

Report to / Rapport au:

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

28 October 2019 / 28 octobre 2019

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

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SUBJECT: LEGAL SERVICES STATUS REPORT – 2019 THIRD QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – TROISIÈME
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 Legal Services Branch of the Innovative Client Services 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 Branch'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 Branch 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 third quarter, \$280,997 or approximately 86% of the budget, was spent (as compared with \$170,849 (52%) 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 in civil and administrative proceedings.

Table 1 - Ottawa Police Service - Costs of Legal Services, Q3 2018 vs. Q3 2019

Item	Q1		Q2		Q3		Q4	
	2018	2019	2018	2019	2018	2019		
Internal Costs	\$65,985	\$35,171	\$48,440	\$43,065	\$54,885	\$34,593		

External Costs	\$1,191	\$20,522	\$165	\$62,361	\$183	\$85,285		
Total, Quarter	\$67,176	\$55,693	\$48,605	\$105,426	\$55,068	\$119,878		
Total, YTD	\$67,176	\$55,693	\$115,781	\$161,119	\$170,849	\$280,997		

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

Three Statements of Claim were received on behalf of the Police Services Board in the third quarter of 2019 (as compared to two statements received in the same period, the previous year). There are currently 58 outstanding claims/notices of claim against the Board (as compared with 69 outstanding claims/notices at the same point in the previous year). Six 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 list below 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 provides a more accurate summary of all outstanding litigation affecting the Board.

Table 2 - All Open Litigated Claims - Police Services – Q3 2018 vs. Q3 2019

Type of Claim	Number of Claims	
	Q3 2018	Q3 2019
Breach of Charter Rights	0	1
Employment/Labour	0	0

Type of Claim	Number of Claims	
Excessive Force/Assault	13	12
False Arrest	16	11
Malicious Prosecution	0	1
Motor Vehicle Accident	13	10
Negligence/Negligent Investigation	18	15
Personal Injury	7	6
Property Damage	2	1
Seizure of Personal Property	0	1
Total Number of Open Litigated Claims – Police Services	69	58

2019 Non-Litigated Claims

During the third quarter of 2019, eight new claims were received by the Claims Unit (as compared with the 10 received in the same period, the previous year). Of these claims, four remain open (as the evaluation of these matters is ongoing), three are open litigated and one has been closed.

The following chart reflects the total number of claims currently open involving the Ottawa Police Services Board, as of the end of the third quarter 2019. At that time, there were 20 open non-litigated claims (as compared with 23 at the end of the same period the previous year).

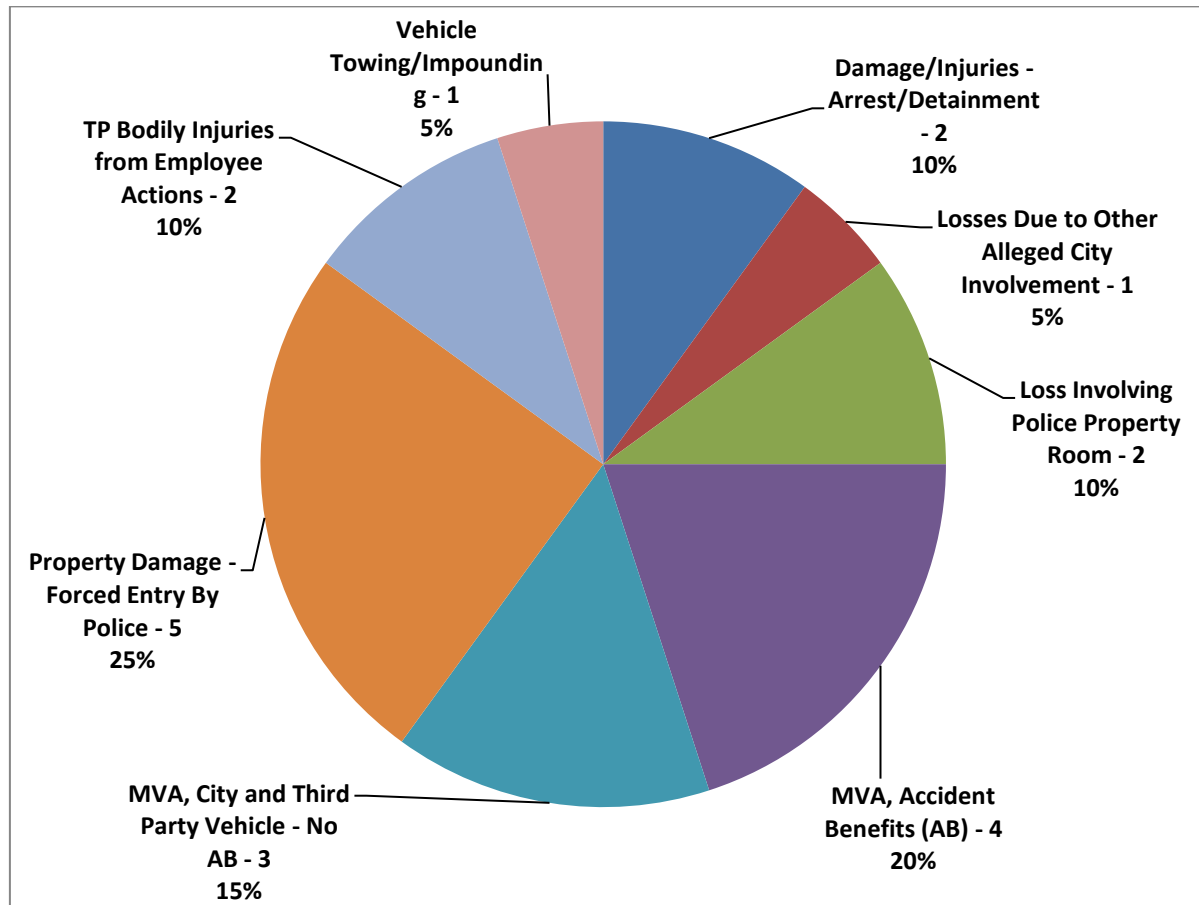
Table 3 - All Open Non-Litigated Claims - Police Services – Q3 2018 vs Q3 2019

Type of Claim	Number of Claims	
	Q3 2018	Q3 2019
Assault by Employee	3	0

Type of Claim	Number of Claims	
Losses Due to Other Alleged City Involvement	0	1
Damage/Injuries – Arrest/Detainment	4	2
Third Party Vehicle Signage/Markings/Signals	0	0
Damage to Third Party Property by Unlicensed Vehicle/Equipment	1	0
Damage to Third Party Property by City Vehicle	1	0
Injuries from City Animals	1	0
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	1	3
No Known City Involvement	1	0
Property Damage – Forced Entry by Police	1	5
Third Party Property Damage/Loss	1	0
Third Party Vehicle – Other	1	0
Third Party Bodily Injuries from Employee Actions	1	2
Vehicle Towing/Impounding	4	1
Total Number of Open Non-Litigated	23	20

Type of Claim	Number of Claims	
Claims – Police Services		

Figure 1 - All Open Claims - Police Services – As of Q3 2019



During the third quarter of 2019, four claims were closed by the Claims Unit (as compared with the four closed in the same period, the previous year). Of these claims, one was denied, one was abandoned, one was referred and one was paid.

To date, the Claims Unit has paid out \$23,251.67 in compensation for non-litigated claims (as compared with the \$12,448.84 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 – Q3 2018 vs. Q3 2019

Type of Claim	Number of Claims	Paid Sum
Damage/Injuries - Arrest/Detainment	3	\$0.00
Third Party Bodily Injuries from Employee Actions	1	\$3,500.00
Damage to Third Party Vehicle	1	\$0.00
No Known City Involvement	1	\$0.00
Loss/Damage Third Party Property - Other	1	\$500.00
Losses Due to Other Alleged City Involvement	1	\$10,00.00
Slander, Defamation	1	\$0.00
Property Damage - Forced Entry by Police	6	\$3,280.39
Vehicle Towing/Impounding	4	\$757.56
Assault By Employee	1	\$0.00
Loss/Damage Third Party Property - Signage/Markings/Signals	1	\$5,213.72
Total – Closed Police Services Claims, YTD	21	\$23,251.67
Compared to Closed Police Services Claims 2018, Q2 – YTD	23	12,448.84

Figure 2 - Number of Closed Police Services Claims, Q3 2019

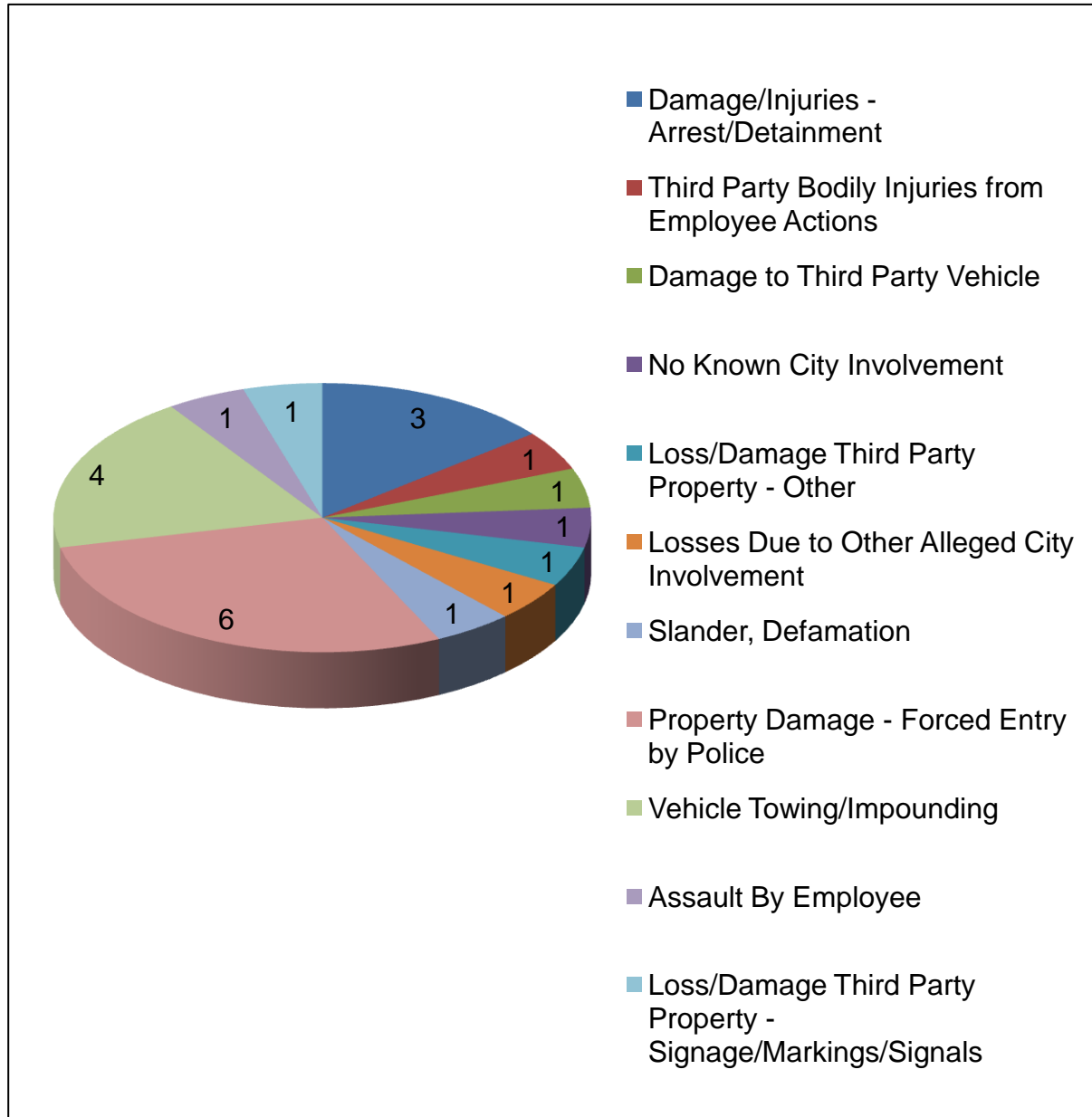
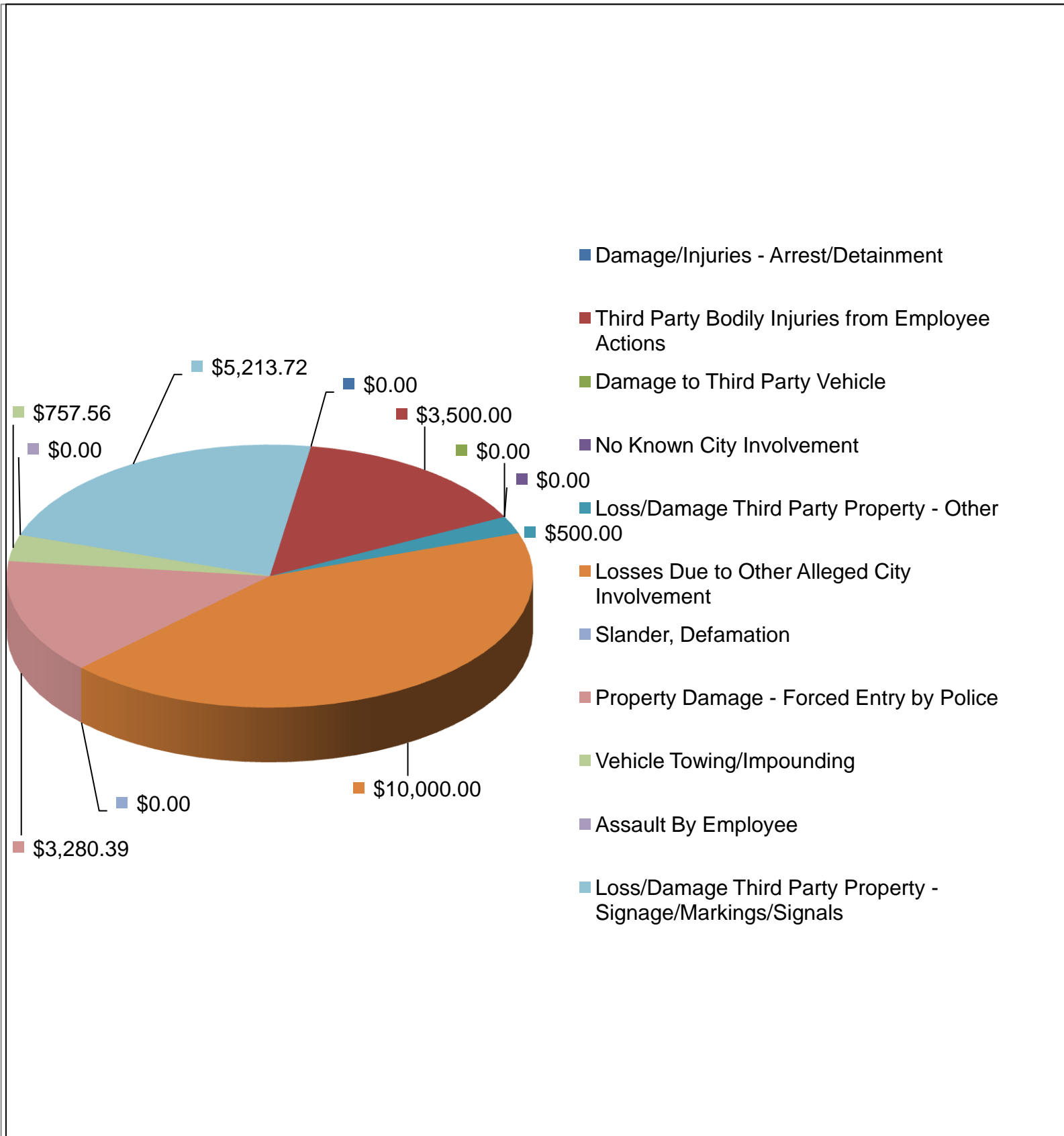


Figure 3 – Value of Closed Police Services Claims, Q3 2019 (As of Oct 16, 2019)



2019 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, the Legal Services Branch is currently managing 43 active labour and employment law matters on behalf of the Police Services Board (as compared to the 34 files which were active at the end of the second quarter the previous year), with nine new files opened in the third quarter of 2019. For the year to date, 12 Police Services files for Labour and Employment Law matters have been closed. No new labour and employment law matters were outsourced in the third quarter of 2019.

SIGNIFICANT ISSUES

There were no significant issues to report in the third 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 Fourth quarter report will be presented to the Board at its January 2020 meeting.

(original signed by)

David White
Board Solicitor