

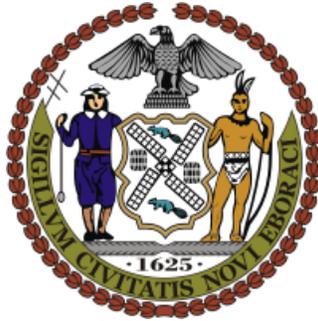


JOHN C. LIU  
COMPTROLLER

CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
CLAIMS REPORT  
FISCAL YEARS 2009 & 2010

June 15, 2011





June 15, 2011

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 Years 2009-2010. Under the New York City Charter, the Comptroller is responsible for settling and adjusting claims for and against the City.

This bi-annual publication provides New Yorkers with a detailed look at data and trends relating to claims filed against the City of New York for the past two fiscal years. Claims range from medical malpractice to slips and falls, and the dedicated staff in the Comptroller's Bureau of Law and Adjustment works tirelessly to ensure that settlements are in the best interest of the City, its residents, and taxpayers at all times.

Our goal is to be efficient and effective when investigating claims; as well as being fair when legitimate claims have to be adjusted or settled. In fact, this past year my office provided the public with the ability to file claims electronically via our webpage in order to make the filing process more user-friendly.

As we have seen in recent years, the settlement of claims and payments of judgments cost the City more than half a billion dollars annually. As the financial steward of the City, and working with our partners at City agencies, my goal is to ensure that we strike a delicate balance between making the legitimately injured whole while at the same time maintaining sound fiscal practices.

Sincerely,

John C. Liu  
New York City Comptroller

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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> For Fiscal Year (“FY”) 2010, (the new Comptroller actually took office January 1, 2010, six months after the start of the fiscal year) the City paid out \$520.6 million in personal injury and property damage tort settlements and judgments; seven percent less than in FY 2009.<sup>2</sup> In FY 2009, the City paid out \$559.9 million in tort settlements and judgments. The claims ranged from, among other things, trips, slips and falls to medical malpractice, police actions and motor vehicle property damage claims.

In addition to tort claims, the City paid out \$165.1 million in non- tort claims in FY 2010 and \$94.5 million in FY 2009<sup>3</sup>. These claims consist primarily of disputes concerning contracts between City agencies and their contractors or employees as well as alternative dispute resolution claims, equitable claims, refund claims, Department of Education (“DOE”) tuition reimbursement claims and sidewalk assessment claims.

This report provides a comprehensive examination of data regarding claims filed against the City in FY 2010 and analyzes recent claim trends. The settlement of tort claims and payment of judgments continues to cost the City more than half a billion dollars annually. As part of an aggressive effort to contain settlement costs, the Comptroller’s

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<sup>1</sup> City Charter Chapter 5 § 93(i) provides that: “The Comptroller shall have the power to settle and adjust all claims in favor of or against the city in such manner as shall be prescribed by law....”

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

<sup>3</sup> The primary reason for the FY 2010 increase is due to DOE tuition reimbursement settlements and/or judgments, which totaled \$132.9 million in FY 2010 as compared to \$39.6 million in FY 2009.

Office has adopted a number of strategies to settle claims earlier and reduce overall costs.

The Comptroller's Office also has strengthened its efforts to collect funds owed by individuals who have caused damage to City property. The Property Damage/Affirmative Claims unit collected more than \$1.3 million in FY 2010. The Office will continue to expand its efforts to ensure that money owed to the City is collected. Additionally, through the Comptroller's Recovery Program, more than \$ 5.4 million was collected in FY 2010 from claimants with outstanding obligations (e.g., child support payments, public assistance payments, etc.) to the City and/or their families.

The Comptroller's Office is committed to the fair and early settlement of any meritorious claim where an individual was injured or their property damaged through no fault of their own, but by the City's negligence. The early settlement of these claims avoids the actual cost of litigation and mitigates the risk of unpredictable outcomes at trial. By settling claims early, the City saved nearly \$18.2 million in payouts during FY 2010.

The New York City Health and Hospitals Corporation ("HHC"), the Police Department ("NYPD") and the Department of Transportation ("DOT") are the three agencies that are consistently responsible for the highest total dollar amounts paid by the City in judgments and settlements. In fact, these three agencies accounted for approximately 67 percent of the total tort claims paid out in FY 2010.

Since FY 2001, HHC has been pro-active in the areas of risk and litigation management with impressive results.<sup>4</sup> The number of tort claims against HHC has dropped 26 percent since FY 2001.

Although HHC's pro-active risk and litigation management efforts have made significant strides, medical malpractice remains an area of particular concern, as these claims continue to represent some of the largest individual payouts made by the City. Nonetheless, their efforts have resulted in a decrease in overall medical malpractice claim filings from a high of 889 in FY 2000 to 650 in FY 2010, the lowest number of new filings in the last 11 years. Settlement costs have also decreased significantly. In FY 2003, the City paid a 10-year high of \$195.4 million for medical malpractice claims. In contrast, the City paid \$130.1 million in FY 2010, the second lowest payout in the last 11 years.

A growing area of concern is the increase of claims filed against the NYPD. In FY 2010, 8,104 claims were filed against the NYPD—a historical high amount. The NYPD has seen the number of claims rise 43 percent over the last five years. The increase in claims filed over this period has contributed to the increase in the total payout for NYPD related claims. For FY 2009 and FY 2010, the amount of settlements and/or judgments paid as a result of NYPD operations has surpassed the amount paid out for HHC. A

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<sup>4</sup> One likely reason that HHC has been especially successful in containing claim costs is that, unlike every other agency, HHC is responsible for its own claim costs. As a result, HHC has invested in risk management initiatives, supervises the litigation of their own claims. They carefully monitor incidents and practices that would give rise to claim activity.

review of settlements and/or judgments reported for the City for the last 30 years revealed that this was the first time that an agency other than HHC had the highest claims pay out for a particular year.

The Comptroller's Office recommends that as a result of HHC's success in the area of risk and litigation management, their model may be worth replicating in other City agencies. DOT, NYPD and DOE would likely benefit by starting pilot programs which replicate HHC's model with regard to risk and litigation management.

In order to increase transparency and fiscal accountability with regard to claims and civil litigation, the Mayor's Management Report ("MMR") should also track each agency's claims data and document efforts to contain claim costs through risk management practices or litigation support.

The following report presents an overview of the three categories of claims filed (Personal Injury, Property Damage, and non-tort Law Claims) and their costs for the five-year period from FY 2006 through FY 2010.<sup>5</sup>

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<sup>5</sup> The Comptroller's Office maintains claims data on its Omnibus Automated Image Storage and Information System (OASIS). There exists a time lag between when settlements occur and when settlements and other updates are entered into the system, the data may not include all claims against the City that ultimately will be settled and attributed to a particular year. For the purpose of this report, "settlement and judgment costs," "liabilities," "expenditures" or "amounts paid" will be used interchangeably with "recorded settlements and judgments."

Section II discusses the Comptroller's initiatives to manage risk and implement best practices.

Section III focuses on overall tort claim activities in FY 2010 and compares them to FY 2009 claims data.

Section IV presents in tort claim trends by agency. Section V analyzes tort claims by borough.

Section VI reviews non-tort Law claims.

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

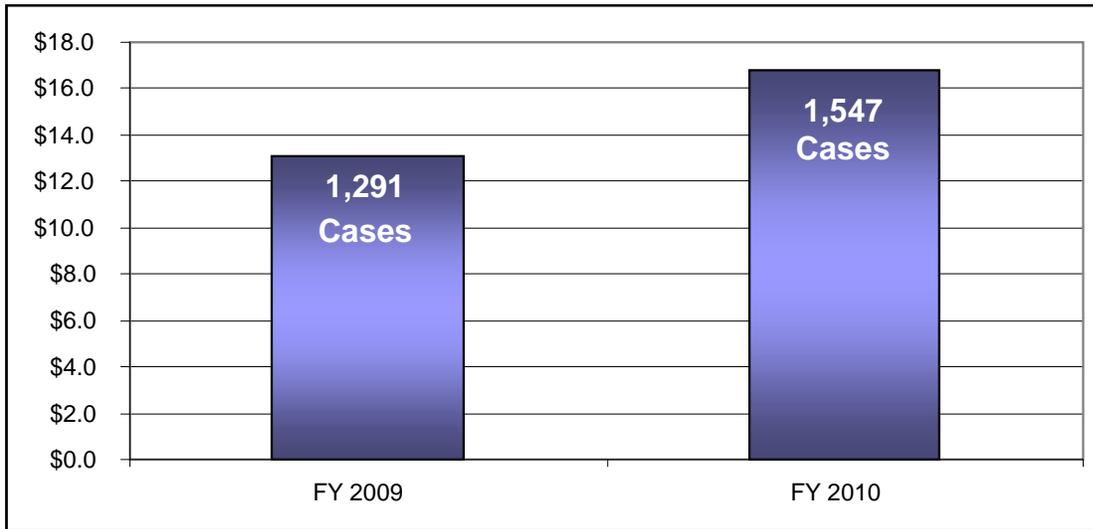
### **Pre-Litigation Settlements**

In FY 2010, the Comptroller's Office settled 1,547 personal injury claims prior to litigation. In FY 2009, the Comptroller's Office settled 1,291 personal injury claims prior to litigation. Approximately a 20% increase in settlements can be attributed to several factors such as the Office: streamlining processes, leveraging technology to allow early investigation and negotiation of claims, and partnering with other agencies. This effort saved the City approximately \$18.2 million in settlement costs in FY 2010 and \$17.2 million in FY 2009.

In FY 2010, the average pre-litigation personal injury settlement was \$14,506, whereas the average settlement for similar personal injury claims once litigation commenced was \$24,269. In FY 2009, the average pre-litigation settlement was \$12,997, whereas the average settlement for similar claims once litigation commenced was \$21,856.

**Chart 1**

**Pre-Litigation Personal Injury Settlements**



**Recovery Program**

In FY 2010 and FY 2009, the Comptroller’s Office collected \$5.4 million and \$7.4 million respectively from claimants with outstanding obligations to the City and those individuals having child support orders that were in arrears. By using sophisticated automated City systems and by working closely with City agencies--particularly with the Human Resources Administration (“HRA”)--the Office has been able to collect 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**

The Comptroller’s Office continues to expand efforts to collect monies from individuals who have damaged City property. Most of these claims involve damage to the City’s motor vehicles, trees and other City infrastructure. As a result of the Comptroller’s

efforts in this area, a record \$1,387,467 in affirmative claims was collected in FY 2010. This represents an increase of 206 percent in affirmative claim collections since FY 2001 when \$934,079 in affirmative claims was collected. In FY 2009, \$1,202,246 in affirmative claims was collected.

The Comptroller's Office has partnered with the local prosecution offices to seek restitution as part of a criminal plea agreement or a conviction wherein City property was damaged.

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

The Comptroller's Office has been successful working 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 to convicted persons from which victims can recover money.

NY State's "Son of Sam" law requires that before a settlement over \$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 investigates whether there is a victim of a crime that can sue the perpetrator of the crime in Civil Court.

As of February 15, 2011, the Comptroller is holding \$304,519 for 10 cases pending the outcome of crime victims' civil actions against the convicted persons' settlements. The Comptroller's Office paid out \$103,000 to crime victims in FY 2010.

Our most successful effort in this area involved the settlement of a claim where an inmate in a City correctional facility was allegedly injured. The City settled the case for \$240,000. The Comptroller's Office notified Victims Services. They worked with the AG's Office to identify the victim of the crime who had been assaulted by the claimant. The Comptroller's Office coordinated with Victims Services and the AG's Office to hold back payment of the settlement allowing the claimant to pursue his claim against his assailant through the Civil Courts. The crime victim eventually received \$95,000 from the jailed claimant.

### **Electronic Claim Filing**

On March 24, 2010, then Governor Paterson signed into law an un-funded requirement that the City must accept service of a notice of claim by electronic means by September 19, 2010.

Within six months, the Comptroller's Office successfully designed, developed and implemented the **eClaim** system allowing claimants to electronically file a tort claim and attach supporting documentation. As of March 2011, approximately 1,400 tort claims have been filed electronically thus providing the public a convenient way to file claims through the internet (<http://www.comptroller.nyc.gov/bureaus/bla/>) and allowing the Comptroller's Office to efficiently process these claims.

### **Medicare Reporting Requirements**

Section 111 of the Federal Medicare Medicaid, and State Children's Health Insurance Program (SCHIP) Extension Act of 2007, is an un-funded mandate which requires that the City report to the federal government settlements being paid to medicare-eligible claimants. The Comptroller's Office is now required to report pre-litigation and no-fault claim activity involving Medicare-eligible claimants to the Centers for Medicare and Medicaid Services ("CMS"). The reporting requirements are extensive and require the gathering and inputting of additional data not previously collected. The failure to comply with Section 111's requirements can result in severe financial penalties.

To comply with the reporting requirements, the Comptroller's Office established policies and procedures to gather and input required data. Modifications to existing technological systems were designed and implemented to collect new data and file the required reports. The Comptroller's Office has also had to implement training for staff as well as redeploy/re-align our resources in order to carry out this mission. The

Comptroller's Office has already exchanged key data with CMS through the newly developed systems and will be in compliance with Section 111 reporting requirement.<sup>6</sup>

### **Streamlining the Hearing Process**

The New York General Municipal Law, §50(h) allows the City to conduct hearings of those who have filed claims against the City in order to investigate their claims prior to the start of any litigation.

The Comptroller has recently leveraged and modified existing technology to streamline the assignment and the completion of hearings .

Additionally, settlement staff has designed a standard confidential attorney product "on-line hearing abstract" that will now be required to be used by individual attorneys conducting the hearings. Hearing abstracts contain a summary of key information obtained during the hearing. This will allow the production of a consistent abstract for all hearings that are conducted on behalf of the City. Abstracts will be input directly into the Comptroller's automated claim system and will immediately be available to Comptroller's claims adjusters and attorneys seeking to investigate and settle claims early and efficiently. Another benefit of the electronic submission of the hearing abstract is that key data included in the document will automatically populate fields in

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<sup>6</sup> CMS has pushed back a number of deadlines for program implementation. The Comptroller's Office has already met No-Fault payment reporting obligations as required and has voluntarily met pre-litigation reporting requirements a year prior to the CMS newly established deadline.

the Comptroller's claim database, thus saving data-entry time and thereby saving money.<sup>7</sup>

### **Paperless Hearing Transcripts**

As stated above, the Comptroller's Office is entitled to conduct an examination of a claimant regarding their allegations prior to the start of a lawsuit. These hearings have traditionally been transcribed and printed out. In an effort to lower the cost of handling, processing and storing paper copies of hearing transcripts, the Comptroller's Office established new procedures requiring that hearing transcripts be electronically transferred and stored. As a result of this cost-free and environmentally beneficial initiative, the Comptroller and those that conduct hearings on behalf of the City will eliminate the handling, storage and production of an estimated 280,000 pages of transcripts annually.

### **Small Procurements**

The Bureau of Law and Adjustment has undertaken a series of small procurements for field investigation and independent medical examination services. As opposed to other more traditionally employed solicitation methods, such as Request for Proposals ("RFPs") and Request for Bids ("RFBs"), a small procurement is a highly efficient, time and cost saving procedure that eliminates several of the steps and reduces much of the

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<sup>7</sup> CMS has pushed back a number of deadlines for program implementation. The Comptroller's Office has already met No-Fault payment reporting obligations as required and has voluntarily met pre-litigation reporting requirements a year prior to the CMS newly established deadline.

paperwork required by the RFP and RFB methods while maintaining transparency, fairness and integrity of process. Further, by using the small procurement methodology, the office was able to better match the scale of our needs with the volume of the procurement.

Finally, the small procurement process encourages the participation of vendors such as Minority and Women-owned Business Enterprises (“M/WBE”) who might not respond to more expensive and time-consuming RFPs and RFBs. As a result of retooling our procurement process, two of four of the firms hired were M/WBE.

### **Joint Task Force Case Reviews with the Law Department and New York City Health and Hospitals Corporation (HHC)**

Periodic intensive case reviews of problematic claims against the City and HHC are an important tool for assessing their potential exposure on individual actions. Since the Comptroller’s Office approves all settlements, a thorough evaluation of the risks of litigation is important. These “face to face” meetings provide an opportunity for staff in all three agencies to develop strategies needed to negotiate and/or litigate these types of cases for the best possible outcome.

### **Incident Documentation and Evidence Preservation**

The Comptroller has implemented a new procedure to ensure that documents, records, media and other evidence related to an incident where claims may be or have already

been filed against the City are adequately preserved. Demands for preservation of potential evidence are forwarded to the Law Department as soon as they are received. The Law Department will coordinate with the agency or agencies involved to secure the materials requested. This early intervention has the potential for savings in that it will allow the Comptroller's Office and/or the City to better investigate, assess, defend, settle a matter whether it be in the claim stage or after litigation has commenced.

### **Other Cost Saving Measures**

The Comptroller's Office not only explored new and innovative ways to initiate cost savings measures, but it re-examined past practices and programs. In doing so, the Comptroller's Office re-evaluated our renewal options with Cybersettle, Inc. ("Cybersettle"), a contractor who supplied an internet based settlement service for a very discreet portion of our total operations in the personal injury area. After re-evaluating this program, which cost the City \$600,000 on an annual basis, we determined that the same goal or better could be accomplished by solely using our in-house staff to negotiate and settle claims. This eliminated the \$600,000 annual contract fee.

From 2004 until 2007, BLA conducted a pilot program wherein Cybersettle was used to settle most claims filed against the City prior to litigation being commenced. The Cybersettle system compared claim demands submitted by claimants and offers submitted by the Comptroller's Office while maintaining each parties position

confidential. If an offer exceeded or equaled a demand, the claim was considered settled and both parties were notified. Under this pilot program there was no annual contract fee. Instead, each party was charged a fee for a settlement. The pilot program demonstrated that settlements in the claim stage could be achieved using the internet and was recognized by winning an award.

In 2007, the Comptroller's Office decided to expand the Cybersettle program. However, the cost model for the new contract was different than the original pilot program. Instead of being charged for each individual settlement, the Comptroller's Office paid a fixed fee which equaled \$600,000 annually.

As stated above, when the 2007 contract ended, we re-evaluated Cybersettle's cost effectiveness and found that the anticipated cost savings did not migrate into the new contract. Our analysis found that:

- From July 1, 2009 thru December 31, 2009, BLA had **356** settlements using Cybersettle with a total average cost per claim (including the cost of Cybersettle) of **\$11,829**.
- From July 1, 2010 thru December 31, 2010, after the expiration of the Cybersettle contract, we had **526** settlements for a total average cost per claim of **\$11,053**.

Year	# of Settlements	Total Paid	Average per Claim	Per Claim Cybersettle Cost	Total Average Cost
2009	356	\$3,910,975	\$10,986	\$843	\$11,829
2010	526	\$5,813,633	\$11,053	\$0	\$11,053

### III. TORT CLAIM TRENDS (FYs 2009-2010)

In FY 2010, 32,913 new personal injury and property damage claims were filed, which represented the highest number of annual claim filings to date. This historical high number of claims filed during FY 2010 can be attributed to the unprecedented filing of new claims related to the injuries claimed by those working or living at or near the World Trade Center site after the attacks of September 11, 2001. (Approximately 6,645 World Trade Center-related claims were filed in FY 2010, accounting for 20 percent of new claims filed.)

The overall cost to the City for personal injury and property damage claim settlements and judgments was \$520.6 million in FY 2010. This represents a decrease of seven percent from the cost of tort claims in FY 2009 (\$559.9 million).

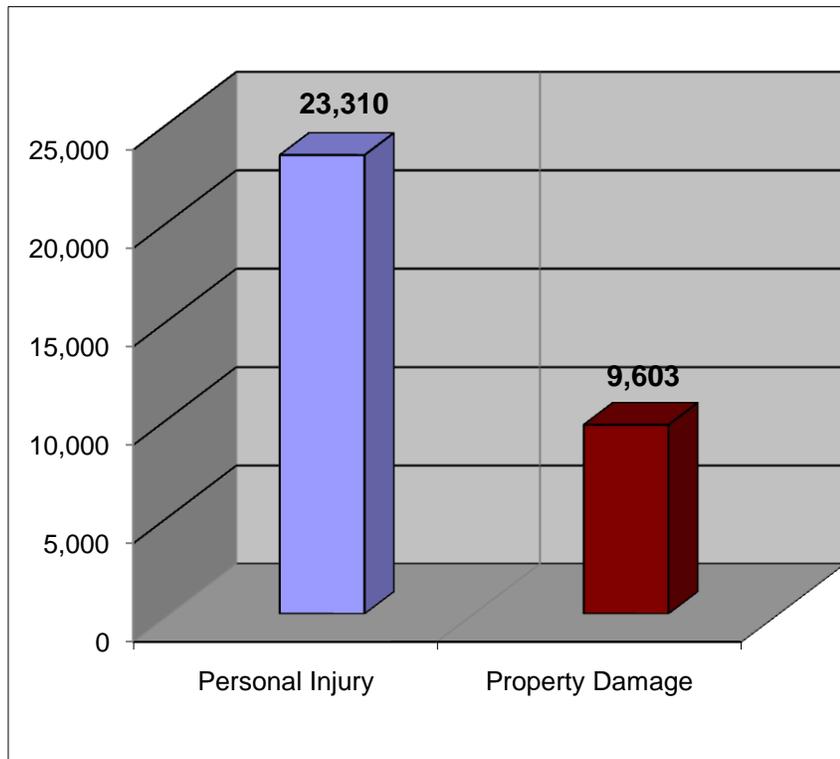
Claims are divided into three main categories: (a) personal injury, (b) property damage and (c) non-tort (“Law”) claims.<sup>8</sup>

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<sup>8</sup> Personal injury claims include allegations of bodily injury and/or civil rights violations. Property damage claims include allegations of damage to motor vehicles, homes and other physical assets. Law claims include allegations filed by City contractors or City employees as a result of contractual disputes, as well as claims filed by private individuals seeking refunds for alleged overpayments of various items such as taxes or fines.

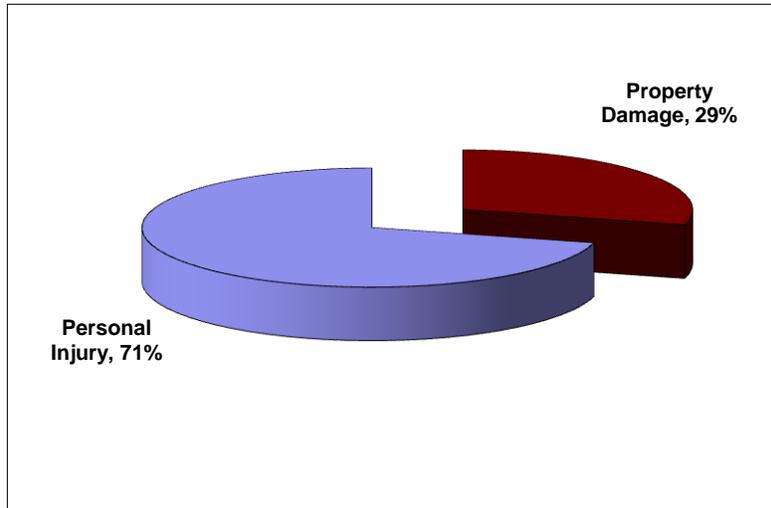
**Chart 2**

**Number of Tort Claims Filed by Category  
Fiscal Year 2010**



**Chart 3**

**Percentage of Claims Filed by Category  
Fiscal Year 2010**



**A. PERSONAL INJURY CLAIMS**

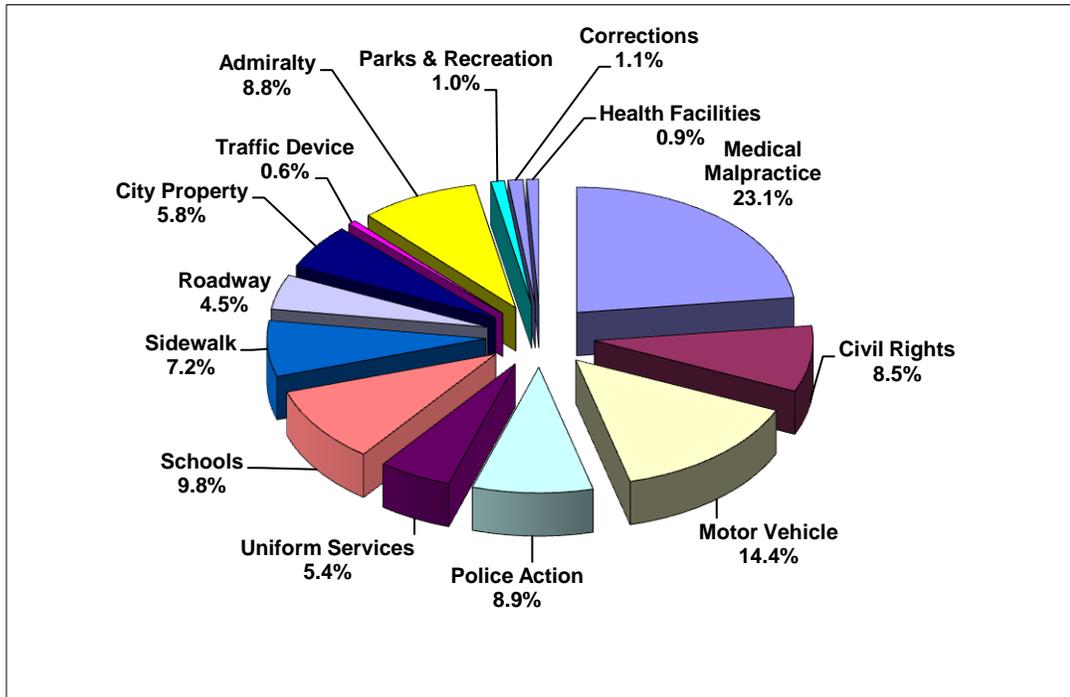
Personal injury claims are the most frequently filed each year and the most costly to resolve. Personal injury claims include, but are not limited to, medical malpractice, civil rights, motor vehicle accidents, police actions, uniform services, schools and defective sidewalk.

- Personal injury claims accounted for \$510.5 million, or 98 percent, of the \$520.6 million paid for tort claims in FY 2010. During FY 2009, personal injury claims accounted for \$550.3 million, or 99 percent of the \$559.9 million paid for tort claims.

- There were 74 settlements/judgments over \$1 million in FY 2010. For those 74 cases, a total of \$204.3 million was paid out. This amounted to 39 percent of the total tort claim payout for FY 2010.
- In FY 2010, the costliest personal injury claims category was medical malpractice, which cost the City \$130.1 million. The second costliest category was civil rights claims, at \$78.7 million. Motor vehicle claim settlements and judgments were the third costliest, at \$65.1 million. The fourth costliest category was police action claims, at \$56.4 million.
- The number of new personal injury claims filed in FY 2010 was 23,310, the highest annual number filed to date. However, 6,645 (29 percent of the total personal injury claim filings for FY 2010) of the new claim filings were related filings as a result of the 2001 attacks on the World Trade Center and were filed as a result of a federal judge's ruling. If we were to deduct those filings from the personal injury totals that would leave 16,665 new claims filed for FY 2010, which represents a 10 percent increase from FY 2009.
- The average settlement/judgment for all personal injury cases in FY 2010 was \$76,211, eight percent lower than the \$82,150 average paid in FY 2009.

**Chart 4**

**Percentage of Total Personal Injury Expenditures Recorded by Claim Type  
2009**



**Chart 5**

**Percentage of Total Personal Injury Expenditures Recorded by Claim Type  
2010**

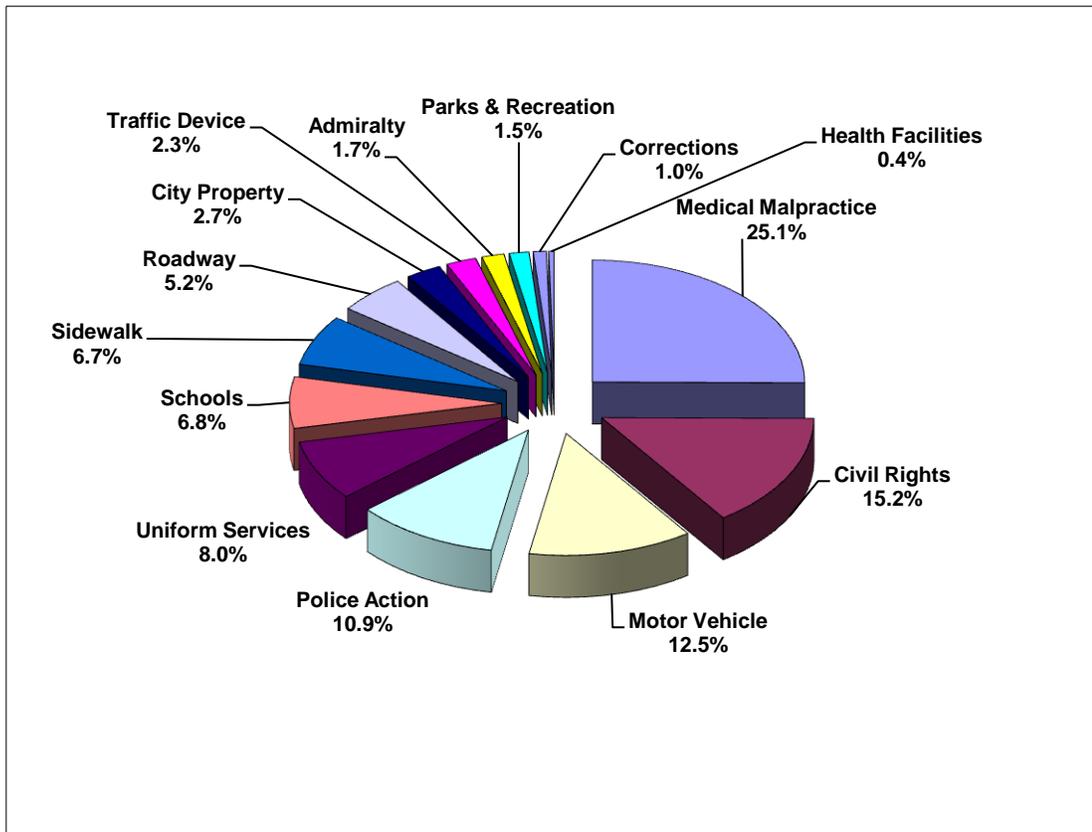
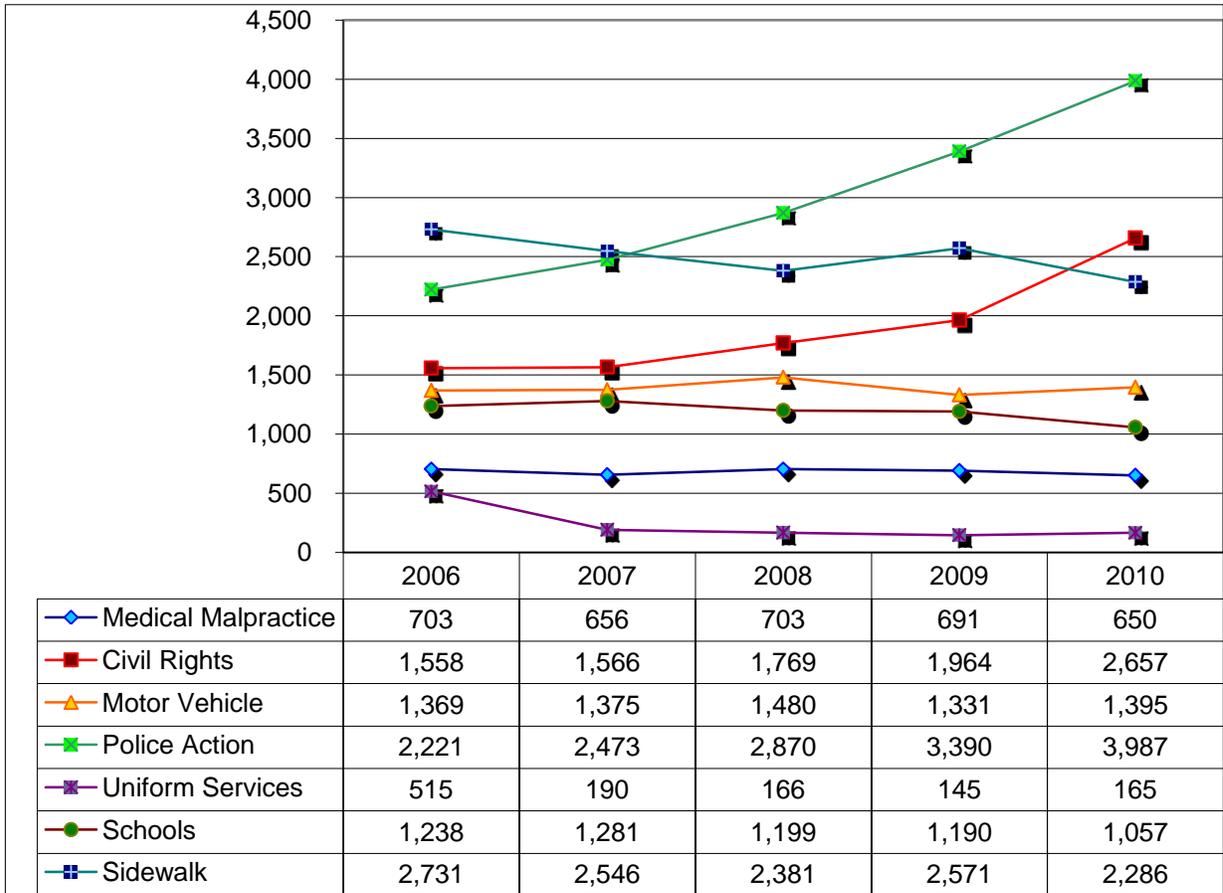


Chart 6

Number of Claims Filed by Major Claim Type  
FYs 2006 - 2010



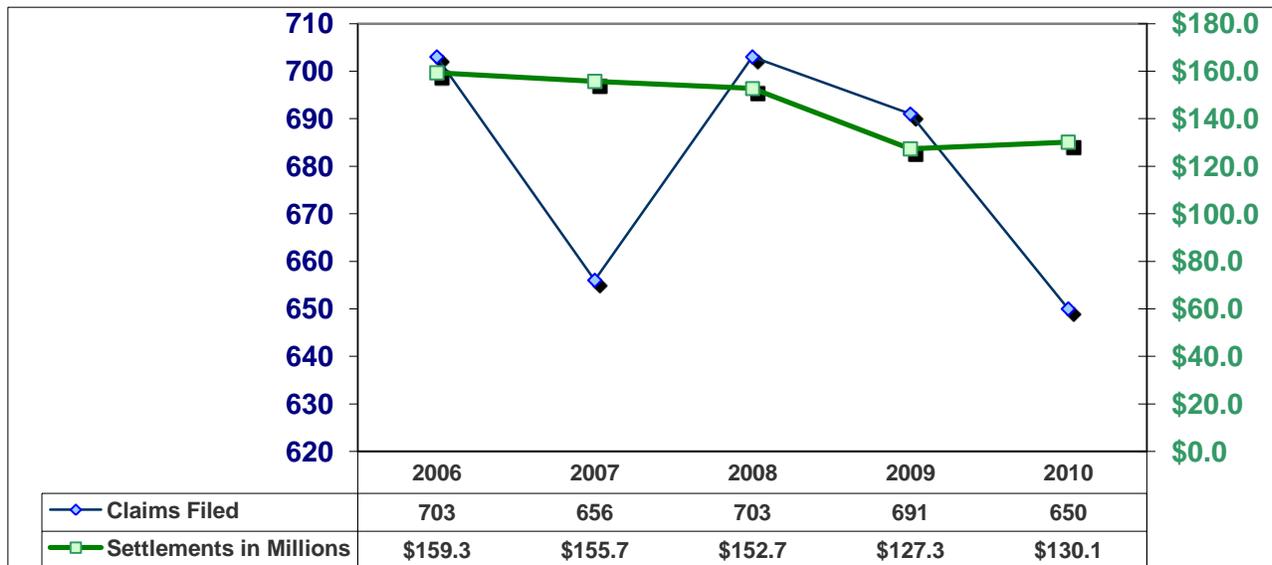
## 1. Medical Malpractice

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, as well as its general liabilities, up to a “capped limit” set by the Office of Management and Budget. Additionally, for approximately the past five fiscal years, responsibility for the litigation of HHC medical malpractice matters has been transferred to HHC from the New York City Law Department.

- 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.
- The number of new medical malpractice claims filed in FY 2010 was 650, the lowest annual number in the last 10 years.
- Medical malpractice cases cost HHC \$130.1 million in settlements and judgments for 311 cases in FY 2010, representing a three percent increase from FY 2009, when the cost was \$127.3 million for 292 cases. However, HHC’s settlement/judgment cost for FY 2010 is still below the high of \$194 million for FY 2003 representing 344 cases.

- Medical malpractice claims accounted for 26 percent of the total \$510.5 million paid in settlements and judgments for personal injury claims in FY 2010, making them the most expensive of all personal injury claims.
- FY 2009 medical malpractice claims accounted for 24 percent of the total \$550.3 million paid in settlements and judgments for personal injury claims.

**Chart 7**  
**Medical Malpractice**  
**FYs 2006 - 2010**  
**Number of Claims Filed & Settlements (In Millions)**



- In FY 2010, 74 tort cases were each resolved for \$1 million or more. Medical malpractice settlements/judgments accounted for 30 of these high-cost cases.
- In FY 2010, the five HHC acute care hospitals for which the City paid the highest total amount for medical malpractice claims were Kings County Hospital (\$19.3 million); Queens Hospital (\$16.0 million); Woodhull Hospital (\$15.0 million); Lincoln Hospital (\$14.7 million); and, Jacobi/Bronx Municipal Hospital (\$14.2 million).
- From FY 2009 to FY 2010, six acute care hospitals experienced increases and five hospitals experienced decreases in medical malpractice payouts (see Table 1). The acute care hospitals that had experienced increases in the total medical malpractice payouts were: Woodhull Hospital (275%); Bronx Hospital (40%); Queens Hospital (22%); Harlem Hospital (20%); North Central Kings County Hospital (9%); and Elmhurst Hospital (9%). The hospitals that experienced decreases are: Bellevue Hospital (62%); Metropolitan Hospital (17%); Lincoln Hospital (14%); Jacobi/Bronx Municipal Hospital (7%); and Coney Island Hospital (5%).
- It should be noted that medical malpractice claims often take between five to ten years to resolve due to their complex nature. 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.

- Overall, the number of medical malpractice claims filed against HHC's acute care hospitals decreased by 49 claims from FY 2009 to FY 2010 (see Table 2).
- More specifically, eight hospitals experienced decreases and two hospitals increases in the number of claims filed in FY 2010 as compared to FY 2009. North Central Bronx Hospital's claim filings remained the same in FY 2009 and 2010.

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

<b>Hospital</b>	<b>Number Resolved FY 2009</b>	<b>Amount Paid FY 2009 (millions)</b>	<b>Average Amount Per Claim FY 2009</b>	<b>Number Resolved FY 2010</b>	<b>Amount Paid FY 2010 (millions)</b>	<b>Average Amount Per Claim FY 2010</b>
Bellevue	38	\$17.1	\$450,000	32	\$6.5	\$203,000
Coney Island	21	\$5.6	\$267,000	26	\$5.3	\$204,000
Elmhurst	21	\$11.7	\$557,000	27	\$12.8	\$474,000
Harlem	17	\$6.9	\$406,000	20	\$8.3	\$415,000
Jacobi / Bronx Municipal	24	\$15.2	\$633,000	44	\$14.2	\$323,000
Kings County	49	\$17.7	\$361,000	49	\$19.3	\$394,000
Lincoln	40	\$17.1	\$428,000	29	\$14.7	\$507,000
Metropolitan	12	\$5.4	\$450,000	15	\$4.5	\$300,000
No. Central Bronx	16	\$9.2	\$575,000	13	\$12.9	\$992,000
Queens	17	\$13.1	\$771,000	19	\$16.0	\$842,000
Woodhull	23	\$4.0	\$174,000	24	\$15.0	\$625,000
<b>Total</b>	<b>278</b>	<b>\$123.0</b>	<b>Overall Average \$442,446</b>	<b>298</b>	<b>\$129.5</b>	<b>Overall Average \$434,564</b>

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

<b>Hospital</b>	<b>Claims Filed FY 2009</b>	<b>Claims Filed FY 2010</b>	<b>Increase/ (Decrease)</b>
Bellevue	71	55	(16)
Coney Island	51	40	(11)
Elmhurst	58	78	20
Harlem	44	45	1
Jacobi / Bronx Municipal	77	69	(8)
Kings County	93	77	(16)
Lincoln	70	66	(4)
Metropolitan	28	26	(2)
North Central Bronx	18	18	0
Queens	39	27	(12)
Woodhull	48	47	(1)
<b>Total</b>	<b>597</b>	<b>548</b>	<b>(49)</b>

## 2. Civil Rights Claims

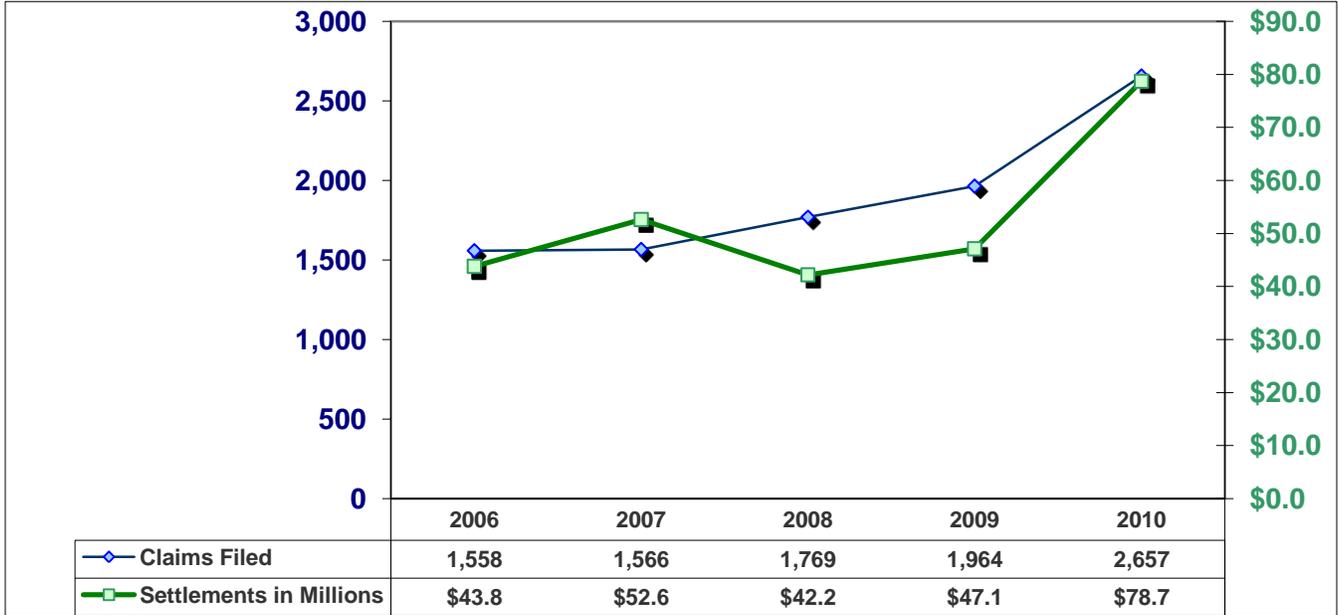
Civil rights claims generally result from alleged statutory or constitutional violations.

- There were 2,657 new civil rights claims filed in FY 2010, a 35 percent increase from the 1,964 claims filed in FY 2009.
- The cost of civil rights claims was \$78.7 million in FY 2010, an increase of 67 percent from \$47.1 million in FY 2009. Most of the increase was due to the December 2009 settlement of a \$33 million class action case that challenged strip-search procedures in DOC facilities. Civil rights claims accounted for the second highest claim type payment in FY 2010.
- Civil rights claims were the third most frequently filed personal injury claim in FY 2010.

Chart 8

Civil Rights  
FYs 2006 - 2010

Number of Claims Filed & Settlements (In Millions)



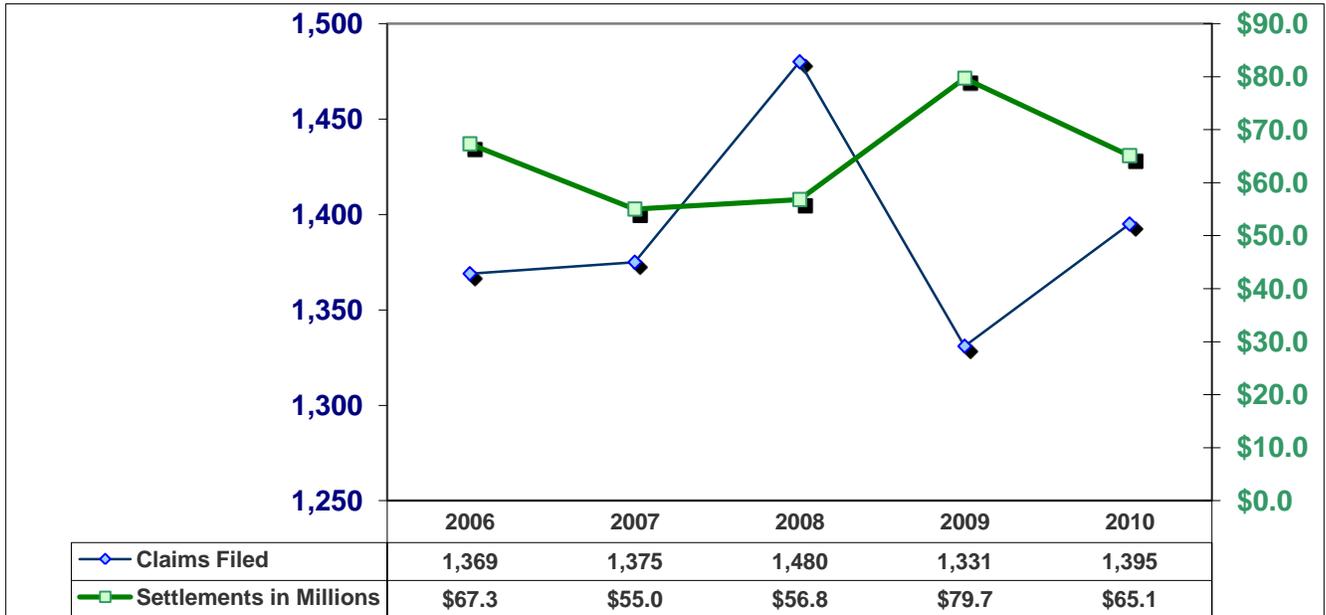
### **3. Motor Vehicle Accident Claims**

Motor vehicle accident claims consist of cases involving City-owned vehicles. The number of new personal injury motor vehicle accident claims filed in FY 2010 was 1,395. This represents an increase of six percent from FY 2009, when 1,325 claims were filed.

- Personal injury motor vehicle accident claims cost \$65.1 million in FY 2010, down 19 percent from \$79.7 million in FY 2009. Motor vehicle claims accounted for the third highest claim type payout in 2010.
- Motor vehicle accident personal injury claims are the fifth most frequently filed personal injury claim.

**Chart 9**

**Motor Vehicle  
FYs 2006 - 2010  
Number of Claims Filed & Settlements (In Millions)**



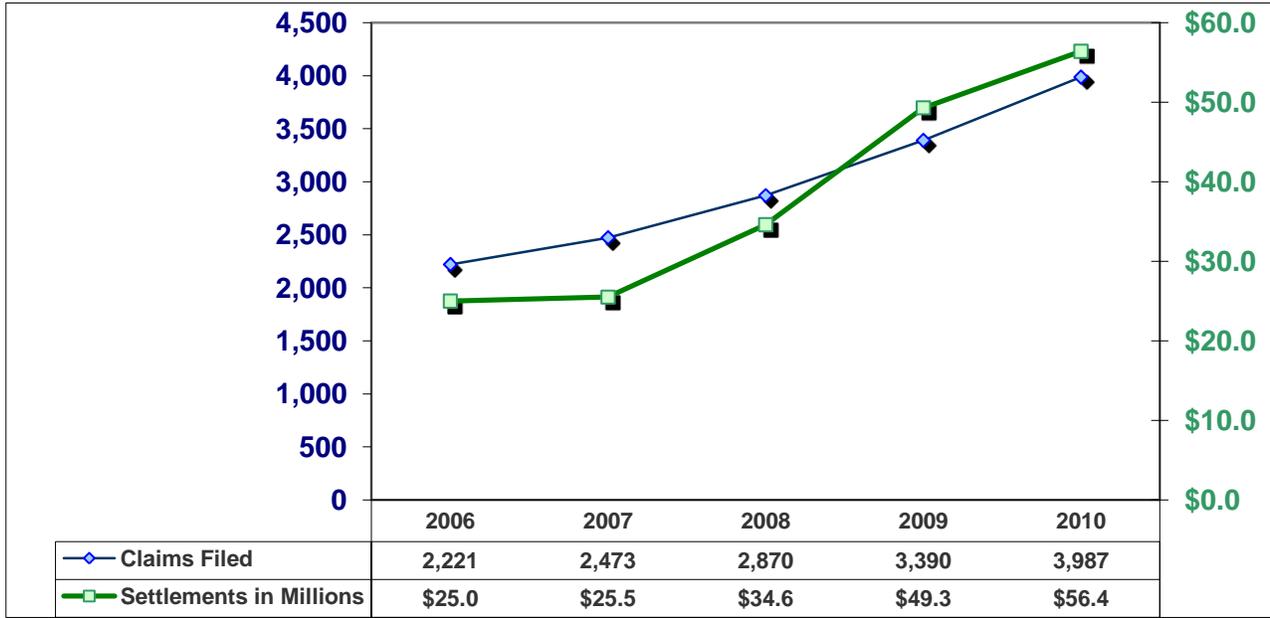
## 4. Police Action Claims

Police action claims result from alleged improper police conduct such as false arrest, excessive force or assault.

- There were 3,987 new police action claims filed in FY 2010. This represents an increase of 18 percent from the 3,390 claims filed in FY 2009. FY 2010 represents the largest number of new police action filings during the last five fiscal years.
- The cost of police action claims was \$56.4 million in FY 2010, an increase of 15 percent from \$49.3 million in FY 2009. Police action claims accounted for the fourth highest claim type payout in 2010.

Chart 10

**Police Action  
FYs 2006 - 2010  
Number of Claims Filed & Settlements (In Millions)**



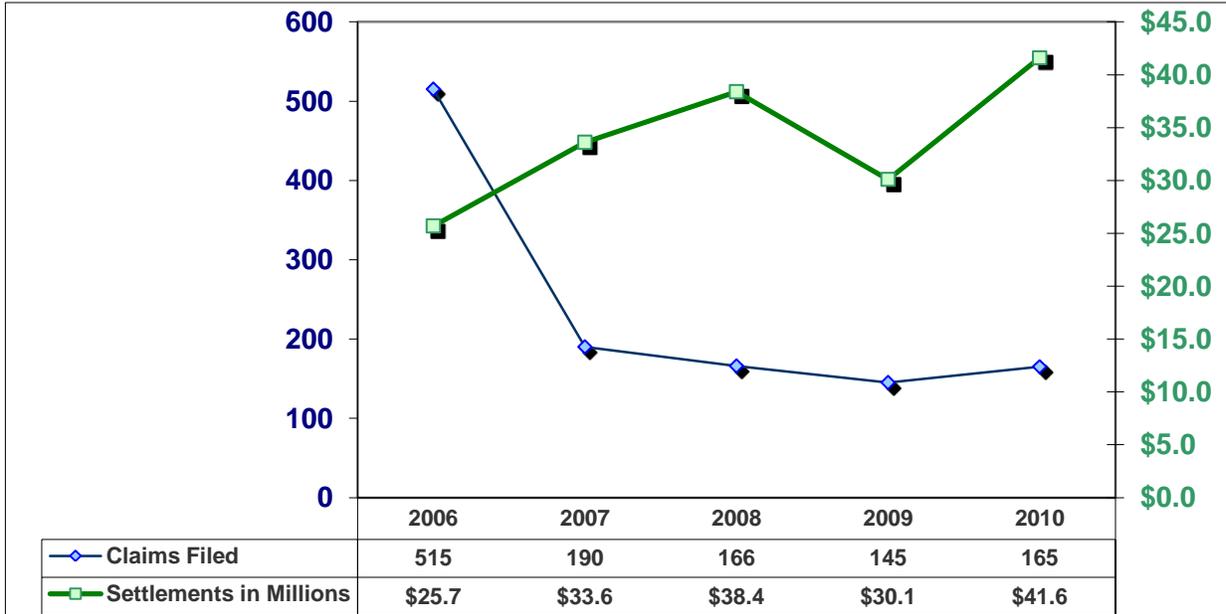
## **5. Uniform Services Claims**

Uniform services claims involve City employees who are allegedly injured on the job, but are not covered by workers' compensation. These employees include police officers, firefighters, sanitation workers and teachers. They were the fifth most costly category of personal injury cases in FY 2010.

- The City paid out \$41.6 million in settlements and judgments in 116 cases in FY 2010. These payouts represent an increase of 38 percent from the \$30.1 million paid in FY 2009 for 91 resolved cases. The average amount of a settlement in FY 2010 was \$347,052 compared to \$330,863 in FY 2009.
- The number of new uniform services claims filed was 165 in FY 2010. This was an increase of 12 percent from the 147 claims filed in FY 2009. FY 2009 represents the lowest number of new uniform services claim filings for the last ten years.

Chart 11

Uniform Services  
 FYs 2006 - 2010  
 Number of Claims Filed & Settlements (In Millions)



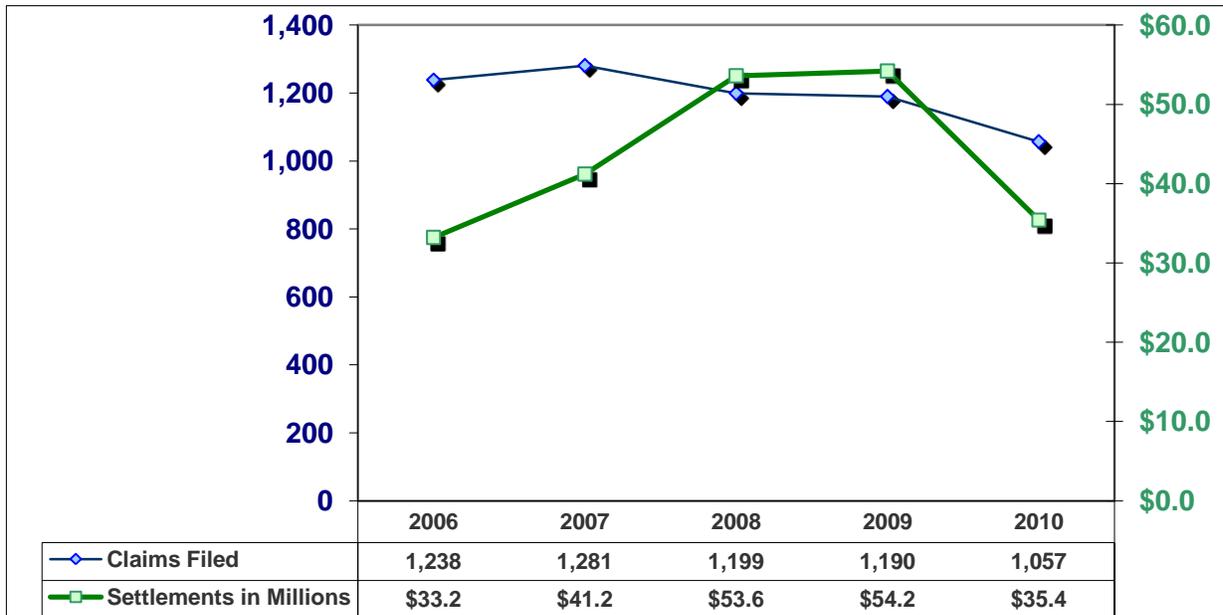
## 6. School Claims

School claims are those filed against the DOE by students, teachers, other DOE staff, and parents or visitors to DOE facilities. School claims were the sixth costliest claim category in FY 2010.

- The number of new school claims filed in FY 2010 was 1,057. This represents a decrease of 11 percent from 1,190 claims filed in FY 2009.
- The cost of school claims during FY 2010 was \$35.4 million, a 35 percent decrease over the \$54.2 million settled in FY 2009.
- School claims were the eighth most frequently filed type of personal injury claim in FY 2010.

Chart 12

Schools  
FYs 2006 - 2010  
Number of Claims Filed & Settlements (In Millions)



## 7. 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 and fall” accidents resulting from such 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.<sup>9</sup>

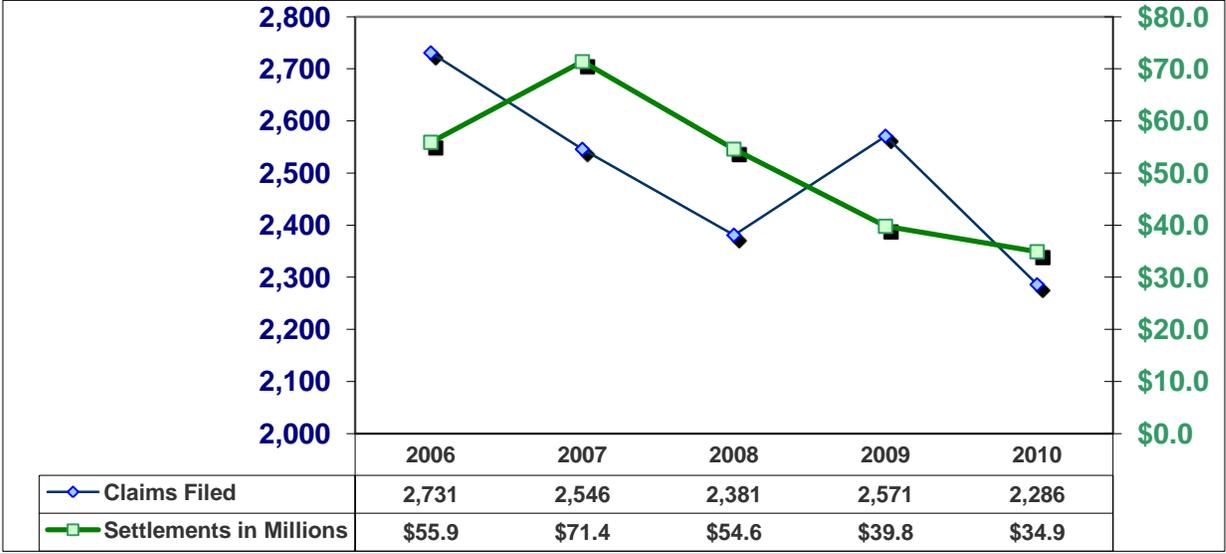
- In FY 2010, 2,286 sidewalk claims were filed against the City, the lowest number of sidewalk claims in ten years. This represents an 11 percent decrease from the 2,571 sidewalk claims filed during FY 2009 and a 38 percent decrease from FY 1999 when the City experienced a record high of 4,144 filings.
- The total cost of sidewalk claims was \$34.9 million in FY 2010, which was the lowest annual payout for sidewalk claims during the last decade. In FY 2009, sidewalk claims cost \$39.8 million.
- Defective sidewalk personal injury claims were the fourth most frequently filed personal injury claim in FY 2010.

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<sup>9</sup> Local Law 49 (NYC Administrative Code § 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. It became effective in September 2003.

**Chart 13**

**Sidewalk  
FYs 2006 - 2010  
Number of Claims & Settlements (In Millions)**



## **B. PROPERTY DAMAGE CLAIMS**

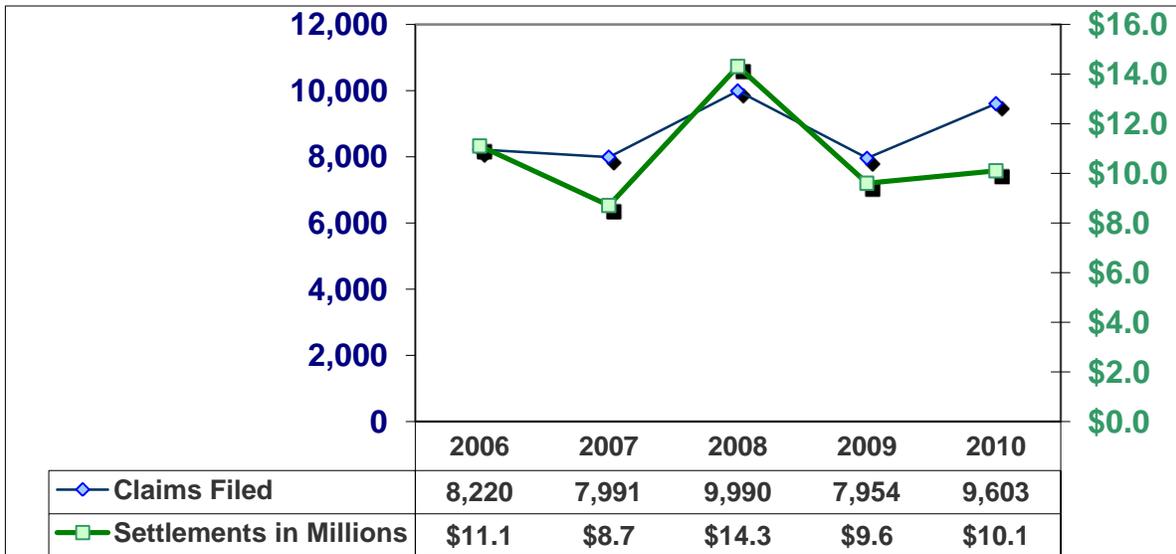
Property damage claims are claims that allege damage to personal property or loss as a result of the City's negligence, including motor vehicle accidents, defective roadway claims, water main breaks and sewer back-ups.

- The number of new property damage claims filed in FY 2010 was 9,603, the second highest number of property damage claims filed in the last five years and 21 percent higher than FY 2009 when 7,954 property damage claims were filed. The increase in the number of new filings was mainly due to the 183% increase in defective roadway claims as compared to the previous fiscal year. Property damage defective roadway claims are mainly made up of claims due to potholes and are usually driven by the condition of the City's roads.
- Property damage claims cost \$10.1 million in FY 2010, representing a six percent increase from FY 2009 (\$9.6 million).
- Resolved property damage claims comprised five percent of the total tort claims payout in FY 2010.
- One property damage claim settled in FY 2009 for \$2.125 million which represented 22 percent of the entire year's property damage settlement payout.

The claim involved loss of rental income and other damages allegedly caused by personnel from a police precinct parking their vehicles on the sidewalk adjoining the claimant's property.

**Chart 14**

**Property Damage  
FYs 2006 - 2010  
Number of Claims Filed & Settlements (In Millions)**



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

- DOT and NYPD accounted for the highest number of new 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.
- For FY 2010, the NYPD, the Department of Corrections (“DOC”), the Department of Sanitation (“DSNY”), DOT, Department of Parks and Recreation (“DPR”) and the DOE experienced the highest number of annual new claims filings for the five years covered by this report. In contrast, the Department of Environmental Protection (“DEP”) and the FDNY experienced the lowest number of annual new claim filings during the same period.

Chart 15

New Claims Filed by Agencies with Highest Claim Costs in FY 2010  
FYs 2006 - 2010

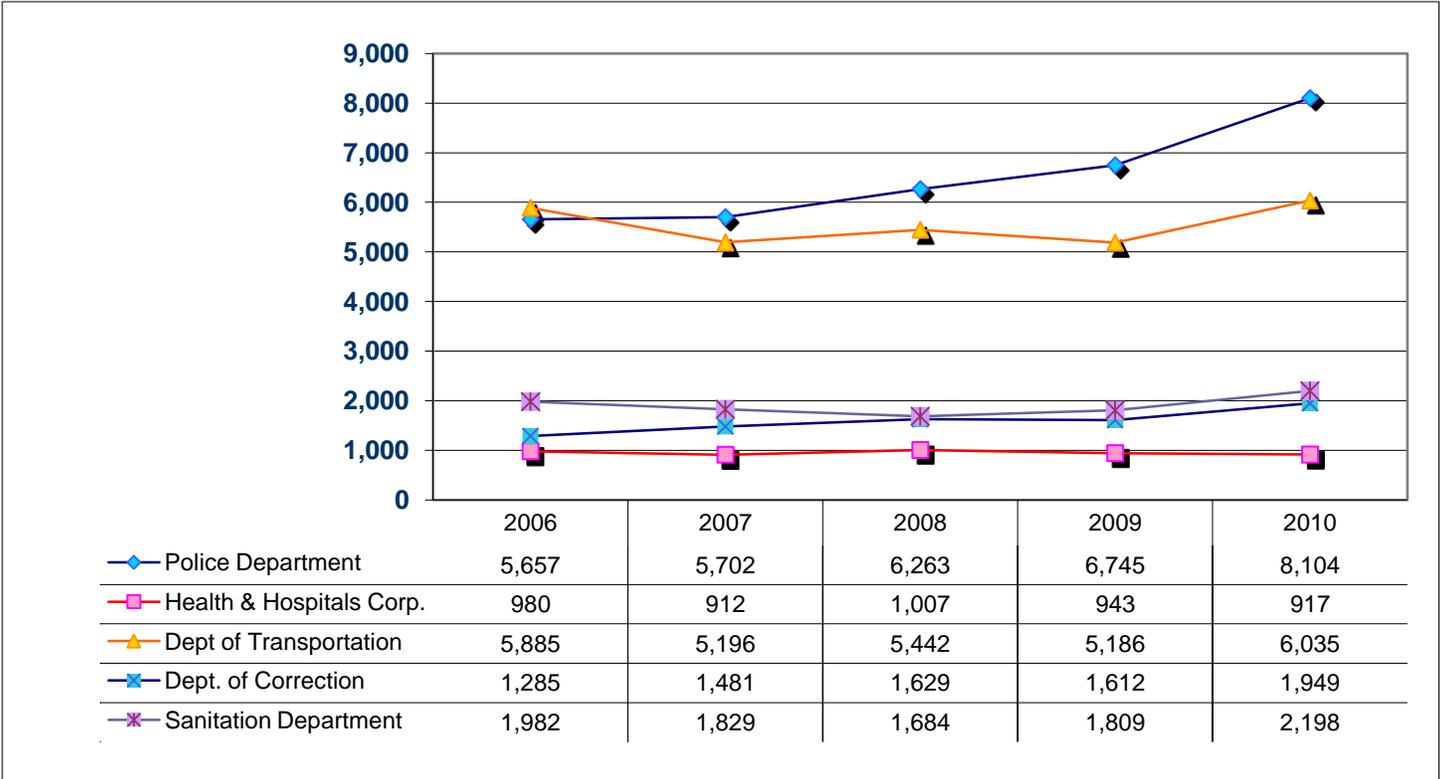
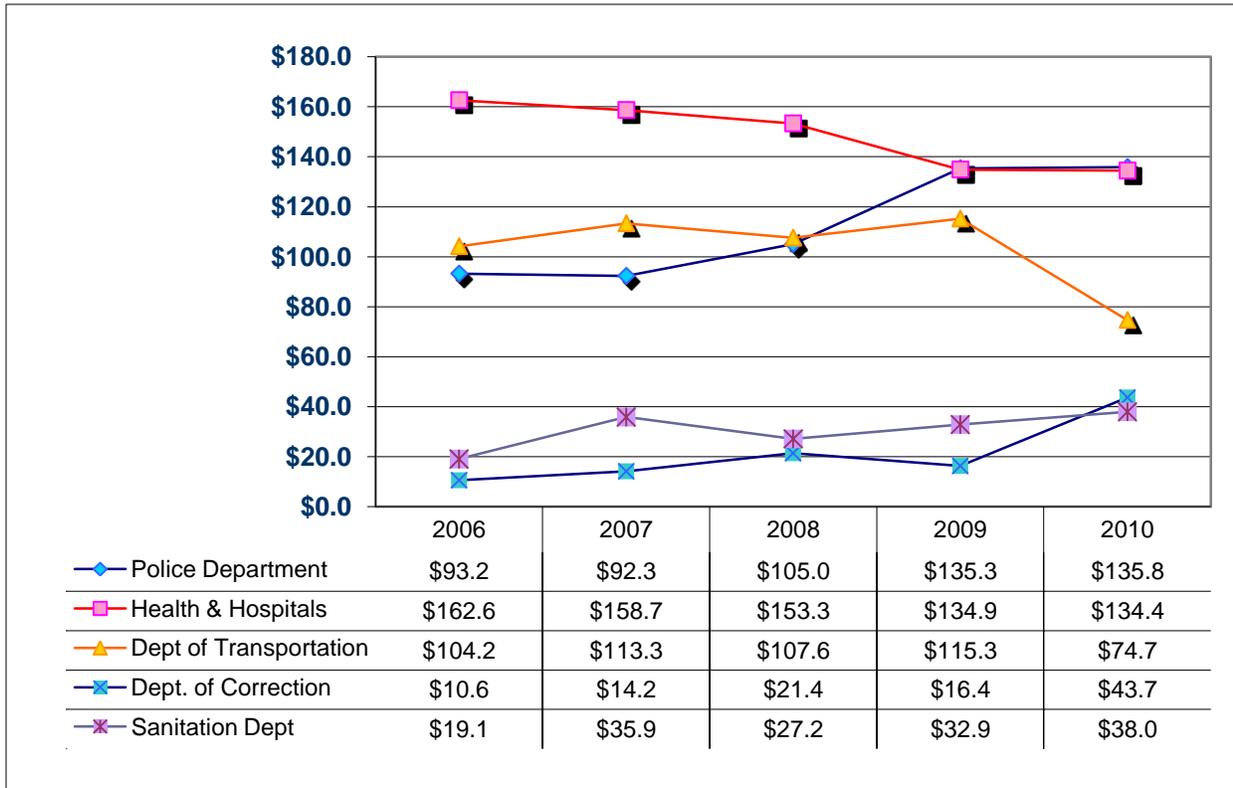


Chart 16

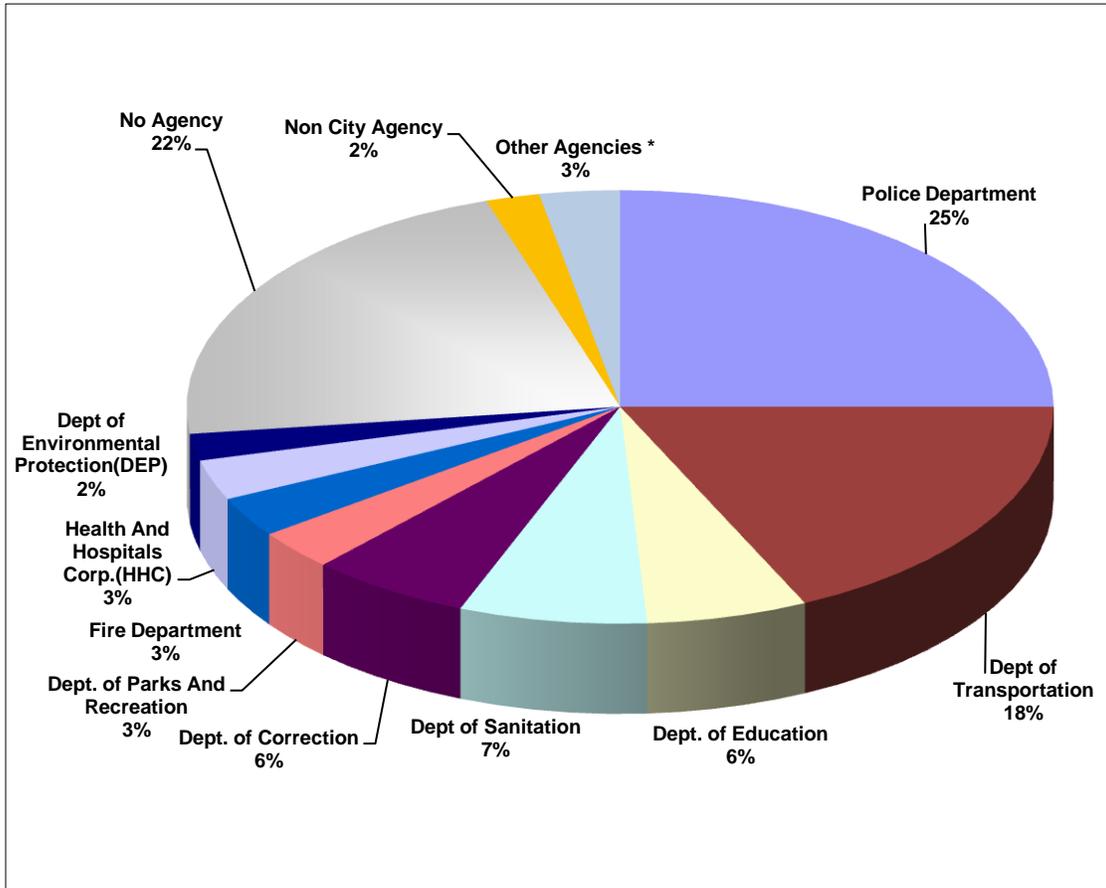
**Dollar Value of Settlements by Agencies with Highest Claim Costs in FY 2010  
FYs 2006 – 2010  
(in Millions)**



- DOT, NYPD, and HHC accounted for the highest cost of settlements and judgments for tort claims in FY 2010.

Chart 17

### Agency Claims Activity Percent of Claims Filed FY 2010

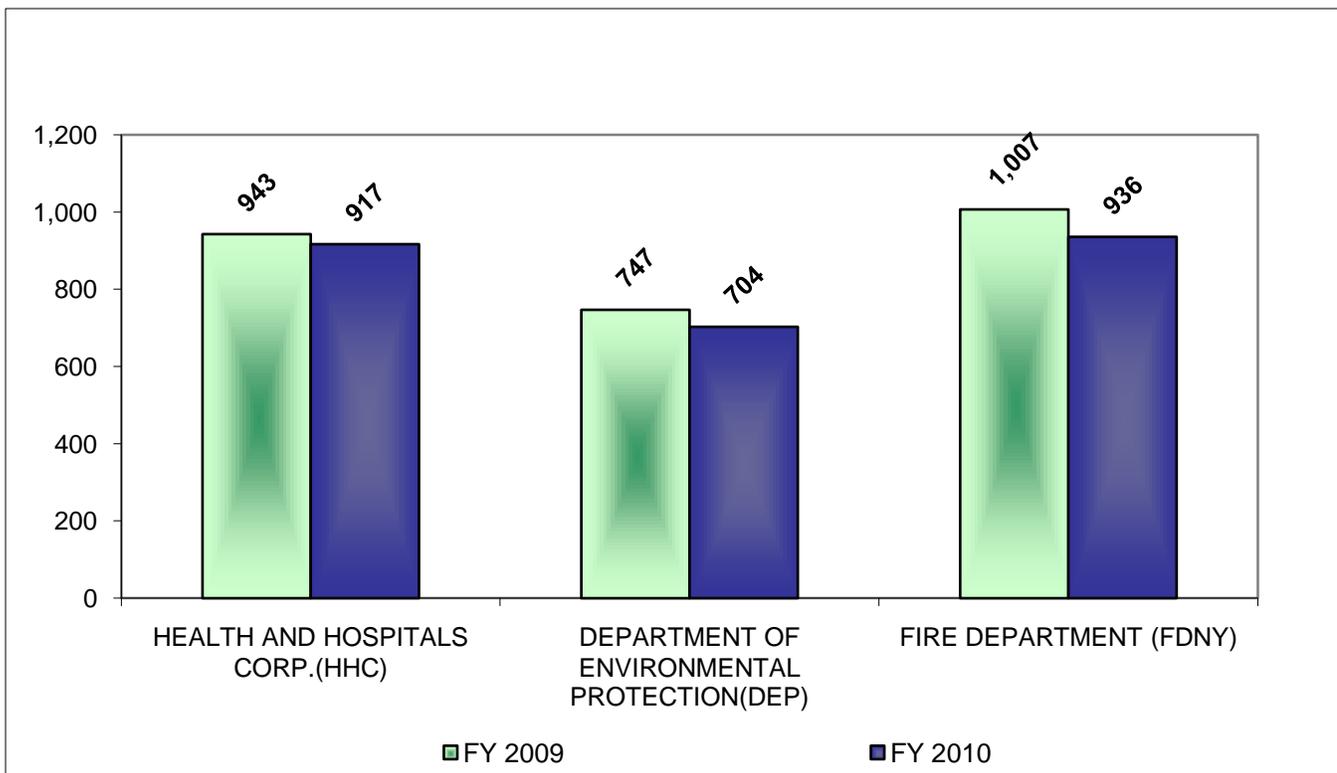


\*Agencies having less than 1% each of the total Personal Injury and Property Damage claims filed. These include: Department of Homeless Services, Administration for Children's Services, Department of Buildings, Department of City Administrative Services, Housing Preservation and Development, Human Resources Administration, Department of Health and Mental Hygiene, City University (CUNY), Department of Design and Construction, Office of Economic Development, Taxi and Limousine Commission, Department of Juvenile Justice, Department of Finance, Department of Probation, Department of Social Services, Department of Consumer Affairs, District Attorney - New York, District Attorney - Queens, Law Department, Office of the Chief Medical Examiner, District Attorney - Bronx, District Attorney - Kings, Mayor's Office, Department of Cultural Affairs, Office of the New York City Comptroller, Department of Information Technology and Telecommunications, Department of Investigations, Department of Aging, Department of Youth and Community Development, Office of Management and Budget (OMB), Board of Elections, City Clerk, Borough President - Brooklyn, Borough President - Staten Island, City Council, District Attorney - Staten Island, Office of Municipal Labor Relations

- Three of the nine agencies accounting for the most tort claims filed in FY 2010 showed a decrease in the number of claims filed in FY 2010, as compared to claims filed in FY 2009 – FDNY experienced the greatest decrease, seven percent, followed by DEP with an eight percent decrease and HHC with a three percent decrease.

**Chart 18**

**Agencies with Decrease in Claim Filings**

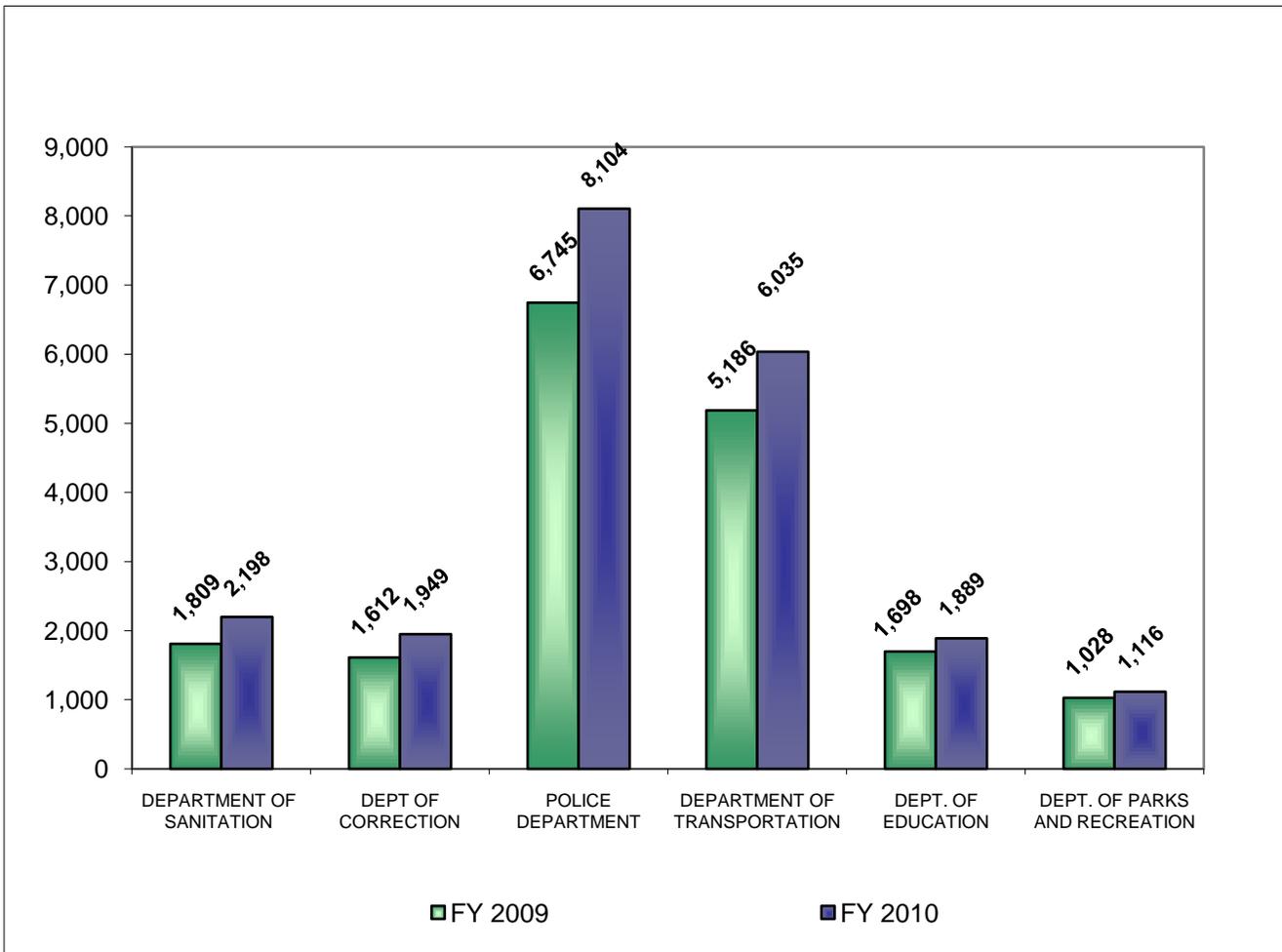


- Six of the nine agencies accounting for the most tort claims filed in FY 2010 showed increases in the number of personal injury and property damage claims filed: DSNY (26 percent); Corrections (21 percent); the NYPD (20

percent); DOT (17 percent); the DOE (11 percent); and the DPR (nine percent).

**Chart 19**

**Agencies with Increase in Claim Filings**



The agencies with the five highest tort claim costs in FY 2010 were the NYPD, HHC, DOT, DOC and DSNY. Charts tracking the number of new claims filed and the total

annual dollar value of personal injury and property damage settlements and/or judgments for these five agencies follow.

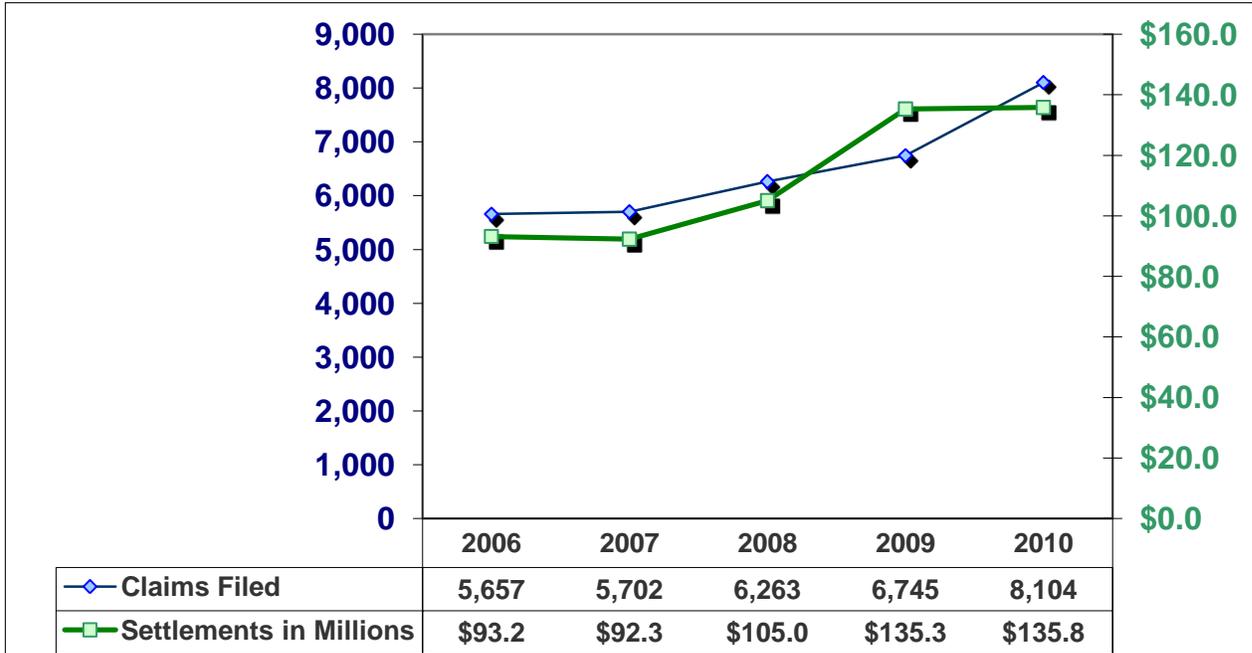
### **1. Police Department**

Tort claims against the NYPD include but are not limited to allegations of police misconduct, civil rights violations, personal injury and/or property damage arising out of motor vehicle accidents involving police vehicles. In FY 2010, there was an increase to 8,104 new claims filed, compared with 6,745 filed in FY 2009. This represents the highest number of claims filed against any agency in FY 2010 and the highest number of claims filed involving the NYPD in the last five fiscal years. Claims filed against the NYPD constituted 24.7 percent of total tort claim filings in FY 2010. Over the past ten years, (FY 2001 – FY 2010), claims against the NYPD have increased by 71 percent.

Cases against the NYPD cost the City \$ 135.3 million in FY 2009. In FY 2010, the expenditure for claims increased to \$135.8 million, an increase of less than one percent. The NYPD accounted for 26 percent of total FY 2010 personal injury and property damage claims expenditures. For both FY 2009 and FY 2010, NYPD's tort claim annual expenditure was the highest of any agency.

Chart 20

**Police Department  
FYs 2006 -2010  
Number of Claims Filed & Settlements (In Millions)**



**2. Health and Hospitals Corporation**

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

- In FY 2010, 917 claims were filed against HHC, approximately 71 percent of which (650 cases) were for medical malpractice. In FY 2009, medical

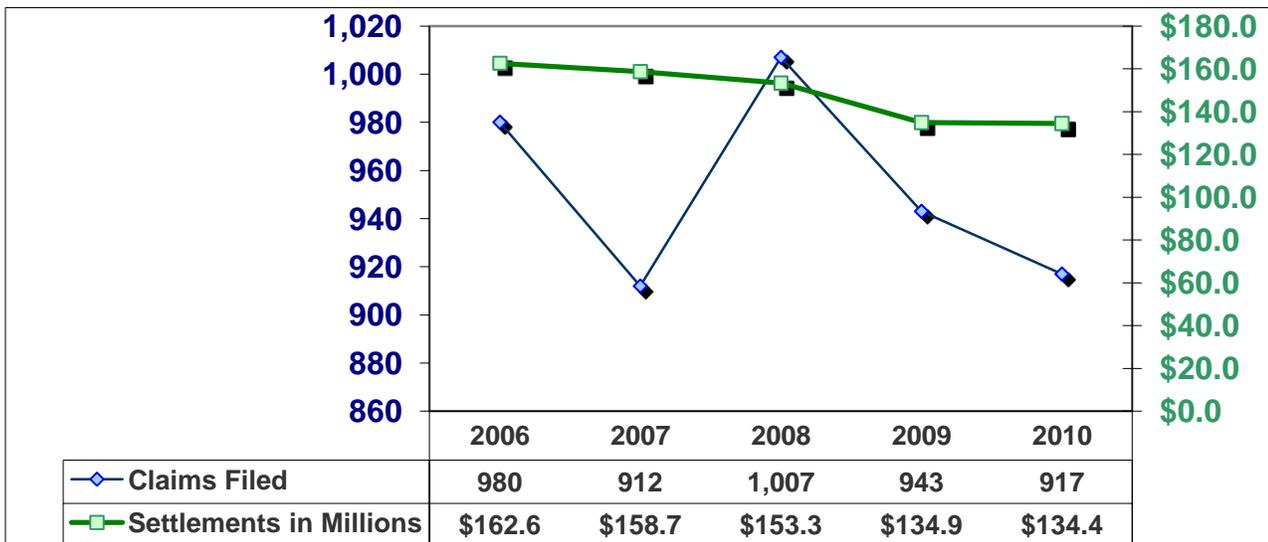
malpractice cases accounted for 74 percent (691 cases) of the 943 claims filed against HHC.

- **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 four percent of the number of tort cases resolved in FY 2010, but accounted for the second highest expenditure (\$134.4 million) or 26 percent of the total amount paid for tort claims in FY 2010.

**Chart 21**

**Health & Hospitals Corporation  
FYs 2006 - 2010  
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 2010, the 6,035 claims filed against DOT accounted for 18 percent of all new tort claims filed, representing a 17 percent increase from the 5,186 claims filed against DOT in FY 2009.

The number of tort cases against DOT that were resolved by settlement or judgment decreased from 2,065 in FY 2009 to 1,933 in FY 2010.

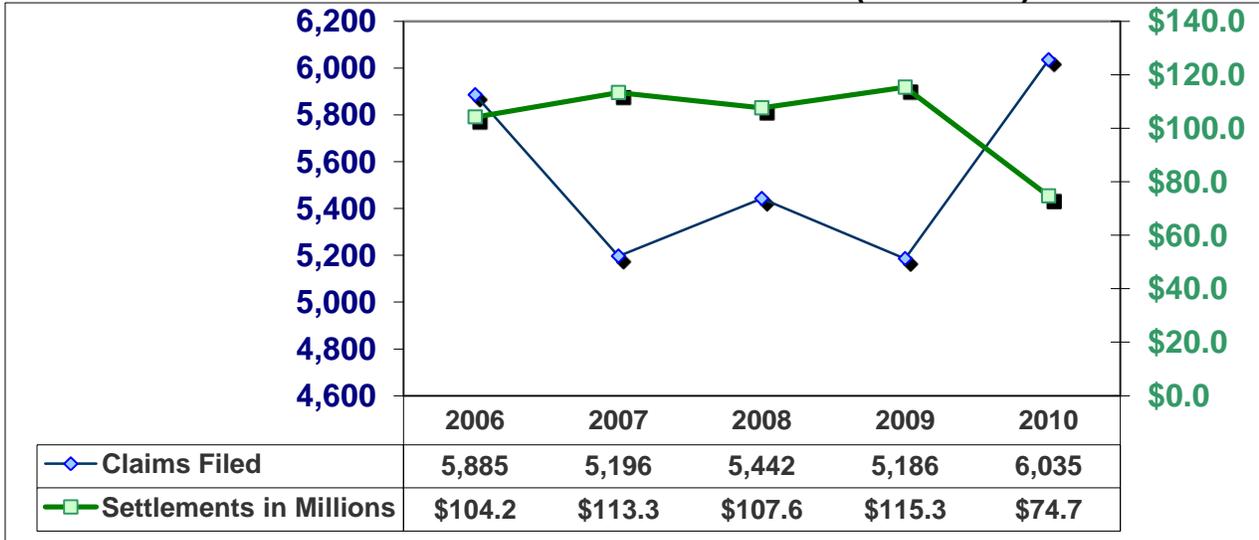
The decrease is due almost entirely to the decline of defective sidewalk claims being filed as a result of the 2003 law transferring liability for sidewalk claims from the City to adjoining property owners.

In FY 2010, the total dollar amount paid for DOT cases was \$74.7 million, a 35 percent decrease from the \$115.3 million paid in FY 2009. DOT cases accounted for 14 percent of the total expenditure for personal injury and property damage claims in FY 2010.

Chart 22

Department of Transportation  
FYs 2006 - 2010

Number of Claims Filed & Settlements (In Millions)



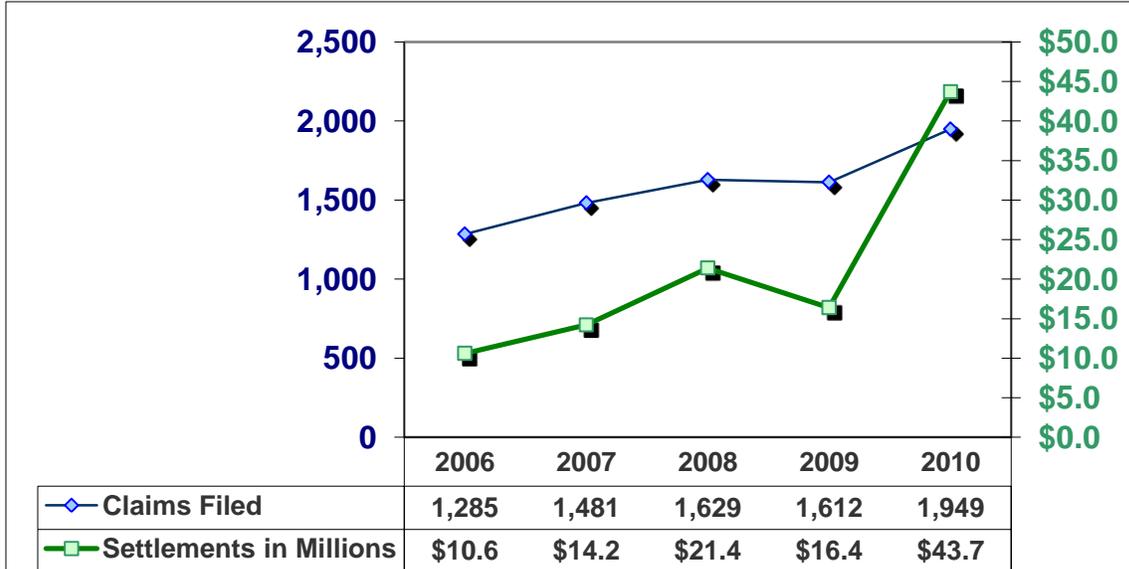
#### **4. Department of Correction**

Claims against the DOC include personal injury claims or from inmates, visitors or employees in the City's Correction facilities as well as property loss by inmates. The number of new personal injury and property damage claims filed against the DOC increased by 21 percent from 1,612 in FY 2009 to 1,949 in FY 2010. Tort claim filings against the DOC accounted for six percent of total tort claims filed in FY 2010.

The total tort expenditure for DOC cases increased by 166.5 percent: from \$16.4 million in FY 2009 to \$43.7 million in FY 2010. Over 75 percent of the expenditure (\$33 million) in FY 2010 was for a single class action involving the strip searches of inmates. DOC claims accounted for eight percent of the total claim expenditure for personal injury and property damage claims in FY 2010.

Chart 23

Department of Correction  
 FYs 2006-2010  
 Number of Claims Filed & Settlements (In Millions)



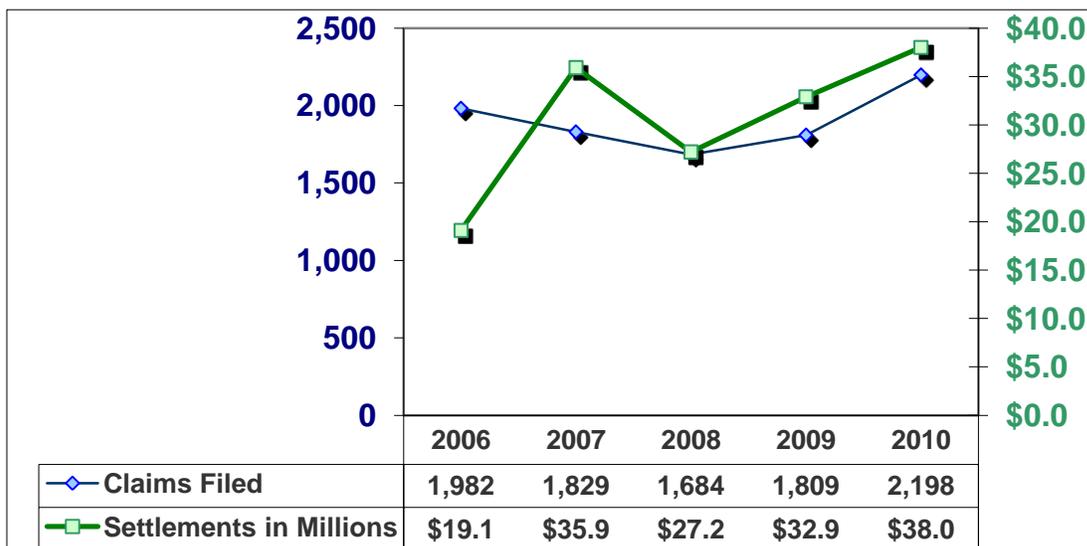
## 5. Sanitation Department

Claims are filed against the DSNY primarily for alleged personal injury and property damage caused by DSNY vehicles. The number of new claims filed against the DSNY increased from 1,809 in FY 2009 to 2,198 in FY 2010, an increase of 22 percent. New claim filings against the DSNY constituted seven percent of total personal injury and property damage claim filings in FY 2010.

In FY 2010, there were 1,375 DSNY tort claims resolved for \$38.0 million. DSNY claims accounted for seven percent of the total tort claims expenditure. In FY 2009, 1,252 cases were resolved for \$32.9 million.

Chart 24

Sanitation Department  
FYs 2006 - 2010  
Number of Claims Filed & Settlements (In Millions)



The increase in settlements expense from FY 2006 to FY 2007 was mainly due to a large increase in Uniform Service and Motor Vehicle personal injury settlement expenses.

## V. TORT CLAIM TRENDS BY BOROUGH <sup>10</sup>

For FY 2010, the borough with the largest number of personal injury claims was Manhattan (10,240). The borough with the largest number of property damage claims was Queens (2,426).

**Number of Claims Filed By Borough  
Fiscal Year 2010**

<b>Borough</b>	<b>Personal Injury (PI) Claims</b>	<b>Property Damage (PD) Claims</b>
Brooklyn	4,421	2,076
Bronx	4,240	1,514
Manhattan	10,240	1,696
Queens	2,274	2,426
Staten Island	692	976

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<sup>10</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 2010**

<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>	<b>2,116</b>	<b>\$141.1</b>	<b>883</b>	<b>\$2.4</b>	<b>2,999</b>	<b>\$143.5</b>
<b>Bronx</b>	<b>1,735</b>	<b>\$169.2</b>	<b>431</b>	<b>\$1.0</b>	<b>2,166</b>	<b>\$170.2</b>
<b>Manhattan</b>	<b>1,237</b>	<b>\$83.7</b>	<b>705</b>	<b>\$2.5</b>	<b>1,942</b>	<b>\$86.2</b>
<b>Queens</b>	<b>1,007</b>	<b>\$78.1</b>	<b>832</b>	<b>\$2.9</b>	<b>1,839</b>	<b>\$81.0</b>
<b>Staten Island</b>	<b>297</b>	<b>\$12.4</b>	<b>300</b>	<b>\$.6</b>	<b>597</b>	<b>\$13.0</b>

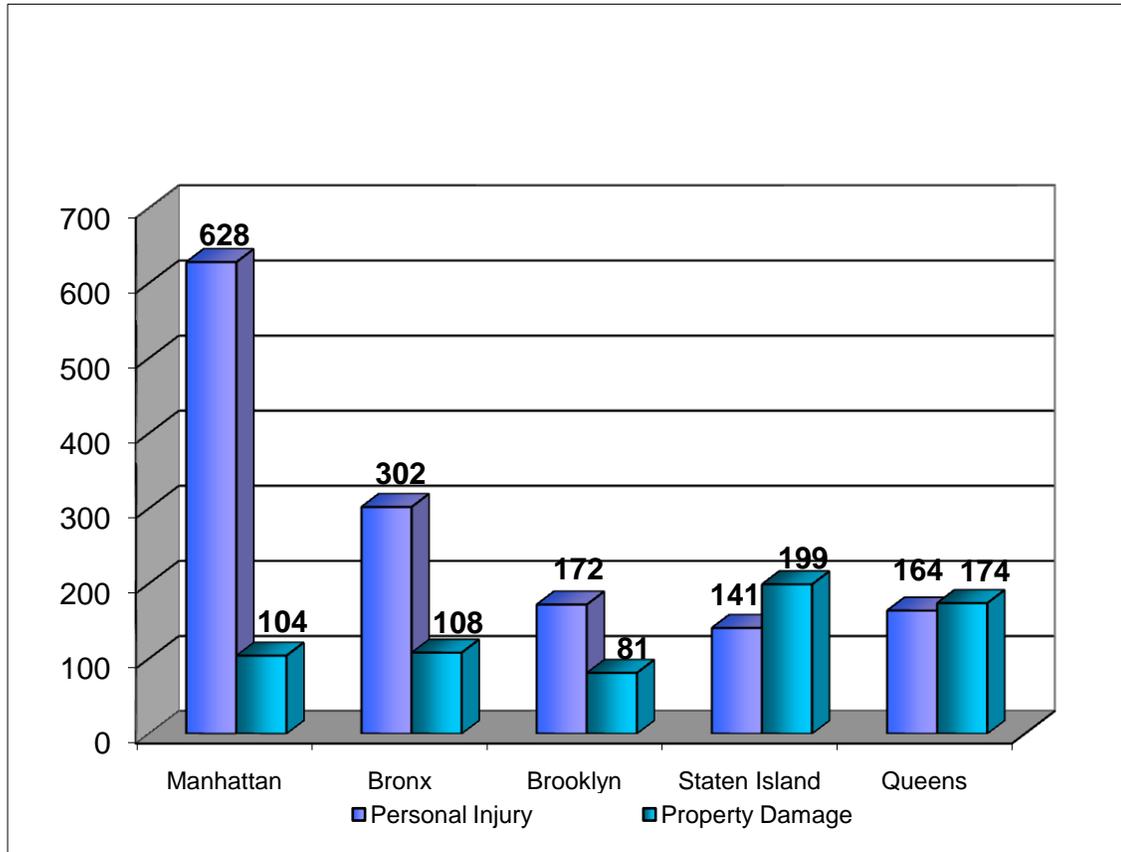
As the following chart illustrates, Manhattan had the most personal injury claims filed per 100,000 residents with 628. Staten Island had the least (141). Queens had the highest ratio of property damage claims filed (174). Brooklyn had the least (81).<sup>11</sup>

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<sup>11</sup> According to the United States Census Bureau, as of July 1, 2009, the total population for New York City was 8,391,881 residents. In order of population the boroughs are: Brooklyn (2,567,098 or 30.6% of the total population); Queens (2,306,712 or 27.5% of the total population); Manhattan (1,629,054 or 19.5% of the total population); Bronx (1,397,287 or 16.6% of the total population); and, Staten Island (491,730 or 5.9% of the total population). Statistics do not take into account commuters and tourists.

Chart 25

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



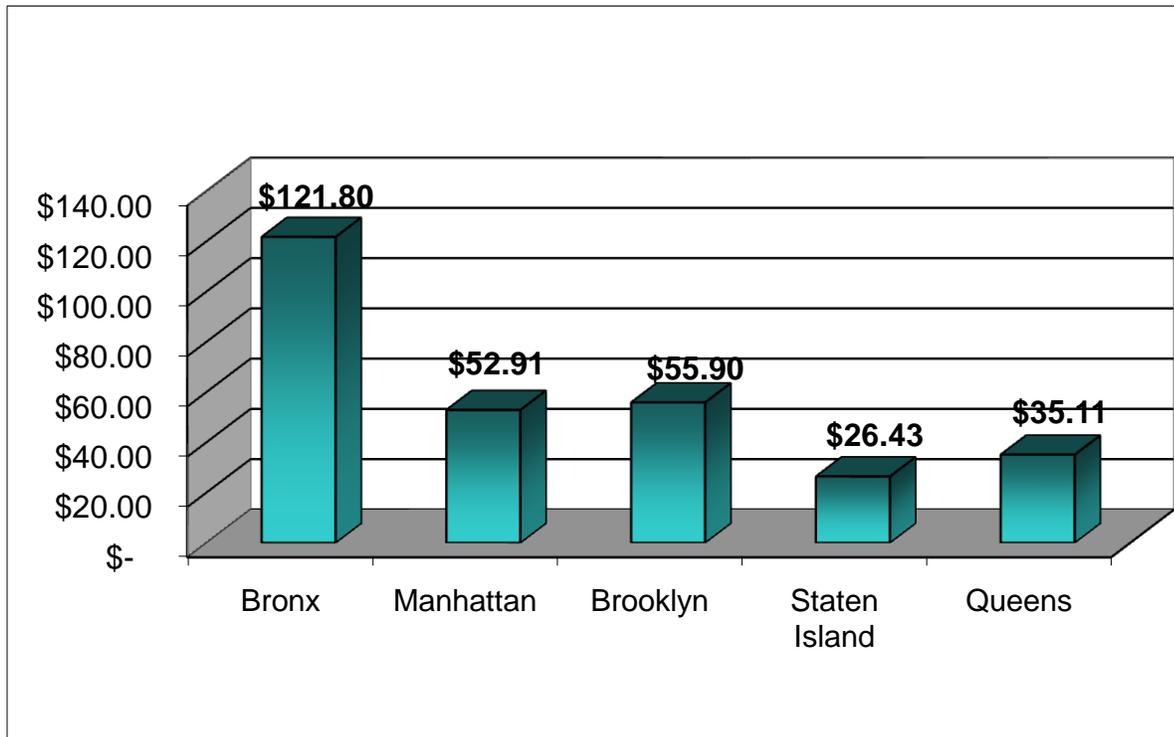
In FY 2010, the total highest aggregate personal injury and property damage claim costs were paid for claims that occurred in the Bronx.

- Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$62 for FY 2010.

- In FY 2010, the borough with claims representing the highest ratio of expenses per resident was the Bronx. The lowest ratio of expenses per resident was Queens.

**Chart 26**

**Total 2010 Claims Expenses for both Personal Injury and Property Damage by Borough Per Resident**

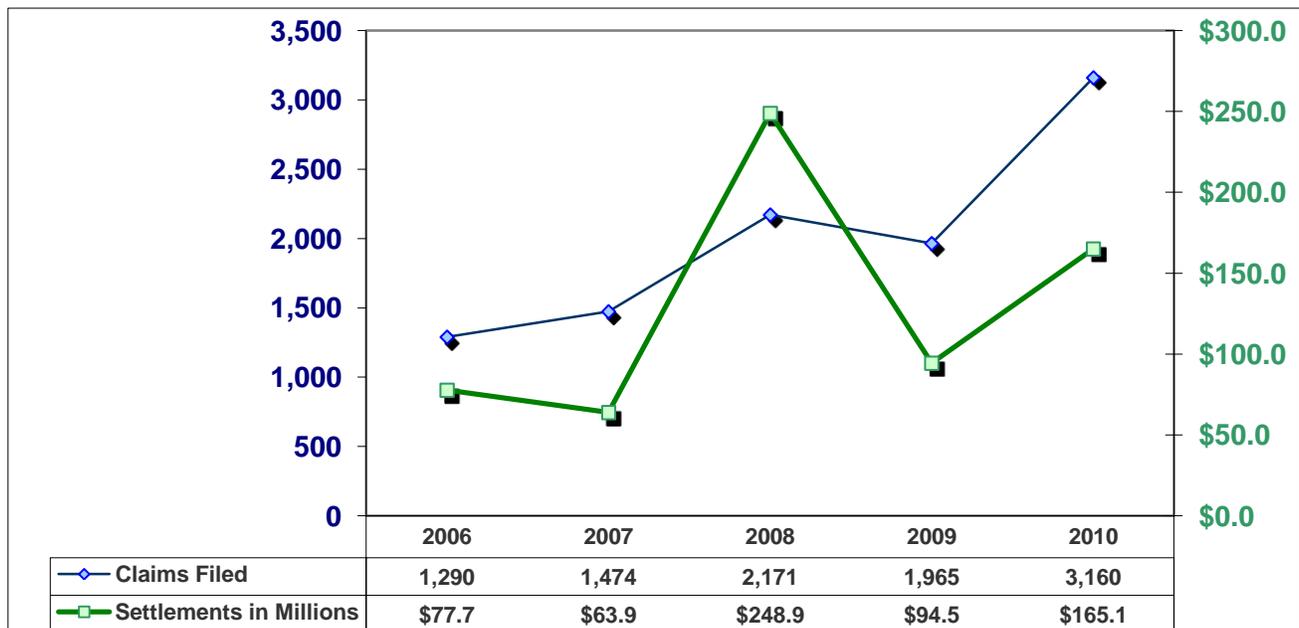


## VI. LAW CLAIMS (Non-Tort)

Law claims arise primarily from disputes concerning contracts between City agencies and their contractors or employees. Law claims include contract claims, alternative dispute resolution claims, equitable claims, refund claims, salary claims, DOE tuition reimbursement claims, sidewalk assessment claims and New York City Department of Health and Mental Hygiene property cleanup claims for reimbursement and recoupment of other administrative charges.

Chart 27

### Law FYs –2006-2010 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 2010, there was a 61 percent increase in the overall number of Law Claims filed as compared to FY 2009.

In FY 2010, 3,160 Law claims were filed as compared to 1,965 filed in FY 2009. The increase is primarily due to the number of tuition reimbursement claims referred by the DOE to the Comptroller for settlement approval. In FY 2010, DOE referred 2,761 tuition reimbursement claims for approval as compared to 999 claims in FY 2009. This represents a 176 percent increase. By contrast, in FY 2006, DOE referred 381 cases. Thus, in the five year span from FY 2006 to FY 2010, the number of DOE tuition reimbursement claims referred to the Comptroller for approval has increased from 381 to 2,761 – an increase of 625 percent.

- For FY 2010, there was an overall 75 percent increase in the amount of Law claims settlements and/or judgments as compared to FY 2009.

For FY 2010, the total amount of settlements and judgments paid was \$165,143,908 as compared to \$94,527,687 in FY 2009. The primary reason for the increase is due to the DOE tuition reimbursement settlements and/or judgments, which totaled \$132,917,106 in FY 2010 as compared to \$39,268,147 in FY 2009. This represents an increase of 238 percent.

By contrast, in FY 2006, DOE tuition reimbursement settlements and/or judgments totaled \$15,225,733. Thus, in the five year span from FY 2006 to FY 2010, the amount of DOE tuition reimbursement settlements and/or judgments increased from \$15,517,930 in FY 2006 to \$132,917,106 in FY 2010.

- A further comparison of the settlements and judgments between FY 2010 and FY 2009 reveals the following:

For FY 2010, the total amount of settlements and/or judgments (2,985 claims) was \$165,143,908: \$157,574,194 represents the total amount of settlements (2,981 claims), while \$7,569,714 represents the total amount of judgments (four claims). Of the \$157,574,194 paid out in settlements: \$141,683,144 were paid by the subject agencies (2,870 claims) and \$15,891,050 were paid from the City's judgment and claims fund (111 claims). In addition, seven alternative dispute resolution interpretation determinations were rendered in favor of contractors.

By contrast, in FY 2006, the total amount of settlements and/or judgments was \$77,681,945: \$77,488,654 represents the total amount of settlements (561 claims), while \$193,292 represents the total amount of judgments (five claims). Of the \$77,488,654 paid out in settlements: \$52,859,424 was paid by the agency (471 claims). In addition, 13 dispute resolution interpretation determinations were rendered in the favor of contractors.

- Excluding the DOE tuition reimbursement claims, the total amount of settlements for FY 2010 dropped nearly 50 percent from \$54,929,973 in FY 2009 to \$28,304,963 in FY 2010.
- In FY 2010, 217 Law claims were settled at a total cost of \$28,304,963 as compared to 173 Law claims settled at a total cost of \$54,929,973 in FY 2009. By contrast, in FY 2006, 180 Law claims were settled at a total cost of \$62,395,065.
- In FY 2010, the total amount of contract settlements decreased 13 percent while the total amount of Dispute settlements increased nearly 70 percent.

In FY 2010, 27 contract claims were settled at a total cost of \$12,539,927 as compared to 31 contract claims settled at a total cost of \$14,310,217 in FY 2009. These settlements primarily involve City contractors alleging damages due to

delays on City projects through no fault of their own. By contrast, in FY 2006, 26 contract claims were settled at a total cost of \$21,159,683.

In FY 2010, 54 Dispute claims were settled at a total cost of \$4,509,068 as compared to 35 Dispute claims settled at a total cost of \$2,674,212 in FY 2009. These settlements involve City contractors and claims for extra or disputed work performed on City projects. By contrast, in FY 2006, 50 Dispute claims were settled at a total cost of \$3,712,874.

- In FY 2010, there was a 155 percent increase in the number of Law claims settled as compared to FY 2009.

In FY 2010, 2,981 Law claims were settled at a total cost of \$157,574,194 as compared to 1,171 claims settled in FY 2009 at a total cost of \$94,184,945. The increase in the number of settled cases is related to the number of DOE tuition reimbursement claims settled. Of the 2,981 claims settled in FY 2010, 2,764 settlements involved tuition reimbursement claims at a cost of \$129,269,231. Of the 1,171 claims settled in FY 2009, 998 settlements involved tuition reimbursement claims at a cost of \$39,254,972. By contrast, in FY 2006, 381 tuition reimbursement claims were settled at a cost of \$15,093,589.

## **B. Law Claim Settlement and Judgment Trends by Agency**

The following is a review of Law claim settlements and/or judgments for each agency that had settlements and judgments totaling over \$1 million for FY 2010 and FY 2009:

- In FY 2010, there were 2,840 settlements and judgments involving the DOE that totaled \$137,116,629. In FY 2009, there were 1,026 settlements and/or judgments involving DOE at a cost of \$40,397,761. By contrast, in FY 2006, there were 409 settlements and/or judgments involving DOE at a cost of \$15,910,792.
  
- In FY 2010, there were 22 settlements and/or judgments involving the DEP at a cost of \$8,830,841. In FY 2009, there were 25 settlements and/or judgments involving DEP at a cost of \$38,785,761. By contrast, in FY 2006, there were 25 settlements and/or judgments involving DEP at a cost of \$25,737,442.
  
- In FY 2010, there were 13 settlements and/or judgments involving the DSNY at a cost of \$4,512,810; In FY 2009, there were 17 settlements and/or judgments involving DSNY at a cost of \$3,408,575; By contrast, in FY 2006, there were 11 settlements and/or judgments involving DSNY at a cost of \$26,116,204.

- In FY 2010, there were five settlements and/or judgments involving the NYPD at a cost of \$3,846,310. In FY 2009, there were seven settlements and/or judgments involving NYPD that totaled less than \$1 million. . By contrast, in FY 2006, there were two settlements and/or judgments involving NYPD at a cost of \$435,000.
  
- In FY 2010, there were 14 settlements and/or judgments involving the DOT at a cost of \$3,403,369. In FY 2009, there were 13 settlements and/or judgments involving DOT at a cost of \$1,242,245. By contrast, in FY 2006, there were 21 settlements and/or judgments involving DOT at a cost of \$1,526,976.
  
- In FY 2010, there were nine settlements and judgments involving the Department of Citywide Services (“DCAS”) at a cost of \$2,140,982. In FY 2009, there were four settlements and/or judgments involving DCAS at a cost of \$1,623,452. By contrast, in FY 2006, there were eight settlements and/or judgments involving DCAS at a cost of \$566,424.
  
- In FY 2010, there were eight settlements and/or judgments involving the HRA at a cost of \$1,846,823. In FY 2009, there were

three settlements and/or judgments involving HRA that totaled less than \$1 million. By contrast, in FY 2006, there were six settlements and/or judgments involving HRA at a cost of \$560,938.

- In FY 2010, there were 10 settlements and judgments involving the Department of Design and Construction (“DDC”) at a cost of \$1,028,416. In FY09, there were 14 settlements and/or judgments involving DDC at a cost of \$2,379,490. By contrast, in FY 2006, there were 32 settlements and/or judgments involving DDC at a cost of \$5,041,856.
  
- In FY 2010, there were seven settlements and judgments involving the DPR that totaled less than \$1 million. In FY09, there were 21 settlements and judgments involving DPR at a cost of \$2,373,612. By contrast, in FY06, there were five settlements and/or judgments involving DPR at a cost of \$36,344.

## APPENDICES

### APPENDIX A Description of Claim Types

Claims that are filed against the City are classified into categories that facilitates analysis by the Comptroller's Office and may also be used by agencies that choose to analyze their claims experience.

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 has also been designed to ensure that descriptive information about a claim can be captured. Thus, four additional sub-classifications are utilized 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.** This category describes the claimant and, if appropriate, the activity the claimant was involved in; for example: "bicyclist," "jogger," "pedestrian," "driver of vehicle," "passenger," "vendor," etc.

2. **Location.** This category describes the location of an accident; for example: "boardwalk," "sidewalk," "driveway," "swimming pool," "hospital," "school," etc.

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

4. **Interaction.** This refers to 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, wet 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. Medical malpractice claims include those that involve pre- or post-natal treatment, emergency room care, Emergency Medical Services treatment, or defective equipment.

#### 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 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. DOC

Corrections claims involve claims by inmates or employees of City correction institutions or facility conditions 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. DOC

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>12</sup>

In Bernadine, the Court held that "the civil divisions of the State are answerable equally with individuals and private corporations for wrongs of officers and employees -- even if no separate statute sanctions that enlarged liability in a given instance."<sup>13</sup> The Court, in effect, abolished the doctrine of sovereign immunity for municipalities, but did not provide municipalities any of the protections accorded to the State by the Court of Claims Act.<sup>14</sup> In particular, claimants seeking to recover from municipalities for their agents' negligent and wrongful acts are entitled to a jury trial.

Municipal liability is also governed by local law. Under their home rule authority, municipalities can limit liability to some extent through limitations on the right to sue. An example is New York City's prior notice law, enacted in 1979 in an effort to limit the City's liability in "slip and fall" cases on City sidewalks and streets.

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<sup>12</sup> Bernadine v. City of New York, 294 N.Y. 361 (1945)

<sup>13</sup> *Id.* p. 365.

<sup>14</sup> Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.

## II. Claims Process

To commence an action against the City, a claimant typically must first notify the City by filing a Notice of Claim with the Office of the Comptroller<sup>15</sup>. 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>16</sup> The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.<sup>17</sup>

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

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<sup>15</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>16</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>17</sup> City Charter, Chapter 5, Section 93 (i)

<sup>18</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>19</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>20</sup> City Charter, Chapter 17, Section 394 (c).

## **APPENDIX C**

### **Detailed Tables**

1. Table 1 – Number of Tort Claims Filed by Claim Type Fiscal Years 2006 - 2010
2. Table 2 – Number of Tort Claims Filed by Agency Fiscal Years 2006 - 2010
3. Table 3 – Dollar Amount of Tort Settlements & Judgments by Claim Type
4. Table 4 - Dollar Amount of Agency Tort Settlements & Judgments by Agency Fiscal Years 2006 - 2010
5. Table 5 – Number of Tort Settlements & Judgments by Claim Type Fiscal Years 2006 - 2010
6. Table 6 - Number of Tort Settlements & Judgments by Agency Fiscal Years 2006 - 2010

**Table 1  
Number of Tort Claims Filed By Claim Type  
Fiscal Years 2006-2010**

<b>Claim Type</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Personal Injury</b>					
Admiralty	37	19	29	28	56
Catastrophe	0	5	69	1	0
City Property	1,353	4,696	839	637	7,728
Civil Rights	1,558	1,566	1,769	1,964	2,657
Corrections	848	1,003	1,073	1,054	1,212
Health Facility	106	117	97	117	106
Medical Malpractice	703	656	703	691	650
Motor Vehicle	1,369	1,375	1,480	1,331	1,395
Parks & Recreation	212	248	240	263	229
Police Action	2,221	2,473	2,870	3,390	3,987
Roadway	1,185	1,126	1,115	1,163	1,070
Schools	1,238	1,281	1,199	1,190	1,057
Sidewalk	2,731	2,546	2,381	2,571	2,286
Traffic Device	142	168	119	106	113
Uniform Services	515	190	166	145	165
Unknown Claim Type	530	656	542	610	599
<b>Total</b>	<b>14,748</b>	<b>18,125</b>	<b>14,691</b>	<b>15,261</b>	<b>23,310</b>
<b>Property Damage</b>					
Admiralty	1	0	2	2	2
Catastrophe	0	0	298	18	0
City Personnel	1,146	1,147	1,182	1,197	1,329
City Property	148	105	238	152	141
Corrections Facility	210	213	275	298	444
Health Facility	134	123	161	132	128
Motor Vehicle	3,980	3,961	3,822	3,724	4,104
Police Action	322	334	395	311	311
Recreation	10	10	14	11	6
Roadway	1,468	1,124	1,521	1,277	2,337
School	230	237	202	193	182
Sewer Overflow	240	283	1,513	198	191
Sidewalk	35	28	14	20	19
Traffic Device	66	91	96	71	73
Uniform Services	3	0	0	66	2
Water Main	135	215	164	154	189
Unknown Claim Type	92	120	93	130	145
<b>Total</b>	<b>8,220</b>	<b>7,991</b>	<b>9,990</b>	<b>7,954</b>	<b>9,603</b>
<b>Grand Total</b>	<b>22,968</b>	<b>26,116</b>	<b>24,681</b>	<b>23,215</b>	<b>32,913</b>

**Table 2**  
**Number of Tort Claims Filed by Agency**  
**Fiscal Years 2006-2010**

<b>Agency</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Administration for Children's Services	108	86	114	134	113
American Museum of Natural History	0	1	0	0	0
Board of Elections	0	0	2	3	2
Boro President-Brooklyn	1	1	1	1	0
Boro President-Manhattan	0	2	0	1	1
Boro President-Queens	0	0	0	1	0
Boro President-Staten Island	0	0	0	0	1
City Clerk	0	0	0	2	2
City Council	2	2	3	0	1
City University (CUNY)	29	63	33	38	26
Comptroller	1	5	5	1	4
Department for the Aging	4	3	2	5	3
Department of Buildings	37	46	228	152	93
Department of City Planning	2	0	0	1	0
Department of Citywide Admin. Svcs.	79	58	52	63	105
Department of Consumer Affairs	1	10	2	6	12
Department of Correction	1,285	1,481	1,629	1,612	1,949
Department of Cultural Affairs	7	9	5	5	5
Department of Design and Construction	39	24	29	31	22
Department of Education	1,670	1,768	1,746	1,698	1,889
Department of Environmental Protection	773	765	2,331	747	704
Department of Finance	21	21	35	14	14
Department of Health and Mental Hygiene	62	36	31	40	49
Department of Homeless Services	103	113	102	120	142
Department of Information Technology and Telecommunications	2	2	3	3	4
Department of Investigations	11	7	2	3	4
Department Juvenile Justice	13	13	12	18	15
Department Parks and Recreation	862	1,030	1,032	1,028	1,116
Department of Probation	11	6	13	12	13
Department of Sanitation	1,982	1,829	1,684	1,809	2,198
Department of Social Services	3	10	8	8	13
Department of Transportation	5,885	5,196	5,442	5,186	6,035

**Table 2**  
**Number of Tort Claims by Agency**  
**Fiscal Years 2006-2010 (continued)**

Agency	2006	2007	2008	2009	2010
Department of Youth and Comm. Dev.	4	2	5	2	3
District Attorney - Bronx	4	3	4	6	6
District Attorney - Kings	15	12	15	7	6
District Attorney - New York	7	5	13	5	11
District Attorney - Queens	7	9	10	4	8
Housing Preservation and Development	153	106	83	77	87
Human Resources Administration	78	43	54	50	59
Human Rights Commission	1	3	0	1	0
Law Department	7	4	4	5	7
Mayor's Office	9	7	4	2	6
No Agency	1,283	5,011	918	831	7,474
Non City Agencies (improper service)	737	724	733	757	707
Office of Municipal Labor Relations	0	1	0	0	1
Office of the Chief Medical Examiner	10	6	13	2	7
Office of Economic Development	19	21	22	16	19
Office of Payroll Administration	0	0	0	2	0
Office of Management and Budget (OMB)	1	1	0	0	3
Police Department	5,657	5,702	6,263	6,745	8,104
Taxi and Limousine Commission	16	13	19	11	16
<b>Grand Total</b>	<b>22,968</b>	<b>26,116</b>	<b>24,681</b>	<b>23,215</b>	<b>32,913</b>

**Table 3**  
**Dollar Amount of Tort Settlements & Judgments by Claim Type**  
**Fiscal Years 2006-2010**

<b>Claim Type</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Personal Injury</b>					
<b>Admiralty</b>	\$12,442,326	\$18,671,422	\$12,154,678	\$48,945,387	\$8,918,593
<b>Catastrophe</b>	\$1,255,000	\$0	\$0	\$0	\$0
<b>City Property</b>	\$14,652,965	\$33,630,604	\$25,256,521	\$31,750,953	\$14,246,063
<b>Civil Rights</b>	\$43,780,071	\$52,618,610	\$42,232,437	\$47,065,733	\$78,656,903
<b>Corrections</b>	\$4,233,997	\$8,857,503	\$8,199,183	\$5,938,403	\$5,025,429
<b>Health Facility</b>	\$2,484,951	\$2,034,457	\$3,747,700	\$4,720,058	\$2,056,377
<b>Medical Malpractice</b>	\$159,275,143	\$155,702,867	\$152,664,578	\$127,288,634	\$130,105,357
<b>Motor Vehicle</b>	\$67,292,801	\$55,038,680	\$56,817,617	\$79,738,416	\$65,061,370
<b>Parks &amp; Recreation</b>	\$4,169,650	\$13,055,261	\$7,881,426	\$5,724,315	\$7,905,906
<b>Police Action</b>	\$25,046,499	\$25,529,667	\$34,626,512	\$49,264,883	\$56,436,453
<b>Roadway</b>	\$19,471,292	\$19,349,176	\$36,167,033	\$24,594,449	\$27,223,626
<b>Schools</b>	\$33,174,139	\$41,232,583	\$53,557,015	\$54,243,099	\$35,395,562
<b>Sidewalk</b>	\$55,902,717	\$71,446,708	\$54,596,923	\$39,799,227	\$34,902,080
<b>Traffic Device</b>	\$1,967,398	\$3,027,925	\$3,318,000	\$1,120,750	\$2,883,300
<b>Uniform Services</b>	\$25,691,763	\$33,551,471	\$38,382,350	\$30,108,500	\$41,646,283
<b>Total</b>	<b>\$470,840,712</b>	<b>\$533,746,934</b>	<b>\$529,601,973</b>	<b>\$550,302,807</b>	<b>\$510,463,302</b>
<b>Property Damage</b>					
<b>Admiralty</b>	\$0	\$0	\$0	\$10,289	\$0
<b>City Personnel</b>	\$981,484	\$1,450,981	\$3,298,638	\$573,369	\$878,452
<b>City Property</b>	\$120,054	\$198,888	\$515,162	\$15,863	\$12,415
<b>Corrections Facility</b>	\$1,210	\$2,801	\$1,919	\$14,960	\$1,551
<b>Health Facility</b>	\$8,522	\$2,866	\$21,559	\$18,071	\$19,648
<b>Motor Vehicle</b>	\$7,282,310	\$5,643,075	\$5,691,702	\$5,465,700	\$5,861,779
<b>Parks &amp; Recreation</b>	\$0	\$201	\$575	\$1,578	\$0
<b>Police Action</b>	\$195,695	\$188,699	\$160,451	\$120,028	\$509,830
<b>Roadway</b>	\$323,129	\$274,973	\$820,666	\$271,099	\$295,277
<b>School</b>	\$2,549	\$7,589	\$7,604	\$11,627	\$24,416
<b>Sewer Overflow</b>	\$852,955	\$307,720	\$1,915,311	\$272,679	\$383,619
<b>Sidewalk</b>	\$569	\$500	\$0	\$2,125,285	\$3,335
<b>Traffic Device</b>	\$16,139	\$12,663	\$41,430	\$55,727	\$7,699
<b>Uniform Services</b>	\$0	\$0	\$0	\$0	\$2,785
<b>Water Main</b>	\$1,318,991	\$639,425	\$1,823,962	\$664,588	\$2,142,514
<b>Total</b>	<b>\$11,103,607</b>	<b>\$8,730,381</b>	<b>\$14,298,979</b>	<b>\$9,620,863</b>	<b>\$10,143,320</b>
<b>Grand Total</b>	<b>\$481,944,319</b>	<b>\$542,477,315</b>	<b>\$543,900,952</b>	<b>\$559,923,670</b>	<b>\$520,606,622</b>

**Table 4**  
**Dollar Amount of Tort Settlements & Judgments by Agency**  
**Fiscal Years 2006-2010**

<b>Agency</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Adm. for Children's Svcs.</b>	\$1,432,186	\$3,693,115	\$527,871	\$532,286	\$606,422
<b>Board of Elections</b>	\$15,000	\$0	\$275,000	\$42,500	\$0
<b>Boro President-Bronx</b>	\$0	\$75,930	\$45,000	\$0	\$0
<b>Boro President-Brooklyn</b>	\$0	\$0	\$0	\$0	\$468
<b>Boro President-Manhattan</b>	\$3,249	\$814	\$0	\$2,000	\$0
<b>Boro President-Queens</b>	\$0	\$0	\$0	\$0	\$98,000
<b>City Council</b>	\$5,524	\$300,000	\$138,774	\$0	\$1,700
<b>City Planning Comm.</b>	\$20,501	\$0	\$0	\$0	\$0
<b>City University (CUNY)</b>	\$453,050	\$469,000	\$480,250	\$282,575	\$155,000
<b>Comptroller</b>	\$10,166	\$7,610	\$1,439	\$17,200	\$2,000
<b>Dept. for the Aging</b>	\$0	\$0	\$125,000	\$208,000	\$0
<b>Department of Buildings</b>	\$1,714,946	\$854,544	\$1,413,458	\$380,236	\$107,152
<b>Dept. of Citywide Admin. Svcs.</b>	\$936,436	\$1,694,013	\$791,836	\$395,667	\$914,187
<b>Dept. of Consumer Aff.</b>	\$1,984	\$0	\$19,863	\$664,976	\$1,010
<b>Dept. of Correction</b>	\$10,595,076	\$14,192,135	\$21,384,122	\$16,405,904	\$43,651,904
<b>Dept. of Cultural Aff.</b>	\$20,000	\$1,745	\$25,000	\$0	\$0
<b>Dept. of Design and Const.</b>	\$45,158	\$5,190	\$80,366	\$56,897	\$131,454
<b>Department of Education</b>	\$33,695,746	\$41,979,592	\$53,183,806	\$55,870,462	\$35,466,878
<b>Dept. of Employment</b>	\$24,200	\$15,000	\$8,375	\$0	\$0
<b>Dept. of Enviro. Protection</b>	\$5,386,767	\$3,783,506	\$8,478,133	\$8,109,061	\$6,027,951
<b>Department of Finance</b>	\$155,266	\$648,583	\$701,821	\$2,210	\$132,807
<b>Dept. of Health and Mental Hygiene</b>	\$648,354	\$879,282	\$1,750,529	\$217,751	\$419,774
<b>Dept. of Homeless Services</b>	\$176,900	\$265,930	\$716,360	\$622,549	\$1,605,028
<b>Dept. of Info. Tech and Telecom.</b>	\$90,000	\$25,000	\$40,000	\$637,479	\$30,000
<b>Dept. of Investigations</b>	\$63,819	\$2,845	\$168,900	\$22,000	\$7,877
<b>Department Juvenile Justice</b>	\$414,039	\$8,412	\$161,850	\$161,412	\$56,556
<b>Department Parks and Recreation</b>	\$7,968,822	\$16,117,606	\$12,138,161	\$9,429,660	\$15,929,996

**Table 4**  
**Dollar Amount of Tort Settlements & Judgments by Agency**  
**Fiscal Years 2006-2010 (continued)**

<b>Agency</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Department of Probation	\$145,157	\$84,325	\$32,476	\$72,500	\$260,205
Department of Sanitation	\$19,111,177	\$35,877,754	\$27,236,884	\$32,859,946	\$38,008,036
Dept. of Social Services	\$53,000	\$30,407	\$0	\$0	\$1,345
Dept. of Transportation	\$104,178,140	\$113,339,492	\$107,592,487	\$115,333,070	\$74,740,924
Department of Youth and Comm. Dev.	\$61,130	\$4,069	\$20,000	\$0	\$2,751
District Attorney - Bronx	\$0	\$1,330,000	\$109,940	\$70,000	\$214,433
District Attorney - Kings	\$4,175	\$130,759	\$23,444	\$91,234	\$128,800
District Attorney - NY	\$35,000	\$0	\$10,411	\$250,705	\$3,000
District Attorney - Queens	\$751,292	\$26,755	\$41,500	\$3,640,000	\$79,044
Fire Department	\$21,247,464	\$22,558,459	\$18,602,877	\$16,307,205	\$19,445,894
Health and Hospitals Corp.	\$162,566,117	\$158,720,210	\$153,306,559	\$134,946,576	\$134,426,820
Housing Pres. and Dev.	\$11,352,744	\$17,679,508	\$21,028,261	\$16,973,510	\$5,126,366
Human Resources Admin.	\$1,198,679	\$4,840,071	\$865,095	\$1,482,725	\$381,636
Human Rights Commission	\$700	\$0	\$0	\$0	\$0
Law Department	\$407,302	\$13,250	\$45,000	\$0	\$6,679
Mayor's Office	\$8,586	\$0	\$1,352	\$1,198	\$21,200
No Agency	\$2,315,290	\$5,339,388	\$6,254,592	\$8,034,051	\$6,401,289
Office of the Chief Medical Examiner	\$7,928	\$52,595	\$2,178	\$265,000	\$160,000
Office of Econ. Dev.	\$20,000	\$1,501	\$550	\$0	\$4,188
Office of Payroll Admin.	\$0	\$0	\$0	\$0	\$482
OMB	\$0	\$1,800	\$40,000	\$0	\$0
Police Department	\$93,230,357	\$92,338,730	\$104,999,819	\$135,271,837	\$135,795,758
Public Administrator	\$0	\$1,550	\$0	\$0	\$0
Taxi and Limousine Comm.	\$1,372,892	\$5,086,840	\$1,031,613	\$263,288	\$51,608
<b>Grand Total</b>	<b>\$481,944,319</b>	<b>\$542,477,315</b>	<b>\$543,900,952</b>	<b>\$559,923,670</b>	<b>\$520,606,622</b>

**Table 5**  
**Number of Tort Settlements & Judgments by Claim Type**  
**Fiscal Years 2006-2010**

<b>Claim Type</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Personal Injury</b>					
Admiralty	49	53	33	56	49
Catastrophe	3	0	0	0	0
City Property	156	161	168	139	110
Civil Rights	1,330	1,171	938	1,141	1,261
Corrections	158	144	159	227	195
Health Facility	42	46	43	53	36
Medical Malpractice	324	300	310	292	311
Motor Vehicle	973	965	1,042	906	893
Parks & Recreation	196	177	188	154	134
Police Action	579	714	980	1,143	1,295
Roadway	730	713	750	556	512
Schools	983	978	1,065	844	821
Sidewalk	1,706	1,488	1,304	1,042	927
Traffic Device	101	95	72	55	38
Uniform Services	117	105	122	91	116
<b>Total</b>	<b>7,447</b>	<b>7,110</b>	<b>7,174</b>	<b>6,699</b>	<b>6,698</b>
<b>Property Damage</b>					
Admiralty	0	0	0	1	0
City Personnel	311	351	331	263	354
City Property	18	27	17	10	12
Correction Facility	3	9	9	6	5
Health Facility	21	19	44	36	33
Motor Vehicle	3,391	2,704	2,513	2,340	2,490
Police Action	76	55	52	61	43
Recreation	0	2	5	2	0
Roadway	270	244	300	275	307
School	22	53	42	39	84
Sewer Overflow	75	57	55	60	50
Sidewalk	2	1	0	3	2
Traffic Device	9	10	13	8	6
Uniform Services	0	0	0	0	8
Water Main	100	76	97	88	77
<b>Total</b>	<b>4,298</b>	<b>3,608</b>	<b>3,478</b>	<b>3,192</b>	<b>3,471</b>
<b>Grand Total</b>	<b>11,745</b>	<b>10,718</b>	<b>10,652</b>	<b>9,891</b>	<b>10,169</b>

**Table 6**  
**Number of Tort Settlements and Judgments by Agency**  
**Fiscal Years 2006-2010**

<b>Agency</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Administration for Children's Services	11	15	26	23	17
Board of Elections	1	0	2	1	0
Boro President-Bronx	0	2	1	0	0
Boro President-Manhattan	1	1	0	1	0
Boro President-Queens	0	0	0	0	1
City Council	2	1	1	0	2
City Planning Commission	2	0	0	0	0
City University (CUNY)	7	7	13	5	5
Comptroller	3	2	1	2	1
Department for the Aging	0	0	1	3	0
Department of Buildings	23	25	25	13	15
Department of Citywide Admin. Svcs.	35	38	26	23	29
Department of Consumer Affairs	2	0	3	1	1
Department of Correction	307	275	315	394	348
Department of Cultural Affairs	1	2	1	0	0
Department of Design and Construction	5	4	10	7	7
Department of Education	1,039	1,054	1,135	940	949
Department of Employment	2	1	1	0	0
Department of Environmental Protection	345	296	333	303	280
Department of Finance	7	10	7	2	7
Department of Health and Mental Hygiene	24	24	28	13	19
Department of Homeless Services	17	22	28	35	20
Dept. of Info. Technology and Telecom.	2	1	1	4	3
Department of Investigations	6	2	7	3	1
Department of Juvenile Justice	5	2	6	10	10
Department of Parks and Recreation	474	418	436	357	368
Department of Probation	7	4	2	2	11
Department of Sanitation	1,919	1,499	1,311	1,252	1,375
Department of Social Services	3	3	0	0	2
Department of Transportation	2,991	2,716	2,539	2,065	1,933
Department of Youth and Comm. Dev.	5	2	1	0	1
District Attorney - Bronx	0	3	4	2	5
District Attorney - Kings	3	2	5	10	3
District Attorney - New York	1	0	3	2	1
District Attorney - Queens	2	4	2	3	4
Fire Department	590	578	652	622	636

**Table 6**  
**Number of Tort Settlements and Judgments by Agency**  
**Fiscal Years 2006-2010 (continued)**

<b>Agency</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Health and Hospitals Corporation	428	398	432	413	412
Housing Preservation and Development	98	96	91	55	30
Human Resources Administration	26	30	30	17	20
Human Rights Commission	1	0	0	0	0
Law Department	5	2	1	0	4
Mayor's Office	3	0	1	1	3
No Agency	143	139	159	143	95
Office of the Chief Medical Examiner	4	2	2	2	1
Office of Economic Development	1	1	1	0	1
Office of Payroll Administration	0	0	0	0	1
Office of Management and Budget (OMB)	0	1	1	0	0
Police Department	3,183	2,671	2,957	3,152	3,546
Public Administrator	0	1	0	0	0
Taxi and Limousine Commission	11	364	51	10	2
<b>Grand Total</b>	<b>11,745</b>	<b>10,718</b>	<b>10,652</b>	<b>9,891</b>	<b>10,169</b>

## Appendix D

### The following are the 10 Largest Tort Settlements/Judgments for Fiscal Year 2010

1. Class action lawsuit alleging DOC improperly performed strip searches of drug/weapon and non-drug/weapon misdemeanants from 1999 – 2007. Settlement: \$33 million.
2. In 2006, claimant was involved in a motor vehicle accident where he suffered the amputation of his left leg after allegedly colliding with a DSNY truck while riding his motorcycle. Settlement: \$9.6 million.
3. In 2005, claimant alleges she suffered a stroke and brain damage and incapacitation as a result of post birth delivery complications. Settlement: \$5.75 million.
4. In 2003, a claimant was allegedly struck by a police vehicle. He suffered a traumatic amputation to his right leg. Settlement: \$6.5 million.
5. In 2006, a fire fighter standing behind a double-parked fire truck was struck by another vehicle. He sustained an amputation of his right leg and multiple rib fractures resulting in eight surgeries. Settlement: \$5 million.
6. In 2003, a claimant, because of improperly performed gastric bypass surgery and post surgery complications, suffered cardiac arrest and brain damage. Judgment: \$4,904,149.16
7. In 2005, claimant alleges complete blindness as a result of improper treatment of his diabetic condition Settlement: \$4.9 million.
8. In 1998, Claimant was crushed by collapsed scaffolding that was damaged by a Sanitation truck the day prior. He sustained multiple right leg and rib fractures and underwent six surgical procedures. Judgment: \$4.75 million.
9. In 2005, a police officer was a passenger in a police vehicle that struck a telephone pole. Claimant suffered quadriplegia. Settlement: \$4.5 million
10. Claimant's estate alleged wrongful death as a result of a 2000 police shooting. Verdict reduced on appeal: \$4.4 million.

**APPENDIX E**  
**FY 2010 Chart Index**

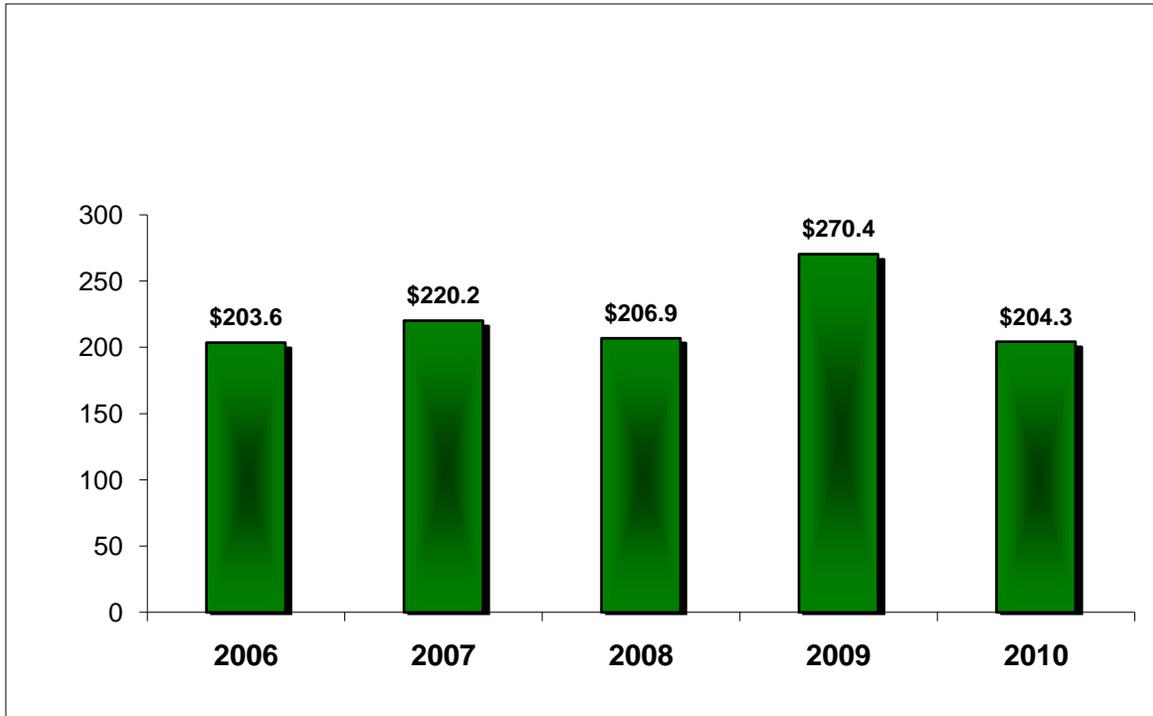
<b>CHART</b>	<b>TITLE</b>	<b>PAGE</b>
1	Pre-Litigation Personal Injury Settlements	7
2	Number of Tort Claims Filed by Category Fiscal Year 2010	18
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4	Percentage of Total PI Expenditures Recorded by Claim Type 2009	21
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6	Number of Claims Filed by Major Claim Type FYs 2006 - 2010	23
7	Medical Malpractice FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	25
8	Civil Rights FYs 2006 – 2010 Number of Claims Filed & Settlement (In Millions)	31
9	Motor Vehicle FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	33
10	Police Action FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	35
11	Uniform Services FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	37
12	School Claims FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	39
13	Sidewalk Claims FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	41
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21	Health & Hospitals Corporation FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	52
22	Department of Transportation FYs 2006 – 2010 Number of Claims Filed & Settlements (In Millions)	54
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**APPENDIX F**

ADDITIONAL CHARTS DEPICTING CLAIM ACTIVITIES

Chart 1	Over \$1 Million Cases: Amount Paid FYs 2006-2010
Chart 2	Over \$1 Million Cases: Number Resolved FYs 2006-2010

**CHART 1**  
**Over \$1 Million Cases: Amount Paid**  
**FY's 2006 - 2010**



**CHART 2**  
**Over \$1 Million Cases: Number Resolved**  
**FY's 2006 - 2010**

