



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

April 2021



Claims Report:

Fiscal Year 2020





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER

SCOTT M. STRINGER
COMPTROLLER

April 9, 2021

Dear Fellow New Yorkers:

I am pleased to share the Office of the New York City Comptroller's (Comptroller's Office) Claims Report for fiscal year (FY) 2020, covering July 1, 2019 through June 30, 2020. This report examines claims filed against and on behalf of the City of New York and outlines trends by claim type across City agencies. In FY 2020, personal injury and property damage claim (collectively, tort claims) payouts cost the City \$545.8 million down from the \$633.3 million spent in FY 2019, a 14 percent decrease. I invite all City agencies to review this report and use it as a risk analysis tool to further reduce the number of claims filed each year.

My office continues to work with the New York City Law Department to clear the backlog of high exposure legacy tort claims that have been litigated for a decade or more. In FY 2020, the City paid out \$60.2 million for tort claims that were filed prior to FY 2011. To avoid costly and drawn-out litigation for current and future New Yorkers, in FY 2020, my office settled two wrongful conviction claims pre-litigation—claims filed by Gregory Counts and VanDyke Perry.

In FY 2020, the City settled non-tort claims, such as contract claims, equitable claims, refund claims, and Department of Education (DOE) special education claims, for a total of \$486.2 million, a 34 percent increase from the \$363.2 million paid out in FY 2019. Of these law claims, 75 percent of the settlement payments were related to claims for reimbursement of special education tuition and services. The amount of settlements paid out for DOE special education claims in FY 2020 increased by 27 percent to \$363.5 million paid out, compared to \$285.7 million paid out in FY 2019. Notably, payouts in FY 2020 were 179 percent greater than the settlement costs of DOE special education claims in FY 2014.

This report should be viewed through the lens of a City challenged by COVID-19 and confronting and working to end racial injustice. As the epicenter of COVID-19, the virus took an unimaginable toll on lives, businesses, and the way we all work and live. The City is also addressing disparities in communities of color. The City's fiscal health is now more important than ever in order to rebuild and return stronger. My office continues to identify areas to reduce claims costs and works closely with City agencies to manage risk. With every dollar saved, we can redirect the funds to critical resources in our most vulnerable communities.

Sincerely,

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

Scott M. Stringer
New York City Comptroller



Claims Report: Fiscal Year 2020

SCOTT M. STRINGER
Comptroller

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Acknowledgments: We recognize the important contributions to this report made by Johnny Thomas, BLA Claims Support Division Chief; Stephen Giannotti, Deputy Chief Information Officer – Applications & Development; Edward Sokolowski, Executive Director – Systems Development & Program Management; Troy Chen, Executive Director – FMS; and Archer Hutchinson, Web Developer and Graphic Designer.

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY.....	1
II. OVERVIEW OF THE COMPTROLLER’S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES.....	5
III. LEGACY CLAIMS	6
IV. TORT CLAIMS	7
A. PROPERTY DAMAGE CLAIMS	9
B. PERSONAL INJURY CLAIMS	10
C. PERSONAL INJURY CLAIM TRENDS BY CLAIM TYPE	10
1. MOTOR VEHICLE CLAIMS	12
2. POLICE ACTION	12
3. CIVIL RIGHTS CLAIMS	14
4. MEDICAL MALPRACTICE CLAIMS	17
D. TORT CLAIM TRENDS BY AGENCY	17
1. NEW YORK CITY POLICE DEPARTMENT.....	18
2. DEPARTMENT OF TRANSPORTATION	21
3. NYC HEALTH + HOSPITALS	22
4. DEPARTMENT OF SANITATION	24
E. TORT CLAIM TRENDS BY BOROUGH	25
V. LABOR AND EMPLOYMENT CLAIMS	26
VI. LAW (NON-TORT) CLAIMS	26
APPENDICES	
A. DESCRIPTION OF CLAIM TYPES	34
B. LEGAL BACKGROUND	41
C. TOP TEN TORT CLAIMS ADJUDICATED IN FY 2020.....	42
D. CHART AND TABLE INDEX	43
E. DETAILED TABLES	44
ENDNOTES	53

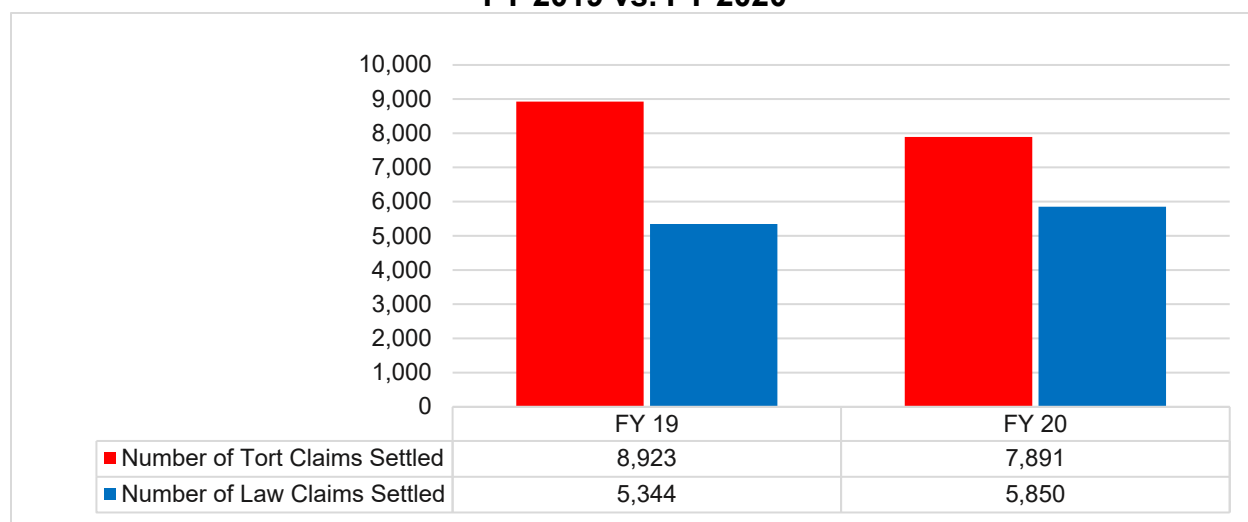


I. EXECUTIVE SUMMARY

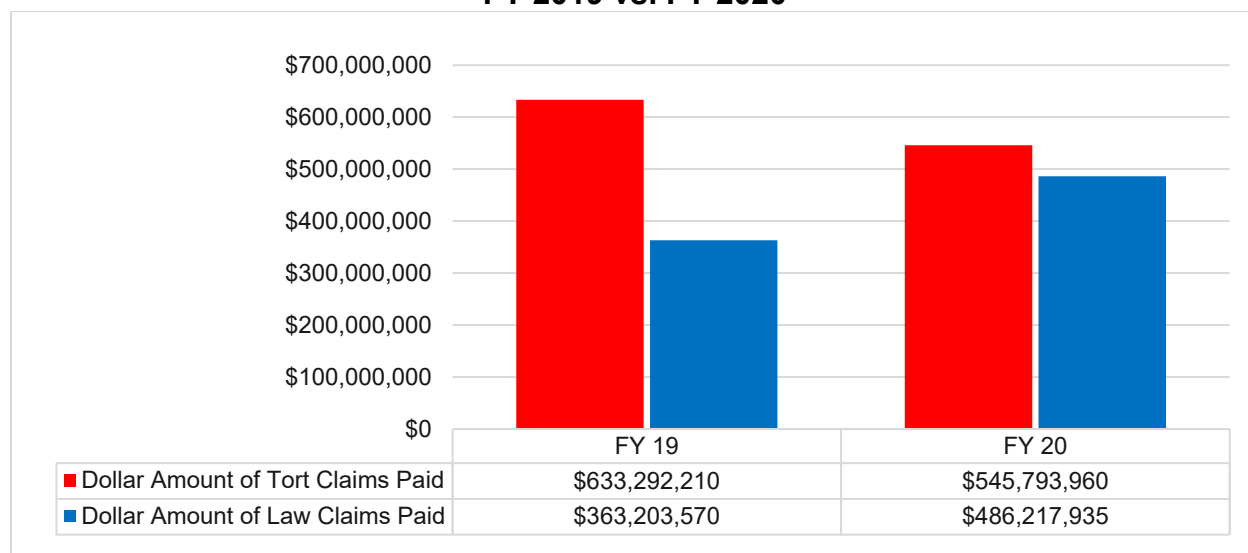
Under the New York City Charter, the Comptroller has the power to settle or adjust all claims in favor of or against the City.¹ This work is performed by the Comptroller's Office Bureau of Law and Adjustment (BLA), which, under the direction of the Comptroller, the General Counsel, and the Assistant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

In FY 2020, 13,741 claims and lawsuits against New York City were resolved for \$1.03 billion compared to 14,267 claims and lawsuits resolved for \$996.5 million in FY 2019.² Claims data is depicted in the composite bar graphs and further explained in the report.

**Total Number of Claim Settlements & Judgments
FY 2019 vs. FY 2020**



**Total Amount of Claim Settlements & Judgments Paid
FY 2019 vs. FY 2020**



TORT CLAIMS

In FY 2020, for a third fiscal year, there was a decline in the City's payouts on personal injury and property damage claims (collectively, tort claims), which include allegations of slip and falls, medical malpractice, police action, and motor vehicle property damage claims. The number of tort claims filed in FY 2020 decreased by 11 percent and the amount paid out in settlements and judgments in FY 2020 decreased by 14 percent. Yet, New Yorkers continue to pay for claims that were filed more than a decade ago.

- In FY 2020, the City paid out \$545.8 million in tort claims, \$87.5 million less than the \$633.3³ million paid out in FY 2019.⁴
- In FY 2020, the City paid out \$60.2 million for personal injury tort claims that were filed prior to FY 2011 (legacy claims).
- Excluding legacy claim payments, personal injury tort claim payouts declined from \$575.4 million in FY 2019 to \$478.7 million in FY 2020.

Medical Malpractice Claims

Since FY 2011—when 611 claims were filed—the number of medical malpractice claims filed has steadily declined over the past 10 fiscal years. Regardless, we anticipate that the City will continue to pay out costly settlements and judgments as a result of the large number of medical malpractice claims filed in years past.

- In FY 2020, there were 392 medical malpractice claims filed, down 19 percent from the 482 medical malpractice claims filed in FY 2019.
- Medical malpractice claim settlements and judgments in FY 2020 decreased to \$65.4 million from \$106.5 million in FY 2019.

Civil Rights Claims

- In FY 2020, the Comptroller's Office resolved two wrongful conviction claims pre-litigation. These two claims accounted for just 0.4 percent of all civil rights claim settlements, for a total of \$11.75 million, or 17 percent of all civil rights claim settlements paid out in FY 2020.

New York City Police Department Claims

- The number of tort claims filed against the New York City Police Department (NYPD) dropped to 5,728 in FY 2020 from 5,851 in FY 2019, a two percent decline.

- NYPD tort claim settlement and judgment payouts declined from \$225.2 million in FY 2019 to \$205.0 million in FY 2020, a nine percent decrease.
- NYPD tort claims accounted for 38 percent of the total overall cost of resolved tort claims in FY 2020.

Department of Sanitation Claims

- In FY 2020, Department of Sanitation (DSNY) tort claim settlement payouts totaled \$37.7 million, \$33.8 million less than the \$71.5 million paid out in FY 2019.
- This significant drop in DSNY settlements paid out in FY 2020 compared to settlements paid in FY 2019 and FY 2018 represents a return to the range of settlement amounts paid each fiscal year between FY 2011 and FY 2016.

LABOR AND EMPLOYMENT CLAIMS

Historically, claims by City employees relative to the terms and conditions of their employment have been recorded as either personal injury civil rights claims or law salary claims depending on the nature of the claim. Beginning in FY 2019, the Comptroller's Office began recording all claims filed by City employees relative to the terms and conditions of their employment as labor and employment claims. In the FY 2020 Claims Report, we continue to report claims data for FYs 2019 and 2020 labor and employment claims under its historic claim types for analysis continuity.

LAW CLAIMS

Law claims include disputes arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving Department of Education (DOE) special education matters, sidewalk assessments, cleanup costs levied on property owners who are in violation of the Mental Hygiene Law, and affirmative claims that are brought by the City against individuals, companies, corporations, and other entities for torts, breaches of contract, and as remedies for violations of civil codes.

- In FY 2020, the City paid out \$486.2 million in law claims, a 34 percent increase from the \$363.2 million paid out in FY 2019.
- Ninety-three percent of all law claim settlements and judgments in FY 2020 were related to claims for special education tuition and services reimbursement and attorneys' fees.

Special Education Claims

- The total settlement amount paid out for DOE special education claims in FY 2020 increased 27 percent to \$363.5 million from \$285.7 million paid out in FY 2019.

- Special education claim payouts in FY 2020 were 179 percent greater than special education claim payouts in FY 2014.

Contract Claims

- In FY 2020, the settlement of 11 delay claims, a subcategory of contract claims, accounted for 58 percent of all contract claims settled.
- The \$48.3 million paid out on these 11 delay claim settlements make up 97 percent of the \$49.8 million in settlements paid out for all contract claims in FY 2020.
- In FY 2020, delay claim settlements increased the overall cost to the City on the subject projects by six percent over the total original contract prices.

Affirmative Claims

- In FY 2020, the Comptroller's Office approved settlement of 309 affirmative claims for a benefit to the City of \$16.7 million, as compared to FY 2019, when 938 affirmative claims were settled for \$24.5 million. The FY 2020 affirmative claims recovery was \$7.9 million or 32 percent less than the amount recovered in FY 2019.
- In FY 2020, the City recovered civil penalties, a subcategory of affirmative claims, in the amount of \$1.6 million on 258 claims, down from \$3.9 million recovered in civil penalties on 592 claims in FY 2019.

Salary Claims

- In FY 2020, there were settlement and judgment payouts on 23 salary claims for a total of \$61.4 million. The \$53.9 million increase in salary claim payouts in FY 2020 was seven times the \$7.6 million paid out in FY 2019. This increase in FY 2020 payouts is attributable to eight-figure payments related to an FLSA collective action and two discrimination class actions.

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

ClaimStat and Inter-Agency Partnerships

The Comptroller's Office introduced ClaimStat, a data-driven analysis of claims filed against the City, in 2014. ClaimStat was conceived as a way for City agencies to review claims data in real time, identify claim filing trends that are costly to the City, and implement policies and best practices to mitigate risk. ClaimStat has proven to be a valuable device for City agencies using risk analysis to reduce the number of claims filed against the City and, in turn, limit the City's financial exposure.

In addition to the real-time data exchange, BLA participates in regularly-scheduled conference calls with several City agencies to discuss claims, help find ways to better manage risk, and implement best practices. In 2014, the NYPD partnered with the Comptroller's Office to share data. Other City agencies subsequently entered into agreements with the Comptroller's Office to share information to improve risk management. In January 2017, the Comptroller's Office entered into a Memorandum of Understanding (MOU) with the Department of Sanitation (DSNY) to share real-time claims data. The Comptroller's Office expanded ClaimStat later that year to the Department of Correction (DOC). In 2018, the Comptroller's Office entered into an agreement to share real-time data with the Department of Citywide Administrative Services (DCAS) to manage risk involving City fleet vehicles.

BLA discusses claim-filing trends with high-level agency risk managers and suggests policies that may prevent the filing of similar claims in the future. For example, each week BLA and the NYPD Legal Bureau's Police Action Litigation Section discuss new claims and relevant NYPD policies related to risk management. The exchange of data and candid communication between BLA and the NYPD plays a critical role in BLA's ability to investigate and evaluate NYPD claims early in the claim process. BLA also regularly meets with the DOC and DSNY legal teams to exchange information on active claims and to identify trends and data useful in the claim resolution and mitigation process. The Comptroller's Office continues to explore new partners to expand ClaimStat with the goal to help other City agencies mitigate risk and implement best practices that can save taxpayer dollars.

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 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 2020, the Comptroller's Office collected

\$9.5 million from claimants with outstanding obligations to the City, including \$5.3 million in Medicare/Medicaid liens, \$2.2 million in child support arrears, and \$657,478 in parking violation bureau judgments.

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

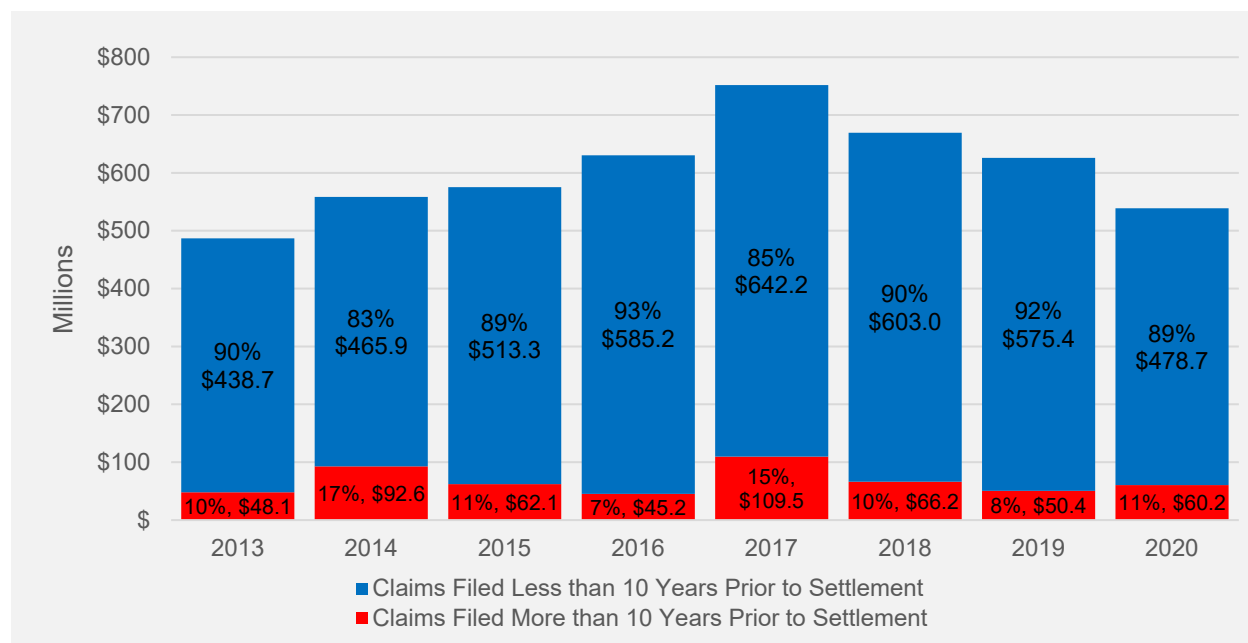
The New York State Son of Sam Law allows a crime victim to commence a civil action to recover money damages for “profits from a crime” or the “funds of a convicted person.”⁵ Under the law, the Comptroller’s Office must report to the New York State Office of Victim Services (Victim Services) any City settlement obligation to a convicted person that exceeds \$10,000. In FY 2020, the City collected \$208,907 from convicted claimants or plaintiffs who recovered settlement monies from the City. In compliance with the Son of Sam Law, these funds were distributed to victims of the crimes committed by these claimants or plaintiffs. Since FY 2011, the City has dispersed \$1.6 million to crime victims under the Son of Sam Law.

III. LEGACY CLAIMS

Settlements of Personal Injury Tort Claims Filed Before FY 2011

New Yorkers continue to pay for claims filed more than a decade ago. In FY 2020, the City paid out \$60.2 million to settle personal injury tort claims filed before FY 2011.⁶

Chart 1
Personal Injury Tort Claim Settlements for Legacy Claims
FYs 2013–2020

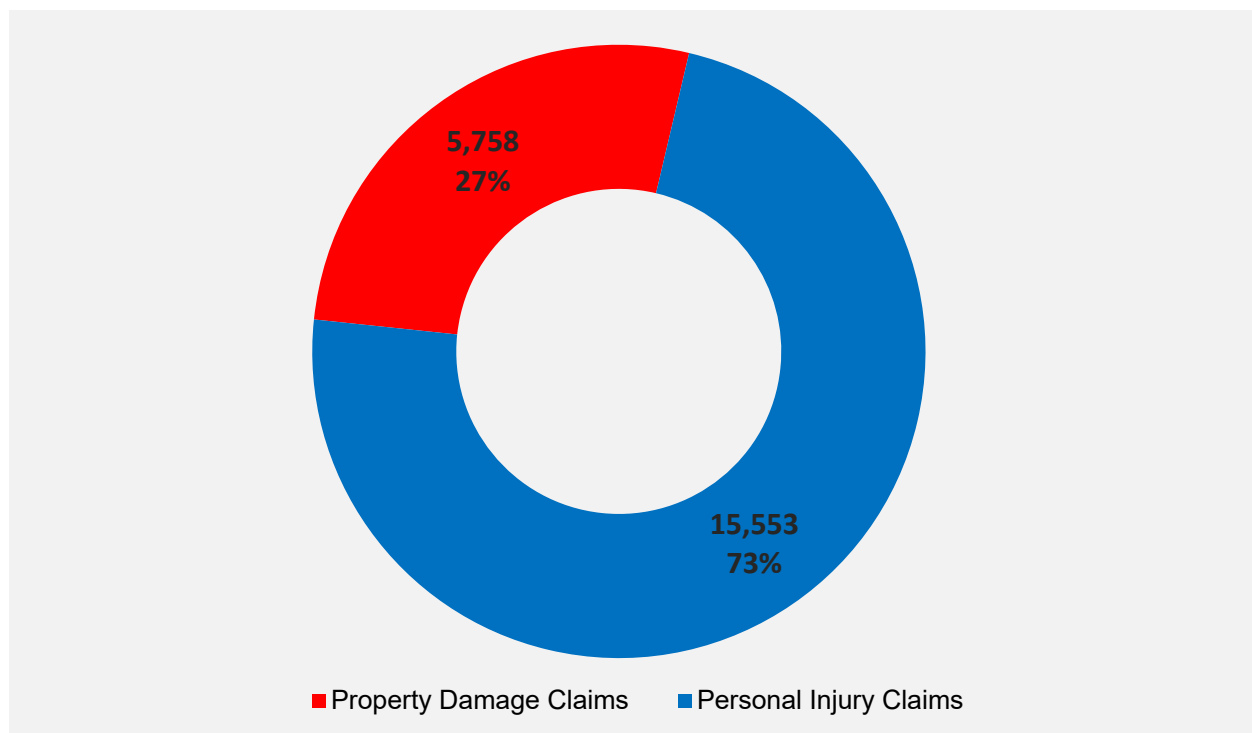


In FY 2020, the City continued to reduce the backlog of claims filed more than 10 years ago. While resource intensive litigation is necessary to defend the City’s core policies and to fight meritless claims, the City should avoid protracted litigation. A review of so-called “legacy claims” reveals that engaging in decades-long litigation is not the best use of the City’s legal resources and, at times, can increase the City’s exposure to unreasonable verdicts and judgments. The Comptroller’s Office works closely with the New York City Law Department to ensure that lawsuits are resolved in a timely, cost effective, and fiscally prudent manner to ease the future financial burden of New Yorkers.

IV. TORT CLAIMS

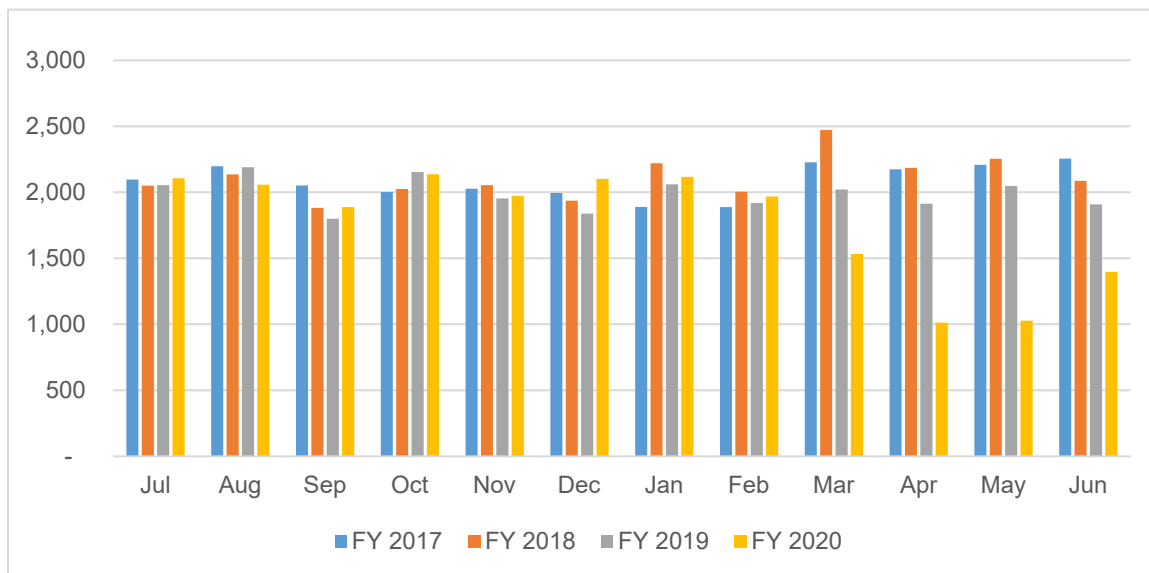
Tort claims consist of personal injury (PI) and property damage (PD) claims.⁷ In FY 2020, 21,311 personal injury and property damage claims were filed compared to 23,853 tort claims filed in FY 2019, an 11 percent decrease.

Chart 2
Comparison of Tort Claims Filed:
Property Damage Claims vs. Personal Injury Claims
FY 2020



In FY 2020, COVID-19 appears to have impacted the number of tort claims filed. As depicted in the chart below, during the period that New York City shutdown starting on March 20, 2020, the number of tort claims filed dropped when compared to the prior three fiscal years.

Chart 3
COVID-19 Impact on Tort Claims Filed

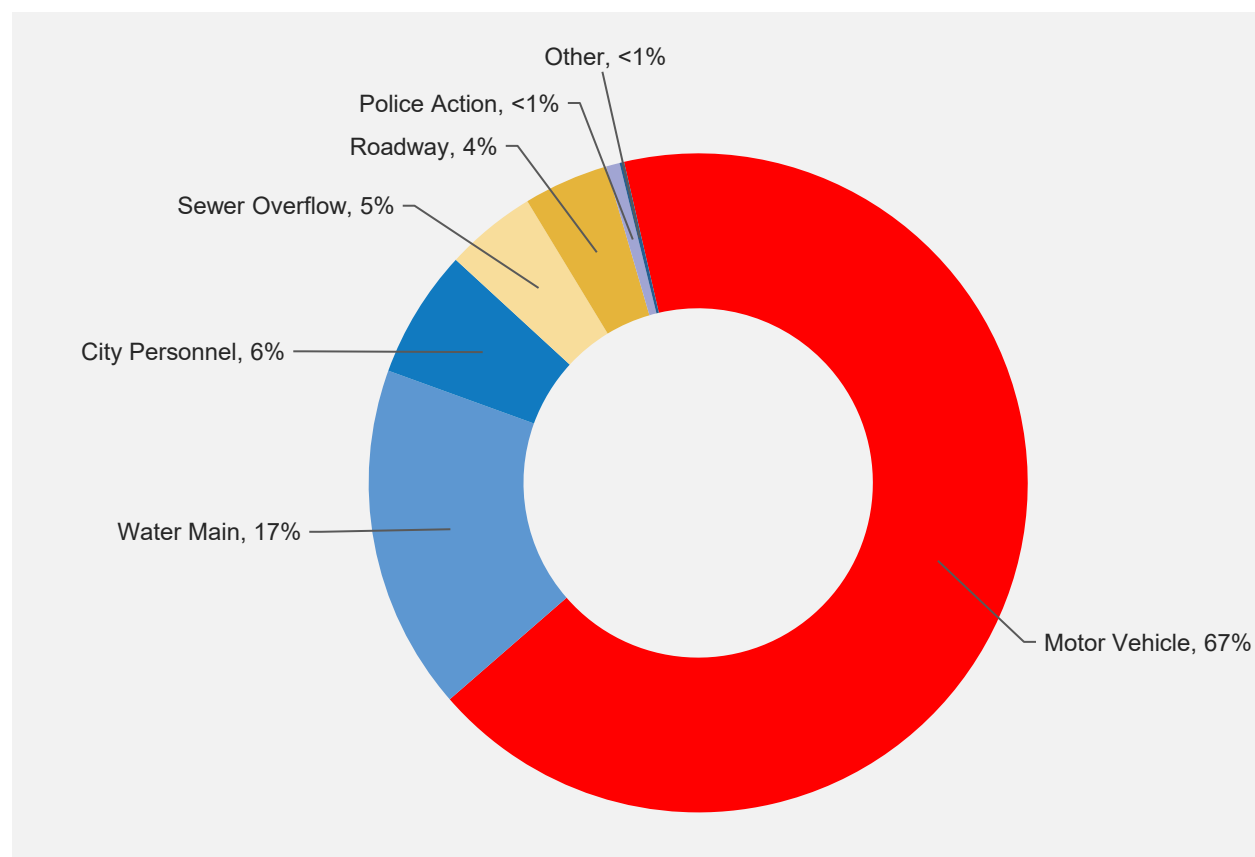


In FY 2020, settled tort claims cost the City \$545.8 million, a 14 percent decrease from the \$633.3 million paid out in FY 2019. Settlements and judgments for tort claims cost each City resident approximately \$64.83 in FY 2020.

A. 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, roadway conditions, water main breaks, and sewer overflows. The number of property damage claims filed in FY 2020 declined by 19 percent to 5,758, from the 7,140 claims filed in FY 2019. In FY 2020, property damage claims represented one percent of the City's total tort claim payouts. Property damage claim settlement payouts dropped by eight percent in FY 2020 to \$6.9 million from \$7.5 million in FY 2019.

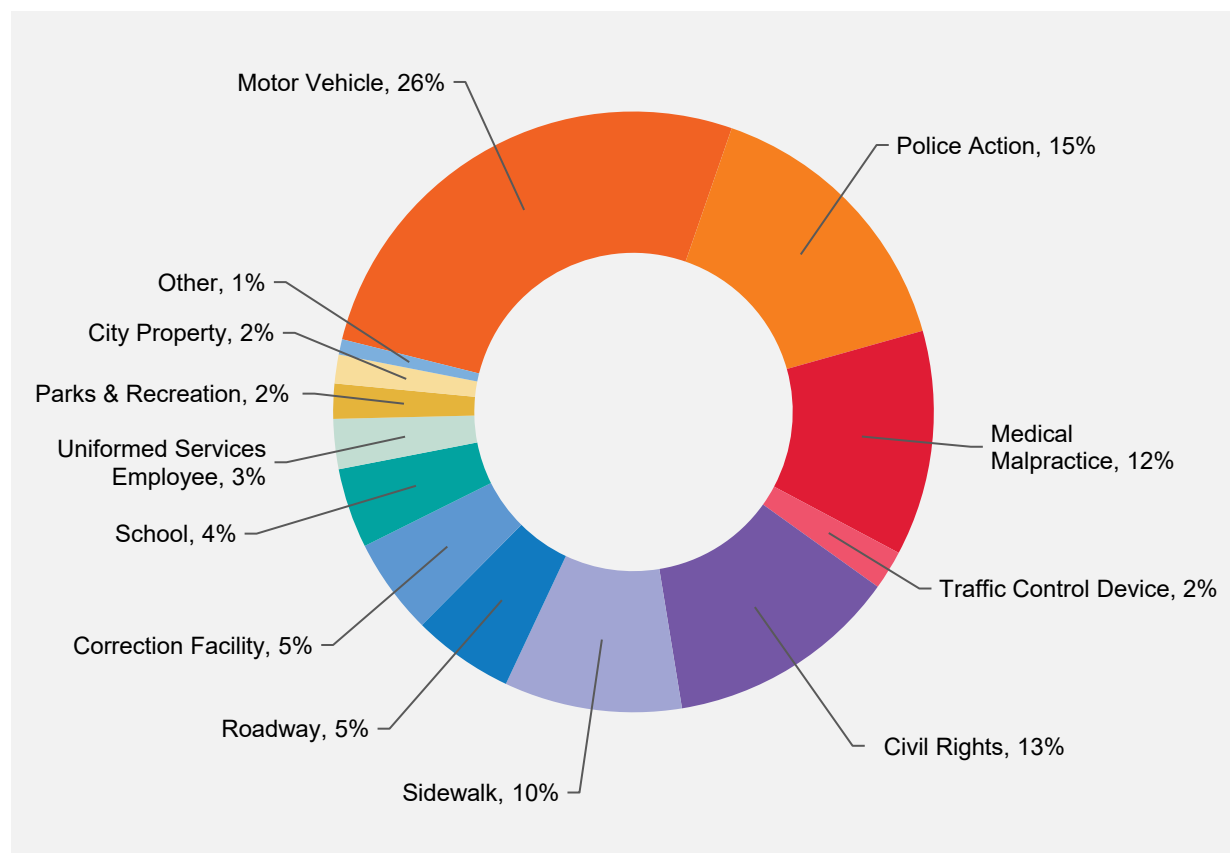
Chart 4
Percentage of Property Damage Claim Settlements & Judgments
Recorded by Claim Type
FY 2020



B. PERSONAL INJURY CLAIMS

Personal injury claims are the most frequently filed and the costliest claims for the City to resolve. These claims include, but are not limited to, allegations of medical malpractice, civil rights violations, injuries occurring on the premises of DOE schools, motor vehicle accidents involving City-owned vehicles, defective sidewalks, or unlawful actions of the police or uniformed services employees. In FY 2020, there were 15,553 personal injury claims filed, a seven percent decrease, from the 16,713 personal injury claims filed in FY 2019. In FY 2020, personal injury claims accounted for \$538.9 million, or 99 percent, of the \$545.8 million paid out on settled tort claims. The average settlement and judgment cost of a personal injury claim in FY 2020 was \$86,952, six percent lower than the FY 2019 average of \$92,250.

Chart 5
Percentage of Personal Injury Claim Settlements & Judgments
Recorded by Claim Type
FY 2020

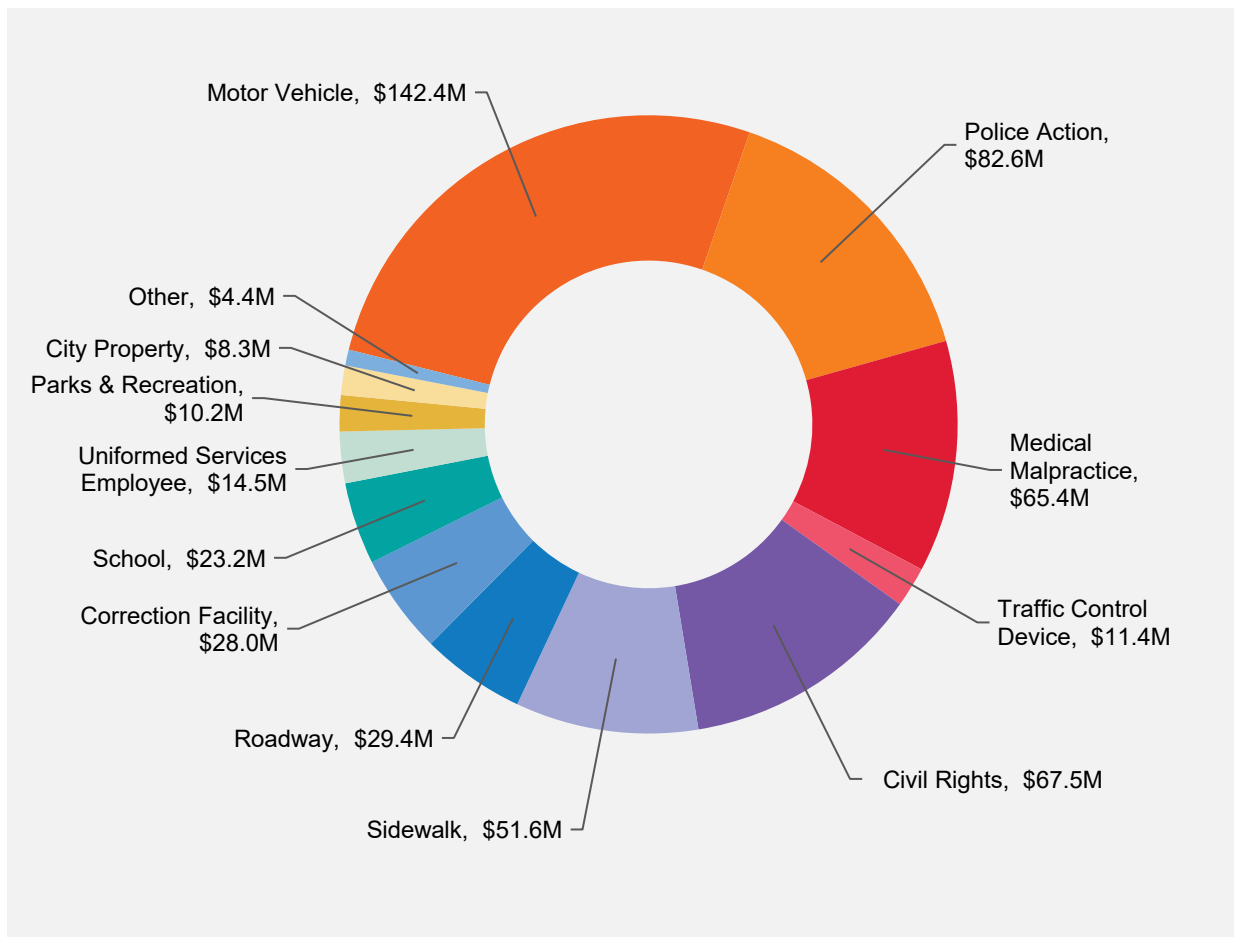


C. PERSONAL INJURY CLAIM TRENDS BY CLAIM TYPE

In FY 2020 the five most frequently filed personal injury claim types were police action claims (3,879), correction facility claims (3,350), sidewalk claims (2,004), motor vehicle claims

(1,390), and civil rights claims (1,156). The five costliest personal injury claim settlements in FY 2020 by claim type were motor vehicle claims (\$142.4 million), police action claims (\$82.6 million), civil rights claims (\$67.5 million), medical malpractice claims (\$65.4 million), and sidewalk claims (\$51.6 million). Together, in FY 2020, these five claim types cost \$409.5 million and accounted for 76 percent of all personal injury claim settlements.

Chart 6
Total Amount Paid Out for Personal Injury Claim Settlements & Judgments
Recorded by Claim Type
FY 2020

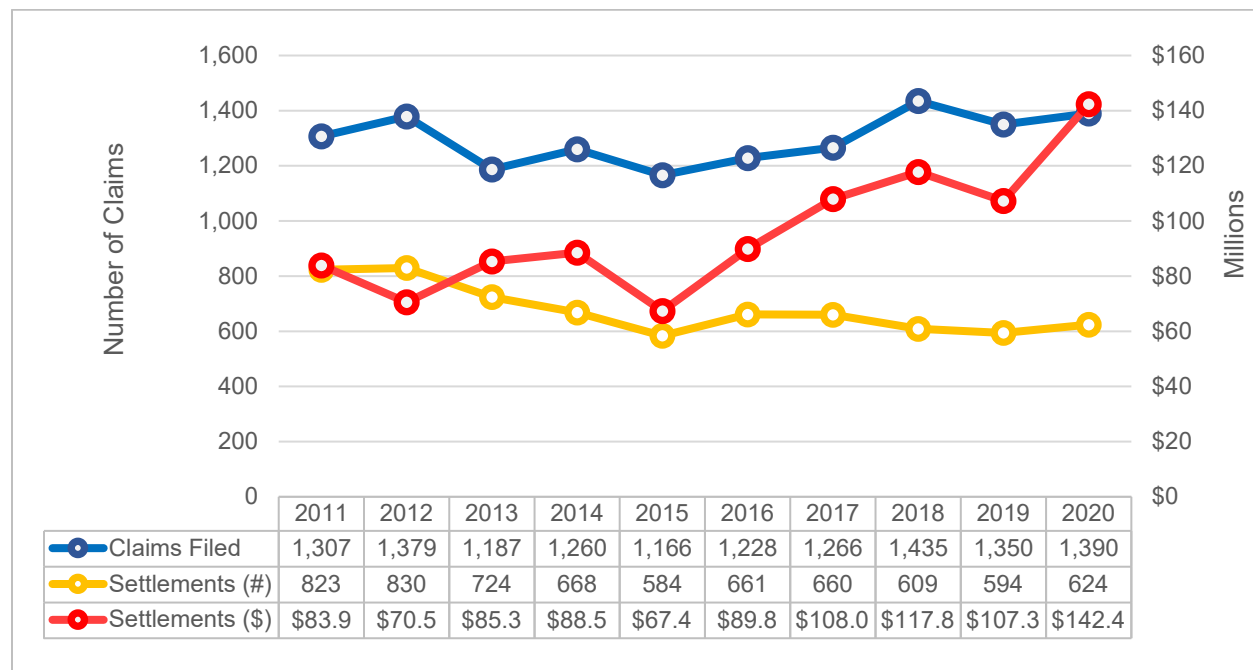


Out of the 6,198 personal injury claim settlements, there were 88 personal injury claim payouts for one million dollars or more, accounting for \$216.2 million paid out in FY 2020. These 88 claims with payouts for one million dollars or more represent 40 percent of the total personal injury claim settlements paid out in FY 2020. The top five payouts by claim type for claim payouts of one million dollars or more are motor vehicle claims (\$79.2 million), malpractice claims (\$41.1 million), civil rights claims (\$33.9 million), roadway claims (\$13.2 million), and police action claims (\$9.7 million). These top five claim types for payouts of one million dollars or more represents 82 percent of the total \$216.2 million paid out.

1. Motor Vehicle Claims

Personal injury motor vehicle claims involve alleged accidents with City-owned fleet vehicles. There were 1,390 personal injury motor vehicle claims filed in FY 2020, up three percent from FY 2019 when 1,350 personal injury motor vehicle claims were filed. In FY 2020, personal injury motor vehicle claim settlements cost \$142.4 million, a 33 percent increase, compared to \$107.3 million paid out to resolve motor vehicle claims in FY 2019. In FY 2020, the number of personal injury motor vehicle claims settled increased by five percent to 624 in FY 2020 from 594 in FY 2019.

Chart 7
Personal Injury Motor Vehicle Claims Filed and Settled
FYs 2011–2020



In FY 2020, 34 of the 88 personal injury claims resolved for one million dollars or more were motor vehicle claim payouts, totaling \$79.2 million—56 percent of the FY 2020 settlement payments for all personal injury motor vehicle claims.

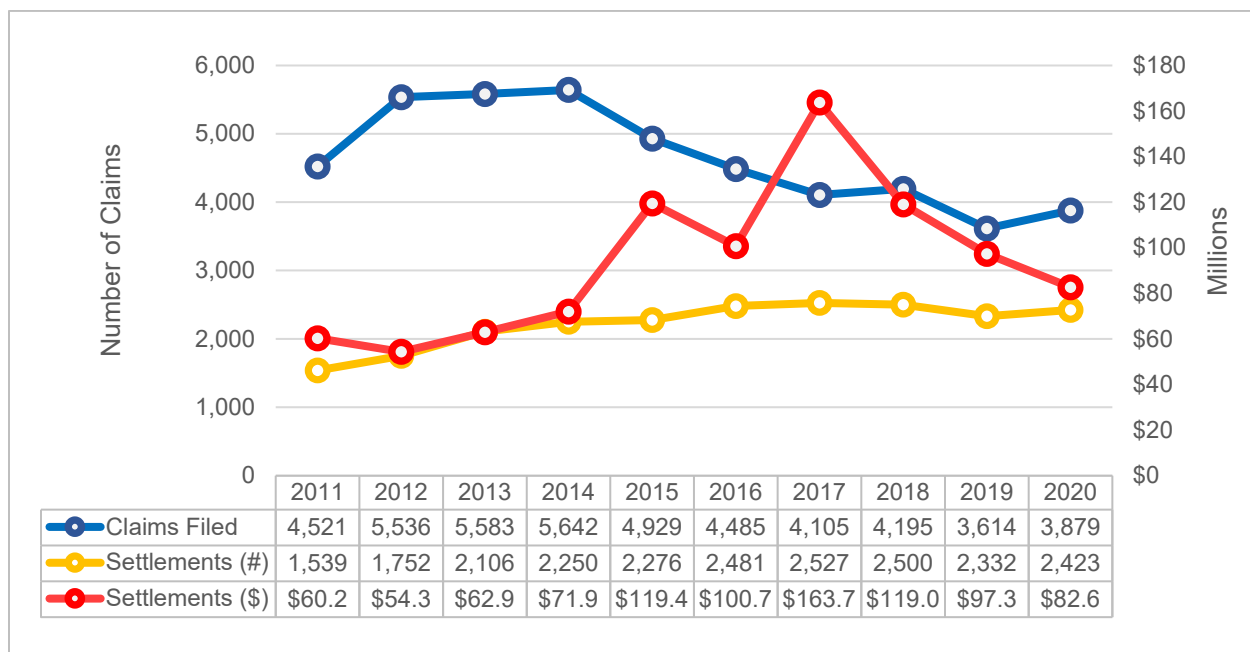
The \$142.4 million cost of personal injury motor vehicle claim settlements represents a 59 percent increase from the \$89.8 million in FY 2016. FY 2020 is the fourth consecutive fiscal year in which personal injury motor vehicle claim settlements topped the \$100 million mark.

2. Police Action

Police action claims include allegations of improper police conduct, such as false arrest or imprisonment, or excessive force under New York State law and litigated in New York State courts. Personal injury police action claim filings rose in FY 2020 to 3,879 claims from 3,614

claims filed in FY 2019, a seven percent increase. In FY 2020, personal injury police action claims were the most frequently filed personal injury claim type and accounted for the second highest claim type payout. Importantly, personal injury police action claim settlement costs in FY 2020 declined to \$82.6 million, a 15 percent decrease from \$97.3 million paid out in FY 2019, a 31 percent decrease from the \$119.0 million in FY 2018 and a 50 percent decrease from the \$163.7 million in FY 2017.

Chart 8
Personal Injury Police Action Claims Filed and Settled
FYs 2011–2020



The Comptroller’s Office dedicates significant resources to investigating, evaluating, and, if appropriate, resolving certain personal injury police action claims prior to litigation. Resolving meritorious claims pre-litigation results in substantial financial savings to the City while allowing the New York City Law Department to allocate resources to more complex or difficult cases. The following chart illustrates the results of the Office of the Comptroller’s substantial effort to resolve, when appropriate, personal injury police action claims pre-litigation:

Table 1
Personal Injury Police Action Claim Pre-litigation and Litigation Settlements

Fiscal Year	Police Action Claims (PI) Resolved (total, including Litigation)	Police Action Claims (PI) Resolved (Pre-litigation)	Percent Resolved Pre-litigation	Total Police Action (PI) Claim Payout	Total Police Action (PI) Claim Payout (Pre-litigation)	Percent Paid Pre-Litigation
2017	2,527	1,218	48.2%	\$163.7M	\$49.5M	30.2%
2018	2,500	1,350	54.0%	\$119.0M	\$29.5M	25.1%
2019	2,332	1,321	57.1%	\$97.3M	\$21.8M	23.0%
2020	2,423	1,221	50.4%	\$82.6M	\$20.2M	24.4%
TOTAL	9,782	5,110	52.2%	\$462.6M	\$121.0M	26.2%

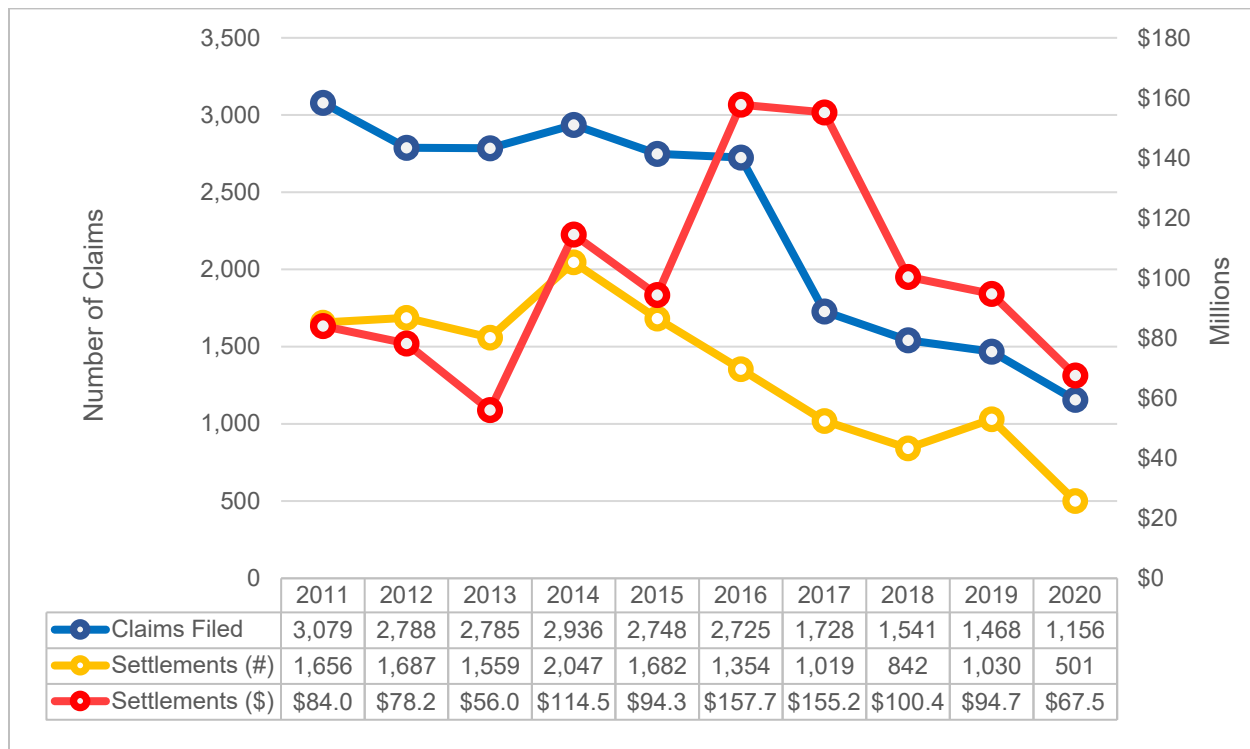
Notably, the Comptroller's Office pre-litigation settlements resulted in the resolution of over 52 percent of all resolved personal injury police action claims over the last three fiscal years. That substantial percentage of claims resolved before litigation, however, represents only 26 percent of the total personal injury police action claim payouts over the same time period.

3. Civil Rights Claims

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

The downward trend of the number of civil rights claims filed continued in FY 2020 with a 21 percent decrease to 1,156 civil rights claims filed from 1,468 filed in FY 2019. In fact, since FY 2014, when 2,936 civil rights claims were filed, there has been a 61 percent drop in civil rights claims filed. In FY 2020, the cost of civil rights claim payouts decreased to \$67.5 million from \$94.7 million in FY 2019, a 29 percent dip, and a 57 percent decline from the \$157.7 million paid out on civil rights claims in FY 2016.

Chart 9
Civil Rights Claims Filed and Settled
FYs 2011–2020



In FY 2020, 10 of the 88 personal injury claims that resolved for one million dollars or more were civil rights claims, totaling \$33.9 million, or 50 percent of the total civil rights claim payouts, while accounting for only two percent of all civil rights claims settled in FY 2020.

In FY 2020, the Comptroller’s Office resolved two wrongful conviction claims pre-litigation: Gregory Counts, who spent over 26 years incarcerated and VanDyke Perry, who spent nearly 11 years incarcerated. These pre-litigation settlements avoided lengthy legal proceedings that are costly for the City and claimants alike. The two wrongful conviction claims accounted for 0.4 percent of all civil rights claim settlements, for a total of \$11.75 million, or 17 percent of all civil rights claims paid out in FY 2020. Despite being a substantial proportion of civil rights claim payouts, resolving these claims before litigation results in considerable savings to the City. On average per year incarceration, as demonstrated in the charts below, wrongful conviction claims settled pre-litigation are resolved for less than wrongful conviction claims that settle during litigation.

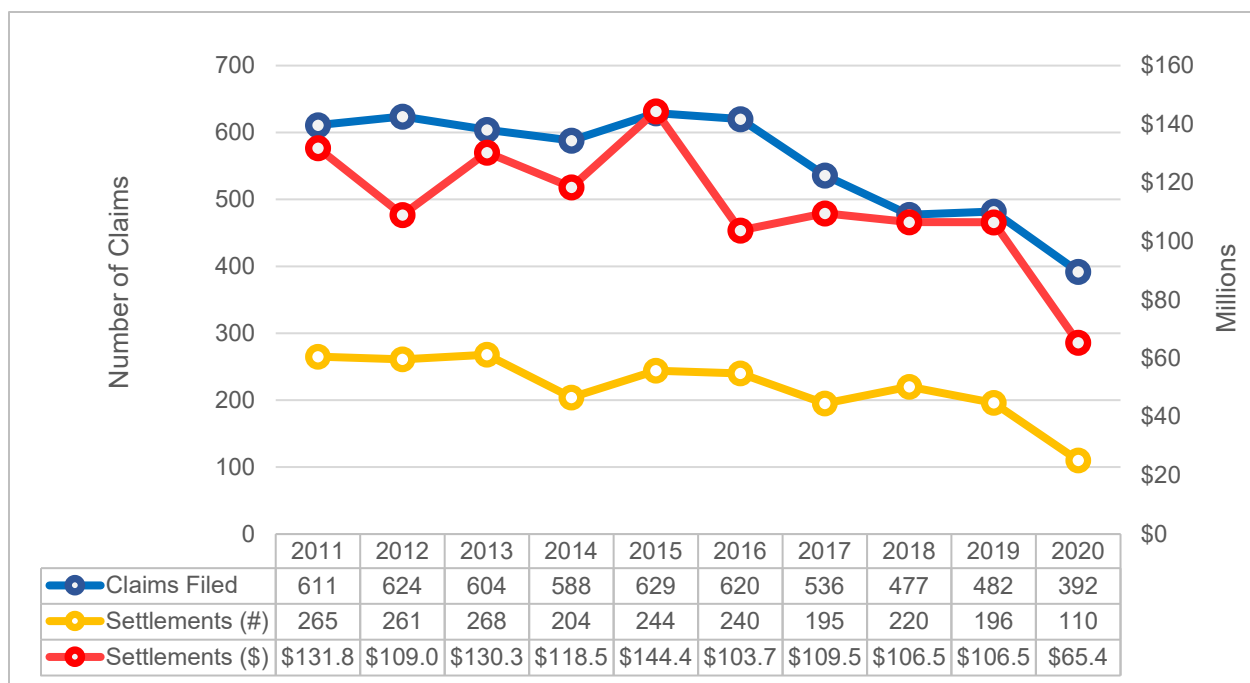
Table 2
Wrongful Conviction Settlements
 (* indicates pre-litigation settlements)

FY 2020		
Name	Years Incarcerated	Settlement
Gregory Counts*	26.5 years (1991 – 2017)	\$8.246 million
Derrick Hamilton	20.7 years (1991 – 2011)	\$6.625 million
VanDyke Perry*	10.75 years (1991 – 2001)	\$3.5 million
Ricardo Benitez	5.75 years (2009 – 2015)	\$1.75 million
FY 2019		
Name	Years Incarcerated	Settlement
Mark Denny*	30 years (1988 – 2018)	\$9.75 million
Rosean Hargrave*	24 years (1991 – 2015)	\$6.7 million
Jabbar Washington*	21.5 years (1996 – 2017)	\$5.75 million
Sundhe Moses*	18.25 years (1995 – 2018)	\$3.7 million
Tyrone Hicks	7 years (2000 – 2007)	\$3.25 million
Steven Odiase*	6 years (2011 – 2017)	\$1.1 million
Dejuan Battle	4.5 years (2010 – 2014)	\$675,000
FY 2018		
Name	Years Incarcerated	Settlement
Andre Hatchett	25 years (1991 – 2016)	\$12.25 million
Ruddy Quezada	24 years (1991 – 2015)	\$9.5 million
Clifford Jones*	29 years (1981 – 2010)	\$7.5 million
Joel Fowler	7.5 years (2008 – 2015)	\$2.5 million
Paul Gatling*	10 years (1964 – 1974)	\$1.5 million
FY 2017		
Name	Years Incarcerated	Settlement
Antonio Yarbough	22 years (1992 – 2015)	\$13 million
Abdul Sharif Wilson	22 years (1992 – 2015)	\$13 million
Everton Wagstaffe	23 years (1992 – 2014)	\$11.43 million
Amaury Villalobos*	32 years (1980 – 2012)	\$9.7 million
William Vasquez*	32 years (1980 – 2012)	\$9.7 million
William Lopez	23 years (1990 – 2013)	\$8.25 million
Reginald Connor	16 years (1992 – 2008)	\$7.95 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 million
Vanessa Gathers*	10 years (1997 – 2007)	\$2.4 million
Martin Nnodimele	3.75 years (2007 – 2011)	\$2 million
Raymond Mora*	8 years (1981 – 1989)	\$1 million
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
Shabaka Shakur*	27 years (1988 – 2015)	\$5.5 million
Roger Logan*	16.5 years (1997 – 2013)	\$3.8 million
Marcus Poventud	9 years (1997 – 2006)	\$3 million

4. Medical Malpractice Claims

Medical malpractice claims result from alleged improper diagnosis, treatment, or care and are typically filed against NYC Health + Hospital (H+H) facilities. Since medical malpractice claims are complex, the cases often take five to 10 years to resolve. The number of claims filed is, therefore, a better indicator of medical malpractice claims activity than the dollar amount paid out in any single year. In FY 2020, there were 392 medical malpractice claims filed, down 19 percent from the 482 medical malpractice claims filed in FY 2019. Medical malpractice claims appear to be stabilizing, but we anticipate that the City will continue to pay out costly settlements as a result of the large number of medical malpractice claims filed in years past. The 110 medical malpractice claims resolved in FY 2020 cost the City \$65.4 million, compared to \$106.5 million paid out on 196 medical malpractice claims settled in FY 2019.

Chart 10
Medical Malpractice Claims Filed and Settled
FYs 2011–2020



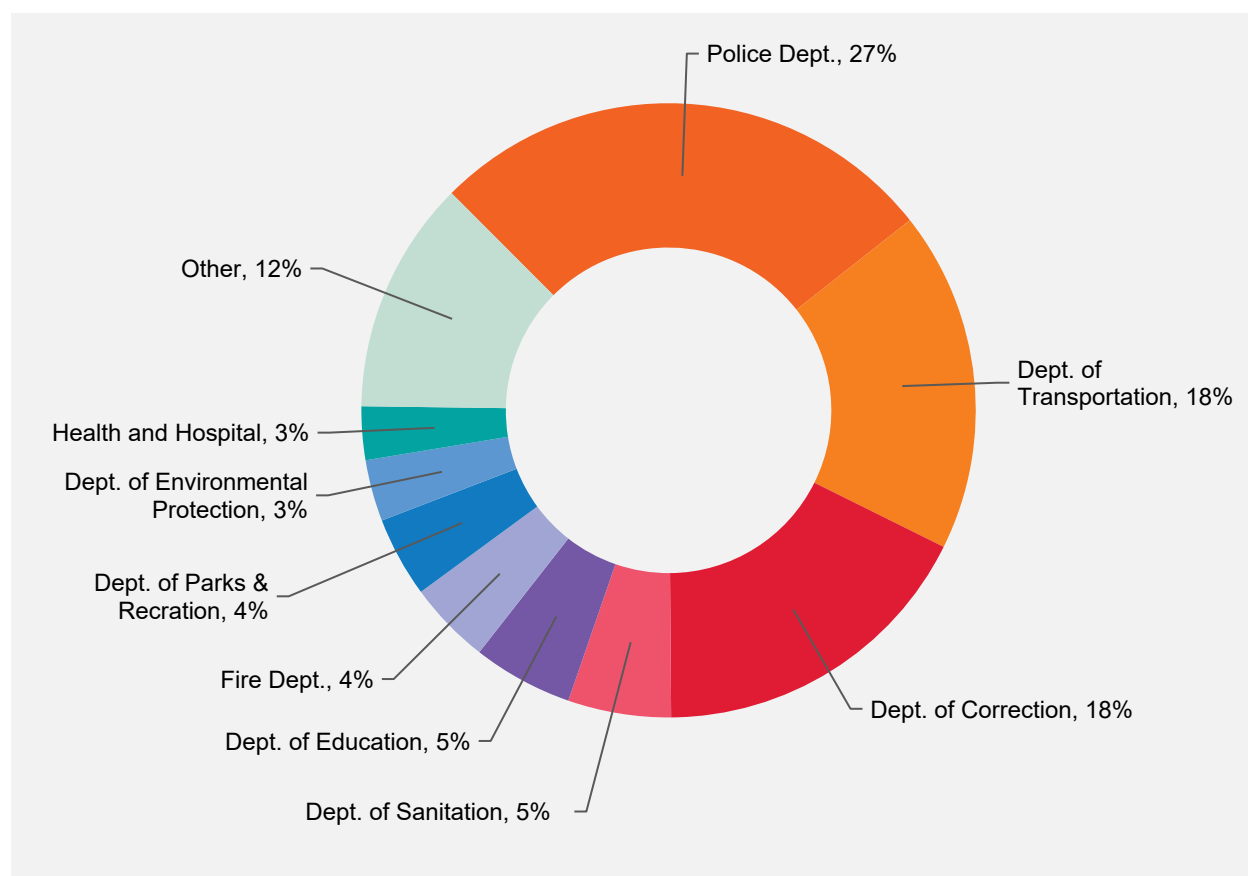
Settlements of medical malpractice claims accounted for 12 percent of the total \$538.9 million paid out for all personal injury claims resolved in FY 2020. Of the 88 personal injury claims resolved for one million dollars or more in FY 2020, 18 were medical malpractice claim payouts, totaling \$41.1 million.

D. TORT CLAIM TRENDS BY AGENCY

In FY 2020, the five agencies that experienced the highest number of tort claims filed were the NYPD (5,728 claims), Department of Transportation (DOT) (3,827 claims), DOC (3,735

claims), DSNY (1,158 claims), and DOE (1,124 claims). Notably, in FY 2020 tort claims filed against these five agencies declined to 15,572 claims filed from 17,490 claims filed in FY 2019, a decline of 1,918 claims filed, or an 11 percent decrease.

Chart 11
Percentage of Tort Claims Filed by Agency⁸
FY 2020



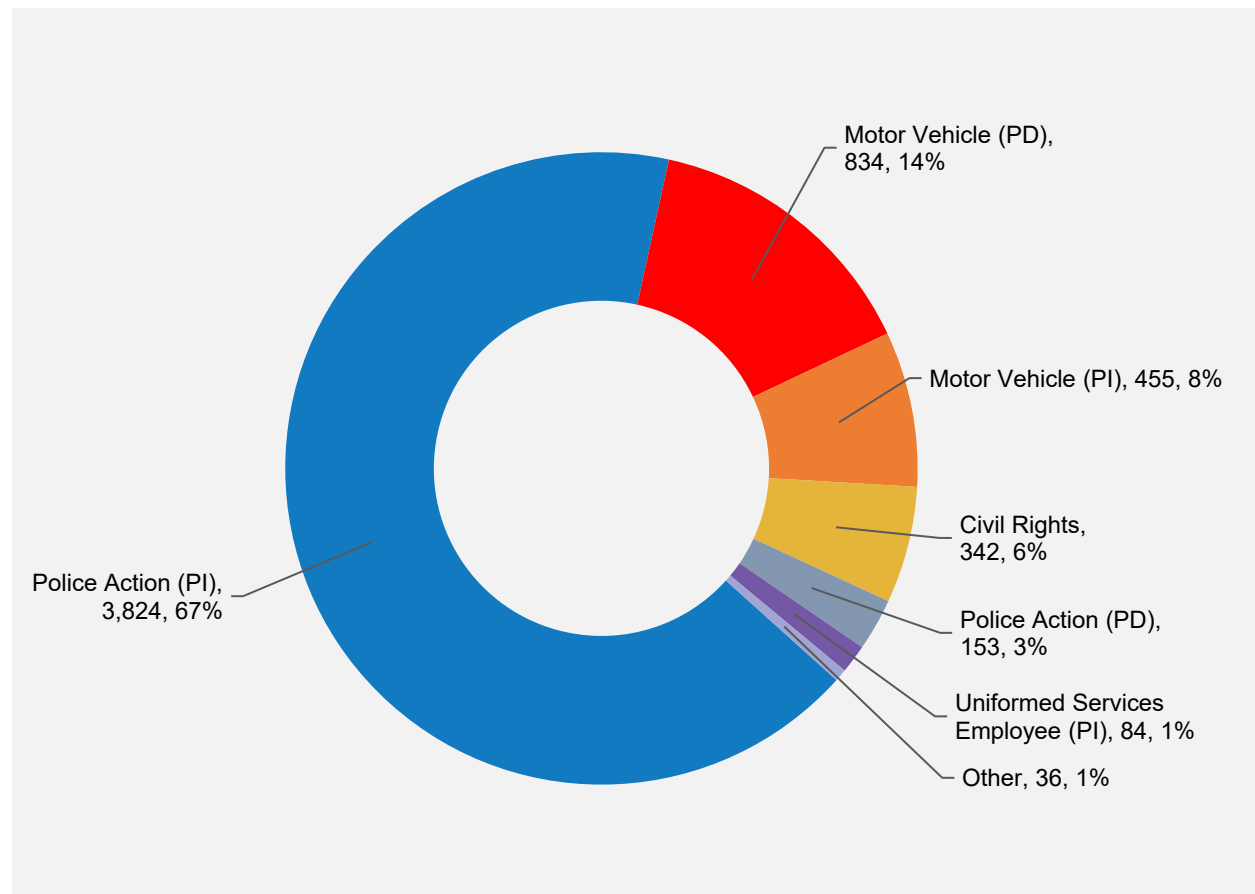
The five agencies with the highest tort claim settlement and judgment costs in FY 2020 were the NYPD (\$205.0 million), DOT (\$91.3 million), H+H (\$67.4 million), DSNY (\$37.7 million), and DOC (\$34.4 million).

1. New York City 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 2020, the number of tort claims filed against the NYPD dropped to 5,728 from 5,851 filed in FY 2019, representing a two percent decline. Of those claims filed in FY 2020 against the NYPD, 51 claims⁹ resulted from alleged police misconduct during widespread protests across the City. However, the number overall claims filed against NYPD

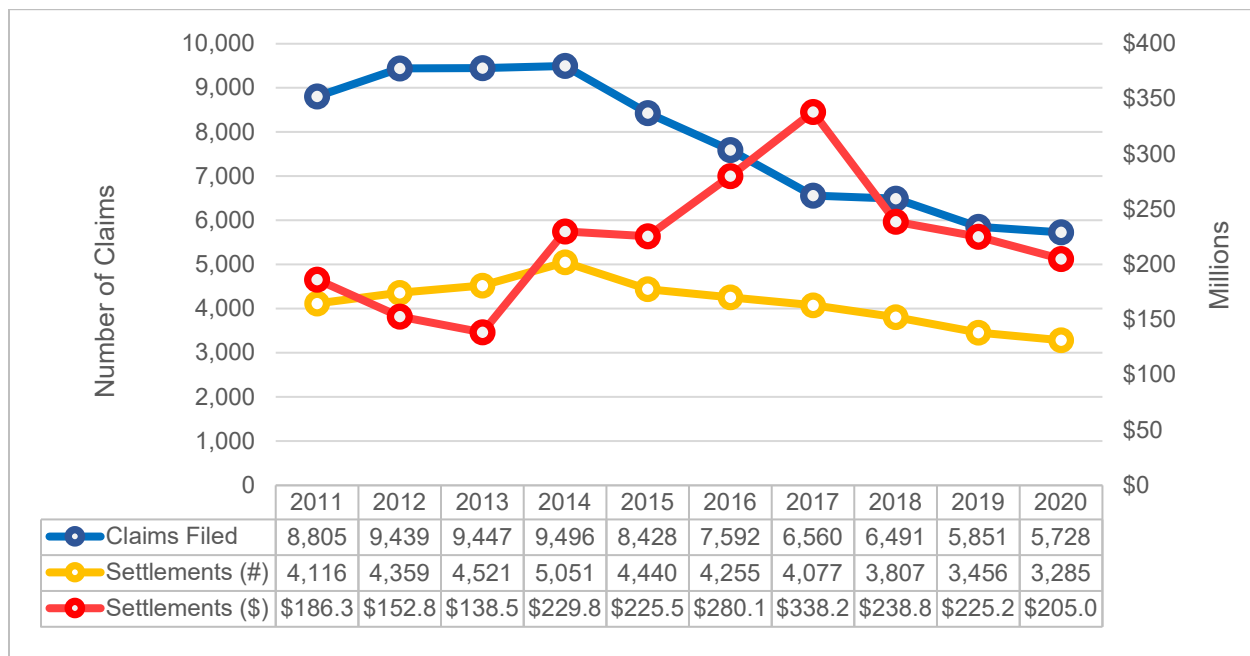
arising out of myriad protests from May and June 2020 has risen to over 450¹⁰, which will be captured in the FY 2021 report.

Chart 12
Number and Percentage of NYPD Tort Claims Filed by Claim Type
FY 2020



Claims against the NYPD that settled in FY 2020 cost the City \$205.0 million, compared to \$225.2 million in FY 2019, a nine percent decrease, and a 39 percent decrease from the \$338.2 million paid out on NYPD claims in FY 2017.

Chart 13
NYPD Tort Claims Filed and Settled
FYs 2011–2020



As noted in the police action claims section above, the substantial proportion of pre-litigation police action claim settlements has contributed to the reduction in NYPD payouts for the third consecutive fiscal year. Resolving claims prior to litigation has also allowed the Law Department to vigorously defend appropriate litigation, which contributed to the lower NYPD agency payouts in FY 2020.

NYPD claims accounted for 38 percent of the total overall cost of resolved FY 2020 tort claim payouts. NYPD settlement costs were the highest among all City agencies in FY 2020. The Comptroller’s Office, the NYPD, and the New York City Law Department must continue to collaborate to reduce the cost of NYPD claim settlements.

It is anticipated that there will continue to be high exposure wrongful conviction claims filed as District Attorney’s Offices review past convictions. For example, the four wrongful conviction claims resolved in FY 2020 represent less than one percent of all NYPD claims resolved, but total \$20.1 million, or 10 percent of the total NYPD payouts in FY 2020. This continues a four-year trend of wrongful conviction payouts that comprise a disproportionately high percentage of NYPD claim payouts, as illustrated in the table below.

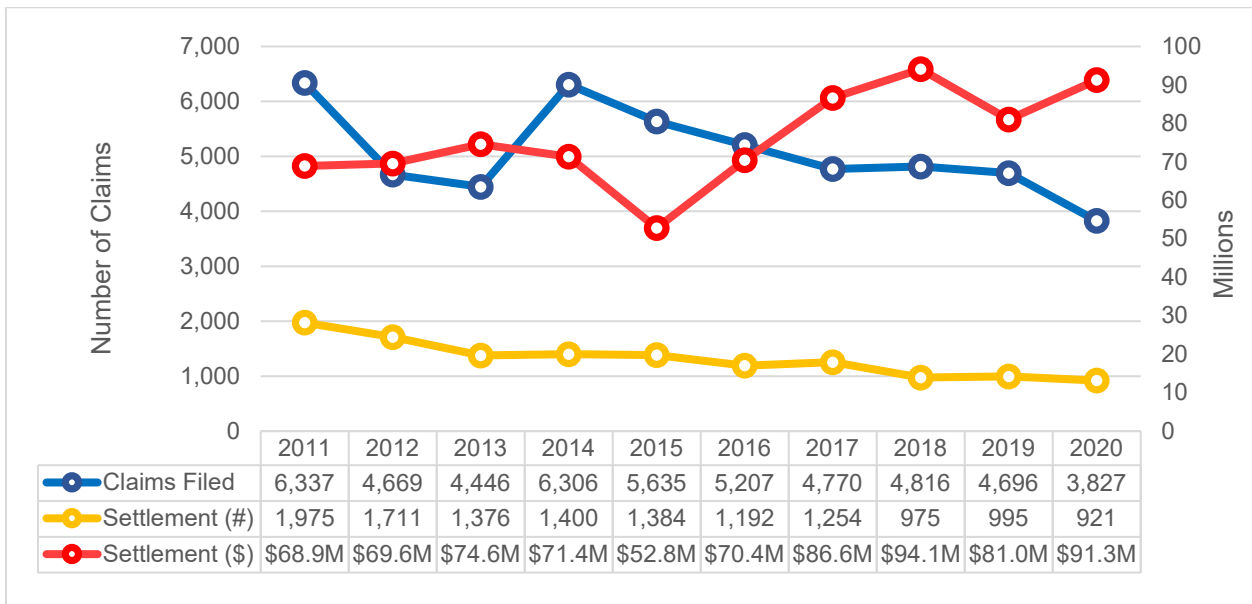
Table 3
Wrongful Conviction Claims
FYs 2016–2020

Fiscal Year	Major Wrongful Conviction Claims Resolved (Pre-litigation and Litigation)	Total Cost	NYPD Claims Total Settled (PI and PD)	NYPD Claims Total Payout (PI and PD)	Wrongful Conviction Percent of Total NYPD Claims Settled	Wrongful Conviction Percent of Total NYPD Claim Payout
2016	9	\$62.2M	4,255	\$280.1M	0.21%	22.2%
2017	14	\$99.93M	4,077	\$338.2M	0.34%	29.5%
2018	5	\$33.25M	3,807	\$238.8M	0.13%	14.0%
2019	7	\$30.93M	3,456	\$225.1M	0.20%	13.7%
2020	4	\$20.3M	3,285	\$205.0M	0.12%	10.0%
TOTAL	39	\$246.61M	18,880	\$1,287.2M	0.20%	19.2%

2. Department of Transportation

Claims against the Department of Transportation (DOT) generally involve, but are not limited to, allegations of improper sidewalk or roadway maintenance, roadway design claims, and motor vehicle accidents involving DOT vehicles. In FY 2020, 3,827 claims were filed against DOT, compared to 4,696 in FY 2019, a 19 percent decline. Importantly, however, the settlement amount for DOT claims in FY 2020 increased to \$91.3 million, up from \$81.0 million in FY 2019, a 13 percent increase.

Chart 14
DOT Tort Claims Filed and Settled
FYs 2011–2020



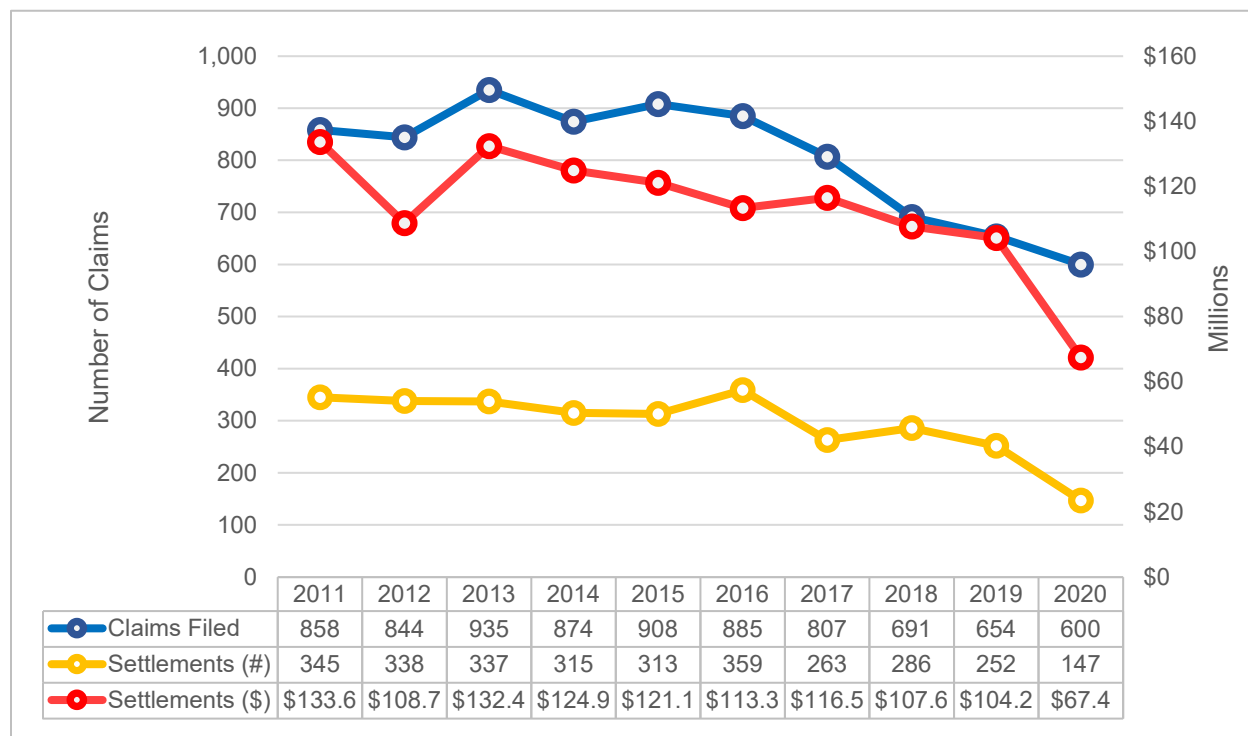
The number of DOT claim settlements declined to 921 in FY 2020, compared to 995 DOT claims resolved in FY 2019, a seven percent decrease. However, the data indicates that the average cost per DOT claim settlement increased since FY 2016, where the average cost per DOT claim settlement was \$59,080. In FY 2020, the average cost to settle a DOT claim increased from FY 2016 by 68 percent to \$99,093.

3. NYC Health + Hospitals

Claims against NYC Health + Hospitals (H+H) encompass claims for personal injuries including alleged medical malpractice, slip and falls on hospital property, and property damage sustained on hospital property. Many medical malpractice claims typically resolve in five to 10 years from the date of filing, so the number of claims filed against H+H in a given year is a better indicator of current H+H claim trends than the amount paid out in any one year.

In FY 2020, 600 claims were filed against H+H, down from 654 claims filed in FY 2019, an eight percent decline. The amount paid out on H+H claims decreased to \$67.4 million in FY 2020, down from \$104.2 million in FY 2019, a 35 percent decline.

Chart 15
H+H Tort Claims Filed and Settled
FYs 2011–2020



Of the 600 claims filed against H+H in FY 2020, there were 378 medical malpractice claims filed, accounting for 63 percent of all H+H claims. H+H claims constituted two percent of

the total number of tort claims resolved in FY 2020, but accounted for the third highest tort expenditure at \$67.4 million, or 12 percent of the total amount paid for settled tort H+H claims in FY 2020.

Notably, the number of medical malpractice claims filed against H+H's acute care hospitals¹¹ decreased by 76 claims to 351 in FY 2020 from 427 claims filed in FY 2019, a decrease of 18 percent.

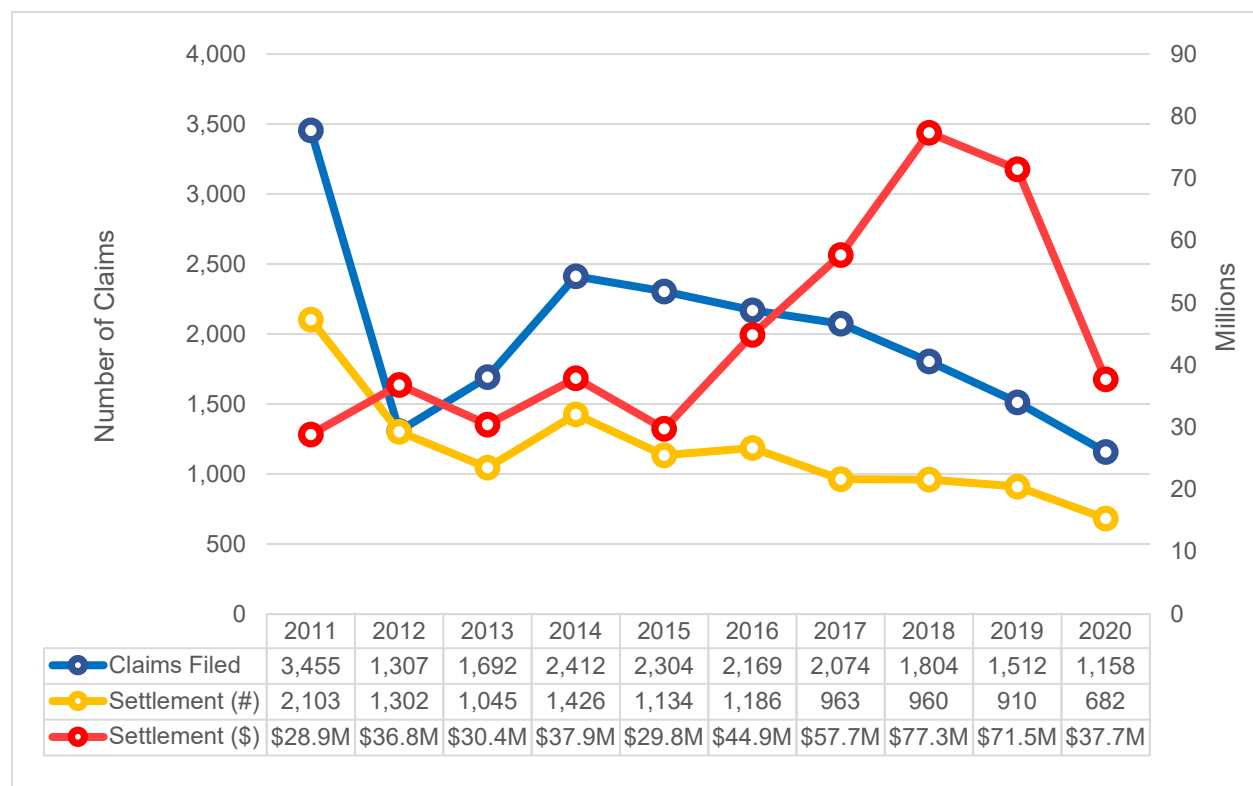
Table 4
H+H Medical Malpractice Claims Filed and Settled by H+H Acute Care Hospital
FYs 2019–2020

HH Acute Care Hospital	Claims Resolved FY 2020	Amount Paid (In Millions)	Number of Claims Filed FY 2020	Number of Claims Filed FY 2019	Increase/ (Decrease)
Bellevue	10	\$4.3	50	42	8
Coney Island	12	\$7.2	36	35	1
Elmhurst	5	\$2.8	32	38	(6)
Harlem	8	\$5.2	25	34	(9)
Jacobi / Bronx Municipal	13	\$2.9	43	49	(6)
Kings County	25	\$9.3	39	75	(36)
Lincoln	16	\$15.3	41	64	(23)
Metropolitan	4	\$1.2	18	14	4
North Central Bronx	1	\$0.3	14	23	(9)
Queens Hospital Center	4	\$3.8	19	23	(4)
Woodhull	7	\$12.1	34	30	4
Total	105	\$64.1	351	427	(76)

4. Department of Sanitation

Claims against the Department of Sanitation (DSNY) include, but are not limited to, motor vehicle accidents involving DSNY vehicles (for both personal injury and property damage) and employee workplace accident claims. In FY 2020, there were 1,158 claims filed compared to 1,512 in FY 2019, a 23 percent decrease. Since FY 2014 when claims filed against DSNY peaked at 2,412 claims, there was a 52 percent drop in DSNY claims filed in FY 2020. Additionally, in FY 2020, DSNY claim settlement payouts decreased to \$37.7 million, down from \$71.5 million in FY 2019, a 47 percent decrease.

Chart 16
DSNY Tort Claims Filed and Settled
FYs 2011–2020



Despite the decline in the overall cost of DSNY settlements in FY 2020, there has been an upward trend in average cost in DSNY claim settlements that can be attributed to severe injuries associated with accidents involving DSNY heavy equipment and trucks, as well as the economic damages associated with loss of income and pension for DSNY employees injured on the job (known as uniformed services employee claims¹²). The average DSNY claim settlement cost in FY 2020 was \$55,288, up 108 percent from FY 2014, when the average DSNY claim settlement cost \$26,568. Thus, even though DSNY claims filed and total payouts have decreased significantly over recent years, the average DSNY claim settlement cost remains high.

E. TORT CLAIM TRENDS BY BOROUGH¹³

The Bronx had the most overall tort claims filed, with 6,359 claims, followed by Brooklyn (5,197 claims), Manhattan (3,902 claims), Queens (3,444 claims), and Staten Island (806 claims). Consistent with the prior five fiscal years, the Bronx had the most personal injury claims filed (5,468 claims).

Table 5
Number of Tort Claims Filed by Borough
FY 2020

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims	Total Tort Claims
Bronx	5,468	891	6,359
Brooklyn	3,824	1,373	5,197
Manhattan	2,882	1,020	3,902
Queens	1,961	1,483	3,444
Staten Island	454	352	806

The Bronx also had the highest per capita filing of personal injury claims at 381 claims per 100,000 residents, as compared to Queens, which had the fewest personal injury claims with 86 claims per 100,000 residents. Staten Island had the greatest number of property damage claims filed per capita, with 74 claims per 100,000 residents, while Brooklyn had the fewest property damage claims with 53 claims per 100,000 residents.¹⁴

Table 6
Tort Claims Filed by Borough Per 100,000 Residents¹⁵
FY 2020

Borough	Total Tort Claims Per 100,000 Residents	Total PI Claims Per 100,000 Residents	Total PD Claims Per 100,000 Residents
Bronx	443	381	62
Brooklyn	201	148	53
Manhattan	239	177	63
Queens	151	86	65
Staten Island	170	96	74

Table 7
Tort Claims Resolved and Amounts Paid by Borough
FY 2020

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 Tort Claims Resolved	Total Tort Claim Payouts (In Millions)
Bronx	2,327	\$140.6	217	\$0.9	2,544	\$141.5
Brooklyn	1,700	\$177.3	461	\$1.5	2,161	\$178.7
Manhattan	927	\$89.5	338	\$1.4	1,265	\$91.0
Queens	774	\$58.1	370	\$1.9	1,144	\$60.0
Staten Island	164	\$23.1	127	\$0.4	291	\$23.6

V. LABOR AND EMPLOYMENT CLAIMS

Labor and employment claims are filed by City employees relative to the terms and conditions of their employment. Historically, these types of claims have been recorded as either a personal injury civil rights claim or a law salary claim depending on the nature of the allegations. Beginning in FY 2019, the Comptroller's Office began recording all claims filed by City employees related to the terms and conditions of their employment as labor and employment claims. In this report, for continuity in claims analysis, labor and employment claims data will be reported under its prior claim type classification and will be reflected in the overall filing and settlement numbers.

Extracted from the labor and employment claims is the following data: in FY 2020, 444 labor and employment claims were filed. One hundred and seven labor and employment claims settled in FY 2020, with a total payout of \$35.6 million. The FY 2020 labor and employment claim settlement numbers do not reflect settled claims filed prior to FY 2019, since those claims were recorded as personal injury civil rights claims and law salary claims.

VI. LAW (NON-TORT) CLAIMS

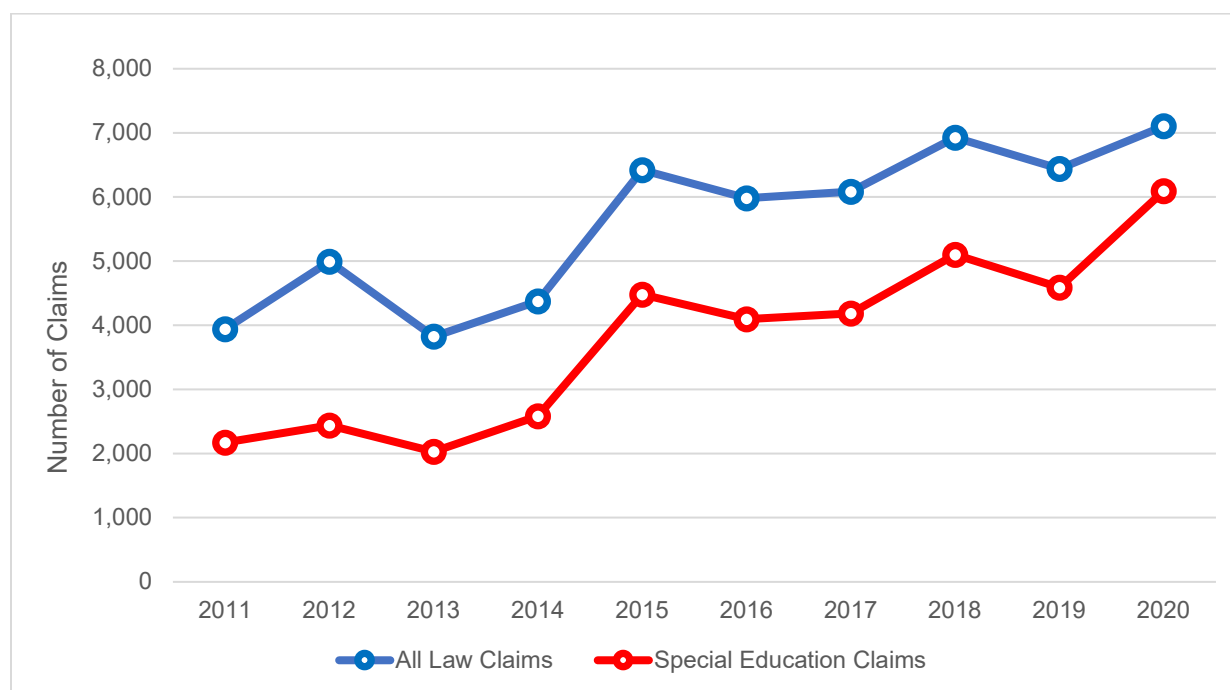
Law (non-tort) claims include claims arising from City contracts, equitable claims, refund claims, City employee salary disputes, claims involving Department of Education (DOE) special education matters, sidewalk assessments, and cleanup costs levied on property owners who are in

violation of the Mental Hygiene Law, as well as affirmative claims brought by the City against other parties.

A. OVERALL LAW CLAIM TRENDS

The number of law claims filed increased by 665 claims, or 10 percent, to 7,105 claims in FY 2020 from the 6,440 law claims filed in FY 2019. The increase in the number of law claims filed is due to the increase in the number of special education claims filed in FY 2020. The number of all other types of law claims filed either decreased or remained steady. Special education claims continue to account for a large portion—86 percent—of law claims filed in FY 2020 and continue to drive the total number of law claims filed.

Chart 17
Comparison of Special Education Claims Filed to All Law Claims Filed
FYs 2011–2020

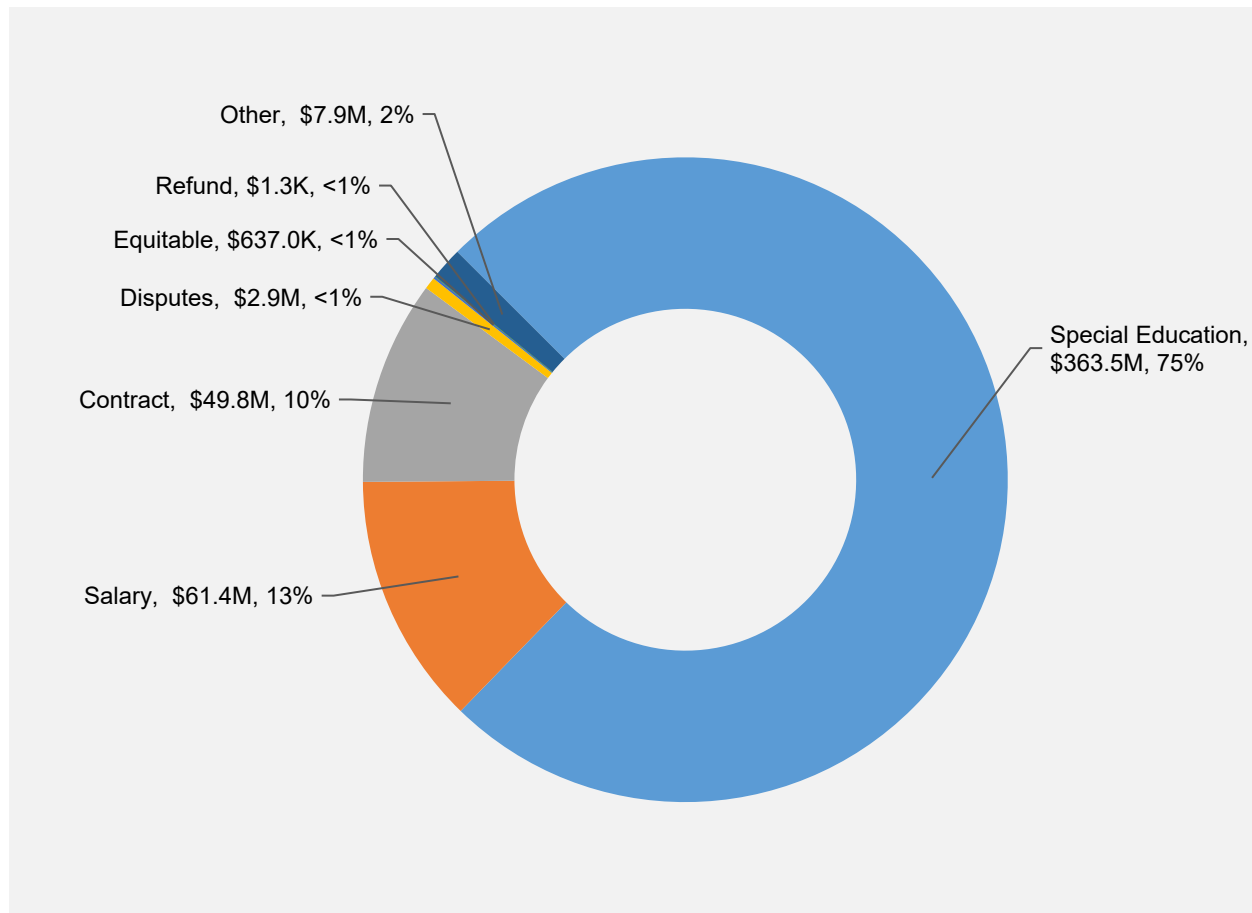


The total number of law claims settled in FY 2020 increased nine percent to 5,850 claims from 5,344 claims settled in FY 2019. The total cost of settlements paid out for law claims increased 34 percent to \$486.2 million in FY 2020 from \$363.2 million in FY 2019.¹⁶

The number of special education claims settled in FY 2020 represents 93 percent of all law claims settled. The cost of special education claim settlements in the amount of \$363.5 million constitutes 75 percent of all law claim payouts in FY 2020.

In FY 2020, salary claims accounted for the second largest law claim payouts at \$61.4 million, representing 13 percent of all law claim payouts. Notably, the total number of salary claim settlements make up less than half of a percent of the total number of law claim settlements.

Chart 18
Law Claims by Claim Type
Amount Paid in Settlements & Judgments (Millions)
and Percentage of Law Claim Settlements & Judgments Paid¹⁷
FY 2020



Special Education Claims

Special education claims include claims on behalf of parents for the reimbursement of special education services costs and tuition and claims for statutory attorneys' fees¹⁸ where an underlying claim for special education reimbursement has been successful.

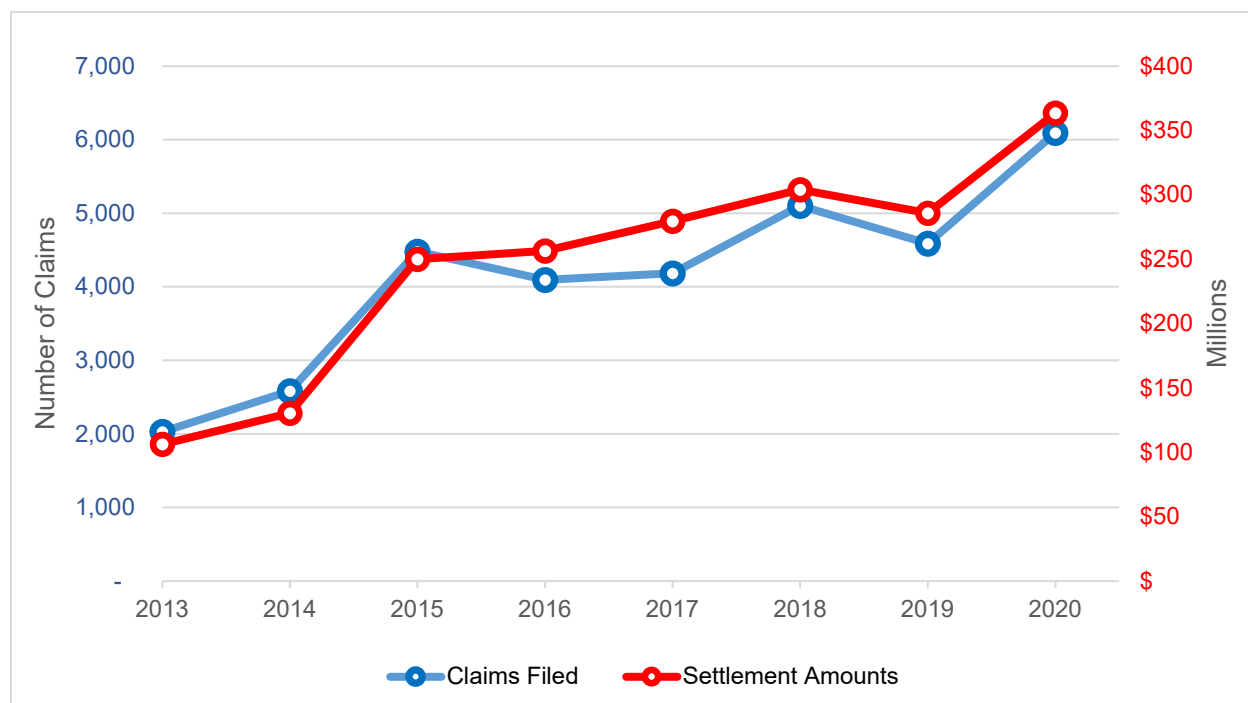
In June 2014, the City launched the "fast track" process to address claims for costs and tuition payments from parents of students requiring special education services. Following the launch of the "fast track" process, the Comptroller's Office noted a sharp rise in the number of special education claims filed and settled in FY 2015. The number of special education claims filed and settled in FY 2020 continues to reflect a notable increase over pre-"fast track" claim numbers. In FY 2020, there were 6,094 special education claims filed, compared to 2,582 claims filed in FY 2014, an increase of 136 percent. A year-to-year comparison of special education

claims filed shows a 33 percent increase in special education claims filed in FY 2020 over FY 2019.

The total number of special education claims settled in FY 2020 increased by 28 percent to 5,425 from the 4,253 claims settled in FY 2019. Here too, special education claim settlements represent a marked increase of settlements when compared to pre-“fast track” numbers: a 135 percent increase over the 2,223 claims settled in FY 2014.

Finally, the amount of settlements paid out for special education claims increased by 27 percent to \$363.5 million paid out on special education claims during FY 2020 as compared to \$285.7 million paid out in FY 2019. The special education claim settlement payouts in FY 2020 were 179 percent greater than the \$130.5 million paid out on special education claims in FY 2014.

Chart 19
Special Education Claims Filed and Settled
FYs 2013–2020



Contract Claims

Contract claims arise when there is a disagreement between the City and private contractors (construction or non-construction) that is not subject to a dispute resolution process. The number of contract claims filed in FY 2020 increased one percent to 99 claims from 98 claims filed in FY 2019. The number of contract claim settlements decreased 27 percent to 19 contract claims settled in FY 2020 from 26 contract claims settled in FY 2019. There was an eight percent decrease in the cost of contract claim settlements in FY 2020 to \$49.8 million paid out for contract claim settlements from \$54.0 million in FY 2019.

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 from large construction projects such as those involving construction or renovation of public buildings and infrastructure like bridges, sewers, and wastewater treatment plants. The expertise of numerous staff members within the Comptroller's Office, including professional engineers, auditors, and attorneys, is called upon to analyze delay claims.

In FY 2020, 11 delay claims settled, accounting for 58 percent of the 19 contract claims settled. The \$48.3 million paid out on these 11 delay claim settlements make up 97 percent of the \$49.8 million in settlements paid out for all contract claims in FY 2020. The negotiated cost of these settlements represents an adjustment of \$72.2 million, or 60 percent, from the amount of damages initially claimed by contractors. In FY 2020, delay claim settlements increased the overall cost of the subject projects to the City by six percent over the total original contract prices.

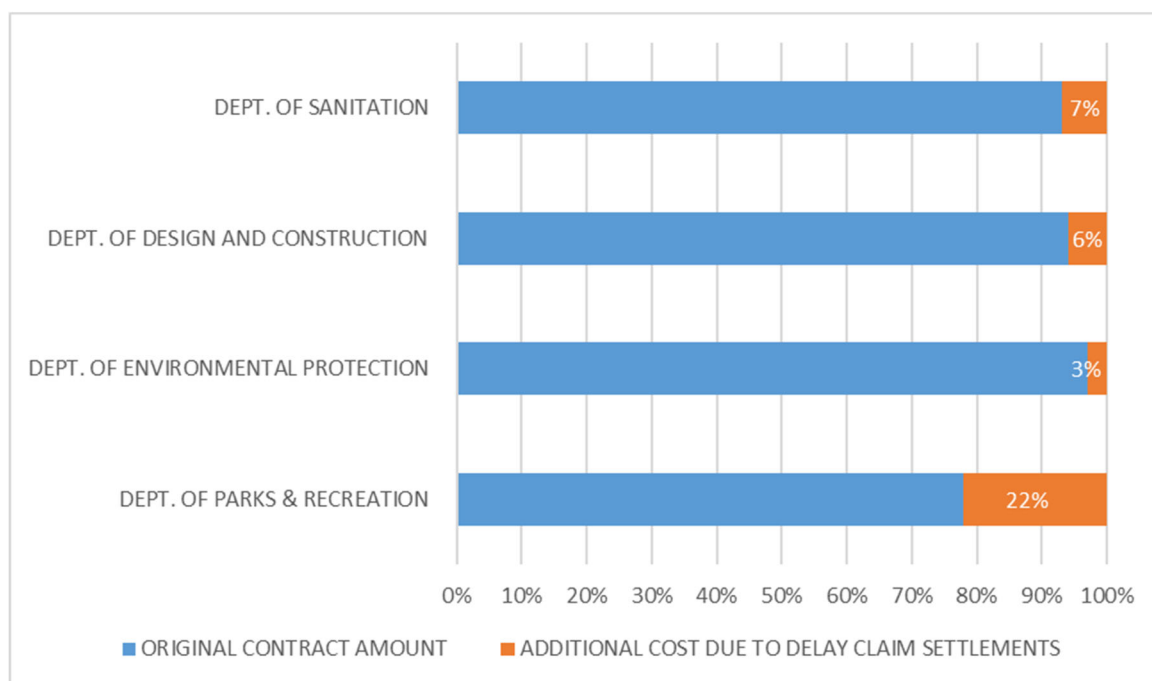
Of the 11 delay claims settled in FY 2020, five of the claims arose out of contracts with the Department of Sanitation (DSNY). The five DSNY claims alleged damages totaling \$54.8 million, which the City was able to negotiate and settle for a total of \$19.0 million, an adjustment of 65 percent of the initial claimed damages. The subject DSNY contracts had original contract costs totaling \$282.2 million. The five DSNY settlements totaling \$19.0 million increased the original contract costs by seven percent.

Another three delay claims arose out of contracts with the Department of Design and Construction (DDC). The claims alleged damages totaling \$18.1 million, which the City was able to negotiate and settle for \$7.0 million, an adjustment of 61 percent of the claimed damages. The subject DDC contracts had original contract costs totaling \$109.9 million. The three DDC settlements totaling \$7.0 million increased the original contract costs by six percent.

Another two delay claims arose out of contracts with the Department of Environmental Protection (DEP). The claims alleged damages totaling \$19.5 million, which the City was able to negotiate and settle for \$10.3 million, an adjustment of 47 percent of the claimed damages. The subject DEP contracts had original contract costs totaling \$314.2 million. The two DEP settlements totaling \$10.3 million increased the original contract costs by three percent.

One delay claim arose out of a contract with the Department of Parks and Recreation (Parks). The claim alleged damages of \$28.1 million, which the City was able to negotiate and settle for \$12.0 million, an adjustment of 57 percent of the claimed damages. The subject Parks contract had an original contract cost of \$53.9 million. The \$12.0 million settlement increased the original contract cost by 22 percent.

Chart 20
Delay Claim Settlements:
Cost Increase Above Original Contract Bid Price
FY 2020



Alternative Dispute Resolution Claims

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

In FY 2020, 76 dispute claims were filed, a decrease of 21 percent from the 96 claims filed in FY 2019. In FY 2020, 32 dispute claims were negotiated and settled for a total of \$2.9 million.

This represents a 25 percent decrease from the \$3.9 million paid out on 43 dispute claims settled in FY 2019.¹⁹

Affirmative Claims

Affirmative claims are those claims brought by the City against individuals, companies, corporations, and other entities for torts, breaches of contract, and as remedies for violations of civil codes. These claims include 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 2020, the Comptroller's Office approved settlement of 309 affirmative claims for a benefit to the City totaling \$16.7 million, as compared to FY 2019, when 938 affirmative claims were settled for \$24.5 million. The FY 2020 affirmative claims recovery was \$7.9 million less than the amount recovered in FY 2019, a 32 percent decrease. The decline in funds recovered in FY 2020 is due in part to an \$8.9 million affirmative settlement with a major shipping company based on its knowing shipment of untaxed cigarettes into New York State and City in FY 2019. Additionally, in FY 2020 there were 353 requests for settlement authority of affirmative claims, down from 1,098 requests in FY 2019, a 68 percent decrease.

Civil penalty claims are a subcategory of affirmative claims wherein the City seeks monetary penalties for violations of civil codes such as housing or building code violations, the sale of untaxed cigarettes, and the creation of other public nuisances. In FY 2020, the City recovered civil penalties in the amount of \$1.6 million on 258 claims, down from \$3.9 million in civil penalties recovered on 592 claims in FY 2019, a 59 percent decrease in civil penalties recovered.

Salary Claims

Salary claims are those claims for back pay, liquidated damages, 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 are those claims that seek damages for personal injury.

As noted above, beginning in FY 2019, all claims related to the terms and conditions of City employment were classified as labor and employment claims. Therefore, such claims are no longer recorded as salary claims; however, settlements of salary claims filed prior to FY 2019 are ongoing. The data reported below is for both pre-FY 2019 law salary claims and post-FY 2019 labor and employment salary claims.

In FY 2020, 70 salary claims were filed, down from the 88 claims filed in FY 2019, a decrease of 20 percent. In FY 2020, there were judgment and settlement payouts on 23 salary claims for a total of \$61.4 million. While there was only one more salary claim payout in FY 2020 than in FY 2019, the \$53.9 million increase in settlement and judgment payouts in FY 2020 was

seven times the \$7.6 million paid out in FY 2019. The increase in payments is due in large part to three eight-figure salary claim payouts: a \$27.8 million settlement of a Fair Labor Standards Act claim against the NYPD; a settlement of a gender discrimination claim resulting from the failure to include nurses on the Physically Taxing designation for early retirement eligibility resulting in \$20.7 million in payouts; and judgments relative to attorneys' fees and backpay interest in a long-standing employment discrimination class action against the DOE related to the claimed disparate impact of certain licensing exams for teachers resulting in \$10.8 million in payments.

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 designated as personal injury, property damage, law, or labor and employment (starting in FY 2019). Additionally, claims are categorized by the City agency involved and by the claim type based on the allegations in the notice of claim, as defined below:

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 injury 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, 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 caused by allegedly 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 filed against the DOE by students, teachers, other staff, parents, or visitors alleging injury at DOE facilities.

G. MEDICAL MALPRACTICE

Medical malpractice claims derive from alleged 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

Health facility claims stem from non-medical acts involving a City or H+H facility or employee, such as allegations of injury sustained by visitors due to wet floors, assaults of patients or visitors, loss of sepulcher, or abuse or assault of a senior citizen by a home care worker.

I. MOTOR VEHICLE

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

J. UNIFORMED SERVICES EMPLOYEE

Uniformed services employee claims are filed by City uniformed services employees, such as NYPD, FDNY, or DSNY employees and DOE teachers who are not subject to Workers' Compensation laws and may assert claims against the City for on-the-job personal injury.

K. PARKS AND RECREATION

Parks and recreation claims are asserted by persons injured because of allegedly 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 on a street, sidewalk, or in a park.

L. CITY PROPERTY

City property claims by tenants or others asserting injury 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

Catastrophe claims are 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 statutory or constitutional violations, such as discrimination based on sex/gender, race, religion, disability, or age. Claims in this category also include alleged constitutional civil rights violations by law enforcement personnel such as false arrest, malicious prosecution, excessive force, or wrongful incarceration claims litigated under 42 U.S.C. § 1983 in federal court.

O. CORRECTION FACILITY

Correction facility claims are filed by inmates, detainees, employees of and visitors to City correction facilities or institutions alleging injury by the actions of City employees or inmates.

P. AFFIRMATIVE CLAIMS

Affirmative claims brought by the City against individuals, companies, and corporations for damage to City property.

II. PROPERTY DAMAGE CLAIMS

A. ADMIRALTY

Admiralty claims are for alleged property damage 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 or 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, potable water line claims such as 3-day and 10-day notices, leaking hydrants, and leaking water meter claims.

D. ROADWAY

Roadway claims include vehicles that are damaged by allegedly defective roadways, or from objects that have fallen from bridges or overpasses. Also included in this claim type are claims by pedestrians who sustained damage to personal property as a result of falling on an allegedly defective roadway.

E. SIDEWALK

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

F. TRAFFIC CONTROL DEVICE

Traffic control device claims include 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 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

Health facility 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 allegedly damaged in accidents with City-owned vehicles. Included in this claim type are parked cars allegedly hit by City-owned vehicles and vehicles damaged while being towed.

K. UNIFORMED SERVICES/CITY EMPLOYEES

Uniformed services/city employee claims include personal property allegedly lost, damaged, or stolen from City employees while at work.

L. PARKS AND RECREATION

Parks and recreation claims include personal property lost, stolen, or damaged in the City's parks allegedly due to vandalism, poor maintenance, unmarked fresh paint, or accidents involving grounds and equipment.

M. PUBLIC BUILDINGS AND PROPERTY

Public buildings and property claims include personal property damaged or stolen as a result of an alleged defect or negligence in maintaining City-owned land, buildings, or facilities.

N. CATASTROPHE

Catastrophe claims include property damage allegedly caused by the City's response to a natural disaster, such as floods or earthquakes; an environmental accident, such as leaking gas tanks; power failures, such as blackouts; or civil disturbances, such as riots.

O. DAMAGE CITY ACTION/PERSONNEL

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

P. CORRECTION FACILITY

Correction facility claims are filed by inmates, detainees, employees of and visitors to City correction facilities or institutions whose personal property is allegedly lost, stolen, or damaged.

III. LABOR AND EMPLOYMENT CLAIMS

Labor and employment claims are filed by City employees relative to terms and conditions of their employment. Labor and employment claims can encompass a wide variety of allegations, from discrimination and harassment, to collective bargaining violations or time and leave use accrual errors, to violations of state or federal employee protection laws.

IV. 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. This process is also embodied in Section 4-09 of the City's Procurement Policy Board rules. When disputes arise, contractors may attempt to resolve them directly with the City agency involved. If no agreement is reached with the City agency, a claim can 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

Illegal but equitable claims typically allege that work was performed at the direction of the City and/or the City accepted services, without a registered contract that would allow the City to pay for the goods or services received. 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 are those claims that seek damages for personal injury. Beginning in FY 2019, all claims filed related to the terms and conditions of City employment are classified as labor and employment claims. Therefore, such claims are no longer recorded as salary claims.

E. REFUND

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

F. CHANGE OF GRADE

Change of grade 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

Special education claims are 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

Affirmative claims brought by the City against individuals, companies, and corporations for torts, breaches of contract, and remedy for violations of civil code.

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.²⁰

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.”²¹ The Court, in effect, abolished the doctrine of sovereign immunity for municipalities and did not provide municipalities any of the protections accorded to the State by the Court of Claims Act.²² In particular, claimants seeking to recover from municipalities for an agent’s alleged negligent and wrongful acts are entitled to a jury trial.

Municipal liability is also governed by local law. Under 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 written notice” law, enacted in 1979 in an effort to limit the City’s liability in slip and fall claims 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.²³ However, claims against H+H, must be filed directly with H+H. In most instances, the notice of claim for personal injury or property damage claims must be filed within 90 days of the occurrence of an alleged injury or wrong.²⁴

The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.²⁵ The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.²⁶ If the Comptroller denies liability or is unable to arrive at a settlement with a claimant, the claimant may commence a lawsuit. Actions regarding tort claims must generally be filed within one year and 90 days from the date of loss.²⁷ The New York City Law Department defends the City in most actions (H+H defends its medical malpractice actions). No litigation can be settled without the approval of the Comptroller.²⁸

APPENDIX C

Top Ten Tort Claims Adjudicated in FY 2020

An unmarked police vehicle struck plaintiff, a 34-year-old off duty Department of Sanitation employee, who was riding a motorcycle. Plaintiff suffered complete paralysis from the chest down. Settlement of \$10.5 million

Eight-year-old plaintiff waiting to board a school bus suddenly ran into the road at the intersection of Avenue J and East 32nd Street and was struck by a car. Plaintiff sustained significant head and brain injury. Settlement of \$9.5 million

Plaintiff, a twenty two year old, tripped and fell in a hole in the roadway resulting in injury that required an above the knee right leg amputation. Settlement of \$9.5 million

Claimant convicted of a raping a woman in 1991. In 2015, DNA samples were retested and matched a deceased individual in the FBI's convicted offender database. The victim also recanted and admitted that she and her then-boyfriend fabricated the story to frame claimant. After serving over 26 years in prison, the Manhattan District Attorney's Office supported vacating claimant's conviction. Settlement of \$8.246 million

An NYPD school safety van struck thirteen-year-old plaintiff who was crossing Coney Island Avenue resulting in injury including severe scarring. Plaintiff also alleged medical malpractice. Settlement after verdict of \$6.75 million

Plaintiff convicted of second degree murder and incarcerated for more than 20 years before released to lifetime parole in 2011. Detective Louis Scarcella involved in plaintiff's arrest. In January 2015, the Kings County District Attorney's Office joined plaintiff's motion to vacate. Settlement of \$6.625 million

A taxi struck plaintiff, a 33 year old, who exited his car during an NYPD traffic stop. Plaintiff suffered injury that rendered him a quadriplegic. Settlement of \$6.0 million

A medical malpractice suit alleging that Woodhull Hospital failed to properly diagnose and treat a four-year-old. Infant plaintiff sustained injuries including deafness in right ear and blindness. Settlement of \$5.8 million

An undercover detective attempted to detain a fleeing suspect. Plaintiff intervened by grabbing the undercover detective, who discharged his firearm and killed plaintiff. After a mistrial, a second jury rendered a verdict in favor of deceased plaintiff. The case settled after verdict. Settlement of \$5.5 million

At 39 weeks pregnant, infant plaintiff's mother went to Lincoln Hospital, and ultimately had an emergency cesarean section. Plaintiff infant suffered injuries from reduced oxygen to the brain. Settlement of \$5.4 million

APPENDIX D

Chart and Table Index

CHART	TITLE	PAGE
1	Personal Injury Tort Claim Settlements for Legacy Claims, FYs 2013–2020	6
2	Comparison of Tort Claims Filed: Property Damage Claims vs. Personal Injury Claims, FY 2020	7
3	COVID-19 Impact on Tort Claims Filed	8
4	Percentage of Property Damage Claim Settlements & Judgments Recorded by Claim Type, FY 2020	9
5	Percentage of Personal Injury Claim Settlements & Judgments Recorded by Claim Type, FY 2020	10
6	Total Amount Paid Out for Personal Injury Claim Settlements & Judgments Recorded by Claim Type, FY 2020	11
7	Personal Injury Motor Vehicle Claims Filed and Settled, FYs 2011–2020	12
8	Personal Injury Police Action Claims Filed and Settled, FYs 2011–2020	13
9	Civil Rights Claims Filed and Settled, FYs 2011–2020	15
10	Medical Malpractice Claims Filed and Settled, FYs 2011–2020	17
11	Percentage of Tort Claims Filed by Agency, FY 2020	18
12	Number and Percentage of NYPD Tort Claims Filed by Claim Type, FY 2020	19
13	NYPD Tort Claims Filed and Settled, FYs 2011–2020	20
14	DOT Tort Claims Filed and Settled, FYs 2011–2020	21
15	H+H Tort Claims Filed and Settled, FYs 2011–2020	22
16	DSNY Tort Claims Filed and Settled, FYs 2011–2020	24
17	Comparison of Special Education Claims Filed to All Law Claims Filed, FYs 2011–2020	27
18	Law Claims by Claim Type, Amount Paid in Settlements & Judgments (Millions) and Percentage of Law Claim Settlements & Judgments Paid, FY 2020	28
19	Special Education Claims Filed and Settled, FYs 2013–2020	29
20	Delay Claim Settlements: Cost Increase Above Original Contract Bid Price, FY 2020	31

TABLE	TITLE	PAGE
1	Personal Injury Police Action Claim Pre-litigation and Litigation Settlements	14
2	Wrongful Conviction Settlements	16
3	Wrongful Conviction Claims FYs 2016–2020	21
4	H+H Medical Malpractice Claims Filed and Settled by H+H Acute Care Hospitals, FYs 2019–2020	23
5	Number of Tort Claims Filed by Borough, FY 2020	25
6	Tort Claims Filed by Borough Per 100,000 Residents, FY 2020	25
7	Tort Claims Resolved and Amounts Paid by Borough, FY 2020	26

APPENDIX E Detailed Tables

**Table I – Number of Tort Claims Filed by Claim Type
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Sidewalk	2,502	2,012	2,041	2,530	2,560	2,389	2,345	2,299	2,271	2,004
Police Action	4,521	5,536	5,583	5,643	4,929	4,486	4,105	4,195	3,614	3,879
School	1,078	1,060	927	965	926	961	859	782	691	642
Motor Vehicle	1,307	1,379	1,187	1,259	1,166	1,227	1,266	1,435	1,350	1,390
Roadway	1,115	948	882	1,004	964	1,048	944	929	1,039	913
City Property	1,105	562	534	683	652	708	567	747	624	515
Correction Facility	1,183	1,595	1,657	2,242	2,797	3,665	3,837	3,891	3,743	3,350
Civil Rights	3,079	2,788	2,785	2,936	2,748	2,725	1,728	1,541	1,468	1,156
Medical Malpractice	611	624	604	588	630	620	536	477	482	392
Traffic Control Device	76	108	126	77	79	62	41	64	77	41
Parks & Recreation	273	285	270	278	298	306	259	233	205	200
Uniformed Services Employee	163	151	151	162	159	169	164	187	176	159
Other	887	766	784	884	845	776	783	898	973	912
Total	17,900	17,814	17,531	19,251	18,753	19,142	17,434	17,678	16,713	15,553
Motor Vehicle	4,723	3,188	3,322	3,682	3,433	3,895	3,582	3,617	3,395	2,712
Public Buildings and Property	135	90	310	260	201	162	138	133	178	114
Correction Facility	309	397	263	318	354	286	301	245	213	167
City Personnel	1,734	1,350	1,346	962	1,045	1,264	1,151	1,171	1,030	968
Roadway	2,806	1,218	1,036	2,844	2,239	1,585	1,333	1,397	1,217	707
Health Facility	103	96	120	140	122	108	150	85	78	92
Police Action	378	365	362	341	302	226	230	203	187	157
School	182	144	107	128	89	100	119	93	110	59
Sewer Overflow	205	668	602	613	452	110	140	153	153	251
Water Main	153	238	108	240	155	111	140	194	193	232
Other	273	261	272	244	270	302	286	333	386	299
Total	11,001	8,015	7,848	9,772	8,662	8,149	7,570	7,624	7,140	5,758
Grand Total	28,901	25,829	25,379	29,023	27,415	27,291	25,004	25,302	23,853	21,311

**Table II – Number of Tort Claims Filed by Agency
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Department of Transportation	6,337	4,669	4,446	6,306	5,635	5,207	4,770	4,816	4,696	3,827
Police Department	8,805	9,439	9,447	9,496	8,428	7,592	6,560	6,491	5,851	5,728
Department of Sanitation	3,455	1,307	1,692	2,412	2,304	2,169	2,074	1,804	1,512	1,158
Department of Education	1,603	1,566	1,416	1,418	1,415	1,437	1,361	1,232	1,188	1,124
NYC Health + Hospitals	858	844	935	874	908	885	807	691	654	600
Department of Environmental Protection	738	1,358	996	1,123	884	511	539	598	636	691
Department of Correction	1,798	2,351	2,188	2,913	3,471	4,730	4,440	4,439	4,243	3,735
Department of Parks & Recreation	1,405	1,094	1,048	873	885	1,057	949	1,058	947	900
Fire Department	1,041	891	931	944	951	1,010	1,003	1,186	1,090	930
Department of Housing Preservation and Development	71	68	74	66	51	64	60	56	93	81
NYC Human Resources Administration	68	88	99	83	81	81	66	88	72	54
Department of Buildings	75	82	61	52	77	57	55	78	48	46
Other	2,647	2,072	2,046	2,463	2,325	2,491	2,320	2,765	2,823	2,437
Total	28,901	25,829	25,379	29,023	27,415	27,291	25,004	25,302	23,853	21,311

**Table III - Dollar Amount of Tort Claim Settlements & Judgments by Claim Type
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Personal Injury										
Sidewalk	38,426,098	39,473,806	36,752,110	34,463,430	39,562,496	32,130,333	52,246,480	47,285,216	41,197,130	51,558,250
Police Action	60,237,524	54,342,126	62,913,191	71,948,087	119,433,941	100,669,673	163,717,947	119,005,840	97,297,389	82,645,961
School	42,934,926	25,768,181	23,983,498	24,624,687	33,066,557	28,476,195	32,250,936	29,026,111	35,932,131	23,185,000
Motor Vehicle	83,878,791	70,520,942	85,306,916	88,515,029	67,350,614	89,846,694	107,958,905	117,759,484	107,255,100	142,372,565
Roadway	19,453,578	25,717,847	33,134,170	13,708,374	15,371,910	31,479,503	39,725,615	41,074,601	37,113,296	29,446,326
City Property	18,841,199	8,395,091	5,465,500	21,797,000	4,931,000	21,504,554	10,405,949	9,495,007	6,756,475	8,341,545
Correction Facility	8,504,000	7,833,193	7,312,301	7,323,835	13,185,550	15,680,251	16,917,929	24,500,851	24,759,110	27,979,050
Civil Rights	83,998,422	78,200,352	56,030,608	114,503,798	94,339,034	157,746,324	155,174,772	100,359,647	94,743,008	67,547,874
Medical Malpractice	131,818,033	108,993,419	130,298,906	118,479,990	144,418,243	103,706,575	109,537,282	106,525,763	106,461,448	65,368,955
Traffic Control Device	3,206,350	2,396,000	1,292,315	7,594,500	604,000	2,459,000	296,500	4,674,250	467,000	11,378,500
Parks & Recreation	7,102,606	12,072,375	20,328,830	14,032,709	6,125,524	8,439,633	5,822,720	14,101,952	10,809,944	10,161,200
Uniformed Services Employee	31,039,500	20,404,000	17,452,882	27,998,500	33,439,000	26,117,500	50,820,225	40,097,500	58,518,500	14,516,000
Other	9,228,394	21,677,145	6,460,359	13,522,259	3,569,893	12,165,985	6,870,507	15,347,205	4,515,696	4,429,729
Total	538,669,420	475,794,477	486,731,585	558,512,196	575,397,763	630,422,220	751,745,765	669,253,427	625,826,226	538,930,954
Property Damage										
Motor Vehicle	8,180,339	6,038,833	5,586,990	7,403,408	5,162,942	5,207,672	5,742,582	4,826,259	5,611,057	4,612,473
Public Buildings and Property	2,815,834	162,524	375,969	67,962	16,554	90,069	55,125	157,356	18,364	4,478
Correction Facility	18,301	18,225	13,061	2,220	665	8,475	4,426	7,757	4,419	4,726
City Personnel	1,171,735	959,898	972,132	1,494,155	731,826	404,378	398,011	361,961	434,539	433,449
Roadway	423,961	215,726	140,124	192,379	215,029	537,552	137,114	101,307	53,461	286,129
Health Facility	13,037	13,191	18,376	27,144	6,299	13,370	12,303	12,247	10,608	1,023
Police Action	140,899	170,059	388,101	102,697	71,487	56,155	34,639	38,643	18,639	46,158
School	12,454	10,063	4,581	10,110	9,014	4,083	4,758	3,319	1,268	1,264
Sewer Overflow	792,808	775,242	546,357	712,861	7,224,105	1,650,663	1,562,963	1,505,856	474,017	307,207
Water Main	1,577,070	3,183,273	314,365	294,175	344,127	1,437,349	553,610	304,180	712,118	1,162,137
Other	97,826	12,118	9,483	25,425	9,390	23,843	2,159,380	329,713	127,494	3,962
Total	15,244,263	11,559,151	8,369,538	10,332,536	13,791,438	9,433,608	10,664,911	7,648,599	7,465,984	6,863,005
Grand Total	553,913,683	487,353,629	495,101,123	568,844,733	589,189,201	639,855,828	762,410,676	676,902,026	633,292,210	545,793,960

**Table IV – Dollar Amount of Tort Claim Settlements & Judgments by Agency
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Department of Transportation	\$68,928,149	\$69,589,115	\$74,591,194	\$71,356,361	\$52,787,842	\$70,423,571	\$86,644,968	\$94,102,647	\$81,009,950	\$91,264,653
Police Department	\$186,288,403	\$152,786,433	\$138,537,141	\$229,846,207	\$225,479,487	\$280,074,261	\$338,206,319	\$238,795,402	\$225,153,365	\$205,027,037
Department of Sanitation	\$28,858,968	\$36,815,516	\$30,446,682	\$37,886,076	\$29,772,440	\$44,859,303	\$57,692,961	\$77,341,397	\$71,486,022	\$37,706,536
Department of Education	\$52,949,512	\$28,568,746	\$34,292,977	\$27,293,549	\$36,312,285	\$33,998,781	\$34,706,093	\$31,620,232	\$39,685,941	\$27,967,283
NYC Health + Hospitals	\$133,617,485	\$108,692,285	\$132,352,195	\$124,887,221	\$121,067,960	\$113,330,458	\$116,458,544	\$107,648,661	\$104,157,355	\$67,405,915
Department of Environmental Protection	\$8,071,431	\$5,628,320	\$3,372,170	\$13,182,950	\$18,795,525	\$7,281,361	\$8,444,589	\$10,678,105	\$12,648,455	\$4,068,183
Department of Correction	\$15,403,975	\$20,308,756	\$11,767,521	\$11,103,116	\$27,144,858	\$32,903,230	\$35,658,041	\$32,526,156	\$36,522,527	\$34,374,783
Department of Parks & Recreation	\$17,673,228	\$18,967,785	\$29,564,344	\$18,365,734	\$13,830,277	\$11,670,274	\$16,646,893	\$21,139,714	\$18,129,919	\$22,689,774
Fire Department	\$16,231,360	\$28,485,774	\$19,665,971	\$20,426,695	\$46,662,403	\$16,393,652	\$45,277,732	\$24,995,727	\$19,945,845	\$28,352,944
Department of Housing Preservation and Development	\$5,057,356	\$2,154,067	\$555,452	\$2,705,221	\$1,964,125	\$10,855,842	\$808,106	\$5,101,331	\$3,281,041	\$770,691
NYC Human Resources Administration	\$1,308,134	\$1,582,741	\$1,050,063	\$1,008,192	\$970,799	\$1,756,131	\$620,453	\$1,046,699	\$788,477	\$441,802
Department of Buildings	\$2,941,818	\$218,006	\$377,908	\$157,901	\$268,913	\$2,966,514	\$1,386,120	\$77,225	\$1,312,894	\$1,351,015
Other	\$16,583,865	\$13,556,083	\$18,527,507	\$10,625,510	\$14,132,287	\$13,342,448	\$19,859,858	\$31,828,728	\$19,170,417	\$24,373,344
Total	\$553,913,683	\$487,353,629	\$495,101,123	\$568,844,733	\$589,189,201	\$639,855,828	\$762,410,676	\$676,902,026	\$633,292,210	\$545,793,960

**Table V – Number of Tort Claim Settlements & Judgments by Claim Type
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Personal Injury										
Sidewalk	866	855	685	658	662	664	758	554	549	568
Police Action	1,539	1,752	2,106	2,250	2,276	2,481	2,527	2,500	2,332	2,423
School	898	723	656	526	479	544	301	303	275	189
Motor Vehicle	823	830	724	668	584	661	660	609	594	624
Roadway	547	511	417	366	334	370	319	291	305	244
City Property	113	93	61	70	38	88	65	50	48	52
Correction Facility	266	309	255	378	451	637	803	1,046	1,218	1,283
Civil Rights	1,656	1,687	1,559	2,047	1,682	1,354	1,019	842	1,030	501
Medical Malpractice	265	261	268	204	244	240	195	220	196	110
Traffic Control Device	32	28	22	30	20	14	11	14	14	15
Parks & Recreation	155	173	164	151	135	171	83	103	95	77
Uniformed Services Employee	84	106	76	95	121	111	116	113	89	79
Other	78	81	62	69	51	65	51	84	39	33
Total	7,322	7,409	7,055	7,512	7,077	7,400	6,908	6,729	6,784	6,198
Property Damage										
Motor Vehicle	3,216	2,254	2,135	2,379	1,897	1,917	1,761	1,678	1,784	1,391
Public Buildings and Property	16	20	19	39	6	62	17	9	7	2
Correction Facility	21	11	12	5	3	5	5	8	5	3
City Personnel	329	374	354	408	284	163	147	169	181	181
Roadway	437	208	117	197	287	88	112	72	49	24
Health Facility	25	23	22	40	17	16	14	22	12	5
Police Action	45	48	48	35	26	18	15	11	11	13
School	55	47	26	35	35	15	16	13	9	3
Sewer Overflow	88	60	115	144	650	104	47	47	20	35
Water Main	94	62	51	51	38	68	42	46	55	33
Other	8	7	6	10	6	7	158	19	6	3
Total	4,334	3,114	2,905	3,343	3,249	2,463	2,334	2,094	2,139	1,693
Grand Total	11,656	10,523	9,960	10,855	10,326	9,863	9,242	8,823	8,923	7,891

**Table VI – Number of Tort Claim Settlements & Judgments by Agency
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Department of Transportation	1,975	1,711	1,376	1,400	1,384	1,192	1,254	975	995	921
Police Department	4,116	4,359	4,521	5,051	4,440	4,255	4,077	3,807	3,456	3,285
Department of Sanitation	2,103	1,302	1,045	1,426	1,134	1,186	963	960	910	682
Department of Education	991	807	730	610	559	598	362	351	335	262
NYC Health + Hospitals	345	338	337	315	313	359	263	286	252	147
Department of Environmental Protection	373	283	300	292	794	284	326	226	164	136
Department of Correction	441	464	387	534	601	841	955	1,195	1,720	1,408
Department of Parks & Recreation	391	427	428	392	353	354	286	273	268	287
Fire Department	596	508	586	585	507	489	504	491	498	484
Department of Housing Preservation and Development	35	26	17	14	11	22	13	14	13	7
NYC Human Resources Administration	14	20	21	18	20	28	20	21	19	12
Department of Buildings	20	25	17	17	12	11	21	8	13	16
Other	256	253	195	201	198	244	198	216	280	244
Total	11,656	10,523	9,960	10,855	10,326	9,863	9,242	8,823	8,923	7,891

**Table VII – Number of Law Claims Filed by Claim Type
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Affirmative	857	769	876	914	1,128	1,048	1,131	1,054	1,098	353
Contract	183	179	217	132	152	152	151	88	98	99
Disputes	100	141	157	177	117	172	120	88	96	76
Equitable	18	7	10	6	4	11	13	14	14	2
Refund	168	768	168	223	182	157	132	133	128	110
Salary	86	347	86	91	94	95	69	75	88	70
Special Education	2,172	2,439	2,029	2,582	4,479	4,094	4,184	5,101	4,588	6,094
Other	355	342	281	250	264	253	284	374	330	301
Total	3,939	4,992	3,824	4,375	6,420	5,982	6,084	6,927	6,440	7,105

**Table VIII – Number of Law Claim Settlements & Judgments by Claim Type
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Affirmative	858	753	861	899	1,111	1,015	986	874	938	309
Contract	18	28	27	26	22	34	31	25	26	19
Disputes	30	35	30	44	45	62	37	38	43	32
Equitable	12	8	3	2	6	2	5	5	4	5
Refund	15	23	580	14	18	20	9	12	8	2
Salary	4,418	21	19	23	286	30	23	20	22	23
Special Education	2,086	2,366	1,841	2,223	4,067	3,773	3,969	4,590	4,253	5,425
Other	45	46	41	28	38	46	44	56	50	35
Total	7,482	3,280	3,402	3,259	5,593	4,982	5,104	5,620	5,344	5,850

**Table IX – Dollar Amount of Law Claim Settlements & Judgments by Claim Type*
FYs 2011–2020**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Contract	\$8,997,798	\$21,840,545	\$50,992,338	\$19,573,476	\$44,846,785	\$49,626,492	\$45,886,058	\$61,104,852	\$54,028,810	\$49,793,119
Disputes	\$3,667,018	\$4,519,344	\$3,105,639	\$7,325,629	\$3,001,135	\$6,116,577	\$5,261,545	\$7,530,717	\$3,858,078	\$2,909,349
Equitable	\$394,391	\$1,311,758	\$446,904	\$76,576	\$616,256	\$25,143	\$1,142,203	\$416,018	\$645,160	\$637,016
Refund	\$64,960	\$430,935	\$293,817	\$116,834	\$697,973	\$14,207,059	\$59,594	\$1,089,853	\$17,639	\$1,294
Salary	\$10,226,385	\$5,284,521	\$33,332,876	\$104,468,018	\$65,511,792	\$16,548,145	\$7,568,425	\$10,275,899	\$7,551,225	\$61,405,296
Special Education	\$105,466,595	\$120,577,708	\$106,243,225	\$130,450,454	\$249,944,721	\$256,466,671	\$279,617,259	\$304,016,159	\$285,731,310	\$363,531,865
Other	\$12,557,750	\$96,580,967	\$4,506,573	\$7,541,036	\$6,734,055	\$38,263,330	\$3,760,839	\$16,511,290	\$11,371,349	\$7,939,998
Total	\$141,374,897	\$250,545,777	\$198,921,372	\$269,552,023	\$371,352,717	\$381,253,416	\$343,295,923	\$400,944,787	\$363,203,570	\$486,217,935

*Figures on law claim settlements and judgments dollar amount do not include claims wherein the City is to receive payment.

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 31, 2020. Since OAISIS is a dynamic system that is updated constantly, data in this report does not reflect values for matters that have settled, but have not yet been recorded in OAISIS.
- ³ The FY 2019 Claims Report, which reported data recorded as of December 31, 2019, reflected 8,371 tort claim settlements totaling \$611.7 million. An additional 552 tort claims resolved in FY 2019 were recorded in OAISIS as of December 31, 2020, growing tort claims settled in FY 2019 to 8,923 and totaling \$633.3 million.
- ⁴ 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.
- 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 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 or plaintiff.
- ⁷ See Appendix A for a description of claim types.
- ⁸ Percentages are rounded and, therefore, do not total 100 percent.
- ⁹ The 51 claims filed, as reflected in this report, is as of March 15, 2021.
- ¹⁰ The 450 claims filed, as reflected in this report, is as of March 15, 2021. However, since OAISIS is a dynamic system that is updated constantly, data in this report does not reflect claims filed and not yet recorded in OAISIS.
- ¹¹ H+H operates 11 acute care hospitals.
- ¹² Certain New York City employees, including sanitation workers, firefighters, police officers, and public school teachers, are not eligible for Workers' Compensation and may file a claim with the City of New York.
- ¹³ 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.
- ¹⁴ The United States Census Bureau estimated July 1, 2019 population for New York City was 8,419,316 residents. In order of population the boroughs are: Brooklyn (2,589,974 or 30.8 percent of the total population); Queens (2,287,388 or 27.2 percent of the total population); Manhattan (1,631,993 or 19.4 percent of the total population); Bronx (1,435,068 or 17.0 percent of the total population); and Staten Island (474,893 or 5.6 percent of the total population). Statistics do not take into account commuters and tourists.
- ¹⁵ Rounded to the nearest whole claim.
- ¹⁶ While the total number of law claim settlements and judgments includes all resolved law claims, law claim settlement and judgment payment figures do not include claims wherein the City is to receive payment.
- ¹⁷ Percentages are rounded and, therefore, do not total 100 percent.
- ¹⁸ Claims for special education services costs and tuition reimbursement submitted by the DOE for settlement at the administrative level are for proposed settlements 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 proposed settlements of more than \$13,500. Requests for settlement authority submitted by the New York City Law Department for special education reimbursement and attorneys' fees claims that have proceeded to litigation are for proposed settlements in any amount. Accordingly, claims and settlements at the administrative level for special education reimbursement claims in amounts \$25,000 or less and for attorneys' fees claims in amounts \$13,500 or less are not reflected in this report.
- ¹⁹ 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.
- ²⁰ *Bernadine v. City of New York*, 294 N.Y. 361, 365 (1945).
- ²¹ *Id.*
- ²² Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.

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- ²³ 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/>).
- ²⁴ 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.
- ²⁵ City Charter, Chapter 5, § 93(i).
- ²⁶ BLA investigates claims filed against the City; obtains and evaluates accident reports and other documents provided by City agencies; conducts field visits and interviews witnesses; conducts hearings; evaluates liability and damages; and attempts to settle appropriate claims. The Comptroller's Office Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the New York City Law Department.
- ²⁷ 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.
- ²⁸ City Charter, Chapter 17, § 394(c).





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