

Report to / Rapport au:

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

21 February 2022 / 21 février 2022

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

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SUBJECT: LEGAL SERVICES STATUS REPORT – 2021 FOURTH QUARTER

**OBJET: RAPPORT D'ÉTAPE DES SERVICES JURIDIQUES – QUATRIÈME
TRIMESTRE DE 2021**

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

Legal Services within 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, and corporate/commercial/development and environmental law. Legal Services' objective is to achieve this through the most cost-effective and efficient combination of both in-house and external lawyers. With respect to external lawyers, Legal Services has a strategic standing offer with multiple law firms for the provision of external legal services. The new standing offer was negotiated for the period 2019-2022 and provides 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 fourth quarter of 2021.

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

2021 Budget

The Police Services Board has allocated \$328,100 for the provision of legal services in 2021. At the completion of the fourth quarter \$291,391 or approximately 90 per cent of the budget was spent, compared with \$165,489 or approximately 50 per cent at the same point in time in 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, Q4 2020 vs. Q4 2021

Item	Q1		Q2		Q3		Q4	
	2020	2021	2020	2021	2020	2021	2020	2021
Internal costs	\$27,358	\$15,820	\$22,825	\$8,275	\$16,580	\$5,115	\$23,070	\$6,247
External costs	\$9,915	\$60,919	\$38,370	\$35,423	\$27,346	\$68,545	\$26	\$94,047
Total, quarter	\$37,273	\$76,739	\$61,195	\$43,698	\$43,926	\$73,660	\$23,096	\$100,294
Total, YTD	\$37,273	\$76,739	\$98,467	\$120,437	\$142,393	\$194,097	\$165,489	\$291,391

The table, above, reflects the cost of the provision of internal and external legal services against the approved budget, including the HST municipal rebate.

2021 Litigation Claims

Five Statement of Claims were received on behalf of the Police Services Board in the fourth quarter of 2021, compared with six Statement of Claims received during the same period, the previous year. There are currently 64 outstanding claims/notices of claim against the Board, compared with 46 outstanding claims/notices at the same point in the previous year. Due to a number of reasons including direction by the Board's insurer, the requirement for specialized legal expertise, or capacity constraints, 41 of those claims are with external legal counsel. The remaining 23 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 the first quarter of 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 the 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 2020 vs. Q4 2021

Type of claim	Number of claims	
	Q4, 2020	Q4, 2021
Year		
Breach of Charter Rights	2	5
Breach of contract	1	1
Excessive force/assault	9	10
Error and omission	0	1
False arrest	5	8
Malicious prosecution	0	2
Motor vehicle accident	9	12
Negligence/negligent investigation	14	16
Personal injury	6	8
Application	0	1
Total number of open litigated claims – Police Services	46	64

2021 Non-Litigated Claims

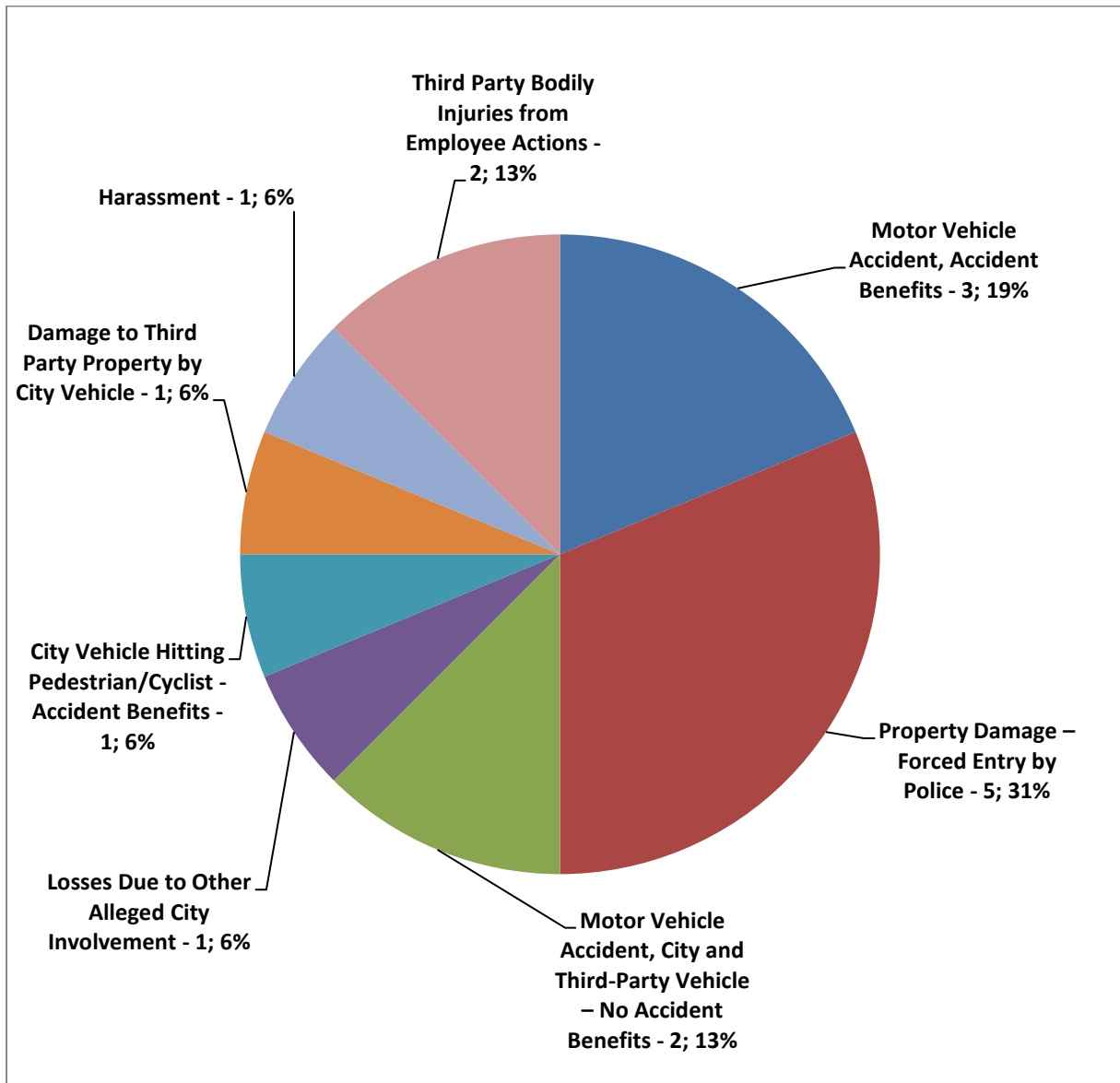
During the fourth quarter of 2021, 13 new claims were received by the Claims Unit, as compared with the 12 received in the same period, the previous year. Of these claims, one was denied and closed, one was paid and closed, six remain open as the evaluation of these matters is ongoing and five are open being litigated.

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 2021. As of the end of the fourth quarter, 2021, there were 16 open claims not being litigated, as compared with nine at the end of the same period in the previous year.

Table 3 - All Open Non-Litigated Claims - Police Services – Q4 2020 vs Q4 2021

Type of claim	Number of claims	
	Q4, 2020	Q4, 2021
Year		
City vehicle hitting pedestrian/cyclist - Accident benefits	0	1
City vehicle hitting pedestrian/cyclist – No accident benefits	1	0
Damage to third party property by City vehicle	1	1
Motor vehicle accident, accident benefits	2	3
Losses due to other alleged City involvement	1	1
Motor vehicle accident, City and third-party vehicle – No accident benefits	0	2
Property damage – Forced entry by police	3	5
Third party bodily injuries from employee actions	0	2
Loss involving police property room	1	0
Harassment	0	1
Total number of open non-litigated claims – Police Services	9	16

Figure 1 - All Open Claims - Police Services – As of Q4 2021



During the fourth quarter of 2021, six claims were closed by the Claims Unit. As compared with the eight closed in the same period, the previous year. Of these claims, five were denied and one was paid.

To date, the Claims Unit has paid out \$1,621,238.67* (see note below) in compensation for non-litigated claims. As compared with the \$98,354.42 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 2020 vs. Q4 2021

Type of claim	Number of claims	Paid sum
Motor vehicle accident, City and third-party vehicle – No accident benefits	3	\$25,000.00
Damage to third party property by City vehicle	1	\$0.00
Motor vehicle accident – Accident benefits *	1	\$1,586,506.48
Loss involving police property room	1	\$1,011.35
Property damage - forced entry by Police	18	\$8,339.00
Vehicle towing/impounding	2	\$381.84
Third party vehicle - other	1	\$0.00
Total – closed Police Services Claims 2021, YTD	27	\$1,621,238.67
Compared to closed Police Services Claims 2020, Q4 – YTD	33	\$98,354.42

*The amount represents the total sum of the mandatory Statutory Accident Benefits payable under the Ontario *Insurance Act* in respect of a 2008 motor vehicle collision, with payments made between 2009 and 2021.

Figure 1 - Number of Closed Police Services Claims, Q4 2021

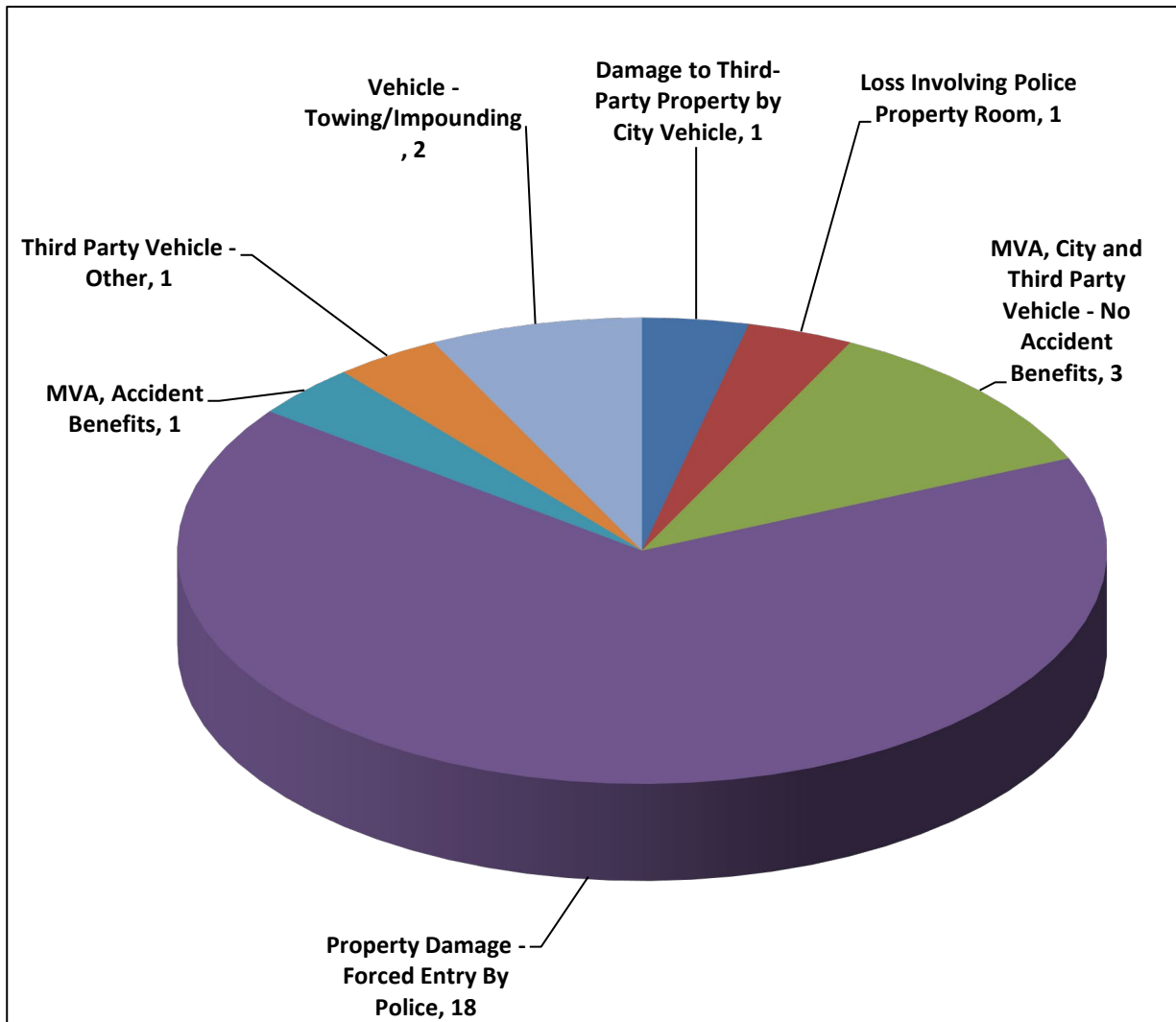
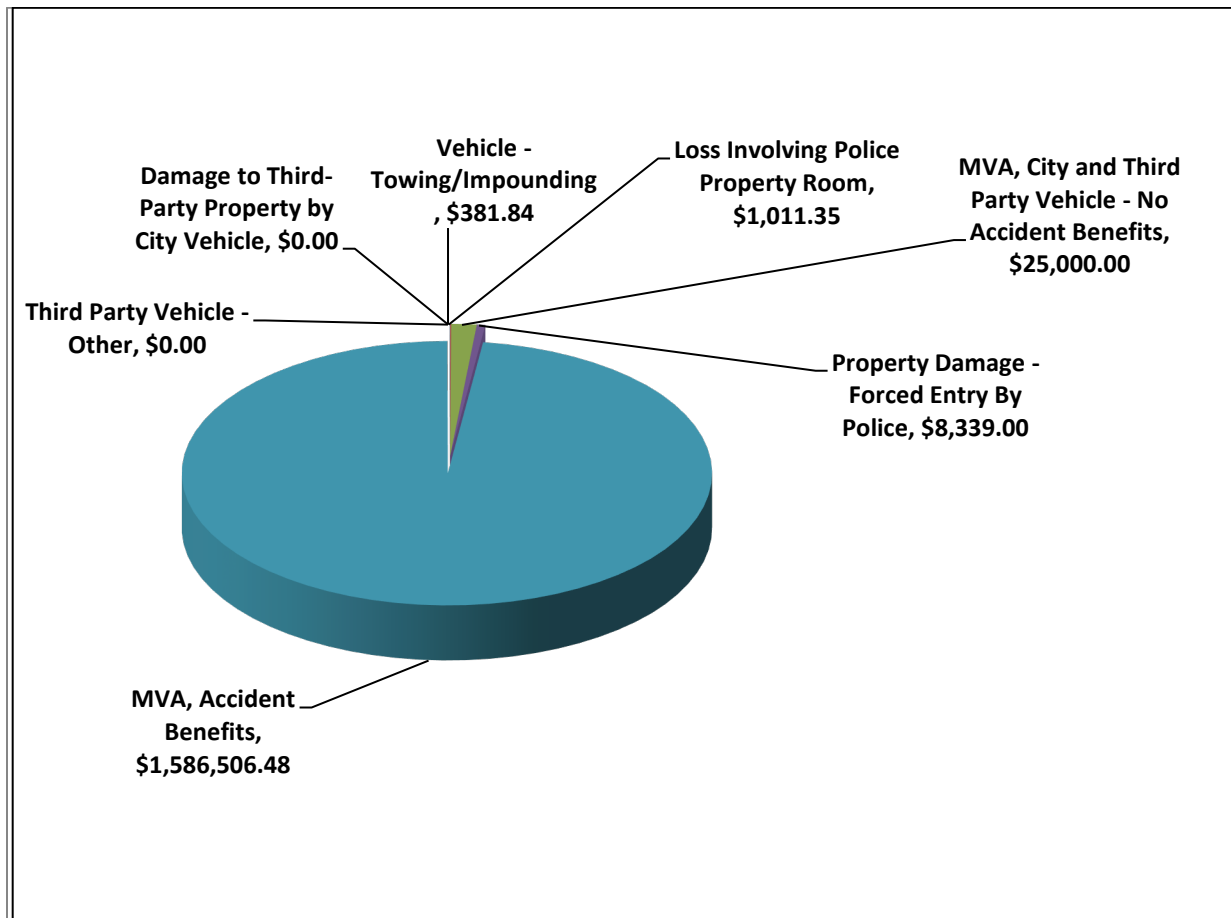


Figure 3 - Value of Closed Police Services Claims, Q4 2021



2021 Labour, Employment and Human Rights Matters

In addition to the above civil litigation claims, Legal Services is currently managing 55 active labour and employment law matters on behalf of the Police Services Board, as compared to the 46 files which were active at the end of the fourth quarter in the previous year), with six new files opened in the fourth quarter of 2021. For the year to date, no Police Services files for labour and employment law matters were closed. Three new labour and employment law matter was outsourced in the fourth quarter of 2021.

SIGNIFICANT ISSUES

There were no significant issues to report in the fourth quarter of 2021.

CONSULTATION

As this report is administrative in nature, consultation was not required.

FINANCIAL IMPLICATIONS

Financial implications are as presented in this report.

CONCLUSION

It is anticipated that the 2022 first quarter report will be presented to the Board at its April 2022 meeting.