

Report to / Rapport au:

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

26 October 2020 / 26 octobre 2020

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

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SUBJECT: LEGAL SERVICES STATUS REPORT – 2020 THIRD QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – TROISIÈME
TRIMESTRE DE 2020**

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

2020 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2020. At the completion of the third quarter, \$142,393 or approximately 43% of the budget, was spent (as compared with \$280,997 (86%) 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, though reduced due to the impact of COVID-related measures.

Table 1 - Ottawa Police Service - Costs of Legal Services, Q3 2019 vs. Q3 2020

Item	Q1		Q2		Q3		Q4	
	2019	2020	2019	2020	2019	2020		
Internal Costs	\$35,171	\$27,358	\$43,065	\$22,825	\$34,593	\$16,580		

External Costs	2019	2020	2019	2020	\$85,285	\$27,346		
Total, Quarter	\$35,171	\$27,358	\$43,065	\$22,825	\$119,878	\$43,926		
Total, YTD	2019	2020	2019	2020	\$280,997	\$142,393		

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.

2020 Litigation Claims

Two Statements of Claim were received on behalf of the Police Services Board in the third quarter of 2020 (as compared to three statements received in the same period, the previous year). There are currently 55 outstanding claims/notices of claim against the Board (as compared with 58 outstanding claims/notices at the same point in the previous year). Eighteen of those claims are with external legal counsel, due to direction by the Board's insurer, the requirement for specialized legal expertise, or as a result of capacity constraints. The remaining 37 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 2019 vs. Q3 2020

Type of Claim	Number of Claims	
	Q3 2019	Q3 2020
Breach of Charter Rights	1	1

Type of Claim	Number of Claims	
Breach of Contract	0	1
Excessive Force/Assault	12	11
False Arrest	11	8
Malicious Prosecution	1	0
Motor Vehicle Accident	10	8
Negligence/Negligent Investigation	15	17
Personal Injury	6	7
Property Damage	1	1
Seizure of Personal Property	1	1
Total Number of Open Litigated Claims – Police Services	58	55

2020 Non-Litigated Claims

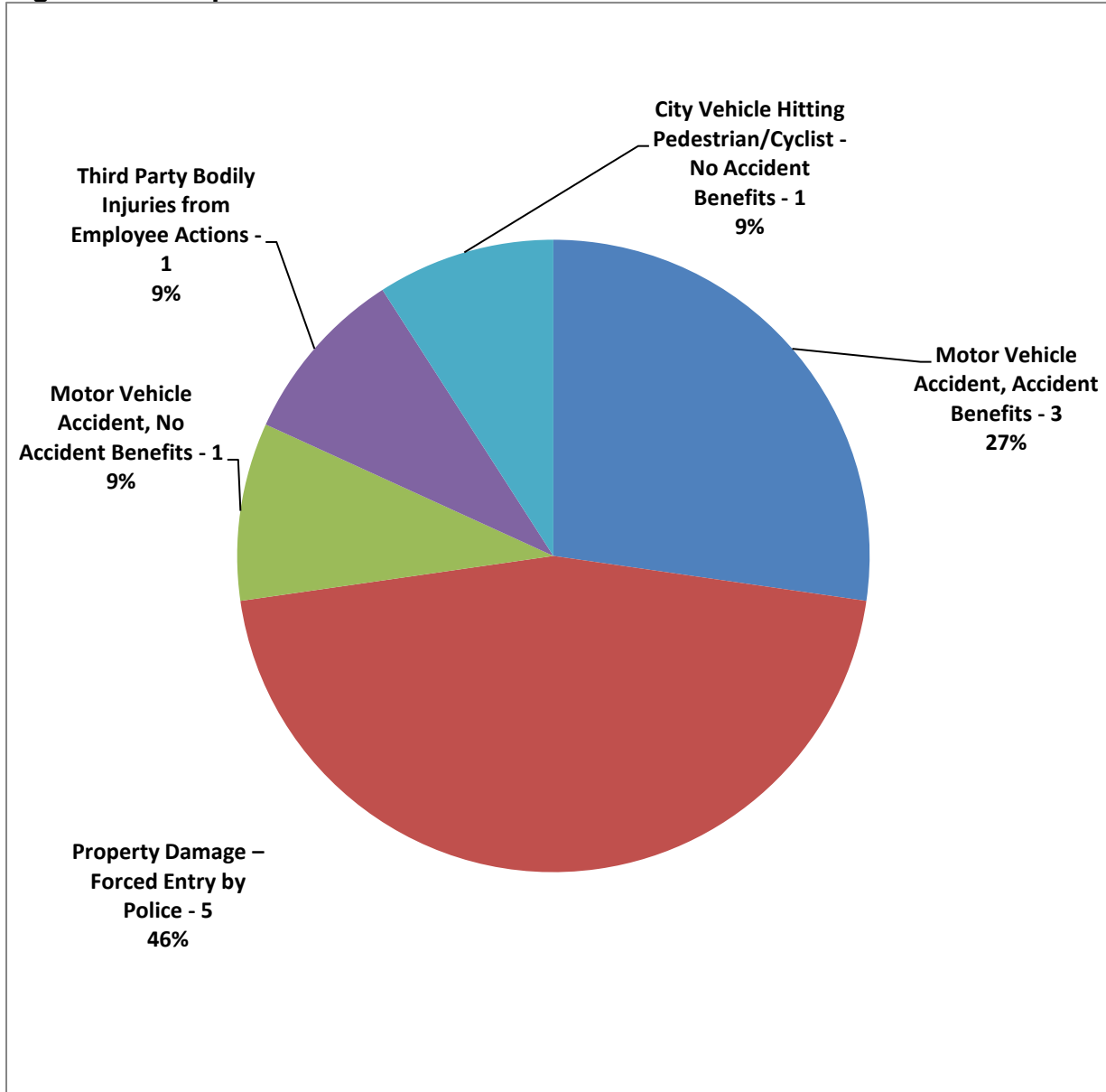
During the third quarter of 2020, seven new claims were received by the Claims Unit (as compared with the eight received in the same period, the previous year). Of these claims, five remain open (as the evaluation of these matters is ongoing), one is open litigated and one has been closed.

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 2020. At that time, there were 11 open non-litigated claims (as compared with 20 at the end of the same period the previous year).

Table 3 - All Open Non-Litigated Claims - Police Services – Q3 2019 vs Q3 2020

Type of Claim	Number of Claims	
	Q3 2019	Q3 2020
Losses Due to Other Alleged City Involvement	1	0
Damage/Injuries – Arrest/Detainment	2	0
Loss Involving Police Property Room	2	0
Motor Vehicle Accident, Accident Benefits	4	3
Motor Vehicle Accident, City and Third-Party Vehicle – No Accident Benefits	3	1
City Vehicle Hitting Pedestrian/Cyclist - No Accident Benefits	0	1
Property Damage – Forced Entry by Police	5	5
Third Party Bodily Injuries from Employee Actions	2	1
Vehicle Towing/Impounding	1	0
Total Number of Open Non-Litigated Claims – Police Services	20	11

Figure 1 - All Open Claims - Police Services – As of Q3 2020



During the third quarter of 2020, four claims were closed by the Claims Unit (as compared with the four closed in the same period, the previous year). Of these claims, two were denied, one was referred, and one was paid.

To date, the Claims Unit has paid out \$98,354.42 in compensation for non-litigated claims (as compared with the \$23,251.67 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 2019 vs. Q3 2020

Type of Claim	Number of Claims	Paid Sum
Damage/Injuries - Arrest/Detainment	2	\$95,000
Loss Involving Police Property Room	3	\$166.30
MVA, City and Third-Party Vehicle - No AB	3	\$0.00
Losses Due to Other Alleged City Involvement	1	\$708,00
Property Damage - Forced Entry by Police	12	\$406.80
Vehicle Towing/Impounding	5	\$2073.32
Total – Closed Police Services Claims, YTD	26	\$98,354.42
Compared to Closed Police Services Claims 2019, Q3 – YTD	21	\$23,251.67

Figure 2 - Number of Closed Police Services Claims, Q3 2020

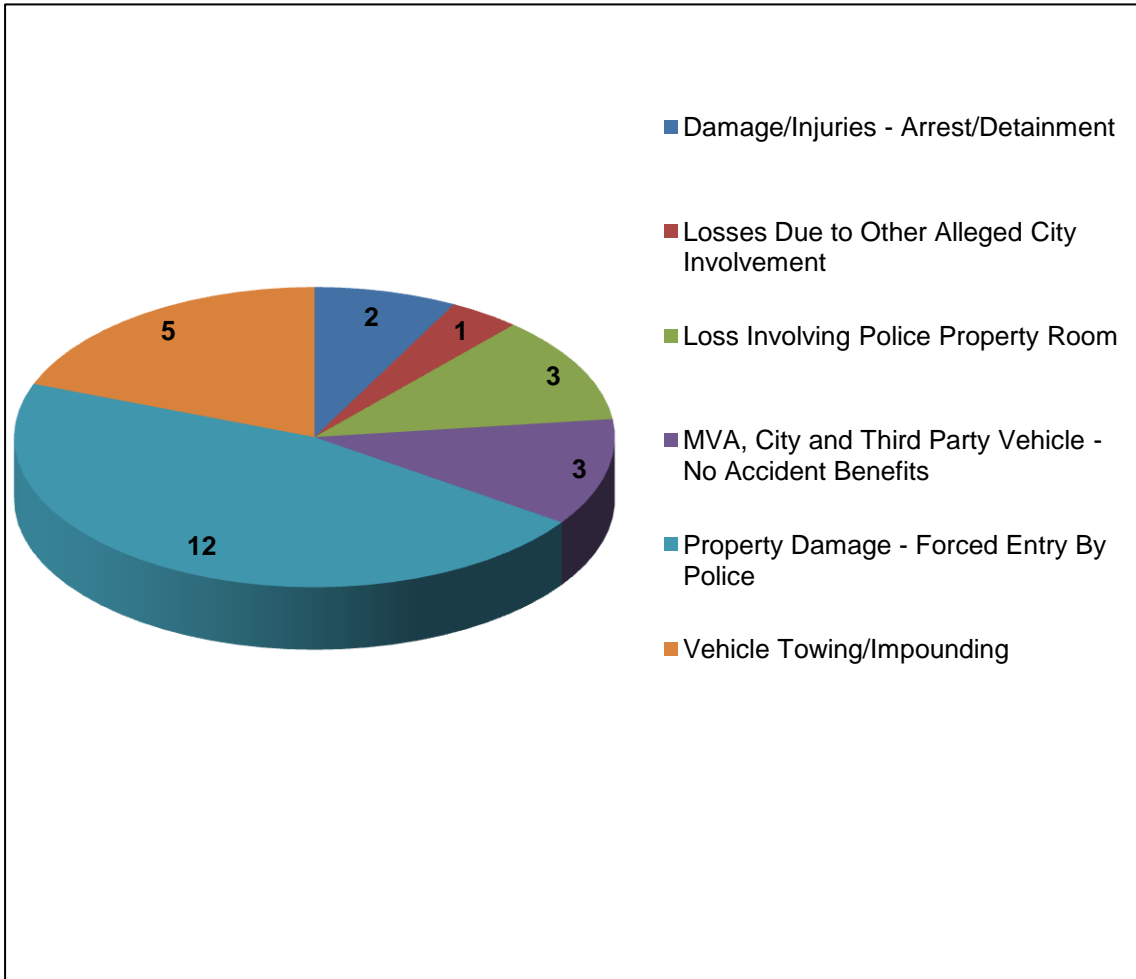
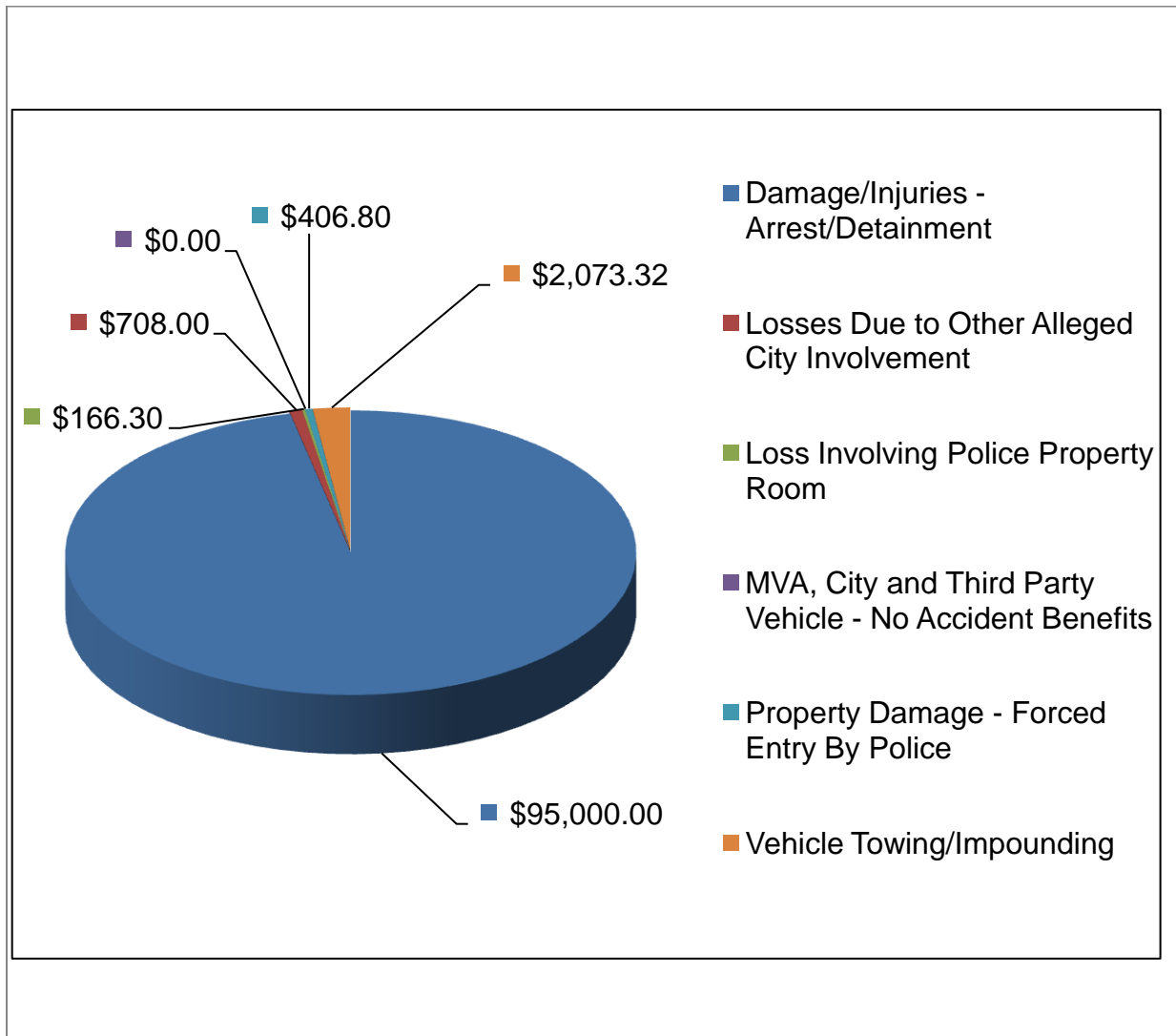


Figure 3 – Value of Closed Police Services Claims, Q3 2020 (As of Oct 14, 2020)



2020 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, the Legal Services Branch is currently managing 40 active labour and employment law matters on behalf of the Police Services Board (as compared to the 43 files which were active at the end of the third quarter the previous year), with nine new files opened in the third quarter of 2020. For the year to date, 10 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 2020.

SIGNIFICANT ISSUES

There were no significant issues to report in the third quarter of 2020.

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 2020 Fourth quarter report will be presented to the Board at its January 2021 meeting.

(original signed by)

David White
Board Solicitor