



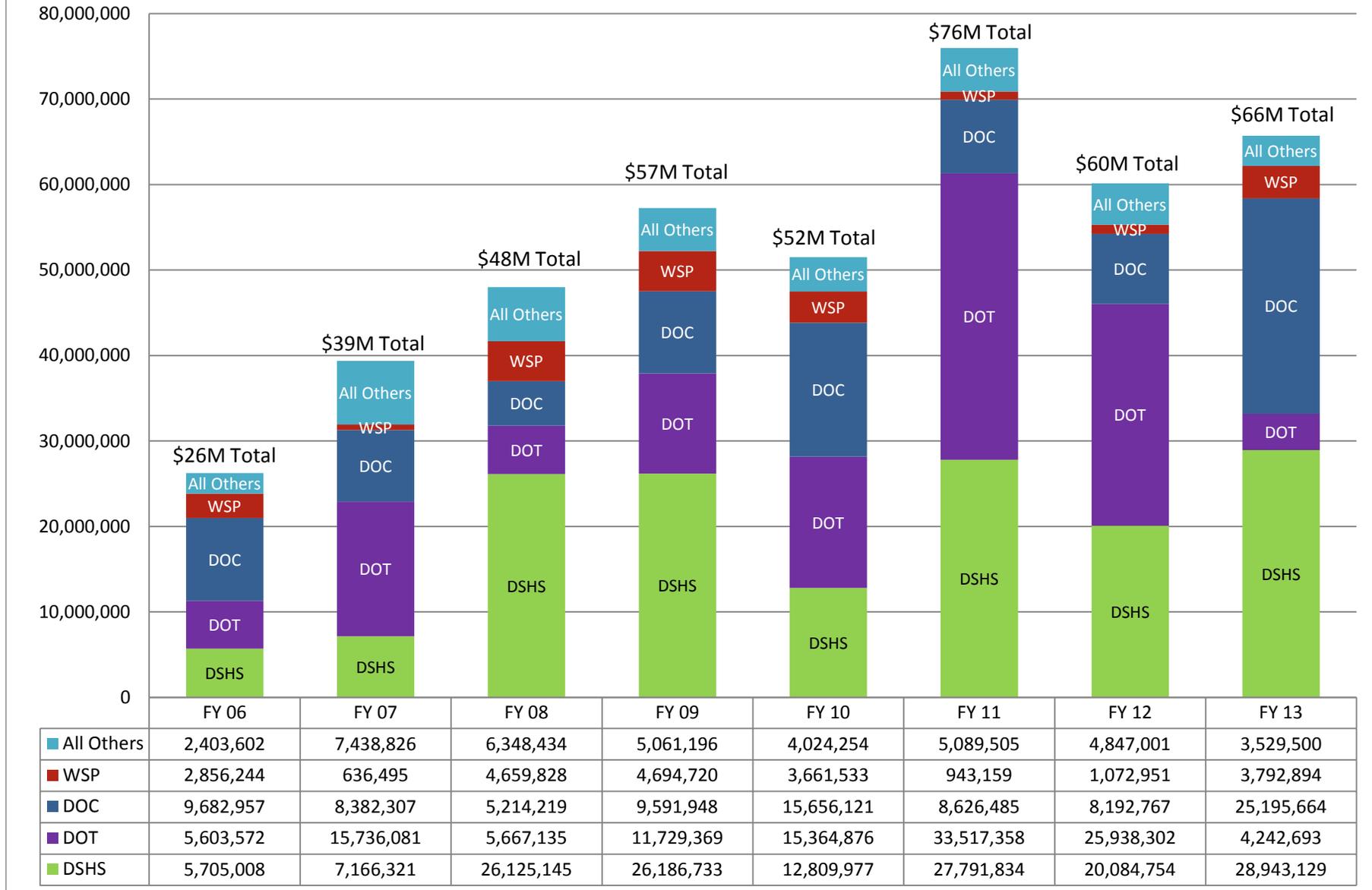
# FISCAL YEAR 2013 TORT CLAIM INDEMNITY PAYOUT ANALYSIS

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OFFICE OF RISK MANAGEMENT  
July 17, 2013

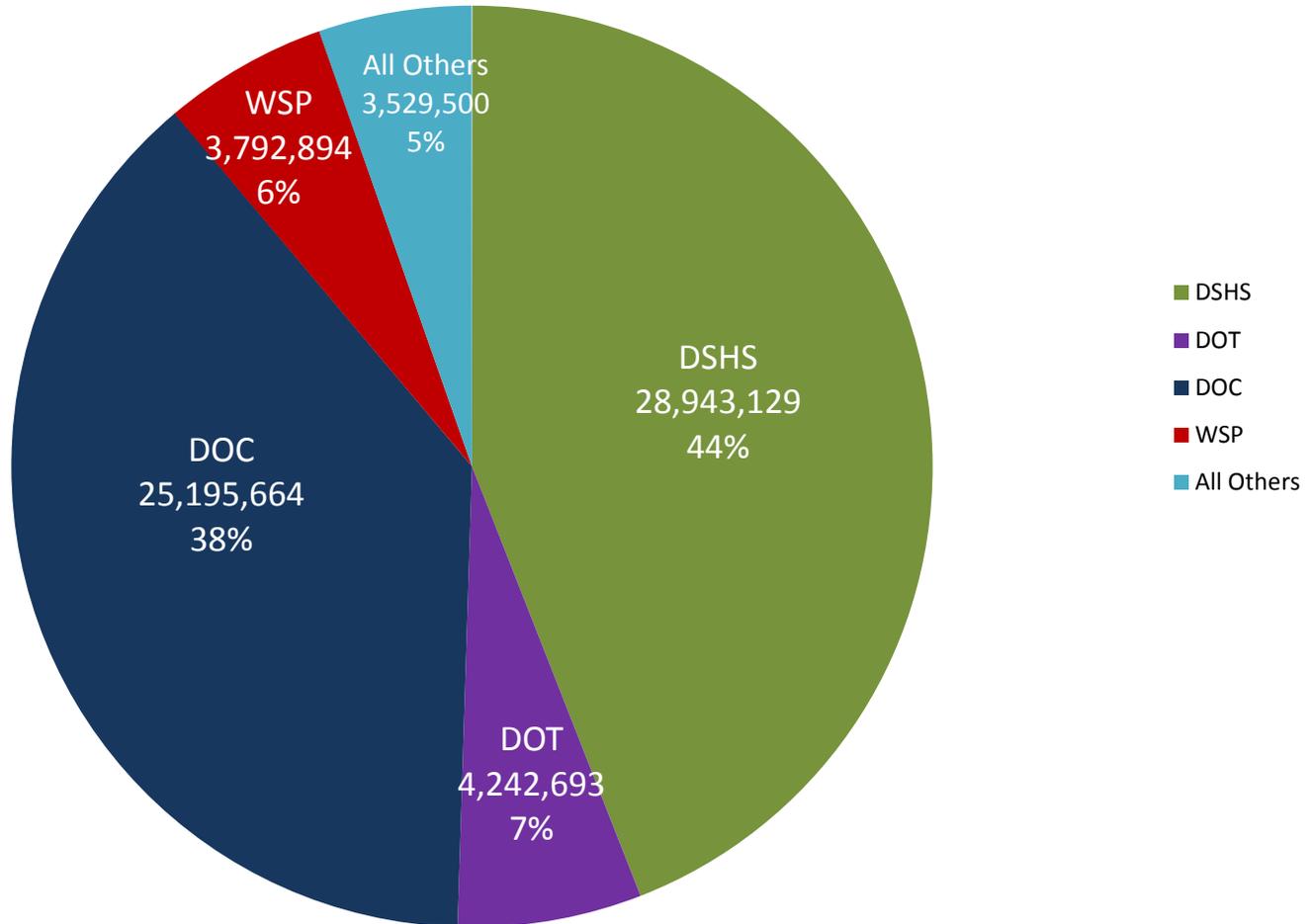
## Statewide Indemnity Payouts for FY 06-13

(Includes WSDOT Marine Division Payouts and Excludes UW and Excess Insurance Refunds)

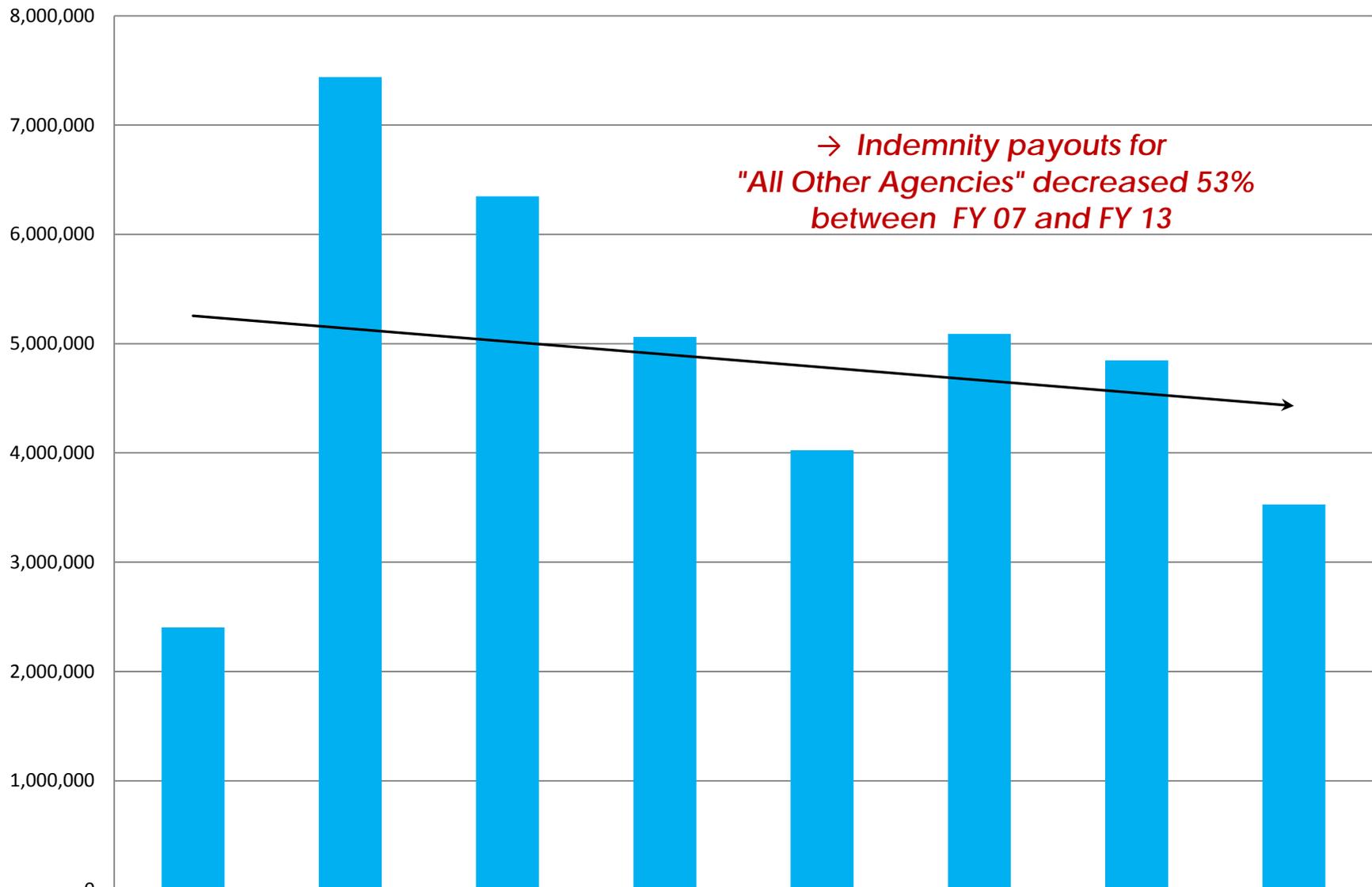


## FY 13 Statewide Indemnity Payout Distribution (\$65,703,880)

(Includes WSDOT Marine Division Payouts and Excludes UW and Excess Insurance Refunds)

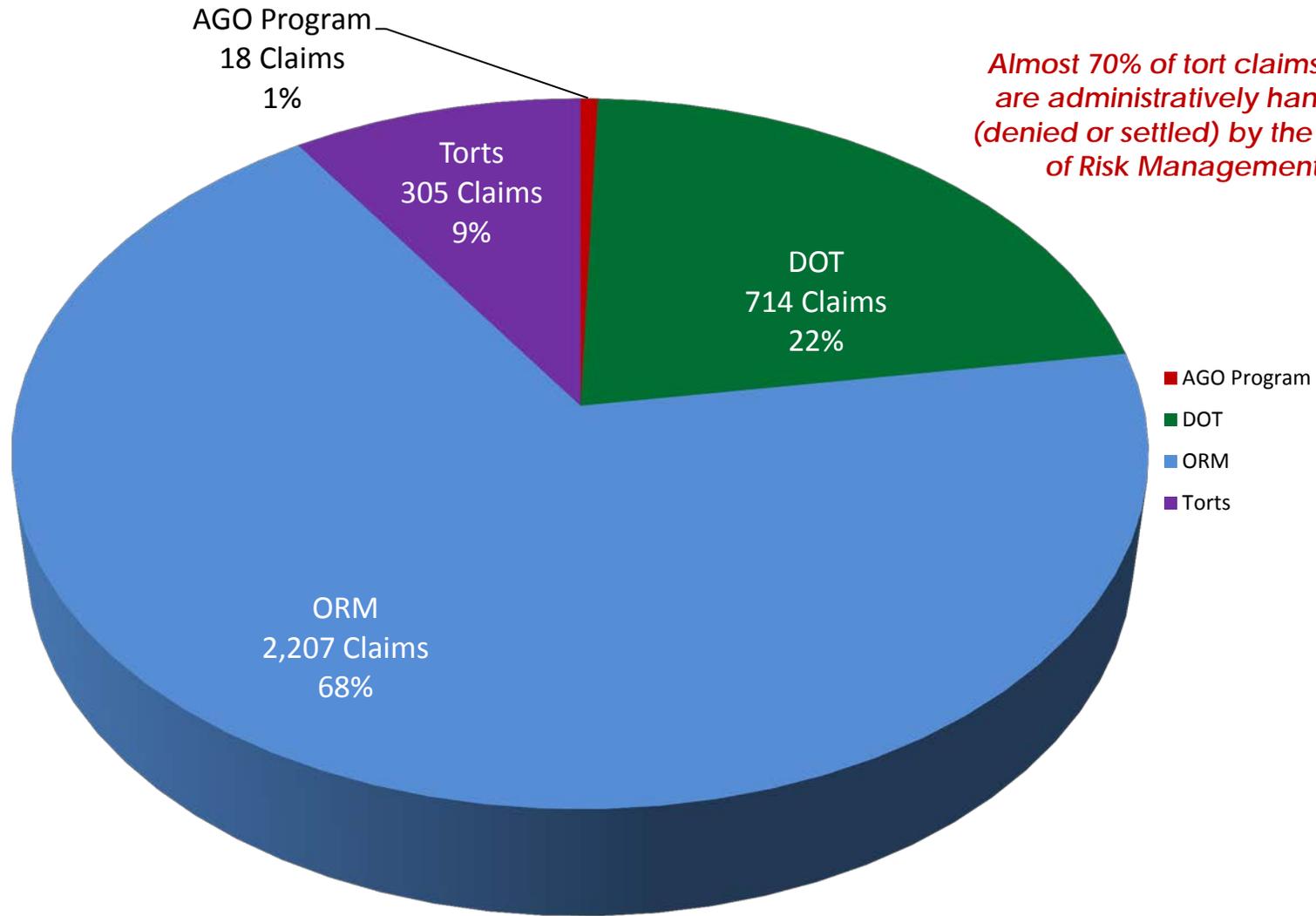


### All Other State Agency Indemnity Payouts FY 06-13



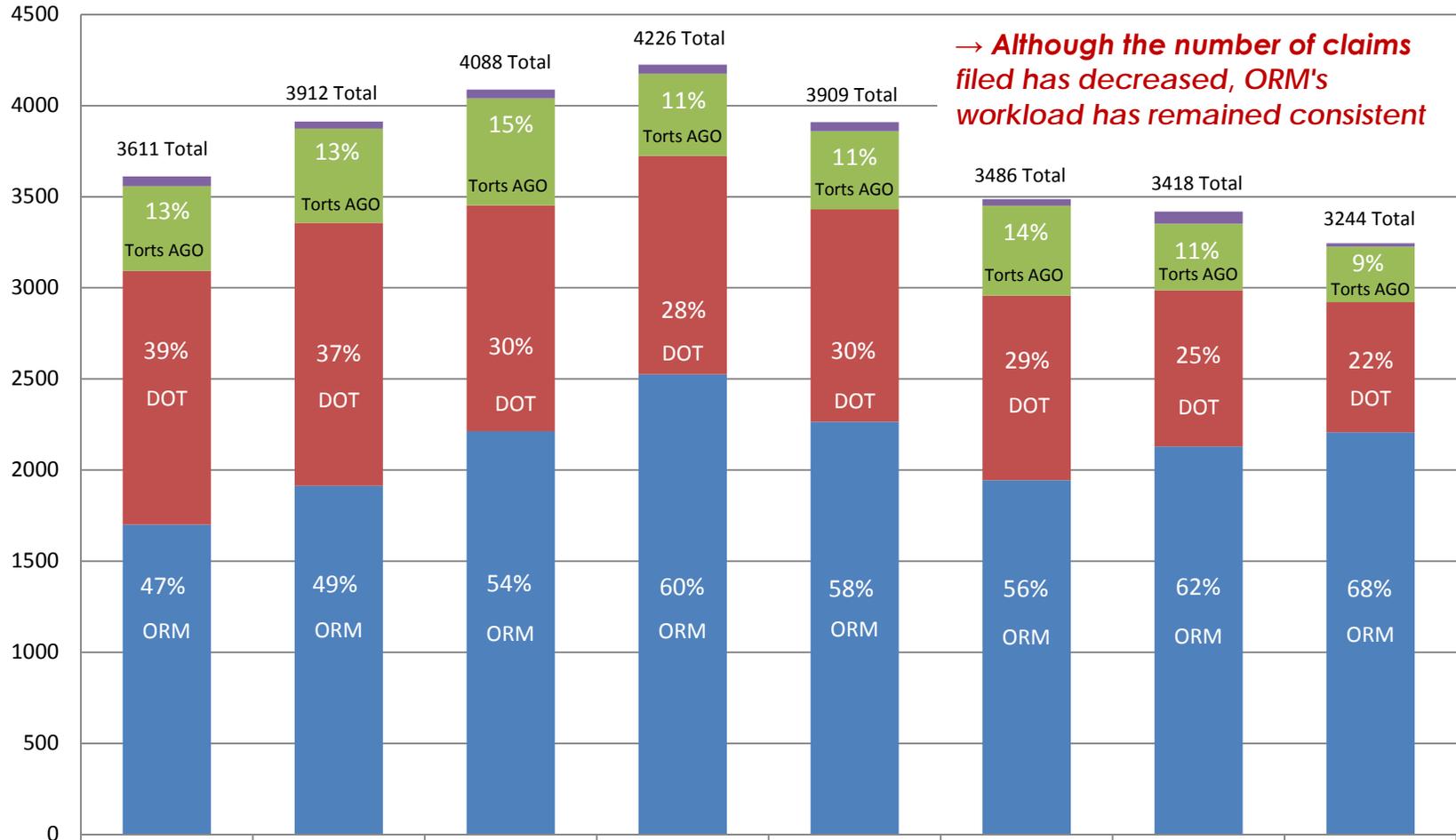
	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
All Others	2,403,602	7,438,826	6,348,434	5,061,196	4,024,254	5,089,505	4,847,001	3,529,500

### FY 13 Tort Claim Filing by Investigative Office Assigned



*Almost 70% of tort claims filed are administratively handled (denied or settled) by the Office of Risk Management.*

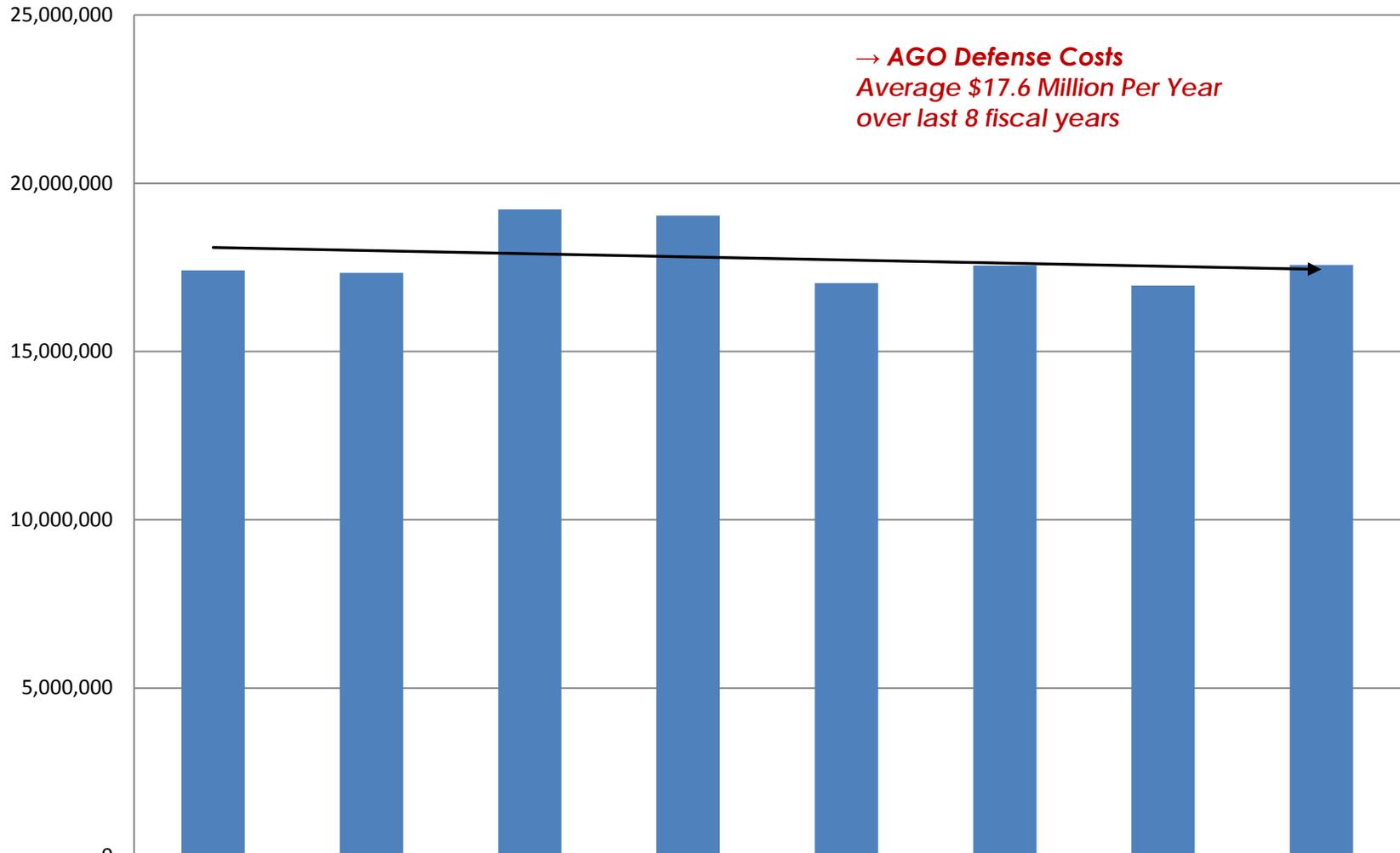
## FY 06 - 13 Tort Claim Filing by Investigative Office Assigned



→ Although the number of claims filed has decreased, ORM's workload has remained consistent

	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
Program AGO	52	38	48	50	50	36	66	18
Torts AGO	467	517	587	450	428	494	366	305
DOT	1392	1443	1240	1199	1166	1013	856	714
ORM	1700	1914	2213	2526	2265	1944	2130	2207

**AGO Defense Costs  
 FY 06 - 13  
 \$142,128,890**



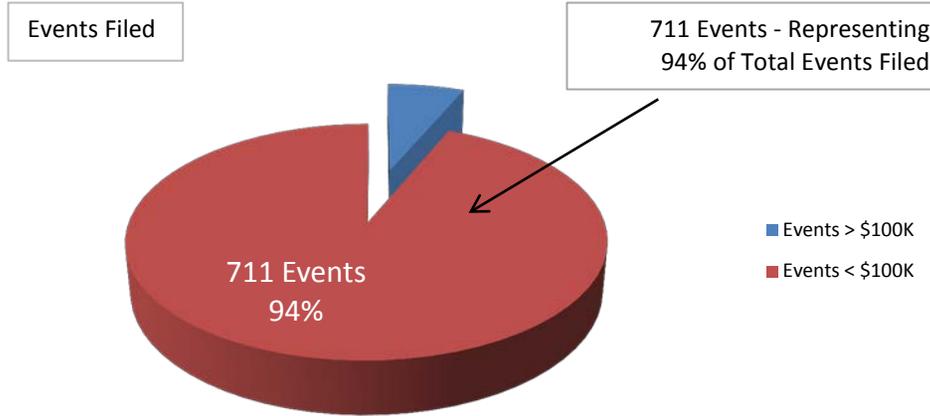
AGO Defense Costs	17,410,459	17,340,335	19,225,608	19,037,926	17,030,863	17,554,100	16,959,273	17,570,326
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### Fiscal Year 2013 Frequency / Severity

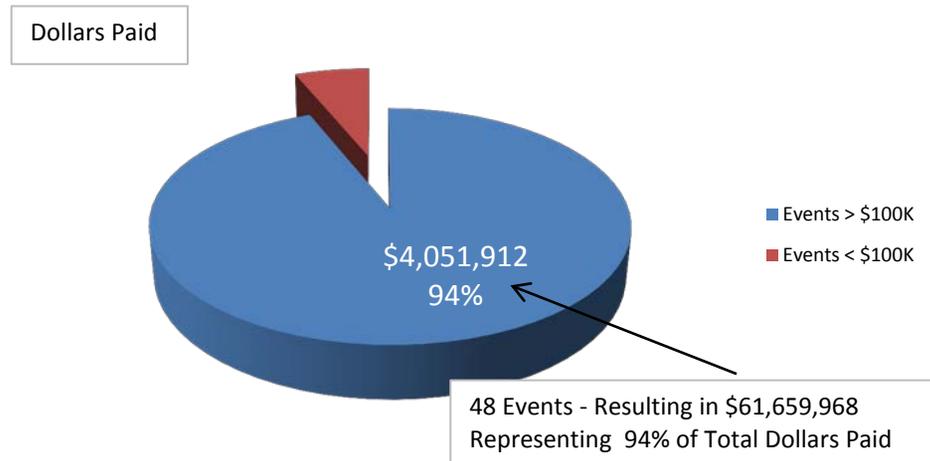
94% of Event Payouts are Less Than \$100,000 each and are 6% of Total Payouts

The Remaining 6% of Event Payouts are 94% of Total Indemnity Payouts

**Only a few of the events resulting in claims paid are greater than \$100,000**



**Most of the events resulting in claims paid are for less than \$100,000**



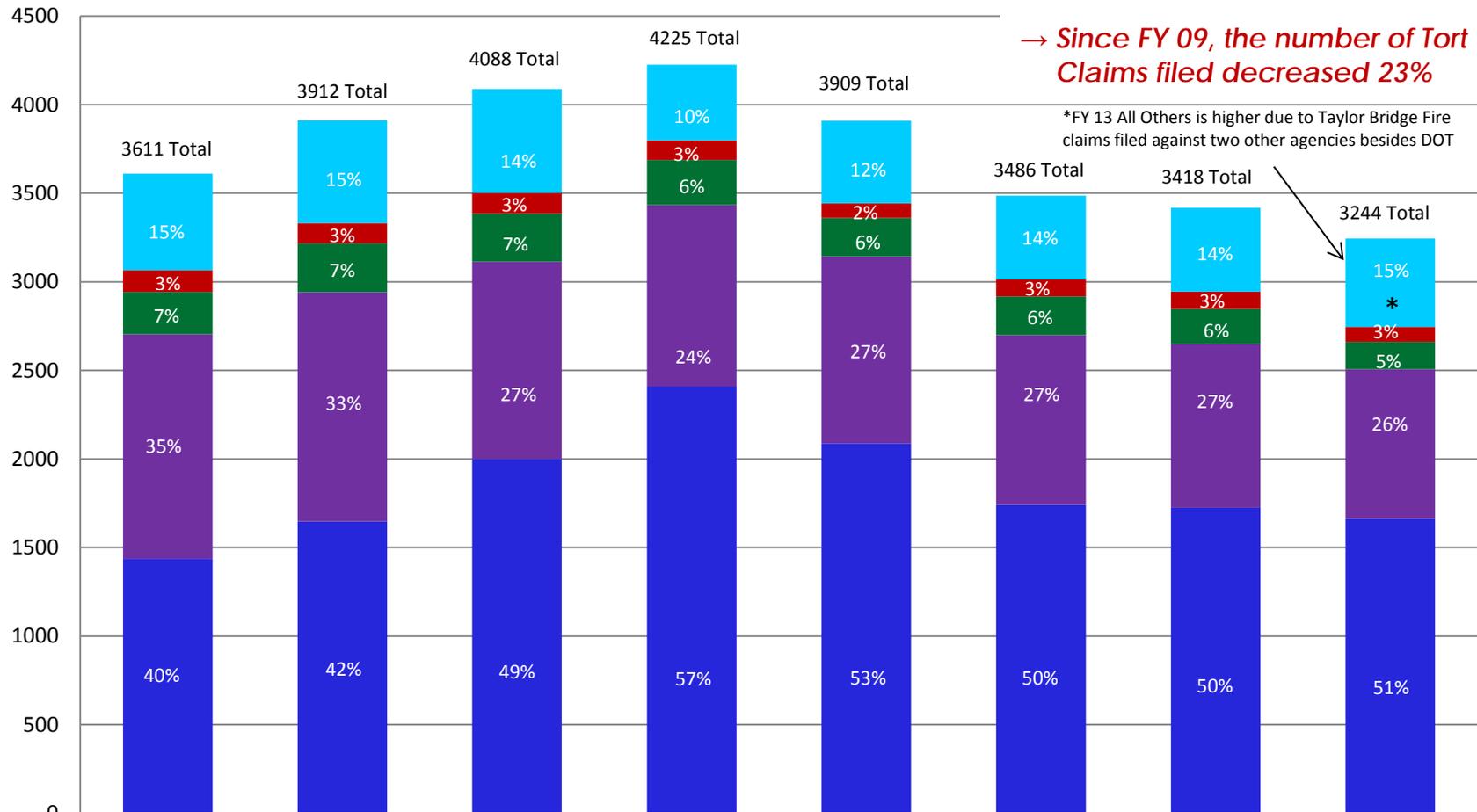
**Large Payouts Result from a Small Number of Events (Severity = High / Frequency = Low)**

(Includes WSDOT Marine Division Payouts and Excludes UW and Excess Insurance Refunds)

<b>FY 2006</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	11	4,489,000	79%	7	3,751,500	67%	6	9,255,000	96%	4	2,445,000	86%	3	500,000	20%
Events < \$100K	66	1,216,769	21%	363	1,852,072	33%	292	429,391	4%	61	412,989	14%	251	2,019,297	80%
2006 Total	77	5,705,769		370	5,603,572		298	9,684,391		65	2,857,989		254	2,519,297	
<b>FY 2007</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	7	6,770,000	94%	19	14,321,974	90%	8	7,992,500	95%	27	386,250	94%	9	6,169,251	82%
Events < \$100K	65	396,321	6%	347	1,567,799	10%	289	389,915	5%	61	412,989	52%	257	1,369,575	18%
2007 Total	72	7,166,321		366	15,889,773		297	8,382,415		88	799,239		266	7,538,826	
<b>FY 2008</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	20	25,599,449	98%	12	4,406,327	76%	7	4,574,985	88%	3	4,205,500	90%	13	4,153,003	65%
Events < \$100K	61	525,697	2%	327	1,369,305	24%	343	639,234	12%	43	474,328	10%	217	2,195,431	35%
2008 Total	81	26,125,146		339	5,775,632		350	5,214,219		46	4,679,828		230	6,348,434	
<b>FY 2009</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	18	25,208,174	96%	16	10,050,835	86%	13	8,769,455	91%	4	4,527,667	96%	10	3,716,100	73%
Events < \$100K	73	978,559	4%	296	1,678,534	14%	411	822,493	9%	48	167,053	4%	197	1,345,025	27%
2009 Total	91	26,186,733		312	11,729,369		424	9,591,948		52	4,694,720		207	5,061,125	
<b>FY 2010</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	18	11,961,162	93%	16	13,570,168	88%	11	14,864,584	95%	3	3,332,000	91%	8	1,777,500	44%
Events < \$100K	61	848,816	7%	286	1,794,708	12%	358	791,357	5%	46	329,533	9%	216	2,246,754	56%
2010 Total	79	12,809,977		302	15,364,876		369	15,655,941		49	3,661,533		224	4,024,254	
<b>FY 2011</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	19	27,204,647	98%	13	32,453,500	97%	6	7,970,000	92%	2	518,813	55%	14	3,805,734	75%
Events < \$100K	60	599,187	2%	250	1,063,858	3%	276	656,485	8%	46	424,345	45%	199	1,271,771	25%
2011 Total	79	27,803,834		263	33,517,358		282	8,626,485		48	943,158		213	5,077,505	
<b>FY 2012</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	14	19,409,488	97%	13	24,706,303	95%	8	7,480,000	91%	2	795,000	74%	13	3,149,349	65%
Events < \$100K	53	676,033	3%	217	1,236,501	5%	239	712,767	9%	48	277,951	26%	213	1,697,652	35%
2012 Total	67	20,085,522		230	25,942,804		247	8,192,767		50	1,072,951		226	4,847,001	
<b>FY 2013</b>	<b>DSHS</b>	<b>Amount</b>	<b>Percent</b>	<b>DOT</b>	<b>Amount</b>	<b>Percent</b>	<b>DOC</b>	<b>Amount</b>	<b>Percent</b>	<b>WSP</b>	<b>Amount</b>	<b>Percent</b>	<b>All Others</b>	<b>Amount</b>	<b>Percent</b>
Events > \$100K	18	28,230,000	98%	9	3,361,612	79%	11	24,685,736	98%	3	3,227,000	85%	8	2,147,620	61%
Events < \$100K	61	713,129	2%	203	881,081	21%	227	509,928	2%	45	565,894	15%	75	1,381,880	39%
2013 Total	79	28,943,129		212	4,242,693		238	25,195,664		48	3,792,894		83	3,529,500	

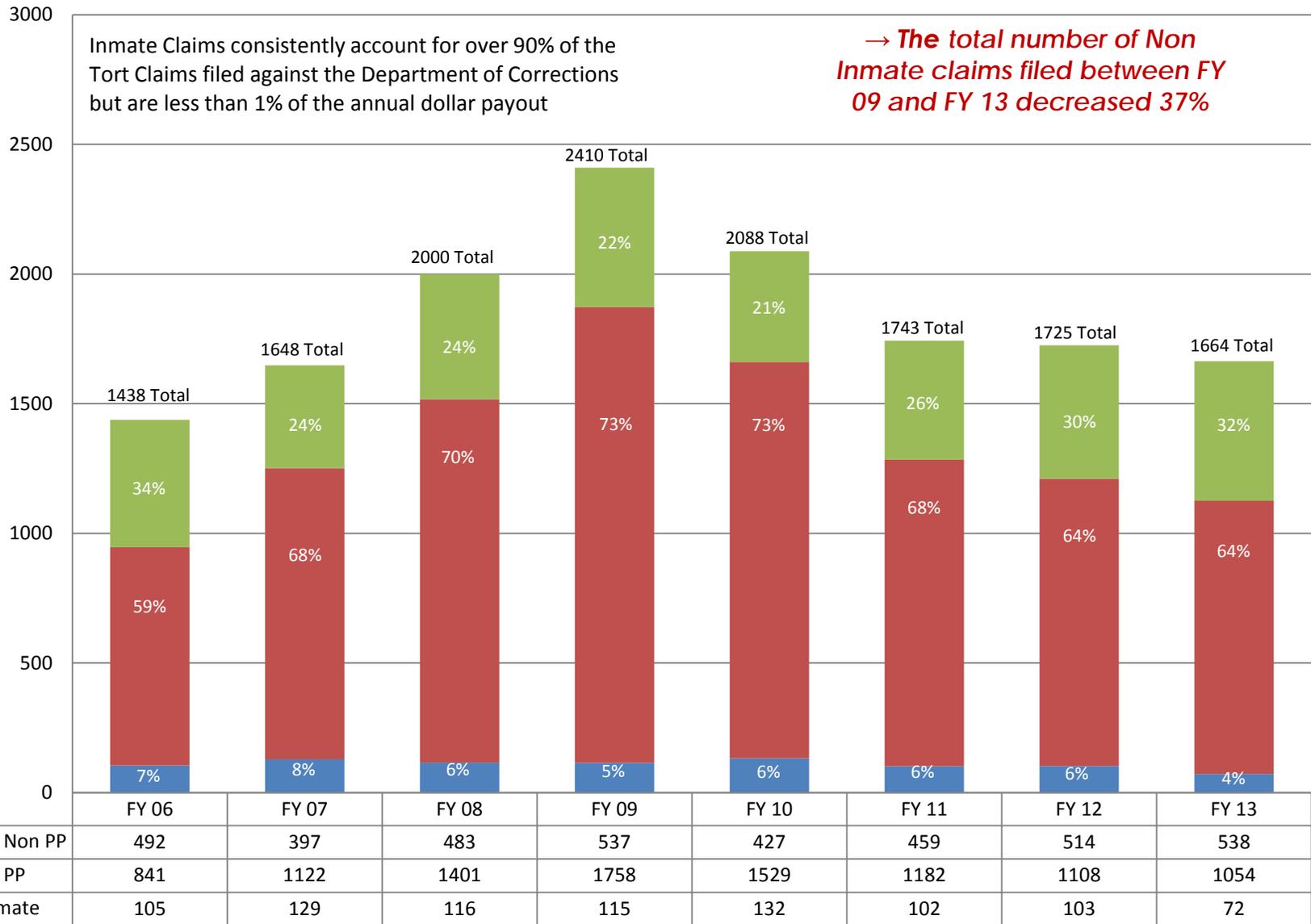
## Statewide Tort Claim Filing for FY 06-13

(Excludes UW, Counties, Cities, Public School Districts, and Non State Entities)



	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
All Others	545	580	586	426	466	473	474	499
WSP	123	114	116	111	81	96	97	83
DSHS	239	277	273	253	219	218	198	155
DOT	1266	1293	1113	1025	1055	957	924	843
DOC	1438	1648	2000	2410	2088	1743	1725	1664

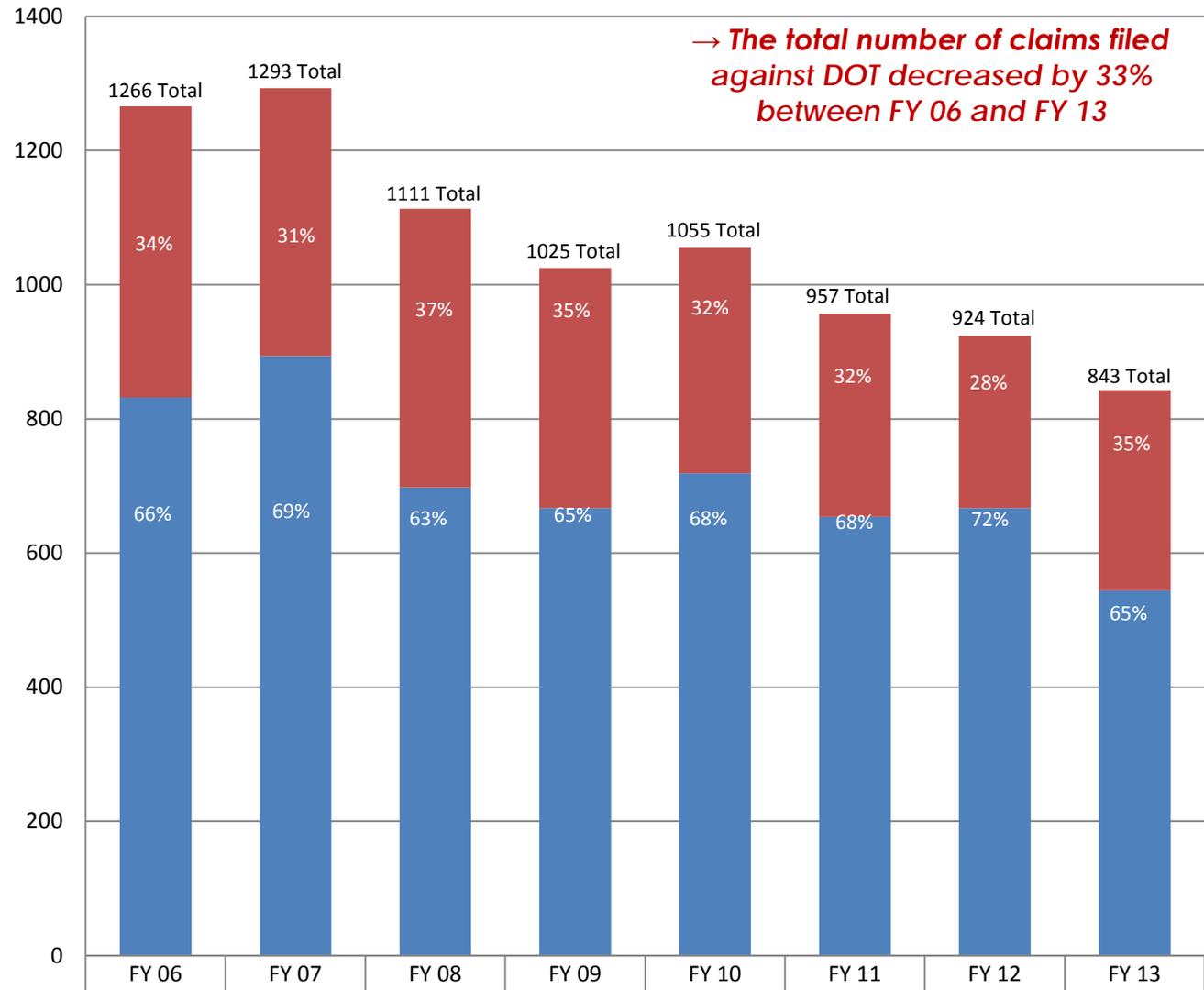
## Distribution of DOC Claims Filed FY 06 - 13



## Distribution of DOT Claims Filed FY 06 - 13

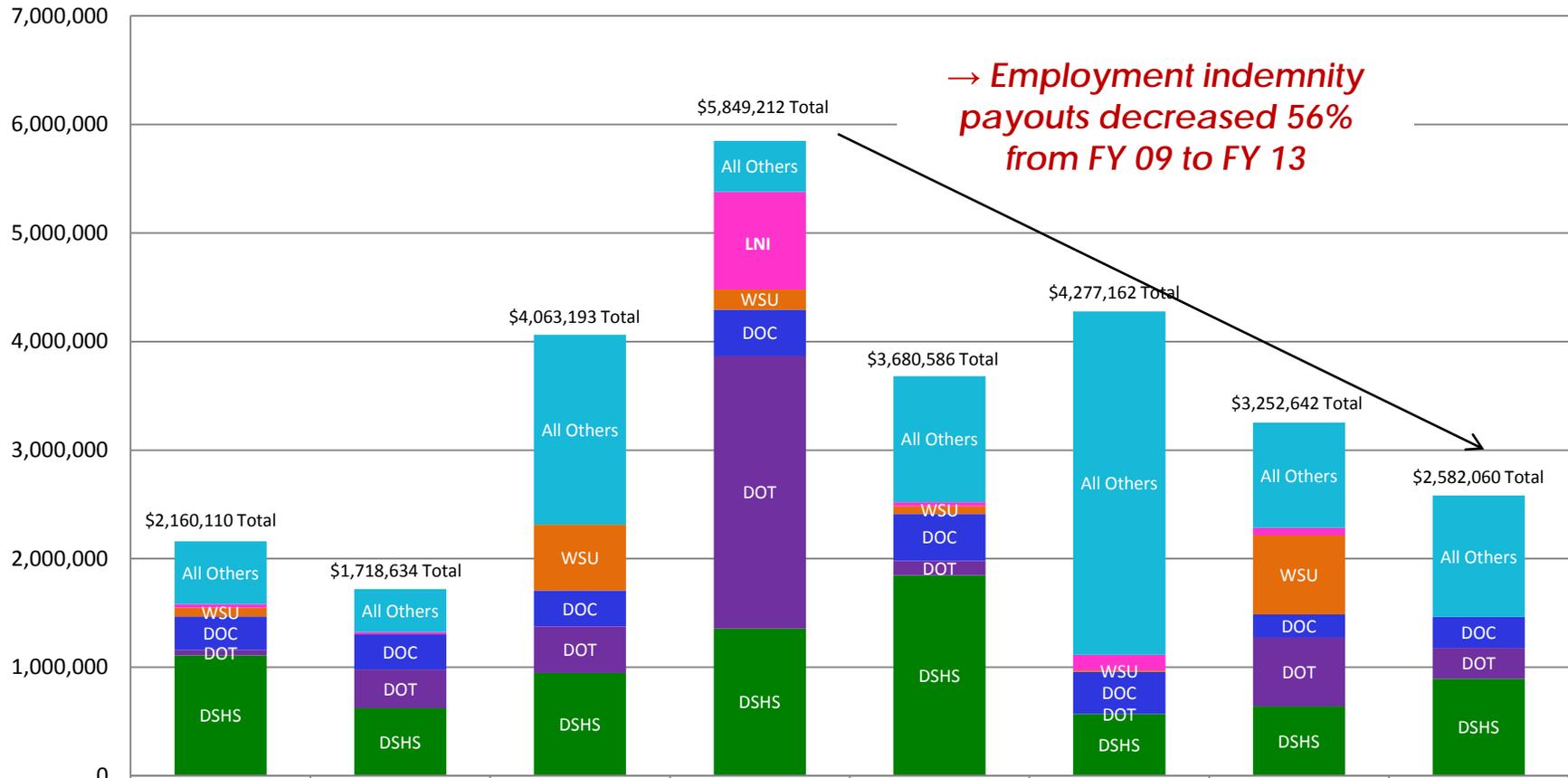
(Includes WSDOT Ferries Claims)

Road Construction and Maintenance personal property claims consistently account for at least 65% of claims filed against the Department of Transportation and are less than 13% of the annual dollar payout.



■ Non Road Construction Maintenance Claims	434	399	415	358	336	303	257	299
■ Road Construction Maintenance Claims	832	894	698	667	719	654	667	544

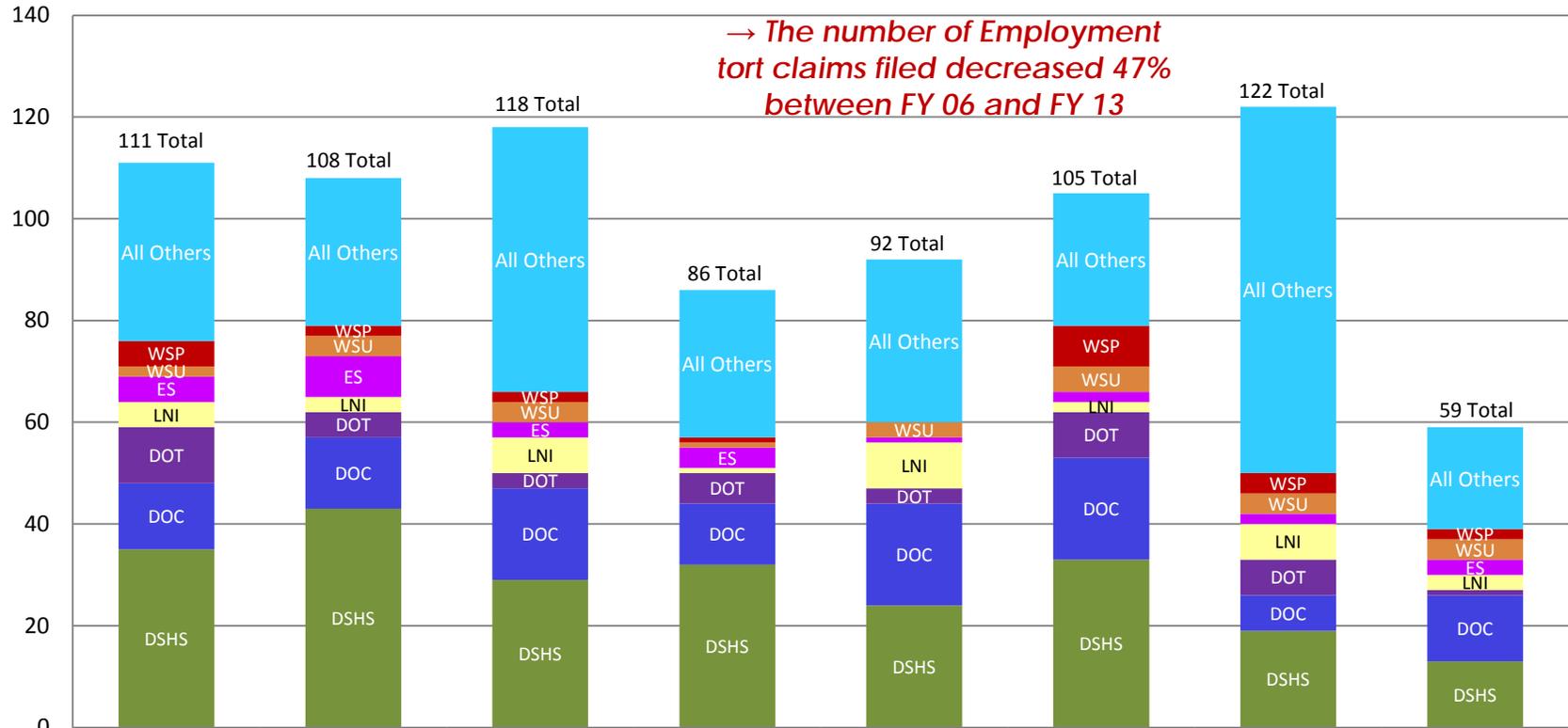
## Employment Indemnity Payouts by Agency FY 06 - 13



→ Employment indemnity  
payouts decreased 56%  
from FY 09 to FY 13

	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
All Others	577,364	395,928	1,749,021	469,453	1,160,269	3,161,734	968,117	1,119,969
LNI	36,000	19,030		900,713	37,000	145,000	69,500	
WSU	80,000		607,462	184,254	71,104	13,642	730,000	
DOC	308,224	325,000	332,000	428,000	431,501	387,500	215,000	284,577
DOT	50,099	355,301	427,000	2,509,689	135,000	0	631,483	282,706
DSHS	1,108,424	623,375	947,710	1,357,104	1,845,712	569,286	638,543	894,814

## Employment Tort Claims Filed FY 06 - 13



→ The number of Employment  
tort claims filed decreased 47%  
between FY 06 and FY 13

	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
All Others	35	29	52	29	32	26	72	20
WSP	5	2	2	1		8	4	2
WSU	2	4	4	1	3	5	4	4
ES	5	8	3	4	1	2	2	3
LNI	5	3	7	1	9	2	7	3
DOT	11	5	3	6	3	9	7	1
DOC	13	14	18	12	20	20	7	13
DSHS	35	43	29	32	24	33	19	13

## Fiscal Year 2013 Highest Tort Indemnity Payouts

Twelve events resulted in 79% of the total tort indemnity payout for fiscal year 2013 (\$51,843,907 versus \$13,859,973). Those twelve events represent 2% of the total number of events which resulted in tort indemnity payouts for fiscal year 2013 (12 events of a total of 747 events). Below is a summary of the highest tort indemnity payouts for fiscal year 2013.

### Washington State Department of Corrections Claims and Litigation

Claim Nos. 31076042, 31076043, 31076131, 3106138, 310768445  
Claimants: The estates and heirs of Mark Renninger, Greg Richards, Tina Mae Griswold, and Ronald W. Owens  
Date of Incident: 11/29/09  
Date Claim Filed: 6/27/11  
Indemnity Paid: \$13,702,750

These claims arise out of a shooting in which four Lakewood Police Officers were murdered at the Forza Coffee Shop in Lakewood. The assailant, Maurice Clemmons, a felon who was transferred from Arkansas to Washington, was on DOC supervision at the time. Claimants allege that DOC failed to properly investigate and supervise Clemmons, that he should have been detained based on the fact that a warrant had been issued by Arkansas, and DOC failed to inform Pierce County Jail of the warrant's existence.

All of the claims were resolved prior to litigation through the Attorney General's Office Early Resolution Program.

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Claim Nos. 31076025, 3107232, 31076509  
Claimants: The estate and heirs of Douglas W. Simmons, and Emily Mattson and her son, GRC, a minor  
Date of Incident: 7/26/10  
Date Claim Filed: 6/24/11  
Indemnity Paid: \$3,400,000

Claimants allege DOC was negligent when it failed to properly supervise offender Virginia Ramsey. She caused a collision that killed Mr. Simmons and seriously injured Ms. Mattson, a passenger in the vehicle. Claimants allege that Ramsey was traveling at speeds greater than 90 mph at the time of the incident and that Ramsey was classified as a high risk and dangerous offender by the DOC. Mr. Simmons left two surviving daughters (ages 10 and 3 at the time of his death).

The lawsuit which was filed in Pierce County Superior Court was settled through direct negotiation on October 15, 2012. The estate and heirs of Mr. Simmons received \$1,400,000. Ms. Mattson and her son received \$2,000,000.

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Claim Nos. 31076281, 31066282, 31076277, 31076284  
Claimants: The estates of Tony E. Williams, David West, Sr., David West Jr., and Denise Salts  
Date of Incident: 8/21/10  
Date Claim Filed: 8/12/11

Offenders Ryan McCarthy and John Booth shot and killed three people and wounded another person in Lewis County on August 21, 2010. The three killed were Tony E. Williams, David West, Sr., and David West, Jr. The injured person was Denise Salts. Booth and McCarthy were on DOC community supervision when the shootings occurred.

All of the claims were resolved prior to litigation through the Attorney General's Office Early Resolution Program. The estate claims of Mr. Williams and Mr. West, Sr. were settled for \$1,300,000 each and the personal injury claim of Ms. Salts was settled for \$366,156.95.

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Claim No. 31075608  
Claimant: Kenneth M. Parker  
Date of Incident: 4/19/08  
Date Claim Filed: 3/30/11  
Indemnity Paid: \$1,850,000

Claimant, Kenneth M. Parker, alleged medical negligence on the part of DOC and its personnel for failing to adequately treat injuries he received in an assault by another inmate. Mr. Parker immediately complained of neck and shoulder pain following the assault on March 23, 2008. He did not receive treatment for his spinal injuries (spinal fracture at C7) until April 18, 2008, 26 days later. Mr. Parker sustained permanent injury, leaving him a partial quadriplegic confined to a wheel chair.

The lawsuit which was filed in USDC Western District of Washington in Tacoma was settled through direct negotiation in March, 2013.

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## State of Washington Department of Corrections and Department of Social and Health Services Claims and Litigation

Claim Nos. 31073691, 31073692, 31073693, 30070953, 30070394, 30070395  
Claimants: John Hertog, as Guardian ad Litem for three minors, B.J., S.J., and S.J.  
Date of Incident: 1/1/04 to 12/1/07  
Date Claim Filed: 3/19/10  
Indemnity Paid: \$2,500,000

Claimants alleged that while in the care of their mother, Cynthia Kuether, they were abused by Ronald Harstad, a convicted sex offender. Ms. Kuether was in a relationship with Ronald Harstad's son, Todd Harstad. Ms. Kuether and her children would frequently visit Ronald Harstad and at one point lived with him for a short time. Claimants allege that DOC failed to monitor Ronald Harstad and that DSHS failed to protect the claimants while they were in the care of their mother. Claimants suffer emotional and physical injuries, psychological trauma, past and future expenses, and loss of earning capacity.

The lawsuit which was filed in Snohomish County Superior Court was settled at mediation resolving all claims against DOC and DSHS.

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## Washington State Department of Social and Health Services

Claim Nos. 30070599, 30052416, 30070673, 30070672, 30070600, 30070694  
Claimants: M.H., A.G., A.W., E.T., A.T., R.M. (Six Minors)  
Date of Incident: 1997 to 2005  
Date Claim Filed: 3/1/11  
Indemnity Paid: \$11,000,000

Claimants alleged that while in the foster home of Jose and Juanita Miranda (both deceased), they were sexually, physically and mentally abused by the foster parents. Claimants also alleged that the neglect included intolerable and harmful living conditions, and that DSHS failed to properly investigate referrals and reports of abuse by the Mirandas. Claimants suffer from ongoing mental, physical and emotional abuse. Claimant, M.H., also asserted that DSHS failed to remove her from the home of her biological mother where she was also physically, emotionally, and sexually abused.

The lawsuit which was filed in USDC Western District of Washington in Tacoma was settled through direct negotiation on December 11, 2012.

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Claim Nos. 30070245, 30070246, 30070247, 30070389  
Claimants: C.W., R.F., C.W., T.W. (Four Minors)  
Date of Incident: 1/1/95 to 12/31/2001  
Date Claim Filed: 7/9/09  
Indemnity Paid: \$5,300,000

Claimants alleged that DSHS improperly placed them in the home of Michael and Sylvia Wenger where they were physically, emotionally, and sexually abused by both Wengers and possibly others. Claimants suffered serious and permanent physical, mental, and emotional injuries.

The lawsuit which was filed in USDC Eastern District of Washington in Spokane was settled through direct negotiation on October 1, 2012.

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Claim No. 30070741  
Claimants: Dan Albertson, as Guardian ad Litem, for T.O. and L.O. (Two Minors)  
Date of Incident: 7/27/2007 to 9/9/2010  
Date Claim Filed: 10/07/11  
Indemnity Paid: \$3,000,000

Claimants alleged that DSHS negligently placed them in the home of their grandfather, Emanuel Finch, who repeatedly sexually assaulted them for years. Prior to claimants being placed in the Finch home, complaints were made that he molested his own daughters. Claimants suffered serious and permanent physical, mental, and emotional injuries.

The lawsuit which was filed Pierce County Superior Court was settled through direct negotiation on January 14, 2013.

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Claim No. 30053054  
Claimant: C.A. (Minor)  
Date of Incident: Spring 2003  
Date Claim Filed: 6/12/08  
Indemnity Paid: \$3,000,000

Claimant alleged that she was seduced and the victim of repeated statutory rape by Anthony Grant, a psychiatric child care counselor at the Child Study and Treatment Center (CSTC) when she was age 15 and resided at the CSTC. Claimant asserted civil rights violations as well as suffering profound emotional distress.

The lawsuit which was filed in USDC Western District of Washington was settled after mediation failed one day before trial on March 15, 2013.

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Claim No. 30070462, 30070226  
Claimants: W.N. and J.H. (Two Minors)  
Date of Incident: 1980 – 1984  
Date Claim Filed: 5/21/09  
Indemnity Paid: \$1,000,000

The OK Boys Ranch claims consist of a series of claims that were ultimately consolidated into lawsuits relating to allegations involving the same group home, licensed by the Department of Social and Health Services, to care for troubled boys. All these claims involve allegations of physical and sexual abuse against the minor claimants at the OK Boys Ranch during time periods ranging from 1976 to 1994.

The separate claims were consolidated into different lawsuits referred to as OK Boys Ranch 1, 2, 3, etc. Most of the lawsuits were resolved many years ago, but a few claims have been received in the last five years. The lawsuit for W.N. and J.H. which was filed in Thurston County Superior Court was settled at mediation on April 24, 2012.

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## Washington State Department of Transportation

Claim Nos. 40573028, 40573029  
Claimants: Estate of Gretchen Forsman and David Forsman, her husband  
Date of Incident: 3/7/09  
Date Claim Filed: 7/13/11  
Indemnity Paid: \$1,725,000

This suit arises from a motor vehicle accident that occurred on SR 202, MP 13.69. Claimant David Forsman alleged that there was standing water in the road which caused his vehicle to get caught in the accumulation of water and was redirected into oncoming traffic. Mr. Forsman's vehicle collided with another vehicle, striking the Forsman vehicle's passenger side door, and killing Gretchen Forsman. Mr. Forsman suffered the death of his wife, emotional distress and claims WDOT was negligent in the design and maintenance of SR 202.

The lawsuit which was filed in King County Superior Court was settled through direct negotiation on April 25, 2013.

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## Washington State Patrol

Claim No. 22570031  
Claimant: Todd M. Chism  
Date of Incident: 1/29/08  
Date Claim Filed: 10/24/08  
Indemnity Paid: \$2,400,000

Todd Chism was arrested January 29, 2008 after the Washington State Patrol's Missing and Exploited Children Task Force searched his Nine Mile Falls home. According to the WSP an investigation began in June 2007 when the agency received a tip of about child pornography being downloaded to an account that had been established using Chism's Bank of America credit card number and home address. The account was under the name "Mr. Nichole Chism" with a fake date of birth. Mr. Chism's wife is named Nicole Chism. The couple had previously reported fraud on that account. Following the search and arrest of Mr. Chism, WSP issued press releases and provided interviews with the media. The Chism's complained that several comments made by the WSP painted them in a false light or were outright defamatory. Subsequently the WSP acknowledged that no child pornography was found in Chism's home or workplace.

The lawsuit which was filed in USDC Eastern District of Washington in Spokane was settled at mediation on June 29, 2012.

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