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NYC Incurred Record \$732M in Legal Costs Last Fiscal Year

By Henry Goldman

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New York incurred a record \$732 million in legal costs in the last fiscal year, mostly from claims of police abuse, negligence and hiring discrimination, expenses that accelerated under Mayor Bill de Blasio.

The amount accrued in settlements and judgments in the 12 months ended June 30 increased by 40 percent, according to the comptroller's annual report released last month. The total represents almost 1 percent of the city budget, more than New York spends on parks, recreation and libraries combined. In the previous three years, legal costs averaged \$590 million.

Sixty percent of the charges came after Jan. 1, when de Blasio was sworn in as the first Democrat to run City Hall in 20 years. A self-described progressive, de Blasio, 53, has also called himself a fiscal conservative. Yet Carol Kellermann, president of the Citizens Budget Commission, a business-backed watchdog, said the new administration may not be conservative enough when it comes to using taxpayer money for legal settlements.

"It's a dramatic increase that's worrisome because it indicates the new administration may be evaluating cases differently," Kellermann said. "You walk a fine line between cleaning up backlog and giving New Yorkers the message that you can sue and get a windfall."

The \$732 million obligation is the most ever, said Eric Sumberg, a spokesman for Comptroller Scott Stringer. During the first six months of fiscal 2014, Michael Bloomberg held the job. The former mayor is founder and majority owner of Bloomberg News parent Bloomberg LP.

No Difference

The total cost would have been even higher had the city included \$87 million of a \$116 million March settlement in a lawsuit accusing the Fire Department of race bias in hiring. Instead of being considered a litigation cost, the charge went into the Fire Department payroll budget as back pay for rejected job applicants, Sumberg said.



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Zachary Carter, who heads de Blasio's Law Department, said there's no difference between how his office and past administrations handle lawsuits. Since Jan. 1, his department has won verdicts that saved the city \$200 million in specious claims, he said.

"The court victories don't get any attention," said Carter, a former U.S. attorney for New York's Eastern District in Brooklyn. "There will be anomalies in every year as to the amounts paid out. In each case we weigh the risk of an adverse decision and if so, find a fair resolution."

Central Park Five

That consideration, he said, led to his decision to pay \$41 million to the Central Park Five, imprisoned for a notorious 1989 rape and assault. In 2002, a sixth man confessed and said he acted alone, prompting Manhattan District Attorney Robert Morgenthau to ask that the convictions be vacated.

Carter's decision to settle went against a decade-long department policy to fight the lawsuit. Carter agreed to pay \$41 million, he said, because he believed the facts could have led a jury to order an even larger award.

In January, the city settled for \$18 million a lawsuit brought by hundreds arrested in peaceful demonstrations during the 2004 Republican National Convention at Madison Square Garden. That amount had been agreed upon by former Law Department head Michael Cardozo before de Blasio became mayor, Carter said. Cardozo declined to comment.

Chicago, L.A.

Rising costs of judgments and settlements vex several U.S. cities, including Chicago, where they cost almost \$200 million last year, more than double the \$91 million spent in 2010, according to budget documents. In Los Angeles, such costs rose to almost \$64 million in fiscal 2014, 30 percent more than in 2012. On Nov. 21, the Los Angeles Unified School District agreed to pay more than twice as much, \$139 million, to settle sex-abuse claims involving 82 elementary school children.

In New York, the comptroller reported a backlog of claims totaling more than \$1.14 trillion on June 30, for which the office estimates that the city will face a liability of \$6.9 billion over the next several years.

"Unless we do something serious about claims against the city, the numbers are going to continue," Stringer said.



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This year, Stringer introduced a program called ClaimStat to track where and how lawsuits arise in each agency. It was modeled after the police department's CompStat, which maps crimes by type, date and time of day.

Police Abuse

While criminologists generally credit CompStat with helping to drive down crime more than 75 percent since 1993, it hasn't stopped police-abuse claims from escalating. They amounted to \$212 million in the city last year, up from \$86 million in fiscal 2003.

A contrasting trend has emerged at the city's Health and Hospitals Corp., where settlements and judgments for malpractice tumbled to \$125 million last year, compared with \$195 million in 2003, according to a study by the Citizens Budget Commission.

In that year, the city forced HHC to pay for those lawsuits out of its own budget, causing it to hire analysts who instituted a ClaimStat-like system to prevent infection and pharmacy errors, improve safety and maintain electronic medical records, the budget commission found.

If ClaimStat works, "it will provide a data point that can change agency policies and practices, so that if you find a lot of accidents from large garbage trucks on narrow streets, the Sanitation Department might want to change the size of its truck in those areas," Stringer said. "Police precincts generating a lot of lawsuits may want to look into training and personnel issues."

More Aggressive

Stringer said he's tried to save the city money by being more aggressive in offering settlements in personal-injury claims when his office receives a notice signaling an intention to sue — before a lawsuit has been filed. His office has paid out almost \$44 million in 2,000 such claims so far this year, he said.

David Ranta was one of them. He served 23 years in prison for a murder he didn't commit, and suffered a heart attack the day after he was released. His claim against the city, in advance of filing an actual lawsuit, demanded \$150 million. In February, the comptroller's office settled it for \$6.4 million.

"The city wanted to avoid a huge judgment by a jury in court and my client wanted to take care of his family's needs in a timely way," said Pierre Sussman, Ranta's lawyer. "It was in the city's best interest and in my client's best interest to settle the matter rather than wait five or 10 years for the case to go to trial."