

# 2015/2016 First Quarter in Review

(April 1, 2015 to June 30, 2015)

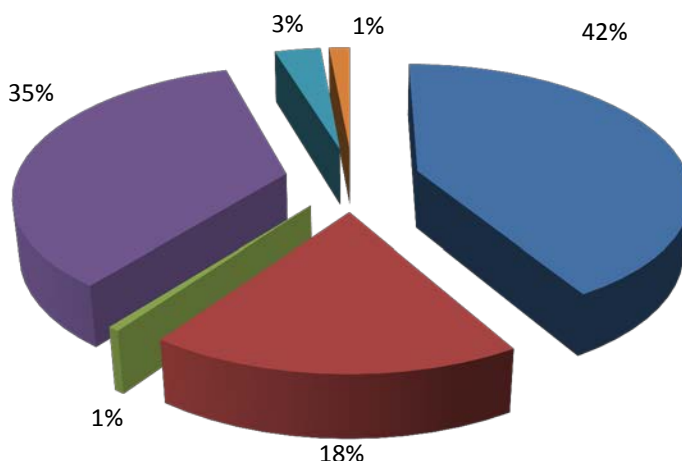
*Please note the data contained in the following report may vary slightly from previous releases. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.*

The files opened by the OPCC from April 1 to June 30, 2015, can be broken down into the following categories:

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

339 Files Opened between April 1 and June 30, 2015

141	Registered Complaints
62	Questions or Concerns
2	Internal Discipline
118	Monitor
11	Ordered Investigations
5	Service or Policy



# Admissibility of Registered Complaints Received between April 1 and June 30, 2015

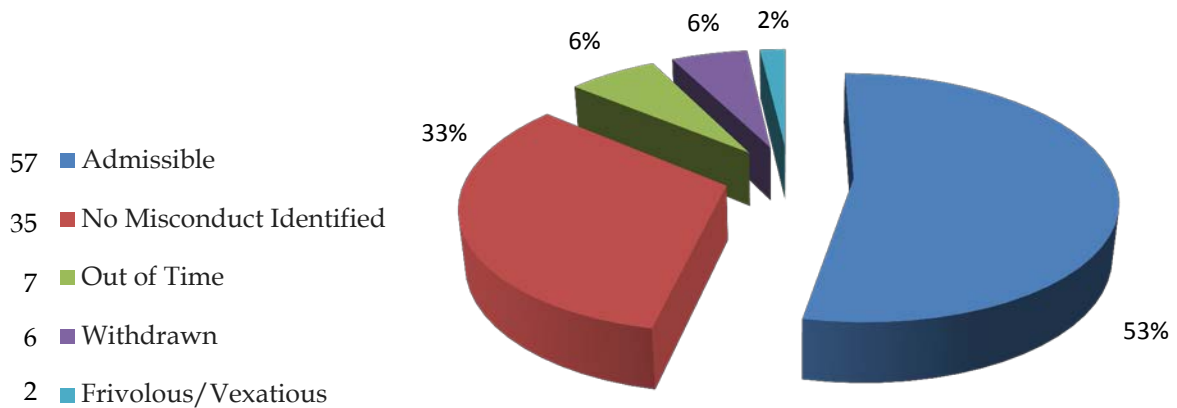
The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

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

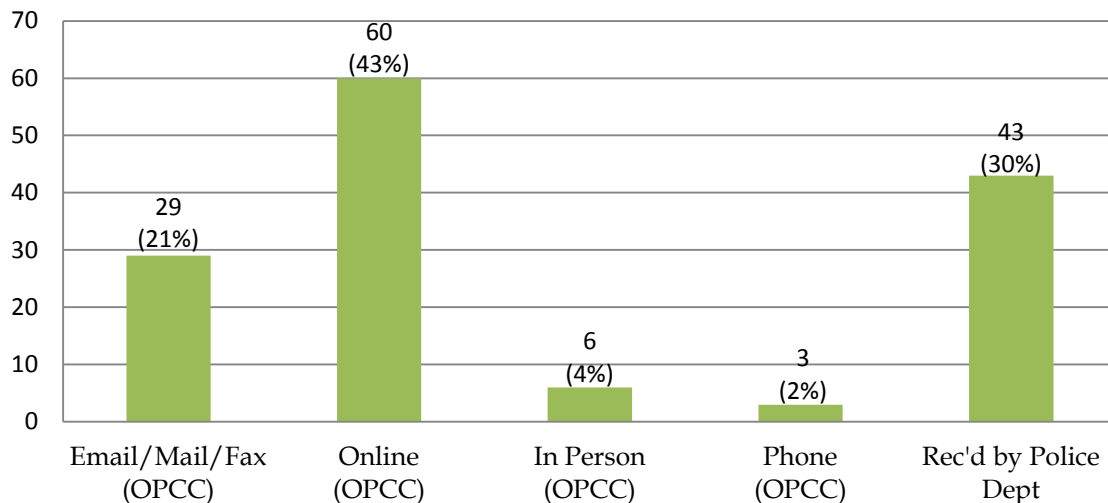
- Contain allegation(s) of conduct that, if proven, would constitute misconduct as defined by the *Act*;
- The complaint must be filed within one year of when it occurred; and
- Not be frivolous or vexatious

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

## Breakdown of Admissibility of Registered Complaints <sup>1</sup>



## How Registered Complaints were received between April 1 and June 30, 2015



<sup>1</sup> When this report was generated, 34 registered complaints were undergoing an admissibility review and a determination had not yet been made.

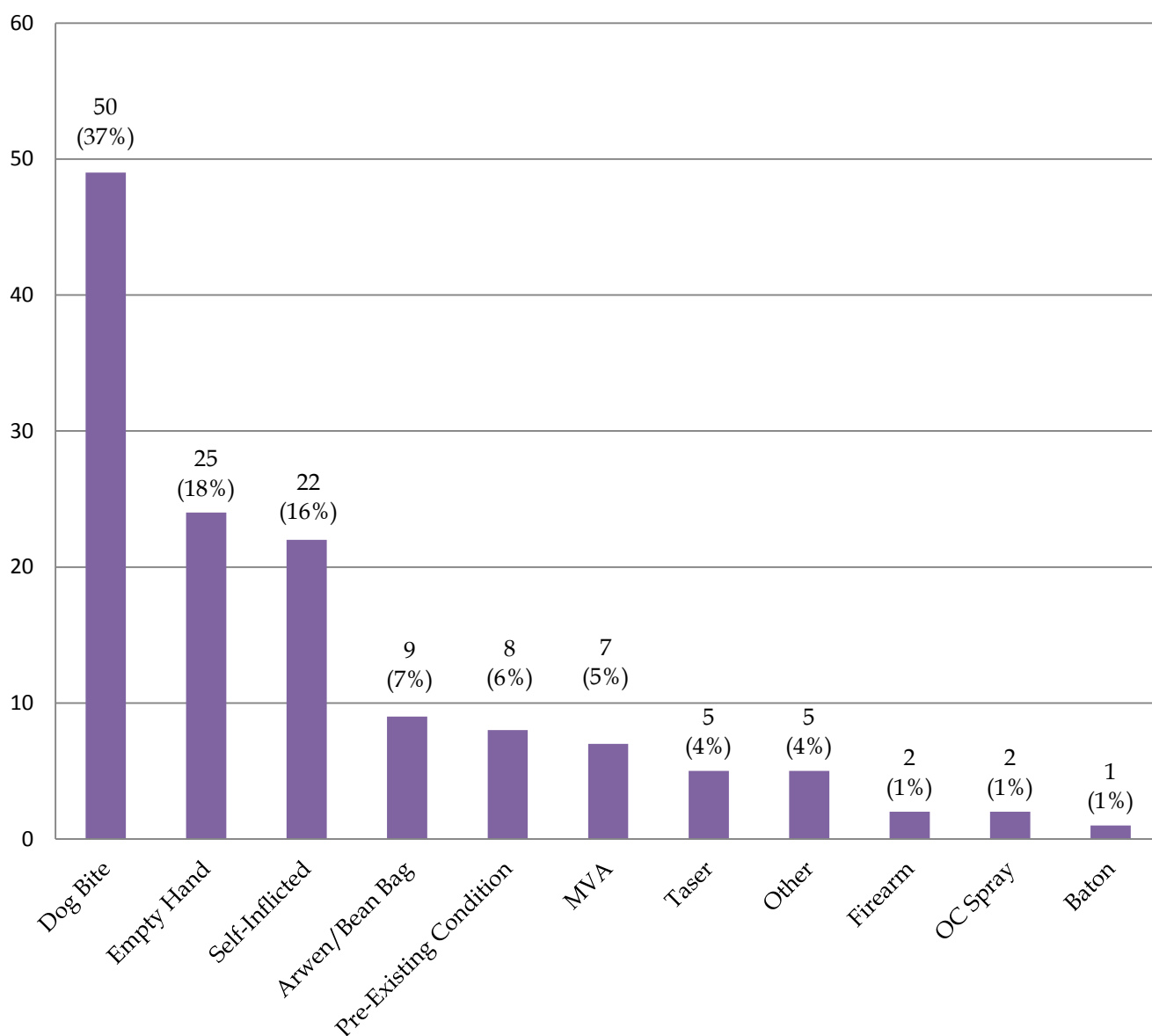
## Files Opened between April 1 and June 30, 2015 – By Department

Department	TOTAL	Inadmissible Registered	Admissible Registered	Admissibility Decision Pending	Mandatory Investigation	Ordered Investigation (Dept. Request)	Ordered Investigation (PCC Initiated)	Monitor	Question or Concern	Internal Discipline	Service or Policy
Abbotsford	23	9	3	3	0	1	0	4	2	1	0
Central Saanich	0	0	0	0	0	0	0	0	0	0	0
CFSEU	0	0	0	0	0	0	0	0	0	0	0
Delta	16	0	2	1	0	0	1	10	2	0	0
Nelson	4	1	0	0	0	0	0	2	1	0	0
New Westminster	16	1	1	1	0	0	0	7	5	1	0
Oak Bay	5	0	1	1	0	0	0	0	3	0	0
Port Moody	8	1	0	2	0	0	0	1	4	0	0
Saanich	32	8	1	2	0	5	0	3	13	0	0
SCBCTAPS	25	0	5	1	0	0	0	12	7	0	0
Stl'atl'imx	0	0	0	0	0	0	0	0	0	0	0
Vancouver	164	18	37	13	2	2	0	72	17	0	3
Victoria	36	11	7	10	0	0	0	4	2	0	2
West Vancouver	10	1	0	0	0	0	0	3	6	0	0
<b>TOTAL:</b>	<b>339</b>	<b>50</b>	<b>57</b>	<b>34</b>	<b>2</b>	<b>8</b>	<b>1</b>	<b>118</b>	<b>62</b>	<b>2</b>	<b>5</b>

## Reportable Injury Notifications s. 89 Received between April 1 and June 30, 2015 <sup>2</sup>

The *Police Act* requires departments to report all incidents where an individual in the care or custody of the police suffers a “reportable injury” that requires medical treatment. These “reportable injuries” are opened as Monitor Files until it is determined whether an investigation will be conducted. Between April 1 and June 30, 2015, the OPCC received **112** notifications of reportable injuries involving **136** uses of force.

- 02 which resulted in a mandatory external investigation;
- 01 which resulted in the Commissioner initiating an investigation;
- 01 which resulted in the department requesting an investigation; and
- 02 involved an individual filing a registered complaint.

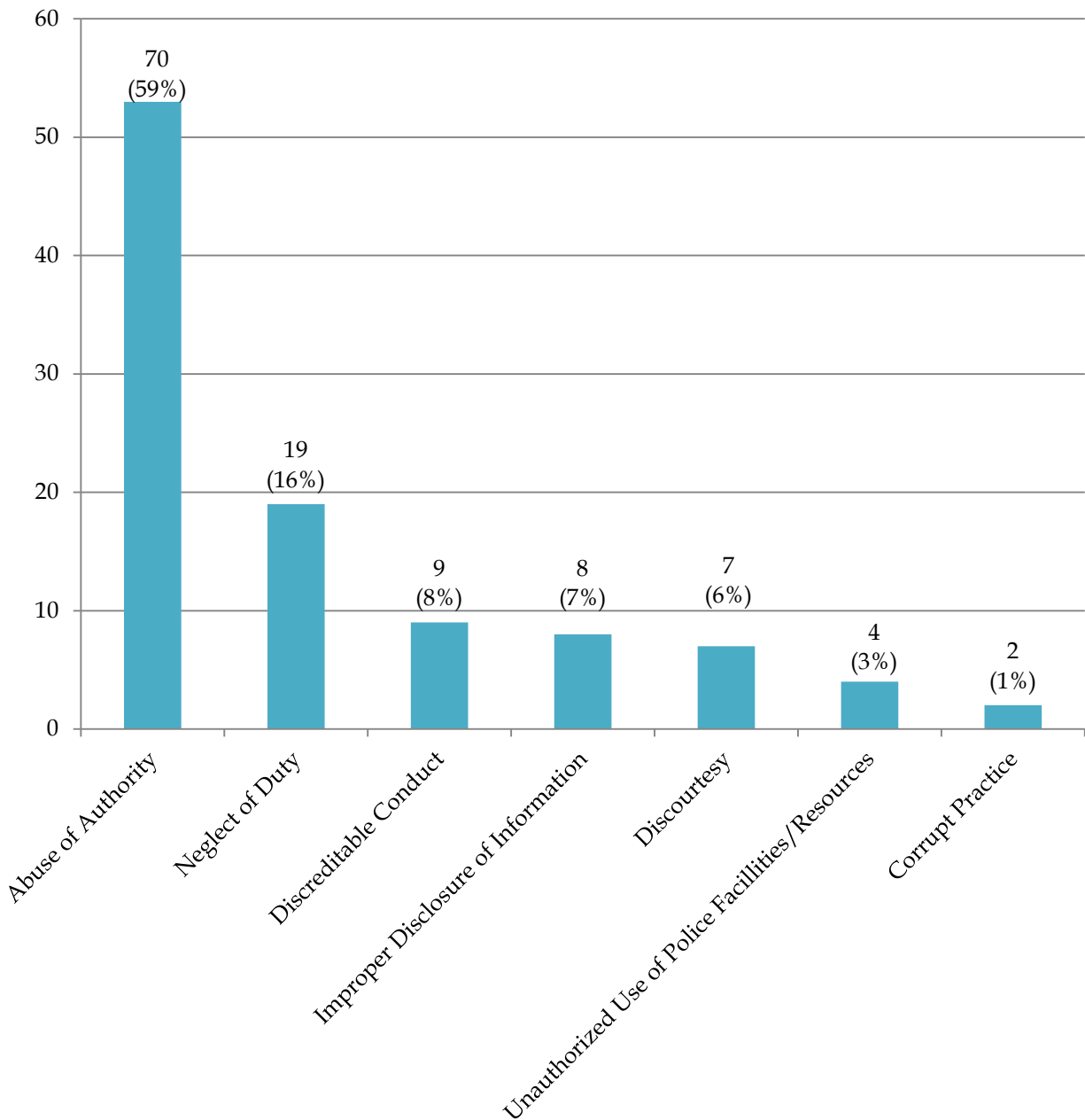


<sup>2</sup> 'Other' are incidents where a person is in medical distress with the cause being unknown.

## Allegations Forwarded on for Investigation between April 1 and June 30, 2015

Once a complaint file is deemed admissible or an investigation is initiated, allegations of misconduct are identified against individual members. The *Police Act* identifies 13 public trust allegations. Between April 1 and June 30, 2015, the OPCC identified **119** public trust allegations and forwarded them to the member(s) department for investigation.

Please note that these are only allegations and do not reflect whether they were substantiated or not substantiated.



## Allegations Concluded between April 1 and June 30, 2015

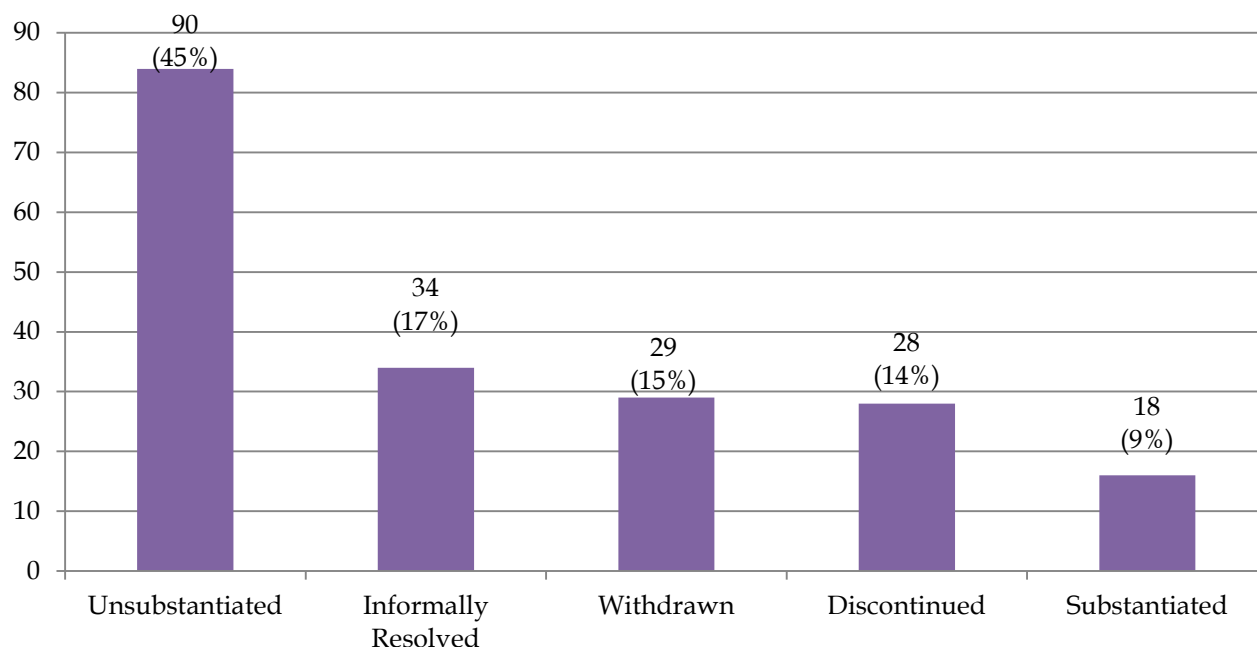
As stated earlier, all *Police Act* (Division 3 – Public Trust) complaint files are reviewed and separate allegations of misconduct are identified as they relate to each officer involved. A single complaint file may contain multiple allegations against more than one officer. When referring to concluded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

Files concluded in between April 1 and June 30, 2015, may include files opened in 2013 or earlier. This may occur in cases of adjudicative review.

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

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

Between April 1 and June 30, 2015, the OPCC concluded 199 public trust allegations in the following manner:



# Mediation & Informal Resolution of *Police Act* Complaints

## Informal Resolution (s.157)

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

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

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

Between April 1 and June 30, 2015, the OPCC reviewed and approved informal resolution agreements relating to **34 (24%)** allegations of misconduct. Under the *Police Act*, only registered complaints are eligible for alternative dispute resolution.

2015/2016 Fiscal Year	1 <sup>st</sup> Quarter (April 1 to June 30, 2015)
Allegations Informally Resolved	34 (24%)
Total Allegations Concluded	140

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

There were no mediations held between April 1 and June 30, 2015.

## Mediation (Division 4)

## Adjudicator Reviews between April 1 and June 30, 2015

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

**Appointment of a  
New Discipline  
Authority  
[s.117]**

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

Between April 1 and June 30, 2015, the Commissioner did not appoint a retired judge to act as a new Discipline Authority.

**Review on the  
Record  
[s.141]**

Following a discipline proceeding, the Commissioner has the discretion to order a review of the proceeding where there is a reasonable basis to believe that the decision of the Discipline Authority is incorrect, or it is in the public interest to review the matter.

Between April 1 and June 30, 2015, the Commissioner did not appoint a retired judge to conduct a review on the record.

**Public Hearing  
[s.143]**

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

Between April 1 and June 30, 2015, the Commissioner did not call a public hearing.

All decisions from these three adjudicative avenues are available to the public through the OPCC website at [www.opcc.bc.ca](http://www.opcc.bc.ca). As well, there is a schedule of current public hearings indicating the date and place of the hearings. All public hearings are open to the public to attend.



# Substantiated Allegations - Concluded between April 1 and June 30, 2015

## Abbotsford

No substantiated misconduct in this reporting period

## Central Saanich

No substantiated misconduct in this reporting period

## CFSEU (Combined Forces Special Enforcement Unit)

No substantiated misconduct in this reporting period

## Delta

No substantiated misconduct in this reporting period

## Nelson

No substantiated misconduct in this reporting period

## New Westminster

Ordered Investigation (request by department)  
(OPCC File 2014-9949)

Misconduct: Neglect of Duty  
Date of Incident: Between August 24, 2012 and January 3, 2013

The police member neglected to conduct reasonable follow up investigative steps in relation to a sexual assault allegation.. The member also neglected to submit a Violent Crime Linkage Analysis System (VICLAS) report within 24 days of the incident or notify the Ministry of Child and Family Services of the incident in accordance with department policy.

Misconduct: Neglect of Duty  
Date of Incident: January 3, 2013

The police member neglected to notify/attempt to notify the victim of an alleged sexual assault that the investigation was concluded and the reason/s why.

Re Neglect of Duty  
(inadequate investigation)

- Written reprimand
- Review of policy and procedures for major crime related investigations.

Re Neglect of Duty  
(inadequate investigation)

- Verbal reprimand

Ordered Investigation (request by department)  
A Registered Complaint was received after PCC ordered investigation  
(OPCC File 2014-9953)

Misconduct: Discreditable Conduct  
Date of Incident: September 4, 2014

On September 2, 2014, the department hired the police member on a probationary status.

On September 4, 2014, the police member, when off duty, engaged in an argument with his girlfriend that escalated into a domestic assault.

On September 5, 2014, the police member was suspended from duty as a result of this incident.

On September 20, 2014, the police member submitted his resignation and it was accepted on this same date.

Re Discreditable Conduct  
(conduct that discredits the department)

- 10-day suspension without pay

The Discipline Authority determined that the resignation of the police member and the outcome of the criminal process which resulted in a Peace Bond between the two parties mitigated the final recommended disciplinary measure.

Internal Discipline  
(OPCC File 2015-10319)

Misconduct: Discreditable Conduct  
Date of Incident: Between September 2014 and December 26, 2014

The police member engaged in a theft of monies from a container where members of the Street Crime Unit had been contributing money.

Re Discreditable Conduct  
(conduct that discredits the department)

- Dismissal  
The police member has been charged with two counts of Theft and one count of Breach of Trust contrary to the *Criminal Code*.

Oak Bay

No substantiated misconduct in this reporting period

Port Moody

No substantiated misconduct in this reporting period

Saanich

No substantiated misconduct in this reporting period

SCBCTAPS

Ordered Investigation (request by department)  
(OPCC File 2013-8743)

Misconduct: Abuse of Authority  
Date of Incident: March 7, 2013

The police member arrested a male without sufficient grounds.

Misconduct: Abuse of Authority  
Date of Incident: March 7, 2013

The police member used excessive force during the course of the arrest.

Re Abuse of Authority x 2  
(unlawful arrest and excessive force - empty hand)

The Pre-Hearing Conference Authority approved the following disciplinary or corrective measures with respect to both substantiated allegations. The suspensions were to be concurrent.

- 2-day suspension
- The member was to undertake retraining in the Powers of Arrest and Detention; the Controlled Drug and Substances Act (CDSA) and in Use of Force
- The member was to issue a letter of apology to the subject male and the member's partner

Ordered Investigation (request by department)  
(OPCC File 2014-9349)

Misconduct: Neglect of Duty x 8  
Date of Incident: Varied

The police member failed to disclose his *Police Act* record to Crown Counsel through negligent completion of his "McNeil Disclosure" form on eight separate occasions.

Re Neglect of Duty  
(inadequate documentation/notes/records)

- 1-day suspension for each substantiated allegation to be served consecutively for a total of an 8-day suspension.

No substantiated misconduct in this reporting period

## Vancouver

Ordered Investigation (request by department)  
(OPCC File 2011-6210)

Misconduct: Corrupt Practice  
Date of Incident: August 19, 2006, December 13, 2007 and July 18, 2010

The police member accessed police databases on three occasions for purposes unrelated to his duties as a police officer.

Misconduct: Improper Disclosure of Information  
Date of Incident: July 18, 2010

The police member disclosed information he acquired from police databases to a member of the public.

The discipline authority determined that the investigation supported the substantiation of six allegations and imposed discipline that included dismissal. The member exercised his right to a public hearing pursuant to section 137 of the *Police Act*. The adjudicator subsequently determined that only two allegations had been proven and imposed the following discipline. For more information please see PH 13-04 at [www.opcc.bc.ca](http://www.opcc.bc.ca)

Re Corrupt Practice  
(unauthorized use of police facilities/resources)

- Written reprimand

Re Improper Disclosure of Information

- Written reprimand

Ordered Investigation (request by department)  
(OPCC File 2012-7741)

Misconduct: Discreditable Conduct  
Date of Incident: July 22, 2012

The police member, while off duty, operated a motor vehicle after having consumed alcohol in such a quantity as to register a "warn" on an approved screening device.

Misconduct:  
Discreditable Conduct Date of Incident: July 22, 2012

The police member, while off-duty, used or attempted to use his position as a police officer to influence the outcome of an investigation into his operation of a motor vehicle while his ability to do so was affected by alcohol.

Re Discreditable Conduct  
(conduct that discredits the department)

- 1- day suspension without pay

Re Discreditable Conduct  
(conduct that discredits the department)

- 1- day suspension without pay  
This allegation was unsubstantiated by the Discipline Authority and so the Police Complaint Commissioner ordered a s.117 review. The retired judge substantiated this allegation and the member accepted a 1-day suspension at a pre-hearing conference.

## Victoria

No substantiated misconduct in this reporting period

## West Vancouver

Ordered Investigation (request by department)  
(OPCC File 2014-9529)

Misconduct: Misuse of Intoxicants  
Date of Incident: March 30, 2014

The police member reported to work unfit for duty due to the effects of intoxicating liquor.

Misconduct: Discreditable Conduct  
Date of Incident: March 30, 2014

The police member drove away from the police station in the member's private vehicle knowing the member's alcohol level was over the legal limit.

Re Misuse of Intoxicants  
(unfit for duty due to intoxicants)

- Written reprimand

Re Discreditable Conduct  
(conduct that discredits the department)

- 1- day suspension without pay

