

# CCSF WORKERS' COMPENSATION COUNCIL

## MINUTES

Regular Meeting

March 5, 2018

9:00 a.m.

ROOM 408, CITY HALL

1 Dr. Carlton B. Goodlett Place

### **CALL TO ORDER**

9:00 a.m.

### **ROLL CALL**

Micki Callahan, Human Resources Director	Present
Melissa Whitehouse, Budget Director	(Represented by Marisa Pereira Tully)
Naomi Kelly, City Administrator	(Represented by Peter Goldstein) Absent
Norm Nickens, Retirement Board Secretary, Retirement System	Present
Todd Rydstrom, Deputy Controller, Controller's Office	Present
Lorenzo Donati, Deputy City Attorney	Present

### **PUBLIC REQUESTS TO SPEAK ON ANY MATTER WITHIN THE JURISDICTION OF THE WORKERS' COMPENSATION COUNCIL APPEARING ON THE AGENDA (Item No. 1)**

Speaker: Micki Callahan

Public Comment: None

### **APPROVAL WITH POSSIBLE MODIFICATION OF MINUTES (Item No. 2)**

**Action:** Minutes approved for the meeting on December 4, 2017.

## **REPORT FROM THE SFMTA WORKERS' COMPENSATION DIVISION**

Discussion Item: (Item No. 3)

**Speaker: Dan Roach, Municipal Transportation Agency**

Dan begins his presentation by reporting on claim volumes. This is a rolling 12 month report through the end of January. Claims are trending slightly up this year. In the last 12 months, they are averaging 12 claims per 100 employees where previously they were averaging just over 11 claims for the same period. The main drivers for the increase are assault and cumulative trauma claims.

Dan continues to report that financials are also up just under \$300,000 which is a slight increase of 2.25%. Vocational Rehabilitation is up. Medical payments are down a significant amount of \$730 thousand and Expense is down \$221 thousand. They had a good Recovery number which is due in part to a backlog of recoveries that were administratively processed. There were significant increases in temporary and permanent disability payments.

Micki asked if Dan had any thoughts as to the reasons behind the increase in temporary and permanent disability costs such as the settling more claims or clearing a backlog. Dan responded that while they are always working to settle claims, he has noticed that they have been accepting a number of claims which had either been delayed or previously denied. There is also the resultant EDD claims which have to be resolved. The other driver of these costs is the increase in assault and battery claims, which comes with the possibility of up to one year of salary continuation per the city charter.

Micki continued by asking if the increase in battery claims was to operators, parking control officers, or others. Dan responded that it is mainly operators, parking control officers are a distant second along with transit fare inspectors. Dan continued by saying that he feels that until there is more prosecution of offenders which include convictions there will not be much headway on battery claims. There are several things being done by the agency on other fronts. An extensive training program for operators on de-escalation techniques was just approved by the Civil Service Commission. Also partitions in the buses have been installed although the operators tend not engage them. The operators say it makes them feel enclosed and claustrophobic. A bigger event was with the help of the City Attorney's office, San Francisco Municipal Transit Authority reached out to the Deputy District Attorney to see if there could be some communication and some agreement as to the prosecution of more of these battery cases moving forward as they think that would be a deterrent once word was gotten out onto the street and into publications regarding the fact you would be prosecuted for assaulting San Francisco Municipal Transit Authority operators or any city employee. During the meeting, it was found out that there were currently two cases being prosecuted at that time. San Francisco Municipal Transit Authority presented five additional claims to the Deputy District Attorney's office and they are prosecuting four of those. In addition, there is one more case being prosecuted so the District Attorney's office is up to seven cases in the last month or so. Dan also learned at the meeting that is key for the District Attorney's office to get video documentation evidence because juries now expect video. Dan is finalizing a procedure to get the video of the assault to the District Attorney's office within 48 hours to facilitate their booking process. So moving forward it looks like San Francisco Municipal Transit Authority and the District Attorney's office will be working together more closely.

Micki commented that that explanation was very helpful. She was also wondering if the San Francisco Municipal Transit Authority was considering requiring the operators to use the barricades whenever possible. Dan explained that they are required but as the design of the barrier is two pieces, the operators are closing the bottom half but leaving the top half open. Another frequent cause of claims is the theft of transfers. Recently new machines were installed which automatically issue a transfer when the fare is paid, in place of the old transfer booklets. In terms of getting the operators to fully use the barriers, they are making progress but not where they would like to be.

Micki thanked Dan for the information on assault claims, even if it did get him a little off track on his report.

Reporting on Stratification by Severity, the chart demonstrates the number of high exposure claims showing paid plus reserve numbers. There are still 18 claims over a million dollars, There was a construction inspector hit by a semi-truck a couple of weeks ago and the claim is already reserved at a million plus dollars. He has already had 12 surgeries with more in the future, but he is expected to make a full recovery. The SFMTA is working to provide him with timely benefits and they are looking at enrolling him in the NeuroNet program developed for spinal injuries.

Micki expressed her condolences for the awful accident.

For litigation statistics, they are trending up slightly at 39 percent. Since the SFMTA is trending more toward employee advocacy, sharing information with them, and facilitating medical treatment Dan is slightly surprised they are trending up in litigation. He is expecting that slightly refocusing the claims management emphasis will help to drive that number down.

Dan discusses Cause Analysis by Frequency. The number which stands out is the physical assault claims which continue to be the number one driver in terms of frequency. In the past 12 months, there has been 84 assault claims. Dan recalls as recently as 3 years ago, SFMTA was averaging around 50 assault claims per year. They are categorically working on doing everything they can to mitigate these occurrences. Continuous trauma is also trending up slightly. These are the two main causes for the slight up trend in total claims.

Cause Analysis by Severity for the past 12 months pretty much mirrors the frequency report with the majority of the money going to assault claims and continuous trauma claims.

Micki asked if the largest cost driver within the assault claims is the battery pay. Dan explained that it was not only the battery pay portion but it generally included a mental component. So instead of only one injured body part, they often see numerous body parts and/or psych. The addition of more complex medical treatments, the medical costs are driven up. Also, battery claims tend to stay out longer than other types of claims.

Dan continued with Cost Analysis, the slide shows the average cost per claim by main cause description. The most important number he would point out is the average total cost per claim is \$32,203 which is a good result for indemnity claims compared to statewide averages. The claim costs are holding fairly steady and is a reflection of good claims management, after the

incident has occurred and they might be experiencing a slightly healthier employee population based on their ongoing wellness program and prevention efforts.

Micki asked if Dan had access to the CWCI database information for other transit agencies. Dan responded that he had heard they were going to be adding other transportation agencies and he did check before the meeting but the information is not out there yet. Dan will be visiting the CWCI next week and he will be asking if he can get the requested information. Micki thanked Dan for perusing that information. Dan also noted that the Controller's Office was conducting an audit of the Workers' Compensation program at SFMTA and their vendor is doing a very complete job. SFMTA has had several discussions with them including benchmarking and they are pursuing some benchmarking as well.

The injury rate per 100 employees is at 12.3. There has been a dip in the average number of employee, down from 6,000 to 5,700 and the claims are relatively flat, which caused the average to move upward.

Reporting on Claims Denied, Dan states that claims denied are claims which had compensability issues. 15 were denied during January. While there are some high and low spikes during the year, the SFMTA program is denying around 14 to 15 claims per month and a disproportionate percentage of those are battery claims.

Peter asked while he understood that SFMTA was working with the District Attorney's office to prosecute battery claims, he was wondering if they were getting any advice from the police department regarding these cases as his understanding was that property crime is going up but not personal crime. Dan replied within his department, he is not sure that is the case. He said that the District Attorney's office has requested all video of assaults, not only citizen battery on employees, but of employees assaulting a citizen, which has happened occasionally. The District Attorney also asked for any video which showed property crimes occurring on a transit vehicle which is not something which is captured at this time, although it is a work in progress for the future. Peter followed up asking if there was any specific advice they were given to help prevent assault. Dan responded nothing specific. He also said that the reason for the disproportionate number of assault claims being denied is that the definition of a battery claim is based on the city charter, which is a physical or mental injury based on a criminal assault or activity. The Parking Control Officers have an expanded view of an assault which includes when an employee feels threatened or something occurs which does not result in an injury but has a negative connotation. These events sometimes get filed as a workers' compensation claim even though no actual injury occurs and are then denied.

Micki mentioned that there would be an incentive to characterize an event as battery due to the time off aspect. Dan replied that certainly that is the only venue for that benefit.

Division Statistics is a breakdown of the main divisions in terms of the frequency and severity of claims. The majority of the claims are transit operators as are the majority of the employees. Parking control officers, transit fare inspectors, mechanics, and others trail in terms of frequency and severity. The next slide shows this information by location of transportation division which is generally aligned by size of the location. For example, Potrero and Woods are the biggest locations with the largest number of employees and they have the highest number of injuries.

Dan reported on employees with four or more open claims. There are currently 25 employees with open claims who have had four or more injuries. There are employees with larger claim histories but they do not currently have an open claim.

Dan continued with talking about vehicular accident training reporting. According to the training manager they don't conduct training based on "vehicular verses non-vehicular" but rather they use the Transportation Safety Institute, the Smith System, a private system of transportation driving, and the NSC Defensive Driving guidelines. The recording of collision/incidents is based on National Transit Database and California PUC thresholds for reportability.

Todd thanked Dan for the new definitions which have been included in the slides. Dan also mentioned that these definitions are created and maintained by the State of California.

Public Comment: None

## **REPORT FROM THE WORKERS' COMPENSATION DIVISION**

Discussion Items: **(Item No. 4)**

**Speaker: Julian Robinson, Workers' Compensation Claims Manager  
Stanley Ellicott, Workers' Compensation Finance Manager**

### **Reported on Claims: Claim Costs, Frequency & Fiscal Year Results**

Julian and Stanley begin by discussing the Organizational Initiatives.

Juan Nunez is our new adjuster working on the Police team.

The updated Medical Provider Network was approved on December 7, 2017 and the new MPN administrator is Elizabeth Angelini.

Anthony Low is a new analyst on the finance team who will be assisting with improving the reporting provided, both internally and externally.

- The Pharmacy Benefit Management Program with Optum launched on 2/26/2018. This is a slow rollout where adjusters can decide to give an injured worker a pharmacy benefit card to ease the approvals of prescription drugs. This should provide us with cost savings in term of managing medications and more detailed pharmacy reporting

Micki said she understood this should save adjuster time as well. Julian agreed that it would save the adjusters time and effort in calls to the pharmacy and with the injured employee. It will also save on disputes regarding fee schedule and pharmacies refusing to dispense a medication with full payment.

Micki asked if when an injured worker got the card, could they go to the pharmacy of their

choice and have no up-front fees associated with getting their medications and we get better reporting. Julian confirmed that as correct.

- External claims audit was completed and staff training was conducted to go over the results of the audit at assist in preparing for the state Division of Workers' Compensation Audit next fiscal year.
- Juvenile Probation Department temporary transitional work program project has launched. They did a soft roll out with the counselors, probation officers, senior officers, and supervisors in terms of finding medically appropriate transitional work for their employees. This program is designed to help reduce temporary disability costs, time off work, and increased medical costs.
- Electronic payment modernization program work group which is in place with US Bank, Treasurer's Office, Ventiv (claims system) and bill review organizations for DHR and SFMTA. Work on this ground breaking program which will allow both injured workers and medical providers to receive electronic payments and direct deposits is on-going.

Micki mentioned that this goes hand in hand with the Controller's Office initiative to move to paperless payment. While paperless pay is not uncommon, paying vendors and workers' compensation recipients electronically is uncommon due to all of the reporting requirements. Stanley mentioned that the goal of the program is to have some form of electronic payment in place before the beginning of the next fiscal year. There are three different payment streams: indemnity payments to injured workers, payments to medical providers and payments for other accounts payable expenditures. They are working on which payment stream to put into place first as the remittance detail is different for each one.

- The worker's compensation 'carve-out' or alternative dispute resolution discussions have begun with the San Francisco Police Officers Association and the San Francisco Fire Fighters Association on February 2, 2018 and is on-going.

Micki mentioned that these discussions are not on the fast track at this point in time as the associations are distracted by contract negotiations. She continued to talk about the fact that Workers' Compensation had started out talking to the Deputy Sheriffs Association but they have both new leadership and a new law firm representing the association so that this time they are not talking. Micki also asked if Workers' Compensation had made a presentation to the Building Trades as well. Julian confirmed that that had occurred and said there would be more of a report at the next meeting.

- The audit for Section 111 Medicare reporting processes for compliance is in progress. The audit is to ensure we are in compliance with Medicare quarterly reporting requirements.
- The development of the Electronic Learning Management-based office ergonomic training partnership with the Department of Public Health, the Work Force Development team in the Department of Human Resources, and Health Service System is nearing completion.

- Data reporting templates for departments to advise of claim costs, frequency, and opportunities for enhancing safety are nearing completion.
- A pilot project with the Public Utilities Commission for data-sharing and reduction of record-keeping is in progress. In the testing process, we are adding some user enhancements to better streamline their record-keeping for OSHA reporting.
- A Request for Qualifications should be issued for Document Retrieval/Copy Services in the next two weeks. Cost savings are anticipated.

Lorenzo complemented Julian and his team for working on these initiatives. From a litigation standpoint, they are seeing a significant benefit arising out of programs such as the pharmacy benefit management program. There is clear cost effectiveness to that as well as the temporary transitional work project.

Lorenzo also gave kudos to Dan Roach and his office for reaching out to the District Attorney's office because prosecuting assaults has an enormous dollar impact for the city on those claims. And he realizes it can be difficult to get these processes started, even between city departments.

Todd asked whether the Section 111 Medicare reporting compliance audit would cross over into meaningful use data for cyber security. Julian responded that they were not sure, but he would check into it for a future meeting.

Stanley continued by discussing the second quarter results for claim filing frequency as compared to the second quarter last fiscal year. The most notable changes are the increase in indemnity claims and a decrease in the medical claims filed both within the top 10 cohort and all city departments. Overall there is a 7% increase in the number of indemnity claims for all city departments, 6% increase for our top 10 cohort. There is also a slight decline in the medical only filings. Later in the presentation, we will show you that in terms of expenditures, these trends are reversed.

Stanley moved on to the frequency and severity breakdown for the top five departments. On these slides the top bar graph shows the top 10 claim causes based on the injury description by frequency for new claims for the second quarter. The bottom bar graph shows the total expenditures incurred by those same claim causes for the current fiscal year.

The Police Department numbers are consistent with historical averages. There is a large number of physical assaults, bodily reaction and continuous trauma claims and Julian will talk about definitions of these causes later. There is a fairly tight correlation between the claim cause by frequency and expenditures so physical assaults, continuous trauma and bodily reactions are driving the expenditures for the Police Department.

The Fire Department has a larger number of bodily reaction claims due to things like smoke inhalation, exposure to carcinogenic materials and then some physical exertion injury types like lifting. There is a correlation between the expenditures and causes with the exception of contract with an infectious agent. With a number of these claims, there is a suspicion of exposure, testing is done and then the claim is closed as there is no injury. These overall numbers are consistent with historical drivers.

Julian continues with the Sheriff's Department numbers. There is a large number of pulling/pushing and bodily reaction claims. The bodily reaction claims include cancer and heart trouble. In terms of severity, the top categories are continuous trauma, bodily reaction and pulling/pushing.

In the Department of Public Health, the greatest frequency is fall same level, whose definition will be discussed in a moment. There is also along of lifting, pulling/pushing, physical assault and contact with infectious agent. In terms of severity, the top categories are lifting, repeated motion and fall same level.

In the Recreation and Parks Department, the highest frequency is running/walking, lifting, repeated motion and struck by a moving object, which could include being struck by a falling tree limb, someone throwing a bottle, etc. In terms of severity, the top categories are repeated motion, continuous trauma and slip/trip.

Julian continues by talking about the Top Claim Cause Definitions. These are definitions for the top claim causes which are standard across the industry. Bodily Reaction is exposure to carcinogens, stressful work situation or hard physical work. Continuous Trauma and Repeated Motion have similar definitions that are often used interchangeably, but may not always be the same. A repeated motion can be a continuous trauma, but a continuous trauma may not necessarily be a repeated motion. An example of the difference between the two is that continuous trauma may be something like a bad back due to having to stand for 8 hours a day where repeated motion would be something like typing for 8 hours a day which has caused an injury. Slip/Trip and Fall Same Level can be used when slipping on a surface.

Micki asked how the category used was determined for similar items, such as slip/trip and fall same level. Julian explained it was a continuing process. The setup team might assign a category based on the original information given, and the supervisor might change the category once additional information is received. We are continuing to work on streamlining the definitions to allow for consistent use.

Julian continued by explaining that the next slides presented included definitions of the most common causes for claims. Somethings which might not be very obvious would be Contact Infectious Agent which would include needle sticks and an Adverse Reaction could be heat exposure or contract with poison oak.

Micki commented that adverse reaction could also be dermal and Julian agreed. Micki commented that it is a work in progress and Julian agreed that they will continue to streamline the process and give the most consistent categories as possible.

Todd mentioned that the SFMTA had lumped somethings into larger sub-categories an example being exposure to chemicals or inhalation could all be two or three different categories and could it be grouped at a higher level. He is wondering is Workers' Compensation might also look at grouping items which could then be drilled down into to get more detailed information. After some continued discussion of examples Julian mentioned that they would look at what the possibility would be create groupings while keeping the integrity of the more specific categories.



Julian continues to report on the Top 5 departments in terms of open claims stratification by severity. For the Police Department there has been an increase in the number of claims projected to go over a million dollars. Over the last quarter there has been a number of catastrophic claims come in including the bicycle officer who was intentionally hit by a stolen motor vehicle and the officer who was shot in the Castro District. Both officers had substantial injuries. We have closed a number of claims in the Police Department so overall there is a decrease in open claims.

In the Fire Department the majority of the claims are in the \$100,000 to \$200,000 range. We are continuing to settle more claims. One of the ways we are settling out more claims is by Compromise and Release where there might be a larger cost up front but there will not be as much cost in terms of future medical expenses and claim costs over time.

In all of these departments, you might see an increase in the lower dollar amount per claim but the long term spending on each claim will go down.

Micki asked if when we did a Compromise and Release and that fully settles the claim did that prevent future medical costs on the claim. Julian said if medical was included in the agreement it would. Micki also mentioned that if they were still an employee they are covered by health care insurance. Julian went on to say that may not be in our interest or feasible to settle all claims with a Compromise and Release. They usually look at claims where the injured worker is no longer employed by the City or when it is a disputed injury. The Compromise and Release helps to limit the city's liability for the injury. In the next report, you will see a claim with the Department of Public Health which was projected to be about \$13 million and we settled it for \$680,000. While up front it was an expensive claim, if we had lost that claim at trial, which was very possible, our exposure would have been very large.

The last slide in this section shows the stratification by severity for Recreation and Parks.

Julian wanted to respond to a question from the last council meeting regarding denied claims and was our denial rate being at 16.6% typical. Peggy reached out to CWCI and for our type of employees that are public service, public safety, health service industry and long term employees that rate is typical. Also, from Julian's experience when he worked at Kaiser, a company which also was in health services similar to the Department of Public Health and had long term employees, the denial rate was similar. Also, they had a number of claims filed by a single individual which could lead to denials based on a determination of whether it is a new injury or an expatriation of an old injury. If it is found to be an expatriation of the old injury, the new claim is denied and the old claim reopened.

Micki thanked Julian for that information. Stanley added that the council had asked if there was any difference between the type of claim and the denial rate. Stanley said that the rate seems to be the same between medical and indemnity claims for first time claims and when an individual had multiple claims, the denials were higher in the indemnity category.

Marisa asked if there was a way to see on the graphs which of these claims were new as compared to on-going claims. Stanley said that they were looking at ways to make the information more meaningful for the council. Micki also mentioned that Workers' Compensation is working on getting more information and more abilities to drilldown within a report. Stanley confirmed that it is a major initiative for the entire division.

Peter commented that he thought the data was great and it continued to get better over time. He also mentioned that the SFMTA data was displayed over a longer period of time and he would like to see a greater time period for Workers' Compensation data also.

Stanley continued by talking about Financials. There is healthy savings of about \$2.2 million across the entire program against budget. The table shows cumulative costs through the second quarter against half of the budgeted amount. Thus you can see the variances based on budget. While the savings are healthy, they are slowing as compared to the first quarter. The Police Department has seen a large number of very high exposure claims and we are anticipating a material deficit on a conservative standpoint \$1.5 million all the way up to \$5 million depending on the timing of payments. We should have more information by the next meeting and we are working with the Police Department's financial staff to ensure they are aware of this problem.

Micki asked Stanley if the numbers in the 2017-2018 Q2 Increase/Decrease column reflected the change from the same quarter last fiscal year. Stanley agreed and went on to explain that a decrease in this column indicated lower expenditures this fiscal year over last fiscal year, which is a positive step for the program. Stanley stated that the number to look at is the aggregate total on the bottom right side which shows a savings of \$2.2 million at this time. That being said, the trend has been that January and February have been our most expensive months so we do expect the savings to decline in the third quarter.

Marisa asked Stanley if the projection for the police department was \$1.5 to \$5 million over budget. Stanley agreed with that statement.

The last slide shows the Costs by Reserve type. We are seeing some savings in indemnity costs and increases to medical costs compared to last year. Overall we have a 3.1% savings over last year

Todd commented that he understood that the costs presented did not include the 4850 labor code benefits so the temporary disability benefits costs for certain injured workers doesn't start until they have been off work for 365 days. Stanley and Julian agreed with this.

Micki commented that overall it was a good report, despite the catastrophic claims which has occurred in the police department. Stanley gave kudos to the Department of Public Health, Department of Public Works, and some of the smaller departments which have generated significant savings this year by some strategic initiatives to make their workplaces safer.

Todd thanked Julian and Stanley for the good job they are doing.

Public Comment: None

**OPPORTUNITY TO PLACE ITEMS ON FUTURE AGENDAS**

Discussion Item: **(Item No. 5)**

Council Comment: None

**OPPORTUNITY FOR THE PUBLIC TO COMMENT ON ANY MATTERS WITHIN THE COUNCIL'S JURISDICTION**

Discussion Item: **(Item No. 6)**

Council Comment: None

**NEXT REGULAR MEETING: Meeting date is June 4, 2018**

**ADJOURNMENT**