

CITY OF OAKLAND

AGENDA REPORT

OFFICE OF THE CITY CLERK
1000

2006 JAN 12 PM 1:22

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Finance and Management Agency
DATE: January 24, 2006

RE: ANNUAL WORKERS' COMPENSATION REPORT FOR 2004-05

SUMMARY

This informational report provides current expenditures and program data on the City of Oakland's Workers' Compensation Program for Fiscal Year 2004-05. Each year, the Risk Management Division reports on the loss activity in the Workers' Compensation Program. Fiscal Year 2004-05 experienced a reduction in the overall program cost in excess of \$1.9 million. This savings is attributed to a number of factors including changes in the State Labor Code regulations governing workers' compensation, changes in claim administration strategies and increased department participation in loss reduction programs and the Transitional Duty Program. The attached report will detail the affects these factors had on the overall program costs.

FISCAL IMPACTS

This report provides information and data regarding the existing program as compared to previous years. No new costs are introduced within this report.

BACKGROUND

Like most public entities, the City of Oakland is self-insured for workers' compensation. The Risk Management Division works with the City's third-party administrator, JT2 Integrated Resources, which handles the technical aspects of each claim. The Risk Management Division also works with the City agencies and departments to ensure injured workers receive appropriate care as mandated under California's Labor Code.

Each year, the Risk Management Division provides statistical information regarding the administration of the Workers' Compensation Program. These statistics serve as benchmarks by which the City is able to measure its performance and the effectiveness of its Workers' Compensation program initiatives.

KEY ISSUES AND IMPACTS

Over the last few years, the Risk Management Division introduced a number of new program elements resulting in changes to the City's workers' compensation program. The attached report reviews these changes in detail, along with claims and expenditures data from Fiscal Year 2004-05.

Item # _____
Finance & Management Committee
January 24, 2006

As described more fully in the attached report, the City of Oakland enjoyed a number of successes this past year. Highlights for FY 2004-05 include:

- A 13.6 percent decrease in claims filed.
- A combined reduction in civilian temporary disability payments and civilian salary supplement costs of 21 percent Citywide since FY 2002-03.
- A reduction of 31 percent in medical expenditures since FY 2003-04.
- An overall program expense reduction of 8.7 percent, or a reduction of over \$1.9 million since FY 2003-04.
- A cost avoidance (or savings) of \$1.5 million attributable to the Transitional Duty Program.

SUSTAINABLE OPPORTUNITIES

This is an informational report, sustainable opportunities have not been included.

DISABILITY AND SENIOR CITIZEN ACCESS

As an informational report, disability and senior citizen access opportunities do not exist.

RECOMMENDATION(S) AND RATIONALE

Staff recommends that Council accept the attached workers' compensation report.

ACTION REQUESTED OF THE CITY COUNCIL

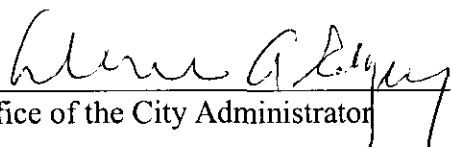
Staff recommends that Council accept the attached workers' compensation report.

Respectfully submitted,



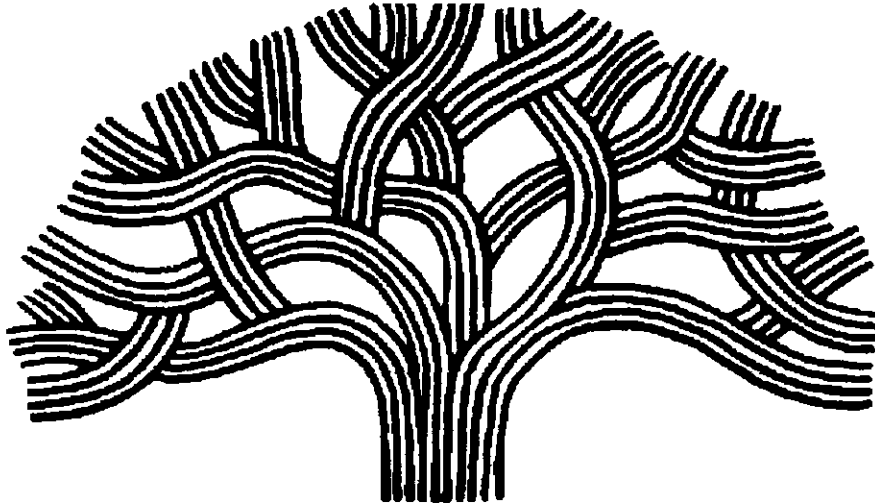
William Noland
Director, Finance and Management Agency

APPROVED AND FORWARDED TO THE
FINANCE & MANAGEMENT COMMITTEE


Office of the City Administrator

Prepared by
Deborah Cornwell
Acting Risk Manager

**CITY OF OAKLAND
FINANCE AND MANAGEMENT AGENCY
RISK MANAGEMENT DIVISION**



2004-05 WORKERS' COMPENSATION REPORT

January 24, 2006

PREPARED BY:

**DEBORAH CORNWELL
Acting Risk Manager**

2004-05 WORKERS' COMPENSATION ANNUAL REPORT

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I. Program Elements

The City of Oakland's Workers' Compensation Program is comprised of several program elements. The highlights of these elements include the following:

- A. Workers' Compensation Management Program.** The City operates under a uniform system with all departments and agencies following strict procedures for departmental claims handling. Adopted in 2002, the Workers' Compensation Management Program standardized claim reporting documentation and processes as well as created a comprehensive transitional duty (early return-to-work) program. The City is now experiencing tangible results from the program elements adopted.

The three key elements of the workers' compensation management program are:

1. A designated workers' compensation coordinator in each department;
2. JT2 Integrated Resources [the City's Workers' Compensation Third Party Administrator (TPA)] claims staff, including a Return-to-Work coordinator; and
3. Risk Management Division (RMD) coordination of the combined efforts of the departments and JT2.

RMD conducts monthly claims review meetings with departments to address newly filed claims, including red-flagging claims for investigation and identifying cases for transitional duty assignments. Additionally, quarterly file reviews with departments are conducted to address longer term cases, including those that are litigated and focus on defense strategies and case resolution. Department heads, managers, and department workers' compensation coordinators are encouraged to attend these meetings.

- B. Comprehensive Transitional Duty (Early Return-To-Work) Program.** Studies have shown that effective return-to-work programs are the single largest factor in controlling workers' compensation claims costs. The Transitional Duty Program returns injured employees to work for the purpose of temporarily performing meaningful tasks that are within their physician's stated physical restrictions as a way to "transition" them back to their "usual and customary" job duties. The program is only for employees who have not received a full release from their doctor to return to their "usual jobs".

Studies have shown that the longer an employee remains on temporary total disability, the less likely he/she will return to full capacity. Alternately, employees who are allowed to perform temporary tasks within their physical limitations are returned to full duty more rapidly and their adjustment back to full duty work is more successful. Unions have long supported modified duty for their members. Union representatives have met with departments in the development of the Transitional Duty Program. As such, RMD recently instituted an aggressive Transitional Duty Program. Key features of the new Transitional Duty Program include:

1. Establishment of a "Return to Work Coordinator" position within TPA's Workers' Compensation staffing requirements. This position provides coordination and liaison services directly to Agencies and Departments as well as Treating Physicians for the sole purpose of identifying and filling temporary, modified duty assignments.
2. Agencies and Departments must actively participate in returning their injured employees to temporary assignments that are within the limitations of the individual

employee. As an incentive to encourage their participation, Agencies and Departments who are unable to provide modified work assignments will be responsible for further indemnity expenses until such time temporary assignments can be provided or the employee returns to full duty.

3. Employees must also actively participate by accepting temporary assignments while on "restricted duty" and by working within the restrictions established by their treating physician. As an incentive to employees, those who refuse to participate in temporary assignments will no longer be eligible for temporary disability benefits, as is permitted by the State Labor Code, or the City's "free period" salary supplement.

Successful implementation of the Transition Duty Program resulted in savings of \$1,509,291 in 2004-05. This is money that would have been spent in "temporary disability" if employees had not participated in the Transitional Duty Program. It does not include the additional savings in Salary Supplement the employees would have received in conjunction with their temporary disability payments.

- C. Active Partnership with Third-Party Administrator Focusing on Innovative Claims Management.** Commencing in August 2001, JT2 has provided third-party administration services under a six year total agreement. The six year agreement is split into three two-year terms which must be extended each term upon successful audit reports. JT2 is responsible for managing the technical aspects of the City's workers' compensation claims and medical treatments. The City reviews the performance of JT2 through an independent audit process that reviews random claims and tracks procedures in accordance with established performance measures set by the City to ensure that JT2 is managing claims and performing its work as specified under the contract. An independent workers' compensation auditing firm conducts the annual contract audit. An 85 percent or higher rating must be achieved in order to qualify for receipt of retained contract dollars.

According to the audit results, JT2 Integrated Resources has exceeded industry standards since the inception of their contract and earned an 87 percent rating in the last contract year. As such, JT2 will continue as the City's TPA through August 2007. A Request for Proposal (RFP) for TPA services will be completed at the beginning of calendar year 2007 to competitively bid this contract.

During the past several years of this contract, JT2 has brought a number of new initiatives to the City that have resulted in positive change. These include:

- ❑ Instituted a "hearing representative" program which referred certain cases to professionals other than attorneys to settle claims and represent the City in simple administrative matters. This program has helped in containing increases in legal fees.
- ❑ Established a "Return to Work Coordinator" position within JT2's staffing requirements. This position provides coordination and liaison services directly to agencies and departments, as well as treating physicians, for the sole purpose of identifying and filling temporary, modified duty assignments
- ❑ Established a nurse case manager position to track difficult medical cases
- ❑ Established a position to work directly with the City's payroll division to track disability notices and act as a check against improper payment of workers' compensation benefits by Department payroll clerks.

- Added another claims examiner, at no cost to the City, to reduce caseloads for each examiner.

D. Increased Loss Prevention Efforts. Risk Management continues to review and analyze claims activity within departments for the purpose of developing loss prevention programs through engineering controls, staff training and protective equipment. Loss prevention efforts have been promoted through the City's Ergonomics Program, targeted Safety and Loss Control Programs, OSHA Compliance Programs and Defensive Driving Program. Risk Management continues to sponsor annual Safety Training Academies during which City staff participates in multiple safety training sessions. The topics of the training sessions include CalOSHA required safety training; training based on the current loss activity experienced by the City and a number of general health and wellness topics.

E. Focus On Employee Health. Risk Management also sponsors Employee Health and Wellness Fairs. Employees participate in a number of health-related medical screenings such as cholesterol testing, diabetes screening, blood pressure tests, and bone density tests. Flu and Hepatitis B shots are also made available. This event receives very positive marks from employees and departments.

F. Salary Supplement Reconciliation Project. Risk Management conducted a comprehensive audit of departmental use of workers' compensation payroll coding. Through this audit, Risk Management discovered that departments did not have a uniform procedure for coding salary supplement payments and that this led to errors in pay coding. While these errors did not result in overpayments to injured workers, it did result in overcharges to the workers' compensation fund. As a result, Risk Management directed JT2 to create a position with the sole function of monitoring payroll coding against authorized disability payments according to the claims information maintained by JT2. The findings of this project are discussed on page 11 of this report.

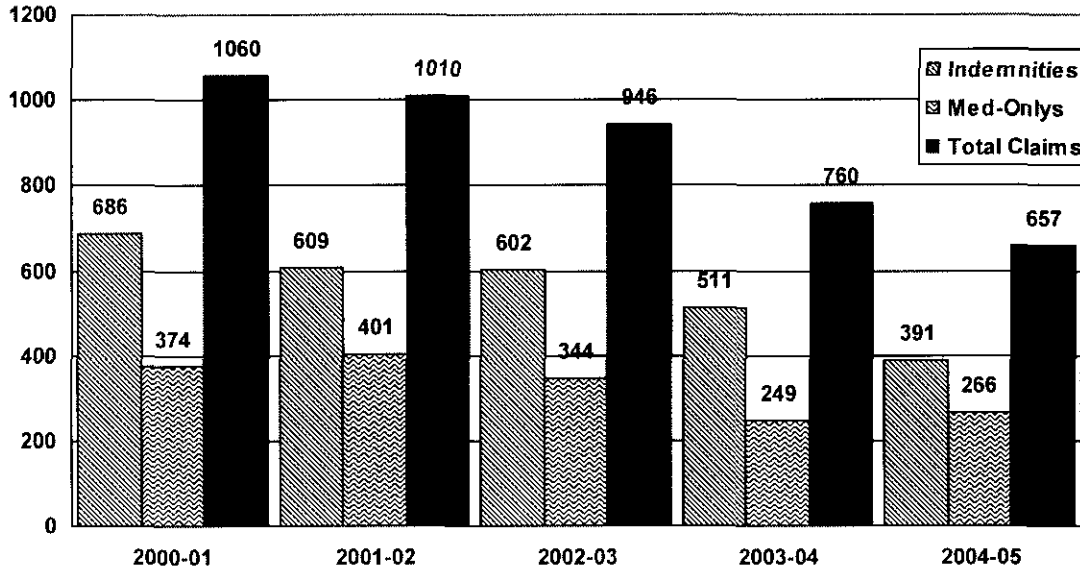
In 2004-05, the reconciliation program targeted the Police and Fire Services Agencies. The program will be expanded to all City departments in 2005-06.

G. Excess Workers' Compensation Insurance. A number of public entities purchase Excess Workers' Compensation Insurance to defray the cost of their Self-insured Workers' Compensation Program. Until Fiscal Year 2002-03, the City did not have access to an insurer who could provide quotes for such coverage. In July 2002, the City began its membership in the California Public Entity Insurance Authority (CPEIA), which provides an option to join an Excess Workers' Compensation (EWC) Pool. Starting July 1, 2004, the City entered into this EWC Pool with a Self Insured Retention of \$1 Million per occurrence. According to a recent actuarial analysis, estimated savings from the purchase of EWC could reach \$2.6 million. As such, the City now has excess insurance coverage for catastrophic losses.

Recent loss experience has demonstrated that a tragic death of a City employee could cost the City's Workers' Compensation Program as much as \$750,000 in immediate and ongoing benefits for the survivors. A serious debilitating and permanent injury could have an even greater financial impact on the City's program. It is reasonable to anticipate that, as projected by the actuary, the presence of the EWC coverage could off-set significant costs to the City in the event of a catastrophic Workers' Compensation loss.

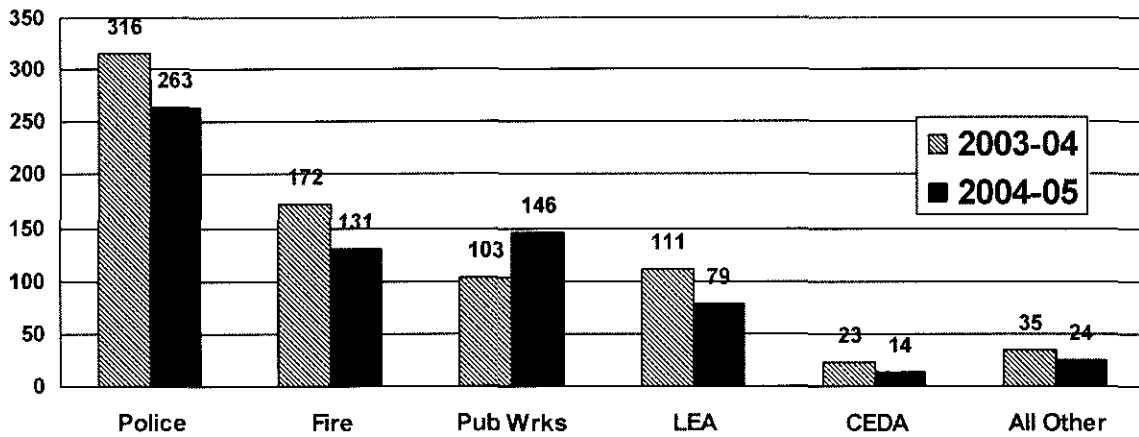
II. Workers' Compensation Data Summary

A. Total Claims Received - Five Year Results



Since FY 2000-01, reported injuries in the City of Oakland have shown a steady decrease for both indemnity and medical-only cases. In FY 2004-05, the total number of claims received decreased by 13.6 percent from the previous fiscal year. Indemnity cases are those cases in which an employee lost some amount of work time over one day. Med-only cases are those in which the employee lost no time from work.

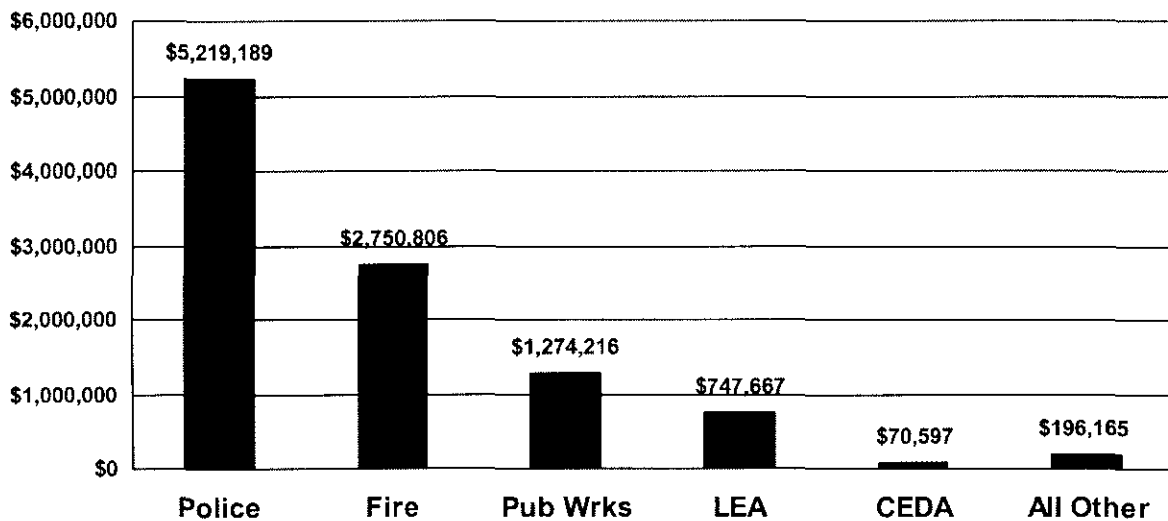
B. Number of Claims Filed by Department



It should be noted in the table above that the increase in PWA and the decrease in LEA are attributed to the transfer of OPR-Parks Maintenance to PWA, which took place on July 1, 2004. In reality, PWA experienced a “flat” claims year.

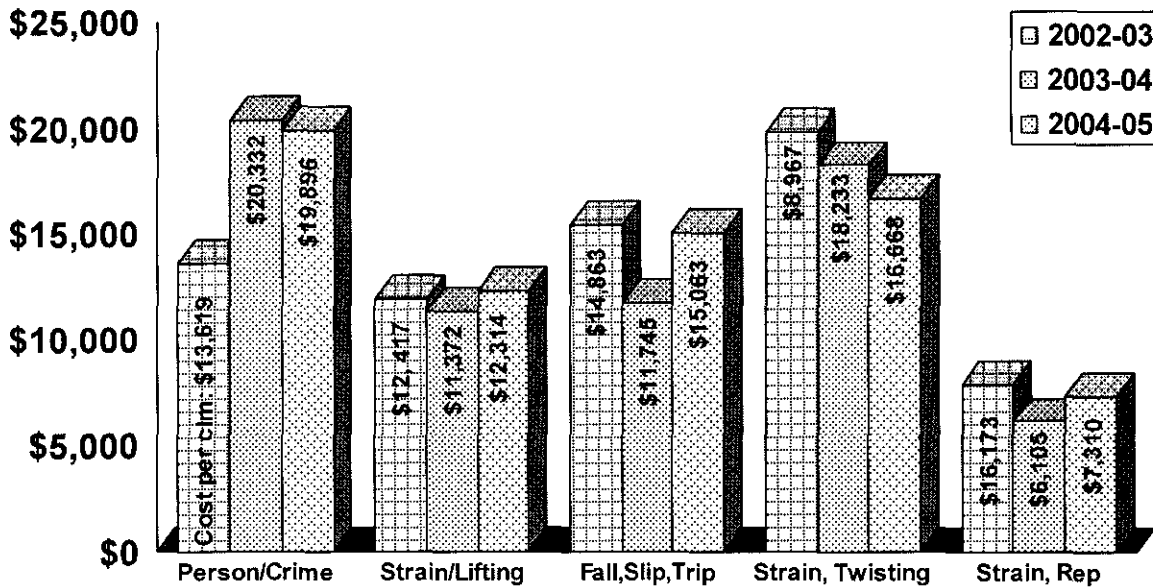
C. Incurred Costs For Claims Received in FY 2004-05

Incurred costs are the total estimated “lifetime” cost of a claim. This graph shows the total estimated cost for claims incurred during FY 2004-05 by Agency/Department.

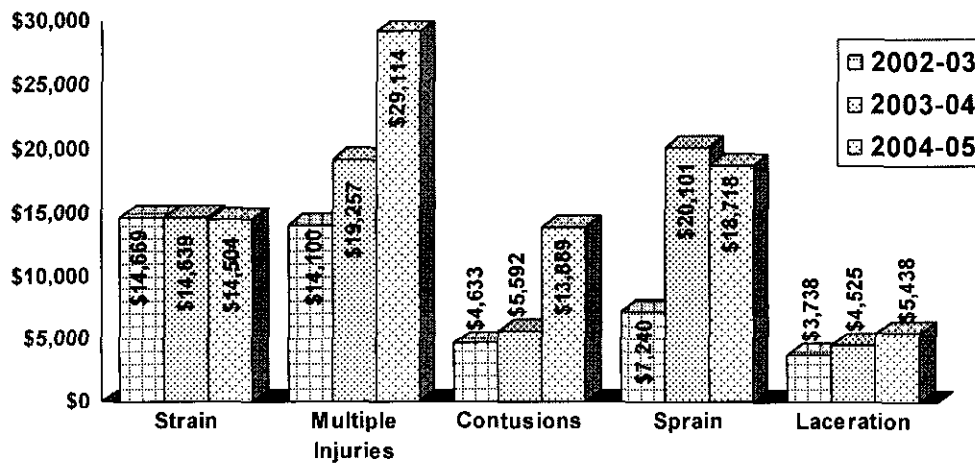


D. Claims by Cause of Injury By Incurred Cost per Claim – FY 2002-05

This graph depicts the causes of injury that have the largest average cost per claim filed for the last three fiscal years. This data is used in developing loss prevention programs that target the specific causes of injuries.



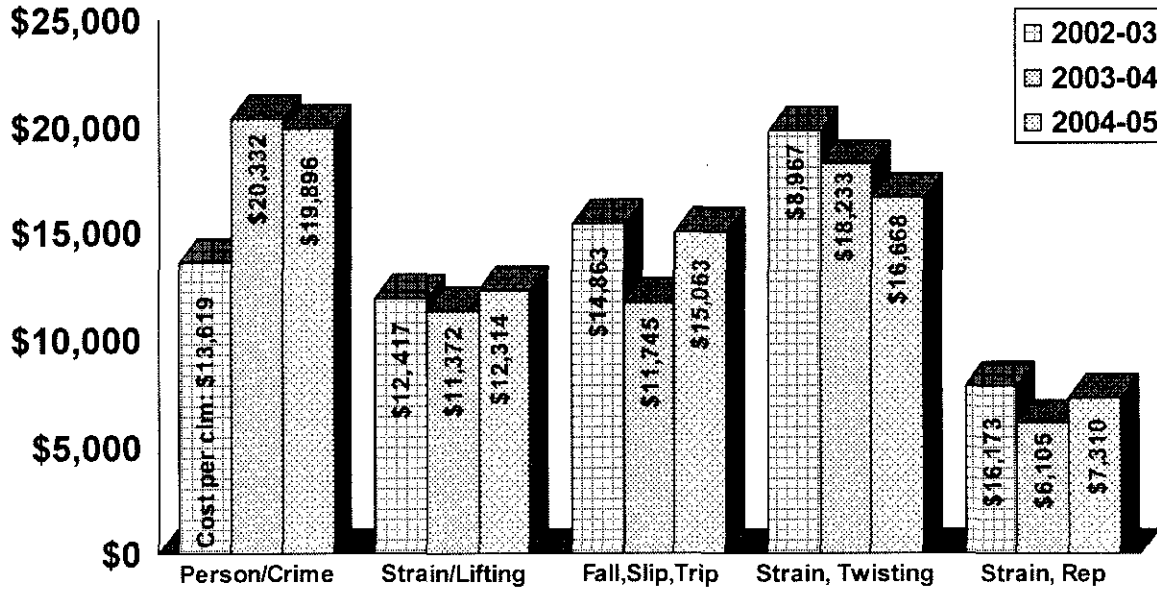
E. Claims by Nature of Injury by Incurred Cost per Claim – FY 2002-05



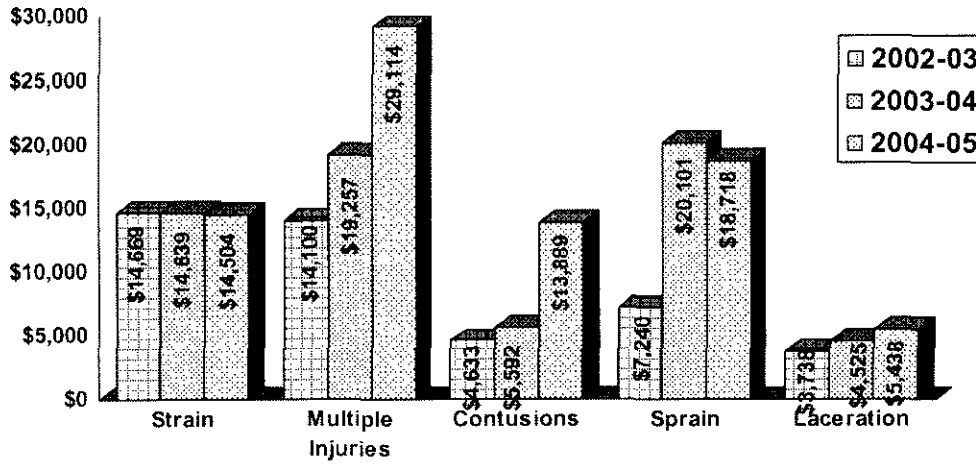
This chart summarizes the type or nature of injuries incurred by City employees resulting in the largest average cost per claim. Note that Stress claims represent a small percentage of claims in the City of Oakland, and are therefore not represented on this chart.

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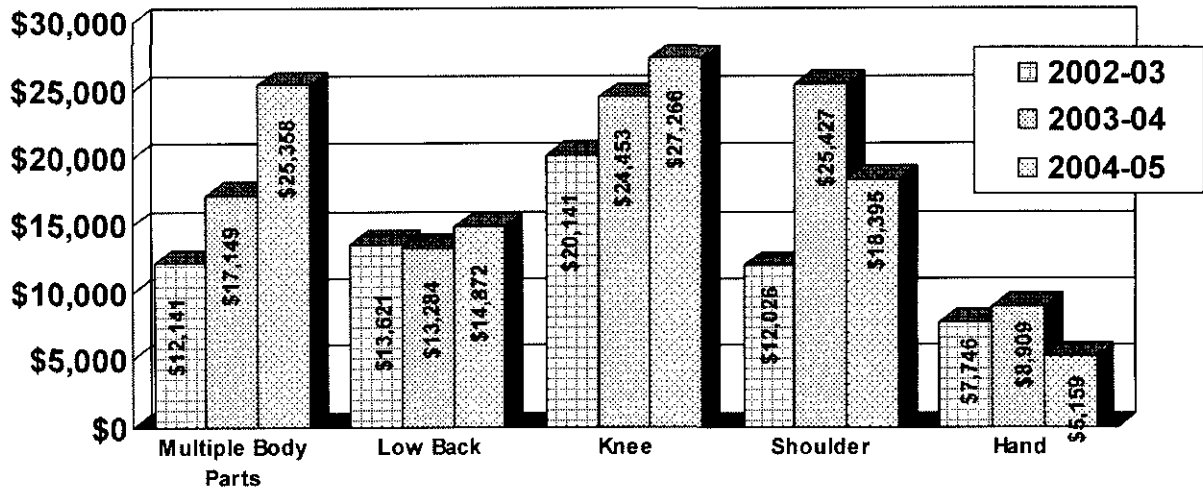


E. Claims by Nature of Injury by Incurred Cost per Claim – FY 2002-05



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F. Claims by Injury to Body Part by Cost per Claim – FY 2002-05



This chart summarizes the body-part injured by employees that represent the highest average cost per claim.

III. Expenditures

Workers' Compensation Expenditures Report

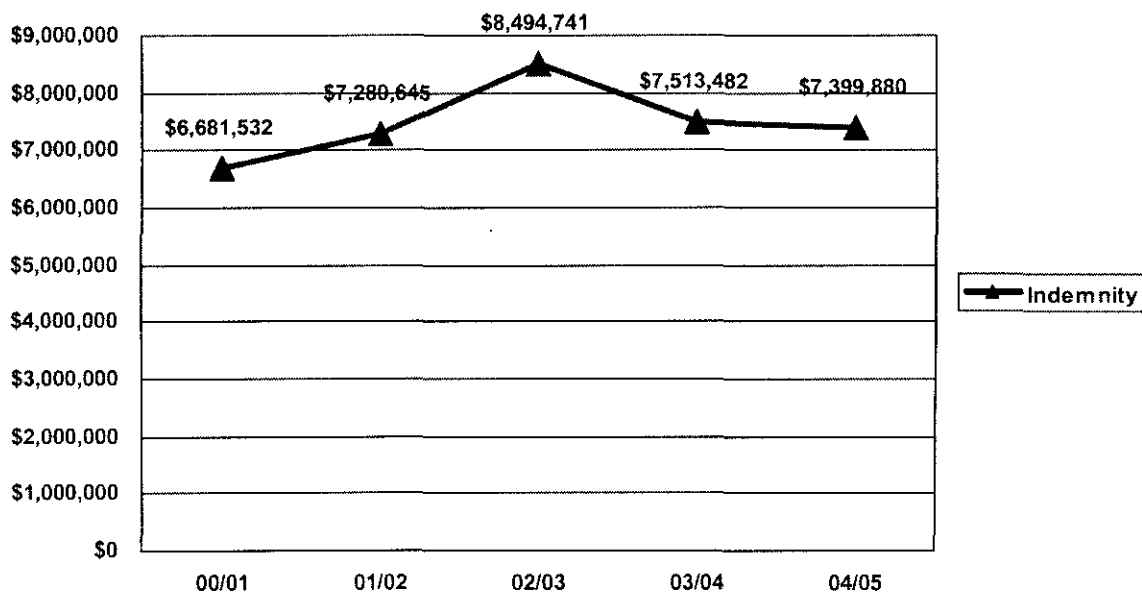
	2002-03	2003-04	2004-05	Percent Change Since 02-03
<u>INDEMNITY</u>				
Permanent Disability	\$ 3,014,729	\$ 3,656,534	\$ 4,272,337	42%
Temporary Disability	\$ 1,544,491	\$ 1,458,597	\$ 1,222,042	
Civilian - Salary Supplement	\$ 852,728	\$ 657,413	\$ 683,739	
Total Non-4850 Pay	\$ 2,397,219	\$ 2,116,010	\$ 1,905,781	-21%
Sworn - OPD - 4850 Pay	\$ 2,714,530	\$ 3,383,319	\$ 3,412,969	
Sworn - OFD - 4850 Pay	\$ 3,382,992	\$ 2,014,153	\$ 2,081,130	
Total 4850-Full Pay	\$ 6,097,522	\$ 5,397,472	\$ 5,494,099	-10%
Sub-Total II Temporary Dis.	\$ 8,494,741	\$ 7,513,482	\$ 7,399,880	-13%
<u>ALLOCATED</u>				
Rehabilitation	\$ 510,843	\$ 526,867	\$ 554,730	
Investigative Claims Expense	\$ 335,692	\$ 375,833	\$ 265,919	
Legal	\$ 284,999	\$ 395,036	\$ 444,312	
10% Penalties	\$ 41,859	\$ 66,169	\$ 70,473	
Sub - Total Allocated	\$ 1,173,393	\$ 1,363,905	\$ 1,335,434	14%
<u>MEDICAL</u>				
City Physician (Concentra)	\$ 375,393	\$ 326,179	\$ 233,575	
All Others	\$ 6,275,137	\$ 7,337,374	\$ 5,042,149	
Sub - Total Medical	\$ 6,650,530	\$ 7,663,553	\$ 5,275,724	-21%
<u>SUB-TOTAL OPERATIONS</u>				
	\$ 19,333,393	\$ 20,197,474	\$ 18,283,375	-5%
THIRD PARTY RECOVERY - REFUNDED TO CITY	\$ (331,090)	\$ (236,541)	\$ (143,799)	
TOTAL OPERATIONS EXPENDITURES	\$ 19,002,303	\$ 19,960,933	\$ 18,139,576	-5%
<u>ADMINISTRATIVE EXPENDITURES</u>				
Claims Administrator Contract	\$ 1,570,027	\$ 1,656,855	\$ 1,726,250	
Bill Review Expense	\$ 628,162	\$ 708,721	\$ 515,137	
TOTAL ADMINISTRATIVE	\$ 2,198,189	\$ 2,365,576	\$ 2,241,387	2%
<u>TOTAL WORKERS' COMPENSATION</u>	\$ 21,200,492	\$ 22,326,509	\$ 20,380,963	-4%

A. Summary of Expenditures Comparison 2003-04 to 2004-05

Category	\$\$ Paid 2003-04	\$\$ Paid 2004-05	\$\$ Variance	% Change
Indemnity	\$7,513,482	\$7,399,880	-\$113,602	- 1.5%
Medical	\$7,663,553	\$5,275,724	-\$2,387,829	- 31.2%
Allocated	\$1,363,905	\$1,335,434	-\$28,471	- 2.1%
Admin Expenses	\$2,368,576	\$2,241,387	+\$127,189	+ 5.4%
Total	\$22,329,509	\$20,380,963	-\$1,948,546	- 8.7%

1. Indemnity Expenses. Indemnity expenses continue to decline from previous years. Indemnity expenses include all temporary disability, permanent disability and salary supplement expenses. These include Labor Code 4850 payments, which is the special salary supplement sworn employees receive which allow an injured worker to receive up to a full year of salary, tax-free, upon a doctor's order to stay off work. These payments represent the City's largest single workers' compensation expense, apart from medical payments. Other cost drivers in the indemnity expense category are directly linked to State-mandated disability rates and negotiated increases in civilian salary.

Five Year Indemnity Payment History

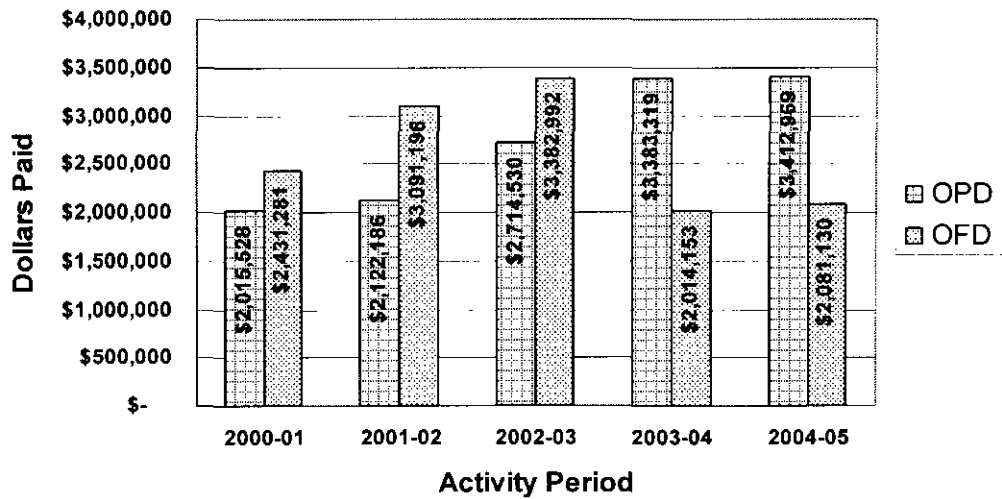


Since FY 2002-03, the most notable decrease in indemnity expenses was seen in the Fire Services Agency, which experienced a 38 percent decline, despite salary increases. The Police Services Agency however, has experienced steady increases. In an attempt to bolster OPD's performance in the Workers' Compensation program, Risk Management has funded two full-time positions

assigned solely for the purpose of managing OPD's workers' compensation claims at the department level.

Although not depicted on this chart, civilian indemnity rates also declined by 26 percent, despite salary increases.

Five Year 4850 Benefit Payment History



a. Transitional Duty Program

One factor, which could explain the City's remarkable drop in indemnity payments, is the success of the City's new Transitional Duty (Return-to-Work) Program. Since its inception in 2002, the number of days spent on transitional duty, as opposed to off work completely, doubled, resulting in considerable savings.

Transitional Duty Program Activity

	2001-02	2002-03	2003-04	2004-05
Transitional Duty	3,767	7,222	7,620	7,704
Total Lost Days	14,998	12,804	11,200	9,500
Indemnity Savings	unknown	\$1,303,747	\$1,118,125	\$1,509,291

Two of the major users of the transitional duty program are the Police and Fire Services Agencies. While the Police Services Agency has been fairly consistent in its utilization of the Transitional Duty Program, when comparing the program usage with 4850 payment history reported in the previous section, it becomes apparent that greater utilization of the program could help contain the steady increase in 4850 payments.

The Fire Services Agency's drop can be explained by its substantial drop in overall claims and a decrease in employees who took time off work as a result of injury.

Transition Duty Program Days – Police and Fire

Fiscal Year	# of Transitional Days by Police Employees	# of Transitional Days by Fire Employees
2002-03	3,613	1,151
2003-04	3,101	209
2004-05	3,531	337

b. Salary Supplement (ICFS/ICF) Reconciliation

Another initiative implemented by Risk Management was to reconcile the approved workers' compensation benefit distribution with actual distributions. Risk Management, in partnership with JT2, established a position to work directly with the City's payroll division to track disability notices and to form a check against improper payment of Workers' Compensation benefits by Department payroll clerks. In FY 2004-05, over \$400,000 in payroll expenditures was identified as being mis-coded by departments, causing unnecessary additional expenditures to be incurred within the workers' compensation program.

The reconciliation program currently focuses on the Police and Fire Services Agencies. The majority of the outstanding corrections are attributable to the Police Department. While Risk has notified the affected departments of the apparent inappropriate expenditures in the Workers' Compensation fund, it is incumbent on the department to make the appropriate corrections and inform Risk when the corrections are made.

c. Disability Retirements

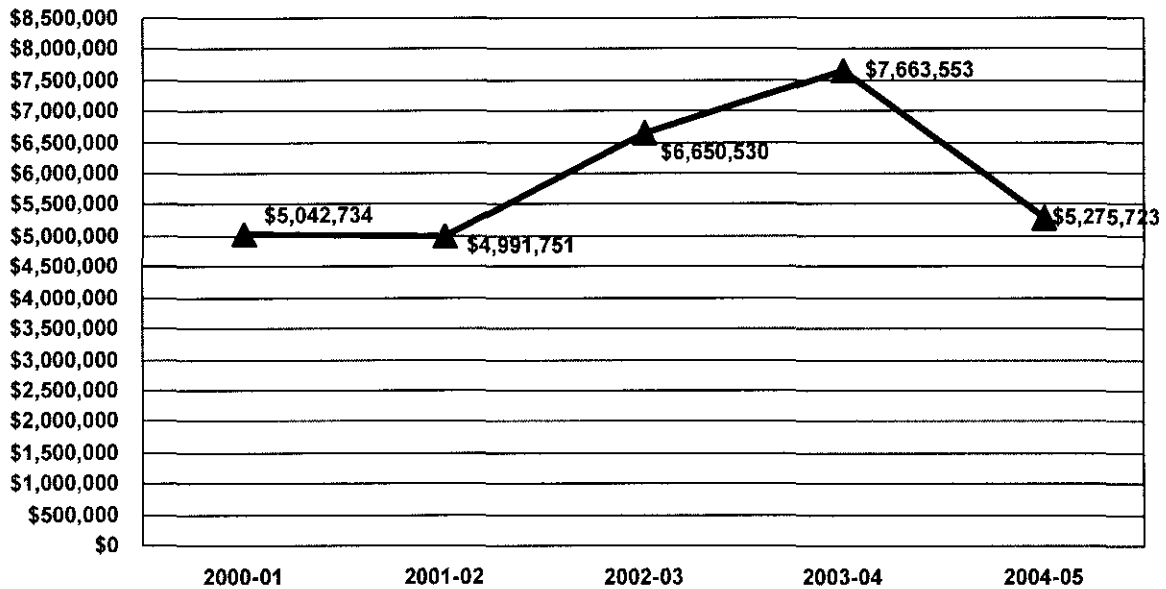
Also affecting the cost of indemnity payments for the City's sworn workforce are the number of sworn disability retirements, as sworn officers typically take their Labor Code Section 4850 salary supplement benefit, in full, in the year prior to their retirement. The table below demonstrates the City's increase in sworn disability retirements in the past four years. The new retirement packages offered during the past few years resulted in a deluge of retirements since FY 2002-03.

Disability Service Retirements

	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>
Fire/Police Disability Retirements	23	33	28	30

Disability retirements involve no greater cost to the City, nor a greater level of benefit, unless an officer has less than 17 years of service, as a disability retirement guarantees 50 percent of an officer's total salary, for the rest of his or her life. The major benefit of a disability retirement, however, is that it is *tax-free* to the officer. Few City of Oakland sworn employees with less than 17 years of service retire with a disability retirement.

2. Medical Expenses



During this past year, the City experienced a significant decline in medical expenditures. This is attributable to a number of variables including recent legislative changes in the management of workers' compensation claims, a reduction in the number of claims filed and more aggressive medical management and monitoring on the part of the City's TPA. As a result, Medical costs have declined by 21 percent since 2002-03 and by 31 percent since 2003-04. When considering the "present value" of money or the impact of inflation on medical costs over the last 5 years, the amount paid during FY 2004-05 reflects a five year low in medical expenditures.

Historically, Medical costs have been driven by the injured workers seemingly limitless access to medical services to "cure and relieve" an illness or injury; all of which was paid for by the employer. In addition, the system operated under medical treatment guidelines specifically geared toward "work-related" illness or injury. This invariably meant a lengthier period of disability than for the same non-work related illness or injury.

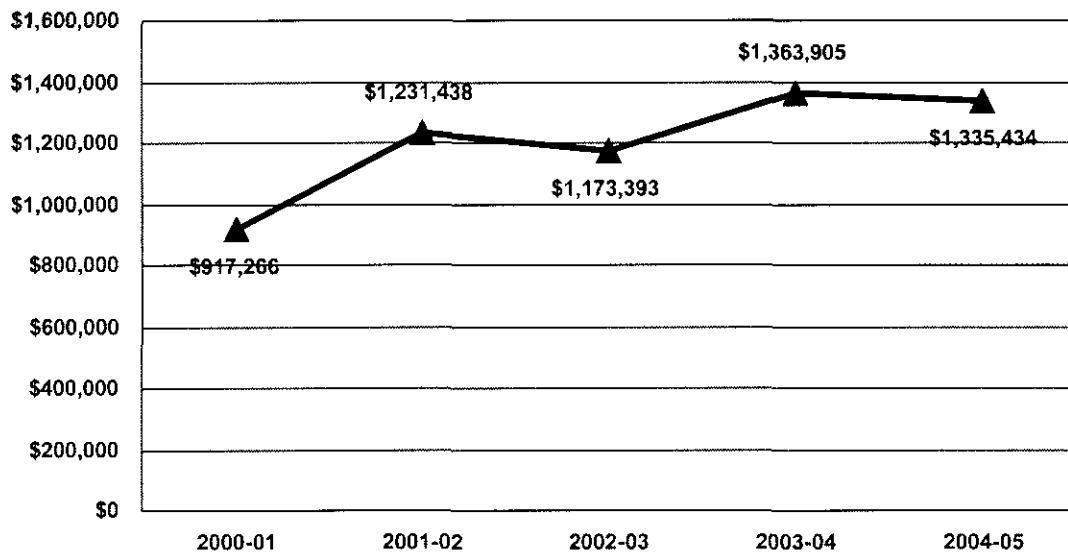
SB 899, which went into effect January 1, 2004, amended Workers' Compensation rules to assist employers in meeting the ongoing challenge of cost containment in the workers' compensation arena. Prior to this legislation, changes in workers' compensation legislation have been prospective only. The new treatment guidelines apply regardless of date of injury. All injured workers are subject to: limits on the number of physical therapy visits; limits on the

number of chiropractic treatments; and utilization review of all requests for treatment, diagnostic tests and surgery from medical service providers. Utilization Review is provided by independent, state licensed entities. Utilization Review must be consistent with the American College of Occupation and Environmental Medicine (ACOEM).

3. Allocated Expenses

Allocated expenses include expenses such as legal fees and investigation. The City of Oakland has established protocols to investigate and litigate suspicious claims and to utilize investigators to determine eligibility for compensation and uncover potential fraud. These costs reflect monies paid for defense attorneys, witness fees, depositions, arbitrators and interpreters.

Allocated Cost Comparison



IV. Conclusion and Future Outlook

The City continues to reap benefits from recent workers’ compensation law reform, SB 899. Some of the benefits include the requirement that all medical expenses must undergo scrutiny by a third party. This process, called “Utilization Review” (“UR”), did not begin until July 1, 2004. The immediate outcome of this process is reflected in the marked reduction in medical expenditures. Other changes include a revised permanent disability schedule which should decrease the City’s expenses, strict limits on physical therapy and a cessation of the vocational rehabilitation process.

However, the City continues to struggle with controlling the costs attributed to Labor Code 4850, which governs workers’ compensation benefits for sworn personnel. This Labor Code Section guarantees generous benefits to sworn employees and includes up to a year of tax-free salary for each injury. This benefit forms the largest cost center for the City of Oakland’s workers’ compensation program. Risk Management will continue to

work closely with Police and Fire Services Agencies to devise methods and strategies of containing workers' compensation losses.

In summary, workers' compensation continues to be a challenge, especially the cost impacts that are driven by external sources. Although the overall frequency of injuries in the City has declined and costs appear to be on a downward trend, further reductions can be expected as a result of SB899 and a City-wide commitment to implementing strategic risk management policies and procedures.