

Report to / Rapport au:

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

29 April 2019 / 29 avril 2019

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

**Contact Person / Personne ressource:
David White, Deputy City Solicitor/ Chef du contentieux adjoint
613-580-2424, ext. 21933 / *david.white@ottawa.ca***

SUBJECT: LEGAL SERVICES STATUS REPORT – 2019 FIRST QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – PREMIER
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 first quarter \$55,693 or approximately 17% of the budget was spent (as compared with \$67,176 (20%) at the same point in time 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, Q1 2018 vs. Q1 2019

Item	Q1	Q2	Q3	Q4
------	----	----	----	----

	2018	2019						
Internal Costs	\$65,985	\$35,171						
External Costs	\$1,191	\$20,522						
Total, Quarter	\$67,176	\$55,693						
Total, YTD	\$67,176	\$55,693						

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

One Statement of Claim was received on behalf of the Police Services Board in the first quarter of 2019 (as compared with the four statements received in the same period, the previous year). Currently there are 56 outstanding claims/notices of claim against the Board (as compared with 67 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 specialized legal expertise. The remaining 51 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 – Q1 2018 vs. Q1 2019

Type of Claim	Number of Claims
---------------	------------------

Type of Claim	Number of Claims	
	Q1, 2018	Q1, 2019
Breach of Charter Rights	2	1
Employment/Labour	1	0
Excessive Force/Assault	13	10
False Arrest	15	11
Malicious Prosecution	1	0
Motor Vehicle Accident	8	12
Negligence/Negligent Investigation	18	14
Personal Injury	7	6
Property Damage	2	1
Seizure of Personal Property	0	1
Total Number of Open Litigated Claims – Police Services	67	56

2019 Non-Litigated Claims

During the first quarter of 2019, 12 new claims were received by the Claims Unit (as compared with the 11 received in the same period, the previous year). Of these claims, two were denied and closed, nine remain open (as the evaluation of these matters is ongoing) and one is open litigated.

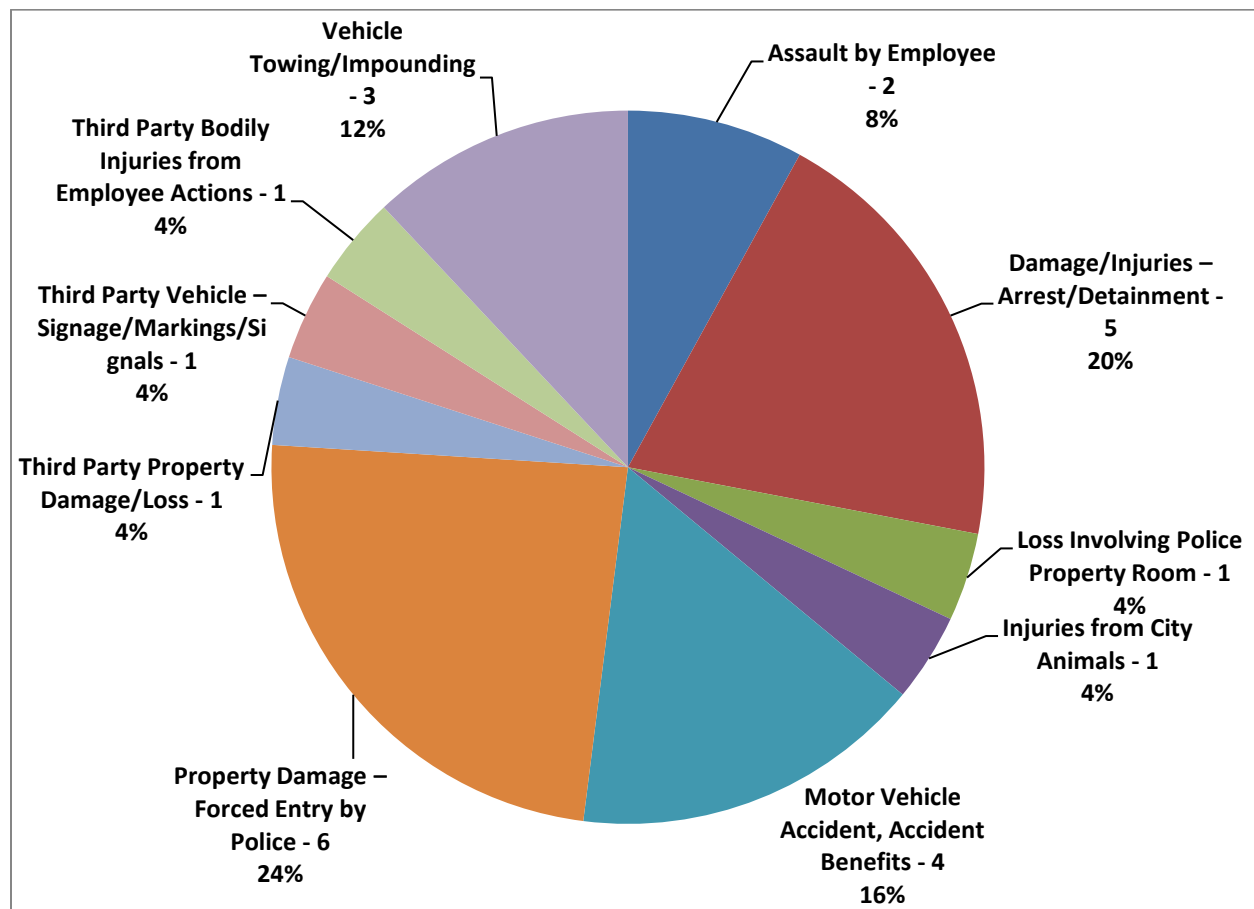
The following chart reflects the total number of claims currently open involving the Ottawa Police Services Board, as of the end of the first quarter 2019. As of the end of the first quarter, 2019, there were 25 open non-litigated claims (as compared with 19 at the end of the same period the previous year).

Table 3 - All Open Non-Litigated Claims - Police Services – Q1 2018 vs Q1 2019

Type of Claim	Number of Claims	
	Q1, 2018	Q1, 2019
Assault by Employee	2	2
City Vehicle Indirectly Causing a Motor Vehicle Accident	1	0
Damage/Injuries – Arrest/Detainment	2	5
Third Party Vehicle Signage/Markings/Signals	0	1
Damage to Third Party Property by Unlicensed Vehicle/Equipment	1	0
Emergency Vehicle Responding – No Accident Benefits	1	0
Injuries from City Animals	2	1
Loss Involving Police Property Room	0	1
Motor Vehicle Accident, Accident Benefits	3	4
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	2	0
No Known City Involvement	1	0
Property Damage – Forced Entry by Police	1	6
Third Party Property Damage/Loss	1	1

Type of Claim	Number of Claims	
Third Party Vehicle – Other	1	0
Third Party Bodily Injuries from Employee Actions	0	1
Vehicle Towing/Impounding	1	3
Total Number of Open Non-Litigated Claims – Police Services	19	25

Figure 1 - All Open Claims - Police Services – As of Q1 2019



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

To date, the Claims Unit has paid out \$3,500 in compensation for non-litigated claims (as compared with the \$6,113.12 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 – Q1 2018 vs. Q1 2019

Type of Claim	Number of Claims	Paid Sum
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	1	\$0.00
Third Party Bodily Injuries from Employee Actions	1	\$3,500
Total – Closed Police Services Claims, YTD	2	\$3,500
Compared to Closed Police Services Claims 2018, Q1 – YTD	8	\$6,113.12

Figure 1 - Number of Closed Police Services Claims, Q1 2019

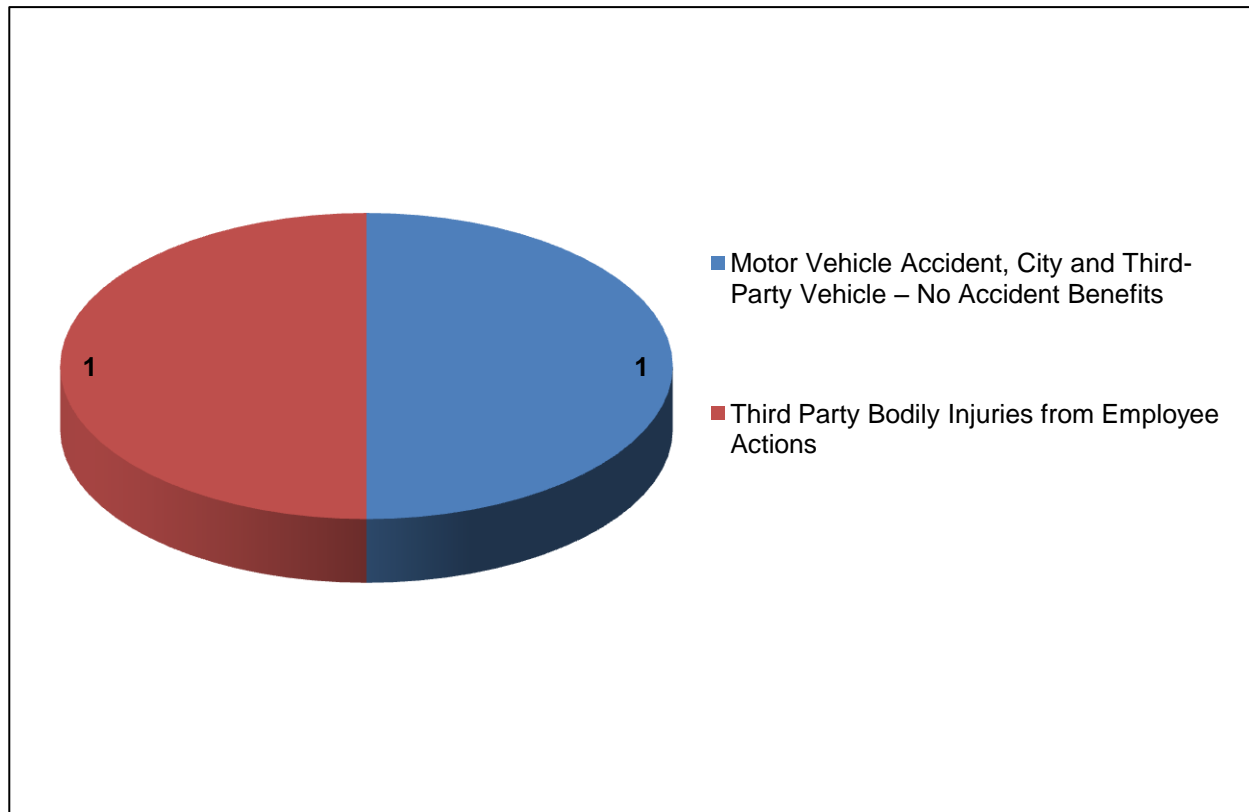
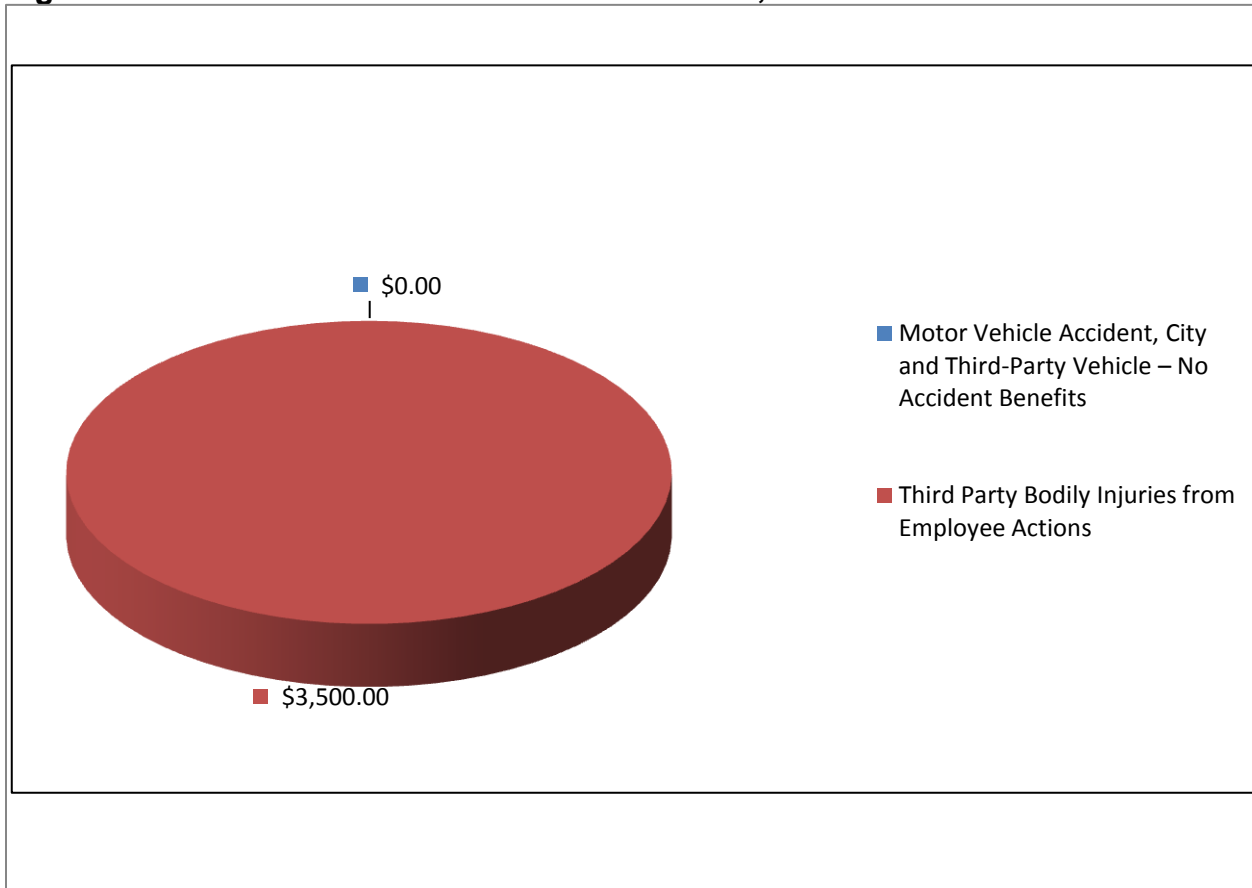


Figure 3 - Value of Closed Police Services Claims, Q1 2019

2019 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, the City Clerk and Solicitor Department is currently managing 36 active labour and employment law matters on behalf of the Police Services Board (as compared to the 41 files which were active at the end of the first quarter the previous year), with ten new files opened in the first quarter of 2019. For the year to date, five Police Services files for Labour and Employment Law matters have been closed. No new labour and employment law matters were outsourced in the first quarter of 2019.

SIGNIFICANT ISSUES

There were no significant issues to report in the first 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 Second quarter report will be presented to the Board at its July 2019 meeting.

(original signed by)

M. Rick O'Connor
Board Solicitor