

Report to / Rapport au:

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

23 July 2018 / 23 juillet 2018

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

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SUBJECT: LEGAL SERVICES STATUS REPORT – 2018 SECOND QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – DEUXIÈME
TRIMESTRE DE 2018**

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 three law firms for the provision of external legal services. The new SSO was negotiated for the period 2015-2018 and provides for favourable, blended 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 second quarter of 2018.

In accordance with 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

2018 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2018. At the completion of the second quarter \$115,781 or approximately 35% of the budget was spent (as compared with \$161,840 (49%) 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 2017 vs. Q2 2018

Item	Q1		Q2		Q3		Q4	
	2017	2018	2017	2018	2017	2018	2017	2018
Internal Costs	\$42,665	\$65,985	\$60,720	\$48,440				

External Costs	\$7,228	\$1,191	\$51,226	\$165				
Total, Quarter	\$49,893	\$67,176	\$111,946	\$48,605				
Total, YTD	\$49,893	\$67,176	\$161,839	\$115,781				

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.

2018 Litigation Claims

Six Statements of Claim were received on behalf of the Police Services Board in the second quarter of 2018 (as compared with the three statements received in the same period, the previous year). Currently there are 73 outstanding claims/notices of claim against the Board (as compared with 66 outstanding claims/notices at the same point in the previous year). Four 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 69 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 2017 vs. Q2 2018

Type of Claim	Number of Claims	
	Q2, 2017	Q2, 2018
Breach of Charter Rights	1	
Employment/Labour	1	1

Type of Claim	Number of Claims	
Excessive Force/Assault	13	13
False Arrest	13	17
Malicious Prosecution	1	
Motor Vehicle Accident	13	14
Negligence/Negligent Investigation	14	18
Personal Injury	8	8
Property Damage	1	2
Vehicle/Property Damage	1	
Total Number of Open Litigated Claims – Police Services	66	73

2018 Non-Litigated Claims

During the second quarter of 2018, 18 new claims were received by the Claims Unit (as compared with the twenty received in the same period, the previous year). Of these claims, two were paid and closed, one was closed as it required referral to another agency, five were denied and closed, six remain open (as the evaluation of these matters is ongoing) and four are open and have become litigation.

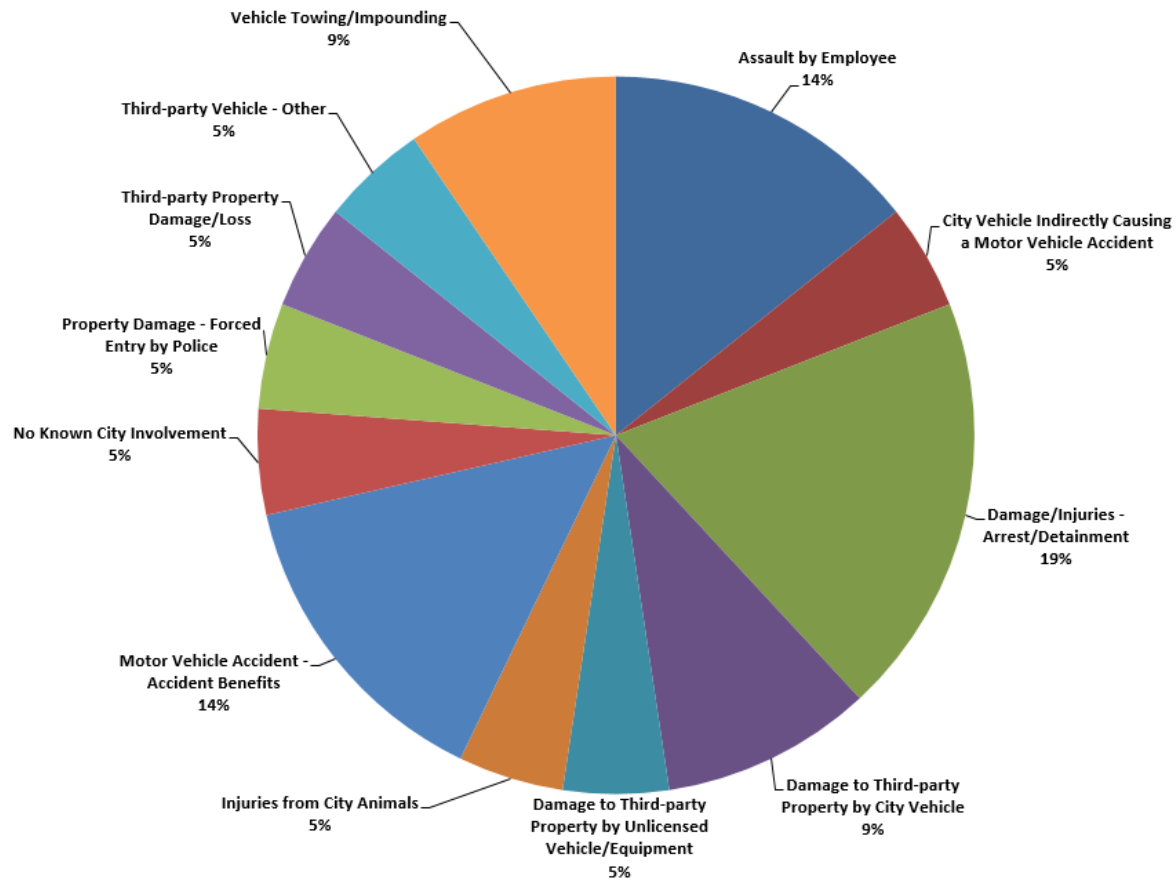
The following chart reflects the total number of claims currently open involving the Ottawa Police Services Board, as of the end of the second quarter 2018. As of the end of the second quarter, 2018, there were 21 open non-litigated claims (as compared with 18 at the end of the same period the previous year).

Table 3 - All Open Non-Litigated Claims - Police Services – Q2 2017 vs Q2 2018

Type of Claim	Number of Claims	
	Q2, 2017	Q2, 2018
Assault by Employee		3
City Vehicle Indirectly Causing a Motor Vehicle Accident		1
Damage/Injuries – Arrest/Detainment	2	4
Damage to Third Party Property by City Vehicle		2
Damage to Third Party Property by Unlicensed Vehicle/Equipment	1	1
Emergency Vehicle Responding – No Accident Benefits	1	
Errors and Omissions Liability	1	
Injuries from City Animals	1	1
Loss Involving Police Property Room	1	
Motor Vehicle Accident, Accident Benefits	3	3
Motor Vehicle Accident, City and Third Party Vehicle – No Accident Benefits	1	
No Known City Involvement	1	1

Type of Claim	Number of Claims	
Other Third-Party Bodily Injury	1	
Property Damage – Forced Entry by Police	3	1
Third Party Property Damage/Loss		1
Third Party Vehicle – Other	1	1
Third Party Bodily Injuries from Employee Actions	1	
Vehicle Towing/Impounding		2
Total Number of Open Non-Litigated Claims – Police Services	18	21

Figure 1 - All Open Claims - Police Services – As of Q2 2018



During the second quarter of 2018, ten claims were closed by the Claims Unit (as compared with the fifteen closed in the same period, the previous year). Of these claims, seven were denied, one was referred and two were paid.

To date, the Claims Unit has paid out \$9,523.19 in compensation for non-litigated claims (as compared with the \$12,857.25 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 2017 vs. Q2 2018

Type of Claim	Number of Claims	Paid Sum
Damage/Injuries – Arrest/Detainment	1	\$910.78
Emergency Vehicle Responding – No Accident Benefits	1	\$0.00
Errors and Omissions Liability	1	\$553.70
Loss/Damage – Third Party Property in City Controlled Complex	1	\$600.00
Property Damage – Forced Entry by Police	11	\$7,458.71
Vehicle Towing/Impounding	2	\$0.00
Total – Closed Police Services Claims, YTD	17	\$9,523.19
Compared to Closed Police Services Claims 2017, Q2 – YTD	21	\$12,857.25

Figure 1 - Number of Closed Police Services Claims, Q2 2018

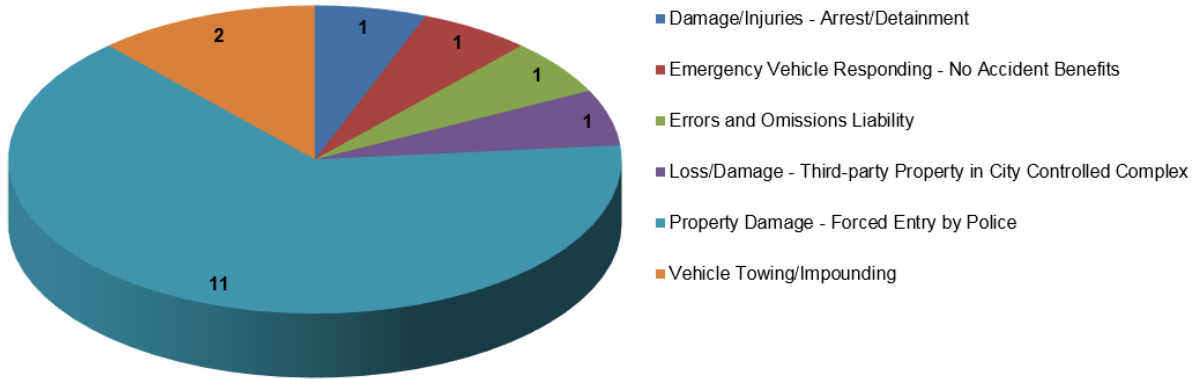
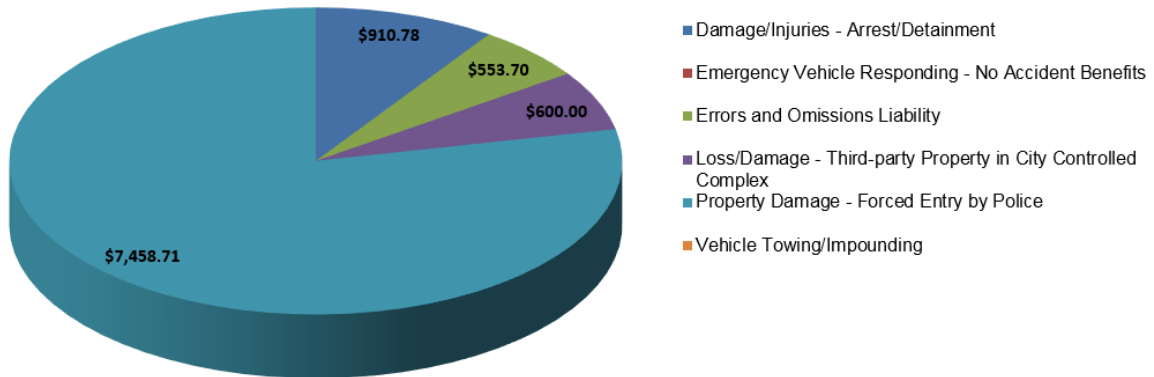


Figure 3 - Value of Closed Police Services Claims, Q2 2018



2018 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, the City Clerk and Solicitor Department is currently managing 42 active labour and employment law matters on behalf of the Police Services Board (as compared to the 20 files which were active at the end of the second quarter the previous year), with six new files opened in the second quarter of 2018. For the year to date, nine 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 2018.

SIGNIFICANT ISSUES

There were no significant issues to report in the second quarter of 2018.

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 2018 third quarter report will be presented to the Board at its October 2018 meeting.