

Report to / Rapport au:

**OTTAWA POLICE SERVICES BOARD
LA COMMISSION DE SERVICES POLICIERS D'OTTAWA**

22 July 2019 / 22 juillet 2019

**Submitted by / Soumis par:
Board Solicitor / L'avocat de la Commission**

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SUBJECT: LEGAL SERVICES STATUS REPORT – 2019 SECOND QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – DEUXIÈME
TRIMESTRE DE 2019**

REPORT RECOMMENDATIONS

That the Ottawa Police Services Board receive this report for information.

RECOMMANDATIONS DU RAPPORT

**Que la Commission de services policiers d'Ottawa prenne connaissance du
présent rapport.**

BACKGROUND

The City Clerk and Solicitor Department is a full-service, in-house law practice that provides a broad range of services to the Police Services Board in the areas of civil litigation, labour and employment law, procedural and general legal advice, corporate/commercial/development and environmental law. The Department's objective is to achieve this through the most cost-effective and efficient combination of both in-house and external lawyers. In this latter regard, the Department has a Strategic Standing Offer (SSO) with multiple law firms for the provision of external legal services. The new SSO was negotiated for the period 2019-2022 and provides for favourable, hourly rates set for the duration of the four-year term.

Pursuant to Section 6.1 of Board Policy #GA-8 – Legal Services, the Board Solicitor shall submit a report to the Board on a quarterly basis that includes statistical information and concise analysis of trends on:

1. positive and negative variances against the approved budget;
2. all claims or actions filed against the Board including how many have been filed, how many are outstanding, how many have been settled, the nature of them (categorized by type), and the cost of settlements;
3. the number, cost and outcome of all appeals and applications for judicial review;
4. any issues of significance the Board should be advised of.

In compliance with Section 6.1, this report provides the requested information with respect to the first quarter of 2019.

In according to the direction of the Board at its April 23, 2018 meeting, the report has been revised to include a year-over-year comparison of data, at each quarter, with respect to the budgetary spending and various categories of claims managed.

DISCUSSION

2019 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2019. At the completion of the second quarter \$161,119 or approximately 49% of the budget was spent (as compared with \$115,781 (35%) at the same point in time the previous year). The following chart sets out expenditures for the entire year to date (rounded out for space purposes). The costs reflect the significant staff time devoted to representing the Board, both at trial as well as at mediations, discoveries and settlement conferences.

Table 1 - Ottawa Police Service - Costs of Legal Services, Q2 2018 vs. Q2 2019

| Item | Q1 | | Q2 | | Q3 | | Q4 | |
|----------------|----------|----------|----------|-----------------|----|--|----|--|
| | 2018 | 2019 | 2018 | 2019 | | | | |
| Internal Costs | \$65,985 | \$35,171 | \$48,440 | \$43,065 | | | | |

| | | | | | | | | |
|-------------------|----------|----------|-----------|------------------|--|--|--|--|
| External Costs | \$1,191 | \$20,522 | \$165 | \$62,361 | | | | |
| Total, Quarter | \$67,176 | \$55,693 | \$48,605 | \$105,426 | | | | |
| Total, YTD | \$67,176 | \$55,693 | \$115,781 | \$161,119 | | | | |

The table, above, reflects solely the cost of the provision of legal services (both internal and external) against the approved budget, including the HST municipal rebate.

2019 Litigation Claims

Two Statement of Claims were received on behalf of the Police Services Board in the second quarter of 2019 (as compared with the six statements received in the same period, the previous year). Currently there are 57 outstanding claims/notices of claim against the Board (as compared with 73 outstanding claims/notices at the same point in the previous year). Five of those claims are with external legal counsel as directed by the Board's insurer or due to the requirement for a specialized legal expertise. The remaining 52 claims are assigned to various in-house Legal Counsel. The following list sets out the number of current litigated claims by category or type.

Beginning in Q1 2013, Legal Services started including motor vehicle accident claims involving police vehicles within its quarterly report to the Police Services Board. Though the City of Ottawa, as registered owner of those vehicles, is frequently named or included as a party in those claims, in keeping with the accident insurance scheme in Ontario, the inclusion of motor vehicle accident claims within the quarterly reports will provide a more accurate summary of all outstanding litigation affecting the Board.

Table 2 - All Open Litigated Claims - Police Services – Q2 2018 vs. Q2 2019

| Type of Claim | Number of Claims | |
|--------------------------|------------------|----------|
| | Q2, 2018 | Q2, 2019 |
| Breach of Charter Rights | 0 | 1 |
| Employment/Labour | 1 | 0 |

| Type of Claim | Number of Claims | |
|--|------------------|-----------|
| Excessive Force/Assault | 13 | 11 |
| False Arrest | 17 | 12 |
| Malicious Prosecution | 0 | 0 |
| Motor Vehicle Accident | 14 | 12 |
| Negligence/Negligent Investigation | 18 | 14 |
| Personal Injury | 8 | 5 |
| Property Damage | 2 | 1 |
| Seizure of Personal Property | 0 | 1 |
| Total Number of Open Litigated Claims – Police Services | 73 | 57 |

2019 Non-Litigated Claims

During the second quarter of 2019, seven new claims were received by the Claims Unit (as compared with the 18 received in the same period, the previous year). Of these claims, five remain open (as the evaluation of these matters is ongoing) and two are open litigated.

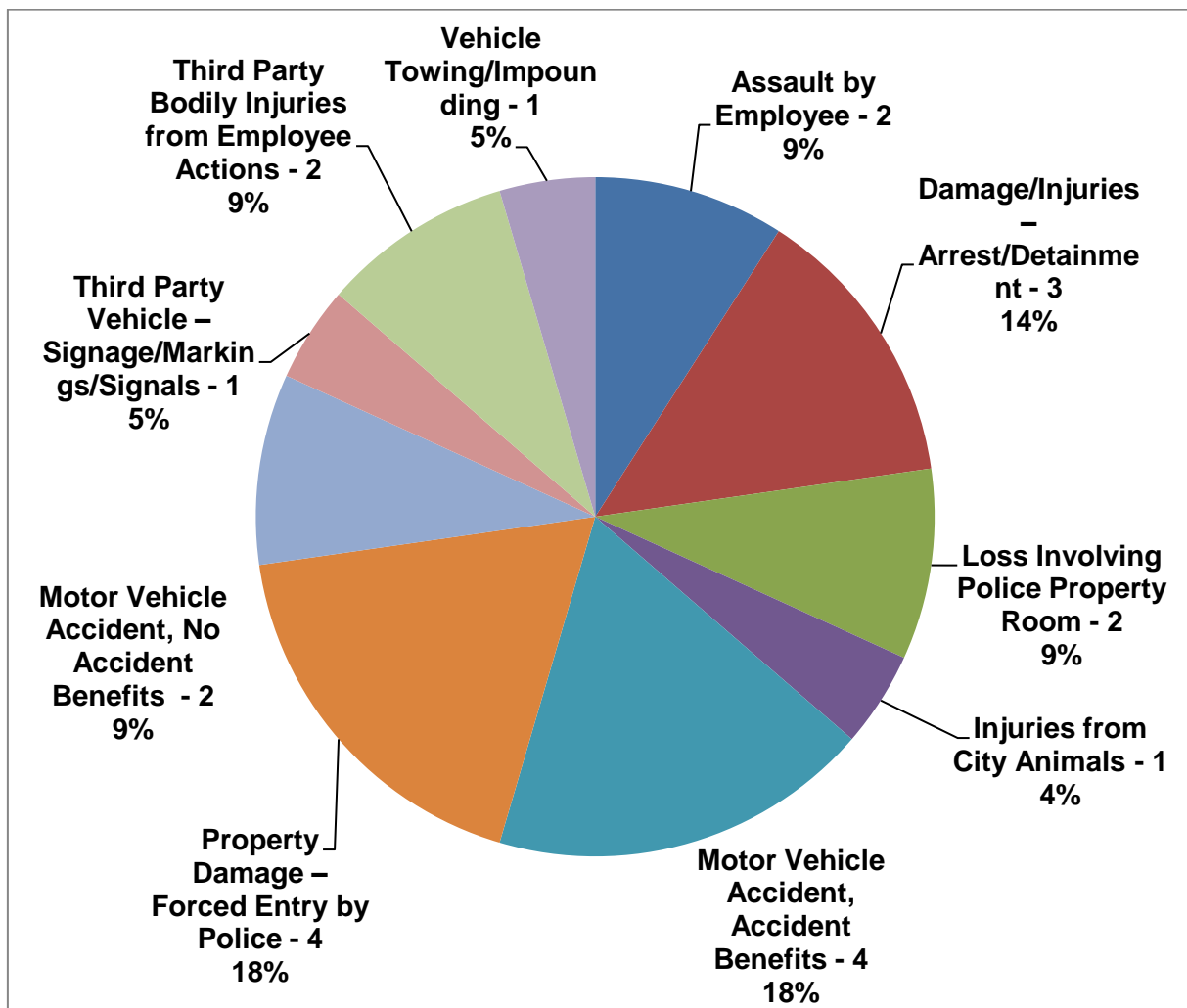
The following chart reflects the total number of claims currently open involving the Ottawa Police Services Board, as of the end of the second quarter 2019. As of the end of the second quarter, 2019, there were 22 open non-litigated claims (as compared with 21 at the end of the same period the previous year).

Table 3 - All Open Non-Litigated Claims - Police Services – Q2 2018 vs Q2 2019

| Type of Claim | Number of Claims | |
|---|------------------|----------|
| | Q2, 2018 | Q2, 2019 |
| Assault by Employee | 3 | 2 |
| City Vehicle Indirectly Causing a Motor Vehicle Accident | 1 | 0 |
| Damage/Injuries – Arrest/Detainment | 4 | 3 |
| Third Party Vehicle Signage/Markings/Signals | 0 | 1 |
| Damage to Third Party Property by Unlicensed Vehicle/Equipment | 1 | 0 |
| Damage to Third Party Property by City Vehicle | 2 | 0 |
| Injuries from City Animals | 1 | 1 |
| Loss Involving Police Property Room | 0 | 2 |
| Motor Vehicle Accident, Accident Benefits | 3 | 4 |
| Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits | 0 | 2 |
| No Known City Involvement | 1 | 0 |
| Property Damage – Forced Entry by Police | 1 | 4 |
| Third Party Property Damage/Loss | 1 | 0 |

| Type of Claim | Number of Claims | |
|--|------------------|-----------|
| Third Party Vehicle – Other | 1 | 0 |
| Third Party Bodily Injuries from Employee Actions | 0 | 2 |
| Vehicle Towing/Impounding | 2 | 1 |
| Total Number of Open Non-Litigated Claims – Police Services | 21 | 22 |

Figure 1 - All Open Claims - Police Services – As of Q2 2019



During the second quarter of 2019, 15 claims were closed by the Claims Unit (as compared with the ten closed in the same period, the previous year). Of these claims, seven were denied, three were abandoned and five were paid.

To date, the Claims Unit has paid out \$60,560.96 in compensation for non-litigated claims (as compared with the \$9,523.19 paid at the same point, the previous year). Below is the summary for number of claims and amount paid for each claim type.

Table 4 - Closed Police Services Claims, Year to Date – Q2 2018 vs. Q2 2019

| Type of Claim | Number of Claims | Paid Sum |
|--|-------------------------|--------------------|
| Damage/Injuries - Arrest/Detainment | 1 | \$910.78 |
| Damage to Third Party Property by City Vehicle | 4 | \$10,645.77 |
| Damage to Third Party Property by Unlicensed Vehicle/Equipment | 1 | \$15,000.00 |
| Errors and Omissions Liability | 1 | \$553.70 |
| Loss/Damage Third Party Property | 1 | \$600.00 |
| Losses Due to Other Alleged City Involvement | 1 | \$1,284.48 |
| Non-owned Vehicle - No Accident Benefits | 1 | 18,494.72 |
| Property Damage - Forced Entry by Police | 16 | \$10,095.05 |
| Vehicle Towing/Impounding | 5 | \$2,976.46 |
| Emergency Vehicle Responding - No Accident Benefits | 1 | \$0.00 |
| Total – Closed Police Services Claims, YTD | 32 | \$60,560.96 |
| Compared to Closed Police Services Claims 2018, Q2 – YTD | 17 | \$9,523.19 |

Figure 1 - Number of Closed Police Services Claims, Q2 2019

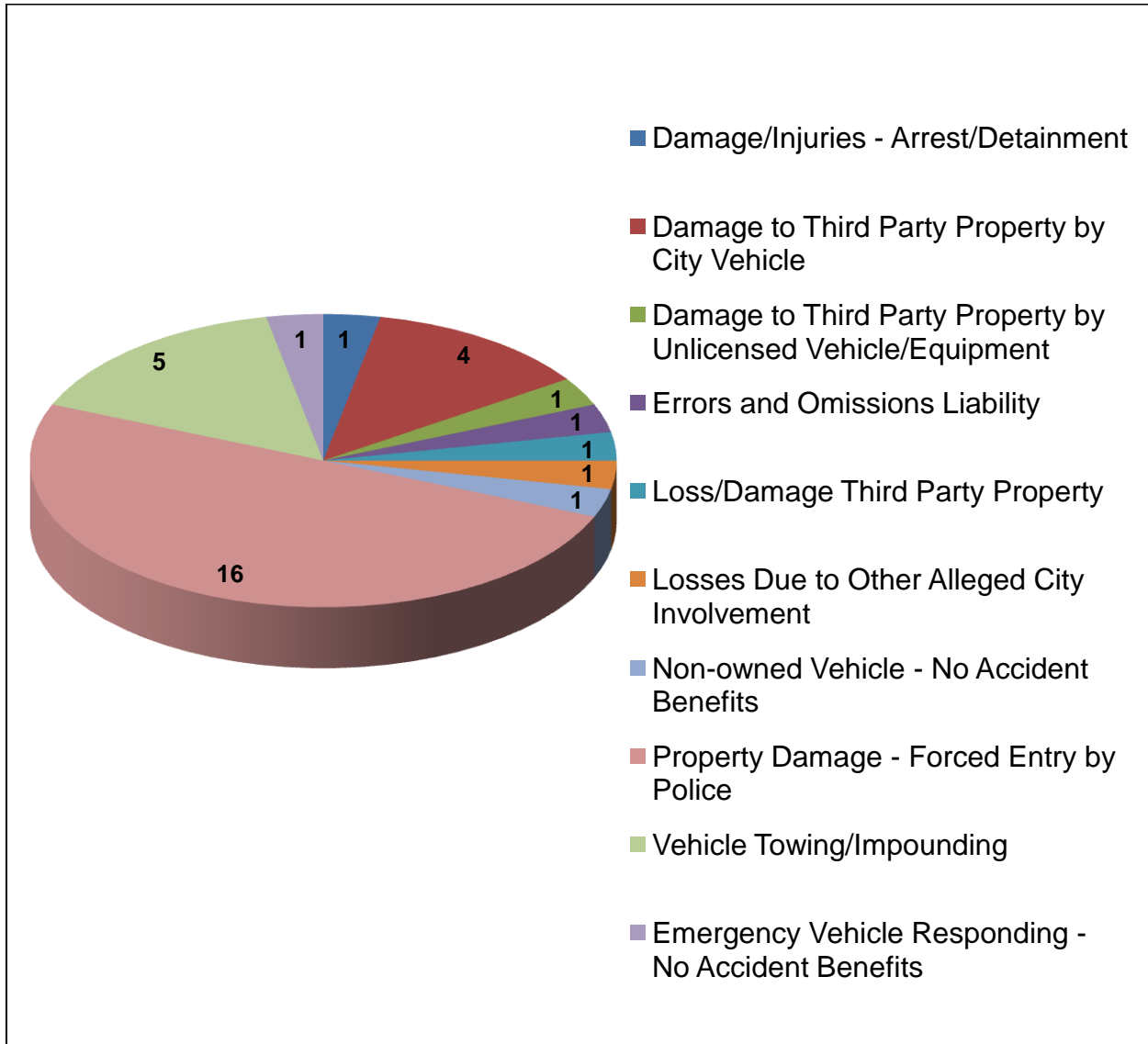
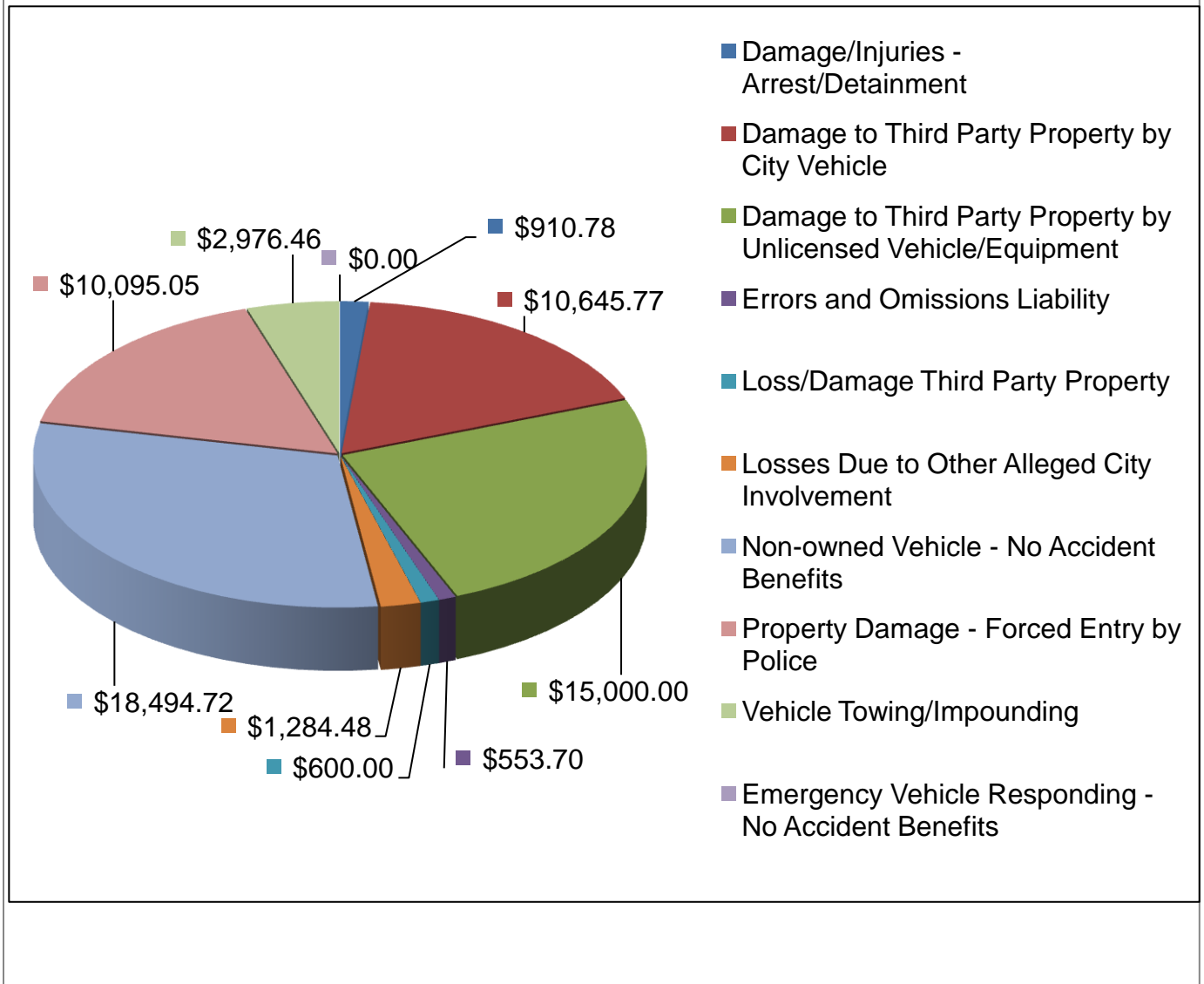


Figure 3 - Value of Closed Police Services Claims, Q2 2019



2019 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, the City Clerk and Solicitor Department is currently managing 40 active labour and employment law matters on behalf of the Police Services Board (as compared to the 42 files which were active at the end of the second quarter the previous year), with five new files opened in the second quarter of 2019. For the year to date, eight Police Services files for Labour and Employment Law matters have been closed. No new labour and employment law matters were outsourced in the second quarter of 2019.

SIGNIFICANT ISSUES

There were no significant issues to report in the second quarter of 2019.

CONSULTATION

As this report was administrative in nature, consultation was not required.

FINANCIAL IMPLICATIONS

As presented in this report.

CONCLUSION

It is anticipated that the 2019 Third quarter report will be presented to the Board at its October 2019 meeting.