

HAMILTON POLICE SERVICES BOARD - INFORMATION -

DATE: 2019 April 11
REPORT TO: Chair and Members
Hamilton Police Services Board
FROM: Eric Girt
Chief of Police
SUBJECT: *Year End Report: Professional Standards Branch - 2018*
PSB 19-027

BACKGROUND:

Please find attached the annual Professional Standards Branch Report for 2018. The report outlines public complaints, Service complaints and internal investigations including workplace harassment. SIU investigations and their outcomes are also reported. Further, this 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 2018*

cc: Frank Bergen, Deputy Chief – Support



Hamilton Police Service Professional Standards Branch

Annual Report 2018

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 2018, as well as a compilation of relevant Risk Management data for the same year.

The statistical information included in the 2018 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
- Human Resources
- Special Investigations Unit Liaison
- 2017 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, Business 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 2018, 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, 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 service. 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 2018. Although public complaints from the OIPRD experienced a slight increase over 2017, there was a 20% decrease in the number of OIPRD complaints that were screened in for investigation. However, the time spent on investigations notably increased, as they were more complex in nature. Internal conduct investigations saw a significant decrease from 2017. In addition, the HPS investigated two external agency OIPRD complaints in 2018.

In 2018, the Hamilton Police Service answered 317,724 telephone calls, yet only 120 public complaints were made to the OIPRD, representing less than 0.04%. This included 105 conduct complaints, 1 service complaint, 2 policy complaints, 2 local resolutions and 10 customer service resolutions. Of the 105 conduct complaints, 48 were screened in for investigation by PSB.

In 2018, the HPS answered 317,724 phone calls.

The HPS received only 120 public complaints, which represents less than 0.04% of all calls.

In 2018, Red Light Camera Violations increased by 9, or 40%.

Discreditable Conduct was the most common allegation of misconduct at 18 counts, followed by Neglect of Duty at 15 counts and Excessive Force at 10 counts. It should be noted that the OIPRD does not screen out any Excessive Force complaints. Of the 48 conduct investigations, only 1 case resulted in a finding of misconduct. The one Service Complaint was later withdrawn, and the two Policy Complaints were unsubstantiated. An OIPRD request for review was requested 3 times by a complainant in 2018. The 3 reviews remain before the OIPRD. In 2017, 2 OIPRD reviews were requested. The 2 HPS decisions were upheld by the OIPRD.

A total of 182 internal complaints were filed in 2018, representing a decrease of 4% from 2017. Red Light Camera (RLC) violations increased by 9, or 40%. Motor Vehicle Collisions (MVC) remained unchanged; and Missed Court (MC) saw a 9% decrease from 2017. Of the total internal complaints came 219 specific allegations of misconduct. Damage to Clothing/Equipment was the most frequent form of misconduct followed by Discreditable Conduct. Damage to Clothing/Equipment includes all major and minor police service collisions, and in some instances, multiple allegations per complaint. There were 6 complaints and/or allegations of workplace harassment in 2018. Three of the allegations have been substantiated, one has been unsubstantiated, and two concluded with no further action. Excluding MC, MVC, and RLC violations, 59% of the remaining 22 chief's complaints resulted in substantiated misconduct.

The SIU invoked its mandate to investigate 16 reported incidents in 2018. Of the 16 investigations, 8 were concluded by memo after a preliminary inquiry, and 8 became formal investigations. Out of the 8 investigations, 1 was concluded with no reasonable grounds to believe that the subject officers committed a criminal offence. The

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remaining 7 investigations are pending the SIU Director's decision. The subsequent provincially mandated Section 11 investigation completed by the PSB in relation to the one (1) concluded investigation, determined that all HPS policy and procedures were adhered to and no further action was required.

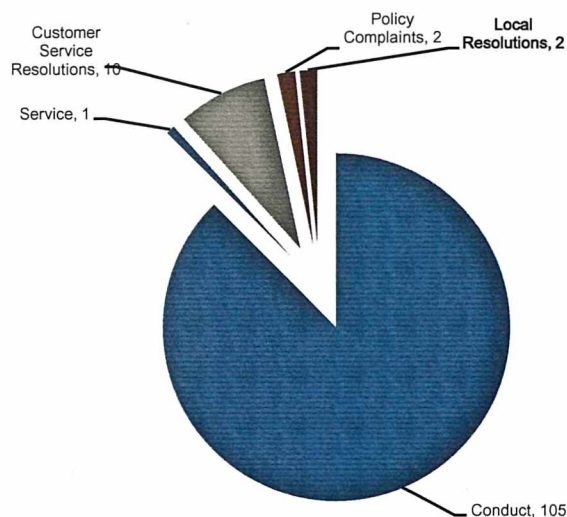
A total of 70 Fail to Stop reports were submitted for 2018. This is an increase of 13 reports or 22% from the previous year. Pursuits were initiated in 37 (52%) of the incidents where a Fail to Stop report was submitted. Officers did not engage in a pursuit 33 times. Of the total Fail to Stop reports, 27 were for *Criminal Code* violations, 40 for *Highway Traffic Act* violations and 3 were suspicious vehicles. In 2018, 8 MVC's occurred as a direct result of officer initiated pursuits compared to 0 in 2017. There were no pursuit related injuries.

The Hamilton Police Service received 112 Good News letters in 2018. The Service issued 53 letters of recognition to members of the public and a total of 139 commendations to HPS members for exemplary service. Additionally, 16 members were awarded Member of the Month, and 6 members received the Chief's Pride Award.

Public Complaints

In 2018, the Hamilton Police Service answered 317,724 telephone calls. Only 120 complaints were made to the OIPRD regarding the Hamilton Police Service, representing 0.04% 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.

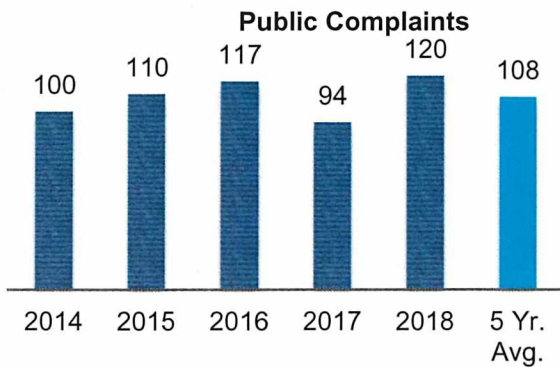
Of the 120 complaint submissions, 105 were related to officer conduct, 1 was classified as a service complaint, 2 as policy complaints, 10 were screened for customer service resolutions (CSR), and 2 were resolved locally (local resolution). It should be noted that a CSR is a confidential process for 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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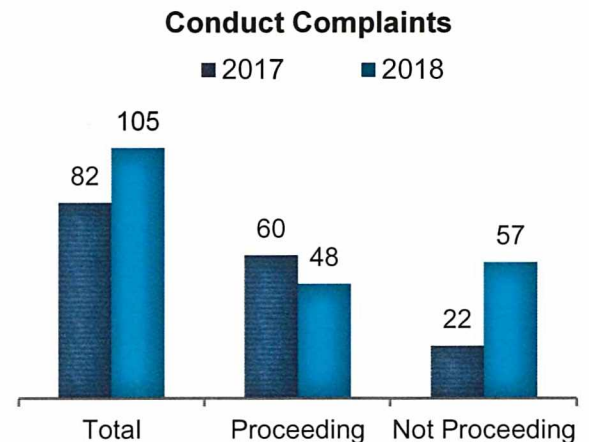
The OIPRD screened in 48 of the 120 complaints, which constitutes 40% of the original public complaints. This includes conduct complaints, customer service resolutions and service and policy complaints. The average number of public complaints between 2014 and 2018 was 108. In 2018, the OIPRD experienced an increase of 12% from the previous four-year average. However, the percentage of complaints screened in by the OIPRD decreased by 46%.

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 105 conduct complaints, 48 were ultimately screened in by the OIPRD for investigation. The OIPRD determined that police investigation was not required for the remaining 57 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 2018 conduct complaint data to that of 2017, reveals that there was a 28% increase in these types of complaint submissions to the OIPRD. However, the number of complaints, regarding conduct, screened in was 20% lower when compared to that of 2017.



Allegations of Misconduct

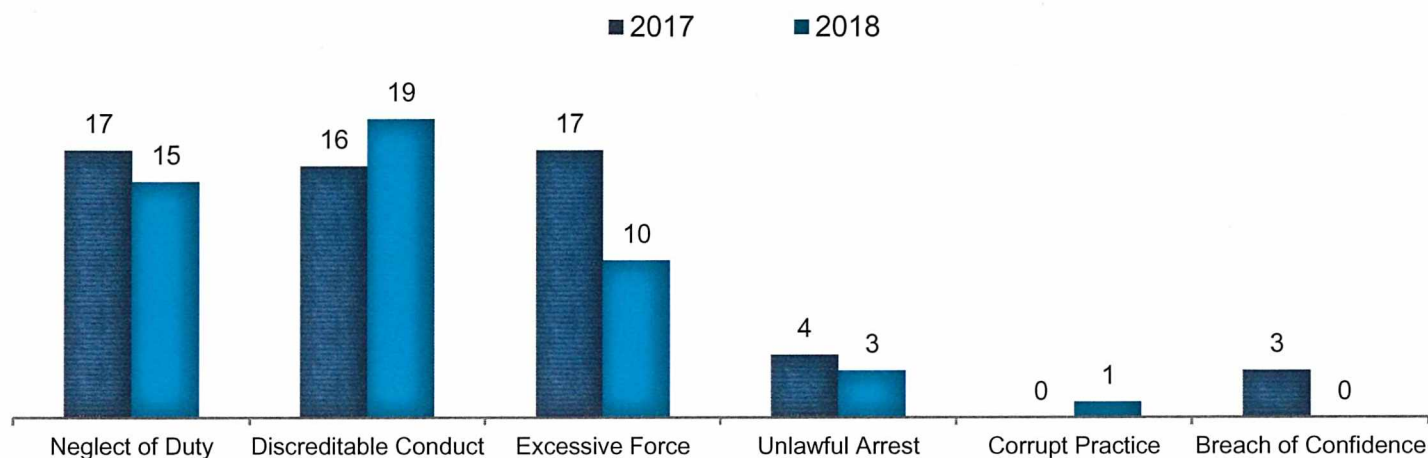
The *Police Services Act Code of Conduct* is used by the HPS as the basis for classifying conduct complaints. Neglect of Duty and Excessive Force allegations decreased from 2017 to 2018. It is important to point out that the OIPRD does not screen out Excessive Force allegations. Discreditable Conduct and Neglect of Duty represented the most common type of complaint made in 2018 at 70%. The number of complaints regarding Excessive Force represented the third greatest type, and saw a decrease of 23% from 2017.

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

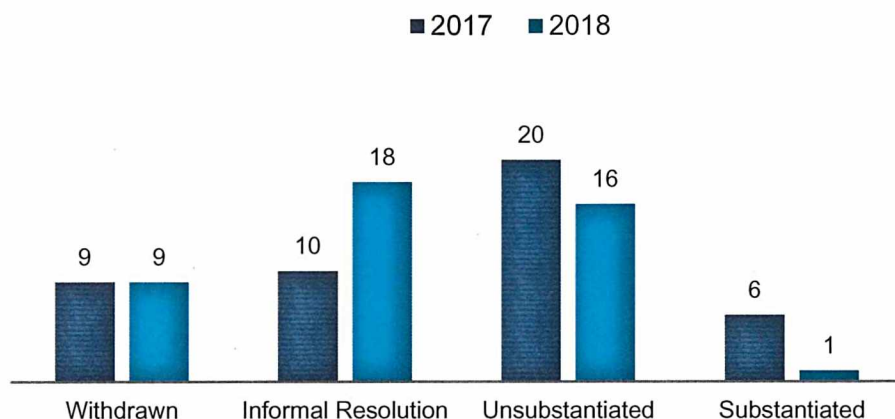


Disposition of Conduct Complaints

Of the 48 officer conduct investigations, 9 complainants voluntarily withdrew their complaints based on subsequent information provided to them. At the preliminary stages, 18 were resolved by informal resolution, and 16 allegations of officer misconduct were unsubstantiated by investigators. Only 1 of the original 48 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 28, 2019, 4 of the investigations remain open.

Disposition of Investigated Conduct Complaints

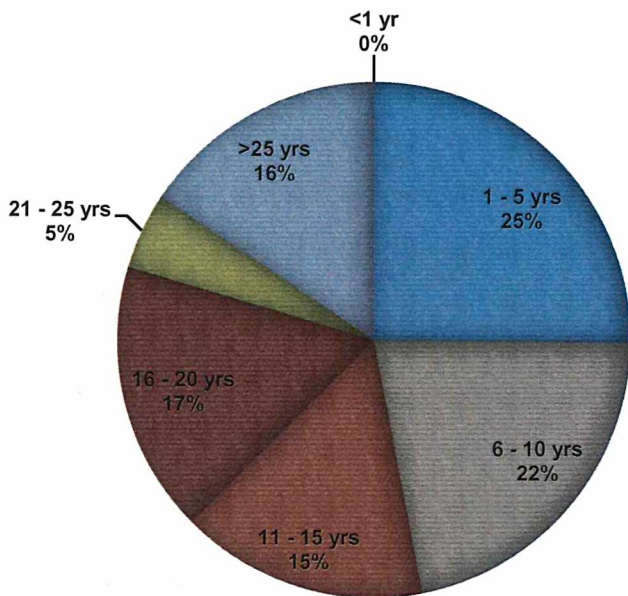


Demographics of Conduct Complaints

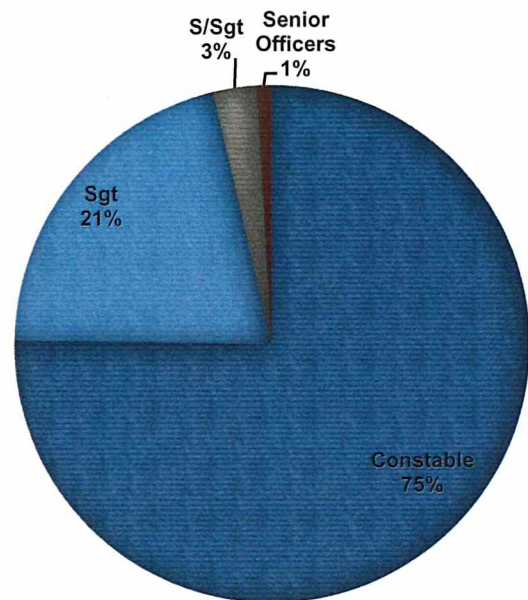
Most conduct complaints involve officers with 1-5 years of experience, as they are typically less experienced uniform police officers who have the highest frequency of contact with members of the public. When looking at the rank of a subject officer, the greatest number of public complaints is made regarding 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 / Policy Complaints

Service complaints relate to a specific policy and/or processes of the Hamilton Police Service. In 2018, there was 1 service complaint filed against the HPS. The complaint, which was related to the refusal of the HPS to release information on the basis of privacy concerns, was unsubstantiated. Of the two policy complaints, one related to the HPS media policy, and the other to the witnessing of third-party documents. Both complaints were unsubstantiated.

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 2018, 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 an 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 182 internal complaints were filed in 2018, a 4% decrease from 2017. Specifically, RLC, MVC and MC saw a slight 6% increase from the previous year; and a 40% increase in RLC incidents from 22 in 2017 to 31 in 2018. In addition, there were 10 MC incidents, 113 MVC incidents with 65 of those deeming the officer at fault, while the remaining 48 MVC's were deemed non-preventable.

Allegations of Misconduct

The internal complaints filed in 2018 yielded 219 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 51%. 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

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 1238 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.

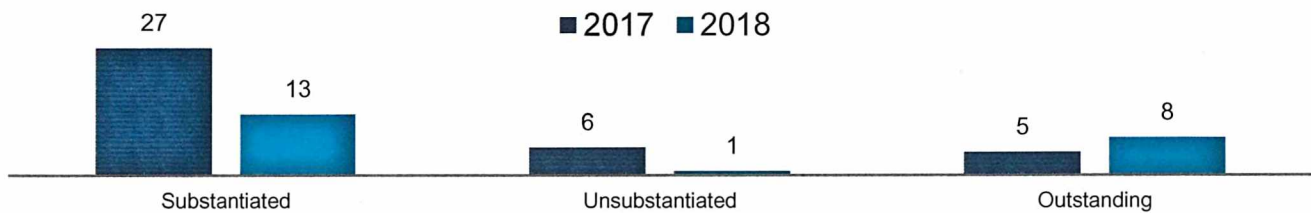
In 2018, there were 6 complaints and/or allegations of workplace harassment. Three of the allegations have been substantiated, one was unsubstantiated, and the investigation into the two remaining allegations concluded with no further action required. There were eight reported complaints of harassment in 2017.

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Chief's Internal Complaints

Of the 22 internal complaint investigations (exclusive of Harassment Allegations, MC, MVC, and RLC) in 2018, 13, or 59% of the cases of misconduct were substantiated. This is a decrease from 2017, where 71% of the complaints were substantiated.

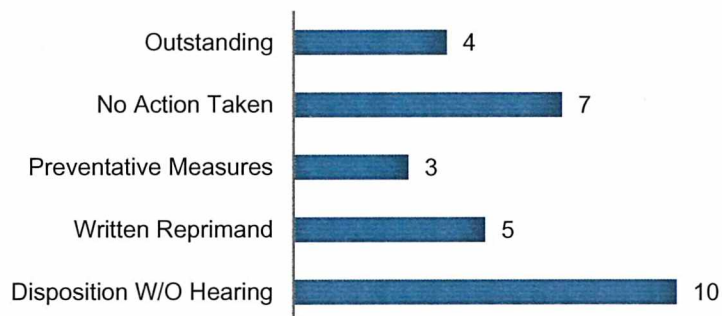
Conclusions of Chief's Internal Complaints



Disposition of Internal Complaints

In the 22 internal investigations, 29 members were identified as subject members. Of the subject members, 52% received corrective discipline. Preventative measures were applied to 10% of subject members. No action was taken against 24%, 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 14%.

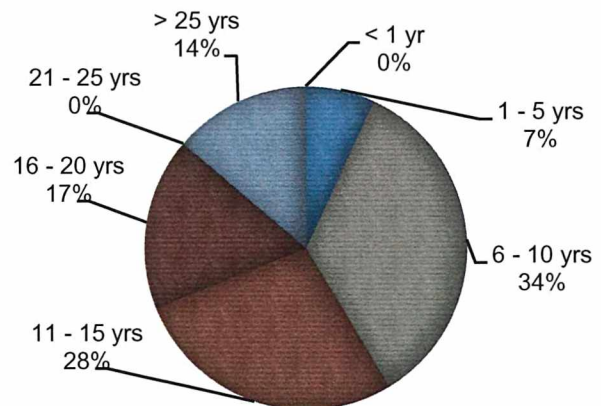
2018 Penalty Dispositions



Demographics of Internal Complaints

Sworn Officers with between 6 and 10 years of service accounted for 34% of internal investigations, while officers between 11 and 15 years of service represented 28%. These two categories alone represent more than half of the officers with allegations of misconduct.

Years of Service (Sworn Members Only)



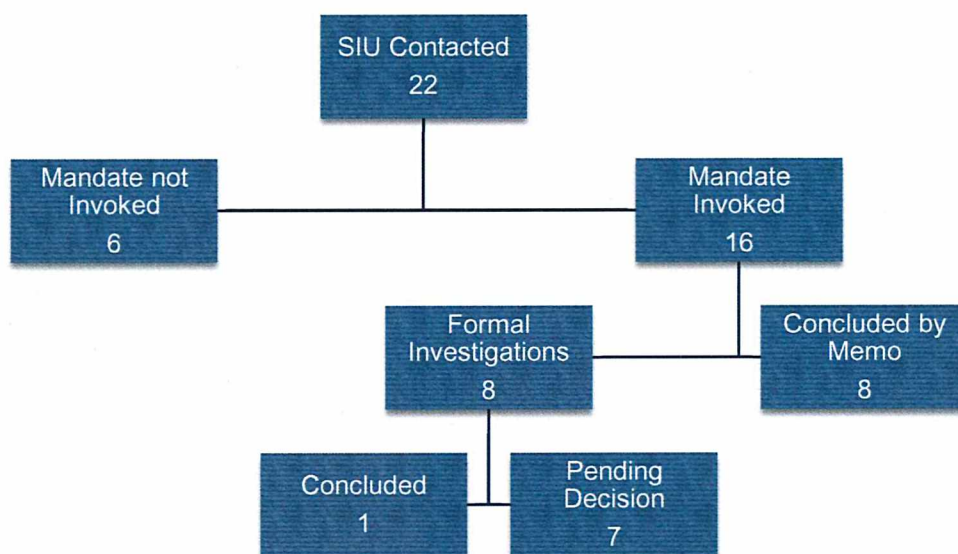
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Special Investigations Unit Incidents

In the pursuit of transparency, the Hamilton Police Service notified the Special Investigations Unit (SIU) on 22 occasions in 2018. The SIU invoked its mandate in 16 of the 22 incidents.

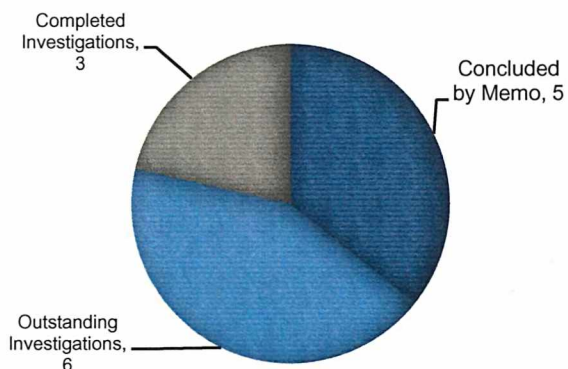
Formal Investigations

Of the 16 SIU investigations, 8 were concluded by memo after the SIU completed a preliminary inquiry and 8 were processed as formal investigations. Out of the 8 investigations, only 1 has been concluded. In that incident, the SIU concluded that reasonable grounds did not exist to believe that the Subject Officer committed a criminal offence. The remaining 7 investigations are pending the Director's decision.

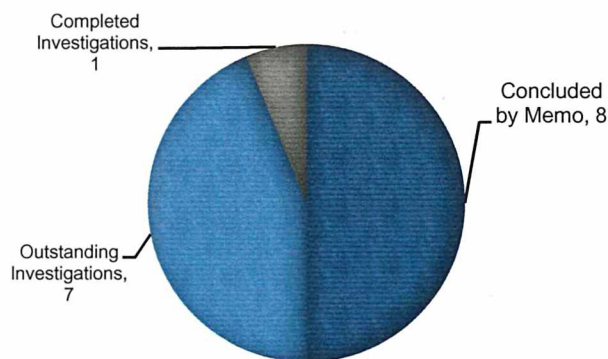


In comparison, the SIU was notified 16 times in 2017 and invoked their mandate in 14 incidents.

Invoked Investigations 2017



Invoked Investigations 2018



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Criminal Allegations

Out of the 16 incidents where the SIU invoked their mandate in 2018, 7 were classified as a Custody Injury, 4 were classified as a Sexual Assault, 3 were classified as a Custody Death, and 2 were classified as a Firearms Death.

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

One Section 11 investigation has been completed by the PSB in relation to the one 2018 concluded SIU investigation. The Section 11 Investigation has 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. There remain 7 outstanding Section 11 investigations for 2018. 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

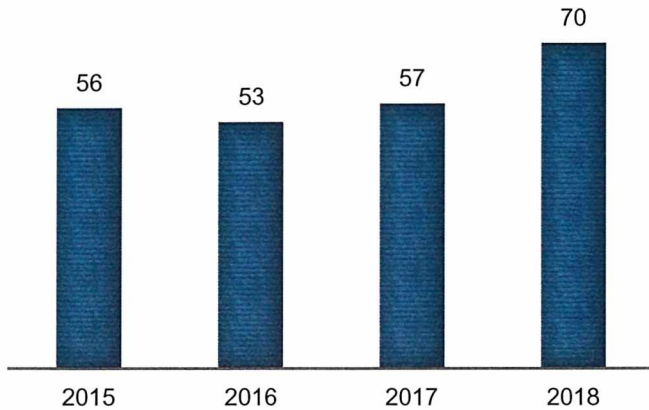
Suspect Apprehension Pursuits

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

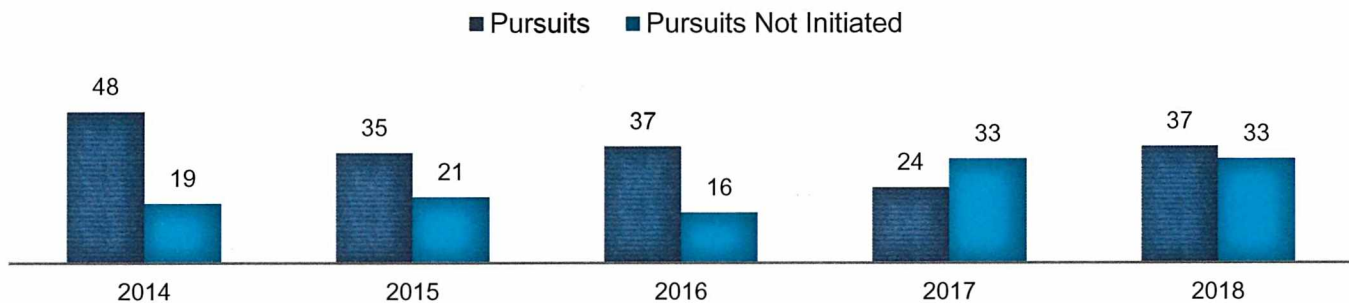


Fail to Stop Report

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 2018 was 70. This is an increase of 23% when compared to 2017. Pursuits were initiated in 52% of the incidents where a Fail to Stop report was submitted.

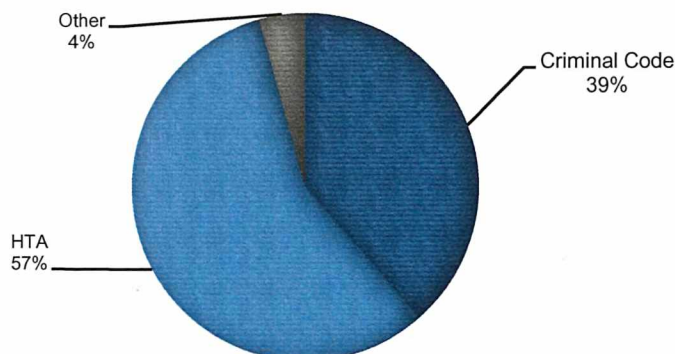
Fail to Stop Report Outcomes



Of 37 initiated pursuits in 2018, 17 were terminated within 1 km, an additional 19 pursuits were terminated within 1-5 km and 1 exceeded 5 km. This can be attributed to strong supervision, training, officer discretion, and the HPS commitment to public and officer safety.

Of the 70 Fail to Stop reports in 2018, 27 were for *Criminal Code* violations, 40 for *Highway Traffic Act* violations and 3 were suspicious vehicles.

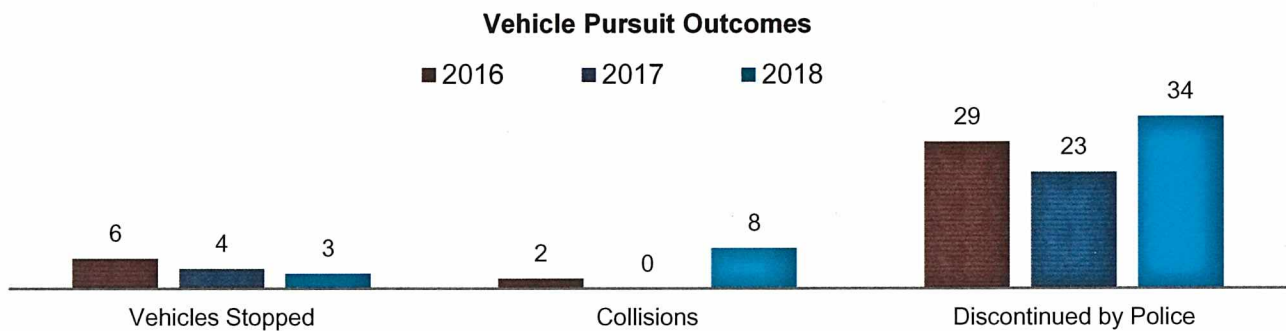
Reason for Pursuit



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Pursuit Outcomes

In 2018, officers discontinued 92% of pursuits, which represents 34 of the total 37 pursuits. In 2017, pursuits were discontinued 85% of the time.



Commendations and Citizen Awards and Letters

The Hamilton Police Service received 112 Good News letters in 2018. 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 2018 through various acknowledgements including:

- Issuance of 53 letters of recognition to members of the public.
- Awarded 16 members with the Member of the Month Award.
- 6 members received the Chief's Pride Award.
- Issuance of 139 commendations to members for exemplary service.