

CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER

# **CLAIMS REPORT**

**Fiscal Years 2007-2008**

**WILLIAM C. THOMPSON, JR.**  
COMPTROLLER

March 2009

# Claims Report Table of Contents

I.	EXECUTIVE SUMMARY .....	1
II.	OVERVIEW OF COMPTROLLER'S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES .....	5
III.	CLAIMS TRENDS .....	10
	• PERSONAL INJURY .....	12
	1. Medical Malpractice Claims .....	16
	2. Defective Sidewalk Claims .....	21
	3. Motor Vehicle Accident Claims .....	23
	4. Civil Rights Claims .....	24
	5. School Claims .....	25
	6. Uniform Services Claims .....	26
	7. Police Action Claims .....	28
	• PROPERTY DAMAGE.....	29
	• LAW CLAIMS.....	30
IV.	CLAIMS TRENDS BY AGENCY.....	31
	1. Health and Hospitals Corporation .....	37
	2. Department of Transportation .....	39
	3. Police Department .....	41
	4. Department of Education .....	43
	5. Sanitation Department .....	45
V.	CLAIMS TRENDS BY BOROUGH .....	46
APPENDICES		
A:	Description of Claim Types.....	50
B:	Legal Background.....	61
C:	Detailed Tables.....	63
D:	Summary of the 10 Largest Tort Settlements/Judgments for Fiscal Year 2008 .....	64
E:	Additional Charts Depicting Claim Activities .....	65
F:	FY 2008 Chart Index .....	67

## I. EXECUTIVE SUMMARY

Under the New York City Charter, the Comptroller is responsible for settling and adjusting claims for and against the City.<sup>1</sup> For Fiscal Year (“FY”) 2001, at the beginning of the Comptroller’s first term, the City paid out \$588.6 million dollars in settlements and judgments (tort and non-tort).<sup>2</sup> The cases ranged from trip and fall to medical malpractice, police actions, property damage and contract claims. In FY 2008, the City paid out \$567.9 million dollars in settlements and judgments, a less than two percent increase over the \$558.3 million paid in FY 2007.

This report provides a comprehensive examination of data regarding claims filed against the City in FY 2008 and analyzes recent claim trends. The settlement of claims and payment of judgments continues to cost New York City more than half a billion dollars annually. As part of an aggressive effort to contain settlement costs, the Comptroller’s Office has adopted a number of strategies, including the use of new technologies, to settle claims earlier and reduce overall costs.

The Office is using innovative approaches such as Cybersettle -- an internet-based settlement tool that matches monetary offers between claimants and the City -- and has successfully piloted the use of data-mining techniques to anticipate claim outcomes.

---

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

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

The development of a geographically-based data-mining initiative has allowed the Office to identify claims activity by locality, and better track and analyze trends.

The Comptroller's Office also has strengthened its efforts to collect funds owed by individuals who have caused damage to City property. The Property Damage Affirmative Claims unit collected more than \$1.2 million in FY 2008. The Office will continue to expand its efforts to ensure that money owed to the City is collected. In addition, through the Comptroller's Recovery Program, more than \$8 million was collected in FY 2008 from claimants with outstanding obligations to the City and/or their families.

The early settlement of meritorious claims continues to be a cornerstone of this administration's handling of claims against the City. Early settlement results in savings to the City due to the avoidance of costly litigation and unpredictable outcomes. The fair and early disposition of any claim where liability is clear yields substantial savings to taxpayers in future litigation and settlement or judgment costs. By settling claims early, the City saved nearly \$30 million in settlement costs in FYs 2007 and 2008.

The New York City Health and Hospitals Corporation ("HHC"), the Police Department ("NYPD") and the Department of Transportation ("DOT") are the three agencies that consistently are responsible for the highest total dollar amounts paid by the City in judgments and settlements. In fact, these three agencies accounted for approximately 61 percent of the total claims payout in FY 2008. However, since FY 2001, HHC has

focused on risk and litigation management with impressive results.<sup>3</sup> The number of claims against HHC has dropped 17 percent over this period. During the same period (FY 2001 - FY 2008), claims against the NYPD increased by 32 percent.

Medical malpractice remains an area of particular concern, as these claims continue to represent the largest payouts made by the City. However, efforts by HHC have resulted in a decrease in overall filings from a high of 889 in FY 2000 to 696 in FY 2008, the second lowest number of filings in ten years. Settlement costs have also decreased significantly. In FY 2003, the City paid a ten-year high of \$195.4 million for medical malpractice claims. In contrast, the City paid \$145.3 million in FY 2008, the second lowest payout in the last ten years.

Another area of concern are claims filed against the NYPD. In FY 2008, a historical high of 6,274 claims were filed involving NYPD activities. The NYPD has seen the number of claims rise 22 percent over the last ten years.

The Comptroller has long advocated that agencies be held fiscally accountable for their own claims and that HHC's success in this area may be replicated in other agency operations. The Comptroller proposes using aspects of the HHC strategy to create a pilot program for certain agencies to be held fiscally accountable for claim costs. Both

---

<sup>3</sup> One likely reason that HHC has been especially successful in containing claim costs is that, unlike every other agency, HHC is responsible for its own claim costs. As a result, HHC has invested in risk management initiatives, handles the litigation of their own claims and carefully monitors incidents and practices that would give rise to claim activity.

DOT and/or the Department of Education (“DOE”) would likely benefit significantly from such a program.

By creating financial incentives to hold claim activity and costs down, a pilot DOT and/or DOE program should result in reasonable decreases in the number of claims filed and amounts paid out within three to five years.

Although claims costs and the number of claims filed against the City will vary year to year, use of innovative settlement approaches, risk reduction techniques and vigilant oversight should continue to help drive down the City’s costs.

The following report presents an overview of the three categories of claims filed (Personal Injury, Property Damage, and Law Claims) and their costs for the ten-year period from FY 1999 through FY 2008.<sup>4</sup>

Section III focuses on activities in FY 2008 and compares them to FY 2007 claims data.

Sections IV and V present trends in personal injury claims, separated by claim type, agency and borough. Personal injury claims are analyzed separately because they account for the greatest cost and largest number of new claims filed.

---

<sup>4</sup> The Comptroller’s Office maintains claims data on its Omnibus Automated Image Storage and Information System (OASIS). Because of the time lag between when settlements occur and when settlements and other updates are entered into the system, the data may not include all claims against the City that ultimately will be settled and attributed to a particular year. For the purpose of this report, "settlement and judgment costs," "liabilities," "expenditures" or "amounts paid" will be used interchangeably with "recorded settlements and judgments."

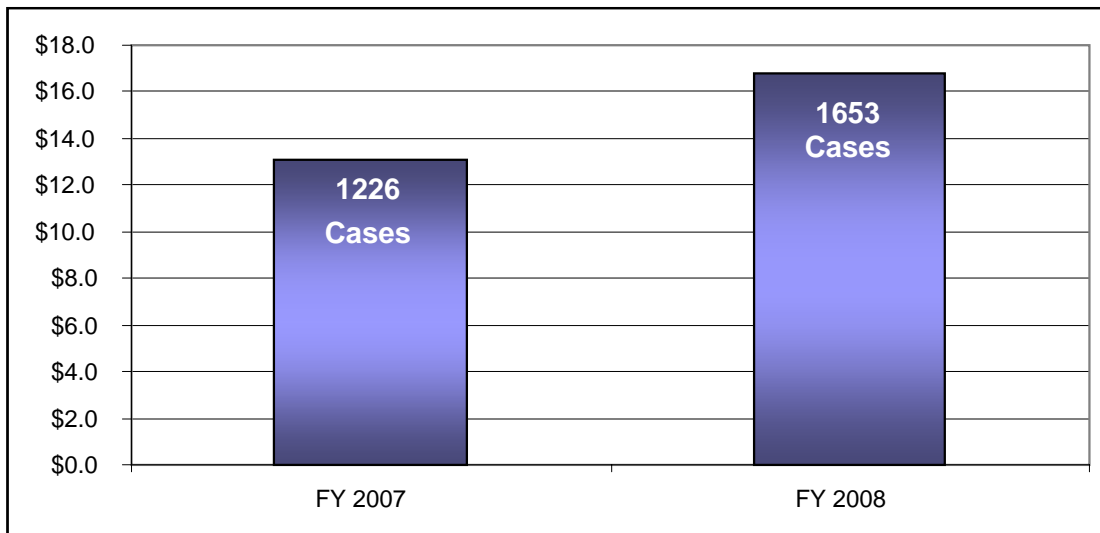
## II. OVERVIEW OF COMPTROLLER’S INITIATIVES TO MANAGE RISK AND IMPLEMENT BEST PRACTICES

**Pre-Litigation Settlement:** In FY 2008, the Comptroller’s Office settled 1,653 personal injury claims prior to litigation. The office has employed a number of techniques to increase the number of pre-litigation settlements, including investigating and settling claims early and introducing technology to allow early investigation and negotiation of claims. This effort saved the City approximately \$16.8 million in settlement costs in FY 2008 and \$13.1 million in FY 2007.

In FY 2008, the average pre-litigation settlement was \$11,853, whereas the average settlement for similar claims once litigation commenced was \$21,577. In FY 2007, the average pre-litigation settlement was \$11,430, whereas the average settlement for similar claims once litigation commenced was \$19,835.

**Chart 1**

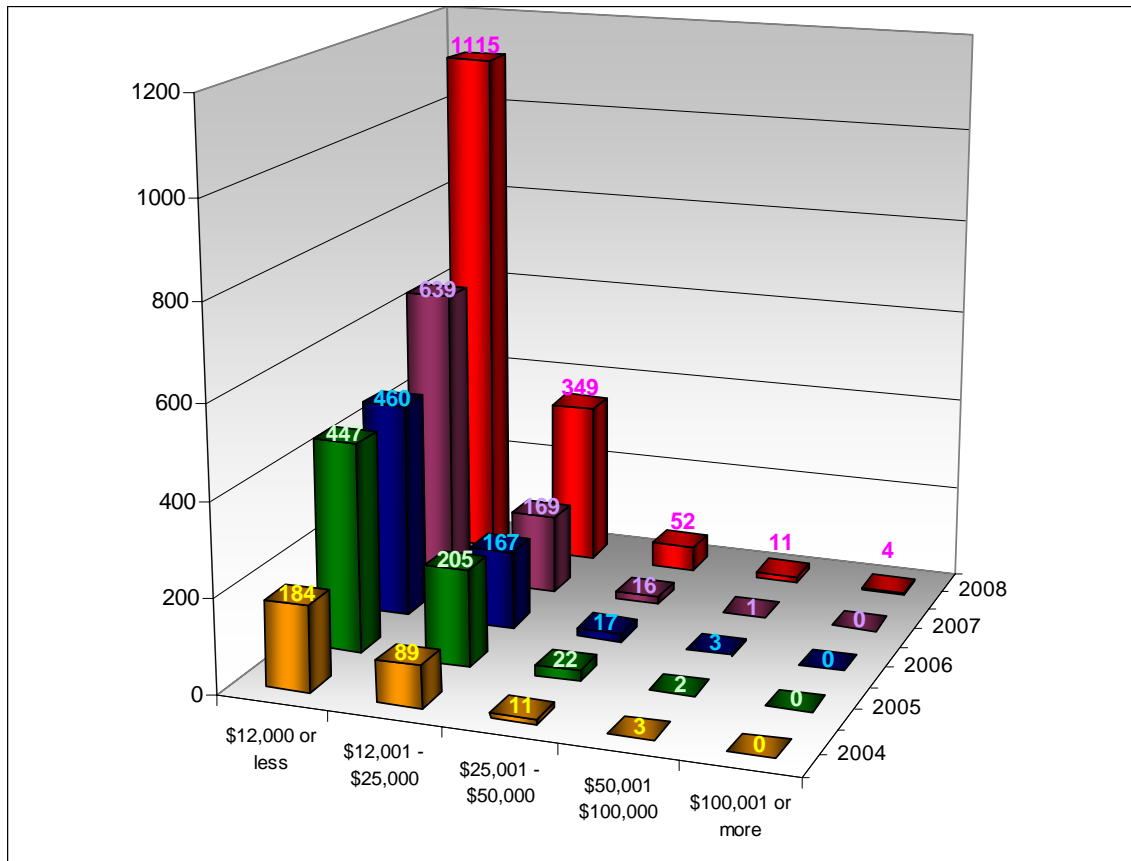
**Pre-Litigation Personal Injury Settlements**



Cybersettle provides claimants another avenue to settle claims against the City without engaging in costly and extended litigation. From February 2004 through June 30, 2008, the Comptroller’s Office has utilized Cybersettle, an internet-based settlement tool that uses a double-blind negotiation process. During that time, the Office has settled 3,966 personal injury and property damage claims using this technology. In 2007, Government Technology Magazine and the New York City Department of Information Technology and Telecommunications recognized the Comptroller’s Office use of Cybersettle as the most innovative use of technology in City government.

**Chart 2**

**Number of Cybersettlements by Fiscal Year and Settlement Ranges**





<b>Cybersettle Overview</b>						
	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>Inception to Date</b>
<b>Total Settlements</b>	<b>287</b>	<b>676</b>	<b>647</b>	<b>825</b>	<b>1,531</b>	<b>3,966</b>
<b>Total Dollar Value (Millions)</b>	<b>\$3.4</b>	<b>\$7.5</b>	<b>\$6.2</b>	<b>\$6.3</b>	<b>\$14.7</b>	<b>\$38.1</b>
<b>Average Settlement Amount</b>	<b>\$11,530</b>	<b>\$11,136</b>	<b>\$9,438</b>	<b>\$7,636</b>	<b>\$9,651</b>	<b>\$9,607</b>
<b>Cybersettlements by Claim Category</b>						
	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>Inception to Date</b>
<b>Automobile</b>	<b>38</b>	<b>63</b>	<b>37</b>	<b>42</b>	<b>246</b>	<b>426</b>
<b>Other Personal Injury</b>	<b>8</b>	<b>50</b>	<b>105</b>	<b>94</b>	<b>283</b>	<b>540</b>
<b>School</b>	<b>123</b>	<b>266</b>	<b>224</b>	<b>218</b>	<b>315</b>	<b>1,146</b>
<b>Sidewalk</b>	<b>118</b>	<b>297</b>	<b>155</b>	<b>144</b>	<b>333</b>	<b>1,047</b>
<b>Property Damage</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>126</b>	<b>327</b>	<b>354</b>	<b>807</b>
<b><i>Total</i></b>	<b>287</b>	<b>676</b>	<b>647</b>	<b>825</b>	<b>1,531</b>	<b>3,966</b>
<b>Cybersettlements (in millions) by Claim Category</b>						
	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>Inception to Date</b>
<b>Automobile</b>	<b>\$0.3</b>	<b>\$0.6</b>	<b>\$0.3</b>	<b>\$0.3</b>	<b>\$1.8</b>	<b>\$3.3</b>
<b>Other Personal Injury</b>	<b>\$0.1</b>	<b>\$0.4</b>	<b>\$1.0</b>	<b>\$0.8</b>	<b>\$4.5</b>	<b>\$6.8</b>
<b>School</b>	<b>\$1.5</b>	<b>\$3.2</b>	<b>\$2.7</b>	<b>\$2.8</b>	<b>\$4.1</b>	<b>\$14.3</b>
<b>Sidewalk</b>	<b>\$1.5</b>	<b>\$3.3</b>	<b>\$1.9</b>	<b>\$1.7</b>	<b>\$3.6</b>	<b>\$12.0</b>
<b>Property Damage</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>\$0.3</b>	<b>\$0.7</b>	<b>\$0.7</b>	<b>\$1.7</b>
<b><i>Total</i></b>	<b>\$3.4</b>	<b>\$7.5</b>	<b>\$6.2</b>	<b>\$6.3</b>	<b>\$14.7</b>	<b>\$38.1</b>

**Recovery Program:** In FY 2008, the Comptroller's Office collected \$8.4 million from claimants with outstanding obligations to the City and those individuals having child support orders. By improving both manual and automated City systems and by working closely with City agencies -- particularly with the Human Resources Administration -- the Office was able to collect outstanding public assistance, parking tickets, and child support obligations from claimants who received settlements from the City.

**Property Damage Affirmative Claim Expansion Efforts:** The Comptroller's Office continues to expand efforts to collect money from individuals who have damaged City property. In FY 2000, the Office of the Comptroller collected nearly \$522,000 in affirmative claims,<sup>5</sup> mainly for damages caused to NYPD vehicles. As a result of the Comptroller's efforts in this area, \$1,217,000 in affirmative claims were collected in FY 2008. This represents an increase of 233 percent in affirmative claim collections since FY 2000.

**Fraud Unit:** As with any other claim-related insurance entity that adjusts claims, a certain percentage of claims filed in the Comptroller's Office may be assumed to be fraudulent.

This Office has created a Fraud Division and established a Fraud Hotline number (212 - 669-4747). Further, training in fraud identification has been provided to the Office's

---

<sup>5</sup> An affirmative claim is a claim brought by the City to collect for damage or harm done to City property.

claims examiners. The Fraud Unit not only interacts with claims staff, but also with the City's Law Department and Department of Investigation to investigate claims that may be fraudulent. Through the education of the public and promotion of anti-fraud campaigns, the Unit's goal is to reduce the filing of fraudulent claims.

Since the Fraud Unit's creation in FY 2003, more than 74 cases were found to have some element of fraud associated with them and, as a result, over \$2 million in claim costs have been saved. Fraud activity has ranged from false allegations regarding location and/or cause of claimed injuries to claims for damages that had already been paid by another party.

The Comptroller's Office plans to expand its ability to detect fraud by employing data - mining technology to uncover unusual claim patterns and activity.

**Next Generation OASIS (NGO):** The Comptroller's Office has embarked on an ambitious program to significantly enhance the capabilities of its document management and automated workflow system (OASIS) that supports claims administration. Using state-of-the-art technology, the NGO project will provide the office, agencies and the public unparalleled access to claim information that will result in more efficient claims investigation and processing. The new system will be launched in FY 2009.

### **III. CLAIMS TRENDS**

In FY 2008, 26,798 new claims were filed, which represented the second highest number of new claim filings since 1999. The increase in filings appears to be due to a large number of property damage claims filed as a result of two storms that caused significant sewer overflow-related damage. Notably and despite the overall increase, the number of personal injury claims filed for the year was the second lowest in the last ten years. Since personal injury payouts generally represent 90 percent of total claim costs and property damage payments generally constitute only three percent of total claim payments, the decrease in personal injury claims is much more significant in terms of claims liability than the increase in property damage claim filings.

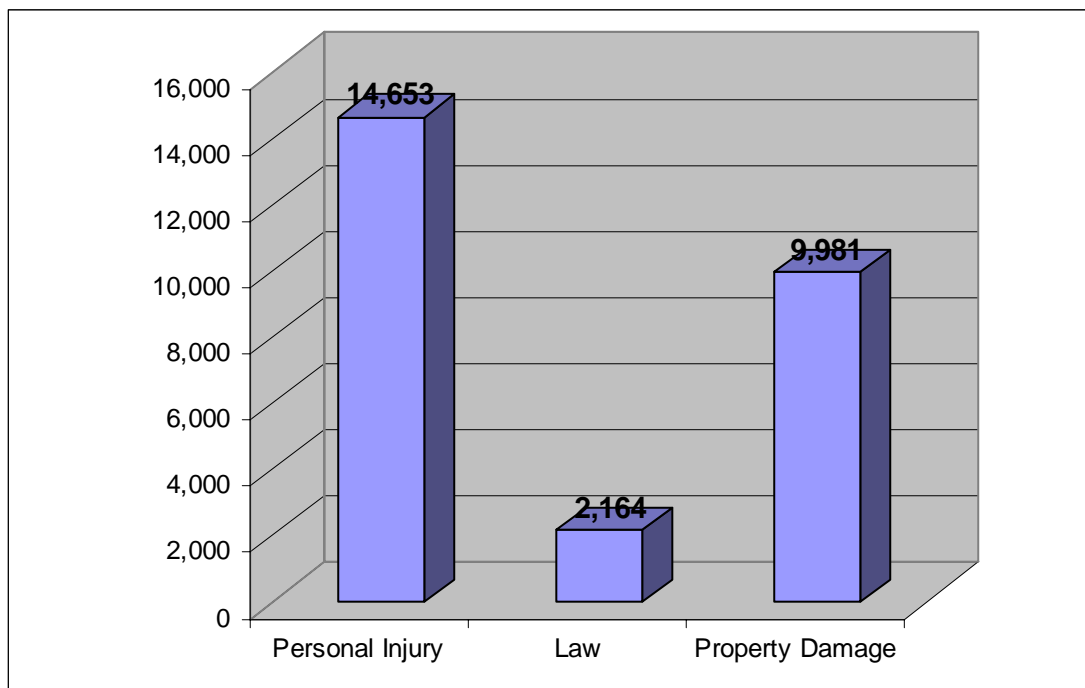
The number of new claims filed in FY 2007 was 27,565, the highest number in the last ten fiscal years. The high number of new claims filed during FY 2007 was due to the unprecedented filing of new claims related to the injuries claimed by those working at or near the World Trade Center site after the terrorist attack of September 11, 2001. Over 4,000 World Trade Center-related claims were filed in FY 2007, accounting for 15 percent of new claims filed. If these extraordinary cases were eliminated from the number of new claims filed for the year, filings for FY 2007 would have the lowest number of new claim filings over the past ten years.

The overall cost to the City in settlements and claims was \$567.9 million in FY 2008. This represents an increase of less than two percent from the cost of claims in FY 2007 (\$558.3 million), but a decline from the historic high of \$588.6 million in FY 2001.

Claims are divided into three main categories: personal injury, property damage and law claims.<sup>6</sup>

**Chart 3**

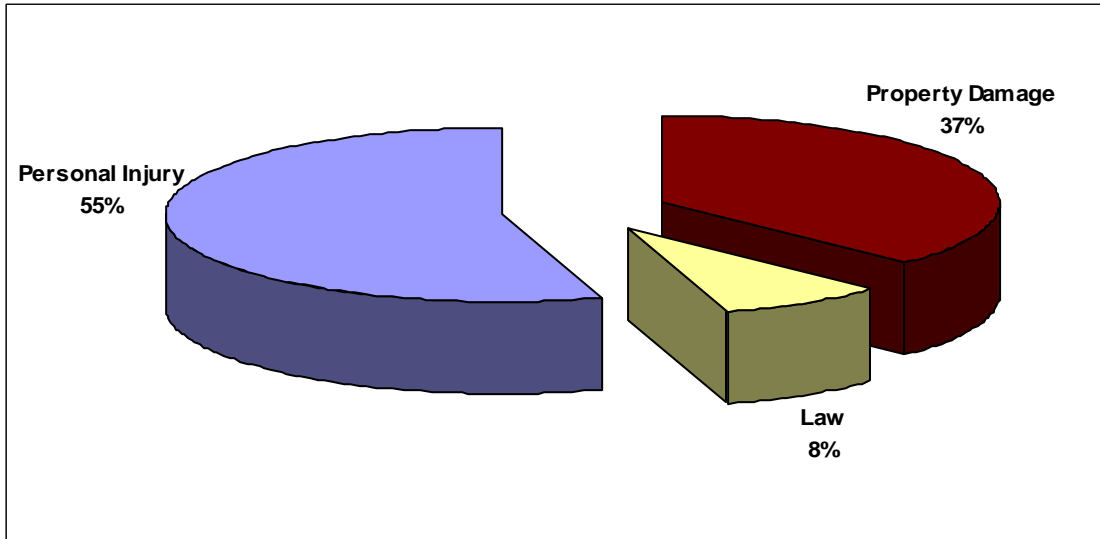
**Number of Claims Filed by Category  
Fiscal Year 2008**



<sup>6</sup> Personal injury claims include allegations of bodily injury and/or civil rights violations. Property damage claims include allegations of damage to property such as damage to motor vehicles and other physical assets. Law claims include allegations filed by City contractors or City employees as a result of contractual disputes, as well as claims filed by private individuals seeking refunds for alleged overpayments of various items such as taxes or fines.

**Chart 4**

**Percentage of Claims Filed by Category  
Fiscal Year 2008**



**PERSONAL INJURY CLAIMS**

Personal injury claims are the most frequently filed each year and the most costly in total to resolve. Personal injury claims include medical malpractice, sidewalk, motor vehicle, police action, schools and defective roadway claims.

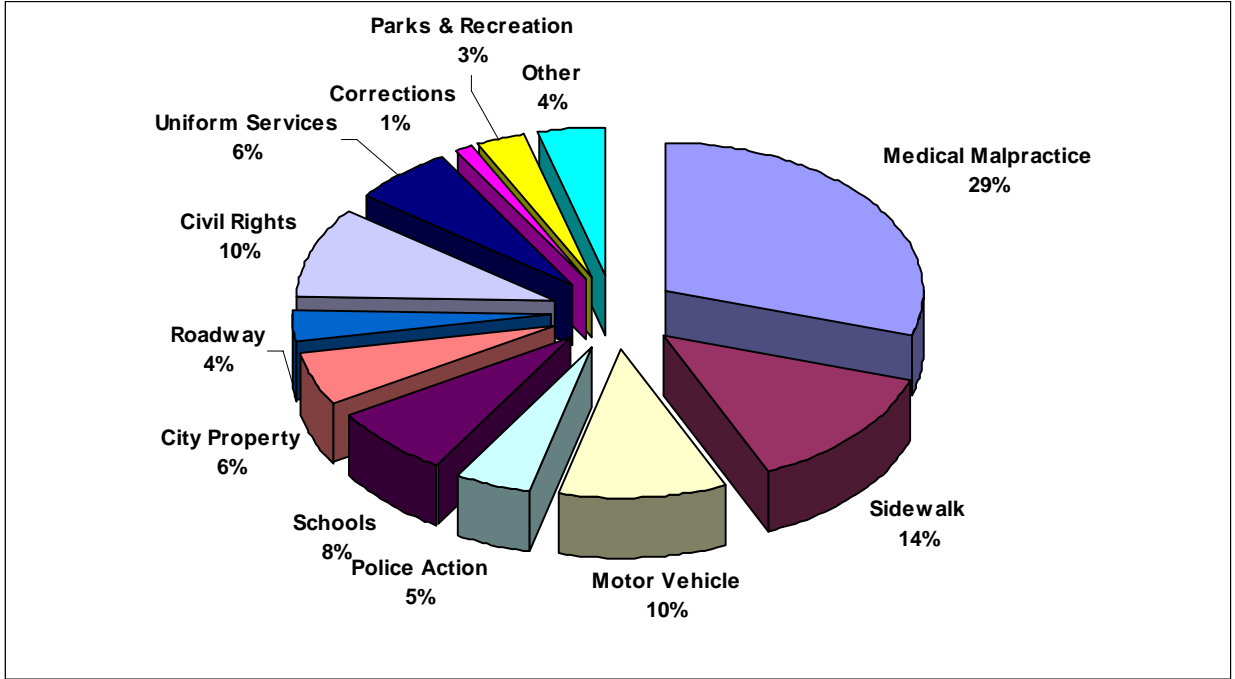
- Personal injury claims accounted for \$513.7 million, or 90 percent, of the \$567.9 million paid in FY 2008. During FY 2007, personal injury claims accounted for \$525.9 million, or 94 percent of the \$558.3 million paid.

- In FY 2008, the costliest personal injury claims category was medical malpractice, which cost the City \$145.3 million. The second costliest category was sidewalk claims, at \$54.0 million. Motor vehicle claim settlements and judgments were the third costliest, at \$53 million. The fourth costliest category was school claims, at \$51.1 million.
- The number of new personal injury claims filed in FY 2008 was 14,653, the second lowest annual total in the last ten years.
- This number represents a 19 percent decrease from FY 2007. This large decrease can be attributed to the 4,038 claims filed in FY 2007 related to the World Trade Center terrorist attack. Fiscal year 2007 would have had the lowest number of new personal injury claims filings during the last ten years, if these claims were excluded from the total number of claims filed.
- The average settlement/judgment for all personal injury cases in FY 2008 was \$74,993, four percent lower than the \$78,387 average paid in FY 2007.
- The number of new property damage claims filed in FY 2008 was 9,981, the highest number of claims filed in the last ten years and 25 percent higher than FY 2007. The increase was mainly due to severe weather conditions resulting in claims for sewer overflows and tree-related damage.

**Chart 5**

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

**2007**



**2008**

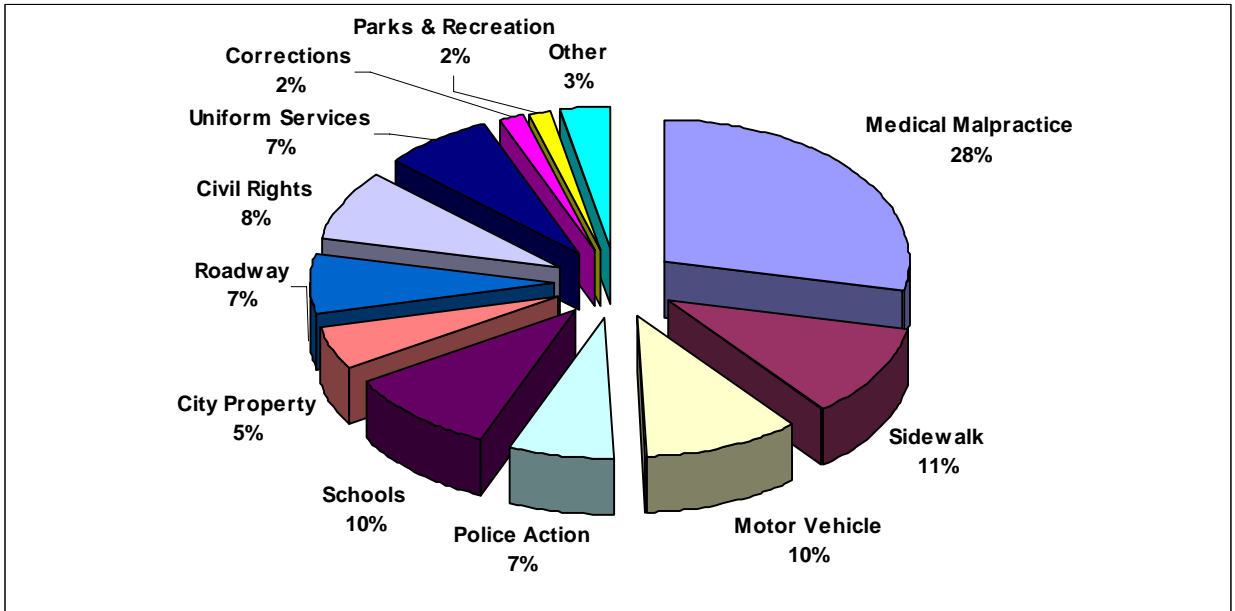
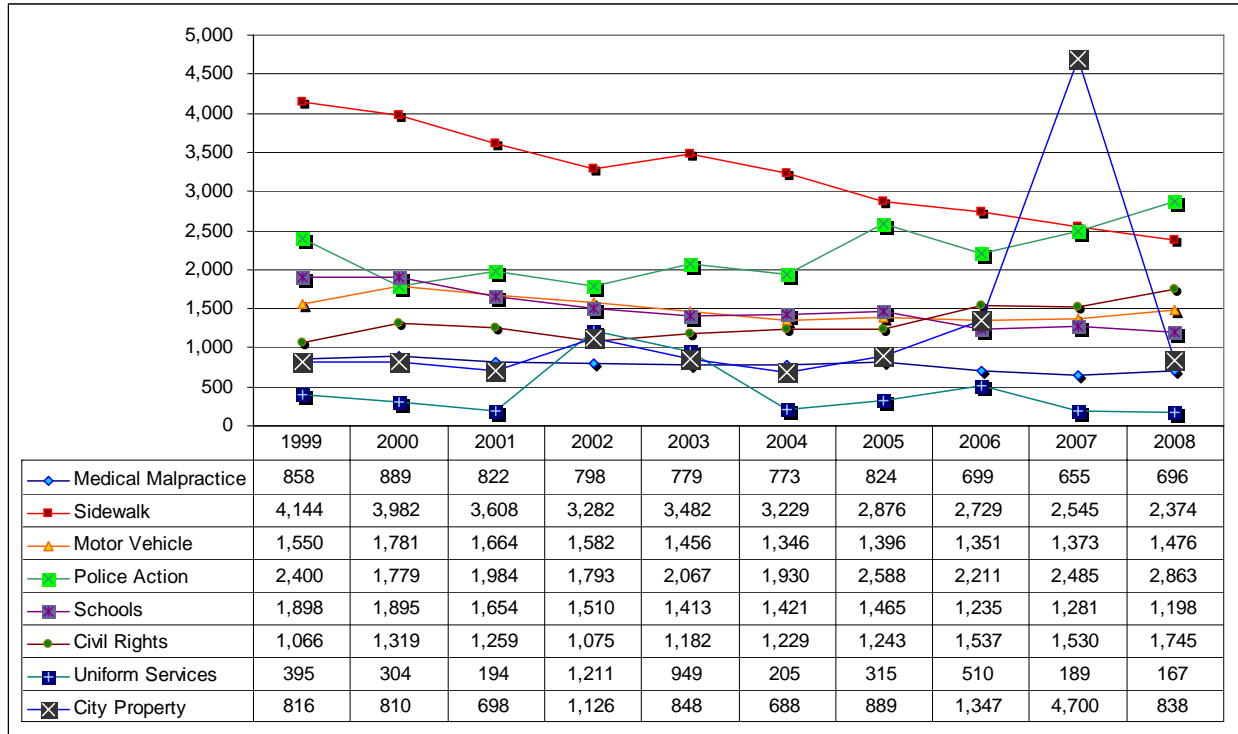




Chart 6<sup>7</sup>

**Personal Injury Claim Types  
FYs 1999 – 2008  
Number of Claims Filed**



<sup>7</sup> As noted previously, the spike in 2007 City Property claims filed can be attributed primarily to the filing of more than 4,000 claims related to the 9/11 World Trade Center terrorist attack.

## 1. Medical Malpractice

Medical malpractice claims are claims filed against the City or an HHC facility that allege malpractice during treatment. Unlike all other City agencies, HHC assumes financial responsibility for medical malpractice liabilities, as well as its general liabilities, up to a “capped limit” set by the Office of Management and Budget. Additionally, for approximately the past two fiscal years responsibility for the litigation of HHC medical malpractice matters has been transferred to HHC from the New York City Law Department.

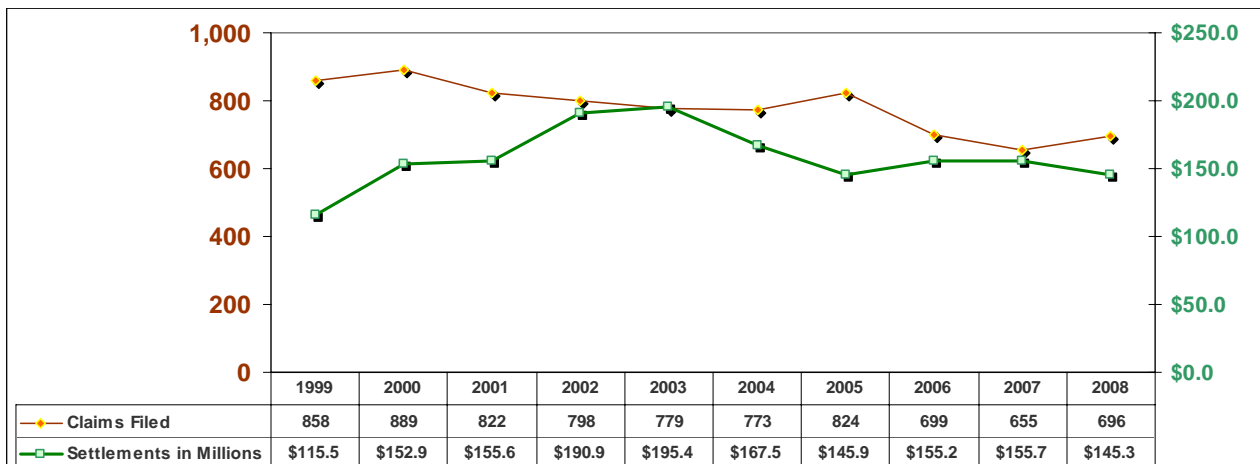
- Although medical malpractice claims comprise a comparatively small percentage of personal injury claims filed, they remain the costliest type of personal injury claim during each of the past ten fiscal years.
- The number of new medical malpractice claims filed in FY 2008 was 696, the second lowest annual number in the last ten years. In FY 2007, the number was 655, the lowest in the last ten years.
- Medical malpractice cases cost HHC \$145.3 million for the 292 cases settled in FY 2008, representing a seven percent decrease from FY 2007, when the cost was \$155.7 million for 296 cases, and below the high of \$195.4 million for FY 2003 representing 345 cases. Medical malpractice claims accounted for 28

percent of the total \$513.7 million paid for personal injury claims in 2008, making them the most expensive of all personal injury claims.

- FY 2007 medical malpractice claims accounted for 29 percent of the total \$525.9 million personal injury payout.

**Chart 7**

**Medical Malpractice  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**



In FY 2008, 88 cases were each resolved for \$1 million or more. Medical malpractice cases accounted for 37 of these high-cost cases.

- The four hospitals for which the City paid the highest total amount for medical malpractice claims in FY 2008 were Kings County (\$20.5 million) Jacobi/Bronx Municipal (\$19.3 million), Lincoln (\$14.7 million), and Bellevue (\$13.0 million).
- Overall, the number of medical malpractice claims filed against HHC's acute care hospital facilities increased by 14 claims from FY 2007 to FY 2008. Five hospitals experienced decreases and five hospitals increases in the number of claims filed in FY 2007 as compared to FY 2008. Bellevue Hospital claim filings remained the same in FY 2007 and 2008.
- Six hospitals experienced increases and five hospitals experienced decreases in medical malpractice payouts from FY 2007 to FY 2008. Among the most significant increases in total medical malpractice payouts by hospital were: Bellevue Hospital (136%), North Central Bronx Hospital (132%), and Kings County Hospital (109%). The hospitals that experienced decreases are: Elmhurst (75%), Woodhull (70%), Metropolitan (66%), Lincoln Hospital (40%) and Jacobi (12%). It should be noted, however, that medical malpractice claims often take five to ten years to resolve. Thus, the number of claims filed is a better indicator of current hospital activity than the dollar amount paid out in any one year.

### HHC MEDICAL MALPRACTICE SETTLEMENT ACTIVITY BY HOSPITAL

Hospital	Number Resolved FY 2007	Amount Paid FY 2007 (millions)	Average Amount Per Claim FY 2007	Number Resolved FY 2008	Amount Paid FY 2008 (millions)	Average Amount Per Claim FY 2008
Bellevue	17	\$5.5	\$324,000	28	\$13	\$464,000
Coney Island	19	\$8.7	\$458,000	18	\$10.3	\$572,000
Elmhurst	26	\$18.1	\$696,000	20	\$4.6	\$230,000
Harlem	15	\$4.2	\$280,000	18	\$6.6	\$367,000
Jacobi / Bronx Municipal	36	\$22.0	\$611,000	35	\$19.3	\$551,000
Kings County	35	\$9.8	\$280,000	42	\$20.5	\$488,000
Lincoln	43	\$24.6	\$572,000	30	\$14.7	\$490,000
Metropolitan	10	\$14.3	\$1,430,000	17	\$4.9	\$288,000
No. Central Bronx	12	\$4.7	\$392,000	14	\$10.9	\$779,000
Queens	15	\$9.6	\$640,000	15	\$11.6	\$773,000
Woodhull	21	\$16.4	\$781,000	15	\$4.9	\$327,000
<b>Total</b>	<b>249</b>	<b>\$137.9</b>	<b>Overall Average \$554,000</b>	<b>252</b>	<b>\$121.30</b>	<b>Overall Average \$481,300</b>

**HHC MEDICAL MALPRACTICE CLAIM FILING ACTIVITY BY HOSPITAL**

<b>Hospital</b>	<b>Claims Filed FY 2007</b>	<b>Claims Filed FY 2008</b>	<b>Increase/ (Decrease)</b>
Bellevue	69	69	0
Coney Island	50	61	11
Elmhurst	50	82	32
Harlem	30	38	8
Jacobi / Bronx Municipal	59	47	(12)
Kings County	97	100	3
Lincoln	69	59	( 10 )
Metropolitan	27	37	10
North Central Bronx	24	19	( 5 )
Queens	36	21	( 15 )
Woodhull	50	42	( 8 )
<b>Total</b>	<b>561</b>	<b>575</b>	<b>14</b>

## 2. Defective Sidewalk Claims

Sidewalk claims arise from alleged defects, such as cracked or uneven surfaces, on public sidewalks. This type of claim includes personal injuries for “trip and fall” accidents resulting from such defects, as well as incidents on snow and ice-covered sidewalks. Legislation enacted in 2003 has limited the City’s liability for injuries due to sidewalk defects.<sup>8</sup>

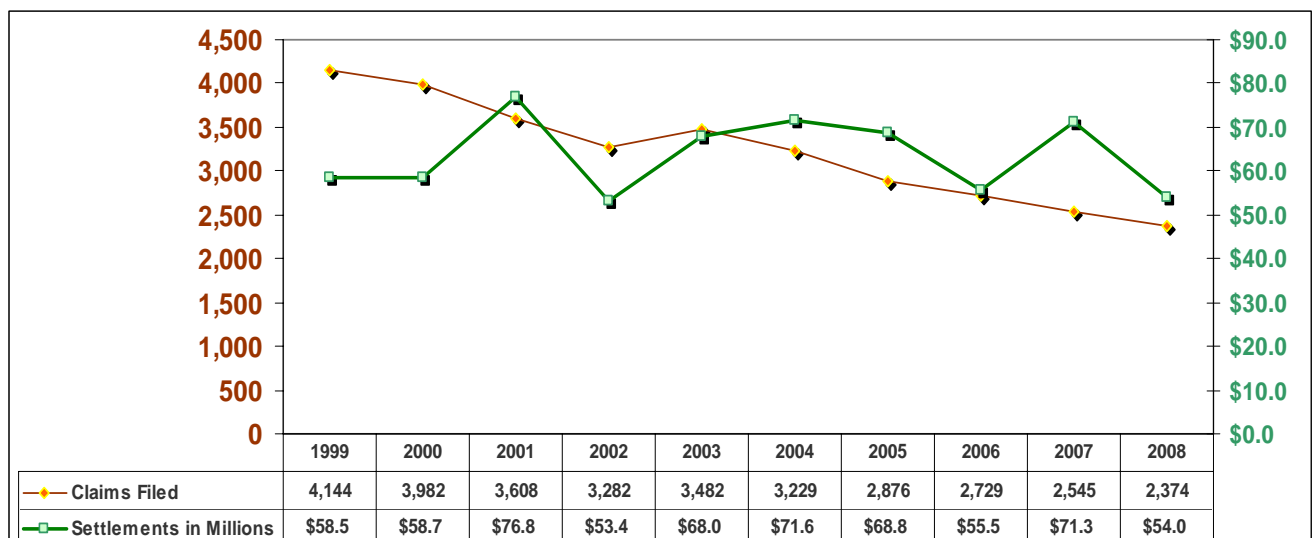
- In FY 2008, 2,374 sidewalk claims were filed against the City, the lowest number of sidewalk claims in ten years. This represents a seven percent decrease from the 2,545 sidewalk claims filed during FY 2007, and a 43 percent decrease from FY 1999 when the City saw a ten-year high of 4,144 filings.
- The total cost of sidewalk claims was \$54 million in FY 2008. This was the second lowest annual payout for sidewalk claims during the last decade. In FY 2007, sidewalk claims cost \$71.3 million.
- During the past ten fiscal years, sidewalk claims were the most frequently filed personal injury claim except for FY 2007 and FY 2008.

---

<sup>8</sup> Local Law 49 (NYC Admin. Code § 7-210) generally limits the City’s liability to sidewalks adjoining City-owned property or to owner-occupied residential property having no more than three units. It became effective in September 2003.

- The Comptroller’s Office disallowed 745 or 31 percent of the 2,374 of the sidewalk claims filed in FY 2008 by virtue of the 2003 legislation.
- Two recent decisions by the New York State Court of Appeals (D’Onofrio v. City of New York and Shaperonovitch v. City of New York) will also limit the City’s exposure for sidewalk injuries in the future. Hand-marked maps submitted by the plaintiffs’ bar as evidence of prior notice to the City of sidewalk defects must clearly detail the location and nature of the specific sidewalk defect that resulted in a claimed injury.

**Chart 8**  
**Sidewalk**  
**1999 - 2008**  
**Number of Claims & Settlements (In Millions)**





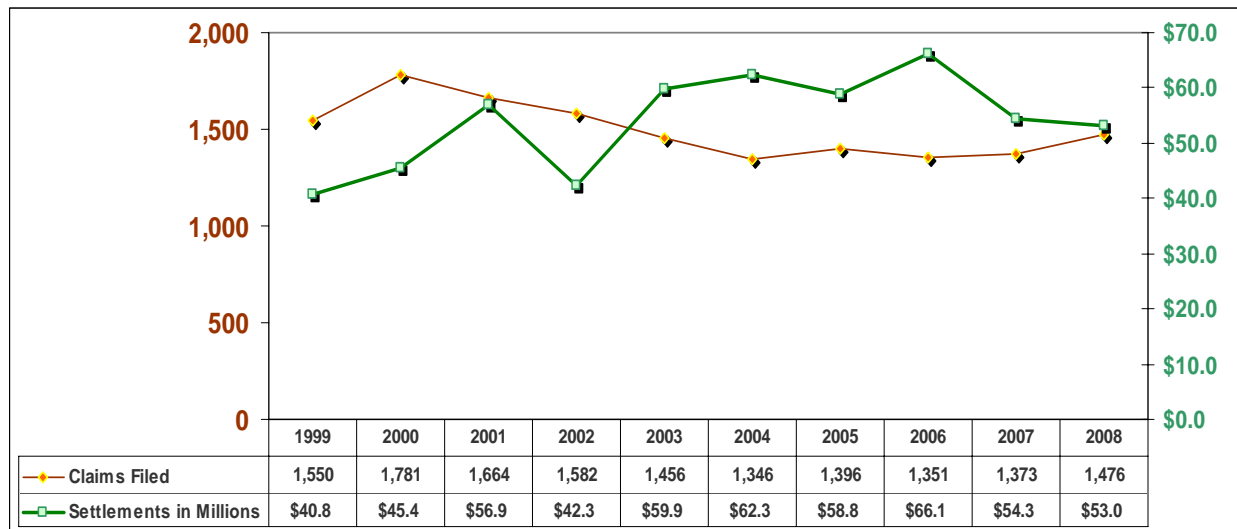
### 3. Motor Vehicle Accident Claims

Motor vehicle accident claims consist of cases involving City vehicles. The number of new personal injury motor vehicle accident claims filed in FY 2008 was 1,476. This represents an increase of eight percent from FY 2007, when 1,373 claims were filed.

- Motor vehicle accident personal injury claims are the fourth most frequently filed personal injury claim.
- Personal injury motor vehicle accident claims cost \$53 million in FY 2008, down from \$54.3 million in FY 2007.

Chart 9

**Motor Vehicle  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**



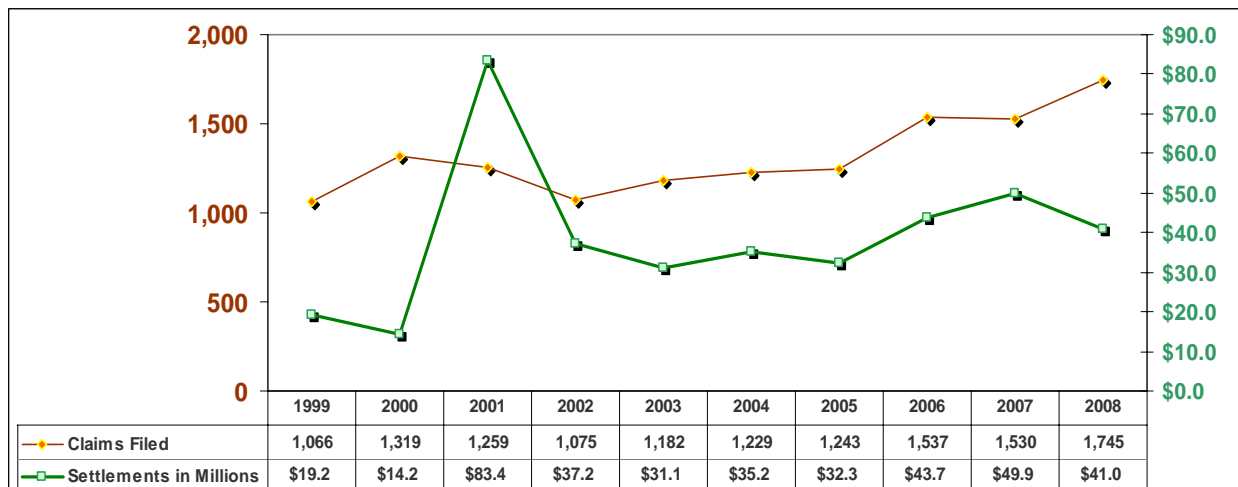
## 4. Civil Rights Claims

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

- There were 1,745 new Civil rights claims filed in FY 2008, a 12 percent increase from the 1,530 claims filed in FY 2007.
- The cost of Civil rights claims was \$41 million in FY 2008, a decrease of 18 percent from \$49.9 million in FY 2007.
- Civil rights claims are the third most frequently filed personal injury claim.

**Chart 10**

**Civil Rights  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**



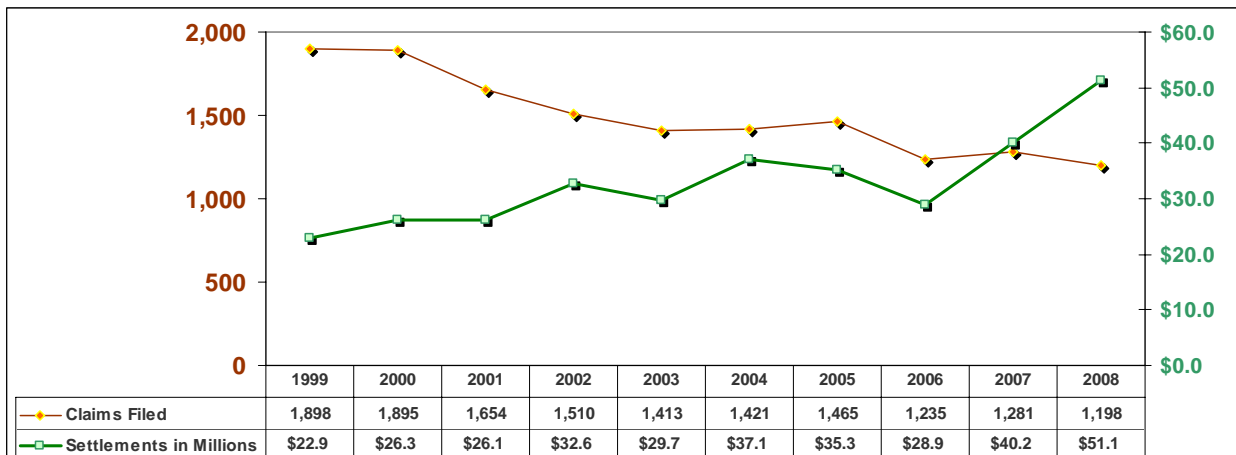
## 5. School Claims

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

- The number of new school claims filed was 1,198 in FY 2008. This was a decrease of six percent from 1,281 claims filed in FY 2007.
  
- The cost of school claims during FY 2008 was \$51.1 million, a 27 percent increase over the \$40.2 million settled in FY 2007. This was the largest amount of settlements for the last ten years.
  
- School claims are the fifth most frequently filed personal injury claim.

**Chart 11**

**Schools  
FYs 1999 – 2008  
Number of Claims Filed & Settlements (In Millions)**



## 6. Uniform Services Claims

Uniform services claims are claims that allege injuries to certain City employees who are not covered by workers' compensation in the event that they are injured on the job. These employees include police officers, firefighters, sanitation workers and teachers. They were the sixth most costliest category of personal injury cases in FY 2008.

- The City was liable for \$37.3 million in settlements and judgments in 117 cases in FY 2008. This liability represents an increase of 11 percent from the \$33.5 million paid in FY 2007 for 105 resolved cases. The average amount of a settlement in FY 2007 was \$319,047 compared to \$318,803 in FY 2008.
- In FY 2008, uniform services cases constituted seven percent of the total number of personal injury settlements and judgments and one percent of the total personal injury expenditure in FY 2008.
- The number of new uniform services claims filed was 167 in FY 2008. This was a decrease of 12 percent from 189 claims filed in FY 2007. FY 2008 represents the lowest number of new uniform services claim filings for the last ten years.

Chart 12

**Uniform Services  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**



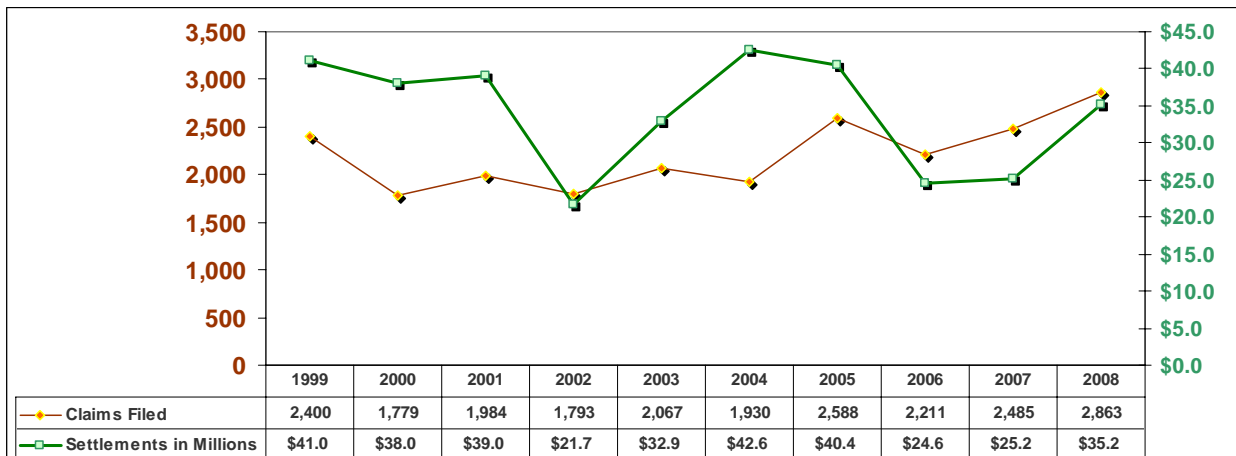
## 7. Police Action Claims

Police action claims result from alleged improper police action such as false arrest, excessive force or assault. Police claims were the most frequently filed claim type in FY 2008.

- There were 2,863 new police action claims filed in FY 2008. This represents an increase of 15 percent from the 2,485 claims filed in FY 2007. FY 2008 represents the largest number of new police action filings during the last ten fiscal years.
- The cost of police action claims was \$35.2 million in FY 2008, an increase of 40 percent from \$25.2 million in FY 2007.

**Chart 13**

**Police Action  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**



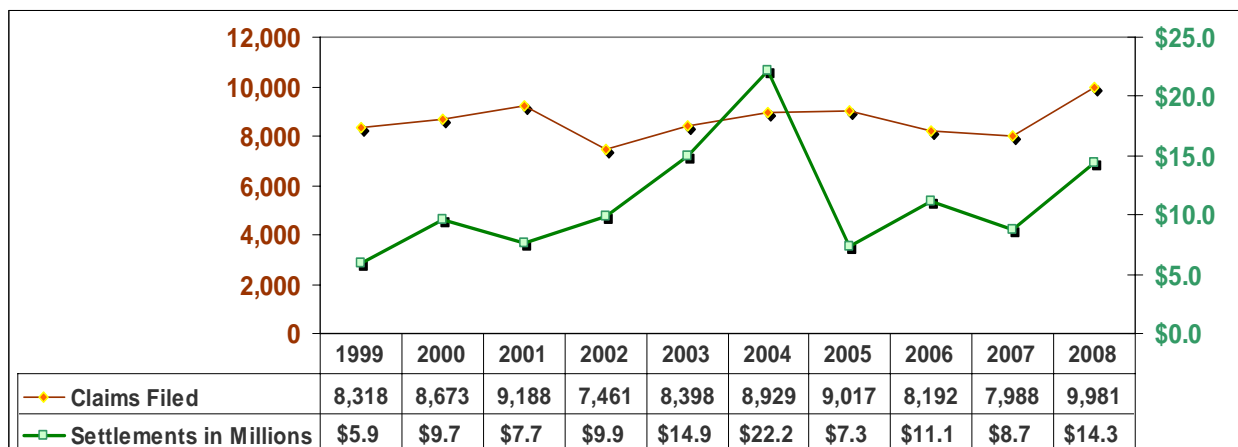
## PROPERTY DAMAGE CLAIMS

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

- The number of property damage claims filed in FY 2008 was 9,981, an increase of 25 percent from the 7,988 filed in FY 2007. This increase was at least partially due to a number of storms during the year which resulted in sewer overflows and flooding in Queens, Brooklyn and Staten Island.
- Property damage claims cost \$14.3 million in FY 2008, representing a 64 percent increase from FY 2007 (\$8.7 million).
- Resolved property damage claims comprised three percent of the total claims payout in FY 2008.

**Chart 14**

**Property Damage  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**



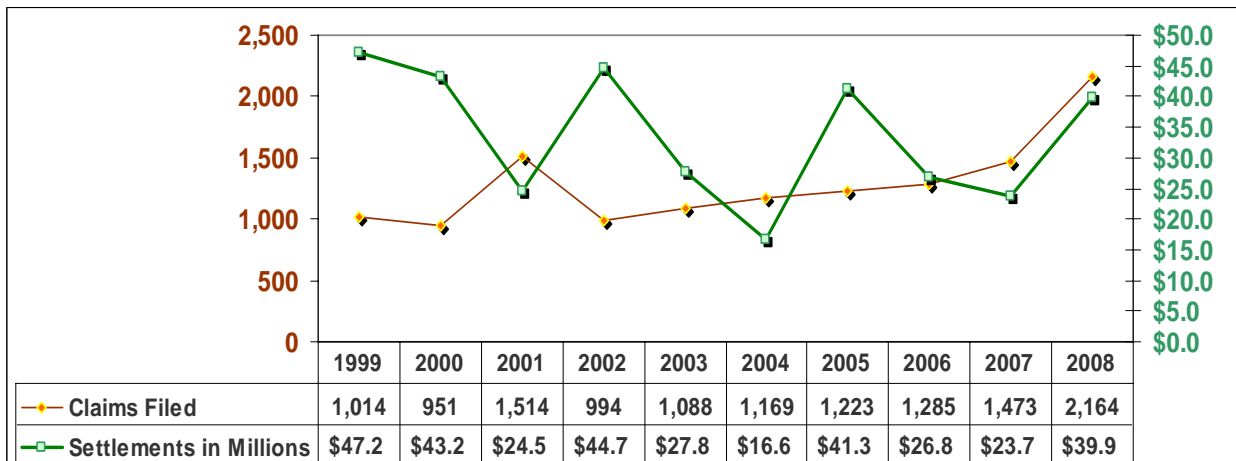
## LAW CLAIMS

Law claims arise primarily from disputes concerning contracts between City agencies and their contractors or employees. Also included are claims for sidewalk assessments and New York City Department of Health and Mental Hygiene cleanups and recoupment of other administrative charges.

- The number of new law claims filed in FY 2008 was 2,164, a 47 percent increase from the 1,473 claims filed in FY 2007.
- Law claims accounted for a payout of \$39.9 million in FY 2008, a 68 percent increase from FY 2007 when \$23.7 million was paid out.
- The total cost for law claims was seven percent of all claims in FY 2008.

**Chart 15**

**Law  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)**





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

- DOT and NYPD accounted for the highest number of new claims filed in each of the last ten fiscal years. These two agencies, along with HHC, accounted for the highest cost of claims in each of the last ten fiscal years.
- In FY 2008, the NYPD, the Department of Environmental Protection (“DEP”), the Department of Corrections (“Corrections”) and the DOE experienced the highest number of annual new claims filings for the ten years covered by this report. In contrast, the Department of Housing Preservation and Development (“HPD”) experienced the lowest number of annual new claim filings during the same period.

**Chart 16**

**New Claims Filed by Agency  
FYs 1999 – 2008**

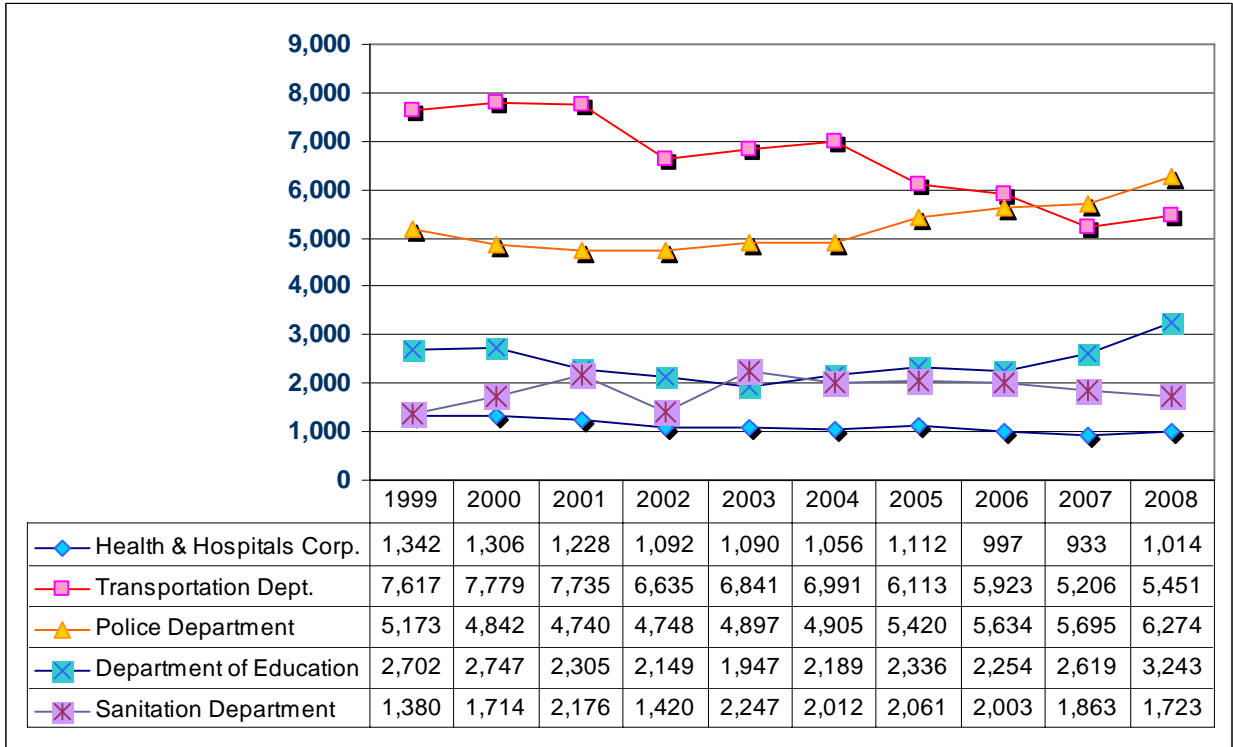
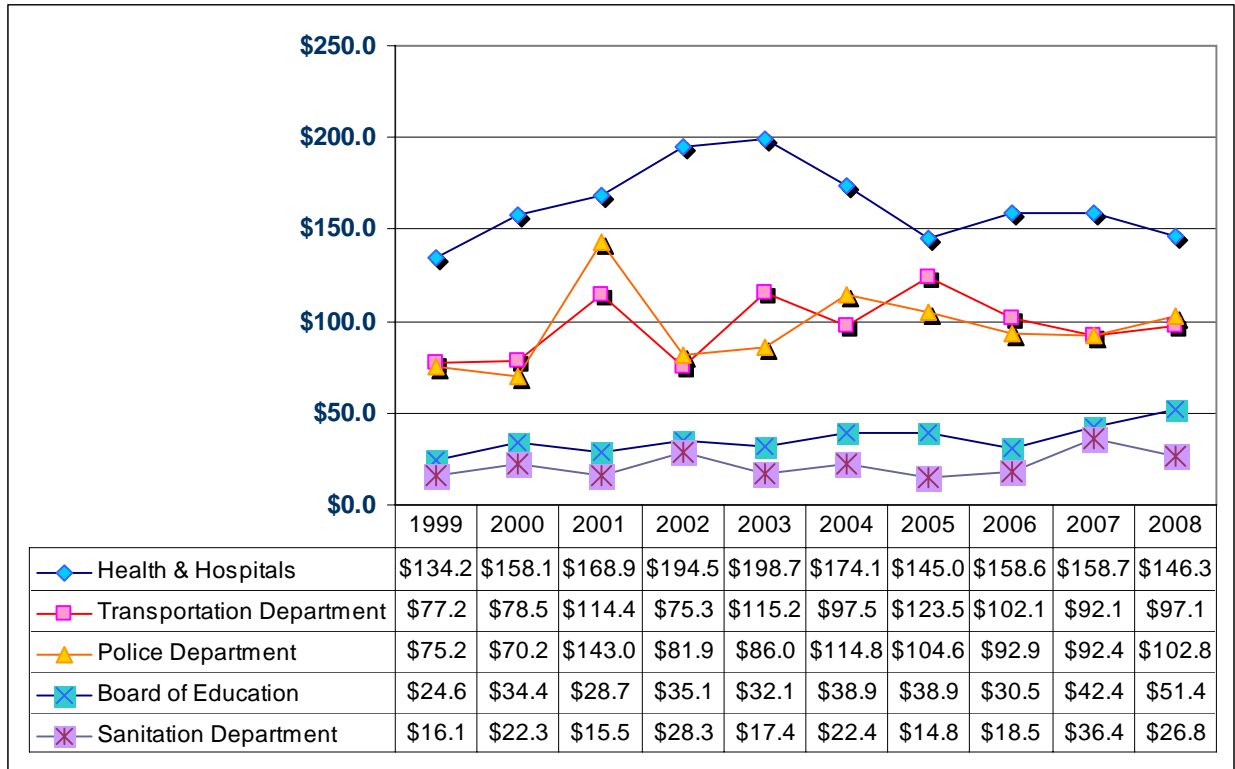


Chart 17

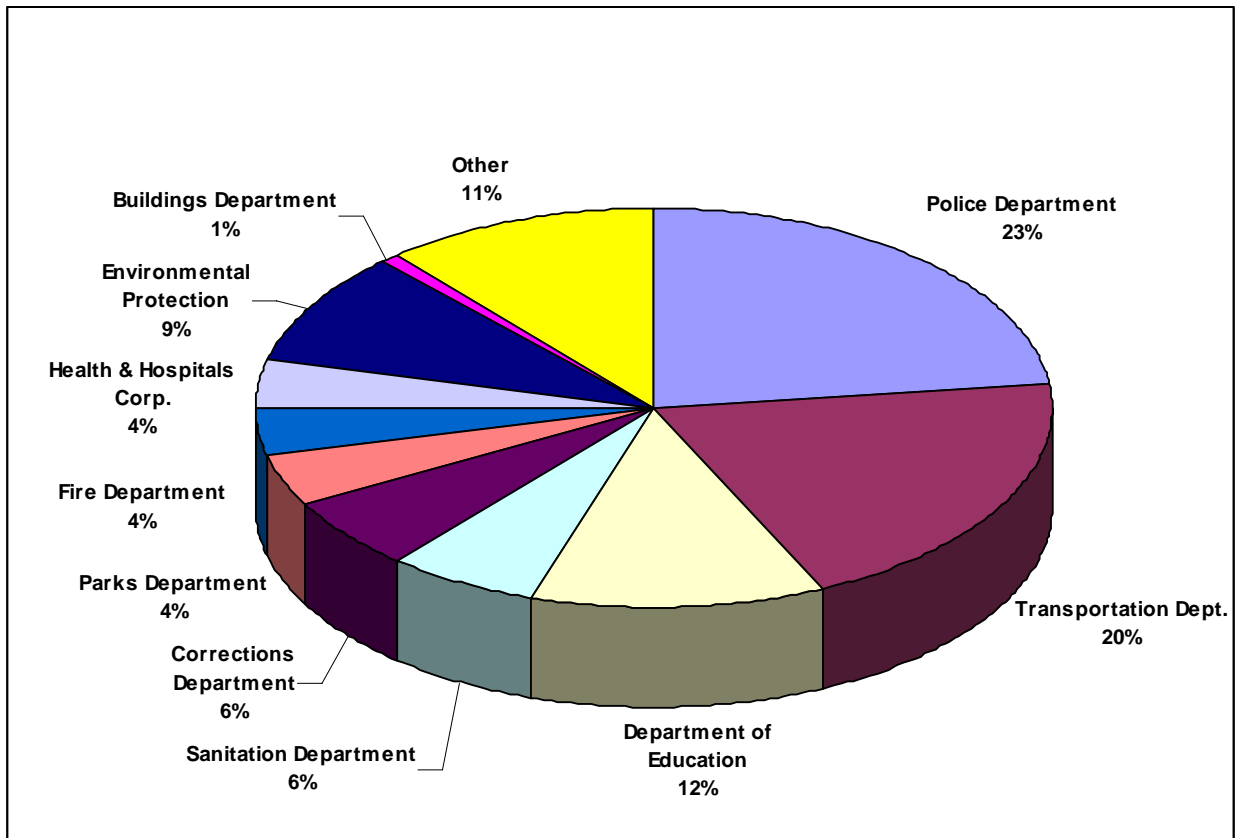
Dollar Value of Settlements by Agency  
 FYs 1999 – 2008  
 (in Millions)



- DOT, NYPD, and HHC accounted for the highest cost of settlements and judgments for claims in FY 2008.

Chart 18

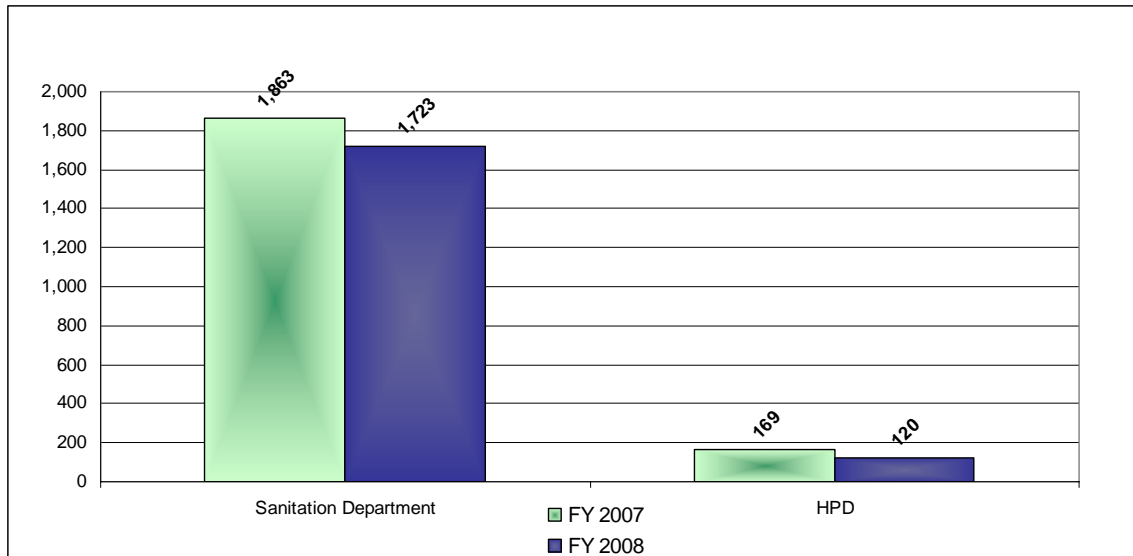
**Agency Claims Activity  
Percent of Claims Filed, FY 2008**



- Two agencies showed a decrease in the number of claims filed in FY 2008, as compared to claims filed in FY 2007 -- HPD experienced the greatest decrease, 29 percent, followed by the Department of Sanitation (“DSNY”), with an eight percent decrease. In FY 2008, new claim filings against HPD, was the lowest in the last ten fiscal years.

**Chart 19**

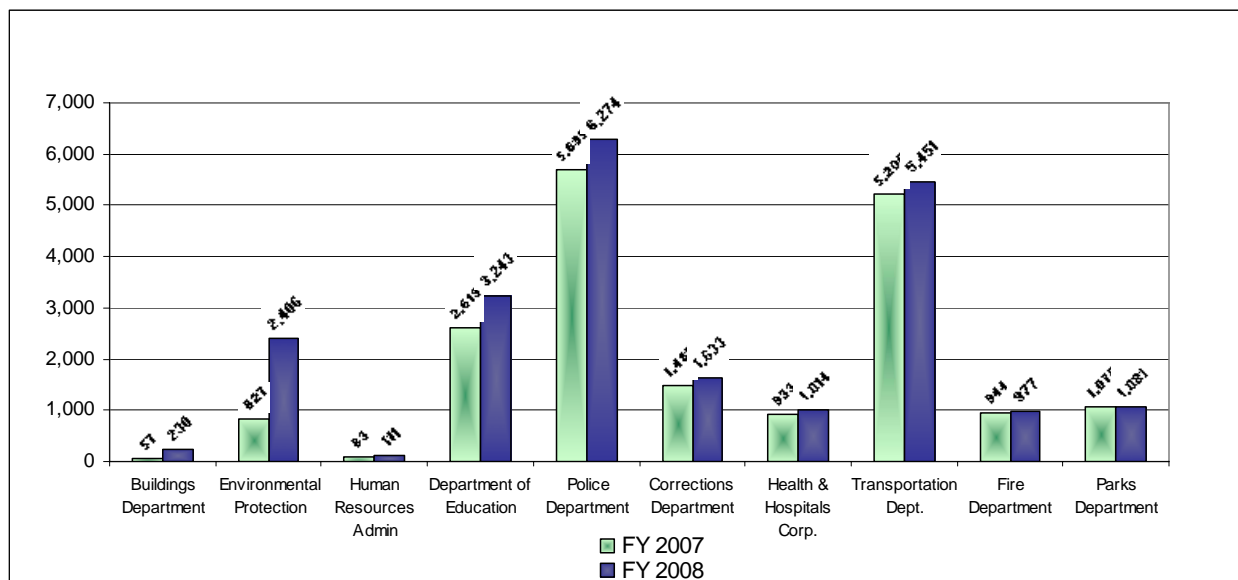
**Agencies with Decreases in Claim Filings**



- Ten agencies showed increases in the number of claims filed: the Department of Buildings (304 percent); the DEP (191 percent); the Human Resources Administration (34 percent); the DOE (24 percent); Corrections (10 percent); the NYPD (10 percent); HHC (9 percent); DOT (5 percent); the Fire Department (4 percent); and the Department of Parks and Recreation (less than one percent).

Chart 20

### Agencies with Increases in Claim Filings



## **SETTLEMENT AND JUDGMENT COSTS BY AGENCY**

The agencies with the five highest claim costs in FY 2008 were HHC, DOT, NYPD, DOE and DSNY. Charts tracking the number of new claims filed and the total annual dollar value of settlements and judgments for these five agencies follow.

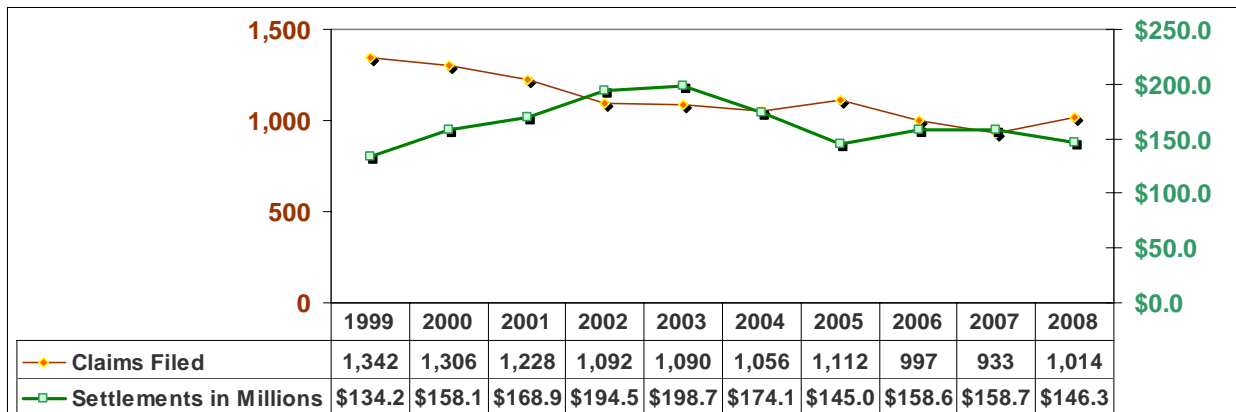
### **1. Health and Hospitals Corporation**

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

- In FY 2008, 1,014 claims were filed against HHC, approximately 69 percent of which (696 cases) were for medical malpractice. In FY 2007, medical malpractice cases accounted for 70 percent (655 cases) of the 933 claims filed against HHC.
- As noted earlier in this report, many medical malpractice claims are typically not resolved for five to ten years from the date of filing. Thus, the number of claims filed is a better indicator of current hospital activity than the amount paid out in any one year.

HHC cases constituted four percent of the number of cases resolved in FY 2008, but accounted for the highest expenditure (\$146.3 million) or 26 percent of the total amount paid for all claims in FY 2008.

**Chart 21**  
**Health & Hospitals Corporation**  
**FYs 1999 - 2008**  
**Number of Claims Filed & Settlements (In Millions)**





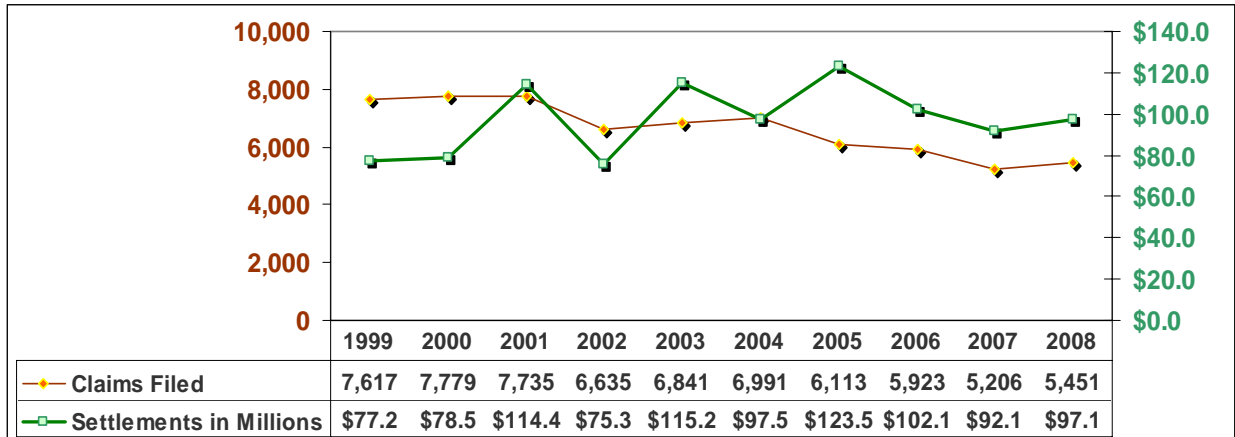
## **2. Department of Transportation**

In each of the last ten fiscal years, except for FYs 2007 and 2008, more claims were filed against DOT than any other agency. Claims against DOT consist primarily of personal injury claims due to sidewalk “trip and fall” accidents, or personal injury or property damage due to defective roadways, defective traffic signals, or motor vehicle accidents involving DOT vehicles. In FY 2008, the 5,451 claims filed against DOT accounted for 20 percent of all new claims filed, representing a five percent increase from the 5,206 claims filed against DOT in FY 2007.

The number of cases against DOT that were resolved by settlement or judgment decreased from 2,558 in FY 2007 to 2,381 in FY 2008. In FY 2008, the total dollar amount paid for DOT cases was \$97.1 million, a five percent increase from the \$92.1 million paid in FY 2007. DOT cases accounted for 17 percent of the total expenditure for claims in FY 2008.

Chart 22

Department of Transportation  
 FYS 1999 – 2008  
 Number of Claims Filed & Settlements (In Millions)



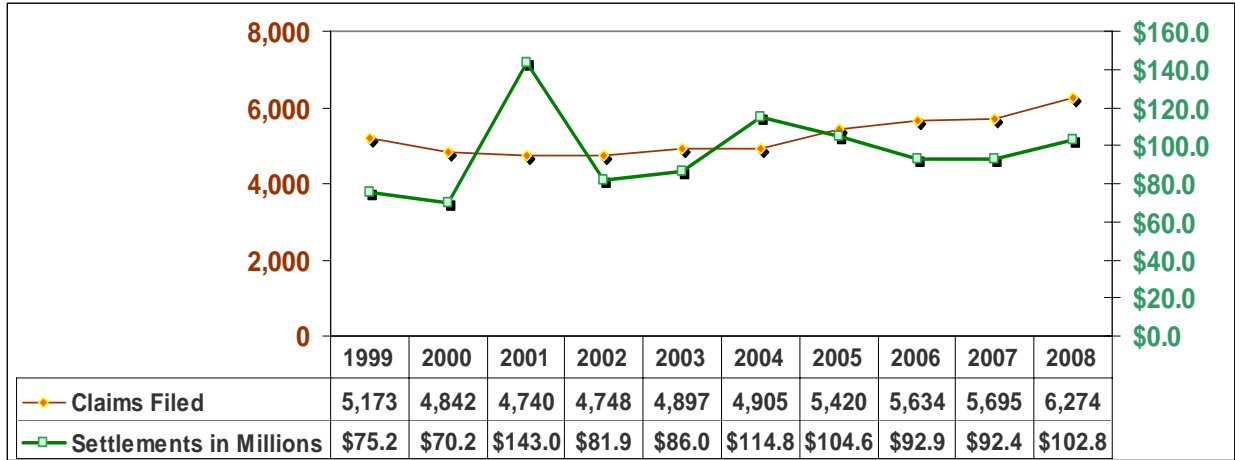
### **3. Police Department**

Claims against the NYPD include police misconduct and civil rights claims, as well as claims for personal injury or property damage arising out of motor vehicle accidents with police vehicles. In FY 2008, there was an increase to 6,274 new claims filed, compared with 5,695 filed in FY 2007. This represents the highest number of claims filed against any agency in FY 2008 and the highest number of claims filed involving the NYPD in the last ten fiscal years. Claims filed against the NYPD constituted 23 percent of total claim filings in FY 2008.

Cases against the NYPD cost the City \$92.4 million in FY 2007. In FY 2008, the expenditure for claims increased to \$102.8 million, an increase of 11 percent. The NYPD accounted for 18 percent of total FY 2008 claims expenditures.

Chart 23

Police Department  
 FYs 1999 - 2008  
 Number of Claims Filed & Settlements (In Millions)



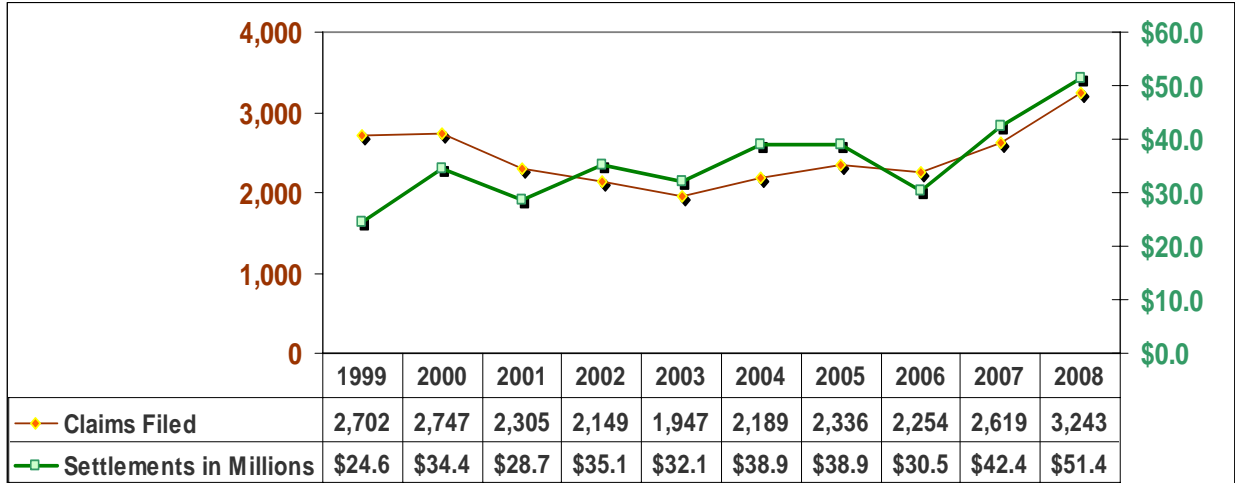
#### **4. Department of Education**

Claims against the DOE include personal injury claims involving alleged lack of supervision or defective maintenance, damage to property, and motor vehicle accidents involving DOE vehicles. The number of new claims filed against the DOE increased by 24 percent from 2,619 in FY 2007 to 3,243 in FY 2008. Claim filings against the DOE accounted for 12 percent of total claims filed in FY 2008.

The total expenditure for DOE cases increased by 21 percent, from \$42.4 million in FY 2007 to \$51.4 million in FY 2008. DOE claims accounted for nine percent of the total claim expenditure for claims in FY 2008.

Chart 24

Department of Education  
 FYs 1999 - 2008  
 Number of Claims Filed & Settlements (In Millions)



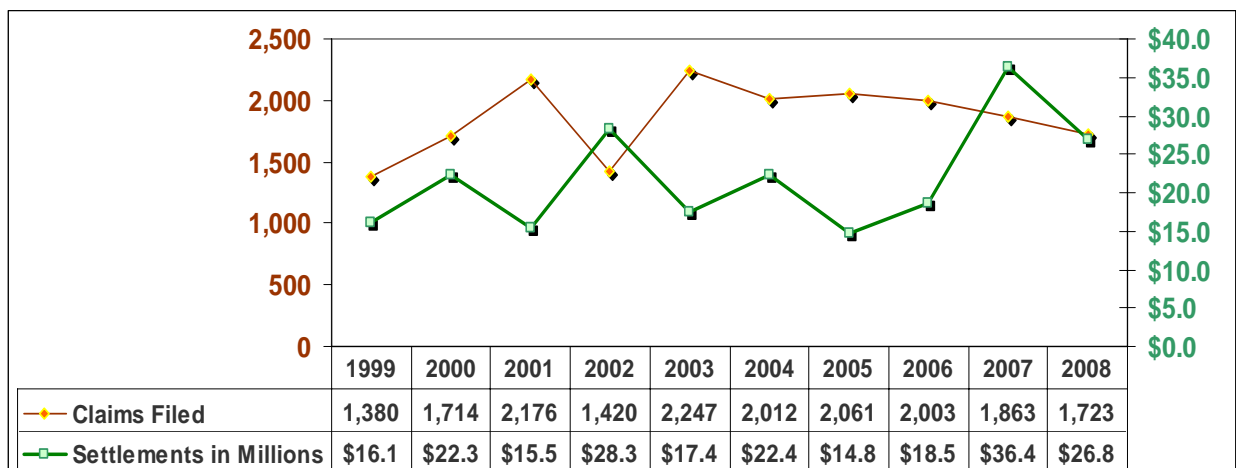
## 5. Sanitation Department

Claims are filed against the DSNY primarily for alleged personal injury and property damage caused by DSNY vehicles. The number of new claims filed against the DSNY decreased from 1,863 in FY 2007 to 1,723 in FY 2008, a decrease of eight percent. New claim filings against the DSNY constituted six percent of total claim filings in FY 2008.

In FY 2008, there were 1,301 DSNY cases resolved for \$26.8 million. DSNY claims accounted for five percent of the total claims expenditure. In FY 2007, 1,501 cases were resolved for \$36.4 million.

Chart 25

Sanitation Department  
FYs 1999 - 2008  
Number of Claims Filed & Settlements (In Millions)



## V. CLAIM TRENDS BY BOROUGH <sup>9</sup>

- For FY 2008, the borough with the largest number of personal injury claims was Brooklyn (3,874). The borough with the largest number of property damage claims was Queens (3,245).

### Number of Claims Filed By Borough Fiscal Year 2008

<b>Borough</b>	<b>Personal Injury (PI) Claims</b>	<b>Property Damage (PD) Claims</b>
Brooklyn	3,874	2,112
Bronx	3,639	1,248
Manhattan	3,515	1,965
Queens	2,123	3,245
Staten Island	609	653

---

<sup>9</sup> Personal injury (PI) and property damage (PD) claim patterns were analyzed by borough, based on the location of each incident. Law claims were not included because they are not tracked by borough. Statistics do not take into account commuters and tourists. Claim-resolved information must be carefully considered because Staten Island has no City hospitals and thus no relatively expensive medical malpractice claim payouts.



### Number of Claims Resolved and Amounts Paid by Borough

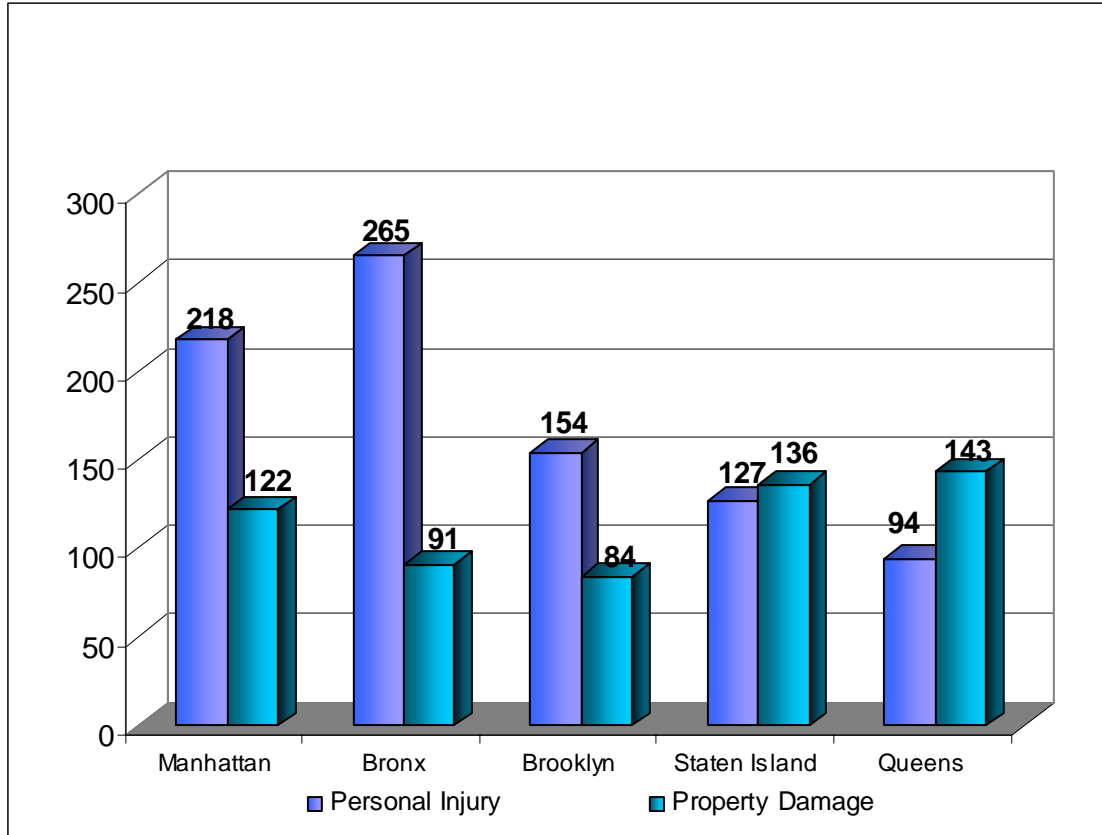
Borough	Number of PI Claims Resolved	Amount Paid for PI Claims (millions)	Number of PD Claims Resolved	Amount Paid for PD Claims (millions)	Total PI and PD Claims Resolved	Total PI and PD Claim Payouts (millions)
Brooklyn	2,150	\$141.6	942	\$2.0	3,092	\$143.6
Bronx	1,621	\$142.7	436	\$1.0	2,057	\$143.7
Manhattan	1,499	\$94.6	703	\$2.5	2,202	\$97.1
Queens	1,073	\$86.2	881	\$7.6	1,954	\$93.8
Staten Island	270	\$22.3	282	\$7.7	552	\$23.0

As the following graph illustrates, the Bronx had the most personal injury claims filed per 100,000 residents with 265. Queens had the least (94). Queens had the highest ratio of property damage claims filed (143). Brooklyn had the least (84).<sup>10</sup>

<sup>10</sup> According to the New York City Department of City Planning's estimates, which were adopted by the United States Census Bureau in 2006, the total population for New York City was 8,214,426 residents. In order of population the boroughs are: Brooklyn (2,523,047 or 30.6% of the total population); Queens (2,264,661 or 27.6% of the total population); Manhattan (1,612,630 or 19.5% of the total population); Bronx (1,371,353 or 16.6% of the total population); and, Staten Island (478,876 or 5.7% of the total population).

Chart 26

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



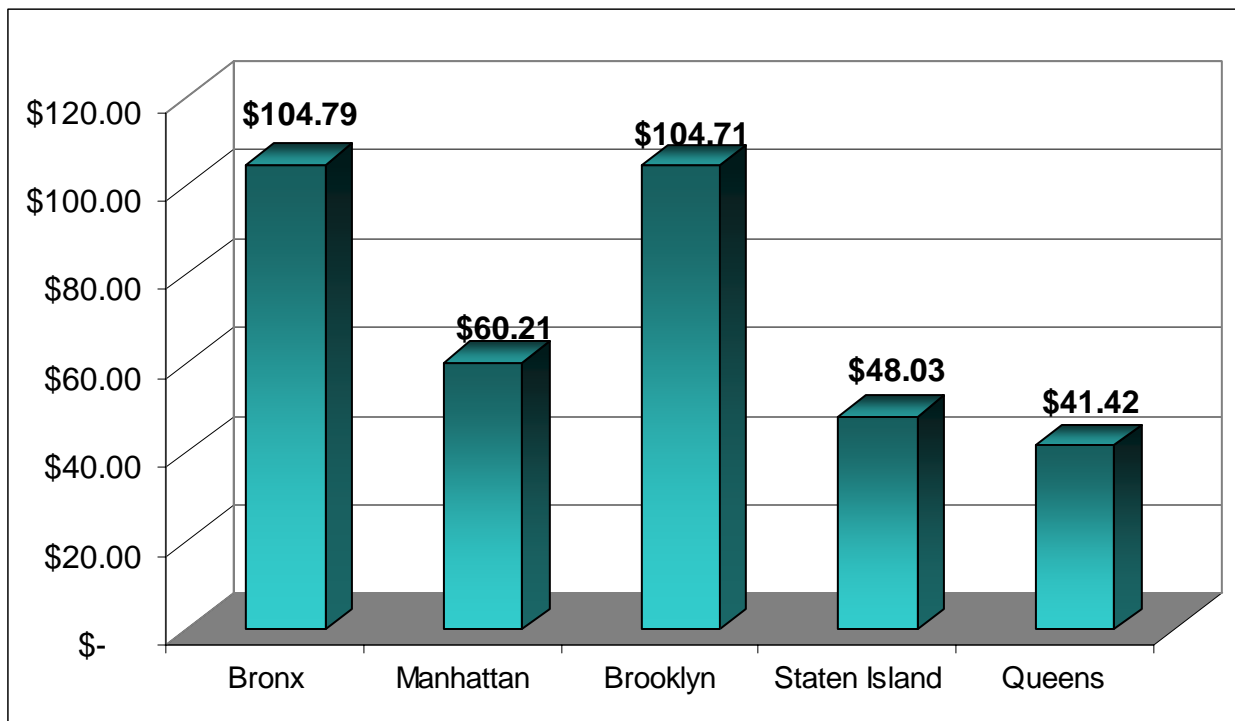
In FY 2008, the total highest aggregate personal injury and property damage claim costs were paid for claims that occurred in the Bronx.

- Claim settlements and judgments for personal injury and property damage cost each City resident approximately \$69.13 for FY 2008.

- In FY 2008, the borough with claims representing the highest ratio of expenses per resident was the Bronx. The lowest ratio of expenses per resident was Queens. Claims paid for property damage were highest in Queens and totaled \$7.6 million.

**Chart 27**

**Total 2008 Claims Expenses for both Personal Injury and Property Damage by Borough Per Resident**



## **APPENDICES**

### **APPENDIX A Description of Claim Types**

Claims that are filed against the City are coded according to certain general categories. The coding structure used to classify claims has changed over time to meet changing information needs. The coding of claims into standardized categories facilitates analysis by the Comptroller's Office and may also be used by agencies that choose to analyze their claims experience.

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

Claim coding has also been designed to ensure that descriptive information about a claim can be captured in coded form. Thus, four additional codes are utilized for every claim so that, by reviewing the codes, one can obtain a clearer picture of the specifics of the claim. These four additional codes are:

1. **Claimant.** This category describes the claimant and, if appropriate, the activity the claimant was involved in; for example: "bicyclist," "jogger," "pedestrian," "driver of vehicle," "passenger," "vendor," etc.

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

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

4. **Interaction.** This refers to the physical action that the claimant experienced; for example: "collision/struck by," "slip/fall," "assault," etc.

A typical personal injury claim involving a "slip and fall" accident on a cracked defective sidewalk would be coded as follows:

**Claim type:** Defective Sidewalk

**Claimant:** Pedestrian

**Location:** Sidewalk

**Accident Agent:** Crack

**Interaction:** Slip/fall

The present coding system classifies claim types as follows:

## **I. Personal Injury Claims**

### **A. Admiralty**

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

### **B. Defective Roadway**

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

### **C. Defective Sidewalk**

Defective Sidewalk claims include pedestrians or others injured because of a defective sidewalk such as, broken, wet or uneven sidewalks, broken curbstones, protruding bolts, grates, or parking meter or traffic sign stubs, defective boardwalks, and snow-and-ice claims.

### **D. Traffic Control Device**

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

#### E. Police Action

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

#### F. School

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

#### G. Medical Malpractice

This category of claim derives from medical malpractice in the diagnosis, treatment, or care at a City or HHC facility. Medical malpractice claims include those that involve pre- or post-natal treatment, emergency room care, Emergency Medical Services treatment, or defective equipment.

#### H. Health Facility/Non-Medical Incidents

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

#### I. Motor Vehicle Accident

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

#### J. Employee Uniformed Services

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

#### K. Recreation

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

#### L. City Property

This category of claims includes those by tenants or others injured by a defect or the negligent maintenance of City-owned land or a City-owned or City-administered building or facility.



#### M. Catastrophe

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

#### N. Civil Rights

Civil rights claims involve alleged statutory or constitutional violations, such as discrimination based on sex, race, religion, handicap, sexual preference, or age.

#### O. Corrections

Corrections claims involve claims by inmates or employees of City correction institutions who were allegedly injured by the actions of City employees or inmates.

## **II. Property Damage Claims**

### **A. Admiralty**

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

### **B. Sewer Overflow**

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

### **C. Water Main Break**

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

### **D. Defective Roadway**

This claim type includes claims for vehicles that are damaged by defective roadways, or from objects that have fallen from bridges or overpasses. Also included are claims made by pedestrians who sustained damage to personal property as a result of a fall on a defective roadway.

### **E. Defective Sidewalk**

Defective sidewalk claims are made by individuals who sustain damage to personal property as a result of defective sidewalks.

#### F. Traffic Device

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

#### G. Police Action

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

#### H. School

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

#### I. Health Facility

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

#### J. Motor Vehicle Accidents

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

#### K. Uniformed Services/City Employees

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

#### L. Recreation

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

#### M. Public Buildings and Property

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

#### N. Catastrophe

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

#### O. Damage City Action/Personnel

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

#### P. Correction Facility

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

### **III. Law Claims**

#### **A. Contract/Lease**

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

#### **B. Alternative Dispute Resolution**

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

#### **C. Illegal but Equitable**

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

#### D. Employment

Employment claims are those by prospective, current, or former City employees alleging employment-related disputes. These disputes include claims for discrimination, out-of-title work, pay differential, annual leave, and suspension.

#### E. Refund

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

#### F. Change of Grade

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

## APPENDIX B

### Legal Background

#### I. Municipal Liability

The decision of the New York Court of Appeals in Bernadine v. New York City, issued in 1945, exposed the City for the first time to liability for torts committed by the City's officers, agents, and employees.<sup>11</sup>

In Bernadine, the Court held that "the civil divisions of the State are answerable equally with individuals and private corporations for wrongs of officers and employees -- even if no separate statute sanctions that enlarged liability in a given instance."<sup>12</sup> The Court, in effect, abolished the doctrine of sovereign immunity for municipalities, but did not provide municipalities any of the protections accorded to the State by the Court of Claims Act.<sup>13</sup> In particular, claimants seeking to recover from municipalities for their agents' negligent and wrongful acts are entitled to a jury trial.

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

---

<sup>11</sup> Bernadine v. City of New York, 294 N.Y. 361 (1945)

<sup>12</sup> *Id.* p. 365.

<sup>13</sup> Court of Claims Act of 1920, L. 1920, ch. 922, and L. 1929, ch. 467, § 1.

## II. Claims Process

To commence an action against the City, a claimant typically must first notify the City by filing a Notice of Claim with the Office of the Comptroller. In some instances, however, the claim must be filed with the agency involved. In most instances, the notice of a personal injury or property damage claim must be filed within 90 days of an alleged injury or wrong.<sup>14</sup> The City Charter grants the Comptroller the power to settle and adjust all claims in favor of or against the City.<sup>15</sup>

The Comptroller has the power to investigate claims, evaluate liability and damages, and reach a settlement prior to litigation.<sup>16</sup> If the Comptroller denies liability or is unable to arrive at a settlement with a claimant, the claimant may commence suit. Actions regarding tort claims must generally be filed within a year and 90 days after the loss.<sup>17</sup> The City's Law Department, under the direction of the Corporation Counsel, defends the City in most actions. No litigation can be settled without the approval of the Comptroller.<sup>18</sup>

---

<sup>14</sup> General Municipal Law, Article 4, § 50-e. One notable exception is a claim under 42 U.S.C. § 1983, the Federal Civil Rights Act; a § 1983 action can be filed directly in court without filing a notice of claim.

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

<sup>16</sup> The Comptroller's Bureau of Law and Adjustment ("BLA") investigates claims filed against the City; obtains and evaluates accident reports and other documents provided by agencies; conducts field visits, interviews witnesses, and conducts hearings; evaluates liability and damages; and attempts to settle appropriate cases. The Office's Bureau of Engineering investigates construction contract claims and negotiates claim settlements, together with BLA and, if litigation is pending, the Law Department.

<sup>17</sup> General Municipal Law, Article 4, § 50-i. A significant exception to this requirement is in the area of medical malpractice, in particular, claims for injuries to newborn infants.

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



## **APPENDIX C**

### **Detailed Tables**

1. Table 1 – Number of Claims Filed by Claim Type
2. Table 2 – Number of Claims Filed by Agency
3. Table 3 – Dollar Amount of Settlements & Judgments by Claim Type
4. Table 4 - Dollar Amount of Agency Settlements & Judgments
5. Table 5 – Count of Settlements & Judgments by Claim Type
6. Table 6 - Count of Settlements & Judgments by Agency

**Table 1**  
**Number of Claims Filed by Claim Type**  
**Fiscal Years 1999 - 2008**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b><u>Personal Injury:</u></b>										
Sidewalk	4,144	3,982	3,608	3,282	3,482	3,229	2,876	2,729	2,545	2,374
Police Action	2,400	1,779	1,984	1,793	2,067	1,930	2,588	2,211	2,485	2,863
Schools	1,898	1,895	1,654	1,510	1,413	1,421	1,465	1,235	1,281	1,198
Motor Vehicle	1,550	1,781	1,664	1,582	1,456	1,346	1,396	1,351	1,373	1,476
Roadway	1,379	1,513	1,476	1,410	1,381	1,364	1,251	1,176	1,122	1,117
City Property	816	810	698	1,126	848	688	889	1,347	4,700	838
Corrections	1,005	797	772	790	937	889	883	846	1,002	1,074
Civil Rights	1,066	1,319	1,259	1,075	1,182	1,229	1,243	1,537	1,530	1,745
Medical Malpractice	858	889	822	798	779	773	824	699	655	696
Traffic Device	407	420	337	320	309	291	193	141	168	120
Parks & Recreation	385	323	275	263	272	251	282	210	248	241
Uniform Services	395	304	194	1,211	949	205	315	510	189	167
Other	1,024	924	902	788	785	1,005	731	686	806	744
<b><u>Total</u></b>	<b><u>17,327</u></b>	<b><u>16,736</u></b>	<b><u>15,645</u></b>	<b><u>15,948</u></b>	<b><u>15,860</u></b>	<b><u>14,621</u></b>	<b><u>14,936</u></b>	<b><u>14,678</u></b>	<b><u>18,104</u></b>	<b><u>14,653</u></b>
<b><u>Property Damage:</u></b>										
Motor Vehicle	3,181	3,550	4,079	3,440	3,808	3,849	3,881	3,968	3,956	3,815
Other	5,137	5,123	5,109	4,021	4,590	5,080	5,136	4,224	4,032	6,166
<b><u>Total</u></b>	<b><u>8,318</u></b>	<b><u>8,673</u></b>	<b><u>9,188</u></b>	<b><u>7,461</u></b>	<b><u>8,398</u></b>	<b><u>8,929</u></b>	<b><u>9,017</u></b>	<b><u>8,192</u></b>	<b><u>7,988</u></b>	<b><u>9,981</u></b>
<b><u>Law Division:</u></b>										
Contracts	216	262	220	142	192	218	223	199	165	202
Other	798	689	1,294	852	896	951	1,000	1,086	1,308	1,962
<b><u>Total</u></b>	<b><u>1,014</u></b>	<b><u>951</u></b>	<b><u>1,514</u></b>	<b><u>994</u></b>	<b><u>1,088</u></b>	<b><u>1,169</u></b>	<b><u>1,223</u></b>	<b><u>1,285</u></b>	<b><u>1,473</u></b>	<b><u>2,164</u></b>
<b><u>Grand Total</u></b>	<b><u>26,659</u></b>	<b><u>26,360</u></b>	<b><u>26,347</u></b>	<b><u>24,403</u></b>	<b><u>25,346</u></b>	<b><u>24,719</u></b>	<b><u>25,176</u></b>	<b><u>24,155</u></b>	<b><u>27,565</u></b>	<b><u>26,798</u></b>

**Table 2**  
**Number of Claims Filed by Agency**  
**Fiscal Years 1999 - 2008**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Transportation Dept.	7,617	7,779	7,735	6,635	6,841	6,991	6,113	5,923	5,206	5,451
Police Department	5,173	4,842	4,740	4,748	4,897	4,905	5,420	5,634	5,695	6,274
Sanitation Department	1,380	1,714	2,176	1,420	2,247	2,012	2,061	2,003	1,863	1,723
Department of Education	2,702	2,747	2,305	2,149	1,947	2,189	2,336	2,254	2,619	3,243
Health & Hospitals Corp.	1,342	1,306	1,228	1,092	1,090	1,056	1,112	997	933	1,014
Environmental Protection	1,180	1,150	972	913	921	1,004	1,417	839	827	2,406
Corrections Department	1,470	1,305	1,313	1,186	1,409	1,334	1,307	1,289	1,485	1,633
Parks Department	1,168	1,049	835	895	964	927	914	882	1,078	1,081
Fire Department	1,050	989	969	1,780	1,421	951	944	997	944	977
Housing, Preservation	448	379	319	249	181	163	177	205	169	120
Human Resources Admin.	247	194	199	125	87	87	130	117	83	111
Buildings Department	148	86	107	63	55	69	109	43	57	230
Other	2,734	2,820	3,449	3,148	3,286	3,031	3,136	2,972	6,606	2,535
<b>Total</b>	<b>26,659</b>	<b>26,360</b>	<b>26,347</b>	<b>24,403</b>	<b>25,346</b>	<b>24,719</b>	<b>25,176</b>	<b>24,155</b>	<b>27,565</b>	<b>26,798</b>

Table 3

Dollar Amount of Settlements & Judgments by Claim Type

Fiscal Years 1999- 2008 (In Millions)

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b><u>Personal Injury</u></b>										
Medical Malpractice	\$115.5	\$152.9	\$155.6	\$190.9	\$195.4	\$167.5	\$145.9	\$155.2	\$155.7	\$145.3
Sidewalk	58.5	58.7	76.8	53.4	68.0	71.6	68.8	55.5	71.3	54.0
Motor Vehicle	40.8	45.4	56.9	42.3	59.9	62.3	58.8	66.1	54.3	53.0
Police Action	41.0	38.0	39.0	21.7	32.9	42.6	40.4	24.6	25.2	35.2
Schools	22.9	26.3	26.1	32.6	29.7	37.1	35.3	28.9	40.2	51.1
City Property	22.3	18.2	21.9	21.3	26.5	30.5	21.7	13.0	30.2	25.2
Roadway	15.0	17.5	43.6	23.7	34.2	26.8	16.1	19.4	18.8	35.7
Civil Rights	19.2	14.2	83.4	37.2	31.1	35.2	32.3	43.7	49.9	41.0
Uniform Services	13.8	26.6	19.5	27.0	28.1	31.4	25.8	25.6	33.5	37.3
Corrections	4.5	3.0	3.2	3.7	3.9	4.1	8.8	4.1	6.1	8.0
Parks & Recreation	6.5	5.5	21.7	4.2	12.6	10.0	8.4	5.2	15.4	8.1
Traffic Device	1.9	2.3	3.5	3.6	11.9	3.2	11.2	1.4	3.0	3.3
Other	6.9	6.7	5.2	6.5	6.0	14.5	7.8	15.8	22.3	16.5
<b>Total</b>	<b>\$368.8</b>	<b>\$415.3</b>	<b>\$556.4</b>	<b>\$468.1</b>	<b>\$540.2</b>	<b>\$536.8</b>	<b>\$481.3</b>	<b>\$458.5</b>	<b>\$525.9</b>	<b>\$513.7</b>
<b><u>Property Damage</u></b>										
Motor Vehicle	2.7	3.0	3.6	3.2	3.0	3.8	3.6	7.3	5.6	5.7
Other	3.2	6.7	4.1	6.7	11.9	18.4	3.7	3.8	3.1	8.6
<b>Total</b>	<b>5.9</b>	<b>9.7</b>	<b>7.7</b>	<b>9.9</b>	<b>14.9</b>	<b>22.2</b>	<b>7.3</b>	<b>11.1</b>	<b>8.7</b>	<b>14.3</b>
<b><u>Law Claims</u></b>										
Contracts	17.6	33.6	9.6	28.1	11.2	9.8	24.5	16.8	5.8	13.4
Other	29.6	9.6	14.9	16.7	16.6	6.8	16.7	10.0	17.9	26.5
<b>Total</b>	<b>47.2</b>	<b>43.2</b>	<b>24.5</b>	<b>44.8</b>	<b>27.8</b>	<b>16.6</b>	<b>41.2</b>	<b>26.8</b>	<b>23.7</b>	<b>39.9</b>
<b>Grand Total</b>	<b>\$421.9</b>	<b>\$468.2</b>	<b>\$588.6</b>	<b>\$522.8</b>	<b>\$582.9</b>	<b>\$575.6</b>	<b>\$529.8</b>	<b>\$496.4</b>	<b>\$558.3</b>	<b>\$567.9</b>

**Table 4**

**Dollar Amount of Agency Settlements & Judgments**

**Fiscal Years 1999 - 2008 (In Millions)**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Health & Hospitals	\$134.2	\$158.1	\$168.9	\$194.5	\$198.7	\$174.1	\$145.0	\$158.6	\$158.7	\$146.3
Transportation Department	77.2	78.5	114.4	75.3	115.2	97.5	123.5	102.1	92.1	97.1
Police Department	75.2	70.2	143.0	81.9	86.0	114.8	104.6	92.9	92.4	102.8
Department of Education	24.6	34.4	28.7	35.1	32.1	38.9	38.9	30.5	42.4	51.4
Housing Preservation	15.9	16.7	20.4	13.8	22.7	25.3	12.5	9.9	17.6	21.1
Sanitation Department	16.1	22.3	15.5	28.3	17.4	22.4	14.8	18.5	36.4	26.8
Corrections Department	7.2	4.6	11.6	6.0	11.2	11.6	13.4	10.5	14.0	21.2
Parks Department	10.5	9.3	23.6	12.5	16.9	13.9	15.1	7.7	18.9	26.3
Environmental Protection	7.8	23.0	7.2	29.9	15.6	17.6	6.9	21.5	14.5	14.3
Fire Department	11.1	13.9	16.1	13.2	22.1	18.2	15.1	20.9	22.1	18.2
Buildings Department	0.7	1.8	1.1	1.9	2.8	1.0	1.9	0.6	0.9	1.5
Human Resources	16.3	1.7	2.1	3.8	1.1	10.9	8.4	1.8	4.9	2.9
Other	25.1	33.7	36.0	26.6	41.1	29.4	29.7	20.9	43.4	38.0
<b>Total</b>	<b><u>\$421.9</u></b>	<b><u>\$468.2</u></b>	<b><u>\$588.6</u></b>	<b><u>\$522.8</u></b>	<b><u>\$582.9</u></b>	<b><u>\$575.6</u></b>	<b><u>\$529.8</u></b>	<b><u>\$496.4</u></b>	<b><u>\$558.3</u></b>	<b><u>\$567.9</u></b>

Table 5

Count of Settlements & Judgments by Claim Type

Fiscal Years 1999 - 2008

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b><u>Personal Injury</u></b>										
Sidewalk	2,807	3,111	3,321	2,667	2,801	2,581	2,267	1,681	1,484	1,275
Schools	1,014	1,398	1,223	1,023	1,175	1,099	1,045	877	959	967
Motor Vehicle	1,097	1,036	1,155	965	1,167	1,095	1,228	938	959	1,013
Police Action	749	835	788	563	613	693	567	554	710	951
Roadway	575	634	774	603	674	660	721	718	705	733
City Property	357	368	324	274	277	238	213	144	152	158
Medical Malpractice	297	293	350	298	345	339	327	293	296	292
Civil Rights	260	295	544	594	563	812	722	837	816	881
Parks & Recreation	252	209	224	176	196	189	209	182	174	173
Corrections	130	133	161	151	146	152	176	153	144	154
Uniform Services	165	203	180	139	162	170	163	116	105	117
Traffic Device	120	120	162	144	150	167	150	94	95	69
Other	137	100	111	79	110	150	153	114	110	67
<b><u>Total</u></b>	<b><u>7,960</u></b>	<b><u>8,735</u></b>	<b><u>9,317</u></b>	<b><u>7,676</u></b>	<b><u>8,379</u></b>	<b><u>8,345</u></b>	<b><u>7,941</u></b>	<b><u>6,701</u></b>	<b><u>6,709</u></b>	<b><u>6,850</u></b>
<b><u>Property Damage</u></b>										
Motor Vehicle	1,941	2,056	2,101	1,942	1,723	2,246	1,937	3,388	2,701	2,495
Other	1,059	972	834	801	774	932	907	904	907	957
<b><u>Total</u></b>	<b><u>3,000</u></b>	<b><u>3,028</u></b>	<b><u>2,935</u></b>	<b><u>2,743</u></b>	<b><u>2,497</u></b>	<b><u>3,178</u></b>	<b><u>2,844</u></b>	<b><u>4,292</u></b>	<b><u>3,608</u></b>	<b><u>3,452</u></b>
<b><u>Law Division</u></b>										
Contracts	54	54	40	34	30	26	30	20	24	23
Other	99	100	88	80	89	111	78	81	87	91
<b><u>Total</u></b>	<b><u>153</u></b>	<b><u>154</u></b>	<b><u>128</u></b>	<b><u>114</u></b>	<b><u>119</u></b>	<b><u>137</u></b>	<b><u>108</u></b>	<b><u>101</u></b>	<b><u>111</u></b>	<b><u>114</u></b>
<b><u>Grand Total</u></b>	<b><u>11,113</u></b>	<b><u>11,917</u></b>	<b><u>12,380</u></b>	<b><u>10,533</u></b>	<b><u>10,995</u></b>	<b><u>11,660</u></b>	<b><u>10,893</u></b>	<b><u>11,094</u></b>	<b><u>10,428</u></b>	<b><u>10,416</u></b>

**Table 6**

**Count of Settlements & Judgments by Agency**

**Fiscal Years 1999 – 2008**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Transportation Department	3,583	3,996	4,311	3,480	3,752	3,504	3,543	2,944	2,558	2,381
Police Department	2,076	2,249	2,406	1,846	2,098	2,562	2,423	2,655	2,668	2,912
Sanitation Department	969	1,013	1,198	1,149	859	1,271	966	1,910	1,501	1,301
Department of Education	1,156	1,495	1,305	1,095	1,228	1,159	1,135	949	1,046	1,047
Health & Hospitals	600	505	548	439	468	457	447	401	394	414
Parks & Recreation	565	469	462	392	452	429	443	460	422	419
Environmental Protection	450	467	368	376	465	480	387	355	309	351
Fire Department	406	405	500	622	479	542	610	582	578	643
Corrections	267	249	297	283	299	302	320	300	272	294
Housing Preservation	281	275	219	186	184	170	135	94	97	95
Human Resources	61	43	52	33	36	44	31	33	31	34
Buildings Department	22	21	27	23	24	20	17	22	25	24
Other	677	730	687	609	651	720	436	389	527	501
<b>Total</b>	<b><u>11,113</u></b>	<b><u>11,917</u></b>	<b><u>12,380</u></b>	<b><u>10,533</u></b>	<b><u>10,995</u></b>	<b><u>11,660</u></b>	<b><u>10,893</u></b>	<b><u>11,094</u></b>	<b><u>10,428</u></b>	<b><u>10,416</u></b>

## Appendix D

The following are the 10 Largest Tort Settlements/Judgments for Fiscal Year 2008

1. In 2000, the claimant allegedly sustained permanent loss of vision in one eye as a result of being struck by a defective door in a school. Verdict \$16m, reduced by the court after appeal to \$8.5 million.
2. In 1993, claimant was rendered a paraplegic after attempting suicide. Claimant alleges City knew of her psychiatric history and should not have returned her gun to her. Settled \$7.25 million.
3. In 1998, infant claimant sustained severe disfiguring burns including the loss of an eye after allegedly being burned by a broken radiator in a City-owned building. Settled \$6.5 million.
4. In 2003, claimant allegedly sustained multiple physical and psychological injuries as a result of an accident aboard the Staten Island Ferry. Settled \$6.5 million.
5. In 2003, claimant was rendered a paraplegic after a motor vehicle accident allegedly caused by a defectively designed roadway. Settled \$6.2 million.
6. In 2001, claimant sustained irreversible brain damage due to alleged medical malpractice. Settled \$5 million.
7. In 2002, claimant was killed in a motor vehicle accident allegedly due to a defectively designed roadway. Settled \$5 million.
8. In 2004, claimant was killed due to a collapse at a construction site. Settled \$5 million.
9. In 2005, claimant, a 36 year-old mother of three died as a result of alleged medical malpractice. Settled \$4.5 million.
10. In 2001, infant claimant sustained permanent brain damage as a result of alleged medical malpractice. Settled \$3.9 million.

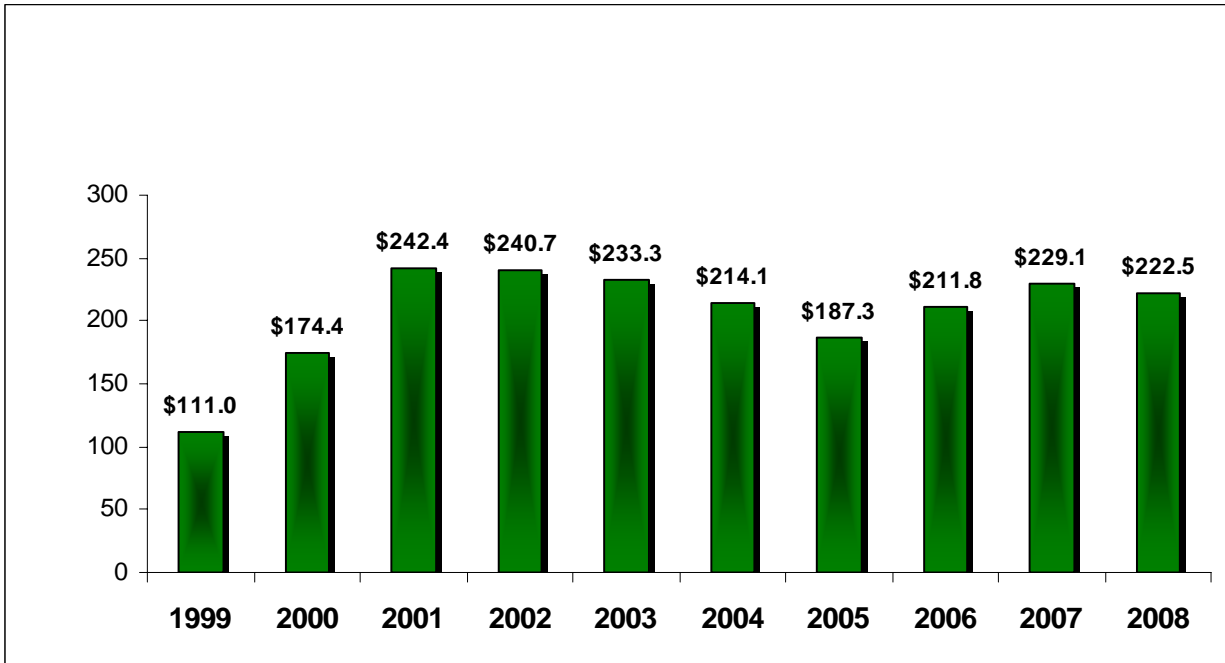


## APPENDIX E

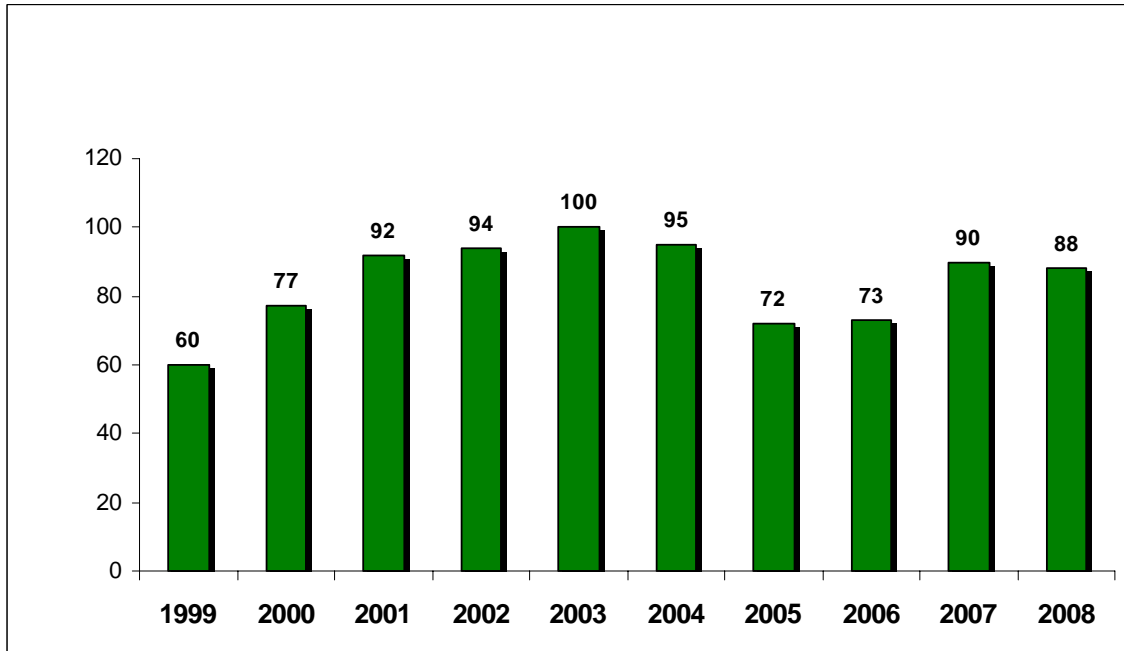
### ADDITIONAL CHARTS DEPICTING CLAIM ACTIVITIES

Chart 1	Over \$1 Million Cases: Amount Paid FYs 1995 - 2004
Chart 2	Over \$1 Million Cases: Number Resolved FYs 1995 - 2004

**CHART 1**  
**Over \$1 Million Cases: Amount Paid**  
**FY's 1999 - 2008**



**CHART 2**  
**Over \$1 Million Cases: Number Resolved**  
**FY's 1999 - 2008**



**APPENDIX F  
FY 2008 Chart Index**

<b>CHART</b>	<b>TITLE</b>	<b>PAGE</b>
1	Pre-Litigation Personal Injury Settlements	5
2	Number of Cybersettlements	6
3	Number of Claims Filed by Category	11
4	Percentage of Claims Filed By Category	12
5	Percentage of Total PI Expenditures by Claim Type	14
6	PI Claim Types FYs 1999 - 2008	15
7	Medical Malpractice Claims Filed Medical Malpractice Settlements	17
8	Sidewalk Claims Filed Sidewalk Settlements	22
9	Motor Vehicle Claims Filed Motor Vehicle Settlements	23
10	Civil Rights Claims Filed Civil Rights Settlements	24
11	School Claims Filed School Settlements	25
12	Uniform Services Claims Filed Uniform Services Settlements	27
13	Police Action Claims Filed Police Action Settlements	28
14	Property Damage Claims Filed Property Damage Settlements	29
15	Law Claims Filed Law Claims Settlements	30
16	New Claims Filed By Agency FYs 1999 - 2008	32
17	Dollar Value of Settlements & Judgments by Agency FYs 1999 - 2008	33
18	Agency Claims Activity FY 2008	34
19	Agencies With Decrease in Claims Filings	35
20	Agencies With Increase in Claims Filings	36
21	Health & Hospitals Corporation Claims Filed Health & Hospitals Corporation Settlements	38
22	Department of Transportation Claims Filed Department of Transportation Settlements	40
23	Police Department Claims Filed Police Department Settlements	42
24	Department of Education Claims Filed Department of Education Settlements	44
25	Sanitation Claims Filed Sanitation Settlements	45
26	Claims Filed by Borough Per 100,000 Residents FY2008	48
27	Total Claim Expenses by PI & PD by Borough Per Resident	49