

# Ministry of Justice and Attorney General Public Complaints Commission



## Annual Report for 2017-18

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This annual report is also available in electronic format from the Commission’s website at [www.saskatchewan.ca/pcc](http://www.saskatchewan.ca/pcc).

# Letters of Transmittal



*The Honourable  
Don Morgan, Q.C.  
Minister of Justice  
and Attorney General*

His Honour the Honourable W. Thomas Molloy,  
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2018.

A handwritten signature in black ink that reads "Don Morgan". The signature is written in a cursive, flowing style.

Don Morgan, Q.C.  
Minister of Justice and Attorney General



*Brent Cotter, Q.C.  
Chair*

The Honourable Don Morgan, Q.C.  
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2018.

A handwritten signature in black ink that reads "Brent Cotter". The signature is written in a cursive, flowing style.

W. Brent Cotter, Q.C.  
Chair

# Mission Statement

The Public Complaints Commission (PCC) is an independent panel of non-police persons appointed by the Saskatchewan Government to ensure that both the public and the police receive a fair and thorough investigation of a complaint against the municipal police in Saskatchewan.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when citizens feel they have not been treated fairly by a police officer. For that reason a citizen complaint procedure was set out in *The Police Act, 1990*. It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of co-operation that now exists.

# Governing Legislation

## Role of the Public Complaints Commission

The PCC consists of five persons, including a chairperson and a vice-chairperson who are appointed by the Lieutenant Governor in Council. By legislation, at least one member must be a person of First Nations ancestry, at least one member must be a person of Métis ancestry, and at least one member must be a lawyer. The chairperson has the delegated authority to exercise the powers and to perform the duties assigned to the PCC.

Canada has long been recognized as a leader in the civilian oversight of the police. In 1992 Saskatchewan introduced legislation that identified a specific agency to address public complaints.

On April 1, 2006, following a consultation process with the Saskatchewan Association of Chiefs of Police, the Federation of Saskatchewan Indian Nations (FSIN), the Saskatchewan Federation of Police Officers, Métis Family and Community Justice Services, and local police boards, the PCC was created. The PCC replaced the office of the Saskatchewan Police Complaints Investigator.

Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the PCC are as follows:

1. Where the PCC receives a public complaint pursuant to section 38, the PCC shall:
  - a. record the complaint received;
  - b. establish and maintain a record of all public complaints received by the police services and their dispositions;
  - c. inform, advise and assist complainants;
  - d. advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;
  - e. monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and
  - f. inspect annually, or at those times directed by the Minister, the records, operations and systems of administration for the handling of public complaints by police services.
2. In exercising the duties of the PCC pursuant to this section, the PCC:
  - a. shall receive and obtain information respecting a public complaint from the complainant;
  - b. may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;
  - c. may request access to any files or other material in the possession of the police service relevant to a public complaint; and
  - d. may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

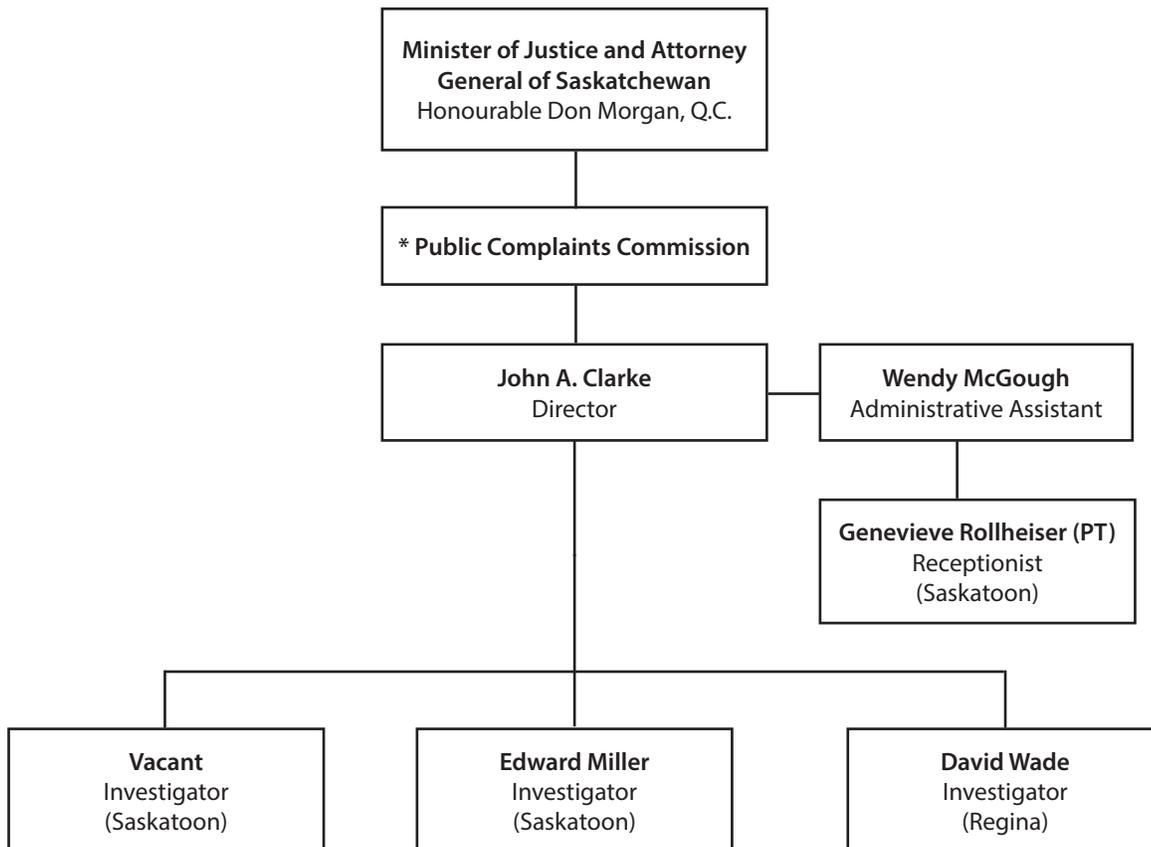
The PCC determines whether the investigation of a public complaint will be conducted by:

- ⇒ the PCC investigative staff;
- ⇒ the police service whose member is the subject of the complaint;
- ⇒ the police service whose member is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC; or
- ⇒ a police service other than the police service whose member is the subject of the complaint.

*The Police Act, 1990* states that the Chief of Police is responsible for the maintenance of discipline. Although the majority of the PCC's findings are accepted by police chiefs, the findings are not binding on the chiefs.

From time to time, differences of opinion with police chiefs have arisen and have resulted in healthy debate. While consensus is not always reached, the differences speak to the independence of the PCC.

# Organizational Structure



\*The PCC consists of five individuals including a chairperson and vice-chairperson. Members are appointed by the Lieutenant Governor in Council.

# Public Complaints Commission

## Members of the Public Complaints Commission

Members are appointed for a three-year term and may be reappointed for a second term of the same duration. However, no member may be appointed to more than two successive terms.

Members meet twice a month to review new complaints, receive briefings on current investigations, and reach consensus on final determinations of completed investigations that culminate in written decisions.

### Chair:

⇒ W. Brent Cotter, Q.C., Saskatoon

### Vice Chair:

⇒ Sonja Hansen, Q.C., Saskatoon

### Members:

- ⇒ Arne Lindberg, Prince Albert
- ⇒ Marjorie LaVallee, Cowessess First Nation
- ⇒ Joseph Blayone, Regina

### Director:

⇒ John Clarke: Responsible for the administration and daily operation of the PCC.

## Contact Information

### Saskatchewan Public Complaints Commission (Regina)

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REGINA SK S4P 4H2  
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SASKATOON SK S7K 2H6  
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Website: [www.saskatchewan.ca/pcc](http://www.saskatchewan.ca/pcc)

# Message from the Chair

The PCC is an independent agency of the Government of Saskatchewan, established by legislation, to provide civilian oversight of the conduct of municipal police officers in Saskatchewan.

The Commission was established in its present form in 2006, following a process of collaboration between the Department of Justice, the representatives of Chiefs of Police and police associations, the RCMP, the Federation of Sovereign Indigenous Nations (FSIN) and the Métis Nation of Saskatchewan (MNS). This collaboration resulted in a reformulation of the authority of the PCC, the establishment of a partnership with the Special Investigations Unit of the FSIN, the establishment of a five-person Commission (with Commissioners appointed to renewable three-year terms) and the adoption of a legislative requirement that the Commission membership always include at least one person of First Nations ancestry and one person of Métis ancestry. The members of the Commission, presently, are myself as Chair, Sonja Hansen of Saskatoon as Vice-Chair, Arne Lindberg of Prince Albert, Joseph Blayone of Regina, and Marjorie LaVallee of Cowessess First Nation.

The PCC receives and investigates complaints from members of the public, and on occasion self-initiates complaints about the conduct of municipal police officers in Saskatchewan. This work is conducted under the leadership of its Executive Director, John Clarke, to whom much of its success as a professional, independent agency is owed.

The PCC contributes to public confidence in our police services in two ways. First, it provides an independent, highly respected process by which citizens can have their concerns about police behaviour reviewed. Where police officers do misconduct themselves, the PCC provides an independent, civilian-led means by which this misconduct can be brought to light, ensuring accountability. Second, it shows the Saskatchewan public, through independent civilian oversight, that to a very substantial degree police officers in Saskatchewan conduct themselves in honourable and professional ways. Both of these contributions – police accountability for misconduct and the recognition of high quality policing in Saskatchewan – are well supported by the civil society as well as by the police leadership within the province.

The level of work of the PCC has gradually increased over its 12 years of existence under its present mandate. The PCC refers less serious matters in Saskatoon and Regina to the professional standards divisions of the Saskatoon and Regina police departments, under its supervisory authority, and directly investigates more serious matters in those cities as well as all complaints concerning all other municipal police services in Saskatchewan. It is assisted in its work by the Special Investigations Unit of the FSIN, which receives and prepares complaints that come to them from First Nations citizens. The PCC possesses significant legislative authority to investigate the conduct, quality, diligence and integrity of police officers' work. The PCC is empowered to make findings of misconduct by police officers and, where it does so, the matter is referred to the appropriate Chief of Police to make a determination regarding discipline. Where the police misconduct has the potential to have violated the criminal law, the PCC refers the matter to the province's public prosecution service to determine whether criminal charges are laid. The quality of the PCC's work in investigating police conduct has rarely been questioned.

As has been the case since the creation of the Commission in 2006, we continue to strive to ensure: (a) that citizen concerns about their engagements with the police are given fair, adequate and independent consideration; (b) that our work assists in providing guidance to the policing community; and (c) that our work continues to build public confidence in those members among us – the police – who are entrusted to keep the peace in our communities.

The PCC has undertaken work to identify ways in which the legislative framework for civilian oversight in Saskatchewan should be modernized and strengthened, as well as the resources required to fulfill its mandate entirely through the use of PCC investigators. We are hopeful that the implementation of these legislative changes and resourcing requirements will ensure that the PCC's work keeps pace with changes in policing and in public expectations of civilian oversight agencies, and will enable the PCC to perform its work in accordance with a continuing commitment to independence, professionalism and integrity.



W. Brent Cotter, Q.C.  
Chair

# Progress in 2017-18

## 2017-18 Key Commitments

- ⇒ Ensure that the mandate of the PCC is carried out in an expeditious manner.
- ⇒ In partnership with the Civilian Review and Complaints Commission (CRCC) for the RCMP, to implement a public awareness program to ensure that all citizens of Saskatchewan are aware of the public complaint processes that are in place to address concerns with members of the RCMP and municipal police services in the province.
- ⇒ Continue with the review of the PCC's legislated mandate. This process is nearing completion with a draft report anticipated in the fall of 2017.
- ⇒ 2017 fall seminar with particular focus on powers of arrest.

## 2017-18 Results

- ⇒ The PCC's workload had a modest increase over 2016-17. The majority of public complaints were received by the municipal police services where the officer is employed. Thirty per cent of complaints were received on the PCC's website, a slight reduction from last year. Complaints made in person remained consistent with a slight decrease in the number of complaints mailed to the PCC.
- ⇒ The PCC continues to be an active member of Canadian Association of Civilian Oversight of Law Enforcement (CACOLE). The PCC Chair and Director attended the national conference in St. John's, Newfoundland during May 2017. The importance of the PCC's relationship with our provincial counterparts, and particularly our relationship with the CRCC for the RCMP, cannot be understated. The former as an information resource and comparison reference, the latter as a working partner with increased collaboration as a great percentage of Saskatchewan residents are policed by the RCMP. Municipal police and RCMP officers also work together on several joint forces operations within the province and are subject to the public complaint process.
- ⇒ The PCC presented to two recruit classes at the Saskatchewan Police College. Prior to graduating, the recruits are provided a comprehensive understanding of the public complaint process. Peel's Principles of Policing continues to be the guideline for police officer conduct. The PCC also presented a lecture on Professionalism and Ethical Conduct to a new class of Deputy Sheriffs who are responsible for court security and the transportation of individuals in custody. The PCC is a strong supporter of the additional training provided to Recruit Field Training Officers and police supervisors.
- ⇒ The PCC acknowledges the importance of the various government agencies such as the Saskatchewan Ombudsman, Saskatchewan Human Rights Commission, Public Prosecutions Division of the Ministry of Justice and Attorney General, Saskatchewan Police Commission and the Saskatchewan Police College.
- ⇒ The PCC attended and participated in the annual meetings of the Saskatchewan Chiefs of Police Association and the Saskatchewan Federation of Police Officers. The PCC appreciates these opportunities to share its perspective on current policing issues and exchange information with partner organizations. The maintenance of these relationships is essential to the work of the PCC and is invaluable in the promotion and acceptance of the public complaint process.
- ⇒ Our relationship with the Federation of Sovereign Indigenous Nations - Special Investigations Unit continues to be an important component of the public complaint process in Saskatchewan.
- ⇒ The review of the PCC's legislated mandate has been completed. The draft report is being finalized and is on track for presentation in the near future.
- ⇒ The PCC has been given the additional responsibility of investigating public complaints against Special Constables employed with Safer Communities & Neighbourhoods (SCAN) and Community Safety Officers (CSOs).
- ⇒ Scheduling conflicts precluded the 2017 fall seminar on powers of arrest from proceeding. The PCC will be re-evaluating the impact of these sessions going forward.

## 2017-18 Matters of Concern

- ⇒ The PCC continues to be concerned with the inappropriate exercise of the powers of arrest, search and seizure, and the entry into homes without warrant in the absence of exigent circumstances. These issues have been brought to the attention of the Chiefs of Police, who have initiated additional training sessions for front-line officers. This is further complicated, as in some instances police supervisors are not recognizing the lack of authority and are not taking corrective action with their subordinates. This issue has also been identified and commented upon by Public Prosecutions when reviewing investigations where excessive use of force has been alleged during arrest. The lack of articulation in report writing, particularly where force was used during an arrest, while improved over previous years, continues to be a concern. Police jargon “*subject became assaultive*” does not adequately describe the actions which the officer had to overcome.
- ⇒ The increased use of police car cameras, video recordings inside police buildings, the use of social media by on-duty officers, and the issues surrounding body worn cameras continues to be of great interest.
- ⇒ The PCC is aware of the increased contact and calls for service involving individuals in mental health crisis with municipal police officers. This is reflected in the modest increase to public complaints received.

## 2018-19 Plans

- ⇒ Carrying out the mandate of the PCC in a thorough and expeditious manner continues to be the PCC’s primary focus.
- ⇒ Review informal resolution of public complaints to reduce the number of relatively minor complaints assigned for investigation and reduce the overall time taken to conclude complaints, with the overall goal of increasing public confidence and satisfaction in the public complaint process.
- ⇒ Continue with public awareness planning.
- ⇒ Present the results of applicable legislation review.

# 2017-18 Performance Measures

The statistics set out in the tables on this page are for the period April 1 to March 31, for the fiscal years 2014-15, 2015-16, 2016-17 and 2017-18. The following pages show the breakdown of complaints for each of the municipal police services, rural municipality police services, Community Safety Officers (CSOs), Safer Communities and Neighbourhoods (SCAN) and the Witness Protection Program in the province during the 2017-18 fiscal year.

## Number of Complaint Files Opened

Police Service	2014-15	2015-16	2016-17	2017-18
Regina	51	36	43	36
Saskatoon	50	65	60	78
Moose Jaw	4	10	10	4
Prince Albert	13	11	10	7
Estevan	1	3	4	5
Weyburn	3	1	3	2
Caronport	0	0	0	0
Dalmeny	0	0	0	0
Luseland	1	0	0	0
RM of Corman Park	0	0	2	0
RM of Edenwold	0	0	0	1
RM of Vanscoy	0	0	0	0
RM of Wilton	0	0	0	0
File Hills First Nations	0	0	1	0
CSO's				
City of North Battleford	0	0	3	8
City of Meadow Lake	0	0	0	1
Town of Rosetown	1	0	0	0
RM of Lakeland	0	1	0	0
SCAN	0	0	1	0
Witness Protection Program	0	0	0	1
<b>Total Number of Files</b>	<b>124</b>	<b>127</b>	<b>137</b>	<b>143</b>

The table below shows the percentage of complaint files that fall within certain time-frames, during which the complaint is received, investigated, reviewed and the complainants are advised of the action taken with respect to their concerns.

## Percentage of Complaint Files Completed Within Given Time-frames

<b>Days</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>
0 – 30	27	13	20	10
31 – 60	8	10	7	11
61 – 90	6	8	6	8
91 – 120	1	2	4	5
121 – 150	2	4	1	3
151 – 180	2	2	1	3
Over 181	12	8	15	10
Pending	42	53	46	50

# Statistical Data

## Findings of Complaints Received

April 1, 2017 to March 31, 2018

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawn/ Other	S.45(5)***	Informal Resolution	Service/ Policy	Not Yet Completed	Total
Regina	1	0	4	5	4	0	0	23	37
Saskatoon	2	0	14	4	18	2	0	39	79
Moose Jaw	1	0	0	0	1	0	0	2	4
Prince Albert	2	0	2	0	4	0	1	1	10
Estevan	1	0	2	0	0	0	0	2	5
Weyburn	0	0	0	0	2	0	0	0	2
Caronport	0	0	0	0	0	0	0	0	0
Dalmeny	0	0	0	0	0	0	0	0	0
File Hills	0	0	0	0	0	0	0	0	0
Luseland	0	0	0	0	0	0	0	0	0
RM Corman Park	0	0	0	0	0	0	0	0	0
RM of Edenwold	0	0	1	0	0	0	0	0	1
RM Lakeland	0	0	0	0	0	0	0	0	0
RM Vanscoy	0	0	0	0	0	0	0	0	0
RM Wilton	0	0	0	0	0	0	0	0	0
Meadow Lake	0	0	0	0	0	0	0	1	1
N. Battleford	1	0	0	3	1	0	0	3	8
SCAN	0	0	0	0	0	0	0	0	0
Witness Protection	0	0	1	0	0	0	0	0	1
<b>Total* &amp; **</b>	<b>8</b>	<b>0</b>	<b>24</b>	<b>12</b>	<b>30</b>	<b>2</b>	<b>1</b>	<b>71</b>	<b>148</b>

\* While only 143 complaints were filed, some had multiple complaints and findings.

\*\* Some allegations involve multiple officers. For statistical purposes, only the allegations are indicated; not the total number of officers.

\*\*\* Under section 45(5) of *The Police Act, 1990* circumstances did not require investigation or, during the course of the investigation, it was determined that circumstances no longer supported the continuation of the investigation.

## Definition of Complaint Findings

- ⇒ Substantiated – supported by evidence
- ⇒ Unsubstantiated – allegation cannot be proved or disproved
- ⇒ Unfounded – unsupported by evidence

## Definition of Descriptions

- ⇒ 36Av – Discreditable Conduct
- ⇒ 36C – Neglect of Duty
- ⇒ 37Ei – Abuse of Authority – Discourtesy/Uncivil

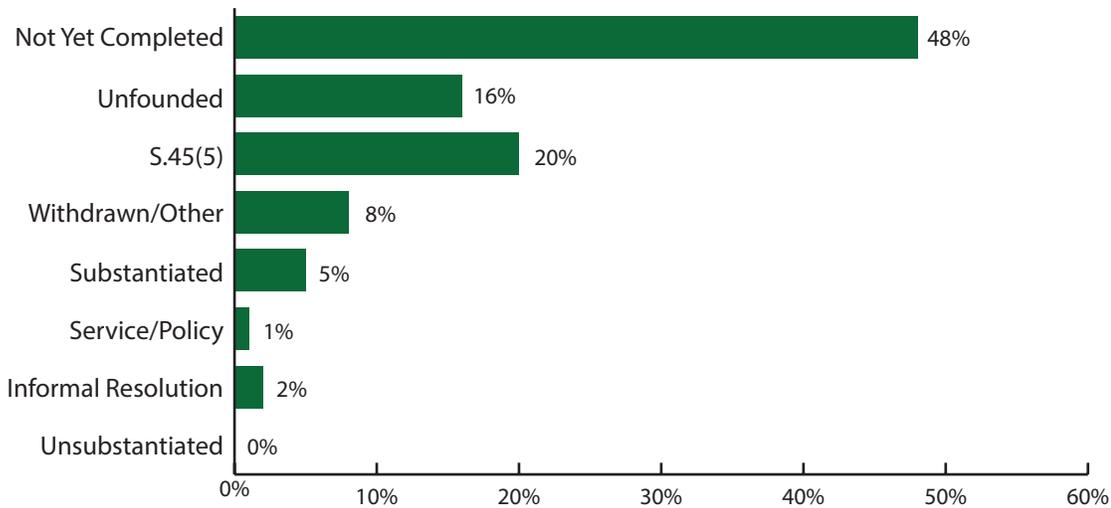
## Classification of Substantiated and Unsubstantiated Complaints

April 1, 2017 to March 31, 2018

Police Service	Substantiated	Description
Estevan	1	36Av
Regina	1	37Ei
Saskatoon	2	36Av 37Ei
Moose Jaw	1	36C
City of N. Battleford	1	36Av
Prince Albert	2	36C 37Ei

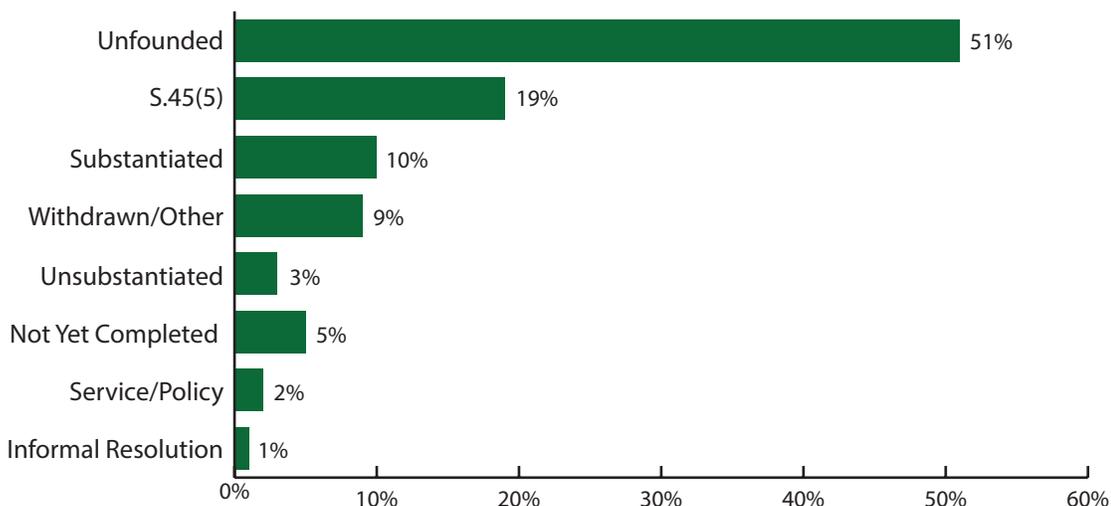
## Complaint Findings

April 1, 2017 to March 31, 2018



## Revised Complaint Findings

April 1, 2016 to March 31, 2017



## Five-year Comparative Statistics

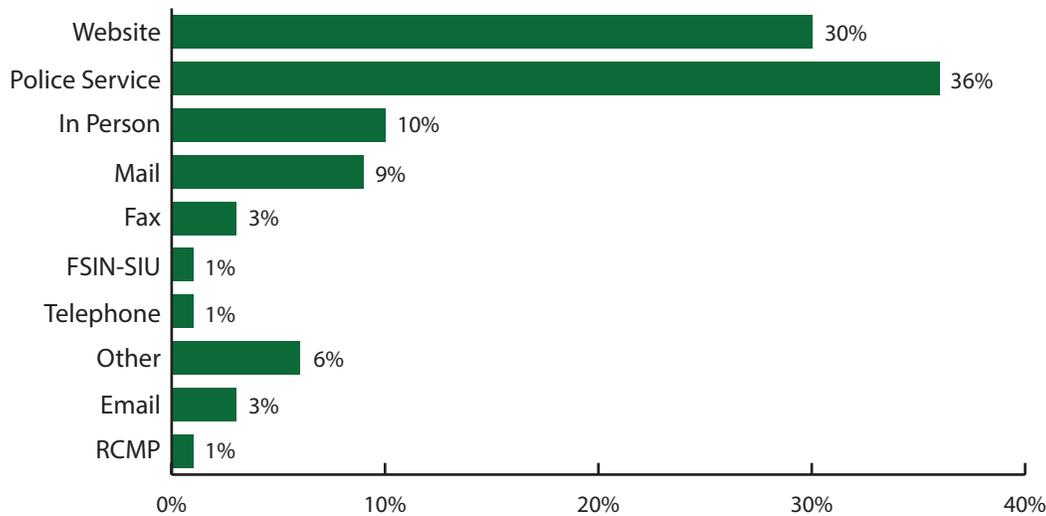
2013-14 to 2017-18

	2013-14	2014-15	2015-16	2016-17	2017-18
Substantiated	28	40	39	18	8
Unsubstantiated	3	18	14	5	0
Unfounded	49	80	86	90	24
Withdrawn	8	17	20	16	12
Not Yet Concluded	0	1	0	10	71
Section 45(5)	36	23	32	34	30
Service	2	2	1	3	1
Informal Resolution	3	2	2	2	2

\* The stats for 2015-16 and 2016-17 were updated to reflect the completion of additional files from these years.

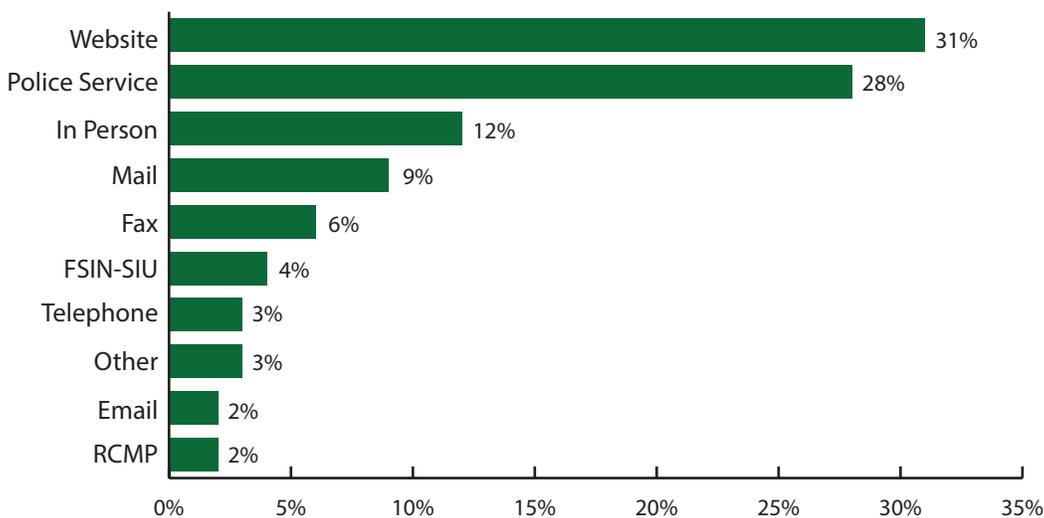
## Incidents Received by Source

April 1, 2017 to March 31, 2018



## Incidents Received by Source

April 1, 2016 to March 31, 2017



## Type of Complaints Received

April 1, 2017 to March 31, 2018

	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	File Hills	Corman Park	Edenwold	Lakeland	Vanscoy	Wilton	Meadow Lake	North Battleford	SCAN	Witness Protect.	Total
<b>Type of Complaint</b>																				
Discreditable Conduct	4	13	0	2	2	0	0	0	0	0	0	1	0	0	0	0	3	0	1	26
Neglect of Duty	5	11	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	19
Insubordination	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Corrupt Practice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority																				
Improper Arrest	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Unnecessary violence	1	6	1	2	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	12
Discourtesy/Uncivil	1	7	0	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	12
Improper Use of Firearms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Damage to Police Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor/Drugs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Others	1	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Not Yet Completed	23	39	2	1	2	0	0	0	0	0	0	0	0	0	0	1	3	0	0	71

# Case Summaries

## Mr. W

Mr. W alleged officers unlawfully entered his residence, arrested him without cause and used improper force. Some of Mr. W's information came from police reports disclosed to him. The investigation was conducted by a PCC investigator independent of the police service.

Mr. W stated his apartment door was ajar in expectation that a neighbour was coming to socialize. He overheard conversations in the hall, following which two individuals in dark clothing entered his apartment. He determined they were uniformed police officers enquiring about an individual Mr. W believed was residing in the neighbouring apartment #15. He stated he told the officers to get out of his residence and that he was not the person the police were asking for. He acknowledged he was unwilling to listen to the police officer's explanation as they were in the wrong apartment. Mr. W indicated he would have produced identification from his wallet on a nearby desk if requested.

Mr. W stated he was "tasered" from behind which caused him to lose consciousness and fall to the floor. This resulted in minor wounds to Mr. W from the probes. He was not aware if he had been shocked more than once.

He also questioned the authority for officers to have gained entrance to the secured common areas of the apartment building.

Police reports, records including transcripts of telephone and radio communication, and officers' notes and statements were reviewed. A citizen called the police service by phone to request the check of the well-being of an acquaintance that was staying temporarily in her apartment. The complainant was unable to contact the individual and expressed genuine concern for his welfare. The police communications officer made enquiries to identify other possible means of making contact with the individual with negative results. The caller provided the address to be checked as apartment #14. This is verified by the audio recording of the call. The address was recorded in the police dispatch report information provided to the attending officers and verbally confirmed by radio communication.

The first arriving officers, one a trainee, stated they gained access to the building and on arrival at apartment #14 observed the door ajar and what appeared to be recent extensive damage to the door frame suggesting it had been broken open. Based on concern for the safety of those inside, one officer pushed the door open and entered. Meanwhile the occupant of a neighbouring apartment approached and questioned the officers' presence. The trainee officer stopped to speak to the individual, monitor his actions and kept him from entering the suite. The first officer entered the apartment and encountered Mr. W who was unknown to the officer. Mr. W was immediately aggressive, approached the officer with clenched fists shouting at the officer to leave.

Officers stated Mr. W would not identify himself or listen to the officer's explanation. Mr. W was tense and agitated, threatened to knock the officer out, alternately walking away and then coming close to the officer pointing his finger towards the officer's face and chest. Mr. W verbally invited the neighbour to assist fighting with the officers. The officers called for backup and confirmed they were at the correct address.

Mr. W crossed the room and approached a computer. The officer intervened to prevent the device being damaged. The officer stated he still did not know Mr. W was the lawful occupant of the apartment or that there was no one in distress in the apartment. The officer arrested Mr. W believing he was about to assault him. Based on the confined area and obstacles in the apartment, the officer decided that other use of force options were not appropriate in the circumstances. The decision was taken to deploy a Controlled Energy Weapon (CEW) after which Mr. W was secured, handcuffed and subsequently examined by emergency medical service personnel.

When Mr. W was secured and back-up officers had arrived, it was determined Mr. W was the occupant of apartment #14, the individual who was being sought was in apartment #15, which was rented by the original complainant. The individual was located and found to be alright. Officers duly reported all of the circumstances, including that the CEW had been discharged. Internal recordings on the CEW confirmed the device was only discharged one time during the incident.

The PCC was satisfied Mr. W's complaint was thoroughly and impartially investigated and reviewed. The PCC assured Mr. W that his concerns were very carefully considered in these circumstances. *The Charter of Rights and Freedoms* provides protection of life, liberty and security against unnecessary search or seizure and arbitrary arrest or detention. This is balanced by common-law principles and

precedent setting court cases requiring police officers to make dutiful investigation into matters including entering a residence to ensure a person's well-being where necessary. The crux of the matter here is that the officers were at the wrong residence, how that came to be and whether misconduct by the officer(s) is indicated.

Mr. W's version of events was not contradicted nor his character questioned. While Mr. W had reason to believe the officers were unlawfully in his residence and there was no legal requirement that he explain himself or be polite or civil to the officer(s), had he been so, this would have gone a long way toward de-escalating the situation. At the same time, the officers have been very forthright and their account is consistent with Mr. W's version of events and supported by transcripts of communications recordings. It is regrettable officers were at the wrong address, that Mr. W was arrested, and subjected to the discharge of a controlled energy weapon.

Police officers are not required to invariably make the right decision on a judgement call, but the officers have to follow a proper process before arriving at the wrong one if the decision is to be accepted as a simple judgement error. In these circumstances, the officers were acting reasonably on the information provided by the citizen who made the report, not knowing a mistaken apartment number was provided. Enquiries to identify the legal occupant of a residence might be expected if officers were investigating an offence, executing a search or seeking a fugitive. In these circumstances officers were attending as a public service to determine if a person was in distress. Upon arrival, the officers observed indications the apartment door had been forced open and were immediately faced by an agitated, threatening individual. At the same time, the officers were also attempting to establish the well-being of the individual who was the subject of the initial report to police and who officers believed to be in the apartment. There was no evidence the officer(s) acted with malice or in bad faith.

The common areas of an apartment building, although not public places, are not subject to the same legal requirements as a residence in respect to access by police officers. In this case, officers were invited in to the common area by the nature of the complaint and the complainant who was believed to be a lawful occupant, as any other guest, service person or tradesperson would be. How the officers gained access to the building is irrelevant.

Section 25(1) of the *Criminal Code* authorizes a police officer to use as much force as is necessary to accomplish her/his duty, provided that s/he acts on reasonable grounds. In these circumstances, the officers were faced with an aggressive, uncooperative individual who was obstructive and appeared to be about to assault an officer. Deployment of the CEW was justified in the circumstance and was in keeping with policy and procedure. The officers discovered the information they relied upon was flawed after the fact.

The legislated mandate of the PCC does not include consideration of claims for compensation. The courts are the appropriate authority to determine whether Mr. W was guilty of any offence in these circumstances. That being said, the PCC requested that the Chief of Police review the discretion exercised by the officers regarding laying charges against Mr. W in these circumstances.

This complaint was handled in a manner consistent with the public interest in concluding that, despite the flawed information, the officers were acting in good faith in the execution of their duty. Improper action by the officers was not supported.

Under the provisions of section 35(2) (c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police reviewed these circumstances and recommended the conduct of the officers did not warrant disciplinary action. The use of the CEW was in keeping with police policy and procedure.

## **Ms. R**

Ms. R's complaint related to the actions of a police officer who attended her residence to assist her with calming her son whom she was unable to control. Ms. R alleged the officer used unprofessional language. She stated one of the officers referred to her son as a "retard" which was upsetting to Ms. R and her son. The PCC assigned the police service where the officer was employed to investigate and report their findings to the PCC.

Police reports, records and officers' notes and submissions were reviewed. The attending officer acknowledged swearing and telling Ms. R's son "to stop acting retarded" during the interaction to de-escalate his behaviour, and acknowledged that the comment was inappropriate.

The Chief of Police advised that once the subject officer was identified and acknowledged his behaviour, Ms. R was contacted by a police service representative. Ms. R indicated satisfaction that the officer recognized his comment was inappropriate and agreed an apology was an appropriate resolution.

The Chief of Police further advised the officer to contact Ms. R by telephone and provide an appropriate apology. The officer phoned Ms. R to apologize, and Ms. R was subsequently contacted by a senior police representative to ensure her satisfaction.

The PCC was satisfied Ms. R's complaint was taken seriously and handled informally in a manner consistent with the public interest.

## **Mr. D**

Mr. D alleged police officers arrested him without cause and unnecessarily grabbed and twisted his arms. Mr. D indicated he was walking home from a bar and was very near his residence when police officers approached him. The officers told him that he was being charged for spitting at a bartender. Mr. D says he denied responsibility for this and told the officers it was ridiculous. Mr. D stated that officers arrested him “under the guise” of his being intoxicated. Mr. D denied being too drunk or staggering. He stated that as he was being processed and placed in the police vehicle he cleared his lungs. At this point one of the officers unnecessarily grabbed and lifted his arms, which were handcuffed behind his back.

Police reports, records including recordings from the in-car camera system and the police service detention unit related to Mr. D’s detention were reviewed.

The police service had received a complaint that a male patron in a licensed premise was trying to fight with other patrons and had spit on the bartender. Officers attended the area and located Mr. D nearby; he corresponded to the description provided in the complaint. Officers reported that he walked away when they approached to speak with him. When stopped, Mr. D displayed slurred speech, dry mouth, the strong smell of alcohol and bloodshot red eyes. The nature of the complaint was explained to him. He denied wrongdoing, was arrested for public intoxication and handcuffed. It was reported that when Mr. D was placed in the back of the police car he became verbally aggressive, belligerent and yelled obscenities, insults and threats. Officers also reported that Mr. D spit on the security shield in the police car.

The review of the in-car video revealed that Mr. D had been in the police car for about ten minutes prior to being taken to the police Detention Unit. The video confirmed that officers explained the reason for his detention and provided Mr. D with his Charter Rights and usual warnings. Mr. D swore and was belligerent at times. He was seen to spit three times in the police car, once on the security screen. Officers warned him that he would be charged if he was to spit again.

The video from the police detention unit shows that Mr. D was less than cooperative, struggled and resisted officers attempting to search him. Officers held his arms to control him, at one point Mr. D cleared his throat and appeared he was about to spit again. Officers lifted his arms to bend him over to control his movements and minimized Mr. D’s ability to spit on them. Officers then applied a hood/shield to prevent Mr. D from spitting or spraying body fluids from his mouth or nose.

The PCC was satisfied Mr. D’s concerns were thoroughly and impartially reviewed. The officers were in lawful execution of duty to arrest and detain him. There was evidence he was under the influence of intoxicants. The original complaint alleged he had spit on someone, the video recordings confirm that Mr. D spit more than once in the police car and appeared about to do so again at the police detention unit. Officers acted reasonably to lift his arms and hold him in a position to limit his ability to spit towards any officer. This does not constitute unnecessary violence. The PCC concluded improper action by the officers was not supported, the allegation was unfounded and directed that further investigation was not warranted.

## **Mr. H**

Mr. H’s complaint relates to the actions of a police officer who left an electronic message on his phone. He alleged the officer’s recorded message contained inappropriate references to his names and swearing. The investigation was conducted by a PCC investigator independent of the police service.

Mr. H indicated the phone call from the police officer related to a matter he had previously reported to the police service. He acknowledged that the officer may not have been aware the remarks were recorded. Mr. H also acknowledged that he posted information related to the recording on YouTube.

The investigation confirmed Mr. H’s information related to the contents of the electronic voice message. The officer did not deny the remarks. The officer was making telephone follow-up enquiries related to investigations assigned to her and was not aware the phone remained connected when the comments were made. The officer stated that she only became aware that the remarks had been recorded through social media the following day. She immediately advised supervisory personnel of the incident, expressed remorse and attempted to make contact with Mr. H for the purpose of apology.

When the police service became aware of the incident an investigation was initiated and the Chief of Police publicly denounced the improper comments. Upon completion of review of the circumstances, the Chief reported that disciplinary action had resulted in the form of a Remedial Order pursuant to *The Police Act, 1990*. The reprimand provided that the officer make a written apology and undertake related supplemental training. The PCC consented with this action.

The PCC was satisfied Mr. H’s concerns were taken seriously, thoroughly and impartially investigated and reviewed. The notoriety the circumstances gained through internet social media and the press do not heighten the seriousness of the improper remarks. There was no evidence that improper disclosure of information or Mr. H’s identity was made by police representatives or the subject officer. The officer was forthright and promptly recognized the error in her actions.

The PCC concluded the disciplinary action taken was appropriate in the circumstances to address the officer’s conduct. The complaint was handled in a manner consistent with the public interest.

## **Ms. H**

Ms. H's complaint related to the actions of a Community Safety Officer (CSO) during a traffic stop. She alleged the officer was unprofessional and rudely disregarded her cultural beliefs. The investigation was conducted by a PCC investigator.

Ms. H stated she was driving a borrowed pickup truck accompanied by her five-year-old son when the CSO initiated a traffic stop. Her son was secured by the vehicle seat belt restraints in the passenger position.

Ms. H stated she was seeking a suitable place to bring the vehicle to a stop when the CSO shouted instructions over his loudspeaker to stop immediately, which caused her anxiety. The officer approached and, among other things, questioned why her son was not in a booster seat, and questioned her and her son as to his age. Ms. H acknowledged that she was not fully familiar with current requirements for child restraints in vehicles; her son had outgrown the previous restraint equipment. At a point the officer asked her son to step out of the vehicle and commenced to measure his height with a measuring tape. This upset both Mr. H and her son, as it is contrary to their cultural customs to directly measure anyone before they are deceased.

Ms. H found the officer overbearing, not sympathetic to her cultural beliefs and claimed he improperly commented that he was more concerned about her son's safety than hers. Ms. H and her son were upset by the officer's actions.

The CSO provided his account of the interaction. He initiated a traffic stop of Ms. H's vehicle for vehicle equipment deficiencies; visible defects in the front windshield. He was of the opinion that her son should have been in a booster seat. The officer was familiar with the related legislation related to the age and size requirements prescribed for child restraint equipment. He believed Ms. H intentionally misled him by stating the child was seven years old. The officer acknowledged asking her son his age and that he asked him to step out of the vehicle and measured him.

The officer confirmed he issued a Summary Offence Ticket related to a violation of *The Traffic Safety Act* provisions for restraining children in vehicles and exercised discretion in warning Ms. H in relation to the defective vehicle windshield.

The entire incident was recorded on in-car and body mounted audio/video system. This did not offer information that contradicted either Ms. H's version of events or that of the CSO, although each of them held differing perceptions of the others' behaviour.

The PCC was advised that Ms. H was acquitted of the offence related to the use of a booster seat. It was also reported that she and the officer spoke and shook hands after the court hearing.

The officer's remarks to the effect that he was more concerned about the safety of the child than the caregiver were unacceptable. Had the officer been so concerned about the child's safety, he should not have permitted the motorist to depart without arrangements to properly secure the child.

The PCC was satisfied the complaint was thoroughly and impartially investigated and reviewed. On the one hand, the CSO was in lawful execution of duty to stop the vehicle Ms. H was driving and enforce provisions related to securing children in vehicles which specifically set out age, height and weight requirements. Although an acquittal resulted, there were some grounds to initiate a charge. Unfortunately, unlike most investigations of vehicle offences, in these circumstances the officer attempted to gather evidence from a child and was lacking in the experience, training, and knowledge of policy guidelines necessary for a person in authority dealing with a child during an investigation. Even if he was unaware of cultural customs related to measuring an individual's height, there is little dispute that he might have frightened the child.

The investigation was reviewed by the City Manager who is responsible for the conduct and discipline of CSOs in his community. The City Manager agreed with the PCC's findings that the complaint was substantiated and provided the CSO with a written warning. The PCC was of the opinion that appropriate action had been taken.

Ms. H's complaint was handled in a manner consistent with the public interest.

## **Mr. A**

Mr. A's complaint related to the actions of several police officers who he alleged used unnecessary violence during his arrest. The investigation was conducted by a PCC investigator independent of the police service.

Mr. A stated he was in a home at roughly 7:30 a.m. when police knocked on the door asking about a stolen truck in the yard. An occupant of the residence went outside to speak to police. Mr. A believed the resident admitted knowledge of the truck and was arrested. Although Mr. A was aware police vehicles were still in the area, he went to bed. He stated he was awoken in the early evening by his girlfriend who advised him the police were breaking windows and he noticed leaking canisters and felt his eyes were burning. At that time Mr. A noticed numerous police vehicles in the area, by his description an "alleged standoff."

Mr. A stated he peacefully gave up and walked out of the house with his hands raised and lay face down on the ground as directed by the police. He believed one officer told him to crawl forward at the same time as another police officer told him to remain still. Mr. A stated he was shot with a Taser in the neck, arm and armpit. He also stated he received bite wounds from a police dog to his side, leg and arms that required stitches. Mr. A believes that officers shot at him (firearm), and that his face, neck, hands and arms were severely burned by tear gas.

Police reports and records were reviewed. At approximately 6:20 a.m., police officers made enquiries at a residence related to a suspicious vehicle in the yard and suspected stolen property that was suspected to have been taken into the house. Officers spoke to a female in the house and were refused entry. An officer observed a large male with tattoos in the residence.

Police cordoned off and secured the residence while action was taken to obtain a search warrant. About 8:10 a.m. a male exited the residence and was arrested. At about 10:30 a.m. an officer approached the door to attempt to gain access to the residence and shouted through a partially open window. Officers reported the sound of a gunshot, breaking of glass and a visible hole in an upstairs window. Officers retreated and took cover.

Specially trained and experienced officers were dispatched to control, and negotiate the incident. In the ensuing hours, numerous attempts were made to contact the occupants of the residence. It was reported that there was gun fire coming from the residence, an individual was seen to point a long gun at officers, and a male whose face was wrapped disguising his identity shouted threats.

About 9:00 p.m., after unsuccessful attempts to conduct negotiations, the decision was taken to deploy tear gas. Subsequently a female exited the residence, Mr. A followed a short time later. At that point police officers did not know if anyone remained in the house or if officers would come under fire when they came out from cover.

Mr. A lay on the ground but did not comply with verbal commands to crawl into officers' view. As a result, a police dog was dispatched. Mr. A was seen to vigorously struggle against the dog resulting in several contacts by the dog. Officers then approached and deployed a Conductive Energy Weapon (CEW). Officers acknowledged striking blows to subdue Mr. A. Video recordings confirmed that he was not in clear view of officers; he did not follow commands and resisted officers.

Mr. A was subsequently transported to hospital for examination and treatment. It was noted that he was highly contaminated with diesel fuel that was unrelated to any actions by a police officer.

The PCC was satisfied Mr. A's concerns were fully reviewed. The courts were the appropriate authority to determine whether he was guilty of an offence. His statement that he simply went to sleep and was not aware of the "alleged standoff" with police or discharge of firearms from inside the residence, and that he peacefully surrendered is inconsistent with all of the credible information. He was found to be the only male inside the residence during the incident and similar in description to an individual seen making threats and pointing a firearm at police officers.

The police response was reviewed by the Chief of Police who noted the actions of the officers, including the discharge of weapons and use of force was fully documented, consistent with the circumstances and compliant with police policy and directives.

The PCC was of the opinion the police officers were in lawful execution of their duty and acted on *Criminal Code* arrest authorities and a Search Warrant. Their actions were reasonable given that the circumstances were dangerous to the public and officers. This is in keeping with section 25(1) of the *Criminal Code* which justifies a police officer and those aiding police in using as much force as is necessary to accomplish her/his duty, provided that s/he acts on reasonable grounds and does not represent unnecessary violence.

The PCC determined further action was not warranted.

# Budget Allocation

The following figures show the approved budget for the 2017-18 fiscal year.

<b>Approved Budget</b>	<b>\$546,000</b>
Actual Expenses	
Grant – FSIN, Special Investigations Unit	41,000
Salaries, Honorariums, Per Diems	377,000
Operating Expenses	83,000
	<hr/>
	<b>\$501,000</b>