



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

**February 2017**



# Claims Report:

## Fiscal Year 2016





**THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER**

**SCOTT M. STRINGER  
COMPTROLLER**

February 10, 2017

Dear Fellow New Yorkers:

I am pleased to share with you the New York City Comptroller's Office Claims Report for fiscal year (FY) 2016, covering July 1, 2015 through June 30, 2016. This report, the third in my administration, evaluates claims filed against the City of New York, outlining claim trends by type across City agencies. In FY 2016, personal injury and property damage (tort claims) settlements cost the City \$629.5 million, nearly a seven percent increase from the \$588.8 million paid in FY 2015. The City settled other non-tort claims for a total of \$380.9 million, representing a three percent increase from FY 2015, when settlements totaled \$371.4 million.

But there are some bright spots. FY 2016 saw a decline in claims filed against City agencies, such as Department of Transportation, Department of Sanitation (DSNY), NYC Health + Hospitals, and Department of Environmental Protection. And between FY 2015 and FY 2016, the number of claims filed against the New York Police Department (NYPD) dropped by 10 percent. This reduction in the number of claims filed against the NYPD is remarkable, especially in light of the fact that we saw a similar decline in the number of claims filed from FY 2014 to FY 2015.

Although the number of claims filed against the NYPD declined in FY 2016, claims against the NYPD cost the City \$279.7 million, the highest in City history. This settlements and judgments total reflects the prolonged time between the filing of claims and concluding complex legal actions from more than a decade ago, involving policies years in the making. This report will highlight the small number of cases that account for a substantial percentage of \$279.7 million figure.



With these risks in mind, during FY 2016, my office continued our policy of settling significant civil rights claims before litigation to avoid lengthy proceedings that are costly for the City and claimants alike. We settled civil rights claims redressing the wrongful convictions of Roger Logan and Shabaka Shakur. In addition, my office settled pre-litigation the wrongful death claim filed by the estate of Eric Garner. When it is prudent to do so, we will continue to evaluate and resolve meritorious claims pre-litigation to provide closure to claimants sooner and enable the City to better leverage its litigation and trial counsel resources.

This report should serve as a road map for all City agencies so that they may perform their own risk analysis in order to reduce claim costs. We will continue to work with City agencies to reduce the costs related to claims and lawsuits against the City. And my administration has also developed and deployed data-driven tools, including ClaimStat, to reduce future claims costs. We will continue to work closely with the NYPD to share data to mitigate risks posed to the City and its residents and visitors, and I am pleased to announce that we have entered into an operating agreement with the DSNY to expand ClaimStat. We welcome such partnerships with other City agencies so that we can further expand the use of data-driven processes to weed out meritless claims while efficiently resolving claims that expose the City to liability. In the long-term, utilization of technology and efficient coordination with other City agencies should result in a continued decline in the number of claims filed, and a safer and more effective City.

Savings from reduced settlements and costs could shift money toward much needed critical City services to provide affordable housing, to further fund education, to improve infrastructure, and to make the City a better place for all New Yorkers.

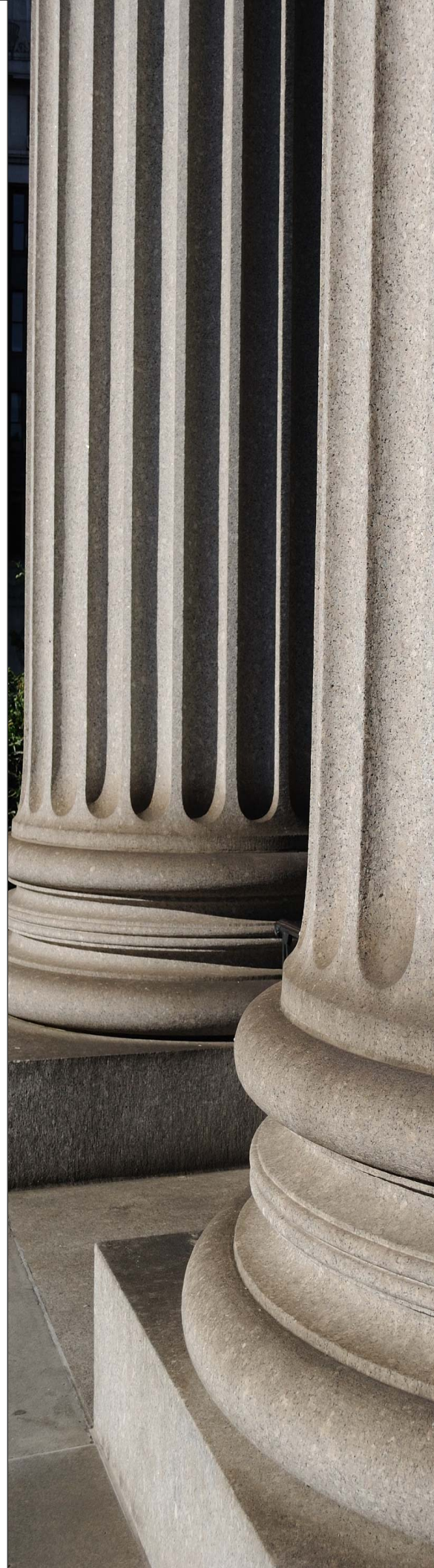
Sincerely,

A handwritten signature in black ink, appearing to read "Scott M. Stringer".

Scott M. Stringer  
New York City Comptroller

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## I. EXECUTIVE SUMMARY

Under the New York City Charter, the Comptroller has the power to settle and adjust all claims in favor of or against the City.<sup>1</sup> This work is performed by the Comptroller's Office Bureau of Law and Adjustment (BLA), composed of attorneys, claims professionals, and administrative staff under the direction of the Comptroller, General Counsel, and the Assistant Comptroller for BLA.

In FY 2016, BLA adjusted or settled 14,643 claims that ultimately resulted in authorizing total City outlays of more than \$1 billion.<sup>2</sup>

For FY 2016, the City paid out \$629.5 million in tort claim settlements and judgments—nearly seven percent more than the \$588.8 million paid out in FY 2015.<sup>3</sup> These tort claims ranged from slip/trip and fall to medical malpractice, police action, and motor vehicle property damage claims.

In FY 2016, the City paid out \$380.9 million in non-tort claims, or “law claims,” a three percent increase from the \$371.4 million paid out in FY 2015. These law claims include disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving Department of Education special education matters, sidewalk assessments, cleanup costs levied on property owners who are in violation of the Mental Hygiene Law, and affirmative claims brought on behalf of the City.

In FY 2016, the City paid out \$40.7 million for legacy claims that occurred before FY 2007, which includes \$13.5 million paid out for multiple claims against the NYPD stemming from murders that occurred during the 1980s and 1990s, known as the “Mafia Cops” cases.

Finally, this report also includes a look-back to FY 2007 to provide a broader perspective on claim filings and settlements and judgments in order to contextualize the FY 2016 numbers.

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

### **ClaimStat Update and Inter-Agency Partnerships**

In an effort to drive down the cost of claims, in 2014, during the first year of Comptroller Stringer's administration, the Comptroller's Office launched ClaimStat, a data-driven analysis of claims against the City. ClaimStat was introduced to help agencies reduce claims by providing data that identifies practices that lead to costly settlements and judgments against the City. Using ClaimStat data, the Comptroller's Office has released agency-related updates concerning claims, including filing trends and resolved claim payouts. In addition, the Comptroller's Office

has partnered with several City agencies in order to share relevant claims data to help agencies better manage risk, implement agency best practices, and efficiently allocate City resources.

The Comptroller's Office initially partnered with the NYPD to exchange real-time data to identify claim trends as early as possible. The partnership allows the Comptroller's Office to make an early assessment of the City's exposure to certain types of claims and enables the NYPD to consider policies that may address or reverse trends that lead to increased exposure for the City. In 2015, the Comptroller's Office expanded its partnership program to the Department of Citywide Administrative Services (DCAS) and the Department of Transportation (DOT). In 2016, the Comptroller's Office partnered with the Department of Environmental (DEP) to exchange data for flood claims to be used for a DEP long-term flooding study. In 2017, the Comptroller's Office further broadened its partnerships and entered into an operating agreement with the Department of Sanitation (DSNY) to expand ClaimStat. The current cooperation and sharing of data between the Comptroller's Office and City agencies is unprecedented, and the Comptroller's Office is continually working to expand coordinated efforts to mitigate risk and to implement best practices.

## **Recovery Program Update**

The Comptroller's Office partners with the Human Resources Administration—particularly with the Office of Child Support Enforcement (OCSE)—to collect reimbursements for public assistance and Medicaid benefits, as well as child support obligations, from claimants who received settlement payouts from the City. The Comptroller's Office and the OCSE successfully automated the process to ensure that outstanding payments are processed and collected properly. The Comptroller's Office also works with the New York City Department of Finance to collect on liens, including unpaid parking tickets, against claimants who reach a settlement with the City. In FY 2016, BLA collected \$7.3 million from claimants with outstanding obligations to the City or with child support orders in arrears.

## **Damage to the City (Pre-Litigation)**

The Comptroller's Office initiates affirmative claims to collect money from individuals who have damaged City property. Most of these claims involve damage to City-owned motor vehicles and City infrastructure. BLA's efforts in asserting these claims on behalf of the City resulted in the collection of \$1.7 million in FY 2016.

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

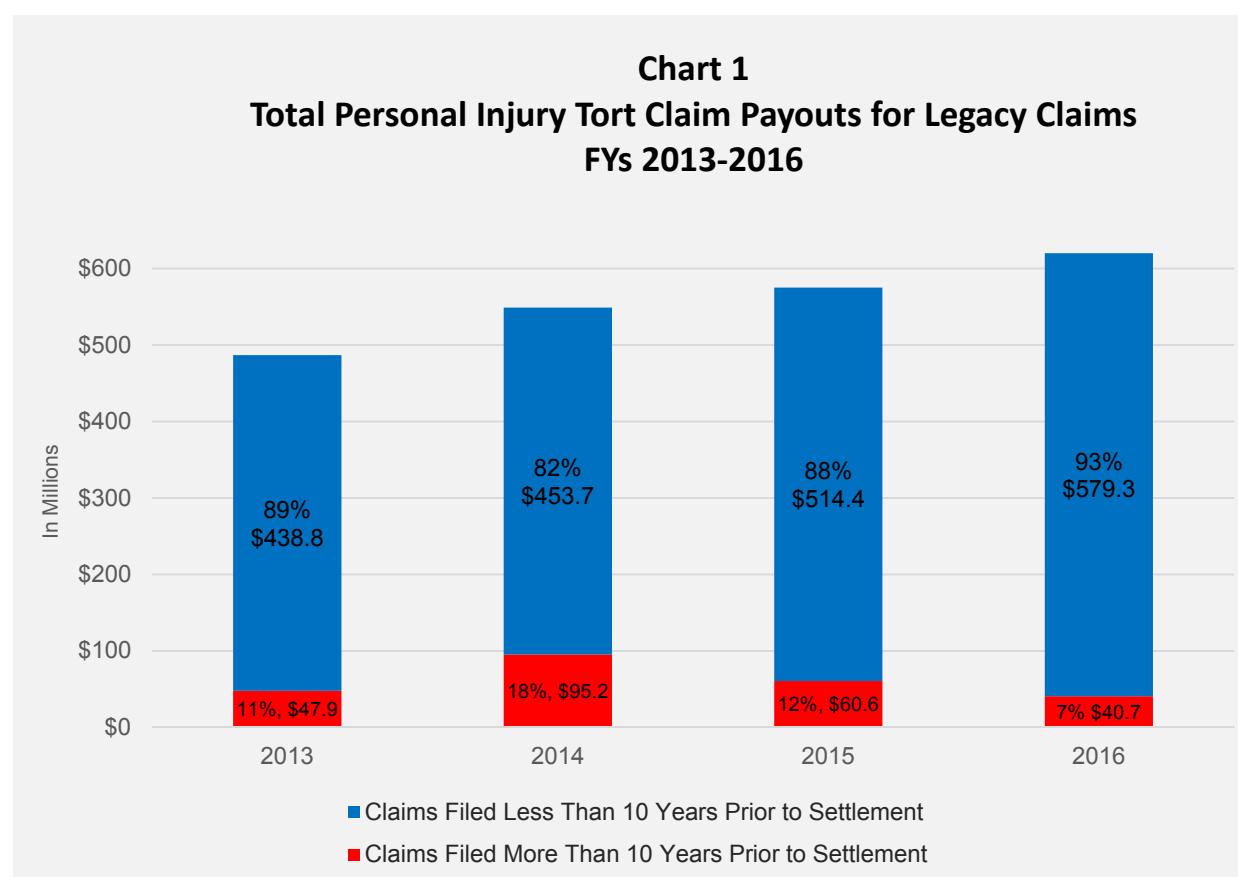
The New York State Son of Sam Law permits a crime victim to commence a civil action to recover money damages for “profits from a crime” or the “funds of a convicted person.”<sup>4</sup> Under the law, the Comptroller's Office must report to the New York State Office of Victim Services (Victim Services) any City settlement obligation to a convicted person that exceeds \$10,000. BLA automated its process to identify claims that should be reported and works

closely with Victim Services and the New York State Attorney General’s Office to help identify funds in excess of \$10,000 awarded to convicted persons from whom victims can recover money. At the close of FY 2016, the City has paid an aggregate \$286,000 to crime victims who recovered from claim settlements under the Son of Sam Law.

### III. LEGACY CLAIMS

#### Payments for Personal Injury Tort Claims that Occurred Before 2007

New Yorkers continue to pay for claims that were filed more than a decade ago. In FY 2016, the City paid out \$40.7 million for claims that occurred prior to FY 2007, including \$13.5 million in payouts stemming from the “Mafia Cops” claims<sup>5</sup> against the NYPD.



In FY 2014, the Comptroller’s Office began to analyze the cost of settlements stemming from protracted litigation. As noted in previous Claims Reports, aggressive litigation is necessary to protect the City fisc from meritless claims. However, in certain instances, prolonged and drawn out litigation—which after years becomes what we call a “legacy claim”—has not been the most effective use of the City’s resources and has even increased the City’s exposure to unreasonable verdicts and judgments. In the best interest of the City, the

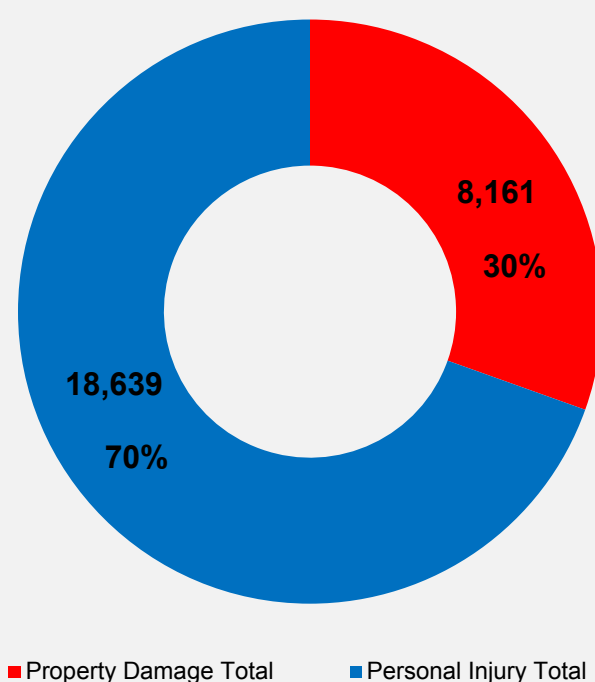


Comptroller's Office and Office of the Corporation Counsel must remain vigilant in constantly striking the difficult balance of vigorously defending the City and avoiding imprudent or unnecessary litigation. When appropriate, the Comptroller's Office will continue to settle meritorious claims in their early stages, driving down future settlement and judgment costs, to the benefit of the City. Simultaneously, the Comptroller's Office will continue working with law enforcement to root out fraudulent claims and with Office of the Corporation Counsel to vigorously defend against meritless claims.

## IV. TORT CLAIMS

Tort claims consist of personal injury and property damage claims. While the number of tort claims filed in FY 2016 decreased, the amount paid out on settled tort claims in FY 2016 increased.<sup>6</sup> In FY 2016, 26,800 new personal injury and property damage claims were filed—a two percent decrease from the 27,362 tort claims filed in FY 2015.<sup>7</sup>

**Chart 2**  
**Number and Percentage of Tort Claims Filed by Category**  
**FY 2016**

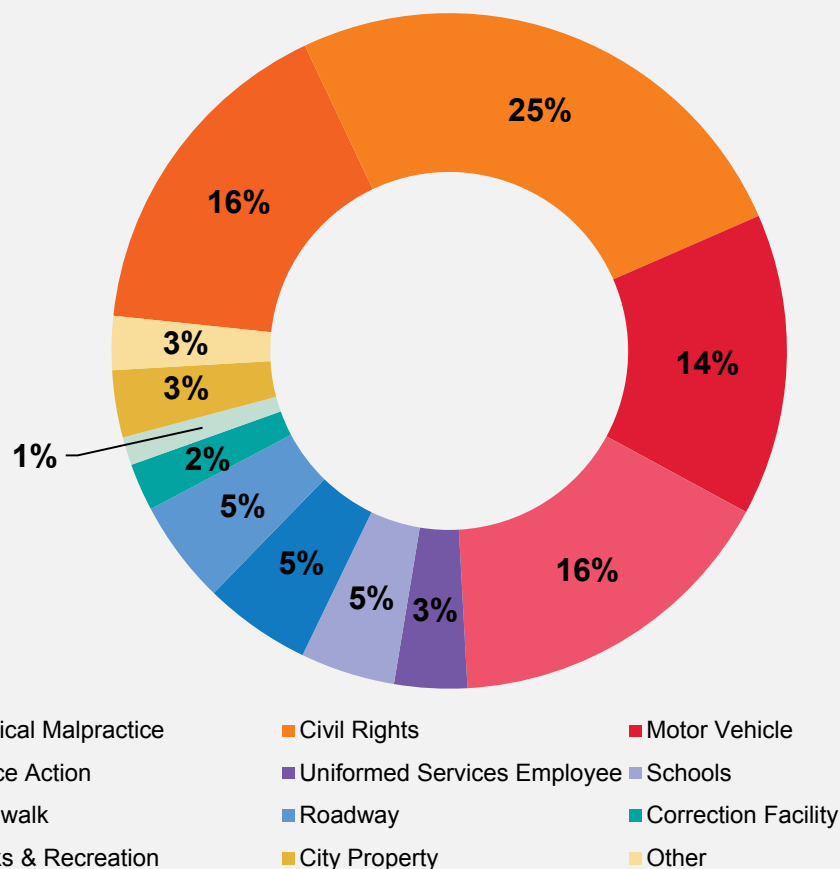


In FY 2016, settlement of tort claims cost the City \$629.5 million, nearly a seven percent increase from the \$588.8 million paid out by the City in FY 2015. Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$73.63 in FY 2016.

## A. PERSONAL INJURY CLAIMS

Personal injury claims are the most frequently filed and the most costly to resolve. Such claims include, but are not limited to, allegations of medical malpractice, civil rights violations, injuries occurring in Department of Education (DOE) schools, motor vehicle accidents involving City-owned vehicles, as well as claims arising from allegedly defective sidewalks, or the actions of police or uniformed services employees. In FY 2016, personal injury claims accounted for \$620.1 million, or 99 percent, of the \$629.5 million paid out on settled tort claims. The average settlements and judgments cost for all personal injury cases in FY 2016 was \$84,428, four percent higher than the average of \$81,124 in FY 2015. Out of the 7,345 personal injury settlements, there were 113 personal injury claim payouts for \$1 million or more in FY 2016, totaling \$283.1 million. These 113 claims represent 46 percent of the total personal injury claim payouts for FY 2016.

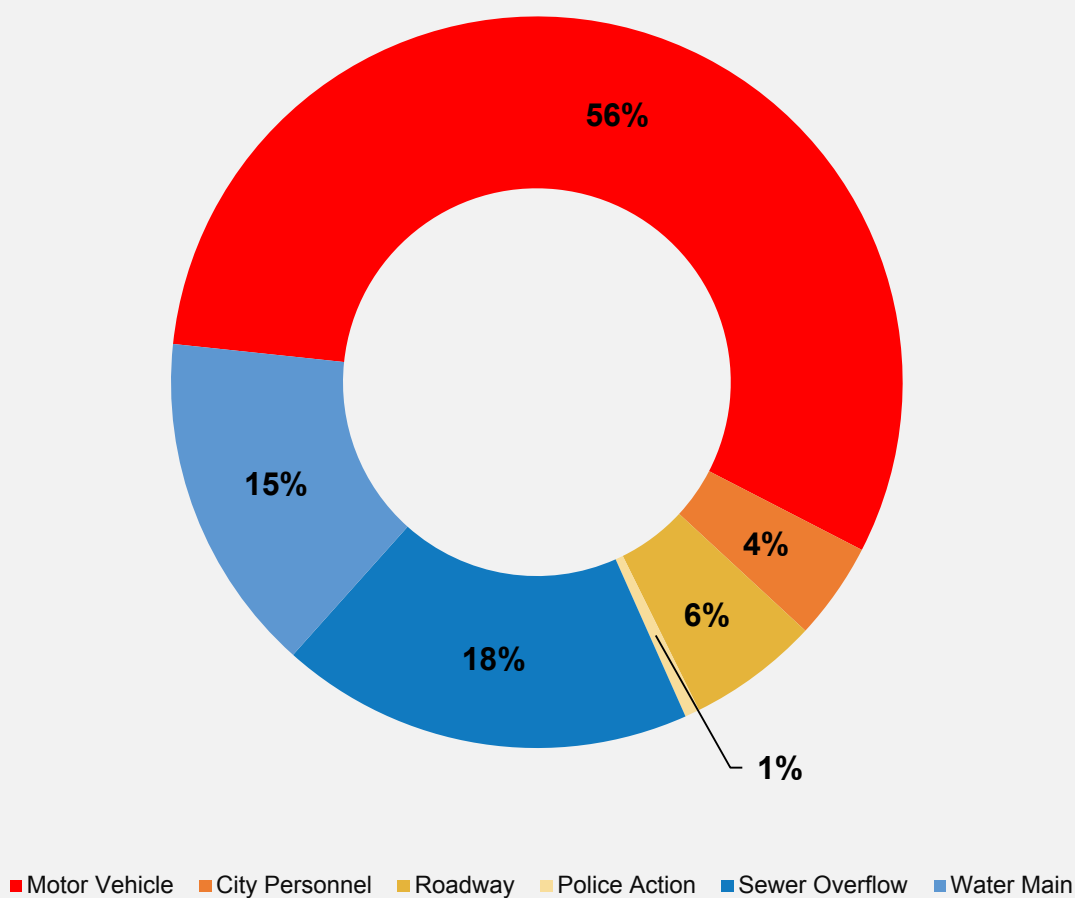
**Chart 3**  
**Percentage of Total Personal Injury Expenditures Recorded**  
**by Claim Type**  
**FY 2016**



## B. PROPERTY DAMAGE CLAIMS

Property damage claims consist of damage or loss to personal property as a result of the City's alleged negligence, including, but not limited to, motor vehicle accidents, roadways, water main breaks, and sewer overflows. Property damage claims comprised just one percent of the City's total tort claim payouts in FY 2016. In FY 2016, 8,161 property damage claims were filed, a six percent decrease from the 8,664 claims filed in FY 2015. Property damage settlement and judgment payouts decreased by 32 percent in FY 2016 to \$9.4 million from \$13.8 million in FY 2015.

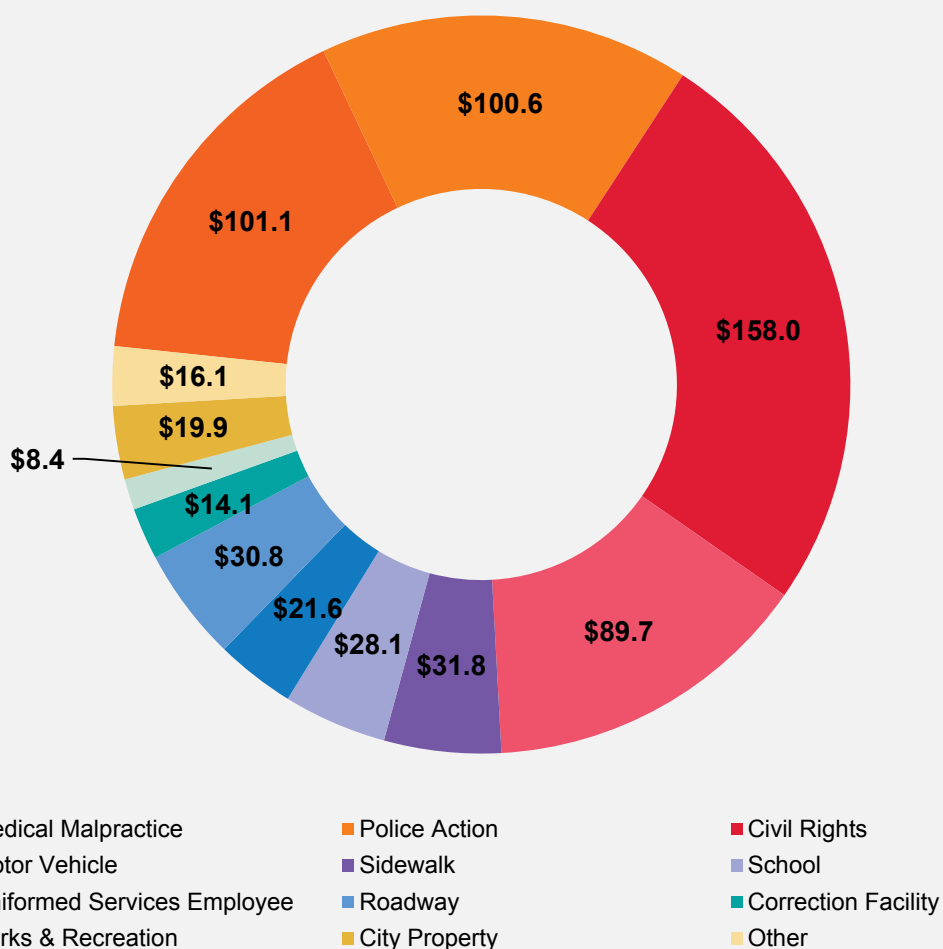
**Chart 4**  
**Percentage of Total Property Damage Expenditures Recorded**  
**by Claim Type**  
**FY 2016**



## C. TORT CLAIM TRENDS BY CLAIM TYPE

In FY 2016, the five costliest personal injury claim categories in terms of settlements and judgments paid out were civil rights claims (\$158.0 million), medical malpractice claims (\$101.1 million), police action claims (\$100.6 million), motor vehicle claims (\$89.7 million), and sidewalk claims (\$31.8 million). Together, in FY 2016, these resolved claims accounted for 78 percent of all personal injury settlements and judgments paid out.

**Chart 5**  
**Expenditures Paid (In Millions) for Personal Injury Claims**  
**by Claim Type**  
**FY 2016**

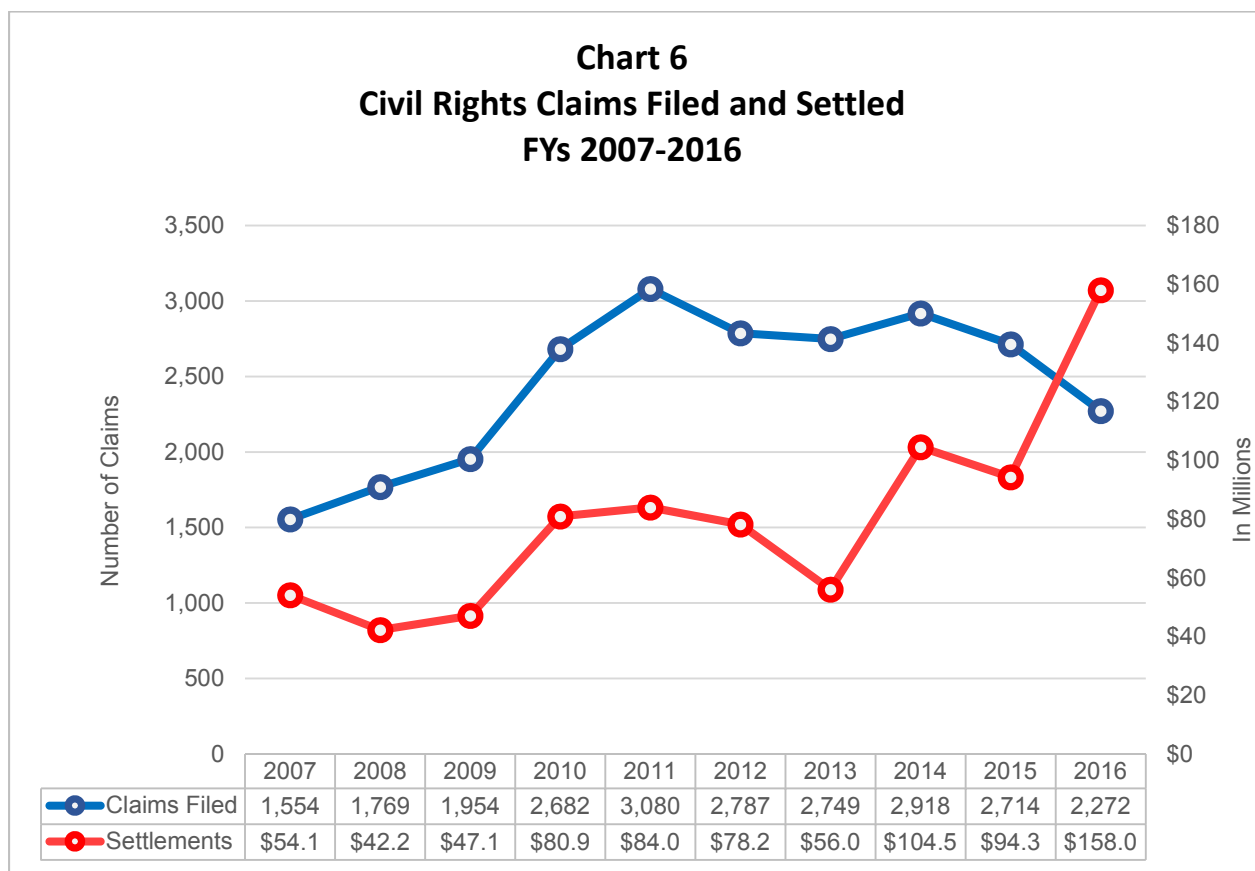




## 1. Civil Rights Claims

Civil rights claims typically 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 constitutional civil rights violations by law enforcement personnel litigated under 42 U.S.C § 1983 in federal court.

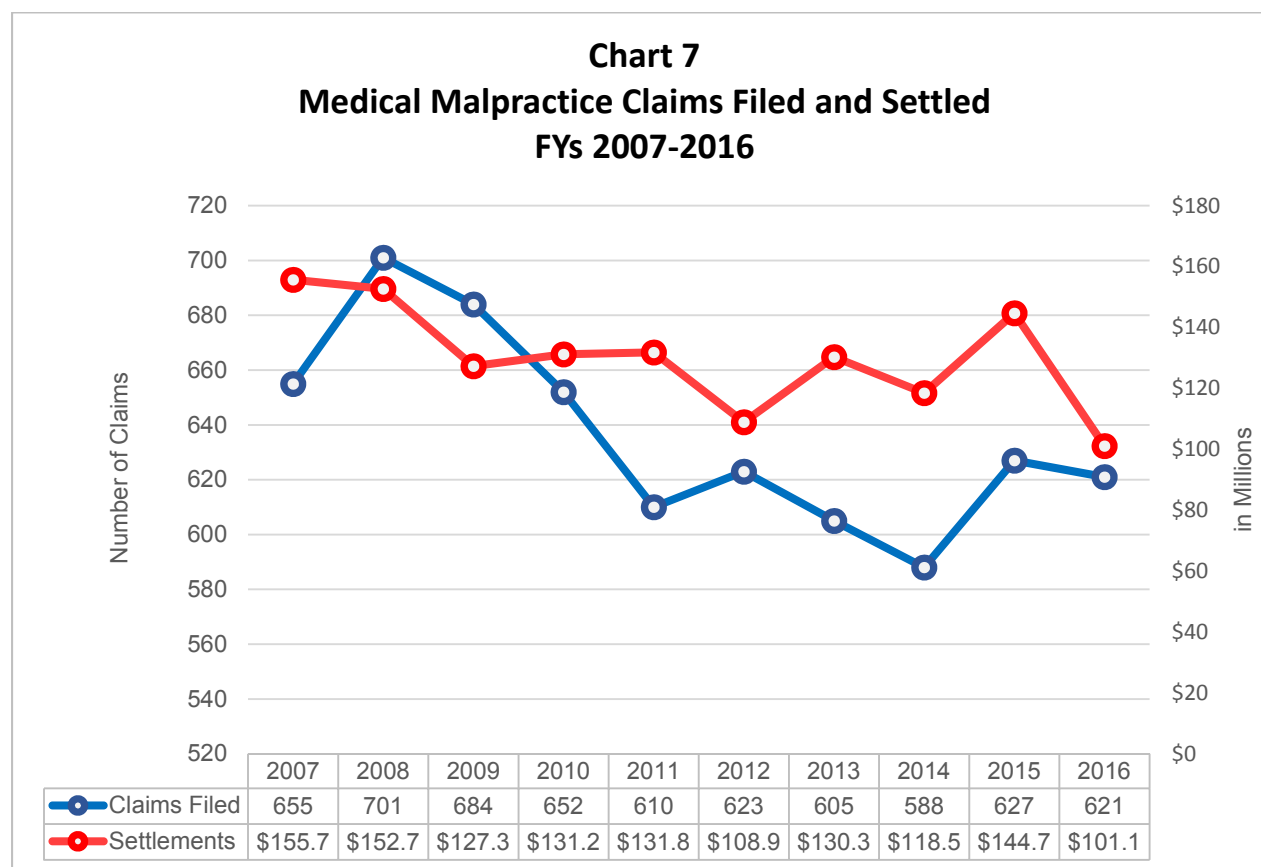
There were 2,272 civil rights claims filed in FY 2016, compared to 2,714 claims filed in FY 2015, a 16 percent drop in claims filed. However, in FY 2016 the cost of civil rights claims payouts increased to \$158.0 million up from \$94.3 million in FY 2015, a 67 percent increase. In FY 2016, 20 of the 113 personal injury tort cases that resolved for \$1 million or more were for civil rights claim payouts, totaling \$98.9 million.



## 2. Medical Malpractice Claims

Medical malpractice claims are derived from alleged improper diagnosis, treatment, or care and are typically filed against a NYC Health + Hospital (HH) facility. Settlement of medical malpractice claims accounted for 16 percent of the total \$620.1 million paid out for personal injury claims resolved in FY 2016. The 230 medical malpractice claims resolved in FY 2016 cost the City \$101.1 million in settlement and judgment payouts, compared to \$144.7 million paid out for 245 medical malpractice claims settled in FY 2015. In FY 2016, 27 of the 113 personal injury tort claims resolved for \$1 million or more were for medical malpractice claim payouts, totaling \$55.1 million.

Since medical malpractice claims often take five to ten years to resolve because of their complexity, the number of claims filed is a better indicator of medical malpractice claims activity than the dollar amount paid out in any single year. In FY 2016, there were 621 medical malpractice claims filed, down one percent from the 627 medical malpractice claims filed in FY 2015. Medical malpractice claims appear to be stabilizing after reaching a high in FY 2008, however, it is anticipated that the City will continue to pay out costly settlements as a result of the high number of medical malpractice claims filed in years past.



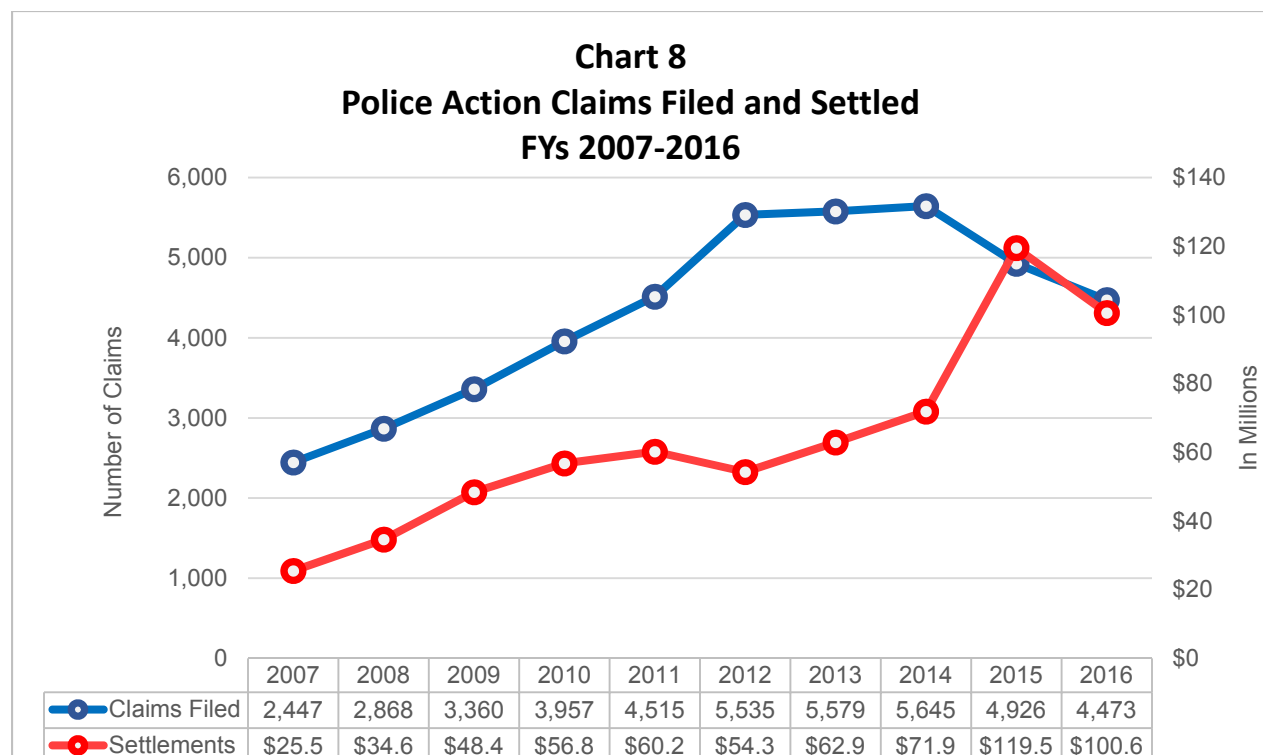
### 3. Police Action Claims

Police action claims result from claims of improper police conduct, such as alleged false arrest or imprisonment, or excessive force under New York State law litigated in New York State courts. Police action claims were the most frequently filed personal injury claim and accounted for the third highest claim payout in FY 2016.

There were 4,473 new police action claims filed in FY 2016, down nine percent from FY 2015 when 4,926 police action claims were filed. The decline in police action claims filed for the second straight year reverses a prior trend of rising police action claims filed that peaked in FY 2014.

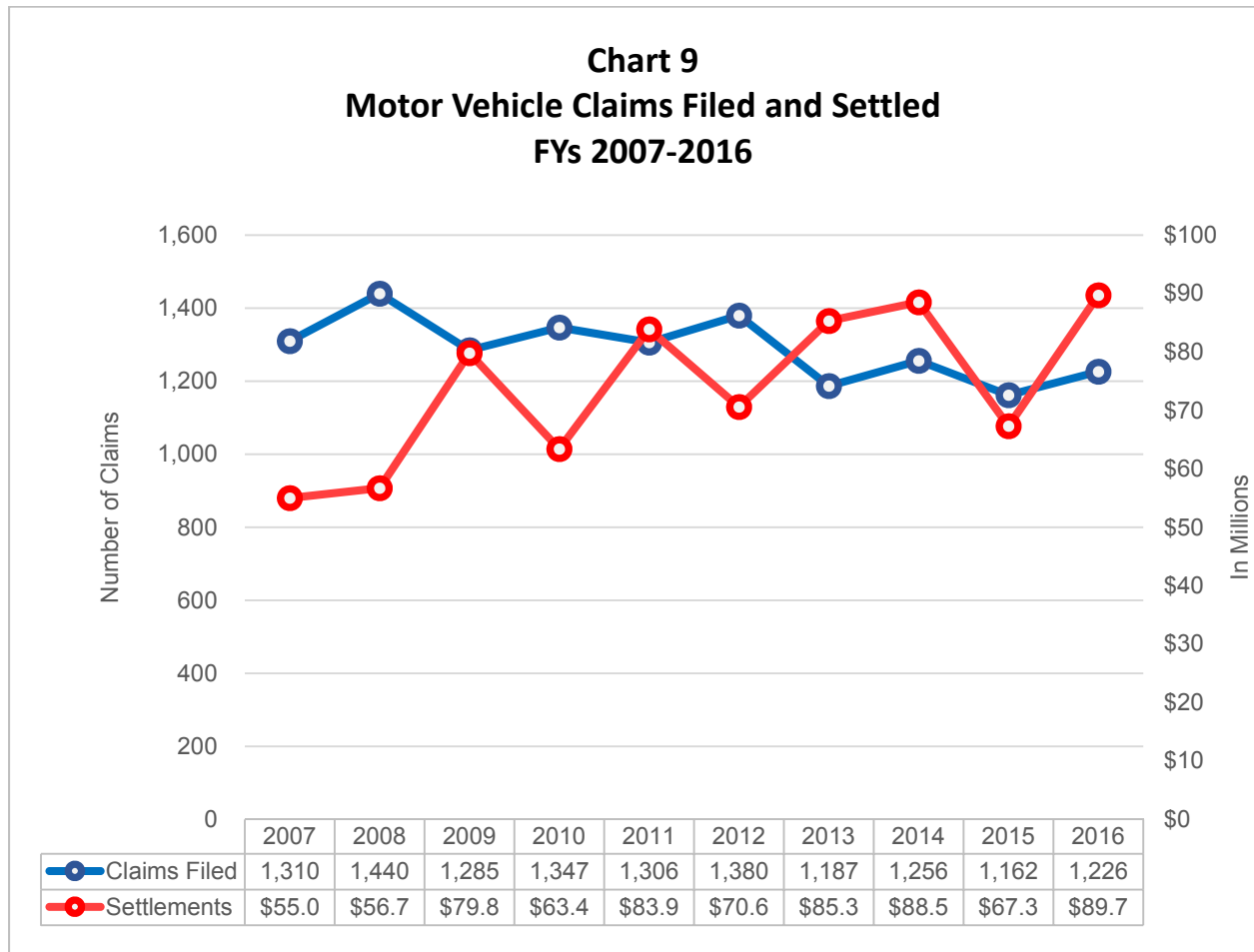
In FY 2016, the cost of settled police action claims was \$100.6 million compared to \$119.5 million in FY 2015, a 16 percent decrease in payouts.

In FY 2016, the Comptroller's Office settled the wrongful conviction claims of Roger Logan and Shabaka Shakur pre-litigation to avoid lengthy proceedings that are costly for the City, with uncertain risks. Roger Logan spent more than 16 years in prison. The late King's County District Attorney Kenneth Thompson joined Mr. Logan's motion to vacate the murder conviction, and BLA settled Mr. Logan's civil claim pre-litigation for \$3.8 million. Shabaka Shakur spent more than 27 years in prison. The Court vacated his murder conviction, and BLA settled Mr. Shakur's claim pre-litigation for \$3.6 million.



## 4. Motor Vehicle Claims

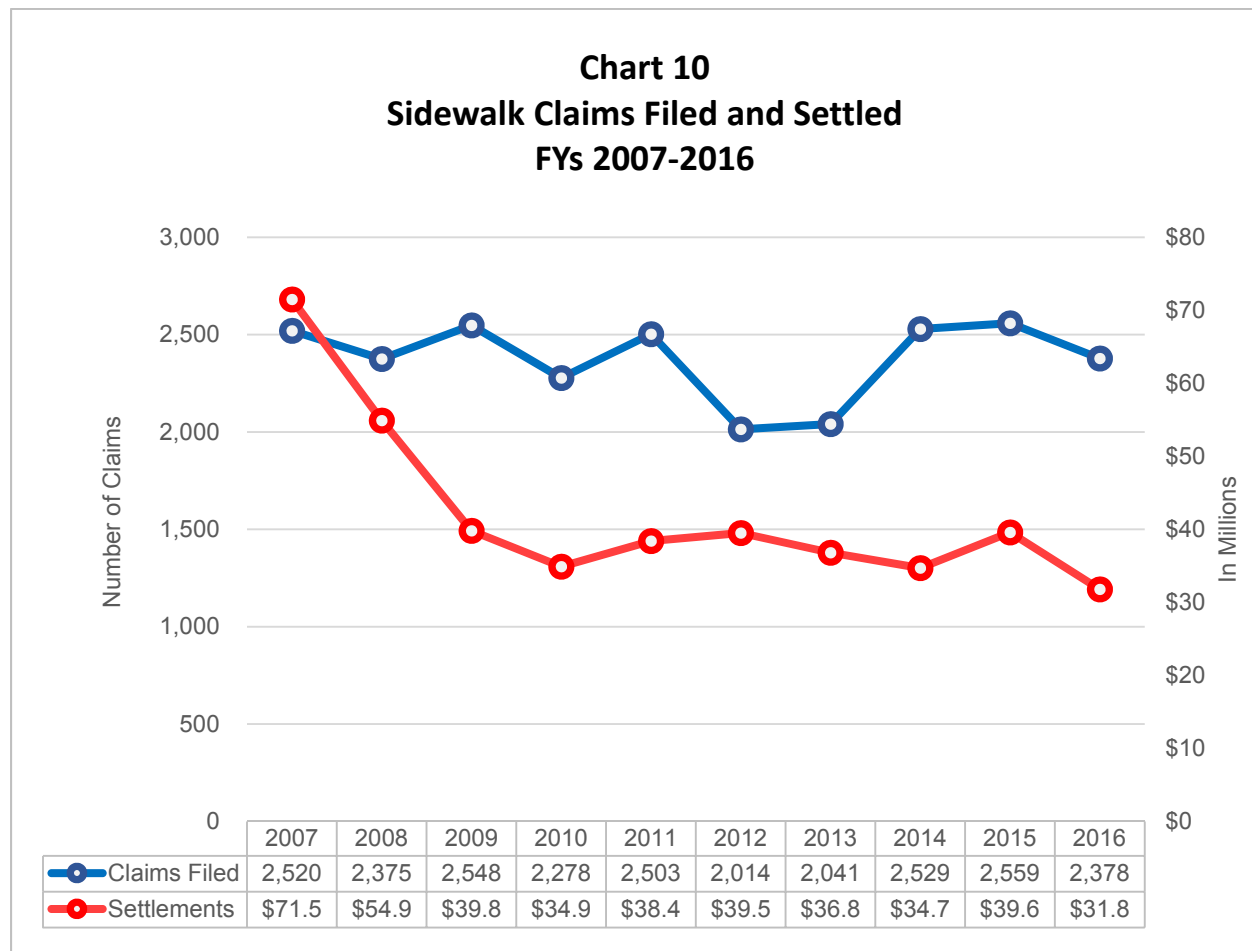
Personal injury motor vehicle claims involve alleged accidents with City-owned vehicles. There were 1,226 new personal injury motor vehicle claims filed in FY 2016, up six percent from FY 2015, when 1,162 claims were filed. Personal injury motor vehicle claims cost \$89.7 million in FY 2016, a 33 percent increase, compared to \$67.3 million in FY 2015. In FY 2016, 26 of the 113 personal injury tort claims resolved for \$1 million or more were for motor vehicle claim payouts, totaling \$48.4 million.





## 5. Sidewalk Claims

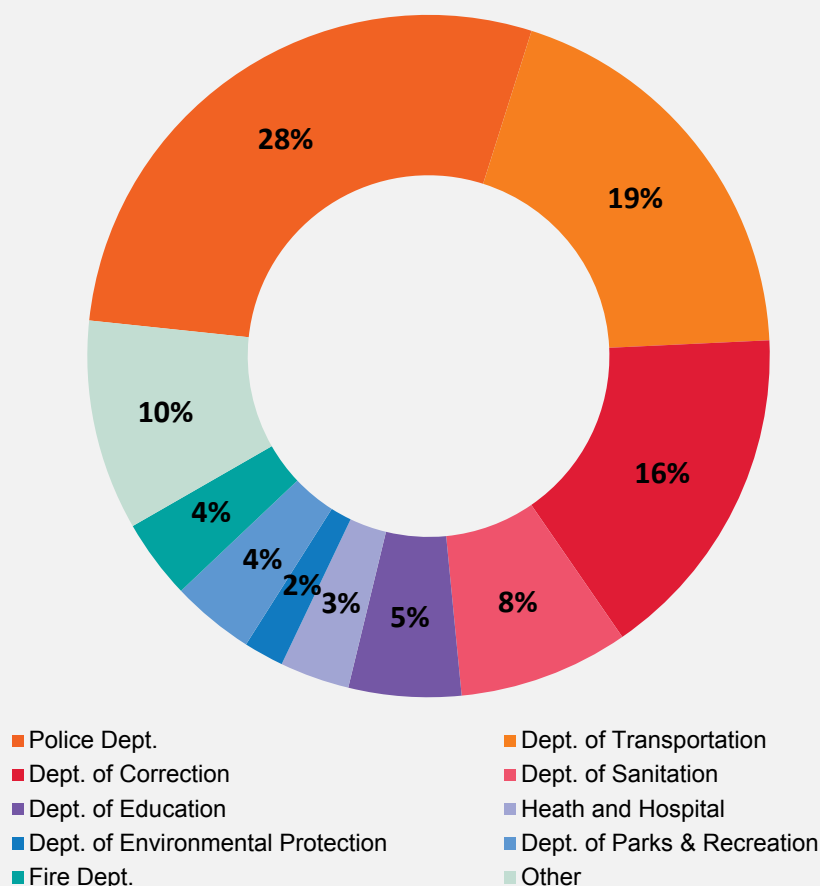
Sidewalk claims arise from alleged defects, such as cracked or uneven surfaces, on public sidewalks. This type of claim includes personal injuries for slip/trip and fall accidents resulting from such alleged defects, as well as incidents on snow and ice-covered sidewalks. Legislation enacted in 2003 has limited the City's liability for injuries caused by alleged sidewalk defects. New York City Administrative Code § 7-210 requires prior notice to the City of the defective condition and 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. Sidewalk claims decreased to 2,378 claims in FY 2016 from 2,559 claims in FY 2015. The total cost of sidewalk claims in FY 2016 was \$31.8 million, down from \$39.6 million in FY 2015, or a 20 percent decrease.



## D. TORT CLAIM TRENDS BY AGENCY

In FY 2016, the five agencies that experienced the highest number of total claims filed were the NYPD (7,562 claims), DOT (5,193 claims), DOC (4,321 claims), DSNY (2,163 claims), and DOE (1,428 claims). Of these five agencies, two experienced an increase during FY 2016—claims filed against DOC rose 25 percent and DOE had a minimal increase of less than one percent from FY 2015.<sup>8</sup>

**Chart 11**  
**Percentage of Tort Claims Filed by Agency**  
**FY 2016**

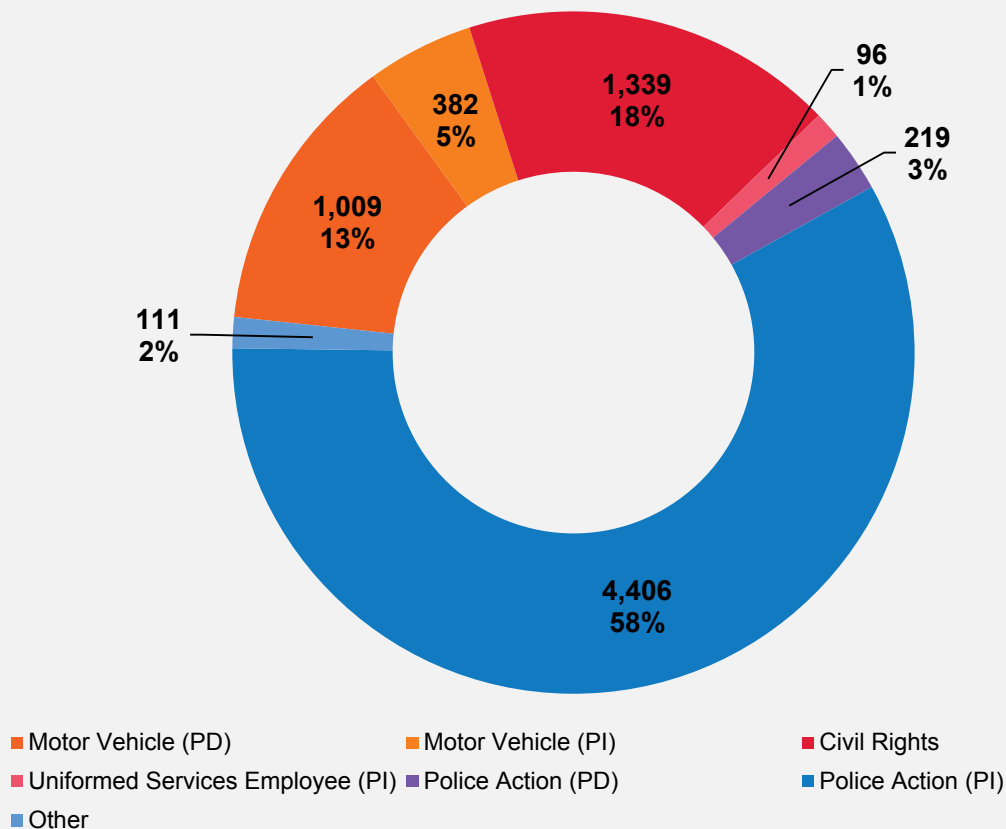


The five agencies with the highest settled tort claim costs in FY 2016 were the NYPD (\$279.7 million), HH (\$112.2 million), DOT (\$67.7 million), DSNY (\$40.3 million), and DOE (\$33.6 million).

## 1. New York Police Department

Tort claims against the NYPD include, but are not limited to, allegations of excessive force, civil rights violations, and personal injury or property damage arising out of motor vehicle accidents involving police vehicles. In FY 2016, the number of claims filed against the NYPD decreased to 7,562 from 8,423 claims filed in FY 2015, which represents a 10 percent decrease.

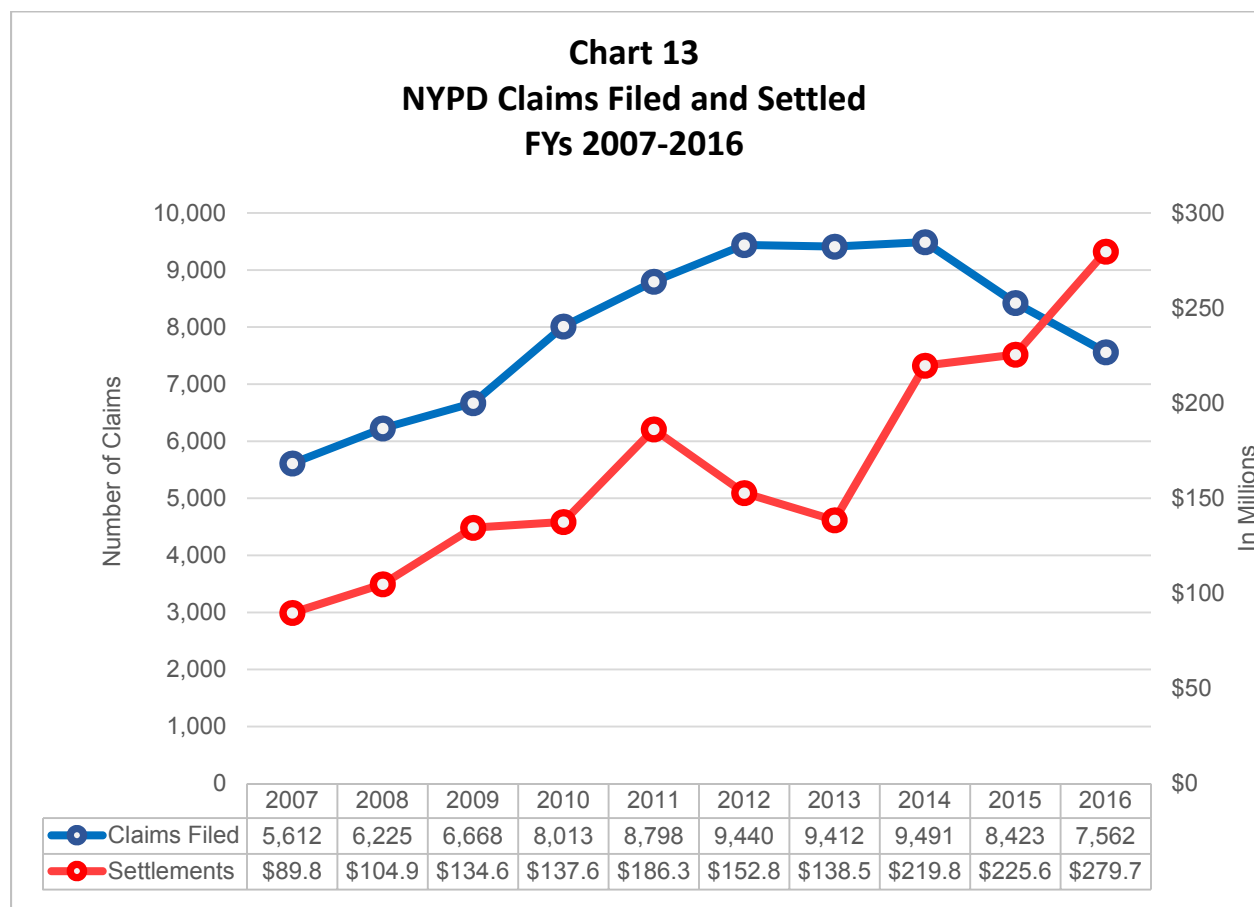
**Chart 12**  
**Percentage and Number of NYPD Claims Filed by Claim Type**  
**FY 2016**



Claims against the NYPD that settled in FY 2016 cost the City \$279.7 million, compared to \$225.6 million in FY 2015, a 24 percent increase. In FY 2016, BLA settled pre-litigation the excessive force and wrongful death claim filed by the Estate of Eric Garner, who died while being arrested on Staten Island, for \$5.9 million. In the past decade, the number of claims filed against the NYPD has increased each year, peaking in FY 2014. This upward trend in NYPD claims settlement and judgment payouts is expected to continue into the future despite a decrease in the number of claims filed in the last two years, as the final resolution of a claim can take

many years. NYPD claims accounted for 44 percent of the total cost of FY 2016 personal injury and property damage claims settled.

Although the number of claims filed against the NYPD declined in FY 2016, the total NYPD settlement amount of \$279.7 million is the highest in City history. This settlement total is the result of outdated policies, years in the making, and legal actions from more than a decade ago. Four groups of cases account for a substantial percentage of the \$279.7 million figure. First, the wrongful conviction claims resulting from the 1995 “Soundview Murders”<sup>9</sup> settled for \$40.0 million. (A sixth individual settled his wrongful conviction claim for \$4.9 million in FY 2015.) Second, actions filed against the “Mafia Cops,” former NYPD Detectives Louis Eppolito and Steven Caracappa, for alleged connections to murders that happened in the 1980s and 1990s, settled for \$13.5 million. (Note, too, that a related case involving these former Detectives settled for \$5.0 million in FY 2015; further, Barry Gibbs, convicted of murdering a woman in Brooklyn and incarcerated for 19 years, sued former Detective Eppolito alleging wrongful conviction in a case that settled for \$9.9 million in FY 2011.) Third, the City settled Alan Newton’s wrongful conviction claim<sup>10</sup> for \$12.1 million. Finally, attorneys’ fees related to the “Stop and Frisk” litigation (*Floyd v. City of New York*) settled for \$11.3 million. These four settlements accounted for \$76.7 million, or 27 percent, of the \$279.9 million NYPD FY 2016 payouts.

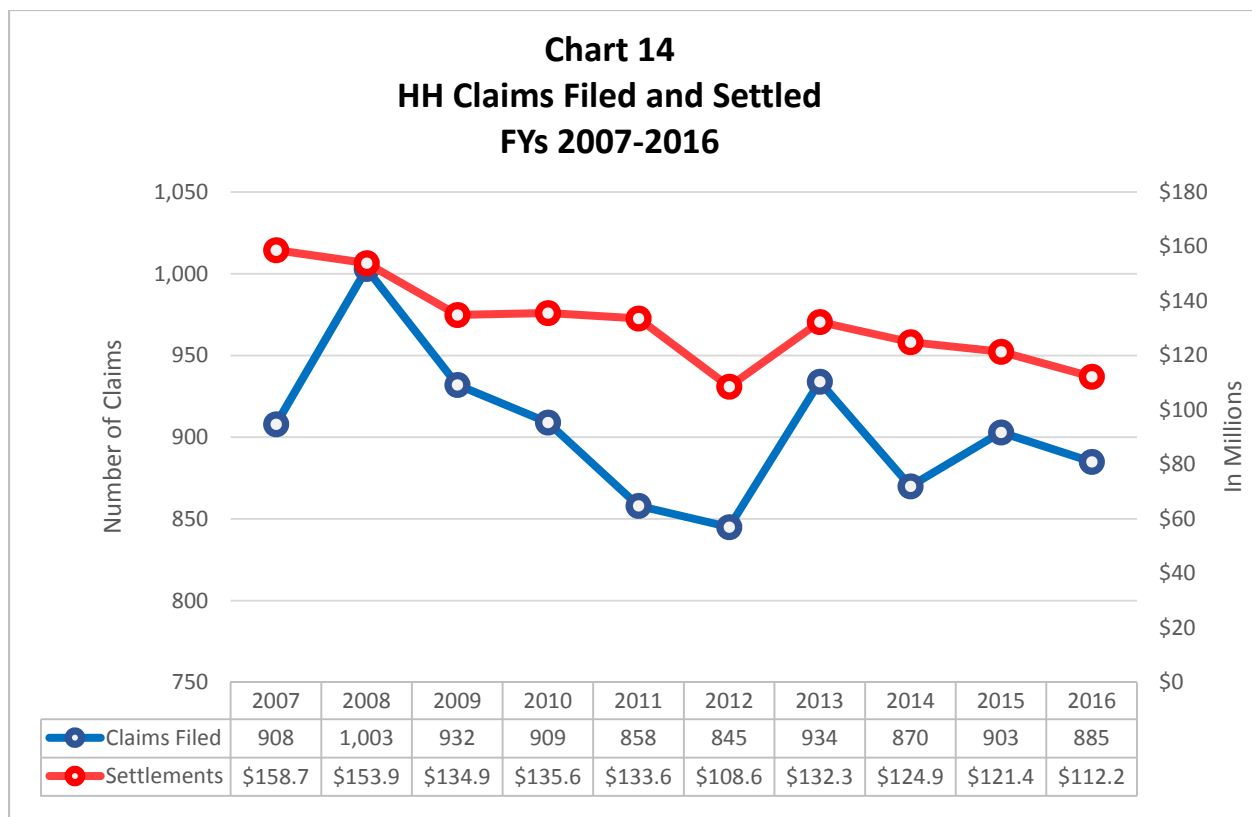




## 2. NYC Health + Hospitals

Claims against HH encompass claims for personal injuries including alleged medical malpractice, slip/trip and fall accidents on hospital property, and property damage sustained on hospital property. Unlike all other City agencies, whose tort claim costs are paid out of the Judgments and Claims account established annually in the City’s General Fund, HH assumes financial responsibility for medical malpractice liabilities, up to a “capped limit” set by the Office of Management and Budget. Because many medical malpractice claims are typically not resolved for five to ten years from the date of filing, the number of claims filed against HH in a given year is a better indicator of current hospital claim trends than the amount paid out in any one year.

In FY 2016, 885 claims were filed against HH; 583 claims, or 66 percent of HH claims, were for medical malpractice. HH claims constituted four percent of the total number of tort claims resolved in FY 2016, but accounted for the second highest tort expenditure at \$112.2 million, or 18 percent, of the total amount paid for tort claims in FY 2016.



Notably, the number of medical malpractice claims filed against HH's acute care hospitals<sup>11</sup> increased by 31 claims to 559 claims in FY 2016 from 528 claims filed in FY 2015, or an increase of six percent.

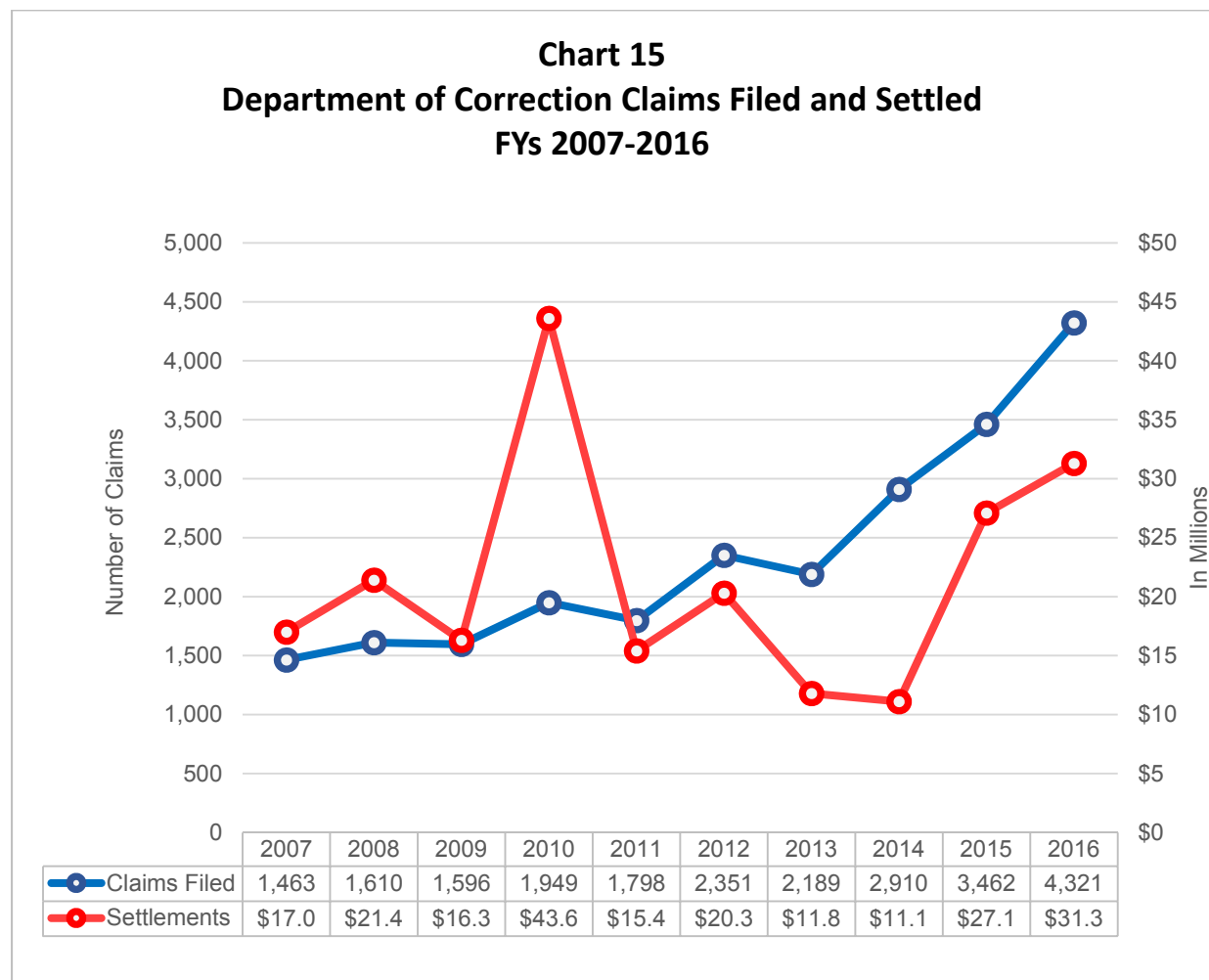
**Table 1**  
**HH Medical Malpractice Claims Filed and Settled**  
**FYs 2015-2016**

HH Acute Care Hospital	Claims Resolved FY 2016	Amount Paid (In Millions)	Number of Claims Filed FY 2016	Number of Claims Filed FY 2015	Increase/ (Decrease)
Bellevue	22	\$11.8	93	82	11
Coney Island	20	\$4.3	49	43	6
Elmhurst	19	\$8.7	56	52	4
Harlem	16	\$13.9	48	28	20
Jacobi / Bronx Municipal	32	\$16.4	66	68	(2)
Kings County	42	\$15.1	80	90	(10)
Lincoln	32	\$16.2	75	64	11
Metropolitan	6	\$1.5	16	18	(2)
North Central Bronx	5	\$3.3	11	6	5
Queens Hospital Center	10	\$6.0	29	28	1
Woodhull	12	\$2.6	36	49	(13)
<b>Total</b>	<b>216</b>	<b>\$99.8</b>	<b>559<sup>12</sup></b>	<b>528<sup>13</sup></b>	<b>31</b>

### 3. Department of Correction

The FYs 2013-2014 Claims Report projected an increase in the number of DOC claims filed and cost for settlement and judgment payouts. Following the surge in DOC settlement and judgment costs to \$27.1 million in FY 2015, from \$11.1 million in FY 2014, FY 2016 saw a continuation of this upward trend with \$31.3 million in settlement and judgment costs—a 182 percent increase between FY 2014 to FY 2016.

As the chart below shows, there has been a significant increase in claims filed against DOC since FY 2013. In FY 2016, DOC claims filed jumped by 25 percent to 4,321 claims from 3,462 claims in FY 2015.



## E. TORT CLAIM TRENDS BY BOROUGH<sup>14</sup>

The Bronx had the most overall tort claims filed, with 7,546 claims, followed by Brooklyn (6,672 claims), Manhattan (5,044 claims), Queens (4,628 claims), and Staten Island (1,224 claims). Consistent with FY 2014 and FY 2015, the Bronx had the most personal injury claims filed (6,351 claims) and Queens had the most property damage claims filed (2,114 claims).

**Table 2**  
**Number of Claims Filed By Borough FY 2016**

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims
Bronx	6,351	1,195
Brooklyn	4,726	1,946
Manhattan	3,568	1,476
Queens	2,514	2,114
Staten Island	608	616

The Bronx had the highest per capita filing of personal injury claims at 436 claims per 100,000 residents, as compared to Queens, which had the fewest at 107 claims. Staten Island had the greatest number of property damage claims filed per capita with 130 claims per 100,000 residents, while Brooklyn had the fewest with 74 claims.<sup>15</sup>

**Table 3**  
**Claims Filed by Borough Per 100,000 Residents<sup>16</sup>**  
**FY 2016**

Borough	Total PI and PD Claims Per 100,000 Residents	Total PI Claims Per 100,000 Residents	Total PD Claims Per 100,000 Residents
Bronx	518	436	82
Brooklyn	253	179	74
Manhattan	307	217	90
Queens	198	107	90
Staten Island	258	128	130



**Table 4**  
**Claims Resolved and Amounts Paid by Borough**  
**FY 2016**

Borough	Number of PI Claims Resolved	Amount Paid for PI Claims (In Millions)	Number of PD Claims Resolved	Amount Paid for PD Claims (In Millions)	Total PI and PD Claims Resolved	Total PI and PD Claim Payouts (In Millions)
Bronx	2,471	\$222.4	344	\$1.0	2,815	\$223.4
Brooklyn	1,939	\$135.4	603	\$2.1	2,542	\$137.5
Manhattan	1,373	\$108.5	427	\$2.0	1,800	\$110.5
Queens	903	\$78.8	616	\$2.9	1,519	\$81.7
Staten Island	304	\$24.8	193	\$0.6	497	\$25.4

## V. LAW (NON-TORT) CLAIMS

Although all claims are rooted in the law, the Comptroller’s Office characterizes non-tort claims as “law claims”—for operational and record-keeping purposes. Such claims and/or disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving DOE special education matters, sidewalk assessments, and cleanup costs levied on property owners who are in violation of the Mental Hygiene Law, as well as affirmative claims brought by the City against other parties.

### A. OVERALL LAW CLAIM TRENDS

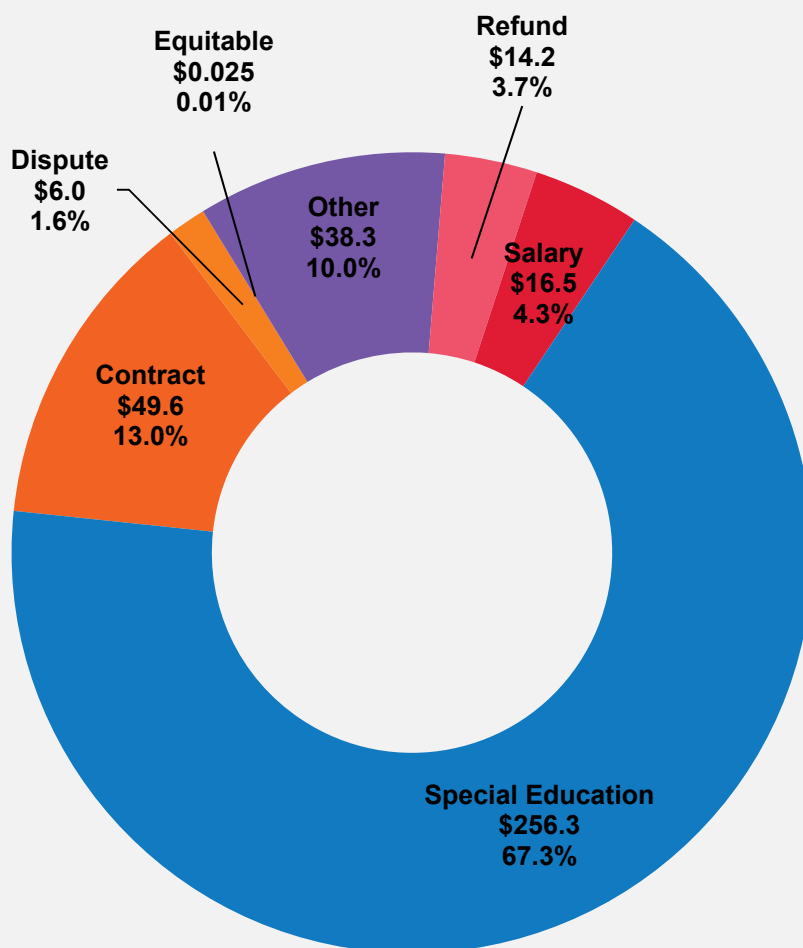
The overall number of law claims filed declined five percent to 5,840 in FY 2016 from 6,169 in FY 2015. This change reflects a plateau in the number of claims filed after the 65 percent increase in the number of claims filed from FY 2013 to FY 2015. There were 3,743 law claims filed in FY 2013 and 4,214 in FY 2014. The previous increase was due primarily to a 73 percent uptick in special education claims<sup>17</sup> filed in FY 2015 over FY 2014 and a 101 percent increase in special education claims in FY 2015 over FY 2013. This increase came after the City launched a new “fast track” process in June 2014 to address claims for costs and tuition payments from parents of students requiring special education services.

The total number of settlements and judgments for law claims declined 10 percent to 4,838 claims in FY 2016 from 5,349 claims in FY 2015. The total amount of settlements and judgments paid out for law claims increased three percent to \$380.9 million in FY 2016 from

\$371.4 million in FY 2015.<sup>18</sup> Payouts of special education claims in FY 2016 represented 67 percent of all law claim payouts.

Contract claims accounted for the second largest payout of law claims in FY 2016 at \$49.6 million, representing 13 percent of all law claims settlements and judgments. This is an 11 percent increase in the amount paid out for contract claims over the \$44.8 million paid out in FY 2015.

**Chart 16**  
**Law Claims by Type**  
**Amount Paid in Settlements and Judgments (In Millions)**  
**and Percentage of Law Claim Settlements and Judgments Paid**



## Special Education Claims

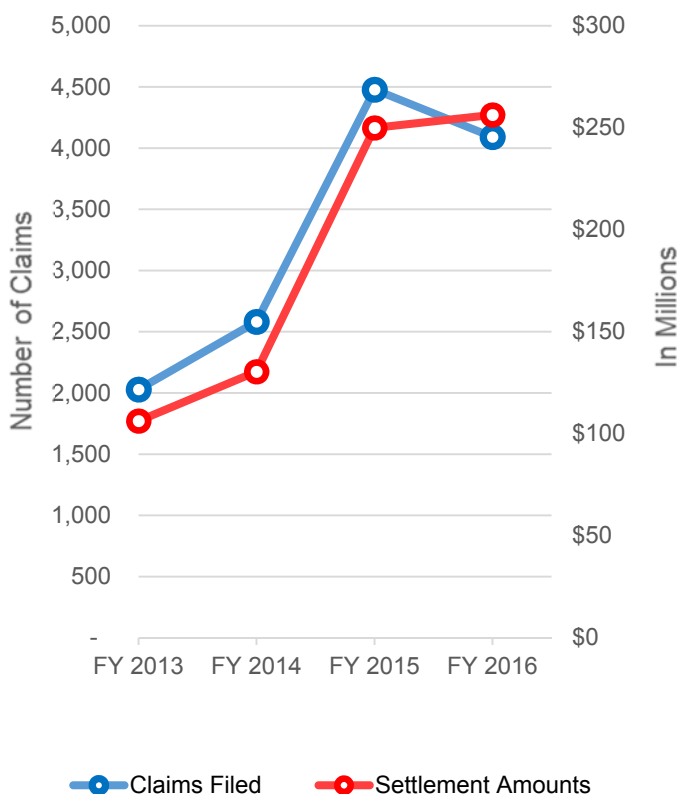
Special education claims include two categories of claims: claims on behalf of parents for the reimbursement of special education services costs and tuition,<sup>19</sup> and claims for statutory attorneys' fees where an underlying claim for special education reimbursement has been successful.

Following the City's June 2014 launch of a new "fast track" process for addressing claims for costs and tuition payments from parents of students requiring special education services, the Comptroller's Office noted a sharp rise in the number of special education claims settled and paid out in FY 2015. The number of claims filed and paid out in FY 2016 continues to reflect this rise from pre-"fast track" levels.

In FY 2016 the number of special education claims filed decreased nine percent from FY 2015. In FY 2016 there were 4,091 special education claims filed, compared to 4,478 claims filed in FY 2015. However, the number of special education claims filed in FY 2016 more than doubled the 2,029 filed in FY 2013 (a 102 percent increase) and represent a 58 percent increase over the 2,582 claims filed in FY 2014.

The total number of special education claims settled in FY 2016 slightly decreased by seven percent to 3,770 from the 4,067 claims settled in FY 2015. However, these special education claim settlements still represent a 105 percent increase over the 1,841 claims settled in FY 2013 and 70 percent increase over the 2,223 claims settled in FY 2014.

**Chart 17**  
**Special Education Claims Filed and Settled**  
**FYs 2013-2016**



The amount of settlements paid out for special education claims in the past year has climbed slightly, despite a slight decrease in the number of claims settled. There was a three

percent increase in settlements paid out on special education claims during FY 2016 (\$256.3 million) as compared to FY 2015 (\$249.9 million). However, the amount of settlement payouts in FY 2016 are 141 percent greater than those in FY 2013 and 96 percent greater than those in FY 2014.

## **Contract Delay Claims**

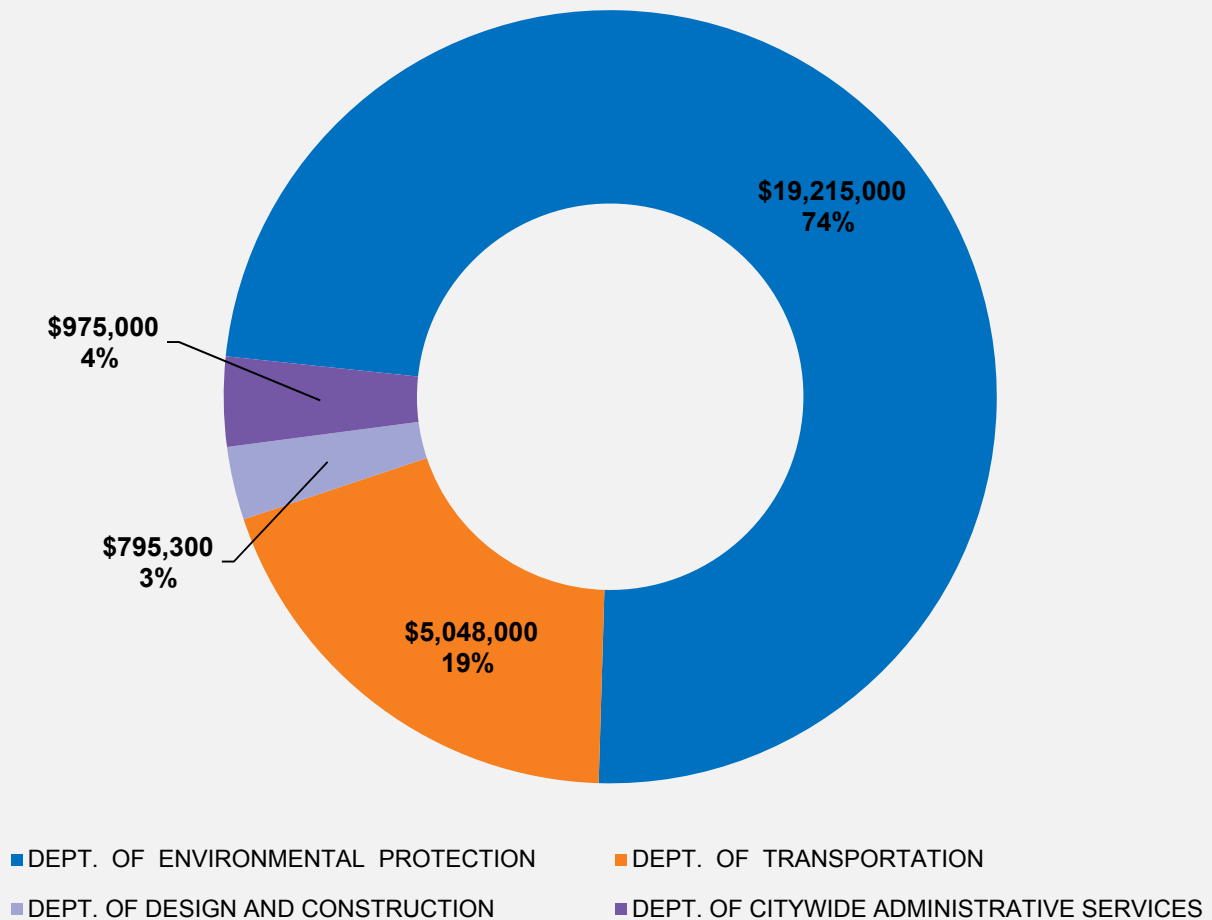
Contract claims include those claims alleging that a contractor was damaged by delays caused by the actions or inactions of the City on construction projects. Delay claims—a subcategory of contract claims—typically arise on larger construction projects such as those involving bridges and wastewater treatment plants. The analyses of these claims require the expertise of numerous staff members within the Comptroller's Office, including professional engineers, auditors, and attorneys.

While only 10 delay claims settled in FY 2016, accounting for just 30 percent of the 33 contract claims settled, the settlement amount of for these 10 delay claims makes up more than 52 percent of the \$49.6 million total settlements and judgments amount for contract claims in FY 2016.

In FY 2016, these 10 delay claims, with alleged damages totaling \$88.2 million, were negotiated and settled for \$26.0 million. This represents a savings of \$62.2 million, or 70 percent, over the amount of damages claimed by contractors. The damages from delay claims settled in FY 2016 represents increased project costs attributable to agency-caused delays of up to 16 percent over the original contract prices.

Of the 10 delay claims settled in FY 2016, four of those claims arose out of contracts with DEP. These four claims alleged damages totaling \$40.7 million, which the City was able to negotiate and settle for \$19.2 million. This represents a savings of 53 percent over the claimed damages. Of these four DEP claims, three arose out of contracts for the upgrade of water pollution control plants (WPCP contracts). The settlement of the three WPCP contract delay claims account for 99 percent of the DEP delay claim settlements and 73 percent of all delay claims settlements in FY 2016. Settlement of WPCP contract delay claims accounted for 76 percent of all delay claims settlements in FY 2015. Delays in WPCP contracts continue to account for the largest portion of payouts for delay claim settlements and judgments.

**Chart 18**  
**Contract Delay Claims by Agency**  
**Amount Paid in Settlements and Judgments**  
**and Percentage of Delay Claim Settlements and Judgments Paid**



## Alternative Dispute Resolution Claims

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 a dispute arises, a contractor may attempt to resolve it directly with the agency involved. If no agreement is reached during that process, a claim can subsequently be filed with the Comptroller's Office. If the claim is denied, the contractor may appeal to the Contract Dispute Resolution Board.

In FY 2016, 60 dispute claims were negotiated and settled for a total of \$6.0 million. The number of disputes settled increased 33 percent from 45 dispute claims in FY 2015, while the

total settlement amount increased by 100 percent (\$3.0 million) in FY 2016 from \$3.0 million in FY 2015.

## **Refund Claims**

Refund claims include claims by private individuals seeking refunds for alleged overpayments and unjust fines. In FY 2016, 26 refund claims were negotiated and settled for \$14.2 million compared to 21 refund claims negotiated and settled for \$699,468 in FY 2015. Included in FY 2016 refund claim payouts is a \$14.0 million settlement of a class action involving the improper issuance of hundreds of thousands of parking violations and fines to commercial vehicles within the City over a four-year period.

## **Affirmative Claims**

Affirmative claims are those brought by the City against individuals, companies, and corporations for torts, breaches of contract, and remedy for violations of civil codes. These claims include, among others, funds due to the City for housing or building code violations, actions arising from the sale of unlicensed cigarettes and other public nuisances, contract overpayments, and recoupment of Medicaid assistance payments.

In FY 2016, the Comptroller's Office approved settlement of 880 affirmative claims for a benefit to the City of \$9.1 million, as compared to FY 2015, when 867 Affirmative claims were settled for \$17.6 million. The FY 2016 settlements were \$8.5 million or 48 percent lower than FY 2015 in part due to several multi-million dollar settlements of affirmative claims to the benefit of the City in FY 2015. In FY 2015, these settlements resulted in a combined recovery of \$10.2 million, including a City recovery of \$2.6 million arising from a breach of services contract, a \$5.0 million recovery from a company that schemed to evade New York City taxes on cigarettes, and a \$2.6 million recovery and a guarantee of 10 affordable housing units for low-income New Yorkers for the next 35 years from a property developer for its failure to adhere to land use restrictions meant to protect low income New Yorkers.



## **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, or law. Each general category has subtypes, and it is at this level that claims are analyzed. For example, personal injury claims may include alleged slip/trip 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. ROADWAY**

Roadway claims include pedestrians, motorists, or others claiming injuries as a result of alleged 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. SIDEWALK**

Sidewalk claims include pedestrians or others claiming injury because of an allegedly 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, 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, parents, or 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 HH facility or from EMS treatment.

**H. HEALTH FACILITY/NON-MEDICAL INCIDENTS**

These claims involve non-medical acts involving a City or HH facility or employee, such as injuries sustained by visitors due to wet floors, assaults of patients or visitors, loss of sepulcher, or abuse or assaults of senior citizens by home care workers.

**I. MOTOR VEHICLE**

Motor vehicle claims involve alleged accidents with City-owned vehicles. Included in this category are cases of pedestrians, motorists, or passengers of other vehicles allegedly struck by a City-owned vehicle, and operators or passengers of City-owned vehicles involved in a collision.

**J. UNIFORMED SERVICES EMPLOYEE**

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. PARKS AND RECREATION**

These claims are asserted 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 includes claims by tenants or others asserting that they were injured by an alleged 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**

Correction claims involve claims by inmates, employees of and visitors to City correction institutions or facilities who were allegedly injured by the actions of City employees or inmates.

## **P. AFFIRMATIVE CLAIMS**

Claims brought by the City against individuals, companies, and corporations for damages to City property.

# **II. PROPERTY DAMAGE CLAIMS**

## **A. ADMIRALTY**

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

## **B. SEWER OVERFLOW**

Sewer overflow claims include alleged 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 alleged water damage to real or personal property as a result of leaking or broken water mains or fire hydrants.

## **D. ROADWAY**

This claim type includes claims for vehicles that are damaged by allegedly 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 an alleged fall on a defective roadway.

## **E. SIDEWALK**

Sidewalk claims are made by individuals who sustain damage to personal property as a result of an allegedly defective sidewalk.

**F. TRAFFIC DEVICE**

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

**G. POLICE ACTION**

Police action claims relate to vehicles or other personal property that is allegedly stolen, damaged, sold, or destroyed while in police custody.

**H. SCHOOL**

School claims include allegations for 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 allegedly been lost, stolen, or damaged while on HH or City hospital property.

**J. MOTOR VEHICLE**

Motor vehicle claims include vehicles or other personal property that is allegedly damaged in accidents with City-owned vehicles. Included are parked cars allegedly hit by City-owned vehicles and vehicles damaged while being towed.

**K. UNIFORMED SERVICES/CITY EMPLOYEES**

This claim type includes claims for personal property that is allegedly lost, damaged, or stolen from City employees while at work.

**L. PARKS AND RECREATION**

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

**M. PUBLIC BUILDINGS AND PROPERTY**

This claim type includes claims for personal property allegedly damaged or stolen as a result of a defect or negligence in maintaining City-owned land, buildings or facilities.

**N. CATASTROPHE**

These claims include property damage allegedly 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 allegedly caused by City-owned vehicles or equipment, such as a City-owned 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, detainees, or visitors whose personal property is lost, stolen, or damaged while in a correction institution.

### **III. LAW CLAIMS**

#### **A. CONTRACT**

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

#### **B. ALTERNATIVE DISPUTE RESOLUTION**

Contracts between the City and vendors solicited after September 1990 include an Alternative Dispute Resolution provision designed to provide a speedy alternative to litigation. When disputes arise, contractors may attempt to resolve them directly with the City 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. SALARY**

Salary claims are those claims for back pay and/or attorneys' fees 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; excluded from this claim type is those claims that are seeking damages for personal injury.

#### **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.

**G. SPECIAL EDUCATION**

These claims include claims on behalf of parents for the reimbursement of special education services costs and tuition and claims for statutory attorneys' fees where an underlying claim for special education reimbursement has been successful.

**H. AFFIRMATIVE CLAIMS**

Claims brought by the City against individuals, companies, and corporations for torts, breaches of contract, and remedy for violations of civil codes.



## 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>20</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>21</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>22</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/trip 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 Comptroller's Office.<sup>23</sup> However, in the case of claims against the HH, claims must be filed directly with HH. In most instances, the notice of claim for personal injury or property damage must be filed within 90 days of an alleged injury or wrong.<sup>24</sup>

The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.<sup>25</sup> The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.<sup>26</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>27</sup> The Office of the Corporation Counsel, under the direction of the Corporation Counsel, defends the City in most actions (HH defends its medical malpractice actions). No litigation can be settled without the approval of the Comptroller.<sup>28</sup>

## **APPENDIX C**

### **Top Tort Claims Adjudicated in FY 2016**

Five claimants/plaintiffs arrested and convicted in connection with the “Soundview Murders” that occurred in January 1995. Claimants/plaintiffs were each incarcerated for more than 17 years. Claimants/plaintiffs alleged wrongful conviction. Settlement: Total of \$40.0 million; \$8.0 million per claimant/plaintiff.

Six claims filed against the NYPD stemming from the “Mafia Cops” were resolved. Settlement: A total of \$13.5 million; per claimant/plaintiff(s) \$5.0 million (divided by three surviving claimants/plaintiffs), \$1.9 million, \$1.8 million, \$1.8 million, \$1.5 million (divided by four surviving claimants/plaintiffs), and \$1.5 million.

Claimant/plaintiff, convicted in a sexual assault case, served 12 years in prison<sup>29</sup> before DNA evidence exonerated him. After a plaintiff’s verdict and an appeal, the verdict was remitted. Settlement: \$12.1 million.

The City resolved the attorneys’ fees in *Floyd v. City of New York*, a civil rights class action against the NYPD for allegedly unconstitutional stop and frisk policy and practice. Settlement: \$11.3 million.

A class action against the Department of Correction alleging excessive use of force and other policy and practices that allegedly violated the Constitution. Settlement: Total of \$9.7 million.

A 25-year-old woman underwent bariatric surgery at Harlem Hospital. Claimant/plaintiff alleged medical malpractice during post-operative care that caused brain injury resulting in her vegetative state. Settlement: \$8.0 million.

Claimant/plaintiff, a 56-year-old man, alleged excessive force when police officers allegedly dropped him on his head, resulting in quadriplegia. Settlement: \$6.0 million.

Claimant/plaintiff, a 40-year-old-mother of four, alleged medical malpractice after suffering a brain injury following hernia surgery at Lincoln Hospital. Settlement: \$6.0 million.

## APPENDIX D

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**APPENDIX E**  
**Detailed Tables**  
**Table I – Number of Tort Claims Filed by Claim Type FYs 2007-2016**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>Personal Injury</b>										
Sidewalk	2,520	2,375	2,548	2,278	2,503	2,014	2,041	2,529	2,559	2,378
Police Action	2,447	2,868	3,360	3,957	4,515	5,535	5,579	5,645	4,926	4,473
School	1,258	1,169	1,141	1,023	1,078	1,060	928	966	924	959
Motor Vehicle	1,310	1,440	1,285	1,347	1,306	1,380	1,187	1,256	1,162	1,226
Roadway	1,111	1,106	1,144	1,051	1,115	947	882	1,002	963	1,042
City Property	4,680	825	627	9,172	1,106	562	534	683	652	705
Correction Facility	989	1,061	1,043	1,188	1,183	1,595	1,657	2,241	2,793	3,658
Civil Rights	1,554	1,769	1,954	2,682	3,080	2,787	2,749	2,918	2,714	2,272
Medical Malpractice	655	701	684	652	610	623	605	588	627	621
Traffic Control Device	167	117	103	109	76	108	126	77	79	62
Parks & Recreation	246	237	261	226	273	286	270	278	297	305
Uniformed Services Employee	183	163	140	164	163	150	151	161	158	165
Other	782	723	747	738	886	768	785	883	844	773
<b>Total</b>	<b>17,902</b>	<b>14,554</b>	<b>15,037</b>	<b>24,587</b>	<b>17,894</b>	<b>17,815</b>	<b>17,494</b>	<b>19,227</b>	<b>18,698</b>	<b>18,639</b>

<b>Property Damage</b>										
Motor Vehicle	3,855	3,752	3,631	3,969	4,723	3,186	3,323	3,682	3,432	3,909
City Property	101	237	152	131	135	90	310	260	201	164
Correction Facility	211	274	297	442	309	397	263	318	354	286
City Personnel	1,130	1,167	1,166	1,309	1,734	1,349	1,346	962	1,045	1,260
Roadway	1,121	1,518	1,275	2,333	2,806	1,218	1,036	2,844	2,240	1,585
Health Facility	122	160	132	126	103	96	120	140	123	108
Police Action	321	384	299	309	378	366	362	341	302	226
School	236	201	189	179	182	144	107	128	89	100
Sewer Overflow	282	1,503	192	188	205	668	602	613	452	109
Water Main	211	159	158	194	153	238	108	240	156	110
Other	241	513	312	242	273	262	272	244	270	304
<b>Total</b>	<b>7,831</b>	<b>9,868</b>	<b>7,803</b>	<b>9,422</b>	<b>11,001</b>	<b>8,014</b>	<b>7,849</b>	<b>9,772</b>	<b>8,664</b>	<b>8,161</b>
<b>Grand Total</b>	<b>25,733</b>	<b>24,422</b>	<b>22,840</b>	<b>34,009</b>	<b>28,895</b>	<b>25,829</b>	<b>25,343</b>	<b>28,999</b>	<b>27,362</b>	<b>26,800</b>

**Table II – Number of Tort Claims Filed by Agency  
FYs 2007-2016**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Department of Transportation	5,136	5,403	5,127	5,997	6,337	4,669	4,446	6,299	5,633	5,193
Police Department	5,612	6,225	6,668	8,013	8,798	9,440	9,412	9,491	8,423	7,562
Department of Sanitation	1,766	1,646	1,767	2,123	3,454	1,306	1,692	2,411	2,299	2,163
Department of Education	1,734	1,697	1,628	1,833	1,604	1,566	1,416	1,423	1,407	1,428
NYC Health + Hospitals	908	1,003	932	909	858	845	934	870	903	885
Department of Environmental Protection	761	2,314	737	700	737	1,357	996	1,123	885	509
Department of Correction	1,463	1,610	1,596	1,949	1,798	2,351	2,189	2,910	3,462	4,321
Department of Parks & Recreation	1,026	1,029	1,019	1,101	1,405	1,095	1,048	872	884	1,056
Fire Department	909	963	992	920	1,041	891	932	942	947	1,013
Department of Housing Preservation and Development	103	82	75	82	71	68	74	66	50	64
NYC Human Resources Administration	44	54	52	65	63	76	88	75	74	67
Department of Buildings	43	230	149	955	75	82	61	52	77	57
Other	6,228	2,166	2,098	9,362	2,654	2,083	2,055	2,465	2,318	2,482
<b>Total</b>	<b>25,733</b>	<b>24,422</b>	<b>22,840</b>	<b>34,009</b>	<b>28,895</b>	<b>25,829</b>	<b>25,343</b>	<b>28,999</b>	<b>27,362</b>	<b>26,800</b>

**Table III - Dollar Amount of Tort Claim Settlements and Judgments by Claim Type  
FYs 2007-2016**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>Personal Injury</b>										
Sidewalk	71,511,708	54,870,423	39,760,227	34,904,412	38,426,098	39,528,306	36,752,110	34,743,430	39,597,496	31,793,833
Police Action	25,533,667	34,616,512	48,413,383	56,788,953	60,237,524	54,334,625	62,875,691	71,938,087	119,533,941	100,553,673
School	41,205,083	53,563,040	54,311,099	35,091,262	42,943,246	25,777,081	24,018,498	24,746,687	32,279,057	28,067,195
Motor Vehicle	55,037,180	56,724,117	79,750,916	63,433,038	83,896,291	70,551,942	85,309,416	88,515,029	67,314,614	89,689,194
Roadway	19,122,676	36,165,533	24,622,949	27,742,588	19,453,578	25,717,847	33,134,170	13,710,874	15,371,910	30,763,503
City Property	34,130,604	26,011,521	30,444,952	14,176,063	18,841,199	8,395,091	5,465,500	21,797,000	4,931,000	19,893,554
Correction Facility	8,857,503	8,199,183	5,938,403	5,025,429	8,504,000	7,833,193	7,312,301	7,323,835	13,185,550	14,115,251
Civil Rights	54,148,433	42,242,687	47,062,984	80,940,455	83,998,422	78,200,352	56,023,108	104,503,798	94,329,034	157,992,639
Medical Malpractice	155,727,867	152,739,578	127,288,634	131,236,136	131,816,744	108,943,419	130,290,406	118,479,990	144,725,937	101,110,210
Traffic Control Device	3,027,925	3,319,500	1,120,750	2,883,300	3,206,350	2,396,000	1,292,315	7,589,500	604,000	2,459,000
Parks & Recreation	12,755,261	7,881,426	5,714,315	7,965,906	7,102,606	12,069,875	20,328,830	13,997,709	6,140,200	8,429,133
Uniformed Services Employee	33,551,471	38,389,850	30,096,000	41,971,283	31,039,500	20,404,000	17,450,382	27,998,500	33,439,000	21,617,500
Other	20,705,877	15,902,378	53,665,446	10,979,970	9,228,394	21,677,145	6,460,359	13,522,260	3,553,393	13,639,985
<b>Total</b>	<b>535,315,255</b>	<b>530,625,748</b>	<b>548,190,058</b>	<b>513,138,795</b>	<b>538,693,951</b>	<b>475,828,876</b>	<b>486,713,085</b>	<b>548,866,697</b>	<b>575,005,132</b>	<b>620,124,670</b>
<b>Property Damage</b>										
Motor Vehicle	5,634,961	5,691,702	5,470,334	5,877,547	8,180,319	6,038,833	5,586,990	7,403,408	5,160,278	5,207,672
City Property	198,888	515,162	15,863	8,569	2,815,834	162,524	375,969	67,962	16,554	87,569
Correction Facility	2,801	1,919	14,960	1,551	18,195	18,225	13,061	2,220	665	8,475
City Personnel	1,450,981	3,303,527	579,380	873,332	1,171,735	959,898	971,018	1,494,155	731,826	396,428
Roadway	274,973	820,666	271,099	288,777	423,961	215,726	140,124	192,379	215,029	537,552
Health Facility	2,866	21,559	18,071	19,648	13,037	13,191	18,376	27,144	6,299	13,370
Police Action	188,699	160,451	120,248	513,676	140,899	170,059	388,101	102,697	71,487	56,155
School	7,589	7,604	11,627	24,157	12,454	10,063	4,581	10,110	9,014	4,083
Sewer Overflow	307,720	1,915,311	272,679	383,619	792,808	775,242	546,357	712,861	7,224,105	1,650,663
Water Main	639,425	1,823,962	664,587	2,142,514	1,577,070	3,183,273	314,365	294,175	344,127	1,437,349
Other	13,365	42,005	2,192,880	13,820	97,826	12,118	9,483	25,425	9,391	23,843
<b>Total</b>	<b>8,722,268</b>	<b>14,303,868</b>	<b>9,631,728</b>	<b>10,147,209</b>	<b>15,244,137</b>	<b>11,559,152</b>	<b>8,368,425</b>	<b>10,332,536</b>	<b>13,788,775</b>	<b>9,423,158</b>
<b>Grand Total</b>	<b>544,037,523</b>	<b>544,929,616</b>	<b>557,821,786</b>	<b>523,286,004</b>	<b>553,938,087</b>	<b>487,388,028</b>	<b>495,081,510</b>	<b>559,199,233</b>	<b>588,793,907</b>	<b>629,547,828</b>



**Table IV – Dollar Amount of Tort Claim Settlements and Judgments by Agency  
FYs 2007-2016**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Department of Transportation	91,729,912	92,500,409	69,697,287	68,204,956	64,147,699	61,924,384	72,253,571	70,786,516	52,021,542	67,717,821
Police Department	89,772,480	104,935,819	134,569,242	137,579,753	186,305,883	152,803,932	138,497,141	219,836,207	225,594,487	279,744,761
Department of Sanitation	35,877,754	27,241,773	32,886,946	38,020,148	28,858,968	36,815,516	30,446,682	37,886,076	29,769,775	40,307,103
Department of Education	41,959,592	53,116,679	55,863,463	36,947,943	52,957,832	28,577,646	32,320,477	27,415,549	35,514,785	33,589,781
NYC Health + Hospitals	158,745,210	153,881,559	134,946,576	135,593,099	133,616,195	108,642,285	132,343,695	124,887,221	121,360,654	112,234,094
Department of Environmental Protection	3,786,706	8,478,133	8,109,061	7,857,296	8,071,431	5,628,320	3,372,170	13,182,950	18,795,525	7,278,861
Department of Correction	16,971,195	21,390,722	16,258,404	43,580,956	15,403,868	20,308,756	11,767,521	11,103,116	27,144,858	31,298,230
Department of Parks & Recreation	15,817,606	12,138,161	9,415,871	16,104,444	17,673,228	18,971,285	29,564,344	18,330,734	13,844,953	11,659,774
Fire Department	22,562,845	18,602,877	16,318,205	20,007,262	16,231,360	28,485,774	19,665,971	20,426,695	46,626,403	16,401,152
Department of Housing Preservation and Development	18,179,508	21,283,261	15,727,510	5,126,366	5,057,356	2,154,067	555,452	2,705,221	1,964,125	9,255,842
NYC Human Resources Administration	4,840,071	866,534	1,482,725	387,636	1,278,134	1,580,241	1,035,063	985,692	970,799	1,671,131
Department of Buildings	854,544	1,413,458	380,236	112,152	2,941,818	218,006	377,908	157,901	268,913	2,966,514
Other	42,940,100	29,080,231	62,166,260	13,763,993	21,394,315	21,277,816	22,881,515	11,495,355	14,917,088	15,422,764
<b>Grand Total</b>	<b>544,037,523</b>	<b>544,929,616</b>	<b>557,821,786</b>	<b>523,286,004</b>	<b>553,938,087</b>	<b>487,388,028</b>	<b>495,081,510</b>	<b>559,199,233</b>	<b>588,793,907</b>	<b>629,547,828</b>

**Table V – Number of Tort Claim Settlements and Judgments by Claim Type  
FYs 2007-2016**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>Personal Injury</b>										
Sidewalk	1,489	1,317	1,041	922	866	857	685	658	664	650
Police Action	715	980	1,144	1,300	1,539	1,751	2,105	2,249	2,278	2473
School	978	1,065	848	823	902	728	660	532	482	545
Motor Vehicle	964	1,041	909	895	824	832	725	668	587	656
Roadway	713	750	559	512	547	511	417	367	334	364
City Property	162	170	138	107	113	93	61	70	38	86
Correction Facility	144	159	227	195	266	309	255	378	451	634
Civil Rights	4,428	938	1,141	1,281	1,656	1,687	1,558	2,047	1,681	1351
Medical Malpractice	300	311	292	315	265	260	267	204	245	230
Traffic Control Device	95	73	55	38	32	28	22	29	20	14
Parks & Recreation	176	188	153	137	155	175	164	149	136	168
Uniformed Services Employee	105	123	90	117	84	106	75	95	121	110
Other	99	76	109	86	78	81	62	69	51	64
Total	10,368	7,191	6,706	6,728	7,327	7,418	7,056	7,515	7,088	7,345
<b>Property Damage</b>										
Motor Vehicle	2,703	2,513	2,342	2,495	3,216	2,254	2,135	2,379	1,896	1,917
City Property	27	17	10	10	16	20	19	39	6	61
Correction Facility	9	9	6	5	21	11	12	5	3	5
City Personnel	351	332	262	352	329	374	353	408	284	161
Roadway	244	300	275	306	437	208	117	197	287	88
Health Facility	19	44	36	33	25	23	22	40	17	16
Police Action	55	52	62	45	45	48	48	35	26	18
School	53	42	39	83	55	47	26	35	35	15
Sewer Overflow	57	55	60	50	88	60	115	144	650	104
Water Main	76	97	88	77	94	62	51	51	38	68
Other	13	18	14	16	8	7	6	10	6	7
Total	3,607	3,479	3,194	3,472	4,334	3,114	2,904	3,343	3,248	2,460
<b>Grand Total</b>	<b>13,975</b>	<b>10,670</b>	<b>9,900</b>	<b>10,200</b>	<b>11,661</b>	<b>10,532</b>	<b>9,960</b>	<b>10,858</b>	<b>10,336</b>	<b>9,805</b>

**Table VI – Number of Tort Claim Settlements and Judgments by Agency  
FYs 2007-2016**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Department of Transportation	2,565	2,437	1,962	1,868	1,935	1,689	1,363	1,393	1,381	1,170
Police Department	2,670	2,962	3,160	3,572	4,117	4,359	4,519	5,050	4,443	4,242
Department of Sanitation	1,499	1,312	1,254	1,376	2,103	1,302	1,045	1,426	1,133	1,182
Department of Education	1,055	1,133	943	961	995	812	733	616	561	599
NYC Health + Hospitals	398	434	413	419	345	337	336	315	313	350
Department of Environmental Protection	297	333	303	284	373	283	300	292	794	283
Department of Correction	3,531	313	388	365	441	464	387	534	601	838
Department of Parks & Recreation	417	436	355	375	391	430	428	390	354	351
Fire Department	578	652	624	642	596	508	586	585	510	488
Department of Housing Preservation and Development	97	92	55	30	35	26	17	14	11	21
NYC Human Resources Administration	30	31	17	21	13	19	20	16	20	26
Department of Buildings	25	25	13	16	20	25	17	17	12	11
Other	813	510	413	271	297	278	209	210	203	244
<b>Total</b>	<b>13,975</b>	<b>10,670</b>	<b>9,900</b>	<b>10,200</b>	<b>11,661</b>	<b>10,532</b>	<b>9,960</b>	<b>10,858</b>	<b>10,336</b>	<b>9,805</b>

**Table VII – Number of Law Claims Filed by Claim Type  
FYs 2010\*-2016**

	2010	2011	2012	2013	2014	2015	2016
Affirmative	669	857	768	799	753	875	911
Contract	149	185	179	217	134	155	152
Disputes	96	100	141	157	177	118	173
Equitable	17	18	7	10	6	4	11
Other	2,635	358	327	275	239	238	243
Refund	138	176	784	173	234	209	168
Salary	83	86	347	83	89	92	91
Special Education	182	2,161	2,439	2,029	2,582	4,478	4,091
Total	3,969	3,941	4,992	3,743	4,214	6,169	5,840

\*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2016 is provided.

**Table VIII – Number of Law Claims Settlements & Judgments by Claim Type  
FYs 2010\*-2016**

	2010	2011	2012	2013	2014	2015	2016
Affirmative	614	858	752	785	742	867	880
Contract	26	18	28	27	26	22	33
Disputes	47	30	35	30	44	45	60
Equitable	8	12	8	3	2	6	2
Other	2,301	45	44	31	26	35	39
Refund	10	15	25	590	16	21	26
Salary	17	4,418	21	19	23	286	28
Special Education	540	2,086	2,366	1,841	2,223	4,067	3,770
Total	3,563	7,482	3,279	3,326	3,102	5,349	4,838

\*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2016 is provided.

**Table IX – Dollar Amount of Law Claims Settlements & Judgments by Claim Type\*  
FYs 2010\*\*-2016**

	2010	2011	2012	2013	2014	2015	2016
Contract	\$12,629,562	\$8,997,798	\$21,840,545	\$50,992,338	\$19,573,476	\$44,846,785	\$49,603,907
Disputes	\$4,509,068	\$3,667,018	\$4,519,344	\$3,105,639	\$7,325,629	\$3,001,135	\$6,028,867
Equitable	\$661,072	\$394,391	\$1,311,758	\$446,904	\$76,576	\$616,256	\$25,143
Other	\$116,274,262	\$14,259,856	\$96,579,904	\$4,501,988	\$7,402,205	\$6,732,560	\$38,261,274
Refund	\$12,404	\$64,960	\$431,997	\$298,402	\$118,118	\$699,468	\$14,208,915
Salary	\$6,021,876	\$10,226,385	\$5,284,521	\$33,332,876	\$104,468,018	\$65,511,792	\$16,510,008
Special Education	\$24,946,960	\$105,466,595	\$120,577,708	\$106,243,225	\$130,450,454	\$249,944,721	\$256,303,283
Total	\$165,055,203	\$143,077,003	\$250,545,777	\$198,921,372	\$269,414,476	\$371,352,717	\$380,941,396

\*Figures on Law Claims settlements and judgments dollar amount does not include claims wherein the City is to receive payment

\*\*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2016 is provided.

## ENDNOTES

- <sup>1</sup> City Charter Chapter 5, § 93(i).
- <sup>2</sup> The Comptroller's Office records claims data in its Omnibus Automated Image Storage and Information System (OAISIS). This report is based on data available in OAISIS as of January 18, 2017 for tort claims and January 6, 2017 for law claims. 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.
- <sup>3</sup> New York City's tort claim costs are paid from the Judgments and Claims account established annually in the City's General Fund, except NYC Health + Hospitals assumes financial responsibility for its settlements.
- <sup>4</sup> NY Exec. Law § 632-a(1)(a), (b).
- <sup>5</sup> Actions filed against the "Mafia Cops," former NYPD Detectives Louis Eppolito and Steven Caracappa, for alleged connections to the murders that happened in the 1980s and 1990s, settled for \$13.5 million. (A related case involving these former Detectives settled for \$5.0 million in FY 2015; further, Barry Gibbs, convicted of murdering a woman in Brooklyn and incarcerated for 19 years, sued former Detective Eppolito alleging wrongful conviction in a case that settled for \$9.9 million in FY 2011.)
- <sup>6</sup> For the purposes of the Claims Report, "filed" describes those claims in which a notice of claim was timely filed with the Comptroller's Office; "settled" means any claim or lawsuit that was resolved and resulted in the City paying out money to claimant.
- <sup>7</sup> See Appendix A for a description of claim types.
- <sup>8</sup> In FY 2016, DOE claims filed increased to 1,428 up from 1,407 claims filed in FY 2015.
- <sup>9</sup> Individuals convicted of the "Soundview Murders" that occurred on January 17-19, 1995, had their convictions vacated in 2012 and 2013, after two other individuals confessed to the murders.
- <sup>10</sup> Alan Newton, convicted of sexual assault, and exonerated by DNA evidence. *Newton v. City of New York*, 784 F.Supp.2d 470 (S.D.N.Y. 2011)(Judge Scheindlin set aside jury verdict of \$18.0 million based on Section 1983 claims); 739 F.3d 140 (2d Cir. 2015)(Second Circuit vacated Judge Scheindlin's decision, reinstated jury verdict, and remanded the case for remittitur); 136 S.Ct. 795 (2016)(Supreme Court denied *cert* for City appeal of Second Circuit decision); 171 F.Supp.3d (S.D.N.Y. 2016)(Judge Scheindlin reduced jury award to \$12.0 million).
- <sup>11</sup> HH operates 11 acute care hospitals.
- <sup>12</sup> In FY 2016, the remaining 24 medical malpractice claims filed were against NYC long-term care centers, correction facilities, family care centers, emergency medical services, or unidentified health care facilities.
- <sup>13</sup> In FY 2015, the remaining 100 medical malpractice claims filed were against NYC long-term care centers, correction facilities, family care centers, emergency medical services, or unidentified health care facilities.
- <sup>14</sup> Personal injury and property damage claims are analyzed by borough based on location of incident. Some notices of claim are filed without borough specific information or allege incidents that occurred outside the five boroughs. Law claims are not tracked by borough. Population statistics do not take into account commuters or tourists.
- <sup>15</sup> The United States Census Bureau estimated as of July 1, 2015 the total population for New York City was 8,550,405 residents. In order of population the boroughs are: Brooklyn (2,636,735 or 31 percent of the total population); Queens (2,339,150 or 27 percent of the total population); Manhattan (1,644,518 or 19 percent of the total population); Bronx (1,455,444 or 17 percent of the total population); and Staten Island (474,558 or six percent of the total population). Statistics do not take into account commuters and tourists.
- <sup>16</sup> Rounded to the nearest whole claim.
- <sup>17</sup> These numbers include both claims by parents for reimbursement of special education costs and tuition and claims for attorneys' fees where an underlying claim for special education reimbursement has been successful.
- <sup>18</sup> While the total number of law claims settlements and judgements include all resolved law claims, law claims settlements and judgment payment figures do not include claims wherein the City is to receive payment.
- <sup>19</sup> Claims for special education services costs and tuition reimbursement submitted by the DOE for settlement at the administrative level are for claims of \$25,000 or more. Under a 1998 Memorandum of Understanding (MOU) between the Comptroller's Office and the DOE, the DOE is authorized to make annual tuition payments up to \$25,000 without Comptroller approval. The Comptroller may rescind this MOU at any time. Requests for settlement authority submitted by the Office of the Corporation Counsel for special education reimbursement claims that have proceeded to litigation are not subject to this MOU and are for claims in any amount.
- <sup>20</sup> *Bernadine v. City of New York*, 294 N.Y. 361, 365 (1945).
- <sup>21</sup> *Id.*
- <sup>22</sup> Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.



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- <sup>23</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://comptroller.nyc.gov/services/for-the-public/claims/file-a-claim/>).
- <sup>24</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 if no state cause of action is asserted.
- <sup>25</sup> City Charter, Chapter 5, § 93(i).
- <sup>26</sup> 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 Comptroller's Office Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the Office of the Corporation Counsel.
- <sup>27</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.
- <sup>28</sup> City Charter, Chapter 17, § 394(c).
- <sup>29</sup> The parties stipulated that damages would be limited to 12 years of incarceration.





New York City Comptroller  
**Scott M. Stringer**