

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 JAN 13 PM 1:53

TO: Office of the City Manager
ATTN: Deborah A. Edgerly
FROM: Risk Management Division
DATE: January 25, 2005

RE: ANNUAL WORKERS' COMPENSATION REPORT FOR 2003-04

SUMMARY

This informational report provides current expenditures and program data on the City of Oakland's workers' compensation program for Fiscal Year 2003-04.

FISCAL IMPACTS

This is an informational report. It 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, which handles the technical aspects of each claim and with the City's agencies and departments in partnership to ensure that injured workers receive appropriate care as mandated under California's Labor Code. Workers' compensation is a "no-fault" system which protects employers from personal injury lawsuits initiated by injured employees in exchange for requiring employers to care for injured workers.

As widely reported in the media and reflected in the complicated array of workers' compensation reform legislation discussed, argued and voted upon in the California Legislature last year, workers' compensation in California has been in crisis. The primary flaws in California's system have been the spiraling costs of medical treatment and the inability of employers to challenge a treating physician's opinion of treatment, including the need for time off of work for recovery.

Employers and insurance companies had asked for changes for some time. Finally, last year, a comprehensive reform bill, SB 899, was enacted. The reforms, which focus on giving employers greater control over medical care, also gave employees increases in medical and salary benefit payments. Unfortunately, the major cost-saving measures of the program did not start going into effect until July 1, 2004, and therefore, the results of this law will not be seen until next year's report. Better news is that despite the rash of very generous benefit increases also granted by the legislature before the reform bill's enactment, the City of Oakland saw significant savings in some major expenditure areas in the past fiscal year, along with a substantial decrease in claims filed.

Item # _____
January 25, 2005
Finance & Management Committee

KEY ISSUES AND IMPACTS

Over the last few years, the City of Oakland's Risk Management Division carefully reviewed what could be done to effect change in the City's handling of workers' compensation. Based on findings of consultants and of the Moving Oakland Forward process, several factors were identified which could improve the City's program. These included: 1) a need for a citywide change of culture; 2) a standardization of how the City handles claims, as the Agencies were handling their claims in a variety of different ways; 3) a comprehensive citywide return-to-work program; 4) better staffing for workers' compensation administration within the major agencies and departments; and 5) a recognition that the effort of managing claims is shared among Risk Management, our third-party administrator and by the City's departments and agencies. As a result of these findings, the Risk Management Division introduced a number of new program elements and changed some of the fundamental ways workers' compensation was seen by both management and employees. The attached report reviews these changes in detail, along with claims and expenditures data from fiscal year 2003-2004.

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

- In fiscal year 2003-2004, Oakland enjoyed a 23% decrease in claims.
- The Oakland Fire Department achieved a 40% reduction in indemnity payments (salary replacement costs) over the previous year, a decrease of over \$1.3 million.
- Oakland recorded a decrease in temporary disability payments of 12% Citywide and an overall decrease in civilian salary supplement costs of 23% Citywide.
- The City's overall incurred costs (future liability estimates) dropped for the first time in recent history.
- The City's new return-to-work program decreased salary replacement costs by more than \$2.4 million in the last two years.

ENVIRONMENTAL OPPORTUNITIES

As an informational report, environmental opportunities do not exist.

DISABILITY AND SENIOR CITIZEN ACCESS

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

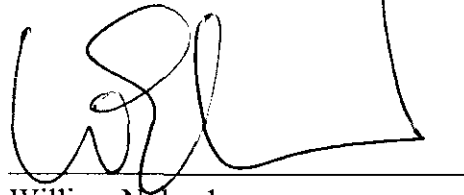
RECOMMENDATION(S) AND RATIONALE

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,

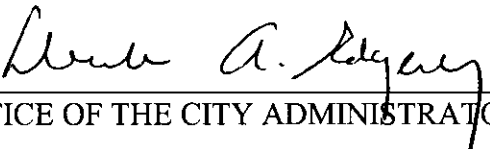


William Noland

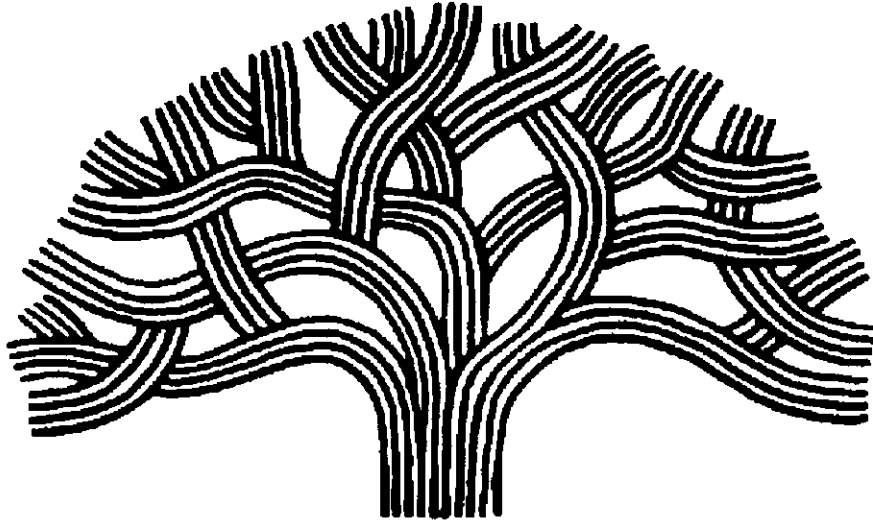
Director, Finance and Management Agency

Prepared by
Stephanie Garrabrant-Sierra,
Risk Manager

APPROVED AND FORWARDED TO THE
FINANCE & MANAGEMENT COMMITTEE


OFFICE OF THE CITY ADMINISTRATOR

CITY OF OAKLAND
RISK MANAGEMENT DIVISION



2003-04 WORKERS' COMPENSATION REPORT

January 25, 2005

PREPARED BY:

STEPHANIE GARRABRANT-SIERRA
Risk Manager

2003-04 WORKERS' COMPENSATION ANNUAL REPORT

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
I. Program Elements	2
II. Workers' Compensation Claims Data	6
III. Expenditures	9
IV. Future Outlook	14

Attachments

- A Article: "Chief's Disease" – Sacramento Bee, September 10, 2004
- B Controller's Report, December 9, 2003
- C. Article – "Risk Management Budget 20 Percent In The Red"
Montclarion, July 18, 2004

I. Program Elements

The City of Oakland, in partnership with its third-party administrator, JT2, recently instituted a number of significant changes to the City of Oakland's workers' compensation program. The highlights of the City's new program include the following:

1. **Institution of a Workers' Compensation Management Program.** The City is now operating under a uniform system with all departments and agencies following strict procedures for department claims handling. The Workers' Compensation Management Program was developed through an outside consultant, Lynch and Associates, in 2002 and encompassed many if not most of the reforms proposed by the Oakland Moving Forward process. The consultant interviewed key stakeholders throughout the City to determine the City's weaknesses in its implementation of its workers' compensation procedures, particularly in its return-to-work programs.

The changes brought about with the new system represented a dramatic change in the way agencies had previously managed claims. Before this program, the City had not had any type of unified program or procedures manual and "return-to-work" as a cohesive program had not been implemented City-wide or in any uniform fashion. In addition, the new program added an element to the program which allowed employees who had very minor injuries to report their injury and receive first aid treatment without having to go through the lengthy and expensive process of filing a workers' compensation claim.

The program also stresses a point made by the Oakland Moving Forward initiative which was to highlight the need for core staffing in each department devoted to safety and workers' compensation. This minimum staffing is essential to ensure that legally mandated tasks are performed and to act in partnership with Risk and with JT2 to manage departmental workers' compensation issues such as appropriate pay coding. The success of this program depends on a team effort among Risk, JT2 and department workers' compensation coordinators. Unfortunately, because of budget issues, most divisions have been unable to fully staff for their workers' compensation program needs and the process has suffered in some divisions because of lack of adequate staffing.

2. **Institution of a Citywide Comprehensive Return-To-Work Program.** Studies have shown that effective return-to-work programs are the single largest factor in controlling workers' compensation claims costs. Already, the City's program has more than doubled the number of transitional duty days for injured employees since its inception, resulting in savings of \$1,118,124.80 for the last fiscal year.

Agencies must actively participate in finding transitional duty jobs for eligible employees and in monitoring these employees and their medical status. Currently, there is no monetary incentive for agencies to place employees on transitional duty, as they do not shoulder their own workers' compensation costs when they decline to find a transitional duty assignment for an employee when that employee has been given permission by their physician to perform transitional work. For the employee, however, if the agency has an assignment for someone released to transitional duty, if that person refuses to participate, they may become ineligible to receive any salary supplements or any other indemnity payments from the City.

3. **Creation of an Active Partnership With A 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 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 all of the City's workers' compensation claims and medical treatments. The City reviews the performance of JT2 through an independent audit process which reviews random claims and tracks procedures in accordance with established performance measures set by the City to ensure that JT2 is managing claims as tightly as possible and is performing its work as specified under the contract. The annual contract audit is conducted by an independent workers' compensation auditing firm. An 85% or higher rating must be achieved in order to qualify for receipt of retained contract dollars.

According to the audit results, JT2 Integrated Resources exceeded industry standards since the inception of their contract and earned a 93% rating in the last contract year. Despite this good result, the City reviewed the draft audit and found errors. The audit is now being redone and the 93% is expected to go up. The City Manager signed the required documentation to enact the second of JT2's three terms in the spring of 2003. As such, JT2 will continue as the City's TPA through August 2005, minimally. Per the contract, the time to approve the next two-year segment of JT2's contract will occur in March, 2005.

JT2 brought a number of new initiatives to the City which have resulted in positive change. These include:

- ❑ Instituted screening procedure for same body-part claims which resulted in the identification and denial of 29 claims found to be exacerbations of old claims. This screening prevented new indemnity payouts which had the potential of reaching \$2.1 million in additional indemnity costs.
- ❑ Suggested bringing in a consultant, Lynch & Associates, to trouble-shoot City of Oakland procedures and develop a comprehensive management and return-to-work program. The City followed this advice which led to the institution of the City's formal Workers' Compensation Management Program, as discussed in the above section.
- ❑ 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 significantly.
- ❑ Establishment of 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
- ❑ Establishment of nurse case manager position to track difficult medical cases
- ❑ Establishment of 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.
- ❑ Added another claims examiner at no cost to the City in order to reduce caseloads for each examiner.

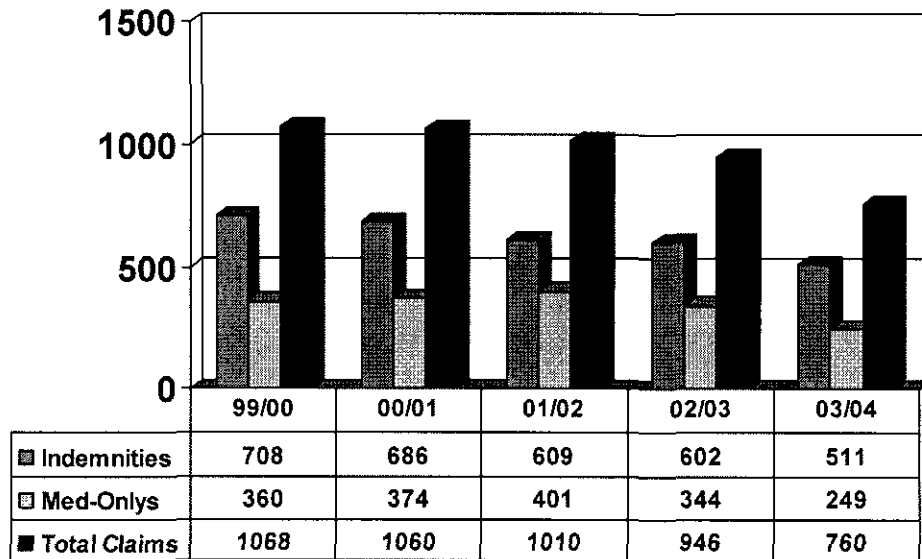
4. **Reorganized Claims Review Meetings With Departments.** Recognizing that the third-party administrator and the City have an increased ability to shape the overall progress and cost of a potentially large claim if it is addressed in the first 30 to 90 days, a revised claims meeting schedule was adopted. Monthly meetings with departments now address only newly filed claims with an eye towards any defenses that can be raised before acceptance and to review transitional duty assignments. Quarterly file reviews address longer term cases in detail and focus on strategies for resolution. Department heads, high level managers and department workers' compensation coordinators are encouraged to attend meetings to increase the flow of information and strategize solutions in a "team" environment.
5. **Negotiated Cuts To Civilian Salary Replacement Costs.** Through the last round of labor negotiations, salary replacement payments were cut, resulting in a savings of \$195,315 or 23% over the last fiscal year, despite salary increases. The City of Oakland has traditionally provided salary supplements to injured workers for long periods of time to supplement temporary disability payments so that an employee could receive an equivalent to full salary while injured.
6. **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 largely promoted through the City's Ergonomics Program (introduced in 1998), OSHA Compliance Programs and Defensive Driving Program (introduced in 2000). Since 1989, the City has sponsored an annual Safety Academy during which City staff participates in up to 24 different training sessions. The topics of these 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. The ongoing success of this training event has cause Risk Management to supplement its training offerings with an annual health fair.
7. **Focus On Employee Health.** Starting in 2002, Risk sponsored an employee health and wellness fair whereby employees are able to participate in a number of health-related medical screenings such as cholesterol testing, diabetes screening, blood pressure tests, and bone density tests, to name just a few. Flu and Hepatitis B shots are also made available (albeit no flu shots were available for this year). This event is very positively received by employees and departments.
8. **Salary Supplement Reconciliation Project.** In 2002, JT2, upon the request of Risk Management, began a comprehensive audit of departmental use of workers' compensation payroll coding. Through this audit, it was 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. Through this audit, employees of JT2 and the Risk Management were able to sit down with the departments to help them understand when to charge department funds and when stop salary supplement payments. Risk Management will continue to audit the use of salary supplements through the workers' compensation fund, but will do so through a staff member of JT2 who is stationed part-time

in the City's payroll department and who checks through departments' timesheet records to ensure appropriate payroll coding before the pay is charged. This effort is another which depends on department cooperation for success. Although departments are notified of errors, it is still up to the department to correct any errors found.

9. **Competition For Legal Representation Services.** By City Charter, the Office of the City Attorney assigns all Attorney Services for the purpose of legal defense for the City, including those activities generated from the workers' compensation process. Before 2003, more than 85% of all Attorney Services for Workers' Compensation had been assigned to a single law firm. In late 2002, the City Attorney's Office and Risk Management interviewed a variety of Oakland-based workers' compensation attorneys in order to develop a new panel of attorneys to whom cases could be assigned. Risk Management now assigns cases to a large variety of Oakland defense firms, thereby promoting increased competition between workers' compensation legal service providers.

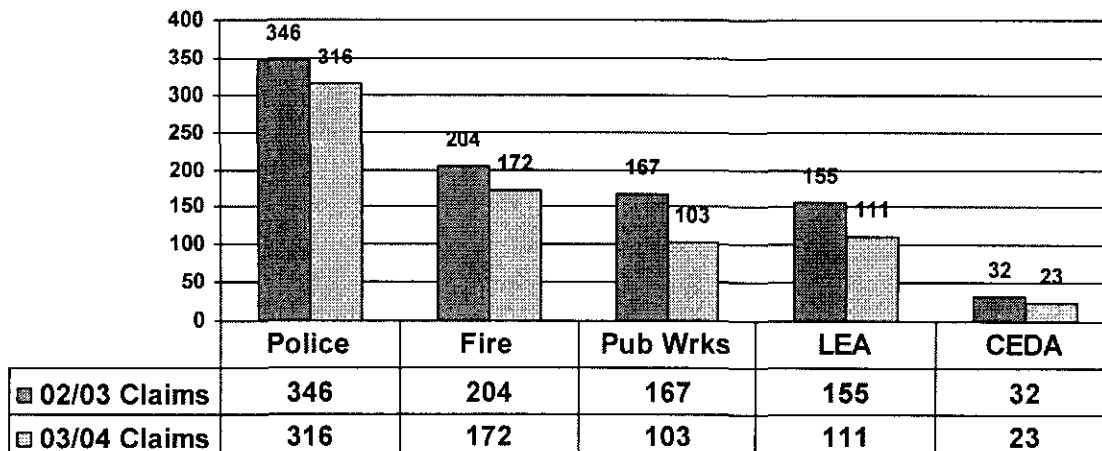
II. Workers' Compensation Data Summary

Total Claims Received - Five Year Results



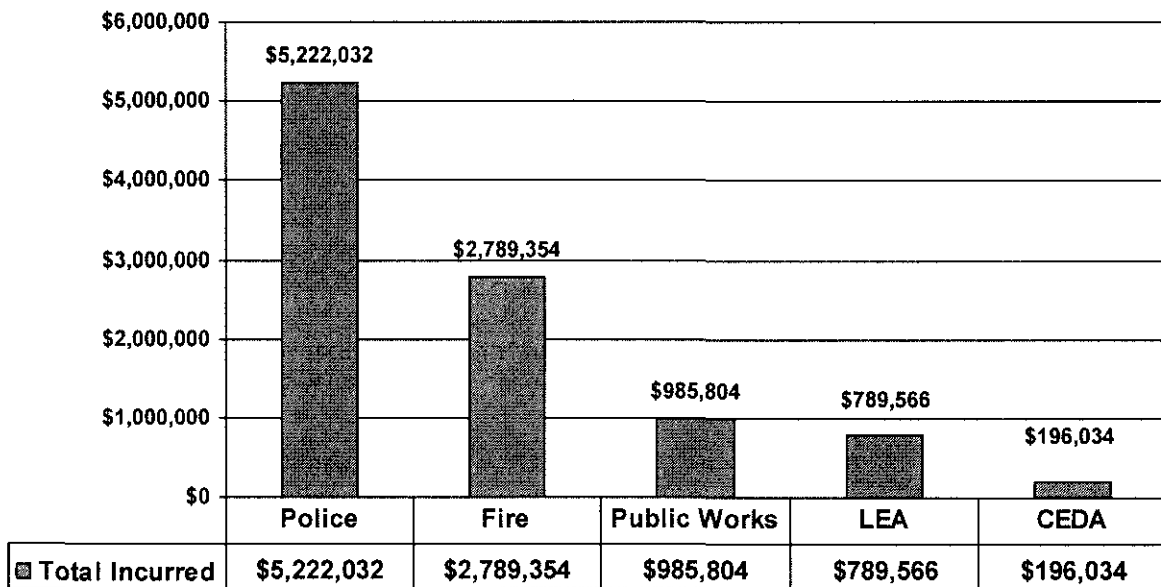
Reported injuries in the City of Oakland have shown a steady decrease since 1999 for both indemnity and medical-only cases, with the total number of claims received down by 23% in 2003-2004 from the previous year. Indemnity cases are those cases in which an employee lost some amount of work time of over one day. Med-only cases are those in which the employee lost no time off of work. The decrease has been demonstrated across department lines.

Greatest Frequency of Claims by Department

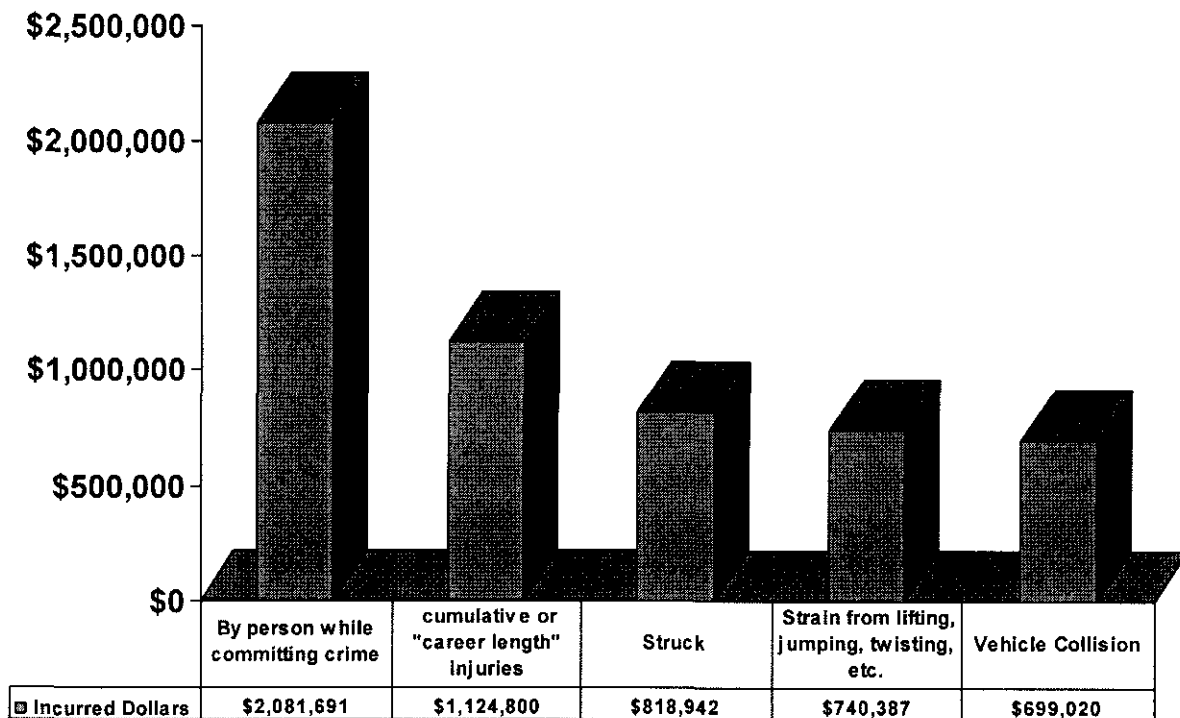


Incurred Costs For Claims Received in FY 2003-2004

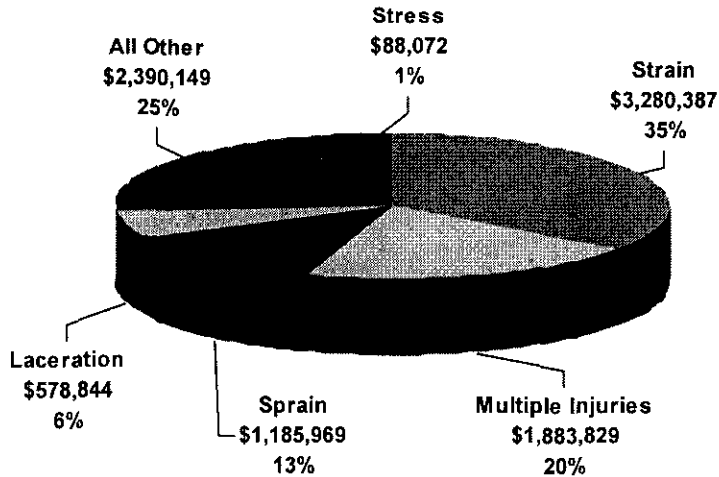
Incurred costs are the total estimated cost of a claim, as estimated in the first year.



**The Top Five Causes Of Injuries In The City Of Oakland By Incurred Cost
(As Defined By OSHA)**

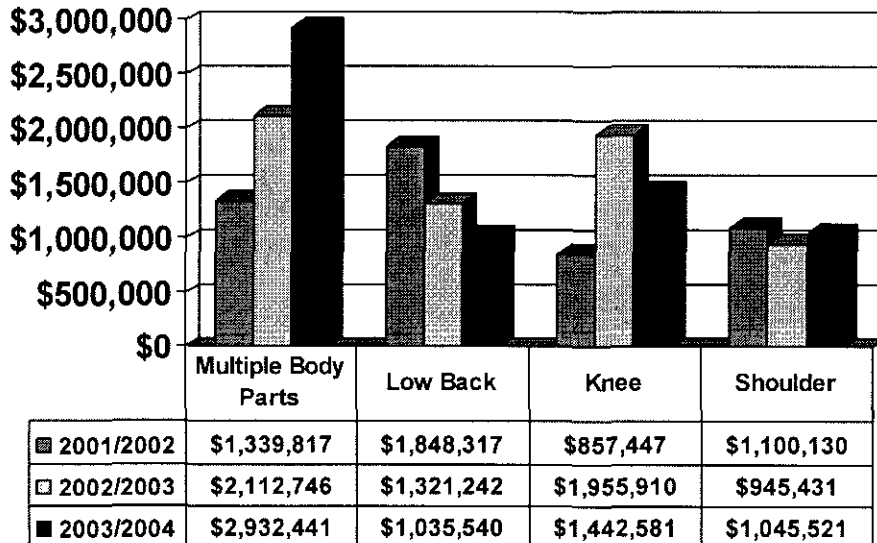


Amount of Claim by Nature of Injury .



This chart summarizes the type or nature of injuries occurring to our employees. This chart illustrates that stress claims represent an extremely small percentage of claims in the City of Oakland. The “all other” category encompasses injuries such as hearing loss, burns, heart disease, cancer, and allergic reactions.

Total Cost of Claims by Injuries to Body Part



This chart summarizes the most frequent injuries incurred by workers, by body-part, and categorizes the relative costs of different body-part injuries. Interesting to note is the decrease in lower back injuries sustained by City employees, an area Risk had targeted in the past few years by providing special training and equipment, such as lightweight duty belts, for police officers.

III. Expenditures

ATTACHMENT A

Index 1 Workers' Compensation Expenditures Report

	2000-01	2001-02	2002-03	2003-04	Percent Change 01-02 to 02-03	Percent Change 02-03 to 03-04
INDEMNITY						
Permanent Disability	\$ 2,964,132	\$ 3,090,636	\$ 3,014,729	\$ 3,656,534	-2%	21%
Temporary Disability	\$ 1,237,812	\$ 1,195,017	\$ 1,544,491	\$ 1,458,597	29%	-6%
Civilian - Salary Supplement	\$ 996,910	\$ 872,246	\$ 852,728	\$ 657,413	-2%	-23%
Total Non-4850 Pay	\$ 2,234,722	\$ 2,067,263	\$ 2,397,219	\$ 2,116,010	16%	-12%
Sworn - OPD - 4850 Pay	\$ 2,015,528	\$ 2,122,186	\$ 2,714,530	\$ 3,383,319	28%	25%
Sworn - OFD - 4850 Pay	\$ 2,431,281	\$ 3,091,196	\$ 3,382,992	\$ 2,014,153	9%	-40%
Total 4850-Full Pay	\$ 4,446,809	\$ 5,213,382	\$ 6,097,522	\$ 5,397,472	17%	-11%
Sub-Total II Temporary Dis.	\$ 6,681,532	\$ 7,280,645	\$ 8,494,741	\$ 7,513,482	17%	-12%
ALLOCATED						
Rehabilitation	\$ 319,638	\$ 474,157	\$ 510,843	\$ 526,867	8%	3%
Investigative Claims Expense	\$ 170,508	\$ 223,851	\$ 335,692	\$ 375,833	50%	12%
Legal	\$ 413,728	\$ 435,427	\$ 284,999	\$ 395,036	-35%	39%
10% Penalties	\$ 13,392	\$ 98,003	\$ 41,859	\$ 66,169	-57%	58%
Sub - Total Allocated	\$ 917,266	\$ 1,231,438	\$ 1,173,393	\$ 1,363,905	-5%	16%
MEDICAL						
City Physician (Concetra)	\$ -	\$ 276,621	\$ 375,393	\$ 326,179	36%	-13%
Medical Group at City Center	\$ 670,190	\$ 186,774	\$ 67,925	\$ 17,084	-64%	-75%
Kaiser	\$ 88,407	\$ 101,692	\$ 142,146	\$ 233,936	40%	65%
All Others	\$ 4,284,137	\$ 4,426,664	\$ 6,065,066	\$ 7,086,354	37%	17%
Sub - Total Medical	\$ 5,042,734	\$ 4,991,751	\$ 6,650,530	\$ 7,663,553	33%	15%
SUB-TOTAL OPERATIONS EXPENDITURES						
	\$ 15,605,663	\$ 16,594,470	\$ 19,333,393	\$ 20,197,474	17%	4%
THIRD PARTY RECOVERY - REFUNDED TO CITY	\$ (188,452)	\$ (275,833)	\$ (331,090)	\$ (236,541)	20%	-29%
TOTAL OPERATIONS EXPENDITURES	\$ 15,417,212	\$ 16,318,637	\$ 19,002,303	\$ 19,960,933	16%	5%
ADMINISTRATIVE EXPENDITURES						
Claims Administrator Contract	\$ 1,010,000	\$ 1,542,098	\$ 1,570,027	\$ 1,659,855	2%	6%
Bill Review Expense	\$ 606,587	\$ 663,186	\$ 628,162	\$ 708,721	-5%	13%
TOTAL ADMINISTRATIVE EXPENDITURES	\$ 1,616,587	\$ 2,205,284	\$ 2,198,189	\$ 2,368,576	0%	8%
TOTAL WORKERS' COMPENSATION EXPENSE						
	\$ 17,033,799	\$ 18,523,921	\$ 21,200,492	\$ 22,329,509	14%	5%

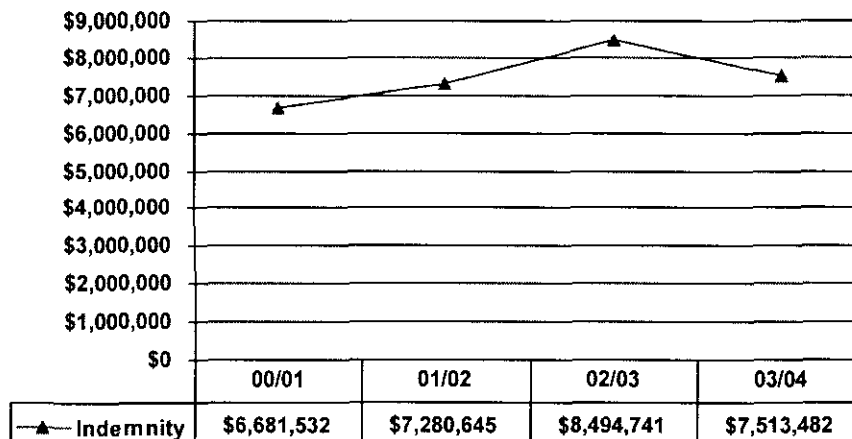
Summary of Expenditures Comparison 02/03 – 03/04

Category	\$\$ Paid 02/03	\$\$ Paid 03/04	\$\$ Variance	% Change
Indemnity	\$8,494,741	\$7,513,482	-\$981,259	- 12%
Medical	\$6,650,530	\$7,663,553	+\$1,013,023	+15%
Allocated	\$1,173,393	\$1,363,905	+\$190,521	+16%
Admin Expenses	\$2,198,189	\$2,368,576	+\$170,387	+8%
Total	\$21,200,492	\$22,329,509	+\$1,129,017	+5%

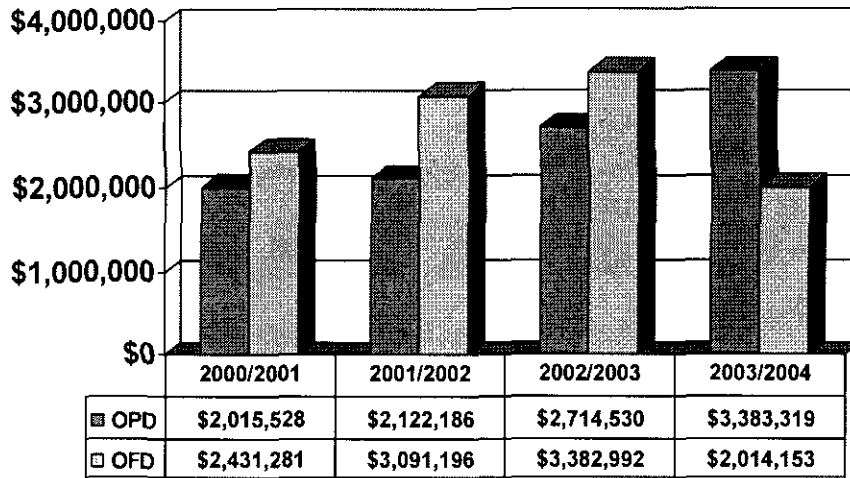
Indemnity Expenses. The most encouraging measure of the City’s performance this past year is reflected in the reduction of indemnity expenses. Indemnity expenses include all temporary disability, permanent disability and salary supplement expenses. These include Labor Code 4850 payments, which is the 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 rises in civilian salary.

The most notable decrease in indemnity expenses was seen in the Fire Services Agency, which experience a 40% decline, despite salary increases. The Police Services Agency however, has experienced steady increases. Civilian rates have also declined, despite salary increases. Particularly as adjusted for inflation of salaries and state mandated benefits, these decreases demonstrate that the City of Oakland is moving strongly in the right direction.

Four Year Indemnity Payment History



Four Year 4850 Benefit Payment History



One factor which could explain the City’s remarkable drop in indemnity payments is the success of the City’s new 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 impressive savings.

	2001-02	2002-03	2003-04
Transitional Duty	3767	7222	7620
Total Lost Days	14,998	12,804	11,200
Indemnity Savings	unknown	\$1,303,746.90	\$1,118,124.80

The only troubling statistic is the drop experienced last year in the number of sworn employees using transitional duty after a surge in usage of the program in 2002-2003. While the Fire Services Agency’s drop can be explained by its substantial drop in overall claims and a 40% decrease in employees who took time off work at all, the Police Service Agency continued to increase its expenses and decrease the number of employees using the return-to-work program.

Risk Management continues to be concerned that staffing for workers’ compensation in the Police Services Agency is insufficient to handle their large caseload, resulting in increased costs to the City due to lack of department level oversight. Beginning in September, 2004, the Finance and Management Agency lent staff on a limited basis to the Police Services Agency to assist in claims handling. During the Oakland Moving Forward process, it was strongly suggested that additional staff be added to the workers’ compensation program for this Agency. The continued increase of indemnity expenses in the Police Service Agency demonstrate the importance of increasing this staffing as well as the importance of keeping our Police Service Agency employees safe and healthy.

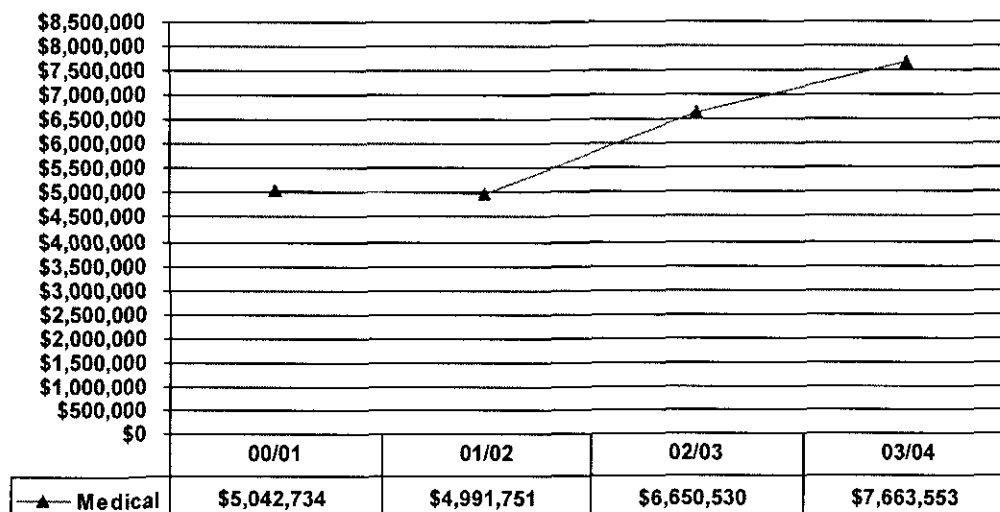
Fiscal Year	# of Transitional Days by Police Employees	# of Transitional Duty Days by Fire Employees
2002-2003	3613	1151
2003-2004	3101	209

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 impact of this practice on public agencies is discussed in the article "Chief's Disease", published by the Sacramento Bee on September 10, 2004. A reprint of this article is attached to this report as Exhibit 1. The table below demonstrates the City's increase in sworn disability retirements in the past two years. The new retirement packages offered during the last two years resulted in a deluge of retirements in 2002-2003.

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

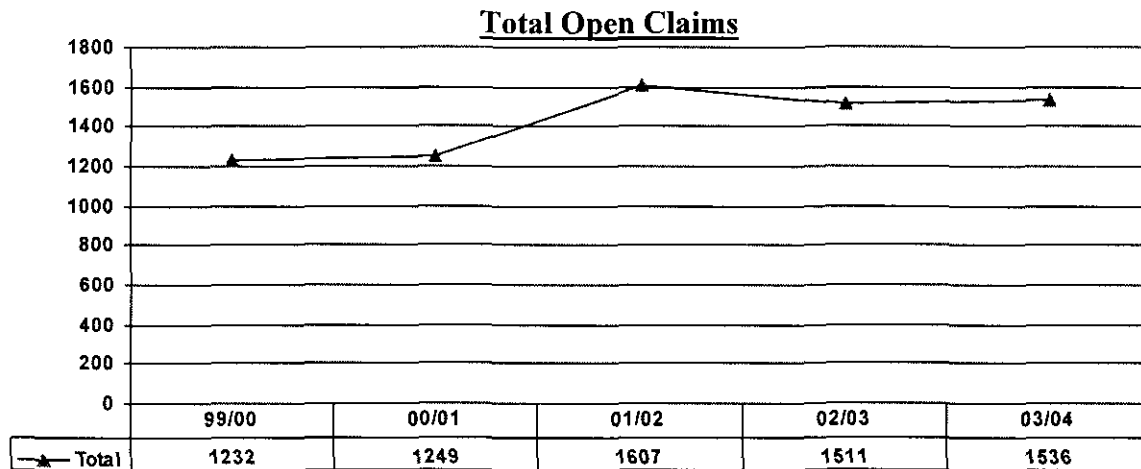
Disability retirements involve no greater cost to the City, nor a greater level of benefit, unless an officer has less than 17 years of service, as a disability retirement guarantees 50% of an officer's total salary, for the rest of his or her life. The major benefit of a disability retirement, however,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

Medical Expenses



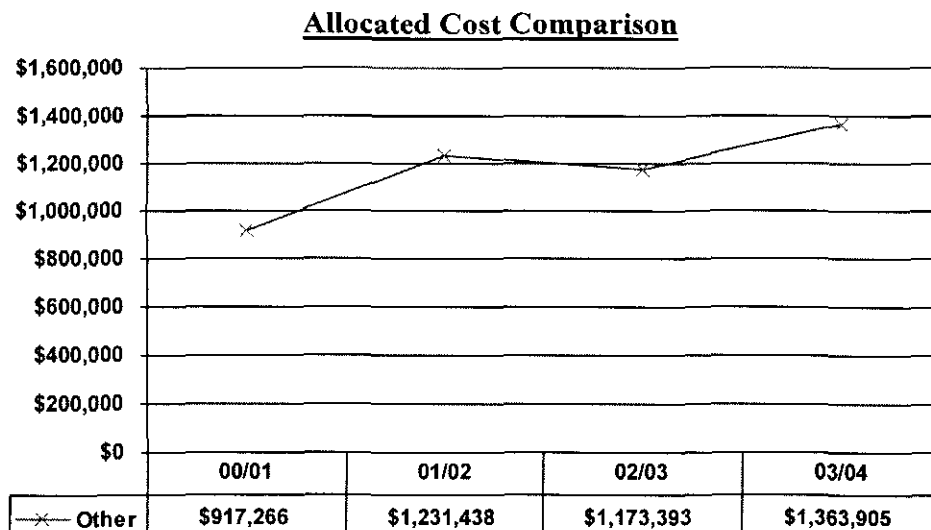
The increase in medical expenses represent the largest increase of all cost centers in the City's program. It is also the area for which the City has the least control. To compound problems, in 2002, the State of California adopted an increased authorized rate schedule for medical expenses related to Workers' Compensation. The new authorized rate schedule resulted in an increase of approximately 39% in medical expenditures across the board in 2002-2003. The majority of this increase is directly related to inpatient/out patient hospital services. The increase in these areas demonstrates the portion of the medical costs that are largely un-regulated by the State of California, whereby rate reductions are not easily negotiated as part of the City's "Bill Review" process.

In 2003-2004, overall medical expenditures for the City of Oakland increased 15%. Adjusted for inflation, this number actually shows some stabilization as California medical costs rose approximately 16% in 2003, according to the California Chamber of Commerce. Furthermore, these costs are not simply spread over new or current claims. These costs reflect all medical care received by all injured workers with open medical portions of their claims, including those workers who no longer work for the City or who have retired but still receive medical care as needed as part of their claim settlements. Open claims include cases involving ongoing medical treatment only and includes cases in which older retired injured workers do no more than fill prescriptions occasionally.



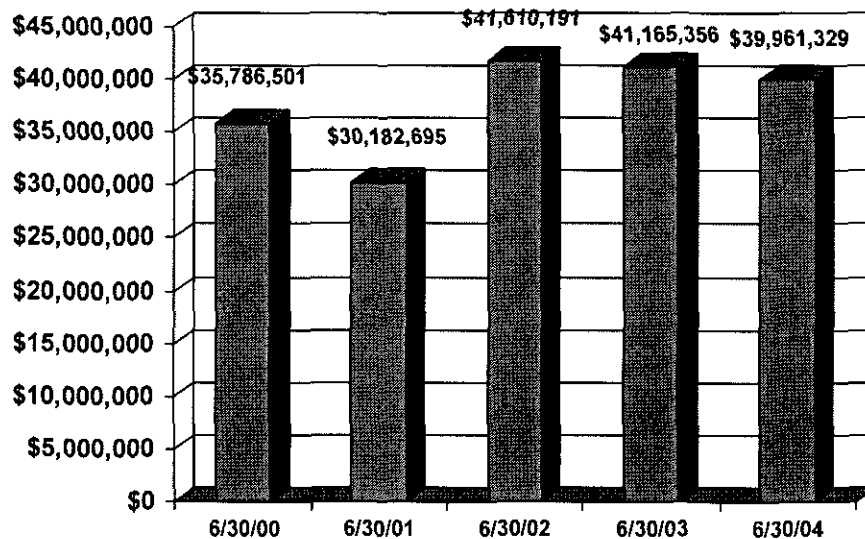
Allocated Expenses

Allocated expenses include expenses such as legal fees and investigation. The increases in this area were part of a planned strategy to increase the aggressive stance JT2 and Risk Management have taken toward managing the City’s claims. The City of Oakland is increasingly willing to investigate and litigate suspicious claims and investigators are used at all stages of a claim to determine its eligibility for compensation and to uncover potential fraud. These costs reflect monies paid for defense attorneys, witness fees, depositions, arbitrators and interpreters.



Estimated Future Liability

Perhaps the most important measure of success of the City's Workers' compensation program is the downward trend of incurred costs reported for the City's claims. This report shows that the estimated total eventual costs for the City's 03-04 claims have actually decreased over time. Each year, the City performs an actuarial study of its workers' compensation program to determine total liability. In the summary of the most current report by Milliman and Robertson, it was reported that as a result of the City's recent successes in cutting costs, overall actuarial projections have been readjusted to reflect the downward trend. Next year, as a result of the new workers' compensation reform legislation and further commitment to risk management practices by the City of Oakland, it is expected that future liability will continue to decrease.



IV. Conclusion and Future Outlook

The newest workers' compensation law reform bill, SB 899, resulted in significant progress for California employers. The good news is that with the reform package, all medical expenses must undergo scrutiny by a third party. This process, called "Utilization Review" ("UR"), did not begin until July 1, 2004, therefore, the results of these savings will not be reported until the next annual report. 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. The City is also reviewing the possibilities of utilizing another aspect of SB 899 which could allow the City to implement a "Physician's Network", thereby allowing the City to control an employee's medical treatment throughout the life of a claim.

The bad news is that the City still struggles with controlling the costs attributable to Labor Code 4850. This Labor Code Section guarantees generous benefits to sworn employees and include up to a year of tax-free salary for each injury. Conspicuously absent from the legislative debate this year was any discussion of reform to this benefit which forms the largest cost center for the City of Oakland's workers' compensation program. While it is laudable that State legislators

wish to ensure that our public safety workers are given the best possible care and benefits when injured, reforms are necessary, as shown in the attached Sacramento Bee article.

Also attached to this report is an article written by the State Controller, Steve Westly, in December, 2003. This article outlines a blind survey performed by the State Controller's office outlining how public entities are affected by workers' compensation costs and documenting public entity workers' compensation increases in a three year period between 2000 and 2003. The City of Oakland participated in this survey and was found to have one of the lowest levels of increase during the period at 24%. The study showed that, overall, California city government workers' compensation costs rose 19% - 55% during this period, while costs for county governments in California rose 39% - 45%. In comparison, the City of Oakland logged its lowest level of increase last year at only 5%, a significant improvement. The last attachment to this report is an article printed in The Montclarion on July 18, 2004. It discusses the very large cost increases in workers compensation experienced by Alameda County in the past two years.

In summary, workers' compensation continues to be a difficult-to-manage system, with many of the cost drivers being impacted 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 the new legislation and from a City-wide commitment to risk management policies and procedures.

'Chief's Disease' rife at CHP

By John Hill and Dorothy Korber -- Bee Staff Writers --

(Published by Sacramento Bee, September 10, 2004)

After 33 years on the job, Deputy Commissioner Ed Gomez was ready to end his career with the California Highway Patrol. He was so disabled by workplace stress and physical ailments, his doctor said, that he could no longer work as a CHP commander.

The doctor's report said Gomez must "avoid more than ordinary stress in further occupational endeavors." In 2000, the 57-year-old was awarded a \$39,000 settlement, medical care for life for his injuries, and a state industrial disability pension of \$106,968 a year - half tax-free.

Barely two years later, Gomez was hired by the federal government to be security director at San Francisco International Airport, a position described as "on the front lines of the war on terrorism." It's a job he holds today.

Gomez is a prime example of a widespread practice documented by a Bee investigation: top-tier CHP officers aggressively pursuing injury claims, often near the end of 30-year careers, that hike their retirement income. Like Gomez, some go on to demanding second careers while collecting their state disability pensions.

Inside the CHP it's known as "Chief's Disease."

Of 65 high-ranking CHP officers who have retired since 2000, 55 pursued workers' compensation settlements within two years of retiring. These injury claims formed the basis for disability settlements and medical pensions.

Rank-and-file officers complain that this behavior among many of the 150 or so chiefs and captains at the top sets a bad example for the 7,000 officers they supervise, in a department that pays the highest rate in state government for injuries and medical pensions.

The practice is so well known at the CHP that many officers can name the handful of chiefs who retire without medical pensions or workers' compensation claims. They stand out because they are unusual.

Far more common are cases of Chief's Disease, such as the captain hurt in an accident in her private car who successfully claimed the collision occurred on the job.

Or the deputy chief who suffered episodes of racing heart described by a doctor as a danger to the public, and skin cancer attributed to years of patrolling the highways, who found a new career as a scuba instructor in sun-soaked Hawaii.

Or the captain found to be 61 percent disabled from knee injuries, ulcers, high blood pressure and hearing loss who took a medical pension from the CHP only to sign on as assistant sheriff of Yolo County.

In most cases, the disability benefits augmented the ample pensions routinely paid to CHP officers, who can retire at age 50 with up to 90 percent of their pay.

Hard to stop claims

State Sen. Jackie Speier, a Bay Area Democrat who chairs the Select Committee on Government Oversight, said she was shocked by The Bee's findings.

"This data is just staggering," Speier said. "My expectation of law enforcement officers is that they are above reproach. The data suggests that is not the case. It turns out we need to be policing the police."

Even the CHP's top boss said it had gone too far - just weeks before he decided to go the same route.

"Some of these people have pushed the envelope on this and it's just grown and grown and grown," CHP Commissioner D.O. "Spike" Helmick said during a June interview in his capital office. "The system is so lucrative, I'm afraid people are going to take advantage even if they're 100 percent ethical."

In July, Helmick filed the papers to seek his own medical pension. The commissioner, who retires next week, has made five injury claims in the past three years, including one based on a fall from his office chair in 2000.

Absent outright fraud, it can be hard to rein in the aggressive use of the disability system, according to administrators and lawyers who work within it.

For one thing, they suggest, a worker unable to handle the stress in one job might still thrive in another career - even an apparently stressful one.

"It's how you perceive it," said Herman Zayon, a Northridge lawyer who has represented CHP officers in workers' compensation claims. "That's why it's difficult to talk about this on a generalized basis."

Gomez, for instance, draws a clear distinction between the CHP job he held for 33 years and his new endeavor.

"This is strictly administrative," he said of the airport job. "I am not a law enforcement officer. ... My job is to deal with politicians, the airport director, Washington and the police."

Still, despite the opinion of two doctors that he should avoid stress, Gomez conceded his new role guarding against terrorist attacks has plenty of it. In a profile published in the San Francisco Chronicle two years ago, he said his new job kept him awake nights, even after 16-hour days.

"Every time a plane takes off here, I'm scared to death," he told The Bee.

Gomez was thoroughly checked out before he was offered the position, according to Nico Melendez of the Transportation Security Administration, the federal agency that hired him. Melendez declined to comment on Gomez's medical condition.

"To secure a job such as this, you have to meet the highest standards," he said. "We want to know their complete work history. Medical records are something else. Are you asking if we discriminate against someone with a disability? We do not."

San Francisco International Airport is in Sen. Speier's district. Asked about the Gomez case, she said: "If someone has a miraculous recovery, then they're not eligible for a lifetime tax break. It's an insult to the taxpayers of the state that they continue to draw a disability pension if they're not disabled."

CHP tops disability list

The CHP has the highest rate of disability retirements in the state - nearly 70 percent of its retirees. And among large departments, it pays out the highest portion of payroll for workplace injury claims. Together, these benefits cost taxpayers about \$75 million in the 2002-03 fiscal year.

A high rate of injuries is understandable in a department with the primary role of patrolling the state's highways and protecting the public. Officers can be hurt in car crashes or confrontations with criminals.

"I would rather not have a titanium hip and be able to say I don't need an industrial disability retirement," said Garand Gruber, a deputy chief who retired in 2002 after being told he needed a hip operation to deal with the effects of motorcycle accidents.

But The Bee found that many workplace injuries to top CHP officers did not stem from violence or traffic accidents.

Instead, workers' compensation records show, the chiefs claimed they suffered from the cumulative wear and tear of the job - even though in recent years they spent more time behind a desk than behind a wheel.

Several pursued disability claims only when faced with disciplinary actions or other career setbacks.

After winning workers' comp settlements and medical pensions, many top CHP officers went on to other jobs, some of which seem at odds with the disabilities for which they filed claims with the state.

Claims rolled into one

The Bee's analysis found that more than 80 percent of the top officers who retired in the past four years claimed they had suffered a debilitating injury just as they were poised to retire.

CHP officers classified as injured typically get settlements of tens of thousands of dollars to compensate them for their loss of competitiveness in the job market. These settlements regularly include lifetime medical treatment for injuries - no co-payments or deductibles - and a full array of care.

"You can't buy that anywhere else," said Barry Pearlman, president of the California Workers' Compensation Defense Attorneys' Association, whose members represent employers in injury claims.

But that's not all. Injured officers can get up to a year of full pay, tax-free, while temporarily disabled. Their workers' compensation cases also often form the basis of a medical pension that allows them to shelter half of their regular pension from income taxes. So, for veteran officers, a medical pension can mean more money in their pockets than when they were working.

If their injuries had forced them to leave the CHP before the retirement age of 50, they would have been left with only half their salary.

In many cases, the injuries claimed in these cases originated years earlier - hearing was damaged, for instance, when officers fired guns at target practice without adequate ear protection.

Another common claim is "cumulative trauma" - a host of maladies that build up gradually.

Workers' compensation lawyers advise clients approaching retirement to roll a lifetime of complaints into one disability settlement, "so you can ride off into the sunset," said Frank Floyd, state contracts program manager for the State Compensation Insurance Fund, which acts as the state's claims adjuster.

The CHP officers involved often suffered from maladies common among people of retirement age: bad backs and knees, heart trouble, loss of hearing. "What the Legislature and the courts have said is that the aging process is compensable," Floyd said.

System favors workers

Absent outright fraud - lying to get a benefit - it can be very difficult to block such claims, Floyd said, especially in a system that by law must take a liberal approach to granting workers' comp benefits. The state's "no fault" workers' comp system was designed to give the benefit of the doubt to injured workers, in return for workers giving up the ability to pursue civil lawsuits.

CHP chiefs do know the system well, having administered it. But they also are as subject to injuries from stress as the officers who patrol the roads, said Zayon, the workers' comp lawyer.

While it may look suspicious for officers to claim injuries just as they approach retirement, he said, there's a reasonable explanation: Officers minimize their injuries when they're young.

"They don't complain, they do what they have to do, because they don't want to leave their jobs," Zayon said. "Maybe that catches up to them when they're older. They're claiming when they retire what they should have got at a younger age."

In its examination of cases, The Bee analyzed hundreds of pages of medical records submitted to the Workers' Compensation Appeals Board, which must

review all settlements and rule on disputed cases. Many of the cases examined by The Bee, filed in state offices from Redding to San Diego, consist of voluminous reports from multiple doctors, often with conflicting opinions about each worker's injuries.

Sometimes, workers were found permanently disabled because they could no longer perform 14 critical tasks demonstrating physical fitness. Even CHP chiefs, whose jobs are mostly administrative, must pass that test.

Every CHP officer, for instance, must be capable of extracting a 200-pound victim from a car and dragging that victim 50 feet.

High-level officers defend those requirements. Even though they don't spend much time on the highways, they say, they still carry guns, wear uniforms and are expected to act when needed.

"What do you tell the lady who's getting mugged?" asked Gruber, the retired deputy chief with the hip replacement. "You're not dispatched to those sorts of things, but just being in the vicinity, you don't roll by them and let a younger guy do it."

State law also prohibits the CHP from assigning officers unable to perform the 14 tasks to "light duty" assignments.

As a result, many CHP officers considered disabled under the state's definition are indeed capable of taking jobs elsewhere. But, in some cases, the new duties conflict with what doctors and the officers said in their injury claims.

Doctors disagree

Ed Gomez, chief of the CHP's Southern Division, left work in April 2000 after his doctor found he was suffering from job stress. He pursued a workers' compensation settlement and an industrial disability retirement, which he received in August of that year.

(The California Public Employees' Retirement System will not release information on such claims, citing medical confidentiality. That makes it impossible to determine whether injuries cited in workers' comp claims were also the basis for the medical pension - although state retirement system officials acknowledged that is often the case.)

Workers' comp records show that doctors disagreed about the nature and severity of Gomez's injuries.

Gomez produced a doctor's report saying he should avoid workplace situations that could trigger nervousness, irritability or tension, such as the need to meet deadlines or focus on detail under distracting conditions.

The Encino physician consulted by Gomez reported that the patient, in his 33 years at the CHP, had found himself in many stressful situations. He responded to the news media and the officers union, doled out discipline and dealt with

shootings and injuries of his officers - visiting hospitalized workers about once a week.

He was in charge of all of Los Angeles County, a gigantic swath of rugged territory for the highway patrol, stretching from Sylmar to Santa Monica. During the 1994 Northridge earthquake, the report said, Gomez was up for three days straight.

But another physician, hired by the State Compensation Insurance Fund to determine if Gomez's injuries arose from his work, raised questions about whether he suffered from high blood pressure and found he did not have the gastrointestinal illness he claimed.

"Mr. Gomez is a 57-year-old who apparently has decided to retire and now every possible medical condition is being claimed as work-related," wrote Dr. Richard Hyman, a Los Angeles specialist in internal medicine and cardiovascular disease. Hyman declined to comment on the case, saying he was constrained by medical confidentiality.

A third doctor, also hired by the insurance fund, sided with the first, finding that Gomez suffered from a permanent disability "precluding exposure to undue emotional stress."

Together, his various injuries were found to have caused a 45 percent disability, permanently limiting the kind of work he could do and reducing his ability to compete in the labor market.

By that time, Gomez already had been working for a year and a half as a vice president of a private security company.

A month later, he was appointed by the Transportation Security Administration to fill the new position of federal security director at the San Francisco airport. The position was created by Congress after the Sept. 11, 2001, terrorist attacks to "be the security field marshals at airports across the country."

Gomez said in an interview that his hearing loss and knee problems made it impossible for him to continue at the CHP. He said he pursued the workers' compensation claim after he retired to establish that his ailments were work-related, a guarantee that his medical bills would be covered in later years.

He said he took a pay cut - and gave up perks like an expense account and bonuses - because he wanted to help make air travel more secure, despite the stress.

"If it wasn't for the war on terrorism, I wouldn't be here," he said.

Battles with the bosses

Stress was one reason Deputy Chief Kevin Mince sought a workers' comp settlement - stress resulting from what he described as a long-term conflict with his supervisor. Documents show Mince claimed to have run afoul of CHP top management when he declined a transfer out of Sacramento.

According to a medical report filed in the Oakland Workers' Compensation Appeals Board office, Mince said he decided "if they're going to force me to retire, I was going to explore disability retirement."

One doctor found that Mince had had four episodes of a racing heart, leaving him lightheaded. If that were to happen while he was making an arrest or pursuing a suspect, the doctor wrote, Mince "would be at risk not only as far as he is concerned but the general public as well."

Mince, who had told one physician that he never took a day of sick leave, was found to be 23 percent disabled as the result of headaches, shingles, chest pains and injuries to his psyche. He received a payment of \$13,680 and a guarantee of future medical treatment. In a separate settlement, he was guaranteed future care for skin cancer after the doctor said his job exposed him "to an excessive amount of sun."

In June 2003, Mince retired with a medical pension. He has since found a job teaching scuba diving at Fathom Five/Ocean Quest in Kauai, Hawaii.

"Being a cop has given Kevin an incredible amount of patience and understanding," according to the dive shop's Web site. "Also, if you ever got a ticket from the CHP, this might be the time for revenge."

Mince did not return several phone calls to his home in Hawaii.

New job, same field

Unlike Mince, Larry Hollingsworth, 62, didn't have to begin a whole different career after he retired as a CHP captain. He found work with another law enforcement agency, as an assistant sheriff in Yolo County.

Hollingsworth's 33-year stint with the CHP started winding to a close in 2000. He made a workers' comp claim, saying that the cumulative trauma of the job had caused injuries to his knees, back, hearing and heart, and had led to ulcers and skin cancer.

Again, doctors disagreed about the nature and cause of the injuries. One found no evidence of a work trigger for his back injuries, beyond a motorcycle accident for which he had already received a settlement.

"His job duties over the past several years have been essentially sedentary, other than getting in and out of a patrol car," that physician wrote.

But that September, Hollingsworth twisted his knee chasing a car theft suspect after he answered a call for aid from a patrol officer. At the time, he was meeting with the sheriff of Merced County to talk about setting up a methamphetamine task force.

"I'm in a Hawaiian shirt and Dockers, but I went after him," Hollingsworth said in an interview. "I caught him, but I blew out my knee."

In March 2002, he received an industrial disability pension, shielding half of his annual pension of \$87,276 from taxes.

It took a while for his workers' comp claim to be settled, but in 2003, he was found 61 percent disabled and awarded \$60,222 for knee injuries, ulcers, high blood pressure and hearing loss. The settlement covered future medical treatment for the injuries.

Hollingsworth deserved that amount, the workers' compensation board found, in part because his disabilities would prevent him in future occupations from being able to sit, stand or walk for prolonged periods.

By the time the board ruled, Hollingsworth had accepted an offer from Yolo County Sheriff Ed Prieto, a fellow CHP retiree, to work as his assistant sheriff.

State law limited Hollingsworth to working half time for another government agency. So he worked six months for Yolo County in 2002 and again in 2003.

This year, he sidestepped that limitation by forming a private company and contracting his services to Yolo for \$85,000 annually. After he was contacted by The Bee for this report, Hollingsworth sent a letter to CalPERS asking for a determination about the propriety of the arrangement. In early August, CalPERS replied that it did not comply with state retirement law. Hollingsworth has until Sunday to appeal that decision, and said in an interview that he had gone back to working half time until the issue was resolved.

Like Gomez, Hollingsworth draws a clear line between what he did at the CHP and his current job, which he also calls "strictly administrative." He's responsible for the county jail, internal affairs, personnel and training.

"I love this work," he said of his CHP career. "I didn't want to go. But the physical side of it - that's for the young pups."

Injury work-related?

Denise Daeley, 42, was a younger worker who could no longer handle the physical aspects of the job.

Her career with the CHP came to an abrupt end in April 2000 when she injured her back in a car accident north of Anaheim. Daeley, a captain at the time, was returning from a weekend running race in Las Vegas, the Baker to Vegas Challenge Cup Relay, limited to law enforcement officers.

Daeley was a passenger in her private car, driven by another CHP officer who attended the race, Sgt. Kerri Hawkins. Also in the car were Hawkins' mother and a 12-year-old girl, according to the accident report.

A truck jackknifed in the rain and veered into oncoming traffic, striking another vehicle, which in turn spun into Daeley's car. Daeley and the two other adult passengers reported various injuries, but all three refused medical treatment at the scene, saying they would get it on their own.

Daeley did not receive advance permission from the CHP to attend the event, as required. After she filed her claim, Commissioner Helmick raised questions and an inquiry began.

That internal inquiry found that the CHP, while allowing officers to try out for the team on state time, made it clear that the officers would have to pay their own way to attend the run. "All preliminary indications were that this accident was not job-related," according to the inquiry report.

But it went on to say that Daeley had participated in CHP recruiting efforts during the weekend. The report also mentioned that, during the weekend, Daeley met with a CHP investigator to talk about a case.

The report concluded that the CHP should not oppose the claim, leaving it up to the State Compensation Insurance Fund, the state's adjustor, to decide if the accident was connected to work.

"I had a lot of questions about the case and asked for a whole lot of research," Helmick said.

Floyd, the insurance fund program manager, would not comment on individual claims. But he said that case law has established that workers are on the job if they're doing something that benefits the employer, even if the activity wasn't approved beforehand.

"Would we argue it? Absolutely," Floyd said. "Would we win? Probably not. The body of case law, it overwhelms you."

In 2003, Daeley gained a medical pension, entitling her to half her salary, tax-free, for life. For Daeley, who had received a scheduled promotion to assistant chief a few months after the accident, that added up to an annual allowance of \$57,396.

Daeley did not respond to phone calls The Bee made to her new home in Kauai, Hawaii.

State costs for workplace injuries

Among large state departments, the California Highway Patrol pays the most for workers' compensation claims, measured as a percentage of overall payroll.

Departments with over \$1,000,000 total costs for the 2002/2003 fiscal year.

Department	Total cost	Total payroll	Cost as a percentage of payroll
Highway Patrol	\$65,059,870	\$669,493,011	9.72%
California Youth Authority	\$22,262,219	\$271,612,499	8.20%
Developmental Services	\$29,239,609	\$410,955,203	7.12%
Conservation Corps	\$3,183,786	\$48,932,988	6.51%
Prison Industry Authority	\$2,349,814	\$38,940,397	6.03%
Mental Health	\$25,433,746	\$424,169,756	6.00%
Corrections	\$165,235,829	\$2,867,736,677	5.76%
Forestry and Fire Protection	\$18,567,816	\$327,948,314	5.66%
Motor Vehicles	\$19,174,479	\$342,607,529	5.60%
Veterans Affairs	\$3,995,631	\$71,852,641	5.56%
State totals	\$501,750,418	\$11,312,186,828	4.44%

Source: California Department of Personnel Administration

Sacramento Bee

CONTROLLER STEVE WESTLY

STATE OF CALIFORNIA

300 Capitol Mall
Sacramento, CA 95814
916.445.3028
www.controller.ca.gov

FOR IMMEDIATE RELEASE:
DECEMBER 9, 2003

CONTACT: STEVEN FISHER OR
ERIKA SOTO
916-445-2636

Workers' Compensation Costs Hurt Schools, State and Local Governments

Survey Shows Increases of 18 to 55 percent

Sacramento, CA – State Controller Steve Westly today released the results of a survey showing workers' compensation costs have increased 18 to 55 percent for state government and California's school districts, cities and counties. Local government and school leaders joined the Controller to announce the findings.

"The workers' compensation crisis is an epicenter of government waste," Westly said. "Out-of-control workers' compensation costs aren't just bad for business, they're bad for schools, the budget crisis and local services."

As the California's chief financial officer, the Controller pays workers' compensation claims for the State. The survey was conducted to reveal the extent to which government and school districts were suffering from excessive workers' compensation costs. With debate on the workers' compensation crisis focused on increased costs to the private sector, today's announcement reveals how it affects government.

"Workers' compensation costs to government have increased up to 55 percent, which is 55 percent too high," Westly said. "We need to end the special interest civil wars and deliver more reform."

The chart below is a summary of State workers' compensation increases over the last 3 years:

	<u>Percent Increase</u>
State	29%
County	39% - 45%
City	19% - 55%
School	18% - 46%

Controller Westly will organize a group of government and school leaders to advocate solutions and push the Governor and the Legislature to act on cutting waste.

"We can do a better job of helping injured workers if we weed out fraud and abuse," Westly said. "Governor Schwarzenegger can cut waste by ending the special interest civil wars."

SURVEY RESULTS FOLLOW

OUT-OF-CONTROL WORKERS' COMPENSATION COSTS: 2000-2003

Data compiled from a survey of 24 counties, cities and school districts

	<u>Range of Increase</u>
State of California	29%
Counties	39% - 45%
Cities	19% - 55%
School Districts	18% - 46%

SELECTED EXAMPLES: WHAT WORKERS' COMPENSATION CRISIS COSTS CALIFORNIA

City of Los Angeles

Since 2000, workers' compensation costs to the City of Los Angeles have increased from \$99 million to \$129 million – an increase of 30%. This increase could have provided funding for one year for one of the following:

- **400 peace officers OR**
- **429 firefighters OR**
- **maintenance for 3,750 one-acre parks OR**
- **200,000 2-hour visits by social workers to foster children in group homes**

Sacramento County

Since 2000, workers' compensation costs to Sacramento County have increased from \$12.2 million to \$17.5 million – an increase of 43%. This increase could have provided funding for one year for one of the following:

- **69 peace officers OR**
- **74 firefighters OR**
- **maintenance for 652 one-acre parks OR**
- **34,806 2-hour visits by social workers to foster children in group homes**

San Bernardino City Unified School District

Since 2000, workers' compensation costs to San Bernardino City Unified School District have increased from \$2.5 million to \$3.5 million – an increase of 40%. This increase could have provided funding for one year for **25 credentialed teachers**.

The Sacramento Bee

FOUNDED 1857

WEDNESDAY December 10, 2003 ***

www.sacbee.com

Final edition 50 ce

Westly decries workers' comp toll

Rising costs hurt both the private and public sectors, the state controller warns.

By Gilbert Chan
BEE STAFF WRITER

The San Juan Unified School District could have hired nearly two dozen teachers. Sacramento County could have added 74 firefighters. And the city of Los Angeles could have boosted maintenance for 3,750 1-acre parks.

But they didn't because surging workers' compensation costs in recent years have put a squeeze on already lean financial budgets, according to a study released Tuesday by state Controller Steve Westly.

Westly said cities, counties and school districts have seen their workers' compensation costs climb 18 percent to 54 percent since 2000. At the same time, the state of California has watched its costs increase by \$112 million, or 29 percent.

"Escalating workers' comp costs are not only hurting our businesses, they are killing our local governments and school districts," Westly said during a news conference Tuesday at the Capitol. "This is exacerbating the budget problem."

The controller urged the Legislature to put workers' compensation reform on the top of its agenda next month, saying that cutting these costs will go a long way to solve the multibillion-dollar state budget shortfall and ease the spending crisis for local governments.

"Out-of-control workers' compensation costs are really the epicenter of government waste. It drains desperately needed resources for schools, health care and other vital services," Westly said.

Within a month, Westly will weigh in with his workers' compensation overhaul plan, joining other lawmakers and Insurance Commissioner John Garamendi, who expect to unveil their own recommendations soon. Gov. Arnold Schwarzenegger has introduced his own proposal, a sweeping overhaul plan that

he says would slash more than \$11 billion in costs.

Westly said he will assemble a team of school and local government leaders to craft his plan. He did not cite specific proposals but said he wants legislation that could muster support from both Democratic and Republican lawmakers.

In September, a politically divided Legislature passed a series of workers' compensation bills designed to rein in skyrocketing medical costs and help repair what experts describe as a highly dysfunctional and costly no-fault insurance system intended to protect injured workers. The legislation, though, didn't tackle other issues, such as permanent disability benefits that have contributed to a meteoric run-up in insurance premiums paid by employers in recent years.

As the state's chief financial officer, Westly has witnessed the impact of high workers' compensation costs on the state. That prompted him to survey nearly two dozen school districts and local governments to assess the financial hit on their budgets. He said he plans to continue tracking their workers' comp costs.

"People tend to think this is largely a private-sector problem. It's an additional cost to government," Westly said.

His study showed that workers' comp costs the past three years have increased 39 percent to 45 percent for counties, 19 percent to 55 percent for cities, and 18 percent to 46 percent for school districts.

The county of Sacramento, for example, experienced a 43 percent increase since 2000 as its costs rose to \$17.5 million from \$12.2 million. That money could have paid for 69 more sheriff's deputies or funded 34,806 two-hour visits by social workers to foster children living in group homes.

General Davie Jr., superintendent of the 50,000-student San Juan Unified School District in Carmichael, said Tuesday that his district's workers' compensation costs have risen 23 percent in the past three years, or \$1.6 million.

"It represents our inability to hire 22 teachers," Davie said. "For every dollar we spend on excessive workers' compensation costs, it's a necessary dollar taken away from our students."

□ □ □

The Bee's Gilbert Chan can be reached at (916) 521-1045 or



Steve Westly

He says he'll use school and local government officials to develop his plan.

July 18, 2004

Risk management budget 20 percent in the red

By Guy Ashley

STAFF WRITER

Alameda County, already staggered by three years of budget woes marked by program cut-backs and worker layoffs, was hit by a new wave of bad financial news last week when it was revealed that its risk management staff overspent its budget for 2003-2004 by an estimated 20 percent.

The \$7.6 million problem has forced the county to dip deep into the reserves of the risk management program, which manages the self-insured county's payment of workers' compensation and legal claims.

The budget-balancing action raises troubling questions about the county's ability to pay off future claims and prompted a rare instance of public friction between county supervisors and top management over who is to blame for the budget mishap.

"Somebody clearly must have been asleep at the switch," said county Supervisor Keith Carson.

Spending has been frozen within the county's risk management unit, and reserve funds accumulated by the unit—the centerpiece of the county's strategy for paying off future claims—have been placed off limits.

An internal audit also is being conducted that is offering hints of poor management by top county financial officials. The risk management budget was \$38 million for 2003-2004.

The revelation reflects the larger problem of skyrocketing workers' compensation costs that are slamming the public and private sectors with equal force. Along with dwindling revenues and state take-aways that have driven its budget deep into the red, the county was jolted by a 69 percent increase in workers' comp costs in the two years that ended in June 2003. Another increase is expected when the 2003-2004 numbers are com-

pleted later this year.

But the problem also resonates with pitfalls peculiar to Alameda County, particularly county financial support of the fiscally challenged Alameda County Medical Center.

The medical center broke off from the county in 1998, but dire financial problems have forced the county to subsidize the operation to the tune of \$170 million during that time, and calls for repayment grow louder as the county feels the financial noose tighten.

The latest problem reveals another drain brought by the medical center, namely about \$735,000 in workers' compensation and medical malpractice costs the county has paid on the center's behalf over the past year. Officials hope the money will be paid to the county in the coming weeks.

But by far the biggest concern regarding overspending is the late notice top county officials feel they received about the problem.

Beth Kilian, the county's risk manager, told the Board of Supervisors on July 13 that she realized the department was spending beyond its means about six months ago, though some county officials say quarterly financial reports and other evidence indicates the signs were there late last year.

Carson and other supervisors were not notified of the problem until April, however, when County Administrator Susan Muranishi apprised each board member of

the overspending shortly after learning of it herself. With earlier notice, county officials say they could have taken other action to offset the problems, and likely would not have had to dig so deeply into county reserves.

While county supervisors have known about the problem for nearly three months, it was not

addressed in detail by the full board until a discussion last Tuesday, when Muranishi outlined in public her plan to balance last year's risk management. The plan involves spending \$5.5 million in unit reserves and shifting over other funds that would have been used to offset expected fiscal shortages going into next year.

The Montclairion

1516 Oak St., Alameda, CA 94501 - 510-748-1666

Published every Tuesday and Friday • Office hours are 9 a.m. to 5 p.m. weekdays

Shareef Dajani, general manager • Deborah Byrd, Hills editor
Janet Levoux, editor
