



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

June 2020



Claims Report:

Fiscal Year 2019





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER

SCOTT M. STRINGER
COMPTROLLER

June 12, 2020

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) 2019, covering July 1, 2018 through June 30, 2019. This report, the sixth in my administration, examines claims filed against and on behalf of the City of New York and outlines trends by claim type across City agencies. In FY 2019, personal injury and property damage claim (collectively, tort claims) payouts cost the City \$611.7 million, a seven percent decrease from the \$659.8 million spent in FY 2018. 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 2019, the City paid out \$46.6 million for tort claims that were filed prior to FY 2010. To avoid costly and drawn out litigation for current and future New Yorkers, in FY 2019, my office settled five wrongful conviction claims pre-litigation—claims filed by Mark Denny, Rosean Hargrave, Jabbar Washington, Sundhe Moses, and Steven Odiase.

In FY 2019, the City settled law (non-tort) claims, such as contract claims, equitable claims, refund claims, and Department of Education (DOE) special education claims, for a total of \$363.2 million, a nine percent decrease from the \$401.0 million paid out in FY 2018. Of these law claims, 79 percent of all law claim settlement payments were related to claims for reimbursement of special education services. While the amount of settlements paid out for DOE special education claims in FY 2019 decreased by six percent to \$285.8 million paid out, compared to \$304.0 million

paid out in FY 2018, payouts in FY 2019 were 119 percent greater than the settlement costs of DOE special education claims in FY 2014.

Looking to the City’s future fiscal health, my administration was at the forefront in sharing comprehensive, real-time claims data to help improve risk management at City agencies. We continue to work closely with City agencies to identify claim trends that can inform best risk management practices. If we can continue to reduce costs related to claim payouts, financial resources can be redirected to the most vulnerable New Yorkers—communities of color, immigrants, seniors, youth, and those experiencing homelessness—who are most in need at this time.

Sincerely,

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

Scott M. Stringer

New York City Comptroller



Claims Report: Fiscal Year 2019

SCOTT M. STRINGER
Comptroller

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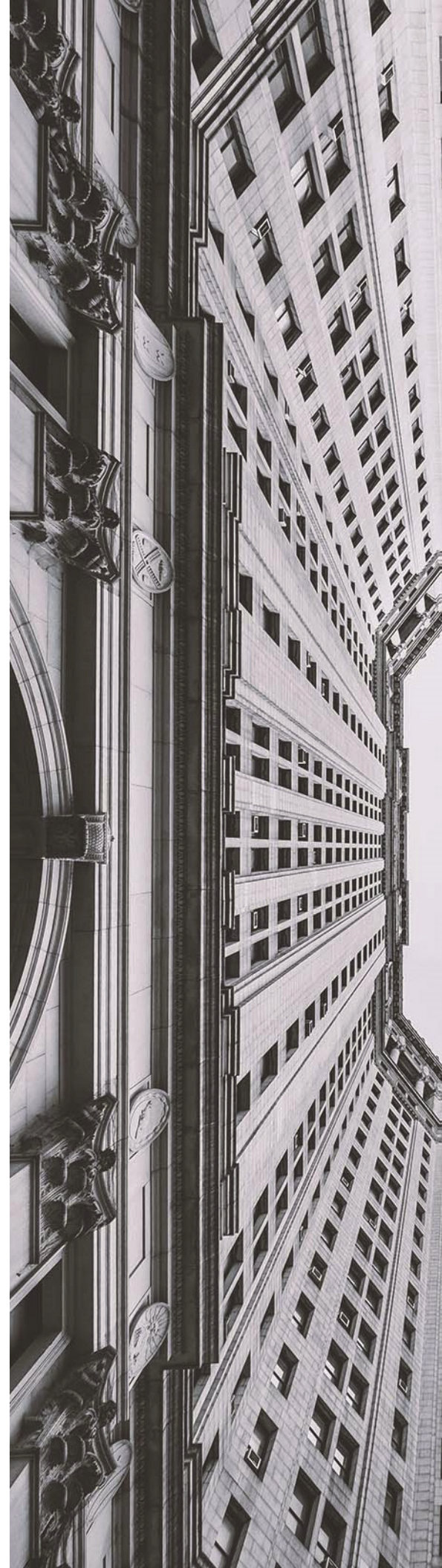
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Acknowledgments: We recognize the important contributions to this report made by Johnny Thomas, BLA Claims Support Division Chief; Stephen Giannotti, Deputy Chief Information Officer – Applications & Development; Edward Sokolowski, Executive Director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

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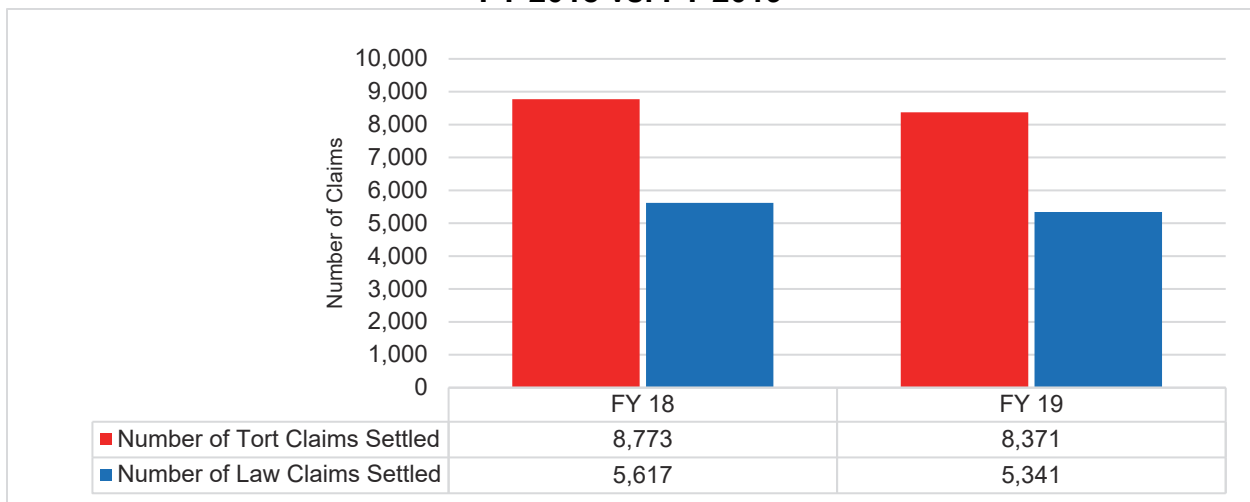


I. EXECUTIVE SUMMARY

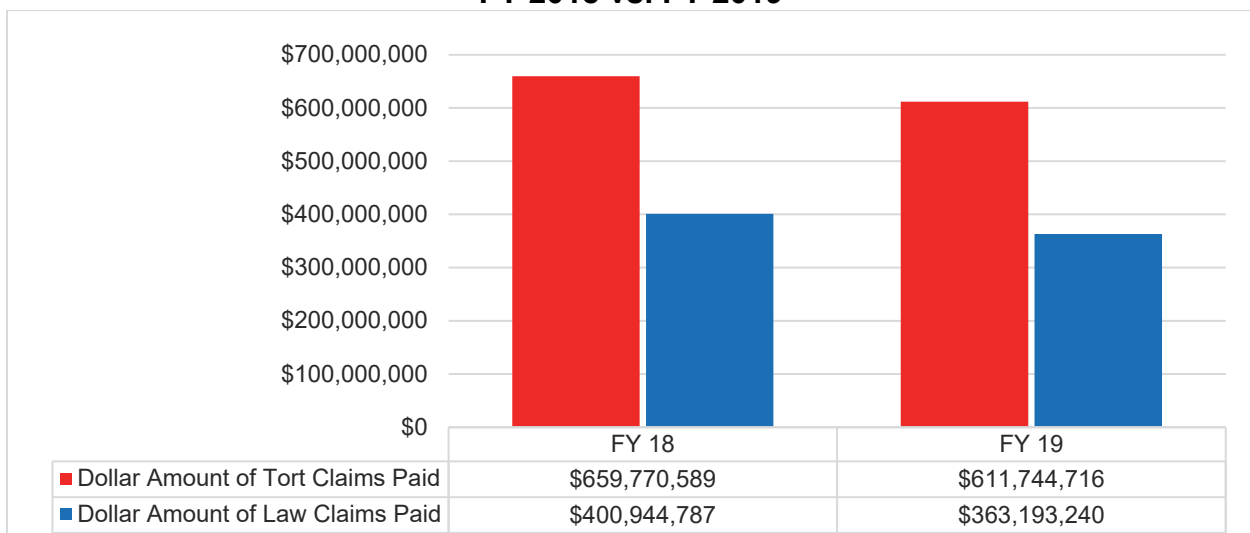
Under the New York City Charter, the Comptroller has the power to settle or adjust all claims in favor of or against the City.¹ This work is performed by the Comptroller’s Office Bureau of Law and Adjustment (BLA), which, under the direction of the Comptroller and the Assistant Comptroller for BLA, comprises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

In FY 2019, 13,712 claims and lawsuits against New York City were resolved for \$975.0 million compared to 14,390 claims and lawsuits resolved for \$1.1 billion in FY 2018.² Claims data is depicted in the composite bar graphs and further explained in the report.

**Total Number of Claim Settlements & Judgments
FY 2018 vs. FY 2019**



**Total Amount of Claim Settlements & Judgments Paid
FY 2018 vs. FY 2019**



TORT CLAIMS

For a second fiscal year, FY 2019 saw 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. While the number of tort claims filed in FY 2019 decreased slightly by one percent, the amount paid out in settlements and judgments in FY 2019 decreased by seven percent. Yet, New Yorkers continue to pay for claims that were filed more than a decade ago.

- In FY 2019, the City paid out \$611.7 million in tort claims, \$48.1 million less than the \$659.8³ million paid out in FY 2018.⁴
- In FY 2019, the City paid out \$46.6 million for tort claims that were filed prior to FY 2010 (legacy claims).
- Excluding payments on legacy claims, payouts declined from \$595.3 million in FY 2018 to \$559.3 million in FY 2019.

Medical Malpractice Claims

Since FY 2010—when 652 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 2019 there were 482 medical malpractice claims filed, up two percent from the 474 medical malpractice claims filed in FY 2018.
- Medical malpractice claim settlements and judgments in FY 2019 increased to \$95.6 million from \$94.0 million in FY 2018.

Civil Rights Claims

- In FY 2019, the Comptroller’s Office resolved five wrongful conviction claims pre-litigation. These five claims accounted for just 0.8 percent of all civil rights claim settlements, for a total of \$27.0 million, or 29 percent of all civil rights claim settlements paid out in FY 2019.

New York City Police Department Claims

- The number of tort claims filed against the New York City Police Department (NYPD) dropped to 5,848 in FY 2019 from 6,484 in FY 2018.

- NYPD tort claim settlement and judgment payouts declined from \$237.4 million in FY 2018 to \$220.1 million in FY 2019, a seven percent decrease.
- NYPD tort claims accounted for 36 percent of the total overall cost of resolved tort claims in FY 2019.

Department of Sanitation Claims

- In FY 2019, Department of Sanitation (DSNY) paid out \$70.7 million for tort settlement payouts, \$6.9 million less than \$77.3 million paid out in FY 2018.
- Although there was a drop in DSNY settlements paid out in FY 2019 from FY 2018, these two fiscal years represent a significant increase in DSNY claim payouts since FY 2010 when settlements totaled \$38.0 million.

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 2019 Claims Report, we continue to report claims data for FY 2019 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 2019, the City paid out \$363.2 million in law claims, a nine percent decrease from the \$401.0 million paid out in FY 2018.
- Seventy-nine percent of all law claim payments in FY 2019 were related to claims for reimbursement of the cost of special education services.

Special Education Claims

- The total settlement amount paid out for DOE special education claims in FY 2019 decreased six percent from FY 2018—\$285.8 million was paid out on special education claims during FY 2019, compared to \$304.0 million paid out in FY 2018.
- Special education claim payouts in FY 2019 were 169 percent greater than special education claim payouts in FY 2013 and 119 percent greater than those in FY 2014.

Contract Claims

- Contract claims filed in FY 2019 increased 19 percent since FY 2018, from 86 claims filed in FY 2018 to 102 claims filed in FY 2019.
- The number of contract claim settlements increased four percent to 26 contract claims settled in FY 2019 from 25 contract claims settled in FY 2018.
- There has been a 12 percent decrease in the settlement amounts paid out for contract claims to \$54.0 million in FY 2019 from \$61.1 million in FY 2018.

Alternative Dispute Resolution Claims

- In FY 2019, 96 alternative dispute resolution claims (dispute claims) were filed, an increase of nine percent over the 88 claims filed in FY 2018.
- In FY 2019, 43 dispute claims were negotiated and settled for a total of \$3.9 million. This represents a 49 percent decrease in the amount paid out on dispute claims from the \$7.5 million paid out on 38 dispute claims settled in FY 2018.

Affirmative Claims

- In FY 2019, the Comptroller's Office approved settlement of 936 affirmative claims for a benefit to the City of \$24.2 million, as compared to FY 2018, when 871 affirmative claims were settled for \$19.7 million. The FY 2019 amounts recovered were \$4.7 million or 24 percent greater than in FY 2018.
- In FY 2019, the City recovered civil penalties, a subcategory of affirmative claims, in the amount of \$3.9 million on 591 claims, down from \$4.0 million recovered in civil penalties on 531 claims in FY 2018.

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

ClaimStat and Inter-Agency Partnerships

In 2014 the Comptroller's Office introduced ClaimStat, a data-driven analysis of claims filed against the City. 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 or avoid filing of claims altogether. ClaimStat has proven to be a valuable device for agency's 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 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 Early Response and Litigation Assessment Teams 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 the ability of BLA to investigate and evaluate NYPD claims early in the claim 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 2019, the Comptroller's Office collected \$12.4 million from claimants with outstanding obligations to the City, including \$6.7 million in

Medicare/Medicaid liens, \$2.0 million in child support arrears, and \$475,143 in parking violation bureau judgments.

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

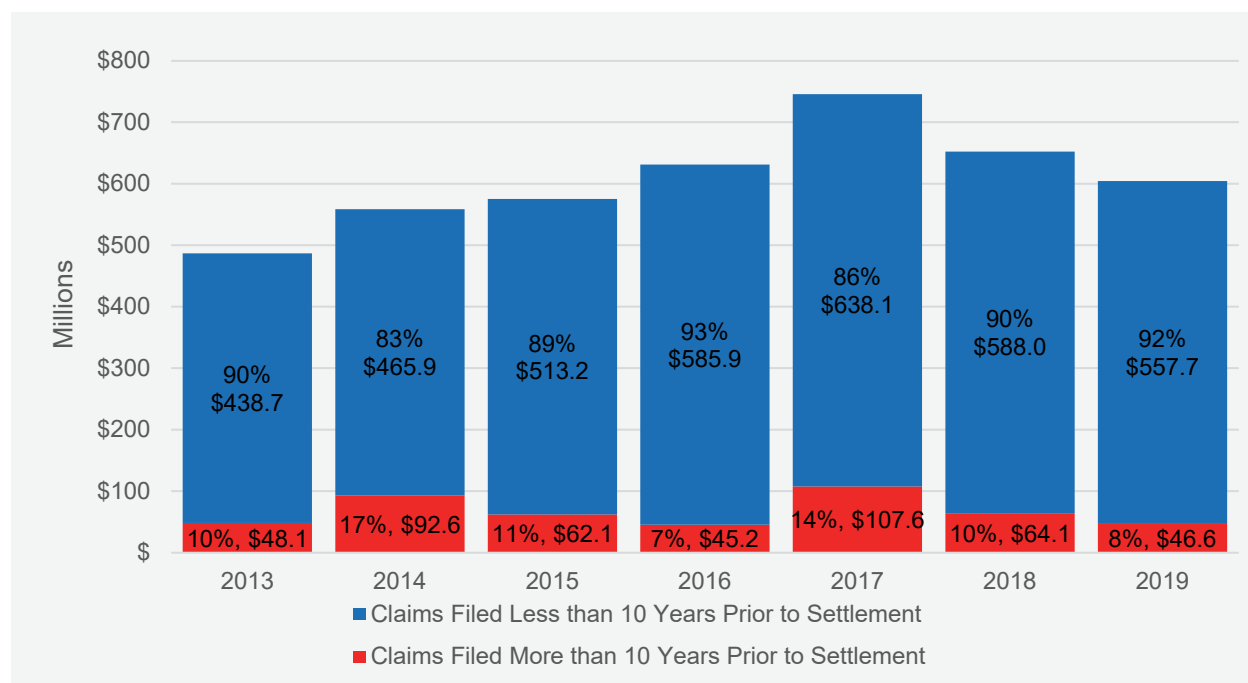
The New York State Son of Sam Law permits a crime victim to commence a civil action to recover money damages for “profits from a crime” or the “funds of a convicted person.”⁵ Under the law, the Comptroller’s Office must report to the New York State Office of Victim Services (Victim Services) any City settlement obligation to a convicted person that exceeds \$10,000. In FY 2019, the City collected \$375,729 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 \$1.4 million to crime victims under the Son of Sam Law.

III. LEGACY CLAIMS

Settlements of Personal Injury Tort Claims Filed Before FY 2010

New Yorkers continue to pay for claims filed more than a decade ago. In FY 2019, the City paid out \$46.6 million to settle personal injury tort claims filed before FY 2010.⁶

Chart 1
Personal Injury Tort Claim Settlements for Legacy Claims
FYs 2013–2019

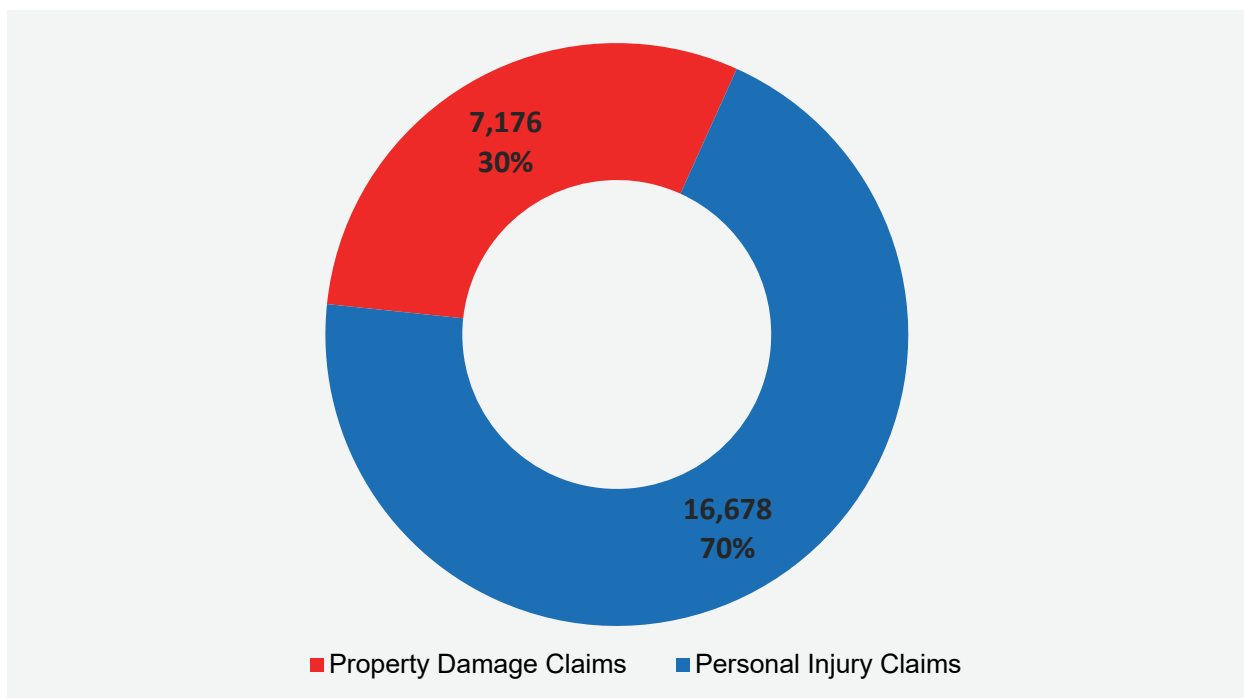


In FY 2019, the City continued to reduce the backlog of claims filed more than 10 years ago. While zealous litigation is necessary to defend the City’s core policies and to fight meritless claims, the City should avoid protracted litigation. A review of so-called “legacy claims” reveals that engaging 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 and property damage claims. In FY 2019, 23,854 personal injury and property damage claims were filed compared to 25,288 tort claims filed in FY 2018, a four percent decrease.⁷

Chart 2
Comparison of Tort Claims Filed:
Property Damage Claims vs. Personal Injury Claims
FY 2019

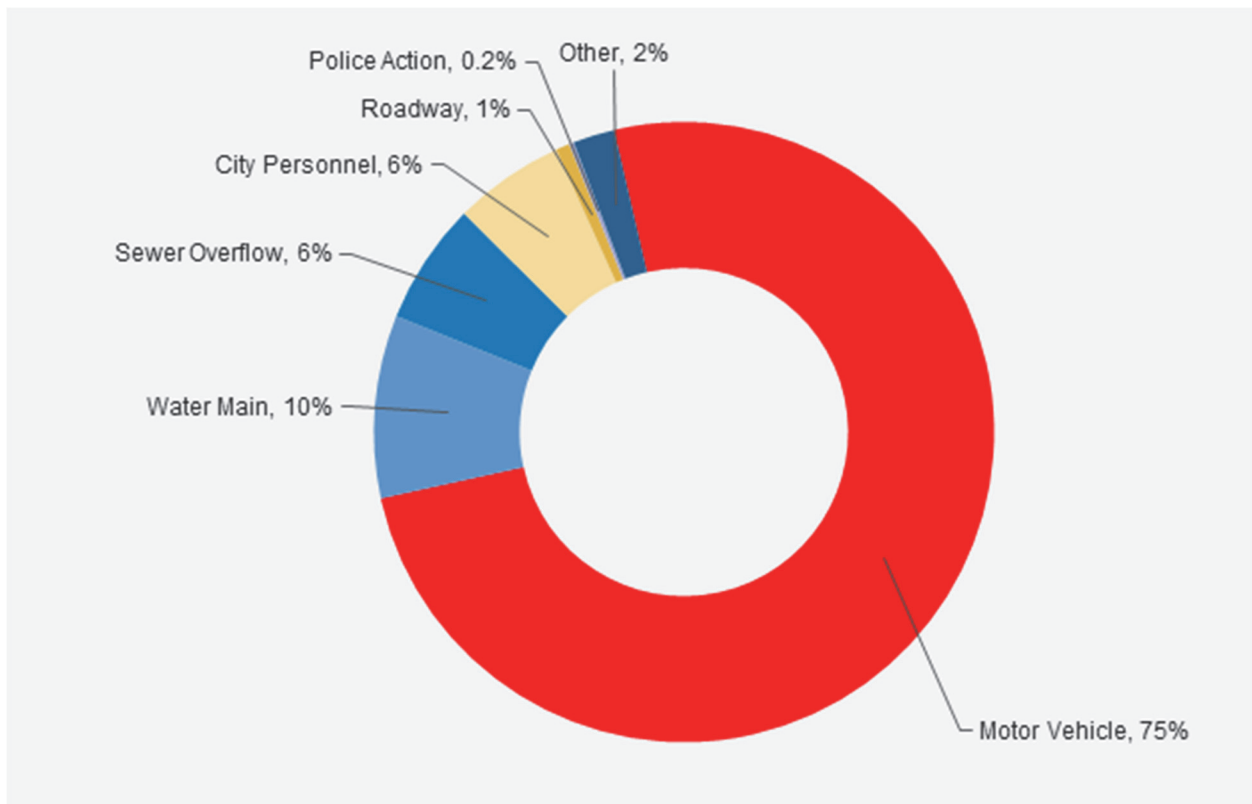


In FY 2019, settled tort claims cost the City \$611.7 million, a seven percent decrease from the \$659.8 million paid out in FY 2018. Settlements and judgments for tort claims cost each City resident approximately \$73.38 in FY 2019.

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 2019 declined by one percent to 7,176, from the 7,623 claims filed in FY 2018. In FY 2019, property damage claims represented one percent of the City's total tort claim payouts. Property damage claim settlement payouts dropped by two percent in FY 2019 to \$7.5 million from \$7.6 million in FY 2018.

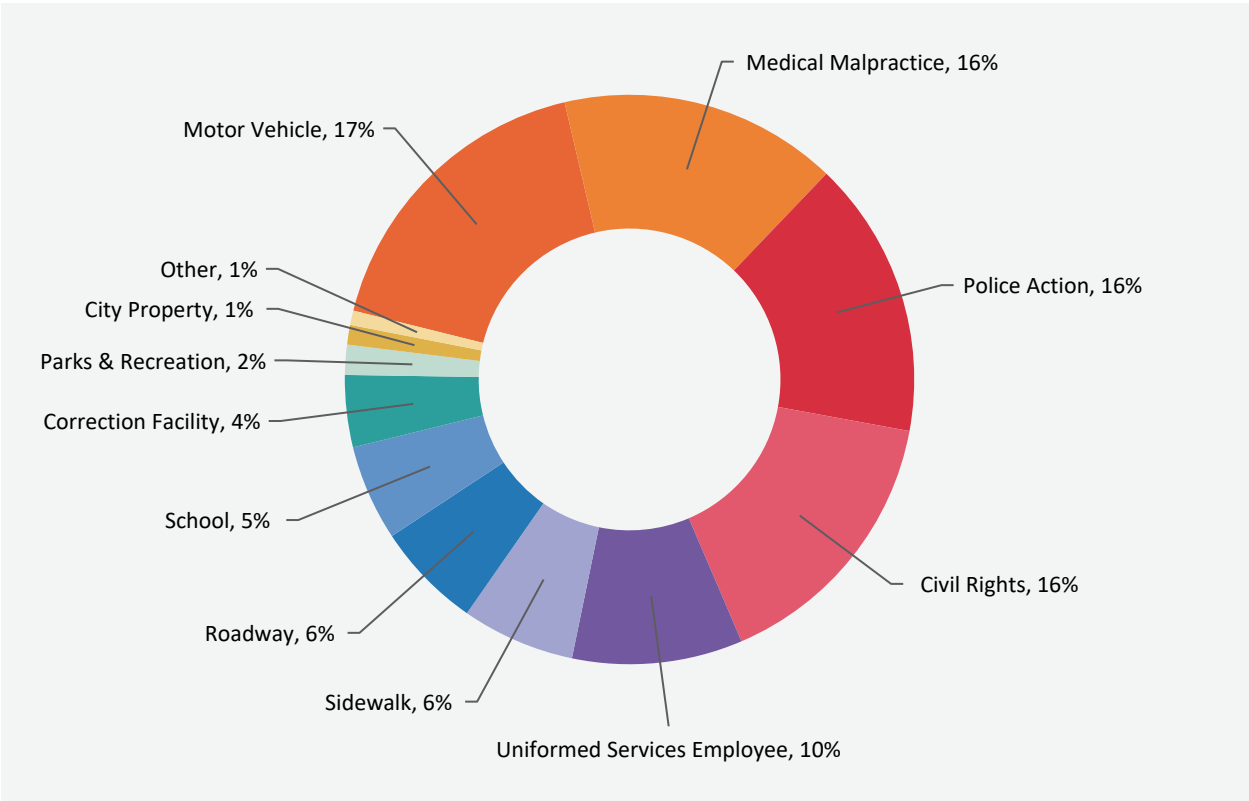
Chart 3
Percentage of Property Damage Claim Settlements & Judgments
Recorded by Claim Type
FY 2019



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 2019, there were 16,678 personal injury claims filed, a six percent decrease, from the 17,665 personal injury claims filed in FY 2018. In FY 2019, personal injury claims accounted for \$604.3 million, or 99 percent, of the \$611.7 million paid out on settled tort claims. The average settlement and judgment cost of a personal injury claim in FY 2019 was \$96,902, one percent lower than the FY 2018 average of \$97,623.

Chart 4
Percentage of Personal Injury Claim Settlements & Judgments
Recorded by Claim Type
FY 2019

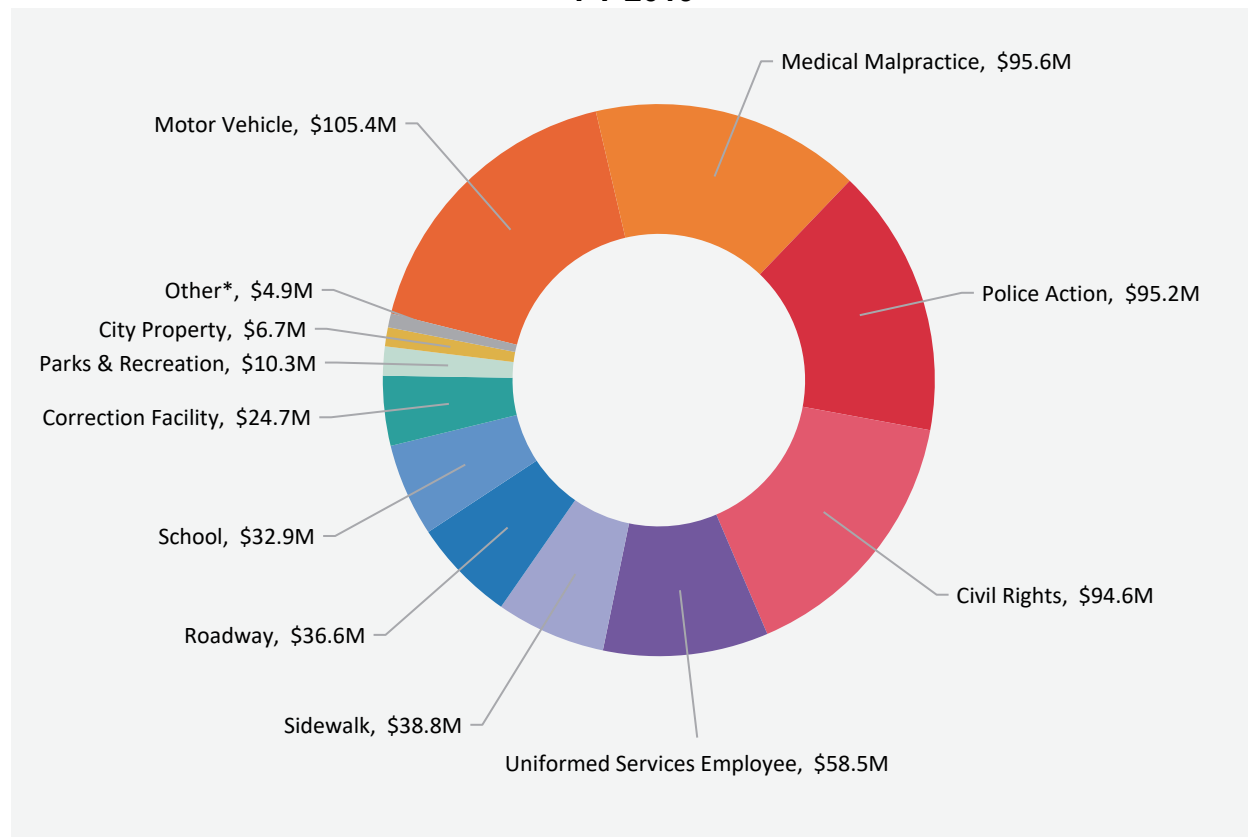


C. PERSONAL INJURY CLAIM TRENDS BY CLAIM TYPE

In FY 2019 the five most frequently filed personal injury claim types were correction facility claims (3,750), police action claims (3,612), sidewalk claims (2,269), civil rights claims (1,435), and motor vehicle claims (1,339). The five costliest personal injury claim settlements in FY 2019 by claim type were motor vehicle claims (\$105.4 million), medical malpractice claims (\$95.6 million), police action claims (\$95.2 million), civil rights claims (\$94.6 million), and uniformed services employee claims (\$58.5 million). Together, in FY 2019, these five claim types cost \$449.3 million and accounted for 74 percent of all personal injury claim settlements.

Out of the 6,236 personal injury claim settlements, there were 112 personal injury claim payouts for one million dollars or more, accounting for \$275.2 million paid out in FY 2019. These 112 claims represent 46 percent of the total personal injury claim settlements paid out in FY 2019. Payouts on medical malpractice claims (\$57.1 million), motor vehicle claims (\$55.5 million), civil rights claims (\$54.6 million), uniformed services employee claims (\$45.8 million), and police action claims (\$25.4 million) represent 87 percent of the total \$275.2 million paid out on the 112 personal injury claim settlements and judgments exceeding one million dollars.

Chart 5
Total Amount Paid Out for Personal Injury Claim Settlements & Judgments
Recorded by Claim Type
FY 2019

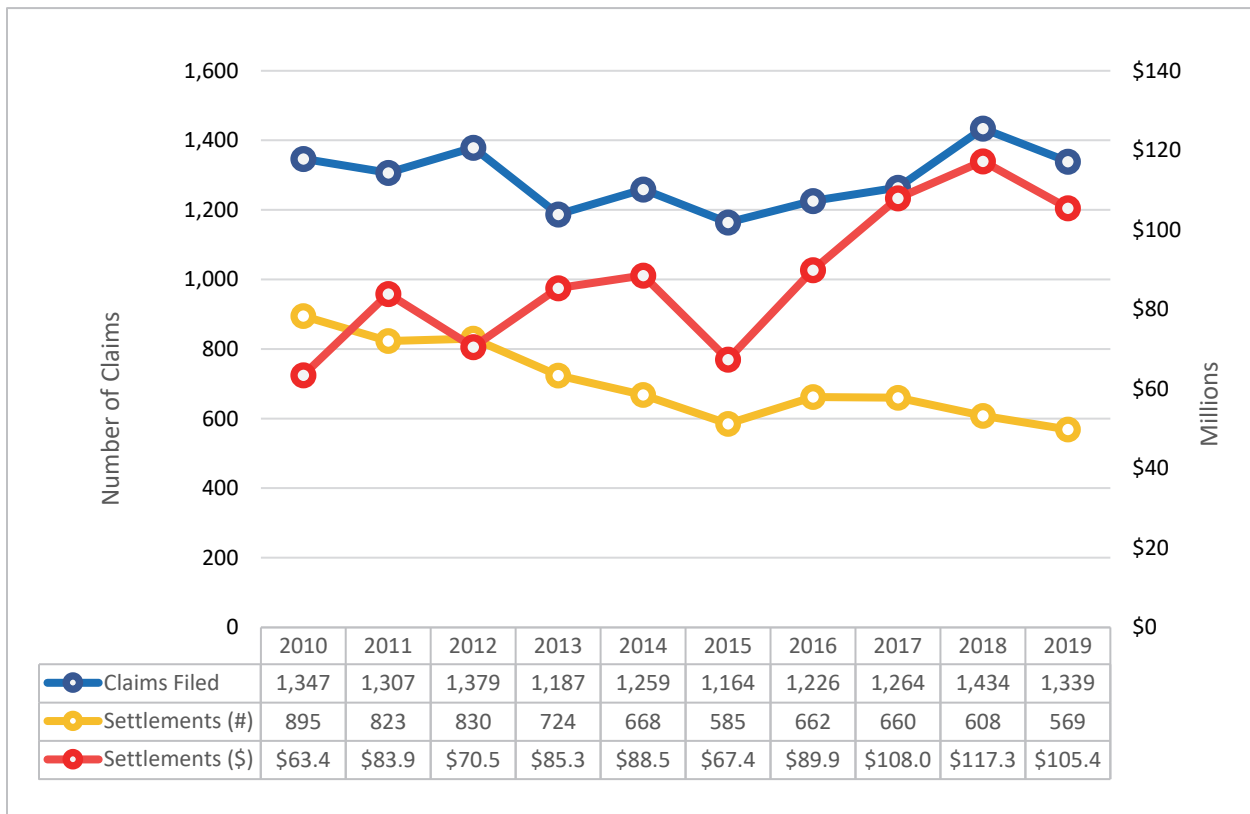


*Other combines the amount paid out for Traffic Control Device and Other claim types.

1. Motor Vehicle Claims

Personal injury motor vehicle claims involve alleged accidents with City-owned fleet vehicles. There were 1,339 personal injury motor vehicle claims filed in FY 2019, down seven percent from FY 2018 when 1,434 personal injury motor vehicle claims were filed. In FY 2019, personal injury motor vehicle claim settlements cost \$105.4 million, a 10 percent decrease, compared to \$117.3 million paid out to resolve motor vehicle claims in FY 2018. In FY 2019, the number of personal injury motor vehicle claims settled decreased by six percent to 569 in FY 2019 from 608 in FY 2018.

Chart 6
Personal Injury Motor Vehicle Claims Filed and Settled
FYs 2010–2019



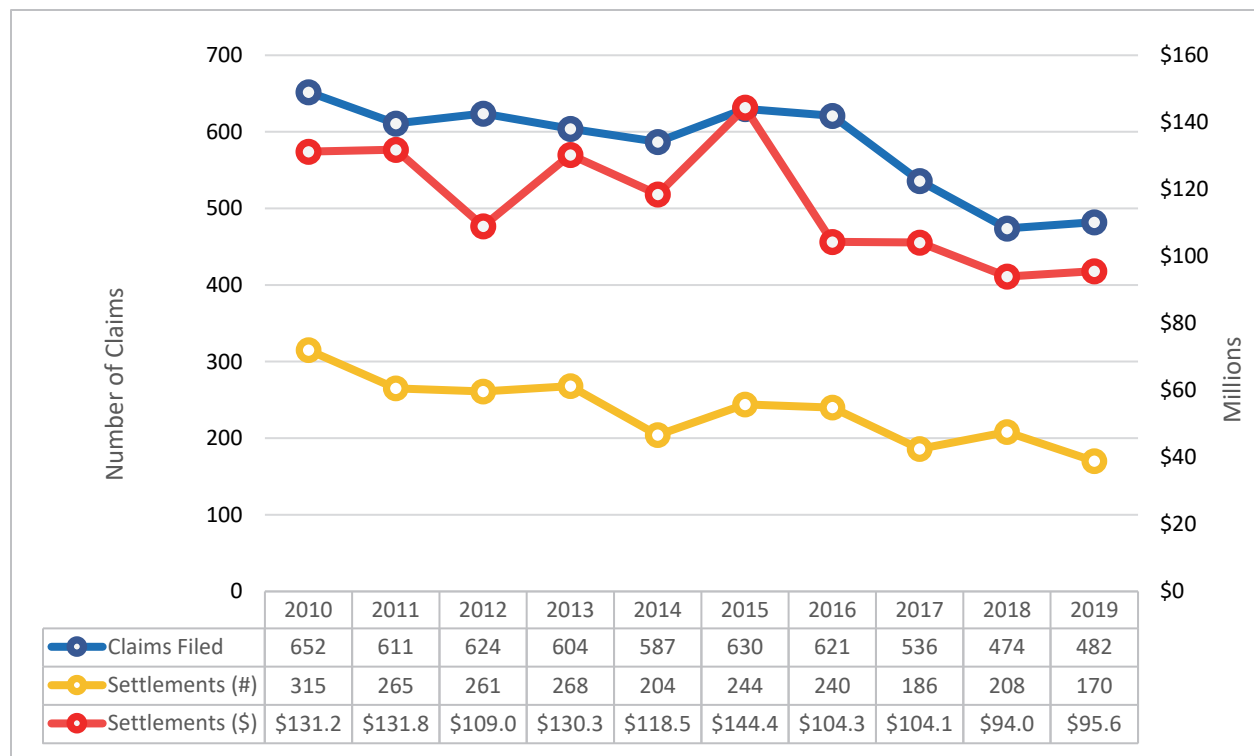
In FY 2019, 29 of the 112 personal injury claims resolved for one million dollars or more were motor vehicle claim payouts, totaling \$55.5 million—53 percent of the FY 2019 settlement payments for all personal injury motor vehicle claims.

Although personal injury motor vehicle claim settlements in FY 2019 declined from FY 2018 by 10 percent, the \$105.4 million cost of personal injury motor vehicle claim settlements represents a 56 percent increase from the \$67.4 million in FY 2015.

2. 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 2019, there were 482 medical malpractice claims filed, up two percent from the 474 medical malpractice claims filed in FY 2018. 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 170 medical malpractice claims resolved in FY 2019 cost the City \$95.6 million, compared to \$94.0 million paid out on 208 medical malpractice claims settled in FY 2018.

Chart 7
Medical Malpractice Claims Filed and Settled
FYs 2010–2019

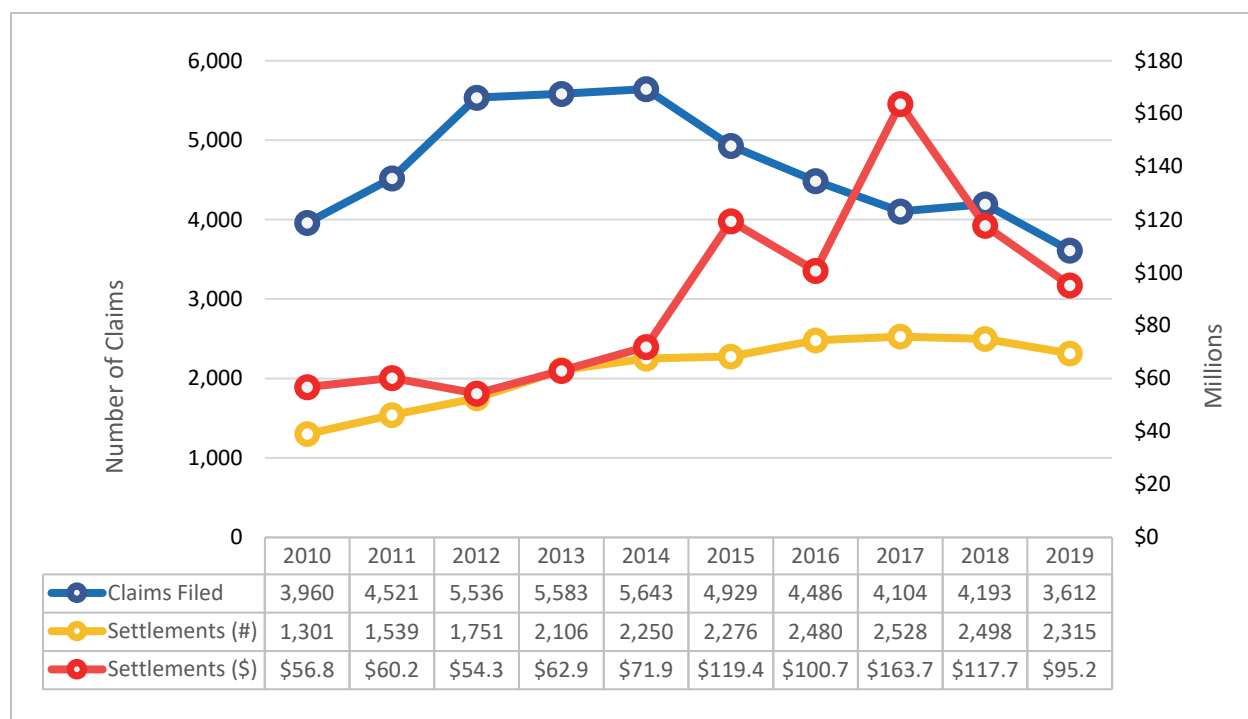


Settlements of medical malpractice claims accounted for 16 percent of the total \$604.3 million paid out for all personal injury claims resolved in FY 2019. Of the 112 personal injury claims resolved for one million dollars or more in FY 2019, 27 were medical malpractice claim payouts, totaling \$57.1 million.

3. Police Action Claims

Police action claims allege 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 dropped in FY 2019 to 3,612 claims from 4,193 claims filed in FY 2018, a 14 percent decrease. In FY 2019, personal injury police action claims were the second most frequently filed personal injury claim type and accounted for the third highest claim type payout. Importantly, personal injury police action claim settlement costs in FY 2019 declined to \$95.2 million, a 19 percent decrease from \$117.8 million paid out in FY 2018, and a 42 percent decrease from the \$163.7 million in FY 2017.

Chart 8
Personal Injury Police Action Claims Filed and Settled
FYs 2010–2019



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, police action claims pre-litigation:

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

Fiscal Year	Total Police Action Claims Settled (#)	Police Action Claims Settled Pre-litigation (#)	Police Action Claims Settled Pre-litigation (%)	Police Action Claim Settlements (Total) (in millions)	Police Action Claim Settlements Pre-litigation (in millions)	Police Action Claim Settlements Pre-litigation (%)
2017	2,528	1,218	48%	\$163.7	\$49.5	30%
2018	2,498	1,350	54%	\$117.7	\$29.5	25%
2019	2,315	1,321	57%	\$95.2	\$21.8	23%
TOTAL	7,341	3,889	53%	\$376.6	\$100.8	27%

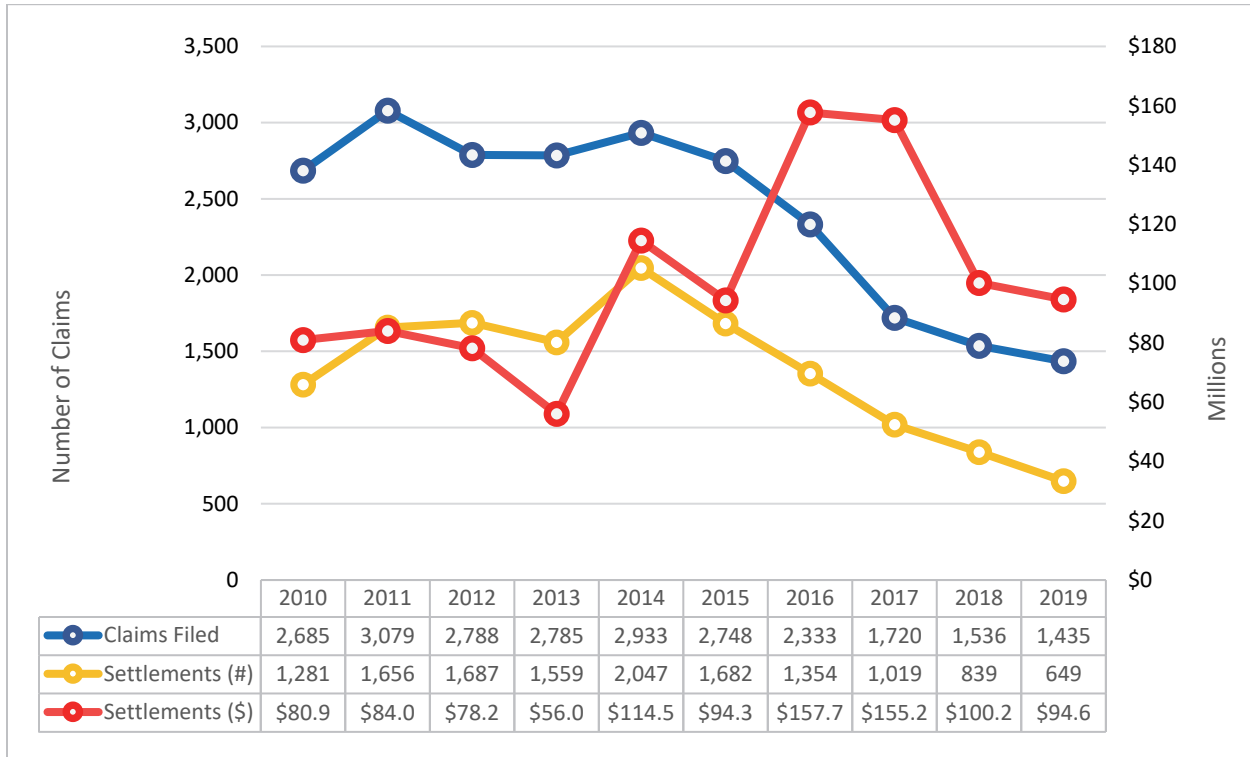
Notably, the Comptroller’s Office pre-litigation settlements resulted in the resolution of 53 percent of all resolved personal injury police action claims over the last three fiscal years. That substantial percentage of claims resolved before litigation on the other hand is only 27 percent of the total personal injury police action claim payouts over the same time period.

4. Civil Rights Claims

Civil rights claims typically arise from alleged statutory or constitutional violations such as discrimination based on sex, race, religion, disability, sexual orientation, or age. Claims in this category also include alleged constitutional civil rights violations by law enforcement personnel such as 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 2019 with a seven percent decrease to 1,435 civil rights claims filed from 1,536 filed in FY 2018. In fact, since FY 2014, when 2,933 civil rights claims were filed, there has been a 51 percent drop in civil rights claims filed. In FY 2019, the cost of civil rights claim payouts decreased to \$94.6 million from \$100.2 million in FY 2018, a six percent dip, and a 40 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 2010–2019**



In FY 2019, 16 of the 112 personal injury claims that resolved for one million dollars or more were civil rights claims, totaling \$54.6 million, or 58 percent of the total civil rights claim payouts, while accounting for only two percent of all civil rights claims settled in FY 2019.

In FY 2019, the Comptroller’s Office resolved five wrongful conviction claims pre-litigation: Jabbar Washington, Steven Odiase, Mark Denny, Sundhe Moses, and Rosean Hargrave. These pre-litigation settlements avoided lengthy legal proceedings that are costly for the City and claimants alike. These five claimants were incarcerated for a combined 100 years. The five wrongful conviction claims accounted for less than one percent of all civil rights claim settlements, for a total of \$27.0 million, or 29 percent of all civil rights claims paid out in FY 2019. 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.

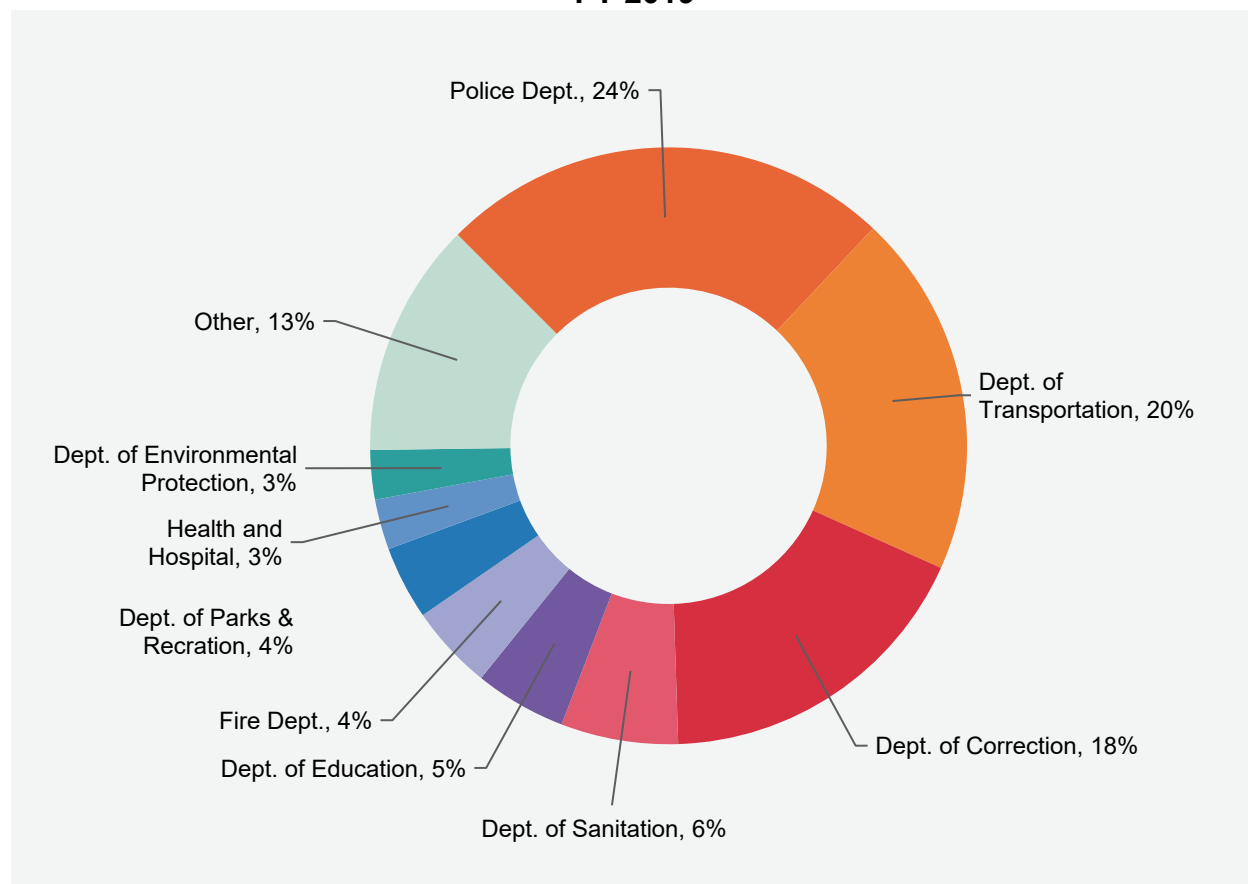
Table 2
Wrongful Conviction Settlements
 (* indicates pre-litigation settlements)

FY 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 Sharrif 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
Roger Logan*	16.5 years (1997 – 2013)	\$3.8 million
Shabaka Shakur*	27 years (1988 – 2015)	\$5.5 million
Marcus Poventud	9 years (1997 – 2006)	\$3 million

D. TORT CLAIM TRENDS BY AGENCY

In FY 2019, the five agencies that experienced the highest number of tort claims filed were the NYPD (5,848 claims), Department of Transportation (DOT) (4,698 claims), DOC (4,241 claims), DSNY (1,514 claims), and DOE (1,188 claims). Notably, in FY 2019 tort claims filed against these five agencies declined from FY 2018.

Chart 10
Percentage of Tort Claims Filed by Agency
FY 2019

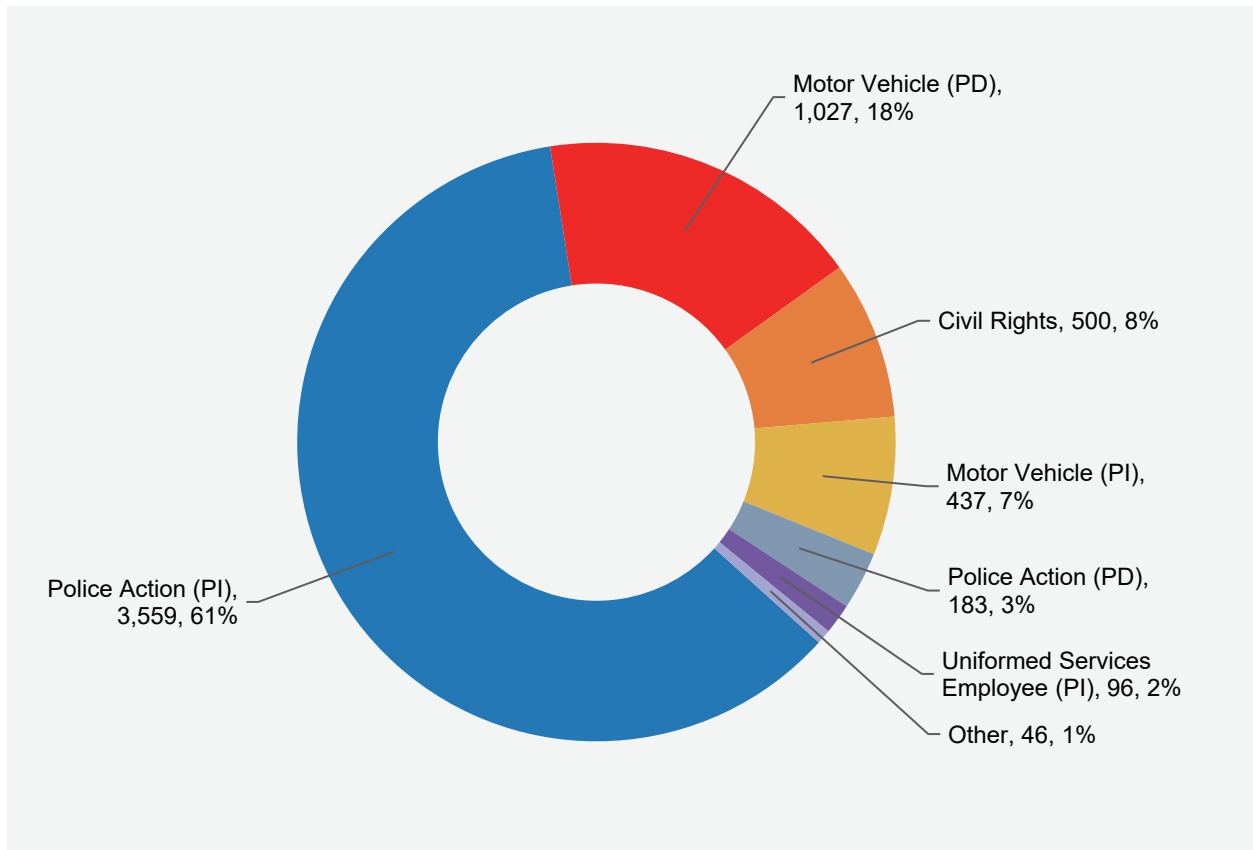


The five agencies with the highest tort claim settlement and judgment costs in FY 2019 were the NYPD (\$220.1 million), H+H (\$93.5 million), DOT (\$79.4 million), DSNY (\$70.7 million), and DOE (\$36.6 million).

1. New York City Police Department

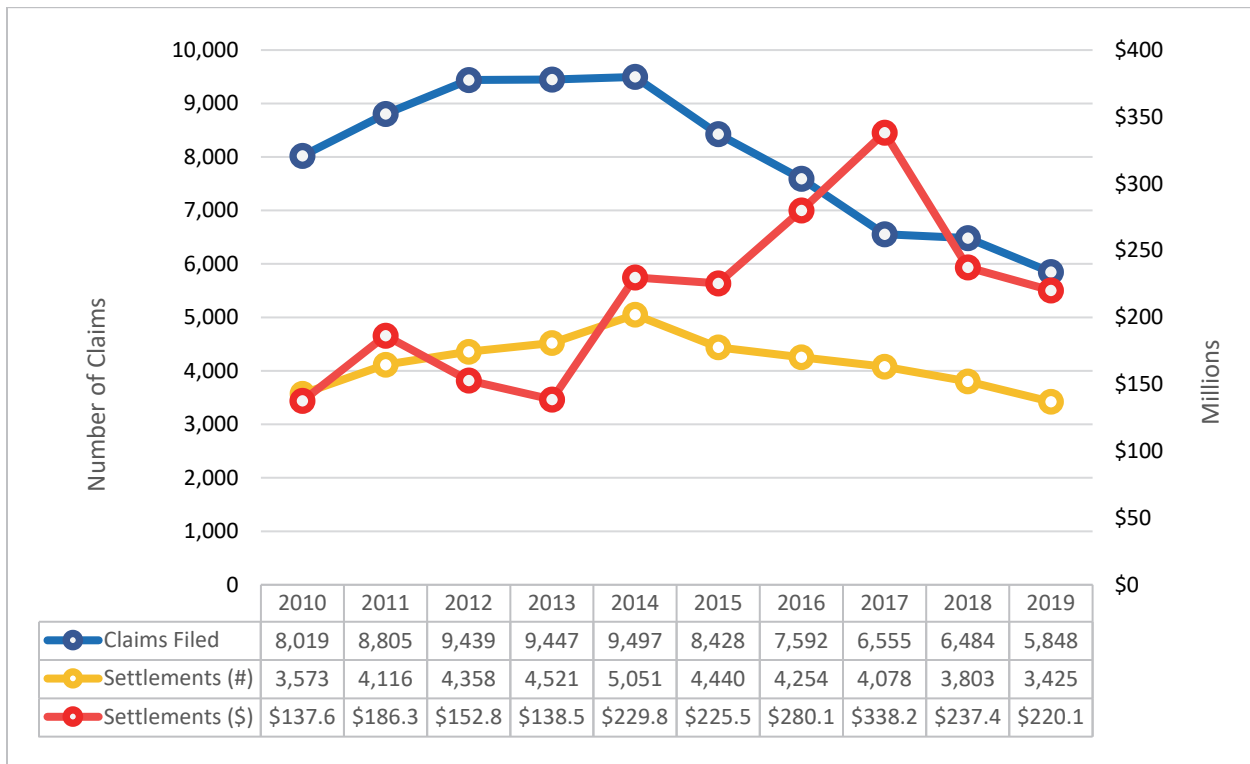
Tort claims against the NYPD include, but are not limited to, allegations of excessive force, civil rights violations, and personal injury or property damage arising out of motor vehicle accidents involving police vehicles. In FY 2019, the number of claims filed against the NYPD dropped to 5,848 from 6,484 filed in FY 2018, representing a 10 percent decline.

Chart 11
Number and Percentage of NYPD Tort Claims Filed by Claim Type
FY 2019



Claims against the NYPD that settled in FY 2019 cost the City \$220.1 million, compared to \$237.4 million in FY 2018, a seven percent decrease, and a 35 percent decrease from the \$338.2 million paid out on NYPD claims in FY 2017.

Chart 12
NYPD Tort Claims Filed and Settled
FYs 2010–2019



As noted in the police action claims section above, an increase in the number of pre-litigation police action claim settlements has contributed to the reduction in NYPD payouts for the second consecutive 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 2019.

As in FY 2018, NYPD claims accounted for 36 percent of the total overall cost of resolved FY 2019 tort claim payouts. NYPD settlement costs were the highest among all City agencies in FY 2019. 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 Offices review past convictions. For example, the seven wrongful conviction claims resolved in FY 2019 represent less than one percent of all NYPD claims resolved, but total \$30.9 million, or 14 percent of the total NYPD payouts in FY 2019. 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 2016–2019

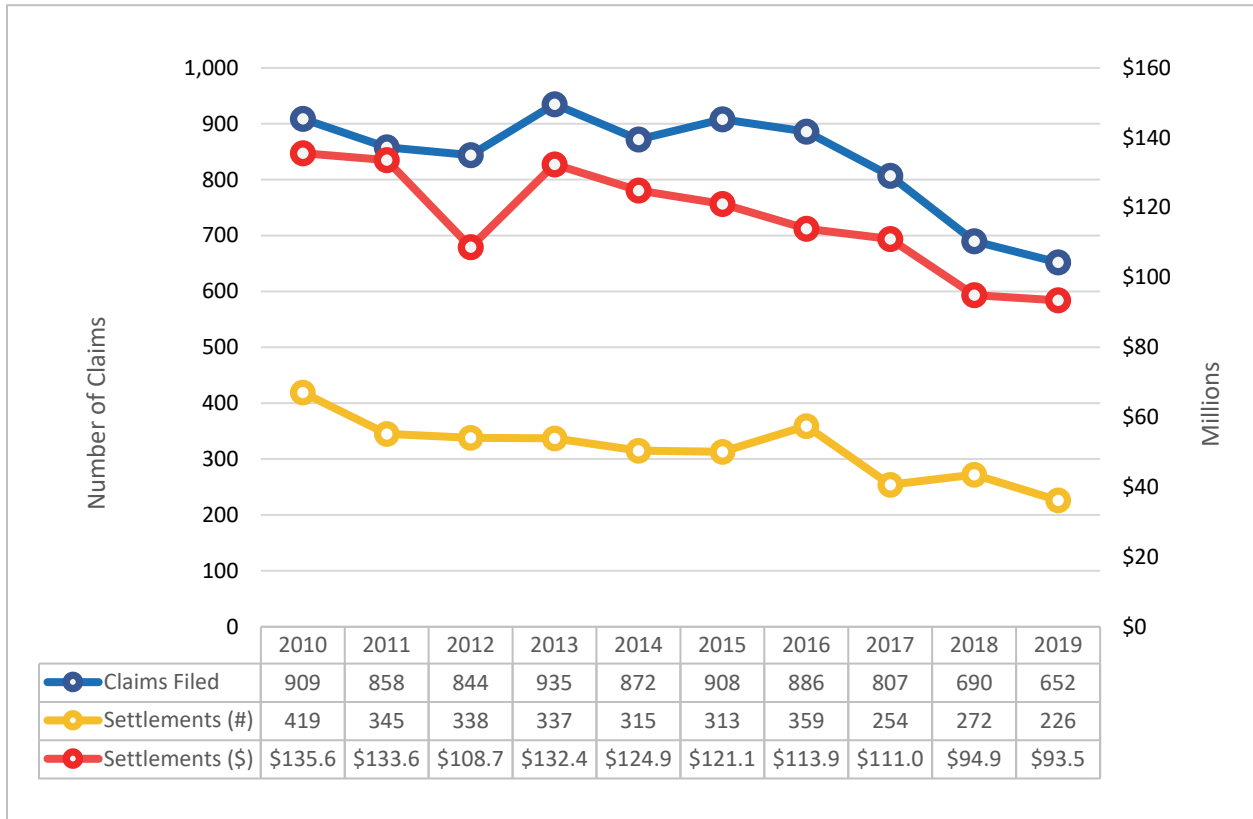
Fiscal Year	Wrongful Conviction Claims Settled (Pre-litigation and litigation) (#)	Total Wrongful Conviction Claim Settlements (in millions)	NYPD Tort Claim Settlements (#)	NYPD Tort Claim Settlements (in millions)	Wrongful Conviction Percent of Total NYPD Claims Settled (%)	Wrongful Conviction Percent of Total NYPD Claim Settlements (%)
2016	9	\$62.2	4,254	\$280.1	0.21%	22%
2017	14	\$99.9	4,078	\$338.2	0.34%	30%
2018	5	\$33.3	3,803	\$237.4	0.13%	14%
2019	7	\$30.9	3,425	\$220.1	0.20%	14%
TOTAL	35	\$226.3	15,560	\$1,075.8	0.22%	21%

2. 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 2019, 652 claims were filed against H+H, down from 690 claims filed in FY 2018, a six percent decline. The amount paid out on H+H claims was relatively stable at \$93.5 million in FY 2019, down from \$94.9 million in FY 2018.

Chart 13
H+H Tort Claims Filed and Settled
FYs 2010–2019



Of the 652 claims filed against H+H in FY 2019, there were 452 medical malpractice claims filed, accounting for 69 percent of all H+H claims. H+H claims constituted three percent of the total number of tort claims resolved in FY 2019, but accounted for the second highest tort expenditure at \$93.5 million, or 15 percent of the total amount paid for settled tort H+H claims in FY 2019.

Notably, the number of medical malpractice claims filed against H+H’s acute care hospitals⁸ increased by 10 claims to 427 in FY 2019 from 417 claims filed in FY 2018, an increase of two percent.

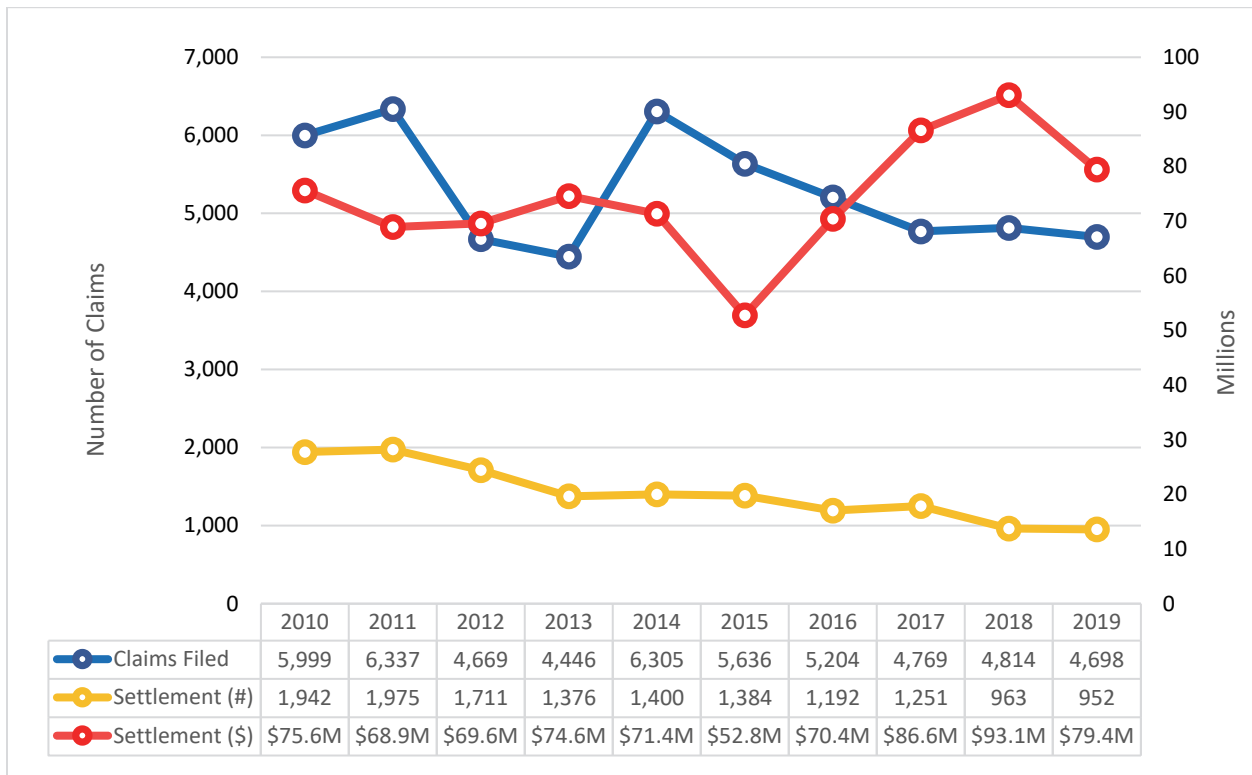
Table 4
H+H Medical Malpractice Claims Filed and Settled by H+H Acute Care Hospital
FYs 2018–2019

HH Acute Care Hospital	Claims Resolved FY 2019	Amount Paid (In Millions)	Number of Claims Filed FY 2019	Number of Claims Filed FY 2018	Increase/ (Decrease)
Bellevue	18	\$12.6	42	62	(20)
Coney Island	9	\$2.6	35	38	(3)
Elmhurst	12	\$7.6	38	38	0
Harlem	11	\$4.7	34	31	3
Jacobi / Bronx Municipal	34	\$12.8	49	55	(6)
Kings County	27	\$21.2	75	69	6
Lincoln	22	\$8.0	64	44	20
Metropolitan	4	\$1.2	14	19	(5)
North Central Bronx	6	\$6.5	23	10	13
Queens Hospital Center	7	\$7.7	23	11	12
Woodhull	11	\$2.8	30	40	(10)
Total	161	\$87.8	427	417	10

3. 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 2019, 4,698 claims were filed against DOT, compared to 4,814 in FY 2018, a two percent decline. Importantly, however, the settlement amount for DOT claims in FY 2019 decreased to \$79.4 million, down from \$93.1 million in FY 2018, a 15 percent decrease.

Chart 14
DOT Tort Claims Filed and Settled
FYs 2010–2019

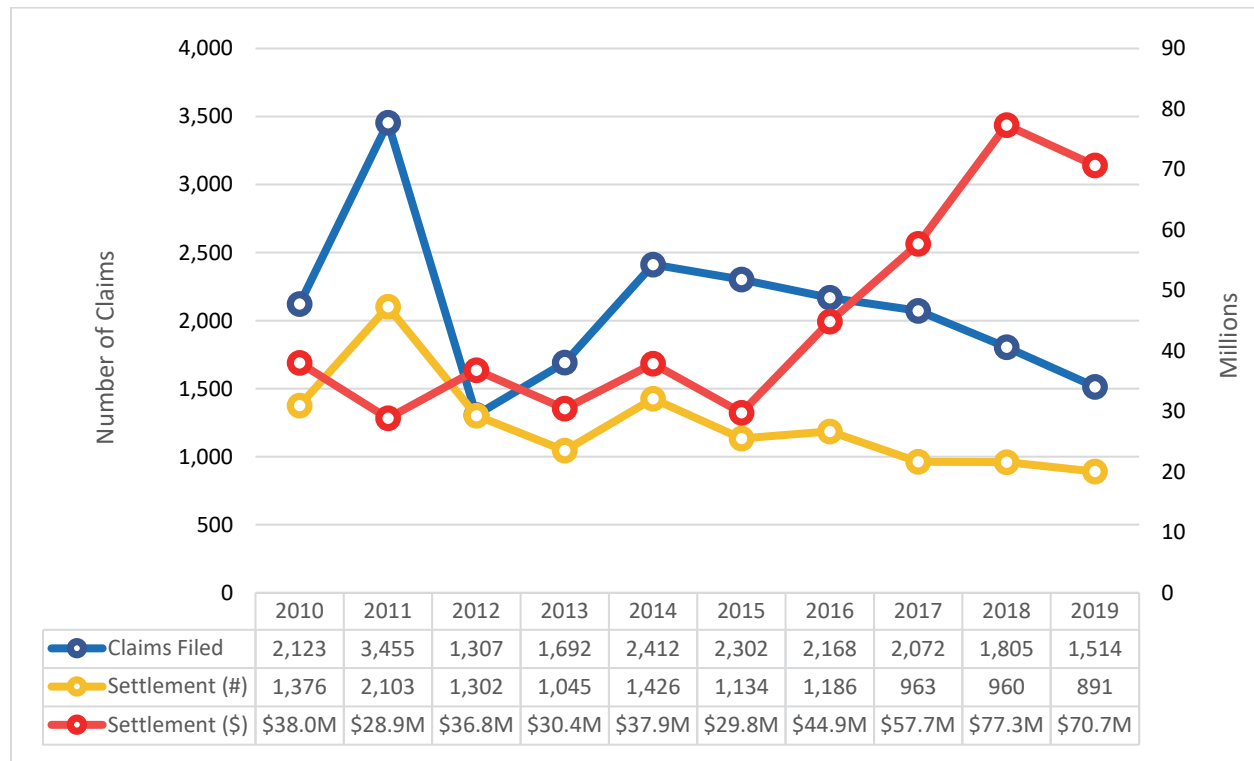


The number of DOT claim settlements slightly declined to 952 in FY 2019, compared to 963 DOT claims resolved in FY 2018, a one percent decrease. However, the data indicates that the average cost per DOT claim settlement increased since FY 2016, where the average cost per DOT claim settlement was \$59,080. In FY 2019, the average cost to settle a DOT claim increased from FY 2016 by 41 percent to \$83,448.

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 2019, there were 1,514 claims filed compared to 1,805 in FY 2018, a 16 percent decrease. Since FY 2014 when claims filed against DSNY peaked at 2,412 claims, there was a 37 percent drop in DSNY claims filed in FY 2019. Additionally, FY 2019 DSNY claim settlement payouts decreased to \$70.7 million, down from \$77.3 million in FY 2018, a nine percent decrease.

Chart 15
DSNY Tort Claims Filed and Settled
FYs 2010–2019



Despite the slight decline in the overall cost of DSNY settlements, there has been an upward trend in DSNY claim payouts since FY 2015. The increased average cost in DSNY claim settlement 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 claims⁹). Four of the top five uniformed services employee claims settled in FY 2019 involved DSNY employees, totaling \$31.9 million, or 45 percent of the total DSNY claim payouts. As a result of these large settlements, the average DSNY claim settlement cost in FY 2019 increased to \$79,301, up 200 percent from FY 2015, when the average DSNY claim settlement cost \$26,254.

E. TORT CLAIM TRENDS BY BOROUGH¹⁰

The Bronx had the most overall tort claims filed, with 6,717 claims, followed by Brooklyn (5,756 claims), Manhattan (4,369 claims), Queens (4,030 claims), and Staten Island (980 claims). Consistent with the prior four fiscal years, the Bronx had the most personal injury claims filed (5,626 claims).

Table 5
Number of Tort Claims Filed by Borough
FY 2019

Borough	Personal Injury (PI) Claims	Property Damage (PD) Claims
Bronx	5,626	1,091
Brooklyn	4,035	1,721
Manhattan	3,054	1,315
Queens	2,395	1,635
Staten Island	465	515

The Bronx also had the highest per capita filing of personal injury claims at 397 claims per 100,000 residents, as compared to Staten Island, which had the fewest personal injury claims with 98 claims per 100,000 residents. Staten Island had the greatest number of property damage claims filed per capita, with 108 claims per 100,000 residents, while Brooklyn had the fewest property damage claims with 67 claims per 100,000 residents.¹¹

Table 6
Tort Claims Filed by Borough Per 100,000 Residents¹²
FY 2019

Borough	Total Tort Claims Per 100,000 Residents	Total PI Claims Per 100,000 Residents	Total PD Claims Per 100,000 Residents
Bronx	474	397	77
Brooklyn	225	158	67
Manhattan	268	188	81
Queens	179	106	73
Staten Island	206	98	108

Table 7
Tort Claims Resolved and Amounts Paid by Borough
FY 2019

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	2,320	\$153.3	275	\$0.8	2,595	\$154.0
Brooklyn	1,519	\$182.2	573	\$1.9	2,092	\$184.1
Manhattan	1,008	\$100.3	398	\$1.4	1,406	\$101.7
Queens	852	\$103.7	476	\$1.9	1,328	\$105.6
Staten Island	236	\$15.4	170	\$0.7	406	\$16.1

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 2019, 419 labor and employment claims were filed. Seventy-six labor and employment claims settled in FY 2019, with a total payout of \$6.0 million. The FY 2019 labor and employment claim settlement numbers do not reflect settled claims filed prior to FY 2019, as settlement data for claims recorded as personal injury civil rights claims and law salary claims is reflected in those categories.

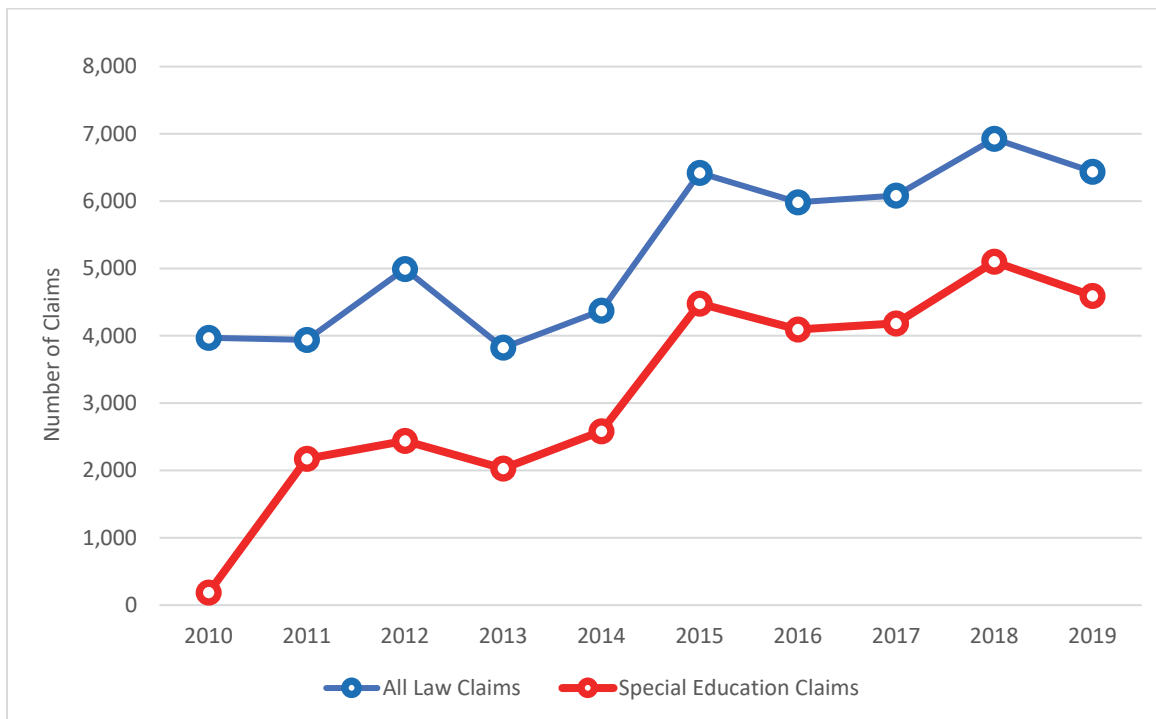
VI. LAW (NON-TORT) CLAIMS

Law (non-tort) claims arise 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 decreased by 491 claims or eight percent to 6,436 in FY 2019 from 6,927 in FY 2018. This decrease in the number of law claims filed is primarily due to a dip in the number of special education claims filed. Special education claims account for 86 percent of law claims filed in FY 2019 and over the years has driven the number of law claims filed.

Chart 16
Comparison of Special Education Claims Filed to All Law Claims Filed
FYs 2010–2019

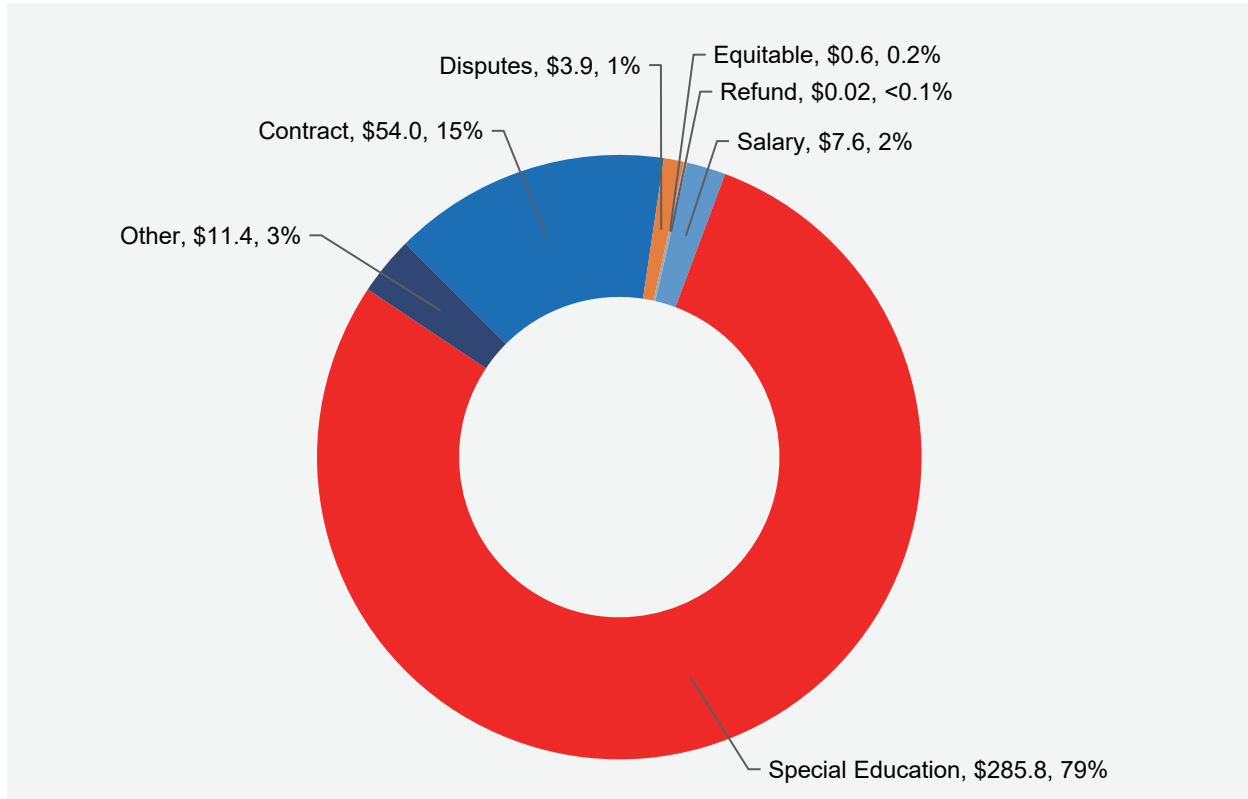


The total number of law claims settled in FY 2019 decreased five percent to 5,341 claims from 5,617 claims settled in FY 2018. The total cost of settlements paid out for law claims decreased nine percent to \$363.2 million in FY 2019 from \$400.9 million in FY 2018.¹³

The number of special education claims settled in FY 2019 represents 80 percent of all law claims settled. The cost of special education claim settlements in the amount of \$285.8 constitutes 79 percent of all law claim payouts in FY 2019.

In FY 2019, contract claims accounted for the second largest payout of law claims at \$54.0 million, representing 15 percent of all law claim payouts. Notably, the total number of contract claim settlements make up only half of a percent of the total number of law claim settlements.

Chart 17
Law Claims by Claim Type
Amount Paid in Settlements & Judgments (Millions)
and Percentage of Law Claim Settlements & Judgments Paid
FY 2019



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’ fees¹⁴ where an underlying claim for special education reimbursement has been successful.

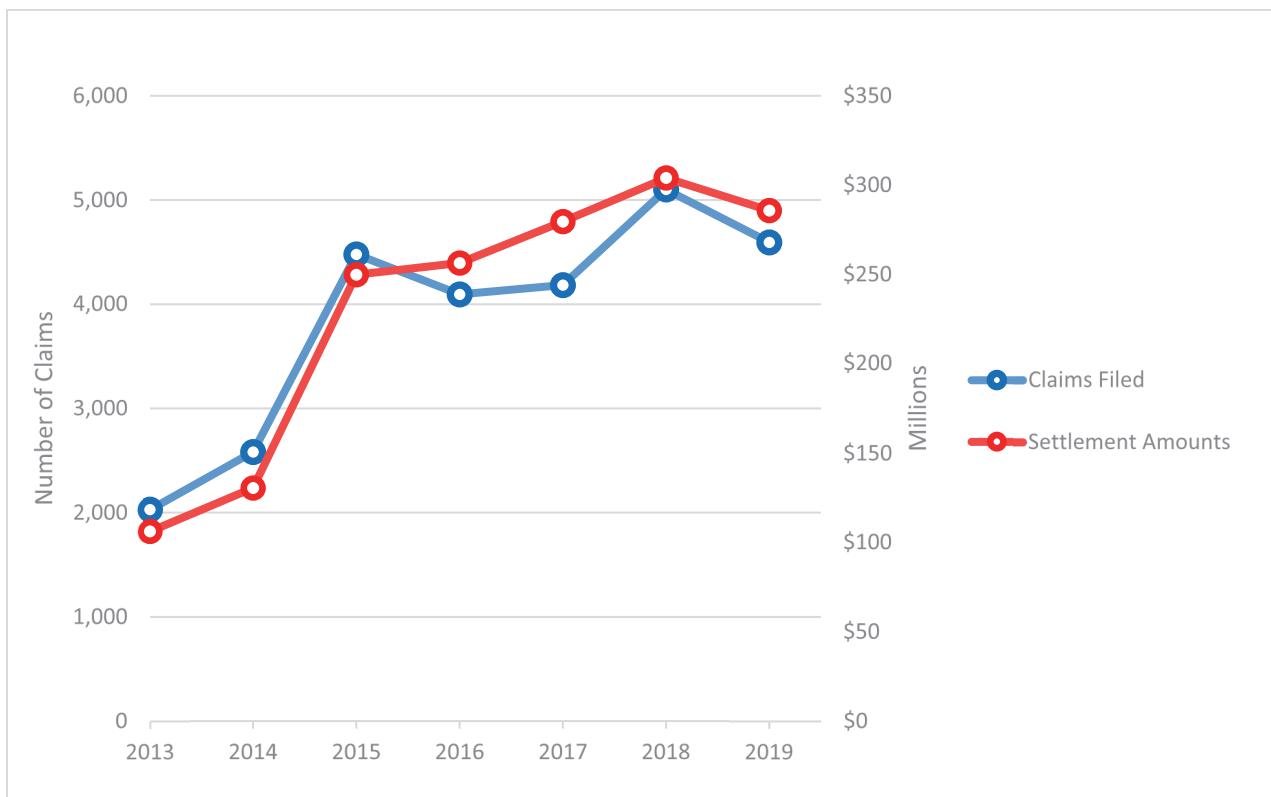
In June 2014, the City launched the “fast track” process to address claims for costs and tuition payments from parents of students requiring special education services. Following the launch of the “fast track” process, the Comptroller’s Office noted a sharp rise in the number of special education claims filed and settled in FY 2015. The number of special education claims filed and settled in FY 2019 continues to reflect a drastic increase over pre-“fast track” claim numbers. In FY 2019, there were 4,593 special education claims filed, compared to 2,029 claims filed in FY 2013, an increase of 126 percent, and 2,582 claims filed in FY 2014, an increase of 78 percent. A year-to-year comparison of special education claims filed shows a 10 percent decrease in special education claims filed in FY 2019 over FY 2018, while still reflecting a 10 percent

increase in the number of claims filed in FY 2017, and a 12 percent increase over the number of claims filed in FY 2016.

The total number of special education claims settled in FY 2019 decreased by seven percent to 4,254 from the 4,590 claims settled in FY 2018. Despite the year to date decrease in number of claims settled, here, too, these special education claim settlements represent a marked increase of settlements when compared to pre-“fast track” numbers: a 131 percent increase over the 1,841 special education claims settled in FY 2013 and a 91 percent increase over the 2,223 claims settled in FY 2014.

Finally, the amount of settlements paid out for special education claims decreased by six percent, with \$285.8 million paid out on special education claims during FY 2019 as compared to \$304.0 million paid out in FY 2018. The special education claim settlement payouts in FY 2019 were 169 percent greater than the \$106.2 million paid out on special education claims in FY 2013 and 119 percent greater than the \$130.5 million paid out on special education claims in FY 2014.

Chart 18
Special Education Claims Filed and Settled
FYs 2013–2019



Contract Claims

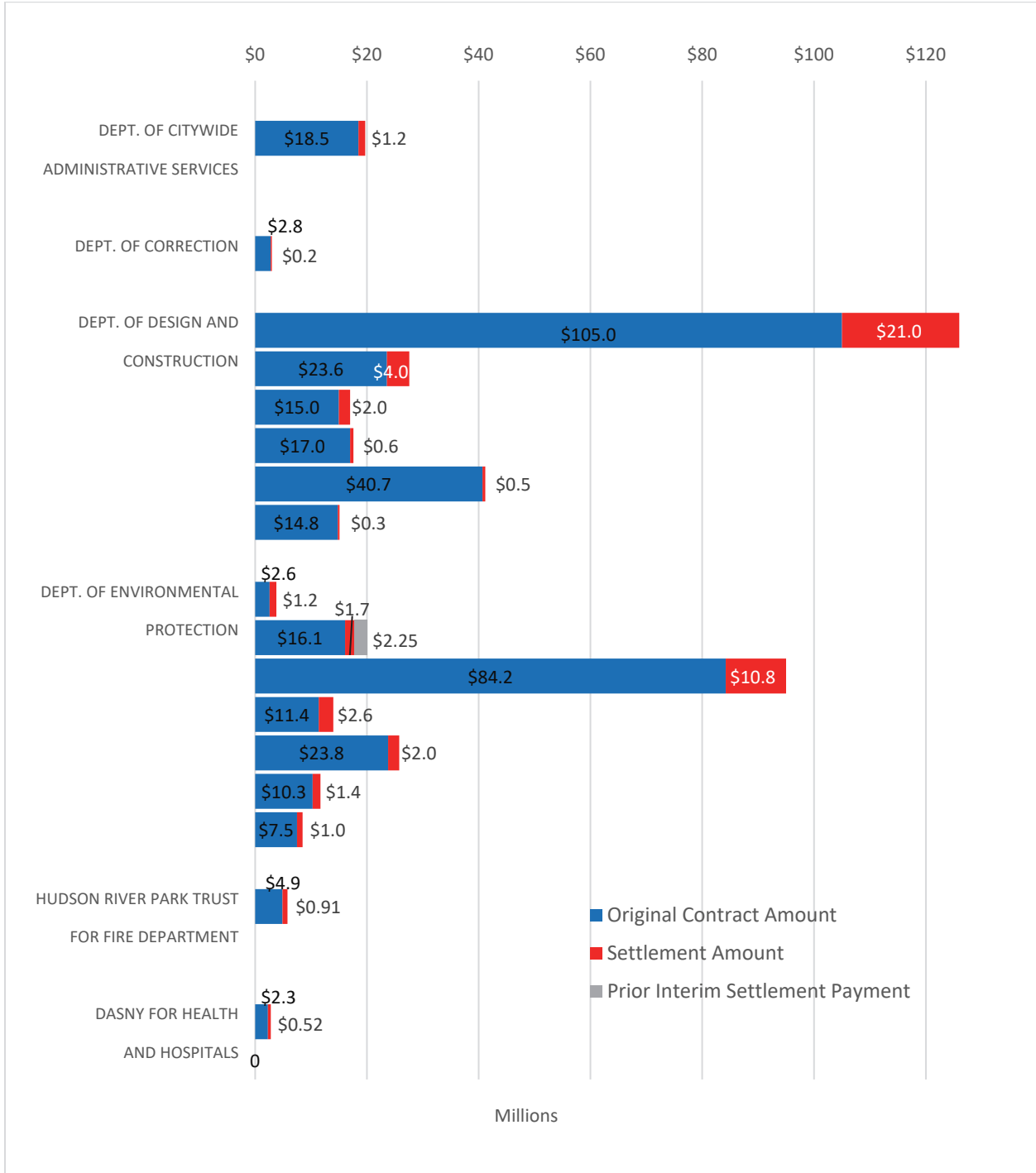
Contract claims arise when there is a disagreement between the City and private contractors (construction or non-construction) that is not subject to a dispute resolution process. The number of contract claims filed in FY 2019 increased 19 percent to 102 claims from 86 claims filed in FY 2018. While the number of contract claim settlements increased four percent to 26 contract claims settled in FY 2019 from 25 contract claims settled in FY 2018, there was a 12 percent decrease in FY 2019 to \$54.0 million paid out for contract claim settlements from \$61.1 million in FY 2018.

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 2019, 17 delay claims settled, accounting for 65 percent of the 26 contract claims settled. The \$51.7 million paid out on these 17 delay claim settlements make up 96 percent of the \$54.0 million in settlements paid out for all contract claims in FY 2019. The negotiated cost of these settlements represents an adjustment of \$68.9 million, or 57 percent, from the amount of damages initially claimed by contractors. In FY 2019, delay claim settlements increased the overall cost of the projects to the City by 13 percent over the original contract prices.

Of the 17 delay claims settled in FY 2019, seven of those claims arose out of contracts with the Department of Environmental Protection (DEP). These seven DEP claims alleged damages totaling \$53.7 million, which the City was able to negotiate and settle for \$20.7 million. This represents an adjustment of 62 percent of the initial claimed damages. Another six delay claims arose out of contracts with the Department of Design and Construction (DDC). The six DDC claims alleged damages totaling \$58.4 million, which the City was able to negotiate and settle for \$28.3 million, an adjustment of 51 percent of the claimed damages.

Chart 19
Delay Claim Settlements:
Cost Increase Above Original Contract Bid Price
FY 2019



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 may attempt to resolve it directly with the City agency involved. If no agreement 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 2019, 96 dispute claims were filed, an increase of nine percent over the 88 claims filed in FY 2018. In FY 2019, 43 dispute claims were negotiated and settled for a total of \$3.9 million. This represents a 49 percent decrease in the amount paid out on dispute claims from the \$7.5 million paid out on 25 dispute claims settled in FY 2018.¹⁵

Affirmative Claims

Affirmative claims are those 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 2019, the Comptroller's Office approved settlement of 936 affirmative claims for a benefit to the City of \$24.4 million, as compared to FY 2018, when 871 affirmative claims were settled for \$19.7 million. The FY 2019 affirmative claims recovery was \$4.7 million or 24 percent greater than the amount recovered in FY 2018. In part, this increase is due to a settlement with a major shipping company based on its knowing shipment of cigarettes into New York State and City, allowing retailers and consumers to avoid taxes. Under the settlement, the defendant paid more than \$35.3 million to the State and City—the City received \$8.9 million—and agreed to implement various measures to ensure future compliance with the law.

Civil penalty claims are a subcategory of affirmative claims wherein the City seeks monetary penalties for violations of civil code violations such as housing or building code violations, the sale of untaxed cigarettes, and the creation of other public nuisances. In FY 2019, the City recovered civil penalties in the amount of \$3.9 million on 591 claims, down from \$4.0 million recovered in civil penalties on 531 claims in FY 2018.

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 injuries as a result of alleged defects in a street or roadway, such as potholes; cracked, wet, or snow-covered roadways; sewer gratings; raised, missing, or exploding manhole covers; or roadways under repair.

C. SIDEWALK

Sidewalk claims include pedestrians or others claiming injury because of an allegedly defective sidewalk such as, broken or uneven sidewalks; broken curbstones; protruding bolts, grates, 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 to 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 injuries 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 City-owned vehicles 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 injuries.

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 that they were injured by an alleged defect in or the negligent maintenance of City-owned land, or a City-owned or City-administered building or facility.

M. CATASTROPHE

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, race, religion, disability, sexual orientation, 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 injuries 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 a fall 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 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.¹⁶

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.”¹⁷ 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.¹⁸ 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 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.¹⁹ 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.²⁰

The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.²¹ The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.²² 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.²³ 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.²⁴

APPENDIX C

Top Ten Tort Claims Adjudicated in FY 2019

Decedent plaintiff, a DSNY employee, while working in a sanitation garage, was fatally crushed by a mechanical broom operated by a co-worker. After trial, the jury returned a \$41.5 million verdict, which settled after post-verdict motion practice, but with appeals pending. Settlement of \$17.5 million.

Plaintiff, a 22-year-old male, was traveling on the Jackie Robinson Parkway when a tree struck and crushed his vehicle. Plaintiff suffered serious injuries resulting in paralysis. Settlement of \$11.0 million.

Claimant was convicted of a 1987 rape and robbery in Brooklyn. After serving nearly 30 years in prison, the King's County District Attorney's Office joined claimant's motion to vacate the conviction. The Court vacated claimant's conviction in December 2017. Claimant filed a wrongful conviction claim against the City, which settled pre-litigation. Settlement of \$9.75 million

Plaintiff, a DSNY employee, had his left foot rolled over by his co-worker operating a recycling truck, resulting in severe injury and required a below the knee amputation. Claimant's wife also asserted a derivative action. Settlement of \$8.0 million.

In 1991, Detective Louis Scarcella arrested claimant, then 17 years old, and another suspect, in the shooting of two correction officers in Brooklyn. A jury convicted claimant of felony murder and assault and he was sentenced to 25 years to life. After serving 24 years in prison, claimant's motion to vacate the conviction was granted. The King's County District Attorney's Office appealed the decision, but the Appellate Division affirmed the lower court's decision to vacate the conviction. The claimant was not retried. Claimant filed a wrongful conviction claim, which settled pre-litigation. Settlement of \$6.7 million.

Plaintiff, a 47-year-old male, was treated at Coney Island Hospital for an intracranial hemorrhage. A medical malpractice action commenced by plaintiff's guardian alleged negligent monitoring and timely management of plaintiff's care and treatment. Plaintiff suffered significant brain damage, requiring life-long nursing home care. Settlement of \$6.0 million

NYPD officers pursued a suspect's vehicle through a Brooklyn neighborhood. Plaintiff and his wife, who also sued the City, were sitting on lawn chairs listening to music on their porch when the suspect lost control of his SUV and drove into plaintiff's yard. Plaintiff suffered serious injuries to his lower body and receives continued medical treatment. Settlement of \$6.0 million.

Claimant, and co-defendants, were convicted of a 1995 robbery and murder inside a Brooklyn housing project. In 2017, the King's County District Attorney's Office joined claimant's application to vacate the conviction after claimant spent more than 21 years in prison. Claimant filed a wrongful conviction claim against the City, which settled pre-litigation. Settlement of \$5.75 million.

Plaintiff, an off-duty police officer, sued the City alleging excessive force, false arrest, and other related claims. The jury returned a \$15.2 million verdict. The case settled after post-verdict motion practice, which resulted in a reduced verdict. Settlement of \$5.0 million.

Plaintiff, a 34-year-old pedestrian crossing mid-block, was struck by an NYPD vehicle driving the wrong way on a one-way street. Plaintiff underwent multiple surgeries for injuries sustained to her spine and knees. The case went to verdict and the jury awarded plaintiff \$4.79 million. The case settled post-verdict, after the Court denied plaintiff's motion to increase the verdict. Settlement of \$4.79 million.

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APPENDIX E Detailed Tables

Table I – Number of Tort Claims Filed by Claim Type FYs 2010–2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Personal Injury										
Sidewalk	2,278	2,502	2,012	2,041	2,530	2,560	2,389	2,344	2,299	2,269
Police Action	3,960	4,521	5,536	5,583	5,643	4,929	4,486	4,104	4,193	3,612
School	1,023	1,078	1,060	927	965	926	960	859	781	695
Motor Vehicle	1,347	1,307	1,379	1,187	1,259	1,164	1,226	1,264	1,434	1,339
Roadway	1,053	1,115	948	882	1,003	964	1,045	944	929	1,038
City Property	9,171	1,105	562	534	683	652	708	567	747	622
Correction Facility	1,188	1,183	1,595	1,657	2,242	2,797	3,664	3,836	3,890	3,750
Civil Rights	2,685	3,079	2,788	2,785	2,933	2,748	2,333	1,720	1,536	1,435
Medical Malpractice	652	611	624	604	587	630	621	536	474	482
Traffic Control Device	109	76	108	126	77	79	62	41	64	79
Parks & Recreation	226	273	285	270	278	298	306	259	233	205
Uniformed Services Employee	165	163	151	151	162	159	169	165	186	177
Other	739	887	766	784	884	845	776	783	899	975
Total	24,596	17,900	17,814	17,531	19,246	18,751	18,745	17,422	17,665	16,678
Property Damage										
Motor Vehicle	3,969	4,723	3,188	3,322	3,682	3,432	3,895	3,582	3,617	3,421
Public Buildings and Property	131	135	90	310	260	201	162	138	133	177
Correction Facility	442	309	397	263	318	354	286	301	245	213
City Personnel	1,309	1,734	1,349	1,346	962	1,045	1,264	1,151	1,170	1,035
Roadway	2,333	2,806	1,218	1,036	2,844	2,240	1,585	1,333	1,397	1,219
Health Facility	126	103	96	120	140	122	108	150	85	78
Police Action	309	378	365	362	341	302	226	230	203	187
School	179	182	144	107	128	89	100	119	93	111
Sewer Overflow	188	205	668	602	613	452	110	140	153	153
Water Main	194	153	238	108	240	155	112	140	194	193
Other	242	273	261	272	244	270	302	286	333	389
Total	9,422	11,001	8,014	7,848	9,772	8,662	8,150	7,570	7,623	7,176
Grand Total	34,018	28,901	25,828	25,379	29,018	27,413	26,895	24,992	25,288	23,854

**Table II – Number of Tort Claims Filed by Agency
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Department of Transportation	5,999	6,337	4,669	4,446	6,305	5,636	5,204	4,769	4,814	4,698
Police Department	8,019	8,805	9,439	9,447	9,497	8,428	7,592	6,555	6,484	5,848
Department of Sanitation	2,123	3,455	1,307	1,692	2,412	2,302	2,168	2,072	1,805	1,514
Department of Education	1,833	1,603	1,566	1,416	1,418	1,415	1,435	1,360	1,231	1,188
NYC Health + Hospitals	909	858	844	935	872	908	886	807	690	652
Department of Environmental Protection	700	738	1,357	996	1,123	884	512	539	598	636
Department of Correction	1,949	1,798	2,351	2,188	2,912	3,471	4,338	4,437	4,436	4,241
Department of Parks & Recreation	1,101	1,405	1,094	1,048	872	885	1,057	949	1,057	948
Fire Department	921	1,041	891	931	944	950	1,011	1,005	1,185	1,094
Department of Housing Preservation and Development	82	71	68	74	66	51	64	60	56	91
NYC Human Resources Administration	78	68	88	99	83	81	81	66	88	70
Department of Buildings	955	75	82	61	52	77	57	55	78	48
Other	9,349	2,647	2,072	2,046	2,462	2,325	2,490	2,318	2,766	2,826
Total	34,018	28,901	25,828	25,379	29,018	27,413	26,895	24,992	25,288	23,854

**Table III - Dollar Amount of Tort Claim Settlements & Judgments by Claim Type
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Personal Injury										
Sidewalk	34,904,412	38,426,098	39,473,806	36,752,110	34,463,430	39,562,496	32,130,333	52,258,980	47,204,716	38,843,530
Police Action	56,798,953	60,237,524	54,334,625	62,913,191	71,948,087	119,413,941	100,659,673	163,725,447	117,727,840	95,172,889
School	35,066,262	42,937,426	25,786,181	24,003,498	24,649,687	32,961,557	28,487,695	32,133,436	27,983,111	32,876,231
Motor Vehicle	63,433,038	83,878,791	70,520,942	85,306,916	88,515,029	67,373,114	89,881,694	107,958,905	117,252,484	105,432,600
Roadway	27,742,588	19,453,578	25,717,847	33,134,170	13,708,374	15,371,910	31,479,503	39,260,615	40,519,601	36,562,296
City Property	14,176,063	18,841,199	8,395,091	5,465,500	21,797,000	4,931,000	21,504,554	10,405,949	9,495,007	6,726,475
Correction Facility	5,025,429	8,504,000	7,833,193	7,312,301	7,323,835	13,185,550	15,680,251	16,853,929	24,250,851	24,701,935
Civil Rights	80,940,455	83,998,422	78,200,352	56,030,608	114,503,798	94,339,034	157,746,324	155,174,772	100,225,464	94,648,489
Medical Malpractice	131,238,636	131,818,033	108,993,419	130,298,906	118,479,990	144,418,243	104,306,575	104,113,232	93,979,259	95,589,405
Traffic Control Device	2,883,300	3,206,350	2,396,000	1,292,315	7,594,500	604,000	2,459,000	296,500	4,274,250	467,000
Parks & Recreation	7,965,906	7,102,606	12,047,375	20,328,830	14,032,709	6,125,524	8,479,633	5,814,220	13,934,452	10,300,944
Uniformed Services Employee	41,971,283	31,039,500	20,404,000	17,452,882	27,998,500	33,439,000	26,117,500	50,820,225	40,097,500	58,500,500
Other	10,979,970	9,228,394	21,677,145	6,460,359	13,522,259	3,569,893	12,165,985	6,870,507	15,178,405	4,459,446
Total	513,126,296	538,671,920	475,779,976	486,751,585	558,537,196	575,295,263	631,098,720	745,686,716	652,122,940	604,281,739
Property Damage										
Motor Vehicle	5,877,567	8,180,339	6,038,833	5,586,990	7,403,408	5,162,942	5,207,672	5,742,582	4,826,259	5,610,200
Public Buildings and Property	8,569	2,815,834	162,524	375,969	67,962	16,554	90,069	55,125	156,406	18,364
Correction Facility	1,551	18,301	18,225	13,061	2,220	665	8,475	4,426	7,757	4,419
City Personnel	873,332	1,171,735	959,898	972,132	1,494,155	731,826	404,378	398,011	361,961	432,389
Roadway	288,777	423,961	215,726	140,124	192,379	215,029	537,552	137,114	101,307	53,461
Health Facility	19,648	13,037	13,191	18,376	27,144	6,299	13,370	12,303	12,247	10,608
Police Action	513,676	140,899	170,059	388,101	102,697	71,487	56,155	34,639	38,643	18,639
School	24,157	12,454	10,063	4,581	10,110	9,014	4,083	4,758	3,319	1,268
Sewer Overflow	383,619	792,808	775,242	546,357	712,861	7,224,105	1,650,663	1,562,963	1,505,856	474,017
Water Main	2,142,514	1,577,070	3,183,273	314,365	294,175	344,127	1,437,349	553,610	304,180	712,118
Other	13,819	97,826	12,118	9,483	25,425	9,390	23,843	2,159,380	329,713	127,494
Total	10,147,229	15,244,263	11,559,151	8,369,538	10,332,536	13,791,438	9,433,608	10,664,911	7,647,649	7,462,977
Grand Total	523,273,524	553,916,183	487,339,128	495,121,123	568,869,733	589,086,701	640,532,328	756,351,627	659,770,589	611,744,716

**Table IV – Dollar Amount of Tort Claim Settlements & Judgments by Agency
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Department of Transportation	\$75,615,727	\$68,928,149	\$69,589,115	\$74,591,194	\$71,356,361	\$52,787,842	\$70,423,571	\$86,617,468	\$93,067,147	\$79,442,950
Police Department	\$137,589,773	\$186,288,403	\$152,778,932	\$138,537,141	\$229,846,207	\$225,459,487	\$280,064,261	\$338,213,819	\$237,384,069	\$220,148,933
Department of Sanitation	\$38,020,148	\$28,858,968	\$36,815,516	\$30,446,682	\$37,886,076	\$29,772,440	\$44,859,303	\$57,692,961	\$77,341,397	\$70,657,416
Department of Education	\$36,922,943	\$52,952,012	\$28,586,746	\$34,312,977	\$27,318,549	\$36,207,285	\$34,010,281	\$34,588,593	\$30,577,232	\$36,630,041
NYC Health + Hospitals	\$135,595,599	\$133,617,485	\$108,692,285	\$132,352,195	\$124,887,221	\$121,067,960	\$113,930,458	\$111,034,495	\$94,937,158	\$93,465,312
Department of Environmental Protection	\$7,857,296	\$8,071,431	\$5,628,320	\$3,372,170	\$13,182,950	\$18,795,525	\$7,281,361	\$8,444,589	\$10,673,355	\$12,348,455
Department of Correction	\$43,580,956	\$15,403,975	\$20,308,756	\$11,767,521	\$11,103,116	\$27,144,858	\$32,903,230	\$35,594,041	\$32,250,306	\$36,386,266
Department of Parks & Recreation	\$16,104,444	\$17,673,228	\$18,942,785	\$29,564,344	\$18,365,734	\$13,830,277	\$11,710,274	\$16,638,393	\$20,472,214	\$17,617,919
Fire Department	\$20,007,262	\$16,231,360	\$28,485,774	\$19,665,971	\$20,426,695	\$46,684,903	\$16,428,652	\$45,277,732	\$24,993,727	\$18,998,345
Department of Housing Preservation and Development	\$5,126,366	\$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
NYC Human Resources Administration	\$411,481	\$1,308,134	\$1,582,741	\$1,050,063	\$1,008,192	\$970,799	\$1,756,131	\$620,453	\$1,046,699	\$788,477
Department of Buildings	\$112,152	\$2,941,818	\$218,006	\$377,908	\$157,901	\$268,913	\$2,966,514	\$1,386,120	\$77,225	\$1,282,894
Other	\$6,329,377	\$16,583,865	\$13,556,083	\$18,527,507	\$10,625,510	\$14,132,287	\$13,342,448	\$19,434,858	\$31,848,728	\$20,696,667
Total	\$523,273,524	\$553,916,183	\$487,339,128	\$495,121,123	\$568,869,733	\$589,086,701	\$640,532,328	\$756,351,627	\$659,770,589	\$611,744,716

**Table V – Number of Tort Claim Settlements & Judgments by Claim Type
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Personal Injury										
Sidewalk	922	866	855	685	658	662	664	756	546	514
Police Action	1,301	1,539	1,751	2,106	2,250	2,276	2,480	2,528	2,498	2,315
School	822	899	725	657	527	478	546	298	293	247
Motor Vehicle	895	823	830	724	668	585	662	660	608	569
Roadway	512	547	511	417	366	334	370	317	288	289
City Property	107	113	93	61	70	38	88	65	50	47
Correction Facility	195	266	309	255	378	451	637	804	1,045	1,213
Civil Rights	1,281	1,656	1,687	1,559	2,047	1,682	1,354	1,019	839	649
Medical Malpractice	315	265	261	268	204	244	240	186	208	170
Traffic Control Device	38	32	28	22	30	20	14	11	13	14
Parks & Recreation	137	155	173	164	151	135	172	82	99	89
Uniformed Services Employee	117	84	106	76	95	121	111	116	113	85
Other	86	78	81	62	69	51	65	51	80	35
Total	6,728	7,323	7,410	7,056	7,513	7,077	7,403	6,893	6,680	6,236
Property Damage										
Motor Vehicle	2,495	3,216	2,254	2,135	2,379	1,897	1,917	1,761	1,678	1,783
Public Buildings and Property	10	16	20	19	39	6	62	17	8	7
Correction Facility	5	21	11	12	5	3	5	5	8	5
City Personnel	352	329	374	354	408	284	163	147	169	178
Roadway	306	437	208	117	197	287	88	112	72	49
Health Facility	33	25	23	22	40	17	16	14	22	12
Police Action	45	45	48	48	35	26	18	15	11	11
School	83	55	47	26	35	35	15	16	13	9
Sewer Overflow	50	88	60	115	144	650	104	47	47	20
Water Main	77	94	62	51	51	38	68	42	46	55
Other	16	8	7	6	10	6	7	158	19	6
Total	3,472	4,334	3,114	2,905	3,343	3,249	2,463	2,334	2,093	2,135
Grand Total	10,200	11,657	10,524	9,961	10,856	10,326	9,866	9,227	8,773	8,371

**Table VI – Number of Tort Claim Settlements & Judgments by Agency
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Department of Transportation	1,942	1,975	1,711	1,376	1,400	1,384	1,192	1,251	963	952
Police Department	3,573	4,116	4,358	4,521	5,051	4,440	4,254	4,078	3,803	3,425
Department of Sanitation	1,376	2,103	1,302	1,045	1,426	1,134	1,186	963	960	891
Department of Education	960	992	809	731	611	558	600	359	341	307
NYC Health + Hospitals	419	345	338	337	315	313	359	254	272	226
Department of Environmental Protection	284	373	283	300	292	794	284	326	223	163
Department of Correction	365	441	464	387	534	601	841	956	1,192	1,335
Department of Parks & Recreation	375	391	427	428	392	353	355	285	268	259
Fire Department	642	596	508	586	585	508	490	504	491	492
Department of Housing Preservation and Development	30	35	26	17	14	11	22	13	14	13
NYC Human Resources Administration	24	14	20	21	18	20	28	20	21	19
Department of Buildings	16	20	25	17	17	12	11	21	8	12
Other	194	256	253	195	201	198	244	197	217	277
Total	10,200	11,657	10,524	9,961	10,856	10,326	9,866	9,227	8,773	8,371

**Table VII – Number of Law Claims Filed by Claim Type
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Affirmative	669	857	769	876	914	1,128	1,048	1,131	1,055	1,088
Contract	149	183	179	217	131	152	152	151	86	102
Disputes	96	100	141	157	177	117	172	120	88	96
Equitable	17	18	7	10	6	4	11	13	15	13
Refund	138	168	768	168	223	182	157	132	133	127
Salary	83	86	347	86	91	94	95	69	75	86
Special Education	185	2,172	2,439	2,029	2,582	4,479	4,094	4,184	5,101	4,593
Other	2,632	355	342	281	250	264	253	284	374	331
Total	3,969	3,939	4,992	3,824	4,374	6,420	5,982	6,084	6,927	6,436

**Table VIII – Number of Law Claim Settlements & Judgments by Claim Type
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Affirmative	614	858	753	861	899	1,111	1,015	986	871	936
Contract	26	18	28	27	26	22	34	31	25	26
Disputes	47	30	35	30	44	45	62	37	38	43
Equitable	8	12	8	3	2	6	2	5	5	3
Refund	10	15	23	580	14	18	20	9	12	7
Salary	17	4,418	21	19	23	286	30	23	20	22
Special Education	540	2,086	2,366	1,841	2,223	4,067	3,772	3,969	4,590	4,254
Other	2,301	45	46	41	28	38	46	44	56	50
Total	3,563	7,482	3,280	3,402	3,259	5,593	4,981	5,104	5,617	5,341

**Table IX – Dollar Amount of Law Claim Settlements & Judgments by Claim Type*
FYs 2010–2019**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Contract	\$12,629,562	\$8,997,798	\$21,840,545	\$50,992,338	\$19,573,476	\$44,846,785	\$49,626,492	\$45,886,058	\$61,104,852	\$53,989,101
Disputes	\$4,509,068	\$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
Equitable	\$661,072	\$394,391	\$1,311,758	\$446,904	\$76,576	\$616,256	\$25,143	\$1,142,203	\$416,018	\$613,160
Refund	\$12,404	\$64,960	\$430,935	\$293,817	\$116,834	\$697,973	\$14,207,059	\$59,594	\$1,089,853	\$16,588
Salary	\$6,021,876	\$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
Special Education	\$24,946,960	\$105,466,595	\$120,577,708	\$106,243,225	\$130,450,454	\$249,944,721	\$256,403,783	\$279,617,259	\$304,016,159	\$285,793,740
Other	\$116,274,262	\$14,259,856	\$96,580,967	\$4,506,573	\$7,541,036	\$6,734,055	\$38,263,330	\$3,760,839	\$16,511,290	\$11,371,349
Total	\$12,629,562	\$8,997,798	\$21,840,545	\$50,992,338	\$19,573,476	\$371,352,717	\$381,190,529	\$343,295,923	\$400,944,787	\$363,193,240

*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, 2019. 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 2018 Claims Report, which reported data recorded as of December 31, 2018, reflected 8,502 tort claim settlements totaling \$608.5 million. An additional 271 tort claims resolved in FY 2018 were recorded as of December 31, 2019, growing tort claims settled in FY 2018 to 8,773 and totaling \$659.8 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 H+H operates 11 acute care hospitals.
- ⁹ 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.
- ¹⁰ Personal injury and property damage claims are analyzed by borough based on location of incident. Some notices of claim are filed without borough specific information or allege incidents that occurred outside the five boroughs. Law claims are not tracked by borough. Population statistics do not take into account commuters or tourists.
- ¹¹ The United States Census Bureau estimated as of July 1, 2019 the total population for New York City was 8,336,817 residents. In order of population the boroughs are: Brooklyn (2,559,903 or 30.7 percent of the total population); Queens (2,253,858 or 27.0 percent of the total population); Manhattan (1,628,706 or 19.5 percent of the total population); Bronx (1,418,207 or 17.2 percent of the total population); and Staten Island (476,143 or 5.7 percent of the total population). Statistics do not take into account commuters and tourists.
- ¹² Rounded to the nearest whole claim.
- ¹³ 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.
- ¹⁴ 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.
- ¹⁵ 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.
- ¹⁶ *Bernadine v. City of New York*, 294 N.Y. 361, 365 (1945).
- ¹⁷ *Id.*
- ¹⁸ Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.
- ¹⁹ 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/>).
- ²⁰ 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.
- ²¹ City Charter, Chapter 5, § 93(i).

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- ²² 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.
- ²³ 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.
- ²⁴ City Charter, Chapter 17, § 394(c).





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