

Report to / Rapport au:

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

28 January 2019 / 28 janvier 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 – 2018 4TH QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – QUATRIÈME
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 third quarter of 2018.

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

2018 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2018. At the completion of the fourth quarter \$335,490 or approximately 102% of the budget was spent (as compared with \$396,090 (121%) 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, Q4 2017 vs. Q4 2018

Item	Q1		Q2		Q3		Q4	
	2017	2018	2017	2018	2017	2018	2017	2018
Internal Costs	\$42,665	\$65,985	\$60,720	\$48,440	\$47,665	\$54,885	\$64,310	\$57,830

External Costs	\$7,228	\$1,191	\$51,226	\$165	\$87,431	\$183	\$34,845	\$106,811
Total, Quarter	\$49,893	\$67,176	\$111,946	\$48,605	\$135,096	\$55,068	\$99,155	\$164,641
Total, YTD	\$49,893	\$67,176	\$161,839	\$115,781	\$296,935	\$170,849	\$396,090	\$335,490

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

Two Statements of Claim were received on behalf of the Police Services Board in the fourth quarter of 2018 (as compared with the seven statements received in the same period, the previous year). Currently there are 62 outstanding claims/notices of claim against the Board (as compared with 69 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 58 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 – Q4 2017 vs. Q4 2018

Type of Claim	Number of Claims	
	Q4, 2017	Q4, 2018
Breach of Charter Rights	1	0
Employment/Labour	1	0

Type of Claim	Number of Claims	
Excessive Force/Assault	12	13
False Arrest	15	12
Malicious Prosecution	1	0
Motor Vehicle Accident	12	13
Negligence/Negligent Investigation	18	16
Personal Injury	7	6
Property Damage	2	1
Seizure of Personal Property	0	1
Total Number of Open Litigated Claims – Police Services	69	62

2018 Non-Litigated Claims

During the fourth quarter of 2018, 12 new claims were received by the Claims Unit (as compared with the 13 received in the same period, the previous year). Of these claims, four were paid and closed, two were denied and closed, one was abandoned and closed, four remain open (as the evaluation of these matters is ongoing) and one is open potential.

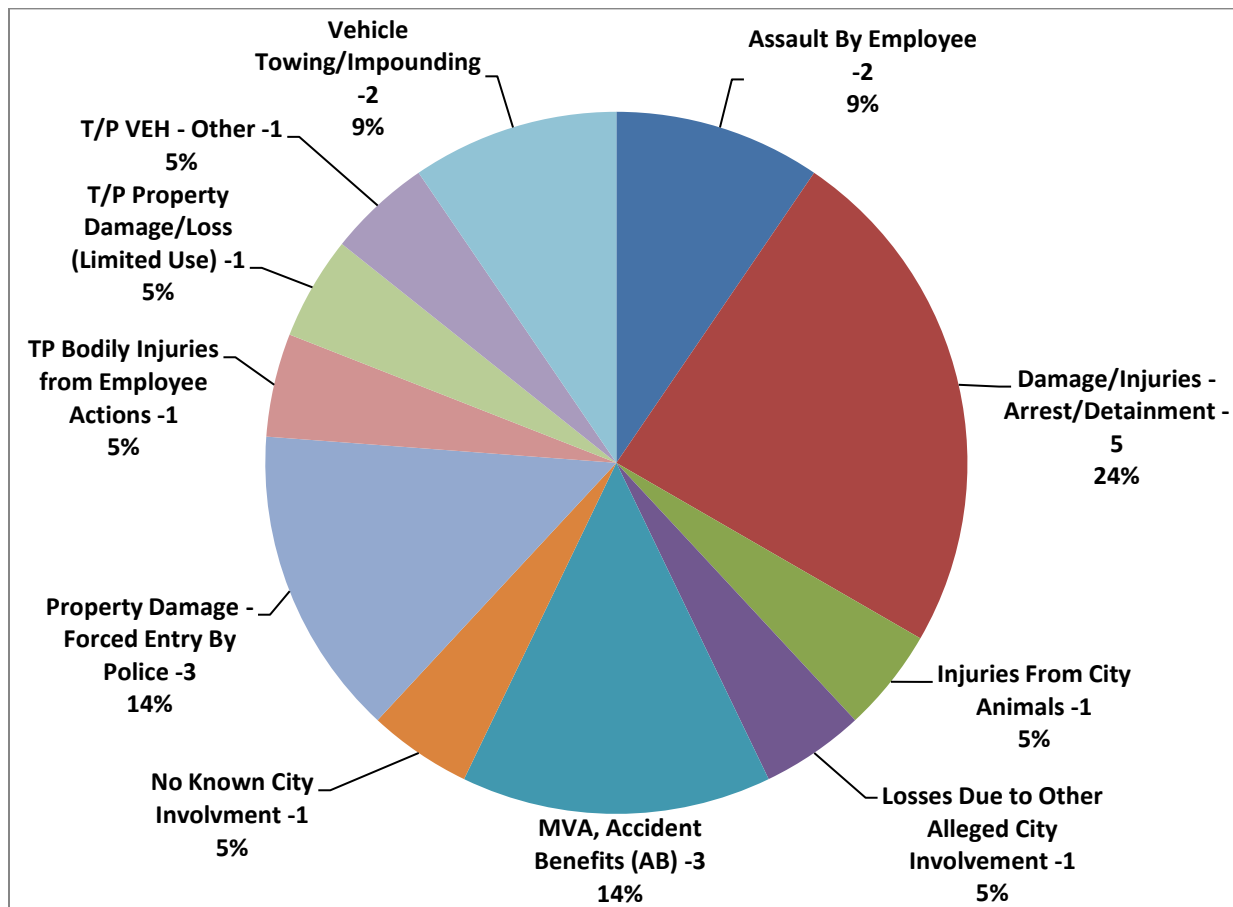
The following chart reflects the total number of claims currently open involving the Ottawa Police Services Board, as of the end of the fourth quarter 2018. As of the end of the fourth quarter, 2018, there were 21 open non-litigated claims (as compared with 18 at the end of the same period the previous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

Table 3 - All Open Non-Litigated Claims - Police Services – Q4 2017 vs Q4 2018

Type of Claim	Number of Claims	
	Q4, 2017	Q4, 2018
Assault by Employee		2
City Vehicle Indirectly Causing a Motor Vehicle Accident	1	
Damage/Injuries – Arrest/Detainment	1	5
Loss/Damage – Third Party Property in our City Controlled Centers	1	
Damage to Third Party Property by Unlicensed Vehicle/Equipment	1	
Emergency Vehicle Responding – No Accident Benefits	1	
Claim Pending Type Assignment	1	
Injuries from City Animals	1	1
Loss Involving Police Property Room		
Motor Vehicle Accident, Accident Benefits	3	3
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	2	
No Known City Involvement	1	1

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

Figure 1 - All Open Claims - Police Services – As of Q4 2018



During the fourth quarter of 2018, 11 claims were closed by the Claims Unit (as compared with the eight closed in the same period, the previous year). Of these claims, two were denied, eight were paid and one was abandoned.

To date, the Claims Unit has paid out \$60,560.96 in compensation for non-litigated claims (as compared with the \$895,724.35 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 2017 vs. Q4 2018

Type of Claim	Number of Claims	Paid Sum
Damage/Injuries – Arrest/Detainment	1	\$910.78
Damage to Third Party Property by City Vehicle	4	\$10,645.77
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	16	\$10,095.05
Vehicle Towing/Impounding	5	\$2,976.46
Damage to Third Party Property by Unlicensed Vehicle or Equipment	1	\$15,000.00
Losses Due to Other Alleged City Involvement	1	\$1,284.48
Non-owned Vehicle - No Accident Benefits	1	\$18,494.72
Total – Closed Police Services Claims, YTD	32	\$60,560.96
Compared to Closed Police Services Claims 2017, Q4 – YTD	40	\$895,724.35

Figure 1 - Number of Closed Police Services Claims, Q4 2018

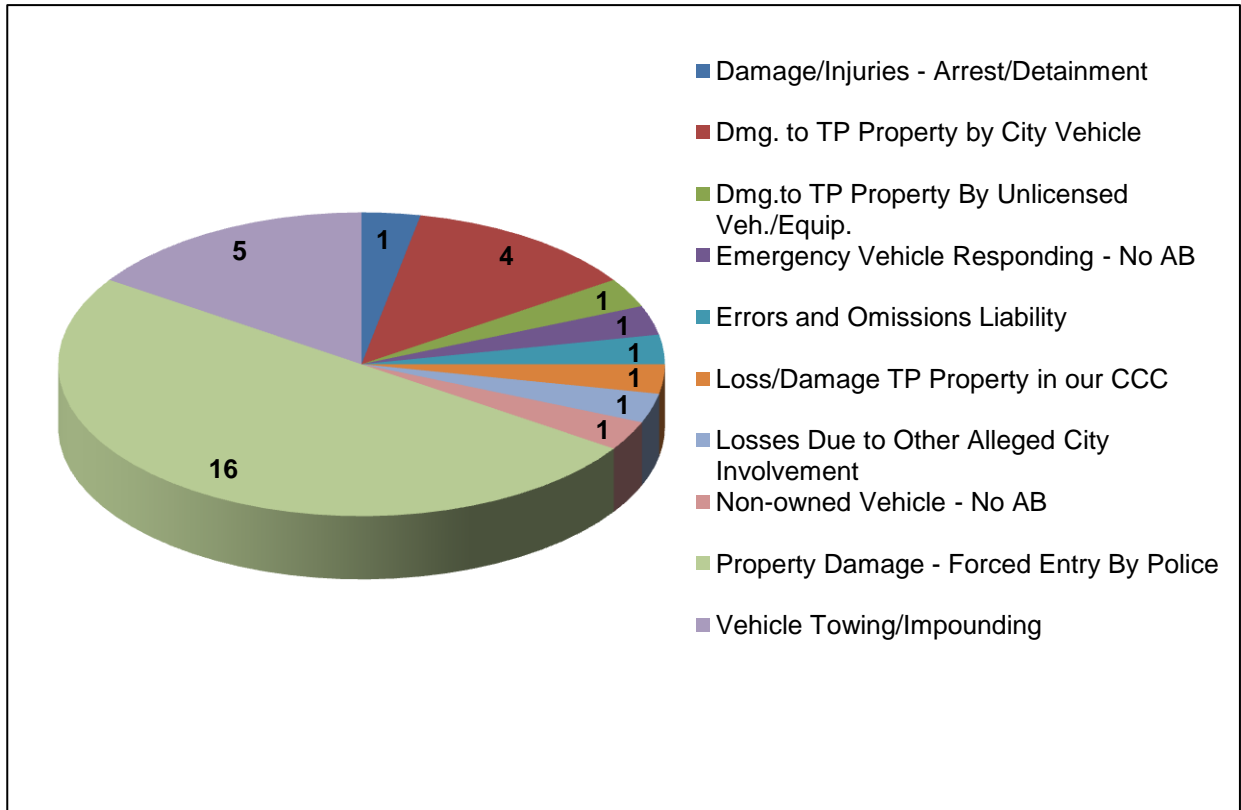
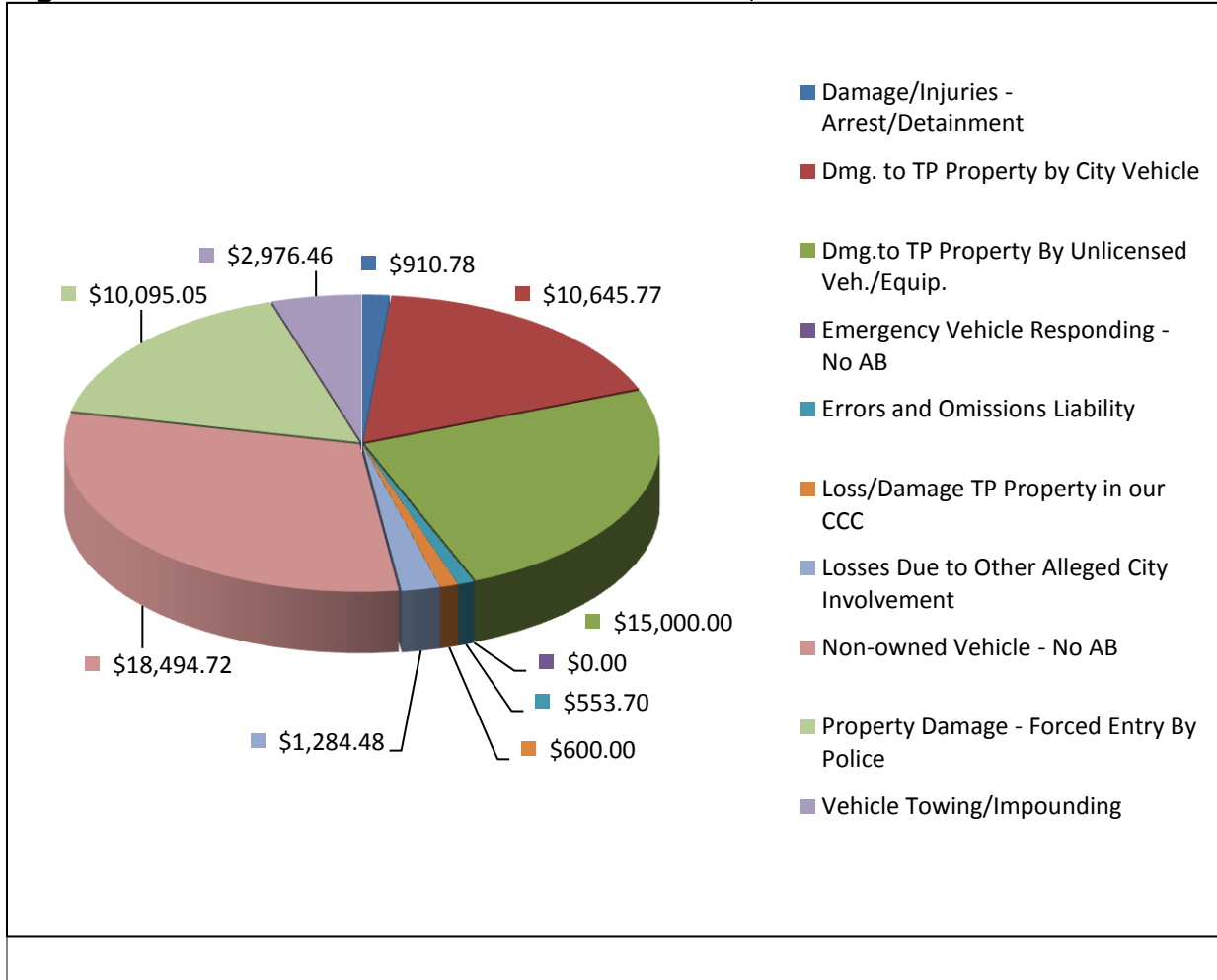


Figure 3 - Value of Closed Police Services Claims, Q4 2018

2018 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, the City Clerk and Solicitor Department is currently managing 29 active labour and employment law matters on behalf of the Police Services Board (as compared to the 33 files which were active at the end of the fourth quarter the previous year), with five new files opened in the fourth quarter of 2018. For the year to date, 22 Police Services files for Labour and Employment Law matters have been closed. No new labour and employment law matters were outsourced in the fourth quarter of 2018.

SIGNIFICANT ISSUES

There were no significant issues to report in the fourth 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 2019 First quarter report will be presented to the Board at its April 2019 meeting.