



OFFICE OF THE
City Auditor

Law Branch Audit

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The Office of the City Auditor conducted
this project in accordance with the
*International Standards for the
Professional Practice of Internal Auditing*

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Executive Summary

The Law Branch is one of seven branches in the Corporate Services Department. The Law Branch facilitates client success by providing valued legal, risk management, claims and security advice to help client departments pursue their objectives and make informed decisions.

OBJECTIVE

The objective for this audit was to assess whether the Legal Services and Corporate Security Sections of the Law Branch are meeting the needs of the Corporation and are delivering their services in an effective and efficient manner.

EFFECTIVENESS

The results of our survey of Law Branch clients, as well as surveys conducted by the Administration showed that the majority of clients rated Law Branch services as satisfactory or very satisfactory. The results also showed that the percentage of clients rating services as satisfactory increased from 2011 to 2012. Comments provided by clients indicate they believe that the Branch adds value and is delivering its services in an effective manner.

In addition to effectively meeting client needs, the Law Branch effectively meets its commitment to the Corporation by helping to minimize financial loss. The data from the past five years showed that the City has been paying an average of less than 5 percent of the amount claimed on claims against the City. In 2011, the City paid 1.1 percent of the amount of claims.

Statistics maintained by Corporate Security showed that the security of City facilities and the safety of employees and citizens using City facilities have improved. There has been an increase in the percent of security recommendations implemented in a timely manner and the number of calls received to investigate security issues has decreased.

Statistics on alarms received in the Corporate Security Monitoring and Dispatch Centre decreased by one-third over the past two years. However, the number of alarms caused by human error more than doubled from 2011 to 2012.

The decrease in the overall number of alarms being recorded suggests that Corporate Security initiatives have been somewhat effective. However, the increase in the total number of alarms caused by human error indicated that more improvement is needed to increase awareness among City employees on security protocols. We recommended that Corporate Security continue to work with its clients to reduce the number of alarms being received.

EFFICIENCY AND ECONOMY

We reviewed Legal Services' staff mix and found that the ratio of professional and support staff is aligned with leading practice guidelines. Legal Services does maintain statistics on the volume of work they complete each year (outputs). However, both outputs and inputs (e.g., the amount of time spent on a file or activity) need to be tracked in order to assess efficiency. By themselves, volumetric measures can be used to assess and evaluate workload among staff to ensure that client needs are addressed, but do not allow us to assess efficiency.

We have recommended that a complete set of performance measures be developed so that the value of services rendered by Law Branch can be objectively assessed.

We compared the hourly cost of solicitors who are City employees and the rates charged by external legal counsel. Our analysis showed that in-house costs per hour average 37 percent of external counsel rates. This is within the range observed in the benchmark information we reviewed. Combined with limited use of external legal counsel, this demonstrates that legal services are being delivered in an economical manner.

We noted that the Law Branch has a documented process to ensure all external legal counsel services are appropriately authorized and paid. However, the documentation is out of date and does not fully reflect current practices. We have recommended that the Law Branch update the procedures.

We thank management and staff in the Law Branch for their cooperation and openness during this audit.

Law Branch Audit

1. Introduction

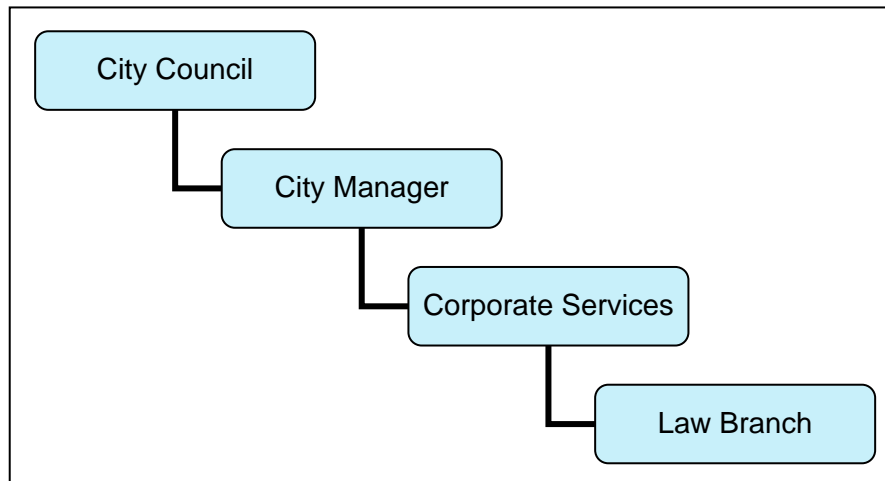
This value for money audit assessed whether the Law Branch operates efficiently and economically, procedures are in place to measure and report on the effectiveness of service delivery, and risks are being appropriately managed.

2. Background

Corporate Organizational Positioning of the Law Branch

The organizational positioning of the Law Branch within the City's overall legislative and administrative organization is shown in Figure 1.

Figure 1 – Corporate Organization



Delegation of Legal Services

Functionally, the City Solicitor acts as Legal Counsel for City Council and the Administration. Responsibility for legal services is delegated to the Law Branch through Bylaw 12005, the *City Administration Bylaw* (CAB). Part VII, Section 15, subsection k states the City Manager is authorized to:

- except as otherwise instructed by Council, and without limitation,
 - (i) instruct legal counsel to provide legal services to the City, Council and Standing Committees of Council, and
 - (ii) retain, instruct and pay for the services of outside legal counsel provided that the cost of the services retained does not exceed \$500,000.

The governance framework for the Law Branch defines areas of individual and shared accountability for the Law Branch and its clients. Joint accountability includes compliance with policies and directives and accountability for outcomes.

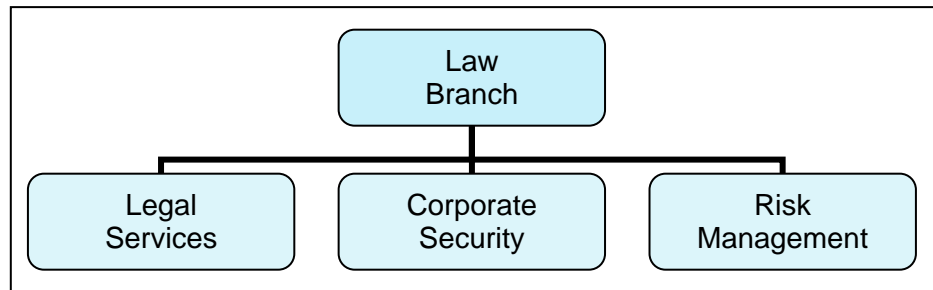
Branch Service Overview

The Law Branch is guided by the following Mission and Mandate:

- **Mission:** The Law Branch facilitates client success by providing valued legal, risk management, claims and security advice and service in a cost-effective manner through satisfied and qualified staff. This should advance and protect the City's interests and minimize financial loss to the City.
- **Mandate:** The Law Branch helps City Council and Client Departments pursue their objectives and make more informed decisions.

The Law Branch is organized into three sections as depicted in Figure 2.

Figure 2 – Law Branch Structure



The following is a brief description of the services provided by each of the sections:

- **Legal Services** (Solicitor Services and Litigation Services): This section has responsibility for: representing the City in all lawsuits and other legal actions; prosecuting bylaw offenses; reviewing and drafting contracts and bylaws; providing legal advice; and interpreting legislation.

In addition to complying with the City's Policies and Administrative Directives, Legal Services staff members are required to follow the rules and code of conduct set out by the Law Society of Alberta and the Rules of Court.

- **Corporate Security:** This section has responsibility for: conducting investigations and security consultations; performing security audits; providing uniformed security guards; providing personal security awareness programs to enhance the security and safety of all employees; monitoring alarms; planning physical security requirements; and planning VIP and special event security.

A 2009 study¹ shows that two of the seven municipalities (Edmonton and Calgary) participating in the study include the security function as part of the law department.

- **Risk Management:** This section has responsibility for: adjusting claims; purchasing insurance; administering contract requirements for certificates of insurance and

¹ "2009 Comparative Study of Canadian Municipal Law Departments" - Catalyst Consulting

guarantees, such as bonds and letters of credit; and conducting the Risk Control Inspection Program for City facilities.

Branch Resources

Table 1 shows Law Branch's budgeted expenditures, Full Time Equivalent positions (FTEs), recoveries, and approved budget for the period 2008 through 2012.

Table 1 – Law Branch Approved Budgets

	Budgeted Expenditures		FTEs	Recoveries*	Approved Budget	
	(\$000)	% change			(\$000)	(\$000)
2008	9,880		87.9	(1,256)	8,624	
2009	11,093	12.3	90.3	(1,357)	9,736	12.9
2010	10,737	(3.2)	92.3	(947)	9,790	0.6
2011	10,375	(3.4)	74.3	(1,711)	8,664	(11.5)
2012**	10,313	(0.6)	74.3	(2,259)	8,054	(7.0)

* Recoveries for services provided to utilities and capital projects and for security guard contract services.

** As approved on December 14, 2011.

Table 2 shows the total budgeted expenditures and FTEs for each service area for the period 2008 through 2012.

Table 2 – Service Area Expenditure Budget and FTEs

	Legal Services		Corporate Security		Risk Management	
	(\$000)	FTEs	(\$000)	FTEs	(\$000)	FTEs
2008	5,007	43.9	3,690	29.0	1,183	15.0
2009	5,698	46.3	4,002	29.0	1,393	15.0
2010	5,854	47.3	3,345	27.0	1,538	18.0
2011	6,620	48.3	2,235	8.0	1,520	18.0
2012	6,701	47.3	2,098	9.0	1,514	18.0

Major items reflected in the budget:

- Legal Services
 - 2009: Personnel costs were adjusted to reflect market conditions. The adjustment was part of the *Corporate Total Rewards* Project. The objective of this project was to address market pressure and improve the City's ability to attract, motivate and retain employees.
 - 2011: A position was added for work associated with the Light Rail Transit (LRT) project and personnel costs were increased for 2010 and 2011 salary settlements.

- Corporate Security
 - 2009: Introduction of the Peace Officer program to help keep Edmonton a livable, clean and safe city.
 - 2010: Security contracts were reduced and funding for the Peace Officer program was increased. This resulted in decreased expenditures but a slight increase in the net approved budget.
 - 2011: The budget and FTEs for the Peace Officer program were transferred to Edmonton Transit's security unit.

3. Audit Objective, Scope, and Criteria

The objective for this audit was to assess whether Law Branch services are meeting the needs of the Corporation and are being delivered in an effective and efficient manner.

The scope of this audit was limited to the Legal Services and Corporate Security sections of the Law Branch. We did not review the Risk Management section. To avoid the risk of compromising privileged information we did not review Law Branch legal files.

We considered the following questions in our assessments of the efficiency and effectiveness of the services delivered by Legal Services and Corporate Security:

- i. Does the mix of staff (professional vs. support) provide for efficient and economical delivery of service?
- ii. Does the resource planning model employed by the Law Branch provide for effective and efficient use of resources?
- iii. Are stakeholder expectations being met?
- iv. Do performance measures demonstrate effectiveness and efficiency of service delivery?
- v. Are roles and responsibilities understood by key stakeholders?

4. Observations

In our research, we found no examples of precise standards being used to measure the performance of legal services. Leading practice, however, suggests that overall quality can be assessed through the use of client satisfaction surveys. Survey results should demonstrate that client satisfaction is the top priority and provide information that can be used to identify opportunities for improving services.

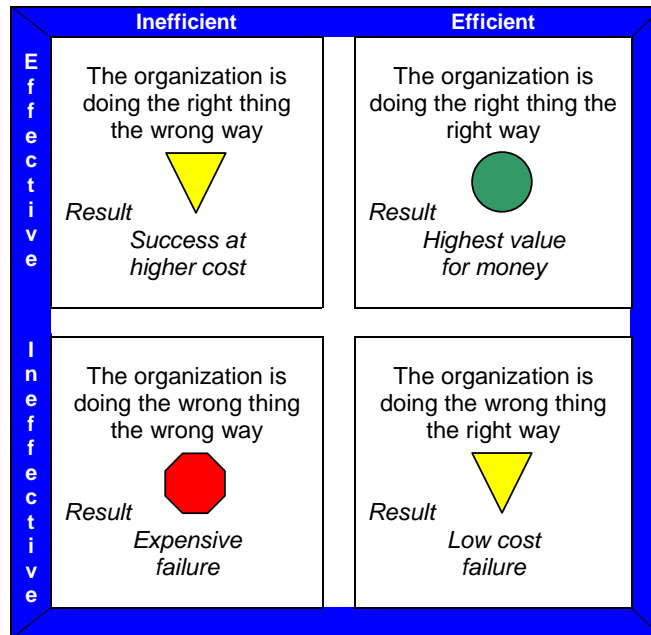
The Law Branch Mission states that they strive to provide valued services in a cost-effective manner. The Branch assesses the value of its services through effectiveness measures. Effectiveness is about doing the right thing (delivering quality products/services, adding value). Similarly, cost-effectiveness could be assessed using efficiency measures (doing things right, such as increasing productivity, avoiding waste).

Section 4.1 discusses the place of effective performance management in managing operational outcomes. Section 4.2 presents our observations and opinions on the effectiveness of the services delivered by the Legal Services and Corporate Security Sections of the Law Branch. Section 4.3 summarizes our observations and opinions on the efficiency of the Law Branch’s service delivery processes. Section 4.4 discusses the economy of Law Branch’s service delivery. (Are services delivered in an inexpensive way?)

4.1. Performance Measurement

High performing organizations are both efficient and effective. A service can be effective but not efficient or efficient but not effective. In order to optimize an organizational unit’s performance, it needs to measure and monitor both efficiency and effectiveness, among other factors, such as desired outcomes. Measures of efficiency and effectiveness are interdependent as shown in Figure 3.

Figure 3 – Effectiveness & Efficiency Matrix



In order to be able to demonstrate that an organization is a high performer, both effectiveness and efficiency need to be measured. Characteristics of good performance measures that facilitate the assessment of effectiveness and efficiency are described in the SMART principle² that emerged from the Management by Objectives discipline in the latter half of the 20th century:

- Specific (based on a single theme),
- Measureable (taking into account quantity, quality, cost and timeliness),

² <http://rapidbi.com/history-of-smart-objectives/> - sourced November 29, 2012.

- Achievable (within the reference period, usually one year),
- Relevant (like the success of the business unit or company), and
- Time-based (with clear targets and pacing throughout the year).

SMART is a guide that can be used for establishing meaningful performance indicators, performance standards, and goals.

4.2. Effectiveness

Our assessment of effectiveness was framed around the question “Is the Law Branch doing the right thing?” At a high-level, the mission statement and mandate published by the Law Branch provide a foundation for this assessment.

4.2.1. Legal Services Section

Client Satisfaction

The first part of the Law Branch Mission states that they “facilitate client success by providing valued legal, risk management, claims and security advice and service...” Valued service is one measure of effectiveness.

Our research showed that one of the methods used to assess the effectiveness of legal service delivery is through client surveys. Such surveys are typically subjective in nature without reference to expected standards of service delivery.

We reviewed the 2011 and 2012 Shared Services Client Satisfaction Survey results, which included ratings of the services delivered by the Legal Services Section. We also surveyed Branch Managers in the City to independently assess the effectiveness of the Legal Services Section.

The results of the 2011 and 2012 Shared Services surveys are shown in Table 3. The table also shows the overall results of our survey, which provided feedback on topics such as Legal Services’ understanding of business requirements, understanding business risks, accessibility of legal staff, consistent and clear legal advice, and timeliness of service provided.

Table 3 – Percent of Survey Respondents Rating Legal Services as Satisfactory

Service Provided	Shared Services Surveys		OCA Survey Results
	2011	2012	
Lawsuits / Hearings	69%	81%	Responses to Legal Services as a section, not categories of service provided.
Drafting and Review of Bylaws and Contracts	79%	89%	
Legal Advice	85%	91%	
Legal Services Average	78%	87%	89%

The overall rating of 89 percent on our survey was comparable to the results of the Administration’s surveys. Branch Managers’ written responses provided additional

insight into the satisfaction rating provided. The following are examples of the comments provided on our survey:

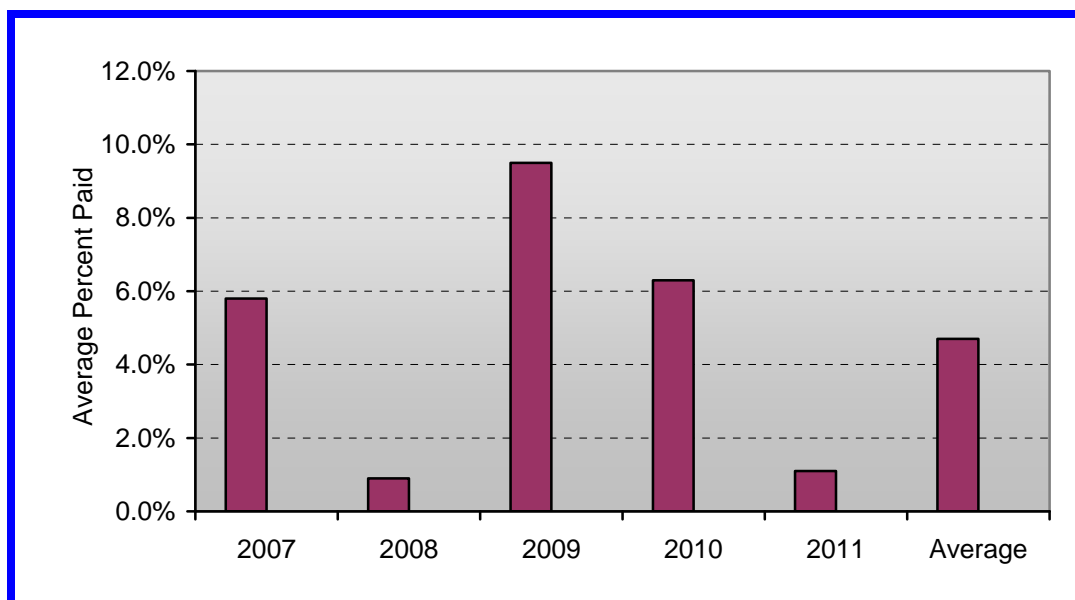
- We are lucky to have such a professional and competent group of lawyers and security professionals within the corporation. I am very pleased with their services.
- Law Branch is a model of an effective shared service - we received good advice and it is in a form that is constructive and helpful.
- The leadership and staff in the Law Branch are overall extremely competent, client service focused, and provide significant value and risk management advice to support the effective delivery of our Branch services.
- We work very closely with a number of solicitors in the Law Branch. The City Solicitor, section head and assigned solicitors are very proactive to ensure that they understand our business needs, resolve emerging issues and use our resources efficiently.

We believe that all three survey results demonstrate that legal services are being delivered effectively and are adding value to municipal operations.

Minimizing Financial Loss

The last part of the Law Branch Mission statement is to “advance and protect the City’s interests and minimize financial loss to the City.” The measure Law Branch uses to assess the effectiveness of Litigation Services is the “Percent Paid of the Amount Claimed in Statement of Claims Served on the City.” In its 2012-2014 Branch Business Plan, the Law Branch set a target of paying less than 10 percent of the amounts claimed. Chart 1 shows that the percent paid over the past five years ranged from less than 1 percent to a maximum of 9.5 percent, averaging 4.7 percent for the period of 2007-2011.

Chart 1 – Percent Paid of Amount Claimed in Claims Served on the City



When compared to the target set in 2012, Litigation Services' actual experience over the past five years suggests that they are effectively addressing the Branch Mission.

Risk Assessment and Reporting

One of the areas of concern raised by a number of Councillors during our audit planning was the Administration's assessment and reporting of risk on matters that required City Council direction. The concern related to the clarity of risk language, risk advice provided, and the appearance that the City is risk averse.

One section of the Council report template that somewhat addresses risk assessment is titled "Legal Implications." Legal implications, by their nature, usually convey a risk-averse message. The template does not require operational areas to report on comprehensive risks associated with the recommended actions. Departments should be providing operational risk assessments as a part of reports provided to Council for its decision-making.

In 2011, the Administration set up a working committee to move the City's current state of risk management forward at an enterprise level. Strategic, business planning, and operational risk processes are all being assessed. An Enterprise Risk Management process intended to meet the Corporation's needs has been created and strategy definitions are underway. The Financial Services and Utilities Department is responsible for this corporate initiative. A risk management model for assessing project risks has been developed by the Corporate Centre for Project Management.

The Legal Service Section is only responsible for assessing legal risk, therefore, we believe that the Law Branch is fulfilling its role relative to assessing risks.

4.2.2. Corporate Security Section

Corporate Security's Mission is to mitigate risks to corporate assets (staff, records, and infrastructure) and to contribute to the improved livability of employees and the citizens of Edmonton.

The 2011 Shared Services Client Satisfaction Survey showed that 68 percent of clients were satisfied with security advice and investigation services. The percent of satisfied clients increased to 74 percent in 2012. The OCA's survey showed that 79 percent of Branch Managers were satisfied with the services they had received.

We believe this improvement in client satisfaction is a reflection of Corporate Security's initiatives to improve and standardize security processes, increase understanding of client services and needs, and increase security awareness across the Corporation. These efforts have resulted in improved security outcomes as reported in the Security Incident Reports produced regularly by Corporate Security. The following are highlights that illustrate the Section's impact across the Corporation.

Security Recommendations

During 2011, Corporate Security made 328 recommendations to improve security in various facilities. At the end of the year only 53 percent had been implemented. In the first 10 months of 2012, 349 recommendations had been made with 74 percent implemented by October 31st. Table 4 shows a 39.6 percent overall improvement in the percent of recommendations being implemented by operational areas in a timely manner with the greatest improvement for recommendations resulting from investigations.

Table 4 – Recommendations to Improve Security

Recommendations	Proactive Recommendations		Investigation Recommendations		Total Recommendations	
	at Dec. 31 2011	at Oct. 31 2012	at Dec. 31 2011	at Oct. 31 2012	at Dec. 31 2011	at Oct. 31 2012
Total Issued	181	185	147	164	328	349
Implemented	94	126	80	132	174	258
Percent Implemented	52%	68%	54%	80%	53%	74%
<i>Improvement</i>	30.8%		48.1%		39.6%	

Security Incidents (excluding alarms)

Security incidents reflect the calls Corporate Security receive from City staff. These calls relate to the theft of property, property damage, workplace issues and requests for assistance. Table 5 shows that Corporate Security recorded less than 1,500 incidents during for the first 10 months of 2012. This is a 29.2 percent improvement when compared to calls recorded for the same period in 2010 and 2011.

Table 5 – Security Incidents Recorded January through October

Year	Number of Incidents	Change
2010	2,059	
2011	2,134	3.6% increase
2012	1,457	34.8% decrease
Overall Improvement (2010 – 2012)		29.2%

The reduction in the number of incidents reflects Corporate Security's ongoing efforts to increase security awareness across the Corporation.

Alarm Monitoring

Alarms at City facilities are monitored in the Corporate Security Monitoring and Dispatch Centre (CSMDC). Sensors monitored include door contacts, building perimeter sensors,

fire and heat detectors, low temperature sensors, etc. A large facility such as Commonwealth Stadium can have 600-700 alarm sensors.

Corporate Security estimates that on average, the CSMDC receives approximately 1,000 alarms each day. Table 6 shows a 33.3 percent reduction in alarms received over two years. The efforts to reduce the number of alarms received has allowed Corporate Security to contain costs, rather than expanding the centre to handle increasing alarm volumes as experienced in prior years.

Table 6 – Average Number of Alarms Received

Year	Average Daily Alarms	Change
2010	1,500	
2011	1,100	<i>26.7% decrease</i>
2012	1,000	<i>9.1% decrease</i>
Overall Improvement (2010-2012)		33.3%

Of the alarms the CSMDC receives, most require no action because they are nuisance alarms that result from known system problems and/or facility operational issues where action is underway to fix the cause. These alarms are not recorded. All other alarms (about 1 in 60 of the alarms received) are recorded and tracked by the type of alarm.

Alarms Recorded

When an alarm is recorded, the CSMDC employee calls the facility where the alarm was triggered. If there is no answer at the site, then CSMDC dispatches a mobile security contractor to investigate the cause.

While the total number of alarms received has decreased, the number of alarms that require action (alarms recorded) have increased. Table 7 summarizes the information on alarms recorded for the first 10 months of 2012 with information for the same period in 2011. Bona fide alarms accounted for only 4.6 percent of recorded alarms in 2012.

Table 7 – Alarms Recorded for the Period January through October

Alarm Category	2011	2012	Increase (Decrease)
Security Protocols Followed			
Bona Fide Alarms	336	357	21
System Trouble	685	640	(45)
Expected Alarms ³	1,119	1,615	496
Areas of Concern			
Human Error	1,285	2,642	1,357
No Cause Found after Investigation	748	1,788	1,040
Other	856	703	(153)
Total	5,029	7,745	2,716

Table 7 shows mixed results. The first three categories show positive results with bona fide (actual) alarms and system troubles being relatively stable even though two major facilities (Commonwealth Stadium and the Ellerslie Fleet Maintenance Facility) were brought online. The Director of Corporate Security advised us that the increase in the number of expected alarms reflects greater awareness of security protocols by some City staff.

The remaining three categories show negative results. We were advised that alarm statistics are currently being analysed and alternate methods of addressing with these alarms are being considered.

1. Human Error – These alarms account for the highest volume in both 2011 and 2012. These alarms are a result of staff, custodians, and contractors not following established security protocols or not properly arming or disarming alarm systems.

The dramatic increase in the number of alarms caused by human error suggests that staff may not be receiving adequate orientation on facility security features when being hired and reporting for work at City facilities. The increase may also indicate that Corporate Security's efforts to increase the awareness of security/safety risks and security protocols have not been completely effective in some operational areas.

2. No Cause Found after Investigation – The security responder was unable to identify the actual cause for these alarms. Possible causes for these alarms include intermittent system problems, adverse weather conditions or high winds, staff entering a facility briefly then exiting, etc. The increase in the number of these alarms may be due to employees propping doors open for just a minute or two, the increase in the number of facilities being monitored, a higher than usual number of windy days, etc.

³ Expected Alarms – Alarms where the CSMDC was notified in advance that they should expect an alarm and therefore no action was required.

3. Other – We were advised that a more detailed review of these alarms is currently underway to determine the appropriate classification with the longer-term objective of eliminating this category.

Corporate Security services, such as security system design and security awareness presentations to City staff, are designed to minimize the following risks associated with monitoring and responding to alarms:

- Higher volumes of alarms caused by human error increase the likelihood that a bona fide (actual) alarm will be missed. Missing a fire alarm, low temperature building alarm, or intrusion alarm at a facility could have serious consequences.
- Only four mobile security units are available to respond to alarms. Sending a unit to investigate an alarm caused by human error could result in a delay in responding to bona fide alarms. We noted that 183 mobile security responses in October 2012 cost the City approximately \$7,300.

In our opinion, Corporate Security has made significant strides in improving the effectiveness of security services at City facilities and the safety and security awareness of City staff and citizens using City services. Further improvements will require that Corporate Security continue to enhance its processes and improve its communication with City staff. Roles and responsibilities for City staff need to be defined and protocols enforced to reduce the number of alarms resulting from human error.

(Recommendation 1)

4.2.3. Law Branch Resource Planning

Leading practice suggests that law departments should prepare a "legal demand forecast," which estimates the number of matters that will arise, the extent of advisory services, and the hours to be allocated for all regular work and special projects.

Each year, the Law Branch requests input from all departments regarding anticipated needs for legal services. This information is then used to develop a work plan to prioritize work assignments for the coming year. Many of the services provided by the Legal Services and Corporate Security Sections are in response to client requests or emerging needs (e.g., lawsuits or investigations). The Branch reviews and adjusts work assignments and priorities as client requests are received and/or as issues arise.

The ability to complete its work plan and meet client needs is greatly impacted by the Branch's workplace environment and employee engagement. The Administration's 2010 Employee Engagement Survey showed that 76 percent of employees in the Law Branch felt positive about their work environment. We noted that this ratio was higher than both the Corporate Average and the benchmark provided by the survey consultants.

We independently surveyed all staff in the Legal Services and Corporate Security Sections to determine their level of understanding of their roles and responsibilities, whether their training needs were being met, and level of satisfaction with their work environment. The results of our survey are shown in Table 8.

Table 8 – Result of the OCA’s Staff Survey Results

Survey Categories	Positive Feedback
Understanding of Roles and Responsibilities	82.2%
Training and Professional Development Opportunities*	57.8%
Work Environment (work assignment, use of skills and knowledge, leadership)	80.0%
Overall	77.5%

* Comments on the survey indicated that staff members recognize that work demand and the budget are factors that limit the ability to take advantage of training and professional development opportunities.

These results indicate a high-level of staff satisfaction, which contributes to the effective delivery of service.

Leading practice also suggests that work load should be examined to identify tasks that could be referred back to user departments/entities with the law department providing tools, templates and training and directly assisting only in exceptional circumstances.

One of the Legal Services Section’s current initiatives is working with the staff in the Materials Management Branch to provide them with tools and training to reduce their reliance on Legal Services when undertaking basic contract reviews (procurement files presenting little risk). When fully implemented, two paralegals will be freed up to allow them to utilize their skills and knowledge more effectively.

4.3. Efficiency

Our assessment of efficiency was framed around the question, “Is the Law Branch doing things the right way?” In order to assess efficiency, two pieces of information are required: outputs (e.g., the number of files that have been completed) and inputs (e.g., the amount of time expended on each file).

4.3.1. Efficiency Measures

Law Branch staff record the number of files they work on each year, but not the time they spend working on those files. This information is compiled and published by the Branch as volumetric indicators. Examples of volumetric indicators tracked by the Law Branch are illustrated in Table 9.

Table 9 – Law Branch Volumetric Measures

Volumetric Measure (Numbers of)	2007	2008	2009	2010	2011
Construction contracts reviewed	25	23	42	42	41
Bylaw prosecutions going to court	2,949	3,794	4,586	5,394	5,447
Security inspections conducted	11	25	58	59	32
Statements of claim served on the City	124	119	137	122	96
Files opened in Legal Services	1,395	1,399	1,729	1,511	1,381
Files closed in Legal Services	1,433	1,193	1,496	1,598	1,396

These indicators are useful in assessing and allocating workload among staff to ensure client needs are addressed. However, without a measure of resources required, they cannot be used to assess efficiency.

Legal Services stopped tracking time spent on files due to the onerous process required by the system they used in prior years. They found that due to the volume of files and the level of detail being maintained, the professional staff members were spending a significant amount of time tracking and recording the hours spent on each file.

According to a paper published by Catalyst Consulting, which specializes in providing services to legal organizations, few legal departments know how to use performance indicators effectively. We researched performance measures being used by law departments to determine how they are using them. We found evidence that progress has been made by some government law departments. We reviewed articles written by consultants that specialize in advising law office operations, a UK government publication on how to develop performance measures for legal services, and a review of measures currently in use by municipal law departments.

We found that the majority of performance measures in use for legal services are primarily focused on service delivery. Measures that could be used to help assess the efficiency of legal services included targets set for turn-around times.

Because input data has not been captured by the Branch, we cannot provide an opinion on the Branch's comparative level of efficiency for legal activities until it develops measures that can be used to objectively assess efficiency. (Recommendation 2)

4.3.2. Legal Services Staff Mix

A study⁴ conducted by a firm that provides services exclusively to legal organizations states that, "Best productivity practices for city and county law offices include lean management, strong paralegal support, effective caseload management practices and effective timekeeping systems." The paper provides staff mix ratios that are considered to be leading practice. However, they indicate that the staff mix ratios are merely guidelines and that resource requirements may vary from one jurisdiction to another.

⁴ "Best Practices of City and County Civil Law Offices," Altman Weil Inc.

Table 10 compares the published staff mix ratio guidelines against the Legal Services Section's ratios.

Table 10 – Staff Mix

Function	Leading Practice Guidelines	Legal Services
Management	No more than 0.10 to 0.15 management per solicitor	0.10
Support Staff	Between 0.30 and 0.50 support staff per solicitor	0.26
Paralegal Support	At least 0.25 paralegals per solicitor	0.17 Solicitors 0.26 Litigation

The organizational structure of the Law Branch is flat, resulting in a lean operation and the ratio of management to solicitors is within leading practice guidelines. Legal Services support staff ratio, however, is slightly below the guideline. Legal Services management stated that this may be a reflection of the degree to which they have embraced technology, making it more efficient for solicitors to prepare documentation rather than having support staff transcribe and type documents.

Litigation Services' ratio of paralegals to solicitors (0.26) falls within the range suggested in the guideline. The services provided by this area involve the preparation of large volumes of supporting documents in the litigation process that are completed by paralegals. Solicitor Services' ratio is lower than the guideline (0.17). Legal Services advised that this is due to their services being more proactive in nature and not requiring the same level of support as Litigation Services. This also reflects the impact of initiatives such as the standardization and streamlining of the contract review process.

The study also indicates that solicitor compensation is a major issue in public sector law offices. In 2009, the City completed a compensation review for all management and professional staff. The review included comparing the City's compensation practices with those of similar organizations.

Currently there are three levels of solicitor positions in Legal Services (Solicitor I, Solicitor II, and Solicitor III). Progression from one level to the next is based on the number of years of service at the Bar. We were advised that the automatic progression through the three solicitor levels aligns with that of other legal service organizations and is intended to increase staff stability and organizational knowledge retention. In comparison, most other management and professional staff working with the City only advance to more senior positions when a vacant position becomes available or when service demand changes require reclassification of an existing position.

We were advised that staff in the Law Branch have the flexibility to reduce their hours of work, with just cause, to achieve their desired work/home life balance. Management stated that this has helped Legal Services to retain knowledgeable staff and to accumulate FTE hours and the associated budget to hire new solicitors. The ability to hire new staff while retaining experienced staff allows for mentoring and knowledge transfer with minimal interruption of service. We believe this is a good example of

succession planning that adds value with minimal impact on the budget and service delivery.

4.4. Economy

4.4.1. Legal Costs and FTEs per capita

We attempted to compare the Law Branch to other Canadian municipalities. However, only one Law Office responded to our survey, preventing us from completing a meaningful comparison.

Catalyst Consulting's 2009 comparative study included information on the legal costs and number of FTEs per 100,000 population. Table 11 shows that Edmonton's cost and FTEs per 100,000 population were less than all other cities who responded to the survey.

Table 11 – 2009 Cost and FTE Comparison

	Edmonton	Ottawa	Hamilton	Regina	Calgary
Population	752,412	898,000	519,109	194,971	1,042,892
Legal Team FTEs	43.2	51.9	36.0	14.8	85.5
FTEs/100,000	5.7	5.8	6.9	7.6	8.2
Legal Cost/100,000	\$677,359	\$750,692	\$884,888	\$746,985	\$1,065,393

4.4.2. External Legal Counsel

Some municipalities compare their internal hourly cost of service to the rates charged by external legal counsel to demonstrate the economy of in-house services. Benchmark information published⁵ for legal services indicates that the in-house hourly cost should be less than 50 percent of external counsel rates.

Our analysis of City expenditures for external legal services shows that hourly rates range from \$315 to \$750 per hour with the majority in excess of \$400. For comparison purposes, we added departmental and corporate overheads to the direct costs for solicitor positions. We estimate that Legal Services' in-house costs for "billable hours" range from \$175 to \$220 per hour. This means that the City's in-house rates average 37 percent of external counsel rates. This is well within the range suggested in the published information.

Catalyst Consulting's 2009 report states that law departments participating in their study aim to handle most legal work internally. The report notes that Edmonton only engages external counsel when expertise is not available internally and where the Law Branch could be placed in a conflict of interest situation.

⁵ Municipal Benchmarks: Assessing Local Performance and Establishing Community Standards, Third Edition (2012)

This rate comparison and limited use of external counsel provides assurance that legal services are being delivered in an economical manner.

4.4.3. Monitoring External Expenditures

Responsibility for engaging external legal counsel for the Corporation is delegated to the City Solicitor. In order to fulfill her governance role, procedures need to be in place that provide the assurance all transactions are properly processed and that she is aware of all external engagements and associated costs.

We noted that the Branch has a documented process to ensure that all external legal counsel services are appropriately authorized and paid. However, the documentation is out of date, does not fully reflect current practices.

Our review of purchasing procedures shows that engagement of external legal counsel is exempt from trade agreement tendering requirements. They are also exempt from the City's corporate purchasing process due to the low value of typical transactions. The City's financial system can be used to monitor and report on external legal counsel expenditures.

Three key activities associated with the management of external legal counsel expenditures are:

- Maintaining contract records – Currently the Law Branch acquires services using a sole source process with contracts taking the form of “Retainer Letters.” These documents are maintained by the City Solicitor's Administrative Assistant.
- Tracking and reporting on actual expenditures – Currently the Law Branch Office Administrator is responsible for tracking expenditures and preparing quarterly reports on external legal counsel expenditures.
- Monitoring expenditures recorded in SAP for external legal counsel – Transactions to record external legal counsel costs can be entered into the City's financial system by authorized staff across the Corporation. Responsibility for monitoring and reporting on external legal counsel at the corporate level has not been documented.

The Law Branch reported that approximately \$340,000 had been spent on external legal counsel in 2011. However, the City's financial information system recorded \$428,000 in expenses for the same period.

We analyzed the information recorded in the financial information system and reviewed the results of our analysis with the City Solicitor to determine the accuracy and completeness of transactions recorded in the legal services cost element. The City Solicitor was able to identify transactions that were incorrectly recorded and demonstrate that she was aware of valid external legal service costs. While formal control processes are weak, the City Solicitor's knowledge of external legal counsel usage and expenditures demonstrate that she is fulfilling the responsibility delegated to her.

In our opinion it is important that documentation of manual processes reflect the current operational and corporate needs. (Recommendation 3)

5. Conclusions and Recommendations

The objective for this audit was to assess whether the Legal Services and Corporate Security Sections of the Law Branch are meeting the needs of the Corporation and are delivering their services in an effective and efficient manner. The results of this audit show overall the Law Branch is effectively meeting client needs and its commitment to the Corporation to help minimize financial loss. We identified three areas where we believe there are opportunities for improvement.

1. Reduction in Alarm Volume

Survey results and improvement in operational results indicate that Corporate Security services are continually improving. However, the increasing number of alarms caused by human error has increased the risk that bona fide alarms will not be acted on in a timely manner. Corporate Security needs to continue working with the Administration to increase awareness of security protocols and to define roles for enforcement in operational areas to reduce the number of unnecessary alarms being triggered.

Recommendation 1 – Reduce Alarm Volume

The OCA recommends that the Director of Corporate Security continue to work with clients to reduce the number of nuisance and human error alarms received in the monitoring centre.

Management Response and Action Plan

Accepted

Action Plan: Corporate Security will be targeting problem locations using intelligent / just in time data, enhanced technology and potential financial consequences for repeat offenders.

Planned Implementation Date: Second Quarter of 2013

Responsible Party: Director of Corporate Security

2. Develop Additional Performance Measures

Demonstrating value for money requires that defined expectations be monitored and measured using effective performance management practices. In our opinion:

- Client survey results provide sufficient subjective evidence to allow us to conclude that the Legal Services and Corporate Security Sections services are effective.
- The volumetric data maintained by the Law Branch cannot be used in isolation to assess efficiency.
- Assessment of the Legal Services Section's staff mix and comparison of internal and external hourly costs suggest a reasonable degree of economy. However, there is insufficient information to allow us to draw a conclusion on efficiency.

Recommendation 2 – Develop Performance Measures

The OCA recommends that the City Solicitor review performance measures used by other municipalities and develop appropriate measures that can be used to demonstrate the overall value for money for the services delivered.

Management Response and Action Plan**Accepted**

Action Plan: The City Solicitor will develop meaningful performance measures.

Planned Implementation Date: Second Quarter of 2013

Responsible Party: City Solicitor

3. Update Internal Control Documentation

The City Solicitor has demonstrated she is familiar with expenditures being incurred for external legal counsel. However, documentation of processes required to provide the assurance that external legal services are consistently approved and monitored are not current and need to be updated.

Recommendation 3 – Update Internal Control Documentation

The OCA recommends that the City Solicitor update the process documentation for engaging and for monitoring the costs of using external legal counsel.

Management Response and Action Plan**Accepted**

Action Plan: The City Solicitor will update the documentation required to retain and monitor the costs of external legal counsel.

Planned Implementation Date: Second Quarter of 2013

Responsible Party: City Solicitor

Administration Update on the Law Branch Audit

Recommendation:

That the February 19, 2013 Corporate Services report 2013COL002 be received for information.

Report Summary

This report provides an administration response to the Office of the City Auditor's Law Branch Audit report and an update on the actions taken to-date in response to the audit recommendations.

Report

The Legal Services and Corporate Security sections of the Law Branch are committed to meeting the needs of the Corporation and delivering services in an effective and efficient manner. Following its review, the Office of the City Auditor (OCA) found the results showed overall the Law Branch is effectively meeting client needs and its commitment to the Corporation to help minimize financial loss, and three recommendations were given.

Recommendation 1

The OCA recommends that the Director of Corporate Security continue to work with clients to reduce the number of nuisance and human error alarms received in the monitoring centre.

Response

Corporate Security:

- has implemented a data mining tool for early detection and response to alarms;
- will work with facility management at the "top ten" facilities on a monthly basis;
- will investigate the implementation of human error alarm charges to client departments to encourage behaviour change.

Recommendation 2

The OCA recommends that the City Solicitor review performance measures used by other municipalities and develop appropriate measures that can be used to demonstrate the overall value for money for the services delivered.

Response

The City Solicitor has retained **Catalyst Consulting** to survey several Canadian municipal law departments regarding performance measures and to customize a performance management framework for the Law Branch.

Recommendation 3

The OCA recommends that the City Solicitor update the process documentation for engaging and for monitoring the costs of using external legal counsel.

Response

Catalyst Consulting has also been retained to adjust the Law Branch protocols governing the retention and

payment of external counsel against leading practices.

Catalyst Consulting has been designated the *Preferred Provider for Legal Department Consulting* by the Canadian Corporate Counsel Association for 17 years.

Policy

City Administration Bylaw 12005

Corporate Outcomes

Ensure Edmonton's Financial Sustainability