



Date: April 28, 2023
To: Debora Juarez, Seattle City Council President
From: Bruce Hori, City Director of Risk Management
Office of City Finance
Subject: 2022 Annual Report – Judgment Claims Fund

Executive Summary

Resolution 31847 directs the Director of Risk Management to provide an annual and semiannual report to the City Council and City departments on claims and lawsuits filed against the City. This 2022 year-end annual report describes claims and lawsuits for damages against the City, reports on judgments and settlements paid and recaps the financial activity in the Judgment Claims Fund (JCF).

Please note that the Annual Report summarizes JCF financial expenditures (judgments, settlements and expenses) paid out before expenditure reimbursements (primarily from the utilities) are deducted.¹ Due to the difference in reporting methodology, the total annual expenditures will always be greater than the reconciled actual annual expenditures table on the last page of this report which is prepared by the City Budget Office (CBO) because it reports on JCF financial activity including revenues and reconciling for reimbursements.

In 2022, \$43.8 million was paid from the JCF for claim and insurable² lawsuit settlements and expenses. \$26 million was for settlements and the remaining \$17.8 million was for claims and lawsuit expenses. This is a noticeable increase from the 2021 total of \$30.9 million. The 2022 increase resulted from an additional \$9.3 million in settlement costs and \$3.6 million in outside counsel fees; however, \$5 million of the 2022 total was reimbursed by the City's excess insurers.

The City currently has \$20 million of excess liability insurance coverage subject to a \$10 million self-insured retention (SIR). The JCF self-insures judgments, settlements and litigation expenses within the City's \$10 million SIR. Unless a settlement—plus incurred litigation expenses—exceeds \$10 million, there will be no contribution from insurance.

Claim and Lawsuit Settlements and Judgments

The data outlined in this report provides a snapshot of claim and lawsuit payments made during 2022. These numbers should not be used to infer long-term trends, as pending potentially large exposure cases and catastrophic or unusual weather events can cause a significant increase in expenditures, claim filings and lawsuits.

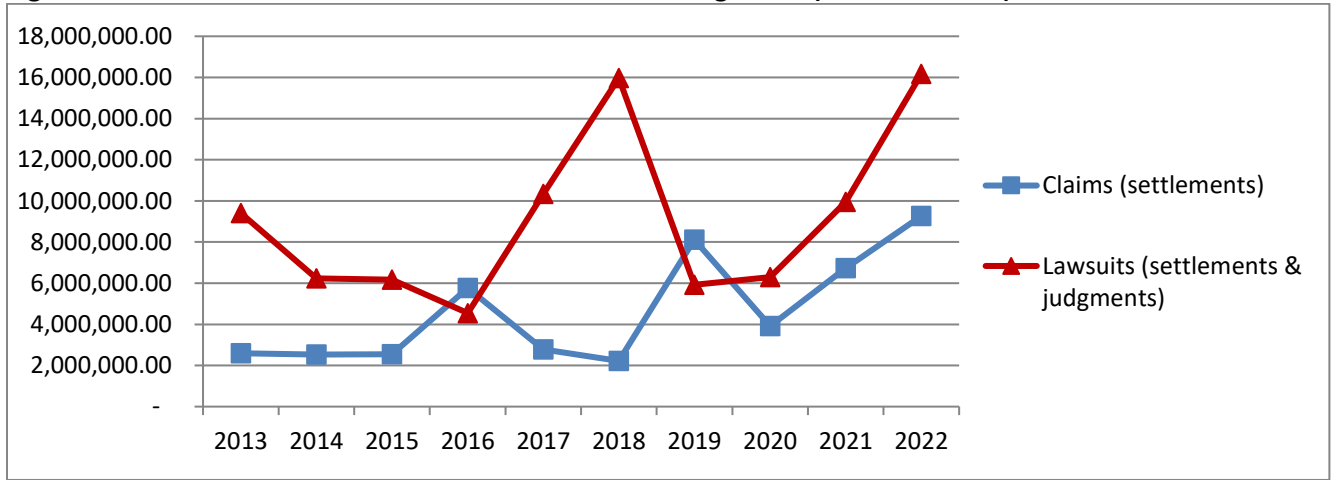
In 2022, \$26 million was paid from the Judgment Claims Fund for settlements and judgments (this does not include lawsuit expenses). This total includes \$9.3 million in claim settlements and \$16.7 million in lawsuit settlements and judgments. This is an increase from the 2021 payout of \$16.7 million.

Figure 1 on page 2 demonstrates that the annual total amount paid for claims and lawsuits over the last 10 years remains volatile but is on an upward trend, primarily due to the civil unrest events of 2020.

¹ *Lawsuit data in this report is provided by the City Attorney's Office and is subject to change.*

² *Insurable lawsuits are those litigation exposures covered by the City's excess liability insurance and paid by the Judgment Claims Fund. The Law Department handles other lawsuits and projects in addition to insurable lawsuits.*

Figure 1: Claim and Insurable Lawsuit Settlements and Judgments (Paid Year Basis)



Claims and Insurable Lawsuits Filed

In 2022, the number of claims and insurable lawsuits filed against the City totaled 2,088, consisting of 2,000 claims and 88 insurable lawsuits (Figures 2 and 3). Claim and Lawsuit counts are strongly dependent on catastrophic or unusual weather events with volatility expected to continue with changing weather patterns.

Figure 2: Claims Filed by Year

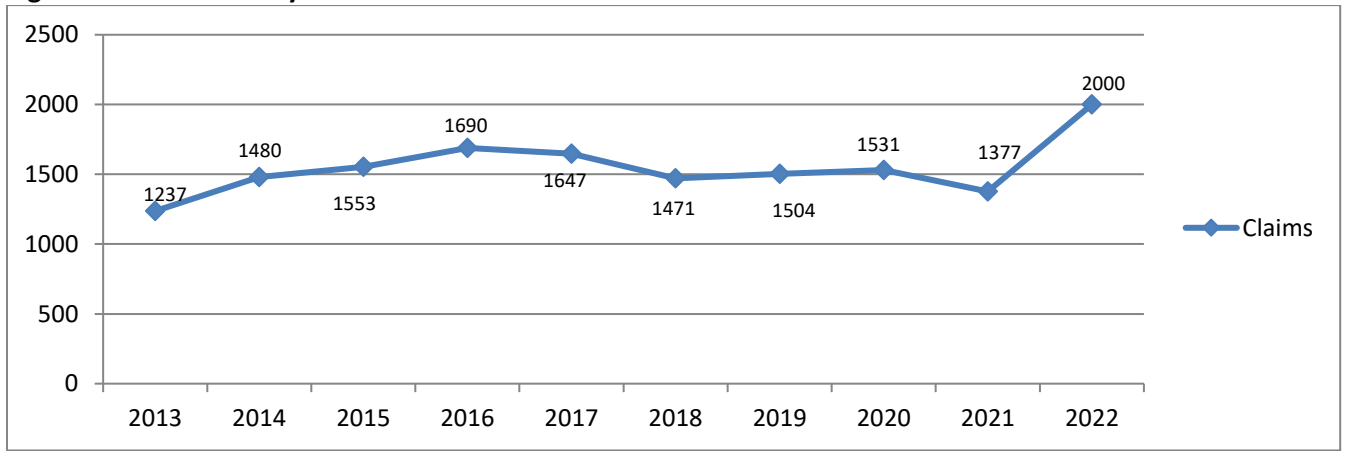
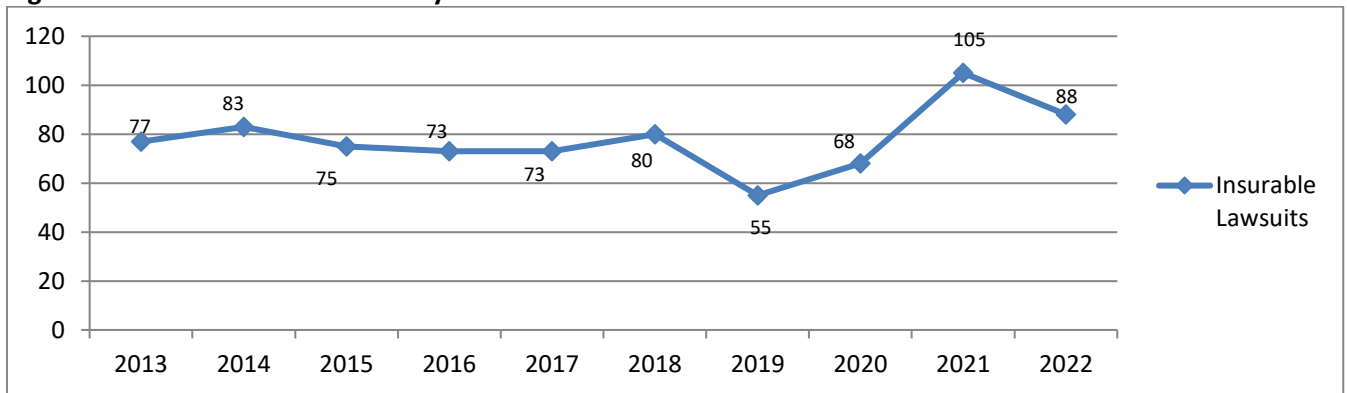


Figure 3: Insurable Lawsuits Filed by Year



Claim Expenditures

Total claim expenditures increased \$2.5 million over the prior year. This increase was driven by a Seattle City Light employment claim settlement of \$2.4 million, 16 pedestrian fall claims settled for \$800,000 (details of two large settlements are on page 9 and 10), and over 500 modest claim settlements for pothole vehicle damages totaling approximately \$400,000.

Table 1: Annual Comparison of Claim Expenditures by Department

Department	2021 Claims			2022 Claims		
	Expenses	Settlements	Total	Expenses	Settlements	Total
City Light	\$ 6,343	\$ 648,050	\$ 654,393	\$ 1,214	\$ 2,603,836	\$ 2,605,050
Fin. & Admin. Svcs.	—	\$ 9,221	\$ 9,221	—	—	—
Fire	\$ 2,089	\$ 102,065	\$ 104,154	\$ 5,799	\$ 238,387	\$ 244,186
Human Services	—	\$ 2,067	\$ 2,067	—	\$ 22,162	\$ 22,162
Library	—	—	—	—	\$ 4,508	\$ 4,508
Municipal Court	—	—	—	\$ 614	—	\$ 614
Neighborhoods	—	—	—	\$ 255	\$ 3,669	\$ 3,924
Parks & Recreation	\$ 588	\$ 181,365	\$ 181,953	\$ 18,973	\$ 311,751	\$ 330,724
Police	\$ 41,148	\$ 125,537	\$ 166,685	\$ 89,349	\$ 1,860,842	\$ 1,950,191
SDCI (formerly DPD)	—	\$ 10,876	\$ 10,876	—	\$ 16,570	\$ 16,570
Seattle Center	\$ 210	\$ 5,107	\$ 5,317	—	—	—
SPU /Admin.	\$ 440	\$ 45,979	\$ 46,419	\$ 412	\$ 80,047	\$ 80,459
SPU / Project Delivery	—	\$ 5,021	\$ 5,021	—	—	—
SPU /Drainage & WW	\$ 152,787	\$ 3,677,037	\$ 3,829,824	\$ 33,536	\$ 1,327,661	\$ 1,361,197
SPU /Solid Waste	\$ 450	\$ 1,320	\$ 1,770	\$ 1,832	\$ 29,740	\$ 31,572
SPU /Water	\$ 6,944	\$ 1,112,888	\$ 1,119,832	\$ 48,562	\$ 810,659	\$ 859,221
Transportation	\$ 5,838	\$ 803,300	\$ 809,138	\$ 11,869	\$ 1,952,894	\$ 1,964,763
Grand Total	\$ 216,837	\$ 6,729,833	\$ 6,946,670	\$ 212,415	\$ 9,262,726	\$ 9,475,141

Lawsuit Expenditures

- In 2022, the City spent \$14.9 million for outside legal counsel for insurable lawsuits. Outside legal counsel for insurable lawsuits accounted for 84.9% of all insurable lawsuit expenses.
- Retaining outside defense counsel was necessary to defend two complex lawsuits arising out of the 2020 civil unrest following George Floyd’s death. One lawsuit is from several protesters alleging physical injuries during the 2020 civil unrest, and the other is from businesses and residents alleging losses arising out of the formation of the Capitol Hill Organized Protest (CHOP) zone. These lawsuits accounted for \$6.99 million and \$2.81 million respectively of the \$14.9 million spent. The City will continue to incur outside legal counsel expenses as the City resolves the remaining lawsuits stemming from the 2020 civil unrest. Because the defense costs for these lawsuits have eroded the City’s SIR, the City’s lead insurer paid its coverage limit of \$5 million to the City in 2022.
- The City has received many claims from employees who were terminated after they chose not to comply with the City’s Covid-19 vaccine mandate and may incur outside legal counsel expenses if these claims progress to lawsuits.
- These totals do not include litigation expenses for claims and lawsuits, or expenditures made (expenses, settlements, and judgments) for *noninsurable* lawsuits which are summarized at the bottom of the Lawsuit Expenditures table on the next page.

Table 2: Annual Comparison of Lawsuit Expenditures by Department

Department	2021 Lawsuits			2022 Lawsuits		
	Expenses	Settlements	Total	Expenses	Settlements	Total
City Light	\$ 329,727	\$ 298,354	\$ 628,081	\$ (2,037)	\$ 354,000	\$ 351,963
Fin. & Admin. Svcs.	\$ 57,161	\$ 88,000	\$ 145,161	\$ 80,029	\$ 1,500,000	\$ 1,580,029
Fire	\$ 773,999	\$ 246,886	\$ 1,020,885	\$ 228,535	\$ 1,180,000	\$ 1,408,535
Fire Fighter Pension	—	—	—	\$ 5,202	\$ 25,000	\$ 30,202
Human Resources	\$ 30	—	\$ 30	—	—	—
Human Services	\$ 116,378	\$ (16,275)	\$ 100,103	\$ 567,729	—	\$ 567,729
Labor	\$ 93,583	—	\$ 93,583	\$ 11,051	—	\$ 11,051
Law	\$ 148,013	—	\$ 148,013	\$ 33,995	—	\$ 33,995
Legislative	\$ 87,181	\$ 184	\$ 87,365	\$ 104,026	—	\$ 104,026
Public Library	\$ 13,361	—	\$ 13,361	\$ 26,131	\$ 79,727	\$ 105,858
Mayor's Office	\$ 4,204,672	—	\$ 4,204,672	\$ 4,132,344	\$ 699,855	\$ 4,832,199
Municipal Court	\$ 6,380	—	\$ 6,380	\$ 28,179	\$ 1,100,000	\$ 1,128,179
Neighborhoods	\$ 95,636	—	\$ 95,636	\$ 87,739	—	\$ 87,739
Parks & Recreation	\$ 407,616	\$ 232,500	\$ 640,116	\$ 266,876	\$ 3,632,667	\$ 3,899,543
SDCI (formerly DPD)	\$ 8,068	\$ 33,000	\$ 41,068	\$ 2,009	\$ 50,000	\$ 52,009
Police	\$ 6,219,422	\$ 6,784,258	\$ 13,003,680	\$ 11,027,978	\$ 4,397,500	\$ 15,425,478
OPA	—	—	—	\$ 3,744	\$ 60,000	\$ 63,744
SPU	\$ 903,776	\$ 210,000	\$ 1,113,776	—	—	—
SPU /Admin	—	—	—	—	\$ 183,000	\$ 183,000
SPU /Drain. & WW	\$ 10,108	—	\$ 10,108	—	\$ 100,000	\$ 100,000
SPU /Engineering	—	—	—	—	—	—
SPU /Solid Waste	—	—	—	—	—	—
SPU /Water	\$ 32	—	\$ 32	—	—	—
Transportation	\$ 568,699	\$ 2,078,629	\$ 2,647,328	\$ 962,259	\$ 3,365,836	\$ 4,328,095
Subtotal Insurable Cases	\$14,043,842	\$ 9,955,536	\$ 23,999,378	\$ 17,565,789	\$ 16,727,585	\$ 34,293,374
Other Litigation Projects and Noninsurable Cases	\$ 2,406,283	\$ 293,624	\$ 2,699,907	\$ 2,161,678	\$ 251,942	\$ 2,413,620
Grand Total	\$ 16,450,125	\$ 10,249,160	\$ 26,699,285	\$ 19,727,467	\$ 16,979,527	\$ 36,706,994

Other Litigation Projects and Noninsurable Cases

Table 2 above shows that in 2022, \$2.2 million was paid from the Judgment Claims Fund for noninsurable lawsuit expenses (noninsurable lawsuits are exposures *not* covered by the City's excess liability insurance). Noninsurable lawsuit expenses totaled \$2.4 million in 2021, \$3.8 million in 2020, \$2.1 million in 2019 and \$6.3 million in 2018. Contract disputes and environmental protection matters have historically made up the majority of the noninsurable lawsuit expenses.

- In 2022, there were four large noninsurable projects or lawsuits with expenses of \$200,000 or more. In comparison, in 2021, there were three large noninsurable projects or lawsuits; in 2020, there were three large noninsurable projects or lawsuits; in 2019, there was one large noninsurable project or lawsuit; and in 2018, there were seven large noninsurable projects or lawsuits.

Claim and Insurable Lawsuit Expenditures by Incident Type

Figure 4 on the next page shows the percentage of 2022 claim expenditures (settlements and expenses) by incident type. The large percentage of claim expenditures attributed to Street (Non-Pedestrian) are a result of pothole settlements. The Discrimination expenditure is a single settlement; additional details under large claim settlements are on page 9 and 10.

Figure 4: 2022 Claim Expenditures (Settlements and Expenses - Total \$9,475,141)

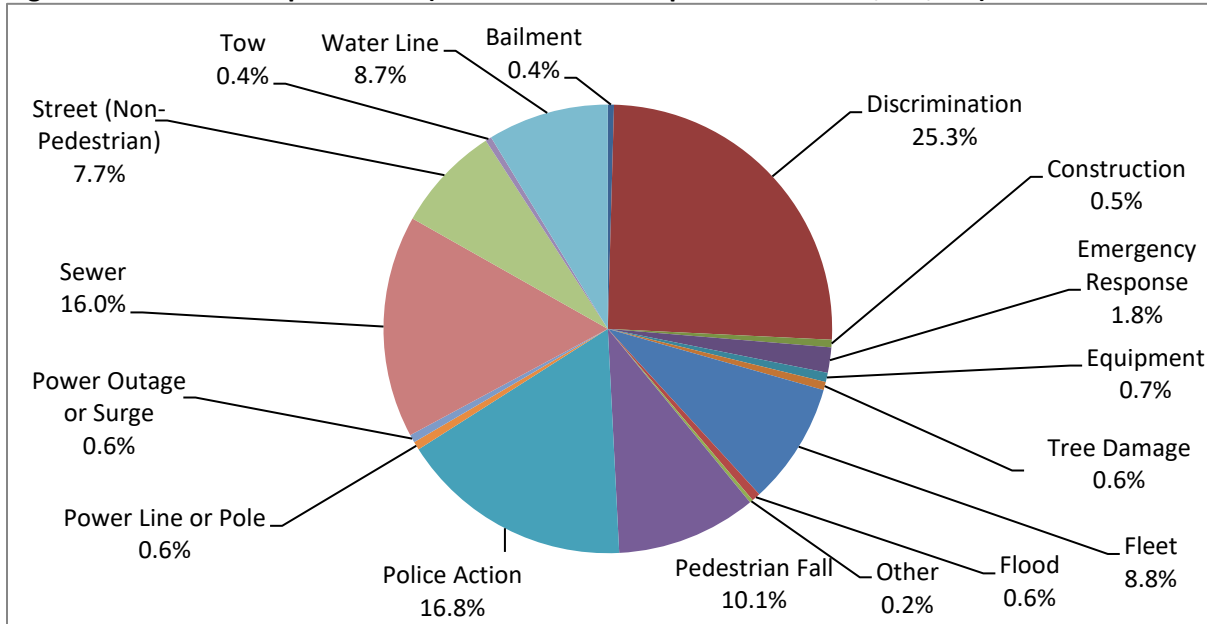
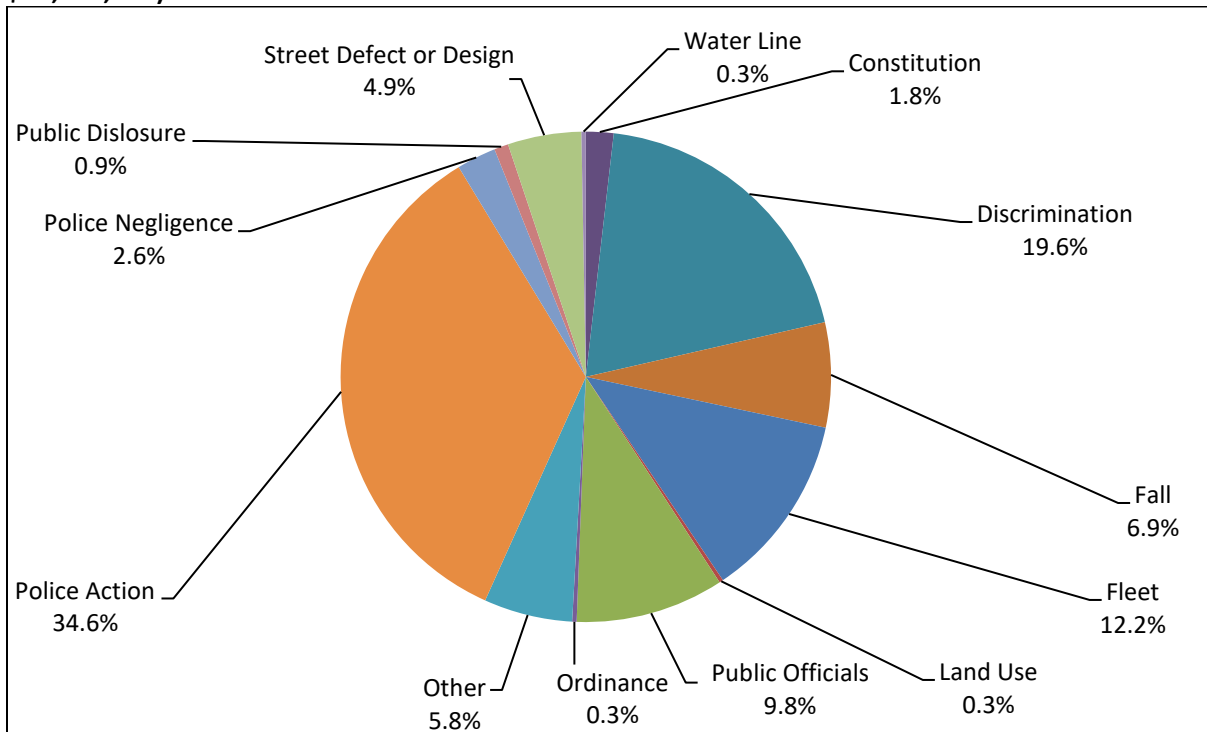


Figure 5 shows the percentage of 2022 insurable lawsuit expenditures (settlements, judgments, and expenses) by incident type. As mentioned on page 3, outside counsel fees are a contributor to Figure 5, along with the large lawsuit settlements summarized on pages 10-12.

Figure 5: 2022 Insurable Lawsuit Expenditures (Settlements, Judgments and Expenses - Total \$34,293,374)



Claim and Insurable Lawsuit Counts

- **Seattle Department of Transportation (SDOT) claims:** The 2022 significant increase in claims compared with 2021 was driven by 772 pothole claims caused by snow and freezing conditions. 64% of SDOT claims in 2022 stemmed from potholes with 76% of seasonal pothole claims being reported in the first quarter of 2022.
- **Seattle Police Department (SPD) claims:** The number of SPD police action claims (alleged use of excessive force) peaked in 2012 and was gradually decreasing until 2020. Due to the 2020 civil unrest, there were 134 police action claims, compared to 57 in 2019. A total of 69 police action claims were filed in 2021 and this downward trend continued in 2022 with 59 police action claims, indicating that 2020 was most likely an outlier. SPD also had 79 non-police action claims in 2022.
- **Seattle Public Utilities (SPU) claims:** In 2022 drainage and wastewater claims returned to their historic levels with 100 claims compared with 232 in 2020 and 184 in 2021. The number of drainage and wastewater claims are highly dependent on weather patterns.
- **Covid-19 Vaccination Mandate:** The City received 96 claims from terminated employees after they chose not to comply with the City's Covid-19 vaccine mandate. Of the 96 claims, 54 were from Seattle Fire Department personnel.

Tables 3 and 4 on pages 7 and 8 show the number of claims and lawsuits filed for each department over the last five years.

Table 3: Count of Claims Filed (by Department) in 2018, 2019, 2020, 2021, and 2022

Department	2018	2019	2020	2021	2022
Arts and Culture	-	1	-	-	-
City Light	246	155	141	134	156
Finance & Administrative Services	20	13	5	10	11
Fire	44	50	32	49	109
Human Services	2	8	1	3	1
Information Technology	-	1	-	-	2
Law	1	1	-	-	1
Legislative	-	-	-	-	1
Library	6	4	2	2	2
Mayor's Office	1	-	-	3	3
Municipal Court	1	2	2	2	1
Parks	60	86	72	57	63
Personnel/SDHR	1	1	1	-	-
SDCI (formerly DPD)	11	7	8	7	4
Police	285	292	267	234	138
Seattle Center	5	4	4	1	6
SPU/Admin	5	3	3	32	14
SPU/Drainage & Wastewater	73	93	232	184	100
SPU/Project Delivery	2	1	-	1	-
SPU/Solid Waste	24	47	30	35	33
SPU/Water	115	100	117	92	101
Transportation	505	584	544	497	1203
All Other City	11	9	12	4	2
Non-City [†]	53	42	58	30	49
Total	1,471	1,504	1,531	1,377	2,000

[†] City of Seattle not involved in incident (i.e., fall on a King County owned and operated Metro bus).

Table 4: Count of Lawsuits Filed (by Department) in 2018, 2019, 2020, 2021, and 2022

Department	2018	2019	2020	2021	2022
City Light	5	5	6	8	5
Finance and Administrative Services	1	2	2	2	4
Fire	1	2	1	3	5
Office of Housing	-	-	-	-	1
Human Resources	-	-	1	-	-
Human Services Department	-	-	3	1	-
Law	-	1	-	-	1
Legislative	4	-	-	3	-
Library	1	-	1	1	-
Mayor's Office	1	-	1	4	2
Municipal Court	-	-	-	1	-
Neighborhoods	-	-	-	1	-
Parks	3	5	5	2	3
SDCI (formerly DPD)	-	-	1	4	1
Police	21	14	17	33	19
Seattle Center	-	1	-	-	2
SPU/Admin	2	1	3	1	-
SPU / Project Delivery	-	-	-	-	-
SPU/Drainage & Wastewater	2	-	2	3	3
SPU/Solid Waste	-	-	1	-	-
SPU/Water	2	-	-	1	-
Transportation	37	24	24	37	42
Non-City	-	-	-	-	-
Subtotal Insurable Cases	80	55	68	105	88
Other Litigation Projects and Noninsurable Cases [‡]	690	506	350	516	523
Total	770	561	418	621	611

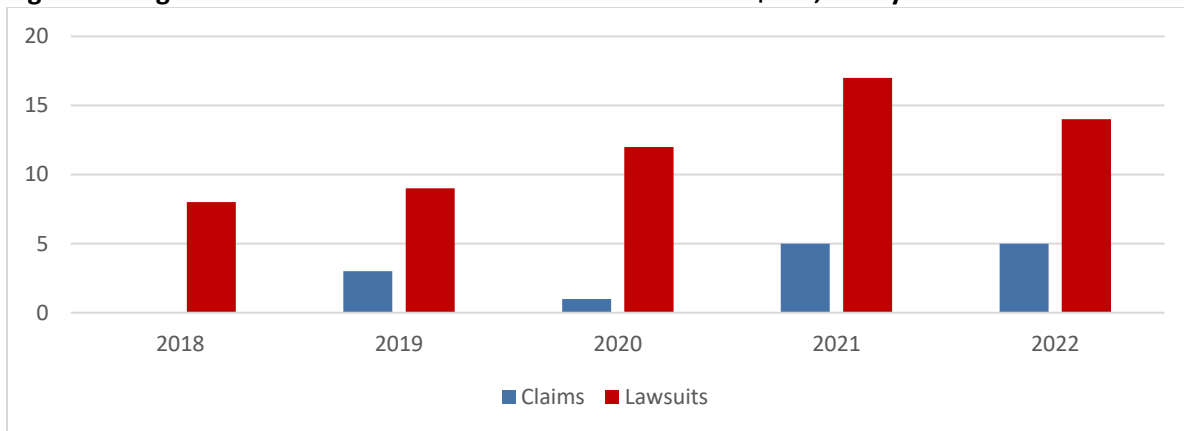
[‡]Other litigation project expenses: SMC 5.24.060 authorizes the City Attorney and the FAS director to pay for services supporting any threatened litigation against the City or where the City is a plaintiff or potential plaintiff in legal action.

Large Claim and Lawsuit Settlements

In 2022, the City experienced a decrease in the number of lawsuit settlements over \$200,000 (14 total) with four settlements over \$1 million. The trend in the number of large settlements over the last five years is summarized below:

- In 2022, there were 14 large lawsuit settlements (\$200,000 or more) and five large claim settlements (\$200,000 or more). In comparison, in 2021, there were 17 large lawsuit settlements and five large claim settlements; in 2020, there were 12 large lawsuit settlements and one large claim settlement; in 2019, there were nine large lawsuit settlements and three large claim settlements; in 2018, there were eight large lawsuit settlements (with three totaling \$11.5 million) and no large claim settlements.

Figure 6: Large Claim and Insurable Lawsuit Settlements over \$200,000 by Year



2022 Large Claim Settlements (\$200,000 or larger)

- 1. Plaintiff:** Security National Insurance dba Cornell & Associates
City Department: Seattle Public Utilities (Drainage and Wastewater Division)
Incident Type: Sewer Main Blockage
Claim: Claimant alleged a sewer backup during the September 24, 2020, rainstorm caused water damage to the insured apartment building.
Outcome: Settled
Settlement Amount: \$207,000
- 2. Plaintiff:** Kinn
City Department: Seattle Department of Transportation
Incident Type: Pedestrian Fall
Claim: Claimant alleged her trip and fall on a raised sidewalk crack was caused by a nearby SDOT tree root.
Outcome: Settled
Settlement Amount: \$215,000
- 3. Plaintiff:** Jensen
City Department: Seattle Department of Transportation
Incident Type: Pedestrian Fall
Claim: Claimant alleged her trip and fall was caused by a defect in the marked roadway crosswalk.
Outcome: Settled
Settlement Amount: \$225,000

4. **Plaintiff:** Estate of Derek Hayden
City Department: Seattle Police Department
Incident Type: Police Action
Claim: Claimant’s Estate alleged a civil rights violation, wrongful death, and violation of the Public Records Act.
Outcome: Settled
Settlement Amount: \$1,565,776 (Settlement was made in two payments. \$1.5 million was paid in 2022 and an additional \$65,776 was paid in 2023.)
5. **Plaintiff:** Horne
City Department: Seattle City Light
Incident Type: Discrimination
Claim: Claimant alleged harassment, discrimination and bullying not timely addressed by supervisors.
Outcome: Settled
Settlement Amount: \$2,400,000

2022 Large Lawsuit Settlements (\$200,000 or larger)

1. **Plaintiff:** Dorr
City Department: Seattle Police Department
Claim: an SPD officer was run over by a trolley bus during the December 2016 Sounders FC Victory Parade. He sued the trolley company, the Sounders, and the City, alleging the City and Sounders negligently planned the parade.
Outcome: Settled
Settlement Amount: \$200,000
2. **Plaintiff:** Jager
City Department: Seattle Fire Department
Claim: Plaintiff alleged he was injured when the driver of an SFD vehicle negligently collided with his vehicle.
Outcome: Settled
Settlement Amount: \$200,000
3. **Plaintiff:** Robbin
City Department: Seattle Police Department
Claim: Claimant alleged gender discrimination and retaliation.
Outcome: Settled
Settlement Amount: \$270,000
4. **Plaintiff:** Dixon
City Department: Seattle City Light
Claim: Plaintiff alleged racial discrimination, harassment, hostile work environment, negligence, and retaliation.
Outcome: Settled
Settlement Amount: \$300,000

5. **Plaintiff:** Lehner
City Department: Seattle Department of Transportation
Claim: Plaintiff alleged the tire of his wheelchair caught in a large gap in a sidewalk, causing his fall and injuries.
Outcome: Settled
Settlement Amount: \$300,000
6. **Plaintiff:** Ashbaugh
City Department: Seattle Department of Transportation
Claim: Plaintiff alleges she was injured when she fell on a sidewalk uplift caused by the roots of a nearby SDOT tree.
Outcome: Settled
Settlement Amount: \$350,000
7. **Plaintiff:** Gross
City Department: Seattle Department of Transportation
Claim: Plaintiff alleged she was injured when she slipped and fell on a sidewalk vault grate.
Outcome: Settled
Settlement Amount: \$350,000
8. **Plaintiff:** Estate of Lorenzo Anderson
City Department: Mayor's Office, Seattle Fire Department, Seattle Police Department
Claim: Plaintiff Estate of Anderson brought a variety of claims against the City for the June 20, 2020, shooting death of Mr. Anderson by a third party in the CHOP zone.
Outcome: Settled
Settlement Amount: \$500,000
9. **Plaintiff:** Johnson
City Department: Seattle Department of Transportation
Claim: Plaintiff alleged she was struck by a car because the City negligently designed and maintained a signalized crosswalk.
Outcome: Settled
Settlement Amount: \$750,000
10. **Plaintiff:** Morgan and Rice
City Department: Seattle Fire Department
Claim: Former Fire Academy recruits alleged they were forced to resign from the academy due to workplace injury/disability caused by City negligence.
Outcome: Settled
Settlement Amount: \$980,000
11. **Plaintiff:** Baldwin
City Department: Seattle Municipal Court
Claim: Plaintiff alleged she was forced to resign her administrator position due to disability discrimination and retaliation for taking medical leave.
Outcome: Settled
Settlement Amount: \$1,100,000

12. **Plaintiff:** Marigold Products, Inc.
City Department: Finance & Administrative Services
Claim: Plaintiff alleged it was wrongfully denied a permit to operate a marijuana business in Ballard.
Outcome: Settled
Settlement Amount: \$1,500,000
13. **Plaintiff:** Estate of Charleena Lyles
City Department: Seattle Police Department
Claim: Plaintiff Estate of Lyles alleged wrongful death damages arising out of the officer-involved shooting fatality.
Outcome: Settled
Settlement Amount: \$3,500,000
14. **Plaintiff:** Wendkos
City Department: Seattle Parks & Recreation
Claim: Plaintiffs alleged a Parks employee lost control of his City vehicle and ran into their family while they were walking in a City Park.
Outcome: Settled
Settlement Amount: \$3,500,000

Reconciled Actual Annual Judgment Claims Expenditures

Below is the JCF reconciled actual annual expenditures summary prepared by CBO. As mentioned in the Executive Summary, the Annual Report summarizes JCF financial expenditures before expenditure reimbursements are accounted for. Due to the difference in reporting methodology, the total annual expenditures will not directly reconcile with numbers presented elsewhere in this report.

Table 5: Judgment Claims Fund Summary ^{1, 2, 3}

Judgment and Claims Budget and Expenditures				
		2021 Actual Expenditures	2022 Revised Budget	2022 Actual Expenditures
Claims		1,310,623	6,274,179	4,606,834
Settlements/Judgments		17,580,371	29,586,561	24,642,983
Police Action Cases		7,958,334	13,299,672	11,986,495
General Legal Expenses		0	88,321	0
TOTAL		26,849,328	49,248,733	41,236,312
Judgment and Claims Financial Activity				
Beginning Committed Fund Balance		14,957,760	8,822,355	8,822,355
		2021 Actual	2022 Adopted	2022 Actual
Revenues				
Insurance Reimbursements				5,005,319
Misc Revenue		59,454		
Charges for Services				
Fines and Forfeits				
Reimbursable Expenses - GF Depts				
Reimbursable Expenses - Utilities		866,238	7,781,749	16,570
Payments from GF Departments		18,910,293	22,466,688	22,490,609
Finance General Support		877,938		14,000,000
Total Revenues		20,713,923	30,248,437	41,512,498
Expenditures				
Utilities		(1,869,083)	(7,781,749)	(123,386)
General Fund		(24,980,245)	(22,466,688)	(41,112,925)
Total Expenditures		(26,849,328)	(30,248,437)	(41,236,312)
Ending Fund Balance		8,822,355	8,822,355	9,098,541

¹ Judgment Claims Fund expenditures include insurable and noninsurable lawsuits.

² Expenditures will not tie directly to Tables 1 and 2 due to timing differences and reimbursement (primarily from the utilities).

³ Amounts are rounded.