



Office of the  
New York City Comptroller  
**Scott M. Stringer**  
Bureau of Law and Adjustment  
[www.comptroller.nyc.gov](http://www.comptroller.nyc.gov)

**August 2015**



# CLAIMS REPORT:

## FISCAL YEARS 2013 AND 2014





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THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER

SCOTT M. STRINGER  
COMPTROLLER

August 28, 2015

Dear Fellow New Yorkers:

I am pleased to share with you the New York City Comptroller's Office Claims Report for Fiscal Years (FYs) 2013 and 2014, covering July 1, 2012 through June 30, 2014. This report, the first issued under my administration, shows that in FY 2014, the City paid out \$550.3 million in personal injury and property damage tort settlements and judgments—an increase of 11 percent from the \$495.1 million paid out in FY 2013.

In the face of rising settlement and judgment costs, we must be ever vigilant in the present to make the City safer and protect the public fisc. During my first year as Comptroller, I have advised agencies on limiting the City's claims exposure. Under my direction, the Comptroller's Office developed ClaimStat, a new data-driven analysis of claims against the City. ClaimStat empowers City agencies to reduce claims by providing data that identifies practices that lead to costly settlements and judgments against the City.

In addition, the Police Department and the Comptroller's Office have established a joint working group of senior managers who meet regularly and address issues and trends regarding claims involving law enforcement. This historic initiative has allowed for the sharing of information and unprecedented communication between our agencies so that my office can either resolve meritorious claims or reject frivolous claims far earlier, which benefits everyone.

My office also has settled a number of complex, high-exposure claims before the commencement of litigation to avoid lengthy proceedings that are costly for the City and claimants alike. This strategy has been successful in providing closure to claimants sooner and has enabled the City to better utilize its legal resources.

In this report we identify trends and recommend ways in which the City can reduce the number of new claims and the amounts awarded, so that we can save taxpayer dollars and steer more resources towards schools, affordable housing and other critically needed City services.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott M. Stringer", written in a cursive style.

Scott M. Stringer  
New York City Comptroller

## I. EXECUTIVE SUMMARY

Under the New York City Charter, the Comptroller is responsible for settling and adjusting claims for and against the City of New York.<sup>1</sup> This work is performed by the Comptroller's Bureau of Law and Adjustment (BLA), which is composed of attorneys, claims professionals, and administrative staff under the supervision of the Comptroller's General Counsel.

For Fiscal Year (FY) 2014, the City paid out \$550.3 million in personal injury and property damage tort settlements and judgments—11 percent more than the \$495.1 million paid out in FY 2013.<sup>2</sup> In FY 2014, the City spent \$65 per resident to fund the cost of tort claims. These tort claims ranged from “slip, trip and falls” to medical malpractice, police actions, and motor vehicle property damage claims.<sup>3</sup>

In addition to tort claims, the City paid out \$269.2 million in non-tort claims in FY 2014, an increase of 35 percent from the \$198.9 million paid in FY 2013. These claims consist primarily of contract disputes between City agencies and their contractors, as well as alternative dispute-resolution claims, equitable claims, employment-related claims, Department of Education (DOE) tuition-reimbursement claims and sidewalk-assessment claims.<sup>4</sup>

In FYs 2013 and 2014, the City paid substantial settlement and judgment amounts for claims that occurred as far back as 1985. The Comptroller's review of settlement data for incidents occurring 10 fiscal years or more prior to FY 2013 showed that in FY 2013, the City paid \$53.1 million and \$114.6 million in FY 2014 to resolve such old claims.

In an effort to drive down the cost of settlements and judgments by empowering City agencies to reduce claims, the Comptroller's Office developed ClaimStat, a new data-driven approach to legal claims that serves as an “early warning” system for potential problem areas. Much like the New York City Police Department's award-winning CompStat approach to fighting crime, ClaimStat analyzes claim patterns that could lead to costly settlements and judgments against the City as a way to identify problems and propose proactive solutions. ClaimStat has already identified several claim patterns within agencies, including the Police Department, the Department of Parks and Recreation, the New York City Health and Hospitals Corporation, the Department of Environmental Protection, and the Department of Sanitation.

The Comptroller's Office is committed to the fair and early settlement of meritorious claims in which an individual was injured or their property was damaged as a result of the City's negligence. Early settlement of meritorious claims allows injured parties to be compensated relatively quickly when compared to litigation. In addition, history has shown that early settlement of valid claims reduces payout amounts as well as administrative and litigation costs. By settling claims early, we estimate that in FY 2014, the City saved more than \$27.2 million in future payouts on personal injury and property damage claims. In a break with the past, starting in 2014, the

Comptroller’s Office has identified and settled a number of high-exposure claims prior to litigation where the settlement was in the best interests of all parties. This practice has been implemented to avoid expensive and risky litigation and to bring closure to difficult claims.

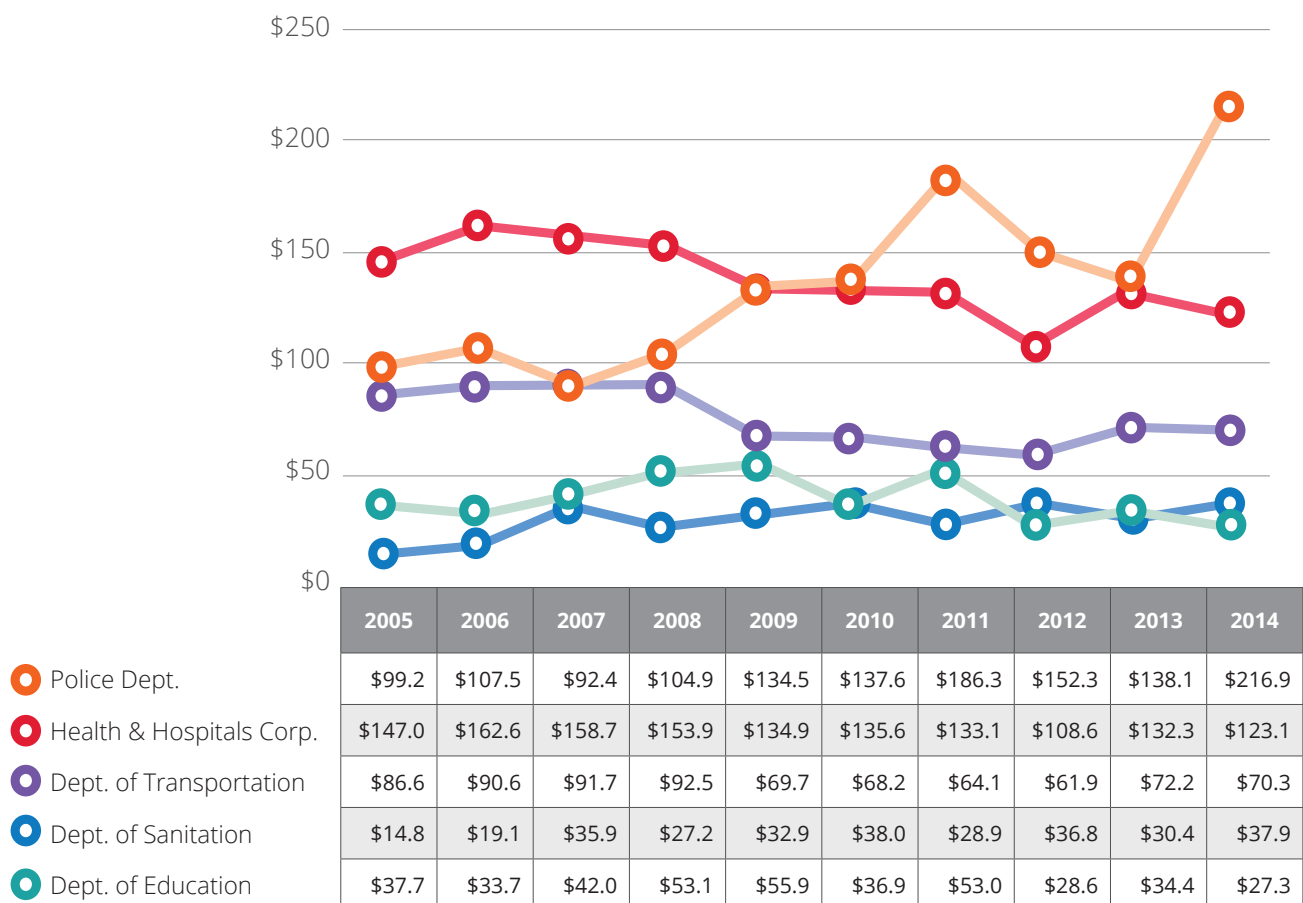
Finally, this report also includes a look-back to FY 2005 to provide a broader perspective on claims filings and settlements and to contextualize FYs 2013–14 numbers.

## CLAIM TRENDS

The Police Department (NYPD), the New York City Health and Hospitals Corporation (HHC), and the Department of Transportation (DOT) are responsible for the highest total dollar amounts paid by the City, accounting for approximately 57 percent (16,601) of total tort claims filed and 74.6 percent (\$410.3 million) of amounts paid in FY 2014.

**FYs 2005–2014**  
**Dollar Value of Settlements by Agencies**  
**with Highest Claim Costs in FY 2014**

(In Millions)



## **POLICE CLAIMS**

For FY 2014, the amount paid out for the NYPD reached an unprecedented \$216.9 million. This was the highest amount ever paid for any agency and was 16 percent (\$30.6 million) higher than the previous highest annual payout for Police claims (FY 2011).

The number of tort claims filed annually against the NYPD continued to grow and reached a historical high of 9,448 claims in FY 2014.<sup>5</sup> The NYPD has seen the number of claims rise 73 percent over the last ten years.

Tort claims against the NYPD continue to have a major impact on the City's overall claim costs. At the same time as there was an unprecedented growth in new Police filings, Police claim expenditures from settlements and judgments also increased at rates never experienced before. In FY 2014, the City paid \$216.9 million for claims involving the NYPD, an increase of 119 percent over the \$99.2 million paid in FY 2005. Multiple factors have led to this state of affairs, including:

- **CLAIMS ARISING FROM LARGE DEMONSTRATIONS**

Claims related to the policing of demonstrations surrounding the 2004 Republican National Convention (August–September) and demonstrations related to Occupy Wall Street (commencing in September 2011) cost the City \$19.7 million in FY 2014 alone.

- **WRONGFUL CONVICTIONS**

A number of settlements of claims involving the wrongful conviction of individuals who served substantial jail time proved to be costly to the City in FY 2014. Many of the wrongful convictions occurred 20 or more years ago. In the coming years, we expect more claims against the City from prisoners exonerated by the Kings County District Attorney's Conviction Review Unit.

- **ARRESTS FOR LOW-LEVEL CRIMES**

The last two decades saw an increase in arrests for petty crimes. Because these arrests in many instances did not necessarily lead to prosecutions, the City saw an increase in “false arrest” claims and settlements. In FY 2014, 4,435 of the 9,448 (47 percent) tort claims filed naming the NYPD alleged false arrest.



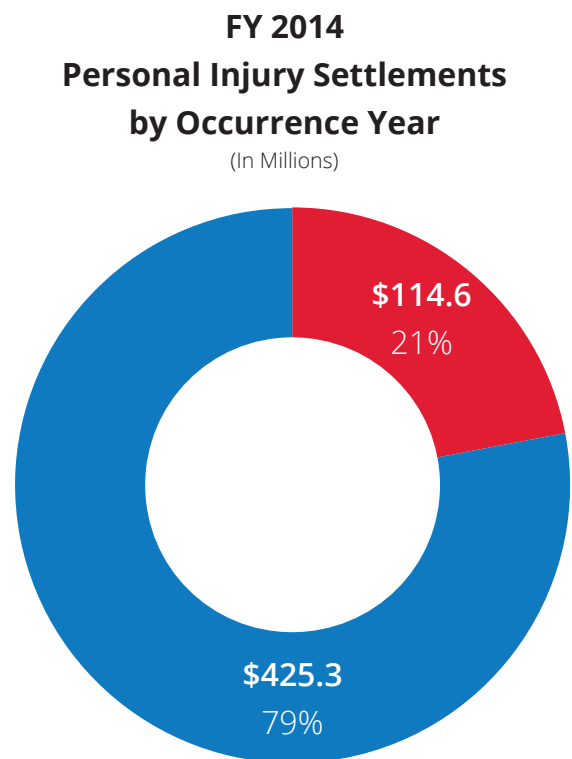
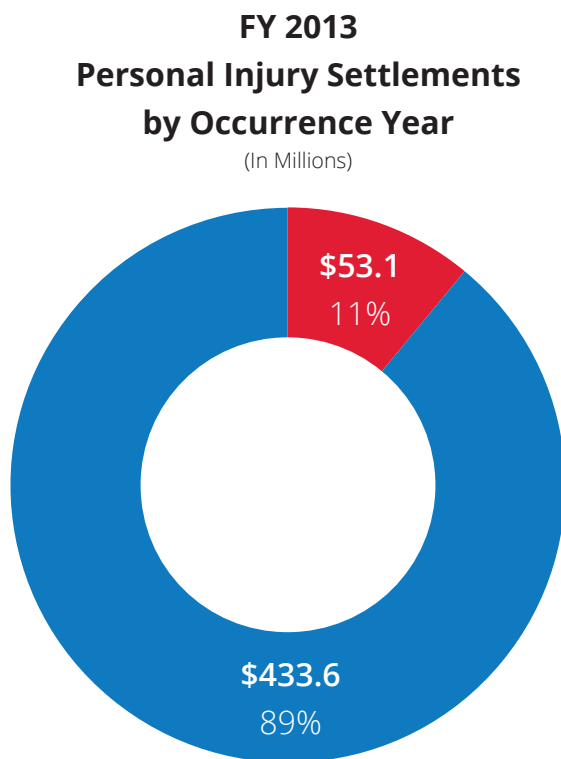
## CORRECTION CLAIMS

An area of heightened concern is Department of Correction claims. While FY 2014 expenditures for Department of Correction claim settlements was the second lowest since FY 2005, the number of new personal injury claims filed has more than doubled during the same period, resulting in the highest number of claims filed against the Department of Correction in the last ten years.

By way of historical comparison, in FY 2005, 1,292 Department of Correction claims were filed. In FY 2014, 2,899 Department of Correction claims were filed—an over 124 percent increase nine years later. This is a similar pattern that was experienced several years ago with NYPD-related claims when new claim volume exploded starting in FY 2010 and payouts increased substantially in the years following. Based on volume alone—without taking into account the different types of allegations set forth in the new claims being filed—the City may face increases in future payouts possibly starting as early as the next fiscal year.

### PAYMENTS FOR CLAIMS THAT OCCURRED FROM 1985 TO 2005

Early settlement of meritorious claims lowers overall settlement costs. Conversely, protracted litigation costs taxpayers substantially more money and resources. The increase in costs is not only with respect to the settlement amount itself; the City also bears the burden of administrative, human, and opportunity costs. The City paid \$167.7



- Occurred less than 10 fiscal years prior to settlement
- Occurred more than 10 fiscal years prior to settlement

million in FY 2013 and FY 2014 for personal injury claims that accrued more than 10 fiscal years ago. For example, the Central Park 5 wrongful conviction cases and the Republican National Convention-related actions cost the City approximately \$60 million. To protect the current and next generation of New Yorkers, the Comptroller's Office will continue to settle meritorious claims in early stages when appropriate to drive down settlement costs.

## **AGENCY FISCAL ACCOUNTABILITY FOR CLAIMS**

Over the last decade, HHC has been especially successful in both decreasing the number of new claims filed against it and containing claim expenditures. The number of claims filed annually against HHC has decreased 20 percent since FY 2005. HHC's annual claim expenditures declined 16 percent over the same period.

Unlike City agencies, HHC assumes financial responsibility for its own claim costs, up to a "capped limit" set by the Office of Management and Budget. As a result, HHC has invested in risk-management initiatives, handles the litigation of most of their severe claims, and carefully monitors incidents and practices that give rise to claim activity.

As noted, upon the release of the report "ClaimStat: Protecting Citizens and Saving Taxpayer Dollars" on July 9, 2014, the Comptroller believes that more widespread use of some aspects of the HHC approach and making individual agencies fiscally accountable for their claim costs will benefit the City, protecting its citizens and coffers. By creating agency financial incentives to hold claim activity and costs down, the City should see decreases in the number of claims filed and amounts paid out as has been seen with HHC.

## II. OVERVIEW OF THE COMPTROLLER'S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES

### CLAIMSTAT

In an effort to drive down the cost of settlements and judgments by empowering City agencies to reduce claims, the Comptroller's Office developed ClaimStat, a new data-driven approach to legal claims that serves as an "early warning" system for potential problem areas. Much like the New York City Police Department's award-winning CompStat approach to fighting crime, ClaimStat analyzes claim patterns that could lead to costly settlements and judgments against the City as a way to identify problems and propose proactive solutions. ClaimStat has already identified several claim patterns within agencies, including the Police Department, the Department of Parks and Recreation, the New York City Health and Hospitals Corporation, the Department of Environmental Protection, and the Department of Sanitation.

For example, as reported in the Comptroller's initial ClaimStat report, data related to Department of Sanitation motor vehicle accidents revealed that accidents involving sanitation trucks are most common in Staten Island, East Queens, and Borough Park. This information can be used by the City to begin to determine conditions that may be causing accidents and develop strategies to limit the City's exposure to these risks. Likewise, a ClaimStat analysis of the Parks Department found that claims for falling tree branches grew significantly in the years after the agency's tree pruning budget was slashed, suggesting that small,

preventative investments can help to avoid much larger legal settlements down the line.

The Police Department and the Comptroller's Office have initiated a historic new program that aims to reduce claim activity and the cost of Police claims. The Comptroller's Office has made notice of claim information available to the Police Department's Risk Assessment Unit on a real-time basis. Senior members of the Risk Assessment Unit and the Comptroller's claims Department now discuss claim issues on a weekly basis. In addition, the Police Department has already been able to provide detailed information that allows the Comptroller to make an early and accurate assessment of the City's possible exposure of certain claims. This information exchange also enables the Police Department to analyze new claim trends at an early stage and consider policies that may counter those trends. The current cooperation between the Comptroller's Office and the Police Department on claims matters is unprecedented.

As part of the ClaimStat initiative, the Comptroller will publish his findings on a periodic basis and will work directly with City agencies and the Law Department to identify potential solutions. The Comptroller will also publically acknowledge agencies that have taken innovative steps to reduce claim costs.

### PRE-LITIGATION PERSONAL INJURY SETTLEMENTS

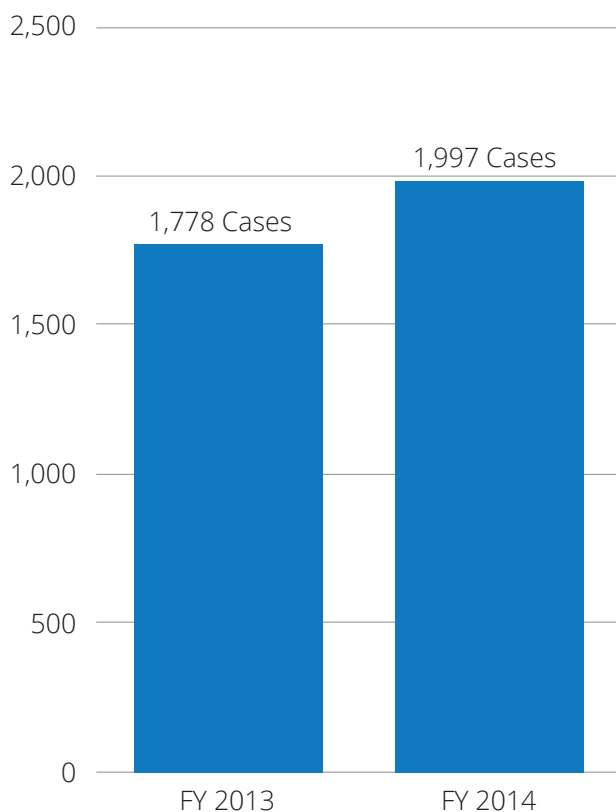
In FY 2014, BLA settled 1,997 personal injury claims pre-litigation as compared to 1,778 pre-litigation settlements in FY 2013, a 12 percent increase. This effort saved the City approximately \$27.2 million

in settlement costs in FY 2014 and \$25.9 million in FY 2013.

In FY 2014, the average pre-litigation settlement under \$100,000 was \$12,596, while the average settlement for similar claims once litigation commenced was \$23,627. In FY 2013, the average pre-litigation personal injury settlement was \$12,260, while the average settlement for similar personal injury claims once litigation commenced was \$24,813.

**Chart 1**

### **Pre-Litigation Personal Injury Settlements FYs 2013 and 2014**



## **RECOVERY PROGRAM**

In FY 2013 and FY 2014 the Comptroller's Office collected \$5.6 million and \$6.5 million, respectively, from claimants with outstanding obligations to the City and from individuals with child support orders in arrears. By partnering with the Human Resources Administration—particularly with the Office of Child Support Enforcement—BLA collected reimbursements for public assistance and Medicaid benefits, as well as child support obligations from claimants who received settlements from the City.

Together, both the Comptroller's Office and the Office of Child Support Enforcement were able to fully automate the child support collection process by using technology to place alerts directly into the Comptroller's claim system, automatically generating and serving the Comptroller's Office with child support enforcement orders. As a result of this effort, increased collections of child support are anticipated in the future.

## **DAMAGE TO CITY (PRE-LITIGATION)**

The Comptroller's Office continues to collect monies from individuals who have damaged City property. Most of these claims involve damage to the City's motor vehicles and infrastructure. As a result of BLA's efforts, \$1.6 million in affirmative claims monies were collected in FY 2014.

## SON OF SAM LAW (NEW YORK STATE EXECUTIVE LAW § 632-A)

The BLA collaborates with the New York State Office of Victims Services (Victims Services) and the New York State Attorney General’s Office (AG’s Office) to identify settlements made with convicted persons from whom victims can recover money. New York State’s “Son of Sam” law requires that before a settlement of more than \$10,000 is paid to a convicted person, the City or the Comptroller’s Office must report the unpaid settlement to Victims Services. Identification of those claims that need to be reported is accomplished using an automated process.

The settlement funds are held for 30 days by the Comptroller’s Office while Victims Services and the AG’s Office investigate whether there is a victim of a crime who can sue the perpetrator in Civil Court.

As of June 2014, the Comptroller has collected over

\$225,000 on behalf of crime victims through the Son of Sam Law. As of February 2015, the office is holding over \$318,000 pending the outcome of crime victims’ civil actions against the convicted persons’ settlements.

### III. TORT CLAIM TRENDS (FYs 2013–2014)

Property damage claims include, but are not limited to, damage to motor vehicles as a result of collisions and potholes, or other damage to personal property caused by water main breaks and sewer back-ups. In FY 2014, 28,877 new personal injury and property damage claims were filed—a 14 percent increase from the 25,270 filed in FY 2013.<sup>6</sup> The overall cost to the City for these claims was \$550.3 million in FY 2014. This represents an 11 percent increase from the cost of tort claims in FY 2013 (\$495.1 million).

Chart 2

#### Number of Tort Claims Filed by Category FYs 2013 and 2014

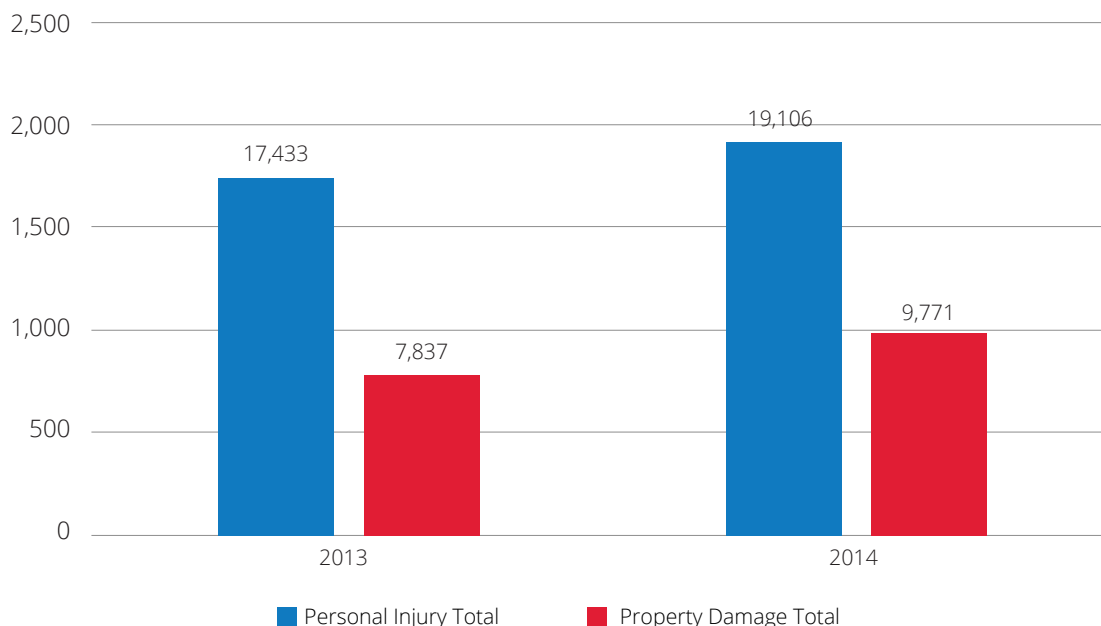
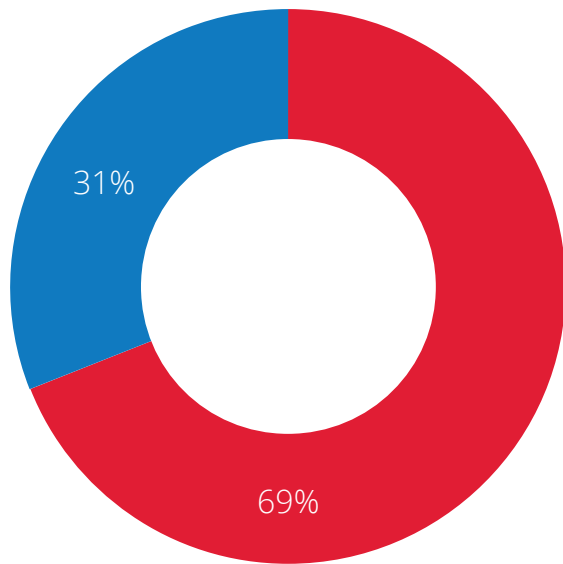




Chart 3

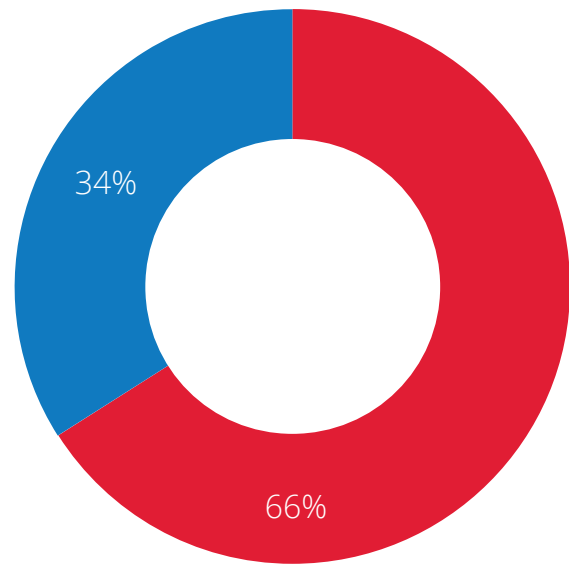
Percentage of Tort Claims Filed by Category  
FY 2013



■ Property Damage Total

Chart 4

Percentage of Tort Claims Filed by Category  
FY 2014



■ Personal Injury Total

## PERSONAL INJURY CLAIMS

Personal injury claims are the most frequently filed and the most costly to resolve. Such claims include medical malpractice, civil rights violations and injuries that occur in schools, as well as claims arising from defective sidewalks, motor vehicle accidents, or from the actions of police or uniform services employees.

Personal injury claims accounted for \$539.9 million, or 98 percent, of the \$550.3 million paid for tort claims in FY 2014. During FY 2013, personal injury claims accounted for \$486.7 million, or 98 percent, of the \$495.1 million paid for tort claims.

There were 102 personal injury payouts for \$1 million or more in FY 2014. For those 102 cases, a total of \$260.7 million was paid out. This amounted to 48 percent of the total personal injury claim payout for

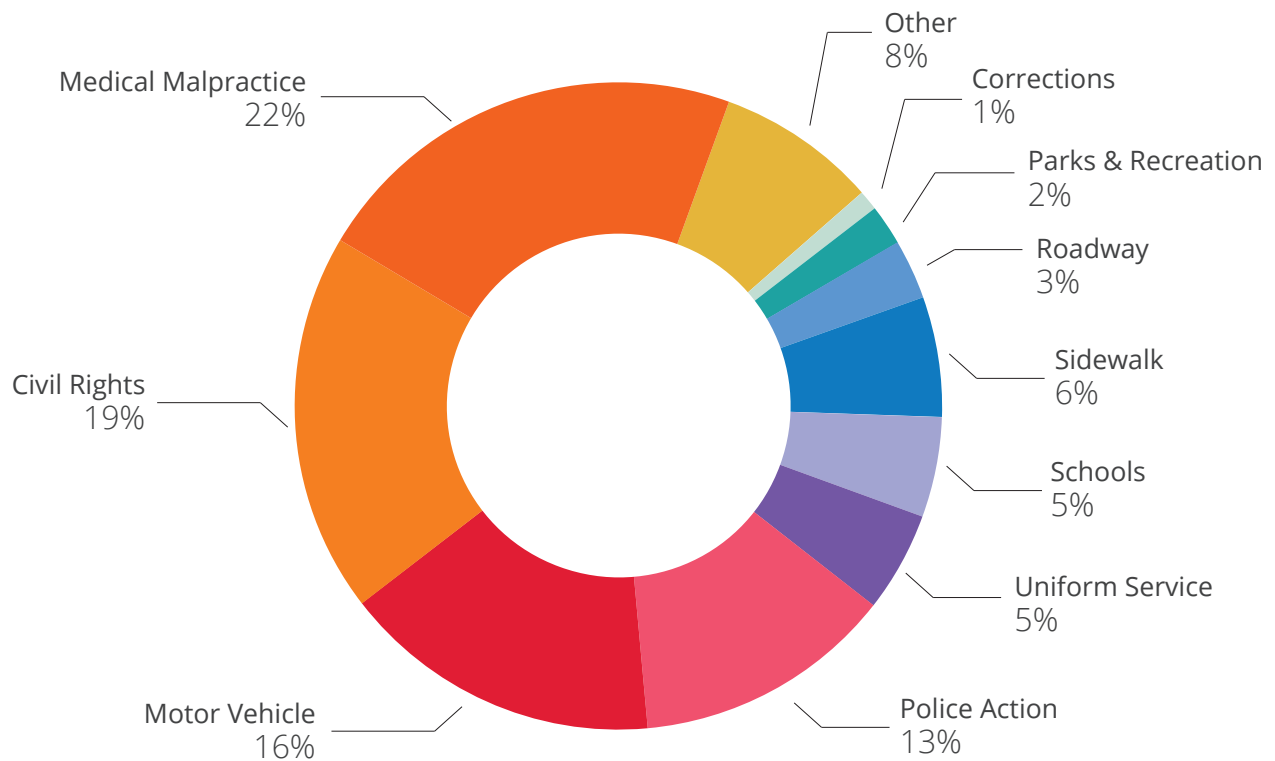
FY 2014. In other words, one percent of the personal injury claims settled were responsible for nearly 50 percent of the total personal injury expenditure for the year.

In FY 2014, the costliest personal injury claims category was medical malpractice, which cost the City \$116.7 million. The second costliest category was civil rights claims at \$104.3 million. Motor vehicle personal injury settlements and judgments were the third costliest, at \$87.3 million. The fourth costliest category was police action claims, at \$69.4 million.

The average settlement/judgment for all personal injury cases in FY 2014 was \$72,154, five percent higher than the \$68,908 average paid in FY 2013.

**Chart 5**

**Percentage of Total Personal Injury Expenditures Recorded by Claim  
FY 2014**



**Chart 6**

**Percentage of Total Personal Injury Expenditures Recorded by Claim Type  
FY 2013**

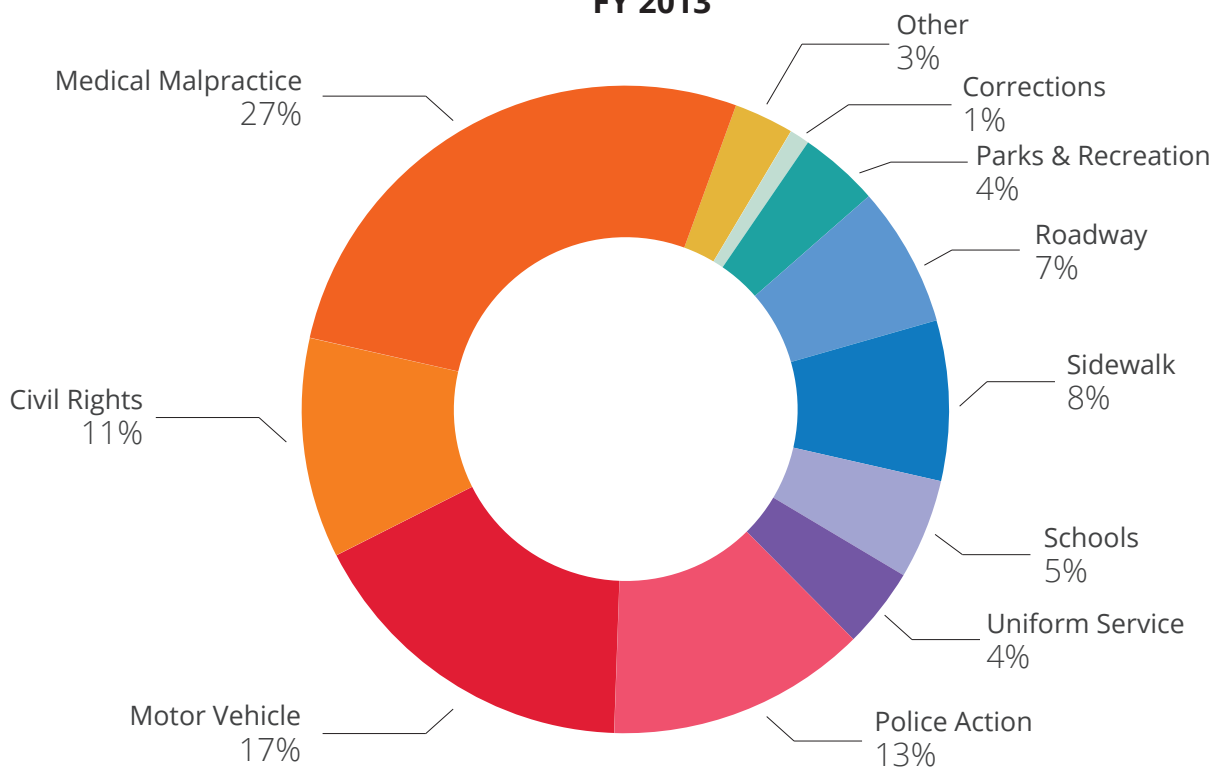
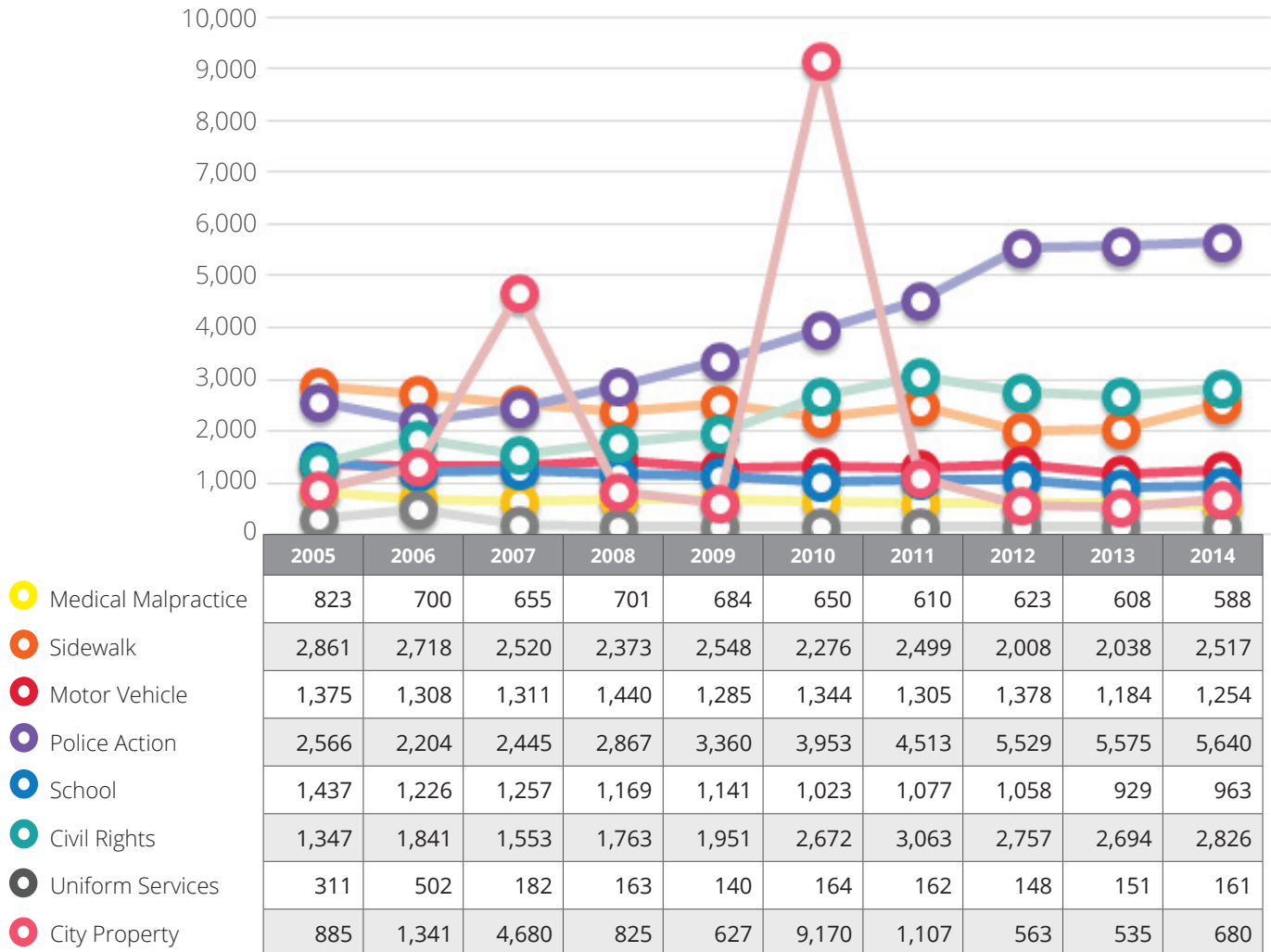


Chart 7

FYs 2005–2014

## Number of Claims Filed by Major Claim Type



## 1. MEDICAL MALPRACTICE CLAIMS

Medical malpractice claims are claims filed against the City or an HHC facility alleging malpractice during treatment. In FY 2014, 94 percent of the medical malpractice claims filed against the City involved HHC. Unlike all other City agencies, HHC assumes financial responsibility for medical malpractice liabilities, up to a “capped limit” set by the Office of Management and Budget. Although medical malpractice claims are a comparatively small percentage of personal injury claims filed, they were the costliest type of personal injury claim during each of the past 10 fiscal years.

- Medical malpractice claims accounted for 22 percent of the total \$539.9 million paid out for personal injury claims in FY 2014. In FY 2013, medical malpractice claims were 27 percent of the total \$486.7 million paid for personal injury claims. It should be noted that medical malpractice claims often take five to ten years to resolve because of their complexity. As a result, the number of claims filed is a better indicator of how HHC has addressed current hospital claim activity than the

dollar amount paid out in any one year.

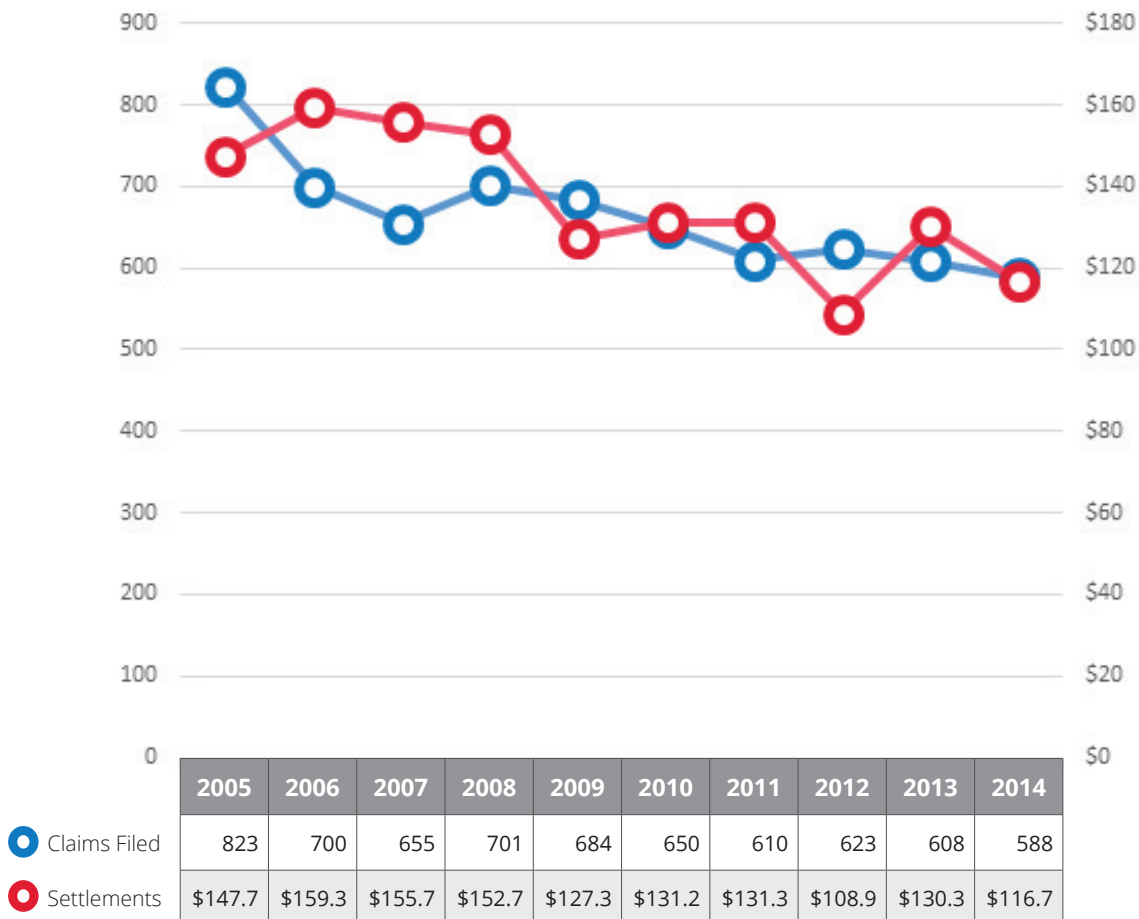
- The number of new medical malpractice claims filed in FY 2014 was 588, three percent lower than in FY 2013 when 608 claims were filed. The number of medical malpractice filings in FY 2014 represented the lowest number of these

claim filings in the last 10 years. The previous low (608) was in FY 2013.

- Medical malpractice cases cost the City \$116.7 million in settlements/judgments for the 201 cases resolved in FY 2014. In FY 2013, they cost \$130.3 million for 267 cases.

Chart 8

### Medical Malpractice FYs 2005–2014 Number of Claims Filed & Settlements (In Millions)



In FY 2014, 102 personal injury tort cases were each resolved for \$1 million or more. Medical malpractice settlements/judgments accounted for 36 of the 102 tort cases that settled for \$1 million or more.

From FY 2013 to FY 2014, four acute-care hospitals saw an increase in the number of medical malpractice claims filed against them, and six acute care hospitals saw a decrease. The four acute care hospitals that saw an increase in the number of medical malpractice claim filings were: Coney Island, Bellevue, Jacobi/Bronx Municipal, and Lincoln. The six

acute care hospitals that experienced a decrease in filings were: Kings County Hospital Center, Harlem, North Central Bronx, Elmhurst, Queens Hospital, and Woodhull. The number of medical malpractice claims for Metropolitan Hospital remained the same for both fiscal years.

Overall, the number of medical malpractice claims filed against HHC's acute care hospitals decreased by 14 claims from FY 2013 to FY 2014.



**Table 1****HHC Medical Malpractice Settlement Activity by Acute Care Hospital**

Hospital	Number Resolved FY 2013	Amount Paid FY 2013 (millions)	Number Resolved FY 2014	Amount Paid FY 2014 (millions)
Bellevue	5	\$5.8	7	\$7.1
Coney Island	4	\$3.2	4	\$4.5
Elmhurst	6	\$12.4	5	\$6.2
Harlem	4	\$4.3	2	\$2.1
Jacobi / Bronx Municipal	8	\$15.1	13	\$18.1
Kings County	10	\$19.4	11	\$22.4
Lincoln	5	\$7.7	10	\$10.0
Metropolitan	5	\$3.5	3	\$3.9
North Central Bronx	4	\$5.7	3	\$3.3
Queens Hospital Center	6	\$5.5	1	\$1.2
Woodhull	3	\$5.8	11	\$16.4
Total	60	\$88.4	70	\$95.2

**Table 2****HHC Medical Malpractice Claim Filing Activity by Acute Care Hospital**

Hospital	Claims Filed FY 2013	Claims Filed FY 2014	Increase/(Decrease)
Bellevue	58	63	5
Coney Island	31	36	5
Elmhurst	54	46	(8)
Harlem	34	26	(8)
Jacobi / Bronx Municipal	49	65	16
Kings County	88	74	(14)
Lincoln	49	62	13
Metropolitan	20	20	0
North Central Bronx	23	16	(7)
Queens	29	24	(5)
Woodhull	60	49	(11)
Total	495	481	(14)

## 2. MOTOR VEHICLE ACCIDENT CLAIMS

Personal injury motor vehicle accident claims consist of accidents involving City-owned vehicles.

There were 1,254 new personal injury motor vehicle accident claims filed in FY 2014, six percent more than FY 2013, when 1,184 were filed.

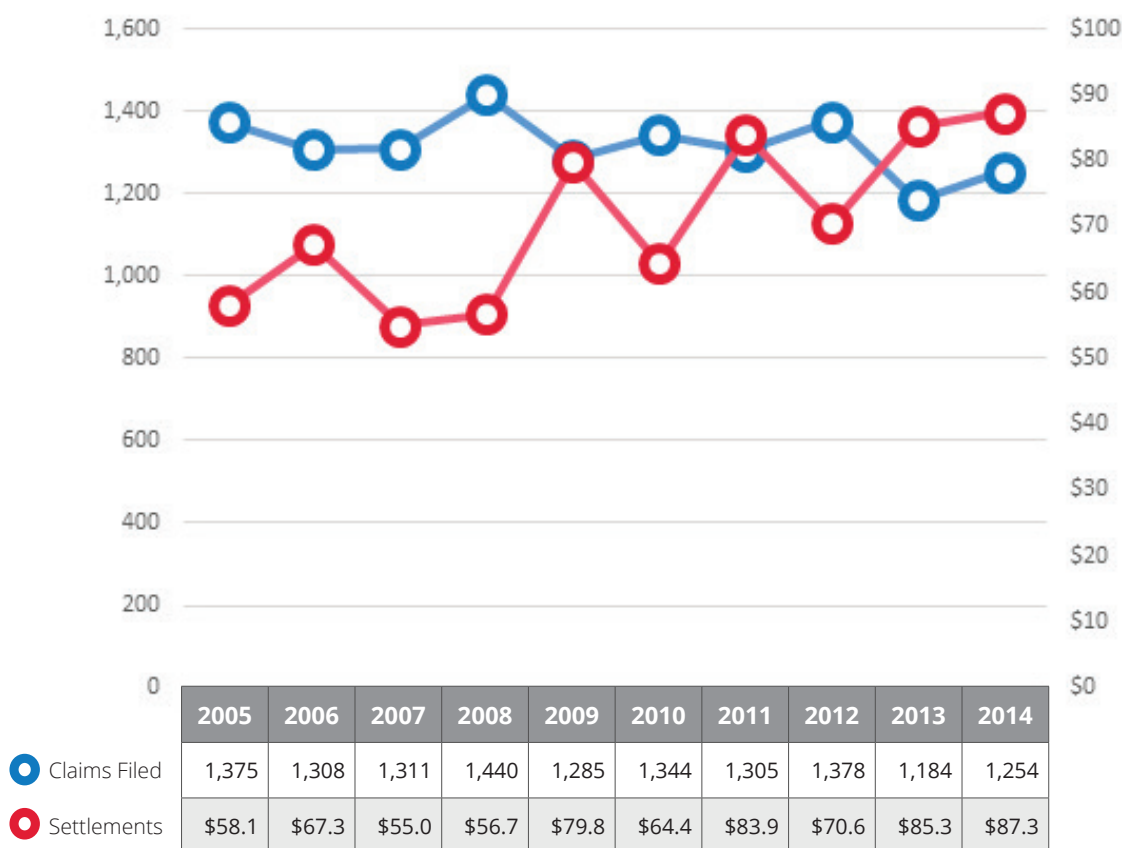
Personal injury motor vehicle accidents cost \$87.3 million in FY 2014, a two percent increase from FY 2013, when the City paid \$85.3 million in settle-

ment/judgment costs for this type of claim. Motor vehicle personal injury settlements in FY 2014 were the highest in the 10 years reviewed. Motor vehicle accidents accounted for the third highest claim type payout in FY 2014.

Motor vehicle accident personal injury claims were the fifth most frequently filed personal injury claim.

Chart 9

**Motor Vehicle  
FYs 2005-2014  
Number of Claims Filed & Settlements**  
(In Millions)



### 3. CIVIL RIGHTS CLAIMS

Civil rights claims generally arise from alleged statutory or constitutional violations such as discrimination based on sex, race, religion, disability, sexual orientation, or age. Claims in this category also include alleged violations of civil rights laws by law enforcement personnel.

There were 2,826 civil rights claims filed in FY 2014. This represents a five percent increase from

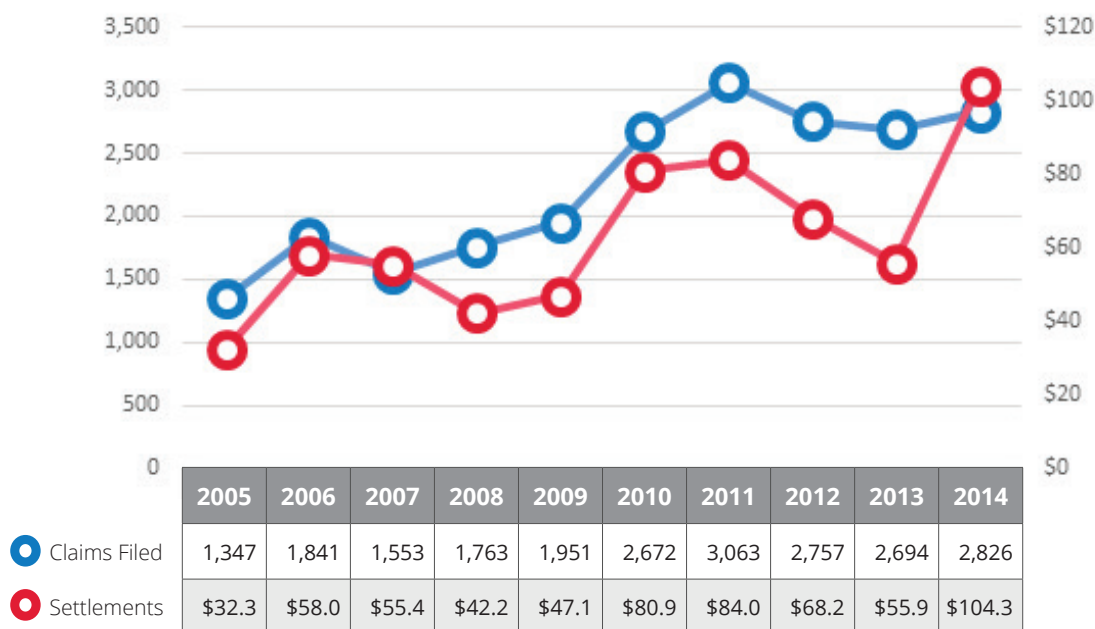
FY 2013, when 2,694 claims were filed.

The cost of civil rights claims was \$104.3 million<sup>7</sup> in FY 2014, an increase of 87 percent from the \$55.9 million paid out in FY 2013. The FY 2014 cost from civil rights claims represent a historical high.

Civil rights claims were the second most expensive and second most frequently filed personal injury claim.

Chart 10

**Civil Rights  
FYs 2005–2014  
Number of Claims Filed & Settlements**  
(In Millions)



## 4. POLICE ACTION CLAIMS

Police action claims result from allegations of improper police conduct, such as false arrest or imprisonment, shooting of a suspect, excessive force, assault, or failure to provide police protection.

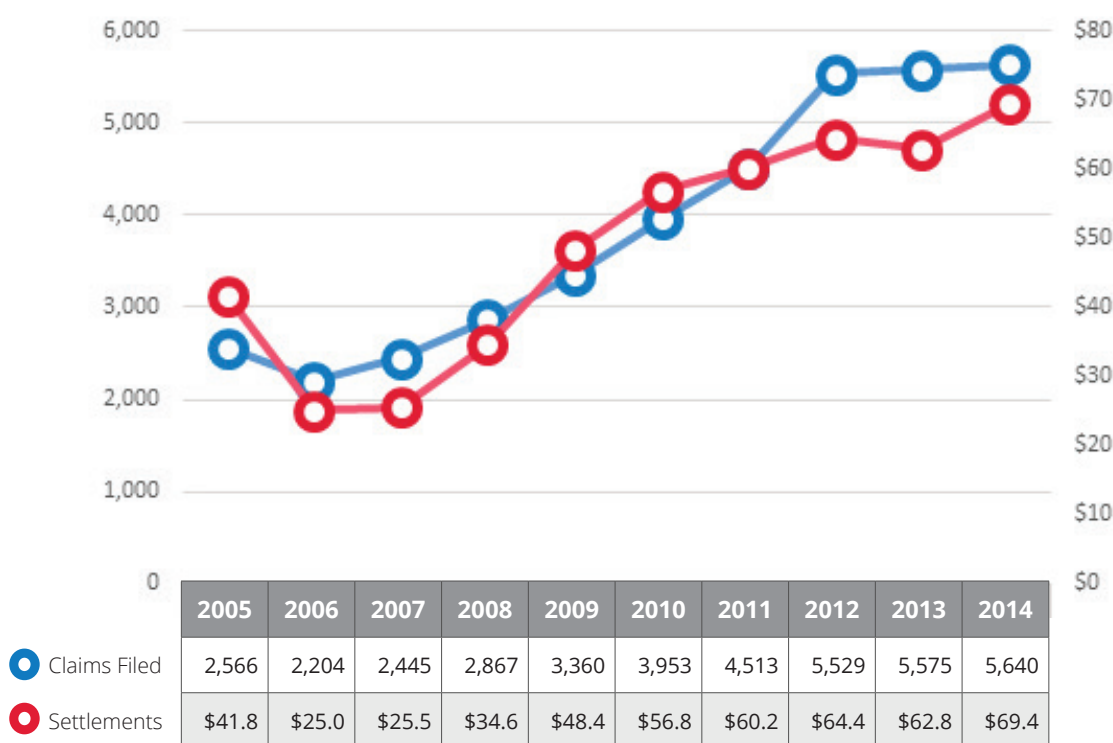
There were 5,640 new police action claims filed in FY 2014. This represents an increase of one percent from the 5,575 claims filed in FY 2013. FY 2014 saw the largest number of new police action filings during the last 10 years and increased 120 percent since 2005.

The cost of police action claims was \$69.4 million in FY 2014—an increase of 10 percent from FY 2013, when the City paid \$62.8 million.

Police action claims were the most frequent type of personal injury claim filed and accounted for the fourth highest claim payout in FY 2014. Police action claims were the most frequent type of personal injury claim filed and accounted for the third highest payout in FY 2013.

Chart 11

**Police Action  
FYs 2005–2014  
Number of Claims Filed & Settlements**  
(In Millions)



## 5. DEFECTIVE SIDEWALK CLAIMS

Sidewalk claims arise from alleged defects, such as cracked or uneven surfaces on public sidewalks. This type of claim includes personal injuries for “trip, slip and fall” accidents resulting from such alleged defects, as well as incidents on snow and ice-covered sidewalks. Legislation enacted in 2003 has limited the City’s liability for injuries due to sidewalk defects. Local Law 49 (NYC Administrative Code § 7-210) generally limits the City’s liability to (1) sidewalks adjoining City-owned property, or (2) sidewalks that are in front of owner-occupied residential property having no more than three units.

In FY 2014, there were 2,517 sidewalk claims filed

against the City. This represents a 24 percent increase from FY 2013, when 2,038 sidewalk claims were filed. The increase in claim filings can be attributed to the large amount of snowfall experienced during the winter of 2013–2014.

The total cost of sidewalk claims in FY 2014 was \$34.0 million, a seven percent decrease from the \$36.7 million paid in FY 2013. FY 2014 saw the lowest amount the City paid for sidewalk claims during the last 10 years.

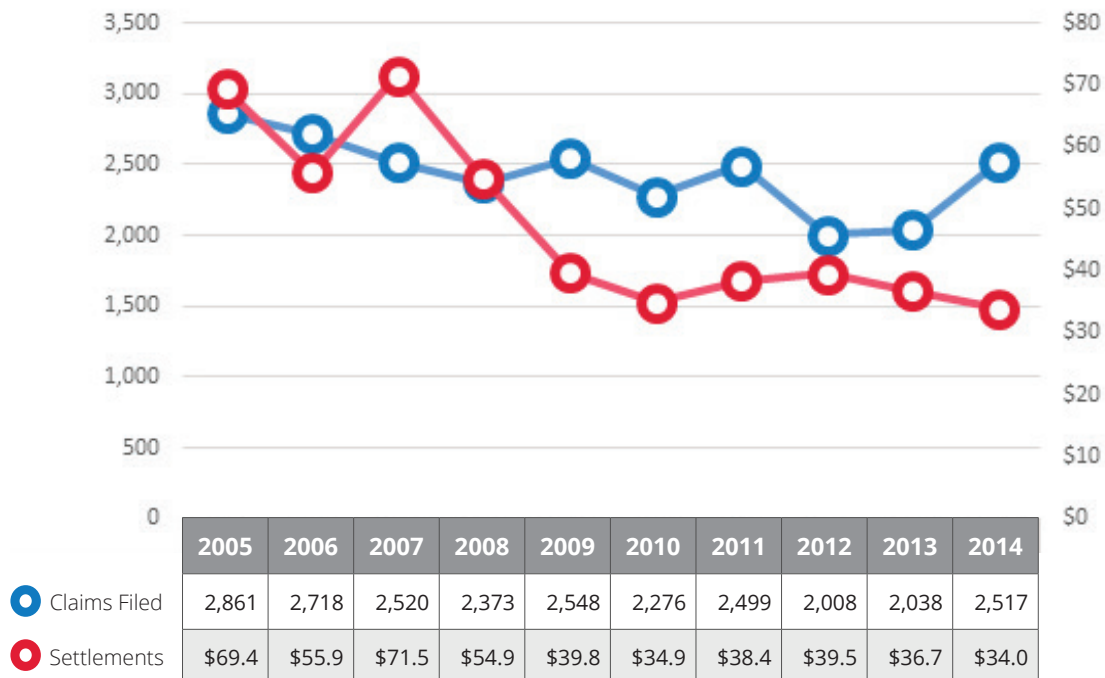
Defective sidewalk claims were the third most frequently filed personal injury claim and fifth most expensive.

Chart 12

### Sidewalk Claims FYs 2005–2014

#### Number of Claims Filed & Settlements

(In Millions)





## PROPERTY DAMAGE CLAIMS

Property damage claims consist of alleged damage to personal property or loss as a result of the City's negligence, including motor vehicle accidents, defective roadway claims, water main breaks, and sewer back-ups.

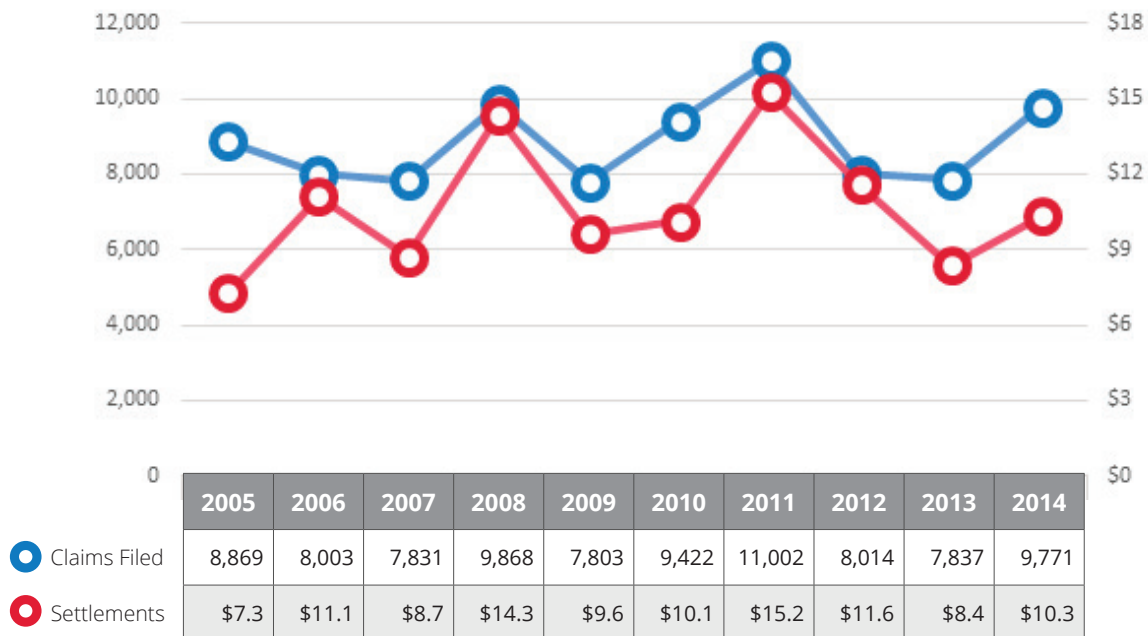
In FY 2014, 9,771 property damage claims were filed, a 25 percent increase from the 7,837 claims filed in FY 2013.

Property damage claims cost \$10.3 million in FY 2014, a 23 percent increase from the \$8.4 million paid in FY 2013.

Property damage claims comprised two percent of the City's total tort claims payout in FY 2014 (measured by both pre-litigation and litigated dispositions).

Chart 13

### Property Damage FYs 2005-2014 Number of Claims Filed & Settlements (In Millions)



## IV. TORT CLAIM TRENDS BY AGENCY

- The NYPD and DOT accounted for the highest number of tort claims filed in each of the last ten fiscal years. These two agencies, along with HHC, accounted for most of the City's claims costs in each of the last 10 fiscal years reviewed, a full 67 percent.
- In FY 2014, the five agencies that experienced the highest number of claims filed were: NYPD, DOT, Department of Correction (DOC),

Department of Sanitation (DSNY), and the Department of Education (DOE). Of these top five agencies, all but DOE saw an increase in the number of claims filed. For FY 2014, DOC and NYPD each had ten-year highs in new claims.

- The NYPD, HHC and DOT accounted for the highest cost of settlements and judgments (including both pre-litigation and litigated dispositions) in each of the last 10 fiscal years.

**Chart 14**

**FYs 2005–2014**

### Dollar Value of Settlements by Agencies with Highest Claim Costs

(In Millions)

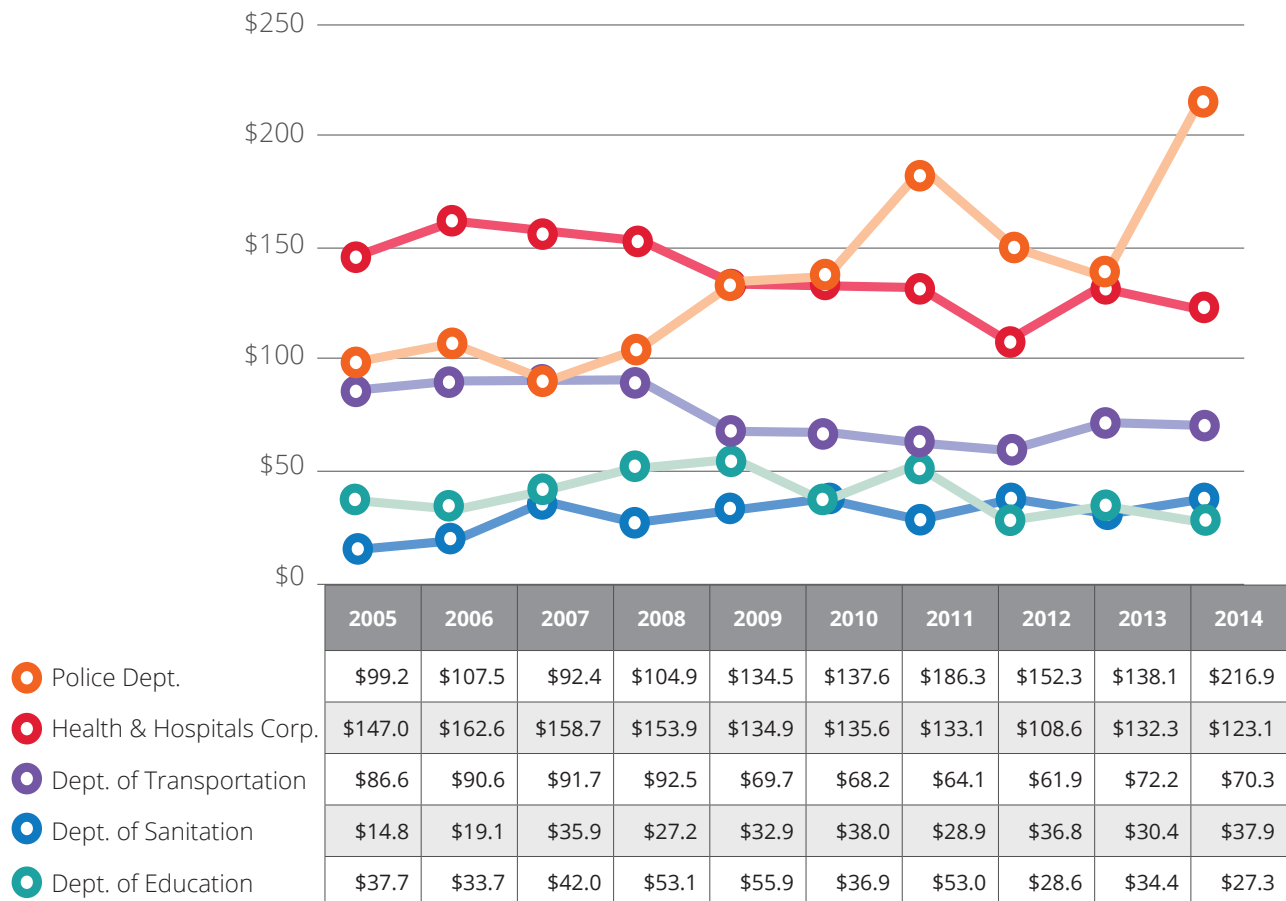


Chart 15

FYs 2005-2014

### New Claims Filed by Agencies with Highest Claim Costs in FY 2014

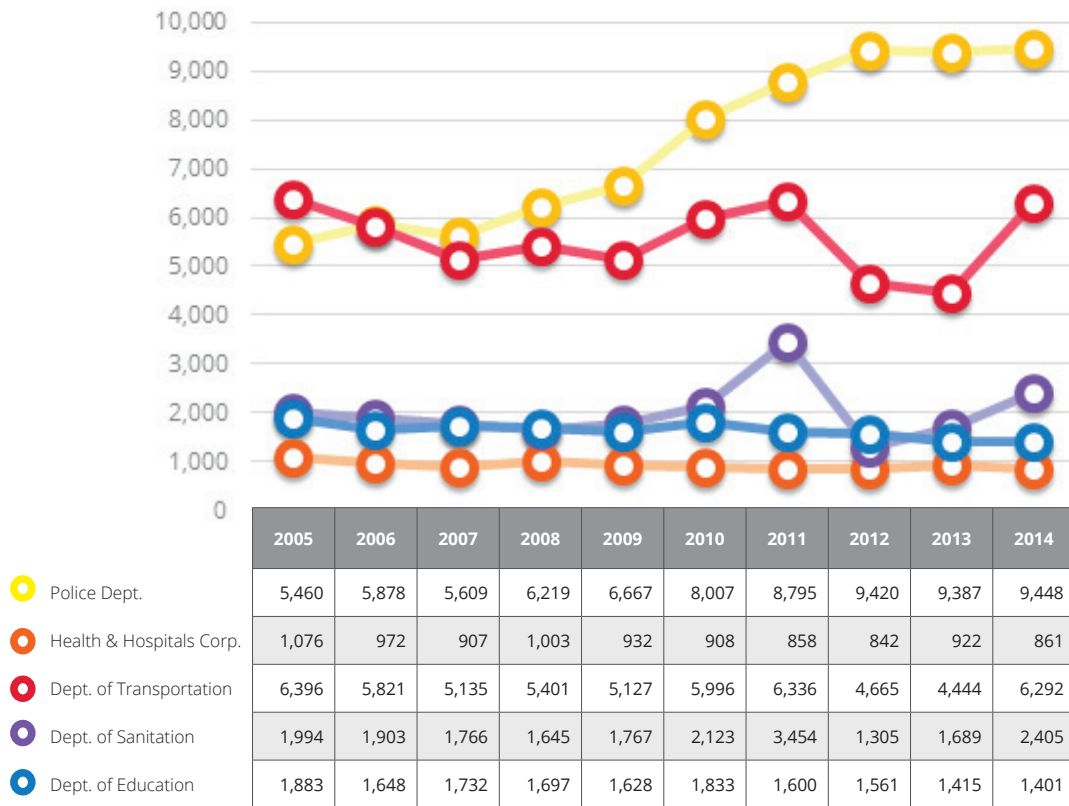


Chart 16

### Agency Claims Activity

### Percent of Claims Filed City-Wide FY 2013

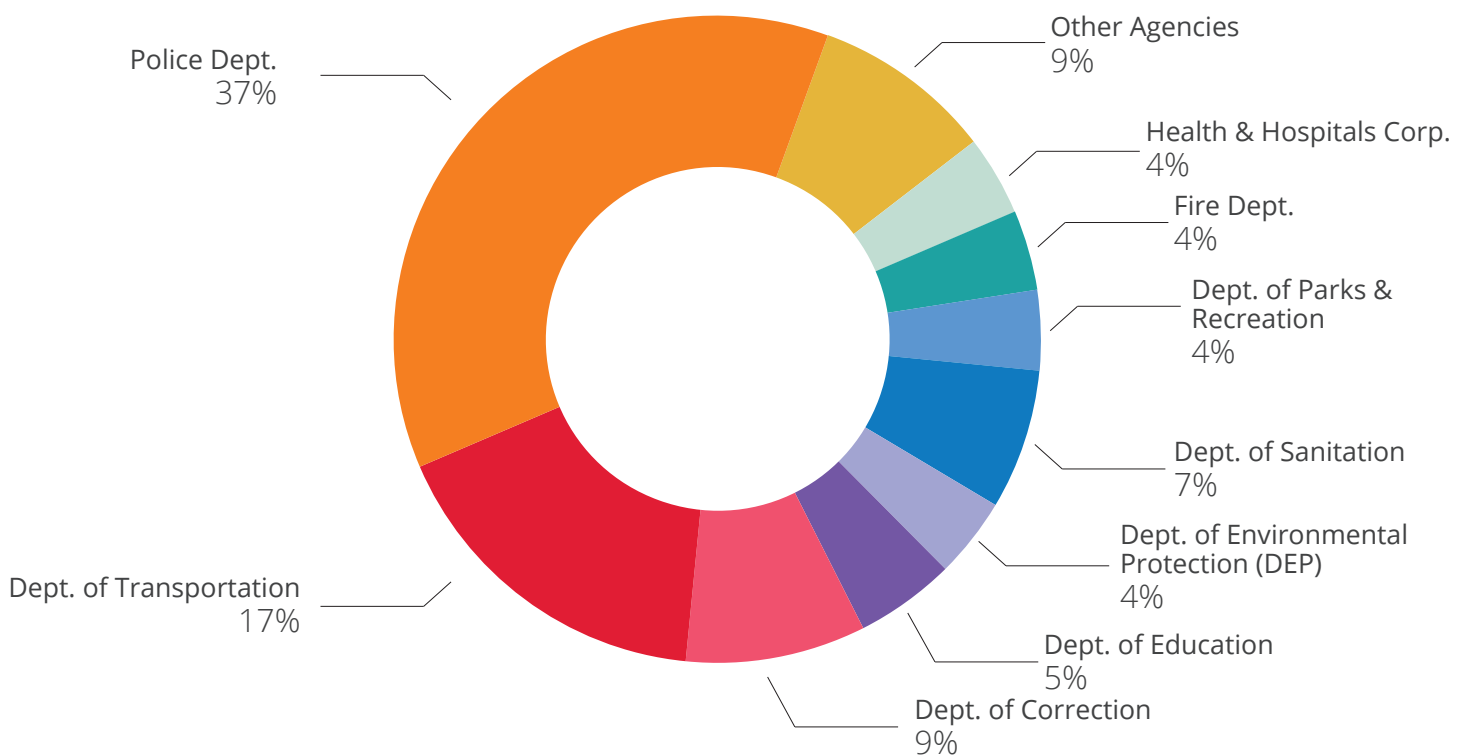
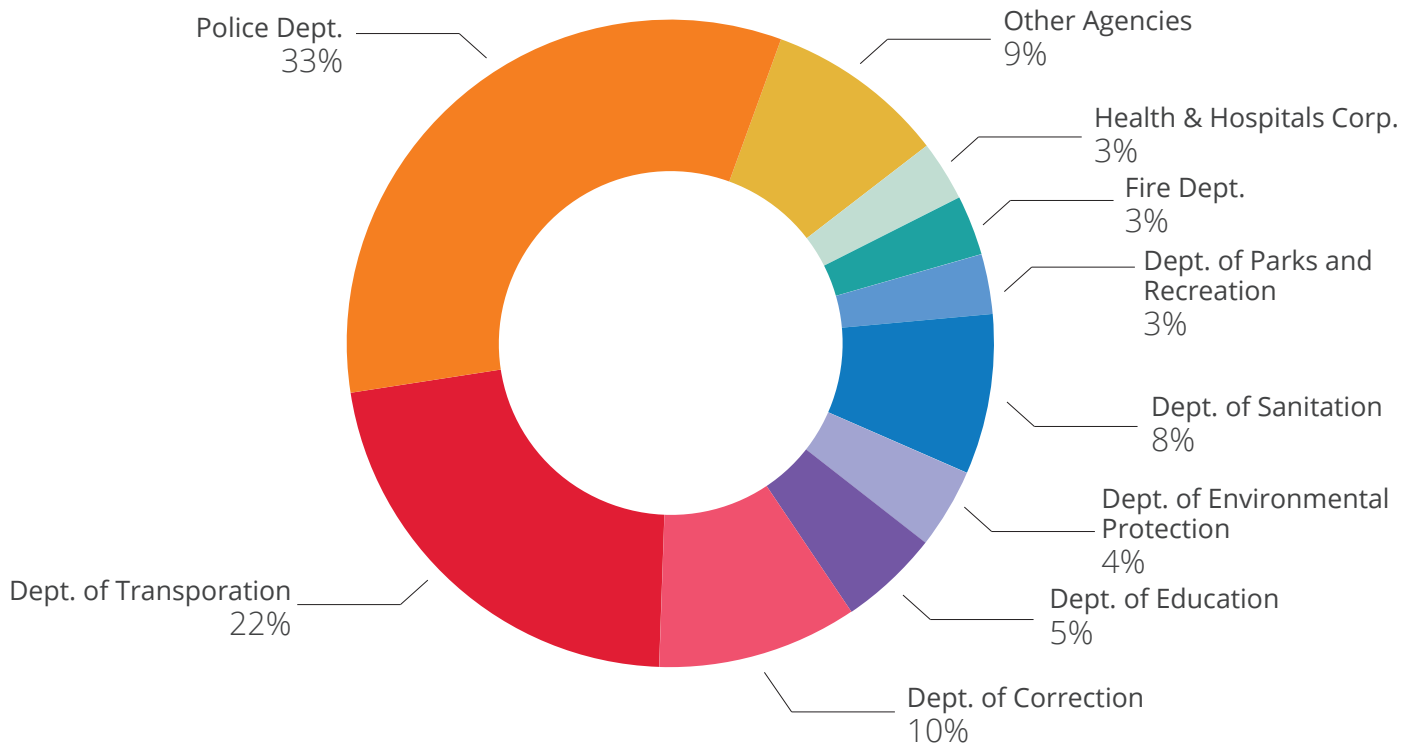


Chart 17

**Agency Claims Activity**  
**Percent of Claims Filed City-Wide FY 2014**



Six of the nine agencies accounting for the most tort claims filed in FY 2014 showed increases in the number of personal injury and property damage claims filed: DSNY (42 percent); DOT (42 percent); NYPD (one percent); Department of Environmental Protection (DEP) (17 percent); DOC (33 percent) and FDNY (two percent).

Three of the nine agencies accounting for the most tort claims filed in FY 2014 showed decreases in the number of personal injury and property damage claims filed: DOE (one percent); HHC (seven percent) and Department of Parks and Recreation (17 percent).

Chart 18

### Agencies with Increase in Claim Filings FYs 2013-2014

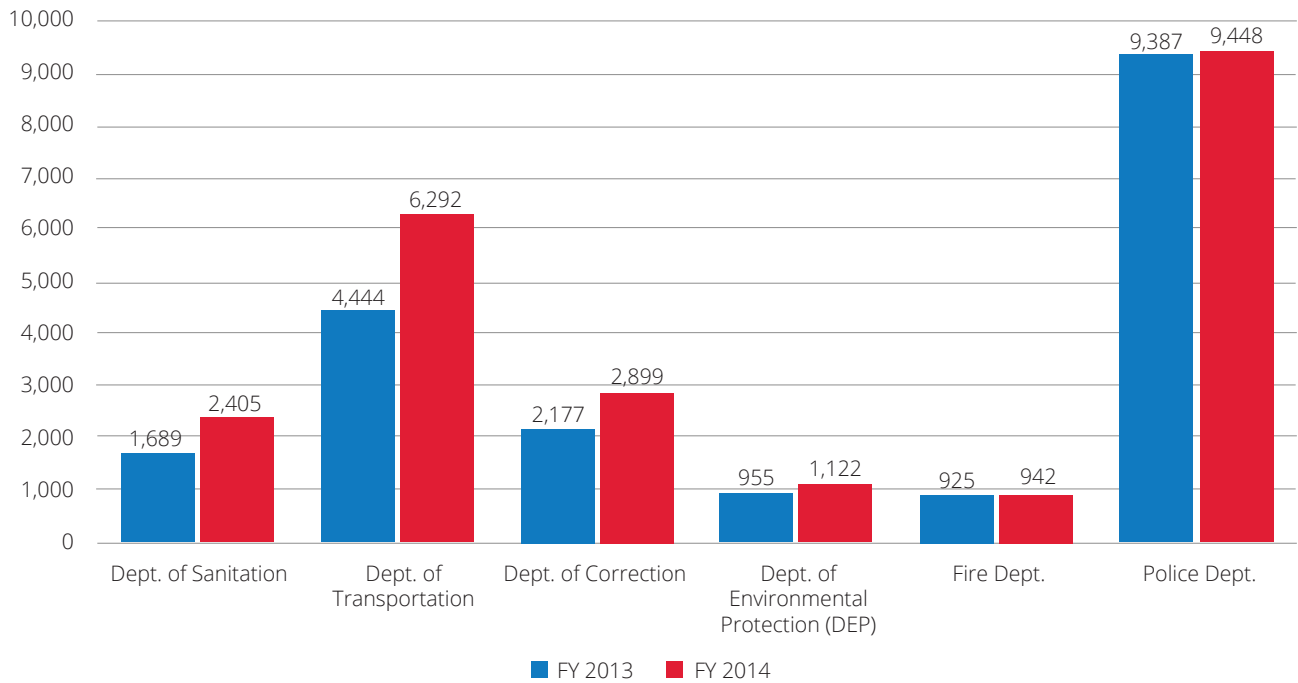
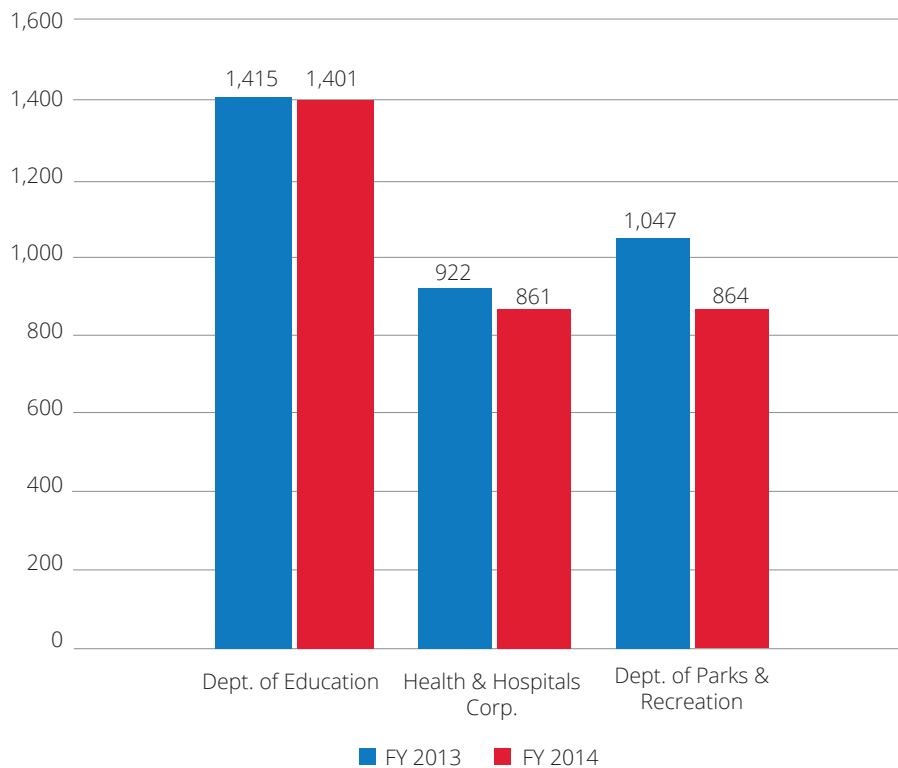


Chart 19

### Agencies with Decrease in Claim Filings FYs 2013-2014





## THE FIVE AGENCIES WITH THE MOST COSTLY CLAIMS

The five agencies with the highest tort claim costs in FY 2014 were the NYPD, HHC, DOT, DSNY, and DOE.

### 1. NYPD

Tort claims against the NYPD include, but are not limited to, allegations of police misconduct, civil rights violations, and personal injury and/or property damage arising out of motor vehicle accidents involving police vehicles.

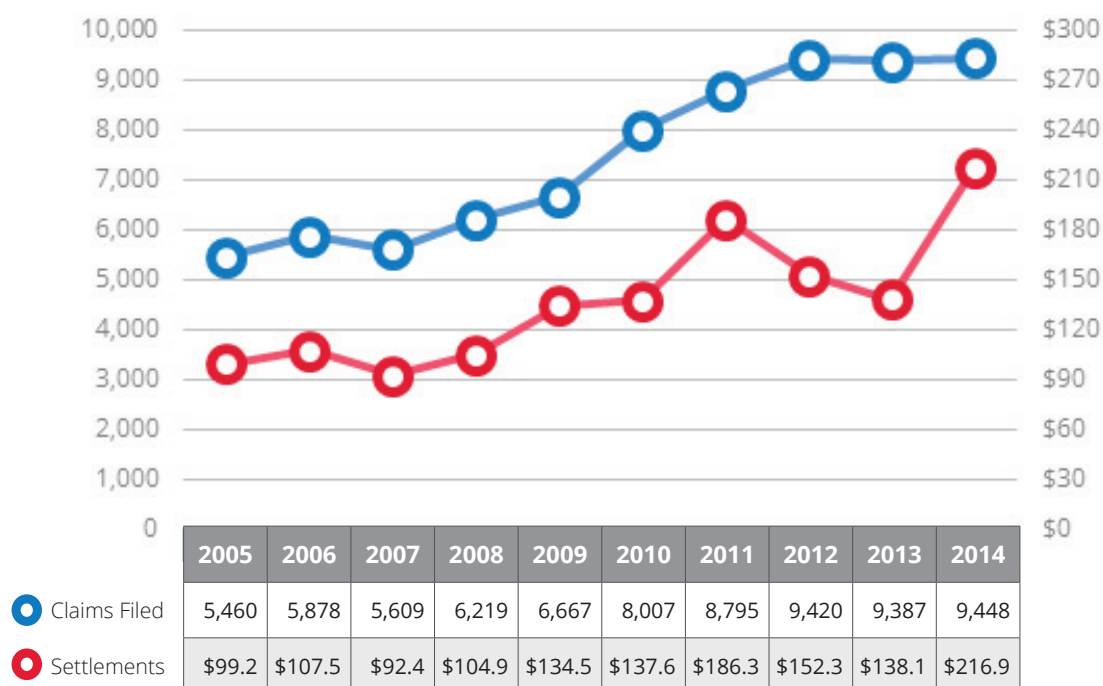
In FY 2014, there was an increase to a record 9,448 new claims filed, compared with 9,387 filed in FY 2013. This represents the highest number of claims

filed against any agency during the last 10 years. The number of claims filed against the Police Department rose 73 percent since 2005. Claims filed against the NYPD constituted 33 percent of total tort claim filings in FY 2014.

Cases against the NYPD cost the City \$216.9 million in FY 2014, a 57 percent increase over FY 2013 (\$138.1 million). NYPD claims expenditures in FY 2014 were the highest amount ever recorded for one agency for any year. The NYPD accounted for 39 percent of total FY 2014 personal injury and property damage claims expenditures. For both FY 2013 and FY 2014, the NYPD's tort claim annual expenditure was the highest of any agency.

Chart 20

### Police Department FYs 2005–2014 Number of Claims Filed & Settlements (In Millions)



## 2. HEALTH AND HOSPITALS CORPORATION

Claims against HHC include claims for medical malpractice as well as claims for personal injuries, or property damage sustained on hospital property.

- In FY 2014, 861 claims were filed against HHC, 64 percent of which (553 claims) were for medical malpractice. In FY 2013, medical malpractice cases also accounted for 64 percent (593 claims) of the 922 claims filed against HHC.

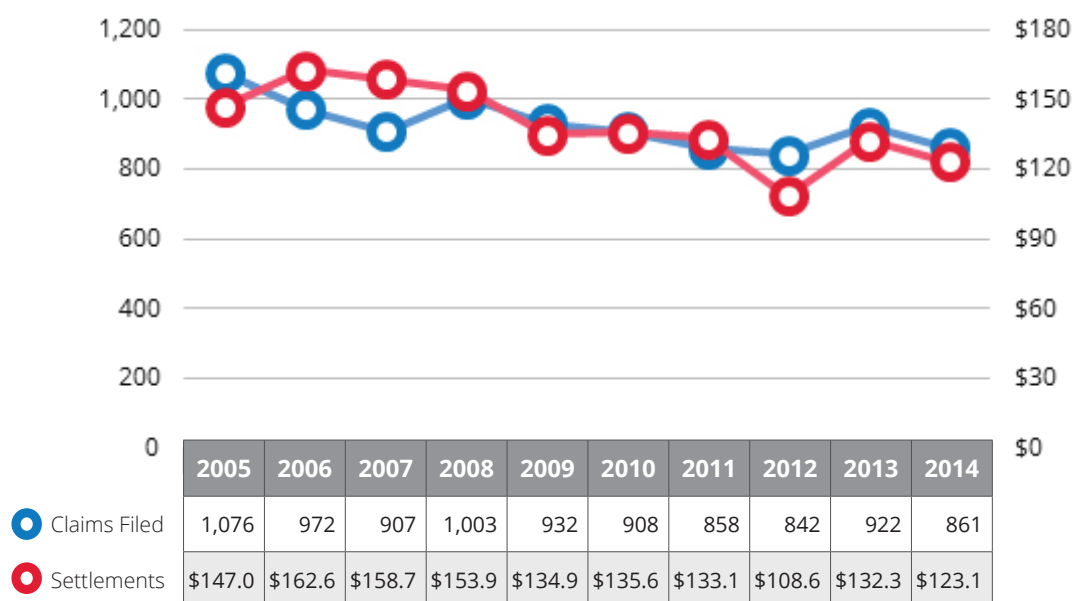
As noted earlier in this report, many medical malpractice claims are typically not resolved

for five to ten years from the date of filing due to their complex nature. Thus, the number of claims filed is a better indicator of current hospital activity than the amount paid out in any one year.

- HHC cases constituted three percent of the total number of tort claims resolved in FY 2014, but accounted for the second highest tort expenditure (\$123.1 million) or 22 percent of the total amount paid for tort claims in FY 2014.

Chart 21

**Health & Hospitals Corporation  
FYs 2005–2014  
Number of Claims Filed & Settlements**  
(In Millions)



### 3. DEPARTMENT OF TRANSPORTATION

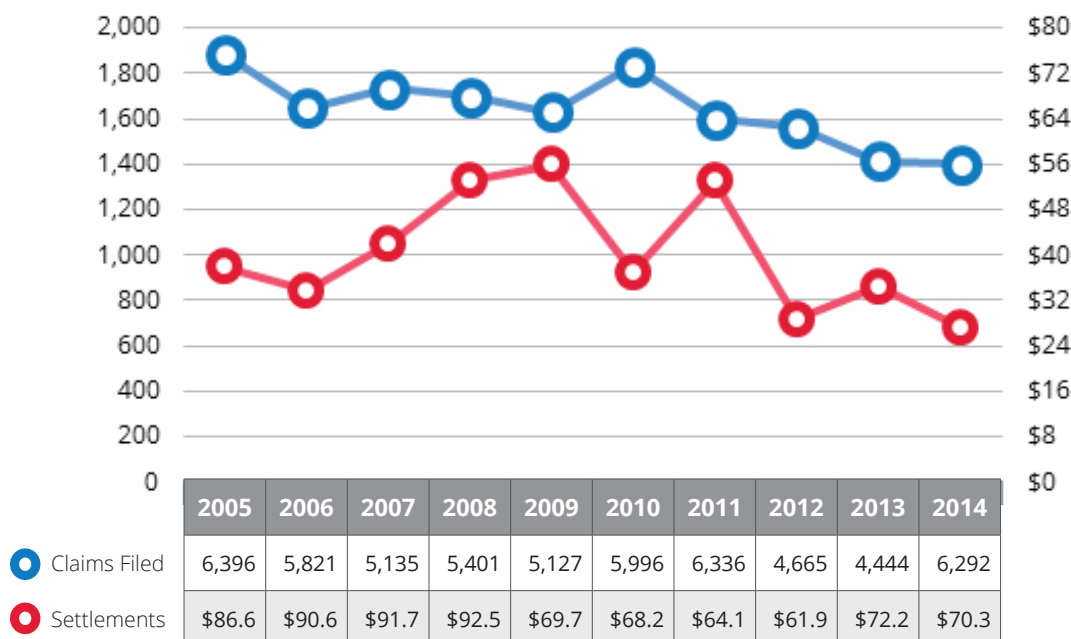
Claims against DOT consist primarily of personal injury claims due to sidewalk “trip and fall” and “slip and fall” accidents or personal injury or property damage citing defective roadways, defective traffic signals, or motor vehicle accidents involving DOT vehicles. In FY 2014, the 6,292 claims filed against DOT accounted for 22 percent of all new tort claims filed, representing a 42 percent increase from the 4,444 claims filed against

DOT in FY 2013. The large increase in FY 2014 DOT claim filings appeared to be due to weather conditions which caused a large number of potholes.

In FY 2014, the total dollar amount paid for DOT cases was \$70.3 million, a three percent decrease from the \$72.2 million paid in FY 2013. DOT cases accounted for 13 percent of the total expenditure for personal injury and property damage claims in FY 2014.

Chart 22

**Department of Transportation  
FYs 2005–2014  
Number of Claims Filed & Settlements**  
(In Millions)



## 4. DEPARTMENT OF EDUCATION

Claims against the DOE include personal injury claims involving alleged lack of supervision, defective building maintenance, and motor vehicle accidents involving DOE vehicles.

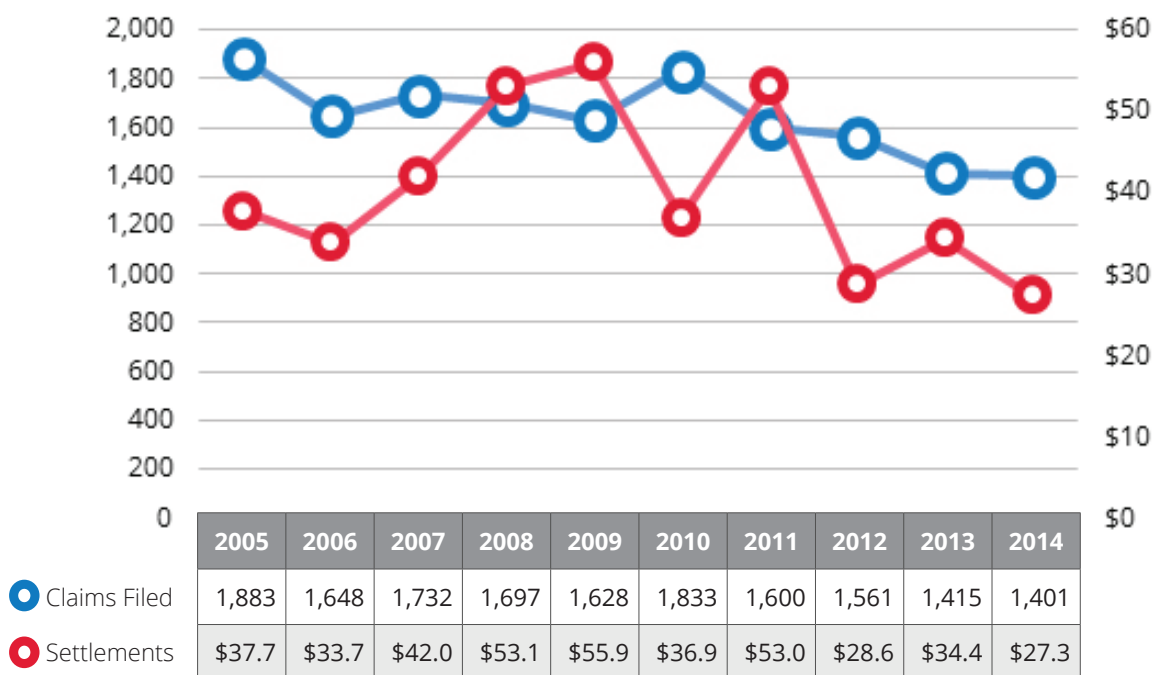
The number of personal injury and property damage claims filed against the DOE decreased slightly from 1,415 in FY 2013 to 1,401 in FY 2014. Significantly, the number of claims filed against the DOE has continued to decrease since 2005. FY 2013 and FY 2014 represent the lowest number of claims filed for the last 10 years.

Tort claim filings against the DOE accounted for five percent of the total tort claims filed in FY 2014.

- The total tort expenditure for DOE cases decreased by 21 percent from \$34.4 million in FY 2013 to \$27.3 million in FY 2014. The amount paid out for the DOE in FY 2014 is the lowest amount paid for the last 10 years.
- DOE claims accounted for five percent of the total claim expenditure for personal injury and property damage claims in FY 2014.

Chart 23

**Department of Education  
FYs 2005–2014  
Number of Claims Filed & Settlements**  
(In Millions)



## 5. DEPARTMENT OF SANITATION

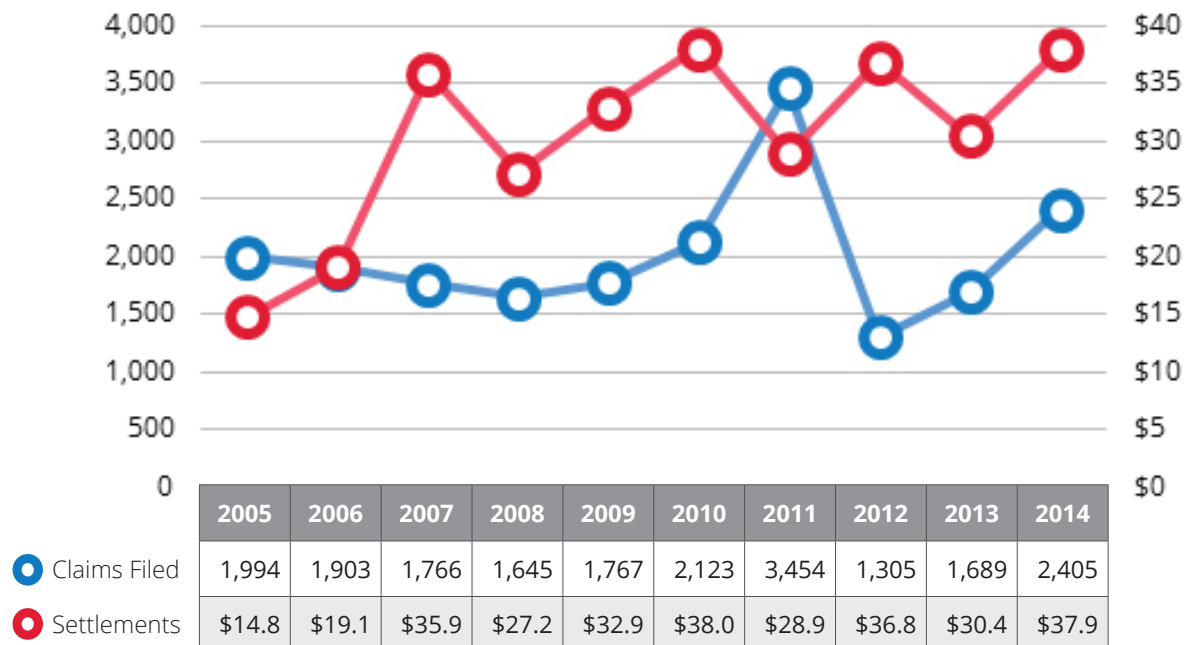
Claims filed against the DSNY are primarily composed of alleged personal injury and property damage caused by DSNY vehicles. The number of new claims filed against the DSNY increased to 2,405 in FY 2014 from 1,689 in FY 2013 an increase of 42 percent. The relatively large number of claim filings in FY 2014 can be attributed to snow removal operations related to the severe winter weather with over 700 claims filed related to snow and ice conditions for the fiscal year.

New claim filings against the DSNY constituted eight percent of total personal injury and property damage claim filings in FY 2014.

In FY 2014, there were 1,425 DSNY tort claims resolved for \$37.9 million. DSNY claims accounted for seven percent of the total tort claims expenditure. In FY 2013, 1,045 cases were resolved for \$30.4 million.

Chart 24

**Sanitation Department  
FYs 2005–2014  
Number of Claims Filed & Settlements**  
(In Millions)



## V. TORT CLAIM TRENDS BY BOROUGH<sup>8</sup>

For FY 2014, the largest number of personal injury claims were filed in the Bronx (5,917). The largest number of property damage claims were filed in Queens (2,544).

**Table 3**

### Number of Claims Filed By Borough FY 2014

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims
Brooklyn	4,973	2,434
Bronx	5,917	1,544
Manhattan	3,889	1,930
Queens	2,760	2,544
Staten Island	638	918

**Table 4**

### Number of Claims Resolved and Amounts Paid by Borough FY 2014

Borough	Number of PI Claims Resolved	Amount Paid for PI Claims (millions)	Number of PD Claims Resolved	Amount Paid for PD Claims (millions)	Total PI and PD Claims Resolved	Total PI and PD Claim Payouts (millions)
Brooklyn	2,042	\$162.8	958	\$2.7	3,000	\$165.5
Bronx	2,255	\$136.3	444	\$1.1	2,699	\$137.4
Manhattan	1,557	\$141.8	645	\$1.7	2,202	\$143.5
Queens	947	\$53.8	895	\$2.9	1,842	\$56.7
Staten Island	320	\$23.4	336	\$.9	656	\$24.3

As the following chart illustrates, the Bronx had the most personal injury claims filed per 100,000 residents with 417. Queens had the least (120). Staten Island had the highest ratio of property damage claims filed (194), Brooklyn had the least (94).<sup>9</sup>

In FY 2014, the total highest aggregate personal injury and property damage claim costs were paid for claims that occurred in the Bronx.

- Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$65.46 in FY 2014.
- In FY 2014, the borough with claims representing the highest claim expenses per resident was the Bronx. The borough with the lowest claim expenses per resident was Queens.

Chart 25

### Claims Filed by Borough Per 100,000 Residents FY 2014

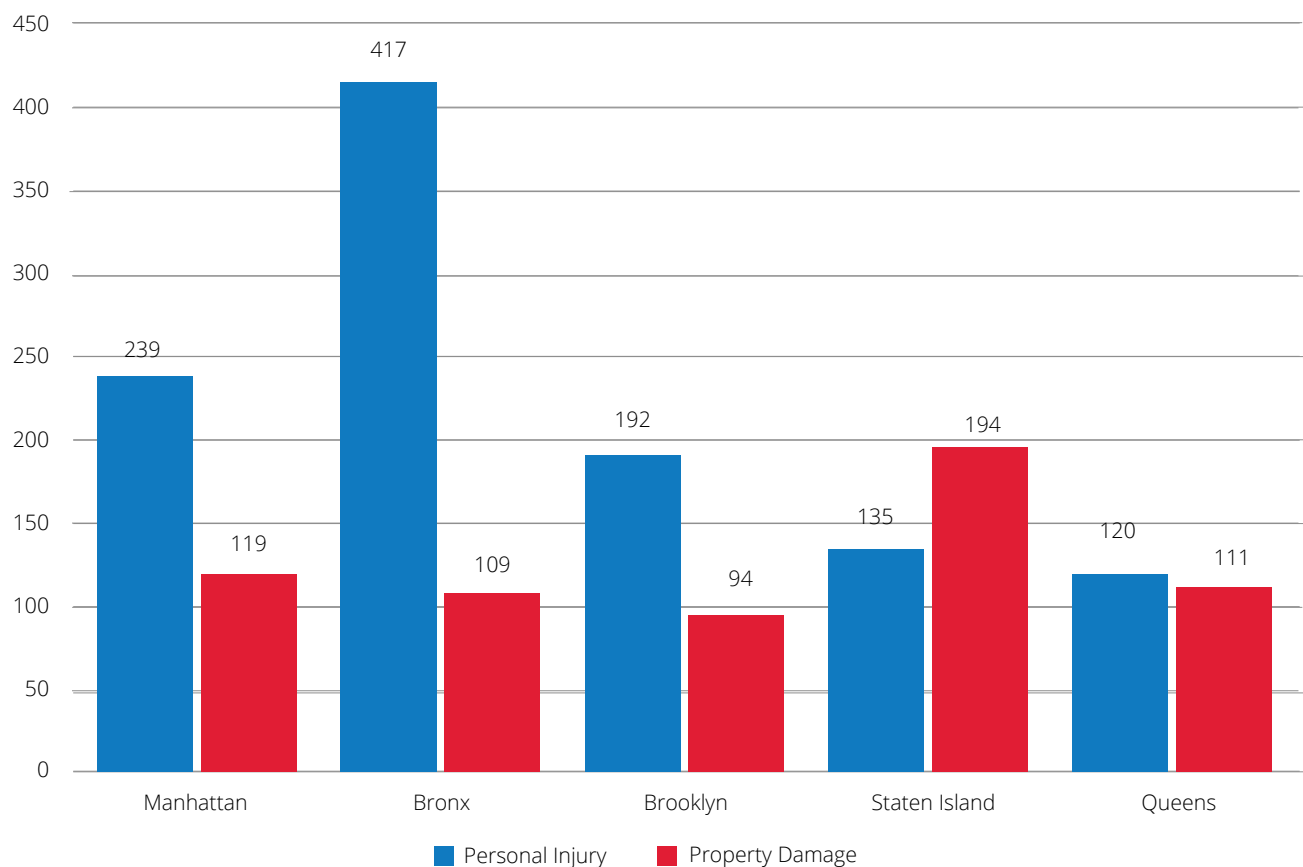




Chart 26

### Total FY 2014 Claims Expenses for Both Personal Injury and Property Damage by Borough Per Resident

(In Millions)

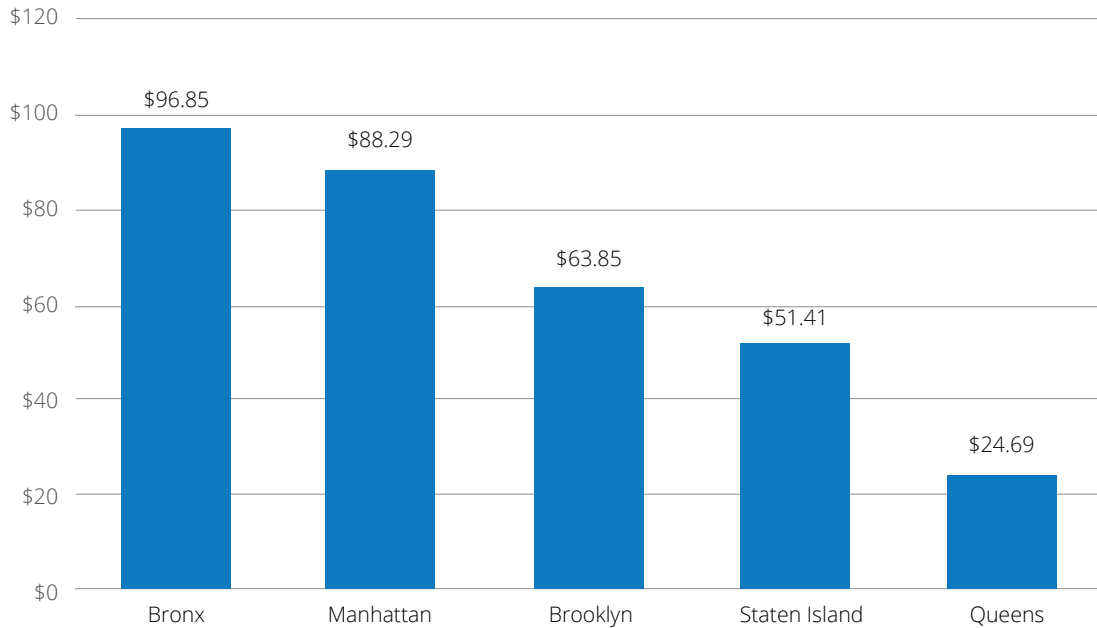


Chart 27

### Law

### FYs 2010-2014

### Number of Claims Filed & Settlements

(In Millions)



	2010	2011	2012	2013	2014
Claims Filed	\$2,160	\$2,926	\$3,785	\$3,593	\$4,081
Settlements	\$165.1	\$135.9	\$250.7	\$198.9	\$269.2

## VI. LAW CLAIMS (NON-TORT)

Law claims include, among others, claims and/or disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving DOE Special Education matters, sidewalk assessment and New York City Department of Health and Mental Hygiene property cleanup claims. Affirmative claims brought by the City against other parties that do not involve damage to real or personal property are also included as Law Claims.

● Claims Filed

● Settlements

## OVERALL LAW CLAIM TRENDS

- For FY 2014, there was a 13.6 percent increase in the overall number of Law claims as compared to FY 2013.
- In FY 2014, 4,081 Law claims were processed as compared to 3,593 in FY 2013. The increase is primarily due to a 27.25 percent increase in Special Education-related claims filed, or referred, by the DOE. In FY 2014, there were 2,582 Special Education related claims as compared to 2,029 in FY 2013.
- For FY 2014, there was a 35.4 percent increase in Law claim settlements and/or judgments as compared to FY 2013. For FY 2014, the total amount of settlements and judgments was \$269,190,062 as compared to \$198,864,638 in FY 2013.<sup>10</sup> The primary reasons for the increase is attributed to a \$91,561,778 settlement regarding a challenge to the fairness of tests given to prospective firefighters<sup>11</sup> and a \$25 million increase in Special Education related settlements.
- Breach-of-contract claims include those alleging that a contractor was damaged by delays caused by the actions or inactions of the City on construction projects. Delay claims typically arise on larger construction projects such as those involving bridges and wastewater treatment plants. The analyses of these claims require the expertise of a number of staff within the Comptroller's Office, including, professional engineers, auditors, and attorneys.

In FY 2013, eight delay claims, totaling \$100,552,527 were negotiated and settled for \$41,645,241. In FY 2014, 11 delay claims, totaling \$57,683,024, were negotiated and settled for \$15,370,530.

- Affirmative claims are those brought by the City against a third party. The claims include, among others, funds due the City for housing/building code violations, actions arising from the sale of unlicensed cigarettes, contract overpayments, and recoupment of Medicaid assistance payments.

In FY 2014, 688 Affirmative claims were settled for \$62,151,082 as compared to FY 2013, when 747 Affirmative claims were settled for \$65,399,875.

**Table 5****Law Claims Settled  
FYs 2013-2014**

Type	FY 2013	FY 2014
BREACH OF CONTRACT	\$50,845,763	\$20,079,876
CONTRACT DISPUTE	\$3,105,639	\$6,575,629
EQUITABLE	\$446,904	\$76,576
OTHER	\$4,515,988	\$6,579,752
REFUND	\$298,402	\$118,157
SALARY	\$33,332,876	\$104,432,559
SPECIAL EDUCATION	\$106,319,066	\$131,327,513
TOTAL	\$198,864,638	\$269,190,062

## APPENDIX A

### DESCRIPTION OF CLAIM TYPES

Claims that are filed against the City are classified into categories to facilitate analysis by the Comptroller's Office and other interested parties.

Under the present classification structure, claims are categorized initially 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 may include "slip and fall" accidents on sidewalks (claims alleging a defective sidewalk), or injuries that occurred in school (school claims), or in a City park (recreation claims).

The present coding system 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, gangplanks, or piers.

##### B. Defective Roadway

Defective Roadway claims include pedestrians, motorists, or others alleging injuries as a result of defects in a street or roadway, such as 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 alleging injury because of a defective sidewalk such as, broken or 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 are filed by pedestrians or motorists injured in accidents allegedly caused by malfunctioning traffic signals, defective or missing traffic devices, or downed or missing traffic signs.

##### E. Police Action

Police action claims result from alleged improper police action, such as false arrest or imprisonment, shooting of a suspect, excessive force or assault, or failure to provide police protection.

##### F. School

School claims are those filed against the DOE by students, teachers, other staff, and parents or other visitors to DOE facilities.

##### G. Medical Malpractice

This category of claim derives from medical

malpractice in the diagnosis, treatment, or care at a City or HHC facility or EMS treatment.

#### H. Health Facility/Non-Medical Incidents

These claims involve non-medical acts involving a City or HHC facility or employee, such as injuries sustained by visitors due to wet floors, assaults of patients or visitors, or 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 cases of pedestrians, motorists, or passengers of other vehicles being 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 filed by City employees of the uniformed services, such as NYPD or FDNY, DOE teachers, or DSNY employees who are not subject to Workers' Compensation laws and may sue the City for on-the-job personal injuries.

#### K. Recreation

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. City Property

This category of claims includes those by tenants or others asserting that they were injured by a defect in or the 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 Federal, State or City statutory or constitutional violations, such as discrimination based on sex, race, religion, disability, sexual orientation, or age.

#### O. Correction Facility

Corrections claims involve claims by inmates or employees of City correction institutions or facilities who were allegedly injured by the actions of City employees or inmates.

## II. PROPERTY DAMAGE CLAIMS

### A. Admiralty

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

### B. Sewer Overflow

Sewer overflow claims include 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 include 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 for vehicles that are damaged by defective roadways, or from 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 individuals who sustain damage to personal property as a result of defective sidewalks.

### 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 relate to vehicles or other personal property that is stolen, damaged, sold, or destroyed while in police custody.

### H. School

School claims include lost, stolen, or damaged personal property that belongs to students, teachers, or DOE staff while on DOE property.

### I. Health Facility

These claims include 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 include 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 includes claims for personal property that is lost, damaged, or stolen from City employees while at work.

#### L. Recreation

Claims in this category include 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 includes 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 include property damage 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 include property damaged by City vehicles or equipment, 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

Correction facility claims include claims by prisoners, inmates, or detainees whose personal property is lost, stolen, or damaged while in a correction institution.

### III. LAW CLAIMS

#### A. 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.

#### B. Alternative Dispute Resolution

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

#### C. Illegal but Equitable

These claims typically allege that work was performed at the direction of the City and/or the City accepted services, but the necessary contract and other approval were not obtained. These claims, though invalid at law, may be recognized as equitable and proper if it can be determined that the City received a benefit and that the public interest would be served by payment or compromise.



#### D. Employment

Employment claims are those by prospective, current, or former City employees alleging employment related disputes. These disputes include claims for discrimination, out-of-title work, pay differential, annual leave, and suspension.

#### E. Refund

Refund claims include claims by private individuals seeking refunds for alleged overpayments and unjust fines.

#### F. Change of Grade

These claims are made by commercial or residential property owners or lessees. The claims arise from changes in grade to a sidewalk that impair access to property and drainage. Claims typically are made for loss of business due to walkway or driveway repairs.

## APPENDIX B

### LEGAL BACKGROUND

#### I. MUNICIPAL LIABILITY

The decision of the New York Court of Appeals in *Bernadine v. New York City*, issued in 1945, exposed the City for the first time to liability for torts committed by the City’s officers, agents, and employees.<sup>12</sup>

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.”<sup>13</sup> The Court, in effect, abolished the doctrine of sovereign immunity for municipalities, but did not provide municipalities any of the protections accorded to the State by the Court of Claims Act.<sup>14</sup> 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 1979 in an effort to limit the City’s liability in “slip and fall” cases on City sidewalks and streets.

#### II. CLAIMS PROCESS

To commence an action against the City, a claimant typically must first notify the City by filing a Notice of Claim with the Office of the Comptroller.<sup>15</sup> However, in the case of claims against the New York City Health and Hospitals Corporation, claims must be filed directly with HHC. In most instances, the notice of a personal injury or property damage claim must be filed within 90 days of an alleged injury or wrong.<sup>16</sup> The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.<sup>17</sup>

The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.<sup>18</sup> If the Comptroller denies liability or is unable to arrive at a settlement with a claimant, the claimant may commence suit. Actions regarding tort claims must generally be filed within a year and 90 days after the loss.<sup>19</sup> The City’s Law Department, under the direction of the Corporation Counsel, defends the City in most actions. (HHC defends its own medical malpractice actions.) No litigation can be settled without the approval of the Comptroller.<sup>20</sup>

## APPENDIX C

### TOP ELEVEN TORT CLAIMS ADJUDICATED IN FY 2014

Class Action lawsuit brought on behalf of approximately 700 claimants who alleged their civil rights were violated as a result of Police actions during the Republican National Convention in 2004. Settlement: \$18 million.

In 2004, claimant, a 37-year-old mother of two, alleged medical malpractice that resulted in respiratory and cardiac arrest as well as brain damage. Settlement: \$13 million.

In 1989, claimant was arrested and subsequently convicted of various crimes. Conviction was overturned after he was incarcerated more than 13 years. Settlement: \$12.25 million.

In 2011, claimant alleged a defective traffic control device resulted in her being struck by a motor vehicle causing serious injuries, including coma, multiple fractures and brain damage. Settlement: \$7.5 million.

In 1989, claimant was arrested and subsequently convicted of various crimes. Plaintiff alleged wrongful conviction and incarceration of more than 13 years. Settlement: \$7.125 million.

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In 1989, claimant was arrested and subsequently convicted of various crimes. Plaintiff alleged wrongful conviction and incarceration of more than 13 years. Settlement: \$7.125 million.

In 1991, claimant was arrested and subsequently convicted of murder. Claimant alleges a police officer coerced false testimony from alleged witnesses and fabricated a false confession causing him to be wrongfully incarcerated for more than 22 years. Settlement: \$6.4 million.

In 2008, claimant alleges the failure to timely treat infant at the emergency room resulted in severe and permanent neurological, auditory and cognitive impairment. Settlement: \$6 million.

In 2011, a 35-year-old claimant was involved in a head on collision with a City Sanitation truck. He sustained multiple fractures and underwent numerous surgical procedures. Settlement: \$6 million.

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## APPENDIX E

### DETAILED TABLES

**Table I**

#### Number of Tort Claims Filed by Claim Type FYs 2005–2014

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Personal Injury:</b>										
City Property	885	1,341	4,680	825	627	9,170	1,107	563	535	680
Civil Rights	1,347	1,841	1,553	1,763	1,951	2,672	3,063	2,757	2,694	2,826
Correction Facility	883	845	989	1,060	1,043	1,189	1,182	1,595	1,652	2,239
Defective Roadway	1,250	1,164	1,110	1,106	1,144	1,052	1,116	949	883	1,008
Defective Sidewalk	2,861	2,718	2,520	2,373	2,548	2,276	2,499	2,008	2,038	2,517
Employee Uniformed Services	311	502	182	163	140	164	162	148	151	161
Medical Malpractice	823	700	655	701	684	650	610	623	608	588
Motor Vehicle	1,375	1,308	1,311	1,440	1,285	1,344	1,305	1,378	1,184	1,254
Police Action	2,566	2,204	2,445	2,867	3,360	3,953	4,513	5,529	5,575	5,640
Recreation	276	211	246	238	261	226	274	285	270	276
School	1,437	1,226	1,257	1,169	1,141	1,023	1,077	1,058	929	963
Traffic Control Device	195	138	167	116	103	109	76	108	126	76
Other	707	663	782	724	747	739	888	773	788	878
<b>Total</b>	<b>14,916</b>	<b>14,861</b>	<b>17,897</b>	<b>14,545</b>	<b>15,034</b>	<b>24,567</b>	<b>17,872</b>	<b>17,774</b>	<b>17,433</b>	<b>19,106</b>
<b>Property Damage:</b>										
City Property	110	137	101	237	152	131	135	90	300	256
Correction Facility	206	204	211	274	297	442	309	397	263	318
Damage by City Personnel	1,333	1,125	1,130	1,167	1,166	1,309	1,734	1,350	1,345	964
Defective Roadway	1,867	1,461	1,121	1,518	1,275	2,334	2,806	1,218	1,036	2,843
Health Facility	136	133	122	160	132	126	103	96	120	140
Motor Vehicle	3,785	3,825	3,855	3,752	3,631	3,968	4,724	3,186	3,323	3,681
Police Action	298	321	321	384	299	309	378	366	362	344
School	244	230	236	201	189	179	182	144	107	128
Sewer Overflow	417	237	282	1,503	192	188	205	667	602	612
Water Main	259	131	211	159	158	194	153	238	107	241
Other	214	199	241	513	312	242	273	262	272	244
<b>Total</b>	<b>8,869</b>	<b>8,003</b>	<b>7,831</b>	<b>9,868</b>	<b>7,803</b>	<b>9,422</b>	<b>11,002</b>	<b>8,014</b>	<b>7,837</b>	<b>9,771</b>
<b>Grand Total</b>	<b>23,785</b>	<b>22,864</b>	<b>25,728</b>	<b>24,413</b>	<b>22,837</b>	<b>33,989</b>	<b>28,874</b>	<b>25,788</b>	<b>25,270</b>	<b>28,877</b>

## APPENDIX E

### DETAILED TABLES

**Table II**

#### Number of Tort Claims Filed by Agency FYs 2005–2014

Agency	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Department of Buildings	101	38	43	230	149	955	75	82	61	52
Department of Correction	1,292	1,271	1,463	1,609	1,596	1,948	1,786	2,348	2,177	2,899
Department of Education	1,883	1,648	1,732	1,697	1,628	1,833	1,600	1,561	1,415	1,401
Department of Environmental Protection	1,339	759	761	2,314	737	700	737	1,357	995	1,122
Department Parks and Recreation	875	851	1,026	1,029	1,019	1,101	1,405	1,094	1,047	864
Department of Sanitation	1,994	1,903	1,766	1,645	1,767	2,123	3,454	1,305	1,689	2,405
Department of Transportation	6,396	5,821	5,135	5,401	5,127	5,996	6,336	4,665	4,444	6,292
Fire Department	922	959	909	963	992	920	1,041	891	925	942
Health and Hospitals Corporation	1,076	972	907	1,003	932	908	858	842	922	861
Housing Preservation and Development	127	150	103	82	75	82	71	68	74	66
Human Resources Administration	84	77	44	54	52	57	63	75	85	68
Police Department	5,460	5,878	5,609	6,219	6,667	8,007	8,795	9,420	9,387	9,448
Other	2,236	2,537	6,230	2,167	2,096	9,359	2,653	2,080	2,049	2,457
<b>Grand Total</b>	<b>23,785</b>	<b>22,864</b>	<b>25,728</b>	<b>24,413</b>	<b>22,837</b>	<b>33,989</b>	<b>28,874</b>	<b>25,788</b>	<b>25,270</b>	<b>28,877</b>

## APPENDIX E

### DETAILED TABLES

**Table III**

### Dollar Amount of Tort Settlements & Judgments by Claim Type FYs 2005–2014

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Personal Injury</b>										
City Property	\$21,545,463	\$14,657,965	\$34,130,604	\$26,011,521	\$30,444,952	\$14,176,063	\$18,827,699	\$8,395,091	\$5,465,500	\$22,097,000
Civil Rights	\$32,343,100	\$58,030,359	\$55,448,434	\$42,242,687	\$47,062,984	\$80,940,455	\$83,998,422	\$68,190,352	\$55,903,108	\$104,265,831
Correction Facility	\$8,906,794	\$4,238,997	\$8,857,503	\$8,199,183	\$5,938,403	\$5,025,429	\$8,504,000	\$7,833,193	\$7,319,801	\$7,291,335
Defective Roadway	\$15,917,590	\$19,471,292	\$19,347,676	\$36,165,533	\$24,622,949	\$27,742,588	\$19,453,578	\$25,717,847	\$33,134,170	\$13,710,774
Defective Sidewalk	\$69,437,524	\$55,932,717	\$71,511,708	\$54,870,423	\$39,762,727	\$34,904,412	\$38,426,098	\$39,528,306	\$36,746,110	\$34,003,430
Employee Uniformed Services	\$26,145,960	\$25,691,763	\$33,551,471	\$38,389,850	\$30,096,000	\$41,971,283	\$31,039,500	\$20,408,000	\$17,450,382	\$28,023,500
Medical Malpractice	\$147,673,827	\$159,287,643	\$155,727,867	\$152,739,578	\$127,288,634	\$131,236,136	\$131,307,358	\$108,943,419	\$130,290,406	\$116,687,522
Motor Vehicle	\$58,082,579	\$67,290,551	\$55,038,680	\$56,727,617	\$79,750,916	\$64,433,037	\$83,896,291	\$70,560,942	\$85,304,416	\$87,267,529
Police Action	\$41,755,603	\$25,032,499	\$25,533,667	\$34,616,512	\$48,413,383	\$56,788,953	\$60,237,774	\$64,362,125	\$62,840,691	\$69,365,269
Recreation	\$8,440,243	\$4,169,650	\$12,755,261	\$7,881,426	\$5,714,315	\$7,965,906	\$7,102,606	\$12,069,875	\$20,421,330	\$11,515,209
School	\$35,840,673	\$33,194,139	\$41,205,083	\$53,589,415	\$54,328,099	\$35,071,262	\$42,952,246	\$25,815,581	\$24,044,998	\$24,592,687
Traffic Control Device	\$11,246,303	\$1,967,398	\$3,027,925	\$3,319,500	\$1,120,750	\$2,883,300	\$3,206,350	\$2,396,000	\$1,292,315	\$7,589,500
Other	\$8,154,611	\$16,182,277	\$20,405,878	\$15,902,378	\$53,665,446	\$9,979,971	\$9,228,393	\$21,677,145	\$6,485,359	\$13,522,259
<b>Total</b>	<b>\$485,490,270</b>	<b>\$485,147,250</b>	<b>\$536,541,757</b>	<b>\$530,655,623</b>	<b>\$548,209,558</b>	<b>\$513,118,795</b>	<b>\$538,180,315</b>	<b>\$475,897,876</b>	<b>\$486,698,586</b>	<b>\$539,931,845</b>
<b>Property Damage</b>										
City Property	\$379,973	\$120,054	\$198,888	\$515,162	\$15,863	\$8,569	\$2,815,834	\$162,524	\$375,969	\$67,962
Correction Facility	\$5,956	\$1,210	\$2,801	\$1,919	\$14,960	\$1,551	\$18,195	\$18,225	\$13,061	\$2,220
Damage by City Personnel	\$877,464	\$981,484	\$1,450,981	\$3,298,638	\$579,380	\$873,332	\$1,171,735	\$959,898	\$970,468	\$1,499,590
Defective Roadway	\$249,419	\$323,129	\$274,973	\$820,666	\$271,099	\$295,277	\$423,961	\$215,726	\$140,124	\$192,379
Health Facility	\$5,308	\$8,522	\$2,866	\$21,559	\$18,071	\$19,648	\$13,037	\$13,191	\$18,376	\$27,144
Motor Vehicle	\$3,565,999	\$7,282,310	\$5,643,075	\$5,691,702	\$5,470,334	\$5,871,046	\$8,180,319	\$6,038,833	\$5,586,990	\$7,394,638
Police Action	\$455,114	\$195,695	\$188,699	\$160,451	\$120,028	\$513,676	\$140,899	\$170,059	\$388,101	\$102,697
School	\$3,597	\$2,549	\$7,589	\$7,604	\$11,627	\$24,157	\$12,454	\$10,063	\$4,581	\$10,110
Sewer Overflow	\$457,536	\$852,955	\$307,720	\$1,915,311	\$272,679	\$383,619	\$792,808	\$775,242	\$546,357	\$707,361
Water Main	\$1,242,329	\$1,318,991	\$639,425	\$1,823,962	\$664,588	\$2,142,514	\$1,577,070	\$3,183,273	\$314,365	\$294,175
Other	\$28,648	\$16,710	\$13,364	\$42,005	\$2,192,879	\$13,820	\$97,825	\$12,118	\$9,482	\$25,424
<b>Total</b>	<b>\$7,271,343</b>	<b>\$11,103,609</b>	<b>\$8,730,381</b>	<b>\$14,298,979</b>	<b>\$9,631,508</b>	<b>\$10,147,209</b>	<b>\$15,244,137</b>	<b>\$11,559,152</b>	<b>\$8,367,874</b>	<b>\$10,323,700</b>
<b>Grand Total</b>	<b>\$492,761,613</b>	<b>\$496,250,859</b>	<b>\$545,272,138</b>	<b>\$544,954,602</b>	<b>\$557,841,066</b>	<b>\$523,266,004</b>	<b>\$553,424,452</b>	<b>\$487,457,028</b>	<b>\$495,066,460</b>	<b>\$550,255,545</b>



## APPENDIX E

### DETAILED TABLES

**Table IV**

#### Dollar Amount of Agency Tort Settlements & Judgments by Agency FYs 2005–2014

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Department of Buildings	\$1,937,037	\$1,714,946	\$854,544	\$1,413,458	\$380,236	\$112,152	\$2,941,818	\$218,006	\$377,908	\$157,901
Department of Correction	\$13,123,690	\$10,595,826	\$16,971,195	\$21,390,722	\$16,258,404	\$43,580,956	\$15,393,868	\$20,308,756	\$11,775,021	\$10,735,616
Department of Education	\$37,744,621	\$33,715,746	\$41,959,592	\$53,143,054	\$55,880,463	\$36,927,943	\$52,966,832	\$28,616,146	\$34,374,977	\$27,261,549
Department of Environmental Protection	\$5,619,543	\$5,386,767	\$3,786,706	\$8,478,133	\$8,109,061	\$7,857,296	\$8,071,431	\$5,628,320	\$3,371,620	\$13,182,950
Department Parks and Recreation	\$15,065,070	\$7,968,822	\$15,817,606	\$12,138,161	\$9,415,871	\$16,104,444	\$17,673,228	\$18,971,285	\$29,606,844	\$15,840,734
Department of Sanitation	\$14,810,433	\$19,111,177	\$35,877,754	\$27,236,884	\$32,886,946	\$38,020,148	\$28,858,968	\$36,815,516	\$30,436,682	\$37,886,011
Department of Transportation	\$86,635,456	\$90,634,124	\$91,729,912	\$92,500,409	\$69,699,787	\$68,204,956	\$64,147,699	\$61,924,384	\$72,247,571	\$70,271,416
Fire Department	\$15,316,355	\$21,247,464	\$22,570,959	\$18,602,877	\$16,318,205	\$20,007,262	\$16,231,360	\$28,494,774	\$19,695,971	\$20,421,695
Health and Hospitals Corporation	\$147,028,713	\$162,578,617	\$158,745,210	\$153,881,559	\$134,946,576	\$135,593,099	\$133,106,810	\$108,642,285	\$132,343,695	\$123,099,753
Housing Preservation and Development	\$11,850,458	\$11,357,744	\$18,179,508	\$21,283,261	\$15,727,510	\$5,126,366	\$5,057,356	\$2,154,067	\$555,452	\$2,705,221
Human Resources Administration	\$1,382,693	\$1,198,679	\$4,840,071	\$866,534	\$1,482,725	\$387,636	\$1,278,134	\$1,580,241	\$1,035,063	\$985,692
Police Department	\$99,178,533	\$107,470,895	\$92,373,980	\$104,939,319	\$134,549,022	\$137,579,753	\$186,316,133	\$152,332,932	\$138,142,141	\$216,886,652
Other	\$43,069,011	\$23,270,052	\$41,865,101	\$29,080,231	\$62,186,260	\$13,763,993	\$21,380,815	\$21,770,316	\$21,103,515	\$10,820,355
<b>Grand Total</b>	<b>\$492,761,613</b>	<b>\$496,250,859</b>	<b>\$545,572,138</b>	<b>\$544,954,602</b>	<b>\$557,841,066</b>	<b>\$523,266,004</b>	<b>\$553,424,452</b>	<b>\$487,457,028</b>	<b>\$495,066,460</b>	<b>\$550,255,545</b>

## APPENDIX E

### DETAILED TABLES

**Table V**

#### Number of Tort Settlements & Judgments by Claim Type FYs 2005–2014

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Personal Injury</b>										
City Property	216	157	162	170	138	107	113	93	61	71
Civil Rights	733	1,330	4,429	938	1,141	1,281	1,656	1,684	1,556	2,018
Correction Facility	179	160	144	159	227	195	266	309	256	375
Defective Roadway	725	730	713	750	559	512	547	511	417	366
Defective Sidewalk	2,276	1,708	1,489	1,317	1,041	922	866	857	684	656
Employee Uniformed Services	164	117	105	123	90	117	84	107	75	96
Medical Malpractice	333	325	300	311	292	315	265	260	267	201
Motor Vehicle	1,237	972	965	1,042	909	895	824	833	725	665
Police Action	572	576	715	980	1,144	1,300	1,539	1,754	2,107	2,246
Recreation	209	196	176	188	153	137	155	175	167	149
School	1,073	984	978	1,068	847	823	905	731	664	542
Traffic Control Device	155	101	95	73	55	38	32	28	22	29
Other	155	94	99	76	109	86	78	81	62	69
<b>Total</b>	<b>8,027</b>	<b>7,450</b>	<b>10,370</b>	<b>7,195</b>	<b>6,705</b>	<b>6,728</b>	<b>7,330</b>	<b>7,423</b>	<b>7,063</b>	<b>7,483</b>
<b>Property Damage</b>										
City Property	27	18	27	17	10	10	16	20	19	39
Correction Facility	19	3	9	9	6	5	21	11	12	5
Damage by City Personnel	267	311	351	331	262	352	329	374	352	408
Defective Roadway	268	270	244	300	275	307	437	208	117	197
Health Facility	21	21	19	44	36	33	25	23	22	40
Motor Vehicle	1,940	3,391	2,704	2,513	2,342	2,494	3,216	2,254	2,135	2,377
Police Action	73	76	55	52	61	45	45	48	48	35
School	23	22	53	42	39	83	55	47	26	35
Sewer Overflow	74	75	57	55	60	50	88	60	115	143
Water Main	122	100	76	97	88	77	94	62	51	51
Other	13	11	13	18	14	16	8	7	6	10
<b>Total</b>	<b>2,847</b>	<b>4,298</b>	<b>3,608</b>	<b>3,478</b>	<b>3,193</b>	<b>3,472</b>	<b>4,334</b>	<b>3,114</b>	<b>2,903</b>	<b>3,340</b>
<b>Grand Total</b>	<b>10,874</b>	<b>11,748</b>	<b>13,978</b>	<b>10,673</b>	<b>9,898</b>	<b>10,200</b>	<b>11,664</b>	<b>10,537</b>	<b>9,966</b>	<b>10,823</b>

## APPENDIX E

### DETAILED TABLES

**Table VI**

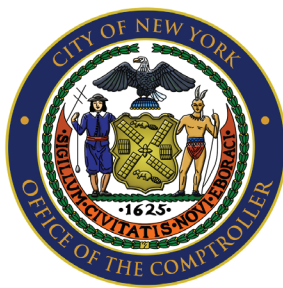
#### Number of Tort Settlements & Judgments by Agency FYs 2005–2014

Agency	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Department of Buildings	17	23	25	25	13	16	20	25	17	17
Department of Correction	316	306	3,531	313	388	365	440	464	388	530
Department of Education	1,138	1,040	1,055	1,136	942	961	998	815	737	626
Department of Environmental Protection	378	345	297	333	303	284	373	283	299	292
Department of Parks and Recreation	441	474	417	436	355	375	391	430	430	390
Department of Sanitation	970	1,919	1,499	1,311	1,254	1,376	2,103	1,302	1,045	1,425
Department of Transportation	3,275	2,834	2,565	2,437	1,962	1,868	1,935	1,689	1,362	1,390
Fire Department	614	590	579	652	624	642	596	509	587	584
Health and Hospitals Corporation	448	429	398	434	413	419	345	337	335	313
Housing Preservation and Development	133	99	97	92	55	30	35	26	17	14
Human Resources Administration	25	26	30	31	17	21	13	19	20	16
Police Department	2,440	3,182	2,672	2,963	3,158	3,572	4,118	4,360	4,519	5,016
Other	679	481	813	510	414	271	297	278	210	210
<b>Grand Total</b>	<b>10,874</b>	<b>11,748</b>	<b>13,978</b>	<b>10,673</b>	<b>9,898</b>	<b>10,200</b>	<b>11,664</b>	<b>10,537</b>	<b>9,966</b>	<b>10,823</b>

1. City Charter Chapter 5, § 93(i).
2. New York City's tort claims costs are paid from the judgment and claims account established annually in the City's General Fund.
3. The Comptroller's Office records claims data in its Omnibus Automated Image Storage and Information System (OAISIS). This report is based on data available as of December 22, 2014 on OAISIS. Since OAISIS is a dynamic system that is updated constantly, data in this report does not reflect values for matters that have occurred but have not yet been reported in OAISIS.
4. For the purpose of this report "settlement and judgment costs," "liabilities," "expenditures," "amounts paid," or "payouts" will be used interchangeably with "recorded settlements and judgments."
5. In FY 2005 there were 5,460 claims filed against the NYPD.
6. See Appendix A for a description of claim types.
7. This figure includes the \$41 million paid to settle the "Central Park 5" cases.
8. Personal injury (PI) and property damage (PD) claim patterns were analyzed by borough, based on the location of each incident. Claim-resolved information must be carefully considered because population statistics do not consider commuters and tourists.
9. The United States Census Bureau estimated as of July 1, 2013, the total population for New York City was 8,405,837 residents. In order of population the boroughs are: Brooklyn (2,592,149 or 30.8% of the total population); Queens (2,296,175 or 27.3% of the total population); Manhattan (1,626,159 or 19.4% of the total population); Bronx (1,418,733 or 16.9% of the total population); and, Staten Island (472,621 or 5.6% of the total population). Statistics do not take into account commuters and tourists.
10. This figure does not include Affirmative claims, wherein the City is to receive a payment.
11. This amount does not include interest to be calculated on the back-pay award.
12. *Bernadine v. City of New York*, 294 N.Y. 361, 365 (1945).
13. *Id.*
14. Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.
15. General Municipal Law, Article § 50-e. Effective September 2010, claimants can file personal injury and property damage claims electronically through the Comptroller's website (<http://www.comptroller.nyc.gov/bureaus/bla/>).
16. General 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 filing a notice of claim.
17. City Charter, Chapter 5, § 93 (i).
18. The Comptroller's Bureau of Law and Adjustment investigates claims filed against the City; obtains and evaluates accident reports and other documents provided by agencies; conducts field visits, interviews witnesses, and conducts hearings; evaluates liability and damages; and attempts to settle appropriate cases. The Comptroller's Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the Law Department.
19. General 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.
20. City Charter, Chapter 17, § 394 (c).







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