



3

DEPARTMENT OF
PERSONNEL

CITY OF SACRAMENTO
CALIFORNIA

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THIRD FLOOR
SACRAMENTO, CA
95814-2713

WORKERS' COMPENSATION UNIT

April 3, 1991

916-449-5741

DONNA L. GILES
DIRECTOR OF
PERSONNEL

Personnel and Public Employees Committee
Sacramento, California

Honorable Members in Session:

**SUBJECT: MIDYEAR REPORT ON THE STATUS OF THE EXPANDED WORKERS'
COMPENSATION UNIT AND SAFETY UNIT - OCCUPATIONAL HEALTH, SAFETY
AND RETIREMENT DIVISION - DEPARTMENT OF PERSONNEL**

SUMMARY

In February 1990 the City Council approved expanding the staffing of the Workers' Compensation Unit by 8.0 FTE. This was in response to the needs created by the Workers Compensation Reform Act of 1989, which mandated major administrative and legal changes for injuries occurring after January 1, 1990 and additional changes for injuries occurring after January 1, 1991.

In July of 1990 the City Council approved a second Safety Specialist position for the Safety Unit to aid the City in complying with many new Federal and State mandates regarding the Commercial Motor Vehicle Safety Act, Confined Space Entry and Hazardous Waste programs.

This report discusses the progress made in providing workers' compensation and occupational safety programs to the City workforce.

BACKGROUND

Workers' Compensation Unit.

Prior to the Workers Compensation Reform Act of 1989 the Workers' Compensation Unit had a staff of nine people to handle approximately 1600 open claims with a total incurred value of \$15,050,000. This staff was comprised of one Claims Administrator, four Claims Representatives and four clerks. Our new staff now includes a Claims Administrator, eight Claims Representatives, a Vocational Rehabilitation Coordinator, five Claims Assistants and two clerks. We now have approximately 1700 open claims with a total incurred value of \$16,200,000. The open case load per Claims Representative has decreased from approximately 320 to 200. Mark Ashcraft, Manager of Self-Insurance Plans has warned that a case load of 150 open indemnity claims is the maximum number possible for an adjustor to handle and be able to comply with the deadlines mandated by the new law.

1

Personnel and Public Employees Committee

April 3, 1991

Page 2

The new law added numerous penalties that are assessed if certain deadlines are not adhered to in the processing of claims. A claim form must be given to the injured employee within twenty-four hours of the report of injury. At the time that the first disability check is sent to the injured employee, the employer must also advise on what exact day of the week all subsequent checks will be sent. One of eighteen benefit notices must be sent out during various points in the course of the claim. Within fourteen days of notice of the injury, the employer must advise the employee that the claim has been accepted, delayed or denied. If the claim is not denied within ninety days, it is presumed to be compensable. Within five days of the employee becoming permanent and stationary, the employer must serve notice of the procedures for evaluating permanent disability and the need for future medical care. These are just a few of the deadlines imposed by the new law. Failure to comply with these deadlines will result in automatic penalties. For a listing of some of the penalties see Attachment A.

On November 7, 1990 the State Division of Workers' Compensation Audit and Enforcement Unit issued their report of the audit conducted on the City's Workers' Compensation Unit. On a random sample basis they reviewed eighty-eight indemnity, thirteen denials, and ninety-one medical-only claims. We were assessed \$6,200 in penalties, \$4,100 of which was for late payment of medical bills. In discussing our performance with other claims administrators, we feel that our performance was better than average.

It was most difficult to find qualified workers' compensation claims representatives due to the shortage of professionals in this field brought about by the changes in the law. Every workers' compensation insurance carrier and self-insured entity has been faced with this problem. Competition to attract competent employees is keen within the industry. The City of Sacramento was forced to hire three workers' compensation claims representative trainees, rather than journey level representatives. It will require an additional two years for these new staff members to be completely trained in all aspects of their jobs.

Prior to October of 1986 it was the policy of the Workers' Compensation Claims Manager to refer every litigated claim to a defense attorney immediately upon receipt of an Application for Adjudication of Claim. That policy has been abolished and simple litigated claims are handled by the Unit staff. Complex litigated claims are referred to defense attorneys only when the issues become too complicated to remain in the Unit. These are claims that require depositions or trials before a Workers' Compensation Appeals Board Judge.

Managing a litigated claim requires a great deal of additional time devoted to the file by an adjustor. At the present time, the experienced Claims Representatives are handling approximately 100 litigated claims realizing an annual savings to the City of over \$300,000.

Training continues to be a priority for our workers' compensation staff. Claims Representatives and Assistants enroll in at least one technical course per semester. Seminars are provided by our various defense firms to further educate our staff on the multiple changes in the law.

Our goal is to continue to provide quality timely service to the injured employees of the City. This includes training and education programs for supervisors and employees in the various City departments. We hope to reduce the number of open workers' compensation claims by 200 during the next twelve months. We have been fully staffed since September 1990, and if we are fortunate enough to maintain our stable unit of competent employees, we will realize our goals. Attachment B lists the current number of open claims by City department and Attachment C depicts the cost of type of claim by the major City departments.

Safety Unit.

The additional Safety Specialist position has allowed the Safety Unit to provide significantly increased field support to the City operating departments. During the past year we have provided self-contained breathing apparatus fit testing certification to two fire recruit academies and to fifty-seven active Firefighters. We are also providing fit testing certification to the Public Works Department as mandated by the Confined Space Entry Program. The Safety staff worked with Cal OSHA in inspecting the 24 Street Corporation Yard and the 911 Communication Center with a total abatement of over fifty hazardous conditions or practices. They conducted a complete review of drivers license classifications and endorsements for approximately 1800 employees effected by the federal Commercial Motor Vehicle Safety Act. An in-house protocol for supervisor training and testing of employees to upgrade their drivers license classification and endorsements has been developed.

In the area of prevention, the Safety Unit has coordinated a back injury reduction training program for 700 employees required to perform heavy work. Increased employee awareness in proper lifting techniques is expected to reduce the number of back claims which represent twenty-five percent of the City's workers' compensation costs. The Unit provided research and development for the Fire Department's physical fitness program which should result in a reduction in the frequency of lost time injuries.

We are currently rewriting the City's Accident Prevention Manual to reflect the new requirements of Senate Bill 198 (Injury and Illness Prevention Program). This is a major undertaking and will require input and cooperation from all City departments. The first priority of the City Safety Unit is to reduce accidents and injuries. Attachment D illustrates the City's history in this area.

FINANCIAL

No impact.

POLICY CONSIDERATIONS

No impact.

MBE/WBE EFFORTS

No impact.

RECOMMENDATION

No action is required of the Personnel and Public Employees Committee. This report is submitted for informational purposes only. Please be advised that we are only one year into the two year workers compensation reform, and we do not yet know if our staffing levels are adequate. We would like to report back to the Committee a second time within the next year.

Respectfully submitted,

Margaret Ann Allen

Margaret Ann Allen
Occupational Health, Safety & Retirement Manager

APPROVED:

Jack R. Crist

Jack R. Crist
Deputy City Manager

APPROVED:

Donna L. Giles

Donna L. Giles
Director of Personnel

Contact Person:
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All Districts

SCHEDULE OF ADMINISTRATIVE PENALTIES

1. A mandatory penalty of up to \$100 for each work-injury violation shall be assessed when there is:
 - a. Failure to make full payment of 10% automatic penalty within 90 days of due date when temporary disability or permanent disability is overdue.
 - b. Failure to provide permanent disability payments when due and/or within 14 days after temporary disability is terminated.
 - c. No date received or written stamp on claim form in the claim file.
 - d. Failure to respond to a request for medical care of injured worker within 30 days of the date of request.
 - e. Failure to provide, upon request, any transportation costs when due to injured worker for medical care.
 - f. Failure to pay maximum temporary disability without documentation for the payment of a lesser amount.
 - g. Failure to make temporary disability payments when due.
 - h. Failure to follow the Rules and Regulations established by the Administrative Director for the purpose of carrying out the workers compensation provisions of the Labor Code.
 - i. Failure to pay or object to all Medical-Legal expenses within 60 days of receipt of billing.
 - j. Failure to pay within ten days for any indemnity due.
2. A mandatory penalty of up to \$500 for each violation shall be assessed when there is:
 - a. Failure to maintain and provide a written claim log. The claim log shall contain all claims received, whether liability has been accepted, and distinguish between Indemnity and Medical-only claims.
 - b. Failure to comply with the Labor Code sections pertaining to Vocational Rehabilitation.
3. A mandatory penalty of up to \$1000 for each violation shall be assessed when there is:
 - a. Failure to pay or appeal penalties provided for in the Notice of Assessment within 15 days of the issue date.

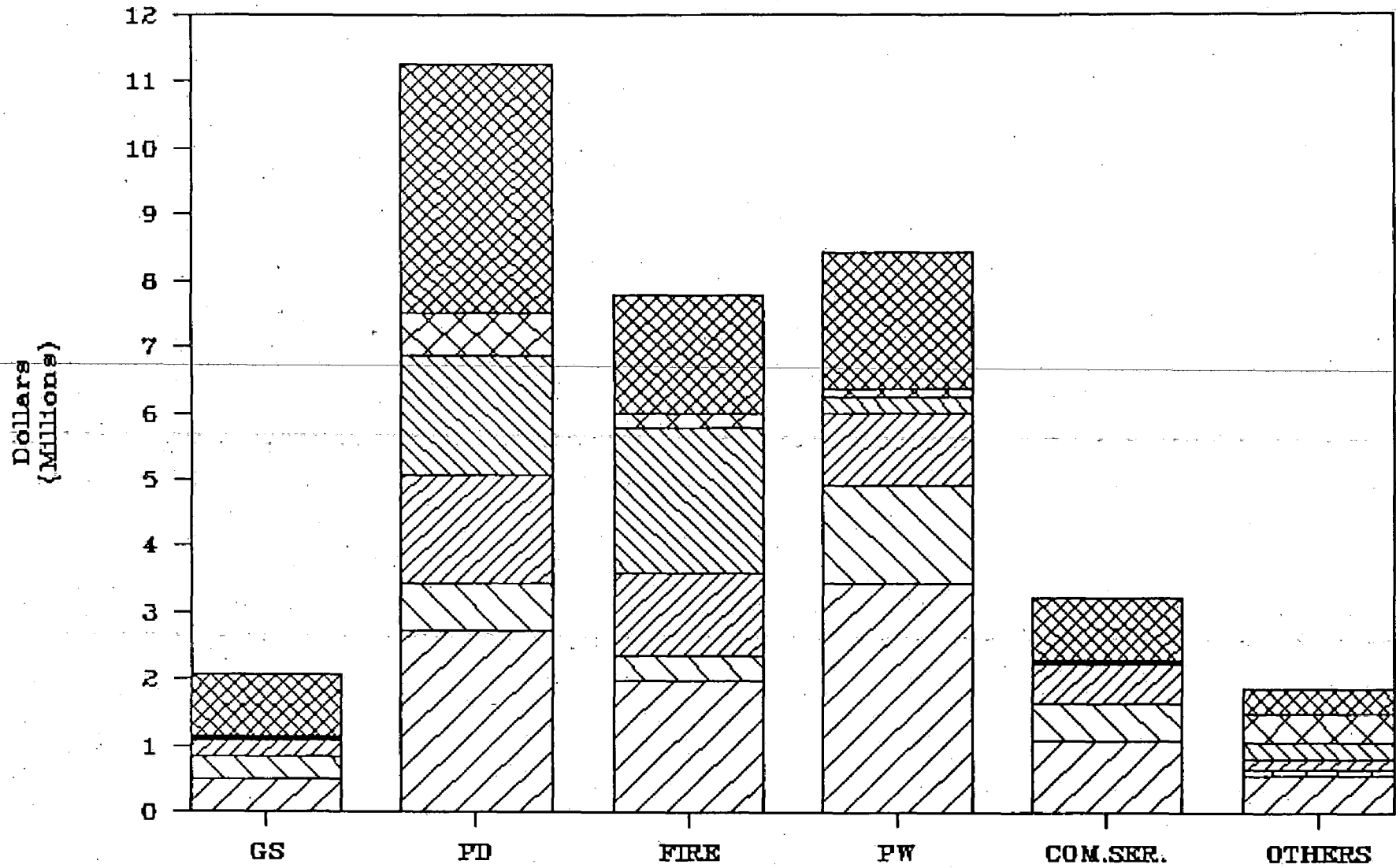
- b. Failure to comply or appeal with any final order of the Workers' Compensation Appeals Board within 30 days of the issue date.
4. A mandatory penalty of up to \$5000 for each violation shall be assessed when there is:
- a. Failure to produce on a second request a hard copy of open claim files within 72 hours of written notice by Administrative Director or his representatives.
 - b. Denial of liability for a claim without supporting documentation of service on the injured worker or his/her agent.
 - c. Failure to comply or appeal any lawful written request of the Administrative Director regarding a claim filed within 30 days.
 - d. Failure by an insurer, a self-insurer or administrative agency, to provide a claim form within 24 hours upon request of an injured worker or his/her agent.

WORKERS' COMPENSATION UNIT
CITY OF SACRAMENTO
OPEN CLAIMS MARCH 28, 1991

DEPARTMENT	NO. OF CLAIMS	NO. OF CLAIMANTS
Mayor/Council	1	1
City Clerk	1	1
Finance	7	6
Data Mnagement	1	1
Personnel	7	7
General Services	71	46
Police	535	340
Fire	406	255
Public Works	406	279
Planning & Development	25	17
Library	18	15
Community Center	13	13
Parks & Community Services	200	147
TOTAL	1691	1128

WORKERS COMPENSATION COSTS

MAJOR DEPARTMENTS / CITY OF SACRAMENTO



BACKS

 UPPER EXTREMITY

 LOWER EXTREMITY

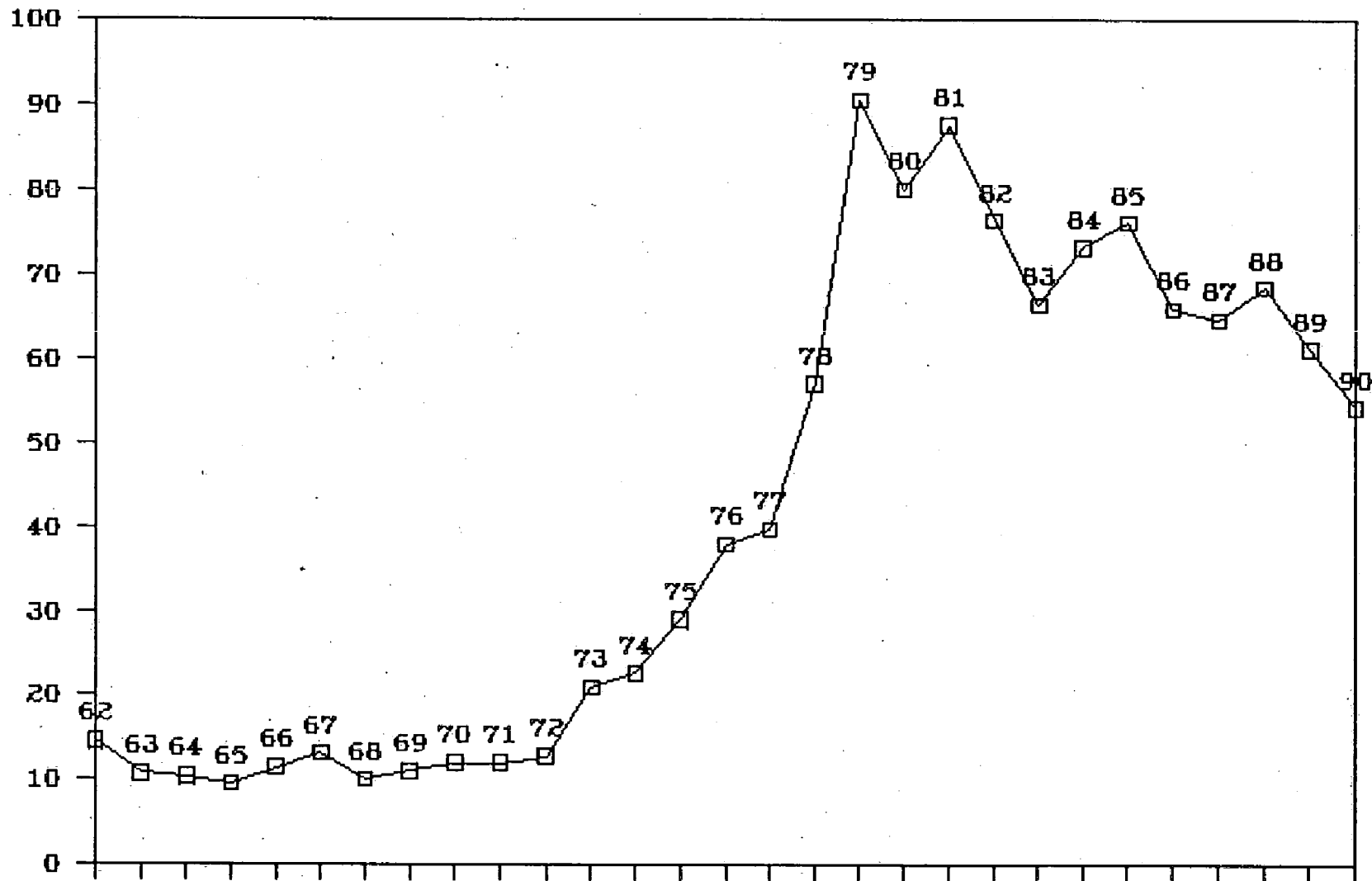
 HEART

 PSYCH

 ALL OTHER

ACCIDENT FREQUENCY RATE *

HISTORY OF THE CITY OF SACRAMENTO



* # DISABLING INJURIES PER MILLION HOUR