those members took control of the communications and made the decision very quickly that the male had to be handcuffed and removed immediately from the hotel. This member issued commands, but the affected person did not immediately comply with them. The member quickly drew and then deployed their CEW, which was only partially effective. The member then struck the affected person in the head with the CEW and applied several kicks. After a significant struggle by police, which included strikes and the use of a baton, the male was handcuffed and hobbled. The affected person was taken to hospital and certified under the *Mental Health Act*.

A senior officer at the Vancouver Police Department (VPD), as Discipline Authority, determined that police did not commit any misconduct during this interaction. The OPCC disagreed and appointed retired provincial court judge, Mr. Brian Neal, K.C., to review the matter and arrive at his own decision based on the evidence.



Mr. Neal found that this case had similarities to the incident involving Mr. Dziekanski at the YVR airport and the RCMP. Although Mr. Dziekanski was from a very different background, those similarities included: an affected person who was confused, agitated, and acting erratically, someone who had difficulties with effective communication, was sweating, staring, and had partially complied with police direction, was moving towards and away from officers in a confined space, and a lack of any meaningful assessment of the actual risk posed by the affected person before deployment of the CEW.

Mr. Neal determined that the member “owed a duty of care to the complainant to properly assess the risk” and that they “had a duty to properly consider the applicability of de-escalation techniques and reduced use of force options.” In arriving at a decision, Mr. Neal referenced Justice Braidwood’s cautions that “real harm can result from the premature discharge and use of CEWs particularly in situations where mental health issues are likely in issue.” Mr. Neal concluded that “in no sense did the member have reasonable grounds to abandon de-escalation or lesser force efforts before deploying and discharging the CEW” especially considering that there was no imminent risk to anyone and no urgency to immediately complete the arrest.

## Conclusion

Through important accountability mechanisms under the *Police Act*, the OPCC closely examines unlawful applications of force by police, including the use of intermediate weapons. As evidenced by the various commissions of inquiry, including that of Justice Braidwood, it is clear that constant vigilance is required to preserve effective approaches to policing to keep our communities safe but also to prevent their misuse. The OPCC supports the recommendations made by the Special Committee on Reforming the *Police Act* to create a continuum of responses to mental health, addictions and other complex social issues.<sup>28</sup>



For more information on this decision, please refer to 2019-16763 <https://opcc.bc.ca/decisions/section-117-reviews/>

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<sup>25</sup> *R. v. Nasogaluak*, [2010] 1 S.C.R. 20627

<sup>26</sup> *R. v. Nasogaluak*, [2010] 1 S.C.R. 206; *Anderson v. Port Moody (City) Police Department*, [2000] B.C.J. No. 1628; *Levesque v. Sudbury Regional Police Force*, [1992] O.J. No. 512; *R. v. Bottrell* (1981), 60 C.C.C. (2d) 211 (BCCA); *R. v. Stairs*, 2022, SCC 11

<sup>27</sup> Investigations into an officer’s conduct occur as a result of an admissible complaint from the public, the Commissioner initiating an investigation (no complaint), or an incident where injuries met the threshold for serious harm.

<sup>28</sup> Transforming Policing and Community Safety in British Columbia, Special Committee on Reforming the *Police Act*, April 2022

# Use of Police Restraints and the Promotion of Unbiased Policing

## Issue

The *Canadian Charter of Rights and Freedoms* (Charter) protects citizens from arbitrary detention or imprisonment. The restriction of a person's liberty by the state—in this case the police—is a serious matter and can only occur in accordance with the principles of fundamental justice. The law does provide the police with legal authorities to detain upon arrest, or in limited circumstances while conducting investigations. Where it occurs arbitrarily and unlawfully, especially when based on race, the actions of the police must be closely scrutinized. This is particularly true when it includes the application of physical restraints such as handcuffs.

## Background

On December 20, 2019, two Vancouver police officers attended a branch of the Bank of Montreal in downtown Vancouver in response to a 911 call. Within the span of slightly more than two minutes, the police officers detained two Indigenous persons who had attended the bank on business, applying handcuffs to both. Ultimately, the disciplinary conduct investigation under the *Police Act*, and subsequent adjudication before a retired judge, found that both officers committed misconduct and discipline was imposed.

The complaint to the OPCC also included concerns related to the Vancouver Police Department (VPD) policy on handcuffing and its application in a manner that was discriminatory. This aspect was treated as a Service or Policy complaint.<sup>29</sup>

While the Service or Policy matter was under review by the Vancouver Police Board, a second incident involving the VPD arose; heightening public attention about the arbitrary and discriminatory use of handcuffs. In this instance, while looking for a suspect in a reported criminal matter, a VPD officer detained and hand-cuffed a man who was not related to the incident. The detained person, a black male out for a walk, did not objectively fit the description of the person sought by police. The incident was ultimately the subject of a complaint of misconduct and was resolved through an alternative complaint resolution process. As with the prior incident described above, the circumstances

of the use of handcuffs in this instance also formed a Service or Policy complaint and formed part of the ongoing Police Board review of the VPD handcuffing policy.

## Applicable Law

Section 9 of the Charter protects Canadians from arbitrary detention, including the use of restraint devices such as handcuffs. In addition, human rights law and the Charter protect Canadians from discriminatory practices based on, among other things, race or Indigenous identity. In British Columbia, police are also governed by BC Provincial Policing Standards which includes prohibitions against arbitrary police stops (Street Checks) and requirements to ensure police programs, policies and actions are free from discriminatory practices.<sup>30</sup>

## What are the concerns?

During the process of the policy review by the Board, some concerns emerged with the timeliness of the review process, the need for consultation with Indigenous and racialized communities and the need for review of the policy external to the Vancouver Police Department itself. The Vancouver Police Board worked through these concerns eventually approving an Interim revised policy on October 21, 2021.

## What changed?

In the Board's public release of the interim Use of Handcuffs policy, it noted that the updated policy includes the following:

- Specifies that officers must be able to articulate the specific circumstance necessitating the use of handcuffs, relevant considerations being the objectively reasonable need to:
  - Protect the member(s), the public, or the person from harm;
  - Prevent the person from attempting to leave;
  - Locate and preserve evidence related to the reason for the person's arrest; or,
  - Where the law permits, facilitate the search of a detained or apprehended person;



- Provides direction on documentation and the safe application of handcuffs;
- Recognizes that a child under the apparent age of 12 ought not be handcuffed except in specific and compelling circumstances;
- Acknowledges the impact the use of force of applying handcuffs might have upon an individual;
- Entrenches an officer's ability to exercise discretion; and
- Provides for a notification process for events that ought to be brought to the attention of supervisor ranks.

On April 7, 2023 the Vancouver Police Board announced the Department had finalized the policy.

As noted in the OPCC 2021/2022 Annual Report,<sup>31</sup> the Board undertook comprehensive steps to modernize the VPD policy. This followed a number of lengthy related investigations under the *Police Act*, a negotiated settlement before the BC Human Rights Tribunal and a Complaint Resolution Agreement. The circumstances giving rise to the review, the arbitrary detention and handcuffing of three persons from racialized communities—caught significant public attention and garnered the same in criticism. It also caused very significant harm to the affected persons themselves.

## Conclusion

In British Columbia, municipal police boards have a critical governance responsibility as the employer of police officers and as a key component of the overall police-accountability framework in the province. Improving and modernizing key policies and procedures, in consultation with the department they oversee and the public they serve, is an important function of a municipal police board. This is exemplified by the duty of the Board to prevent “neglect and abuse” by its municipal constables; an obligation enshrined in section 28 of the *Police Act*.

“Abuse of Authority” is consistently the most reported allegation of misconduct against police officers received by the OPCC. It includes without limitation, detaining a person without “good and sufficient cause.” Foundational to any legitimate exercise of police authority—such as arrest, detention and handcuffing—is the requirement that the officer have clear legal authority and act in a non-discriminatory manner. Their actions and their perceptions must be objectively reasonable considering the nature of police work, the needs of the public and officer safety and the often time-pressured decisions they must make.

The overall intent of disciplinary conduct regime in BC is to prevent and correct misconduct wherever possible. In this regard, policies guiding police officers in their day-to-day duties which are clear, founded in sound legal authorities and are consistent with Provincial Policing Standards, will align with the goals of the *Police Act*. Furthermore, training and supervision to ensure the policies are followed, understood and fully incorporated are equally critical to prevention of misconduct and protection of the officers themselves.

In support of prevention, the OPCC continues to closely scrutinize complaints and investigations regarding the use of restraint devices. Where appropriate and consistent with our mandate—irrespective of any allegations of misconduct—we will make further recommendations to government or to police boards as the circumstances require, to support sound legal and non-discriminatory policing practices, policies and training.

29 Service or Policy complaints are distinct from complaints about individual officer conduct. This type of complaint is about the general policies, management, or operations of a municipal police department. The Departments Police Board is responsible for investigating these complaints, under the oversight of the OPCC.

30 Promotion of Unbiased Policing, Police Stops: [Provincial policing standards - Province of British Columbia \(gov.bc.ca\)](https://www2.gov.bc.ca/gov2/othergov2/provincial_policing_standards)

31 OPCC 2021/2022 Annual Report Page 32.

# Alternative Dispute Resolution: A People-Centred and Accountable Process

Alternative Dispute Resolution (ADR) processes offer another path that puts people first, bringing complainants and the officers concerned together to find a meaningful resolution.

The OPCC prioritizes ADR, specifically Complaint Resolution, because it has been shown to be a more effective and timely means of resolving complaints. This alternative provides complainants with an opportunity to shape how their complaint is addressed. As shown below, a number of complaints were resolved using ADR during this reporting period.

## ADR and OPCC complaints

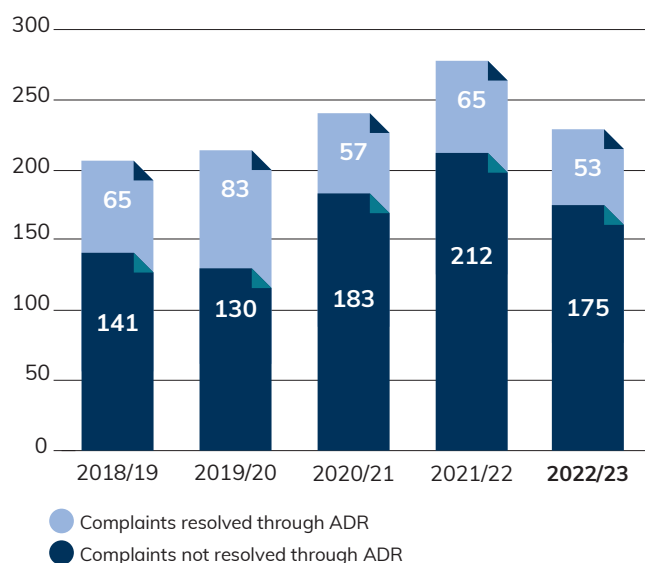
Upon filing a complaint against a municipal police officer, the complainant will have the option to indicate whether they would like to resolve the matter through an ADR process—either Complaint Resolution or mediation. If the Commissioner agrees, the process begins.

For Complaint Resolution that means that the complainant will work with a police investigator under the OPCC's oversight to reach a meaningful and accountable resolution, which is reviewed by our office. Each complainant must confirm that they are satisfied with the agreement to conclude the process.

Mediations are facilitated by independent professional mediators and are completely confidential, with the agreements reached being final and binding, provided the issues are resolved in accordance with agreed upon guidelines.

The Complaint Resolution (CR) and mediation processes both empower individuals to play an active role in the process, resulting in resolutions that are accountable, and more effective and meaningful for all parties. Open and honest communication breaks down barriers and both of these methods help strengthen the bonds between police officers and the communities they serve.

### Alternative Dispute Resolution (2018/2019-2022/2023)



\*Of files concluded during the fiscal year noted





## What complainants say about ADR

The feedback below is from OPCC ADR files created during the period covered in this report. All identifying information has been removed.

### The Process was Easy

The investigator was “proactive, reaching out to me at every step. [They] asked me lots of questions, and took time to explain things to me, and answer my questions along the way.”

The OPCC was “clear in [their] explanation of the process and I was definitely provided enough information to make an informed decision to engage in CR.”

The investigator was “easy to speak with. [They] provided me [their] e-mail and work cellular if I had any questions or wished to reach out to [them]. I was quite surprised with [their] offer to be easily reached if I had any queries.”


### Felt Understood

The investigator was “easy to communicate with, [they] made me feel comfortable. [They] were approachable, a really good listener, and did not interrupt me at any time.” The complainant added, “I already had my own impression about police and talking with them, [they] took that all away.”

The investigators were “really great at communicating with me, [they] took the time to listen, I felt like [they] really took the time to understand, to put [themselves] in my shoes... I really felt as if I had been heard.”

“The Investigator was respectful when they met with the social worker assisting the complainant and appreciated that the investigator attended in casual clothes as opposed to being in uniform.”

**“The officer’s acknowledgment and understanding of the optics of the situation, acceptance of [their] feedback, and commitment to learn and improve” added to [their] overall level of satisfaction.**



“I feel that it was nice that the officer apologized to me, that they committed to learn from the experience and apply it to future interactions with the public going forward, I feel good about that.”

#### QUESTIONS OR CONCERNS

##### Positive and Accountable Outcomes

“I would say 10 out of 10. For me it was the end piece, the end of the process. I have something tangible that the officer acknowledged that [they] did not communicate well with me... We are all human, and at times make mistakes, I believe [they] will carry this forward and communicate more effectively in the future... I really appreciated the apology, because that is what I was looking for.”

“...I would say that I'm 110% satisfied with the outcome... the officer's apology, which I accept, is the most satisfying part of the resolution.”

“I would say that I'm very satisfied with the agreement.” The complainant advised that they accepted the member's apology and appreciated that the member acknowledged that they could have taken more time to speak with them and explain what was happening.

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

**In 2022/2023, police departments recorded 127 questions or concerns from the public.**

“When I first made my complaint, I would say that I did not have a very good understanding of police powers/practices. [The investigator] listened to me, answered all of my questions, and was very patient.”

# Recommendations

The OPCC takes an approach to overseeing the conduct of municipal police, with the goal of preventing the recurrence of police misconduct that may have contributed to a complaint or an investigation.

The Commissioner can act on his ability to make recommendations to police boards on matters of policy and procedures, and to the Director of Police Services or the Minister of Public Safety and Solicitor General to examine legislative, training, cultural or systemic issues.

In 2022/2023, the Commissioner made certain recommendations to police boards and to the Director of Police Services. These recommendations involve supporting improved training for police, and policy and procedure concerns at the local level as well as across the province.

The following pages summarize key recommendations, complaints and outcomes. The OPCC continues to monitor and seek responses to its recommendations.



## MATTERS IN RELATION TO UNBIASED POLICING

# Recommendation to the Director of Police Services

### Recommendation

- That the Director consider ensuring that the obligations related to unbiased policing under Director's Standards clearly apply to the "programs" of municipal police departments including the Vancouver Police Department (VPD) Restaurant Watch program as well as any analogous programs to ensure that they are approved, implemented and audited under the oversight of the board in a manner that prevents discriminatory and biased policing activities.
- That the Director consider incorporating the VPD Restaurant Watch program into the planned compliance evaluation Director's Standard 6.2.1 (Police Stops).

### Background

The OPCC directed an investigation into the conduct of VPD officers following a complaint about alleged racial profiling. The complainant reported that he was dining with a colleague when he was approached by two members of the VPD who demanded to see their identification and stated that the complainant and his friend "resembled gangsters." Furthermore, the complainant advised that police told them that due to their ethnic backgrounds, they were more likely to be a threat or to be engaged in criminal or gang activity. This complaint was investigated for an allegation of Abuse of Authority for racial discrimination.

Upon review of the investigation into this complaint, the OPCC learned that police were conducting checks of patrons under the authority of the Restaurant Watch program; the owner/designated representative of the restaurant had signed an agreement with the VPD under the Restaurant Watch program which authorized members of the VPD to, inter alia, "request, and to be provided with, valid information from certain persons within the premises, based on the prior knowledge, beliefs, and/or observations of the attending members..."

Ultimately, the investigation determined the police did not abuse their authority, as police reasonably believed the complainant's colleague resembled a known gang member and the complainant was asked for his identification based on his connection to this possible gang member. Police were

incorrect in this belief. According to the Discipline Authority at VPD, there was insufficient evidence to support that police racially profiled or discriminated the complainant on the basis of his skin colour or ethnicity.

The investigation into this incident highlighted a number of concerns for the OPCC relating to police reliance on identity factors in requesting valid identification from individuals and how this may arise under the Restaurant Watch or other targeted law enforcement programs. For instance, one of the respondent members stated that they checked the complainant and his colleague because the colleague resembled a known gangster and explained that the colleague and the known gangster were both South Asian males in their 40s. The member further stated that the complainant did not actually "fit the criteria" of being involved in the gang landscape due to the complainant's ethnicity, and that most individuals involved in the Lower Mainland gang conflict are "Sikhs like [him]." A second officer, who identified as South Asian, stated that he has been mistaken as a gang member and checked on his days off while at a restaurant.

Upon review of the matter, the OPCC noted the importance of the Unbiased Policing Standards, specifically Standard 6.1.1 which places obligations on municipal police boards in relation to "policies and procedures," and queried whether this definition includes "programs" in whole.

### Response to Recommendation

The Director of Police Services advised that they understand VPD and the Vancouver Police Board have assessed or are in the process of assessing their policies and procedures in relation to the Standards 6.1 and other equity-related considerations. The Director of Police Services further advised that it is their expectation that the Board ensure policies and procedures, as well as programs of the VPD, are legally sound and consistent with the promotion of equitable and impartial service delivery, public trust, and confidence in policing. The Director of Police Services confirmed that their office would continue to monitor the implementation of Standards 6.1, and will consider amendments to Standards 6.2 when assessing compliance.

### Next Steps

The OPCC will continue to monitor for any further action taken by the Director of Police Services in relation to this recommendation.





## POLICE UNIFORMS AND THE THIN BLUE LINE

### Recommendation to the Director of Police Services

Ensure uniform items are consistent with the promotion of equitable and unbiased service delivery to socially and/or racially marginalized communities.

#### Recommendation

- That the Director of Police Services consider exercising their power to review the *Police (Uniform) Regulation* to take into consideration the principles and duties as established by *Provincial Policing Standard Section 6 (Promotion of Unbiased Policing)*. In particular, consider the use of the “thin blue line” badge and other items of uniform to ensure their use is consistent with the promotion of equitable and unbiased service delivery to socially and/or racially marginalized communities and the delivery of services impartially and equitably and in a culturally safe, responsive, and trauma-informed manner.

#### Background

The OPCC received a Service or Policy complaint from an individual outlining their concerns about a Metro Vancouver Transit Police (“MVTP”) officer displaying a “thin blue line” badge on their uniform, which, according to the individual, is a symbol associated with groups who promote hate. The Transit Police Board (“Board”) concluded the matter after receiving a report prepared by the Chief Officer of the MVTP and confirmed that the wearing of the “thin blue line” badge was authorized by MVTP policy.

The OPCC received 42 complaints from the public expressing concern with police from several police departments wearing the thin blue line badge on their uniform.

Upon review of the Board’s handling of the matter, the OPCC noted that the Chief Officer’s report remarked on the controversial use of the “thin blue line” emblem and assessed that most police services’ departmental policies on uniform standards are not completely aligned with the *Police (Uniform) Regulation* as the Regulation has not kept pace with modern police uniform design since its inception in 1976.

As such, the OPCC recommended that the Director of Police Services, in consideration of modernizations to the *Police Act* and associated regulations, consider the use of the “thin blue line” badge and other items of uniform to ensure their use is consistent with the promotion of equitable and unbiased service delivery to socially and/or racially marginalized communities and the delivery of services impartially and equitably and in a culturally safe, responsive, and trauma-informed manner.

#### Response to Recommendation

The Director of Police Services advised that the Policing and Security Branch will be reviewing the *Police (Uniform) Regulation* to ensure it is consistent with the values of anti-racism and unbiased policing as part of their overall effort on advancing work on the recommendations of the Special Committee on Reforming the *Police Act*.

#### Next Steps

The OPCC will continue to monitor for any updates to the relevant provincial law on police uniforms.





## USE OF FORCE REPORTING

# Recommendation to the Victoria Police Board

## Review of Victoria Police Department policy for use-of-force reporting.

### Recommendation

- That the Board review and, as required, amend existing policy on use of force to be consistent with the requirements of the Provincial Policing Standards; specifically, the requirement that members ensure that all use of force reports are completed within 48 hours of an incident, unless there are exceptional circumstances that warrant an extension and that extension is approved by the Chief Constable.

### Background

The OPCC directed an investigation into the conduct of Victoria Police Department (VicPD) officers following a complaint about an incident involving use of force. During the course of the investigation into the officers' conduct, it was learned that two officers did not complete their Subject Behaviour Officer Response (SBOR) reports in a manner consistent with policy. Specifically, one officer did not complete an SBOR report, and the other officer completed an SBOR months following the interaction that gave rise to the complaint.

Upon review of the matter, the OPCC found that VicPD policy on use of force reporting required officers to document all use of force applications beyond compliant handcuffing "as soon as practicable." It would appear that this policy may not be consistent with the requirements of the Provincial Policing Standards which requires the Chief Constable to ensure that all use of force reports are completed within 48 hours of the incident, unless there are exceptional circumstances and as approved by the Chief Constable.

### Response to Recommendation

The OPCC received correspondence confirming that VicPD policy in this area was updated to align with the Provincial Policing Standards requirement that use of force reports be completed no later than 48 hours after an incident, unless an extension is granted by the Chief Constable in exceptional circumstances.

### Next Steps

The OPCC reviewed the response and will be taking no further action with respect to this matter.

# Reform of the *Police Act*

In 2019, the Special Committee of the Legislature to Review the Police Complaint Process delivered a report with several recommendations for legislative change to enhance accountability in policing that remain outstanding, including recommendations that:

- the OPCC be provided the ability to conduct self-initiated systemic reviews;
- the OPCC be provided the ability to arrange a Public Hearing earlier in the complaint process; and
- changes to Part 11 of the *Police Act* to improve the efficiency and timeliness of the police complaint process.

In 2021, the Special Committee on Reforming the *Police Act* was established to examine, inquire into, and make recommendations to the Legislative Assembly on:

- reforms related to the modernization and sustainability of policing under the *Police Act*;
- the role of police with respect to complex social issues including mental health and wellness, addictions and harm reduction;
- the scope of systemic racism within BC's police agencies; and
- whether there are measures necessary to ensure a modernized *Police Act* is consistent with the United Nations Declaration on the Rights of Indigenous Peoples (2007).

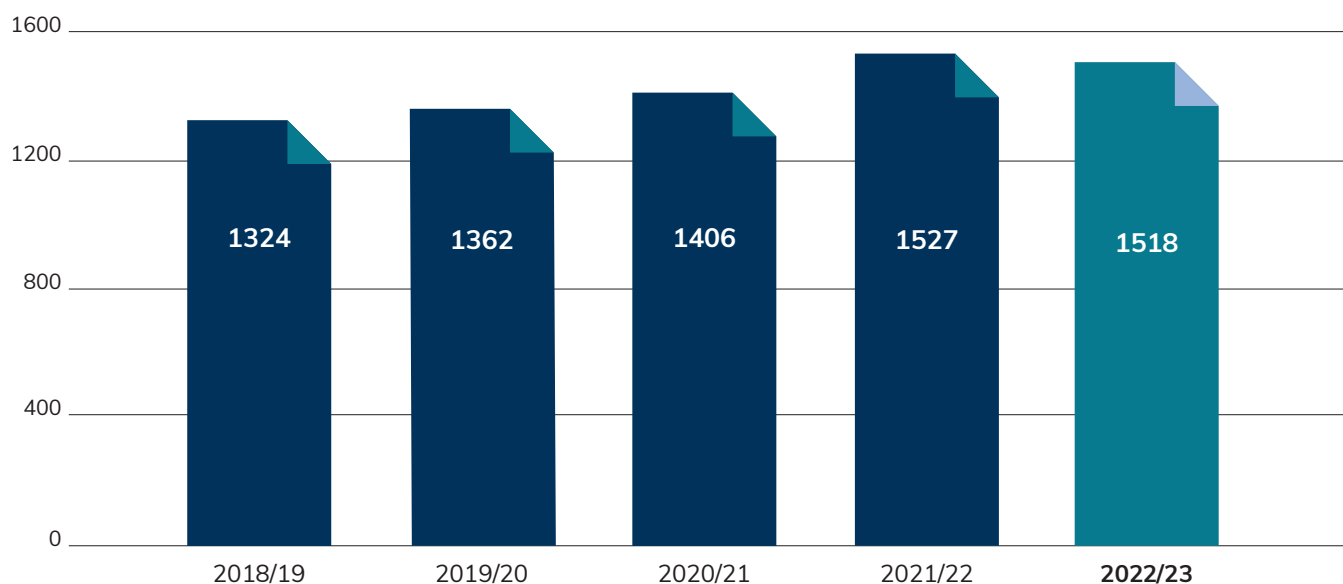
In April 2022, the Special Committee on Reforming the *Police Act* delivered a report with 11 recommendations for broad changes related to the *Police Act* that included reference to an independent, civilian-led oversight of the police complaint process. Government has engaged the OPCC on these as well as the 2019 recommendations, and we look forward to continuing to work with Government on these important issues.





# More of Our Story in Numbers

## Files Opened: Yearly Comparisons (past five years)



## Files Opened: Comparisons by Department (past five years)<sup>32</sup>

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Abbotsford	126	149	189	202	233
Central Saanich	6	17	9	17	8
CFSEU	2	5	1	4	3
Delta	79	53	69	64	63
Nelson	16	15	22	19	17
New Westminster	37	42	73	64	53
Oak Bay	7	8	12	11	5
Port Moody	33	38	36	29	20
Saanich	72	84	77	90	84
Surrey	0	2	0	12	61
MVTP	104	44	87	64	47
Stl'atl'imx	5	4	8	6	10
Vancouver	602	689	633	736	745
Victoria	210	186	162	181	157
West Vancouver	25	26	28	28	12
<b>Total</b>	<b>1324</b>	<b>1362</b>	<b>1406</b>	<b>1527</b>	<b>1518</b>

<sup>32</sup> Data for this report was analyzed between April 1, 2022 and March 31st, 2023 from the OPCC's records management database, Oracle. This report reflects accurate and complete data as of August 19, 2023. Since the OPCC uses a dynamic, live database, the numbers presented in this report may also vary slightly from figures presented in previous OPCC reports due to changes in processing and reporting.

## Files Opened by Type (past five years)

	2018/2019		2019/2020		2020/2021		2021/2022		2022/2023	
Police Complaints	487	37%	537	39%	585	42%	731	48%	706	47%
Investigations Initiated by PCC	25	2%	32	2%	21	1%	18	1%	12	1%
Investigations Requested by Dept	54	4%	65	5%	42	3%	38	2%	64	4%
Serious Harm Investigations	14	1%	18	1%	33	2%	24	2%	30	2%
Monitor Files	495	37%	485	36%	510	36%	492	32%	552	36%
Internal Discipline Files	22	2%	22	2%	16	1%	19	1%	17	1%
Service or Policy Complaints	23	2%	39	3%	31	2%	42	3%	10	1%
Questions or Concerns	204	15%	164	12%	168	12%	163	11%	127	8%
<b>Total</b>	<b>1324</b>		<b>1362</b>		<b>1406</b>		<b>1527</b>		<b>1518</b>	

## File Types

<b>Police Complaints</b>	Complaints about a police officer's conduct or actions that affect a member of the public.
<b>Ordered Investigations &amp; Serious Harm Investigations</b>	Investigations may be initiated by the Commissioner, whether requested by a department or as a result of information received from any source that raises concerns about officer misconduct. The Police Act also requires the Commissioner to order a mandatory external investigation into any incident resulting in serious harm or death.
<b>Monitor Files</b>	Opened when information is received by the OPCC from the police, including reportable injuries, or from other sources, such as public information, that may require an investigation pursuant to the Police Act. Typically, these are incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have yet been identified. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "reviewed and closed."
<b>Internal Discipline Files</b>	Involve performance management issues or employer/employee concerns that do not affect members of the public; are not the subject of a complaint or investigation; and no overriding public interest in proceeding with the matter as a public trust matter.
<b>Service or Policy Complaints</b>	Involve the quality of a police department's service to the community or regarding their operating policies.
<b>Questions or Concerns</b>	If a member of the public has a question or concern about a municipal police officer's conduct that does not result in the making of a police complaint, he or she may contact a municipal police department directly. The member of the municipal police department who receives the question or concern must inform the professional standards section of the involved municipal police department. The professional standards section must record the question or concern and forward a copy of the record, along with how it was resolved, to the Office of the Police Complaint Commissioner for review.



## Files Opened in 2022/2023 by Police Department and Type<sup>33</sup>

	Police Complaint Admissible	Police Complaint Inadmissible	Serious Harm Investigation	Ordered Investigation Department	Ordered Investigation PCC	Question or Concern	Service or Policy Complaints	Internal	Monitor	Total
Abbotsford	31	25	5	6	1	39	0	0	126	233
Central Saanich	2	5	0	0	0	0	0	0	1	8
CFSEU	0	1	0	0	0	0	0	0	2	3
Delta	7	22	0	2	0	7	1	1	23	63
Nelson	3	3	0	2	0	2	0	2	5	17
New Westminster	7	17	1	2	0	4	0	1	21	53
Oak Bay	0	2	0	0	0	0	0	0	3	5
Port Moody	3	4	1	2	0	2	0	0	8	20
Saanich	12	27	2	0	0	21	0	2	20	84
Surrey	11	15	0	5	1	3	2	0	24	61
MVTP	11	9	2	2	1	0	0	2	20	47
Stl'atl'imx	0	2	0	1	0	0	0	2	3	10
Vancouver	141	257	17	34	7	44	7	7	229	745
Victoria	27	50	2	7	1	5	0	0	65	157
West Vancouver	1	7	0	1	1	0	0	0	2	12
<b>Total</b>	<b>256</b>	<b>446</b>	<b>30</b>	<b>64</b>	<b>12</b>	<b>127</b>	<b>10</b>	<b>17</b>	<b>552</b>	<b>1518</b>

## Disaggregated Demographic Data<sup>34</sup>

Throughout the OPCC complaint process, complainants are provided the option to disclose their age, sex, gender, and racialized identities. We acknowledge the importance of the “Grandmother’s perspective” in all data collection, specifically that the collection of race-based data should be accompanied by processes focused on reducing systemic racism and achieving equality.<sup>35</sup> As the Province develops broader anti-racism legislation that builds on the new Anti-Racism Data Act,<sup>36</sup> and the OPCC gains additional data analytics capacity, we will be reviewing our practices relating to the collection, storage and disclosure of demographic information, especially race-based data to ensure we adopt and maintain best practices in this regard.

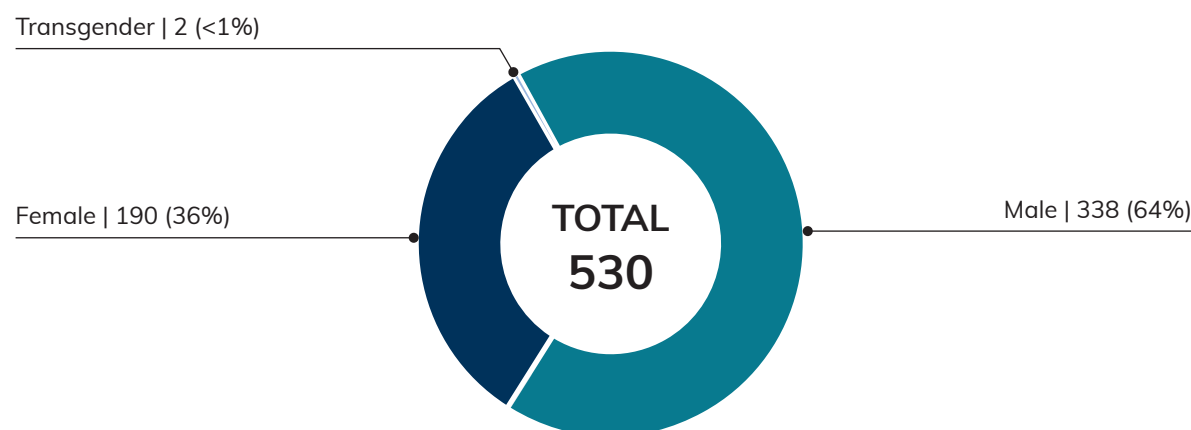
33 At the time of publication, a total of 4 police complaints were pending admissibility in 2 police departments, including Stl'atl'imx and Vancouver.

34 Missing data (i.e. questions on the complaint form that were not answered/left blank) is not included in these figures. Of the 706 people who submitted a police complaint during the 2022/2023 period covered in this report, 75% disclosed their gender identity, 83% disclosed their age, and 68% disclosed their racialized identity.

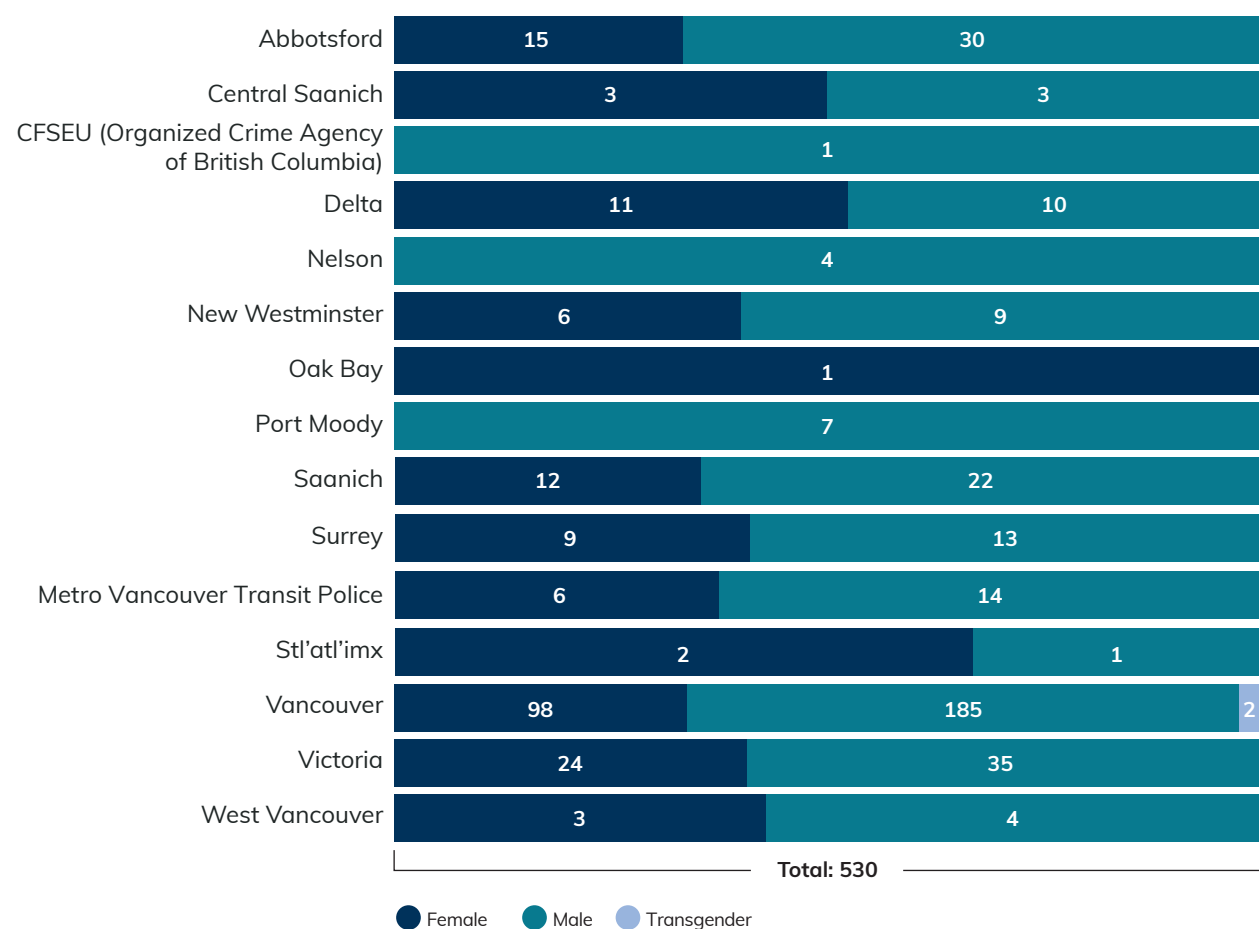
35 Disaggregated demographic data collection in British Columbia: The grandmother perspective, 2020, British Columbia's Office of the Human Rights Commissioner. <https://bchumanrights.ca/publications/datacollection/>

36 Government of British Columbia. Anti-racism legislation. <https://engage.gov.bc.ca/antiracism/>

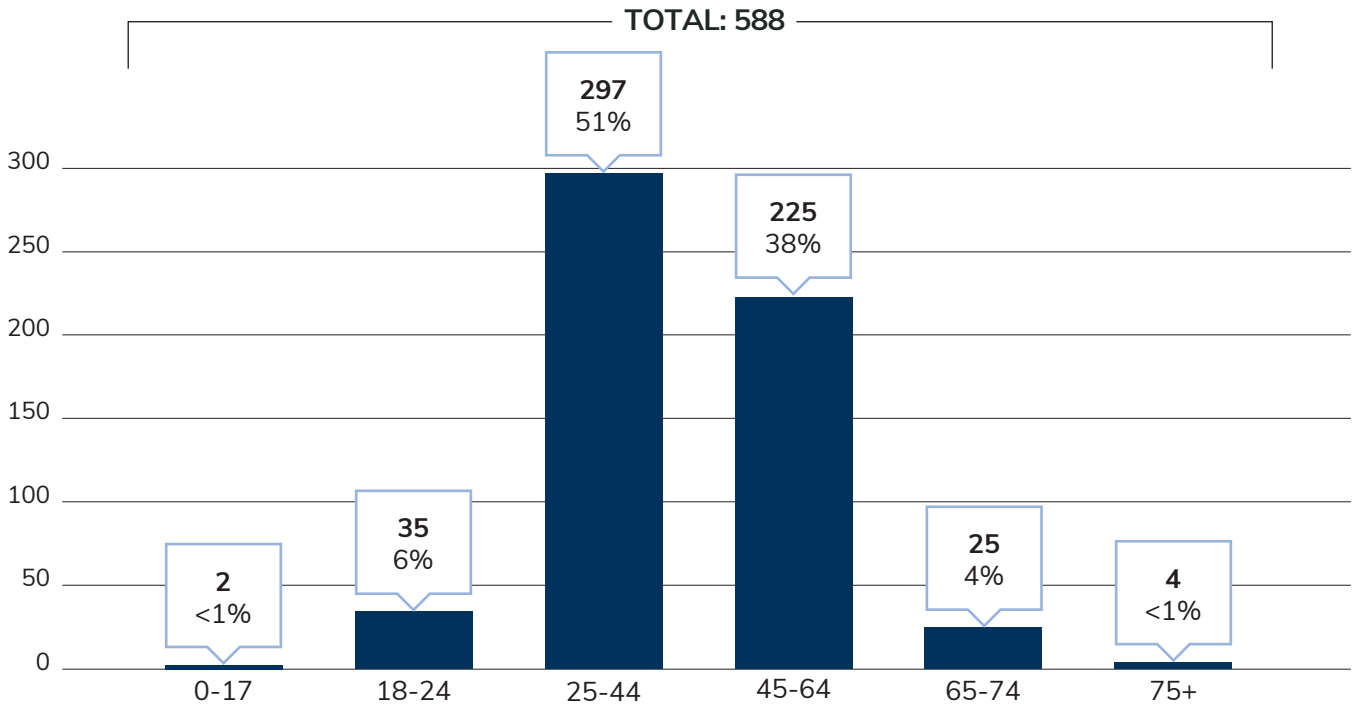
# Gender Identity of Persons Filing Police Complaints



# Gender Identity of Persons Filing Police Complaints by Department



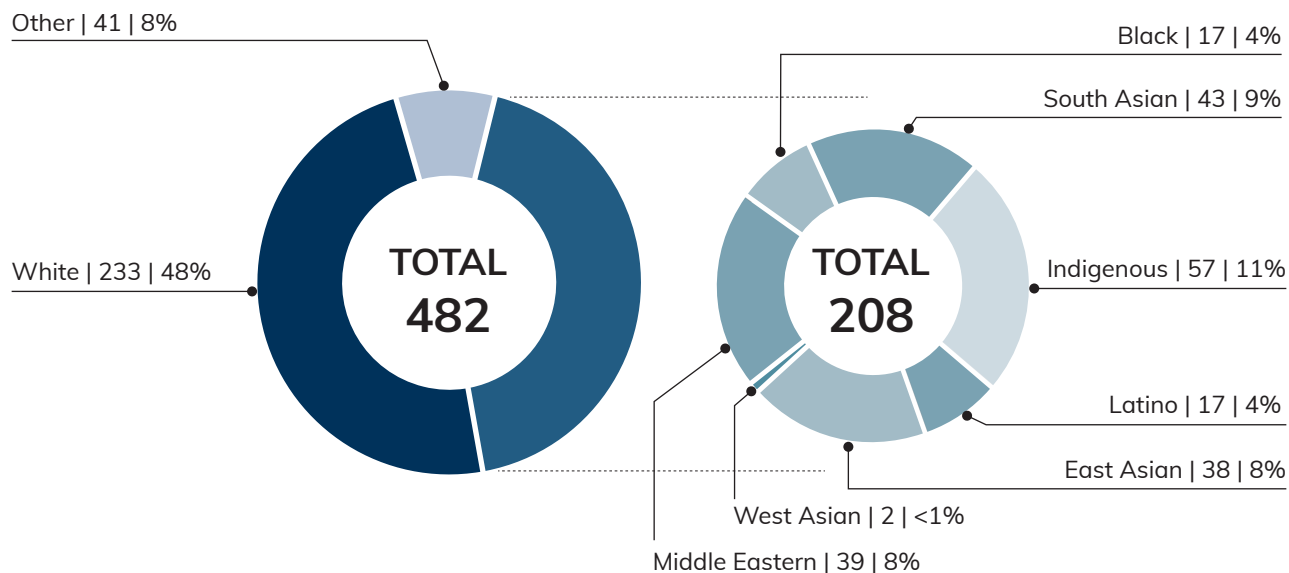
## Age of Persons Filing Police Complaints



## Age of Persons Filing Police Complaints by Department

	0-17	18-24	25-44	45-64	64-74	75+	Total
Abbotsford	0	1	28	18	1	0	48
Central Saanich	0	1	5	1	0	0	7
CFSEU	0	0	1	0	0	0	1
Delta	0	3	12	7	3	0	25
Nelson	0	0	2	2	1	0	5
New Westminster	0	2	12	8	1	0	23
Oak Bay	0	0	2	0	0	0	2
Port Moody	0	2	2	3	0	0	7
Saanich	0	1	16	17	0	1	35
Surrey	0	2	13	8	3	0	26
MVTP	0	1	14	6	0	0	21
Stl'atl'imx	0	0	2	2	0	0	4
Vancouver	0	21	151	119	13	1	305
Victoria	2	1	32	33	3	2	73
West Vancouver	0	0	5	1	0	0	6
<b>Total</b>	<b>2</b>	<b>35</b>	<b>297</b>	<b>225</b>	<b>25</b>	<b>4</b>	<b>588</b>

## Racialized Identity of Persons Filing Police Complaints



## Racialized Identity of Persons Filing Police Complaints by Department

	Black	East Asian	Indigenous	Latino	Middle Eastern	South Asian	West Asian	White	Other	Total
Abbotsford	2	1	7	0	0	5	0	23	3	41
Central Saanich	1	0	0	0	0	0	0	4	0	5
CFSEU	0	0	0	0	0	0	0	1	0	1
Delta	0	1	1	1	0	10	0	10	1	24
Nelson	0	0	0	0	0	0	0	3	0	3
New Westminster	1	0	0	1	0	2	0	7	2	13
Oak Bay	0	0	0	0	0	0	0	2	0	2
Port Moody	0	0	0	0	2	0	0	4	0	6
Saanich	0	0	4	0	1	2	0	22	1	30
Surrey	0	3	0	0	3	2	0	12	0	20
MVTP	2	5	0	1	2	0	0	6	2	18
Stl'atl'imx	0	1	3	0	0	0	0	0	0	4
Vancouver	11	26	24	14	28	20	2	102	28	255
Victoria	0	0	13	0	1	1	0	34	4	53
West Vancouver	0	1	0	0	2	1	0	3	0	7
<b>Total</b>	<b>17</b>	<b>38</b>	<b>52</b>	<b>17</b>	<b>39</b>	<b>43</b>	<b>2</b>	<b>233</b>	<b>41</b>	<b>482</b>

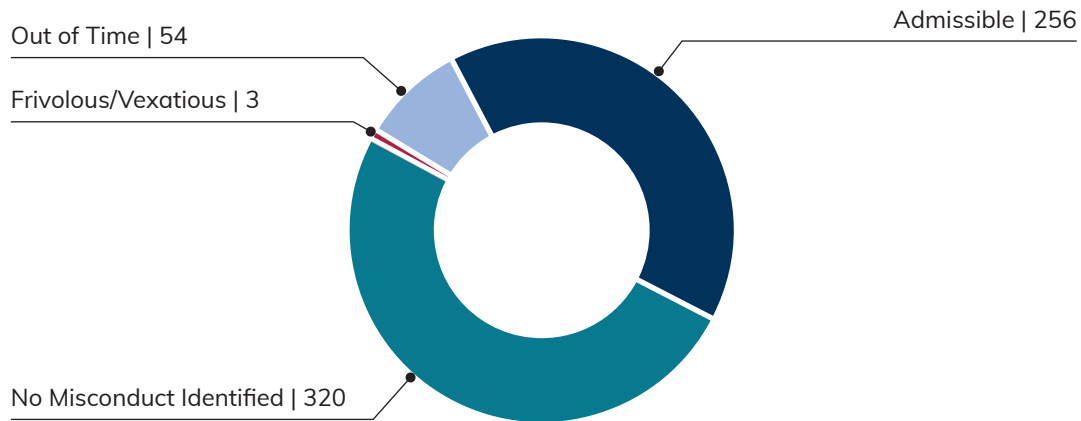
## Allegations of Misconduct 2022/2023

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

Abuse of Authority	176 (41%)
Neglect of Duty	119 (27%)
Discourtesy	58 (14%)
Discreditable Conduct	57 (13%)
Corrupt Practice	10 (2%)
Improper Disclosure of Information	3 (1%)
Damage to Property of Others	3 (1%)
Deceit	2 (<1%)
Improper Use or Care of Firearms	1 (<1%)
Public Trust Offence	1 (<1%)
Accessory to Misconduct	0
Damage to Police Property	0
Improper Off-Duty Conduct	0
Misuse of Intoxicants	0



## Police Complaints: Admissibility Assessments 2022/2023\*

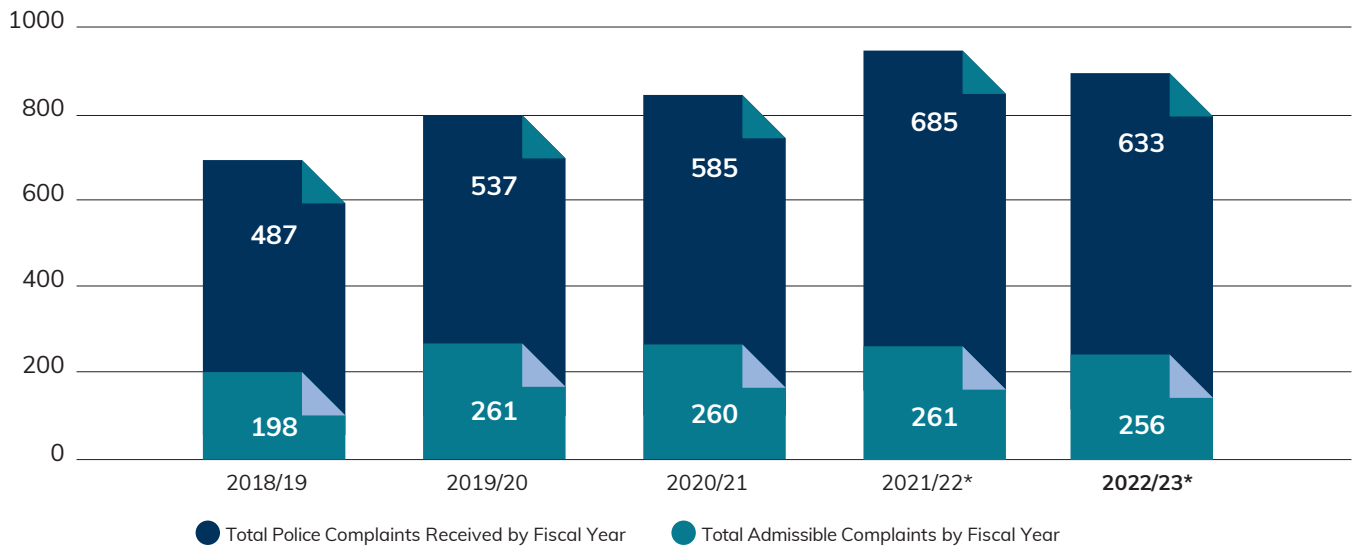


\*4 police complaints are pending at the time of publication

\*51 police complaints involved multiple parties complaining about the same incidents. Those complaints were re-classified as neither admissible nor inadmissible after a 1st party police complaint was opened (a person directly affected or a direct witness to the incident), or an ordered investigation was initiated, or the matter proceeded through the 'Service or Policy' process.

\*18 police complaints were withdrawn

## Police Complaints: Admissibility Assessments (past five years)



The average admissibility rate for the past five years is 42%. The majority of complaints that are deemed inadmissible are because the complainant has not identified an allegation of misconduct. Once the OPCC has determined that a complaint is admissible, the police department must investigate the allegations contained in the complaint. The number of complaints forwarded for investigation have remained static over the past three years.

\*For FY 2022-2023

4 police complaints are pending at the time of publication

51 police complaints involved multiple parties complaining about the same incidents. Those complaints were re-classified as neither admissible nor inadmissible after a 1st party police complaint was opened (a person directly affected or a direct witness to the incident), or an ordered investigation was initiated, or the matter proceeded through the 'Service or Policy' process.

18 police complaints were withdrawn

\*For FY 2021-2022

1 police complaint is pending at the time of publication

24 police complaints involved multiple parties complaining about the same incidents. Those complaints were re-classified as neither admissible nor inadmissible after a 1st party police complaint was opened (a person directly affected or a direct witness to the incident), or an ordered investigation was initiated, or the matter proceeded through the 'Service or Policy' process.

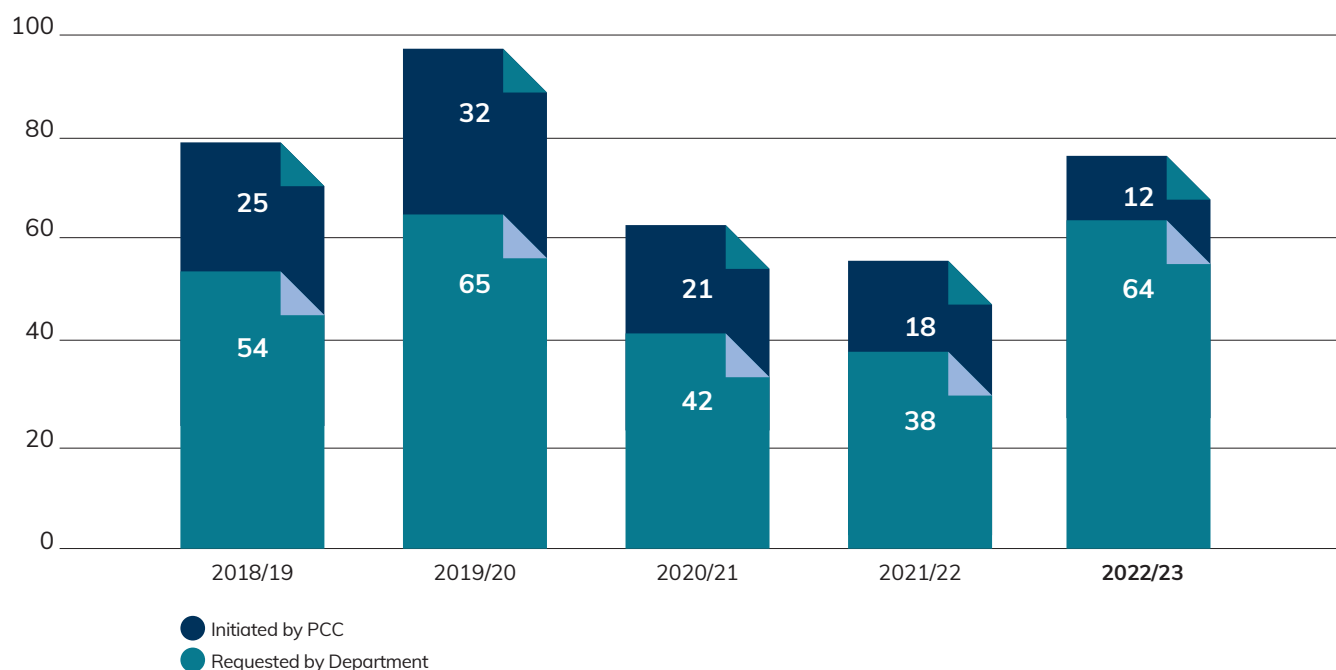
21 police complaints were withdrawn

## Admissible Complaints and Disposition (past five years)

	2018/19	2019/20	2020/21	2021/22	2022/23
<b>Total Police Complaints Received</b>	<b>487</b>	<b>537</b>	<b>585</b>	<b>731</b>	<b>706</b>
<b>Total 'Admissible' Complaints</b>	<b>198</b>	<b>261</b>	<b>260</b>	<b>261</b>	<b>256</b>
<b>Admissible Complaints Concluded</b>	<b>198</b>	<b>258</b>	<b>252</b>	<b>245</b>	<b>152</b>
– Forwarded to Discipline Authority*	84	132	156	119	57
– Complaint Resolution/Mediated	72	78	51	70	43
– Withdrawn	20	20	20	28	20
<b>Still Open</b>	<b>0</b>	<b>3</b>	<b>8</b>	<b>16</b>	<b>104</b>

\*In the first instance and after an investigation is conducted by the police under OPCC oversight, senior police officers (Chief Constables or their delegates) sit as "discipline authorities" and make decisions as to whether or not misconduct has occurred.

## Ordered Investigations (past five years)



The Police Complaint Commissioner can initiate an investigation in the absence of a complaint from the public. A total of 76 investigations were independently ordered by the OPCC during the 2022/2023 period covered in this report.

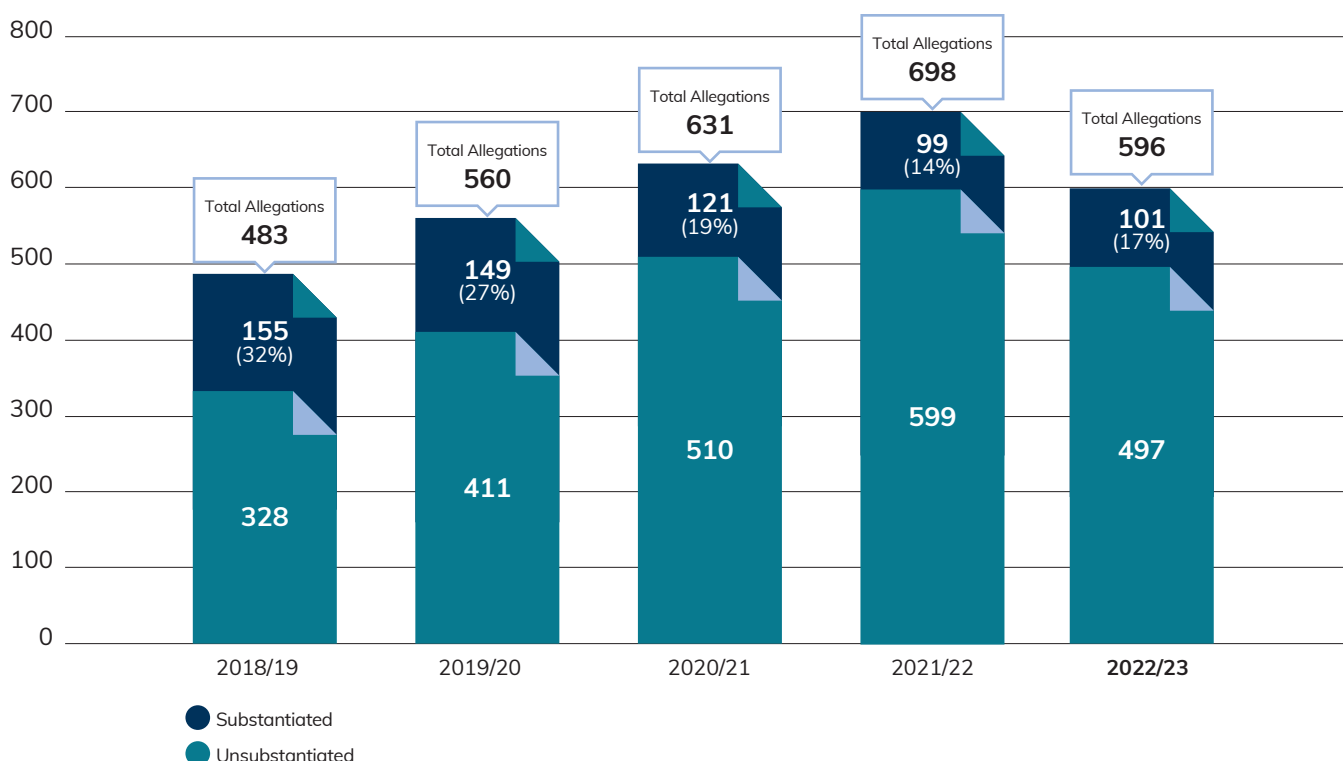
## Ordered Investigations and Disposition (past five years)

	2018/19	2019/20	2020/21	2021/22*	2022/23
Total Number of Ordered Investigations	79	97	63	56	76
Ordered Investigations Concluded	79	92	57	42	19
– Forwarded to Discipline Authority**	71	87	54	41	18
– Discontinued	8	4	3	0	1
Still Open	0	5	6	14	57

\*In 2021-22, one file was forwarded to Complaint Resolution

\*\*In the first instance and after an investigation is conducted by the police under OPCC oversight, senior police officers (Chief Constables or their delegates) sit as "Discipline Authorities" and make decisions as to whether or not misconduct has occurred.

## Misconduct Rate (past five years)



\*This figure includes all substantiated allegations arising from police complaint, serious harm, internal discipline, and ordered investigations.

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

## Reportable Injuries by Type of Force (past five years)

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
Total Notifications	404	417	448	428	445
Total Uses of Force	548	639	684	574	549
Arwen/Bean Bag	29	77	125	99	120
Baton	2	6	11	5	6
Dog Bite	137	120	98	97	94
Empty Hand	138	177	163	90	46
Firearm	2	0	6	3	8
Motor Vehicle Accident	36	30	38	31	33
OC Spray (pepper spray)	13	17	25	22	17
Other	57	63	68	76	93
Pre-existing	32	15	17	10	11
Self-inflicted	75	81	73	66	59
Taser	27	53	60	75	62

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

## Adjudicative Reviews (past five years)

<b>Appointment of a New Discipline Authority [S.117]</b>	If, following an investigation, the Discipline Authority determines that the conduct of the officer did not constitute misconduct, and the Commissioner believes there is a reasonable basis to believe the decision is incorrect, the Commissioner may appoint a retired judge to review the matter.
<b>Review on the Record [S.141]</b>	Following a discipline proceeding, the Commissioner has the discretion to order a review of the proceeding where there is a reasonable basis to believe that the decision of the Discipline Authority is incorrect, or it is in the public interest to review the matter. Reviews on the Record are conducted by retired judges and is primarily a review of evidence and records of the file, including any submissions.
<b>Public Hearing [S.143]</b>	Public Hearings remain an option for the Commissioner if he believes such a review of a Police Act matter is required in the public interest. Public Hearings are conducted by retired judges, are open to the public and evidence is presented under oath.

	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	Total
Appointment of Retired Judge (s. 117)	3	13	9	16	12	53
Review on the Record	5	2	4	1	4	16
Public Hearing	1	2	0	0	0	3
<b>Total</b>	<b>9</b>	<b>17</b>	<b>13</b>	<b>17</b>	<b>16</b>	<b>72</b>



All decisions from these three adjudicative avenues are available to the public through the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca). There is also a schedule of current Public Hearings or Reviews on the Record indicating the date and place of the hearings. All Public Hearings and Reviews on the Record are open to the public to attend.



# Surrey Police Model Transition

In June 2020, the Province appointed a municipal police board to govern the new municipal police service for the City of Surrey. Upon creation of the Surrey Police Board, Part 11 of the *Police Act* applied to the board and its appointed municipal police officers. Additionally, the appointment of the board granted the public an automatic opportunity to submit “Service or Policy” complaints to the OPCC concerning matters such as resource allocation, program delivery, policies or services offered to the public. These complaints are overseen by the OPCC to ensure the board is transparent and responsive.

In September 2020, the Surrey Policing Transition Trilateral Committee was established between Public Safety Canada, the Province of British Columbia and the City of Surrey to develop and implement the phased integrated transition of the RCMP to the Surrey Police Service (SPS).

On November 30, 2021, the first cohort of 50 SPS officers began operational deployment with the Surrey RCMP municipal police unit and as of March 2023, Surrey Police Service had 332 sworn police officers, with 219 deployed to work alongside the Surrey RCMP, which remain the police of jurisdiction. Surrey’s growing municipal police service falls under OPCC jurisdiction. During the reporting period, the OPCC continued to plan for SPS transition and accountability, and on July 19, 2023, the Minister of Public Safety and Solicitor General made the decision under section 2 of the *Police Act* that the transition would continue.

For more information about the implementation and civilian oversight of the Surrey Police Service see <https://www.surreypolice.ca/>.



# Staffing and Budget

The OPCC is a civilian-led agency that oversees complaints and investigations into allegations of misconduct involving municipal police officers who have significant power over citizens in the enforcement of federal and provincial laws. The office also identifies wider trends in police misconduct and makes recommendations to address systemic factors that may be involved to prevent the recurrence of misconduct. The office's mandate requires OPCC staff to have both an appreciation for the fundamental importance of civilian oversight of policing and specialized knowledge to ensure that oversight is effective.

Our team includes staff with diverse professional backgrounds, including training in the law and policing. About two-thirds of executive and management roles have civilian backgrounds, such as in law and policy, regulatory fields, administrative investigations and academia. The Commissioner makes it a priority to maintain this important balance between the civilian nature of the office and the expertise staff need to possess to do their work effectively. Intensive training, both in-house and external, is provided to staff to advance these ends. During the reporting period, the office had 37 staff, including 16 Investigative Analysts who are directly involved in the oversight of misconduct investigations. There are an additional 25 Corporate Shared Services staff that provide finance, payroll, administration, facilities, human resources, and information technology support for four independent Offices of the Legislature, including the OPCC.

## Our Finances

Each Fall, the OPCC is required to present to the Select Standing Committee on Finance and Government Services our budgetary needs. The table below provides a summary of our finances for Fiscal Year 2022/2023.

### Fiscal 2022/2023 Budget

Operating Budget	\$6,284,000
Adjudicative & Judicial Budget	\$700,000
Total Budget	\$6,984,000

### Fiscal 2022/2023 Expenditures

Operating Expenditures	\$5,943,070
Adjudicative and Judicial Expenditures	\$615,752
Total Expenditures	\$6,558,821

### Fiscal 2022/2023 Capital

Capital Budget	\$224,000
Capital Expenditures	\$155,020



# Further Resources

**Office of the Police Complaint Commissioner website**

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

## **OPCC brochures**

Let Us Help You Guide

<https://opcc.bc.ca/wp-content/uploads/2017/03/Let-us-help-you.pdf>

General Information

<https://opcc.bc.ca/wp-content/uploads/2023/01/opcc-general-information-brochure.pdf>

Alternative Dispute Resolution

<https://opcc.bc.ca/wp-content/uploads/2023/01/opcc-complaint-resolution-brochure.pdf>

## **Complaint Form**

<https://opcc.bc.ca/wp-content/uploads/2022/08/printable-registered-complaint-form-2022.pdf>

## **Police Act of British Columbia**

[https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96367\\_01](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96367_01)

## **Independent Investigations Office of British Columbia**

[www.iiobc.ca](http://www.iiobc.ca)

## **Other Canadian oversight agencies**

<https://opcc.bc.ca/resources/canadian-police-oversight-agencies/>

# Appendix

Summaries of all substantiated allegations against municipal police officers concluded between April 1, 2022 and March 31, 2023.

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

## PUBLIC INTEREST DISCLOSURE ACT

British Columbia's *Public Interest Disclosure Act* requires public bodies in British Columbia to report on investigations into wrongdoing started under the Act, the number of disclosures made internally and the number received by the Office of the Ombudsperson. The Office of the Police Complaint Commissioner has not had any investigations or disclosures under PIDA since the legislation was enacted.

25  
YEARS



Office of the Police Complaint Commissioner

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