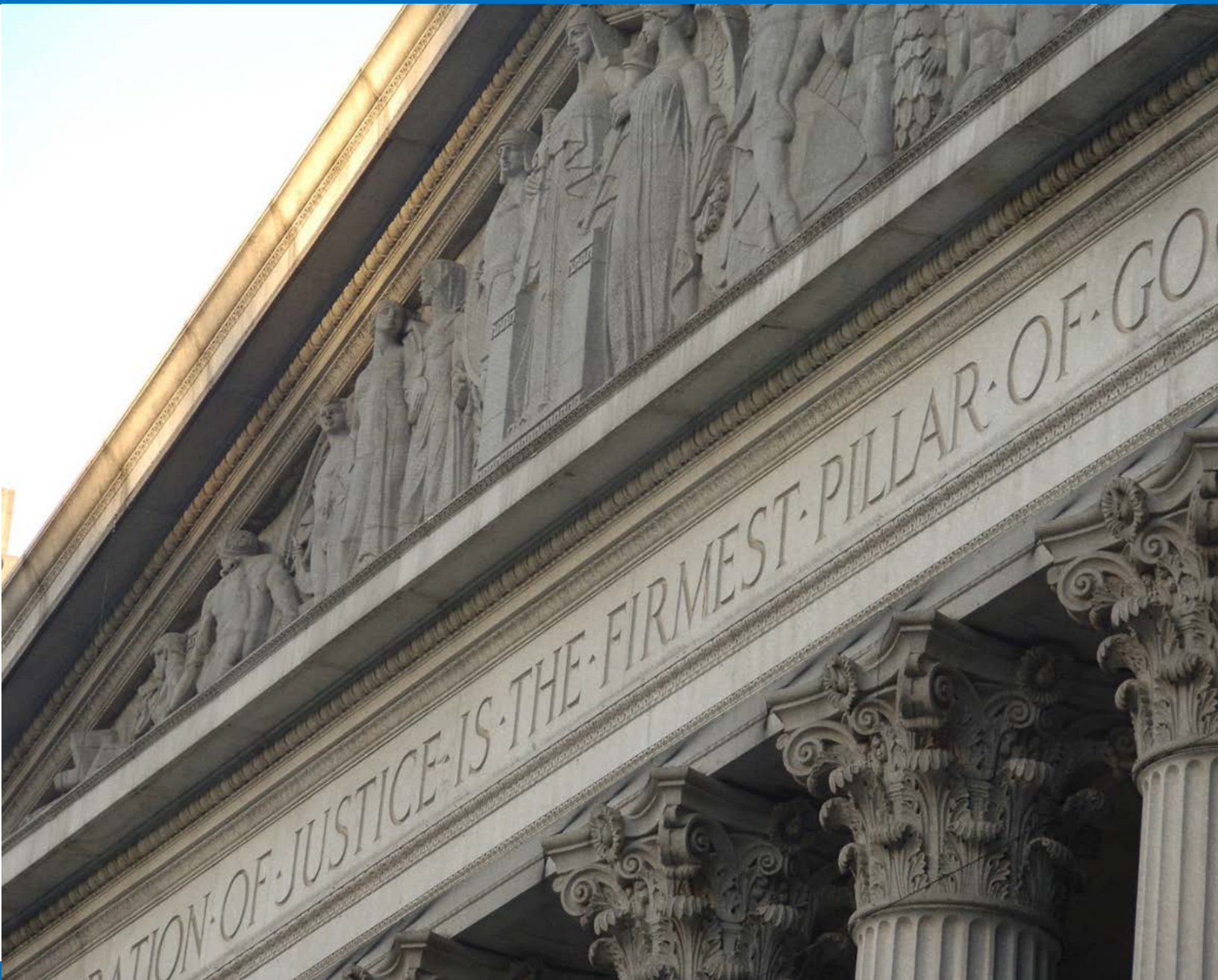




Office of the
New York City Comptroller
Scott M. Stringer
Bureau of Law and Adjustment
www.comptroller.nyc.gov

February 2018

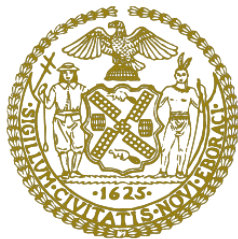


Claims Report:

Fiscal Year 2017







THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER

SCOTT M. STRINGER
COMPTROLLER

February 20, 2018

Dear Fellow New Yorkers:

I am pleased to share with you the New York City Comptroller's Office Claims Report for fiscal year (FY) 2017, covering July 1, 2016 through June 30, 2017. This report, the fourth in my administration, evaluates claims filed against the City of New York, outlining claim trends by type across City agencies. Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$79.13 in FY 2017. All City agencies should use this report and perform their own analysis in order to reduce the number and cost of claims and appropriately assess risk so that the City can do better in managing risk on behalf of its residents.

In FY 2017, personal injury and property damage (tort claims) settlements cost the City \$675.6 million, nearly a six percent increase from the \$639.2 million paid in FY 2016. The City settled other non-tort claims for a total of \$343.1 million, representing a ten percent decrease from FY 2016, when settlements totaled \$381.1 million.

In FY 2017, the City paid out \$84.5 million to continue to clear the backlog of high exposure legacy cases that have been in litigation for a decade or more. This \$84.5 million dollar figure constitutes 13 percent of total tort payouts in FY 2017 of \$675.6 million.

Although the City is facing historically high settlement payouts, there are reasons to be optimistic. FY 2017 saw a decline in claims filed against City agencies, such as Department of Transportation (DOT), Department of Sanitation (DSNY), NYC Health + Hospitals (H+H), and Department of Parks and Recreation (Parks). And between FY 2016 and FY 2017, the number of claims filed against the New York Police Department (NYPD) dropped by 14 percent. This reduction in the number of claims filed against the NYPD continues the decline in the number of claims filed from FY 2014 to FY 2016.

Although the number of claims filed against the NYPD declined in FY 2017, claims and cases against the NYPD that were resolved in FY 2017 cost the City \$308.2 million, the highest in City history. However, as highlighted and explained in this report, it was a very small number of wrongful conviction cases that disproportionately accounted for the total amount.

When it is prudent to do so, my office evaluates and resolves meritorious claims pre-litigation to provide closure to claimants sooner and enable the City to better utilize its litigation and trial counsel resources. During FY 2017, my office settled significant civil rights claims before litigation to avoid lengthy proceedings that are costly for the City and claimants alike. In particular, we settled civil rights claims redressing the wrongful convictions of Vanessa Gathers, William Vasquez, Amaury Villalobos, and Raymond Mora. In addition, my office settled pre-litigation the wrongful death claim filed by the estate of Felix Kumi to avoid the risk of unreasonable verdicts and judgments.

My administration has developed and deployed data-driven tools, including ClaimStat, to reduce future claims costs. We will continue to work closely with the NYPD, DOC, and DSNY to share data to reduce risks posed to the City and its residents and visitors. We welcome partnerships with other City agencies so that we can further expand the use of data-driven processes to implement the best risk management tools. In the long-term, utilization of technology and efficient coordination with other City agencies should result in a continued decline in the number of claims filed, lower settlement costs, and a safer and a better City for all New Yorkers.

Sincerely,



Scott M. Stringer

New York City Comptroller

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I. EXECUTIVE SUMMARY

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

In FY 2017, BLA adjusted or settled 13,943 claims that ultimately resulted in authorizing total City outlays of more than \$1 billion.²

For FY 2017, the City paid out \$675.6 million in tort claim settlements and judgments—nearly six percent more than the \$639.2 million paid out in FY 2016.³ These tort claims ranged from slip/trip and fall to medical malpractice, police action, and motor vehicle property damage claims.

The number of tort claims filed against the NYPD declined in FY 2017, but cost the City \$308.2 million, the highest in City history. It is important to note, however, that a small number of cases disproportionately accounted for the total amount. In FY 2017, eleven wrongful conviction claims, representing 0.27 percent of 4,014 police cases resolved during FY 2017, settled for a total of \$78.6 million, which accounted for 26 percent of the total \$308.2 million in NYPD payouts.

In FY 2017, the City paid out \$343.1 million in non-tort claims, or “law claims,” a ten percent decrease from the \$381.1 million paid out in FY 2016. These law claims include disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving DOE special education matters, equitable claim, sidewalk assessments, and cleanup costs levied on property owners who are in violation of the Mental Hygiene Law.

In FY 2017, the City paid out \$84.5 million for legacy claims that were filed before FY 2008, which includes \$29.5 million paid out to four New York City firefighters and families for the death and serious injuries sustained from responding to a January 2005 fire at an apartment building in the Bronx. Excluding settlement payments on legacy claims, personal injury tort claim payouts declined from \$593.1 million in FY 2016 to \$591.3 million in FY 2017.

Finally, this report also includes a look-back to FY 2008⁴ to provide a broader perspective on claim filings and settlements and judgments in order to contextualize the FY 2017 numbers.

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

ClaimStat Update and Inter-Agency Partnerships

In an effort to drive down the cost of claims, in 2014, during the first year of Comptroller Stringer's administration, the Comptroller's Office launched ClaimStat, a data-driven analysis of claims against the City. ClaimStat was introduced to help agencies reduce claims by providing data that enables agencies to identify practices that lead to costly settlements and judgments against the City. Using ClaimStat data, the Comptroller's Office has released agency-related updates concerning claims, including filing trends and resolved claim payouts. In addition, the Comptroller's Office holds regularly scheduled conference calls and partners with several City agencies in order to discuss and share relevant claims data to help agencies better manage risk, implement agency best practices, and efficiently allocate City resources.

BLA holds weekly telephonic conferences and exchanges real-time data with the NYPD's Risk Mitigation Unit to identify claim trends as early as possible. This partnership allows the Comptroller's Office to gather evidence and information necessary to make an early assessment of the City's exposure to certain types of claims and share relevant data with the NYPD so that they may enact policies to address practices that lead to increased exposure for the City. Currently, BLA also shares real time data and holds regularly scheduled telephonic conferences with the Department of Correction (DOC), and the Department of Sanitation (DSNY). In addition, BLA shares data with Department of Environmental Protection (DEP), Department of Citywide Administrative Services (DCAS), and Department of Transportation (DOT) on a limited basis. The Comptroller's Office is continually working to expand coordinated efforts to mitigate risk and to implement best practices.

Recovery Program Update

The Comptroller's Office partners with the Human Resources Administration—particularly with the Office of Child Support Enforcement (OCSE)—to collect reimbursements for public assistance and Medicaid benefits, as well as child support obligations, from claimants who receive settlement payouts from the City. The Comptroller's Office and the OCSE successfully automated the process to ensure that outstanding payments are processed and collected properly. The Comptroller's Office also works with the New York City Department of Finance to collect offsets, including unpaid parking tickets, against claimants who reach a settlement with the City. In FY 2017, BLA collected \$8.3 million from claimants with outstanding obligations to the City or with child support orders in arrears compared to \$7.3 million in FY 2016.

Damage to the City (Pre-Litigation)

The Comptroller's Office initiates affirmative claims to collect money from individuals who have damaged City property. Most of these claims involve damage to City-owned motor vehicles and City infrastructure. BLA's efforts in asserting these claims on behalf of the City resulted in the collection of \$1.9 million in FY 2017.

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

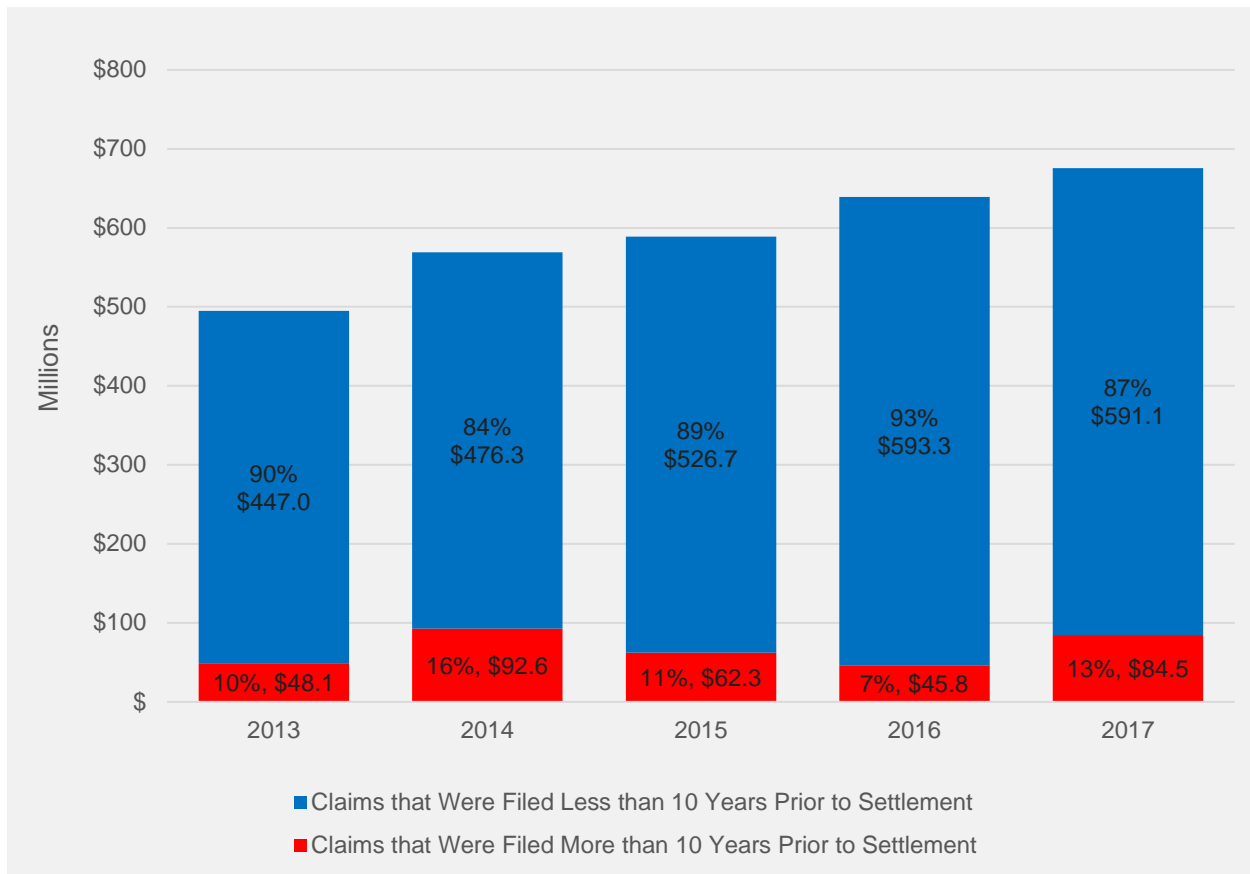
The New York State Son of Sam Law permits a crime victim to commence a civil action to recover money damages for "profits from a crime" or the "funds of a convicted person."⁵ Under the law, the Comptroller's Office must report to the New York State Office of Victim Services (Victim Services) any City settlement obligation to a convicted person that exceeds \$10,000. BLA automated its process to identify claims that should be reported and works closely with Victim Services and the New York State Attorney General's Office to help identify funds in excess of \$10,000 awarded to convicted persons from whom victims can recover money. In FY 2017, the City paid \$372,000 to crime victims who recovered from claim settlements under the Son of Sam Law. With this FY 2017 payment of \$372,000, a total of \$658,000 has been paid to crime victims from New York City settlements since FY 2011 under the New York State Son of Sam Law.

III. LEGACY CLAIMS

Payments for Personal Injury Tort Claims That Were Filed Before 2008

New Yorkers continue to pay for claims that were filed more than a decade ago. In FY 2017, the City paid out \$84.5 million for claims that were filed prior to FY 2008, including \$29.5 million paid out to five New York City firefighters and families for the death and serious injuries sustained from responding to a January 2005 fire at an apartment building in the Bronx.

Chart 1
Total Personal Injury Tort Claim Payouts for Legacy Claims
FYs 2013-2017

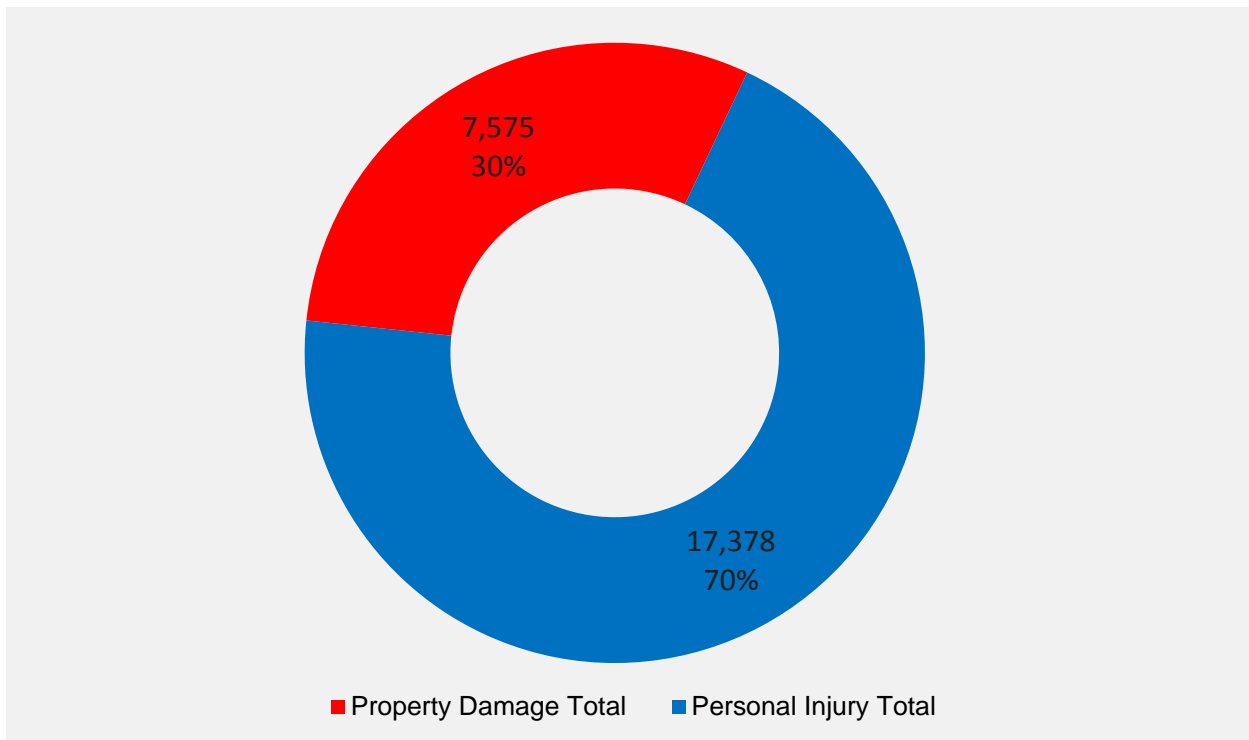


In FY 2014, the Comptroller’s Office began to analyze the cost of settlements stemming from protracted litigation. While aggressive litigation is necessary and appropriate to defend the City from meritless claims, in certain instances, prolonged and drawn out litigation—so-called “legacy claims”—is not always the most effective use of the City’s resources and, at times, even increases the City’s exposure to unreasonable verdicts and judgments. The Comptroller’s Office and Office of the Corporation Counsel must consistently strike the difficult balance of resolutely defending the City while avoiding needlessly drawn-out litigation. As a consequence, when appropriate, the Comptroller’s Office will continue to settle meritorious claims in their early stages, driving down future settlement and judgment costs, to the benefit of the City. Simultaneously, the Comptroller’s Office will continue working with law enforcement to root out fraudulent claims and with Office of the Corporation Counsel to vigorously defend against meritless claims.

IV. TORT CLAIMS

Tort claims consist of personal injury and property damage claims. While the number of tort claims filed in FY 2017 decreased, the amount paid out on settled tort claims in FY 2017 increased.⁶ In FY 2017, 24,953 new personal injury and property damage claims were filed—a seven percent decrease from the 26,862 tort claims filed in FY 2016.⁷

Chart 2
Number and Percentage of Tort Claims Filed by Category
FY 2017



In FY 2017, settlement of tort claims cost the City \$675.6 million, nearly a six percent increase from the \$639.2 million paid out by the City in FY 2016. Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$79.13 in FY 2017.

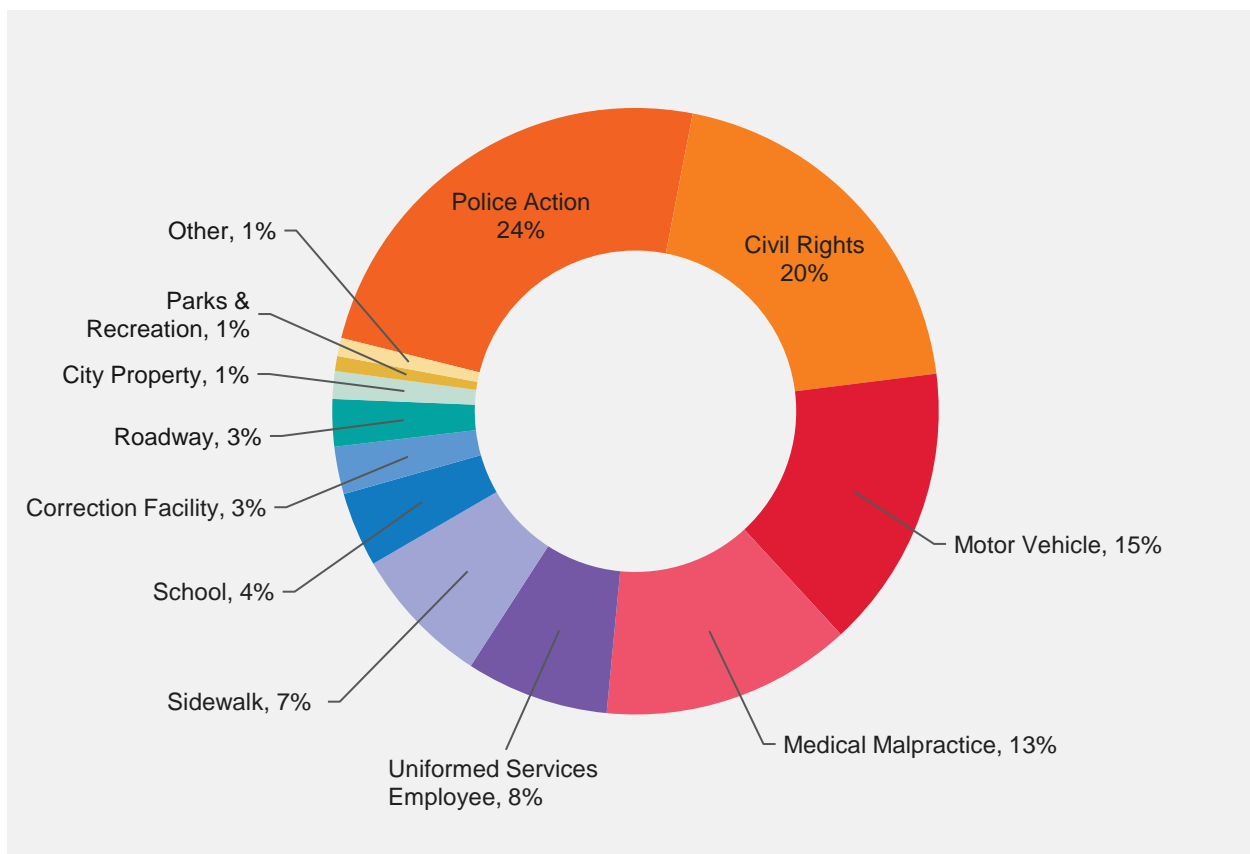
A. PERSONAL INJURY CLAIMS

Personal injury claims are the most frequently filed and the most costly to resolve. Such claims include, but are not limited to, allegations of medical malpractice, civil rights violations, injuries occurring in DOE schools, motor vehicle accidents involving City-owned vehicles, as well as claims arising from allegedly defective sidewalks, or the actions of police or uniformed services employees. In FY 2017, personal injury claims accounted for \$665.6 million, or 99 percent, of the

\$675.6 million paid out on settled tort claims. The average settlements and judgments cost for all personal injury cases in FY 2017 was \$100,315, 18 percent higher than the average of \$85,295 in FY 2016.

Out of the 6,635 personal injury settlements, there were 128 personal injury claim payouts for \$1 million or more in FY 2017, totaling \$346.3 million. These 128 claims represent 51 percent of the total personal injury claim payouts for FY 2017. Payouts on civil rights (\$93.5 million), police action (\$75.4 million), motor vehicle (\$60.1 million) and medical malpractice (\$55.2 million) claims represent 82 percent of the total \$346.3 million paid out on settlements of \$1 million or more.

Chart 3
Percentage of Total Personal Injury Expenditures Recorded by Claim Type
FY 2017

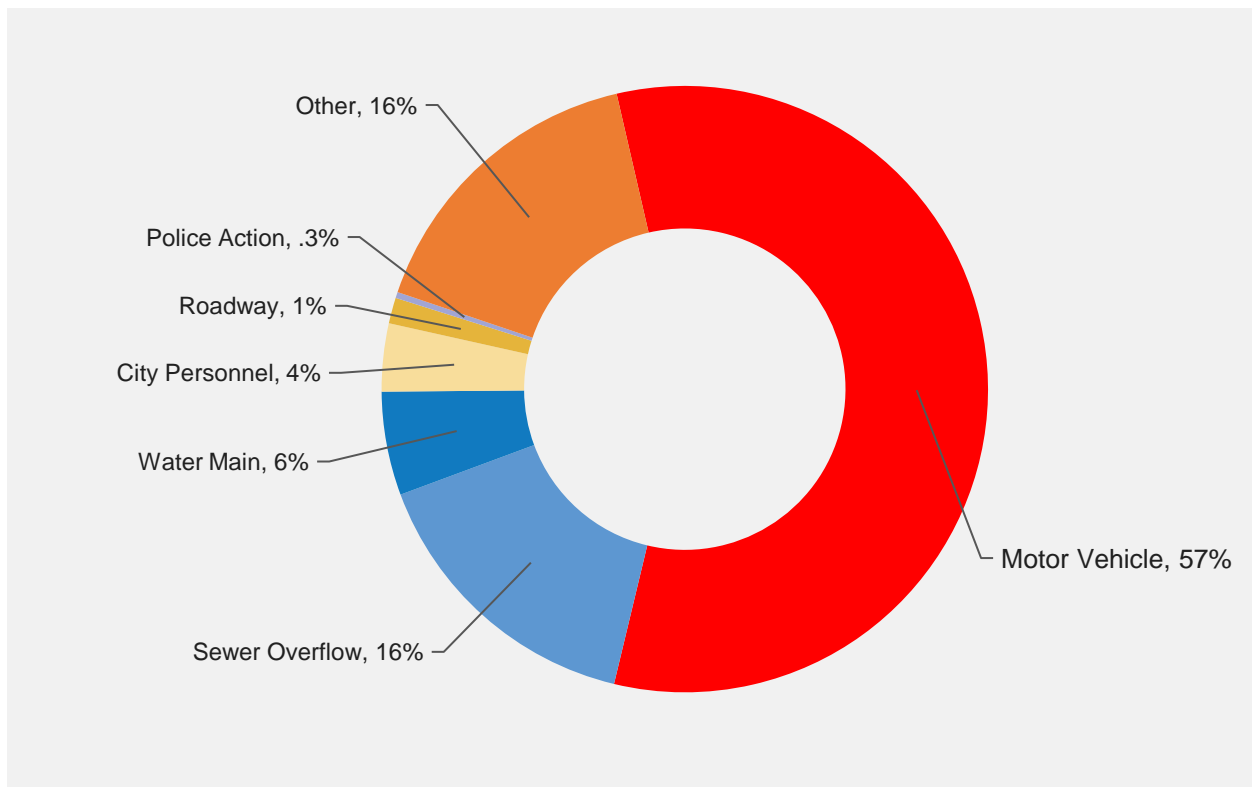


B. PROPERTY DAMAGE CLAIMS

Property damage claims consist of damage or loss to personal property as a result of the City’s alleged negligence, including, but not limited to, motor vehicle accidents, roadways, water main breaks, and sewer overflows. Property damage claims comprised nearly one percent of the

City's total tort claim payouts in FY 2017. In FY 2017, 7,575 property damage claims were filed, a seven percent decrease from the 8,149 claims filed in FY 2016. Property damage settlement and judgment payouts increased by six percent in FY 2017 to \$10.0 million from \$9.4 million in FY 2016.

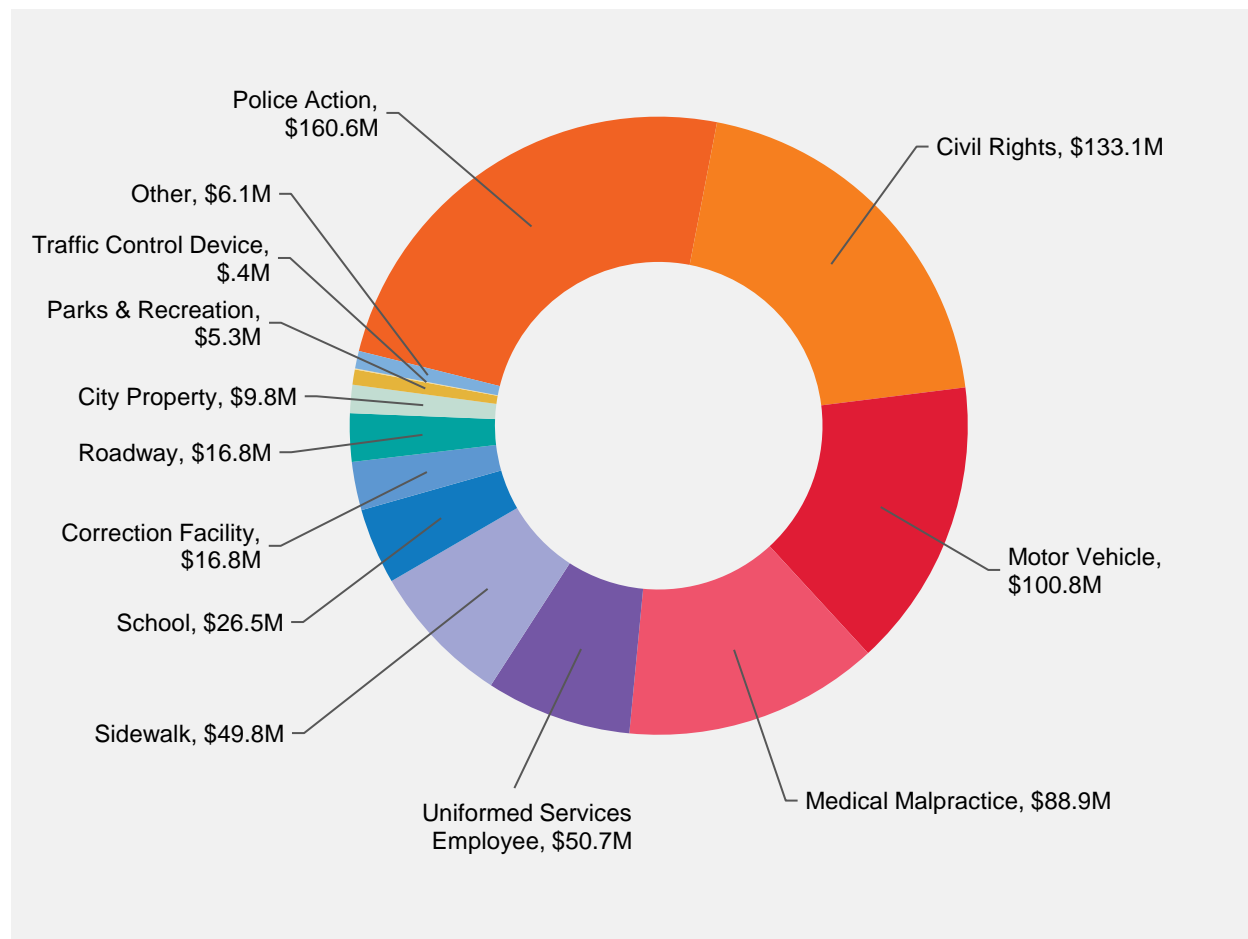
Chart 4
Percentage of Total Property Damage Expenditures Recorded by Claim Type
FY 2017



C. TORT CLAIM TRENDS BY CLAIM TYPE

In FY 2017, the five costliest personal injury claim categories in terms of settlements and judgments paid out were police action claims (\$160.6 million), civil rights claims (\$133.1 million), motor vehicle claims (\$100.8 million), medical malpractice claims (\$88.9 million), and uniformed services employee claims (\$50.7 million). Together, in FY 2017, these resolved claims accounted for 80 percent of all personal injury settlements and judgments paid out.

Chart 5
Expenditures Paid (In Millions) for Personal Injury Claims by Claim Type
FY 2017



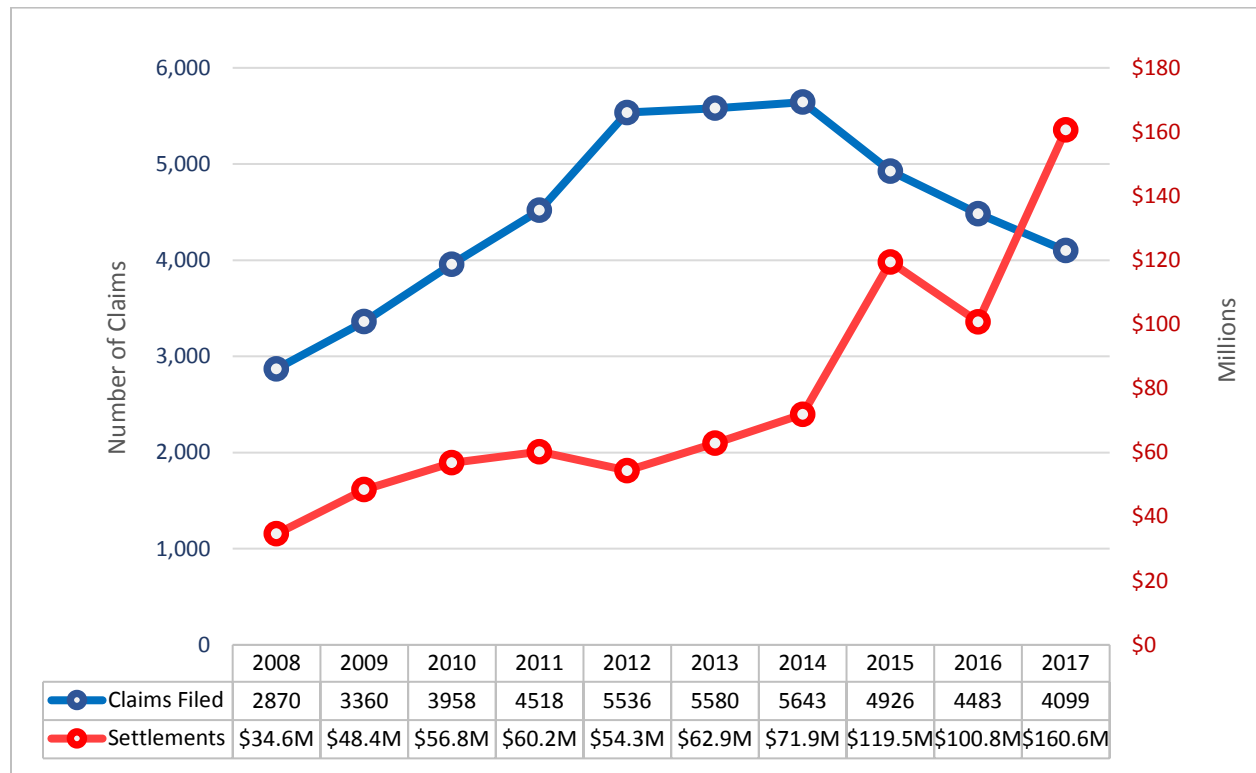
1. Police Action Claims

Police action claims result from claims of improper police conduct, such as alleged false arrest or imprisonment, or excessive force under New York State law litigated in New York State courts. Police action claims were the most frequently filed personal injury claim and accounted for the highest claim payout in FY 2017.

There were 4,099 new police action claims filed in FY 2017, down nine percent from FY 2016 when 4,483 police action claims were filed. The decline in police action claims filed for the third straight year reverses a prior trend of rising police action claims filed that peaked in FY 2014.

In FY 2017, the cost of settled police action claims was \$160.6 million compared to \$100.8 million in FY 2016, a 59 percent increase in payouts.

Chart 6
Police Action Claims Filed and Settled
FYs 2008-2017



2. Civil Rights Claims

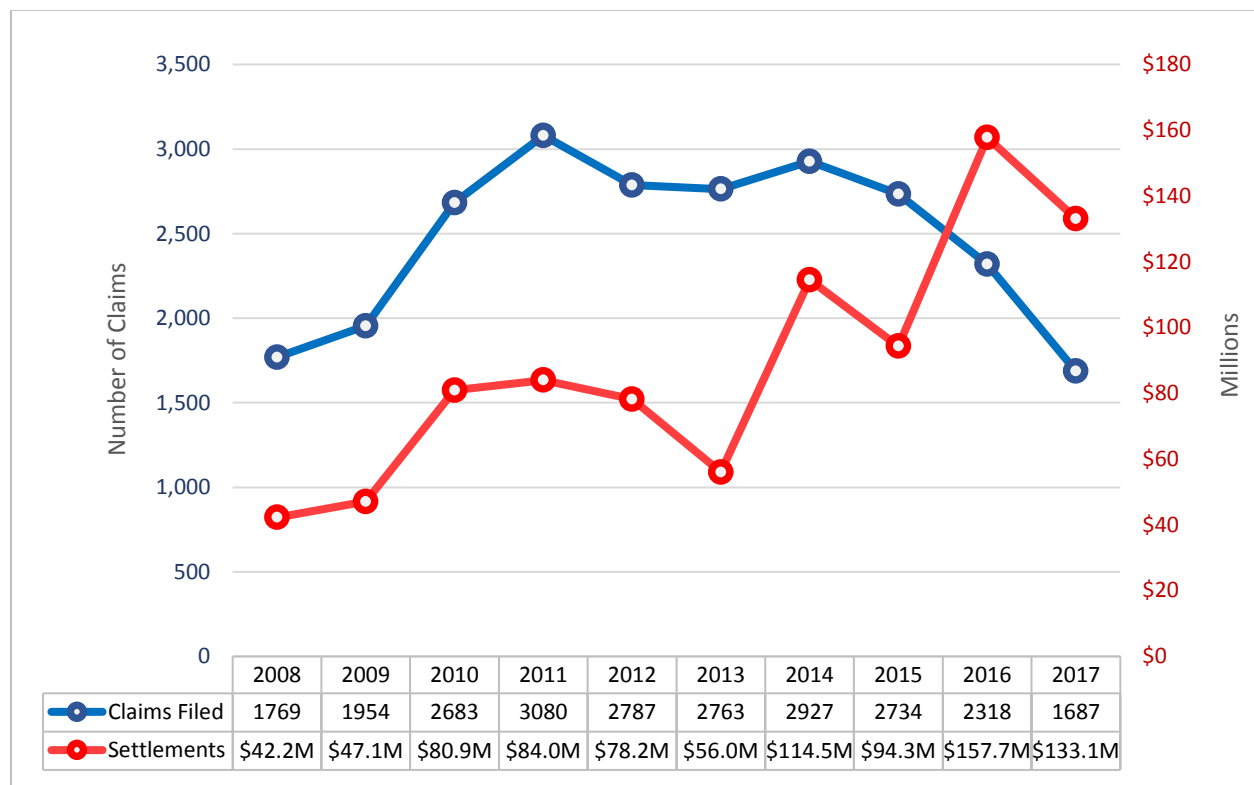
Civil rights claims typically arise from alleged statutory or constitutional violations such as discrimination based on sex, race, religion, disability, sexual orientation, or age. Claims in this category also include alleged constitutional civil rights violations by law enforcement personnel such as wrongful incarceration claims litigated under 42 U.S.C § 1983 in federal court.

There were 1,687 civil rights claims filed in FY 2017, compared to 2,318 claims filed in FY 2016, a 27 percent drop in claims filed. However, in FY 2017 the cost of civil rights claims payouts decreased to \$133.1 million from \$157.7 million in FY 2016, a 16 percent decrease. In FY 2017, 22 of the 128 personal injury tort cases that resolved for \$1 million or more were for

civil rights claim payouts, totaling \$93.5 million or 70 percent of the total paid out on civil rights claims.

In FY 2017, the Comptroller’s Office settled the wrongful conviction claims of Vanessa Gathers, William Vasquez, Amaury Villalobos, and Raymond Mora pre-litigation to avoid lengthy proceedings that are costly for the City and claimants alike. Ms. Gathers served 10 years in prison before she was released on parole. The late King’s County District Attorney Kenneth Thompson moved to vacate Ms. Gathers’s murder conviction, and BLA settled Ms. Gathers’s claim for \$2.4 million. Mr. Vasquez and Mr. Villalobos’s 32 years of wrongful incarceration represents the longest period of incarceration of any individual whose conviction was vacated by DA Thompson. Mr. Mora died in prison in 1989. BLA settled with Mr. Vasquez and Mr. Villalobos for \$9.7 million each, and with Mr. Mora’s estate for \$1 million.

Chart 7
Civil Rights Claims Filed and Settled
FYs 2008-2017



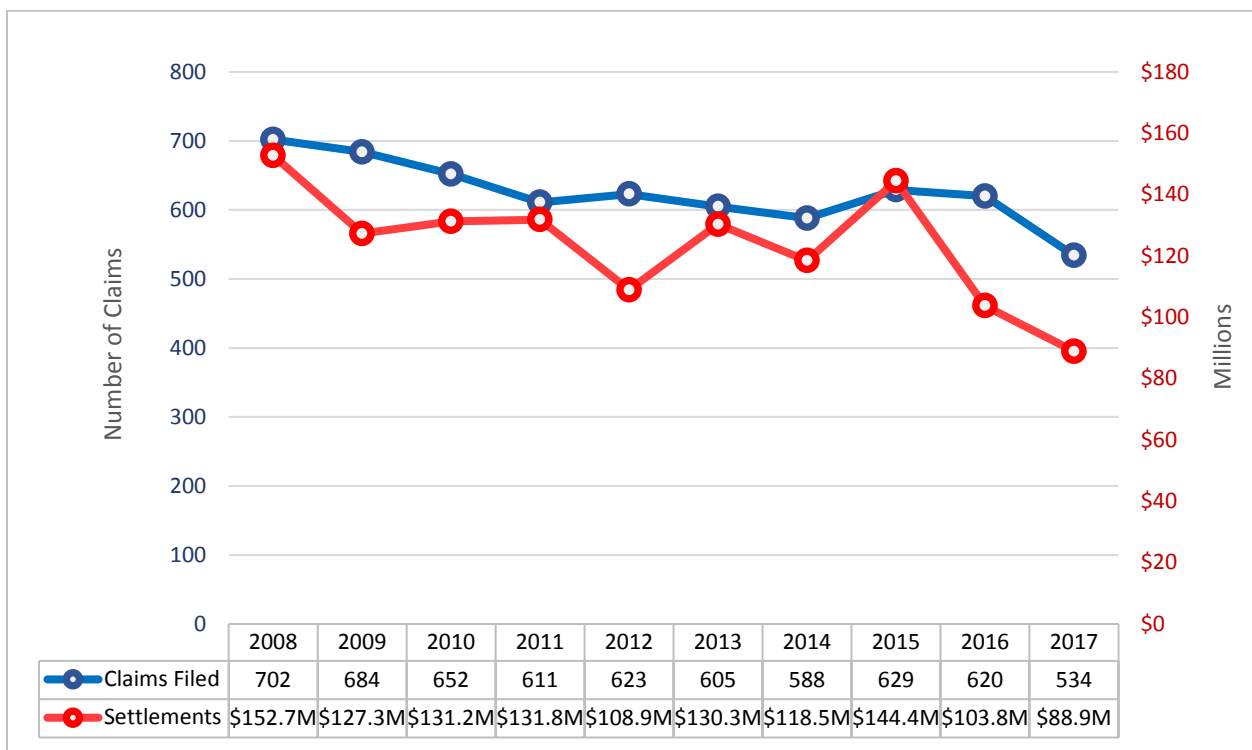
3. Medical Malpractice Claims

Medical malpractice claims are derived from alleged improper diagnosis, treatment, or care and are typically filed against a NYC Health + Hospital (H+H) facility. Settlement of medical malpractice claims accounted for 13 percent of the total \$665.6 million paid out for personal injury claims resolved in FY 2017. The 155 medical malpractice claims resolved in FY 2017 cost the

City \$88.9 million in settlement and judgment payouts, compared to \$103.8 million paid out for 234 medical malpractice claims settled in FY 2016. In FY 2017, 23 of the 128 personal injury tort claims resolved for \$1 million or more were for medical malpractice claim payouts, totaling \$55.2 million.

Since medical malpractice claims often take five to ten years to resolve because of their complexity, the number of claims filed is a better indicator of medical malpractice claims activity than the dollar amount paid out in any single year. In FY 2017, there were 534 medical malpractice claims filed, down 14 percent from the 620 medical malpractice claims filed in FY 2016. Medical malpractice claims appear to be stabilizing after reaching a high in FY 2008, but we anticipate that the City will continue to pay out costly settlements as a result of the high number of medical malpractice claims filed in years past.

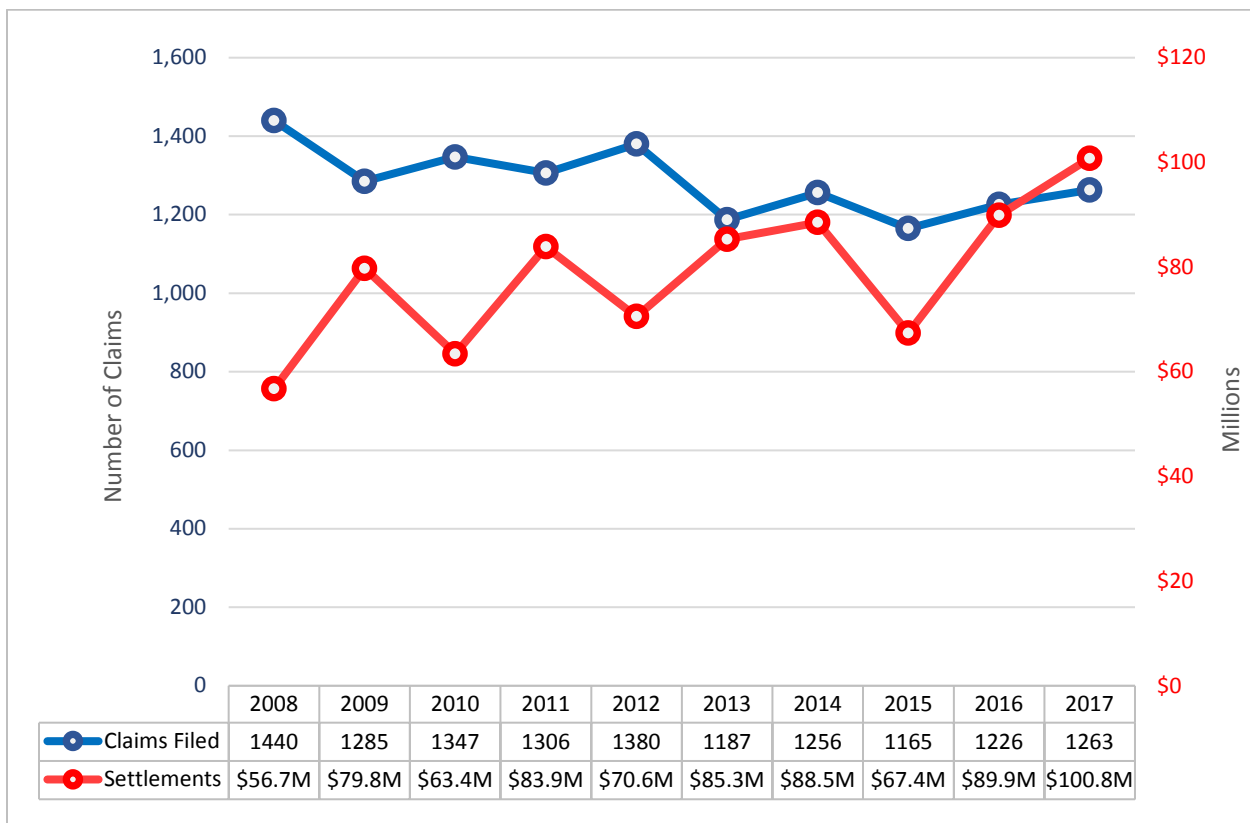
Chart 8
Medical Malpractice Claims Filed and Settled
FYs 2008-2017



4. Motor Vehicle Claims

Personal injury motor vehicle claims involve alleged accidents with City-owned vehicles. There were 1,263 new personal injury motor vehicle claims filed in FY 2017, up three percent from FY 2016, when 1,226 claims were filed. Personal injury motor vehicle claims cost \$100.8 million in FY 2017, a 12 percent increase, compared to \$89.9 million in FY 2016. In FY 2017, 32 of the 128 personal injury tort claims resolved for \$1 million or more were for motor vehicle claim payouts, totaling \$60.1 million.

Chart 9
Motor Vehicle Claims Filed and Settled
FYs 2008-2017

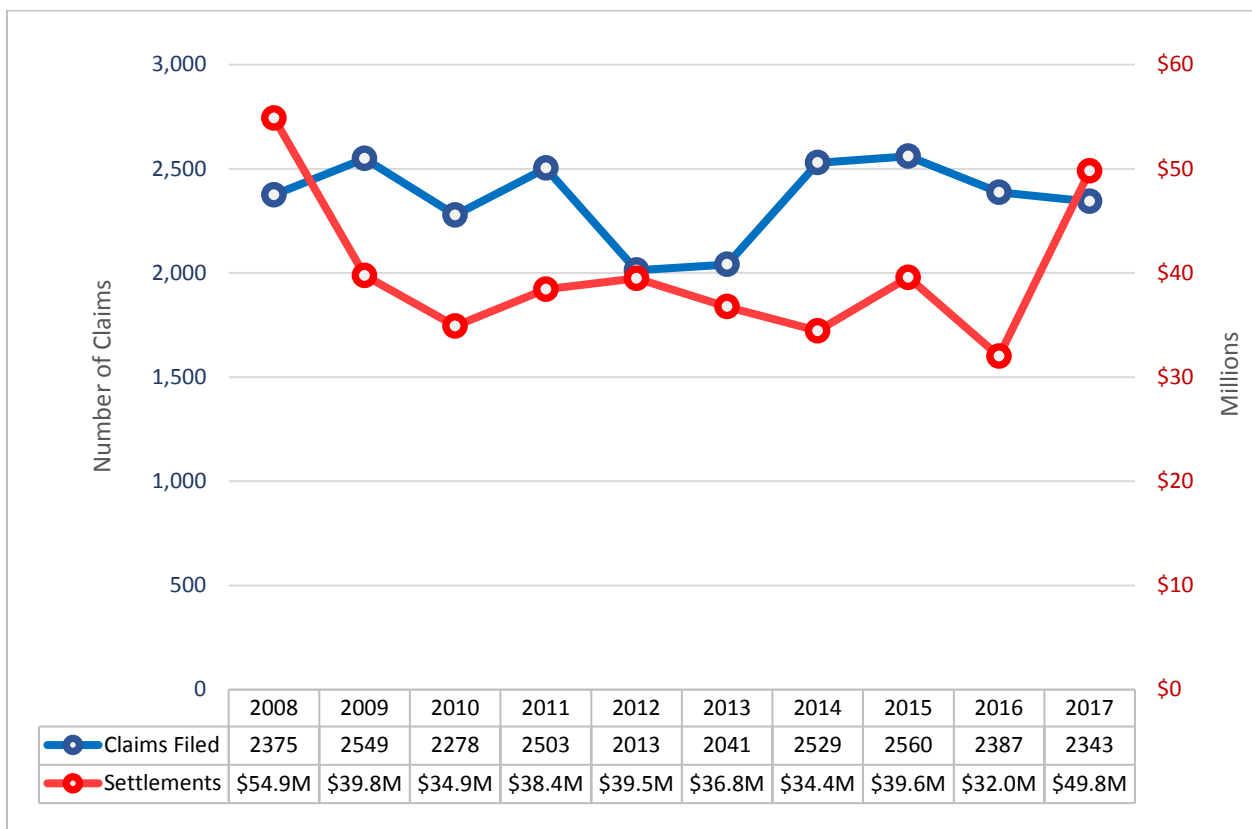


5. Sidewalk Claims

Sidewalk claims arise from alleged defects, such as cracked or uneven surfaces, on public sidewalks. This type of claim includes personal injuries for slip/trip and fall accidents resulting from such alleged defects, as well as incidents on snow and ice-covered sidewalks. Legislation enacted in 2003 has limited the City's liability for injuries caused by alleged sidewalk defects.

New York City Administrative Code § 7-210 requires prior notice to the City of the defective condition and generally limits the City’s liability to (1) sidewalks adjoining City-owned property, or (2) sidewalks that are in front of owner-occupied residential property having no more than three units. Sidewalk claims decreased to 2,343 claims in FY 2017 from 2,387 claims in FY 2016. The total cost of sidewalk claims in FY 2017 was \$49.8 million, up from \$32.0 million in FY 2016, or a 56 percent increase.

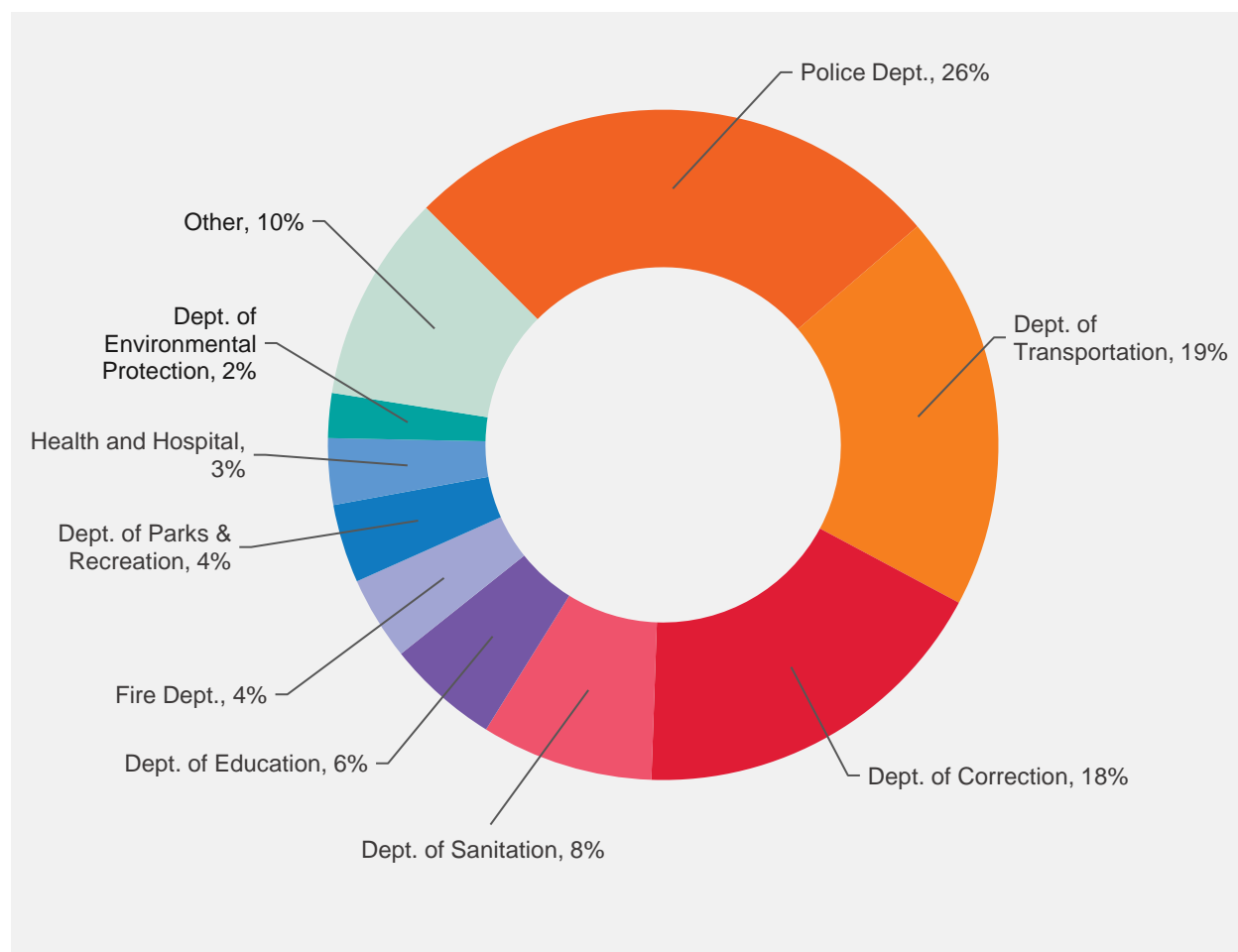
Chart 10
Sidewalk Claims Filed and Settled
FYs 2008-2017



D. TORT CLAIM TRENDS BY AGENCY

In FY 2017, the five agencies that experienced the highest number of total claims filed were the NYPD (6,538 claims), DOT (4,767 claims), DOC (4,430 claims), DSNY (2,071 claims), and DOE (1,355 claims). Of these five agencies, one experienced an increase during FY 2017—claims filed against DOC had a minimal increase of two percent from FY 2016.

Chart 11
Percentage of Tort Claims Filed by Agency
FY 2017

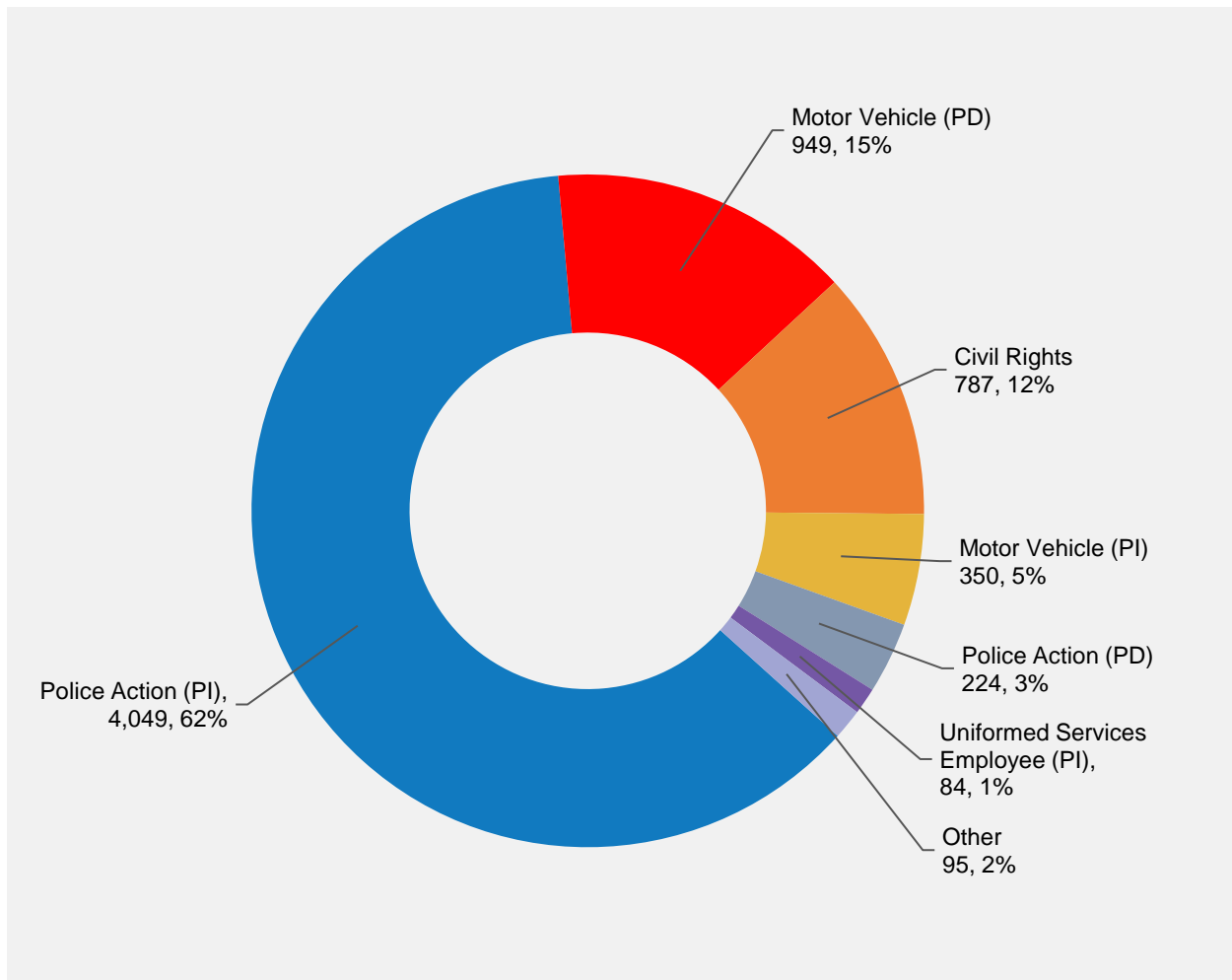


The five agencies with the highest settled tort claim costs in FY 2017 were the NYPD (\$308.2 million), H+H (\$95.7 million), DOT (\$61.4 million), DSNY (\$55.3 million), and Fire Department (FDNY) (\$43.5 million).

1. New York Police Department

Tort claims against the NYPD include, but are not limited to, allegations of excessive force, civil rights violations, and personal injury or property damage arising out of motor vehicle accidents involving police vehicles. In FY 2017, the number of claims filed against the NYPD dropped to 6,538 from 7,586 claims filed in FY 2016, which represents a 14 percent decrease.

Chart 12
Number and Percentage of NYPD Claims Filed by Claim Type
FY 2017



Claims against the NYPD that settled in FY 2017 cost the City \$308.2 million, compared to \$280.2 million in FY 2016, a 10 percent increase. In FY 2017, BLA settled pre-litigation wrongful conviction claims of Vanessa Gathers, William Vasquez, Amaury Villalobos, and Raymond Mora and the wrongful death claim filed by the Estate of Felix Kumi, a bystander who was killed by an undercover NYPD officer’s stray bullet. In the past decade, the number of claims filed against the NYPD has increased each year, peaking in FY 2014. This upward trend in NYPD claims settlement and judgment payouts is expected to continue into the future despite a decrease in the number of claims filed in the last three years, as the final resolution of a claim can take many years. NYPD claims accounted for 46 percent of the total cost of FY 2017 personal injury and property damage claims settled.

Although the number of claims filed against the NYPD continued to decline in FY 2017, the total NYPD settlement amount of \$308.2 million is the highest in City history. This increase results from resolving claims arising from outdated NYPD policies and 11 wrongful conviction claims involving incarcerations that occurred as early as 1981.

Table 1
NYPD Wrongful Conviction Settlements
FY 2017⁸

Name	Years Incarcerated	Settlement
Antonio Yarbough	22 years (1992 – 2015)	\$13 million
Abdul Sharrif Wilson	22 years (1992 – 2015)	\$13 million
Amaury Villalobos*	30 years (1981 – 2012)	\$9.7 million
William Vasquez*	30 years (1981 – 2012)	\$9.7 million
William Lopez	23 years (1990 – 2013)	\$8.25 million
Fernando Bermudez	18 years (1991 – 2009)	\$7 million
Derrick Deacon	23 years (1990 – 2013)	\$6 million
David McCallum	29 years (1986 – 2015)	\$5.5 million
William Stuckey	16 years (1986 – 2001)	\$3.0 million
Vanessa Gathers*	10 years (1997 – 2007)	\$2.4 million
Raymond Mora*	8 years (1981 – 1989)	\$1.0 million

*Settled in pre-litigation

These eleven settlements, 0.27 percent of the 4,014 police cases resolved during FY 2017, total \$78.6 million, which accounts for 26 percent of the total \$308.2 million FY 2017 police claims payouts. The small number of cases greatly affecting the total amount of pay outs, follows a trend from FY 2016.

Table 2
NYPD Wrongful Conviction Settlements
FY 2016

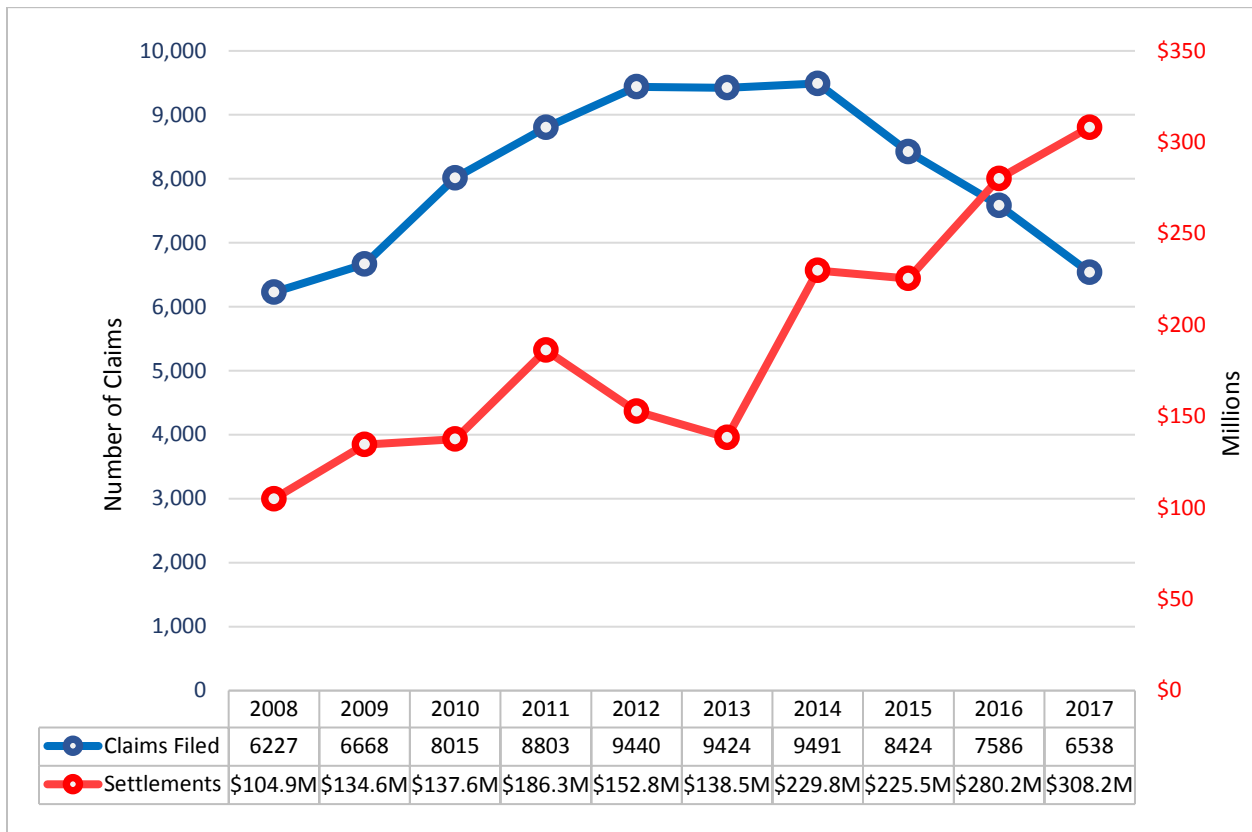
Name	Years Incarcerated	Settlement
Alan Newton	22 years (1984 – 2006)	\$12 million
Devon Ayers	18 years (1995 – 2013)	\$8 million
Michael Cosme	18 years (1995 – 2013)	\$8 million
Eric Field	18 years (1995 – 2013)	\$8 million
Carlos Perez	18 years (1995 – 2013)	\$8 million
Cathy Watkins	18 years (1995 – 2013)	\$8 million
Roger Logan*	16.5 years (1997 – 2013)	\$3.8 million
Shabka Shakur*	27 years (1988 – 2015)	\$3.6 million
Marcus Poventud	9 years (1997 – 2006)	\$2.8 million

*Settled in pre-litigation

In FY 2016, the City paid \$280.2 million to resolve 4,252 NYPD claims. Table 2, above, lists the top nine wrongful conviction settlements in FY 2016. These nine settlements totaling \$62.1 million represent 0.21 percent of the 4,252 police cases, which accounted for 22 percent of the total \$280.2 million FY 2016 police claims payouts.

As evidenced by a similar ratio of high profile wrongful conviction/wrongful death settlements from the same time period in the FY 2016 police claims payout, outdated policies continue to increase total payouts decades after the claims arose. Meanwhile, the amount of new police claims filed has steadily declined – NYPD claims filed decreased 10 percent between FY 2015 and FY 2016, and fell a further 14 percent between FY 2016 and FY 2017. The decrease in the number of claims filed signals that the NYPD is moving in the right direction.

**Chart 13
NYPD Claims Filed and Settled
FYs 2008-2017**

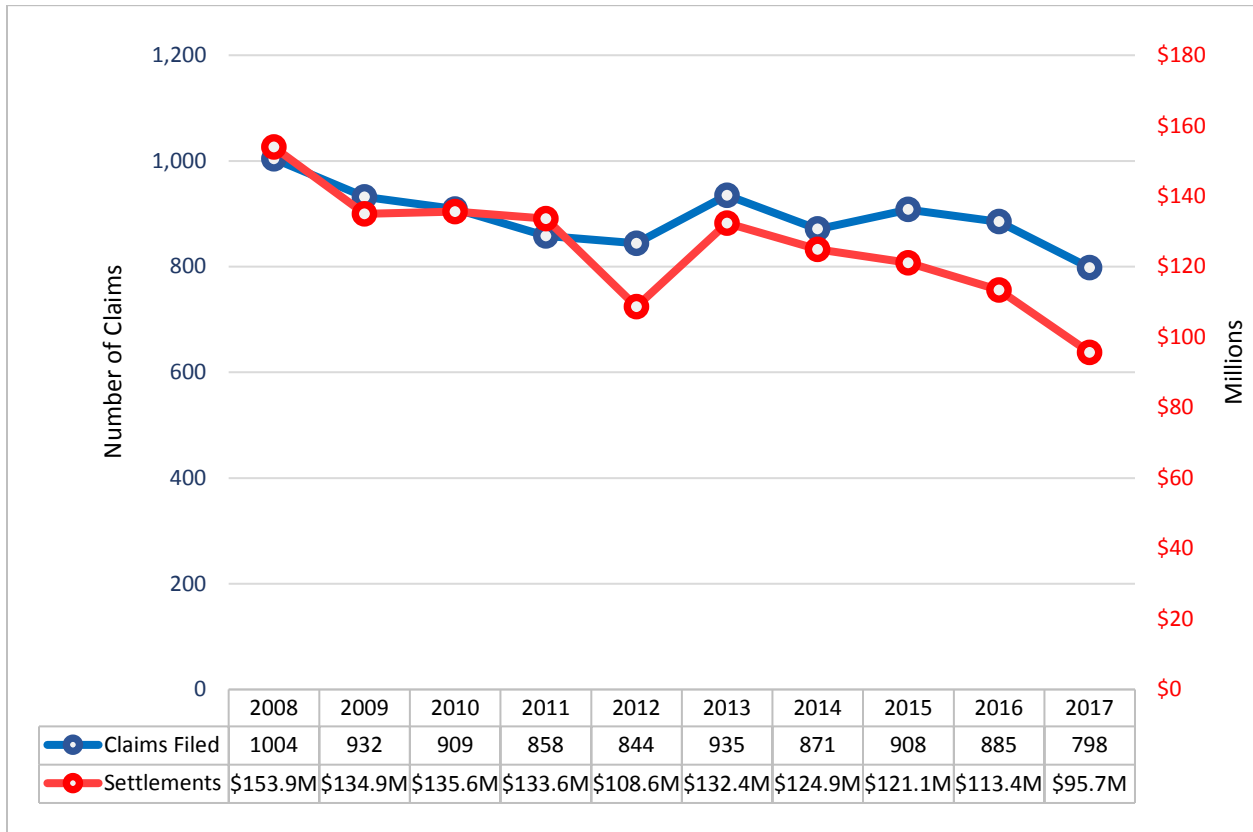


2. NYC Health + Hospitals

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

In FY 2017, 798 claims were filed against H+H; 534 claims, or 67 percent of H+H claims, were for medical malpractice. H+H claims constituted two percent of the total number of tort claims resolved in FY 2017, but accounted for the second highest tort expenditure at \$95.7 million, or 14 percent, of the total amount paid for tort claims in FY 2017.

**Chart 14
HH Claims Filed and Settled
FYs 2008-2017**



Notably, the number of medical malpractice claims filed against H+H’s acute care hospitals⁹ decreased by 94 claims to 465 claims in FY 2017 from 559 claims filed in FY 2016, or a decrease of 17 percent.

Table 2
H+H Medical Malpractice Claims Filed and Settled
FYs 2016-2017

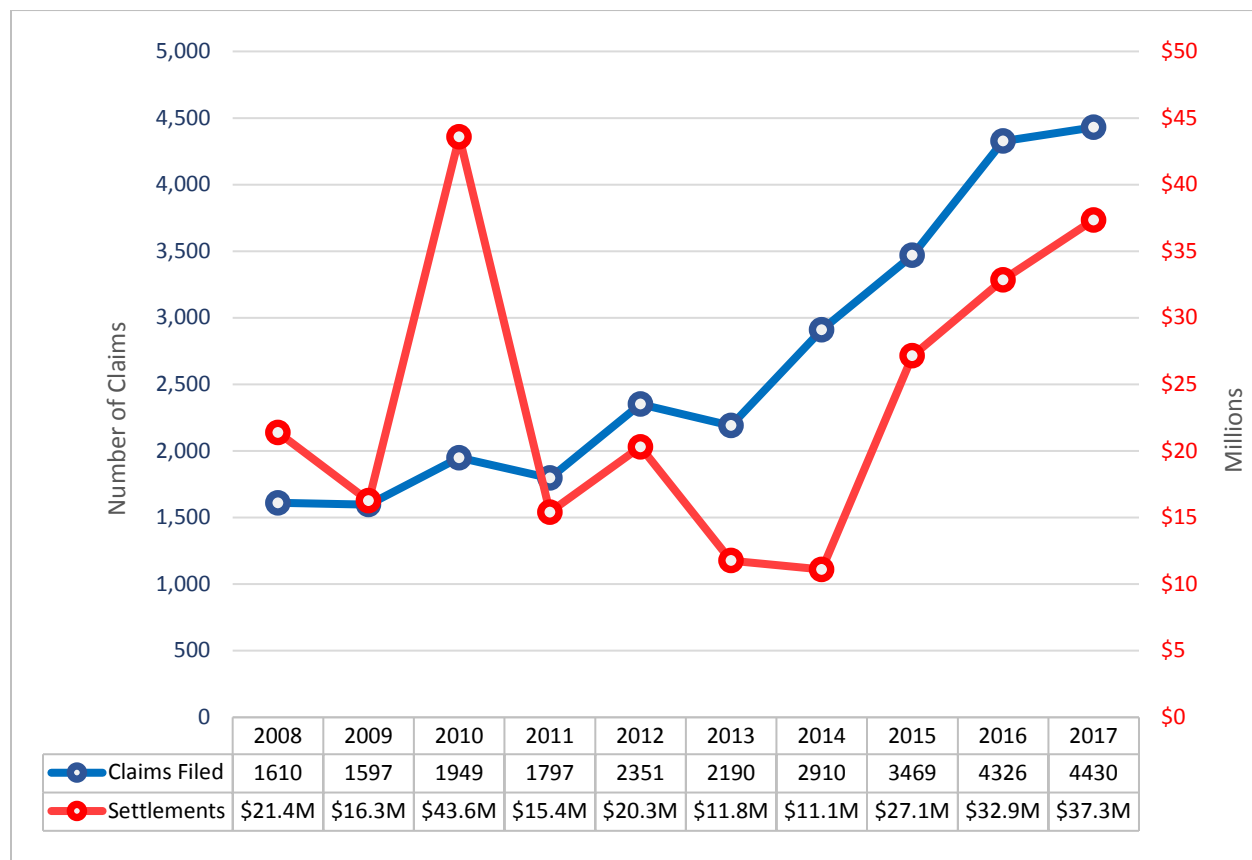
HH Acute Care Hospital	Claims Resolved FY 2017	Amount Paid (In Millions)	Number of Claims Filed FY 2017	Number of Claims Filed FY 2016	Increase/ (Decrease)
Bellevue	19	\$6.8	67	93	(26)
Coney Island	12	\$5.9	46	49	(3)
Elmhurst	10	\$5.6	44	56	(12)
Harlem	8	\$3.0	31	48	(17)
Jacobi / Bronx Municipal	24	\$15.4	53	66	(13)
Kings County	25	\$16.4	69	80	(11)
Lincoln	16	\$6.7	64	75	(11)
Metropolitan	6	\$8.8	20	16	4
North Central Bronx	6	\$2.9	17	11	6
Queens Hospital Center	8	\$3.0	21	29	(8)
Woodhull	15	\$13.2	33	36	(3)
Total	149	\$87.5	465	559	(94)

3. Department of Correction

The FYs 2013–2014 Claims Report projected an increase in the number of DOC claims filed and the cost for settlement and judgment payouts. Following the surge in DOC settlement and judgment costs to \$27.1 million in FY 2015, from \$11.1 million in FY 2014, FY 2016 and FY 2017 saw a continuation of this upward trend with \$32.9 million and \$37.3 million respectively in settlement and judgment costs—a 236 percent increase between FY 2014 to FY 2017.

As the chart below shows, there has been a significant increase in claims filed against DOC since FY 2013. In FY 2017, DOC claims filed increased by two percent to 4,430 claims from 4,326 claims in FY 2016.

Chart 15
Department of Correction Claims Filed and Settled
FYs 2008-2017



E. TORT CLAIM TRENDS BY BOROUGH¹⁰

The Bronx had the most overall tort claims filed, with 7,146 claims, followed by Brooklyn (6,090 claims), Manhattan (4,585 claims), Queens (4,115 claims), and Staten Island (1,036 claims). Consistent with FY 2014, FY 2015 and FY 2016, the Bronx had the most personal injury claims filed (5,936 claims) and Brooklyn had the most property damage claims filed (1,817 claims).

Table 3
Number of Claims Filed By Borough
FY 2017

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims
Bronx	5,936	1,210
Brooklyn	4,273	1,817
Manhattan	3,264	1,321
Queens	2,307	1,808
Staten Island	468	568

The Bronx had the highest per capita filing of personal injury claims at 408 claims per 100,000 residents, as compared to Staten Island, which had the fewest at 98 claims. Staten Island had the greatest number of property damage claims filed per capita with 119 claims per 100,000 residents, while Brooklyn had the fewest with 69 claims.¹¹

Table 4
Claims Filed by Borough Per 100,000 Residents¹²
FY 2017

Borough	Total PI and PD Claims Per 100,000 Residents	Total PI Claims Per 100,000 Residents	Total PD Claims Per 100,000 Residents
Bronx	491	408	83
Brooklyn	232	163	69
Manhattan	279	199	80
Queens	176	99	77
Staten Island	218	98	119

Table 5
Claims Resolved and Amounts Paid by Borough
FY 2017

Borough	Number of PI Claims Resolved	Amount Paid for PI Claims (In Millions)	Number of PD Claims Resolved	Amount Paid for PD Claims (In Millions)	Total PI and PD Claims Resolved	Total PI and PD Claim Payouts (In Millions)
Bronx	2,298	\$190.9	271	\$0.8	2,569	\$191.6
Brooklyn	1,800	\$241.4	514	\$1.9	2,314	\$243.4
Manhattan	1,104	\$109.0	432	\$2.8	1,536	\$111.9
Queens	869	\$66.0	512	\$2.9	1,381	\$69.0
Staten Island	257	\$22.6	171	\$0.5	428	\$23.1

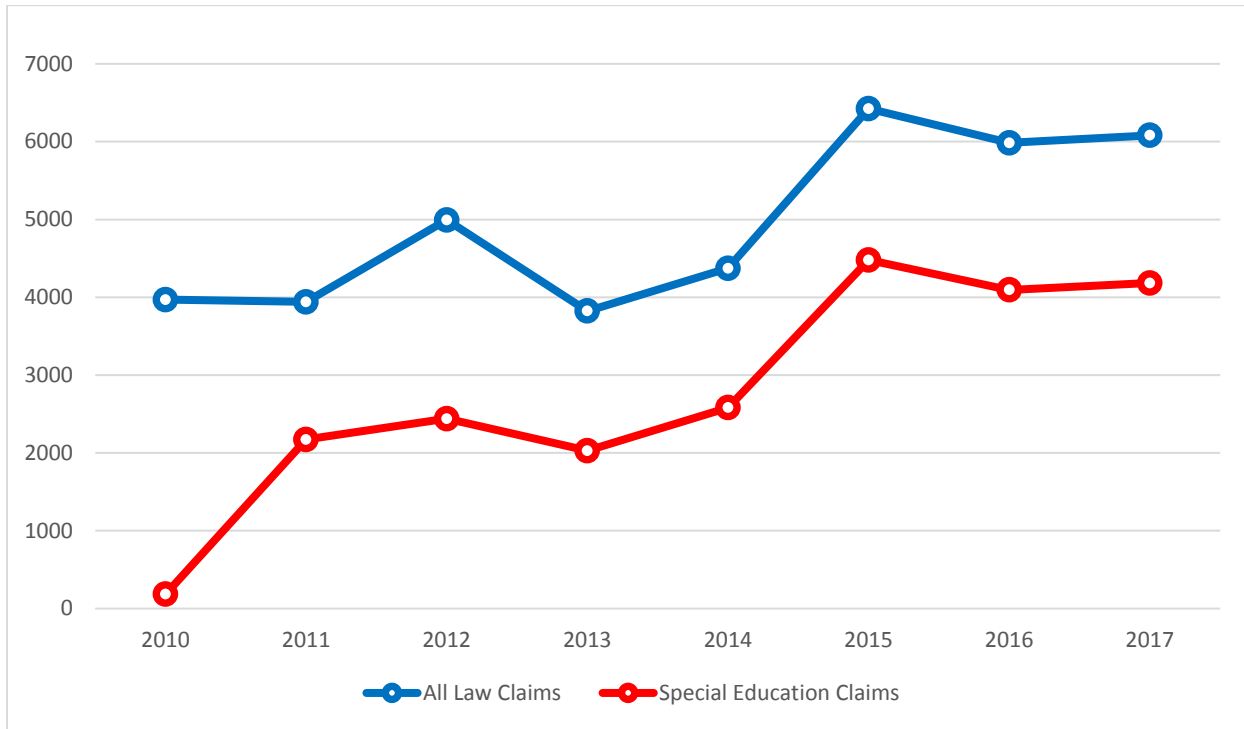
V. LAW (NON-TORT) CLAIMS

Law (Non-Tort) claims arise from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving DOE special education matters, sidewalk assessments, and cleanup costs levied on property owners who are in violation of the Mental Hygiene Law, as well as affirmative claims brought by the City against other parties.

A. OVERALL LAW CLAIM TRENDS

The overall number of law claims filed increased two percent to 6,081 in FY 2017 from 5,985 in FY 2016. This change reflects a plateau in the number of claims filed after the 68 percent increase in the number of claims filed from FY 2013 to FY 2015. There were 3,823 law claims filed in FY 2013 compared to 6,424 in FY 2015. The previous increase was due primarily to a 73 percent increase in special education claims¹³ filed in FY 2015 (4,479 claims filed) over FY 2014 (2,582 claims filed) and a 120 percent increase in special education claims in FY 2015 (4,479 claims filed) over FY 2013 (2,029 claims filed). This increase came after the City launched a new “fast track” process in June 2014 to address claims for costs and tuition payments from parents of students requiring special education services. However, following the initial uptick of special education claims filed in FY 2015, the number of special education claims filed has leveled off, as have the total number of law claims filed.

Chart 16
Comparison of Special Education Claims Filed to All Law Claims Filed
FYs 2010-2017

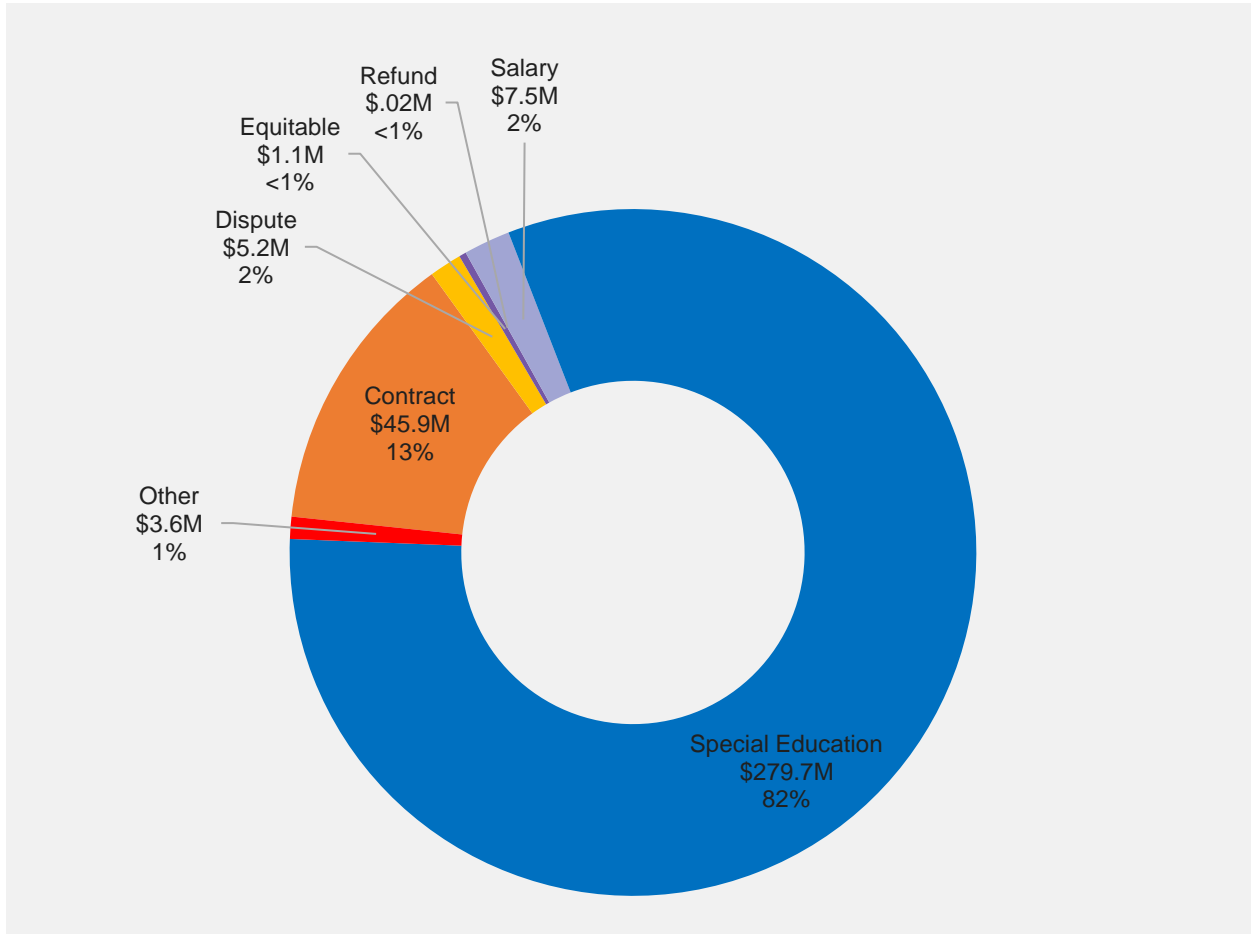


The total number of law claims settled in FY 2017 increased two percent to 5,102 claims in FY 2017 from 4,980 claims settled in FY 2016. The total cost of settlement paid out for law claims decreased 10 percent to \$343.1 million in FY 2017 from \$381.1 million in FY 2016.¹⁴

The number special education claims settled represented 78 percent all law claims settlements and cost of special education claims settlements constituted 82 percent of all law claim payouts claims in FY 2017.

In FY 2017, contract claims accounted for the second largest payout of law claims in FY 2017 at \$45.9 million, representing 13 percent of all law claims payouts, while the total number of contract claims settlements was only one percent of the total number of law claims settlements.

Chart 17
Law Claims by Type
Amount Paid in Settlements and Judgments (In Millions)
and Percentage of Law Claim Settlements and Judgments Paid
FY 2017



Special Education Claims

Special education claims include two categories of claims: claims on behalf of parents for the reimbursement of special education services costs and tuition, and claims for statutory attorneys’ fees¹⁵ where an underlying claim for special education reimbursement has been successful.

Following the City’s June 2014 launch of a new “fast track” process for addressing claims for costs and tuition payments from parents of students requiring special education services, the Comptroller’s Office noted a sharp rise in the number of special education claims filed and settled in FY 2015. The number of claims filed and settled in FY 2017 continues to reflect this rise from

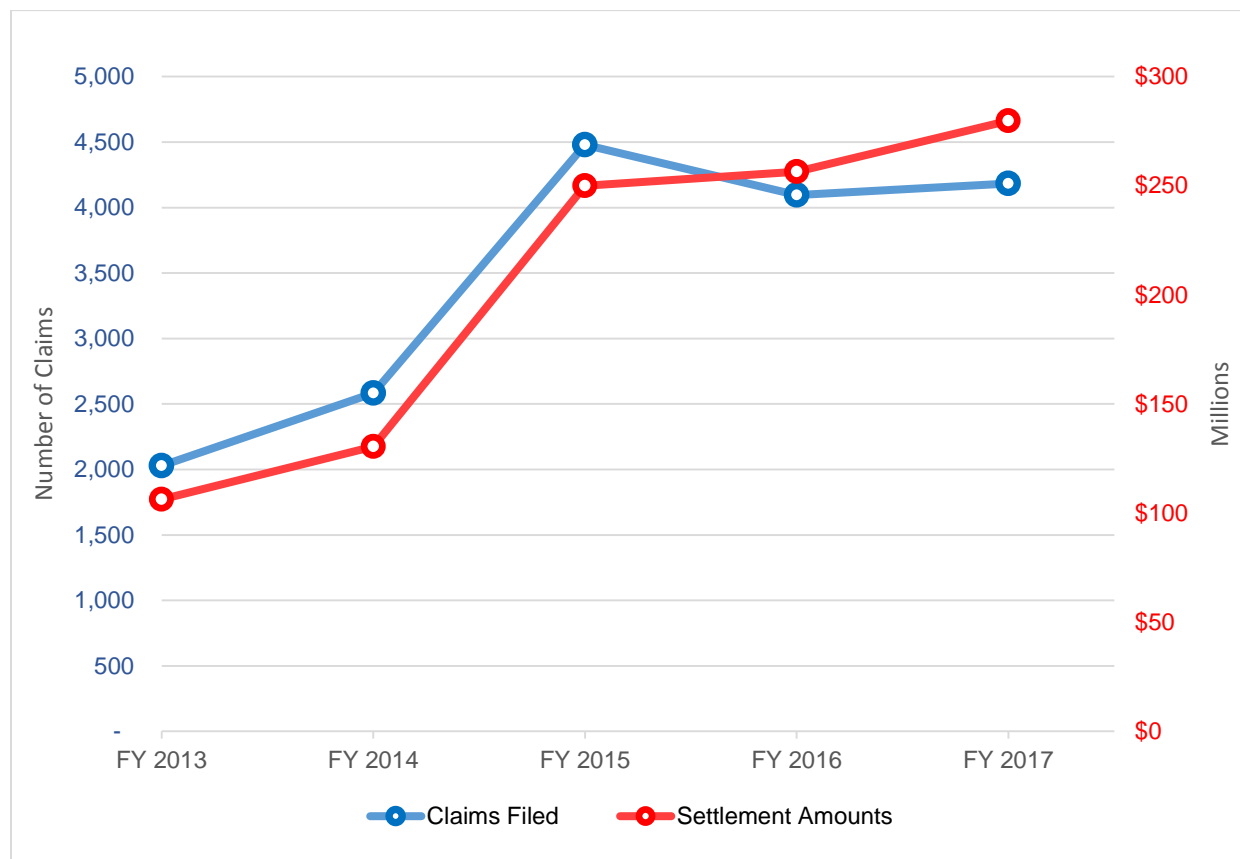
pre-“fast track” levels. However, following the initial uptick in FY 2015, the number of claims filed and settled have stabilized.

In FY 2017, the number of special education claims filed increased by two percent from FY 2016. In FY 2017, there were 4,184 special education claims filed, compared to 4,095 claims filed in FY 2016. From a long-term perspective, however, the number of special education claims filed in FY 2017 more than doubled the 2,029 filed in FY 2013 (a 106 percent increase) and represents a 62 percent increase over the 2,582 claims filed in FY 2014.

The total number of special education claims settled in FY 2017 increased by five percent to 3,971 from the 3,771 claims settled in FY 2016. Here, too, these special education claim settlements represent a 116 percent increase over the 1,841 claims settled in FY 2013 and 79 percent increase over the 2,223 claims settled in FY 2014.

Finally, the amount of settlements paid out for special education claims in the past year has increased by nine percent, with \$279.7 million paid out on special education claims during FY 2017 as compared to \$256.4 million paid out in FY 2016. The settlement payouts in FY 2017 were 163 percent greater than those in FY 2013 and 114 percent greater than those in FY 2014.

Chart 18
Special Education Claims Filed and Settled
FYs 2013-2017



Contract Delay Claims

Contract claims arise when there is a disagreement between the City and private contractors (construction or non-construction) and where the City is a lessee or lessor of property.

The number of contract claims filed in FY 2017 increased three percent over FY 2016, from 152 claims filed in FY 2016 to 157 claims filed in FY 2017. While the number of settlements of contract claims has decreased only three percent from 33 contract claims settled in FY 2016 to 32 contract claim settled in FY 2017, there has been a seven percent decrease in the amount paid out for contract claims from the \$49.6 million paid out in FY 2016 to \$45.9 million in FY 2017.

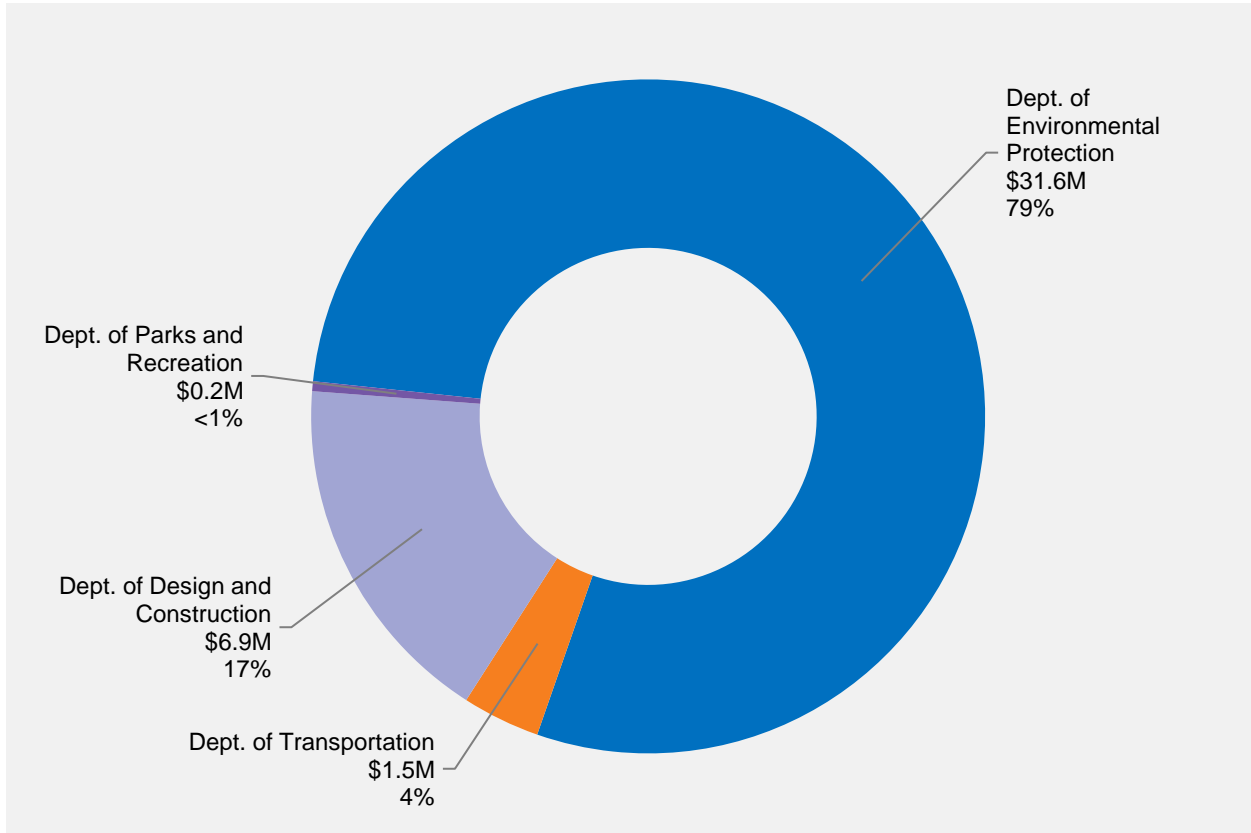
Contract claims include a subcategory of claims called delay claims, meaning a contractor alleges that it was damaged by delays caused by the actions or inactions of the City on a construction project. Delay claims typically arise on larger construction projects such as those involving construction or renovation of public buildings and infrastructure like bridges, sewers and wastewater treatment plants. The analyses of these claims require the expertise of numerous staff members within the Comptroller's Office, including professional engineers, auditors, and attorneys.

While only 10 delay claims settled in FY 2017, accounting for less than a third of the 32 contract claims settled, the pay out on these 10 delay claims, \$40.1 million, makes up more than 87 percent of the \$45.9 million total settlements for contract claims in FY 2017.

In FY 2017, these 10 delay claims, with alleged damages totaling \$184.3 million, were negotiated and settled for \$40.1 million. This represents an adjusted difference of \$144.2 million, or 78 percent decrease, from the amount of damages claimed by contractors. In FY 2017, settlements of claims for damages attributable to agency-caused delays increased the overall cost of these projects to the City by more than six percent over the original contract prices.

Of the 10 delay claims settled in FY 2017, four of those claims arose out of contracts with DEP. These four claims alleged damages totaling \$165.9 million, which the City was able to negotiate and settle for \$31.6 million. This represents an adjustment of 81 percent of the claimed damages. Of these four DEP claims, two arose out of contracts for the upgrade of water pollution control plants (WPCP contracts). The settlement of the two WPCP contract delay claims account for 96 percent of the DEP delay claim settlements and 76 percent of all delay claims settlements in FY 2017. Settlement of WPCP contract delay claims accounted for 73 percent of all delay claims settlements in FY 2016 and 76 percent of all delay claims settlements in FY 2015. Delays in WPCP contracts continue to account for the largest portion of payouts for delay claim settlements.

Chart 19
Contract Delay Claims by Agency
Amount Paid in Settlements and Judgments
and Percentage of Delay Claim Settlements and Judgments Paid (In Millions)
FY 2017



Alternative Dispute Resolution Claims

Contracts between the City and vendors solicited after September 1990 have included an Alternative Dispute Resolution (ADR) provision designed to provide a speedy alternative to litigation. When a dispute arises, a contractor may attempt to resolve it directly with the agency involved. If no agreement is reached during that process, a claim can subsequently be filed with the Comptroller's Office. If the claim is not resolved, the contractor may appeal to the Contract Dispute Resolution Board.

In FY 2017, 36 dispute claims were negotiated and settled for a total of \$5.2 million. This represents a 15 percent decrease in the amount paid out on dispute claims from the \$6.1 million paid out in 62 dispute claims settled in FY 2016.¹⁶

Affirmative Claims

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

In FY 2017, the Comptroller's Office approved settlement of 985 affirmative claims for a benefit to the City of \$11 million, as compared to FY 2016, when 1,016 affirmative claims were settled for \$9.5 million.¹⁷ The FY 2017 amounts recovered were \$1.5 million or 16 percent greater than FY 2016 in part due to a 300 percent increase in the recovery of civil penalties, a subcategory of affirmative claims wherein the City seeks monetary penalties for violations of civil code violations such as housing or building code violations, the sale of untaxed cigarettes and the creation of other public nuisances. In FY 2017, the City recovered civil penalties in the amount of \$1.6 million on 337 claims, up from \$0.4 million recovered in civil penalties on 139 claims in FY 2016.

Other Claims

Various other types of law claims are evaluated and resolved by the Comptroller's Office, including equitable claims (claims for payment on goods or services that are not supported by a valid, registered contracts but may be recognized if the City received a benefit and settlement would serve the public interest), refund claims (claims seeking refunds for alleged overpayments and unjust fines), and change of grade claims (claims by property owners seeking compensation for damages caused by changes in grade to sidewalks that impair access to their property and drainage).

Notably, three claims resulting from the revocation of tax abatements to residential properties where the owners failed to market the apartments as rent stabilized after having received a tax benefit conditioned on doing so were settled in FY 2017. The settlements resulted in a monetary benefit to the City in the form of penalties of \$158,000. Moreover, the City was able to guarantee New Yorkers additional affordable housing by negotiating settlements by which these three buildings will remain rent stabilized for the next 15 years.

APPENDIX A

Description of Claim Types

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

Under the present classification structure, claims are categorized initially by the City agency involved and by general category of claim: personal injury, property damage, or law. Each general category has subtypes, and it is at this level that claims are analyzed. For example, personal injury claims may include alleged slip/trip and fall accidents on sidewalks (claims alleging a defective sidewalk), or injuries that occurred in school (school claims), or in a City park (recreation claims). The present coding system classifies claim types as follows:

I. PERSONAL INJURY CLAIMS

A. ADMIRALTY

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

B. ROADWAY

Roadway claims include pedestrians, motorists, or others claiming injuries as a result of alleged defects in a street or roadway, such as potholes, cracked, wet or snow-covered roadways, sewer gratings, raised, missing or exploding manhole covers, or roadways under repair.

C. SIDEWALK

Sidewalk claims include pedestrians or others claiming injury because of an allegedly defective sidewalk such as, broken or uneven sidewalks, broken curbstones, protruding bolts, grates, or parking meter or traffic sign stubs, defective boardwalks, and snow and ice claims.

D. TRAFFIC CONTROL DEVICE

Traffic control device claims are filed by pedestrians or motorists injured in accidents allegedly caused by malfunctioning traffic signals, defective or missing traffic devices, or downed or missing traffic signs.

E. POLICE ACTION

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

F. SCHOOL

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

G. MEDICAL MALPRACTICE

This category of claim derives from medical malpractice in the diagnosis, treatment, or care at a City or H+H facility or from EMS treatment.

H. HEALTH FACILITY/NON-MEDICAL INCIDENTS

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

I. MOTOR VEHICLE

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

J. UNIFORMED SERVICES EMPLOYEE

Included in this category of claims are those filed by City employees of the uniformed services, such as NYPD, FDNY, DOE teachers, or DSNY employees who are not subject to Workers' Compensation laws and may sue the City for on-the-job personal injuries.

K. PARKS AND RECREATION

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

L. CITY PROPERTY

This category includes claims by tenants or others asserting that they were injured by an alleged defect in or the negligent maintenance of City-owned land, or a City-owned or City-administered building or facility.

M. CATASTROPHE

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

N. CIVIL RIGHTS

Civil rights claims involve alleged Federal, State or City statutory or constitutional violations, such as discrimination based on sex, race, religion, disability, sexual orientation, or age.

O. CORRECTION FACILITY

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

P. AFFIRMATIVE CLAIMS

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

II. PROPERTY DAMAGE CLAIMS

A. ADMIRALTY

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

B. SEWER OVERFLOW

Sewer overflow claims include alleged flooding or water damage to real or personal property caused by inadequate sewer repairs or clogged/obstructed City sewers.

C. WATER MAIN BREAK

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

D. ROADWAY

This claim type includes claims for vehicles that are damaged by allegedly defective roadways, or from objects that have fallen from bridges or overpasses. Also included are

claims made by pedestrians who sustained damage to personal property as a result of an alleged fall on a defective roadway.

E. SIDEWALK

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

F. TRAFFIC DEVICE

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

G. POLICE ACTION

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

H. SCHOOL

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

I. HEALTH FACILITY

These claims include the personal property of patients or others that has allegedly been lost, stolen, or damaged while on H+H or City hospital property.

J. MOTOR VEHICLE

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

K. UNIFORMED SERVICES/CITY EMPLOYEES

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

L. PARKS AND RECREATION

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

M. PUBLIC BUILDINGS AND PROPERTY

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

N. CATASTROPHE

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

O. DAMAGE CITY ACTION/PERSONNEL

These claims include property damaged allegedly caused by City-owned vehicles or equipment, such as a City-owned vehicle damaging a homeowner's fence or other property, or damage caused by a traffic light falling onto a vehicle.

P. CORRECTION FACILITY

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

III. LAW CLAIMS

A. CONTRACT

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

B. ALTERNATIVE DISPUTE RESOLUTION

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

C. ILLEGAL BUT EQUITABLE

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

D. SALARY

Salary claims are those claims for back pay and/or attorneys' fees by prospective, current, or former City employees alleging employment related disputes. These disputes include claims for discrimination, out-of-title work, pay differential, annual leave, and suspension; excluded from this claim type is those claims that are seeking damages for personal injury.

E. REFUND

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

F. CHANGE OF GRADE

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

G. SPECIAL EDUCATION

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

H. AFFIRMATIVE CLAIMS

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

APPENDIX B Legal Background

I. MUNICIPAL LIABILITY

The decision of the New York Court of Appeals in *Bernadine v. New York City*, issued in 1945, exposed the City for the first time to liability for torts committed by the City's officers, agents, and employees.¹⁸

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.”¹⁹ 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.²⁰ In particular, claimants seeking to recover from municipalities for their agents' negligent and wrongful acts are entitled to a jury trial.

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

II. CLAIMS PROCESS

To commence an action against the City, a claimant typically must first notify the City by filing a Notice of Claim with the Comptroller's Office.²¹ However, in the case of claims against the H+H, claims must be filed directly with H+H. In most instances, the notice of claim for personal injury or property damage must be filed within 90 days of an alleged injury or wrong.²²

The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.²³ The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.²⁴ 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.²⁵ The Office of the Corporation Counsel, under the direction of the Corporation Counsel, defends the City in most actions (H+H defends its medical malpractice actions). No litigation can be settled without the approval of the Comptroller.²⁶

APPENDIX C

Top Tort Claims Adjudicated in FY 2017

The City resolved five post-verdict claims involving New York City firefighters and families for the death and serious injuries sustained from responding to a January 2005 fire at an apartment building in the Bronx. Settlement of \$29.5 million.

Two claimants/plaintiffs arrested and convicted in connection with murder of one the claimants' mother, sister and sister's friend that occurred in June 1992. Claimants/plaintiffs were each incarcerated for 22 years. Claimants/plaintiffs alleged wrongful conviction and incarceration. Settlement of \$26 million.

In 1981, three claimants were convicted of arson and murder arising out of a fire that resulted in the death of a mother and her five children. The three claimants alleged wrongful conviction and incarceration. Settlement of \$20.4 million.

Two claimants/plaintiffs convicted of murder in 1986 and the convictions were subsequently overturned. Claimants/plaintiffs alleged wrongful conviction and incarceration. Settlement of \$8.5 million.

Claimant/plaintiff convicted of murder in 1990 and incarcerated until 2013 when his habeas petition for release was granted. Claimant/plaintiff alleged wrongful conviction and incarceration. Settlement of \$8.3 million.

Claimant/plaintiff convicted of murder in 1991 and incarcerated until 2009 when the conviction was vacated. Claimant/plaintiff alleged wrongful conviction and incarceration. Settlement of \$7.0 million.

Claimant/plaintiff alleged excessive force against the New York City Police Department after an off-duty police officer fired his weapon into a vehicle, resulting in the claimant/plaintiff being struck six times. Settlement of \$6.9 million.

Claimant/plaintiff convicted of murder in 1990 and incarcerated until 2013 when the claimant/plaintiff was acquitted. Claimant/plaintiff alleged wrongful conviction and incarceration. Settlement of \$6.0 million.

Wrongful death claim arising out of the alleged failure of Department of Correction to provide medication and running water to a mentally ill and diabetic inmate. Settlement of \$5.8 million.

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**APPENDIX E
Detailed Tables**

Table I – Number of Tort Claims Filed by Claim Type FYs 2008-2017

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Personal Injury										
Sidewalk	2,375	2,549	2,278	2,503	2,013	2,041	2,529	2,560	2,387	2,343
Police Action	2,870	3,360	3,958	4,518	5,536	5,580	5,643	4,926	4,483	4,099
School	1,169	1,141	1,023	1,078	1,060	928	965	926	960	859
Motor Vehicle	1,440	1,285	1,347	1,306	1,380	1,187	1,256	1,165	1,226	1,263
Roadway	1,106	1,144	1,051	1,115	947	882	1,003	963	1,043	941
City Property	825	627	9,172	1,106	562	534	683	652	706	567
Correction Facility	1,061	1,044	1,188	1,183	1,595	1,657	2,241	2,795	3,661	3,839
Civil Rights	1,769	1,954	2,683	3,080	2,787	2,763	2,927	2,734	2,318	1,687
Medical Malpractice	702	684	652	611	623	605	588	629	620	534
Traffic Control Device	117	103	109	76	108	126	77	79	62	41
Parks & Recreation	237	261	226	273	286	270	278	297	306	259
Uniformed Services Employee	163	140	164	163	150	151	161	158	167	163
Other	725	747	738	887	767	784	883	845	774	783
Total	14,559	15,039	24,589	17,899	17,814	17,508	19,234	18,729	18,713	17,378
Property Damage										
Motor Vehicle	3,752	3,631	3,969	4,723	3,187	3,323	3,682	3,432	3,896	3,589
City Property	237	152	131	135	90	310	260	201	162	136
Correction Facility	274	297	442	309	397	263	318	354	286	301
City Personnel	1,167	1,166	1,309	1,734	1,349	1,346	962	1,045	1,263	1,149
Roadway	1,518	1,275	2,333	2,806	1,218	1,036	2,844	2,240	1,585	1,335
Health Facility	160	132	126	103	96	120	140	123	108	150
Police Action	384	299	309	378	366	362	341	302	226	230
School	201	189	179	182	144	107	128	89	100	119
Sewer Overflow	1,503	192	188	205	668	602	613	452	110	140
Water Main	159	158	194	153	238	108	240	156	111	140
Other	510	312	242	273	261	272	244	270	302	286
Total	9,865	7,803	9,422	11,001	8,014	7,849	9,772	8,664	8,149	7,575
Grand Total	24,424	22,842	34,011	28,900	25,828	25,357	29,006	27,393	26,862	24,953

**Table II – Number of Tort Claims Filed by Agency
FYs 2008-2017**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Department of Transportation	5,403	5,128	5,997	6,337	4,669	4,446	6,304	5,635	5,201	4,767
Police Department	6,227	6,668	8,015	8,803	9,440	9,424	9,491	8,424	7,586	6,538
Department of Sanitation	1,646	1,767	2,123	3,454	1,306	1,692	2,411	2,301	2,168	2,071
Department of Education	1,697	1,628	1,833	1,604	1,566	1,416	1,422	1,413	1,432	1,355
NYC Health + Hospitals	1,004	932	909	858	844	935	871	908	885	798
Department of Environmental Protection	2,313	737	700	738	1,357	996	1,123	885	511	539
Department of Correction	1,610	1,597	1,949	1,797	2,351	2,190	2,910	3,469	4,326	4,430
Department of Parks & Recreation	1,029	1,019	1,101	1,405	1,095	1,048	872	884	1,057	947
Fire Department	963	992	920	1,041	891	932	942	949	1,012	1,008
Department of Housing Preservation and Development	82	75	82	71	68	74	66	51	65	60
NYC Human Resources Administration	62	61	78	68	88	99	82	81	81	65
Department of Buildings	230	149	955	75	82	61	52	77	57	55
Other	2,158	2,089	9,349	2,649	2,071	2,044	2,460	2,316	2,481	2,320
Total	24,424	22,842	34,011	28,900	25,828	25,357	29,006	27,393	26,862	24,953

**Table III - Dollar Amount of Tort Claim Settlements and Judgments by Claim Type
FYs 2008-2017**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Personal Injury										
Sidewalk	54,870,423	39,760,227	34,904,412	38,426,098	39,473,806	36,752,110	34,433,430	39,572,496	32,009,833	49,782,480
Police Action	34,616,512	48,423,383	56,798,953	60,237,524	54,334,625	62,875,691	71,938,087	119,458,941	100,784,673	160,638,947
School	53,554,040	54,311,099	35,091,262	42,943,246	25,807,081	23,985,998	24,716,687	32,747,557	28,488,895	26,471,436
Motor Vehicle	56,724,117	79,750,916	63,433,038	83,878,791	70,551,942	85,309,416	88,515,029	67,379,614	89,881,694	100,774,905
Roadway	36,165,533	24,622,949	27,742,588	19,453,578	25,717,847	33,134,170	13,710,874	15,371,910	30,765,003	16,780,615
City Property	26,011,521	30,444,952	14,176,063	18,841,199	8,395,091	5,465,500	21,797,000	4,931,000	21,504,554	9,824,450
Correction Facility	8,199,183	5,938,403	5,025,429	8,504,000	7,833,193	7,312,301	7,323,835	13,185,550	15,630,251	16,848,929
Civil Rights	42,242,687	47,062,984	80,940,455	83,998,422	78,200,352	56,023,108	114,503,798	94,329,034	157,742,824	133,085,147
Medical Malpractice	152,739,578	127,288,634	131,238,636	131,816,744	108,943,419	130,298,906	118,479,990	144,438,243	103,751,208	88,916,859
Traffic Control Device	3,319,500	1,120,750	2,883,300	3,206,350	2,396,000	1,292,315	7,589,500	604,000	2,459,000	376,500
Parks & Recreation	7,881,426	5,714,315	7,965,906	7,102,606	12,069,875	20,328,830	13,997,709	6,154,024	8,430,633	5,279,220
Uniformed Services Employee	38,389,850	30,096,000	41,971,283	31,039,500	20,404,000	17,452,882	27,998,500	33,439,000	26,117,500	50,721,225
Other	15,902,378	53,665,445	10,979,970	9,228,394	21,677,145	6,460,359	13,522,259	3,569,893	12,165,985	6,090,507
Total	530,616,748	548,200,058	513,151,296	538,676,451	475,804,376	486,691,585	558,526,696	575,181,263	629,732,053	665,591,218
Property Damage										
Motor Vehicle	5,691,737	5,470,334	5,877,567	8,180,339	6,038,833	5,586,990	7,403,408	5,162,942	5,207,672	5,748,984
City Property	515,162	15,863	8,569	2,815,834	162,524	375,969	67,962	16,554	90,069	45,830
Correction Facility	1,919	14,960	1,551	18,301	18,225	13,061	2,220	665	8,475	4,426
City Personnel	3,303,527	579,380	873,332	1,171,735	959,898	971,018	1,494,155	731,826	398,628	363,011
Roadway	820,666	271,099	288,777	423,961	215,726	140,124	192,379	215,029	537,552	137,779
Health Facility	21,559	18,071	19,648	13,037	13,191	18,376	27,144	6,299	13,370	12,303
Police Action	160,451	120,248	513,676	140,899	170,059	388,101	102,697	71,487	56,155	32,139
School	7,604	11,627	24,157	12,454	10,063	4,581	10,110	9,014	4,083	4,758
Sewer Overflow	1,915,311	272,679	383,619	792,808	775,242	546,357	712,861	7,224,105	1,650,663	1,562,963
Water Main	1,823,962	664,588	2,142,514	1,577,070	3,183,273	314,365	294,175	344,127	1,437,349	553,610
Other	42,005	2,192,879	13,819	97,826	12,118	9,483	25,425	9,390	23,843	1,556,578
Total	14,303,903	9,631,728	10,147,229	15,244,263	11,559,151	8,368,424	10,332,536	13,791,438	9,427,858	10,022,381
Grand Total	544,920,651	557,831,786	523,298,524	553,920,714	487,363,528	495,060,010	568,859,233	588,972,701	639,159,911	675,613,599

**Table IV – Dollar Amount of Tort Claim Settlements and Judgments by Agency
FYs 2008-2017**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Department of Transportation	107,857,536	115,243,770	75,615,727	68,928,149	69,589,115	74,591,194	71,323,861	52,797,842	69,595,321	61,414,669
Police Department	104,935,839	134,579,242	137,589,773	186,288,403	152,803,932	138,499,641	229,836,207	225,519,487	280,185,761	308,244,541
Department of Sanitation	27,241,788	32,886,946	38,020,148	28,858,968	36,815,516	30,446,682	37,886,076	29,772,440	44,859,303	55,271,961
Department of Education	53,107,679	55,863,463	36,947,943	52,957,832	28,607,646	34,287,977	27,385,549	35,983,285	34,011,481	28,694,093
NYC Health + Hospitals	153,881,559	134,946,576	135,595,599	133,616,195	108,642,285	132,352,195	124,887,221	121,072,960	113,375,091	95,663,121
Department of Environmental Protection	8,478,133	8,109,061	7,857,296	8,071,431	5,628,320	3,372,170	13,182,950	18,795,525	7,281,361	7,855,456
Department of Correction	21,390,722	16,258,404	43,580,956	15,403,975	20,308,756	11,767,521	11,103,116	27,144,858	32,853,230	37,348,727
Department of Parks & Recreation	12,138,161	9,415,871	16,104,444	17,673,228	18,971,285	29,564,344	18,330,734	13,858,777	11,661,274	15,442,894
Fire Department	18,602,877	16,318,205	20,007,262	16,231,360	28,485,774	19,665,971	20,426,695	46,691,403	16,416,152	43,515,101
Department of Housing Preservation and Development	21,283,261	15,727,510	5,126,366	5,057,356	2,154,067	555,452	2,705,221	1,964,125	10,855,842	808,106
NYC Human Resources Administration	866,534	1,482,725	411,481	1,308,134	1,582,741	1,050,063	1,008,192	970,799	1,756,131	620,453
Department of Buildings	1,413,458	380,236	112,152	2,941,818	218,006	377,908	157,901	268,913	2,966,514	1,386,120
Other	13,723,103	16,619,779	6,329,377	16,583,865	13,556,083	18,528,893	10,625,510	14,132,287	13,342,448	19,348,358
Total	544,920,651	557,831,786	523,298,524	553,920,714	487,363,528	495,060,010	568,859,233	588,972,701	639,159,911	675,613,599

**Table V – Number of Tort Claim Settlements and Judgments by Claim Type
FYs 2008-2017**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Personal Injury										
Sidewalk	1,317	1,041	922	866	855	685	657	663	657	714
Police Action	980	1,145	1,301	1,539	1,751	2,105	2,249	2,276	2,479	2,499
School	1,064	848	823	902	728	656	531	479	550	241
Motor Vehicle	1,041	909	895	823	832	725	668	586	662	625
Roadway	750	559	512	547	511	417	367	334	365	293
City Property	170	138	107	113	93	61	70	38	88	61
Correction Facility	159	227	195	266	309	255	378	451	636	804
Civil Rights	938	1,141	1,281	1,656	1,687	1,558	2,047	1,681	1,353	1,001
Medical Malpractice	311	292	315	265	260	268	204	245	234	155
Traffic Control Device	73	55	38	32	28	22	29	20	14	11
Parks & Recreation	188	153	137	155	175	164	149	136	169	74
Uniformed Services Employee	123	90	117	84	106	76	95	121	111	112
Other	76	109	86	78	81	62	69	51	65	45
Total	7,190	6,707	6,729	7,326	7,416	7,054	7,513	7,081	7,383	6,635
Property Damage										
Motor Vehicle	2,513	2,342	2,495	3,216	2,254	2,135	2,379	1,897	1,917	1,760
City Property	17	10	10	16	20	19	39	6	62	12
Correction Facility	9	6	5	21	11	12	5	3	5	5
City Personnel	332	262	352	329	374	353	408	284	162	146
Roadway	300	275	306	437	208	117	197	287	88	113
Health Facility	44	36	33	25	23	22	40	17	16	14
Police Action	52	62	45	45	48	48	35	26	18	14
School	42	39	83	55	47	26	35	35	15	16
Sewer Overflow	55	60	50	88	60	115	144	650	104	47
Water Main	97	88	77	94	62	51	51	38	68	42
Other	18	14	16	8	7	6	10	6	7	37
Total	3,479	3,194	3,472	4,334	3,114	2,904	3,343	3,249	2,462	2,206
Grand Total	10,669	9,901	10,201	11,660	10,530	9,958	10,856	10,330	9,845	8,841

**Table VI – Number of Tort Claim Settlements and Judgments by Agency
FYs 2008-2017**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Department of Transportation	2,552	2,066	1,942	1,975	1,711	1,376	1,399	1,385	1,180	1,182
Police Department	2,962	3,161	3,573	4,116	4,359	4,520	5,050	4,441	4,252	4,014
Department of Sanitation	1,312	1,254	1,376	2,103	1,302	1,045	1,426	1,134	1,186	953
Department of Education	1,132	943	961	995	812	729	615	558	604	300
NYC Health + Hospitals	434	413	419	345	337	337	315	313	353	221
Department of Environmental Protection	333	303	284	373	283	300	292	794	284	205
Department of Correction	313	388	365	441	464	387	534	601	840	952
Department of Parks & Recreation	436	355	375	391	430	428	390	354	352	272
Fire Department	652	624	642	596	508	586	585	509	489	496
Department of Housing Preservation and Development	92	55	30	35	26	17	14	11	22	13
NYC Human Resources Administration	31	17	24	14	20	21	18	20	28	20
Department of Buildings	25	13	16	20	25	17	17	12	11	21
Other	395	309	194	256	253	195	201	198	244	192
Total	10,669	9,901	10,201	11,660	10,530	9,958	10,856	10,330	9,845	8,841

**Table VII – Number of Law Claims Filed by Claim Type
FYs 2010-2017***

	2010	2011	2012	2013	2014	2015	2016	2017
Affirmative	669	857	769	876	913	1,128	1,048	1,130
Contract	149	185	179	217	134	155	152	157
Disputes	96	100	141	157	177	118	174	120
Equitable	17	18	7	10	6	4	11	12
Refund	138	176	784	173	234	209	168	133
Salary	83	86	347	85	89	93	94	69
Special Education	184	2,172	2,439	2,029	2,582	4,479	4,095	4,184
Other	2,633	347	327	276	238	238	243	276
Total	3,969	3,941	4,993	3,823	4,373	6,424	5,985	6,081

*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2017 is provided.

**Table VIII – Number of Law Claims Settlements & Judgments by Claim Type
FYs 2010-2017***

	2010	2011	2012	2013	2014	2015	2016	2017
Affirmative	614	858	753	860	898	1,111	1,016	985
Contract	26	18	28	27	26	22	33	32
Disputes	47	30	35	30	44	45	62	36
Equitable	8	12	8	3	2	6	2	5
Refund	10	15	25	590	16	21	26	8
Salary	17	4,418	21	19	23	286	30	22
Special Education	540	2,086	2,366	1,841	2,223	4,067	3,771	3,971
Other	2,301	45	44	31	26	35	40	43
Total	3,563	7,482	3,280	3,401	3,258	5,593	4,980	5,102

*Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2017 is provided.

**Table IX – Dollar Amount of Law Claims Settlements & Judgments by Claim Type*
FYs 2010-2017****

	2010	2011	2012	2013	2014	2015	2016	2017
Contract	12,629,562	8,997,798	21,840,545	50,992,338	19,573,476	44,846,785	49,603,907	45,886,558
Disputes	4,509,068	3,667,018	4,519,344	3,105,639	7,325,629	3,001,135	6,116,577	5,225,685
Equitable	661,072	394,391	1,311,758	446,904	76,576	616,256	25,143	1,142,203
Refund	12,404	64,960	431,997	298,402	118,118	699,468	14,208,915	15,701
Salary	6,021,876	10,226,385	5,284,521	33,332,876	104,468,018	65,511,792	16,548,145	7,520,364
Special Education	24,946,960	105,466,595	120,577,708	106,243,225	130,450,454	249,944,721	256,384,783	279,697,125
Other	116,274,262	14,259,856	96,579,904	4,501,988	7,539,752	6,732,560	38,261,474	3,566,045
Total	165,055,204	143,077,003	250,545,777	198,921,372	269,552,023	371,352,717	381,148,944	343,053,681

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

**Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2017 is provided.

ENDNOTES

- ¹ City Charter Chapter 5, § 93(i).
- ² The Comptroller’s Office records claims data in its Omnibus Automated Image Storage and Information System (OAISIS). This report is based on data available in OAISIS as of December 1, 2017. Since OAISIS is a dynamic system that is updated constantly, data in this report does not reflect values for matters that have occurred but have not yet been reported in OAISIS.
- ³ New York City’s tort claim costs are paid from the Judgments and Claims account established annually in the City’s General Fund, except H+H assumes financial responsibility for its settlements.
- ⁴ Historically, law claims have not been tracked in a uniform manner, so only data from FY 2010 through FY 2017 is provided.
- ⁵ NY Exec. Law § 632-a(1)(a), (b).
- ⁶ For the purposes of the Claims Report, “filed” describes those claims in which a notice of claim was timely filed with the Comptroller’s Office; “settled” means any claim or lawsuit that was resolved and resulted in the City paying out money to claimant.
- ⁷ See Appendix A for a description of claim types.
- ⁸ For additional claim details, the top eight claims also appear in the “Top Tort Claims Adjudicated in FY 2017” located on p.37.
- ⁹ HH operates 11 acute care hospitals.
- ¹⁰ Personal injury and property damage claims are analyzed by borough based on location of incident. Some notices of claim are filed without borough specific information or allege incidents that occurred outside the five boroughs. Law claims are not tracked by borough. Population statistics do not take into account commuters or tourists.
- ¹¹ The United States Census Bureau estimated as of July 1, 2015 the total population for New York City was 8,550,405 residents. In order of population the boroughs are: Brooklyn (2,629,150 or 31 percent of the total population); Queens (2,333,054 or 27 percent of the total population); Manhattan (1,643,734 or 19 percent of the total population); Bronx (1,455,720 or 17 percent of the total population); and Staten Island (476,015 or six percent of the total population). Statistics do not take into account commuters and tourists.
- ¹² Rounded to the nearest whole claim.
- ¹³ These numbers include both claims by parents for reimbursement of special education costs and tuition and claims for attorneys’ fees where an underlying claim for special education reimbursement has been successful.
- ¹⁴ While the total number of law claims settlements and judgements include all resolved law claims, law claims settlements and judgment payment figures do not include claims wherein the City is to receive payment.
- ¹⁵ Claims for special education services costs and tuition reimbursement submitted by the DOE for settlement at the administrative level are for claims of more than \$25,000. Claims submitted by DOE for attorneys’ fees where an underlying claim for special education reimbursement has been successful at the administrative level are for claims of more than \$13,500. Requests for settlement authority submitted by the Office of the Corporation Counsel for special education reimbursement claims and attorneys’ fees claims that have proceeded to litigation are for claims in any amount.
- ¹⁶ Settled dispute claims only reflect those disputes for which the contractor and the Comptroller’s Office have agreed to a settlement that involves a monetary payout. These settlements do not include dispute claims where the Comptroller’s Office has issued a contract interpretation determination that has been accepted by the contractor.
- ¹⁷ Data regarding affirmative claims in the FY 2017 Claims Report reflect updated agency reporting that was not reflected in prior years’ Claims Reports.
- ¹⁸ *Bernadine v. City of New York*, 294 N.Y. 361, 365 (1945).
- ¹⁹ *Id.*
- ²⁰ Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.
- ²¹ General Municipal Law, Article § 50-e. Effective September 2010, claimants can file personal injury and property damage claims electronically through the Comptroller’s website (<http://comptroller.nyc.gov/services/for-the-public/claims/file-a-claim/>).
- ²² General Municipal Law, Article 4, § 50-e. One notable exception is a claim under 42 U.S.C. § 1983, the Federal Civil Rights Act; a § 1983 action can be filed directly in court without filing a notice of claim if no state cause of action is asserted.
- ²³ City Charter, Chapter 5, § 93(i).

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- ²⁴ BLA investigates claims filed against the City; obtains and evaluates accident reports and other documents provided by agencies; conducts field visits, interviews witnesses, and conducts hearings; evaluates liability and damages; and attempts to settle appropriate cases. The Comptroller's Office Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the Office of the Corporation Counsel.
- ²⁵ 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.
- ²⁶ City Charter, Chapter 17, § 394(c).





New York City Comptroller
Scott M. Stringer

