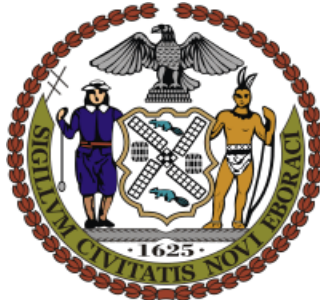




JOHN C. LIU  
COMPTROLLER

CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
CLAIMS REPORT  
FISCAL YEAR 2012

June 4, 2013



June 4, 2013

TO THE PEOPLE OF THE CITY OF NEW YORK:

I am pleased to present you with the New York City Comptroller's Office Claims Report for Fiscal Year 2012. Under the New York City Charter, the Comptroller is responsible for settling and adjusting claims for and against the City.

In FY 2012, the City paid out 12 percent less in personal injury and property-damage tort settlements and judgments. However, despite a reduction in claim payouts, the cost of these claims to the City still hovers at nearly a half billion dollars annually.

In this report we identify trends and recommend ways the city can reduce the number of new claims and the amounts awarded.

It is my hope that this report will serve as a catalyst to at least begin the discussion on how City agencies can reduce the amount the City will pay out in the years to come.

Sincerely,

John C. Liu  
New York City Comptroller

# Claims Report

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## **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 (the “City”).<sup>1</sup> This task is carried out by the Bureau of Law and Adjustment (“BLA”), which is comprised of a dedicated team of attorneys, claims professionals, and administrative staff.

For Fiscal Year (“FY”) 2012, the City paid out \$485.9 million in personal injury and property damage tort settlements and judgments; 12 percent less than the \$553.7 million paid out in FY 2011.<sup>2</sup> The City spent \$59 for each resident to fund the cost of tort claims in FY 2012. These tort claims ranged from slip and falls to medical malpractice, police actions, and motor vehicle property damage claims.

In addition to tort claims, the City paid out \$250.7 million in non-tort claims in FY 2012, an increase from the \$135.9 million paid in FY 2011. 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.

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<sup>1</sup> See City Charter Chapter 5 § 93(i).

<sup>2</sup> New York City’s tort claims costs are paid from the judgment and claims account established annually in the City’s General Fund on a “pay as you go basis.”

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, our analysis has shown that early settlement reduces payout amounts as well as administrative and litigation costs. By settling claims early, we estimate that in FY 2012, the City saved more than \$24 million in future payouts.

This report examines claims data from FY 2012 and reports on recent claim trends. Despite the reduction in claim payouts, the cost to the City still hovers at nearly half a billion dollars annually. The Comptroller's Office continues to explore and adopt new strategies to settle meritorious claims earlier in an effort to reduce overall costs. Issuing this report on a yearly basis rather than biennially serves several purposes: 1) to provide stakeholders with critical information regarding claims and associated costs closer in time to identified trends; 2) to facilitate the reduction in costs via recommendations; and 3) to serve as a city-wide risk management tool.

## **(A) Claim Trends**

The Police Department (“NYPD”) , the New York City Health and Hospitals Corporation (“HHC”), and the Department of Transportation (“DOT”) are consistently responsible for the highest total dollar amounts paid by the City, accounting for approximately 58 percent of total tort claims filed and 68 percent paid in FY 2012.

At least for FY 2012, the amount paid out for the NYPD and HHC decreased from the previous year. However, in the case of the NYPD, this year’s lower settlement costs may not accurately reflect a new trend.

As discussed in previous reports, an area of concern is the growing number of tort claims filed against the NYPD, with an historical high of 9,570 claims filed in FY 2012.<sup>3</sup> The NYPD has seen the number of claims rise 52 percent over the last five years. In FY 2012, the City paid \$152 million in claims involving the NYPD, a decrease of 18 percent over the \$186.3 million paid in FY 2011.

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<sup>3</sup> In FY 2011 and FY 2010 there were 8,941 and 8,148 claims filed respectively against the NYPD.

## **(B) Prior Recommendations**

(1) We reiterate that the City must carefully examine the trend of more claims being filed against the NYPD. Although there are no easy ways to reverse the trend, clearly more must be done.

(2) We again call for the creation of a task force of representatives from the NYPD, prosecutorial offices, the Corporation Counsel, the Civilian Complaint Review Board and the Comptroller's Office. The task force would identify areas that are high-risk in terms of claim activity and create an action plan to better control those risks. A multi-disciplinary task force could then monitor the implementation of cost effective recommendations across agency lines to reduce claim costs.

(3) In the FY 2011 Claim Report, we recommended that tracking trends of claim type filed by precinct could also be a valuable tool in determining whether certain management practices are successful in limiting the City's liability exposure while insuring that law enforcement meets its goals. This strategy is similar to NYPD's CompStat<sup>4</sup> crime prevention methods. The Comptroller's Office is well aware that a claim represents only an allegation. Nonetheless, the NYPD should explore a unified method to track individual officers named as defendants and the

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<sup>4</sup> NYPD's abbreviation for their Computer Statistics program wherein commanding officers meet with NYPD executives to discuss crime rates by type and the allocation of resources to contain and/or prevent crime in their precincts.

payouts, including the nature of the payouts (i.e., a settlement or a judgment) that are associated with those officers.

(4) Other avenues that could be explored include: on-going training regarding police vehicle chases that balances both law enforcement goals and liability concerns and for the NYPD and other agencies to establish early response protocols to requests for documentation in order to settle meritorious claims before litigation, thereby mitigating costs.

(5) The Comptroller's Office continues to strongly urge the City to replicate in other agencies the kinds of risk management tools implemented at HHC. Given HHC's impressive results in controlling claim costs, the Comptroller's Office again recommends that the City implement a process whereby agencies bear some financial accountability for claim activity.

### **(C) New Recommendations**

The City should attempt to reduce claim costs in the area of motor vehicle accidents. In FY 2012, the City paid out over \$75 million in settlements related to injuries and damages as a result of motor vehicle accidents involving City vehicles. This represents 16 percent of the total tort payout. While significant, these claim costs represent only part of the true cost of motor vehicle accidents to the City. Collateral expenses include, but are not limited to, Workers' Compensation; sick leave for injured employees; settlements with Police officers, Firefighters



and Sanitation workers<sup>5</sup> who are injured in motor vehicle accidents; and the cost of repair or replacement of the motor vehicle.

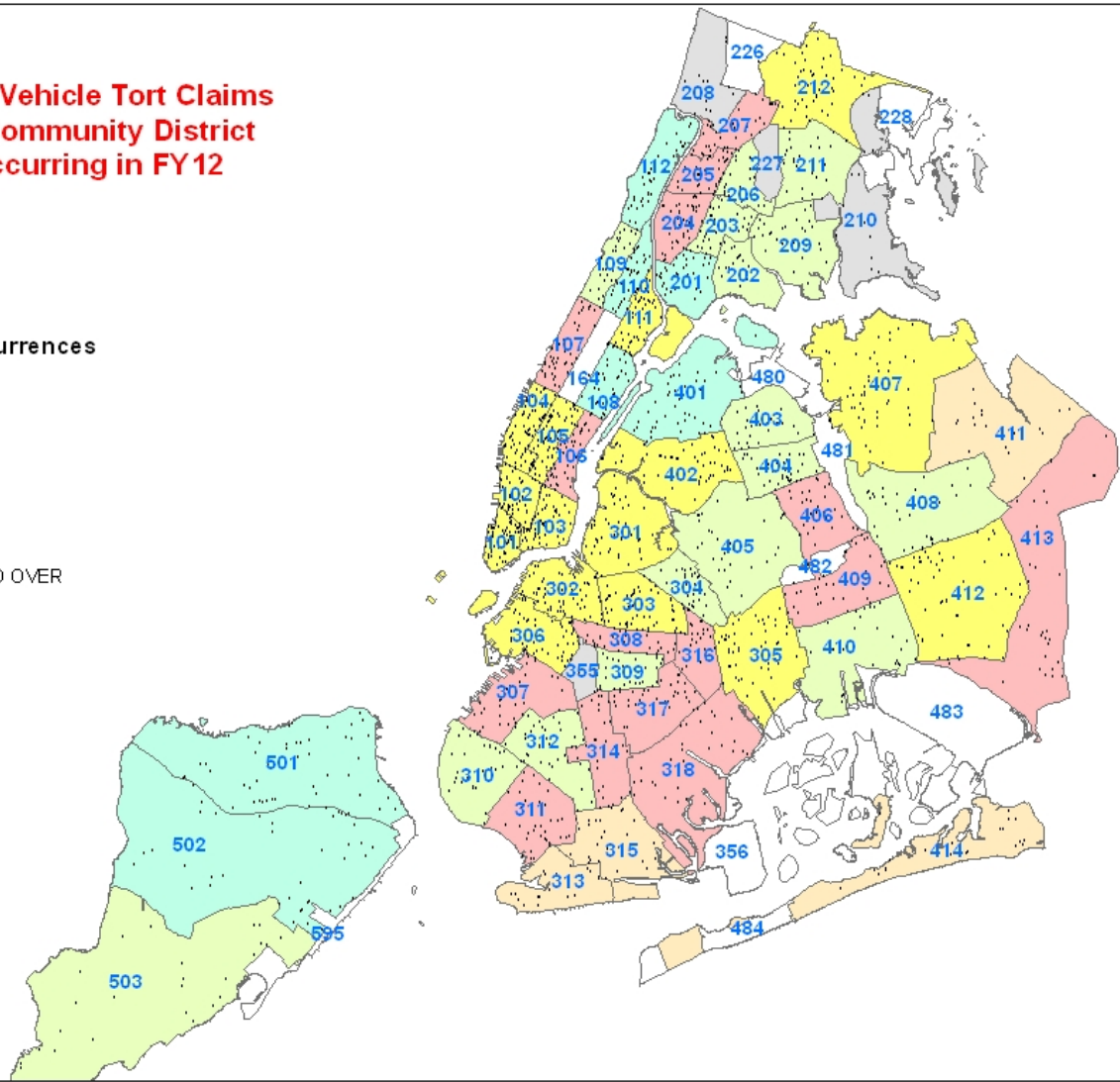
The following map indicates the locations by and volume of motor vehicle accidents by the community district in which they occurred in fiscal year 2012. (Due to inaccuracies or incomplete street addresses reported on notices of claim by claimants, only 67 percent of the claims in the motor vehicle categories could be mapped for fiscal FY 2012).

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<sup>5</sup> Police officers, firefighters and sanitation workers are not covered by Workers' Compensation and in certain instances can sue the City for their injuries. New York State General Municipal Law §205-a and §205-e.

**Motor Vehicle Tort Claims  
By Community District  
Occurring in FY 12**

**Claim Occurrences**



(1) We therefore recommend that the City implement a City-wide program to reduce motor vehicle claims. While the Comptroller's Office recognizes that many agencies have risk issues particular to their own motor vehicle operations, an analysis of motor vehicle claims data may reveal areas that could prevent injuries to City employees, the public and property. Reviewing areas where large numbers of accidents occur may reveal underlying problems that could be addressed. For example, possible defective roadway

designs; potholes; defective or needed traffic control devices, etc. could be identified and corrected.

(2) The City could also do more to insure that all drivers and passengers in City vehicles (even those in emergency vehicles) use seat belts which will prevent serious injuries and/or death. (The National Highway Safety Administration reported that 42 percent of police officers killed in vehicular accidents were not wearing seat belts).

(3) Another step that the City should consider to specifically make intersections safer for emergency response vehicles is to use public service announcements to remind the driving public of their responsibility to yield to emergency vehicles that may be approaching intersections. Creating innovative public interest campaigns regarding this issue will raise the public's awareness of intersection dangers and hopefully save lives and prevent serious injury.

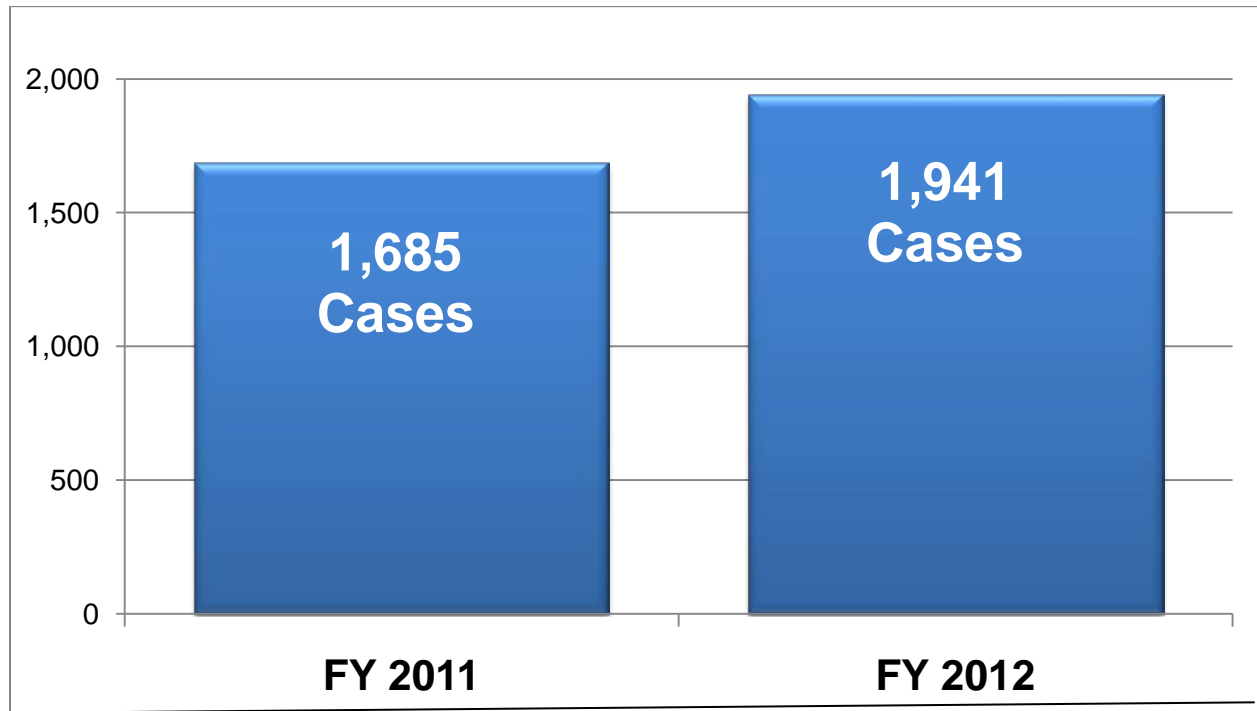
## **II. OVERVIEW OF THE COMPTROLLER'S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES**

### **Pre-Litigation Settlements**

In FY 2012, BLA settled 1,941 personal injury claims pre-litigation as compared to 1,685 pre-litigation settlements in FY 2011; a 15 percent increase. This effort saved the City approximately \$24.8 million in settlement costs in FY 2012 and \$22.2 million in FY 2011.

In FY 2012, the average pre-litigation settlement was \$13,608, while the average settlement for similar claims once litigation commenced was \$24,170. In FY 2011, the average pre-litigation personal injury settlement was \$13,213 while the average settlement for similar personal injury claims once litigation commenced was \$24,507.

**Chart 1**  
**Pre-Litigation Personal Injury Settlements**



### **Recovery Program**

In FY 2012 and FY 2011 the Comptroller's Office collected \$9.2 million and \$9.3 million respectively, from claimants with outstanding obligations to the City and from individuals with child support orders in arrears. By partnering with other agencies—particularly with the Human Resources Administration — BLA collected reimbursements for public assistance and Medicaid benefits, as well as child support obligations from claimants who received settlements from the City.

### **Property Damage Affirmative Claim Expansion Efforts (Pre-litigation)**

The Comptroller's Office continues to expand its efforts 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 the BLA's efforts, a record \$1,978,971 in affirmative claims was collected in FY 2012. This represents an increase of 112 percent in collections since FY 2001 when \$934,079 in affirmative claims was collected. In FY 2011, \$1,471,299 in affirmative claims was collected.

### **Son of Sam Law (New York State Executive Law § 632-a)**

The BLA also 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 May 2013, the Comptroller is holding \$510,000, pending the outcome of crime victims' civil actions against the convicted persons' settlements.

#### **Re-negotiation of NYS General Municipal Law 50(h) Hearing Contract Fees**

The original 50(h) contracts for this term were executed under the previous Comptroller. BLA successfully re-negotiated the contract fees to benefit from lower costs before renewing them on July 1, 2012. As a result of BLA's negotiations and the cooperation of our contractors, the City will save at least \$1 million in expenses through June 30, 2013.

#### **FDNY Ambulance Services Collections**

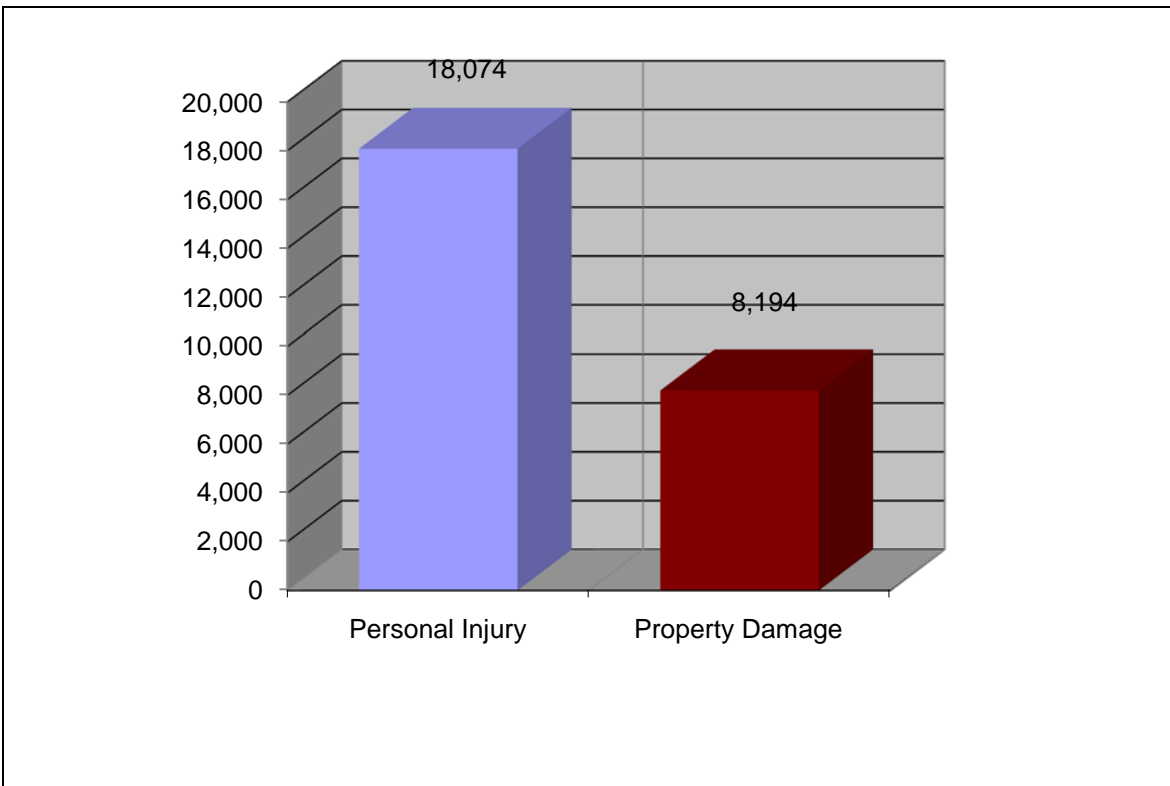
The FDNY is responsible for collecting payments for ambulance services it provides. The Comptroller's Office continues to facilitate the collection of these payments, resulting in collections of \$430,126 since January 2012.

### **III. TORT CLAIM TRENDS (FYs 2011 - 2012)**

In FY 2012, 26,268 new personal injury and property damage claims were filed; an 11 percent decrease from the 29,460 filed in FY 2011.<sup>6</sup>

The overall cost to the City for personal injury and property damage claim payouts was \$485.9 million in FY 2012. This represents a 12 percent decrease from the cost of tort claims in FY 2011 (\$553.7 million).

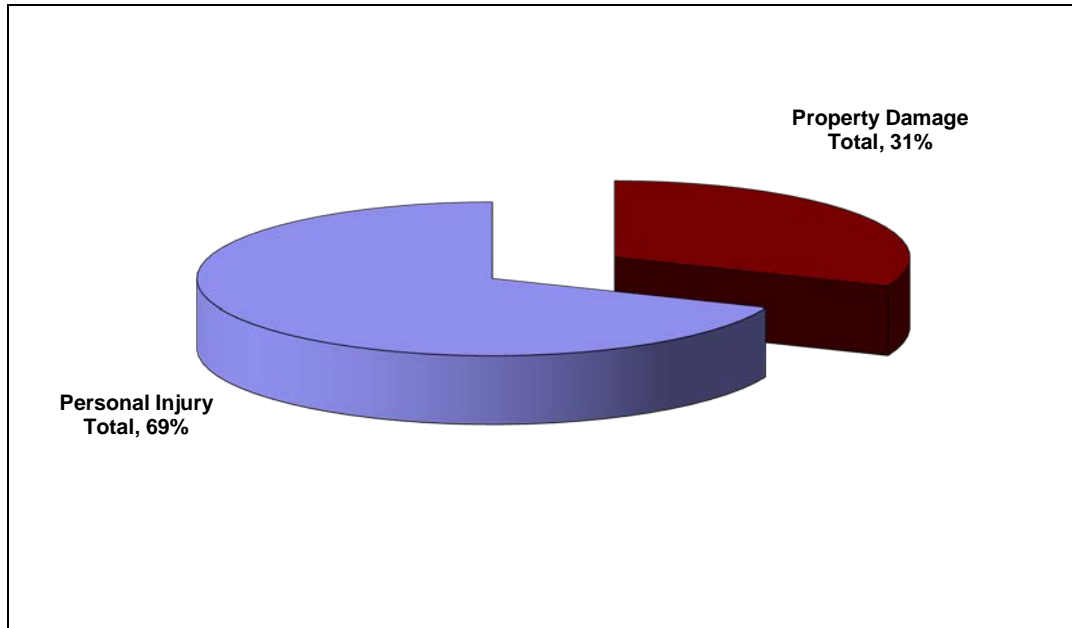
**Chart 2**  
**Number of Tort Claims Filed by Category**  
**Fiscal Year 2012**



<sup>6</sup> See appendix for a description of claim types.



**Chart 3**  
**Percentage of Tort Claims Filed by Category**  
**Fiscal Year 2012**

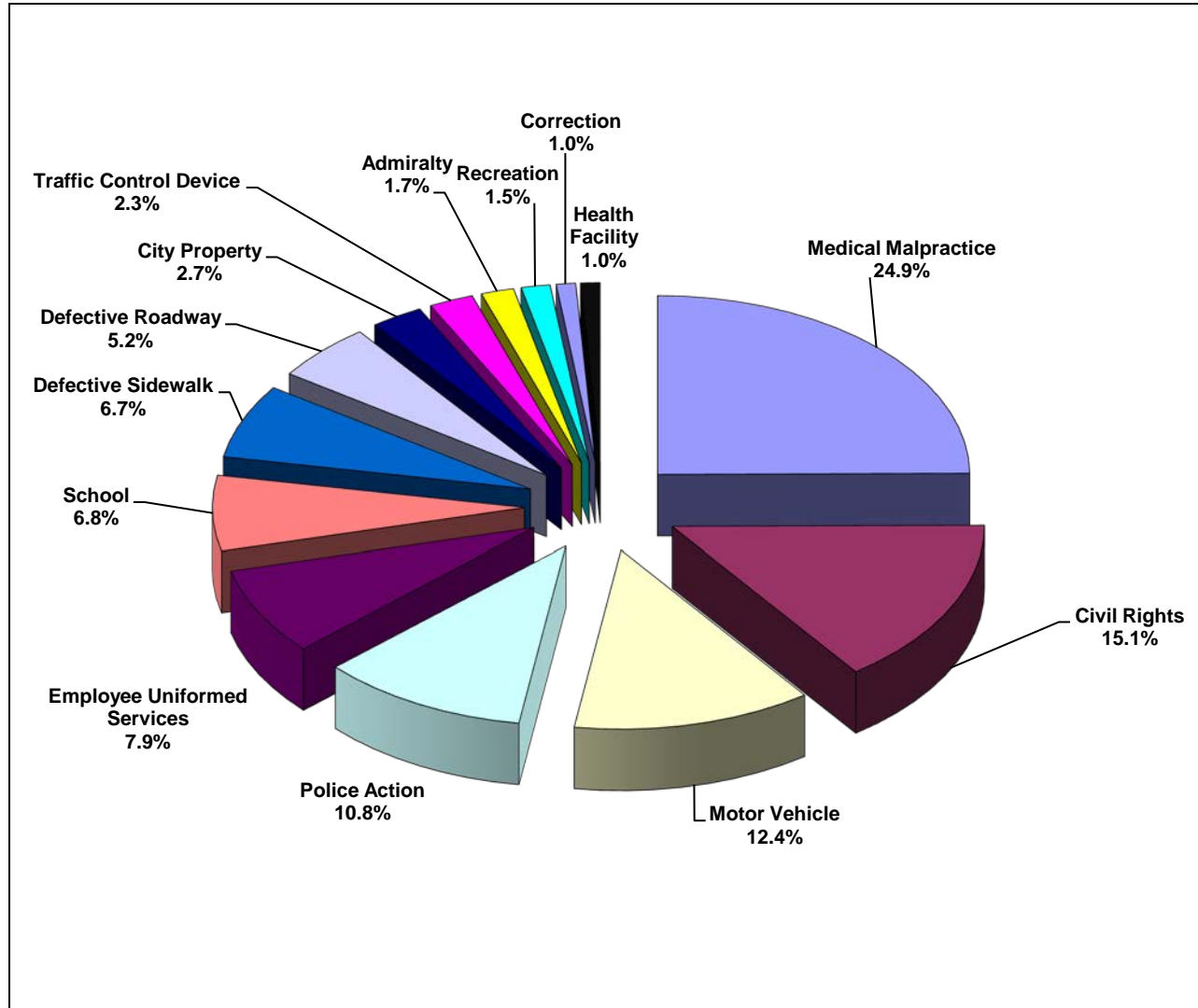


### **A. PERSONAL INJURY CLAIMS**

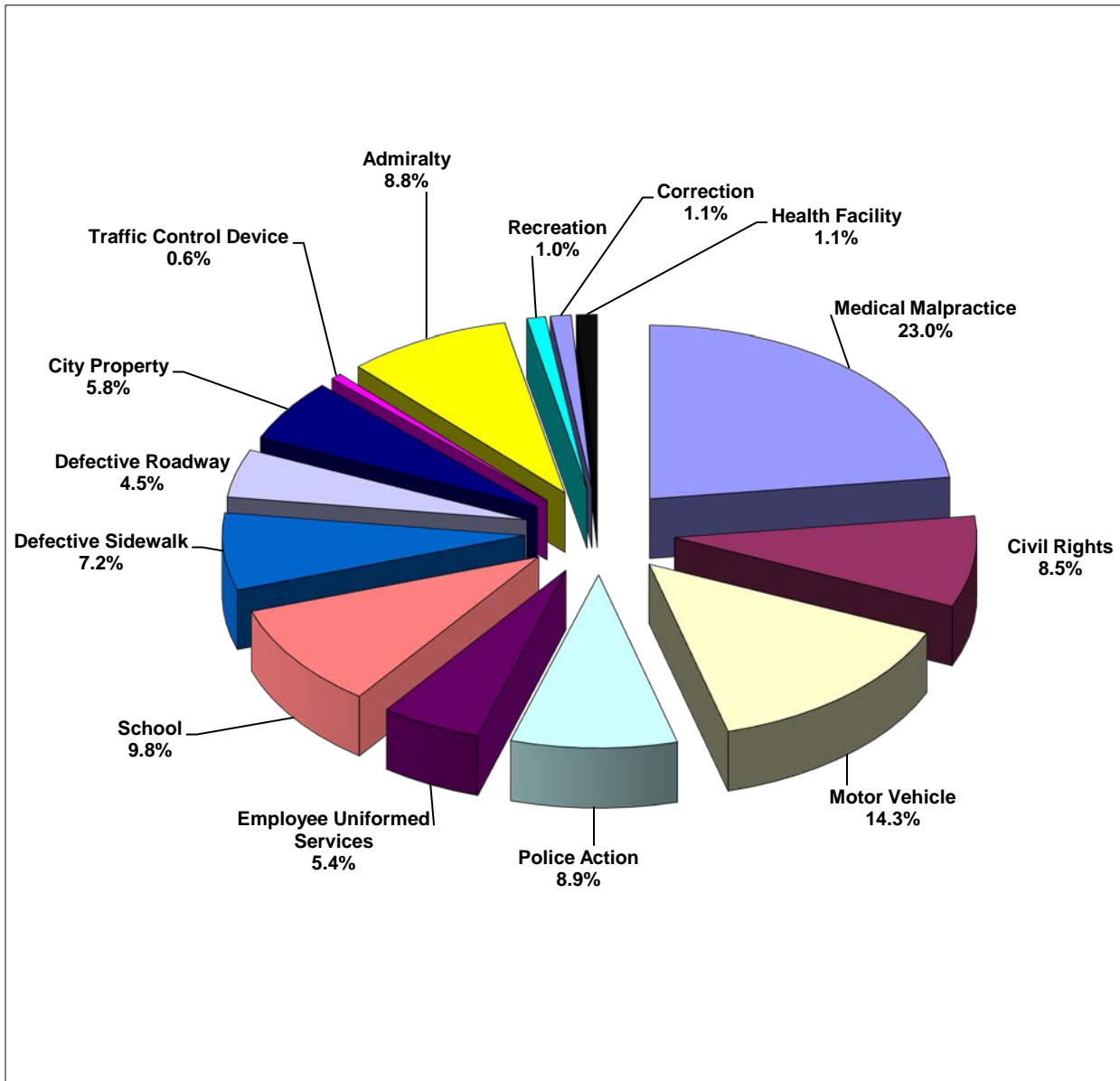
Personal injury claims are the most frequently filed and the most costly to resolve. Personal injury claims include medical malpractice, civil rights violations, injuries that occur in schools, from defective sidewalks, motor vehicle accidents, or from the actions of police, or uniform services employees,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

- Personal injury claims accounted for \$474.3 million, or 98 percent of the \$485.9 million paid for tort claims in FY 2012. During FY 2011, personal injury claims accounted for \$538.5 million, or 97 percent of the \$553.7 million paid for tort claims.
- There were 79 personal injury payouts for \$1 million or more in FY 2012. For those 79 cases, a total of \$168 million was paid out. This amounted to 35 percent of the total personal injury claim payout for FY 2012.
- In FY 2012, the costliest personal injury claims category was medical malpractice, which cost the City \$109.9 million. The second costliest category was motor vehicle claims, at \$69.9 million. Civil rights claim settlements and judgments were the third costliest, at \$67.9 million. The fourth costliest category was police action claims, at \$64.4 million.
- The average settlement/judgment for all personal injury cases in FY 2012 was \$63,880; 13 percent lower than the \$73,393 average paid in FY 2011.

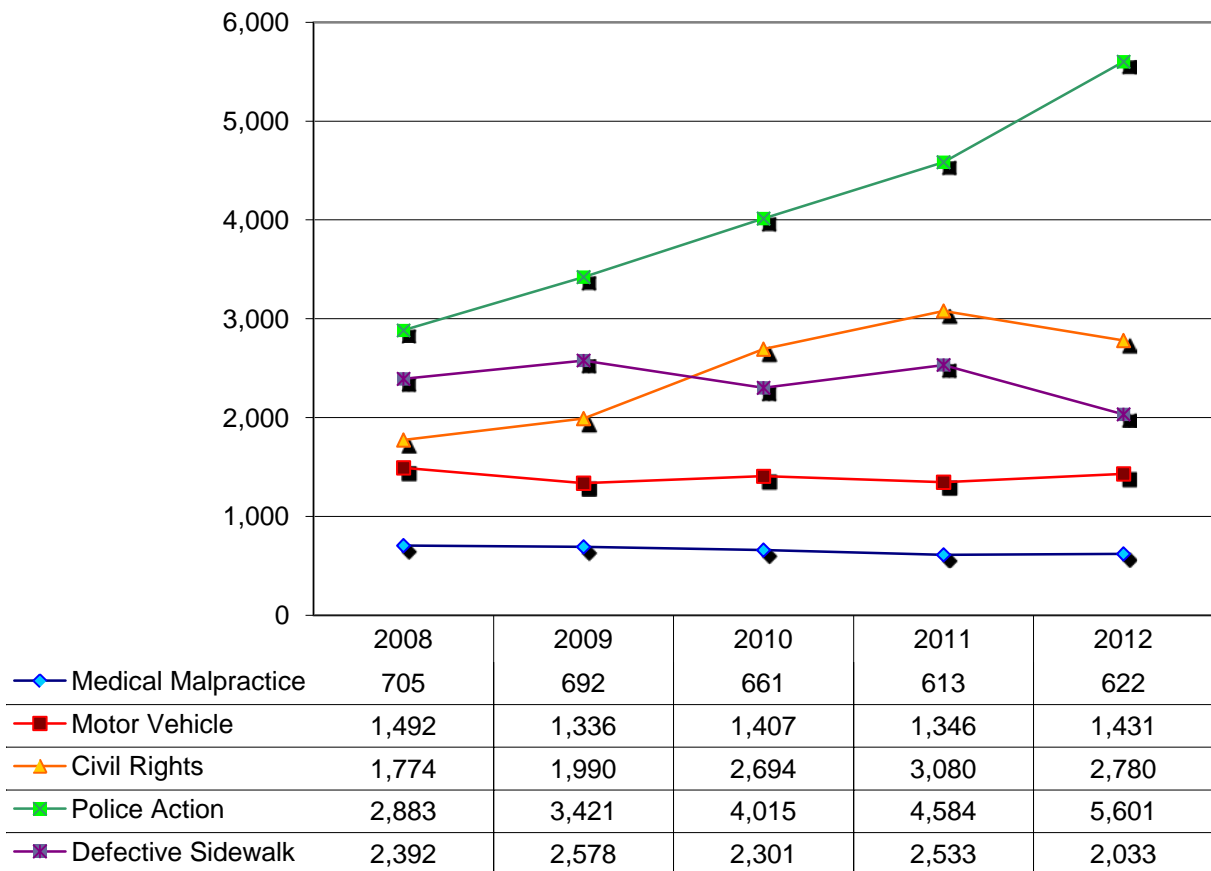
**Chart 4**  
**Percentage of Total Personal Injury Expenditures Recorded by Claim Type**  
**FY 2012**



**Chart 5**  
**Percentage of Total Personal injury Expenditures Recorded by Claim Type**  
**FY2011**



**Chart 6**  
**Number of Claims Filed by Major Claim Type**  
**FYs 2008 - 2012**



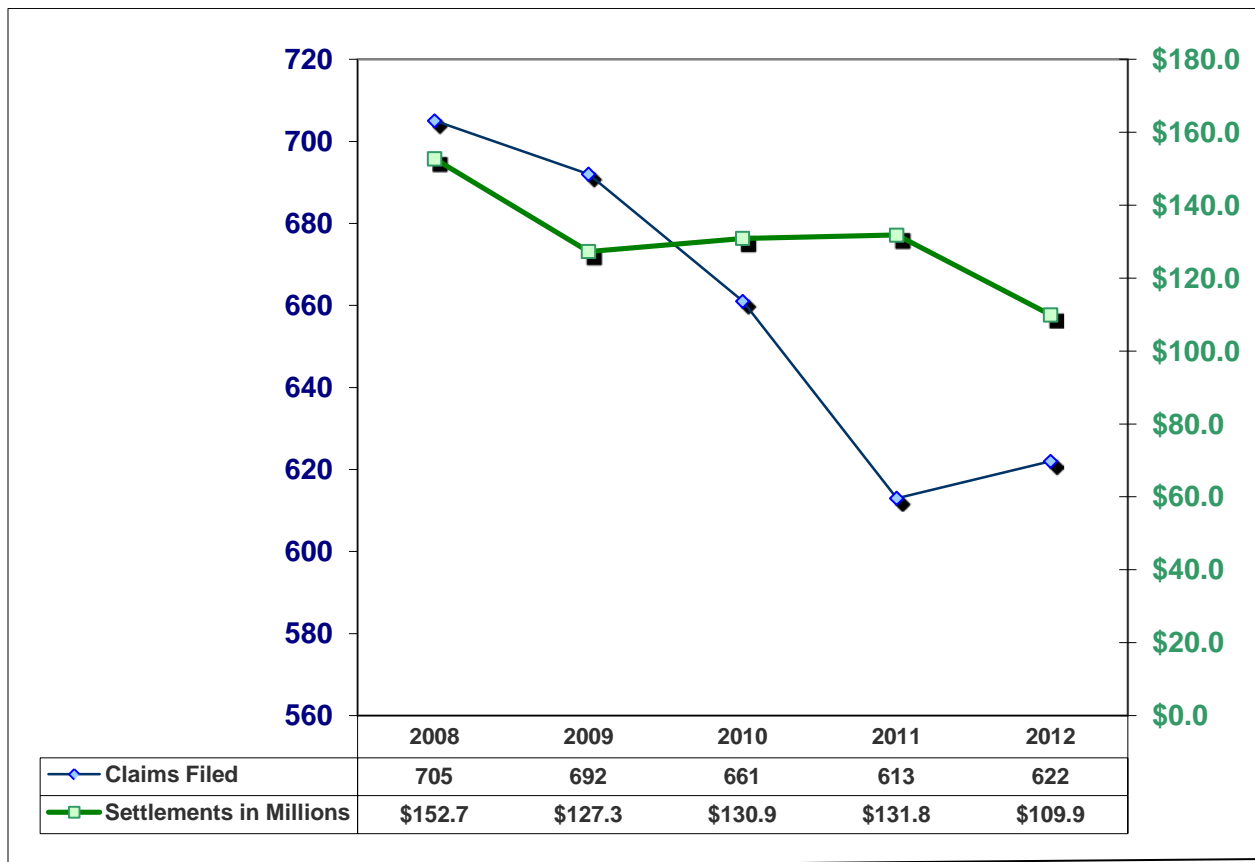
## **1. MEDICAL MALPRACTICE CLAIMS**

Medical malpractice claims are claims filed against the City or an HHC facility that allege malpractice during treatment. 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 comprise 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 23 percent of the total \$474.3 million paid out for personal injury claims in FY 2012. In FY 2011, medical malpractice claims were 24 percent of the total \$538.5 million paid for personal injury claims. It should be noted that medical malpractice claims often take between 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 2012 was 622, one percent higher than in FY 2011 when 613 claims were filed.

- Medical malpractice cases cost HHC \$109.9 million in settlements/judgments for 258 cases in FY 2012. In FY 2011, they cost \$131.8 million for 266 cases.

**Chart 7**  
**Medical Malpractice**  
**FYs 2008 – 2012**  
**Number of Claims Filed & Settlements (In Millions)**



- In FY 2012, 79 tort cases were each resolved for \$1 million or more. Medical malpractice settlements/judgments accounted for 34 of the 79 tort cases that settled for \$1 million or more.
- In FY 2012, the five HHC acute care hospitals for which the City paid the highest total amount for medical malpractice claims were: Elmhurst Hospital (\$15.6 million); Kings County (\$13.3 million); Jacobi Medical Center (\$13.2 million); Queens Hospital Center (\$12 million) and Lincoln Hospital (\$10.6 million). (See Table 1).
- From FY 2011 to FY 2012, six hospitals saw an increase in the number of claims filed against them, and five hospitals saw a decrease. (See Table 2). The six hospitals which saw an increase in the number of medical malpractice claim filings were: Coney Island; Elmhurst; Jacobi/Bronx Municipal; Kings County; Lincoln and Metropolitan. The five hospitals that experienced a decrease in filings were: Bellevue; Harlem; North Central Bronx; Queens Hospital and Woodhull.
- Overall, the number of medical malpractice claims filed against HHC's acute care hospitals increased by eight claims from FY 2011 to FY 2012. (See Table 2).



**TABLE 1**  
**HHC MEDICAL MALPRACTICE SETTLEMENT ACTIVITY BY ACUTE CARE HOSPITALS**

<b>Hospital</b>	<b>Number Resolved FY 2011</b>	<b>Amount Paid FY 2011 (millions)</b>	<b>Average Amount Per Claim FY 2011</b>	<b>Number Resolved FY 2012</b>	<b>Amount Paid FY 2012 (millions)</b>	<b>Average Amount Per Claim FY 2012</b>
Bellevue	25	\$5.8	\$232,000	23	\$ 8.0	\$348,000
Coney Island	23	\$9.4	\$409,000	23	\$ 8.0	\$348,000
Elmhurst	28	\$13.4	\$479,000	28	\$15.6	\$557,000
Harlem	11	\$5.7	\$518,000	20	\$6.1	\$305,000
Jacobi / Bronx Municipal	30	\$18.4	\$613,000	32	\$13.2	\$413,000
Kings County	38	\$23.2	\$611,000	33	\$13.3	\$403,000
Lincoln	34	\$24.9	\$732,000	25	\$10.6	\$424,000
Metropolitan	8	\$5.6	\$700,000	8	\$2.1	\$263,000
North Central Bronx	10	\$5.3	\$530,000	10	\$6.0	\$600,000
Queens Hospital Center	19	\$5.1	\$268,000	14	\$12.0	\$857,000
Woodhull	25	\$4.8	\$192,000	23	\$6.0	\$261,000
<b>Total</b>	<b>251</b>	<b>\$121.6</b>	<b>Overall Average \$484,000</b>	<b>239</b>	<b>\$100.9</b>	<b>Overall Average \$422,000</b>

**TABLE 2**  
**HHC MEDICAL MALPRACTICE CLAIM FILING ACTIVITY BY ACUTE CARE HOSPITALS**

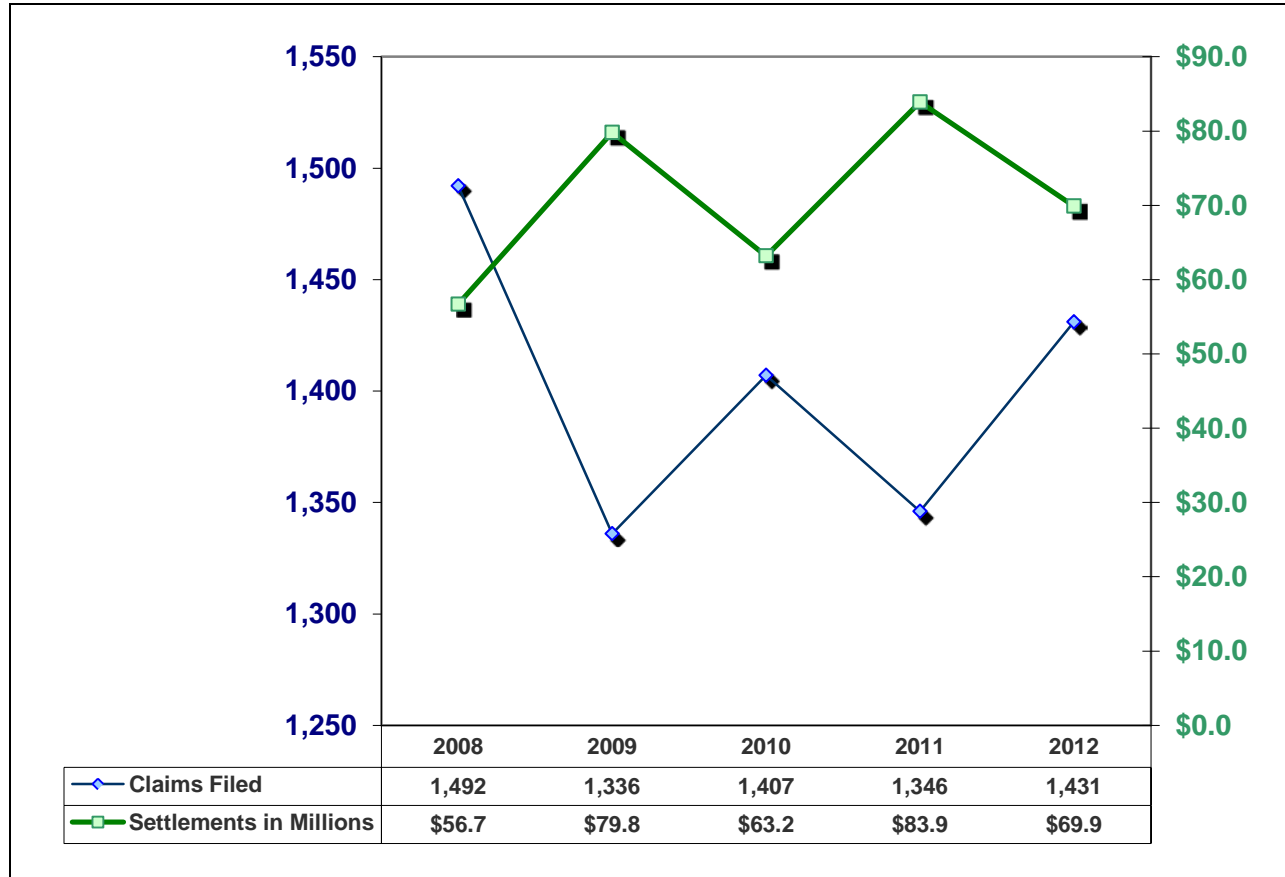
<b>Hospital</b>	<b>Claims Filed FY 2011</b>	<b>Claims Filed FY 2012</b>	<b>Increase/ (Decrease)</b>
Bellevue	74	56	(18)
Coney Island	26	50	+24
Elmhurst	49	50	+1
Harlem	43	38	(5)
Jacobi / Bronx Municipal	61	75	+14
Kings County	76	79	+3
Lincoln	62	69	+7
Metropolitan	16	30	+14
North Central Bronx	28	16	(12)
Queens	42	31	(11)
Woodhull	52	43	(9)
<b>Total</b>	<b>529</b>	<b>537</b>	<b>8</b>

## **2. MOTOR VEHICLE ACCIDENT CLAIMS**

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

- There were 1,431 new personal injury motor vehicle accident claims filed in FY 2012; six percent more than FY 2011, when 1,346 were filed.
- Personal injury motor vehicle accidents cost \$69.9 million in FY 2012; a 17 percent decrease from FY 2011, when the City paid \$84.0 million in settlement/judgment costs for this type of claim. Even so, motor vehicle accidents accounted for the second highest claim type payout in FY 2012.
- Motor vehicle accident personal injury claims were the fifth most frequently filed personal injury claim.

**Chart 8**  
**Motor Vehicle**  
**FYs 2008-2012**  
**Number of Claims Filed & Settlements (In Millions)**

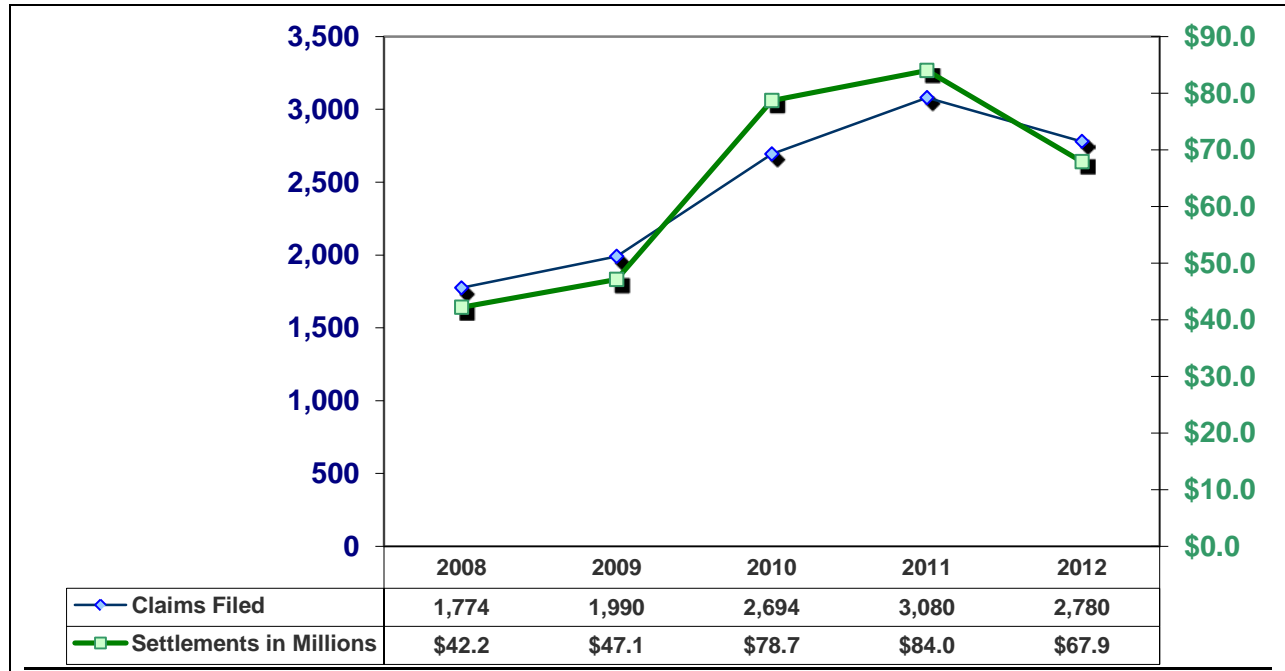


### **3. CIVIL RIGHTS CLAIMS**

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

- There were 2,780 civil rights claims filed in FY2012. This is an 10 percent decrease from FY 2011, when 3,080 claims were filed.
- The cost of civil rights claims was \$67.9 million in FY 2012; a decrease of 19 percent from the \$84.0 million paid out in FY 2011.
- Civil rights claims were the third most expensive and second most frequently filed personal injury claim.

**Chart 9**  
**Civil Rights**  
**FYs 2008 - 2012**  
**Number of Claims Filed & Settlements (In Millions)**

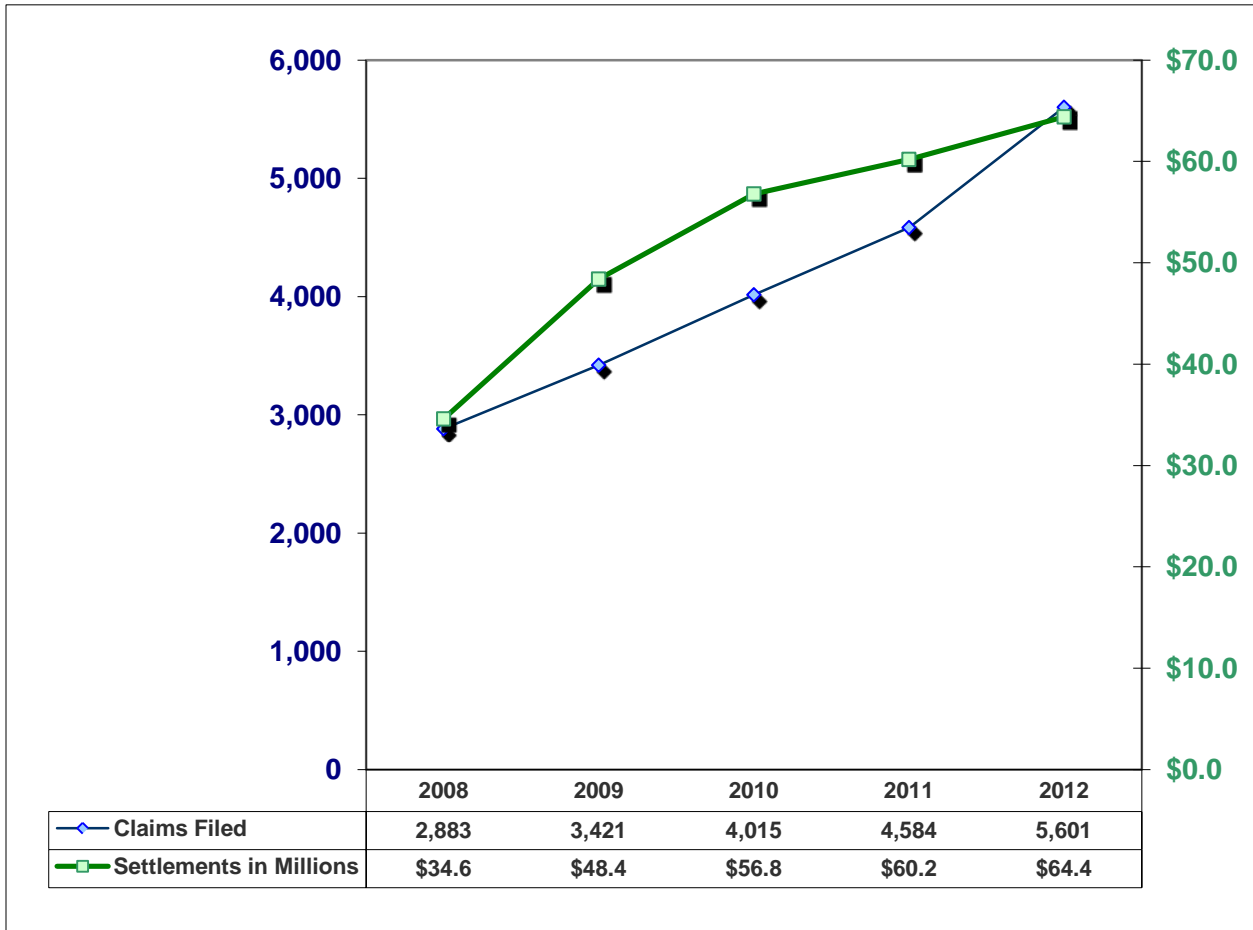


#### **4. POLICE ACTION CLAIMS**

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

- There were 5,601 new police action claims filed in FY 2012. This represents an increase of 22 percent from the 4,584 claims filed in FY 2011. This is the largest number of new police action filings during the last five fiscal years.
- The cost of police action claims was \$ 64.4 million in FY 2012; an increase of seven percent from FY 2011, when we paid \$ 60.2 million.
- Police action claims were the most frequent type of personal injury claim filed in FY 2012 and accounted for the fourth highest claim payout in FY 2012.

**Chart 10**  
**Police Action**  
**FYs 2008 - 2012**  
**Number of Claims Filed & Settlements (In Millions)**



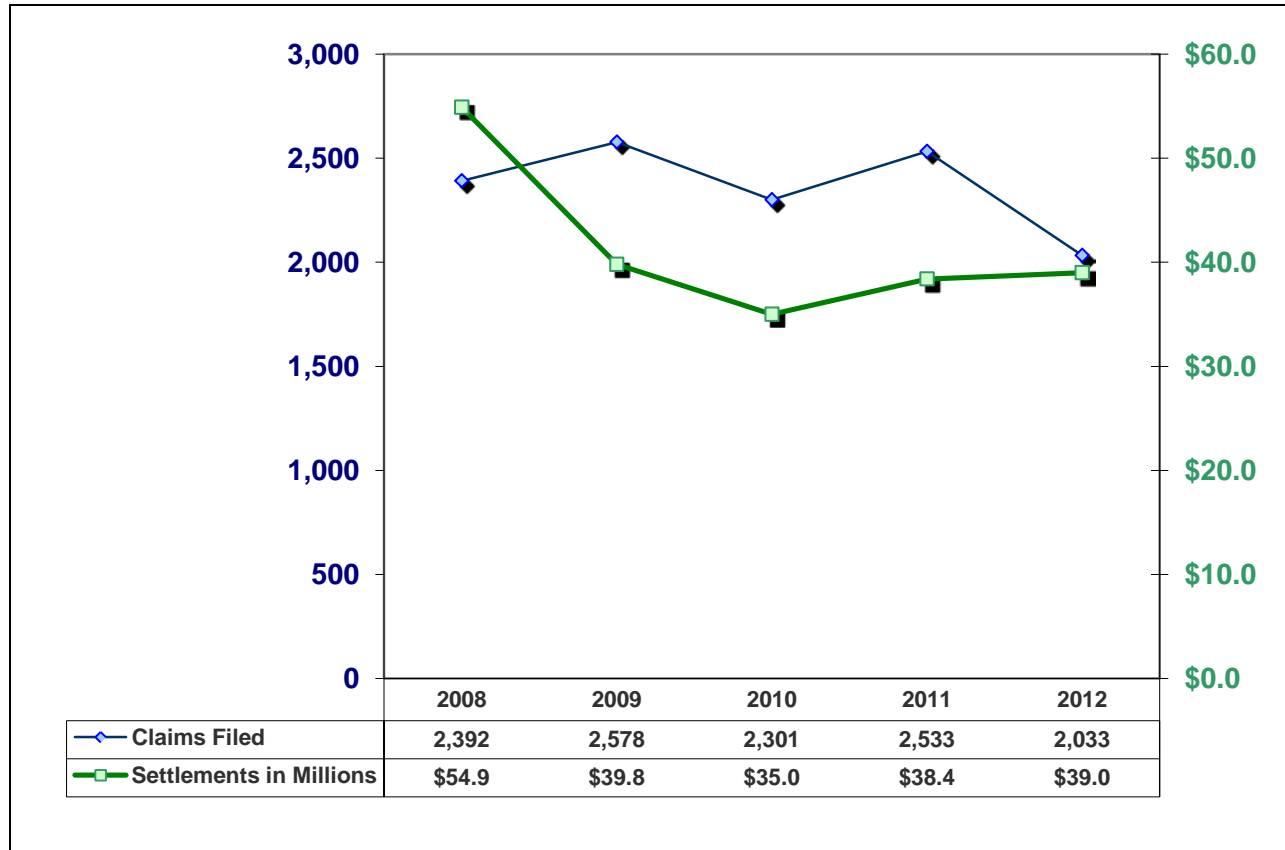


## 5. DEFECTIVE SIDEWALK CLAIMS

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 section 7-210) generally limits the City’s liability to sidewalks adjoining City owned property or to owner-occupied residential property having no more than three units.

- In FY 2012, there were 2,033 sidewalk claims filed against the City. This represents a 20 percent decrease from FY 2011, when 2,533 sidewalk claims were filed.
- The total cost of sidewalk claims in FY 2012 was \$39.0 million, which is almost equal to the \$38.4 million paid in FY 2011.
- Defective sidewalk claims were the third most frequently filed personal injury claim and fifth most expensive.

**Chart 11**  
**Sidewalk**  
**FYs 2008 - 2012**  
**Number of Claims Filed & Settlements (In Millions)**



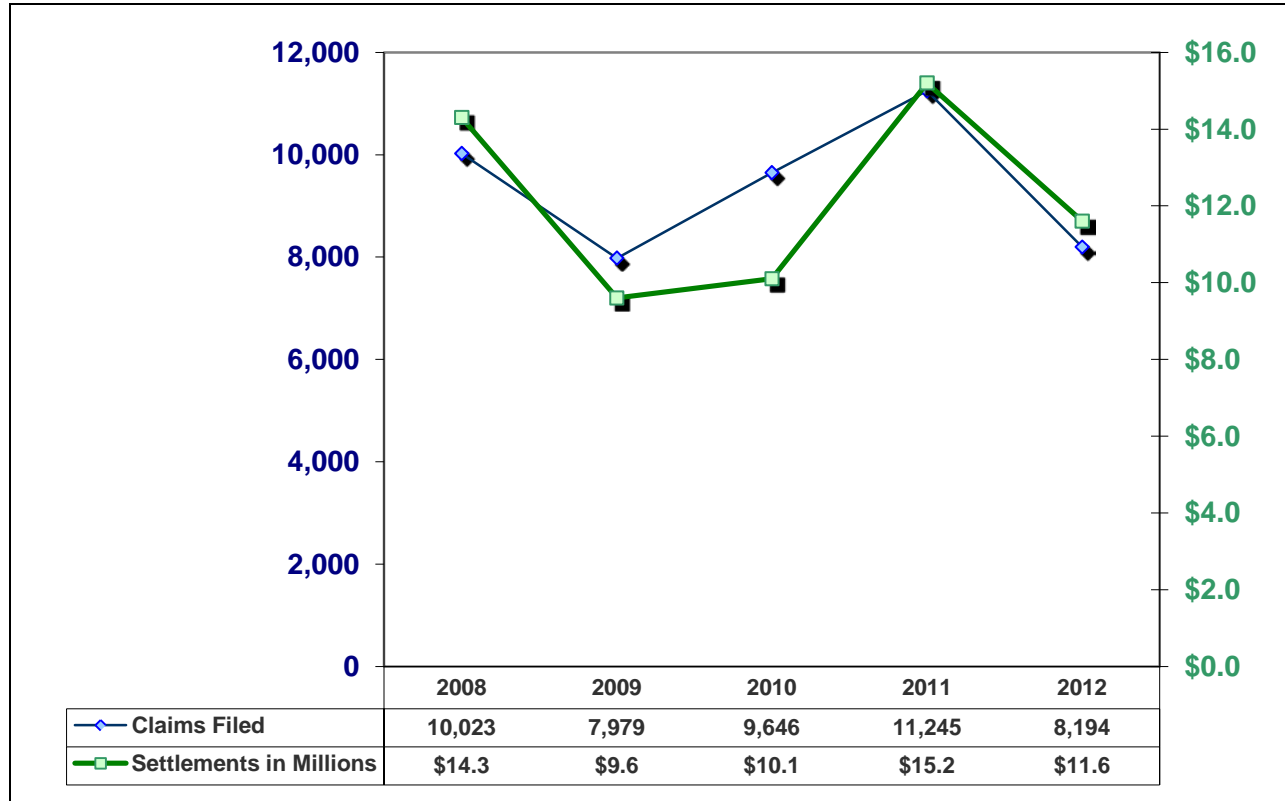
## **B. PROPERTY DAMAGE CLAIMS**

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.

- The number of property damage claims filed in FY 2012 was 8,194; a 27 percent decrease from the 11,245 filed in FY 2011.
- Property damage claims cost \$ 11.6 million in FY2012; a 24 percent decrease from the \$15.2 million paid in FY 2011.
- Property damage claims comprised two percent of the total tort claims payout in FY 2012.

One property damage claim settled for \$2 million in FY 2012. That claim involved alleged damage to Con Edison underground steam, electric and gas facilities as a result of a water main break on Fifth Avenue between 18<sup>th</sup> and 19<sup>th</sup> streets in 1990.

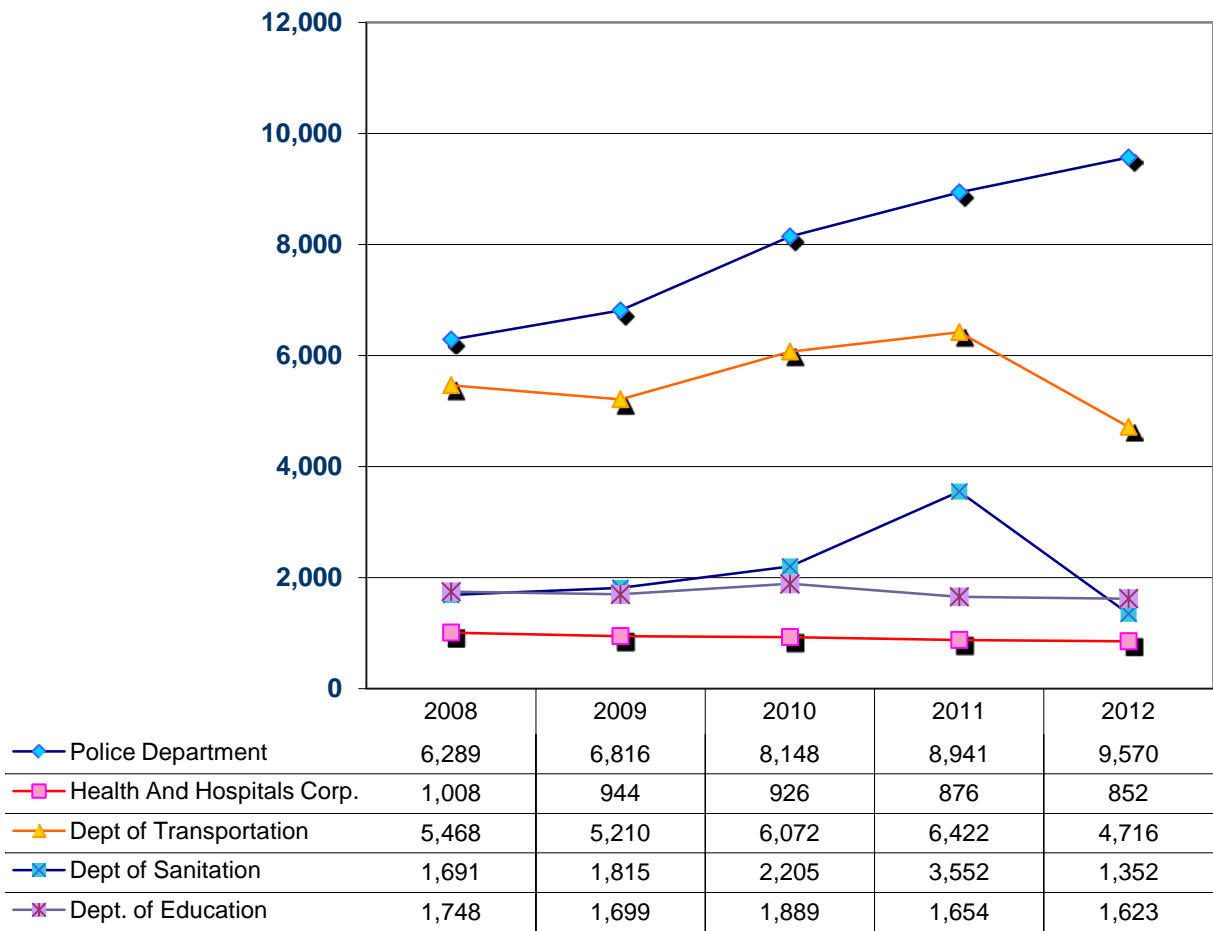
**Chart 12**  
**Property Damage**  
**FYs 2008-2012**  
**Number of Claims Filed & Settlements (In Millions)**



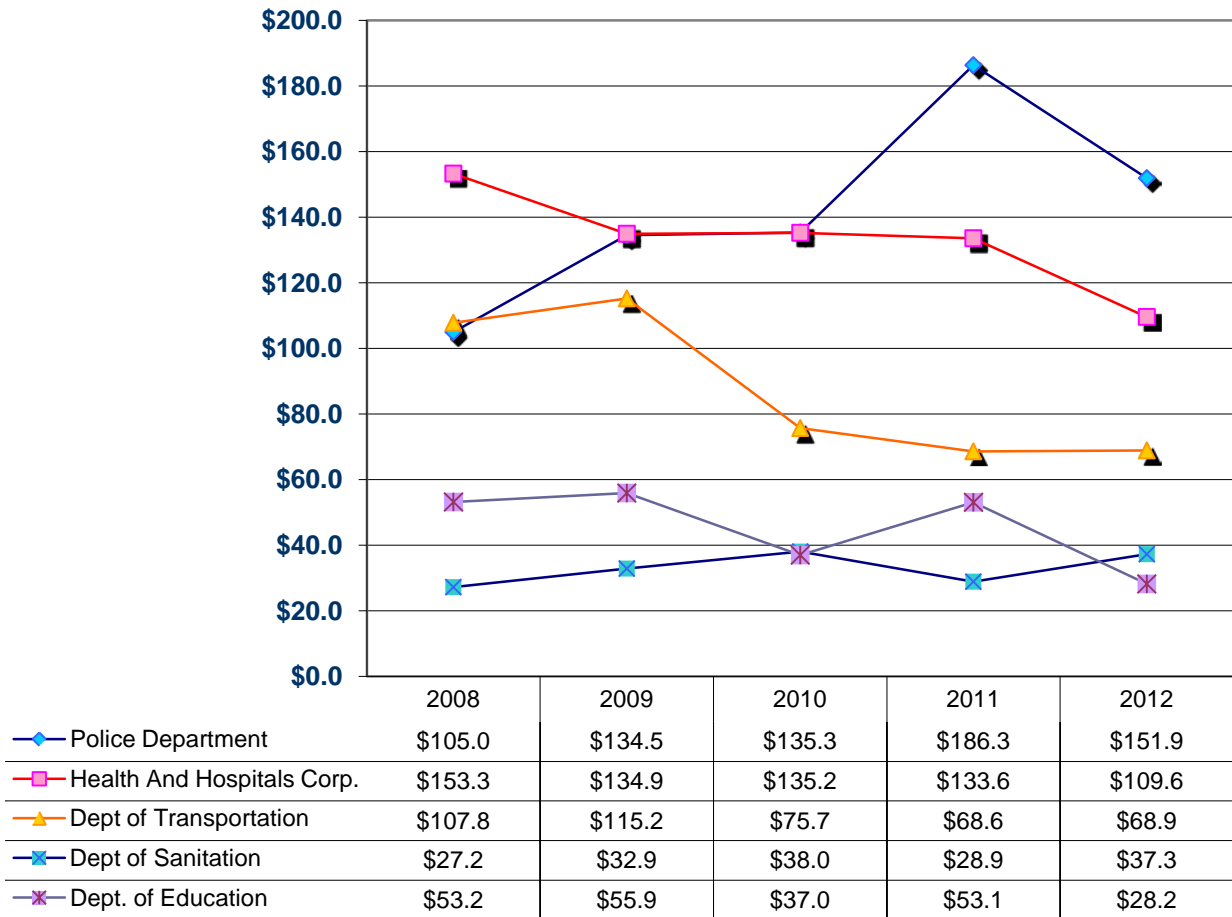
#### **IV. TORT CLAIM TRENDS BY AGENCY**

- The NYPD and DOT accounted for the highest number of tort claims filed in each of the last five fiscal years. These two agencies, along with HHC, accounted for the highest cost of claims in each of the last five fiscal years.
- In FY 2012, the agencies that experienced the highest number of claims filed were: the NYPD, DOT, Department of Correction (“DOC”), DOE and DEP. Of these top five agencies, both the DOT and the DOE saw a decrease in the number of claims filed: 6,422 in FY 2011 versus 4,716 in FY 2012 for the DOT; and 1,654 in FY 2011 versus 1,623 in FY 2012 for the DOE.
- NYPD experienced the highest increase in the number of filings: 8,941 in FY 2011 versus 9,570 in FY 2012.
- The NYPD, HHC and DOT accounted for the highest cost of settlements and judgments in FY 2012.

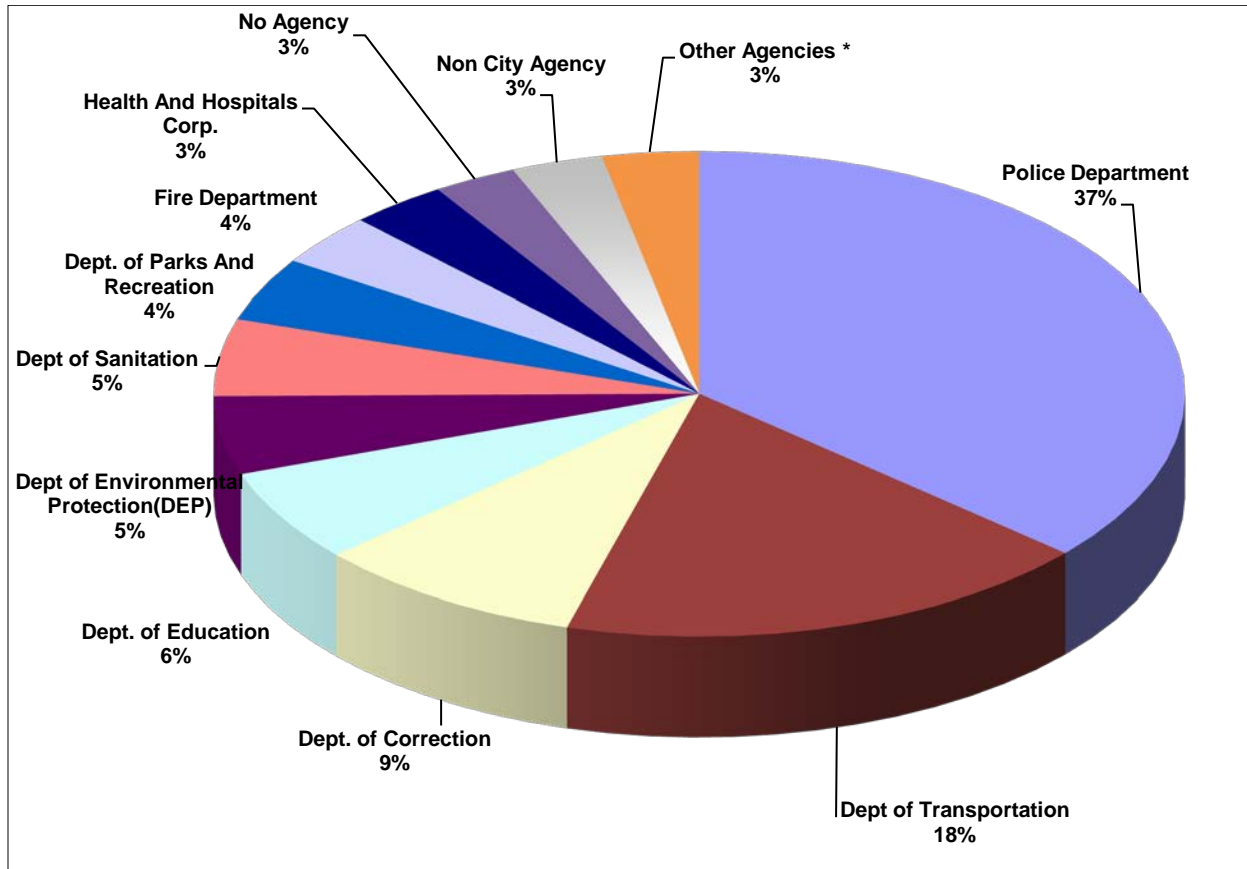
**Chart 13**  
**New Claims Filed by Agencies with Highest Claim Costs in FY 2012**  
**FYs 2008 – 2012**



**Chart 14**  
**Dollar Value of Settlements by Agencies with Highest Claim Costs in FY 2012**  
**FYs 2008-2012**  
**(In Millions)**



**Chart 15**  
**Agency Claims Activity**  
**Percent of Claims Filed FY 2012**



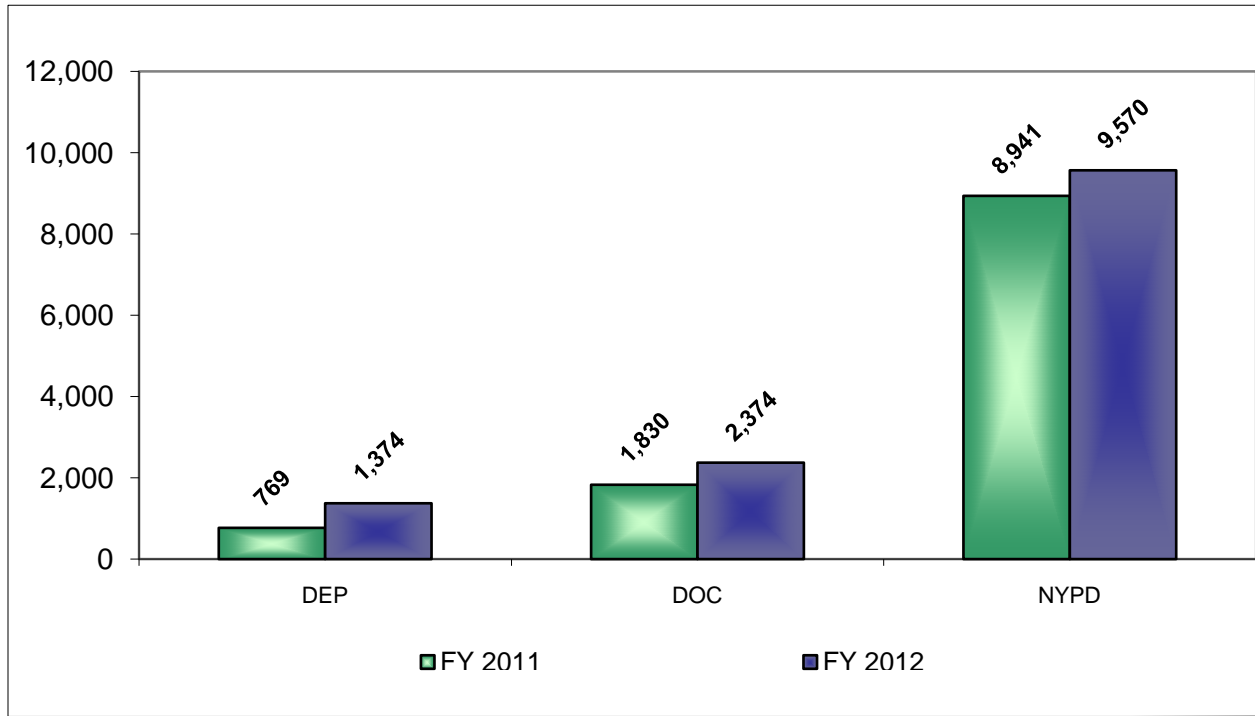
\* Agencies having less than 1 percent each of the total Personal Injury and Property Damage claims filed. These include: Department of Homeless Services, Administration for Children's Services, Human Resources Administration, Housing Preservation and Development, Department of Design and Construction, Department of Citywide Administrative Services, City University (CUNY), Taxi and Limousine Commission, Department of Health and Mental Hygiene, School Construction Authority, Department of Finance, Department of Social Services, NY Public Library, Department of Probation, Department of Juvenile Justice, Comptroller, Department of Investigation, Law Department, Mayor's Office, Board of Elections, City Sheriff, Department of Small Business Services, Human Rights Commission, City Council, NYC Employee Retirement System, Queens Public Library, Department for the Aging, Department of Consumer Affairs, Department of Information Technology and Telecommunications, Department of Youth and Community Development, District Attorney - Bronx, District Attorney - Kings, Brooklyn Public Library, City Clerk, Department of City Planning, Borough President - Brooklyn, Borough President - Manhattan, Borough President - Queens, Borough President - Staten Island, FISA, Office of Management and Budget, Office of Municipal Labor Relations, Office of Payroll Administration, Office of the Chief Medical Examiner, Department of Buildings.



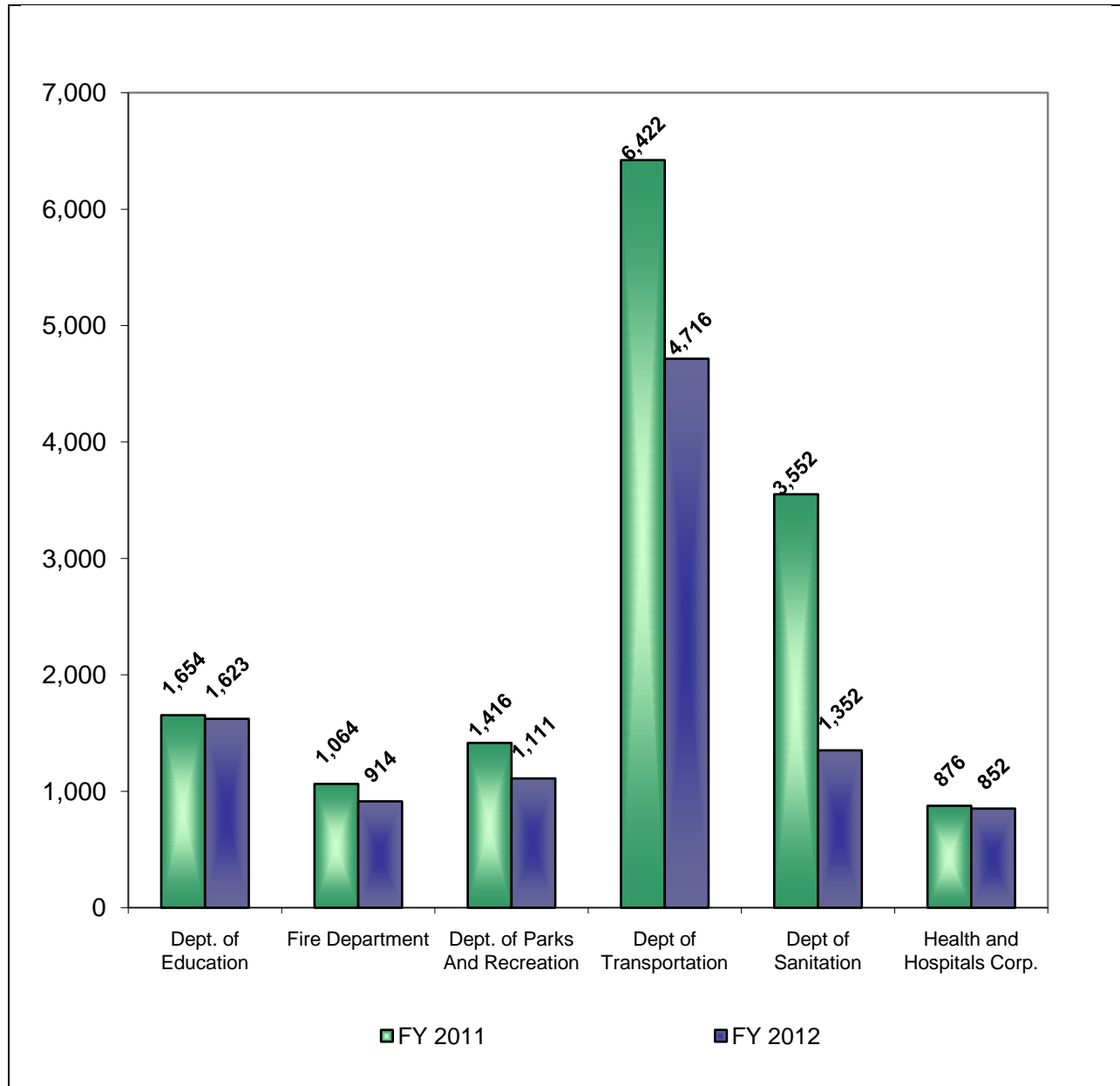
Three of the nine agencies accounting for the most tort claims filed in FY 2012 showed increases in the number of personal injury and property damage claims filed: NYPD (seven percent); DEP (79 percent); and the DOC (30 percent ).

Six of the nine agencies accounting for the most tort claims filed in FY 2012 showed decreases in the number of personal injury and property damage claims filed: DOE (two percent); DOT (27 percent); DSNY (62 percent); Parks (22 percent); FDNY (14 percent); and HHC (three percent).

**Chart 16**  
**Agencies with Increase in Claim Filings**



**Chart 17**  
**Agencies with Decrease in Claim Filings**



## **A. THE FIVE AGENCIES WITH THE MOST COSTLY CLAIMS**

The five agencies with the highest tort claim costs in FY 2012 were the NYPD, HHC, DOT, DSNY and DOE.

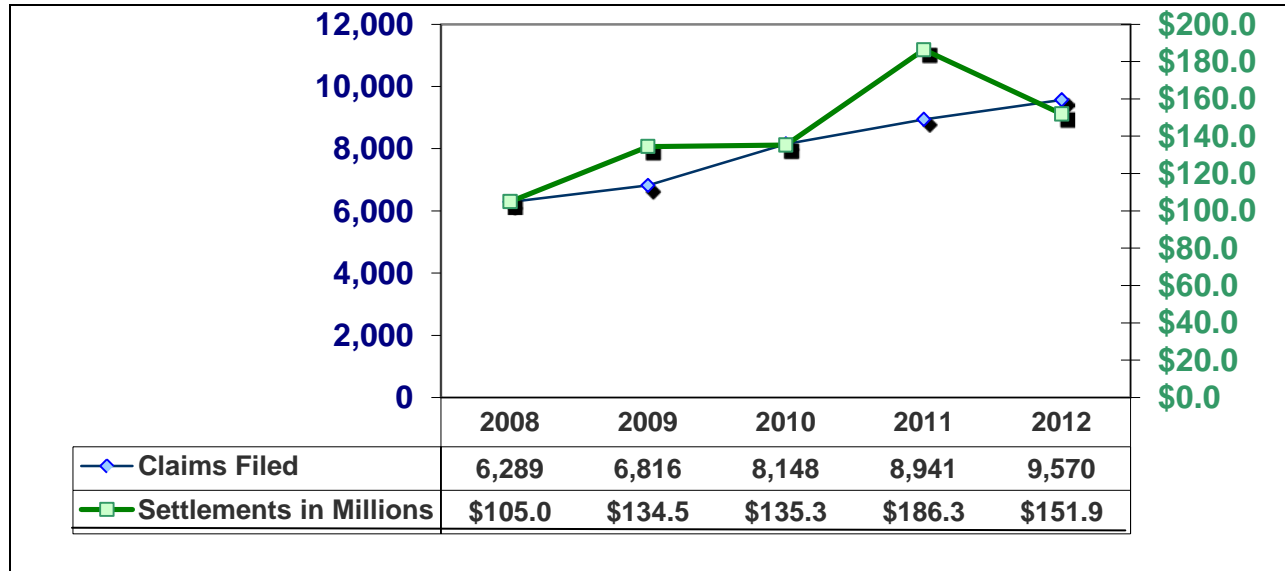
### **1. NYPD**

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 FY2012, there was an increase to 9,570 new claims filed, compared with 8,941 filed in FY 2011. This represents the highest number of claims filed against any agency in FY 2012. Claims filed against the NYPD constituted 36 percent of total tort claim filings in FY 2012.

Cases against the NYPD cost the City \$ 186.3 million in FY 2011. In FY 2012, they cost the City \$151.9 million; an 18 percent decrease. The NYPD accounted for 31 percent of total FY 2012 personal injury and property damage claims expenditures. Nonetheless, for both FY 2011 and FY 2012, the NYPD's tort claim annual expenditure was the highest of any agency.

An analysis of these numbers and the circumstances giving rise to them may provide a key as to why some precincts seem to have less civil litigation related to their operation as opposed to others that have a greater incidence of litigation as compared to crime activity.

**Chart 18**  
**Police Department**  
**FYs 2008-2012**  
**Number of Claims Filed & Settlements (In Millions)**



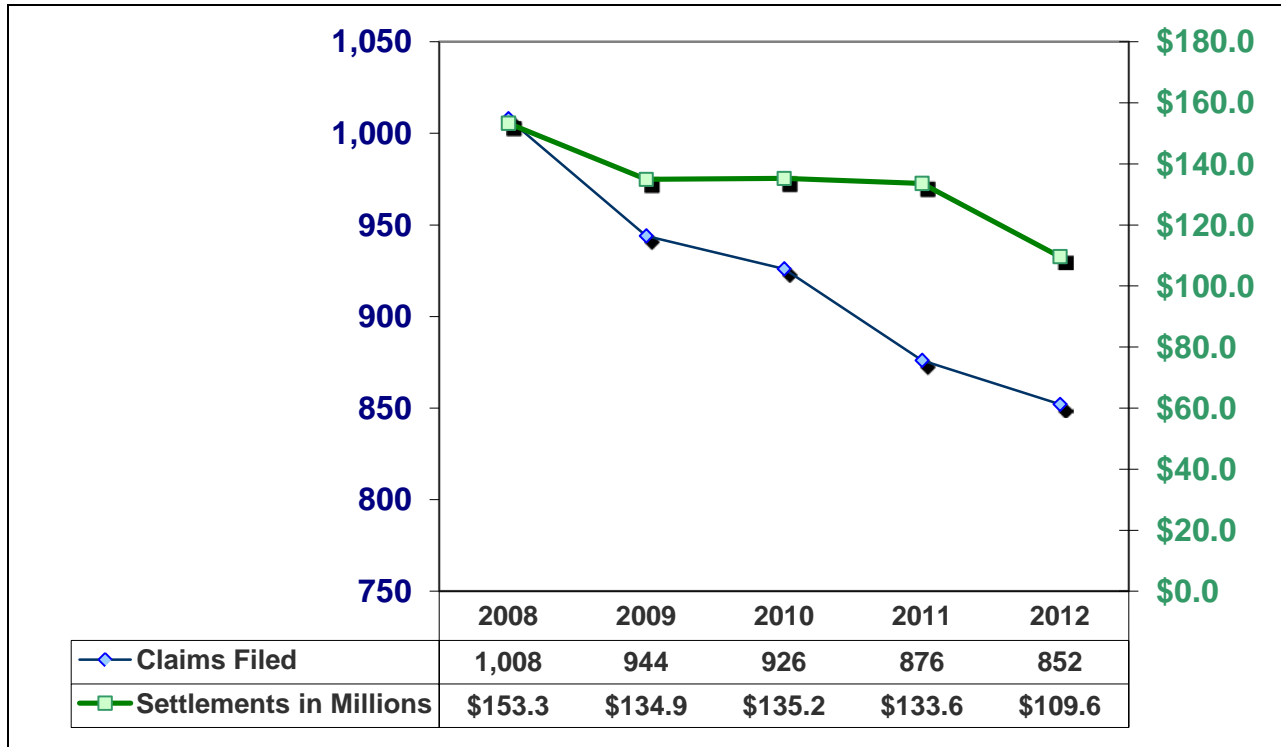
## **2. Health and Hospitals Corporation**

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

- In FY 2012, 852 claims were filed against HHC, approximately 69 percent of which (592 claims) were for medical malpractice. In FY 2011 medical malpractice cases accounted for 67 percent (588 claims) of the 876 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 2012, but accounted for the second highest expenditure or 23 percent of the total amount paid for tort claims in FY 2012.

**Chart 19**  
**Health & Hospitals Corporation**  
**FYs 2008-2012**  
**Number of Claims Filed & Settlements (In Millions)**



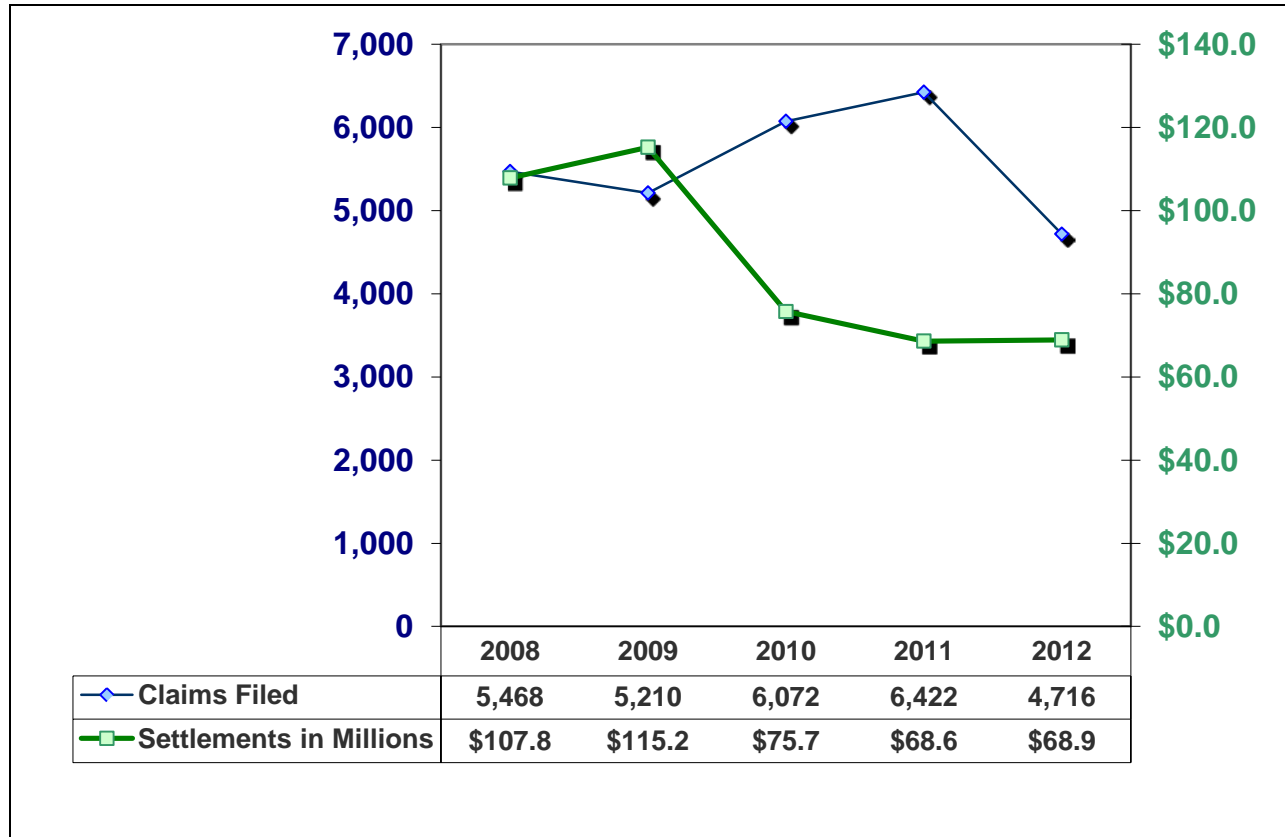
### **3. Department of Transportation**

Claims against DOT consist primarily of personal injury claims due to sidewalk “trip and fall” accidents; or personal injury or property damage due to defective roadways, defective traffic signals, or motor vehicle accidents involving DOT vehicles. In FY 2012 the 4,716 claims filed against DOT accounted for 18 percent of all new tort claims filed, representing a 27% percent decrease from the 6,422 claims filed against DOT in FY 2011. The number of tort cases against DOT that were resolved by settlement/judgment decreased from 1,973 in FY 2011 to 1,710 in FY 2012.

In FY 2012, the total dollar amount paid for DOT cases was \$68.9 million; less than a percent increase from the \$ 68.6 million paid in FY 2011. DOT cases accounted for 14 percent of the total expenditure for personal injury and property damage claims in FY 2012.



**Chart 20**  
**Department of Transportation**  
**FYs 2008 - 2012**  
**Number of Claims Filed & Settlements (In Millions)**

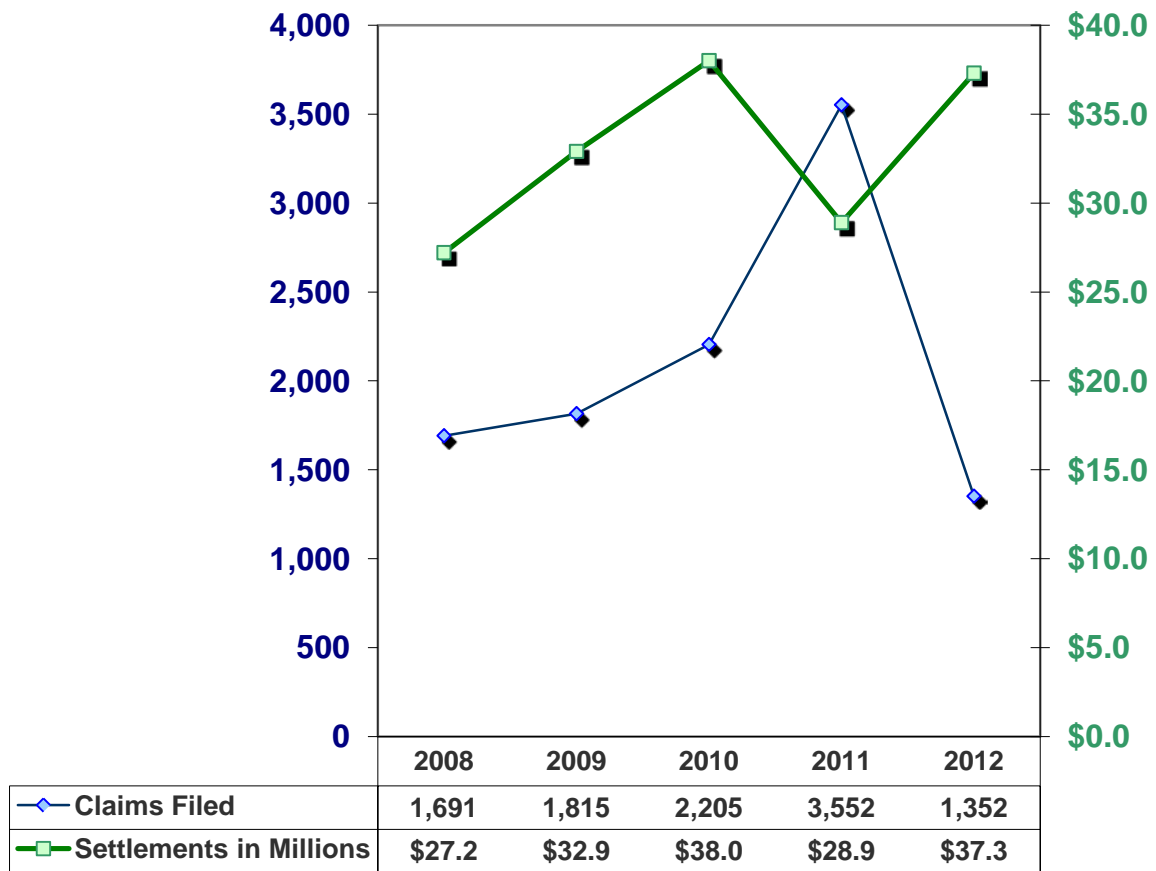


#### **4. Department of Sanitation (“DSNY”)**

Claims filed against the DSNY are primarily comprised of alleged personal injury and property damage caused by DSNY vehicles. The number of new claims filed against the DSNY decreased from 3,552 in FY 2011 to 1,352 in FY 2012, a decrease of 62 percent. The large number of claim filings in FY 2011 could be attributed to severe winter weather. New claim filings against the DSNY constituted 14 percent of total personal injury and property damage claim filings in FY 2012.

In FY 2012, there were 1,302 DSNY tort claims resolved for \$37.3 million. DSNY claims accounted for eight percent of the total tort claims expenditure. In FY 2011, 2,103 cases were resolved for \$ 28.9 million.

**Chart 21**  
**Sanitation Department**  
**FYs 2008 – 2012**  
**Number of Claims Filed & Settlements (In Millions)**

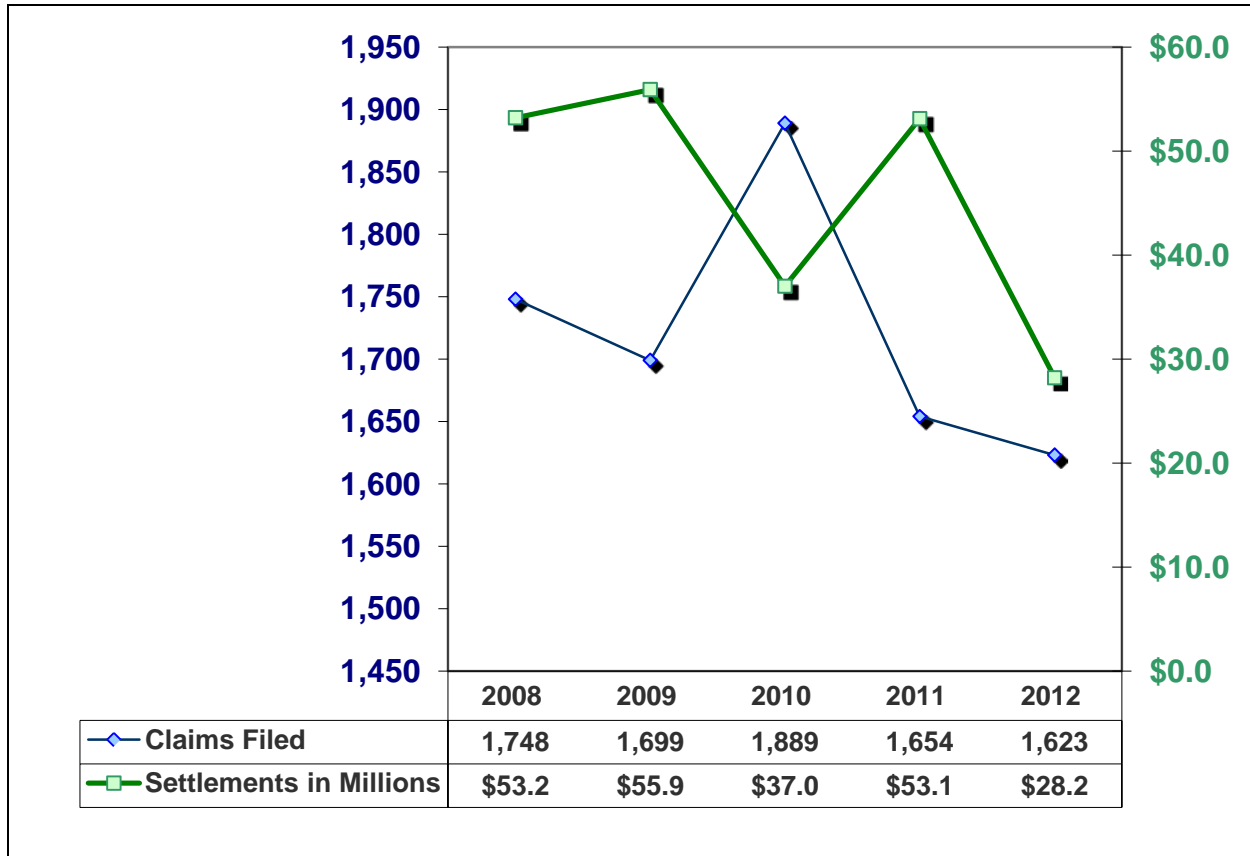


## **5. Department of Education**

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

- The number of new personal injury and property damage claims filed against the DOE decreased by one percent from 1,654 in FY 2011 to 1,623 in FY 2012. Tort claim filings against the DOE accounted for six percent of the total tort claims filed in FY 2012.
- The total tort expenditure for DOE cases decreased by 47 percent from \$ 53.1 million in FY 2011 to \$ 28.2 million in FY 2012.
- DOE claims accounted for six percent of the total claim expenditure for personal injury and property damage claims in FY 2012.

**Chart 22**  
**Department of Education**  
**FYs 2008 – 2012**  
**Number of Claims Filed & Settlements (In Millions)**



## **V. TORT CLAIM TRENDS BY BOROUGH**<sup>7</sup>

For FY 2012, the borough with the largest number of personal injury claims was the Bronx (5,648). The borough with the largest number of property damage claims was Brooklyn (1,979).

### **Number of Claims Filed By Borough Fiscal Year 2012**

<b>Borough</b>	<b>Personal Injury (PI) Claims</b>	<b>Property Damage (PD) Claims</b>
Brooklyn	4,608	1,979
Bronx	5,648	1,368
Manhattan	3,452	1,381
Queens	2,396	1,951
Staten Island	732	739

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<sup>7</sup> 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 Staten Island has no City hospitals and thus no relatively expensive medical malpractice claim payouts.

**Number of Claims Resolved and Amounts Paid by Borough  
Fiscal Year 2012**

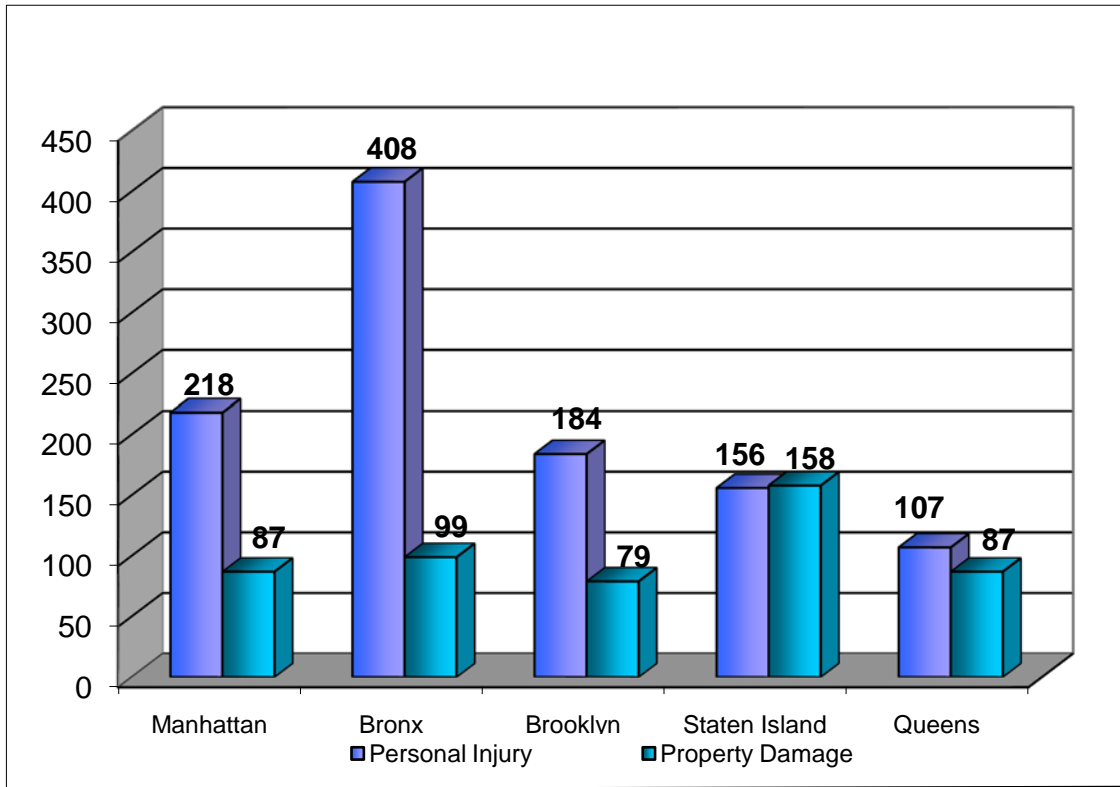
<b>Borough</b>	<b>Number of PI Claims Resolved</b>	<b>Amount Paid for PI Claims (millions)</b>	<b>Number of PD Claims Resolved</b>	<b>Amount Paid for PD Claims (millions)</b>	<b>Total PI and PD Claims Resolved</b>	<b>Total PI and PD Claim Payouts (millions)</b>
<b>Brooklyn</b>	2,213	\$115.0	811	\$2.6	3,024	\$117.6
<b>Bronx</b>	2,145	\$129.8	391	\$1.0	2,536	\$130.8
<b>Manhattan</b>	1,405	\$116.2	598	\$4.1	2,003	\$120.3
<b>Queens</b>	1,002	\$67.9	796	\$2.3	1,798	\$70.2
<b>Staten Island</b>	410	\$19.1	282	\$728K	692	\$19.8

As the following chart illustrates, the Bronx had the most personal injury claims filed per 100,000 residents with 408. Queens had the least (107). Staten Island had the highest ratio of property damage claims filed (158), Brooklyn had the least (79).<sup>8</sup>

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<sup>8</sup> According to the United States Census Bureau, as of July 1, 2010, the total population for New York City was 8,175,133 residents. In order of population the boroughs are: Brooklyn ( 2,504,700 or 30.6% of the total population); Queens ( 2,230,722 or 27.3% of the total population); Manhattan ( 1,585,873 or 19.4% of the total population); Bronx ( 1,385,108 or 17% of the total population); and, Staten Island (468,730 or 5.7% of the total population). Statistics do not take into account commuters and tourists.

**Chart 23**  
**Claims Filed by Borough Per 100,000 Residents**

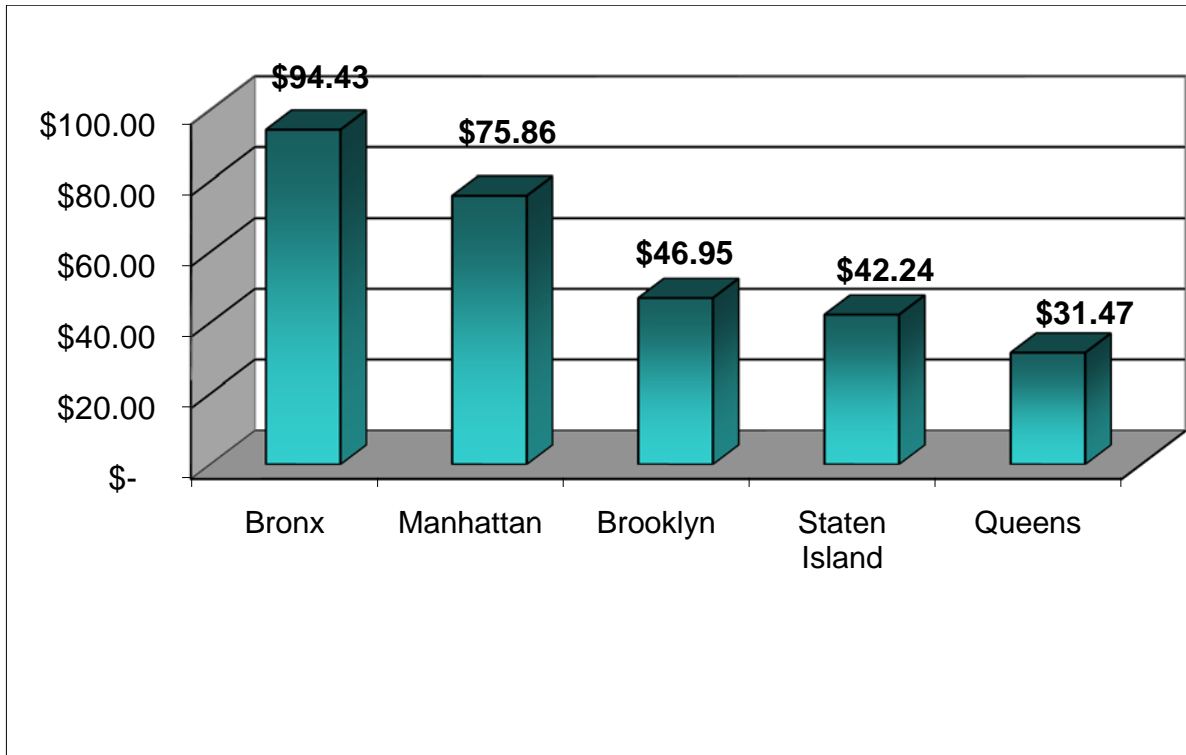




In FY 2012, the total highest aggregate personal injury and property damage claim costs were paid for claims that occurred in the Bronx.

- Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$59 in FY 2012.
- In FY 2012, the borough with claims representing the highest claim expenses per resident was the Bronx. The borough with the lowest claim expenses per resident was Staten Island.

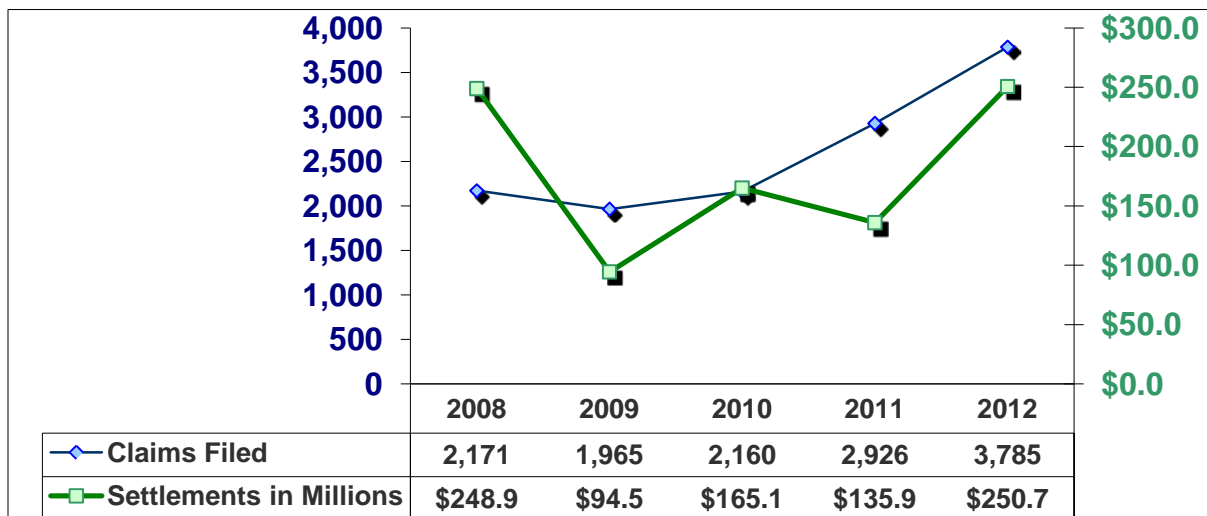
**Chart 24**  
**Total 2012 Claims Expenses for both Personal**  
**Injury and Property Damage by Borough Per Resident**



## VI. LAW CLAIMS (Non-Tort)

Law claims arise primarily from disputes concerning contracts between City agencies and their contractors. Law claims include, among others, breach of contract claims, alternative dispute resolution claims, equitable claims, refund claims, employee salary claims, claims involving DOE Special Education matters, sidewalk assessment claims and New York City Department of Health and Mental Hygiene property cleanup claims.

**Chart 25**  
**Law**  
**FYs 2008 – 2012**  
**Number of Claims Filed & Settlements (In Millions)**



The increase in FY 2008 payments was primarily due to a \$160 million settlement of a lawsuit brought by the United Federation of Teachers regarding the way in which certain teachers' pension benefits were calculated.

#### **A. Overall Law Claim Trends**

- For FY 2012, there was a 29.35 percent increase in the overall number of Law claims filed as compared to FY 2011.

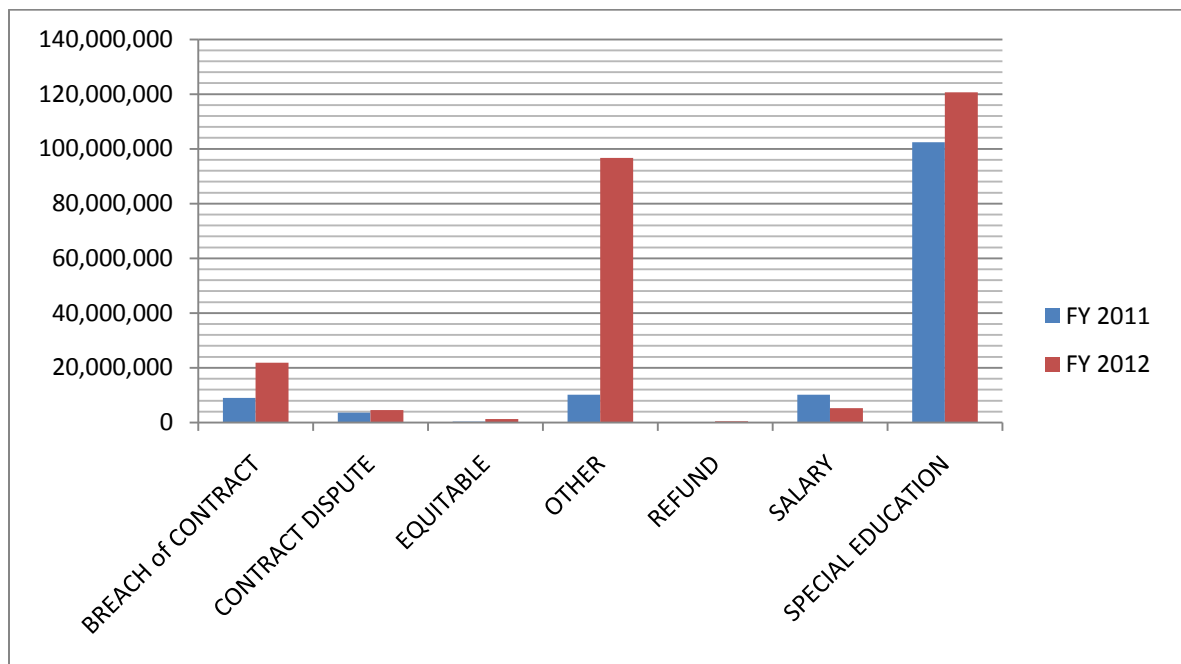
In FY 2012, 3,785 Law claims were processed as compared to 2,926 in FY 2011. The increase is primarily due to payment of a class action brought by street vendors whose Environmental Control Board ("ECB") fines were improperly calculated by ECB. In addition, there was a 15 percent increase in Special Education related claims filed, or referred, by the DOE. In FY 2012, there were 2,438 Special Education related claims as compared to 2,120 claims in FY 2011.

- For FY 2012, there was an 84.5 percent increase in Law claim settlements and/or judgments as compared to FY 2011.

For FY 2012, the total amount of settlements and judgments paid was \$250,679,649 as compared to \$135,888,872 in FY 2011. The primary reasons for the increase is attributed to a \$70 million payment to the Federal government for allegedly improper

Medicaid billings made by HRA for personal care services, an 18 percent increase in Special Education related payments and a 143.5 percent increase in Contract claim payments.

**Law Claims Paid  
FY 2011 and FY 2012**



- Excluding the Special Education related payments, which were made by the DOE, and the \$70 million paid to the Federal government (see “OTHER” claim type), total Law claim payments increased 79 percent from \$33,506,234 in FY 2011 to \$59,997,441 in FY 2012.

- Contract Disputes are separate from Breach of Contract claims because the disputes typically involve issues, such as, the amounts to be paid for extra work, quality of the vendor's work and the scope of the contract documents. Six of the 39 FY 2012 Contract Dispute settlements involved an interpretation of the contract documents in favor of the contractor. The amounts of the subsequent costs involved are not reflected as claim payments.
- There were 28 Breach of Contract claims settled for \$21.8 million. Of that amount, \$14.7 million is attributable to the settlement of contract delay claims, \$4.3 million was paid in the settlement of lease disputes and the balance involved a variety of smaller contract actions.

## APPENDICES

### 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 (sidewalk claims), or injuries that occurred in school (school claims), or in a City park (DPR claims).

Claim classifications have also been designed to ensure that descriptive information about a claim can be captured. Thus, four additional sub-classifications are used for every claim so that, by reviewing the codes, one can obtain a clearer picture of the specifics of the claim. These four additional sub-classifications are:

1. **Claimant.** 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.** Describes the location of an accident, for example: "boardwalk," "sidewalk," "driveway," "swimming pool," "hospital," "school," etc.

3. **Accident Agent.** Describes the catalyst for the accident, for example: "building construction," "debris/glass," "improper lighting," "City vehicle," "defective maintenance," "improper supervision," etc.

4. **Interaction.** Describes the physical action that the claimant experienced, for example: "collision/struck by," "slip/fall," "assault," etc.

A typical personal injury claim involving a "slip and fall" accident on a cracked defective sidewalk would be classified as follows:

**Claim type:** Defective Sidewalk

**Claimant:** Pedestrian

**Location:** Sidewalk

**Accident Agent:** Crack

**Interaction:** Slip/fall



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 injured 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 injured 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 because of 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, 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 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 preference, 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 the 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 appropriate 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>9</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>10</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>11</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

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<sup>9</sup> Bernadine v. City of New York, 294 N.Y. 361 (1945)

<sup>10</sup> *Id.* p. 365.

<sup>11</sup> Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.

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>12</sup> In some instances, however, the claim must be filed with the agency involved. 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>13</sup> The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.<sup>14</sup>

The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.<sup>15</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>16</sup> The City's Law Department,

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<sup>12</sup> 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/>).

<sup>13</sup> 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.

<sup>14</sup> City Charter, Chapter 5, Section 93 (i)

<sup>15</sup> The 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 witnesses, and conducts hearings; evaluates liability and damages; and attempts to settle appropriate cases. The Office's Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the Law Department.

<sup>16</sup> 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.

under the direction of the Corporation Counsel, defends the City in most actions. No litigation can be settled without the approval of the Comptroller.<sup>17</sup>

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<sup>17</sup> City Charter, Chapter 17, Section 394 (c).

**APPENDIX C**  
**Top Ten Tort Claims Adjudicated in FY 2012**

1. A class action alleging that approximately 20,000 people were arrested for loitering. The arrests were unconstitutional. Settlement: \$15 million.
2. In 2008, claimant, a 32 year old woman alleged that the Emergency Medical Service failed to evaluate her medical condition properly resulting in the amputation of both arms below the elbow and both legs below the knees. Settlement: \$8.5 million.
3. In 1993, claimant alleged false arrest and wrongful incarceration for 20 years as a result of the actions of a detective. Settlement: \$7.5 million.
4. In 2008, claimant was driving a tractor trailer when he was involved in a motor vehicle accident with a fire truck that was on an emergency run. Claimant sustained severe injuries requiring constant care and supervision. Settlement: \$5 million.
5. In 2009, claimant, 42 years old, alleged the failure to diagnose and treat a brain aneurysm/blood clot resulted in brain damage and coma. Settlement: \$4.9 million.
6. In 2007, claimant was struck by a large tree limb while sitting on a bench at Stuyvesant Park. She sustained severe multiple injuries. Settlement: \$4 million.

7. In 2008, claimant, a motorcyclist was struck by a private vehicle that made an illegal left turn in front of him. Claimant alleged that a defect in the design of the roadway as well as missing signage contributed to the accident. He sustained numerous fractures, facial injuries, cervical problems resulting in a flaccid arm and other severe injuries. Settlement: \$4 million.
8. In 2005, claimant fell off his bicycle allegedly due to a defective pathway in Riverside Park. He sustained cervical injuries resulting in quadriplegia. He is confined to a wheelchair. Settlement: \$3 million.
9. In 2009, claimant, a 39 year old sanitation worker sustained a crush injury to his foot after a collection truck ran over it. He underwent numerous surgeries. Claimant also sustained injury to his lumbar spine. Settlement: \$3 million.
10. In 2010, claimant, a 9 year old, was struck by an FDNY vehicle. She sustained a degloving injury and multiple traumatic injuries which resulted in numerous surgeries, a leg length discrepancy, permanent disfiguring scars and life-long orthopedic disability. Settlement: \$3 million.

**APPENDIX D**  
**FY 2012 Chart Index**

<b>CHART</b>	<b>TITLE</b>	<b>PAGE</b>
1	Pre-Litigation Personal injury Settlements	12
2	Number of Tort Claims Filed by Category Fiscal Year 2012	15
3	Percentage of Tort Claims Filed By Category Fiscal Year 2012	16
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Table 1  
Number of Claims Filed by Claim Type  
Fiscal Years 2008-2012

<b>Personal Injury</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Admiralty	29	28	55	47	25
Catastrophe	69	0	0	0	0
City Property	839	643	9,524	1,134	573
Civil Rights	1,774	1,990	2,694	3,080	2,780
Correction Facility	1,078	1,055	1,218	1,213	1,622
Defective Roadway	1,125	1,170	1,075	1,157	967
Defective Sidewalk	2,392	2,578	2,301	2,533	2,033
Health Facility	97	119	104	121	108
Medical Malpractice	705	692	661	613	622
Motor Vehicle	1,492	1,336	1,407	1,346	1,431
Recreation	239	265	228	277	290
Police Action	2,883	3,421	4,015	4,584	5,601
School	1,209	1,193	1,064	1,115	1,103
Traffic Control Device	119	106	117	74	109
Employee Uniformed Services	167	146	165	166	153
Unknown Claim Type	541	607	591	755	657
<b>Total</b>	<b>14,758</b>	<b>15,349</b>	<b>25,219</b>	<b>18,215</b>	<b>18,074</b>
<b>Property Damage</b>					
Admiralty	2	2	2	0	2
Catastrophe	298	17	0	4	0
City Property	241	153	136	138	95
Correction Facility	275	299	446	319	401
Damage by City Personnel	1,185	1,196	1,326	1,753	1,355
Defective Roadway	1,524	1,284	2,345	2,827	1,222
Defective Sidewalk	14	20	19	14	22
Health Facility	161	132	129	108	97
Motor Vehicle	3,839	3,735	4,124	4,873	3,305
Police Action	396	311	318	387	387
Recreation	15	11	6	5	8
School	202	194	183	191	149
Sewer Overflow	1,514	197	193	214	680
Traffic Control Device	96	72	73	40	50
Employee Uniformed Services	0	66	2	0	0
Unknown Claim Type	94	131	144	216	180
Water Main	167	159	200	156	241
<b>Total</b>	<b>10,023</b>	<b>7,979</b>	<b>9,646</b>	<b>11,245</b>	<b>8,194</b>
<b>Grand Total</b>	<b>24,781</b>	<b>23,328</b>	<b>34,865</b>	<b>29,460</b>	<b>26,268</b>

Table 2  
Number of Claims Filed by Agency  
Fiscal Years 2008-2012

Agency	2008	2009	2010	2011	2012
Administration for Children's Services	114	136	116	94	127
Board of Elections	2	3	2	5	4
Brooklyn Public Library	1	4	1	0	1
Boro President-Brooklyn	1	1	0	1	0
Boro President-Manhattan	1	1	0	0	0
Boro President-Queens	0	1	0	0	0
Boro President-Staten Island	0	0	0	3	0
City Clerk	0	0	2	0	1
City Council	3	0	1	1	3
City Planning Commission	0	1	0	1	1
City Register	0	1	0	0	0
City Sheriff	5	6	8	5	4
City University (CUNY)	33	38	26	24	35
Comptroller	1	-	1	1	6
Department for the Aging	2	5	3	4	2
Department of Buildings	232	152	964	75	83
Department of Citywide Admin. Svcs.	41	50	90	48	49
Department of Consumer Affairs	2	6	12	1	2
Department of Correction	1,634	1,616	1,984	1,830	2,374
Department of Cultural Affairs	5	5	5	2	0
Department of Design and Construction	29	31	22	33	60
Department of Education	1,748	1,699	1,889	1,654	1,623
Department of Environmental Protection	2,335	749	723	769	1,374
Department of Finance	30	6	5	6	14
Department of Health	21	33	30	30	24
Department of Homeless Services	103	120	142	176	153
Department of Info. Technology and Telecom.	3	3	5	5	2
Department of Investigations	1	2	4	3	6
Department Juvenile Justice	12	18	15	14	10
Department Parks and Recreation	1,037	1,033	1,124	1,416	1,111
Department of Probation	13	13	14	11	11
Department of Sanitation	1,691	1,815	2,205	3,552	1,352
Department of Small Business Services	22	16	20	0	4
Department of Social Services	8	10	13	5	12
Department of Transportation	5,468	5,210	6,072	6,422	4,716
Department of Youth and Comm Development	5	2	3	1	2
District Attorney - Bronx	4	6	5	6	2
District Attorney - Kings	16	7	7	9	2
District Attorney - New York	13	5	7	9	0
District Attorney - Queens	10	4	8	16	0
District Attorney - Staten Island	1	0	1	1	0
Fire Department	974	1,013	940	1,064	914
FISA	1	0	0	0	0
Health and Hospitals Corporation	1,008	944	926	876	852
Housing Preservation and Development	84	77	87	73	70
Human Resources Administration	54	52	59	64	76
Human Rights Commission	0	0	0	0	4
Law Department	4	5	7	4	5

Mayor's Office	4	2	6	2	5
No Agency	954	842	8,433	1,289	733
Non-City Agency/Improper Service	720	731	688	870	801
NY Public Library	3	7	2	4	12
NYC Employee Retirement System	0	1	1	0	3
Office of Municipal Labor Relations	0	0	1	0	0
Office of the Chief Medical Examiner	13	3	7	6	0
Office of Payroll Administration	0	2	0	0	0
Office of Management and Budget (OMB)	0	0	0	0	0
Queens Public Library	0	0	3	2	3
Police Department	6,289	6,816	8,148	8,941	9,570
School Construction Authority	7	14	12	15	20
Taxi and Limousine Commission	19	11	16	17	30
<b>Grand Total</b>	<b>24,781</b>	<b>23,328</b>	<b>34,865</b>	<b>29,460</b>	<b>26,268</b>

Table 3  
Dollar Amount of Settlements & Judgments by Claim Type  
Fiscal Years 2008-2012

<b>Personal Injury</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Admiralty	\$12,154,678	\$48,945,386	\$8,918,593	\$7,058,960	\$9,848,645
City Property	\$26,011,521	\$30,444,952	\$14,176,063	\$18,827,699	\$8,395,091
Civil Rights	\$42,242,687	\$47,062,984	\$78,673,455	\$84,038,422	\$67,882,852
Correction Facility	\$8,199,183	\$5,938,403	\$5,025,429	\$8,504,000	\$7,413,193
Defective Roadway	\$36,164,033	\$24,621,449	\$27,760,088	\$19,453,578	\$25,548,347
Defective Sidewalk	\$54,870,423	\$39,762,727	\$34,951,912	\$38,413,598	\$38,962,306
Employee Uniformed Services	\$38,389,850	\$30,096,000	\$41,971,283	\$31,039,500	\$20,408,000
Health Facility	\$3,747,700	\$4,720,058	\$2,056,377	\$2,169,435	\$11,826,000
Medical Malpractice	\$152,664,578	\$127,288,634	\$130,866,188	\$131,827,358	\$109,864,134
Motor Vehicle	\$56,735,117	\$79,743,416	\$63,238,038	\$83,896,291	\$69,877,442
Police Action	\$34,616,512	\$48,422,383	\$56,788,953	\$60,187,774	\$64,418,625
Recreation	\$7,881,426	\$5,714,315	\$7,965,906	\$7,075,106	\$12,053,375
School	\$53,600,665	\$54,348,099	\$35,084,262	\$43,086,246	\$25,415,479
Traffic Control Device	\$3,319,500	\$1,120,750	\$2,883,300	\$2,906,350	\$2,396,000
<b>Total</b>	<b>\$530,597,873</b>	<b>\$548,229,556</b>	<b>\$510,359,847</b>	<b>\$538,484,317</b>	<b>\$474,309,489</b>
<b>Property Damage</b>					
Admiralty	\$0	\$10,289	\$0	\$75,000	\$0
City Property	\$515,162	\$15,863	\$8,569	\$2,815,834	\$176,095
Correction Facility	\$1,919	\$14,960	\$1,551	\$18,195	\$18,225
Damage by City Personnel	\$3,298,638	\$585,368	\$873,332	\$1,170,985	\$959,758
Defect Traf/Light/Stop Sign	\$41,430	\$55,727	\$7,699	\$22,679	\$9,019
Defective Roadway	\$820,666	\$271,099	\$295,277	\$424,290	\$215,726
Defective Sidewalk	\$0	\$2,125,285	\$3,335	\$122	\$3,099
Employee Uniformed Services	\$0	\$0	\$2,785	\$0	\$0
Health Facility	\$21,559	\$18,071	\$19,648	\$13,037	\$13,191
Motor Vehicle	\$5,691,702	\$5,464,346	\$5,871,047	\$8,180,319	\$6,021,287
Recreation	\$575	\$1,578	\$0	\$25	\$0
Police Action	\$160,451	\$120,028	\$513,676	\$135,899	\$170,059
School	\$7,604	\$11,627	\$24,157	\$12,454	\$10,063
Sewer Overflow	\$1,915,311	\$272,679	\$383,619	\$792,808	\$775,242
Water Main	\$1,823,962	\$664,588	\$2,142,514	\$1,577,070	\$3,183,273
<b>Total</b>	<b>\$14,298,979</b>	<b>\$9,631,508</b>	<b>\$10,147,209</b>	<b>\$15,238,717</b>	<b>\$11,555,037</b>
<b>Grand Total</b>	<b>\$544,896,852</b>	<b>\$557,861,064</b>	<b>\$520,507,056</b>	<b>\$553,723,034</b>	<b>\$485,864,526</b>

Table 4  
Dollar Amount of Agency Settlements & Judgments  
Fiscal Years 2008-2012

Agency	2008	2009	2010	2011	2012
Administration for Children's Services	\$527,871	\$532,286	\$671,422	\$910,528	\$545,815
Board of Elections	\$275,000	\$42,500	\$0	\$2,278,636	\$831,344
Boro President-Bronx	\$45,000	\$0	\$0	\$0	\$0
Boro President-Brooklyn	\$0	\$0	\$468	\$0	\$0
Boro President-Manhattan	\$0	\$2,000	\$0	\$0	\$0
Boro President-Queens	\$0	\$0	\$98,000	\$0	\$0
Boro President-Staten Island	\$0	\$0	\$0	\$0	\$4,557
City Clerk	\$0	\$0	\$0	\$820	\$0
City Council	\$138,774	\$0	\$3,179	\$0	\$0
City Sheriff	\$19,750	\$510	\$90,000	\$30,000	\$50,776
City University (CUNY)	\$480,250	\$282,575	\$155,000	\$659,500	\$405,000
Comptroller	\$0	\$15,000	\$0	\$0	\$0
Department for the Aging	\$125,000	\$208,000	\$0	\$0	\$0
Department of Buildings	\$1,413,458	\$380,236	\$112,152	\$2,941,818	\$218,006
Department of Citywide Admin. Svcs.	\$791,838	\$395,667	\$914,187	\$1,306,161	\$4,463,435
Department of Consumer Affairs	\$19,863	\$664,976	\$1,010	\$504,353	\$0
Department of Correction	\$21,394,272	\$16,375,904	\$43,593,956	\$15,395,868	\$19,897,756
Department of Cultural Affairs	\$25,000	\$0	\$0	\$3,105	\$20,000
Department of Design and Construction	\$80,366	\$56,897	\$131,454	\$29,613	\$83,920
Department of Education	\$53,161,804	\$55,900,463	\$36,965,943	\$53,100,832	\$28,163,544
Department of Environmental Protection	\$8,478,133	\$8,109,061	\$7,637,296	\$8,071,431	\$5,628,180
Department of Finance	\$681,571	\$1,700	\$42,807	\$47,020	\$166,500
Department of Health	\$1,748,428	\$208,471	\$236,434	\$1,654,375	\$218,085
Department of Homeless Services	\$716,360	\$622,549	\$1,605,028	\$192,779	\$347,097
Dept. of Info. Technology and Telecom.	\$40,000	\$637,479	\$48,750	\$7,930	\$77,093
Department of Investigations	\$168,900	\$22,000	\$7,877	\$1,455	\$12,537
Department Juvenile Justice	\$161,850	\$161,412	\$56,556	\$101,850	\$1,267,159
Department Parks and Recreation	\$12,138,161	\$9,415,871	\$16,104,444	\$17,645,728	\$18,701,909
Department of Probation	\$32,476	\$72,501	\$295,745	\$35,309	\$963,500
Department of Sanitation	\$27,236,884	\$32,871,946	\$38,021,648	\$28,858,968	\$37,314,417
Department of Small Business Services	\$550	\$0	\$22,388	\$4,000	\$8,000
Department of Social Services	\$0	\$0	\$23,845	\$30,000	\$2,500
Department of Transportation	\$107,814,815	\$115,227,270	\$75,679,227	\$68,620,227	\$68,907,396
Department of Youth and Comm. Dev.	\$20,000	\$0	\$2,751	\$0	\$0
District Attorney - Bronx	\$109,940	\$70,000	\$214,433	\$0	\$496,000

District Attorney - Kings	\$23,444	\$91,234	\$128,800	\$3,193	\$16,600
District Attorney - New York	\$10,411	\$250,705	\$3,000	\$120,000	\$37,608
District Attorney - Queens	\$41,500	\$3,640,000	\$79,044	\$82,809	\$25,205
Fire Department	\$18,602,877	\$16,310,705	\$20,007,262	\$16,226,360	\$27,994,774
Health and Hospitals Corporation	\$153,306,559	\$134,946,576	\$135,218,151	\$133,626,810	\$109,560,500
Housing Preservation and Development	\$21,783,261	\$15,727,510	\$5,126,366	\$5,057,356	\$1,779,067
Human Resources Administration	\$866,534	\$1,482,725	\$387,636	\$1,278,134	\$1,580,241
Law Department	\$45,000	\$0	\$6,679	\$17,636	\$25,000
Mayor's Office	\$1,352	\$1,198	\$21,200	\$0	\$1,205
No Agency	\$6,393,490	\$8,146,827	\$1,281,075	\$8,332,433	\$3,873,037
Office of the Chief Medical Examiner	\$2,178	\$265,000	\$160,000	\$271,864	\$97,453
Office of Payroll Administration	\$0	\$0	\$482	\$0	\$0
Office of Management and Budget (OMB)	\$40,000	\$0	\$0	\$0	\$0
Police Department	\$104,902,319	\$134,458,022	\$135,299,753	\$186,259,133	\$151,897,932
Taxi and Limousine Commission	\$1,031,613	\$263,288	\$51,608	\$15,000	\$181,378
<b>Grand Total</b>	<b>\$544,896,852</b>	<b>\$557,861,064</b>	<b>\$520,507,056</b>	<b>\$553,723,034</b>	<b>\$485,864,526</b>

Table 5  
Number of Settlements & Judgments by Claim Type  
Fiscal Years 2008-2012

<b>Personal Injury</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Admiralty	33	56	49	47	47
City Property	170	138	107	113	93
Civil Rights	938	1,141	1,281	1,657	1,681
Correction Facility	159	227	195	266	308
Defective Roadway	749	558	513	547	511
Defective Sidewalk	1,317	1,041	925	865	855
Health Facility	43	53	36	32	33
Medical Malpractice	310	292	314	266	258
Motor Vehicle	1,043	908	896	824	831
Recreation	188	153	137	154	176
Police Action	980	1,145	1,300	1,538	1,757
School	1,068	846	823	913	740
Traffic Control Device	73	55	38	31	28
Employee Uniformed Services	123	90	117	84	107
<b>Total</b>	<b>7,194</b>	<b>6,703</b>	<b>6,731</b>	<b>7,337</b>	<b>7,425</b>
<b>Property Damage</b>					
Admiralty	0	1	0	1	0
City Property	17	10	10	16	21
Correction Facility	9	6	5	21	11
Damage by City Personnel	331	264	352	328	373
Defective Roadway	300	275	307	438	208
Defective Sidewalk	0	3	2	1	2
Health Facility	44	36	33	25	23
Motor Vehicle	2,513	2,340	2,494	3,216	2,251
Police Action	52	61	45	44	48
Recreation	5	2	0	1	0
School	42	39	83	55	47
Sewer Overflow	55	60	50	88	60
Traffic Control Device	13	8	6	5	5
Employee Uniformed Services	0	0	8	0	0
Water Main	97	88	77	94	62
<b>Total</b>	<b>3,478</b>	<b>3,193</b>	<b>3,472</b>	<b>4,333</b>	<b>3,111</b>
<b>Grand Total</b>	<b>10,672</b>	<b>9,896</b>	<b>10,203</b>	<b>11,670</b>	<b>10,536</b>



Table 6  
Number of Settlements and Judgments by Agency  
Fiscal Years 2008-2012

Agency	2008	2009	2010	2011	2012
Administration for Children's Services	26	23	18	10	14
Board of Elections	2	1	0	4	3
Boro President-Bronx	1	0	0	0	0
Boro President-Brooklyn	0	0	1	0	0
Boro President-Manhattan	0	1	0	0	0
Boro President-Queens	0	0	1	0	0
Boro President-Staten Island	0	0	0	0	1
City Clerk	0	0	0	1	0
City Council	1	0	1	0	0
City Sheriff	2	1	2	1	5
City University (CUNY)	13	5	5	8	4
Comptroller	0	1	0	0	0
Department for the Aging	1	3	0	0	0
Department of Buildings	25	13	16	20	25
Department of Citywide Admin. Svcs.	25	23	29	23	34
Department of Consumer Affairs	3	1	1	3	0
Department of Correction	315	393	366	441	464
Department of Cultural Affairs	1	0	0	1	2
Department of Design and Construction	10	7	7	6	4
Department of Education	1,137	941	962	1,006	824
Department of Environmental Protection	333	303	284	373	282
Department of Finance	4	1	5	3	2
Department of Health	26	10	14	15	14
Department of Homeless Services	28	35	20	14	24
Department of Info. Technology and Telecom.	1	4	3	2	2
Department of Investigations	7	3	1	1	3
Department of Juvenile Justice	6	10	10	7	9
Department of Parks and Recreation	436	355	375	390	429
Department of Probation	2	2	13	7	3
Department of Sanitation	1,311	1,253	1,377	2,103	1,302
Department of Small Business Services	1	0	3	2	1
Department of Social Services	0	0	3	1	1
Department of Transportation	2,552	2,064	1,945	1,973	1,710

Department of Youth and Comm. Dev.	1	0	1	0	0
District Attorney - Bronx	1	2	5	0	2
District Attorney - Kings	5	10	3	1	3
District Attorney - New York	3	2	1	1	4
District Attorney - Queens	2	3	4	6	3
Fire Department	652	623	642	596	508
Health and Hospitals Corporation	432	413	417	346	334
Housing Preservation and Development	93	55	30	35	25
Human Resources Administration	31	17	21	13	19
Law Department	1	0	4	3	1
Mayor's Office	1	1	3	0	2
No Agency	169	150	35	132	104
Office of the Chief Medical Examiner	2	2	1	6	4
Office of Payroll Administration	0	0	1	0	0
Office of Management and Budget (OMB)	1	0	0	0	0
Police Department	2,958	3,155	3,571	4,115	4,358
Taxi and Limousine Commission	51	10	2	1	7
<b>Grand Total</b>	<b>10,672</b>	<b>9,896</b>	<b>10,203</b>	<b>11,670</b>	<b>10,536</b>