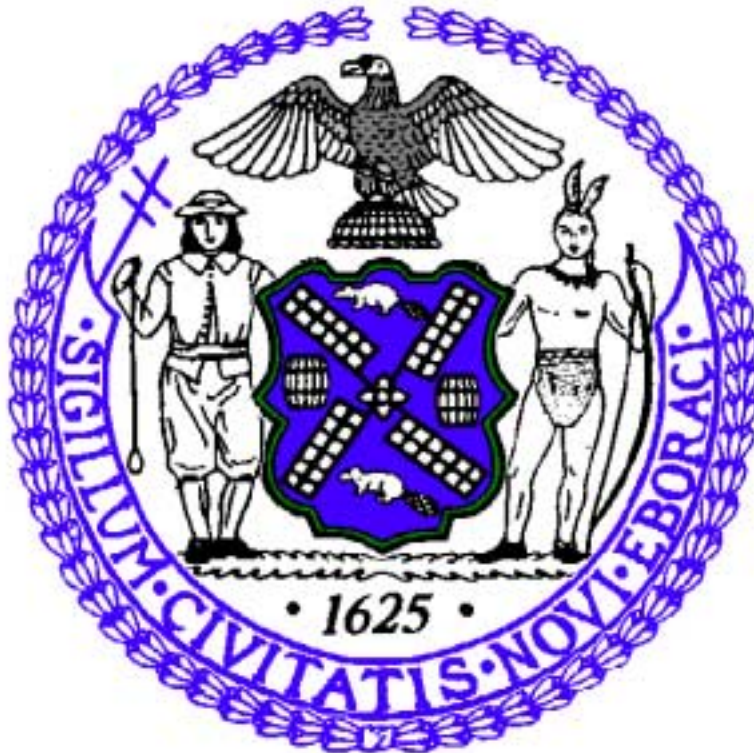


Annual Claims Report

Fiscal Year 2000



The New York City Office of The Comptroller

August 2001

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EXECUTIVE SUMMARY

FINDINGS

New York City has been paying substantially increasing amounts of money over the past decade to resolve claims brought against it, particularly claims of personal injury. Claims against the City arise out of the varied services provided by City agencies, and include trip and falls on sidewalks, children injured in school, police misconduct and brain damaged babies in municipal hospitals. The costs of these claims are cause for concern, and show the need for agency management to make efforts to contain claim costs. This report informs both the public and City management about the liabilities incurred by the City that arise out of agency operations. It reviews claim trends and costs in specific areas, and also reports on major efforts being made by the Comptroller to change the way claims are managed so that future costs can be contained.

For fiscal year 2000, the City of New York recorded \$459 million in settlements and judgments to resolve claims brought against it and its agencies for personal injury, property damage and contract claims.¹ This is the highest amount ever recorded for claims in a single year. It represents a 10.5 percent increase over the \$418 recorded for fiscal year 1999, and highlights the enormous and continuing increase in claim costs over the past several years. Eleven years ago, for fiscal year 1990, the City recorded \$176 million in claim costs; this increased to \$281 million by fiscal year 1994, and to \$307 million by fiscal year 1996. In fiscal year 2000, most of the increase in claim costs was a result of costs for personal injury claims, which jumped from \$364 million in fiscal year 1999 to \$406 in fiscal year 2000 an 11.5 percent increase.

The number of claims filed show a different trend. There were 26,336 new claims filed in fiscal year 2000, reflecting a continuing decrease in filings since fiscal year 1996, when 31,119 new claims were filed, the highest number ever recorded.

The Comptroller continues to propose that individual agencies be held accountable with respect to claims. Although the activities of City agencies result in claims, the agencies are not financially responsible for their costs. Claims are paid from a general fund, and with few exceptions claim payments are not reflected in agency budgets. This report shows the need for all City agencies to monitor their activities as well as their claim costs in an effort to reduce the incidence and severity of claims.

In order to build on the success of the Police Department's crime reduction initiatives, the Comptroller has proposed incorporating police action claim information into its successful COMPSTAT program. COMPSTAT uses current precinct crime statistics to hold precinct management accountable for controlling crime in their commands.

¹The Comptroller records claims data on OASIS, its Omnibus Automated Image Storage and Information System. For the purpose of this report, "settlement and judgment costs", "liabilities", "expenditures" or "amounts paid" will be used interchangeably with "recorded settlements and judgments".

By incorporating reported claims into COMPSTAT, precinct management will have the data needed to assign individual accountability for potential losses that may be incurred for certain police actions. Precinct management will be able to analyze reported preventable injuries or losses such as those related to police misconduct, workplace conditions, employment practices and motor vehicle operations. Each precinct command can be held accountable for addressing conditions leading to injury and loss in much the same way they are currently held accountable for the reduction of crime in their precincts. The Comptroller believes that this initiative will result in a decline in claims incidence just as the Police Department has experienced a drop in the City's crime rate.

Personal injury claims are the costliest types of claims. They accounted for \$406 million, or 88 percent, of the \$459 million paid in fiscal year 2000; in fiscal year 1999, they accounted for \$365 million, or 87 percent, of the \$381 million paid that year. Because of these enormous costs to the City, this report focuses primarily on a discussion of personal injury claims. Property damage claims cost \$9.6 million in fiscal year 2000 a 50% increase over last year. This increase is due in large part to a group of major water damage claims resolved this year. Law claims, also known as contract claims, generally involve disputes with City contractors, wage and salary disputes, and sidewalk assessments. They accounted for \$43 million in fiscal year 2000, down from \$47 million in fiscal year 1999. In each of the past 3 years, several multi-million dollar claims drove the annual costs upward from \$6.7 million in fiscal year 1997, which had previously been the highest annual amount paid for this claim type.

There were 16,714 new personal injury claims filed in fiscal year 2000, or over 63 percent of all claims filed that year. Medical malpractice claims comprised a relatively small percentage of personal injury claims filed (888, or slightly more than 5 percent), but were the costliest personal injury claims again that year. They accounted for \$151 million of the total of \$459 million paid.

Additional key findings of this report are as follows:

* Personal injury claims have been the most costly claim category for each of the ten years reviewed. They are the most frequently filed claim type and account for more than 87 percent of the claim costs for fiscal year 2000.

* The number of new claims filed decreased from 26,632 in fiscal year 1999 to 26,336 in fiscal year 2000. This decrease continues the trend of the previous three years of declining in claim filings. In fiscal year 1998 there was an 8 percent decline, a 3 percent decline in fiscal year 1999 and an additional 1.1 percent decline in fiscal year 2000. The decrease from the all time high of 31,119 new claims filed in fiscal year 1996 to fiscal year 2000 was 15.4 percent.

* In fiscal year 2000, settlements and judgments for personal injury claims, which on the average take place four to five years after an incident occurs, totaled \$406 million for 8,705 claims. The average settlement for personal injury cases was \$46,689 up from \$40,829 in fiscal year 1999, \$45,359 in fiscal year 1998 and \$42,873 in fiscal year 1997. The average judgment for personal injury cases was \$196,524 in fiscal year 2000, as compared to \$267,988 in fiscal year 1999, \$209,538 in fiscal year 1998 and \$207,718 in fiscal year 1997.

* Medical malpractice cases cost \$151 million in fiscal year 2000 for 291 cases, making these cases the highest-costing of all personal injury claim types for at least the thirteenth year in a row. The second highest-costing personal injury claim type in fiscal year 2000 was sidewalk claims, which cost over \$58 million, followed by auto accident claims, which cost \$46 million. In fiscal year 1999, the second highest-costing personal injury claim type was also sidewalk claims, which cost \$57 million, followed by police action claims, which cost \$41 million.

* Medical malpractice cases constituted only 3.3 percent of the total number of personal injury cases resolved, but more than 37 percent of the City's total personal injury liability.

* The three hospitals for which the City paid the highest total amounts for medical malpractice claims resolved in fiscal year 2000 were Bronx Municipal Hospital (\$32.9 million); Lincoln Hospital (\$30.2 million); and Kings County Hospital (\$14.9 million).

* Three hospitals had significant reductions in the number of claims filed. Claims filed against Bellevue Hospital dropped from 83 in fiscal year 1999 to 53 in fiscal year 2000. Claims filed against North Central Bronx Hospital fell from 60 in fiscal year 1999 to 23 in fiscal year 2000. Elmhurst Hospital's claims decreased from 89 in fiscal year 1999 to 70 in fiscal year 2000.

* Two hospitals had significant increases in the number of medical malpractice claims filed. Claims filed against Woodhull Hospital rose from 32 in fiscal year 1999 to 64 in fiscal year 2000. Claims filed against Bronx Municipal Hospital increased from 76 in fiscal year 1999 to 95 in fiscal year 2000.

* Three hospitals experienced significant changes in malpractice claim payouts from fiscal year 1999 to fiscal year 2000. In fiscal year 1999, Claim payouts for Bronx Municipal Hospital were \$11.4 million, which increased to \$32.9 million in fiscal year 2000. Claim payouts for Lincoln Hospital rose from \$12.3 million in fiscal year 1999 to \$30.2 million in fiscal year 2000. But at Metropolitan Hospital, the claim payout decreased from \$18.6 million in fiscal year 1999 to \$6.2 million in fiscal year 2000. It should be noted, however, that medical malpractice claims

often take five to ten years to resolve. Thus the number of claims filed is a better indicator of current hospital activity, since the amount paid out in any one year actually reflects incidents that occurred in prior years.

*In fiscal year 2000, there were 77 cases resolved for \$1 million or more each, seventeen more than in fiscal year 1999. These 77 cases cost the City \$174 million, or 38 percent of the total of \$459 million paid for all cases for the year. Over the previous ten years, the cost for over \$1 million cases ranged from \$85 million paid on 38 cases in fiscal year 1991 to \$150 million paid on 60 cases in fiscal year 1999. Thus, the \$174 million paid this year exceeds the amounts paid in any prior year.

*Of the 77 cases resolved for \$1 million or more, 43 were for medical malpractice, costing \$100 million, in fact 23 of these cases were among the top 30 starting at \$2 million. There were 10 law claims resolved in fiscal year 2000, for a total cost of \$31 million. Two of these law claims, which together cost \$15.5 million were the highest settlements and a third claim was the 4th highest at \$6.2 million. These three claims contributed to the third consecutive unnaturally high settlement amount for law claims between fiscal years 1998 through 2000.

* In the past ten fiscal years reviewed, sidewalk claims have been the most frequently filed personal injury claim. In fiscal year 2000, 3,975 sidewalk claims were filed against the City, a 4.5 percent decrease from the 4,141 sidewalk claims filed in the prior fiscal year. The number of sidewalk claims filed in fiscal year 1997 was essentially the same as in fiscal year 1998 -- 3,967.

* Personal injury motor vehicle accident claims cost \$46.8 million in fiscal year 2000, up from \$38 million in fiscal year 1999. In fiscal year 1998, \$32 million was expended for these cases. The number of new personal injury motor vehicle accident claims filed increased significantly, from 1,558 in fiscal year 1999 to 1,768 in fiscal year 2000.

* The cost of police action claims decreased 9.6 percent from \$41 million in fiscal year 1999, to \$37 million in fiscal year 2000. In fiscal year 1998 the City paid \$28 million for these cases. There were 4 police action claims resolved for \$1 million or more in fiscal year 2000, accounting for \$6 million of the total cost for the year; in fiscal year 1999, there were 9 such cases, costing \$16 million. There were 1,781 new police action claims filed in fiscal year 2000, a decrease of 25 percent from the 2,386 filed in fiscal year 1999.

* The cost of school claims increased almost 13 percent from the \$23 million paid in fiscal year 1998 to \$26 million paid in fiscal year 2000. There were only 2 school claims resolved for \$1 million or more in fiscal year 2000. The number of new school claims filed continued to decline from 1,898 in fiscal year 1999 to 1,895.

* There was an increase in the number of property damage claims filed in fiscal year 2000, from 8,313 to 8,670. The fiscal year 1999 number was the lowest of property damage claims filed in more than 12 years. The 11,597 claims filed in fiscal year 1997 represented the highest number of claims filed for a single year for at least the past ten years; however, 2,094 of those claims were filed as a result of two sewer overflow incidents, one in July and the other in October of 1996. Resolved property damage cases for fiscal year 2000 cost \$9.6 million, or 2.1 percent of the total \$459 million paid for the year.

* Law claim filings decreased by 6 percent from 1,013 in fiscal year 1999 to 952 in fiscal year 2000 to a new 12 year low. Resolved law claims cost \$43 million or 9.4 percent of the total liability for the year, down from last year's \$47 million or 11 percent of the total liability for the year. In fiscal year 1997, law claims cost \$10 million or 3 percent of the total claim liability for the year.

* The same two agencies accounted for the highest number of new claim filings in all of the ten years reviewed. These agencies are the Department of Transportation and the Police Department.

* Six agencies showed a decrease in the number of claims filed. The Department of Buildings saw the greatest decrease, 44 percent, followed by the Human Resources Administration with a 21 percent decrease, and the Department of Housing Preservation with a 15 percent decrease.

* Three agencies showed an increase in the number of claims filed. The Department of Sanitation's filings rose almost 24 percent, followed by the Board of Education which had a 1.5 percent increase, and the Department of Transportation with a .9 percent rise.

* Personal injury and property damage claim patterns were analyzed by borough, using the borough where the incident occurred. (Law claims were not included since they are not tracked by borough). The greatest number of personal injury claims arose in Brooklyn (4,990). The greatest number of property damage claims arose in Queens (2,217). This is the same pattern that was seen in fiscal year 1999.

Number of Claims Filed

| Borough | Personal Injury (PI) Claims | Property Damage (PD) Claims |
|-----------|--------------------------------|--------------------------------|
| Brooklyn | 4,990 | 2,135 |
| Bronx | 2,775 | 1,182 |
| Manhattan | 3,806 | 1,901 |
| Queens | 3,784 | 2,217 |
| Richmond | 574 | 556 |

* For claim settlements, the borough in which the largest dollar amount was paid to resolve personal injury claims was the Bronx, accounting for \$117 million. For property damage claims, Manhattan accounted for the highest cost, \$4.9 million. The Bronx has replaced Brooklyn which was the highest in fiscal year 1999.

Claims Resolved

| Borough | Number of PI Claims Resolved | Amount Paid for PI Claims (millions) | Number of PD Claims Resolved | Amount Paid for PD Claims (millions) |
|-----------|---------------------------------|--|---------------------------------|--|
| Brooklyn | 3,018 | \$114.7 | 843 | \$2.4 |
| Bronx | 1,367 | \$117.2 | 382 | \$.6 |
| Manhattan | 2,122 | \$101.4 | 714 | \$4.9 |
| Queens | 1,672 | \$57.1 | 749 | \$1.2 |
| Richmond | 344 | \$7.4 | 192 | \$.3 |

COMPTROLLER'S INITIATIVES TO REDUCE CLAIM COSTS

Reorganization of the Bureau of Law and Adjustment (BLA).

In our previous Annual Claims Reports, we discussed the joint project we undertook with the New York City Law Department and a consultant, Price Waterhouse, to review claim management processes in an effort to reduce the increasing costs for claims that have been paid by the City each year. The conclusions of this project showed clearly, based on statistical projections, that early settlement of meritorious claims could result in significant cost savings in future years. Based on the favorable claim cost projections for future years shown in this report, and our suggestions for making significant organization changes to improve efficiencies of claim investigations and settlements, we were able to obtain \$4.08 million in funding for fiscal year 1999 from the Office of Management and Budget. These funds were designated to support internal reorganizational efforts and to outsource certain claim investigation-related services.

During the last half of fiscal year 1999, BLA planned and implemented a major reorganization of personal injury staff. In addition to the specialized Schools Team, which was established in fiscal year 1998 to handle claims involving the Board of Education, two new Sidewalk Teams were formed by promoting many existing staff members to more senior positions, and a smaller, more specialized Personal Injury Team was established to handle other personal injury claims, such as motor vehicle accidents.

In conjunction with this reorganization, we started using private investigation firms to conduct sidewalk field investigations soon after a claim has been filed, giving us a prompt and complete review of the location of the claimed event. Statutory hearings, which had previously been conducted by Comptroller's staff, are now being conducted by law firms early in the investigative process. And we began to require medical examinations of many claimants, to verify their injuries and determine a prognosis for recovery, shortly after the claim was filed. Previously, medical examinations of claimants were not conducted until after litigation was commenced -- often more than a year after the injury occurred, so that the seriousness of the injury was difficult to evaluate. All of these efforts enabled our staff to review and evaluate claims at an earlier stage than before, and to recommend early settlement for meritorious claims if City liability is determined to exist. In addition, we have been in a much better position to identify fraudulent claims and to take appropriate steps to refer cases to the District Attorneys' offices.

Our reorganized teams have been in effect since the last quarter of fiscal year 1999, and our results have been impressive. Claim filings, such as sidewalk claims, are decreasing, and claims are being withdrawn at an unprecedented rate. Results in specific claim areas are discussed in more detail below.

School Team Settlements

The School Team was instituted in September 1997 as a pilot program. It was designed to coordinate closely with the Board of Education to evaluate claims for possible pre-litigation settlement. Since the beginning of the program through June 1, 2000, we have settled 953 school claims for a total of \$4.2 million, representing an average cost of \$4,451 per claim. These costs are significantly lower than they would have been had these claims proceeded to litigation, where the average cost was \$19,412. Based on this historical average cost per litigated claim against the Board of Education, we estimate that the 953 claims settled through this program would eventually have cost \$18.5 million, thus our savings for this project alone has been \$14.3 million to date.

Sidewalk Team Settlements

Due in part to the extremely successful results obtained by the School Team, in April 1999 we formed two specialized Sidewalk Teams to focus on these claims, which are the most frequently filed type of claim and represent almost one fourth of all personal injury claims filed. With the support of hearings, medical examinations and field investigations conducted by private firms, we were able to concentrate our efforts to resolve meritorious sidewalk claims on a pre-litigation basis. Since the beginning of this program through June 1, 2000, we settled 600 sidewalk claims prior to litigation, at an average cost of \$7,110, as compared to the average cost per litigated claim of \$18,554. This resulted in a savings of \$6.9 million. This initiative is expected to continue to yield significant future savings.

Computer Initiatives

DOT maps. The Department of Transportation maintains sets of prior notice maps, which detail specific locations and types of defects that have been formally reported as part of the requirements of the Prior Notice Law (Administrative Code of the City of New York, Title 7, Chapter 2, Section 7-201. See page 26 of this report for a discussion of this law). Sidewalk claims brought against the City of New York cannot succeed without showing "prior notice" In the past, these large, detailed "prior notice" maps were maintained at the Department of Transportation. When we received new sidewalk claims, we would then request that DOT search its map library to determine if prior notice had been filed. These maps have now been incorporated into the library of our optical imaging system and are thus readily available to any staff member who needs to check prior notice. The updates are incorporated into our system quarterly.

Computer Upgrade. We upgraded our optical imaging system to make it fully Y2K compliant and to improve its operational reliability.

Digital photographs. When photographing accident scenes, we previously utilized regular cameras, which had high processing costs: photographs needed to be developed,

identified with the appropriate claim number, and finally scanned into the optical system, with the originals being stored separately. We now use digital photographs that our vendors are required to supply with their field investigations. These photographs have a very high resolution, making them easier to analyze, and are easily entered into the system from a disk directly into the correct claim file.

Affirmative Claims

We have continued our successful efforts to collect monies from parties who have damaged City property, such as damages to a City vehicle in an automobile accident. In fiscal year 1999, we collected \$551,396. From the beginning of the program, September 1994 through June 1, 2000, we have collected a total of \$2.2 million.

Fraud Program

Our commitment to identify and fight claim fraud has continued. We have been closely reviewing personal injury claims for possible fraud and have been working with other City agencies to defend against fraudulent or exaggerated claims. Our new program to have hearings, medical examinations and field investigations conducted by private organizations has enabled us to investigate claims more thoroughly, and we have seen several indictments by law enforcement agencies of plaintiffs bringing fraudulent cases. As a result of this program, it appears that claims are being withdrawn, or not pursued, at a far greater rate than we had previously experienced. It also appears that this program is one of several factors that has led to a decrease in the number of sidewalk claims filed for fiscal year 2000. We estimate that this program has generated savings of \$722,500 for fiscal year 1999. Our total savings to date, since the program began in fiscal year 1996, are estimated at \$1.9 million.

Recovery Programs

The Comptroller's recovery programs have been operating successfully for several years. These programs generate income for the City by identifying successful claimants who owe money to City agencies such as the Parking Violations Bureau, the Office of Child Support, or the Human Resources Administration. The money owed to the City is then collected from the claim payment and returned to the City. Funds have been collected from claimants who owed the City for parking tickets, public assistance, Medicaid benefits and child support payments. As a result of this effort, a total of \$23.5 million has been collected from the program's inception in July 1994 to June 20, 2001. In fiscal year 2000, \$3.3 million was collected.

CLAIMS AGAINST THE CITY OF NEW YORK: STATISTICAL ANALYSIS

In fiscal year 2000, the City of New York paid \$459 million to resolve personal injury, property damage, and law claims.³ Also during fiscal year 2000, a total of 26,336 new claims were filed against the City.

The purpose of this report is to provide the public with information about claims and their costs, while furnishing City agencies with the information they need to review and possibly modify their operations to contain or decrease claims.

Section I presents an overview of the three categories of claims filed--personal injury, property damage, and law claims--and their costs for the ten-year period from fiscal year 1991 through fiscal year 2000.⁴

Section II presents trends in personal injury claims, which are analyzed by claim type and by agency. The report primarily emphasizes personal injury claims, since they account for the greatest portion of both the cost for resolved claims and new claims filed. In fiscal year 2000, the cost for personal injury claims was \$406 million, or more than 88.5 percent of the total cost for the year. The 16,714 new personal injury claims filed accounted for 63 percent of all new claims filed.

³Refer to Appendix A for a description of the claim types used by the Comptroller's Office.

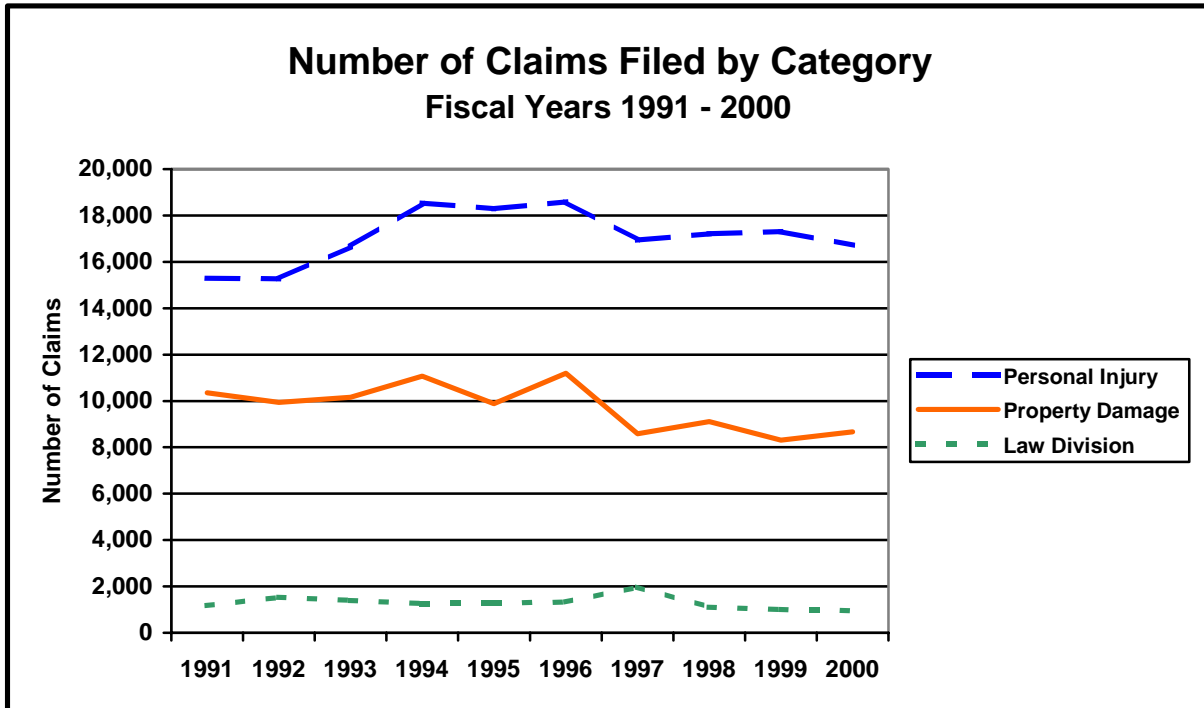
⁴Some settlements and judgments for fiscal year 2000, and even for prior years, may not yet be on OASIS because the necessary information has not been transmitted from the Law Department or the plaintiff's attorneys to the Comptroller's Office. Settlements are entered into the system based on the date the settlement is agreed upon, not the date of payment. Judgments are entered into the system based on the date of the final judgment; cases are not entered until appeals are finalized. In addition, we caution that data for years prior to 1988 is not reliable because it was derived from an earlier database, which could not be updated easily, and which had little or no edit criteria to capture inaccuracies.

SECTION 1. OVERVIEW OF CLAIMS FILED AND PAID

A. TRENDS IN FILING OF CLAIMS

In fiscal year 2000, 26,336 new claims were filed against the City. Chart 1 shows the trends in claim filings by the three major categories of claims (personal injury, property damage, and law claims). A description of the types of claims filed against the City appear as Appendix A.

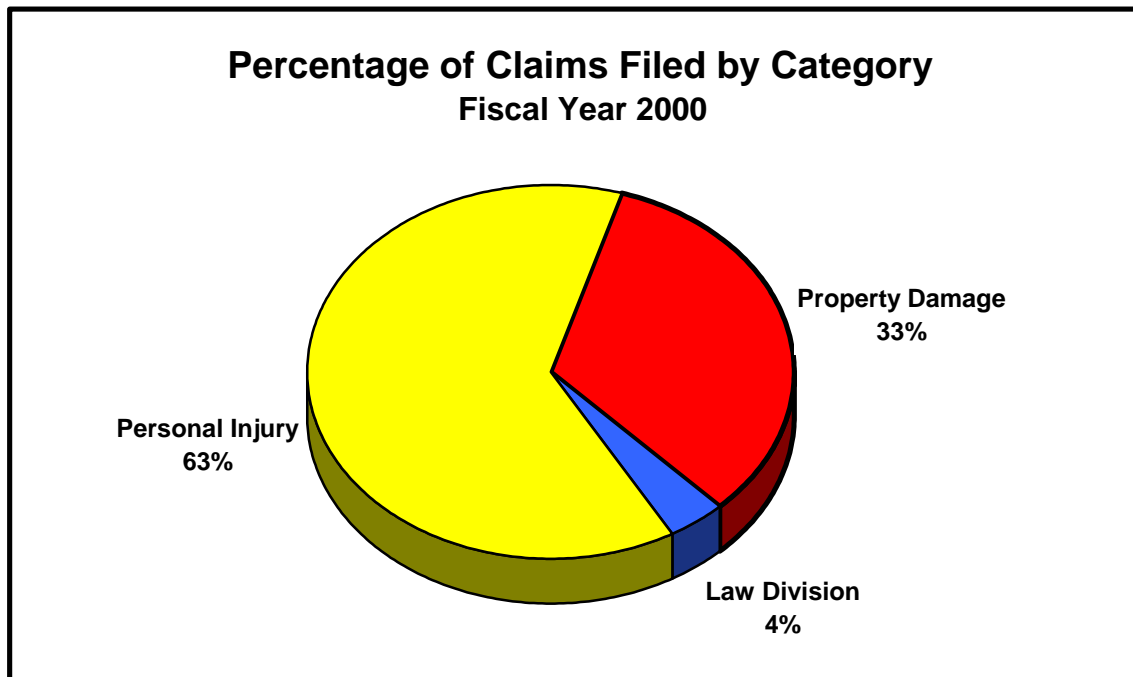
CHART 1



Personal Injury Claim Filings

Each year, personal injury claims are the claims most frequently filed and the most costly to resolve. In fiscal year 2000, 16,714 new personal injury claims were filed against the City. They accounted for 63 percent of all new claims filed during the year (see Chart 2 and Table 1 of Appendix D). The number of new personal injury claims filed in fiscal year 2000 represents a 3.4 percent decrease from the previous year's filings of 17,306.

CHART 2



Property Damage Claim Filings

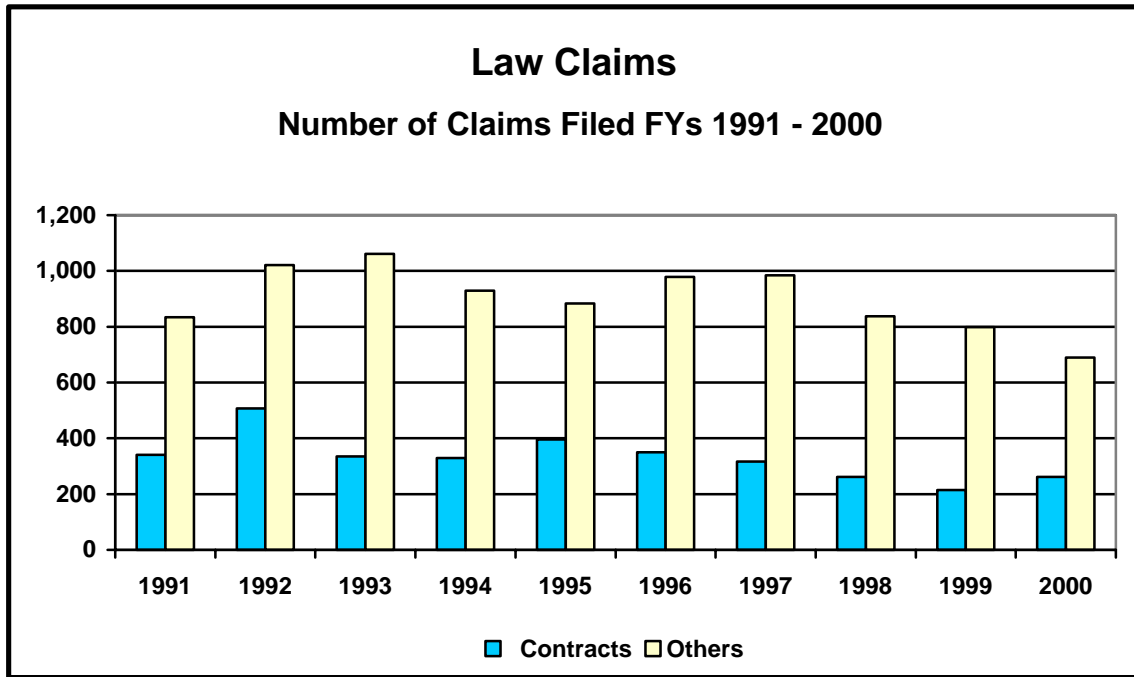
In fiscal year 2000, 8,670 new property damage claims were filed, a 4.3 percent increase from the 8,313 property damage claims filed in fiscal year 1999 and the second lowest number of property damage claims filed in the past ten years. After 2 years of significant decreases in property damage claims filed we have an increase. In fiscal year 1997, 11,597 claims were filed - the highest number in the past ten years -- although 2,094 of those were due to two major sewer overflow incidents. Property damage claims accounted for 33 percent of all new claims filed in fiscal year 2000.

Law Claim Filings

Law claims arise primarily from disputes concerning implied or actual contracts between City agencies and their contractors or employees. Claims from contractors, most of which are construction disputes, involve issues such as quality and scope of work. Employee claims stem from salary and other compensation-related matters. Law claims also include so-called "illegal but equitable" claims as well as claims for refunds of money erroneously paid to the City. "Illegal but equitable" claims refer to claims filed by City vendors which allege that contract work was done or supplies delivered but appropriate contract or approval had not been obtained.

Law claim filings decreased slightly, from 1,013 in fiscal year 1999 to 952 in fiscal year 2000. They accounted for 4 percent of all new claims filed in fiscal year 2000 (see Chart 3).

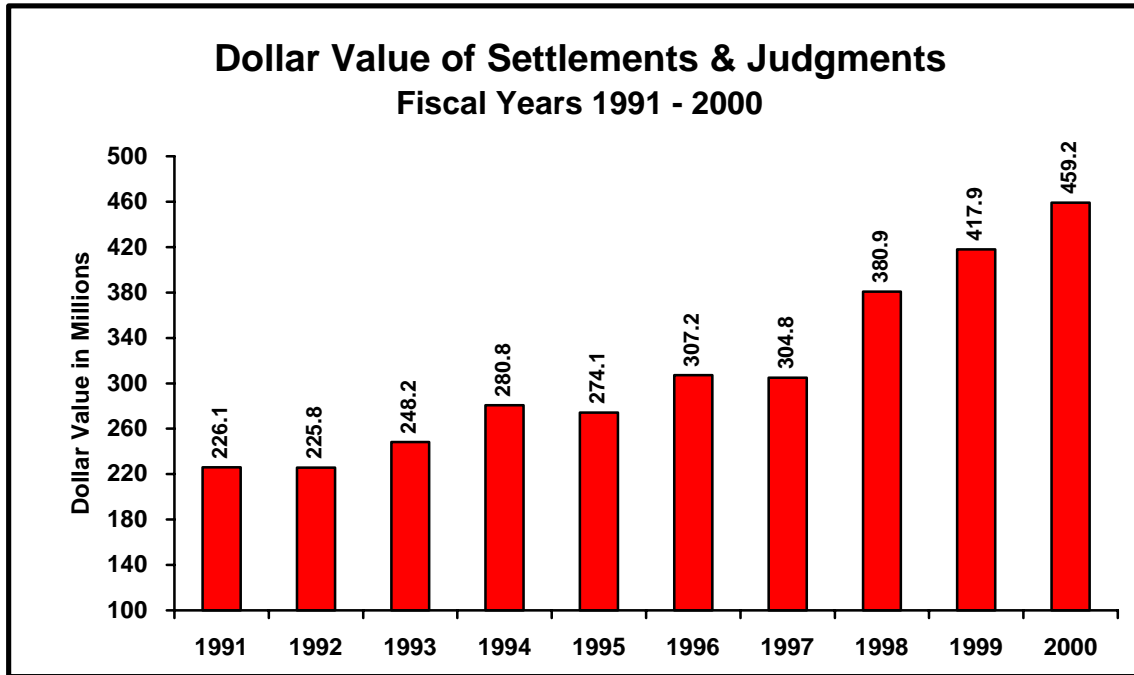
CHART 3



B. TRENDS IN SETTLEMENTS AND JUDGMENTS

The City's claims liability for recorded settlements and judgments in fiscal year 2000 was \$459 million.

CHART 4



Personal Injury Settlements and Judgments

Settlements and judgments for personal injury claims resolved in fiscal year 2000 totaled \$406 million for 8,705 claims, as compared to \$365 million for 7,963 claims in 1999. Personal injury claims accounted for 88.5 percent of the total expended in fiscal year 2000, up from 87 percent in fiscal year 1999.

Costs for settlements are, in total, a much higher figure than costs for judgments, since the vast majority of cases are resolved either before or during trial and thus do not proceed to judgment. Average settlement and judgment costs are affected by several factors, a major one being cases that are resolved for \$1 million or more each. But averages do permit some general comparisons. For example, the average settlement for personal injury cases was \$44,291 per settlement in fiscal year 2000, up from \$40,829 in fiscal year 1999. The average judgment for personal injury cases was \$197,498 in fiscal year 2000, down from \$500,267 in fiscal year 1999.

Medical malpractice cases cost \$151 million (291 dispositions) in fiscal year 2000, making this the costliest personal injury claim type for at least the tenth year in a row. This figure increased from the \$118 million expended in fiscal year 1999.

The second highest costing personal injury claim category in fiscal year 2000 was sidewalk claims (\$58 million), followed by motor vehicle claims (\$46 million) and police action claims (\$37 million). In fiscal year 1999 police action claims were the second costliest claim type and motor vehicle claims were the third.

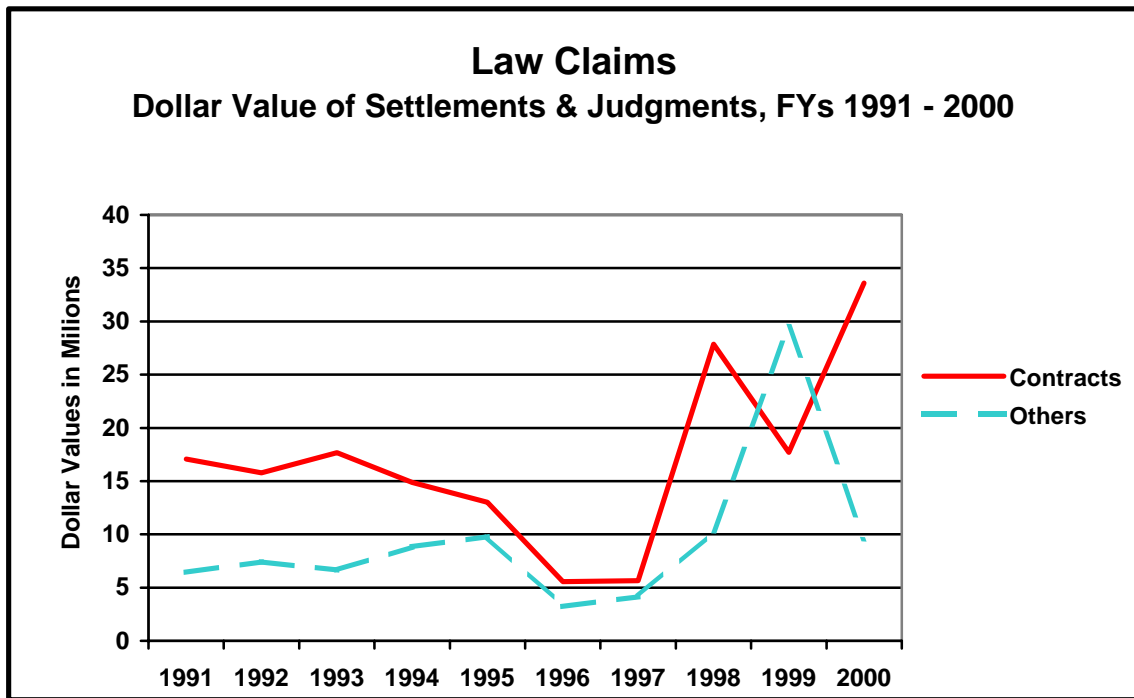
Property Damage Settlements and Judgments

Property damage settlements and judgments are always small in comparison to total settlements and judgments. In fiscal year 2000, resolved property damage cases cost almost \$10 million or 2.1 percent of the total \$459 million paid for the year. In fiscal year 1999, property damage claims settled for \$5.9 million, or 1.4 percent of that year's cost.

Law Claim Settlements and Judgments

In fiscal year 2000, the total cost of settlements and judgments for law claims was \$43 million down from \$47 million in 1998. The \$43 million represents 9.4 per cent of the total claims liability for the year. In 2000, ten settlements and judgments for more than \$1 million each accounted for more than \$31 million of the \$43 million paid, as compared to fiscal year 1999, when 8 settlements and judgments over \$1 million each accounted for \$33 million of the \$47 million paid. Law claims represented 11 percent of the total claims liability for fiscal year 1999 as compared to 3 percent of the total claims liability for fiscal year 1996 and 1997 (see Chart 5).

CHART 5



C. SETTLEMENTS AND JUDGMENTS OF \$1 MILLION OR MORE

In fiscal year 2000, 77 cases were resolved for \$1 million or more each. Combined, these 77 cases cost the City \$174 million and accounted for 38 percent of the \$459 million total paid for the year. In fiscal year 1999, 60 such cases were resolved for \$150 million (see Charts 6A and 6B). The average amount spent to resolve these claims was close to \$2.3 million. The following are the summarized allegations of the ten largest claims (costing \$3.9 million or more) that were resolved in fiscal year 2000.⁵ Note that judgments referred to in this report are final judgments that are no longer subject to reduction on appeal.

1. In 1992, claimant contractor alleged damages due to breach of contract. *Settlement \$8 million.*
2. In 1999, claimant contractor alleged damages due to breach of contract and wrongful termination of contract. *Settlement \$7.5 million.*
3. In 1989, claimant alleged medical malpractice involving labor and delivery resulting in brain damage, quadriplegia and cerebral palsy. *Settlement \$7.45 million.*
4. In 1994, claimant contractor alleged failure to disclose conditions and change orders resulting in additional costs. *Settlement \$6.2 million.*
5. In 1991, claimant alleged negligent obstetrical care and medical malpractice involving delivery of dead fetus complicated by high blood pressure resulting in permanent coma. *Judgment \$5.2 million.*
6. In 1992, claimant alleged improper treatment of child's condition resulting in liver failure. *Settlement \$4.28 million.*
7. In 1985, claimant alleged negligent obstetrical care and medical malpractice involving cesarean delivery of infant. *Judgment \$4.21 million.*
8. In 1985, claimant alleged negligent obstetrical care resulting in brain damage and cerebral palsy. *Settlement \$4 million.*
9. In 1994, claimant alleged negligent pre-natal and obstetrical care resulting in permanent brain damage. *Settlement \$3.9 million.*
10. In 1995, claimant alleged medical malpractice, misdiagnosis and failure to properly monitor resulting in brain damage, paralysis, deafness and blindness. *Settlement \$3.9 million.*

⁵Descriptions of all 60 cases resolved for \$1 million or more, including these 10, are contained in Appendix C.

CHART 6A

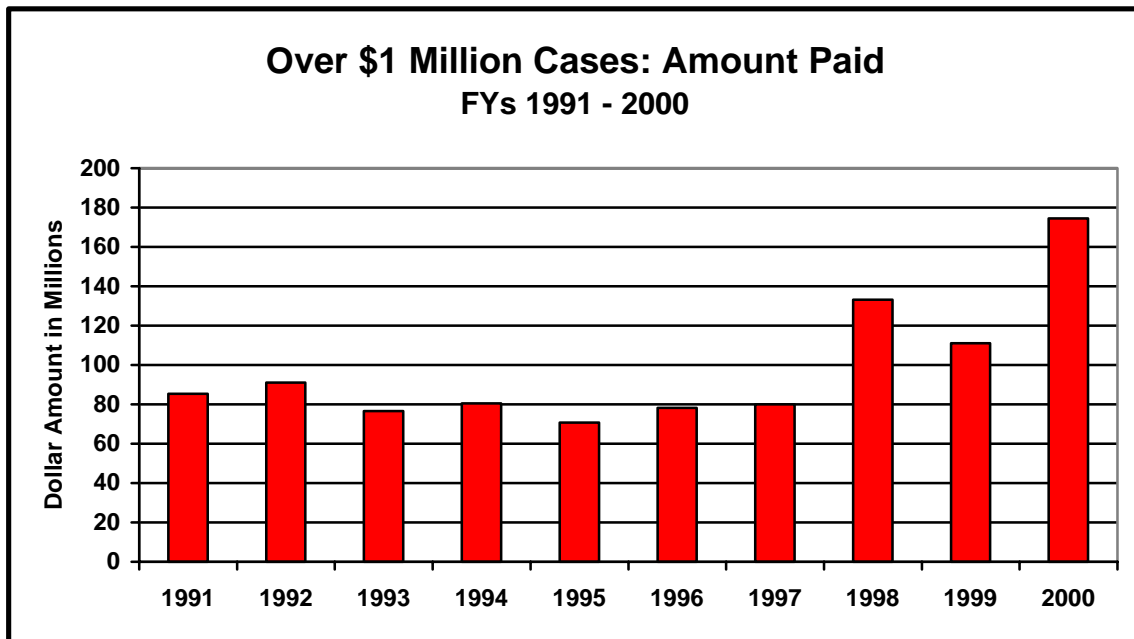
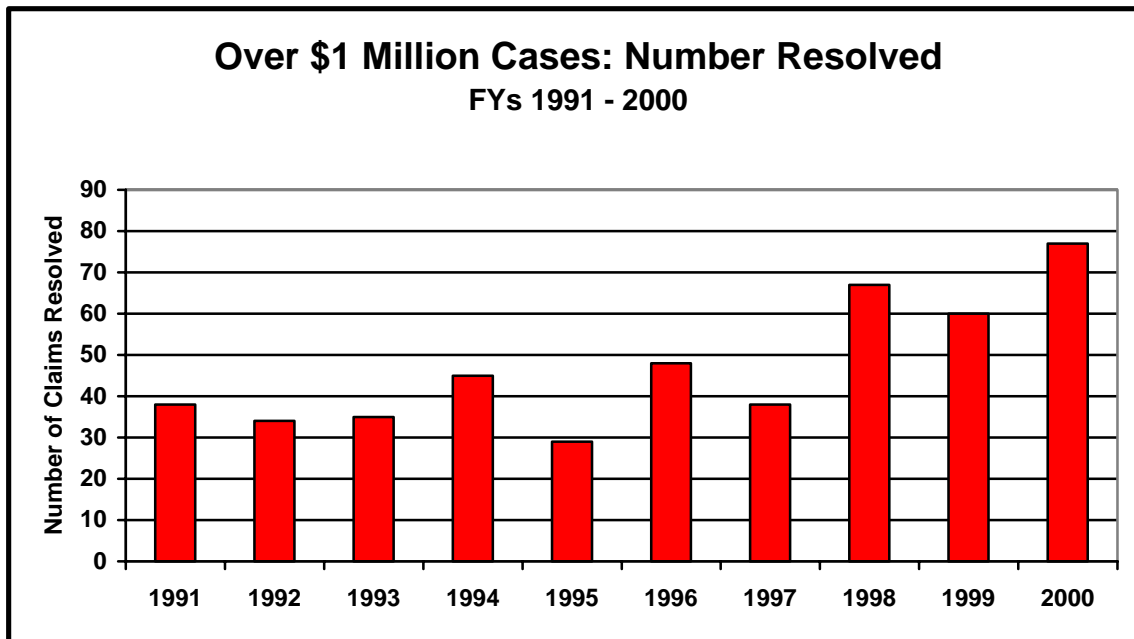


CHART 6B



SECTION II. ANALYSIS OF CLAIMS AGAINST THE CITY

A. DISCUSSION OF PERSONAL INJURY CLAIMS BY CLAIM TYPE

The cost of settlements and judgments for personal injury cases in fiscal year 2000 was \$406 million. The number of resolved personal injury cases was 8,705.

In this section we analyze the six most costly types of personal injury claims (medical malpractice, sidewalk, motor vehicle accidents, police action, school claims and city property) by their dollar order of magnitude in fiscal year 2000. We continue to track the city property claims since they replaced school claims as the fifth costliest personal injury claim type in fiscal year 1998. This year they have moved below roadway claims as the seventh most costly claim type. (Chart 7 tracks the dollar value of settlements and judgments by claim type over the ten-year period from fiscal year 1991 to fiscal year 2000; Chart 8 shows the percentage of total recorded personal injury expenditures in each of these major claim types for fiscal year 2000; Chart 9 tracks claim filings by claim type over the same period. Also see Tables 1 and 3 of Appendix D). See the end of this section for a discussion of other claim types that showed increases or decreases in claim filings and cost.

CHART 7

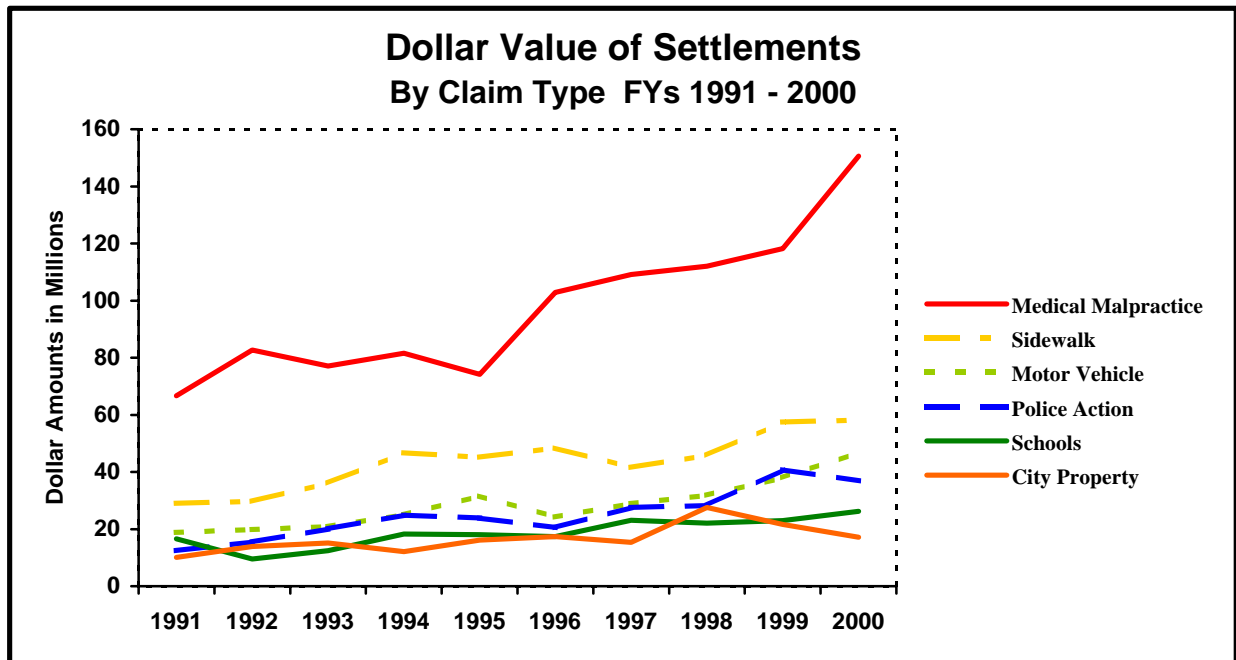


CHART 8

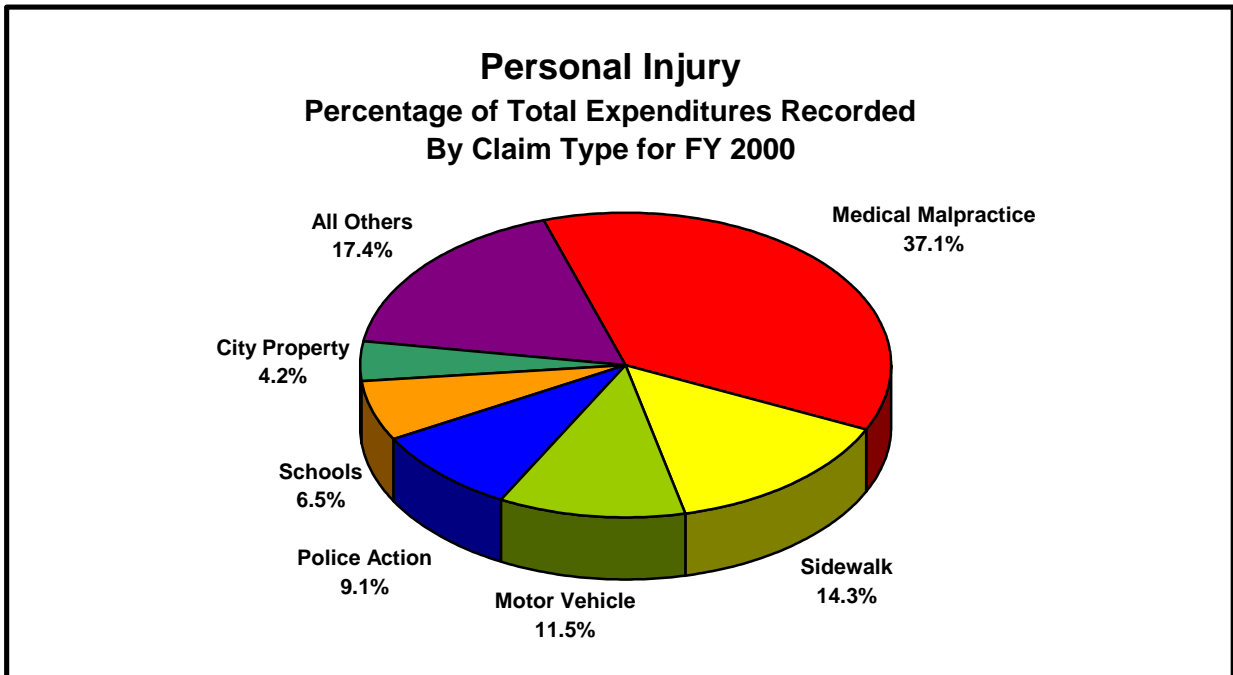
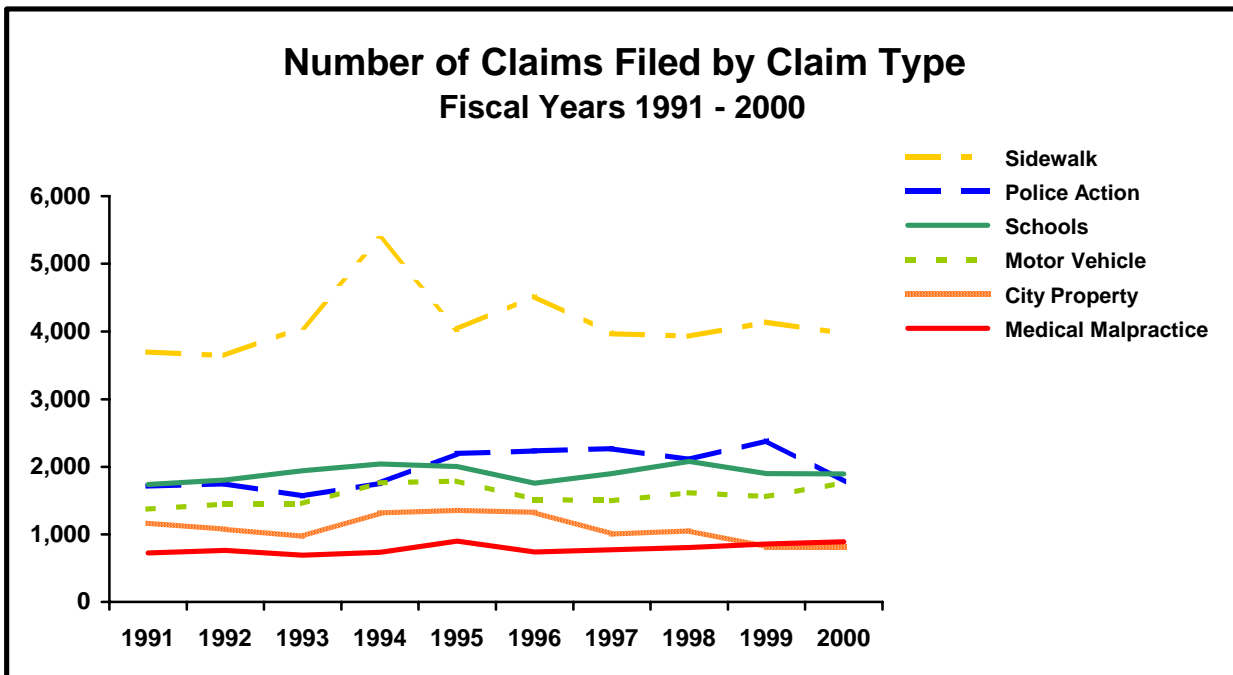


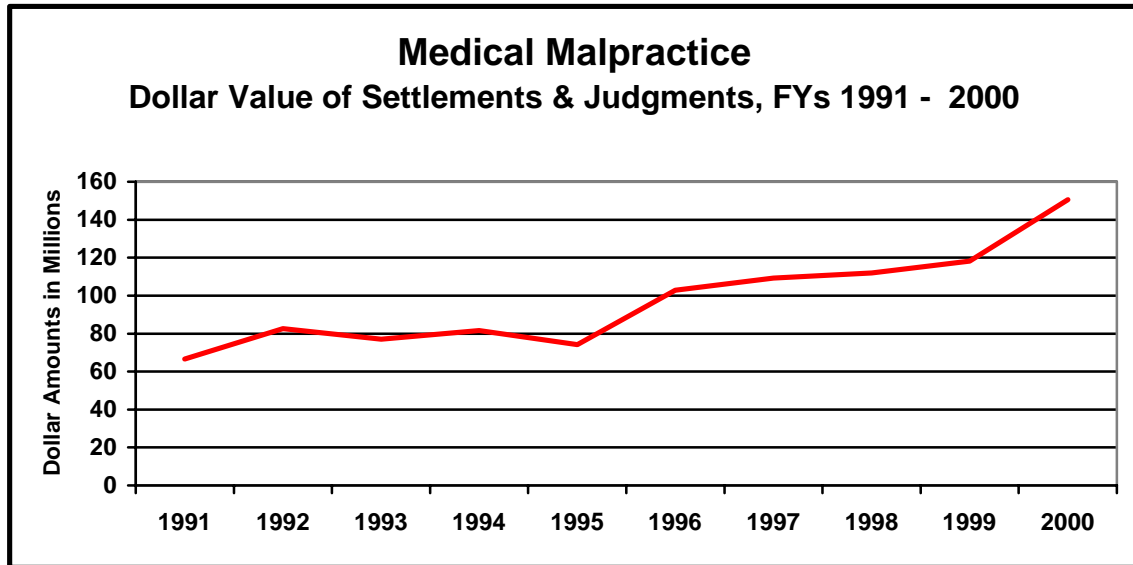
CHART 9



1. Medical Malpractice Claims

Medical malpractice claims have been the most costly claim type for each of the past ten fiscal years. In fiscal year 2000, the City was liable for \$151 million in settlements and judgments for 291 medical malpractice cases. This was, for the fifth consecutive year, the highest dollar amount ever recorded for a single claim type (see Charts 7 and 10).

CHART 10



In fiscal year 2000, the 291 medical malpractice cases settled constituted less than 2.5 percent of the total number of personal injury cases resolved, but 37 percent of the City's total personal injury liability (see Chart 8).

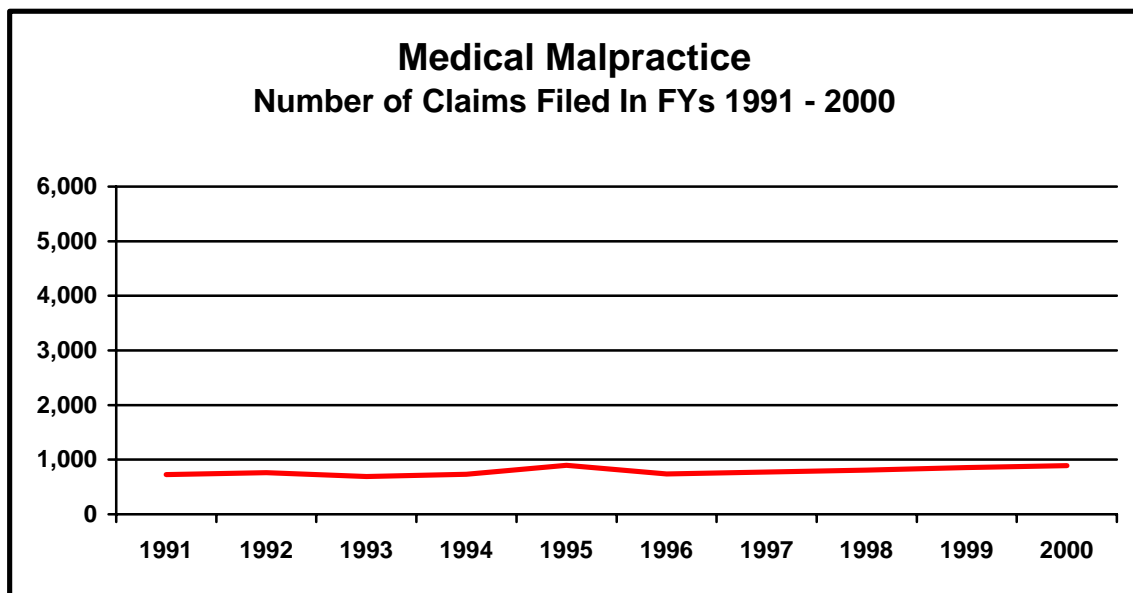
While the total number of medical malpractice cases resolved is small relative to other claim categories, the number of medical malpractice cases resolved for \$1 million or more is significant. In fiscal year 2000, 43 of the 77 cases resolved for \$1 million or more were medical malpractice cases. In comparison, in fiscal year 1999, 29 of the 60 cases resolved for \$1 million or more were medical malpractice cases. See Appendix C for a brief description of all cases costing \$1 million or more.

An analysis of the 43 medical malpractice cases resolved for over \$1 million shows that 23 of these cases, which cost a total of \$66 million, involved allegations of inadequate or improper obstetrical or gynecological care. Eleven of these 23 cases involved brain-damaged babies. The remaining 23 cases fell into two general categories: 5 involved neonatal/pediatric care and were resolved for a total of \$8.3 million; and 18 involved failures to diagnose and/or treat various conditions, resolved for a total of \$28 million. Thus the total cost of all over \$1 million medical malpractice cases resolved against HHC in fiscal year 2000 was \$103.2 million.

An analysis of costs per hospital for the over \$1 million cases resolved in fiscal year 2000 shows that 4 hospitals (Harlem, Metropolitan, Woodhull and Coney Island) had one or two such cases, with the total cost ranging from \$1.4 to \$5.3 million. Elmhurst, Queens and North Central Bronx Hospitals each had three such cases, costing a total of \$4.5, \$8.7 and \$4.9 million, respectively. Kings County Hospital had 4 cases costing \$9.6 million, Bellevue had 5 cases costing \$8.9 million, Lincoln Hospital had 9 cases costing a total of \$23.8 million and Bronx Municipal Hospital had 10 cases costing \$27.6 million.

The number of new medical malpractice claims filed increased 3.6 percent, from 857 in fiscal year 1999 to 888 in fiscal year 2000. However, as seen in Chart 11, the number of new claims filed has been generally consistent over the years. Medical malpractice claims accounted for over 5 percent of the total number of personal injury claims filed in fiscal year 2000 (see Chart 9). The Health and Hospitals Corporation (HHC) operates 11 acute care facilities in New York City, as well as long-term care facilities and neighborhood family care centers.⁶ Most medical malpractice claims arise in the acute care facilities.

CHART 11



⁶The 11 acute care facilities are Bellevue, Metropolitan, and Harlem Hospitals in Manhattan; Bronx Municipal, Lincoln, and North Central Bronx in the Bronx; Queens and Elmhurst in Queens; and Woodhull, Coney Island, and Kings County Hospitals in Brooklyn.

The total number of medical malpractice claims filed against HHC acute care hospitals was 917 in fiscal year 2000, as compared with 668 in fiscal year 1999. Table A shows the number of medical malpractice claims filed per hospital, the number resolved, and the dollar amounts paid for the last two fiscal years. There were some significant changes in payouts from one year to another at Bronx Municipal and Lincoln hospitals costs increased by nearly 200 percent contributing to 27 percent increase overall. Costs at Coney Island and Metropolitan decreased. (Note that the columns for claims filed and amounts paid each year do not bear any relationship to each other; “claims filed” are those filed in the year under review, whereas “amount paid” is the amount paid in fiscal year 1999 or 2000 for claims that were, in many cases, filed five to ten years earlier.)⁷

TABLE A

| Hospital | Claims Filed FY 1999 | Number Resolved FY 1999 | Amount Paid FY 1999 (millions) | Claims Filed FY 2000 | Number Resolved FY 2000 | Amount Paid FY 2000 (millions) |
|-------------------|---------------------------------|------------------------------------|---|---------------------------------|------------------------------------|---|
| Bellevue | 83 | 27 | \$5.9 | 53 | 34 | \$14.1 |
| Bronx Municipal | 76 | 38 | \$11.4 | 95 | 39 | \$32.9 |
| Coney Island | 52 | 24 | \$13.6 | 52 | 21 | \$4.4 |
| Elmhurst | 89 | 21 | \$10 | 70 | 24 | \$8.5 |
| Harlem | 46 | 20 | \$3.9 | 50 | 13 | \$4.7 |
| Kings County | 98 | 41 | \$11.9 | 101 | 31 | \$14.9 |
| Lincoln | 77 | 37 | \$12.3 | 77 | 31 | \$30.2 |
| Metropolitan | 38 | 20 | \$18.6 | 33 | 12 | \$6.2 |
| No. Central Bronx | 60 | 16 | \$9.1 | 37 | 19 | \$7.1 |
| Queens | 17 | 17 | \$10.5 | 19 | 12 | \$9.6 |
| Woodhull | 32 | 17 | \$2.8 | 64 | 15 | \$7.3 |
| Total | 668 | 278 | \$110 | 917 | 251 | \$140 |

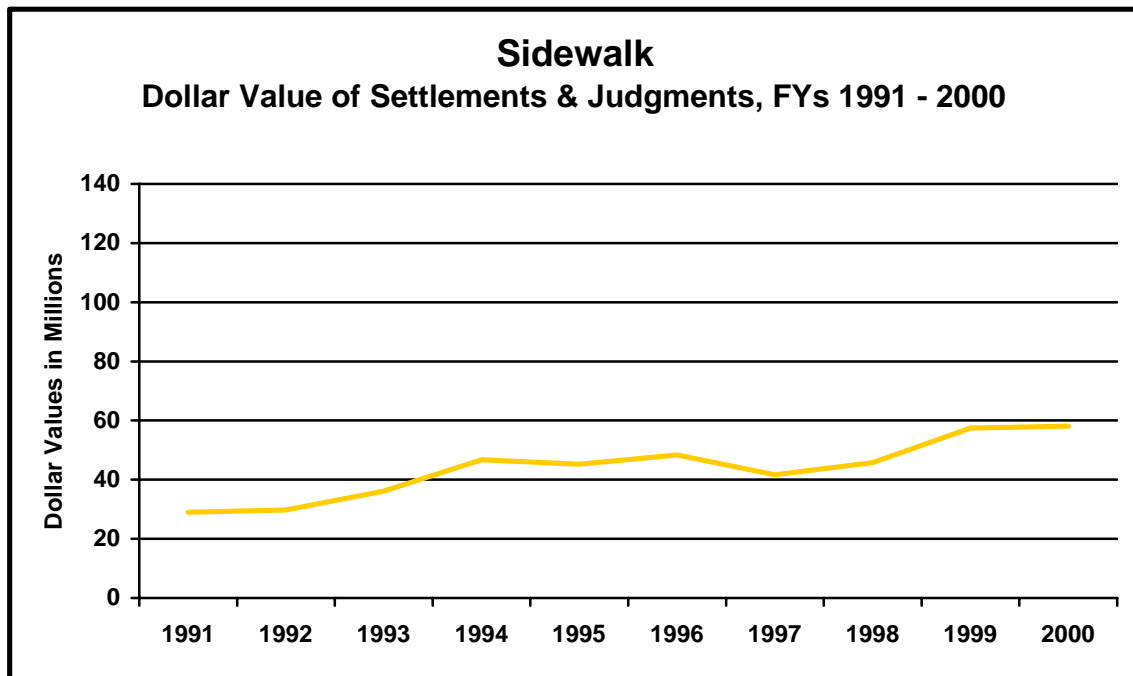
⁷The number of medical malpractice claims reflected in this table for each fiscal year is less than the total number of medical malpractice claims filed for the year because there are some medical malpractice claims filed each year that involve health care at other agencies or at sites other than acute care hospitals.

2. Sidewalk Claims

Sidewalk claims arise from alleged defects, such as cracked or uneven surfaces, in public sidewalks. This type of claim includes personal injuries for “slip and fall” accidents resulting from such defects, as well as accidents from falls on snow and ice-covered sidewalks.

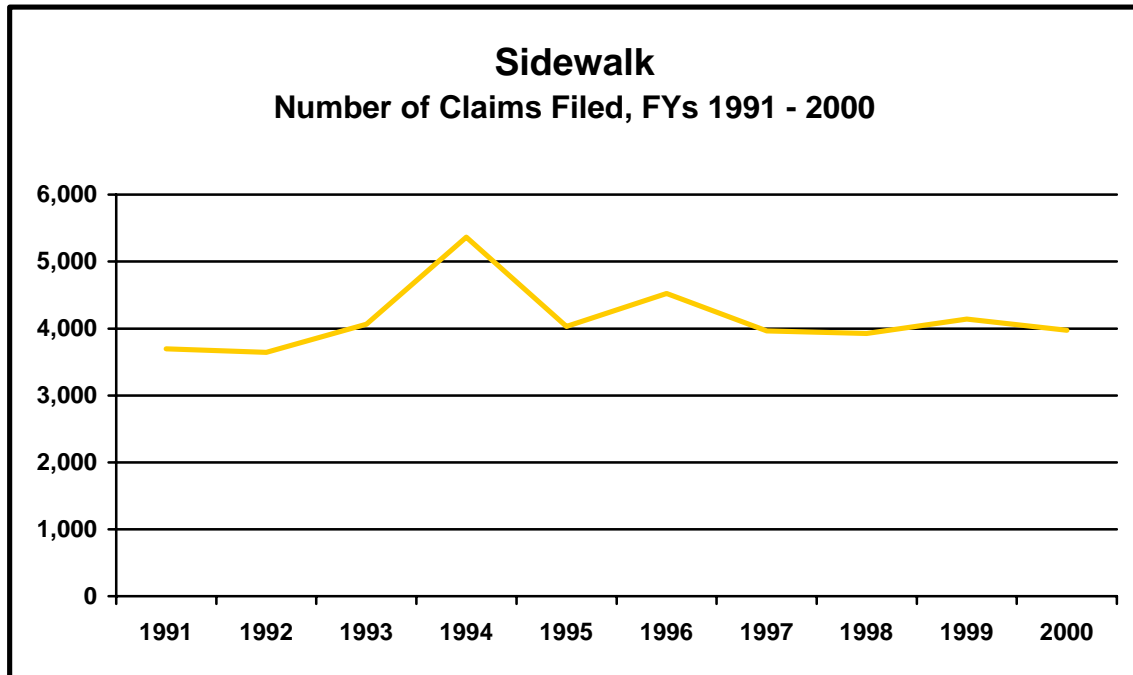
In fiscal year 2000, the City incurred liability of \$58 million in settlements and judgments for 3,100 resolved sidewalk claims (see Chart 12). Sidewalk cases have been the second most costly category of claims each fiscal year for the past ten fiscal years (see Chart 7). Sidewalk claims accounted for 36 percent of the total number of resolved personal injury cases, but only 14.2 percent of the total cost to resolve personal injury claims (see Chart 8).

CHART 12



In the past ten fiscal years reviewed, sidewalk claims have been the most commonly filed personal injury claim (see Chart 9). In fiscal year 2000, 3,975 sidewalk claims were filed against the City (see Chart 13). No other claim type came close to this number. New sidewalk claims represented 24 percent of all new personal injury claims filed in fiscal year 2000.

CHART 13



The Prior Notice Law, enacted on June 4, 1980, provides that the City is liable for a sidewalk or roadway claim only if the location where the incident occurred had been reported to the Department of Transportation’s “Prior Notice Unit,” in writing, at least 15 days before the incident.⁸ Although this law was designed to limit the City’s liability in these cases, it did not result in a sustained reduction of liability. Rather, it has evolved so that instead of requiring individual notice of a specific defect, judges recognize overall survey maps—so-called “Big Apple” maps prepared by a private company as adequate notice. The purpose of these maps is to assure that the City is given notice of defects so claimants can succeed in their claims against the City. The effect has been payouts ranging from \$29 million to \$58 million over the past ten fiscal years.

⁸Administrative Code of the City of New York, Title 7, Chapter 2, Section 7-201.

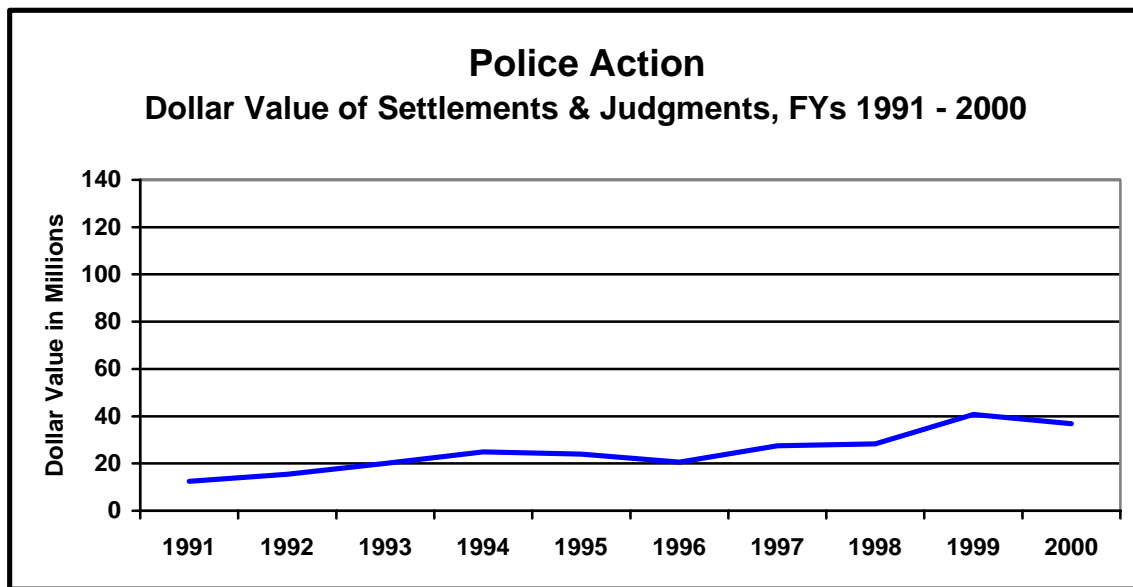
3. Police Action Claims

Police action claims consist primarily of police misconduct cases, which constituted 85 percent of all police action claims filed in fiscal year 2000. The two other categories of police action claims are malicious prosecution, which constituted 13.4 percent of police action claims filed and claims of failure to protect or respond, which constituted 1.5 percent of claims filed.

Police action claims dropped from third to fourth as costliest category of cases in fiscal year 2000. The City was liable for \$36.9 million in settlements and judgments in 830 cases in fiscal year 2000 (see Charts 7 and 14); this represents a 10 percent decrease from the \$41 million paid in fiscal year 1999 for 744 resolved cases. This decrease is entirely explained by the reduced number of cases resolved for over \$1 million in fiscal year 2000, four police action claims were settled for more than \$1 million, costing a total of \$6 million. In fiscal year 1999, seven police action claims were settled for \$1 million or more, costing a total of \$13.5 million.

Police action cases constituted 9.5 percent of the total number of recorded personal injury settlements and judgments and 9.1 percent of the total personal injury expenditure (see Chart 8).

CHART 14



The number of new police action claims filed decreased from 2,386 in fiscal year 1999 to 1,781 in fiscal year 2000. This was a 25.3 percent decrease from 1999 filings, the lowest number since fiscal years 1994. New police action claims filed constituted 10.6 percent of all new personal injury claims filed in fiscal year 1999 (see Charts 9 and 15).

CHART 15

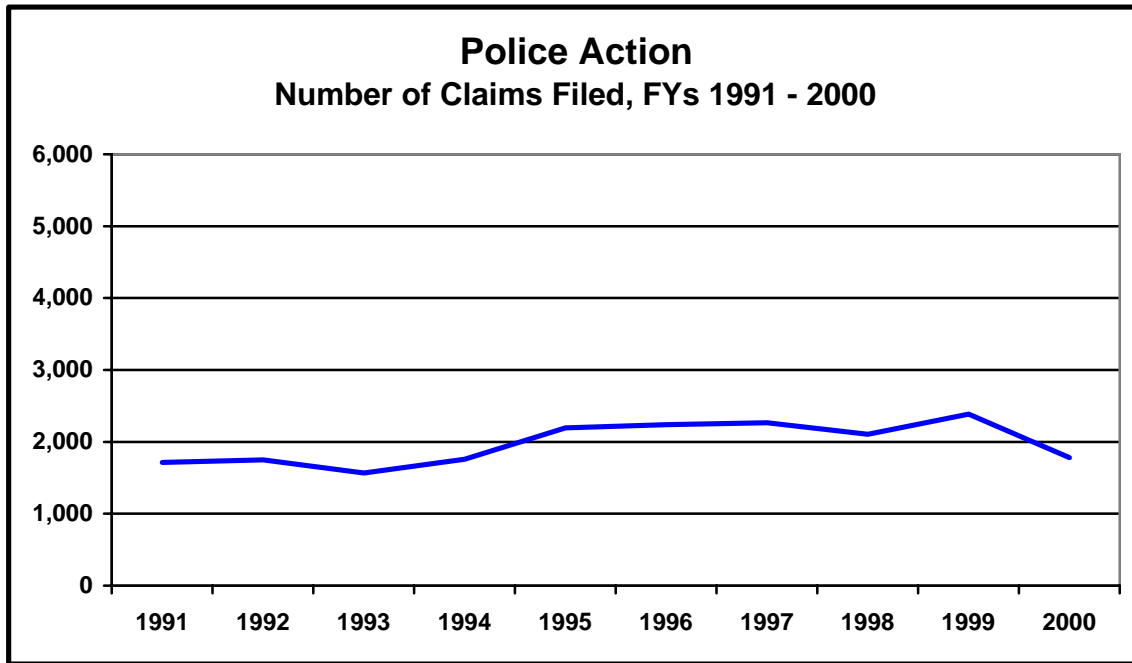


Table A1 shows the number of police action claims filed, number resolved and amount paid in FY 2000 by borough.

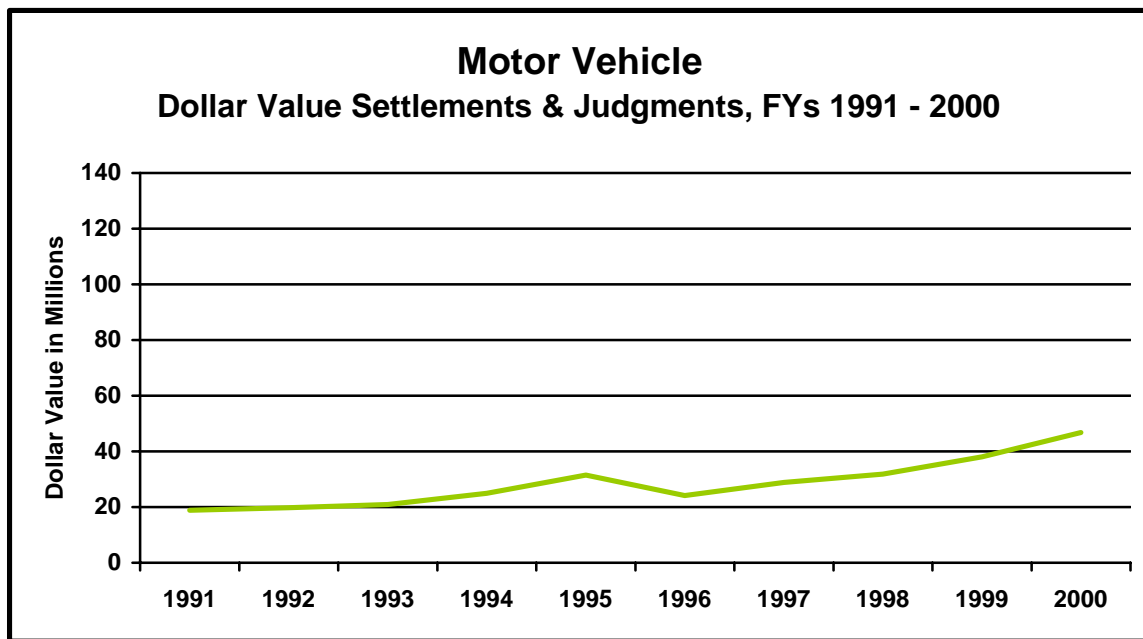
TABLE A1
Police Action Claims by Borough
Fiscal Year 2000

| Borough | Claims Filed | Number Resolved | Amount Paid |
|----------------|---------------------|------------------------|---------------------|
| Brooklyn | 506 | 304 | \$15,796,216 |
| Manhattan | 469 | 212 | \$10,285,704 |
| Bronx | 328 | 144 | \$6,311,399 |
| Queens | 265 | 132 | \$4,134,668 |
| Richmond | 80 | 23 | \$541,080 |
| Others | 133 | 15 | \$476,455 |
| TOTALS | 1,781 | 830 | \$36,878,051 |

4. Motor Vehicle Accident Claims

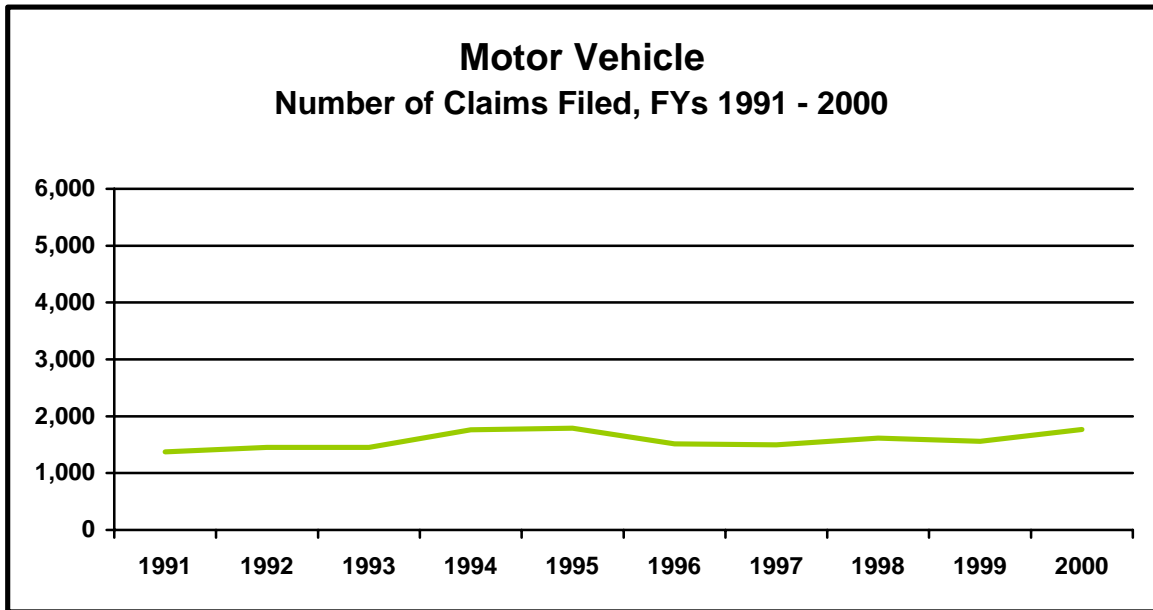
Motor vehicle accident cases include accidents in which a City vehicle is involved. Motor vehicle accident cases were the third most costly category of personal injury cases, up from fourth place, returning to the place which it had held for the past eight fiscal years prior to 1999(see Chart 7). In fiscal year 2000, the City incurred liability for \$46.8 million in settlements and judgments in 1,025 motor vehicle cases (see Charts 7 and 16). Motor vehicle cases represented 12 percent of the total number of recorded personal injury settlements and judgments for the year and 11.5 percent of total personal injury expenditures (see Chart 8).

CHART 16



The number of new motor vehicle personal injury claims filed in fiscal year 2000 was 1,768, almost a 13.5 percent increase from the 1,558 filed in fiscal year 1999. Motor vehicle claims were 10.6 percent of the total personal injury claims filed.

CHART 17

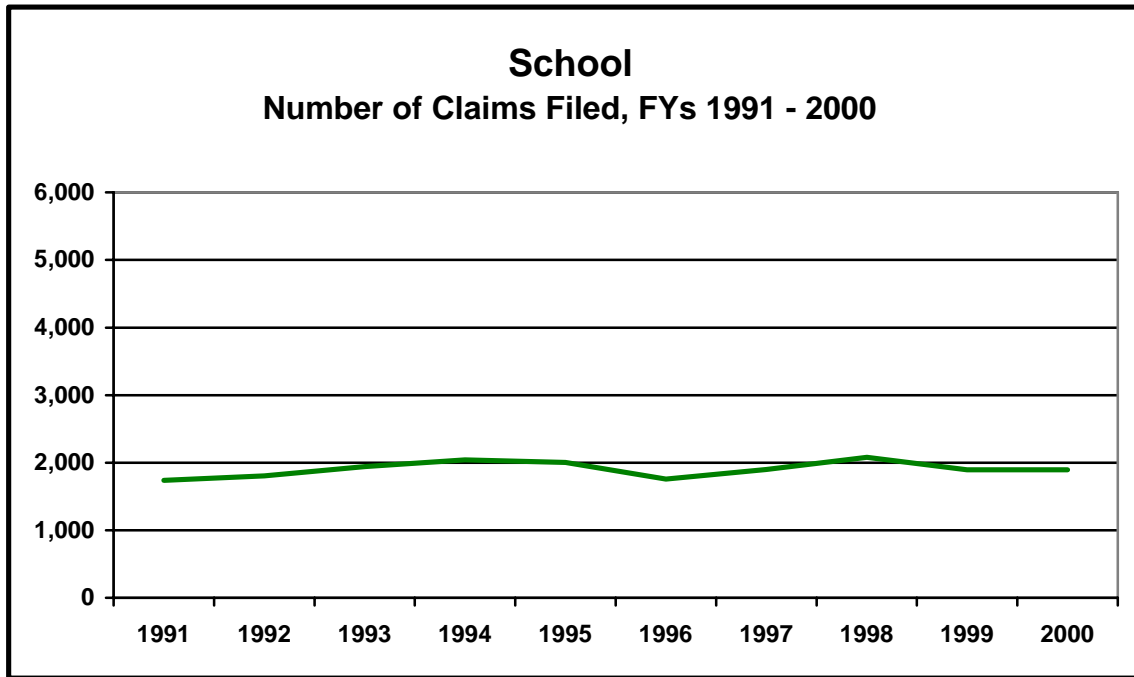


5. School Claims

School claims are those filed against the Board of Education by students, teachers, other Board of Education staff, and parents or visitors to Board of Education facilities. School claims were the fifth most costly category of personal injury cases in fiscal year 2000.

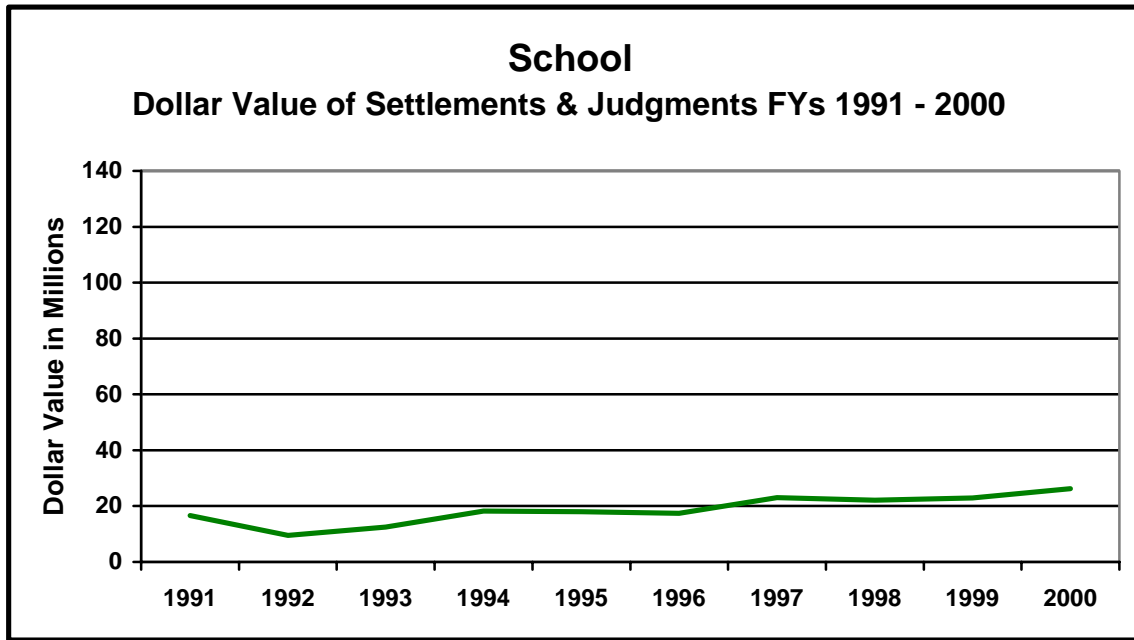
In fiscal year 2000, the City was liable for \$26.2 million in settlements and judgments for 1,401 personal injury school cases. This represents a 14 percent increase from the City's liability for school claims in fiscal year 1999, when the City paid \$23 million (see Charts 7 and 18). School claims comprised 16 percent of the total number of recorded personal injury settlements and judgments for the year, and 6.4 percent of the total expended for personal injury claims (see Chart 8).

CHART 18



In fiscal year 2000, the number of new personal injury school claims filed was 1,895, slightly down from the 1,898 claims filed in fiscal year 1999. School claims accounted for 11 percent of the total number of personal injury claims filed for the year (see Chart 19).

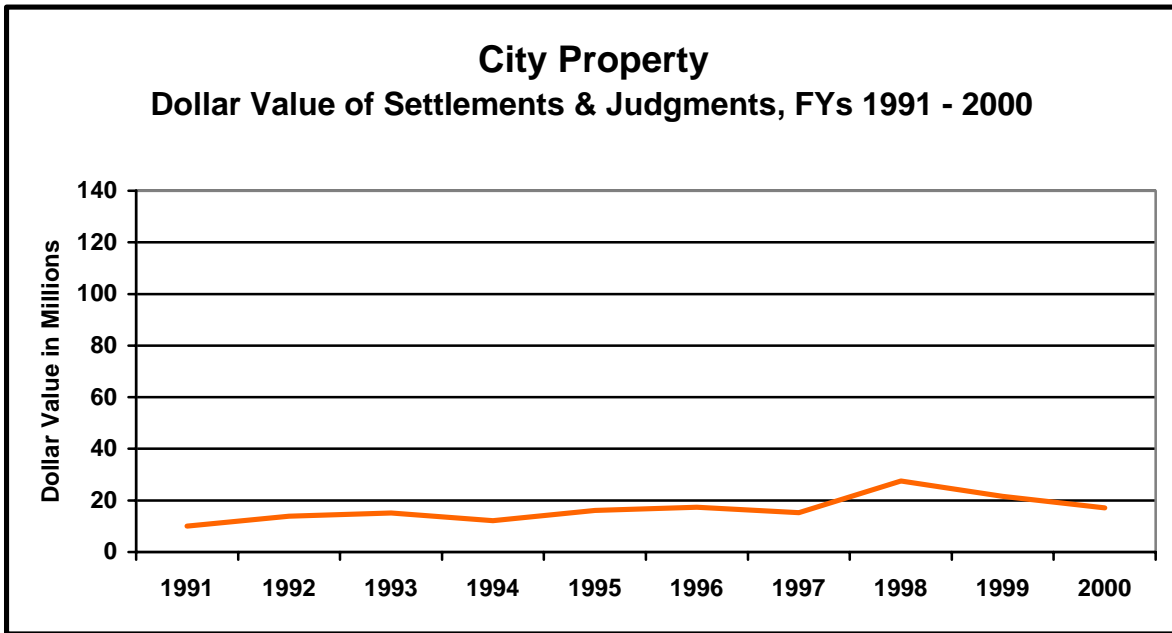
CHART 19



6. City Property Claims

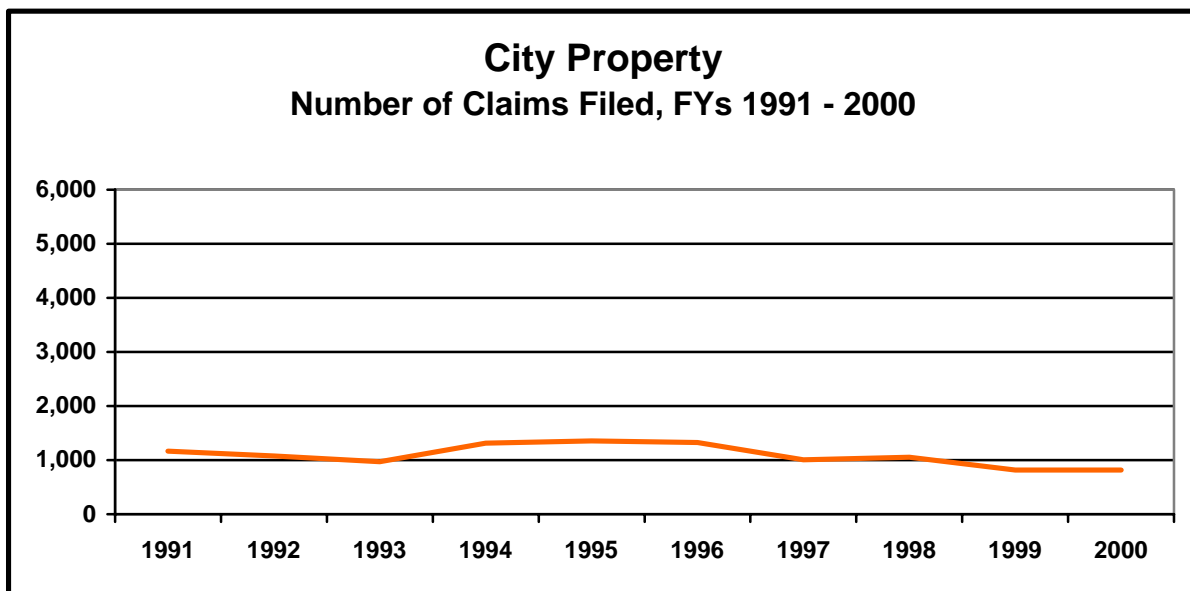
City property claims include claims filed by tenants or others injured by some alleged defect or negligent maintenance of City-owned land or a City-owned or administered building or facility. City property cases were the eighth most costly category of personal injury cases in fiscal year 2000. The City incurred liability for over \$17 million in settlements and judgments in 340 city property cases. (See charts 9 and 20). In fiscal year 1999 the City incurred liability for \$22 million for settlements and judgments in 340 cases.

CHART 20



The number of city property claims filed remained exactly the same in fiscal year 2000 as in fiscal year 1999 at 814. City property claims were 4.9 percent of the total personal injury claims filed.

CHART 21



7. Other Personal Injury Claim Types

Two claim types showed significant increases in the number of claims filed. Roadway claims rose 10 percent from 1381 in fiscal year 1999 to 1,520 in fiscal year 2000. Civil rights claims rose 23.4 percent from 1,063 in fiscal year 1998 to 1,312 in fiscal year 2000.

Parks & recreation claim filings decreased 16.7 percent from 384 filed in fiscal year 1999 to 320 claims filed in fiscal year 2000. The number of uniformed service claims filed decreased by 19 percent from 361 in fiscal year 1999 to 292 in fiscal year 2000. There were 799 correction claims filed in 2000, down from 1,008 in fiscal year 1999, a decrease of almost 21 percent.

Three claim types showed an increase in the amount paid:
roadway (\$12.5 million in fiscal year 1999 to \$17.4 million in fiscal year 2000),
uniform services (\$13.8 million in fiscal year 1999 to \$24.2 in fiscal year 2000),
traffic device (\$1.6 million in fiscal year 1999 to \$2.3 million in fiscal year 2000).

Three claim types showed a decrease in the amount paid:
civil rights (\$19.2 million in fiscal year 1999 to \$14.1 million in fiscal year 2000);
corrections (\$4.4 million in fiscal year 1999 to \$3 million in fiscal year 2000);
recreation (\$6.1 million in fiscal year 1999 to \$5.3 million in fiscal year 2000).

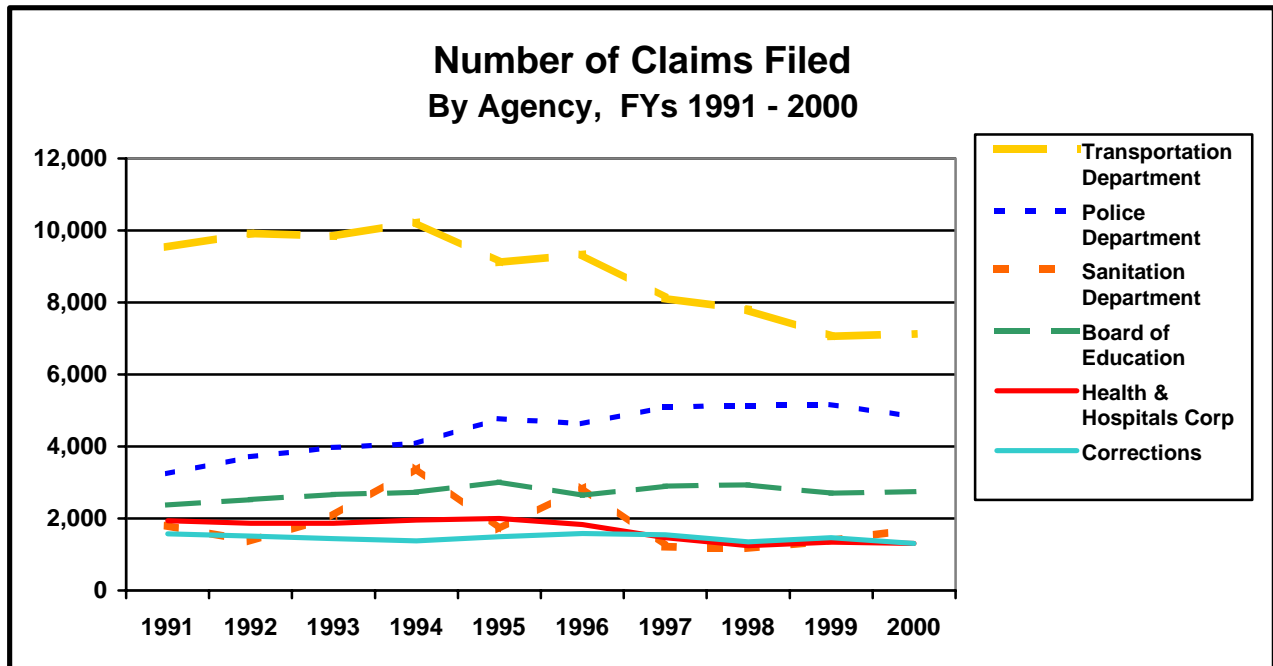
B. DISCUSSION OF CLAIM PATTERNS, BY CITY AGENCY

This section contains a discussion of claim patterns by agency. It includes all of the claims filed against each agency, including claims for personal injury, property damage, and contracts. The previous section of this report (Discussion of Personal Injury Claims, by Claim Type) analyzed personal injury claims only.

New Claim Filings by Agency

Claim filing trends by agency have been consistent over the past decade. The Department of Transportation and the Police Department have consistently been the two agencies with the most claims filed against them in each of the past ten fiscal years. For six of the ten years, the other agencies with the highest number of claim filings were the Board of Education, the Department of Correction, the Department of Sanitation and the Health and Hospitals Corporation.

CHART 22



Consistent with the overall decrease in the number of claims filed in fiscal year 2000, the number of claims filed against nine agencies decreased in fiscal year 2000 from the previous fiscal year (see Table B). Three agencies showed an increase in the number of new claims filed (see Table C).

TABLE B
Agencies That Showed Decreases in Number of Claims Filed⁹

| Agency | FY 1999 | FY 2000 | % Decrease |
|--|----------------|----------------|-------------------|
| Buildings Department | 149 | 84 | 43.6 |
| Human Resources Administration | 243 | 193 | 20.6 |
| Housing Preservation & Development | 444 | 379 | 14.6 |
| Department of Correction | 1,470 | 1,305 | 11.2 |
| Department of Parks & Recreation | 1,166 | 1,047 | 10.2 |
| Police Department | 5,163 | 4,830 | 6.4 |
| Fire Department | 1,048 | 986 | 5.9 |
| Department of Environmental Protection | 1,176 | 1,140 | 3.1 |
| Health and Hospitals Corporation | 1,340 | 1,309 | 2.3 |

TABLE C
Agencies That Showed Increases in Number of Claims Filed

| Agency | FY 1999 | FY 2000 | % Increase |
|---------------------------|----------------|----------------|-------------------|
| Department of Sanitation | 1,377 | 1,855 | 24.1 |
| Board of Education | 2,706 | 2,774 | 1.5 |
| Transportation Department | 7,062 | 7,209 | 0.9 |

⁹For the ten-year trend in claims filed by agency, see Appendix D, Table 2.

The Department of Sanitation was the agency with the largest increase in claims filed (24.1 percent). At Sanitation, the increase is attributable to property damage and personal injury filings; law claims decreased from 46 in fiscal year 1999 to 28 in fiscal year 2000 (a 39 percent decrease); property damage claims increased from 996 to 1,147 (a 15 percent increase); and personal injury claims increased from 335 to 534 (a 59 percent increase).

Claims against the Board of Education increased by 1.5 percent from fiscal year 1999 to fiscal year 2000. This increase was accounted for almost exclusively by law claims, which increased by 41.4 percent, from 140 to 198. The number of property damage claims increased slightly from 597 to 607 and the number of personal injury claims decreased from 1,968 in fiscal year 1999 to 1,942 in fiscal year 2000.

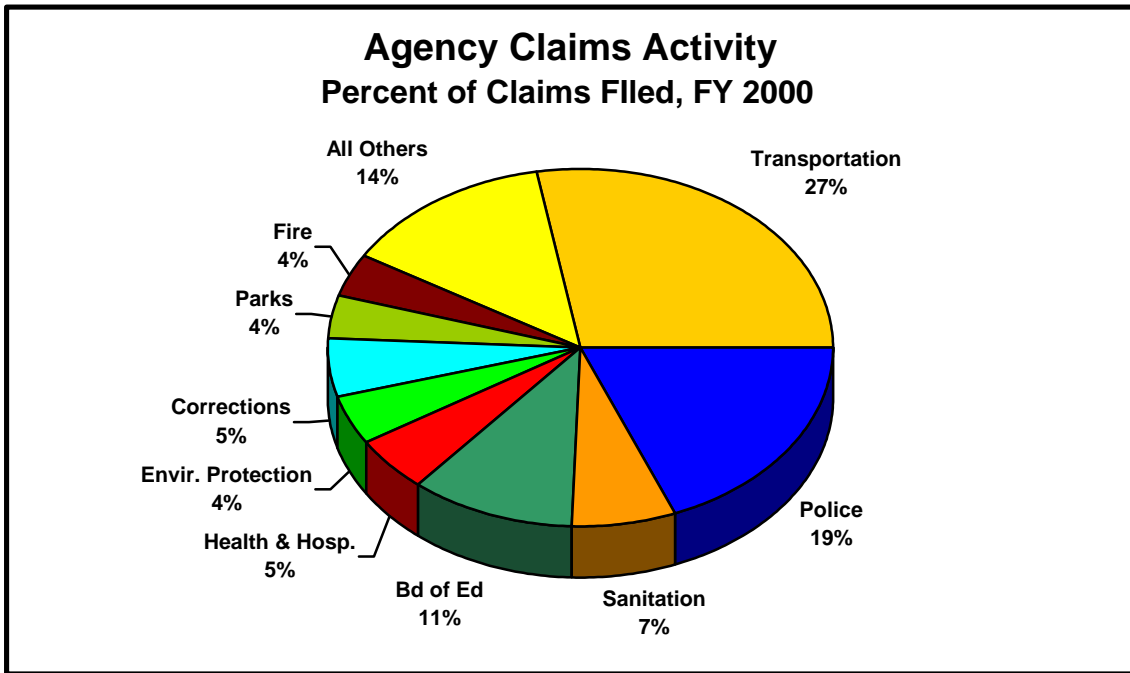
Claims against the Department of Transportation increased by .09 percent from fiscal year 1999 to fiscal year 2000. This increase was due completely to a 6.8 percent increase in the number of property damage claims filed, from 1,512 in fiscal year 1999 to 1,616 in fiscal year 2000. There was a decrease in the number of law claims filed, (from 132 to 105) and in the number of personal injury claims filed (from 5,424 to 5,404).

The Department of Transportation has been the agency with the most claims filed against it each year for the past ten years, accounting for 27 percent of all claims filed in fiscal year 2000.

The Police Department has consistently had the second highest number of claims filed in each of the past ten fiscal years, accounting for 19 percent of all claims filed in fiscal year 2000 (see Chart 23 for a percentage breakdown of claim activity by agency).

The Board of Education had the third highest number of claims filed in fiscal year 2000; the Department of Sanitation had the fourth highest; and Health & Hospitals Corporation. was fifth.

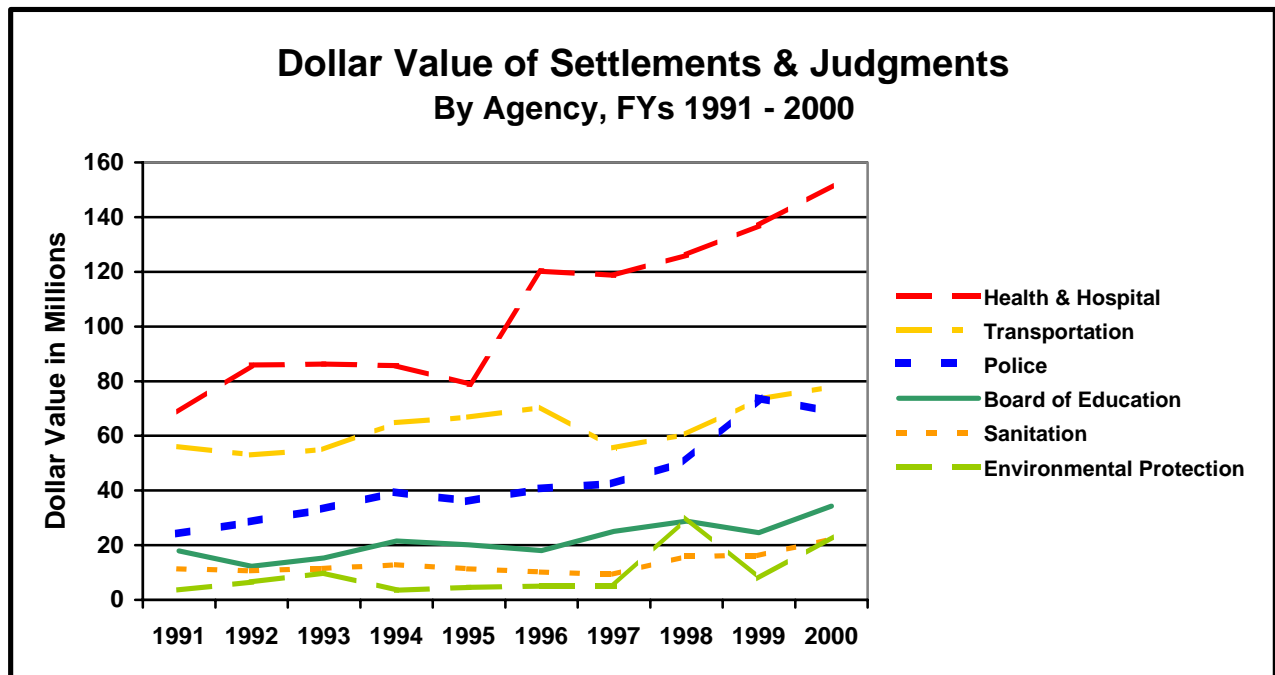
CHART 23



Settlement and Judgment Costs by Agency

The Health and Hospitals Corporation, the Department of Transportation, the Police Department, the Board of Education, and the Department of Sanitation had the highest claim expenditures in fiscal year 2000. Although the Department of Environmental Protection had higher claim costs than the Department of Sanitation, this report does not analyze that agency's claim patterns because two contract claims, adding up to \$14.2 million, accounted for most of the \$23 million in claim costs for that agency in fiscal year 2000. For the past ten years reviewed, the Health and Hospitals Corporation, the Department of Transportation, and the Police Department have each held one of the top three spots for highest payouts. Chart 24 tracks the total annual dollar value of settlements and judgments by agency from fiscal year 1991 to fiscal year 2000; Table 4 of Appendix D contains the total dollar amounts of settlements and judgments for these five agencies for the past ten fiscal years.

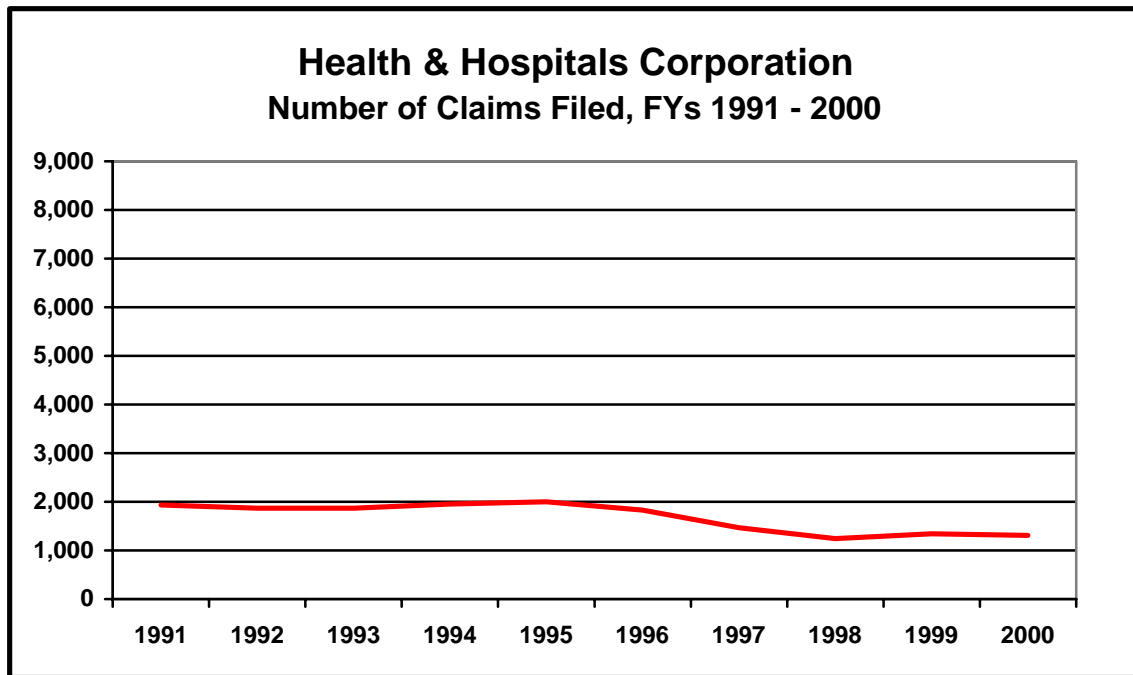
CHART 24



1. Health and Hospitals Corporation

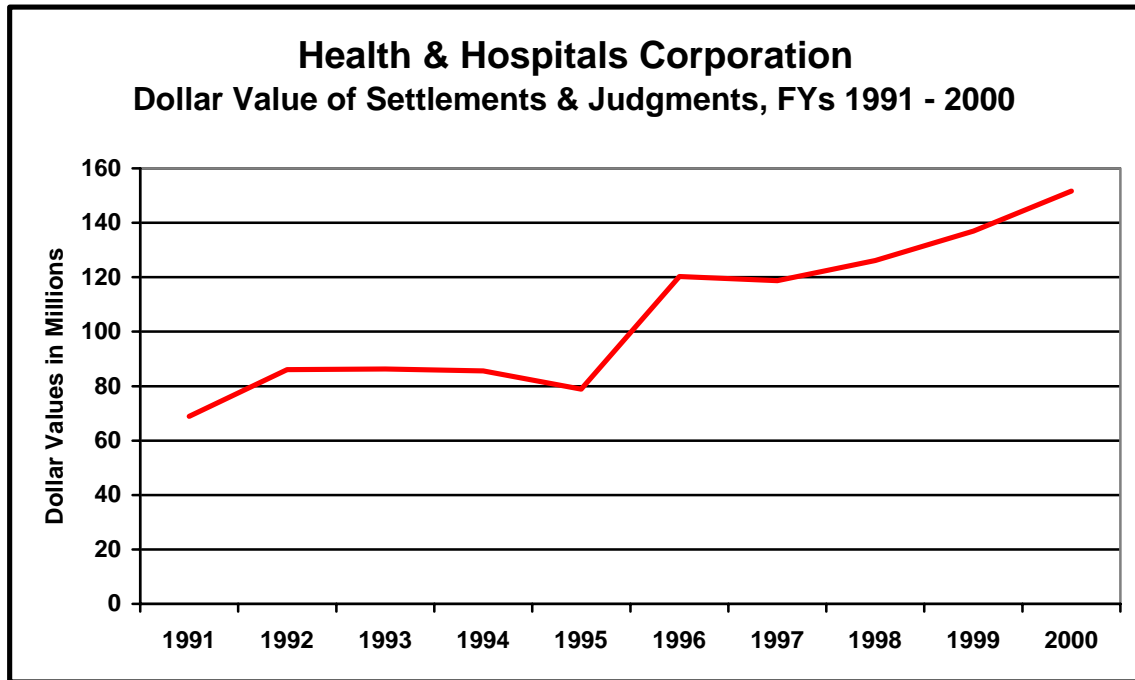
Claims against the Health and Hospitals Corporation (HHC) include claims for medical malpractice as well as contract claims and claims for personal injuries or property damage sustained on hospital property. In fiscal year 2000, 1,309 claims were filed against HHC (see Charts 22 and 25), more than half of which (888) were for medical malpractice. The total number of filings represents a 2.3 percent decrease from the 1,339 claims filed against HHC in fiscal year 1999. These claims accounted for 5 percent of all new claims filed in fiscal year 2000.

CHART 25



HHC cases constituted 4 percent of the number of cases resolved in fiscal year 2000 but accounted for the highest expenditure (\$151.6 million). This agency was responsible for 33 percent of the total amount paid for all claims in fiscal year 2000. (See Chart 26).

CHART 26

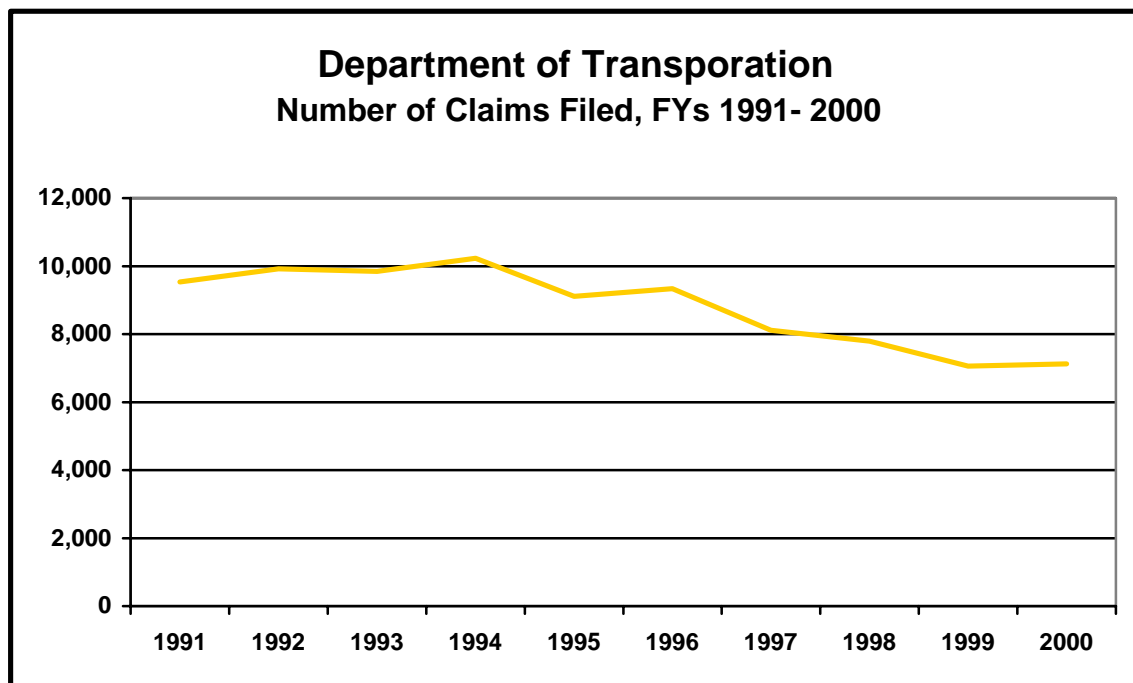


2. Department of Transportation

In each of the ten years reviewed, more claims were filed against the Department of Transportation (DOT) than any other agency (see Chart 22). Claims against DOT primarily include personal injury due to sidewalk trip and fall accidents, or personal injury or property damage due to defective roadways, defective traffic signals, or motor vehicle accidents with DOT vehicles. In fiscal year 2000, the 7,125 claims filed against DOT accounted for 27 percent of all new claims filed, representing a .09 percent increase from the 7,062 claims filed against DOT in fiscal year 1999 (see Chart 27).

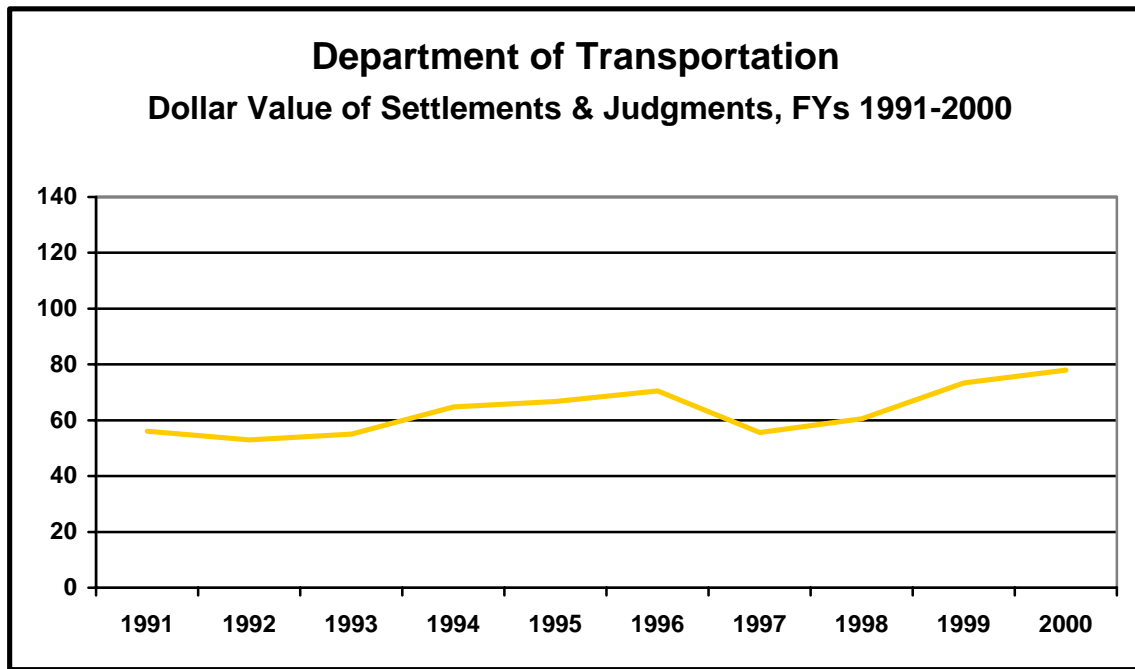
The number of new claims filed in both fiscal years 1999 and 2000 represent a significant decrease in overall filings for the agency. The numbers of new filings for those years was actually 3,000 less than the number of claims filed in fiscal year 1994.

CHART 27



The number of cases against DOT that were resolved by settlement or judgment increased from 3,507 in fiscal year 1999 to 3,984 in fiscal year 2000. In fiscal year 2000, the total dollar amount paid for DOT cases was \$78 million, a 6.4 percent increase from the \$73 million paid in fiscal year 1999 (see Chart 28). DOT cases accounted for 17 percent of the total expenditure for claims in fiscal year 2000.

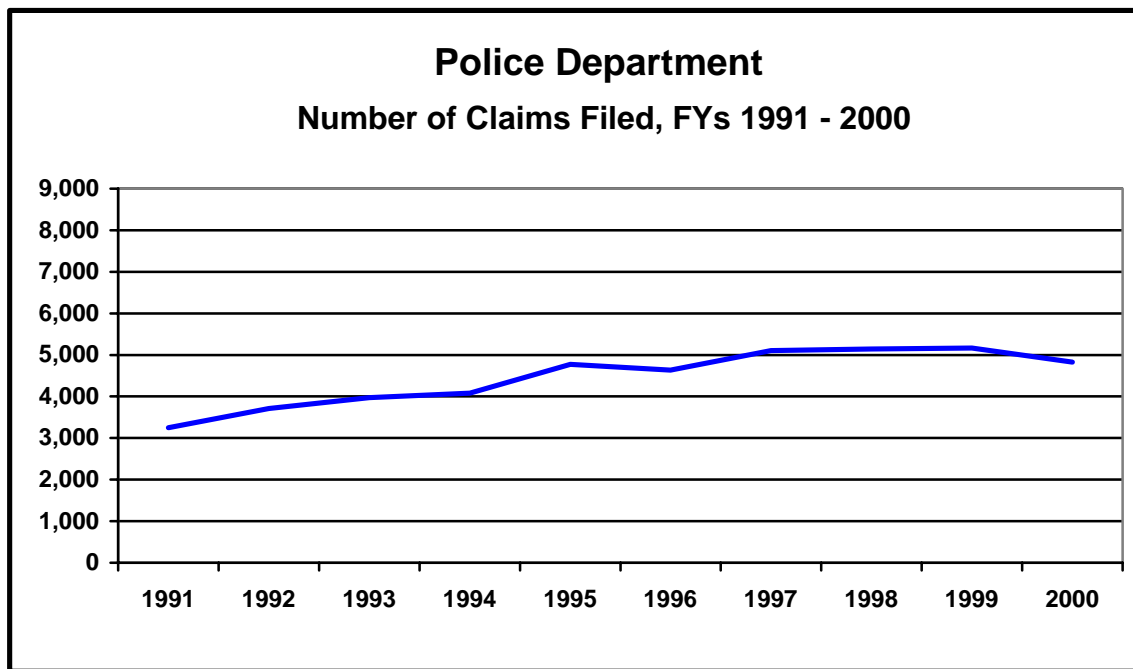
CHART 28



3. Police Department

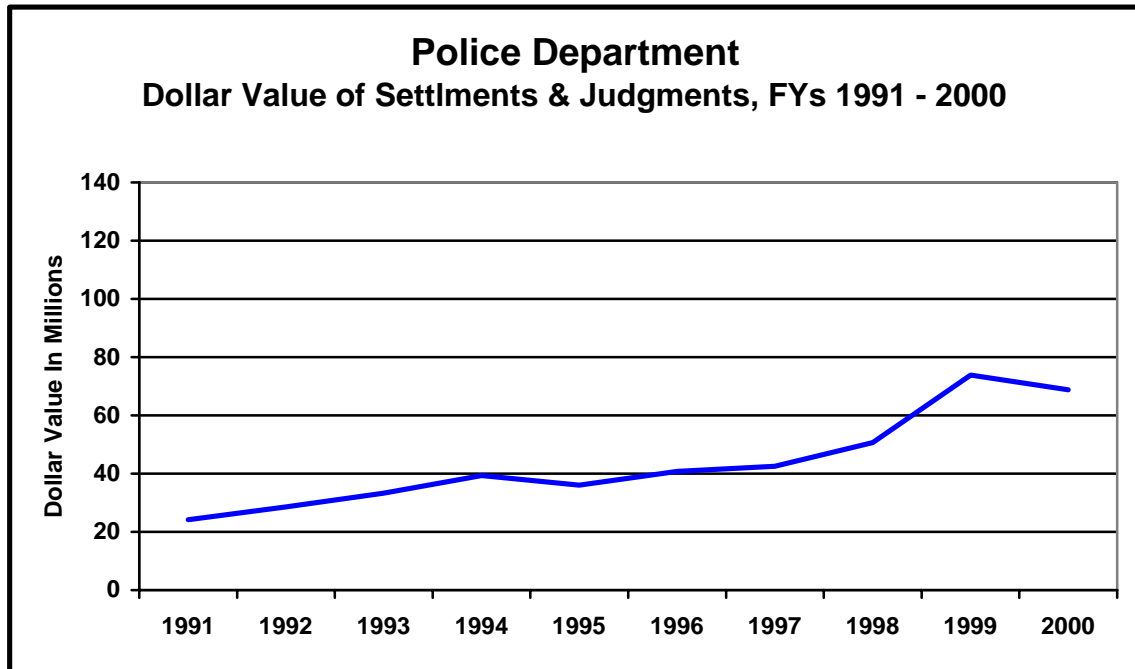
Claims against the Police Department encompass police action claims (which include police misconduct, failure to protect, and injury to fellow officers) as well as claims for personal injury or property damage arising out of motor vehicle accidents with a police vehicle. In the last two fiscal years, the number of claims filed against the Police Department decreased by 6.4 percent: 5,163 in fiscal year 1999 to 4,830 in fiscal year 2000 (see Chart 29). Claims filed against the Police Department constituted 15 percent of total claim filings in fiscal year 2000 (see Chart 23).

CHART 29



Resolved cases against the Police Department cost the City \$68.8 million in fiscal year 2000, a 6.8 percent decrease from the \$73.4 million in fiscal year 1999 (see Charts 24 and 30). Cases involving police action accounted for \$37 million of this amount. The 6.8 percent decrease in settlement costs is due in large part to 9 police department claims that resolved for over \$1 million for a total payout of \$16 million in fiscal 1999. Claims against the police department accounted for 15 percent of the total expenditure for claims in fiscal year 2000.

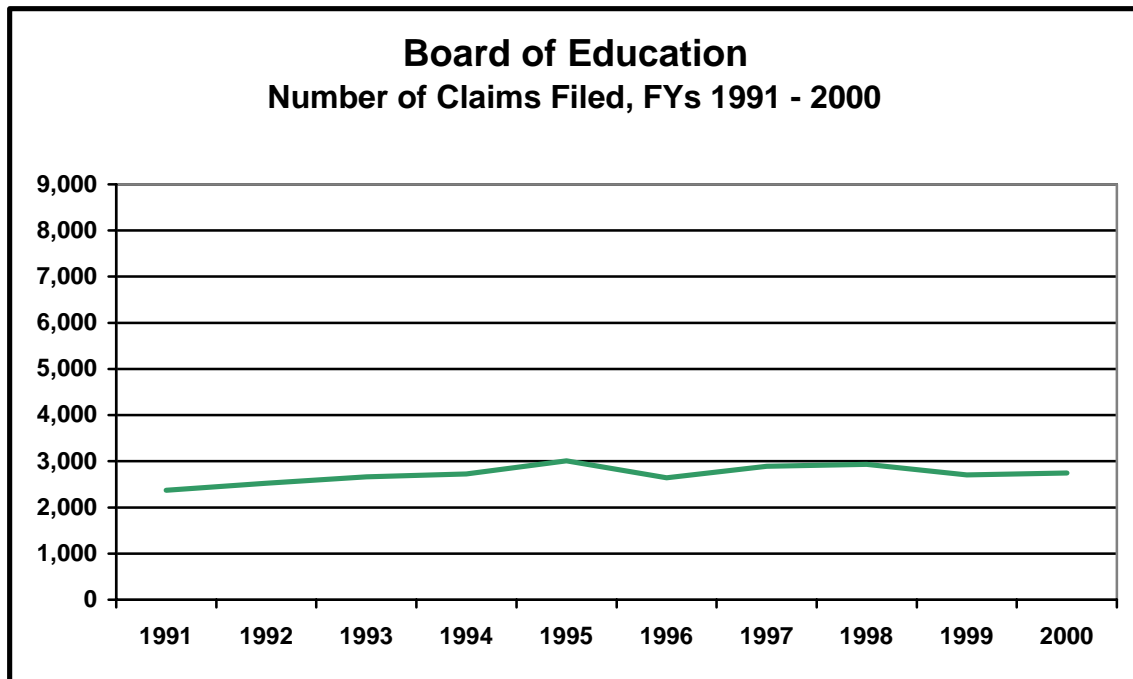
CHART 30



4. Board of Education

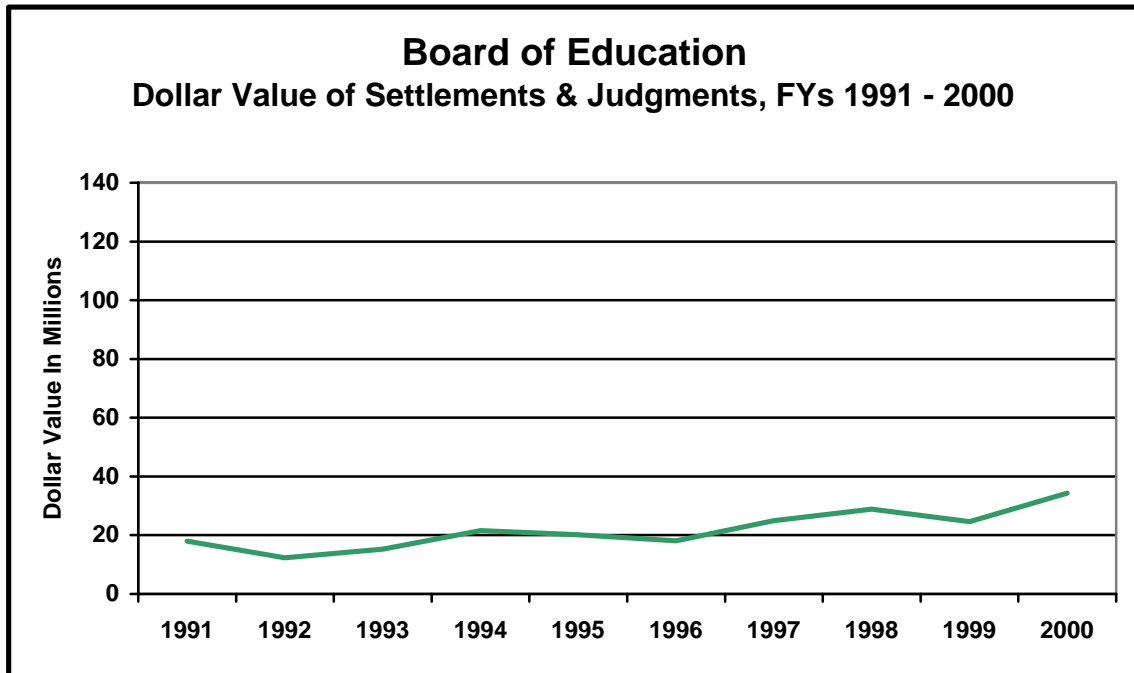
Claims against the Board of Education are primarily personal injury claims alleging lack of supervision or defective maintenance, but they also include damage to property and motor vehicle accidents with Board of Education vehicles. The number of new claims filed against the Board of Education increased slightly by 1.5 percent, from 2,706 in fiscal year 1999 to 2,747 in fiscal year 2000 (see Chart 31). Claim filings against the Board of Education accounted for 10.4 percent of total claim filings in fiscal year 2000 (see Chart 23).

CHART 31



From fiscal year 1999 to fiscal year 2000, the number of Board of Education cases resolved increased by 30 percent, from 1,149 to 1,496. The total expenditure for Board of Education cases increased by over 39 percent, from \$24.6 million in fiscal year 1999 to \$34.3 million in fiscal year 2000 (see Chart 32). Board of Education claims accounted for 7.5 percent of the total expenditure for claims in fiscal year 2000.

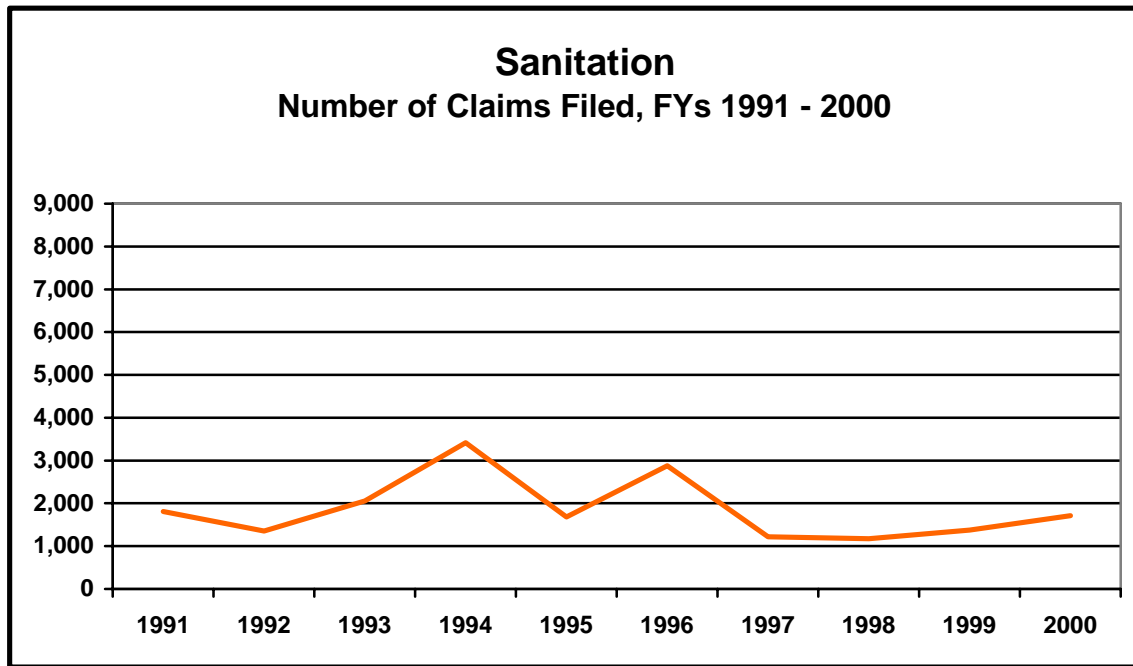
CHART 32



5. Sanitation Department

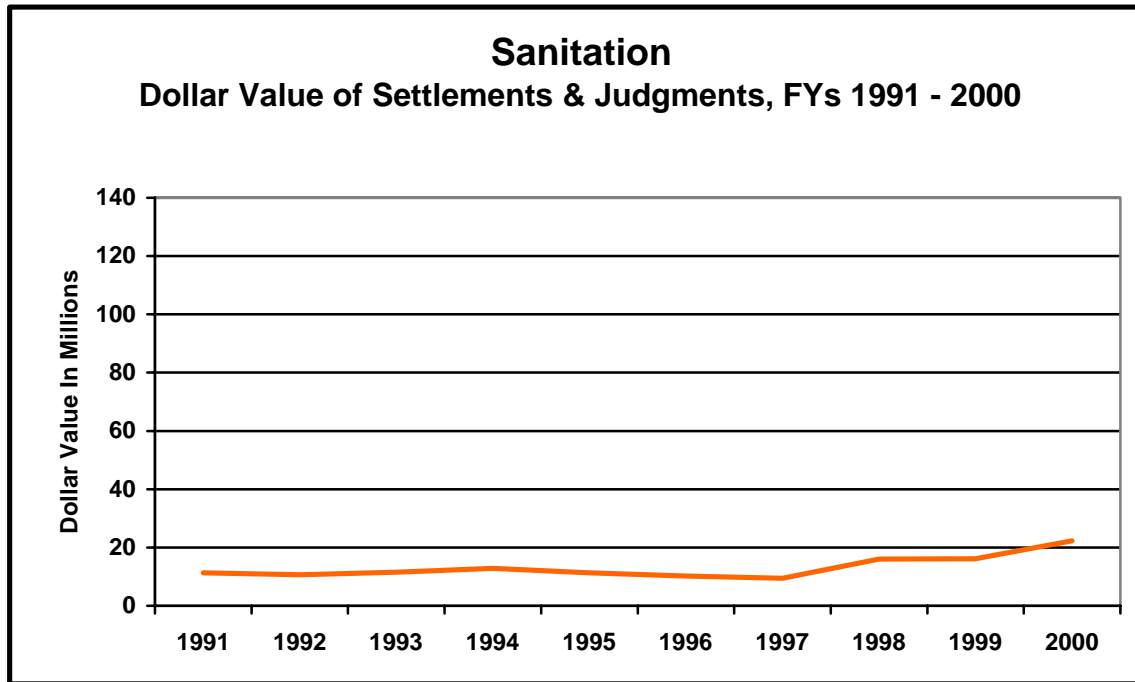
Claims are filed against the Department of Sanitation primarily for alleged personal injury and property damage caused by Sanitation vehicles. The number of new claims filed against the Department of Sanitation rose by over 24 percent, from 1,377 in fiscal year 1999 to 1,709 in fiscal year 2000 (see Chart 33). New claim filings against the Department of Sanitation constituted 6.5 percent of total claim filings in fiscal year 2000.

CHART 33



In fiscal year 2000, there were 1,011 Department of Sanitation cases resolved for slightly more than \$22.3 million. Department of Sanitation claims accounted for nearly 5 percent of the total expenditure. In fiscal year 1999, 952 cases were resolved for \$16 million. See Table 4 for details.

CHART 34



APPENDICES

APPENDIX A

Description of Claim Types

Claims that are filed against the City are coded according to certain general categories. The coding structure used to classify claims has changed over time to meet changing information needs. In August 1994, a new coding structure was put into place in conjunction with the implementation of the Comptroller's Omnibus Automated Image Storage and Information System (OAISIS). The coding of claims into standardized categories facilitates analysis both by the Comptroller's Office and by agencies that want to analyze their claims experience.

Under the present coding structure, claims are initially categorized by the City agency involved and by general category of claim: personal injury, property damage, and law. Each general category has subtypes, and it is at this level that claims are analyzed. For example, personal injury claims include "slip and fall" accidents on sidewalks (sidewalk claims), or injuries that occurred in school (school claims) or in a City park (parks and recreation claims).

Claim coding has also been designed to ensure that the greatest amount of descriptive information about a claim can be captured in coded form. Thus, four additional codes are utilized for every claim so that, by merely looking at the codes, one can obtain a relatively clear picture of the specifics of the claim. These four additional codes are:

1. **Claimant.** This category describes the claimant and, if appropriate, the activity the claimant was involved in; for example, "bicyclist"; "jogger"; "pedestrian"; "driver of vehicle"; "passenger"; "vendor"; etc.
2. **Location.** This category describes where the accident occurred; for example, "boardwalk"; "sidewalk"; "driveway"; "swimming pool"; "hospital"; "school"; etc.
3. **Accident Agent.** This indicates the catalyst for the accident; for example, "building construction"; "debris/glass"; "improper lighting"; "City vehicle"; "defective maintenance"; "improper supervision"; etc.
4. **Interaction.** This refers generally to the physical action that the claimant experienced; for example, "collision/struck by"; "slip/fall"; "assault"; etc.

A typical personal injury claim derived from a "slip & fall" accident on a sidewalk that had a crack in it would be coded as follows:

| | |
|--------------------|--------------------|
| Claim type: | Defective Sidewalk |
| Claimant: | Pedestrian |
| Location: | Sidewalk |

Accident Agent: Crack
Interaction: Slip/fall

The present coding system, on which this report is based, classifies claim types as follows:

I. Personal Injury Claims

A. Admiralty

Admiralty claims include claims by passengers or other persons injured on the water, either on City vessels or ferries, or off their gangplanks or piers.

B. Defective Roadway

Defective Roadway claims include pedestrians, motorists, or others injured as a result of defects in a street or roadway; e.g., potholes; cracked, wet or snow-covered roadways; sewer gratings; raised, missing or exploding manhole covers; or roadways under repair.

C. Defective Sidewalk

Defective Sidewalk claims include pedestrians or others injured because of a defect in a sidewalk; e.g., broken, wet, uneven sidewalks; broken curbstones; protruding bolts, grates, or parking meter or traffic sign stubs; defective boardwalks; and snow and ice claims.

D. Traffic Control Device

Traffic Control Device claims include pedestrians or motorists injured in accidents because of malfunctioning traffic signals, defective or missing traffic devices, or downed or missing traffic signs.

E. Police Action

Police Action claims result from some improper police action; e.g., false arrest or imprisonment; shooting of a suspect; excessive force or assault; failure to provide police protection; and injury to other officers.

F. School

School claims are those filed against the Board of Education (BOE) by students, teachers, other BOE staff, and parents or other visitors to BOE facilities.

G. Medical Malpractice

This category of claim derives from medical malpractice in the diagnosis, treatment, or care at a City or Health and Hospitals Corporation (HHC) facility. Medical malpractice claims include those that involve pre- or post-natal treatment, emergency room care, EMS treatment, and defective equipment.

H. Health Facility/Non-Medical Incidents

These claims involve non-medical acts involving a City or HHC facility or employee, such as falls by visitors due to wet floors; assaults of patients or visitors by HHC staff, intruders, or other patients; and abuse or assaults of senior citizens by home care workers.

I. Motor Vehicle Accident

Motor Vehicle Accident claims involve accidents with City vehicles. Included in this category are pedestrians or passengers of other vehicles struck by a City vehicle, and operators or passengers of City vehicles involved in a collision.

J. Employee Uniformed Services

Included in this category of claims are those that involve City employees of the uniformed services; i.e., police, fire, or sanitation employees who are not subject to Workers' Compensation laws and can sue the City for on-the-job personal injuries.

K. Parks and Recreation

Parks and recreation claims include claims by persons allegedly injured because of defective equipment or negligent maintenance of property under the jurisdiction of the Department of Parks and Recreation. This includes incidents that occur in Parks Department buildings or on playground equipment and grounds, and incidents involving falling trees or limbs, whether on a street, sidewalk, or in a park.

L. Buildings and Property

This category of claims includes those by tenants or others injured by some defect or negligent maintenance of City-owned land or a City-owned or City-administered building or facility.

M. Catastrophe

This claim type includes claims filed as a result of natural disasters, such as floods or earthquakes; environmental accidents, such as leaking gas tanks; power failures, such as

blackouts; and civil disturbances, such as riots.

N. Civil Rights

Civil Rights claims involve alleged human rights violations, such as discrimination based on sex, race, religion, handicap, sexual preference, and age.

O. Correction

Correction claims involve claims by inmates or employees of City correctional institutions who were allegedly injured by the actions of City employees or other inmates.

P. Assault by City Employee

Claims are assigned this claim type if they involve assaults or injuries inflicted or caused by City employees; for example, traffic enforcement agents, sanitation workers, firemen, and social workers.

II. Property Damage Claims

A. Admiralty

These claims involve property damaged on the water, either on City vessels or ferries, or off gangplanks or piers.

B. Sewer Overflow

Sewer Overflow claims derive from flooding or water damage to real or personal property caused by inadequate sewer repairs or clogged/obstructed City sewers.

C. Water Main Break

Water Main Break claims involve flooding or water damage to real or personal property as a result of leaking or broken water mains or fire hydrants.

D. Defective Roadway

This claim type includes claims by owners of vehicles that are damaged by defective roadways, or by paint chips or other objects that have fallen from bridges or overpasses. Also included are claims made by pedestrians who sustained damage to personal property as a result of a fall on a defective roadway.

E. Defective Sidewalk

Defective Sidewalk claims are made by pedestrians and others who sustained damage to personal property as a result of falling on a defective sidewalk.

F. Traffic Device

This claim type includes vehicles or other personal property damaged in accidents allegedly caused by defective, obstructed, or missing traffic lights or stop signs.

G. Police Action

Police Action claims involve vehicles or other personal property that is stolen, damaged, sold, or destroyed while in police custody.

H. School

School claims involve lost, stolen, or damaged personal property that belongs to students, teachers, or other Board of Education staff while on Board of Education property.

I. Health Facility

These claims involve the personal property of patients or others that has been lost, stolen, or damaged while on hospital property.

J. Motor Vehicle Accidents

Motor vehicle accident claims involve vehicles or other personal property that is damaged in accidents with City vehicles. Included are parked cars hit by City vehicles, and vehicles damaged while being towed.

K. Uniformed Services/City Employees

This claim type involves claims for personal property that is lost, damaged, or stolen from City employees while at work. Items listed are usually tools, uniforms, clothing, or personal effects.

L. Parks and Recreation

Claims in this category derive from personal property that is lost, stolen, or damaged in the City's parks. Damage occurs from vandalism, poor maintenance, or unmarked fresh paint, and from accidents involving grounds and equipment.

M. Public Buildings and Property

This claim type encompasses claims for personal property damaged or stolen as a result of a defect or negligence in maintaining City-owned land or a City-owned building or facility.

N. Catastrophe

These claims involve property damage that was caused by the City's response to a natural disaster (such as a flood or earthquake), an environmental accident (such as a leaking gas tank), power failures (blackouts), or civil disturbances (such as riots).

O. Damage City Action/Personnel

These claims involve property damaged by City vehicles or by the actions or inactions of City agencies, such as a City vehicle damaging a homeowner's fence or other property, or damage caused by a traffic light falling onto a vehicle.

P. Correction Facility

Correctional facility claims derive from prisoners, inmates, or detainees whose personal property is lost, stolen or damaged while in a correctional institution.

III. Law Claims

A. Employment

Employment claims arise from prospective, current, or former employees of City agencies or other entities who have employment-related disputes. These disputes cover a wide range, including discrimination, out-of-title work, pay differential, annual leave, and suspension.

B. Illegal but Equitable

These claims arise because work was allegedly performed and/or services were rendered to the City, but the appropriate contract and other approval had not been obtained. These claims, though invalid at law, may be recognized as equitable and proper to be paid, in whole or in part, if it can be determined that the City received a benefit and that the public interest would be served by payment or compromise.

C. Contract/Lease

Claims in this category arise from disputes between the City and private contractors (construction or non-construction) and in instances where the City is a lessee or lessor of

property.

D. Refund

Refund claims derive from instances where a private individual or concern is owed money from the City. Reasons for the refund include overcharged fees and unjust fines.

E. Change of Grade

These claims are made by commercial or residential property owners or lessees. The claims arise from the City's changing the grade of a sidewalk, which results in physical issues, such as access to property and drainage. Claims are made for loss of business, walkway or driveway repairs, and other items.

F. Alternative Dispute Resolution

Contracts between the City and vendors solicited after September 1990 have included an Alternative Dispute Resolution (ADR) Provision that was designed to provide a speedy alternative to litigation. When the disputes arise, contractors can attempt to resolve them first with the agency involved. If no agreement is reached, a claim can then be filed at the Comptroller's Office. If the claim is denied, the contractor may, as a last resort, appeal to the Contract Dispute Resolution Board.

APPENDIX B

Legal Background

I. Municipal Liability

The decision of the New York Court of Appeals in *Bernadine v. NYC*, issued In 1945, exposed the City for the first time to liability for torts committed by the City's officers, agents, and employees.¹⁰

In *Bernadine*, the Court held that "the civil divisions of the State are answerable equally with individuals and private corporations for wrongs of officers and employees -- even if no separate statute sanctions that enlarged liability in a given instance."¹¹ The Court, in effect, abolished the doctrine of sovereign immunity for municipalities, but it did not give municipalities any of the protections accorded to the State by the Court of Claims Act.¹² In particular, claimants seeking to recover from municipalities for their agents' negligent and wrongful acts are entitled to a jury trial.

Municipal liability is also governed by local law. Under their home rule authority, municipalities can limit liability to some extent through limitations on the right to sue. An example is New York City's prior notice law, enacted in 1980 in an effort to limit the City's liability in "slip and fall" cases on City sidewalks and streets (see p. 27 for discussion of the impact of the prior notice law on sidewalk and roadway claims).

II. Claims Process

To commence an action against the City, in most cases a claimant must first notify the City by filing a notice of claim with the Office of the Comptroller. In some instances, however, the claim must be filed with the agency involved. Pursuant to the statute, with some qualifications and exceptions, notice of a personal injury or property damage claim must be filed within 90 days of an alleged injury or wrong.¹³ The City Charter grants to the Comptroller the power to settle and adjust all claims in favor of or against the City.¹⁴ The City Charter also

¹⁰*Bernadine v. NYC*, 294 N.Y. 361 (1945).

¹¹*Id.* p. 365.

¹²Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, §1.

¹³General Municipal Law, Article 4, § 50-e. One notable exception is a claim under 42 U.S.C. § 1983, the Federal Civil Rights Act; a § 1983 action can be filed directly In court without prior notice.

¹⁴City Charter, Chapter 5, Section 93 (I).

prohibits the City's Corporation Counsel from settling actions in favor of or against the City without the approval of the Comptroller.¹⁵ Before litigation is commenced, the Comptroller has the power to investigate claims, determine liability and damages, and reach a settlement.¹⁶ If the Comptroller denies liability or is unable to arrive at a mutually satisfactory settlement with a claimant, the claimant may file suit. Actions on tort claims must generally be filed within a year and 90 days after the occurrence upon which the claim is based.¹⁷

The City's Law Department, under the direction of the Corporation Counsel, defends the City in most actions, although the Law Department, together with the Health and Hospitals Corporation (HHC), engages outside counsel to defend HHC and its doctors in most medical malpractice actions.

¹⁵City Charter, Chapter 17, Section 394 (c).

¹⁶The Comptroller's Bureau of Law and Adjustment (BLA) investigates claims filed against the City; obtains and evaluates accident reports and other documents provided by agencies; conducts field visits, interviews, and hearings; makes determinations as to liability; and attempts to settle cases where liability has been established. The Comptroller's Bureau of Engineering investigates contract claims, and together with the Law Department and BLA, negotiates construction contract claim settlements. Both Bureaus conduct surveys and studies to identify and report on the City's exposure to claim liability.

¹⁷General Municipal Law, Article 4, § 50-I. A significant exception to this requirement is in the area of medical malpractice, in particular claims for injuries to newborn infants.

APPENDIX C

Summary of 77 Claims Resolved for \$1 Million or More Fiscal Year 2000

In fiscal year 2000, the City incurred liability of \$174.4 million for 77 settlements and judgments of \$1 million or more. Of these 77 cases, 68 were settled; 9 were resolved by jury verdicts;

Below are brief descriptions of factual allegations for these 77 cases.

MEDICAL MALPRACTICE CLAIMS

Medical malpractice claims accounted for 43 of the 77 claims, which were resolved for \$1 million or more. Hospitals, settlement amounts, and county of venue for each of the top 12 cases are listed below:

| Hospital | Disposition Amount (millions) | Details of Disposition | County |
|------------------------|-------------------------------------|------------------------|----------|
| Lincoln Hospital | \$7.5 | Settlement | Bronx |
| Queens Hospital Center | \$5.2 | Judgment | Queens |
| Kings County Hospital | \$4.2 | Judgment | Brooklyn |
| Bronx Municipal | \$4 | Settlement | Bronx |
| Bronx Municipal | \$3.9 | Settlement | Bronx |
| Lincoln Hospital | \$3.9 | Settlement | Bronx |
| Woodhull | \$3.5 | Judgment | New York |
| Bronx Municipal | \$3.5 | Settlement | Bronx |
| Bronx Municipal | \$3 | Settlement | Bronx |
| Bronx Municipal | \$2.9 | Settlement | Bronx |
| Bellevue | \$2.8 | Settlement | New York |
| Lincoln Hospital | \$2.7 | Settlement | Bronx |

Obstetrical/Gynecological Care

Obstetrical Care

Of 43 cases of alleged medical malpractice, 23 involved obstetrical care resulting in infant injuries. These cases followed essentially the same pattern: an infant born at a City hospital suffered brain damage, mental retardation, and/or other developmental problems as a result of the hospital's alleged failure to treat, monitor or properly manage the prenatal care, labor or delivery.

*In 1989, claimant alleged medical malpractice involving labor and delivery resulting in brain damage, quadriplegia and cerebral palsy. *Settlement \$7.45 million.*

*In 1991, claimant alleged negligent obstetrical care and medical malpractice involving delivery of dead fetus complicated by high blood pressure resulting in permanent coma. *Judgment \$5.2 million.*

*In 1985, claimant alleged negligent obstetrical care and medical malpractice involving cesarean delivery of infant. *Judgment \$4.21 million.*

*In 1985, claimant alleged negligent obstetrical care resulting in brain damage and cerebral palsy. *Settlement \$4 million.*

*In 1994, claimant alleged negligent pre-natal and obstetrical care resulting in permanent brain damage. *Settlement \$3.9 million.*

*Claimant alleges failure to perform C-Section timely resulting in the fetus developing chorioamnionitis during labor. *Settlement \$3.5 million*

*Claimant alleges negligence and malpractice in the prenatal care, labor and delivery and neonatal care of the infant claimant resulting in mental retardation and autism. *Settlement \$2.9 million*

*Claimant alleges negligence and malpractice in the prenatal care, labor and delivery, neonatal and pediatric care of the infant claimant resulting in cerebral palsy, spastic quadriplegia, mental retardation and developmental delays. *Settlement \$2.75 million.*

*Claimant alleges negligence and malpractice in the prenatal care, labor and delivery, neonatal and pediatric care of the infant claimant resulting in brain damage, psychomotor retardation and cerebral palsy. *Settlement \$2.7 million.*

*Claimant alleges negligence and malpractice in the prenatal, natal and post-natal care and failure to perform a timely c-section resulting in brain damage, seizures, mental retardation, cerebral palsy and delayed development. *Settlement \$2.5 million.*

- *Claimant alleges negligence and malpractice in the prenatal care, labor and delivery and neonatal care of the infant claimant resulting in brain damage. *Settlement \$2.5 million*
- *Claimant alleges negligence and malpractice in the prenatal care, labor and delivery, neonatal and pediatric care of the infant claimant resulting in brain damage and cerebral palsy. *Settlement \$2.5 million.*
- *Claimant alleges negligence and malpractice in the prenatal care and post natal care of the infant claimant resulting in developmental delays and mental retardation. *Settlement \$2.5 million.*
- *Claimant alleges negligence and malpractice in the prenatal care and post natal care of the infant claimant resulting in brain and nervous system damage. *Settlement \$2.4 million.*
- *Claimant alleges negligence and malpractice in the prenatal care and post natal care of the infant claimant resulting serious injuries. *Judgment \$2.28 million.*
- *Claimant alleges negligence and malpractice in prenatal care, labor and delivery resulting in disabling permanent injuries. *Settlement \$2.25 million.*
- *Claimant alleges negligence and malpractice in prenatal care, labor and delivery resulting in serious injuries. *Settlement \$2.1 million.*
- *Claimant alleges negligence and malpractice in labor and delivery resulting in disabling permanent injuries to infant. *Settlement \$2 million.*
- *Claimant alleges failure to diagnose cephalopelvic disproportion prior to delivery and failure to timely deliver infant via c-section resulting in severe brain damage and cerebral palsy. *Settlement \$1.5 million.*
- *Claimant alleges negligence and malpractice in the prenatal care and labor and delivery resulting in brain damage, cerebral palsy, seizure disorder and learning disability . *Settlement \$1.4 million.*
- *Claimant alleges negligence and malpractice in the prenatal care, natal and post-natal in failing to perform a timely c-section resulting in conscious pain and suffering loss of earnings and wrongful death. *Settlement \$1.3 million.*
- *Claimant alleges negligence and malpractice in the prenatal care and delivery resulting in neurological damage, a brachial plexus injury and Erb's palsy. *Settlement \$1 million.*

Neonatal/Pediatric Care

- *Claimant alleges failure to properly diagnose and treat infant's condition resulting in cerebral palsy, spastic quadriplegia, mental retardation and developmental delays. *Settlement \$3 million.*

*Claimant alleges negligence and malpractice in the neonatal care of the infant claimant resulting in brain and neurological damage. *Settlement \$2.25 million.*

*Claimant alleges negligence and malpractice in the neonatal care and post natal care of the infant claimant resulting in brain damage, developmental delays and mental retardation. *Settlement \$1.85 million.*

*Claimant alleges negligence in treatment of child leading to permanent injury. *Settlement \$1.725 million.*

*Claimant alleges negligent treatment of child leading to seizure and subdural empyema. *Settlement \$1.5 million.*

*Claimant alleges negligence and malpractice in failing to diagnose the infant claimant's condition resulting in brain damage and neurological impairment. *Settlement \$1 million.*

Other Medical Malpractice Claims

*Claimant alleges failure to diagnose and treat meningoencephalitis / performance of abdominal surgery which was contraindicated. *Judgment \$ 3.534 million.*

*Claimant alleges medical malpractice, resulting in amputation of limb. *Settlement \$1.85 million.*

*Claimant alleges failure to recognize and locate a deep vein thrombosis resulting in severe injuries culminating in death. *Settlement \$1.75 million.*

*Claimant alleges negligence in failure to properly insert an endotracheal tube and failure to properly monitor the patient's respiratory condition causing permanent brain and neurological damage resulting in incapacitation. *Settlement \$1.75 million.*

*Claimant alleges failure to properly diagnose and treat renal calculus, pyelonephritis and sepsis resulting in pain and suffering and death. *Settlement \$ 1.75 million.*

*Claimant alleges failure to properly perform spinal decompression, discectomy, spinal fusion and bone grafting resulting in paraplegia. *Settlement \$1.4 million.*

*Claimant alleges failure to adequately diagnose severe vascular disease of the legs prior to coronary bypass surgery resulting in amputation of limb. *Settlement \$1.25 million.*

*Claimant alleges medical malpractice and negligence in the performance of a laparoscopic tubal ligation resulting in infection and wrongful death. *Settlement \$1.25 million.*

*Claimant alleges failure to properly diagnose and treat condition and allowing patient to fall from bed resulting in stroke, hemipareses and other disabling conditions. *Settlement \$1.2 million.*

*Claimant alleges medical malpractice and negligence in the performance of surgery by negligently severing the claimant's bile duct resulting severe personal injuries, pain and suffering. *Settlement \$ 1.1 million.*

*Claimant alleges medical malpractice and negligence in failing to properly treat diabetic condition resulting in pain, suffering and death. *Settlement \$ 1 million.*

*Claimant alleges medical malpractice and negligence in failing to properly diagnose and treat a damaged liver resulting in permanent damage to the liver. *Settlement \$ 1 million.*

LAW CLAIMS

New York State Claim

*Claimant NYS government application for reimbursement of petroleum spill clean up costs from New York. *Settlement \$1.07 million.*

Contract Claims

*In 1992, claimant contractor alleged damages due to breach of contract. *Settlement \$8 million.*

*In 1999, claimant contractor alleged damages due to breach of contract and wrongful termination of contract. *Settlement \$7.5 million.*

*In 1994, claimant contractor alleged failure to disclose conditions and change orders resulting in additional costs. *Settlement \$6.2 million.*

*Claimant contractor alleges damages for breach of contract including defects in property. *Settlement \$1.9 million*

*Claimant contractor alleges damages due to breach of contract and unreasonable delays. *Settlement \$1.65 million*

*Claimant contractor alleges damages for unreasonable delay and disruption of claimant's operation. *Settlement \$1.375 million.*

*Claimant contractor (joint venture) alleges damages for failure to provide accurate information regarding depth of "top of rock" resulting in excessive cost. *Settlement \$1.3 million.*

*Claimant contractor alleges damages for contract balance due to wrongful declaration of default and wrongful termination of contract. *Settlement \$1.1 million.*

Miscellaneous Claims

*Court determination for value to paid to owners of condemned property . *Judgment \$1.05 million.*

EMPLOYEE/UNIFORMED SERVICE CLAIM

*Claimant firefighter's kin alleges negligent supervision of building renovations in a city owned building, which collapsed resulting in the death of the firefighter. *Settlement \$2.5 million.*

*Claimant sanitation worker alleges negligence in failing to repair a bathroom floor, which collapsed resulting in serious injuries. *Settlement \$2 million.*

*Claimant police detective as pedestrian in pursuit of a robbery suspect alleges being struck by a police vehicle resulting in serious and permanent injury *Settlement \$2 million.*

*Claimant EMS worker alleges flooding condition causing EMS vehicle to lose control and strike a stationary object resulting in serious and permanent injury *Settlement \$2 million.*

*Claimant firefighter alleges negligent supervision of building renovations in a city owned building, which collapsed resulting in serious injuries. *Settlement \$1.75 million.*

*Claimant firefighter alleges an unsafe condition in a city owned building, which caused claimant to trip resulting in disabling injuries. *Judgment \$1.29 million.*

*Claimant firefighter alleges negligent supervision of building renovations in a city owned building, which collapsed resulting in serious injuries. *Settlement \$1.25 million*

*Claimant firefighter alleges negligent supervision of building renovations in a city owned building, which collapsed resulting in serious injuries. *Settlement \$1.175 million*

AUTOMOBILE ACCIDENT CLAIMS

*Claimant passenger in a private vehicle alleges severe multiple injuries as a result of being struck by a Department of Sanitation truck at an intersection. *Settlement \$2.6 million.*

*Claimant alleges that a Department of Sanitation truck struck claimant's vehicle resulting in serious injury. *Settlement \$1.8 million.*

*Claimant pedestrian alleges being struck by a Parks Department vehicle resulting in severe physical injuries. *Settlement \$1.5 million.*

*Claimant passenger alleges that the negligent operation, management and control of a Fire Department ambulance caused a motor vehicle accident resulting in serious personal injuries. *Settlement \$1.5 million.*

*Claimant passenger alleges negligence in failing to provide a safe barrier between opposing vehicles resulting in death of child and severe bodily injuries to other passengers. *Settlement \$1.35 million.*

*Claimant alleges negligence in failing to provide safe traffic control during a towing hook up resulting in serious bodily injuries. *Settlement \$1.35 million.*

*Claimant pedestrian's survivors allege negligence in careless pursuit of a vehicle causing said vehicle to strike the pedestrian resulting in death. *Settlement \$1.3 million.*

*Claimant alleges that a Police vehicle struck the claimant's vehicle resulting in serious injury. *Settlement \$1.03million.*

BUILDING & PROPERTY CLAIM

*Claimant alleges negligence in allowing an unsafe condition to exist resulting in severe bodily injuries. *Settlement \$1.2 million.*

PEACE OFFICER/POLICE ACTION CLAIMS

*Claimant alleges assault (shooting) by off duty officer resulting in personal injury. *Interest paid on Judgment \$2.1 million.*

*Claimant alleges assault, excessive force, false arrest and imprisonment. *Settlement \$1.5 million.*

*Claimant alleges assault, excessive force, false arrest and imprisonment. *Judgment \$1.206 million.*

*Claimant alleges assault and abuse, and infliction of facial laceration. *Settlement \$1.2 million.*

SCHOOL CLAIMS

*Claimant student alleges lack of supervision resulting in sodomy of student. *Settlement \$2 million.*

*Claimant alleges falling from a defective ladder resulting in severe permanent injuries. *Judgment \$1.45 million.*

DEFECTIVE ROADWAY CLAIM

*Claimant passenger in a private vehicle involved with another private vehicle alleges quadriplegia as result of wet condition of the Manhattan Bridge causing second vehicle to lose control and jump the divider resulting in a head on collision. *Settlement \$3million.*

APPENDIX D

Detailed Tables

Table 1
Number of Claims Filed by Claim Type
Fiscal Years 1991 - 2000

| | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|--------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <u>Personal Injury:</u> | | | | | | | | | | |
| Sidewalk | 3,698 | 3,647 | 4,068 | 5,365 | 4,034 | 4,520 | 3,967 | 3,929 | 4,141 | 3,975 |
| Police Action | 1,712 | 1,749 | 1,567 | 1,759 | 2,195 | 2,237 | 2,266 | 2,105 | 2,386 | 1,781 |
| Schools | 1,739 | 1,805 | 1,941 | 2,043 | 2,004 | 1,756 | 1,901 | 2,080 | 1,898 | 1,895 |
| Motor Vehicle | 1,375 | 1,451 | 1,454 | 1,763 | 1,790 | 1,515 | 1,498 | 1,617 | 1,558 | 1,768 |
| Roadway | 1,266 | 1,309 | 1,442 | 1,422 | 1,450 | 1,345 | 1,417 | 1,552 | 1,381 | 1,520 |
| City Property | 1,166 | 1,075 | 972 | 1,315 | 1,353 | 1,326 | 1,006 | 1,051 | 814 | 814 |
| Corrections | 1,062 | 984 | 833 | 879 | 971 | 1,014 | 1,021 | 861 | 1,008 | 799 |
| Civil Rights | 464 | 449 | 491 | 616 | 803 | 981 | 1,092 | 1,135 | 1,063 | 1,312 |
| Medical Malpractice | 726 | 761 | 692 | 734 | 898 | 739 | 771 | 806 | 857 | 888 |
| Traffic Device | 424 | 384 | 413 | 347 | 335 | 464 | 433 | 444 | 407 | 417 |
| Parks & Recreation | 429 | 345 | 400 | 447 | 394 | 449 | 390 | 399 | 384 | 320 |
| Uniform Services | 279 | 304 | 332 | 300 | 279 | 205 | 205 | 288 | 361 | 292 |
| Other | 960 | 1,002 | 2,048 | 1,542 | 1,782 | 2,040 | 970 | 944 | 1,048 | 933 |
| Total | <u>15,300</u> | <u>15,265</u> | <u>16,653</u> | <u>18,532</u> | <u>18,288</u> | <u>18,591</u> | <u>16,937</u> | <u>17,211</u> | <u>17,306</u> | <u>16,714</u> |
| <u>Property Damage:</u> | | | | | | | | | | |
| Motor Vehicle | 5,262 | 5,183 | 4,851 | 5,034 | 4,408 | 4,551 | 3,315 | 3,218 | 3,179 | 3,549 |
| Other | 5,093 | 4,748 | 5,307 | 6,037 | 5,480 | 6,648 | 8,282 | 5,893 | 5,134 | 5,121 |
| Total | <u>10,355</u> | <u>9,931</u> | <u>10,158</u> | <u>11,071</u> | <u>9,888</u> | <u>11,199</u> | <u>11,597</u> | <u>9,111</u> | <u>8,313</u> | <u>8,670</u> |
| <u>Law Division:</u> | | | | | | | | | | |
| Contracts | 341 | 507 | 335 | 329 | 396 | 350 | 317 | 261 | 215 | 262 |
| Other | 834 | 1,021 | 1,061 | 929 | 883 | 979 | 984 | 837 | 798 | 690 |
| Total | <u>1,175</u> | <u>1,528</u> | <u>1,396</u> | <u>1,258</u> | <u>1,279</u> | <u>1,329</u> | <u>1,301</u> | <u>1,098</u> | <u>1,013</u> | <u>952</u> |
| Grand Total | <u>26,830</u> | <u>26,724</u> | <u>28,207</u> | <u>30,861</u> | <u>29,455</u> | <u>31,119</u> | <u>29,835</u> | <u>27,420</u> | <u>26,632</u> | <u>26,336</u> |

Table 2

**Number of Claims Filed by Agency
Fiscal Years 1991 - 2000**

| | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|-------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Transportation Dept. | 9,534 | 9,919 | 9,842 | 10,227 | 9,114 | 9,338 | 8,115 | 7,797 | 7,062 | 7,125 |
| Police Department | 3,247 | 3,712 | 3,973 | 4,080 | 4,771 | 4,631 | 5,106 | 5,141 | 5,163 | 4,830 |
| Sanitation Department | 1,806 | 1,356 | 2,058 | 3,418 | 1,685 | 2,880 | 1,217 | 1,171 | 1,377 | 1,709 |
| Board of Education | 2,372 | 2,522 | 2,665 | 2,726 | 3,010 | 2,644 | 2,894 | 2,934 | 2,706 | 2,747 |
| Health & Hospitals Corp. | 1,935 | 1,866 | 1,871 | 1,953 | 1,999 | 1,828 | 1,465 | 1,245 | 1,340 | 1,309 |
| Environmental Protection | 1,128 | 1,017 | 1,128 | 1,121 | 1,041 | 1,615 | 3,397 | 1,185 | 1,176 | 1,140 |
| Corrections Department | 1,574 | 1,511 | 1,439 | 1,380 | 1,490 | 1,585 | 1,546 | 1,349 | 1,470 | 1,305 |
| Parks Department | 823 | 737 | 982 | 999 | 973 | 1,181 | 1,073 | 1,201 | 1,166 | 1,047 |
| Fire Department | 389 | 421 | 488 | 602 | 504 | 455 | 720 | 915 | 1,048 | 986 |
| Housing, Preservation | 1,065 | 938 | 866 | 1,162 | 1,062 | 1,024 | 715 | 755 | 444 | 379 |
| Human Resources Admin. | 293 | 264 | 245 | 349 | 305 | 339 | 294 | 236 | 243 | 193 |
| Buildings Department | 225 | 88 | 104 | 308 | 112 | 150 | 134 | 209 | 149 | 84 |
| Other | 2,439 | 2,373 | 2,546 | 2,536 | 3,389 | 3,449 | 3,159 | 3,282 | 3,288 | 3,482 |
| <u>Total</u> | <u>26,830</u> | <u>26,724</u> | <u>28,207</u> | <u>30,861</u> | <u>29,455</u> | <u>31,119</u> | <u>29,835</u> | <u>27,420</u> | <u>26,632</u> | <u>26,336</u> |

Table 3

Dollar Amount of Settlements & Judgments by Claim Type

Fiscal Years 1991 - 2000 (In Millions)

| | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Personal Injury | | | | | | | | | | |
| Medical Malpractice | \$66.7 | \$82.7 | \$77.1 | \$81.6 | \$74.1 | \$102.8 | \$109.2 | \$112.0 | \$118.2 | \$150.6 |
| Sidewalk | 29.0 | 29.7 | 36.1 | 46.7 | 45.2 | 48.4 | 41.6 | 45.8 | 57.4 | 58.1 |
| Motor Vehicle | 18.8 | 19.8 | 20.9 | 24.9 | 31.6 | 24.2 | 28.9 | 31.8 | 38.0 | 46.8 |
| Police Action | 12.4 | 15.4 | 20.0 | 24.9 | 23.9 | 20.5 | 27.5 | 28.3 | 40.8 | 36.9 |
| Schools | 16.6 | 9.6 | 12.4 | 18.2 | 18.0 | 17.4 | 23.0 | 22.1 | 23.0 | 26.2 |
| City Property | 10.1 | 13.9 | 15.1 | 12.1 | 16.1 | 17.4 | 15.3 | 27.5 | 21.6 | 17.1 |
| Roadway | 16.8 | 10.1 | 15.8 | 12.0 | 15.7 | 16.6 | 11.5 | 9.6 | 12.5 | 17.4 |
| Civil Rights | 3.6 | 0.3 | 3.5 | 2.8 | 2.4 | 7.7 | 7.3 | 12.7 | 19.2 | 14.1 |
| Uniform Services | 7.4 | 5.7 | 5.0 | 12.1 | 5.0 | 11.8 | 6.7 | 10.6 | 13.8 | 24.2 |
| Corrections | 1.3 | 1.7 | 1.4 | 1.6 | 1.4 | 2.8 | 3.8 | 5.9 | 4.4 | 3.0 |
| Parks & Recreation | 6.0 | 2.0 | 2.3 | 4.4 | 3.4 | 4.7 | 3.0 | 3.3 | 6.1 | 5.3 |
| Traffic Device | 4.7 | 0.3 | 1.2 | 1.5 | 1.9 | 1.8 | 2.8 | 1.1 | 1.6 | 2.3 |
| Other | 5.1 | 6.6 | 6.6 | 9.3 | 8.1 | 16.7 | 7.5 | 6.6 | 8.1 | 4.4 |
| Total | <u>\$198.7</u> | <u>\$197.8</u> | <u>\$217.5</u> | <u>\$252.1</u> | <u>\$246.8</u> | <u>\$292.6</u> | <u>\$288.3</u> | <u>\$317.4</u> | <u>\$364.8</u> | <u>\$406.4</u> |
| Property Damage | | | | | | | | | | |
| Motor Vehicle | \$2.3 | \$1.9 | \$2.8 | \$3.1 | \$2.4 | \$3.0 | \$3.7 | \$3.2 | \$2.7 | \$3.0 |
| Other | 1.6 | 2.9 | 3.6 | 1.9 | 2.1 | 2.8 | 3.0 | 22.1 | 3.2 | 6.7 |
| Total | <u>\$3.9</u> | <u>\$4.8</u> | <u>\$6.4</u> | <u>\$5.0</u> | <u>\$4.5</u> | <u>\$5.8</u> | <u>\$6.7</u> | <u>\$25.3</u> | <u>\$5.9</u> | <u>\$9.7</u> |
| Law Claims | | | | | | | | | | |
| Contracts | \$17.1 | \$15.8 | \$17.7 | \$14.9 | \$13.0 | \$5.6 | \$5.6 | \$27.9 | \$17.7 | \$33.6 |
| Other | 6.4 | 7.4 | 6.6 | 8.8 | 9.8 | 3.2 | 4.1 | 10.3 | 29.5 | 9.6 |
| Total | <u>23.5</u> | <u>23.2</u> | <u>24.3</u> | <u>23.7</u> | <u>22.8</u> | <u>8.8</u> | <u>9.8</u> | <u>38.1</u> | <u>47.2</u> | <u>43.1</u> |
| Grand Total | <u>\$226.1</u> | <u>\$225.8</u> | <u>\$248.2</u> | <u>\$280.8</u> | <u>\$274.1</u> | <u>\$307.2</u> | <u>\$304.8</u> | <u>\$380.9</u> | <u>\$417.9</u> | <u>\$459.2</u> |

Table 4**Dollar Amount of Agency Settlements & Judgments****Fiscal Years 1991 - 2000 (In Millions)**

| | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Health & Hospitals | \$68.9 | \$86.0 | \$86.3 | \$85.6 | \$78.9 | \$120.3 | \$118.7 | \$126.1 | \$136.9 | \$151.6 |
| Transportation Department | 56.1 | 53.0 | 55.0 | 64.8 | 66.8 | 70.5 | 55.6 | 60.6 | 73.4 | 78.0 |
| Police Department | 24.2 | 28.6 | 33.3 | 39.4 | 36.0 | 40.8 | 42.5 | 50.7 | 73.8 | 68.8 |
| Board of Education | 17.9 | 12.3 | 15.3 | 21.6 | 20.1 | 18.1 | 25.0 | 28.8 | 24.6 | 34.3 |
| Housing Preservation | 4.0 | 8.9 | 8.8 | 15.5 | 15.7 | 14.5 | 10.1 | 19.2 | 16.0 | 16.6 |
| Sanitation Department | 11.3 | 10.7 | 11.5 | 12.9 | 11.3 | 10.2 | 9.4 | 16.0 | 16.1 | 22.3 |
| Corrections Department | 4.3 | 2.4 | 2.2 | 3.7 | 2.6 | 4.1 | 5.1 | 7.9 | 7.1 | 4.5 |
| Parks Department | 6.5 | 2.7 | 3.4 | 7.8 | 5.0 | 6.0 | 5.1 | 4.7 | 10.1 | 9.1 |
| Environmental Protection | 3.6 | 6.6 | 9.8 | 3.5 | 4.6 | 5.0 | 5.0 | 30.2 | 7.8 | 23.0 |
| Fire Department | 5.4 | 2.8 | 1.9 | 8.2 | 4.6 | 6.3 | 4.4 | 11.3 | 11.1 | 13.8 |
| Buildings Department | 3.1 | 5.8 | 2.6 | 0.9 | 5.3 | 1.3 | 3.2 | 1.1 | 0.7 | 1.8 |
| Human Resources | 1.5 | 0.9 | 3.0 | 1.9 | 1.7 | 1.4 | 2.3 | 1.0 | 16.2 | 1.6 |
| Other | 19.2 | 5.0 | 15.2 | 15.0 | 21.3 | 9.0 | 18.5 | 23.1 | 24.1 | 33.7 |
| <u>Total</u> | <u>\$226.1</u> | <u>\$225.8</u> | <u>\$248.2</u> | <u>\$280.8</u> | <u>\$274.1</u> | <u>\$307.2</u> | <u>\$304.8</u> | <u>\$380.9</u> | <u>\$417.9</u> | <u>\$459.2</u> |

Table 5
Count of Settlements & Judgments by Claim Type
Fiscal Years 1991 - 2000

| | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|-------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <u>Personal Injury</u> | | | | | | | | | | |
| Sidewalk | 1,241 | 1,235 | 1,500 | 1,770 | 1,702 | 2,069 | 2,034 | 2,334 | 2,800 | 3,100 |
| Schools | 668 | 676 | 770 | 767 | 591 | 798 | 785 | 885 | 1,021 | 1,401 |
| Motor Vehicle | 401 | 351 | 459 | 502 | 534 | 714 | 772 | 889 | 1,092 | 1,025 |
| Police Action | 269 | 272 | 315 | 409 | 379 | 459 | 555 | 558 | 744 | 830 |
| Roadway | 242 | 207 | 240 | 334 | 340 | 415 | 422 | 455 | 574 | 624 |
| City Property | 192 | 184 | 208 | 269 | 249 | 275 | 296 | 322 | 340 | 340 |
| Medical Malpractice | 218 | 216 | 264 | 231 | 234 | 280 | 255 | 277 | 297 | 291 |
| Civil Rights | 55 | 22 | 39 | 51 | 64 | 153 | 212 | 282 | 260 | 293 |
| Parks & Recreation | 100 | 91 | 125 | 157 | 123 | 173 | 168 | 173 | 246 | 205 |
| Corrections | 82 | 62 | 65 | 92 | 87 | 118 | 145 | 141 | 130 | 134 |
| Uniform Services | 63 | 72 | 74 | 97 | 104 | 121 | 134 | 154 | 163 | 201 |
| Traffic Device | 82 | 51 | 66 | 85 | 81 | 94 | 108 | 108 | 119 | 120 |
| Other | 323 | 332 | 398 | 444 | 544 | 594 | 612 | 155 | 177 | 141 |
| Total | <u>3,936</u> | <u>3,771</u> | <u>4,523</u> | <u>5,208</u> | <u>5,032</u> | <u>6,263</u> | <u>6,498</u> | <u>6,733</u> | <u>7,963</u> | <u>8,705</u> |
| <u>Property Damage</u> | | | | | | | | | | |
| Motor Vehicle | 2,429 | 1,910 | 2,746 | 2,599 | 1,744 | 2,390 | 2,667 | 2,287 | 1,940 | 2,056 |
| Other | 836 | 697 | 1,062 | 1,064 | 877 | 1,209 | 1,304 | 1,647 | 1,056 | 971 |
| Total | <u>3,265</u> | <u>2,607</u> | <u>3,808</u> | <u>3,663</u> | <u>2,621</u> | <u>3,599</u> | <u>3,971</u> | <u>3,934</u> | <u>2,996</u> | <u>3,027</u> |
| <u>Law Division</u> | | | | | | | | | | |
| Contracts | 51 | 65 | 90 | 107 | 84 | 43 | 30 | 60 | 54 | 53 |
| Other | 95 | 118 | 222 | 232 | 145 | 141 | 123 | 113 | 99 | 99 |
| Total | <u>146</u> | <u>183</u> | <u>312</u> | <u>339</u> | <u>229</u> | <u>184</u> | <u>153</u> | <u>173</u> | <u>153</u> | <u>152</u> |
| Grand Total | <u>7,347</u> | <u>6,561</u> | <u>8,643</u> | <u>9,210</u> | <u>7,882</u> | <u>10,046</u> | <u>10,622</u> | <u>10,840</u> | <u>11,112</u> | <u>11,884</u> |

Table 6
Count of Settlements & Judgments by Agency
Fiscal Years 1991 - 2000

| | <u>1991</u> | <u>1992</u> | <u>1993</u> | <u>1994</u> | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|---------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Transportation Department | 2,544 | 2,341 | 3,172 | 3,358 | 2,945 | 3,830 | 3,338 | 3,156 | 3,507 | 3,984 |
| Police Department | 867 | 805 | 1,148 | 1,175 | 1,066 | 1,387 | 1,734 | 2,005 | 2,045 | 2,245 |
| Sanitation Department | 1,075 | 740 | 832 | 1,021 | 766 | 934 | 1,380 | 1,007 | 959 | 1,011 |
| Board of Education | 886 | 821 | 1,117 | 1,033 | 715 | 955 | 1,038 | 1,154 | 1,149 | 1,496 |
| Health & Hospitals | 577 | 545 | 661 | 662 | 549 | 677 | 659 | 620 | 592 | 501 |
| Parks & Recreation | 258 | 230 | 318 | 395 | 314 | 371 | 460 | 570 | 550 | 466 |
| Environmental Protection | 327 | 295 | 377 | 374 | 349 | 519 | 414 | 522 | 442 | 465 |
| Fire Department | 138 | 169 | 178 | 213 | 161 | 233 | 336 | 335 | 403 | 402 |
| Corrections | 160 | 127 | 156 | 185 | 179 | 213 | 268 | 285 | 265 | 249 |
| Housing Preservation | 142 | 154 | 168 | 234 | 211 | 221 | 247 | 252 | 279 | 270 |
| Human Resources | 46 | 40 | 62 | 56 | 59 | 56 | 79 | 65 | 59 | 41 |
| Buildings Department | 26 | 20 | 20 | 22 | 27 | 30 | 20 | 23 | 22 | 21 |
| Other | 301 | 274 | 434 | 482 | 541 | 620 | 649 | 846 | 840 | 733 |
| Total | <u>7,347</u> | <u>6,561</u> | <u>8,643</u> | <u>9,210</u> | <u>7,882</u> | <u>10,046</u> | <u>10,622</u> | <u>10,840</u> | <u>11,112</u> | <u>11,884</u> |

Table 7**Settlements & Judgments Over \$1 Million****Fiscal Years 1991 - 2000**

| Fiscal Year | Settlements (in millions) | | Judgments (in millions) | | Total (in millions) | |
|--------------------|--------------------------------------|---------------|------------------------------------|---------------|--------------------------------|---------------|
| | Number | Amount | Number | Amount | Number | Amount |
| 1991 | 27 | 56.7 | 11 | 28.6 | 38 | 85.3 |
| 1992 | 26 | 64.0 | 8 | 26.6 | 34 | 90.6 |
| 1993 | 29 | 55.1 | 6 | 20.1 | 35 | 75.2 |
| 1994 | 43 | 72.3 | 2 | 6.3 | 45 | 78.6 |
| 1995 | 27 | 58.6 | 2 | 5.2 | 29 | 63.8 |
| 1996 | 45 | 73.1 | 3 | 5.4 | 48 | 78.5 |
| 1997 | 33 | 66.5 | 5 | 13.5 | 38 | 80.0 |
| 1998 | 63 | 123.8 | 4 | 9.4 | 67 | 133.2 |
| 1999 | 50 | 114.6 | 10 | 35.1 | 60 | 149.7 |
| 2000 | 66 | 149.0 | 11 | 25.4 | 77 | 174.4 |