

Report to / Rapport au:

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

29 May 2023 / 29 mai 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 – 2023 FIRST QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – PREMIER
TRIMESTRE DE 2023**

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

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 (SSO) with multiple law firms for the provision of external legal services. The current standing offer, negotiated for the period 2019-2022 and extended into 2023, provides favourable, hourly rates set for the duration of the SSO 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 2023.

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

2023 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2023. At the completion of the first quarter \$57,838 or approximately 18 percent of the budget was spent, compared with \$45,497 or approximately 14 percent 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 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, Q1 2022 vs. Q1 2023

Item	Q1		Q2		Q3		Q4	
	2022	2023	2022	2023	2022	2023	2022	2023
Internal Costs	\$13,285	\$26,895						
External Costs	\$32,212	\$30,943						
Total, Quarter	\$45,497	\$57,838						
Total, YTD	\$45,497	\$57,838						

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

2023 Litigation Claims

Six Statement of Claims were received on behalf of the Police Services Board in the first quarter of 2023, compared with five Statement of Claims received during the same period, the previous year. There are currently 79 outstanding claims/notices of claim against the Board, compared with 67 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, 58 of those claims are with external legal counsel. The remaining 21 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 – Q1 2022 vs. Q1 2023

Type of Claim	Number of Claims	
	Q1, 2022	Q1, 2023
Breach of Charter Rights	6	9
Breach of Contract	1	1
Excessive Force/Assault	11	13
Error and Omission	1	1
False Arrest	8	8
Malicious Prosecution	2	2
Motor Vehicle Accident	12	15
Negligence/Negligent Investigation	17	23
Personal Injury	7	6
Application	1	1
Property Damage	1	0
Total Number of Open Litigated Claims – Police Services	67	79

2023 Non-Litigated Claims

During the first quarter of 2023, 11 new claims were received by the Claims Unit, as compared with the 21 received in the same period, the previous year. Of these claims, three were denied and closed, one was closed paid, three 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 first quarter 2023. As of the end of the first quarter, 2023, there were 17 open claims not being litigated, as compared with 24 at the end of the same period in the previous year.

Table 3 - All Open Non-Litigated Claims - Police Services – Q1 2022 vs Q1 2023

Type of Claim	Number of Claims	
	Q1, 2022	Q1, 2023
City Vehicle Hitting Pedestrian/Cyclist - Accident Benefits	1	1
City Vehicle Hitting Pedestrian/Cyclist – No Accident Benefits	1	1
Motor Vehicle Accident, Accident Benefits	3	3
Losses Due to Other Alleged City Involvement	1	2
Police Pursuits – No Accident Benefits	1	1
Property Damage – Forced Entry by Police	9	3
Third Party Bodily Injuries from Employee Actions	3	0
Other Third Party Bodily Injury	0	1
Vehicle Towing/Impounding	1	2
Harassment	1	1
Damage/Injuries - Arrest/Detainment	3	2
Total Number of Open Non-Litigated Claims – Police Services	24	17

Table 4 - All Open Non Litigated Claims - Police Services – As of Q1 2023

Type of Claim	Number of Claims / Percentage of Open	
City Vehicle Hitting Pedestrian/Cyclist - Accident Benefits	1	5.88%
City Vehicle Hitting Pedestrian/Cyclist – No Accident Benefits	1	5.88%
Motor Vehicle Accident, Accident Benefits	3	17.65%
Losses Due to Other Alleged City Involvement	2	11.76%
Police Pursuits – No Accident Benefits	1	5.88%
Property Damage – Forced Entry by Police	3	17.65%
Other Third Party Bodily Injury	1	5.88%
Vehicle Towing/Impounding	2	11.76%
Harassment	1	5.88%
Damage/Injuries - Arrest/Detainment	2	11.76%
Total Number of Open Non Litigated Claims	17	100%

During the first quarter of 2023, thirteen claims were closed by the Claims Unit. As compared with the seven closed in the same period the previous year. Of these claims, ten were denied, two were paid and one was closed abandoned.

To date, the Claims Unit has paid out \$8,861.99 in compensation for non-litigated claims. As compared with the \$1,045.10 paid at the same point, the previous year. Below is the summary for number of claims and amount paid for each claim type.

Table 5 - Closed Police Services Claims, Year to Date – Q1 2022 vs. Q1 2023

Type of Claim	Number of Claims	Paid Sum
City Vehicle Hitting Pedestrian/Cyclist-AB	1	\$8,626.36
Damage/Injuries-Arrest/Detainment	1	\$0
Damage to Third Party Property by City Vehicle	1	\$0
Property Damage-Forced Entry by Police	5	\$0
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	2	\$0

Vehicle Towing/Impounding	3	\$235.63
Total – Closed Police Services Claims 2023, YTD	13	\$8,861.99
Compared to Closed Police Services Claims 2022, Q1 – YTD	8	\$1,045.10

Table 6 - Number of Closed Police Services Claims, Q1 2023

Type of Claim	Number of Claims / Percentage of Closed	
City Vehicle Hitting Pedestrian/Cyclist - Accident Benefits	1	7.14%
Damage/Injuries - Arrest/Detainment	1	7.14%
Damage to Third Party Property by City Vehicle	1	7.14%
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	2	14.29%
Property Damage – Forced Entry by Police	5	35.71%
Vehicle Towing/Impounding	3	21.43%
Total Number of Closed Non Litigated Claims	13	100%

2023 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, Legal Services is currently managing 98 active labour and employment law matters on behalf of the Police Services Board, as compared to the 64 files which were active at the end of the first quarter in the previous year, with 25 new files opened in the first quarter of 2023. For the year to date, no Police Services files for labour and employment law matters were closed. No new labour and employment law matters were outsourced in the first quarter of 2023.

SIGNIFICANT ISSUES

There were no significant issues to report in the first quarter of 2023.

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 second quarter report will be presented to the Board at its July 2022 meeting.