

HAMILTON POLICE SERVICES BOARD

- INFORMATION -

DATE: June 11, 2020
REPORT TO: Chair and Members
Hamilton Police Services Board
FROM: Eric Girt
Chief of Police
SUBJECT: *Year End Report: Professional Standards Branch - 2019*
PSB 20-032

BACKGROUND:

Please find attached the annual Professional Standards Branch Report for 2019. 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 2019*

cc: Ryan Diodati, Deputy Chief – Support



Hamilton Police Service Professional Standards Branch

Annual Report 2019

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 2019, as well as a compilation of relevant Risk Management data for the same year.

The statistical information included in the 2019 Professional Standards Branch Annual Report was compiled with data obtained from the following sources:

Statistical Sources

- Professional Standards Branch Database
- Internal Affairs Professional Standards Records Management System (IAPro)
- Chief's Office
- Human Resources
- Special Investigations Unit Liaison
- 2018 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 2019, 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 2019. Although public complaints from the OIPRD experienced a slight increase over 2018, the number of OIPRD complaints that were screened out remained steady. Internal conduct investigations saw an increase from 2018, however, the number is still below the five year average. In addition, the HPS investigated two external agency OIPRD complaints in 2019.

In 2019, the Hamilton Police Service answered 330,578 telephone calls, yet only 125 public complaints were made to the OIPRD, representing less than 0.04%. This included 112 conduct complaints, 8 service complaints, and 5 customer service resolutions. Of the 112 conduct complaints, 55 were screened in for investigation by PSB.

In 2019, the HPS answered 330,578 phone calls.

The HPS received only 125 public complaints, which represents less than 0.04% of all calls.

In 2019, Red Light Camera Violations increased by 2, or 6%.

Discreditable Conduct was the most common allegation of misconduct at 29 counts, followed by Excessive Force at 14 counts, and Neglect of Duty at 10 counts. It should be noted that the OIPRD does not screen out any Excessive Force complaints. Of the 55 conduct investigations, only 2 cases resulted in a finding of misconduct. Of the 8 Service Complaints, 4 were unsubstantiated, 3 did not proceed and 1 was withdrawn. There were no policy related complaints in 2019. An OIPRD request for review was requested 3 times by a complainant in 2019. Two HPS decisions were upheld by the OIPRD. The third is still under review. In 2018, 3 OIPRD reviews were requested. Two HPS decisions were upheld by the OIPRD. The third is still under review.

A total of 211 internal complaints were filed in 2019, representing an increase of 16% from 2018. Red Light Camera (RLC) violations increased by 2, or 6%. Motor Vehicle Collisions (MVC) increased by 17, or 15%; while Missed Court (MC) saw a 60% decrease from 2018. Of the total internal complaints came 234 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 7 complaints and/or allegations of workplace harassment in 2019. Two of the allegations have been unsubstantiated, two have been substantiated, two concluded with no further action, and one is ongoing. Excluding MC, MVC, and RLC violations, 70% of the remaining 37 Chief's complaints resulted in substantiated misconduct.

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The SIU invoked its mandate to investigate 15 reported incidents in 2019. Of the 15 investigations, 4 were concluded by memo after a preliminary inquiry, and 11 became formal investigations. Out of the 11 investigations, 6 were concluded with no reasonable grounds to believe that the subject officers committed a criminal offence. The remaining 5 investigations are pending the SIU Director's decision. The subsequent provincially mandated Section 11 investigations completed by the PSB in relation to 5 of the concluded investigations, determined that all HPS policy and procedures were adhered to and no further action was required. The Section 11 investigation for the sixth concluded investigation is ongoing.

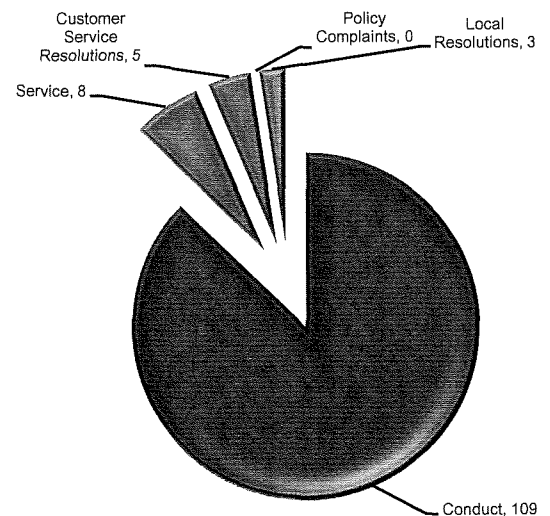
A total of 71 Fail to Stop reports were submitted for 2019. This is an increase of 1 report, or less than 2% from the previous year. Pursuits were initiated in 42 (59%) of the incidents where a Fail to Stop report was submitted. Officers did not engage in a pursuit 29 times. Of the total Fail to Stop reports, 34 were for *Criminal Code* violations, 36 for *Highway Traffic Act* violations and 1 by-law infraction. In 2019, 1 MVC occurred as a direct result of officer initiated pursuits compared to 8 in 2018. There were no known pursuit related injuries.

The Hamilton Police Service received 80 Good News letters in 2019. The Service issued 39 letters of recognition to members of the public and a total of 174 commendations to HPS members for exemplary service. Additionally, 19 members were awarded Member of the Month, and 6 members received the Chief's Pride Award.

Public Complaints

In 2019, the Hamilton Police Service answered 330,578 telephone calls. Only 125 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.

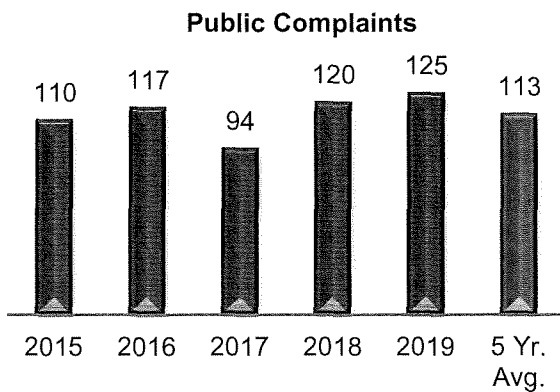
Of the 125 complaint submissions, 109 were related to officer conduct, 8 were classified as a service complaints, 5 were screened for customer service resolutions (CSR), and 3 were resolved locally (local resolution). It should be noted that a CSR is a confidential process for less serious complaints that provides an opportunity to voluntarily resolve complaints before they are formally screened under the *Police Services Act*.⁵ A local



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

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resolution is a process where complaints are made directly with the HPS and a resolution is agreed upon by the involved parties.⁶



The OIPRD screened in 55 of the 125 complaints, which constitutes 44% of the original public complaints. This includes conduct complaints, customer service resolutions and service complaints. The average number of public complaints between 2015 and 2019 was 113. In 2019, the OIPRD experienced an increase of 3% from the previous four-year average. The percentage of complaints screened in by the OIPRD increased by 15%.

Conduct Complaints

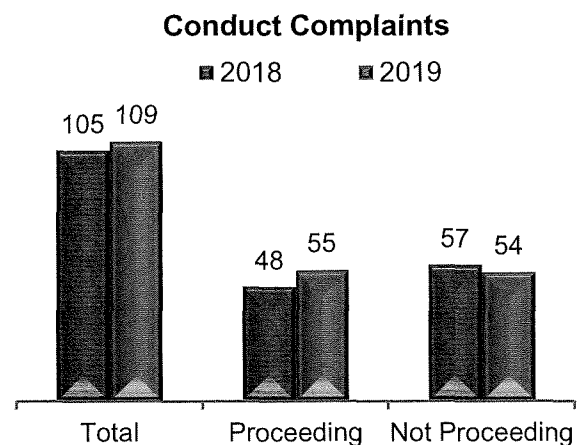
When the behaviour of a police officer is formally questioned by a member of the public, the OIPRD classifies this as a conduct complaint.⁷ Of the 109 conduct complaints, 55 were ultimately screened in by the OIPRD for investigation. The OIPRD determined that police investigation was not required for the remaining 54 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 2019 conduct complaint data to that of 2018, reveals that there was a 4% increase in these types of complaint submissions to the OIPRD. The number of conduct complaints screened in was 15% higher when compared to that of 2018.

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 decreased, while Excessive Force allegations increased from 2018 to 2019. It is important to point out that the OIPRD does not screen out Excessive Force allegations. Discreditable Conduct and Excessive Force represented the most common types of complaints made in 2019 at



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

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

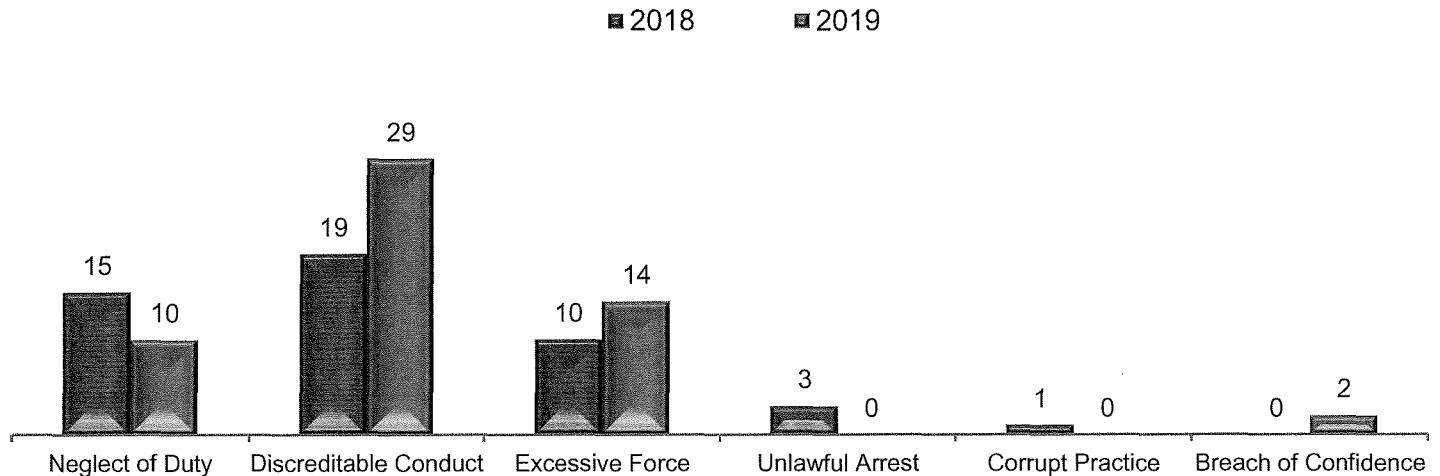
⁸ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Screening Complaints, www.oiprd.on.ca

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78%. The number of complaints regarding Neglect of Duty represented the third greatest type, and saw a decrease of 33% from 2018.

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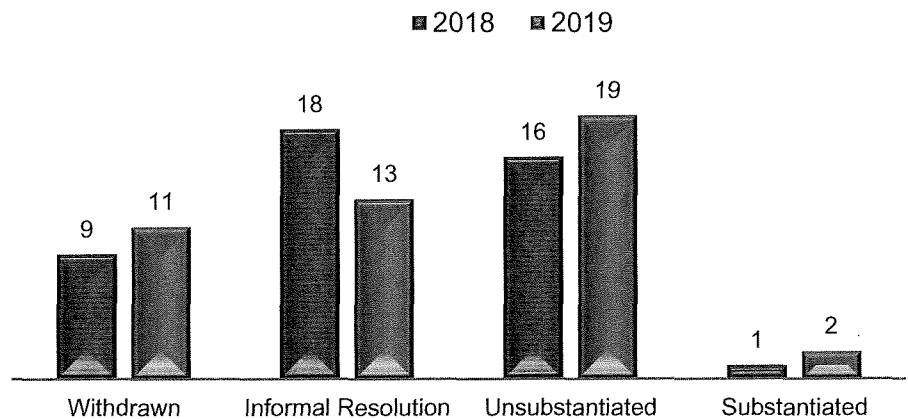
Conduct Complaints Proceeding by Allegation



Disposition of Conduct Complaints

Of the 55 officer conduct investigations, 11 complainants voluntarily withdrew their complaints based on subsequent information provided to them. At the preliminary stages, 13 were resolved by informal resolution, 1 was resolved by enhanced mediation, and 19 allegations of officer misconduct were unsubstantiated by investigators. Only 2 of the original 55 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 25, 2019, 9 of the investigations remain open.

Disposition of Investigated Conduct Complaints

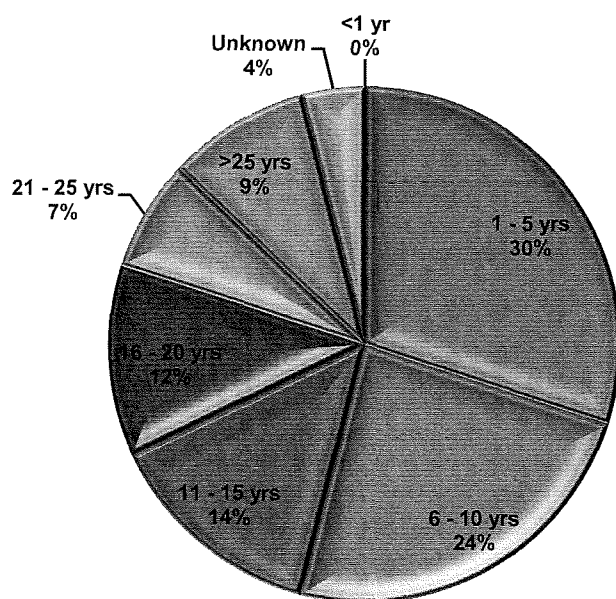


Demographics of Conduct Complaints

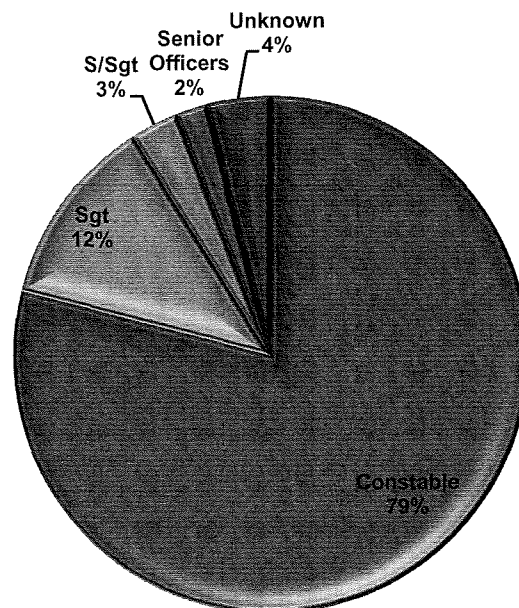
Most conduct complaints involve officers with 1-5 years of experience, as they are typically less experienced uniform police officers who have the highest frequency of contact with members of the public. When looking at the rank of a subject officer, the greatest number of public complaints is made regarding 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 2019, there were 8 service complaints filed against the HPS. Of the 8 service complaints, 4 were unsubstantiated, 3 were deemed by the OIPRD not to be in the public interest or the complainant was not effected by the alleged conduct, and 1 was withdrawn by the complainant. Of the 4 unsubstantiated complaints, 1 related to a delay in conducting an investigation, and the remaining 3 related to police response to a civil disobedience call.

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 2019, the Hamilton Police Service received 3 requests from complainants for an OIPRD review. Two HPS decisions were upheld by the OIPRD. The third is still under review.

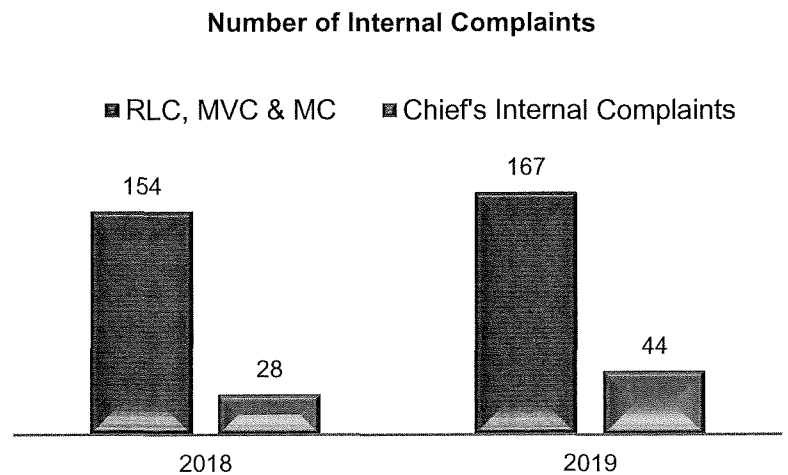
⁹ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Request a Review, www.oiprd.on.ca

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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 211 internal complaints were filed in 2019; a 16% increase from 2018. Specifically, RLC, MVC and MC saw a slight increase of 8% from the previous year; and a 60% decrease in MC incidents, from 10 in 2018 to 4 in 2019. In addition, there were 33 RLC incidents, 130 MVC incidents with 54 of those deeming the officer at fault, while the remaining 76 MVCs were deemed non-preventable.

Allegations of Misconduct

The internal complaints filed in 2019 yielded 234 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 62%. 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 1,111 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.

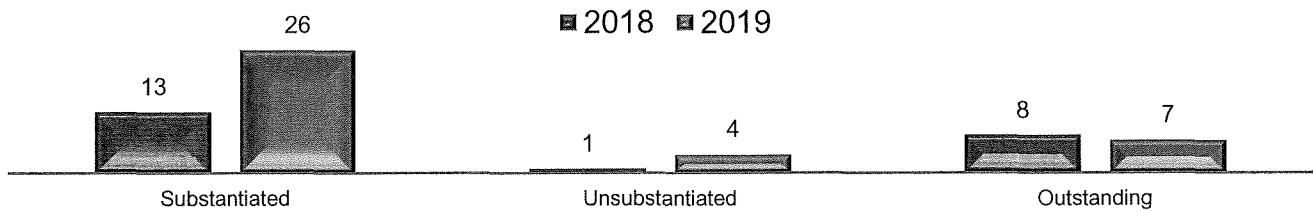
In 2019, there were 7 complaints and/or allegations of workplace harassment. Two of the allegations have been substantiated, 2 were unsubstantiated, 1 is still ongoing, and the investigation into the 2 remaining allegations concluded with no further action required. There were six reported complaints of harassment in 2018.

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Chief's Internal Complaints

Of the 37 internal complaint investigations (exclusive of Harassment Allegations, MC, MVC, and RLC) in 2019, 26, or 70% of the cases of misconduct were substantiated. This is an increase from 2018, where 59% of the complaints were substantiated.

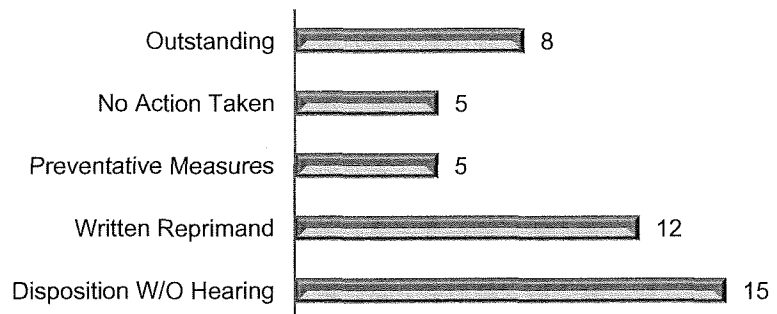
Conclusions of Chief's Internal Complaints



Disposition of Internal Complaints

In the 37 internal investigations, 45 members were identified as subject members. Of the subject members, 60% received corrective discipline. Preventative measures were applied to 11% of subject members. No action was taken against 11%, 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 18%.

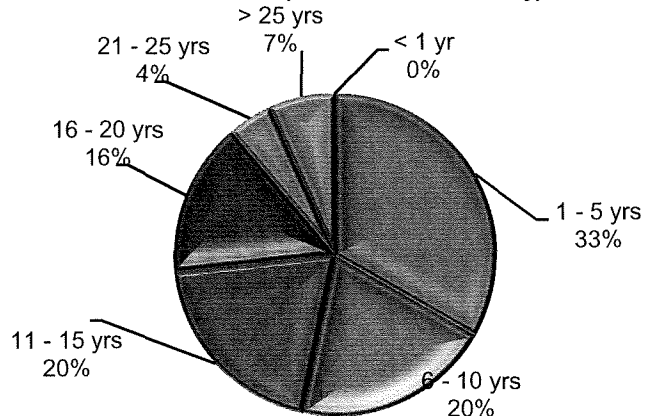
2019 Penalty Dispositions



Demographics of Internal Complaints

Sworn Officers with between 1 and 5 years of service accounted for 33% of internal investigations, while officers between 6 and 15 years of service represented 40%. These two categories alone represent more than half of the officers with allegations of misconduct.

Years of Service (Sworn Members Only)



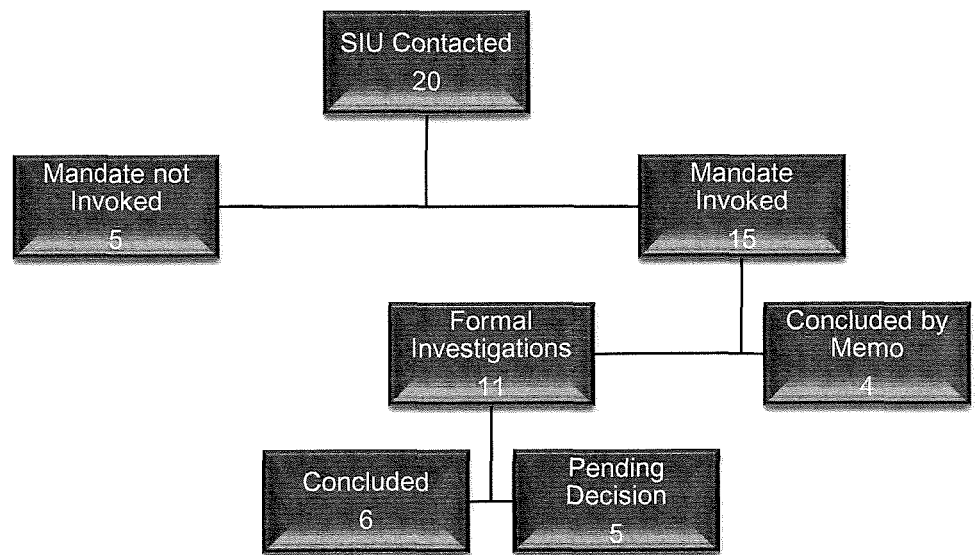
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Special Investigations Unit Incidents

In the pursuit of transparency, the Hamilton Police Service notified the Special Investigations Unit (SIU) on 20 occasions in 2019. The SIU invoked its mandate in 15 of the 20 incidents.

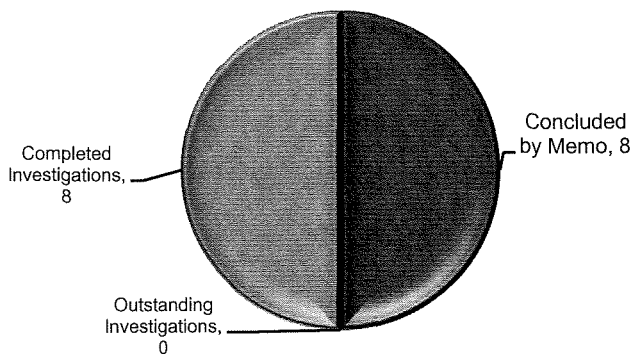
Formal Investigations

Of the 15 SIU investigations, 4 were concluded by memo after the SIU completed a preliminary inquiry and 11 were processed as formal investigations. Out of the 11 investigations, 6 have been concluded. In those incidents, the SIU concluded that reasonable grounds did not exist to believe that the Subject Officer committed a criminal offence. The remaining 5 investigations are pending the Director's decision.

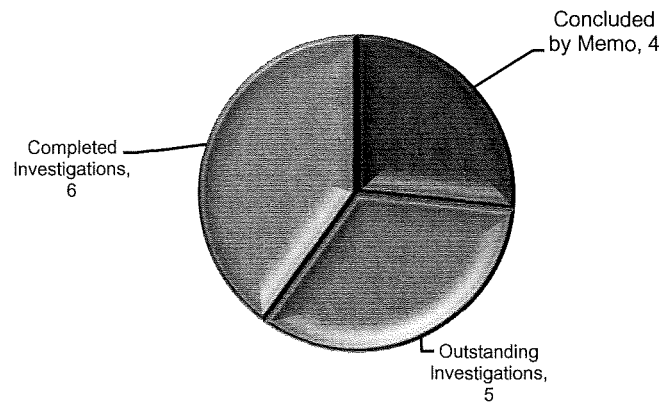


In comparison, the SIU was notified 22 times in 2018 and invoked their mandate in 16 incidents.

Invoked Investigations 2018



Invoked Investigations 2019

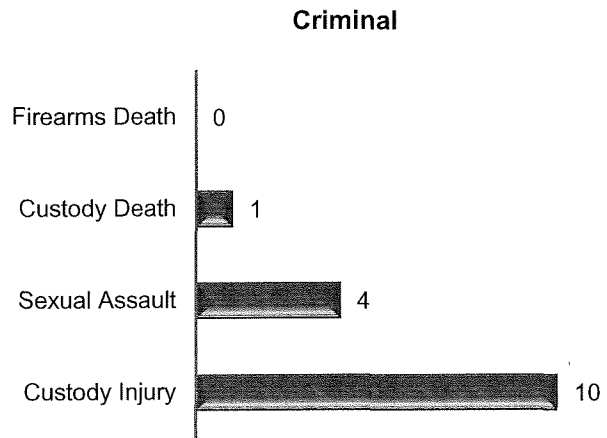


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Criminal Allegations

Out of the 15 incidents where the SIU invoked their mandate in 2019, 10 were classified as a Custody Injury, 4 were classified as a Sexual Assault, and 1 was classified as a Custody 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

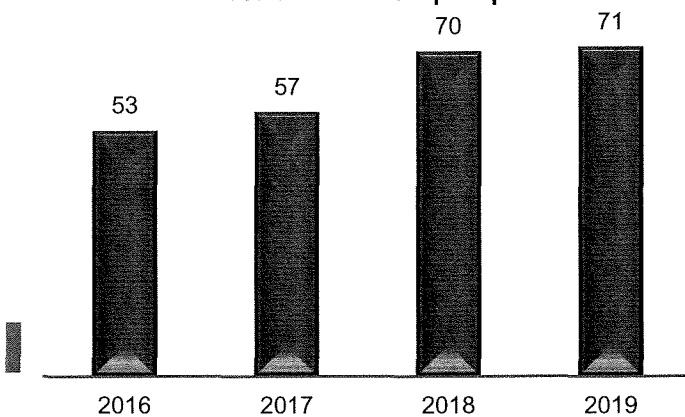
Five Section 11 investigations have been completed by the PSB in relation to the 6 2019 concluded SIU investigations. The 5 Section 11 Investigations have concluded that all HPS policy and procedures were adhered to and no further action was required on the part of the subject officers or the HPS. The sixth Section 11 investigation is ongoing. There are no outstanding Section 11 investigations for 2018. 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

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.

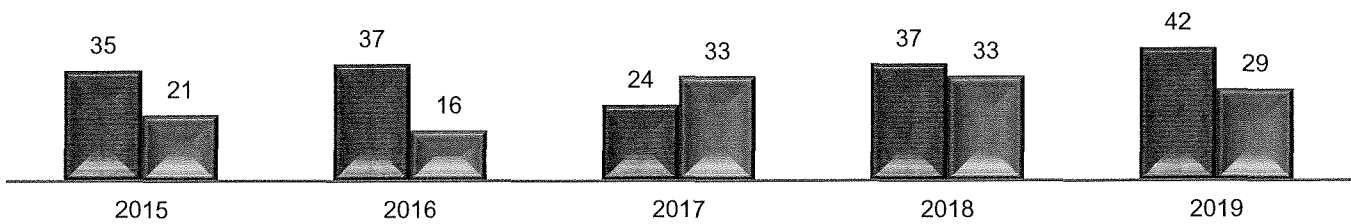
on Pursuits, www.e-laws.gov.on.ca

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The total number of Fail to Stop reports submitted for 2019 was 71. This is an increase of less than 2% when compared to 2018. Pursuits were initiated in 59% of the incidents where a Fail to Stop report was submitted.

Fail to Stop Report Outcomes

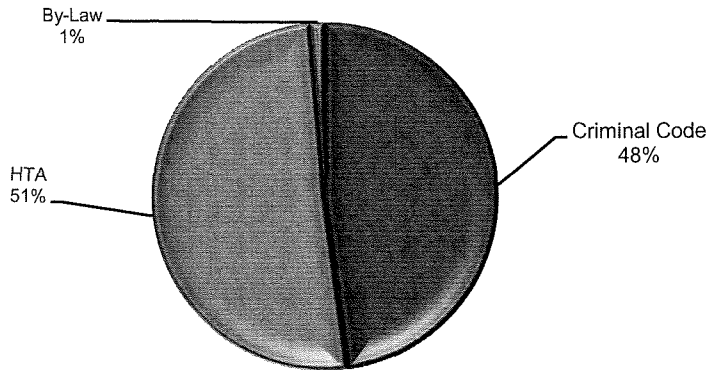
■ Pursuits ■ Pursuits Not Initiated



Of 42 initiated pursuits in 2019, 20 were terminated within 1 km, an additional 13 pursuits were terminated within 1-2 km, 6 were terminated within 2-5 km, 2 were terminated within 5-10 km and 1 exceeded 10 km.

Of the 71 Fail to Stop reports in 2019, 34 were for *Criminal Code* violations, 36 for *Highway Traffic Act* violations and 1 was a by-law infraction.

Reason for Pursuit

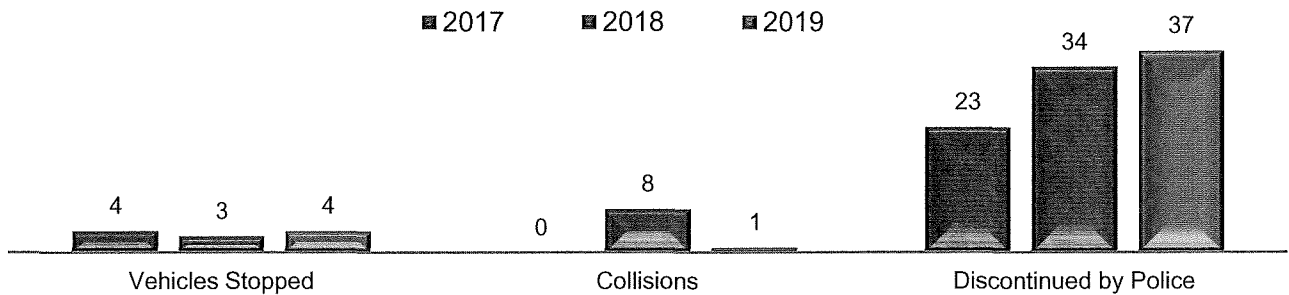


Pursuit Outcomes

In 2019, officers discontinued 88% of pursuits, which represents 37 of the total 42 pursuits. In 2018, pursuits were discontinued 92% of the time.

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Vehicle Pursuit Outcomes



Commendations and Citizen Awards and Letters

The Hamilton Police Service received 80 Good News letters in 2019. 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 2019 through various acknowledgements including:

- Issuance of 39 letters of recognition to members of the public.
- Awarded 19 members with the Member of the Month Award.
- Six members received the Chief's Pride Award.
- Issuance of 174 commendations to members for exemplary service.