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INTRODUCTION

At the request of the General Manager, the Management Services Section conducted an in-depth study of the District's Workers' Compensation program focusing on both organizational and analytical issues.

The findings of this study are presented as a working paper and as such it will serve as the foundation for discussions involving key Workers' Compensation issues.

Representatives from the following departments will meet to formally discuss the proposals contained in this report: Safety, Personnel, Insurance (Workers' Compensation), Legal and Management Services. It is anticipated that the departmental expertise represented will be of assistance developing a reliable action plan for review by the General Manager and Executive Staff.

Throughout the course of this study the Legal Department, Insurance Department, Workers' Compensation Unit, Personnel Department, Safety Department, and representatives from Bierly and Associates have been exceedingly helpful in identifying information sources and providing expertise. Their assistance was invaluable in the preparation of this report.

WORKERS' COMPENSATION SUMMARY

OBSERVATIONS

1. Workers' Compensation claims and expenditures have escalated dramatically during the past few years (page 12).
2. The Workers' Compensation Unit serves primarily as a fiscal tracking function. Little information is analyzed by the Unit (page 17).
3. Coordination between the Workers' Compensation Unit and other related departments is minimal (pages 19 and 43).
4. The Workers' Compensation Unit has not implemented an action plan to aid in Workers' Compensation management (page 20).
5. Safety training and education are currently conducted by the Safety Department (page 23).
6. Accident investigation and reporting is performed in a perfunctory manner and important details may be omitted (page 26).
7. Facility and equipment inspections are routinely conducted by the Safety Department; however, necessary repairs or modifications are not always completed in a timely manner (page 29).
8. The current pre-employment physical is required for all employees; however, valid medical/physical requirements have not been developed according to job classification (page 31).
9. There is no return-to-work program or modified duty program (page 35).
10. The District is operating at an optimal level regarding control of medical services; however, it is not utilizing its full options with regard to frequency of follow-up examinations (page 37).

11. Data collection and analysis related to Workers' Compensation issues is almost non-existent (page 40).
12. Department audits and reviews to measure the effectiveness of current operating procedures related to Workers' Compensation are not routinely performed (page 43).
13. The District does not hold individual departments accountable for on-the-job injuries or Workers' Compensation claims which occur in each department (page 46).

RECOMMENDATIONS

1. The Workers' Compensation Unit should retain overall responsibility for the Workers' Compensation program (page 45).
2. The Workers' Compensation Unit should function as a clearing house, coordinating activities for the claims adjuster and the employee's department (page 45).
3. The Safety Department, in conjunction with the Employee Development Department, should design and implement a safety training program, which stresses the importance of safety awareness and safety rule logic (page 24).
4. An accident investigation policy should be adopted delineating standard accident investigation procedures (page 28).
5. An Accident Investigation Team should be formed (page 28).
6. A formal process should be adopted assuring completion of all accident report forms (page 28).
7. Management should make a commitment for timely yard, facility and equipment repairs and modifications (page 30).
8. Adequate medical standards should be established for various job classifications (page 32).

9. Current pre-employment physicals should be evaluated to ascertain effectiveness (page 32).
10. The District should evaluate positive incentive attendance plans (page 35).
11. Home visits should be conducted for all extended absences (pages 36 and 42).
12. The District should assume an aggressive posture in requiring follow-up examinations for on-the-job injuries (page 38).
13. The Workers' Compensation Unit should collect and analyze Workers' Compensation claims data (page 40).
14. The Workers' Compensation Unit should institute a procedure which assures adequate control of form processing (page 40).
15. Support department audits should be conducted annually ensuring sound claims management (**page 43**)
16. Departments should be held accountable for on-the-job injuries and subsequent Workers' Compensation claims (page 47).

WORKERS' COMPENSATION AND THE LAW

Workers' Compensation benefits resulting from on-the-job injuries and illnesses have evolved in this country during the past century. Current legislation specifies what obligations and responsibilities an employer has with regards to Workers' Compensation.

Section 3600 of the California Labor Code defines who is entitled to Workers' Compensation benefits. It provides:

That an employer is responsible, without regard to negligence, for any injury sustained by his employee arising out, and in the course, of employment, and for the death of any employee if the injury proximately causes death. This liability exists in the cases where the following conditions of compensation concur:

- a) Where, at the time of injury, both the employer and the employee are subject to the compensation provisions of this division.
- b) Where, at the time of injury, the employee is performing service incidental to his employment and is acting within the course of his employment.
- c) Where the injury is proximately caused by the employment, either with or without negligence.
- d) Where the injury is not caused by the intoxication of the injured employee.
- e) Where the injury is not intentionally self-inflicted.
- f) Where the employee has not willfully and deliberately caused his own death.
- g) Where the injury does not arise out of an altercation in which the injured employee is the initial physical aggressor.
- h) Where the injury does not arise out of voluntary participation in any off-duty recreational, social, or athletic activity, not constituting part of the employee's work-related duties, except where such activities are a

reasonable expectancy of, or are expressly required by the employment. The administrative director shall promulgate reasonable rules and regulations requiring employees to post and keep posted in a conspicuous place or places a notice advising employees of the provisions of this sub-division. Failure of the employer to post such a notice shall not constitute an expression of intent to waive the provisions of this sub-division.

Although an employer is responsible if the aforementioned conditions exist, he does have specific rights in the application of providing such benefits. The District's Legal Department was consulted regarding what an employer may, may not, and must do, and the Legal Department's opinion appears as Appendix A (page 53).

The following excerpts from that opinion outline the issues regarding employer/employee rights:

The employer's rights and duties with respect to Workers' Compensation are derived from portions of the California Labor Code, the Rules of Practice and Procedure of the Workers' Compensation Administrator Board (WCAB) the California Insurance Code, and relevant case law. For the District, additional duties may be imposed by applicable Union contracts.

The California Labor Code requires that each employer must make provision for Workers' Compensation insurance. That is, each employer must have Workers' Compensation insurance or an approved self-insurance program. Through this program, the employer must provide all the medical care and treatment reasonably necessary to cure or relieve the effects of an industrial injury (Labor Code 4600), i.e., doctor bills, x-rays, medicine, bandages, crutches, surgery, chiropractic care, hospital care, home nursing care, physical therapy, etc.

An employer must make some provision for Workers' Compensation coverage for its employees. The State of California may decide to grant permission to be self-insured. This provision is made after an investigation is conducted and adequate proof has been provided that the employer has sufficient capital to pay anticipated claims.

If an employee has notified the employer, in writing, prior to the incident that the employee has a personal physician and prefers treatment by that personal physician, the employee has the right to be treated by his/her physician from the date of injury (Labor Code 4600 - excepting, of course, emergency care). In any case, an employee has the right to receive treatment from his/her own physician 30 days after the date of injury.

Unreasonable delay by an employer or refusal to pay the benefits to which the employee is entitled can result in the assessment of a 10% penalty on the unpaid or late amount (Labor Code 5814). However, the employer does not have to provide benefits if the refusal is based on a good faith belief that the employee is not entitled to such benefits. This good faith belief must be based on a medical opinion or a thorough investigation of the facts in the case. If the employer has a medical opinion from a bona fide physician, based on an examination of the employee, that an employee can return to work, or a thorough investigation by competent persons reveals substantial evidence (witnesses, etc.) that the injury was non-industrial, such information is probably sufficient to support a good faith belief that benefits need not be paid.

An employer may not discriminate against an industrially injured worker (Labor Code 312(a)). A violation of this rule can result in a penalty of a 50% surcharge of the cost of benefits provided or \$10,000, whichever is less, as well as possible criminal charges filed against the individual(s) responsible for the discrimination. Judges vary in the application of this penalty.

The following are discriminatory acts under Labor Code 132(a):

- 1) discipline of an employee because of the injury;
- 2) firing an employee for filing a claim;
- 3) threats against, or harassment of an industrially injured worker; or
- 4) reduction of seniority for industrially injured workers.

State regulations regarding the monitoring of Workers' Compensation claims include the following points:

- a) An on-the-job injury does not guarantee an employee protection from disciplinary action. An employer can terminate an employee for rule violations or because of work performance, tardiness and absences, drinking on the job, not obeying safety rules, etc., whether the employee has filed a Workers' Compensation claim or not. As long as the rules are not selectively enforced against industrially injured workers, the usual rules for discipline, and performance, etc., apply. If a supervisor is not sure whether an action is discriminatory or not, the department should contact the Employee Relations Department before carrying out the action.
- b) An employer may require medical examinations, at reasonable intervals, of an injured employee. These examinations may be conducted by a physician of the employer's choosing. The code requires that the employer notify the employee in writing, a reasonable time in advance, of the date, time, and place of the examination (Labor Code 4050, 4051).
- c) The reasonable costs of transportation to and from the examination are to be paid by the employer (at 14¢ per mile).
- d) If an employee refuses to go to the examination or refuses to cooperate with the examination, the employer is entitled to stop payment of Workers' Compensation benefits until such time as the employee makes himself/herself available for examination by the District's physician (Labor Code 4054).
- e) An employee who leaves the area and is unavailable for the examinations, may ultimately be able to prove that he/she was temporarily disabled and/or in need of medical care and, thus, be able to establish the right to payment of back benefits. However, the employer is not obligated to pay benefits until the employer's examining physician indicates that benefits are in order, or the court orders payment.
- f) To stop benefits, the employer must file a petition to suspend benefits with the Workers' Compensation Adjustment Board.

Attorneys' fees are based on 10% of the permanent disability settlement awarded. However, larger fees are available in these Labor Code 132 (a) claims, thus providing an incentive for the employee's attorney to file such a claim if the facts call for it.

RTD's WORKERS' COMPENSATION HISTORY

The RTD has been "permissibly self-insured" since it was formed in 1964. Prior to that time, the parent properties were either self-insured or insured by private insurance carriers. The Transit Casualty Company became the RTD's first claim adjusting agency and its activities were supervised by the Personnel Department. At that time, no Workers' Compensation personnel positions were in existence.

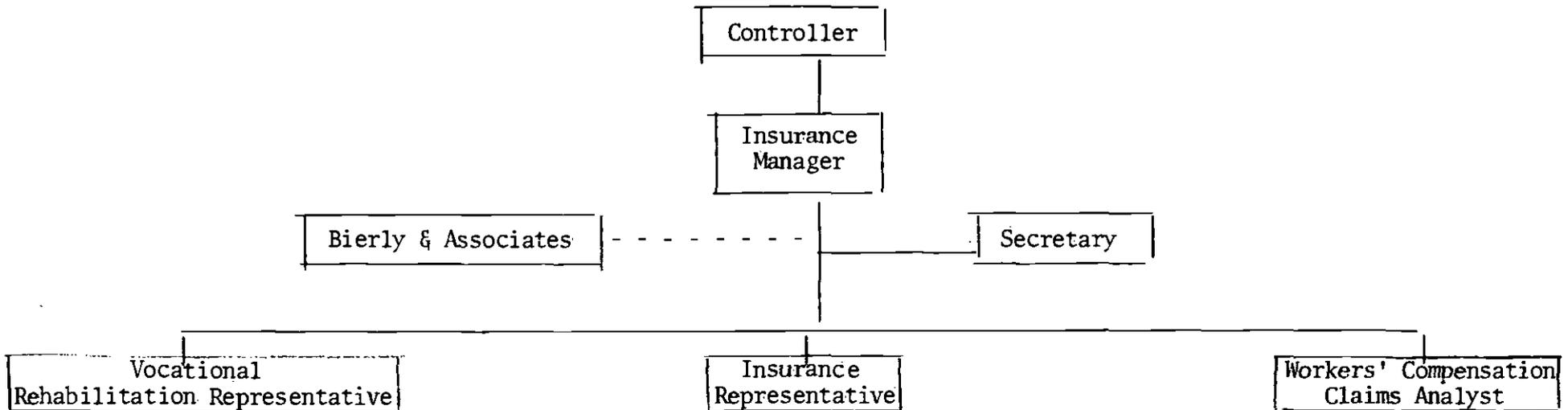
In June, 1968, the Workers' Compensation Claims Recorder position was created. This person served as the liaison between the various departments and the outside adjuster. The in-house monitoring function remained in the Personnel Department.

When an Insurance Manager was hired in January, 1972, the contract with Transit Casualty was cancelled and the Workers' Compensation function was transferred from the Personnel Department to the Legal Department. At that time, the District began adjusting claims. The Unit grew slowly in size until it was composed of an Insurance Manager, Insurance Representative, Workers' Compensation Investigator, Workers' Compensation Analyst, a Workers' Compensation Claims Recorder and two Claims Adjusters. Combined with layoffs and resignations, in December, 1977, the Unit was reduced in size to one Insurance Representative, under the supervision of the Insurance Manager. Approximately 2,000 open files were left to be monitored. At that time, it was decided to contract with the General Adjusting Bureau (GAB) for temporary claims management to handle these existing claims. Bierly and Associates successfully bid for the District's claim adjuster contract in July, 1978, and was awarded a 3-year contract, which expires in 1981. In August, 1978, the role of liaison/monitor of the Workers' Compensation Unit was given to the Insurance Representative, who was in the Legal Department; however, these duties were returned to the Insurance Manager eight months later.

The Workers' Compensation Unit underwent its most recent organizational change in December, 1979, when the Insurance Department was transferred from the Legal Department to the Accounting Department where it currently remains.

The current Workers' Compensation staff is composed of an Insurance Representative, a Vocational Rehabilitation Representative, and a Workers' Compensation

Claims Analyst, all supervised by the Insurance Manager. The secretary assigned to the Insurance Department provides any necessary clerical support (Exhibit I).

ORGANIZATION OF WORKERS' COMPENSATION SECTIONDuties

Interviews employees on Workers' Compensation claims.

Analyzes the injured employee's work and education histories, work capacity and objectives.

Studies and analyzes rehabilitation programs, vocational courses.

Recommends goals, objectives; develops policies and procedures.

Serves as liaison with rehabilitation programs.

Duties

Maintains in-house Workers' Compensation records.

Compiles reports.

Serves as liaison between District and the Workers' Compensation Claims Administrator.

Duties

Conducts minor investigation of some Workers' Compensation claims.

Categorizes claims by department and job class.

Performs some analyses regarding frequency and severity of claims.

Researches personnel documents and work-health history and reports findings to the District's Workers' Compensation Claims Administrator.

Works with Division Management regarding Workers' Compensation information.

WORKERS' COMPENSATION ESCALATION

Workers' Compensation claims have grown 350% from an average of 49 claims per month in calendar year 1974 to 173 claims per month in fiscal year 1980 (Exhibit II) with the claims frequency rate (claims/employee) increasing 225% (Exhibit III). In July, 1978, the Workers' Compensation Unit changed its accounting period from a calendar year to a fiscal year. This change coincided with the beginning of the District's contract with Bierly.

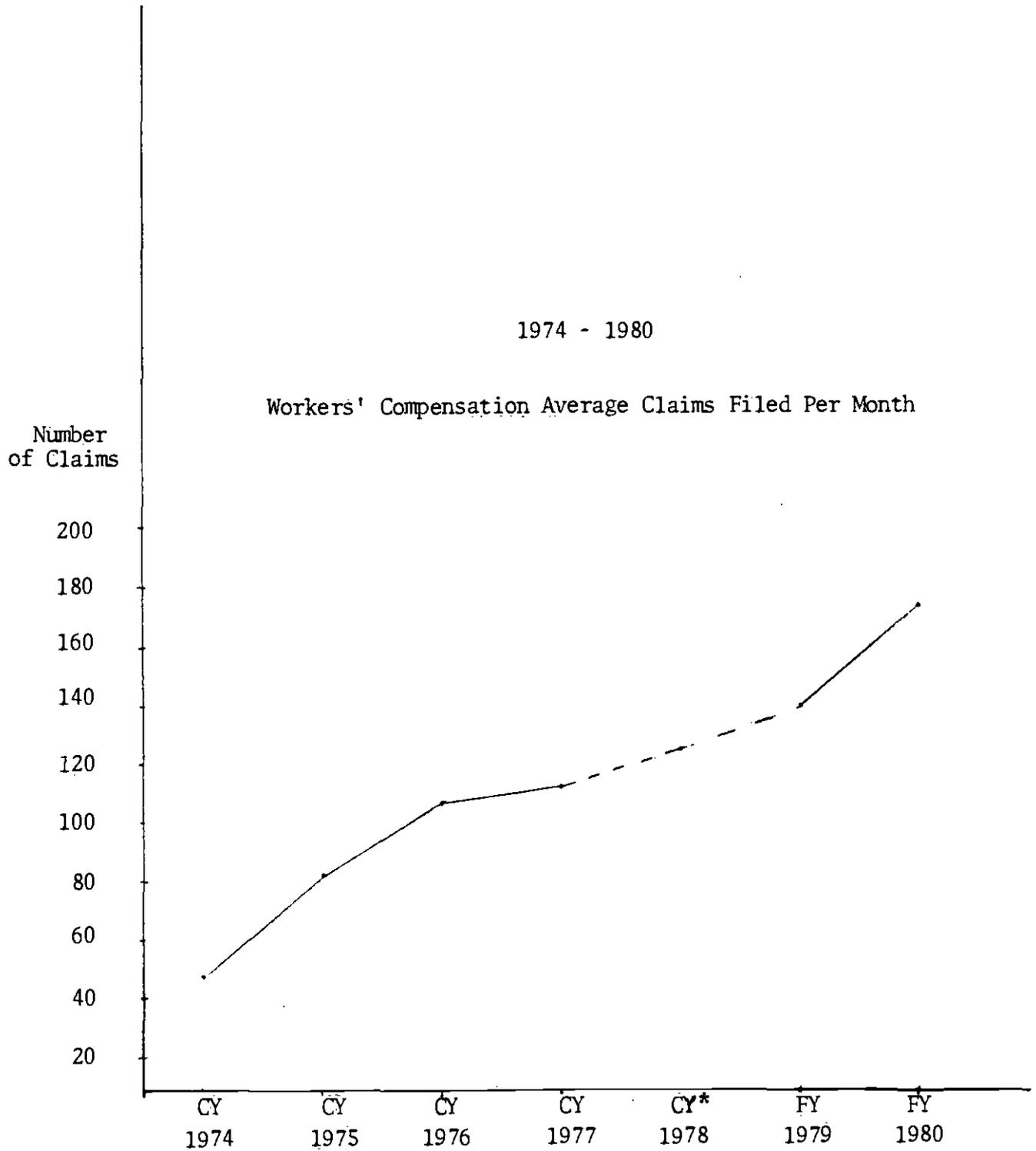
Workers' Compensation expenditures escalated from incurred claims of \$1.4 million to \$6.3 million or 445% during the same period (Exhibit IV). Incurred claims are a combination of the dollars paid to each account and the additional costs estimated to close the case. The total amount allocated for each case is based on the professional judgment of the claim adjuster. Due to inflation, changes in medical procedures, and the addition of unforeseen complications, the original amount of money placed in reserve has often been insufficient and additional funds have had to be added to the case reserve account.

For example, at the end of calendar year 1974, it was estimated that the claims incurred during that year would cost \$641,288. The revised incurred figure for 1974 at the end of fiscal year 1980 was \$1,404,294, an increase of 119%. The consumer price index inflationary rate for October, 1974, to October, 1980, is 45%, i.e., an item which cost \$100 in 1974 would cost \$145 in 1980. Therefore, \$641,288 would be equivalent to \$929,868 at 1980 rates, and the actual increase in estimated cost is 51% rather than 119%.

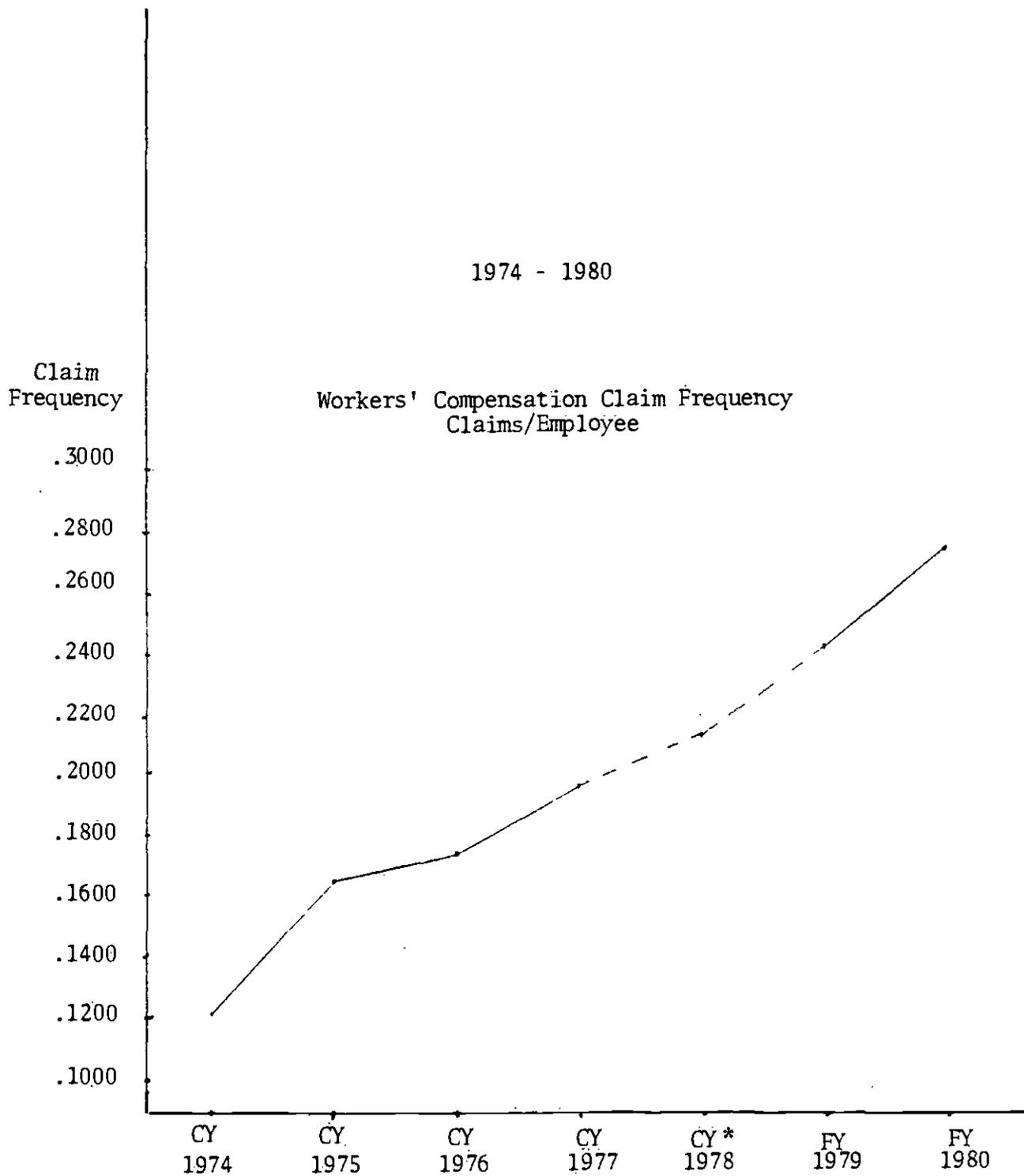
The increasing number of claims is due, in part, on worker sophistication and claims consciousness in knowing the law regarding industrial related illness and injury. This increased level of awareness is a result of union participation, increased benefits, and rumors that the courts have been liberal in their interpretation and findings in cases which have been litigated.

It is interesting to note that although the number of claims has increased, as has the total amount incurred and the average cost per employee, the average cost per claim per employee has had a fluctuating pattern (Exhibit V).

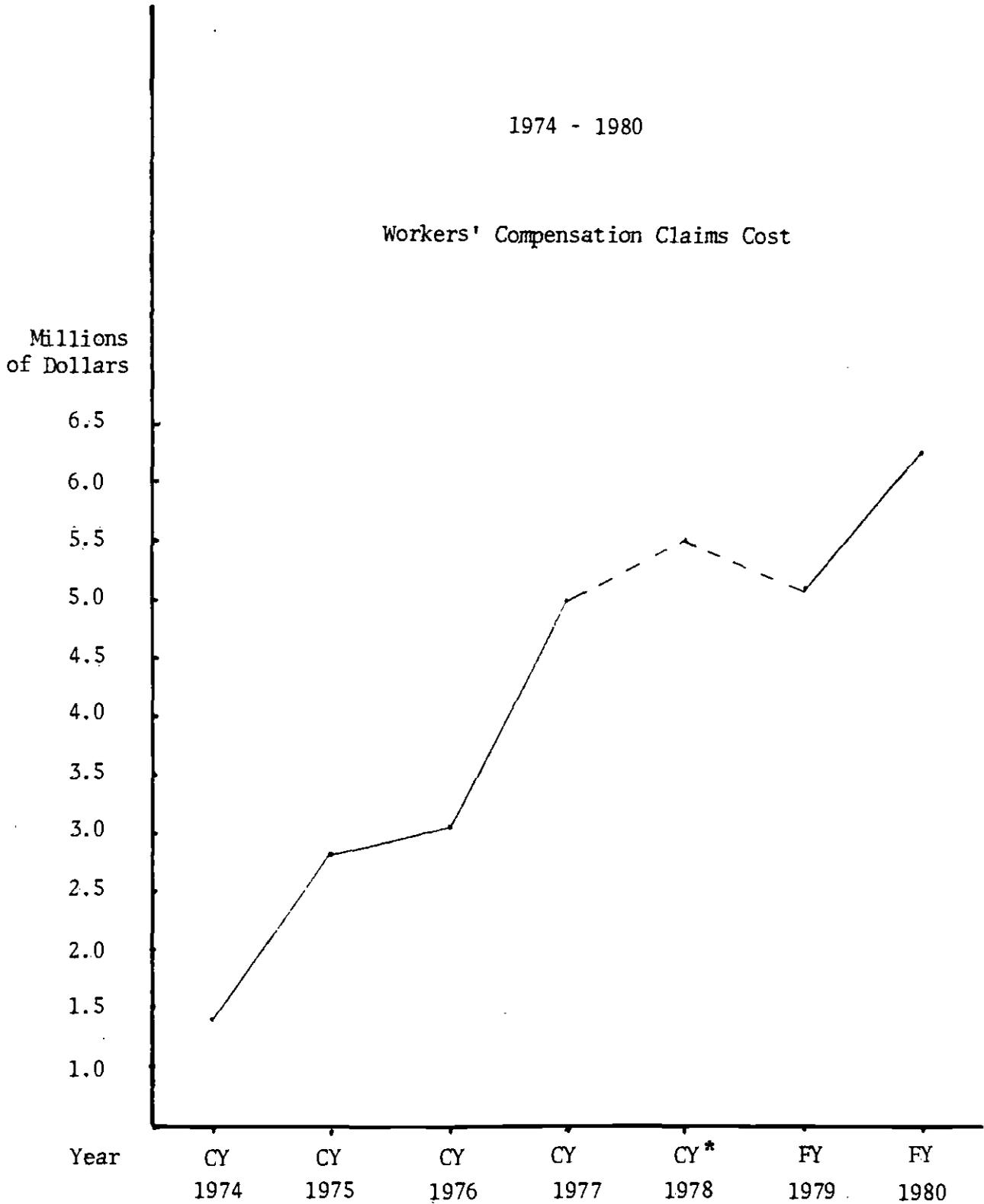
All figures included in this section were compiled from records furnished by the Insurance Department.



*First half of calendar year 1978 only - claims figure was doubled to estimate 12 months of data



*First half of calendar year 1978 only - claims figure was doubled to estimate 12 months of data

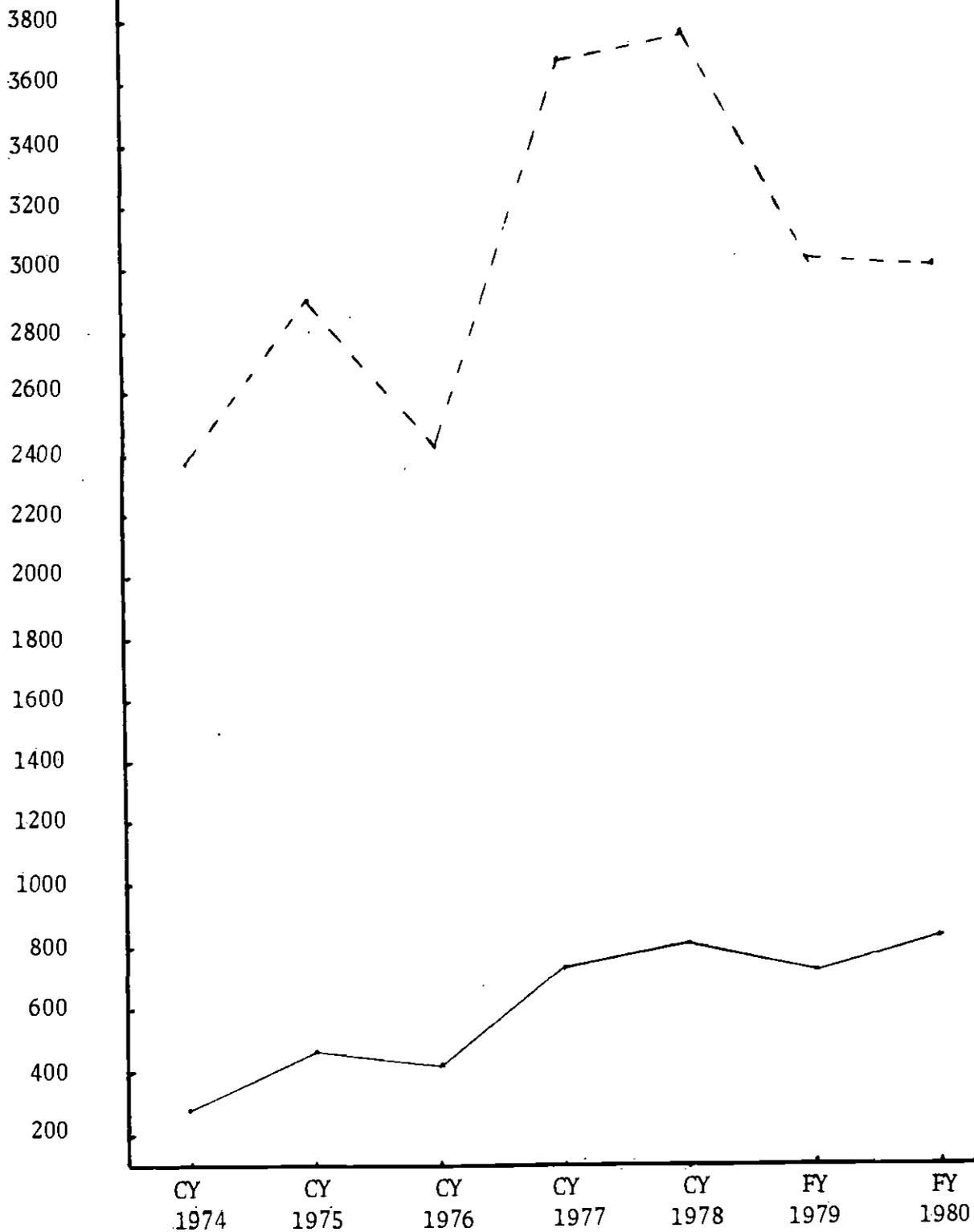


*First half of calendar year 1978 only - dollar figure was doubled to estimate 12 months of data

1974 - 1980

Workers' Compensation Average Cost per Claim
and per Employee

Dollars



———— Average Cost/Employee
----- Average Cost/Claim

CURRENT DISTRICT WORKERS' COMPENSATION FUNCTION

The Workers' Compensation Unit, under the direction of the Insurance Manager, is responsible for coordinating all Workers' Compensation related information and insuring that the employee's claims are being administered in an effective and cost efficient manner.

The main function of the Unit is to monitor the District's contract with Bierly and Associates (Appendix B - page 65). As such, the Unit serves primarily as a fiscal tracking function with almost all other Workers' Compensation needs, i.e., data collection, analysis, report preparation, and claims investigation being conducted by Bierly.

Bierly receives little, if any, direction from the Insurance Department regarding the type of information to collect and analyze. Although the Bierly contract stipulates monthly management reports to assist in the evaluation of the District's program, this clause is listed under fiscal analysis and does not delineate the type of reports specified. The contract does not deal with the issue of total program evaluation.

Data Collection

Only that data which is collected by Bierly (Bierly handles only those cases which result in four days or more time lost) is computerized, and due to constraints in form design, information necessary for comprehensive analysis, i.e., demographic, background, is not collected. Additionally, Bierly does not have easy access to personnel information which might prove useful in analyzing a specific claim.

Bierly currently provides the District with histograms noting the following claimant information: age, department, type of injury, time of day of injury, and cost of injury.

Unit Deficiencies

Deficiencies which currently affect the function include:

1. All data, collected by the Insurance Department, i.e., first aid cases industrial injuries and total days lost, are logged and stored. There is no multiple indexing of data making any analysis difficult.
2. There is no policy statement which dictates information to be collected or which describes analysis techniques appropriate for implementation by Bierly. Rather than assuming a posture of control which actively mandates data needs, the Workers' Compensation Unit accepts what is offered routinely by Bierly.
3. The Workers' Compensation Unit performs no consistent monitoring of Bierly, nor does Bierly receive detailed instruction regarding general case management or specific data collection requirements from the District.
4. Computer data analysis is not coordinated or shared. The Workers' Compensation Unit does not receive copies of special computer runs, which may have been requested by individuals or departments who are evaluating/studying areas of Workers' Compensation.
5. The Workers' Compensation Unit, which should be viewed as the primary Workers' Compensation authority in the District, has not established nor implemented formal independent accident investigation procedures. The Unit investigates only those accidents in which either the Division management or Bierly requests their assistance.
6. The Workers' Compensation Unit does not maintain a formal log noting time spent or investigation activity performed.
7. No written guidelines specifying investigation criteria exist. Therefore, cases which might require an investigation to better determine casualty are not consistently reviewed.
8. The Unit is not always aware of the status of Workers' Compensation cases as it does not serve as a Workers' Compensation clearing house. The lack of direct involvement with data analysis and trend monitoring greatly limits the effectiveness of the Unit and compromises the District's ability to control Workers' Compensation costs.

9. The Safety Department is not utilized by the Insurance Department in investigating accidents.

Accident Investigation Practice

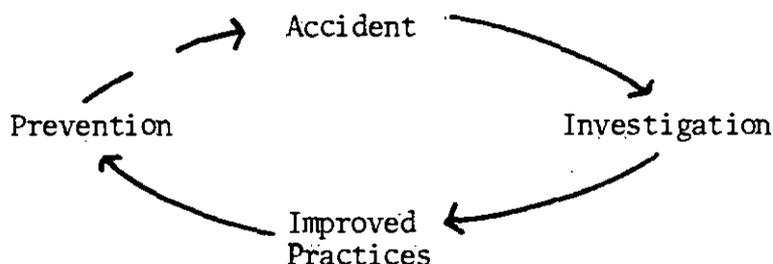
The lack of a policy delineating authority and responsibility in the area of accident investigation has contributed to this problem.

Good interdepartmental communication is essential in all cases when one department's knowledge can contribute to another department's operation. In the case of Workers' Compensation it is important since the expertise of both the Safety and Workers' Compensation Units are necessary to control and monitor the Workers' Compensation process. Since the Safety Department and Workers' Compensation Unit have related functions, coordination between the two departments would be a prerequisite to the achievement of the goals of each.

Without active participation from the Safety Department, the Accident Investigation Prevention (AIP) process, which is essential in combatting the escalating Workers' Compensation expenditures, cannot be completed. The AIP cycle occurs when an accident or incident takes place, is thoroughly investigated to ascertain the cause or causes, and the identified causes are analyzed and corrected to prevent recurrences (Exhibit VI). Trained personnel should be involved with the total process insuring follow-through and continuity.

EXHIBIT VI

ACCIDENT INVESTIGATION
PREVENTION (AIP) PROCESS



Action Plan Not Implemented

In 1978, the Safety Department, with the approval of the Workers' Compensation Unit, developed an action plan for controlling Workers' Compensation costs (Appendix C - Page 70). The majority of the items noted in the action plan have not been implemented, primarily because the plan did not include dates or responsible parties. The plan with action taken to date appears in Appendix D (Page 72).

Supervisors Manual

The Workers' Compensation Unit has revised and distributed a Supervisors Procedures Manual for Workers' Compensation (Appendix E - Page 77). Early copies of the manual appear as Executive Policy Number 6. This policy has not been updated. The manual is not written in a clear concise manner, and its current format does not facilitate cross reference or the following of multiple procedures. In addition, concerned departments were not consulted regarding claims processing procedures.

Visiting Nurse

The visiting nurse, who is an employee of the Personnel Department, and who could also serve as an important link in the Workers' Compensation process, now only gets involved when so requested by a supervisor or Bierly. She has no regular contact with the Workers' Compensation Unit and maintains no records of Workers' Compensation visits.

WORKERS' COMPENSATION MANAGEMENT

Workers' Compensation management should be viewed as loss control management and is often divided into two broad headings: safety and claims management. For the purpose of this discussion, safety will refer to those efforts taken to prevent accidents. That is, the activities involved with developing, revising, and organizing patterns of preventive, productive, and administrative functions focused to minimize loss. Claims management, on the other hand, includes those aspects of claims handling which attempt to keep cost to a minimum after an injury has occurred.

It must be stressed that neither safety nor claims management refer to current RTD organizational departments, but rather to ideal task classifications or descriptions.

The following major areas have been identified as necessary in successfully addressing the Workers' Compensation situation:

- I. Safety Education and Training
- II. Accident Reporting and Investigation
- III. Inspection of Facilities and Examination of Operating Procedures
- IV. Medical Screening and Health Control
- V. Return to Work Policies
- VI. Medical Services Control
- VII. Data Collection, Retrieval and Analysis
- VIII. Personal Contact with Injured Workers
- IX. Performance Review
- X. Coordination with the Claims Adjusting Agency

This section of the paper will discuss each of these elements noting its importance, the District's current means for addressing the issue and recommendations which insure competent, effective, efficient claims handling.

I. Safety Education and Training

Employee and supervisory education and training in all areas must be provided. Key areas where education and/or training are essential include awareness of job hazards and how to avoid them, knowledge and experience in equipment usage, approved operating procedures, and supervisory recognition of safety as a key responsibility.

A. State-of-the-Art

Sound safety education and training are essential in combatting the Workers' Compensation problem. The Safety Department, Legal Department, and Bierly and Associates all concur that employees who are well trained in safe operating procedures, who are cognizant of safety issues and realize the importance of both, are less likely to have job-related injuries. The best, most humane method for reducing Workers' Compensation costs is to reduce the number of claims filed and this can best be accomplished by reducing accidents.

Training and educational efforts must entail more than insuring employee knowledge regarding specific skills and activities. They must create an atmosphere where safety consciousness is a way of life. Although the importance of rules and procedures is imperative, blind acceptance of them is not necessarily effective. Workers must understand the logic and reasons behind such policies.

It is the Supervisor's place, i.e., Division Manager, Section Head, etc., to explain the rationale behind the established procedures. Managerial/supervisory personnel may need specialized training to be able to answer questions regarding the policy. This training process should cross supervisory lines and all supervisors should be well versed in the merit of safe operation procedures. Furthermore, supervisors and management personnel must be responsible for insuring safe operational practices which are employed in their unit. In addition, managers and supervisors should be made aware of the importance of documenting unsafe operating procedures and see that they are corrected.

The training/educational process is an on-going one with additional training being given, not only when an accident occurs or a safety violation is noted, but as technology and knowledge develop making current or accepted procedures obsolete.

B. District Practice

The District's major safety-related training and educational needs are being met by the Safety Department which conducts formal safety instruction classes at the operating divisions. These classes include the use of films and discussions and focus on general accident prevention awareness topics. Safety is assisted in this exercise by the Instruction Department in the Transportation Department and the Training Unit from the Maintenance Department.

On-going safety training is conducted by the Instruction Department on an as-needed basis. This involves informally meeting with operators to discuss safety-related issues as well as formal individual meetings (counseling sessions) to stress specific incidents of unsafe operation, or discuss and demonstrate safe effective ways to operate. The Instruction Department also performs individual preventative safety checks, so that potential problems are noted and corrected.

Safety Coordinators have been selected at each maintenance facility to assist with on-the-job safety training in these areas. This training is informal and serves only as a refresher. The coordinators meet formally with their groups and act as a conduit for dispensing information from the Safety Department. Check lists have been developed by Safety to aid in this activity. Employees are periodically given the checklist to increase their safety awareness.

In addition to the aforementioned on-going safety training programs, the Safety Department conducts specialized training seminars for selected groups of employees.

Safety training for line personnel, i.e., non-supervisory personnel, appears to be met by current activities aimed at this population.

A weakness lies in the area of the Supervisor's understanding as to why procedures exist, and therefore, they are not fully in tune with the importance of documenting safety violations.

The training of supervisory/managerial personnel who distribute safety information and increase safety awareness, aids in establishing an image of uniform District concern regarding safety. Furthermore, it is the acknowledged responsibility of the supervisor/manager to invoke disciplinary action for safety violations. Without a complete understanding and knowledge of safety concerns, and the importance of enforcing rules and reporting violations, safety awareness may not be adequately promoted at the Division level.

C. Recommendation

The Safety Department, in conjunction with the Employee Development Department, should design and implement a safety training program which stresses the importance of safety awareness and the logic behind each safety rule.

II. Accident Reporting and Investigation

Accident reporting and investigation should be performed in a consistent and timely manner.

A. State-of-the-Art

The consistent and timely inquiry into events surrounding accidents provides valuable information associated with the incident and possibly identifies changes in procedures which would help alleviate similar accidents in the future.

Accident investigation should be conducted with three purposes in mind: 1) identification of hazards and unsafe practices which can be corrected to prevent similar occurrences, 2) identification of employees who have falsified an accident report and are receiving compensation unjustly, and 3) determination of employee negligence regarding accident causes.

1. Initial Accident Investigation

The primary source of accident investigation should be the first line supervisory and, therefore, all supervisors should be trained

in initial investigative techniques and provided with a set of good tools to aid in the inquiry. These tools may be a combination of checklists and open-ended questions. It is essential that the tools be designed in such a way as to facilitate an understanding of the underlying accident causes.

Comprehensive investigation requires that: a) all injury accidents be investigated, not just those which result in time lost, b) the home department, the Safety Department, and the department responsible for Workers' Compensation receive a copy of all investigation reports, c) multiple possible causes of the accidents are noted, and d) that several measures which will be instituted to prevent a recurrence be listed. Items c and d are for management use and should not be a part of the employee's file.

Although the first line supervisor should be intimately involved throughout the investigation process, cause identification and preventative measures should be studied by the section manager and he/she has the ultimate responsibility for implementing necessary changes.

Supervisors should ask witnesses for accounts of the events which led to the incident and retain any physical evidence involved with the accident. Pieces of evidence should be carefully labeled for accurate reference later. It is essential that evidence be documented to insure a thorough understanding of circumstances. In addition, in cases of faulty machinery or equipment, the manufacturer may be liable for all damages incurred; however, this liability can only be proven through accurate documentation.

At the earliest opportunity, employees should be required to complete detailed descriptions, with diagrams when appropriate, of the accident and events leading to it. Early reporting facilitates accuracy as the events are clear in the employee's mind. It should be stressed that the employee's well-being is of paramount interest

and should not be compromised by form completion, i.e., medical needs should be attended to prior to completing forms. All accident report forms should be reviewed by the supervisor to insure completeness. Supervisor/manager reports should be completed independently and not reiterate the words supplied by the employee.

All accident reports should be checked for completeness by the Workers' Compensation Unit before they are committed to record and returned to the appropriate party if any information is missing.

Claims investigators, whether company employees or contract employees, are sometimes involved in the investigative process. The duplication of effort which sometimes results is not necessarily detrimental. In some cases, it is extremely beneficial, as each inquiry may contribute additional information from a different perspective, thereby providing a more complete accounting of the incident. The only caution involved in the duplication of effort is the assurance that the injured employee does not receive an unnecessary barrage of calls and/or visits.

2. Serious Accident Investigation

Additional investigation should be conducted in all cases of serious injury or extensive projected time loss. The Safety Department with its trained investigators should review all supervisors' reports and provide more intense investigation when it is deemed appropriate.

B. District Practice

District personnel rarely investigate accidents in detail, although Executive Policy No. 19, Industrial Accident Investigation, stipulates that "in the event of an accident, a thorough and complete investigation will be conducted by the supervisor. The supervisor will identify causes, list all District policies, work rules or safety violations

which caused or contributed, if any, to the accident. Furthermore, in the cases where accident inquiry does ensue, no formal attempt is made to investigate or identify the causes of the incident.

Supervisors and managers have traditionally reiterated the employee's description of the accident. This reiteration may be due to a combination of factors including: a lack of first-hand information, as the accident scene was not visited nor witnesses interviewed; no identification of the casual effect; and no citation of rule or policy violation. Reiteration of an accident description has two profound effects: 1) additional information regarding the accident is not gained, and 2) litigation may be complicated because the employer agreed to events without carefully investigating surrounding circumstances.

The primary source of on-the-job injury investigation is currently Bierly and Associates; however, since no formal criteria has been drafted noting investigation criteria, only a small percentage of claims are checked in detail. The claims which are typically investigated involve either large sums of money or evidence of claim falsification.

On rare occasions, the Workers' Compensation Unit performs minor investigations. Either Bierly or the division management must solicit this assistance, and all inquiry is done only to augment Bierly's investigation. This assistance is usually limited to record review or document copying.

The Operations Department has recently begun to do an evaluation of on-the-job injuries by evaluating each case resulting in a week or more of lost time. This evaluation does not involve a thorough investigation of the incident and merely looks at eight indicators to ascertain whether a home visit is appropriate (Appendix F - page 95).

The Safety Department does not conduct on-the-job injury investigation unless this injury is the result of a serious traffic accident.

District on-the-job injury accidents are currently reported by both the employee and the supervisor; however, the forms require only minimal information and no one is responsible for assuring completeness and accurateness of information reported (Appendix G - page 101).

A formal procedure for accident investigation has not been implemented; the Safety Department, however, has developed a draft policy (Appendix H - page 103).

C. Recommendations

A detailed accident investigation policy should be adopted delineating standard accident investigation procedures, i.e., data collection and retention, techniques and forms, witness interview techniques and forms, and final report forms. All potential investigators, including all manager/supervisor personnel, should be trained in proper investigation procedures.

An Accident Investigation Team (AIT) should be formed. The AIT would be led by the Safety Department and composed of representatives from several departments. It would be the AIT's responsibility to investigate all accidents which the Safety Department deemed appropriate (see draft policy, Appendix H - page 103).

Accident report forms should be revised to address all key elements (see data elements - pages 38 and 39). Two key questions: "Is there any additional information which would be helpful in expediting this claim? What?", should be added to both the employee and employer report form. This line of inquiry would readily identify claims which warrant further examination and/or investigation.

A formal process should be adopted which insures that all completed forms will be reviewed and approved at both the department level and the Workers' Compensation Unit level. The department should return, to the originator, all forms which are not completed. Forms which are not properly completed at the department level should be returned to them by the Workers' Compensation Unit for completion.

III. Inspection of Facilities and Examination of Operating Procedures

As a means of ensuring adherence to federal and state regulations, it is necessary for each agency to implement periodic and thorough inspections of facilities and reviews of procedures.

A. State-of-the-Art

Federal OSHA rules and regulations related to all safety issues, i.e., equipment handling, air purity, equipment design, etc., are well documented, as are the California modifications. Non-compliance with these regulations results in stiff financial penalties and could, in extreme cases, cause the closure of an operation.

Good complete inspections involve listing 1) the items to be inspected, 2) the critical parts of each item, 3) the conditions for which the items are to be inspected, 4) the frequency with which items are to be inspected, and 5) the individual responsible for the inspection. In addition, all inspections should be conducted in a thorough methodical manner carefully describing all hazards or violations noted.

B. District Procedure

The Safety Department routinely conducts facility and operational inspections. However, many of their observations and recommendations to correct a situation are not implemented in a timely manner. Often yard/facility inspections reveal poor yard traffic patterns which could be corrected by striping the yard denoting changed patterns. This striping process is often delayed by months. Equipment repairs, e.g., leaking hoses, are not always made in a timely manner. Although the Safety Department is represented on the Purchasing Committee, equipment procurements and facility designs are sometimes made without Safety's participation. A recent example is the design and construction of a storage building at South Park.

This illustration may be symptomatic of inadequate input from the Safety Department, inadequate formal approval procedures, or a combination of the two.

C. Recommendations

Executive Policy No. 16, Purchase of Goods and Services, stipulates that the Safety Department should be represented on the Purchasing Committee, thus insuring its input into all areas involved with OSHA/CALOSHA compliance prior to procurement or construction. This practice should continue. The Safety Department should be responsible for insuring that its opinions and expertise are interjected into the process.

The Safety Department should maintain a log for each RTD facility, indicating problems which have been identified and noting the requested solution. In addition, the date the problem was detected and the date that it was brought to the attention of the concerned manager should be listed. This log should be transmitted to the General Manager and reviewed by the Executive Staff on a quarterly basis.

IV. Medical Screening and Health Control

Medical screening and health control should be conducted both prior to employment and periodically following employment, as both have a potential effect in reducing the number of accident victims.

A. State-of-the-Art

Pre-employment physicals, i.e., medical screening, have an important impact on employee selection and future injury rates. Literature indicates that adequate pre-employment screening, including a complete and thorough medical history can result in important cost-saving measures. This is particularly true in identifying job applicants with a pre-existing disease or condition which might be aggravated by employment and ruled compensable.

Medical technology through the use of various tests, i.e., EKG, x-rays, and blood tests, can identify some existing and potential health problems; however, there are limitations to the use of screening devices, such as x-rays. Research has proven that many back cases cannot be identified by pre-employment screening. X-rays indicate many congenital back problems, but cannot predict who will suffer from other types of back problems.

Routine physicals for all employees are also useful in loss control. Often, physical problems which could impair job functioning are identified and early detection results in no loss of productivity, as employees are either treated for problems or retrained to perform their job in such a way as to minimize the potential injury, e.g., retraining in lift techniques. As in the case of the pre-employment physical, throughout employment examinations should be tailored to the employee's occupation.

Employers must be confident that the standards which they establish are valid and equally applied to all potential employees. All screening criteria must be job-related. State and federal money is currently available for aiding in the establishment of criteria and some uniform standards have already been developed.

B. District Practice

The District's current pre-employment physical program is administered by the Personnel Department.

1. Medical examinations are conducted by a contract group and all potential employees receive the same examination.
2. Lower back x-rays are taken for each employee and a urinalysis is conducted to note diabetes or drug use. (The drug screen may not be effective as regular drug abusers know how to carry "clean urine" with them for such uses.)
3. Sight and hearing examinations are also given.
4. No blood tests are performed.

It should be noted that the District has elected to contract at a low individual examination cost and, therefore, receives a less than thorough physical.

All employees who drive a coach, i.e., operators, mechanics, utilities, etc., receive either annual or bi-annual physicals, depending on their age. No other employees presently receive regular physicals while employed.

The Personnel Department is exploring alternative physical procedures including the establishment of independent standards for various job classes. It is inappropriate to use the same physical standards for clerical/office personnel and manual laborers, as one job requires far more physical exertion than the other. By uniformly applying the identified standards, the chance of losing a discrimination case filed by a potential employee against the District is decreased.

C. Recommendations

The District should conduct unannounced spot checks of the medical examiner on a quarterly basis to measure thoroughness and professionalism of the physicals which are performed.

A cost effectiveness study should be undertaken to ascertain the merits of performing a more thorough physical, i.e., one which measures all of the items noted in the State-of-the-Art section above. The current pre-employment physical should be evaluated to ascertain whether or not the physical is inclusive enough and conducted in an adequate manner.

The concept of regular physicals for all employees should be reviewed and considered.

Physicals should be conducted in an environment which prohibits those being examined from changing urine. (Either an examiner should be present when the urine specimen is deposited or the individual should use a restroom attached to the examination room, so that control can be exercised.)

V. Return to Work Policies

Return-to-work policies creating incentives to encourage prompt return and increasing management efforts to facilitate prompt return to work may be beneficial in reducing Workers' Compensation costs and increasing job productivity.

A. State-of-the-Art

Employee absenteeism, including on-the-job injury cases, is costly. By encouraging employees to return to the work force, productivity can be enhanced and additional costs associated with hiring temporary employees eliminated.

Often, disincentives play a serious role in keeping an injured employee from returning to the job. These disincentives include:

1. Payment for Non-work

There is little or no waiting period before benefits begin (California law specifies a 3-day wait only); therefore, an employee is immediately compensated and may make as much, if not more, money by not reporting to work as he does by working, i.e., collect both Workers' Compensation and Disability Benefits.

2. Non-accommodation for Partial Incapacitation

There is no modified or alternative work program, thereby prohibiting the employee from working at all (an all-or-nothing situation).

3. Sympathetic Physicians

There is little control of medical services, so employees can choose physicians who will assign disability when it is not warranted.

Employers should become cognizant of these constraints and develop strong positive incentives to encourage prompt return. Positive reinforcement for good attendance is a useful tool in promoting return

to work. Some industries reward employees for good attendance and this reward system reaps benefits in the area of on-the-job injury time lost. One successful program involves family members by offering "blue chip stamps" for positive attendance. These stamps are sent to the home involving the spouse who often encourages the employee to go to work so the bonus will keep coming.

As reported in Through the Roof (1) and Equity Eroded (2), both surveys of California local governments, employees who feel that their management, in general, is not interested in their welfare are more likely to delay in returning to work. Further, these studies indicate that it is beneficial for an employer to assume a concerned posture and display this attitude to his employees. This does not imply that a lenient policy should be adopted. One does not have to be permissive to show concern. Fair rules and regulations and consistent application are components of concern for employee welfare.

Supervisory personnel should be encouraged to contact employees following an on-the-job injury. This contact may either be in person or by phone. The message of the contact should be concern for the individual. It should also relay the supervisor's feeling that the employee is necessary to the work effort. Home visits, in the case of extended absences, foster an attitude of caring which the employee perceives as concern rather than policing.

Specific requirements to visit a designated physician for medical checkups also facilitate return by reducing readily detected malingerers. The District should not bring back an injured employee to work prematurely as this would be both unfair to the employee and could create additional liability if the worker were reinjured.

Modified duty or alternative work programs are an integral part of many return-to-work programs, including Los Angeles City. These programs provide an injured employee with real work, return him/her to the work force, and afford the employer the benefit of his/her services. The modified duty assignment need not be limited to the

department in which an employee usually works, thereby opening up resources across the board. Union contracts play a part in assessing and instituting such programs, but these constraints should be evaluated and overcome, if possible.

Rehabilitation and job reevaluation are also factors in returning injured employees to work and warrant in-depth examinations. None of the aforementioned programs provide a panacea; however, each is a viable alternative when implemented in a sound logical manner.

B. District Practice

The District currently does not have a return-to-work program although the absenteeism policy might be viewed as a disincentive to miss work.

The Operations Department has recently instituted a home visit program, which it hopes will communicate a feeling of concern for employees and afford a personal contact, thereby facilitating prompt return to work. This program has not been operational long enough to evaluate thoroughly; however, some division managers feel that it is serving the intended purpose.

Modified duty programs are being studied and evaluated by both the Personnel Department and the Safety Department. A task force will be established to evaluate the proposal and if approved, develop viable modified duty programs and options. The District has recently developed the position of Vocational Rehabilitation Representative to aid in rehabilitating injured employees and facilitating a prompt return to work.

C. Recommendations

The District should evaluate positive incentive attendance plans. Such plans could include: 1) financial compensation for unused sick time, 2) eligibility for prizes based on attendance, and 3) attendance bonus pay.

Home visits for extended length of absences should be made and all employees who receive on-the-job injuries should be contacted by their supervisor and/or action manager.

The District should continue to investigate modified work duty, weighing all options carefully. The District should use the law to its maximum benefit by requiring a 3-day waiting period before an employee receives benefits.

VI. Medical Services Control

Control of medical services which initially treat employees and subsequently examine injured employees have an important impact on compensation costs and return-to-work policies.

A. State-of-the-Art

By law, the employer has an option of exercising control over the choice of the original treating physician for on-the-job injuries. The employee may be required to continue to receive care from the designated physician or medical facility for the initial 30 days for which an injury is treated. At that time, employees must be allowed to change physicians if they so request. As noted earlier, the one exception is in cases where employees have indicated a treating physician prior to injury.

The exercise of control is critical to controlling Workers' Compensation costs for the following reasons:

1. Many physicians are not familiar with the physical requirements of various occupations and often stipulate a temporary disability unnecessarily.
2. Prompt referral to and treatment by specialists is important in assuring that the injured worker receives adequate care and he/she can return to work as quickly as possible.

3. The employer is more likely to receive prompt reporting and a thorough diagnostic evaluation. Without timely reports and detailed comprehensive information on the employee's actual condition, it is difficult to judge the compensability of the claims, gauge the length of time an employee will be absent, and estimate potential costs.
4. Some doctors are more likely to be liberal in advising employees to stay absent, while others are more conservative and apply more stringent criteria. Given an opportunity, non-motivated employees will seek out the former type of physician.
5. It may also be less expensive to provide medical care rather than reimbursement for pro-rated doctor visits.

Control of medical services is related to requirements regarding frequency of examinations. As noted in the Legal Department's opinion, an agency does have the right to dictate, within reason, the frequency with which a claimant will receive physical examinations related to on-the-job injury.

Agencies which utilize both options of medical control, i.e., selection of facilities and regulating the frequency of follow-up examinations, are operating at an optimal level.

B. District Practice

The District is currently performing at an optimal level regarding control and selection of medical services. All injured workers are seen by one of its selected physicians or medical facilities unless the employee has noted, prior to injury, the name of a treating physician.

The District, however, is not utilizing its full options with regard to regulating the frequency of required follow-up examinations.

C. Recommendations

The procedures currently used regarding selection and control of

medical facilities should continue assuring the District the maximum control allowed under the law.

In addition, the District should assume an aggressive posture in requiring follow-up examinations of injured employees. This can be done by stipulating the frequency of examinations and following through by having the supervisor inquire regarding the examination's outcome.

VII. Data Collection, Retrieval and Analysis

Data collection, retrieval and analysis assuring timely, detailed and adequate information so that injury and accident trends can be assessed and sound policies implemented to reverse trends is a key issue in managing and controlling Workers' Compensation costs.

A. State-of-the-Art

Data collection forms, including the employee's report, employer's report and physician's reports should provide all necessary information in determining how and why an accident occurred and the extent of the injury. All forms should be specific in the way questions are asked and information is given. There should be little, if any, room for interpretation of events.

Physician forms should request routine physical information: age, sex, weight, and height, as well as a thorough description of the injury incurred.

The following data elements are the key to providing a sound foundation for analysis and most should be attainable from the data collection forms:

1. Demographic characteristics of the injured employee, i.e., employee number, age, race, sex, height, and weight.
2. Cause of accident, i.e., slip, fall, hit by equipment, faulty machinery, etc.

3. Type of injury, i.e., back, abrasion, broken bone.
4. Location of accident, i.e., coach, office area, fuel island, bus washer, yard, shop.
5. Date, time, work day number, and day of the week.
6. Number of initial days lost plus number of days lost per recurrence.
7. Time of day of accident as related to number of hours worked that shift.
8. Amount of money paid per claim.

These information items analyzed individually and in comparison provide valuable information. Analysis of demographics, accident cause, injury type and accident location could note possible trends which identify equipment modification, supervision, discipline, or training needs.

A study of the number of days lost both initially and subsequently in conjunction with type of injury may aid in better estimating future claims costs.

An analysis of number of employees filing claims, in addition to the number of claims being filed would help to identify recurrences of both similar accidents/illnesses or habitual claimants. This indicator has ramifications for management in identifying high-risk employees and becoming cognizant of safety violations or hazards, thus alerting the Safety Department to potential training needs.

A review of initial days lost per claim and the number of recurrences and days lost per recurrence could identify chronic claimants and potential needs for in-depth investigation.

All of the data elements should be reviewed to compare the injured employee population to the general employee population into which they fall (injured operators to non-injured operators, injured utilities to non-injured utilities, etc.) and to the total employee population. Such a comparison could be helpful in identifying pre-employment physical needs, additional training needs, and a profile of high risk types. Reports should be compiled on the department level.

The lack of sufficient data collection and analysis may severely limit the understanding, control, and management of Workers' Compensation costs.

B. District Practice

RTD employee and employer accident reports are not specific enough and often necessary information, including facts leading up to the incident, is not reported, thereby making decisions difficult as to which investigations need to be completed. Although the forms require a full description of the accident, no background information is requested.

The forms often are not completed properly; however, no formal review procedure exists assuring adequate completion.

As noted earlier in the RTD Workers' Compensation Unit section of this report, little data analysis is currently conducted and some necessary information is not collected.

C. Recommendations

The District should collect in an easily usable format, all pertinent data, as noted above. This information should be analyzed and observed trends followed.

VIII. Personal Contact with Injured Workers

Maintaining personal contact with the injured worker, according to the law, is the responsibility of the employing agency. Employers should have, and display, concern about the health and welfare of their workers in order to promote a positive work environment.

A. State-of-the-Art

Injured employees should be treated with respect and courtesy, not neglect; the employee may feel bitter about the injury, unsure of future earnings, or be considering legal action and should be personally and promptly informed that medical care will be provided and temporary compensation paid. Furthermore, the employee should be told and shown that an anxious employer is concerned about his/her welfare and desires a prompt return of his/her valuable services. Follow-up calls should be made inquiring as to the employee's welfare and expected date of return to work.

It should be stressed that the employer should not display feelings of guilt regarding the incident and should never speculate on the accident cause or claim outcome to the employee. Such speculation could be used against the employer in a court of law if the employee decided to pursue the claim.

Lawyers, safety experts, and mental health professionals feel that positive, concerned contact can be effective in getting employees back to work sooner, in preventing unnecessary litigation and in obtaining medical services and better reporting of those services. Personal communications help reduce uncertainty about benefits and establish an atmosphere in which the employee feels comfortable in contacting the employer instead of a lawyer regarding questions.

B. District Practice

As noted earlier, the Operations Department has recently begun a limited program of visiting some employees at home. The Department

has developed a form which assists the manager in deciding which employees to contact and visit. In addition, the visiting nurse contacts some employees who have been out of work for an extended period.

C. Recommendations

The District should expand its home visit program to include all employees who are out of work on a Workers' Compensation claim for a week or more. Each employee should be contacted either in person or by phone once a week for the remainder of his absence.

The Employee Relations Department should develop a formal program of support and counseling for department heads and supervisors. This program should be monitored by Employee Relations as a means of demonstrating the District's concern for the well-being of its employees.

It should be the responsibility of the employee's department to coordinate home visits; however, the Workers' Compensation Unit should be appraised of the employee's progress and the outcome of the contacts.

IX. Department Performance Review

Performance reviews should be conducted for all departments involved with Workers' Compensation. This review would evaluate compliance with established policy and procedures.

A. State-of-the-Art

An in-house evaluation is essential in continuing to vitalize the Workers' Compensation program, including safety, and to improve employee awareness of easily corrected weaknesses. Review at various levels and by various departments is an effective means to accomplish this task. Evaluators from other areas, particularly those trained in audit procedures, bring a keen sense of freshness into a review and can often offer creative ways to approach noted problems.

B. District Practice

The Safety Department currently conducts safety compliance checks to aid in the identification and correction of accident hazards. This review is helpful at the division level as records are checked to note whether proper procedures were followed in reporting violations.

Audits or reviews of support departments, i.e., the Workers' Compensation Unit and Safety Department have not been performed on a routine basis. Therefore, there is no check of the effectiveness or efficiency of the department's performance.

C. Recommendations

Support department audits should be conducted annually to ensure that the departments responsible for loss control/safety and claims management functions operate at optimal levels. This review could be performed by the Management Services Section as its staff is trained in operational and performance audit techniques and operates as an independent internal support unit. Another alternative would be to engage an outside consultant to evaluate the program on a periodic basis.

The Safety Department should continue to perform safety compliance checks, thereby reducing accident hazards. In addition, the Workers' Compensation Unit should audit the contract claims adjuster to insure competent, consistent claims handling.

X. Coordination with the Claims Adjusting Agency

Items which are paramount in developing and administering a viable, effective Workers' Compensation program require the in-house Workers' Compensation Unit to:

1. Coordinate activities with the claims adjusting agency assuring continuing contact with injured employees.

2. Work with in-house departments in getting employees back to work.
 3. Retain overall administrative control over the compensation program.
- A. State-of-the-Art

Coordination between the agency and its claims adjuster is imperative in guaranteeing that both the agency's and its employees' legal rights are being met. The agency must maintain an on-going dialogue with the claims adjuster, thus facilitating the entire claims management process. Strong coordination has the following advantages and ramifications:

1. If all concerned parties are knowledgeable regarding case progress, duplication of effort can be averted and the speed with which the claim is settled can be increased.
2. The agency has a responsibility to both its claims adjuster and employees to assure adequate contact and information flow. Although the claims adjuster will meet with employees as needed, it may be necessary, at times, for the agency to serve as liaison or intermediary.
3. Neither the agency nor its representatives, according to law, may harass its employees, and this can best be accomplished by being made aware of all contacts and their purpose. The sharing of information between the employee's department and the administrative unit is beneficial to both, in that supervisors and Workers' Compensation representatives often have different perceptions of events and common knowledge completes the picture.

B. District Practice

Although the District does have a designated Workers' Compensation Unit, the Unit has not adequately coordinated activities and often does not receive information regarding a claim as the information and materials are forwarded directly to Bierly.

As noted earlier, the Workers' Compensation Unit does not serve as a clearing house for information. The procedure manual governing Workers' Compensation issues is non-specific regarding who should receive what information. The Unit has not directed Bierly to furnish it with case updates or the pertinent material it receives.

Coordination, in the area of Workers' Compensation, between District departments is poor, further compounding the flow of Workers' Compensation information. Additionally, there is no consistent rule regarding injured employee contacts.

C. Recommendations

The in-house Workers' Compensation Unit should function as a clearing house, coordinating activities for the claims adjuster and the employee's department, thus facilitating prompt return to work. That is, all information regarding a claim should be funneled through the Unit, so that it is kept abreast of all claims status. The Unit should maintain brief logs noting all information received and all contacts made.

The in-house administrative unit should also retain overall responsibility of the program as it is the in-house expert on Workers' Compensation issues and should be able to provide needed information to all fronts, i.e., employees' departments, adjusters, other departments, regarding an individual claim or type of claim.

The Workers' Compensation Unit should maintain a log noting departmental requests for assistance with Workers' Compensation claims. This log would insure that the Unit is handling these requests in a timely manner and facilitate improved case work load control.

XI. Goals and Accountability

Management goals regarding both Workers' Compensation claim handling and the number of claims filed should be developed. In addition,

accountability procedures insuring responsible action at all levels of management should be established and monitored.

A. State-of-the-Art

The implementation of realistic goals and direct accountability for failure to meet the goals will result in more concern at all levels of management and a heightened awareness of the problem in general. This new awareness should have a positive effect on safe performance.

Every manager should realize what the Workers' Compensation costs for his unit/department are and be asked to identify potential means for reducing them, i.e., identify safety problems, malingerers, etc. Direct involvement on the part of managerial personnel should facilitate return to work efforts, modified duty program success, and reduction of non-valid claims. Manager accountability should also promote general safety consciousness by documenting safety violations and applying progressive discipline in those cases where it is appropriate.

B. District Practice

The District does not currently hold individual departments accountable for on-the-job injuries nor Workers' Compensation claims which occur in each department. Although the Workers' Compensation Unit received a departmental breakdown of Workers' Compensation claims, departments are not sent copies and, therefore, have no way of knowing how they are doing. The only routine report which contains industrial injuries data is the Division Performance Scoreboard, which is prepared by Management Services. The Scoreboard contains only aggregate numbers of injuries by division for Maintenance and Transportation and does not include any indicator, severity or cost.

C. Recommendations

Departments should receive quarterly reports containing Workers' Compensation information, including the number of claims incurred,

cost of claims, and number of days lost due to Workers' Compensation.

A Workers' Compensation policy should be implemented assuring consistent claims handling (Appendix I, page 108).

The District should implement a policy which holds managers and supervisors accountable for the safe performance of its employees. Accountability could be based on and reflect:

- 1) Safety training sessions conducted by and for the employees,
- 2) number of claims filed,
- 3) number of disciplinary actions for safety violations, and
- 4) the goals noted in individual tasks and standards.

Furthermore, managers/supervisors' performance evaluations should reflect their performance as it relates to Workers' Compensation issues:

- 1) Policy implementation and enforcement,
- 2) safety citations,
- 3) accident rates, and
- 4) accomplishments of goals.

ORGANIZATIONAL PLACEMENT

The organizational placement of a Workers' Compensation Unit poses an interesting issue as literature and agency surveys reveal no traditional pattern in the organizational placement of the Workers' Compensation Unit. This lack of consistency is due, in part, to the overlapping areas which deal directly with Workers' Compensation issues. These areas include: safety, employment screening, claims adjusting, coordination of medical services, and coordination of legal services. Additional areas in which expertise is useful, are fiscal management and general analytical knowledge. The Unit commonly appears in the following departments:

1. Personnel
2. Safety
3. Insurance
4. Risk Management
5. General Administration

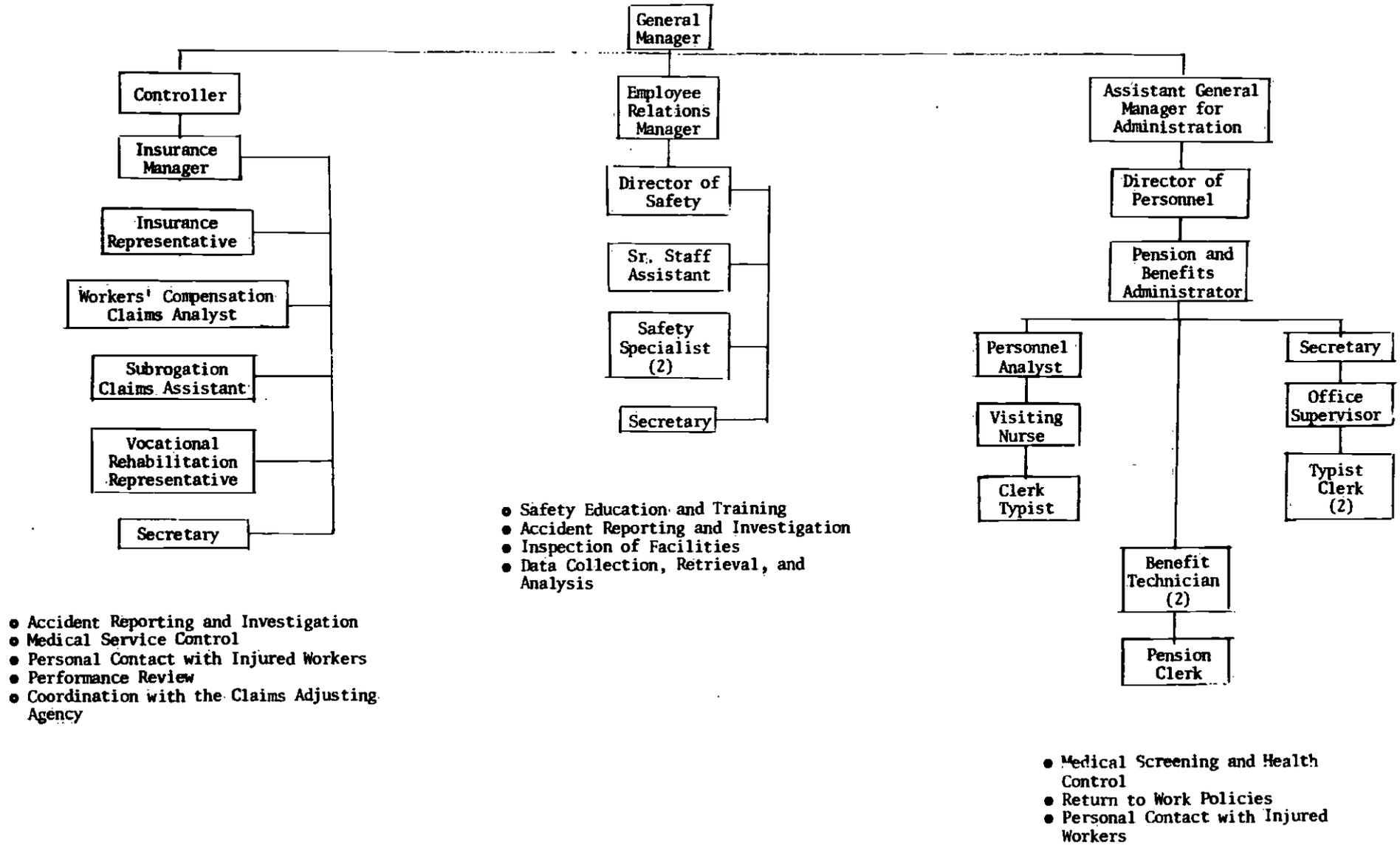
Combinations of these departments are also common. Organizational theory, in the case of Workers' Compensation, is "whatever works well for the agency". Philosophies differ regarding the focus of the function and the appropriateness of Unit interactions.

There are several alternatives for the Workers' Compensation Unit placement at the RTD. They are:

1. Insurance
2. Personnel
3. Safety
4. The creation of a Risk Management Department
5. The creation of the Workers' Compensation Unit as a separate entity reporting to an executive staff member.

A current organization chart of the possible organizational placement choices is found as Exhibit VII.

ORGANIZATION CHART OF CONCERNED DEPARTMENTS



1. Insurance Department

As noted earlier, the Workers' Compensation Unit is currently located in the Insurance Department which handles all personal liability and damage cases filed against the District. By continuing this practice, organizational continuity is maintained. The Unit was originally placed in the Insurance Department as many of the functions related to Workers' Compensation occur in other areas of the insurance field, i.e., claims processing, investigation, claims adjusting, etc. The expertise of the Insurance Department would be necessary in this endeavor if the claims function were still handled in-house.

The current organizational structure has the Insurance Department Manager reporting to the District's Controller/Treasurer. This relationship underlines the recognized need for fiscal management of insurance claims. As it has been documented, costs associated with Workers' Compensation continue to escalate and, therefore, fiscal management is crucial.

2. Personnel Department

The Personnel Department administers and monitors all other employee benefit packages, including medical care and unemployment insurance and is, therefore, experienced in monitoring insurance related policies.

Due to the fact that Personnel is responsible for selecting a medical facility and establishing pre-employment physical standards, the Department is already involved in one important area related to Workers' Compensation. In this regard, the Department has submitted a grant proposal requesting funds to study pre-employment medical standards designed for specific job categories. The visiting nurse, who could provide valuable assistance in monitoring claimants, is assigned to the Personnel Department.

Modified work duty and rehabilitation are recognized as critical steps in reducing Workers' Compensation costs. Both functions might be appropriately housed in the Personnel Department. Modified work duty assignment may be a personnel function as that Department is familiar with the classification system and specific job qualifications. As such, the reassignment of tasks

can be expedited by this expertise. Similarly, rehabilitation involves many classification skills which already exist in the Department.

All employee records are maintained by the Department, therefore, there is ready access to cross reference employee history and general employee population descriptions.

3. Safety Department

Due to the recognized need to complete the accident/investigation/prevention cycle, the Safety Department is a viable organizational placement for the Workers' Compensation function. Safety personnel are trained in accident investigation, including on-the-job injuries and, therefore, could contribute valuable assistance to the effort. The training in safe operational procedures is also a key issue in Workers' Compensation and it is this Department's responsibility to see such training is completed.

In addition, because of the Safety Department's training functions, the Department has already established communication lines with the Operations Department. This could prove valuable in training supervisors to identify and report investigative issues, i.e., safety hazards, safety violations, faulty equipment.

Some of the information which is essential to analyzing Workers' Compensation trends and patterns is currently being compiled by the Safety Department for other applications and could easily be used in this endeavor. The Safety Department now has a department computer with a software package which could expedite analysis. Safety Department personnel are familiar with analyzing accident trends, as they currently are doing so with traffic accidents and could easily translate this expertise into on-the-job injury accident analysis.

4. Risk Management Section

The Workers' Compensation budget currently consumes approximately 10% of the total SCRTD budget. Because of the high costs associated with Workers'

Compensation, there is sound logic in hiring a trained risk manager who has extensive expertise in the total loss control field, including safety, Workers' Compensation, and other insurance, P.L. and P.D. In some agencies, security is also under this jurisdiction.

This position would, if at the executive level, assure a higher profile to the entire area, thus producing greater accountability.

The major areas of concern of risk managers are to identify, analyze, and evaluate risk, eliminate or abate risk to the extent possible, and manage financial matters associated with exultant risks. These areas closely parallel the major areas of successful Workers' Compensation management.

5. Workers' Compensation Unit as Separate Entity

The Workers' Compensation Unit could operate as a distinct entity, not a formal element of a larger department, if there were adequate coordination with appropriate District departments, i.e., safety, personnel, etc. Greater visibility could be achieved and there is no compelling functional reason for the Unit to be part of the Insurance Department.

ORGANIZATIONAL RECOMMENDATIONS

It is recommended that the Workers' Compensation Unit remain in the Insurance Department. This recommendation is based on a reported change in communication and cooperation between the Safety Department and Workers' Compensation Unit. The renewed sense of joint commitment should mitigate the problems which arise from separation of function and the current reporting structure of different Executive Staff members.

RTD 91-5
EFF 5/80

LEGAL DEPARTMENT
SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

425 SOUTH MAIN STREET
LOS ANGELES

DO NOT INCLUDE MORE THAN ONE
SUBJECT IN THIS COMMUNICATION

DATE: February 18, 1981

TO: Suzanne B. Gifford
FROM: Sharon L. Smith
SUBJECT: Employer's Rights, Duties, Proscriptions with regard to
Workers' Compensation

Specifically, it has been asked whether an employer has the right to terminate Workers' Compensation benefits to an employee when that employee fails to make himself/herself available for medical exams, or leaves the state, changes address without notifying the District, and so forth. More generally, it is asked - What rights does an employer have in the area of Workers' Compensation?

ANSWER:

Yes, it is possible to terminate benefits by following procedures described below.

Generally, the employer bears the responsibility to affirmatively do some things, as well as the right to require certain cooperation and information from the employee. However, the employer is expressly forbidden to perform certain acts. An employer who violates these mandates or commits any of the prohibited acts may incur liability for the payment of monetary penalties or even risk criminal prosecution. Also, a self-insured employer may stand to lose its self-insured status for violations of these requirements. Accordingly, this memo will serve as a basic information sheet outlining what the employer

- 1) may do
- 2) may not do
- 3) must do.

Relevant code sections are provided where appropriate.

In order to understand the material that follows, a glossary of Workers' Compensation jargon and terms of art is included at the back of this memo. This memo is not intended to serve as an exhaustive study of the subject. Rather, it should

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assist management and supervisors in understanding workers' compensation as it applies in day-to-day operations.

The employer's rights and duties with respect to workers' compensation are derived from portions of the California Labor Code, the Rules of Practice and Procedure of the W.C.A.B., the California Insurance Code, and relevant case law. For the District, additional duties may be imposed by applicable Union contracts. This memo does not address the problems of coordinating contract language with appropriate code sections.

I. THE EMPLOYER MUST:

Each employer must have workers' compensation insurance or an approved self-insurance program. Through this program the employer must provide all the medical care and treatment reasonably necessary to cure or relieve the effects of an industrial injury or illness, and must pay workers' compensation disability benefits promptly.

A. Workers' Compensation Insurance: (L.C. §3700 et seq.)
An employer must have made some provision for workers' compensation coverage for its employees. Large organizations such as the City of Los Angeles, Sears-Roebuck, or Bethlehem Steel are permissibly self-insured. The State of California may decide to grant permission to be self-insured. This decision is made after an investigation is done and adequate proof has been provided that the employer has sufficient cash on hand to pay anticipated claims.

Smaller companies are required to purchase workers' compensation insurance policies. There are many insurance companies which provide workers' compensation insurance, such as Hartford, Travelers, California Casualty, etc.

The S.C.R.T.D. is permissibly self-insured. Bierly and Associates is the adjusting company that the District uses. Thus, claims are paid from District funds, rather than by an insurance company after premiums have been paid.

B. Medical Care and Treatment: (L.C. §4600 et seq.)
The employer must provide everything reasonably necessary to cure or relieve the effects of an industrial injury. Examples: doctor bills, x-rays, medication, bandages, crutches, surgery, chiropractic care, hospital care, home nursing care, physical therapy, etc., if reasonably necessary. An employee has the right to go to his/her own doctor for treatment 30 days after the date of injury. And, if an employee has notified the employer, in writing, in advance that the employee has a personal physician and prefers treatment by that personal physician, the employee has the right to be treated by that physician from the date of injury, excepting of course, emergency care.

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C. Prompt Payment of Disability Benefits: (L.C. §5814)
Unreasonable delay or refusal to pay the benefits to which the employee is entitled can result in the assessment of a 10% penalty on the unpaid or late amount. However, the employer does not have to provide benefits if the refusal is based on a good faith belief that the employee is not entitled to such benefits. This good faith belief must be based on a medical opinion or a thorough investigation of facts. For example, a supervisor's opinion that the employee is "faking it", or a rumor that the employee was drunk and was injured by falling down the stairs at a party is not sufficient. However, if the employer has a medical opinion from a bona fide physician, based on an examination of the employee, that an employee can return to work, or a thorough investigation by competent persons reveals substantial evidence (witnesses, etc.) that the injury was non-industrial, such information is probably sufficient to support a good faith belief that benefits need not be paid. Even if the W.C.A.B. later determines that the injury was industrial or that the employee was not able to return to work when the District's doctor said the employee could, the good faith basis for our actions will be enough to avoid the penalty.

To illustrate, in Greyhound Lines-West vs. Workers' Compensation Appeals Board and Robert J. Surratt, [(42 CCC 831), WCAB No. 76SD45369], a 10 percent penalty for unreasonable delay in the furnishing of temporary disability benefits was held to be properly imposed against an employer where the employer terminated benefits almost two months before the treating physician authorized by the employer released an injured employee to return to work.

Here the employer stopped paying benefits before its own doctor released the employee to return to work. The employer thus had no good faith basis for its action.

In Goose vs. WCAB; Montaque Harris & Co. of Southern California; and General Accident Insurance Company, [(42 CCC 310), WCAB No. 76NA63912], it was held that the workers' compensation judge properly refused to impose a penalty on a workers' compensation insurer because he stopped paying disability benefits to an injured employee where there was ample medical doubt as to the insurer's liability for further temporary disability indemnity or further advances against permanent disability.

Note the term "medical doubt". A medical opinion is crucial to the determination to suspend or terminate benefits to the employee, as not being TD.

Similarly, in Choumas vs. WCAB; Gallaratoes Restaurant and General Insurance Company of America, [(42 CCC 173), WCAB No. 73LB68356], the court upheld the workers' compensation judge's refusal to assess a 10% penalty for unreasonable delay in paying temporary disability benefits where the evidence showed (1) a genuine doubt as to an injured waitress' condition existed at the time benefits were terminated, and (2) immediately after the cessation of temporary disability indemnity

the workers' compensation insurer began making advance payments against a future award of permanent disability benefits.

Here the employer had a good faith belief that the employee was not entitled to benefits.

In Parson, Jr., vs. WCAB; Willig Freight Lines; and Transport Indemnity Co., [(43 CCC 91), WCAB No. 76SJ51737 and 76SJ51738], the employer had a genuine and reasonable doubt as to the nature and extent of an injured employee's disability and therefore his delay in furnishing workers' compensation benefits was reasonable where the employee waited over two months to seek medical treatment, and during the two month period he took time off for personal reasons, giving no indication of any disability. Note the importance of a medical opinion to establish a claim for TD!

D. Rehabilitation (L.C. §139.5)

Unfortunately, sometimes after the best medical care and treatment available has been provided, the injured employee simply cannot return to his/her former occupation: (for example, a long distance truck driver who now has a work restriction requiring no prolonged sitting, no heavy lifting, no pushing, pulling, etc. or a worker whose work requires continuous climbing on ladders and catwalks who injures an ankle and can never climb ladders etc. again). In these instances, the employer is obligated to provide vocational rehabilitation.

There is NO requirement that the employee be guaranteed a job. However, the benefits required by §139.5 are extensive: the employer must pay temporary disability benefits while the employee participates in a rehabilitation program of training, as well as additional living expenses necessitated by the rehabilitation program, (e.g., child care costs, mileage, etc.) together with all reasonable and necessary costs of training (such as tools and equipment, books, fees, tuition, etc.). Generally, the employee takes a variety of tests to determine what skills and aptitudes he/she has and what kinds of work are possible with the employee's physical limitations. Consideration is usually given to the employee's interests and preferences as well as to the demand for a particular skill or occupation in the labor market. With all of the above concerns in mind, a vocational rehabilitation plan is developed for the employee. If the employer can employ the injured worker in some different capacity, considerable savings are possible in terms of rehabilitation costs and often the employee benefits in terms of accrued pension, vacation, and sick leave, etc., as well as avoiding the disruption attendant upon switching employers. However, the employee is not required to accept whatever job the Company offers and can elect to train for a new job with a new employer if the State Rehabilitation Bureau approves.

II. THE EMPLOYER MUST NOT: [L.C. §132(a)]

As mentioned above, the employer must not unreasonably delay or refuse to pay workers' compensation benefits. But more serious in terms of penalties, is discrimination against an industrially injured worker. A violation of this section can result in a penalty of 50% of the cost of benefits provided, as well as possible criminal charges filed against those responsible for the discrimination. Judges vary in their application of the penalty, but for illustration, the following penalty is legally possible:

If it is determined that Joe X was discriminated against under the provisions of L.C. §132(a), an award could issue based on the following: (Joe broke his leg as an RTD tree-trimmer)

a) Temporary disability benefits at \$175/wk. for 29 weeks	\$ 5,075.00
b) Doctor's appointments to his personal orthopedist 10 visits	500.00
c) X-rays	275.00
d) Hospital - surgery: one operation to set the fracture and put pins in; one operation to correct the location of pins, etc. Total of six weeks in hospital for traction, etc. Anesthesia, operating room costs, prescriptions while in hospital, recovery room costs, etc.	30,000.00
e) Medication during time not in hospital	800.00
f) Crutches rented from surgical supply Co.	400.00
g) Mileage to and from doctors, hospital, pharmacy, etc.	50.00
h) District ordered medical examinations by District doctor; total six exams	1,750.00
i) Permanent disability exam by workers' compensation doctor arranged by employee's attorney	850.00
j) Permanent disability award	10,000.00
TOTAL	\$49,700.00

(NOTE: People familiar with current medical costs will probably find these figures conservative - use them only for an example)

The maximum penalty payable by an employer is \$10,000 - so using our example - 50% would be over \$24,000, but the maximum penalty limit would apply and reduce the penalty to \$10,000 in addition to the almost \$50,000 already paid out of District funds on this claim. Note that in effect, the employer pays the attorney's fees for the employee because the attorney for the employee is not allowed to charge regular fees for services. Instead, the attorney is awarded a percentage of the employee's

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permanent disability award. Usually, the courts will award somewhere in the neighborhood of 10 percent, slightly more in drawn out or complicated cases, less in very straightforward cases. HOWEVER, larger fees are available on these 132(a) claims. There is plenty of incentive for the employee's attorney to file such a claim if the facts call for it.

WHAT QUALIFIES AS DISCRIMINATION UNDER L.C. §132(a)

- 1) Discipline of an employee because of the injury.
- 2) Firing an employee for filing a W/C claim.
- 3) Threats against, or harassment of industrially injured workers.
- 4) Reduction of seniority for industrially injured workers.

Nevertheless, just because an employee is hurt on the job, doesn't mean he's "home free" with regard to work rules and discipline. You can fire an employee because of work performance, tardiness and absences, drinking on the job, etc., whether the employee has filed a workers' compensation claim or not. As long as the rules are not selectively enforced against industrially injured workers, the rules for discipline, performance, etc. apply. It is recommended that, if a supervisor is not sure whether an action is discriminatory or not, the department should contact the Legal Department BEFORE carrying out the action.

Some cases illustrating discrimination or lack of it, under L.C. §132(a) follow: Judson Steel Corp. v. WCAB; and Ralph Maese (1980) 22 Cal.3d 55, 150 Cal.Rptr. 250. Judson involved an employee who was TD for one year; when he returned he was laid off due to lack of seniority - since the Union contract said that if you did not work for one year, you lost your seniority. The Supreme Court of California held that the employer, which terminated an employee's seniority rights, and, ultimately, his employment because of the employee's absence from his job as a result of an industrial injury, engaged in unlawful discrimination within the meaning of the statute declaring a broad general policy condemning discrimination against workers who are injured in the course and scope of their employment. Thus the award of 50 percent penalty was held to be justified.

Moreover, the discriminatory acts of an employer for which increased compensation may be awarded are not limited to the acts enumerated in the statute relating to the employee's exercise of his legal rights in the proceedings before the WCAB, but include any act that discriminates against an industrially injured employee. Note that where the Labor Code conflicts with union contract language, the Labor Code controls.

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In Jones v. WCAB and Harsh Investment Corp. [(42 CCC 842) WCAB Nos. 75SF254004 and 75SF254005], the court found that an employer had not discriminated against an employee who allegedly had made known his intention to file Workers' Compensation claims, where the only credible evidence showed that the employee was terminated because of tardiness and excessive absenteeism.

In White v. WCAB and Port of Oakland, [(42 CCC 944), WCAB No. 760AK62026], was found not entitled to a hearing on the merits of her petition charging her employer with discriminating against her for filing a Workers' Compensation claim where: (1) the petition alleged that the employee was discharged because she was unable to perform, due to her industrial injury, her former job and, (2) she was unable, because of her background and work experience, to perform any other employment required by her employer.

In the above-mentioned case the employer had no work available that the employee could perform with her work restrictions resulting from her industrial injury. The employer does not have to "invent" work for the injured employee. Rather, in situations such as this, rehabilitation benefits should be provided by the employer. (See discussion of rehab., supra).

III. EMPLOYER'S RIGHTS - AN EMPLOYER MAY:

A. Medical Examinations - (L.C. §4050 et seq.)

An employer may require medical examinations, at reasonable intervals, of an injured employee. These examinations may be conducted by physicians of the employer's choosing. The Code requires that the employer notify the employee in writing, a reasonable time in advance of the date, time, and place of the examination (L.C. §§4050, 4051). Also, the reasonable costs of transportation to and from the examination are to be paid by the employer (at 21 cents a mile). If an employee refuses to go to the examination or refuses to cooperate with the examination, the employer is entitled to stop payment of Workers' Compensation benefits until such time as the employee again makes himself/herself available for examination by the District's Doctor (L.C. §4054). An employee who leaves the area and is unavailable for our examinations, may ultimately be able to prove that he was temporarily disabled or in need of medical care, or both, and thus be able to establish the right to payment of back benefits (benefits accrued but not paid). However, the employer is not obligated to pay benefits until the employer's examining physician indicates that benefits are in order, or the court orders payment. (Note: to stop benefits, the employer must file a petition to suspend benefits with the W.C.A.B.)

B. DENIAL OF BENEFITS:

If the employer's doctor says the employee can return to work and the employee's doctor says that the employee is still disabled, the employee does not have to return to work, (and can't be fired for not returning to work), but the employer does not have to pay TD. The employee can, however, ask his/her doctor to certify the employee for State Disability Insurance (SDI) at that time. If a Workers' Compensation judge later determines that the employee was TD for all or part of the disputed time, the District must reimburse the State for SDI payments made during the periods the employee was found to be TD.

For example, in Sisco v. WCAB and National Metal & Steel Corp., [(42 CCC 773), WCAB No. 75LB78985], an injured employee was held not entitled to further temporary disability after the date of a physician's examination where (1) the employee refused to keep appointments for further diagnostic tests recommended by the doctor, and (2) after finally keeping an appointment, the employee's test results showed there was no basis for awarding further temporary disability.

Note that it takes a medical opinion to substantiate the suspension of benefits.

C. LIGHT DUTY

A doctor may release an employee to return to work with restrictions, (e.g. no heavy lifting, or no lifting over 50 lbs.) usually called "light duty or modified work". The employer then may require the employee to return to work, even if the employee cannot yet perform his/her usual and customary job, as long as the employer provides work within the doctor's work restrictions. For example, a tree-trimmer with a cast on one foot could not perform a tree-trimmer's usual tasks (presumably trimming trees), but might be able to perform some duties useful to the employer: For example, inventory of tools, bench work, such as sharpening and greasing shears, other "sit-down" tasks, light assembly, answering phones, etc. Rather than pay an employee \$175.00 per week to do nothing, the District might prefer to make such light duty available to the employee and at least get some service rendered for money paid. Union contracts may affect this decision with regard to work out of class, but since the employee will be paid more to work at light duty than the employee would make on temporary disability, it should be possible to resolve problems with the Unions on this issue. Generally, Unions recognize the benefit of light duty to their members and are very supportive of light duty programs. NOTE: It is really in the employee's best interests (as well as the District's) to return the employee to work at light duty.

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D. SAFETY RULE VIOLATIONS:

The employer may cite violators of safety rules, even industrially injured employees, as long as all known violators are cited. If only violations resulting in injury are cited, a possible 132(a) discrimination charge could be filed. Whether the employee would prevail on such a charge is another matter, but the most prudent course would be to cite all safety infractions, whether they resulted in injury or not.

SUMMARY

Obviously, the District is not at the mercy of its injured employees, nor is the employee at the mercy of the District. Many decisions with regard to injured employees are medical decisions, and are best made by persons who practice medicine rather than by supervisors, management, or by the employee.

If the District adopts the attitude that it is in everyone's best interest to provide the injured employee with decent medical care and return that employee to work of some kind (light duty, modified work, etc.) as soon as medically advisable, it would seem that workers' compensation costs could be reduced, and lost time due to industrial injuries could be significantly curtailed. To this end, District management and unions will have to cooperate with regard to making light duty/modified work available. However, if management and especially first line supervisors understand the District's duties and prerogatives as to workers' compensation, it should be possible to reduce our workers' compensation costs significantly in the near future.

Sharon Louise Smith
Associate Counsel

GLOSSARY OF WORKERS' COMPENSATION TERMS

1. Applicant

The employee who files an application for Workers' Compensation benefits before the W.C.A.B. is referred to as an "applicant" rather than a "plaintiff".

2. Apportionment

Where a person's disability is the result of both an on the job injury with the current employer, and either:

- a) an injury not on the job (sports injury, armed services injury, auto accident, etc.);
- b) an injury while working for another employer;
- c) a previous industrial injury for which an award of permanent disability has already been made;
- d) another separate, distinct industrial injury, not yet compensated;

the judge will "apportion" the disability between industrial and non-industrial causes, or will apportion between the two industrial injuries. This makes a big difference in the total amount paid out. For example, in the case of a back injury at work causing permanent disability complicated by a subsequent car accident, the judge might apportion a 30% disability as 20% industrial and 10% non-industrial, thereby reducing the amount of money to be paid by the employer for the injury. An injury caused partly at one employer and partly with another would be apportioned between the employers. Sometimes, however, if the employee can show he was asymptomatic at the time of the second injury, there is no apportionment.

3. Industrial Injury

An injury arising out of one's employment. One need not work at an industrial job to have an industrial injury - a ballerina who slips and breaks an ankle during a performance of Swan Lake is an industrially injured worker. A hearing loss sustained by a disc jockey at a Disco nightclub, through prolonged exposure to loud dance music would also be industrial.

GLOSSARY OF WORKERS' COMPENSATION TERMS

4. P.D.-Permanent Disability

After all treatment has ended and the injured employee still has some permanent problem with respect to the ability to work in general (i.e., prior to the industrial injury the worker was 100% able to work and now has lost 15% of that 100% ability to work), the permanent residual disability is determined by opinions of doctors. This percentage is arrived at through a formula that factors in the worker's age, occupation, and how that injury to that part of the body affects the performance of that job. The percentage assigned by the doctor based on general ability to work is then modified to reflect specifically what that worker does and the specific age of the employee at the time of injury. For example, loss of a finger is more serious for a piano player than for a college professor; loss of hearing is more important to a piano player than to a steel worker, etc. This final percentage, that is arrived at by use of the formula, translates into money paid to the employee when the Workers' Compensation case is resolved. It is sometimes paid out to employees in advance for emergency needs or when no T.D. benefits are due to the employee at that time. These advance payments of P.D. are called "P.D. Advances".

5. P & S - Permanent and Stationery

This is a term that is used by doctors to signify that the injured employee's medical condition has stabilized - no further treatment will help and the healing process is complete, i.e., the employee's condition is as good as it will ever be.

6. T.D. - Temporary Total Disability

Temporary Total Disability does NOT mean that the employee is a basket case, or a candidate for last rites. It just means that the employee is temporarily precluded - as a result of his/her industrial injury - from doing that employee's usual and customary job.

GLOSSARY OF WORKERS' COMPENSATION TERMS

7. T.D. - Temporary Total Disability Benefits

These are payments of up to a maximum of \$175.00 per week and are paid to an employee who is T.D. (See No. 6, above). Regarding definitions 6 and 7: An employee might still be able to perform all sorts of useful tasks, but if the employer fails to make modified work or light duty available, that the employee can do, then the employer must pay T.D. benefits until the employee is able to return to his/her regular job. If the employee will never be able to return to his/her regular work (e.g., a typist who loses a hand), that's not a temporary disability, and thus rehabilitation benefits, not T.D. would appropriate.

8. W.C.A.B.-Workers' Compensation Appeals Board

This is the "court" that handles claims for industrial injuries ONLY. Its jurisdiction is exclusive, except for special circumstances, the only place where you can file a claim for industrial injury is the W.C.A.B.

A workers' compensation judge hears only cases dealing with industrial injuries, nothing else. Locally there are Appeals Boards in Downtown Los Angeles as well as in Van Nuys, Long Beach, Bell Gardens, Santa Ana, and Santa Monica. There are several judges at each board.

.....

Cases cited as being published in CCC, are found in California Compensation Cases, which reports cases which are controlling with regard to issues of fact or law.

The W.C.A.B. Number provided on cases refers to the year the case was filed, the Board where the case was filed, and a case number for that board.

Example: 81 LB 12345 would represent a case filed in 1981, at the Appeals Board in Long Beach, the 12,345th case filed at that board.

AUDIT NO.
1846

RECEIVED

JUN 23 1978

AGREEMENT

INSURANCE MANAGER
SECRET

THIS AGREEMENT is entered into this 14 day of JUNE, 1978, between BIERLY AND ASSOCIATES, INC. (BIERLY) and SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT (DISTRICT).

The parties agree as follows:

- I. The terms and conditions set forth in the District's Request For Proposal dated March 24, 1978, and Bierly's Proposal dated May 1, 1978, are incorporated herein and made a part of this Agreement.
- II. The period of this Agreement shall be from July 1, 1978 through June 30, 1981.

III. Bierly shall perform the following services on behalf of District:

A. PROGRAM DEVELOPMENT

- 1. Consult with the District personnel and assist in developing the necessary procedures, practices and coordination to implement District's self-insured program and to meet legal requirements of the State.
- 2. Conduct or assist in conducting orientation meetings for the District personnel involved directly or indirectly in the processing of industrial injury cases.
- 3. Provide to District information on changes or proposed changes in statutes, rules, and regulations affecting the District's responsibility under a legally uninsured Workers' Compensation program.
- 4. Review with the District representatives program progress, including identification of problem areas and recommend solutions thereto.
- 5. Sponsor and pay for a membership in the California Index Bureau on District's behalf.

6. Establish procedures and necessary documentation to provide for the payment of benefits, medical costs, legal fees, and other related costs to enable Bierly to issue checks to cover such expenditures.

B. CLAIMS ADMINISTRATION

1. Review and process all claims for Workers' Compensation benefits in accordance with the requirements of the Industrial Relations Department for reporting and notification.
2. Determine the compensability of claimed injuries and illnesses in accordance with the State's Workers' Compensation laws.
3. Determine eligibility for and authorize payments of medical benefits and authorize examinations to determine the nature and extent of disability when appropriate.
4. Determine eligibility for and authorize payment of temporary disability compensation in coordination with medical advice and rehabilitation efforts.
5. Determine the degree of permanent disability, if any, of injured workers utilizing, as necessary and desirable, advisory ratings of the Permanent Disability Rating Bureau.
6. Authorize the payment of permanent disability compensation and death benefits in accordance with advisory ratings, orders of the Workers' Compensation Appeals Board, or compromise and release settlements. C and R's and stipulated awards exceeding \$10,000 must have prior District approval.
7. Refer litigated cases to attorneys utilizing an agreed listing of legal firms. Assist in the preparation of litigated cases, negotiations of compromise and release settlements, and subrogation actions.
8. Maintain current estimates of costs of all anticipated benefits and related expenses on each case.
9. Investigate or arrange for investigation of, as necessary and appropriate, questionable cases and the status of disabled employees in order to adjust all cases and to assist in the trial or settlement of litigated cases.

10. Assure that sufficient claims personnel are available so that no claims examiner will be required to handle more than 225 open indemnity claims at any one time.

C. MEDICAL CONTROL

1. Develop and recommend to the District a panel of physicians, dentists, chiropractors and other practitioners for the initial treatment of injured employees and recommend a panel of such specialists as may be required for long-term or other disabilities requiring special treatment.
2. Monitor treatment programs for injured employees, including the review of all "Doctor's First Report of Work Injury" to assure that treatment is related to a compensable injury or illness.
3. Maintain close liaison with treating physicians to assure that employees receive proper care and to avoid overtreatment situations.
4. Review and make recommendations to the District on its utilization of in-house medical expertise.
5. Consult with the District personnel and provide guidance and evaluations of the physical capabilities of injured employees to return to work.
6. Recommend and assist in the development of medical standards and health requirements for the District's occupation classifications.

D. EMPLOYEE SERVICES

1. Provide information and guidance to the District's employees regarding Workers' Compensation benefits, inquiries on specific injuries and permanent disability ratings in accordance with the District policies.
2. Assist in resolving employee problems related to an industrial injury in nonlitigated cases.
3. When medically and legally appropriate, develop rehabilitation programs for injured employees for approval by the District, the employee, and other agencies to provide rehabilitation, retraining, or reassignment for employees with physical or performance limitations resulting from industrial injuries.
4. Consult with employee groups, District Board of Directors and District management, and unions on problem cases in accordance with District policies within a reasonable scope.

5. Develop and recommend policies and procedures to insure that the employee's ability to work is consistent with the findings of the Workers' Compensation Appeals Board.

E. FISCAL ANALYSIS

1. Provide the District administration with continuing information on the progress of individual claims and the effectiveness of safety and other cost control programs on Workers' Compensation claims.
2. Submit monthly statistical summaries and narrative reports to assist in the evaluation of the District's program.
3. Provide periodic projections of cash flow and actuarial projections of the annual incurred costs.

IV. FEES

The fee for total services described in the attached proposal for handling all Workers' Compensation claims through to a conclusion will be \$360,000 for the three-year period. This will be billed at the rate of \$10,000 per month.

The above fee structure assumes no responsibility for the administration of the presently open claims that have occurred prior to July 1, 1978.

The above fee shall include all services under this Agreement, except for payments made by Bierly on District's behalf for medical disability, or other benefits and allocated loss expense.

"Allocated Loss Expense" shall mean all Workers' Compensation Appeals Board or court costs, fees and expenses; fees for service of process, fees to attorneys; fees of independent adjusters or attorneys for investigation or adjustment of claims not provided by salaried employees of Bierly; provided, however, that assignments to independent adjusters shall be approved in advance by District; the costs of employing experts for the purpose of preparing maps, photographs, diagrams, chemical or physical questions; the cost of copies of transcripts of testimony at coroner's inquests or private records; the cost of depositions and court reporter or recorded statements and any similar costs or expenses properly chargeable to the defense of a particular claim or to protection of the subrogation rights of District -- provided, however, that any of the above services performed by salaried employees of Bierly shall not be considered allocated loss expense and, provided further that, except for attorneys' fees, cumulative allocated Loss Expense per file shall not exceed \$2,500 without prior approval of the District. "Allocated Loss Expense" is not included in the annual service fee.

V. ADDITIONAL CONDITIONS

- A. The District shall not be liable to Bierly for personal injury or property damage sustained by it in the performance of this Agreement, whether caused by Bierly and Associates, its officers, agents or employees, or by any third person.
- B. While performing service hereunder, Bierly is an independent contractor and not an officer, agent or employee of District.
- C. Neither party shall assign this Agreement or any part hereof without the written consent of the other party.
- D. The services to be performed by Bierly shall specifically exclude any which now or in the future are deemed to be the practice of law.
- E. All claim files records, reports, and other documents and material pertaining to the District's claims shall be the property of the District and, at the option of District, shall be delivered to District or its designees by Bierly upon termination of this Agreement. Bierly shall also provide computer tapes containing all computerized data pertaining to the District and its claims, together with the format thereof upon such termination.

VI. ADMINISTRATION OF CLAIMS TO A CONCLUSION

It is Bierly's responsibility to administer to a conclusion all of the Workers' Compensation claims which occur during the term of this Agreement, and such responsibility shall remain in effect regardless of any termination of this Agreement.

WITNESS the parties hereto the day and year first above written.

BIERLY AND ASSOCIATES, INC.

SOUTHERN CALIFORNIA
RAPID TRANSIT DISTRICT

By *Robert Bierly*
 Title: *President*

By *Jack R. Gilstrap*
 Jack R. Gilstrap, General Manager

Approved as to Form:

Richard T. Powers
 Richard T. Powers, General Counsel

ACTION PLAN FOR CONTROL OF WORKERS' COMPENSATION COSTS

Objective:

Reduce the cost of industrial injuries and illnesses in the District.

Measure of Effectiveness:

The effectiveness of this plan will be measured by changes in the number of days lost, due to industrial injury and illness.

RECOMMENDED ELEMENTS OF THE PLAN

I. Promote District awareness and project priority

- Define loss control responsibilities at the various managerial levels.
- Recommended specific actions to be employed in meeting our loss reduction goals.
- Monitor the progress of all program segments; periodically, adjust as necessary.
- Communicate through periodic meetings, bulletins, reports, etc., the District's express desire in management to address this problem.

II. Involve Departmental Managers in the Problem Solving

- Conduct periodic meetings with management's representatives from Safety, Workers' Compensation and the appropriate Transportation/Maintenance managers to review implementation and evaluation of the action plan.
- Improve departmental management and supervisory practices which affect losses; recommend changes or revisions as they are identified through the Safety Department.
- Sponsor workshops at the division level to define and develop solutions for the various aspects of the loss control program; recommend further actions.
- Employ the services of the Training Department to support and reinforce those activities requiring formal training presentations.

III. Strengthen Loss Control Services Provided by Management Staffs

- Investigate the feasibility of implementing a limited duty return to work program which would reduce lost time and Workers' Compensation costs.
- Review the current pre-employment physical examination process to insure adequacy of medical questionnaire, examining data, physical testing and screening requirements.

- Consider expanding the visiting nurse program to address the area of occupational injuries and illnesses.
- Establish a procedure by which the Workers' Compensation Department can gain the assistance of visiting nurses for special follow-up assignments.
- Review the practices of the District's medical group referrals; strive for uniformity in return to work practices by physicians and medical groups.
- Monitor all reporting systems to insure the effectiveness of District loss control forms; review the present medical service order (Form 38-61) for adequacy, such as return to work duties, limited duty status, etc.

IV. Program Evaluation

- Consider the quality of loss control programs under departmental control when evaluating department-head performance.
- Explore managerial plans which establish departmental accountability for loss control (e.g. charging loss rates back to each department).
- Present Workers' Compensation benefits issues at Labor Contract negotiations; bargain for contractual agreements that reflect the minimum requirements under Workers' Compensation laws.

V. Strengthen District Environmental Health and Safety Programs

- Improve the training of managers, supervisors and employees in loss control and safe work practices.
- Upgrade the means and speed by which loss-causing hazards are identified and removed.
- Identify and secure (if available) outside funding of grants to develop methods of controlling the costs of Workers' Compensation claims.
- Improve the investigative procedures for all claims of questionable nature.

(Original plan appears in italic with editorial comment in regular type)

ACTION PLAN FOR CONTROL OF WORKERS' COMPENSATION COSTS

Objective:

Reduce the cost of industrial injuries and illnesses in the District.

Measure of Effectiveness:

The effectiveness of this plan will be measured by changes in the number of days lost, due to industrial injury and illness.

RECOMMENDED ELEMENTS OF THE PLAN

I. Promote District awareness and project priority

- *Define loss control responsibilities at the various managerial levels.*

General supervisory/managerial responsibilities have not been identified. The only managerial action currently in practice is the home visit program established by the Operations Department.

- *Recommended specific actions to be employed in meeting our loss reduction goals.*

Doctor's releases are now required for all occupational injury claims, after accrual of four days lost time.

Medical releases are to be verified by telephone call to medical facility.

All claims will be scrutinized and investigated according to procedures to be issued by the Transportation Department.

Pre-employment and annual physical examinations have been improved, thereby providing a better tool for selecting employees and apportioning future compensation awards costs.

Action Plan - continued

Safety Awards Program has been revitalized to promote greater incentive by restructuring award criteria and issuing superior awards products.

To date, additional actions have not been implemented.

- *Monitor the progress of all program segments; periodically, adjust as necessary.*

No formal or information monitoring system has been developed, assuring consistent checks into the program.

- *Communicate through periodic meetings, bulletins, reports, etc., the District's express desire in management to address this problem.*

No formal communication network has been instituted to convey top management's concerns in the Workers' Compensation area.

II. Involve Departmental Managers in the Problem Solving

- *Conduct periodic meetings with management's representatives from Safety, Workers' Compensation and the appropriate Transportation/Maintenance managers to review implementation and evaluation of the action plan.*

A Workers' Compensation Committee has not been formed and interaction between departments remains poor.

- *Improve departmental management and supervisory practices which affect losses; recommend changes or revisions as they are identified through the Safety Department.*

Due to the change in the Safety Department's role in Workers' Compensation, their involvement has been reduced.

- *Sponsor workshops at the division level to define and develop solutions for the various aspects of the loss control program; recommend further actions.*

The Operations Department sponsored workshops at the division's level regarding the Workers' Compensation program. However, the Workers' Compensation Unit, the Training Department, the Safety Department, were not included in planning of the workshop or the material covered.

Action Plan - continued

- *Employ the services of the Training Department to support and reinforce those activities requiring formal training presentations.*

The Training Department has recently been instrumental in arranging an industrial accident investigation course.

III. Strengthen Loss Control Services Provided by Management Staffs

- *Investigate the feasibility of implementing a limited duty return to work program which would reduce lost time and Workers' Compensation costs.*

The Safety Department is currently studying the feasibility of a return to work program.

- *Review the current pre-employment physical examination process to insure adequacy of medical questionnaire, examining data, physical testing and screening requirements.*

The Personnel Department is investigating the possibility of soliciting funds to finance a comprehensive study delineating physical examination criteria for specific job classifications.

- *Consider expanding the visiting nurse program to address the area of occupational injuries and illnesses.*
- *Establish a procedure by which the Workers' Compensation Department can gain the assistance of visiting nurses for special follow-up assignments.*

The District's visiting nurse is no longer involved in Workers' Compensation claims.

- *Review the practices of the District's medical group referrals; strive for uniformity in return to work practices by physicians and medical groups.*

Panel physicians do not participate in a review/monitoring cycle.

- *Monitor all reporting systems to insure the effectiveness of District loss control forms; review the present medical service order (Form 38-61) for adequacy, such as return to work duties, limited duty status, etc.*

Action Plan - continued

Reporting systems have not been reviewed, nor is the current system monitored for compliance in reporting. Bierly reports that information is not always sent to them as per the Workers' Compensation Supervisors Manual and key information is omitted from the forms.

IV. Program Evaluation

- *Consider the quality of loss control programs under departmental control when evaluating department-head performance.*

Workers' Compensation is not a part of the Supervisor's tasks and standards, and therefore not a part of the evaluation process.

- *Explore managerial plans which establish departmental accountability for loss control (e.g. charging loss rates back to each department).*

To date, no action has resulted in this regard.

- *Present Workers' Compensation benefits issues at Labor Contract negotiations; bargain for contractual agreements that reflect the minimum requirements under Workers' Compensation laws.*

The Labor Relations Department is taking this issue under consideration and collecting data regarding Workers' Compensation for the next round of contract negotiations.

V. Strengthen District Environmental Health and Safety Programs

- *Improve the training of managers, supervisors and employees in loss control and safe work practices.*

As noted above, only minimal training has been conducted regarding Workers' Compensation; however, the Safety Department has implemented safety related training programs.

- *Upgrade the means and speed by which loss-causing hazards are identified and removed.*

The Safety Department through its Safety Coordinator and inspection programs has moved in this direction.

Action Plan - continued

- *Identify and secure (if available) outside funding of grants to develop methods of controlling the costs of Workers' Compensation claims.*

Personnel has written a grant and is soliciting support for pre-employment physicals standards.

- *Improve the investigative procedures for all claims of questionable nature.*

Investigative procedures have not been developed or implemented.



SUPERVISOR'S PROCEDURE MANUAL

FOR

WORKERS' COMPENSATION

Revised July 1980
Insurance Department

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SUPERVISOR'S PROCEDURE MANUAL
FOR WORKERS' COMPENSATION

GENERAL

The purpose of this manual is to provide you with the information necessary to properly handle and report job-incurred injuries sustained by District employees. It does not cover injuries of a non-work origin or injuries incurred by our passengers.

ADMINISTRATION

The administrator of the District's permissibly self-insured program for Workers' Compensation is Bierly & Associates, 1631 Huntington Drive, South Pasadena, California 91030, 441-3151.

They handle all post-injury complaints, control follow-up medical, authorize and distribute benefit checks, and represent us before the Workers' Compensation Appeals Board.

MINOR INJURIES (Report of Minor Injury 60-3 (Attachment I))

All job-incurred injuries, regardless of how minor must be reported. Injuries requiring no medical treatment or only first aid should be reported on the Report of Minor Injury, form 60-3. The original of this report is sent to Bierly and Associates. The copy is filed in the employee's personnel file.

If it later develops that the minor injury requires professional medical attention or there is time lost due to the injury, follow the procedures described in this manual to handle and report the claim.

OBTAINING MEDICAL TREATMENT

If an injury requires medical treatment, a Medical Service Order (Attachment II) should be prepared in duplicate referring the injured employee to a doctor on our panel. Always telephone the doctor or medical facility before referring the injured employee for treatment to ensure the employee will not be unnecessarily delayed in being examined at the clinic.

The original of the Medical Service Order shall be given to the employee for presentation to the doctor. Attach the carbon copy to the original of the Employer's Report of Occupational Injury. Fill in

the division or department address under employer's address on the Medical Service Order form. Then the doctor's First Report describing the diagnosis, treatment and extent of disability will be sent directly to you.

Remember, once an on-the-job injury is reported by an employee, it is the EMPLOYER'S responsibility to offer prompt medical treatment. If the employee refuses medical treatment, he should be informed that if he later decides to seek medical attention it must be obtained from one of the medical facilities on our panel or it may be at his own expense.

If an employee is injured after the regular business hours of the panel clinic and wishes to wait until the next day to go for the medical examination, he may do so.

If an employee goes for medical treatment after the clinic's regular business hours and is not examined by a physician, he must be reexamined the next day by a physician. It will be the employer's responsibility to ensure the employee is examined by a physician.

EMPLOYEES RIGHTS TO BE SEEN BY THEIR OWN PHYSICIAN

California law requires an employer to provide all medical treatment necessary to cure and relieve an employee from the effects of an on-the-job injury. There are two exceptions:

- o If the employee notifies his employer in writing prior to being injured of his desire to go to his own doctor in the event of an injury. The doctor must have records on file of having previously treated the employee.
- o Thirty (30) days after the date of an on-the-job injury the employee may elect to go to a physician of his choice.

If an employee informs you of his decision to change physicians, notify Bierly and Associates immediately to avoid any delay in benefits.

TRANSPORTATION TO THE MEDICAL FACILITY

If the injury is serious enough to require an ambulance, telephone the dispatch center on extension 6111. They will make the necessary arrangements.

If the injured employee does not require an ambulance but is unable to provide his own transportation, transport him in a district automobile.

If a district automobile is not available, use a taxi service. Instruct the employee to obtain a receipt for the taxi fare. Send the receipt to Bierly and Associates for reimbursement.

EMPLOYEE'S REPORT OF INJURY 60-4 (Attachment III)

An Employee's Report of Injury form shall be prepared in duplicate by the injured employee as soon as practicable after an on-the-job injury which requires medical attention or involves lost time.

The original of this form should be attached to the Employer's Report of Injury and forwarded to Bierly and Associates. The duplicate will be filed in the employee's personnel file.

In those instances when the employee is unable to complete the form, notify the Insurance Department immediately. A representative of the Insurance Department will obtain the report and mail the duplicate for the employee's personnel file.

EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS (Att. IV)

The Employer's Report by law must be completed within 5 days of the injury. The form does not have to be typed. The original and first copy of the report shall be forwarded to Bierly and Associates together with the original of the Employee's Report and the copy of the Medical Service Order.

The Branch copy shall be forwarded to the Safety Department. The Employer's copy is retained by the Supervisor and filed in the division office file with the CAL-OSHA form 500.

If you have additional information pertaining to the claim or have reason to question the claim, make this information known to Bierly and Associates as soon as possible. You may either attach a note to their copy of the Employer's Report or telephone them.

If you later on discover anything to lead you to question the claim, notify Bierly and Associates immediately.

MANAGING ON-THE-JOB INJURY CLAIMS

The following list outlines steps to use to monitor on-the-job injury claims. They should be used as appropriate for each case.

- o Keep an up-to-date list of employees out due to on-the-job injury so that you can periodically check on their progress toward recovery.
- o Call the panel doctor to discuss the nature of the employee's injury, the proposed treatment and the forecast date of return to work. Periodically check back with the doctor to monitor the employee's condition.
- o Call or visit the injured employee.
- o When an injured employee returns to work, have them review how the accident occurred. Have them explain the accident so that it can be determined how this accident could have been prevented or can be prevented in the future.
- o Keep an up-to-date list of employees that have had on-the-job injuries to use to identify those employees with recurring injuries.
- o Review the 3IR record with employees who have had repeated injury claims. Determine with the employee how further injuries can be prevented.

The Instruction Department can provide retraining in some cases. The Safety Department can provide counseling in some cases. The Personnel Department can aid in other types of referrals for assistance.

- o Notify Bierly and Associates when you put an employee on an indefinite leave.
- o Notify Bierly and Associates if an employee out on an on-the-job injury is terminated. Bierly and Associates must know why this employee was terminated, whether it was voluntary or involuntary.
- o Notify Bierly and Associates if you transfer an employee who is receiving rehabilitation assistance due to an on-the-job injury. Bierly and Associates will then determine if the transfer affects the rehabilitation program.

RETURN TO DUTY

Notify Bierly and Associates on the day an injured employee returns to work.

Failure to notify them promptly can result in over payment of compensation payments which are very costly to the District.

RECURRENCE

If you suspect an employee's claim of injury may actually be a recurrence of a previous injury, complete a new Employer's Report describing what has lead you to believe this. Bierly and Associates will then make the determination if this claim will be considered new or a recurrence.

INJURIES DUE TO TRAFFIC ACCIDENTS

When an employee is injured on the job due to a vehicle accident, an additional copy of the Accident Report form 32-43D must be completed and attached to the original copy of the Employer's Report and forwarded to Bierly and Associates

FATAL ACCIDENT

In case of a fatal accident, notify the Safety Department as soon as possible on extension 6545. They will make the required notification to the State's District office of the Division of Industrial Safety.

FAINING OR BLACKOUTS

Injuries incurred due to an epileptic seizure, fainting or blackout while on duty shall be handled according to the procedures outlined in this manual. Medical treatment for the epileptic seizure, fainting or blackout itself must be handled by the employee's own medical plan or private doctor.

QUESTIONABLE CLAIMS

If at any time during an on-the-job injury claim you discover information that leads you to question the validity of the claim, notify Bierly and Associates. Contact the panel doctor prior to an employee's first visit if you have information that might help the doctor to determine the validity of an injury claim.

UNUSUAL CASES

Occasionally, employees will claim injuries or disabilities giving obscure or puzzling histories. Many times these alleged injuries or illnesses occurred several weeks or months ago, or in certain cases, you may have reason to believe that the injury was not caused by the employee's work. Examples of a few injuries which may not be covered by Workers' Compensation are:

- o Injuries caused by an employee's own intoxication.
- o Self-inflicted injuries.
- o Injuries arising out of altercation between employees on personal disputes.
- o Injuries caused by horse-play.
- o Injuries while traveling to and from work.

On these cases, follow the normal reporting procedures as outlined in this manual. Notify Bierly and Associates of any additional information you may have about the claim.

On those cases when the employee does not immediately report the claim of injury, follow the normal reporting procedures for handling the claim when they do report it. In addition, instruct the employee to complete in his own handwriting a chronological statement describing what has happened relative to his injury since it occurred, including:

- o Why the accident was not reported earlier.
- o What medical treatment (x-rays, laboratory tests, etc.) has been received including names and addresses of doctors or medical clinics.

The appropriate forms along with the signed statement and any other information the supervisor has should be sent to Bierly and Associates promptly.

If the employee has already been treated by his own doctor, advise him that treatment by an unauthorized physician may not be reimbursed.

Provide the employee with the name and address of the appropriate clinic on our approved list. Contact the doctor before the employee arrives for examination to inform the doctor he should report on the nature of the injury. DO NOT authorize treatment. Then inform Bierly and Associates of the case. They will determine if treatment is to be authorized.

INSURANCE DEPARTMENT ASSISTANCE

The Insurance Department should be notified on extension 6667 immediately following a serious or unusual on-the-job injury such as:

- o Those involving hospitalization of the employee at the outset.
- o Those involving the violation of a safety rule.
- o Those involving an allegation of "Serious and Wilful Misconduct" on the part of the District.
- o Those caused by unprovoked attack.
- o Those involving a delayed report by the injured employee.
- o Or any other questionable or unusual claim as described in the manual under "Unusual Cases".

INQUIRIES

Any inquiries or correspondence regarding an on-the-job injury case should be referred to Bierly and Associates. In no case should any information be released concerning an on-the-job injury without their prior approval.

RESPONSIBLE PARTIES

Whenever possible, obtain the names and addresses of any witnesses to an on-the-job injury, whether they be passengers, fellow employees or casual bystanders.

This information is particularly important in the case of vehicle accidents in which the responsible party may be held liable for damages making it possible for us to recover our Workers' Compensation expenses.

Should one of our employees be injured by faulty machinery or equipment of any kind, retain the faulty item. Telephone the Safety Department on extension 6545 to make arrangements for an immediate inspection of the item. It is possible that the manufacturer of the item may be held as the responsible party thereby reducing our Workers' Compensation costs.

**PROBLEMS WITH BIERLY AND ASSOCIATES OR THE PANEL DOCTORS
OR CLINICS**

Should you have any problems with the services or reports from the panel clinics or doctors or from Bierly and Associates, report this problem to the Insurance Department on extension 6667.

RTD 60-3
REV. 11/79

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT
REPORT OF MINOR INJURY
(NOT REQUIRING MEDICAL TREATMENT / NO TIME LOST)

Date _____

Name of Injured _____ Occupation _____

Location of Accident _____ (Division or Plant) Dept. _____ Badge No. _____

Date of Injury _____

Nature of Injury _____ (Describe fully)

How Injury Occurred _____

First Aid Treatment _____

(First Aider's Signature)

(Employee's Signature)

(Foreman)

NOTE: If after this form is used, it later becomes necessary to secure medical treatment or time lost for the same injury, it should then be reported to Bierly & Associates.

COPIES: 1 - Bierly
1 - Your File

MEDICAL SERVICE ORDER
ISSUED BY
BIERLY AND ASSOCIATES
SELF-INSURANCE SPECIALISTS

1631 HUNTINGTON DRIVE • SOUTH PASADENA, CA 91030
 (213) 441-3151

To Doctor _____

Address _____

M. _____ was injured

on _____ of _____
 (Date) o.m. p.m. while working in our employ.

Please give necessary medical attention as provided by the Workers' Compensation Act.

Date _____ Name Employer _____

Address _____

Signed by _____ Title _____

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

WORKMAN'S COMPENSATION SECTION
EMPLOYEE'S REPORT OF INJURY

INJURED PERSON

Name _____ Badge No. _____ Dept. No. _____

Home address (No. and Street) _____ City _____ Phone _____

Check Married Single Widowed Divorced Male Female Date employed _____ Birth Date _____

Occupation when injured _____ Was this regular occupation _____
If not regular occupation, state regular occupation & Dept. _____

TIME AND PLACE

Date of injury _____ Day of week _____ Hour of day _____ AM PM

No. of hours on duty prior to accident _____

Location of accident _____

Dept./Div. _____ Line No. _____ Vehicle No. _____

Name of foreman _____

CAUSE OF ACCIDENT

Machine, tool or thing causing injury _____

Was safety appliance or regulation provided (specify-shields, guards etc.) _____

Describe cause of accident _____

NATURE OF INJURY

Specific part or parts of Body injured _____

Has Employee been offered treatment? Circle: Yes No

Medical attention by Doctor _____ Hospital _____

Medical attention authorized by _____

If Employee refuses treatment, Give reason _____

DESCRIPTION OF ACCIDENT

Full description of accident - As written or stated by Employee _____

Name of Witnesses _____

Attach to 1st copy form RTD 58-64

Time and date of report _____ AM PM

Employee's Signature _____

Reviewed by _____

Title _____ Date _____

State of California
**EMPLOYER'S REPORT
 OF OCCUPATIONAL
 INJURY OR ILLNESS**

BIERLY AND ASSOCIATES
 SELF-INSURANCE SPECIALISTS

1631 HUNTINGTON DRIVE • SOUTH PASADENA, CA 91030
 (213) 441-3151

California law requires an employer to report within five days every industrial injury or occupational disease which: (a) Results in lost time beyond the day of injury, or (b) requires medical treatment other than first aid. In addition, if the injury results in death, a report must be made by telephone (415/557-3962) or telegraph to the California Division of Labor Statistics & Research, San Francisco, within 24 hours after death.

EMPLOYER	1. FIRM NAME		1A. CERTIFICATE NUMBER	PLEASE DO NOT USE THIS COLUMN
	2. MAILING ADDRESS (Please include city, Zip)		2A. PHONE NUMBER	
	3. LOCATION, IF DIFFERENT FROM MAIL ADDRESS		3a. DIVISION/LOCATION NO.	
	4. NATURE OF BUSINESS (e.g., shoe manufacturer, cabinet works)		5. STATE UNEMPLOYMENT INSURANCE ACCT. NUMBER	
EMPLOYEE	6. NAME	6a. EMPLOYEE NUMBER	7. SOCIAL SECURITY NUMBER	CASE NO EMPLOYER NO INDUSTRY SEX AGE OCCUPATION WEEKLY WAGE COUNTY ACCIDENT AGENCY AGENCY PRT SUPPLEMENTAL AGENCY NATURE OF INJURY PART OF BODY INJURY DATE EXTENT OF INJURY INSURANCE CARRIER REPORT LAG CODED BY
	8. HOME ADDRESS (number and street, city, Zip)		8A. PHONE NUMBER	
	9. SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	10. OCCUPATION (Regular job title, not specific activity at time of injury)	11. DATE OF BIRTH Month / Day / Year	
	12. DEPARTMENT IN WHICH REGULARLY EMPLOYED		12A. DATE OF HIRE Month / Day / Year	
	13. WAGES \$ _____ per week	13A. IS EMPLOYEE PAID ON COMMISSION OR PIECE WORK BASIS, OR PAID BOARD OR LODGING ALLOWANCE? <input type="checkbox"/> Yes <input type="checkbox"/> No	13B. UNDER WHAT CLASS CODE OF YOUR POLICY WERE WAGES ASSIGNED?	
	14. WHERE DID ACCIDENT OR EXPOSURE OCCUR? (address, city and county)		15. ON EMPLOYER'S PREMISES? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	16. WHAT WAS EMPLOYEE DOING WHEN INJURED? (Please be specific. Identify tools, equipment or material the employee was using)			
	17. HOW DID THE ACCIDENT OR EXPOSURE OCCUR? (Please describe fully the events that resulted in injury or occupational disease. Tell what happened and how it happened. Please use separate sheets if necessary.)			
	18. OBJECT OR SUBSTANCE THAT DIRECTLY INJURED EMPLOYEE (e.g., the machine employee struck against or which struck him; the vapor or person inhaled or swallowed; the chemical that irritated his skin; in cases of strains, the thing he was lifting, pulling, etc.)			
	19. NATURE OF INJURY OR ILLNESS AND PART OF BODY AFFECTED			
20. NAME AND ADDRESS OF PHYSICIAN		21. IF HOSPITALIZED, NAME AND ADDRESS OF HOSPITAL		
22. DATE OF INJURY OR ILLNESS Month / Day / Year	23. TIME OF DAY _____ a.m. _____ p.m.	24. WAS EMPLOYEE UNABLE TO WORK ON ANY DAY AFTER INJURY? <input type="checkbox"/> Yes, date last worked _____ <input type="checkbox"/> No		
25. HAS EMPLOYEE RETURNED TO WORK? <input type="checkbox"/> Yes, date returned _____ <input type="checkbox"/> No, still off work	26. DID EMPLOYEE DIE? <input type="checkbox"/> Yes, date _____ <input type="checkbox"/> No			
Completed by (type or print)		Signature	Title	Date

S.C.R.T.D. WORKERS' COMPENSATION MEDICAL PANEL

ALHAMBRA

Hofgaarden Medical Center
711 West Valley Blvd.
Alhambra, Calif. 91803
289-5245
24 hour service

ARCADIA

Arcadia Medical Clinic
1108 S. Baldwin Ave.
Arcadia, Calif. 91006
466-8831
Mon.-Fri.: 8 AM to 6 PM
24 hour phone service

ARTESIA

Mullikin Medical Center
17821 S. Pioneer Blvd.
Artesia, Calif. 90701
860-6611
Mon.-Sun: 8 AM to 9 PM
24 hour phone service

AZUSA

Hankins Medical Group
520 W. Foothill Blvd.
Azusa, Calif. 91702
334-7811
Mon.-Fri.: 9 AM to 6 PM
24 hour phone service

BELL

Goldberg Medical Clinic
6808 Atlantic Blvd.
Bell, Calif. 90201
585-1128
Mon.-Fri.: 8 AM to 6 PM

BURBANK

Burbank Medical Clinic
2301 W. Magnolia Blvd.
Burbank, Calif. 91501
842-4863
Mon.-Fri.: 8 AM to 9 PM
Sat.: 9 AM to 6 PM
24 hour phone service

CANOGA PARK

Topanga Medical Group
8381 Topanga Canyon Blvd.
Canoga Park, Calif. 91304
384-4494
Mon.-Fri.: 9 AM to 6 PM
24 hour phone service

CARSON

Carson Emergency Medical Clinic
198 East Carson St.
Carson, Calif. 90745
835-7284
Mon.-Fri.: 8 AM to 5 PM
24 hour phone service

COMPTON

Family Medical Group
4200 East Compton Blvd.
Compton, Calif. 90221
639-2111 or 636-0187
Mon.-Fri.: 8 AM to 5 PM
24 hour phone service

CULVER CITY

Sherwood-Trimble Medical Group
10001 Venice Blvd.
Los Angeles, Calif. 90034
839-4381 or 870-8631
Mon.-Fri.: 7:30 AM to 8 PM
Sat.: 9 AM to 1 PM
24 hour phone service
(After hours & emergency:
David M. Brotman Hospital
3828 Delmas Terrace
Culver City, Calif.
836-7000)

Venice-Culver Industrial Center
12095 W. Washington Blvd.
Los Angeles, Calif. 90066
391-5241
24 hour service
(After 6 PM on Sun. & holidays:
Washington Hospital - next door
12101 Washington Blvd.
Los Angeles, Calif.
391-0601)

DUARTE

Foothill Ind. Medical Clinic
1824 Business Center Dr.
Duarte, Calif. 91010
359-4541
Mon.-Sat: 7 AM to 12 AM
After hours the doctor on call
will refer you to Emerg. Hosp.

EL MONTE

Dalton Medical Group
9723 E. Rush St.
South El Monte, Calif. 91733
443-3163 or 283-0236
Mon.-Fri.: 7 AM to 5 PM

Falk Medical Clinic
11245 Lower Azusa Rd.
El Monte, Calif. 91732
444-0333
24 hour service

EL SEGUNDO

Sepulveda Medical Group
815 North Sepulveda Blvd.
El Segundo, Calif. 90245
322-5393
24 hour service

GLENDALE

Roberts Medical Group
1808 Verdugo Rd.
Glendale, Calif. 91208
790-4188
Mon.-Fri.: 9 AM to 5:30 PM
24 hour phone service

HUNTINGTON BEACH

Edinger Medical Group
6082 Edinger Avenue
Huntington Beach, Calif. 92647
(714) 846-2811
Mon.-Fri.: 8:30 AM to 5:30 PM
24 hour phone service

HUNTINGTON PARK

Southeast Medical Center
2675 East Slauson Ave.
Huntington Park, Calif.
589-6681
24 hour service

LA PUENTE

Valley Medical & Industrial Clinic
13404 E. Valley Blvd.
La Puente, Calif. 91744
968-6483
Mon.-Fri.: 8 AM to 6 PM
24 hour phone service

LONG BEACH

Long Beach Medical Clinic, Inc.
757 Pacific Avenue
Long Beach, Calif. 90813
437-0831
24 hours - 8 AM Mon. to 12noon Sat.
Weekends: St. Marys Hospital

LOS ANGELES - CENTRAL

George L. Beharry, M.D.
1401 S. Hope St.
Los Angeles, Calif. 90015
749-1144
Mon.-Fri.: 8 AM to 5 PM
Sat. 9 AM to 12 Noon
(After hours & emergency:
California Hospital
1414 S. Hope St.
Los Angeles, Calif.
748-2411)

Temple Medical Center
124 N. Vignes
Los Angeles, Calif. 90012
626-5679
Mon.-Fri.: 24 hour service
(After hours - Calif. Hosp.)

LOS ANGELES - CENTRAL (cont'd)

Sixth & Spring Medical Clinic
639 S. Spring Street
Los Angeles, Calif. 90014
622-5514
24 hour service

Metropolitan Medical Group
437 East Washington Blvd.
Los Angeles, Calif. 90015
747-0634
24 hour service

Alameda Industrial Medical Group
1907 East Washington Blvd.
Los Angeles, Calif. 90021
747-7667
24 hour service

LOS ANGELES - NORTH

North Main Industrial Medical
1744 N. Main St.
Los Angeles, Calif. 90031
225-2261
Mon.-Fri.: 7 AM to 7 PM
(After hours & emergency:
Santa Fe Hospital
610 S. St. Louis St.
Los Angeles, Calif.
269-9211)

LOS ANGELES - SOUTHEAST

Avalon-Slauson Industrial Group
5911 Avalon Blvd.
Los Angeles, Calif. 90003
233-4341
24 hour service

LOS ANGELES - SOUTHWEST

G & M Medical Clinic
3701 Stocker St.
Los Angeles, Calif. 90008
296-8700
Mon.-Fri.: 9 AM to 7 PM
24 hour service

La Cienega Medical &
Industrial Clinic
3344 S. La Cienega Blvd.
Los Angeles, Calif. 90016
870-7667
24 hour service

LOS ANGELES - WEST

Citizens Medical Group
7531 Santa Monica Blvd.
Los Angeles, Calif. 90046
876-4500
Mon.-Fri.: 8 AM to 7 PM
(After hours: Westside Hosp.
910 S. Fairfax
Los Angeles, Calif.
938-3431)

MONTEBELLO

Montebello Medical Group
1217 E. Whittier Blvd.
Montebello, Calif. 90640
728-2178
Mon.-Fri.: 9 AM to 5 PM
24 hour phone service

NORTH HOLLYWOOD

Vanowen Medical Group
11432 Vanowen St.
North Hollywood, Calif.
764-8838
Mon.-Fri.: 8 AM to 5 PM
Sat.: 9 AM to 12 Noon
24 hour phone service

NORTHRIDGE

Valley Medical Industrial Clinic
18915 Nordhoff St.
Northridge, Calif.
349-9870
24 hour service

PANORAMA CITY

Panorama Professional Medical Group
9561 Van Nuys Blvd.
Panorama City, Calif. 91402
892-4301 or 873-2174
24 hour service

POMONA

Phillip R. Koppel, M.D.
1011 N. Towne Ave.
Pomona, Calif. 91767
(714) 622-6417
Mon.-Fri.: 9 AM to 5:30 PM
24 hour phone service

RIVERSIDE

Community Orthopaedic Medical
4000 14th St., Suite 109
Riverside, Calif. 92506
(714) 682-5661
Mon.-Fri.: 8:30 AM to 5:00 PM
24 hour phone service

SANTA MONICA

Reiss-Woznak Medical Clinic
1908 Santa Monica Blvd.
Santa Monica, Calif. 90404
828-5571 or 870-2254
Mon.-Fri.: 7 AM to 7PM
Sat.: 8 AM to 2 PM
24 hour phone service

SUN VALLEY

Serra Medical Group
9375 San Fernando Rd.
Sun Valley, Calif. 91352
768-3000
Mon.-Fri.: 8 AM to 5:30 PM
Sat.: 8:30 AM to 12:30 PM

TORRANCE

Cabot Medical Group
3679 Torrance Blvd.
Torrance, Calif. 90503
371-7501
Mon.-Fri.: 8 AM to 7 PM
Sat.: 9 AM to 12 Noon
24 hour phone service

TUJUNGA

Tujunga Medical Group
6673 Foothill Blvd.
Tujunga, Calif. 91042
353-8581
Mon.-Fri.: 9 AM to 7 PM
Sat.: 9 AM to 4 PM
24 hour phone service

VAN NUYS/SEPULVEDA

Valley Hospital
14500 Sherman Circle
Van Nuys, Calif. 91405
997-0101
24 hour service

Valley Medical Industrial Clinic
8716 Woodley Ave.
Sepulveda, Calif. 91343
892-0035
24 hour service

WHITTIER

Whittier Medical Group
12802 East Whittier Blvd.
Whittier, Calif. 90602
698-0933
Mon.-Fri.: 7 AM to 7 PM
Sat.: 8 AM to 1 PM
24 hour phone service

Employee Name _____ Division _____ Date _____

HOME VISIT DETERMINATION FORM

- 1. Is the injury to the employee's back, neck or shoulder(s)? () yes () no
- 2. Is the employee a morale-setter or key employee? () yes () no
- 3. Is this a new employee (2 years or less)? () yes () no
- 4. Will a home visit aid you in monitoring the claim? () yes () no
- 5. Is the employee's length of expected recovery time from the injury more than one month? () yes () no
- 6. Will the employee view the home visit positively? () yes () no
- 7. Has the employee had more than one worker's compensation loss of time in two years? () yes () no
- 8. Briefly describe any other factors that contribute to a decision against a home visit.

Instructions:

- 1. Add up the total of "yes" and "no" responses.
- 2. Consider your response to item 8.
- 3. If there are more "yes" responses than "no" responses, and item 8 is not significant make the home visit; if item 8 is significant refer the case to the Insurance Department, extension 6667.

Signature _____
MANAGER

PARAPHRASING AND REFLECTION OF FEELING OBSERVATION FORM

The basic components of paraphrasing are:

1. To determine the basic message that is being expressed in the verbal content of the employee's communication; and
2. To rephrase the verbal content in similar, but fewer, words.

The basic components of reflection of feeling are:

1. To identify the basic feeling(s) being expressed either verbally or non-verbally; and
2. To formulate a reponse which captures the essence of the feeling(s).

Indications that effective paraphrasing is not taking place are:

1. Missing the basic message of an employee statement.
2. Rambling on at length after an employee statement.
3. Assuming the employee accepts a paraphrase without checking it out.

Indications that effective reflection of feeling is not taking place are:

1. Responding solely to content and not to feelings.
2. Assuming the employee accepts a reflection of feeling without checking it out.

<u>Behavior</u> (including attending)	<u>Role-play 1</u>	<u>Role-play 2</u>	<u>Practice</u>
1. Offered brief vocalizations that encouraged the employee to continue talking.	_____	_____	_____
2. Responded to the basic verbal message in employee's statements.	_____	_____	_____
3. Responded to the essence of feelings in employee's statements or behavior.	_____	_____	_____
4. Checked out the accuracy of paraphrasing or reflection of feeling with the employee.	_____	_____	_____
5. Responded to only the last few words in the employee's verbal content.	_____	_____	_____
6. Responded to non-verbal indications of feeling in the employee.	_____	_____	_____

<u>Behavior (including attending)</u>	<u>Role-play 1</u>	<u>Role-play 2</u>	<u>Practice</u>
7. Maintained frequent and varied eye contact.	_____	_____	_____
8. Had relaxed body posture, leaning forward occasionally.	_____	_____	_____
9. Sharpened the employee's meaning, encouraged him to talk further on the same subject.	_____	_____	_____
10. Used more words than the employee in paraphrasing employee statements.	_____	_____	_____
11. Clarified confusing content.	_____	_____	_____

THE GOALS OF THE HOME VISIT PROGRAM

To help prevent future accidents.

To decrease the overall number of accidents in the future.

To develop and improve relationships between management and employee's.

To help to insure the speedy return of employee's to the work setting.

POST-VISIT QUESTIONNAIRE

This form is to be used to refresh your memory and organize your thoughts and actions about the home visit. When completed, file it with the Home Visit Determination Form.

Level of communication established with employee:

good fair poor (circle one)

Family Factors

- 1. Supportive spouse yes () no ()
- 2. Supportive significant other(s) yes () no ()
- 3. Over-supportive spouse or family yes () no ()
- 4. Obvious stress in family relations yes () no ()

Home Environment

- 1. Is there a comfortable setting in house for rest and recovery? yes () no ()
- 2. Are there signs that the employee is performing activities that he or she should not, given the nature of the injury? yes () no ()

Based on discussion, is adequate medical assistance being provided? yes () no ()

Did the employee discuss or ask about worker's compensation? yes () no ()

Did the employee express concern about not receiving appropriate worker's compensation benefits? yes () no ()

Was the employee's pain behavior consistent with the nature of the injury? yes () no ()

Family information for future use:

- 1. Name of spouse _____
- 2. Name of child(ren) _____
- 3. Other information: _____

Final Comments:

Recommended Action:

- None _____ Second home visit _____
- Refer to Insurance, Extention 6667 _____
- Refer to Bierly & Associates _____

Signature _____
 MANAGER

SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

WORKMAN'S COMPENSATION SECTION
EMPLOYEE'S REPORT OF INJURY

INJURED PERSON

Name _____ Badge No. _____ Dept. No. _____

Home address (No. and Street) _____ City _____ / ZIP _____ Phone _____

Check Married Widowed Male Single Divorced Female Date employed _____ Birth Date _____

Occupation when injured _____ Was this regular occupation _____
If not regular occupation, state regular occupation & Dept. _____

TIME AND PLACE

Date of injury _____ Day of week _____ Hour of day _____ AM
PM

No. of hours on duty prior to accident _____

Location of accident _____

Dept./Div. _____ Line No. _____ Vehicle No. _____

Name of foreman _____

CAUSE OF ACCIDENT

Machine, tool or thing causing injury _____

Was safety appliance or regulation provided (specify-shields, guards etc.) _____

Describe cause of accident _____

NATURE OF INJURY

Specific part or parts of Body injured _____

Has Employee been offered treatment? Circle: Yes No

Medical attention by Doctor _____ Hospital _____

Medical attention authorized by _____

If Employee refuses treatment, Give reason _____

DESCRIPTION OF ACCIDENT

Full description of accident - As written or stated by Employee _____

Name of Witnesses _____

Attach to 1st copy form RTD 38-64

Time and date of report _____ AM

Employee's Signature _____ PM

Reviewed by _____

Title _____ Date _____

State of California
EMPLOYER'S REPORT
OF OCCUPATIONAL
INJURY OR ILLNESS

BIERLY AND ASSOCIATES
SELF-INSURANCE SPECIALISTS

1631 HUNTINGTON DRIVE • SOUTH PASADENA, CA 91030
(213) 441-3151

OSHA Case
or File No.
55723

California law requires an employer to report within five days every industrial injury or occupational disease which: (a) Results in lost time beyond the day of injury, or (b) requires medical treatment other than first aid. In addition, if the injury results in death, a report must be made by telephone (415/557-3962) or teletype to the California Division of Labor Statistics & Research, San Francisco, within 24 hours after death.

EMPLOYER	1. FIRM NAME		1A. CERTIFICATE NUMBER	PLEASE DO NOT USE THIS COLUMN	
	2. MAILING ADDRESS (Please include city, Zip)		2A. PHONE NUMBER		CASE NO.
	3. LOCATION, IF DIFFERENT FROM MAIL ADDRESS		3a. DIVISION/LOCATION NO.		EMPLOYER NO.
	4. NATURE OF BUSINESS (e.g., shoe manufacturer, cabinet works)		5. STATE UNEMPLOYMENT INSURANCE ACCT. NUMBER		INDUSTRY
EMPLOYEE	6. NAME	6a. EMPLOYEE NUMBER	7. SOCIAL SECURITY NUMBER	SEX	
	8. HOME ADDRESS (number and street, city, Zip)		8A. PHONE NUMBER	AGE	
	9. SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	10. OCCUPATION (Regular job title, not specific activity at time of injury)	11. DATE OF BIRTH Month / Day / Year	OCCUPATION	
	12. DEPARTMENT IN WHICH REGULARLY EMPLOYED		12A. DATE OF HIRE Month / Day / Year	WEEKLY	
13. WAGES \$ _____ per week		13A. IS EMPLOYEE PAID ON COMMISSION OR PIECE WORK BASIS, OR PAID BOARD OR LOGGING ALLOWANCE? <input type="checkbox"/> Yes <input type="checkbox"/> No	13B. UNDER WHAT CLASS CODE OF YOUR POLICY WERE WAGES ASSIGNED?	COUNTY	
14. WHERE DID ACCIDENT OR EXPOSURE OCCUR? (address, city and county)			15. ON EMPLOYER'S PREMISES? <input type="checkbox"/> Yes <input type="checkbox"/> No	ACCIDENT TYPE	
16. WHAT WAS EMPLOYEE DOING WHEN INJURED? (Please be specific. Identify tools, equipment or material the employee was using)				AGENCY	
17. HOW DID THE ACCIDENT OR EXPOSURE OCCUR? (Please describe fully the events that resulted in injury or occupational disease. Tell what happened and how it happened. Please use separate sheet if necessary.)				AGENCY PART	
				SUPPLEMENTAL AGENCY	
18. OBJECT OR SUBSTANCE THAT DIRECTLY INJURED EMPLOYEE (e.g., the machine employee struck against or which struck him; the vapor or poison inhaled or swallowed; the chemical that irritated his skin; in cases of strain, the thing he was lifting, pulling, etc.)				NATURE OF INJURY	
19. NATURE OF INJURY OR ILLNESS AND PART OF BODY AFFECTED				PART OF BODY	
20. NAME AND ADDRESS OF PHYSICIAN		21. IF HOSPITALIZED, NAME AND ADDRESS OF HOSPITAL		INJURY DATE	
22. DATE OF INJURY OR ILLNESS Month / Day / Year	23. TIME OF DAY _____ a.m. _____ p.m.	24. WAS EMPLOYEE UNABLE TO WORK ON ANY DAY AFTER INJURY? <input type="checkbox"/> Yes, date last worked _____ <input type="checkbox"/> No		EXTENT OF INJURY	
25. HAS EMPLOYEE RETURNED TO WORK? <input type="checkbox"/> Yes, date returned _____ <input type="checkbox"/> No, still off work		26. DID EMPLOYEE DIE? <input type="checkbox"/> Yes, date _____ <input type="checkbox"/> No		INSURANCE CARRIER	
				REPORTING AGENCY	
				CODED BY	

SUBJECT: Accident Investigation

A. PURPOSE

This policy outlines the responsibilities of District employees and the procedures to be followed in investigating an accident.

B. POLICY

It is the District's policy to review all accidents and identify preventive causes. In addition, those accidents resulting in serious or multiple injuries, or major damage to equipment are to be reported to the Safety Department for appropriate investigation.

C. SCOPE OF AUTHORITY

The Safety Department will investigate all major accidents to identify accident causation factors and implement policy, procedure, equipment or personnel changes necessary to minimize the reoccurrence of similar mishaps.

D. SAFETY TRANSIT ACCIDENT RE-CONSTRUCTION TEAM (START)

The Safety Department is charged with the responsibility of directing the District's accident investigation team (START). The team is activated at the discretion of the Safety Director or one of the START members.

The START team shall minimally consists of the following members:

- Director of Safety or staff designee.
- Superintendent of Maintenance or designee.
- Superintendent of Transportation or designee.
- Superintendent of Transportation Services or designee.
- Representative from District Claims Administrator (Bierly & Associates and/or L.J. Pusso, Inc.)

These representatives are normally on emergency call status and are automatically contacted by the Dispatcher or at the request of the Director of Safety.

E. DEPARTMENTAL ASSISTANCE

Safety may also solicit the aid of other support departments as needed to conduct the mishap investigation, e.g., Engineering, Personnel, Purchasing, Legal, etc.

Each Department Head or Supervisor shall cooperate by immediately providing all records and equipment linked to the accident investigation.

Assistance may also be obtain from private or independent consultants, or laboratories when special tests or equipment are needed to validate data or complement the investigation report.

DRAFT

F. START - ACCIDENT SITE PROCEDURES

Upon activation, START will immediately respond to the accident site and report to the Safety Director or designated team leader. The team leader is responsible for transporting all equipment, which will minimally include:

Mobile Radio Unit	Identification Tags
First Aid Kit	Graph/Chart Paper
Fire Extinguishers	Measuring Wheel/Tapes
Camera/Film	Specimen Containers
Tape Recorders	Hand Tools
Flares/Reflectors	Flashlights

The first START member to arrive at the accident site quickly coordinates the data collection tasks and assignments. In priority order, each START member will:

- Observe and analyze the situation.
- Safeguard life and property - minimize farther damage or loss.
- Rely on professional assistance (police, fire, rescue) - support as necessary.
- Preserve and secure physical evidence.
- Ensure that transitory evidence is gathered as soon as possible through use of photographs, sketches, measurements, debris sampling, etc.
- Record and log all data samples.
- Conduct preliminary interviews.
- Make a preliminary on-site assessment of all information gathered, from a factual standpoint.

G. PRELIMINARY ACCIDENT REPORT

Following the data collection stage, all START data will be drawn together and an accident reconstruction plan formulated. Factual conclusions shall be rendered which address each accident cause factor identified. The team leader will then decide whether additional testing, consulting, records reviews, interviews or consulting services are necessary to correlate data and formulate conclusions. If this is not the case, a preliminary report will be issued by the Safety Department based on the data collected within 24 hours. This report will be transmitted to the Manager of Operations and the General Superintendent of Transportation and Maintenance and Department Heads directly involved or affected by the report.

H. REPORTING PROCESS

All incidents/accidents must be reported regardless of the degree of injury or damage as follows:

- Traffic accidents: - reported on District Form 32-34D by employee
- reported on District Form CS-1B by Road Supervisor
- Work injuries: - reported on the Employer's Report of Occupational Injuries or Illness (see Supervisor's Procedure Manual for Worker's Compensation).

These forms must be accompanied with the Supervisor's Report and indicate an assessment of preventability. The supervisor must review all reports prior to submission for accuracy and submit them in a timely manner to the Safety Department.

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I. FINAL REPORT - START RECOMMENDATIONS

A final Mishap Investigation Report will be issued by the Safety Department and at a minimum shall include 1) a summary of the accident, 2) an analysis of the data collected, 3) conclusions in a priority rank order, and 4) recommended actions. (See attached sample format).

Specific corrective actions, procedural changes or policy revisions will include a projected implementation schedule. These schedules will serve as target dates for follow-up checks.

The final report shall be sent to the General Manager, affected Executive Staff and Department Heads and the individuals assisting in the team effort.

J. CORRECTIVE ACTION SUMMARY

Each year, all corrective measures identified in START Reports will be collected in an annual Summary issued to the General Manager. This report will indicate specific corrective actions recommended, implemented actions and those still pending. Open actions pending will be brought to the attention of the appropriate Department Head for final disposition.

SUPERVISOR'S INVESTIGATION REPORT FORM

(1) Department		(2) Date of Occurrence	(3) Time	A.M. P.M.	(4) Date Reported
(5) PERSONAL INJURY			(6) PROPERTY DAMAGE		
(7) Injured's Name			(8) Property Damaged		
(9) Occupation	(10) Injured Part of Body		(11) Estimated Costs	(12) Actual Costs	
(13) Nature of Injury			(14) Nature of Damage		
(15) Object/Equip./Substance/Inflicting Injury			(16) Object/Equip./Substance/Inflicting Damage		
(17) Person with Most Control of Obj./Equip./Substance			(18) Person with Most Control of Obj./Equip./Substance		

No Loss Incident:
 It is unnecessary to complete information in spaces numbered 7 to 18 for those near-loss incidents that under slightly different circumstances could have resulted in serious personal injury or property damage loss.

D E S C R I P T I O N	(19) Describe clearly how the incident occurred. Attach diagram in cases of all vehicle incident.

A N A L Y S I S	(20) What acts, failures to act and/or conditions contributed most directly to this incident?

P R E V E N T I O N	(21) What are the basic or fundamental reasons for the existence of these acts and/or condition.

(22) LOSS SEVERITY POTENTIAL <input type="checkbox"/> Major <input type="checkbox"/> Serious <input type="checkbox"/> Minor	(23) PROBABLE RECURRENCE RATE <input type="checkbox"/> Frequent <input type="checkbox"/> Occasional <input type="checkbox"/> Rare
---	---

P R E V E N T I O N	(24) What action has or will be taken to prevent recurrence? Place X by items completed.

(25) Investigated By	(26) Date	(27) Reviewed By	(28) Date
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REVIEW-BOARD-ANALYSIS

MAJOR ACCIDENT LOSS

Date of Accident	Date of Review	Location	Department or Division
Oct. 13, 1969	Oct. 14, 1969	Building A	Maintenance Dept.

NATURE AND EXTENT OF INJURY-DAMAGE TO PERSONS OR PROPERTY (INCLUDE COSTS WHEN DAMAGE ONLY IS INVOLVED)

Loss of right eye

PERSONAL INFORMATION

Thomas A. Jones injured, Repairman, lives at 22 Valley Rd., Dover. Mr. Jones is married, has three children, ages 3, 6 and 11. He has been with our company 15 years with 10 years experience on present job.

BRIEF DESCRIPTION OF ACCIDENT

This employee was striking a small metal wedge with a stamping hammer attempting to separate two small steel castings that were stuck together. When a piece of steel sprawled off the wedge flying up with force striking his right eye.

REMEDIAL ACTION

1. The established eye protection rule in this area will be enforced.
2. Supervisors will report degree of compliance with this policy at every staff meeting until further notice.
3. Protective equipment and hand tool safety has been discussed at all safety meetings and will continue to be topic of discussion at least monthly for next four months.
4. Inspection of all hand tools in shop was completed on 10-14-69. Specific assignments have been made for weekly inspections during 1970.
5. Engineering is designing new storage racks for castings that will prevent wedging together possibility.

SPECIAL INFORMATION FOR COMPANY-WIDE ATTENTION

The striking of hammers or hand tools against metal objects or material is a common practice throughout our entire plant. The need for 100% enforcement of eye protection in all plant areas is quite evident. Hand tool inspections should be established on regular basis in all plant areas with increased emphasis on this subject periodically communicated to employees in safety meetings.

REVIEW BOARD MEMBERS

Stanley K. Black	Robert S. Transue	Frank A. Roberts
Walter G. Jones	George P. Rilston	Paul E. Brown

Stanley K. Black
Signature of Review Board Chairman

October 14, 1969
Date

SAFETY PROFITS EVERYONE — THE FAMILY, THE EMPLOYEE, THE COMPANY

DRAFT POLICY

SUBJECT: Workers' Compensation

A. PURPOSE

This policy outlines the general responsibilities of District managers, employees, and departments regarding Workers' Compensation issues. Sound Workers' Compensation management is essential to guarantee that both the employee and the District are afforded all of the rights by the law in the most effective, efficient manner.

B. POLICY

1. It is the policy of the District to provide a safe working environment for all employees and to protect the employee, when possible, from industrial accidents and injuries.
2. In the event that an on-the-job injury does occur, it is the policy of the District to provide Workers' Compensation coverage in adherence to the law.
3. All employees will be treated promptly to assure prompt return to work.
4. The District will administer Workers' Compensation funds as it does other public funds in a careful and scrupulous manner.
5. All claims will be reviewed and investigated to insure validity.
6. All injuries resulting from faulty equipment will be investigated to promote third party liability payment.

C. RESPONSIBILITY OF EMPLOYEES

1. Employees shall make every effort to perform work-related activities in a safe manner, exercising care and judgment.
2. Employees shall adhere to all established safety rules and regulations.
3. All job-related illnesses or injuries shall be reported immediately to the supervisor.
4. All required reports for on-the-job illnesses or injuries shall be completed accurately and promptly.
5. All days lost due to on-the-job illness or injury should be noted as such when reporting time lost.

Draft Policy - continued

6. Employees shall comply with District requests regarding medical examinations needed for the job illness or injury. Failure to comply could result in loss of Workers' Compensation benefits.

D. RESPONSIBILITIES OF SUPERVISORS AND MANAGERS

1. Supervisors/managers shall make every effort to insure safe working conditions for all employees.
2. All procedures established in Executive Policy and Procedure Number 19, Industrial Accident Prevention, shall be followed.
3. Supervisors/managers shall investigate all accidents immediately.
4. All supervisors/managers shall record all on-the-job injuries or illnesses on the appropriate forms promptly and accurately. These forms should be completed independently and should not merely be reiterations of the employees' form.
5. All supervisors/managers shall review the employees form to assure completeness. Forms shall be returned to the employee if they are not filled out correctly.
6. All forms, both employee and employer, shall be submitted to the Workers' Compensation Unit within 24 hours of the incident. The supervisor shall note cases of injury where employee forms cannot be immediately completed.
7. All supervisors/managers shall gather, label, and retain pieces of faulty equipment that was involved in the illness or injury.
8. All supervisors/managers shall forward to the Workers' Compensation Unit all information related to an illness or injury that may be useful in the investigation of the incident. This shall include either description of or pieces of faulty equipment.
9. All supervisors/managers shall follow all procedures established in the Workers' Compensation Supervisors' Manual, Executive Policy No. 6.
10. All supervisors/managers shall contact employees each week while out due to on-the-job injury or illness. The initial contact shall be in person.

E. RESPONSIBILITIES OF WORKERS' COMPENSATION UNIT

1. The Workers' Compensation Unit shall act as a clearing house for receiving and disseminating all Workers' Compensation information.
2. The Workers' Compensation Unit shall review all accident report forms to assure completeness.

3. The Workers' Compensation Unit shall collect, tabulate, and analyze the following type of information:
 - a. Demographic characteristics of injured parties
 - b. Numbers of employees filing claims
 - c. Type and number of repeat incidents
 - d. Number of initial days lost per claim and the number of recurrence and days lost per recurrence
 - e. Injury cause
 - f. Accident site
4. The Workers' Compensation Unit shall identify trends to note training needs, safety hazards, safety violations, and representativeness of the injured employee population.
5. The Workers' Compensation Unit shall distribute Workers' Compensation information highlighting major injury types and key trends by department to each department quarterly.
6. The Workers' Compensation Unit shall closely monitor the contracted claims adjusting agency to assure compliance with the contract.
7. The Workers' Compensation Unit shall monitor the contracted claims adjusting agency to insure that physical examinations related to the on-the-job injury are conducted frequently.
8. The Workers' Compensation Unit will contract annually with a consultant to conduct a fiscal audit of the claims adjusting agency.
9. The Workers' Compensation Unit shall analyze all pertinent data to establish true costs associated with Workers' Compensation.

F. RESPONSIBILITIES OF THE SAFETY DEPARTMENT

1. The Safety Department shall conduct regular inspections of District facilities to identify potential safety hazards and monitor the correction of such hazards.
2. The Safety Department shall review all accident report forms and investigate those which it feels appropriate.
3. The Safety Department shall work closely with the claims adjusting agency, sharing all information which may be useful in deciding the disposition of a case.
4. The Safety Department shall work closely with the Workers' Compensation Unit in identifying training needs and establishing appropriate training programs.