

Report to / Rapport au:

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

27 February 2023 / 27 février 2023

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

**Contact Person / Personne ressource:
David White, City Solicitor/ Avocat général
613-580-2424, ext. 21933 / david.white@ottawa.ca**

SUBJECT: LEGAL SERVICES STATUS REPORT – 2022 FOURTH QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – QUATRIÈME
TRIMESTRE DE 2022**

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 à titre d'information.**

BACKGROUND

Legal Services 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, and corporate / commercial / development and environmental law. Legal Services' objective is to achieve this through the most cost-effective and efficient combination of both in-house and external lawyers. With respect to external lawyers, Legal Services has a strategic standing offer with multiple law firms for the provision of external legal services. The new standing offer was negotiated for the period 2019-2022 and provides 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 fourth quarter of 2022.

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

2022 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2022. At the completion of the fourth quarter \$400,925 or approximately 122 per cent of the budget was spent, compared with \$291,391 or approximately 90 per cent at the same point in time in the previous year. The following chart sets out expenditures for the entire year to date. 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, Q4 2022 vs. Q4 2021

Item	Q1		Q2		Q3		Q4	
	2021	2022	2021	2022	2021	2022	2021	2022
Internal Costs	\$15,820	\$13,285	\$8,275	\$12,220	\$5,115	\$14,620	\$6,247	\$16,130
External Costs	\$60,919	\$32,212	\$35,423	\$196,923	\$68,545	\$44,649	\$94,047	\$70,885
Total, Quarter	\$76,739	\$45,497	\$43,698	\$209,143	\$73,660	\$59,269	\$100,294	\$87,015
Total, YTD	\$76,739	\$45,497	\$120,437	\$254,640	\$194,097	\$313,909	\$291,391	\$400,925

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

2022 Litigation Claims

Four Statement of Claims were received on behalf of the Police Services Board in the fourth quarter of 2022, compared with five Statement of Claims received during the same period, the previous year. There are currently 77 outstanding claims/notices of claim against the Board, compared with 64 outstanding claims/notices at the same point in the previous year. Due to a number of reasons including direction by the Board's insurer, the requirement for specialized legal expertise, or capacity constraints, 57 of those claims are with external legal counsel. The remaining 20 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 the first quarter of 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 the 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 – Q4 2021 vs. Q4 2022

Type of Claim	Number of Claims	
	Q4, 2021	Q4, 2022
Breach of Charter Rights	5	8
Breach of Contract	1	1
Excessive Force/Assault	10	12
Error and Omission	1	1
False Arrest	8	8
Malicious Prosecution	2	2
Motor Vehicle Accident	12	15
Negligence/Negligent Investigation	16	22
Personal Injury	8	7
Application	1	1
Total Number of Open Litigated Claims – Police Services	64	77

2022 Non-Litigated Claims

During the fourth quarter of 2022, 15 new claims were received by the Claims Unit, as compared with the 13 received in the same period, the previous year. Of these claims, two were denied and closed, three were paid and closed, six remain open as the evaluation of these matters is ongoing and four are open being litigated.

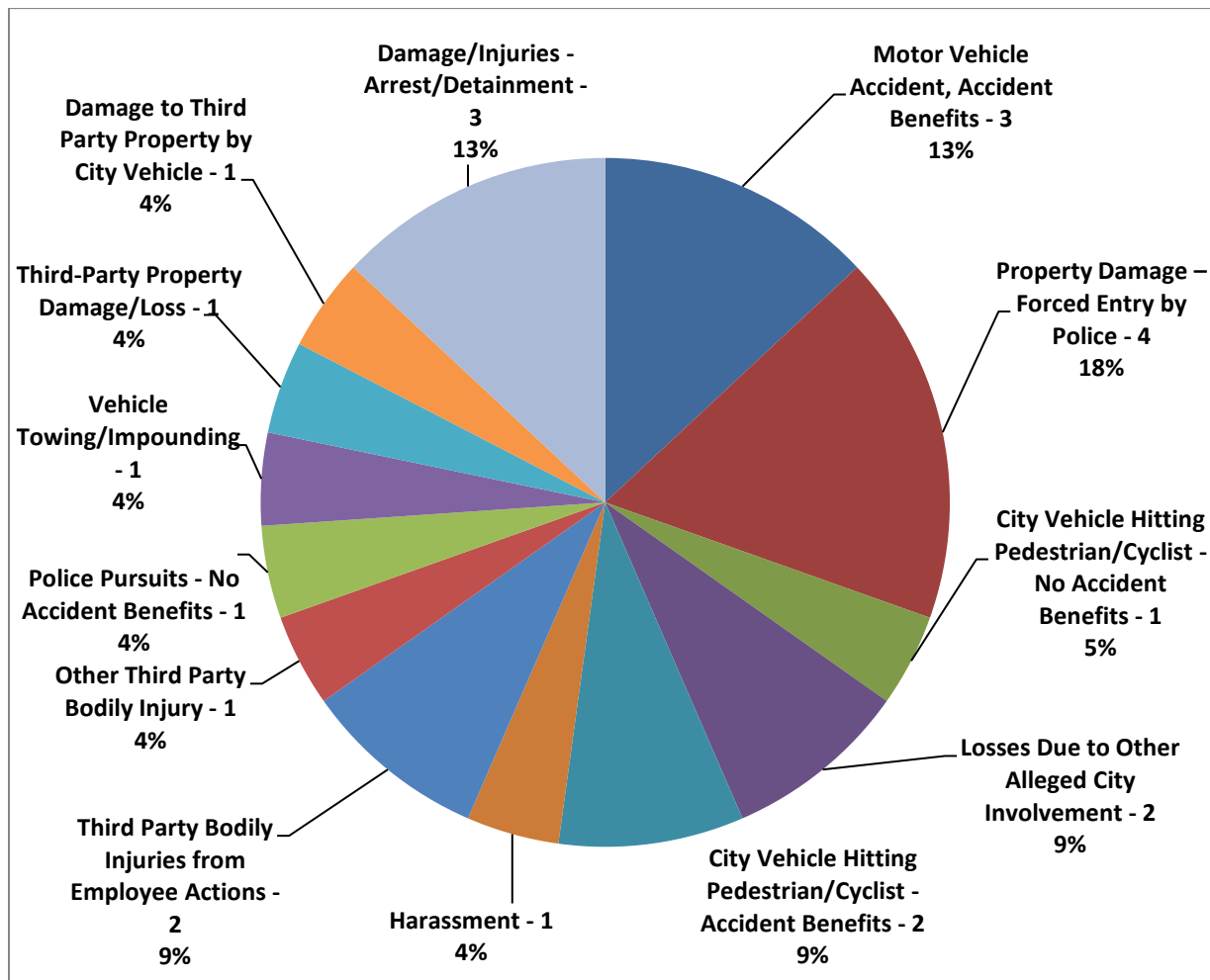
The following chart reflects the total number of claims currently open involving the Ottawa Police Services Board, as of the end of the fourth quarter 2022. As of the end of the fourth quarter, 2022, there were 23 open claims not being litigated, as compared with 16 at the end of the same period in the previous year.

Table 3 - All Open Non-Litigated Claims - Police Services – Q4 2021 vs Q4 2022

Type of Claim	Number of Claims	
	Q4, 2021	Q4, 2022
City Vehicle Hitting Pedestrian/Cyclist - Accident Benefits	1	2
City Vehicle Hitting Pedestrian/Cyclist – No Accident Benefits	0	1
Damage to Third Party Property by City Vehicle	1	1
Motor Vehicle Accident, Accident Benefits	3	3
Losses Due to Other Alleged City Involvement	1	2
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	2	0
Property Damage – Forced Entry by Police	5	4
Third Party Bodily Injuries from Employee Actions	2	2
Damage/Injuries – Arrest/Detainment	0	3
Vehicle Impounding/Towing	0	1
Third-Party Property Damage/Loss	0	1
Police Pursuits – No Accident Benefits	0	1
Other Third-Party Bodily Injury	0	1

Type of Claim	Number of Claims	
Harassment	1	1
Total Number of Open Non-Litigated Claims – Police Services	16	23

Figure 1 - All Open Claims - Police Services – As of Q4 2022



During the fourth quarter of 2022, seven claims were closed by the Claims Unit. As compared with the six closed in the same period, the previous year. Of these claims, four were denied and three were paid.

To date, the Claims Unit has paid out \$23,662.57 in compensation for non-litigated claims. As compared with the \$1,621,238.67 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 – Q4 2021 vs. Q4 2022

Type of Claim	Number of Claims	Paid Sum
Theft Third-Party Property	1	\$800.00
Damage to Third Party Property by City Vehicle	1	\$1,874.94
Third-Party Property Damage/Loss	2	\$1,918.74
City Vehicle Hitting Pedestrian/Cyclist, Accident Benefits	1	\$0.00
Property Damage - Forced Entry by Police	20	\$10,776.11
Vehicle Towing/Impounding	3	\$3,198.64
Losses Due to Other Alleged City Involvement	2	\$4,368.01
Police Pursuits – No Accident Benefits	1	\$726.13
Damage/Injuries - Arrest/Detainment	1	\$0.00
Total – Closed Police Services Claims 2022, YTD	32	\$23,662.57
Compared to Closed Police Services Claims 2021, Q4 – YTD	27	\$1,621,238.67

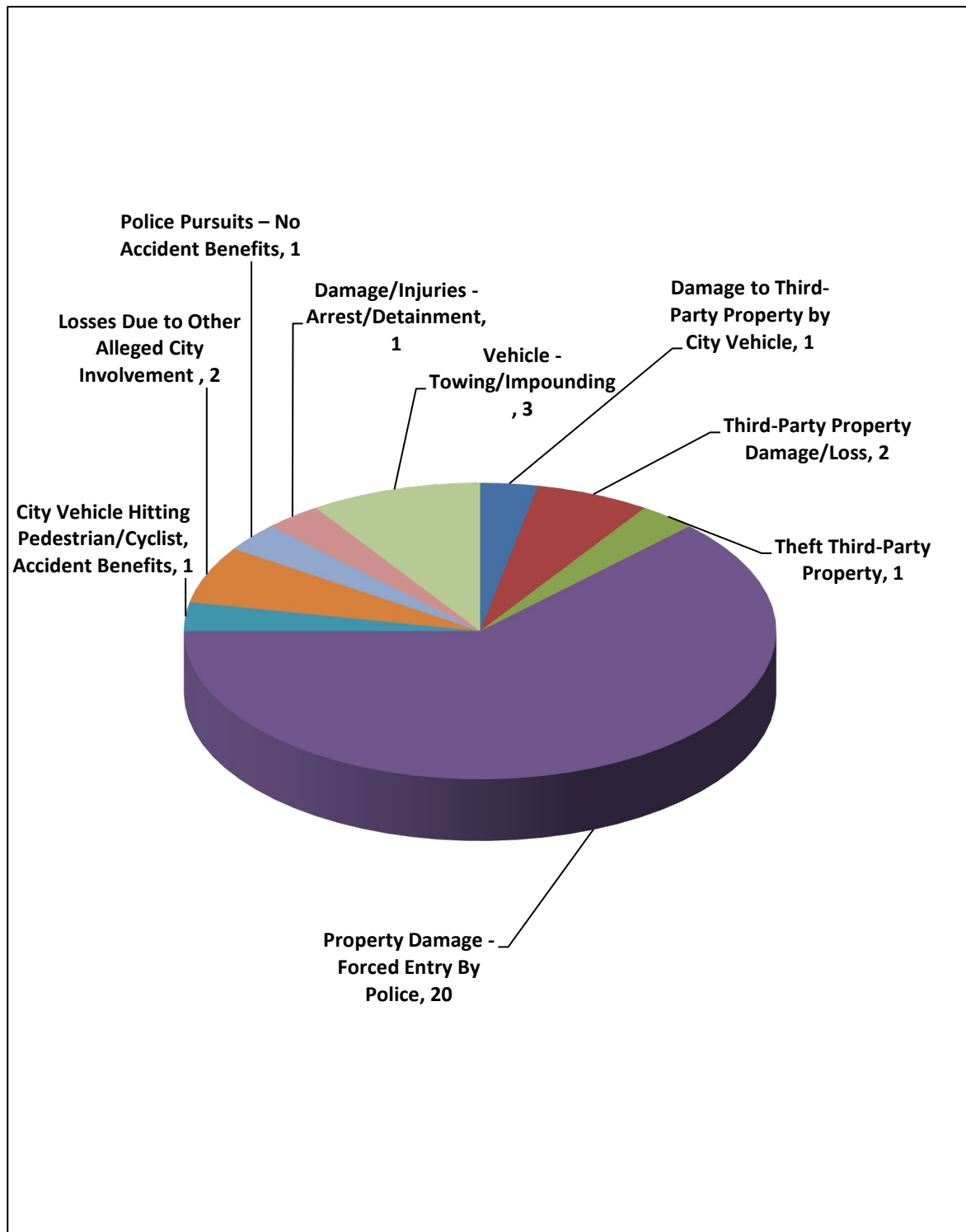
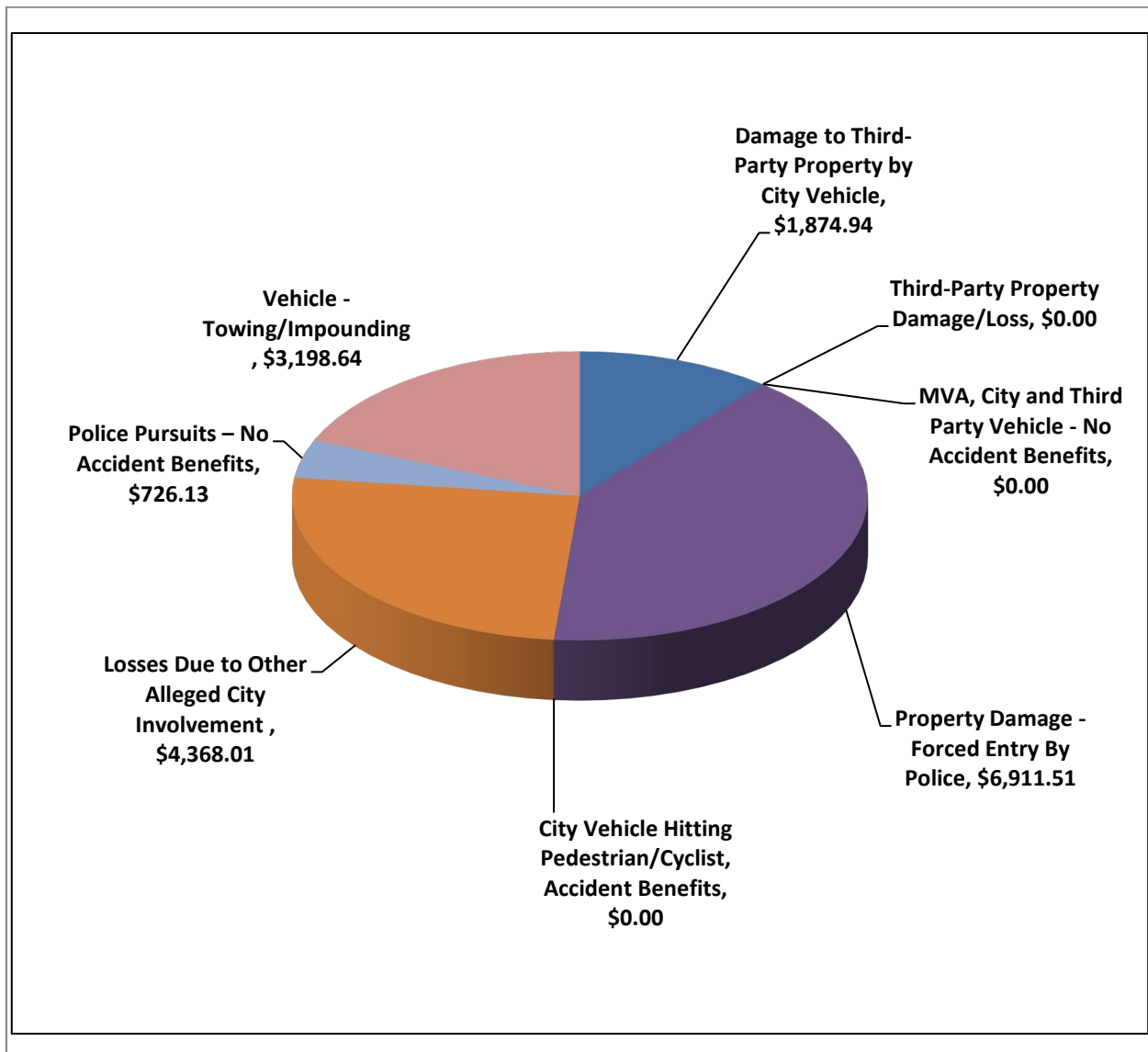
Figure 1 - Number of Closed Police Services Claims, Q4 2022

Figure 3 - Value of Closed Police Services Claims, Q4 2022

2022 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, Legal Services is currently managing 73 active labour and employment law matters on behalf of the Police Services Board, as compared to the 55 files which were active at the end of the fourth quarter in the previous year, with two new files opened in the fourth quarter of 2022. For the year to date, no Police Services files for labour and employment law matters were closed. No new labour and employment law matter was outsourced in the fourth quarter of 2022.

SIGNIFICANT ISSUES

There were no significant issues to report in the fourth quarter of 2022.

CONSULTATION

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

FINANCIAL IMPLICATIONS

Financial implications are as presented in this report.

CONCLUSION

It is anticipated that the 2023 first quarter report will be presented to the Board at its April 2023 meeting.