



# FISCAL YEAR 2016 TORT CLAIM INDEMNITY PAYOUT ANALYSIS

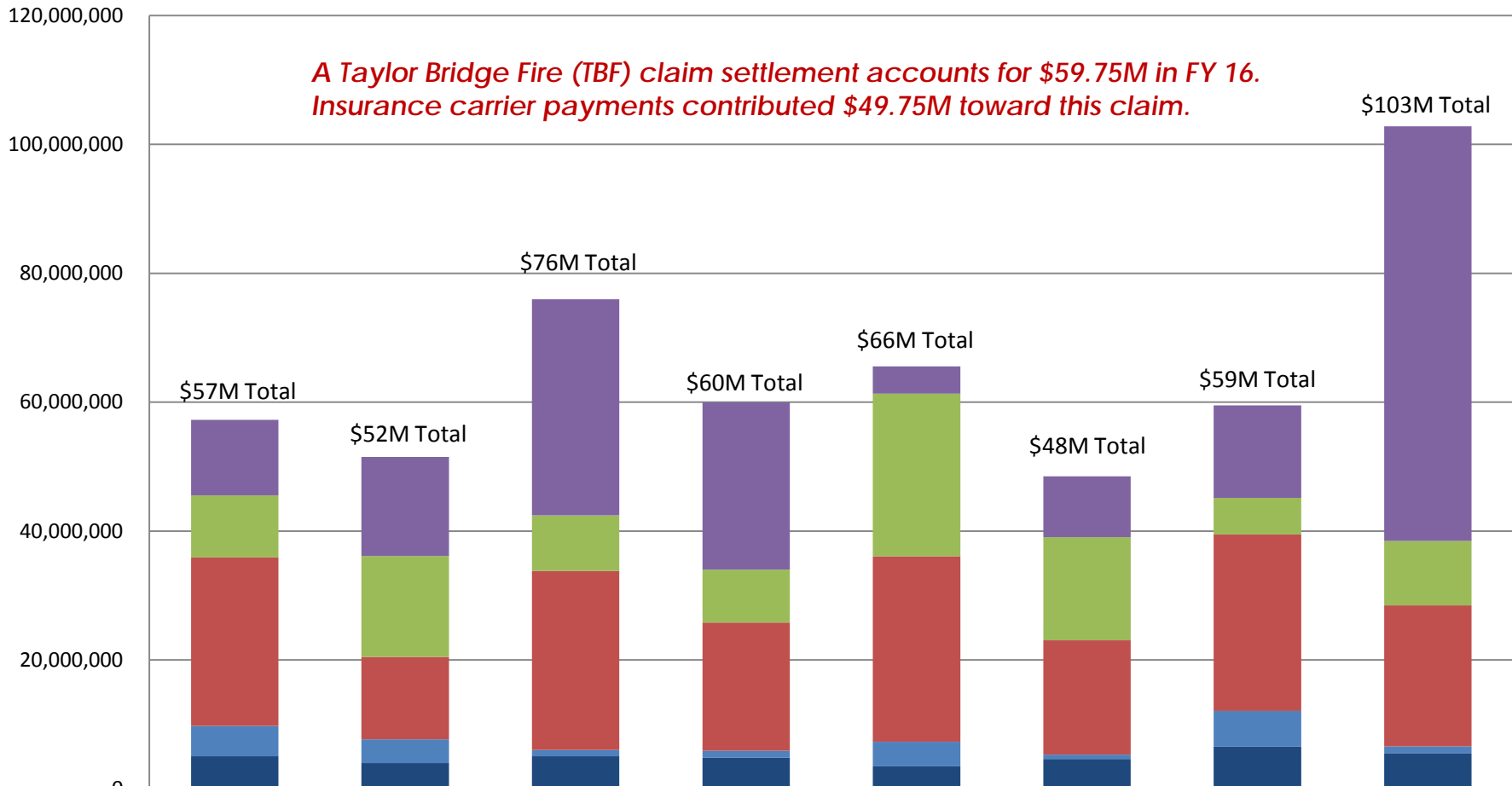
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OFFICE OF RISK MANAGEMENT  
Jason Siems, State Risk Manager  
360-407-8729

September 27, 2016

## Statewide Indemnity Payouts for FY 09-16

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

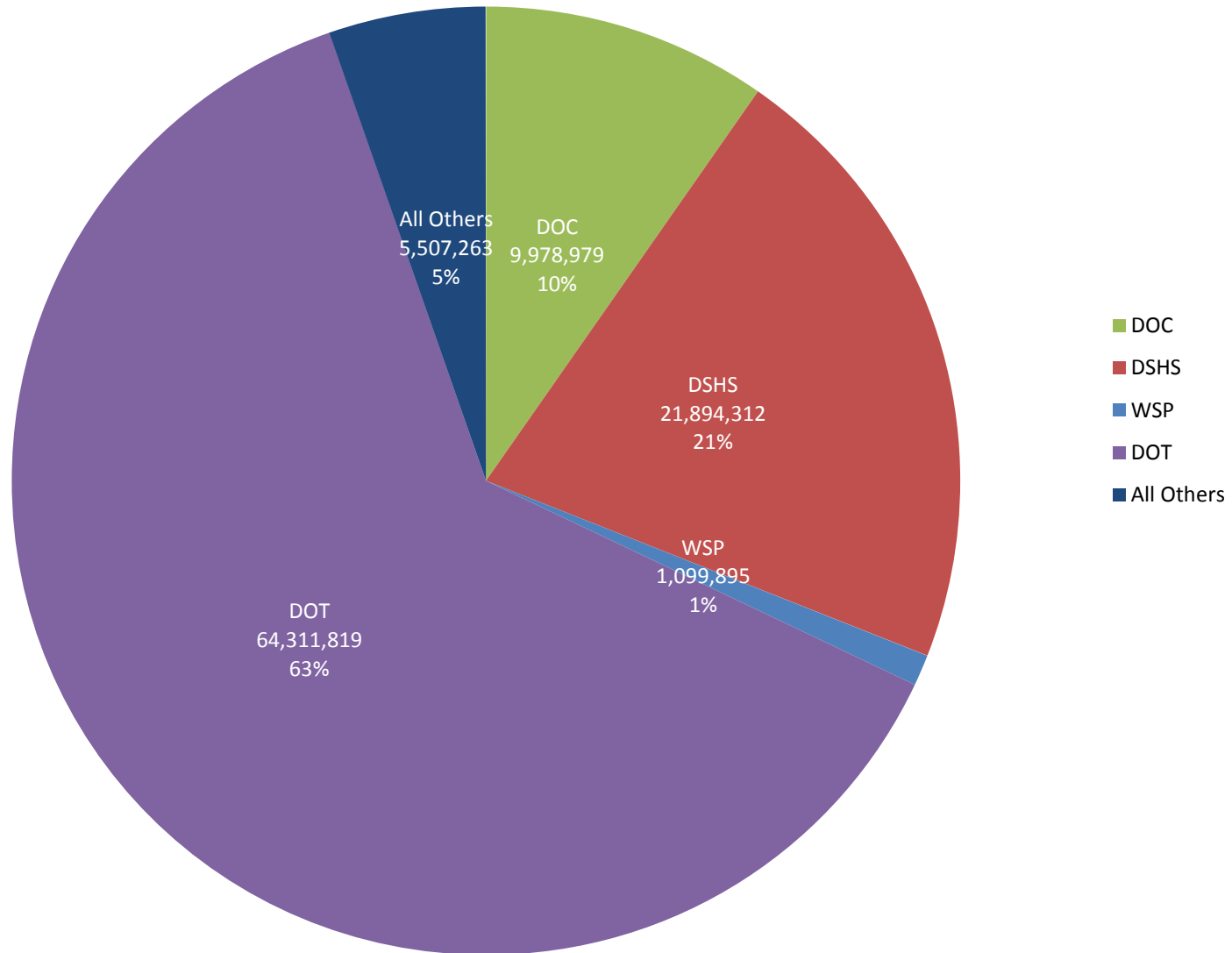


	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
■ DOT	11,735,594	15,358,651	33,515,455	25,942,804	4,237,470	9,439,229	14,352,216	64,311,819
■ DOC	9,591,948	15,656,156	8,616,624	8,192,717	25,195,682	15,999,304	5,665,919	9,978,979
■ DSHS	26,186,733	12,809,977	27,791,834	19,895,522	28,792,362	17,735,832	27,394,840	21,894,312
■ WSP	4,694,945	3,656,758	943,159	1,072,951	3,792,894	649,558	5,484,546	1,099,895
■ All Others	5,062,378	4,022,500	5,088,292	4,847,001	3,527,650	4,664,690	6,605,568	5,507,263

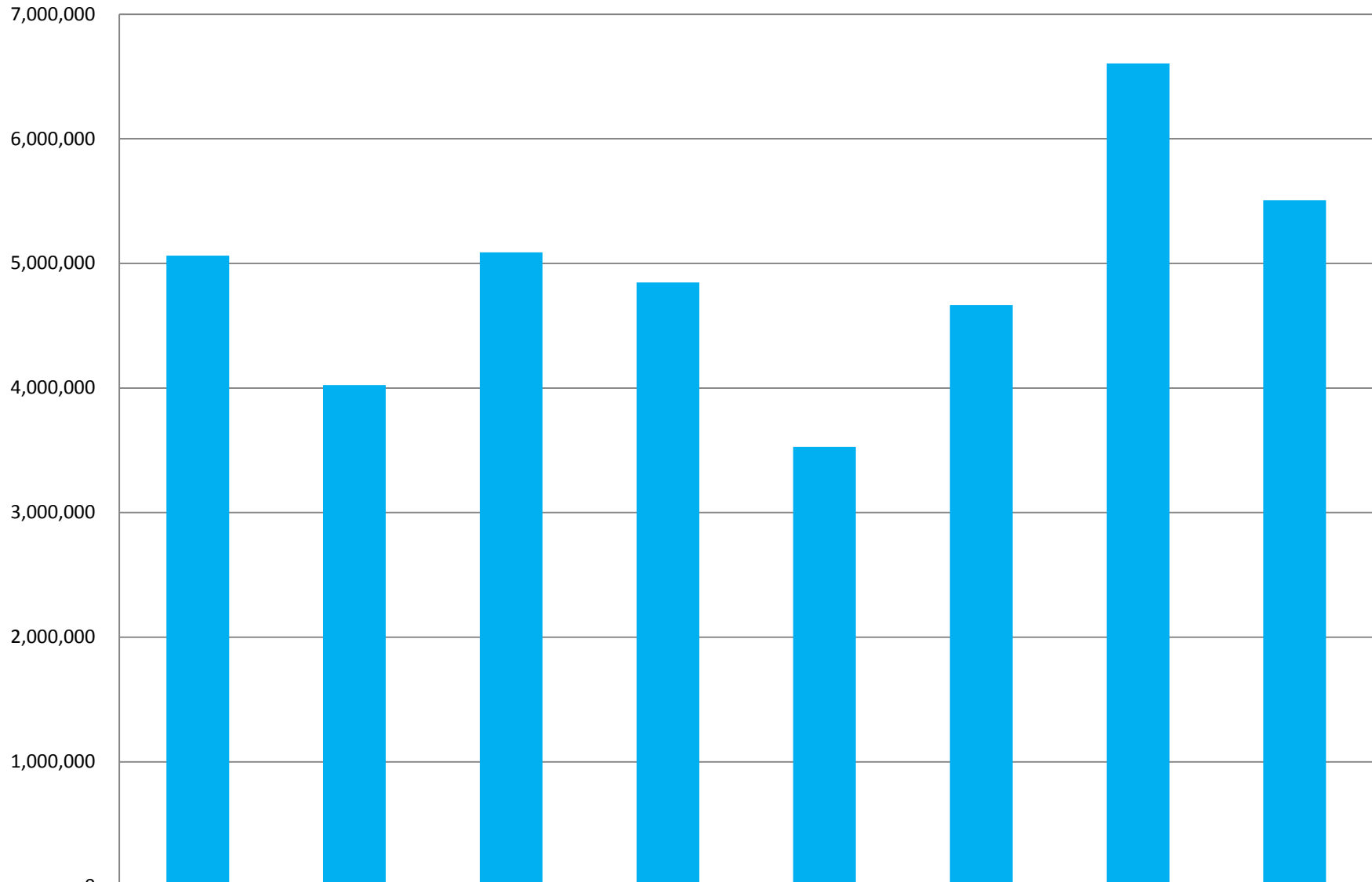
\*Marine Division reimburses the self insurance fund for its payouts.

## FY 16 Statewide Indemnity Payout Distribution (\$102,792,268)

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



### All Other State Agency Indemnity Payouts FY 09-16

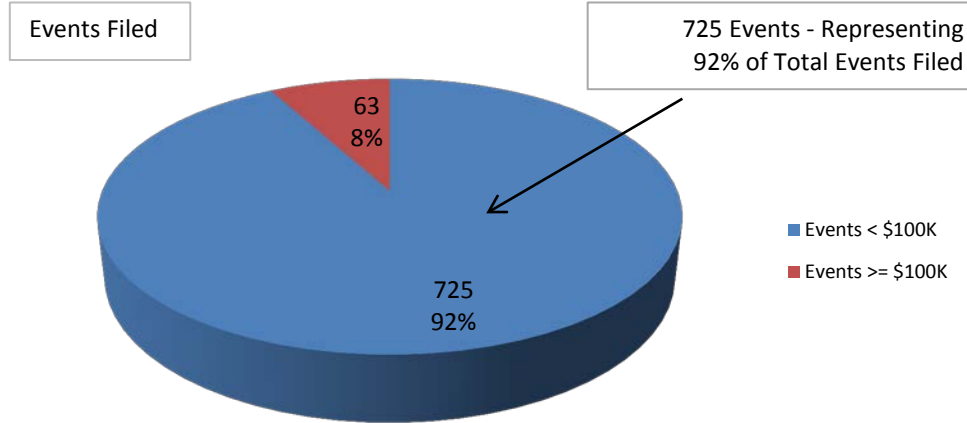


■ All Others	5,062,378	4,022,500	5,088,292	4,847,001	3,527,650	4,664,690	6,605,568	5,507,263
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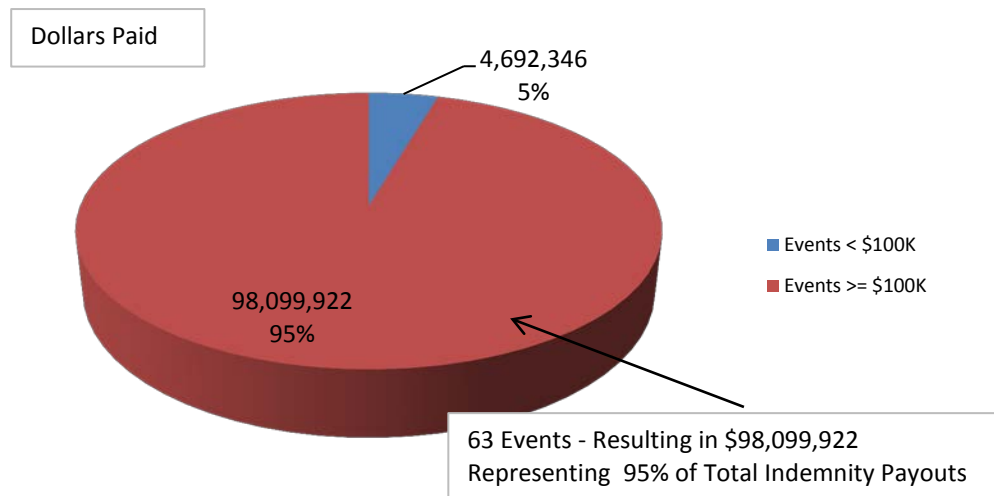
### Fiscal Year 2016 Frequency / Severity

92% of event payouts are less than \$100,000 each and make up 5% of total dollars paid out for indemnities  
The remaining 8% of event payouts make up 95% of total dollars paid out for indemnities

**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**



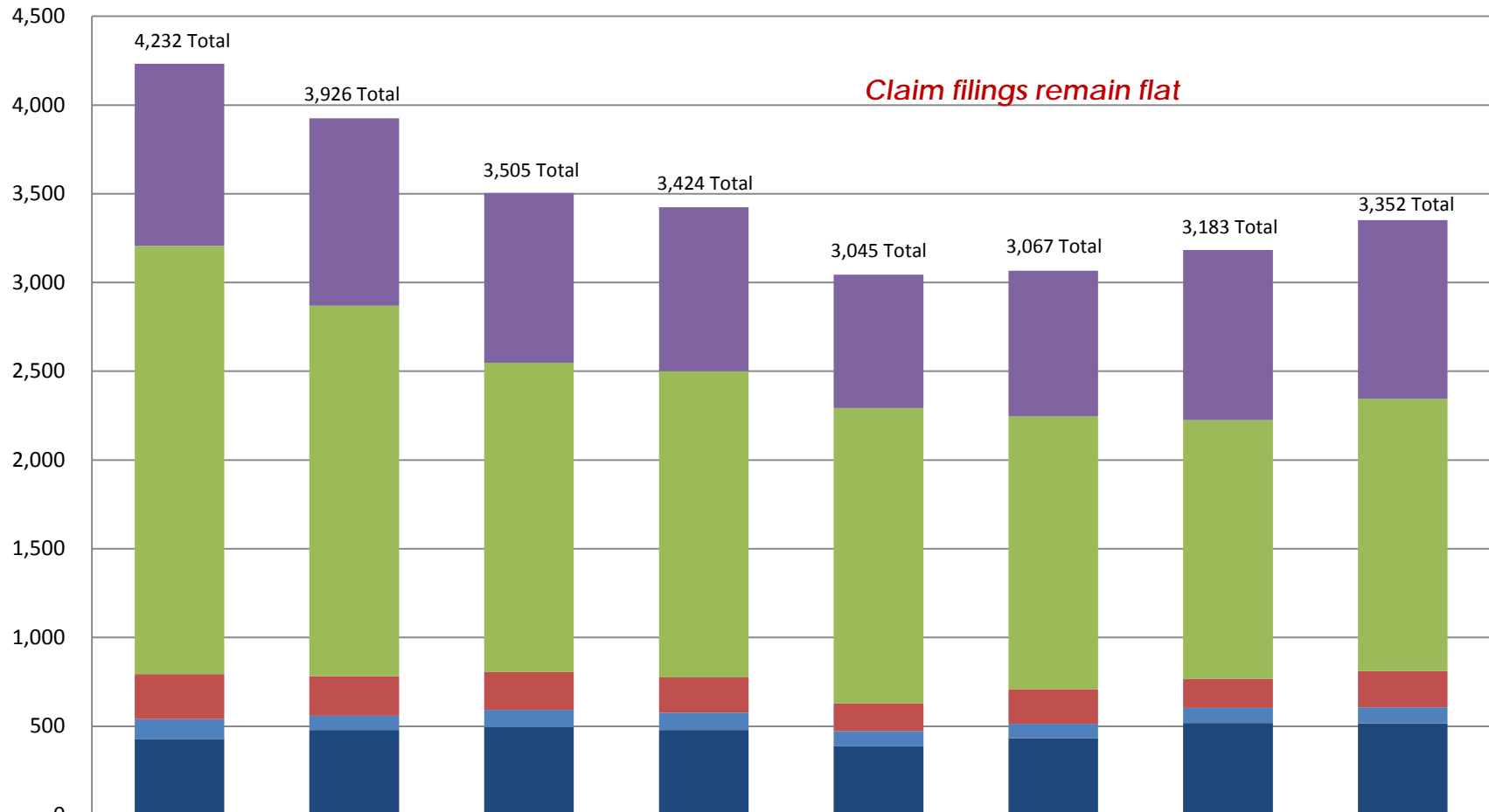
**Large Payouts Result from a Small Number of Events (Severity = High / Frequency = Low)**

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

FY 2009	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	4	4,527,667	96%	18	25,208,174	96%	13	8,769,455	91%	16	10,050,835	86%	8	3,716,100	73%
Events < \$100K	48	167,278	4%	73	978,559	4%	411	822,493	9%	296	1,684,759	14%	50	1,346,278	27%
Total FY 2009	52	4,694,945		91	26,186,733		424	9,591,948		312	11,735,594		58	5,062,378	
FY 2010	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	3	3,332,000	91%	18	11,961,162	93%	11	14,864,584	95%	16	13,570,168	88%	7	1,777,500	44%
Events < \$100K	47	324,758	9%	62	848,816	7%	359	791,572	5%	288	1,788,483	12%	46	2,245,000	56%
Total FY 2010	50	3,656,758		80	12,809,977		370	15,656,156		304	15,358,651		53	4,022,500	
FY 2011	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	2	518,813	55%	19	27,204,647	98%	6	7,970,000	92%	13	32,453,500	97%	12	3,805,734	75%
Events < \$100K	46	424,345	45%	60	587,187	2%	280	646,624	8%	252	1,061,955	3%	47	1,282,559	25%
Total FY 2011	48	943,159		79	27,791,834		286	8,616,624		265	33,515,455		59	5,088,292	
FY 2012	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	2	795,000	74%	14	19,409,488	98%	8	7,480,000	91%	13	24,706,303	95%	8	3,149,349	65%
Events < \$100K	48	277,951	26%	54	486,033	2%	242	712,717	9%	220	1,236,501	5%	53	1,697,652	35%
Total FY 2012	50	1,072,951		68	19,895,522		250	8,192,717		233	25,942,804		61	4,847,001	
FY 2013	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	3	3,227,000	85%	18	28,230,000	98%	11	24,685,736	98%	9	3,361,612	79%	8	2,147,620	61%
Events < \$100K	45	565,894	15%	63	562,362	2%	229	509,946	2%	205	875,859	21%	51	1,381,265	39%
Total FY 2013	48	3,792,894		81	28,792,362		240	25,195,682		214	4,237,470		59	3,528,885	
FY 2014	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	1	370,001	57%	14	17,285,641	97%	10	15,523,181	97%	6	8,425,000	89%	13	3,488,818	75%
Events < \$100K	36	279,557	43%	56	450,191	3%	186	476,123	3%	194	1,014,229	11%	40	1,175,873	25%
Total FY 2014	37	649,558		70	17,735,832		196	15,999,304		200	9,439,229		53	4,664,690	
FY 2015	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	2	5,272,877	96%	12	26,733,397	98%	5	5,013,910	88%	16	12,861,588	90%	17	5,170,221	78%
Events < \$100K	36	211,669	4%	48	661,443	2%	178	652,009	12%	215	1,490,628	10%	45	1,435,347	22%
Total FY 2015	38	5,484,546		60	27,394,840		183	5,665,919		231	14,352,216		62	6,605,568	
FY 2016	WSP	Amount	Percent	DSHS	Amount	Percent	DOC	Amount	Percent	DOT	Amount	Percent	All Others	Amount	Percent
Events > \$100K	3	665,000	60%	24	21,184,206	97%	9	9,425,000	94%	13	63,027,201	98%	12	3,798,515	69%
Events < \$100K	48	434,895	40%	71	710,106	3%	220	553,979	6%	193	1,284,619	2%	43	1,708,748	31%
Total FY 2016	51	1,099,895		95	21,894,312		229	9,978,979		206	64,311,819		55	5,507,263	

## Statewide Tort Claim Filing for FY 09-16

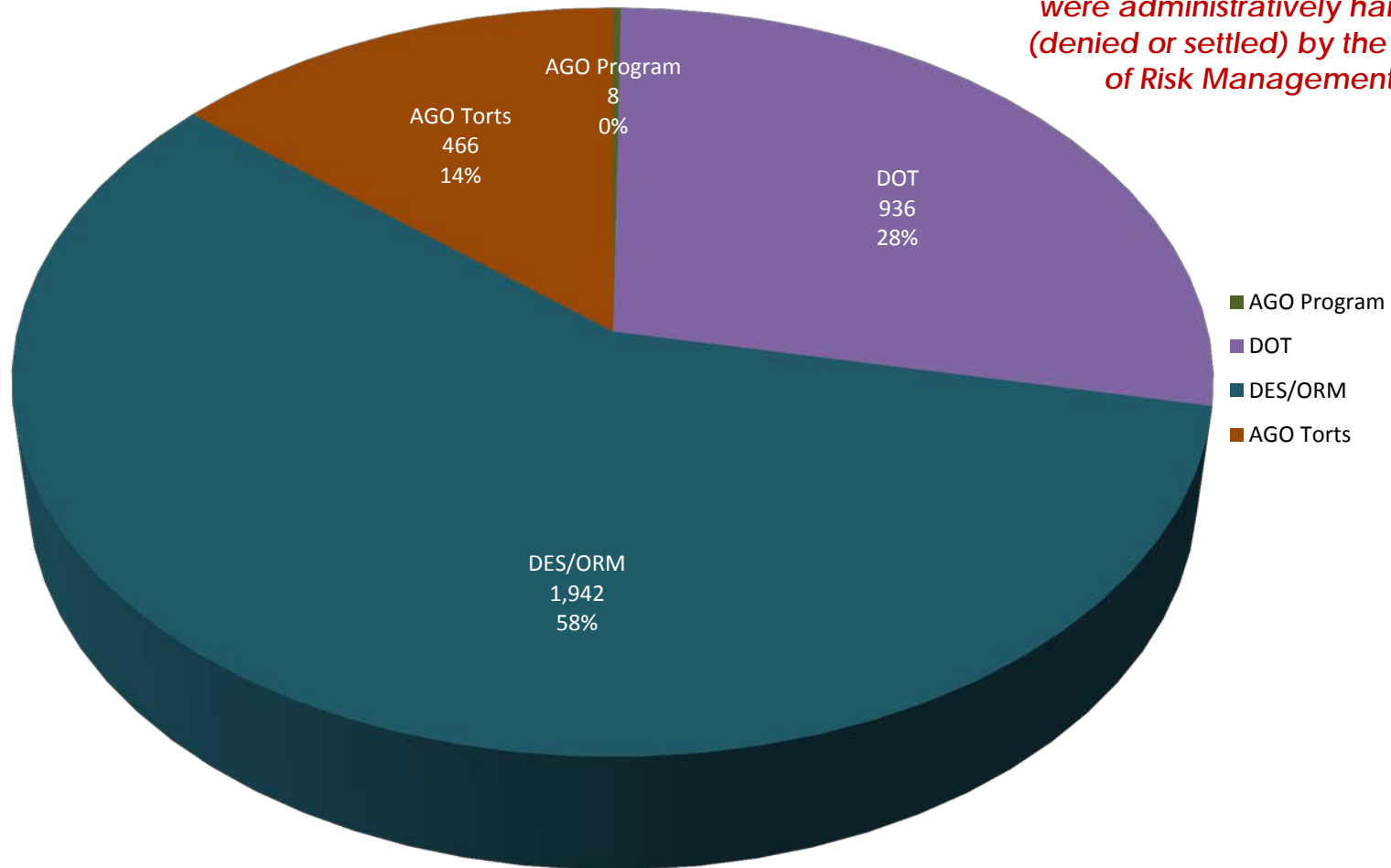
(Excludes UW, Counties, Cities, Public School Districts, and Non State Entities)



	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
DOT	1,025	1,056	957	924	753	822	958	1,008
DOC	2,413	2,089	1,743	1,725	1,664	1,536	1,459	1,533
DSHS	254	221	212	198	156	196	163	204
WSP	112	81	98	98	83	82	85	91
All Others	428	479	495	479	389	431	518	516

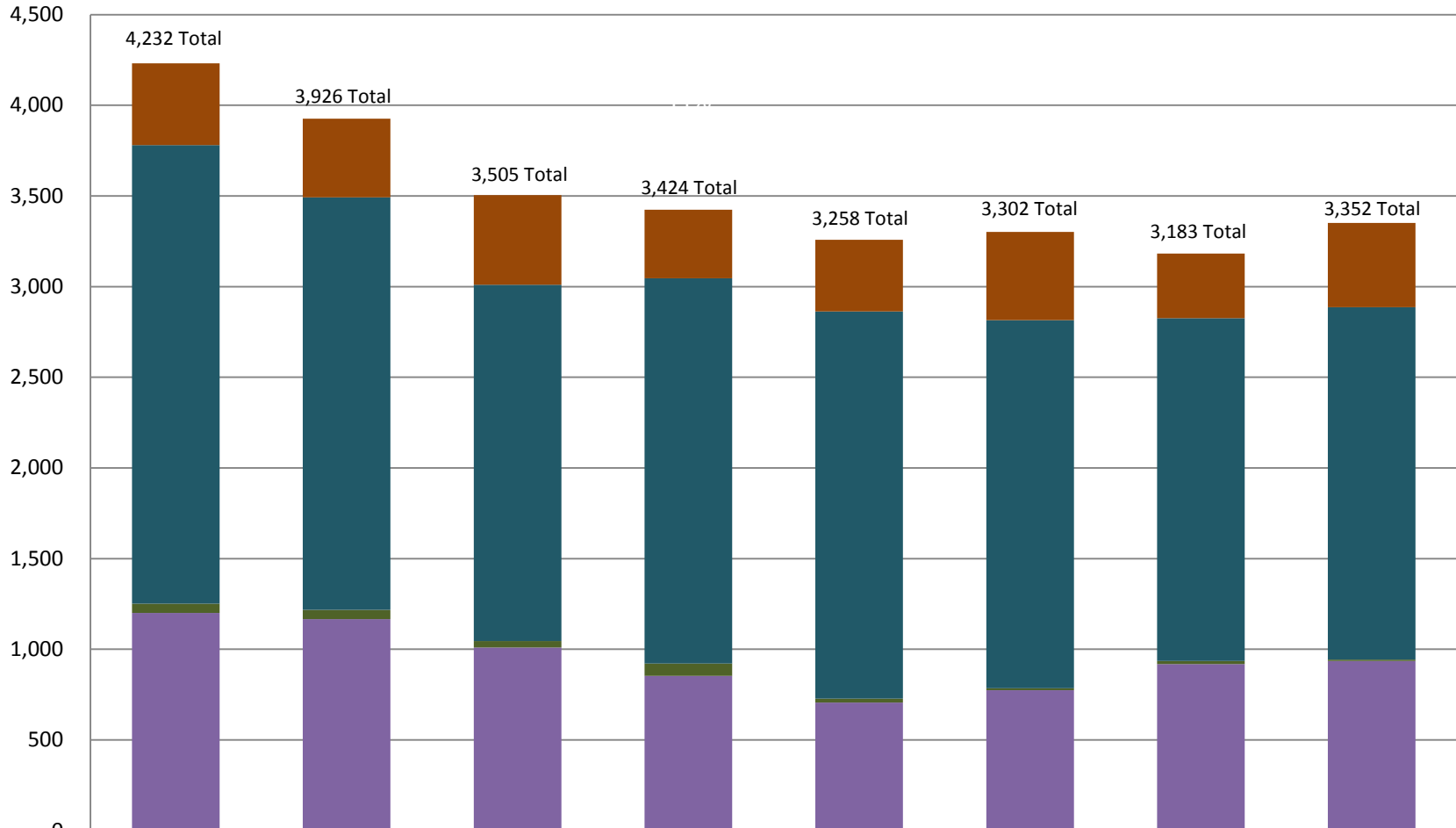
### FY 16 Tort Claim Filing by Investigative Office Assigned

*58% of tort claims filed in FY 16  
were administratively handled  
(denied or settled) by the Office  
of Risk Management.*



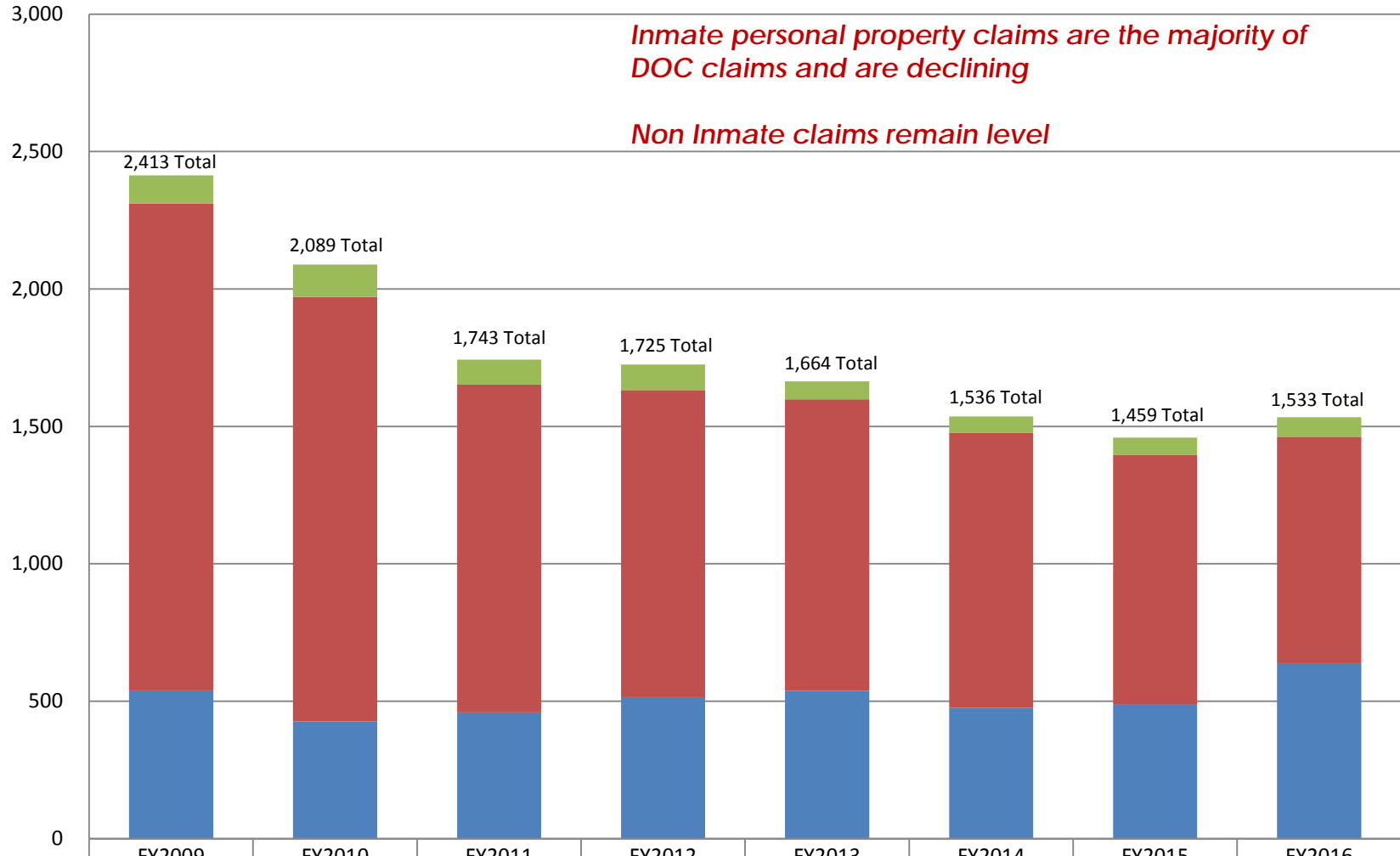


### FY 09 - 16 Tort Claim Filing by Investigative Office Assigned



	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
AGO Torts	452	434	495	378	394	486	357	466
DES/ORM	2,529	2,275	1,964	2,124	2,136	2,030	1,891	1,942
AGO Program	50	51	36	68	21	11	16	8
DOT	1,201	1,166	1,010	854	707	775	919	936

## Distribution of DOC Claims Filed FY 09 - 16



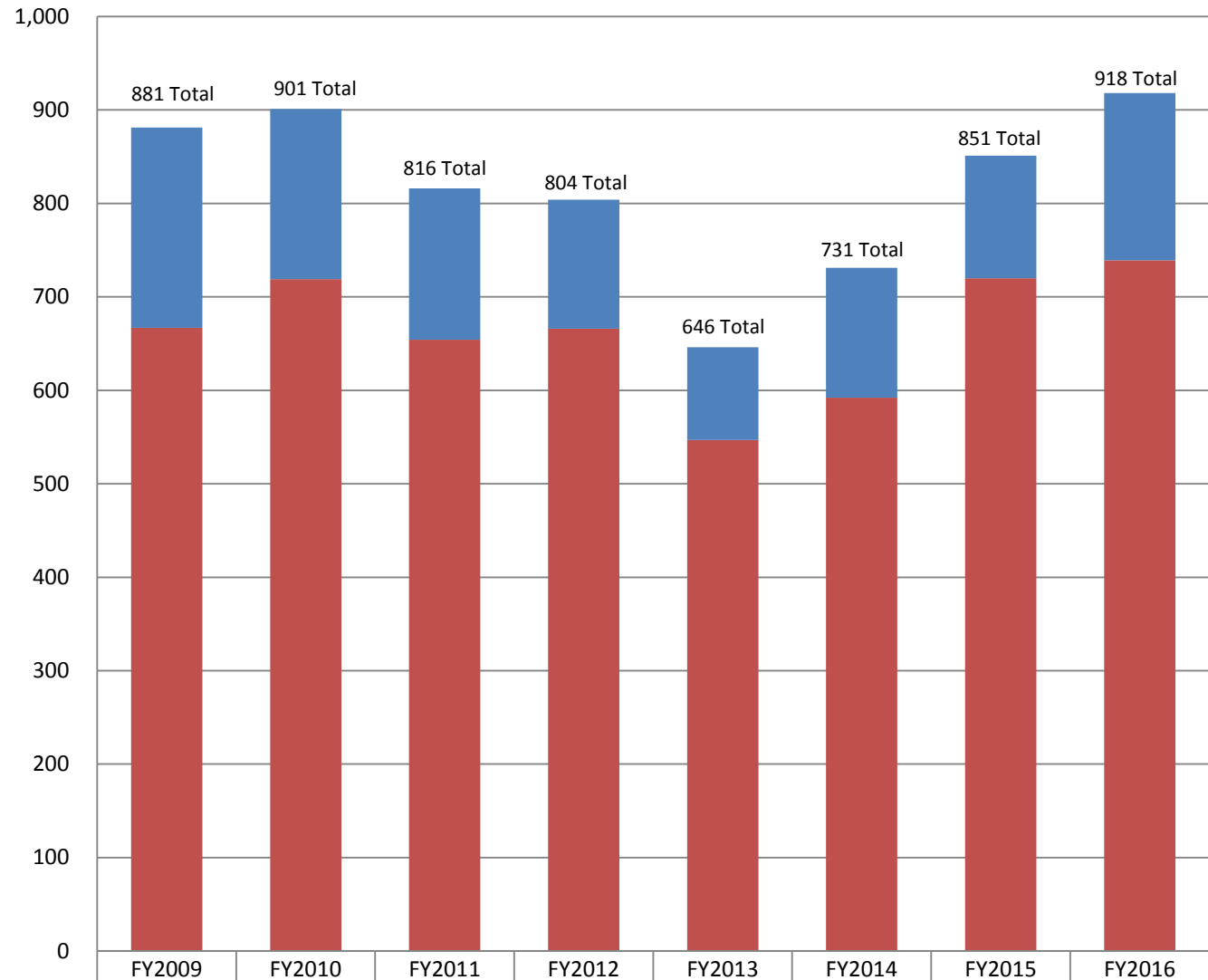
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
Non Inmate	101	118	91	93	65	60	63	71
Inmate PP	1,772	1,544	1,193	1,117	1,061	1,000	909	824
Inmate Non PP	540	427	459	515	538	476	487	638

## Distribution of DOT Claims Filed FY 09 - 16

(Includes WSDOT Ferries Claims)

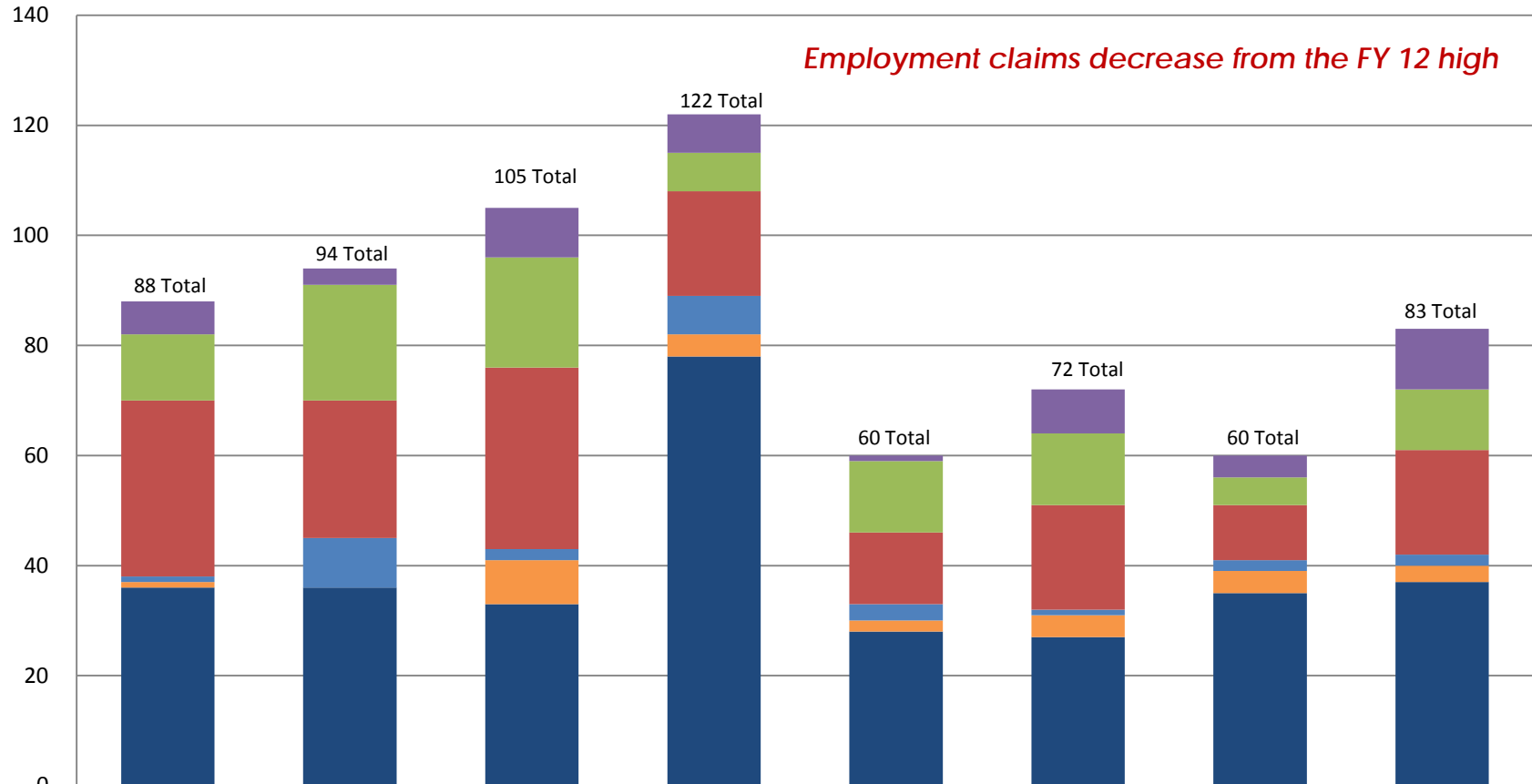
Road construction and maintenance personal property claims inflate the number of DOT claims. Taylor Bridge Fire claims accounted for an increase in DOT claims in FY 13 and FY 14.

Road construction claims increased in FY 15 and 16. These are the majority of DOT claims.



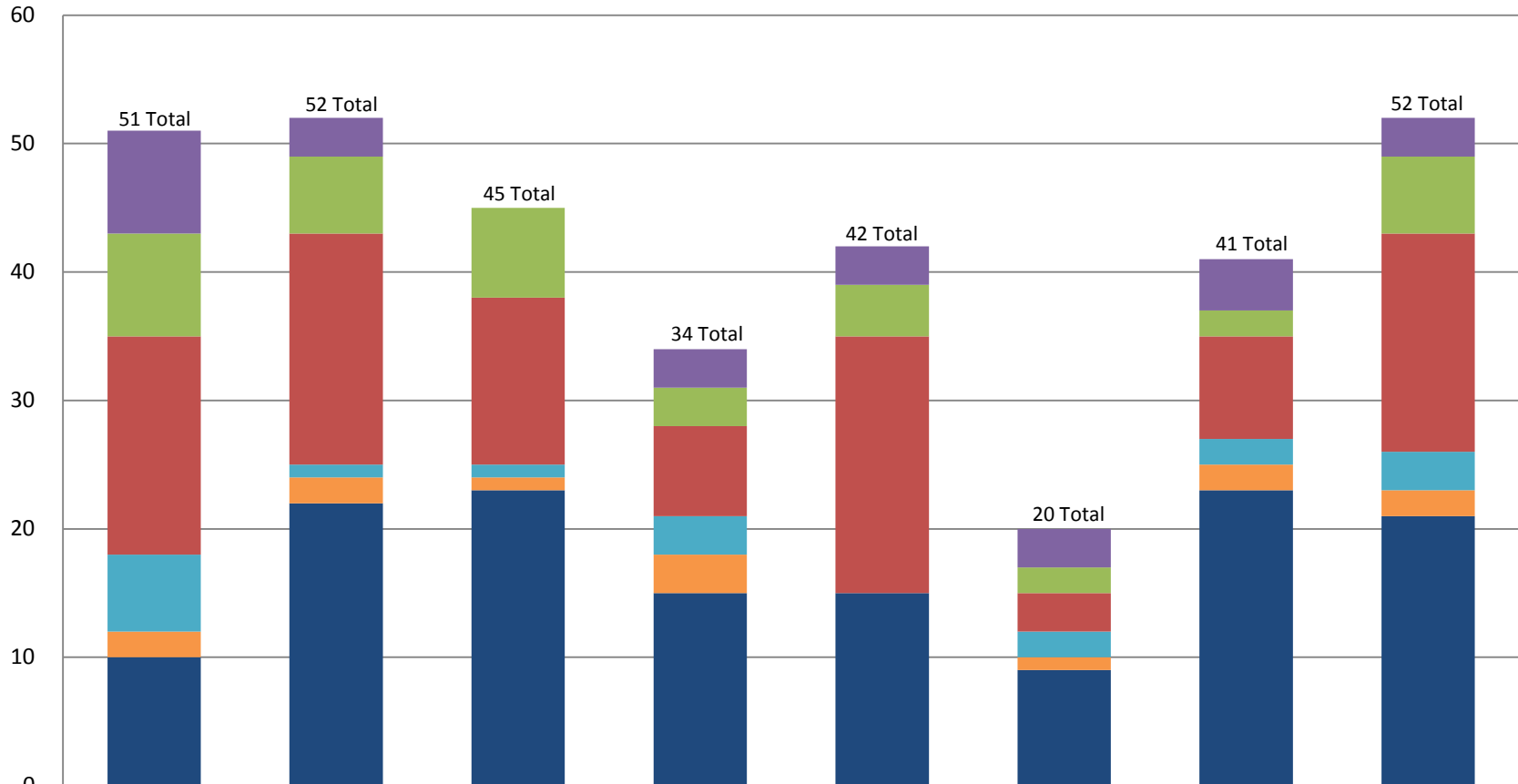
■ Non Road Construction Maintenance Claims	214	182	162	138	99	139	131	179
■ Road Construction Maintenance Claims	667	719	654	666	547	592	720	739

## Employment Tort Claims Filed FY 09 - 16



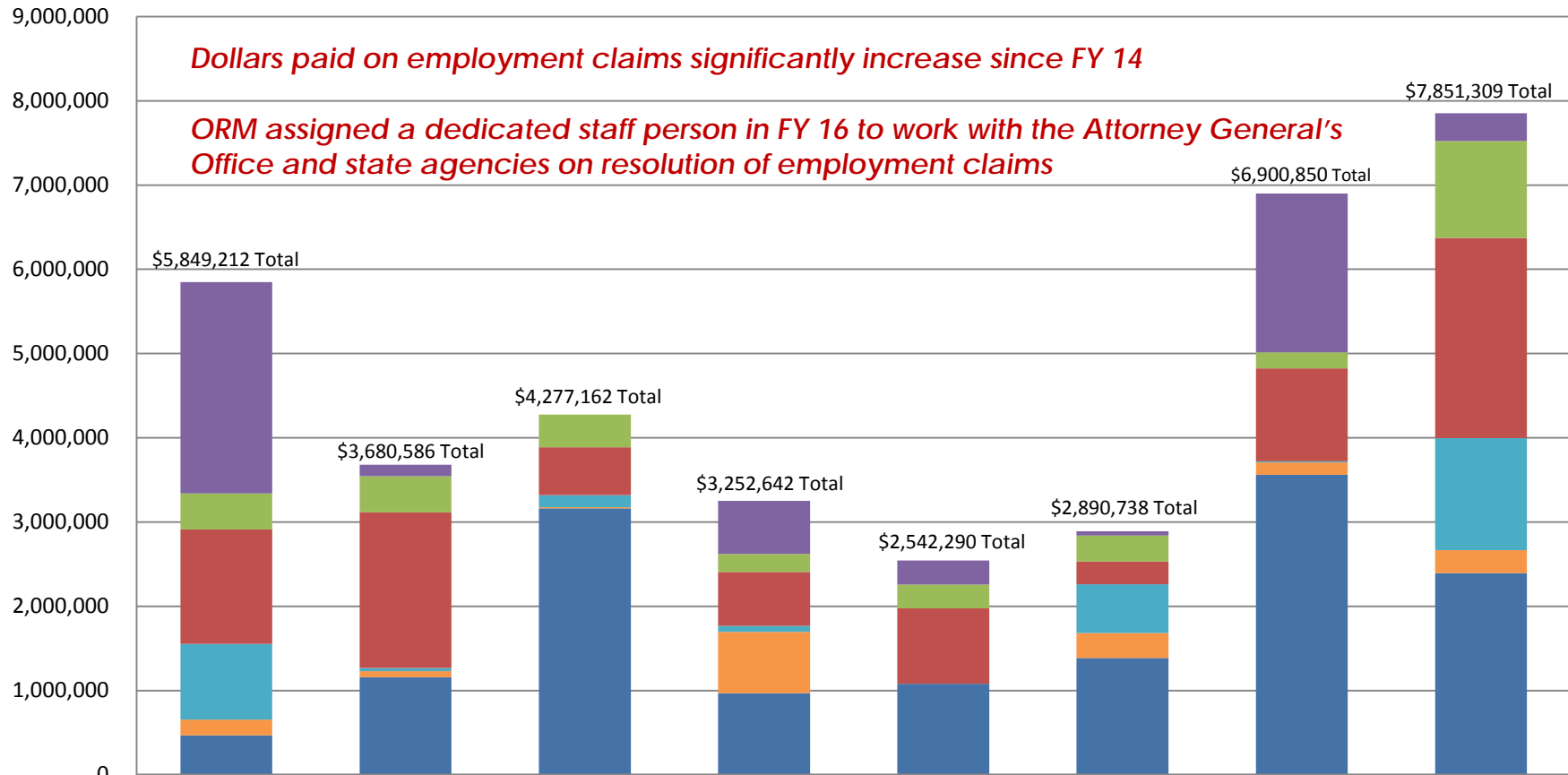
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
DOT	6	3	9	7	1	8	4	11
DOC	12	21	20	7	13	13	5	11
DSHS	32	25	33	19	13	19	10	19
L&I	1	9	2	7	3	1	2	2
WSP	1	0	8	4	2	4	4	3
All Others	36	36	33	78	28	27	35	37

## Employment Tort Claims Paid FY 09 - 16



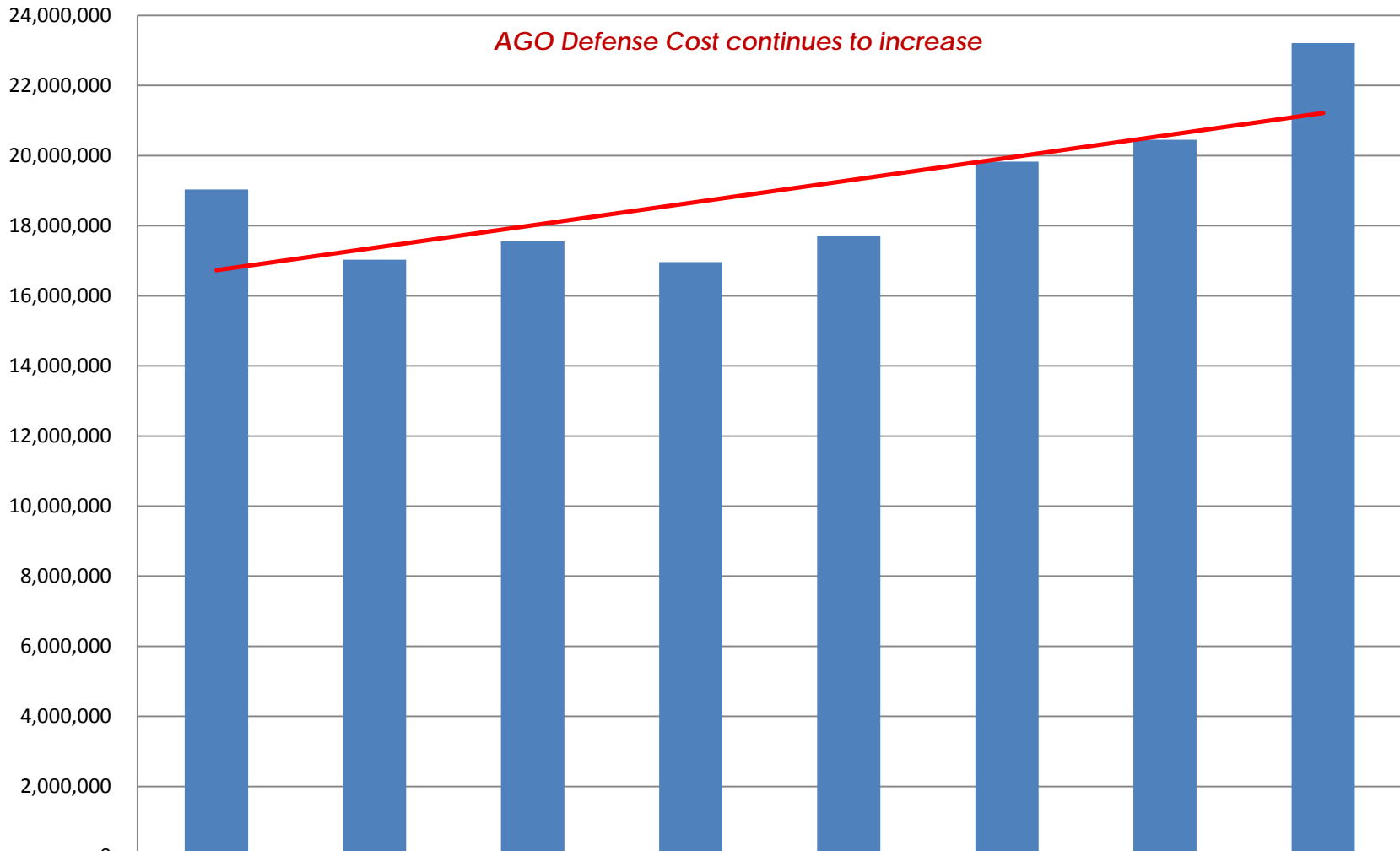
	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
DOT	8	3	0	3	3	3	4	3
DOC	8	6	7	3	4	2	2	6
DSHS	17	18	13	7	20	3	8	17
L&I	6	1	1	3	0	2	2	3
WSU	2	2	1	3	0	1	2	2
All Others	10	22	23	15	15	9	23	21

## Employment Indemnity Payouts by Agency FY 09 - 16



	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
■ DOT	2,509,689	135,000	0	631,483	282,706	50,691	1,886,588	330,000
■ DOC	428,000	431,501	387,500	215,000	284,577	310,188	190,785	1,150,001
■ DSHS	1,357,104	1,845,712	569,286	638,543	894,814	267,348	1,100,756	2,373,587
■ L&I	900,713	37,000	145,000	69,500	0	580,765	15,000	1,332,500
■ WSU	184,254	71,104	13,642	730,000	0	295,972	147,666	271,665
■ All Others	469,453	1,160,269	3,161,734	968,117	1,080,193	1,385,774	3,560,056	2,393,555

## Total AGO Defense Costs FY 09 - 16 \$151,787,853



	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
■ AGO Defense Costs	19,037,926	17,030,863	17,554,111	16,959,996	17,708,777	19,830,237	20,454,642	23,211,301

Fiscal Year 2016  
July 1, 2015 – June 30, 2016  
Highest Tort Indemnity Payouts

Washington State Department of Social and Health Services Claims and Litigation

Claim: 30071315  
Claimant: T.R.  
Date of Incident: 01/01/09  
Date Claim Filed: 12/05/14  
Indemnity Paid: \$2,330,000

Plaintiff is a disabled, vulnerable adult under the care of DSHS's Developmental Disabilities Administration (DDA). She requires extensive supervision and assistance with all activities of daily living. Plaintiff alleged that DSHS was negligent in hiring plaintiff's boyfriend as her state paid, in-home care provider. Plaintiff further alleged that DSHS failed to perform a proper investigation of the caregiver's qualifications and his suitability to care for plaintiff and failed exercise reasonable care in establishing her service plans and monitoring the care being provided to her. Plaintiff alleged that DSHS failed to investigate and terminate the in-home care despite numerous "red flags" and direct warnings. Plaintiff claims physical, emotional, and mental abuse, forced prostitution, sexual exploitation, chronic neglect, and financial exploitation.



Claim: 30071488  
Claimant: T.T.  
Date of Incident: 01/01/01  
Date Claim Filed: 12/04/15  
Indemnity Paid: \$2,050,000

Plaintiff alleged that when she was a minor living in her mother's home, she was beaten and sexually assaulted by her mother and a multitude of men. Plaintiff alleged that DSHS failed to properly investigate the many referrals received about the home, the maltreatment of the children, and the failure to protect and remove plaintiff from the abusive home. Plaintiff alleged she suffered from physical, emotional and psychological abuse as well as sexual abuse and assault.

Claim: 30071221  
Claimant: T.D.  
Date of Incident: 01/01/01  
Date Claim Filed: 06/02/14  
Indemnity Paid: \$2,360,000

Plaintiff, a vulnerable adult, alleged that when she was a minor living in her mother's home, she was beaten and sexually assaulted by her mother and a multitude of men. Plaintiff alleged that DSHS failed to properly investigate the many referrals received about the home, the maltreatment of the children, and the failure to protect and remove plaintiff from the abusive home. Plaintiff allegedly suffered from emotional and psychological distress as well as physical trauma.

Claim: 30071326  
Claimants: R.S.  
E.S.  
Date of Incident: 01/01/01  
Date Claim Filed: 12/23/14  
Indemnity Paid: \$2,000,000

Plaintiffs, who are sisters, allege repeated abuse and neglect by their foster mother and foster brother between 2001 and 2012.

Plaintiffs allege that DSHS failed to adequately investigate the reports of abuse and also failed to take appropriate action to prevent further abuse and neglect. Plaintiffs claimed emotional distress and pain and suffering.

Claim: 30071403  
Claimant: L.R.  
Date of Incident: 03/30/98  
Date Claim Filed: 7/9/2015  
Indemnity Paid: \$1,100,000

Plaintiff L.R. alleges that while she was a foster child she was sexually and physically abused while in three different foster homes.

Plaintiff alleges that DSHS negligently licensed these foster homes. Plaintiff suffered from severe depression, anxiety, PTSD. Plaintiff claimed negligent foster care placements, negligent investigation, failure to remove, and civil rights violations.

Claim: 30071017  
Claimants: Davis, Kenneth L.  
Davis, Tracy L.  
Date of Incident: 12/03/03  
Date Claim Filed: 05/09/13  
Indemnity Paid: \$4,625,000

Plaintiffs alleged that DSHS failed to disclose to them the prior sexual abuse of their adopted child, A.H. The parents alleged they were informed of the abuse by the Cowlitz County Sheriff's Office who was conducting criminal investigations. Plaintiffs alleged that after the abuse was disclosed, they discovered the child was acting out sexually in the home which forced them to install video surveillance. Subsequently the child was sent by his parents to a boys' home in Missouri. Plaintiffs claimed negligent investigation, failure to disclose, and financial damages. The jury returned a verdict awarding the parents \$5,070,078. This case was settled on appeal for \$4.635 million.

Claim: 30071211  
Claimant: M.C.  
Date of Incident: 08/09/90  
Date Claim Filed: 05/14/14  
Indemnity Paid: \$1,000,000

Plaintiff alleged that she suffered physical, sexual, and emotional abuse by her foster parent, Mr. Carroll. The Carroll's eventually adopted her with DSHS' consent. Plaintiff alleged that DSHS was aware of the abuse, failed to protect her from Carroll by allowing her to remain in the home, and for ultimately allowing the Carroll family to adopt her. Plaintiff alleged that Mr. Carroll was the subject of several CPS reports that resulted in other children being removed from the home due to alleged physical and sexual abuse. Plaintiff claimed negligent foster home licensing, negligent placement, failure to remove, loss of enjoyment of life, financial damages relating to her injuries, and financial loss due to impaired earning capacity.

Washington State Department of Corrections Claims and Litigation

Claim: 31081622  
Claimant: Gregory, Jane E.  
Date of Incident: 04/16/12  
Date Claim Filed: 10/24/14  
Indemnity Paid: \$1,100,000

Plaintiff alleged that prior to 1999 she had an intimate relationship with Roosevelt Reed who was a repeat violent offender. In 1999 Reed was sentenced to 184 months for beating his then significant other. Reed was released in April 2012 and was placed on community supervision. After his release, Reed moved in to plaintiff's home. Reed failed to attend the Domestic Violence Batterers Treatment (DVBT) program which was a condition of his release. DOC Community Correction Officers had little training in recognizing a domestic violence offender. Subsequently, plaintiff was attacked by Reed causing severe damages to her head and face requiring several surgeries. Plaintiff claimed severe emotional and physical injuries, negligent supervision, past and future medical and mental health treatment, and attorney fees.

Claim: 31078899  
Claimants: Stahl, Dale  
Stahl, Brittany  
Howland, Deana  
Date of Incident: 04/07/12  
Date Claim Filed: 02/20/13  
Indemnity Paid: \$6,500,000

Plaintiff alleged that her father, Dale Rex Stahl, was killed on 4/7/2012 by DOC Corrections Officers at Airway Heights Corrections Center. Plaintiff alleged that Mr. Stahl suffered from hypoglycemic shock and was improperly treated and restrained by the corrections officers, causing asphyxia. Plaintiff claimed emotional and financial damages, wrongful death, excessive force, negligent medical care, and attorney fees. A jury returned a verdict for plaintiff in the amount of \$8 million. The matter was settled on appeal for \$6,500,000.



Washington State Department of Transportation Claims and Litigation

Claim: 40571641  
Claimants: Medina, Alejandro M.  
Medina, Ruth  
Date of Incident: 11/14/09  
Date Claim Filed: 12/01/09  
Indemnity Paid: \$1,200,000

Plaintiff alleged that DOT driver Jack Marshall negligently operated a vehicle causing a collision with plaintiff at the intersection of Alderwood Mall Parkway and SR-525 in Lynnwood. Plaintiff claimed physical injuries.

Claim: 40574503  
Claimants: Unionville Ranch LLC et al.  
Date of Incident: 08/13/12  
Date Claim Filed: 01/24/13  
Indemnity Paid: \$59,750,000

A massive fire originated in a construction area on the Taylor Road Bridge in Kittitas County. Plaintiffs alleged that the contractors hired by WSDOT were negligent in causing a fire that damaged plaintiffs' land, including trees, structures, and personal property. Plaintiffs claimed emotional and financial damages, negligent training, trespass, statutory and regulatory violations, interference with business income, wage loss, and loss of enjoyment of property. The state self-insurance fund paid \$10 million of this settlement. The state's excess carrier—AIG Lexington—paid limits, in this case \$40 million. The contractor's insurance paid \$9.750 million. The total settlement was \$59,750,000.