Office of the
New York City Comptroller
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& Bureau of Law and Adjustment
www.comptroller.nyc.gov

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CLAIMSTAT:

PROTECTING CITIZENS AND SAVING TAXPAYER DOLLARS

An Initiative of Comptroller Scott M. Stringer

CITY OF NEW YORK
SIGILLUM·CIVITATIS·NOVI·EBORACI·
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OFFICE OF THE COMPTROLLER

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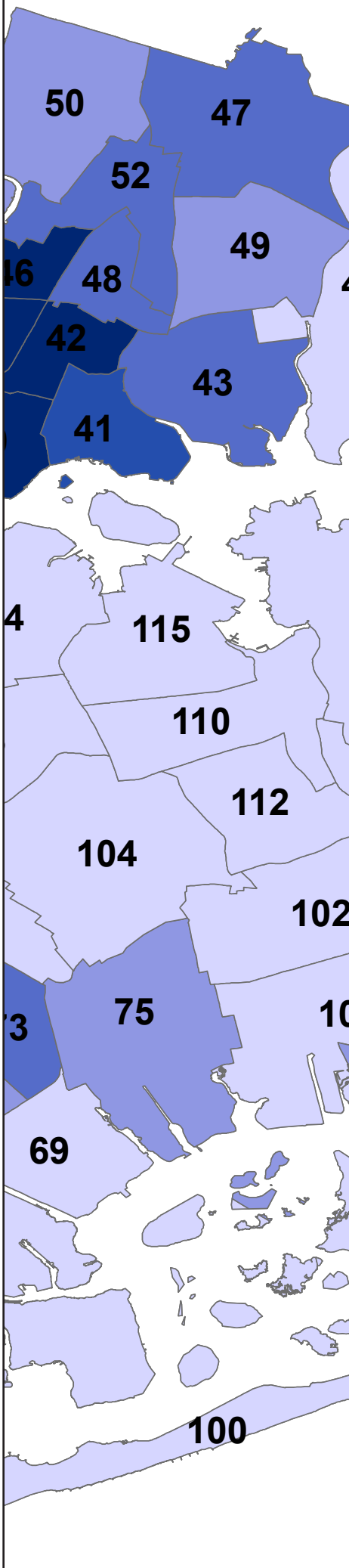


I. EXECUTIVE SUMMARY

The FY 2015 Executive Budget sets aside $674 million to pay settlements and judgments from lawsuits brought against the City of New York. That is more than $80 per New York City resident devoted to claims ranging from falling tree limbs and unfilled potholes, to medical malpractice and civil rights violations. These costs are projected to rise over the next four years to $782 million by FY 2018, a figure that is greater than the FY 2015 budget for the Parks Department, Department of Aging, and New York Public Library *combined*.

Despite these significant costs to taxpayers and the underlying personal injuries and/or property damage that lead to claims in the first place, New York lags behind other cities in embracing data-driven risk-management techniques that examine the thousands of cases filed against the City every year to identify patterns and improve practices.

Comptroller Stringer is committed to driving down claim costs across all agencies to boost the quality of city services and save taxpayer dollars that can be better spent on everything from public education to public safety.

This report offers an initial snapshot of select City agencies and details the Comptroller's new, data-driven approach to claims management, dubbed **ClaimStat**.

ClaimStat is an ongoing initiative that drills down on the thousands of claims that are first reported to the Comptroller's office to identify patterns and practices that lead to lawsuits against the City. The Comptroller's Bureau of Law and Adjustment (BLA) will analyze claims data to flag troubling patterns as they occur.

The Comptroller will publish his findings on a periodic basis and will work directly with City agencies and the Law Department to identify potential solutions. The Comptroller will also publicly acknowledge agencies that have taken innovative steps to reduce claims costs by launching ClaimStat "Star" awards.

Several agencies have already taken concrete steps to reduce claims costs. For example, since 2001, the Health and Hospitals Corporation (HHC) has embraced proactive risk and litigation management reforms, including a specialized legal team within the agency that analyzes malpractice cases in order to allow HHC's medical component to understand and respond to the events that resulted in the lawsuit. In part because of these efforts, HHC has seen claims fall three percent between FY 2008 – 2013, with settlement costs down nearly 14 percent over the same time period. Another likely impetus for HHC's aggressive risk management is that, unlike other agencies, HHC has been responsible for its own claims costs since 2001.

Other agencies have struggled to contain claims costs. Payments from lawsuits and claims filed against the New York City Police Department (NYPD) rose nearly 31 percent between FY 2008 – 2013 to $137.2 million, while payments as a result of claims against the Parks Department soared 143 percent over the same period.

Just as the NYPD's groundbreaking "CompStat" program encouraged transparency and accountability among precinct captains, so ClaimStat will incentivize agency heads to take a more analytical approach to claims costs—not only because of their costs to the public, but also because claims often indicate that agencies are failing to serve the public properly.

Several cities across the country have embraced similar data-driven approaches to claims management. In Portland, Oregon, for instance, when the Police Department auditor observed a pattern of claims suggesting that officers did not understand the basis of their authority to enter a home without a warrant, the city attorney's office made a training video on this issue, and the problem practically disappeared.

In this initial ClaimStat report, the Comptroller's Office has identified several patterns across City agencies including:

- **New York City Police Department**: There were over 9,500 claims filed against the Police Department in fiscal year 2013.[1] Settlements and judgments against the Police Department in FY 2013 totaled $137.2 million, the highest of any City agency. Further analysis reveals significant disparities in claims between precincts. Even when adjusting for crime rates, certain precincts in the South Bronx and Central Brooklyn have had far more claims filed against their officers than precincts in other parts of the City. A comparison of two precincts highlights this disparity. The 18th Precinct (Manhattan South) had 2271 crime complaints in CY 2013. The 44th Precinct (Bronx) had roughly the same number of crime complaints: 2191. However, for every 100 crime complaints, there were 13 claims filed against officers from the 44th Precinct and only 2 claims filed against officers from the 18th.

- **Department of Parks and Recreation**: In FY 2010, the City sharply reduced the budget for tree pruning. Following that cut, the number of tree-related claims soared. Even accounting for other factors, including severe weather events, evidence indicates that reductions in the budget for pruning may have contributed to several multi-million dollar settlements, including one settlement that cost more than twice the Parks Department budget for street tree pruning contracts between FY 2010 – 2012.[2] After the City Council's restoration of tree-pruning funding in FY 2013, claims dropped sharply.

- **Health and Hospitals Corporation**: While HHC has been a bright spot in reducing claims over the past decade, the Comptroller's hospital-by-hospital analysis of recent data reveals that some facilities are faring better than others. In FY 2013, Woodhull Hospital had more medical malpractice claims filed against it than in any previous year since FY 2009, and Kings County Hospital had the highest number of new medical malpractice claims filed than in any year since FY 2010. On the other hand, FY 2013 had the lowest number of medical malpractice claims filed against Jacobi/Bronx Municipal, Harlem and Lincoln Hospitals since FY 2009.

- **Department of Environmental Protection**: In recent years, severe weather has underscored the limits of New York City's sewer system. An analysis of sewer overflow claims from FY 2012 – 2013 reveals that certain neighborhoods are disproportionately affected by flooding. These include Community District 18 in Brooklyn (Bergen Beach, Canarsie, Flatlands, Georgetown, Marine Park, Mill Basin, Mill Island, and Paerdegat Basin), which accounted for 28 percent of all mappable claims, and Community District 2 in Staten Island (Mid Island). Concentration of claims in certain communities (and indeed, certain *blocks*) could give the Department of Environmental Protection important guidance about how to triage capital investment in sewer upgrades.

- **Department of Sanitation**: Sanitation is one of many agencies with a considerable fleet of city vehicles that lead to claims costs against taxpayers. Moreover, claims costs represent only part of the cost of motor vehicle accidents to the City. Collateral expenses include Workers' Compensation (for non-uniformed employees), sick leave for injured employees, settlements with workers who are injured in accidents, and the cost of repair or replacement of the vehicle. To that end, the City should consider a series of steps designed to reduce vehicle-based property damage and personal injury claims. This includes identifying areas where large numbers of accidents occur to determine if roadway conditions can make our streets safer for all. Our report finds that vehicle accidents involving sanitation trucks are most common on Staten Island, with additional areas of concern include East Queens and Borough Park.

This report provides both additional details on the patterns identified above, as well as a description of the recent history of claims costs in New York and how data-driven approaches have helped other cities reduce costs and improve services. Indeed, while not all claims are meritorious, in the aggregate, claims data can act as a leading indicator of potential problems that agencies should work hard to address.

In addition to continuing the Comptroller's proud tradition of seeking fair, efficient, and effective resolution of meritorious claims, the office's ClaimStat program will bring a transparent, data-driven approach to risk management.

II. THE COMPTROLLER'S ROLE IN THE CLAIMS PROCESS

The Comptroller plays a central role in the settlement and adjustment of claims for and against New York City government.[3] When claims are filed against the City, ranging from trip-and-falls and medical malpractice, to police action claims and sewer overflows, the Comptroller's Bureau of Law and Adjustment (BLA) has the opportunity to investigate the claim and negotiate a settlement before the claim goes to litigation.

Even if a case proceeds to litigation, the City's Law Department must get approval from the Comptroller for any settlement it proposes the City enter into with Plaintiffs. The Comptroller also pursues affirmative claims—lawsuits in which the City, as plaintiff, seeks money from individuals who cause damage to City property. Here, too, the Comptroller has final settlement authority. As a result, the Comptroller is uniquely qualified to identify potential claim trends affecting a variety of agencies.

Claims against the City are composed of tort claims and non-tort claims. Tort claims consist of (a) personal injury and (b) property damage. Personal injury claims involve allegations of bodily harm, primarily from trip-and-fall cases, medical malpractice, police misconduct, civil rights violations, motor vehicle accidents, injury to specific uniform services employees (police officers, firefighters and sanitation workers) and public school-related injuries. Property damage claims involve mostly allegations of damage to motor vehicles, homes and other personal property.

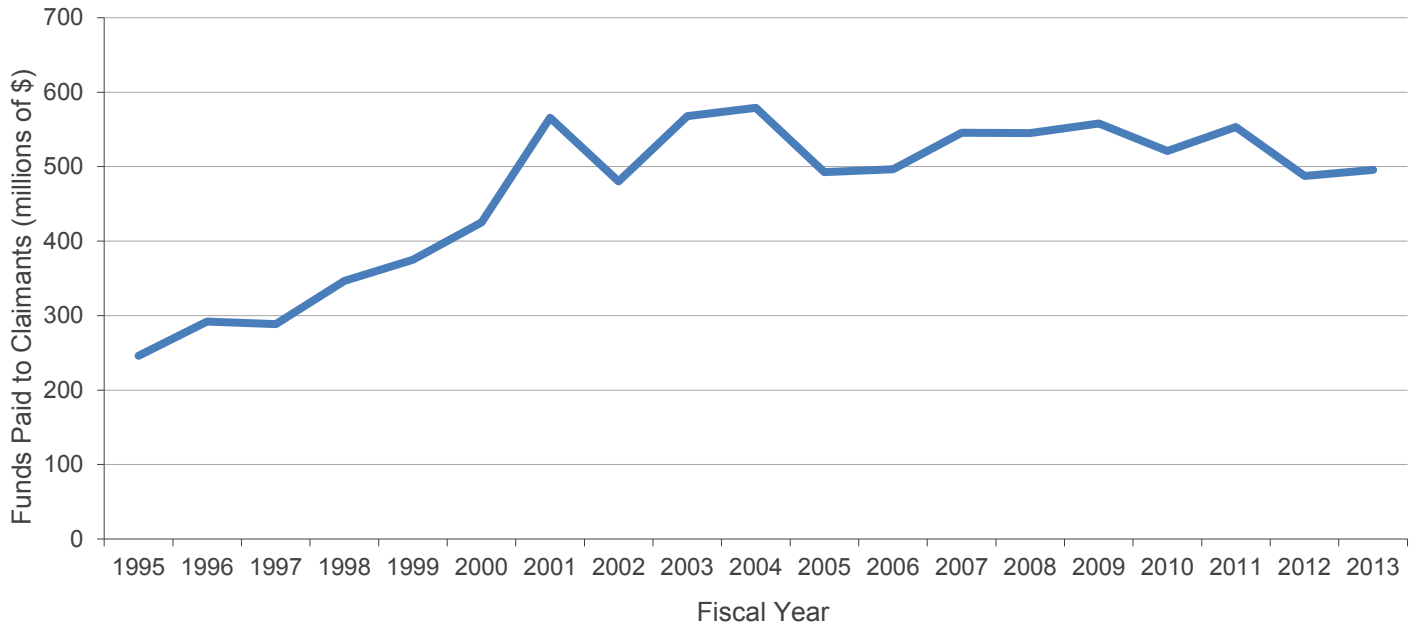
Non-tort claims are disputes concerning contracts between the City and its contractors or employees, as well as claims filed by private individuals concerning alternative dispute resolution claims, equitable claims, salary claims, Department of Education (DOE) tuition reimbursement claims, sidewalk assessment claims, and alleged overpayments of various items such as taxes or fines.[4]

III. DEFINING THE PROBLEM: RISING CLAIMS COSTS IN NYC

The cost to taxpayers of settlements and legal judgments and claims against the City have been increasing for years. In FY 1995, the City paid $246 million in judgments and claims costs.[5] By FY 2001, the figure had more than doubled, to $565.6 million with respect to tort claims alone.

In FY 2001, the Comptroller's office implemented pre-litigation settlements, which has helped to stabilize

Chart I: Costs of Tort Claims to NYC Taxpayers (1995 – 2013)



judgment and claims costs over the past decade. Nevertheless, even as total judgment and claims costs have leveled off in recent years, a deeper look at the data, both by agency and type of claim, reveals substantial differences in trend lines.

Given the historical trend shown in Chart I, it comes as no surprise that concerns about claims costs and the City's failure to use data from the claims process to implement reform are not new.

While much of the focus in recent years has been directed at claims against the NYPD, no City agency is immune from claims and all can do more, to one degree or another, to address rising costs. Indeed, this report uncovers several patterns in claims activity, from tree limb claims directed at the Department of Parks and Recreation to sewer overflow claims at the Department of Environmental Protection.

The FY 2015 Executive Budget sets aside $674 million for legal judgments and claims costs. That's $80 per New York City resident devoted to claims ranging from falling tree limbs and property damage from potholes to medical malpractice and civil rights violations. The Office of Management and Budget projects that these costs will continue to rise, reaching $782 million by FY 2018—an additional increase of 16 percent.

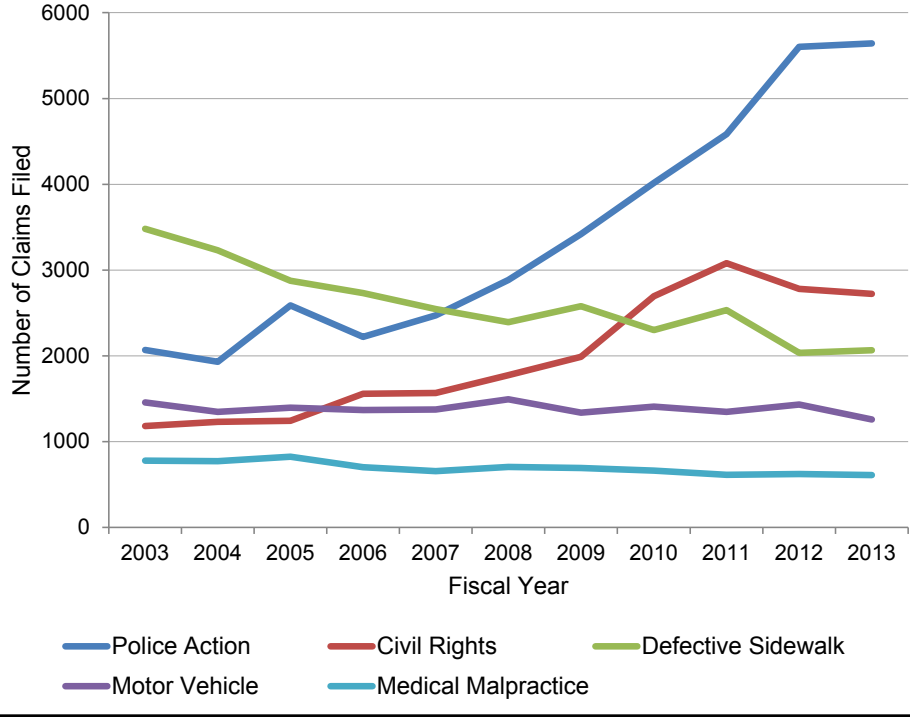
The majority of settlement and judgment costs for the City arise from tort claims, and an overwhelming percentage of tort claims costs—98 percent in FY 2013—result from personal injury.[6] In FY 2013, the City paid $494.9 million in personal injury and property damage tort settlements and judgments compared with $200.6 million in non-tort claims.

Most tort claims are filed against a handful of City agencies. The Police Department (NYPD), Health and Hospitals Corporation (HHC), and Department of Transportation (DOT) consistently produce the highest total dollar amounts paid by the City in judgments and settlements. Together, these three agencies accounted for 58 percent of all tort claims filed and 69 percent of the amount paid out for tort claims in FY 2013.[7]

When we take a closer look at these agencies, certain trends emerge. For instance, while settlements for medical malpractice at HHC are down 22 percent over the past decade, the cost and number of claims against the NYPD have grown tremendously.[8] In FY 2013, 9,502 new tort claims were filed against the NYPD—more than DOT, HHC, Department of Correction (DOC), and Department of Sanitation (DOS) combined—and settlement costs were $137.2 million, a 31 percent increase in the last six years alone.

Chart II shows how police action claims and civil rights claims (the majority of which are directed at the NYPD) have grown even as the frequency of other claims types has fallen or remained steady. Indeed, while police action claims have grown 173 percent since FY 2003, defective sidewalk claims are down over 40 percent, medical malpractice claims are down over 21 percent,

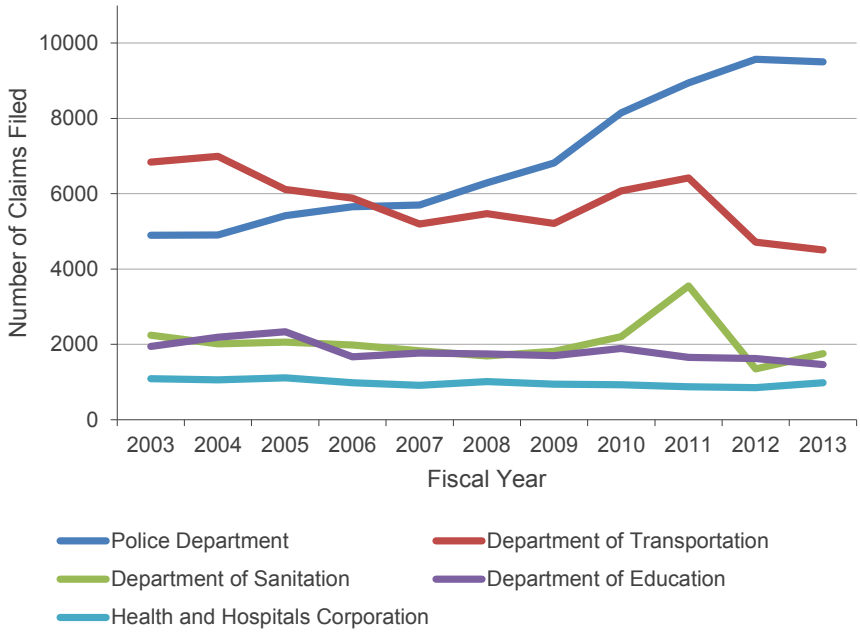
Chart II: Claims Filed by Type (FY 2003 – 2013)



and motor vehicle claims are down 13 percent.

Given these differences in claim type, it comes as little surprise that there are different trend lines when evaluated by agency. For example, as shown Chart III, agencies that have seen reductions in new claims since FY 2003 include the Department of Transportation, which saw a 34 percent decline, and the Department of Education, down nearly 25 percent.

Chart III: Claims Filed Against City, By Agency (FY 2003 – 2013)



A. NEW YORK CITY POLICE DEPARTMENT

Claims against the NYPD consist primarily of allegations of police misconduct, civil rights violations, and injury and/or damage from accidents involving police vehicles. Taken together, these claims rose 71 percent between FY 2004 and FY 2013 and comprised 37 percent of all tort claims in FY 2013. Since FY 2010, NYPD's claims costs have been the highest of any agency.

The Comptroller's Claims Report for FY 2011 was the first to include a precinct-by-precinct breakdown of claims activity.[9] This ClaimStat report provides an update using data from calendar year 2013. Of particular importance is the Comptroller's office effort to create a metric for useful comparison between precincts by calculating the number of claims per 100 crime complaints.

A comparison of two precincts highlights this disparity. The 18th Precinct (Manhattan South) had 2271 crime complaints in CY 2013. The 44th Precinct (Bronx) had roughly the same number of crime complaints: 2191. However, for every 100 crime complaints, there were 13 claims filed against officers from the 44th Precinct and only 2 claims filed against officers from the 18th.

In fact, as shown in the Map I (see the Appendix for full data), the Bronx is home to the five precincts with the highest number of personal injury police action claims when adjusted for the crime rate—precincts 40, 41, 44, and 46.[10]

Chart IV highlights the 15 precincts with the most claims per crime complaint in calendar year 2013.

Chart IV

Borough	Precinct	Claims Occurred	*Crime Complaints	Claims per 100 Crime Complaints
Bronx	44	289	2,191	13
Bronx	42	155	1,335	12
Bronx	46	186	1,681	11
Bronx	40	214	1,902	11
Bronx	41	128	1,760	7
Manhattan North	32	69	1,000	7
Manhattan North	30	54	832	6
Bronx	48	114	1,768	6
Manhattan North	25	68	1,111	6
Brooklyn North	73	123	2,094	6
Manhattan North	33	53	927	6
Bronx	47	122	2,159	6
Brooklyn North	79	97	1,738	6
Bronx	52	123	2,206	6
Brooklyn North	81	83	1,495	6

Additional "hot spots" for claims include precincts in Central Brooklyn (73, 79, and 81), as well as the North Shore of Staten Island (120 and 121), and Upper Manhattan (25, 30, 32, and 33).

There are a number of steps the Police Department could take to address these inequities and drive down claims. For instance, integrating claims into CompStat reviews could increase accountability at the precinct level. In addition, commanding officers, particularly in precincts that have higher than average rates of claims filed, could carefully examine claims filed against members of their units to flag potentially problematic practices, shifts, units, or officers and aggressively take steps to alter behavior where warranted.

B. HEALTH & HOSPITALS CORPORATION

While HHC's claim expenditures are the second highest of all City agencies, it has been the most successful agency in reducing claims costs in recent years. Most HHC claims (60 percent) are for medical malpractice, the costliest of all personal injury claims. Thus, while claims against HHC constituted only 3 percent of all tort claims resolved in FY 2013, they amounted to 27 percent of the total cost of all tort claims.

Since FY 2001, HHC has enacted reforms that have lowered claims and costs significantly. Total claims against HHC have dropped 18 percent since 2001. In addition, the cost of medical malpractice claims fell to $130.6 million in FY 2013 from a high of $195.4 million in FY 2003. The number of medical malpractice claims fell from 779 in FY 2003 to 592 in FY 2013, a decrease of 24 percent.[11] Medical malpractice claims costs represent 98 percent of the total HHC tort expenditures.

HHC has achieved its cost reductions through proactive risk and litigation management reforms such as a specialized legal team within HHC. Specifically, HHC has made significant progress in improving patient safety, analyzing past malpractice cases to learn from mistakes and introducing new technology that reduces errors such as pharmacy robots, electronic medical records, and automated medication administration with built-in checks.[12]

In addition, HHC has a unique incentive to reduce costs in that they are responsible for all of their medical malpractice liabilities up to a maximum amount set by the Office of Management and Budget. Other City agencies are not fiscally responsible for their own liabilities. If agencies are unable or unwilling to take

Map I

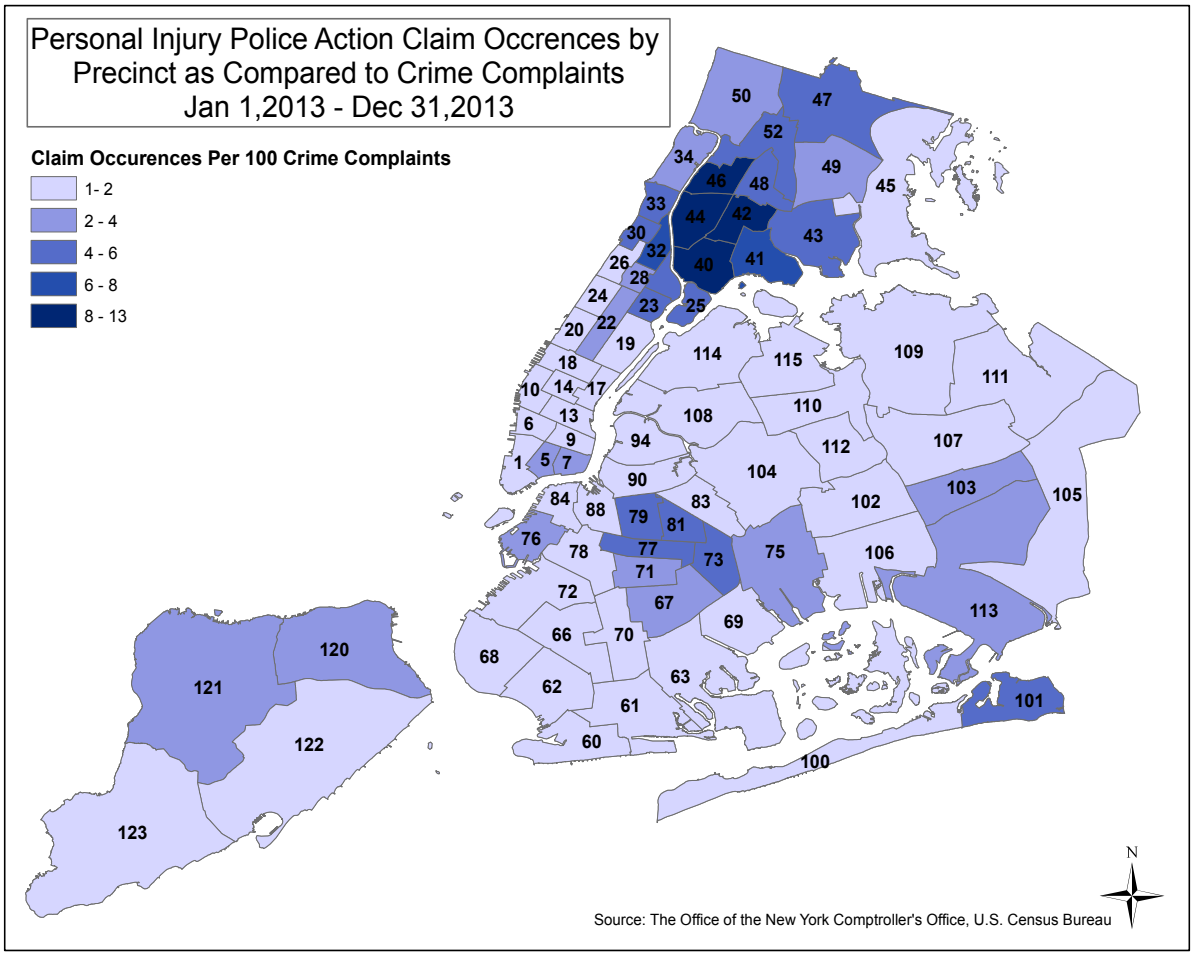


Chart V

HHC Medical Malpractice Claims Filed by Hospital FYs 2009 - 2013					
Hospital	**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Bellevue	72	59	75	56	57
Coney Island	51	40	26	51	31
Elmhurst	59	82	51	51	54
Harlem	44	47	44	39	34
Jacobi/Bronx Municipal	77	69	62	76	49
Kings County	94	78	76	82	88
Lincoln	71	68	62	72	48
Metropolitan	29	26	16	30	20
North Central Bronx	19	19	28	17	22
Queens	39	28	44	34	31
Woodhull	52	48	51	43	61
Total	**607**	**564**	**535**	**551**	**495**

Chart VI

HHC Medical Malpractice Settlements/Judgments by Hospital FYs 2009 - 2013 (In Millions)					
Hospital	**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Bellevue	$17.1	$8.0	$5.9	$8.0	$7.3
Coney Island	$5.7	$5.3	$9.4	$8.0	$6.1
Elmhurst	$11.7	$13.0	$14.1	$15.6	$16.6
Harlem	$6.9	$8.3	$5.7	$6.1	$6.9
Jacobi/Bronx Muni.	$17.9	$14.6	$18.8	$13.2	$17.5
Kings County	$19.4	$21.5	$23.2	$13.3	$24.0
Lincoln	$17.6	$14.7	$24.9	$10.6	$12.2
Metropolitan	$5.4	$4.7	$5.7	$2.1	$4.9
North Central Bx.	$9.2	$12.2	$8.6	$11.4	$8.9
Queens	$13.3	$16.4	$5.1	$10.7	$8.9
Woodhull	$4.0	$15.0	$4.3	$6.0	$13.1
Total	**$128.2**	**$133.7**	**$125.7**	**$105.0**	**$126.4**

steps to control costs, the City should consider creating an additional incentive for action by having agencies share in the cost of settlements and judgments and potentially share in the savings realized by more robust risk management practices.

Our analysis of HHC data highlights the importance of ClaimStat as a tool to identify truly troubling trends through deep data analysis.

When staff from the Bureau of Law and Adjustment first analyzed claims data on a hospital-by-hospital basis, Bellevue appeared to have encountered a shocking increase in claims activity between 2012 – 2013. However, a deeper dive into the data showed that a majority of the claims filed were related to damage to employee uniforms as a result of Hurricane Sandy—a batch of relatively small property damage claims that will not have a material effect on claim payouts overall.

As a result of this anomaly and in an effort to focus on claims that have the greatest effect on taxpayer dollars, the statistics for Chart V and Chart VI are limited to medical malpractice filings only. Despite the overall decline in medical malpractice filings, a look at recent claims data shows differences between HHC's eleven critical care hospitals.[13]

Chart V shows, in FY 2013, Woodhull Hospital had more medical malpractice claims filed against it than in any previous year since FY 2009. Kings County Hospital also had the highest volume of new medical malpractice claims filed in FY 2013 than in any year since FY 2010. On the other hand, Jacobi/Bronx Municipal, Harlem and Lincoln Hospitals experienced the lowest number of medical malpractice filings since FY 2009 in FY 2013.

Just as HHC has taken steps to streamline emergency room care and improve patient safety, so HHC must continue to respond, in real time, to variations in claims activity at its flagship hospitals. Indeed, HHC can ensure the dissemination of best practices by evaluating efforts undertaken by facilities with positive trend lines.

In addition to the rise in claims at certain facilities in FY 2013, there was also a 25 percent rise in judgments and settlement costs at HHC between FY 2012 and FY 2013—a troubling break from HHC's long-term success in reducing medical malpractice costs.[14]

It is worth noting that medical malpractice cases often take years to settle or bring to judgment. As a result, the rise in costs in FY 2013 may not be a harbinger of things to come. However, by analyzing claims data and continuing to take a proactive approach to risk management, HHC can continue to set the example of how a City agency can save taxpayers money and improve services through data-driven action.

C. DEPARTMENT OF PARKS AND RECREATION

The Department of Parks and Recreation (DPR) is responsible for the planting and maintenance of trees in city parks, as well as ongoing maintenance of trees that line the streets and avenues of the five boroughs.

In 2007, the City embarked on an ambitious "MillionTreesNYC" initiative as part of the broader PlaNYC, with the goal to plant one million trees throughout the five boroughs by 2017.[15]

At the same time, the City dedicated resources to accelerate DPR's tree pruning program to conform to a well-established industry standard that requires tree pruning once every seven years.[16] This increase in funding had an immediate and profound effect, with the number of trees pruned increasing by 133 percent between FY 2007 and FY 2008.[17]

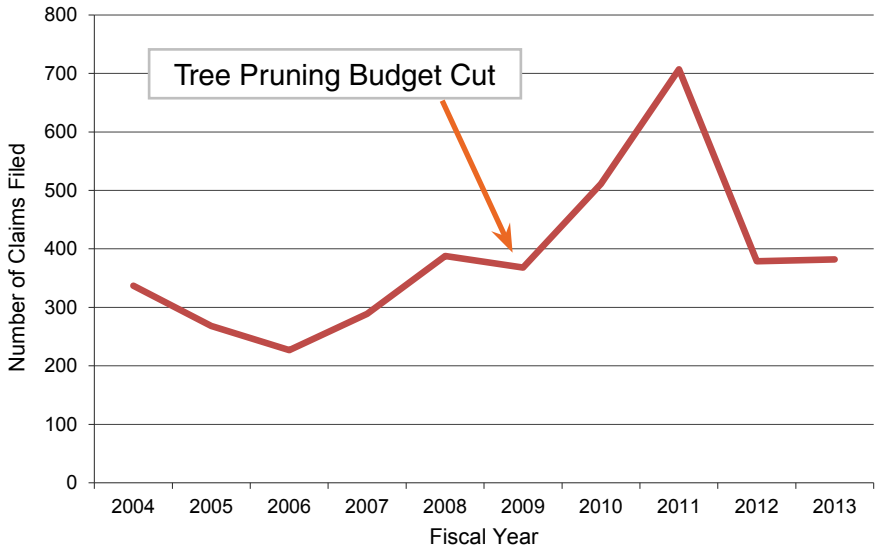
However, only two years later, the City slashed funding for tree pruning and maintenance, not only deviating from the industry standard of seven years, but failing to even reach the former 10-year commitment. Just as troubling, this change was accompanied by the decision to no longer classify the percentage of the pruning goal completed as a "critical indicator" in the Mayor's Management Report.[18]

The effect of this change was swift and severe. While nearly 80,000 trees were pruned in FY 2009, fewer than 30,000—a mere 6 percent of trees covered by the cycle—were pruned in FY 2010.[19] Perhaps as a result, in FY 2010 the top two service requests through 311 related to DPR were damaged/dead trees.

Despite serious cutbacks in the pruning budget, the City continued to invest in the MillionTrees initiative, planting over 120,000 trees in FY 2010 and 113,000 in FY 2011.[20]

Only in FY 2013 did the City finally restore additional funding for tree maintenance, increasing the number of trees pruned by over 50 percent and placing the City back on the ten-year cycle that it used prior to the launch of MillionTrees in 2007.[21]

Chart VII: Tree-Related Claims FY 2004 – 2013



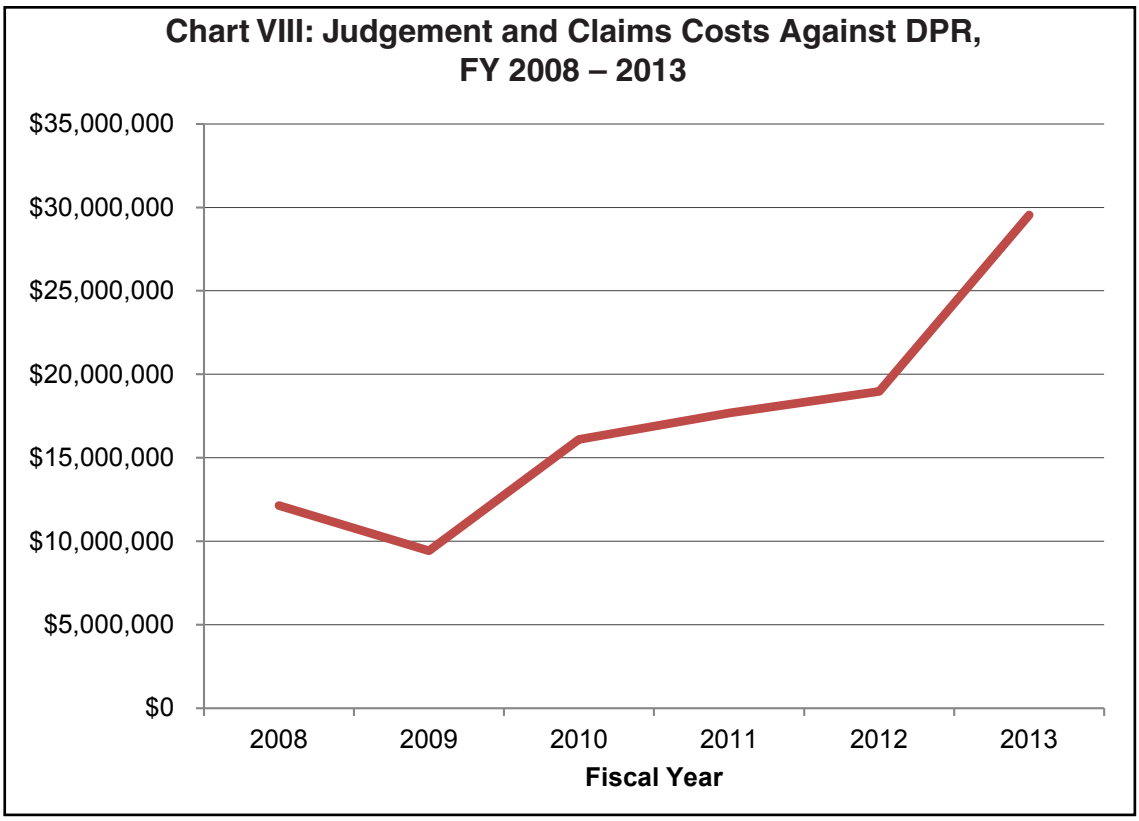
While it is impossible to connect a reduction in the maintenance budget to any particular incident, even accounting for other factors, such as an increase in severe weather events during this period, evidence indicates that the reduced budget for pruning contributed to several multi-million dollar settlements. This reaffirms how short-sighted such cuts can be, not only from a public safety perspective, but for the City's bottom line.

As shown in Chart VII, personal injury (PI) and property damage (PD) claims related to trees increased sharply following the cuts to the pruning budget in July 2009 (the start of FY 2010), with claims citywide soaring by over 92 percent between Fiscal Year 2009 and 2011.

The spike witnessed in 2010 – 2011 was particularly significant in certain community districts in Queens. Census Community Districts 405–411 saw year-over-year increases in claims of up to 590 percent (the full data set of all community districts is available in the Appendix).

Last year alone, the City settled a number of multi-million dollar claims stemming from falling tree limbs, including $11.5 million for severe injuries suffered by a New Yorker who was struck by a limb in Central Park in late July 2009 and $3 million to the family of a man killed by a falling limb in Central Park in February 2010.

While the FY 2013 Mayor's Management Report characterizes the $11.5 million settlement as "unusually high," the fact of the matter is that the cost of even a small number of major settlements shows the short-



sightedness of cutting the Parks maintenance budget.

As shown in Chart VIII, these settlements have contributed to a 143 percent increase in judgment and claims costs attributable to DPR between FY 2008 and FY 2013.

Indeed, the $11.5 million settlement alone is more than twice the Parks Department budget for street tree pruning contracts between FY 2010 – 2012.[22]

Map II is the result of a first-of-its-kind analysis of claims related to branches and trees by community district. The data includes FY 2004 – 2013.[23]

As shown in Chart IX, nearly two-thirds of trees with a diameter at breast height (DBH) of 5 inches or more (the subset of trees that DPR contracts to have pruned) are in Brooklyn or Queens. As a result, we would expect to see relatively higher numbers of claims in those boroughs. However, as the map shows, tree claims in Staten Island are also high, despite the relative lack of population density. On the other hand, other parts of the City, from Van Cortlandt Park in the Bronx to Central Park, have performed much better.

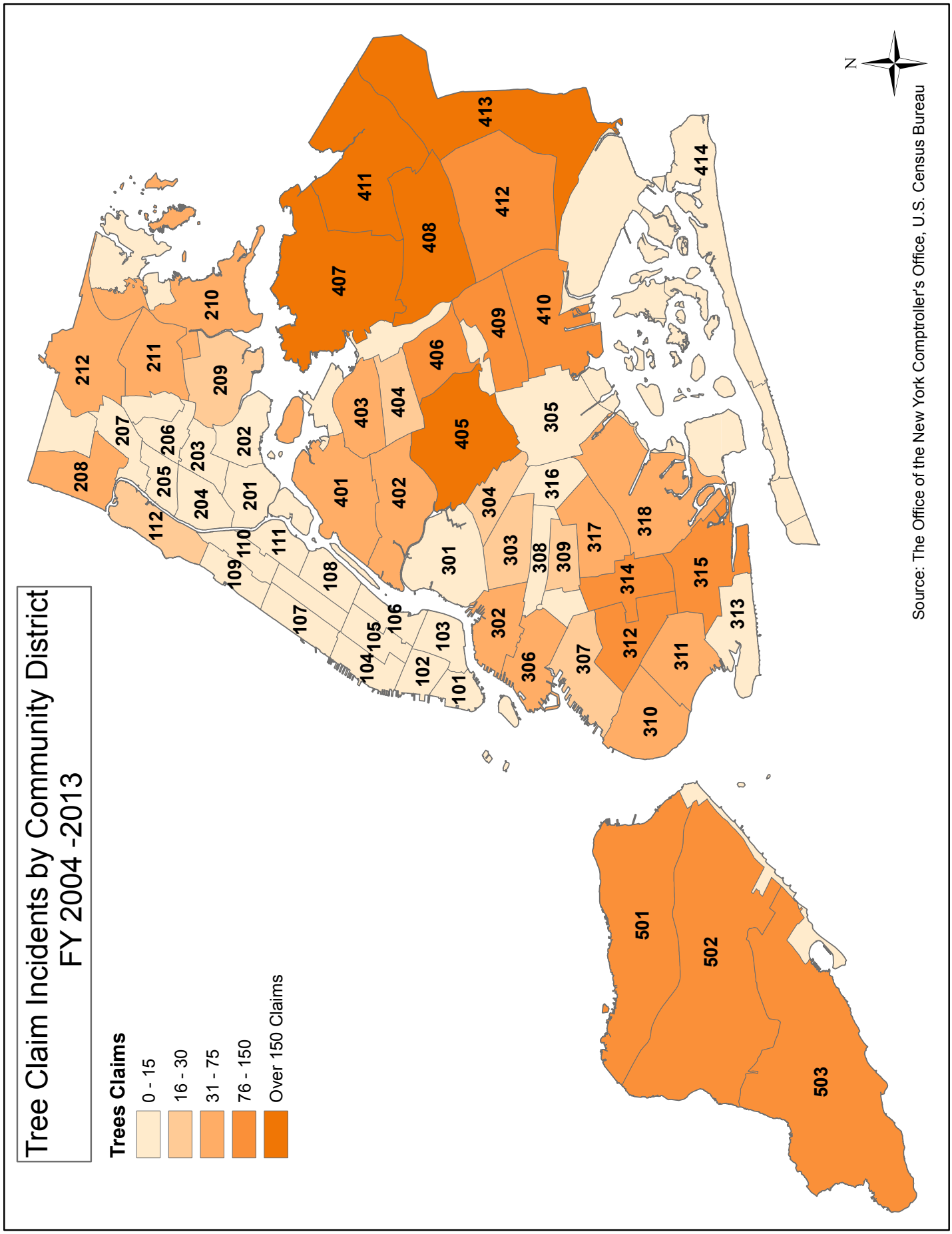
DPR should carefully assess this data and ensure that Borough Forestry Offices that are responsible for working with contractors on tree pruning share best practices that have been shown to improve the safety of our parks and, with it, limit potential liability to taxpayers.

In addition, New York should take steps to integrate the potential costs of claims into the cost/benefit analysis of planting new trees. In 2005, the Center for Urban Forest Research and the USDA Forest Service provided the City of Minneapolis with a detailed breakdown of the energy and environmental benefits of new trees, offset by the costs of planting, maintenance, and projected claims.[24] Indeed, as Million Trees NYC nears its goal, it is critical that the Parks Department not only takes steps to ensure that it commits the resources necessary to appropriately maintain our urban forest, but also plans ahead by taking into account projected claims costs that accompany future growth.

Chart IX

BOROUGH	NUMBER OF TREES WITH DBH OF 5 INCHES OR MORE RECORDED IN THE 2005-2006 CENSUS	PERCENTAGE OF TOTAL POPULATION OF TREES WITH DBH OF 5 INCHES OR MORE
Queens	204,825	41.8%
Brooklyn	120,750	24.6%
Bronx	50,321	10.2%
Manhattan	38,219	7.8%
Staten Island	76,302	15.6%
TOTAL	**490,417**	**100%**

Map II


Tree Claim Incidents by Community District
FY 2004 -2013
Trees Claims
0 - 15
16 - 30
31 - 75
76 - 150
Over 150 Claims
N
Source: The Office of the New York Comptroller's Office, U.S. Census Bureau
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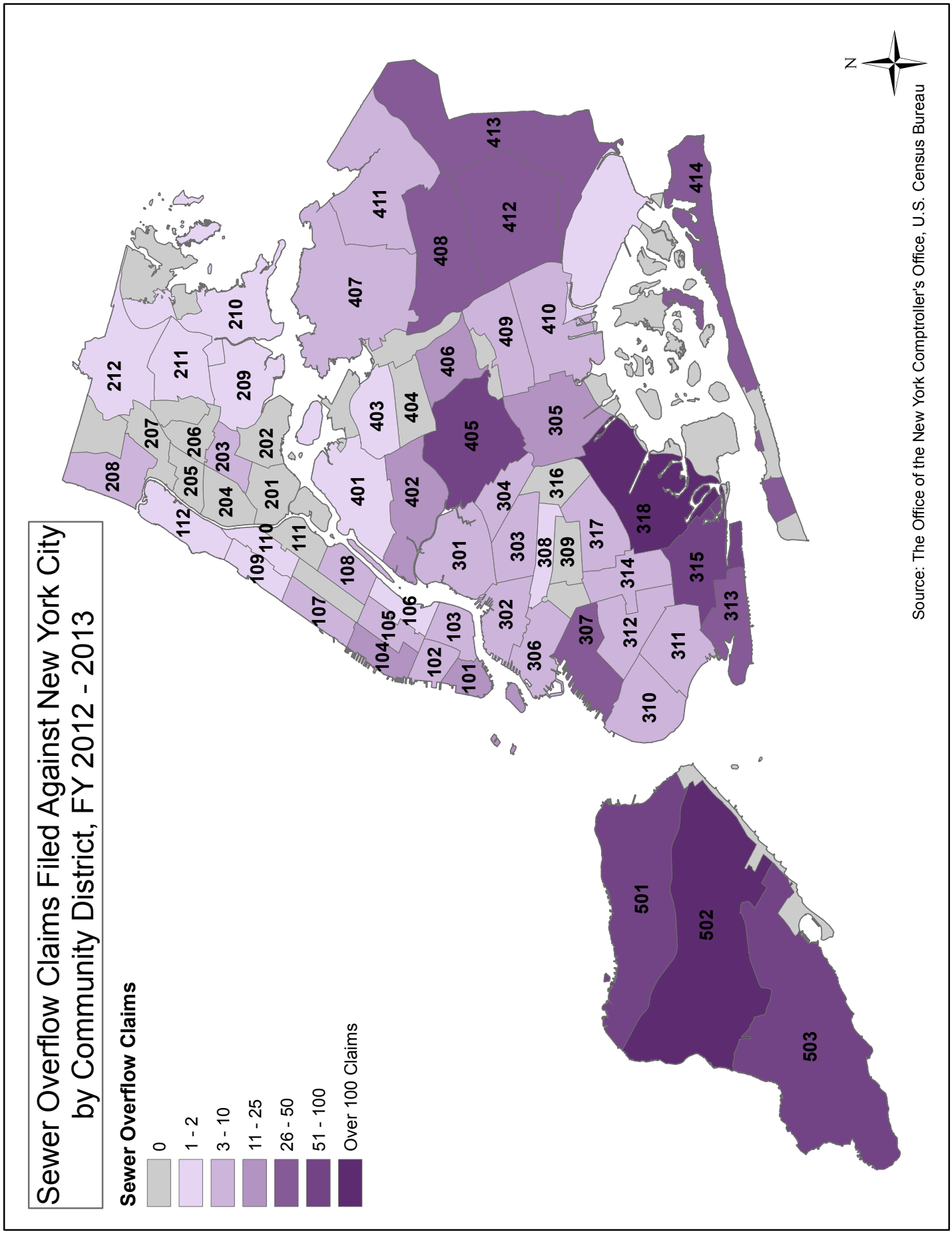
Map III


Sewer Overflow Claims Filed Against New York City by Community District, FY 2012 - 2013
Sewer Overflow Claims
0
1 - 2
3 - 10
11 - 25
26 - 50
51 - 100
Over 100 Claims
N
Source: The Office of the New York Comptroller's Office, U.S. Census Bureau

D. DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department of Environmental Protection (DEP) is responsible for operating the City's sewer system, which includes over 7,500 miles of sewer pipes, 135,000 sewer catch basins, and 14 wastewater treatment plants that treat 1.3 billion gallons of wastewater daily.[25]

In Fiscal Years 2012 – 2013, there were 1,296 sewer overflow complaints filed against DEP.[26] However, as detailed in Map III, these complaints were not evenly spread throughout the five boroughs.[27] Those experiencing the highest levels of complaints included:

- Community District 18 in Brooklyn, which includes Canarsie, Mill Basin, and Bergen Beach (among other neighborhoods), accounted for 28 percent (328) of the 1168 mappable claims[28]; and
- Community District 2 in Staten Island (which encompasses most neighborhoods in Mid Island) accounted for 12 percent of claims (141).

Chart X shows the top ten community districts for sewer overflow claims citywide (full data is located in the Appendix).

Chart X

CD NAME	CD NUMBER	SEWER CLAIMS
Brooklyn Community District 18	318	328
Staten Island Community District 2	502	141
Brooklyn Community District 15	315	84
Staten Island Community District 1	501	80
Staten Island Community District 3	503	70
Queens Community District 5	405	51
Queens Community District 14	414	44
Queens Community District 8	408	41
Queens Community District 13	413	36
Brooklyn Community District 13	313	33

When we take an even closer look at some of these "hot spots," it is clear that there are significant differences down to the *census tract* level. As shown in Map IV, even within Community District 18 in Brooklyn, there are certain "micro-neighborhoods" that have been the source of a disproportionate number of claims for sewer overflow.

As stated in DEP's 2012 "State of the Sewers Report," over the next ten years, the City is set to invest $2.4 billion in critical sewer infrastructure to "expand sewer capacity, build out sewers to parts of the City not connected to the system, and repair and replace sewers."[29]

The DEP should strongly consider evaluating claims data to identify streets and neighborhoods that are particularly susceptible to damaging flooding and sewer overflow. This will help the agency to prioritize between communities that are desperately in need of this capital work.

E. DEPARTMENT OF SANITATION

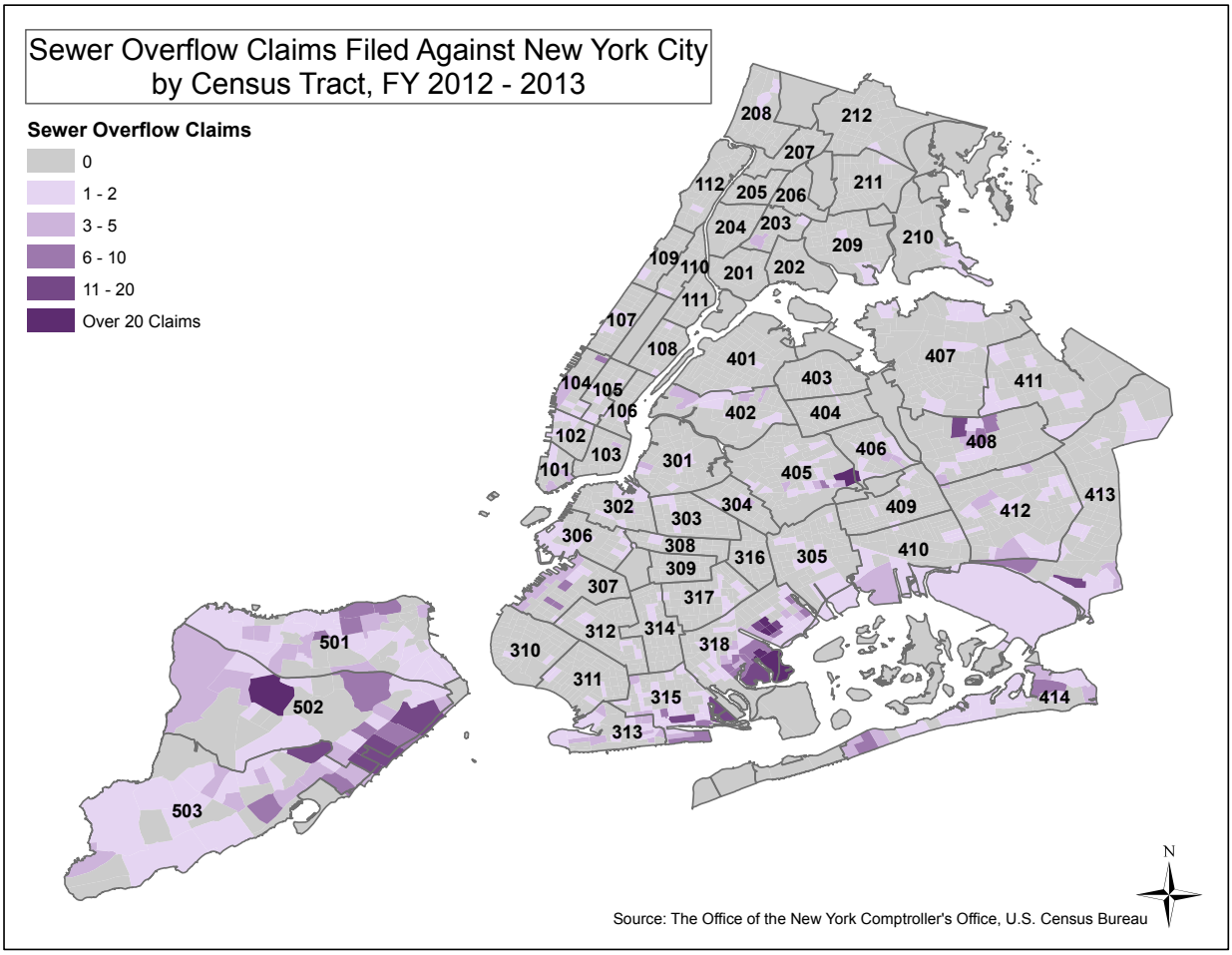
Unlike the sewer claims data, which shows significant neighborhood differences, an analysis of property damage claims filed against the Department of Sanitation (usually for vehicle collisions) shows that certain claim categories affect every corner of the five boroughs.

In fact, Sanitation is one of many agencies with a considerable fleet of city vehicles that lead to claims costs against taxpayers. In FY 2013, the cost for motor vehicle tort claims across City agencies was $91.2 million—one of the highest of any single claim type.

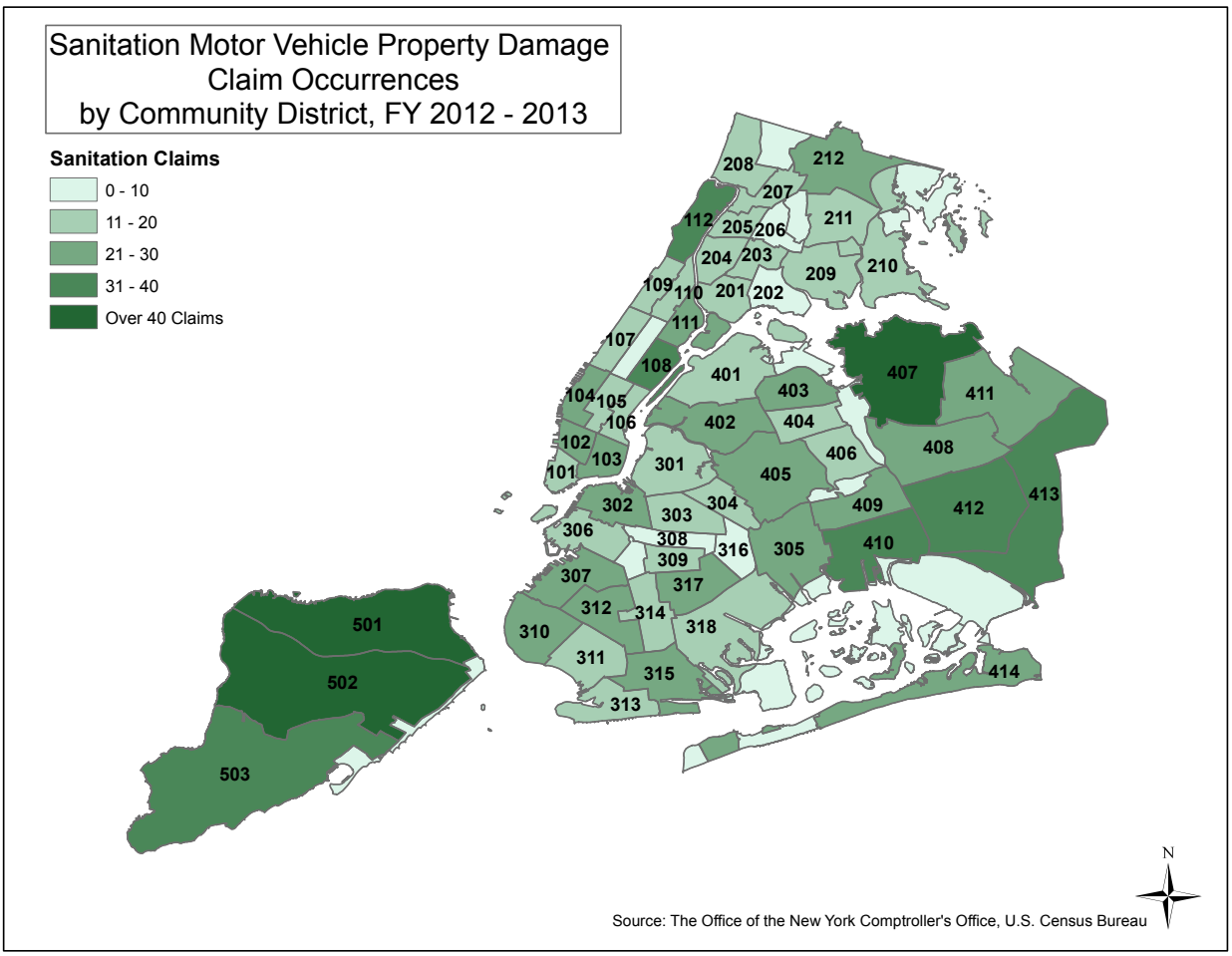
To that end, the City should consider a series of steps designed to reduce vehicle-based property damage and personal injury claims. These include:

- Identifying areas where large numbers of accidents occur to determine if roadway conditions can make our streets safer for all.
- Taking affirmative steps to ensure that all drivers and passengers in City vehicles use seat belts which will limit personal injury in the event of a crash.
- Exploring the potential for piloting new technologies designed to enhance oversight of fleet management and improve driver safety.

Map IV


Sewer Overflow Claims Filed Against New York City
by Census Tract, FY 2012 - 2013
Sewer Overflow Claims
0
1 - 2
3 - 5
6 - 10
11 - 20
Over 20 Claims
208
212
207
112
205
206
211
204
203
209
210
109
110
201
202
111
107
108
401
407
403
411
104
105
106
402
404
102
103
301
406
408
101
405
413
302
304
409
412
303
306
308
316
305
410
309
307
317
312
314
318
310
311
315
414
313
501
502
503
N
Source: The Office of the New York Comptroller's Office, U.S. Census Bureau

Map V


Sanitation Motor Vehicle Property Damage
Claim Occurrences
by Community District, FY 2012 - 2013
Sanitation Claims
0 - 10
11 - 20
21 - 30
31 - 40
Over 40 Claims
208
212
207
112
205
206
211
204
203
209
210
109
110
201
202
111
107
108
401
407
403
411
104
105
106
402
404
102
103
301
406
408
101
405
413
302
304
409
412
303
306
308
316
305
410
309
307
317
312
314
318
310
311
315
414
313
501
502
503
N
Source: The Office of the New York Comptroller's Office, U.S. Census Bureau

While vehicle claims are spread throughout the five boroughs, Map V highlights some potential trouble spots.[30] Vehicular accidents involving sanitation trucks are most common on Staten Island, with additional areas of concern stretching from East Queens to Borough Park. Sanitation should examine this data to develop a plan to address "hot spots" and improve safety for its workers and City residents.

IV. A DATA-DRIVEN SOLUTION: CLAIMSTAT

For legitimate tort claims, one of the City's effective strategies has been to achieve early settlement of claims or cases so as to avoid costly litigation. In FY 2012 alone, the Comptroller's Office estimates the City saved more than $20 million in future payouts as a result of early settlements.[31]

While swift settlement of meritorious cases will continue to be a key part of Comptroller Stringer's approach to claims management, it is clear that the City must take proactive, data-driven efforts to identify patterns of claims and enact reforms that reduce incidents that lead to claims being filed in the first place.

The Comptroller has therefore launched ClaimStat as an ongoing program that is modeled after efforts in other cities designed to systematically utilize data to better protect individuals from injury, improve service performance, and save millions of taxpayer dollars.[32]

New York City is not alone in needing to improve efforts to drive down municipal claims. As detailed in a series of recent reports by the Program on Local and Intergovernmental Studies at the Rockefeller College of Public Affairs and Policy at the University at Albany-SUNY, despite the fact that many cities and towns struggle to keep claims costs low, few engage in a rigorous data-driven effort to identify problematic patterns and potential solutions.[33]

Several cities across the country, from Los Angeles and Seattle to Portland and Chicago, have engaged in such analysis, and have found it particularly useful in identifying patterns involving police officers, units, and practices.[34]

For example, in Portland, a close review of excessive force cases involving head strikes revealed that the allegations were primarily made regarding officers on the night shift at one Portland police station. Following retraining and closer supervision, allegations of head strikes in that station declined. When the Department auditor observed a pattern of claims suggesting that officers did not understand their authority to enter a home without a warrant, the city attorney's office made a training video on this issue, and it "nearly disappeared as a problem."[35]

In Los Angeles, the special counsel found that two of the Los Angeles Sheriff's Department (LASD) 23 stations were responsible for approximately 60 percent of the police-misconduct litigation and sixty percent of the settlement dollars paid over a six-month period. After an investigation, the special counsel found that the station —one of the most active in the department—had "too many rookies, used inexperienced deputies as trainers, had too few senior administrators, and had too few African-American and Spanish-speaking deputies."[36] Two years later, following reforms, the special counsel found that the number of shootings at the station had dropped dramatically, even as the crime statistics and arrests remained stable.

The LASD's efforts appear to be having a positive effect. During the first five years of the LASD's special counsel's tenure, the county's litigation costs decreased by $30 million.

A data-driven approach to claims will allow many city agencies to take a proactive, rather than a reactive approach to claims management. For instance, the Department of Transportation has the responsibility to shape over 6,000 miles of streets and highways (including 789 bridges) and the design and placement of over a million street signs and 315,000 traffic lights.[37] Over the past decade, NYC DOT has been a national leader in working to transform our roads into "Complete Streets" that serve a variety of users—not only drivers, but pedestrians and cyclists alike.

This is not only smart transportation policy, it is also an intelligent way to drive down claims costs. As the Federal Highway Administration noted as early as 2006, "More and more lawsuits are being settled against government entities that adopt a do-nothing posture… With every passing year, the courts become less and less sympathetic to agencies that have not understood the message: bicyclists and pedestrians are intended users of the roadway."[38]

Indeed, as the Tri-State Transportation Campaign noted in its recently published "liability primers" for New York[39] and New Jersey,[40] not only do Complete Street designs help to prevent injuries, they also showcase a

"rational decision-making process" that courts have cited in protecting governments from potential liability.[41]

Given that governments can be sued as often for what *they do* as for what *they don't do*, ClaimStat will not only seek to provide information relevant to existing conditions, but will also provide feedback to agencies so that they can make informed policy decisions that reduce the risk of claims going forward.

Lastly, while ClaimStat is designed to target negative trends in settlements and claims, it will also allow the Comptroller's Office to highlight affirmative efforts made by City agencies to reduce claims and improve service provision.

As part of ClaimStat, Comptroller Stringer will announce ClaimStat Star awards to highlight best practices being employed throughout City government and promote the sharing of successful risk management initiatives across agencies.

V. CONCLUSION

In the coming months, Comptroller Stringer will continue to publish new information on claims in a timely fashion, highlighting spikes in claims activity while also noting success stories where agencies have taken concrete steps to reduce costs.

The bottom line is that rising judgments and claims costs against the City of New York are not inevitable. By taking a data-driven approach to claims management, ClaimStat will help City agencies to reduce costs to taxpayers and improve service delivery that millions of New Yorkers rely on every day.

VI. METHODOLOGY

The Comptroller's ClaimStat report reviewed data from as far back as FY95 to highlight the rising fiscal impact of judgment and settlement costs against the City, which have more than doubled over that span.

This initial report analyzed over 10,000 individual claims against five agencies—the New York City Police Department, Health & Hospitals Corporation, Department of Parks and Recreation, Department of Environmental Protection, and the Department of Sanitation—to drill down on patterns in claims activity that have emerged over the past decade. That information was then mapped when relevant.

In the case of the NYPD, the report showcases a precinct-by-precinct breakdown of over 5,300 "police action" claims filed against the City that occurred in calendar year 2013. This data was cross-referenced with crime data from CompStat to allow for an analysis of claims activity that is adjusted for varying crime rates between precincts.

Parks Department data concerning tree-related claims covers FY 04-13. This time period was chosen to allow for an examination before and after the FY 2007 launch of the MillionTreesNYC initiative—part of PlaNYC.

For HHC, the hospital by hospital breakdown covers FY 09 – 13. For the Department of Environmental Protection and Department of Sanitation, FY 12 – 13 was assessed.

Of those claims that were "mapped" (all aside from HHC, which were hospital-based), each claim was given a location based off of two claim occurrence fields and one borough field. However a number of claims within the database were either outside the five boroughs or had missing information. The breakdown of mappable claims is described in the endnotes.

All of the tables that break down information by a spatial element (such as police precinct or community district) are devolved only from the "mapped" claims and do not include any of the omitted points.

NUMBER OF TREE-RELATED INCIDENTS BY COMMUNITY DISTRICT (FY 2004 – 2013)

CD Name	CD Number	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Manhattan Community District 1	101	0	0	0	0	0	0	0	0	0	0
Manhattan Community District 2	102	1	1	0	2	1	1	0	1	1	0
Manhattan Community District 3	103	0	0	0	2	0	2	0	0	0	0
Manhattan Community District 4	104	0	0	0	0	0	1	2	2	0	0
Manhattan Community District 5	105	0	0	1	1	0	0	0	0	0	0
Manhattan Community District 6	106	1	1	0	1	1	1	0	0	2	1
Manhattan Community District 7	107	2	0	0	1	1	1	4	2	0	1
Manhattan Community District 8	108	2	0	1	0	1	1	5	2	0	3
Manhattan Community District 9	109	0	0	0	0	0	0	0	0	4	0
Manhattan Community District 10	110	0	0	0	0	2	0	0	0	1	1
Manhattan Community District 11	111	0	0	0	0	0	0	3	0	0	0
Manhattan Community District 12	112	1	3	0	0	3	0	5	1	1	3
Joint Interest Area - Central Park	164	0	0	0	0	0	0	1	0	0	0
Bronx Community District 1	201	0	0	0	0	0	0	0	0	1	0
Bronx Community District 2	202	0	0	0	0	0	1	0	0	0	0
Bronx Community District 3	203	0	1	1	0	0	0	0	0	1	0
Bronx Community District 4	204	0	2	0	0	3	1	1	1	3	0
Bronx Community District 5	205	0	0	0	1	1	1	0	0	0	0
Bronx Community District 6	206	1	0	0	1	1	0	0	1	1	0
Bronx Community District 7	207	0	1	1	1	1	1	2	3	2	2
Bronx Community District 8	208	0	2	3	3	3	6	4	5	6	1
Bronx Community District 9	209	2	1	0	2	1	4	2	1	4	2
Bronx Community District 10	210	2	3	3	7	6	6	9	3	3	4
Bronx Community District 11	211	1	8	4	1	6	5	9	6	7	1
Bronx Community District 12	212	4	1	4	3	4	9	11	3	4	4
Joint Interest Area - Bronx Park	227	0	0	0	0	0	0	0	0	1	0
Joint Interest Area - Pelham Bay Park	228	0	0	0	0	0	0	1	0	0	0
Brooklyn Community District 1	301	2	2	3	0	1	0	0	1	2	3
Brooklyn Community District 2	302	3	1	2	3	3	2	3	5	2	8
Brooklyn Community District 3	303	0	0	1	1	2	4	1	5	4	4
Brooklyn Community District 4	304	5	2	3	0	1	1	0	9	0	1
Brooklyn Community District 5	305	2	0	2	3	0	1	1	1	1	3
Brooklyn Community District 6	306	2	1	4	4	5	5	2	12	5	4
Brooklyn Community District 7	307	1	2	1	1	3	3	1	1	2	1

CD Name	CD Number	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Brooklyn Community District 8	308	1	0	0	0	0	1	2	6	2	0
Brooklyn Community District 9	309	4	3	3	1	4	2	2	3	2	5
Brooklyn Community District 10	310	5	1	1	5	9	5	8	11	7	8
Brooklyn Community District 11	311	1	3	3	8	6	2	10	4	7	3
Brooklyn Community District 12	312	5	7	7	6	29	3	14	4	14	6
Brooklyn Community District 13	313	1	0	1	1	1	1	2	1	2	0
Brooklyn Community District 14	314	12	13	6	4	14	13	13	9	8	11
Brooklyn Community District 15	315	4	4	9	10	14	8	22	3	6	6
Brooklyn Community District 16	316	2	0	1	1	1	0	1	1	1	1
Brooklyn Community District 17	317	1	4	1	3	5	5	6	3	9	10
Brooklyn Community District 18	318	8	6	6	4	5	10	12	5	6	9
Joint Interest Area - Prospect Park	355	0	0	0	0	0	0	1	0	0	0
Queens Community District 1	401	3	7	5	4	7	6	9	5	9	6
Queens Community District 2	402	4	5	3	8	10	1	5	3	3	2
Queens Community District 3	403	6	2	0	5	6	3	4	11	4	4
Queens Community District 4	404	6	2	2	2	0	4	5	9	0	0
Queens Community District 5	405	5	14	10	6	21	7	11	52	14	12
Queens Community District 6	406	9	4	8	4	10	5	10	69	2	8
Queens Community District 7	407	21	12	17	10	25	9	18	100	13	24
Queens Community District 8	408	12	11	13	21	15	11	16	35	9	13
Queens Community District 9	409	13	10	11	10	9	11	23	15	9	8
Queens Community District 10	410	8	5	7	11	15	7	7	6	15	8
Queens Community District 11	411	16	17	7	18	20	23	37	59	17	17
Queens Community District 12	412	13	10	10	7	9	11	14	8	13	19
Queens Community District 13	413	15	13	12	18	33	19	37	11	23	35
Queens Community District 14	414	3	0	0	1	0	1	3	1	1	1
Joint Interest Area - Flushing Meadows-Corona Park	481	0	0	0	0	0	2	0	1	0	0
Joint Interest Area - Forest Park	482	0	0	0	0	0	1	1	0	0	0
Staten Island Community District 1	501	7	6	6	12	14	5	11	16	11	18
Staten Island Community District 2	502	9	5	6	11	3	10	17	10	7	11
Staten Island Community District 3	503	8	7	3	6	13	3	20	10	12	10

PERSONAL INJURY POLICE ACTION CLAIMS BY PRECINCT, COMPARED TO CRIME COMPLAINTS (CY 2013)

Borough	Precinct	Claims	*Crime Complaints	Claims per 100 Crime Complaints
Manhattan South	1	22	1,416	2
Manhattan South	5	30	980	3
Manhattan South	6	29	1,703	2
Manhattan South	7	27	711	4
Manhattan South	9	21	1,424	1
Manhattan South	10	24	1,123	2
Manhattan South	13	16	2,152	1
Manhattan South	14	54	2,863	2
Manhattan South	17	8	1,024	1
Manhattan South	18	37	2,271	2
Manhattan North	19	16	2,064	1
Manhattan North	20	14	969	1
Central Park	22	3	104	3
Manhattan North	23	58	1,062	5
Manhattan North	24	18	1,022	2
Manhattan North	25	68	1,111	6
Manhattan North	26	17	689	2
Manhattan North	28	39	920	4
Manhattan North	30	54	832	6
Manhattan North	32	69	1,000	7
Manhattan North	33	53	927	6
Manhattan North	34	29	1,160	3
Bronx	40	214	1,902	11
Bronx	41	128	1,760	7
Bronx	42	155	1,335	12
Bronx	43	125	2,480	5
Bronx	44	289	2,191	13
Bronx	45	26	1,110	2
Bronx	46	186	1,681	11
Bronx	47	122	2,159	6
Bronx	48	114	1,768	6
Bronx	49	47	1,148	4
Bronx	50	32	959	3
Bronx	52	123	2,206	6

Borough	Precinct	Claims	*Crime Complaints	Claims per 100 Crime Complaints
Brooklyn South	60	28	1,421	2
Brooklyn South	61	23	1,666	1
Brooklyn South	62	18	1,405	1
Brooklyn South	63	27	1,296	2
Brooklyn South	66	12	1,191	1
Brooklyn South	67	67	2,383	3
Brooklyn South	68	13	947	1
Brooklyn South	69	24	1,186	2
Brooklyn South	70	41	1,832	2
Brooklyn South	71	44	1,637	3
Brooklyn South	72	27	1,206	2
Brooklyn North	73	123	2,094	6
Brooklyn North	75	159	3,902	4
Brooklyn South	76	23	637	4
Brooklyn North	77	83	1,792	5
Brooklyn South	78	13	1,009	1
Brooklyn North	79	97	1,738	6
Brooklyn North	81	83	1,495	6
Brooklyn North	83	29	1,903	2
Brooklyn North	84	22	1,074	2
Brooklyn North	88	19	1,093	2
Brooklyn North	90	30	1,669	2
Brooklyn North	94	14	1,043	1
Queens South	100	4	558	1
Queens South	101	44	852	5
Queens South	102	28	1,699	2
Queens South	103	60	1,811	3
Queens South	104	12	1,607	1
Queens South	105	20	1,917	1
Queens South	106	37	1,665	2
Queens South	107	17	1,298	1
Queens North	108	12	1,332	1
Queens North	109	16	2,146	1
Queens North	110	14	1,747	1
Queens North	111	8	909	1
Queens North	112	11	843	1

Borough	Precinct	Claims	*Crime Complaints	Claims per 100 Crime Complaints
Queens South	113	63	2,055	3
Queens North	114	39	1,885	2
Queens North	115	20	1,760	1
Staten Island	120	56	1,335	4
Staten Island	121	42	949	4
Staten Island	122	7	744	1
Staten Island	123	4	378	1

*Crime Statistics are based on the NYPD's published CompStat reports.

SEWER OVERFLOW CLAIMS BY COMMUNITY DISTRICT (FY 2012 – 2013)

Name	CD Number	Sewer Claims in CD
Manhattan Community District 1	101	11
Manhattan Community District 2	102	6
Manhattan Community District 3	103	5
Manhattan Community District 4	104	16
Manhattan Community District 5	105	7
Manhattan Community District 6	106	2
Manhattan Community District 7	107	3
Manhattan Community District 8	108	4
Manhattan Community District 9	109	1
Manhattan Community District 10	110	1
Manhattan Community District 11	111	0
Manhattan Community District 12	112	1
Bronx Community District 1	201	0
Bronx Community District 2	202	0
Bronx Community District 3	203	4
Bronx Community District 4	204	0
Bronx Community District 5	205	0
Bronx Community District 6	206	0
Bronx Community District 7	207	0
Bronx Community District 8	208	3
Bronx Community District 9	209	2
Bronx Community District 10	210	2
Bronx Community District 11	211	1
Bronx Community District 12	212	1
Brooklyn Community District 1	301	9
Brooklyn Community District 2	302	6
Brooklyn Community District 3	303	4
Brooklyn Community District 4	304	7
Brooklyn Community District 5	305	11
Brooklyn Community District 6	306	7

Name	CD Number	Sewer Claims in CD
Brooklyn Community District 7	307	30
Brooklyn Community District 8	308	1
Brooklyn Community District 9	309	0
Brooklyn Community District 10	310	3
Brooklyn Community District 11	311	4
Brooklyn Community District 12	312	5
Brooklyn Community District 13	313	33
Brooklyn Community District 14	314	3
Brooklyn Community District 15	315	84
Brooklyn Community District 16	316	0
Brooklyn Community District 17	317	7
Brooklyn Community District 18	318	328
Queens Community District 1	401	2
Queens Community District 2	402	13
Queens Community District 3	403	1
Queens Community District 4	404	0
Queens Community District 5	405	51
Queens Community District 6	406	14
Queens Community District 7	407	9
Queens Community District 8	408	41
Queens Community District 9	409	3
Queens Community District 10	410	10
Queens Community District 11	411	8
Queens Community District 12	412	32
Queens Community District 13	413	36
Queens Community District 14	414	44
Joint Interest Area - JFK International Airport	483	1
Staten Island Community District 1	501	80
Staten Island Community District 2	502	141
Staten Island Community District 3	503	70

SANITATION DEPARTMENT VEHICLE CLAIMS BY COMMUNITY DISTRICT (FY 2012 – 2013)

CD Name	CD Number	Sanitation Vehicle Claims
Manhattan Community District 1	101	11
Manhattan Community District 2	102	23
Manhattan Community District 3	103	24
Manhattan Community District 4	104	28
Manhattan Community District 5	105	12
Manhattan Community District 6	106	13
Manhattan Community District 7	107	20
Manhattan Community District 8	108	31
Manhattan Community District 9	109	20
Manhattan Community District 10	110	13
Manhattan Community District 11	111	21
Manhattan Community District 12	112	32
Joint Interest Area - Central Park	164	1
Bronx Community District 1	201	14
Bronx Community District 2	202	7
Bronx Community District 3	203	12
Bronx Community District 4	204	12
Bronx Community District 5	205	14
Bronx Community District 6	206	10
Bronx Community District 7	207	12
Bronx Community District 8	208	15
Bronx Community District 9	209	16
Bronx Community District 10	210	14
Bronx Community District 11	211	12
Bronx Community District 12	212	21
Brooklyn Community District 1	301	18
Brooklyn Community District 2	302	24
Brooklyn Community District 3	303	16
Brooklyn Community District 4	304	18
Brooklyn Community District 5	305	29
Brooklyn Community District 6	306	16
Brooklyn Community District 7	307	24

CD Name	CD Number	Sanitation Vehicle Claims
Brooklyn Community District 8	308	5
Brooklyn Community District 9	309	14
Brooklyn Community District 10	310	27
Brooklyn Community District 11	311	19
Brooklyn Community District 12	312	27
Brooklyn Community District 13	313	14
Brooklyn Community District 14	314	17
Brooklyn Community District 15	315	22
Brooklyn Community District 16	316	8
Brooklyn Community District 17	317	26
Brooklyn Community District 18	318	18
Queens Community District 1	401	12
Queens Community District 2	402	22
Queens Community District 3	403	21
Queens Community District 4	404	16
Queens Community District 5	405	23
Queens Community District 6	406	18
Queens Community District 7	407	47
Queens Community District 8	408	27
Queens Community District 9	409	26
Queens Community District 10	410	32
Queens Community District 11	411	26
Queens Community District 12	412	31
Queens Community District 13	413	32
Queens Community District 14	414	28
Joint Interest Area - Flushing Meadows-Corona Park	481	1
Joint Interest Area - Forest Park	482	3
Staten Island Community District 1	501	45
Staten Island Community District 2	502	49
Staten Island Community District 3	503	31

VIII. ACKNOWLEDGEMENTS

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IX. ENDNOTES

1 All figures in this report are based on the fiscal year with the exception of Police Department data that is used to compare crime statistics and claim statistics. The reason for this is that police crime data, as reported in weekly/annual CompStat reports are done on a calendar year basis.

2 Lisa Foderaro, "After Accidents and Lawsuits, More Money for Tree Care," New York Times (6 Jul. 2012), A18, available: http://www.nytimes.com/2012/07/06/nyregion/new-york-officials-increase-budget-for-care-of-street-trees.html.

3 NYC Charter Ch. 5 § 93(i); The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City. The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation. Under Section 50-e of the General Municipal Law, all tort claims against the City of New York are filed with the Comptroller's office.

4 This ClaimStat report focuses exclusively on tort claims. Later reports will take a closer look at non-tort claims.

5 http://comptroller.nyc.gov/wp-content/uploads/documents/BLA_2000_Annual_Report.pdf.

6 http://comptroller.nyc.gov/wp-content/uploads/documents/2013_Claims-Report.pdf, p. 17.

7 http://comptroller.nyc.gov/wp-content/uploads/documents/2013_Claims-Report.pdf, p. 5; For FY 2012, these three agencies plus the Department of Correction (DOCS), Department of Education (DOE), Department of Sanitation (DOS), Department of Parks and Recreation (Parks), Department of Environmental Protection (DEP), and the Fire Department (FDNY), collectively account for 91 percent of all filings and 96 percent of payouts.

8 In FY 2004 HHC paid $167,874,114 in med mal claims costs. In FY 2013, HHC paid $130,597156 for med mal.

9 http://comptroller.nyc.gov/wp-content/uploads/documents/2012_Claims_Report.pdf.

10 Of the 5343 claims, 3799 claims were mappable. Unmappable claims are either located outside New York City or did not contain sufficient information to appropriately pinpoint a location.

11 The number of claims filed in the most recent year is understood to be a better indicator of the effect of current reforms than the payout since medical malpractice claims typically require 5 to 10 years to resolve.

12 HHC data shows decreases in a variety of hospital-related risks in recent years, including infection (http://www.nyc.gov/html/hhc/infocus/html/preventinginfections/preventinginfections_cli.shtml) and ventilator-associated pneumonia (http://www.nyc.gov/html/hhc/infocus/html/preventinginfections/preventinginfections_vap.shtml).

13 While HHC faced 592 total claims in FY 2013, only 495 claims were at its 11 critical care hospitals. The remaining 97 claims were at other facilities or are unknown, as some locations are not specified on the notice of claim.

14 Settlement costs are frequently a lagging indicator, since it takes time for claims to be resolved through the courts.

15 http://www.milliontreesnyc.org/html/home/home.shtml.

16 http://www.nyc.gov/html/ops/downloads/pdf/mmr/0907_mmr.pdf.

17 http://www.nyc.gov/html/ops/downloads/pdf/mmr/0908_mmr.pdf.

18 http://www.nyc.gov/html/ops/downloads/pdf/mmr/0909_mmr.pdf.

19 http://www.nyc.gov/html/ops/downloads/pdf/mmr/0910_mmr.pdf.

20 http://www.nyc.gov/html/ops/downloads/pdf/mmr/0911_mmr.pdf.

21 http://www.nyc.gov/html/ops/downloads/pdf/mmr2013/2013_mmr.pdf.

22 Lisa Foderaro, "After Accidents and Lawsuits, More Money for Tree Care."

23 Of the 3602 claims, 3169 claims were mappable.

24 http://www.itreetools.org/resources/reports/Minneapolis%20Municipal%20Tree%20Resource%20Analysis.pdf.

25 http://www.nyc.gov/html/dep/pdf/reports/state-of-the-sewers-2013.pdf.

26 Judgment and settlement costs during this period amounted to $1.32 million.

27 Of the 1168 claims, 1213 claims were mappable. 11 additional points were on the border of community districts and were therefore not assigned to one or the other.

28 128 claims were not mappable because the claims were either outside the five boroughs or location information was either incomplete or described a general location such as "New York Harbor."

29 http://www.nyc.gov/html/dep/pdf/reports/state-of-the-sewers-2013.pdf.

30 Of the 1871 claims filed in FY 2012-2013, 1237 were mappable.

31 Comptroller Stringer has continued to settle meritorious cases when circumstances warrant. In February, the Comptroller settled a claim of a Brooklyn man who spent 22 years in prison for a murder he did not commit. The claim was settled early on to avoid the cost of litigation and to provide closure to the claimant. See: https://comptroller.nyc.gov/newsroom/comptroller-scott-m-stringer-statement-on-settlement-of-pre-litigation-claim-with-david-ranta/.

32 Joanna C. Schwartz, "What Police Learn From Lawsuits," 33 Cardozo L. Rev. 841 (Feb. 2012), available: http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/Joanna%20Schwartz_What%20Police%20Learn%20from%20Lawsuits.pdf.

33 http://www.albany.edu/polis/pdf/Municipal%20Lawsuit%20Report%20One.pdf; http://www.albany.edu/polis/Municipal%20Lawsuits%20Survey%20Report.pdf.

34 Four of the departments—Chicago, Seattle, Portland, and the LASD—also compare information in closed litigation files with information in closed internal affairs investigation files. Through this comparison, departments double-check the accuracy and completeness of their internal investigations.

35 Schwartz, "What Police Learn From Lawsuits."

36 Ibid.

37 http://www.nyc.gov/html/dot/html/about/commbio.shtml.

38 http://www.fhwa.dot.gov/publications/research/safety/pedbike/05085/chapt22.cfm.

39 http://tstc.org/reports/licsbx/liability-memo.pdf.

40 http://tstc.org/reports/NJ_Design_Immunity_Memo.pdf.

41 See generally *Friedman v. State*, 67 N.Y.2d 271, 284 (1986) (noting that once the State is made aware of a dangerous traffic condition it "must undertake reasonable study thereof with an eye toward alleviating the danger"). *Cataldo*, one of three cases consolidated in *Friedman*, involved a 1973 accident where a vehicle collided with a car that came across the median of the Tappan Zee Bridge from the opposite direction. The Court held that the Thruway Authority was protected by qualified immunity because the Authority completed two studies in 1962 and 1972 that determined that although median barriers would prevent crossover accidents, a median would also create bounce-back accidents that militated against installation.

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