



Office of the City Manager

INFORMATION CALENDAR
December 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: LaTanya Bellow, Director of Human Resources
 Subject: Report on Workers' Compensation Annual Program Review FY18-19

SUMMARY

This report is part of an ongoing series reporting the City's workers' compensation program and costs associated with the program. This report focuses on the workers' compensation claim activity for fiscal year July 1, 2018 – June 30, 2019.

CURRENT SITUATION AND ITS EFFECTS

Human Resources Staff continue to monitor and evaluate practices for effectiveness and efficiency within the workers' compensation program, with ongoing focus on injury prevention, early intervention, ergonomics, claim management, and employee safety and supervisor responsibility, with the goal of controlling claim volume and related costs.

Through the collaborative efforts of Human Resources and Innovative Claim Solutions, (ICS) we are reporting a multitude of successful outcomes for the comparative period of July 1, 2018 to June 30, 2019. A comprehensive analysis of these outcomes are listed under the section Workers' Compensation Trend Update. Listed below are the program success highlights of FY 2018-2019:

Costs

- Reduced Average Incurred Cost per Claim on new claims submitted during the comparative period of FY2017-2018 to FY2018-2019 by **17% (or \$2,531)**.
- Reduced the Total Paid on new claims submitted during the comparable period by **14% (or \$126,978)**.
- Reduced the Total Estimated Future Liability on new claims submitted during the comparable period by **33% (or \$521,122)**.
- Reduced the Total Estimated Future Liability on the entire program during this period by **15% (or \$3,091,348)**.
- Successfully recovered **\$677,375.39** from the City's excess carriers.
- Successfully recovered **\$4,945.10** through subrogation/contribution efforts.

- Reduced the total amount paid for TD/4850 on the entire program during this period by **6% (or \$66,050.00)**.
- Oversaw activities of the bill review company that realized a net savings of **\$2,937,274**.

Number of Injuries

- Reduced the number of Open Indemnity Claims on the entire program during this period by **4% (or 13 claims)**.

Lost Time

- Reduced the Average # of Disability Days per Lost Time Claim on new claims submitted during the comparative period by **17% (or 11.75 Days)**.

Claim Resolution

- Closed **51%** of new claims submitted during this period.
- Increased the number of Closed Indemnity Claims on the entire program during this period by **2% (or 3 claims)**.
- Successful resolution of **forty-nine (49)** claims.
- Reduced the number of New Notices of Representation filed on the entire program during this period by **2 notices, (or 8%)**.

WORKERS' COMPENSATION TREND UPDATE

Prior Year Claims

The cost for claims filed in prior years continue to contribute substantially to the overall cost of the City's Workers' Compensation Program. In FY18-19, the amount paid on claims increase due to settlement agreements by Stipulation as well as Compromise and Release (C&R). Claim closure by compromise and release is positive outcome for the City. As, C&R settlements close all future liability associated with the claim. Additionally, the utilization and medical peer review submissions increased due to mandatory state law that requires independent review of medical treatment requested by an injured worker's physician. This information is further detailed later in this report.

Fiscal Year of Reported Injury	Amount Paid on Claims in Fiscal 2016-2017	Amount Paid on Claims in Fiscal 2017-2018	Amount Paid on Claims in Fiscal 2018-2019
# of Claims Paid (open and closed)	603	581	564
Total Amount Paid on Claims	\$5,039,459.08	\$5,033,122.18	\$6,290,346.37

The City also experienced a decrease in total claim volume, with a notable decrease in claims with a date of injury in FY 2018-2019 by nineteen (19) claims (from 162 in FY 2017-2018 to 143 in FY 2018-2019), in spite of the slight increase of five (5) claims filed by Fire Safety Employees as noted below:

All New Claims				
	FY 2016- 2017	FY 2017- 2018	FY 2018- 2019	Increase/Decrease (2018-2019 from 2017-2018)
Fire Safety Employees	39	26	31	5
Police Safety Employees	44	56	51	-5
Non-Sworn Employees	88	80	61	-19
Total	171	162	143	-19

Indemnity claims have exposure beyond medical treatment with one or all of the following components present, i.e., lost time, permanent disability, litigation or surgery. These claims tend to be more severe and pose a greater liability to the City than Medical Only claims. Therefore, a reduction in Indemnity claims is a positive step in controlling the City's overall Workers' Compensation liability. As noted below, both Police and Non-Sworn Employees experienced a noteworthy reduction in Indemnity claims with a date of injury in FY 2018-2019 from FY 2017-2018.

Indemnity Claims			
	FY 2017- 2018	FY 2018- 2019	Increase/Decrease (FY 2018-2019)
Fire Safety Employees	18	21	3
Police Safety Employees	37	21	-16
Non-Sworn Employees	38	27	-11
Total	93	69	-24

For Medical Only claims (injuries that require minimal medical treatment and do not incur any lost time) the City experienced a reduction in Non-Sworn Employees. However, because Fire and Police Employees experienced an increase in claims filed in FY 2018-2019, overall the City experienced a net increase of five (5) claims as noted below:

Medical Only Claims			
	FY 2017- 2018	FY 2018- 2019	Increase/Decrease (FY 2018-2019)
Fire Safety Employees	8	10	2
Police Safety Employees	19	30	11
Non-Sworn Employees	42	34	-8
Total	69	74	5

Although difficult to predict whether the decrease in new claims, particularly indemnity claims, will continue, the City's continued focus on injury prevention, management and employee safety, as well as continued emphasis on citywide safety initiatives should contribute to controlling injuries in the workplace.

PROGRAM UPDATE

1. **Case Resolution:** Case resolution is an important aspect of any Workers' Compensation Program. A Workers' Compensation claim can be resolved (settled) and agreed to by the parties (injured employee and the City) either through "Stipulation" or "Compromise and Release". However, if the parties are unable to resolve and settle a claim with either a Stipulation or Compromise and Release, the matter could be ultimately be determined by a Workers' Compensation Appeals Board Judge who would issue a "Findings and Award". The definitions of each type of claim resolution are listed below.
 - a. Stipulation: A Stipulated Settlement is an agreement where the parties agree to the findings of a specific medical report(s). A Stipulated Settlement may result in future disability payments and medical treatment. The main components of a Stipulated Settlement are the percentage of disability the injured employee suffered and whether or not the injured employee needs further medical care. The percentage of disability derives from the doctor's medical opinion of the employee's level of disability as a result of the workplace injury. Under Workers' Compensation statutes, there is a set formula for determining the percentage of disability, which is based on the limitations set forth in the medical report, combined with the injured employee's age and occupation. The disability benefits under Stipulated Settlement are paid by the City over time. They are not paid in a lump sum unless the disability payment has already ended.
 - b. Compromise & Release: In contrast, in a Compromise & Release (C&R), the parties agree to resolve all outstanding issues and close the case, which eliminates the need for any future payments and release all liability for the claim. Although a C&R has the ability to close all future liability associated with the claim, an employee cannot be forced to release their right to future medical treatment or any other benefit associated with their claim, and therefore cannot be forced to settle by C&R. In addition, it is not cost effective for the City to enter into a C&R with an employee who is still working for the City, because another injury would create new potential liability, even if the current claim closed.
 - c. Findings & Award: A Findings & Award (F&A) is the award granted by the Workers' Compensation Appeals Board Judge after a decision is rendered following a trial.

During FY 2018-2019, forty-nine (49) cases were settled, thirty-three (33) by a Stipulation, with settlement amounts ranging from \$0 to \$106,502 and fifteen (15) by C&R, with settlement amounts ranging from \$0 to \$318,537 and one by a Judge's Finding and Award. Fifteen (15) claims did not require applicant attorney representation and seventeen claims did not require defense attorney representation.

2. **Claims Closure:** Innovative Claim Solutions, Inc., (ICS) the City's Workers' Compensation Third Party Administrator, continues to focus on closing new, as well as old claims. In FY 2018-2019, ICS closed a total of 192 claims (130 Indemnity Claims

and 62 Medical Only Claims). The goal of ICS continues to be to reduce the open claim inventory in order to control estimated future costs.

Claims Closed in each FY			
FY	Indemnity	Medical Only	Total
2016-2017	132	86	218
2017-2018	127	76	203
2018-2019	130	62	192

- Open Claims:** The chart below reflects the City’s Open Claim Inventory at the end of each fiscal year. As of June 30, 2019, the City’s total open claim inventory reflects a reduction from 378 in FY 2018, to 372 in FY 2019. Of the total open claims in FY 2019, 347 are Indemnity Claims and 25 are Medical Only Claims.

Open Claim Inventory			
FY	Indemnity	Medical Only	Total
2016-2017	360	25	385
2017-2018	360	18	378
2018-2019	347	25	372

- Bill Review Services:** An essential component of any successful workers’ compensation cost containment program is the bill review services. Bill review ensures that the fees for services submitted by medical providers comply with State mandated regulations. Diamond Bill Review, Inc. provides these services for the City of Berkeley. The following chart shows the results of the bill review process for this period compared to the same period last year.

Period	Bills	Bill Charges	Gross Savings	Net Savings	Net % Saved
7/1/17-6/30/18	5,832	\$4,782,423	\$3,196,248	\$2,973,987	62%
7/1/18-6/30/19	5,308	\$4,758,331	\$3,137,227	\$2,937,274	62%

- Subrogation/Recoveries:** Subrogation efforts can recover expenses when a third party is at fault for the injury. During this period \$4,945.10 was recovered through subrogation.
- Excess Insurance Recoveries:** At present, there are forty (40) open cases being reported to the City of Berkeley’s Excess Carriers. During this period \$677,375.39 was received from the City’s excess carriers.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

POSSIBLE FUTURE ACTION

Human Resources Staff continues to evaluate the workers’ compensation program in an effort to reduce the exposure to workplace accidents and injuries.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Reduce future costs through continued aggressive workplace safety programs that involve participation of representatives of employee organizations and management staff.

CONTACT PERSON

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July Cole, Associate Human Resources Analyst, 981-6816

Attachments:

1: Appendix I - Innovative Claim Solutions (ICS) Comparative Data

Comparative Statistical Analysis for the City of Berkeley 7/1/18 to 6/30/19
Appendix 1

Claims Entered By Fiscal Year	7/1/17 to 6/30/18	7/1/18 to 6/30/19	Absolute Change	Percent Change
Total Claims	162	143	-19	-12%
Total Indemnity Claims	85	69	-16	-19%
Total Medical Only Claims	77	74	-3	-4%
Avg. Incurred Cost per Claim	\$15,111	\$12,580	-\$2,531	-17%
Indemnity / MO Ratio	52% : 48%	48% 52%	-4	-8%
Closed Ind. Claims	30 35%	24 35%	-6	-20%
Closed MO Claims	59 77%	49 66%	-10	-17%
Total Closed Claims	89 55%	73 51%	-16	-18%
Total Paid	\$881,172	\$754,194	-\$126,978	-14%
Total Est. Future Liability	\$1,566,849	\$1,044,727	-\$521,122	-33%
Total Number of Lost Days	2925	2372	-533	-19%
Number of Lost Time Claims	42	41	-1	-2%
Avg. # of Disability Days per Lost Time Claim	69.6	57.85	-11.75	-17%
Overall				
Closed Indemnity Claims	127	130	3	2%
Closed MO Claims	79	62	-17	-22%
Total Closed Claims	203	192	-1	-5%
Open Claim Inventory	6/30/2018	6/30/2019	Absolute Change	Percent Change
Indemnity	360	347	-13	-4%
Medical Only	18	25	7	39%
Total Open Claims	378	372	-6	-2%
Est. Future Liability	\$21,318,680	\$18,227,332	-\$3,091,348	-15%

Multiple Claims

An analysis of injured employees, who have sustained three or more injuries over the last three years since July 1, 2016 reveals 66 claims from 19 employees compared to 96 claims from 31 employees in last year's report. These claims represent \$777,209.17 in paid claim costs and \$1,922,934.86 in total incurred. Thirty-one (31) of these claims remain open at this time representing \$1,145,725.69 in estimated future liability.

During the one-year period ending June 30, 2019, two employees submitted three or more claims.

Please refer to the designated tab in this booklet for detailed information on these claims.

Utilization and Peer Review Savings

During this period 539 RFA's for 1035 Procedures were submitted for Utilization or Peer/Physician Advisor Reviews. Of those Procedure requests submitted, 625 requests were recommended for denial. Of those requests denied, 62 were appealed through UR. 28 of the appeals were granted leaving 597 Procedure requests as denied.

In addition, we paid for 186 IMR evaluations during this period addressing prior UR denials. Of the 186 IMR evaluations paid, 161 upheld the prior UR denial while only 16 reversed the previously denied services and another 9 were partially overturned.

Delays/Denials

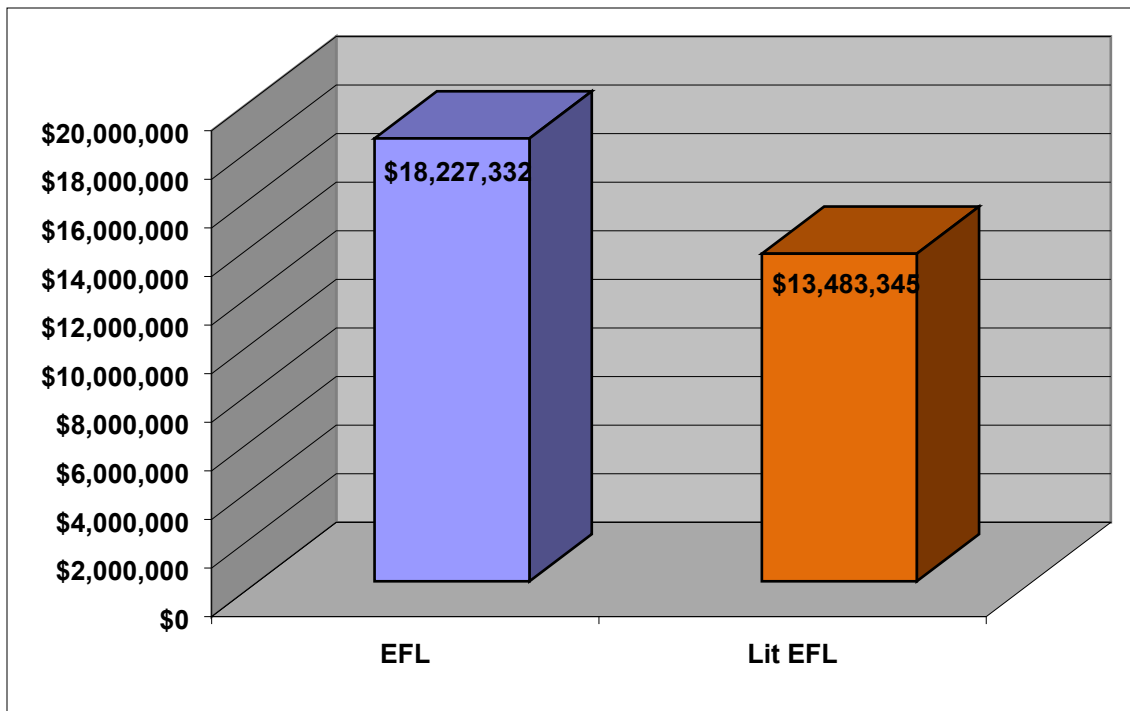
During this period twenty-six claims were placed on delay. Additionally, there were twenty-four denials during this period.

Notices of Representation

During this period 23 notices of representation were received, filed by 16 individuals. This represents a decrease of 8%, or two notices, from the same period last year. This also represents a **16.1% litigation rate**, above the statewide average of 14%.

Litigation

At present, there are two hundred two litigated open indemnity claims representing total incurred costs of \$47,398,477.64. The current estimated future liability on these claims is \$13,483,345.22 or 74%, of the total estimated future liability on this program. It should be noted that 84 of these claims are resolved and remain open only for management of a future medical award, and many others are settled but require long term payouts of awards including 100% cases and cases with life pension, or death benefit awards.



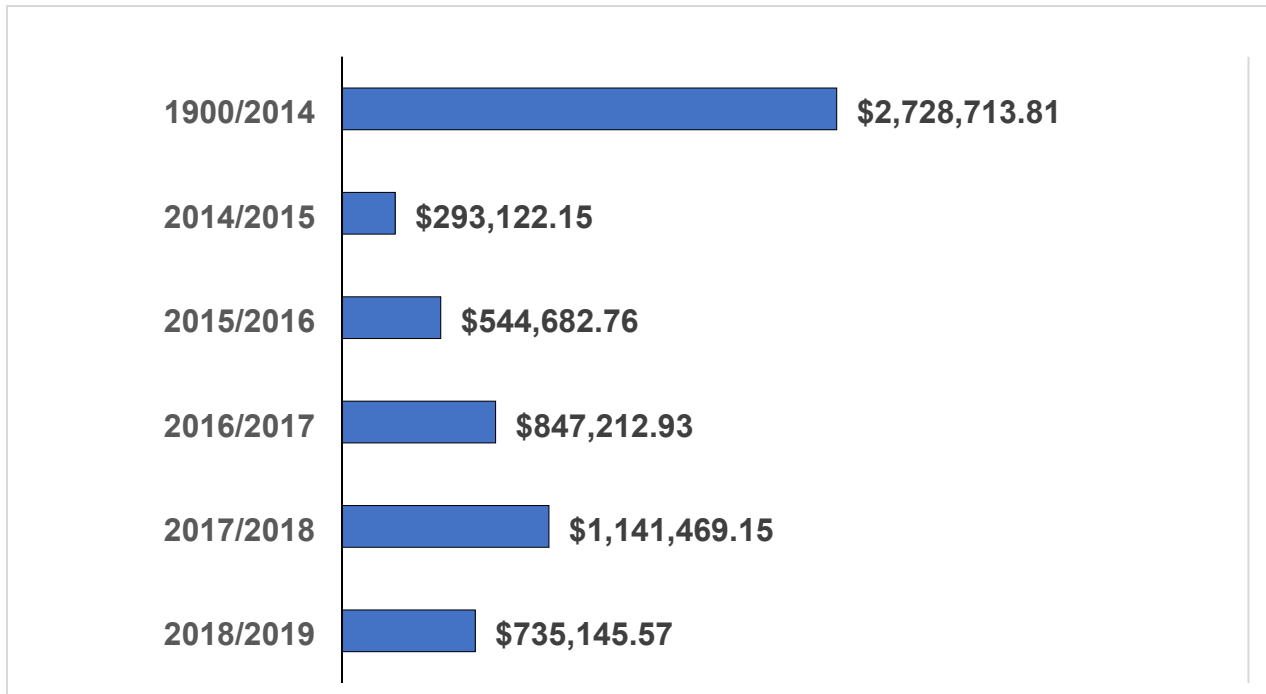
Comparative Payment Analysis

The following chart depicts a comparison of total paid on all claims by pay type during the comparative periods.

All Payments in Fiscal Year	7/1/17 - 06/30/18	7/1/18 - 06/30/19	Absolute Change	Percent Change
TD/4850 Paid	\$1,127,519.69	\$1,061,469.69	-\$66,050.00	-6%
Permanent Disability	\$1,138,663.50	\$1,182,765.49	\$44,101.99	4%
C&R Indemnity	\$220,721.38	\$506,781.74	\$286,060.36	130%
C&R Medical	\$20,561.00	\$688,487.73	\$667,926.73	3249%
Hospital Paid	\$610,183.81	\$601,195.29	-\$8,988.52	-1%
Doctor Paid	\$494,132.19	\$530,552.29	\$36,420.10	7%
All other Medical Paid	\$797,589.37	\$981,985.44	\$184,396.07	23%
SJDB Paid	\$7,245.01	\$19,036.99	\$11,791.98	163%
Defense Attorney Paid	\$215,427.28	\$285,630.28	\$70,203.00	33%
Other Legal Paid	\$401,078.95	\$432,441.43	\$31,362.48	8%
Total Paid:	\$5,033,122.18	\$6,290,346.37	\$1,257,224.19	25%

Comparative Payment Analysis by Date of Injury

The total paid out on all claims during this period is \$6,290,346.37. These payments were made on claims sorted by date of injury as depicted below:



Temporary Disability/LC4850 Benefits Paid

The following chart depicts all TD/LC4850 benefits paid during this period listed by department regardless of date of injury as well as a comparison to what was paid during the same period of time last year:

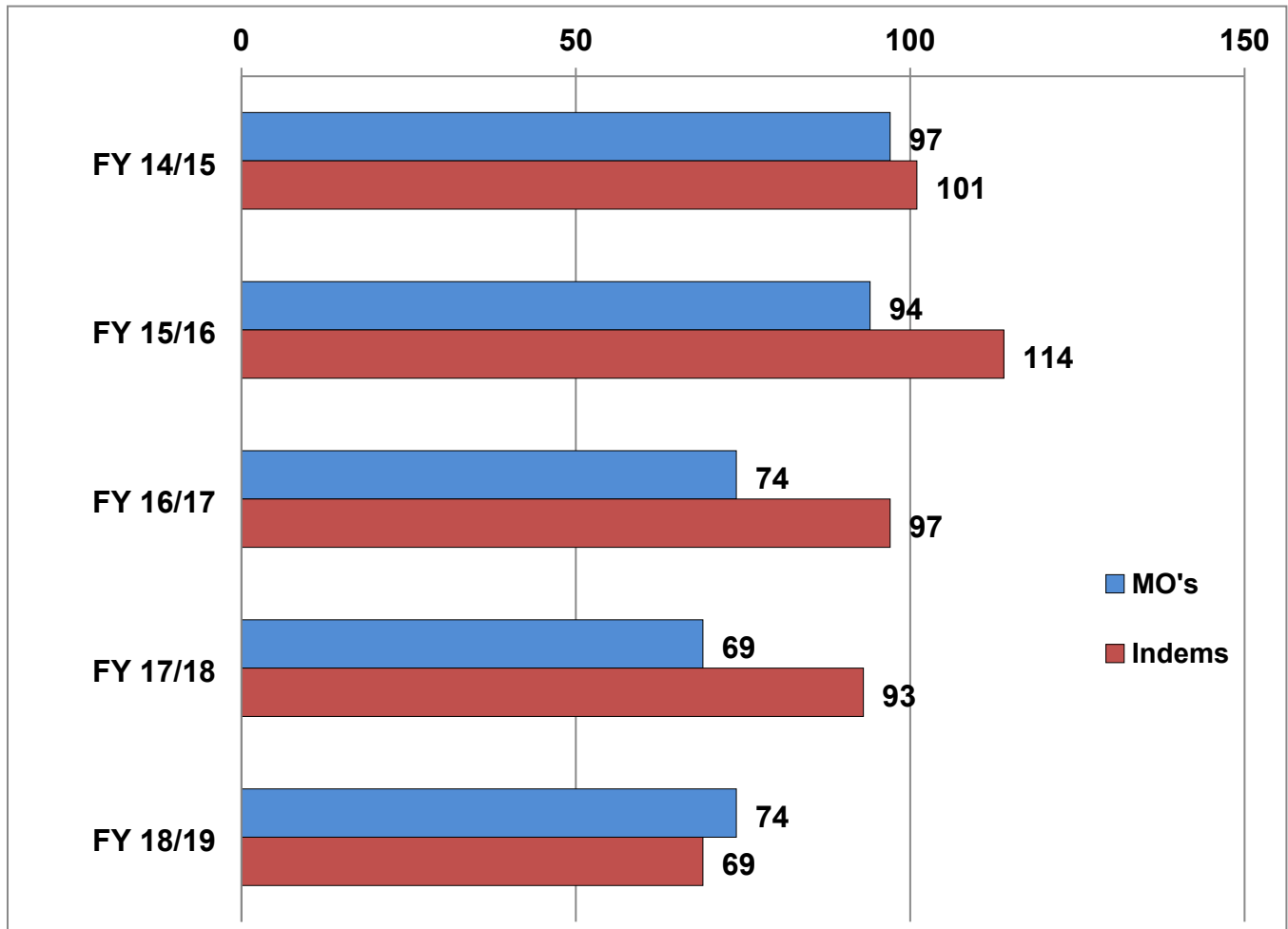
Department	Paid in FY 17/18	Paid in FY 18/19	Difference
CITY MANAGER	\$43,408.27	\$107,185.34	\$63,777.07
FIRE	\$223,253.44	\$248,791.37	\$25,537.93
HHCS	\$30,569.81	\$1,725.99	-\$28,843.82
PARKS, RECREATION & WATERFRONT	\$220,868.28	\$95,315.77	-\$125,552.51
POLICE	\$450,009.97	\$408,518.92	-\$41,491.05
PUBLIC WORKS	\$159,409.92	\$199,932.30	\$40,522.38
Net Total Paid	\$1,127,519.69	\$1,061,469.69	-\$66,050.00

Average Indemnity Days by Department

For indemnity claims receiving temporary disability/LC 4850 benefits during this period, the following chart depicts the average number of indemnity days by department. The indemnity days are partial and full calendar days off due to injury.

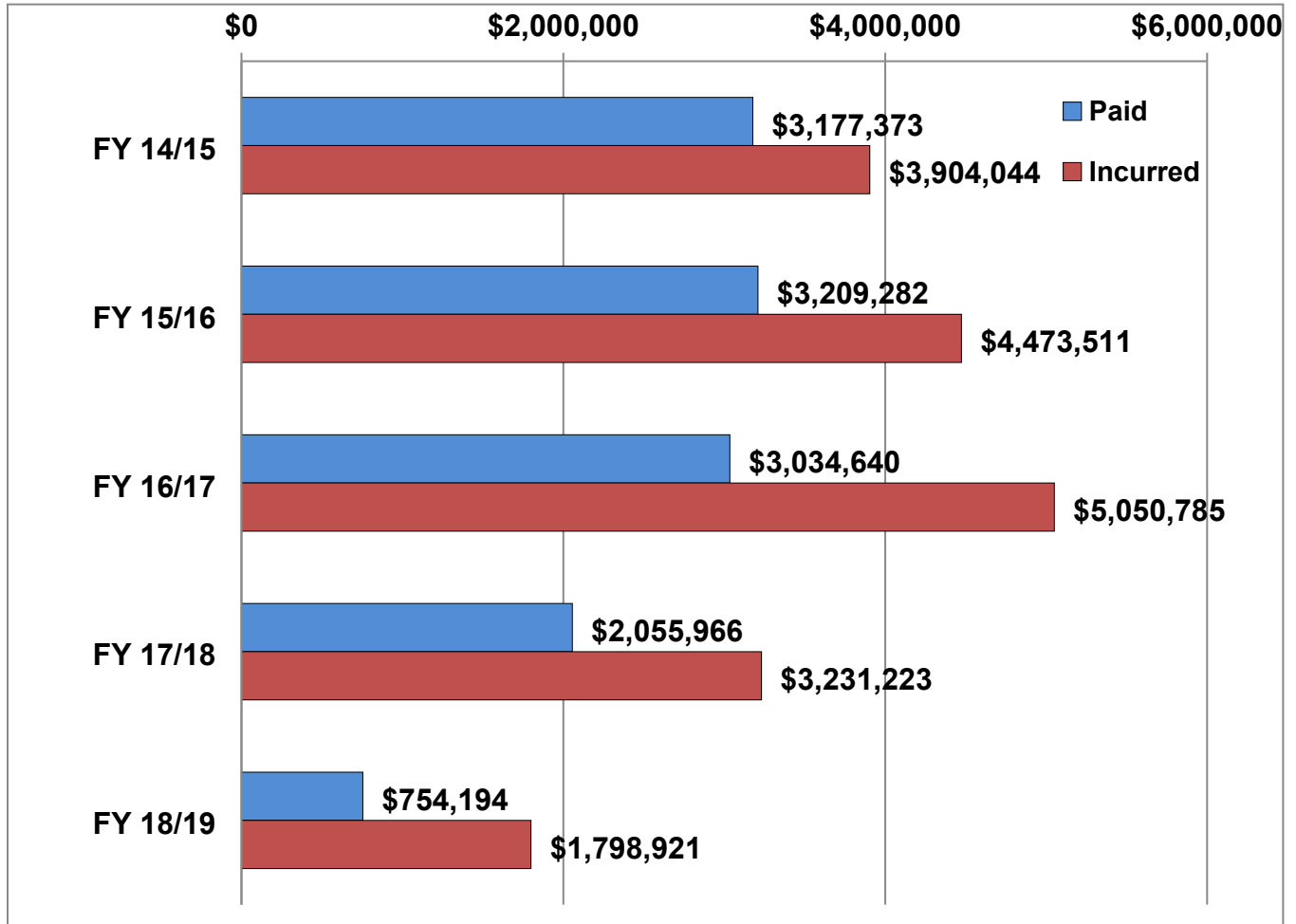
Department	Indem Days	Claims	Average
CITY MANAGER	983	3	328
FIRE	1,417	20	71
HHCS	12	2	6
PARKS, RECREATION & WATERFRONT	714	9	79
POLICE	2,487	29	86
PUBLIC WORKS	1,373	19	72

Claims by Fiscal Year based on Date Entered



Fiscal year entered	MO's	Indem	Total
FY 14/15	97	101	198
FY 15/16	94	114	208
FY 16/17	74	97	171
FY 17/18	69	93	162
FY 18/19	74	69	143

Total Paid and Incurred by Fiscal Year based on Date Entered

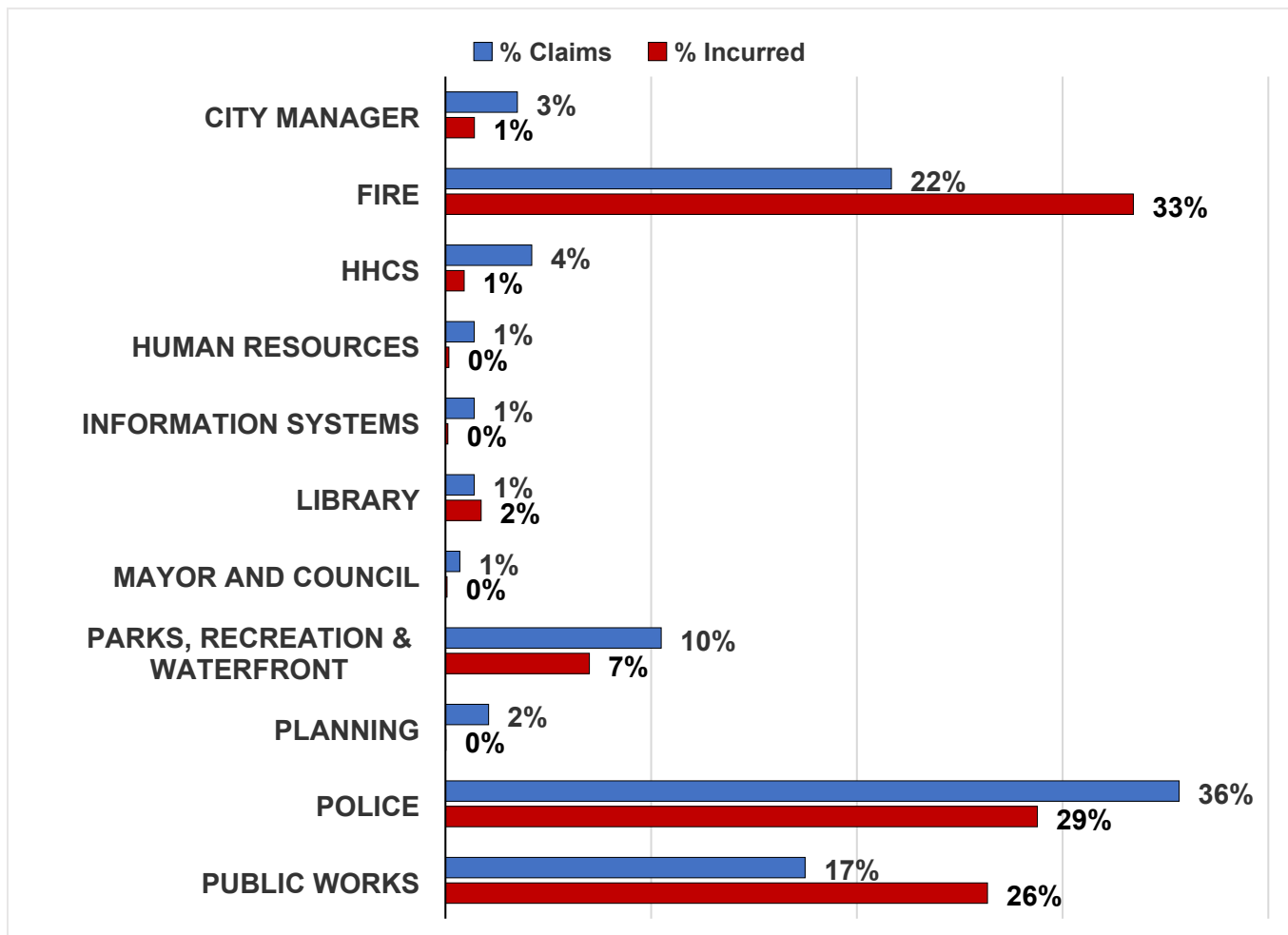


Fiscal year entered	Paid	EFL	Incurred
FY 14/15	\$3,177,373	\$726,671	\$3,904,044
FY 15/16	\$3,209,282	\$1,264,229	\$4,473,511
FY 16/17	\$3,034,640	\$2,016,145	\$5,050,785
FY 17/18	\$2,055,966	\$1,175,257	\$3,231,223
FY 18/19	\$754,194	\$1,044,727	\$1,798,921

Frequency Analysis Summaries

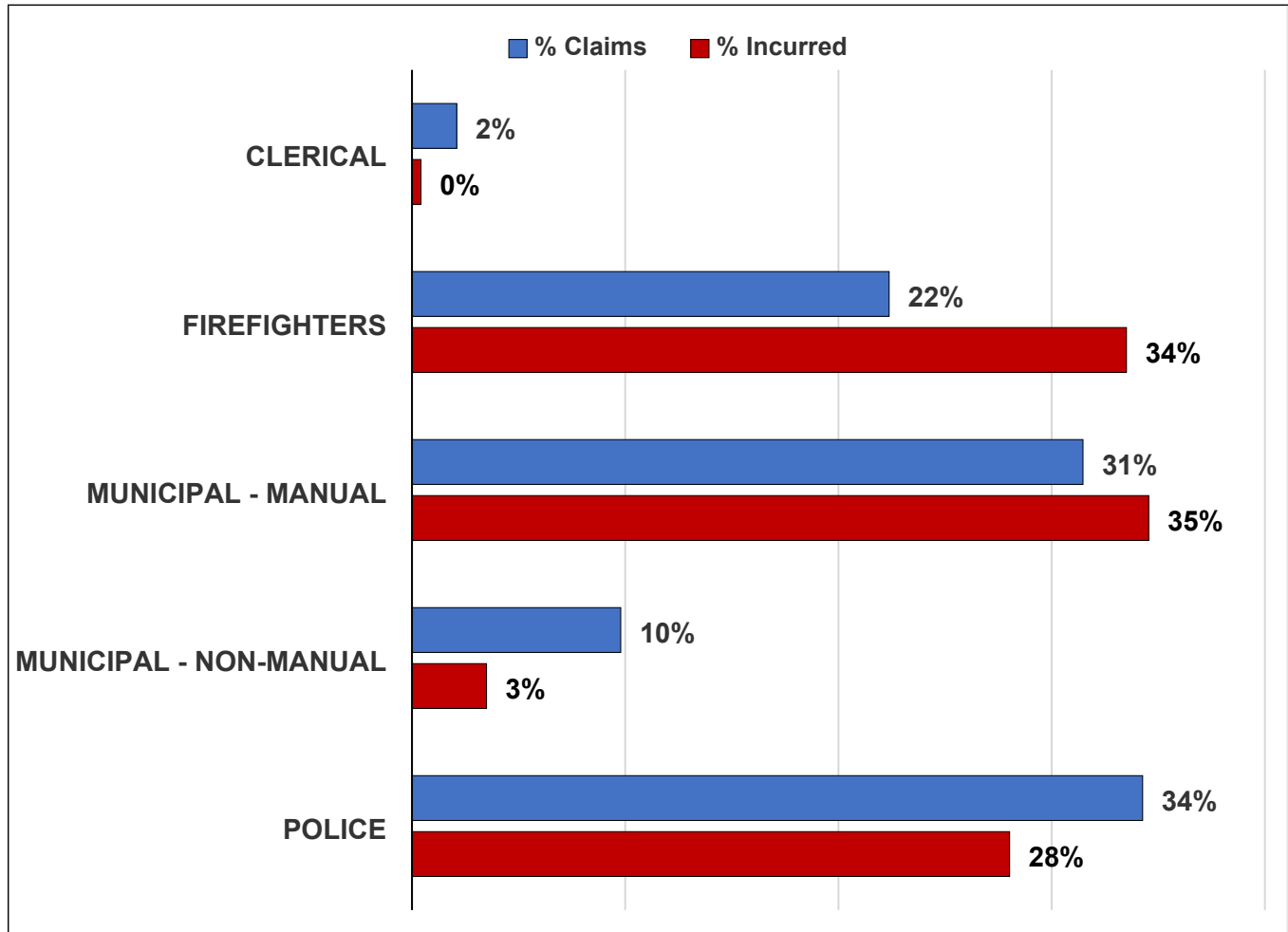
The following graphs are based on claims entered from 7/1/2018 through 6/30/2019.

Claim Frequency by Department



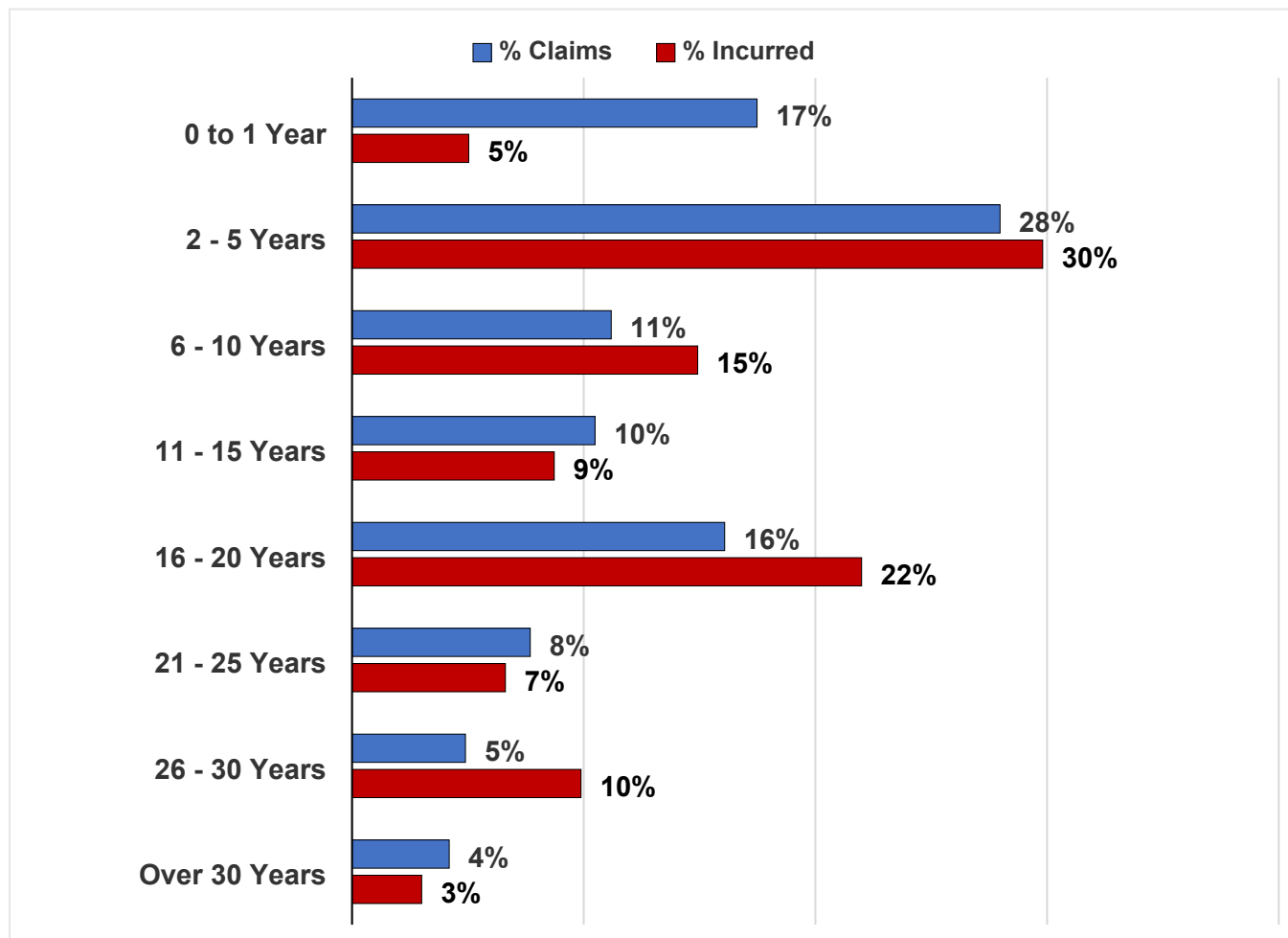
Department	Claims	% Claims	Incurred	% Incurred
CITY MANAGER	5	3%	\$25,328.85	1%
FIRE	31	22%	\$601,552.12	33%
HHCS	6	4%	\$16,391.74	1%
HUMAN RESOURCES	2	1%	\$3,016.82	0%
INFORMATION SYSTEMS	2	1%	\$2,117.06	0%
LIBRARY	2	1%	\$31,206.90	2%
MAYOR AND COUNCIL	1	1%	\$1,398.31	0%
PARKS, RECREATION & WATERFRONT	15	10%	\$125,863.34	7%
PLANNING	3	2%	\$422.47	0%
POLICE	51	36%	\$517,633.17	29%
PUBLIC WORKS	25	17%	\$473,989.84	26%
Totals	143	100%	\$1,798,920.62	100%

Occupation



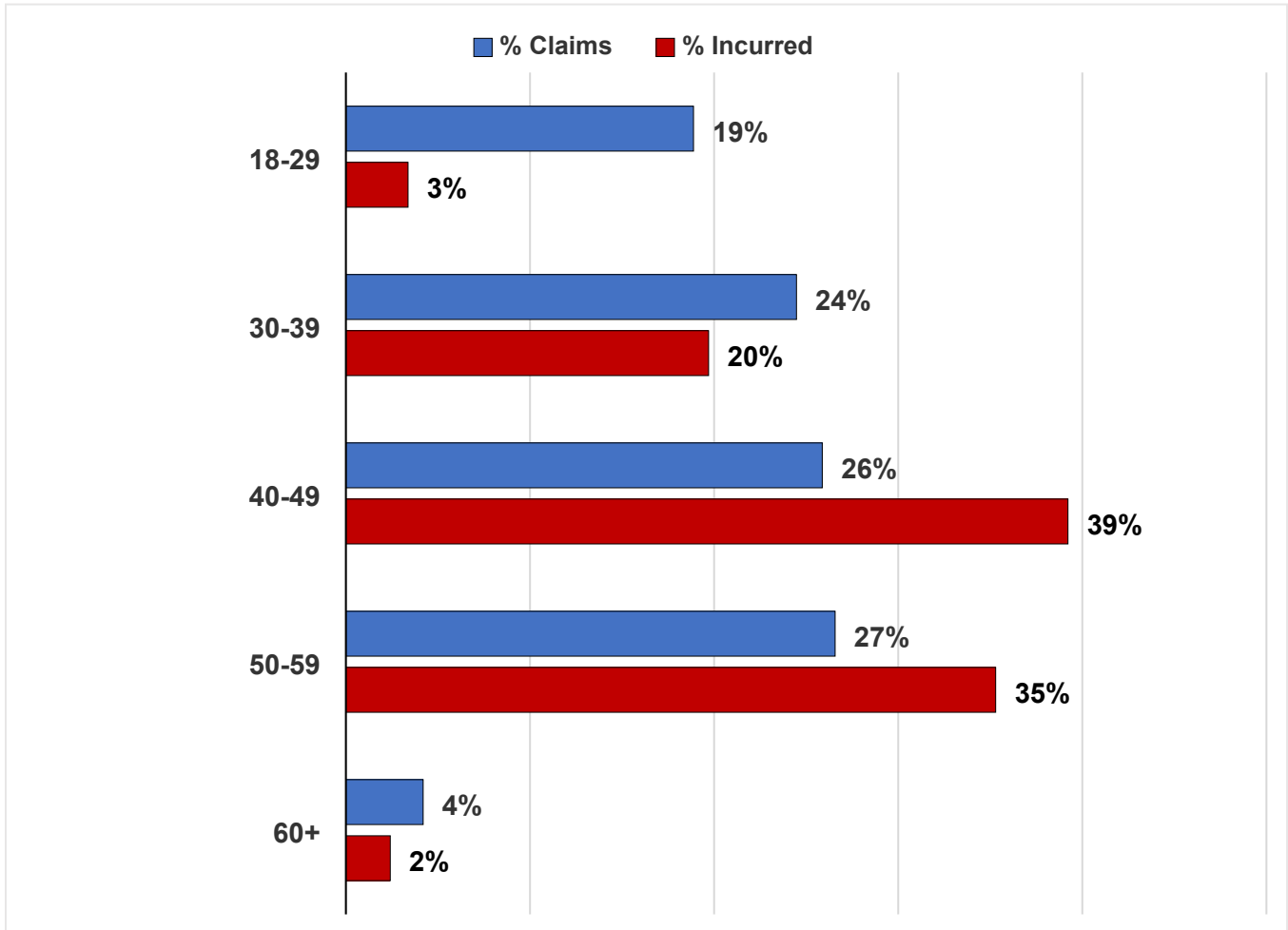
Occupation	Claims	% Claims	Incurred Total	% Incurred
CLERICAL	3	2%	\$7,575.63	0%
FIREFIGHTERS	32	22%	\$602,768.33	34%
MUNICIPAL - MANUAL	45	31%	\$621,511.05	35%
MUNICIPAL - NON-MANUAL	14	10%	\$62,874.03	3%
POLICE	49	34%	\$504,191.58	28%
Total	143	100%	\$1,798,920.62	100%

Length of Service



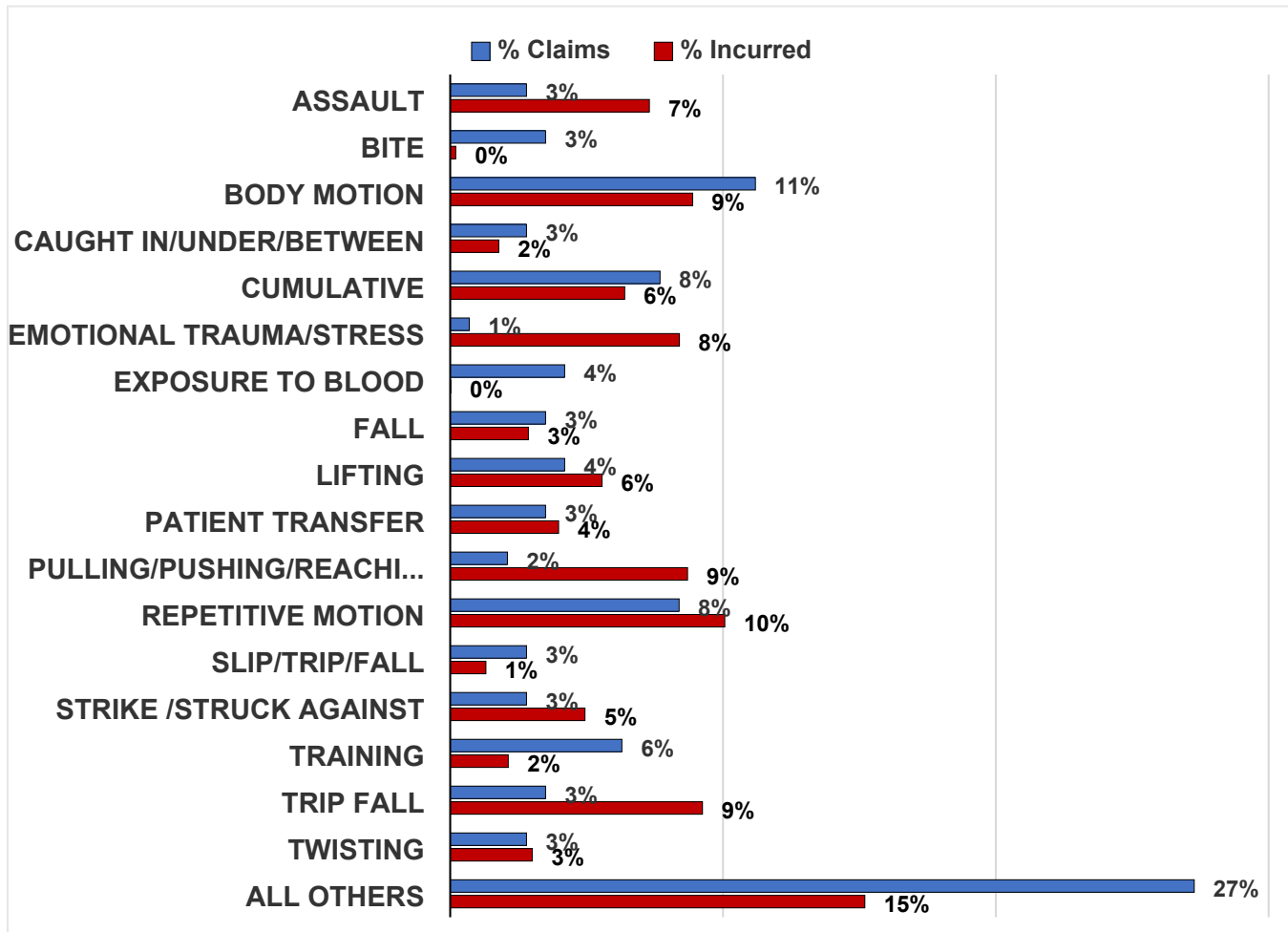
Length of Service	Claims	% Claims	Incurred	% Incurred
0 to 1 Year	25	17%	\$90,590.52	5%
2 - 5 Years	40	28%	\$536,306.91	30%
6 - 10 Years	16	11%	\$268,405.53	15%
11 - 15 Years	15	10%	\$157,009.99	9%
16 - 20 Years	23	16%	\$395,664.29	22%
21 - 25 Years	11	8%	\$119,086.92	7%
26 - 30 Years	7	5%	\$177,778.17	10%
Over 30 Years	6	4%	\$54,078.29	3%
Totals	143	100%	\$1,798,920.62	100%

Age of Injured Worker



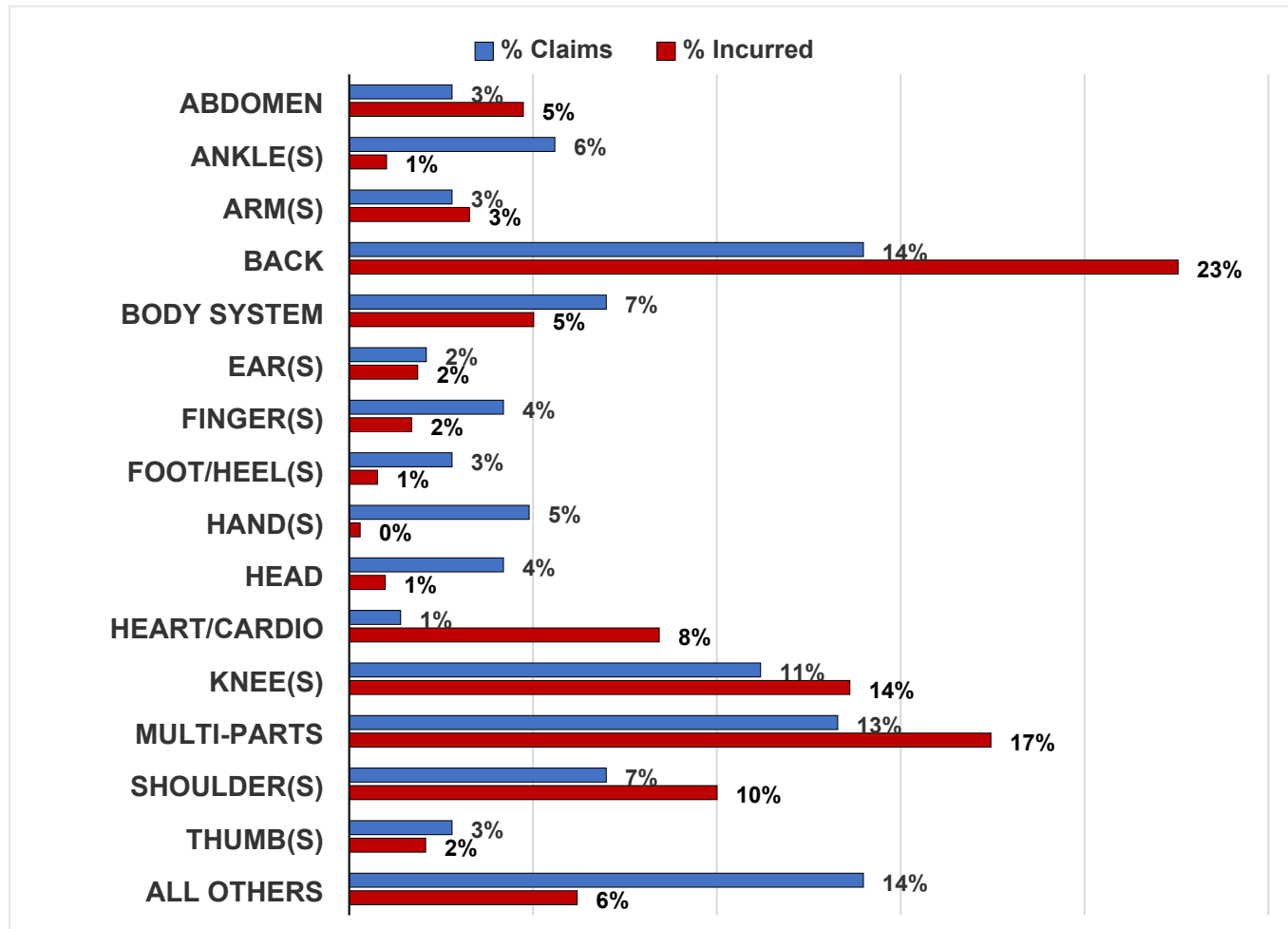
Age	Claims	% Claims	Incurred	% Incurred
18-29	27	19%	\$60,716.06	3%
30-39	35	24%	\$354,393.85	20%
40-49	37	26%	\$705,535.36	39%
50-59	38	27%	\$634,896.45	35%
60+	6	4%	\$43,378.90	2%
Total	143	100%	\$1,798,920.62	100%

Cause of Injury



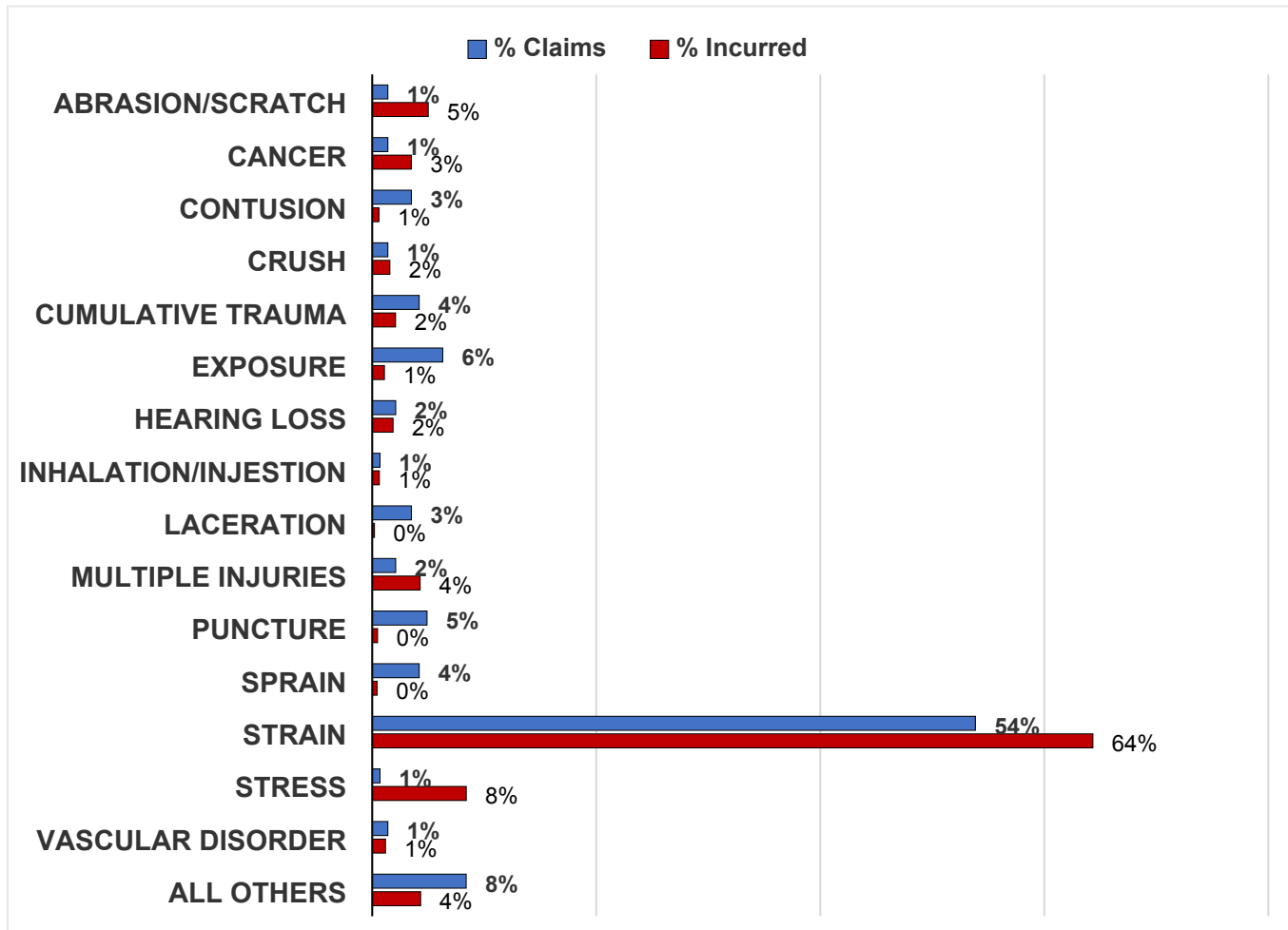
Cause	Claims	% Claims	Incurred	% Incurred
ASSAULT	4	3%	\$131,351.84	7%
BITE	5	3%	\$3,670.20	0%
BODY MOTION	16	11%	\$159,896.45	9%
CAUGHT IN/UNDER/BETWEEN	4	3%	\$32,035.88	2%
CUMULATIVE	11	8%	\$115,078.34	6%
EMOTIONAL TRAUMA/STRESS	1	1%	\$151,154.88	8%
EXPOSURE TO BLOOD	6	4%	\$415.07	0%
FALL	5	3%	\$51,554.29	3%
LIFTING	6	4%	\$100,135.75	6%
PATIENT TRANSFER	5	3%	\$71,480.66	4%
PULLING/PUSHING/REACHING	3	2%	\$156,508.19	9%
REPETITIVE MOTION	12	8%	\$181,072.64	10%
SLIP/TRIP/FALL	4	3%	\$23,542.05	1%
STRIKE /STRUCK AGAINST	4	3%	\$88,863.63	5%
TRAINING	9	6%	\$38,300.69	2%
TRIP FALL	5	3%	\$166,343.22	9%
TWISTING	4	3%	\$54,101.71	3%
ALL OTHERS	39	27%	\$273,415.13	15%
Totals	143	100%	\$1,798,920.62	100%

Part of Body



Body part	Claims	% Claims	Incurred	% Incurred
ABDOMEN	4	3%	\$85,205.71	5%
ANKLE(S)	8	6%	\$18,282.89	1%
ARM(S)	4	3%	\$58,887.17	3%
BACK	20	14%	\$405,574.50	23%
BODY SYSTEM	10	7%	\$90,275.32	5%
EAR(S)	3	2%	\$33,533.34	2%
FINGER(S)	6	4%	\$30,566.79	2%
FOOT/HEEL(S)	4	3%	\$13,887.89	1%
HAND(S)	7	5%	\$5,374.75	0%
HEAD	6	4%	\$17,655.90	1%
HEART/CARDIO	2	1%	\$151,718.37	8%
KNEE(S)	16	11%	\$244,972.65	14%
MULTI-PARTS	19	13%	\$314,010.73	17%
SHOULDER(S)	10	7%	\$180,001.64	10%
THUMB(S)	4	3%	\$37,418.56	2%
ALL OTHERS	20	14%	\$111,554.41	6%
Totals	143	100%	\$1,798,920.62	100%

Nature of Injury



Nature	Claims	% Claims	Incurred	% Incurred
ABRASION/SCRATCH	2	1%	\$90,041.88	5%
CANCER	2	1%	\$62,833.86	3%
CONTUSION	5	3%	\$10,695.31	1%
CRUSH	2	1%	\$28,369.73	2%
CUMULATIVE TRAUMA	6	4%	\$37,504.63	2%
EXPOSURE	9	6%	\$19,653.21	1%
HEARING LOSS	3	2%	\$33,533.34	2%
INHALATION/INJECTION	1	1%	\$11,500.00	1%
LACERATION	5	3%	\$3,612.02	0%
MULTIPLE INJURIES	3	2%	\$76,976.50	4%
PUNCTURE	7	5%	\$8,611.25	0%
SPRAIN	6	4%	\$7,819.85	0%
STRAIN	77	54%	\$1,157,402.57	64%
STRESS	1	1%	\$151,154.88	8%
VASCULAR DISORDER	2	1%	\$21,386.35	1%
ALL OTHERS	12	8%	\$77,825.24	4%
Total	143	100%	\$1,798,920.62	100%

