



Office of the City Manager

INFORMATION CALENDAR

March 30, 2021

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 FY 2019-2020

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, 2019 – June 30, 2020.

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), the City is reporting a multitude of successful outcomes for the comparative period of July 1, 2019 to June 30, 2020. A comprehensive analysis of these outcomes is listed under the section Workers' Compensation Trend Update. Listed below are the program success highlights for FY 2019-2020:

Costs

- Successfully recovered **\$759,759.69** from the City's excess carriers.
- Reduced the total amount paid to Defense Attorneys during this period by **17% (or \$47,292.91)**.
- Reduced the total amount paid for Medical Treatment Costs on the entire program during this period by **4% (or \$82,508.99)**.
- Reduced the total amount paid for All Benefits on the entire program during this period by **11% (or \$677,267.26)**.
- Oversaw activities of the bill review company that realized a net savings of **\$3,925,118** in this arena.

Claim Resolution

- Closed **57%** of new claims submitted during this period.
- Increased the Total Number of Closed Claims on the entire program during this comparative period by **11% (or 21 claims.)**
- Successful resolution of **forty** claims.
- Continued execution of our 72-hour strategy for claim control and cost containment.

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 FY 19-20, the amount paid on claims decreased in the areas of permanent disability, Compromise and Release (C&R) for medical and indemnity settlement agreements. Claim closure by compromise and release is a positive outcome for the City. As, C&R settlements close all future liability associated with the claim. This information is further detailed later in this report.

Fiscal Year of Reported Injury	Amount Paid on Claims in Fiscal 2017-2018	Amount Paid on Claims in Fiscal 2018-2019	Amount Paid on Claims in Fiscal 2019-2020
# of Claims Paid (open and closed)	581	564	588
Total Amount Paid on Claims	\$5,033,122.18	\$6,290,346.37	\$5,613,079.11

The City experienced an increase in claims submission due by 20%. An analysis of injured employees, who have sustained three or more injuries over the last three years since July 1, 2017 reveals 83 claims from 24 employees compared to 66 claims from 19 employees in last year's report. Also, the increase in claims are evident in the Fire, Police and Public Works Departments. Additionally, the City has an aging workforce in the Fire, Police and Public Works departments which results in cumulative claims. These jobs are historically physical in nature and involve greater risk than clerical / non-sworn positions.

All New Claims				
	FY 2017-2018	FY 2018-2019	FY 2019-2020	Increase/Decrease (2019-2020 from 2018-2019)
Fire Safety Employees	26	31	32	1
Police Safety Employees	56	51	54	3
Non-Sworn Employees	80	61	85	24
Total	162	143	171	+28

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. It is the goal of the Human Resources Department (HR) to decrease the number of indemnity days. In the upcoming fiscal year, HR is creating a formalized return-to-work program and partnering with a premier return-to-work Company to assist the City in these efforts. This work will help the City to develop a program that will support employees returning to work safely while lessening budgetary constraints due to employee absences.

Indemnity Claims			
	FY 2018- 2019	FY 2019- 2020	Increase/Decrease (FY 2019-2020)
Fire Safety Employees	21	19	-2
Police Safety Employees	21	29	8
Non-Sworn Employees	27	32	5
Total	69	80	+11

For Medical Only claims (injuries that require minimal medical treatment and do not incur any lost time), the City experienced an increase in claims from our non-sworn employees.

Medical Only Claims			
	FY 2018- 2019	FY 2019- 2020	Increase/Decrease (FY 2019-2020)
Fire Safety Employees	10	13	3
Police Safety Employees	30	25	-5
Non-Sworn Employees	34	53	19
Total	74	91	+17

Although difficult to predict whether the increase 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 2019-2020, forty (40) cases were settled, sixteen (16) by a Stipulation, with settlement amounts ranging from \$0 to \$87,942.50 and twenty-three (23) by C&R, with settlement amounts ranging from \$0 to \$212,500.00 and one by a Judge's Finding and Award. Twelve (12) claims did not require applicant attorney representation and seventeen (17) 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 2019-2020, ICS closed a total of 98 claims (23 Indemnity Claims and 75 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
2017-2018	127	76	203
2018-2019	130	62	192
2019-2020	23	75	98

- 3. **Open Claims**: The chart below reflects the City's Open Claim Inventory at the end of each fiscal year. As of June 30, 2020, the City's total open claim inventory reflects a slight increase from 372 in FY 2019, to 375 in FY 2020. Of the total open claims in FY 2020, 359 are Indemnity Claims and 16 are Medical Only Claims.

Open Claim Inventory			
FY	Indemnity	Medical Only	Total
2017-2018	360	18	378
2018-2019	347	25	372
2019-2020	359	16	375

4. **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
7/1/18-6/30/19	5,308	\$4,758,331	\$3,137,227	\$2,937,274	62%
7/1/19-6/30/20	4,962	\$5,920,838	\$4,113,644	\$3,925,118	66%

5. **Excess Insurance Recoveries:** At present, there are thirty-five (35) open cases being reported to the City of Berkeley's Excess Carriers. During this period \$759,759.69 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

LaTanya Bellow, Director of Human Resources, 981-6807
 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 to 6/30

Claims Entered By Fiscal Year	7/1/18 to 6/30/19	7/1/19 to 6/30/20	Absolute Change	Percent Change
Total Claims	143	171	28	20%
Total Indemnity Claims	69	80	11	16%
Total Medical Only Claims	74	91	17	23%
Avg. Incurred Cost per Claim	\$12,580	\$14,460	\$1,880	15%
Indemnity / MO Ratio	48% : 52 %	47% 53%	-1	-2%
Closed Ind. Claims	24 35 %	23 29%	-1	-4%
Closed MO Claims	49 66 %	75 82%	26	53%
Total Closed Claims	73 51 %	98 57%	25	34%
Total Paid	\$754,194	\$1,012,537	\$258,343	34%
Total Est. Future Liability	\$1,044,921	\$1,460,090	\$415,169	40%
Total Number of Lost Days	2372	3789	1417	60%
Number of Lost Time Claims	41	46	5	12%
Avg. # of Disability Days per Lost Time Claim	57.9	82.4	24.5	42%
Overall				
Closed Indemnity Claims	130	115	-15	-12%
Closed MO Claims	62	98	36	58%
Total Closed Claims	192	213	21	11%
Open Claim Inventory	6/30/2019	6/30/2020	Absolute Change	Percent Change
Indemnity	347	359	12	3%
Medical Only	25	16	-9	-36%
Total Open Claims	372	375	3	1%
Est. Future Liability	\$18,227,332	\$20,138,361	\$1,911,029	10%

Multiple Claims

An analysis of injured employees who have sustained three or more injuries over the last three years since July 1, 2017 reveals 83 claims from 24 employees compared to 66 claims from 19 employees in last year's report. These claims represent \$975,497.17 in paid claim costs and \$1,848,825.96 in total incurred. 31 of these claims remain open at this time representing \$873,328.79 in estimated future liability.

During the one-year period ending June 30, 2020, two employees submitted three or more claims.

Utilization and Peer Review Savings

During this period 400 RFA's for 745 Procedures were submitted for Utilization or Peer/Physician Advisor Reviews. Of those Procedure requests submitted, 384 requests were recommended for denial. Of those requests denied, 34 were appealed through UR. 2 of the appeals were granted leaving 382 Procedure requests as denied.

In addition, we paid for 106 IMR evaluations during this period addressing prior UR denials. Of the 106 IMR evaluations paid, 93 upheld the prior UR denial while only 9 reversed the previously denied services and another 2 were partially overturned.

Delays/Denials

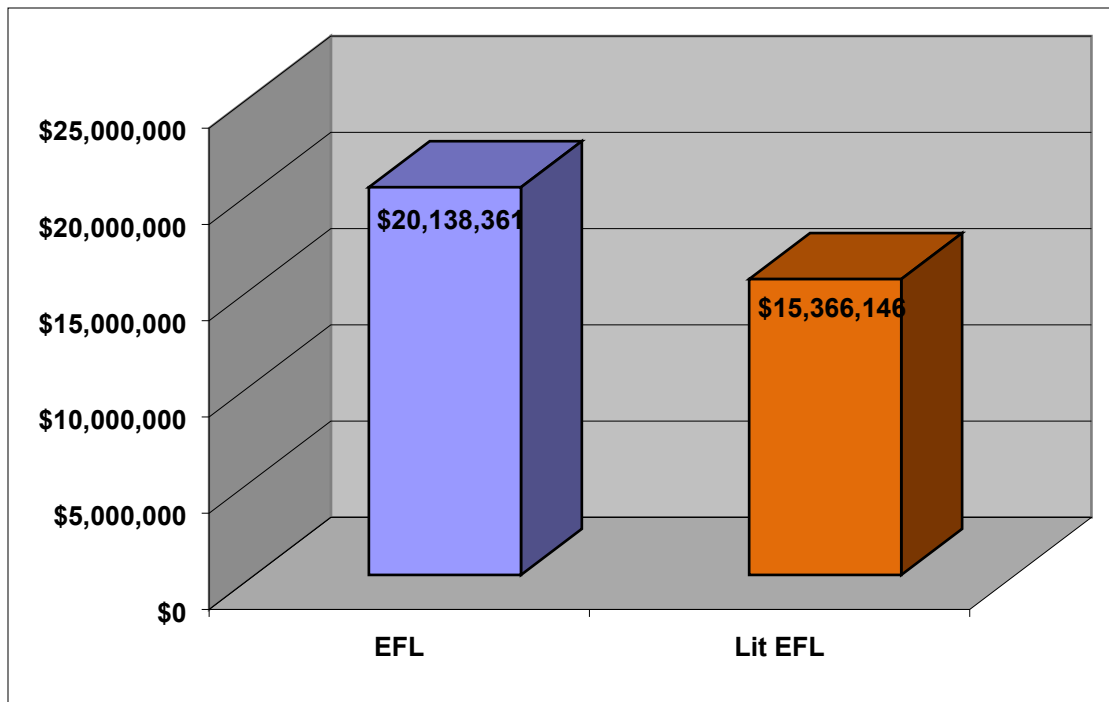
During this period twenty-nine claims were placed on delay. Additionally, there were twenty four denials during this period.

Notices of Representation

During this period 23 notices of representation were received, filed by 18 individuals. This is the same number of notices as the same period last year. This also represents a **13.5% litigation rate**, just below the statewide average of 14%. It should also be mentioned that 9 of these individuals had claims that were either delayed or denied.

Litigation

At present, there are one hundred ninety-seven litigated open indemnity claims representing total incurred costs of \$46,868,351.79. The current estimated future liability on these claims is \$15,366,146.18 or 76%, of the total estimated future liability on this program. It should be noted that 82 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.



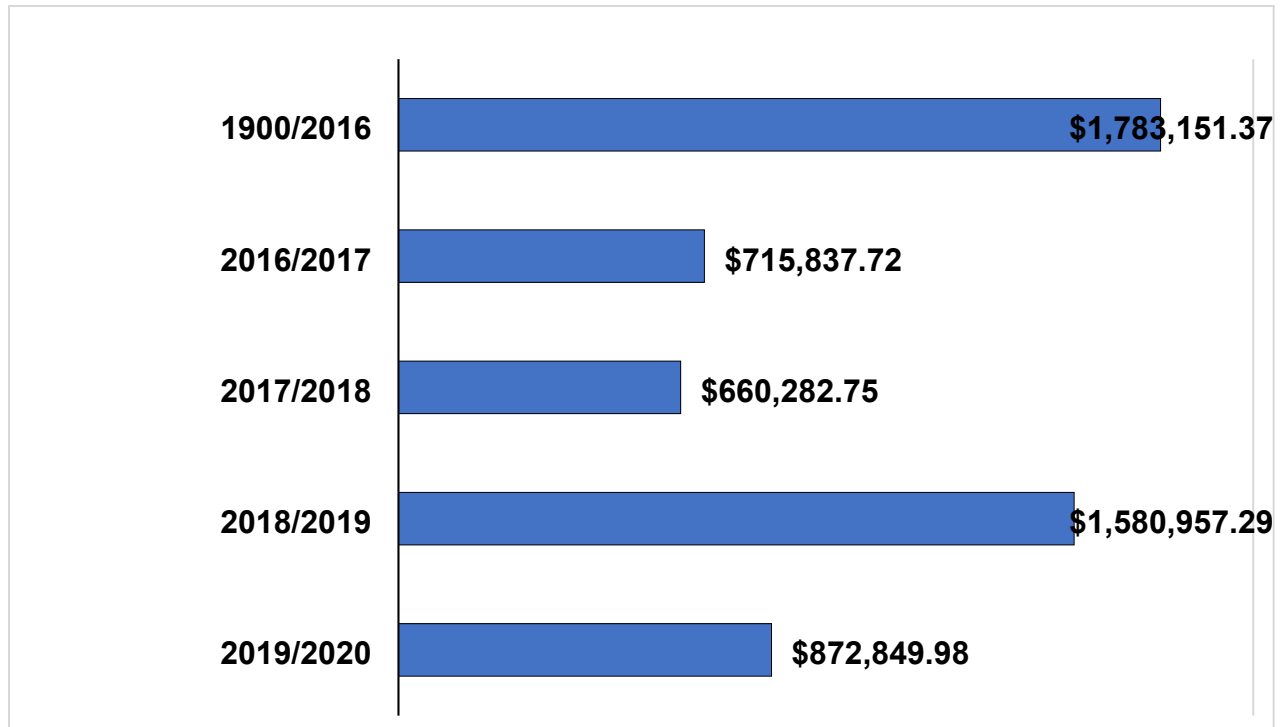
Comparative Payment Analysis

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

All Payments in Fiscal Year	7/1/18 - 06/30/19	7/1/19 - 06/30/20	Absolute Change	Percent Change
TD/4850 Paid	\$1,061,469.69	\$1,530,297.18	\$468,827.49	44%
Permanent Disability	\$1,182,765.49	\$767,232.42	-\$415,533.07	-35%
C&R Indemnity	\$506,781.74	\$347,543.86	-\$159,237.88	-31%
C&R Medical	\$688,487.73	\$307,747.05	-\$380,740.68	-55%
Hospital Paid	\$601,195.29	\$776,666.37	\$175,471.08	29%
Doctor Paid	\$530,552.29	\$596,006.39	\$65,454.10	12%
All other Medical Paid	\$981,985.44	\$658,551.27	-\$323,434.17	-33%
SJDB Paid	\$19,036.99	\$24,023.57	\$4,986.58	26%
Defense Attorney Paid	\$285,630.28	\$238,337.37	-\$47,292.91	-17%
Other Legal Paid	\$432,441.43	\$366,673.63	-\$65,767.80	-15%
Total Paid:	\$6,290,346.37	\$5,613,079.11	-\$677,267.26	-11%

Comparative Payment Analysis by Date of Injury

The total paid out on all claims during this period is \$5,613,079.11. 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:

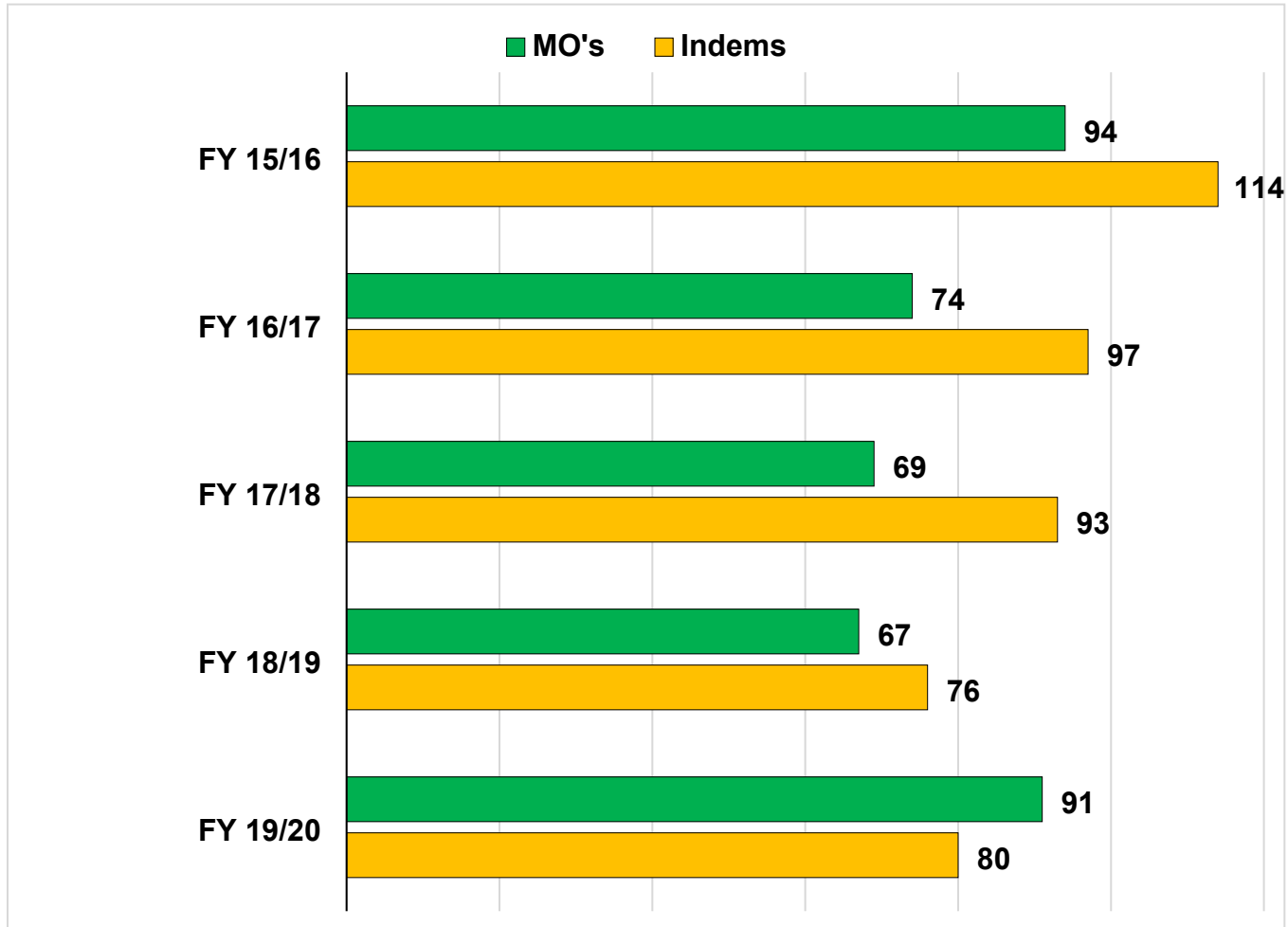
Department	Paid in FY 18/19	Paid in FY 19/20	Difference
CITY MANAGER	\$107,185.34	\$123,794.54	\$16,609.20
ECONOMIC DEVELOPMENT	\$0.00	\$3,757.70	\$3,757.70
FIRE	\$248,791.37	\$454,849.41	\$206,058.04
HHCS	\$1,725.99	\$31,029.00	\$29,303.01
LIBRARY	\$0.00	\$50,177.16	\$50,177.16
PARKS, RECREATION & WATERFRONT	\$95,315.77	\$86,067.68	-\$9,248.09
POLICE	\$408,518.92	\$508,810.10	\$100,291.18
PUBLIC WORKS	\$199,932.30	\$227,106.26	\$27,173.96
RENT BOARD	\$0.00	\$44,705.33	\$44,705.33
Net Total Paid	\$1,061,469.69	\$1,530,297.18	\$468,827.49

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.

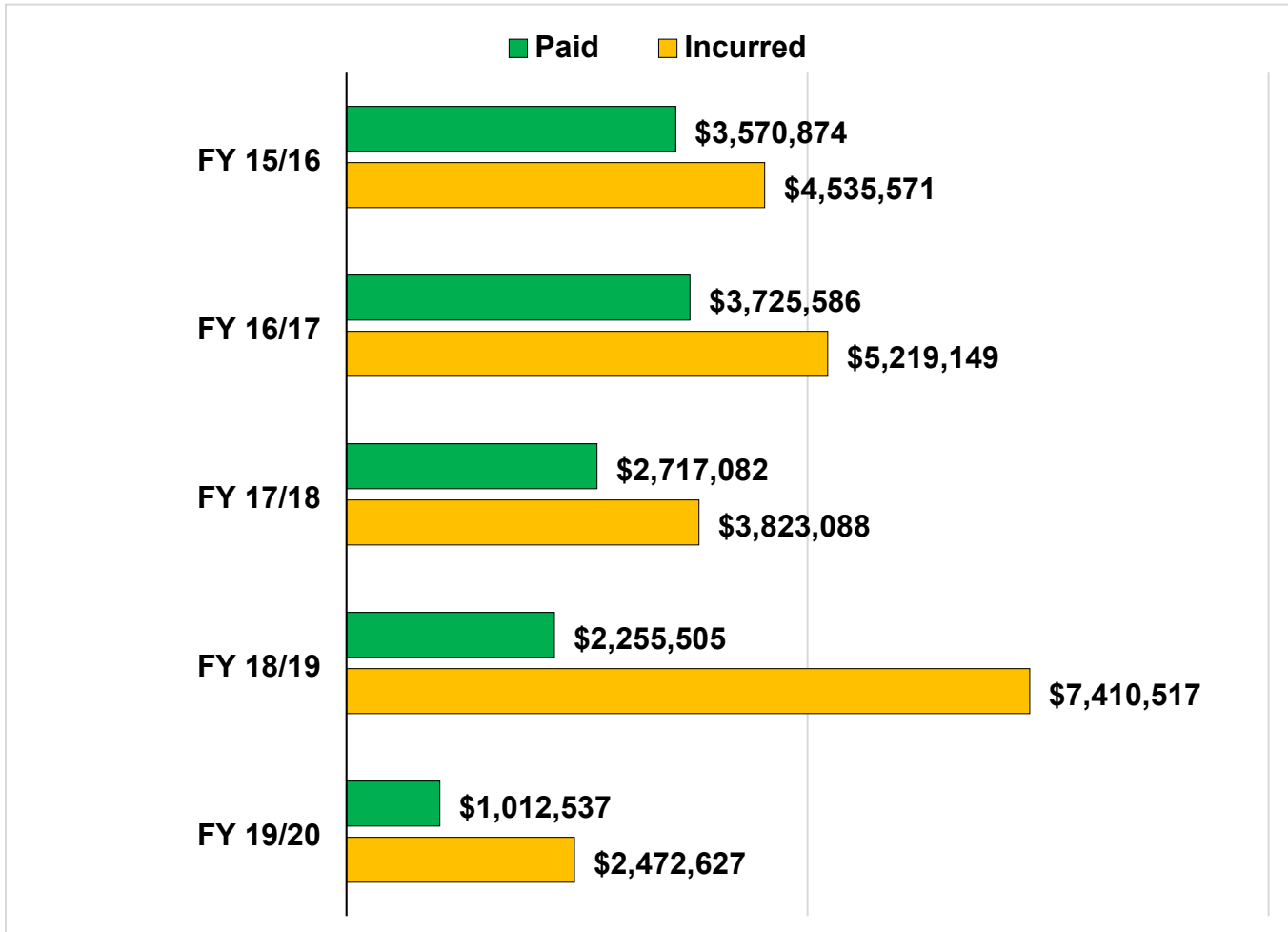
Department	Indem Days	Claims	Average
CITY MANAGER	1,092	4	273
ECONOMIC DEVELOPMENT	30	1	30
FIRE	2,599	24	108
HHCS	168	2	84
LIBRARY	335	2	168
PARKS, RECREATION & WATERFRONT	557	7	80
POLICE	3,172	34	93
PUBLIC WORKS	1,596	12	133
RENT BOARD	366	1	366

Claims by Fiscal Year based on Date Entered



Fiscal year entered	MO's	Indems	Total
FY 15/16	94	114	208
FY 16/17	74	97	171
FY 17/18	69	93	162
FY 18/19	67	76	143
FY 19/20	91	80	171

Total Paid and Incurred by Fiscal Year based on Date Entered

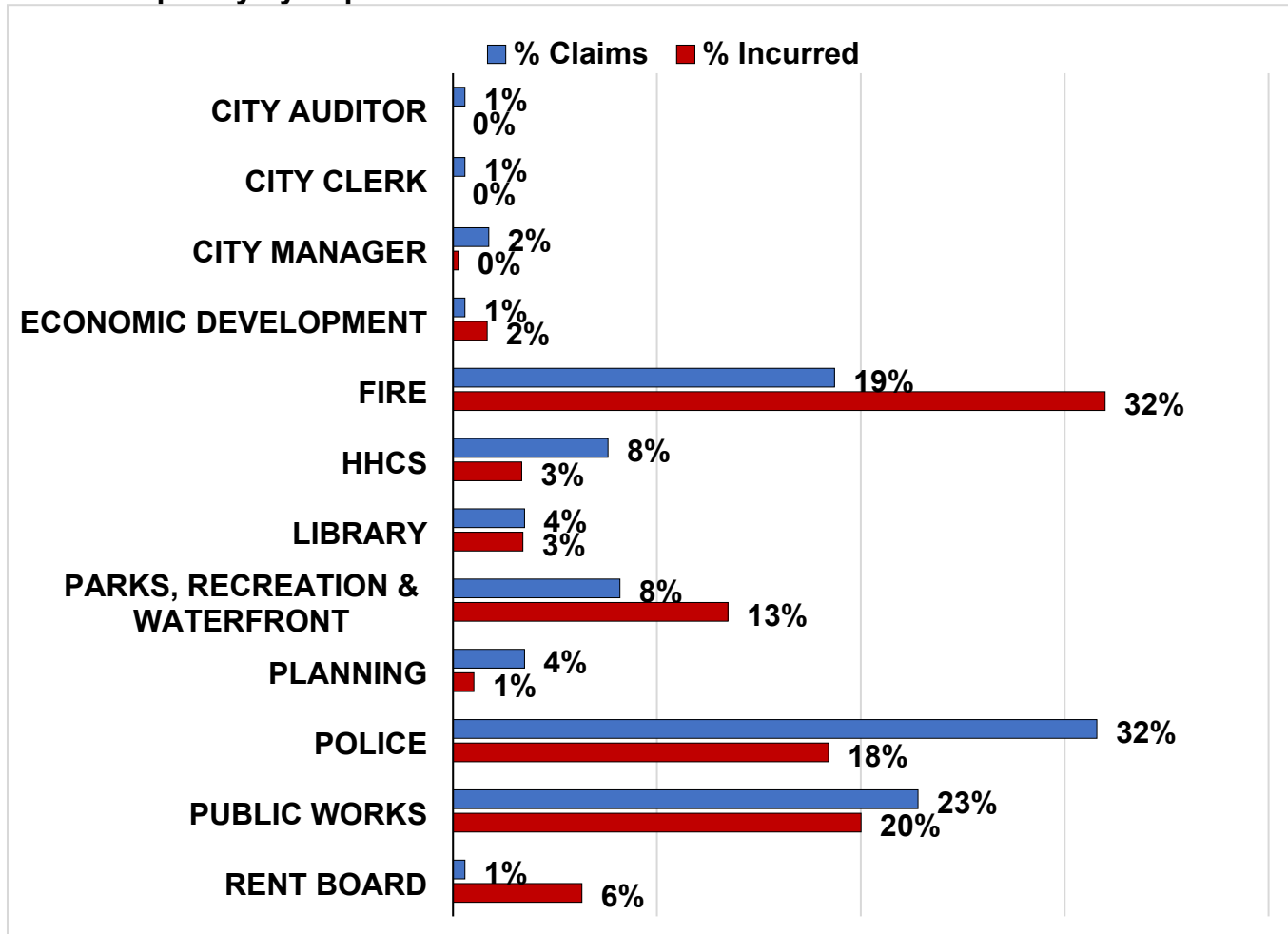


Fiscal year entered	Paid	EFL	Incurred
FY 15/16	\$3,570,874	\$964,697	\$4,535,571
FY 16/17	\$3,725,586	\$1,493,563	\$5,219,149
FY 17/18	\$2,717,082	\$1,106,006	\$3,823,088
FY 18/19	\$2,255,505	\$5,155,012	\$7,410,517
FY 19/20	\$1,012,537	\$1,460,090	\$2,472,627

Frequency Analysis Summaries

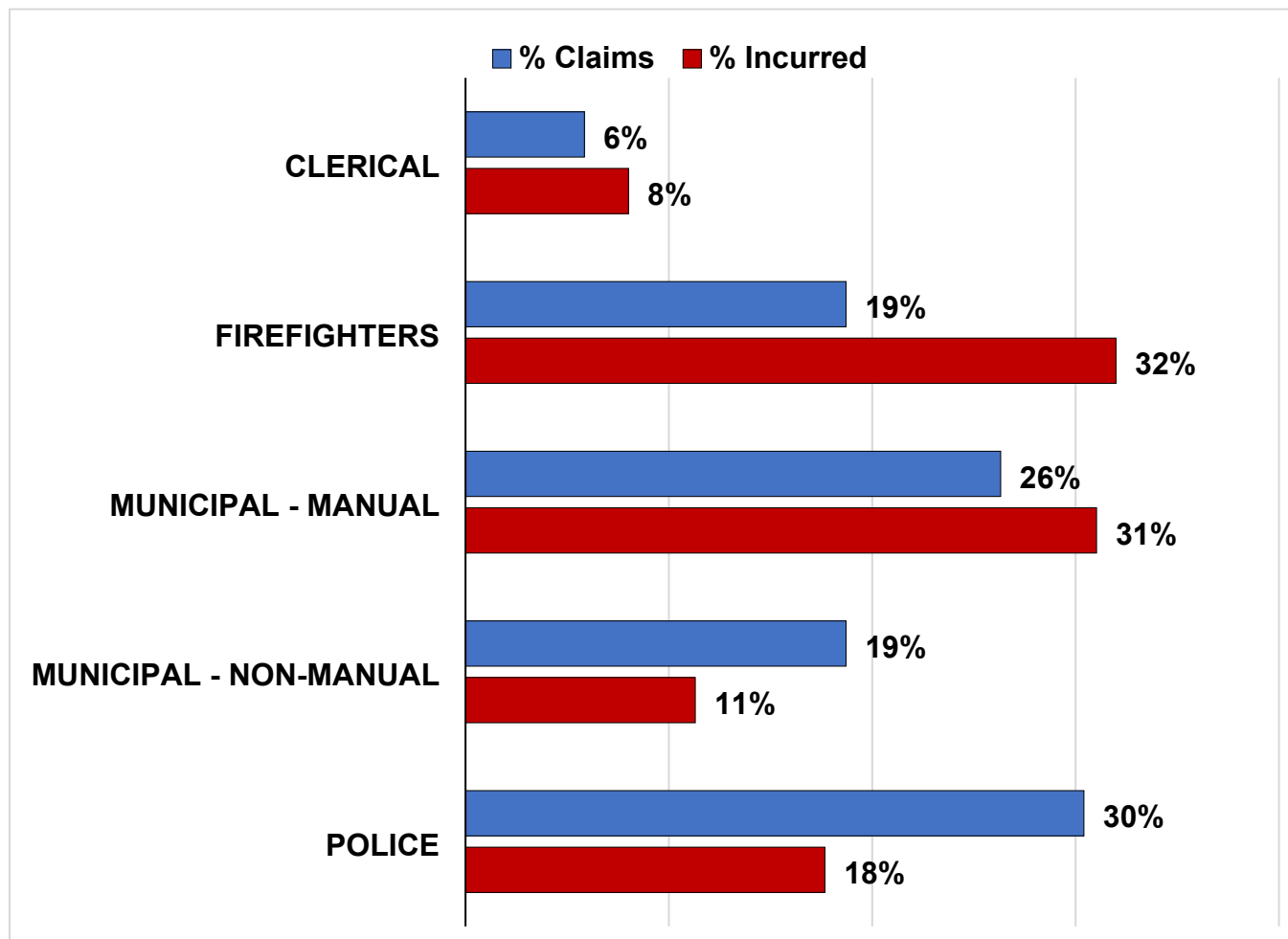
The following graphs are based on claims entered from 7/1/2019 through 6/30/2020.

Claim Frequency by Department



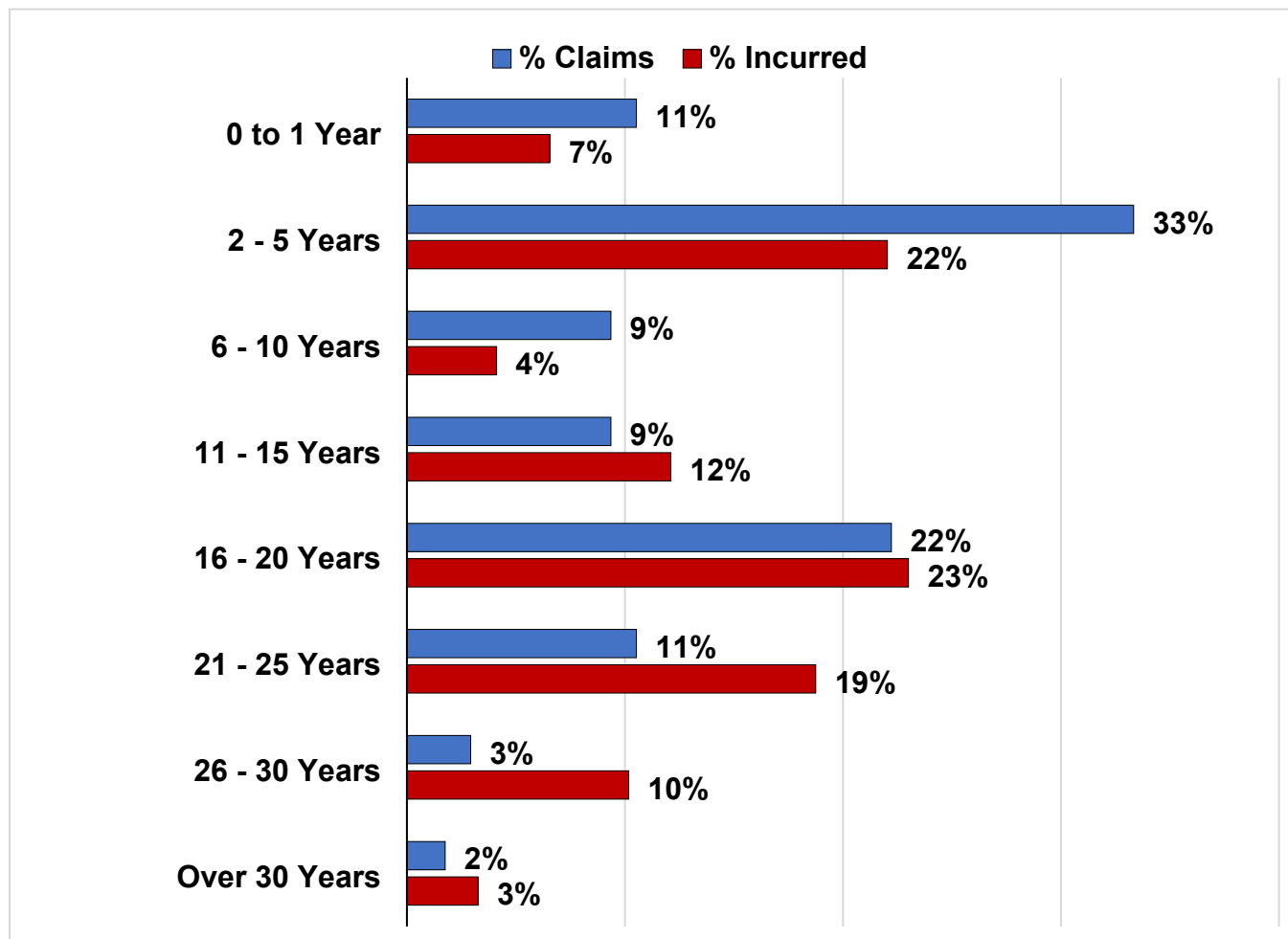
Department	Claims	% Claims	Incurred	% Incurred
CITY AUDITOR	1	1%	\$288.99	0%
CITY CLERK	1	1%	\$263.68	0%
CITY MANAGER	3	2%	\$6,327.29	0%
ECONOMIC DEVELOPMENT	1	1%	\$41,466.19	2%
FIRE	32	19%	\$790,814.52	32%
HHCS	13	8%	\$83,293.98	3%
LIBRARY	6	4%	\$84,738.76	3%
PARKS, RECREATION & WATERFRONT	14	8%	\$333,439.29	13%
PLANNING	6	4%	\$25,349.04	1%
POLICE	54	32%	\$455,439.83	18%
PUBLIC WORKS	39	23%	\$494,883.28	20%
RENT BOARD	1	1%	\$156,322.61	6%
Totals	171	100%	\$2,472,627.46	100%

Occupation



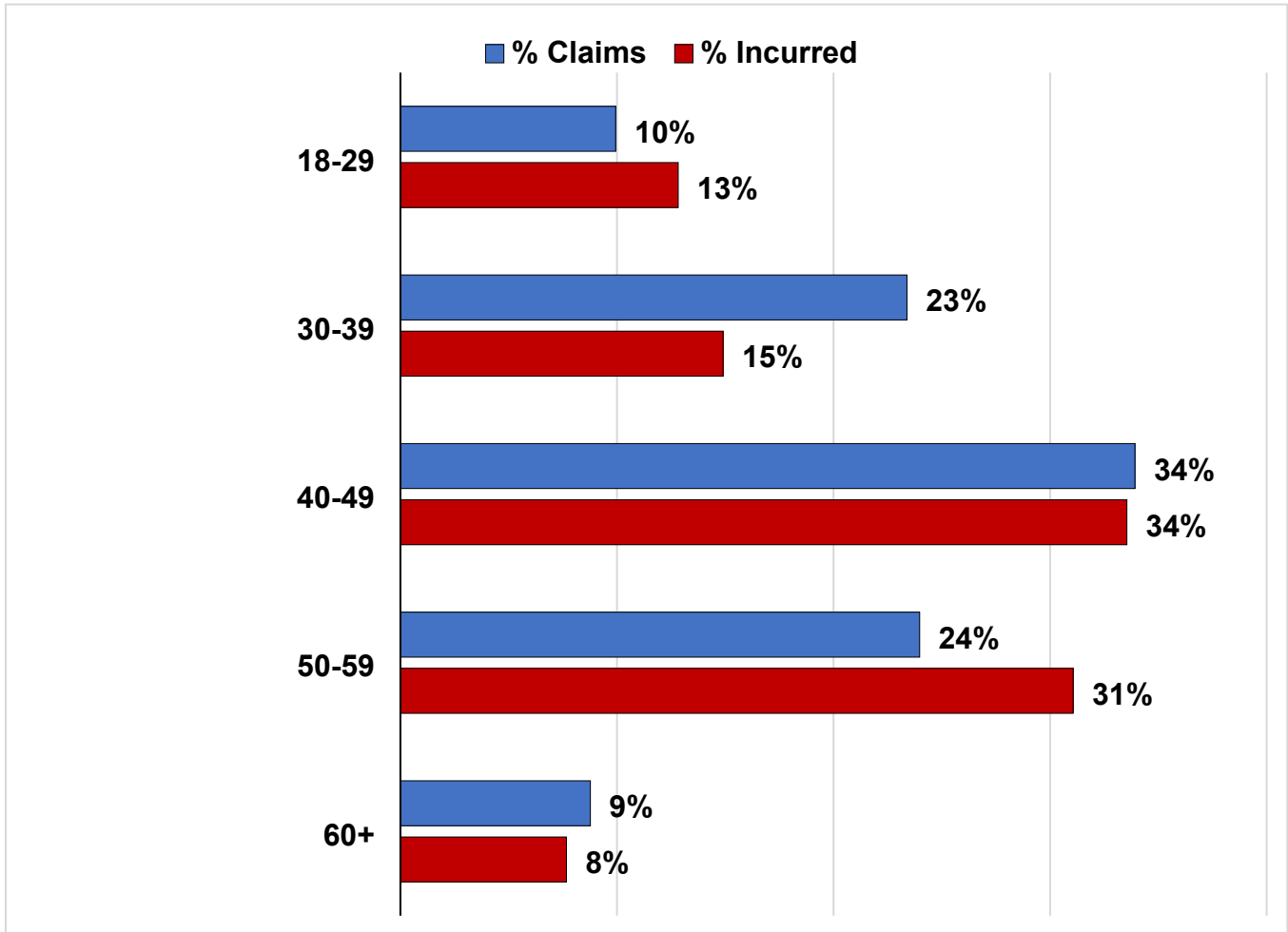
Occupation	Claims	% Claims	Incurred Total	% Incurred
CLERICAL	10	6%	\$198,172.84	8%
FIREFIGHTERS	32	19%	\$790,814.52	32%
MUNICIPAL - MANUAL	45	26%	\$767,278.13	31%
MUNICIPAL - NON-MANUAL	32	19%	\$279,412.22	11%
POLICE	52	30%	\$436,949.75	18%
Total	171	100%	\$2,472,627.46	100%

Length of Service



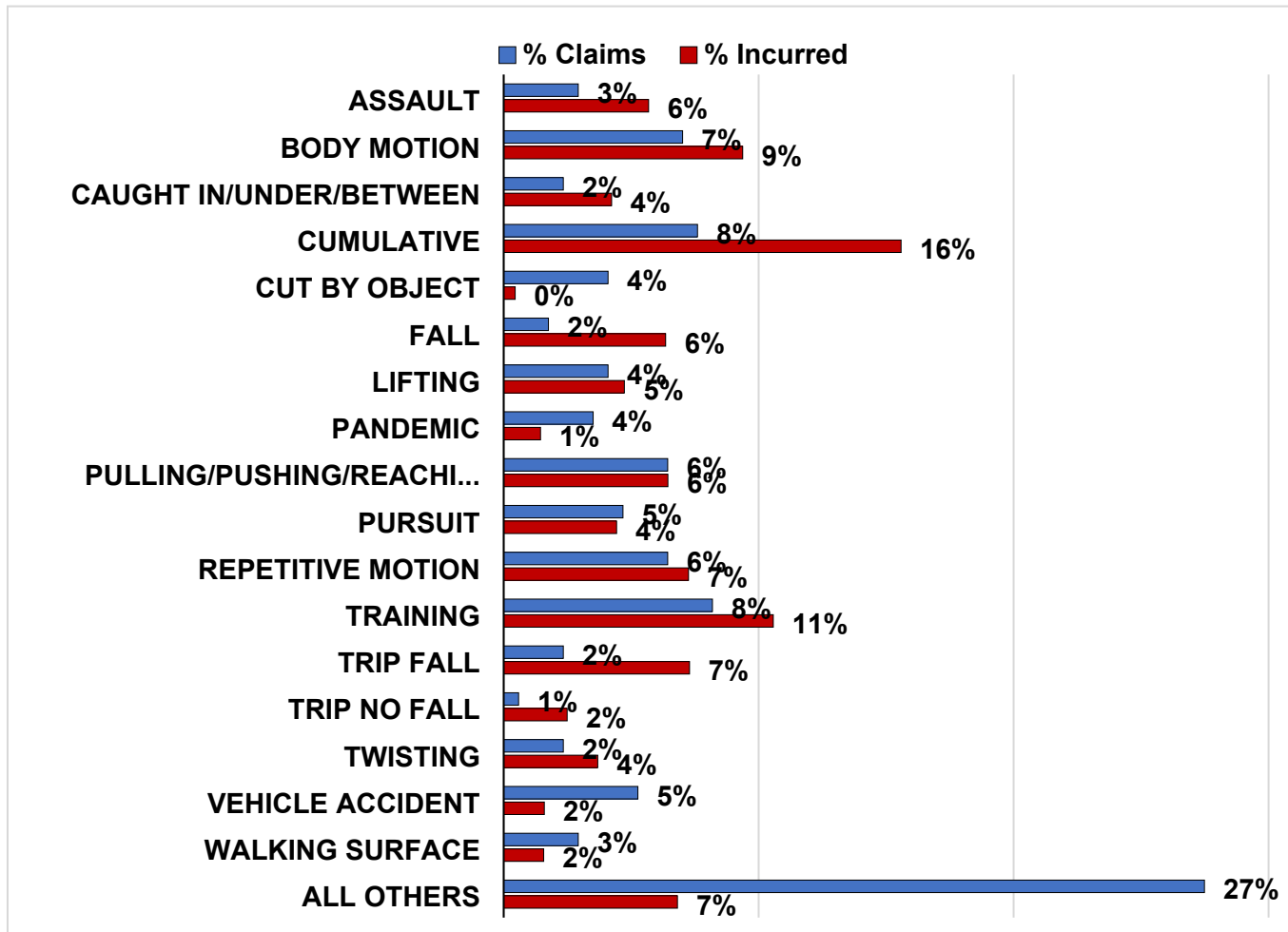
Length of Service	Claims	% Claims	Incurred	% Incurred
0 to 1 Year	18	11%	\$161,989.03	7%
2 - 5 Years	57	33%	\$544,939.42	22%
6 - 10 Years	16	9%	\$101,700.22	4%
11 - 15 Years	16	9%	\$299,348.82	12%
16 - 20 Years	38	22%	\$568,832.24	23%
21 - 25 Years	18	11%	\$463,646.62	19%
26 - 30 Years	5	3%	\$251,548.53	10%
Over 30 Years	3	2%	\$80,622.58	3%
Totals	171	100%	\$2,472,627.46	100%

Age of Injured Worker



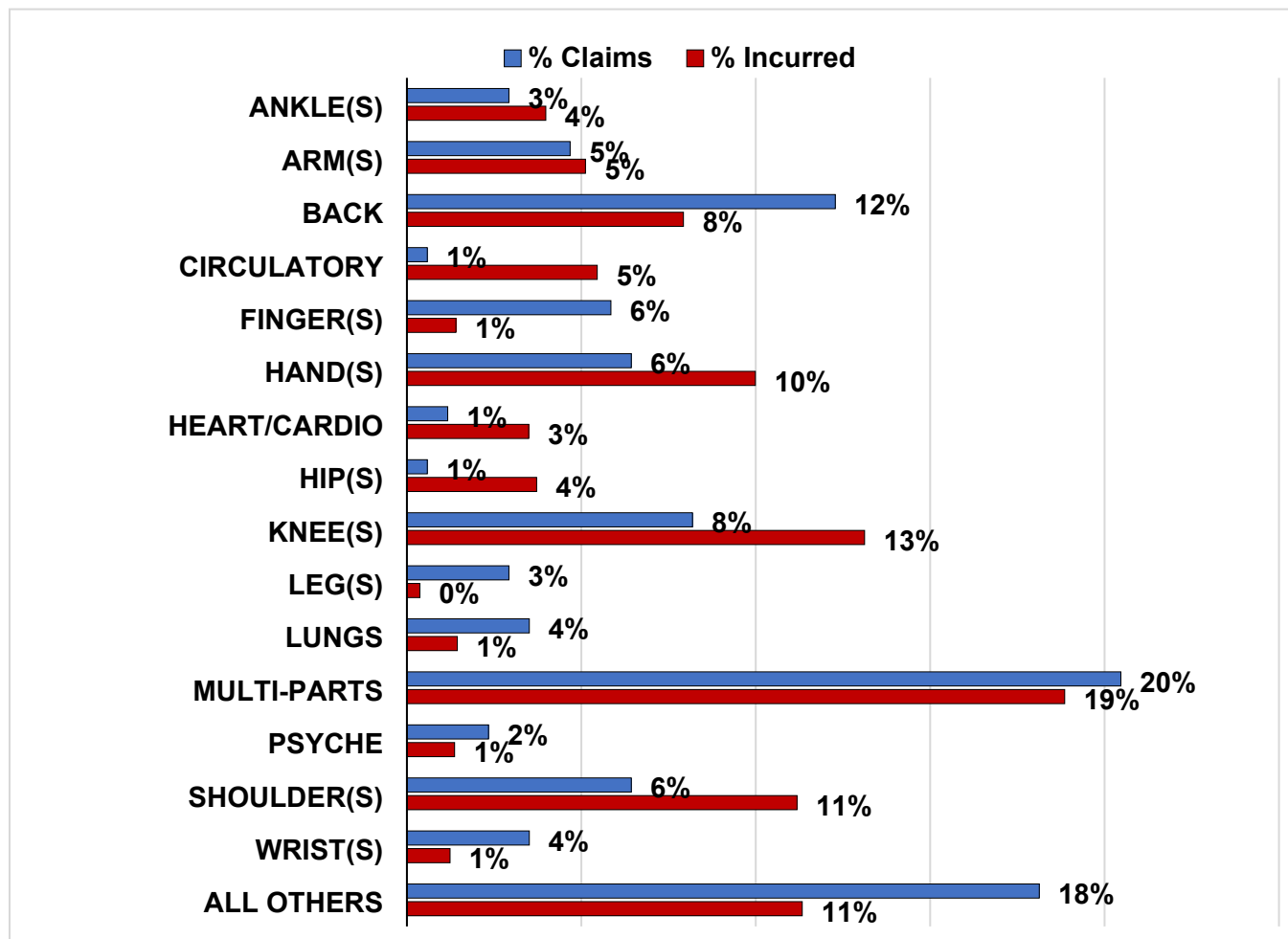
Age	Claims	% Claims	Incurred	% Incurred
18-29	17	10%	\$317,178.83	13%
30-39	40	23%	\$368,370.83	15%
40-49	58	34%	\$829,442.71	34%
50-59	41	24%	\$768,050.83	31%
60+	15	9%	\$189,584.26	8%
Total	171	100%	\$2,472,627.46	100%

Cause of Injury



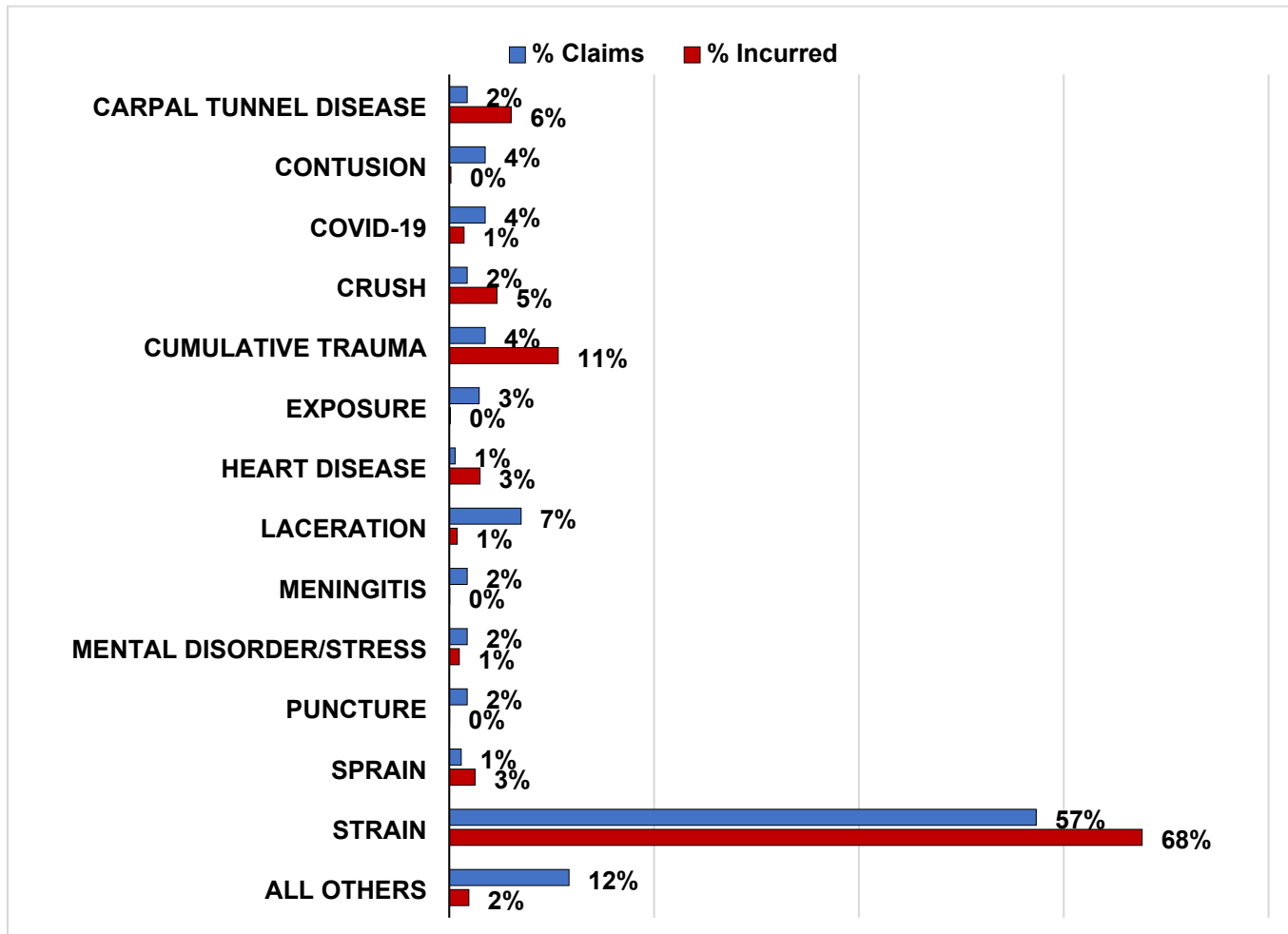
Cause	Claims	% Claims	Incurred	% Incurred
ASSAULT	5	3%	\$140,536.44	6%
BODY MOTION	12	7%	\$231,791.75	9%
CAUGHT IN/UNDER/BETWEEN	4	2%	\$104,680.01	4%
CUMULATIVE	13	8%	\$385,401.47	16%
CUT BY OBJECT	7	4%	\$11,141.32	0%
FALL	3	2%	\$157,051.25	6%
LIFTING	7	4%	\$117,040.16	5%
PANDEMIC	6	4%	\$35,738.54	1%
PULLING/PUSHING/REACHING	11	6%	\$159,263.22	6%
PURSUIT	8	5%	\$109,516.80	4%
REPETITIVE MOTION	11	6%	\$179,244.32	7%
TRAINING	14	8%	\$261,444.93	11%
TRIP FALL	4	2%	\$180,234.13	7%
TRIP NO FALL	1	1%	\$61,574.24	2%
TWISTING	4	2%	\$91,222.77	4%
VEHICLE ACCIDENT	9	5%	\$39,424.40	2%
WALKING SURFACE	5	3%	\$38,785.09	2%
ALL OTHERS	47	27%	\$168,536.62	7%
Totals	171	100%	\$2,472,627.46	100%

Part of Body



Body part	Claims	% Claims	Incurred	% Incurred
ANKLE(S)	5	3%	\$98,448.06	4%
ARM(S)	8	5%	\$126,564.63	5%
BACK	21	12%	\$196,007.52	8%
CIRCULATORY	1	1%	\$134,902.50	5%
FINGER(S)	10	6%	\$34,722.75	1%
HAND(S)	11	6%	\$246,999.37	10%
HEART/CARDIO	2	1%	\$86,333.59	3%
HIP(S)	1	1%	\$91,954.81	4%
KNEE(S)	14	8%	\$324,408.52	13%
LEG(S)	5	3%	\$9,181.14	0%
LUNGS	6	4%	\$35,738.54	1%
MULTI-PARTS	35	20%	\$466,262.28	19%
PSYCHE	4	2%	\$33,788.99	1%
SHOULDER(S)	11	6%	\$276,527.50	11%
WRIST(S)	6	4%	\$30,571.02	1%
ALL OTHERS	31	18%	\$280,216.24	11%
Totals	171	100%	\$2,472,627.46	100%

Nature of Injury



Nature	Claims	% Claims	Incurred	% Incurred
CARPAL TUNNEL DISEASE	3	2%	\$149,453.34	6%
CONTUSION	6	4%	\$4,039.78	0%
COVID-19	6	4%	\$35,738.54	1%
CRUSH	3	2%	\$115,145.63	5%
CUMULATIVE TRAUMA	6	4%	\$263,119.40	11%
EXPOSURE	5	3%	\$2,822.68	0%
HEART DISEASE	1	1%	\$74,333.59	3%
LACERATION	12	7%	\$19,271.24	1%
MENINGITIS	3	2%	\$1,154.59	0%
MENTAL DISORDER/STRESS	3	2%	\$24,288.99	1%
PUNCTURE	3	2%	\$810.97	0%
SPRAIN	2	1%	\$62,262.52	3%
STRAIN	98	57%	\$1,672,856.65	68%
ALL OTHERS	20	12%	\$47,329.54	2%
Total	171	100%	\$2,472,627.46	100%

