



City of Long Beach

Working Together to Serve

Office of the City Attorney

2018 Year End Report and Comparisons of Government Claim Activity 2016 through 2018

Government Code § 910 et seq. imposes a prerequisite on any person or business seeking to sue an agency, such as the City, for money damages. All parties seeking money damages must first file a government claim.

The claims requirement is intended to allow local agencies to investigate claims and, where appropriate, resolve claims, saving the costs of litigation. Every government claim filed with the City Clerk is referred to the City Attorney. Each claim is then carefully and thoroughly investigated by a Claims Adjuster in the Law Department's Liability Section. The result of the investigation is then reviewed by an attorney for final determination.

The government code provides that all claims be resolved- one way or the other- within forty-five days. Consequently, within forty-five days, all government claims are either (1) paid outright; (2) compromised; or (3) rejected.

In some cases, government claims are simply returned without being considered. This happens when a claim is late, e.g., not filed within the time allowed by the Government Code, or are so vague and unclear that City Attorney staff is unable to properly investigate the claim.

For the last three years, my staff has been compiling and analyzing claims data, and has published statistical data and analysis in various reports. This report continues that policy. In this report, we look at the year-end data for the year 2018, and compare each of the last three years: 2016, 2017 and 2018.

The City Attorney makes this information available to its clients, and the public, so that all stakeholders better understand the claims process, and so each Department better understand its area of exposure, locates areas of concern, and better manages risk.

Best Regards,

Charles Parkin,
City Attorney

Analyses of Claims Data for 2018

In 2018, the City Attorney's Office received, investigated and adjusted a total of 697 *claims*. 697 claims represent a three year low for government claims filed. The yearly average for government claims filed for the years 2016 and 2017 was 778 claims. Accordingly, claims decreased this year relative to the proceeding two years' average by 10.4 %.

Of the 697 claims adjusted, the City Attorney's Office determined City liability existed for 176 claims, or roughly 25% of all claims considered. Looking over the last three years, we note that the percentage of claims accepted is fairly consistent: on average the City Attorney accepts and pays on average about 24% of government claims filed.

Of the 176 claims that the City Attorney found had merit, this office resolved 140 claims. When liability is clear, and the parties can reach an agreement as to the fair value of a claim, the City Attorney seeks to resolve the claim, and thus spare the City the costs and fees associated with lawsuits.

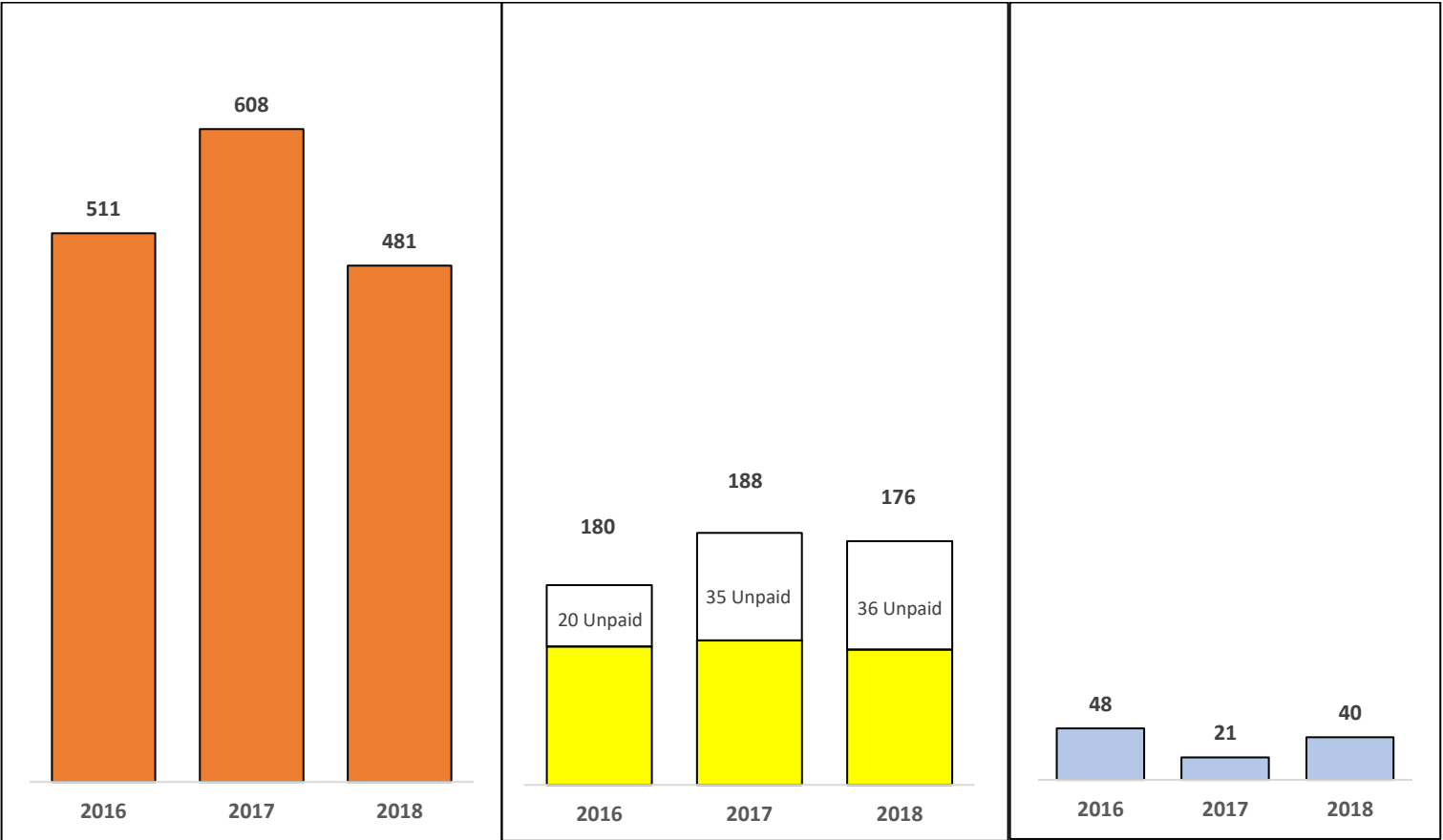
In resolving the 140 claims, the City Attorney authorized a total year-end payout of \$246,121. By contrast, the average total year-end payouts for 2016 and 2017 was \$318,964. This reflects a difference of \$72,843 or a 22.8% reduction in disbursements in 2018. The money paid to satisfy claims typically comes from the City's Insurance Fund.

The City Attorney recognized potential liability in thirty-six (36) claims, however did not authorize any payouts. This is because claimants did not provide adequate documentation to support alleged damages, or the parties could not agree on reasonable compensation (Figures 1 & 2).

Throughout the year, the City Attorney refused to consider thirty-two (32) claims because the claims were so vague, unclear or provided so little information, that City Attorney staff could not investigate the claim even after a request to the claimant to supply additional information (Figure 1).

LIABILITY ACCEPTED VS. DENIED

2016 - 2017 - 2018



Liability Not Accepted

Liability Accepted

Undetermined

**Undetermined: City was unable to determine liability based on information submitted; claim was not considered*

Figure 1

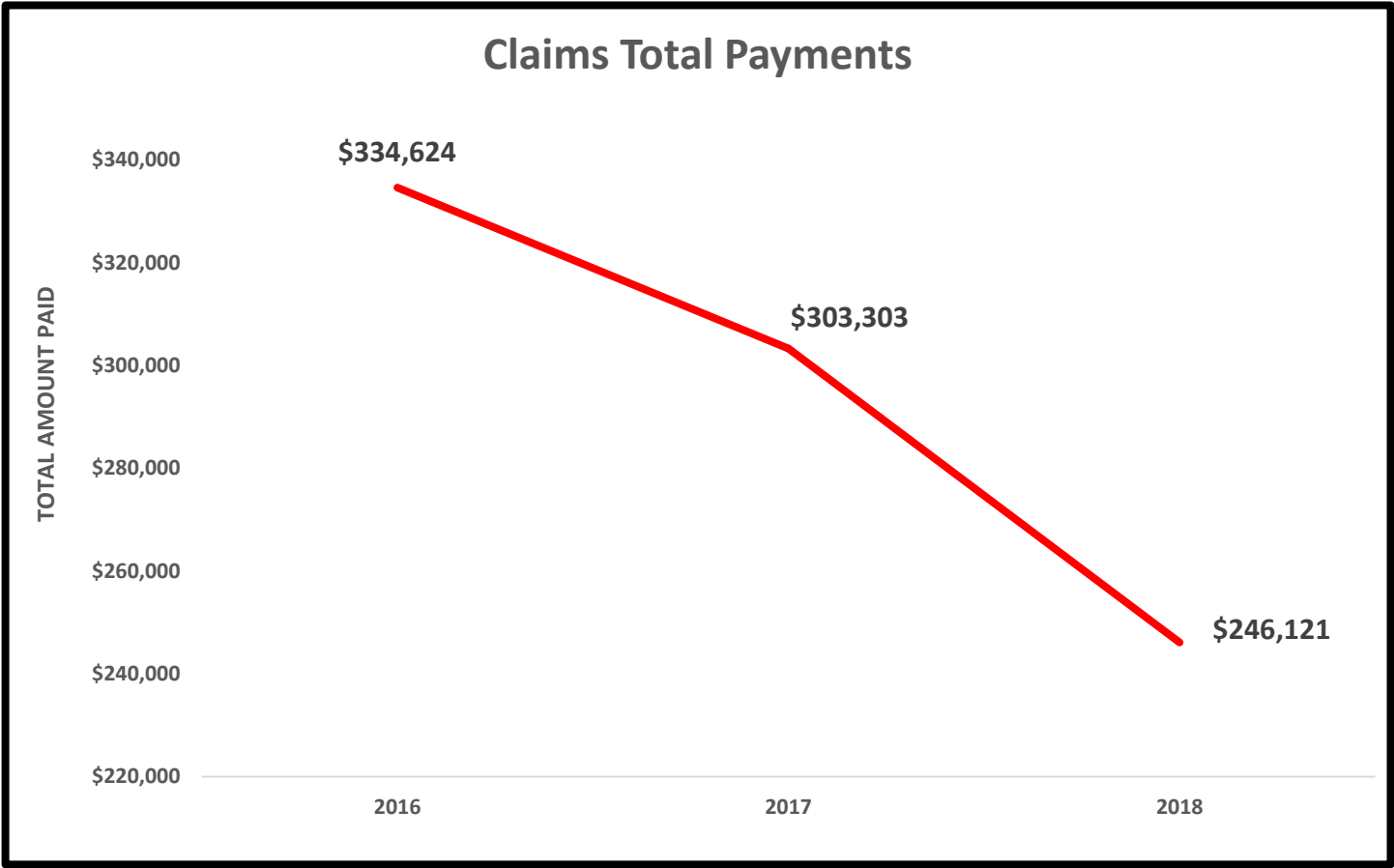
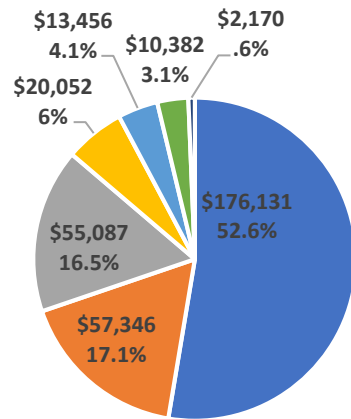


Figure 2

2016

- Auto Accidents
- Tree Roots
- Tree
- Other
- Tow * Other
- LBPDP Property Damage
- Invalid Tow

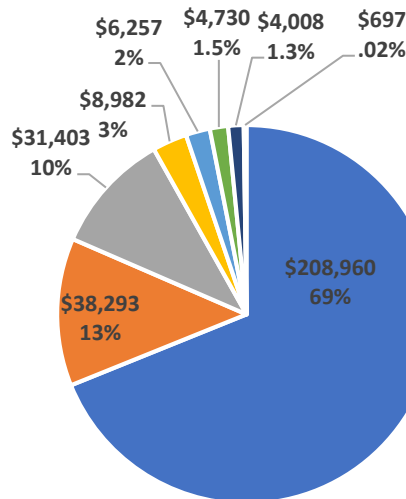


Figures 3, 4 and 5 examine the kind of claims the City paid from 2016 to 2018. *The data shows that vehicle accidents continue to be a significant source of City exposure.*

In 2018, 61% of claims paid, or over \$149,000 in payouts, arose from the negligent operation of a vehicle. However, this is down 28% from 2017.

2017

- Auto Accidents
- Tree
- Tree Roots
- Other
- Road Conditions
- LBPDP Property Damage
- Emp Conduct
- Invalid Tow

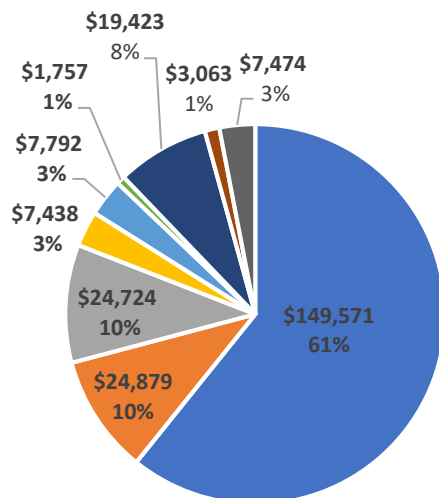


After automobiles, claims arising from City *trees and tree roots* remain a large percentage of claims paid through 2018. Tree roots are analyzed separately from tree limbs, since tree roots are typically limited to damage to sewers, driveways or driveway aprons.

Although several Government Code sections provide an immunity to the City for damages resulting from police activity, the City Attorney does accept liability under some circumstances.

2018

- Auto Accidents
- Tree
- Tree Roots
- Other
- Road Conditions
- LBPDP Property Damage
- Emp Conduct
- Invalid Tow
- Sidewalks



A small percentage of claims paid involve police activity. Here, police activity references damage to property while undertaking an arrest or executing a warrant or lost property. Very few claims allege police violation of constitutional rights. The City Attorney rarely accepts liability at the Claims stage.

Damages to vehicles while impounded, employee conduct, and other causes made up the remaining claims paid.

Claims by Department

2016 - 2017 - 2018

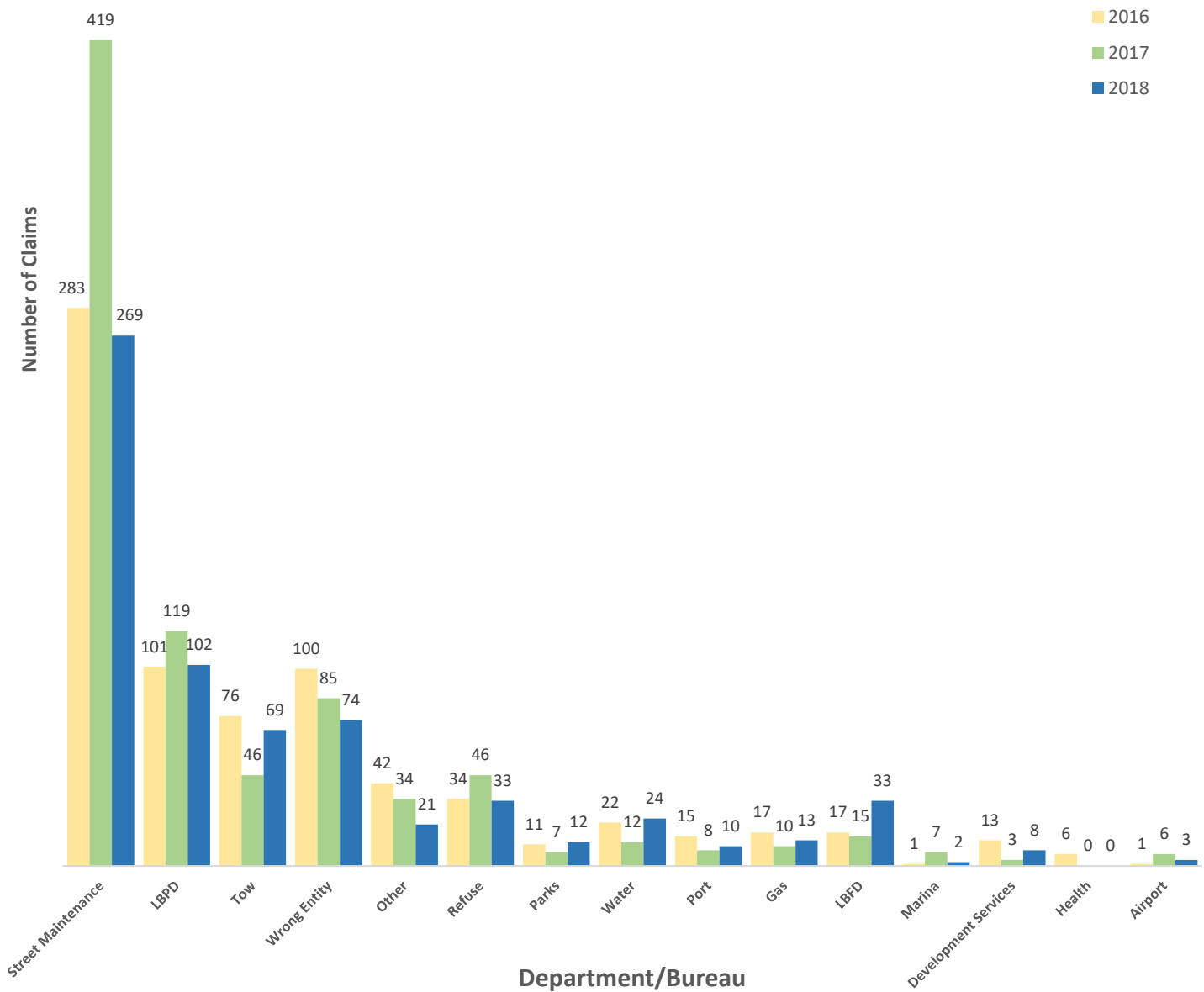


Figure 6

Figure 6 compares claims by Department, or Bureau, by year. For example, Street Maintenance had a significant *decrease* in claims, compared to the two previous years. This *decrease* is in direct correlation to the reduced number of claims received in 2018 relative to the two prior years. Overall, most departments fluctuate only slightly in the number of claims when compared to the two previous years.

Public Works

Street Maintenance 2016-2017-2018

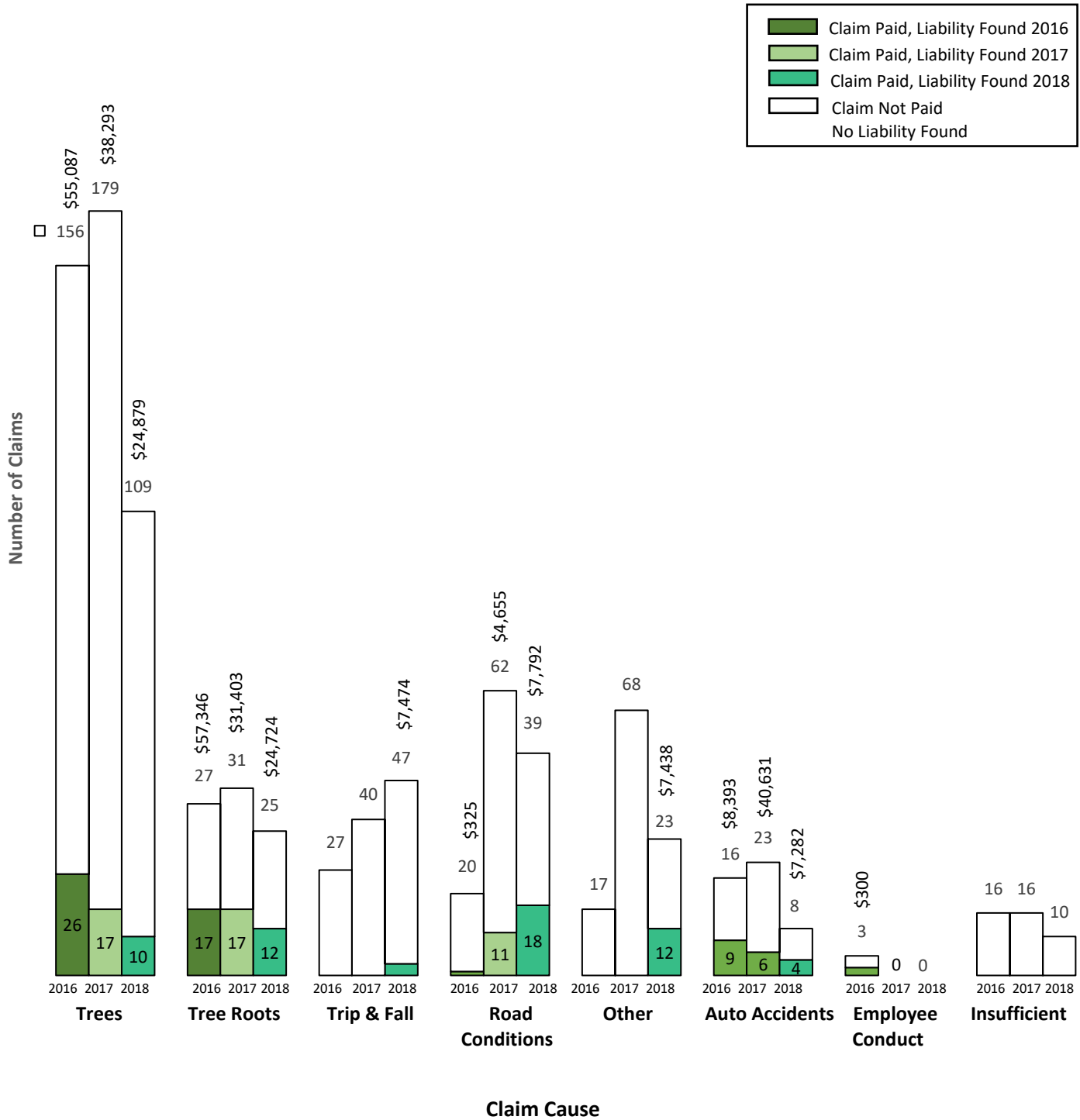


Figure 7

**Other includes but is not limited to allegations of damages caused by the design of an intersection and/or roads and flood water from inadequate storm drains.*

Street Maintenance:

The City Attorney's Office adjusted a total of 270 claims in 2018 relating to Public Works, Street Maintenance Division. This is a *decrease* of 23%, or 81 claims fewer compared to the average of 351 claims in 2016 and 2017. 40% of the 2018 claims were for damage caused by City trees. The City Attorney accepted twenty-two (22) tree claims, with a total payout of \$24,897; which reflects 10.1% of claims paid in 2018 (Figure 7).

Below are examples of the kind of damage falling limbs can cause, and the kind of claims we typically see.



Property Damage Caused by City Trees

While City trees are maintained by the Public Works Department, tree roots can cause damage to water and sewage lines. Since these claims involve pipes appurtenant to houses, these claims usually involve the Water Department.

In 2018, eighteen (18) of the twenty-five (25) tree root related claims sought money for damages to water and sewer lines, as opposed to cracked driveways. Of the sixteen (16) tree root related claims, the City Attorney accepted twelve (12) of these claims, for a total of \$24,724. This is a 44% *decrease* in the amount paid compared to the two previous years.



City Tree Roots Cause Main Sewage Line Back Up

Unlike prior years, the City did not experience any excessive rain or wind storms in 2018. Therefore, the claim count decreased relative to claims received for trees, road conditions and storm drains/flooding.

The City Attorney received thirty-nine (39) claims for damages resulting from driving over potholes. Excessive rain can increase the amount of potholes in the City; however, the lack of rainstorms in 2018 decreased the claim count in this category. Potholes can also exist on major roadways that are heavily trafficked, particularly with large trucks. In 2018, The City Attorney accepted eighteen (18) of the forty-eight (48) claims with a total payout of \$7,792.

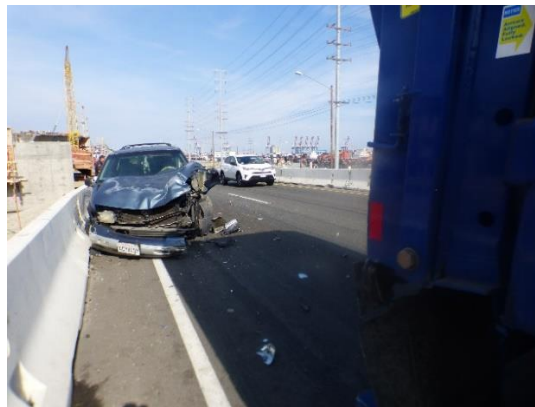
Pothole claims are typically not accepted unless two conditions are met: (1) the pothole is significant enough to create a dangerous condition for drivers using the road with due care; and (2) the City had notice of the pothole with adequate time to fix the condition, but failed to do so.



Pothole on City Street

Refuse:

In 2018, the City Attorney's Office adjusted thirty-three (33) claims related to Refuse. This is a *decrease* of 13 claims from 2017 (forty-six (46) claims adjusted) and one (1) claim from 2016 (thirty-four (34) claims adjusted). The City Attorney accepted thirteen (13) claims in 2018, totaling a payout of \$15,498. In 2017, the total payout for similar claims was \$59,549, and \$35,026 in 2016. Thus, the total indemnity paid related to Refuse has *significantly decreased* in the past three (3) years. These claims arise primarily from auto accidents or damage caused by a Refuse employee.



Property Damage Caused by Refuse Trucks

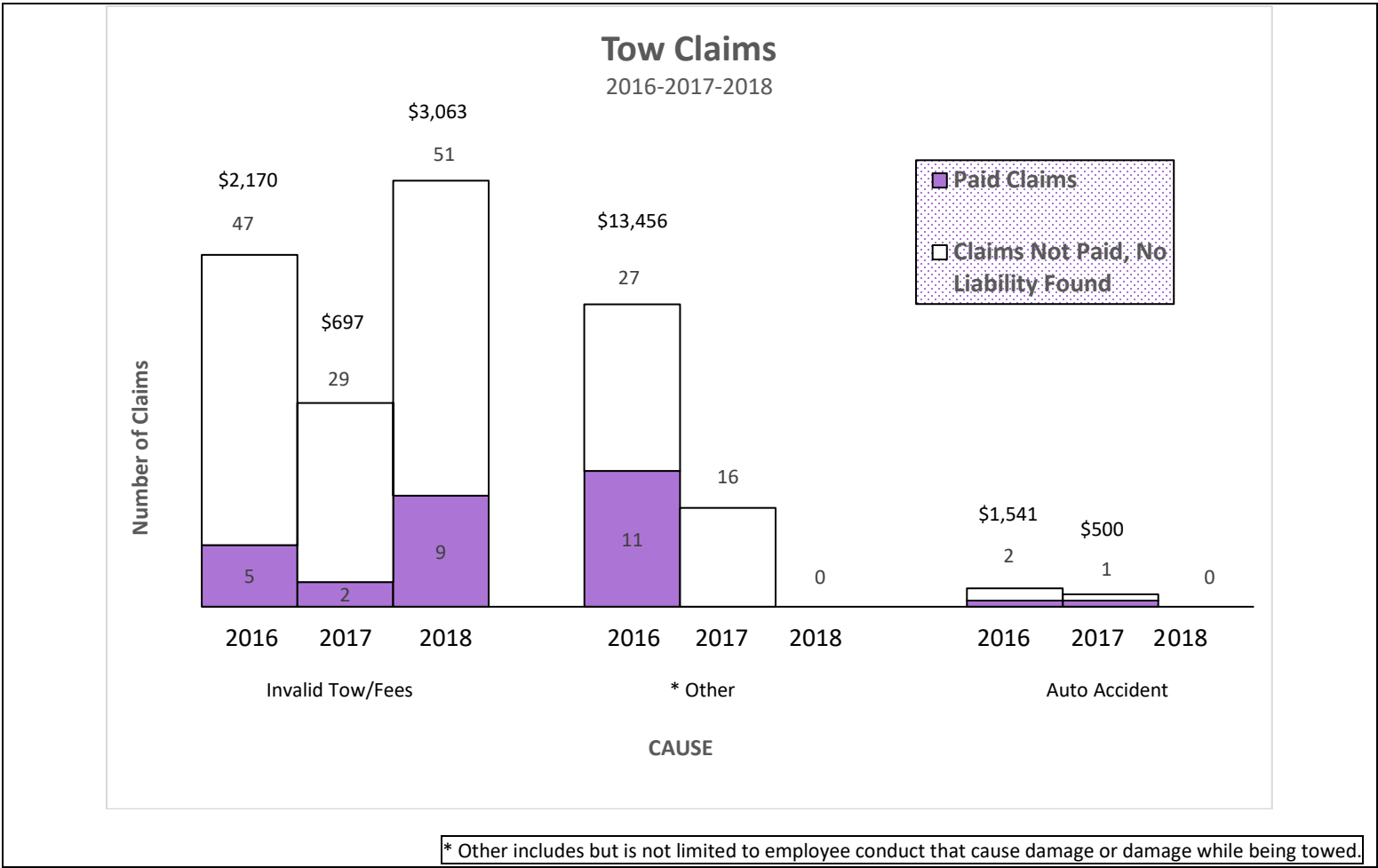


Figure 8

Towing:

In 2018, the City received fifty-one (51) claims related to Tow Operations. These claims include requests for a refund of costs and fees where a claimant proves the tow was invalid. Nine (9) claims were accepted, for a total payout of \$3,063; all for invalid tow and/or fees.

Compared to 2017, there was a significant *increase* in the number of claims received and paid (Figure 8).

STREET MAINTENANCE CLAIMS by Council District

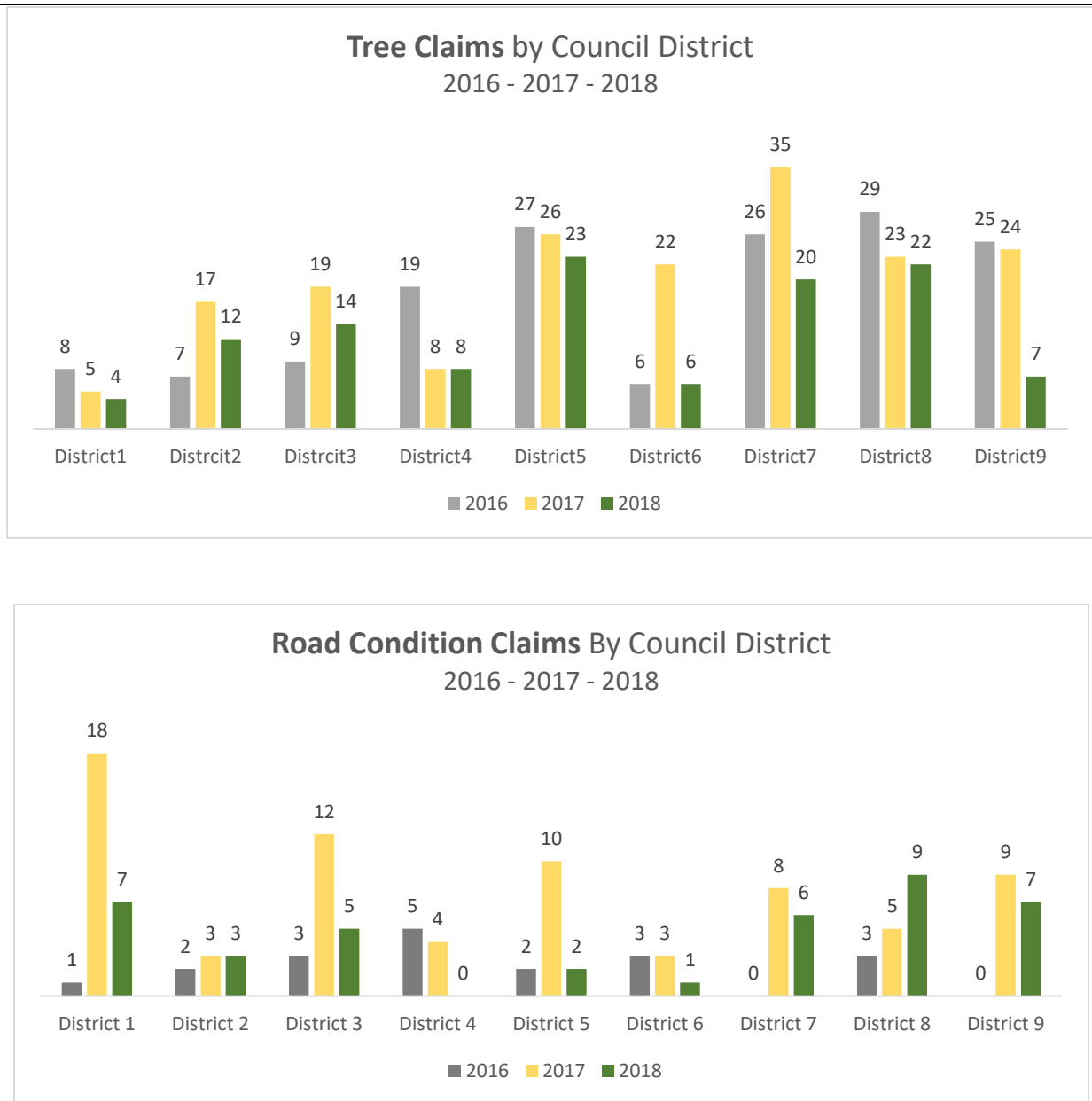


Figure 9

Figure 9 provides a broad view of tree and road condition government claims filed by council district. These graphs depict claims from 2016 through 2018.

In 2018, the City received a total of 109 claims related to trees. In 2017, the City received a total of 179 claims. In 2016, citizens filed 156 claims. The number of claims related to trees continues to rise.

In 2018, the City received a total of thirty-nine (39) claims pertaining to road conditions, such as potholes. This reflects a decrease in pothole claims in comparison to 2017.

The City also received a total of twenty-five (25) claims related to sidewalk conditions which is a slight *decrease* from the prior years by 19%. Unlike 2016 and 2017 where the amount paid towards sidewalk claims was \$0, in 2018, the City paid a total of \$7,474 to resolve two sidewalk claims.

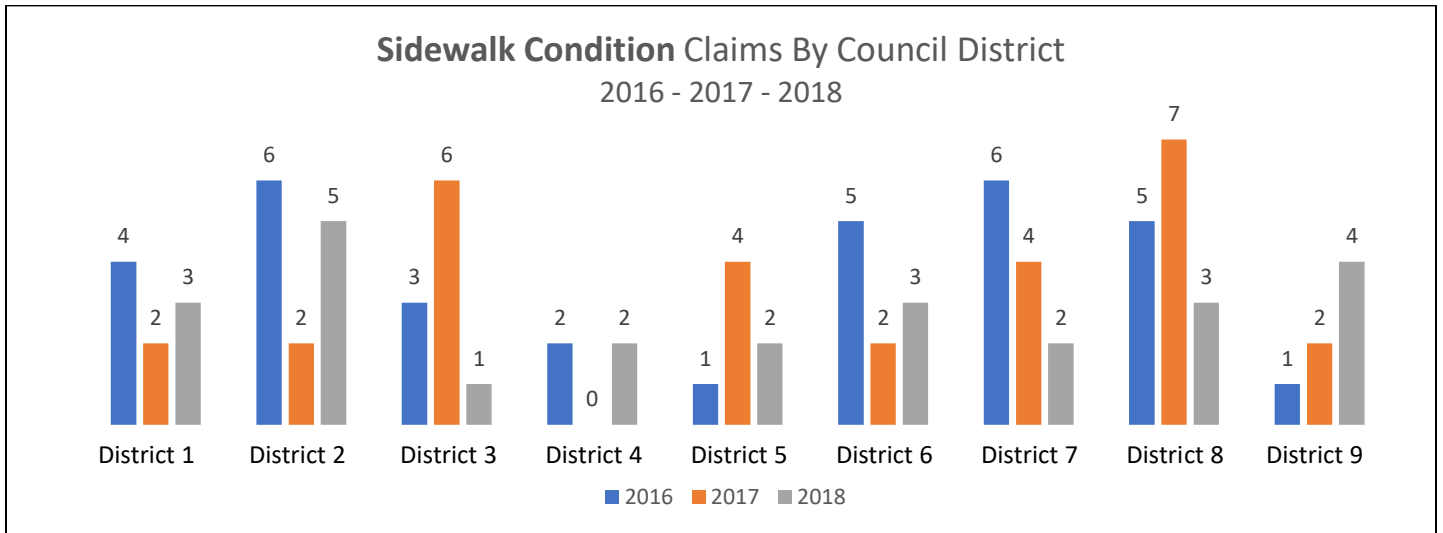
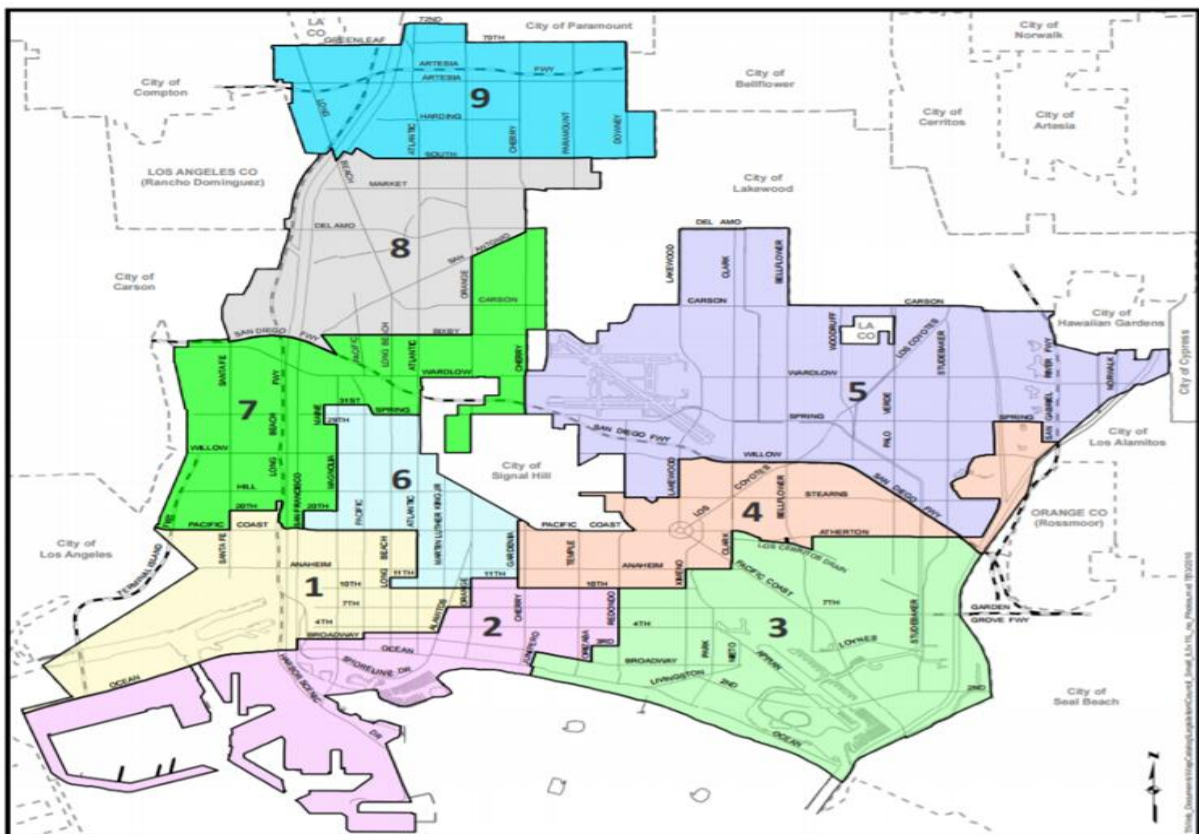


Figure 10



City Map Divided by Council District

Long Beach Police Department

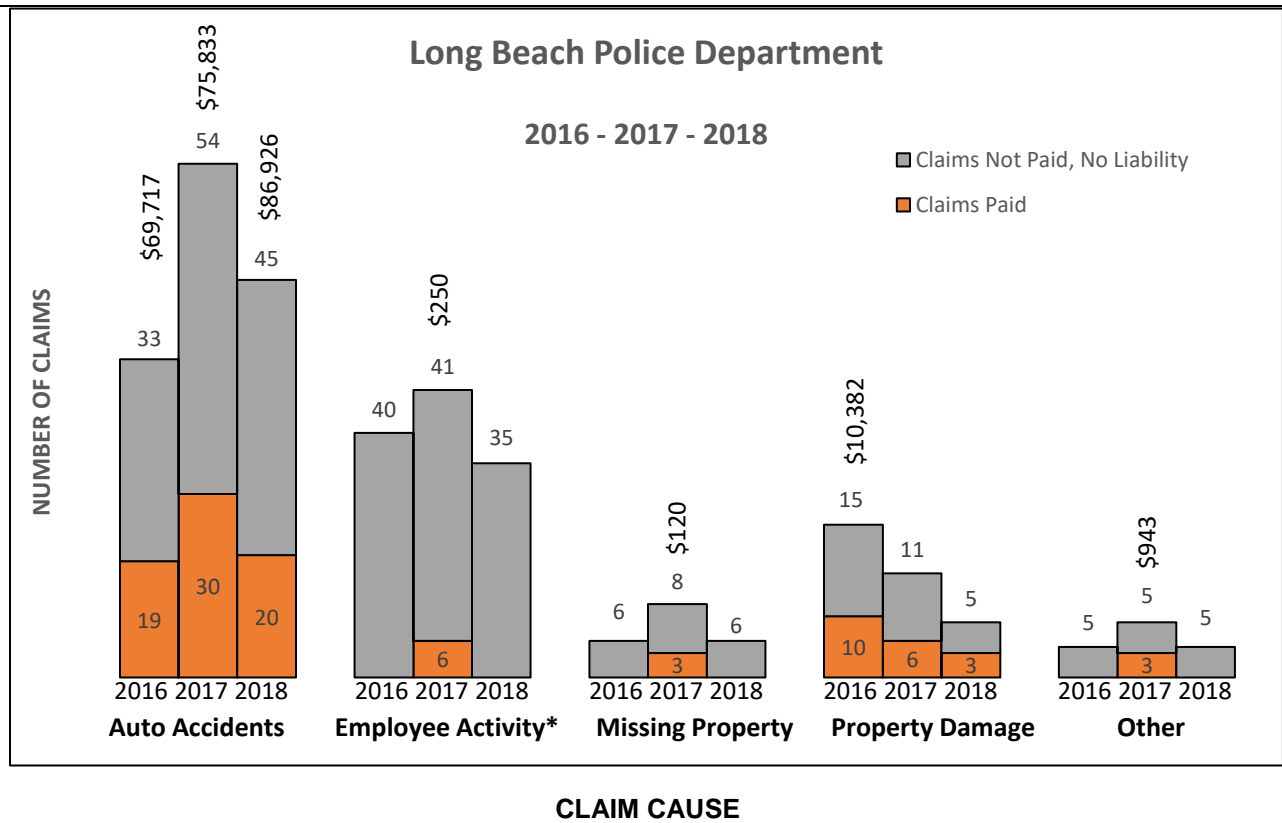


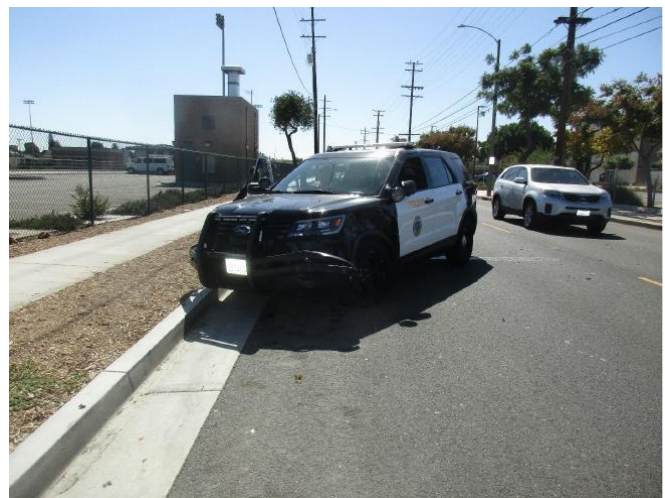
Figure 11

*Employee Activity includes but is not limited to: alleged employee misconduct, and/or alleged civil/constitutional violations (such as false arrest, excessive force, etc.).

In 2018, the City Attorney's Office adjusted 96 claims relating to the Police Department (Figure 11). In 2018, twenty-three (23) claims were accepted, for a total payout of \$88,518. Of the twenty-three (23) claims accepted, automobile accidents accounted for twenty (20) accepted, *or approximately 87% of the claims against the Police Department that were accepted*. The total payouts were \$86,926.

Total payouts on claims related to property damage caused by the Police Department decreased in 2018. The City Attorney authorized \$10,382 in payouts in 2016; \$4,730 in 2017; and \$1,592 in 2018. Again, there are several Government Code sections that provide an immunity from claims for police activity. Under special circumstances, however, the City Attorney has agreed to authorize a reasonable payment to resolve the claim.

Although the City Attorney concluded that potential liability existed in fifteen (15) claims alleging negligent operation of a police car, the City Attorney did not pay these claims because claimants did not provide adequate documentation to support damages.



Traffic Collisions Involving the Police Department

Auto Accidents

Auto Accidents By Department/Bureau

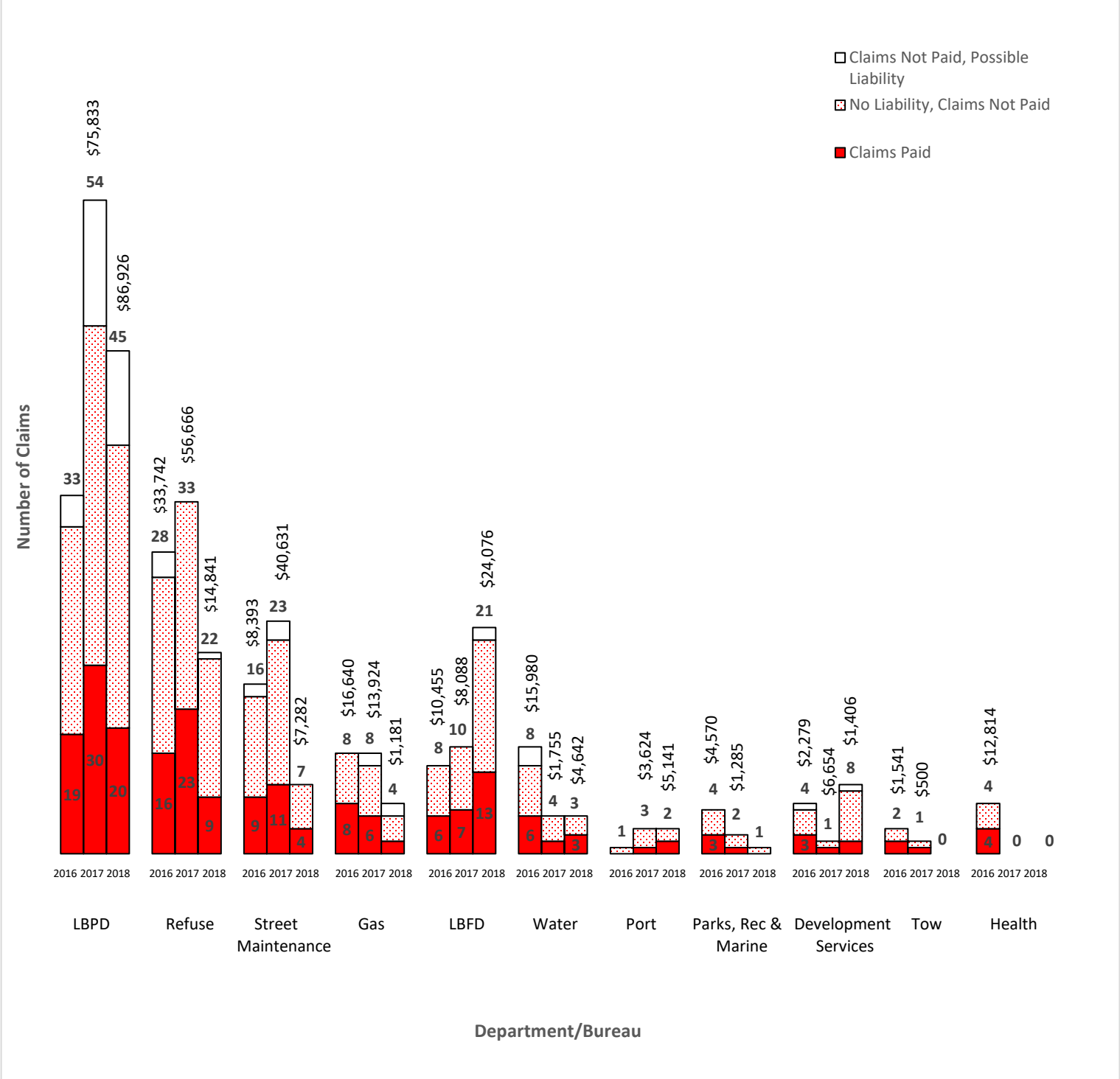


Figure 12

In Figure 12, the City Attorney's Office highlights automobile accident claims because this is a significant source of exposure to the City. Government claims in this category include automobile vs. automobile accidents, as well as single vehicle accidents where, for example, a trash truck strikes a fixed object causing property damage.

In 2018, the City Attorney adjusted 112 automobile claims. Of the 112 claims received, the City found liability in 76 claims, but only paid out on fifty-five (55) claims, for a total payout of \$145,495.

In 2017, the City paid a total of \$208,960 in automobile accident claims. Thus, payouts for automobile accidents *decreased by* 30% between 2017 and 2018. In 2016, the City paid \$176,131 for claims arising from automobile accidents.

The City Attorney refused to authorize payments on twenty-one (21) claims despite finding liability adverse to the City, again because of the lack of adequate documentation to support damages.

The City Attorney determined that there was no liability in thirty-six (36) automobile claims filed, and these claims were rejected.



Automobile Accident Involving City Vehicle