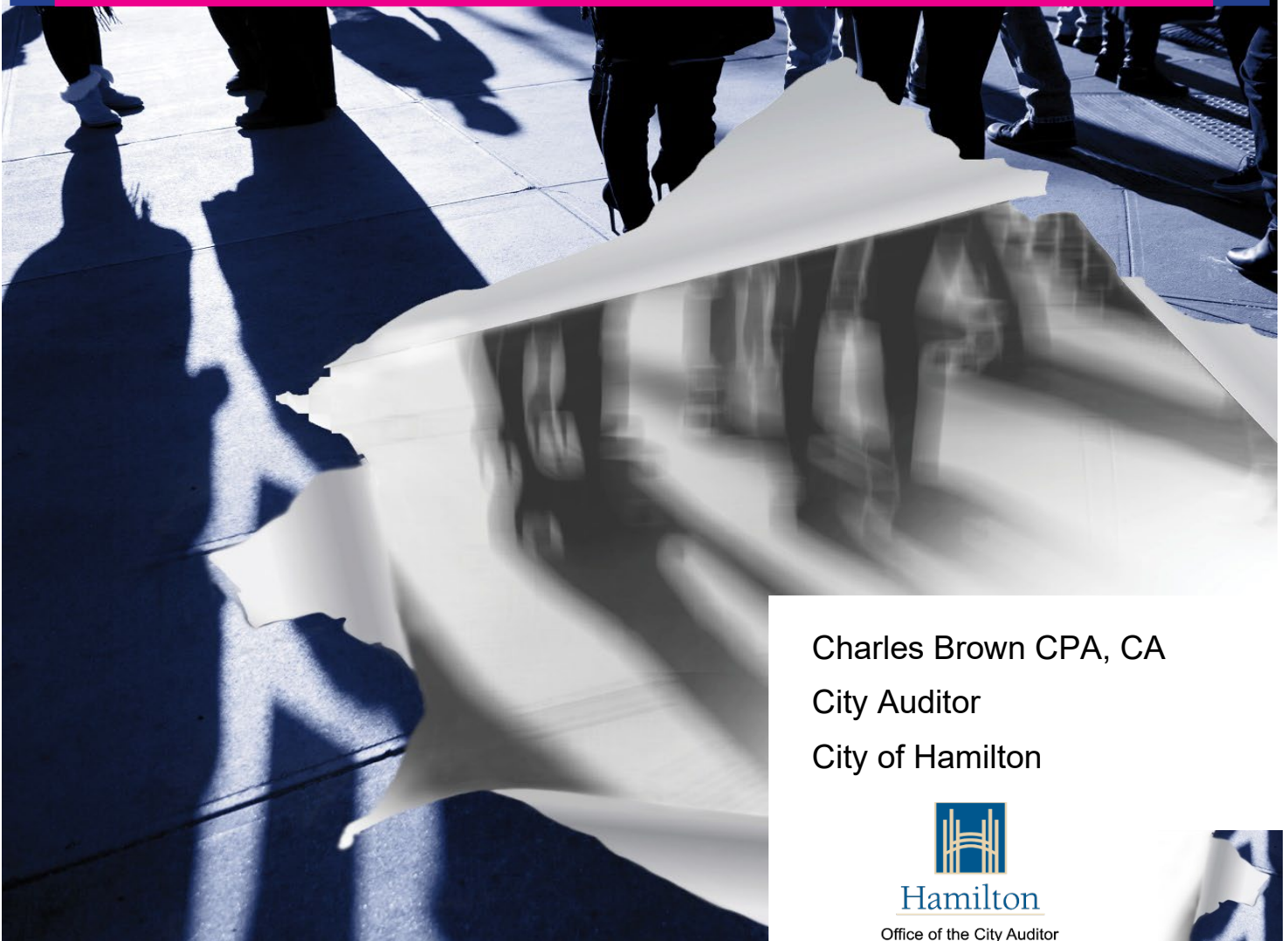


City of Hamilton
Office of the City Auditor

FRAUD AND WASTE ANNUAL REPORT

July 1, 2021 to June 30, 2022



Charles Brown CPA, CA
City Auditor
City of Hamilton



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Summary and Commentary

This year's Fraud and Waste Annual Report reflects the third year of activity of the hotline since it was launched in July 2019. It provides a summary of the complaints received, the investigations launched, and the results and actions that took place related to allegations of fraud and government waste.

During the first year, July 2019 to June 2020, the volume of reports received by the Office of the City Auditor exceeded initial expectations, with 85 reports being received. For the second year, July 2020 to June 2021, the volume of activity continued to exceed expectations with 80 reports received. For the third year, the volume increased significantly with 107 reports received. In fact, that trend has continued during the first six months of the fourth year of implementation, with 74 reported complaints, the highest ever volume for a six-month period. Clearly, the hotline continues to be well used.

With 107 reports received in the most recent reporting year, we have noted that 64% come from employees and 36% from the public. While most of the complaints we receive are dealt with through referral and report back, a significant number, 21%, involve investigation by our office. Overall, the substantiation rate of complaints received was 32%. We also continued to follow the approach of the previous year by making it a practice to initiate spontaneous system or process audits in response to issues that could have systemic repercussions. In that regard we launched audits and/or reviews of Hamilton Municipal Cemeteries Trust Funds (Report AUD23001), Roads Value for Money Audit - Roads Quality Assurance Supplementary Audit Report (Report AUD21006(a)), and IT Asset Management Review (AUD22006).

The purpose of the hotline and ensuing investigation of complaints is to ensure honesty, integrity and accountability in the operations of the City. One of the significant benefits is that it affords an opportunity to identify systemic problems, themes or emerging issues that can be considered by City management in their operations and Council in their governance.

One issue that OCA is bringing forward for the second year in a row is the apparent difficulty that management experiences in properly dealing with conflict of interest situations that arise with employees of the City. Since the hotline was implemented OCA has investigated no fewer than 14 instances (more if reports where conflict of interest is one of several topics being looked into are considered) where either the disclosure process or the related mitigation of the conflict of interest has been an issue. Conflicts of interests continue to be one of the most persistent, serious, and time-consuming types of complaints received and investigated by the OCA.

In our view, the current policy is not clear, and does not lend itself to consistent, accurate and unambiguous interpretation. In practice, potential conflicts are not

being reported, and when they are the process is inadequate to ensure they are properly addressed. The form that is used for conflicts does not match the actual requirements in the policy, and it tends to be completed in a perfunctory manner. Nor does the process ensure that there is a third party, objective determination being made of the nature and severity of each case. In general, we have found that they do not come under adequate scrutiny by senior leadership. Another difficulty is that there is no central repository of conflict declarations, where decisions can be tracked and evaluated for consistency or consulted for precedent. In comparing the City’s process with other jurisdictions, we note that some organizations manage conflicts of interest through an annual reminder and disclosure letter from the senior-most leader, with disclosures being adjudicated by them with support from legal services. In our opinion, that approach provides more objective, third party scrutiny to the decisions that are made on whether a situation is a conflict and how it is to be mitigated.

On a related issue, we also note in this year’s report that the current Policy on Gifts and Hospitality is silent about the appropriateness of high levels of socializing with contractors or vendors. In these circumstances, employees need to be mindful of the perception that such conduct creates with members of the public, and the impact it can have on staff.

Previously we recommended that senior leadership undertake a review of its current process of Conflict of Interest management to rationalize and improve the effectiveness with which these processes are conducted, and most importantly to elevate the importance of proper disclosure of potential conflict situations. It is our understanding that a review is in progress, as the OCA was consulted by Human Resources to share our findings, experience, and expertise in this area. To these recommendations we would go further with respect to the lessons learned this year related to socializing and relationships with vendors:

- 1) Consider defining and prohibiting “non-pecuniary interests” as part of the Code of Conduct and Procurement By-Law
- 2) Amend conflict of interest policies to ensure avoidance, explicitly, of situations of high socialization with vendors and to give notice to employees that these types of conflict situations will require employees to demonstrate compliance with the Gifts and Hospitality policy.

About the Fraud and Waste Hotline

The Fraud and Waste Hotline provides City of Hamilton employees, contractors, vendors, and members of the public a convenient, confidential, and anonymous way to report suspicion or proof of wrongdoing. Wrongdoing is defined as any activity that could be illegal, dishonest, wasteful, or violates a City of Hamilton policy.



Fraud encompasses any array of irregularities and illegal acts characterized by intentional deception.



Waste involves taxpayers not receiving reasonable value for money in connection with any government funded activities, due to mismanagement or an inappropriate or careless act or omission by those with control over or access to government resources.



Whistleblower By-law No. 19-181 is intended to help uncover serious wrongdoing at the City, by bringing it to the attention of management and the City Auditor or their designate, and to ensure it is addressed appropriately, including by means of an investigation where required. The City of Hamilton has had a Whistleblower By-law in force since 2010 (previously By-law No. 09-227).

The Fraud and Waste Hotline enables the City of Hamilton to operate with a high level of honesty and integrity. The Fraud and Waste Hotline is managed by the Office of the City Auditor (OCA), an independent and objective office accountable to Council.

The Office of the City Auditor reviews and assesses every Hotline report to ensure it was made in good faith and if necessary, launch an investigation. The Office of the City Auditor conducts an objective and impartial assessment of each report, regardless of the alleged wrongdoer's position, title, length of service, or relationship with the City.

Alignment to the 2016-2025 Strategic Plan

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

Introduction

This is the Fraud and Waste Annual Report on fraud, waste and whistleblower matters at the City of Hamilton and includes information about the activities of the Fraud and Waste Hotline.

It highlights the reports that have been communicated to the Office of the City Auditor from July 2021 to June 2022. It does not represent an overall picture of fraud, waste, or other wrongdoing across the City of Hamilton.

Fraud and Waste Hotline Program

Pilot launched July 2019

The Fraud and Waste Hotline was established to help protect City of Hamilton assets and reduce losses. Since the pilot launch in July 2019, the cumulative total of actual and potential losses investigated is approximately \$1,157,000, with about \$33,300 recovered via repayments/restitution/asset recovery. Additionally, the Fraud and Waste Hotline provides the following benefits that cannot be quantified:

- Deterring fraud, waste, and wrongdoing,
- Strengthening internal controls and mitigation of risks,
- Improving policies and standard operating procedures,
- Building a culture of accountability,
- Better value in service delivery through increasing operational efficiencies,
- Using hotline report data to identify trends, manage risks, make results-oriented recommendations to management, and inform future audits for the Office of the City Auditor work plan.

No dedicated Fraud and Waste team

The Office of the City Auditor operates the Fraud and Waste program in addition to their other audit, risk assessment, and consulting project assignments. The Office of the City Auditor are a team of professionals who collectively possess the expertise to assess a broad range of reports and conduct investigative work into allegations ranging from simple to complex. When required, the Office of the City Auditor engages outside experts to assist on complex investigations or specialty work due to the small size of the team. Investigation costs are recovered from the home department, per the Fraud Policy and Protocol.

Independent oversight

The Office of the City Auditor also provides independent oversight of management-led investigations by reviewing the adequacy of work performed and evaluating mitigation plans to protect City of Hamilton assets, reduce the risk of future losses, and prevent and deter future fraud, waste, or wrongdoing.

Anonymity of the Fraud and Waste Hotline

Fraud and Waste Hotline intake is independently operated by a third party, Whistleblower Security Inc. Whistleblower Security Inc. provides IntegrityCounts, a Certified Ethics Reporting System, which is a confidential way to report important information and ethical misconduct. Providing any personal information, such as your name, is optional. For any person willing to identify themselves, their information will remain confidential and will not be disclosed unless the City Auditor is compelled to do so by law.

The Office of the City Auditor may have questions or require additional information about a reported incident and will communicate using the Fraud and Waste Hotline anonymous messaging system.

All participants in a fraud and waste investigation are required to keep the investigation details and results confidential.

Role of the City Auditor

The City of Hamilton has appointed the City Auditor as an Auditor General under the Municipal Act (via By-law No. 19-180, and previously No. 12-073). This position has the responsibility to assist City Council in holding itself and its administrators accountable for stewardship over public funds and value for money in City operations. This responsibility is fulfilled by completing audits, operating the Fraud and Waste Hotline and conducting investigations as required.

Report Sources

Reports in good faith are made in one of the following ways:



Online at hamilton.ca/fraud



Email to cityofhamilton@integritycounts.ca



Phone 1-888-390-0393



Mail to PO Box 91880, West Vancouver, BC, V7V 4S4



Fax to 1-844-785-0699

Overview

42 Reports
Directly Received by the
Office of the City Auditor
(Proxy)

33 Proxy Reports Sent by
Management, HR,
Procurement, Finance,
Councillor's Office,
City Staff

Number of Reports

107

Number of Reports Since Hotline Launch

272

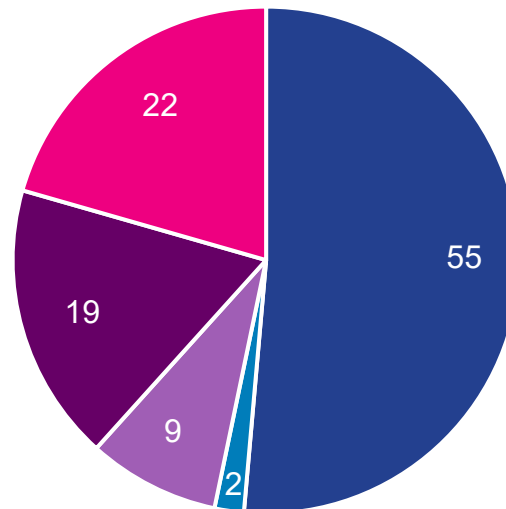
Number of Reports by Source








Report Types July 1, 2021 to June 30, 2022

64% of Reporters
Self-Identified as an
Employee

36% of Reporters were
non-Employees



-  Referral – Response Required – 55
-  Referral – No Action Required – 19
-  No Response Required/ Out of Jurisdiction/ Not Enough Information – 9
-  Investigations Launched (Current Year) - 22
-  Pending/In Progress - 2

Total Investigations
Launched (Current Year)
22

\$718,000 Loss or
Waste/Mismanagement
Substantiated
(\$1.157M since
Hotline launch)

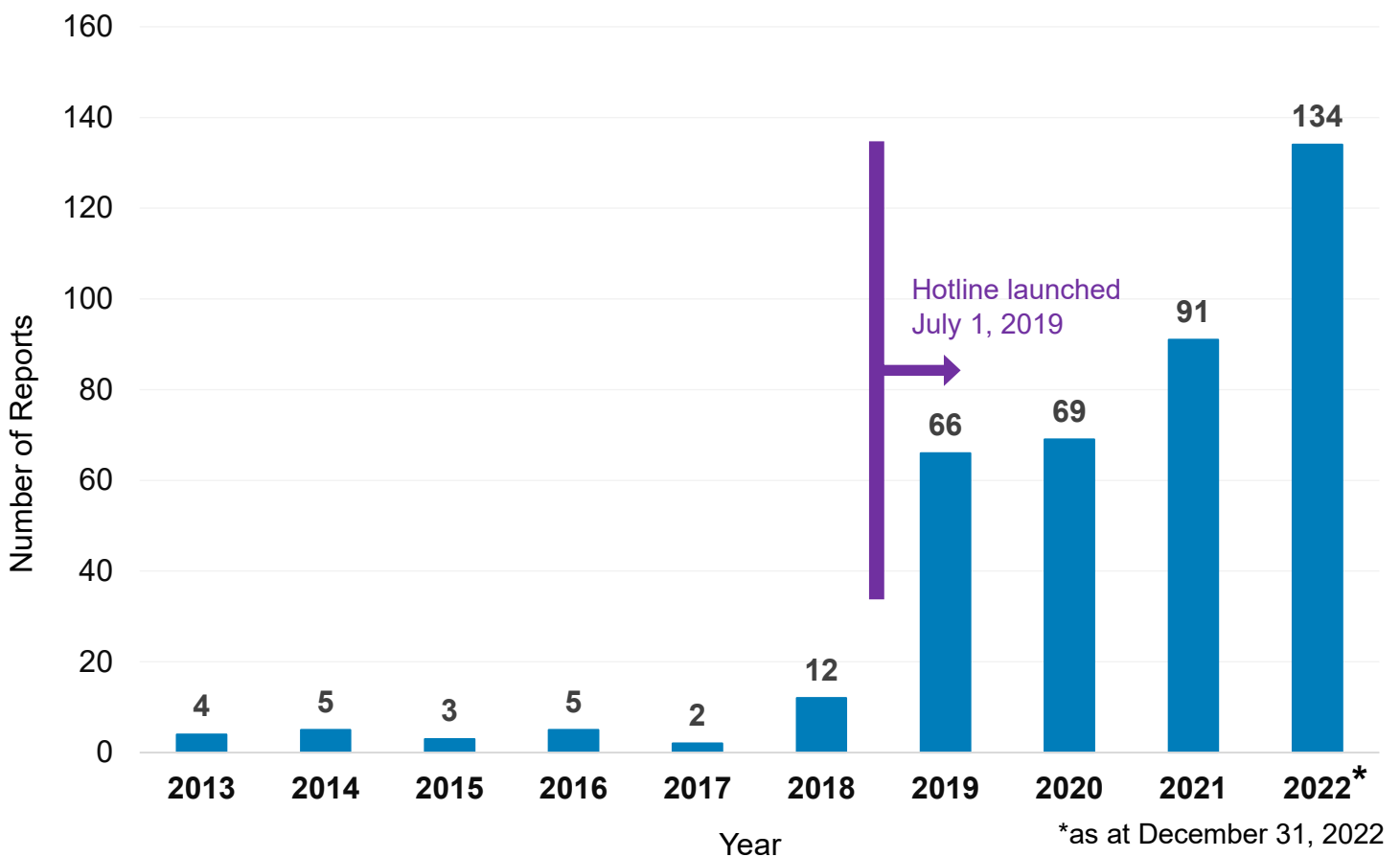
Investigation Type



Historical Volume

This chart depicts the number of fraud, waste, and whistleblower reports from 2013 to June 2022. Between 2018 to 2021, the Office of the City Auditor saw a large increase in reports since the Fraud and Waste Hotline was announced in late 2018 and launched in July 2019. This trend continued into the first half of 2022.

City of Hamilton Fraud, Waste, and Whistleblower Report Volume January 1, 2013 to December 31, 2022



In the first half of 2019, 14 reports were received by the Office of the City Auditor. After the Fraud and Waste Hotline launched in July 2019, there were 52 reports submitted to the Office of the City Auditor using the Fraud and Waste Hotline, for a total of 66 reports in 2019, 69 reports in 2020, and 91 in 2021. In the first half of 2022, 60 reports were received, in the second half 74 were received. There was a total of 272 reports received in the first 36 months of the Fraud and Waste Hotline being operational (July 2019-June 2022).

Work Volume

A total of 107 reports were assessed by the Office of the City Auditor in the twelve-month period between July 1, 2021 to June 30, 2022.

There are no staff dedicated solely to the Fraud and Waste Hotline Pilot Program. Existing staff are used to complete assessments and investigations, with some limited usage of external specialty expertise for investigations that required additional support.

In total, about 4,187 hours were spent on Fraud and Waste Hotline administration, assessment, investigations and reporting during this 12-month period. This is approximately equivalent to 2.3 frontline audit FTEs annually (excluding management's time spent on hotline matters). Another way of looking at the resource requirements, the effort is similar to having completed 4 to 5 audits of significant scope and complexity. There are a total of 5 frontline employees in the OCA. It is estimated that management spends between 30-50% of their time on Fraud and Waste matters, depending on the active number of files at any given point in time. Compared to the prior year, an increased amount of time has been spent on Fraud and Waste Hotline matters. The amount of time spent on Hotline matters has increased in each 12-month reporting period since the launch of the Hotline.

Reports

From July 2021 to June 2022, a total of 107 reports were received and assessed.

Of the 107 reports received, 65 reports were received via the third-party hotline operation. Another 42 reports were received directly by the Office of the City Auditor and were entered as a proxy into the case management system that is provided as part of the IntegrityCounts service contract. Of the 42 proxy reports received directly by the OCA, 20 were made by City Staff, and 11 were received from City Management. Eight items were received directly from citizens, two were received directly from a Councillor's Office and one was received directly from the media.

For reports received regarding Ontario Works (OW) and Housing Services social services matters, these were referred to OW and Housing Services for assessment and investigation. The investigations were handled by OW/Housing Services, not the OCA. The substantiation status is reported to the OCA for tracking the aggregate statistics. The OCA reserves the right to investigate any matter which is not found to be satisfactorily investigated.

Employee Reports

Sixty-eight of these 107 reports were reported by City of Hamilton employees (64% vs 59% in the prior year). Thirty-five of the 68 employee reports were made anonymously (51% vs 49% prior year). The remaining 33 reports were employees that identified themselves. Many of these 33 reports where the employee identified themselves were employees working in HR, Finance, Procurement, and Management where they had an awareness of the Fraud Policy and Protocol and of their responsibility to report matters to the Office of the City Auditor as part of their job duties.

The Office of the City Auditor continues to encourage employees and management to submit reports and thanks all those that submitted reports for this reporting period, and for their cooperation during report assessments and investigations.

Reports from the Public

All reports received from the public were assessed and investigated as appropriate. The Office of the City Auditor continues to encourage members of the public to submit reports and thanks all those that submitted reports for this reporting period and for providing additional information as requested.

Anonymous Reports

When a report is made anonymously, it automatically does not qualify as a whistleblower disclosure per the Whistleblower By-law, although it may meet the definition of serious wrongdoing. The vast majority of the reports the Office of the City Auditor received do not qualify as a whistleblower matter due to the anonymity of the employee. Therefore, the majority of employee reports made would not be able to qualify as a whistleblower disclosure. Fifty-eight of the 107 (54%) reports received for the current 12-month reporting period were anonymous.

It should be noted that anonymous reports are able to be effectively assessed and investigated if the Reporter provides a sufficient level of information. The OCA is able to communicate with an anonymous reporter in the case management system if the Reporter has chosen to enable this feature. City of Hamilton employees continue to prefer making anonymous reports to the Hotline. While anonymity is not necessarily a constraint to the Office of the City Auditor

investigations, the ability to dialogue with a Reporter through the IntegrityCounts online messaging system has proven effective in assisting with investigations.

Reports Involving Whistleblower



1

July to December 2021
(Previously Reported)

2

January to June 2022

Whistleblower Disclosure

By-law 19-181 (Whistleblower By-law), Section 19 - Responsibility of the City Auditor requires reporting to Council semi-annually, in the aggregate, on the number, nature and outcome of disclosures of serious wrongdoing made under this By-law. Previously, there was a quarterly reporting requirement. Activity for July to December 2021 was reported to Council in March 2022.

There were three qualifying Whistleblower disclosures from July 2021 to June 2022.

One item was reported in the Fraud, Waste, and Whistleblower Semi-Annual Update (AUD22003) covering the period July 2021 to December 2021. The report category is Multiple Categories Applicable (Vendor/Contractor Wrongdoing and Other-Quality Assurance) and the report was found to be substantiated.

There were two reports received from January to June 2022. The first report's category was Multiple Categories Applicable (Improper Financial/Budget Reporting and Waste) and the outcome is pending as the investigation is in progress. The second report's category was Multiple Categories Applicable (Reprisal and Improper Financial Reporting/Budgeting). The report was found to be partially substantiated.

Report Categories

A wide variety of reports were received by the Office of the City Auditor for the 12-months covered in this reporting period. The top most common report categories were the following:

Top Report Categories (Current Year) Period Summary: July 1, 2021 to June 30, 2022

Multiple Categories Applicable	29
Social Services – Fraud/Wrongdoing	19
Time Theft and/or Misconduct	10
Out of Jurisdiction	9
Conflict of Interest	6
Fraud/Wrongdoing	4
Improper Financial Reporting/Budgeting	4
Waste	4
Contractor/Vendor Wrongdoing	3
Employee Benefits Fraud	3
Service Complaint/Concern	3
Phishing/Identity Theft	2
Misuse of City Resources	1
Public Safety	1
Reprisal	1
Other Various Categories	8
Total Reports	107

Having the top report category be “Multiple Categories Applicable” is indicative of the growth in complexity of the reports we receive, many of which contain multiple allegations that need to be assessed and investigated (if applicable).

Prior Year Reports

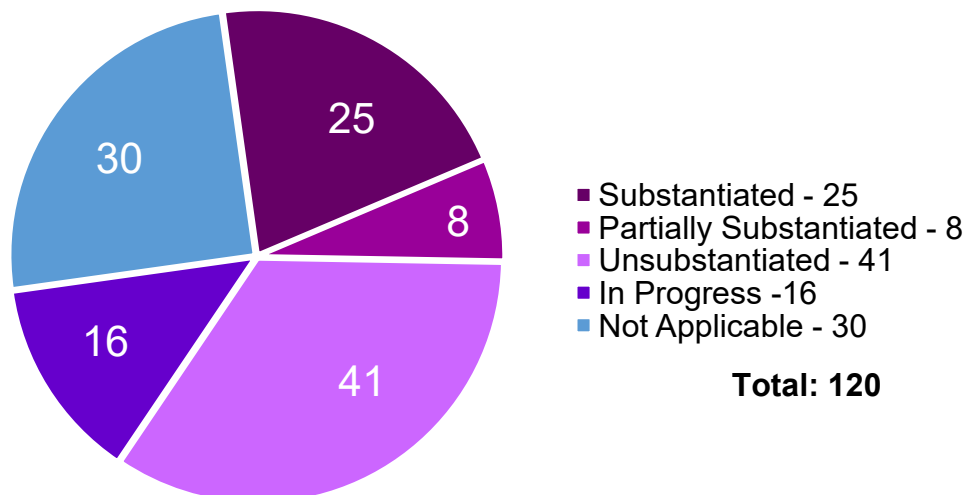
Thirteen open reports were reported at the time the 2020-2021 Fraud and Waste Annual Report was issued. The assessments and investigations were completed by the Office of the City Auditor with the following outcomes: 6 were substantiated, 2 were partially substantiated, and 4 were unsubstantiated, and 1 has an outcome pending. There is one prior year report open, the substantiation result and any losses and recoveries will be reported in the next Fraud and Waste Annual Report. Outcomes are included in the section below for reports that were closed during the current reporting period.

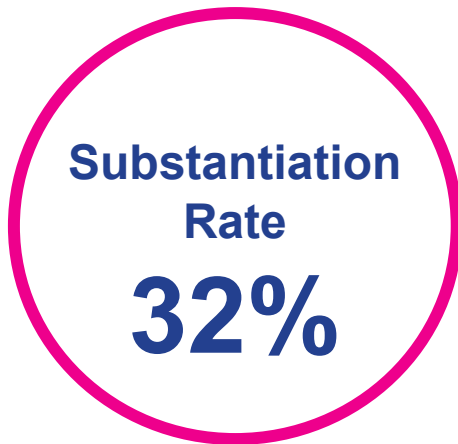
Substantiation

One way of summarizing outcomes is to report on the volume of reports that were substantiated, that is the number of reports where the allegation(s) were found to have merit and were able to be proven by reviewing evidence or with findings from interviews.

Of the reports received from July 2021 to June 2022 (plus any carryforward reports from prior years) the following is a summary of substantiation status. A substantiation result is not applicable (N/A) if a report was out of jurisdiction, the assessment result was that no action was to be taken, or if the report was to be referred elsewhere.

Volume of Reports Substantiated





Typically, a result is "in progress" if the report is still in process of being assessed and/or investigated. Overall the current substantiation rate including carryforward reports from the previous reporting period (both substantiated and partially substantiated) is 32%.

The City of Hamilton's substantiation rate for the prior reporting period was also 32%. For comparative purposes, in the City of Toronto Auditor General's 2021 Annual Report on the Fraud and Waste Hotline, 17% of complaints investigated were substantiated in whole or in part. In the City of Ottawa's 2021 Report on the Fraud and Waste Hotline, 26% of reports investigated and closed in 2021 were substantiated. The substantiation rate will typically vary annually, depending on the mix of reports received by the OCA and the number of reports in progress at the end of reporting period, which have their substantiation rate counted in the year that the work is completed and the report is closed.

Loss or Waste/ Mismanagement Substantiated

It is difficult to measure or substantiate a precise cost of fraud and waste. Incidents sometimes remain undetected for long periods of time. It is also challenging at times to determine the time period that a fraud or waste was occurring, which makes it hard to quantify losses.

\$1.157M
**Loss or Waste/
Mismanagement
Substantiated
Since Hotline
Launch**

As at December 31, 2022, the amount of confirmed loss or waste substantiated by the Office of the City Auditor since the last Annual Report was issued was \$718,000. Of this amount, \$8,600 was fraud and \$709,400 was waste. Since the launch of the Hotline cumulatively \$1,157,000 of loss or waste has been substantiated. Of this amount \$110,600 was fraud, \$987,400 was waste, and for \$59,000 a category could not be determined.

 **\$718K**

\$8.6K - Fraud

\$709.4K – Waste/Mismanagement

Disciplinary Action

The Office of the City Auditor is not responsible for disciplinary actions (including terminations). Investigation results are shared with Management and Human Resources. The Office of the City Auditor is informed of terminations and disciplinary actions, and this information is tracked and compiled for reporting purposes. The number of disciplinary and other actions will vary from year to year. This number is not controlled by the OCA and is reported for information purposes only. It is normal for the volume of disciplinary actions to vary each year.

As at the date of report publication, the following disciplinary actions related to investigations had been confirmed by the Office of the City Auditor since the issuance of the last Fraud and Waste Annual Report:

- 2 Terminations,
- 4 Other Actions Taken (includes employee resignations, retirement and process improvements implemented).

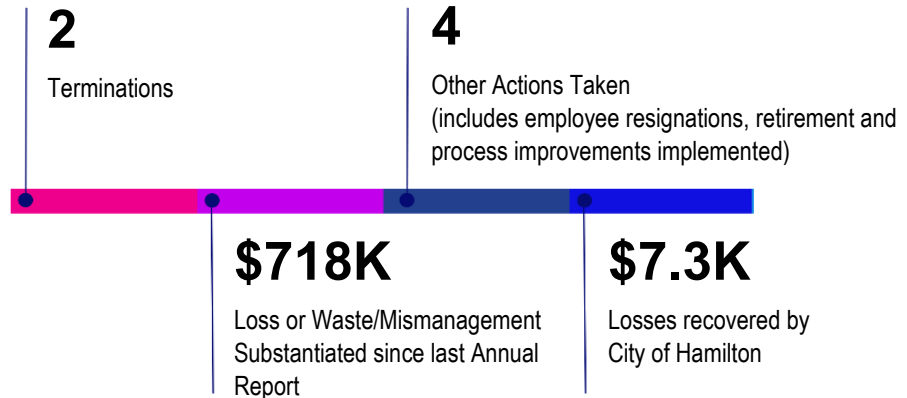
Recoveries and Impact

As at December 31, 2022, the City of Hamilton recovered about \$5,300 of losses and recovered approximately \$2,000 in City assets since the last Annual Report was issued.

The impact of fraud and waste to an organization goes well beyond financial impact. There are also non-financial impacts such as impact to reputation, impact to other staff working in an affected area. The level of effort to investigate allegations of fraud and waste are quite high.

Sometimes there is a time lag for the completion of an investigation and calculating the losses. As there are 17 open reports at report issuance, there may be additional losses and recoveries that will be reported in the next Fraud and Waste Annual Report.

Report Outcomes



Report Examples

Introduction

To provide more information about the type of reports that the Office of the City Auditor receives and assesses, several report examples are provided in pages 18-28 of this annual report.

The reports included here provide examples of:

- fraud,
- waste/mismanagement; and,
- combined fraud and waste/mismanagement reports.

All items qualifying as a "Serious Matter" per the "City Auditor Reporting of Serious Matters to Council Policy" for the reporting period have been previously reported to Council. There were five items that qualified under this Policy in 2020-2021 Fraud and Waste Report, and since then, a further three items have been reported.

1. AUD20006 City Auditor Reporting of Serious Matters to Council (two serious matters reported)
2. AUD20010 City Auditor Reporting Serious Matters to Council (Case #26158)
3. AUD21005 City Auditor Reporting of Serious Matters to Council (Case #37265)
4. AUD21007 City Auditor Reporting of Serious Matters to Council (Case #39691)

5. AUD22001 City Auditor Reporting of Serious Matters to Council (Case #52693)
6. AUD22002 City Auditor Reporting of Serious Matters to Council (Case #50695)
7. AUD22009 City Auditor Reporting of Serious Matters to Council (Case #58061 Taxi Scrips)

Report Examples

Conflict(s) of Interest #1

It was reported that a member of City management allegedly had a significant social relationship with two vendors that were afforded favourable treatment in how they were being selected for contract work with the City and in how the work was administered and overseen.

The OCA investigated and found that both vendors received substantial business with the City over a period of several years. OCA found that the leader did have social relationships with the two vendors that involved significant socializing and fraternization. Staff reporting to the manager recognized the special relationships that existed between the leader and these vendors and were demonstrably influenced by it for at least one of the vendors.

OCA concluded the leader's relationships with these vendors constituted undisclosed conflicts of interest. As a result of the influence of these social relationships, the vendors were accorded favourable treatment in the procurement of their services, and policies meant to ensure fair and transparent contract management were poorly administered. In the case of one of the vendors serious performance issues were ignored, and belligerent behaviors toward staff were tolerated.

In the course of the investigation, OCA found multiple examples of fraternization, socializing and favours exchanged between the leader and various other vendors, in addition to the two that were the focus of the investigation. We concluded that these circumstances impacted the culture of the business area, and how business was done, setting a very low bar for compliance and observance of Code of Conduct requirements. OCA also concluded the City should consider strengthening current policy with respect to the potential for conflicts of interest involving non-pecuniary interests and situations of extensive socializing with vendors.

The leader has since left the City.

City Recovers Costs Due to OCA Inquiries

Two complaints were received where ultimately some costs were able to be recovered by the City.

In one instance, a lessee was not compliant with lease terms. The OCA asked management to investigate and determine if some costs that were contractually to be borne by the Lessee could be recovered. Ultimately about \$3,700 was found to be recoverable and was pursued through the Accounts Receivable process.

In a second instance, it was found that a contractor damaged City property. The OCA completed some fact finding and asked management to further investigate and determine if some damages were recoverable. Ultimately about \$1,600 in damages were pursued by the City via the Risk Management process.

Inappropriate Conduct by a Leader

A report was submitted to the OCA about a leader violating the City's Employee Code of Conduct and Personal (Workplace) Harassment Prevention policies. The OCA requested HR to assess the report and investigate as appropriate. HR reported to the OCA that some of the allegations were substantiated.

Conflict(s) of Interest #2

A manager responsible for the oversight of a portfolio of high value capital projects was found to have a close relative who works in a leadership position for one of their frequent contractors. The close relative was directly involved in at least six City of Hamilton capital projects. The total dollar value of these projects was about \$41 million.

The relative's role was found to consist of participation in meetings, project management, coordinating schedules, discussions relating to project change orders, meeting specifications, and determining the completion of work that are used for contract payments. Many, if not all of these duties included interactions with City staff that worked in the area headed up by the manager, who had responsibility for evaluating and ensuring quality of work of the contractor. Overall, the City did about \$69 million worth of business with this vendor over two years, with an estimated \$67 million overseen by the manager's team.

In addition to the above, the OCA found that the manager had another relative (another relationship that is supposed to be disclosed per the City's Code of Conduct) working at a contractor to the City that the manager would oversee. The relative was found to be directly involved in at least six City of Hamilton capital projects. The total dollar value of these projects was about \$9 million. Overall, the City did about \$26 million worth of business with this contractor over

2 years, with an estimated \$18 million overseen directly by the manager and their team.

Both these family relationships remained undisclosed until after the OCA after began to make inquiries, after which the manager completed the Code of Conduct Disclosure Form. The disclosure was completed years later than it should have been, and the mitigation plan proposed by the manager was found by OCA to be wholly inadequate.

While investigating the conflicts of interest, we also found a third issue to investigate regarding the tracking of vacation time. It was found that the leader was not following and enforcing City-wide policies for vacation carryover and that the submitted vacation records maintained for their area of responsibility were falsified.

As a result of the investigation findings, management made the decision to terminate the leader.

Waterdown Gardens

On February 16, 2021, the City was notified of a Statement of Claim issued by Waterdown Garden Supplies Ltd. and others ("WGS") seeking \$75M in damages based on allegations that thousands of loads of contaminated soil taken from City sites were illegally deposited on its lands and that this illegal dumping was facilitated by a criminal conspiracy involving two named City employees.

In the 2020-2021 Fraud and Waste Annual report, it was noted that an independent investigation had commenced through the Office of the City Auditor to ascertain if there is any credence to the claims against the named employees. The investigation was conducted by Kroll.

The investigation was completed, with Committee and Council notified of the results in December 2021. The investigation found no information that would indicate that contaminated soil from the Woodward and Governor's Road public works projects was improperly disposed of at the named soil fill site (also known as the "Waterdown Gardens property).

Kroll identified documentation indicating that contaminated soil accepted by the soil fill site came from locations outside the City of Hamilton. Furthermore, the investigation determined that allegations that two City employees were involved in the haulage of contaminated soil to the property were also unsubstantiated. As a result, both employees identified in the statement of claim were reinstated to their regular duties by management.

Roads Value for Money Audit – Additional Issues Identified

After the Roads Value for Money (VFM) Audit Report (AUD21006) was issued in July 2021, the OCA received a report alleging that there were additional critical issues that were not considered in the audit that were a detriment to the value for money obtained from the City's road infrastructure projects.

After completing a preliminary assessment, the OCA decided to investigate these additional two issues. Ultimately a limited scope supplementary Roads VFM Audit was completed and was issued in August 2022 as Report AUD21006(a) Roads Value for Money Audit – Roads Quality Assurance Supplementary Audit Report.

The two main concerns were weaknesses in the processes for weight validation of placed construction materials and disposed excess contaminated native material, where the contract payments are tied to the weights of such materials, and the processes for testing and validating whether asphalt friction course aggregates used for high volume roads align with contract specifications and job mix formulas.

The two main concerns were included in the audit scope and were found to be substantiated. Regarding the issue of the verification of weighted material, it was determined that processes in place were not always followed which leaves the City exposed to increased cost due to the possibility of mismanagement or overcharges for these materials by contractors.

Regarding the lack of a quality review for asphalt aggregates used, it was determined there was no standard documented process in place, but reviews were being performed. The lack of a standard documented process put City projects at risk for not receiving the quality paid for and required under these types of contract.

OCA made five audit recommendations to address the issues and their associated risks. Management agreed with all five recommendations and is currently implementing their management responses, with a direction from Council to report back to the AF&A committee by August 2023.

Financial Reporting Error

The OCA received a report regarding 10 Newman Road in Dundas, where a building permit had been issued in error by the City. The City had made a settlement with the owner of the property, which included acquiring the property, building demolition, site cleanup and naturalization, which was completed in 2020. Council had directed that all expenses were to have been drawn from Account #104050 Building Permit Stabilization Reserve fund (public document as part of the City's financial statements). The reporter noted that this was not

reported in the Reserve fund in 2020-year end reporting and had concerns regarding transparency of the matter.

The OCA investigated and found that the costs (settlement costs, demolition, site cleanup and naturalization costs) were not charged to the reserve fund in error by Finance which substantiated the complaint. Finance corrected the error but noted that Reserve Fund information is reported only annually and would be made public as part of the 2021 year-end financial reporting, which occurred in mid-2022.

OCA confirmed that the correction was included in the 2022 reserve reporting, with the total amount in the 2021 Annual Reserve report (public document) appearing as "other expenses" of \$250,000. Gross settlement costs were directed to remain confidential by Council, so the OCA is unable to disclose further details of settlement related costs beyond the publicly available information. Additionally, the OCA learned that a further \$42,000 was spent by the Forestry Section on reforestation costs, costs which would not have been otherwise incurred by the City. Total waste is therefore at least \$292,000.

DARTS Fleet Management and Vehicle Safety

A fraud and waste complaint was received alleging that a DARTS subcontractor performing maintenance on part of their fleet, did not have professional mechanics servicing the vehicles used in providing DARTS services, and that vehicles were being put on the road that were unsafe due to inadequate inspection and maintenance.

The OCA requested that the Transit Division investigate this matter further and to report back what it found to OCA. Transit began to investigate and while doing this, worked with Legal and Risk Management Services to enforce the City's contractual rights with DARTS per the Master Operating Agreement (MOA).

While the Transit Division continued to investigate, areas of concern remained, including incomplete vehicle inspection tracking, certificates of insurance (COI) not being readily available, and issues with COIs when they were provided.

As a result of the above information the OCA made the decision to independently investigate this matter further by undertaking a full audit of DARTS' vehicle maintenance and fleet management. DARTS is an external organization that provides accessible transit services in Hamilton under contract with the City. The OCA used the services of Fleet Challenge Canada (FCC) to conduct the main parts of the review.

The primary tool used to evaluate the state of inspection and maintenance practices of DARTS was a planned sample of 40 (39 actual) vehicles during the first week of the review. The results were unequivocally poor. OCA found that 46% of the vehicles failed the independently conducted inspections.

The audit also found numerous issues relating to safety, and many opportunities for improvement. Issues were found with brakes, tires, exhaust systems, steering and suspension systems, including a “singular matter of urgency” – that being defective and/or seized emergency brakes which bear “rollaway” risk.

Various other weaknesses were found related to inspection processes, quality assurance, safety awareness and training, contract oversight, qualifications, data management, and minimum standards requirements.

OCA concluded that the DARTS subcontractors were seemingly incapable of maintaining their fleets to the standards of safety required.

The consultant also concluded that “...for a commercial operation that serves a vulnerable population, we found this to be unacceptable, indicating an inadequate level of inspection and maintenance rigor that is systemic.”

Overall, a total of 73 recommendations were made in the audit report (Report AUD22007).

Commercial Business Being Run at A City owned property

The OCA received an anonymous report of a commercial business operating at a City-owned property that was licensed from the City for a nominal fee by a community sports organization, who in turn was allowing a commercial business to operate at the location rent-free and the City was not receiving any benefit from the commercial business’ revenues. In essence, the issue was having a commercial business in the City location violated the spirit of the original lease agreement.

Initially, the Reporter did not provide the name of the business. In April, 2021, the OCA used the IntegrityCounts messaging system to request this information, and ultimately received it, so a preliminary assessment was able to be completed.

Ultimately the OCA found the report to be substantiated. It was also found that the license agreement had expired in 2013 and continued to operate on a month-to-month basis.

OCA made five recommendations to minimize risk and liability to the City, and to strengthen the licensee agreement with the community organization and other licensee agreements with sport and community groups.

In addition to the recommendations, the OCA decided to initiate an audit of leases and licenses. This audit is currently in the final stages of fieldwork. The audit report will be presented to Audit, Finance and Administration Committee when the audit has been completed.

Community Group Sub-letting City facility to others at a profit

It was alleged that a community group that leased a City facility for a nominal fee was sub-leasing portions of the facility to tenants at a profit. OCA conducted a preliminary assessment and the allegation was found to be substantiated. The intent of leasing City facilities to community groups is for broader community benefit, not for profit to be made by the lessees.

In addition, the lease expired in 2000 but has not been renewed, with the tenant continuing to occupy the building. In general, OCA found the risks associated with leasing and licensing to be significant, and as noted above, the OCA decided to initiate an audit of leases and licenses. This audit is currently in the final stages of fieldwork. The audit report will be presented to Audit, Finance and Administration Committee when the audit has been completed.

Petty Cash Shortage

A Division's finance team notified OCA of a petty cash shortage they identified as part of their annual inquiries (for 2021) into their petty cash locations. One location reported a shortage of about \$80 from a \$200 petty cash account. The explanations provided by the petty cash custodian was that the shortage was due to a duplicate payout and this shortage existed since 2020. The custodian did not report the shortage until asked as part of the annual petty cash review. Due to COVID, an on-site petty cash count was not conducted by Finance in 2020, which delayed discovery of the shortage.

Based on OCA recommendations, the Division's management addressed the shortage with the custodian and reviewed the petty cash practices and related policies. As a result, this Department will be closing and eliminating petty cash in all of their Divisions.

Hamilton Municipal Cemeteries Trust Fund Management Issues

A report was received by the Office of the City Auditor related to Cemeteries Trust financial reporting. In the case of the Cemeteries Trust, the City of Hamilton has a duty to protect the assets of the trust and to follow the regulations of the *Funeral Burial and Cremation Services Act (FBCSA)* as overseen by the Bereavement Authority of Ontario (BAO). After completing a preliminary assessment, the OCA decided to conduct an audit of Hamilton Municipal Cemeteries Trust Funds. The audit results were reported in January 2023 via Report AUD23001.

Several issues were noted including: monies which should go to the respective Cemeteries Trusts were not put in the Trusts, or were being borrowed from the Trusts which results in lost interest that should go towards cemetery costs and maintenance; erroneous revenue recognition of cemetery sales and trust money

which results in inaccurate financial reporting; the risks of switching to a new cemeteries management system was not properly assessed and considered which may put us at risk of security and data loss as well as operational issues; and weaknesses in Cash Handling controls which expose us to potential fraud risks.

Additionally, some compliance issues were noted. It was found that the City is not in compliance with the timing and record keeping requirements of the *FBSCA* which puts the City at risk to be fined by the BAO. There were also issues with City By-laws regarding non-compliance with the Council-Approved User Fee schedule and applying of non-resident surcharges which results in lost revenue.

Seventeen recommendations were made by the OCA to bring the Cemeteries Trusts into compliance with the *FBSCA* and the City By-laws, to address the financial statement issues noted, and to improve governance and controls within the Cemeteries Trusts processes.

Stolen iPads

A City of Hamilton resident reported that they purchased a brand-new sealed 9th Gen iPad from Facebook Marketplace, and the first time they powered up the device the screen displayed "City of Hamilton Remote Management". The resident identified the individual who sold them the iPad. This issue was investigated by the City's Labour Relations. The allegation was substantiated, the matter was reported to the police, and the person involved is no longer employed by the City. This iPad was one of 18 that had gone missing.

As a result of this incident, OCA completed a preliminary assessment and decided to complete a review of IT Asset Management with a focus on mobile devices. We engaged a highly regarded IT security firm to complete the review. The review assessed the data and information privacy and security risks that could arise when these types of assets are misappropriated. Ultimately eight recommendations were made - four regarding IT Asset Management and four to address privacy and security risks. The review findings were shared as Report AUD22006. Four iPads were ultimately recovered.

Conflict(s) of Interest #3

Our office received reports that an employee in a service area responsible for strategic, sensitive, and often with high dollar value acquisitions and dispositions, has a spouse that is an executive at a local firm in the same industry. Our preliminary assessment found that while the employee completed and filed the required Code of Conduct disclosure (albeit after significant time had elapsed since the conflict had begun), the mitigation proposed and agreed to with management was found to be weak in addressing the Conflict of Interest.

It was also alleged that the employee breached confidentiality by disclosing non-public information about the potential sale of a City-owned asset. An investigation into this allegation was completed and it was found to be unsubstantiated. OCA believes the circumstances demonstrate the critical importance of having a strong mitigation plans in place to protect both the City and employees when reports of conflict of interest allegations are received.

Year End Inventory Discrepancy: Significant Write-Off Required

A report was received relating to a significant discrepancy within a Division's inventory records, where it was found that supplies worth approximately \$200,000 was not physically found during the year-end inventory count in 2021.

During this period the Division had experienced numerous challenges such as implementing a new inventory system, hired new staff, ongoing COVID-19 pandemic response pressures, etc., and thus it was likely that these supplies were used up but were not properly flowed through the system. This was never proven however, and the entire amount was ultimately written off for the 2021 year-end.

Since then, Finance, in conjunction with the Division, has been performing monthly inventory reconciliations to monitor for any further discrepancies. As the new inventory system is now fully operational, OCA staff attended the 2022 year-end inventory count (unannounced to the Division) to gauge the effectiveness of current internal controls relating to inventory management and found minimal issues. The OCA also had Finance attend the year-end inventory count so the OCA could provide guidance on how Finance could conduct audit procedures at future year-end inventory counts to ensure that the recent successes are replicated in future fiscal years.

Ontario Works Fraud

A report was received alleging that an individual was receiving income support from Ontario Works (OW) while living a lavish lifestyle (e.g. plastic surgery, overseas vacations, property purchases in other countries, etc.) and was allegedly leading a double life in Canada and another country. It was alleged that they had a residential address in Hamilton as they were on a rental lease with their spouse; however, they allegedly did not live in Hamilton with the spouse.

The OCA requested that Ontario Works review the allegations and report back on the substantiation status. The allegations were found to be substantiated and OW informed the OCA that an investigation was launched. OCA does not know the overall financial impact of the fraud, as the investigation is managed by Ontario Works.

Other Report Examples

Although the Office of the City Auditor may find some reports not to be substantiated, there are reports that show significant control weaknesses. Some unsubstantiated examples are also provided for insight into the varying outcomes that can occur when cases are assessed and investigated.

Vexatious Report Made in Bad Faith

A report was made that alleging that a City employee inappropriately used a City database to obtain personal information about a resident and used this information to harass the resident. The OCA requested that management investigate the matter and report back to the OCA. Management provided a comprehensive report summarizing their investigation to the OCA. Overall, both allegations were found to be unsubstantiated, with the report being made in bad faith and was also of a vexatious nature. The Reporter, who is not an employee of the City, was found to have been in a personal dispute with a member of the employee's family. As a result, the case was closed.

Unsubstantiated Contractor Value for Money Concerns

A report was received by the OCA with concerns about the conduct of a contractor that was working on a City capital project. It was alleged that the several workers from the contractor could be observed standing around and not working as the City had contracted them to do, wasting taxpayers' money. The OCA conducted a preliminary assessment and requested information about the contract from management.

Upon completing the review of information and evidence relevant to this report, the OCA found this report to be unsubstantiated.

The contract was found to be a unit price contract, which means that the work required to complete the reconstruction is broken into defined pieces, which are then defined by units (linear metres, tonnes, etc.), and paid out only as the work is completed. In a unit price contract, the City doesn't pay the contractor based on the time it takes to complete, but by the units as defined in the contract. As the contract was completed on time, and the amount paid to the contractor was based only on the deliverable, any alleged waste of time or money would not have accrued to the City.

**Unsubstantiated
Allegations of
Subsidized
Housing
Benefits Fraud**

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A report was received by the OCA alleging that two individuals were residing in a Rent Geared to Income (RGI) subsidized housing unit but were both employed full time and were purchasing "luxury" items. The OCA asked the Housing Services Division to investigate. Housing Services reported back to the OCA that the unit where the individuals were residing was in fact a market rate unit (no housing subsidy being received). The report was found to be unsubstantiated.

Conclusion

The Fraud and Waste Hotline has been operational since July 2019 as a 3-year pilot program. Based on the experiences of other Canadian cities that operate similar fraud and waste hotlines, it was estimated that the City of Hamilton would receive 50-70 reports in a 12-month period. During the first year of the pilot period, July 2019 to June 2020, the volume of reports received by the Office of the City Auditor exceeded the initial expectations, with 85 reports received. For the second year of the pilot period, July 2020 to June 2021, the 80 reports received also exceeded the original forecast, as did the third year ending June 30, 2022 with 107 reports.

Overall, the first thirty-six months of the Fraud and Waste Hotline operation have seen a high volume of reports assessed and investigations launched as appropriate.

Without a Fraud and Waste Hotline in place, it is likely that many of these reports would not have been received by the Office of the City Auditor and wrongdoing involving City resources may have continued. Generally speaking, it indicates Hamiltonians and employees alike share the commitment in protecting the City of Hamilton's revenue, property, information and other assets and resources from fraud, waste and other wrongdoing.

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