



City of Long Beach

Working Together to Serve

Office of the City Attorney

2017 Year End Report and Comparisons of Government Claim Activity 2015 through 2017

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 results of the investigation is then reviewed by an attorney for a 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 are 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 2017, and compare each of the last three years: 2015, 2016 and 2017.

The City Attorney makes this information available to its clients, and the public, so 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,

A handwritten signature in blue ink that reads 'Charles Parkin'.

Charles Parkin,

City Attorney

Analyses of Claims Data for 2017

In 2017, the City Attorney's Office received, investigated and adjusted a total of 817 claims. 817 claims represent a three year high for government claims filed. The yearly average for government claims filed for the years 2015 and 2016 was 720 claims. Accordingly, claims increased this year relative to the proceeding two years' average by 13.4%.

Of the 817 claims adjusted, the City Attorney's Office determined City liability existed for 188 claims, or roughly 23% 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 26% of government claims filed.

Of the 188 claims that the City Attorney found had merit, this office resolved 153 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 153 claims, the City Attorney authorized a total year-end payout of \$303,303. Of interest, although the number of claims increased from the last two years, the monies paid to resolve claims in 2017 was actually less than in either of the two preceding years (Figure 2). The money paid to satisfy claims typically comes from the City's Insurance Fund.

The City Attorney recognized potential liability in thirty-five (35) claims, but did not authorize any payouts. This is because the 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 twenty-one (21) 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).

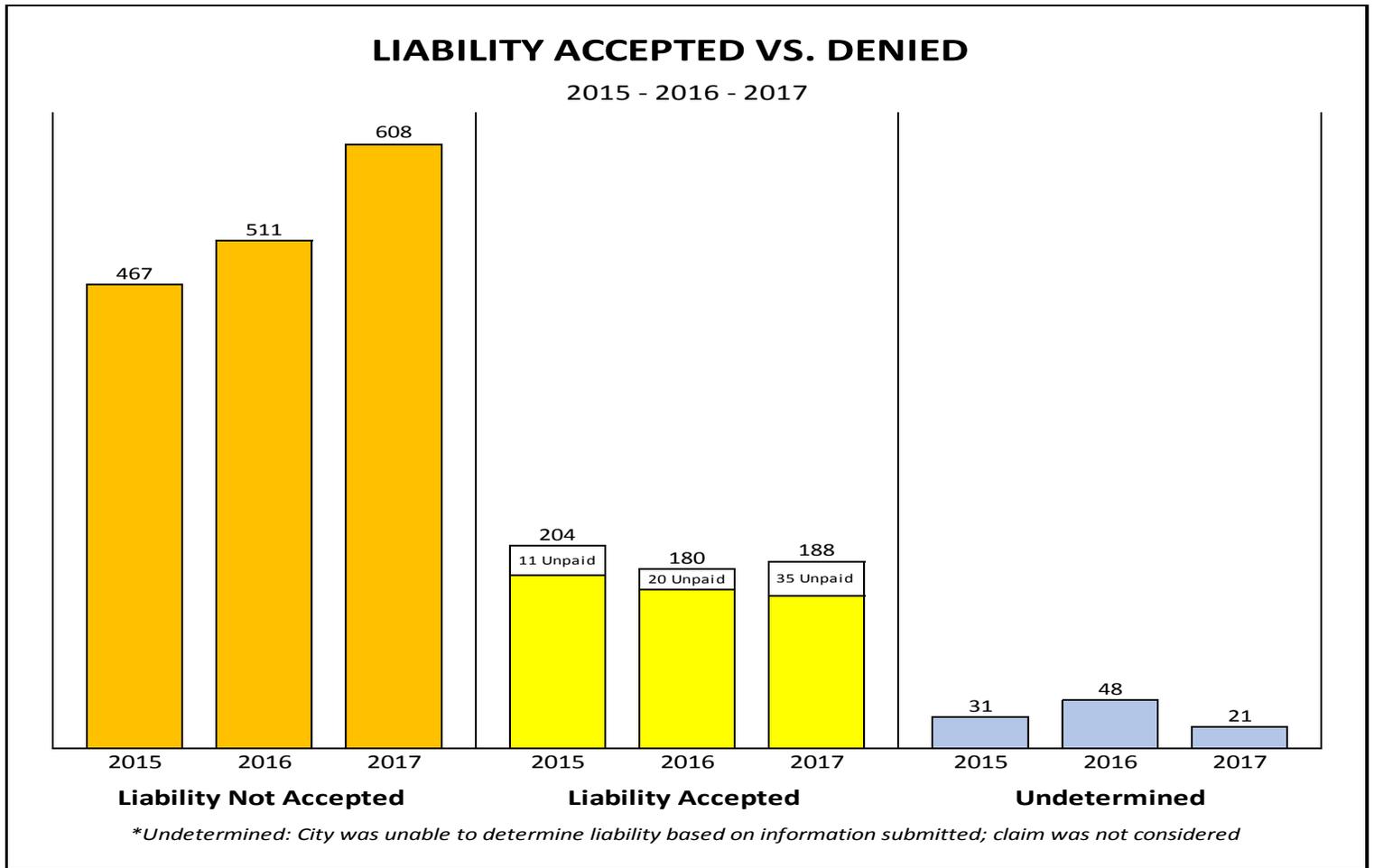


Figure 1

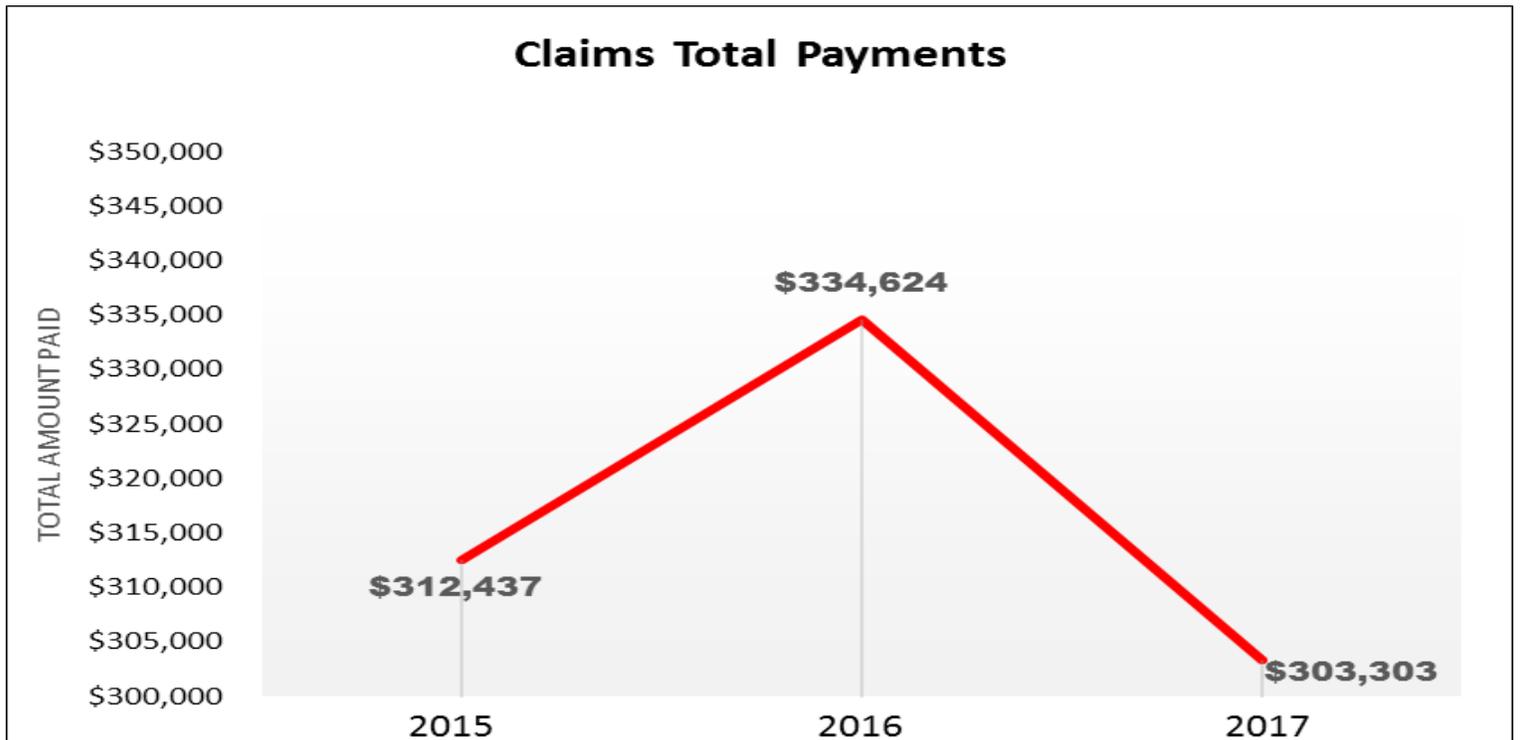


Figure 2

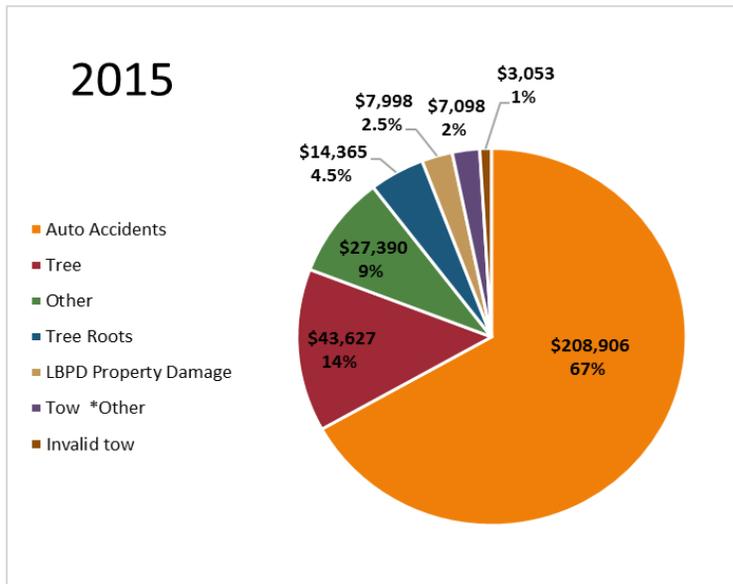


Figure 3

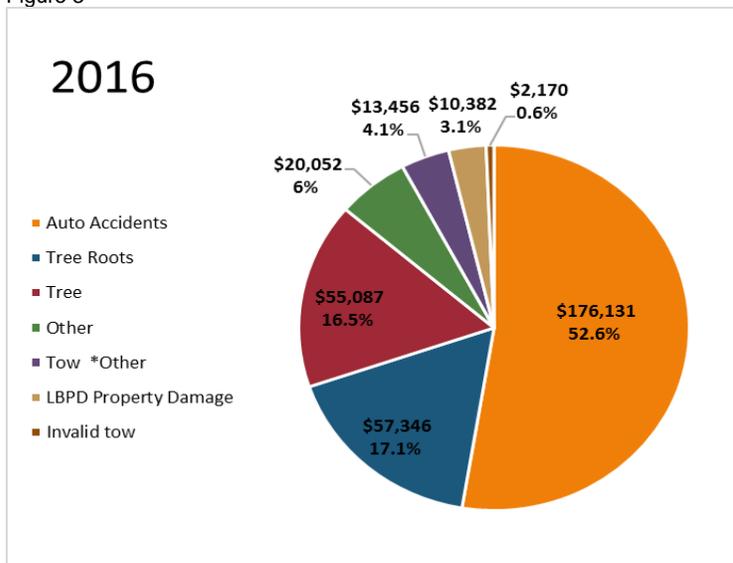


Figure 4

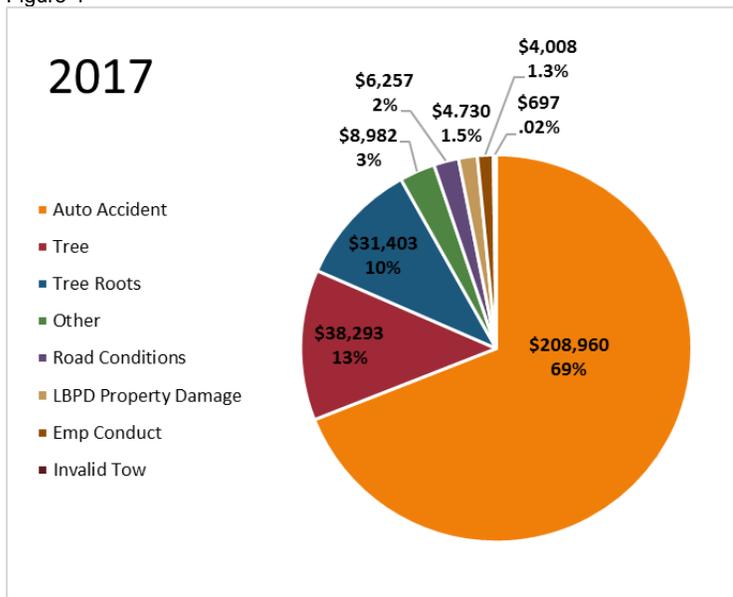


Figure 5

Figures 3, 4 and 5 examine the kind of claims the City paid from 2015 -2017. *The data shows that automotive accidents continue to be a significant source of City exposure.*

In 2017, for example, 69% of claims paid, or over \$208,000 in payouts, arose from negligent operation of an automobile (or equipment, such as a trash truck).

After automobiles, claims arising from *City trees and tree roots* remain a large percentage of claims paid through 2017. Tree roots are analyzed separately from tree limbs, since tree roots are typically limited to damage to sewers, driveways or driveway aprons.

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.

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.

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

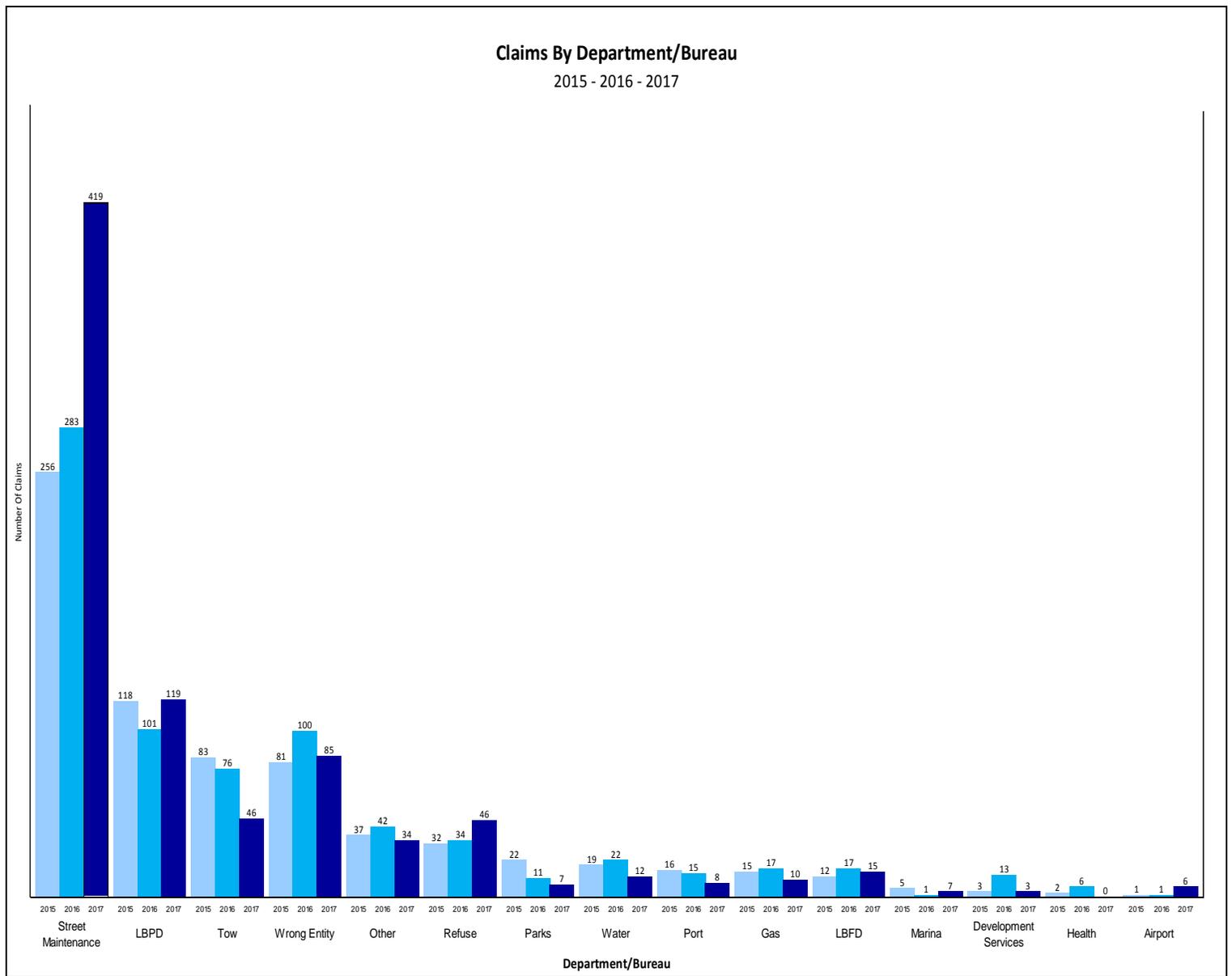


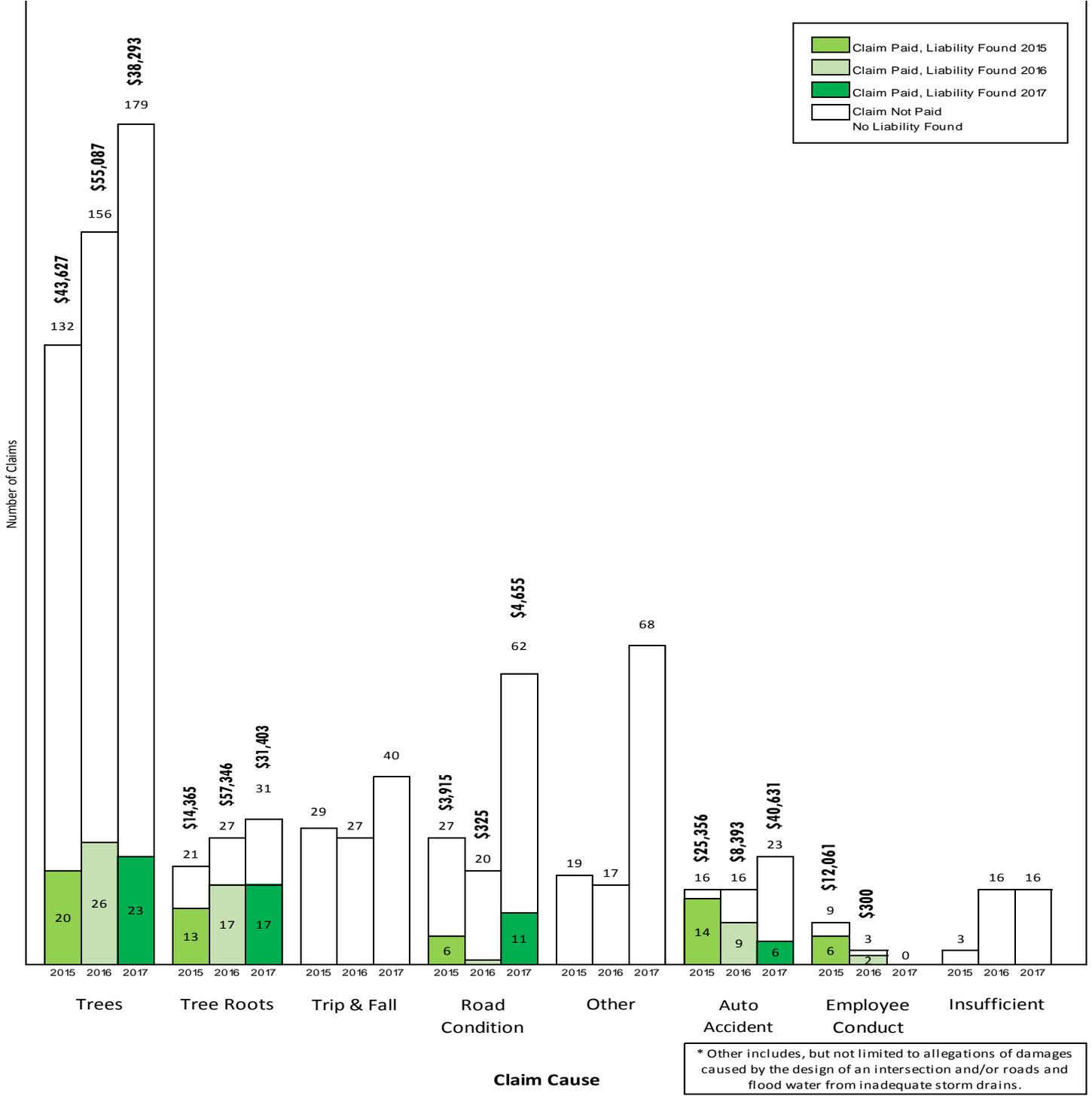
Figure 6

Figure 6 compares claims by Department, or Bureau, by year. For example, Street Maintenance had an *increase* in claims, compared to the two previous years. This increase may be because of inclement weather, and its impact on tree limbs and pot holes. But overall, most departments fluctuate only slightly in the number of claims when compared to the two previous years.

Public Works

STREET MAINTENANCE

2015 - 2016- 2017



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

Figure 7

Street Maintenance:

The City Attorney's Office adjusted a total of 419 claims in 2017 relating to Public Works, Street Maintenance Division. This is an *increase* of 54%, or 148 additional claims compared to the average 271 claims in 2015 and 2016. Almost half of the claims were for damage caused by City trees. The City Attorney accepted twenty-three (23) tree claims, with a total payout of \$38,293; which reflects 12.6% of claims paid in 2017 (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 2017, thirty-one (31) of the sixteen (16) tree root related claims sought money for damages to water and sewer lines, as opposed to cracked driveways. Of the sixteen (16), the City Attorney accepted thirteen (13) of these claims, for a total of \$21,773. This is less than half the amount paid the two previous years.



City Tree Roots Cause Main Sewage Line Back Up

The City experienced heavy rainstorms in January and February 2017, which resulted in an increase of (1) tree related claims; (2) road condition claims; and (3) storm drain/flooding claims. Specifically, the City received thirty-five (35) claims related to storm drains and flooding. These claims allege that inadequate storm drains in the City caused floods during a heavy rainstorm. Because excessive rain from storms are an unavoidable natural occurrence, the City Attorney does not typically accept claims arising from flood water damage.



Police North Division, Twitter 1/22/2017

In addition to flooding, excessive rain also increased pothole claims throughout the City. The City Attorney received sixty-two (62) claims for damages resulting from driving over potholes. This is more than double the number of claims over the prior two years. The City Attorney accepted eleven (11) of the sixty-two (62) claims, or about 18% of claims filed, with a total payout of \$ 4,655.

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 didn't.



Pothole on City Street

Refuse:

In 2017, the City Attorney's Office adjusted forty-six (46) claims related to Refuse. This is an increase of 12 claims from 2016 (thirty-four (34) claims adjusted) 14 claims from 2015 (thirty-two (32) claims adjusted). The City Attorney accepted twenty-seven (27) claims in 2017, totaling a payout of \$59,549. In 2016, the total payout for similar claims was \$35,026, and \$18,662 in 2015. Thus, the total indemnity paid related to Refuse has *significantly increased* 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

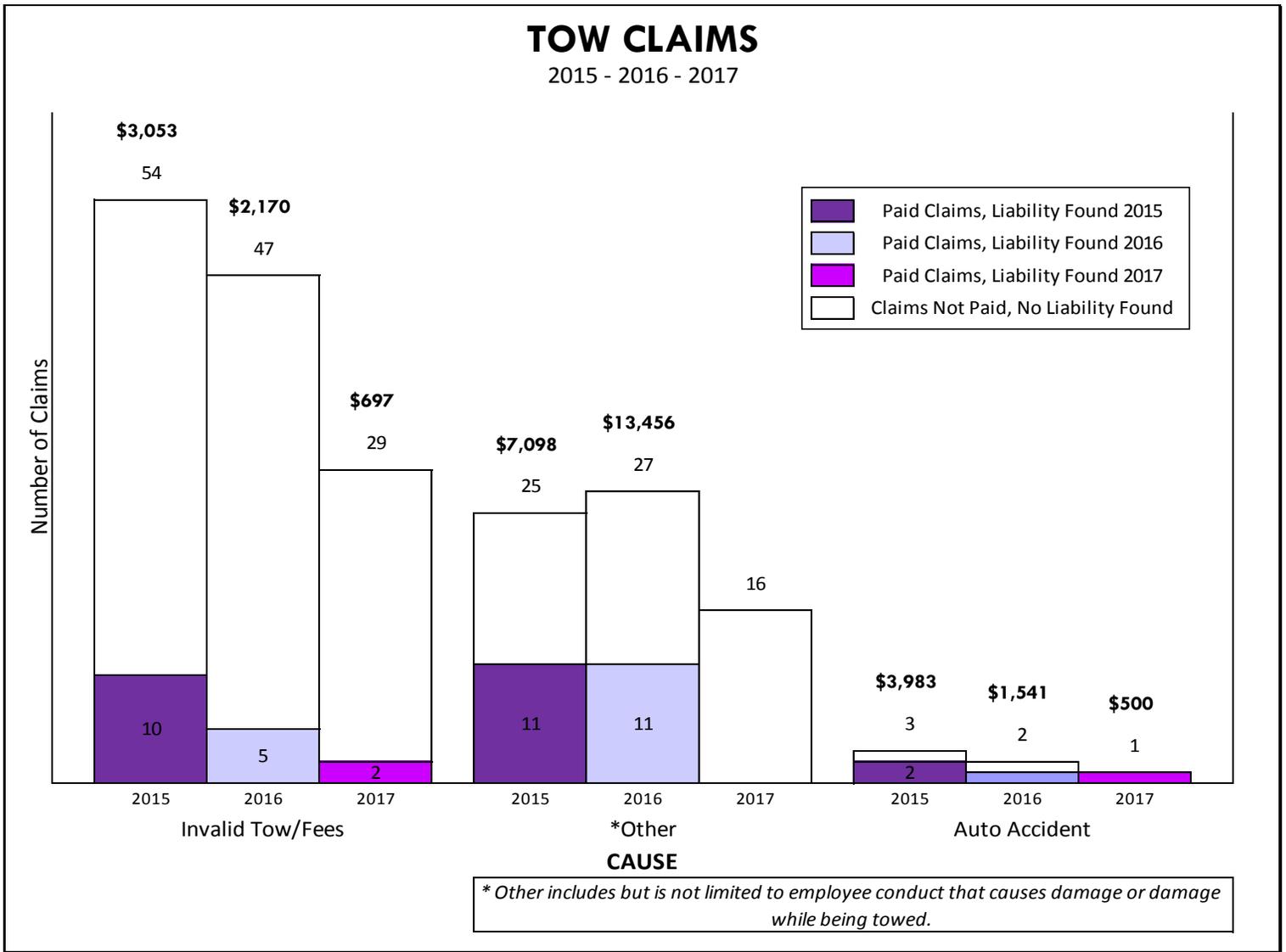


Figure 8

Towing:

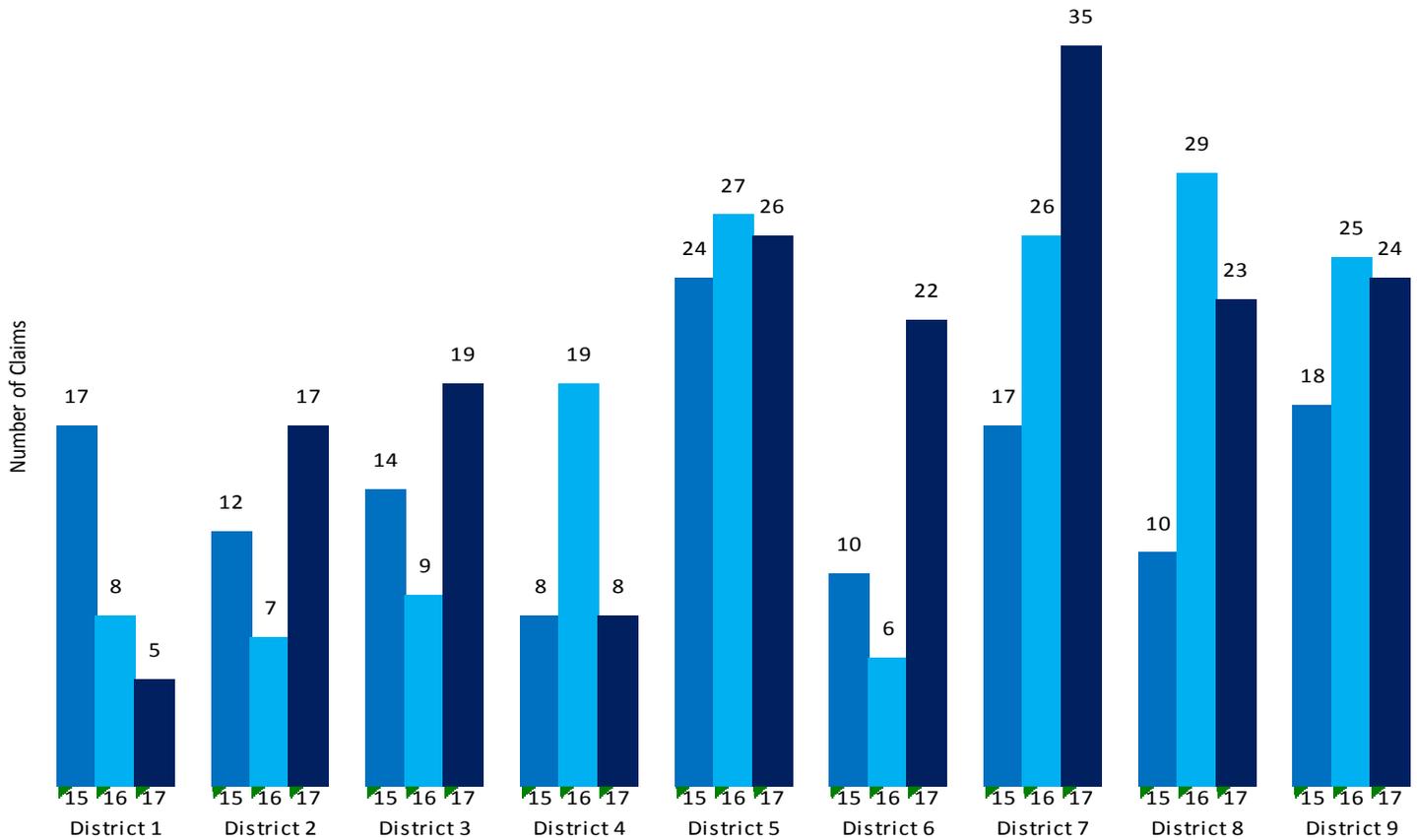
In 2017, the City received forty-six (46) claims related to Tow Operations. These claims include claims for refunds of costs and fees where a claimant proves the tow was invalid. Three (3) claims were accepted, for a total payout of \$1,197; two (2) claims for invalid tow charges and one (1) for damages resulting from a traffic collision with a tow vehicle.

Compared to 2015 and 2016, there was a significant *decrease* in the number of claims received and paid (Figure 8).

STREET MAINTENANCE CLAIMS by Council District

TREE CLAIMS By Council District

2015 - 2016 - 2017



ROAD CONDITION CLAIMS By Council District

2015 - 2016 - 2017



Figure 9

Long Beach Police Department

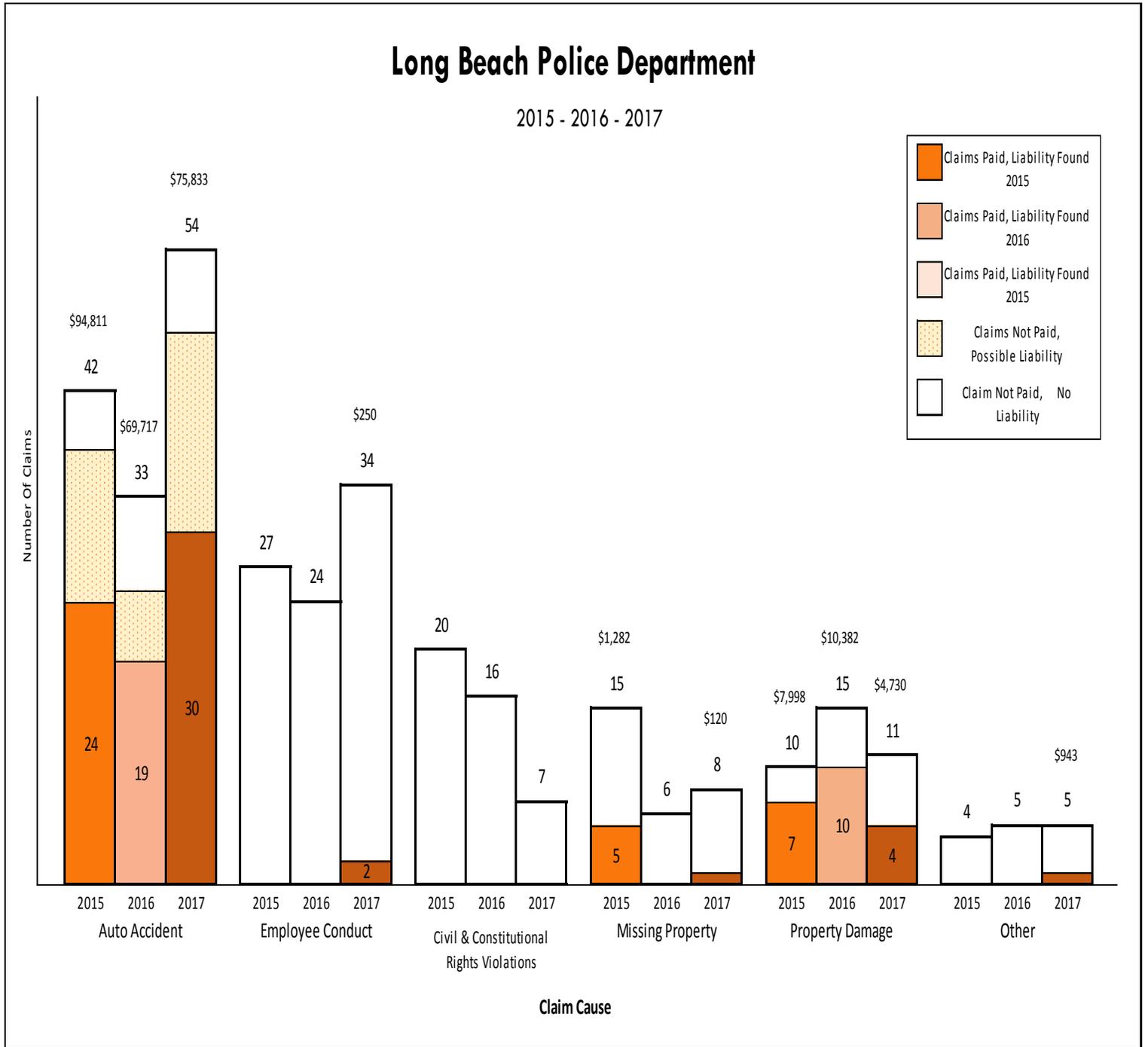
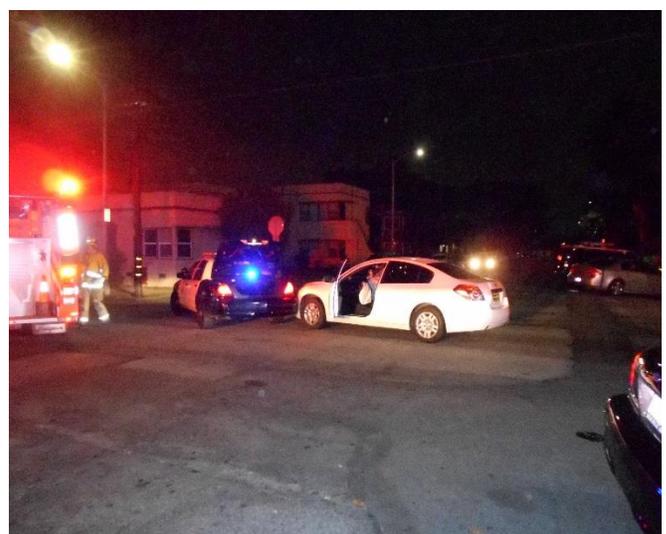
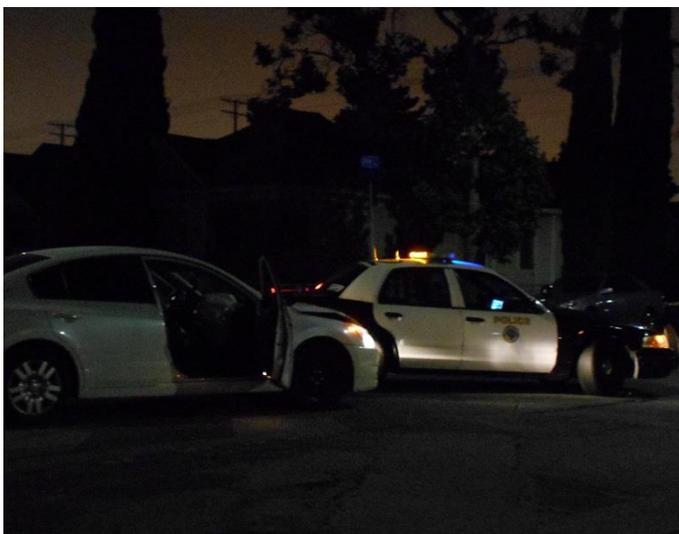


Figure 10

In 2017, the City Attorney's Office adjusted 119 claims relating to the Police Department (Figure 10). In 2017, thirty-eight (38) claims were accepted, for a total payout of \$81,876. Of the thirty-eight (38) claims accepted, automobile accidents accounted for thirty (30) accepted, *or approximately 78% of the claims against the Police Department*. The total payouts were \$75,833. As the data indicates, few claims are filed against the Police Department for claims of excessive force or constitutional violations.

Total payouts on claims related to property damage caused by the Police Department decreased in 2017. The City Attorney authorized \$7,998 in payouts in 2015; \$10,382 in 2016; and \$4,730 in 2017. 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 seventeen (17) claims alleging negligent operation of a police car, the City Attorney did not pay these claims because the claimants did not provide adequate documentation to support the damages.



Traffic Collisions Involving the Police Department

Auto Accidents

Auto Accidents By Department/Bureau

2015 - 2016 - 2017

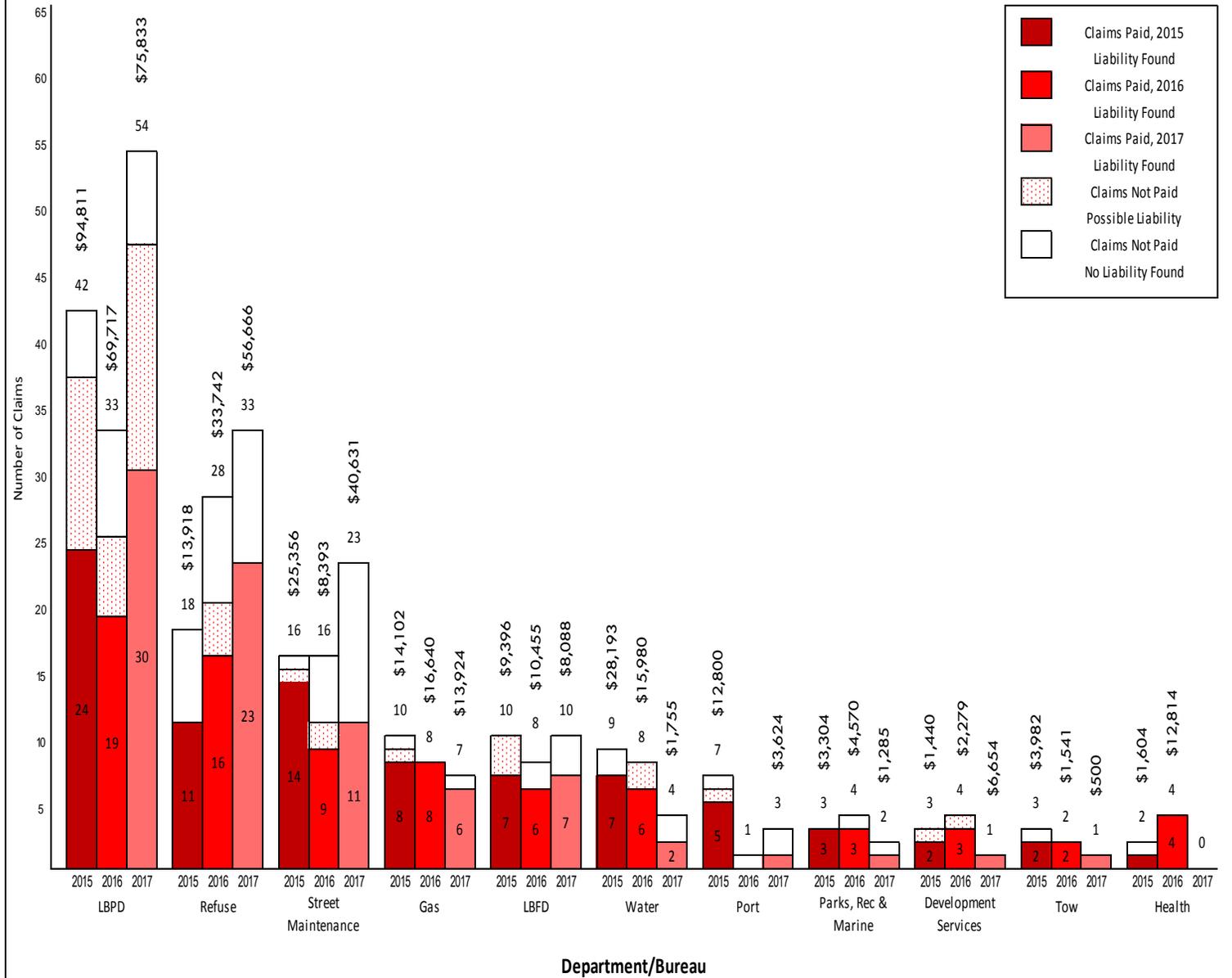


Figure 11

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 2017, the City Attorney adjusted 138 automobile claims. Of the 138 claims received, the City found liability in 100 claims, but only paid out on eighty-three (83) claims, for a total payout of \$208,960.

In 2016, the City paid a total of \$176,131 in automobile accident claims. Thus, payouts for automobile accidents *increased by* 15% between 2016 and 2017. Interestingly, the total payout for automobile accidents in 2017 was almost the same as paid in 2015. In 2015, the City paid \$208,906 for claims arising from automobile accidents.

The City Attorney refused to authorize payments on seventeen (17) claims despite finding liability adverse to the City, again because of the lack of adequate documentation supporting damages.

The City Attorney determined that there was no liability in thirty-four (34) automobile claims filed, and these claims were rejected.



Automobile Accidents Involving City Vehicles