



CITY OF OAKLAND

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Jim Reese

SUBJECT: First Quarter Informational Report Regarding
the City's Workers' Compensation Program
for Fiscal Year 2012-13

DATE: January 21, 2013

City Administrator
Approval

Date:

1/29/13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff requests that Council accept this First Quarter informational report regarding the City's Workers' Compensation Program for Fiscal Year 2012-13.

EXECUTIVE SUMMARY

The State of California requires all employers to provide Workers' Compensation benefits to employees who become injured or ill as a result of their work. The City of Oakland is self-insured for the majority of these Workers' Compensation benefits. The Department of Human Resources Management (DHRM) administers and oversees the Workers' Compensation Program, working in collaboration with other City departments to promote injury avoidance and early return-to-work efforts at the department level.

The workers' compensation benefit is mandated by the State of California. Benefit levels, which translates to program costs, are subject to change as the state approves new legislation and imposes program cost increases upon the employer.

The state imposed one such change through Senate Bill 863. As described later in this report, the legislation imposes wide-ranging changes to workers' compensation administration, including increased benefits to injured workers and cost savings efficiencies.

A primary method of limiting the impact of workers' compensation on City finances is to introduce injury prevention measures at the department level. The top types of injuries incurred by City employees include strains, lacerations, contusions, and exposure to contagious diseases.

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The Risk and Benefits Division provides ongoing resources to departments to assist in the reduction of injuries, as well as injury cost containment through medical management of claims, the transitional duty program resources, and regular meetings with departments to discuss case strategies.

Key financial figures that reflect the health of this program are listed below:

- Total Operations Expenditures for the Workers' Compensation Program were \$5,422,667, just slightly above the quarter average for the prior fiscal year. Most of the increase was due to increases in temporary disability and labor code 4850 payments.
- Transitional Duty cost avoidance impact during this same period was \$1,067,546.
- Total number of new injuries for this quarter was 114, reflecting a 12% reduction in claims. The number of open and active indemnity claims for this period was 649.

This report provides several statistical breakdowns of this figure to show its relevance at a department level.

In a continuing effort to provide the Council with information on the City's Workers' Compensation Program and cost containment efforts, DHRM submits this informational report on the Workers' Compensation Program for Fiscal Year 2012-13 (for the period July 1 through September 30, 2012).

This report will demonstrate the continued collaboration among City departments to control the impact of injuries and illnesses on City finances. Examples of these efforts include:

- Continued participation in the Transitional Duty Program resulted in a cost avoidance of over \$1 million in the First Quarter.
- Continued staff support for the Police Department, Fire Department, and Public Works Agency. Council authorized positions for these departments to be funded through Fund 1150. For example, in the Fiscal Year 2012-13 budget, the Oakland Police Department was authorized a full-time analyst position dedicated to the internal administration of the workers' compensation program for the department. While the department was in the recruitment process for the period covered by this report, OPD began internal administration of workers' compensation claims utilizing other available staffing. It is anticipated that this position will enable OPD to increase their participation in the transitional duty program, offsetting cost impacts on the Workers' Compensation Program.
- In addition to this financial support, the Risk and Benefits Division continued to provide staff for the Police Department in their medical office, and for the Public Works Agency to provide direct safety services. These commitments directly impact the workers' compensation costs for the department receiving the added support.

Since the last report, certain program changes and enhancements have been implemented. As discussed above and in the body of this report, OPD has put in place a dedicated Analyst, funded by the Workers' Compensation Program, whose role is to administer the internal aspects of OPD's workers' compensation program. This enhancement has already garnered a 46% improvement in the department's Return to Work program, meaning fewer OPD employees are off on disability and unable to perform their job duties.

Another program enhancement includes making workers' compensation program data available to departments on a real-time basis. Piloting with OPD, departments will have the ability to create and download workers' compensation reports to assist in their safety program planning and internal workers' compensation case management.

A third program enhancement involves broadening the utilization of a web-based training platform that will enable departments to more comprehensively deliver their internal training and loss prevention messages. This platform is already used extensively by OFD and PWA and is currently expanding to OPD.

As a result, additional safety and loss control training has been provided to departments, and management of workers' compensation administration within the department has improved. The benefits of these efforts are reflected in the statistics reported within the body of this report.

OUTCOME

Acceptance of this informational report will provide updated Workers' Compensation Program activities and statistics as of September 30, 2012.

BACKGROUND/LEGISLATIVE HISTORY

The Risk and Benefits Division (RBD) of the Department of Human Resources Management has been directed to provide quarterly updates on the City's Workers' Compensation Program. This report contains information through the First Quarter of Fiscal Year 2012-13 (as of September 30, 2012).

ANALYSIS

The following section compiles Workers' Compensation statistical information for the First Quarter of Fiscal Year 2012-13 (ending September 30, 2012).

A. Return-to-Work Program Participation

From Fiscal Year 2008-09 through Fiscal Year 2010-11, the number of Transitional Assignment Days steadily declined, while the number of Lost Work Days increased. Because all expenditures related to Workers' Compensation were financed from Fund 1150 in a non-departmental account, the departments had an alternative source of funding for employee payroll and overhead, and little to no incentive to encourage their employees with a physician's work restriction to return to work.

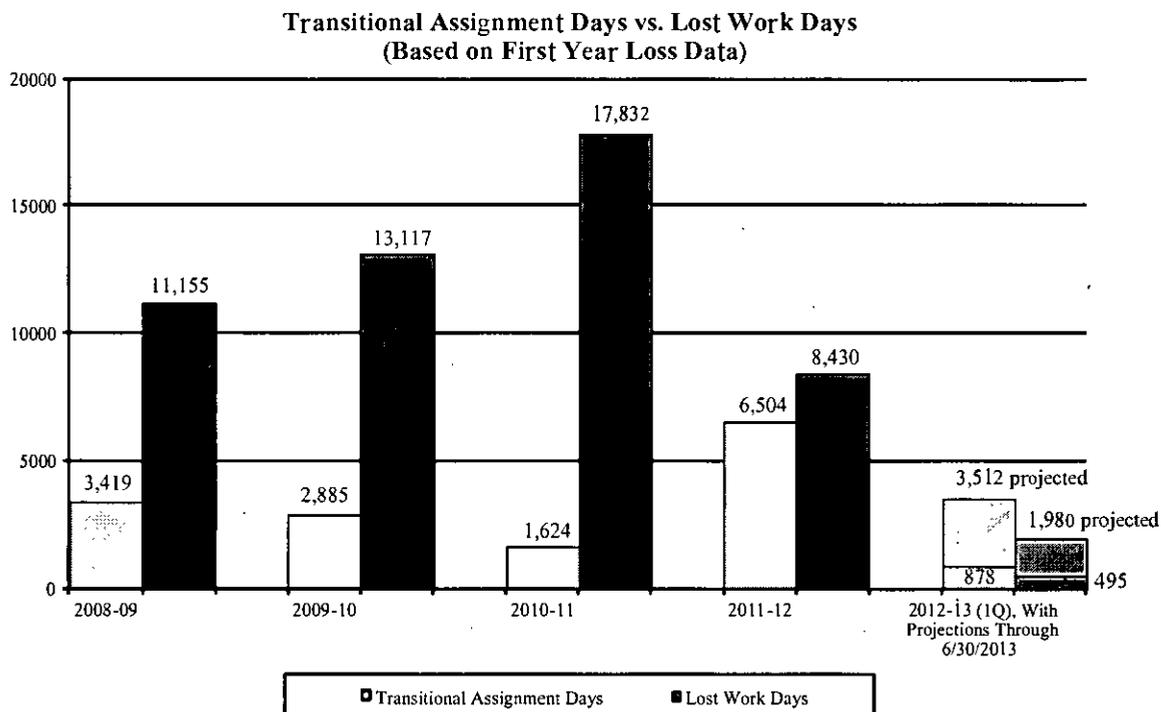
On July 1, 2011, the City made departments more accountable for the Workers' Compensation program expenditures that they can directly influence, by transferring the cost of indemnity expenses for employees with work restrictions from Fund 1150 to the department payroll budget. This provided an incentive for departments to return employees to transitional duty more quickly since employees with restrictions are no longer paid through Fund 1150. Complementing this funding change are modifications made to the Return-to-Work Program and resources made available to departments to assist with the implementation of the program. It is expected that the program will provide a needed stimulus to engage departments to be more proactive in implementing workers' compensation control measures.

Beginning in Fiscal Year 2011-12, the effect of these policy and budget changes became evident in the increased proportion of the number of Transitional Assignment Days worked by injured employees compared to the number of Lost Work Days. Moreover, the projected number of Transitional Assignment Days worked is expected to outnumber the number of Lost Work Days in Fiscal Year 2012-13.

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The table below shows first year loss data specific to Transitional Assignment Days and Lost Work Days for claims with a date of injury in the same fiscal year. (This differs from the chart in Section (B)(1), on page 5 of this report, which captures *all* temporary disability days incurred in a fiscal year, regardless of the date of injury.)



As a result of the increased participation in the Return-to-Work Program and funding changes, the indemnity expense has been deferred from the Workers' Compensation program beginning in Fiscal Year 2011-12. The following chart reflects costs avoided due to transitional duty for Fiscal Years 2009-10 through 2011-12, and the first quarter of Fiscal Year 2012-13:

	2009-10	2010-11	2011-12	2012-13 (1Q)
Transitional Duty Cost Avoidance (City-Wide)	\$ 1,054,855	\$ 1,326,794	\$ 4,605,285	\$ 1,067,546

More detailed information (grouped by Police Department, Fire, Public Works Agency, and All Other) is appended to this report as **Attachment B**.

B. Workers' Compensation Program Statistical Information

This section provides updates to information specifically requested by Council as well as other information meant to provide additional insight into how the Workers' Compensation Program is funded and monies expended.

(1) Average time employees are out on Workers' Compensation

The chart below captures *all* temporary disability (TD) days incurred in a fiscal year, regardless of the date of injury. (This differs from Chart 1, on page 4 of this report, which captures Lost Work Days for claims with a date of injury in the same fiscal year.)

	2008-09	2009-10	2010-11	2011-12	2012-13 (1Q)
Open Indemnity Claims (All Years)	697	646	686	631	649
Total TD Days (All Open and Closed)	22,463	28,023	38,031	26,693	7,667
Average TD Days per Claim	32.23	43.38	55.44	42.30	11.81
Percent Change from Prior Year	--	25%	36%	-30%	--

(2) The chart below shows the number and percentage of City employees out on Workers' Compensation for more than 12 months:

	2008-09	2009-10	2010-11	2011-12	2012-13 (1Q)
Total Number of City Employees (PTE)	4,288	4,124	3,950	3,755	3,701
Number of Employees on Long-Term WC leave (12 months or more)	17	21	12	12	10
Percentage of Employees on Long-Term WC Leave	0.40%	0.51%	0.30%	0.32%	0.27%
Percentage Change from Prior Year	--	28%	-40%	5%	--

In some cases, depending on the severity, Workers' Compensation strategies for long-term absence cases involve moving cases to closure and assisting employees with the job reassignment as required under the California Fair Employment and Housing Act (FEHA) and/or the disability retirement process, as appropriate. This usually occurs once a case reaches the point where the employee has permanent medical restrictions and it has been determined that the employee can no longer perform the essential functions of his/her job classification, with or without accommodation. Depending on the severity of the injury, it may take more than 12 months for this determination to be made. Until this stage is reached, the City is obligated to continue working with the employee and his/her medical provider in returning them to full functionality in their designated job classification.

Long-Term Workers' Compensation Leave Costs

The following table provides information about the financial impact of Workers' Compensation cases, where the employee has been absent from work for one year or more during Fiscal Year 2011-12. This table is updated annually as of June 30th.

DOI	Claim No.	Department	Job Class	Totals PAID Through 6/30/12	Total INCURRED Expenses Through 6/30/12	Status
08/26/08	808002081	OFD	Fire Fighter	\$242,958.13	\$361,605.30	Retirement pending
07/22/11	110700133	OFD	Fire Fighter	\$87,351.01	\$151,436.00	Retirement pending
03/19/10	1003000505	OFD	Fire Fighter	\$409,621.76	\$893,622.00	AME Exam
07/12/10	1007001409	OFD	Fire Fighter	\$168,008.82	\$371,573.81	Panel QME Exam
03/29/10	1003000626	OFD	Captain	\$138,922.21	\$180,041.92	AME Re-Exam
08/31/10	1008001950	OFD	Fire Fighter Paramedic	\$210,721.10	\$266,129.96	Awaiting AME Re-Exam
05/24/11	110500253	OPD	Police Officer	\$141,929.24	\$274,106.00	QIW, PERS Retirement Pending
06/02/11	110600018	OPD	Police Officer	\$109,279.37	\$171,442.54	PERS Retirement Hearing
04/12/11	110400086	OPD	Sergeant	\$134,149.22	\$171,187.60	Off work, awaiting A/A AME agreement to address issues
10/05/10	101000240	OPD	Sergeant	\$116,292.05	\$200,454.00	QIW/PERS Retirement Pending
10/06/10	101000014	PWA	Maintenance Worker II	\$84,710.06	\$166,644.30	Surgery Pending
08/06/10	1008001619	PWA	Gardener II	\$85,696.52	\$151,199.85	Surgery Pending

Industrial Disability Retirement (IDR)

On the chart above, even though a safety retirement is listed as "pending," a medical determination has been made that the injury is career ending. Safety members who suffer career ending work injuries are eligible for a CalPERS disability retirement. While the early medical reports received by the workers' compensation claims administrator may point to a career ending injury, the final determination is up to the doctors. If eligible by age and years of service, a seriously injured safety member suspecting that their injury is career ending may opt for a CalPERS "service pending industrial disability retirement," in which case, they separate from City service, and then proceed with protracted medical treatment.

Post injury safety members are eligible for full pay, for up to one year, and partial pay for an additional two years, if the doctor takes them completely off work during

treatment. Treatment often starts with conservative options, in the hopes that the safety member will respond and not need surgery or other invasive procedures. During the period of treatment and recovery the doctor may return the safety member to multiple periods of transitional duty. However, in some cases, despite a variety of treatments, the safety member is unable to return to their job. For serious injuries, safety members go through a prolonged course of treatment and develop long-term relationships with their doctors, thus, they are often fully aware that they may have suffered a career ending injury.

First, the doctor advises the safety member that under the California Labor Code, they are deemed a "qualified injured worker," with permanent restrictions. This means that the safety member has medical restrictions which will preclude return to the essential functions of the job. As required by workers' compensation regulations, the doctor then submits a narrative report to the City's workers' compensation administrator. The third party administrator then notifies the department of the doctor's findings. Upon receipt of this information it becomes incumbent on the department to provide the safety member, both, an industrial disability retirement application, and a written referral to the City's Fair Employment and Housing Act (FEHA) accommodation process. Participation in the FEHA process by the employee is not mandatory.

Once the employee returns the signed application to the City's Retirement Division Administrative Assistant, the application is processed for scheduling on the CalPERS Safety Retirement Committee agenda.

- (3) **Workers' Compensation Program Contributions and Utilization**, by Department -- While Workers' Compensation continues to be financed through Fund 1150, the Risk and Benefits Division tracks the usage of the fund by department. This provides the Administration with a clearer picture of where the Workers' Compensation Funds are being expended and equip departments with information to assist in developing loss control strategies.

According to the Budget Office, contributions by the departments to the Workers' Compensation Fund were allocated as shown below for Fiscal Year 2009-10 through Fiscal Year 2011-12. The contributions for Fiscal Year 2012-13 were calculated by the Risk Management Division by applying the Workers' Compensation annual fringe rates set forth in Administrative Instruction 1303 to actual annual salary expenses as of June 30, 2012. Note the changes in department allocations for the City Administrator's Office and CEDA changed due to the dissolution of the redevelopment program. The allocations are based on the payroll authorized for the department and these two departments had the greatest impact as a result of the dissolution.

DEPARTMENTAL CONTRIBUTIONS TO FUND 1150

	2009-10	2010-11	2011-12	2012-13
Mayor	\$ 60,706	\$ 32,693	\$ 30,128	\$ 24,615
City Administrator	259,279	173,057	167,741	238,081
City Council	116,983	63,904	64,418	54,420
City Attorney	371,456	226,429	218,596	172,791
City Auditor	35,978	23,628	26,809	20,486
City Clerk	33,582	25,175	24,645	18,795
Community and Economic Development Agency	1,472,915	641,177	633,079	265,996
Finance and Management Agency	574,566	381,684	433,250	240,924
Fire Services Agency	6,869,761	6,897,298	7,088,383	5,505,434
Housing & Community Development	--	--	--	40,838
Human Services	544,894	395,453	361,975	248,694
Information Technology	328,866	191,076	181,032	137,739
Library	397,347	272,367	387,720	301,915
Office of Parks and Recreation	249,494	173,718	297,372	209,416
Personnel Resource Management	156,660	100,154	94,900	70,457
Planning, Building & Neighborhood Preservation	--	--	--	121,679
Police Services Agency	10,206,540	8,647,464	6,800,907	5,760,126
Public Works Agency	1,435,393	1,273,012	1,491,321	1,143,760
	\$23,114,420	\$19,518,289	\$18,302,278	\$14,576,167

Workers' Compensation Program Utilization, by Department.

The following tables present components of the program expenditures, by department. (More detailed information, including third-party recoveries and administrative expenditures, is appended to this report as *Attachment A.*)

Table 1, below, shows detailed operating costs, by department, for Indemnity/Settlement, Indemnity/Salary, Medical, and Allocated expenses. Indemnity/Settlement costs include permanent disability, applicant attorney fees, death benefits, and life pensions. Indemnity/Salary includes temporary disability, MOU benefits (non-sworn), and LC 4850. Allocated expenses include costs for rehabilitation, investigative, legal defense, and Labor Code penalties.

Table 1: Operating Costs by Department

Department	2010-11	2011-12	2012-13 (1Q)	2012-13 (4Q Projected)
Police	\$10,885,351	\$12,421,701	\$2,588,742	\$10,354,967
Fire	6,965,379	5,619,375	1,628,630	6,514,521
PWA	1,943,992	2,057,114	533,884	2,135,537
All Others	2,608,443	1,740,049	865,870	3,463,480
Subtotal	522,403,164	\$21,838,239	\$5,617,126	\$22,468,505
Subrogation / Insurance Recoveries	(340,184)	(2,411,517)	(78,275)	(78,275)
Operating Cost Total	\$22,062,980	\$19,426,722	\$5,538,851	\$22,390,230

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LC4850 pay refers to disability payments made to public safety mandated by Labor Code section 4850. LC4850 requires that sworn personnel who are injured on the job receive 100 percent of their salary for up to 12 months.

- (4) **Indemnity (Mandated Disability Leave Benefits) Cost Analysis** – Indemnity expenditures (LC4850 and Temporary Disability Benefits) is one of the major Workers' Compensation costs. This cost is paid from Fund 1150 with no financial burden or responsibility placed on departments. As of September 30, 2012, the City expended \$2.1 million in Indemnity costs as compared to \$1.7 million in the first quarter of Fiscal Year 2011-12, representing an increase of 17.7 percent.

The table below shows indemnity costs for Fiscal Year 2010-11 and Fiscal Year 2011-12, indemnity costs as of September 30, 2012, and a projection through June 30, 2013.

Table 2: Disability Leave Costs by Department: Includes indemnity/salary, temporary disability, MOU benefits (non-sworn), and 4850 (sworn).

Department	2010-11	2011-12	2012-13 (1Q)	2012-13 (Year-end Projection)
Police	\$ 5,038,423	\$ 3,896,359	\$ 1,155,262	\$ 4,621,048
Fire	2,672,983	2,220,446	729,292	2,917,169
PWA	1,236,218	602,754	123,909	495,636
All Others	1,140,804	206,991	72,717	290,869
Total	\$ 10,088,428	\$ 6,926,550	\$ 2,081,180	\$ 8,324,722

- (5) **Significant Cost Components** – In addition to Disability Leave, significant compensation costs are medical (treatment, diagnostic tests, prescriptions hospitalization and medical management), and allocated (rehabilitation, investigative, and legal defense). All of these costs are currently paid from Fund 1150. The table below presents various cost components for the Workers' Compensation Fund, by department, for the period July 1 through September 30, 2012.

Table 3: Significant Cost Components: Medical and Allocated Costs (rehabilitation, investigative, legal defense and Labor Code penalties).

Department	Medical	Allocated Costs	Total
Police	\$ 758,454	\$ 116,884	875,338
Fire	462,255	60,240	522,495
PWA	204,521	59,572	264,093
All Others	305,640	149,328	454,968
Total	\$ 1,730,870	\$ 386,024	\$ 2,116,894

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Of these significant cost components, medical costs accounted for 82 percent of the total cost, while allocated costs accounted for the remaining 18 percent as shown in the table below.

Table 4: Significant Cost Components as a Percentage of Total

Department	Medical as a Percentage of Total	Allocated Costs as a Percentage of Total
Police	87%	13%
Fire	88%	12%
PWA	77%	23%
All Others	67%	33%
Total	82%	18%

- (6) Claims Analysis – The total number of new claims (Indemnity and Medical Only) as of September 30, 2012 was 114.

Table 5: Claims, by Department

	2010-11	2011-12	2012-13 (1Q)	2012-13 (Year End Projection)
Police	214	236	51	204
Fire	143	115	26	104
PWA	115	84	16	64
All Others	104	85	21	84
Total	576	520	114	456

Dashboard Reports: Working with the City's Workers' Compensation Third Party Administrator, Risk and Benefits has developed Dashboard reports which will provide departments an annualized snapshot of injury data. Previously, OSHA injury statistics were provided to departments on a monthly basis, at monthly Safety meetings.

These monthly OSHA reports provided a snapshot of the injuries that occurred each month, but they provided summary, not detailed information. The Dashboard Reports provide a department level overview of the nature of the injuries, and the body parts being injured and allow departments to better focus their safety training efforts.

Additionally, the Dashboard reports are set up to collate the injury data over a 6-month period, as well as provide departments a breakdown of the types of their open claims.

A Dashboard report for the City, as a whole, is attached as Exhibit C. Dashboard reports for the Police Department, Fire Department, Public Works Agency and All Other Departments are attached as *Attachments D through G*.

(7) **Performance Measures for Workers' Compensation Administration** – Four measures are used to monitor the performance of how claims are administered: closing ratio, timeliness of bill payments, medical utilization review (timeliness and approval rate) and customer's satisfaction with claim administration.

(a) **Closing Ratio** – This ratio measures how many claims are closed as compared to newly opened claims over a specific period of time. A closing ratio of greater than one is preferred and indicates that more claims are being closed than opened, thereby reducing the City's total number of open claims (and future liability). The chart below indicates continued positive progress in productivity for the four years reported:

Claims Productivity Ratio by Fiscal Year

FY Ending	# Claims Closed	# Claims Opened	Productivity Ratio
2009	829	650	128%
2010	812	592	137%
2011	701	568	123%
2012	634	598	106%
2013 (1Q)	192	186	103%

(b) **Timeliness of Bills Payment** - This measure monitors the timeliness with which bills are being paid. From July 1 through September 30, 2012, a total of 5,163 bills were received by the City of Oakland. They were paid according to the timeline below:

- 100 percent were paid within the statutory timeframe of 60 days
- 99 percent were paid within 30 days
- 97 percent were paid within 15 days

(c) **Medical Utilization Review** - This measures the approval rate of the requests for medical treatments under the State's Medical Utilization Review (UR) Program, and the timeliness with which requests are addressed and the UR outcomes. In the first three months of Fiscal Year 2012-13, there were 241 prospective reviews and 12 retrospective reviews:

- 100 percent of UR referrals were reviewed with a decision rendered on a timely basis, as required by the State (within 5–14 days, depending on the need for additional information from the provider.)
- 50 percent of the UR referrals were initially approved.
- 50 percent of the UR referrals were initially denied, modified, or withdrawn from the UR process (63 percent Denied/37 percent Modified).
- 8 percent of the UR referrals that were initially denied were appealed. 48 percent of those were upheld, and 52 percent were reversed or modified.

(d) **Fraud Investigations** - The table below provides the information regarding investigation activity during the period July 1 through September 30, 2012.

Total Claims Filed	Surveillance	Field Investigation	Fraud Referral (FD-1) Submission	Background Checks	Denied Claims
114	4 (4%)	1 (0.88%)	0 (0%)	0 (0%)	0 (0%)

Fraud investigations are a sequence of three activities. *Surveillance* activities include observation of individuals, without contact with the subject. *Field Investigations* are a progression of surveillance activities, and involve the taking of statements from the subject and from others. A *Fraud Referral* is the final step taken, when a case meets the standard for fraud set by the District Attorney.

Program Description

The remainder of this section provides updated information on educational and cost-containment efforts undertaken this past quarter.

A. **Utilization of Agreed Medical Examinations (AME) as a tool to resolve Workers' Compensation claims:** An Agreed Medical Examinations (AME) is a tool approved by the State of California as a method of seeking third opinion resolutions on disputed medical cases. It is used predominately in cases where the employee's treating physician and the employer's physician are not in agreement on the severity of injury and permanent disability caused by the injury. When such disagreement exists, either party (employee or employer) have the option to invoke an Agreed Medical Examination. However, the examination cannot go forward unless both parties agree to

the need for the exam. Additionally, the State of California requires that the injured worker have legal representation to qualify for an AME. If the employee does not have legal counsel, the City cannot require the employee to participate in the AME process.

The physician selection process is managed by the State of California. When a request for an AME has been received, the State will provide a "panel list" of physicians for the two parties to select from for the examination. The State of California establishes the panel and frequently there is a waiting list of several months for an examination appointment to be obtained due to the number of backlogged disputed workers' compensation cases within the State

The City of Oakland relies heavily on AMEs to bring resolution to a number of our workers' compensation cases. The table below provides information on the number of AME and QME (Qualified Medical Examination) processes that have been utilized for Fiscal Year 2008-09 through September 30, 2012. In addition, the table reflects the number of cases settled on the basis of the opinion of the employee's Primary Treating Physician (PTP):

City of Oakland Medical - Legal Statistics

	2008-09	2009-10	2010-11	2011-12	2012-13 (IQ)
Number of Claims Settled	212	277	157	322	47
AME (Agreed to Medical Examination)	118	161	106	258	45
PTP (Primary Treating Physician)	35	50	24	42	11
Panel QME (Employee Unrepresented by Attorney)	25	38	14	13	1
QME (Employee Represented by Attorney)	19	13	7	6	0
Other (Death or other decision/action)	15	15	6	2	0

- B. **Critical Case Review Team Update:** Seeking new and creative solutions to the City's most intractable and legally complex workers' compensation claims, the next Critical Case Review (CCR) Team meeting is scheduled for January 2013.

The Risk and Benefits Division brought together representatives from the City's Workers' Compensation Third Party Administrator, return to work specialists, a workers' compensation legal expert, the City's Disability Benefits Coordinator and the City's Risk Manager.

At this meeting, the most effective meeting interval, and the criteria for selection of the cases to be reviewed was established. It was established that quarterly meetings would best serve the objectives of the CCR and the claim selection criteria include cases where:

- the incurred (paid and reserved) amount is over \$375K (this is the same dollar trigger for the City's excess insurance reporting purposes);
- one employee has 3 or more "active" claims
- employees have been off work >365 days, and no medical work restrictions have been provided by the doctor; instead the doctor has the employee completely "off work"; the employee has been on transitional assignment ("light duty") for > 1 year

Using the above criteria, five cases were identified and selected for critical review. Each of these cases involves employees with serious, and/or, multiple injuries. The team determined that treatment plans in each case were hampered by the need for medical specialist referrals and appointments. In the workers' compensation arena, specialists are often scheduling appointments 8-10 months out. In these five cases, it was determined that the specialists needed were already scheduling evaluations into early 2013.

As a result of the successful implementation of the POA's, as of this report, two of the five employees were examined in August 2012. The team developed plans of action where defense and applicant attorneys worked in concert with the medical providers, resulting in injured workers being examined 5-6 months sooner than would have occurred without CCR team intervention. This report will update the status of the remaining three cases in the next quarter report.

It is anticipated that the medical reports generated, as a result of these specialist's examinations, will enable these claims to be fast tracked to the appropriate resolution, whether that be for continued medical care that will enable the employee to return to regular work; be referred to the interactive process for accommodation/alternate job search; or disability retirement.

- C. **SB 863 – "Workers Compensation"** was passed into law to become effective on **January 1, 2013**. This new legislation is the result of months of negotiations between labor unions and employers. The two groups collaborated and agreed on every aspect of the sweeping changes with two objectives in mind: 1) for employees: increase permanent disability settlement payments to injured workers to compensate the long-lasting effects of permanent work injuries; and 2) for employers: reign in the costs associated with injuries including medical care costs, benefits paid to injured employees and claims administrative costs.

SB 863 makes significant changes in the following areas:

- Increases permanent disability values
- Simplifies the permanent disability rating method
- Resolves medical treatment disagreements through independent medical review
- Resolves bill payment disputes through independent bill review
- Simplifies the supplemental job displacement voucher system
- Requires payment of a filing or activation fee for liens
- Improves medical provider networks
- Updates the Official Medical Fee Schedule
- Establishes fee schedules for copy services, interpreters, vocational experts, and in-home health care
- Provides additional payments for workers with disproportionate wage loss.

SB 863 could positively impact both employers and injured workers. Supporters of the bill anticipate the savings for employers to top \$1.3 billion, and increase \$700 million in benefits to injured workers. However, while the law goes into effect on January 1, 2013, the Department of Workers' Compensation has yet to develop the guidelines for the sweeping changes included in the law. It is too early to project the specific impacts of what SB863 will have on both employers and injured workers, but highlights of the changes include:

- A panel of state certified Independent Medical Reviewers (IMRs) intended to reduce the current 9-12 month medical review process with a forty (40) days or less process, reducing the time employers must pay employees while waiting for medical determinations.
- An increase in permanent disability settlements paid to injured workers.
- Medical fee guidelines updated to incorporate and conform to the lower Medicare fee cap standards.
- Fee caps for ancillary workers' compensation services, including: home health care, expert testimony, and copy services, which are currently unregulated.
- A new "fixed amount" job retraining voucher amount for all qualified injured workers in the amount of \$6,000. Since 2004, when vocational rehabilitation/job retraining programs and payments to injured workers were eliminated, qualified injured workers received a job training voucher that has ranged in value from \$4,000-\$10,000, depending on the severity of the injury.

The Risk and Benefits Division will continue to monitor the impacts of this new legislation and will provide additional information as it becomes available.

D. Oakland Police Department Workers' Compensation Program Cost Reduction Initiative. On June 18, 2012, the City Council approved the hiring of a dedicated Administrative Analyst II position in OPD. A candidate was not identified until November 5, 2012 and started on November 26, 2012. Therefore the additional resources

were not available during this report period. However, during the report period, OPD utilized resources from various units to address the Medical Unit needs and to ensure the "Return to Work" program was being maintained while doing their full time duties.

Now that OPD has a dedicated Analyst in the Medical Unit, the vision is to address the Workers' Compensation Program issues, establish services, tools and programs that will focus on reducing incidents and claims and making a safer working environment for all employees at OPD. Already, the benefit of adding the dedicated Analyst is seen in the number of OPD personnel currently on Temporary Total Disability. In July 2012, OPD had 56 employees on workers' compensation leave and 20 employees on transitional duty. In December 2012, OPD had 41 employees on workers' compensation leave and 21 employees on transitional duty. This reflects a Return to Work improvement of 37%.

It is the OPD's intent to establish processes, short-term and long-term action plans that will be rolled out to the members to address the current issues, track incidents/claims and identify trends to better pinpoint activities that will reduce/prevent incidents. Included in this effort will be the availability of real-time statistical data to aid OPD and the command staff on appropriate placement of injured employees to capitalize on the work resources they are able to offer while still recovering from work related injuries. This will be accomplished by working with the DHRM - Risk and Benefits Division and other City's agencies as a unified front, towards common goals to meet the needs of the City and its employees.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

This informational report has been reviewed by the City Attorney's Office and the Budget Office.

FISCAL/POLICY ALIGNMENT

The administration of the Workers' Compensation Program supports the City Council's goal to develop a sustainable city through the development and implementation of sound financial management policies and procedures.

COST SUMMARY/IMPLICATIONS

Based on expenditures as of September 30, 2012, the projected overall cost of the Workers' Compensation Program for Fiscal Year 2012-13 expenditures may be 11% higher than in Fiscal

Year 2011-12. Current year Permanent Disability expenditures are projected to be approximately 21% lower than the previous year, but Indemnity/Salary expenditures are expected to increase by that same amount. Medical costs are approximately the same as the same period last year (up 2%), while Rehabilitation expenses are significantly higher (up 90%).

LC4850 pay refers to disability payments made to public safety personnel mandated by Labor Code Section 4850. LC4850 requires that sworn personnel who are injured on the job receive 100 percent of their salary for up to 12 months.

Of the Temporary Disability payments listed above, only one – Salary Supplement Pay – is not mandated by the State of California Labor Code. *Salary Supplement Pay* is a negotiated benefit where eligible employees receive a supplemental payment in addition to the mandated Temporary Disability payment. This supplemental payment, when combined with the Temporary Disability payment, results in the employee receiving 100 percent of their regular pay. Other than by Memorandum of Understanding (MOU), the City has no obligation to extend this benefit to City employees.

Attachment A – The Workers' Compensation Expenditures Report provides a breakdown of Labor Code and MOU driven payments made to, and on behalf of, injured workers from Fiscal Year 2008-09 through September 30, 2012.

Indemnity/settlement includes settlements, applicant attorney fees, death/survivor benefits, and life pensions, provided following career ending injuries.

Indemnity/salary includes Labor Code mandated “temporary disability” (non-sworn), 4850 “full pay” (sworn), and MOU benefits (non-sworn).

Medical includes treatment, prescriptions, hospitalization and medical management.

Allocated expenses are listed as individual line items on Attachment A: rehabilitation, investigative, legal defense, and Labor Code mandated 10% penalties. The 10% penalty must be attached to any indemnity/settlement, indemnity/salary or medical payment issued beyond the time limits for payment established by the Labor Code.

It should be noted that the reduction indemnity expenses is largely a transfer of funding sources and does not result in an overall savings to the City. The intent of this funding change is to allocate financial responsibility on the department of the injured employee to promote more proactive participation in injury prevention strategies and the return to work process. Staff will continue to track and report on projected/actual cost reductions in the up-coming months.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

This is a recurring informational report to be provided on a quarterly basis.

SUSTAINABLE OPPORTUNITIES

Item: _____
Finance & Management Committee
February 13, 2013

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

Social Equity: There are no social equity opportunities associated with this report.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Deborah Grant, Risk Manager, at (510) 238-7165.

Respectfully submitted,



Jim Reese
Interim Director
Department of Human Resources Management

Prepared by:
Deborah Grant, Risk Manager
Risk and Benefits Division

Attachments (7)

Attachment A – Workers' Compensation Expenditures Report (FY 2008-09 - September 30, 2012)

Attachment B – Return-to-Work Program Savings FY 2009-10 - September 30, 2012)

Attachment C – City of Oakland Dashboard (City-wide)

Attachment D – City of Oakland Dashboard (OPD)

Attachment E – City of Oakland Dashboard (OFD)

Attachment F – City of Oakland Dashboard (PWA)

Attachment G – City of Oakland Dashboard (All Other Departments)

Item: _____

Finance & Management Committee
February 13, 2013

ATTACHMENT A

Workers' Compensation Expenditures Report FY 2008-09 through FY 2012-13 2Q

Attachment A provides a breakdown of Labor Code and MOU driven payments, to and on behalf of injured workers.

Indemnity/settlement includes settlements, applicant attorney fees, death/survivor benefits, and life pensions resulting from career ending injuries.

Indemnity/salary includes Labor Code mandated "temporary disability" (non-sworn), 4850 (sworn), and MOU benefits (non-sworn salary supplements).

Medical includes medical management, treatment, prescriptions, and hospitalization.

Allocated expenses are listed individually on attachment A, and are self-explanatory, except for the Labor Code mandated 10% penalty. This penalty must be attached to any indemnity/settlement, indemnity/salary or medical payment issued beyond the time limits for payment set by the Labor Code.

	2008-09	2009-10	1010-11	2011-12	2012-13 (1Q)	2012-13 (4Q Projected)	Projected Percentage Change (2011-12 to 2012-13)
OPERATIONS EXPENDITURES							
INDEMNITY / SETTLEMENT							
Permanent Disability	\$ 4,567,441	\$ 5,036,106	\$ 4,939,738	\$ 6,673,128	\$ 1,323,546	\$ 5,294,182	-21%
INDEMNITY / SALARY							
<u>Non-4850</u>							
Temporary Disability	\$ 1,045,350	\$ 1,371,942	\$ 1,750,928	\$ 1,472,842	\$ 429,753	\$ 1,719,012	17%
MOU Benefits/non-sworn	\$ 428,485	\$ 526,605	\$ 626,094	\$ 343,426	\$ 69,312	\$ 277,250	-19%
Total Non-4850 Pay	\$ 1,473,835	\$ 1,898,347	\$ 2,377,022	\$ 1,816,268	\$ 499,065	\$ 1,996,262	10%
<u>4850/sworn</u>							
OPD - 4850 Pay	\$ 1,726,011	\$ 2,654,322	\$ 5,038,423	\$ 3,162,991	\$ 895,839	\$ 3,583,354	13%
OFD - 4850 Pay	\$ 2,677,212	\$ 3,104,530	\$ 2,672,983	\$ 1,947,291	\$ 686,277	\$ 2,745,109	41%
Total 4850 Pay	\$ 4,403,223	\$ 5,758,852	\$ 7,711,406	\$ 5,110,282	\$ 1,582,116	\$ 6,328,463	24%
Subtotal - Indemnity / Salary	\$ 5,877,058	\$ 7,657,399	\$ 10,088,428	\$ 6,926,550	\$ 2,081,181	\$ 8,324,725	20%
MEDICAL	\$ 6,210,839	\$ 6,346,345	\$ 6,393,868	\$ 6,808,933	\$ 1,730,870	\$ 6,923,480	2%
ALLOCATED							
Rehabilitation	\$ 88,391	\$ 23,955	\$ 34,391	\$ 30,272	\$ 14,351	\$ 57,402	90%
Investigative Claims Expense	\$ 443,300	\$ 403,961	\$ 468,595	\$ 443,173	\$ 129,694	\$ 518,776	17%
Legal Defense	\$ 1,023,725	\$ 1,180,255	\$ 953,583	\$ 942,854	\$ 240,409	\$ 961,638	2%
Labor Code 10% Penalties	\$ 18,587	\$ 7,864	\$ 8,568	\$ 7,468	\$ 1,570	\$ 6,279	-16%
Subtotal - Allocated	\$ 1,574,003	\$ 1,616,035	\$ 1,465,137	\$ 1,423,767	\$ 386,024	\$ 1,344,095	
SUB-TOTAL OPERATIONS EXPENDITURES	\$ 18,229,341	\$ 20,655,885	\$ 22,887,171	\$ 21,832,378	\$ 5,521,620	\$ 22,086,482	1%
THIRD PARTY RECOVERY - REFUNDED TO CITY	\$ (329,531)	\$ (821,953)	\$ (340,184)	\$ (2,411,517)	\$ (98,953)	\$ (98,953)	-96%
TOTAL OPERATIONS EXPENDITURES	\$ 17,999,810	\$ 19,833,932	\$ 22,546,987	\$ 19,420,861	\$ 5,422,667	\$ 21,690,668	12%
ADMINISTRATIVE EXPENDITURES							
Claims Administrator Contract	\$ 2,082,888	\$ 2,112,868	\$ 2,162,655	\$ 2,162,655	\$ 540,664	\$ 2,162,655	0%
Bill Review Expense	\$ 582,384	\$ 582,384	\$ 582,384	\$ 582,384	\$ 145,596	\$ 582,384	0%
SUBTOTAL - ADMINISTRATIVE EXPENDITURES	\$ 2,665,272	\$ 2,695,252	\$ 2,745,039	\$ 2,745,039	\$ 686,260	\$ 2,745,039	
TOTAL WORKERS' COMPENSATION EXPENSE	\$ 20,665,082	\$ 22,529,184	\$ 25,292,026	\$ 22,165,900	\$ 6,108,927	\$ 24,435,707	10%

Attachment B

City of Oakland

Quarterly Results of Transitional Duty Program for Fiscal Year 2013

FY 2012-2013 Q1

City Wide	
# Cases	101
# Transitional Days	4,544
Cost Avoidance	\$ 1,067,546

FIRE	
# Cases	15
# Transitional Days	813
Cost Avoidance *	\$ 278,743

POLICE	
# Cases	58
# Transitional Days	2,363
Cost Avoidance **	\$ 675,143

PUBLIC WORKS	
# Cases	16
# Transitional Days	686
Cost Avoidance	\$ 65,267

OTHERS	
# Cases	12
# Transitional Days	682
Cost Avoidance	\$ 48,394

Q1: 07/01/12 - 09/30/12

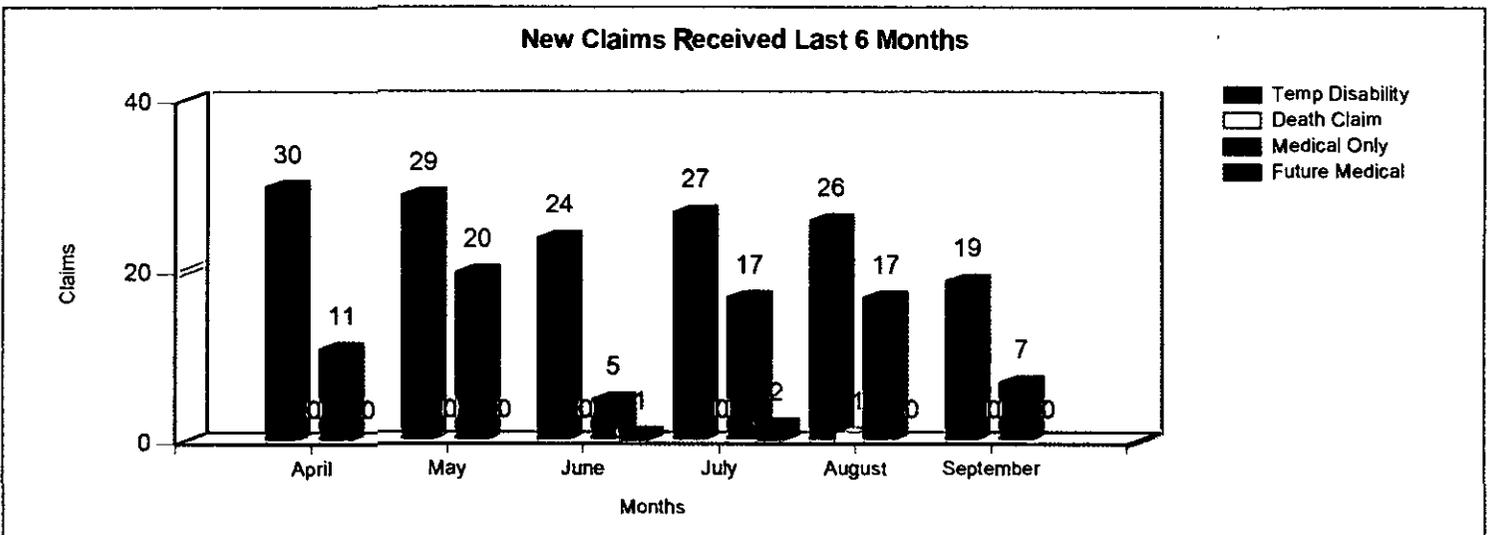
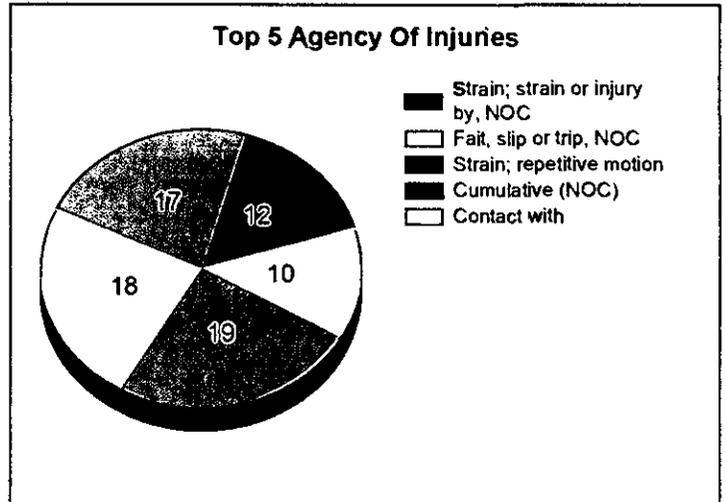
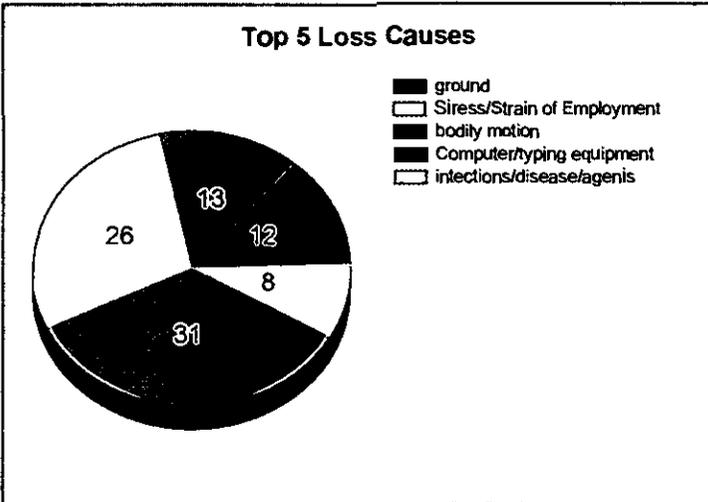
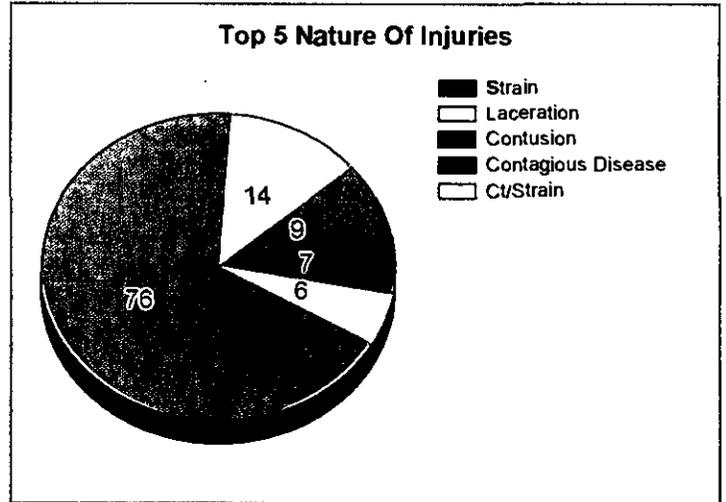
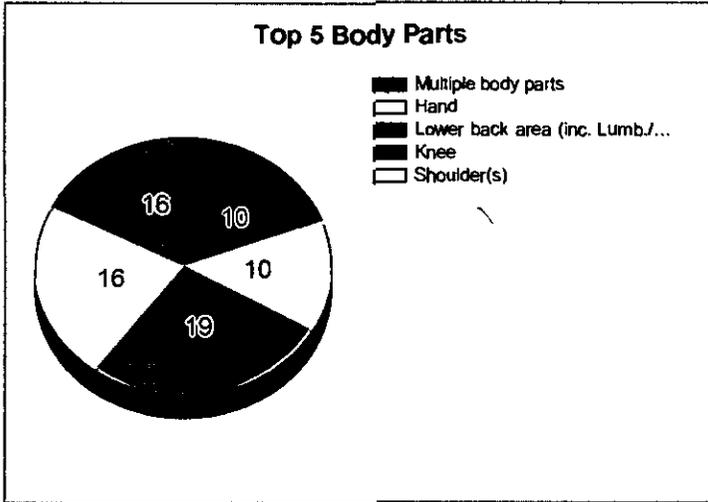
* Fire Dept - Amount based on estimated 4850 savings calculated at \$2,400/week

** Police Dept - Amount based on estimated 4850 savings calculated at \$2,000/week

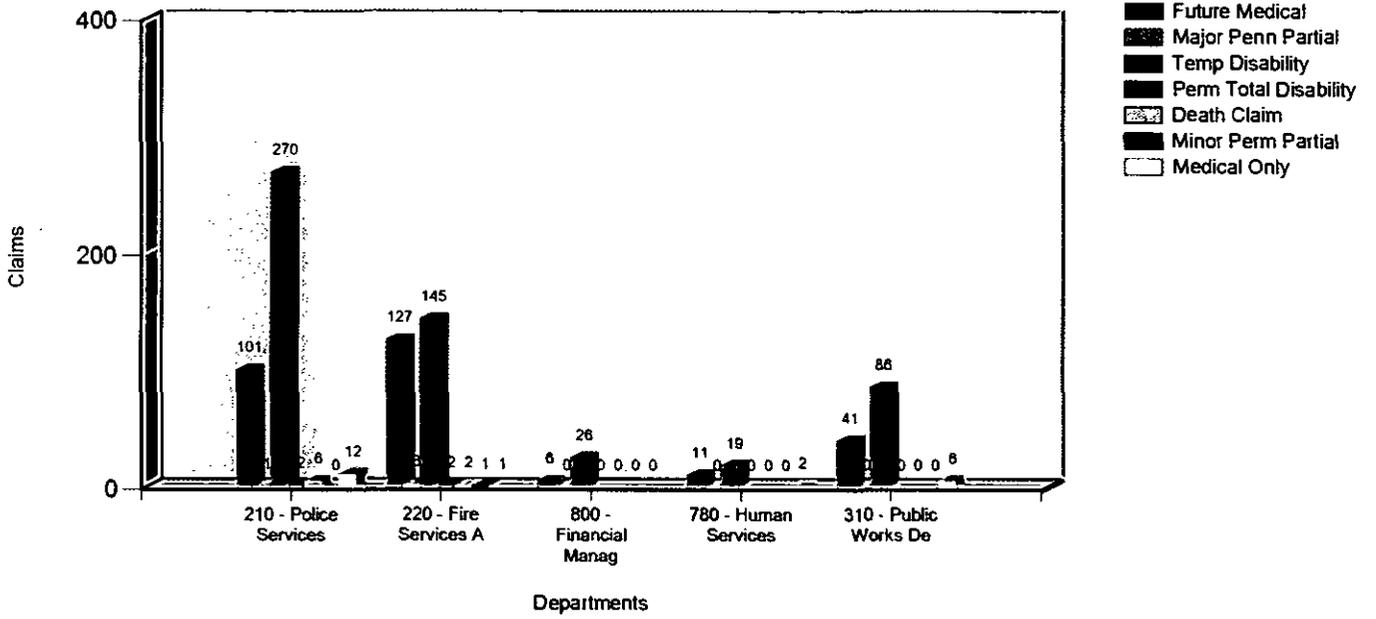
Sarah Morris-Peterson:

As per Oakland's request, Savings for Fire & Police are to calculated using their average 4850 rate.

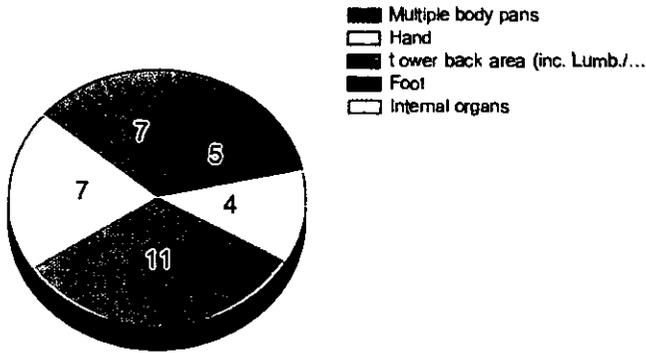
Loss Dates From 7/1/2012-9/30/2012



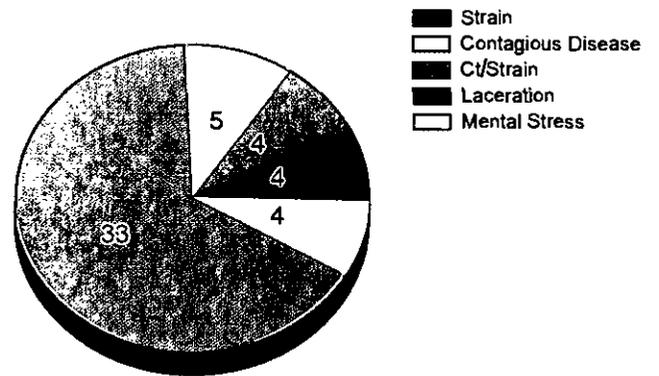
Open Claims By Department



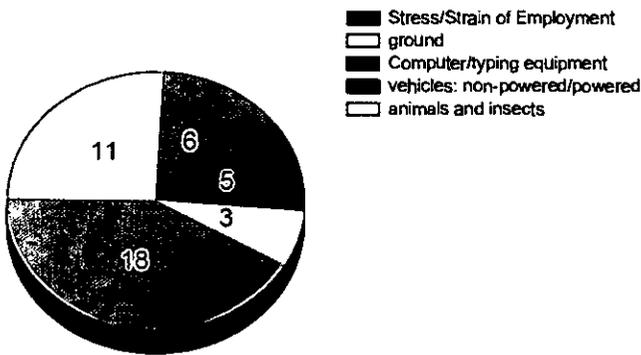
Top 5 Body Parts



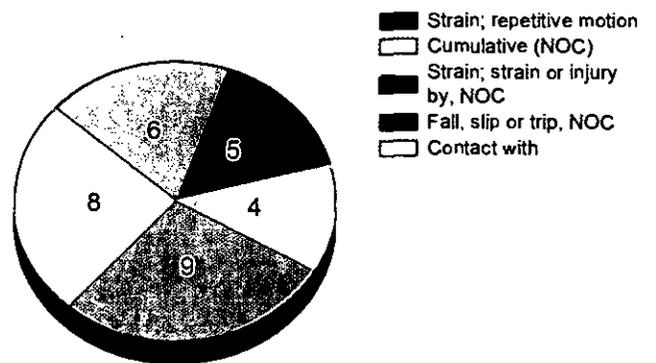
Top 5 Nature Of Injuries



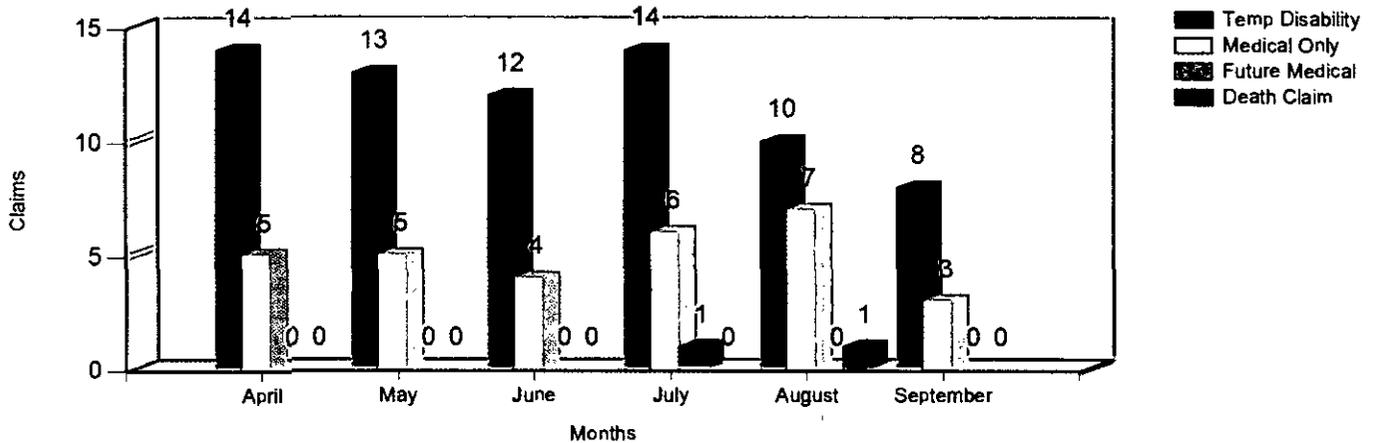
Top 5 Loss Causes



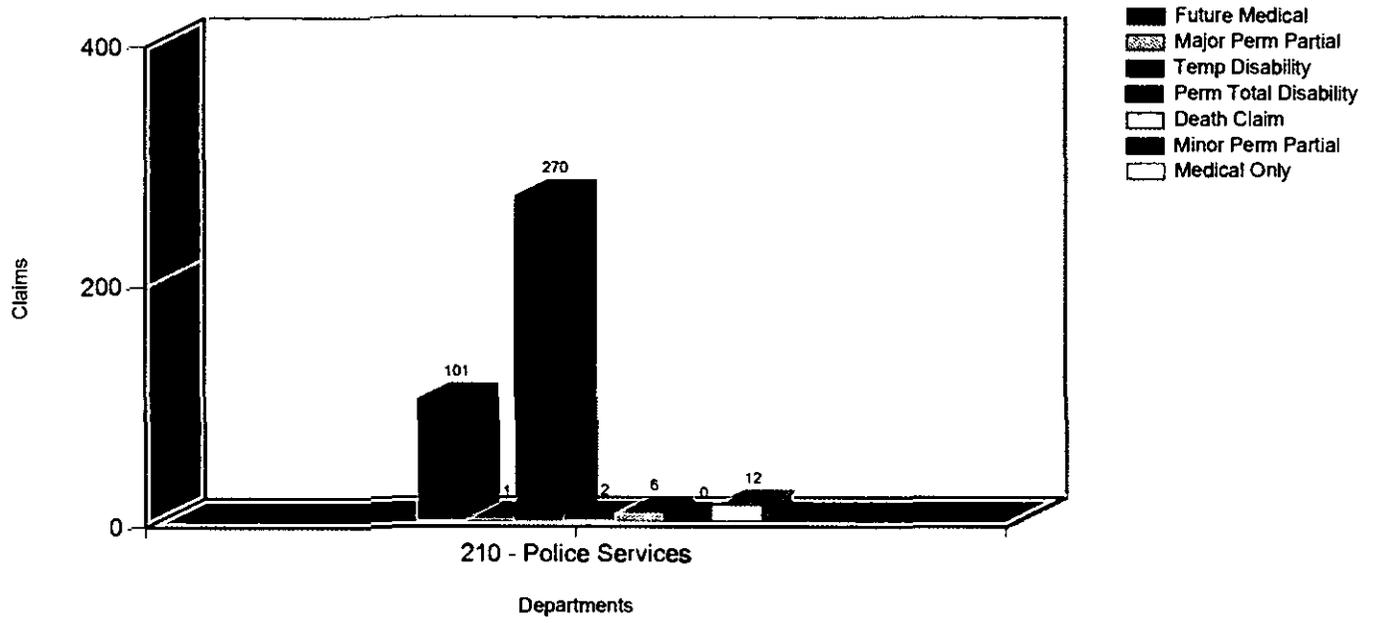
Top 5 Agency Of Injuries

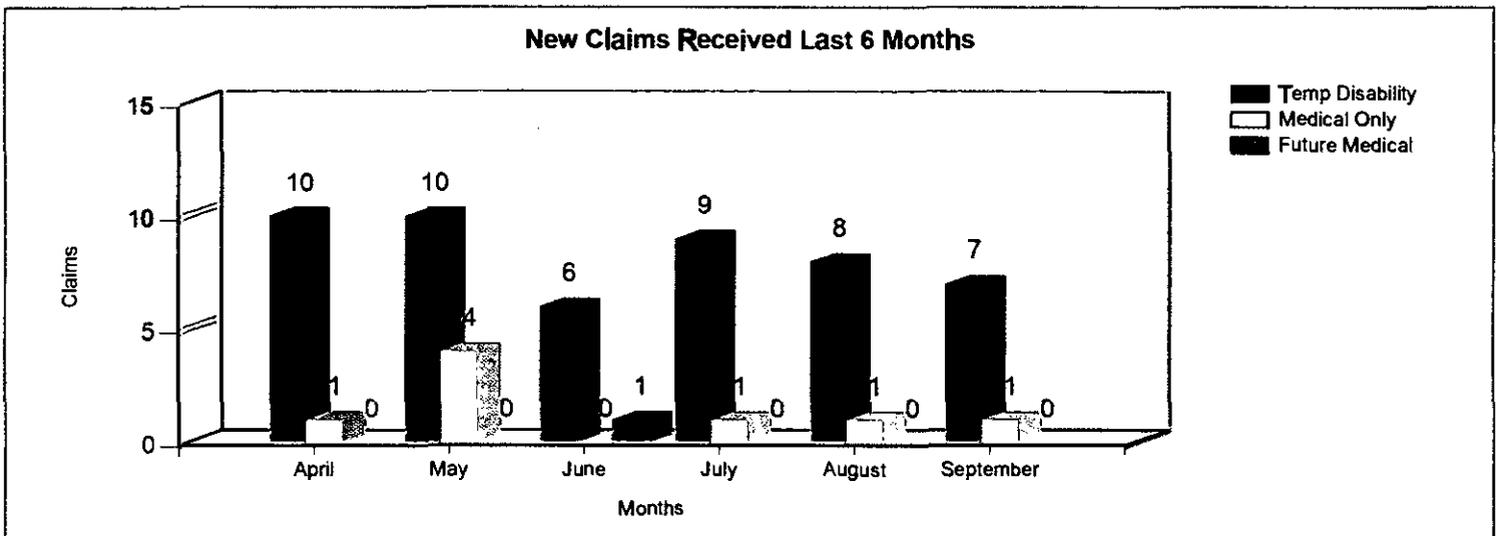
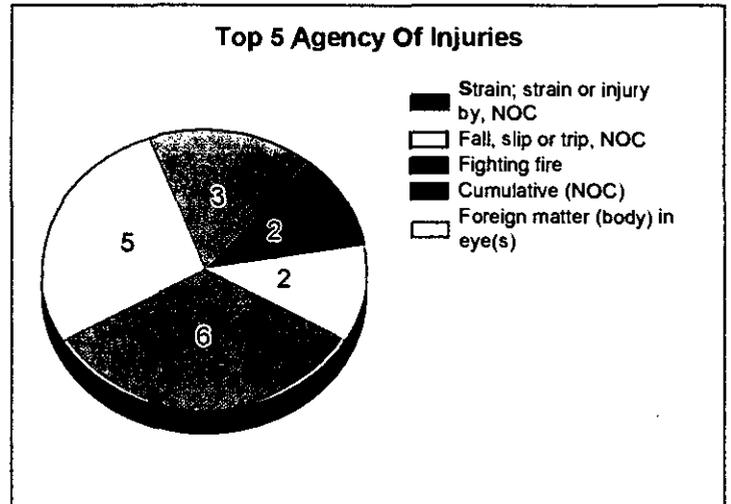
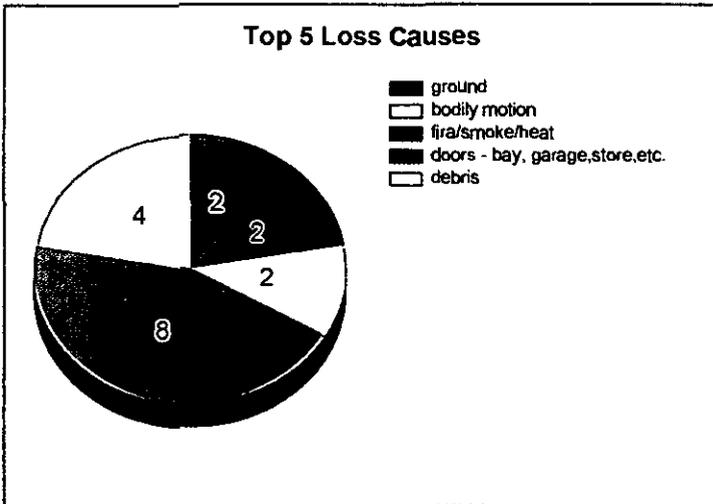
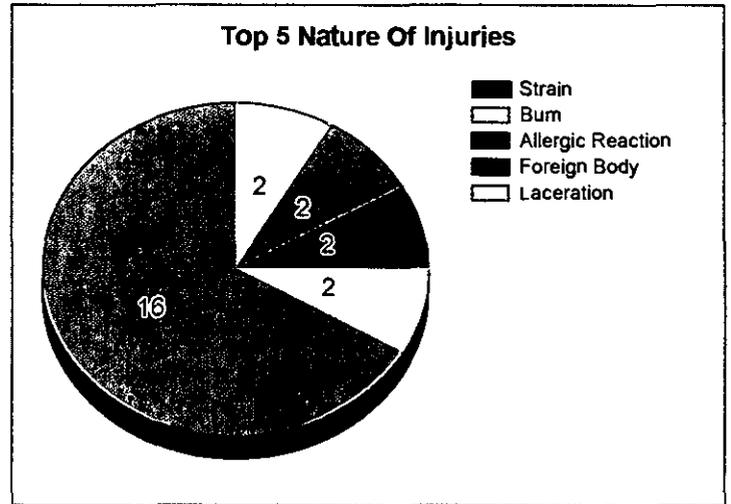
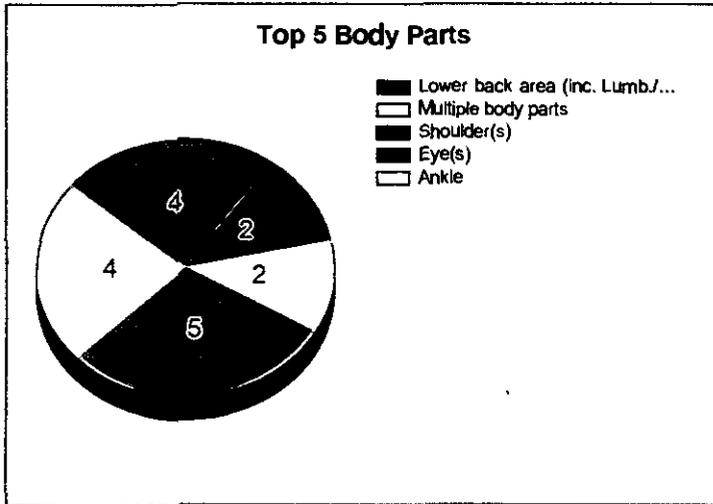


New Claims Received Last 6 Months

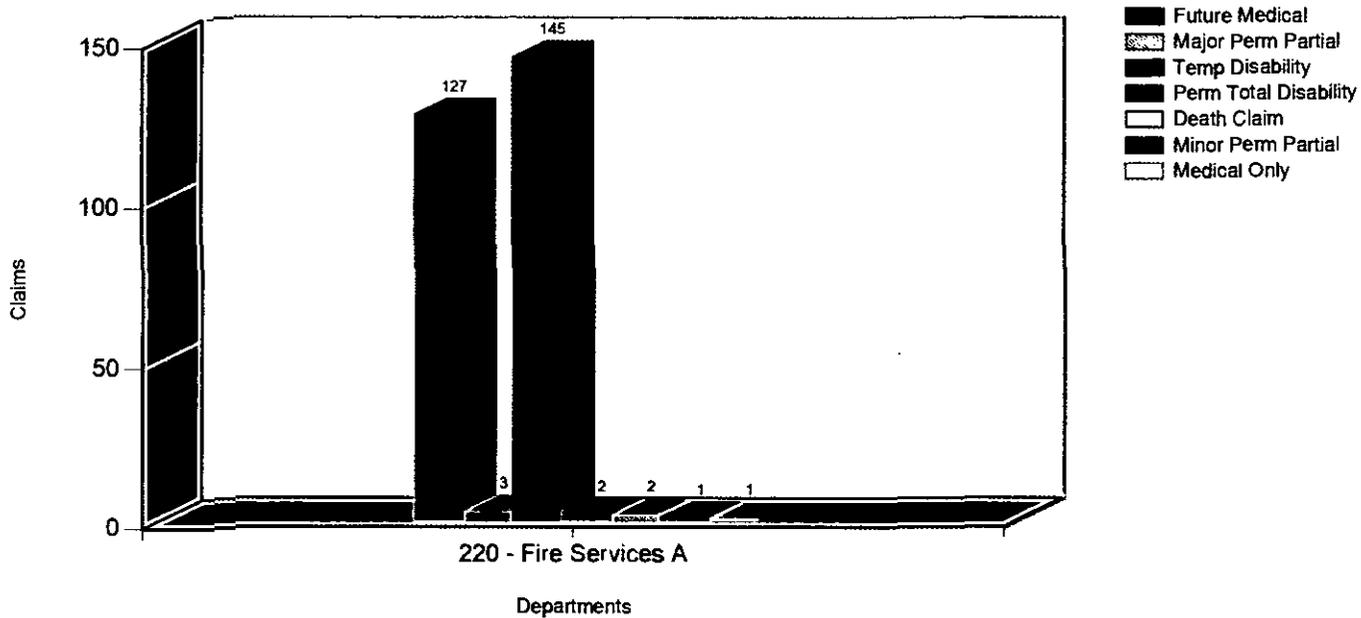


Open Claims By Department





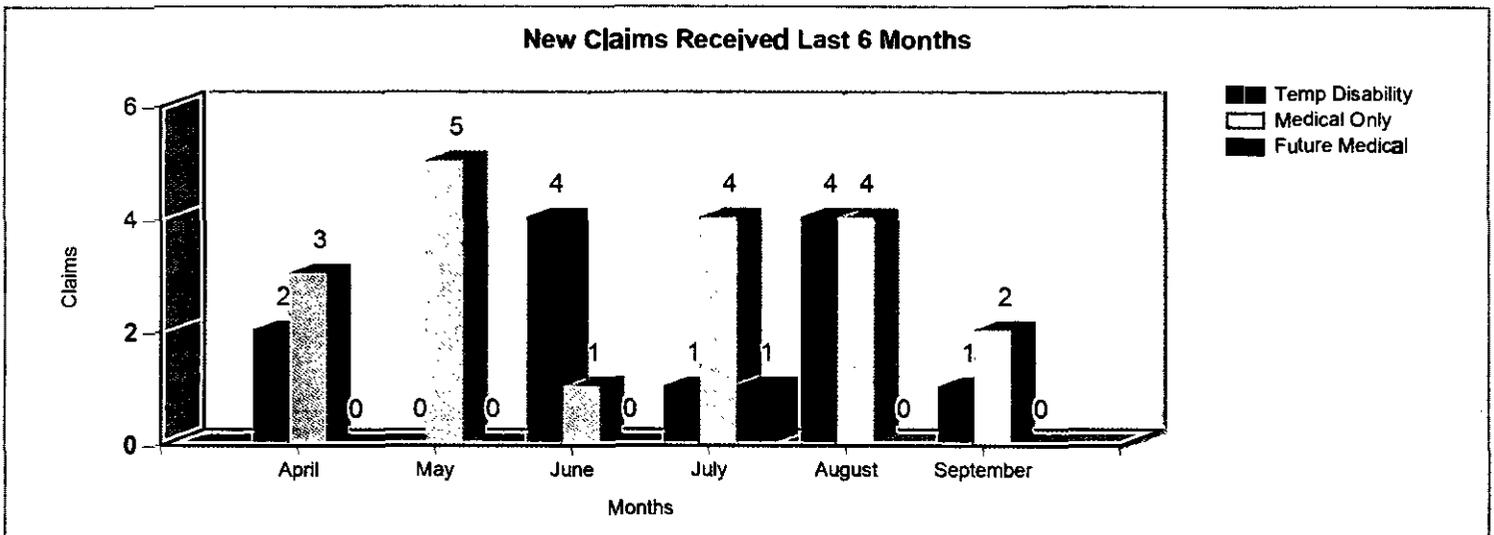
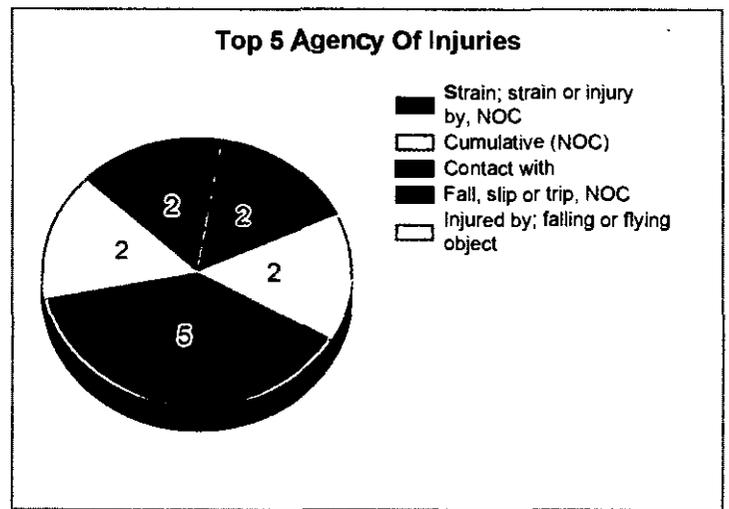
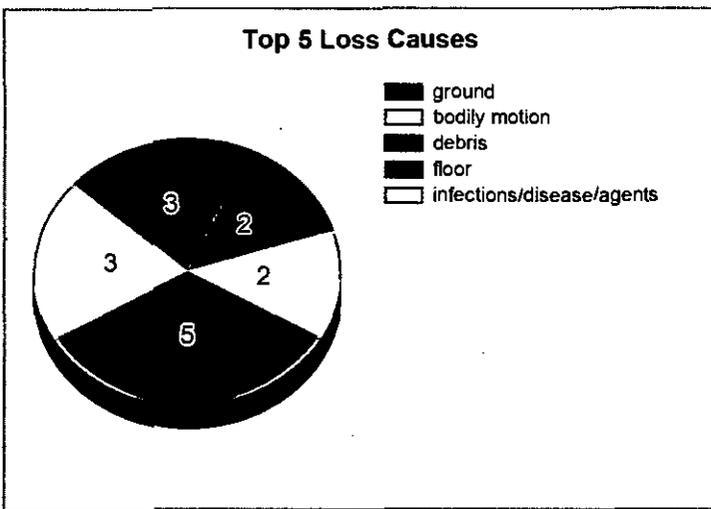
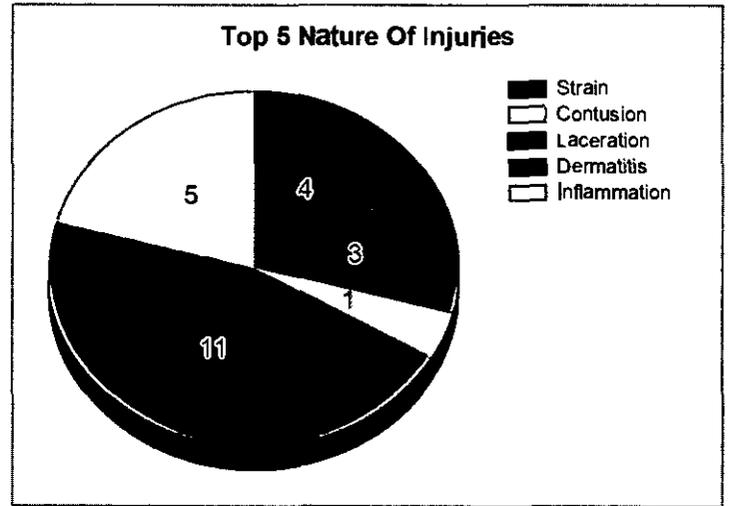
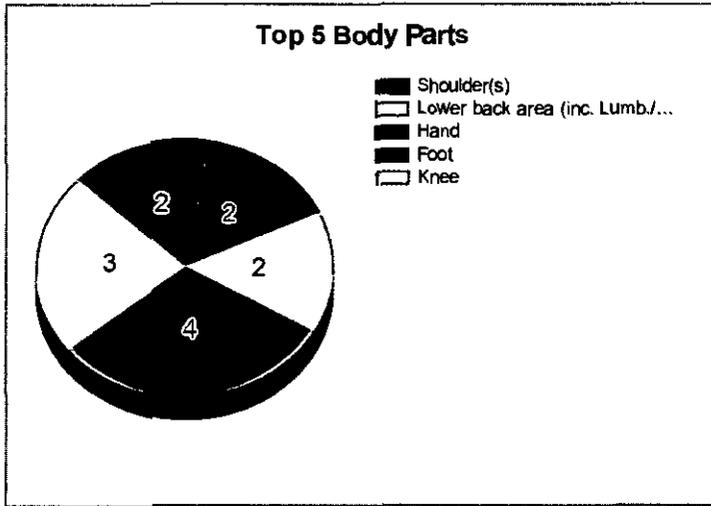
Open Claims By Department



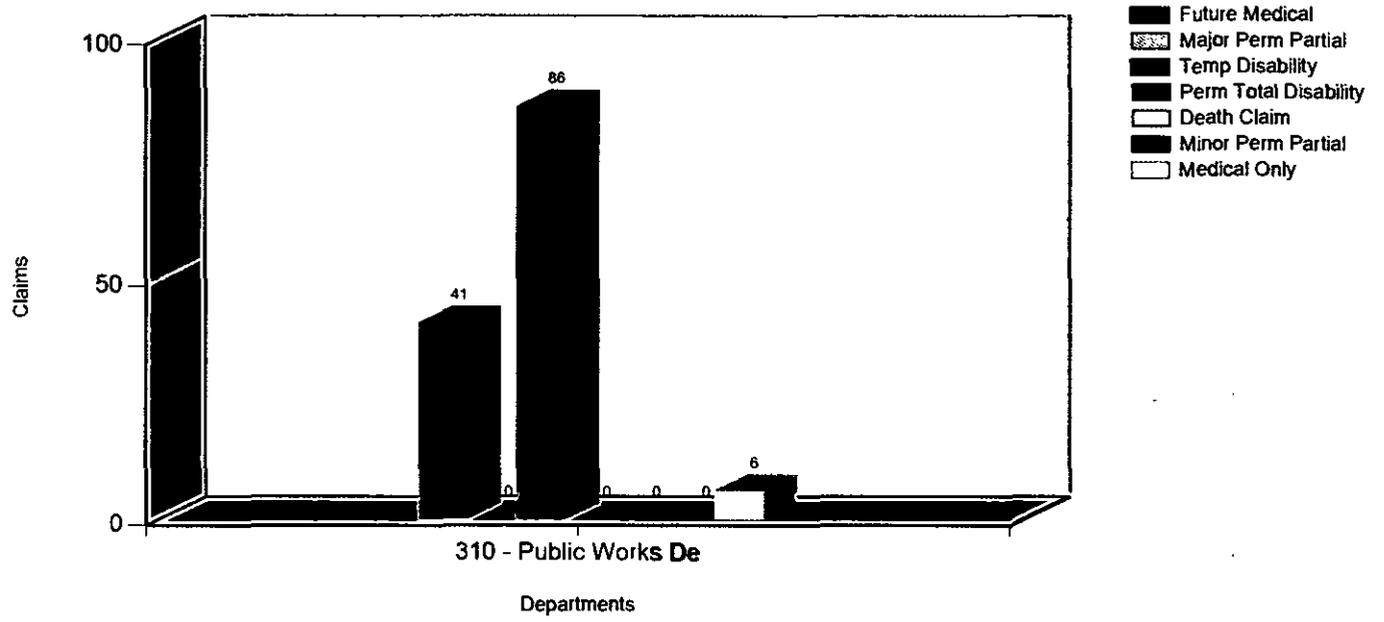
Dashboard Report

Attachment F

Loss Dates From 7/1/2012 Thru 9/30/2012

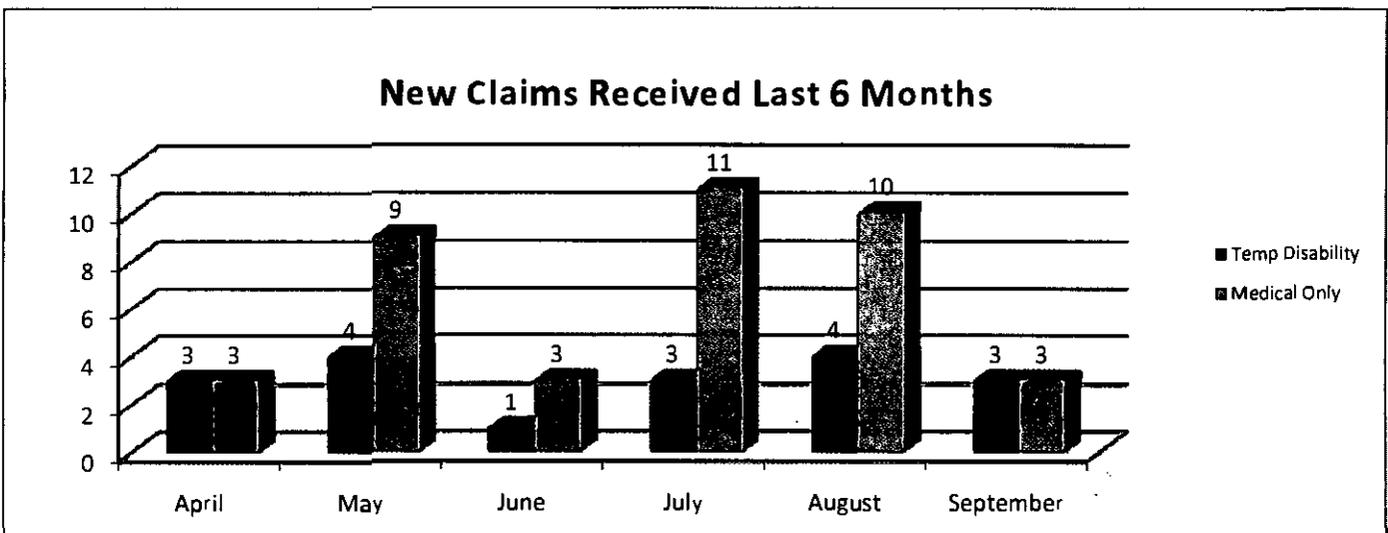
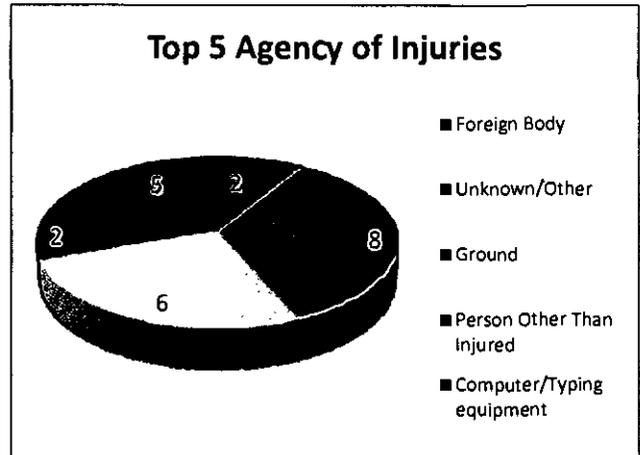
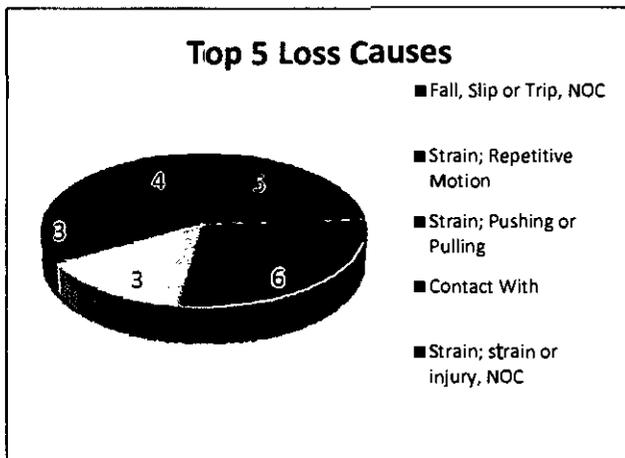
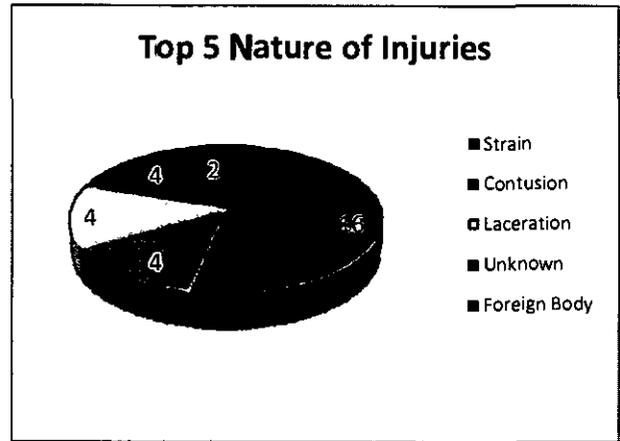
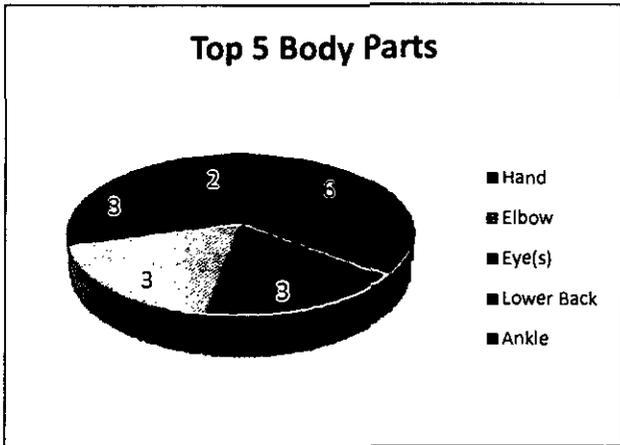


Open Claims By Department



City of Oakland All Other Departments Dashboard Report

Loss Dates From 7/1/2012-9/30/2012



Open Claims By Department

