

HAMILTON POLICE SERVICES BOARD

- INFORMATION -

DATE: 2018 June 21

REPORT TO: Chair and Members
Hamilton Police Services Board

FROM: Eric Girt
Chief of Police

SUBJECT: *Year End Report: Professional Standards Branch - 2017*
PSB 18-080

BACKGROUND:

Please find attached the annual Professional Standards Branch Report for 2017. The report outlines public complaints, Service complaints and internal investigations including workplace harassment. SIU investigations and their outcomes are also reported. The report also includes areas of risk such as police involved motor vehicle collisions and officer involved pursuits.

Commendations for officers, citizen awards and letters of appreciation are also outlined in this report.



Eric Girt
Chief of Police

EG/N. Goodes-Ritchie

Attachment: *Professional Standards Branch Annual Report 2017*

cc: Frank Bergen, Deputy Chief, Field Support
Nancy Goodes-Ritchie, Superintendent – Professional Development Division



Hamilton Police Service Professional Standards Branch

Annual Report 2017

Professional Standards Branch

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Preface

This report is prepared in accordance with Ontario Regulation 3/99 of the *Police Services Act*. It is a comparative statistical analysis of all complaints received and investigated during 2017, as well as a compilation of relevant Risk Management data for the same year.

The statistical information included in the 2017 Professional Standards Branch Annual Report was compiled with data obtained from the following sources:

Statistical Sources

- Professional Standards Branch Data base
- Internal Affairs Professional Standards Records Management System (IAPro)
- Chief's Office
- Legal Services
- Human Resources
- Special Investigations Unit Liaison
- 2016 Professional Standards Branch Annual Report

Definitions

Professional Development Division (PDD)

A division of the Hamilton Police Service responsible for Professional Standards, Risk Management, Policy Development, Corporate Planning, Quality Assurance and Training. When required, the branches of the PDD work together to examine and assess organizational needs and devise action plans to further enhance work performance. In 2017, the PDD was managed by Superintendent Nancy Goodes-Ritchie.

Professional Standards Branch (PSB)

PSB is responsible for investigating and facilitating the resolution of both internal (Chief) and external (public) complaints in an impartial and professional manner, pursuant to the *Police Services Act*. The PSB acts as the liaison for the investigation of complaints referred by the Office of Independent Police Review Director (OIPRD). Additionally, this branch of the PDD investigates human rights complaints, civilian employee complaints, labour law complaints, Bill 168 complaints (Workplace Violence and Harassment) and Special Investigations Unit (SIU) Section 11 reviews. The PSB is staffed by three Sergeants and one Staff Sergeant.

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Risk Management

The Risk Management branch of PDD is responsible for the identification and evaluation of risks and the development, selection and implementation of control measures that change outcomes. The Risk Manager currently handles the McNeil disclosure file and weekly tips for Hamilton Police Service members on current and risk related topics. Additionally, the Risk Manager assesses Police Service Motor Vehicle Collisions (MVC), member Red Light Camera (RLC) infractions; and member Missed Court (MC) attendances. The Risk Management branch is staffed by one Inspector.

Office of Independent Police Review Director (OIPRD)

The OIPRD receives, manages and oversees all public police complaints in Ontario.¹ They are a civilian oversight agency that accepts complaints about the conduct of police officers and/or the policies and services of a police department. In addition to processing and investigating public complaints, the OIPRD administers the Ontario public complaints system.

Special Investigations Unit (SIU)

The SIU is a civilian law enforcement agency, independent of the police, that conducts criminal investigations into circumstances involving police and civilians that have resulted in serious injury, death or allegations of sexual assault.² Although it is an agency of the Ministry of the Attorney General, its investigations and decisions are independent of the Government of Ontario. The Director of the SIU is empowered under the *Police Services Act* to lay criminal charges against police officers where warranted.

Internal Affairs Professional Standards Software (IAPro)

IAPro is a Professional Standards software used by the PDD to efficiently handle citizen complaints, administrative investigations, use-of-force reporting, and other types of incidents, while providing the means to identify and analyze areas of concern.³

Section 11 Investigations

The Chief of Police is legislated under Section 11 (s.11) of Ontario Regulation 267/10, to cause an administrative investigation to be conducted into any incident of which the SIU is notified.⁴ The investigation reviews the conduct of the involved police officer(s), as well as the policies and/or services provided by the Hamilton Police Service.

¹ Queen's Printer for Ontario, 2015, *Office of Independent Police Review Director*, www.oiprd.on.ca

² Queen's Printer for Ontario, 2016, *Special Investigations Unit*, www.siu.on.ca

³ CI Technologies, 2015, *IAPro*, www.iapro.com

⁴ *Police Service Act, 2011, Ontario Regulation 267/10, Conduct and Duties of Police Officers Respecting Investigations by the Special Investigations Unit*, www.e-laws.gov.on.ca

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Executive Summary

The Professional Standards Branch and Risk Management Branch saw a productive year in 2017. Both public complaints from the OIPRD and internal investigations experienced a slight decrease from 2016. However, there was a 26% increase in the number of OIPRD complaints screened in for investigation and the time spent on investigations notably increased, as they were more complex in nature.

In 2017, the Hamilton Police Service answered 367,725 telephone calls, yet only 94 public complaints were made to the OIPRD, representing less than 0.03%. Of these complaints, 71 were screened in for investigation by PSB. This included 60 conduct complaints, 3 service complaints, 1 Policy complaints and 7 customer service resolutions.

In 2017, the HPS answered 367,725 phone calls.

The HPS received only 94 public complaints, this represents less than 0.03% of all calls.

In 2017, Red Light Camera Violations Decreased by 15%

Neglect of Duty and Excessive Force were the most common allegations of misconduct at 17 counts each, and Discreditable Conduct was the second most common at 16. It should be noted that the OIPRD does not screen out any Excessive Force complaints. There were no allegations of the more egregious complaint type of Corrupt Practice, however there were 3 Breach of Confidence complaints. Two of the three Breach of Confidence complaints were unsubstantiated, and one was withdrawn. Of the 60 conduct investigations, only 6 cases (10%) resulted in a finding of misconduct. One of the three Service Complaints received was resolved through informal resolution, and the remaining two were unsubstantiated. An OIPRD review was requested 3 times by a complainant in 2017. One HPS decision was upheld and two remain before the OIPRD. In 2016, 3 OIPRD reviews were requested. Two of the HPS decisions were upheld and the third still remains before the OIPRD.

A total of 191 internal complaints were filed in 2017, representing a decrease of 5% from 2016. Red Light Camera (RLC) violations decreased by 15%. Motor Vehicle Collisions (MVC) increased 3%; and Missed Court (MC) saw a 37% increase from 2016. Of the total internal complaints came 218 specific allegations of misconduct. Damage to Clothing/Equipment was the most frequent form of misconduct followed by Neglect of Duty. Damage to Clothing/Equipment includes all major and minor police service collisions, and in some instances, multiple allegations per complaint. There were 8 complaints and/or allegations of workplace harassment in 2017. Two of the allegations have been substantiated, five have been unsubstantiated, and the investigation into the remaining complaint/allegation has not been completed. Excluding MC, MVC, and RLC violations, 63% of the remaining 46 chief's complaints resulted in substantiated misconduct.

The SIU invoked its mandate to investigate 14 reported incidents in 2017. Of the 14 investigations, 5 were concluded by memo after a preliminary inquiry, and 9 became formal investigations. Out of the 9 investigations, 3

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were concluded with no reasonable grounds to believe that the subject officers committed a criminal offence. The remaining 6 investigations are pending the SIU Director's decision. The subsequent provincially mandated Section 11 investigations completed by the PSB in relation to two (2) of the investigations, determined that all HPS policy and procedures were adhered to and no further action was required. The Section 11 material for the third concluded investigation has yet to arrive at PSB.

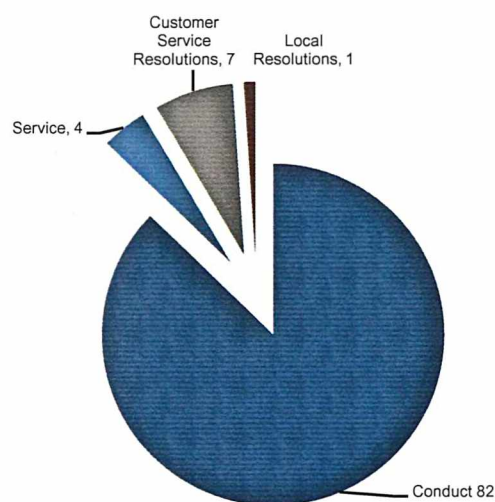
A total of 57 Fail to Stop reports were submitted for 2017. This is an increase of 4 reports or 7% from the previous year. Pursuits were initiated in 27 (47%) of the incidents where a Fail to Stop report was submitted. Officers discontinued 24 (88%) of these pursuits. Of the total Fail to Stop reports, 17 were for *Criminal Code* violations, 38 for *Highway Traffic Act* violations and 2 were for unspecified reasons. No MVC's occurred as a direct result of officer initiated pursuits compared to 2 in 2016.

The Hamilton Police Service received 120 Good News letters in 2017. The Service issued 18 letters of recognition to members of the public and a total of 203 commendations to HPS members for exemplary service. Additionally, 22 members were awarded Member of the Month, and two members were awarded the St. John's Ambulance Silver Life-Saving Award.

Public Complaints

In 2017, the Hamilton Police Service answered 367,725 telephone calls. Only 94 complaints were made to the OIPRD regarding the Hamilton Police Service, representing 0.03% of all calls. This is a very low number of complaints from the public given the frequency of contact and interactions they had with members of our Service.

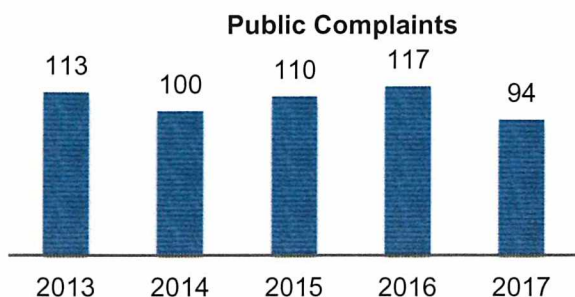
Of the 94 complaint submissions, 82 were related to officer conduct, 4 were classified as a service complaint, 7 were screened for customer service resolutions (CSR), and 1 was resolved locally (local resolution). It should be noted that a CSR is a confidential process for less serious complaints that provides an opportunity to voluntarily resolve complaints before they are formally screened under the *Police Services Act*.⁵ A local resolution is a process where complaints are made directly with the HPS and a resolution is agreed upon by the involved parties.⁶



⁵ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Customer Service Resolutions, www.oiprd.on.ca

⁶ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Local Resolutions, www.oiprd.on.ca

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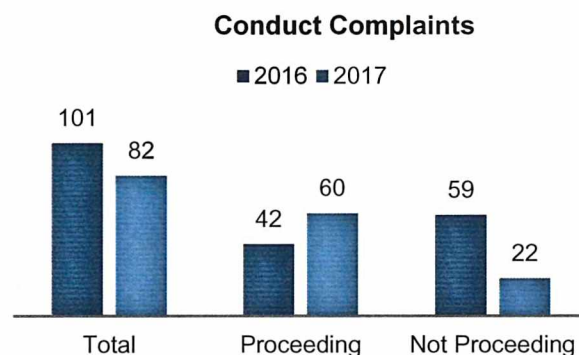
The OIPRD screened in 71 of the 94 complaints, which constitutes 75% of the original public complaints. This includes conduct complaints, customer service resolutions and service complaints. The average number of public complaints between 2013 and 2017 was 106. In 2017, the OIPRD experienced a slight decrease from the previous four-year average.

Conduct Complaints

When the behaviour of a police officer is formally questioned by a member of the public, the OIPRD classifies this as a conduct complaint.⁷ Of the 82 conduct complaints, 60 were ultimately screened in by the OIPRD for investigation. The OIPRD determined that a police investigation was not required for the remaining 22 submissions based on legislated criteria such as:

- the complaint is better dealt with under another law or act
- the complaint is frivolous – trivial or lacks an air of reality
- the complaint is not in the public interest
- the complaint is made over six months after the incident⁸

Comparing the 2017 conduct complaint data to that of 2016, reveals that there was a 19% decrease in these types of complaint submissions to the OIPRD. This decrease is in line with that of the overall decrease in the number of public complaints. However, the number of complaints regarding conduct screened in was 42% higher when compared to that of 2016.



Allegations of Misconduct

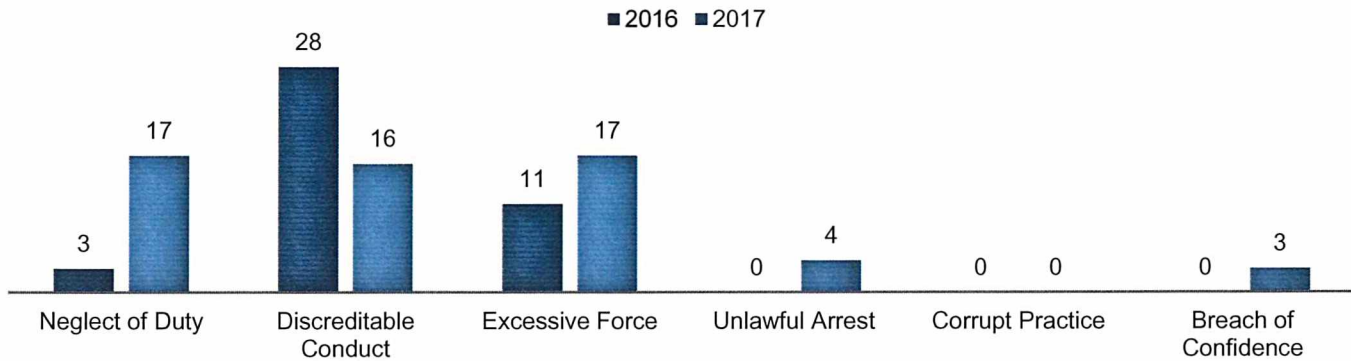
The *Police Services Act Code of Conduct* is used by the HPS as the basis for classifying conduct complaints. Although Neglect of Duty and Excessive Force allegations increased from 2016 to 2017, it is important to point out that the OIPRD does not screen out Excessive Force allegations. Neglect of Duty and Excessive Force represented the most common type of complaint made in 2017 at 56%. The number of complaints regarding Discreditable Conduct represented the second greatest type, and saw a decrease of 42% from 2016.

⁷ Queen's Printer for Ontario, 2015, *Office of Independent Police Review Director – Complaints*, www.oiprd.on.ca

⁸ Queen's Printer for Ontario, 2015, *Office of Independent Police Review Director – Screening Complaints*, www.oiprd.on.ca

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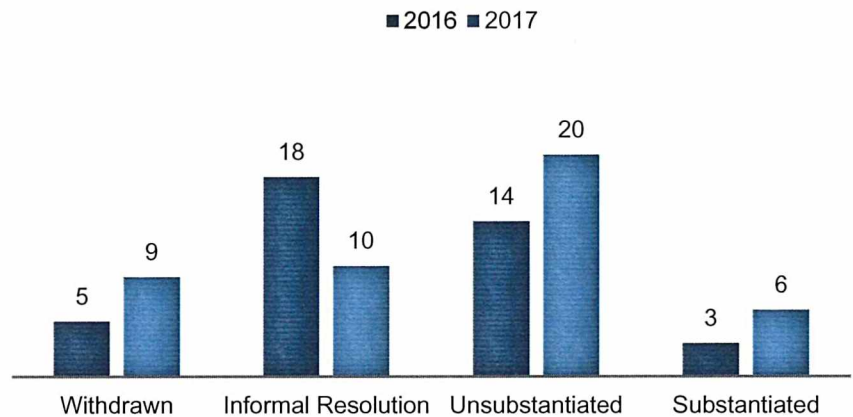
Conduct Complaints Proceeding by Allegation



Disposition of Conduct Complaints

Of the 60 officer conduct investigations, 9 complainants voluntarily withdrew their complaints based on subsequent information provided to them. At the preliminary stages, 10 were resolved by informal resolution, and 20 allegations of officer misconduct were unsubstantiated by investigators. Only 6 of the cases or 4% of the original 60 conduct complaints resulted in a finding of misconduct on behalf of the officer, with penalty to be implemented pursuant to the *Hamilton Police Service Discipline Policy*. As of February 20, 2018, 15 of the investigations remain open.

Disposition of Investigated Conduct Complaints

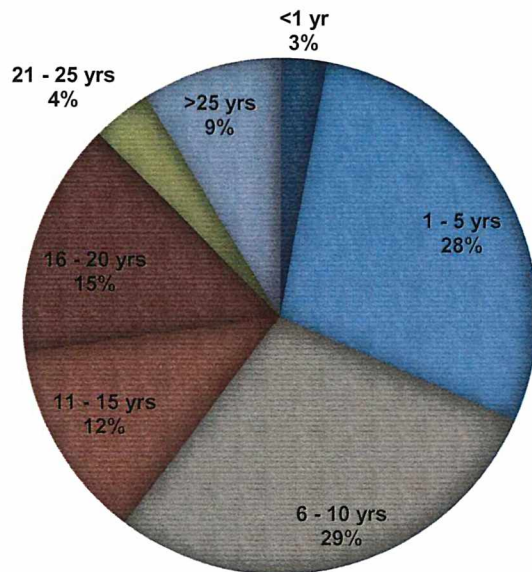


Demographics of Conduct Complaints

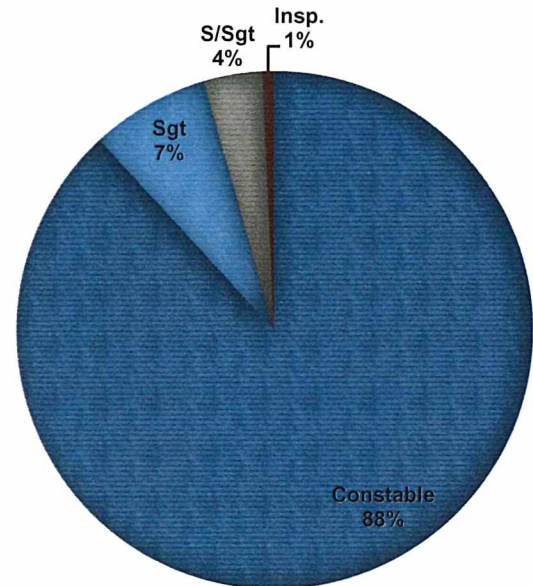
Most conduct complaints involve officers with 1-10 years of experience, as they are typically less experienced uniform police officers who have the highest frequency of contact with members of the public. When looking at the rank of a subject officer, the greatest number of public complaints is made regarding Constables. Similarly, Constables have the most interaction with the general public.

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Years of Service of Subject Officer



Rank of Subject Officer



Service Complaints

Service complaints relate to a specific policy and/or processes of the Hamilton Police Service. In 2017, there were 4 Service complaints filed against the HPS. One of the complaints was resolved through informal resolution, and the other two were unsubstantiated. One of the unsubstantiated complaints dealt with the length of time that it took police to respond to a domestic call, and the second had to do with EMS arriving to an assault/medical call prior to police. The Service complaint that resolved through informal resolution, related to issues experienced while utilizing a pardon service that had procedures that conflicted with HPS policy.

Public Complaint Reviews

In the circumstance that a complainant is not satisfied with the outcome of a complaint investigation, they may request a review by the OIPRD. Complainants have 30 days from the day they are notified of the results to make this request. Once the OIPRD has received the file from the police, they will assess the investigation and determine if the decision is appropriate.⁹

In 2017, the Hamilton Police Service received 3 requests from complainants for an OIPRD review. One HPS decision was upheld and two remain before the OIPRD.

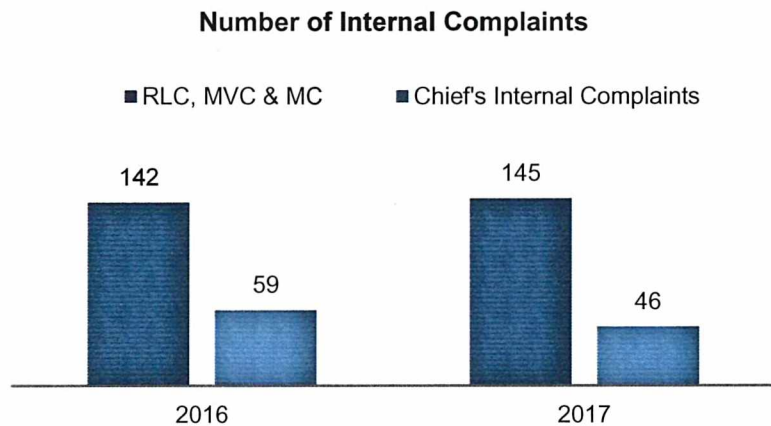
⁹ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Request a Review, www.oiprd.on.ca

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Internal Complaints

Pursuant to the *Police Services Act*, the Chief may cause an investigation to be conducted in relation to the conduct of a police officer employed by the Service. These internal complaints are typically initiated by a HPS member or supervisor. The findings of the investigation are provided to the Chief in a written report and where required, discipline is implemented pursuant to the *Hamilton Police Service Discipline Policy*.

With respect to these investigations, the Chief of Police has separated simple violations such as Red Light Camera violations (RLC), Motor Vehicle Collisions (MVC) and Missed Court (MC) to be investigated by divisional commanders. More complex member conduct investigations are investigated by the PSB. These are referred to as a Chief's Internal Complaint.



A total of 191 internal complaints were filed in 2017, a 5% decrease from 2016. Specifically, RLC, MVC and MC saw a slight 2% increase from the previous year; however, there was a 15% decrease in RLC incidents from 26 in 2016 to 22 in 2017. In addition, there were 11 MC incidents, 112 MVC incidents with 49 of those deeming the officer at fault, while the remaining 63 MVC's were deemed non-preventable.

Allegations of Misconduct

The internal complaints filed in 2017 yielded 218 specific allegations of misconduct. The number of allegations compared to complaints is larger because a single complaint may include multiple HPS members and/or multiple allegations per member. Of the various classifications of alleged misconduct, Damage to Clothing/Equipment was the most frequent at 53%. Damage to Clothing/Equipment is extremely broad and includes all police service collisions, from extremely minor to major and in some instances, multiple allegations per complaint.

Workplace Harassment Investigations (Bill 168)

The Hamilton Police Service is committed to providing a respectful work environment in which all individuals are treated with respect and dignity, are able to contribute fully, and have equal opportunities for all its 1240 full and part-time members. Harassment or discrimination is not tolerated in the workplace and all complaints of this nature are investigated thoroughly and in a timely manner.

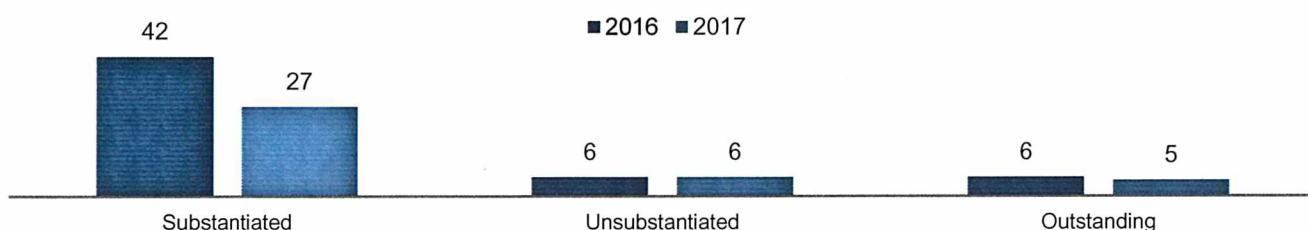
In 2017, there were 8 complaints and/or allegations of workplace harassment. Two of the allegations have been substantiated, five have been unsubstantiated, and the investigation into the remaining complaint/allegation has not been completed. There were five reported complaints of harassment in 2016.

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Chief's Internal Complaints

Of the 38 internal complaint investigations (exclusive of Harassment Allegations, MC, MVC, and RLC) in 2017, 71% of the cases of misconduct were substantiated. This is a decrease from 2016, where 78% of the complaints were substantiated.

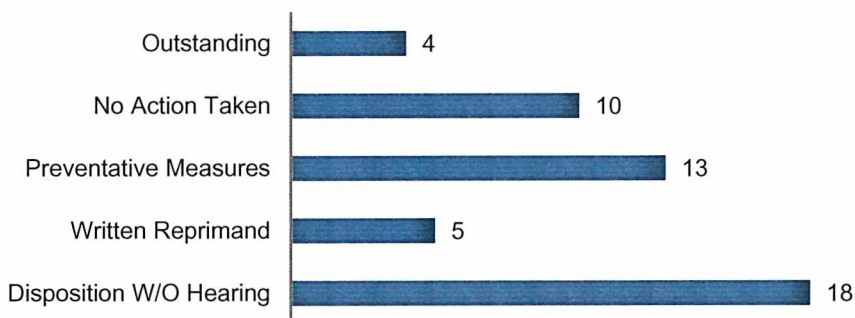
Conclusions of Chief's Internal Complaints



Disposition of Internal Complaints

In the 38 internal investigations, 50 members were identified as subject members. Of the subject members, 46% received corrective discipline. Preventative measures were applied to 26% of subject members. No action was taken against 20%, as either the substance of the allegations were unfounded or the allegations could not be proven through investigation. Outstanding dispositions, including outstanding criminal matters account for the remaining 8%.

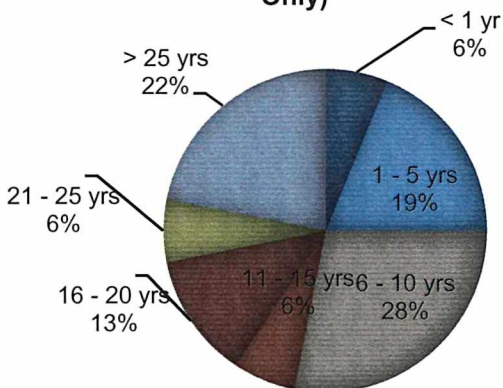
2017 Penalty Dispositions



Demographics of Internal Complaints

Sworn Officers with between 6 and 10 years of service accounted for 28% of internal investigations, while officers between 1 and 5 years of service represented 19%. These two categories alone represent nearly half of the officers with allegations of misconduct. Of note, there is a 175% increase in 25 plus year officers from that in 2016.

Years of Service (Sworn Members Only)



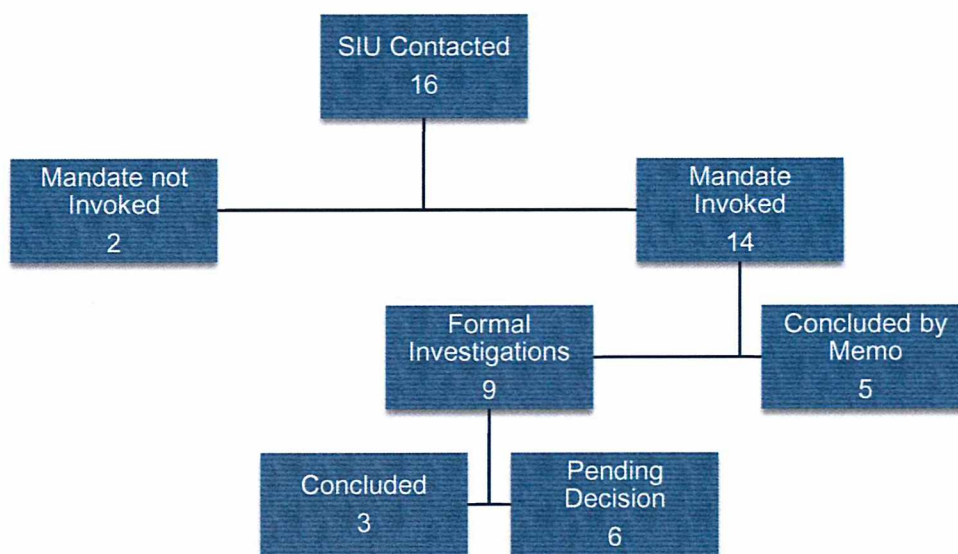
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Special Investigations Unit Incidents

In the pursuit of cooperation, the Hamilton Police Service notified the Special Investigations Unit (SIU) on 16 occasions in 2017. The SIU invoked its mandate in 14 of the 16 incidents.

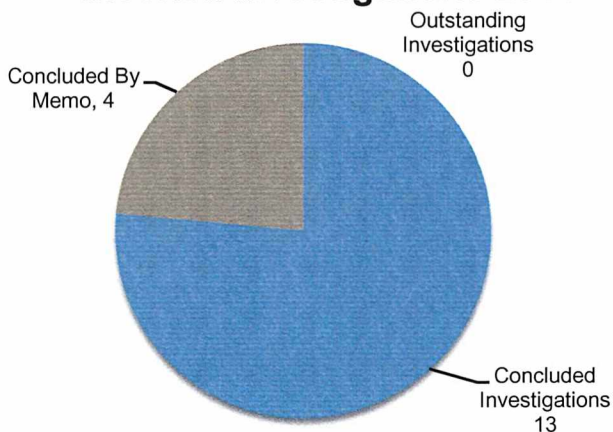
Formal Investigations

Of the 14 SIU investigations, 5 were concluded by memo after the SIU completed a preliminary inquiry and 9 were processed as formal investigations. Out of the 9 investigations, only 3 have been concluded. In all three incidents, the SIU concluded that reasonable grounds did not exist to believe that the Subject Officers committed a criminal offence. The remaining 6 investigations are pending the Director's decision.

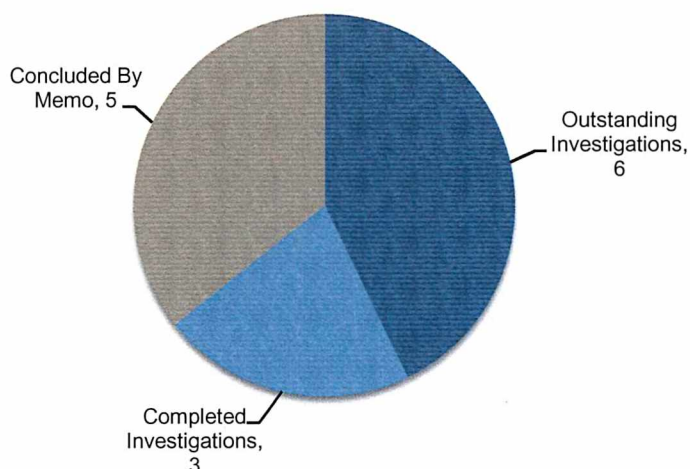


In comparison, the SIU was notified 18 times in 2016 and invoked their mandate in 17 incidents.

Invoked Investigations 2016



Invoked Investigations 2017

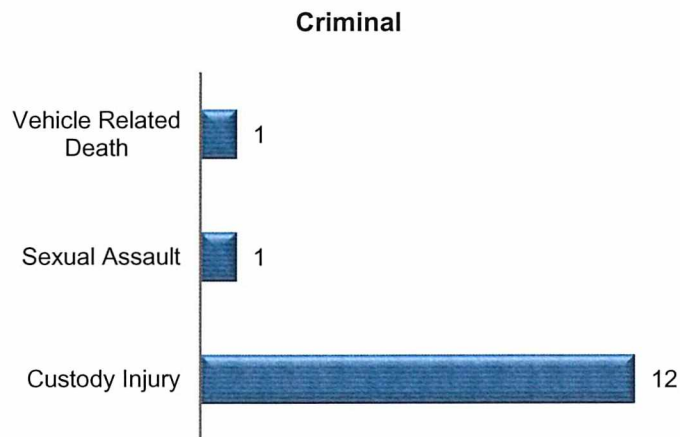


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Criminal Allegations

Out of the 14 incidents where the SIU invoked their mandate in 2017, 1 was classified as Vehicle Related Death, 12 were classified as a Custody Injury, and 1 was classified as a Sexual Assault.

Police custody related injury is the most frequently classified incident involving the SIU. Police Custody Injury and Police Custody Death are not clearly defined and do not specifically mean being physically controlled or being in a custody area of the Hamilton Police Service.



Section 11 Investigations

Of the 3 SIU investigations that have concluded in 2017, 2 Section 11 investigations have been completed by the PSB. The Section 11 Investigations have concluded that all HPS policy and procedures were adhered to and no further action was required on the part of the subject officers or the HPS. The third Section 11 investigation is on hold pending requested materials from the SIU. There are 6 outstanding Section 11 investigations remaining for 2017. These cannot proceed until the Director of the SIU has reached a decision pertaining to these matters. A Section 11 Investigation is not required when an officer is criminally charged by the SIU.

Risk Management

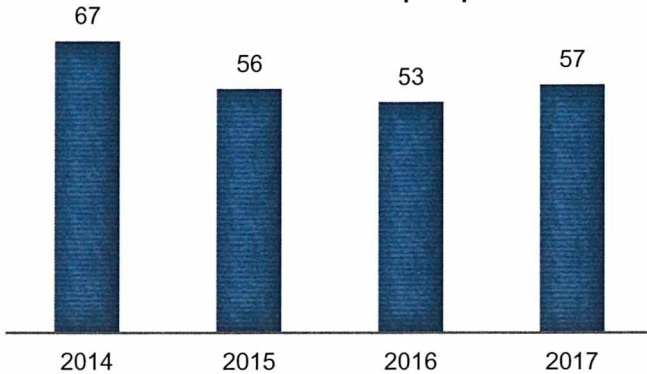
Suspect Apprehension Pursuits

A suspect apprehension pursuit occurs when a police officer attempts to direct the driver of a motor vehicle to stop. The driver refuses to obey the officer and the officer pursues in a motor vehicle for the purpose of stopping the fleeing motor vehicle or identifying the fleeing motor vehicle or an individual in the fleeing motor vehicle.¹⁰

¹⁰ Police Service Act, 2011, Ontario Regulation 266/10, Suspect Apprehension Pursuits, www.e-laws.gov.on.ca

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Number of Fail to Stop Reports

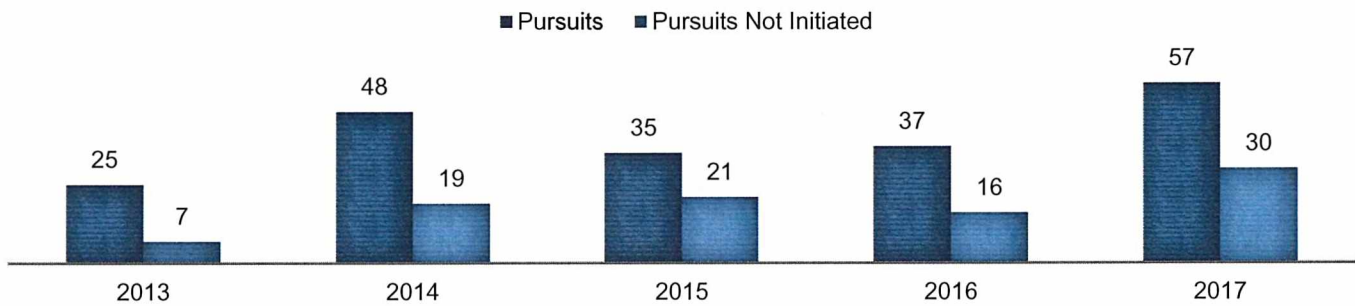


Fail to Stop Report

A Fail to Stop report is used by the HPS whenever an officer attempts to stop a motor vehicle and that motor vehicle refuses to stop as directed, whether or not a pursuit is initiated.

The total number of Fail to Stop reports submitted for 2017 was 57. This is an increase of 7.5% when compared to 2016. Pursuits were initiated in 47% of the incidents where a Fail to Stop report was submitted.

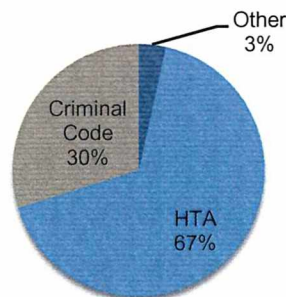
Fail to Stop Report Outcomes



Of 27 initiated pursuits in 2017, 19 were terminated within 1 km, and an additional 14 pursuits were terminated within 1-5 km. This can be attributed to strong supervision, training, officer discretion, and the HPS commitment to public and officer safety.

Of the 57 Fail to Stop reports in 2017, 17 were for *Criminal Code* violations, 38 for *Highway Traffic Act* violations and 2 were suspicious vehicles.

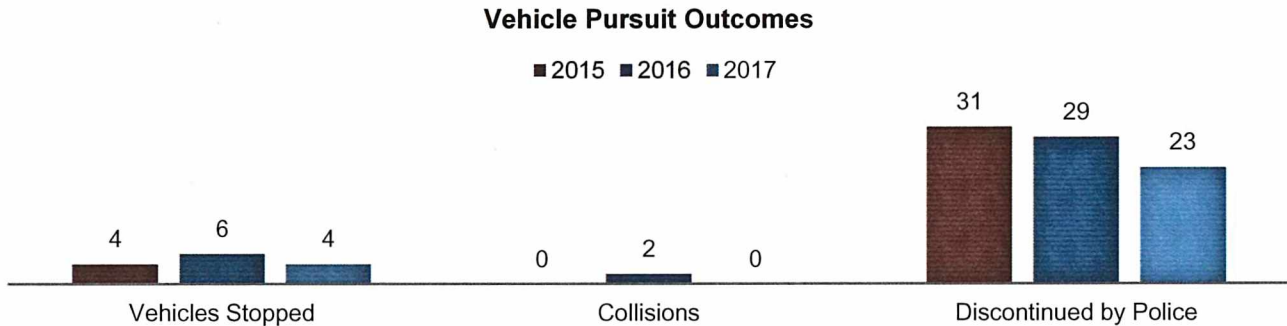
Reason for Pursuit



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Pursuit Outcomes

In 2017, officers discontinued 85% of pursuits, which represents 23 of the total 27 pursuits. In 2016, pursuits were discontinued 78% of the time.



Commendations and Citizen Awards and Letters

The Hamilton Police Service received 120 Good News letters in 2017. This is reflective of the quality service that our members are providing to our communities. In addition to this recognition by members of the public, the Hamilton Police Service also recognized members of the Service and members of our communities in 2017 through various acknowledgements including:

- Issuance of 18 letters of recognition to members of the public
- Awarded 22 members with the Member of the Month Award
- Issuance of 203 commendations to members for exemplary service (139 level one, 1 level two, 17 Superintendent, and 46 Chief)

In addition, two members of our Service were awarded the St. John's Ambulance Silver Life-Saving Award.